



## Agenda

### Land Use Management Committee

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

**Monday 7 May 2007**

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

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

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

# Seating Arrangements for Meetings

Staff      Staff      General  
                                 Manager      Chairperson      Staff      Minute  
   Taker



**Mayor** Dr Peter  
Macdonald

Clr Mark Norek

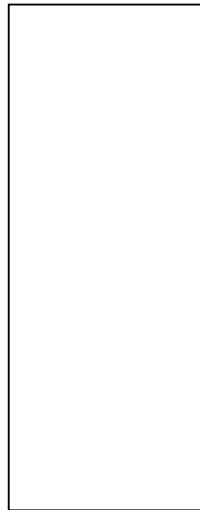
Clr Joanna Evans

Clr Barbara Aird

**Deputy Mayor**

Clr Brad  
Pedersen

Clr Richard  
Morrison



Clr Jean Hay AM

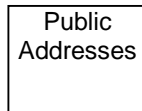
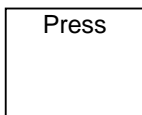
Clr Adele Heasman

Clr Dr Judy Lambert  
AM

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



**Public Gallery**

**Chairperson:** Cr Judy Lambert AM  
**Deputy Chairperson:** Cr Jo Evans

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### **DECLARATIONS OF INTEREST**

### **CONFIRMATION OF MINUTES**

The Land Use Management Committee of 2 APRIL 2007

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### **SITE INSPECTIONS**

The following site inspections will take place on Monday, 7 May, 2007.

Lot 15, 2 Castle Rock Crescent, Balgowlah	8:00am
29 Edgecliffe Esplanade, Seaforth	8:30am
85-87 Lauderdale Avenue, Fairlight	9:00am

### **ENVIRONMENTAL SERVICES DIVISION**

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

**TO:** Land Use Management Committee - 7 May 2007  
**REPORT:** Environmental Services Division Report No. 23  
**SUBJECT:** 21 Eurobin Avenue, Manly - DA264/06  
**FILE NO:** DA264/06

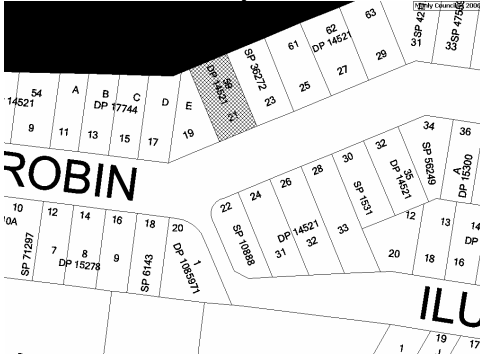
**Application Lodged:** Section 82A 11 January 2007  
**Applicant:** Anna Vaughan Architects  
**Owner:** A Shillington  
**Estimated Cost:** \$575,000  
**Zoning:** Residential  
**Surrounding Development:** Single and two storey residential buildings  
**Heritage:** Yes – Eurobin Ave streetscape is listed

**SUMMARY:**

- 1. THE ORIGINAL DEVELOPMENT APPLICATION FOR ALTERATIONS AND ADDITIONS TO THE EXISTING SINGLE STOREY DWELLING BINCLUDING A NEW FIRST FLOOR LEVEL WAS RECEIVED BY COUNCIL 26 JUNE 2006.
- 2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
- 3. THE APPLICATION WAS REFERRED TO THE OCEAN BEACH PRECINCT COMMUNITY FORUM AND NO COMMENT RECEIVED.
- 4. AMENDED PLANS WERE RECEIVED 24 AUGUST 2006 AND NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
- 5. THE APPLICATION WAS PRESENTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING 26 SEPTEMBER 2006 WHERE IT WAS REFUSED.
- 6. COUNCIL RECEIVED OF AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 11 JANUARY 2007.
- 7. THE REVIEW APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
- 8. THE REVIEW APPLICATION WAS REFERRED TO THE OCEAN BEACH PRECINCT COMMUNITY FORUM AND NO COMMENT RECEIVED.
- 9. THE REVIEW APPLICATION WAS PRESENTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 22 MARCH 2007 WITH A RECOMMENDATION FOR REFUSAL.
- 10. THE REVIEW APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
- 11. A SITE INSPECTION IS RECOMMENDED.
- 12. REFUSAL OF THE APPLICATION IS RECOMMENDED.

**LOCALITY PLAN**

Shaded area is subject site



**Environmental Services Division Report No. 23 (Cont'd)****REPORT****Introduction****Site Description**

The subject site being Lot 59 DP 14521 is known as 21 Eurobin Avenue, Manly and is located on northern side of Eurobin Avenue about 160m east of its intersection with Pittwater Road. The site has a frontage of 15.24m and is approximately 31m deep. It has an area of 461.6m<sup>2</sup> and a north/south orientation. The site is generally level with only a minor fall of approximately 500mm from the rear to the front boundary.

The site contains a single storey dwelling house with a single garage and carport in tandem along its eastern side boundary. The locality is predominantly residential in character. The northern side of the site fronts onto Lagoon Park.

**History**

The original development application for alterations and additions to the existing single storey dwelling including a new first floor level was received by Council 26 June 2006. The application was notified to nearby and adjoining property owners with one submission received.

Amended plans were received 24 August 2006 and notified to nearby and adjoining property owners with one submission received. The application was presented to Council's Development Assessment Unit Meeting 26 September 2006 where it was refused for the following reasons;

- "1. The proposal does not comply with the allowable Floor Space Ratio (FSR), the western elevation wall on boundary height, the western side boundary setback provision, and rear setback provisions to a Reserve of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, (Clauses 3.3.2(a), 3.4.1; 3.4.2; 3.5.2), and will result in adverse impacts on the amenity of adjoining properties and increase the appearance of bulk having regard to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979.
2. The proposal has a dominant appearance which detracts from the heritage value of the existing dwelling and the surrounding conservation area, particularly when viewed from Eurobin Avenue, and also from Manly Lagoon Reserve an Item of Environmental Heritage, as required under the Manly Local Environmental Plan 1988 (Clause 19 and Schedule 4), and does not complement or contribute positively to the streetscape as required under Manly Development Control Plan for the Residential Zone 2001, Amendment 1, (Clause 3.9) having regard to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment act 1979.
3. The proposed excavation exceeds the depth recommended in Class 3 of the Acid Sulphate Soils Map, and is considered unsuitable for the site due to its location within a Flood Zone, as required by Manly Local Environmental Plan 1988, (Clause 33) having regard to Section 79C(1)(a),(i)(b)(c) and (e) of the Environmental Planning and Assessment Act 1979.
4. The proposal is considered to degrade the amenity of the surrounding residents and will adversely impact on the adjoining properties in terms of overlooking, privacy, sunlight, visual impact and view loss and is inconsistent with Clause 10, objective (d) of Zone 2 - the Residential Zone, under the Manly Local Environmental Plan 1988, and inconsistent with the objectives of Section A5(c); and the objectives and performance criteria of Clauses 3.8.1, 3.8.2, 3.10.1, 3.7.1, and 3.7.2 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979.

**Environmental Services Division Report No. 23 (Cont'd)**

5. The proposal is not considered to respond to the site characteristics and surrounding built environment and the site is considered unsuitable for the development proposed in accordance with the objectives of Section A5(j) of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1)(a)(iii) and (c) of the Environmental Planning and Assessment Act 1979.
6. The proposal is not considered to respond to the site characteristics and surrounding built environment and the site is considered unsuitable for the development proposed in accordance with the objectives of Section A5(j) of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
7. The proposal does not comply with the Open Space Requirements of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, (Clauses 3.2.2(d) and (f)), having regard to Section 79C(1)(a)(iii) and (c) of the Environmental Planning and Assessment Act 1979.
8. The proposal is unacceptable in view of the submission received, pursuant to Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979.
9. The proposal is not considered to be in the public interest, primarily due to its amenity impact to neighbouring properties pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.
10. The drawings and accompanying material submitted are inadequate. The inadequacies in the submission include:- inadequate sub-shadow diagrams (reliance on tree shadows), lack of landscaping plan indicating proposed planting, lack of Acid-Sulphate Soil Report and failure to address the design of housing within a Flood Zone.

On 11/01/07, the applicant lodged an application pursuant to Section 82A of the EP&A Act 1979 seeking a Review of the Determination. The plans for this Section 82A Review were amended to attempt to address the reasons for refusal of the original application as follows:

1. Relocation of basement laundry to ground floor level;
2. Basement storage/service area enlarged to provide suitable maintenance space;
3. Obscure glass replacing translucent film on first floor study window along western elevation;
4. Reduction in height of proposed timber work on top of existing brickwork fence from 1.36m to 1.2m.

The following additional information were also provided:

- Shadow plan and elevations without the shadow from Norfolk Island pine;
- Acid Sulphate Report & Acid Sulphate Management Plan; and
- Landscape plan
- Response to reasons for refusal

The review application was on notification for the period between 19/01/07 and 23/02/07. There was one objection received. This report will assess this application for a review of the determination.

**Environmental Services Division Report No. 23 (Cont'd)**Proposal

The proposal is to carry out alterations and additions to the existing dwelling including a new first floor level resulting in a dwelling containing;

Ground floor level – living room, kitchen, dining room, three bedrooms and bathroom,  
First floor level – bedroom 1, ensuite, WC study and deck.

Two open car parking spaces are proposed on the eastern side of the dwelling

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal's compliance with the numerical standards of the D.C.P. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Floor space ratio	0.6:1	0.62:1	No
Floor space ratio - existing	0.44:1		
Wall height east side	6.5m	6.4m	Yes
west side	6.5m	6.4m	Yes
Roof height	3.0m	0.6m	Yes
Fence height	1.5m	1.2m	Yes
Setback Front	4.3m	6.0m or consistent with adjoining	Yes existing
Setback Rear	8.0m	3.1,m	No
east setback side	2.15m	2.98m	Yes
west setback side	2.15m	0 – 1.46m	No
Setback to Reserve	6.0m	3.1m	No
Wall on boundary height	3.0m	3.3m – 3.5m	No
Wall on boundary length	10.16m	5.67m	Yes
Open space - total	55%	43%	No - existing 43%
Open space - total	253sqm	201sqm	No
Open space - soft	35%	71%	Yes
Private Open Space	18sqm	75sqm	Yes
Car Parking – Residents	2	2	
Shadow -adjacent open space	Max 1/3 <sup>rd</sup> existing open space	<1/3 <sup>rd</sup>	Yes
- adjoining EW orientation	Min 4hrs to living room windows	>4hrs	Yes
- adjoining NS orientation	Min 10sqm	>10sqm	Yes
- exist north facing roofs			

**Applicants Supporting Statement**

The applicant submitted a detailed written statement in support of the application, a copy of which is available for viewing on Council's file.

**Precinct Community Forum:**

The review application was referred to the Ocean Beach Precinct Community Forum with no comments received at the time of writing this report.

**Environmental Services Division Report No. 23 (Cont'd)****Engineer's Comments:**

No objections, subject to standard conditions of consent.

**Building Comments:**

No objections, subject to standard conditions of consent.

