

# Manly Council

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## Minutes

## Extraordinary Meeting

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 23 August 2004**

*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 Extraordinary Meeting of Manly Council was held in the Council Chambers, Town Hall, Manly, on Monday 23 August 2004. The meeting commenced at 7:34 pm.

## PRESENT

His Worship, The Mayor, Councillor Dr Peter Macdonald, who presided  
Deputy Mayor, Councillor J Lambert, Deputy Chairperson  
Councillor B Aird  
Councillor S Cant  
Councillor P Daley  
Councillor J Evans  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor R Morrison (arrived 7.40pm)  
Councillor D Murphy  
Councillor M Norek  
Councillor B Pedersen

## ALSO PRESENT

Henry T Wong, General Manager  
Jim Hunter, Director Corporate Planning and Strategy  
Julia Paul, Minute Secretariat

## APOLOGIES

(File A8/2)

Nil.

## DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

(File A8/2)

Nil.

## STANDING ORDERS: (Norek / Murphy)

That **Standing Orders** be suspended to allow for consideration of an item of public interest i.e. Notice of Rescission No. 9, Hire of the Corso for Commercial Activities and Promotions

## 126/04 : (Norek / Murphy)

That **Standing Orders** be suspended to allow for consideration of an item of public interest i.e. Notice of Rescission No. 9, Hire of the Corso for Commercial Activities and Promotions

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

**Against the Resolution:** Nil.

*Councillor Morrison entered the Chamber 7.40pm.*

**PUBLIC ADDRESSES**  
(File C17/43)

NAME	SUBJECT/PUBLIC SPEAKERS
Mr Bill Edwards	Notice of Rescission No. 9, Hire of the Corso for Commercial Activities and Promotions

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**Notices Of Rescission**

Notice Of Rescission No. 9

**Hire of the Corso for Commercial Activities and Promotions**

Councillor Norek moved:

That the Council's decision of the Extraordinary Meeting of 31 May 2004 being Item Notice of Motion No. 18, in respect of Hire of Corso for Commercial Activities and Promotions be and is hereby rescinded.

The **Rescission Motion** was put and declared **Lost**

**For the Rescission Motion:** Councillors Hay, Heasman, Murphy, Morrison and Norek.

**Against the Rescission Motion:** Councillors Lambert, Cant, Daley, Pedersen, Aird, Evans and Macdonald.

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**STANDING ORDERS: (Norek / Murphy)**

That **Standing Orders** be resumed

**127/04 : (Norek / Murphy)**

That **Standing Orders** be resumed.

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

**Against the Resolution:** Nil.

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**Mayoral Minutes**

Mayoral Minute No. 16

**Deputy Mayor Election**

**MOTION: (Macdonald)**

That Council hold the election of Deputy Mayor at an Extraordinary Meeting on the 6 September 2004, prior to the Land Use Management Committee Meeting, provided there is to be a full complement of councillors and that the General Manager be requested to list it on the agenda.

**128/04 RESOLVED: (Macdonald)**

That Council hold the election of Deputy Mayor at an Extraordinary Meeting on the 6 September 2004, prior to the Land Use Management Committee Meeting, provided there is to be a full complement of councillors and that the General Manager be requested to list it on the agenda.

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

**Against the Resolution:** Nil.

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Further Mayoral Minute No. 17

**Smoking Ban - Signage****MOTION: (Macdonald)**

That Council resolve under Section 632 of the Local Government Act 1993 to erect internationally recognised no smoking signage and in positions deemed appropriate by the General Manager to ban smoking in the vicinity of playgrounds and playing fields and on Manly beaches.

**129/04 RESOLVED: (Macdonald)**

That Council resolve under Section 632 of the Local Government Act 1993 to erect internationally recognised no smoking signage and in positions deemed appropriate by the General Manager to ban smoking in the vicinity of playgrounds and playing fields and on Manly beaches.

