

Manly Council

Minutes

Ordinary Meeting

Held at Council Chambers, 1 Belgrave Street Manly on:

Monday 21 February 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*



The Ordinary Meeting was held in the Council Chambers, Town Hall, Manly, on Monday 21 February 2005. The meeting commenced at 7:40 pm.

PRESENT

His Worship, The Mayor, Councillor Dr Peter Macdonald, who presided
Deputy Mayor, Councillor R Morrison, Deputy Chairperson
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

Henry T Wong, General Manager
Jim Hunter, Director Corporate Planning and Strategy
Dave Stray, Manager Development Assessment
Ross Fleming, Chief Financial Officer
Julia Paul, Minute Secretariat

**OPENING PRAYER
(File A8/2)**

The Opening Prayer was presented by Pastor Ian Freestone.

**APOLOGIES
(File A8/2)**

Nil.

**DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST
(File A8/2)**

Nil.

**CONFIRMATION OF MINUTES
(File C17/23)
MOTION (Heasman/Pedersen)**

That copies of the Minutes of the Ordinary Meeting of Council held on Monday 20 December 2004, 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.

212/05 RESOLVED: (Heasman/Pedersen)

That copies of the Minutes of the Ordinary Meeting of Council held on Monday 20 December 2004, 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, Norek and Macdonald.

Against the Resolution: Nil.

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

NAME	SUBJECT/PUBLIC SPEAKERS
June Morgan	Manly After Midnight Working Party (MAM) and personal report on the Working Party progress
David Parsons	Code of Conduct and recent function at Manly Skiff Club
Sing Lee	DA 619/01, 447-449 Sydney Rd, Balgowlah, delay in approval of S96 application for the development

SUSPENSION OF STANDING ORDERS (Macdonald/Hay)

That **Standing Orders** be suspended to allow for consideration of items of Public Interest being Mayoral Minute No. 3, Gas Emissions, Notice of Rescission No.1, 3 Cove Avenue, Manly, Notice of Motion No. 2, Little Penguin Colony under serious threat of extinction and Notice of Motion No. 4, Applications from Telecommunications or Radiocommunications Providers for infrastructure.

213/05 RESOLVED (Macdonald/Hay)

That **Standing Orders** be suspended to allow for consideration of items of Public Interest being Mayoral Minute No. 3, Gas Emissions, Notice of Rescission No.1, 3 Cove Avenue, Manly, Notice of Motion No. 2, Little Penguin Colony under serious threat of extinction and Notice of Motion No. 4, Applications from Telecommunications or Radiocommunications Providers for infrastructure.

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

Against the Resolution: Nil.

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

NAME	SUBJECT/PUBLIC SPEAKERS
Mr Harold Scruby	MM No. 3, Gas Emissions
Ms Noni Lawrence	NoR No. 1, Cove Avenue, Manly
Mr Richard Hewitt	NoM No. 2, Little Penguin Colony
Mr Tony Power	NoM No. 4, Applications from Telecommunications or Radiocommunications Providers for infrastructure

MAYORAL MINUTES

Mayoral Minute Report No. 3

Discouraging Car Dependency and Reducing Greenhouse Gas Emissions**MOTION: (Macdonald)**

1. That Council call upon staff to prepare a report which reviews the Resident Parking Permit scheme, including the number of permits issued and their charges, based on the Australian Greenhouse Office star rating and to undertake the necessary community consultation.
2. That Council lobby the State Government to determine registration costs for cars on a more meaningful scale related to Australian Greenhouse Office ratings rather than weight which applies at the moment.
3. That Council review its staff salary packages to discourage the use of "high impact" cars and look at the possibility of offering packages that encourage the use of public transport or the use of "low impact" vehicles.
4. That Council lobby the Federal Government to remove the unfair tariff arrangements which favour some vehicles over others. There should be one standard tariff for all vehicles.

214/05 RESOLVED (Macdonald)

1. That Council call upon staff to prepare a report which reviews the Resident Parking Permit scheme, including the number of permits issued and their charges, based on the Australian Greenhouse Office star rating and to undertake the necessary community consultation.
2. That Council lobby the State Government to determine registration costs for cars on a more meaningful scale related to Australian Greenhouse Office ratings rather than weight which applies at the moment.
3. That Council review its staff salary packages to discourage the use of "high impact" cars and look at the possibility of offering packages that encourage the use of public transport or the use of "low impact" vehicles.
4. That Council lobby the Federal Government to remove the unfair tariff arrangements which favour some vehicles over others. There should be one standard tariff for all vehicles.

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

*With the voting being equal the Mayor exercised his casting vote in favour of the motion and declared it **Carried**.*

NOTICES OF RESCISSION

Notice of Rescission Report No. 1

3 Cove Avenue, Manly (DA486/04)

MOTION: (Pedersen/Hay)

That the Council's decision of 7 February 2005 being Item Environmental Services Division Report No. 2 in respect of 3 Cove Avenue, Manly (DA486/04) be and is hereby rescinded.

215/05 RESOLVED: (Pedersen/Hay)

That the Council's decision of 7 February 2005 being Item Environmental Services Division Report No. 2 in respect of 3 Cove Avenue, Manly (DA486/04) be and is hereby rescinded.

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

Against the Resolution: Councillors Heasman, Murphy, Morrison.

Councillor Daley was not present in the Chamber when the vote was taken.

3 Cove Avenue, Manly (DA486/04)

MOTION (Evans/Lambert)

- a) That Development Application 486/04 for demolition and construction of a 2 storey Residential Flat Building with basement parking at 3 Cove Avenue, Manly be **deferred** until an independent assessment including the FSR is completed.
- b) That this independent assessment of the FSR is not taken as a precedent for any future development applications.