**Landscape Comments:**

No objections, subject to standard conditions of consent

**Heritage Advisors Comments:**

The Section 82A application was not referred to the Heritage advisor as there was no substantial change to the design. The Heritage advisor's comments in relation to the original proposal are:

*"To ensure that the proposal is sympathetic to the original character of the bungalow and the adjoining listed items it is recommended that the proposal be redesigned to ensure full consideration is given to the significance of the item and its setting.*

*In particular it is recommended that:*

- *The concept where the proposal can be read as a separate entity is maintained but that the proposal is amended to ensure that it provides a tangible interpretation of the existing bungalow in terms of its form, proportions and design.*
- *Further consideration is required to ensure that the selected materials and finishes relate to the existing Inter-War bungalow;*
- *Distinguishing elements such as the chimney should be retained;*
- *The garage as a significant component of No 21 Eurobin Avenue should be retained;*
- *Delete the proposed timber extension on the original front masonry fence; and*
- *Provide a degree of transparency to the rear fence along the open space adjacent to Lagoon Park.*

*The meeting of the DA Sub-Committee of the Heritage Committee of 19 July 2006 commented:*

1. *The Committee believes the proposed elevation to Eurobin Avenue is unsympathetic to the existing property and, as such, will have strongly adverse effects on the adjacent heritage items.*
2. *Consideration should be given to the retention and reflection of dominant features of the existing property such as pitched gables, bay windows and exposed brickwork. The second storey addition should be set back from the front of the existing house behind the ridge line.*

**Planning Comments****Manly Local Environmental Plan 1988:**

The site is in zone No 2 – The Residential Zone which permits dwelling houses with the consent of Council.

The proposed alterations and additions are permissible however the proposal is not consistent with the numeric requirements or the aims and objectives of Council's Residential Development Control Plan.



**Environmental Services Division Report No. 23 (Cont'd)****Manly Local Environmental Plan 1988 Clause 10 Objectives**

The following comments are made in regard to the objectives for the Residential Zone as stated in Clause 10 of the Manly Local Environmental Plan 1988;

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

The site is to be used for residential purposes and is therefore consistent with this objective.

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

The application has been assessed having regard to the Manly Residential Development Control Plan and is considered unsatisfactory.

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

The proposed alterations and first floor addition will be inconsistent with the existing landscaped character, bulk and scale, and setbacks of development along Eurobin Avenue and Lagoon Park.

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

The proposal will have a detrimental impact on the amenity of the surrounding residents and on the existing quality of the environment.

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

The proposed development is not considered to be appropriate for the site.

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

Not applicable.

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

The proposed development would utilise existing infrastructure and services.

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

The proposal will result in adverse impacts on the amenity of surrounding private and public land and is not considered to be suitable development.

(i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

Not applicable.

**Manly DCP for the Residential Zone 2001:****Floor space ratio**

The proposal exhibits a minor 2% variance to the floor space ratio requirements of the DCP. The proposal is of similar overall scale to other residential development in the area and as such a minor variation in FSR is considered acceptable.

**Environmental Services Division Report No. 23 (Cont'd)**Rear setback

Notwithstanding the objection in relation to the rear setback, it is considered that the existing setback justifies the retention of this setback on the ground floor. However, it is considered that the first floor addition must comply with the 8m rear setback.

Side setback

The proposal seeks to vary the 2.13m required minimum west side setback under the DCP to 1.46m for the proposed first floor level. The 1.46m dimension represents a vertical extension of the existing ground floor external walls and in this instance, as this aspect of the proposal is not inconsistent with existing development in the area and amenity impacts are minimal, the variance is considered acceptable.

Wall on boundary height

The height of the wall along the western boundary varies from 3.3m to 3.5m whereas Council's DCP permits a maximum height of 3.0m. The excessive height will result in adverse impacts on the amenity of the adjoining residential property and is considered unsatisfactory.

Open Space

The proposal will result in a minor 5.0sqm reduction in existing open space. It is noted that due to rearrangements to landscape surface treatment the amount of soft open space is substantially increased. Under these circumstances this aspect of the proposal is considered acceptable.

Overshadowing

The shadow diagrams show that there is additional overshadowing on No 19 as a result of the proposal, but the proposal complies with Clause 3.7.2 of the DCP. Further, the applicant has stated that the existing Norfolk Island pine on the reserve already overshadows the garden of No 19.

Acid Sulphate Soils

Additional information on Acid Sulphate Soil address the concerns in relation to the proposed excavation. The report recommends several construction management measures to address this issue.

It is considered that the amendments made to the plans and the additional information provided are not significant enough to warrant a turnaround of Council's determination for a refusal of this application. There are design alternatives to enable the proposal to address the reasons for refusal and to satisfy the controls and objectives of the DCP. The applicant has not included the basement area as part of the floor area even though the DCP clearly includes such spaces as part of the floor area. It is accepted that being below ground level does not add to the bulk of the building, but the implications of the flood plain has not been addressed in relation to the proposed basement area.

**Comments on neighbour submissions**

There was one objection from James Lovell and Associates Pty Ltd on behalf of D Hamilton and S Quan owners of No.19 Eurobin Ave adjoining to the west. The concerns raised are as follows;

- Inadequate setback from western boundary
- Excessive wall height along western elevation
- Inadequate setback from rear (northern) boundary
- No material change in the proposal that was refused by the Council.

**Environmental Services Division Report No. 23 (Cont'd)**

The concerns raised in respect of that portion of the proposed addition within the rear setback and that portion of the wall on the western boundary which exceeds 3.0m in height above existing ground level are considered valid. These areas of non compliance with DCP requirements result in unreasonable negative impacts on the amenity of the adjoining property to the west and will also result in excessive built form and excessive visual bulk and scale when viewed from the public land adjoining to the rear. It is agreed that there is no significant change to the proposal that was previously refused by the Council.

It is considered that the amendments made to the plans and the additional information provided are not significant enough to warrant a turnaround of Council's determination for a refusal of this application. There are design alternatives to enable the proposal to address the reasons for refusal and to satisfy the controls and objectives of the DCP.

**Environmental Planning and Assessment Act 1979 – Section 79(C)**

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
  - (ii) *any draft environmental planning instrument*
  - (iii) *any development control plan*
  - (iv) *the regulations*

The proposal has been assessed having regard to the provisions of the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment 1 and is considered unsatisfactory in terms of impacts on amenity on adjoining public and private land.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The proposed alterations and first floor addition will have a detrimental impact on the natural and built environments.

- (c) *the suitability of the site for the development,*

The site is not considered suitable for scale of the proposed additions.

- (d) *any submissions made in accordance with this Act or the regulations,*

One submission received, and considered above

- (e) *the public interest.*

The proposal is considered to be contrary to the public interest.

**RECOMMENDATION**

THAT Development Application 264/06 for alterations and additions to dwelling house, including demolition of existing rear ground floor and garage, new ground floor extension, new first floor, new service basement and new driveway at 21 Eurobin Avenue, Manly be refused for the following reasons.

1. The proposal does not comply with the height of the western wall on boundary and rear setback provisions to a Reserve; of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, [Clauses 3.3.2(a), 3.4.1; 3.4.2; 3.5.2], and will result in adverse impacts on the amenity of adjoining properties and result in excessive visual bulk and scale having regard to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979.

**Environmental Services Division Report No. 23 (Cont'd)**

2. The proposal has a dominant appearance which detracts from the heritage value of the existing dwelling and the surrounding conservation area, particularly when viewed from Eurobin Avenue, and also from Manly Lagoon Reserve, an item of Environmental Heritage; as required under the Manly Local Environment Plan 1988, [Clause 19 and Schedule 4]; and does not complement or contribute positively to the streetscape as required under Manly Development Control Plan for the Residential Zone 2001, Amendment 1, [Cl 3.9] having regard to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979.
3. The proposed excavation exceeds the depth recommended in Class 3 of the Acid Sulphate Soils Map; and is considered unsuitable for the site due to its location within a Flood Zone, as required by Manly Local Environment Plan 1988, [Clause 33] having regard to Section 79C(1)(a)(i),(b),(c) and (e) of the Environmental Planning & Assessment Act 1979.
4. The proposal is considered to degrade the amenity of the surrounding residents and will adversely impact on the adjoining properties in terms of overlooking, privacy and visual impact and is inconsistent with Clause 10, objective (d) of Zone 2 - the Residential Zone, under the Manly Local Environment Plan 1988, and inconsistent with the objectives and performance criteria of Clauses 3.10.1; 3.7.1 and 3.7.2 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to section 79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979.
5. The proposal is not considered to respond to the site characteristics and surrounding built environment and the site is considered unsuitable for the development proposed in accordance the objectives of Section A5(j) of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to section 79C(1)(a)(iii) and (c) of the Environmental Planning and Assessment Act 1979.
6. The proposal is unacceptable in view of the submissions received, pursuant to Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979.
7. The proposal is not considered to be in the public interest, primarily due to its amenity impact to public land and neighbouring properties, pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979..

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 23 \*\*\*\*\*



## Environmental Services Division Report No. 24 (Cont'd)

## REPORT

Introduction**Site Description**

The site is located on the northern (high) side of Castle Rock Crescent, Clontarf. The subject site is Lot 15 of DP2610. The allotment is rectangular in configuration and has a north/south orientation. The site slopes from the rear to the front boundary and has a predominantly natural character with rock outcrops and large native trees and other native vegetation.

This site and the adjoining lot to the east (Lot 14A of DP 2610) is known as 2 Castle Rock Crescent and currently accommodates a brick dwelling with tiled roof with a double garage at the rear.

The subject site is a regular shaped allotment and has a site area of 471.5sqm.

**Proposal**

The proposal is to demolish the existing single storey dwelling on Lots 14A and 15 and erect a two storey dwelling and detached double garage on Lot 15. A similar proposal (DA508/05) to erect a two storey dwelling and detached double garage and swimming pool on the adjoining Lot14A (to the east) was recently approved (Deferred Commencement Consent) by Councils Development Assessment Unit.

The proposed dwelling on Lot 15 being the subject of this report contains;

Ground floor level - entry, living room, dining room, kitchen, laundry, family room and separate WC.  
First floor level – three bedrooms, bathroom and shower room.

Both proposed levels have terrace/deck areas facing south to take advantage of the harbour views. A detached double garage is proposed toward the front of the site.

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal's compliance with the numerical standards of the D.C.P. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Floor space ratio	0.4:1	0.44:1	No
Wall height - east side	6.8m	6.2m	Yes
- west side	6.5m	6.5m	Yes
Roof height	3.0m	1.1m	Yes
Setback Front	6.0m or consistent with adjoining	0.68m – 1.8m	No
Setback Rear	8.0m	5.5m	Yes
East setback side	2.0m	0.0m – 2.0m	No
West setback side	2.16m	0.9m – 3.64m	Yes (average)
Wall on boundary height	3.0m	5.8m	No
Wall on boundary length	14.7m	9.2m	Yes
Open space - total	70%	78%	Yes

**Environmental Services Division Report No. 24 (Cont'd)**

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Open space - total	330sqm	371sqm	Yes
Open space - soft	50%	90%	Yes
Number of Endemic Trees	2	3	Yes
Private Open Space	18sqm	65sqm	Yes
Car Parking – Residents	2	2	Yes
Shadow - adjacent open space	Max 1/3 <sup>rd</sup>	>1/3 <sup>rd</sup>	Yes
- adjoining NS orientation	Min 4hrs living room windows	No change	Yes
- exist north facing roofs	Min 10sqm	>10sqm	Yes
Excavation	3.0m	1.2m	Yes

**Applicant's Supporting Statement**

The applicant submitted a written statement in support of the review application a copy of which is available for viewing on Council's file.

**Submissions**

The review application was notified to nearby and adjoining property owners with four submissions received raising the following concerns;

- The combined application proposes removal of 5 large native trees. The revised 82A proposes retention of one tree by deletion of the swimming pool at the southern end of the site. This whole scale site clearance is vandalism made worse by the obvious alternatives to site planning. Development of this site is possible without this scale of tree removal.
- Proposed construction 5.0m from northern boundary and no setback on eastern boundary totally ignores DCP provisions for setbacks and separation between adjoining properties.
- Excessive FSR.
- Wall heights adjacent or on the boundary are exceeded to considerable detriment of adjoining neighbours.
- Proposal is insensitive to view sharing principles.
- Excavation for garage and potential damage to adjoining building. Applicants Geotechnical Engineer recommends dilapidation survey and states neighbours will find vibration levels as being strongly perceptible to disturbing – this is not satisfactory and is contrary to DCP practice notes. Alternate methods such as rock saw could be utilised.
- Request nature strip be restored with native vegetation and that driveway walls be in face block work consistent with that used in the development and screened with native shrubs.
- Request elevated deck area be screened.
- Dust and noise will be a problem – we request Council apply control conditions and monitor this aspect.

