



Agenda

Ordinary Meeting

Notice is hereby given that a Ordinary Meeting of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

Monday 20 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*

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HUMAN SERVICES AND FACILITIES UNIT REPORTS**CIVIC SERVICES UNIT REPORTS****CLOSED SESSION****QUESTIONS WITHOUT NOTICE****MATTERS OF URGENCY**

(In accordance with Clause 14 of the Local Government (Meetings) Regulations, 1993)

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

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 16
SUBJECT: Development Application Publishing of Objection Letters
FILE NO:

Councillor Heasman will move:

1. That the Council would ask the General Manager to bring forward a report on the posting of letters of objection to Development Applications on the website for public perusal.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_3.DOC

***** End of Notice of Motion No. 16 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 17
SUBJECT: Support Manly Police and Manly Liquor Accord
FILE NO:

Councillor Norek will move:

1. Council express its confidence in the work of Manly Liquor Accord and Manly Police.
2. Council distance itself from the unwarranted attacks by Councillors Macdonald and Pedersen.

Background:

Manly Council over the years has been supportive and appreciative of the work of the Manly Liquor Accord which is made up of representatives of late night trading licenses, Manly Council, Manly Drug Education Centre, Manly Police and local community representatives.

The organisations involved are committed to working towards a safe and friendly Manly by day and by night.

We should be praising Manly police for reporting assaults in Manly, not criticizing them as their job is hard enough. It is a fact that Manly is a very safe place to live compared to other areas.

The Manly Liquor Accord and Manly Police's work and reputation has been the subject of unwarranted and ill-founded attacks in the media by Councillors Macdonald and Pedersen. This calls for a response from the elected Council - which is the purpose of this Notice of Motion. If criticism continues it will bring the Council into disrepute and give the Manly Community an increasingly bad name.

I dispute the following public statements made in recent months:

"It's not a safe place from 2am to 3am, it's not an area that the police like to control"

"A beautiful beach by day, at night it is awash with alcohol and violence"

"Meet the ugly face of Manly after dark!"

I believe there has been an outrageous exaggeration by false claiming that Manly is a particularly unsafe place to visit after dark and the area has an alleged alcohol problem due to the popularity of late night venues. While the "Manly after Midnight" has its problems, we must work together as a community, not create a lot of hot air and cheap media coverage grand standing.

Manly needs more positive messages on the good work invested so far by the Police, Manly Liquor Accord and Council.

I definitely do not agree with Mayor Macdonald and Councillor Pedersen.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_4.DOC

***** End of Notice of Motion No. 17 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 18
SUBJECT: New Infrastructure and Other Planning Reforms Act
FILE NO:

Councillor Lambert will move:

That Council write to the Premier and the Minister for Infrastructure, Planning and Natural Resources

1. Expressing serious concerns that the recently introduced planning reform legislation:
 - removes the right of appeal against approval of 'critical infrastructure';
 - exempts 'critical infrastructure' and 'major development' projects from the provisions of LEPs, thereby overriding all local government planning policies;
 - exempts 'critical infrastructure' and 'major development' from the need to conform with the following Acts: Coastal Protection Act, Heritage Act, Fisheries Management Act, National Parks and Wildlife Act, Native Vegetation Act, Rivers and Foreshores Improvement Act, Rural Fires Act, Water Management Act; and the overriding of the Threatened Species Conservation Act in respect of interim protection orders and stop work orders.
 - empowers the Minister for Planning to designate development as 'critical infrastructure' and to approve 'concept' plans for such development without being required to undertake public consultation.
2. Seeking mechanisms to ensure that the introduction of a 'concept' approvals process not be used to limit the ability of a council to amend or reject subsequent Development Applications that are consistent with the 'concept', where the detailed Development Application plans provide significant information that was absent, scanty or incorrect at the concept stage;
3. Seeking an ongoing consultation process between Local Government and the State Government about proposals to reform planning instruments such as LEPs, DCPs, SEPPS and REPs;
4. Seeking a commitment to ongoing consultation in relation to development of the Seaforth TAFE site and any other public sites released for development within the Manly LGA;
5. Deploing the lack of consultation between local government and DIPNR concerning major changes enacted in this Amendment Act, and that local government has thereby been deprived of the opportunity to assess the legislation, despite the profound impact the proposed bill will have on local government and the community.

Background:

The NSW Government has recently passed through Parliament an EP & A Act (Infrastructure and Other Planning Reforms) Act, which provides to State Government substantially increased powers to override the will of Local Government and local communities. With several sites in State ownership currently earmarked for development or vulnerable to future development, this new planning legislation potentially has serious consequences for over-development in the Manly LGA.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_5.DOC

***** End of Notice of Motion No. 18 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 19
SUBJECT: Upgrade and Maintenance of the Road Reserve on Charles St between William and Cohen St, Fairlight
FILE NO:

Councillor Murphy will move:

Council, after appropriate community consultation, bring back a report on the upgrade and management of the road reserve bordered by William, Charles and Cohen Streets, Fairlight.

The report should address the following:

1. Installation of a proper footpath
2. Immediate removal of dead trees, trimming of overgrown trees and generally making safe
3. Suitable landscape plan for the reserve including consideration of street furniture, playground equipment and lighting
4. An appropriate maintenance schedule to ensure the park once refurbished does not deteriorate
5. A budget, recommendations and timeline for when the necessary work could be completed

Background

There are concerns from some residents regarding the lack of pedestrian access along the southern side of Charles St due to the planting of trees and shrubs by others, (not Council). A dead tree with a diameter in excess of 1m which fell over 6 months ago still lies in the middle of the reserve and many other trees block access or hang over the road also. The end result is a congested, overgrown, poorly laid out and poorly maintained area that cannot easily be traversed by residents or visitors. These include those who visit the nearby church during the week for child minding services or on the weekend for religious services. These people can regularly be seen walking on the road in preference to the reserve, especially those with prams, strollers or walking sticks. Night time is even more hazardous as the street is narrow, two way and with parked cars on both sides.

Safety and public liability issues result from the lack of maintenance and ownership of this park however most of the issues could easily be resolved by the construction of a footpath and the trimming back and removal of any inappropriate trees and shrubs. Council needs to reclaim this reserve for all the community by taking responsibility for it's general maintenance and upkeep. With a bit of effort the reserve could once again be an asset to the community.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_6.DOC

***** End of Notice of Motion No. 19 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 20
SUBJECT: Support Scientific Whaling
FILE NO:

Councillor Aird will move:

1. That Council formally supports both State and Federal governments and the International Whaling Commissions total opposition to so-called Japanese "research" whaling and the unnecessary killing of whales.
2. That Council urgently conveys concerns about the Japanese fishing agencies push to raise its so-called "scientific" whaling quota to our sister cities in Japan.
3. That Council seeks urgent support from Sydney Coastal Council Group.

NOTE: The International Whaling Commission is due to vote on Japans plans at a meeting in South Korea from June 20-24.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_7.DOC

***** End of Notice of Motion No. 20 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 21
SUBJECT: To Assist Police in Enforcing The Law
FILE NO:

Councillor Daley will move:

1. That Council consult with the local Police regarding the erection of more prominent ALCOHOL FREE SIGNS in the Alcohol Free areas within the Manly LGA.

The above motion is moved at the request of the local Police.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_8.DOC

***** End of Notice of Motion No. 21 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 22
SUBJECT: Resident Parking Scheme for Residents
FILE NO:

Councillor Norek will move:

1. Council to look into immediately solving parking problems in the following areas:
 - a. Residents that live on North Steyne should be allowed unlimited access to parking including the beach front parking meters.
 - b. Current Ocean Beach Residential parking scheme needs to cover all areas of Cameron Avenue.
 - c. Council to formalise legal parking areas for residents in Rolfe Street.
2. Council to initiate a full community forum to address all the concerns residents and businesses are experiencing in regard to parking in the area, such as:
 - a. To change 10pm restrictions to a common 6pm in all residential areas, unless the street is near a late night commercial area.
 - b. All residents and businesses to receive reciprocal rights to all other Manly LGA resident Parking Schemes.
 - c. To immediately investigate a resident parking scheme for the Fairlight and Seaforth precincts.
 - d. To investigate providing temporary parking passes for short and long term tourists, tradesmen who are staying in Manly for more than 14 days.
3. Council to prepare a report to allow all Manly residents to receive the following benefits in Manly CBD parking stations and on beachfront parking meters, when they display their resident parking scheme pass or sticker:
 - a. "4 hours free" parking on weekends in high demand periods.
 - b. Unlimited free parking during the week in low demand periods.
4. Council to prepare a report on the following:
 - a. Investigate ways to provide better parking solutions for events, such as the Snowy McAlister Winter Long board Festival and Surf Life Savings events.
 - b. How much income is raised from parking metres along the Beachfront annually?
Council to quarantine a percentage back to infrastructure projects in the Manly LGA.

Background:

Inconsistent parking signs across the Manly Area, **letters threatening to fine residents** for parking in their **own driveways** and those that live on the beachfront **unable to park opposite their homes**.... are just a few of the parking disasters which confront Manly Residents daily.

Notice of Motion No. 22 (Cont'd)

For example, residents in Rolfe Street were issued with notices of warning over the June 4th-5th weekend that **parking in their own driveway was illegal**. Considering residents in this street do not have kerbs nor formalised parking, this issue needs to be addressed to create a formalised parking zone, which is legal. The solution here is not fining the residents, but fixing the parking problem.

Residents in some streets in the Ocean Beach Precinct have 10pm parking restrictions, whilst other streets in the same area have 6pm restrictions. Such restrictions make it difficult for resident's to invite friends and family over for dinner, when they need to regularly move their car during the evening. And doesn't it seem ludicrous in the first place, to have 10pm parking restrictions in areas which are only busy during the day, with the influx of tourist coming to the beach.

Manly Council Rangers recently distributed Flyers on North Steyne resident's cars to inform them that parking conditions on the Beachfront had changed and that they could no longer park outside their homes for more than 2 hours. North Steyne residents must feel the frustration when they have to fight for a park in the back streets a considerable distance from their home, when they can see the numerous empty parking spaces on the beachfront during the week.

Manly home owners not only pay high Council rates, they also have to pay \$60.00 or more to Council per resident, per household, to purchase a 'parking pass to allow them to park outside their own abode', of course this is no longer the case for North Steyne residents, who have paid \$60 for their parking pass, which only lets them park down the road and around the corner.

Simply put. Resident's must come first, when it comes to parking in Manly and **every resident of Manly deserves a free parking spot outside their own home period.**

Why can't.... Manly Council allow all Manly residents who display their resident parking scheme pass or sticker to receive the following benefits in Manly CBD parking stations and on beachfront parking meters and in return give value to the high rates and high price for parking permits:

- ✓ **"4 hours free" parking on weekends in high demand periods.**
- ✓ **Unlimited free parking during the week in low demand periods.**

There are a number of bad parking scheme decisions in the existing schemes against residents that need to be re-evaluated. i.e.: Cameron Street, where anybody can park all day without any restrictions.

On the June Long weekend the Snowy McAlister Winter Long board Festival will go ahead over the long weekend but numbers were down by 25% on previous years. Organisers asked Manly Council for an exemption for competitors. No joy. We need events like this to stay in Manly.

