



Agenda

Planning and Strategy Committee

Notice is hereby given that a Planning and Strategy Committee of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

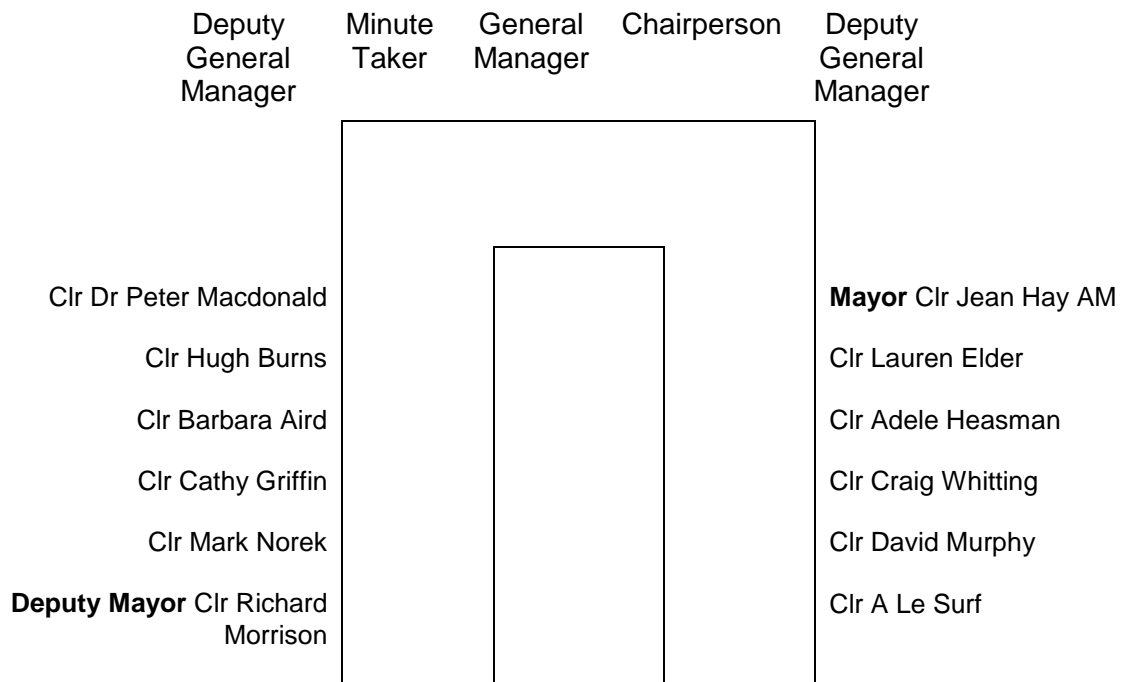
Monday 10 October 2011

Commencing at 7:30 PM 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*

Seating Arrangements for Meetings



Press

Public
Addresses

Public Gallery

Chairperson: Councillor Alan Le Surf
Deputy Chairperson: Councillor Adele Heasman

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

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Item For Brief Mention Report No. 15
SUBJECT: Tabled Documents
FILE NO:

Documents to be tabled:

| Date | Author | Subject |
|----------|--|---|
| 29/09/11 | The Hon. Robyn Parker MP, Minister for the Environment, Minister for Heritage | Proposed floodplain management program for 2011/2012 financial year |
| 21/09/11 | Premier & Cabinet Division (DLG) | Circular: Destination 2036 Update |
| 21/09/11 | Ministerial Circular from The Hon Don Page MP, Minister for Local Government and The Hon Graham Annesley MP, Minister for Sport and Recreation | Circular: Equitable and affordable access to Councils' Sporting and Recreational Fields |
| 21/09/11 | Premier & Cabinet Division (DLG) | Circular: Findings from Review of Councillor Expenses and Facilities Policies |
| 16/09/11 | The Hon Brad Hazzard MP, Minister for Planning and Infrastructure, Minister Assisting the Premier on Infrastructure NSW | New Member of the Sydney East Joint Regional Planning Panel |
| 09/09/11 | Premier & Cabinet Division (DLG) | Circular: Guidelines for Council Administered Elections 2012 |
| 02/09/11 | NSW Government, Planning System Review | Review of the NSW Planning System |

RECOMMENDATION

That the documents tabled at this meeting be received and noted.

ATTACHMENTS

There are no attachments for this report.

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***** End of Item For Brief Mention Report No. 15 *****

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Report Of Committees Report No. 39
SUBJECT: Minutes for adoption by Council - Special Purpose Committee - without recommendations of a substantial nature
FILE NO:

The minutes of the following Special Purpose Committee meetings are tabled at this meeting.

- i) Meals on Wheels Committee – 14 September 2011
- ii) Waste Committee – 14 September 2011
- iii) Manly Traffic Committee – 12 September 2011
- iv) Manly Scenic Walkway Committee – 6 September 2011
- v) Landscape Management and Urban Design Committee – 17 August 2011
- vi) Community Environment Committee – 10 August 2011

RECOMMENDATION

That the minutes of the following Special Purpose Committee meetings be adopted.

