

# Manly Council

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## Minutes

## Ordinary Meeting

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 20 June 2005**

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



The Ordinary Meeting was held in the Council Chambers, Town Hall, Manly, on Monday 20 June 2005. The meeting commenced at 7:42 pm.

## PRESENT

Deputy Mayor, Councillor R Morrison, Deputy Chairperson, who presided  
Councillor B Aird  
Councillor S Cant  
Councillor P Daley  
Councillor J Evans  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor J Lambert  
Councillor D Murphy  
Councillor M Norek  
Councillor B Pedersen

## ALSO PRESENT

Mr Henry Wong; General Manager  
Mr Ross Fleming; Chief Financial Officer  
Mr David Stray; Manager Environmental Services  
Ms Melinda Aitkenhead; Minute Taker

## OPENING PRAYER

Nil

## APOLOGIES

Apologies were tendered on behalf of The Mayor, Councillor Dr Peter Macdonald, for non-attendance.

### **285/05 RESOLVED: (Morrison/Aird)**

That the apology received from The Mayor, Councillor Dr Peter Macdonald, be accepted and leave of absence be granted.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

## DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

Nil.

## CONFIRMATION OF MINUTES (File C17/23)

### 286/05 RESOLVED: (Hay/Pedersen)

That copies of the Minutes of the Extraordinary Meeting of Council held on Monday 9 May 2005, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

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### 287/05 RESOLVED: (Hay/Pedersen)

That copies of the Minutes of the Ordinary Meeting of Council held on Monday 16 May 2005, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting, subject to with the following amendment:

General Manager's Office Report No.13, Manly After Midnight Working Party

" Motion: Mover and Seconder for the motion should read (Pedersen/Cant) not (Pedersen/Hay) as previously recorded"

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

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## PUBLIC FORUM

NAME	SUBJECT/PUBLIC SPEAKERS
Ms June Morgan	<p><b>Manly After Midnight Working Party Recommendations (OM 16.05.05)</b></p> <p>Comment on the Letter presented to Council objecting to the Recommendations of the report, as read out in the Public Addresses at the Ordinary Meeting of 16.05.05.</p>
Ms. Penelope Wynne	<p><b>Deemed Refusal of DA37/05 &amp; DA572/04</b></p> <p>The Deemed Refusal of DA37/05 - 11 Benelong Street Seaforth &amp; DA572/04 - 8 Yatama Street Seaforth. Ms Wynne advised that she was unhappy with these refusals and is considering Land &amp; Environment Court action.</p>

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**MATTER OF URGENCY:**

**Note:** Councillor Lambert requested that she be allowed to introduce a **Matter of Urgency** in accordance with the provisions of Clause 20(3) of Council's Code of Meeting Practice. Following an outline of the matter the Deputy Mayor put the matter to the vote.

**RESOLVED: (Lambert/Pedersen)**

That in accordance with the provisions in Clause 20(3) of Council's Code of Meeting Practice, the matter relating to a new Level 5 hospital for Sydney's Northern Beaches be considered as a **Matter of Urgency**.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

The Chair ruled that the item **was of great urgency** and the matter proceeded to debate.

**Motion: (Lambert/Pedersen)**

1. Given the outcomes of the Value Management Study consultative process, and the pressing need for a new Level 5 Hospital on Sydney's Northern Beaches, and
2. Reaffirming Manly Council's previously expressed concerns in relation to the Golf Course site, Council calls on Minister Iemma and the State Government to ensure that a new Level 5 hospital is operational by 2010, by urgently progressing from the assessment stage to funding commitment and detailed planning directed to construction of the hospital at one of the preferred sites within the Dee Why - Brookvale - Frenchs Forest triangle, this being the demographic centre of the area.

