



## 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 6 June 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

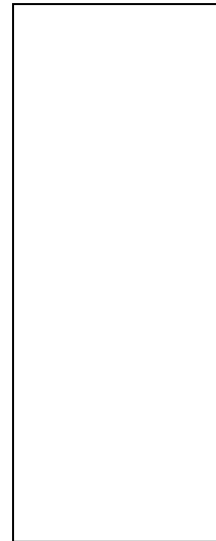
Clr Mark Norek

Clr Joanna Evans

Clr Barbara Aird

Clr Brad  
Pedersen

**Deputy Mayor**  
Clr Richard  
Morrison



Clr Jean Hay AM

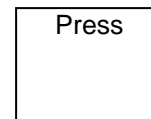
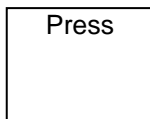
Clr Adele Heasman

Clr Dr Judy Lambert

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



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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 2 MAY 2005

**PUBLIC ADDRESSES**

**SITE INSPECTIONS**

**On Monday 6 June 2005 there will be site inspections for the following properties:**

<b>12 Rosedale Avenue, Fairlight</b>	<b>8.00am</b>
<b>32 Rignold Street, Seaforth</b>	<b>8.30am</b>

**ENVIRONMENTAL SERVICES DIVISION REPORTS**

<b>Environmental Services Division Report No. 23</b> 12 Rosedale Avenue, Fairlight.....	<b>2</b>
<b>Environmental Services Division Report No. 24</b> 32 Rignold Street, Seaforth.....	<b>23</b>
<b>Environmental Services Division Report No. 25</b> 85-87 Lauderdale Avenue, Fairlight.....	<b>34</b>
<b>Environmental Services Division Report No. 26</b> Development Applications Being Processed During June 2005.....	<b>55</b>
<b>Environmental Services Division Report No. 27</b> Appeals List for June 2005.....	<b>58</b>

**CLOSED COMMITTEE ITEMS**

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

**TO:** Land Use Management Committee - 6 June 2005  
**REPORT:** Environmental Services Division Report No. 23  
**SUBJECT:** 12 Rosedale Avenue, Fairlight  
**FILE NO:** DA520.04

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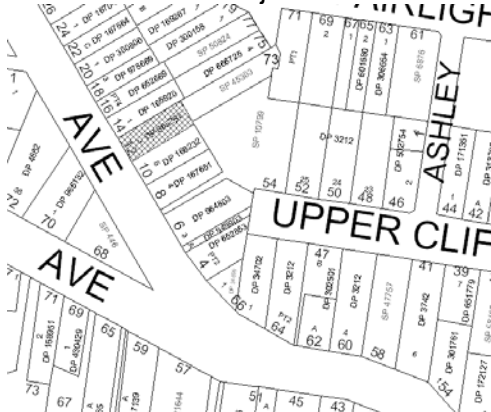
**Application Lodged:** 15/04/05  
**Applicant:** Mr James Young  
**Owner:** James & Suzanne Young  
**Estimated Cost:** \$30,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** Residential  
**Heritage:** None

### **SUMMARY:**

1. DEFERRED COMMENCEMENT CONSENT WAS GRANTED FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING ON 31 MARCH 2005.
2. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION TO MODIFY THE CONSENT UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT.
3. THE MODIFICATION APPLICATION WAS NOTIFIED TO ALL SURROUNDING PROPERTIES AND PREVIOUS OBJECTORS, 4 SUBMISSIONS REGARDING THE PROPOSED SECTION 96 MODIFICATIONS HAVE BEEN RECEIVED.
4. THE APPLICATION WAS REFERRED TO THE FAIRLIGHT PRECINCT COMMUNITY FORUM AND COMMENTS RECEIVED
5. THE APPLICATION IS REFERRED TO LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR HAY.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

### **LOCALITY PLAN**

Shaded area is subject land.



## **REPORT**

### **Introduction**

### **The Site**

The subject site 12 Rosedale Avenue is located on the north-eastern side of Rosedale Avenue. The development site has a southwest to northeast orientation, with significant harbour views to the south. The development site has a size of approximately 400m<sup>2</sup>. Existing on the site is a three level residential dwelling, including double garage with a floor area of approximately 335m<sup>2</sup>.

**Environmental Services Division Report No. 23 (Cont'd)****History**

The original development application proposed;

- Construction of workshop/garage bedroom and ensuite at lower ground floor level.
- Reduction in height of existing garage by 300mm, and construction of balcony above proposed workshop at RL 46.46 (existing ground floor balcony has RL 46.76).
- New fixed glass window at ground floor level, including the removal of brickwork below existing sill to floor level.
- Replacement of approved glass balustrade with wrought iron balustrades to all balconies.
- Installation of 1m high glass balustrades around ground floor and first floor balcony.
- Extension of existing kitchen at ground floor level to the rear.
- Roof conversion, which includes an increase in floor space. The existing single ridged sloping dormer roof, will be replaced with a double ridged dormer roof extension which sits perpendicular to the existing sloping roof.
- Enlargement of side windows to provide light to lower ground rooms.

The application was considered by Council's Development Assessment Unit which resolved to grant deferred commencement consent. The deferred commencement consent was issued on 31 March, 2005, with the following deferred commencement conditions to be satisfied within a period of 3 months.

- "A. The proposed workshop/balcony extension is not approved as part of this consent. Brick balustrades for the existing terrace which is located above the existing garage are to be replaced with a more translucent balustrade. Plans are to be amended accordingly and submitted for Councils approval. Both ground floor and first floor balustrades shall match in design height and form, both must comply with the Building Code of Australia.
- B. The proposed double gable roof conversion shall be reduced in height. The internal ceiling to roof height shall be reduced to a height of 2.1m. Plans are to be amended accordingly and submitted for Council's approval.
- C. All windows as notated in red on attached plans shall be fixed with obscure glazing or glass blocks.
- D. The proposed new fixed window to be located upon the south elevation is to be deleted. Plans are to be amended accordingly and submitted for Councils approval."

To date the conditions of this deferred commencement consent have not been satisfied by the applicant and the consent has not operated.

**Current Application**

Council is now in receipt of an application under Section 96 of the Environmental Planning and Assessment Act 1979 to modify the consent by deletion of all the deferred commencement conditions (see copy of applicants submission attached).

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal'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.

## Environmental Services Division Report No. 23 (Cont'd)

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density - Sub Zone 3	1 Unit / 250m <sup>2</sup>	1 Unit / 400.19m <sup>2</sup>	Yes
Floor space ratio - proposed development	0.6:1	0.94:1	No
Floor space ratio - deferred commencement development	0.6	0.91	No
Floor space ratio - existing	0.6:1	0.86:1	No
Wall height North side	7.5m	7.0m	Yes
South side	7.5m	7.7m	No
Roof height	3m	2.5m	Yes
Setback Front	6m	0m	No
Setback Rear	8m	12.5m	Yes
North setback side	2.3m	1.2m	No -existing
South setback side	2.5m	1.2m	No - existing
Open space - total	55% of site	56.7% of site	Yes
Open space - total	220m	226.99	Yes
Private Open Space	18m	48m	Yes

**Applicant's Supporting Statement**

In support of the application the applicant has submitted two letters received by Council on 15<sup>th</sup> April 2005, and 11<sup>th</sup> May 2005.

In response to the submissions the applicant has submitted a written response.

**Submissions**

The application was notified in accordance with Council's Policy and four (4) submissions were received, their concerns were:

- The lowering of the existing balcony by 300mm is a pleasing result, although a reduction of 400mm-500mm would be more acceptable.
- Replacement of existing brick balustrade with more translucent glass balustrade is acceptable.
- Templates should be erected to outline proposed development.

**Fairlight Precinct Community Forum Comments**

The proposed development was discussed at the Fairlight Precinct Community meeting. Comments received stated there were no objections to the development provided development complies with DCP.

**Engineers Comments**

The proposed driveway in front of the proposed workshop will be used as a manoeuvring area for vehicles to enter and exit the workshop. The proposed driveway is not adequate for manoeuvring of vehicles. Also because of the steepness of the driveway, this area is not suitable as a manoeuvring area. Hence the proposed workshop and widening of the driveway are not acceptable. The proposed widening of the driveway may will also affect the existing trees on the road reserve.

**Environmental Services Division Report No. 23 (Cont'd)****Building Comments**

No objection subject to conditions.

**Planning Comments****Floor Space Ratio (FSR)**

Council's Development Control Plan for the Residential Zone (DCP) permits a maximum floor space ratio of 0.6:1. The proposed development has a FSR of 0.96:1. The proposed calculated floor area includes the proposed new section of the garage at lower ground level that is to be used as a workshop. The proposed floor space ratio of 0.96:1 does not comply with the requirements of the DCP.

The main objectives of the floor space ratio provisions of the DCP are discussed as follows:

a) *to control the bulk of building*

The bulk and scale of existing dwelling is significantly over DCP requirements to control dwelling bulk and scale.

b) *to ensure that the scale of development does not obscure important landscape features*

The proposal will not obstruct views of landscape features.

c) *to be consistent with the existing and desired character of the residential area*

The proposed development will result in a façade that will extend the built form across the full frontage and when viewed with other garages adjoining and nearby will present as garages dominating the character of the street without any relief. Rosedale Avenue streetscape will not benefit from further triple fronted garages on the front boundary.

d) *to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development as well as the proposed development.*

The proposed reduction in the height of the existing terrace over the double garage will result in increased views to northern neighbours.

The proposed development will result in some loss of privacy to the occupants of 14 Rosedale Avenue. The northern neighbours balcony at 14 Rosedale Avenue is located within close proximity (2.5m) to the proposed balcony extension.

The proposed development will have minimal impact on overshadowing.

e) *to provide sunlight access to private open spaces within the development and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings*

The proposed development will have minimal impact to sunlight access to private open spaces and habitable rooms of adjacent dwellings

**Building Height**

The proposed height of the additions is acceptable having regard to the nature of development in the immediate area and the minor variation in one elevation only.

**Environmental Services Division Report No. 23 (Cont'd)**Setbacks

The proposed additions at first floor level maintain the existing side setbacks which is considered acceptable having regard to the character of development in the area and the minor additional height proposed.

The proposed workshop is entirely within the 6.0m front setback and is not considered to comply with the objectives of Council's residential Development Control Plan. As a double garage already exists on a zero setback to the street it is considered the open space and landscape planting opportunities should not be lost.

Excavation

No major excavation is required for the additions.

Overshadowing

The proposal will not result in any significant overshadowing impacts.

View Sharing

The proposed reduction in the height of the existing terrace over the double garage will result in increased views to northern neighbours.

Streetscape

The main objectives of the streetscape provisions of the DCP are discussed as follows:

- a) *To ensure that all development contributes positively to the street and locality, identified in the locality analysis.*

The proposed development will result in a façade that will represent one of several triple fronted garages in the street, resulting in an overdeveloped streetscape. Rosedale Avenue streetscape will not benefit from more triple fronted garages on the street boundary.

- b) *To minimise the impact of walls and fences on the street frontage.*

Not relevant

- c) *To ensure all fences and walls contribute positively to the identified streetscape.*

Not relevant

- d) *In some circumstances front fences and walls may not be appropriate and soft landscape alternatives should be considered.*

Not relevant

Privacy

The proposed development will result in a reduction in amenity to the northern neighbours at 14 Rosedale Ave as a result of the proposed balcony which will be within close proximity to the neighbouring outdoor living space.



**Environmental Services Division Report No. 23 (Cont'd)**

The main objectives of the privacy provisions of the DCP are discussed as follows:

a) *To screen between closely spaced buildings*

To provide screening between balconies would obstruct harbour views.

b) *To mitigate direct viewing into windows from others*

Fixed obscure glazed windows mitigate any potential overlooking from building windows.

c) *To provide screening to outdoor living areas*

To provide screening between balconies would obstruct harbour views.

d) *To encourage increased security between neighbours*

Security will remain unaffected by the proposed development.

Parking and Access

The existing dwelling provides 2 car spaces which complies with minimum parking requirements for a single residential dwelling.

Open space and landscape design

The DCP requires a total of 55% of the site as open space. With the subject development open space requirement equates to 226.99m<sup>2</sup>, providing for 56.7% of the site area as open space.

Noise

The proposed balcony extension has the potential to result in a loss of amenity to the neighbouring dwelling as a result noise being emitted from the use of the balcony. The proposed extension is to be built within 2.5 of the northern neighbour.

