

# Manly Council

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## Minutes

## Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 7 April 2008**

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

The Land Use Management Committee, having met at 7:51pm on Monday 7 April 2008, in the Council Chambers, Town Hall, Manly, to consider the various matters referred to it, now reports the decisions reached and the recommendations made which are stated hereunder.

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

**PRESENT**

Deputy Mayor, Councillor M Norek  
Councillor B Aird  
Councillor S Cant  
Councillor J Evans, Chairperson who presided  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor J Lambert, AM deputy Chairperson  
Councillor R Morrison, arrived at 9pm  
Councillor D Murphy  
Councillor B Pedersen

**ALSO PRESENT**

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

**APOLOGIES**

Apologies were tendered on behalf of the Mayor Councillor Macdonald and Councillor Daley for non-attendance, and Councillor Morrison for lateness.

**MOTION (Pedersen / Murphy)**

That the apologies received from the Mayor Councillor Macdonald and Councillors Daley and Morrison be accepted and leave be granted.

**L24/08 RESOLVED: (Pedersen / Murphy)**

That the apologies received from the Mayor Councillor Macdonald and Councillors Daley and Morrison be accepted and leave be granted.

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

**Against the Resolution:** Nil.

**DECLARATIONS OF PECUNIARY / CONFLICT OF INTEREST**

Nil

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

That copies of the Minutes of the Land Use Management Committee held on Monday, 03 March 2008, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

L25/08 **RESOLVED: (Lambert / Pedersen)**

That copies of the Minutes of the Land Use Management Committee held on Monday, 03 March 2008, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

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

**Against the Resolution:** Nil.

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**ENVIRONMENTAL SERVICES DIVISION**

Environmental Services Division Report No. 15

**2A - 6 Denison Street and Nos. 54-58 Whistler Street, Manly - DA363/07 (DA363/07)**

**Application Lodged:** 17 September 2007  
**Applicant:** Proactive Management Specialists Pty Ltd  
**Owner:** S Konstanindis, Proactive Realty P/L, Ricvale Holdings P/L  
**Estimated Cost:** \$14.7million  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential and within the Foreshore Scenic Protection Area  
**Surrounding Development:** The locality is residential in character consisting of a mixture of one, two and three storey dwelling houses and three to sixteen storey residential flat buildings  
**Heritage:** In the vicinity

**SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR DEMOLITION OF THE EXISTING AND CONSTRUCTION OF TWO (2) SIX (6) STOREY RESIDENTIAL FLAT BUILDINGS CONTAINING TWENTY SEVEN (27) UNITS WITH BASEMENT PARKING.
2. THE APPLICATION WAS ON NOTIFICATION BETWEEN 15 OCTOBER 2007 AND 29 OCTOBER 2007.
3. TWENTY THREE (23) LETTERS OF OBJECTION WERE RECEIVED ON LOSS OF PRIVACY, LOSS OF VIEWS, OVERDEVELOPMENT, INADEQUATE LANDSCAPED AREA, EXCESSIVE FLOOR SPACE RATIO AND EXCESSIVE HEIGHT.
4. THE APPLICATION WAS REFERRED TO THE OCEAN BEACH, IVANHOE PARK AND THE CORSO PRECINCT COMMUNITY FORUMS FOR COMMENT.
5. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 27 MARCH 2008 WITH A RECOMMENDATION FOR A DEFERRED COMMENCEMENT APPROVAL.
6. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLORS HAY AND LAMBERT.
7. A SITE INSPECTION IS RECOMMENDED.
8. THE PROPOSAL IS RECOMMENDED FOR A DEFERRED COMMENCEMENT CONSENT.

**PUBLIC ADDRESSES**

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

Against the Recommendation:           Mr Tony Grist  
  Ms Cybele Egerton-Warburton

In Support of the Recommendation:   Mr Ross Fleming

**SITE INSPECTIONS**

A site inspection of DA363/07 – 2A-6 Denison Street & 54-58 Whistler Street Manly, demolition of the existing and construction of two (2) six (6) storey residential flat buildings containing twenty seven (27) units with basement parking, was conducted by Councillors: B Aird, J Evans, J Hay, A Heasman, J Lambert, D Murphy and M Norek.

**Recommendation:** That Development Application No. 363/07 for demolition of the existing and construction of two (2) six (6) storey residential flat buildings containing twenty seven (27) units with basement parking at 2A-6 Denison Street & 54-58 Whistler Street Manly be **REFUSED** for the following reasons:-

1. The proposal is considered to be an overdevelopment of the site, in particular the proposal fails to comply with the Floor Space Ratio, wall height, roof height and boundary setback provisions of the Manly Development Control Plan for the Residential Zone, having regard to Section 79C(1)(a)(iii), (b), (c), (d) and (e) of the Environmental Planning and Assessment Act 1979.
2. The visual bulk and scale of the development is excessive out of character with existing built form to the west of the subject site, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
3. The proposal will result in unacceptable impacts on the nearby Heritage Conservation Area and nearby Heritage Items, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
4. The proposed retention of the existing building on the corner of Denison Street and Whistler Street does not justify the extent of proposed variations to Manly Development Control Plan for the Residential Zone, having regard to Section 79C(1)(a)(iii) and (e) of The Environmental Planning and Assessment Act 1979.
5. The proposal will result in loss of amenity of surrounding residents in terms of visual bulk and scale, overshadowing, privacy and view loss, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
6. The proposal will result in excessive impacts in terms of vehicular traffic movement and on street car parking demand in the area, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
7. The proposed habitable rooms situated above the maximum wall height and/or within the roof structure are not permitted under Clause 3.5.8 of the Manly Development Control Plan for the Residential Zone, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.

**MOTION (Lambert / Aird)**

That Development Application No. 363/07 for demolition of the existing and construction of two (2)

six (6) storey residential flat buildings containing twenty seven (27) units with basement parking at 2A-6 Denison Street & 54-58 Whistler Street Manly be **REFUSED** for the following reasons:-

1. The proposal is considered to be an overdevelopment of the site, in particular the proposal fails to comply with the Floor Space Ratio, wall height, roof height and boundary setback provisions of the Manly Development Control Plan for the Residential Zone, having regard to Section 79C(1)(a)(iii), (b), (c), (d) and (e) of the Environmental Planning and Assessment Act 1979.
2. The visual bulk and scale of the development is excessive out of character with existing built form to the west of the subject site, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
3. The proposal will result in unacceptable impacts on the nearby Heritage Conservation Area and nearby Heritage Items, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
4. The proposed retention of the existing building on the corner of Denison Street and Whistler Street does not justify the extent of proposed variations to Manly Development Control Plan for the Residential Zone, having regard to Section 79C(1)(a)(iii) and (e) of The Environmental Planning and Assessment Act 1979.
5. The proposal will result in loss of amenity of surrounding residents in terms of visual bulk and scale, overshadowing, privacy and view loss, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
6. The proposal will result in excessive impacts in terms of vehicular traffic movement and on street car parking demand in the area, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
7. The proposal does not comply with Clause 3.5.8 of the Manly Development Control Plan for the Residential Zone which states "Habitable rooms situated substantially above the maximum allowable wall height and/or within the roof structure shall only be permitted in buildings which existed prior to the operative date of this Plan and where it can be demonstrated that they do not detract from the character nor integrity of the roof structure and will not adversely impact on the amenity of adjacent and nearby properties and the streetscape," having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
8. Because of the number of non-compliances, the proposal is contrary to the public interest.

**Note:**

The apparent precedent set by high-rise developments on North Steyne relied upon by the applicant is of little relevance given the different context of those North Steyne developments, being on the wide thoroughfare of the Oceanfront and the fact that several of these were developed many years ago.

L26/08     **RESOLVED:**     **(Lambert / Aird)**

That Development Application No. 363/07 for demolition of the existing and construction of two (2) six (6) storey residential flat buildings containing twenty seven (27) units with basement parking at 2A-6 Denison Street & 54-58 Whistler Street Manly be **REFUSED** for the following reasons:-

1. The proposal is considered to be an overdevelopment of the site, in particular the proposal fails to comply with the Floor Space Ratio, wall height, roof height and boundary setback provisions of the Manly Development Control Plan for the Residential Zone, having regard to Section 79C(1)(a)(iii), (b), (c), (d) and (e) of the Environmental Planning and Assessment

- Act 1979.
2. The visual bulk and scale of the development is excessive out of character with existing built form to the west of the subject site, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
  3. The proposal will result in unacceptable impacts on the nearby Heritage Conservation Area and nearby Heritage Items, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
  4. The proposed retention of the existing building on the corner of Denison Street and Whistler Street does not justify the extent of proposed variations to Manly Development Control Plan for the Residential Zone, having regard to Section 79C(1)(a)(iii) and (e) of The Environmental Planning and Assessment Act 1979.
  5. The proposal will result in loss of amenity of surrounding residents in terms of visual bulk and scale, overshadowing, privacy and view loss, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
  6. The proposal will result in excessive impacts in terms of vehicular traffic movement and on street car parking demand in the area, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
  7. The proposal does not comply with Clause 3.5.8 of the Manly Development Control Plan for the Residential Zone which states "Habitable rooms situated substantially above the maximum allowable wall height and/or within the roof structure shall only be permitted in buildings which existed prior to the operative date of this Plan and where it can be demonstrated that they do not detract from the character nor integrity of the roof structure and will not adversely impact on the amenity of adjacent and nearby properties and the streetscape," having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of The Environmental Planning and Assessment Act 1979.
  8. Because of the number of non-compliances, the proposal is contrary to the public interest.

**Note:**

The apparent precedent set by high-rise developments on North Steyne relied upon by the applicant is of little relevance given the different context of those North Steyne developments, being on the wide thoroughfare of the Oceanfront and the fact that several of these were developed many years ago.

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

**Against the Resolution:** Nil.

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Councillor Morrison entered the Chamber at 9pm.