**Precinct Community Forum Comments**

The original application was referred to the Balgowlah Heights Precinct Community Forum with the following comments received;

"The Community Forum strongly opposed the application on the grounds that the proposal ignores the setback provisions of the DCP and significantly oversteps the FSR on both proposals (Lot 14A and 15) (Lot 15 by 107sqm) by unacceptable amounts, seven; large established native trees will

**Environmental Services Division Report No. 24 (Cont'd)**

require removal and three natives will suffer considerably by unacceptably close construction (2 within setback zones)."

The review application was referred to the Balgowlah Heights Precinct Community Forum on 7 November 2006 with no comments received at the time of writing this report.

**Engineers Comments**

No objection subject to standard conditions.

**Building Comments**

No objections subject to standard conditions.

**Landscape Architects Comments**

No objection subject to standard conditions.

**Manly Local Environmental Plan 1988:**

The site is in zone No 2 – The Residential Zone which permits dwelling houses with the consent of Council.

The proposed dwelling and detached double garage are permissible in the zone. However, as detailed later in this report, the proposal includes aspects which depart from the Residential DCP and result in negative amenity impacts, accordingly the application is recommended for refusal.

**Foreshore Scenic Protection Area**

The site is located within the Foreshore Scenic Protection Area. The proposal will result in an increase in the built form, being a proposal to replace an existing single storey dwelling with a two storey dwelling. The site is visible from the Harbour and the Foreshore Area. The proposal is not considered acceptable in that the bulk and scale of the building is out of character with that of other development in the area, particularly in terms of the zero east side setback (first floor level) and the extent of roof eave overhang.

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The proposal is considered unacceptable in terms of potential impacts on the natural environment and scenic amenity of the Harbour and foreshores in particular then impact arising from the extent of built form in the southern elevation.

**Manly Local Environmental Plan 1988 Clause 10 Objectives**

The following comments are made in regard to the objectives for the Residential Zone as stated in Clause 10 of the Manly Local Environmental Plan 1988;

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

The site is zoned residential and will retain its residential use.

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

The proposal has been assessed having regard to the relevant control plan and is considered unsatisfactory in particular in respect of the non compliance with first floor level east side setback.



**Environmental Services Division Report No. 24 (Cont'd)**

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

The proposal would add variety to the existing housing stock of the area however the negative impacts arising from non compliance with DCP east side setback will result in development which would be contrary to the existing and desired future amenity of the area.

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

The proposal will result in adverse impacts on the amenity of adjoining properties to the rear and each side, in terms of visual impact, loss of sunlight and view sharing. Accordingly the application cannot be recommended for approval.

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

The proposal includes removal of two trees whilst three other significant trees are to be retained. This aspect of the proposal is considered to be satisfactory.

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

Not applicable.

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

Future occupants of a dwelling on this site would utilise existing social and physical infrastructure.

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

The proposed redevelopment of this site is not considered suitable having regard to the proposed non compliance with DCP side setback requirements and adverse amenity impacts.

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

Not applicable.

**Manly DCP for the Residential Zone 2001:**

The proposal represents departures from the Residential Development Control Plan in regard to FSR, front setback, east side setback and wall on boundary height. These matters are discussed below.

**FSR**

The proposed floor space of 0.44:1 represents a minor departure from the 0.4:1 permitted under then DCP. In this regard it is noted that the site is undersized and that the proposed floor area is similar to that of other dwellings existing in the immediate area. There are concerns in terms of the visual bulk of the building as viewed from the harbour and foreshore area as well as from the rear. This is a result of the non compliance with the east side setback and excessive roof overhang to the void area over bedroom 1.

**Front setback**

The proposal includes a double garage within the front setback area. The location of the garage is considered acceptable in this instance having regard to the steeply sloping nature of this portion of the site and the need to minimise any excavation. The plans show a rooftop garden to the garage

**Environmental Services Division Report No. 24 (Cont'd)**

however there is no access to the roof area and use of the roof would necessitate provision of a safety balustrade to the perimeter which would add unduly to the height of the structure.

**Rear setback**

The proposal is to position dwelling 5.5m to 8.0m from the rear boundary which does not comply with the minimum 8.0m requirement of the DCP. The rear setback is considered acceptable in this instance having regard to the constraints of the site, in particular the need to retain substantial trees and the sloping topography toward the front of the site. The proposal is considered to meet the relevant DCP objectives in terms of rear setback and the 5.0m positioning is similar to that established by the dwelling on the adjoining site to the west.

**East side setback**

The proposal includes a wall on the boundary east side which is two storeys in height. This aspect of the proposal will result in negative impacts on the adjoining property to the east in terms of visual bulk and scale as well as overshadowing. Further, the intrusion onto the setback at first floor level will add to the apparent bulk and scale of the building as viewed from the adjoining properties to the rear and from the harbour and foreshore area. The zero setback at first floor level will also restrict a view corridor (available to adjoining properties to the rear) between the proposed dwelling and the proposed dwelling on the adjoining lot to the east. As well as the numerical non compliance the proposal is not considered to meet the following objectives of the DCP

- a) To preserve and enhance the streetscape.
- c) To provide equitable access to light and sunshine.
- e) To enable view sharing."

**Wall on boundary height**

The proposal includes erection of a wall on the eastern side boundary to a height of 5.8m. Councils DCP permits a maximum height of 3.0m. The proposed variation is not considered to comply with the aims and objectives a), c) and e) of the DCP in terms of setback as follows;

- a) To preserve and enhance the streetscape.
- c) To provide equitable access to light and sunshine.
- e) To enable view sharing."

It is considered that any new development in this location should maintain side setbacks for at least the first floor level in order to minimise overshadowing of the adjoining property to the east and minimise disruption to views available from properties adjoining to the rear as well as reduce visual bulk in the south elevation as viewed from the street and when viewed collectively with other development visible from the Harbour and foreshore area.

**Comments on neighbour submissions***Tree loss*

Concerns in respect of tree loss are noted however the revised plans allow for retention of three of the substantial trees existing on the site. This is considered acceptable having regard to the other constraints on practical development of the site. The natural character and amenity of the site would be retained.

*DCP non compliance*

Concerns as to DCP non compliances in respect of FSR, setbacks and wall on boundary height are commented on above and it is considered that the non compliance with east side setback at first floor level is not acceptable, resulting in significant impact on the amenity of adjoining

**Environmental Services Division Report No. 24 (Cont'd)**

properties. Similarly the broad eave overhang to each side of the void area over bedroom 1 results in excessive visual bulk and impacts on available views from adjoining properties to the rear.

*Excavation method*

Issues in respect of excavation and potential damage to adjoining property and dust/noise control can be dealt with by way of consent conditions.

*Privacy impacts*

The concern in respect of privacy impact on the adjoining property to the west could similarly be addressed with the provision of a screen to the west side of the deck, required as a consent condition.

*Restoration of nature strip*

The restoration of nature strip is not detailed in the application documentation and suitable conditions of consent could be included in any approval to ensure restoration occurs.

**EP&AA 1979 – section 79(c)***(a) the provisions of:*

- (i) any environmental planning instrument*
- (ii) any draft environmental planning instrument*
- (iii) any development control plan*
- (iv) the regulations*

The proposal has been assessed having regard to the relevant instruments and control plans and is considered unsatisfactory particularly in terms of the proposed variation to the residential DCP requirements concerning east side setback at first floor level..

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The proposal will result in adverse impacts on the natural and built environments and as such cannot be recommended for approval.

*(c) the suitability of the site for the development,*

The site is zoned Residential and as such is suitable for erection of a dwelling, however the proposal fails to meet fundamental DCP requirements in respect of east side setback and wall height east side.

*(d) any submissions made in accordance with this Act or the regulations,*

The concerns raised in the submissions have been considered as discussed above.

*(e) the public interest.*

The proposal which includes such a significant departure from Council's Residential DCP requirements and result in detrimental impacts on adjoining properties could not be considered to be in the public interest.

**CONCLUSION:**

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

The proposal fails to comply with the requirements and aims and objectives of the DCP in a number of respects and will result in adverse impacts on the amenity of adjoining properties, as such the application cannot be recommended for refusal.

**Environmental Services Division Report No. 24 (Cont'd)****RECOMMENDATION**

That Development Application for demolition of the dwelling on lots 14a and 15 and erection of a new two storey dwelling and detached garage and swimming pool at Lot 15, 2 Castle Rock, Seaforth be Refused for the following reasons:

1. The proposal fails to comply with the numeric requirements as well as the aims and objectives of Council's Residential Development Control Plan in respect of east side boundary setback and wall height on the east side boundary, resulting in adverse impacts on the amenity of adjoining properties, having regard to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
2. The proposal includes excessive roof overhang each side of the void area over proposed bedroom 1 leading to adverse impacts on the amenity of adjoining properties in terms of visual bulk and scale as well as view loss, having regard to Section 79C(1)(a)(iii), (b), (d) and (e) of the Environmental Planning and Assessment Act 1979.
3. The proposed roof garden to the garage is unsatisfactory as there is no means of access to this area for maintenance nor is there any detail regarding provision of safety balustrade or alternate safety provisions for persons using/maintaining the roof garden area, having regard to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.
4. The proposed dwelling, due to the significant departures from the requirements of Council's Residential Development Control Plan and resulting adverse impacts on the amenity of adjoining private and public land, is not considered to be in the public interest, having regard to Section 79C(1) (e) of the Environmental Planning and assessment Act 1979.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 24 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 May 2007  
**REPORT:** Environmental Services Division Report No. 25  
**SUBJECT:** 29 Edgecliffe Esplanade, Seaforth - DA74/07  
**FILE NO:** DA74/07

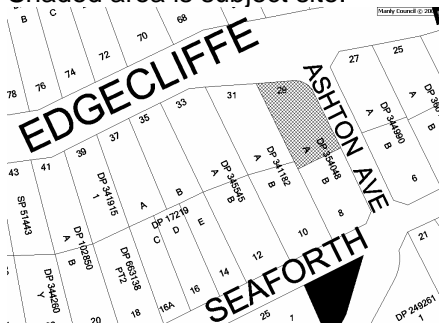
**Application Lodged:** 12 March 2007  
**Applicant:** Moody & Dyle P/L - Lance Doyle  
**Owner:** Gail and Frank Castellan  
**Estimated Cost:** \$6,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential,  
 Foreshore Scenic Protection Area  
**Surrounding Development:** mix of detached 2 - 3 storey dwellings  
**Heritage:** Nil

**SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT TO RECONSTRUCT THE LOWER GROUND LEVEL STUDY OF A TWO STOREY DWELLING CURRENTLY UNDERGOING ALTERATIONS AND UPPER LEVEL ADDITIONS (AS APPROVED UNDER DEVELOPMENT APPLICATION 28/06).
2. NOTIFICATION OF THE PROPOSAL RESULTED IN ONE SUBMISSION BEING RECEIVED.
3. ISSUES OF OBJECTION ARE SUMMARISED AS DEMOLITION AND RECONSTRUCTION WITHOUT CONSENT, IMPACT OF STUDY TO PRIVACY OF REAR GARDEN AND SWIMMING POOL, CLOSE PROXIMITY OF STUDY TO POOL, POTENTIAL OCCUPATION OF STUDY AS A FAMILY FLAT, NON-COMPLIANCE TO FSR CONTROL, AND OVERLOOKING FROM UPPER LEVELS (AS APPROVED UNDER DEVELOPMENT APPLICATION 28/06).
4. DEVELOPMENT APPLICATION 28/06 WAS APPROVED BY THE LAND AND ENVIRONMENT COURT ON 16 OCTOBER 2006, WITH THE DESIGN CONSIDERED TO SATISFY AMENITY ISSUES OF VIEW SHARING AND PRIVACY, AND SATISFACTORY IN TERMS OF ITS NON-COMPLIANT FLOOR SPACE RATIO.
5. A SECTION 96 MODIFICATION OF CONSENT TO DEVELOPMENT APPLICATION 28/06 REQUESTING SEVERAL MINOR DESIGN CHANGES WAS APPROVED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 8 FEBRUARY 2007. THE APPROVED MODIFICATIONS INCLUDED RETAINING THE WINDOW AND EXTERNAL DOOR TO THE BASEMENT STUDY.
6. THIS DEVELOPMENT APPLICATION IS PRESENTED TO THE LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. APPROVAL OF THE APPLICATION IS RECOMMENDED.

