



## Agenda

### Land Use Management Committee (Council in Committee of the Whole)

Notice is hereby given that a Land Use Management Committee of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

**Monday 7 November 2005**

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

Persons in the gallery are advised that the proceedings of the meeting are being taped for the purpose of ensuring the accuracy of the Minutes. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.

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

**Seating Arrangements  
for Meetings**

Staff      Staff      General  
   Manager      Chairperson      Staff      Minute  
   Taker



**Mayor** Dr Peter  
Macdonald

Clr Mark Norek

Clr Joanna Evans

**Deputy Mayor**  
Clr Barbara Aird

Clr Brad  
Pedersen

Clr Richard  
Morrison



Clr Jean Hay AM

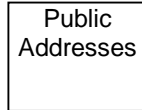
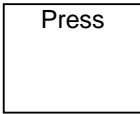
Clr Adele Heasman

Clr Dr Judy Lambert

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



**Public Gallery**

**Chairperson:** Clr Dr Judy Lambert  
**Deputy Chairperson:** Clr Richard Morrison

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

**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Mayoral Minute No. 12  
**SUBJECT:** The Corso Revitalisation  
**FILE NO:**

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I would like to bring Council and the community up to date on the programme of revitalisation and refurbishment of The Corso.

Earlier this year Council entered into a Memorandum of Understanding with the Manly Chamber of Commerce to enter into a programme which aims to improve The Corso infrastructure and at the same time, improve the way The Corso is managed in terms of operational aspects such as cleaning and events management and also to engage with the owners and operators of the adjoining business premises to ensure that the facades of the buildings and the general presentation of the private property goes hand in hand with the upgrade of the public domain to give maximum benefits and impacts.

Council has secured the co-operation of the Manly Chamber of Commerce and business owners in Manly in relation to a financial contribution by way of the Town Centre Improvement Rate. Council engaged in a selective design competition whereby three firms have been invited to present their concepts for the upgrading of The Corso between the Wharf and the Ocean Beach and more generally in the area surrounding The Corso in the Manly Town Centre.

The three Concept designs have now been received and Council is seeking input from the general community in terms of their response to these schemes.

Council will attempt to get a broad range of response from all stake holders, including the Manly Chamber of Commerce, the Community Precinct Forums and from the general public. To do this it is proposed to exhibit the three concept designs in a Marquee in The Corso over two days on Wednesday, 23rd and Thursday, 24th November, 2005. As well as the exhibition, a Public Forum will be conducted in the Council Chambers on the evening of Thursday, 24th November, 2005 and all stakeholders are invited to attend and see electronic presentations from the three firms of consultants. This will also afford the opportunity for people to ask questions, both at the exhibition in The Corso and at the Public Forum. There will be response forms available where in people can identify their likes and dislikes in relation to each of the proposals exhibited. In addition, there will be a Web Site link where all of the schemes can be examined and that will also afford another opportunity for people to respond electronically in terms of the likes and dislikes of each of the schemes in the same way as the response form does for those attending the Exhibition.

The inputs from the various stakeholders, being the Manly Chamber of Commerce and the local business community, plus Precincts, plus general public and critical assessment by the Council's own Landscape Management and Urban Design Committee will be thereafter presented in a report to Council in early December with a view to selecting one scheme and one firm of consultants to move through to the Design Development stage which will produce another level of detail to the concept scheme. This will result in detailed design drawings and specifications being prepared.

It is envisaged that after going through a tendering process, work would commence on the ground in the winter of 2006.

At this stage, it is envisaged that the work would start in the area east of the Darley Road intersection heading towards the Ocean Beach. One of the reasons for this is that it is envisaged that the other end of The Corso adjacent to the Coles site will be significantly disrupted during building works on the Coles site adjacent to the Cenotaph and that it would be unwise to have these major construction activities in the same area at the one time.

**Mayoral Minute No. 12 (Cont'd)**

Newsletters, Press Releases and the Mayoral Column will be used to keep the community up to date with the progress of this project and contact persons will be notified for the dissemination of information and assistance to all interested parties.

In addition, a Centre Manager Co-Ordinator has been appointed to facilitate the rejuvenation of the Manly Centre and link between Council and the business community to ensure an outcome that is balanced and sustainable for all stakeholders.

A Special Partnership/Entity has been set up between the Executive of the Manly Chamber of Commerce and Council to drive this programme. Council will aim to improve the public infrastructure and operational issues and the Chamber is expected to enlist the support of the private sector to present and manage the area for residents and visitors alike.

**RECOMMENDATION**

Submitted for notation

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Mayoral Minute No. 12 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Notice of Motion No. 35  
**SUBJECT:** Manly After Midnight Implementation  
**FILE NO:**

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Councillor Brad Pedersen will move:

1. That Council acknowledge that some aspects of the implementation of the MAM Policy may require a phased and measured approach.
2. That Council note the proposed "Late Night Take Away Food Agreement" and facilitate its development and implementation.
3. That Council request that the General Manager take into account the effects and effectiveness of the proposed "Late Night Take Away Food Agreement" when exercising his statutory discretions and enforcement responsibilities in relation to compliance.

**NOTE:**

I have spoken to a number of the take-away food shop owners and they are keen to cooperate with the council with the development of a Late Night Take Away Food Agreement.

The Late Night Take Away Food Agreement between the Council, take-away food shops and the police could focus on strategies such as:

Security cooperation (ie: take-away food shops can be utilised as an extra set of 'eyes and ears' for the police when any trouble develops on the streets outside the pubs).

Litter control and removal (take-away food shops could take greater responsibility to keep the areas around their shops clean).

CCTV to be installed in the Ser-Bar shop and perhaps other take-away shops.

These strategies and others need to be considered.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Notice of Motion No. 35 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Environmental Services Division Report No. 58  
**SUBJECT:** 2 Bower Street, Manly Section 96 Modification  
**FILE NO:** DA304/02

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**Application Lodged:** 18 July 2005  
**Applicant:** Sookee Wescott  
**Owner:** W & S Wescott  
**Estimated Cost:** N/A for S.96 modification of consent  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** 2 and 3 storey detached dwelling houses and multi-unit buildings.  
**Heritage:** No.  
**Foreshore Scenic Protection** Yes

**SUMMARY:**

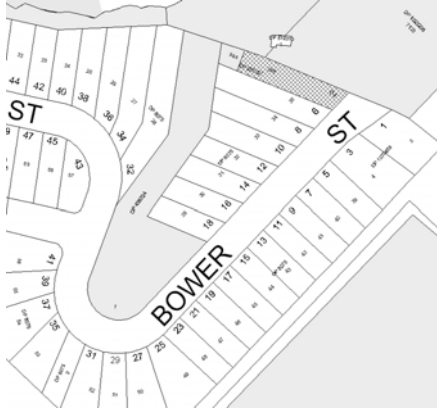
1. COUNCIL RECEIVED DEVELOPMENT APPLICATION NO.304/02 FOR ALTERATIONS AND UPPER LEVEL ADDITIONS TO THE EXISTING DWELLING ON 15 JULY 2002.
2. CONSIDERATION OF THE APPLICATION INCLUDED ISSUES REGARDING RETENTION OF A SIGNIFICANT MORETON BAY FIG TREE LOCATED ON THE NORTHERN SIDE BOUNDARY AND PARTLY ON THE ADJOINING SHELLY BEACH PARK.
3. IN SUPPORT OF THE PROPOSAL AN ARBORIST'S REPORT (TREE WISE MEN) WAS SUBMITTED BY THE THEN OWNER OF THE SITE. THIS REPORT FOUND THAT THE TREE WAS IN GOOD HEALTH, WORTHY OF RETENTION AND COULD BE SUCCESSFULLY RETAINED WITH THE ADDITIONS SUBJECT TO LOPPING OF 3 LIMBS WITHIN THE CONSTRUCTION ENVELOPE.
4. ON 27 NOVEMBER 2002 COUNCIL'S DEVELOPMENT CONTROL UNIT APPROVED THE APPLICATION WITH 7 CONDITIONS OF CONSENT RELATING TO RETENTION OF THE MORETON BAY FIG IN ACCORDANCE WITH THE ARBORIST'S RECOMMENDATIONS.
5. ON 22 JUNE 2004 AN APPLICATION WAS MADE BY THE NEW (CURRENT) OWNERS FOR AN EXTENSION OF THE CONSENT PERIOD, AND WAS SUBSEQUENTLY APPROVED ON 28 JUNE 2004 FOR EXTENSION UNTIL 27 NOVEMBER 2005. THE APPLICANT WAS ALSO ADVISED THAT NO FURTHER EXTENSION OF CONSENT WILL BE PERMITTED.
6. ON 1 JULY 2005 – A MEETING WAS CONDUCTED ON SITE WITH APPLICANT, COUNCIL'S PARKS COORDINATOR AND COUNCIL'S MANAGER DEVELOPMENT CONTROL. THE APPLICANT WAS ADVISED OF THE LANDSCAPE SIGNIFICANCE OF THE TREE TO THE LOCALITY, THAT ANY DESIGN MODIFICATIONS SHOULD ENSURE RETENTION OF THE TREE, AND THAT THE CONSENT WILL LAPSE ON 27 NOVEMBER 2005 (AS PREVIOUSLY ADVISED) UNLESS PHYSICAL COMMENCEMENT OF WORKS HAS TAKEN PLACE.
7. ON 18 JULY 2005 THE SUBJECT S.96 APPLICATION FOR MODIFICATION OF CONSENT WAS SUBMITTED TO COUNCIL REQUESTING REMOVAL OF THE MORETON BAY FIG TREE AND MINOR DESIGN AMENDMENTS. LETTERS OF SUPPORT FOR REMOVAL OF THE TREE WERE PROVIDED FROM NEIGHBOURS AT NO'S 1, 3, 6, 8, 9 & 10 BOWER STREET.
8. RECOMMENDATIONS FOR REFUSAL WERE MADE TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON THE BASIS OF LANDSCAPE IMPACT AND FAILING TO MAINTAIN SUBSTANTIALLY THE SAME DEVELOPMENT AS ORIGINALLY SUBMITTED TO AND APPROVED BY COUNCIL. THE DAU

**Environmental Services Division Report No. 58 (Cont'd)**

- RESOLVED TO SUPPORT THE PROPOSAL ON GROUNDS OF POTENTIAL STRUCTURAL IMPACTS CAUSED BY THE TREE.
9. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR LAMBERT.
  10. A SITE INSPECTION IS RECOMMENDED.
  11. THE MODIFICATION APPLICATION IS RECOMMENDED FOR APPROVAL.