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

**Against the Resolution:** Councillor Heasman.

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**Notices Of Motion**

Notice Of Motion No. 40

**Amendment to the Meeting Cycle Policy****MOTION: (Pedersen / Aird)**

That Ordinary Meetings also be held after LUM and Planning and Strategy meetings. The General Manager will consider what items will be included on the agenda. Councillors will be restricted to a maximum of one Notice of Motion per month.

**AMENDMENT: (Morrison / Hay)**

That the General Manager review the allocation of agenda items so that where appropriate, some agenda items are shifted from Ordinary agendas and onto LUM and Planning and Strategy agendas.

Ordinary Meetings also be held after LUM and Planning and Strategy meetings. The General Manager will consider what items will be on the agenda. Councillors will be restricted to a maximum of one Notice of Motion per month.

That the Business of Council be heard before the Notice of Motions on an Ordinary meeting.

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

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

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

**130/04 RESOLVED: (Pedersen / Aird)**

That Ordinary Meetings also be held after LUM and Planning and Strategy meetings. The General Manager will consider what items will be included on the agenda. Councillors will be restricted to a maximum of one Notice of Motion per month.

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

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

**Against the Resolution:** Councillor Norek.

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Notice Of Motion No. 41

**Flying the Aboriginal Flag in conjunction with Australian Flag**

**MOTION: (Lambert / Aird)**

1. Acknowledging that Manly was one of the first places of contact between Aboriginal people and early European settlers, recognising the important role that Manly Council played in the establishment and growth of the Guringai Festival as an annual event celebrating Aboriginal culture and heritage across northern Sydney, and accepting that Manly is ideally placed to assist in raising broader awareness of that culture and heritage among residents and visitors, Manly Council will fly the Aboriginal flag whenever the Australian flag is flown outside the Council chambers and that the Manly Wharf management be requested to continue to fly the Australian flag, NSW State flag and the Aboriginal flag.
2. That Council also has the Aboriginal flag displayed in the Council Chambers.

**AMENDMENT: (Heasman / Hay)**

1. Acknowledging that Manly was one of the first places of contact between Aboriginal people and early European settlers, recognising the important role that Manly Council played in the establishment and growth of the Guringai Festival as an annual event celebrating Aboriginal culture and heritage across northern Sydney, and accepting that Manly is ideally placed to assist in raising broader awareness of that culture and heritage among residents and visitors, Manly Council request that the Manly Wharf management continue to fly the Australian flag, NSW State flag and the Aboriginal flag.
2. Council also has the Aboriginal flag displayed in the Council Chambers.

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

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

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

**131/04 RESOLVED: (Lambert / Aird)**

1. Acknowledging that Manly was one of the first places of contact between Aboriginal people and early European settlers, recognising the important role that Manly Council played in the establishment and growth of the Guringai Festival as an annual event celebrating Aboriginal culture and heritage across northern Sydney, and accepting that Manly is ideally placed to assist in raising broader awareness of that culture and heritage among residents and visitors, Manly Council will fly the Aboriginal flag whenever the Australian flag is flown outside the Council chambers and that the Manly Wharf management be requested to continue to fly the Australian flag, NSW State flag and the Aboriginal flag.
2. That Council also has the Aboriginal flag displayed in the Council Chambers.

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

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

**Against the Resolution:** Councillors Daley and Morrison.

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Notice Of Motion No. 42

**Plan-First Development Application Taxes**

**MOTION:** (Heasman / Hay)

That Council pursue Plan-First Development Application Taxes totalling \$212,000 that ratepayers have paid to the State Government since November 2003.

That Council urgently raise the matter with the Minister for Infrastructure, Planning and Natural Resources and with the Premier for NSW.

**132/04 RESOLVED: (Heasman / Hay)**

That Council pursue Plan-First Development Application Taxes totalling \$212,000 that ratepayers have paid to the State Government since November 2003.

That Council urgently raise the matter with the Minister for Infrastructure, Planning and Natural Resources and with the Premier for NSW.