Other Matters

The following works will have minimal impact on the surrounding environment;

- Internal wall alterations to the laundry, bathroom and bedroom 3 at first floor level.
- Extension of first floor balcony to square off balcony ends at first floor level.
- Replacement of approved glass balustrade with wrought iron balustrades to all balconies.

**Manly LEP 1988, Residential Zone Objectives**

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

The land is developed with a dwelling and the proposal seeks to add to this dwelling.

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

The proposal has been assessed for compliance with the Manly Development control Plan for the Residential Zone 2001.

**Environmental Services Division Report No. 23 (Cont'd)**

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

The proposed development will result in addition bulk to the existing façade which will have a detrimental impact on the existing streetscape. There is an existing presence of triple fronted garage frontages within Rosedale Avenue, the construction of more will result in an overdeveloped streetscape.

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

The proposed development will result in increased views to northern neighbours by the lowering of the existing balcony by 300mm.

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

The proposed development will result in the loss of landscaping within the front setback area which will have a detrimental effect on the streetscape.

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

Not applicable

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

The proposal will use existing infrastructure.

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

The development site appears to have reached its development potential.

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

Not applicable

**EP&AA 1979 – Section 79(C)****(a) the provisions of:**

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

The proposed development has been assessed against the appropriate planning instruments, Draft Planning instruments, Development Control Plans, and in accordance with Section 79C and 96(1a) of the Environmental Planning & Assessment Act 1979.

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

**Environmental Services Division Report No. 23 (Cont'd)**

The local streetscape will be adversely affected by way of a dominant façade being increased in breadth across the existing site frontage, although the existing dominant garage will be reduced in height by 300mm, this is considered to have significant negative impact on the Rosedale Avenue streetscape.

The neighbouring properties will have an extension to existing large front balcony being constructed within approximately 2.5m of their property, resulting in some privacy loss and potential noise disturbance.

Harbour views to northern neighbours will increase as a result of the proposed garage being lowered by 300mm.

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

The existing site has a three storey dwelling, with double garage on site. The site appears to have reached its maximum development potential. When assessed against DCP requirements for bulk and scale, the existing and proposed development are over development standards within the DCP. The proposed development seeks to increase the overall size of the existing dwelling.

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

Four submissions have been received in association with this Development Application which have been discussed previously in this report.

(e) *the public interest.*

The amended proposal is not in the public interest as is evident by the inability of the proposal to meet the requirements of the DCP.

**CONCLUSION**

The application has been assessed under the provisions of the Section 79C and 96(1a) of the Environmental Planning and Assessment 1979, Manly Local Environmental Plan 1988, Council's Development Control Plan for the Residential Zone 2001 and is considered to be unsatisfactory. Accordingly the application is recommended for refusal.

**RECOMMENDATION**

That the Section 96 Modification to Development Application No. 520.04 for alterations and additions to dwelling at 12 Rosedale Avenue, Fairlight be refused for the following reasons:

1. The proposed development does not comply with the aims and objectives of the Residential Zone pursuant to Manly Local Environmental Plan, 1988, having regard to Section 79C(1) (a) (i) of the Environmental Planning and Assessment Act 1979.
2. The proposed development will have an adverse impact on the amenity of the streetscape, having regard to Section 79C(1) (c) of the Environmental Planning and Assessment Act 1979.
3. The proposed development does not comply with Floor Space Ratio provisions of the Development Control Plan for the Residential Zone, 2001, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

**Environmental Services Division Report No. 23 (Cont'd)**

4. The proposed development does not comply with privacy provisions of the Development Control Plan for the Residential Zone, 2001, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

**ATTACHMENTS**

<b>AT-1</b>	Submission by Applicant - 15 April, 2005	6 page(s)
<b>AT-2</b>	Submission by Applicant - 26 April, 2005	3 page(s)
<b>AT-3</b>	Submission by Applicant - 11 May, 2005	3 page(s)

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\*\*\*\*\* End of Environmental Services Division Report No. 23 \*\*\*\*\*

ATTACHMENT 1

Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 15 April, 2005

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15 APR 2005

**Jim & Suzanne Young**  
12 Rosedale Avenue  
Fairlight  
2094  
13 April 2005

**Manly Council**  
Council Offices  
1 Belgrave Street  
Manly  
NSW  
2095

**Attention: Mr B Lawsen - Public Officer**

**Dear Mr Lawsen**

**RE: DEVELOPMENT APPLICATION No. 520/04**

Thank you for your letter dated 31 March 2005 relating to our Development Application No. 520/04.

We note that the Application has been approved but shall not operate until the matters referred to in paragraphs A, B, C and D on page 1 have been attended to.

We also ask that the matters referred to in the paragraphs mentioned, be further considered pursuant to S96 of the **Environmental Planning and Assessment Act 1979**.

- A. The proposed workshop/balcony extension is not approved as part of this consent. Brick balustrades for the existing terrace which is located above the existing garage are to be replaced with a more translucent balustrade. Plans are to be amended accordingly and submitted for Councils approval. Both ground floor and first floor balustrades shall match in design height and form, both must comply with the Building Code of Australia.**

**Objections by neighbours in respect to balcony extension:**

**Mrs Delta Cheung and Mr Malcolm Bunday of 16 Rosedale Avenue, Fairlight  
(Their letter to Council dated 18 December 2004):**

- (a) The balcony is considerably higher than the rest of the street and obscures harbour views;
- (b) The balcony has a brick balustrade.

**Mr Keith Theobald, 2/18 Rosedale Avenue, Fairlight (letter to Council dated 16 December 2004):**

- (a) The height of the balcony is one of Mr Theobald's main objections;
- (b) The height should be reduced by 400mm;
- (c) The brick wall should be replaced with some suitable material.

**Mr John Bisson, 1/18 Rosedale Avenue, Fairlight (letter to Council dated 20 December 2004)**

- (a) Did not agree with the original building height (of the balcony) and materials used;
- (b) Faced with oversized balcony in length and height.

**Mr Barry Sullivan, 14 Rosedale Avenue, Fairlight (letter to Council dated 20 December 2004)**

- (a) Existing balcony about 350mm above adjacent and nearby balconies;
- (b) Non-see through full brick parapet and handrail.

**Response:**

**Please refer to letter to Council from Mrs Cheung and Mr Bunday dated 12 April 2004 (copy enclosed).**

We provide herewith a set of photographs which may assist in your determination.

When we first purchased our home, it was a single story residence (**photo 1**), 2 bedrooms, a single garage with parking for 1 vehicle with a balcony at the front which was **exactly** the same height as it is today (**photo 2**). The balcony was surrounded by a brick and cement rendered wall (**photo 4**) and the height of the balcony when we purchased the house can be seen on the wall where the old balcony has been removed (**see arrow photo 3**); in those days (about 1984) most of the houses in the area had either brick or concrete walls around their balconies.

Our block of land is wider than the homes occupied by each of the persons objecting to the balcony. Their homes (**photographs 5, 6 and 7**) each have balconies extending across the **full width** of their houses. I suspect that if each of their blocks of land were wider, then each of their balconies would also be wider and that would mean that beneath the balconies there would be a combination of garages and/or workshops or a construction of some sort to support the balcony above.

Our next door neighbours in 10 Rosedale Avenue (**photo 9**), Mr and Mrs Scarle, and the next house, 8 Rosedale Avenue (**photo 10**), also have extended their balconies right across the front of their properties.

Our application to extend the balcony is to allow us do exactly the same as our neighbours have already done. They enjoy their balconies with their families and friends and we would like to do the same.

**Balcony sizes:**

12 Rosedale Avenue (**photo 8**) – about 28 square metres  
14 Rosedale Avenue (**photo 7**) – about 40 square metres  
16 Rosedale Avenue (**photo 6**) – about 48 square metres  
18 Rosedale Avenue (**photo 5**) – about 48 square metres

**Modifications S96**

Our builder has advised us that if the existing balcony can be lowered without demolishing the entire balcony and garages, the extra cost would be in the vicinity of \$25,000.00 to \$30,000.00.

If both garages and balcony were to be demolished, the replacement costs to re-construct the two garages at the lower height would be in the vicinity of \$45,000.00 to \$55,000.00.

**We give the following undertakings to Council:**

- (a) Our builder will demolish the existing concrete balcony slab and brick wall;
- (b) He will remove the top row of sandstone blocks which will effectively make the new height of the balcony 330mm – 350mm lower than the existing balcony (the cement between the sandstone blocks is about 30mm to 50mm thick);

**ATTACHMENT 1**

**Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 15 April, 2005**

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(c) The existing brick wall will be replaced with material suitable to all parties.

**B. The proposed double gable roof conversion shall be reduced in height.  
The internal ceiling to roof height shall be reduced to a height of 2.1m.  
Plans are to be amended accordingly and submitted for  
Council's approval.**

**Objections by neighbours in respect of double gable roof height:**

**Mrs Delta Cheung and Malcolm Bunday 16 Rosedale Avenue, Fairlight (letter to  
Council dated 18 December 2004):**

(a) Cause shadow/sunlight solar access.

**Response:**

- 1) We have shown Mrs Cheung and Mr Bunday Shadow Plans which clearly demonstrate that their property at 16 Rosedale Avenue will not suffer any adverse shadowing as a result of the development.
- 2) Please refer to letter to Council from Mrs Cheung and Mr Bunday dated 12 April 2005 (copy enclosed)
- 3) We are also advised that the minimum height allowed between ceiling to roof is 2.4m.

**C. All windows as notated in red on attached plans shall be fixed with  
obscure glazing or glass blocks.**

**Objections by neighbours in respect of subject windows:**

**Mrs Delta Cheung and Mr Malcolm Bunday, 16 Rosedale Avenue, Fairlight (letter  
to Council dated 18 December 2004)**

(a) That we will be able to look from a window at the rear of our house into a bedroom window.



**Response:**

We have already agreed that if it is possible to look from any of our windows into the bedroom window of Mrs Cheung and Mr bundey we will happily insert obscure glass into our windows.

We have not been provided with any plans attached to your letter of the 31 March 2005, however, we believe that only one window of the proposed development is involved at the rear of the top floor.

**Please refer to letter to Council from Mrs Cheung and Mr Bundey dated 12 April 2004 (copy enclosed).**

**D. The proposed new fixed window to be located upon the south elevation is to be deleted. Plans are to be amended accordingly and submitted for Council's approval.**

**Response:**

A fixed window already exists. It is located on the southern side of the house which does not get any sun at any time. The room where the window is located is a dining room and is very dark. When the room is used for breakfast and lunch, we have to turn the lights on as our next door neighbour's wall blocks out almost all natural light.

The window is on the opposite side of our house to the persons objecting and there certainly has not been any objection made by Mr Searle, our neighbour in 8 Rosedale Avenue, to the increased size of the window.

**Bedroom 3 on plan:**

We also realise that the plan submitted to Council shows bedroom 3 at the front of the upstairs level when it was meant that the room called Family Room should go right across the upstairs level at the front so as not waste the views. The plan has been amended and we respectfully request that the amendment be allowed by Council.

**General Submission:**

**Mr John Bisson (one of the objectors referred to above) has just telephoned (afternoon) and indicated that our undertakings to Council are acceptable as far as he is concerned and that he will send a note of confirmation to the Council to that effect.**

We have made every effort to fit in with the wishes of our neighbours and Council. We believe that if the Council approves the extension of the front balcony with its

ATTACHMENT 1

Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 15 April, 2005

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modifications, the beneficial effect, not only to us, but to those objecting, will significantly enhance the use and value of our collective properties.

The objections taken in relation to the height of the roof, the windows, the shadowing, the dominance of the house etc, clearly pale into insignificance compared to what is, in reality the main objection, i.e. the height of the existing balcony and the brick wall.

If we are allowed to lower the balcony in conformity with what our neighbours clearly want and replace the brick wall with suitable material so that their water views will be significantly enhanced, all parties concerned will be benefited by the development.

We have a distinct advantage over neighbours on the western side of our house because of the height of the existing balcony. We have wonderful uninterrupted views out through Sydney Heads and in agreeing to lower our balcony, we are compromising our views and the value of our property significantly. It will mean that the neighbour's balconies on the eastern side of our home will be impeding our views to some extent.

However, on the other side of the scales, if we can do the development, we gain extra room for entertaining and leisure purposes and the neighbours gain the advantage of having better water views. If the development does not go ahead, there is no advantage at all to any interested party.

