

Minutes

Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

Monday 6 November 2006

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TABLE OF CONTENTS

Item	Page No.
APOLOGIES.....	2
DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST.....	3
ENVIRONMENTAL SERVICES DIVISION.....	3
Environmental Services Division Report No. 65 11 Jamieson Avenue, Fairlight Section 96 Modification	3
Environmental Services Division Report No. 66 46 Addison Road, Manly Section 82A Review	5
Environmental Services Division Report No. 63 106 Darley Road, Manly - St Patrick's Estate - Spring Cove.....	8
Environmental Services Division Report No. 67 Development Applications Currently Being Processed	11
Environmental Services Division Report No. 68 Appeals List for November 2006	11

TO THE MAYOR AND COUNCILLORS OF THE COUNCIL:

The Land Use Management Committee, having met at 7:30 PM on Monday 6 November 2006, 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 A Heasman
Councillor J Lambert, AM Chairperson who presided
Councillor R Morrison (arrived at 7.43pm)
Councillor D Murphy
Councillor M Norek

ALSO PRESENT

Henry Wong, General Manager
Stephen Clements, Divisional Manager Environmental Services
Eric Armstrong, Consultant Planner
Chris Young, Consultant Planner
James Nagle, Consultant Planner
David Stray, Manager Development Control
Elayne Becker, Minute Taker

APOLOGIES

Apologies were tendered on behalf of Councillor Jean Hay, for non-attendance.

MOTION (Macdonald / Aird)

That the apology tendered on behalf of Councillor Jean Hay, for non-attendance be accepted and leave be granted.

RESOLVED (Macdonald / Aird)

That the apology received from Councillor Jean Hay, for non-attendance be accepted and leave be granted.

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

Against the Resolution: Nil.

LEAVE OF ABSENCE

Nil.

DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

Name:	Item Number:	Nature of Interest:
Councillor Murphy	ES Report No.63	Has a property in the vicinity of St Patrick's Estate

Councillor Morrison entered the Chamber.

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

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 9 October 2006, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

RESOLVED (Pedersen / Macdonald)

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 9 October 2006, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

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

Against the Resolution: Nil.

ENVIRONMENTAL SERVICES DIVISION

Environmental Services Division Report No. 65

**11 Jamieson Avenue, Fairlight
Section 96 Modification (DA533/04)**

Section 96 Modification for Approved Alterations and Additions to an Existing Dwelling. The Proposed Modifications include a Minor Amendment to the Retaining Wall and the Installation of Two (2) Air Conditioning Ventilation Louvres to the East Side Front Wall.

Inspected by Councillors
B Aird, J Evans, J Lambert, P Macdonald, D Murphy and M Norek

Inspection Party Recommendation:

Approval with condition 1 and 53 of the staff recommendation revised as follows;

1. This approval relates to drawings/plans Nos. DA-01B dated August 2005, DA-02B to DA06B dated July 2005 and received by Council on 18 August 2005, and landscaping plans sheets 1, 2 and 3 received by Council 1st November 2004 which have been amended by drawing/plan No DA-05B dated July 2005.

Except as modified by drawing/plan No DA-05B dated July 2005 and received by

Council 27/7/06 and landscaping plans sheet 1/3 ('Proposed Landscape Plan "A"', dated 3/8/06), 1/1 ('Retaining Wall Sectional Elevations', dated August 2006).

Note: Structural Engineering detail drawing No.89022918-400 (Revision A, dated 23/8/06) is to be amended **prior to issue of the revised Construction Certificate**, to show retaining wall location as shown on the approved landscaping plans sheet 1/3 dated 3/8/06.

53. The openings cut into the eastern elevation of the plant room are to be in filled with double brick construction (rendered and painted to match the existing wall finish) and the proposed acoustic louvered ventilation openings to the plant room are to be located to the front (north) elevation to reduce impacts on the amenity of adjoining residential property to the east, plans being suitably notated prior to the issue of the Construction Certificate.

