

# Manly Council

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## Minutes

### Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 2 July 2007**

*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)*



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

The Land Use Management Committee, having met at 7:38pm on Monday 2 July 2007, 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 B Pedersen  
Councillor B Aird  
Councillor S Cant  
Councillor P Daley  
Councillor J Evans, Deputy Chairperson  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor J Lambert, AM Chairperson who presided  
Councillor R Morrison  
Councillor D Murphy  
Councillor M Norek

**ALSO PRESENT**

Henry Wong, General Manager  
Ross Fleming, Chief Financial Officer  
Stephen Clements, Divisional Manager Environmental Services  
David Stray, Manager Development Control  
Elayne Becker, Minute Taker

**APOLOGIES**

Nil

**LEAVE OF ABSENCE**

Nil.

**DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST**

Nil.

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

That copies of the Minutes of the Land Use Management Committee held on Monday, 04 June 2007, 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.

L42/07      **RESOLVED:**      (Macdonald / Heasman)

That copies of the Minutes of the Land Use Management Committee held on Monday, 04 June 2007, 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, Cant, Daley, Evans, Hay, Heasman, Lambert, Morrison, Murphy, Norek, Pedersen and Macdonald

**Against the Resolution:** Nil.

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## **ENVIRONMENTAL SERVICES DIVISION**

Environmental Services Division Report No. 39

**18/13 Victoria Parade, Manly - DA168/07**

**Application Lodged:**      18 May 2007

**Applicant:**      A Thomas

**Owner:**      Varixa Pty Ltd

**Zoning:**      Manly Local Environmental Plan, 1988 - Business, within Foreshore Scenic Protection Area

**Surrounding Development:**      3 - 4 storey mixed development with ground floor business & upper level residential

**Heritage:**      Nil

### **SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT TO OCCUPY AN EXISTING OFFICE PREMISES TO BE USED FOR CONDUCTING MUSICAL TUITION BETWEEN 3:00PM - 8:00PM MONDAY - FRIDAY, 11:00AM - 5:00PM SATURDAY, CLOSED SUNDAY.
2. NOTIFICATION OF THE PROPOSAL RESULTED IN RECEIPT OF THIRTEEN (13) SUBMISSIONS PLUS TWO PETITIONS RAISING ISSUES OF NOISE IMPACTS TO NEIGHBOURING RESIDENTIAL UNITS AND BUSINESSES, OPERATING HOURS, INCREMENTAL NOISE INCREASE COMBINED WITH NOISE FROM NEIGHBOURING BUSINESSES, ENFORCEMENT OF NOISE CONTROLS, STRATA APPROVAL NOT BEING OBTAINED FOR LODGMENT, AND DISPUTED FLAWS OF THE ACOUSTIC ASSESSMENT.
3. SOUND TESTING WAS CARRIED OUT AS PART OF THE SITE INSPECTION TO ASSESS THE EFFECTIVENESS OF ACOUSTIC INSULATION MATERIAL AS INSTALLED BY THE APPLICANT. THIS CONCLUDED THAT MINIMAL SOUND IMPACTS WOULD RESULT TO COMMON AREAS AND ADJOINING RESIDENTIAL AND COMMERCIAL UNITS AS A RESULT OF MUSIC TUITION BEING CARRIED OUT.
4. THE APPLICATION WAS REPORTED TO COUNCILS DEVELOPMENT ASSESSMENT UNIT MEETING OF 21 JUNE 2007 WHERE IT WAS RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS REQUIRING COMPLIANCE WITH RECOMMENDATIONS MADE IN THE APPLICANTS ACOUSTIC ENGINEER'S REPORT.
5. THE APPLICATION IS PRESENTED TO COUNCILS LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR HAY.
6. A SITE INSPECTION IS RECOMMENDED.
7. APPROVAL OF THE APPLICATION IS RECOMMENDED.

### **PUBLIC ADDRESSES**

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

Against:      Mr Cameron Bayfield, Neighbour

In Support:      Mr Adam Thomas, Applicant

**SITE INSPECTIONS**

A site inspection of 18/13 Victoria Parade, Manly, - occupation of premises for conducting musical tuition was conducted by Councillors B Aird, P Daley, J Evans, J Hay, A Heasman, J Lambert, P Macdonald, D Murphy, and M Norek

**Recommendation: No Recommendation**

**With further consideration to be given to conditions regarding numbers of students, hours of operation and noise control**

**MOTION (Evans / Macdonald)**

That Development Application No. 168/07 for occupation of premises for conducting musical tuition at Unit 18 / 13 Victoria Parade, Manly be **granted consent**, subject to the following conditions;

1. Approval with a six months trial
2. The acoustic reports be fully considered and steps taken to comply to L90 + 0 db(A) with regard to noise in the neighbouring unit and the one above
3. No appreciable breakout noise and no appreciable vibration shall emanate from the music school.

## DA1

This approval relates to drawings/plans titled "Site Plan, Floor Plan, Location Plan - Suites 2 & 3 – 13 Victoria Parade" and document titled "Environmental Impact Statement" undated and received by Council 18 May 2007.

