



## 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 4 July 2005**

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

Persons in the gallery are advised that the proceedings of the meeting are being taped for the purpose of ensuring the accuracy of the Minutes. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.

*Copies of business papers are available at the Customer Services Counter at Manly Council, Manly Library and Seaforth Library and are available on Council's website:  
[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)*

# Seating Arrangements for Meetings

Staff      Staff      General  
                                 Manager      Chairperson      Staff      Minute  
   Taker



**Mayor** Dr Peter  
Macdonald

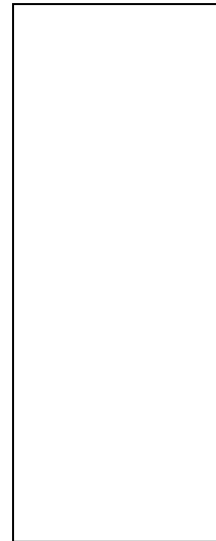
Clr Mark Norek

Clr Joanna Evans

Clr Barbara Aird

Clr Brad  
Pedersen

**Deputy Mayor**  
Clr Richard  
Morrison



Clr Jean Hay AM

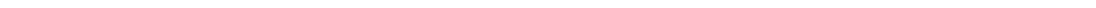
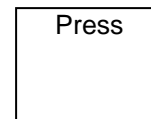
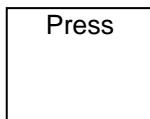
Clr Adele Heasman

Clr Dr Judy Lambert

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



Public  
Addresses

**Public Gallery**

**Chairperson:** Clr Dr Judy Lambert  
**Deputy Chairperson:** Clr Simon Cant

**LAND USE MANAGEMENT COMMITTEE**

**APOLOGIES AND LEAVE OF ABSENCE**

**DECLARATIONS OF INTEREST**

**CONFIRMATION OF MINUTES**

The Land Use Management Committee of 6 JUNE 2005

**PUBLIC ADDRESSES**

**SITE INSPECTIONS**

**ENVIRONMENTAL SERVICES DIVISION REPORTS**

**Environmental Services Division Report No. 31**  
87-95 Balgowlah Road, Manly  
Manly Golf Club..... **2**

**Environmental Services Division Report No. 32**  
Development Applications Currently Being Processed During July 2005..... **49**

**Environmental Services Division Report No. 33**  
Appeals List for July 2005 ..... **52**

**CLOSED COMMITTEE ITEMS**

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

**TO:** Land Use Management Committee - 4 July 2005  
**REPORT:** Environmental Services Division Report No. 31  
**SUBJECT:** 87-95 Balgowlah Road, Manly Manly Golf Club  
**FILE NO:** DA401/04  
**PREVIOUS ITEMS:** 12, Land Use Management Committee (7 March 2005)

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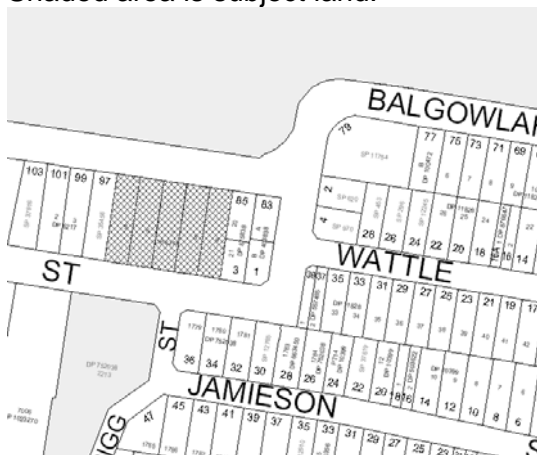
**Application Lodged:** 18 August 2004  
**Applicant/ Owner:** Manly Golf Club Ltd  
**Estimated Cost:** \$8,250,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential.  
**Surrounding Development:** Residential flat buildings and dwellings. The site is also opposite the Manly Golf Club  
**Heritage:** The site is opposite the Manly Golf Club which is listed, and is in vicinity of street tree planting in Balgowlah Road the site is also opposite the Manly Cemetery

**SUMMARY:**

1. THIS IS AN APPLICATION TO CONSTRUCT A TWO STOREY RESIDENTIAL FLAT BUILDING CONTAINING 14 THREE-BEDROOM UNITS AND 2 TWO-BEDROOM UNITS WITH BASEMENT AND ON SITE CAR PARKING FOR 32 CARS INCLUDING 4 VISITOR SPACES, AS WELL AS A BASEMENT CAR PARK ASSOCIATED WITH THE MANLY GOLF CLUB, WITH PROVISION FOR 129 CAR SPACES
2. THE APPLICATION WAS ADVERTISED AND SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS ADVERTISED AND 16 LETTERS OF OBJECTIONS RECEIVED.
4. THE APPLICATION WAS CONSIDERED BY THE IVANHOE PARK PRECINCT AND OBJECTIONS MADE.
5. THE APPLICATION WAS CONSIDERED BY THE DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 1ST MARCH AND RECOMMENDED FOR APPROVAL.
6. THE MATTER IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR MACDONALD.
7. THE APPLICATION WAS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING OF 7 MARCH 2005 WHERE THE MATTER WAS DEFERRED PENDING FURTHER INFORMATION.
6. APPROVAL OF THE APPLICATION IS RECOMMENDED.

**LOCALITY PLAN**

Shaded area is subject land.



**Environmental Services Division Report No. 31 (Cont'd)****REPORT****Introduction**

The site currently contains an open car park associated with the Manly Golf Club with the provision of 101 car parking spaces. This application is to provide a two storey residential flat development divided into four buildings on the site containing 14 three-bedroom and two two-bedroom units with a basement car park for 31 car parking spaces, including 4 visitor spaces, as well as having an on-site space associated with the accessible unit with access from Harland Street. Underneath the unit development it is proposed to provide a car parking structure for the Manly Golf Club, with provision for 129 car parking spaces.

The application was presented to Council's land Use Management meeting of 7 March 2005 where Council resolved as follows;

"That development application 401/04 for construction of a two storey residential flat development containing 16 units with basement and on-site car parking for 32 vehicles as well as a basement car park associated with the Manly golf club, with provision for 129 spaces at 87 to 95 Balgowlah Road. Manly be **deferred** for the following reasons:

- \* The application to be referred to the Scientific Advisory Panel
- \* A Traffic study be conducted
- \* A Hydrological report be provided and report from the Council Water Management Officer
- \* Further consideration of residents concerns relating to shadow diagrams and impact on the residents to the west of the development.
- \* A report be provided to Council on current activities of club including the function centre and the hours of operation, membership numbers and adequacy of current carparking for the club.
- \* Location of the garbage area in the development to be commented on by Council's Waste Service staff.
- \* That the application needs to be brought more into compliance.
- \* That the position of the carpark exit be reconsidered with an option to be moved to the centre of the carpark.
- \* That the underpass walkway between the clubhouse and the carpark be investigated.
- \* That the application be referred for urban design comments. "

The deferral matters have been addressed as follows;

**SAP**

Comments received relate to Geological and hydrological matters (see copy of memos attached). The comments were not detrimental to the development application. It was concluded that the Geotechnical Engineers report was sound and that the data collected would be put to beneficial use in collaborating a big picture understanding of Manly's geomorphology. The hydrological matters are further addressed in the report from Council's Water Cycle Management Officer as detailed below.

**Traffic Study**

Council's Traffic Engineer who provided the following comments;

"A Traffic and Parking Assessment Report, prepared by Project Planning Associates, was submitted as part of the original Development Application, The report assessed the potential traffic generation, traffic distribution and intersection analysis of Balgowlah Road and Harland Street. The intersection analysis concluded that the level of service of the intersection will be at morning and afternoon peak periods with a maximum calculated average vehicle delay of 5.3 seconds.

**Environmental Services Division Report No. 31 (Cont'd)**

The methodology used in this assessment is in accordance with normal practice. It is considered that the traffic generated by the development can be accommodated by the existing road network without any significant impacts."

**Hydrology report**

Council's Water Cycle Officer provided the following comments;

"The report provided in the DA does not detail the quality of groundwater to be abstracted, discharge network to be used nor the end deposition site. This will need to be defined prior to allowing discharge into the stormwater system.

It is recommended that analysis of water quality be undertaken from seepage water prior to construction for the below parameters. In addition it is recommended that periodic samples be undertaken during dewatering to ascertain any variation of water quality. In total there should be 1 sample prior to and 3 samples during pumping at 15 minute intervals.

- pH
- Electrical conductivity
- Dissolved oxygen
- Turbidity
- E. Coli
- Iron
- Total Nitrogen

All analysis is to be sampled and analysed by certified professionals. Results of all samples should be forward to Council's Water Cycle Management Officer.

**Groundwater quantity**

Provide details of the estimated flow to be extracted:

- L /sec and
- Total volume during the construction period

**End use discharge**

Provide details of the method of disposal:

- Where the groundwater will be pumped to (Manly Lagoon, Ocean Beach etc)?
- What path will the discharge follow?
- Will the quality of groundwater have any impact on end use deposition site?

If water quality is found to be suitable I would encourage the golf course to on-use the water source for irrigation purposes. If this is so please detail the method for delivering water source to end use.

The following draft conditions are suggested for inclusion in any consent

1. The applicant is to undertake an analysis of groundwater seepage prior to construction for the below parameters. In addition periodic samples are to be undertaken during dewatering to ascertain any variation of water quality. In total there should be 1 sample prior to and 3 samples during pumping at 15 minute intervals.

- pH
- Electrical conductivity
- Dissolved oxygen
- Turbidity
- E. Coli
- Iron
- Total Nitrogen

**Environmental Services Division Report No. 31 (Cont'd)**

All analysis is to be sampled and analysed by certified professionals. Results of all samples are to be forwarded to Council's Water Cycle Management Officer.

2. The applicant is to submit a report from a suitably qualified engineer, detailing the estimated flow to be extracted:
  - L /sec and
  - Total volume during the construction periodThe report is to be submitted to Council's Water Cycle Management Officer for review prior to the issues of a Construction Certificate.
3. The applicant is to submit a report detailing:
  - The end use discharge point with a focus on groundwater as a resource
  - The discharge pathway with a focus on groundwater as a resource,The report is to be submitted to Council's Water Cycle Management Officer for review prior to issue of the Construction Certificate.

**Shadow Diagrams**

Shadow diagrams submitted with the application have been reviewed by Council's Senior Town Planner and found to be generally accurate. It is noted that the 9.00am shadow cast by the proposed pergola over the bin enclosure in the south west corner of the site is not shown. This shadow increases the amount of overshadowing of the adjoining property to the west at the 9.00am period by approximately 2.0 sqm. It is also noted that the 9.00am shadow cast by the proposed northwest most building extends up to and within the covered ground floor level verandah area of three of the town houses on the adjoining site to the west. However, the extent of overshadowing is considered to be minor and well within compliance with Council's Development Control Plan requirements.

**Activities of the Club**

The applicant has submitted a profile/schedule of current activities of the Club which includes details as to hours of operation, membership numbers and car parking demand, a copy of which is attached to this report.

**Location of Waste Storage Area**

Council's Waste Services staff provided the following comments;

"The standard bin formulae for multi unit developments are

- a) garbage: One 240 litre bin for each four dwellings
- b) paper: One 240 litre bin for each two dwellings
- c) bottles: One 240 litre bin for each two dwellings

Using this formulae the proposal needs to make provision for 20 x 240 litre bins.

The bins have dimensions of 580mm (w) and 715mm (d). As a consequence the area required is approximately 14 square metres. The plans show a bin storage area in the basement garage area of 11.3sqm and a further bin storage enclosure of 4.4sqm at ground level in the south west corner of the site.

The screening for the proposed storage area would appear adequate, given that I understand that the trees along the neighbouring boundary are to remain and there is a brush fence also separating the properties.

There do not appear to be any other suitable storage locations at ground level. Noise affecting the adjoining property should be minimal as early morning collections will only involve a maximum of four bins and should thus be completed within a couple of minutes, at the same time in the morning when neighbours bins are normally collected. Recycling collections probably involving more bins

**Environmental Services Division Report No. 31 (Cont'd)**

would generally not be carried out until after 9.00am and should therefore not cause any disruption."

