

# Manly Council

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## Minutes

## Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 2 June 2008**

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*[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)*



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**TO THE MAYOR AND COUNCILLORS OF THE COUNCIL:**

The Land Use Management Committee, having met at 7:40pm on Monday 2 June 2008, in the Council Chambers, Town Hall, Manly, to consider the various matters referred to it, now reports the decisions reached and the recommendations made which are stated hereunder.

The decisions taken and indicated by the prefix "Resolved" as distinct from "Recommendations" made to the Council, were taken pursuant to authority delegated to this Committee vide Minutes Number 535 of 19th September, 2005.

**PRESENT**

His Worship, The Mayor, Councillor Dr Peter Macdonald  
Deputy Mayor, Councillor M Norek, arrived at 7.42pm  
Councillor B Aird  
Councillor J Evans, Chairperson who presided  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor R Morrison, arrived at 7.43pm  
Councillor D Murphy  
Councillor B Pedersen

**ALSO PRESENT**

Stephen Clements, Deputy General Manager, Executive Manager Environmental Services  
David Stray, Manager Development Control  
Liz Rich, Minute Taker

**APOLOGIES**

Apologies were tendered on behalf of Councillors Cant, Daley and Lambert for non-attendance.

**MOTION (Macdonald / Hay)**

That the apologies received from Councillors Cant, Daley and Lambert be accepted and leave be granted.

**L53/08 RESOLVED: (Macdonald / Hay)**

That the apologies received from Councillors Cant, Daley and Lambert be accepted and leave be granted.

**For the Resolution:** Councillors Aird, Evans, Hay, Heasman, Murphy, Pedersen and Macdonald

**Against the Resolution:** Nil.

*Councillors Morrison and Norek were not in the Chamber when the voting took place.*

**DECLARATIONS OF PECUNIARY / CONFLICT OF INTEREST**

Nil

**CONFIRMATION OF MINUTES****MOTION (Heasman / Macdonald)**

That copies of the Minutes of the Land Use Management Committee held on Monday, 05 May 2008, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

**L54/08 RESOLVED: (Heasman / Macdonald)**

That copies of the Minutes of the Land Use Management Committee held on Monday, 05 May 2008, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

**For the Resolution:** Councillors Aird, Evans, Hay, Heasman, Murphy, Pedersen and Macdonald

**Against the Resolution:** Nil.

*Councillors Morrison and Norek were not in the Chamber when the voting took place.*

Councillor Norek entered the Chamber at 7.42pm.  
Councillor Morrison entered the Chamber at 7.43pm.

**ENVIRONMENTAL SERVICES DIVISION**

Environmental Services Division Report No. 36  
**189 Woodland Street, Balgowlah - DA300/06**  
**Section 96 Modification (DA300/06)**

**Application Lodged:** 3 April 2008 (Section 96)  
**Applicant:** Colin Usher  
**Owner:** CR & RA Usher  
**Estimated Cost:** \$350,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** Residential dwelling houses  
**Heritage:** Not applicable

**SUMMARY:**

1. DEVELOPMENT CONSENT WAS SOUGHT FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE INCORPORATING FIRST FLOOR ADDITION AND NEW GARAGE.
2. COUNCIL IS NOW IN RECEIPT OF A REQUEST FOR MODIFICATION OF SOME DETAILS OF THE DEVELOPMENT.
3. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND TWO (2) SUBMISSIONS RECEIVED.
4. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 15 MAY 2008 WITH A RECOMMENDATION FOR APPROVAL.
5. THE SECTION 96 DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE SECTION 96 MODIFICATION APPLICATION IS RECOMMENDED FOR APPROVAL.

**PUBLIC ADDRESSES**

The following persons addressed the meeting in relation to this item:

Against the Recommendation: Mark McClennan

In Support of the Recommendation: Colin Usher

### SITE INSPECTIONS

A site inspection of DA300/06 - 189 Woodland Street, Balgowlah, alterations and additions to the existing dwelling house incorporating first floor addition and new garage, was conducted by Councillors B Aird, J Hay, A Heasman, P Macdonald, R Morrison and M Norek.

**Recommendation:** That application to modify Development Application No. 300/06 for alterations and additions to the existing dwelling house incorporating first floor addition and new garage at 189 Woodland Street Balgowlah be approved as per Staff Recommendation.