## ANS01

Compliance with all the recommendations contained in Acoustic Engineers report by Acoustic Logic Consultancy dated 30 March 2007.

## DA291

The hours of operation of the premises shall not exceed 3:00pm - 8:00pm Monday - Friday, and 11:00am - 5:00pm Saturday with no operation on Sunday **without the prior approval of Council**.

## DA292

Development consent of Council shall be obtained for any new advertising structure prior to erection.

## DA293

No sandwich boards or the like are to be placed on Council's footpath.

## 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.

**AMENDMENT (Norek / Murphy)**

That Development Application No. 168/07 for occupation of premises for conducting musical tuition at Unit 18 / 13 Victoria Parade, Manly be **refused** for the following reasons:

1. *Inappropriate use of the site in the circumstances*
2. *Poor precedent*
3. *High traffic volumes*
4. *High number of residents against the application*
5. *Not in keeping*
6. *More suitable locations for the development are available.*

**For the Amendment:** Councillors Murphy and Norek

**Against the Amendment:** Councillors Aird, Cant, Daley, Evans, Hay, Heasman, Lambert, Morrison, Pedersen and Macdonald

The **AMENDMENT** was declared **LOST** and the **MOTION** was put

L43/07 **RESOLVED:** (Evans / Macdonald)

That Development Application No. 168/07 for occupation of premises for conducting musical tuition at Unit 18 / 13 Victoria Parade, Manly be **granted consent**, subject to the following conditions;

1. Approval with a six months trial
2. The acoustic reports be fully considered and steps taken to comply to L90 + 0 db(A) with regard to noise in the neighbouring unit and the one above
3. No appreciable breakout noise and no appreciable vibration shall emanate from the music school.

DA1.

This approval relates to drawings/plans titled "Site Plan, Floor Plan, Location Plan - Suites 2 & 3 – 13 Victoria Parade" and document titled "Environmental Impact Statement" undated and received by Council 18 May 2007.

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Compliance with all the recommendations contained in Acoustic Engineers report by Acoustic Logic Consultancy dated 30 March 2007.

DA291

The hours of operation of the premises shall not exceed 3:00pm - 8:00pm Monday - Friday, and 11:00am - 5:00pm Saturday with no operation on Sunday **without the prior approval of Council**.

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Development consent of Council shall be obtained for any new advertising structure prior to erection.

DA293

No sandwich boards or the like are to be placed on Council's footpath.

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, Cant, Daley, Evans, Hay, Heasman, Lambert, Morrison, Murphy, Norek, Pedersen and Macdonald

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 29

**270 Pittwater Road, Manly - DA63/07**

**Application Lodged:** 12 March 2007

**Applicant:** FPA International Architects

**Owner:** Manly Fishing and Sporting Association

**Estimated Cost:** \$20,000.00

<b>Zoning:</b>	Manly Local Environmental Plan, 1988 - Residential
<b>Surrounding Development:</b>	Residential Flat Buildings, townhouses and single dwellings
<b>Heritage:</b>	Not Applicable

### **SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR THE CONSTRUCTION OF AN EXTERNAL DECK ON LEVEL 1 AT THE REAR OF THE CLUB.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING PROPERTIES AND TWO (2) SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS NOT REFERRED TO THE PRECINCT COMMITTEE AS THE PROPOSAL IS FOR WORKS TO THE REAR OF THE PROPERTY.
4. THE APPLICATION IS REPORTED TO COUNCIL AT THE REQUEST OF COUNCILLOR EVANS.
5. ON 1 JUNE 2007 COUNCIL AT ITS ORDINARY MEETING RESOLVED TO DEFER CONSIDERATION OF THE MATTER TO ALLOW SITE INSPECTION AND FURTHER CONSULTATION TO TAKE PLACE.
6. A SITE INSPECTION IS RECOMMENDED.
7. APPROVAL OF THE APPLICATION IS RECOMMENDED.

### **PUBLIC ADDRESSES**

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

Against: Mr Jack Hanrahan

In Support: Mr Bob Morgan, Applicant

### **SITE INSPECTIONS**

A site inspection of 270 Pittwater Road, Manly, New first floor level deck at the rear of the existing club was conducted by Councillors B Aird, P Daley, J Evans, J Hay, A Heasman, J Lambert, P Macdonald, and M Norek

**Recommendation: No Recommendation**

### **MOTION (Daley / Murphy)**

That upon receipt of satisfactory legal advice referred to in Council's resolution of 21 August, 2006, Development Application No. 63/07 for a new first floor level deck at the rear of the existing club at 270 Pittwater Road, Manly be **approved** with Condition ANS02 amended so that the deck can be used during the normal operating hours of the club.

### **AMENDMENT (Evans / Macdonald)**

That upon receipt of satisfactory legal advice referred to in Council's resolution of 21 August, 2006, Development Application No. 63/07 for a new first floor level deck at the rear of the existing club at 270 Pittwater Road, Manly be **approved** subject to the following conditions:-

#### **DA1**

This approval relates to Drawing/Plan Nos. 607, DA 101A, 102A and 103A dated 1 March 2007 and received by Council on 12 March 2007.