**LOCALITY PLAN**

Shaded area is subject site.



**Environmental Services Division Report No. 25 (Cont'd)****REPORT****Introduction / Background**

The existing two storey dwelling on the site is currently undergoing alterations and additions as approved under DA 28/06 by the Land and Environment Court, with subsequent design modifications approved under a S.96 modification of consent by Council's Development Assessment Unit.

As part of the Court approved plans, the existing lower ground level study was identified for retention. As it existed, the study featured an external doorway on its north side elevation. As part of the approved Section 96 plans, the external door to the study was relocated from its north side elevation to its west side elevation, facing the western side dividing boundary to No.31 Edgecliffe Esplanade. In assessing this modification the Section 96 report states no overlooking to result from this doorway being relocated to face the western side boundary.

During construction the study was partially demolished due to structural failures of the existing timber framed walls, as advised by the applicants Structural Engineer.

With demolition of the study partially carried out, the PCA issued a Notice of Intention to Serve an Order pursuant to S.121H of the Environmental Planning and Assessment Act, which resulted in the applicant ceasing works to the study. Following this, the DA that is the subject of this report was submitted to Council seeking consent to reconstruct the study.

This report provides an assessment of the proposal to reconstruct the existing study located on the lower ground level of the existing dwelling at its south-western corner. In reaching its conclusion, amenity impacts to the western neighbouring property, issues raised in their submission and Council's planning controls have been taken into account.

**Development Control Plan Numerical Assessment**

In terms of compliance with Council's Residential DCP, the proposed alterations to reconstruct the lower ground level study result in no change to the area of open space, soft landscaping, FSR, height or setback compared with the original plans as approved (and as modified) under DA 28/06. Furthermore, no change in amenity impacts in terms of overlooking, overshadowing or views will result in comparison with the approved plans under DA28/06. Consequently the proposal is considered satisfactory pursuant to the relevant objectives and provisions of the DCP.

**Applicant's Supporting Statement**

The applicant's request to reconstruct the existing study on the lower ground floor is detailed in their Statement of Environmental Effects which is considered to provide good justification to the proposal.

**Submissions**

The application was notified to nearby and adjoining property owners with one submission received from B and D Brown of 31 Edgecliffe Esplanade raising the following concerns;

- Demolition and reconstruction of existing study without consent -
- Impact of study to privacy of outdoor entertaining area -
- Close proximity of study to pool -
- Use of study as a family flat -
- Overlooking resulting from approved plans under DA 28/06 -
- Non-compliance to FSR control resulting from approval under DA 28/06 -

**Environmental Services Division Report No. 25 (Cont'd)****Precinct Community Forum Comments**

No comments received at the time of writing this report.

**Engineers Comments**

No objection subject to standard conditions of consent.

**Building Comments**

No objection subject to standard conditions of consent.

**Landscape Architects Comments**

No objection subject to standard conditions of consent.

**Planning Comments**

The proposed reconstruction of the lower ground level study effectively results in the same development as originally approved and as modified by a subsequent approval for modification of consent. In terms of any changes in impacts compared with the approved plans, the reconstructed study does not result in any increase in amenity impacts in terms of privacy, overshadowing or visual impact. Consequently the proposal is considered acceptable on merit pursuant to the provisions of S.79C of the EP&A Act.

**Manly Local Environmental Plan 1988:**

The proposed alterations are ancillary to the existing residential dwelling and are permissible with consent in the Residential Zone.

In response to the zone objectives no change in amenity impacts will result compared with the previously existing lower ground level study, with this proposal to be reconstructed to its existing original dimensions.

The site is also located within the Foreshore Scenic Protection Area. The reconstructed study at the lower ground floor will be out of view from any foreshore areas and waterways, and will not result in any increase in bulk and scale compared with the existing study or the dwelling as a whole.

**Manly Local Environmental Plan 1988 Clause 10 Objectives**

The following comments are made in regard to the objectives for the Residential Zone as stated in Clause 10 of the Manly Local Environmental Plan 1988;

(a) *to set aside land to be used for purposes of housing and associated facilities;*  
The proposal maintains the residential use of the site.

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

The proposal has been assessed against the relevant controls of Council's Residential Development Control Plan whereby the proposal is considered an acceptable form of development.

**Environmental Services Division Report No. 25 (Cont'd)**

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

The proposal maintains the residential character of the locality, and remains compatible in bulk scale and form in context of other detached dwellings in its surrounds.

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

The proposal to reconstruct the study on the lower ground level results in negligible amenity impacts to neighbouring properties, with no change in privacy, overshadowing, views, bulk and scale compared with the existing study and the dwelling as a whole.

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

The proposal in reconstructing the existing study will not result in any loss of open space or soft landscaping, with no trees, shrubs or lawn required to be removed.

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

Not applicable.

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

The proposal to reconstruct the existing study will not result in any increase in demand on local infrastructure.

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

The proposal to reconstruct the existing study effectively seeks to revitalise this existing space on the lower ground level, with this being considered suitable given it will not result in any adverse amenity impacts to the site or neighbouring properties.

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

N/A

**Manly DCP for the Residential Zone 2001:**

The relevant objectives and performance criteria of the DCP are addressed as follows.

***Privacy and security***

- a) *To screen between closely spaced buildings*

Dense screening in the form of a row of pine trees along the western side dividing boundary provides ample privacy screening to the western neighbouring property. The proposal to reconstruct the existing study will not result in any increase in opportunities for overlooking, with these trees effectively preventing any looking into the rear garden and pool of the western neighbouring property.

- b) *To mitigate direct viewing into windows from others*

The position of the study on the lower ground floor is such that no direct looking will result into windows of neighbouring properties. Its north and south side windows will provide an outlook limited to within the subject site. The western side external doorway (as previously approved under the S.96 modifications to DA 28/06) will result in looking to the side boundary, comprising the



**Environmental Services Division Report No. 25 (Cont'd)**

dividing fence and the row of pines screen. These provide dense screening which protects the privacy of the western neighbouring property, in particular their rear garden and swimming pool.

*c) To provide screening to outdoor living areas*

See comments under point a), above.

**Comments on neighbour submission***Demolition and reconstruction of existing study without consent -*

It is acknowledged that the study was shown as 'existing' on the approved plans rather than being specified for demolition and reconstruction. Consequently this requires development consent, which the subject DA applies for.

*Impact of study to privacy of outdoor entertaining area -*

Whilst being in close proximity to the dividing boundary with No.31, the study is not considered to result in any adverse amenity impacts to No.31 in terms of overlooking, overshadowing or noise.

The lack of amenity impacts is suggested on the basis of its small size at 12.3m<sup>2</sup> (comparable with a small bedroom), its location on the lower ground level, with outlook being contained to the owner's garden and side fence, and that its intended use as a 'study' (or possible use as a bedroom with ensuite) is a relatively passive and quiet use that will not generate excessive or frequent noise disturbance.

From inspection, any looking into the rear garden and pool area of No.31 is substantially screened by a row of pine trees planted along the boundary. Furthermore there are no windows at No.31 in direct view from the study room. Consequently no loss of privacy is considered to result.

*Close proximity of study to pool -*

The objector's concern that use of their pool could be audible to the study is not considered to impact on their amenity. Given the study is a small room of brick construction at the lower ground level and replaces the existing study, its use is not considered intrusive on the aural privacy of No.31 when using their pool. Being of brick construction, noise from use of the pool is likely to be inaudible. In any event, the expectation that use of a pool should not be audible to a neighbouring property is not considered a reasonable expectation in any established residential suburban environment, and could not be sustained as reasonable grounds for objection.

*Use of study as a family flat -*

The size of the study at 12.3m<sup>2</sup> is comparable with a small bedroom. Being attached to an existing shower and toilet with an external entry there is some potential for the study to be occupied as a flat, however given the small size of the room, it is considered of inadequate size to allow internal fit out including a kitchenette and wardrobe to make it functional as a separate flat. Furthermore it will receive little direct sunlight being positioned at the lower ground level resulting in poor occupant amenity. None the less a standard condition of consent is recommended prohibiting its use as a separate residential occupancy.

*Overlooking resulting from approved plans under DA 28/06 -*

The design of the alterations and additions as approved and modified has been previously assessed as being acceptable in terms of privacy impacts. As part of the modifications approved, the relocated doorway to the west side of the study was also assessed as acceptable in terms of privacy impacts. Other approved alterations and additions have been previously assessed as acceptable in terms of privacy impacts and are not relevant to the assessment of the subject Development Application to reconstruct the study on the lower ground floor.

**Environmental Services Division Report No. 25 (Cont'd)**

*Non-compliance to FSR control resulting from approval under DA 28/06 -*

The design of the alterations and additions as approved and modified has been previously assessed as being acceptable in terms of the bulk and scale of the dwelling. Furthermore, reconstruction of the study on the lower ground level as proposed under this DA will not result in any increase in building size or bulk.

It is also noted that when assessed against the new definition for Floor Space Ratio under the Residential Development Control Plan 2007, which maintains the previous limit of 0.4:1 for the locality, the FSR is reduced to approximately 0.38:1 (60m<sup>2</sup>). This is as result of the area for the garage, plant room and area occupied by external wall thickness being excluded under the new definition. Consequently the proposed study when considered in context of the whole dwelling complies with the FSR limit and by way of retaining its existing size and location at the lower ground level, does not result in any increase in bulk or scale or any amenity impacts associated with this.

**EP&AA 1979 – Section 79(C)**

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
  - (ii) *any draft environmental planning instrument*
  - (iii) *any development control plan*
  - (iv) *the regulations*

The Manly Local Environmental Plan 2001 and Manly Residential Development Control Plan are the two relevant documents to this proposal and have been both addressed in this report.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

As discussed the proposed reconstruction of the study on the lower ground floor does not result in any adverse amenity impacts in terms of privacy, views, overshadowing, bulk or scale.

- (c) *the suitability of the site for the development,*

The land is zoned Residential and there are no constraints are identified to reconstructing the existing study at the south western corner of the lower ground floor level.

- (d) *any submissions made in accordance with this Act or the regulations,*

These have been addressed in this report, with the proposal considered acceptable in its current form.

- (e) *the public interest.*

The public interest is best served by permitting development that is consistent with the relevant planning controls and objectives. In these circumstances the proposal is considered an acceptable form of development that satisfies Council's LEP and DCP controls and objectives.

**CONCLUSION:**

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001 (Amendment 1). Consideration has also been given to the effect of Control Plan for the Residential Zone 2007.

The proposed reconstruction of the study at the south western corner of the lower ground level results in no changes to the size and location of the study, consequently it results in no change in impacts which are assessed as negligible. The proposal complies with the relevant provisions and objectives of the Residential Development Control Plan. Consequently it is recommended for approval.

**Environmental Services Division Report No. 25 (Cont'd)****RECOMMENDATION**

THAT Development Application No. 74/07 for reconstruction of the study at the south-western corner of the lower ground at 29 Edgecliffe Esplanade, Seaforth be approved with the following conditions.