**288/05 RESOLVED: (Lambert/Pedersen)**

1. Given the outcomes of the Value Management Study consultative process, and the pressing need for a new Level 5 Hospital on Sydney's Northern Beaches, and
2. Reaffirming Manly Council's previously expressed concerns in relation to the Golf Course site, Council calls on Minister Iemma and the State Government to ensure that a new Level 5 hospital is operational by 2010, by urgently progressing from the assessment stage to funding commitment and detailed planning directed to construction of the hospital at one of the preferred sites within the Dee Why - Brookvale - Frenchs Forest triangle, this being the demographic centre of the area.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

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**STANDING ORDERS:**

That **Standing Orders** be **suspended** to allow for consideration of Items of public interest, being Public Addresses and Items number Notice of Motions No. 17, 21, 22 & 23, General Manager's Report No. 16 and Environmental Services Report No. 29 and Notice of Motion No 19.

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**PUBLIC ADDRESSES**

<b>NAME</b>	<b>SUBJECT/PUBLIC SPEAKERS</b>
<b>NOM 17</b>	<b>Support Manly Police &amp; Manly Liquor Accord</b>
Support	Mr Richard Hewitt
Against	Ms. June Morgan Mr Gary Cullen
<b>NOM 21</b>	<b>Assist Police in Enforcing the Law</b>
Support	Mr Richard Hewitt
<b>NOM 22</b>	<b>Parking for Manly Residents</b>
Support	Mr Steve Nugent Mr Ray Moran
<b>NOM 23</b>	<b>Section 94 Contribution Adjustment</b>
Against	Mr Michael Darby
<b>GMO No. 16</b>	<b>Adoption of the 2005/2008 Management Plan</b>
	Mr Michael McGrath (Bicycle Committee)
<b>ES No. 29</b>	<b>243-259 Pittwater Road, Manly (DA76/05)</b>
Objector	Mr Tony Sattler - Sattler & Associates
Applicant	Mr Paul Drake - Planning Overload Pty Ltd

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Notice of Motion Report No. 17

**Support Manly Police and Manly Liquor Accord****MOTION: (Norek/Hay)**

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.

**Amendment: (Cant/Aird)**

That Council continue to work with the members of the Liquor Accord, Manly Police and our residents to find positive strategies to improve Manly's late night culture.

**For the Amendment:** Councillors Lambert, Cant, Pedersen, Aird and Evans.

**Against the Amendment:** Councillors Hay, Heasman, Murphy, Daley, Morrison and Norek.

The **Amendment** was declared **Lost**.

**289/05 RESOLVED: (Norek/Hay)**

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.

The **Motion** was put and declared **Carried**.

**For the Resolution:** Councillors Hay, Heasman, Murphy, Daley, Morrison and Norek.  
**Against the Resolution:** Councillors Lambert, Cant, Pedersen, Aird and Evans.

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Notice of Motion Report No. 21

**To Assist Police in Enforcing The Law**

**Motion: (Daley/Aird)**

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

**290/05 RESOLVED: (Daley/Aird)**

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

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

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Notice of Motion Report No. 22

**Resident Parking Scheme for Residents**

**Motion: (Norek/Daley)**

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.

**Amendment: (Heasman/Hay)**

1. That Council reaffirm its commitment to the 4 hour rate payer parking on the beach front.
2. Council to look into immediately solving parking problems in the following areas:
  - a. Current Ocean Beach Residential parking scheme needs to cover all areas of Cameron Avenue.
3. That, as a matter of priority, the General Manager bring back a report on methods to resolve the following issues:
  - a. The formalisation of legal parking areas for residents in Rolfe Street
  - b. The proposed change from 10pm restrictions to a common 6pm in all residential areas, unless the street is near a late night commercial area.
  - c. To investigate ways to provide better parking solutions for non-profit making events making use of the beach (Surf Lifesavings etc).
4. That the Ocean Beach, Fairy Bower and Little Manly Community Precinct Forums be asked to provide feedback on the proposed reduction of hours in the Resident Parking Scheme areas.
5. That the Ivanhoe Park Precinct be asked to comment on the effect of Resident Parking Schemes in the surrounding area, especially in the areas of Birkley Road, Kangaroo Street Ocean Road, Quinton Street and Raglan Street

**For the Amendment:** Councillors Hay, Heasman, Cant, Murphy, Daley, Morrison, Pedersen, Aird and Evans.

**Against the Amendment:** Councillors Lambert and Norek.

The **Amendment** became the **Motion** and was put and declared **Carried**.