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

**Against the Resolution:** Nil.

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Notice Of Motion No. 43

**Preparation of Draft Budgets**

**MOTION:** (Morrison / Norek)

That in the process of preparing future Draft Budgets, the General Manager shall clearly indicated by a formal recommendation in the Draft Budget Report if he intends any line item such as "Revenue Works" to be the subject of bids by Councillors, on the night the Draft Budget is considered.

**133/04 RESOLVED: (Morrison / Norek)**

That in the process of preparing future Draft Budgets, the General Manager shall clearly indicated by a formal recommendation in the Draft Budget Report if he intends any line item such as "Revenue Works" to be the subject of bids by Councillors, on the night the Draft Budget is considered.

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

**Against the Resolution:** Nil.

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Notice Of Motion No. 44

**Amendment to Council's Code of Conduct****MOTION: (Morrison / Heasman)**

That Clause 8.1, second dot point, of Council's Code of Conduct is amended to read:

- \* Where the General Manager is of the opinion that there is evidence to suggest that a Councillor may have committed a breach of the Code, the General Manager shall, unless it involves a report that is subject to the Protected Disclosures Act, 1994, report the matter to the Council at it's next meeting.

**134/04 RESOLVED: (Morrison / Heasman)**

That Clause 8.1, second dot point, of Council's Code of Conduct is amended to read:

- \* Where the General Manager is of the opinion that there is evidence to suggest that a Councillor may have committed a breach of the Code, the General Manager shall, unless it involves a report that is subject to the Protected Disclosures Act, 1994, report the matter to the Council at it's next meeting.

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

**Against the Resolution:** Councillors Lambert, Pedersen, Aird, Evans and Macdonald.

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Notice Of Motion No. 45

**Developer Contribution Review Committee - Section 94**  
*(The Corso Council vs a Council for all suburbs - Section 94)***MOTION: (Norek / )**

1. That Manly Council set up a Section 94 Developer Contribution review committee, which will meet quarterly. Their role will be, to ensure an adequate proportion of developer contributions are actually spent in the suburb for which the contribution was collected and on projects endorsed by the community.
2. That the review committee consists of representatives of all stakeholders from all suburbs and precinct forums.

3. That Manly Council immediately reviews its current section 94 contribution, to explore the opportunities for a higher rate of contribution to be levied in the suburbs Seaforth, Balgowlah, Fairlight and Manly CBD and in the future.
- a) In the 1999 Manly Sections 94 Contributions Plan prepared by ERM Mitchell McCotter Pty Ltd it outlines in table B1, a section 94 works schedule. Can council please give a detailed report on the allocation of funds for these works projects? And where and when these funds will be dispersed?

***Due to the lack of a seconder the Motion lapsed.***

**MOTION: (Lambert / Daley)**

That this Notice of Motion be **deferred** until the General Manager has brought before Council a new Section 94 contributions plan, designed to ensure the best possible provision of public services and amenities.

**135/04 RESOLVED: (Lambert / Daley)**

That this Notice of Motion be **deferred** until the General Manager has brought before Council a new Section 94 contributions plan, designed to ensure the best possible provision of public services and amenities.

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

**Against the Resolution:** Nil.

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### **General Manager's Office Reports**

General Manager's Office Report No. 31

#### **Progress on Independent Hearing and Assessment Panel Report**

#### **SUMMARY**

This is a progress report on the resolution of Council to commit to the establishment of an Independent Hearing and Assessment Panel (IHAP).

**MOTION: (Pedersen / Lambert)**

That Council receive and note the report.

That Council set up a Working Party to meet within the next two weeks to examine the various IHAP model and recommend back to Council a preferred IHAP model.

That the Committee investigate an outsourced option for an IHAP Committee.



**AMENDMENT: (Macdonald / Hay)**

That the review of the procedures be conducted by way of a workshop within a month looking at alternative IHAP models with a view to recommending an IHAP model and what DA's would go to IHAP.