**Greater Compliance with DCP Numerical Assessment**

Issues in regard to density and floor space ratio were discussed with the applicant. The applicant seeks consideration of the proposal as submitted noting that density and floor space variation is minor and not out of character with the nature of existing development in the area and is offset by the extent of landscaped open space proposed and extensive setbacks to neighbouring properties.

**Position of the Car Park Exit**

Council's Traffic Engineer has provided the following comments;

"The proposed access location and a location approximately in the middle of the golf club car park will both have adequate sight distance in accordance with the Australian Standard AS 2890.1:2004 Parking Facilities, Part 1, Off-street parking facilities. The proposed location has a greater sight distance to the east than a driveway access that would be located in the middle the car park. From a traffic and road safety perspective, either location will be adequate."

It is noted that the site has a 2.0m fall from east to west along the Balgowlah Road frontage. Repositioning of the entry/exit to the middle of the Balgowlah Road frontage will result in an increase in ramp gradient from the 1 in 16 proposed to 1 in 10 or alternatively, with no change to gradient an approximate increase of 1.0m in the height of the overall development. Further, repositioning of the entry/exit to the middle of the Balgowlah Road frontage will necessitate redesign of the car park layout and vehicle movement which will result in loss of car parking spaces.

**Investigation of Underpass**

Council's Traffic Engineer advises as follows;

"The traffic volumes along Balgowlah Road and the pedestrian volumes that will be generated from the golf club car park do not warrant a pedestrian underpass. A pedestrian underpass has high capital and maintenance costs. It is considered that the proposed pedestrian refuge that is planned as a crossing facility on Balgowlah Road at the golf Course will be adequate for pedestrians."

**Urban Design Comments**

Council's Architect (Planning and Strategy) has advised as follows:

**LOCAL CONTEXT**

It would appear that in the near vicinity of the proposal there is no predominant building type or architectural style or treatment.

There are however a variety of building types including two storey townhouses, free standing two storey walk-ups, single and two storey cottages.

There is a sense that the buildings in the near vicinity have a variety in architectural form and detail that certainly add to the dynamic of the streetscape here. Some of these examples, however form more worthy built context than others.

1. The Californian bungalows to the east (left) side of the site on Balgowlah Rd are intact and of good stock exhibiting a mixed palette use of materials.
2. The Manly Golf Club building (an item listed on the local heritage register) is a fine building that adds greatly to the architectural quality of streetscape here. It is rendered and painted in keeping with its Spanish Mission style and is visually rich with its fine use of window shape, proportion and fenestration with recessed wall panel forms as blind openings and engaged columns.



**Environmental Services Division Report No. 31 (Cont'd)**APPLICANT PLANNING REPORT COMMENTS RE CONTEXT

I would dispute the conclusion drawn on p10 of the planning report that states that **"it is not considered the proposal can be appreciated in the same context as the Club (ie Manly Golf Club) because of the intervening busy road, the trees in front of the club and the increase in height of the topography to the south."**

Firstly in response to the above statement I do not believe that a busy road acts as a barrier for streetscape when reading it from one side to the street to the other. In fact I believe the opposite is the case especially considering that a direct visual connection can be gained between Manly Golf Club and the development site as one approaches along Balgowlah Rd from the east.

Secondly it can be seen from photo 6 in the planning report that the trees actually thin in front of the golf club building exposing it to full view opposite the development site. This contradicts the statement quoted above that has to do with trees blocking view of buildings in this area.

Thirdly it seems that rather than reducing the contextual relationship between Manly Golf clubhouse and the development site, (as it has been pointed out in the planning report) that as it is on raised ground compared to the golf clubhouse I believe it makes the visual connection between the two sites more direct as the development site is generally higher than the site on which the clubhouse building sits.

RESPONSE TO LOCAL CONTEXT IN THE PROPOSAL

These abovementioned surrounding buildings represent examples of desirable contextual character and while the proposed building should not mimic or be a pastiche of them it should offer as much complexity and architectural richness to the street as they do.

Following our discussion with the architect, and assessment of the additional more detailed information regarding the finishes and details of the proposed development it is clear that the proposal will eventually give the impression of a building being nestled in a planted, pedestrian friendly surround that the architect has proposed to create. Following discussion with the architect this is a desired outcome.

The proposed architectural treatment of the development does not mimic the golf club building but is sufficiently contextually responsive to be an appropriate neighbour to this important building. Being two storey with a flat parapet roof the proposal will be visually subordinate to the golf club building opposite. This is the appropriate relationship, I believe, given its close physical relationship to it. In this regard while I dispute the planning consultants assessment of context and its relevance set out above I still feel the architectural response is successful.

It is also felt that over time the full impression of the landscape design as an integrated element in the overall development will have a positive impact on the streetscape here.

DISCUSSION WITH APPLICANT RE ARCHITECTURAL FORM/DETAIL OF PROPOSAL

There were some initial concerns regarding a potential blandness that the development may have presented to the street. This initial impression was based on the lack of information shown on the DA elevations regarding materials colours and finishes.

Late last week we had a meeting with the applicant and the architect for the proposal. At this meeting we were shown coloured sketch perspectives of the scheme from different views and information regarding colours finishes and architectural detail was further explained.

These drawings along with detailed discussion have indicated that there is a use of face brick panels and rendered and painted balustrade planter boxes (to give reference in the scheme to its

**Environmental Services Division Report No. 31 (Cont'd)**

surrounding suburban Californian bungalows and 2-3 storey face brick walk-up surrounding context.

There are also timber privacy screens, timber eggcrate pergolas to balconies and walkways that will add the level of architectural richness that it was felt may have been lacking following first assessment of the DA drawings.

The positioning of the carpark entry to one side of the development also gives the appropriate emphasis to the central pedestrian entry to the development. This entry will strengthen the architectural and urban design presentation of the development to Balgowlah Rd and enhance the safety and sense of community within the development.

**HIGH QUALITY OF APARTMENT LAYOUT ACCESS TO NATURAL LIGHT/VENTILATION**

Apartment layouts are architecturally of a very high standard with balconies of a generous size. Internal relationships between use areas are good and access to available sunlight and ventilation enhanced by the fact that each apartment runs right through from north to south and is not deep in the middle of the individual buildings.

Living spaces are on the north side with bedrooms on the perimeter walls on the east, west and south sides of the building each gaining natural light and sun access."

**Development Control Plan Numerical Assessment**

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

	<b><u>Permitted/ Required</u></b>	<b><u>Proposed</u></b>	<b><u>Complies Yes/No</u></b>
Density - Sub Zone	1/250	1/203	No
Floor space ratio	0.6:1	0.67:1 0.65:1excl excess car spaces	No
Floor space ratio - existing	0.6:1	0.0:1	Yes
Wall height East side	6.9	5.1,6.0	Yes
West side	6.9	6.7,7.0	Yes/No
Roof height	1.0	1.0	Yes
Fence height	1.0	.8	Yes
Setback Front	6.0	6.028 to units	Yes
Setback Rear	8.0	5.5 rear street	No
East setback side	1.7,2.0	3.1,6.92	Yes
West setback side	2.23,2.33	5.8,8.1,8.9,9.59	Yes
Open space - total	1791	1961	yes
Open space - total	55%	60%	yes
Open space - soft	627	770	yes
Open space - above ground	448	108	yes
Number of Endemic Trees	3	5	yes
Private Open Space	12	13.5 minimum	yes
Car Parking – Residents	24	28	yes
- Visitors	4	4	yes

**Environmental Services Division Report No. 31 (Cont'd)****Applicant's Supporting Statement**

The applicants submitted a Statement of Environmental Effects with the proposal, A Traffic and Parking Assessment Report, and a Geotechnical Investigation. These reports are on file.

**Submissions**

Following notification to the development in accordance with Council's Development Control Plan, sixteen (16) submissions were received with the following concerns:

- We understand the car park will be a depth varying from 7 (seven) to 9 (nine) metres below ground this will cause damage to property. The use of rock hammers and other machinery will lead to considerable vibration.
- The report outlines vibration limit of 5 millimetres per second. Consultation with the Department of Environment and Conservation, we have been advised that this is applicable for instantaneous once off vibration occurrences and that another far lower figure should be set for continuous vibration. Chapter 174 of the EPA noise control guidelines states works in the vicinity of residential properties during the day for continuous vibration sources should be no greater than 0.0125 millimetres per second
- No blasting is to occur and that the figure of five millimetres per second is exceedingly high and will not protect dwellings Council should seriously consider this issue.
- The localised reductions in water table, caused by the construction will be considerable and have serious implications on surrounding geology and on the foundations of property resulting subsidence and stability issues.
- We are concerned how the car park is to be ventilated and the impact of this on the localised air quality and also concerned at the long-term impact on drainage in the area.
- The character of the townhouses is not in keeping with the architectural landscape of the local area.
- There is limited vision for the egress of vehicles into Balgowlah Road. .
- Increased use of Harland Street, by residential traffic, which is unacceptable, especially as it is used by families walking to and from the local children's playground.
- There is no soft green space includes in the development proposal.
- The floor space ratio does not comply.
- Manly golf club members currently park extensively in Harland Street and in Balgowlah Road, leaving no car parking for residents this will only be increased as golfers are inconvenienced by the underground car park.
- The builders must be liable for any damage caused and there should be inspections of properties before work commences. At least five years default should be applied after work finishes.
- What provision has been made for parking during the construction of this development
- The proposal will have an adverse impact on the local area from noise of the construction site, including use of heavy machinery and rock hammers, pumps dewatering the underground car park required 24 hours per day, construction traffic, and removing excavated material. Construction hours should therefore be restricted to 8 a.m. to 5 p.m. Monday to Friday only
- The surrounding area should be protected from sediment laden stormwater runoff. What monitoring will be carried out on the water from the dewatering of the site?
- What is the potential for collapse and subsidence, if the excavation of the basement car park fails due to wet weather and poor retaining wall structures? How will the excavation be ventilated and the dust removed?
- How will the local Road cope with the higher volume of construction traffic?
- We are concerned with the depth of excavation. The studies of water levels were measured during a time of extreme drought. The company writing the report has taken careful steps to deny any liability for their investigation.

**Environmental Services Division Report No. 31 (Cont'd)**

- I understand Manly golf club is owned by Council, i.e. ratepayers and that it is very profitable. "For what purpose are they needing to raise additional funds" and "what moneys (from club members) do they already have". They have already spent substantial money on extensive renovations.
- We would like to see inclusion of more green space and plants.
- We would like to see inclusion of an underground walkway from the car park to the golf club.
- Several days per week the Golf Club holds tournaments, which not only fills the car park, but also significant parts of Balgowlah Road, Wattle Avenue and Harland Street. In addition, the golf club caters for functions of up to 350 patrons, including real estate auction nights and weddings. The car park is full several nights a week. The 75 plus cars, which will be displaced by the development, cannot be accommodated on the existing streets. We asked that the application be denied until a suitable alternative is provided for the 75 plus cars that the new development will displace.
- The garage wall, close to the western boundary will make a considerable impact on number 97 Balgowlah Roads amenity and cause continuing light problems for the ground floor eastern facing rooms. This wall and its position should be reassessed.
- The garbage enclosure is located in the southwest corner adjacent to the pedestrian entry of number 97 and should be relocated.
- The proposal does not comply with councils, DCP in relation to floor space ratio building setback landscape treatment and parking.
- The proposal will result in loss of privacy to number 97 and is out of scale with the development.
- The proposal does not comply with the density requirements of the DCP, which would allow 13 and not 16 units.
- There will be traffic congestion, noise pollution, and a problem with child safety as the residential entry is from Harland Street.
- It is not clear how both the club car parking and residential development on one site is covered in Councils controls.
- We will expect assurances to prevent residential parking spaces being changed to club parking spaces thus resulting in serious road congestion problems in Harland Street.
- The area will be seriously degraded by the addition of eight residential buildings within close proximity of the already popular children's playground.
- There may be some form of conditions on the title regarding future development of the Masonic Hall site when the land was purchased by the Manly Golf club.
- The existing car park had a positive effect when it was first constructed. Now the car park is full and approximately another 15 cars are parked on the grass adjacent Harland Street and another 10 in the vicinity of Wattle Avenue is a common occurrence every Wednesday and on Saturday. Council should ensure where the existing cars will be relocated during construction. The residential flat building will also attract more cars to the area.
- The number of cars requiring parking in the vicinity of the golf club has increased and the club should be required to increase the space for car parking in the vicinity of the clubhouse.
- The height of the southwest garage reaches as high as the first floor of the townhouses. The ground floor comprises the kitchen and dining and lounge rooms. The plans must be changed to ensure there is adequate light for the townhouses.
- The only entry /exit to the underground car park will be located close to the boundary with number 97 Balgowlah Road. There will be a substantial rise in the number of car movements, leading to increased noise accelerating and breaking and exhaust fumes.
- Even with the current use of the proposed site as parking for the golf club members, Jamieson and Wattle Avenue can not cope with more than single file traffic between parked cars. Spring Street is frequently almost blocked by legal and illegal parking by mothers using the playground with their children. Harland Street is becoming more congested with the present parking and overflow from the golf club. Shortcut traffic to Manly is increasing, with Spring Street, being an access point. Parking throughout the area is becoming very

**Environmental Services Division Report No. 31 (Cont'd)**

difficult for residents, and we are concerned that the effects of the loss of the golf club car park.