#### **ANS01**

1800mm high acoustic privacy screens are to be provided to the northern, eastern and western side of the proposed balcony. This is to provide privacy, avoid overlooking and lessen the noise impact on to adjoining residential properties to the rear of the club. Details of the screens are to be

provided to Council/Accredited Certifier prior to the issue of Construction Certificate.

#### ANS02

The balcony is not to be used after 10:30pm each night and the access doors to the balcony are to be kept locked after that time. This is to maintain the residential amenity of the area.

#### ANS03

Acoustic Privacy Screens are to be constructed of suitable glass panels either in a fully opaque finish or fitted with fixed solid louvre screens to prevent overlooking and light spill to the neighbouring properties. Screens and deck flooring must be constructed of suitable noise attenuating construction to ensure noise is contained and attenuated within the deck area and not transferred to neighbouring properties. In this regard an Acoustic Report prepared by a qualified Acoustic Consultant is to be submitted to Council/Accredited Certifier prior to the issue of Construction Certificate.

#### ANS04

Any external lighting to the proposed deck is to be kept low level and below the height of the Acoustic Privacy Screens so as not to impact on the amenity of the residential neighbourhood.

#### ANS05

The external door accessing the deck area from the Club is to be an automatic self closing door. Windows to the deck area are to be fixed non operable windows. The door and windows to the deck are to be constructed of suitable acoustic glass and window / door frames are to be suitably noise attenuated to relevant Environmental Protection Authority guidelines.

#### ANS06

The use of the deck area is to be restricted to be used as a "Smokers area" only and provided with minimal seating with no service of food or beverages. This area is to be monitored regularly and managed by Club management and staff to ensure that patrons abide by the Club's restrictions of use of this area and to ensure noise levels are kept to a minimum at all times.

#### ANS07

Use of the balcony is to be limited to a maximum of 20 persons.

#### 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 \$600.00. 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.

**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.

**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.

**DA023**

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

**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.

**DA39**

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.

**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.

**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 Construction Certificate.

**DA065**

All external cladding and trim of the approved building shall be of a non reflective nature (with reflectivity index of maximum 20%). Details of such finishes shall be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

**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.

**DA119**

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should

be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000. Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

**DA121**

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

**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.

**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.

**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.

**DA267**

Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.

**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

Footing inspection - trench and steel

Framework inspection

Final inspection

The cost of these inspections by Council is \$920.00 (being \$230 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 1414.

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 \$110.

**DA271**

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

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

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 Amendment:** Councillors Cant, Evans, Hay, Heasman, Lambert, Norek, Pedersen and Macdonald

**Against the Amendment:** Councillors Aird, Daley, Morrison and Murphy

The **AMENDMENT** was declared **CARRIED** and became the **MOTION**

#### **FORESHADOWED AMENDMENT (Aird)**

That Development Application No. 63/07 for a new first floor level deck at the rear of the existing club at 270 Pittwater Road, Manly be **refused**.

The Foreshadowed Amendment **LAPSED** for lack of a seconder

L44/07 **RESOLVED: (Evans / Macdonald)**

That upon receipt of satisfactory legal advice referred to in Council's resolution of 21 August, 2006, Development Application No. 63/07 for a new first floor level deck at the rear of the existing club at 270 Pittwater Road, Manly be **approved** subject to the following conditions:-

DA1

This approval relates to Drawing/Plan Nos. 607, DA 101A, 102A and 103A dated 1 March 2007 and received by Council on 12 March 2007.

ANS01

1800mm high acoustic privacy screens are to be provided to the northern, eastern and western side of the proposed balcony. This is to provide privacy, avoid overlooking and lessen the noise impact on to adjoining residential properties to the rear of the club. Details of the screens are to be provided to Council/Accredited Certifier prior to the issue of Construction Certificate.

ANS02

The balcony is not to be used after 10:30pm each night and the access doors to the balcony are to be kept locked after that time. This is to maintain the residential amenity of the area.

ANS03

Acoustic Privacy Screens are to be constructed of suitable glass panels either in a fully opaque finish or fitted with fixed solid louvre screens to prevent overlooking and light spill to the neighbouring properties. Screens and deck flooring must be constructed of suitable noise attenuating construction to ensure noise is contained and attenuated within the deck area and not transferred to neighbouring properties. In this regard an Acoustic Report prepared by a qualified Acoustic Consultant is to be submitted to Council/Accredited Certifier prior to the issue of Construction Certificate.

ANS04

Any external lighting to the proposed deck is to be kept low level and below the height of the Acoustic Privacy Screens so as not to impact on the amenity of the residential neighbourhood.

## ANS05

The external door accessing the deck area from the Club is to be an automatic self closing door. Windows to the deck area are to be fixed non operable windows. The door and windows to the deck are to be constructed of suitable acoustic glass and window / door frames are to be suitably noise attenuated to relevant Environmental Protection Authority guidelines.

## ANS06

The use of the deck area is to be restricted to be used as a "Smokers area" only and provided with minimal seating with no service of food or beverages. This area is to be monitored regularly and managed by Club management and staff to ensure that patrons abide by the Club's restrictions of use of this area and to ensure noise levels are kept to a minimum at all times.