AMENDMENT: (Murphy/Heasman)

- A. That subject to the applicant discontinuing the appeal in the Land and Environment Court proceedings:
- B. THAT Development Application 486/04 for demolition and construction of a 2 storey Residential Flat Building with basement parking at 3 Cove Avenue, Manly be approved subject to the following conditions:
 1. This approval relates to drawings/plans Nos. A01-A07, Issue B and Landscape Plan dated September, 2004 and received by Council on the 8th October, 2004 as amended by conditions No. 57-62.
 2. The existing row of conifer trees at the rear are to be protected during construction work and retained.
 3. A detailed stormwater management plan shall be prepared to fully comply with Council's "Specification for on-site Stormwater Management 2003" and shall be submitted with the Construction Certificate application. The stormwater management plan shall be prepared by an experienced Chartered Civil Engineer. The Principal Certifying Authority shall ensure that the design complies with the above said specification **prior to the issue of the Construction Certificate.**

4. On completion of the drainage works the applicant is required to submit work as executed drawings of the on site stormwater detention system. The work as executed drawings shall be certified by a Chartered Professional Engineer and submitted to Council **prior to the Occupation Certificate is issued.**
5. A positive covenant and the restriction on the use of land shall be imposed over the area of land affected by on site stormwater absorption/ detention system. The standard wording of the positive covenant shall be obtained from Council's "Specification for on-site Stormwater Management 2003" (Appendix A). The positive covenant shall be imposed **prior to the release of the Trust Fund Deposit.**
6. The construction of a vehicular footpath crossing and kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out **prior to issue of the Occupation Certificate.**
7. A Construction Management Plan is to be submitted to Council **prior to issue of a Construction Certificate.** This shall detail location of construction materials and possible construction vehicle parking so as to minimise conflict with resident street parking and through access for Cove Avenue.
8. 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 \$10,000. 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.**
9. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
10. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
11. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
12. 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.
13. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
14. 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.

15. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
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 Principal Certifying Authority **prior to the issue of the Construction Certificate**.
18. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
19. 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.
20. A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.
21. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
22. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
23. 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.
24. Four (4) sets of Architectural drawings and Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate**.
25. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
26. A system of onsite stormwater detention shall be provided within the property in accordance with Council's "Specification for on-site stormwater management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

The specification can be downloaded from Council's web site www.manly.nsw.gov.au free of charge or a hardcopy can be purchased from Council.

27. The basement carparking level is to be adequately protected from flooding. Details are to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.
28. All demolition is to be carried out in accordance with AS2601-1991.
29. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
30. 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.

31. The building being erected in Type B construction for a Class 2 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
32. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
33. All sound producing plant and equipment being installed and operated in such a manner so as not to create a noise nuisance.
34. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
35. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate**.
36. Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval shall be given to the purchaser, transferee, assignee, leasee, occupier or other person of that part of the land.
37. The works require the following inspection/certification during the course of construction:-
 - Silt control fences x 1
 - Footing inspection - trench and steel x 1
 - Reinforced concrete slab x 3
 - Wet area moisture barrier x 2
 - Drainage inspection x 1
 - Driveway crossing/kerb layback x 1
 - Landscaping inspection x 1
 - Retaining wall x 1
 - Final inspection

The cost of these inspections by Council is \$883. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection

appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

38. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
39. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
40. De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:
 - a) Ground water or other water to be pumped from the site into council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines.
 - b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
 - c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
 - d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
 - e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
 - f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.
41. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework.**
42. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
43. 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.
44. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
45. 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.

46. 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.

47. Approval of the application to Strata Subdivide the subject property is subject to the lodgement of a linen plan for certification and payment of the appropriate fee.
48. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
49. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".
50. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall be in hand prior to any track-equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.
51. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
52. Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.
53. Payment of \$5456.10 for the 1 additional dwelling in respect of the contribution for the provision of the public amenities and public services shall be in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979. Arrangements for such payment is to be made in accordance with Council's policy, **prior to issue of the Construction Certificate**.

Note: The attached yellow form is to be returned to Council with your payment of the Contribution.

54. A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund **Deposit prior to the issue of the Construction Certificate**.
55. A geotechnical engineer's report regarding the stability of the site is to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

56. 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.
57. The building footprint be pushed back 600mm;
58. Reduce front balconies to 2.8m in depth;
59. The portico structure be removed;
60. Side boundary decks and lobby be brought in line with rest of building;
61. Observe right of way as per DP15065 i.e 1.5m wide driveway;
62. Existing row of conifer trees at rear boundary be protected by way of a tree bond.

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**.

216/05 RESOLVED (Evans/Lambert)

That Development Application 486/04 for demolition and construction of a 2 storey Residential Flat Building with basement parking at 3 Cove Avenue, Manly be **deferred** until an independent assessment including the FSR is completed.

That this independent assessment of the FSR is not taken as a precedent for any future development applications.

For the Resolution: Councillors Lambert, Cant, Pedersen, Aird, Evans, Norek and Macdonald.

Against the Resolution: Councillors Hay, Heasman, Murphy, Daley and Morrison.