Environmental Services Division Report No. 14

**14A Beatty Street, Balgowlah - DA430/07 (DA430/07)**

<b><u>Application Lodged:</u></b>	24 October 2007
<b><u>Applicant:</u></b>	Nicholas Tang Architects
<b><u>Owner:</u></b>	Portovere Pty Ltd
<b><u>Estimated Cost:</u></b>	\$800,000
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential and within the Foreshore Scenic Protection Area

**Surrounding Development:** the locality is residential in character consisting predominately of two and three storey dwelling houses

**Heritage:** Not applicable

**SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR CONSTRUCTION OF A TWO (2) STOREY DWELLING HOUSE, SWIMMING POOL, GARAGE AND LANDSCAPING WORKS
2. THE DEVELOPMENT APPLICATION WAS LODGED 24 OCTOBER 2007.
3. THE APPLICATION WAS ON NOTIFICATION BETWEEN 5 NOVEMBER 2007 AND 19 NOVEMBER 2007.
4. TWO (2) LETTERS OF OBJECTION WAS RECEIVED ON EXCESSIVE FLOOR SPACE RATIO, AND LOCATION OF BUILDING OUTSIDE ESTABLISHED FORESHORE SETBACK AND LOSS OF VIEW.
5. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETINGS OF THE 29 JANUARY AND 20 MARCH 2008 WITH RECOMMENDATIONS FOR APPROVAL.
6. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD
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 the Recommendation: Mr Mike Pulman

In Support of the Recommendation: Mr Nicholas Tang, Applicant  
(against conditions of the DA)

**SITE INSPECTIONS**

A site inspection of DA430/07 – 14A Beatty Street Balgowlah, construction of a two (2) storey dwelling house, swimming pool, garage and landscaping works, was conducted by Councillors: B Aird, J Evans, J Hay, J Lambert, D Murphy and M Norek.

**Recommendation:** No Recommendation

**MOTION (Heasman / Cant)**

That Development Application No. 430/076 for the construction of a two (2) storey dwelling house, swimming pool, garage and landscaping works at No.14A Beatty Street, Balgowlah Heights be approved subject to the following conditions:

DA1

This approval relates to drawings/plans Nos. 07013 DA000, DA100, DA101, DA102, DA200, DA201 and DA300 Issue C dated 15 September 2007 and received by Council on the 29 October 2007.

ANS01

That depth of the garage be reduced from 7m to 6m along the north-western elevation. The width of the walkway to the southeast of the garage to remain at 1m. Plans to be amended prior to the issue of the construction Certificate.



## ANS02

That the plans be amended to reduce the floor area in accordance the sketch shown in with Drawing No SK001 and SK002 dated 2 January 2008 by Nicholas Tang Architect received by Council on 7 January 2008 Plans to be amended prior to the issue of the construction Certificate.

## ANS03

The setback of the proposed dwelling and swimming pool from the north east (rear) boundary is to be increased by 2.0m to respect existing setbacks of adjoining and nearby buildings and to reduce visual impact on foreshore reserve and harbour plans being suitably notated prior to the issue of the Construction Certificate.

## ANS04

## Asset Protection Zone

The intent of measures is to minimize the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities.

- a) At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area as outlined within Planning for Bushfire Protection 2006 and the Services document 'Standards for asset protection zones'.

## ANS05

## Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- a) Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bushfire Protection 2006.

## ANS06

## Design and Construction

New construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of Planning for Bushfire Protection 2006. In this regard the following design standards for construction are to be incorporated into the development.

- a) New construction on the eastern elevation shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire prone areas' Level 3.
- b) New construction on the northern, western and southern elevations shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire prone areas' Level 2.
- c) Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
- d) All eastern glazing shall be capable of withstanding up to 29kW/m<sup>2</sup> of radiant heat flux loading.

## ANS07

Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006. In this regard the following landscape principles are to be incorporated into the development.

- a) Suitable impervious areas being provided immediately surrounding in the building such as courtyards, paths and driveways.
- b) Grassed areas/mowed lawns/or ground cover planting being provided in close proximity to the building.
- c) Restrictive planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the building.

## ANS08

The landscape and building plans are to be amended and submitted for approval by Council as follows. The proposed swimming pool is to be re-orientated 90 degrees such that the pool length is on the north- south axis, thus minimising intrusion into the lower part of the site and avoiding unsightly overhang when viewed from the foreshore

## ANS09

A detailed landscape Plan specifying proposed plant numbers and planting details is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

## ANS10

The development shall be carried out in accordance with the requirements and recommendations of the preliminary Geotechnical Assessment by asset Geotechnical Engineering Pty Ltd dated 22 September 2007 (Reference 1140-A) and in accordance with further Geotechnical Assessment and advice to be provided during design development and construction.

## ANS11

Structural design relating to the Geotechnical aspects of the proposed development shall be checked and certified by a suitably qualified and experienced Geotechnical Engineer as being in accordance with the Geotechnical recommendations.

## ANS12

Inspection shall be carried out by a suitably qualified and experienced Geotechnical Engineer during construction at the following stages to ensure that the requirements of the Geotechnical report are followed.

- a) Footing excavations shall be inspected prior to pouring concrete.
- b) Subsurface drains shall be inspected prior to backfilling.
- c) All cut batters shall be inspected immediately after cutting and remedial works carried out as directed by the Geotechnical Engineer.
- d) Rock excavation using hammers (if required) shall be observed at the commencement of excavation to ensure that excavation techniques and equipment do not damage immediately adjoining structures.

## ANS13

Surface and subsurface drains shall be maintained in good condition and shall be kept free of blockages and debris. Inspection shall be carried out at not more than three (3) month intervals. A record of inspections shall be kept.

## 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.

## DA013

A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include measured lengths and Relative Levels (RL) of the road centerline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.

## 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 \$10,000. The deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any

work on site.

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

DA017

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

DA342

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

DA343

Any adjustment to the public utility service is to be carried out in compliance with their standards and the 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.

DA022

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.

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.

## DA047

A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

## DA048

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

## DA058

An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

## DA059

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

## DA060

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

## DA357

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

## DA077

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

## DA085

Roofwater and surface stormwaters from paved areas from the development shall be collected and piped to the harbour foreshore according to Council's Specifications for Stormwater Drainage and On Site Stormwater Management 2003 and shall be submitted with the Construction Certificate application. The principal Council/Accredited Certifier shall ensure that the design complies with the above said specification prior to the issue of a Construction Certificate.

## DA088

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) shall be provided within the property in accordance with Council's "Specification for On-site Stormwater Management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Council/Accredited Certifier prior to the issue of the Construction Certificate. The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

## DA095

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) plan showing Work as Executed (WAE) details shall be submitted to Council prior to the issue of the Occupation Certificate. The work as executed plan shall be in accordance with Council's standards and specifications for Stormwater Drainage and On-site Stormwater Management 2003.

## DA097

Any work shall not prohibit or divert any natural overland flow of water.

## DA100

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

## 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.

## DA236

Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 12 months from the date of practical completion of the building is to be provided to the Principal Certifying Authority **prior to issue of the Final Occupation Certificate**.

## DA237

All healthy trees and shrubs identified for retention on the plan must be:

- (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
- (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.

## DA238

All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.

## DA239

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

## DA346

Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

## DA348

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

## 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

Pier holes inspection

Reinforced concrete slab X 7

Framework inspection

Wet area moisture barrier

Drainage inspection

OSD Tank Inspection

Landscaping inspection

Swimming pool reinforcing steel inspection

Swimming pool safety fence inspection prior to filling

Final inspection

The cost of these inspections by Council is \$4,140 (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.

## DA279

All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

DA283

De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

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.

DA333

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

DA334

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

DA335

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

DA336

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

DA337

Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

DA338

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

## DA339

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

## DA340

The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

## DA289

Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays. Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

## DA300

All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.

## DA301

The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.

## DA302

An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.

## DA303

The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which: (a) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and (b) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.

## DA306

All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.

## DA307

An approved safety railing shall be provided around the outer elevated extremities of the swimming pool walkways, details of which shall be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

## DA308

Any exposed external face of the swimming pool walls shall be concealed by suitable backfilling and landscaping so as to conceal the pool structure and to create a "buffer zone" between the proposed pool and neighbouring properties.



## DA313

A railing or other safety measures or devices are to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Council/Accredited Certifier prior to issue of the Construction Certificate. Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

## DA314

All protective fencing and gates are to be in accordance with Australian Standard 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.

## DA315

The proposed pool gates are to be mounted so that:- (i) They are clear of any obstruction that could hold the gate open; (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and (iii) They open outwards from the pool.

## DA316

Where the latching device release, or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.

## DA318

There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises.

## 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 Council's 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.

**AMENDMENT (Hay / Murphy)**

That Development Application No. 430/076 for the construction of a two (2) storey dwelling house, swimming pool, garage and landscaping works at No.14A Beatty Street, Balgowlah Heights be **approved** subject to the following conditions:

## DA1

This approval relates to drawings/plans Nos. 07013 DA000, DA100, DA101, DA102, DA200, DA201 and DA300 Issue C dated 15 September 2007 and received by Council on the 29 October 2007.

## ANS01

That depth of the garage be reduced from 7m to 6m along the north-western elevation. The width of the walkway to the southeast of the garage to remain at 1m. Plans to be amended prior to the issue of the construction Certificate.

## ANS02

That the plans be amended to reduce the floor area in accordance the sketch shown in with Drawing No SK001 and SK002 dated 2 January 2008 by Nicholas Tang Architect received by Council on 7 January 2008 Plans to be amended prior to the issue of the construction Certificate.

## ANS03

**Deleted**

## ANS04

## Asset Protection Zone

The intent of measures is to minimize the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities.

- a) At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area as outlined within Planning for Bushfire Protection 2006 and the Services document 'Standards for asset protection zones'.

## ANS05

## Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- a) Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bushfire Protection 2006.

## ANS06

## Design and Construction

New construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of Planning for Bushfire Protection 2006. In this regard the following design standards for construction are to be incorporated into the development.

- a) New construction on the eastern elevation shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire prone areas' Level 3.
- b) New construction on the northern, western and southern elevations shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire prone areas' Level 2.
- c) Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
- d) All eastern glazing shall be capable of withstanding up to 29kW/m<sup>2</sup> of radiant heat flux

loading.

#### ANS07

Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006. In this regard the following landscape principles are to be incorporated into the development.

- a) Suitable impervious areas being provided immediately surrounding in the building such as courtyards, paths and driveways.
- b) Grassed areas/mowed lawns/or ground cover planting being provided in close proximity to the building.
- c) Restrictive planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the building.