**For the Amendment:** Councillors Hay, Cant, Murphy, Morrison, Aird, Evans, Norek and Macdonald.

**Against the Amendment:** Councillors Heasman, Lambert, Daley and Pedersen.

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

**136/04 RESOLVED: (Macdonald / Hay)**

That the review of the procedures be conducted by way of a workshop within a month looking at alternative IHAP models with a view to recommending an IHAP model and what DA's would go to IHAP.

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

**Against the Resolution:** Councillor Heasman.

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**Human Services and Facilities Unit Reports**

Human Services And Facilities Unit Report No. 4

**Draft Social Plan 2004-2009****MOTION: (Lambert / Heasman)**

It is recommended that Council endorse the draft Plan for exhibition for 28 days for public comment.

**137/04 RESOLVED: (Lambert / Heasman)**

It is recommended that Council endorse the draft Plan for exhibition for 28 days for public comment.

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

**Against the Resolution:** Nil.

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**QUESTIONS WITHOUT NOTICE****Councillor Lambert**

A few weeks ago I received a series of questions from community members about the current state of play in relation to Fisheries and in particular net haul fishing in North Harbour and related areas and the implications of that for seagrass bed and for Little Penguins. It is my understanding that we were going to pursue an update from State Fisheries and/or National Parks Services and I am wondering if that is happening and if we have had a response.

*At the request of the Mayor the Director of Planning and Strategy advised that Council has taken the action but is unaware of any response. The Director of Planning and Strategy took this matter on notice for further investigation.*

**Councillor Morrison**

1. When Mosman Council recently closed all their ovals due to water shortage Manly had not closed ours. Were we accepting sporting groups from Mosman in that period, are we going to try and link up with them or are we going to accept the overload every time Mosman closes their grounds?

*At the request of the Mayor the Director Planning and Strategy advised that our grounds are fully committed and we are monitoring those and getting cooperation from some of our users in terms of how they operate on the ground in an attempt to minimise the damage. In terms of overflow I am not aware of any acceptance of other users.*

2. With regard to Balgowlah Oval that was closed for some weeks or so, was that closed to all organised sport or closed to schools as well. I notice several groups there while we had the 'grounds closed' signage up, Balgowlah Boys were running some sort of softball thing at lunchtime and there was a group of Seaforth Public School students at some sort of organised function. Is the 'ground closed' notice referring to booked sporting venues on Saturday or is it to casual ad hoc basis during the week?

*At the request of the Mayor the Director of Planning and Strategy advised that the groups that we would be aware that would be using that ground would have been contacted with a view to them cooperating with us. But in terms of the school for example, he suspected that they may have activities that they have planned for the oval and staff would need to be consulted if the degree of use is considered acceptable. We have gone to considerable length to try to maintain our grounds for the sporting groups and in turn they have accepted some restrictions in terms of their activities. We have also, in terms of the water available to us, been getting some ground water which has helped in some situations.*

**Councillor Pedersen**

1. Probably five or six weeks ago Council resolved to ask the General Manager to get legal advice with respect to three issues concerning alcohol and licensed establishments. Why have we not received that legal advice as a Council?

*At the request of the Mayor the General Manager advised that advice will be provided to Councillors once he receives it from our legal counsel. The brief has gone out in relation to the issue of early closing and regulating of closing times of outdoor venues.*

2. I don't know if any Councillors or staff attended a late night inspection party on the Town Centre on Saturday night. Can we have a 30 second report from anyone that was there, Councillor Daley you were there?