- What effect will the increased flow have on the already very dangerous traffic situation? A one-way traffic system should be initiated with flows away from Manly.
- The land is zoned residential yet aspects of the proposal are more appropriate for the commercial zone with the underground car park inappropriate and incompatible with the character and amenity of the locality.
- The advertisement described the development is a residential flat building with 16 units and basement car parking but failed to mention the size of the car park associated with the golf club.
- Having regard to the scale of the development only a small number of residents were notified. Traffic issues have not been addressed. There is no plan to protect children from trucks and equipment during construction
- The proposal impacts on the district views from 34, 36, 44, and 42 Jamieson Ave.
- the proposed basement car park must be consistent with respect to the Balgowlah/Fairlight local area traffic management plan
- No detail has been provided regarding the location or dimensions of the exhaust stack required for the basement car park
- The proposal will take daylight and sunlight from our property and if this landscaping is planted light on the upper-level will be effected.
- There is a lack of attention to water issues. There is no assessment of the impact of this proposal on the lagoon.
- There would be an adverse impact on my home business which is my only means of support. The noise from the construction will have a devastating effect on my business.
- I am concerned that the golf club is operating as a function centre however I do not believe they have consent for this use.

**Applicant's response to objections**

The Manly Golf Club Limited analysed the objections received and made a detailed submission, which is appended.

**Precinct Community Forum Comments**

The application was considered by the Ivanhoe Park precinct meeting in October 2004 with the following comments received.

"The precinct strongly objects to this proposed development with the following points:

1. The proposed street scape/design does not compliment the surrounding properties or the Heritage listed Golf club opposite.
2. The proposed design is not ecstatically pleasing and not in keeping with the Fairlight/Balgowlah area.
3. We attach with much concern, comments made by Mr. Bentley, geologist, regarding underground and surface water flows and subsidence issues to the adjoining properties during, and indeed possibly after, construction.
4. The precinct asks that a report, be prepared on groundwater flow, to determine any issues of possible contamination to the Manly lagoon catchment area before Council considers this development.
5. That the matter also be brought to the attention the Manly Environment Centre, as this development and possible ramifications lie within its area of concern.
6. What provisions will proposed to be made in Harland Street, for the proposed cars and car park access with the Werona Reserve Playground being in close proximity. The proposed increased traffic flow and volume, in an already busy and difficult traffic area is a very real Precinct concern. Will this traffic be a factored in the revision of the LAT plan?

**Environmental Services Division Report No. 31 (Cont'd)**

7. The soft open space, floor space ratio, and depth of excavation is also concern. Do access pathways factor in soft space ratios?
8. The precinct would ask what provision have made for the golf club's members car parking during the proposed construction of the new underground car?
9. Will the design incorporate an under road access away, from the members car park, direct to the golf club property? This would avoid members (and golf clubs) crossing has pedestrians over very busy Balgowlah Road.

Motion:-That the Council rejects or at least defers this development, until these concerns are examined."

**Response to Precinct Community Forum Comments**

The Manly Golf Club Limited made a response to the comments by the precinct, which is appended.

**Traffic Engineers Comments**

I have reviewed information on traffic access and parking for the development application relating to the above development and have the following comments.

**Parking**

As stated in the traffic and parking assessment by Project Planning Associates, the number of residential parking spaces provided complies with Council's Development Control Plan. There was no assessment made of parking demand generated by the golf course, although it has been noted that there has been an increase in the number of parking spaces provided from 101 to 129. It has been assumed that the existing spaces were adequate.

There has been no provision for disabled parking spaces in the proposed carpark. It is recommended that the applicant demonstrates adequate disabled parking spaces and facilities are available to comply with the Golf Club's obligations.

The proposed ramp from the 'lower B2 club carparking' level to the 'upper B2 club carparking' level is a grade of over 19%. This is approaching the maximum and may require transitions. The transitions will result in the longer ramp length. It is recommended that as part of the construction certificate process, the applicants submit long sections (scale of 1:100) of the ramp to demonstrate adequate ground clearance for vehicles or that a ramp with transitions can be accommodated into the carpark design.

The carpark design appears to have adequate clearance at a minimum of 2.2 metres to allow van and four-wheel-drive access. Any services within the carpark should not reduce the minimum height clearance. In addition, the minimum height clearance should be demonstrated along the ramps.

It has not being demonstrated that the levels of the vehicular entrance access from Harland Street are at acceptable grades. The applicant needs to submit long sections of the entrance ramp and vehicular entrance.

There is no reference to lighting in the carpark. Lighting needs to be provided in accordance with AS 1680.2.1 -- 1993 Interior lighting -- circulation spaces and other general areas.

**Traffic generation**

The traffic generated from the development can be accommodated by the existing road network without any significant impacts.

Conditions of consent and are put forward for inclusion in any consent.

**Environmental Services Division Report No. 31 (Cont'd)****Engineers Comments**

No objections to the development and subject to conditions.

**Building Comments**

No objection to the proposal being a mixed class 2 and class 7 building requiring construction in accordance of the BCA and subject to conditions in any consent.

**Landscape Architects Comments**

Both street frontages need to have street plantings. Landscaping needs to incorporate a sufficient number of trees to break up the hard building lines. Keep all the East and West boundary trees. The existing north and south trees are to stay

**Heritage Comments**

The subject site is in vicinity of several items of environmental Heritage listed under Schedule 4 of the Manly LEP 1988. These are the street trees in Balgowlah Road, the Manly golf club building and the Manly Cemetery. Clause 19 of the Manly LEP is relevant to this application.

The Heritage inventory sheets for these heritage items state the significance of these items as follows:

**Streetscape Street Trees:**

Balgowlah Road East, historical, early Street tree planting indicating importance of Road, (from Condamine Street to Manly Golf clubhouse) Aesthetic part of 1930's Street tree planting. Marks entrance to major road thoroughfare from Balgowlah to Queenscliff.

**Hill Street Cemetery (Manly Cemetery):**

Important for the historical evidence concerning Manly residents recorded on gravestones. Significant evidence of 19th century, burial practices. A generally well tended Cemetery with some trees and bush plantings, especially in the older Church of England area.

**Manly Golf Club House:**

An imposing Inter-War Georgian Revival style golf club building, representative of the style, and historically significant.

Two and one storey rendered inter-war Georgian Revival style building. Central section two storeys with one storey wings either side. 12 and 16 paned timber framed double hung windows, semi-circular fanlights. Hipped glazed terracotta roof. Rendered bands, projecting portico, some central windows to facade flanked by rectangular pilasters. Rendered stepped fence with moulded posts and curlicue decorations.

**Comments**

The proposed new two storey contemporary style residential flat buildings, clearly do not mimic the Inter-War Georgian Revival style golf club building or other buildings in the street given the stark contrast the architectural detailing. Given the proposed scale, separation by road and trees and the proposed new tree planting and landscaping, the proposal is not considered to have such an adverse impact to warrant refusal on heritage grounds. It is considered that the new buildings could have greater architectural detailing and modulation to reduce its scale on the streetscape.

**Environmental Services Division Report No. 31 (Cont'd)**

The street trees and Cemetery are also not considered to be adversely affected by the proposal due to separation, surrounding built environment and proposed landscaping.

It is considered that suitable tree planting to assist with integration, screen, and soften the impact of the new buildings on heritage items in the facility should be required.

If approved, a number of conditions are included in the recommendation.

**Planning Comments**

This proposal is for construction of a two storey residential flat development as well as providing an expanded car park associated with the Manly Golf Club. The general form of the development consists of 4x2 storey residential flat buildings set symmetrically on the site with landscaping around the periphery and across the centre of the site separating the units. Occupying approximately half the site underneath the units is a car park with access from Harland Street providing for 31 car parking spaces associated with the unit development including 4 visitor spaces. There is also space for those with a disability with access from Harland Street. Below the unit development is a basement car park for 129 spaces to be used by the Manly Golf Club members occupying approximately one and a half levels and having access from Balgowlah Road.

As noted in the assessment relative to the development control plan the proposal includes more units than is permissible in the DCP. The applicant refers to other unit developments in this section of Manly as justification for proposing 16 units where 13 would be permitted under today's controls. In order to understand the differences of densities that exist in Balgowlah Road it is necessary to look at past development control plans where a unit density of one unit per 100 square metres, was set in this section of Balgowlah Road in the 1986 DCP. This unit density has now been reduced to the one unit per 250 square metres applying today however a number of developments were built at higher densities. The adjacent unit development at 97 Balgowlah Road for example has a unit density of 1 unit per 108 square meters. The proposed unit density 1 unit per 203.5 square metres is considered acceptable in relation to nearby developments.

The floor space ratio of the proposal is 0.67:1 or 0.65:1 if the additional car parking provided for the units is excluded from the calculation. These figures should be compared with the 0.6:1 in the development control plan and represents an additional 228 square metres of floor space or 14 square metres per unit. The floor space ratio control is a bulk control and having regard to the form of the development proposed with the buildings divided up into four pavilions, each two storeys high above the car park the overall bulk is considered to be appropriate for the locality.

The setback to the road frontage is 6.03 metre to the unit building from Balgowlah Road with the car park coming to within 1.6 metre of the road frontage. The setback to the building is considered to be in keeping with other unit developments and be appropriate. The garage structure extends approximately 0.4 metre above the existing ground level with an additional 1 metre planter box providing for deep planting across the front of the building and is considered to be compatible with the streetscape.

The setback to Harland Street varies between 6.2 and 5.53 metres with the car park coming to within 2.0 metres of the frontage. It is also noted that staircases extend out close to this road frontage. The landscaping plans indicated planter boxes over the car park thus softening the affected of the development, so that the setback is considered to be appropriate in the streetscape. The side setbacks to the unit development are more than compliant, and the car park structure, which comes to within the 3.1 metres of the eastern boundary and 2.8 metres of the western boundary with a staircases coming to within 1.6 metres of this boundary is largely below ground level and does not have the adverse effects in terms of overshadowing and loss of sunlight outlined in the objections received. In this respect reference is made to the detailed cross-sections submitted with the response from the golf club. These cross-sections show the generous setback



**Environmental Services Division Report No. 31 (Cont'd)**

and the provision of the planter boxes. This is considered acceptable given the retention of the existing landscaping to the west.

The comment has been made that the amount of soft open space does not comply with Council's development control plan. However, in this regard it is noted that planter boxes with a depth of one metre count as deep planting so that much of the landscaping around the periphery and through the centre of the development is classed as soft open space. The area clear of the car park providing deep planting has an area of 504 square metres. The planter boxes must be added resulting in more soft open space than required by the DCP.

In response to the notification Council received a number of submissions concerning potential noise, vibration, dust, polluted water, and problems during the construction of the deep basement area. It is pointed out that with this application it is a special case, where the golf club wishes to provide for its car parking underneath a unit development and as such the degree of excavation is much greater than that required for the unit development. While the applicants have submitted a geotechnical report criticism has been made as to level of vibration that is referred to in this report and the potential damage to the adjacent premises. In this regard a standard condition of consent is suggested requiring dilapidation reports so that any impact is monitored. It must be noted however, that the proposed car parking structure is kept back from the boundaries and that with good engineering practice it is considered feasible that the development will be able to take place without damage to adjacent premises.

