



Agenda

Planning and Strategy Committee

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

Tuesday 14 June 2005

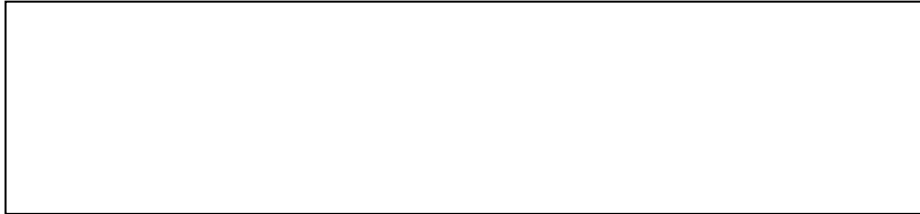
Commencing at 7:30 pm for the purpose of considering items included on the Agenda.

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*

Seating Arrangements for Meetings

Staff Staff General
 Manager Chairperson Staff Minute
 Taker



Mayor Dr Peter
Macdonald

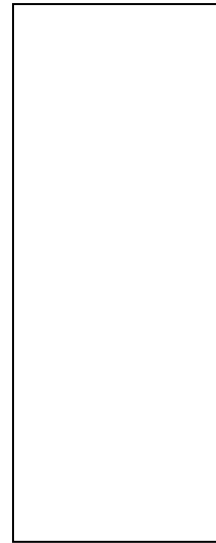
Clr Mark Norek

Clr Joanna Evans

Clr Barbara Aird

Clr Brad
Pedersen

Deputy Mayor
Clr Richard
Morrison



Clr Jean Hay AM

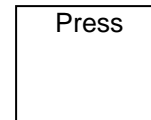
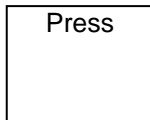
Clr Adele Heasman

Clr Judy Lambert

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



Public
Addresses

Public Gallery

Chairperson: Clr Barbara Aird
Deputy Chairperson: Clr Adele Heasman

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

TO: Planning and Strategy Committee - 14 June 2005
REPORT: Corporate Planning and Strategy Division Report No. 27
SUBJECT: SHOROC Tender for Road Construction Materials and Services
FILE NO:

SUMMARY

Joint tenders for "Road Construction Materials and Services" were called by Mosman Council on behalf of the SHOROC member Councils. Tenders were evaluated by a panel comprising the technical staff of the member Councils. Purpose of this report is to recommend the suitable Tenderers for acceptance.

REPORT

Tenders were called and closed on the 31st March 2005 by Mosman Municipal Council on behalf of the SHOROC member Councils for the Supply of Road Construction Materials and Services for the two year period commencing in July 2005 with SHOROC retaining the right to extend the contract for a further one year period.

Schedule of rates tenders for five products or services were received ten tenderers as indicated in the following table.

Tenderer	Pavement Stabilisation	Spray Sealing	Asphaltic Concrete	Cold Milling	Crack Sealing	Pavement Rejuvenation
1. Sami Pty Ltd		√	√		√	√
2. Infrastructure Maintenance Services					√	
3. State Asphalt Pty Ltd			√			
4. Works Infrastructure Pty Ltd	√			√		
5. Pioneer road Services Pty Ltd			√			
6. Asphalt Consulting & Testing Pty Ltd			√	√	√	
7. Boral Asphalt			√	√	√	
8. Stabilised Pavements of Australia	√					
9. Transfield Services Pty Ltd			√			
10. Emoleum			√	√		

The tenders were assessed to select the preferred tenders by determining the technical value of each tender in terms of a weighted score out of 100. The technical value was assessed based on the following attributes of the Tenderers:-

- Experience
- Management and technical support

Corporate Planning and Strategy Division Report No. 27 (Cont'd)

- Work Service Performance
- Personnel resources
- Physical resources
- Quality of work
- Occupational Health and Safety procedures

The preferred tender for each service is the one with the lowest dollar value of rates, which has a score of more than 80% for technical value.

Rates submitted by each Tenderer and the assessment matrix for the evaluation of technical value of all Tenderers are **attached** in '**Confidential Schedules**' for the information of Councillors.

RECOMMENDATION

That Council accepts the Schedule of Rate Tenders for various services as follows:

SERVICE	TENDERER
1. Stabilisation of road pavements.	Stabilised Pavements of Australia
2. Bitumen Sprayed Seal.	Sami Pty Ltd
3. Asphaltic Concrete.	Boral Asphalt
4. Cold Milling of Asphalt and Base Course.	Works Infrastructure Pty Ltd
5. Crack sealing.	Sami Pty Ltd
6. Pavement Rejuvenation.	Sami Pty Ltd

ATTACHMENTS

AT-1 Confidential Schedules - *CONFIDENTIAL ATTACHMENT - for the information of Councillors* 8 page(s)

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***** End of Corporate Planning and Strategy Division Report No. 27 *****

TO: Planning and Strategy Committee - 14 June 2005
REPORT: Corporate Planning and Strategy Division Report No. 28
SUBJECT: Items for Brief Mention - Minutes for Adoption by Council - Special Purpose Committees and Joint Committees
FILE NO:

1. Minutes Of Meetings:

- (i) Sydney Water and Manly Council Partnership - Minutes of a Meeting held on 7th April, 2005.
- (ii) Manly Social Plan Implementation Committee - Minutes of a Meeting held on 19th April, 2005.
- (iii) Manly Harbour Foreshore Management Committee - Minutes of a Meeting held on 19th April, 2005.
- (iv) Manly Community Environment Committee - Minutes of a Meeting held on 21st April, 2005.
- (v) Seaforth TAFE Site Community Reference Group - Minutes of a Meeting held on 27th April, 2005.
- (vi) Northern Sydney Aboriginal Social Plan Funding Group - Minutes of a Meeting held on 4th May, 2005.
- (vii) Manly Council Heritage Committee - Minutes of a Meeting held on 4th May, 2005.
- (viii) Landscape Management and Urban Design Committee - Minutes of a Meeting held on 4th May, 2005.
- (ix) Scientific Advisory Panel - Minutes of a Meeting held on 5th May, 2005.
- (x) Manly Aboriginal and Torres Strait Islander Committee - Minutes of a Meeting held on 9th May, 2005.
- (xi) Manly Sustainability Strategy Management Group - Minutes of a Meeting held on 10th May, 2005.
- (xii) Social Plan Implementation Committee - Minutes of a Meeting held on 17th May, 2005.
- (xiii) Warringah, Manly, Mosman and Pittwater Council Joint Services Committee - Minutes of a Meeting held on 19th May, 2005.
- (xiv) Manly Community Environment Committee - Minutes of a Meeting held on 19th May, 2005
- (xv) Short-Term and Tourist Accommodation Working Party - Minutes of a Meeting held on 24th May, 2005.
- (xvi) Manly Scenic Walkway Committee - Minutes of a Meeting held on 24th May, 2005.
- (xvii) Manly Traffic Committee - Minutes of a Meeting held on 30th May, 2005.

Corporate Planning and Strategy Division Report No. 28 (Cont'd)**2. The following Minutes contain recommendations of a substantial nature requiring formal Council adoption as follows:-**

- (a) Manly Community Environment Committee - Minutes of a Meeting held on 21st April, 2005.

Item 3 - Environmental Levy Bids

Recommendation:

"That this Committee:

1. rejects the proposed allocation of 5% (\$50,000 for 2005/6) of the environmental levy fund to the MEC building fund, in view of alternative proposed funding sources (for the MEC building fund), the established criteria for the spending of the environmental levy, and
2. accordingly, has recommended the re-allocation of that \$50,000 into various other nominated projects proposed for funding under the levy. (Reallocation table attached).
3. Little Manly Cove Coastline Management Plan reallocation of funds recommendation of staff endorsed.
4. The Committee recommends to Council the "full page" Manly Daily advertisement option to replace the Environment Levy Community Newsletter as a more appropriate communication tool."

- (b) Manly Community Environment Committee - Minutes of a Meeting held on 21st April, 2005.

Item 4 - Sydney Water Review of Environmental Factors (REF) for North Head Construction

Recommendation:

"Notwithstanding that on 20th August 2003, Manly Council and our Local Member, were given an undertaking by Minister Sartor "that there was no plan within the next two years to implement and upgrade as previously envisaged (i.e., increasing the rate of sewage sludge capture)", the REF indicates that construction for a significant upgrade to increase the sewage sludge capture is planned to commence in August 2005.

Council should write to the Premier and the Minister urgently expressing Council's opposition to the proposed upgrade and its timing in the light of:

- The lack of an E.I.S.
- It is premature as the appropriate review by IPART on Water and Waste Water is due on the 6th September.
- Lack of proper consideration of certain important elements such as the bush fire risk assessment, effect on threatened species and community safety."

- (c) Manly Council Heritage Committee - Minutes of a Meeting held on 4th May, 2005.

Item 4.4 - Sir Roden Cutler Statue

Recommendation:

"The Heritage Committee welcomes the proposed statue to Sir Roden Cutler, and

Corporate Planning and Strategy Division Report No. 28 (Cont'd)

recommends that the siting of the statue at the corner of Darley Road be carefully considered; that it should not obscure existing heritage, such as the school's foundation stone; and that an appropriate DA be lodged with Council before the statue is erected."

- (d) Manly Council Heritage Committee - Minutes of a Meeting held on 4th May, 2005.

Item 9 - Cemetery Conservation Management Plan

Recommendation:

- "1. That Council make an urgent budget allocation for application of the priorities identified by the Cemetery Conservation Management plan, the production of which had been unavoidably delayed through the illness of the consultant employed.
2. That Council seeks listing of the Manly cemetery in the State Heritage Register.

- (e) Landscape Management and Urban Design Committee - Minutes of a Meeting held on 4th May, 2005.

Item 4.3 - The Corso Masterplan Review - Brief Development

Recommendation:

"The LMUD Committee endorsed the Masterplan Working Party recommendation to engage three consultants to develop plan proposals, in line with the Brief, with one in reserve, via the following process:

- LMUD members are invited to put forward any suggestions for consultant selection to the Working Party;
- The LMUD Working Party to select three consultants, with one in reserve, and
- That the LMUD Working Party recommendations on the selection of the consultants be put forward to General Manager and Council for endorsement."

- (f) Scientific Advisory Panel - Minutes of a Meeting held on 5th May, 2005.

Item 3 - Review of SAP Activities

Recommendation:

- "1. That SAP be advised of their required involvement on the Manly Golf Club underground carpark proposal.
2. That SAP be informed of any developments regarding the proposed new hospital site proposal.
3. That Council seeks SAP's advice when relevant assessment documentation on Warringah Council's Netball Court proposal becomes available.
4. That the development application for 1 Addison Rd, Manly be referred to SAP members."

- (g) Scientific Advisory Panel - Minutes of a Meeting held on 5th May, 2005.