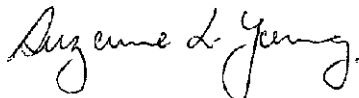
We look forward to hearing from you in due course and trust that your determination will benefit all parties concerned.

Yours faithfully,

Suzanne Young



Jim Young



ATTACHMENT 2

Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 26 April, 2005

Suzanne & Jim Young  
12 Rosedale Avenue  
Fairlight  
2094  
Telephone: 9949 1609  
Mobile: 0414 559549  
23 April 2005

<http://www.australianpost.com.au>

The Manager  
Audit and Support Services  
Manly Council  
1 Belgrave Street  
Manly 2095

Attention: Mr Moore

Dear Mr Moore

XUT2

MANLY COUNCIL
REC'D DA 520/04
26 APR 2005
DISTRIBUTION
1) Rod Moore

RE: DEVELOPMENT APPLICATION NO. 520/04

Further to our application pursuant to s96 of the **Environmental Planning and Assessment Act 1979** dated 13 April 2005, we enclose herewith, copies of correspondence from the following objectors:

- Mrs Delta Cheung and Mr Malcolm Bunday, 16 Rosedale Avenue, Fairlight, dated 12 April 2005;
- Mr John Bisson, flat 1/18 Rosedale Avenue, Fairlight, dated 16 April 2005;
- Mr Keith Theobold, flat 2/18 Rosedale Avenue, Fairlight, dated 20 April 2005;
- Mr Barry Sullivan, 14 Rosedale Avenue, Fairlight, dated 17 April 2005.

Since our Development Application was lodged with Council in November last year, interested parties/objectors, have expressed their concern that the construction beneath the proposed extension to the balcony called a "workshop", is not really to be used as a workshop but is really to be used as a garage.

The main objector to the construction who repeatedly expresses his concern that it is really a garage, is Keith Theobold of flat 2, 18 Rosedale Avenue.

## ATTACHMENT 2

Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 26 April, 2005

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We are unable to comprehend why Mr Theobald is so concerned about possibly getting another car off the street.

We have lived in Rosedale Avenue for about 19 – 20 years and we have no doubt whatsoever, that Rosedale Avenue is one of the most dangerous streets in the Manly area.

Almost every week, one or more of the parked vehicles is damaged by motorists using Rosedale Avenue as a through road from Manly to the City or from the City to Manly; by the time drivers become conditioned to exceeding the speed limit from Manly along Lauderdale Avenue, they turn right into Rosedale Avenue, a secondary street, and are confronted with vehicles parked along the full length of the roadway on both sides with space for one car at a time to drive through; it is exactly like a one lane country bridge where signs usually state “no passing on bridge”.

We have often heard abuse being hurled by one motorist to another precipitated usually as a result of both motorists believing that there is space for two cars rather than one to negotiate the street and then finding that they are facing each other head-on.

A walk along Rosedale Avenue any day or night of the week shows vehicles parked illegally across footpaths and driveways; in 19 – 20 years, I have been warned by Council Officers only once that I am not allowed to park on our driveway. However, I happened to be walking down Lauderdale Avenue to the ferry about 4 weeks ago and noticed a young lady Council Ranger booking cars parked on or near corners; she said that there had been several complaints received about “drop-ins” taking up parking space in the street which is usually used by permanent residents who do not have off-street parking.

We have only been to one Precinct Meeting and almost the whole of the meeting was taken up by persons complaining about lack of parking **on the streets** in the Fairlight area and this is obviously precipitated by the fact that in the Fairlight area, there are several hundred (I imagine) flats in whole blocks of flats without space for any vehicles on the premises at all.

I was prompted, following the meeting, to look up the legislation; the legislation is clear.

The other thing that really gets up our collective noses is that the objectors to our development, have cars parked on the street **and in their driveways** every day and night of the week (photos enclosed herewith). Then they hypocritically point out that we are “really building a garage”.

An article on the internet promoted by the Pedestrian Council of Australia headed “How they flout the parking laws at Manly”, refers to an excerpt from the column of Councillor Jean Hay AM, former Mayor of Manly, which very succinctly spells out the problems that arise when owners of and visitors to, premises, must either park on the street legally or illegally, or on the footpaths or nature strips which is clearly illegal; the legislation is referred to and partially repeated in Jean Hay’s article which appeared in the Manly Daily on Saturday 29 January 2000 (A copy of the article is enclosed herewith).

ATTACHMENT 2

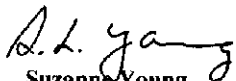
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Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 26 April, 2005

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We look forward to hearing from you in response to our application in due course.

Yours faithfully,

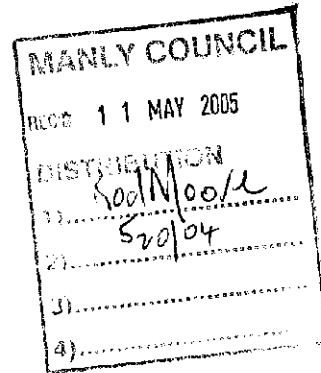
  
Suzanne Young

  
Jim Young

Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 11 May, 2005

SCANNED  
DOC. No. VVY7

Suzanne & Jim Young  
12 Rosedale Avenue  
Fairlight  
2094  
Telephone: 9949 1609  
Mobile: 0414 559549  
9 May 2005



Manly Council  
1 Belgrave Street  
Manly  
2095  
Fax 9976 1400

Attention: Mr Rod Moore  
Manager, Audit & Support Services

Dear Mr Moore,

RE: OUR S96 APPLICATION

Further to our previous correspondence in respect to our s96 application, we would like to point out 2 further matters for Council's consideration:

- We have been advised by a cross section of highly respected property valuers in the Manly area that should we lower our balcony as a consequence of our neighbours' objection to its height, the value of the property will be seriously compromised.

Nevertheless, as we have previously stated in correspondence, we will adhere to our undertaking and lower the balcony should it be approved.

- The rear yard of our house, including those of the various objectors, is small and receives little sun due to a cliff behind the premises.

As a result, most of our leisure time is spent on the front balcony.

We enclose herewith, a diagram of our balcony and the balconies of 14, 16 and 18 Rosedale Avenue.

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Environmental Services Division Report No. 23  
12 Rosedale Avenue, Fairlight  
Submission by Applicant - 11 May, 2005

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12 Rosedale Avenue (Youngs): 26.1 sq metres

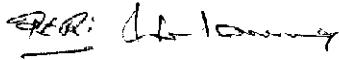
14 Rosedale Avenue (Sullivans): 35.1 sq metres

16 Rosedale Avenue (Cheung/Bundey): 39.6 sq metres

18 Rosedale Avenue (Theobald/Bisson): 39.6 sq metres

Yours faithfully,

Suzanne and Jim Young

A handwritten signature in black ink, appearing to read 'Suzanne and Jim Young', with a horizontal line underneath the signature.

ATTACHMENT 3

Environmental Services Division Report No. 23

12 Rosedale Avenue, Fairlight

Submission by Applicant - 11 May, 2005

8.8

18 ROSEDALE  
(THEOBALD/BISSON)  
39.6 SQ MTRS

8.8

16 ROSEDALE  
(CHEUNG/BUNDEY)  
39.6 SQ MTRS

7.8

14 ROSEDALE  
(SULLIVANS)  
35.1 SQ MTRS

5.8

12 ROSEDALE  
(YOUNGS)  
26.1 SQ MTRS





**Environmental Services Division Report No. 24 (Cont'd)****REPORT****Introduction**

The site is located on the western side of Rignold Street, Seaforth and currently contains a single storey dwelling with three (3) single storey outbuildings (including a laundry as indicated on plans submitted) located at the front setback area facing Boronia Lane.

The applicant has indicated on the Statement submitted dated 1 February 2005 (attached on file) that the existing outbuilding in the front is to be retained for carparking of two (2) vehicles as existing, however inspections by Council's Officers have revealed that the outbuilding in front is not used for parking but rather the outbuilding is currently used for storage of materials, and that vehicles are parked on Boronia Lane instead. Further, inspections by Council's Officers have revealed that a poultry house has been placed in front of the existing detached laundry, which is not indicated on the plans submitted.

The site has a primary frontage of 19.61m to Boronia Lane, a rear boundary of 20.545m, a northern boundary of 60.385m, and a western boundary of 57.085m boundaries which results in a total site area of 1127sqm. It is noted that the subject site no longer has two frontages, as the unmade part of Rignold Street has been removed and has been amended to land zoned as "Residential", as a result of Council's Local Environmental Plan 1988 – Amendment 12, Government Gazette No. 102 dated 25 August 1995. Therefore, the subject site, and including some of the newly subdivided and re-configured lots adjoining to the south (being No. 12, 14, 16, 18 & 20 Boronia Lane) now have Boronia Lane as the main street frontage.

The subject site falls approximately 5m towards the rear of the site and has coastal views to the Middle Harbour.

Site adjoining to the north of the subject site (being Lot 5 DP 1076244) is vacant. Lot 5 forms part of Precinct D1 of the Seaforth development area under the management of Department of Infrastructure of Planning and Natural Resources (DIPNR).

A two (2) storey dwelling (being No. 16 Acacia Crescent) exists directly opposite the subject site with a rear fronting on Boronia Lane.

Adjoining the subject site to the south consists of seven (7) vacant lots which have been recently re-subdivided and re-configured as a result of the development of Precinct D2 of the Seaforth development area under the management of Department of Infrastructure of Planning and Natural Resources. It is noted that a restriction as to user has been imposed on those lots, over the area of remnant bushland along the cliff line at the rear to prevent any development from being located on this part of the land. These restrictions as to user are to be registered prior to the sale or transfer of any parcels of land subject of this application.

Sites directly to the rear of the subject site (being Lots 1,2 and 3 Rignold Street and formally known as 65 Rignold Street) currently consists of two single dwellings, where it is noted that on 21 August 2002, the Land and Environment Court of NSW approved a 5 year consent for Community Title Subdivision for 18 lots and associated works, subject to conditions at Lots 1,2 and 3 Rignold Street.

**Background**

- The rear of the site has been extended by approximately 10m of the former Rignold Street as a result of the 'Ad – Medium Filum' and has been included in this development application.

**Environmental Services Division Report No. 24 (Cont'd)**

- Development approval was granted to Development Application No. 500/02 for the boundary adjustment between the common northern side boundary between 32 Rignold Street (the subject site) and Lot 5 Boronia Lane, subject to a 1.0m widening of Boronia Lane to allow for the construction of the footpath and rationalize the frontage. This approval was intended to allow the area of the subject site to be increased by approximately 194sqm and to allow the existing garden bed to be maintained under the ownership of the subject site.
- The applicant has submitted a statement dated 15 February 2005 on file, advising Council that the owner is coming to close agreement with the adjoining property owner to the south for a boundary adjustment between the lots to allow the existing laundry to be maintained under the ownership of the subject site.

**Proposal**

Development consent is sought for alterations and additions to the existing single storey dwelling at the "rear", including the following works:

Ground floor additions to accommodate three new bedrooms, a new living area, two new bathrooms and new decks.

The existing ground floor will be re-configured to accommodate an entry, a kitchen, a dinner area and a sitting area.

Upper floor additions to accommodate a master bedroom with ensuite and an attached southerly balcony

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal'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>Permitted/ Required</b>	<b>Proposed</b>	<b>Complies Yes/No</b>
Density - Sub Zone 7	1 unit/750 m <sup>2</sup> (less than 1 in 6)	1 dwelling per 1127 m <sup>2</sup>	Yes
Floor space ratio	0.4:1	0.28: 1	Yes
Wall height	South side: 7.4m – 7.5m North side: 7.3m – 7.4m	6.8m 6.5m	Yes
Roof height	3m above maximum external wall height	0.9m	Yes
Front setback	6m	Outbuildings: Approximately 3.9m min. Dwelling: Approximately 25.2m min.	No – existing  Yes – existing (no change)
Rear setback	8m	Proposed Ground/First Floor Addition: 2m	No
South setback	1/3 of the proposed wall height i.e. South side: 2.3m	South side: 11m (9.5m proposed first	Yes

**Environmental Services Division Report No. 24 (Cont'd)**

	<b>Permitted/ Required</b>	<b>Proposed</b>	<b>Complies Yes/No</b>
	North side: 2.2m	floor balcony) North side: 1.4m to 2.7m	No
Landscaped Open Space	70%, where 50% comprises of soft landscaping	76% / 854.56sqm, where more than 50% of soft landscaping	Yes
Car Parking	2 spaces	no off street parking arrangement indicated on plans	No

**Submissions**

No submission to the proposal was received in reply to the notification of the application.