PUBLIC ADDRESSES

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

In Favour: Mr Lex Agnew (on behalf of the applicant)

MOTION (Murphy / Macdonald)

That Section 96 Modification (DA533/04) for approved Alterations and Additions to an existing dwelling at 11 Jamieson Avenue, Fairlight be **approved** with condition 1 and 53 of the staff recommendation revised as follows:

1. This approval relates to drawings/plans Nos. DA-01B dated August 2005, DA-02B to DA06B dated July 2005 and received by Council on 18 August 2005, and landscaping plans sheets 1, 2 and 3 received by Council 1st November 2004 which have been amended by drawing/plan No DA-05B dated July 2005

Except as modified by drawing/plan No DA-05B dated July 2005 and received by Council 27/7/06 and landscaping plans sheet 1/3 ('Proposed Landscape Plan "A"', dated 3/8/06), 1/1 ('Retaining Wall Sectional Elevations', dated August 2006).

Note: Structural Engineering detail drawing No.89022918-400 (Revision A, dated 23/8/06) is to be amended **prior to issue of the revised Construction Certificate**, to show retaining wall location as shown on the approved landscaping plans sheet 1/3 dated 3/8/06.

53. The openings cut into the eastern elevation of the plant room are to be in filled with double brick construction (rendered and painted to match the existing wall finish) and the proposed acoustic louvered ventilation openings to the plant room are to be located to the front (north) elevation to reduce impacts on the amenity of adjoining residential property to the east, plans being suitably notated prior to the issue of the Construction Certificate.

RESOLVED (Murphy / Macdonald)

That Section 96 Modification (DA533/04) for approved Alterations and Additions to an existing dwelling at 11 Jamieson Avenue, Fairlight be **approved** with condition 1 and 53 of the staff recommendation revised as follows:

1. This approval relates to drawings/plans Nos. DA-01B dated August 2005, DA-02B to DA06B dated July 2005 and received by Council on 18 August 2005, and landscaping plans sheets 1, 2 and 3 received by Council 1st November 2004 which have been amended by drawing/plan No DA-05B dated July 2005

Except as modified by drawing/plan No DA-05B dated July 2005 and received by Council 27/7/06 and landscaping plans sheet 1/3 ('Proposed Landscape Plan "A"', dated 3/8/06), 1/1 ('Retaining Wall Sectional Elevations', dated August 2006).

Note: Structural Engineering detail drawing No.89022918-400 (Revision A, dated 23/8/06) is to be amended **prior to issue of the revised Construction Certificate**, to show retaining wall location as shown on the approved landscaping plans sheet 1/3 dated 3/8/06.

53. The openings cut into the eastern elevation of the plant room are to be in filled with double brick construction (rendered and painted to match the existing wall finish) and the proposed acoustic louvered ventilation openings to the plant room are to be located to the front (north) elevation to reduce impacts on the amenity of adjoining residential property to the east, plans being suitably notated prior to the issue of the Construction Certificate.

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

Against the Resolution: Nil.

MATTER ARISING – DCP REVIEW COMMITTEE

MOTION (Norek / Macdonald)

That the General Manager prepare a report to the DCP Review Committee on a definition of Alterations and Additions and the issue of minimum height ceilings.

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

Against the Motion: Nil.

RESOLVED (Norek / Macdonald)

That the General Manager prepare a report to the DCP Review Committee on a definition of Alterations and Additions and the issue of minimum height ceilings.

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

Against the Resolution: Nil.

Environmental Services Division Report No. 66

46 Addison Road, Manly Section 82A Review (DA443/05)

Application Lodged: 17 August 2006
Applicant: Planning Directions Pty Ltd
Owner: Proprietors of Strata Plan No.11968
Estimated Cost: \$165,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
 Manly Residential Development Control Plan 2001, Amendment 1
 Within the Foreshore protection Area
Surrounding Development: Multi Storey Residential Flat Buildings and Two Storey Dwellings
Heritage: n/a

SUMMARY:

1. DEVELOPMENT APPLICATION NO.443/05 WAS RECEIVED BY COUNCIL ON 27 OCTOBER 2005 AND PROPOSED THE ADDITION OF BALCONIES TO THE EASTERN ELEVATION OF THE EXISTING RESIDENTIAL FLAT BUILDING AT LOWER GROUND FLOOR, GROUND FLOOR AND UPPER FLOOR LEVELS.
2. THE PROPOSAL WAS NOTIFIED TO ALL NEIGHBOURING PROPERTIES WITH SIX (6) SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS ALSO REFERRED TO LITTLE MANLY PRECINCT COMMUNITY FORUM MEETING OF 9 NOVEMBER 2005, WITH NO NEGATIVE COMMENTS RECEIVED.
4. THE APPLICATION WAS REPORTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 2 FEBRUARY 2006 WITH A RECOMMENDATION FOR APPROVAL SUBJECT TO CONDITIONS.
5. DEFERRED COMMENCEMENT CONSENT WAS GRANTED 10 FEBRUARY 2006 WITH THE CONSENT NOT OPERATING UNTIL THE APPLICANT HAS SUBMITTED REVISED PLANS WHICH REDUCE THE AREA OF THE PROPOSED BALCONIES AT ALL THREE LEVELS OF THE BUILDING.
6. ON 17 AUGUST 2006 COUNCIL RECEIVED AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.
7. THE REVIEW APPLICATION WAS NOTIFIED TO ALL ADJOINING PROPERTY OWNERS WITH SIX (6) SUBMISSIONS RECEIVED.
8. THE REVIEW APPLICATION WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 24 OCTOBER 2006 WHERE THE APPLICATION WAS RECOMMENDED FOR REFUSAL.
9. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR NOREK.
10. A SITE INSPECTION IS RECOMMENDED.
11. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

SITE INSPECTIONS

A site inspection of 46 Addison Road, Manly, 82A Review - Addition of Balconies to the Eastern Elevation of the Existing RFB at Lower, Ground and Upper Floors was conducted by Councillors B Aird, P Daley, J Lambert, P Macdonald, D Murphy, M Norek, and B Pedersen.

Inspection Party Recommendation:

That Deferred Commencement Consent be granted in respect of Development Application No.443/05 for Alterations and additions to the existing residential flat building at No.46 Addison Road, Manly with the consent not operating until the applicant has;

1. Submitted revised plans showing the easternmost windows to the northern elevation of the ground floor and upper floor levels fitted with opaque glass to a height of 1.65m above floor level, to reduce privacy impacts on the adjoining property.
2. Submitted revised plans showing provision of a 1.65m high opaque glass privacy screens to the northern and southern ends of balconies at ground floor and upper floor levels, to reduce privacy impacts on adjoining properties.
3. Given the visual prominence of the building fronting the harbour foreshore the colour of the proposed render and other materials should be sympathetic to that of adjoining development and not detract from the natural landscaped character of the harbour foreshore scenic protection area. Accordingly, a colour schedule of materials and finishes is required to be submitted to Council for consideration prior to issuing of the final Development Consent.

PUBLIC ADDRESSES

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

Against: Mr Stuart Fowler

Applicant: Mr Mark Powell (on behalf of the Owner)

MOTION (Daley / Murphy)

That Deferred Commencement Consent, subject to written consent of the owners corporation, be **granted** in respect of Development Application No.443/05 for Alterations and Additions to the existing residential flat building at No.46 Addison Road, Manly with the consent not operating until the applicant has;

1. Submitted revised plans showing the easternmost windows to the northern elevation of the ground floor and upper floor levels fitted with opaque glass to a height of 1.65m above floor level, to reduce privacy impacts on the adjoining property.
2. Submitted revised plans showing provision of a 1.65m high opaque glass privacy screens to the southern ends of balconies at ground floor and upper floor levels, to reduce privacy impacts on the adjoining property.
3. Given the visual prominence of the building fronting the harbour foreshore the colour of the proposed render and other materials should be sympathetic to that of adjoining development and not detract from the natural landscaped character of the harbour foreshore scenic protection area. Accordingly, a colour schedule of materials and finishes is required to be submitted to Council for consideration prior to issuing of the final Development Consent.
4. Any further enclosure or screening of the balconies is to be the subject of a separate Development Application to Council.

AMENDMENT (Cant)

That the motion be **granted**, in respect of Development Application No.443/05 subject to a redesign of the balconies.