**LOCALITY PLAN**

Shaded area is subject land.

**REPORT****Introduction**

This application is made pursuant to S.96 Modification of Consent, requesting amendments to the approved plans for alterations and additions to a 3 storey dwelling. The approval included an elevated driveway and garage on the upper level that would extend to within 1 metre of a significant Moreton Bay Fig tree on the northern side boundary.

It is noted that at the time of writing this report that construction works have not physically commenced on site and that the development consent shall lapse on 27 November 2005 in the absence of this, rendering the entire consent as expired. Further to this, a Construction Certificate is yet to be issued to enable commencement of building works.

The proposed modifications are summarised as follows:

1. Landscaping modifications - request to delete condition no's 3, 4, 5, 7, 49 & 50 of the development consent regarding retention of the significant Moreton Bay Fig tree.
2. Design / structural modifications - request to make minor design amendments, being  
deletion of the stairwell between levels 2 and 3,  
deletion of the planter box adjoining the level 3 pedestrian bridge and entry,  
addition of 2 doors and a window to the level 3 garage,  
lowering the level 3 garage slab by 500mm (to enable deletion of 3 support columns and deletion of 4 steps for the entry bridge)

***The site and surrounds***

Existing development on the site comprises a two and three storey dwelling of brick construction with flat roof. A large Moreton Bay Fig tree is located straddling the northern side boundary of the site, having a height of approximately 15 metres and a spread of 22 metres over both the adjoining park to the north and the subject dwelling. Other landscaping comprises several smaller trees and a mix of shrubs.



**Environmental Services Division Report No. 58 (Cont'd)**

The site adjoins Shelly Beach Park to the north and west, with half of the subject tree spreading over the park. Neighbouring to the south is a two and three storey dwelling, and to the east on the opposite side of the street is a stepped 3 storey dwelling.

In context of landscape, the locality features a mix of shrubs and trees including several Moreton Bay Figs in the park and Bower Street Park.

Panoramic views from the site and neighbouring foreshore properties are available to Cabbage Tree Bay and its foreshores, including local views of Fairy Bower, Shelly Beach headland and Manly Beach.

**Applicant's Supporting Statement**

The following documentation has been submitted in support of the proposed modifications:

1. Statement of Environmental Effects, prepared by the owner / applicant;
2. Statement of Design Modifications, prepared by the Architect;
3. Arborist's Report, prepared by Footprint Green Pty Ltd;
4. Structural Engineer's Report, prepared by NB Consulting Engineers Pty Ltd;
5. Architecture / Building Consultants Report, prepared by Hodgkins & Laverick Pty Ltd;
6. Building Contractors letter from Accolode Constructions;
7. Plumber's letter from Graf Plumbing Pty Ltd;
8. Solicitor's advice from Bray Jackson & Co Solicitors

In summary the following points are raised:

The large size and expanse of the tree roots have caused cracking of an adjacent sewer pipe, causing flooding of effluent into the house, and requiring repairs to the sewer pipe.

Cracking has also occurred to garage floor / walls, sandstone steps and retaining walls;

Retention of the tree will cause further ongoing damage at cost to the owner, with the additions in turn possibly reducing the long term health and survival of the tree;

The spread of the tree over the house is intrusive, overhanging more than half of the roof area;

The design modifications are minor, with removal of the tree resulting in substantially the same development as originally approved by Council while improving the amenity of the property;

The Tree Wise Men arborist's report prepared for the proposal in 2002 (the approved plans) did not include root mapping of the tree and did not have access to structural drawings for the placement of footings [rather, it made recommendations for flexible location of footings to minimise conflict with the trees' roots];

The suggestion of several Council officers to relocate the approved garage to the south side of the site, further separated from the tree, is not viable as it would require breaching Council's Residential DCP policy of not exceeding the crown of the road.

Removal of the tree is recommended by the Arborist due to its vigorous and extensive root system, its close proximity to the approved driveway and garage, and the constraints it places on their design and construction.

**Submissions**

As noted the S.96 application was accompanied by 8 pro forma type letters of support for removal of the tree from neighbours at No's 1, 3, 6, 8, 9 & 10 Bower Street. Each letter raises the same reasons given for support to removal of the tree are summarised as follows:

Retaining the tree is likely to seriously affect the structural integrity for the existing house and approved additions.

Risk to life and property resulting from retention of the tree.

**Environmental Services Division Report No. 58 (Cont'd)**

Two similar large Fig trees located in the Bower Street park have grown to overly dominate the park, affecting its functional use.

The corner of the Shelly Beach Park adjoining the site could be beautified through removal of the tree and removal of noxious lantana nearby.

***Response to submissions***

In response to these issues, it is acknowledged that continual lateral root growth may cause damage to the existing dwelling and the additions as approved, in particular the approved driveway and garage.

With respect to issues of liability, the tree is recognised by both arborists reports submitted with the original application and the current Section 96 modification application to have the highest Safe Useful Life Expectancy rating ("SULE" rating) of 1, being an expectant future life of more than 40 years. However, the applicant has taken a view that the potential damage issues associated with such a large tree in close proximity to the existing dwelling and proposed additions outweigh the value the tree contributes to the visual amenity of the area.

**Precinct Community Forum Comments**

No comments received at the time of writing this report.

**Engineers Comments**

Not applicable for this application.

**Building Comments**

No objection to the proposed modifications on Building Code of Australia grounds.

**Parks Co-ordinators Comments**

Consideration has been given to the tree, the building and the current damage being caused, along with the presentation of evidence from suitable qualified people supplied by the applicant. There is sufficient evidence to support the applicants claim that the tree has potential to cause damage and this could become more of an issue as the tree matures to its full size.

Approval would be given under the Tree Preservation Order for removal under normal circumstances. In the circumstances I see no option but for Council to approve the removal of the tree, subject to the notification of residents and the Precinct. The removal should be carried out at the cost of the applicant.

Another two trees namely *Angophora costata* should be planted as a replacement of the *Ficus rubiginosa*. The new trees will need to be planted as a 200 litre specimen at least 3m in height. The new tree will need to be planted immediately after the removal of the fig tree. Inspection of the newly planted trees would need to be carried out by Council's officers to ensure compliance. prior to issue of final occupation certificate. Funds should be allocated to restore this section of the reserve after the removal of the fig tree, this amount should be \$1,500.

**PLANNING COMMENTS****Planning Controls:*****Manly Local Environmental Plan 1988***

The proposed modifications are ancillary to the approval for alterations and additions to a dwelling and are permissible with consent.

In consideration of the objectives of the zone, the proposed modification to delete conditions 3, 4, 5, 7, 49 & 50 of the consent, thereby permitting removal of the tree is considered acceptable, subject to the applicant providing replacement trees as specified by Council's Parks Coordinator.

**Environmental Services Division Report No. 58 (Cont'd)**

Replacement of this tree is considered consistent with respect to objectives (d) and (e) of the residential zone, which essentially encourage landscaping through appropriate design. Given the aesthetic value of the Morton Bay Fig tree, its replacement with at least two trees in the same general location is considered essential.

The several proposed modifications to the approved additions for the dwelling are also considered acceptable, being deletion of the stairwell between levels 2 and 3, deletion of the planter box adjoining the pedestrian bridge and entry, addition of 2 doors and a window to the garage, and lowering the level 3 garage slab by 500mm (to enable deletion of 3 support columns and deletion of 4 steps for the entry bridge).

The site is also located within the Foreshore Scenic Protection Area (FSPA). Clause 17 of the LEP requires that consent shall not be granted to development that will have a detrimental impact to the amenity of the FSPA. It is noted that the tree forms part of the reserve environment and tree also plays a significant role in screening the subject dwelling and surrounding development when viewed from the foreshore. Replacement planting is considered essential to maintain the visual amenity of the area.

**Section 96 Modification of Consent**

Section 96 of the EP&A Act requires assessment as to:

- a) whether the proposed modifications result in any increase in environmental impacts compared with the approved building form; and
- b) whether or not they result in substantially the same development as approved.

Retention of the Morton Bay Fig tree was given great weight in the assessment of the alterations and additions to the dwelling as approved, with a consultant arborist's report being provided concluding that the tree could and should be successfully retained subject to certain construction conditions, which were adopted in the conditions of consent. The consent strongly contemplated the retention and protection of this tree. However, given that it would be possible for the owner to separately apply to Council to remove the tree with a Tree Permit Application it is considered that the current consent is not dependent retention of the tree and this aspect of the modification is accepted as constituting "substantially the same development" as approved.

The proposed structural modifications as follows are also considered to maintain substantially the same development with no increase in impacts:

Deletion of the stairwell between levels 2 and 3;  
deletion of the planter box adjoining the pedestrian bridge and entry,  
addition of 2 doors and a window to the garage,  
lowering the level 3 garage slab by 500mm (to enable deletion of 3 support columns and deletion of 4 steps for the entry bridge).

**Comments**

The proposed modifications are considered acceptable pursuant to the provisions of S.96 of the EP&A Act. Retention of the Moreton Bay Fig was a key factor in Council granting consent to the subject alterations and additions, with conditions 3, 4, 5, 7, 49 & 50 reflecting this. Given the significance of the subject tree and its visual contribution to the landscaped setting of Bower Street and bordering Shelly Beach Park, it's replacement with two trees of suitable species is essential. A condition in this regard is included in the Recommendation.

**CONCLUSION:**

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 1988 and the Manly Development Control Plan for the Residential Zone 2001 (Amendment 1), and is considered satisfactory and is recommended for approval.

**Environmental Services Division Report No. 58 (Cont'd)****RECOMMENDATION**

That the Section 96 application to modify Consent No.304/02 for alterations and additions to the existing dwelling at No.2 Bower Street, Manly be approved with conditions 3, 4, 5 and 7 deleted, conditions 1, 49 and 50 modified and new condition 73 added as follows:

1. This approval relates to drawings/plans Nos.DA01-14 issue 1 dated May 2002 and received by Council on the 15<sup>th</sup> July 2002, and as amended by plans titled "Preferred Option" received by Council on the 27 November 2002, as amended by drawings /plans Nos. WD-03, 04, 07, 08, 09, 10, 11 and 19 dated June 2003 received by Council 18 July 2005.

49. Trees and shrubs not identified for removal on the approved plans and liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

50. Precautions shall be taken when working near trees not identified for removal on the approved plans, such precautions including the following:

- do not store harmful or bulk materials or spoil under or near trees
- prevent damage to bark and root system
- do not use mechanical methods to excavate within root zones
- do not add or remove topsoil from under the drip line
- do not compact ground under the drip line.