**DA1**

This approval relates to drawings/plans Nos sheets 1-3 dated February 2007 and received by Council 12 March 2007.

**ANS01**

A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Council/Accredited Certifier in respect of the load carrying capabilities of the existing structure to support the proposed masonry walls prior to the issue of the Construction Certificate.

**ANS02**

The premises are to be used or occupied solely as a single dwelling house and not used for separate occupancies without the prior approval of Council.

**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 \$300. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

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

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

**DA018**

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

**DA019**

Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council /Accredited Certifier prior to issue of the Construction Certificate.

**DA021**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

**DA023**

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

**Environmental Services Division Report No. 25 (Cont'd)**

## 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.

## DA048

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

## DA058

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

## DA357

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

## DA109

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

## DA111

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

## 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.

## DA255

Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.

## DA261

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

## DA269

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

## DA271

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

## DA332

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

**Environmental Services Division Report No. 25 (Cont'd)**

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.

DA297

The building not being used at any future time other than for the purpose of a single dwelling-house without the prior consent of the Council.

**Environmental Services Division Report No. 25 (Cont'd)**

DA323

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

**ATTACHMENTS**

There are no attachments for this report.

LUM070507ESD\_3.doc

\*\*\*\*\* End of Environmental Services Division Report No. 25 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 May 2007  
**REPORT:** Environmental Services Division Report No. 26  
**SUBJECT:** 85-87 Lauderdale Avenue, Fairlight - DA570/06  
**FILE NO:** DA570/06

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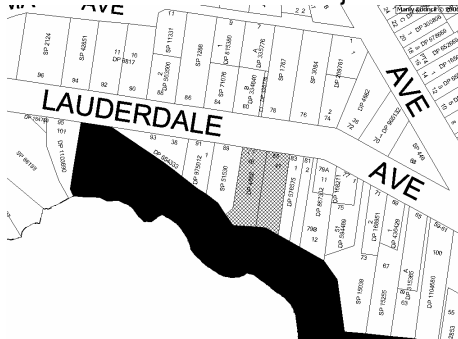
**Application Lodged:** 22 Dec 2006  
**Applicant:** Susan Rothwell  
**Owner:** RJC Developments; Clodene Pty Ltd; Delbant Pty Ltd;  
 Susan Rothwell Investments Pty Ltd  
**Estimated Cost:** \$450,000 [additional work only]  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
 Manly Residential Development Control Plan 2001,  
 Amendment 1 Sub Zone: 3  
 Within the Foreshore protection Area: Yes and directly  
 adjoining the Manly Scenic Walkway  
**Surrounding Development:** Residential Flat Buildings  
**Heritage:** Landscape Heritage: Esplanade Park/ Manly Scenic Walkway

### **SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR A FIFTH APARTMENT (APARTMENT E) AT BASEMENT LEVEL, EXCAVATION; CHANGES TO CAR PARK; ENCLOSURE OF LIFT LOBBY AND ENTRY TO APARTMENT E; CHANGES TO WINDOW LOCATIONS ON UPPER FLOORS; CHANGES TO LAUDERDALE AVENUE PEDESTRIAN ENTRY AND STAIRS; SOUTHERN BOUNDARY RETAINING WALLS, FENCING, LEVELLING AND FILL OF THE GARDEN AREAS; ADDITION OF TIMBER PERGOLAS TO FIRST FLOOR SOUTHERN TERRACES.
2. THE PROPOSAL WAS NOTIFIED TO ALL NEIGHBOURING PROPERTIES AND THREE (3) LETTERS OF OBJECTION TO THE DEVELOPMENT WERE RECEIVED.
3. THE APPLICATION WAS ALSO REFERRED TO FAIRLIGHT PRECINCT COMMUNITY FORUM AND COMMENTS WERE RECEIVED.
4. THE APPLICATION IS PRESENTED TO THE LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR NOREK.
5. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

### **LOCALITY MAP**

The shaded area is the subject site.



**Environmental Services Division Report No. 26 (Cont'd)****REPORT****INTRODUCTION:****Site Analysis:**

The site is located on the low, southern side of Lauderdale Avenue, Fairlight. The site has a north-south orientation. The site comprises two blocks of land, legally described as Lots 40 (N<sup>o</sup> 87) and 41(N<sup>o</sup> 85), DP 4682.

The site slopes from Lauderdale Avenue to the Esplanade Park at the rear, falling approximately 10m. There is also a cross fall from the eastern side to the western side of approximately 3m.

The property is a rectangular shape with irregular boundaries on the southern side adjoining the Esplanade Park. It is 30.49m wide with side boundaries being 51.305m on the eastern boundary and 39.415m on the western boundary. Total site area is 1511.2m<sup>2</sup> [source: DP 4682]

The site originally contained two detached dwellings which have now been demolished and works in respect of Development Consent 403/05 have commenced.

**Development History:**

- DA 386/04 for demolition of two existing dwellings and erection of a residential flat building containing four units with basement car parking was submitted on 10 August 2004
- Objections were received regarding view loss and driveway access.
- The application was approved by council 21 June 2005 with conditions requiring the deletion of a pyramid-formed roof on the No 87 portion; lowering that portion of the building by 300mm; and road reserve and driveway conditions among others.
- A Section 96 application [DA386/04] for various amendments including an additional apartment (apartment e) was received 3 August 2005.
- This application was withdrawn on 05 Sep 2005 and a new DA [DA403/05] submitted using the same documentation on the same day.
- DA403/05 was refused at DAU 28 Feb 2006 due to non-compliance of FSR, reduction in landscaping; three-storeys when viewed from scenic walkway and from the water; excessive excavation; without regard for SEPP 65; not in public interest and incomplete application (more drawings required also for NSW Maritime assessment).
- Further information was submitted including SEPP 65 assessment and additional drawings for NSW Maritime.
- 30 March 2006 the applicant brought proceedings in the Land and Environment Court for deemed refusal of the application.
- 03 April 2006 on-site inspection by LUM committee.
- 11 April 2006 the application was refused at LUM (03 Apr 05)
- 19 June 2006 NSW Land and Environment Court appeal was dismissed.
- A Section 96 application for various amendments (excluding the additional apartment) was received on 19 September 2006
- This application was rejected on 25 September 2006, due to the substantial differences between the application and the original approval.
- The current application, DA 570/06 was submitted 22 December 2006.

**Proposed development:**

Development approval is sought for amendments to DA386/04 as follows:

- Fifth apartment (Apartment E) added to basement area, with additional excavation required;
- Amendments to car park design including roller shutters, ventilation and fan room;



**Environmental Services Division Report No. 26 (Cont'd)**

- Enclosure of Lift Lobby and Entry to Apartment E;
- Changes to window locations on upper floors;
- Changes to Lauderdale Avenue pedestrian Entry and stairs and relocation of garbage area;
- Addition of southern boundary retaining walls, fencing, levelling and fill of the garden areas;
- Addition of timber pergolas to First Floor southern terraces.

**Mainly DCP for the Residential Zone 2001 Numerical Assessment:**

The following numerical is an assessment of the proposal's compliance with the numerical standards of the DCP. Where a variation is proposed to the standards, an assessment is included in the Planning Comments. The assessment deals with the plans received by Council on 22 December, 2006.

Site area: 1511.2m <sup>2</sup> Sub-zone 3 GFA: m <sup>2</sup>	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density	1 dwelling/ 300 m <sup>2</sup>	5 dwelling/ 1511.2 m <sup>2</sup>	Yes
Floor space ratio	0.5:1 max 755.6 m <sup>2</sup>	0.64:1 971.89 m <sup>2</sup> +216.29 m <sup>2</sup> Note 0.66:1 [993.22m <sup>2</sup> incl. stone wall area]	No
Approved Floor space ratio [DA386/04]	0.49:1 max 734.5 m <sup>2</sup>		
Wall height - East	7.05m	7.5m	No
Wall height - West	7.85m	8.2m (0.8m parapet)	No
Roof height	3.0m roof allowance	1.2 & 1.7m	Yes
Roof height - parapet	1.0m parapet allowance	0.6 & 0.8m	Yes
Fence height	1.5m height	Not specified	Drawings not supplied
	30% transparent	Not specified	
Setback side - East	2.35	2.07m & 2.99m Note: excavated garage 0.9m from boundary	No
Setback side - West	2.73	3.65 m	Yes
Front setback	6.0m	9.0 m Excavated garage 8.1m	Yes
Rear setback	8.0m	9.0 m	Yes
Setback to Reserve	6.0m min	9.0 m	Yes
Open space - Total	55% 831.16 m <sup>2</sup>	>55%	Yes
Open space - Soft	35% 290.91 m <sup>2</sup>	>35%	Yes
Open Space - Above Ground	<25% 207.79 m <sup>2</sup>	<25%	Yes
Endemic Trees	4	4	Yes
Car Parking - Residents	8	8	Yes
Car Parking - Visitors	2	2	Yes
Shadow - adjoining east-west orientation	> 4 hrs sunlight retained	> 4 hrs retained to front and rear living areas	Yes
Excavation	3m depth max	4.5 m	No

**Environmental Services Division Report No. 26 (Cont'd)****Applicant's Supporting Statement**

In support of the application the applicant has submitted a Statement of Environmental Effects and a SEPP65 Report. These are on file.

**NOTIFICATIONS:****The Application**

The application was notified from 09 Jan 07 to 02 Feb 07 and three (3) submissions were received from David Pick of 6/76 Lauderdale Ave; Jeni Foran of 7/76 Lauderdale Ave; and Mark Carpenter of 83 Lauderdale Avenue.

The following issues were raised:

- view loss;
- Exceeds the height regulations of the DCP;
- Concerned existing views of the harbour area will be adversely affected by the proposed development;
- The new section drawings indicate that the view from the front of my living room will be affected by the proposed pitched slate roof areas and the flat terrace floor area of Apartment B at No 85 Lauderdale Ave. It will encroach on the existing sight line of my view.
- ..it is my understand that the developer wants to plant 24m high trees along the border of the development which borders our property. This will severely inhibit the aspect from our house and will obviously be detrimental to us.

**Precinct Community Forum Comments:**

The application was referred to the Fairlight Precinct Community Forum for comment from 09 Jan 07 until 02 Feb 07. The following comments were received:

- This seems a much improved design from original proposal although FSR is still 0.64 compared to DCP 05:1. It is not visible from the Scenic Walkway.

Motion passed unanimously:

- Visually and in terms of amenity it is not objectionable but in view of excess FSR Precinct recommends rejection.
- Should the proposal proceed, it is recommended that the proposal to use sandstone to build a boundary fence to the Walkway be a condition of approval.

**Engineer's Comments:**

No objections subject to the inclusion of recommended conditions.

**Building Comments:**

No objections to the proposed Class 2 and 7b Residential Flat building subject to the inclusion of recommended conditions.

**Traffic Comments:**

The current plans show that my previous recommendations have been implemented/included in the design. No additional recommendations.

**Environmental Services Division Report No. 26 (Cont'd)**

The previous comments included

“That the applicant be requested to provide a 1.5m wide footpath along the entire property boundary of Nos 85,87 and 89 Lauderdale Ave. Further that this path be constructed at the ‘back of kerb’ due to level difficulties associated with the existing footway on this section of Lauderdale Avenue.

“The column adjacent to parking space No 1 must be moved 300mm west of its proposed location to allow an improved manoeuvring area for access to the space.”

**Landscape Comments:**

The proposed *Acacia Longifolia* to be installed along the western boundary should be maintained to a minimum height of 3.5-4.0 metres. Standard conditions to apply.

**NSW Maritime Comments:**

Based on the information provided the writer advises that for the purposes of Clause 70(1) of the *Environmental Planning And Assessment Regulation 2000*, that a Part 3A Permit would not be required for the proposed development provided the following general terms are met:

1. The works are to be carried out so that:
  - (a) No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of North Harbour; and
  - (b) No materials are likely to be carried by natural forces to the bed, shore or waters of North Harbour.
2. Any material that does enter North Harbour must be removed immediately.
3. Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction.