Finally it would be valuable to find out how much money has been raised from Parking metres and the resident parking schemes. So as to quarantine a percentage of this money for future infrastructure projects in the Manly LGA.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_1.DOC

***** End of Notice of Motion No. 22 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 23
SUBJECT: Section 94 Contributions Adjustment
FILE NO:

Councillor Morrison will move:

That the required Section 94 Contribution for a single dwelling house on a single block of land be reduced by half.

Discussion

A number of new dwellings have and will be constructed in Seaforth following Council approvals for new subdivisions and re-subdivisions of land previously reserved by the State Government for road widening and new roads.

These releases of land are not typical of the Municipality of Manly. We are not releasing large tracts of land for new development. These are pockets of land in an otherwise fully developed residential area in which they are an anachronism, an accident of history. Their development now is only the same type of development that otherwise would have occurred at the same time that the land around them was developed.

In the subdivision process, the developer has already contributed land for open space, roads, footways and cash contributions for playground facilities.

Families with the intent of building a home in which they will live have purchased the majority of these blocks. The first lot of families built their houses before the new Section 94 contribution, whilst some later purchasers of their blocks have had the contribution effectively imposed on them retrospectively.

The building of these family homes can be distinguished from residential flat development, which is carried out not by owner builders who intend to occupy them with their families, but by commercial developers and development companies whose motive is to maximise commercial profit, and which creates intensification of land use on a large scale.

The owner builder family can also be distinguished from the developer in terms of the burden the Section 94 contribution places on the family, as opposed to the developer, who can claim the Section 94 contribution as a cost of the development, and therefore as a tax deduction, which can achieve close to a 50 % rebate.

Let us acknowledge that, for a family moving into our area and meeting our high development standards and that additional cost that that entails, an amount approaching \$6,000 per bedroom is a more than sufficient contribution for Council to impose.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_9

***** End of Notice of Motion No. 23 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Notice of Motion No. 24
SUBJECT: Pedestrian Access Management Plan Implementation
FILE NO:

Councillor Heasman will move:

That Council undertake to progress the implementation of the recommendations of the 2003 Pedestrian Access and Mobility Plan Study that come under 5.1 of the document (page 10). The study has recommended that the speed limit for roads within the study area be reduced from 50km/hr and 60km/hr to 40km.hr -50km/hr for the following roads:-

Victoria Parade, Wentworth Street, Darley Road, The Corso, East and West Esplanade, Whistler and Belgrave Street.

The study recommends that this measure would be expected to reduce the number of pedestrian casualties.

ATTACHMENTS

There are no attachments for this report.

OM200605NM_10

***** End of Notice of Motion No. 24 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Item For Brief Mention No. 5
SUBJECT: Items For Brief Mention
FILE NO:

Reports:

On 2nd June 2005, at the Local Emergency Management meeting, a cheque for \$55,000 was formally presented to Council's Civic Services Manager, Mr Ted Williams, from the Local Manly S.E.S. Controller, Mr Dave Curley, as their buildings subsidy grant contribution to the new Manly Council Depot.

The S.E.S. requested that Council be formally notified of their contribution.

2. Minutes Of Meetings:

- i ACCESS COMMITTEE MINUTES OF MEETING HELD ON 19 MAY 2005
- ii COMMUNITY SAFETY COMMITTEE MINUTES OF MEETING HELD ON 21 APRIL 2005
- iii COMMUNITY SAFETY COMMITTEE MINUTES OF MEETING HELD ON 19 MAY 2005
- iv PUBLIC ART COMMITTEE MINUTES OF MEETING HELD ON 18 MAY 2005
- v MANLY YOUTH COUNCIL MINUTES OF MEETING HELD ON 11 APRIL 2005
- vi MANLY YOUTH COUNCIL MINUTES OF MEETING HELD ON 16 MAY 2005
- vii. MANLY ART GALLERY & MUSEUM LIAISON COMMITTEE MINUTES OF MEETING HELD ON 11 MAY 2005
- viii. THE MANLY MEALS ON WHEELS SERVICE COMMITTEE MINUTES OF MEETING HELD ON 1 JUNE 2005
- ix. THE MANLY SISTER CITIES COMMITTEE MINUTES OF MEETING HELD ON 11 MAY 2005
- x. MANLY VISITOR AND COMMUNITY BOARD COMMITTEE MINUTES OF MEETING HELD ON 9 JUNE 2005

THE FOLLOWING MINUTES CONTAIN RECOMMENDATIONS OF A SUBSTANTIAL NATURE REQUIRING FORMAL COUNCIL ADOPTION AS FOLLOWS:

3. a. Manly Public Art Committee - Minutes of a Meeting held on 18 May 2005.

Item Number: 5 - Market Lane Mural

Ruth Downes, Public Artist, had presented her design for the Market Lane mural to Councillors at dinner on 2 May 2005, with a positive response.

Item For Brief Mention No. 5 (Cont'd)

Permission had been received from Numbers 47 and 51 The Corso to proceed with the mural. Henry Wong, General Manager, will be asked to contact ANZ bank regarding permission to paint the mural on their facility.

Michael Biddulph, Council Architect, presented an elevation view of Market lane shop facades which Therese Kenyon, Director Art Gallery and Museum, would send to Ruth Downes so that she could finish off her design of this wall.

Barbara Todes, Manager Cultural and Information Services, reported that the design will be presented to both the Manly Chamber of Commerce and Corso Precinct in June 2005. It would be on display in the library thereafter.

Cr Brad Pedersen advised that he would contact and liaise with Manly Daily regarding publicity once this was done.

Cr Pedersen expressed concern regarding certain words on the mural design. Whilst not wanting to interfere with the artist's concept, the Committee agreed to discuss the matter with the artist via Cr Pederson and Therese Kenyon and to come to a mutually satisfactory agreement.

Sarah Johnston, Curator/Programs Coordinator Art Gallery, presented a list of potential sign writing contractors to paint mural design.

Cr Pedersen recommended that Michael Biddulph, Council Architect, speak with Manly Council painting department regarding the feasibility of doing the painting in-house.

Once the design was completed, Therese Kenyon, Director Art Gallery and Museum, to develop brief and meet with three signwriting companies (if Council was unable to do the job) to obtain quotes for the painting of the mural. The aim was to do this within the current financial year.

The Recommendation of the Committee was:

That this report be received and that Council notes that work on the Market Lane mural is proceeding.

RECOMMENDATION

1. That Council receive and note the S.E.S's donation.
2. That the recommendations of **Minutes of Meetings, as listed in item 2**, being **item no's i-x**, as listed above, be **adopted**.
- 3a. That item 3a of Manly Public Art Committee Minutes of Meeting held on 18 May 2005 be adopted, as follows:

That this report be received and that Council notes that work on the Market Lane mural is proceeding.

ATTACHMENTS

There are no attachments for this report.

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***** End of Item For Brief Mention No. 5 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: General Manager's Office Report No. 15
SUBJECT: Fixing of Rates and Charges – 2005/2006
FILE NO:

SUMMARY

Council is required to make rates and charges for 2005/2006 following the adoption of the Management Plan for the 2005/2006 financial period.

REPORT

Council has indicated in the Draft Management Plan its intention to levy two (2) Ordinary Rates - an Ordinary Residential Rate on the Land Value of all Rateable Land categorised as Residential and an Ordinary Business Rate on the Land Value of all Rateable Land categorised as Business consisting of two sub-categories, being:

- Manly Business Centre - as delineated on Plan Number 1/280B.
- Business (other than the Manly Business Centre).

Council also indicated in the Draft Management Plan its intention to levy a Special Rate for each of the following areas:

- Manly Business Centre and Ocean Beachfront Improvements
- Balgowlah Business Centre Improvements

Council's advertised Draft Management Plan 2005/2008 contained details of Council's Revenue Policy for 2005/2008. The Revenue Policy provided for a rating structure that is based on an ad valorem (rate in the dollar) with a minimum Rate and these Rates were advertised in the Management Plan. The rate to be levied will be calculated on the land value of the land as determined by the Valuer General.

The Minister has advised Council of a permissible increase for Rates for 2005/2006 of 3.5% in accordance with S.506 of the Act.

The 2005-2008 draft Management Plan included Council's intention to make application to the Minister for a Special Variation to General Income to increase the Manly Town Centre Improvement Special Rate to raise additional funding for The Corso upgrade. At the time of writing this report Council had not yet received Ministerial advice on its application. If the application is successful this would result in an additional 2.8% from Rates. Accordingly the following recommendations making the Rates for 2005/2006 provide an alternative should Council's application for special variation not be approved.

Since the exhibition of the Management Plan, Council has received additional supplementary valuations from the Valuer General. These new valuations have been supplied as a result of either new subdivisions, strata titling of properties, or valuation objections, and must be used for levying rates in 2005/2006. The following rates and charges now take into account any adjustments as a consequence of these amended and new valuations, so as to ensure that Council does not exceed the permissible rate increase.

The following resolutions making the Rates for 2005/2006 are now presented to Council for adoption:

General Manager's Office Report No. 15 (Cont'd)**RECOMMENDATION**

1. Whereas the detailed draft Estimates of Income and Expenditure of the General Fund, for the period 1 July 2005 to 30 June 2006, were considered by Council on 9 May 2005, and having given public notice in accordance with S.405 of the Local Government Act, 1993, of the Draft Management Plan to allow public submissions on or before 11 June 2005, and whereas the Management Plan and Estimates of Income and Expenditure for the period 1 July 2005 to 30 June 2006, were adopted by Council at the meeting of 20 June 2005, and having considered any matters concerning the Management Plan in accordance with S.406 of the Local Government Act, 1993, subject to items 3 and 4 below, Council hereby resolve:
2. That the Schedule of Fees and Charges 2005-2006 included and tabled with the 2005/2006 draft Management Plan be adopted;
3. That the 2005-2006 draft Budget as tabled to the meeting, but subject to Ministerial approval of Council's Application for Special Variation to General Income to increase the Special Rate - Manly Business Centre and Ocean Beach Front Improvement, be adopted;
4. That Council now make the following Rates included in the tabled 2005/2006 draft Management Plan, subject to the condition contained in item B (1) :

A Ordinary Rates

- (i) An Ordinary Rate (Residential) of 0.223280 cents in the dollar be made for the year on the land value of all rateable land in the Municipality categorised as Residential in accordance with S.516 of the Local Government Act 1993;
- (ii) An Ordinary Rate (Business) - Manly Business Centre of 0.885840 cents in the dollar be made for the year on the land value of all rateable land categorised non-residential within the centre of population defined within the Manly CBD and previously adopted by Council, as delineated on Plan Number 1/280B.
- (iii) An Ordinary Rate (Business) of 0.546330 cents in the dollar be made for the year on the land value of all rateable land categorised non-residential within Manly other than that land within the centre of population defined in (ii) above.
- (iv) In accordance with Section 548 of the Local Government Act, 1993, that the minimum amount of the Ordinary Rate that shall be levied in respect of any separate parcel of land, including strata lots and dwellings under company title, be \$570.45 for the period 1 July, 2005 to 30 June, 2006.