Criticism has been made that the development will increase traffic in Harland Street by having the residential car park entrance onto this Street. It must be observed that there is currently one of the entries and exits to the car park for the golf club onto this Street, so that less traffic will be directed to this Street with the proposed development with only 32 spaces directed to this street. Objectors have asked what alternative car parking arrangements have been made during the construction process, and in this regard the applicants have responded by pointing out that a temporary car park for 70-80 cars will be provided on the practice area accessed off Balgowlah Road during this time. Comment has been made about the impacts of the increase traffic movements during the construction process and the suggestion made that a construction should be restricted to 8.00 am to 5 p.m. Monday to Friday only. It is considered that these hours are more restrictive than Council's normal hours of construction and that the normal condition should be placed on the proposal.

The comment was made that the existing car park had a positive effect when it was first constructed. The objector pointed out that it was now full and approximately 25 cars parked on the adjacent grass and streets. The expansion of the car park for the golf club from the existing 101 to 129 spaces would therefore be a desirable achievement and keep pace with the demand.

Objection was made about exhaust from the car parking area and in this regard it is noted that the plans indicate a central exhaust shaft in each of the unit buildings from the car park level up to the roof. This design will keep the exhaust away from the adjacent dwellings.

In relation to the objectives of the residential zone the proposal uses the site for housing and associates facilities as well as providing for car parking associated with the Manly Golf Club, thereby meeting this objective.

The application asks for some dispensations in relation to the development control plan however it is considered that it meets the objectives of this document and proposes a development in keeping with the general locality. The proposal is for unit development of the site, which is of a scale and bulk consistent with other unit developments in the neighbourhood and will maintain the character of the area. It is considered that the building will not degrade the amenity of surrounding residents, notwithstanding the objections received.

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The proposal includes landscaping as required by Council's development control plan which will soften the effect of the development. It is also proposed have additional street planting in sympathy with the Heritage list street planting and the neighbourhood and it is considered that the proposal meets this objective.

The proposed development of the site will make greater use of the existing social and physical infrastructure and requires repayment of a section 94 contribution in order to pay for these additional services and facilities. A condition to this effect is included in the recommendation.

It is considered that the proposed development is a suitable redevelopment of the site and will provide a unit development in keeping with the scale and amenity of the locality while at the same time providing an improved car park associated with the Manly Golf Club.

In terms of section 79 (c) of the Environmental Planning and Assessment Act it is noted that a unit development is permissible in the zoning and that the provision of an underground car park in place of the surface car park as well as expansion of the numbers associated with the golf club will be a positive achievement in the neighbourhood. The application attracted a considerable amount of objection concerning the potential impacts of the construction associated with the basement car park. It is considered that with normal conditions of consent the environment will be able to be adequately protected during construction of the car park, and that adequate engineering requirements will be put in place to ensure its compatibility with the locality. It is considered that the site is suitable for this form of development, and that the advantage of providing a basement car park underneath the unit development will continue to keep parked cars off the road system surrounding the Manly Golf Club to the benefit of local residents. Council received a number of submissions in relation to the application, many of these deal with the technical matters which are covered by the normal conditions of consent and construction processes in order to avoid damage to both the environment and surrounding properties. It is considered that the proposed unit development will have a more positive effect on the streetscape and environment than the existing open car park. It is also considered that the provision of an enlarged car park associated with the Manly golf club will be in the public interest, and should be supported.

**Permissibility / Exiting Use Rights**

Matters of permissibility of the proposed development and existing use as raised in the submission by Sattler & Associates (attachment 3) have been investigated. Council's General Manager in consultation with general legal council has prepared a detailed response (attachment 4).

**CONCLUSION**

The application has been considered in terms of the Development Control Plan for the Residential Zone 2001 (Amendment 1), the Manly LEP 1988 and section 79 (c) of the Environmental Planning and Assessment Act 1979, and it is considered that it should be approved, subject to detailed conditions.

**RECOMMENDATION**

That development application 401/04 for construction of a two storey residential flat development containing 16 units with basement and on-site car parking for 32 vehicles as well as a basement car park associated with the Manly golf club, with provision for 129 spaces at 87 to 95 Balgowlah Road. Manly be approved subject to the following conditions.

1. This approval relates to Plans/Drawings DA01-08 dated July 2004 and Landscape Plan CD035702 Revision A dated 9 February, 2004 and received by Council 18 August, 2004.

**Environmental Services Division Report No. 31 (Cont'd)**

2. Access in accordance with AS1428.2 shall be provided to and within the main entrance and exit points of the development in accordance with the Manly Development Control Plan for Access.
3. A minimum of one car space for the vehicles of people with disabilities in all new or refurbished buildings which provide between 10 and 50 car parking spaces, 2 for those which provide between 50 and 100 car spaces.

The car spaces shall be identified and reserved at all times and be in the vicinity of lift or as close as possible to public areas and facilities. The car spaces shall have minimum dimensions and headroom to conform to Australian Standard AS/NZS 2890.1:2004. A notice shall be displayed at the entrance to the parking station and at each change in direction indicating the location of car spaces and the maximum headroom for vehicles. Details shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

4. The construction of a vehicular footpath crossing is required. The design and construction shall be in accordance with Council's Policy. All works shall be carried out **prior to the issue of the Construction Certificate.**
5. The construction of a kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out prior to the issue of the Occupation Certificate.
6. The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated **prior to issue of the Occupation Certificate.**
7. A long section of the driveways shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.
8. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$50,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**

9. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
10. The applicant is to notify Council at least 48 hours before commencement of works on any Council road so as to enable Council to supervise the carrying out of the works.
11. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
12. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**

**Environmental Services Division Report No. 31 (Cont'd)**

13. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
14. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
15. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
16. No person shall use or occupy the building or alteration which is the subject of this approval without the **prior issue of an Occupation Certificate.**
17. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

18. 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.
19. No portion of the proposed building is to encroach onto a Public Road or Reserve, except as may be permitted by the Local Government Act 1993.
20. Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
21. Four (4) certified copies of the Structural Engineer's details in respect to the structural details of the proposed building shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
22. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
23. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.

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24. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
25. A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.
26. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
27. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
28. In a Class 2 building containing more than 10 sole occupancy units, a closet pan and wash basin in a compartment or room at or near ground level for the use of employees must be provided in accordance with F2.1 of the Building Code of Australia. Details shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate.**
29. An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.
30. A Registered Surveyor's certificate identifying the location of the building on the site is to be submitted to the Principal Certifying Authority immediately upon completion of the foundations and prior to work proceeding above dampcourse level.
31. A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund **Deposit prior to the issue of the Construction Certificate.**
32. Four (4) sets of Architectural and Services Specifications are to be submitted with the Construction Certificate application.
33. All external cladding and trim of the approved building shall be of a non reflective nature. Details of such finishes shall be **submitted with the Construction Certificate Application.**
34. Suitable internal or external clothes drying facilities shall be provided. Where external clothes drying facilities are provided, details of the screening of these facilities are to be incorporated in the landscape design. Details of clothes drying facilities shall be **submitted with the Construction Certificate Application.**
35. All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.
36. The visitor car spaces shall be accessible at all times and a sign post shall be erected at the vehicular entry point(s) of the development indicating the location of the spaces.
37. An approved water interceptor shall be provided across the driveway at the street boundary and all stormwaters shall be conveyed by underground pipe to Council's street gutter to the satisfaction of the Principal Certifying Authority.
38. The use at all times shall be conducted so that no odours or other air impurities are detectable beyond the boundaries of the premises.

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39. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
40. Care shall be taken to prevent any damage to adjoining buildings.
41. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

**Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.**

42. The building being erected in Type B construction for a Class 2 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
43. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
44. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 12 months from the date of practical completion of the building is to be provided to the Principal Certifying Authority **prior to issue of the Final Occupation Certificate.**
45. Excavation adjacent to the road boundary shall be adequately shored to support the roadway and all improvements and services within the road reserve. Protective fencing shall be provided to ensure the safety of the public.
46. All healthy trees and shrubs identified for retention on the plan must be:
  - (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
  - (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.
47. All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.
48. The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.
49. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
50. Details shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate** indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is being provided.
51. The trees to be retained are to be protected from trenching or excavation works or other construction works during the building construction stage. A security bond for \$10,000 is required to ensure that the trees are protected during the construction stage. The security bond may be in the form of a bank guarantee which must be lodged with Council **prior to issue of the Construction Certificate.**

**Environmental Services Division Report No. 31 (Cont'd)**

52. Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.
53. Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.
- The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.
54. Precautions shall be taken when working near trees to be retained including the following:
- do not store harmful or bulk materials or spoil under or near trees
  - prevent damage to bark and root system
  - do not use mechanical methods to excavate within root zones
  - do not add or remove topsoil from under the drip line
  - do not compact ground under the drip line.
55. All lights used to illuminate the exterior of the buildings or site shall be positioned and/or fitted with cut off luminaries (baffles) so as to prevent the emission of direct light onto adjoining roadways and land.
56. Glare from internal lighting shall not be permitted to extend beyond the limits of the building authorised by this approval.
57. The carpark levels are to be provided with a system of mechanical ventilation in accordance with AS 1668.2 with details being submitted to the Principal Certifying Authority for approval **prior to issue of the Construction Certificate.**
58. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
59. **Prior to the issue of the Construction Certificate**, the applicant shall submit details of protective hoardings, fences, and lighting which are to be provided during demolition, excavation and building works in accordance with the requirements of the Department of Industrial Relations, Construction Safety Act and the WorkCover Authority.
- Note: On corner properties, particular attention is to be given to the provision of adequate sight distances.
60. Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval shall be given to the purchaser, transferee, assignee, leasee, occupier or other person of that part of the land.
61. All materials on site or being delivered to the site shall generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 shall be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.

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62. Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.
63. The applicant shall consult with Energy Australia to determine the need and location of any electrical enclosure for the development. Should an electrical enclosure be required, the location and dimensions of this structure are to be detailed prior to the issue of a Construction Certificate. In the event of Energy Australia requiring a sub-station, the applicant shall consult with Council or its delegate with a view to dedication of the land for the sub-station as public roadway.
64. A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier **prior to any building works being carried out on site.**
65. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
66. Issue of a Compliance Certificate from the Principal Certifying Authority prior to occupation to the effect that:
  1. Required inspections have been undertaken and the work has been completed in accordance with the approved plans and specifications, the Development Consent and the Construction Certificate.
  2. Documentary evidence relative to:
    - roof trusses details
    - tie down and bracing details
    - termite protection notice
    - wet areas waterproofing certificate
    - reinforcement concrete and structural members details
    - structural engineers inspection certificate
    - survey certificate
    - floor/finished ridge level certificate
    - hydraulic consultants certificate
    - mechanical ventilation engineer's certificate
67. Payment of contributions in accordance with Section 94 of the Environmental Planning & 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 issue of the Construction Certificate.
68. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site [www.sydneywater.com.au/customer/urban/index](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator** since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.



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69. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
70. All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.
71. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework**.
72. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
73. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.
74. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
75. Drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
76. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
77. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
78. Stormwater from roof areas shall be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area. Inspection of the building frame will not be made until this is completed to Council's satisfaction.
79. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.  
  
The measures must include:-
  - (i) siltation fencing;
  - (ii) protection of the public stormwater system; and
  - (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
80. All electrical and telecommunication services to the site are to be provided by underground cabling, with the plans notated **prior to the issue of the Construction Certificate**.
81. Details shall be submitted to the Principal Certifying Authority indicating the method of sound proofing all roof terraces, decks and balconies **prior to issue of the Construction Certificate**.
82. No blasting is to be carried out at any time during construction of the building.