Corporate Planning and Strategy Division Report No. 28 (Cont'd)**Item 4 - Geotechnical Issues and Development Applications**

Recommendation:

- "1. That Manly Council organise a heritage survey of our coastline which can then be referred to the Heritage Committee.
2. That Manly Council should encourage other Councils to do the same."

(h) Social Plan Implementation Committee - Minutes of a Meeting held on 17th May, 2005.

Item 9 - Funding for 'Transitional Employment' - Pioneer Club

Recommendation:

"In principle support was given to the allocation of funding from the 2004/05 Social Plan to the provision of space and facilities, in addition to relevant in-house training to create a position in Manly Council."

(i) Manly Community Environment Committee - Minutes of a Meeting held on 19th May, 2005

Item 3 - MEC Premises and Role of MEC

Recommendation:

- "• There must be full public consultation in regard to any future plans or arrangements for the MEC.
- That the MEC must not leave Belgrave Street until there are definite and detailed financial arrangements and plans in place for an alternative location.
- That we totally reject the proposed level 2 option for re-location of the MEC as an interim option
- This Committee believes any plans for the permanent location of the MEC should include a ground level shop-front facility as part of the MEC.
- The Committee believes that the council should not decide the permanent location of the MEC until there has been full community consultation, appraisal and agreement on the roles and objectives of the MEC.
- The Committee is strongly of the view that the MEC should retain those aspects that make the MEC unique, particularly a strong advocacy role."

(j) Manly Scenic Walkway Committee - Minutes of a Meeting held on 24th May, 2005.

Item 3.1 - Community Forum to Discuss Bike Riding on the Scenic Walkway

Recommendation:

"Support the continued ban on cycling on the walkway and that no parallel path be constructed."

Corporate Planning and Strategy Division Report No. 28 (Cont'd)

RECOMMENDATION

1. That the recommendations of Minutes of Meetings, as listed in Item 1 above, being 1(i) to 1(xvii), be adopted.
2. That in relation to all matters of a substantial nature listed in Item 2 above, being 2(a) to 2(j), be adopted as per the recommendation of the Committees.

ATTACHMENTS

There are no attachments for this report.

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***** End of Corporate Planning and Strategy Division Report No. 28 *****

TO: Planning and Strategy Committee - 14 June 2005
REPORT: Corporate Planning and Strategy Division Report No. 29
SUBJECT: Boyle Street, Balgowlah - Streetscape Design Provisions
FILE NO:

SUMMARY

In order to protect the existing character of this section of Boyle Street and prevent development incompatible with the prevailing small-scale heritage character, Council has resolved that a report be prepared on strategies for conserving Boyle Street streetscape (LUM meeting 4 July 2004). Planning staff recommend that Boyle Street should have specific design controls in place and that these controls could be just as effective as a heritage streetscape listing at conserving the special character of the street.

REPORT

Introduction

Although this report focuses specifically on Boyle Street, it highlights a more general heritage issue that potentially applies in numerous other streets in the Manly Local Government Area: What is the most effective mechanism for preserving the strong character and sense of place of the areas distinctive residential streets while still meeting development and growth needs?

This report, then, has three main purposes:

1. to update Council on the progress of developing special guidelines for Boyle Street, based upon assessment by planning staff, of the street and potential controls for protecting its heritage features;
2. to outline some preliminary design controls that could guide appropriate development on Boyle Street;
3. to request time to articulate these proposed provisions further because they could potentially apply to numerous similar streets in Manly.

Background

On 5th July 2004, the Land Use Management (LUM) committee reviewed a development application for the construction of a two-storey semi-detached development at 30 Boyle Street, Balgowlah. The committee found that the application was not acceptable as this portion of Boyle Street, located between Sydney Road and Griffith Street is characterised by existing single-storey cottages, some of which are heritage listed.

The LUM committee, therefore, ruled against the proposal on heritage grounds, finding that the proposed dwelling would have a negative impact upon the prevailing streetscape of Boyle Street. However, this ruling was subsequently overruled in Land and Environment Court (LEC), and the development was ultimately approved (7 February 2005). The LEC determined that as the proposed development met all Development Control Plan (DCP) requirements, including that for height, it must be approved.

Furthermore, Boyle Street is located within an identified conservation zone (Balgowlah Conservation Zone, Precinct 3) recognized by the National Trust of NSW which notes that the zone is important, in part as "the area possesses streetscape integrity because it was developed during one period [the 1920s and 30s] and the excellent state of preservation of the houses and gardens".

Corporate Planning and Strategy Division Report No. 29 (Cont'd)

In order to protect the existing character of this section of Boyle Street and prevent further development incompatible with the prevailing small-scale heritage character, Council has resolved that a report be prepared on strategies for conserving Boyle Street streetscape before it is irrevocably degraded (LUM meeting 4 July 2004). Planning staff recommend that Boyle Street should have specific design codes in place and that these codes could be just as effective as a heritage streetscape listing at conserving the special character of the street.

A row of 7 cottages at 33-45 Boyle Street are listed in Manly LEP 1988. These are located on the west side of the street, directly across from 30 Boyle Street.

Description of Boyle Street Streetscape

Boyle Street is a residential street located in the suburb of Balgowlah. The section discussed in this report is located between Sydney Road and Griffiths Street, approximately 300m east of the Balgowlah business zone. The streetscape of this section of Boyle Street is characterised by small-scale, single-storey cottages of the kind common in the 1920s and 30s, small to mid scale vegetation and the gradual natural fall of the topography north towards Griffiths Street. This topography creates a distinctive 'stepping down' of the houses as the street slopes downward, a feature that is reinforced by the uniform (single-storey) height of most of the houses on both sides of the street. A mix of housing styles exist on the street, including cottages, California bungalows, semi-detached duplex conversions and a few simple late 80s - early 90s project homes. At the north-east corner of Boyle and Griffith Streets there is an historic electricity substation of articulated brick.