B. Special Rate – Manly Business Centre and Ocean Beach Front Improvements

- (i) That whereas the Council is of the opinion that the provision of on-going and proposed capital and maintenance works, including The Corso upgrade and the Ocean Beachfront and to provide services, facilities and activities of specific benefit to the area as delineated on Plan Number 1/280A, are of special benefit to that portion of Manly previously defined and adopted by Council, and whereas Council has adopted the Management Plan for 2005/2006, incorporating the Estimates of Income and Expenditure for the Manly Business Centre and Ocean Beach Front Improvements Programme on 20 June 2005 for the period 1 July 2005 to 30 June 2006, that, subject to approval by the Minister of Council's Application for Special Variation to General

General Manager's Office Report No. 15 (Cont'd)

Income, a Special Rate - Manly Business Centre and Ocean Beach Front Improvements of 0.297630 cents in the dollar on the land value of all ratable land as previously defined be now made for the period 1 July 2005 to 30 June 2006.

- (ii) That in accordance with the provisions of Section 548 of the Local Government Act 1993, that no minimum amount of the Special Rate - Manly Business Centre and Ocean Beach Front Improvements shall be levied in respect of any separate parcel of land, including strata title lots and dwellings under company title for the period 1 July 2005 to 30 June 2006.
- (iii) In the event that Council's Application for Special Variation is not approved a Special Rate - Manly Business Centre and Ocean Beach Front Improvements of 0.147120 cents in the dollar on the land value of all ratable land as previously defined be now made for the period 1 July 2005 to 30 June 2006.

C. Special Rate – Balgowlah Business Centre Improvements

- (i) That whereas the Council is of the opinion that the provision of on-going and proposed capital and maintenance works including the off-street car parks in Condamine Street and to provide services, facilities and activities of specific benefit to the area and is of special benefit to that portion of Balgowlah delineated on Plan Number 5/005B, and whereas Council has adopted the Management Plan for 2005/2006, incorporating the Estimates of Income and Expenditure for the Balgowlah Business Centre Improvements Programme on 20 June 2005 for the period 1 July 2005 to 30 June 2006, that a Special Rate - Balgowlah Business Centre Improvements of 0.244500 in the dollar on the land value of all rateable land as previously defined be now made for the period 1 July 2005 to 30 June 2006.
- (ii) That in accordance with the provisions of Section 548 of the Local Government Act 1993, that no minimum amount of the Special Rate - Balgowlah Business Centre Improvements shall be levied in respect of any separate parcel of land, including strata title lots and dwellings under company title for the period 1 July 2005 to 30 June 2006.

D Interest

That Council adopt the maximum interest rate determined by the Minister for Local Government and Co-Operatives each year for rates, domestic waste management services and annual charges levied under Section 611 of the Local Government Act 1993, being 9.0% per annum in respect of accrual on a simple basis.

E Domestic Waste Management Services

- (i) In accordance with S.496 of the Local Government Act 1993, that an annual charge of \$290.00 per annum be made for the year 2005/2006, for domestic waste management services rendered to all properties categorised residential or non-rateable residential, for each once weekly 80 litre MGB (or equivalent) service.

ATTACHMENTS

There are no attachments for this report.

OM200605GMO_2.DOC

***** End of General Manager's Office Report No. 15 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: General Manager's Office Report No. 16
SUBJECT: Adoption of the 2005-2008 Management Plan
FILE NO:

SUMMARY

The Draft Management Plan for 2005-2008 has been exhibited for the statutory period and is submitted for adoption by Council.

REPORT

At the Extraordinary meeting of 9th May, 2005, Council resolved to place the Draft Management Plan for 2004-2008, as amended, on public exhibition for the statutory period. It further resolved to consider its adoption at the meeting of Council on 20th June, 2005.

Accordingly, public notice was given in the Manly Daily inviting comments on the Draft Management Plan. The exhibition period concluded on Monday, 13th June, 2005.

At the conclusion of the exhibition period, Council had received 10 submissions. A matrix of the issues raised in the submissions has been prepared and a comment column has been included in that Matrix commenting in relation to each of the items raised (**attached**).

I do not consider that there is a need to materially alter the Management Plan, however, it is suggested that authority be delegated to the General Manager to modify the text where he feels it is necessary or appropriate to clarify Council's objectives and key actions in accordance with previously approved plans and strategies.

RECOMMENDATION

1. That pursuant to Section 406 of the Local Government Act, the Management Plan for the period July, 2005 and June, 2008 be adopted.
2. That pursuant to Section 612 of the Local Government Act, the Schedule of Fees and Charges contained in the Management Plan be approved.
3. That the parties who made submissions to the Management Plan be thanked and that written responses to the points raised by them be provided.

ATTACHMENTS

AT-1 Matrix of Submissions Received 5 page(s)

OM200605GMO_3.DOC

***** End of General Manager's Office Report No. 16 *****

ATTACHMENT 1

**General Manager's Office Report No. 16
Adoption of the 2005-2008 Management Plan
Matrix of Submissions Received**

Submissions to Draft Management Plan 2005 – 2008

Item	Name	Issue	Submission	Comment
1	Manly Chamber of Commerce	Application for Special Variation to General Income	Letter / submission supports Council's application to increase the special rate conditional upon: 1. Levy reduced by \$200,000; from \$1.1mil to \$900K 2. The Corso upgrade to be of a high standard & managed by LMUD Committee; 3. Work completed by 31/12/2007; 4. Sufficient funding available for main street/center management program; Council undertake to complete works within budget of \$7.5m.	The GM has already agreed to Chamber's requests and made proposed reduction and submitted the application to the Minister accordingly. It is also proposed to meet with the Chamber Executive next week to discuss an MOU. These matters can be dealt with at this time.
2	Ms Beverly Trevenen	1. Visitor & Community Program 2. The Major Themes – The Environment	P.87 requests a statement to recognise the natural environment and heritage, and commitment to the environment. P40. Comments that some activities included in earlier plans which still need addressing with State and Federal Governments have not been included. These include "Decentralisation (devolving) of North Head STP and Sewage Overflows" and "Management of North Head."	P87 is Key Activity 1. Local Development. Environment & Heritage issues are dealt with under Key Activity 5. ENVIRONMENT, which includes Sustainability and Conservation of Natural Resources. Agreed

ATTACHMENT 1

**General Manager's Office Report No. 16
Adoption of the 2005-2008 Management Plan
Matrix of Submissions Received**

Item	Name	Issue	Submission	Comment
		3. Manly Environment Centre 4. Precincts 5. Built Environment 6. Environmental Management System Plans (EMS)	P.39/P.40 Comments that the role of the MEC needs to be strengthened. Also comments on proposed move of MEC to Library. P.13 Comments that statement on what precincts forums may discuss would seem limiting the precincts role. P.118 Seeks clarification on impact of addition of words "resolution" and "conflicts" to Key Activities Statement. P.43 – Asks why word "Reuse" replaced with word "Recycle" <i>existing buildings</i> . (P.?) Comments that EMS started in 1998 but by 2006 will only be 80% complete.	MEC is under Key Activity 5 on p.114. Resolution of MEC is not resolved as a key activity at this time. These are in accord with the Guidelines resolved by Council Resolution = determination, decision conflicts = disagreement, difference of opinion, competing interests. Other initiatives and cultural change in attitude of staff and community, make systems enforceable and regulation a lesser priority.
3	Mr Douglas Robertson	1. Preamble 2. Action Items	<ul style="list-style-type: none"> • Management Plan needs re-work. • Should be issued as Interim Management Plan only. • Address plans to eliminate flooding in south Smith St • Program to fix Manly Lagoon's pollution. 	1 persons opinion Is being addressed, Working Party active on this. Plan is in place and approvals are being obtained for implementation. Fund allocated.

ATTACHMENT 1

**General Manager's Office Report No. 16
Adoption of the 2005-2008 Management Plan
Matrix of Submissions Received**

Item	Name	Issue	Submission	Comment
		3. Manly Environment Centre	<ul style="list-style-type: none"> Re-think of Council Web/ Percentages of users under "Computers and the Internet" does not add to 100%. <p>Comments on planned relocation of MEC. Council should issue a "Statement of Intent" about its objectives and structure. Manly Community Environment Committee voted against \$50,000 recurrent charge to Environment Levy.</p>	<p>Information supplied from 2001 Census and is not meant to add to 100%.</p> <p>Not resolved at this time.</p>
5	Seaforth Chamber of Commerce	Seaforth CBD	Thanks Council for recent upgrades to Seaforth CBD and requests that further funding will be provided for upgrades in the CBD.	<p>No specific allocation for capital upgrade of the Seaforth CBD has been made – Council is now focussing on works in Fairlight Shopping Centre.</p> <p>Will revisit Seaforth in future years. Seaforth TAFE site MAY impact future of centre, need to await resolution on that site.</p>
6	Gail Lynch	Heritage Indigenous & Non-indigenous	P.15 Requests that Council include under "Heritage Indigenous & Non Indigenous" the number of European Architectural & Archaeological Items Council has identified in its LEP.	Will refer to planning staff.

ATTACHMENT 1

**General Manager's Office Report No. 16
Adoption of the 2005-2008 Management Plan
Matrix of Submissions Received**

Item	Name	Issue	Submission	Comment
7	Vince Todd	Allocation for Cycleways	<p>Objects to budget allocation for Cycleways being reduced from \$200,000 to \$60,000 and requests increase in funding.</p> <p>Suggests following bike route projects:</p> <ul style="list-style-type: none"> • East-West Link • Essential Maintenance & Safety – including Marine Pde; Oceanfront; Seaforth & Condamine St; Manly West Park to Burnt Creek Bypass; Kenneth Rd. • Extension to Network – Ocean Beach to Manly Wharf; CBD to North Head via Darley Rd; Hill St – Manly West Public School etc; Kenneth Rd to Passmore Reserve. 	<p>Council has consciously provided an allocation of \$60,000 each year over the previous 3-4 budget cycles for cycleway construction. A further allocation of around \$6,000 is provided for cycleway maintenance. In the 2004/2005 budget, cycleway construction received an additional allocation of \$140,000 as a one-off allocation from Revenue Works Vote.</p> <p>Council has placed an emphasis on improving BASIC Infrastructure this year.</p>
8	Neill Johanson	Bike Funding	Objects to possible reduction in bike funding	As above
9	Rosanagh Gallivan	Bike Funding	Objects to reduction to bike budget	As above
10	Michael McGrath	Funding Bicycle initiatives	Requests retention of bicycle budget	As above

TO: Ordinary Meeting - 20 June 2005
REPORT: Corporate Services Division Report No. 11
SUBJECT: Accounts – Report on Council Investment as at 31 May, 2005.
FILE NO: A2/12

SUMMARY

Latest accounting statements for the period to 31 May, 2005.

1. Statement showing general fund bank account balance as at 31 May, 2005.
2. Cash investments as at 31 May 2005.

REPORT

1. Statement Showing General Fund Bank Account Balance as at 31 May 2005.

Limit of overdraft arranged with bank	\$400,000.00 Dr
Bank Balance as at 31 May, 2005	\$1,640,238.96 Cr

2. Details of Council Investments Pursuant to the Financial Regulation as at 31 May, 2005.

In accordance with clause 16 of the Local Government (Financial Management) Regulation 1999, a report setting out the details of money invested must be presented to Council on a monthly basis.

For the information of Councillors, the following cash investments were held by Council as at 31 May, 2005.