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83. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

84. The operations of mechanical services are not to give rise to an offensive noise within the meaning of the Protection of the Environment Operations Act 1997.
85. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall be in hand prior to any track-equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.
86. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
87. 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.
88. Tree planting and landscaping is to be complimentary the new buildings is to be sympathetic to the heritage listed Golf Club House.
89. 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 permit and archaeologists report is to be submitted to Council.
90. That a report be submitted to demonstrate that Manly Golf Course has adequate disabled parking spaces and facilities.
91. That a long section of the proposed ramp from the 'Lower 82 Club Carparking level to the 'Upper B2 Club Carparking level be submitted at a scale of 1:100 to demonstrate adequate ground clearance for vehicles.
92. That the applicant demonstrate that a minimum clearance of 2.2m, clear of any services is provided in the carparks and that this clearance is maintained along the ramps. In addition, that Council be provided with information on measures to manage clearance at the entrances to the carparks.
93. That the levels for the Harland Street vehicular access and driveway to the residential carpark be provided in long section at a scale of 1:20 from the centre of the road pavement to the level section of the carpark.
94. That lighting be provided for the carparks in accordance with Australian Standard AS 1680.2.1- 1993: Interior lighting - Circulation spaces and other general areas.

**Environmental Services Division Report No. 31 (Cont'd)**

95. Removal of the two redundant laybacks and driveways in Balgowlah Road.
96. Construction of one new concrete driveway, in Balgowlah Road, of minimum 6.0m width at a distance no further than 3.2m from the western side boundary of the site.
97. A system of onsite stormwater detention shall be provided within the property in accordance with Council's "Specification for on-site stormwater management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Principal Certifying Authority **prior to the issue of the Construction Certificate**.  
  
The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.
98. On completion of the drainage works the applicant is required to submit work as executed drawings of the on site stormwater detention system. The work as executed drawings shall be certified by a Chartered Professional Engineer and submitted to Council prior to the Occupation Certificate is issued.
99. A positive covenant and the restriction on the use of land shall be imposed over the area of land affected by on site stormwater absorption! detention system. The standard wording of the positive covenant shall be obtained from Council's "Specification for on-site Stormwater Management 2003" (Appendix A). The positive covenant shall be imposed prior to the release of the Trust Fund Deposit.
100. The construction of a vehicular footpath crossings and kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out prior to issue of the Occupation Certificate.
101. A 1.2 metre wide concrete footpath shall be constructed along the entire frontage of the property at Harland Street. The full cost to be borne by the applicant.
102. The existing levels of the road *reserve* shall be maintained.
103. If dewatering is required the *applicant* shall submit a dewatering plan to control the quality and quantity of the water discharged from the proposed development. The dewatering plan shall be approved by council prior the issue of the Construction Certificate.

De-watering from the excavation or construction site must comply with the *Protection of the Environment Operations Act 1997* and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly Council for Compliance with ANZECC Water Quality Guidelines.
- b) If tested by a NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the *Protection of the Environment Operations Act 1997*, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.

**Environmental Services Division Report No. 31 (Cont'd)**

- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
  - e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
  - f) Also the developer must contact Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.
  - g) Weekly monitoring of electrical conductivity shall be undertaken by the developer and forward to Manly Council. If electrical conductivity readings elevate above that from when dewatering first commenced council reserves the right to order a cessation of dewatering until groundwater has replenished.
104. The temporary carpark referred to in correspondence is being on the practice area accessed off Balgowlah Road is to be constructed and operational prior to any works taking place on site. The practice area is to be reinstated prior to the issue of an Occupation Certificate.
105. The removal of the existing rollover kerb and gutter and its reinstatement with integral kerb and gutter, and any associated works along the full length of the Harland Street frontage. These works shall be carried out prior to the issue of the Occupation Certificate by a licensed construction contractor at the applicants expense and shall be in accordance with Council's Specification for Civil and Infrastructure Works.
107. The reconstruction of the existing kerb and gutter and any associated works along the full length of the Balgowlah Road frontage. These works shall be carried out prior to the issue of the Occupation Certificate by a licensed construction contractor at the applicants expense and shall be in accordance with Council's Specification for Civil and Infrastructure Works.
108. The applicant is to undertake an analysis of groundwater seepage prior to construction for the below parameters. In addition periodic samples are to be undertaken during dewatering to ascertain any variation of water quality. In total there should be 1 sample prior to and 3 samples during pumping at 15 minute intervals.
- pH
  - Electrical conductivity
  - Dissolved oxygen
  - Turbidity
  - E. Coli
  - Iron
  - Total Nitrogen
- All analysis is to be sampled and analysed by certified professionals. Results of all samples are to be forwarded to Council's Water Cycle Management Officer.
109. The applicant is to submit a report from a suitably qualified engineer, detailing the estimated flow to be extracted:
- L /sec and
  - Total volume during the construction period

**Environmental Services Division Report No. 31 (Cont'd)**

The report is to be submitted to Council's Water Cycle Management Officer for review prior to the issues of a Construction Certificate.

110. The applicant is to submit a report detailing:

- The end use discharge point with a focus on groundwater as a resource
- The discharge pathway with a focus on groundwater as a resource

The report is to be submitted to Council's Water Cycle Management Officer for review prior to issue of the Construction Certificate.

**ATTACHMENTS**

<b>AT-1</b>	Response from Manly Golf Club to Conditions of Deferral Matters	9 page(s)
<b>AT-2</b>	Scientific Advisory Panel Comments	3 page(s)
<b>AT-3</b>	Objection to Development Application - Sattler & Associates	3 page(s)
<b>AT-4</b>	Response to Sattler & Associates - Manly Council	6 page(s)

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\*\*\*\*\* End of Environmental Services Division Report No. 31 \*\*\*\*\*

## ATTACHMENT 1

Environmental Services Division Report No. 31  
87-95 Balgowlah Road, Manly  
Manly Golf Club  
Response from Manly Golf Club to Conditions of Deferral Matters



**MANLY GOLF CLUB LIMITED**

A.C.N. 000 007 465 A.B.N. 18 000 007 465

4 May 2005

Ms B Lawson  
Public Officer  
Manly Council  
Belgrave Street  
Manly NSW 2095

Your Reference: 1703005 DA401/04 DS:LB

Dear Ms Lawson

**RE: DA 401/04 87-95 Balgowlah Road, Manly**

We refer to your letter of 21 March 2005 setting out the reasons for the deferral of the above application by Council. We are awaiting a reply to our letter of 28 March 2005 in which we sought advice on how a number of the deferral matters were to be progressed by Council.

In the meantime, we have held a meeting with representatives of the objectors, attended by Councillors Lambert and Murphy, in an attempt to answer some of their concerns.

Attached to this letter is a report on the Club's Activities, as requested, which will allow Council to consider the relationship between the available parking and the parking demand created by these activities. Also, attached is a Hydrological Report prepared by Jeffreys & Katauskas, who undertook the original geotechnical investigation.

In relation to the deferral item "That the position of the carpark exit be reconsidered with an option to be moved to the centre of the carpark", we comment as follows:- The location of the carpark entry was discussed at the meeting with the objectors, and we explained that for traffic safety reasons the entry/exit had been located at the western end of the Balgowlah road frontage, as far as possible from the potentially dangerous "S" bend. This location is supported by the Traffic engineers. Also, if the entry/exit is moved to the centre of the site, the Unit Building A would have to be moved closer to the western boundary, which would create overshadowing problems for the next door townhouses.

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38-40 Balgowlah Road, Manly NSW, 2095 P.O. Box 166, Manly NSW, 1655  
Phone: (02) 9948 0256 Facsimile: (02) 9948 3325 Golf Shop: (02) 9907 9553 Email: administrator@manlygolf.com.au

ATTACHMENT 1

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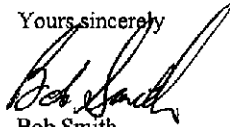
Environmental Services Division Report No. 31  
87-95 Balgowlah Road, Manly  
Manly Golf Club  
Response from Manly Golf Club to Conditions of Deferral Matters

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We await your response to our letter of 28 March explaining how the remaining deferral items are to be addressed. The writer will be overseas for the next 4 weeks and we ask that you direct any queries to the Club's General Manager, Doug Jacka, or the Architect, Peter Bell (tel. 9247 7641)

Yours sincerely



Bob Smith  
Director

## Manly Golf Club

### Club Profile/Schedule of Current Activities

This report has been prepared in response to the request from Manly Council in their letter of 23 March 2005, in relation to the Club's development application for its Golf Club Car Park at 87 – 95 Balgowlah Road. In this letter Council has requested a report on "current activities of Club including the function centre and the hours of operation, membership numbers and adequacy of current parking for the Club".

#### Brief Club Profile:

Manly Golf Club was established in 1903, acquiring the freehold title to the property during its early years of operation. The Club operates as a non-profit corporation and sets annual membership subscriptions to cover annual operating costs. The Club does not have, nor has it ever had, a significant surplus or funds reserve. The major renovations recently completed on the heritage listed Clubhouse were financed entirely by debt funding. Over the last 10-12 years the Club progressively acquired the properties on the south side of Balgowlah Road that now comprise the Club Car Park.

#### Membership and Golf Course Usage:

The total membership of MGC is approximately 1,500, comprising 1000 playing members and 500 non-playing members. These membership numbers have remained virtually unchanged for at least the last 30 years. Our standard weekly golf calendar is as follows:-

	Average No. Players
Monday:	
Senior and Women's competitions and social play	80-100
Tuesday:	
Ladies Competition followed by social play	150
Wednesday:	
Mens Competition:	180-230
Thursday:	
Trade/Charity Day and/or social play	100-250
(Approx 40 trade days per year - average number players in 2004 was 90)	
Friday:	
Senior and Women's competitions and social play:	200-250



## ATTACHMENT 1

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**Environmental Services Division Report No. 31**  
**87-95 Balgowlah Road, Manly**  
**Manly Golf Club**  
**Response from Manly Golf Club to Conditions of Deferral Matters**

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<b>Saturday:</b>	
Mens Competition:	180-230
<b>Sunday:</b>	
Mixed Competition and Social Play	180-200

### **Functions:**

#### **Daytime:**

The Club holds very few daytime functions, but provides food and beverage service to members seven days a week. Thursday Corporate/Charity Days usually includes a simple lunch and approximately 50% of these days staying for dinner after golf which generally concludes between 9:00pm and 11:00pm. The Club supports a large number of Charities and Service Clubs by making the course available at significantly discounted green fees thereby assisting their fund raising activities. In recent years these groups have included, Motor Neurone, Autism, Spastic Centre, Breast Cancer, Bernados Homes, YouthReach, Mollie and Sophie Foundation, Balgowlah Rotary, Manly Chamber of Commerce, Manly Rugby Club and many others. In all cases the day has been booked through a Club member who is involved in the organization.

#### **Evening Functions:**

The Club has a regular Friday Members Dining Night with attendances varying from an average in the winter months of 40-80 diners, to a peak in the warmer months of between 120-160 diners. Once every month the Club has a Wednesday Dining Night and the numbers vary between 40-100.

The Club schedules on average 10 special theme type events for members on Saturday nights during the year, and every year in September puts on a Musical Revue with the cast of members plus dinner, over three nights, Thursday, Friday and Saturday. The Thursday performance is held for charity with takings donated to Manly Hospital.

The Club also takes bookings from members for special functions, which are predominantly wedding receptions on Saturday night. The Club has been holding these types of functions for over 30 years. The demand has fluctuated considerably over these years, it being strong in the 70's, 80's and early 90's, but as the standard of our Clubhouse deteriorated prior to the major refurbishment in 2002/2003, there was a reduction in the number of these functions. Since completion of the refurbishment the demand for these functions has increased. We have actively sought to encourage this demand to offset the ever increasing overheads of the Club and to repay the debt incurred on the renovation. The Club also has to have a minimum number of regular functions to be able to provide continuity of employment and to meet the wages cost of our permanent catering and bar staff. The Club does not have gaming machines to help subsidise these activities and wages.

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Environmental Services Division Report No. 31  
87-95 Balgowlah Road, Manly  
Manly Golf Club  
Response from Manly Golf Club to Conditions of Deferral Matters

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In 2004 we held 42 Saturday night functions with an average attendance of 110. All functions were required to finish by 12:00pm but in reality, on most nights, guests had left the premises before 11:00pm.

In recent months one of our members has held regular business related meetings at the Clubhouse usually once a month on a Tuesday evening from 6pm for one hour with attendance varying from 20 to 30 people.

The Club employees include four Office Staff, five Golf Shop Staff five permanent and up to eight casual Food & Beverage Staff as well as 14 – 17 Course Staff. Parking required for staff varies from 6-15 spaces, depending on level of activity at the Club, with some of these spaces provided in the Club's grounds.