Methods shall be in accordance with the relevant specifications and standards contained in the manual *Managing Urban Stormwater – Soils & Construction* issued by the NSW Department of Housing/Landcom in 2004 and any other relevant Council requirements.
4. The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works. This does not include the works associated with the construction of the appropriate controls.
5. The erosion, sediment and pollution control system is to be effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
6. Any material that is to be stockpiled on site is to be stabilised to prevent erosion or dispersal of the material.
7. Landscaping is to include the use of locally indigenous species, which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land.
8. Access for delivery and removal of materials to and from the site is not to make use of the waterway and the adjoining foreshore.
9. No works are to be undertaken on land owned by NSW Maritime (i.e. below MHWMM) without the relevant approvals being granted by NSW Maritime.

**Environmental Services Division Report No. 26 (Cont'd)****PLANNING COMMENTS**

No pre-DA meeting was held prior to submission of this application.

Development History

- Refer to first page of this report.

SEPP65 Comments

The SEPP65 Report is attached to this report. Issues raised include:

Poor quality of amenity for additional apartment due to

- no northern light;
- limited daylight;
- little cross ventilation;
- heavy reliance on artificial lighting, heating (throughout the year) and mechanical ventilation for bathrooms etc;
- more than double the recommended maximum of southerly aspect apartments in a block of 10% [RFDC]

Non-compliance for units generally:

- Lack of compliance with requirements for storage for all units within the unit or the basement area for larger items including bicycles. No storage has been supplied.
- Difficulties for potential residents with limited mobility due to pedestrian entry via stairs only from Lauderdale Avenue.
- All units have stairs within units – only one has one bedroom on same level as living area
- No unit can easily be altered to accommodate wheelchair access within bathrooms etc
- Garbage location on Lauderdale Avenue is difficult for limited mobility residents due to number of steps and distance from vehicular access.

Increased bulk of the proposal by:

- 32% increase in FSR, beyond the allowable;
- insertion of additional basement apartment;
- addition of pergolas to upper level decks and loss of stepping effect
- increased perception of height through lowering of ground plane

Impact on Landscape Heritage listed Esplanade Park, Scenic Walkway & foreshore Scenic Protection Area:

- Heights of proposed retaining walls and planting on boundary
- Changes in natural ground lines to accommodate additional apartment and to provide privacy from the walkway;
- Potential for future residents to illegal prune or poison trees within the park in order to improve their views;
- Appearance of 3 storeys from the waterways

Manly LEP 1988:

The site is located in Zone No.2 - The Residential Zone which permits dwelling houses with the consent of Council.

A residential flat building is permissible with consent in the zone. However, the proposal is considered unsatisfactory in response to the relevant objectives of the zone, with adverse amenity

**Environmental Services Division Report No. 26 (Cont'd)**

impacts to neighbouring properties identified in terms of potential view loss and excessive visual bulk.

Foreshore Scenic Protection Area

The site is also located within the Foreshore Scenic Protection Area. The proposal would dramatically increase the bulk or scale of the existing dwelling, and being located directly adjoining the Esplanade Park and near to North Harbour it will be readily visible from the waterways of North Harbour and the parklands of North Harbour Reserve and Wellings Reserve.

Consequently the proposal is not considered an acceptable form of development.

Manly Local Environment Plan 1988 - Clause 10 Objectives

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

The site is zoned residential and will retain its residential use.

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

Council's Development Control Plan for the Residential Zone 2007 has been considered in the assessment of the proposal.

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

The proposed residential flat building is not considered compatible with the character of housing in the locality, particularly in view of the site's proximity to the waterfront.

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

The design of the residential flat building is not considered to maintain acceptable levels of neighbour's amenity in terms of views and visual impact.

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

The proposal has been reviewed by Council's Landscape Officer.

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

The proposal will maintain the residential use of the site.

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

The proposal will result in an increase in demand on services and facilities due to the increased number of dwellings, from four to five and increased vehicle movement.

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

The proposal is not considered to complement the site, and does not respond to its form, slope and surrounds, requiring excessive amounts of excavation and fill.

*(i) to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

Not applicable

**Environmental Services Division Report No. 26 (Cont'd)**Manly DCP for the Residential Zone 2001 (Amendment 1) & Manly DCP for the Residential Zone 2007:

Note: The application was received on 22 December 2006 and thus has been assessed using the DCP for 2001 (Amendment 1), with references made to the now current DCP [2007], where appropriate.

Floor Space Ratio:

The allowable FSR: 0.5:1. [755.6 m<sup>2</sup>]  
The proposed FSR: 0.64:1 [971.89 m<sup>2</sup>] + 216.29m<sup>2</sup>  
Perceived FSR [see notes]: 0.66:1 [993.22 m<sup>2</sup>] + 237.62m<sup>2</sup>

The current proposal includes setting back proposed Apartment E's external walls facing south by approximately 900mm from the originally proposed external wall.

The originally proposed external wall would have the glazed doors of the *actual* external wall behind it, but would read as the exterior of Apartment E. The area between the two walls has been calculated as 21.33m<sup>2</sup>. When this is added to the FSR as calculated, the apparent FSR would be 0.66:1 or 237.62m<sup>2</sup> greater than the allowable FSR.

Car parking has not been included in the FSR. Voids have been excluded. The Basement Lift Lobby and Entry to Apartment E has been included in FSR, an area of approximately 16.84m<sup>2</sup>.

The additional FSR is considered excessive and detrimental in terms of bulk when viewed from the waterways. The proposed fill and fencing to the southern gardens is an attempt to reduce the bulk of the building however this creates a significant impact on the Scenic Walkway, with very high walling immediately adjacent.

The increased FSR cannot be supported.

Open Space:

The Landscaping Plan [srSF-105 issue E dated January 2007] is incorrect when read in conjunction with the current DA. It shows an existing Gum Tree to remain in the south-western garden. On the parking Floor Plan [srSF-101 issue K dated December 2006], this area is shown as filled to a new level of RL14.00 (existing varies from RL12.00 to RL14.00 with the greater part being under RL13.00) with stormwater etc within the area. It also shows *Cyathea Cooperii* planted on the ground beneath the balconies of the upper floors, whereas the Parking Floor Plan shows retaining walls and planters. The area adjacent to Apartment E appears to be paved and levelled on the Section drawings of the current submission.

Building Height:

Wall heights do not conform. The original approval included a condition to lower the building height on the N<sup>o</sup> 87 portion by 300mm to protect the amenity and views of adjoining and nearby residents. The proposal has lowered the heights of the northern portion of the subject part by 300mm, but has lowered the parapet of the southern portion only. Therefore the finished floor levels remain the same. The rooftop deck and the associated balustrade/fence and planting all remain at the original height which is not in accordance with Council's previous resolution relation to height and view sharing.

**Environmental Services Division Report No. 26 (Cont'd)**Side Setbacks:

Side setbacks do not conform on the eastern side and the garage excavation extends to within **700mm** of the boundary. This is contrary to the DCP provisions. The approved DA was to **900mm** from the boundary.

Additionally a new structure has appeared on the plans [srSF-102 issue I] and on the South Elevation [srSF-109 issue I] (but not clearly shown), but is not shown on the East Elevation [srSF-106 issue I] where it should be visible. It is labelled on the plans as "Car Park Supply Air Stack". This has potential impacts on the amenity of the residents of N<sup>o</sup> 83 and cannot be supported in its current form.

Excavation:

The additional apartment requires excavation up to 3m deep. The lower, western portion of the apartment is only feasible through excavation.

It appears that considerably more excavation is required in some parts of the site than is indicated by the drawings. For example, the paved area in front of the existing No 85 is shown as around RL21.30 to RL21.50, but Section 3 shows the natural ground line as being in the vicinity of RL20.50. Beneath this area is the basement car park, with a finished floor RL17.5 down to RL17.15 (approx). When including the slab thickness, the excavation is greater than 4m.

The following comments in regard to the DCP objectives and performance criteria (Clauses 3.6.1 and 3.6.2 – Excavation/cut and fill);

*(a) To limit excavation, cut and fill activities, particularly on sites that have a slope of 1:5 or greater.*

The subject site has a slope of 1:4.13

*(b) To ensure that development respects topography and the natural fall or slope of land.*

The proposal excavates and fills areas in order to insert the additional apartment and dramatically alters the slope of the land.

*(f) To limit the height of retaining walls*

Although the proposal includes landscaping, the fill is generally in excess of the 2m allowed.

## Clause 3.6.2 Performance Criteria

*(a) Natural ground level must be maintained within 900mm of a side and rear boundary.*

The retaining wall to Esplanade Park (rear boundary) is between 1.0 and 1.6m high at the lowest point of the new portion of the retaining wall. Thus natural ground level is not maintained.

Additionally, the car park wall is shown as 700mm from the boundary, which is not acceptable. The original Development Approval showed 900mm from the boundary.

Retaining walls are also proposed on the western boundary.

*(d) Retaining walls outside the building footprint shall not exceed 2m height – for this purpose retaining walls closer than 2m (face to face) shall be considered one wall.*

The walls adjacent to the rear boundary (Esplanade Park) are set 900mm apart (1100mm including one wall thickness). Further the proposed fill on the rear boundary on the N<sup>o</sup> 87 portion is up to 2.5m deep, with the retaining wall being at least 2.5m and up to 3.2m high.

**Environmental Services Division Report No. 26 (Cont'd)**View Sharing:

Submissions expressed concerns regarding view loss. The original approval required the lowering of the N<sup>o</sup> 87 portion of the building by 300mm. This has been done on the northern section, but not the southern where the floor levels remain the same. Thus, the floor level of the rooftop deck is unchanged and so the proposed planting and fencing/balustrade (not described) remain at the original height. These, plus the proposed pergolas have the potential to interfere with the line of site of surrounding residents.

Privacy & Security:

The earlier DA [DA403/05] did not include the retaining walls to the Esplanade Park/Manly Scenic Walkway. Concerns were expressed, particularly in the SEPP65 Report responding to that application, that occupants of Apartment E would have no privacy or security, being clearly on view from the Scenic Walkway. The Applicants have proposed excessive fill and excessively high retaining walls on the boundary to alleviate this. This proposal will have detrimental effects on the Esplanade Park. The non-compliances are not acceptable and the original concerns remain.

Heritage Items & Conservation Areas:

The site is located adjacent to Esplanade Park which is an item of Environmental Heritage. It is considered that the proposed height and bulk of retaining walls and extent of fill adjacent to the park boundary and walkway will result in adverse amenity impacts on the public land.

Parking & Access:

The proposal complies with Council's Residential DCP in terms of numbers of car parking spaces provided, however the insertion of roller shutters to form individual garages does not comply with the provisions of the Australian Standard for Parking facilities [AS2890.1-1993], since it would appear the length of the bays are reduced from the minimum 5.4m.

Widths are also affected since there are apparently walls between the various bays/garages and the minimum widths of 2.4m where an additional 300mm is required: "If the side boundary of a space is a wall or fence....300mm should be added to the width of the space" [AS2890.1-1993 Cl 2.4.1(b)(ii)]

Further, the Standard says "Columns should not be located at the edge of a parking aisle. The difficulty of manoeuvring into a parking space is increased by such a location." Columns are located at the end of each space to facilitate the installation of roller shutters.

**Section 79(C) of the Environmental Planning and Assessment Act 1979****(1) Matters for consideration – general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
  - (ii) *any draft environmental planning instrument*
  - (iii) *any development control plan*
  - (iv) *the regulations*



**Environmental Services Division Report No. 26 (Cont'd)**

The proposal has been assessed having regard to the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment 1 and also to the Manly Development Control Plan for the Residential Zone 2007.

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The impacts of the proposed alterations and additional apartment to an approved residential flat building have been considered and, will result in significant negative impacts on the locality.