Invest Date	Maturity/ Call date	Institution	Term (Days)	Rate	Amount	Interest
11/10/01	02/08/05	WBC	1391	6.32	1,005,003.08	15,799.99(1)
15/07/02	15/07/07	HSBC	1826	6.43	1,000,000.00	16,083.25(2)
15/08/02	15/07/07	HSBC	1795	6.43	2,008,481.93	32,166.50(2)
30/07/02	12/12/06	Bendigo Bank	1596	7.82	510,200.00	9,779.12(3)
14/10/02	12/12/06	Bendigo Bank	1520	7.82	504,476.45	9,779.12(3)
08/08/02	08/08/07	Bank of Qld	1826	6.97	1,000,000.00	17,424.99(4)
02/09/02	28/09/06	Suncorp Metway	1487	6.75	1,005,210.00	33,750.00(5)
18/02/03	18/02/08	Macquarie Bank	1826	5.75	1,000,000.00	28,750.00(6)
02/04/04	02/04/09	Adelaide Bank	1826	6.81	500,000.00	8,514.63(7)
03/12/04	03/12/09	NM R'child & Son (Aust)	1826	6.78	700,000.00	11,870.77(8)
15/12/04	15/12/09	ACCU	1826	7.01	1,000,000.00	17,533.25(9)
21/05/04	21/05/07	CBA	1095	6.20	719,877.16	44,632.38(10)
12/04/05	11/07/05	Aust Central C/U	90	6.05	1,000,000.00	14,917.81
12/04/05	11/07/05	IMB	90	5.92	1,250,000.00	18,246.58
10/03/05	08/06/05	IMB	90	5.91	1,000,000.00	14,572.60
12/04/05	11/07/05	Bank West	90	5.80	2,000,000.00	28,602.74
26/04/05	26/07/05	Aust Central C/U	91	6.00	1,000,000.00	14,958.90
		IMB	@CALL	5.45	600,000.00	
		CBA	@CALL	5.45	<u>2,150,484.07</u>	
					19,953,732.69	

Corporate Services Division Report No. 11 (Cont'd)

- 1) Interest to 02 August, 2005 only
- 2) Interest to 15 July, 2005 only
- 3) Interest to 12 June, 2005 only
- 4) Interest to 8 August, 2005 only
- 5) Interest to 28 September, 2005 only
- 6) Interest to 18 August, 2005 only
- 7) Interest to 2 July, 2005 only
- 8) Interest to 3 June, 2005 only
- 9) Interest to 15 June, 2005 only
- 10) Interest to 21 May, 2006.

Except for (5), (6) and (10) interest is calculated at a floating rate, fixed for the duration of each subsequent quarter, based on the prevailing interest rates at the quarterly reset date(s).

Investment Performance	Council	Benchmark*	90 day BBSW**
Returns - May 2005 [%pa]:	6.25	5.93	5.68

* benchmark is 90day BBSW plus 0.25%pa

** 90 day BBSW is the average 90 day bank bill rate for the month.

Certification – Responsible Accounting Officer

The Chief Financial Officer hereby certifies that the investments listed above have been made in accordance with Section 625 of the Local Government Act 1993, clause 16 of the Local Government (Financial Management) Regulation 1999 and Council's Investment Policy.

RECOMMENDATION

1. That the statement of General Fund Bank Account balance as at 31 May, 2005 be received and noted.
2. That the certification by the Chief Financial Officer be noted.
3. That details of Council's cash investments as at 31 May, 2005 be received and noted.

ATTACHMENTS

There are no attachments for this report.

OM200605CSD_1.DOC

***** End of Corporate Services Division Report No. 11 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Corporate Services Division Report No. 12
SUBJECT: Mayors' and Councillors' Fees - Determination of Local Government Remuneration Tribunal - 2005/2006
FILE NO:

SUMMARY

1. The Local Government Remuneration Tribunal has completed its annual review of the category of Councils and the fees payable to the Mayor and Councillors.
2. The Tribunal has deferred any decision in regards to changes to the minimum and maximum fees for all Councils in all categories for Councillors and Mayors.
3. It is recommended that Council continue with its current adopted policy and set the Mayor and Councillor Remuneration fees at the maximum level determined by the Tribunal.

REPORT

The Local Government Remuneration Tribunal is required pursuant to the *Local Government Act 1993* to determine the categories of Councils for the purpose of determining fees for each elected person and to report to the Minister by the 1st May of each year on its determination. The Report and Determination of the Local Government Remuneration Tribunal under Sections 239 and 241 of the Act, has now been released, and was Gazetted on 6 May 2005. A copy of the Report is **attached** for information.

Under the Act, the Council must pay the Mayor and each Councillor an annual fee. The fee must be fixed by Council and must be in accordance with the appropriate determination of the Local Government Remuneration Tribunal being equal to or greater than the minimum but not greater than the maximum of the appropriate category. The same fee must be paid to each Councillor.

In undertaking the 2005 review the Tribunal sought submissions from councils and the Local Government and Shires Associations on both the categories of councils and the minimum and maximum level of fees payable to councillors and mayors. This year in particular, the Tribunal indicated its intention to undertake a review of the categories of councils which were initially determined in 1995.

The Minister for Local Government advised the Tribunal that the Department of Local Government was to undertake a review of the expenses policies adopted by councils with a view to guidelines being developed. As the issues surrounding the payment of fees and expenses are related, the Minister requested that the Tribunal defer its review of categories until such time as the Department has completed its review.

Underpinning the category structure developed by the Tribunal is the principle that like sized councils receive comparable fee levels to perform the roles and responsibilities for which they were elected.

Tribunal has deferred making any changes to the categories of councils for 2005/2006, and will continue its investigations with a view to finalising this matter as part of the 2006/2007 annual review process.

Corporate Services Division Report No. 12 (Cont'd)

In the light of the review of the expenses policy the Tribunal has considered the quantum of fees for 2005/2006, and has determined to defer any changes to the fee structure until the results of the Government's inquiry are available.

Manly Council is classified as a Category 2 (Suburban) Council - for which the Tribunal has set the following minimum and maximum fees to apply for 2005/2006 (ie. fees retained at same level as for 2004/2005):

	Minimum	Maximum
Mayor Allowance	\$12,490	\$28,215
Councillors Fees	\$ 5,875	\$12,925

The fee payable to Mayors is in addition to Councillor fees.

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

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

In the event that the Tribunal should reconsider this matter following the review being undertaken by the Department of Local Government, it is recommended that Council resolve as follows:

RECOMMENDATION

1. That the Report be received and noted,
2. That Council reaffirm its previous policy adopted in July 1998 to set the Mayor and Councillor remuneration fees at the maximum level determined by the Local Government Remuneration Tribunal.

ATTACHMENTS

AT-1 Report of the Local Government Remuneration Tribunal 3 page(s)

OM200605CSD_2.DOC

***** End of Corporate Services Division Report No. 12 *****

Corporate Services Division Report No. 12

Mayors' and Councillors' Fees - Determination of Local Government Remuneration Tribunal - 2005/2006

Report of the Local Government Remuneration Tribunal

REPORT:

Pursuant to Section 241 of the *Local Government Act 1993* (the Act) the Local Government Remuneration Tribunal hereby determines the categories for councils, county councils and mayoral officers and the maximum and minimum amount of fees to be paid during the period 1 July 2005 to 30 June 2006 to mayors and councillors of councils as well as chairpersons and members of county councils.

In undertaking the 2005 review the Tribunal sought submissions from councils and the Local Government and Shires Associations on both the categories of councils and the minimum and maximum level of fees payable to councillors and mayors. This year in particular, the Tribunal indicated its intention to undertake a review of the categories of councils which were initially determined in 1995.

The Minister for Local Government, the Hon Tony Kelly MLC, has advised the Tribunal that the Department of Local Government will undertake a review of the expenses policies adopted by councils with a view to guidelines being developed. Councils are currently required, pursuant to section 252 of the Act, to adopt a policy for the payment of expenses to mayors, deputy mayors and other councillors.

As the issues surrounding the payment of fees and expenses are related, the Minister has requested that the Tribunal defer its review of categories until such time as the Department has completed its review. One option being considered is the central regulation of expenses and whether different categories of councils should have variable expense structures.

Underpinning the category structure developed by the Tribunal is the principle that like sized councils receive comparable fee levels to perform the roles and responsibilities for which they were elected.

ATTACHMENT 1

Corporate Services Division Report No. 12

Mayors' and Councillors' Fees - Determination of Local Government Remuneration Tribunal - 2005/2006

Report of the Local Government Remuneration Tribunal

Expenses policies are, under the legislation, a matter for each council. There is no suggestion that this should change. What is at issue, however, is that under the current arrangements expenses policies adopted by councils within the same category may differ significantly in quantum and scope.

The proposed review provides the opportunity for the Tribunal to have regard to the impact, if any, of councils' expense policies on the current category and fee structures.

On this basis, and after consultation with the Assessors, the Tribunal has agreed to defer making any changes to the categories of councils for 2005/2006. In addition, the Tribunal has deferred its decision to visit and meet with councils until the review is complete, which is expected to be later this year. The Tribunal would like to thank those councils and the Associations who provided information in regard to the review of categories. The Tribunal will continue its investigations with a view to finalising this matter as part of the 2006/2007 annual review process. Submissions already received will be considered again at that time.

In the light of the review of the expenses policy the Tribunal has considered the quantum of fees for 2005/2006. It has been determined to defer any changes to the fee structure until the results of the Government's inquiry are available.

Local Government Remuneration Tribunal

(The Honourable Charles L Cullen QC)

Dated: 13 April 2005

ATTACHMENT 1

Corporate Services Division Report No. 12

Mayors' and Councillors' Fees - Determination of Local Government Remuneration Tribunal - 2005/2006

Report of the Local Government Remuneration Tribunal

DETERMINATION OF ANNUAL REMUNERATION FEES FOR COUNCILLORS AND MAYORS

Pursuant to s.241 of the Local Government Act 1993, the annual fees to be paid in each of the categories determined under s.234 to Councillors, Mayors, members and chairpersons of County Councils during the period 1 July 2005 to 30 June 2006 are determined as follows:

	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Category 5	5,875	6,460	6,240	10,615
Category 4	5,875	7,750	6,240	16,920
Category 3	5,875	12,925	12,490	28,215
* Category 2	5,875	12,925	12,490	28,215
Category 1	8,810	16,450	18,730	43,705
Category 1A	11,745	19,385	24,970	56,505
S4	1,175	6,460	2,500	10,615
S3	1,175	3,875	2,500	7,055
S2	11,745	19,385	24,970	56,505
S1	17,625	25,850	107,840	141,900

*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

Local Government Remuneration Tribunal

(The Honourable Charles L Cullen Q.C.)

Dated: 13 April 2005

TO: Ordinary Meeting - 20 June 2005
REPORT: Corporate Services Division Report No. 13
SUBJECT: Special Rate on Take-Away Food Shops
FILE NO:

SUMMARY

Council has asked for a report regarding the establishment of a special levy for take-away food/drink outlets that operate in Manly.

REPORT

Council at its Ordinary Meeting held 21 February 2005 resolved on a Notice of Motion, inter alia, (c) That Council prepare a report regarding the establishment of a special levy for takeaway food/drink outlets that operate within Manly.