## ANS07

Use of the balcony is to be limited to a maximum of 20 persons.

## 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 \$600.00. 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.

## 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.

## 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.

## DA023

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

## 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.

**DA39**

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.

**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.

**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 Construction Certificate.

**DA065**

All external cladding and trim of the approved building shall be of a non reflective nature (with reflectivity index of maximum 20%). Details of such finishes shall be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

**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.

**DA119**

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000. Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

**DA121**

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

**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.

**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.

**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.

DA267

Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.

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

Footing inspection - trench and steel

Framework inspection

Final inspection

The cost of these inspections by Council is \$920.00 (being \$230 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 1414.

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 \$110.

DA271

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

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

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 Cant, Evans, Hay, Heasman, Lambert, Morrison, Murphy, Norek, Pedersen and Macdonald

**Against the Resolution:** Councillors Aird and Daley

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Environmental Services Division Report No. 44

**12 Smith Street, Manly - DA499/06**

<b><u>Application Lodged:</u></b>	6 November 2006 (Amended plans 8 May 2007)
<b><u>Applicant:</u></b>	W & B Consulting Pty Ltd
<b><u>Owner:</u></b>	C. Kennedy
<b><u>Estimated Cost:</u></b>	\$80,000
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential Foreshore Scenic Protection Area: No
<b><u>Surrounding Development:</u></b>	One and two storey residential development
<b><u>Heritage:</u></b>	Pittwater Road Conservation Area

**SUMMARY:**

1. DEVELOPMENT APPROVAL IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO AN EXISTING SEMI-DETACHED DWELLING AND NEW PERGOLA / CAR SPACE TO REAR.
2. THE APPLICATION WAS NOTIFIED TO NEIGHBOURING PROPERTIES AND ONE CONFIDENTIAL SUBMISSION WAS RECEIVED.
3. THE APPLICATION WAS NOT REFERRED TO THE OCEAN BEACH PRECINCT COMMUNITY FORUM AS THE PROPOSED WORKS ARE NOT VISIBLE FROM THE STREET FRONTAGE.
4. A NUMBER OF ISSUES WERE RAISED WITH THE APPLICANT ON 21 MARCH 2007 WHICH INCLUDED THE EXTENT OF WALLS ALONG THE BOUNDARY, PRIVACY, RETENTION OF CHIMNEYS AND DETAILS SHOWN ON THE PLANS.
5. AMENDED PLANS WERE RECEIVED ON 8 MAY 2007 AND NOTIFIED TO NEIGHBOURING PROPERTIES. ONE CONFIDENTIAL SUBMISSION WAS RECEIVED.
6. THE APPLICATION IS PRESENTED TO COUNCILS LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF THE GENERAL MANAGER.
7. A SITE INSPECTION IS RECOMMENDED.
8. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL APPROVAL.

**PUBLIC ADDRESSES**

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

Against: Mr Tim Evans, neighbour

**SITE INSPECTIONS**

**A site inspection of 12 Smith Street, Manly** Alterations and additions to an existing semi-detached dwelling and new pergola / car space to rear was conducted by Councillors B Aird, P Daley, J Evans, J Hay, A Heasman, J Lambert, P Macdonald, and M Norek

**Recommendation: Staff Recommendation with Condition ANS02 reworded as follows:- ANS02**

**The dormer window associated with the loft storage area is to be deleted and replaced with a ventilated fixed skylight glazed with translucent glass or similar material to prevent overlooking of the adjoining property to the north, plans being suitably amended prior to the issue of the Construction Certificate.**

**MOTION (Murphy / Daley)**

That Development Application No. 499/06 for Alterations and additions to an existing semi-detached dwelling and new pergola / car space to rear at 12 Smith Street, Manly be **Approved**.

**AMENDMENT (Aird / Heasman)**

That Development Application No. 499/06 for Alterations and additions to an existing semi-detached dwelling and new pergola / car space to rear at 12 Smith Street, Manly be **Approved** subject to the following conditions:

1. A dividing fence 1.8 metres high of masonry construction to be constructed along the courtyard area.

**ANS01**

The two (2) north facing living room windows are to be fitted with fixed external louvres or modified to be highlight windows with a minimum sill height of 1600mm to assist in the provision of privacy between the subject site and the adjoining site. Plans are to be amended and submitted to Council/ Accredited Certifier prior to the issue of the Construction Certificate.

**ANS02**

The dormer window associated with the loft storage area is to be deleted and replaced with a ventilated fixed skylight glazed with translucent glass or similar material to prevent overlooking of the adjoining property to the north, plans being suitably amended prior to the issue of the Construction Certificate.

**ANS03**

The pergola in the rear yard is not to be enclosed without the prior approval of Council.

**ANS04**

The air conditioning unit is to be relocated to a central location on site away from property boundaries (not on the roof). The amended location of the air conditioning unit is to be shown on the plans prior to issue of the Construction Certificate.