#### ANS08

**Deleted**

#### ANS09

A detailed landscape Plan specifying proposed plant numbers and planting details is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

#### ANS10

The development shall be carried out in accordance with the requirements and recommendations of the preliminary Geotechnical Assessment by asset Geotechnical Engineering Pty Ltd dated 22 September 2007 (Reference 1140-A) and in accordance with further Geotechnical Assessment and advice to be provided during design development and construction.

#### ANS11

Structural design relating to the Geotechnical aspects of the proposed development shall be checked and certified by a suitably qualified and experienced Geotechnical Engineer as being in accordance with the Geotechnical recommendations.

#### ANS12

Inspection shall be carried out by a suitably qualified and experienced Geotechnical Engineer during construction at the following stages to ensure that the requirements of the Geotechnical report are followed.

- a) Footing excavations shall be inspected prior to pouring concrete.
- b) Subsurface drains shall be inspected prior to backfilling.
- c) All cut batters shall be inspected immediately after cutting and remedial works carried out as directed by the Geotechnical Engineer.
- d) Rock excavation using hammers (if required) shall be observed at the commencement of excavation to ensure that excavation techniques and equipment do not damage immediately adjoining structures.

#### ANS13

Surface and subsurface drains shall be maintained in good condition and shall be kept free of blockages and debris. Inspection shall be carried out at not more than three (3) month intervals. A record of inspections shall be kept.

#### 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.

#### DA013

A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include measured lengths and Relative

Levels (RL) of the road centerline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.

#### 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 \$10,000. The deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.

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

#### DA017

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

#### DA342

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

#### DA343

Any adjustment to the public utility service is to be carried out in compliance with their standards and the 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.

#### DA022

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.

#### 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.

## DA047

A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

## DA048

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

## DA058

An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

## DA059

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

## DA060

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

## DA357

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

## DA077

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

## DA085

Roofwater and surface stormwaters from paved areas from the development shall be collected and piped to the harbour foreshore according to Council's Specifications for Stormwater Drainage and On Site Stormwater Management 2003 and shall be submitted with the Construction Certificate application. The principal Council/Accredited Certifier shall ensure that the design complies with the above said specification prior to the issue of a Construction Certificate.

## DA088

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) shall be provided within the property in accordance with Council's "Specification for On-site Stormwater Management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Council/Accredited Certifier prior to the issue of the Construction Certificate. The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

## DA095

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) plan showing Work as Executed (WAE) details shall be submitted to Council prior to the issue of the Occupation Certificate. The work as executed plan shall be in accordance with Council's standards and specifications for Stormwater Drainage and On-site Stormwater Management 2003.

## DA097

Any work shall not prohibit or divert any natural overland flow of water.

## DA100

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

## 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.

## DA236

Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 12 months from the date of practical completion of the building is to be provided to the Principal Certifying Authority **prior to issue of the Final Occupation Certificate.**

## DA237

All healthy trees and shrubs identified for retention on the plan must be:

- (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
- (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.

## DA238

All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.

## DA239

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

## DA346

Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

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

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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:

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Landscaping inspection

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Swimming pool safety fence inspection prior to filling

Final inspection

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De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

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them free from sediment.

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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.

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

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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;
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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.

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The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.

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The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which: (a) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and (b) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.

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All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.

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An approved safety railing shall be provided around the outer elevated extremities of the swimming pool walkways, details of which shall be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

DA308

Any exposed external face of the swimming pool walls shall be concealed by suitable backfilling and landscaping so as to conceal the pool structure and to create a "buffer zone" between the proposed pool and neighbouring properties.

DA313

A railing or other safety measures or devices are to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Council/Accredited Certifier prior to issue of the Construction Certificate. Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

DA314

All protective fencing and gates are to be in accordance with Australian Standard 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.

DA315

The proposed pool gates are to be mounted so that:- (i) They are clear of any obstruction that could hold the gate open; (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and (iii) They open outwards from the pool.

DA316

Where the latching device release, or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.

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There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises.

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 Hay, Morrison and Murphy

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

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

## **FORESHADOWED AMENDMENT (Aird / Norek)**

### **PART A**

That Development Application No. 430/076 for the construction of a two (2) storey dwelling house, swimming pool, garage and landscaping works at No.14A Beatty Street, Balgowlah Heights be **approved** subject to the following conditions:

DA1

This approval relates to drawings/plans Nos. 07013 DA000, DA100, DA101, DA102, DA200, DA201 and DA300 Issue C dated 15 September 2007 and received by Council on the 29 October 2007.

ANS01

That depth of the garage be reduced from 7m to 6m along the north-western elevation. The width of the walkway to the southeast of the garage to remain at 1m. Plans to be amended prior to the issue of the construction Certificate.

ANS02

That the plans be amended to reduce the floor area in accordance the sketch shown in with Drawing No SK001 and SK002 dated 2 January 2008 by Nicholas Tang Architect received by Council on 7 January 2008 Plans to be amended prior to the issue of the construction Certificate.

ANS03

The setback of the proposed dwelling from the north east (rear) boundary is to be increased by 4.0m to respect existing setbacks of adjoining and nearby buildings and to reduce visual impact on foreshore reserve and harbour plans being suitably notated prior to the issue of the Construction Certificate.

ANS04

Asset Protection Zone

The intent of measures is to minimize the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities.

- a) At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area as outlined within Planning for Bushfire Protection 2006 and the Services document 'Standards for asset protection zones'.

ANS05

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- a) Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bushfire Protection 2006.

**ANS06****Design and Construction**

New construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of Planning for Bushfire Protection 2006. In this regard the following design standards for construction are to be incorporated into the development.

- a) New construction on the eastern elevation shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire prone areas' Level 3.
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- c) Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
- d) All eastern glazing shall be capable of withstanding up to 29kW/m<sup>2</sup> of radiant heat flux loading.

**ANS07**

Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006. In this regard the following landscape principles are to be incorporated into the development.

- a) Suitable impervious areas being provided immediately surrounding in the building such as courtyards, paths and driveways.
- b) Grassed areas/mowed lawns/or ground cover planting being provided in close proximity to the building.
- c) Restrictive planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the building.

**ANS08**

The landscape and building plans are to be amended and submitted for approval by Council as follows. The proposed swimming pool is to be re-orientated North South and moved a minimum 4m further from the rear boundary - ie 14m total setback.

**ANS09**

A detailed landscape Plan specifying proposed plant numbers and planting details is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

**ANS10**

The development shall be carried out in accordance with the requirements and recommendations of the preliminary Geotechnical Assessment by asset Geotechnical Engineering Pty Ltd dated 22 September 2007 (Reference 1140-A) and in accordance with further Geotechnical Assessment and advice to be provided during design development and construction.

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Structural design relating to the Geotechnical aspects of the proposed development shall be checked and certified by a suitably qualified and experienced Geotechnical Engineer as being in accordance with the Geotechnical recommendations.

**ANS12**

Inspection shall be carried out by a suitably qualified and experienced Geotechnical Engineer during construction at the following stages to ensure that the requirements of the Geotechnical report are followed.

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Surface and subsurface drains shall be maintained in good condition and shall be kept free of blockages and debris. Inspection shall be carried out at not more than three (3) month intervals. A record of inspections shall be kept.

**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.

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A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include measured lengths and Relative Levels (RL) of the road centerline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.

**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 \$10,000. The deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.

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

**DA017**

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

**DA342**

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

**DA343**

Any adjustment to the public utility service is to be carried out in compliance with their standards and the 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.

## DA022

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.

## 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.

## DA047

A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

## DA048

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

DA058

An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

DA059

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

DA060

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

DA357

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

DA077

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

DA085

Roofwater and surface stormwaters from paved areas from the development shall be collected and piped to the harbour foreshore according to Council's Specifications for Stormwater Drainage and On Site Stormwater Management 2003 and shall be submitted with the Construction Certificate application. The principal Council/Accredited Certifier shall ensure that the design complies with the above said specification prior to the issue of a Construction Certificate.

DA088

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) shall be provided within the property in accordance with Council's "Specification for On-site Stormwater Management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Council/Accredited Certifier prior to the issue of the Construction Certificate. The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

DA095

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) plan showing Work as Executed (WAE) details shall be submitted to Council prior to the issue of the Occupation Certificate. The work as executed plan shall be in accordance with Council's standards and specifications for Stormwater Drainage and On-site Stormwater Management 2003.

DA097

Any work shall not prohibit or divert any natural overland flow of water.

DA100

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

## 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.

## DA236

Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 12 months from the date of practical completion of the building is to be provided to the Principal Certifying Authority **prior to issue of the Final Occupation Certificate**.

## DA237

All healthy trees and shrubs identified for retention on the plan must be:

- (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
- (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.

## DA238

All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.

## DA239

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

## DA346

Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

## DA348

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

## 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  
Pier holes inspection  
Reinforced concrete slab X 7  
Framework inspection  
Wet area moisture barrier  
Drainage inspection  
OSD Tank Inspection  
Landscaping inspection  
Swimming pool reinforcing steel inspection  
Swimming pool safety fence inspection prior to filling  
Final inspection

The cost of these inspections by Council is \$4,140 (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.

DA279

All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

DA283

De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

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.

DA333

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

DA334

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

DA335

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

DA336

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

DA337

Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

DA338

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

DA339

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

DA340

The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

DA289

Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays. Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

## DA300

All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.

## DA301

The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.

## DA302

An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.

## DA303

The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which: (a) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and (b) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.

## DA306

All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.

## DA307

An approved safety railing shall be provided around the outer elevated extremities of the swimming pool walkways, details of which shall be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

## DA308

Any exposed external face of the swimming pool walls shall be concealed by suitable backfilling and landscaping so as to conceal the pool structure and to create a "buffer zone" between the proposed pool and neighbouring properties.

## DA313

A railing or other safety measures or devices are to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Council/Accredited Certifier prior to issue of the Construction Certificate. Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

## DA314

All protective fencing and gates are to be in accordance with Australian Standard 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.

## DA315

The proposed pool gates are to be mounted so that:- (i) They are clear of any obstruction that could hold the gate open; (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and (iii) They open outwards from the pool.

## DA316

Where the latching device release, or the latch itself, on a pool gate is located at a height less than

1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.

DA318

There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises.

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".

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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".

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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 Council's 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.

**PART B**

The Consent not being issued until the Executive Manager Environmental Services has determined there will be no additional adverse impacts on any adjoining property resulting from the repositioning proposed in Conditions ANSO3 and ANSO8.