S495 of the Local Government Act provides the legal power for Council to make and levy special rates. The section provides that Council may make and levy a special rate on land if the following requirements of the section are fully satisfied:

1. There must be some works, services, facilities or activities provided or undertaken, or proposed to be provided or undertaken, by Council within the whole or any part of Council's local government area (other than domestic waste management services).
2. The rate must be levied with a view to meeting the cost of those works, services, facilities or activities.
3. The rate must and can only be levied on such rateable land as, in Council's opinion (ie reasonable opinion)
 - (a) benefits or will benefit from the works, services, facilities or activities, or
 - (b) contributes or will contribute to the need for the works, services, facilities or activities, or
 - (c) has or will have access to the works, services, facilities or activities.

Council is required to form an "opinion" as to whether the land in question benefits or will benefit from the works, services, facilities or activities, or contributes or will contribute to the need for the works, services, facilities or activities, or has or will have access to the works, services, facilities or activities. The opinion formed must be a reasonable one; for example, if, in forming the required opinion, a council takes into account some irrelevant or extraneous consideration, or otherwise fails to apply the correct legal test, then the courts will hold the required opinion did not exist in law, and the rate would be struck down and declared invalid.

If Council decides to make and levy a special rate on fast food shop premises, there will need to be probative material that can establish that the required opinion is well-founded and reasonable. Adapting and applying the principle enunciated in case law, there will need to be probative material that can demonstrate (and thus support the requisite opinion) that the parcels of land in question will benefit from, contribute to the need for, or otherwise have access to the works, services, facilities or activities in question

It could be argued that waste and litter is generated in any number of ways and that any special rate that exclusively singled out certain premises was arbitrary and discriminatory.

There are also problems in seeking to delineate and define the types of premises in question. For eg. definitions of "fast food shop" and "take-away shop" include the following:

Fast Food Shop Means any premises used for the selling of quick meals including drinks mainly for consumption off the premises.

Corporate Services Division Report No. 13 (Cont'd)

Fast Food shop *Retail premises for the sale, often under franchise, of light, fast cooked food for eating on the premises or taking away.*

Take-away shop *A retail property for the preparation of meals which the customer purchases for consumption off the premises.*

There are differences between these 3 definitions, and each has its own problems and limitations, and capable of challenge on various grounds. For example, are ordinary sandwich shops to be caught as well, in addition to kebab shops, McDonalds, KFC, etc? Further practical difficulties will arise as Council will have to physically identify all "take-away food / drink outlets" throughout Manly in Council's rating data base, wherever they may be situated. A mechanism will need to be set up to identify new applications and delete those that are no longer used for such purposes.

Where "take-away food / drink outlets" are located within larger shopping centres and which might still have street frontage, this will present a problem as the individual shops are not generally separately rated – they are one shop amongst many other retail outlets. Unless the shopping complex is strata titled Council would have to levy the special rate on the whole of the complex.

Because of the inherent problems in defining the types of premises to which the special levy would apply, and establishing that the premises would in fact benefit from, or contribute to the need for, or otherwise have access to the services, etc, for which the rate was levied, in my opinion the rate could be subject to challenge. If Council is minded to pursue the matter then further specialist legal advice would need to be sought.

RECOMMENDATION

That the Report be received and noted

ATTACHMENTS

There are no attachments for this report.

OM200605CSD_3.DOC

***** End of Corporate Services Division Report No. 13 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Corporate Planning and Strategy Division Report No. 30
SUBJECT: Kimbriki Waste Management Facility - Joint Services Committee - Proposed Purchase of Additional Property to Complete Perimeter Buffer Zone
FILE NO:

SUMMARY

Manly and the other SHOROC Councils jointly manage the Kimbriki Waste Management Facility under the auspice of the Joint Services Committee.

Council has, over a period of years, acquired property adjacent to the Waste Facility as a buffer zone and as a "land bank" for the ultimate remediation of the site.

REPORT

The Minutes of the Joint Services Committee meeting held on 19th May, 2005 include a "Confidential" item relating to the proposed reallocation of Kimbriki reserves and the purchase of an additional property to complete the buffer zone around the site.

The funds necessary to purchase the property are generated by way of the Kimbriki Waste Management facility operations and the property will be held in the direct ownership of the Councils in the proportions relative to the Kimbriki Waste Management Formula.

The acquisition of this property will complete the site remediation and buffer zone land holding reserve and pursuant to the recommendation of the Joint Services Committee, Council is requested to approve of this acquisition.

RECOMMENDATION

That Council, pursuant to the recommendation of the Joint Services Committee, agree to the purchase of property number 7 Kimbriki Road, Ingleside, in accordance with the Formula relating to the Kimbriki Waste Management structure and authorise execution of the necessary documentation under the Common Seal of Council.

ATTACHMENTS

There are no attachments for this report.

OM200605CPSD_1.DOC

***** End of Corporate Planning and Strategy Division Report No. 30 *****

TO: Ordinary Meeting - 20 June 2005
REPORT: Environmental Services Division Report No. 29
SUBJECT: 243-259 Pittwater Road, Manly
FILE NO: DA76/05

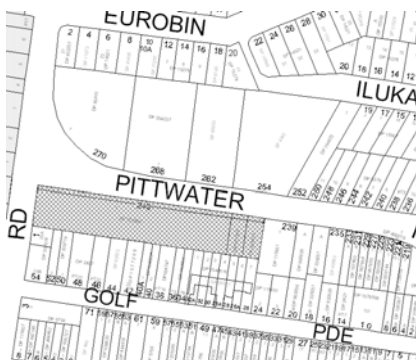
Application Lodged: 31 January, 2005
Applicant: A Sofia
Owner: Dynamic Press Investments Pty Ltd
Estimated Cost: \$100,000
Zoning: Manly Local Environmental Plan, 1988 – Residential
Surrounding Development: Single and Two Storey Dwellings, Multi Storey Residential Flat Buildings and Commercial Buildings
Heritage: The Subject Site is Listed as an Item of Environmental Heritage

SUMMARY

1. DEVELOPMENT CONSENT IS SOUGHT FOR USE OF A LARGE PORTION OF THE FORMER TRAM SHED (PREVIOUSLY USED AS A SELF STORAGE FACILITY) AS A RETAIL FRUIT/VEGETABLE MARKET.
2. THE PROPOSAL WAS ADVERTISED AND NEIGHBOURS NOTIFIED WITH SUBMISSIONS RECEIVED.
3. THE PRECINCT WAS ADVISED AND COMMENTS RECEIVED.
4. FOLLOWING RECEIPT OF SUBMISSIONS THE PLANS WERE FURTHER REFINED AND ADDITIONAL INFORMATION SUBMITTED.
5. THE APPLICATION IS RECOMMENDED FOR APPROVAL BY THE DEVELOPMENT CONTROL UNIT.
6. THE APPLICATION IS PRESENTED TO THE LAND USE MEETING AT THE REQUEST OF COUNCILLORS PEDERSEN AND NOREK.
7. DUE TO AN ADMINISTRATIVE ERROR THE APPLICATION WAS ONLY RECENTLY REFERRED TO THE RTA, DELAYING REPORTING OF THE APPLICATION TO COUNCIL'S JUNE LAND USE MANAGEMENT COMMITTEE MEETING. RTA COMMENTS HAVE NOW BEEN RECEIVED AND IN VIEW OF THE DELAY THE APPLICATION IS NOW PRESENTED TO THE COUNCIL'S JUNE ORDINARY MEETING.
8. APPROVAL OF THE APPLICATION IS RECOMMENDED SUBJECT TO DETAILED CONDITIONS.

LOCALITY PLAN

Shaded area is subject land.



Environmental Services Division Report No. 29 (Cont'd)**REPORT****Introduction**

This is a proposal for a change of use of approximately two thirds of the Heritage listed former Tram Depot from a self storage facility to a fruit/vegetable market. The building will contain 580.5 square metres of retail area, three cool rooms, storage and packing area. A plant area is proposed above the storage and packing area away from the boundary with residential properties.

The portion of the site allocated to this use will also have uncovered on site parking for 42 vehicles. This parking will include two spaces for disabled customers adjacent to the retail entry and 10 located at the rear of the site for staff. New landscaping is proposed between the car parking and the rear boundary and a new 1.8 metre high timber acoustic wall/fence is proposed along this boundary on the portion of the site that does not contain the existing brick wall. A loading bay facility is proposed to the east of the existing building adjacent to the storage packing and cool room area with dimensions of 4.2 by 8.8 metres and with driveways 6.7 metres wide will allow delivery trucks to enter and exit the site and a forward direction.

The proposed hours of operation of the retail use are 8.00am to 6.00 p.m., seven days a week. The hours that staff will be on site will be 7 a.m. to 7 p.m..

Development Control Plan Numerical Assessment

This is a proposal to carry out development under the existing use right provisions of the Environmental Planning and Assessment Act and Regulations and as such the Development Control Plan for the Residential Zone does not apply. Council must consider the application based on its merit and in terms of section 79 C. of the Environmental Planning and Assessment Act 1979

Applicant's Supporting Statement

In support of the proposal the applicant submitted a detailed statement of environmental effects. Appended to this statement is a report by Wilkinson Murray acoustical consultants concerning the proposed acoustic wall between the proposed car park and the adjacent residential properties, a report from Hones Lawyers Solicitors and Barristers concerning existing use rights and copies of old consents issued by Council in relation to the question of establishing existing use rights. The applicant also submitted an environmental investigation in relation to State Environmental Planning Policy number 55 as a previous use of part of the total site was a service station.

As a result of the submissions received the applicants consultant submitted a report responding to points made in the submissions and amended plans were also submitted to Council showing the internal configuration and cross sections. A traffic and parking report by Ray Dowsett Traffic and Transport Planning was also submitted. A further acoustic report was submitted relating to the proposed internal operation of the equipment associated with the business within the building. The consultant also submitted a statement of Heritage impact in response to questions raised by Councils Heritage Planner. The applicants consultant, also referred to the extensive community support for the proposal in its new location and appended the petition submitted with the previous development application in favour of the application "signed by about 1773 shoppers, of which 90.5% are Manly LGA residents".

Submissions

In general the grounds for objection raised the following points.

- The applicant has not adequately demonstrated that the subject site benefits from existing use rights.