Recent years have seen numerous alterations and additions to many of the original cottages, resulting in loss of original features and character. These include the addition of front carports and garages, enclosed verandas, new use of materials for windows, roofs and other details and unsympathetic fences and barriers. Many of these additions and alterations, however, are reversible which could potentially restore the dwellings to a state more closely reflecting their original design.

Development Potential of Boyle Street

Based on existing DCP guidelines pertaining to height and Floor Space Ratio (FSR), all of the dwellings on this section of Boyle Street have the potential to add a second storey or make substantial additions to the rear of their existing dwelling. Three lots could potentially be subdivided. The front facades of many dwellings have already been altered in a way that is not particularly sympathetic to either the streetscape or the originally architectural integrity of the dwelling. In the absence of clear design codes and guidelines, others could be significantly altered as well.

Planning staff assessments of the street have noted that the buildings with the most sympathetic alterations were those that:

- maintained the original front façade of the building, either through rear additions or additions that blended well with the original façade and bungalow frame structure;
- used a palette of materials and colours that are sympathetic to the original structure and added details consistent with the period-style;
- added fences that do not diminish the streetscape (either through over-height or use of unsympathetic materials).

Conversely, those that had the greatest negative effect on the heritage quality of the streetscape through alterations or additions were those that:

- significantly altered the original bungalow-style frame structure and façade;

Corporate Planning and Strategy Division Report No. 29 (Cont'd)

- closed in the original verandas with poor quality and non-sympathetic materials
- added front car ports and garages;
- rendered distinctive sandstone bases and brickwork;
- used unsympathetic materials and colour schemes and introduced architectural details and finishes incompatible with the heritage character of the dwelling.

Significant Streetscape Elements

Assessments of the streetscape of this section of Boyle Street suggest that its heritage value and distinctiveness are based upon the following characteristics:

- the stock of largely intact single-storey dwellings in a variety of styles dating from the early part of the 20th century (California bungalow, workers cottage, bungalow with Federation details) defined on the west side of Boyle Street by the row of 7 listed workers cottages and on the east side by a mix of original single-storey styles;
- the front façades and intact heritage details of these original dwellings;
- the 'stepping down' of the building line created by the downward slope of Boyle Street towards Griffith Street;
- mature tree plantings along the verges and the vegetated front gardens.

Proposed Design Guidelines and Development Controls:**1. General Provisions**

- Based upon the above assessment of the elements that contribute significantly to defining the heritage value and quality of the streetscape on Boyle Street, planning staff can draft design guidelines to address each of these characteristics.
- These guidelines should be adopted as part of an amended Residential Zone DCP now underway.
- These guidelines should also form the basis of a wide-spread assessment of heritage/character streetscapes in Manly LGA and the identification of other streets for which special design provisions should be developed.
- General guidelines on making sympathetic alterations and additions to heritage dwellings (listed or not) should be developed for each major housing type present in Manly LGA to assist the public at the preliminary stage of design.
- In 1988, Council commissioned 3 brochures on making sympathetic alterations to California bungalows, art deco/P&O style homes and Mediterranean/Spanish Mission style homes. These could be supplemented with other styles (for example, Federation), updated & reissued in print and on the internet.

2. Specific Provisions

The following provisions are recommended for inclusion in the guidelines

Streetscape Element on Boyle Street:*Housing:*

1. Uniform rows of similar-style houses

Proposed Design Guidelines:

These are the worker cottages protected in Manly LEP 1988 but still requiring design guidelines to maintain original features.

2. Single-storey form

Second storeys should be added to the rear of the property in order to maintain the single storey character of the street.

Corporate Planning and Strategy Division Report No. 29 (Cont'd)

- | | |
|-------------------------------|---|
| 3. Architectural form & style | The integrity of the architectural style and form should be retained. |
| 4. Façade | The original façade should be maintained. This would include controls outlining sympathetic colour schemes, finishes and architectural details and would also be specific to the style of a particular dwelling. |
| 5. Fences | This would include controls on acceptable height, style, materials and colours |
| 6. Carports and Garages | Carports and garages should be wholly to the side or rear and not blocking any front portion of the dwelling or destroying mature plantings. Where this cannot be achieved, other alternatives will be considered. |
| 7. New Housing | Proposed new housing should be in a style sympathetic in structure, finish and colour scheme but should not be required to be a copy or pastiche of historical styles. The most important elements would be sympathetic bulk, form, façade treatment and street-facing details. |

“Stepping Down” Element

The way in which the buildings “step-down” the slope of Boyle towards Griffiths Street

This streetscape feature is created by the uniform height of the dwellings whereby they set up a regular line of descent or ‘steps’. This can be retained by applying a maximum wall/eave height, not allowing additions to be visible from public viewing areas looking down Boyle Street and maintaining a uniform roof style (which further emphasizes the stepping down character).

Mature plantings

Mature plantings along the verge of Boyle Street contribute to its heritage character as an established street with a strong sense of place

Street trees along the verges should be assessed for their heritage value & listed if they are significant (none are currently listed)

Based upon Council’s determination of the recommendations contained in this report, planning staff will draft DCP provisions for conserving the heritage characteristics of Boyle Street, in consultation with the community.