### MOTION (Macdonald / Murphy)

That Development Consent No. 300/06 for alterations and additions to existing dwelling house incorporating first floor addition and new garage at 189 Woodland Street Balgowlah be modified, subject to the original conditions of consent with Condition DA1 modified and Condition Nos. ANS01, ANS02 and DA267A added as follows:

#### DA1

This approval relates to drawings/plans Nos. DA 01-06 dated November 2006 and received by Council on the 6 December 2006 as amended by the sketch plan A (with garage ridge height amended to RL 53.42) dated 12 April 2007 and received by Council on the 12 April 2007 **modified by** drawings/plan numbers S96 01 A to S96 04 A and S96 06 A and S. 96 07 A dated December 2007 and received by Council on the 17 December 2007.

**Except** as modified by drawings/plan numbers S96.02-B, S96.03-B, S96.06-B, and S96.07-B dated March 2008 received by Council on 3 April 2008.

#### ANS01

The structural engineer is to design the proposed chimney extension with regard to the earthquake code.

#### ANS02

The sill height of window 'P' off the sitting room facing south on the first floor level, is to be a minimum 1.5m above finished floor level, to maintain visual privacy to the adjoining property to the south, plans being suitably amended prior to the issue of the Construction Certificate.

#### DA267A

Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

#### DA274

Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, may be required for this development. If required the amount will be in accordance with Councils Section 94 Policy applicable at the time of payment prior to the issue of the Construction Certificate.

#### 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.

**L55/08 RESOLVED: (Macdonald / Murphy)**

That Development Consent No. 300/06 for alterations and additions to existing dwelling house incorporating first floor addition and new garage at 189 Woodland Street Balgowlah be modified, subject to the original conditions of consent with Condition DA1 modified and Condition Nos. ANS01, ANS02 and DA267A added as follows:

**DA1**

This approval relates to drawings/plans Nos. DA 01-06 dated November 2006 and received by Council on the 6 December 2006 as amended by the sketch plan A (with garage ridge height amended to RL 53.42) dated 12 April 2007 and received by Council on the 12 April 2007 **modified by** drawings/plan numbers S96 01 A to S96 04 A and S96 06 A and S. 96 07 A dated December 2007 and received by Council on the 17 December 2007.

**Except** as modified by drawings/plan numbers S96.02-B, S96.03-B, S96.06-B, and S96.07-B dated March 2008 received by Council on 3 April 2008.

**ANS01**

The structural engineer is to design the proposed chimney extension with regard to the earthquake code.

**ANS02**

The sill height of window 'P' off the sitting room facing south on the first floor level, is to be a minimum 1.5m above finished floor level, to maintain visual privacy to the adjoining property to the south, plans being suitably amended prior to the issue of the Construction Certificate.

**DA267A**

Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

**DA274**

Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, may be required for this development. If required the amount will be in accordance with Councils Section 94 Policy applicable at the time of payment prior to the issue of the Construction Certificate.

**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.

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

**Against the Resolution:** Councillor Norek

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Environmental Services Division Report No. 37

**Bareena Park Tennis Club, Vista Avenue & Bareena Drive, Balgowlah Heights - DA60/08 (DA60/08)**

**Application Lodged:** 7 March 2008  
**Applicant:** Ultimate Lighting International  
**Owner:** Department of Land and Water Conservation  
**Estimated Cost:** \$41,000  
**Zoning:** Manly Local Environmental Plan, 1988 – Open Space and within the Foreshore Scenic Protection Area

**Surrounding Development:** The locality is residential in character consisting of a mixture of single and two storey dwelling houses. The Balgowlah Bowling Club is to the immediate south of the subject site.

**Heritage:** Not applicable

**SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR THE CONSTRUCTION OF SEVEN (7) LIGHT POLES ON COURTS 4 AND 5 TO ALLOW TENNIS TO BE PLAYED ON THESE COURTS UNTIL 10:30PM EVERYDAY.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND ADVERTISED IN THE MANLY DAILY. NINETY EIGHT (98) STANDARD LETTERS (CONFIDENTIAL), A PETITION (CONFIDENTIAL) SIGNED BY FORTY THREE (43) PEOPLE, TWENTY SIX (26) LETTERS (INCLUSIVE OF SIX CONFIDENTIAL), ALL OBJECTING TO THE PROPOSED DEVELOPMENT WERE RECEIVED.
3. THE APPLICATION WAS REFERRED TO REFERRED TO THE BALGOWLAH HEIGHTS PRECINCT COMMUNITY FORUM FOR COMMENTS.
4. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 22 MAY WITH A RECOMMENDATION FOR REFUSAL.
5. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR NOREK.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