Environmental Services Division Report No. 29 (Cont'd)

- A lawful continuance of the use has not been demonstrated.
- The proposed use for retail purposes on a grand scale is inappropriate and may undermine the intent of the retail hierarchy as established by the Manly LEP.
- The use operating seven days a week is inappropriate, given the proximity of the residential properties to the south.
- The application is insufficient in detail pertaining to the Existing uses on site, the provision of internal layouts and site planning the provision of loading facilities, the provision of landscaping and consideration of impacts generally.
- The applicant should be refused based on the above and a review commenced to determine the admissibility of uses and the extent of compliance on site, so as to appropriately protect the residential neighbourhood.
- Such a style and scale of business will detract from the residential needs of the area and will kill business for the existing small shop owners and dramatically change the locality.
- The business is unnecessary considering people who buy in bulk, are serviced by Harbord Growers.
- The increasing customer traffic and deliveries will affect the area dramatically.
- The proposal will bring added smells rodents and noise to the surrounding homes.
- The visual pollution of luminous signage will detract from Council plans to improve the visual aspect of the area.
- This is a slight modification of the one Council rejected in November 2004. The modifications in no way overcome the problems highlighted. The local community didn't want it and they still don't want it
- The increased traffic and dangers this development would cause. This is already a very busy and congested, stretch of this Road.
- The site has residential zoning and it is my understanding is that it should revert to this when the present business ceased to operate.
- The noise generated by the running of the fruit market including traffic , delivery trucks , garbage removal , operating of machinery forklifts and coolers will cause disturbance to residents.
- This area is already subject to a high level of traffic and associated noise.
- The proposal will result in adverse impacts on adjoining residential properties in terms of noise including refrigeration motors and fans working 24 hours a day-
- We object to the traffic volume inadequate provision for parking of motor vehicles and have pedestrian safety concerns.
- The proposal will cause prejudice to existing retail and service providers within the local North Steyne shopping precinct.
- The development application does not represent the desired future development for the site.
- This business will be running for very long hours seven days a week and the noise generated would be unacceptable to locals giving them no respite
- Other fruit market retail outlets serve up to 15,000 customers a week most use their cars to do their shopping trips. This will be a significant traffic generator and insufficient car parking spaces are provided.
- This section of Pittwater Road already has a history of accidents a wider road and greater sight distances would be necessary. This part of Pittwater Road will become more congested and lead to use neighbouring streets to bypass the congestion. Eurobin Avenue and Collingwood Street are currently unsafe for children using these roads.
- We already experienced problems with motorists parking across our driveway to attend the motor registry the proposal will add to this problem.
- We are concerned with traffic congestion on Pittwater Road and the large roundabout to the West.
- It will have an adverse impact on existing businesses and shops in the Manly CBD the local North Steyne village and Harbord shops.

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- The site should be redeveloped appropriate to residential development at the Gateway to Manly.
- A traffic and parking study carried out by an independent qualified consultant to assess the impact of the development on the area should be required.
- The area of the subject site intended to be used by the proposed fruit market is currently used by storage plus. The applicant has not provided a copy of any development consent given by Council to allow the use of the site by storage plus business. If this is operating illegally this would amount to a partial abandonment of existing use rights in relation to the part of the site used by storage plus.
- A full traffic management study needs to be undertaken by an independent traffic engineer appointed by Council and paid for by the applicant to not only determine the parking spaces that need to be provided but also assess traffic congestion effects on the area as a whole.
- Council is required to assess the application having regard to the heads of consideration referred to in section 79 C. of the act
- The statement of environmental effects needs to carefully consider the potential for adverse impacts on the amenity of adjoining residents as well as matters associated with the use of a heritage item and traffic impacts.
- Insufficient consideration has been given to the impact of the proposed development on the adjoining residential area.
- There is no information provided as to how the proposed development relates to the existing used Car yard, and any approvals previously given by Council, particularly having regard to the use of land car parking and traffic ingress and egress.
- There is no detailed assessment of the proposed development on the Heritage item as is required by clauses 18 and 19 of the LEP
- Due to the size of the fruit market there will be large trucks delivering at all hours during the night and early-morning
- The acoustic fence according to the plan is lap and cap we do not feel this will have the acoustic affect required.
- We need Council to take a long term view of the site as it is the Gateway to Manly. It has a unique heritage tram shed that could be transformed with low rise residential housing to something that makes and neighbourhood amenity fantastic.
- This amended DA utilises the existing building, which addresses some of the objections of the previous DA concerning setbacks and overshadowing however, other issues such as traffic and noise have not been addressed. In fact, the increased number of parking spaces indicates a significantly increased scale of operations.
- The environmental planning and assessment regulation does not say that additional non-conforming land-use can be added to an existing land-use.
- A contamination report and analysis should be provided.
- The proposal offers nothing by way of the improvement to streetscape. There is no landscaping proposed even though this was a condition of consent of the car sales outlet.

Following receipt of the additional information responding to objections, the Lawyers for the objectors, made an additional submission which is appended.

Precinct Community Forum Comments

The application was debated at the Ocean Beach Precinct Community Forum meeting of the 8th March 2005 where it was resolved.

That the precinct opposes the development for the reasons listed below (from its previous objection for the DA for this site to become a fruit market) and that a Masterplan is commissioned to provide for a Gateway to Manly, incorporating residential use as per the current zoning.

Moved: Tony Sattler, seconded Peter Armstrong.

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Result: Passed. 9 in favour 2 abstained.

The precinct opposed the development due to

- No rear setback.
- Overshadowing.
- Hours of operation.
- Intensification of use.
- Noise.
- Health issues including rats and odours.
- Trolley pollution.
- Traffic generation and parking issues.
- Loss of trees.
- Non-compliance with use i.e. should be residential if current use is abandoned.
- Inappropriate new building.

Health Comments

No objection to the application subject to conditions.

Engineers Comments

No objections to the development subject to conditions.

Building Comments

No objections to the proposed class 6 shop requiring type C construction in accordance with the BCA subject to conditions.

Traffic Engineers Comments

The site is located off a 'State' road for which the RTA is the Roads Authority. On this basis, the matter will need to be referred to them for their comments. However, prior to referring the matter to the RTA the applicant should be requested to provide additional information to clarify the issues below.

- I consider that the information provided on traffic generation rates and parking rates inappropriate. The document states that traffic generation rates have been obtained from the R.T.A. Guide to Traffic Generated Developments. Both the traffic generation rates and parking rates used are for office and commercial developments. This is incompatible with the proposed fruit market development.
- I wish to highlight that Council's DCP is more appropriate to determine parking rates this matter is up to the relevant town planner to determine.
- There is no assessment of impacts that the traffic will have on Pittwater Road traffic flow. This may be required by the RTA.

Roads and Traffic Authority Comment

The development is on Pittwater Road, a Main Road and the previous application was referred to the Roads and Traffic Authority and Council received the following comment.

"The RTA has assessed the development application and raises no objections as the proposed development will have minimal impact on the classified road network in the vicinity"

The subject application as well as the recent traffic report was referred to the RTA, who have advised of comments for consideration in its determination of the application.

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1. Suitable provision should be made on-site for all construction vehicles (in-relation to the fit-out of the shop) to alleviate any need to park on Pittwater Road.
2. The layout of the car parking areas associated with the subject development (including grades, aisle widths, turn paths, sight distance requirements, and parking bay dimensions) should, be in accordance with AS 2890.1-2004 and AS 2890.2— 2002 for loading areas.
3. Council is to give appropriate consideration to the proposed acoustic wall as described within the Statement of Environmental Effects,
4. All vehicles are to enter and exit in a forward direction.
5. All work associated with the development shall be at no cost to the RTA.

Heritage Comments*Proposal:*

To convert the south eastern portion of the original tram shed building located on the south western section of the total site for use as a retail fruit market. It is noted that the remainder of the tram shed (south western portion) is to continue as a car sales yard, as is the remaining south eastern portion of the site and existing buildings.

The middle portion of the site (between the tram shed and old service station (1960s canopy) is to be used for an open car parking area. The rear (southern boundary) of the site behind the car parking is to contain an existing 1.8m high brick wall and a new timber lapped and capped fence to a maximum height of 2.1m.

Internally it is proposed to construct a new retail area comprising of:

-“metal clad insulating panels for walls and ceilings and sealed at junctions to make vermin proof.”
- 3 cool rooms to be built involving: “existing floor to be filled with concrete where required”; “remove existing brick and stud walls in end section” for cool room 1; “plant on platform over with acoustic attenuation to engineers design.” No sections or elevations provided showing this detail.

No external changes are proposed to the old tram shed building or setting except for the open car parking spaces.

No signage or change to colour scheme has been proposed in this application.

Heritage Item:

The subject site is listed as a heritage item under Schedule 4 of the Manly LEP 1988 and is within the Pittwater Road Conservation Area. Clauses 18 and 19 of the Manly LEP are relevant to this application.

Comments:

The proposed new metal wall (600mm and 900mm in from existing brick walls) and roof (2.5 m below existing) internally are considered acceptable subject to them being removable/reversible to enable the original open and industrial use being returned at any future time.

It is noted that the existing openings on the northern side of the proposed new retail area (north eastern end) are to be retained, and no new openings are proposed on the exterior of the existing building.

Any new fixing of the new wall and ceiling to the original building are to be done in a manner which does not significantly damage or affect the structural stability/integrity of the building and such works are reversible. Details of the manner of fixing are required prior to issue of construction certificate.

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A site inspection of the visible brick and stud walls revealed that they are not structural (ie do not extend past the timber mezzanine above) The removal of existing internal brick walls after photographic documentation is not objected to for the accommodation of the proposed cool room 1.

The timber mezzanine is proposed to be retained and this approach is supported. The timber stairs are proposed to be removed. However, as they are potentially part of the original structure, it is required that these stairs be retained unless the applicant can provide historical evidence to the contrary. The applicant has not done this and as such it is recommended that the stairs be retained in situ.

Signage and colour scheme of this site is important and any proposals for such require a separate application.

Conditions

1. An archival quality photographic record is to be made of the building (internally and externally) in accordance with the relevant guidelines of the NSW Heritage Office and submitted to Council **prior to issue of the construction certificate**. The archive material is to include a copy of the development application plans and is to include a copy of the existing floor plan and elevations (A4 size). The photographs are to be in black and white and colour and referenced to the plans of the existing. Two copies of the photographic record and the black and white negatives are to be submitted in an A4 format and when received will be lodged with the Manly Local Studies Library.
2. Works are not to damage the original building (brick walls or existing roof). Any new fixing(s) of the new wall and ceiling to the original building are to be done in a manner which does not damage or affect the structural stability/integrity of the building and such works are reversible.
3. Any new external colour scheme is to be the subject of a separate development application to Council.
4. Any new signage is to be the subject of a separate development application to Council.

Planning Comments

This is an application that relies upon the existing use rights provisions in the Environmental Planning and Assessment Act and Regulations in order to allow a nonconforming use on this residential zoned land. A number of objections pointed out that the applicant had not demonstrated that the subject site has the benefit of existing use rights however, since that time, the applicant has supplied the most recent consent for the tram shed being a consent for Storage Plus Manly Pty Ltd to use the majority of the tram shed building, as well as outdoor parking area for a self-storage warehouse. One of the objections has made the point that the Environmental Planning and Assessment Regulations do not say that an additional nonconforming land-use can be added to an existing land-use. With this application it is a new use taking over from a previously approved use of a portion of the site with only minor adjustments and not an additional new use so that this criticism is not correct.

Part of the total site was previously used as a service station, and as such the requirements of State Environmental Planning Policy number 55 were examined. The applicant submitted a detailed report from A.D.Envirotech Australia, Pty Ltd in relation to the previous development application for use of part of the site including the service station which amounts to a preliminary investigation of the site. This report came to the conclusions that.

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- There is no evidence to indicate subsurface contamination on the subject site with regard to petroleum hydrocarbons, benzene, toluene, ethyl-benzene, xylene, lead, polyaromatic hydrocarbons and phenols,
- The subject site is suitable for commercial/residential development.

In the light of this report and the fact that this change of use does not involve excavation of the site the application raises no town planning concerns in relation to site contamination. Health Section have raised no objection to the proposed new use of the site and that the tramshed has already had a new concrete slab provided as part of the previous use.

