

Agenda

Planning and Strategy Committee

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

Monday 3 November 2014

Commencing at 7.30pm 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.

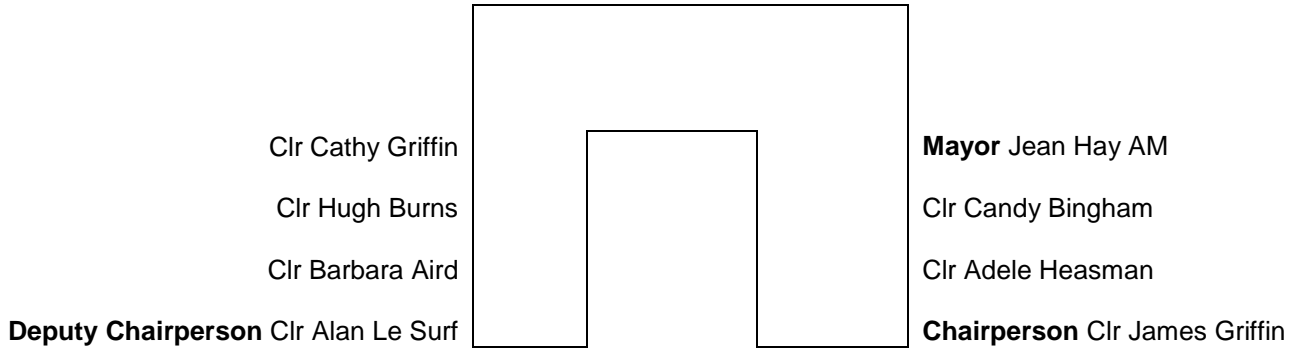
Copies of business papers are available at the Customer Service Counters at Manly Council, Manly Library and Seaforth Library and are available on Council's website:

www.manly.nsw.gov.au



Seating Arrangements for Meetings

Executive Manager Minute Taker General Manager **Chairperson
Clr James
Griffin** Deputy General Manager Deputy General Manager



Press

Public
Addresses

Public Gallery

Chairperson: Clr James Griffin
Deputy Chairperson: Clr Alan Le Surf

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CLOSED COMMITTEE ITEMS

CONFIDENTIAL COMMITTEE OF THE WHOLE

General Managers Division Report No. 10

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

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

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

TO: Planning and Strategy Committee - 3 November 2014
REPORT: Item For Brief Mention Report No. 17
SUBJECT: Items For Brief Mention
FILE NO: MC/14/124704

1. Report on Replica Surfboard

In July of this year Council resolved to seek information relating to the protocol around producing a "replica" of the surfboard that Council gave to the Duke and Duchess of Cambridge on the occasion of their visit to Manly in April. Information received from Senior Protocol Officer NSW Department of Premier & Cabinet was sought and staff were advised that there is no problem for Council to commission a replica of the gift and when displayed it should be labelled as a replica.

2. Tabled Documents

Date	Author	Item
7 Oct	Geoff Withycombe Regional Coastal Environment Officer/ Executive Officer Sydney Coastal Councils Group Inc.	SCCG minutes from Annual General Meeting – 13 September 2014
7 Oct	Steve Orr Acting Chief Executive Office of Local Government	Circular to Councils 14-26 Special Rate and Minimum Rate Variation Guidelines and Process for 2015/16
7 Oct	Troy Grant MP Minister for Hospitality, Gaming and Racing Minister for the Arts	Letter advising that the NSW Government has increased public libraries funding in the 2014/15 budget to help public libraries better meet the needs of local communities.
14 Oct	Mike Baird MP State Member for Manly	Letter from Minister for Transport regarding fast ferry tender for the Manly to Circular Quay service.
15 Oct	Troy Grant MP Minister for Hospitality, Gaming and Racing Minister for the Arts	Letter advising approved funding of \$45,000 through the NSW Government's Arts and Cultural Development Program towards Manly Art Gallery and Museum's 2015 annual program.
16 Oct	Ben Taylor Executive Director SHOROC	SHOROC Extraordinary General Meeting Minutes 16 October 2014
22 Oct	The Hon Paul Toole MP Minister for Local Government NSW Government	Government response to Joint Standing Committee on Electoral Matters Report http://www.parliament.nsw.gov.au/prod/parliament/committee.nsf/0/3310CB62E97A9793CA257CA8000DF143?open&refnavid=CO3_1
23 Oct	The Hon Gladys Berejiklian MP Minister for Transport NSW Government	Reply to Council's letter regarding the Opal Card.
22 Oct	Rob Stokes MP Minister for the Environment Minister for Heritage Minister for the Central Coast Assistant Minister for Planning NSW Government	Reply to Council's letter regarding a request for an Interim Heritage Order for the remains of Undercliff Villa at 69 Pittwater Road, Manly.

Item For Brief Mention Report No. 17 (Cont'd)

27 Oct	Rob Rogers AFSM Deputy Commissioner Director Operational Services NSW Rural Fire Service	Reply to Council's letter regarding the 10/50 Vegetation Clearing Code of Practice (10/50).
29 Oct	Mike Baird MP State Member for Manly	Acknowledgement of Council's letter regarding Fit for the Future Local Government reforms.

RECOMMENDATION

1. That IFBM reports 1 and 2 be received and noted.

ATTACHMENTS

There are no attachments for this report.

PS03112014IBM_1.DOC

***** End of Item For Brief Mention Report No. 17 *****

TO: Planning and Strategy Committee - 3 November 2014
REPORT: Report Of Committees Report No. 34
SUBJECT: Minutes for notation by Council - Special Purpose Advisory Committee without recommendations of a significant nature
FILE NO: MC/14/129106

The Minutes of the following Special Purpose Advisory Committee meetings be noted;

1. Meals on Wheels Advisory Committee – 10 September 2014
2. Waste Advisory Committee – 10 September 2014
3. Meals on Wheels Advisory Committee – 8 October 2014
4. Manly Local Traffic Committee – 13 October 2014

RECOMMENDATION

That the Minutes of the of the following Special Purpose Advisory committee meetings be noted:

1. Meals on Wheels Advisory Committee – 10 September 2014
2. Waste Advisory Committee – 10 September 2014
3. Meals on Wheels Advisory Committee – 8 October 2014
4. Manly Local Traffic Committee – 13 October 2014

ATTACHMENTS

There are no attachments for this report.

PS03112014RC_1

***** End of Report Of Committees Report No. 34 *****

TO: Planning and Strategy Committee - 3 November 2014
REPORT: Report Of Committees Report No. 35
SUBJECT: Minutes for notation by Council - Manly LEP/DCP Working Group - 23 October 2014
FILE NO: MC/14/131527

This report was/ dealt with at the Manly LEP/DCP Working Group meeting of 23 October and was listed as a Recommendation in those minutes. The item is hereby submitted to the Planning and Strategy Meeting, together with the minutes for formal notation by Council.

ITEM 6 General Business

(iii) Section 96 modifications and Development “Creep”

The Working Group discussed the issues of continual modifications to developments and “Development Creep” over time by the use of these modifications.