**PUBLIC ADDRESSES**

The following persons addressed the meeting in relation to this item:

Against the Recommendation: David Simmonds

In Support of the Recommendation: Toby Carter

**SITE INSPECTIONS**

A site inspection of DA60/08 - Bareena Park Tennis Club Vista Avenue & Bareena Drive Balgowlah Heights, construction of seven (7) light poles on courts 4 and 5 to allow tennis to be played on these courts until 10:30pm every day, was conducted by Councillors B Aird, J Hay, A Heasman, P Macdonald, R Morrison and M Norek.

**Recommendation:** No Recommendation

**MOTION (Pedersen / Hay)**

That Development Application No. 60/08 for installation of tennis courts lights on courts 4 & 5 and use of courts until 10:30pm everyday at Bareena Park Tennis Club bordered by Curban Street, Vista Avenue and Bareena Drive, Balgowlah Heights be **DEFERRED** until the next Ordinary Meeting on 16 June, subject to the minutes of the precinct meeting of 10 June having been received.

**AMENDMENT (Norek / Morrison)**

That Development Application No. 60/08 for installation of tennis courts lights on courts 4 & 5 and use of courts until 10:30pm everyday at Bareena Park Tennis Club bordered by Curban Street, Vista Avenue and Bareena Drive, Balgowlah Heights be **REFUSED** for the following reasons:

1. The proposal is inconsistent with the Objectives 4(d)(i) of the Manly Local Environmental Plan 1988.
2. The proposal is inconsistent with the Open Space Zone Objectives 1(a) in Clause 10 of the Manly Local Environmental Plan 1988.
3. The proposal will have a detrimental impact on the amenity of the area in relation to:
  - Additional noise resulting from the night use of the courts and clubhouse,
  - Noise from people /cars leaving the club,
  - Detrimental impact on privacy of surrounding residential properties,
  - Possible increase in anti social behaviour,
  - Reduced security in surrounding residential properties,
  - Possible reflected light spillage onto adjoining residential properties,
  - Additional demand for street parking in the evenings.
4. The site is considered to be unsuitable for the proposed use.
5. The proposal is contrary to the public interest.

**For the Amendment:** Councillor Norek

**Against the Amendment:** Councillors Aird, Evans, Hay, Heasman, Morrison, Murphy, Pedersen and Macdonald

The Amendment was declared **LOST** and the Motion was put.

L56/08 **RESOLVED: (Pedersen / Hay)**

That Development Application No. 60/08 for installation of tennis courts lights on courts 4 & 5 and use of courts until 10:30pm everyday at Bareena Park Tennis Club bordered by Curban Street, Vista Avenue and Bareena Drive, Balgowlah Heights be **DEFERRED** until the next Ordinary Meeting on 16 June, subject to the minutes of the precinct meeting of 10 June having been received.

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

**Against the Resolution:** Councillor Norek

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Environmental Services Division Report No. 38

**Development Applications Being Assessed During June 2008.**

#### **SUMMARY**

Development Applications being processed during the month of June, 2008.

#### **MOTION (Heasman / Macdonald)**

That development applications currently being processed during June 2008, with the inclusion of Section 96 modification for DA6/03 Premises 25 Fromelles Avenue, Seaforth Alterations & Additions to Child Care Centre and attached dwelling – DAU 5/6/08, be noted.

L57/08 **RESOLVED: (Heasman / Macdonald)**

That development applications currently being processed during June 2008, with the inclusion of Section 96 modification for DA6/03 Premises 25 Fromelles Avenue, Seaforth Alterations & Additions to Child Care Centre and attached dwelling – DAU 5/6/08, be noted.



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

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Environmental Services Division Report No. 39

**Appeals for June 2008.**

**SUMMARY**

List of Appeals currently with the Land and Environment Court of NSW.

**MOTION (Macdonald / Murphy)**

That the List of Appeals received for June 2008 and their current status be noted.

L58/08 **RESOLVED: (Macdonald / Murphy)**

That the List of Appeals received for June 2008 and their current status be noted.

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

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**CLOSE**

The meeting closed at 9.26pm.

The above minutes were confirmed at an **Land Use Management Committee** of Manly Council held on 7<sup>th</sup> July 2008.

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**CHAIRPERSON**

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