Council has received a number of submissions concerning traffic aspects of the development and the potential danger as a result of the proposed development. In response to issues raised the applicant submitted a detailed report by Ray Dowsett Traffic and Transport Planning Pty Ltd. This report, including the results of traffic surveys in the area and has a summary of the traffic accidents for the Pittwater Road Balgowlah Road roundabout.

The report analysed the positions of driveways to be used by the proposal and came to the conclusion that the existing driveways will be more than adequate to serve the proposed development and will provide a safe and efficient movement of vehicles between the site and Pittwater Road. The consultants looked at car parking generation and using the Roads and Traffic Authority Guide to Traffic Generating Developments and came to the conclusion that the total car park requirement would be 38 spaces, where 42 were proposed. In this regard, they concluded that the car parking provision and layout conforms to the relevant design and numerical standards. The report also pointed out that all manoeuvring areas have been examined using the appropriate car and truck turning path templates, ensuring that all vehicles will be able to enter and leave the site in a forward direction. They then examined traffic generation rates and came to the conclusion that the proposal would generate approximately 139 peak hour vehicle trips in the weekday PM. These figures were then included in the traffic flows of the roundabout, and it was concluded that the additional traffic generated would not be noticeable against the background traffic flows on Pittwater Road, the surrounding road system and will not adversely impact on the operational efficiency of the Pittwater Road/ Balgowlah Road roundabout.

A copy of this report has also been sent to the roads and traffic authority. It is considered that this report uses the appropriate figures and standards and can be relied upon by Council as an accurate assessment of the impact of the development. It should be noted that the comment by Council's Traffic Engineer quoted by Sattler & Associates referred to the applicants town planning report and not the applicants engineers report. In conclusion it can be seen that the proposal would not have an adverse effect on the existing road system or the nearby roundabout and that there is adequate provision for parking and manoeuvring of vehicles on site.

A review of Council files shows that there is a continuity of consents going back before the Manly Planning Scheme to the Cumberland Planning Scheme.

This is a proposal to be considered under the existing use right provisions. With the consideration of any such application Council must look at the merits of the proposal and cannot use the Objectives of the Residential Zone or the Development Control Plan for the Residential Zone as a way of limiting consideration of such an application. The existing use rights provisions in the Environmental Planning and Assessment Act and Regulations are incorporated provisions in the Manly LEP and a Development Control Plan cannot be used to derogate from the incorporated provisions to limit the existing use rights. In this regard the proposition put forward by the objectors solicitor that Council cannot consider an additional nonconforming land-use is contrary to the application, which is one of replacing one nonconforming use with another. The applicant's solicitors Hones Lawyers, Solicitors and Barristers have responded to this objection to the previous application and this letter is available on file. They come to the conclusion that it is not open to Council to refuse our clients development application on the basis of a non conformity with Council's planning controls.

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Council also received a number of submissions in relation to the potential noise disturbance caused by the business. With the original application was submitted an acoustic report outlining additional fencing with the provision of a lap and cap fence across the rear of the site in order to contain the noise of the car parking area. An objector has raised exception with this suggestion however Council must rely upon the expertise of an acoustic consultant rather than the opinion of the objector and accept that a lap and cap fence is appropriate in this position. It is further noted that the car parking adjacent to this fence is for staff and not customers thus keeping the majority of the vehicle movements away from the neighbours.

The applicant submitted a further acoustic report by Wilkinson Murray Acoustical Consultants dealing with internal equipment including refrigeration plant and possible future air-conditioning plant contained within the building. It should be noted that the amended plans locate the plant further away from the common boundary with the residential properties, so that it can be effectively screened in order to avoid noise disturbance. The report concluded that a detailed assessment of mechanical noise is not required for the development since the refrigeration and air-conditioning plant are installed inside the building. The report has also concluded that the operation of refrigeration and air conditioning plant simultaneously will comply with the appropriate noise criterion for trading hours and operation of the refrigeration plant alone will comply with appropriate criterion for 24-hour operation. It is noted that the application does not include air-conditioning plant at this stage however the refrigeration plant can be operating 24 hours and can comply with the 35 dBA noise criterion established as being appropriate for this locality starting with the background noise level recommended by the New South Wales industrial noise policy of 30 dBA. With this application it is proposed to build a second wall between 600 millimetres and 900 millimetres inside the wall of the heritage listed tram shed so that this double wall, will materially assist in reducing any noise impact on the adjacent neighbouring properties. The applicant has attempted to avoid adverse impact on the neighbours as well as prevent any damage to the heritage listed building.

The concern has been raised that the hours of opening are between 8.00am and 6.00 p.m., seven days a week and a staff will be on site from 7 a.m. to 7 p.m.. The objectors raise the issue that there will be extended operations, both before and after these time slots. In this regard conditions of consent would be placed on the application in order to ensure that this does not happen and that the applicant carries out their operation in accordance with the application. The applicants have advised that deliveries cannot be made until after 10 a.m. because the Flemington (supply) markets do not open until 6 a.m. and that it takes about three hours to enter load and exit and an additional 1.5 hours to travel to Manly.

Objection has been raised as to the potential hazards of smells, rodents and noise etc to the surrounding homes in relation to the proposed operation. The consultant has pointed to the existing condition of the totem fruit market and the fact that because they do not operate on public holidays and have limited trading hours and have a contract with a pest controller to treat their premises every four months the potential problems of markets that operate on a continuous basis do not apply to this proposal.

Concern was raised as to visual pollution caused by signage however, it must be noted that no signage has been applied for in the current application and that this would be subject to a separate application to Council. This aspect is further limited by the fact that the building is heritage listed and only limited signage, would be possible.

In reference to section 79 C of the Environmental Planning and Assessment Act the proposal is permissible under the existing use provisions contained in the Environment Planning and Assessment Act 1979 and the Environment Planning and Assessment Regulations 2000. In relation to the likely impacts of the development it is considered that this proposal has evolved having regard to the objections raised by both residents and Council to the initial development application on the subject site, and has now placed the fruit market inside the heritage listed

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building thereby overcoming the criticisms of potential noise impact on nearby residential properties. In relation to the impact on the built environment it is noted that the car parking activity will make use of part of the site that was previously occupied by parked vehicles as well as vehicles for sale, and that there will be very little change to the appearance of the development. A condition of consent has been included in the Recommendation to provide additional landscaping thereby softening the impact of the proposal on the locality.

A number of objectors have raised the concern of the economic impact of this development on other surrounding businesses both on nearby in Pittwater Road and Manly and as far away as Harbord and Dee Why however, it must be remembered that this application is for relocation of an existing business that is operating in the Totem shopping centre.

Criticism has been made that reports submitted by the applicant are not independent, however, they have been prepared by professionals and are considered acceptable.

It is considered that this large parcel of land is suited to this type of operation in that it is located on a straight stretch of road with sufficient sight distances from the bend in the road as well as the roundabout in order to ensure safety of operation. The site has sufficient space for the parking of vehicles associated with the use and the car park design and layout complies with the relevant standards. By placing the proposed fruit market and cool storage facilities within the heritage listed building it is considered that the previous matters of concern have now been overcome, and that the amenity of the residential properties would be maintained. It is considered that by providing a second wall inside the heritage listed building that the heritage nature of the building will be preserved, and that this is in the public interest and should be supported.

CONCLUSION:

The application has been considered in terms of the Manly LEP 1988 and the Environmental Planning and Assessment Act 1979 and Regulations. It is considered that with suitable conditions the proposal can be recommended favourably.

RECOMMENDATION

That development application 76/05 for alterations to the interior of the building and change of use of part of the site and building to a fruit/vegetable market at 243 to 259 Pittwater Rd. Manly be approved subject to the following conditions:

1. This approval relates to drawings/plans Nos. BA32-00 and B32-01 dated 27 January, 2005 and received by Council 31 January, 2005 and B32-02 Issue A and B32-03 dated 24 February, 2005 and received by Council 5 April, 2005.
2. The operation of any plant or equipment shall not cause an offensive noise to be created. Offensive noise is defined in the Protection of the Environment Operations Act 1997.
3. An archival quality photographic record is to be made of the building (internally and externally) in accordance with the relevant guidelines of the NSW Heritage Office and submitted to Council **prior to the issue of the Construction Certificate**. The archive material is to include a copy of the development application plans and is to include a copy of the existing floor plan and elevations (A4 size). The photographs are to be in black and white and colour and referenced to the plans of the existing. Two copies of the photographic record and the black and white negatives are to be submitted in an A4 format and when received will be lodged with the Manly Local Studies Library.

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4. Works are not to damage the original building (brick walls or existing roof). Any new fixing(s) of the new wall and ceiling to the original building are to be done in a manner which does not damage or affect the structural stability/integrity of the building and such works are reversible.
5. Any new external colour scheme is to be the subject of a separate development application to Council.
6. Additional landscaping is to be provided on site by deletion of one space in each row of parking ie 1-15, 16-25 and 28-40. Additional landscape modules of 1.25m wide are to be provided at each end of rows 16-25, 28-40. Parking space Number 15 and the adjacent area to the west is to be landscaped to soften the impact of the activities on the adjoining properties. The plans are to be detailed with plant species size and height at maturity to ensure landscaping in scale with the development **prior to the issue of the Construction Certificate.**
7. The existing timber mezzanine and timber access stairs are to be retained. Amended plans reflecting this requirement are required to be submitted **prior to any demolition works and issue of the Construction Certificate.**
8. The development shall be provided with access and facilities for people with disabilities in accordance with Australian Standard 1428.2-1992 Design for Access and Mobility Part 2: Enhanced and additional Requirements (AS1428.2).
9. 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 \$5,000. 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.**
10. Pedestrian access, including disabled and pram access, is to be maintained throughout the course of the construction as per Australian Standard AS 1742.3, "Part 3 - Traffic control devices for works on roads".
11. Separate application shall be made to Council's Infrastructure Division for approval to complete, to Council's standards and specifications, works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property. Applicant to notify Council at least 48 hrs before commencement of works to allow Council to supervise/inspect works.
12. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council/Accredited Certifier **prior to issue of the Construction Certificate.**
13. 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.
14. No person shall use or occupy the building or alteration which is the subject of this approval without the **prior issue of an Occupation Certificate.**

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15. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

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

16. 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.
17. 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 Council/Accredited Certifier **prior to the issue of the Construction Certificate**.
18. 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.
19. The implementation of adequate care during demolition/ building to ensure that no damage is caused to any adjoining properties.
20. 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.
21. Four (4) copies of Architectural Drawings consistent with the development consent and associated specifications are to be submitted to Council/Accredited Certifier **prior to the issue of the Construction Certificate**.
22. The dimension of carparking by and aisle widths in the carpark are to be as set out in the vehicular parking standards for Manly Council.
23. Adequate provision shall at all times be made on the land for the parking of motor vehicles associated with the use of the land.
24. Loading and unloading of vehicles and delivery of goods to the land shall at all times be carried out within the site. The area set aside for carparking as shown on the approved plan shall be used for the parking of vehicles and for no other purpose. Any loading or unloading of materials of potential environmental damage must be appropriately bunded with adequate spill response equipment in place to ensure nil runoff from the site.
25. All driveways, carparking areas and pedestrian paths shall be surfaced and sealed. Details of treatment to these areas shall be submitted to the Council/Accredited Certifier **prior to issue of the Construction Certificate**.
26. An approved water interceptor shall be provided across the driveway at the street boundary and all stormwaters shall be conveyed by underground pipe to Council's street gutter to the satisfaction of the Principal Certifying Authority.