**Precinct Community Forum Comments**

The application was referred to the Precinct Forum and no objection was raised at the time when preparing this report.

**Engineers Comments**

The application was referred to Council's Engineer and the following comments were provided:

- “1. *No arrangement for off street parking is proposed. In the statement of Environmental Effects it is stated that the existing conditions to remain. An inspection of the property on 24 November 2004, revealed that the outbuilding in the front is not used for parking. It is recommended that the applicant shall provide details of the off street parking arrangements within the property. The location and dimensions of the off street parking spaces and driveways shall be submitted for assessment.*
2. *The existing laundry appears to be encroaching in to the neighbouring property.*  
  
*The above issues should be resolved prior to any approval of the development application. If the DA is to be approved, please refer that to me for conditions of consent.”*

In response to the above matter, the applicant has indicated on letter dated 1 February 2005 that the existing outbuilding has previously been used for carparking for 2 cars and will be reinstated, however the use of the existing outbuildings are not indicated on the plans submitted.

In regarding to the existing laundry, the owner of 32 Rignold Street (the subject site) has recently negotiated for a boundary adjustment with the adjoining property to the south to allow the existing front laundry to be maintained under the ownership of the subject site.

**Building Comments**

The application was referred to Council's Building Surveyor and no objection was raised to the proposal subject to conditions within the recommendation.

**Landscape Architect Comments**

The application was referred to Council's Landscape Architect and the following comments were provided:

**Environmental Services Division Report No. 24 (Cont'd)**

*"Trees are required for screening of the proposed extension at the rear of the subject site and that more species are to be provided on the landscape plan.*

*Other than that, no objection was raised to the proposed alterations and additions subject to conditions within the recommendation"*

**Environmental Planner Comments**

The application was referred to Council's Environmental Planner and the following comments were provided:

*"The application relates to land adjoining to the former corridor land at Seaforth. The dwelling additions are below the maximum permissible height (refer to SEE).*

*There is no objection subject to the compliance of the application with the DCP and minimising visual impact when viewed from Middle Harbour.*

*Approval is recommended subject to compliances with the aims and objectives of the LEP & DCP."*

**Stormwater Engineer Comments**

The application was referred to Council's Stormwater Engineer and the following comments were provided"

*"The proposal will require the provision of on-site stormwater detention in accordance with the Council's Specification for On-Site Stormwater Management.*

*As the site falls to the rear, details shall be provided including discharge off the site, for the approval at DA Stage."*

In this regard, should development be granted relevant conditions are to be included to address the drainage/stormwater issue.

**Planning Comments**

The application was submitted to Council on 22 October 2004.

On 18 January 2005, a letter (on file) was sent to the applicant advising concerns in relation to non compliance to the rear setback, the encroachment of existing laundry onto the adjoining property to the south, and requesting details on landscaping plan, stormwater management system on site, provision of off street carparking and total open space calculation.

Subsequent to Council's previous letter of 18 February 2005, the applicant has submitted a statement and additional information dated 1 February 2005 (on file), in response to Council's previous letter of 18 January 2005.

The applicant has also submitted a statement dated 15 February 2005 (attached on file) advising Council that the owner is coming to close agreement with the adjoining property owner to the south for a boundary adjustment between the lots to allow the existing laundry to be maintained under the ownership of the subject site.

Further, in support of the application the applicant has submitted a Statement dated 30 March 2005 to justify the encroachment to the minimum 8m rear setback requirement of the DCP. This is on file.

**Environmental Services Division Report No. 24 (Cont'd)**

On 2 May 2005, the Development Assessment Unit discussed the proposal and resolved to refuse the application.

The main issues in this application are:

- Non compliance with setbacks
- Non provision of carparking on site
- Use and presentation of the existing outbuildings (not identified on plans) and its negative impact to the presentation to the new streetscape, once those adjacent vacant lots in the immediate area are developed
- Undesirable precedent to future development in the immediate area.

Northern Setback

Based upon the DCP requiring a side setback of 1/3 the wall height, the required side setback is 2.2m to the northern side boundary.

The northern side setback varies from 1.4m to 2.7m and the 1.4m setback does not comply with the numerical standard. However, it is considered that variation to the minimum side setback is supported, given that there consists of ground floor bedroom windows on this elevation which are adjoining to the neighbouring driveway to the north of the subject site, which is unlikely to create an adverse amenity impact to adjoining property and is therefore considered to be satisfactory.

Front/Rear Setback

Technically, the proposed development should be setback a minimum of 8m on Boronia Lane, given that Rignold Street is the official postal address. However, it is acknowledged that the subject site no longer has two frontages, as part of Rignold Street has been removed and has been amended to land zoned as "Residential", as a result of Council's Local Environmental Plan 1988 – Amendment 12, Government Gazette No. 102 dated 25 August 1995. It is therefore acceptable that the subject site and including those newly subdivided sites adjoining to the south (being No. 12, 14, 16, 18 & 20 Boronia Lane) are now taken Boronia Lane as the main street frontage.

Council's Residential Development Control Plan (DCP) requires that:

*"The minimum building setback shall be 6.0m from the front street alignment and the distance between any part of a building and the rear boundary must not be less than 8m."*

The subject site has three existing outbuildings within the front setback area facing Boronia Lane which are to be retained.

The proposed addition is only setback 2m min. from the new rear boundary and therefore fails to comply with the rear setback requirement of the DCP. In this regard, the applicant has submitted a statement (in summary) justifying that the objectives of this provision are met as follows:

"a) *to preserve and enhance the existing streetscape*"

We have purposely located the new works behind the existing cottage, with a glazed link, to maintain the integrity of the existing built form. We note that the streetscape will be preserved by this approach.

**Environmental Services Division Report No. 24 (Cont'd)**

*“b) To provide privacy.”*

The design is orientated away from the adjoining properties, with only utility windows facing the northern boundary on the upper level and bedroom windows on the ground floor behind the 1.8m boundary fence. The siting of the works provides a screen to the subject site from the northern boundary, increasing the privacy of the occupants and of the neighbours.

*“c) To provide adequate light and sunshine.”*

The shadow diagrams submitted show that there is no impact on light and sunshine which may affect adjoining property owners.

*“d) to promote flexibility in the siting of building.”*

The alignment of the adjoining house is similar to that of the proposed addition. The new works will also mask the adjoining garage. The flexibility aspect is critical as it allows the retention of the existing dwelling and its setting, as well as allowing for new works to be located behind the house.

*“e) to enable view sharing.”*

There is no impact on view sharing as the existing sight lines of the adjoining property are unaffected.

*“f) to accommodate planting of native vegetation including endemic species.”*

The planting of trees along the rear boundary is difficult due to the steep embankment by the boundary. The required number of endemic trees can be located in the front and southern boundary setbacks, which are well excess of the Council's requirements.

*“g) to control the nature of development adjoining specific open space lands and national parks so as not to unduly detract from the nature of those lands and to comply with SEPP No. 19.”*

N/A

*“h) to maintain adequate space between the buildings to protect views and vista from public spaces.”*

The proposed design will certainly comply with this objectives as it will maintain the open space area to the south of the existing house. This will enable distant views to Sugar Loaf Bay and the surrounding hills to be maintained from the Boronia Lane. It preserves the nature of the existing house and provides a long term solution to the housing needs of the owners.

However, it is considered that variation to the minimum rear setback requirement is not supported for the following reasons:

1. It is considered that compliance to the minimum rear setback requirement can be easily achieved given that:
  - a) The existing rear boundary has been already extended with approximately 10m wide of the former Rignold Street as a result of the 'Ad – Medium Filum' and has been included in this development application;

**Environmental Services Division Report No. 24 (Cont'd)**

- b) On 20 January 2005, Development approval was granted to Development Application No. 500/02 for the boundary adjustment between the common northern side boundary between 32 Rignold Street (the subject site) and Lot 5 Boronia Lane, subject to a 1.0m widening of Boronia Lane to allow for the construction of the footpath and rationalize the frontage. This approval will result in the area of the subject site to be increased by approximately 194sqm and to allow the existing garden bed to be maintained under the ownership of the subject site; and
- c) The applicant has submitted a statement dated 15 February 2005 (on file) advising Council that the owner is coming to close agreement with the adjoining property owner to the south for a boundary adjustment between the lots which will allow the existing laundry to be maintained under the ownership of the subject site and the area of the subject site to be increased.

- 2. The subject site has an east west orientation, the proposed rear additions located along the northern boundary of the subject site would result in an adverse overshadowing impact to the rear yard of the subject site between 9am to 3pm in mid-winter, as demonstrated in shadow diagrams submitted.
- 3. The proposed additions at the rear would degrade the amenity of the existing and future residents of the adjoining properties, due to the lack of separation of the dwellings and therefore is not consistent with the general aim f) of Council's Development Control Plan for the Residential Zone 2001, which is *"to protect the amenity of existing and future residents"*.

It is noted that adjoining to the south of the subject site consists of vacant lots which have been recently re-subdivided into seven (7) lots with frontages to Boronia Lane, and will be developed subject to lodgment of separate Development Applications.

Further, on 21 August 2002, the Land and Environment Court of NSW approved a 5 years consent for Community Title Subdivision for 18 lots and associated works subject to conditions, at Lots 1,2 and 3 Rignold Street (formally known as 65 Rignold Street) which are directly to the rear of the subject site.

- 4. It is noted that for the purpose of Bushland Protection a restriction as to user has been imposed on those seven (7) recently re-subdivided lots adjoining to the south of the subject site, over the area of remnant bushland along the cliff line at the rear to prevent any development from being located on this part of the land. It is therefore considered that the proposed development should be setback a minimum of 8m from the rear boundary to allow a consistent residential pattern in the immediate area.
- 5. As alluded above, the subject site and including some of the newly subdivided and re-configured lots adjoining to the south (being No. 12, 14, 16, 18 & 20 Boronia Lane) are now taken Boronia Lane as the new main street frontages, as part of Rignold Street has been removed and has been amended to land zoned as *"Residential"*, as a result of Council's Local Environmental Plan 1988 – Amendment 12, Government Gazette No. 102 dated 25 August 1995.

In this regard, concern is raised in relation to the current presentation and use of the existing outbuildings at the front setback area of the subject site facing Boronia Lane, which will result in a negative contribution to the presentation to the new streetscape, once those newly subdivided lots with new frontages to Boronia Lane are developed.

The applicant has indicated on the Statement submitted dated 1 February 2005 (attached on file) that the existing outbuilding in the front is to be remained for carparking of two (2) vehicles as existing, however the use of the existing outbuildings (except the existing laundry) has not been indicated on the plans and inspections by Council's Officers have revealed that the outbuilding in front is not used for parking but rather the outbuilding in the



**Environmental Services Division Report No. 24 (Cont'd)**

front and the front setback area facing Boronia Lane have been currently used for storage of materials, and that vehicles have been parking on Boronia Lane instead. Further, inspections by Council's Officers have also revealed that a poultry house has been placed in front of the existing detached laundry, which is not indicated on the plans submitted.

It is suggested that the applicant should submit a 'Master Plan' for the site having regard to the existing outbuildings and its impact to the presentation to the new streetscape, and to include the provision of off street car parking arrangement as required in Council's DCP so as to allow a more integrated design for the site.

6. It is considered that allowing such variations from Council's Development Control Plan would create an undesirable precedent for future development in adjacent properties under Council's DCP.

**Carparking**

This proposal does not indicate any provision for onsite parking on plans.

**Sydney Regional Environmental Plan No. 23 – Sydney and Middle Harbours**

The proposed development is within the boundaries of land to which REP 23 applies. Clause 18 of the REP outlines matters for considering in determining applications. The proposed development is not considered to result in any significant visual impacts as viewed from the Foreshore. The proposed development is not considered to result in any environmental, social or economic impacts to the harbour of its foreshores. The development is considered satisfactory under the heads of consideration listed in clause 18.

**Foreshore Scenic Protection Area**

Clause 17 of the Manly Local Environmental Plan 1988 requires consideration of the effect of the development on the amenity of the Foreshore Scenic Protection Area. Due to the distance of the site from the foreshore itself and the existing dense vegetation, the proposed development is not considered to result in any significant amenity impacts to the Foreshore Scenic Protection Area.