RECOMMENDATION

That the minutes of the Manly LEP/DCP Working Group meeting on 23 October be received and noted:

ITEM 6 General Business

(iii) Section 96 modifications and Development “Creep”

The Working Group recommends to the General Manager that:

Council write to the Department of Planning and the Minister highlighting:

- Misuse of Section 96 Modifications;
- Subsequent Development Creep;
- review of the provisions and restrict number of S96 Modifications relating to the size of the development; and
- the legal loop hole be closed.

ATTACHMENTS

There are no attachments for this report.

PS03112014RC_2.DOC

***** End of Report Of Committees Report No. 35 *****

TO: Planning and Strategy Committee - 3 November 2014
REPORT: Report Of Committees Report No. 36
SUBJECT: Minutes for notation by Council - Community Safety & Place Management
Advisory Committee - 9 October 2014
FILE NO: MC/14/131615

This report was dealt with at the Community Safety & Place Management Advisory Committee meeting of 9 October 2014 and was listed as a Recommendation in those minutes. The item is hereby submitted to the Planning and Strategy Meeting, together with the minutes for formal notation by Council.

ITEM 5 Rangers Report (part)

East Esplanade Complaints

Complaints about use of East Esplanade park increasing with warmer weather. Committee agree that the major issue continues to be the amount of rubbish particularly bottles. Discussion about whether more bottle bins and/or more frequent clearing of bins is needed. Committee are aware of staffing issues but contend that this is an important safety issue to be addressed. It was agreed to ask if staff could report on current cleaning approach and consider plans for an increased regime this summer and the report be prepared for discussion at next month's meeting. Cllr Aird also asked that the report be referred for discussion at the Waste Committee.

RECOMMENDATION

That the minutes of the Community Safety & Place Management Advisory Committee meeting on 9 October be received and noted:

ITEM 5 Rangers Report (part)

East Esplanade Complaints

The Committee recommends to the General Manager that a report be prepared on cleansing issues at East Esplanade park for discussion at next month's meeting.

ATTACHMENTS

There are no attachments for this report.

PS03112014RC_3.DOC

***** End of Report Of Committees Report No. 36 *****

TO: Planning and Strategy Committee - 3 November 2014
REPORT: Environmental Services Division Report No. 41
SUBJECT: Development Applications being processed during November 2014
FILE NO: MC/14/124674

SUMMARY

Development applications being processed during November 2014.

REPORT

The following applications are with the Town Planners for assessment:

DA#	Year	Site	Proposal
372	2005	11 Fairlight Crescent	Section 96 Modification - Part 5
143	2007	21 Seaforth Crescent	Section 96 Modification - Part 4
409	2007	11 Oyama Avenue	Section 96 Modification - Part 3
51	2008	114 Frenchs Forest Road	Section 96 Modification - Part 3
54	2008	83 Gurney Crescent	Section 96 Modification - Part 4
358	2008	30 Kitchener Street	Section 96 Modification - Part 2
153	2010	89 Addison Road	Section 96 Modification - Part 3
164	2010	38 Alma Street	Section 96 Modification - Part 2
224	2010	2 Peacock Street	Section 96 Modification - Part 2
426	2010	3 Oyama Avenue	Section 96 Modification - Part 4
126	2011	4 West Street	LEC - Amended Plans - Section 96(8) Modification - Part 2
134	2011	16 Augusta Road	Section 96 Modification - Part 3
142	2011	Wharves and Jetties	Section 96 Modification - Part 2
257	2011	43-45 Castle Circuit	Section 96 Modification - Part 2
277	2011	374-378 Sydney Road	Section 96 Modification - Part 5
103	2012	7 Gurney Crescent	Section 96 Modification - Part 2
178	2012	7 Montpelier Place	Section 96 Modification - Part 2
185	2012	37 The Corso	Section 96 Modification - Part 4
224	2012	16 Jellicoe Street	Section 96 Modification - Part 3
261	2012	111 Pittwater Road	Section 96 Modification - Part 2
267	2012	19 Cutler Road	Section 96 Modification - Part 2
19	2013	61 Gurney Crescent	Section 96 Modification - Part 3
25	2013	114 Griffiths Street	Section 96 Modification - Part 2
85	2013	57 Smith Street	Section 96 Modification - Part 2
212	2013	7 Harvey Street	Section 96 Modification - Part 2
264	2013	24 Stuart Street	Section 96 Modification - Part 2
6	2014	8 Cliff Street	Alterations and additions to an existing semi-detached dwelling including a front extension to the first floor
29	2014	5 Plant Street	Section 96 Modification - Part 2
30	2014	36 Sydney Road	Demolition of existing buildings, construction of a five (5) storey Mixed Use Development with commercial and retail premises on the ground floor and part of level one (1), boarding rooms on levels one (1) to level four (4) and a two (2) level basement car park

Environmental Services Division Report No. 41 (Cont'd)

DA#	Year	Site	Proposal
31	2014	80 West Esplanade	Section 96 Modification - Part 2
32	2014	39 Peronne Avenue	Alterations and additions to an existing dwelling including second floor addition, rear terrace, deck, elevated swimming pool, landscaping, ground floor and lower ground floor extensions
56	2014	35 Jamieson Avenue	Alterations and additions to an existing detached dual occupancy including strata redistribution, additions at rear at both levels, new attic level addition, external staircase, new double carport, fence and landscaping
58	2014	24B Bungaloe Avenue	Alterations and additions to an existing dwelling including demolition of existing garage, addition of new storage, laundry, new swimming pool and landscaping
59	2014	243 Pittwater Road	Alterations and additions to the existing building (Harris Farm Markets) including a wash down area with a roof, signage and tree removal
67	2014	99 Balgowlah Road	Subdivision of the existing lot into two (2) Torrens Title lots, the addition of a ground floor and first floor deck and hardstand area to the existing dwelling on the side
71	2014	39 White Street	Alterations and additions to an existing dwelling including carport, deck and crossover
72	2014	36 Gurney Crescent	Change of use of a secondary dwelling within the existing dwelling house
75	2014	Bower Street	Section 96 Modification - Part 2
80	2014	49 Pacific Parade	Torrens Title Subdivision of the existing lot into two (2) lots
85	2014	110-112 The Corso	Change of use with fitout from Retail shop to Cafe on ground floor, Restaurant/ Bar on Levels 1 and 2, alterations and additions to the existing building to including trafficable awning balcony at level 1, replace existing canopy at level 2 and outdoor seating along South Steyne
87	2014	14 Kangaroo Street	Demolition of existing structures, construction of a part two (2) and three (3) storey dwelling including double carport, spa, landscaping and removal of trees
89	2014	30A Beatty Street	Alterations and additions to an existing dwelling including first floor addition, additions of a gym, lift and deck to the rear of the existing garage, internal alterations to the lower ground floor and ground floor levels
91	2014	183 Pittwater Road	Change of use from ancillary dwelling to shop top housing for mixed use development
98	2014	183 Balgowlah Road	Alterations and additions to an existing Residential Flat Building including second floor addition with balcony, new window openings to Unit 1 and internal alterations with extension of the existing study within Unit 1 and 2
99	2014	35 Bower Street	Alterations and additions to an existing dwelling including ground floor extension, first floor extension with new terrace, roofing and cladding
103	2014	4 Linkmead Avenue	Alterations and additions to an existing dwelling house including first floor extension and rear pergola
104	2014	57 Castle Circuit	Construction of a new vergola to the rear level three (3) terrace of an existing dwelling house