73. The Morton Bay Fig located on the northern side boundary which is to be removed, is to be replaced with the planting of two *Angophora costata* (300 litre specimens at least 3.0m in height), with planting to occur in consultation with Council's Parks Co-ordinator immediately following removal of the Fig Tree.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 58 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Environmental Services Division Report No. 59  
**SUBJECT:** 42 Bower Street, Manly  
**FILE NO:** DA102/05

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**Application Lodged:** 4 February 2005 (Section 82A lodged 13/07/05)  
**Applicant:** Marc Biancardi  
**Owner:** Sarah Day  
**Estimated Cost:** 1.5M  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential within a Foreshore Scenic Protection Area.  
**Surrounding Development:** Two and three storey dwelling houses  
**Heritage:** Nil

**SUMMARY:**

1. DEVELOPMENT APPLICATION NO.102/05 FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING WAS RECEIVED ON 4 FEBRUARY 2005.
2. FOLLOWING CONSIDERATION OF THE APPLICATION BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT THE APPLICATION WAS REFUSED ON 23 MAY 2005.
3. ON 13 JULY 2005 COUNCIL RECEIVED AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.
4. THE APPLICATION FOR REVIEW WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
5. AN APPEAL AGAINST THE REFUSAL OF 23 MAY 2005 WAS LODGED WITH THE LAND AND ENVIRONMENT COURT ON 30 AUGUST 2005 AND REMAINS PENDING.
6. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. REFUSAL OF THE APPLICATION IS RECOMMENDED.

**LOCALITY PLAN**

Shaded area is subject land.



**REPORT**

**Introduction**

The subject site is located on the northern (low) side of Bower Street and is generally rectangular in configuration having a frontage of 15.28m and a depth of 45.72m. The land is currently developed with a two storey brick dwelling with attached double. The topography of the site falls away from the front boundary to a steep cliff at the rear adjoining Cabbage Tree Bay Reserve.

**Environmental Services Division Report No. 59 (Cont'd)**

Development application No.102/05 was lodged on 04/02/05 for the alterations and additions to an existing dwelling house at 42 Bower Street, Manly. (Note: There was a previous development consent, DA 424/01 for a new dwelling with basement parking. This consent lapsed on 5 June 2005).

Development application No.102/05 was notified with two submissions received. The application was considered by Council's Development Assessment Unit and was refused on 23 May 2005 for the following reasons;

1. The proposal is considered inconsistent with the relevant objectives of the Residential Zone under Manly Local Environmental Plan, 1988, particularly with respect to objectives (c), (d) and (e) due to excess visual bulk and scale impacts to the surrounds and a lack of additional landscaping to mitigate these impacts.
2. The proposal is considered an unsatisfactory form of development within the Foreshore Scenic Protection Area, pursuant to Clause 17 – Visual and aesthetic protection of certain land of the Manly Local Environmental Plan 1988, on grounds of excessive visual bulk and scale and increased cumulative visual impacts as viewed from the waterways and local foreshore areas.
3. The proposal is considered an overdevelopment of the site given that it does not comply with the Manly Development Control Plan (DCP) for the Residential Zone 2001, Amendment 1, with respect to the provisions for Floor Space Ratio, height, setback (dwelling and swimming pool) and excavation.
4. The proposal does not comply with, and is not considered to satisfy the objectives for the provisions of Floor Space Ratio, height, setback, excavation, view sharing and privacy as stated in Sections 3.3, 3.4, 3.5, 3.6, 3.8 and 3.10 of the Development Control Plan for the Residential Zone 2001, Amendment 1.
5. Pursuant to Section 79C(b) of the Environmental Planning & Assessment Act 1979, the proposal is considered to result in unreasonable built impacts to its foreshore locality in terms of excess bulk and scale, loss of iconic views and loss of privacy from neighbouring properties.
6. Pursuant to Section 79C(e) of the Environmental Planning & Assessment Act 1979, the proposal is not considered in the public interest, primarily due to its impact on the Foreshore Scenic Protection Area and amenity impacts to neighbouring properties.
7. The proposal is not considered to be alterations and additions to the existing dwelling as stated in the submitted Statement of Environmental Effects but total demolition of the existing dwelling and erection of a new three (3) storey split level dwelling house with a new swimming pool.

On 13 July 2005, the applicant lodged an application pursuant to Section 82A of the EP&A Act 1979 seeking a Review of the Determination. The plans for this Section 82A Review were amended in an attempt to address the reasons for refusal of the development application. This report will assess this application for a review of the determination.

On 30 August 2005 the applicant lodged an appeal with the Land and Environment Court against the refusal dated 23 May 2005. The appeal remains pending.

**Development Control Plan Numerical Assessment**

**Environmental Services Division Report No. 59 (Cont'd)**

The following is an assessment of the proposal's compliance with the numerical standards of Council's Residential Development Control Plan 2001 Amendment 1 (D.C.P). Where a variation is proposed to the standards an assessment is included in the Planning Comments.

	<u>Permitted/Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density - Sub Zone 5	1/500m <sup>2</sup>	1/696m <sup>2</sup>	Yes
Floor space ratio	0.45:1	0.72:1	No
Wall height      East Side West side	7.7 metres 7.1 metres	10.5metres 8.3 metres	No No
Setback Front	6.0 metres or consistent with adjoining	Consistent with adjoining	Yes
Setback Rear	6.0 metres (from open space to pool)	10.0 metres	Yes
Side Setbacks      East West	3500mm 2900mm	1330mm 900mm	No No
Open space - total %	55%	60%	Yes
Open space - soft	35%	37%	Yes
Car Parking	2	3	Yes

**Applicant's Supporting Statement**

In support of the Section 82A Review application, the applicant has submitted a Statement of Environmental Effects. This is available for viewing on Council's file.

**Submissions**

The Section 82A Review application was notified to nearby and adjoining property owners with one (1) submission received raising the following concerns:

- Overdevelopment of site.
- Proposal is for total demolition of existing house - application says proposal is for alterations and additions to existing dwelling house.
- Inadequate setbacks.
- Loss of view.
- Excess parking provided on site.
- Insufficient landscaping.
- Unsympathetic to streetscape.

**Precinct Community Forum Comments**

No comments had been received at the time of writing this report.

**Building Comments**

No objections subject to conditions.

**Engineers Comments**

Objections to the proposed carspace and widening of the driveway. Recommend appropriate conditions of consent.

**Landscape Architects Comments**

No objections subject to conditions.

**Environmental Services Division Report No. 59 (Cont'd)****Planning Comments**

The subject property is located on the southern side of Bowers Street near where Bower street turns sharply to the south. The property has frontage to Cabbage Tree Bay and has views to the bay and Shelly Beach. The site is located in DCP Density Subzone 5.

The original application was the subject of a previous report to Council's Development Assessment Unit, a copy of which is attached to this report.

The amendments made to the original proposal are:

<u>Ground Floor</u>	Reduce terrace NW corner by 9.75m <sup>2</sup> and add a 1m wide privacy screen on the western edge of the terrace.
<u>First Floor</u>	Reduce terrace on NW corner by 5.68m <sup>2</sup> , and extend pergola shade to western boundary.
<u>Western elevation</u>	Reduce size of windows and make them highlight windows. Reduce length of western side wall by 500mm and add 1m of privacy screen on ground level.

It is considered that the above changes have addressed the privacy concerns of the adjoining owners at No 44 Bower Street. However, the changes do not address Council's concerns with the excessive height, bulk and scale of the proposed new dwelling. The excessive floor space ratio, excessive height and minimal side boundary setbacks remain unchanged.

The proposed development will have a detrimental impact on the amenity enjoyed by the adjoining property owners. The small setback from the west and east side boundaries will impact on the views of the properties to the south across the road. The loss of suitable landscape area at the front of the site due to the additional carspace adjacent to the double garage and widening of the existing driveway is considered to be unsatisfactory. The impact of the three-storey development on the FSPA and the concerns over the proposal when viewed from the water and surrounding foreshore remain unchanged.

The new first floor will have an impact on the amenity of the adjoining properties in relation to overshadowing and loss of privacy.

Plans show a portion of the existing double garage and some boundary fences/walls are to be retained whilst the existing dwelling is completely demolished.

**Floor Space Ratio**

The subject site is in Density Sub-zone 5. The proposed FSR is 0.721 and does not comply with the maximum FSR of 0.45:1 that is permitted in the Density Sub-zone 5. The floor area is 190m<sup>2</sup> over the permissible floor space.

The following comments are made in respect of the DCP objectives regarding floorspace ratio

*a) to control the bulk of buildings*

The bulk of the proposed building is excessive for the site.

*b) to ensure that the scale of development does not obscure important landscape features*

The bulk of the proposed building will impact on views from dwellings on the opposite side of Bower Street.

*c) to be consistent with the existing and future character of the residential area*

The proposed development is not considered to be consistent with the existing and future character of the residential area.



**Environmental Services Division Report No. 59 (Cont'd)**

*d) to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development as well as proposed development*

There will be an impact on the views from nearby properties and an impact on sunlight to the adjoining developments. Some privacy concerns can be addressed.

*e) to provide sunlight access to private open space within the development and maintain adequate sunlight access to private open spaces and habitable rooms of adjacent dwellings*

Due to the height of the proposed building and insufficient setbacks from side boundaries, the proposal will result in some loss of sunlight access for properties adjoining each side.

### Height

The new dwelling does not comply with the wall height controls of Council's DCP. As a result of the slope of the site, the contravention is on the northern (rear) end of the site where the proposed new dwelling is close to 2.8m above the permitted wall height. It is considered the building should be redesigned to provide more articulation at the top portion to reduce the apparent wall height, number of storeys and improve setbacks. It is considered that the proposal is contrary to the following height objectives of the DCP:

- a) to control the height of buildings by specifying maximum wall and roof/ridge heights*
- b) to provide for building heights that are consistent with the locality*
- c) to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development*
- d) to provide sunlight access to private open spaces within the development site and maintain adequate sunlight access to private open spaces windows of living spaces of adjacent dwellings.*

### Setbacks and Streetscape

The proposal fails to comply with the setback requirements of the DCP to both the eastern and western side boundaries. Having regard to the lack of articulation of the top floor and the excessive floor space proposed, it is considered that the proposed setbacks do not satisfy the following objectives of Council's DCP.