**Manly LEP 1988, Residential Zone Objectives**

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

The land is used for residential purposes and therefore complies with this objective.

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

The proposed development will have a detrimental impact on the existing and likely future amenity of the neighbourhood.

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

The proposed development will adversely affect the existing character of this residential area.

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

The proposal would degrade the existing amenity of surrounding residents and affect the quality of the environment.

**Environmental Services Division Report No. 24 (Cont'd)**

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

There is provision of landscaping on site.

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

Not Applicable.

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

The occupants of the dwellings would utilize existing available infrastructure and services.

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

The proposal is not considered to be suitable redevelopment for the area.

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

Not Applicable.

**EP&AA 1979 – Section 79**

- (a) the provisions of:

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

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

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

The proposal is considered to have negative environmental impacts on the amenity of adjoining properties. The proposal will not comply with the objectives and standards of Council's Development Control Plan for the Residential Zones, in terms of setbacks and carparking provisions, and will have negative impacts to the amenity of the existing/future residents and the presentation to the new streetscape. It is further considered that allowing such variations in Council's Development Control Plan would create an undesirable precedent for future development in the immediate area.

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

The proposal is not considered to be a suitable development for the site as it will not comply with the objectives and standards of Council's Development Control Plan for the Residential Zones, in terms of setbacks and carparking provisions, and will result in negative impacts to the amenity of the existing/future residents and the presentation to the new streetscape.

**Environmental Services Division Report No. 24 (Cont'd)**

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

No submission was received to the proposal during the notification period.

(e) *the public interest.*

The proposal is not considered to be in the public interest.

**CONCLUSION**

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

From this assessment the proposal is not considered a satisfactory form of development, with a departure to the rear setback and carparking provisions and its impact to the amenity to the existing/future residents and the new streetscape. It is further considered that allowing such variations from Council's Development Control Plan would create an undesirable precedent for future development in the immediate area.

Accordingly the proposal is recommended for Refusal.

**RECOMMENDATION**

That Development Application No. 495/04 for the alterations and additions including a western side extension at 32 Rignold Street, Seaforth be Refused for the following reasons:

1. The proposal does not comply with the rear setback requirements of Council's Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
2. The proposal is likely to have an adverse impact on the amenities of the existing and future residents, due to the lack of separation of the dwellings, having regard to Section 79C (1) (a) and (b) of the Environmental Planning and Assessment Act 1979.
3. The proposal does not provide sufficient off street parking on site, as required under Council's Development Control Plan for the Residential Zone, 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
4. The proposal is likely to have an adverse impact on the presentation to the new streetscape, due to the current presentation and use of the existing outbuildings facing on Boronia Lane, and its impact to the future development in the immediate area, having regard to Section 79C (1) (a) and (b) of the Environmental Planning and Assessment Act 1979.
5. The proposal will present an undesirable precedent for future development in the immediate area, having regard to Section 79C 1 (c) of the Environmental Planning and Assessment Act 1979.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 24 \*\*\*\*\*

**TO:** Land Use Management Committee - 6 June 2005  
**REPORT:** Environmental Services Division Report No. 25  
**SUBJECT:** 85-87 Lauderdale Avenue, Fairlight  
**FILE NO:** DA386/04  
**PREVIOUS ITEMS:** 6, Land Use Management Committee (7 February 2005)

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**Application Lodged:** 10/8/2004  
**Applicant:** Susan Rothwell Architects  
**Owner:** Susan Rothwell Investments P/L, RJC Developments P/L, Delbant P/L, Clodene P/L  
**Estimated Cost:** \$4,000,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential Foreshore Scenic Protection Area  
**Surrounding Development:** 2 - 4 storey detached dwellings and residential flat buildings  
**Heritage:** Esplanade Park adjoining the site is landscape heritage

### **SUMMARY:**

1. DEVELOPMENT APPLICATION 386/04 FOR DEMOLITION AND CONSTRUCTION OF A STRATA 4 UNIT RESIDENTIAL FLAT BUILDING WITH BASEMENT PARKING WAS SUBMITTED TO COUNCIL ON 10 AUGUST 2004. THE PLANS WERE ACCOMPANIED BY A DETAILED VISUAL IMPACT STUDY TO ASSIST IN THE ASSESSMENT OF VIEW IMPACTS TO NEIGHBOURING PROPERTIES.
2. NOTIFICATION OF THE PROPOSAL FROM 23 AUGUST 2004 – 6 SEPTEMBER 2004 RESULTED IN RECEIPT OF FOUR SUBMISSIONS RECEIVED.
3. AMENDED PLANS WERE REQUESTED 5 NOVEMBER, 2004, IDENTIFYING ISSUES OF NARROW DRIVEWAY ACCESS ACROSS THE FRONT OF NO.89, REQUESTING INVESTIGATION OF AN ALTERNATE DRIVEWAY DESIGN.
4. AMENDED PLANS WERE RECEIVED DECEMBER, 2004, PROVIDING A WIDENED ACCESSWAY TO 4.4M WIDTH.
5. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
6. THE APPLICATION WAS CONSIDERED BY COUNCIL AT IT'S LAND USE MANAGEMENT MEETING OF 7 FEBRUARY 2005 WHERE THE MATTER WAS DEFERRED TO ALLOW MUTUAL RESOLUTION OF THE DRIVEWAY ISSUE AND TO INVESTIGATE REDUCTION IN PROPOSED BUILDING HEIGHT.
7. ADDITIONAL INFORMATION HAS BEEN RECEIVED.
8. THE APPLICATION IS RECOMMENDED FOR APPROVAL.

### **LOCALITY PLAN**

Shaded area is subject land.



**Environmental Services Division Report No. 25 (Cont'd)****REPORT****Introduction*****The site and surrounds***

The site comprises two adjoining allotments, No's 85 and 87 Lauderdale Avenue, Fairlight. It is located on the lower side of the street with frontage to Esplanade Park and the foreshore of Manly Cove. It has an irregular form aligned north-south, with a combined frontage of 30.49m and length of 48.745m, resulting in a total site area of 1,513m<sup>2</sup>. The site also has a fall to the south of approximately 10.9m as measured down the existing dividing boundary, and a cross fall to the west of approximately 3.8m as measured along the front boundary.

Existing development on the site comprises two detached dwellings of brick construction with pitched tile roofs. No.85 is 1 and 2 storey with a detached double garage fronting the street, and No.87 is single storey and does not have off street parking. Landscaping on both sites comprises a mixture of lawns, terraced gardens with shrubs and small trees. The site enjoys panoramic water views of Manly Cove and North Harbour from the west to the south-east, taking in the foreshores of Sydney Harbour National Park on North Head and Dobroyd Head.

Neighbouring development comprises a mix of dwellings and residential flat buildings, with a 2 storey dwelling to the east (No.83), a 4 storey unit building to the west (No.91), and a series of unit buildings of varying heights on the opposite side of the street. From inspection it is noted that the buildings on the upper side of the street are oriented south to maximise water and foreshore views, looking over the subject site and its neighbouring properties.

***Proposed development***

Development consent is sought for demolition of the two existing dwellings and construction of a residential flat building divided into two attached buildings, each 2 storeys with basement parking. The development will contain a total of 4 residential units, each with 3 bedrooms and open plan living area opening to a large covered balcony. Apartments 1 and 3 on the western side will be split level. Unit 3 will also have a rooftop balcony, accessed via internal stairs.

Parking space for 10 vehicles will be provided in the basement including 2 guest spaces, with elevator access to the units. Landscaping comprises a mix of shrubs and trees as detailed in the landscape plan, with planter box landscaping on the ground and first storey balconies.

Vehicle access to the site is proposed via an extension from the existing driveway over the road reserve to the western neighbouring unit building No.89 Lauderdale Ave. This will require re-location of the existing footpath staircase. A 1.8m fence with masonry base and metal pickets is proposed along the front boundary with entry gates. The proposed building will be finished with rendered walls, pitched tile roof, landscape planters on balconies and additional shrub and tree landscaping as specified in the plans.

The application was presented to Council's Land Use Management meeting of 7 February 2005 where Council resolved as follows:

- A. That the Development Application 386/04 for demolition and construction of a two (2) storey Residential Flat Building containing four (4) strata units with basement parking at 85-87 Lauderdale Avenue, Fairlight **be deferred** awaiting satisfactory mutual resolution of issue on the driveway access.
- B. That the issue of lowering the height of the building and pyramid roof height at No. 87 be investigated to bring it further in line with the existing roof line.

**Environmental Services Division Report No. 25 (Cont'd)**

C. That this issue be brought back to the Ordinary meeting of Council in two weeks”

Following the 7 February meeting the applicant and owner of No.89 Lauderdale Avenue met with Council staff to resolve the driveway access issues. Amended driveway plans have now been received.

*Comment on Part A of the Resolution*

The most recent representations made by Turnbull Associates on behalf of the owner of No.89 Lauderdale Avenue accepts the driveway amendments address issues 1- 3 previously raised however does not accept the amendments address issues 4 – 6, being;

“4. An adjustment to the details of the application to preclude the driveway being relied upon for the collection of domestic garbage.

5. Details to remove the traffic light arrangements from the driveway and to confine their operation to the curtilage of No. 87 Lauderdale Avenue.

6. Details of a construction management program aimed at precluding the use of or reliance on the existing driveway for delivery of materials and access to the site for construction works. If this is not possible then the owner requests details of the hours and intensity of the proposed construction use; the duration of that access; details of the interim construction access to be provided across his property frontage; details of the public risk and liability insurance against injury and damage associated with that use.”

*Comment on Turnbull Associates Submission*

In regard to item 4, domestic garbage removal it is noted that the plans show a garbage room adjacent to the driveway within the basement car parking level. The only access to the street via a ramp is the driveway which would encourage residents of No.85 and 87 Lauderdale Avenue to convey wheeled waste bins to the street frontage of No.89 Lauderdale Avenue. It is not considered appropriate to centralise the waste pick up point at the frontage of No.89 Lauderdale Avenue as this will result in potential obstruction to the driveway and resulting traffic hazard. Accordingly a condition is included in the Recommendation which requires provision of an alternate location for the garbage storage area with direct and ready access to the street frontage immediately forward of the subject site.

In regard to item 5, the applicants traffic Engineer has suggested provision of traffic signals and passing bay to ensure efficient operation of the driveway. The owner of No. 89 Lauderdale Avenue requests that any signals be located within the development site so as to avoid any confusion or queuing within the driveway forward of No.89 Lauderdale Avenue. Council’s Traffic Engineer agrees with this request and a condition in this regard is included within the Recommendation.

In regard to item 6, it is considered that construction access for development within the boundaries of Nos.85 and 87 Lauderdale Avenue should be via the Lauderdale Avenue road reserve immediately forward of Nos. 85 and 87 and any construction access over the road reserve forward of No. 89 Lauderdale Avenue should be restricted to works necessary to facilitate construction of the proposed driveway (excavation, extension of driveway, new footpath and landscape treatment). A condition to this effect is included in the Recommendation requiring of submission of a construction management plan with access immediately forward of the subject site and details of public risk, injury and property damage insurances in respect of any work within the road reserve area.

*Comment on Part B of the Resolution*

In regard to item B of the resolution, the applicant has erected height profiles at No.87 Lauderdale Avenue and has had the profile heights certified by a Registered Surveyor. A photo montage showing the effect of the proposal on views from the front balcony of the ground floor unit on the opposite side of the street at No.78 Lauderdale Avenue (most view impact) was also submitted.

**Environmental Services Division Report No. 25 (Cont'd)**

The applicant requests that in light of the evidence presented that Council reconsider the request to lower the proposed building by 0.5m which was mentioned during Council's debate.

The extent of view impacts can be readily assessed and is depicted on the photomontage prepared by the applicant. The views in question are from properties on the opposite side of Lauderdale Avenue. These views are obtained by viewing over the subject site in a southerly direction and include views of the Harbour, foreshore and parkland. It is apparent that whilst the applicant has given consideration to view sharing in the design, the proposal will result in some view loss from properties on the opposite side of the street. Accordingly, a reduction in the proposed height of the building at No.87 Lauderdale Avenue would be desirable.