Environmental Services Division Report No. 41 (Cont'd)

DA#	Year	Site	Proposal
108	2014	44 Alma Street	Alterations and additions to an existing dwelling house including first floor addition, lower ground and ground floor rear addition, terrace, access stairs and retaining walls
109	2014	Wharves and Jetties	Alterations and additions to an existing commercial tenancy - Shop 11 - "Max Brenner", including internal fitout, new shopfront to the western and southern sides and signage - Manly Wharf
114	2014	92 Addison Road	Alterations and additions to an existing semi-detached dwelling including modifications to windows
116	2014	7 Margaret Street	Alterations and additions to an existing dwelling including the construction of a tandem garage beneath the front verandah and crossover
117	2014	2 Audrey Street	Alterations and additions to an existing dwelling including demolition of existing carport, construction of new single garage, extension of driveway and new entry to the dwelling
118	2014	37 Lauderdale Avenue	Alterations and additions to an existing dwelling including vergola above existing second floor terrace with privacy screens
120	2014	42 Wood Street	Alterations and additions to an existing dwelling including new raised timber carport, new driveway, crossover, access ramp and gate
121	2014	68 Addison Road	Alterations and additions to an existing Residential Flat Building including pergola to existing roof terrace - Unit 6
123	2014	109 Pittwater Road	Alterations and additions to an existing dwelling house including new first floor addition, internal alterations to existing ground floor, swimming pool and front fence
126	2014	42 Seaforth Crescent	Alterations and additions to an existing dwelling house including decks, swimming pool, access stairs and landscaping
128	2014	7 North Harbour Street	Construction of a sea wall, plunge pool, deck, retaining walls and landscaping
131	2014	197-215 Condamine Street	Use of a portable coffee cart within the Balgowlah Village Shopping Centre
132	2014	1 Plant Street	Demolition of an existing dwelling house, construction of a new two (2) storey dwelling house with double garage, new driveway and landscaping
133	2014	34 Ponsonby Parade	Alterations and additions to an existing dwelling house including double garage forward of the building line
134	2014	137 Seaforth Crescent	Alterations and additions to an existing dwelling house including construction of a double garage at street level on the existing hardstand
136	2014	25A Castle Circuit	Demolition of existing structures, construction of a new two (2) storey dwelling house with double garage, front decks and landscaping
138	2014	151 Pittwater Road	Alterations and additions to an existing Thup Tim Siam Restaurant including conversion of staff area to a kitchen preparation area
142	2014	1 Fairlight Crescent	Alterations and additions to an existing dual occupancy including a front fence

Environmental Services Division Report No. 41 (Cont'd)

DA#	Year	Site	Proposal
143	2014	123 North Steyne	Demolition of existing dwelling, construction of a new three (3) storey dwelling house including a swimming pool and landscaping
144	2014	30 Arthur Street	Alterations and additions to an existing dwelling including a first floor addition, internal reconfiguration and additions to the front on the ground floor
145	2014	24 Lower Beach Street	Alterations and additions to an existing townhouse including a first floor rear balcony addition, new raised rear deck on the ground floor and internal alterations – 5A
147	2014	31-33 Sydney Road	Installation of awning to an existing building – Fika Swedish Kitchen - (AKA – 5B Market Lane)
148	2014	4 Laura Street	Alterations and additions to an existing dwelling including new masonry sea wall and retaining walls to replace existing timber logs, new timber stairs, new decks, new decked landings, new walkways and increasing the depth of the existing boatshed
149	2014	The Corso	Construction of a permanent kiosk – on Council land adjacent to 90 The Corso, Manly
150	2014	27 Eurobin Avenue	Construction of an in-ground spa with a lockable lid at the rear of the existing dwelling
151	2014	16 Quinton Road	Alterations and additions to an existing duplex including a rear extension with a deck, garage, fence and landscaping - Unit 1
152	2014	71 Seaforth Crescent	Alterations and additions to an existing dwelling including addition of a new timber deck at the rear, widening of the driveway at the front, internal alterations, changes to the windows and doors
153	2014	37 Pittwater Road	Alterations and additions to an existing attached dwelling including a rear extension with a pergola
154	2014	30 Balgowlah Road	Alterations and additions to an existing semi detached dwelling including the demolition of internal walls, new first floor addition and a front fence
155	2014	30 Pacific Parade	Construction of a swimming pool and landscaping
156	2014	6 Ogilvy Road	Demolition of existing dwelling, construction of new three (3) storey dwelling with double garage, swimming pool and landscaping
157	2014	3-5 Pittwater Road	Alterations and alterations to an existing gymnasium including expansion of the gymnasium on the ground floor with a retail area – Anytime Fitness
158	2014	31 Battle Boulevarde	Alterations and additions to an existing dwelling including excavation, partial demolition, new cabana, landscaping, internal and external modifications
159	2014	243 Sydney Road	Construction of two (2) storeys above the existing shops to create two (2) shop top dwellings
160	2014	18 Alan Avenue	Construction of a new two (2) storey dwelling with double garage
161	2014	85 Curban Street	Alterations and additions to an existing dwelling including rear addition with deck and relocation of swimming pool
162	2014	47 Frenchs Forest Road	Construction of a detached single storey secondary dwelling to the rear of the existing dwelling

Environmental Services Division Report No. 41 (Cont'd)

DA#	Year	Site	Proposal
163	2014	65 Eurobin Avenue	Alterations and additions to an existing dual occupancy including demolition of the existing shed and outdoor laundry, extension to the existing ground floor at rear with a pergola, new bike and garden sheds
165	2014	39 Lauderdale Avenue	Alterations and additions to an existing Residential Flat Building including enclosure of existing balcony - Unit 3
166	2014	12 Callicoma Road	Alterations and additions to an existing dwelling house including new storey within the existing garage/undercroft/ laundry
167	2014	7 Audrey Street	Alterations and additions to an existing dwelling house including a first floor addition and rear ground floor extension
168	2014	87 Darley Road	Alterations and additions to an existing semi-detached dwelling house including a first floor addition, internal alterations on the ground floor and landscaping
169	2014	103 Bower Street	Alterations and additions to an existing Residential Flat Building including internal modifications, enclosure of courtyard and enlarged window - Unit 1
170	2014	352 Sydney Road	Alterations and additions to existing retail premises including ATM in shopfront window
171	2014	134 Condamine Street	Demolition of existing structures and construction of an attached dual occupancy development
172	2014	45 Pacific Parade	Alterations and additions to an existing Child Care Centre involving an increase in child numbers from twenty-eight (28) to forty-two (42), change to hours of operation 8:00am to 5:30pm, new pergola and deck
173	2014	129 Bower Street	Alterations and additions to an existing Residential Flat Building including modification to services and façade
174	2014	5 Valley Road	Demolition of existing dwelling house and associated structures, construction of two (2) dwelling houses and subdivision of existing lot
175	2014	4 Adelaide Street	Alterations and additions to an existing dwelling house including rear addition, extension to rear first floor balcony, removal and addition of first floor side bathroom windows, new stairs to loft, new garage, modification to loft and roof terrace.
176	2014	17 Audrey Street	Alterations and additions to an existing dwelling house including front fence, first floor addition, rear ground floor addition and extension of existing deck
177	2014	8 Waratah Street	Construction of a carport, new fencing and widening of the existing crossover
178	2014	31 Seaforth Crescent	Demolition of an existing dwelling, construction of a new four (4) level dwelling house with double garage, swimming pool, landscaping and new driveway
179	2014	90 The Corso	Alterations and additions to an existing retail premises including modifications to the facade and new signage – Tommy Bahama
180	2014	27 Wood Street	Alterations and additions to an existing dwelling house including new first floor addition and ground floor alterations