Corporate Planning and Strategy Division Report No. 29 (Cont'd)

RECOMMENDATION

That Council endorse the preparation of provisions for inclusion in the D.C.P for the Residential Zone for conserving the heritage characteristics of Boyle Street, Balgowlah, in consultation with the local community.

ATTACHMENTS

There are no attachments for this report.

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***** End of Corporate Planning and Strategy Division Report No. 29 *****

TO: Planning and Strategy Committee - 14 June 2005
REPORT: Environmental Services Division Report No. 28
SUBJECT: Tender for the Provision of Waste Transfer, Processing and Disposal Services for NSROC Member Councils and Participating SHOROC Councils
FILE NO:

SUMMARY

In early 2004 Manly Council joined the other NSROC Councils in developing a request for tender for the disposal of all putrescible waste, with the view that collective action may offer an opportunity for cost reductions. However, the tender was framed in such a manner as to enable each participating Council to withdraw from the process should tender outcomes not be perceived to that Council's advantage.

The Joint Tender for the Supply of Waste Transfer Processing and Disposal Services to the NSROC and SHOROC participating Councils was advertised in the Sydney Morning Herald in April and May 2004 and the Daily Telegraph and Weekend Australian in May 2004. A total of thirteen (13) packages of the Tender documentation were purchased. Two Pre-Tender Meetings were held on 10 May 2004 and the second on 6 September 2004 with Tenders finally closing on 29 October 2004.

On 28 October 2004 Mosman Municipal Council and Warringah Council advised, in writing, that they were formally withdrawing from the tender process. At this time, Manly Council was active in the tendering process with an officer participating as a member of the Evaluation Team. Pittwater Council had not participated in the document preparation and following inquiries made by the Probity Adviser to the tendering process, he was advised by Ms Robina Warburton that Pittwater Council was not involved in the NSROC/SHOROC Tender.

Simultaneously, Manly Council was also engaged with negotiations with the SHOROC Councils and Waste Service NSW in relation to exclusive ongoing access to the landfill facilities at Belrose. The successful conclusion of that process now renders Council's continued involvement in the broader (NSROC) tender process redundant.

REPORT

Background

At the Planning and Strategy Committee meeting of 8th November 2004, in relation to Report No 60, Council resolved to finalise a contract with Waste Service NSW and the other SHOROC Councils, committing the disposal of domestic putrescible garbage to the Bare Creek landfill for a period of ten years.

In the light of this decision, Council's solicitor advises that it is legally necessary to bring to an end the separate tendering process that began when NSROC called for tenders on behalf of Council and certain other councils in May 2004.

Manly Council's involvement within the collective tendering process can only be ended by Council EITHER accepting the tender that, having regard to all the circumstances, appears to Council to be the most advantageous (which is not applicable here given the decision that has already been made by Council) OR declining to accept any of the tenders received. The latter is the most feasible option available to Council, and that is what is recommended.

Environmental Services Division Report No. 28 (Cont'd)

It is understood that similar action has been taken by a number of other Councils that were engaged within the tender process.

If Council decides to adopt that recommendation, clause 19(3) of the Tendering Regulation requires that Council MUST, by resolution, then do one of the following:

- (a) postpone or cancel the proposal for the contract,
- (b) invite, in accordance with clause 8, 9 or 10, fresh tenders based on the same or different details,
- (c) invite, in accordance with clause 9, fresh applications from persons interested in tendering for the proposed contract,
- (d) invite, in accordance with clause 10, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract,
- (f) carry out the requirements of the proposed contract itself.

If Council decides to adopt the recommendation that it decline to accept any of the tenders, then it is also recommended that Council cancel altogether the proposal for the contract.

RECOMMENDATION

1. That Council resolves not to accept the Tenders arising from the NSROC process.
2. That Council resolves to cancel the proposal for the contract in accordance with Clause 19(3a) of the Local Government (Tendering) Regulation 1999.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 28 *****

TO: Planning and Strategy Committee - 14 June 2005
REPORT: Human Services and Facilities Unit Report No. 5
SUBJECT: Arts and Craft Market - Sydney Road/Market Lane Award of Operators Licence
FILE NO:

SUMMARY

The current management operator's licence of the Manly Arts and Craft Market expired on 6 March, 2005. An expression of interest process has been conducted to secure an operator of the Market for the future. This report recommends the preferred licensee for Council's endorsement.

REPORT

Background / Previous Report to Council

Blue Sky Events Pty Ltd has been managing the Manly Arts and Crafts Market from March 2001. The Market operates in Sydney Road and Market Lane every weekend and Public Holidays from 9am-5pm daily. During this period Blue Sky Events have established the Manly Markets as a welcome experience in the Manly Calendar of Events, well received by both the local community and visitors to Manly. Under the current management agreement Council has received an average of \$110,000 per annum, based on:

- A fixed monthly fee of \$2,894 including GST
- 25% commission of the stall fees

The operator is allowed a total of 41 bays and depending on the size of the stall, two stalls can fit in one bay.

The current management operator's license with Blue Sky Events Pty Ltd for the operation of the Manly Arts and Craft Market expired 6th March 2005. Blue Sky Events have been given approval to operate under current conditions until July 2005 while the process of seeking expressions of interest (EOI) has been completed.

A report was placed on the agenda for the Ordinary Council meeting 16 May 2005, item 281 which assessed the EOI received and recommended the approval of a new management operator's licence.

The Council resolution was that consideration of the report on the renewal of the Arts and Craft Market – Sydney Road/Market Lane operation licence be deferred to allow for further information on the tenders to be provided to Council, including financial details of the submissions. This is tabled below with an assessment of the other criteria specified in the EOI process.