**For the Foreshadowed Amendment:** Councillors Aird, Cant, Evans, Lambert and Norek  
**Against the Foreshadowed Amendment:** Councillors Hay, Heasman, Morrison, Murphy and Pedersen

With the voting being equal, the chairperson used their casting vote in favour of the Foreshadowed Amendment, and declared it **CARRIED** and it became the Motion.

L27/08 **RESOLVED: (Aird / Norek)**

**PART A**

That Development Application No. 430/076 for the construction of a two (2) storey dwelling house, swimming pool, garage and landscaping works at No.14A Beatty Street, Balgowlah Heights be approved subject to the following conditions:

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This approval relates to drawings/plans Nos. 07013 DA000, DA100, DA101, DA102, DA200, DA201 and DA300 Issue C dated 15 September 2007 and received by Council on the 29 October 2007.

## ANS01

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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.

#### DA022

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.

#### 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.

## DA047

A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

## DA048

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

## DA058

An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

## DA059

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

## DA060

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

## DA357

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

## DA077

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



## DA085

Roofwater and surface stormwaters from paved areas from the development shall be collected and piped to the harbour foreshore according to Council's Specifications for Stormwater Drainage and On Site Stormwater Management 2003 and shall be submitted with the Construction Certificate application. The principal Council/Accredited Certifier shall ensure that the design complies with the above said specification prior to the issue of a Construction Certificate.

## DA088

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) shall be provided within the property in accordance with Council's "Specification for On-site Stormwater Management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Council/Accredited Certifier prior to the issue of the Construction Certificate. The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

## DA095

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) plan showing Work as Executed (WAE) details shall be submitted to Council prior to the issue of the Occupation Certificate. The work as executed plan shall be in accordance with Council's standards and specifications for Stormwater Drainage and On-site Stormwater Management 2003.

## DA097

Any work shall not prohibit or divert any natural overland flow of water.

## DA100

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

## 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.

## DA236

Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 12 months from the date of practical completion of the building is to be provided to the Principal Certifying Authority **prior to issue of the Final Occupation Certificate**.

## DA237

All healthy trees and shrubs identified for retention on the plan must be:

- (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
- (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.

DA238

All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.

DA239

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

DA346

Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

DA348

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

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

Pier holes inspection

Reinforced concrete slab X 7

Framework inspection

Wet area moisture barrier

Drainage inspection

OSD Tank Inspection

Landscaping inspection

Swimming pool reinforcing steel inspection

Swimming pool safety fence inspection prior to filling

Final inspection

The cost of these inspections by Council is \$4,140 (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.

DA279

All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

DA283

De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

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.

DA333

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

DA334

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

DA335

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

DA336

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

DA337

Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be

performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

DA338

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

DA339

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

DA340

The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

DA289

Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays. Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

DA300

All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.

DA301

The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.

DA302

An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.

DA303

The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which: (a) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and (b) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.

DA306

All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.

DA307

An approved safety railing shall be provided around the outer elevated extremities of the swimming pool walkways, details of which shall be submitted to the Council/Accredited Certifier prior to issue

of the Construction Certificate.

DA308

Any exposed external face of the swimming pool walls shall be concealed by suitable backfilling and landscaping so as to conceal the pool structure and to create a "buffer zone" between the proposed pool and neighbouring properties.

DA313

A railing or other safety measures or devices are to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Council/Accredited Certifier prior to issue of the Construction Certificate. Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

DA314

All protective fencing and gates are to be in accordance with Australian Standard 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.

DA315

The proposed pool gates are to be mounted so that:- (i) They are clear of any obstruction that could hold the gate open; (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and (iii) They open outwards from the pool.

DA316

Where the latching device release, or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.

DA318

There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises.

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 Council's 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.

**PART B**

The Consent not being issued until the Executive Manager Environmental Services has determined there will be no additional adverse impacts on any adjoining property resulting from the repositioning proposed in Conditions ANSO3 and ANSO8.

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

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

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**RECOMMITTAL MOTION (Hay / Morrison)**

That Environmental Services Division Report No. 14, 14A Beatty Street, Balgowlah, be recommitted to enable further consideration.

**For the Recommittal Motion:** Councillors Hay, Heasman, Morrison and Murphy

**Against the Recommittal Motion:** Councillors Aird, Cant, Evans, Lambert, Norek, and Pedersen

The Recommittal Motion was declared **LOST**.

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Environmental Services Division Report No. 16

**11 Barrabooka Street, Clontarf - DA373/06 (DA373/06)**

**Application Lodged:** 6 September 2006 (Amended Plans 21 December 2006)

26 June 2006 – Section 82A Review

**Applicant**

William Tulloch

**Owner:**

W P Tulloch

**Estimated Cost:**

\$450,000

**Zoning:**

Manly Local Environmental Plan, 1988 - Residential

**Surrounding Development:**

Surrounding developments generally comprise multi-storey single dwellings occupying sloping sites

**Heritage:**

In the vicinity of the Sydney Harbour National Park

**SUMMARY:**

1. THE APPLICANT IS SEEKING A SECTION 82A REVIEW OF COUNCIL'S REFUSAL OF DEVELOPMENT APPLICATION NO 373/2006. THE DEVELOPMENT APPLICATION SOUGHT APPROVAL FOR THE 'DEMOLITION OF THE EXISTING DWELLING AND CARPORT, EXCAVATION, REMOVAL OF TREES AND CONSTRUCTION OF A NEW DWELLING HOUSE AND SWIMMING POOL' AT 11 BARRABOOKA STREET CLONTARF.
2. THE DEVELOPMENT IS PERMISSIBLE WITH THE CONSENT OF COUNCIL IN THE RESIDENTIAL ZONE.
3. HAVING REGARD TO THE PROVISIONS CONTAINED WITHIN THE RESIDENTIAL DEVELOPMENT CONTROL PLAN DEPARTURES HAVE BEEN IDENTIFIED WITH RESPECT TO THE FLOOR SPACE RATIO, THE NORTHERN WALL HEIGHT, THE NORTHERN AND SOUTHERN SIDE BOUNDARY SETBACKS, THE NUMBER OF STOREYS AND THE TOTAL OPEN SPACE PROVISIONS.
4. THREE (3) SUBMISSIONS WERE RECEIVED FOLLOWING THE APPLICATION BEING

- NEIGHBOUR NOTIFIED.
5. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 28 FEBRUARY 2008 WITH A RECOMMENDATION FOR APPROVAL.
  6. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR LAMBERT.
  7. A SITE INSPECTION IS RECOMMENDED.
  8. THE SECTION 82A REVIEW OF DETERMINATION APPLICATION IS RECOMMENDED FOR DEFERRED COMMENCEMENT APPROVAL.

### **PUBLIC ADDRESSES**

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

Against the Recommendation: Mr Rob Wilson

In Support of the Recommendation: Mr Bill Tulloch, Applicant

### **SITE INSPECTIONS**

A site inspection of DA373/06 – 11 Barrabooka Street Clontarf, demolition of the existing house and carport and construction of a new dwelling house and swimming pool including extensive excavation and the removal of trees, was conducted by Councillors: J Evans, J Hay, A Heasman, J Lambert, D Murphy and M Norek.

**Recommendation:** No Recommendation

### **MOTION (Lambert / Aird)**

That pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, Development Application No. 6373/06 for a "demolition of the existing house and carport and construction of a new dwelling house and swimming pool including extensive excavation and the removal of trees" at 11 Barrabooka Street Clontarf, be **REFUSED**, for the following reasons:

1. The proposal exceeds the Floor Space Ratio permitted under Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
2. The proposal exceeds the maximum wall height permitted under Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
3. The proposal does not comply with the north and south side setback boundary setback requirements of Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
4. The proposal does not comply with the open space requirements of Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
5. The proposal will result in adverse impacts on the amenity of surrounding residents in terms of view loss, particularly at No.2 Barrabooka Street, the residence opposite, having regard

to Section 79C(1) (a)(iii), (b) and (d) of the Environmental Planning and Assessment Act 1979.

6. The proposal will result in adverse impacts on the amenity of the neighbourhood, having regard to Section 79C(1) (a)(iii), (b) and (d) of the Environmental Planning and Assessment Act 1979.

L28/08      **RESOLVED:      (Lambert / Aird)**

That pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, Development Application No. 6373/06 for a "demolition of the existing house and carport and construction of a new dwelling house and swimming pool including extensive excavation and the removal of trees" at 11 Barrabooka Street Clontarf, be **REFUSED**, for the following reasons:

1. The proposal exceeds the Floor Space Ratio permitted under Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
2. The proposal exceeds the maximum wall height permitted under Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
3. The proposal does not comply with the north and south side setback boundary setback requirements of Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
4. The proposal does not comply with the open space requirements of Council's Development Control Plan for the Residential Zone 2007 Amendment 1, having regard to Section 79C(1) (a)(iii) of the Environmental Planning and Assessment Act 1979.
5. The proposal will result in adverse impacts on the amenity of surrounding residents in terms of view loss, particularly at No.2 Barrabooka Street, the residence opposite, having regard to Section 79C(1) (a)(iii), (b) and (d) of the Environmental Planning and Assessment Act 1979.
6. The proposal will result in adverse impacts on the amenity of the neighbourhood, having regard to Section 79C(1) (a)(iii), (b) and (d) of the Environmental Planning and Assessment Act 1979.

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

**Against the Resolution:**      Nil.

*Councillors Cant, Norek and Murphy were not in the Chamber when the voting took place.*

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Environmental Services Division Report No. 23

**70-72 MacMillan Street, Seaforth - DA426/07 (DA426/07)**

<b><u>Application Lodged:</u></b>	26 October 2007
<b><u>Applicant:</u></b>	A McClenaghan
<b><u>Owner:</u></b>	AN & SL McClenaghan
<b><u>Estimated Cost:</u></b>	\$550,000
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential
<b><u>Surrounding Development:</u></b>	Dwelling houses



**Heritage:** Not applicable

**SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR DEMOLITION OF GARAGE AND CONSTRUCTION OF A TWO (2) STOREY DWELLING HOUSE, GARAGE, SWIMMING POOL AND LANDSCAPING.
2. THE ALLOTMENT HAS AN ELONGATED FRONTAGE TO MACMILLAN STREET AND A RELATIVELY NARROW DEPTH.
3. SITING OF DWELLING IN ACCORDANCE WITH THE DEVELOPMENT CONTROL PLAN SETBACK IS DIFFICULT.
4. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND TWO (2) SUBMISSIONS RECEIVED.
5. THE APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM FOR COMMENTS.
6. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 27 MARCH 2008 WITH A RECOMMENDATION FOR APPROVAL.
7. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MORRISON.
8. A SITE INSPECTION IS RECOMMENDED.
9. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL APPROVAL.