**DA009**

The construction of a vehicular footpath crossing is required. The design and construction including allowable width shall be in accordance with the current Policy of Council and Specification for the Construction of Vehicle Crossings. All works shall be carried out prior to the issue of Occupation Certificate.

**DA010**

Separate application to Council for the construction of a Vehicular Crossing for the design, specification and inspection by Council. The design and construction including allowable width shall be in accordance with the current Policy of Council and Specification for the Construction of Vehicle Crossings. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property.

**DA011**

All surplus vehicular crossings and/or kerb laybacks 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.

**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 \$2200. 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.

#### DA341

Any heritage listed stone kerb removed for construction of a driveway or other approved works, is to be removed without damaging it and contact is to be made with Councils Works Manager on Telephone 9976 1455 for the stone to be transported to Councils Depot.

#### 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 full 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.

#### DA023

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

#### 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.

#### 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.

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.

DA045

All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.

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.

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 Construction Certificate.

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.

DA094

Stormwater drainage from the proposed addition/extension shall be disposed of to the existing drainage system. All work shall be carried out in accordance with Council standards and specifications for stormwater drainage. Work shall be completed prior to the issue of the Occupation 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.

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.

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

Footing inspection - trench and steel

Framework inspection

Wet area moisture barrier

Drainage inspection

Final inspection

The cost of these inspections by Council is \$1380. (being \$230 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 1414.

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 \$110.

DA271

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

DA285

Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority prior to the commencement of framework.

DA332

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

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.

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

DA319

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and nonstructural 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".

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 Amendment:** Councillors Aird, Evans, Hay, Heasman, Lambert, Pedersen and Macdonald

**Against the Amendment:** Councillors Cant, Daley, Murphy, Morrison and Norek

The **AMENDMENT** was declared **CARRIED** and became the **MOTION**

**FORESHADOWED AMENDMENT (Norek)**

That Development Application No. 499/06 for Alterations and additions to an existing semi-detached dwelling and new pergola / car space to rear at 12 Smith Street, Manly be **deferred** for one month to the next LUM meeting to allow further discussion of the Development Application.

The Foreshadowed Amendment **LAPSED** for lack of a seconder

**L45/07 RESOLVED: (Aird / Heasman)**

That Development Application No. 499/06 for Alterations and additions to an existing semi-detached dwelling and new pergola / car space to rear at 12 Smith Street, Manly be **Approved** subject to the following conditions:

1. A dividing fence 1.8 metres high of masonry construction to be constructed along the courtyard area.

**ANS01**

The two (2) north facing living room windows are to be fitted with fixed external louvres or modified to be highlight windows with a minimum sill height of 1600mm to assist in the provision of privacy between the subject site and the adjoining site. Plans are to be amended and submitted to Council/ Accredited Certifier prior to the issue of the Construction Certificate.

**ANS02**

The dormer window associated with the loft storage area is to be deleted and replaced with a ventilated fixed skylight glazed with translucent glass or similar material to prevent overlooking of the adjoining property to the north, plans being suitably amended prior to the issue of the Construction Certificate.

**ANS03**

The pergola in the rear yard is not to be enclosed without the prior approval of Council.

**ANS04**

The air conditioning unit is to be relocated to a central location on site away from property boundaries (not on the roof). The amended location of the air conditioning unit is to be shown on the plans prior to issue of the Construction Certificate.

**DA009**

The construction of a vehicular footpath crossing is required. The design and construction including allowable width shall be in accordance with the current Policy of Council and Specification for the Construction of Vehicle Crossings. All works shall be carried out prior to the issue of Occupation Certificate.

**DA010**

Separate application to Council for the construction of a Vehicular Crossing for the design, specification and inspection by Council. The design and construction including allowable width shall be in accordance with the current Policy of Council and Specification for the Construction of Vehicle Crossings. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property.

**DA011**

All surplus vehicular crossings and/or kerb laybacks 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.

#### 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 \$2200. 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.

#### DA341

Any heritage listed stone kerb removed for construction of a driveway or other approved works, is to be removed without damaging it and contact is to be made with Councils Works Manager on Telephone 9976 1455 for the stone to be transported to Councils Depot.

#### 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 full 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.

#### DA023

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

## 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.

## 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.

## 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.

## DA045

All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.

## 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.

## 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 Construction Certificate.

## 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.

## DA094

Stormwater drainage from the proposed addition/extension shall be disposed of to the existing drainage system. All work shall be carried out in accordance with Council standards and specifications for stormwater drainage. Work shall be completed prior to the issue of the Occupation 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.

## 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.

## 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

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Final inspection

The cost of these inspections by Council is \$1380. (being \$230 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 1414.

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 \$110.



DA271

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

DA285

Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority prior to the commencement of framework.

DA332

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

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.

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

DA319

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and nonstructural 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".