Expression of Interest Process

Since Blue Sky Events' options had expired, an Expression of Interest Process was put in train on 15th March 2005 for the management operator's licence for the Manly Arts and Craft market. Applicants were asked to address the following:

- A clear focus on quality Arts and Craft that are creative and Australian made and supports Manly Council's focus of a sustainable environment.
- Work from Manly artists who are willing to develop the Manly lifestyle and support specific themes from time to time.

Human Services and Facilities Unit Report No. 5 (Cont'd)

- A catchy name for the market which signifies a quality experience, creativity and vitality.
- A process for selection of stall holders and the strategy for the evaluation process.
- Environmental controls (maintenance, cleanliness, packaging etc).
- Security.
- Revenue and audit controls.
- Value added products.
- Contribution to the community.
- Proven track record of operator/manager and staff supervisory skills.
- Commitment to long term goals/vision for the market.

Two Expressions of Interest were received on 6th April 2005:

- Blue Sky Events Pty Ltd (current operator)
- Fifth Sea Event Communications (to be incorporated)

The Expressions of Interest lodged were assessed by the Branch Manager of Cultural and Information Services and the Manager Events and Tourism.

As the report contains commercial information, the detail is provided in a "Confidential" **Attachment**.

RECOMMENDATION

1. That Council supports the continuation of the Manly Arts and Craft Market, in Sydney Road and Market Lane, by a licensed management operator, subject to agreed conditions and guidelines.
2. That the licence be for a period of two (2) years as from 01 July 2005 with an option for a further one (1) year.
3. That the Market management operators licence be awarded to Blue Sky Events Pty Ltd. in accordance with the terms submitted.

ATTACHMENTS

AT-1 Confidential Comparison Data - *CONFIDENTIAL ATTACHMENT - for the information of Councillors* 3 page(s)

PS140605HSFU_1.DOC

***** End of Human Services and Facilities Unit Report No. 5 *****

TO: Planning and Strategy Committee - 14 June 2005
REPORT: Human Services and Facilities Unit Report No. 6
SUBJECT: Fitness Trainers Agreement - Manly Local Government Area
FILE NO:

SUMMARY

This report outlines arrangements to regulate the conduct of fitness training classes on Council controlled land within the Manly Local Government area.

REPORT

This report is proposing that Council takes a balanced and 'common sense' approach to regulating the activity of conducting fitness training classes on publicly controlled areas within the Manly Local Government Area.

The arrangements proposed are designed to enable fitness training to be conducted legitimately, whilst ensuring the conditions imposed preserve residential amenity.

From a risk management perspective the approach proposed ensures fitness trainers operating in the Manly LGA hold the appropriate qualifications and insurances as recommended by the key fitness training industry body in NSW ie Fitness NSW.

Appropriate controls and mechanisms will also be put in place to protect the environment through specifying maximum class size numbers and limiting the areas available to conduct the activity. A trial of the new scheme is proposed for 6 months after which time it would be reviewed.

Discussions with Fitness NSW

The issue of fitness trainers using public space has been drawing Council's attention for some time. Council recognises the need to support healthy outdoor activities, whilst at the same time meeting the concerns of local residents in regards to noise levels and the protection of the environment. To achieve a balance between these competing interests, a meeting was held with representatives of Fitness NSW, the General Manager and Council staff on 6th December 2004 to discuss what options existed to allow fitness training to occur in Manly in the future.

Fitness NSW is the peak body for the fitness industry in NSW and is recognised by the NSW and Federal Governments. Fitness NSW administers the national fitness professional registration program on behalf of Fitness Australia. Fitness Australia is the representative body for the fitness industry in Australia, responsible for establishing standards within the industry and ensuring its long term viability. It is the organisation through which government and other industries communicate with the fitness industry. Fitness NSW provides public liability and professional indemnity insurance cover for all registered fitness professionals within NSW.

At the meeting in December 2004 between Council Staff and Fitness NSW, it was confirmed that the Manly beaches and reserves are areas for both private and public usage. Most beaches and reserves are located within residential areas, which can result in noise issues being generated. Due to the popularity of fitness classes, the number of trainers and persons training within the area has grown. Council wishes to assist in promoting a healthy lifestyle whilst meeting the needs of local residents and the protection of the environment. However, in considering the commercial opportunity to be provided to Professional Fitness Trainers, Council needs to be assured that each trainer is qualified and registered with Fitness NSW (from a risk management perspective) and that controls are in place to minimise any disruption to local residents and the overuse of public areas.

Human Services and Facilities Unit Report No. 6 (Cont'd)

Fitness NSW confirmed by letter dated 12 January 2005, their willingness to assist Manly Council to manage the appropriate use of public space and to ensure the safety and enjoyment of participants via the Fitness Australia Professional Registration and Insurance Program.

Other Consultation

In seeking to establish relevant guidelines and conditions, input was sought from various Council departments including, Corporate Planning and Strategy, Council's Lawyer, Administration, Regulatory Services, Beach Services, Events and Tourism and Customer Service.

The Personal Fitness Trainer Agreement and associated conditions proposed to be imposed by Council was also tabled at the Manly Visitor and Community Board meeting, 9 June 2005 for comment. The Board resolved to support Council's introduction of the agreement for the 6 month trial period.

Following the receipt of feedback from the relevant stakeholders, an agreement has been prepared which details the guidelines and conditions specifically for registered fitness trainers with Fitness NSW to operate the commercial activity of fitness classes in selected open public spaces in the Manly LGA.