*(c) the suitability of the site for the development,*

The site is within the Residential zone and is suitable for residential development. However in view of deficiencies outlined previously in this report the current proposal cannot be considered suitable development.

*(d) any submissions made in accordance with this Act or the regulations,*

The application was notified in accordance with Council's policy with three submissions received. These are discussed previously in this report.

*(e) the public interest.*

The proposal is not considered to be in the public interest.

**CONCLUSION**

The proposal has been considered pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988 and the Development Control Plan for the Residential Zone 2001 Amendment 1. From this assessment the proposal is considered an unacceptable form of development and refusal is recommended.

**RECOMMENDATION**

THAT development application 570/06 for alterations and additions to an approved residential flat building with basement car parking at 85-87 Lauderdale Avenue, Fairlight be refused for the following reasons.

1. The proposal does not comply with the Floor Space Ratio (FSR) requirements of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1)(a)(iii) and (c) of the Environmental Planning and Assessment Act 1979.
2. The proposal will result in an overdevelopment of the site and present excessive bulk and scale when viewed from adjoining and nearby public land and the Harbour, having regard to Section 79C(1)(a)(iii), (b) and (e) of the Environmental Planning and Assessment Act 1979.
3. The proposal would lead to a reduction in the extent of landscaping across the rear of the building facing the view, which would lead to exposure to view of the additional bulk in terms of a three-storey building when seen from the water, North Harbour Reserve, and Wellings Reserve; and will have an adverse effect on the Foreshore Scenic Protection Area as well as the heritage listed Esplanade Park, having regard to Section 79C(1)(a)(i)(b) and (e) of the Environmental Planning and Assessment Act 1979.
4. Wall heights exceed that allowed under Clause 3.4 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1 and result in adverse impacts on the amenity of adjoining and nearby properties, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.

**Environmental Services Division Report No. 26 (Cont'd)**

5. The proposed development results in excessive excavation of the basement area by excavating to within 700mm of the boundary; and by excavating more than 3m to incorporate basement car parking and in the excessive excavation required to incorporate the additional apartment in contravention of Clause 3.6 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
6. Natural ground lines are not maintained on the southern boundary with the Esplanade Park as required by Clause 3.6 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
7. Natural topography is not respected by leveling the south-western portion of the site, contrary to the provisions of Clause 3.6 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
8. The heights of retaining walls exceed that allowed in Clause 3.6 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
9. The proposal has not had regard to the provisions of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development pursuant to Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979.
10. The proposed height of the building and pergolas will result in adverse impacts on the amenity of nearby properties in terms of view loss and visual bulk and scale, having regard to Section 79C(1) (a) (iii), (b) , (d) and (e) of the Environmental Planning and Assessment Act 1979.
11. The additional apartment proposed will result in an unacceptable increase in traffic movement over the road reserve which currently provides shared driveway to the subject site and that adjoining to the west, pedestrian pathway and shared path for the East-West cycle link. This increase in vehicular movement will have an unacceptable adverse impact on pedestrian safety, having regard to section 79C(1) (e) of the Environmental Planning and assessment Act 1979..
12. The proposal will result in the loss of significant rock outcrop contrary to the provisions of Clause 3.2 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, requiring the preservation of important landscape features, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
13. The proposed car-parking layout and maneuvering arrangements are unsatisfactory and not in conformity with AS2890.1-1993.
14. The proposed development is not in the public interest, having regard to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 26 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 May 2007  
**REPORT:** Environmental Services Division Report No. 27  
**SUBJECT:** Development Applications Currently being Processed.  
**FILE NO:**

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**SUMMARY**

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING MAY 2007.

**REPORT**

The following applications are currently being processed by Council's Development Assessment.

DA#	Site Address	Proposal	DAU / DEL	Target Date
54/07	9 Vista Avenue	2 New Pergolas	DAU	14-Jun-07
297/06	25 Fairlight Crescent	3 Storey RFB Converted to Single Dwelling	Awaiting Information	
1/07	12 Baltic Street	Alterations and 1st Floor Additions	Awaiting Information	
404/06	Manly Council - Library	Alterations and 3rd Floor Additions	Awaiting Information	
4/07	5 Scales Parade	Alterations and Additions	DAU	12-Jun-07
05/07	84 Raglan Street	Alterations and Additions	Awaiting Information	
12/07	9 Smith Street	Alterations and Additions	DAU	08-May-07
16/07	61 New Street	Alterations and Additions	DAU	22-May-07
18/07	11 Scales Parade	Alterations and Additions	DAU	12-Jun-07
102/07	24 Rickard Street	Alterations and Additions	DEL	10-May-07
124/00	29 Ponsonby Parade	Alterations and Additions	DAU	08-May-07
231/06	31 The Corso	Alterations and Additions	DAU	24-May-07
35/07	31 Grandview Grove	Alterations and Additions	DAU	14-May-06
36/07	36 Augusta Road	Alterations and Additions	DAU	21-Jun-07
40/07	16 Amiens Road	Alterations and Additions	DAU	03-Jul-07
41/07	33 White Street	Alterations and Additions	DAU	28-Jun-07
46/07	8 Valley Road	Alterations and Additions		03-Jul-07
466/06	42 Beatty Street	Alterations and Additions	Awaiting Information	
552/06	21 Malvern Avenue	Alterations and Additions	Awaiting Information	
555/06	1&2 - 29 Pacific Street	Alterations and Additions	DAU	08-May-07
563/06	210-214 Pittwater	Alterations and Additions	DAU	15-May-07
566/06	62 Curban Street	Alterations and Additions	DAU	17-May-07
67/07	79 Boyle Street	Alterations and Additions	DAU	03-Jul-07
72/07	75 Upper Beach Street	Alterations and Additions	DAU	03-Jul-07
75/07	44 Pacific Parade	Alterations and Additions	DAU	26-Jun-07
81/07	17 Redman Street	Alterations and Additions	DAU	03-Jul-07
98/07	209 Sydney Road	Alterations and Additions	DEL	10-May-07
392/06	4 Camera Street	Alterations and Additions & Garage	DAU	15-May-07
57/07	32 Woodland Street	Alterations and Additions & Pergola	DAU	03-Jul-07
2/07	29 Kirkwood Street	Alterations and Additions & Pool	DAU	05-Jun-07
276/06	35 Ponsonby Parade	Alterations and Additions & Pool	DAU	10-May-07
52/07	38 Birkley Road	Alterations and Additions & Pool	DAU	17-May-07
51/07	4 Craig Avenue	Alterations and Additions to RFB	DAU	22-May-07

## Environmental Services Division Report No. 27 (Cont'd)

510/06	5 Marine Parade	Alterations and Additions to RFB	DEL	10-May-07
546/06	1 and 3 - 94 Bower Street	Alterations and Additions to RFB	DAU	29-May-07
322/06	42 Malvern Avenue	Alterations and Additions, Garage & Loft	DAU	15-May-07
499/06	12 Smith Street	Alterations and Additions, Pergola & Parking	Awaiting Information	
233/06	15 The Crescent	Alterations and Additions, Strata Subdivision & Carparking	DAU	05-Jun-07
3/07	5 Carlton Street	Alterations and First Floor Addition	DAU	05-Jun-07
528/06	69 Upper Beach Street	Alterations and First Floor Addition	DEL	17-May-07
6/07	17&18 - 93-95 North Steyne	Alts & Adds to RFB	Awaiting Information	
127/06	67 Seaforth Crescent	Amended Plans	DAU	31-May-07
259/06	26 Boronia Lane	Amended Plans	DAU	08-May-07
47/06	11 The Corso	Amended Plans	DAU	17-May-07
477/06	87 Clontarf Street	Amended Plans	Awaiting Information	
429/06	29 Grandview Grove	Amended Plans - Alts & Adds	DAU	15-May-07
462/06	151 Darley Road	Construction of a New Public Access Walkway at St Pats	Awaiting Information	
70/07	11 Eurobin Avenue	Convert Duplex to Single Dwelling	DEL	09-May-07
373/06	11 Barrabooka Street	Demolition - New Dwelling & Pool	DAU	10-May-07
562/06	94 Beatrice Street	Demolition & construction of a dwelling	DAU	12-Jun-07
71/07	5 Fromelles Avenue	Demolition & New Dwelling	DAU	03-Jul-07
561/06	24 Willyama Avenue	Demolition & New Dwelling & Pool	DAU	29-May-07
37/07	29 Jamieson Avenue	Demolition & New Garage & Front Fence	DAU	12-Jun-07
567/06	3 Brighton Street	Demolition and Construct 4 townhouses	DAU	15-May-07
541/06	43 Ethel Street	Demolition and construction 2 dwellings & subdivision	DAU	08-May-07
521/06	16 Upper Gilbert St	Demolition and construction of two dwellings and land subdivision	DAU	22-May-07
15/07	102 Balgowlah Road	Demolition and New Dwelling	DAU	31-May-07
33/07	59 New Street	Demolition and New Dwelling	DAU	05-Jun-07
84/07	96 Seaforth Crescent	Demolition and New Dwelling & Pool	DAU	05-Jul-07
27/07	120 Bower Street	Demolition and New RFB	DAU	17-May-07
558/06	29 Victoria Parade	Demolition and New RFB	Awaiting Information	
55/07	2 Bundoon Lane	Demolition and Two New Dwellings & Land Subdivision	DAU	29-May-07
9/07	11 Seaforth Crescent	Demolition, New 2 Dwellings & Pools	DAU	24-May-07
14/07	2 Curban Street	Double Carport	DAU	31-May-07
17/07	7 Abernethy Street	Extension of Existing Deck	DAU	22-May-07
412/06	Skiff Club - East Esp	Extension to Disabled Ramp, Alts & Adds	Awaiting Information	
560/06	1/129 Bower Street	Internal Alterations	Awaiting Information	
56/07	96 Griffiths Street	Land Subdivision to Create 2 New Lots	DAU	24-May-07

## Environmental Services Division Report No. 27 (Cont'd)

381/06	Manly Bathers - West Esp	Maritime Office, Café and Store	Awaiting Information	
63/07	270 Pittwater Road	New 1st Floor Deck at Rear	DAU	08-May-07
111/07	39 Lauderdale Avenue	New Balconies at Rear of RFB	DAU	03-Jul-07
104/07	69 Boyle Street	New Deck at Rear	DEL	15-May-07
38/07	92 Beatrice Street	New Dwelling	DAU	05-Jun-07
43/07	21 Castle Circuit	New Dwelling	DAU	05-Jul-07
79/07	18 Boronia Lane	New Dwelling & Pool	DAU	03-Jul-07
64/07	40 Gurney Crescent	New Dwelling and Pool	DAU	31-May-07
536/06	18 Acacia Road	New Dwelling and Swimming Pool	DAU	15-May-07
19/07	142 Condamine Street	New Front Fence and Wall	DEL	09-May-07
53/07	14 Hill Street	New Onsite Vehicular Hardstand	DAU	19-Jun-07
68/07	6 Phillip Avenue	New Rear Deck & Stairway	DEL	15-Jun-07
524/06	155A Seaforth	New Swimming Pool & Deck	DAU	10-May-07
69/07	53-55 The Corso	New Under Awning Signage	DAU	03-Jul-07
44/07	25 Daintrey Street	Onsite Vehicular Hardstand	DEL	10-May-07
118/06	17 Rosedale Avenue	Pool & Garage	DAU	31-May-07
540/06	46 The Corso	Replace pews, minor internal alts new doorway new paving glass steel canopy structure	DAU	24-May-07
30/07	34 Addison Road	Shutters on Existing Balcony	DEL	24-May-07
66/07	11-27 Wentworth Street	Store Room in Existing Parking Area	DAU	28-Jun-07
10/07	174 Sydney Road	Strata Subdivision	Awaiting Information	
542/06	45 Ethel Street	Strata Subdivision	DAU	10-May-07
107/07	24 Rickard Street	Swimming Pool	DEL	10-May-07
113/07	50 Condamine Street	Swimming Pool	DEL	10-May-07
21/07	3 James Street	Torrens Title	Awaiting Information	
28/02	145 Pittwater Road	Section 96 Modification	DEL	10-May-07
106/05	387 Sydney Road	Section 96 Modification	DAU	05-Jun-07
15/98	Skiff Club - East Esplanade	Section 96 Modification	DAU	31-May-07
201/02	87 Bower Street	Section 96 Modification	DAU	29-May-07
217/05	3 Craig Avenue	Section 96 Modification	DEL	10-May-07
261/06	4 Kangaroo Street	Section 96 Modification	DAU	15-May-07
348/05	28 Cliff Street	Section 96 Modification	DEL	10-May-07
359/06	1 North Harbour Street	Section 96 Modification	DAU	31-May-07
454/05	63 Condamine Street	Section 96 Modification	DEL	09-May-07
479/05	93 Addison Road	Section 96 Modification	DEL	10-May-07
514/03	45 Seaview Street	Section 96 Modification	DAU	08-May-07