- a) to preserve and enhance the existing streetscape*
- b) to provide privacy*
- c) to provide equitable access to light and sunshine*
- c) to promote flexibility in the siting of building*
- d) to enable view sharing*
- e) to accommodate planting of native vegetation including endemic trees*

### Double Garage/ Streetscape

There is a double garage at the front of the existing house. There is no objection to the alterations and additions proposed to the existing garage. However, it is considered that the proposal to widen the double driveway and add another carspace adjacent to the existing garage will remove the remaining natural features left at the front of the site and therefore will have a detrimental impact on the streetscape.

### Privacy

The objection from the adjoining owner at No 44 Bower Street over loss of privacy has been withdrawn as a result of the changes in the plans in this Section 96 application. Notwithstanding the withdrawal of the objection, it is considered that the repositioning of the new dwelling to the rear of the site, together with the large terrace on the "ground floor" will result in more overlooking into the rear outdoor space of the adjoining properties.

**Environmental Services Division Report No. 59 (Cont'd)**Clause 10 Objectives of the LEP

The following comments are made in relation to the objectives of the Residential 2 zone in Clause 10 of the LEP:

(a) to set aside land to be used for purposes of housing and associated facilities;  
The land is currently zoned residential and developed with a dwelling. In this regard the proposal satisfies the objective.

(b) to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;  
The Manly DCP for the Residential Zone 2001, Amendment 1, has been used to assess the proposed development.

(c) *to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area*  
The proposed dwelling is not an appropriate form of development for the subject site in terms of its proposed height, bulk and scale and impact on the streetscape.

(d) *to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*  
The height, bulk and scale of the development are not in sympathy with the general character of the area, and will degrade the amenity of surrounding residents and the existing quality of the environment;

(e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new developments and renovations;*  
The proposed additional car space and widening of the existing will reduce the amount of landscaping driveway at the front of the site and will impact on the streetscape.

(f) to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;  
Not Applicable

(g) to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;  
The occupants of the dwelling will continue to utilise existing social and physical infrastructure.

(h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*  
The proposed alterations and additions are not considered to be a suitable redevelopment for the site. The proposal will result in adverse impact on the amenity of the adjoining and nearby properties.

(i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment 57) applies.*  
Not applicable.

**Foreshore Scenic Protection Area**

The site is located within Foreshore Scenic Protection Area and under the provisions of Clause 17 of the Manly Local Environmental Plan 1988, Council must be satisfied that the development will not have a detrimental effect on the amenity of the area. The proposed development is considered to be not a suitable replacement of the existing dwelling on the site. The proposed height, bulk and

**Environmental Services Division Report No. 59 (Cont'd)**

scale of the proposal are considered to be out of character with the adjoining buildings and to the streetscape.

**CONCLUSION:**

The application for review has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979, the Manly Local Environmental Plan 1988 and the Manly Development Control Plan for the Residential Zone and is considered unacceptable and is recommended for refusal.

**RECOMMENDATION**

That application for review of determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 in regard to Development Application No 102/05 for alterations and additions to the existing dwelling and a new swimming pool at No.42 Bower Street, Manly be refused for the following reasons:

1. The proposal is considered inconsistent with the relevant objectives of the Residential Zone under Manly Local Environmental Plan, 1988, particularly with respect to objectives (c), (d) and (e) due to excess visual bulk and scale impacts to the surrounds and a lack of additional landscaping to mitigate these impacts.
2. The proposal is considered an unsatisfactory form of development within the Foreshore Scenic Protection Area, pursuant to Clause 17 – Visual and aesthetic protection of certain land of the Manly Local Environmental Plan 1988, on grounds of excessive visual bulk and scale and increased cumulative visual impacts as viewed from the waterways and local foreshore areas.
3. The proposal is considered an overdevelopment of the site given that it does not comply with the Manly Development Control Plan (DCP) for the Residential Zone 2001, Amendment 1, with respect to the provisions for Floor Space Ratio, height, setback (dwelling and swimming pool) and excavation.
4. The proposal does not comply with, and is not considered to satisfy the objectives for the provisions of Floor Space Ratio, height, setback, excavation, view sharing and privacy as stated in Sections 3.3, 3.4, 3.5, 3.6, 3.8 and 3.10 of the Development Control Plan for the Residential Zone 2001, Amendment 1.
5. Pursuant to Section 79C(b) of the Environmental Planning & Assessment Act 1979, the proposal is considered to result in unreasonable built impacts to its foreshore locality in terms of excess bulk and scale, loss of iconic views and loss of privacy from neighbouring properties.
6. Pursuant to Section 79C(e) of the Environmental Planning & Assessment Act 1979, the proposal is not considered in the public interest, primarily due to its impact on the Foreshore Scenic Protection Area and amenity impacts to neighbouring properties.
7. The proposal is not considered to be alterations and additions to the existing dwelling as stated in the submitted Statement of Environmental Effects but total demolition of the existing dwelling and erection of a new three (3) storey split level dwelling house with a new swimming pool.

**ATTACHMENTS**

There are no attachments for this report.

**Environmental Services Division Report No. 59 (Cont'd)**

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\*\*\*\*\* End of Environmental Services Division Report No. 59 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Environmental Services Division Report No. 60  
**SUBJECT:** 63 Golf Parade, Manly  
**FILE NO:** DA21/05

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**Application Lodged:** 8 September 2005 (Section 82A)  
**Applicant:** C Pearson for Pearson Gower and Associates P/L  
**Owner:** T and A Higgins  
**Estimated Cost:** \$230,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** Single and two storey detached and semi detached dwellings  
**Heritage:** n/a

### **SUMMARY:**

1. DEVELOPMENT APPLICATION NO.21/05 WAS RECEIVED BY COUNCIL ON THE 20<sup>TH</sup> DECEMBER 2004.
2. ON THE 15 FEBRUARY 2005 COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ISSUED A DEFERRED COMMENCEMENT CONSENT WHICH INCLUDED A CONDITION REQUIRING A 1.0M REDUCTION IN THE REARWARD EXTENT OF THE PROPOSED ADDITIONS.
3. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT SEEKING DELETION OF THE DEFERRED COMMENCEMENT CONDITION.
4. THE S82A APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS IN ACCORDANCE WITH COUNCIL POLICY WITH NO SUBMISSIONS RECEIVED.
5. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR MACDONALD.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

### **LOCALITY PLAN**

Shaded area is subject land.



### **REPORT**

#### **Introduction**

The site is located on the southern side of Golf Parade and is rectangular in configuration having a frontage of 6.09m and depth of 44.925m. The land is level, has a north/south orientation and is currently developed with a single storey semi detached dwelling with separate garage in the rear yard.

**Environmental Services Division Report No. 60 (Cont'd)**

Council received Development Application No.21/05 on 20 December 2004. The application proposed alterations and additions to the existing semi detached dwelling including a new first floor level. The proposal included demolition of the rear of the existing dwelling and subsequent alterations and additions which will provide for ground floor level containing lounge/dining/kitchen, bathroom, laundry and two bedrooms and first floor level containing two bedrooms and bathroom.

The application was considered by Council's Development Assessment Unit on 8 February 2005 where it was resolved to issue deferred commencement consent with a condition as follows:

"A. The proposed extensions are to be reduced by 1.0m from the rear and the depth of the rooms adjusted accordingly to reduce the proposed floor area and the bulk of the development. "

Council is now in receipt of an application for review of determination under Section 82A of the Environmental Planning and Assessment Act 1979 to delete the deferred commencement condition.

**Background**

Development Application No.397/02 for alterations and additions including a new first floor level to the existing semi detached dwelling at the subject premises was received by Council on the 26 August 2002. The application refused by Council's Development Assessment Unit on 4 March 2003. The reasons for refusal were as follows:

1. The proposal exceeds the permissible floor space ratio of 0.6:1, as 0.868:1 is proposed.
2. The proposal is deficient in regard to the eastern side setback, as 2.0m is required and 0.9m is proposed.
3. The proposal is unable to meet the landscaped open space requirements of Council's Development Control Plan for the Residential Zone.
4. The proposal will result in excessive overshadowing of neighbouring sites.
5. The impact of the non conformities is that the additional bulk results in a proposal that is an overdevelopment of the site and impacts negatively on No.61 and N0.65 Golf Parade in terms of loss of sunlight to their rear yards, loss of privacy resulting from the first floor rear balcony and visual bulk.

Development Application No.189/03 for alterations and additions including a new first floor level to the existing semi detached dwelling at the subject premises was received by Council 24 April 2003. The proposal provided for a similar floor plan layout to that previously proposed however the floor area at both ground and first floor levels had been reduced and the existing garage shown "to be demolished". The floor space ratio for the proposal was 0.67:1. The proposed east side boundary setback was 1.0m whereas 2.0m is the minimum required under Council's Residential Development Control Plan DCP.

Following notification of the application, Council received two submissions raising concerns regarding roof style, excess FSR, non compliance with setbacks, loss of on site car parking, overshadowing and location of building relative to sewer pipes. The application was considered by Council's Development Assessment Unit and consent was issued on 19 January 2005 with standard conditions. The owner has chosen not to pursue consent No.189/03.

**Development Control Plan Numerical Assessment**

**Environmental Services Division Report No. 60 (Cont'd)**

The following is an assessment of the current proposal's compliance with the numerical standards of the Residential Development Control Plan (D.C.P). Where a variation is proposed to the standards an assessment is included in the Planning Comments.

	<u>Permitted/Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Floor space ratio	0.6:1	0.67:1	No
Floor space ratio - existing	0.5:1		Yes
Wall height East side	6.5m	6.0m	Yes
West side	6.5m	6.0m	Yes
Roof height	3.0m	1.8m	Yes
Setback Front	6.0m or consistent with adjoining	Existing	Yes
Setback Rear	8.0m	15m	Yes
East side setback	2.0m	1.0m	No
West side setback	N/A - semi		N/A
Open space - total %	55%	56%	Yes
Open space - total	150sqm	158sqm	Yes
Open space - soft	35% of total open space	42%	Yes
Car Parking – Residents	2	1	No
Shadow -adjacent open space adjoining NS orientation exist north facing roofs	<1/3 <sup>rd</sup> of existing > 4 hrs Min 10sqm	<1/3 <sup>rd</sup> >4hrs >10sqm	Yes Yes Yes

**Applicant's Supporting Statement**

The applicant submitted a detailed statement in support of the application for review, a copy of the report is attached to the file.

**Submissions**

The application for review was notified to nearby and adjoining owners with no submissions received.

**Precinct Community Forum Comments**

No comments received at the time of writing this report.

**Engineers Comments**

No objections subject to standard conditions.

**Building Comments**

No objections subject to standard conditions.

**Landscape Architects Comments**

No objection to landscape plan.