**291/05 RESOLVED: (Heasman/Hay)**

1. That Council reaffirm its commitment to the 4 hour rate payer parking on the beach front.
2. Council to look into immediately solving parking problems in the following areas:

- a. Current Ocean Beach Residential parking scheme needs to cover all areas of Cameron Avenue.
3. That, as a matter of priority, the General Manager bring back a report on methods to resolve the following issues:
    - a. The formalisation of legal parking areas for residents in Rolfe Street
    - b. The proposed change from 10pm restrictions to a common 6pm in all residential areas, unless the street is near a late night commercial area.
    - c. To investigate ways to provide better parking solutions for non-profit making events making use of the beach (Surf Lifesavings etc).
  4. That the Ocean Beach, Fairy Bower and Little Manly Community Precinct Forums be asked to provide feedback on the proposed reduction of hours in the Resident Parking Scheme areas.
  5. That the Ivanhoe Park Precinct be asked to comment on the effect of Resident Parking Schemes in the surrounding area, especially in the areas of Birkley Road, Kangaroo Street Ocean Road, Quinton Street and Raglan Street

**For the Resolution:** Councillors Hay, Heasman, Cant, Murphy, Daley, Morrison, Pedersen, Aird and Evans.

**Against the Resolution:** Councillors Lambert and Norek.

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Notice of Motion Report No. 23

**Section 94 Contributions Adjustment**

**Motion: (Morrison/Pedersen)**

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

**Amendment: (Lambert/Evans)**

That the required Section 94 Contribution for a single dwelling house on an existing single block of land be reduced by half, for those blocks of land that are subject to development for which the RTA/DIPNR have provided contra contributions to public amenity.

**For the Amendment:** Councillors Lambert, Cant, Murphy, Daley, Pedersen, Aird, Evans and Norek.

**Against the Amendment:** Councillors Hay, Heasman and Morrison.

The **Amendment** became the **Motion** and was put and declared **Carried**.

**292/05 RESOLVED: (Lambert/Evans)**

That the required Section 94 Contribution for a single dwelling house on an existing single block of land be reduced by half, for those blocks of land that are subject to development for which the RTA/DIPNR have provided contra contributions to public amenity.

**For the Resolution:** Councillors Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.



**Against the Resolution:** Councillor Hay.

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General Manager's Office Report No. 16

**Adoption of the 2005-2008 Management Plan**

**SUMMARY**

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

**Motion: (Pedersen/Cant)**

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.
4. That the \$200,000 allocated to the Traffic Facilities budget be fully allocated to the Bike Plan and that the General Manager report back to Council on the budgeting of the other needs associated with Traffic Facilities.

**Amendment: (Hay/Heasman)**

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.
4. That at the next quarterly review Council reassess the budget for the Sports Facilities Committee and the Bicycle Committee.

**For the Amendment:** Councillors Hay, Heasman, Morrison and Norek.

**Against the Amendment:** Councillors Lambert, Cant, Murphy, Daley, Pedersen, Aird and Evans.

The **Amendment** was declared **Lost**.

**293/05 RESOLVED: (Pedersen/Cant)**

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.

4. That the \$200,000 allocated to the Traffic Facilities budget be fully allocated to the Bike Plan and that the General Manager report back to Council on the budgeting of the other needs associated with Traffic Facilities.

The **Motion** was put and declared **Carried**.

**For the Resolution:** Councillors Lambert, Cant, Murphy, Daley, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Councillors Hay, Heasman and Morrison.

**Note:** *This item was recommitted later in the proceedings.*

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Environmental Services Division Report No. 29

**243-259 Pittwater Road, Manly (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.

**Motion: (Daley/Murphy)**

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.
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.**
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.
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.
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.**
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](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.**

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

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

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.
- 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.