Notice of Motion Report No. 2

Little Penguin Colony under serious threat of extinction

MOTION (Pedersen/Lambert)

- a) That Council believes that the Little Penguin colony is under serious threat of extinction.
- b) That Council notes that the Environment Committee resolved unanimously as follows; "The committee believes there is no justification for National Park's (DEC) obvious misuse of the PVA and press release which appear to be in support of the pending agreement to lease the Quarantine Station. It is absurd that the PVA has ignored the three major developments i.e. Quarantine Station, AIPM and Lend Lease, as well as the continuation of commercial hauling, infestation of Caluerpataxifolia, etc. "
- c) That, in light of the 2002 determination by the joint determining authorities considering the adaptive re-use of the quarantine station that "...there is still the potential that the activity is likely to significantly affect the endangered long-nosed bandicoot population and endangered little penguin population", and ministerial correspondence acknowledging "threats to the little penguin colony" as a result of ferry operations at rafting times, council expresses its disappointment in the DEC using the release of the PVA to support the development plans

for the quarantine station. In particular, council strongly objects to the DEC press release stating;

"We will be working hard to get better data, but we can say that the proposed leasing of the quarantine station will not necessarily lead to increased mortality or decreased fertility, and therefore would have little or no impact on the colony."

- d) Council sees a conflict of interest in that DEC is a proponent of the quarantine station development whilst also judging the impacts of the development on the penguin colony.
- e) Council objects to the lack of transparency and lack of consultation in the preparation of the PVA and the refusal by NPWS to publicly release the Monitoring Reports until last week.
- f) That Council write to the Minister seeking a response to the following matters;
 - 1) Expressing its concern that neither the State Government nor the NPWS have accepted the precautionary principle when it comes to threats to the penguin colony.
 - 2) Council expressing its concern about the lack of genuine commitment by the State Government in protecting Manly's endangered population of penguins.
 - 3) Council again requesting the state government to stop commercial net hauling in the critical habitat.
 - 4) Council asking the Minister to immediately initiate a comprehensive PVA or other appropriate analysis that addresses all the major threats to the penguin population; That is, the separate and cumulative impacts of the; -proposed Quarantine Station developments - Lend Lease St Patrick's Estate developments -proposed Police College developments - commercial net hauling in the penguin critical habitat -climate change -the invasive seaweed *CaluERPataxifolia*
 - 5) That the comprehensive analysis be done with full transparency and in consultation with Manly Council and local environmental advocates.
- g) That Council write to DEC urging them to take a stronger and more precautionary approach in protecting the penguins, in particular by reconsidering their support for commercial net hauling in the penguin's critical habitat.
- h) That the General Manager ensure that any DA's that may directly impact on penguin habitat be brought to the full Council and not dealt with under delegated authority.
- i) That Council fully cooperate with the DEC proposal to create "Penguin Wardens" and that this proposal be addressed in the forthcoming General Manager's report on Honorary Rangers.
- j) That Council request from the DEC clarification of a need for the 4 knot speed limited across the whole of the North Harbour area in which Little Penguin raft prior to coming ashore.

217/05 RESOLVED: (Pedersen/Lambert)

- a) That Council believes that the Little Penguin colony is under serious threat of extinction.
- b) That Council notes that the Environment Committee resolved unanimously as follows; "The committee believes there is no justification for National Park's (DEC) obvious misuse of the PVA and press release which appear to be in support of the pending agreement to lease the Quarantine Station. It is absurd that the PVA has ignored the three major developments i.e. Quarantine Station, AIPM and Lend Lease, as well as the continuation of commercial

hauling, infestation of *CaluERPataxifolia*, etc. "

- c) That, in light of the 2002 determination by the joint determining authorities considering the adaptive re-use of the quarantine station that "...there is still the potential that the activity is likely to significantly affect the endangered long-nosed bandicoot population and endangered little penguin population", and ministerial correspondence acknowledging "threats to the little penguin colony" as a result of ferry operations at rafting times, council expresses its disappointment in the DEC using the release of the PVA to support the development plans for the quarantine station. In particular, council strongly objects to the DEC press release stating;

"We will be working hard to get better data, but we can say that the proposed leasing of the quarantine station will not necessarily lead to increased mortality or decreased fertility, and therefore would have little or no impact on the colony."

- d) Council sees a conflict of interest in that DEC is a proponent of the quarantine station development whilst also judging the impacts of the development on the penguin colony.
- e) Council objects to the lack of transparency and lack of consultation in the preparation of the PVA and the refusal by NPWS to publicly release the Monitoring Reports until last week.
- f) That Council write to the Minister seeking a response to the following matters;
- 1) Expressing its concern that neither the State Government nor the NPWS have accepted the precautionary principle when it comes to threats to the penguin colony.
 - 2) Council expressing its concern about the lack of genuine commitment by the State Government in protecting Manly's endangered population of penguins.
 - 3) Council again requesting the state government to stop commercial net hauling in the critical habitat.
 - 4) Council asking the Minister to immediately initiate a comprehensive PVA or other appropriate analysis that addresses all the major threats to the penguin population; That is, the separate and cumulative impacts of the; -proposed Quarantine Station developments - Lend Lease St Patrick's Estate developments -proposed Police College developments - commercial net hauling in the penguin critical habitat -climate change -the invasive seaweed *CaluERPataxifolia*
 - 5) That the comprehensive analysis be done with full transparency and in consultation with Manly Council and local environmental advocates.
- g) That Council write to DEC urging them to take a stronger and more precautionary approach in protecting the penguins, in particular by reconsidering their support for commercial net hauling in the penguin's critical habitat.
- h) That the General Manager ensure that any DA's that may directly impact on penguin habitat be brought to the full Council and not dealt with under delegated authority.
- i) That Council fully cooperate with the DEC proposal to create "Penguin Wardens" and that this proposal be addressed in the forthcoming General Manager's report on Honorary Rangers.