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, Lambert, Pedersen and Macdonald

**Against the Resolution:** Councillors Cant, Daley, Morrison, Murphy and Norek

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Environmental Services Division Report No. 40

**87 Clontarf Street, Seaforth - DA477/06**

**SUMMARY**

**Application Lodged:** 13 September 2006  
**Applicant:** Greenfield DA Services  
**Owner:** Henning and Tatiana Muller  
**Estimated Cost:** \$217,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
 Manly Residential Development Control Plan 2001,  
 Amendment 1 Sub Zone: 5  
 Within the Foreshore protection Area: No  
**Surrounding Development:** Residential  
**Heritage:** N/A

*Environmental Services Division Report No.40 87 Clontarf Street, Seaforth - DA477/06 was withdrawn at the request of the Owner.*

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Environmental Services Division Report No. 45

**9 Jenner Street, Seaforth - DA162/05**

**Application Lodged:** 24 March 2005  
**Applicant:** Matthew Grant Architect  
**Owner:** Mr & Mrs Poole  
**Estimated Cost:** \$500,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
 Within Foreshore Scenic Protection Area  
**Surrounding Development:** Two and three storey detached dwellings  
**Heritage:** Nil.

**SUMMARY:**

1. DA162/05 FOR ALTERATIONS AND 1<sup>ST</sup> STOREY ADDITIONS WITH AN ELEVATED DRIVEWAY AND PARKING WAS SUBMITTED TO COUNCIL ON 24 MARCH 2005.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING OWNERS IN ACCORDANCE WITH COUNCIL POLICY WITH 5 SUBMISSIONS RECEIVED RAISING CONCERNS OF VIEW LOSS, STREETScape AND DCP NON-COMPLIANCE, AND ONE SUBMISSION OF SUPPORT.
3. THE PROPOSAL WAS REPORTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 31 MAY 2005 AT WHICH TIME RECOMMENDATIONS WERE MADE FOR REFUSAL BASED UPON GROUNDS OF DCP NON-COMPLIANCE, AND IMPACT ON NEIGHBOURS VIEWS AND THE STREETScape.
4. AT THE TIME OF DEVELOPMENT ASSESSMENT UNIT REVIEW, A SUBMISSION WAS RECEIVED FROM THE ARCHITECT REQUESTING THE OPPORTUNITY TO SUBMIT

- REVISED PLANS, HENCE DETERMINATION WAS WITHHELD.
5. REVISED PLANS PROVIDED A REDUCTION IN ROOF HEIGHT AND NOTIFICATION OF THE REVISED PLANS RESULTED IN FURTHER SUBMISSIONS RAISING CONCERNS WITH THE PROPOSAL AND INCLUDED A DETAILED VISUAL IMPACT ASSESSMENT PREPARED BY A PLANNING CONSULTANT.
  6. THE APPLICATION WAS CONSIDERED BY COUNCIL AT ITS LAND USE MANAGEMENT COMMITTEE MEETING OF 1 AUGUST 2005 WHERE COUNCIL RESOLVED TO DEFER THE APPLICATION TO CONSIDER OTHER ROOF DESIGNS SUCH AS A MONO PITCHED ROOF IN ORDER TO MINIMISE THE IMPACT OF VIEW LOSS TO JENNER STREET AND THAT COUNCIL ENSURE THAT THE THREE TREES ON THE DRIVEWAY OF THE PROPERTY ARE RELOCATED.
  7. THE APPLICANT'S SOLICITORS AND ARCHITECT HAVE MADE RECENT SUBMISSIONS TO COUNCIL REQUESTING REVIEW OF THE PROPOSAL IN TERMS OF ITS VIEW IMPACT NOW THAT THE DWELLING AT 9 JENNER STREET IS COMPLETE. NO AMENDMENTS AS REQUESTED HAVE BEEN OFFERED.
  8. A SITE INSPECTION IS RECOMMENDED.
  9. REFUSAL OF THE APPLICATION IS RECOMMENDED.

### PUBLIC ADDRESSES

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

Against: Dr Richard Lamb

In Support: Mr Michael Staunton, on behalf of the Applicant

### SITE INSPECTIONS

A site inspection of 9 Jenner Street, Seaforth - Demolition and construction of a dwelling house – was conducted by Councillors B Aird, J Evans, J Hay, A Heasman, J Lambert, P Macdonald, and M Norek

**Recommendation:** That Development Application No. 162/05 for demolition and construction of a dwelling house at No. 9 Jenner Street, Seaforth be deferred to allow the applicant to redesign the roof to result in a lower profile and to allow templates showing redesigned roof to be erected.

### MOTION (Evans / Macdonald)

That Development Application No.162/05 for alterations and upper level additions to the existing dwelling at 9 Jenner Street, Seaforth, be **deferred** for one month to allow the applicant to redesign the roof to result in a lower profile and to allow templates showing redesigned roof to be erected as per recommendation of site inspection in consultation with Council staff together with the applicant and objectors.

### AMENDMENT (Murphy / Morrison)

That Development Application No.162/05 for alterations and upper level additions to the existing dwelling at 9 Jenner Street, Seaforth, be **approved** as submitted with changes to the roof as recommended by the applicant's representative in addition to standard conditions.

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

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

With voting being equal the Chairperson exercised her casting vote against the Amendment and declared it **LOST** and the **MOTION** was put.