**Planning Comments**

The application proposes ground and first floor additions to the rear of the existing single storey semi detached dwelling. The floor space ratio for this proposal is 0.67:1 and it is noted that the existing garage in the rear yard is excluded from the calculation as plans show the garage is to be

**Environmental Services Division Report No. 60 (Cont'd)**

demolished. The proposed additional bulk of the building is generally confined to the proposed new first floor level as the works at ground floor level replace existing single storey structure.

The current proposal differs from that previously approved in that it extends 0.9m further into the rear yard area. This will have impacts in terms of overshadowing to the rear yards of the adjoining properties to the east and west as well as greater visual bulk as viewed from the adjoining properties. The current proposal will result in greater impacts on the existing amenity of adjoining properties than that previously approved. The deferred commencement condition requiring the 1.0m reduction in rearward extent was imposed to result in a building location and envelope which would generally match that previously approved.

The required reduction in length of the building would not adversely effect the occupants amenity or use of the building due to the open plan design and generous room sizes proposed. The reduction sought would result in a floor space ratio of 0.63:1, which is 8 square metres over the maximum 0.6:1 permitted under Council's DCP. Accordingly it is recommended that the deferred consent condition remain.

The proposed east side setback for the first floor addition is 1.0m whereas 2.0m is the minimum required under Council's DCP. This aspect of the proposal is considered acceptable having regard to the narrow nature of the site and the pattern of established development in the area.

Council's DCP requires provision of 2 on site car parking spaces for a dwelling. However, in view of the narrow nature of the site and the competing need for landscaped open space the variation to provide only one car parking space is the preferred outcome.

**CONCLUSION:**

The application for review has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 1988 and the Manly Development Control Plan for the Residential Zone (Amendment 1) and is considered unsatisfactory and therefore is recommended for refusal.

**RECOMMENDATION**

That the application for Review of Determination in respect of Development Application No.21/05 for alterations and additions at No. 63 Golf Parade be refused for the following reasons:

1. The proposal will result in adverse impacts on the amenity of adjoining properties in terms of overshadowing and excess visual bulk, having regard to Section 79C (1) (a), (iii) , (b) and (e) of the Environmental Planning and Assessment Act 1979.
2. The proposal will result in reduced landscaped open space, adversely effecting the amenity of the area and reducing the opportunities for landscape plantings contrary to the objectives of Section 3.2 of Council's Development Control Plan for the Residential Zone, having regard to Section 79C (1) (a), (iii), (b) and (e) of the Environmental Planning and Assessment Act 1979.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 60 \*\*\*\*\*



**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Environmental Services Division Report No. 61  
**SUBJECT:** 141 Balgowlah Road, Balgowlah  
**FILE NO:** DA222/05

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**Application Lodged:** 2 June 2005  
**Applicant:** Masterton Homes Pty Ltd  
**Owner:** A Dorozario & J Alexander  
**Estimated Cost:** \$362,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** 1 & 2 storey dwellings, residential units, school, golf course  
**Heritage:** Balgowlah Road – street tree planting

### **SUMMARY:**

1. DEVELOPMENT APPLICATION NO.222/05 FOR DEMOLITION OF THE EXISTING SINGLE STOREY DWELLING AND ERECTION OF 2 SEMI-DETACHED TWO STOREY DWELLINGS WAS RECEIVED BY COUNCIL ON 2 JUNE 2005.
2. THE PROPOSAL WAS NOTIFIED IN ACCORDANCE WITH COUNCIL POLICY WITH ONE SUBMISSION RECEIVED.
3. A REPORT RECOMMENDING APPROVAL OF THE APPLICATION WAS FORWARDED TO COUNCIL'S DEVELOPMENT CONTROL UNIT MEETING OF 11 AUGUST 2005 WHERE THE MATTER WAS DEFERRED PENDING RECEIPT OF ADDITIONAL INFORMATION REGARDING OVERSHADOWING IMPACTS AND JUSTIFICATION FOR REMOVAL OF A STREET TREE.
4. THE APPLICANT PROVIDED ADDITIONAL INFORMATION CONCERNING THE STREET TREE AND SHADOW IMPACT.
5. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD
6. A SITE INSPECTION IS RECOMMENDED.
7. APPROVAL OF APPLICATION IS RECOMMENDED SUBJECT TO CONDITIONS RELATING TO PRIVACY AND REPLACEMENT OF THE STREET TREE.

### **LOCALITY PLAN**

Shaded area is subject land.



### **REPORT**

#### **Introduction**

The site is located on the southern side of Balgowlah Road and has a frontage of 12.19m and length of 40.235m for a total area of 490.4m<sup>2</sup>. The site also has a fall to the north towards the street of 1.7m.

**Environmental Services Division Report No. 61 (Cont'd)**

Existing development on the site comprises a single storey detached dwelling of brick construction with pitched tile roof and driveway to open parking along the eastern side of the dwelling. Landscaping comprises a mixture of lawns, shrubs and small trees.

Neighbouring development comprises a mix of development, with single storey dwellings adjoining to the east and west, a school to the rear, a residential flat building nearby to the southwest and Manly Golf Course and industrial properties to the north on the opposite side of the road.

Development consent is sought for demolition of the existing dwelling and construction of two x two storey semi detached dwellings. Each proposed dwelling includes at ground floor level a family room, kitchen, living room, laundry, WC and single garage, and at first floor level 3 bedrooms, a bathroom and ensuite. A balcony is proposed to the front of the eastern side dwelling at first floor level.

Two additional car parking spaces are provided on the double width driveway between the garages and the front boundary. A street tree of approximately 5 metres in height with an 8 metre spread is required to be removed to allow construction of the driveway.

Proposed landscaping comprises a mix of shrubs and trees along each side boundary as detailed in the landscape plan.

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal's compliance with the numerical standards of the Manly Residential Development Control Plan 2001 Amendment 1 (DCP). Where a variation is proposed to the standards an assessment is included in the Planning Comments.

	<b>Provision</b>	<b>Proposal</b>	<b>Compliance</b>
Density	250m <sup>2</sup> / dwelling	245m <sup>2</sup> / dwelling	No
FSR	0.6:1	0.6:1	Yes
Height	6.75m	5.6m	Yes
Roof Height	3.0m	2.4m	Yes
Setback - Front	6.0m	6.0m	Yes
Setback - Rear	8.0m	13.59	Yes
Setback – East Side	1.9m	1.8 – 2.9m	Yes (averaging)
Setback – West Side	1.9m	1.8 – 2.9m	Yes (averaging)
Open Space	270m <sup>2</sup> / 55% min	327m <sup>2</sup> / 67%	Yes
Soft Open Space	35% min of O/S / 114m <sup>2</sup>	168m <sup>2</sup> / 51%	Yes
Endemic Trees	1	3	Yes
Overshadowing	Min 4hrs sunlight to neighbours living areas & < 1/3 increase to neighbours open space	> 4 hrs maintained to neighbours northern windows, < 1/3 increase	Yes Yes
Parking	2 spaces / dwelling	2 spaces / dwelling	Yes

**Applicant's Supporting Statement**

The application is supported with a Statement of Environmental Effects, a copy of which is available for viewing on Council's file.

**Submissions**

**Environmental Services Division Report No. 61 (Cont'd)**

The application was notified in accordance with Council policy with one submission received raising the following concerns:

- DCP non-compliance – setback & density
- Overshadowing
- Privacy / overlooking
- Loss of two street parking spaces
- Loss of street tree

**Precinct Community Forum Comments**

The application was referred to the Ivanhoe Park Precinct Community Forum with the following comment received:

“The Precinct notes this application does not comply with subdivision requirements or setbacks and causes overshadowing and loss of privacy to adjoining properties. The Precinct recommend refusal of this application.”

**Engineers Comments**

The proposed subdivision requires separate drainage systems to be provided. Amended hydraulic plans are to be submitted prior to issue of a Construction Certificate. Standard conditions of consent have also been advised.

**Building Comments**

Standard conditions of consent advised.

**Landscape Architects Comments**

Standard conditions of consent advised.

**Planning Comments**

The site is located on the southern,(high) side of Balgowlah Road opposite the intersection with Quirk Road. The site is located in Manly Local Environmental Plan 1988 Zone No.2 – The Residential Zone which permits dwelling houses with the consent of Council. The proposal for two semi detached two storey dwellings is considered to satisfy the relevant objectives for the residential zone, maintaining a reasonable level of amenity to neighbouring properties. In this regard its two storey form does not result in unreasonable amenity impacts in terms of direct overlooking or excess loss of sunlight, and is not considered excessive in bulk and scale. The proposal is also considered to improve the landscape quality on the site.

The following comments are made in regard to the relevant issues under the DCP.

**Density**

The site is located within density subzone 3 of the DCP with a permitted minimum allotment size of 250m<sup>2</sup> per dwelling. The proposal at 245m<sup>2</sup> per dwelling results in a minor departure of 5m<sup>2</sup> per dwelling. In response to the objectives for density, the proposal is considered acceptable on the basis that it adds to the variety of housing types in the locality, maintains the existing subdivision pattern of north-south allotments, provides frontage for both allotments to the street, causes minimal impact to the natural slope and landscape of the site, and takes advantage of existing infrastructure whilst not placing unreasonable demands upon this.

Furthermore, it is noted that each dwelling will have surplus open space and landscaping provided, and have a compliant FSR. Consequently the site is considered to be of sufficient area to support the proposed development and subdivision, with the departure to the density provision being acceptable on merit.

**Environmental Services Division Report No. 61 (Cont'd)**Side setback

The DCP requires a setback of 1.9m to both side boundaries. On both sides the proposed building is setback of 1.8m for 14.4m of it's length and 2.3m for 3.6m of it's length. The setbacks comply using the averaging provisions of the DCP. The proposed setbacks are considered acceptable on merit having regard to the DCP objectives.

Specifically, the proposal does not result in an unreasonable loss of privacy to neighbouring dwellings with no direct looking into their living areas, and achieves compliance with the provisions for solar access. Furthermore the proposal complies with the maximum permitted FSR and its height is well within the maximum wall height permitted.

Privacy

Some overlooking from the rear and side facing bedrooms will be possible to rear gardens of the neighbouring dwellings, however as these rooms are not 'active' living areas and do not look directly into principle living areas, the degree of potential overlooking is limited. It is also noted that side facing windows are aligned away from neighbours windows to avoid the potential for direct overlooking. There is a concern in regard to the rearmost east facing window at first floor level. This issue is addressed later in this report.