- j) That Council request from the DEC clarification of a need for the 4 knot speed limited across the whole of the North Harbour area in which Little Penguin raft prior to coming ashore.

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

Against the Resolution: Nil.

Notice of Motion Report No. 4

Applications from Telecommunications or Radiocommunications Providers for infrastructure

MOTION (Morrison/Pedersen)

- a) That Manly Council as a matter of policy notify without delay all Councillors and Precinct forums upon receipt of an Application or Notification from a Telecommunication or Radiocommunication provider to install additional or new infrastructure to an existing transmitter facility (Base Station) or a new site.
- b) That if a notification is received by Council from a Telecommunications or Radiocommunication provider, this notification be provided (via the Council Liaison Officer) to relevant Precinct forums and all Councillors.
- c) A **further** report be brought back to Council on
- i) the latest evidence regarding electromagnetic emissions of transmitter facilities in the Manly LGA;
 - ii) the latest amendments to the telecommunications (low impact facilities) Determination Act of 1997.
- d) That Council seek the support of our Federal MP, the Hon Tony Abbott, MHR to have the Commonwealth require 'Telcos' to notify relevant Local Government whenever a low impact facility is planned for installation or expansion.

218/05 RESOLVED: (Morrison/Pedersen)

- a) That Manly Council as a matter of policy notify without delay all Councillors and Precinct forums upon receipt of an Application or Notification from a Telecommunication or Radiocommunication provider to install additional or new infrastructure to an existing transmitter facility (Base Station) or a new site.
- b) That if a notification is received by Council from a Telecommunications or Radiocommunication provider, this notification be provided (via the Council Liaison Officer) to relevant Precinct forums and all Councillors.
- c) A **further** report be brought back to Council on
- i) the latest evidence regarding electromagnetic emissions of transmitter facilities in the Manly LGA;
 - ii) the latest amendments to the telecommunications (low impact facilities) Determination Act of 1997.

- d) That Council seek the support of our Federal MP, the Hon Tony Abbott, MHR to have the Commonwealth require 'Telcos' to notify relevant Local Government whenever a low impact facility is planned for installation or expansion.

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

Against the Resolution: Nil.

RESUMPTION OF STANDING ORDERS (Macdonald/Hay)

That **Standing Orders** be resumed.

219/05 RESOLVED (Macdonald/Hay)

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.

Mayoral Minute Report No. 2

Heritage Committee Request Regarding Development Applications

MOTION (Macdonald)

That

- (1) Council support the initiative in principle that all DAs submitted to Council should be supported with photographs illustrating the character of the house and of the street. and staff proceed to draft a policy consistent with this resolution.
- (2) The Heritage Committee provide Council with a report outlining the benefits of having all DAs submitted to Council supported with photographs illustrating the character of the house and of the street concerned.

220/05 RESOLVED: (Macdonald)

That

- (1) Council support the initiative in principle that all DAs submitted to Council should be supported with photographs illustrating the character of the house and of the street. and staff proceed to draft a policy consistent with this resolution.
- (2) The Heritage Committee provide Council with a report outlining the benefits of having all DAs submitted to Council supported with photographs illustrating the character of the house and of the street concerned.

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

Against the Resolution: Nil.

NOTICES OF MOTION

Notice of Motion Report No. 3

Additional No Stopping Zone at North Steyne**MOTION (Lambert/Heasman)**

That the narrow area on the western side of North Steyne, between the Corso taxi rank and No. 49 North Steyne, be made a No Stopping zone.

221/05 RESOLVED: (Lambert/Heasman)

That the narrow area on the western side of North Steyne, between the Corso taxi rank and No. 49 North Steyne, be made a No Stopping zone.

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

Against the Resolution: Nil.

Councillors Cant, Murphy and Norek were not present in the Chamber when the vote was taken.

Notice of Motion Report No. 5

Amendment to the Aims and Objectives of the Manly LEP (1988)**MOTION (Aird/Lambert)**

- A. That Manly Council, in line with its Corporate Plan, Sustainability Strategy and Ethical Standards Policy, prepares an amendment to the 'Aims and Objectives' of the Manly L.E.P. (1988) to add a specific statement of objective to the effect that development considered under the provisions of the L.E.P. proceeds in accordance with the principles of Environmentally Sustainable Development.

In particular, a clause be inserted into the L.E.P. and relevant D.C.P.s to flag to both staff and applicants that Council will consider the issues of the use of disposable products, the materials they are made of and their impacts relative to the principles of Environmentally Sustainable Development.

- B. That the following three conditions relating to the waste management in businesses for commercial premises be included as part of Council's standard conditions of Development Consent:
- (1) A separate waste and recycling service shall be engaged/contracted by businesses operating from the premises;
 - (2) Plastic bags shall not be issued to customers for the purpose of carrying items purchased from the premises;
 - (3) The business shall not provide prepared foods/drinks to its customers in any non-recyclable or non-biodegradable plastic or foam.
- C. That Council prepares a **report** regarding the establishment of a special levy for take-away food/drink outlets that operate within Manly.

222/05 RESOLVED: (Aird/Lambert)

- A. That Manly Council, in line with its Corporate Plan, Sustainability Strategy and Ethical Standards Policy, prepares an amendment to the 'Aims and Objectives' of the Manly L.E.P. (1988) to add a specific statement of objective to the effect that development considered under the provisions of the L.E.P. proceeds in accordance with the principles of Environmentally Sustainable Development.

In particular, a clause be inserted into the L.E.P. and relevant D.C.P.s to flag to both staff and applicants that Council will consider the issues of the use of disposable products, the materials they are made of and their impacts relative to the principles of Environmentally Sustainable Development.