**PUBLIC ADDRESSES**

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

Against the Recommendation: Mr Stuart Thomas

In Support of the Recommendation: Mr Tony Gray, on behalf of the Applicant

**SITE INSPECTIONS**

A site inspection of DA426/07 – 70-72 Macmillan Street Seaforth, demolition of the garage and construction of a two (2) storey dwelling house, garage, swimming pool and landscaping, was conducted by Councillors: J Evans, A Heasman, J Lambert, D Murphy and M Norek.

**Recommendation:** That Development Application 426/07 for demolition of the garage and construction of a two (2) storey dwelling house, garage, swimming pool and landscaping at 70-72 Macmillan Street Seaforth be approved as per Staff Recommendation with Condition ANS03 amended and additional Condition ANS04 added as follows:-

**ANS03**

The proposed deck at first floor level is to be reduced in its northern extent to align with the northern wall of the proposed dwelling with a further 600mm projection to provide for a planter box to the northern end of the deck, to reduce privacy impacts on the adjoining properties, plans being suitably amended prior to the issue of the Construction Certificate.

**ANS04**

The proposed retaining wall along the northern and eastern boundaries is to be a maximum height of 0.9m above existing ground level, with a 1.8m high boundary fence above and landscaped screen planting provided in the north east area of the property, to reduce privacy impacts on the adjoining properties, detailed plans and north and east elevations being provided to Council/Principal Certifying Authority prior to the issue of the Construction Certificate.

**MOTION (Morrison / Norek)**

That Development Application 426/07 for demolition of the garage and construction of a two (2) storey dwelling house, garage, swimming pool and landscaping at 70-72 Macmillan Street Seaforth be approved subject to the following conditions:-

**DA1**

This approval relates to drawings/plans Nos. A100 – A109 by Tony Gray Architecture dated August 2007 and received by Council on the 26 October 2007 and Plan No. 00/104 by Mc Kittrick Fry and O'Hagen dated 17 August 2004, and Statement of Environmental Effects dated October 2007 and received by Council on 26 October 2007.

**ANS01**

The relative levels of the dwelling are to be reduced by 1m, to reduce visual impact of the dwelling and reduce privacy impacts, plans being suitably amended prior to issue of the Construction certificate.

**ANS02**

The pool retaining wall on the north western side of the land to be setback at least 900mm from the boundary with the adjoining property and the pool setback being increased accordingly, to reduce visual impact of the structure and achieve closer compliance with Council residential Development Control Plan.

**ANS03**

The proposed deck at first floor level is to be reduced in its northern extent to align with the northern wall of the proposed dwelling with a further 600mm projection to provide for a planter box to the northern end of the deck, to reduce privacy impacts on the adjoining properties, plans being suitably amended prior to the issue of the Construction Certificate.

**ANS04**

The proposed retaining wall along the northern and eastern boundaries is to be a maximum height of 0.9m above existing ground level, with a 1.8m high boundary fence above and landscaped screen planting provided in the north east area of the property, with the north-east corner wall/fence heights reduced as shown in sketch plan A, submitted 7/04/08, to reduce privacy impacts on the adjoining properties, detailed plans and north and east elevations being provided to Council/Principal Certifying Authority prior to the issue of the Construction Certificate.

**ANS05**

Provision of a non-trafficable awning to the lower deck area, plans being suitably amended prior to issue of the Construction Certificate.

**DA009**

The construction of a vehicular footpath crossing is required. The design and construction 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.

## DA013

A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include measured lengths and Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.

## 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 \$10,000. The deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.

Note: Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependent 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.

**DA022**

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.

**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.

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A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

**DA048**

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

## DA58

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.

## DA59

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

## DA60

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

## DA357

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

## DA088

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) shall be provided within the property in accordance with Council's "Specification for On-site Stormwater Management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Council/Accredited Certifier prior to the issue of the Construction Certificate. The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

## DA089

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

## DA095

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) plan showing Work as Executed (WAE) details shall be submitted to Council prior to the issue of the Occupation Certificate. The work as executed plan shall be in accordance with Council's standards and specifications for Stormwater Drainage and On-site Stormwater Management 2003.

## DA097

Any work shall not prohibit or divert any natural overland flow of water.

## DA100

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

## 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.

## 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

Reinforced concrete slab

Framework inspection

Wet area moisture barrier

Drainage inspection

OSD Tank steel inspection

Retaining wall steel inspection

Landscaping inspection

Swimming pool reinforcing steel inspection

Swimming pool safety fence inspection prior to filling

Final inspection

The cost of these inspections by Council is \$2,760 (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.

## DA279

All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

## DA283

De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly Council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

## DA284

Detailed plans of roof trusses indicating type and position of trusses, design wind classification, manufacturer name, stress grade of timber used, and method of bracing and fixing trusses are to be submitted to the Principal Certifying Authority prior to the commencement of roof framework.

## DA332

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

## DA333

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

## DA334

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

## DA335

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

## DA336

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

## DA337

Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

DA338

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

DA339

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

DA340

The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

DA289

Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays. Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

DA300

All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.

DA301

The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.

DA302

An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.

DA303

The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which: (a) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and (b) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.

DA306

All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.

DA314

All protective fencing and gates are to be in accordance with Australian Standard 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.



## DA315

The proposed pool gates are to be mounted so that:- (i) They are clear of any obstruction that could hold the gate open; (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and (iii) They open outwards from the pool.

## DA316

Where the latching device release, or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.

## DA318

There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises.

## 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 Council's 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.

**L29/08      RESOLVED:      (Morrison / Norek)**

That Development Application 426/07 for demolition of the garage and construction of a two (2) storey dwelling house, garage, swimming pool and landscaping at 70-72 Macmillan Street Seaforth be approved subject to the following conditions:-

## DA1

This approval relates to drawings/plans Nos. A100 – A109 by Tony Gray Architecture dated August 2007 and received by Council on the 26 October 2007 and Plan No. 00/104 by Mc Kittrick Fry and O'Hagen dated 17 August 2004, and Statement of Environmental Effects dated October 2007 and received by Council on 26 October 2007.

## ANS01

The relative levels of the dwelling are to be reduced by 1m, to reduce visual impact of the dwelling and reduce privacy impacts, plans being suitably amended prior to issue of the Construction certificate.

## ANS02

The pool retaining wall on the north western side of the land to be setback at least 900mm from the

boundary with the adjoining property and the pool setback being increased accordingly, to reduce visual impact of the structure and achieve closer compliance with Council residential Development Control Plan.

#### ANS03

The proposed deck at first floor level is to be reduced in its northern extent to align with the northern wall of the proposed dwelling with a further 600mm projection to provide for a planter box to the northern end of the deck, to reduce privacy impacts on the adjoining properties, plans being suitably amended prior to the issue of the Construction Certificate.

#### ANS04

The proposed retaining wall along the northern and eastern boundaries is to be a maximum height of 0.9m above existing ground level, with a 1.8m high boundary fence above and landscaped screen planting provided in the north east area of the property, with the north-east corner wall/fence heights reduced as shown in sketch plan A, submitted 7/04/08, to reduce privacy impacts on the adjoining properties, detailed plans and north and east elevations being provided to Council/Principal Certifying Authority prior to the issue of the Construction Certificate.

#### ANS05

Provision of a non-trafficable awning to the lower deck area, plans being suitably amended prior to issue of the Construction Certificate.

#### DA009

The construction of a vehicular footpath crossing is required. The design and construction 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.

#### DA013

A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include measured lengths and Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.

#### 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 \$10,000. The deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any

work on site.

Note: Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependent 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.

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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.

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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.

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

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

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

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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.

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

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- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
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Detailed plans of roof trusses indicating type and position of trusses, design wind classification, manufacturer name, stress grade of timber used, and method of bracing and fixing trusses are to be submitted to the Principal Certifying Authority prior to the commencement of roof framework.

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

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

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

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

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

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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.

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

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

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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
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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.

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All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.

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The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.

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An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.

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The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which: (a) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and (b) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.

**DA306**

All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.

**DA314**

All protective fencing and gates are to be in accordance with Australian Standard 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.

**DA315**

The proposed pool gates are to be mounted so that:- (i) They are clear of any obstruction that could hold the gate open; (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and (iii) They open outwards from the pool.

**DA316**

Where the latching device release, or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.

**DA318**

There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises.

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

**Against the Resolution:** Nil.

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#### **SUSPENSION OF STANDING ORDERS (Aird / Pedersen)**

That Standing Orders be suspended to consider items of public interest, being Environmental Services Division Report No. 19, 86-88 The Corso Manly, DA509/07 and Environmental Services Division Report No.20, 94 The Corso Manly, DA432/07.

L30/08 **RESOLVED: (Aird / Pedersen)**

That Standing Orders be suspended to consider items of public interest, being Environmental Services Division Report No. 19, 86-88 The Corso Manly, DA509/07 and Environmental Services Division Report No.20, 94 The Corso Manly, DA432/07.