Solar access

The site has a north-south alignment whereby the DCP requires a minimum of 4 hours direct sunlight to be retained to windows of this neighbouring dwelling. Analysis of the shadow diagrams reveals that both the eastern and western neighbouring dwellings will continue to receive at least 4 hours direct sunlight as required to their north rear and side facing windows. It is noted that overshadowing will increase to their side facing windows at 9am and 3pm, however this is a prevailing situation when considered in context of the existing dwelling.

Overshadowing to the neighbours open space (rear garden areas) each side will also increase however such impacts are considered to be within DCP requirements with additional overshadowing not exceeding 1/3<sup>rd</sup> of the existing solar access. The southern neighbouring property, being the playground of Manly West Primary School will not be overshadowed by the proposal.

Neighbour Concerns

The following comments are made in regard to matters raised in the public submissions;

*DCP non-compliance – setback & density*

As discussed in the DCP compliance section in this report, the departure to the density provision is considered minor, with the DCP objectives satisfactorily addressed by the proposal.

*Overshadowing*

As discussed in the DCP compliance section the proposal complies with the provisions for solar access. In terms of its effect it is acknowledged that there will be some increase in overshadowing. Given that the design generally complies with the DCP's numeric requirements and satisfies solar access provisions, the proposal is considered acceptable in terms of its overshadowing impacts.

*Privacy / overlooking*

Some potential overlooking of the adjoining properties rear yard areas will be possible from the 1<sup>st</sup> storey rear bedrooms, however these rooms are not 'active' living areas and do not look directly into principle living areas. It is noted that the east facing window of bedroom 1 to dwelling A would allow direct overlooking of the rear garden adjacent to the rear living room of the adjoining property to the east. In this regard it is considered necessary to limit privacy impacts by providing either a

**Environmental Services Division Report No. 61 (Cont'd)**

highlight style window or providing obscure glazing to a height of 1.5m above finished floor level. A condition detailing this requirement is included in the Recommendation.

*Loss of Street Parking*

The proposal complies with the parking provisions of the DCP. The new double width driveway has been assessed by Council's Assets Engineer as being acceptable. It is acknowledged that the widened driveway will result in the loss of one street parking space however this will not have a noticeable affect the availability of street parking in the locality.

*Loss of street tree*

The street tree identified for removal is recognised for its contribution to the immediate streetscape, however it has been previously lopped and is not a good example. The proposed removal of the street tree is considered acceptable subject to its replacement with the planting of an advanced tree of the same species with planting being carried out in consultation with Council's Landscape Advisor. A condition in this regard is included in the Recommendation.

Clause 10 Objectives of the LEP

The following comments are made in relation to the objectives of the Residential 2 zone in Clause 10 of the LEP:

*(a) to set aside land to be used for purposes of housing and associated facilities;*

The land is currently zoned residential and developed with a dwelling. In this regard the proposal satisfies the objective.

*(b) to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;*

The Manly DCP for the Residential Zone 2001, Amendment 1, has been used to assess the proposed development.

*(c) to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area*

The proposal will add variety to the housing types in the area whilst maintaining the overall residential character.

*(d) to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*

The proposal with conditions as included in the Recommendation will not result in any significant adverse impacts on the amenity of adjoining properties. and will not degrade the existing quality of the environment;

*(e) to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new developments and renovations;*

The proposal includes landscaping works in conformity with Council's DCP requirements and is considered satisfactory subject to replacement of the existing street tree.

*(f) to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;*

Not Applicable

*(g) to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*

The occupants of the proposed dwellings will utilise existing social and physical infrastructure.

*(h) to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

**Environmental Services Division Report No. 61 (Cont'd)**

The proposed alterations and additions are considered to be a suitable redevelopment for the site. The proposal will not result in any significant adverse impact on the amenity of adjoining and nearby properties.

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment 57) applies.*

Not applicable.

**CONCLUSION:**

The application has been assessed pursuant to Section 79C of the EP&A Act, including the Manly Local Environmental Plan 1988 and the Manly Development Control Plan for the Residential Zone, and is considered consistent with the intent of relevant planning controls, maintaining a form of development consistent with the surrounds with no unacceptable amenity impacts identified. Accordingly, the proposal is considered acceptable and is recommended for approval.

**RECOMMENDATION**

That Development Application No.222/05 for demolition of the existing dwelling and erection of two semi detached two storey dwellings and Torrens Title subdivision at 141 Balgowlah Road, Balgowlah, be approved subject to the following conditions:

**DA1**

This approval relates to drawings/plans Nos. RL600 - 1 & 4 dated 3 December 2004, and LPDA - 0563719/1 dated December 2004; and received by Council on the 23 March 2005.

**ANS01**

The existing street tree identified for removal is to be replaced with an advanced tree of same species, with planting being carried out in consultation with Council's Landscape Advisor, plans being suitably amended plan prior to issue of the Construction Certificate.

**ANS02**

Separate drainage systems are required to be provided for each dwelling as part of the Torrens Title subdivision. Amended Hydraulic Plans are required to be submitted to this effect prior to issue of the Construction Certificate.

**ANS03**

The east facing window of bedroom 1 - Dwelling A is to be a highlight style window with minimum sill height 1.5m or have obscured glazing to a height of 1.5m above finished floor level to reduce privacy impacts on adjoining properties, plans being suitably amended prior to issue of the Construction Certificate.

**DA009**

The construction of a vehicular footpath crossing is required. The design and construction shall be in accordance with the current Policy of Council. All works shall be carried out prior to the issue of Occupation Certificate.

**DA011**

The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

**DA012**

The driveway/access ramp grades, access and car parking facilities shall comply with the Australian Standard for Off-Street Parking AS2890.1-2004 or later editions.

**Environmental Services Division Report No. 61 (Cont'd)**

DA014

No portion of the proposed building or works, including gates and doors during opening and closing operations are, to encroach upon any road reserve or other public land.

DA016

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 \$7500. 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.

Note: Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependant upon receipt of a final occupation certificate by the Principal Certifying Authority and infrastructure inspection by Council.

DA017

No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction. .

DA342

Separate application shall be made to Council's Infrastructure Division for approval to complete, to Council's standards and specifications, works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property. Applicant to notify Council at least 48 hrs before commencement of works to allow Council to supervise/inspect works.

DA343

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.

DA018

Details of the builder's name and licence number contracted to undertake the works shall be provided to Council/Accredited Certifier prior to issue of the Construction Certificate.

DA019

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 /Accredited Certifier prior to issue of the Construction Certificate.

DA021

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.

DA024

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.

**Environmental Services Division Report No. 61 (Cont'd)**

## DA026

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.

## DA030

No portion of the proposed building is to encroach onto a Public Road or Reserve, except as may be permitted by the Local Government Act 1993.

## DA031

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.

## DA039

Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

## DA040

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.

## DA044

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.

## DA048

The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.

## DA058

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.

## DA059

Building work shall not progress beyond first floor level until such time as Registered Surveyor's details of levels are submitted to the Principal Certifying Authority. These levels shall confirm that the works are in accordance with the levels shown and approved in the development approval.

## DA060

On completion of the building structure a report from a Registered Certifier is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.

## DA357

Four (4) copies of Architectural Drawings consistent with the development consent and associated specifications are to be submitted to Council/Accredited Certifier prior to the issue of the



**Environmental Services Division Report No. 61 (Cont'd)**

Construction Certificate.

DA075

All driveways, carparking areas and pedestrian paths shall be surfaced and sealed. Details of treatment to these areas shall be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

DA077

An approved water interceptor shall be provided across the driveway at the street boundary and all stormwaters shall be conveyed by underground pipe to Council's street gutter to the satisfaction of the Principal Certifying Authority.

DA109

All demolition is to be carried out in accordance with AS2601-2001.

DA111

Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.

DA084

Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.

DA089

An easement is to be created through the adjoining property/properties for the disposal of stormwater runoff and services, to the requirements of Council or its delegate. The easement shall be registered prior to the issue of the Construction Certificate. All costs associated with piping, relocation and creation of easements shall be borne by the applicant.

DA091

Details of any proposed easement shall be submitted to Council. The easement shall be registered prior to the issue of the Construction Certificate.

DA121

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

DA126

An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.

DA230

No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.

DA239

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.

DA240

No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

**Environmental Services Division Report No. 61 (Cont'd)**

DA348

Precautions shall be taken when working near trees to be retained including the following: - do not store harmful or bulk materials or spoil under or near trees - prevent damage to bark and root system - do not use mechanical methods to excavate within root zones - do not add or remove topsoil from under the drip line - do not compact ground under the drip line.

DA255

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.

DA259

All engineering works are to be completed prior to the issue of the Subdivision Certificate.

DA261

A sediment/erosion control plan for the site shall be submitted for approval to the Council/Accredited Certifier **prior to the issue of the Construction Certificate**. Implementation of the scheme shall be completed prior to commencement of any works on the site and maintained until completion of the development.

DA269

A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier prior to any building works being carried out on site.

DA270

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction then the following inspection/certification are required:-

- Silt control fences
- Reinforced concrete slab
- Framework inspection X 2
- Wet area moisture barrier X 2
- Driveway crossing/kerb layback
- Landscaping inspection
- Final inspection

The cost of these inspections by Council is \$1980 (being \$220.00 per inspection inclusive of GST). **Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division 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 \$100.00.

DA271

An Occupation Certificate is to be issued by the Principal Certifying Authority prior to occupation of the development.

DA274

Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, is required prior to issue of the Construction Certificate. The amount being in accordance with Council's Section 94 Policy applicable at the time of payment.

DA280

All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.

**Environmental Services Division Report No. 61 (Cont'd)**

DA332

The capacity and effectiveness of erosion and sediment control devices must be maintained to Council satisfaction at all times.

DA333

A copy of the Soil and Water Management Plan must be kept on-site at all times and made available to Council officers on request.

DA334

Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.

DA335

Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.

DA336

Drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

DA337

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.

DA338

All disturbed areas shall be stabilised against erosion to Council satisfaction within 14 days of completion, and prior to removal of sediment controls.

DA339

Stormwater from roof areas shall be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area. Inspection of the building frame will not be made until this is completed to Council satisfaction.

DA340

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.

DA289

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: The Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

DA298

**Environmental Services Division Report No. 61 (Cont'd)**

Approval of the application to Strata/Land Subdivision the subject property is subject to the lodgement of a Subdivision Certificate application and payment of the appropriate fee.

**DA319**

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 Council/Accredited Certifier 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".

**DA320**

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".

**DA326**

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.

**DA329**

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.