L46/07      **RESOLVED:**      (Evans / Macdonald)

That Development Application No.162/05 for alterations and upper level additions to the existing dwelling at 9 Jenner Street, Seaforth, be **deferred** for one month to allow the applicant to redesign the roof to result in a lower profile and to allow templates showing redesigned roof to be erected as per recommendation of site inspection in consultation with Council staff together with the applicant and objectors.

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

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

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Environmental Services Division Report No. 41

**155A Seaforth Crescent, Seaforth - DA524/06**

**Application Lodged:**                      02 January 2007  
**Applicant:**                                      Mr Ronald Jaensch  
**Owner:**    Ronald & Jennifer Jaensch  
**Estimated Cost:**                              \$100,000  
**Zoning:**    Manly Local Environmental Plan, 1988 - Residential Sub-Zone 7  
**Surrounding Development:**              Residential  
**Heritage:**    N/A

**SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR A NEW SWIMMING POOL AND DECK
2. THE PROPOSAL WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS ALSO REFERRED TO SEAFORTH PRECINCT COMMUNITY FORUM AND COMMENTS WERE RECEIVED.
4. A SITE INSPECTION IS RECOMMENDED.
5. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

**PUBLIC ADDRESSES**

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

In Support:              Mr Ron Jaensch, Applicant

**SITE INSPECTIONS**

A site inspection of 155A Seaforth Crescent, Seaforth – new swimming pool and deck was conducted by Councillors J Lambert, J Hay, P Macdonald and M Norek

**Recommendation: No Recommendation**

**MOTION (Evans / Lambert)**

That Development Application No. 524/06 for a new swimming pool and deck at 155A Seaforth Crescent, Seaforth be **refused** for the following reasons:

1. The proposal is considered an unsatisfactory form of development within the Foreshore and Waterways Area pursuant to Clause 25 of the Sydney Regional Environmental Plan (Sydney

Harbour Catchment) 2005, having regard to Section 79C(1)(a)(i) and (b) of the Environmental Planning and Assessment Act 1979.

2. The proposal will have an adverse visual impact when viewed from the waters of Powder Hulk Bay; it will visually obstruct the dramatic topography of the site when viewed from Middle Harbour; it will not provide for a high quality of built and landscape design; and it will have an adverse cumulative impact on the site and foreshore building line.
3. The proposal does not comply with setback requirements of Clause 3.13 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, and is considered an unsatisfactory form of development within the Foreshore Scenic Protection Area pursuant to Clause 17 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; particularly from Middle Harbour, having regard to Section 79C(1)(a)(i) and (b) of the Environmental Planning and Assessment Act 1979.
4. The proposal is considered to degrade the amenity of the adjoining residents and the existing quality of the environment, in terms of privacy, bulk and visual impact. It is inconsistent with Clause 10, objective (d) of Zone 2 - the Residential Zone, under the Manly Local Environment Plan 1988, with the specific objectives of Section A5 (c); and Clause 3.13 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979.
5. The Landscape details provided are not in accordance with Clause 3.2 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1.
6. The documentation is not adequate for a comprehensive assessment of the proposal.
7. The proposal does not comply with requirements of BASIX regarding the installation of a rainwater tank and other conditions.
8. The proposal is unacceptable in view of the submissions received, pursuant to Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979.
9. The proposal is not considered to be in the public interest, pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.

#### **AMENDMENT (Murphy / Daley)**

That Development Consent No.524/06 for a new swimming pool at 155A Seaforth Crescent, Seaforth be approved as a **Deferred Commencement Consent** subject to standard conditions with the consent not operating until the applicant has submitted amended plans showing amendments detailed in applicants submission received by Council 2 July 2007 as follows;

A1.

The pool lowered by 1.0m.

A2.

The overall width of the structure reduced by 300mm.

A3.

The pool moved to the North east by 200mm.

A4.

The pool moved 150mm further from the foreshore.

A5.

The setback of the pool from the Foreshore being an average 13.65m (varying 12.75m to 14.45m.

A6.

The pool height North corner being reduced to 3.4m.

A7.

The pool height West corner reduced to 4.46m.

A8.

The deck width reduced such that the deck and any elevated stair or ramp maintains a minimum setback of 3.9m from the Southwest side boundary and the height of the deck does not exceed 3.89m above existing ground level at any point along the Southwest side of the deck.

A 9.

A wall of treated pine logs provided along the front (Northwest) and Side (Northeast) of the pool to a height of at least RL13.25.

A 10.

The exposed pool walls and support columns being painted in a recessive natural colour.

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

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

Councillor M Norek was not in the Chamber when the vote was put

The **AMENDMENT** was declared **CARRIED** and became the **MOTION**

L47/07 **RESOLVED: (Murphy / Daley)**

That Development Consent No.524/06 for a new swimming pool at 155A Seaforth Crescent, Seaforth be approved as a **Deferred Commencement Consent** subject to standard conditions, with the consent not operating until the applicant has submitted amended plans showing amendments detailed in applicants submission received by Council 2 July 2007 as follows;

A1.

The pool lowered by 1.0m.

A2.

The overall width of the structure reduced by 300mm.

A3.

The pool moved to the North east by 200mm.