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27. The use at all times shall be conducted so that no odours or other air impurities are detectable beyond the boundaries of the premises.
28. All work involving lead paint removal must not cause lead contamination of the air or ground.
29. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
30. All demolition is to be carried out in accordance with AS2601-2001.
31. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
32. 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.

33. The building being erected in Type C construction for a Class 6 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
34. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
35. The construction, fit-out and finishing of the premises shall comply with: Australian Standard AS 4674-2004 (Design, construction and fit-out of Food Premises), the Food Act 2003, Food Regulation 2004 and the Food Standards Code
36. The walls of the food preparation area shall be constructed of approved solid material finished with glazed tiles or other rigid, smooth-faced, impervious material to the satisfaction of the Group Manager, Land Use Management, evenly laid to a height of at least 2 metres above floor level and to the underside of the hoods and coved to a minimum radius of 25mm at the intersections with the floor.
37. The walls above bench tops, hand basin and similar fittings shall be finished with glazed tiles or similar approved materials to a height of 450mm above the fittings.da184
38. The floor of the food preparation area shall be graded and drained to an approved floor waste directly connected to the sewer.
39. The ceiling light fittings shall be installed flush with the ceiling surface or provided with an approved diffuser cover to prevent the accumulation of dust or the harbourage of vermin.
40. The walls of rooms used for the storage of food enclosed in hermetically sealed containers, dry packaged goods, vegetables, cleaning materials and equipment shall be of solid construction finished with an approved impervious material.
41. All service pipes including electrical conduits, and refrigeration condensate pipes shall be chased into walls, floor or plinths.

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42. Where it is not possible or permitted to conceal service pipes, they are to be fixed on brackets so as to provide at least 25mm clearance between the pipe and adjacent vertical surface and 100mm between the pipe and adjacent horizontal surfaces.
43. The internal surfaces of the cool/freezer room(s) shall be coved at all angles.
44. The concrete floor(s) of the cool room(s) shall be at least 75mm thick, graded to the doorway, coved at the intersections with the walls finished so as to be impervious to liquids.
45. The floor of the coolroom shall be graded to the door with floor gully located outside the coolroom as near to the door opening as practicable.
46. The door(s) of the coolroom(s) shall be openable at all times from the inside without the use of a key.
47. An approved audible alarm device(s) shall be located outside the coolroom(s) but controllable only from within the coolroom(s).
48. All proposed shelving in the coolroom shall be free-standing, constructed of approved material and treated to prevent corrosion with the lowest 150mm clear of the floor.
49. The coolroom(s) shall operate so that all food capable of supporting rapid bacterial growth is kept cold at a temperature of not more than 5 degrees Celsius with the coolroom being provided with a numerically scaled thermometer or recording thermometer accurate to the nearest degree Celsius and able to be easily read from the room outside.
50. Provision shall be made for the conveying of all refrigeration condensates to approved drainage fittings.
51. All fittings, where abutting walls or other fittings, shall be sealed in such a manner as to prevent the accumulation of food and access for vermin.
52. The cupboards and similar fittings shall be placed on solid plinths 75mm in height, finished to a smooth even surface, recessed under fittings to provide a toe space of not more than 50mm and coved to a radius of 25mm at the intersection with the walls and floor.
53. A hand basin with a common spout is to be provided within the premises in the storage and food preparation area with a supply of hot and cold water under pressure.
54. A cleaner's sink shall be provided in a room or space away from any food preparation area.
55. Adequate facilities shall be made available for the storage of cleaning equipment and material.
56. A garbage room or garbage receptacle storage area shall be provided within the site in an approved position constructed in accordance with the requirements of Council.
57. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
58. A landscaped buffer being provided along the rear of carpark side/frontage of the development/site so as to screen/reduce the visual impact of the development. Details are to be submitted to Council/Accredited Certifier **prior to the issue of the Construction Certificate.**

Environmental Services Division Report No. 29 (Cont'd)

59. All lights used to illuminate the exterior of the buildings or site shall be positioned and/or fitted with cut off luminaries (baffles) so as to prevent the emission of direct light onto adjoining roadways and land.
60. A sediment/erosion control plan for the site shall be submitted for approval to the Council/Accredited Certifier **prior to the issue of the Construction Certificate**. Implementation of the scheme shall be completed prior to commencement of any works on the site and maintained until completion of the development.
61. A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier **prior to any building works being carried out on site**.
62. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development**.
63. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.**

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

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

64. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
65. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available to Council officers on request.
66. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.
67. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
68. Drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
69. 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.
70. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
71. 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.

Environmental Services Division Report No. 29 (Cont'd)

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.

72. No external sound amplification equipment or loud speakers shall be used for the announcement, broadcast, playing of music or similar purposes.

73. 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.

74. The operations of mechanical services are not to give rise to an offensive noise within the meaning of the Protection of the Environment Operations Act 1997.

75. The hours of operation of the premises shall not exceed 8am to 6pm, 7 days a week for the shop hours and 7am – 7pm total hours staff are on site **without the prior approval of Council**.

76. Development consent of Council shall be obtained for any new advertising structure prior to erection.

77. No sandwich boards or the like are to be placed external to the building without the prior approval of Council.

78. Suitable provision should be made on-site for all construction vehicles (in-relation to the fit-out of the shop) to alleviate any need to park on Pittwater Road.

79. The layout of the car parking areas associated with the subject development (including grades, aisle widths, turn paths, sight distance requirements, and parking bay dimensions) should, be in accordance with AS 2890.1-2004 and AS 2890.2— 2002 for loading areas.

80. All vehicles are to enter and exit in a forward direction.

81. All work associated with the development shall be at no cost to the RTA or any other public authority.

82. 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.

ATTACHMENTS

AT-1 Submission from Objectors Lawyer - Sattler & Associates 4 page(s)

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***** End of Environmental Services Division Report No. 29 *****

ATTACHMENT 1

Environmental Services Division Report No. 29
243-259 Pittwater Road, Manly
Submission from Objectors Lawyer - Sattler & Associates

From: 88142107 Page: 2/2 Date: 6/7/2005 6:21:25 PM



CAC 2004-5013 (Part 2)

Andrew Popoff

General Manager
Manly Council
DX 9205
MANLY

Attention: Hugh Watson

**PROPOSED CHANGE OF USE TO FRUIT / VEGETABLE MARKET AT 243-259
PITTWATER ROAD, MANLY.**

Dear Hugh,

I refer to your letter dated 16 May 2005 (Council Reference: DA 76/05) with regard to the subject development application, which was referred to the Roads and Traffic Authority (RTA) under the provisions of Schedule No 2 of State Environmental Planning Policy No 11 (SEPP 11).

The RTA has assessed the proposed development and provides the following comments to Council for consideration in its determination of the development application.

1. Suitable provision should be made on-site for all construction vehicles (in-relation to the fit-out of the shop) to alleviate any need to park on Pittwater Road.
2. The layout of the car parking areas associated with the subject development (including grades, aisle widths, turn paths, sight distance requirements, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2 – 2002 for loading areas.
3. Council is to give appropriate consideration to the proposed acoustic wall as described within the Statement of Environmental Effects.
4. All vehicles are to enter and exit in a forward direction.
5. All work associated with the development shall be at no cost to the RTA.

Please refer all the enquiries regarding this development application to the RTA's Development Assessment Officer, Andrew Popoff on (02) 8814 2180 or facsimile (02) 8814 2107.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Gavazzi'.

Adriana Gavazzi
Traffic and Development Assessment Manager
Operations & Services Directorate

7 June 2005

Roads and Traffic Authority
ABN 64 480 155 255

CAC 2004-5013pt2.doc



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TO: Ordinary Meeting - 20 June 2005
REPORT: Environmental Services Division Report No. 30
SUBJECT: Honorary Rangers
FILE NO:

SUMMARY

This report outlines the duties and responsibilities to appointment Honorary Rangers for the Manly Local Government Area.

REPORT

Council currently administers some 70 public reserves, which consists of parks, ovals, bushland and reserves, consisting of approximately 100 hectares in all areas of the Manly Local Government Area. There are a number of areas that Honorary Rangers can assist in administering, including dog management, litter management, and management of open areas of public land. Consequently, the assistance given by Honorary Rangers assisting to manage and educate the community is invaluable.

Council **may** appoint Honorary Rangers to assist in the care and supervision of nominated reserves, other public land and advice to the general community on such matters as dog control and litter. Honorary Rangers are appointed by delegated authority by Council pursuant to section 377 of the *Local Government Act 1993* (the Act) and its Regulations to carry out their duties. Primarily, an Honorary Ranger's duties are twofold, firstly to inform and educate the community on the relevant legislation and controls and secondly, to observe and report persons committing breaches of the Act and Regulations.

Honorary Rangers **must NOT** take any physical action in restraining persons from committing breaches of the Act.

Duties:

The principle duty of an Honorary Ranger is to assist Council within the bounds of their appointment in the care and supervision of the appointed areas.

Council will be judged by the actions of its Honorary Rangers.

Honorary Rangers can assist Council in a number of areas, including: dogs roaming in its reserves and beaches that may be causing a nuisance or danger; policing Council's Tree Preservation Order under which it is an offence to ring bark, cut down, injure or willfully destroy any tree without Council's consent; air, water or noise pollution incidents which are reported to Council; removal of advertising posters from public property and where possible report the identity of the person/s placing the illegal posters.

Appointments:

Honorary Rangers are currently appointed for a period of 12 months, with re-election annually thereafter and indemnified under Council's Public Liability Insurance policy for personal injury and/or damage to property whilst carrying out their duties.

The term of an Honorary Ranger requires review with the possibility of extending the term for a period of 3 years or until the appointee informs Council of their resignation. This has merits in terms of cost savings in advertising for Honorary Rangers; the community has a local member for a longer term as an Honorary Ranger and can identify with them; and better management of its resources.

Environmental Services Division Report No. 30 (Cont'd)

Appropriate induction processes are followed for new appointees.

RECOMMENDATION

The following recommendation regarding Honorary Rangers be adopted by Council:

1. Honorary Rangers are to be appointed to Reserves as the need arises. An Honorary Ranger's duties are to assist Council within the terms of their appointment in the care, control and management of the area/reserve to which they have been appointed.

The appointees must ensure that they take no direct physical action in restraining persons from committing breaches of the *Local Government Act 1993* (Act) or Regulations thereunder and should always give the offender the chance to rectify any wrong, if this is possible;

2. Honorary Rangers are to be a delegated authority under Section 377 and authorized under Section 680 of the Act.
3. Council's powers in respect of control of activities by Authorized Persons on public land are included in Sections 629, 630, and 632 of the Act;
4. All breaches are to be reported to Council in writing as soon as practicable and Council supplied with all the facts, names and addresses of offenders, witnesses and with any other pertinent information to an incident;
5. That Honorary Rangers be appointed for a period of 3 years or until the appointee informs Council of their resignation;
6. A handbook for Honorary Rangers be prepared and issued to all such persons outlining their responsibilities and duties.

ATTACHMENTS

There are no attachments for this report.

OM200605ESD_2.DOC

***** End of Environmental Services Division Report No. 30 *****