**DA323**

This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 61 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Environmental Services Division Report No. 62  
**SUBJECT:** Development Applications Being Processed During November 2005  
**FILE NO:**

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**SUMMARY**

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING NOVEMBER 2005

**REPORT**

The following applications are currently with Council's Development Assessment for determination.

<b>DA#</b>	<b>Date Rec by Council</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Target Date</b>	<b>DEL DAU LUM</b>
DA319/03	16-Jul-03	14 Kempbridge Avenue	Alterations and Additions	Awaiting Information	
DA525/03	20-Oct-03	22 Wentworth Street	Change of Use	Awaiting Information	
DA538/04	22-Nov-04	51 Wood Street	Alterations Guest House into two Dwellings and Strata Subdivision	Awaiting DOH concurrence	
DA560/04	16-Dec-04	41 Lewis Street	Demolish & New Two Storey Dwelling with Basement Garage	24-Nov-05	DAU
DA144/05	15-Mar-05	21 Francis Street	Alterations & Additions and Family Flat	10-Nov-05	DAU
DA156/05	23-Mar-05	33 Clontarf Street	Boundary Fence	Awaiting Information	
DA189/05	11-Apr-05	31 Amiens Road	Alterations & Additions to Dwelling including Demolition/Rebuild of Upper 2 Levels	10-Nov-05	DAU
DA187/05	11-Apr-05	3A Magarra Place	Demolition & New Multi Level Dwelling, Carpark and Landscaping	03-Nov-05	DAU
DA197/05	15-Apr-05	Boronia Lane	Construction of a Fire Trail	17-Nov-05	DAU
DA194/05	19-Apr-05	31 Seaforth Crescent	Demolish & Construct Three Storey Dwelling	17-Nov-05	DAU
DA183/05	27-Apr-05	187 Pittwater Road	Alterations & Additions to Retail Premises	17-Nov-05	DAU
DA587/02	3-May-05	14 Reddall Street	Section 96 Modification	Awaiting Information	
DA31/03	4-May-05	9 King Avenue	Section 96 Modification	Awaiting Information	

## Environmental Services Division Report No. 62 (Cont'd)

DA307/05	10-May-05	3 Oyama Avenue	Alterations & Additions to Dwelling & Garage	22-Nov-05	DAU
DA267/05	23-May-05	112 Sydney Road	Demolish & New Three Storey RFB, Parking, Landscaping & Pools	22-Nov-05	DAU
DA230/05	27-May-05	30 Castle Circuit	2 Dwellings & 2 Lot Subdivision	17-Nov-05	DAU
DA277/05	1-Jun-05	439 Sydney Road	Alts & Adds & Changes of Use	10-Nov-05	DAU
DA269/05	6-Jun-05	10A Bungaloe Avenue	Swimming Pool	Awaiting Information	
DA276/05	10-Jun-05	57A Ethel Street	Demolish - Commercial & RFB with Basement Parking	17-Nov-05	DAU
DA297/05	15-Jun-05	89-91 Bower Street	Extension to Access way & Carport	10-Nov-05	DAU
DA295/05	15-Jun-05	5 Glade Street	Pool & Deck	Awaiting Information	
DA299/05	16-Jun-05	231 Sydney Road	Alterations & Additions, Tree Removal & Basement Garage	Awaiting Information	
DA312/05	30-Jun-05	29A Quinton Street	Alterations & 1st Storey Addition & Pool	Awaiting Information	
DA316/05	30-Jun-05	37 Lauderdale Avenue	Demolish, New Dwelling & Pool	18-Nov-05	DAU
DA336/03	30-Jun-05	21 Ethel Street	Section 96 Modification	Awaiting Information	
DA318/05	6-Jul-05	2 Beatty Street	Alterations & Additions to Dwelling	18-Nov-05	DAU
DA326/05	12-Jul-05	96 Seaforth Crescent	Demolition & Erection of New Dwelling	20-Nov-05	DAU
DA499/04	19-Jul-05	121 Seaforth Crescent	82A Review	22-Nov-05	DAU
DA335/05	20-Jul-05	51 Seaforth Crescent	Alterations & Additions to Dwelling, Garage, Hardstand, Pool and Dual Occupancy	01-Dec-05	DAU
Da345/05	27-Jul-05	74 Cutler Road	Demolition, Alterations & Adds to Dwelling	Awaiting Information	
DA340/05	27-Jul-05	28 Jamieson Avenue	Strata Subdivision	Awaiting Information	
Da336/05	29-Jul-05	13 Barrabooka Street	Alterations & Additions to Dwelling	18-Nov-05	DAU
DA347/05	2-Aug-05	20 Seaforth Crescent	Alterations & Additions to Dwelling, Garage & Pool	Awaiting Information	
Da80/05	4-Aug-05	15 Judith Street	Section 96 Modification	18-Nov-05	DAU

## Environmental Services Division Report No. 62 (Cont'd)

DA348/05	5-Aug-05	28 Cliff Street	Demolition & Erection of Semi Dwelling and Strata Subdivision	17-Nov-05	DAU
DA389/05	8-Aug-05	9 Smith Street	Alterations & 1st Floor Additions	20-Nov-05	DAU
DA386/05	8-Aug-05	167 Pittwater Road	Change of Use - Retail Surf Shop	Awaiting Information	
DA398/05	12-Aug-05	71 Collingwood Street	Demolition & Erection of new Rear Floor, Balcony & Stair	Awaiting Information	
DA354/05	15-Aug-05	2 Coral Street	Subdivision into Two (2) Lots, Alterations & Additions to Existing & Access to Both	01-Dec-05	DAU
DA367/05	15-Aug-05	20 Ernest Street	2 Lot Subdivision with Alterations & Additions to Existing Dwelling	25-Nov-05	DAU
DA421/05	22-Aug-05	Shop 6 Manly Wharf	Fitout - Chicken Shop	Awaiting Information	
DA369/05	23-Aug-05	21 Pacific Parade	Alterations & Additions to Dwelling	30-Nov-05	DAU
DA355/05	23-Aug-05	23 Lauderdale Avenue	Landscaping & Pool above the Garage	24-Nov-05	DAU
DA370/05	23-Aug-05	2 Panorama Parade	Pool, Fence and Landscaping	Awaiting Information	
DA92/05	23-Aug-05	27 The Corso	Section 96 Modification	17-Nov-05	DAU
DA385/05	23-Aug-05	9 Tabalum Road	Alterations and Rear Additions to Dwelling	Awaiting Information	
DA362/05	26-Aug-05	26 Edgecliffe Esplanade	New Window	Awaiting Information	
DA378/05	28-Aug-05	91 Addison Road	Alterations & Additions to Semi Detached Dwelling	Awaiting Information	
DA381/05	30-Aug-05	118 Collingwood Street	Strata Subdivision, Alterations and Additions to Residential Flat Building	Awaiting Information	
DA379/05	31-Aug-05	29 Edgecliffe Esplanade	Alterations, 1st Floor Additions & Pool	30-Nov-05	DAU
DA407/05	1-Sep-05	165 Condamine Street	Alterations & Additions to Dwelling	04-Nov-05	DAU
DA412/99	2-Sep-05	95 Lauderdale Avenue	Section 96 Modification	11-Nov-05	DAU
DA384/05	5-Sep-05	81 Fairlight Crescent	Demolition & Erection of New Dwelling	15-Dec-05	DAU
DA390/05	5-Sep-05	51 Lewis Street	Alterations and Additions to Dwelling	Awaiting Information	
DA202/05	6-Sep-05	88 Griffiths Street	Section 96 Modification	03-Nov-05	DAU
DA372/05	6-Sep-05	11 Fairlight Crescent	Alterations & Additions to Create 2nd Unit	25-Nov-05	DAU

## Environmental Services Division Report No. 62 (Cont'd)

DA394/05	9-Sep-05	506 Sydney Road	Erection of Pole Signage	25-Nov-05	DAU
DA401/05	12-Sep-05	60 Ellery Parade	Alterations & Additions to Dwelling	01-Dec-05	DAU
DA49/04	13-Sep-05	Manly Wharf - Ferry Upgrade	Section 96 Modification	Awaiting Information	
DA402/05	14-Sep-05	Shop 2-5 Manly Wharf	Erection of Sign	Awaiting Information	
DA397/05	17-Sep-05	1&2/126 Bower Street	Alterations & Additions to Combine into 1 Unit	Awaiting Information	
DA411/05	21-Sep-05	46 North Steyne	Retail Swim Shop & Photo Studio	Awaiting Information	

The following applications are currently with Council's Lodgment & Quality Assurance being advertised, notified or referred to appropriate parties.

	Site	Proposed Development	DA#	Date Of Submission
97	Darley Rd, MANLY	Strata Subdivision		6/05/05
10A	Bungalow Avenue, Balgowlah	Pool	269/05	6/06/05
9	Tabalum Rd, BAL HTS	Alts and Adds To Dwg		1/07/05
266	Sydney Rd, BALGOWLAH	Strata Subdivision	358/05	4/07/05
23	Commonwealth Parade, Manly	Strata Subdivision	353/05	7/07/05
5a	Raglan Street, MANLY	Fitout Video Shop	371/05	22/07/05
167	Pittwater Road, MANLY	Occupation Surf Shop	396/05	8/08/05
1A	Monash	Section 96 Modification	565/00	11/08/05
63	Golf Parade, MANLY	82A Review	21/05	15/08/05
151	Darley Road, MANLY	Section 96 Modification	277-284/04	18/08/05
2	Koobilya St, SEAFORTH	Alts and Adds To Dwg	435/05	23/08/05
73-81	Addison Rd, MANLY	82A Review	280/04	25/08/05
45	Gurney Crescent SEAFORTH	Demolition And Erection Of New Dwelling		25/08/05
91	Addison Rd, MANLY	Alts And Adds To RFB		28/08/05
42	Balgowlah Rd BALGOWLAH	Enclosure of Loading Dock		29/08/05
18	Collingwood St MANLY	Strata Subdivision and Alts and Adds To RFB		30/08/05
88	Griffith St	Section 96 Modification	202/05	31/08/05
6/34	Jamieson St, FAIRLIGHT	Alts and Adds To RFB		31/08/05
123	Bower St, MANLY	Section 96	67/05	1/09/05
165	Condamine Street, BALGOWLAH	Alts and Adds To Dwg	407/05	1/09/05
	East Esplanade, Manly	Section 96 Modification	49/04	1/09/05