A4.

The pool moved 150mm further from the foreshore.

A5.

The setback of the pool from the Foreshore being an average 13.65m (varying 12.75m to 14.45m).

A6.

The pool height North corner being reduced to 3.4m.

A7.

The pool height West corner reduced to 4.46m.

A8.

The deck width reduced such that the deck and any elevated stair or ramp maintains a minimum setback of 3.9m from the Southwest side boundary and the height of the deck does not exceed 3.89m above existing ground level at any point along the Southwest side of the deck.

A 9.

A wall of treated pine logs provided along the front (Northwest) and Side (Northeast) of the pool to a height of at least RL13.25.

A 10.

The exposed pool walls and support columns being painted in a recessive natural colour.

**For the Resolution:** Councillors Hay, Heasman, Daley, Morrison, Murphy and Macdonald

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

Councillor M Norek was not in the Chamber when the vote was put

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## GENERAL MANAGERS DIVISION

General Managers Division Report No. 25

### Corso Outdoor Eating Areas

#### SUMMARY

This item has been listed on the Agenda pending submissions and is presented as a report (late) to Open Committee of Council of the Whole.

This report makes certain recommendations regarding the use of The Corso outdoor eating area by WaterVue and Cristals.

#### BACKGROUND

On 28<sup>th</sup> September 2006 after a tender process, a License was issued to "The Beach Pit" (name changed to "Watervue) located at 94 The Corso, Manly, to occupy Council land for outdoor eating purposes, pursuant to section 125 of the *Roads Act 1993 (NSW)*.

On 21<sup>st</sup> December 2006, Council in pursuant of the terms of the Mediated Agreement reached between WaterVue and Cristals, issued a separate License to "Cristals Restaurant" located at 90 The Corso, Manly for occupation of an outdoor eating area pursuant to section 125 of the *Roads Act 1993 (NSW)*.

Since the commencement of the respective Licences, Council has had to continually act to enforce the terms of the Licence, but to no avail. Regrettably, and as a last resort, early termination of Licences has been recommended by officers.

This report makes certain recommendations regarding the use of The Corso outdoor eating area by WaterVue and Cristals.

#### PUBLIC ADDRESSES

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

Against: Mr Tom Shanahan, on behalf of Watervue

Not Stated: Mr John Mortimer, on behalf of Cristals

Not Stated: Ms Eve Lang, Area Manager for Quicksilver & Roxy

#### MOTION (Hay / Heasman)

That:

1. Manly Council call on the General Manager to prepare, as a matter of urgency, a report outlining the necessary steps Council should take to revert to the policy controlling alfresco dining on The Corso which operated successfully for 25 years before tenders were called in 2006.
2. This report should include suitable conditions requiring restaurants who wish to provide alfresco dining to solely service tables adjacent to their establishment.

#### AMENDMENT (Morrison / Daley)

That:

1. Council seek to engage the owners of Watervue and Cristals in a mediation process, with the objective of establishing mutually agreeable licensed areas and licensing provisions.
2. Council seek the guidance of its solicitors in regard to appropriate process, including the use of an independent mediator.
3. The Mayor directly represent Council in this matter, and report back to Council on any proposed resolution or action arising from this process for its concurrence, before committing to any such resolution, or taking any such course of action.
4. The licenses not be revoked but WaterVue and Cristals be advised that any deliberate failure to comply with the lawful directions of the Council is unacceptable.

**For the Amendment:** Councillors Aird, Cant, Daley, Evans, Lambert, Morrison, Pedersen and Macdonald

**Against the Amendment:** Councillors Hay, Heasman, Murphy and Norek

The **AMENDMENT** was declared **CARRIED** and became the **MOTION**

L48/07 **RESOLVED: (Morrison / Daley)**

That:

1. Council seek to engage the owners of Watervue and Cristals in a mediation process, with the objective of establishing mutually agreeable licensed areas and licensing provisions.
2. Council seek the guidance of its solicitors in regard to appropriate process, including the use of an independent mediator.
3. The Mayor directly represent Council in this matter, and report back to Council on any proposed resolution or action arising from this process for its concurrence, before committing to any such resolution, or taking any such course of action.
4. The licenses not be revoked but WaterVue and Cristals be advised that any deliberate failure to comply with the lawful directions of the Council is unacceptable.

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

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

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Environmental Services Division Report No. 42

**Development Application Being Processed During July, 2007.**

### **SUMMARY**

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING JULY 2007.

**MOTION (Macdonald / Heasman)**

That development applications currently being processed during July 2007 be noted.

L49/07 **RESOLVED: (Macdonald / Heasman)**

That development applications currently being processed during July 2007 be noted.



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

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 43

**Appeals List for July 2007**

**SUMMARY**

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION.

**MOTION (Heasman / Pedersen)**

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

L50/07 **RESOLVED: (Heasman / Pedersen)**

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

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

**Against the Resolution:** Nil.

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**CLOSE**

The meeting closed at 12.36am

The above minutes were confirmed at an **Land Use Management Committee** of Manly Council held on 6 August 2007.

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**CHAIRPERSON**

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