The floor level of the basement garage is governed by the gradients of the driveway and a lowering of the basement garage is not considered practical. The proposed design allows 3.0m floor to floor between each of the three levels (basement, ground floor and first floor) . It is considered that the overall height of the proposal could be reduced by 200mm without unduly effecting the function of the building or the amenity of future occupants. A condition requiring a reduction in the height of the building of 200mm is included in the Recommendation.

***Comment on Part C of the Resolution***

It is advised that due to the nature of the issues and the necessity for revised plans, the limited time frame for presenting the matter back to Council could not be achieved.

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal'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>Provision</b>	<b>Proposal</b>	<b>Compliance</b>
Density	300m <sup>2</sup> / dwelling	378m <sup>2</sup> / dwelling	Yes
FSR	0.5:1 / 763m <sup>2</sup>	734.5m <sup>2</sup> / 0.49:1	Yes
Height	7.85m (1:4.5 slope)	5.8m-7.5m east 7.0m-9.2m west	Yes No
Setback – Front	6.0m or defacto	9.0m	Yes
Setback – Rear	8.0m	9.3m	Yes
Setback – side	1/3 wall height 1.9m - 2.5m east	2.1m where max height = 6.0m 3.0m where max height = 7.5m	Yes Yes
	2.3m – 3.1m west	3.5m	Yes
Open Space	832m <sup>2</sup> / 55% min	910m <sup>2</sup> / 60.1%	Yes
Soft Open Space	35% min of O/S	780m <sup>2</sup> / 86%	Yes
Excavation	Max 3.0m	3.0m – basement	Yes
Overshadowing	Min 4hrs sunlight to neighbours living areas max 1/3 open space	>4 hrs maintained to neighbours < 1/3	Yes Yes
Fence height	1.5m (1m solid)	1.8m	No

**Applicant's Supporting Statement**

Refer to Statement of Environmental Effects and Visual Impact Assessment available on file.

**Environmental Services Division Report No. 25 (Cont'd)****Submissions**

Notification of the proposal from 23 August 2004 – 6 September 2004 resulted in receipt of five submissions from (or on behalf of) No's 76, 78, 80, 83 and 89 Lauderdale Avenue, raising concerns of impact on views, privacy, landscaping and Council's road reserve due to the access driveway extension from that servicing No.89.

A later submission was received on 29/11/04 from an architect on behalf of No.89, requesting an amended driveway design on grounds of conflicting movements between vehicles and pedestrians accessing No.89 and the proposed development.

**Precinct Community Forum Comments**

The Precinct meeting of 13 September 2004 moved:

- "That Council ensures that the impact on local amenities (bulk/streetscape) is minimised.
- That certified templates be erected.
- That the dead tree be replaced with an advanced tree."

In response to these it is noted that prior to lodgement of the Development Application the applicant erected certified height poles to enable a visual impact assessment to be carried out. Photographs from neighbouring properties were taken to identify the portion of views affected and prepare photomontages, with these provided in the visual impacts assessment as submitted to Council.

**Engineers Comments**

No objection subject to conditions. A detailed stormwater management plan is to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

**Building Comments**

Standard conditions of consent advised.

**Landscape Architects Comments**

Standard conditions of consent advised.

**Planning Comments*****Manly Local Environmental Plan 1988***

The site is located in Zone No.2 – The Residential Zone which permits dwelling houses with the consent of Council. The proposed development is defined as "multi-dwelling development" and is permissible with consent in the zone.

The proposal is considered to satisfy the objectives of the residential zone, maintaining the character and amenity of its residential locality, improving landscape quality on the site, thereby representing a suitable redevelopment of the site.



**Environmental Services Division Report No. 25 (Cont'd)***Foreshore Scenic Protection Area*

The site is also located within the Foreshore Scenic Protection Area. Pursuant to Clause 17 of the LEP the proposal is considered in keeping with the size and form of development in the surrounds, with a stepped and articulated form assisting to reduce its visible bulk, and additional planting in the front garden area adjacent to the foreshore reserve and walkway. It is also considered comparable with the bulk, scale and form of neighbouring houses and unit buildings fronting the reserve. Accordingly its appearance is considered acceptable in terms of its foreshore setting.

*Heritage*

The adjoining foreshore reserve Esplanade Park is identified as having landscape heritage significance. Pursuant to Cl.19 of the LEP consideration is required as to the impact of new development in the vicinity of a heritage item.

The articulated and stepped form of the proposal and its division into two attached 2-storey buildings is considered to result in a bulk and scale of development that is consistent with its surrounds and sympathetic to the reserve. The provision of additional shrub and tree landscaping in the garden area at the rear of the site, adjacent to the reserve is also considered to assist in softening its appearance in view from the reserve.

***State Environmental Planning Policy No 56--Sydney Harbour Foreshores and Tributaries***

The site is located within the foreshore areas that are affected by this policy. The proposal is considered to satisfy the relevant objectives of SEPP 56, in particular those requiring consideration of the size, scale and character of proposed development in context of existing development in the locality and its foreshore setting. The proposal is considered to complement the size, scale and form of neighbouring dwellings and residential unit buildings, maintaining a consistent height and design character with additional landscaping to reduce visual impacts.

***SREP No.23 Sydney and Middle Harbour***

The site is located within the foreshore area affected by this policy. The proposal is considered to satisfy the relevant objectives of SREP 23, such that it is considered acceptable from the perspective of visual impact and neighbours amenity. In this regard, its bulk, height and form including rendered walls and pitched roof is comparable with that of neighbouring dwellings and unit buildings. Additional tree and shrub planting is also to be provided in its front setback to the foreshore reserve such that it may be considered to complement its setting. It is also noted that the Waterways Authority have expressed no objection to the proposal, with conditions of approval advised.

***Draft SREP – Sydney Harbour Catchment***

On gazettal this Draft SREP will repeal SREP 23 as considered above. In terms of environmental impacts to the foreshore and waterways, the proposal will not result in the removal of any significant vegetation and has been reviewed by Council's Engineers with respect to drainage, with conditions of consent advised. As discussed the design is considered satisfactory in context of the scenic value of its foreshore setting and to satisfactorily maintain views to and from the waterways. Consequently the proposal is considered to satisfy the relevant matters for consideration under the draft SREP.

***Manly DCP for the Residential Zone 2001***

As identified in the DCP compliance table, the proposal complies with most of the DCP's provisions apart from those for building height and fence height.

**Environmental Services Division Report No. 25 (Cont'd)***Height*

The site is located within height sub zone 1 and has a fall of approximately 1:4.5, thereby permitting a maximum wall height of 7.85m. The proposal has a height varying from 7.0m – 9.2m along its eastern elevation. The portion of non-compliance has a length of 7m, representing approximately 30% of the western wall length of 23m. It is noted that a parapet forms the top part of this wall and acts as the perimeter balustrade with planter behind for the rooftop balcony, resulting in the 'wall height' below this being 6.85m – 8.2m.

The resulting portion in breach of the 7.85m height limit would have a wall length of 2m, which is considered a minor portion at less than 10% of the total wall length. Consequently, if the parapet is considered as an addition above the wall, the portion of wall in breach of the maximum wall height is considered minor in context of the overall development.

In terms of any height impacts, the height of the proposal is considered satisfactory from a landscape, streetscape and amenity perspective, maintain satisfactory levels of solar access and view sharing, and a form and scale that is compatible with neighbouring development. The issue of view sharing will be further discussed below.

*Fence height*

The front fence as proposed has a height of 1.8m with stone base, masonry posts and metal pickets. Whilst this exceeds the maximum height of 1.5m as permitted by the DCP, the low siting of the front boundary below street level means that it will have minimal impacts on the streetscape, and is noted as being consistent with the height and form of other fences along the lower side of the street. Subject to the stone base having a maximum height of 1.0m with the transparent pickets extending above this, the proposed fence height at 1.8m is considered acceptable.

*Solar access*

The site has a north-south alignment whereby the DCP requires a minimum of 4 hours direct sunlight to be retained to windows of this neighbouring dwelling. Analysis of the shadow diagrams reveals that both the eastern neighbouring dwelling and the western neighbouring unit building will continue to receive at least 4 hours direct sunlight as required to their north rear and side facing windows.

The proposal will result in some overshadowing to these buildings, being in the mornings to the units at No.91, and in the afternoons to the dwelling at No.83 however this is not considered excessive with complying duration of sunlight retained. In comparison with the existing dwellings it is noted that the proposal will result in some reduction in overshadowing, particularly in the morning to the western neighbouring units which is a favorable outcome.

*Privacy*

The proposal generally provides side facing windows offset from neighbouring windows to maintain privacy. The neighbouring units to the west have floor levels 1.6m higher than the front balconies of the proposal, with the roof top balcony of the proposal being 1.6m higher than the corresponding upper level of No.89. The main balcony areas have planter landscaping along their western edges to minimise potential overlooking, while it is recommended that the rooftop terrace be non-trafficable along its western edge, replaced by a 1m wide planter to extend from the planter along the northern edge.

The neighbouring dwelling to the east has balconies at 1.6m and 1.4m respectively higher than the ground and 1<sup>st</sup> storey balconies of the proposal such that there will be no direct overlooking. Side facing windows of the proposal on this side will be limited to bathrooms and dressing rooms, and will not result in any direct overlooking.

**Environmental Services Division Report No. 25 (Cont'd)***View sharing*

The site's position on the low side of the road and adjacent to the foreshores results in it being within the view of those buildings located opposite on the upper side of the road.

The affected buildings are identified as No.76 (4 storey apartments), No.78 (5 storey apartments), No.80 (2 storey house), and No.84 (2 storey apartments), and look over the subject site as part of their view to North Harbour and its foreshores.

From the survey it is noted that the 2 existing dwellings on the site have respective roof ridge heights of RL28.12 and RL26.39. The proposal is divided into 2 attached buildings with 2 hipped pitched roofs to reflect the existing form, with respective roof ridge levels of RL28.205 and RL27.83. This results in height increases of 0.12m on the eastern side and 1.45m on the western side.

Considering the height increase and increase in building bulk, the view from each neighbouring building opposite is assessed as follows:

No. 76 Lauderdale Avenue is located opposite No's 81 and 83 to the east of the site, and enjoys views over these (and other neighbouring dwellings further east) of the water and foreshores to the south and south-east. It also looks diagonally over the subject site to the south west of local waters including to several boats moored towards the opposite foreshores. Its lowest balcony at RL37.76 is approximately 9.5m above the proposal's roof ridge, therefore minimal view loss is likely. The increase in height will result in a minor reduction in the depth of views however the removal of a large dead tree towards the front boundary (which fragments the view) will on balance result in less view obstruction than as currently experienced.

No.78 Lauderdale Avenue is located directly opposite the subject site and enjoys views to the south over the site from the first and second storey units. It is noted that the ground floor unit No.1 has minimal water views, being blocked by the existing dwellings on the site and the dead tree. For the 1<sup>st</sup> storey unit No.2, limited water views to the south-east (over No's 81 and 83) will be unaffected. The depth of local water views to the south will be reduced, however the removal of the tree will assist to improve water and foreshore views to the south looking over the eastern side of the site.

The second storey unit of No.78 enjoys a greater depth and width of local views to the south by virtue of its higher elevation. The proposal will result in some loss to the depth of these views, however the removal of the tree will open up views across to the opposite foreshore, which on balance is considered to result in less view obstruction and an improved panorama than as currently experienced.

**No.80 Lauderdale Avenue** is located diagonally opposite the site and enjoys views to the south and south-east looking over the site. The increase in height on the western side of the site will result in a minor reduction in view depth, however the removal of the dead tree will assist to open up the view to the south-east which on balance is considered to result in less view obstruction than as currently experienced.

**No.84 Lauderdale Avenue** is located diagonally opposite the site and is oriented to enjoy wide and distant views to the south and south-east looking over the site, and local water and foreshore views to the south-west looking past the western side of the existing 4 storey apartment building at No.89 Lauderdale Ave. The proposal will result in a minor reduction in the depth of local water views to the southeast, however when considered in context of No.89 it is considered more sympathetic from a view sharing perspective and a reasonable outcome in this regard.

**Environmental Services Division Report No. 25 (Cont'd)*****Comments on Submissions***

*Loss of views* – This is discussed in detail under the planning comments section. The claim of view impact to each submission is addressed as follows.