**Parking:**

Until 1996 the Club relied on Balgowlah Road for its members parking. The Club acquired the properties at 87-95 Balgowlah Road in the mid 90's and received development approval to establish the current 101 space members car park at that time.

In addition to this parking the Club has the following parking available

Adjacent to Clubhouse:	15 spaces
North Side of Balgowlah Road: (east of Clubhouse)	28 spaces
North Side of Balgowlah Road: (west of Clubhouse)	45 spaces

The parking demand created by the golf course and Clubhouse usage, as detailed above, is generally adequately met by these 189 spaces. Even on the busiest days when the total number playing golf is around 240, parking demand is spread over 11-12 hours. Most players' cars would only be "parked" for between 5 and 6 hours. The peak daytime parking demand is around the middle of the day or early afternoon on Wednesday, Saturday and on some Sundays. We know from experience that the car park and street parking can be fully utilised on the busiest of these days, for a maximum of 2-3 hours.

The only other time the available parking facilities are fully utilised is for a short period on Saturday evening if we have a wedding reception that starts around 5:00pm or 6:00pm while a significant number of Saturday golfers are still in the Club.

The largest evening function held at the Club would be attended by 250 patrons, the majority of whom attend as couples (some arrive by taxi), which implies a parking demand for 100-130 cars, which is adequately provided by the car park and street parking. There would not be more than 10 functions per year where over 200 people are in attendance.

Environmental Services Division Report No. 31  
 87-95 Balgowlah Road, Manly  
 Manly Golf Club  
 Response from Manly Golf Club to Conditions of Deferral Matters

## Jeffery and Katauskas Pty Ltd

CONSULTING GEOTECHNICAL AND ENVIRONMENTAL ENGINEERS  
 A.B.N. 17 003 550 801 A.C.N. 003 550 801



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B F WALKER BE DIC MSc  
 P STUBBS BSc MICE FGS  
 D TREWEEK Dip Tech  
 E H FLETCHER BSc (Eng) ME

### Senior Associates

F A VEGA BSc(Eng) GDE  
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 P C WRIGHT BE(Hons) MEngSc  
 L J SPEECHLEY BE(Hons) MEngSc

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A B WALKER BE(Hons) MEngSc

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39 BUFFALO ROAD  
 GLADESVILLE  
 NSW 2111

Tel: 02-9809 7322

02-9807 0200

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30 April 2005

Ref: 18344VB2let

Manly Golf Club  
 Balgowlah Road  
 MANLY NSW 2095

ATTENTION: Mr Bob Smith

Dear Sirs

**HYDROGEOLOGICAL ASSESSMENT**  
**PROPOSED RESIDENTIAL DEVELOPMENT**  
**87 - 95 BALGOWLAH ROAD, FAIRLIGHT, NSW**

This letter provides comments on hydrogeological issues for the above development. The work was commissioned by Mr Bob Smith of Manly Golf Club by returned Acceptance of Proposal, Ref: P11600VB.

A previous geotechnical investigation was carried out by Jeffery and Katauskas Pty Ltd and is detailed in the report dated 2 March 2004 (Ref: 18344VBrpt). This letter should be read in conjunction with the geotechnical investigation report.

A residential development is proposed at the site and will comprise four unit buildings, each with two storeys, over a common basement with two levels. The basement will extend close to all site boundaries. The lowest basement level will be at about RL8.5m adjacent to Balgowlah Road (northern side of site) and about RL9.9m adjacent to Harland Avenue (southern side of site). Excavations for the basement will be required to depths between about 4m and 8m below the existing ground surface.



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Page 2



Concerns have been raised that the excavations for the proposed basement will encounter groundwater and comments are provided within this report on groundwater issues.

**SUBSURFACE CONDITIONS**

As part of the geotechnical investigation, four boreholes (BHs 1 to 4) were drilled on the site to depths between 5.7m and 10.1m. The boreholes encountered fill to depths between 0.2m and 0.5m covering residual soils, comprising sandy clay, clayey sand/sandy clay and silty clay, grading into weathered sandstone at depths between 0.5m and 1.2m (or =RL16.7m and =RL12.3m).

Groundwater seepage was not encountered during auger drilling of the boreholes. Groundwater was measured in BHs 1 to 4 at depths between 2.4m and 5.8m, at 0.75 hours to 1 day following completion.

Reference should be made to our previous report (Ref: 18344VBrpt) for detailed descriptions of the encountered subsurface conditions.

**HYDROGEOLOGICAL COMMENTS**

Groundwater was encountered within the boreholes above the level of the proposed excavations. Therefore, allowance must be made for groundwater seepage into the excavation both during construction and in the long term. During excavation, groundwater seepage should be expected along the soil/rock interface and through joints within the sandstone bedrock, particularly following periods of rainfall. However, since the majority of the excavations will be within sandstone bedrock the stability of the sandstone excavations are not expected to be adversely affected by such seepage, provided any weak zones are protected from weathering and the soils above the rock are formed at suitable batters or supported by a retention system.

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Page 3



It is expected that seepage into the excavation would be able to be controlled using conventional sump and pump drainage techniques. The initial stages of the excavation should be monitored for seepage to assess seepage volumes and the drainage requirements.

In the long term, drainage should be provided behind all retaining walls and possible below the basement slab. The need for the latter should be assessed following completion of the bulk excavations when drainage requirements can be more easily considered. Alternatively the basement may be design to resist hydrostatic uplift pressures (i.e. a tanked basement).

Overall, we do not consider that the proposed development will be adversely affected by groundwater seepage and design and construction is no different to other basements in similar conditions. Similarly, construction of the basement is not expected to have an adverse effect on the regional groundwater flows. Dewatering extending outside of the site will not be required, therefore, drawdown and resulting ground settlements on the adjoining sites is not expected.

**GENERAL COMMENTS**

This report is based on the results of our previous geotechnical investigation, which is detailed in the report dated 2 March 2004 (Ref: 18344VBrpt). This report should be read in conjunction with the previous report and provides specific comments on hydrogeological issues. Reference should be made to the previous report for comments on excavations, retention, footing design and basement slabs.

If there is any change in the proposed development described in this report then all recommendations should be reviewed.

Environmental Services Division Report No. 31  
87-95 Balgowlah Road, Manly  
Manly Golf Club  
Response from Manly Golf Club to Conditions of Deferral Matters

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Page 4



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Should you require any further information regarding the above please do not hesitate to contact the undersigned.

Yours faithfully  
For and on behalf of  
JEFFERY AND KATAUSKAS PTY LTD

D J Bliss  
Senior Geotechnical Engineer

QA Review by:

F Vega  
Senior Associate

Manly Golf Club Underground Car Park.

1 The geotechnical report appears to deal adequately with the main issues likely to be encountered.

2 This excavation will provide an excellent opportunity for Council to start collecting data towards the compilation of engineering geology and hydrogeology maps of the Council area. Such a process would have be of enormous benefit for future geohazard and environmental management.

3 The Council's policies on groundwater appear to assume a granular aquifer model, but in Hawkesbury Sandstone terrains shale bed and joint fissure aquifers are locally very significant.

We can anticipate 5 types of groundwater being encountered in the proposed excavation and in the majority of the Manly Council Area which is underlain by Hawkesbury Sandstone: -

- 1 intergranular flow from within the soil profile
- 2 flow along the soil-rock interface
- 3 intergranular flow within the sandstone
- 4 flow along weathered shale bed aquifers

5 flow through joint-fissure aquifers

Types 4 and 5 are likely to provide the largest concentrated flows and may prove the most difficult to deal with. They may need to be drained, redirected or permanently pumped from excavations.

Shale-bed aquifers can release acidic and/or iron rich waters. The acidic waters may be a threat to concrete structures, while the iron rich waters may lead to the precipitation of bacterial iron scales and/or the release of water rich in colloidal iron.

Council needs to develop policy responses to deal with excavations in the Hawkesbury Sandstone and the interception of joint-fissure and shale-bed aquifers.

I would be pleased to discuss these matters with Council officers or other members of SAP.



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Environmental Services Division Report No. 31  
87-95 Balgowlah Road, Manly  
Manly Golf Club  
Scientific Advisory Panel Comments

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**Manly Golf Club car park proposal**

I have reviewed the documents provided concerning the proposed construction of residential apartments and an underground car park in Balgowlah Rd by the Manly Golf Club. I understand that Council was concerned about possible impacts on groundwater and my review focused on that point.

The report by Jeffery and Katauskas P/L dated 2 March 2004 indicated that two different excavations were proposed, one beneath the apartments and the second adjacent to the existing club house. Foundation conditions for these proposals were investigated by drilling six holes. Apparently proposals for the car park adjacent to the clubhouse have been dropped and the more recent documents (Planning Overlord July 2004, and Jeffery and Katauskas P/L 30 April 2005) refer only to excavation beneath the residential development.

I suspect that Council members may have initially reacted to this proposal as I did in imagining that it would be sited on estuarine and lacustrine alluvial sediments. If this was the case groundwater effects could be very important, as would the presence of acid sulphate soils. However drilling results show that the car park excavation will be in Hawkesbury Sandstone and although there is little quantified information on groundwater there is no reason to assume that there will be a significant problem with excessive groundwater flow into the basement or any external impact on the groundwater resource. At the time of test drilling groundwater flows were minimal and although that may have been during dry weather conditions there is not usually a large flow variation in this rock type.

In my opinion the comments about engineering options and groundwater drainage made by Jeffery and Katauskas P/L (30 April 2005) are reasonable and I envisage no particular hydrogeological problem with this development.

I note that the plans (Drawing: DA-03) make provision for stormwater detention/retention in the basement. The text of the development proposal (p14) indicates that this water will be used to irrigate on site planting but it provides no details of how the water will be reticulated. I commend the proposal but suggest that Council officers need to satisfy themselves that it will be effectively implemented.

Manly Council Scientific Advisory Panel  
30 May 2005.

Environmental Services Division Report No. 31  
87-95 Balgowlah Road, Manly  
Manly Golf Club  
Objection to Development Application - Sattler & Associates

**Sattler & Associates**  
Property Development Lawyers & Consultants

1/56 The Corso  
Manly 2095  
Ph: 8962 2070  
Fax: 9977 8183  
DX: 9201 Manly  
tony@sattler.net.au

6 April 2005

Tony Sattler  
Principal

**URGENT**

**The General Manager**  
Manly Council  
DX 9205 Manly

Dear Sir,

**Re: OBJECTION TO DEVELOPMENT APPLICATION NO. 401 OF  
2004  
PROPERTY - 87-95 BALGOWLAH ROAD, MANLY**

We act for objectors to this development proposal being Juliet Peters, and Madeleine Trusler both of whom live adjacent to the proposed development site and Leonie Worrall representing the owners corporation of the town house development situated immediately to the west of the proposed development in Balgowlah Road.

The development application has been prepared and lodged on behalf of Manly Golf Club Limited. The site is opposite the Golf Club premises and is currently used as a ground level car park for Golf Club patrons and members.

The proposal is to construct 16 apartment style dwellings serviced by 31 basement car parking spaces. It is further proposed to accommodate 130 Golf Club parking spaces in a basement structure below the residential basement car park. Golf club patrons will enter and exit the Club's basement car park from Balgowlah Road.

The use of the lower basement level for Golf Club car parking is not a use that is permissible within the residential zone. The applicant has not set out reasons why the use of the site for a Golf Club car park is a lawful use or why the relocation of the car park to a basement level is component of the overall development that is capable of being consented to. We understand that the site was once occupied by a Masonic Club and it can only be assumed that the Golf Club would assert that an existing use right attaches to the use of the land as a car park for the Club. The absence of evidence of the attachment of existing use rights is surprising as it

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Manly Golf Club  
Objection to Development Application - Sattler & Associates

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is well known that the law places the onus of proving the existence of the right on the applicant.

We submit to Council that the law in relation to existing use rights does not allow the existing ground level car park that is used for Golf Club purposes to be re-located to a basement structure.

An analysis of the law in relation to existing use rights shows that there has been a narrowing rather than broadening of development rights when it comes to rebuilding, expansion, enlargement and/or intensification of non-complying uses.