## Environmental Services Division Report No. 27 (Cont'd)

547/05	6 Geddes Street	Section 96 Modification	DAU	08-May-07
553/05	10 Kempbridge Avenue	Section 96 Modification	DAU	05-Jul-07
561/03	77 Cutler Road	Section 96 Modification	DAU	29-May-07
562/03	Lot 10, 77 Cutler Road	Section 96 Modification	DAU	29-May-07
582/01	49 Bungaloe Avenue	Section 96 Modification	Awaiting Information	
619/01	447-449 Sydney Road	Section 96 Modification	DAU	17-May-07
272/06	25 Ocean Street	82A Review	DAU	10-May-07
277/06	23 Ocean Street	82A Review	DAU	10-May-07
381/05	18 Collingwood Street	82A Review	DEL	10-May-07
469/05	45 Gurney Crescent	82A Review	DAU	22-May-07
509/06	11 Jackson Road	82A Review	DAU	17-May-07

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

124/2000  
Dwelling

29 Ponsonby Parade, SEAFORTH 2092

35/2004

8 The Corso, MANLY 2095

Section 96 to modify approved Demolition of existing buildings and construction of a Coles Supermarket, Retail Shops and Residential Apartments

126/2006

61 Peacock Street, SEAFORTH 2092

Section 96 Modification to delete condition ANS06 enabling removal of a tree

231/2006

31 The Corso, MANLY 2095

AMENDED PLANS - Alteration to the Ivanhoe Hotel

58/2007

9999 Sydney Road, BALGOWLAH 2093

Advertising Structure on a new telephone booth

59/2007

9999 Frenchs Forest Road, SEAFORTH 2092

Advertising Structure on an existing telephone booth

60/2007

9999 Pittwater Road, MANLY 2095

Advertising Structure on a new telephone booth

61/2007

9999 Sydney Road, BALGOWLAH 2093

Advertising Structure on a new telephone booth

77/2007

58 Darley Road, MANLY 2095

Operating hours and alterations and additions

**Environmental Services Division Report No. 27 (Cont'd)**

78/2007 Alterations & Additions to Dwelling	2 Bower Street, MANLY 2095
80/2007 Alterations & Additions to existing dwelling house including first floor addition	412 Sydney Road, BALGOWLAH 2093
82/2007 Alterations & Additions to semi-detached dwelling including new first floor level	51 Golf Parade, MANLY 2095
192/2003 Section 96 Modification	45 Beatrice Street, BALGOWLAH 2093
316/2005 Section 96 Modification	37 Lauderdale Avenue, FAIRLIGHT 2094
320/2005 Section 96 Modification	24 Hogan Street, BALGOWLAH 2093
85/2007 New dwelling house and swimming pool	41D Castle Circuit, SEAFORTH 2092
94/2007 Land Subdivision into two (2) lots	120 Griffiths Street, BALGOWLAH 2093
95/2007 Construction of a new Dwelling house	13 Castle Circuit, SEAFORTH 2092
89/2007 Redevelopment for retail, commercial, hotel bottle shop and hotel accommodation	17 The Corso, MANLY 2095
90/2007 Alterations & Additions to extend the Ivanhoe Hotel into adjoining premises	27 The Corso, MANLY 2095
96/2007 Fencing and associated works at front boundary	11 George Street, MANLY 2095
91/2007 AMENDED PLANS - Alterations & Additions to an existing Dwelling house, garage and swimming pool	35 New Street, BALGOWLAH 2093
97/2007 Construction of Dwelling house and swimming pool	13 Kanangra Crescent, CLONTARF 2093
100/2007 Construction of new balcony and garage	95 Castle Circuit, SEAFORTH 2092
101/2007 Alterations & Additions to an existing dwelling house including new garage, swimming pool and balcony	50 Upper Clifford Avenue, FAIRLIGHT 2094
105/2007 Alterations & Additions to Dwelling house and new front parking	35 Baranbali Avenue, SEAFORTH 2092
236/2006 Section 96 Modification to approved Demolition, Land Subdivision & construction of three (3) dwellings.	159 Woodland Street, BALGOWLAH 2093

**Environmental Services Division Report No. 27 (Cont'd)**

92/2007 Alterations and additions to retail premises	38-42 The Corso, MANLY 2095
108/2007 Alterations and additions to dwelling house	31 Cutler Road, CLONTARF 2093
109/2007 Alterations & Additions to Dwelling including first floor, carport, grey water system and landscaping	42 Radio Avenue, BALGOWLAH 2093
110/2007 Demolition and Construction of a new Dwelling house and swimming pool	14 Ellery Parade, SEAFORTH 2092
408/2006 Section 96 to modify DA: 408/06 in respect of car parking and bedroom windows	12 Gordon Street, CLONTARF 2093
114/2007 Alterations & Additions to Dwelling and new garage with under storey floor level	15 Scales Parade, BALGOWLAH 2093
531/2005 Section 96 to modify DA: 531/05 including reducing windows and deck extension	111B Seaforth Crescent, SEAFORTH 2092
116/2007 Demolition and construction of dwelling house and swimming pool	22 Jackson Street, BALGOWLAH 2093
117/2007 Alterations and Additions to semi-detached dwelling including First Floor	48 Rosedale Avenue, FAIRLIGHT 2094
555/2000 Section 96 to modify approved Alterations and Additions to an existing dwelling	28 Castle Circuit, SEAFORTH 2092
119/07 Internal alterations to ground floor to rearrange carparking and retain commercial floorspace	29-33 Pittwater Road, MANLY 2095
120/2007 Occupation of first floor unit 12 for the purpose of commercial office use	447 Sydney Road, BALGOWLAH 2093
530/2005 Section 96 - Alterations & Additions to existing three (3) storey Dwelling, swimming pool and spa	6 Bower Street, MANLY 2095
121/2007 Alterations & Additions to existing Residential Flat Building including carport and rear balconies/ patio	202 Sydney Rd, FAIRLIGHT 2094
122/2007 Excavation and construction of a swimming pool	12 Alan Avenue, SEAFORTH 2092
123/2007 Construction of new Dwelling house and garage	9 Adrian Place, BALGOWLAH HEIGHTS 2093
124/2007 Alterations & Additions to the existing Dwelling including new deck and demolition of rear shed	16 Bower Street, MANLY 2095
125/2007 Construction of Carport at the rear	81 Bower Street, MANLY 2095



**Environmental Services Division Report No. 27 (Cont'd)**

126/2007 Reconstruction of verandas and stairs at rear	290 Sydney Road, BALGOWLAH 2093
127/2007 Construction of carport, cabana, store room, deck and fence	25 Eurobin Avenue, MANLY 2095
511/2006 AMENDED PLANS - Alterations & Additions to an existing Dwelling	61 Collingwood Street, MANLY 2095
128/2007 Construction of new Dwelling house	8 Coral Street, BALGOWLAH 2093
129/2007 Demolish and construct new Dwelling and swimming pool	14 Iluka Avenue, MANLY 2095
130/2007 Alterations to commercial building including addition of one residential unit	393-397 Sydney Road, BALGOWLAH 2093
89/2003 Section 96 to modify approved Alterations & Additions to existing Dwelling	10 High Street, MANLY 2095
131/2007 Alterations & Additions to Dwelling house	42 Quinton Road, MANLY 2095
132/2007 Alterations & Additions to Dwelling and Swimming Pool and Demolition	33 West Street, BALGOWLAH 2093
133/2007 Alterations and additions to dwelling house	31 Fisher Street, BALGOWLAH HEIGHTS 2093
134/2007 Alterations & Additions to semi-detached dwelling	255 Sydney Road, FAIRLIGHT 2094
135/2007 Construction of carport, new side access stair and enlarged north-facing window	89 Gurney Crescent, SEAFORTH 2092
341/2003 Section 96 to modify approved Erection of two (2) dwellings and a Two (2) lot subdivision	4 West Street, BALGOWLAH 2093
136/2007 Alterations and Additions to an existing dwelling house including new first floor level	26 Austin Street, FAIRLIGHT 2094
137/2007 Alterations & Additions to Dwelling	10 Fisher Street, BALGOWLAH HEIGHTS 2093
138/2007 Excavation and construction of Swimming Pool	86 Ellery Parade, SEAFORTH 2092
139/2007 Alterations & Additions to Dwelling	19 Crescent St, FAIRLIGHT 2094
126/2004 Section 96 Modification	26 Richmond Rd, SEAFORTH 2092

**Environmental Services Division Report No. 27 (Cont'd)**

141/2007 Demolition and Construction of new Dwelling house	35 Bungalow Av, BALGOWLAH 2093
140/2007 Extend existing deck of unit 6 on the eastern side	8 Ocean Rd, MANLY 2095
142/2007 Occupation of existing premises for the purpose of a kiosk and associated signage	South Steyne, MANLY 2095
143/2007 Alterations & Additions to Dwelling	21 Seaforth Cr, SEAFORTH 2092
144/2007 Alterations & Additions to Dwelling	24 Malvern Av, MANLY 2095

**RECOMMENDATION**

That the information be noted.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 27 \*\*\*\*\*

**TO:** Land Use Management Committee - 7 May 2007

**REPORT:** Environmental Services Division Report No. 28

**SUBJECT:** Appeal List for May 2007

**FILE NO:**

## SUMMARY

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

## REPORT

DA#	L&E Appeal Reference	House #	Address	Date Appeal Lodged	Solicitor Company	Current Status
DA538/04	10859/06	51	Wood Street, Manly	15/09/06	Pike Pike & Fenwick	Hearing 23/05/07
DA280/06	11008/06	11-13	The Crescent, Manly	25/10/06	Pike Pike & Fenwick	Judgement reserved 21/03/07
DA314/06	11073/06	110-114	Bower Street, Manly	10/11/06	Pike Pike & Fenwick	Callover 22/05/07
DA389/05	11102/06	9	Smith Street, Manly	28/11/06	Abbott Tout	Callover 15/05/07
DA513/05	11212/06	59	Collingwood Street, Manly	17/12/06	Pike Pike & Fenwick	Dismissed 27/04/07
DA539/06	10198/07	42	North Steyne, Manly	14/03/07	Abbott Tout	Discontinued 26/04/07
DA473/06	10228/07	87-95	Balgowlah Road, Fairlight	26/03/07	Abbott Tout	Discontinued 01/05/07
DA458/06	10168/07	10	Quinton Road, Manly	02/04/07	Abbott Tout	Callover 08/05/07
DA64/07	10365/07	40	Gurney Crescent, Seaforth	01/05/07	Pike Pike & Fenwick	Callover 13/06/07

## RECOMMENDATION

That the information be noted.

## ATTACHMENTS

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 28 \*\*\*\*\* .