83. A separate waste and recycling services shall be engaged / contracted by businesses operating from the premises.
84. Plastic bags shall not be issued to customers for the purpose of carrying items purchased from the premises.
85. The business shall not provide prepared foods/drinks to its customers in any non-recyclable or non-biodegradable plastic or foam.
86. A shopping trolley management plan incorporating a deposit system and regular twice daily collection of abandoned trolleys from the public land and streets surrounding the site is to be prepared and implemented upon commencement of the fruit market use, to ensure trolleys remain generally within the subject site, with a copy of the Management Plan being submitted to Council **prior to issue of the Construction Certificate**.

**Amendment: (Pedersen/Aird)**

That the application be refused for the following reasons:

1. That there has been no Economic Impact Statement carried out.
2. The negative impact on the residential amenity of residents in Golf Parade and;
3. That the zoning of the site is Residential purposes.

**For the Amendment:** Councillors Pedersen, Aird and Norek.

**Against the Amendment:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison and Evans.

The **Amendment** was declared **Lost**

**294/05 RESOLVED: (Daley/Murphy)**

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.
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.**

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 banded 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.

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.
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.**
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](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.**

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

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

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.

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.
83. A separate waste and recycling services shall be engaged / contracted by businesses operating from the premises.
84. Plastic bags shall not be issued to customers for the purpose of carrying items purchased from the premises.
85. The business shall not provide prepared foods/drinks to its customers in any non-recyclable or non-biodegradable plastic or foam.
86. A shopping trolley management plan incorporating a deposit system and regular twice daily collection of abandoned trolleys from the public land and streets surrounding the site is to be prepared and implemented upon commencement of the fruit market use, to ensure trolleys remain generally within the subject site, with a copy of the Management Plan being submitted to Council **prior to issue of the Construction Certificate.**

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison and Evans.  
**Against the Resolution:** Councillors Pedersen, Aird and Norek.

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**STANDING ORDERS:**

That **Standing Orders** be resumed.

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**RECOMMITTAL MOTION: (Lambert/Heasman)**

That the General Manager's Office Report No. 16 be recommitted to enable further consideration.

**295/05 RESOLVED: (Lambert/Heasman)**

That the General Manager's Office Report No. 16 be recommitted to enable further consideration.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

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General Manager's Office Report No. 16

**Adoption of the 2005-2008 Management Plan**

**SUMMARY**

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

**Motion: (Pedersen/Norek)**

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.
4. That the \$200,000 allocated to the Traffic Facilities budget be fully allocated to the Bike Plan and that the General Manager report back to Council on the budgeting of the other needs associated with Traffic Facilities.
5. That the amendments proposed by Mr Richard Hewitt and Ms. Bev Trevenen, regarding changes in the Management Plan on environmental issues be accepted and that the relevant documentation be amended to reflect these changes.

**Amendment: (Hay/Heasman)**

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.
4. That at the next quarterly review Council reassess the budget for the Sports Facilities Committee and the Bicycle Committee.

**For the Amendment:** Councillors Hay, Heasman and Morrison.

**Against the Amendment:** Councillors Lambert, Cant, Murphy, Daley, Pedersen, Aird, Evans and Norek.

The **Amendment** was declared **Lost**.

**296/05 RESOLVED: (Pedersen/Cant)**

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.
4. That the \$200,000 allocated to the Traffic Facilities budget be fully allocated to the Bike Plan and that the General Manager report back to Council on the budgeting of the other needs associated with Traffic Facilities.
5. That the amendments proposed by Mr Richard Hewitt and Ms. Bev Trevenen, regarding changes in the Management Plan on environmental issues be accepted and that the relevant documentation be amended to reflect these changes.

The **Motion** was put and declared **Carried**.

**For the Resolution:** Councillors Lambert, Cant, Murphy, Daley, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Councillors Hay, Heasman and Morrison.