Environmental Services Division Report No. 41 (Cont'd)

DA#	Year	Site	Proposal
181	2014	87 Castle Circuit	Alterations and additions to an existing dwelling house including the addition of a new lift and lobby
182	2014	43 Frenchs Forest Road	Alterations and additions to an existing dwelling house including rear rear double garage, swimming pool, entry walkway and timber deck
183	2014	5 Alan Avenue	Alterations and additions to an existing dwelling house including new in-ground swimming pool and cabana at the rear
184	2014	6 Hill Street	Alterations and additions to an existing dwelling house including new first floor addition with rear balcony
185	2014	21 Osborne Road	Alterations and additions to an existing dwelling house including rear and side extension to the ground floor living area, extensions to garage, rear extension to the first floor, internal modifications, landscaping, modification to the driveway and crossover
186	2014	47 Beatty Street	Alterations and additions to an existing dwelling house including extension to the first floor deck
187	2014	103 Bower Street	Alterations and additions to an existing Residential Flat Building including ground floor extension, extension to an existing first floor balcony and new balcony to the master bedroom – Unit 3
188	2014	107 Pittwater Road	Alterations and additions to an existing dwelling house including partial demolition, new first floor, new vehicular crossing and single hardstand car parking space at the rear

The following applications are with Lodgment & Quality Assurance for advertising, notification and referral to relevant parties:

124/2014 602 Sydney Rd, SEAFORTH 2092

Alterations and additions to an existing mixed use premises including change of use and conversion of the ground floor level into two (2) residential units

173/2014 129 Bower St, MANLY 2095

Alterations and additions to an existing Residential Flat Building including modification to services and façade

174/2014 5 Valley Rd, BALGOWLAH HEIGHTS 2093

Demolition of existing dwelling house and associated structures, construction of two (2) dwelling houses and subdivision of existing lot

401/2008 11 Lower Beach St, BALGOWLAH 2093

Section 96 to modify approved Refurbishment of existing shop, retractable canvas awning and under awning sign – involving extending use to rear corridor, extending hours of operation to 7:00am to 8:00pm Monday to Sunday and internal modifications – Part 2

206/2013 91 Gurney Cr, SEAFORTH 2092

Section 82B Review of Rejection of the refused Demolition of the existing boatshed and construction of a new building – Part 2

Environmental Services Division Report No. 41 (Cont'd)

95/2014 1 Fairlight Cr, FAIRLIGHT 2094

Section 96 to modify approved Alterations and additions to an existing Dual Occupancy including demolition of the two (2) existing sets of access stairs, construction of new access stairs, addition of two (2) new terraces on the north and south of each unit and new pergola to Unit 2 – involving alterations to approved terraces, balustrades and barbeque area, and conversion of family room to a bedroom with additions of non-habitable rooms at Unit 1 – Part 2

79/2013 61 Macmillan St, SEAFORTH 2092

Section 96 to modify approved Construction of an above ground swimming pool, deck and landscaping – involving the increase in height and a new retaining wall – Part 2

189/2014 162 Condamine St, BALGOWLAH 2093

Alterations and additions to an existing resident flat building including demolition of front decks, construction of new decks and awning

190/2014 90 Whistler St, MANLY 2095

Alterations and additions to an existing residential flat building including new second floor addition with roof top deck, new balcony and alterations to units 3 and 4

191/2014 28 Collingwood St, MANLY 2095

Alterations and additions to an existing semi-detached dwelling including demolition of existing swimming pool and rear bi-fold door, extension of the rear terrace and balcony, new pergolas, new bi-fold door at rear and landscaping with daybed

240/2009 27 Radio Av, BALGOWLAH HEIGHTS 2093

Section 96 to modify approved Alterations and additions to an existing dwelling including first floor addition, rear extension, double garage, vergola and landscaping – involving relocation of the garage and access door, alterations to the front gate, stairs, flower box, driveway and new fence – Part 2

259/2013 22 Central Av, MANLY 2095

Section 96 to modify approved Alterations and additions to an existing building to create an additional dwelling (caretakers flat) with balcony – involving relocation of internal ensuite, changes to window, modification to ANS01 to remove the restriction that the unit be used as caretakers unit in perpetuity – Part 2

69/2014 9 Monash Cr, CLONTARF 2093

Section 96 to modify approved Alterations and additions to existing dwelling including first floor extension, rear extension, new roof and decks – involving changes to the windows and extension to the rear first floor addition with new retreat – Part 2

192/2014 120 Condamine St, BALGOWLAH 2093

Alterations and additions to existing church buildings including new entry porch and foyer to church and new covered connection to adjacent building, new driveway, new parking area and landscaping

234/2012 92 The Corso, MANLY 2095

Section 96 to modify approved Demolition of the rear of the existing building, ground floor and first floor rear addition including a new loading dock and a second floor addition with office space and balcony – involving additional floor partially above height limit– Part 3

Environmental Services Division Report No. 41 (Cont'd)

146/2012 8 Jackson St, BALGOWLAH 2093

Section 96 to modify approved Alterations and additions to an existing residential flat building including alteration to roof, rear additions, demolish existing garage, create four (4) parking spaces, new driveway, removal of three (3) trees, new front fence and strata subdivision – involving replacement of slab at ground and first floor levels, changes to apartment layouts, window and door changes – Part 2

24/2013 131 Condamine St, BALGOWLAH 2093

Section 96 to modify approved Alterations and additions to an existing existing dwelling including new entry with roof, internal stairs and rear extension to garage with terrace above –involving modification to the lower ground and ground floor levels – Part 2

49/2014 6 Acacia Rd, SEAFORTH 2092

Section 96 to modify approved Alterations and additions to the existing two (2) detached dwellings with a first floor addition to the primary dwelling with carport and vestibule and extensions to the secondary dwelling and semi-detached terrace with storage rooms underneath – involving modifications to the original DA to comply ANS09 in relation to ground portico, ANS10 in relation to the southern fence to front portico, ANS15 in relation to planting of Angophora Costata, ANS16 in relation to the minimum number of native trees and ANS17 in relation to south facing first floor windows, reduced building height, reduced the rear terrace area, deletion of the under terrace storage area and associated landscaping – Part 2