The Proposed Personal Fitness Trainer Agreement

The proposed agreement (see Appendix A) is for a six month trial period with effect from 1 July 2005 with a review planned for November 2005. Some of the key points of the agreement are as follows:

- Classes are restricted to a program of walking, jogging and exercise (not involving heavy equipment) on Council's nominated reserves/beaches on a seven day a week basis, from 6.00am – 7.30pm.
- Fitness trainers must have valid documentation detailing their registration and accreditation with Fitness NSW as well as valid public liability insurance cover within the Fitness Australia Fitness Professional Policy
- Fitness Trainers must be qualified instructors with first aid certification and accreditation with Fitness NSW. They must follow OHS requirements.
- Up to a maximum of 20 people are permitted to participate in fitness classes at any one time in any approved area, for a maximum of 2 hours continuous training.
- Approved areas to conduct Fitness Programs are:
 - South Steyne beach (Manly Surf Club to Wentworth Street)
 - North Steyne beach (Raglan Street to south of North Steyne Surf Club)
 - Queenscliff beach (North of North Steyne Surf Club to Queenscliff Surf Club)
Note: No training can take place on the ocean beach between Wentworth Street and Raglan Street
 - Manly Lagoon Reserve
 - Keirle Park
 - Manly West Park
 - Tania Park
 - Clontarf Reserve
 - Seaforth Oval
- No boot camp style training is permitted.
- Activity must cause minimum disruption and interference with the general public rights of access and enjoyment of these areas and not interfere with approved bookings e.g. weddings, designated volley ball area etc.

Human Services and Facilities Unit Report No. 6 (Cont'd)**Six Month Pilot Scheme**

This report is proposing the new arrangements to apply as outlined above and in the appendix are trialed for a six month period with a review after this time. The review, will be conducted by staff who will look at feedback received by members of the public on the issue (a log will be kept by the reserve bookings officer), discussions with fitness NSW on behalf of their members and any issues identified by Council departments across the organisation. This review will report to the General Manager for his attention and action as appropriate.

RECOMMENDATION

1. That Council supports the issuing of an agreement to allow commercial fitness training / class organisations, which are registered with Fitness NSW, to operate fitness classes in the Manly LGA, subject to the conditions and guidelines outlined in Appendix A of this report.
2. That the agreement be for six month trial period effective 01 July 2005 and be reviewed thereafter.

ATTACHMENTS

AT-1 Personal Fitness Trainer Agreement 5 page(s)

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***** End of Human Services and Facilities Unit Report No. 6 *****

ATTACHMENT 1

**Human Services and Facilities Unit Report No. 6
Fitness Trainers Agreement - Manly Local Government Area
Personal Fitness Trainer Agreement**

APPENDIX A

Personal Fitness Trainer Agreement

THIS AGREEMENT is made on the Date (1) between the **COUNCIL** (2) and the **FITNESS TRAINER** (3) named below whereby in consideration of the sum mentioned (4):

A. **AGREEMENT TO HIRE: THE COUNCIL** agrees to permit the **FITNESS TRAINER** to use, on a non-exclusive basis, the Land (5) for the Purpose (6) and for the Period (7) all described below, viz:

1. Date:
2. **MANLY COUNCIL** (ABN 43 662 868 065) of Council Chambers 1 Belgrave Street Manly 2095. Authorised Representative:
3. **FITNESS TRAINER: a)** Name:
b) Address:
c) Tel: Fax:
Email:
4. Fee: A fee (or combined fee) calculated as follows - for each Fitness Trainer registered business, \$300 including GST per three Month period or part thereof, which includes one registered Fitness Trainer; for each additional Fitness Trainer of that registered business, \$50 including GST per three month period or part thereof. All fees are non refundable and payable in advance in the manner and form directed by Council.
5. Land:
6. Purpose: To conduct, on Council's nominated parks/reserves and beaches, the business of Fitness Classes subject to the terms and conditions of this Agreement.
7. Period: A term of commencing on and terminating on

THE PARTIES AGREE AS FOLLOWS:

1. All bookings, subject to availability, are to be conducted through the Community Facilities department of Council and can only be made three

ATTACHMENT 1

Human Services and Facilities Unit Report No. 6 Fitness Trainers Agreement - Manly Local Government Area Personal Fitness Trainer Agreement

weeks in advance. A booking is only approved once the appropriate fee has been paid and conditions and guidelines agreed to by signature.

2. The rights conferred by this Agreement are for a trial period commencing 01 July 2005 and terminating on 31 December 2005. A review for an extension of this arrangement is expected to take place in November 2005 but nothing in this Agreement abrogates or fetters, or is intended to abrogate or fetter, the lawful and proper discharge by Council of any of its statutory responsibilities, whether in relation to the subject-matter of this Agreement or otherwise.
3. Classes are restricted to a program of walking, jogging and exercise (not involving heavy equipment) on Council's nominated reserves/beaches on a seven day a week basis.
4. Permitted hours for the permitted activities are from 6:00am to 7:30pm.
5. Each Fitness Trainer must provide Council with valid documentation detailing their registration and accreditation with Fitness NSW as well as valid public liability insurance cover within the Fitness Australia Fitness Professional Policy.
6. The Fitness Trainer must ensure at all times that the requirements of the *Occupational Health and Safety Act 2000 (NSW)* and the regulations made under that Act as well as all other relevantly applicable laws (both statutory and common law) are fully observed to the satisfaction of Council or the relevantly applicable authority.
7. The Fitness Trainer shall be liable for any fees or levies required by the Department of Industrial Relations or Workcover.
8. The Fitness Trainer must promptly comply with reasonable directions of the Council's Ranger(s) in relation to any actual or potential conflicting activities or to provide evidence of Council approval and valid accreditation.
9. The Fitness Trainer must be an appropriately qualified instructor(s) who has relevant first aid certification and certificates as required by Fitness NSW for accreditation. Documentary evidence of same is to be provided to the Council.
10. The Fitness Trainer must keep and maintain a logbook of accidents or injuries and forward a copy to Council for its records.
11. The Fitness Trainer must immediately report to Council in writing any defects or matters hazardous in nature observed and requiring Council's attention.