- B. That the following three conditions relating to the waste management in businesses for commercial premises be included as part of Council's standard conditions of Development Consent:

(1) A separate waste and recycling service shall be engaged/contracted by businesses operating from the premises;

(2) Plastic bags shall not be issued to customers for the purpose of carrying items purchased from the premises;

(3) The business shall not provide prepared foods/drinks to its customers in any non-recyclable or non-biodegradable plastic or foam.

- C. That Council prepares a **report** regarding the establishment of a special levy for take-away food/drink outlets that operate within Manly.

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

Against the Resolution: Nil.

Councillors Hay and Morrison were not present in the Chamber when the vote was taken

Notice of Motion Report No. 6

Unresolved Matter**MOTION (Evans/Lambert)**

That this matter be withdrawn due to Cllr Evans's need to seek:

- a) Advice on Pecuniary Interest
- b) Legal advice on ASIC Regulations
- c) Legal advice on possible need to refer matter to Electoral Office.

AMENDMENT: (Daley/Morrison)

That this matter be heard publicly at this meeting.

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

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

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

223/05 RESOLVED: (Evans/Lambert)

That this matter be withdrawn due to Clr Evan's need to seek:

- a) Advice on Pecuniary Interest
- b) Legal advice on ASIC Regulations
- c) Legal advice on possible need to refer matter to Electoral Office.

For the Resolution: Councillors Heasman, Lambert, Cant, Pedersen, Aird, Evans and Macdonald.

Against the Resolution: Councillors Hay, Murphy, Daley, Morrison and Norek.

Notice of Motion Report No. 7

Manly Residents first on waiting lists for Manly Council run Child Care Centres**MOTION (Norek/Cant)**

- a) That the Council investigate and **report** back on the potential implications on Manly residents being first after priority groups on waiting lists for Manly Council run Child Care Centres.
- b) That Council request SHOROC to host a special forum to look as what solutions can be found to address the chronic shortages of childcare across the SHOROC region.
- c) That Council recommend to SHOROC that representatives to be invited to attend the Forum should include the State and Federal Members of Parliament from the Northern Sydney Region, and from the Federal Department of Family and Community Services and the State Dept of Community Services and for Industry Associations representing private childcare providers.

AMENDMENT (Pedersen/Aird)

- a) That Council request SHOROC to host a special forum to look as what solutions can be found to address the chronic shortages of childcare across the SHOROC region.
- b) That Council recommend to SHOROC that representatives to be invited to attend the Forum should include the State and Federal Members of Parliament from the Northern Sydney Region, and from the Federal Department of Family and Community Services and the State Dept of Community Services and for Industry Associations representing private childcare providers.

For the Amendment: Councillors Hay, Lambert, Murphy and Pedersen.

Against the Amendment: Councillors Heasman, Cant, Daley, Morrison, Aird, Evans, Norek and Macdonald.

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

224/05 RESOLVED: (Norek/Cant)

- a) That the Council investigate and **report** back on the potential implications on Manly residents being first after priority groups on waiting lists for Manly Council run Child Care Centres.
- b) That Council request SHOROC to host a special forum to look as what solutions can be found to address the chronic shortages of childcare across the SHOROC region.
- c) That Council recommend to SHOROC that representatives to be invited to attend the Forum should include the State and Federal Members of Parliament from the Northern Sydney Region, and from the Federal Department of Family and Community Services and the State Dept of Community Services and for Industry Associations representing private childcare providers.

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

Against the Resolution: Councillors Lambert, Murphy and Daley.

ITEMS FOR BRIEF MENTION

Item For Brief Mention Report No. 1

Items for Brief Mention**1. Reports:**

1. Sydney Water Corporation Operational Audit 2003/2004 has been published by the Independent Pricing and Regulatory Tribunal of New South Wales and was tabled for information.

2. Minutes Of Meetings:

1. COMMUNITY SAFETY COMMITTEE MINUTES OF MEETING HELD ON 16 DECEMBER 2004
2. MANLY YOUTH COUNCIL MINUTES OF MEETING HELD ON 13 DECEMBER 2004
3. MANLY YOUTH COUNCIL MINUTES OF MEETING HELD ON 17 JANUARY 2005
4. MANLY VISITOR AND COMMUNITY BOARD COMMITTEE MINUTES OF MEETING HELD ON 9 DECEMBER 2004

MOTION (Cant/Lambert)

1. That the Sydney Water Corporation Operational Audit 2003/2004 as tabled for Councillors information be noted.
2. That the recommendations of **Minutes of Meetings, as listed in item 2**, above being **1-4**, be **adopted**.

225/05 RESOLVED: (Cant/Lambert)

1. That the Sydney Water Corporation Operational Audit 2003/2004 as tabled for Councillors information be noted.
2. That the recommendations of **Minutes of Meetings, as listed in item 2**, above being **1-4**, be **adopted**.

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

Against the Resolution: Nil.

GENERAL MANAGER'S OFFICE REPORTS

General Manager's Office Report No. 2

Independent Assessment Panel (IAP)

Ordinary Meeting of Manly Council at its meeting on 20 December 2004 resolved that the matter be deferred to the meeting to be held on 21 February 2005.