193/2014 62 Birkley Rd, MANLY 2095

Demolition of an existing double garage, construction of new double garage with secondary dwelling above

194/2014 7 Curban St, BALGOWLAH HEIGHTS 2093

Alterations and additions to an existing dwelling including extensions to the rear lower ground and ground floor levels, construction of new double carport with workshop/ storage area below, new driveway and crossover

195/2014 71 Bungaloe Av, BALGOWLAH 2093

Replacement of an existing single garage

44/2013 27 Fairlight St, FAIRLIGHT 2094

Section 96 to modify approved Demolition of existing structures, construction of a three (3) storey multi dwelling development including two (2) units, two double garages, front courtyard and rear decks – involving variation to condition ANS04 in relation full length vertical louvers to rear decks, additional off-street car space and variation to Section 94 contributions – Part 2

200/2014 7 Steinton St, MANLY 2095

Alterations and additions to an existing row house dwelling including first floor addition, internal alterations to the existing ground floor and landscaping

1/2014 57 Gordon St, CLONTARF 2093

Section 96 to modify approved Alterations and additions to an existing dwelling including ground floor and first floor additions, extension of rear balconies, shade structures, side stairs with path and new boundary fence – involving minor alterations to ground floor and first floor elevations and new timber walkway, pergola, garage door and landscape works – Part 2

196/2014 10 Arthur St, FAIRLIGHT 2094

Alterations and additions to an existing dwelling including rear additions to the lower ground and ground floors, window changes, new carport and new driveway with crossover

Environmental Services Division Report No. 41 (Cont'd)

197/2014 37 The Corso, MANLY 2095

Extension of existing hours of operation from 6.00am to midnight Monday to Sunday, increase the number of seating from 17 to 30 and extension of the back of the house into shop 7

198/2014 6 Collingwood St, MANLY 2095

Alterations and additions to an existing dwelling including new double carport in front setback, new ground floor deck, landscaping of existing hardstand area, internal alterations, new rear pergola, new windows, new doors and Juliet balcony

199/2014 25 Darley Rd, MANLY 2095

Alterations and additions to an existing dwelling including internal alterations, partial demolition to provide off street parking, new driveway, crossover and garage door

The following applications were presented to the Manly Independent Assessment Panel on 16 October 2014.

DA#	Address	Proposal	Determination by MIAP
105/2013	112 Sydney Road	Section 96 Modification - Part 2	Approved
9/2014	11 & 13 Daintrey Street	Section 82A Review of Determination of refused Subdivision of two (2) existing lots into three (3) lots, demolition of the existing dwelling on 11 Daintrey Street with the construction of two (2) x two (2) storey semi-detached dwellings and a rear two (2) storey addition to the existing dwelling on 13 Daintrey Street - Part 2	Deferred Consent Approval
73/2014	65 Cutler Road	Alterations & Additions to an existing Dwelling including partial demolition with extension at rear on middle level and internal modifications on middle and upper levels	Approved
127/2014	92-94 Pittwater Road	Change of use from an existing retail premises to a restaurant and new signage	Approved
130/2014	323-325 Sydney Road	Demolition of existing buildings, construction of a four (4) storey residential flat building and boarding house with basement car parking, containing fourteen (14) boarding rooms and ten (10) units and Strata Subdivision of the Residential Units	Refused
146/2014	Fairlight Street	Consolidation of three (3) lots and creation of a two (2) lot Land Subdivision – Sydney Water Land	Approved

RECOMMENDATION

THAT the information be received and noted.

ATTACHMENTS

There are no attachments for this report

Environmental Services Division Report No. 41 (Cont'd)

PS03112014ESD_1.DOC

***** End of Environmental Services Division Report No. 41 *****

TO: Planning and Strategy Committee - 3 November 2014
REPORT: Environmental Services Division Report No. 42
SUBJECT: List of LEC Appeals relating to DAs during November 2014
FILE NO: MC/14/124700

SUMMARY

A list of appeals relating to Development Applications currently listed with the Land and Environment Court.

REPORT

DA#	L&E Appeal Ref	House #	Address	Date Appeal Lodged	Solicitor Co.	Current Status
ACTIVE						
DA 30/2014	Class 1 10753/2014	36-46	Sydney Road	17/9/2014	Pikes	Adjourned to 25 November 2014
DA 127/2014	Class 1 10683/2014	92-94	Pittwater Road	29/8/2014	HWL	Section 34 conference 7 November 2014
DA 130/2014	Class 1 10653/14	323-325	Sydney Road	21/8/2014	Maddocks	Section 34 conference 5 November 2014
DA 5/2014	Class 1 10572/14	4	Rolfe Street	1/8/2014	In-house	Matter set down for hearing 11&12 December 2014
DA 220/2013	Class 1 10551/2014	9-11	Victoria Pde	29/7/2014	Maddocks	Judgement in favour for Council on permissibility issue, leave granted to amend plans to be set down for s34 conference or case management - listed for progress report on 28 October 2014

RECOMMENDATION

THAT the information be received and noted.

ATTACHMENTS

There are no attachments for this report

PS03112014ESD_2.DOC

***** End of Environmental Services Division Report No. 42 *****

TO: Planning and Strategy Committee - 3 November 2014
REPORT: Corporate Services Division Report No. 25
SUBJECT: Policy for the Payment of Expenses and Provision of Facilities to Mayor and Councillors
FILE NO: MC/14/124415

SUMMARY

This report recommends the exhibition of the policy on *Payment of Expenses and Provision of Facilities to Mayor and Councillors*.

REPORT

Council's policy on *Payment of Expenses and Provision of Facilities to Mayor and Councillors*, was last adopted at the Planning and Strategy Meeting of 4 November 2013.

Section 252(1) of the *Local Government Act 1993*, provides that within five (5) months after the end of each year, Council is required to adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and Councillors.

Where a Council is to adopt or amend its policy, Section 253(1) requires that public notice be given allowing at least 28 days for the making of public submissions. Council must publicly exhibit the *Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy* before they annually adopt the policy, even if the policy is not amended or the amendments are not substantial.

Section 253(4) then requires that a copy of the policy be forwarded to the Director General within 28 days of its adoption.

After reviewing this policy it is considered that Council's policy substantially meets the requirements of the legislation and the guidelines issued in October 2009 by the Division of Local Government, in relation to the payment of expenses incurred and the provision of facilities to the Mayor and Councillors. However some minor amendments have been included in the attached draft policy to provide current wording relating to technology provisions.

It is recommended that Council give notice of its intention to adopt the *Payment of Expenses and Provision of Facilities Policy* pursuant to Section 253(3) of the *Local Government Act 1993*, and publicly exhibit it for 28 days.

RECOMMENDATION

That:

1. Pursuant to Section 253 of the *Local Government Act 1993*, Council gives public notice of its intention to adopt the policy on *Payment of Expenses and Provision of Facilities to the Mayor and Councillors*; and
2. the policy be exhibited for 28 days and thereafter adopted if no submissions are received.