In the case of *Lemworth Pty Limited v Liverpool City Council* [2001] NSW CA 389 (6 November 2001) a prohibited use, that has existing use rights attaching to it was conducted on the second level of a 2 storey commercial building. A development application was lodged seeking consent to use the ground floor of the building for the same purpose. It was held that the existing use (on the 2<sup>nd</sup> level or first floor) could not be expanded, enlarged or intensified to also include the ground floor. The Court of Appeal defined the land on which the existing use was carried out within the meaning of clause 42(2)(h) or the EP&A Regulation was the part of the land used at the date the existing use rights arose which was only the second level or first floor of the building. Therefore any enlargement, expansion or intensification within the meaning of clause 42 of the Regulation had to be limited to an enlargement, expansion or intensification within the first floor area of the building only.

Lemworth has been followed by the case of *Starray Pty Limited v Sydney City Council* [2002] NSWLEC 48 which was very close in facts to the present development proposal before Council. In *Starray* the land in question had been used for a 45 space short stay public car park at ground level. After that use had lawfully commenced it was prohibited by an amendment to the relevant LEP. The applicant lodged a DA for a mixed use development comprising an 8 storey commercial tower, a 26 Storey residential tower and a 5 level basement car park with a component of the basement car park to be used as the public car park.

Pearlman J (at the time the chief judge of the Land & Environment Court) applied the decision in *Lemworth* to hold that the lawful use of the land for public car park was limited to the ground level of the site only and that *Starray* could not rely on existing use right to authorize the use of the basements in the proposed building for the purposes of the public/commercial car park. The Chief Judge said at paragraph 24 of the judgment:-

*"At the relevant date (that is the date that the LEP prohibited public car parks and therefore the date on which existing use rights arose) the "unit" of land which Starray used for the purpose of a public car park was that ground level. Starray did not use any subterranean strata of the site for the purpose of that use, nor did*

ATTACHMENT 3

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*it hold those strata in reserve for that purpose. Furthermore, as is obvious, Starray did not use or hold in reserve for its use either of the basement levels of the proposed building, because at the relevant date (and indeed at the present) those basement levels did not exist."*

Therefore in the present matter that is before Council – the Golf Club car park can only be re-built, expanded or intensified at the existing ground level (subject to it being established that existing use rights do, in fact attach to the use) and as a result Council does not have power to grant its consent to the development application in its current form.

Our Clients have requested that you allow them to meet with you to discuss the above and other issues in relation to the development proposal. Could you notify us of a convenient time to discuss this matter.

Please find attached:

1. The Case of *Starray v Sydney City Council*.

Yours Faithfully  
**SATTLER & ASSOCIATES**



TONY SATTLER.

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**Response to submission by Sattler and Associates**

Sattler and Associates acting for neighbour objectors Ms J Peters; Ms M Trusier, and Ms L Worrall made a further submission to Council dated 6 April 2005.

In that submission, Mr Sattler asserts that Council is incapable of granting consent to the application for reasons that, firstly, the proposed car park use as it is submitted is prohibited, and secondly, if *Existing Use Right* was relied upon by the applicant for its continuing use *inter alia*, such existing right may not extend from surface parking, as it is now, to underground parking as it is proposed. Mr Sattler, in relation to the latter, cited the Land and Environment Court decision in *Starray Pty Limited v Sydney City Council* [2002] NSWLEC 48 (17 April 2002) as relevant (and only) authority for this conclusion.

I referred the Sattler submission for to a number of people for an opinion.

Council's Response

Council's in-house general legal counsel provided the following opinion in respect of *Starray* –with whom Abbott Tout and Associates Solicitors concurred:

"... In *Starray* her Honour held that the applicant, which had existing use rights in respect of a street-level stratum of a particular site, was not entitled to claim that those rights extended to the subterranean strata of the site. Looked at on its own, the case would seem, at first glance at least, to preclude what is proposed by the Golf Club - as the facts are very similar to the proposal currently before Council - but, subsequent to her decision in *Starray*, Pearlman J herself held that neither *Starray* nor another seemingly relevantly applicable case (viz *Lemworth Pty Ltd v Liverpool City Council* (2001) 117 LGERA 305, in which it was held that existing use rights as a brothel were limited to only the first floor of a building) was judicial authority for the proposition that existing use rights are limited to the surface of land.

In that regard Pearlman J stated in *Mona Vale Pty Ltd v Pittwater Council* [2003] NSWLEC 74 (28 March 2003), in which there was an unsuccessful attempt by the council to argue that existing use rights were confined to the surface area of the land:-

In my opinion, neither *Lemworth* nor *Starray* is authority for the proposition that the word "land" where used in the relevant parts of the incorporated provisions is in some way limited to the surface of the land on which the existing use was carried out at the relevant date. Each of those cases depends upon its own particular facts. In *Lemworth*, the *Brickworks* and *Eaton* approach was applied to reach a conclusion that the unit of land upon which the brothel use was carried out at the relevant date was the first floor of the building and it did not extend beyond it. In *Starray* the same approach was adopted to reach a conclusion that the unit of land upon which the car park use was carried out at the relevant date was the ground level stratum and it did not extend to subterranean strata or to the basement levels of a non-existent building.

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Here, however, the facts are not in dispute. The whole of the Darley Street [Mona Vale] portion represents "the land" upon which the existing use was carried out at the relevant date. The council acted in conformity with such a conclusion by permitting, in the 1992 consent, a refurbishment that utilised the Darley Street portion. There is nothing the facts and circumstances of this case which could confine the existing use to a discrete part of the Darley Street portion, such as, as the council has suggested, its surface level. In fact, the 1992 consent authorised below ground works – the levelling of the site, and the provision of underground services such as sewerage and stormwater tanks. Furthermore, in this case, unlike *Lemworth* and *Starray*, no question arises as to whether the land on which the existing use was carried out was some area other than or beyond the Darley Street portion.

Accordingly, I answer the first question in the negative – the existing use rights which attach to the Darley Street portion are **not** limited to its surface.

The other cases to which her Honour referred above were the landmark decisions of the High Court of Australia in *Parramatta City Council v Brickworks Ltd* (1972) 128 CLR 1 and *Eaton & Sons v Warringah Shire Council* (1972) 129 CLR 270 in which a fairly broad view was taken as to the extent of land which should reasonably be said to have the benefit of existing use rights.

There are other decisions, including some others of Pearlman J, that provide support for the view that her Honour's decision in *Starray* should be confined to its own special facts and statutory circumstances.

For example, in *Scully v Leichhardt Council* (1994) 85 LGERA 109, another decision of Pearlman J, it was submitted on behalf of the council that the statutory references to "land" were such that the land in question was restricted to the footprint of the particular building. It should be noted that her Honour expressly rejected the submission. In considering the meaning of "land" in the relevant statutory context, she said (at 111):

In my opinion, the inquiry must as a consequence be directed to the particular existing use. What is the nature and extent of the particular existing use? The facts and circumstances which establish the particular existing use will set the parameters for the "land" which is referred to in cl 41(2). Those facts and circumstances might show that the "land" in the particular case is in fact the footprint of a particular building; or it might show that it is the whole of the deposited plan allotment upon which the building is erected; or it might show that it is an area larger than the footprint but smaller than the allotment.

In *South Sydney City Council v Houlakis* (1996) 92 LGERA 401 Clarke JA (at 403) said that when a question arises as to whether there had been an enlargement, expansion or intensification of a use within s 109(2)(c) of the Act, the court is required to examine the extent of the use of the relevant land at the

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date the instrument came into force, and the later use which is claimed to be an enlarged, expanded or intensified use. This was a question of fact.

In *Salvation Army v Newcastle City Council* (2000) 107 LGERA 40 Pearlman J referred to a statement of Meagher JA in *Steedman v Baulkham Hills Shire Council* (1991) 87 LGERA 26 at 27 to the effect that the correct approach to the determination of the existence of existing use rights was as explained in *Brickworks* and *Eaton*, that "if the land is rightly regarded as a *unit* and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose". Her Honour rightly qualified this statement by noting that Walsh J in *Eaton* (at 278) said that plainly, in some cases, the physical use for a particular purpose of a small portion of a large building would not warrant a finding that the whole area was used for that purpose. Her Honour then referred to *Ku-ring-gai Municipal Council v Mobil Oil* (Unreported, Court of Appeal, 3 June 1992) and, after noting that wording of the relevant regulation applicable in that matter had been changed from "allotment" to "only on the land", concluded that the facts did not warrant a finding that the whole of the land was used for the purpose of panel beating and spray painting. Nor could it be regarded as a "unit" simply because it formed one allotment of land. Nor was the part not being so used held in reserve for future expansion. Referring to Barwick CJ in *Eaton* at 273, her Honour held that the total area of the land "was disproportionate to the nature of the business intended to be conducted".

In my view, the various cases to which I have referred provide support for the view expressed by Pearlman J in the *Mona Vale* case in which her Honour distinguished her earlier decision in *Starry* on which Messrs Sattler & Associates place great, indeed total, reliance.

Insofar as the High Court's decision in *Eaton* is concerned, Stephen J said (at 291) something that, in my opinion, is extremely relevant to the present development application:

Where a claimed existing use is of a kind which involves active physical use nice questions of fact and degree may arise when the claimant's land contains some areas of apparently unused land. In many instances commercial and industrial sites will no doubt contain small areas of unused land. Only by first ascertaining the characteristics of the particular purpose of use claimed and comparing that with the evidence concerning the relevant land, regard being had to the absolute and relative sizes, locations and, perhaps, pattern of distribution of unused land, will it be possible to conclude whether all the land should be viewed as one whole, used for the claimed use or, on the contrary, as distinct portions, some of which have not shared in the claimed use.

When regard is had to this statement, it will be seen that, in the NSW Court of Appeal decision in *Lemworth*, for example, the whole of the land was not used for the brothel purpose, nor was the ground floor. Rather, a distinct portion of the land (the first floor) was so used at the relevant date. That is why the court narrowly construed the land the subject of the existing use rights. On my understanding of the salient facts, that is not the case with the present

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development application before Council. Hence, I am not persuaded that an unduly narrow approach, which would confine the extent and availability of existing use rights to only the surface area of the subject land, should be adopted here.

It could be argued that the *Mona Vale* case is not relevant here, because, once again, we are dealing with a non-existent building as in *Starray* and, unlike *Mona Vale*, there has not been, to my knowledge, any past development activity in the form of "below ground works". Nevertheless, it seems that her Honour was at pains to limit the judicial effect of her previous decision in *Starray* which had been severely criticised and which had proved very unpopular due to its overly restrictive approach to the question of existing use rights. In that regard, it must be said that, in more recent cases, the courts have been slowly returning to the generally wider, more liberal approach to the construction and application of the existing use rights provisions that prevailed in earlier years.

As you are aware, the law in relation to existing use rights is most complex. However, on balance, I am of the opinion that, were the matter to be litigated, there is a real possibility that the courts could be successfully persuaded *not* to apply the 2002 decision of Pearlman J in *Starray* and to confine the decision in that case to its own special facts and statutory circumstances".

Council's Independent Litigation Planner also commented as follows:

"I understand an objection has been lodged against the construction of a car park associated with the Manly Golf Club on the Club's site in Balgowlah Rd. on the basis that it is not a permitted use.

FACTS

The site is zoned Residential. Clubs are a prohibited use within this zone. Car parking per se is not prohibited.

The club developed the subject site for a car park associated with the club

I note that the Club is located on land zoned Open Space and the only car parking permitted in that zone is "car parking ancillary to a use permitted in this item". Given that car parking is specifically referred to in one zone it follows that it must be referred to either expressly or implicitly in all other zones. Therefore as suggested above parking for the club may be a permissible use with Council's consent.

Discussion

If I am wrong in the previous para. and the use is prohibited then it follows that the site has existing use rights. The EP& A Act and the Regulations make provision for continuation of existing lawful uses such as in this case. The only way in which these rights are lost is by abandonment. This most frequently occurs where a site is redeveloped for an entirely different and currently permitted use.



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The proposal before Council is to maintain the existing use right relating to the club car park. The legislation provides not only for maintaining that 'right' but also for the extension, alteration and intensification of existing uses. Further it also permits more than one "non conforming use" on a site. It is therefore theoretically possible for the owner of the site to apply for another non conforming use, such as a club or convenience store and subject to assessment, Council may decide to consent to such an application.