*Councillor Daley advised a routine inspection party was conducted by the 'Manly After Midnight' (MAM) Committee. Councillor Daley was quite appalled by what he observed but felt that he might be a bit bias on this issue so he reserves judgement on this because as I have stated before I have very strong views in relation to alcohol abuse and kids but believes we have a major problem that is not so much relating to the pubs, obviously pubs are part of the equation, there is not doubt about that, but just the congregation of kids and underage drinking in the precinct of the hotels and their surrounds he believes is a major issue. Councillor Daley believes the questionnaire put together by the MAM Committee under the Chairmanship of the Mayor is excellent and I will be fascinated to hear the feedback from that. Councillor Daley would just like to put on the record that the Salvation Army and a number of other organisations such as the Luther Industries and other bodies are developing a massive PR campaign in relation to what is happening with alcohol.*

3. With regard to the issue of the questionnaire, can Councillors get a copy of this questionnaire?

*The Mayor advised that there is a meeting tomorrow night of the MAM Committee and when that is determined the questionnaire will be circulated.*

### **Councillor Aird**

Given that just near the North Steyne Surf Club there is construction work happening and the bike path is now closed, there is a number of cyclist using what is now an even more compressed pedestrian area. I don't know how Council is going to deal with cyclists now squeezing in but where we now have footpath markings further south with the circle and the line through the bike could there be one put right at the beginning of the path at North Steyne on the southern side of the Surf Club where the construction starts, to flag that bikes really should not be on there.

*At the request of the Mayor the General Manager advised that we will facilitate that.*

### **Councillor Norek**

Does the Mayor have the delegated authority to form the Working Parties such as the Short Term Accommodation Party, Smoke Free Beaches Party and Manly After Midnight Committee? In particular, does the Mayor have the delegated authority to choose who is on the Working Parties and the make-up of the people on these Committees? For instance the Community Renewal Working Party was put as a report to an Ordinary Meeting and we voted and put Councillors on that Working Party why was not that process followed with these other Working Parties? This question has been asked as in each of these Working Parties I have a number of residents complaining that they are not on these Committees and I would like to think that we would be more democratic in that process.

*At the request of the Mayor the General Manager advised that the issue relates to the constitution of these Committees the Council had resolved to form these Committees, the charter of the Committee and the working of the Committee was discussed by myself and the Mayor. In relation to how they were to be advertised, they were each advertised in regard to membership nominations. The General Manager is unaware of anyone who had applied to go on a Committee that had not subsequently been invited onto those Committees. In so far as the Working Party all are auspice by the General Manager's office and the General Manager has a responsibility to report back to Council on the recommendations of the Committee. In regard to the Community Renewal Committee auspice by the Council, a report was requested from the staff to come back to*

*Council on the model. The same model was supplied and the Council had the opportunity to fashion the makeup of the Committee and appointed various people on it. Anyone who nominated was accepted, this included the twelve Precincts that South Head Road recommended to be on the membership list. If any Councillors feel that the process is inherently unfair or that they would like to be on these Committees, through a Notice of Motion, I am happy to accommodate that.*

*The Mayor also advised that he believed that the process has been fair in that we have canvassed broad community consultation.*

### **The Mayor Councillor Macdonald**

Can you quickly update the Council on the timing for the remedy to Cathedral Rock which has still got the red tape around it and why has it taken months to reach a decision on it?

*At the request of the Mayor the Director Planning and Strategy advised that it is a difficult problem which is why it has not been fixed, unfortunately the more experts that we ask for advise about it the more conflicting information we have. As you are aware there is the issue of aboriginal significance of the rock and the parties there is a n appropriate mechanism to apply if we want to do something to actually support the rock and that is done through the National Parks and in turn to get that certificate done you have to supply a consultant's advise and the two quotes received for consultants advise regarding the rock one is more than \$7,000 and one is more than \$6,000. I have already canvassed the aboriginal community in respect of the representative spokespeople that are available and they have a conflicting view as to whether you can or should interfere or attempt to support the rock and the contrary which appears to be the upper hand view at the moment is that we should allow natural process to prevail.*

### **CLOSE**

The meeting closed at 11.25pm

The above minutes were confirmed at an **Ordinary Meeting** of Manly Council held on 20 September 2004.

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**MAYOR**

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