MOTION (Pedersen/Evans)

That Council adopts the recommendations of the Workshop as follows:

- Independent Assessment Panel (IAP) be established under the auspice of the General Manager;
- Members of the IAP be drawn from a list of accredited persons by the General Manager;
- An accredited person is someone preselected by the General Manager from a public Expressions of Interest process, and who, apart from their professional skills and experience in development matters, must not otherwise have a conflict of interest, perceived or real, between their private interest and the public duty that they are required to perform as a member of the IAP;
- Only matters that meet the criteria for referral to IAP may be considered by the General Manager for referral to IAP;

These criteria are:

- * Any application in which the applicant is a financial donor to any councillor or their political party/groups (10 hours in kind or good and services to the value of \$500)
 - * Any application in which any councillor or family member has a direct interest; or
 - * Any application in which the applicant is a financial donor to Council, (10 hours in kind or good and services to the value of \$500)
 - * Any applicant that places undue influence on council.
- Matters for referral to the IAP must be submitted in writing to the General Manager and signed by at least 3 councillors who must give reasons for the referral;
 - * The composition of an IAP panel may range from 1 to 3 depending on the complexity of the matter, and the General Manager has the sole discretion on its composition.
 - * The composition of the IAP shall be kept confidential and councillors must not attempt to make contacts with any empanelled members;

- * The General Manager may prior to referring an application to the IAP, request the DAU to provide an assessment and recommendations on the application to the IAP for their further assessment and recommendation;
- * IAP shall independently assess applications referred to it and shall make its recommendations to the General Manager in due course;
- * The matter is determined by the General Manager as recommended by the IAP.

226/05 RESOLVED: (Pedersen/Evans)

That Council adopts the recommendations of the Workshop as follows:

- Independent Assessment Panel (IAP) be established under the auspice of the General Manager;
- Members of the IAP be drawn from a list of accredited persons by the General Manager;
- An accredited person is someone preselected by the General Manager from a public Expressions of Interest process, and who, apart from their professional skills and experience in development matters, must not otherwise have a conflict of interest, perceived or real, between their private interest and the public duty that they are required to perform as a member of the IAP;
- Only matters that meet the criteria for referral to IAP may be considered by the General Manager for referral to IAP;

These criteria are:

- * Any application in which the applicant is a financial donor to any councillor or their political party/groups (10 hours in kind or good and services to the value of \$500)
 - * Any application in which any councillor or family member has a direct interest; or
 - * Any application in which the applicant is a financial donor to Council, (10 hours in kind or good and services to the value of \$500)
 - * Any applicant that places undue influence on council.
- Matters for referral to the IAP must be submitted in writing to the General Manager and signed by at least 3 councillors who must give reasons for the referral;
 - * The composition of an IAP panel may range from 1 to 3 depending on the complexity of the matter, and the General Manager has the sole discretion on its composition.
 - * The composition of the IAP shall be kept confidential and councillors must not attempt to make contacts with any empanelled members;
 - * The General Manager may prior to referring an application to the IAP, request the DAU to provide an assessment and recommendations on the application to the IAP for their further assessment and recommendation;
 - * IAP shall independently assess applications referred to it and shall make its recommendations to the General Manager in due course;

- * The matter is determined by the General Manager as recommended by the IAP.

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

Against the Resolution: Councillors Hay, Heasman, Murphy and Norek.

General Manager's Office Report No. 3

Amendment to the Code of Meeting Practice and Meeting Schedule

MOTION (Evans/Morrison)

1. That Council amend it's Code of Meeting Practice as follows:

2. Limitations on number of Notices of Motion.

Councillors be limited to 12 notices of motion per councillor, per calendar year with a maximum of two (2) at any given meeting.

2. That Council amend it's Code of Conduct as follows:

Part 4, Clause 8 - Breaches:

- *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 of the Protected Disclosures Act, 1994, report the matter to the Council at it's next meeting.*

3. That all Precincts be advised of the outcome of this report..

227/05 RESOLVED: (Evans/Morrison)

1. That Council amend it's Code of Meeting Practice as follows:

2. Limitations on number of Notices of Motion.

Councillors be limited to 12 notices of motion per councillor, per calendar year with a maximum of two (2) at any given meeting.

2. That Council amend it's Code of Conduct as follows:

Part 4, Clause 8 - Breaches:

- *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 of the Protected Disclosures Act, 1994, report the matter to the Council at it's next meeting.*

3. That all Precincts be advised of the outcome of this report..

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

Against the Resolution: Councillors Lambert, Daley, Aird and Norek.

CORPORATE SERVICES DIVISION REPORTS

Corporate Services Division Report No. 1

Report on Council Investment as at 31 December, 2004 and 31 January 2005 (A2/12)**SUMMARY**

Latest accounting statements for the period to 31 December, 2004 and 31 January, 2005.

1. Statement showing general fund bank account balance as at 31 December, 2004 and 31 January, 2005.
2. Cash investments as at 31 December, 2004 and 31 January, 2005.

MOTION (Pedersen/Heasman)

1. That the statement of General Fund Bank Account balance as at 31 December, 2004 and 31 January, 2005 be received and noted.
2. That details of Council's cash investments as at 31 December, 2004 and 31 January, 2005 be received and noted.

228/05 RESOLVED: (Pedersen/Heasman)

1. That the statement of General Fund Bank Account balance as at 31 December, 2004 and 31 January, 2005 be received and noted.
2. That details of Council's cash investments as at 31 December, 2004 and 31 January, 2005 be received and noted.

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

Against the Resolution: Nil.

Corporate Services Division Report No. 2

Financial Review for the period ending 31 December 2005 (A5/15)**SUMMARY**

Council's Income and Expenditure for the quarter 1 July 2004 to 31 December 2004 has been reviewed, together with a projection of Council's Budget as at 30 June 2005, and a Statement of Variations which have occurred is submitted.

After adoption of the recommended adjustments the result for the quarter is a deficit of \$43,300, and a forecast deficit at 30 June 2005 of \$60,100.