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

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 19

#### **86-88 The Corso, Manly - DA509/07 (DA509/07)**

**Application Lodged:** 18 December 2007  
**Applicant:** Karras Enterprises Pty Ltd  
**Owner:** Manly Council  
**Estimated Cost:** Not applicable  
**Zoning:** Manly Local Environmental Plan, 1988 – Unzoned Land (Road) adjoins Business Zone and assumes Business Zoning for assessment purposes. Within the Foreshore Scenic Protection Area  
**Surrounding Development:** Two and three storey retail, commercial and residential buildings  
**Heritage:** The Corso is an Item of Environmental Heritage and within The Corso Conservation Area

**SUMMARY:**

1. THE APPLICATION SEEKS CONSENT FOR THE USE OF A PORTION OF PUBLIC LAND PARTLY FORWARD OF NO. 88 THE CORSO FOR THE PURPOSE OF OUTDOOR SEATING ASSOCIATED WITH THE EXISTING RESTAURANT AT NO. 90 THE CORSO MANLY.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE (1) CONFIDENTIAL SUBMISSION RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE CORSO PRECINCT COMMUNITY FORUM WITH COMMENTS RECEIVED.
4. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 6 MARCH 2008 WITH A RECOMMENDATION FOR REFUSAL.
5. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MORRISON.
6. A SITE INSPECTION IS RECOMMENDED
7. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

**PUBLIC ADDRESSES**

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

Against the Recommendation: Ms Jan Karras, Applicant

**MOTION (Aird / Evans)**

That Development Application No.509/07 for use of part of the Public Road (The Corso) forward of 86-88 The Corso Manly for the purpose of outdoor seating associated with the restaurant at No 90 The Corso Manly be **REFUSED** for the following reasons;

1. The proposed expansion of outdoor seating on public land to the area forward of No.88 The Corso for the purposes of a restaurant at No.90 The Corso, will result in pedestrian movement conflicts contrary to the objectives of the Business Zone as contained in the Manly Local Environmental Plan 1988, having regard to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. The proposed expansion of the outdoor seating on public land forward of No.88 The Corso, for the purposes of a restaurant at No.90 The Corso will result in adverse social and economic impacts of the locality, having regard to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.
3. The proposed expansion of outdoor seating on public land forward of No.88 The Corso, for the purposes of a restaurant at No.90 The Corso is not considered to be in the public interest.

**AMENDMENT (Morrison / Murphy)**

That Development Application No.509/07 for use of part of the Public Road (The Corso) forward of 86-88 The Corso Manly for the purpose of outdoor seating associated with the restaurant at No 90 The Corso Manly be **APPROVED**, on the basis that Council offer the same licence to Cristal's as Watervue.

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

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

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

L31/08     **RESOLVED:**     **(Aird / Evans)**

That Development Application No.509/07 for use of part of the Public Road (The Corso) forward of 86-88 The Corso Manly for the purpose of outdoor seating associated with the restaurant at No 90 The Corso Manly be **REFUSED** for the following reasons;

1. The proposed expansion of outdoor seating on public land to the area forward of No.88 The Corso for the purposes of a restaurant at No.90 The Corso, will result in pedestrian movement conflicts contrary to the objectives of the Business Zone as contained in the Manly Local Environmental Plan 1988, having regard to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. The proposed expansion of the outdoor seating on public land forward of No.88 The Corso, for the purposes of a restaurant at No.90 The Corso will result in adverse social and economic impacts of the locality, having regard to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.
3. The proposed expansion of outdoor seating on public land forward of No.88 The Corso, for the purposes of a restaurant at No.90 The Corso is not considered to be in the public interest.

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

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

Councillor Lambert retired from the Chamber at 11.16pm.

Environmental Services Division Report No. 20

#### **94 The Corso, Manly - DA432/07 (DA432/07)**

<b><u>Application Lodged:</u></b>	12 December 2007
<b><u>Applicant:</u></b>	Quantim Pty Ltd
<b><u>Owner:</u></b>	Manly Council
<b><u>Estimated Cost:</u></b>	Not applicable
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 – Unzoned Land (Road) adjoins Business zone and assumes Business Zoning for assessment purposes. Within the Foreshore Scenic Protection Area
<b><u>Surrounding Development:</u></b>	Two and three storey retail, commercial and residential buildings
<b><u>Heritage:</u></b>	The Corso is an Item of Environmental Heritage and within The Corso Conservation Area

#### **SUMMARY:**

1. COUNCIL AT ITS ORDINARY MEETING OF 10 DECEMBER 2007 GRANTED CONSENT FOR USE OF A PORTION OF THE PUBLIC LAND WITHIN THE CORSO FOR THE PURPOSE OF OUTDOOR SEATING ASSOCIATED WITH THE EXISTING RESTAURANT AT NO. 94 THE CORSO MANLY.
2. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 TO MODIFY THE CONSENT BY INCREASING THE AREA AVAILABLE FOR OUTDOOR SEATING.
3. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH THREE (3) SUBMISSIONS RECEIVED.
4. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 6 MARCH 2008 WITH A RECOMMENDATION FOR REFUSAL.

5. THE S96 DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MORRISON.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE S96 APPLICATION IS RECOMMENDED FOR REFUSAL.

**MOTION (Aird / Evans)**

That the application to modify Development Consent No.432/07 for use of part of the Public Road (The Corso) forward of Nos. 92 & 100 The Corso for the purpose of outdoor seating associated with the restaurant at 94 The Corso be refused for the following reasons;

1. The proposed expansion of outdoor seating on public land to the area forward of Nos. 92 and 100 The Corso for the purposes of a restaurant at No.94 The Corso, will result in pedestrian movement conflicts contrary to the objectives of the Business Zone as contained in the Manly Local Environmental Plan 1988, having regard to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. The proposed expansion of the outdoor seating on public land forward of Nos. 92 and 100 the Corso, for the purposes of a restaurant at No.94 The Corso will result in adverse social and economic impacts of the locality, having regard to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.
3. The proposed expansion of outdoor seating on public land forward of Nos. 92 and 100 the Corso, for the purposes of a restaurant at No.94 The Corso is not considered to be in the public interest.
4. The proposal is not considered to be substantially the same development as the development for which the consent was originally granted and as such cannot be considered under Section 96 of the Environmental Planning and Assessment Act 1979.

**L32/08 RESOLVED: (Aird / Evans)**

That the application to modify Development Consent No.432/07 for use of part of the Public Road (The Corso) forward of Nos. 92 & 100 The Corso for the purpose of outdoor seating associated with the restaurant at 94 The Corso be refused for the following reasons;

1. The proposed expansion of outdoor seating on public land to the area forward of Nos. 92 and 100 The Corso for the purposes of a restaurant at No.94 The Corso, will result in pedestrian movement conflicts contrary to the objectives of the Business Zone as contained in the Manly Local Environmental Plan 1988, having regard to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. The proposed expansion of the outdoor seating on public land forward of Nos. 92 and 100 the Corso, for the purposes of a restaurant at No.94 The Corso will result in adverse social and economic impacts of the locality, having regard to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.
3. The proposed expansion of outdoor seating on public land forward of Nos. 92 and 100 the Corso, for the purposes of a restaurant at No.94 The Corso is not considered to be in the public interest.
4. The proposal is not considered to be substantially the same development as the development for which the consent was originally granted and as such cannot be considered under Section 96 of the Environmental Planning and Assessment Act 1979.

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

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**RESUMPTION OF STANDING ORDERS (Aird / Evans)**

That Standing Orders be resumed.

L33/08 **RESOLVED: (Aird / Evans)**

That Standing Orders be resumed.

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

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Councillor Morrison retired from the Chamber at 11.19pm.

Environmental Services Division Report No. 17

**197-215 Condamine Street, Balgowlah**

**DA101/06 - Section 96 Modification**

**DA168/05 - Section 96 Modification (DA101/06 - DA168/05)**

**Application Lodged:** 7 August 2007 (Application S96 No. 2)  
**Applicant:** Don Fox Planning  
**Owner:** Stockland Constructors Pty Ltd & Manly Council  
**Estimated Cost:** Not applicable  
**Zoning:** Manly Local Environmental Plan, 1988 – General Business  
**Surrounding Development:** Residential and Commercial  
**Heritage:** Trees in Condamine Street

**SUMMARY:**

1. MODIFICATION IS SOUGHT TO ONE CONDITION OF DA168/05 (THE STAGE 1 CONSENT) AND SOME OF 13 CONDITIONS OF DA101/06 (THE STAGE 2 CONSENT).
2. MODIFICATIONS TO THE BUILDING DESIGN WHICH IF ACCEPTED WILL LEAD TO A MODIFICATION OF THE PLANS REFERRED TO IN THE CONSENT.
3. THE APPLICATION WAS NOTIFIED TO SURROUNDING RESIDENTS AND SUBMISSIONS WERE RECEIVED.
4. THE APPLICATION WAS REFERRED TO THE PRECINCT FORUMS FOR COMMENT.
5. THE PROPOSAL WAS REFERRED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 20 MARCH 2008 WITH A RECOMMENDATION FOR APPROVAL.
6. THE SECTION 96 DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR LAMBERT.
7. THE APPLICATION IS RECOMMENDED FOR PART APPROVAL.

**MOTION (Evans / Heasman)**

That:

**(A)**

Pursuant to Sec 96(1) and Sec 96(1A) of the Environmental Planning and Assessment Act 1979, the consent granted by Council on 31 May 2007 for DA101/06 relating to the former "Totem Shopping Centre" site in Condamine St Balgowlah, as modified, be further modified as follows;

- (i) the deletion of condition DA1 and the inclusion in its place the following condition;

DA1. This approval relates to drawings/plans Nos. as listed below:-

*Architectural*

COVER SHEET	S96-2-001A 16.7.07
SITE ANALYSIS	DA2-0110 A
SITE PLAN	S96-2-1001A 16.7.07
CARPARK LEVEL 1 PLAN	S96-2-2000A 16.7.07
CARPARK LEVEL 2 PLAN	S96-2-2001A 16.7.07
CARPARK LEVEL 3 PLAN	S96-2-2005A 16.7.07
MISCELLANEOUS PLANS	DA2-2007 E
RETAIL PLAN	S96-2-21011A 16.7.07
RETAIL PLANT PLAN	S96-2-2105A 16.7.07
LEVEL 1 PLAN	S96-2-2110A 16.7.07
LEVEL 2 PLAN	S96-2-2120A 16.7.07
LEVEL 3 PLAN	S96-2-2130A 16.7.07
LEVEL 4 PLAN	S96-2-2140A 16.7.07
LEVEL 5 PLAN	S96-2-2150A 16.7.07
LEVEL 6 PLAN	S96-2-2160A 16.7.07
LEVEL 7 PLAN	S96-2-2170A 16.7.07
LEVEL 8 PLAN	S96-2-2180A 16.7.07
ROOF PLAN	S96-2-2190A 16.7.07
GFA PLAN - RETAIL LEVEL	DA2-2890 B
GFA PLAN - LEVEL 1	DA2-2891 B
GFA PLAN - LEVEL 2	DA2-2892 B
NORTH ELEVATION / EAST ELEVATION	S96-2-3101A 16.7.07
SOUTH ELEVATION / WEST ELEVATION	S96-2-3102A 16.7.07
SYDNEY ROAD ELEVATION / GRIFFITH STREET ELEVATION	S96-2-3103A 16.7.07
CONDAMINE STREET ELEVATION - COLOURED	DA2-3110B
SECTION 0V SECTION 0Q	S96-2-3200A 16.7.07
SECTION 0M SECTION 0L	S96-2-3205A 16.7.07
SECTION 0F SECTION 0D	S96-2-3210A 16.7.07
SECTION 01 SECTION 04	S96-2-3250A 16.7.07
SECTION 08 SECTION 11	S96-2-3255A 16.7.07
SECTION 12	S96-2-3260A 16.7.07
SECTION 16	S96-2-3265A 16.7.07
SITE SECTION EAST WEST - COLOURED	DA2-3310 B
SITE SECTION NORTH SOUTH - COLOURED	DA2-3312 B
ENVELOPE ASSESSMENT LEVEL 1 PLAN	DA2-3801 B
ENVELOPE ASSESSMENT AERIAL VIEW 1	DA2-3803 B
ARCHITECTURAL PLANS REVISION DATE 19 MARCH 2007	