- *No.76* - This unit building is substantially elevated above the proposal, with its lowest floor being some 9.5m above the roof ridge of the proposal. With this elevation above the proposal, the resulting impact on depth of views is minimal.
- *No 2/78* – The proposal will result in the depth of local water views to the south being reduced when looking over the site, however the removal of the tree will assist to improve water and foreshore views to the south looking over the eastern side of the site. As previously discussed some reduction in the height of the proposal would minimise impact.
- *No.80* - Their objection to view loss has been withdrawn.
- *No.83* - Some of its offset view to the west may be affected however this loss is considered minor and of little consequence given the extent of their panoramic views of North Harbour and its foreshores, extending from the south-west to south east.
- *No.89* - The proposal will result in some loss in the width of the southern view from the side facing balconies when looking diagonally across the site, however the majority of these views will be retained. Further it is noted that their primary living areas, located at the rear will be unaffected by the proposal and will maintain all of their existing views.

*Privacy* – This is further addressed in the planning comments section of this report. The proposal has balconies and some side facing windows that will enable looking towards the western neighbouring unit building (No.89), however the floor level and position of these results in the possibility of direct overlooking being minimal. A condition of consent is recommended requiring additional planter landscaping to provide additional screening.

*Landscaping* – The landscape plan submitted with the proposal is considered satisfactory with Council's landscape officer recommending conditions of consent requiring minor planting changes.

*Access* – The issue of pedestrian / vehicle safety has been raised as a result of the shared use of the driveway (over the road reserve) with pedestrians and vehicles entering / exiting No.89. This issue has been addressed by Council's Development Engineer who has commented that the proposal is now satisfactory subject to conditions.

With respect to the existing lease arrangement between the owner of No.89 and Council for use of the road reserve, it is acknowledged that due to the substantial access way works required within the road reserve, Council may be entitled to extend this lease to bind the proposal over the subject site at No's 85 – 87. Consequently a condition of consent is recommended requiring the applicant to execute a lease with Council for shared use and extension of the access way within the road reserve for access to the site. This is to be prepared and signed by all affected parties (including the applicant, the owner of No.89 and Council) prior to issue of a Construction Certificate.

***Environmental Planning and Assessment Act 1979, S.79C***

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

From this assessment the proposal is considered a satisfactory form of development, with departures to the height provisions considered acceptable on merit. Further it is considered to satisfactorily address issues raised in submissions, subject to complying with conditions of consent for minor design amendments in the form of permitter planter landscaping for the rooftop balcony

**Environmental Services Division Report No. 25 (Cont'd)**

and execution of a lease for extension of the access way over the road reserve. Consequently the proposal is considered satisfactory pursuant to S.79C of the Act.

**CONCLUSION:**

The application has been assessed pursuant to Section 79C of the EP&A Act, including the Manly Local Environmental Plan 1988 and the Manly Development Control Plan for the Residential Zone, and is considered consistent with the intent of relevant planning controls. The proposal as amended is considered to satisfy the issue of access, and is considered with conditions included in the Recommendation to be satisfactory on merit and that it may be considered within the public interest and recommended for approval.

**RECOMMENDATION**

THAT Development Application 386/04 for demolition and construction of a two (2) storey Residential Flat Building containing four (4) strata units with basement parking at 85-87 Lauderdale Avenue, Fairlight be approved subject to the following conditions:

Pursuant to the Building Code of Australia, the building is a Class 2 & 7 building.

1. This approval relates to drawings/plans Nos. srSF-01 & 02, 101-104, 106-109; version B; and landscape plan sr105A dated June / July 2004 and received by Council on 21 July, 2004, sf201-D and sp203-D dated March 2005 received by Council on 21 March 2005 and sf202-C dated November, 2004 and received by Council on 8 December, 2004.
2. A road reserve lease for the access way extension shall be obtained from Council prior to issue of a Construction Certificate. This lease shall require the concurrence of the proprietor of No 89 Lauderdale Avenue due to the share of use of the existing access way. The lease shall remain current for the life of the development.
3. A Construction Management Plan (CMP) detailing construction access and materials delivery access (excluding that associated with construction of the driveway) via the Lauderdale Avenue road reserve immediately forward of the development site is to be submitted to Council/Accredited Certifier Prior to issue of the Construction Certificate. The CMP is to include details of the hours of construction of works associated with the driveway forward of No.89 Lauderdale Ave and requirement to notify residents of No. 89 Lauderdale Avenue of access limitations.
4. Details of public risk and liability insurance against injury and damage associated with the construction access and use of the existing driveway forward of No.89 Lauderdale Avenue are to be provided to Council/Accredited Certifier prior to issue of the Construction Certificate.
5. The height of the proposed building at No 87 Lauderdale Avenue is to be reduced by 200mm to minimise impact on the amenity of nearby and adjoining properties, plans being suitably amended prior to issue of the Construction Certificate.
6. Traffic signals to facilitate efficient operation of the driveway are to be provided within the boundaries of the subject site to prevent queuing, plans being suitably notated prior to issue of the Construction Certificate.
7. Provision on site of a suitable enclosure (minimum 5.0sqm) for household waste bins, located within the subject site and positioned to facilitate waste removal from the road reserve immediately forward of the subject site, plans being suitably amended prior to the

**Environmental Services Division Report No. 25 (Cont'd)**

issue of the Construction Certificate.

## 8. Waterways Authority (NSW Maritime) conditions:

- a) The proposed works are carried out so that:
  - i) No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of North Harbour; and
  - ii) No materials are likely to be carried by natural forces to the bed, shore or waters of North Harbour.
- b) Any material that does enter North Harbour must be removed immediately without causing further harm to the environment.
- c) In relation to the above, best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, demolition.

Methods shall be in accordance with the relevant specifications and standards contained in the manual *Managing Urban Stormwater – Soils & Construction* issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.

- d) Any material that is to be stockpiled on site is to be stabilised and covered to prevent erosion or dispersal of the material.
- e) The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works (this does not include the works associated with the construction of the appropriate controls).
- f) The erosion, sediment and pollution control system is to be effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- g) Any landscaping is to comprise locally indigenous species, which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land.
- h) Access for delivery and removal of materials to and from the site is not to make use of the waterway and the adjoining foreshore.
- i) No works are to be undertaken on land owned by NSW Maritime (i.e. below MHWM) without the relevant approvals being granted by NSW Maritime.

9. A second landscape species is to be provided along the front boundary to the street (e.g. Acacia). Nature strip planting is to be provided adjacent to the access way extension to the site. The landscape plan is to be amended accordingly **prior to the issue of the Construction Certificate.**10. The nature strip planting is to be provided adjacent to the access way extension to the site. This planting is to be provided **prior to the issue of the Occupation Certificate.**11. The small gum tree in the lower rear yard western side is to be retained and the plans notated accordingly **prior to the issue of the Construction Certificate.**12. The rooftop planter is to be extended along the western side edge of the rooftop balcony to minimise potential overlooking into the western neighbouring apartment building and the plans amended accordingly **prior to the issue of the Construction Certificate.**13. A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance shall be planked out and the plans amended accordingly **prior to the issue of the Construction Certificate.**

**Environmental Services Division Report No. 25 (Cont'd)**

14. 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 \$30,000. 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.**

15. 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.
16. A sign must be erected in a prominent position on the site;
- showing the name, address and telephone number of the principal certifying authority for the work,
  - showing the name of the principal contractor (if any) for the building work and a telephone number on which that person can be contacted after hours, and
  - stating that unauthorised entry to the work site is prohibited

The sign is to maintained in place while the work is being carried out and must be removed when the work has been completed.

17. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, a contract of insurance must be in force before any building work authorised to be carried out by this consent commences.
18. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given council notice in writing of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given council written notice of the updated information.

19. 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.
20. 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.

**Environmental Services Division Report No. 25 (Cont'd)**

21. 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.
22. 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.
23. 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**.
24. 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.
25. 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.
26. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
27. 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.
28. Building work shall not progress beyond first floor level until such time as Registered Surveyor's details of levels are submitted to the Principal Certifying Authority. These levels shall confirm that the works are in accordance with the levels shown and approved in the development approval.
29. On completion of the building structure a Registered Surveyor's report is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.
30. 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**.
31. Four (4) sets of Architectural drawings and Services Specifications are to be submitted with the Construction Certificate application.
32. All demolition is to be carried out in accordance with AS2601-1991.
33. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.



**Environmental Services Division Report No. 25 (Cont'd)**

34. A detailed stormwater management plan shall be prepared to fully comply with Council's "Specification for on-site Stormwater Management 2003" and shall be submitted with the Construction Certificate application. The stormwater management plan shall be prepared by an experienced Chartered Civil Engineer.

On the concept stormwater management plan SY040420 by ACOR Consultants, it was noted that "Discharge to existing council stormwater drainage pit confirm on site". Require the Design Engineer to confirm this on site prior to submitting the Detailed Stormwater Management Plan.

Also the method of stormwater drainage of the new driveway on Council's land shall be shown on the Detailed Stormwater Management Plan.

The design of the stormwater management plan shall be approved by the Principal Certifying Authority shall prior to the issue of the Construction Certificate.

35. The construction of a vehicular footpath crossing 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.
36. The detailed design of the proposed retaining walls, footpath and concrete steps on the road reserve shall be submitted to Council and approved prior to the issue of the Construction Certificate. The design and construction of the works shall comply with Manly Council's "Specification for Civil Infrastructure Works, Developments & Subdivisions 2003".
37. The pedestrian path way and the Council reserve on the south of the property shall not be used for delivery of any material or any other construction activities. (Except the stormwater connection to be approved as part of the Construction Certificate).
38. The existing sand stone steps on the road reserve shall be removed without damaging and contact is to be made to Council's Works Superintendent for the stones to be transported to Council's Depot.
39. 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.**

40. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
41. All sound producing plant and equipment being installed and operated in such a manner so as not to create a noise nuisance.
42. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application and as amended by conditions of consent. 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.**

**Environmental Services Division Report No. 25 (Cont'd)**

43. 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.
44. 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.
45. 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 willfully destroyed or removed without the approval of Council.
46. 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 willfully destroyed or removed without the approval of Council.
47. 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 \$5,000 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**.
48. A Waste Management Plan is to be submitted with the application for a Construction Certificate in accordance with Council's Development Control Plan for Waste Minimisation and Management.
49. 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.
50. 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.
51. Details are to be provided of at least two (2) existing or proposed endemic trees for the site that are typically expected to reach a height at maturity of 10 metres. A list of appropriate endemic trees for the Manly area may be obtained at Council's Customer Service desk. Details of new planting are to include appropriate siting and pot size (minimum of 25 litres) in accordance with section 3.2 of the Residential Development Control Plan 2001. Details are to be submitted **with the Construction Certificate** to the satisfaction of the Principal Certifying Authority.
52. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.

**Environmental Services Division Report No. 25 (Cont'd)**

53. **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**.
54. 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.
55. 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.
56. 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.
57. 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 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.
  - 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 the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.
58. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practicing 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**.
59. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
60. 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.

**Environmental Services Division Report No. 25 (Cont'd)**

61. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
62. 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.
63. 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.
64. 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.

65. 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.
66. 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.
67. 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.
68. Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.
69. 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:
    - wet areas waterproofing certificate
    - reinforcement concrete and structural members details
    - structural engineers inspection certificate
    - survey certificate
    - floor/finished ridge level certificate
    - hydraulic consultants certificate

**Environmental Services Division Report No. 25 (Cont'd)**

70. Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 is required for the development. The amount being in accordance with Council's Section 94 Policy applicable at the time of payment and paid, **prior to issue of the Construction Certificate.**
71. The stone base of the front fence is to have a maximum height above existing ground level of 1.000m and the plans are to be notated accordingly **prior to the issue of the Construction Certificate.**
72. Approval of the application to Strata Subdivide the subject property is subject to the lodgment of a linen plan for certification by Council/Accredited Certifier and payment of the appropriate fee.
73. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
74. 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.

**ADVISORY NOTES:****1. Other approvals**

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

an Application for Approval under Section 68 of the *Local Government Act 1993* for an activity under that Act, including the erection of a hoarding. All such applications must comply with the Building Code of Australia.

an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.

An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.

an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;

an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.

**2. Works and requirements of other authorities**

*Sydney Water* may require the construction of additional works and/or the payment of additional fees. Other *Sydney Water* approvals may also be necessary prior to the commencement of construction work. You should therefore confer with *Sydney Water* concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.

Contact *Sydney Water*, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.

*Australia Post* has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest *Australia Post* Office.

*AGL Sydney Limited* has requirements for the provision of gas connections.