## Environmental Services Division Report No. 62 (Cont'd)

	Wharf			
2/49	Stuart St, MANLY	Alts And Adds To RFB		1/09/05
	Lauderdale Ave, FAIRLIGHT	Section 96 Modification	42/99	2/09/05
63	Condamine Street, BALGOWLAH	Alts and Adds To Dwg		5/09/05
34	Kempbridge Ave, SEAFORTH	Alts and Adds To Dwelling		5/09/05
51	Lewis Street, BAL HTS	Alts and Adds To Dwelling		5/09/05
11a	Linkmead Ave, CLONTARF	Residential		5/09/05
1&2/126	Bower St, MANLY	Residential		7/09/05
1/93-95	North Steyne, MANLY	Occupation		7/09/05
	Bower St, MANLY	Section 96 Modification	67/05	8/09/05
46	North Steyne, MANLY	Occupation		8/09/05
39	Fairlight Cres, FAIRLIGHT	Residential		9/09/05
39	Fairlight Street, FAIRLIGHT	Pool	400/05	9/09/05
4	Augusta St, FAIRLIGHT	Section 96 Modification	492/04	12/09/05
20	Wanganella St, BALGOWLAH	Pool	434/05	13/09/05
219	Woodland St, BALGOWLAH	82A Review		13/09/05
13	Alan Ave SEAFORTH	Alts & Adds To Dwelling	396/05	15/09/05
2/33	Arthur Street, FAIRLIGHT	Retaining Walls	413/05	15/09/05
86	Ellery Pde, SEAFORTH	Alts & Adds To Dwelling	405/05	15/09/05
12	Judith St, SEAFORTH	Alts & Adds To Dwelling	442/05	15/09/05
37	Lodge St	Strata Subdivision	415/05	15/09/05
15	Waratah Street, BALGOWLAH	Alts & Adds To Dwelling	388/05	15/09/05
18	Castle Circuit, SEAFORTH	Dwelling		16/09/05
18	Castle Circuit, SEAFORTH	Pool		16/09/05
5	Francis Street, FAIRLIGHT	Carport	417/05	16/09/05
1	Bareena Drive, BALGOWLAH HEIGHTS	Signage		19/09/05
24	Bellevue Street, FAIRLIGHT	Alts & Adds To Dwelling	432/05	19/09/05
13	James St, MANLY	Land Boundary Adjustment		19/09/05
5	Alto Avenue, SEAFORTH	Section 96 Modification		20/09/05
2	Beatty Street, BALGOWLAH HTS	Erection Of Inclinorator		20/09/05
13	Bonner Avenue, MANLY	Demolition And Erection Of New Dwelling, Pool, Subdivision	416/05	20/09/05

## Environmental Services Division Report No. 62 (Cont'd)

119	Bower St, MANLY	Alts And Adds To Dwelling		20/09/05
33	Osborne Road, MANLY	Alts & Adds To Dwelling, Pool	418/05	20/09/05
85-87	Lauderdale Ave	Alts and Adds To RFB	403/05	21/09/05
31	Bower St, MANLY	Alts & Adds To Dwelling	414/05	22/09/05
6	Brighton Street, BALGOWLAH	Pool	420/05	23/09/05
15 & 227	Lodge & Condamine Sts, BALGOWLAH	Multiunit Development	410/05	23/09/05
9	Ethel Street, SEAFORTH	Alts and Adds To Dwellings		26/09/05
7	Pacific Parade, MANLY	Demolition & Erection Of New Dwelling And Pool	428/05	27/09/05
4B	Tutus Street, BALGOWLAH HEIGHTS	Pool	427/05	27/09/05
Ocean World	West Esplanade	Kayak Hire	409/05	27/09/05
30	Beatty Street, BALGOWLAH HTS	Alts & Adds And Pool	429/05	28/09/05
42	Cutler Road, CLONTARF	Alts & Adds To Dwelling	412/05	28/09/05
2	Eurobin Ave MANLY	Coffee Cart	436/05	28/09/05
2	High Street, MANLY	Alts and Adds To Dwg	425/05	28/09/05
25	Seaforth Crescent, SEAFORTH	Alts & Adds To Dwelling	422/05	28/09/05
59	Ethel Street, SEAFORTH	Mixed Use Development	423/05	29/09/05
30	Pacific Parade, MANLY	Alts & Adds To Dwelling	433/05	29/09/05
48	Radio Avenue, BALGOWLAH	Alts & Adds & Pool	431/05	29/09/05
354	Sydney Rd, BALGOWLAH	Pharmacy	419/05	29/09/05
59 & 20	Ethel Street/20 Magarra Place	Rear Boundary Adjustment		30/09/05
27	Golf Parade, MANLY	Alts and Adds To Dwelling		30/09/05
3	Hogan Street, BAL HGTS	Section 96 Modification	234/04	30/09/05
49	Jackson Street, BALGOWLAH	New Decks, Carport, New Landscaping		30/09/05
8	Montauban Avenue, SEAFORTH	Fence & Stairs	437/05	30/09/05
52	Pacific Parade, MANLY	Proposed Awning		30/09/05
29-38	The Corso, MANLY	Mixed Development		30/09/05
31	Victoria Parade, MANLY	New Construction Of Two Apartments, Demolition Of Roof Top Penthouse)		30/09/05
8 & 11	Yatama Street/Benelong St, SEAFORTH	Housing For Over 55's With Disability	438/05	30/09/05
43	Bower St, MANLY	Alts & Adds	426/05	1/10/05
19	Peacock Street, SEAFORTH	Section 96 Modification	424/02	4/10/05

## Environmental Services Division Report No. 62 (Cont'd)

26	Abernethy Street, SEAFORTH	Section 96 Modification	63/04	4/10/05
41	Fairlight Cres, FAIRLIGHT	Alts and Adds To Dwelling		4/10/05
1	Gordon Street, CLONTARF	Alts and Adds To Dwelling		4/10/05
4/ 93-95	North Steyne, MANLY	Section 96 Modification	87/96	4/10/05
143	Pittwater Road, MANLY	Occupation Small Shop		4/10/05
10	Salisbury Square, SEAFORTH	Section 96 Modification	196/05	4/10/05
	St Pats Estate, MANLY	Section 96 Modification	280/04	4/10/05
	St Pats Estate, MANLY	Section 96 Modification	277/04	4/10/05
	St Pats Estate, MANLY	Section 96 Modification	281/04	4/10/05
	St Pats Estate, MANLY	Section 96 Modification	279/04	4/10/05
21	East Esplanade, MANLY	Proposed Development		5/10/05
23	Barrabooka Street, CLONTARF	Alterations and Additions		6/10/05
51	Ethel Street, SEAFORTH	Mixed Development		6/10/05
10	La Perouse Street, FAIRLIGHT	Alterations and Additions		10/10/05
13	Nield Ave, BALGOWLAH	Alts & Adds To Semi	424/05	10/10/05
39	White Street, BALGOWLAH	Pool		10/10/05
8	Grandview Grove, SEAFORTH	Residential		11/10/05
20	Alto Avenue, SEAFORTH	Demolition and New Dwelling		12/10/05
14	Bareena Drive, BALGOWLAH HEIGHTS	Section 96		12/10/05
14	Bareena Drive, BALGOWLAH HEIGHTS	Section 96 Modification	388/04	12/10/05
30	Upper Beach, BALGOWLAH	Alts and Adds To Dwelling		12/10/05
10	Nolan Place, BALGOWLAH HEIGHTS	Section 96 Modification	469/02	13/10/05
66B	Ponsonby Parade, SEAFORTH	Section 96 Modification	187/03	13/10/05
	Manly Ocean Beach North Steyne MANLY	Section 96 Modification	330/03	14/10/05
340	Sydney Rd, BALGOWLAH	Occupation Takeaway Shop		14/10/05
43	Addison Rd, MANLY	Alts and Adds and Pool		18/10/05
31	The Corso, MANLY	Commonwealth Bank	441/05	31/9/05
	Lewis St	Section 96 Modification	560/04	
110-112	The Corso, MANLY	Section 96 Modification	241/05	

**RECOMMENDATION**

**Environmental Services Division Report No. 62 (Cont'd)**

That the information be noted.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 62 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 November 2005  
**REPORT:** Environmental Services Division Report No. 63  
**SUBJECT:** Appeals List for November 2005  
**FILE NO:**

**SUMMARY**

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION

**REPORT**

Application	Appeal #	Site Address	Appeal Lodged	Solicitor	Current Status
DA278/03	11050/04	27-29 Victoria Pde	1.09.04	Abbott Tout	Awaiting New Callover Date
DA607/02	11098/04	67-71 The Corso		Abbott Tout	Upheld with Conditions
DA255/04	10746/04 40429/04	102 The Corso	28.09.04	Abbott Tout	Consent Orders Issued
DA433/04	11218/05 40926/04	207-217 Pittwater Road	24.10.05	Abbott Tout	Callover 6.12.05
DA172/05	10537/05	66 Balgowlah Road	3.6.05	Abbott Tout	Consent Orders Issued
DA97/04	10592/05	2 Clontarf Street	21.6.05	Abbott Tout	Hearing 15.11.05
DA433/99	10624/05	Shop 5, 93-95 North Steyne	7.06.05	Abbott Tout	Callover 2.11.05
DA424/01	10686/05	42 Bower Street	13.7.05	Abbott Tout	Awaiting New Callover
DA45/05	10622/05	67 Ernest Street	21.06.05	Abbott Tout	Upheld with Conditions re: Visual plans
DA37/05	10832/05	11 Benelong Street	1.8.05	Abbott Tout	Hearing 8.12.05
DA572/04	10833/05	8 Yatama Street	1.8.05	Abbott Tout	Awaiting New Callover
DA576/05	10919/05	57A Ethel Street	12.8.05	Abbott Tout	
DA159/05	10913/05	2A Woodland Street	5.8.05	Abbott Tout	Hearing 30.11.05
	10943/05	4 Nolan Place	11.8.05	Abbott Tout	Upheld with Conditions
DA273/04	10949/05	20 Dennison St	17.8.05	Abbott Tout	Hearing 1.12.05
DA529/04	10988/05	38A Rignold St	24.8.05	Abbott Tout	Discontinued
DA401/04	41145/05	87-95 Balgowlah Rd	14/10/05	Abbott Tout	Callover 25.11.05
DA508/04		118 North Steyne		Abbott Tout	Callover 1.11.05
DA228/05	11132/05	1 Parkview Road	29/9/05	PP&F	Callover 9.11.05
DA334/05	11226/05	79 Darley Road	19/10/05	PP&F	Callover 6.12.05

Legal Expenditure to date (July – October) \$149,508.  
 2005-2006 Budget \$350,000.

**RECOMMENDATION**

That the information be noted.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 63 \*\*\*\*\*