*Landscape*

<i>LANDSCAPE PLAN AND INDICATIVE PLATING SCHEDULE</i>	<i>DA2-DCL01 B</i>
<i>PLAZA PLAN, SECTION AND PRECEDENT IMAGES</i>	<i>DA2-DCL02 B</i>
<i>COURTYARD GARDEN PLAN, SECTION AND PRECEDENT IMAGES</i>	<i>DA2-DCL03 B</i>
<i>POOL GARDEN PLAN, SECTION AND PRECEDENT IMAGES</i>	<i>DA2-DCL04 B</i>
<i>LANE 34 TREES</i>	<i>SK-6011 A</i> <i>Dated 26 April 2007</i>
<i>LANDSCAPE PLANS REVISION DATE 19 MARCH 2007</i>	

*Roadworks*

<i>COVER SHEET</i>	<i>DA-2-C-RW-00</i>
<i>SITE PLAN</i>	<i>DA-2-C-RW-01</i>
<i>LANE 34 PLAN PROFILE AND SECTIONS</i>	<i>DA-2-C-RW-02</i>
<i>PLAN – SYDNEY ROAD CONDAMINE STREET</i>	<i>DA-2-C-RW-03</i>

*Surveyor*

<i>PLAN SHOWING DETAIL AND LEVELS</i>	<i>020313 DETAIL</i> <i>Sheets 1 to 4</i>
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*Stormwater Works*

<i>STORMWATER CONCEPT PLAN – SITEWORKS</i>	<i>DA-2-C-SW-11</i>
<i>DETENTION TANK DETAILS</i>	<i>DA-2-C-SW-12</i>
<i>SEDIMENT &amp; EROSION CONTROL PLAN</i>	<i>DA-2-C-SW-13</i>

(3) The deletion of Conditions ANS61 and ANS62 and their replacement with the following condition;

*ANS62*

*The development must at all times comply with the recommendations with respect to tree care and pruning as set out in the Norcue Pty Ltd report of 1 April 2007 to Stockland P/L and that a new Brushbox tree be planted in the position indicated on the Tree Study on Condamine Street dwg issue B (prepared by Stuart Pittendrigh) as represented by Tree number 6, and that this tree be planted a minimum distance of 8 metres north from Tree number 5. This specimen is to be a minimum 200 litre container size*

(4) The deletion of Condition ANS47 and ANS56 and their replacement with the following condition

*ANS56*

*(1) External noise levels associated with the operation of mechanical equipment, when measured at the boundary of any neighbouring property shall comply with the noise level criteria presented in table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group*

*(2) External noise levels associated with the operation of mechanical equipment, when measured at the boundary/balcony of any future residential tenancy within the Village development shall comply with the noise level criteria detailed in Table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group*

*(3) External noise levels associated with the operation of loading dock, when measured at the boundary of any neighbouring property shall comply with the noise level criteria detailed in Table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group*

(4) External noise levels associated with the operation of loading dock, when measured at the boundary/balcony of any future residential tenancy within the Village development shall comply with the noise level criteria detailed in Table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group

NOTE: TABLE 1 is set out in the Table at the end of this schedule of conditions

(5) The loading dock shall only be open to truck movements between the following hours:

- (i) 6:00am to 10:00pm Monday to Friday
- (ii) 10:00am to 10:00pm Saturday Sunday and Public Holidays

(6) Activities within the loading dock can be conducted at all times provided the roller shutter doors at the entrance to the loading dock remain closed.

(7) Vibrations generated by the commercial activities within the development when measured at any residential tenancy should not exceed vibration criteria detailed in the AS 2670.2 – 1990 “Evaluation of human exposure to the whole body vibration , part 2 continuous shock induced vibrations in buildings (1 to 80Hz)

(8) Internal noise levels (dB(A)Leq) associated with the operation of commercial activities when measured within any residential tenancy of the Village development should not be greater than the L90 Background noise + 5 dB (A)

(5) The deletion of Condition ANS118 and its replacement with the following condition;

**ANS118**

*The provision of a rainwater re-use system to supply water to all toilets and laundries within both the retail and residential components of the development and to irrigate the landscape areas. This system is to be in accordance with the Stormwater Recycling Report by Harris Page and Associates Pty Ltd – dated 30 January 2008. Further the proposal shall incorporate additional rainwater collection surfaces and storage tanks of adequate capacity to replenish any loss of water from the pool through evaporation or other means. Details of these measures are to be provided to Council prior to the construction of the pool.*

(6) The deletion of Condition ANS121 and its replacement with the following condition;

**ANS121**

*Truck movements –*

*(a) no deliveries to or waste collections from the development are allowed before 6:00am or later than 10:00pm between Monday and Friday, or before 10:00am or later than 10:00pm Saturday, Sunday and Public Holidays.*

*(b) deliveries to loading/unloading areas other than to the loading dock at retail level off Condamine Street shall not occur prior to 7:00am Mondays to Fridays and shall otherwise comply with the above time limits.*

*(c) deliveries permitted in (a) above between the hours of 6:00am and 7:00am weekday mornings is subject to (i) no delivery trucks arriving before 6:00am and standing or parking in Condamine Street and (ii) a twelve (12) month trial period commencing once the major retail uses are in full operation following which the delivery times will revert to a 7:00am starting time unless a further application is received and approved prior to that twelve (12) month period concluding.*

(7) The deletion of Condition DA257 and its replacement with the following condition:

**DA257**



*All towers, ventilation/ducting, exhaust fan structure and any other structures on the roof are to be located within the roof articulation zone as indicated on SK6012 prepared by Allen Jack + Cottier*

(8) The deletion of conditions ANS13, ANS14 and ANS84

(9) The addition of Condition DA267A as follows:

DA267A

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

**Table Referred to in Condition ANS56  
Noise Objectives**

Location	Daytime Noise Objective dB(A)	Daytime Noise Objective dB(A)	Evening Noise Objective dB(A)	Evening Noise Objective dB(A)	Night-time Noise Objective dB(A)	Night-time Noise Objective dB(A)	Night-time Intermittent Events dB(A)
	Intrusive Leq (15min)	Amenity Leq (11hrs)	Intrusive Leq (15min)	Amenity Leq (11hrs)	Intrusive Leq (15min)	Amenity Leq (11hrs)	L1 (1 min)
Rear (north) of properties on Sydney Rd	52	55	53	45	49	40	59
Rear (south) of properties on Griffiths St	52	5	51	45	45	40	50
Condamine St	49	55	50	53	47	47	57
Griffiths St	55	49	50	55	46	40	56
Woodland St	49	55	48	45	44	40	54
Sydney Rd	66	69	67	65	60	60	70

**(B)**

Pursuant to Sec 96(1) and Sec 96(1A) of the Environmental Planning and Assessment Act 1979, the consent granted by Council on 14 September 2005 for DA168/05 relating to the former "Totem Shopping Centre" site in Condamine St, Balgowlah, as modified, be further modified by the deletion of condition No. 33.

**(C)**

Stockland Development P/L be advised that Council does not agree to the modification of conditions:

- (a) ANS44 relating to the issuing of plastic bags to customers as it is contrary to Council specific policy relating to the use of plastic bags and environmental objectives,
- (b) ANS45 relating to provision of non recyclable food and beverage containers as it is contrary to Council's environmental objectives,
- (c) ANS117 – relating to compliance with Green Star and AGBR – NABERS energy efficient rating schemes as level of compliance has not been specified and draft condition is uncertain in achieving an acceptable outcome.

**AMENDMENT (Norek)**

That:

**(A)**

Pursuant to Sec 96(1) and Sec 96(1A) of the Environmental Planning and Assessment Act 1979, the application to modify DA101/06 relating to the former "Totem Shopping Centre" site in Condamine St Balgowlah, be **DEFERRED** until all submissions of objectors have been addressed.

The Amendment lapsed due to a lack of a seconder.