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

RESOLVED (Daley / Murphy)

That Deferred Commencement Consent, subject to written consent of the owners corporation, be **granted** in respect of Development Application No.443/05 for Alterations and Additions to the existing residential flat building at No.46 Addison Road, Manly with the consent not operating until the applicant has;

1. Submitted revised plans showing the easternmost windows to the northern elevation of the ground floor and upper floor levels fitted with opaque glass to a height of 1.65m above floor level, to reduce privacy impacts on the adjoining property.
2. Submitted revised plans showing provision of a 1.65m high opaque glass privacy screens to the southern ends of balconies at ground floor and upper floor levels, to reduce privacy impacts on the adjoining property.
3. Given the visual prominence of the building fronting the harbour foreshore the colour of the

proposed render and other materials should be sympathetic to that of adjoining development and not detract from the natural landscaped character of the harbour foreshore scenic protection area. Accordingly, a colour schedule of materials and finishes is required to be submitted to Council for consideration prior to issuing of the final Development Consent.

4. Any further enclosure or screening of the balconies is to be the subject of a separate Development Application to Council.

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

Against the Resolution: Nil.

MATTER ARISING – DCP REVIEW COMMITTEE

MOTION (Cant / Murphy)

That staff report back to the DCP Review Committee on a process for engaging design experts to obtain views on the impacts of balconies on the aesthetic built form on the waterfront of Manly.

For the Motion: Councillors Macdonald, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Aird and Evans

Against the Motion: Nil

RESOLVED (Cant / Murphy)

That staff report back to the DCP Review Committee on a process for engaging design experts to obtain views on the impacts of balconies on the aesthetic built form on the waterfront of Manly.

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

Against the Resolution: Nil.

Councillors Pedersen and Norek were not in the Chamber when the Motion was put.

Councillor Murphy having previously declared an interest in Environmental Services Report No.63 retired from the Chamber at 8.45pm.

Environmental Services Division Report No. 63

106 Darley Road, Manly - St Patrick's Estate - Spring Cove (DA482/04)

Application Lodged: Lodged with Council on 22nd October, 2004

Applicant: Lend Lease Developments Pty Ltd

Owner: Catholic Archdiocese of Sydney

Estimated Cost: \$43.7M

Zoning: Manly Local Environmental Plan, 1988 – Residential (Amendment 24) & Special Uses

Surrounding Development: Special uses, Open Space and Residential

Heritage: Subject to Amendment 24 MLEP and Schedule 11 Controls

SUMMARY:

1. DEVELOPMENT IS SOUGHT FOR SUBDIVISION OF THE LAND WITHIN PRECINCTS 4, 5, 6, 10 AND 11 AND CONSTRUCTION OF 16 RESIDENTIAL APARTMENTS AND 22 DETACHED DWELLING HOUSES ON PRECINCTS 5, 6, AND 10 OF ST PATRICK'S ESTATE MANLY.

2. THE ORIGINAL APPLICATION WAS AMENDED IN MAY 2006 FOLLOWING A REVIEW BY EXPERTS.
3. ADJOINING AND SURROUNDING OWNERS AND RESIDENTS WERE NOTIFIED WITH 18 SUBMISSIONS TO THE AMENDED PROPOSAL RECEIVED.
4. THE APPLICATION WAS REFERRED TO THE LITTLE MANLY PRECINCT COMMUNITY FORUM AND COMMENT HAS BEEN RECEIVED.
5. THE APPLICATION HAS BEEN INDEPENDENTLY ASSESSED EXTERNAL TO COUNCIL.
6. THE APPLICATION IS REFERRED TO THE LAND USE MANAGEMENT MEETING BY THE GENERAL MANAGER.
7. THE PROPOSAL IS RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS.

SITE INSPECTIONS

A site inspection of 106 Darley Road, Manly, St Patrick's Estate, Spring Cove, was conducted by Councillors B Aird, P Daley, A Heasman, J Lambert, P Macdonald, D Murphy, M Norek and B Pedersen.

Inspection Party Recommendation:

No Recommendation. The inspection party considered that the application is broadly acceptable with the following issues arising;

- Area required for Asset Protection Zone,
- Traffic and parking,
- Relocation of proposed dwelling 16,
- Design of entry off Osborne Road and retention of tree.