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General Manager's Office Report No. 15

**Fixing of Rates and Charges – 2005/2006**

**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.

**297/05 RESOLVED: (Pedersen/Cant)**

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 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.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

\*\*\*\*\*

### PROCEDURAL MOTION: (Murphy/Morrison)

That Ms Moffit be permitted to address Council on Notice of Motion No. 19.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

\*\*\*\*\*

Notice of Motion Report No. 19

**Upgrade and Maintenance of the Road Reserve on Charles St between William and Cohen St, Fairlight**

**Motion: (Murphy/Heasman)**

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

**298/05 RESOLVED: (Murphy/Heasman)**

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

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

\*\*\*\*\*

**STANDING ORDERS:**

That **Standing Orders** be resumed.

\*\*\*\*\*

Notice of Motion Report No. 16

**Development Application Publishing of Objection Letters**

**Motion: (Heasman/Pedersen)**

That Council 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.

**299/05 RESOLVED: (Heasman/Pedersen)**

That Council 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.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

\*\*\*\*\*

Notice of Motion Report No. 24

**Pedestrian Access Management Plan Implementation**

**Motion: (Heasman/Cant)**

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.

**300/05 RESOLVED: (Heasman/Cant)**

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.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

\*\*\*\*\*

Notice of Motion Report No. 20

**Opposition to Scientific Whaling (Formerly Support Scientific Whaling)**

**Motion: (Aird/Cant)**

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.
4. That an email be sent to Honorary Senator, Ian Campbell, Minister for the Environment and Heritage, and to our Sister City in Japan outlining Council's opposition to so called Japanese research whaling.

**301/05 RESOLVED: (Aird/Cant)**

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.
4. That an email be sent to Honorary Senator, Ian Campbell, Minister for the Environment and Heritage, and to our Sister City in Japan outlining Council's opposition to so called Japanese research whaling.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

\*\*\*\*\*

Notice of Motion Report No. 18

**New Infrastructure and Other Planning Reforms Act**

**Motion: (Lambert/Aird)**

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. Deploring 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.

### **302/05 RESOLVED: (Lambert/Aird)**

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. Deploring 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.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Nil.

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## ITEMS FOR BRIEF MENTION

Item For Brief Mention Report No. 5

### Items For Brief Mention

#### Reports:

On 2<sup>nd</sup> 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.

*Consideration of this item was **deferred**. It will be considered along with all other deferred items at the Ordinary Meeting of Council to be held 25th July, 2005.*

\*\*\*\*\*

Corporate Services Division Report No. 11

**Accounts – Report on Council Investment as at 31 May, 2005. (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.

*Consideration of this item was **deferred**. It will be considered along with all other deferred items at the Ordinary Meeting of Council to be held 25th July, 2005.*

\*\*\*\*\*

Corporate Services Division Report No. 12

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

**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.

*Consideration of this item was **deferred**. It will be considered along with all other deferred items at the Ordinary Meeting of Council to be held 25th July, 2005.*

\*\*\*\*\*

Corporate Services Division Report No. 13

**Special Rate on Take-Away Food Shops****SUMMARY**

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

*Consideration of this item was **deferred**. It will be considered along with all other deferred items at the Ordinary Meeting of Council to be held 25th July, 2005.*

\*\*\*\*\*

Corporate Planning and Strategy Division Report No. 30

**Kimbriki Waste Management Facility - Joint Services Committee - Proposed Purchase of Additional Property to Complete Perimeter Buffer Zone ()****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.

*Consideration of this item was **deferred**. It will be considered along with all other deferred items at the Land Use Management Meeting of Council to be held 4th July, 2005.*

\*\*\*\*\*

Environmental Services Division Report No. 30

**Honorary Rangers****SUMMARY**

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

*Consideration of this item was **deferred**. It will be considered along with all other deferred items at the Ordinary Meeting of Council to be held 25th July, 2005.*

\*\*\*\*\*

**CLOSE**

The meeting closed at 12.54am

The above minutes were confirmed at an **Ordinary Meeting** of Manly Council held on 25 July 2005.

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**DEPUTY MAYOR**

\*\*\*\*\* END OF MINUTES \*\*\*\*\*