L34/08 **RESOLVED: (Evans / Heasman)**

That:

**(A)**

Pursuant to Sec 96(1) and Sec 96(1A) of the Environmental Planning and Assessment Act 1979, the consent granted by Council on 31 May 2007 for DA101/06 relating to the former "Totem Shopping Centre" site in Condamine St Balgowlah, as modified, be further modified as follows:

- (i) the deletion of condition DA1 and the inclusion in its place the following condition;

*DA1. This approval relates to drawings/plans Nos. as listed below:-*

*Architectural*

<i>COVER SHEET</i>	<i>S96-2-001A 16.7.07</i>
<i>SITE ANALYSIS</i>	<i>DA2-0110 A</i>
<i>SITE PLAN</i>	<i>S96-2-1001A 16.7.07</i>
<i>CARPARK LEVEL 1 PLAN</i>	<i>S96-2-2000A 16.7.07</i>
<i>CARPARK LEVEL 2 PLAN</i>	<i>S96-2-2001A 16.7.07</i>
<i>CARPARK LEVEL 3 PLAN</i>	<i>S96-2-2005A 16.7.07</i>
<i>MISCELLANEOUS PLANS</i>	<i>DA2-2007 E</i>
<i>RETAIL PLAN</i>	<i>S96-2-21011A 16.7.07</i>
<i>RETAIL PLANT PLAN</i>	<i>S96-2-2105A 16.7.07</i>
<i>LEVEL 1 PLAN</i>	<i>S96-2-2110A 16.7.07</i>
<i>LEVEL 2 PLAN</i>	<i>S96-2-2120A 16.7.07</i>

LEVEL 3 PLAN	S96-2-2130A 16.7.07
LEVEL 4 PLAN	S96-2-2140A 16.7.07
LEVEL 5 PLAN	S96-2-2150A 16.7.07
LEVEL 6 PLAN	S96-2-2160A 16.7.07
LEVEL 7 PLAN	S96-2-2170A 16.7.07
LEVEL 8 PLAN	S96-2-2180A 16.7.07
ROOF PLAN	S96-2-2190A 16.7.07
GFA PLAN - RETAIL LEVEL	DA2-2890 B
GFA PLAN - LEVEL 1	DA2-2891 B
GFA PLAN - LEVEL 2	DA2-2892 B
NORTH ELEVATION / EAST ELEVATION	S96-2-3101A 16.7.07
SOUTH ELEVATION / WEST ELEVATION	S96-2-3102A 16.7.07
SYDNEY ROAD ELEVATION / GRIFFITH STREET ELEVATION	S96-2-3103A 16.7.07
CONDAMINE STREET ELEVATION - COLOURED	DA2-3110B
SECTION 0V SECTION 0Q	S96-2-3200A 16.7.07
SECTION 0M SECTION 0L	S96-2-3205A 16.7.07
SECTION 0F SECTION 0D	S96-2-3210A 16.7.07
SECTION 01 SECTION 04	S96-2-3250A 16.7.07
SECTION 08 SECTION 11	S96-2-3255A 16.7.07
SECTION 12	S96-2-3260A 16.7.07
SECTION 16	S96-2-3265A 16.7.07
SITE SECTION EAST WEST - COLOURED	DA2-3310 B
SITE SECTION NORTH SOUTH - COLOURED	DA2-3312 B
ENVELOPE ASSESSMENT LEVEL 1 PLAN	DA2-3801 B
ENVELOPE ASSESSMENT AERIAL VIEW 1	DA2-3803 B
ARCHITECTURAL PLANS REVISION DATE 19 MARCH 2007	

**Landscape**

LANDSCAPE PLAN AND INDICATIVE PLATING SCHEDULE	DA2-DCL01 B
PLAZA PLAN, SECTION AND PRECEDENT IMAGES	DA2-DCL02 B
COURTYARD GARDEN PLAN, SECTION AND PRECEDENT IMAGES	DA2-DCL03 B
POOL GARDEN PLAN, SECTION AND PRECEDENT IMAGES	DA2-DCL04 B
LANE 34 TREES	SK-6011 A Dated 26 April 2007
LANDSCAPE PLANS REVISION DATE 19 MARCH 2007	

**Roadworks**

COVER SHEET	DA-2-C-RW-00
SITE PLAN	DA-2-C-RW-01
LANE 34 PLAN PROFILE AND SECTIONS	DA-2-C-RW-02
PLAN - SYDNEY ROAD CONDAMINE STREET	DA-2-C-RW-03

**Surveyor**

PLAN SHOWING DETAIL AND LEVELS	020313 DETAIL Sheets 1 to 4
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*Stormwater Works*

<i>STORMWATER CONCEPT PLAN – SITEWORKS</i>	<i>DA-2-C-SW-11</i>
<i>DETENTION TANK DETAILS</i>	<i>DA-2-C-SW-12</i>
<i>SEDIMENT &amp; EROSION CONTROL PLAN</i>	<i>DA-2-C-SW-13</i>

(3) The deletion of Conditions ANS61 and ANS62 and their replacement with the following condition;

*ANS62*

*The development must at all times comply with the recommendations with respect to tree care and pruning as set out in the Norcue Pty Ltd report of 1 April 2007 to Stockland P/L and that a new Brushbox tree be planted in the position indicated on the Tree Study on Condamine Street dwg issue B (prepared by Stuart Pittendrigh) as represented by Tree number 6, and that this tree be planted a minimum distance of 8 metres north from Tree number 5. This specimen is to be a minimum 200 litre container size*

(4) The deletion of Condition ANS47 and ANS56 and their replacement with the following condition

*ANS56*

*(1) External noise levels associated with the operation of mechanical equipment, when measured at the boundary of any neighbouring property shall comply with the noise level criteria presented in table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group*

*(2) External noise levels associated with the operation of mechanical equipment, when measured at the boundary/balcony of any future residential tenancy within the Village development shall comply with the noise level criteria detailed in Table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group*

*(3) External noise levels associated with the operation of loading dock, when measured at the boundary of any neighbouring property shall comply with the noise level criteria detailed in Table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group*

*(4) External noise levels associated with the operation of loading dock, when measured at the boundary/balcony of any future residential tenancy within the Village development shall comply with the noise level criteria detailed in Table 1 as agreed upon by Acoustic Logic Consultancy P/L and the Acoustic Group*

*NOTE: TABLE 1 is set out in the Table at the end of this schedule of conditions*

*(5) The loading dock shall only be open to truck movements between the following hours:*

*(i) 6:00am to 10:00pm Monday to Friday*

*(ii) 10:00am to 10:00pm Saturday Sunday and Public Holidays*

*(6) Activities within the loading dock can be conducted at all times provided the roller shutter doors at the entrance to the loading dock remain closed.*

*(7) Vibrations generated by the commercial activities within the development when measured at any residential tenancy should not exceed vibration criteria detailed in the AS 2670.2 – 1990 “Evaluation of human exposure to the whole body vibration , part 2 continuous shock induced vibrations in buildings (1 to 80Hz)*

*(8) Internal noise levels (dB(A)Leq) associated with the operation of commercial activities when measured within any residential tenancy of the Village development should not be greater than the L90 Background noise + 5 dB (A)*

(5) The deletion of Condition ANS118 and its replacement with the following condition;

**ANS118**

*The provision of a rainwater re-use system to supply water to all toilets and laundries within both the retail and residential components of the development and to irrigate the landscape areas. This system is to be in accordance with the Stormwater Recycling Report by Harris Page and Associates Pty Ltd – dated 30 January 2008. Further the proposal shall incorporate additional rainwater collection surfaces and storage tanks of adequate capacity to replenish any loss of water from the pool through evaporation or other means. Details of these measures are to be provided to Council prior to the construction of the pool.*

(6) The deletion of Condition ANS121 and its replacement with the following condition;

**ANS121**

*Truck movements –*

*(a) no deliveries to or waste collections from the development are allowed before 6:00am or later than 10:00pm between Monday and Friday, or before 10:00am or later than 10:00pm Saturday, Sunday and Public Holidays.*

*(b) deliveries to loading/unloading areas other than to the loading dock at retail level off Condamine Street shall not occur prior to 7:00am Mondays to Fridays and shall otherwise comply with the above time limits.*

*(c) deliveries permitted in (a) above between the hours of 6:00am and 7:00am weekday mornings is subject to (i) no delivery trucks arriving before 6:00am and standing or parking in Condamine Street and (ii) a twelve (12) month trial period commencing once the major retail uses are in full operation following which the delivery times will revert to a 7:00am starting time unless a further application is received and approved prior to that twelve (12) month period concluding.*

(7) The deletion of Condition DA257 and its replacement with the following condition:

**DA257**

*All towers, ventilation/ducting, exhaust fan structure and any other structures on the roof are to be located within the roof articulation zone as indicated on SK6012 prepared by Allen Jack + Cottier*

(8) The deletion of conditions ANS13, ANS14 and ANS84

(9) The addition of Condition DA267A as follows:

**DA267A**

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

**Table Referred to in Condition ANS56  
Noise Objectives**

<b>Location</b>	<b>Daytime Noise Objective dB(A)</b>	<b>Daytime Noise Objective dB(A)</b>	<b>Evening Noise Objective dB(A)</b>	<b>Evening Noise Objective dB(A)</b>	<b>Night-time Noise Objective dB(A)</b>	<b>Night-time Noise Objective dB(A)</b>	<b>Night-time Intermittent Events dB(A)</b>
	Intrusive Leq (15min)	Amenity Leq (11hrs)	Intrusive Leq (15min)	Amenity Leq (11hrs)	Intrusive Leq (15min)	Amenity Leq (11hrs)	L1 (1 min)

Rear (north) of properties on Sydney Rd	52	55	53	45	49	40	59
Rear (south) of properties on Griffiths St	52	5	51	45	45	40	50
Condamine St	49	55	50	53	47	47	57
Griffiths St	55	49	50	55	46	40	56
Woodland St	49	55	48	45	44	40	54
Sydney Rd	66	69	67	65	60	60	70

**(B)**

Pursuant to Sec 96(1) and Sec 96(1A) of the Environmental Planning and Assessment Act 1979, the consent granted by Council on 14 September 2005 for DA168/05 relating to the former "Totem Shopping Centre" site in Condamine St, Balgowlah, as modified, be further modified by the deletion of condition No. 33.

**(C)**

Stockland Development P/L be advised that Council does not agree to the modification of conditions:

- (a) ANS44 relating to the issuing of plastic bags to customers as it is contrary to Council specific policy relating to the use of plastic bags and environmental objectives,
- (b) ANS45 relating to provision of non recyclable food and beverage containers as it is contrary to Council's environmental objectives,
- (c) ANS117 – relating to compliance with Green Star and AGBR – NABERS energy efficient rating schemes as level of compliance has not been specified and draft condition is uncertain in achieving an acceptable outcome.

**For the Resolution:** Councillors Aird, Cant, Evans, Hay, Heasman, Murphy and Pedersen  
**Against the Resolution:** Councillor Norek

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Environmental Services Division Report No. 21

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

**SUMMARY**

Development applications being processed during April 2008.

**MOTION (Heasman / Cant)**

That development applications currently being processed during April 2008 be noted.

L35/08 **RESOLVED: (Heasman / Cant)**

That development applications currently being processed during April 2008 be noted.

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

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 22

**Appeals for April 2008**

**SUMMARY**

List of Appeals received and their current status for Councillor's information

**MOTION (Cant / Murphy)**

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

L36/08 **RESOLVED: (Cant / Murphy)**

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

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

**Against the Resolution:** Nil.

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**CLOSE**

The meeting closed at 11.35pm.

The above minutes were confirmed at a **Land Use Management Committee** of Manly Council held on 5<sup>th</sup> May 2008.

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**CHAIRPERSON**

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