ATTACHMENTS

AT- 1 Revision of Payment of Expenses and Provision of Facilities 12 Pages

PS03112014CSD_1.DOC

***** End of Corporate Services Division Report No. 25 *****

ATTACHMENT 1

Corporate Services Division Report No. 25.DOC - Policy for the Payment of Expenses and Provision of Facilities to Mayor and Councillors Revision of Payment of Expenses and Provision of Facilities

P51. Payment of Expenses and Provision of Facilities to Mayor and Councillors

Title: Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy

Policy No: P51

Keywords: Payments, Expenses, Facilities, Benefits, Travel, Mayor, Councillors, Equipment, Private Use, Accommodation, Spouse

Responsible Officer: Executive Manager, Corporate Services

PART 1 INTRODUCTION

1. Preliminary

This policy is in accordance with the requirements of the *Local Government Act 1993* and may be cited as the "Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy".

1.2 Purpose and Authority---Policy Objectives

The purpose of this policy is to allow for Councillors to receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties as elected representatives of their local communities.

This policy will also apply as applicable to NSW Council administrators in the event of their appointment.

1.3 Legislative and other Government Policy Provisions

1. This policy is made under the *Local Government Act 1993* ("the Act"), including sections 252 to 254. The Act requires that Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and other Councillors.
 - The Local Government (General) Regulation 2005 ("the Regulation").
 - Division of Local Government, Department of Premier and Cabinet Guidelines for the payment of expenses and provision of facilities for Mayors and Councillors for Local Councils in NSW" (October 2009).
 - Department of Local Government Circular No 05/08 – Legal Assistance for Councillors and Council Employees and No 08/24 – Mis-use of Council Resources
 - Council's Code of Conduct
 - ICAC Publication – No Excuse for Misuse, preventing the misuse of Council resources
 - Other relevant publications.
2. Clause 403 of the Regulation states that a policy under section 252 of the Act must not include any provision enabling Council:

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Corporate Services Division Report No. 25.DOC - Policy for the Payment of Expenses and Provision of Facilities to Mayor and Councillors

Revision of Payment of Expenses and Provision of Facilities

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or
- (b) to make a motor vehicle owned or leased by Council available for the exclusive or primary use or disposition of a particular Councillor other than the Mayor.

1.4 Reporting

Section 428(2) (f) of the Act requires a council to include in its Annual Report:

- Council's policy on the provision of facilities for, and the payment of expenses to Councillors.
- Total amount of money expended during the year on providing those facilities and paying those expenses.

Clause 217(1)(a) and (a1) of the Regulation requires Council to include in the Annual Report the total cost of expenses and provision of facilities for the Mayor and Councillors, specifically:

- details (including the purpose) of overseas visits undertaken during the year by Councillors while representing Council
- cost of the provision, including rental, of dedicated office equipment allocated to councillors on a personal basis such as laptop computers, mobile phones, telephones and facsimile machines and internet installed in Councillors homes
- cost of telephone calls including mobiles, home located landlines, facsimile and internet services
- attendance of Councillors at conference and seminars
- interstate visits and cost of travel, accommodation, etc
- overseas visits and cost of travel, accommodation, etc
- spouse/partner/accompanying person expenses
- care and other related expenses

1.5 Monetary Limits

The payment of expenses and provision of equipment and facilities is limited by the budget allocations made for Councillor expenses each year in the adopted Estimates which are included and exhibited as part of Council's Community Strategic Plan, or as otherwise indicated in this policy.

Any claim submitted to Council for reimbursement must be approved by the General Manager. The General Manager will assess the appropriateness of the claim and shall have regard to the budget allocations.

1.6 Dispute Resolution

Any dispute by a Councillor relating to the administration of this policy must be made in writing to the General Manager detailing the grounds of the dispute.

All such disputes will be referred to the Full Council for determination and resolution.

PART 2 FACILITIES FOR MAYOR AND COUNCILLORS

2.1 Mayor

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Revision of Payment of Expenses and Provision of Facilities

In addition to those facilities provided to the Councillors below, the Mayor is entitled to receive the benefit of:

- use of the Mayoral office;
- a mobile telephone for use for in relation to official duties;
- administrative services associated with office of the mayor;
- cost of transport to official functions (if required);
- provision and maintenance of mayoral chain and robes.

2.2 Councillors

The Councillors, including the Mayor and Deputy Mayor are to receive the benefit of:

- use of official council stationery;
- postage of official correspondence - all mail is to be directed through the Council's own mailing system;
- meals/refreshments prior to Council and Committee Meetings;
- cost of transport to official functions (if required) when deputising for the Mayor
- an electronic access card for parking in the Whistler Parking Station seven (7) days per week;
- provision of a laptop personal computer (on loan), a modem, a printer and support services from Council IT staff;
- provision of a broadband internet service to the Councillor's residence;
- reimbursement of a Councillor's own residential telephone service OR mobile telephone service - for reasonable expenses incurred by Councillors for telephone calls made in the performance of their duty, up to a maximum of \$100 per month and subject to below.

Provided that:

- a) Councillor's telephone numbers in respect of which a claim is made are made available to the public;
- b) claims for reimbursement are made no later than three (3) months after the account is due for payment;
- c) claim for payment of telephone calls are to be certified as being substantially incurred on council business;
- d) copy of telephone account to be provided;
- e) maximum claim for telephone service(s) is limited to \$50.00 per month where calls have not been itemised. Where the account exceeds \$50.00, maximum claim will be \$100.00 per month provided telephone calls made in the performance of their duty are itemised on the account;

Attendance at political fundraising functions are considered to be a personal interest and not covered in the policy.

2.3 Spouse/Partner/Accompanying person

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Council may from time to time hold functions or civic events where Councillor's spouses, partners or accompanying person are also invited. In these instances, Council shall meet the cost of meals and refreshments.

2.4 Private Use of Equipment and Facilities

Council acknowledges that incidental private use of equipment and facilities may occur from time to time and such use is not subject to compensatory payment. The General Manager shall determine the standard and quality of equipment provided. However, Councillors must not obtain more than incidental private use of facilities.

2.5 Unauthorised use of Council Facilities, Equipment and Services

Council facilities, equipment and services are not to be used to produce election material or for any other political purposes.

2.6 Return of Equipment and Facilities by Councillors

Councillors are required to return all Council issued equipment to Council after the completion of the Councillors term of office or at the cessation of their civic duties.

Councillors may choose to purchase Council equipment previously allocated to them at the cessation of their duties. Items will be offered at the written down value at the time of purchase.

PART 3 ANNUAL FEES

3.1 Mayor and Councillors

The Councillors are paid an annual fee (s248), and in addition the Mayor receives an annual allowance (s249). Members fees and the Mayoral allowance are set by resolution of Council in accordance with the determination of the Local Government Remuneration Tribunal for the category of Council each year, and do not form part of this policy.

At Council's Meeting held on 27th July 1998, Council resolved as follows:

"That in respect of future determinations by the Local Government Remuneration Tribunal, Council, as policy, set the Mayor and Councillor remuneration fees at the maximum level determined by that body."