ATTACHMENT 1

Human Services and Facilities Unit Report No. 6 Fitness Trainers Agreement - Manly Local Government Area Personal Fitness Trainer Agreement

12. The rights conferred by this Agreement upon the Fitness Trainer are personal and the Fitness Trainer must not purport to sub-let or assign or otherwise deal with his or her rights under this Agreement.
13. The Fitness Trainer releases and indemnifies and agrees to keep released and indemnified Council from and against all damages, sums of money, costs, charges, expenses, actions, claims, demands, suits, actions and proceedings which may be sustained or suffered by or recovered or made or brought against Council by any person (whether the Fitness Trainer or some third party) for any loss of life or injury or damage any person may sustain as a result of the carrying out of the rights conferred upon the Fitness Trainer by this Agreement. Without limiting the generality of the foregoing, Council shall not be liable for any damage or loss suffered by the Fitness Trainer as a result of any act, omission, default or neglect of any person including Council, its members, servants, agents and contractors.
14. Council does not and will not accept liability for any debts incurred by the Fitness Trainer and Council shall not be in any way responsible for any property whether of the Fitness Trainer or any other person that may be placed in or left on the Land or for any loss of any such property by theft or otherwise.
15. The Fitness Trainer shall be liable for any fees or levies required by the Department of Industrial Relations or Workcover or any other public authority or statutory body.
16. Each Fitness Trainer must be accredited and registered with Fitness NSW such that that valid public liability insurance coverage is maintained throughout the whole period of this Agreement covering all of the activities permitted by this Agreement as regards the carrying out of those activities in the Manly local government area.
17. Up to a maximum of 20 persons are permitted to participate in fitness classes at any one time at any approved area.
18. Each Fitness class has a maximum continuous training period of 2 hours.
19. Approved areas for Fitness Trainers to conduct Fitness Programs in the Manly local government area:
 - South Steyne beach. (Manly Surf Club to Wentworth street)
 - North Steyne beach. (Raglan street to south of North Steyne Surf Club)
 - Queenscliff beach. (North of North Steyne Surf Club to Queenscliff Surf Club)
 - (Note: No training can take place on the ocean beach between Wentworth Street and Raglan Street)
 - Manly Lagoon Reserve Keirle Park

ATTACHMENT 1

Human Services and Facilities Unit Report No. 6 Fitness Trainers Agreement - Manly Local Government Area Personal Fitness Trainer Agreement

Manly West Park
Clontarf Reserve

Tania Park
Seaforth Oval

20. The Personal Trainer must not conduct boot camp style training on Council beaches/reserves. Boxing activities may be undertaken for physical fitness and/or rehabilitation purposes only.
21. The Fitness Trainer must ensure that any activity permitted by this Agreement causes minimum disruption and interference with the general public rights of access and enjoyment of these areas.
22. The Fitness Trainer must not use picnic tables and street furniture as training aids and not cause excessive wear and tear to turfed areas, natural areas and bushlands.
23. The Fitness Trainer is only authorised to offer Fitness Classes. The sale of clothing or equipment or refreshments or any other goods, services or products is not permitted.
24. The Fitness Trainer must not display any promotional material, signage including banners or "A" Frame signs on Council's beaches/reserves.
25. The Fitness Trainer must not interfere with any Council approved or booked activity including but not limited to a special event, a wedding, birthday party, corporate BBQ, designated volley ball area, sport or sporting activity that is being carried on any oval, beach or reserve/park or part thereof and the Fitness Trainer acknowledges that such a booking has priority over the Fitness Trainers use and this activity is for non-exclusive use.
26. The Fitness Trainer must at all times conduct himself or herself in a proper and orderly manner.
27. The Council may terminate this Licence without notice if in its sole and absolute and unfettered opinion it has determined that the Fitness Trainer has failed to comply with the reasonable direction of its Ranger(s) or has breached, contravened or otherwise failed to comply with any term or condition of this Agreement.
28. If a dispute arises that impacts on the ability of the parties to this Agreement to work cooperatively, all endeavours will be made to resolve the matter in a spirit of cooperation. If endeavours to resolve the matter do not achieve agreement between the parties within 20 business days of the first meeting called to resolve the dispute, the parties agree to seek the assistance of an external mediator to assist them to resolve the matter. The parties agree to reach an agreement in writing on the choice of mediator.

EXECUTED as an Agreement.

ATTACHMENT 1

**Human Services and Facilities Unit Report No. 6
Fitness Trainers Agreement - Manly Local Government Area
Personal Fitness Trainer Agreement**

EXECUTED FOR AND ON BEHALF OF MANLY COUNCIL:

..... Signature of Authorised Representative Signature of Witness
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..... Full Name of Authorised Representative Full Name of Witness
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EXECUTED BY THE FITNESS TRAINER:

..... Signature of Fitness Trainer Signature of Witness
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..... Full Name of Fitness Trainer Full Name of Witness
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