PUBLIC ADDRESSES

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

Against: Ms Beverley Hurley
Mr Richard Morgan
Ms Cathy Griffin

Applicant: Mr David Rolls

MOTION (Macdonald / Cant)

That DA482/04 for 106 Darley Road, Manly, St Patrick's Estate be **deferred** for consideration of the following matters:

- House 16 be relocated from its current position or totally omitted. If it is to be relocated to the sites of houses 1, 2, 3, and 4 those buildings must be no higher and should be moved further from the residential boundary and they not lie prominently within the line of vision from the "Archbishop's Residence"
- House 17 remain on its current site with no increase in height
- Traffic management treatment for Osborne Road to include, Blister treatment of Marshall Street and the Crest on Osborne Road be removed/reduced
- Dual reticulation to site and each dwelling be provided
- Traffic management plan be provided for Eastern Hill and other nearby areas.
- That the driveway, road and other hard surface landscape areas being constructed of semi pervious materials/design with details being submitted to the Private Certifying Authority prior to issue of the Construction Certificate.

AMENDMENT (Aird / Norek)

That DA482/04 for 106 Darley Road, Manly, St Patrick's Estate be **refused** due to:

- Adverse impacts on natural environment
- Loss of heritage value
- Impacts on flora and fauna
- Traffic impacts
- Over development of the site
- Impact on the foreshore protection zone
- Not in the public interest.

For the Amendment: Councillors Pedersen, Aird and Norek

Against the Amendment: Councillors Macdonald, Heasman, Lambert, Cant, Daley, Morrison and Evans

The **AMENDMENT** was declared **LOST**.

RESOLVED (Macdonald / Cant)

That DA482/04 for 106 Darley Road, Manly, St Patrick's Estate be **deferred** for consideration of the following matters:

- House 16 be relocated from its current position or totally omitted. If it is to be relocated to the sites of houses 1, 2, 3, and 4 those buildings must be no higher and should be moved further from the residential boundary and they not lie prominently within the line of vision from the "Archbishop's Residence"
- House 17 remain on its current site with no increase in height
- Traffic management treatment for Osborne Road to include, Blister treatment of Marshall Street and the Crest on Osborne Road be removed/reduced
- Dual reticulation to site and each dwelling be provided
- Traffic management plan be provided for Eastern Hill and other nearby areas.
- That the driveway, road and other hard surface landscape areas being constructed of semi pervious materials/design with details being submitted to the Private Certifying Authority prior to issue of the Construction Certificate.

For the Resolution: Councillors Macdonald, Heasman, Lambert, Cant, Daley, Morrison and Evans

Against the Resolution: Councillors Pedersen, Aird and Norek

MATTER ARISING**MOTION (Pedersen / Heasman)**

That DA482/04 for 106 Darley Road, Manly, St Patrick's Estate be amended to address residents' concerns regarding the Council Reserve land:

- That Council take up with the relevant authority concerns relating to Council's reserve land
- Advise the authority of the sensitivity of foreshores
- Request consultation with the Council and The Little Manly Precinct Committee regarding any works on the Reserve for the protection of the public reserve located at the lower southern and eastern boundary of the St. Patrick's site to also include the adjoining aquatic environment.

RESOLVED (Pedersen / Heasman)

That DA482/04 for 106 Darley Road, Manly, St Patrick's Estate be amended to address residents' concerns regarding the Council Reserve land:

- That Council take up with the relevant authority concerns relating to Council's reserve land
- Advise the authority of the sensitivity of foreshores
- Request consultation with the Council and The Little Manly Precinct Committee regarding any works on the Reserve for the protection of the public reserve located at the lower southern and eastern boundary of the St. Patrick's site to also include the adjoining aquatic environment.

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

Against the Resolution: Nil.

Councillor Morrison retired from the Chamber at 11.14pm.

Environmental Services Division Report No. 67

Development Applications Currently Being Processed**SUMMARY**

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING NOVEMBER, 2006.

MOTION (Macdonald / Heasman)

That Development Applications currently being processed during November 2006 be noted.

RESOLVED (Macdonald / Heasman)

That Development Applications currently being processed during November 2006 be noted.

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

Against the Resolution: Nil.

Environmental Services Division Report No. 68

Appeals List for November 2006**SUMMARY**

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION

MOTION (Macdonald / Heasman)

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

RESOLVED (Macdonald / Heasman)

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

For the Resolution: Councillors Macdonald, Heasman, Lambert, Cant, Daley, Pedersen,
Aird, Evans
Against the Resolution: Nil.

Councillor Norek was not in the Chamber when the Motion was put.

CLOSE

The meeting closed at 11.24pm.

The above minutes were confirmed at an **Land Use Management Committee** of Manly Council held on 4th December 2006.

CHAIRPERSON

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