*Sydney Electricity* has a requirement for the approval of any encroachments including awnings, signs etc, over a public roadway or footway. The Engineer Mains Overhead

**Environmental Services Division Report No. 25 (Cont'd)**

Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.

*Telstra has requirements concerning access to services that it provides.*

**3. Application for a Construction Certificate**

The required Application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited private certifier for a Construction Certificate.

**WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.**

**4. Occupational Health and Safety**

All site works must comply with the occupational health and safety requirements of the NSW WorkCover Authority.

**5. Relocation of stormwater drainage**

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

**6. Hazardous Material Management**

"Builders are advised to obtain a copy of the EPA publication *Solutions to Pollution for Builders* which provides environmental information including hazardous material management. The EPA can be contacted by phone on 131 555 or at [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) "

**7. Hazardous waste removal (including asbestos)**

Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover and the EPA, and in accordance with the provisions of:

*New South Wales Occupational Health and Safety Act, 1983;*  
*New South Wales Construction Safety Act, 1912; Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983;*  
*The Occupational Health and Safety (Hazardous Substances) Regulation 1996;*  
*The Occupational Health and Safety (Asbestos Removal Work) Regulation 1996;* and  
*The Waste Minimisation and Management Act and Regulations.*

**8. Air Conditioning Systems Residential Premises**

Under Clause 52 of the *Noise Control Regulation 2000* a person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8am or after 10pm on any Saturday, Sunday or Public Holiday, or
- (b) before 7am or after 10pm on any other day.

**Environmental Services Division Report No. 25 (Cont'd)****9. Model**

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

**10. Compliance with the Disability Discrimination Act**

This decision does not ensure compliance with the *Disability Discrimination Act*. You should therefore investigate your liability under that Act. *Australian Standard 1428 - Design for Access and Mobility*, Parts 2, 3 and 4 may assist in determining compliance with the Disability Discrimination Act.

**11. Modifications to the consent**

Changes to the external configuration of the building, changes to the site layout or any changes to the proposed operation or use *will* require the submission and approval of an application under Section 96 of the *Environmental Planning & Assessment Act 1979* before the issue of a Construction Certificate.

**12. Storage bins on footpath and roadway**

Approval is required from Council prior to the placement of any storage bin on Council's footpath and/or roadway.

**13. Long Service Levy**

The current rate of the levy required by this consent is 0.2% of the cost all building and construction work costing \$25,000 or more.

**14. Compliance with erosion and sediment control plan**

The erosion and sediment control plan must be implemented during site works and construction activities. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the accredited certifier and Council officers on request.

**15. Discovery of additional information during remediation, demolition or construction**

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately after discovery.

**16. Protection of public places**

- (a) If the work involved in the erection or demolition of a building:
  - (i) is likely to cause pedestrian or vehicular traffic on a public place to be obstructed or rendered inconvenient, or
  - (ii) building involves the enclosure of a public place;A hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning must be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning must be removed when the work has been completed.

**Environmental Services Division Report No. 25 (Cont'd)**

Note: Prior to the erection of any hoarding, fence or the like on any footpath or other property owned or controlled by Council, permission must be sought and obtained from Council and the prescribed rental fee paid.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 25 \*\*\*\*\*



**TO:** Land Use Management Committee - 6 June 2005  
**REPORT:** Environmental Services Division Report No. 26  
**SUBJECT:** Development Applications Being Processed During June 2005  
**FILE NO:**

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**SUMMARY**

Development Applications Currently Being Processed During June 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	01-Jul-05	DAU
DA525/03	20-Oct-03	22 Wentworth Street	Change of Use	Awaiting Information	
DA416/04	27-Aug-04	73-81 Addison Road	9 Unit RFB & 4 Commercial Units	07-Jun-05	DAU
DA176/04	7-Oct-04	2 Moore Street	Section 82A Review	09-Jun-05	DEL
DA508/04	2-Nov-04	118 North Steyne	Alts & Adds to Heritage Cottage & 6 Storey RFB with Basement Carparking	17-Jun-05	DAU
DA506/04	2-Nov-04	101 Bower Street Manly	Alts & Adds to RFB, Pool, Carparking and Landscaping	Awaiting Information	
DA512/04	9-Nov-04	4 Barrabooka Street	Demolish & New Dwelling and Pool	02-Aug-05	DAU
DA538/04	22-Nov-04	51 Wood Street	Alterations Guest House into to Dwellings and Strata Subdivision	Awaiting Information	
DA116/03	30-Nov-04	3 James Street	Section 96 Modification	09-Jun-05	DAU
DA529/04	1-Dec-04	38A Rignold Street	3 Level Dwelling & Garage	JULY	LUM
DA434/02	9-Dec-04	2 Beatty Street	Section 96 Modification	14-Jun-05	DAU
DA300/02	13-Dec-04	1 Gordon Street	Section 96 Modification	23-Jun-05	DAU
DA6/05	13-Dec-04	18 Austin Street, Fairlight	Alterations & Additions to Dwelling 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	02-Aug-05	DAU
DA563/04	17-Dec-04	21 Allenby Street	Alts & Adds & Cement Render	02-Aug-05	DAU
DA18/05	20-Dec-04	6 Hope Street	Alts & 1st Floor Adds and Garage	Awaiting Information	DAU
DA19/05	20-Dec-04	5 Jamieson Avenue	Alts & Additional Storey	16-Jun-05	DAU
DA35/05	20-Dec-04	81 Curban Street, Balgowlah	Alterations and Additions to Dwelling & Pool	Awaiting Information	

## Environmental Services Division Report No. 26 (Cont'd)

DA37/05	22-Dec-04	11 Benelong Street	New 2 Storey Dwelling and Garage	01-Jul-05	DAU
DA01/05	23-Dec-04	44 Frenchs Forest Road	New 3 Level Dwelling and Demolish	16-Jun-05	DAU
DA46/05	20-Jan-05	4 Lower Beach Street	Extension to Rear and New Deck	16-Jun-05	DAU
DA77/05	25-Jan-05	58 North Steyne	External Upgrade	21-Jun-05	DAU
DA67/05	27-Jan-05	123 Bower Street	Carport & Lift Shaft	23-Jun-05	DAU
DA101/05	8-Feb-05	1 Gordon Street	Alts & Adds, 2 Pools and Carport	14-Jun-05	DAU
DA141/05	16-Feb-05	14 Nolan Place	Demolish, New 3 Storey Dwelling, Pool & Landscaping	04-Jul-05	DAU
DA127/05	1-Mar-05	219 Woodland Street	Alterations & First Floor Additions	02-Aug-05	DAU
DA121/05	1-Mar-05	26 Ethel Street	Demolish & New 2 Storey Dwelling	16-Jul-05	DAU
DA105/05	2-Mar-05	57 Gurney Crescent	Demolish, New 2 Storey Dwelling and Pool	02-Aug-05	DAU
DA130/05	3-Mar-05	28 Jackson Street	Ground & 1st Floor Additions	07-Jun-05	DAU
DA115/05	4-Mar-05	Manly Oval	Demolish and Construct New Amenities Block	05-Jul-05	DAU
DA535/03	9-Mar-05	89 Gurney Crescent	Section 96 Modification	21-Jun-05	DAU
DA138/05	10-Mar-05	5 Clarence Street	Subdivision into Two (2) Lots each with Dwelling Entitlements	Awaiting Information	
DA249/04	11-Mar-05	12 Tutus Street	Section 96 Modification	19-Jul-05	DAU
DA143/05	14-Mar-05	47 Jamieson Avenue	Alterations & 1st Floor Additions	05-Jul-05	DAU
DA142/05	15-Mar-05	9 Arthur Street	Alterations & 1st Floor Additions & Garage	05-Jul-05	DAU
DA144/05	15-Mar-05	21 Francis Street	Alterations & Additions & Family Flat	16-Jul-05	DAU
DA433/99	15-Mar-05	5/93-95 North Steyne	Section 96 Modification	16-Jul-05	DAU
DA562/04	16-Mar-05	5/40 White Street	82A Review of Determination	09-Jun-05	DAU
DA150/05	21-Mar-05	2 Waratah Street	Alterations and Additions & Garage	07-Jun-05	DAU
DA163/05	23-Mar-05	Manly Bathers Pavillion	Internal Fitout for Kayak Business	16-Jun-05	DAU
DA161/05	23-Mar-05	23 Pine Street	Alterations & 1st Floor Additions	16-Jul-05	DAU
DA162/05	24-Mar-05	9 Jenner Street	Alterations & 1st Floor Additions	01-Jul-05	LUM
DA166/05	26-Mar-05	41-42 East Esplanade	Strata Subdivision	07-Jun-05	DEL
DA172/05	29-Mar-05	66 Balgowlah Road	Alterations & Additions, Internal and External Factory Floor Space	07-Jun-05	DAU
DA164/05	29-Mar-05	16 Fairy Bower	Carport Roof	26-Jul-05	DAU
DA140/05	30-Mar-05	6 Baltic Street	Deck to Rear of Dwelling	28-Jun-05	DAU
DA153/05	31-Mar-05	18 Fairy Bower	Alterations & Additions to Roof & Pergola	19-Jul-05	DAU

## Environmental Services Division Report No. 26 (Cont'd)

DA149/05	31-Mar-05	1 Princes Promenade	Demolish & Construct Two (2) Storey Dwelling with Pool & Landscaping	Awaiting Information	
DA175/05	4-Apr-05	90 Griffiths Street	Alterations and Additions	26-Jul-05	DAU
DA180/05	7-Apr-05	11 White Street	Rear Timber Deck	Awaiting Information	
DA187/05	11-Apr-05	3A Magarra Place	Demolish & Construct Dwelling, Carpark and Landscaping	Awaiting Information	
DA177/05	11-Apr-05	223 Sydney road	Carport, Fence, Entry Stairs, Pathway and Landscaping	16-Jul-05	DAU
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 & New 2 Storey Dwelling & Double Garage	01-Jul-05	DAU
DA181/05	12-Apr-05	125 Frenchs Forest Road	Alterations & Additions	Awaiting Information	
DA179/05	12-Apr-05	40 Tabalum Road	Swimming Pool	03-Jun-05	DEL
DA184/05	12-Apr-05	48 Curban Street	Alterations & 1st Floor Additions, Carport and Landscaping	06-Jun-05	DEL
DA190/05	19-Apr-05	3 Linkmead Avenue	Demolition of Existing Dwelling	Awaiting Information	
DA186/05	21-Apr-05	19 Wanganella Street	Alterations & 1st Floor Addition & Deck	06-Jun-05	DEL
DA193/05	28-Apr-05	16 Fisher Street	Rear Deck, Pool & Landscaping	Awaiting Information	
DA188/05	2-May-05	2 Judith Street	Alterations & Additions to Dwelling including Rear Addition and Carport	Awaiting Information	
DA210/05	2-May-05	6 The Corso & 50 East Esplanade	Boundary Adjustment / Subdivision	Awaiting Information	
DA208/05	16-May-05	43 The Corso (Ground Floor)	Change of Use	Awaiting Information	
DA572/03	24-May-05	5 Sandy Bay Road	Section 96 Modification - Tree Removal	Awaiting Information	

**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. 26 \*\*\*\*\*

**TO:** Land Use Management Committee - 6 June 2005  
**REPORT:** Environmental Services Division Report No. 27  
**SUBJECT:** Appeals List for June 2005  
**FILE NO:**

## SUMMARY

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION

## REPORT

Application	Site Address	Appeal Lodged	Solicitor	Status
DA46/04	36-38 South Steyne	20.04.04	Pike Pike & Fenwick	Upheld
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	Hearing 9-10.06.05
DA255/04	102 The Corso	28.09.04	Abbott Tout	ECourt Communication Due 17.06.05
DA433/04	207-217 Pittwater Road	04.11.04	Abbott Tout	Discontinued
DA486/04	3 Cove Avenue	12.01.05	Abbott Tout	Upheld
DA487/04	49 Golf Parade	18.03.05	Abbott Tout	Awaiting New Callover Date
DA187/03	66B Ponsonby Parade	09.03.05	Abbott Tout	Hearing 20.06.05
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
	15 Richmond Road Order 35/05	20.05.05		Callover 24.06.05
DA542/04	99 Darley Road	17.05.05	Abbott Tout	Callover 14.06.05
DA69/05	26 Edgecliffe Esplanade	26.05.05	Abbott Tout	Callover 30.06.05

## 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. 27 \*\*\*\*\*