MOTION (Hay/Heasman)

That the 2004/2005 Adopted Budget be varied in terms of this Report.

229/05 RESOLVED: (Hay/Heasman)

That the 2004/2005 Adopted Budget be varied in terms of this Report.

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

Against the Resolution: Nil.

General Manager's Office Report No. 5
Revised Section 94 Plan - Draft for Exhibition

MOTION (Heasman/Hay)

That the Revised Section 94 Plan as tabled, be placed on exhibition as prescribed under the Environmental Planning and Assessment Act.

230/05 RESOLVED (Heasman/Hay)

That the Revised Section 94 Plan as tabled, be placed on exhibition as prescribed under the Environmental Planning and Assessment Act.

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

Against the Resolution: Nil.

Corporate Services Division Report No. 3
Review of Management Plan - December 2004-2007

SUMMARY

The purpose of this report is to provide the review of the Management Plan for the September and December 2004 quarters, in accordance with the requirements of the *Local Government Act 1993*.

MOTION (Hay/Heasman)

1. That this report be referred to a special workshop for the Councillors.
2. That the report on the quarterly reviews 1st July to 31st December 2004 of the Management Plan 2004/2007 be received and noted.

231/05 RESOLVED: (Hay/Heasman)

1. That this report be referred to a special workshop for the Councillors.
2. That the report on the quarterly reviews 1st July to 31st December 2004 of the Management Plan 2004/2007 be received and noted.

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

Against the Resolution: Nil.

Councillor Pedersen was not present in the Chamber when the vote was taken

ENVIRONMENTAL SERVICES DIVISION REPORTS

Environmental Services Division Report No. 9

85-87 Lauderdale Avenue, Fairlight (DA386/04)

SUMMARY

This item was presented at the Land Use Management meeting of 7 February, 2005, where Council resolved as follows:

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

MOTION (Aird/Cant)

That the matter be **deferred** to the Land Use Management meeting Monday 7 March, 2005 to allow sufficient time for the issues of the resolution to be addressed.

232/05 RESOLVED: (Aird/Cant)

That the matter be deferred to the Land Use Management meeting Monday 7 March, 2005 to allow sufficient time for the issues of the resolution to be addressed.

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

Against the Resolution: Nil.

Councillor Pedersen was not present in the Chamber when the vote was taken

HUMAN SERVICES AND FACILITIES UNIT REPORTS

Human Services and Facilities Unit Report No. 1

Rubbish Reduction in Manly - "Keeping the Scene Clean" this Summer

SUMMARY

At Council's Ordinary Meeting of 20th December 2004, Councillor Norek presented a Notice of Motion (Report No 54) embracing a wide range of waste and cleansing-related issues. It was resolved that *"The General Manager report on a strategy to significantly decrease the amount of rubbish in Manly through the regimes as noted in Councillor Norek's Notice of Motion"*.

MOTION (Norek/Cant)

That Council note the report.

233/05 RESOLVED: (Norek/Cant)

That Council note the report.

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

Against the Resolution: Nil.

CIVIC SERVICES UNIT REPORTS

Civic Services Unit Report No. 1

Tender 04/13 - Supply and Delivery of Concrete (T5/3)**SUMMARY**

Tenders have been called for the supply and delivery of concrete for the period ending 31st Oct 2006 and a recommendation is made.

MOTION (Hay/Heasman)

1. That Council accept the offer from Brookvale Mini-Crete to supply concrete to Council for the period ending 31st Oct 2006 in accordance with the schedule attached.
2. The confidential analysis of tenders not be made public unless with the written permission of the tenderer.
3. The unsuccessful tenderer be advised accordingly

234/05 RESOLVED: (Hay/Heasman)

1. That Council accept the offer from Brookvale Mini-Crete to supply concrete to Council for the period ending 31st Oct 2006 in accordance with the schedule attached.
2. The confidential analysis of tenders not be made public unless with the written permission of the tenderer.
3. The unsuccessful tenderer be advised accordingly

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

Against the Resolution: Nil.

Civic Services Unit Report No. 2

Tender No 04/14 - Supply and Delivery of Raw Materials (T5/3)

SUMMARY

Tenders have been called for the supply of raw materials, including sand, soil, fine crushed rock, and cement, for the period ending 31st Oct 2006 and a recommendation is made.

MOTION (Heasman/Hay)

That:

1. Council accept the offer from Benedict P/L for the supply of top soil for \$26.95 per tonne and 20mm fine crushed rock and River Sand for \$21.40 and \$36.69 per tonne respectively and Cronulla Sand for \$29.21 per tonne including GST.
2. Council accept the offer from Brookvale Sand Company for the supply of cement for \$5.50 per bag / per pallet load
3. The unsuccessful tenderers be advised accordingly.
4. The confidential analysis of tenders not be made public unless with the written permission of the tenderer.

235/05 RESOLVED: (Heasman/Hay)

That:

1. Council accept the offer from Benedict P/L for the supply of top soil for \$26.95 per tonne and 20mm fine crushed rock and River Sand for \$21.40 and \$36.69 per tonne respectively and Cronulla Sand for \$29.21 per tonne including GST.
2. Council accept the offer from Brookvale Sand Company for the supply of cement for \$5.50 per bag / per pallet load
3. The unsuccessful tenderers be advised accordingly.
4. The confidential analysis of tenders not be made public unless with the written permission of the tenderer.

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

Against the Resolution: Nil.

CONFIDENTIAL ITEMS

General Manager's Office Report No. 4

Safety of Balconies

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2)(g) of the Local Government Act, 1993, on the grounds that the report contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Chairperson asked if any members of the public gallery objected to the matter being heard in 'Closed Session

It is noted that no representations were received from the public gallery.