A councillor may elect by agreement with Council to forgo part of their fees under s248 or 249 in return for contributions paid to a complying Superannuation Fund (see Australian Tax Office Interpretive Decision (ATO ID 2007/205)). (Cnl 18/02/2008)

PART 4 PAYMENT OF EXPENSES FOR MAYOR AND COUNCILLORS

4.1 Transport

In addition to the payment of annual fees in accordance with sections 248 and 249 of the Act, Councillors are entitled to claim "mileage" allowance for use of private vehicles to drive between their place of residence and the Council Chambers, inspections within the area of the Council undertaken in compliance with a resolution of the Council, meetings which Council has

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endorsed the Councillor's membership, civic receptions hosted by Council, or meetings or functions approved by the Mayor or General Manager, and return. "Mileage" rates will be paid at the then current rate set by the appropriate Local Government Industrial Award or equivalent.

Other out of pocket expenses associated with travel by motor vehicle such as parking fees and road toll charges may be claimed, noting that the driver is personally liable for all traffic or parking fines while travelling in private or council vehicles on Council business.

Reimbursement is subject to a formal claim being lodged not later than three (3) months after the expense was incurred.

Alternatively, Councillors may travel by taxi and use a Councillor issued Taxi charge-card.

4.2 Conferences and Seminars

4.2.1 Who May Attend Conferences and Seminars

Councillors may be nominated to attend conferences, seminars and similar functions by:

- the Council, through resolution duly taken;
- the Mayor acting under delegated authorities, and
- subject to budget requirements.

In addition the Mayor may nominate a substitute attendee for functions within the Council area or general Sydney Metropolitan Area or on those occasions where the Mayor is unable to be in attendance.

4.2.2 What Conferences and Seminars may be Attended

The conferences, seminars, workshops, courses and similar to which this policy applies shall generally be confined to:

- Local Government Annual Conferences (Federal and State);
- special "one-off" conferences called by Local Government Associations;
- annual conferences and congresses of the major industry associations and professions in local government;
- seminars which further the training and development efforts of the Council and within the budget framework.

4.2.3 Overseas Travel

The cost of overseas travel for purposes such as conferences and delegations to friendship communities shall not be met by Council. In extenuating circumstances, any agreement to meet the costs of overseas travel either in whole or in part, shall be specifically resolved by a meeting of Council and subject to a detailed report to Council on all aspects of the trip relevant to Council business within three (3) months of the completion of the travel.

4.2.4 Registration

The Council will pay all normal registration costs which are charged by organisers, including the costs of related official luncheons, dinners and tours which are relevant to the interests of the Council or assist Councillors to discharge the functions of their civic office.

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4.3 Expenses Incurred

Payment or reimbursement of expenses incurred or to be incurred shall be subject to the requirements that:

- (a) travel expenses relate to travel that is on Council business, being to and from the periodical conferences and seminars of local government related organisations (generally as listed above) at which attendance has been approved.
- (b) the travel is undertaken with all due expedition, and by the shortest route and the most practicable and economical transport;
- (c) only reasonable amounts are claimed or accepted towards necessary out-of-pocket expenses;
- (d) out-of-pocket expenses for which amounts are claimed relate only to the verified costs of meals, travel, registration fees, accommodation, stationery and the like;
- (e) any time occupied or travel incurred in other than Council business is not included in the calculation of expenses to be paid; and
- (f) the claim is made not later than three (3) months after the expenses were incurred, and upon an approved claim form, supported by appropriate receipts and tax invoices.
- (g) any expenses in relation to Council related business should only be incurred by Councillors in accordance with the provisions of this policy. All claims shall be submitted for approval by the General Manager or his delegate.

4.4 Payment In Advance

The Council will normally pay registration fees, accommodation deposits and airline tickets direct in advance. Where this is not appropriate or possible, a cash allowance or cheque equivalent thereto will be paid to the attendee in advance.

An allowance for estimated "out-of-pocket" expenses may be paid to an attendee in advance upon request.

Any advance payments are subject to a reconciliation statement accompanied by tax invoices/receipts, verification of expenses and the refund of any unexpended amount being submitted within ten (10) days of the close of the conference, seminar or function.

4.5 Categories of Payment or Reimbursement

Subject to nomination in accordance with the provisions of Clause 4.4, the categories of payment or reimbursement are as follows:

(a) Travel

All reasonable travel costs will be met by the Council. Where appropriate, travel will be provided by air (economy class). Depending upon the circumstances, it may be more appropriate for travel to be undertaken by car or train. Where trains are used, the Council will provide first class travel, including a sleeping berth where necessary.

Travel by motor vehicle may be undertaken by Council vehicle (where available) or by private vehicle subject to prior approval from the General Manager. Persons using private vehicles will be paid the "mileage" allowance at the then current rate set by the appropriate Local Government Industrial Award from time to time, but subject to any such payment not exceeding economy class air fares to and from the particular destination.

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Costs of vehicle hire and/or taxi fares which are reasonably incurred while attending conferences will be reimbursed by the Council.

(b) Accommodation

Reasonable accommodation costs (including meals), including the night before and/or after the conference where this is necessary, will be met by the Council.

(c) Out-of-Pocket Expenses

Reasonable out-of-pocket expenses will be reimbursed for costs associated with attending the conference, seminar, meeting or function including entertainment but excluding expenses of a normal private nature.

(d) Spouse/Partner

All other costs for the spouse/partner (including travel and meals) are to be borne by the attendee.

PART 5 INSURANCE - COUNCILLORS

Councillors are to receive the benefit of insurance cover for:

a) Personal Injury

Whilst ever on Council business, world-wide covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit for death of \$500,000. Also covering permanent disablement, temporary total disability and temporary partial disability. The cover does not include medical expenses other than that covered by travel insurance taken out in respect of the travel on approved council business. Full details of personal accident insurance are available in Council's Insurance Manual held by the Risk Manager.

b) Professional Indemnity

For matters arising out of Councillors' performance of civic duties or exercise of their functions as councillors, provided the performance or exercise of the relevant civic duty or function is *authorised under the Act, was carried out in good faith and is* in the opinion of Council bona fide and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out. No such benefit, irrespective of insurance cover, shall be provided in relation to an action by one Councillor against another Councillor or a Councillor against a member of staff.

c) Public Liability

For matters arising out of Councillors performance of civic duties or exercise of their functions as councillors provided the performance or exercise of the relevant civic duty or function is *authorised under the Act, was carried out in good faith and is* in the opinion of Council bona fide and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out. No such benefit, irrespective of insurance cover, shall be provided in relation to an action by one Councillor against another Councillor or a Councillor against a member of staff

d) Councillors and Officers Liability

For matters arising out of Councillors performance of civic duties or exercise of their functions as councillors provided the performance or exercise of the relevant civic duty or function is *authorised under the Act, was carried out in good faith and is* in the opinion of Council bona fide

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and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out.