It has been suggested in objections to the club car parking element of the development that the L& E Court has held that the use which has "existing use rights" must stay on the same stratum as when originally approved. I can accept this if on the site is a building with a number of levels and that building is the subject of a stratum subdivision. That is not the case with this site.

In my view this would create an absurd position where the parking must be retained at that level therefore requiring the future development to be built around that level. In this case the club parking would stay at a level approximately one metre above the road level with the parking for the residential units below that level and the units above.

I understand there have been more recent decisions of the Court which support the practical application of maintaining the existing use rights rather than the rather impractical situation in the previous paragraph. Clearly there would be greater environmental impacts from a development of the nature described in the previous paragraph. In my view environmental impact this is the real test for deciding whether or not Council should grant consent.

#### Conclusion

There does not appear to be any reason, relating to the permissibility of the use, why Council should not or could not, if it considers the environmental impacts are not adverse, grant consent to the application for the club parking.

On the question of permissibility of the car parking use of the site, Council's Principal Planner provided the following comment:

"... regarding the permissibility of the (use for) carparking on the subject site. The subject site is within land zoned No. 2 - Residential, under the Manly Local Environmental Plan (LEP) 1988. Under the provisions of the Residential Zone of the LEP, carparking is not a prohibited use and therefore permissible with Council consent. Further, it is to be noted that the subject site has been in use as a carparking area for a long period of time, associated with the Manly Golf Club. The proposal is to increase the number of carparking spaces by 28 spaces".

#### The Pertinent Point

It is incontrovertible that the subject land may be used for carparking with Council's consent under the Manly LEP. That is, the proposed use is not prohibited. Therefore, Council is *within power* to grant consent for that use.

## ATTACHMENT 4

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Council under DA156/95 granted consent that permits car parking use of the subject land.

As with all approvals, any approved use is attached to the land and is independent of ownership.

Now that permissibility is established, there is no need to respond further to the question of Existing Use Right.

Conclusion

The DA may be determined by Council in the manner reported.

Henry T Wong  
General Manager  
Manly Council

30 June, 2005

**TO:** Land Use Management Committee - 4 July 2005  
**REPORT:** Environmental Services Division Report No. 32  
**SUBJECT:** Development Applications Currently Being Processed During July 2005  
**FILE NO:**

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**SUMMARY**

Development Applications Currently Being Processed During July 2005.

**REPORT**

DA#	Date Rec by Council	Site Address	Proposal	Target Date	DEL DAU LUM
DA319/03	16-Jul-03	14 Kempbridge Avenue	Alterations and Additions	Awaiting Information	
DA525/03	20-Oct-03	22 Wentworth Street	Change of Use	Awaiting Information	
DA176/04	7-Oct-04	2 Moore Street	Section 82A Review	14-Jul-05	DAU
DA508/04	2-Nov-04	118 North Steyne	Alts & Adds to Heritage Cottage & 6 Storey RFB with Basement Carparking	14-Jul-05	DAU
DA506/04	2-Nov-04	101 Bower Street Manly	Alts & Adds to RFB, Pool, Carparking and Landscaping	26-Jul-05	DAU
DA512/04	9-Nov-04	4 Barrabooka Street	Demolish & New Dwelling and Pool	Awaiting Information	
DA538/04	22-Nov-04	51 Wood Street	Guest House into two Dwellings and Strata Subdivision	Awaiting Information	
DA116/03	30-Nov-04	3 James Street	Section 96 Modification	19-Jul-05	DAU
DA529/04	1-Dec-04	38A Rignold Street	3 Level Dwelling & Garage	12-Jul-05	DAU
DA6/05	13-Dec-04	18 Austin Street, Fairlight	Alterations including Addition Storey and Cement Rendering	Awaiting Information	
DA551/04	15-Dec-04	17 Gilbert Street	Strata Subdivision	Awaiting Information	
DA560/04	16-Dec-04	41 Lewis Street	Demolish & New 2 Storey Dwelling with Basement Garage	Awaiting Information	
DA563/04	17-Dec-04	21 Allenby Street	Alts & Adds & Cement Render	12-Jul-05	DAU
DA35/05	20-Dec-04	81 Curban Street, Balgowlah	Alterations and Additions to Dwelling & Pool	21-Jul-05	DAU
DA37/05	22-Dec-04	11 Benelong Street	New 2 Storey Dwelling and Garage	14-Jul-05	DAU
DA01/05	23-Dec-04	55 Frenchs Forest Road	New 3 Level Dwelling and Demolish	19-Jul-05	DAU
DA101/05	8-Feb-05	1 Gordon Street	Alts & Adds, 2 Pools and Carport	Awaiting Information	
DA127/05	1-Mar-05	219 Woodland Street	Alterations & 1 <sup>st</sup> Floor Additions	Awaiting Information	

## Environmental Services Division Report No. 32 (Cont'd)

DA121/05	1-Mar-05	26 Ethel Street	Demolish & New 2 Storey Dwelling	Awaiting Information	
DA105/05	2-Mar-05	57 Gurney Crescent	Demolish, New 2 Storey Dwelling and Pool	19-Jul-05	DAU
DA535/03	9-Mar-05	89 Gurney Crescent	Section 96 Modification	07-Jul-05	DAU
DA138/05	10-Mar-05	5 Clarence Street	Subdivision into Two (2) Lots each with Dwelling Entitlements	21-Jul-05	DAU
DA142/05	15-Mar-05	9 Arthur Street	Alterations & 1st Floor Additions & Garage	Awaiting Information	
DA144/05	15-Mar-05	21 Francis Street	Alterations & Additions & Family Flat	Awaiting Information	
DA433/99	15-Mar-05	5/93-95 North Steyne	Section 96 Modification	14-Jul-05	DAU
DA162/05	24-Mar-05	9 Jenner Street	Alterations & 1st Floor Additions	15-Jul-05	DAU
DA164/05	29-Mar-05	16 Fairy Bower	Carport Roof	07-Jul-05	DAU
DA140/05	30-Mar-05	6 Baltic Street	Deck to Rear of Dwelling	07-Jul-05	DAU
DA153/05	31-Mar-05	18 Fairy Bower	Alterations & Additions to Roof & Pergola	07-Jul-05	DAU
DA149/05	31-Mar-05	1 Princes Promenade	Demolish & Construct 2 Storey Dwelling with Pool & Landscaping	Awaiting Information	
DA175/05	4-Apr-05	90 Griffiths Street	Alterations and Additions	05-Jul-05	DAU
DA187/05	11-Apr-05	3A Magarra Place	Demolish & Construct Dwelling, Carpark and Landscaping	22-Jul-05	DEL
DA177/05	11-Apr-05	223 Sydney Road	Carport, Fence, Entry Stairs, Pathway and Landscaping	Awaiting Information	
DA189/05	11-Apr-05	31 Amiens Road	Alterations & Additions to Dwelling including Demolition/Rebuild of Upper 2 Levels	Awaiting Information	
DA178/05	12-Apr-05	60 Peacock Street	Demolition & Construct New 2 Storey Dwelling & Double Garage	Awaiting Information	
DA197/05	15-Apr-05	Boronia Lane	Construction of a Fire Trail	Awaiting Information	
DA196/05	18-Apr-05	10 Salisbury Square	Demolish & Construct 2 Storey Dwelling, Pool and Garage	19-Jul-05	DAU
DA190/05	19-Apr-05	3 Linkmead Avenue	Demolition of Existing Dwelling	Awaiting Information	
DA194/05	19-Apr-05	31 Seaforth Crescent	Demolish & Construct 3 Storey Dwelling	21-Jul-05	DAU
DA183/05	27-Apr-05	187 Pittwater Road	Alterations & Additions to Retail	Awaiting Information	
DA193/05	28-Apr-05	16 Fisher Street	Rear Deck, Pool & Landscaping	28-Jul-05	DAU
DA198/05	28-Apr-05	10 Radio Avenue	Front Fence and Deck	28-Jul-05	DAU
DA202/05	28-Apr-05	88 Griffiths Street	Alterations & First Floor Additions	Awaiting Information	

## Environmental Services Division Report No. 32 (Cont'd)

DA201/05	29-Apr-05	78 Curban Street	Demolish & Construct Dwelling, Pool and Basement Carpark	04-Jul-05	DAU
DA221/05	2-May-05	69 Griffith Street	Alterations & Additions, Double Garage	05-Jul-05	DAU
DA587/02	3-May-05	14 Reddall Street	Section 96 Modification	19-Jul-05	DAU
DA206/05	3-May-05	1/135 Woodland Street	Pool, Screens and Landscaping	28-Jul-05	DAU
DA211/05	4-May-05	12 Kangaroo Street	Alterations & Additions & Rear Deck	11-Jul-05	DEL
DA219/05	4-May-05	63-67 The Corso	Alterations & Additions, Cladding, Door & Sign	04-Jul-05	DEL
DA213/05	5-May-05	13 Augusta Road	Alterations & 1st Floor Additions	28-Jul-05	DAU
DA204/05	6-May-05	34 Upper Beach Street	Alterations & 1st Floor Additions, Pool & Deck	14-Jul-05	DAU
DA214/05	6-May-05	107 West Street	Alterations & Additions & Decks	28-Jul-05	DAU
DA494/03	6-May-05	110-112 The Corso	Section 96 Modification	Awaiting Information	
DA205/05	10-May-05	12 Charles Street	Alterations & 1st Floor Additions	06-Jul-05	DEL
DA225/05	12-May-05	36 Sydney Road	Change of Use	Awaiting Information	
DA651/02	13-May-05	2 Gordon Street	Section 96 Modification	Awaiting Information	
DA218/05	16-May-05	5 Avona Crescent	Alterations to Front Porch & Landscaping	Awaiting Information	
DA338/04	18-May-05	38 Pacific Street	Section 96 Modification	Awaiting Information	
DA223/05	19-May-05	16 Violet Street	Replace Pergola Roof at Rear of Dwelling	Awaiting Information	
DA224/05	19-May-05	112 Seaforth Crescent	Alterations & Additions including Garage	Awaiting Information	
DA220/05	20-May-05	Shop 3, 93-95 North Steyne	Restaurant and Fitout	Awaiting Information	
DA314/04	25-May-05	24 Darley Road	Section 96 Modification	Awaiting Information	
DA217/05	6-Jun-05	3 Craig Avenue	Two Residential Units with Basement Parking	Awaiting Information	
DA369/04	08-Jun-05	Shop 4, 318 Sydney Road	Section 96 Modification	Awaiting Information	

**RECOMMENDATION**

That the information be noted.

**ATTACHMENTS**

There are no attachments for this report.

LUM040705ESD\_3

\*\*\*\*\* End of Environmental Services Division Report No. 32 \*\*\*\*\*

**TO:** Land Use Management Committee - 4 July 2005  
**REPORT:** Environmental Services Division Report No. 33  
**SUBJECT:** Appeals List for July 2005  
**FILE NO:**

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## SUMMARY

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION

## REPORT

Application	Site Address	Appeal Lodged	Solicitor	Status
DA278/03	27-29 Victoria Parade	1.09.04	Abbott Tout	Awaiting New Callover Date
DA387/03	71 The Corso	28.09.04	Abbott Tout	Upheld
DA255/04	102 The Corso	28.09.04	Abbott Tout	Callover 01.07.05
DA487/04	49 Golf Parade	18.03.05	Abbott Tout	Awaiting Decision
DA187/03	66B Ponsonby Parade	09.03.05	Abbott Tout	Section 34 Conference 25.07.05
DA555/00	28 Castle Circuit Refusal	14.03.05	Abbott Tout	Callover 21.06.05
DA555/00	28 Castle Circuit Deemed Refusal	14.03.05	Abbott Tout	Callover 21.06.05
DA542/04	99 Darley Road	17.05.05	Abbott Tout	Discontinued
DA69/05	26 Edgecliffe Esplanade	26.05.05	Abbott Tout	Callover 30.06.05
DA172/05	66 Balgowlah Road		Abbott Tout	Callover 13.07.05
DA97/04	2 Clontarf Street		Abbott Tout	Callover 27.07.05
DA433/99	Shop 5, 93-95 North Steyne	7.06.05	Abbott Tout	Callover 03.08.05
DA45/05	67 Ernest Street	21.06.05	Abbott Tout	Callover 02.08.05

## 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. 33 \*\*\*\*\*