236/05 RESOLVED (Morrison/Macdonald)

That the meeting move into Closed Session to consider General Manager's Report No. 4, Safety of Balconies.

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

Against the Resolution: Nil.

Upon resuming into Open Council the General Manager advised the meeting of the following resolutions made in Closed Session.

237/05 RESOLVED: (Hay/Macdonald)

That the report be received and noted.

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

Against the Resolution: Nil.

Councillor Aird was not present in the Chamber when the vote was taken

Mayoral Minute Report No. 1

Staff Matter

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (a) of the Local Government Act, 1993, on the grounds that the matter will involve the discussion of personnel matters concerning a particular individuals

The Chairperson asked if any members of the public gallery objected to the matter being heard in 'Closed Session

It is noted that no representations were received from the public gallery.

238/05 RESOLVED (Daley/Heasman)

That the meeting move into Closed Session to consider Mayoral Minute No. 1.

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

Against the Resolution: Nil.

Upon resuming into Open Council the General Manager advised the meeting of the following resolutions made in Closed Session.

239/05 RESOLVED: (Pedersen/Hay)

A. That consideration of the report on this item remain confidential for the reasons as outlined in Section 10A(2) (a) of the Local Government Act, 1993.

B. That this report be noted in full by Council.

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

Against the Resolution: Nil.

QUESTIONS WITHOUT NOTICE**Councillor Hay**

1. Approximately two years ago a budgeted amount of some \$60k was allocation for the employment of a Heritage Planner to facilitate conservation management of North Steyne Surf Club and the Cemetery. The conservation management of the Cemetery was serviced by a specialist planning consultant, what is the status of the North Steyne Surf Club?

At the request of the Mayor the General Manager advised that he will take this matter on notice.

Councillor Lambert

1. Could the General Manager please provide an update on the progress of recruitment of a Social Planner?

At the request of the Mayor the Director Corporate Planning and Strategy Services advised that at present no suitable candidate has been identified and that he will take this matter on notice.

Councillor Murphy

1. How does Council enforce and carry out it's responsibility with regard to stray cats and dogs in the LGA. What protocols are implemented in housing and maintaining of these animals until collection including any specific arrangement regarding this with local vets?

At the request of the Mayor the General Manager advised that Council has a Pound which is managed by Animal Control Officers employed by the Council. These officers are on duty at the site twice a day and the animals held at this facility are kept in the highly satisfactory conditions. Unfortunately the capture of stray cats is not often successful but dogs are kept until collection and the aforesaid Pound which operates 7 days a week. The General Manager undertook to take the matter of any specific arrangements regarding local vets on notice.

2. How does an objector or applicant access a letter or correspondence when the writer has requested it remain confidential. Can the person see the letter with personal details removed?

At the request of the Mayor the General Manager advised that it is not possible if a letter is marked confidential by the writer for a third party to access the letter due to privacy provisions under PIPPA.

Councillor Morrison

1. When a tender is let for services such as scientific advice etc is it possible for the unsuccessful tenderer to access information about why they were unsuccessful?

At the request of the Mayor the Director Corporate Planning and Strategy Services advised that the terms of the successful tender would be commercial-in-confidence information. However all tenderers are invited at the beginning of the process to a briefing session where the contract and specifications are outlined and all tenderers are able to check the exact requirements of the tender at that time.

Councillor Pedersen

1. Can the General Manager confirm that the outstanding items on the Environmental Committee agenda will be dealt with by the next meeting of the Environmental Committee?

At the request of the Mayor the Director Corporate Planning and Strategy Services advised that they will be dealt with.

Councillor Aird

1. Could the General Manager please advise on the status of the work being conducted on the Corso and whether the pavers will be reinstated?

At the request of the Mayor the General Manager advised that the work is being conducted by Energy Australia and the pavers will be re-laid at the completion of the work in the Corso and Rialto Lane by Council staff. The paving will be restored to original specification and this work will be completed at night over several weeks to minimise disruption to businesses in the Corso.

2. At the December Ordinary Meeting the matter of illegal signage on shop awnings etc in the Corso was raised. This signage is contrary to Council's policy and there also seems to be some new roller doors installed in businesses on the Corso. What is being done to address these issues?

At the request of the Mayor the General Manager advised that the Council's Compliance Officer has visited a number of premises to discuss the issue of signage with them and inform them of the Council policy and how it relates to their particular signage. A process of infringement notices will be the next step in the management of this issue.

The General Manager took the matter of the roller doors on notice and will discuss this with the Compliance Officer and report back.

Councillor Norek

1. A recent resolution of Council related to the management of Shopping Trolleys in the Corso area could the General Manager report on the progress with this issue?

At the request of the Mayor the General Manager advised that a Shopping Trolley Working Party was convened with Councillor Norek as Chair to facilitate working solutions with the interested parties and Council's compliance officers.

2. I have recently received email correspondence regarding short-term accommodation at 140 North Steyne and 42-44 Victoria Parade. Has any action been undertaken to inform the owners of these properties regarding restrictions on operation of short-term accommodation?

At the request of the Mayor the General Manager advised that with regard to 42-44 Victoria Parade the Council's Compliance Officer will be taking action on the complaints. The issues relating to 140 North Steyne will be taken on notice.

MATTERS OF URGENCY

Nil.

CLOSE

The meeting closed at 12.53pm

The above minutes were confirmed at an **Ordinary Meeting** of Manly Council held on 21 March 2005.

MAYOR

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