PART 6 LEGAL ASSISTANCE FOR COUNCILLORS

6.1 Legal Assistance for Councillors

In the event of:

1. An enquiry, investigation or hearing by any of:

- The Independent Commission Against Corruption
- The Office of the NSW Ombudsman
- Division of Local Government, Department of Premier and Cabinet
- The NSW Police Force
- The Director of Public Prosecutions; or
- The Local Government Pecuniary Interest and Disciplinary Tribunal
- Council's Conduct Review Committee/Reviewer

into the conduct of a Councillor provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the body makes a finding substantially favourable to the Councillor, or

2. Legal proceedings being taken against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor, Council shall, providing the body makes a finding substantially favourable to the councillor, reimburse such Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:

- a. the amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis;
- b. the Councillor's performance or exercise of the civic duty or function was, in the opinion of Council, bona fide and/or proper.
- c. the amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's solicitors will be paid, ie any portion of the expenses representing any hourly charge rate higher than the hourly charge rate of Council's solicitors will not be reimbursed.
- d. In the case of a conduct complaint made against a Councillor, legal costs should only be made available where a matter has been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the Model Code of Conduct.
- e. In the case of a pecuniary interest misbehaviour matter, legal costs will only be made available where a formal investigation has been commenced by the Division of Local Government.

Despite the above, Council in its absolute discretion may refuse any or part of a reimbursement.

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3. Defamation proceedings, or other proceedings arising from the making of public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

6.2 General

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- i. The statement was made or the act was done in relation to discharging the functions of civic office;
- ii. The Councillor concerned was acting in good faith; and
- iii. The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

Then Council will indemnify or reimburse the Councillor for:

- i. All legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- ii. Any other loss, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceedings **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any moneys that may or are recouped by the Councillor on any basis.

6.3 Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must:
 - (a) Be in written or electronic form;
 - (b) Include all details including any correspondence from the alleged injured party concerning the possible claim; and
 - (c) Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by council or its solicitor or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council fully informed of any oral or written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

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3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to claim, notify and forward to Council's insurer any information in relation to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied
4.
 - (a) If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in-turn notify the Councillor concerned in written or electronic form of that view.
 - (b) If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause 4(a), the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated the President for the being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have sole carriage of the matter and Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the Insurers the General Manager in consultation with Council's solicitors will take what ever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
 - (a) Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - (b) Accounts being considered and approved by the General Manager prior to payment; and
 - (c) All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.

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8. Notwithstanding the provisions of paragraphs 2(b) and 5 above, once proceedings have actually been commenced then the procedures set out in paragraph 5 above must be followed.

[Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.]

6.4 Exclusion from Policy

This policy will not apply to:

1. any action in defamation taken by a Councillor or Council staff member as plaintiff in any circumstances as Council will not meet these costs.
2. costs incurred by a Councillor or Council employee seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation as Council will not meet these costs.
3. any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:
 - a) the statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
 - b) the statement:
 - i. is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefings; and
 - ii. is in accordance with the Local Government (General) Regulation 2005 (Meetings) and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
 - iii. does not breach any other law.

PART 7 MISCELLANEOUS MATTERS

7.1 SCOPE

This policy applies to all Councillors who are involved, directly or indirectly, in decision-making (including preparatory and recommendatory decision-making) with respect to the subject-matter of this policy.

7.2 DEFINITIONS

See the Dictionary at the end of the Local Government Act 1993 for definitions of various terms and expressions used in this policy.

7.3 IMPLEMENTATION

ATTACHMENT 1

Corporate Services Division Report No. 25.DOC - Policy for the Payment of Expenses and Provision of Facilities to Mayor and Councillors

Revision of Payment of Expenses and Provision of Facilities

This policy will be implemented without delay once adopted by Council.

Council and/or the General Manager may, during a civil emergency only, set aside any policy terms to ensure public safety.

7.4 MONITORING AND BREACHES

Breaches of this policy are considered to be breaches of Manly Council's Code of Conduct and therefore invoke the relevant sanctions outlined in that Code. Persons in breach of any legislation may be subject to relevant criminal action.

7.5 REPORTING

No specific reporting is required by this policy.

7.6 POLICY REVIEW

Within 5 months after the end of each year, Council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor (if there is one) and the other Councillors in relation to discharging the functions of civic office: s.252(1), Local Government Act 1993. Accordingly, this policy is subject to annual review, with each such review being conducted strictly within 5 months after the end of each year.

Council must give public notice of its intention to adopt or amend this policy, allowing at least 28 days for the making of public submissions. In addition, before adopting or amending the policy, Council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment. (Note. Council need not give public notice of a proposed amendment to this policy if Council is of the opinion that the proposed amendment is not substantial. See s.253, Local Government Act 1993.)

For the purposes of carrying out and giving effect to this policy, the General Manager may from time to time prepare, adopt or vary, and otherwise issue to Council staff, guidelines and directions relating to any aspect of this policy.

Any recognised change to relevant legislation; or directives or guidelines issued by agencies including the NSW Ombudsman and the Division of Local Government; or to Manly Council's related guidelines and procedures will activate an immediate review of this policy to ensure it remains current and aligned to best practice policies.

7.7 RELEVANT REFERENCES AND LEGISLATION

Local Government Act 1993
Local Government (General) Regulation 2005
DLG Guidelines on Payment of Expenses and Provision of Facilities to Mayor and Councillors
DLG Circular No 05/08 – Legal Assistance for Councillors and Council Employees and No 08/24 – Mis-use of Council Resources
ICAC Publication – No Excuse for Misuse, preventing the misuse of Council resources.

7.8 RELEVANT COUNCIL POLICIES

Manly Council Code of Conduct

PART 8 REVISION SCHEDULE

Minute No	Date of Issue	Action	Report / Source	Author	Checked by
	16 August 2004	Policy adopted by	Policy No.		

ATTACHMENT 1

**Corporate Services Division Report No. 25.DOC - Policy for the Payment of Expenses and Provision of Facilities to Mayor and Councillors
Revision of Payment of Expenses and Provision of Facilities**

		Council	M70		
OM15/07	19 February 2007	Policy revised	DLG Circular 06/57		
OM19/08	18 February 2008	Minor amendment to CI 3.1	CSD Report No 3		
OM198/08	8 December 2008	Minor amendment to CI 2.2	CSD Report No 28		
OM182/09	14 December 2009	Compliance with DLG Circular 9/36 and Guidelines	CSD Report No 32		
OM 207/10	8 November 2010	Minor revision only	CSD Report No	DGM PPI	
PS53/11	2 May 2011	Periodic Review	CSD Report No	Secretariat, Corporate Services	Manager, Administration
OM206/11	14 November 2011	No change, policy Adopted by Council.	CSD Report No. 45	Office Manager Corporate Services	Manager, Administration
PS/OM	5 November 2012	No change, policy Adopted by Council	CSD Report	Manager Administration	Legal / General Counsel team
PS/OM 11/13	4 November 2013 & OM	Periodic Review – Minor Revisions	CSSD Report	Manager Administration	Legal / General Counsel team
	3 November 2014	Periodic Review – No Change	CSSD Report	Manager Administration	Legal / General Counsel team