- i) Meals on Wheels Committee – 14 September 2011
- ii) Waste Committee – 14 September 2011
- iii) Manly Traffic Committee – 12 September 2011
- iv) Manly Scenic Walkway Committee – 6 September 2011
- v) Landscape Management and Urban Design Committee – 17 August 2011
- vi) Community Environment Committee – 10 August 2011

ATTACHMENTS

There are no attachments for this report.

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***** End of Report Of Committees Report No. 39 *****

TO: Planning and Strategy Committee - 10 October 2011

REPORT: Report Of Committees Report No. 40

SUBJECT: Minutes for adoption by Council - Community Safety Committee - 8 September 2011

FILE NO:

A Homelessness report was dealt with at the Community Safety Committee meeting of 8 September 2011 and was listed as a Recommendation in those minutes. The item is hereby submitted to the Planning and Strategy Meeting, together with the minutes for formal adoption by Council.

ITEM 7 HOMELESSNESS

The issue of Homelessness will remain on the Community Safety committee agenda. A meeting is to be arranged comprising local stakeholders to discuss the situation and confirm a mutually acknowledged approach.

BACKGROUND

Homeless people have been sleeping rough in Gilbert Park for many years. Council and Police in several past months have received complaints from residents of West Promenade. The issues raised are in regard to the current location and behaviour of the people living in tents near the birdcage towards the northwest part of the park.

Council staff and Police approach is one of tolerance towards those sleeping rough in the park provided they keep the area tidy, are discrete and limit anti-social behavior. More recently, the current people in the park appear to be pushing the tolerance of the neighbours due to their variety of anti social behaviours.

UPDATE

Papers tabled/distributed to committee:

- Notes from Meeting held at MCC on Monday 6 September 2011.
- Draft Discussion Paper – Managing Homelessness: A Literature Review of Models and Strategies for Manly Council.
- Letter and email from MCC and Women's Shelter re local situation.

Two meetings regarding this issue were held in September.

1. Meeting between Police and Council regarding the rubbish handling, place management, the birdcage and the options of moving the group to southern end of park and a resident meeting.
2. Meeting was held with other Stakeholders at Manly Community Centre on Monday 5 September 2011. Police, Council, MCC, Mission Australia, MERIT Program (Health) and Manly Women's Shelter were represented.

Issues discussed in September 2011 meetings:

Sensitivities involved in handling the Gilbert Park situation.

The meeting agreed that the current situation in Gilbert Park progressed outside the considered acceptable use of the park and surroundings, needs a coordinated approach and cannot be overlooked by local agencies and authorities. Tents are not permitted in the park, this is likely to attract more rough sleepers over summer.

Report Of Committees Report No. 40 (Cont'd)

The 'gap' in services in the local government area, identified a need for an outreach worker to deal with people living in public spaces and the lack of long term housing options.

Outcomes:

John (from MERIT program) and Kevin (Fairlight House) visited the park and has given the men options, to take up the offers and move their gear. A Council officer advised that he was asked by the police to arrange a cleanup of the rubbish that had accumulated including chairs and the tent.

A paper prepared by Council Community Development Co-ordinator includes Council policies/models in other regions was distributed to the meetings and a recent addendum has been prepared. Council policy on dealing with homeless in public places needs to be addressed.

Special Census collectors have interviewed approx. 27-30 homeless across the Manly local government area for the 2011 Census. The 2011 census statistics will be released in July 2012, and these results may support and assist in future funding applications or position papers.

RECOMMENDATION

That the minutes of the Community Safety Committee meeting on 8 September 2011 be adopted including the following items:

ITEM 7 HOMELESSNESS

1. That the discussion paper "Managing Homelessness – A Literature Review of Models and Strategies for Manly Council" as well as the recent addendum for currency of this report, be referred to a Council meeting for discussion.
2. For Council to clarify its position on low cost housing bearing in mind the loss of low cost housing in Manly CBD.
3. Consider opportunities for funding an outreach worker for rough sleepers in Manly.
4. Consider a review of previous outcomes of the Homelessness working party and potential to re-establish a Homelessness Working Party.

ATTACHMENTS

There are no attachments for this report.

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***** End of Report Of Committees Report No. 40 *****

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Report Of Committees Report No. 41
SUBJECT: Minutes for adoption By Council - Playground Committee - 25 August 2011
FILE NO:

This report was dealt with at the Playground Committee meeting of 25 August 2011 and was listed as a Recommendation in those minutes. The item is hereby submitted to the Planning and Strategy Meeting, together with the minutes for formal adoption by Council.

ITEM 6 Next Potential Play Ground Upgrades from Playground Strategy

The Committee was asked to consider the report of the 5 year strategy which outlines the next potential major projects as North Harbour Reserve and Tania Park.

The Committee discussed the potential projects in order to initiate a recommendation on which project or projects will gain funding over 2011/12.

Following on from the 5 year Strategy Council will now need to look at producing a 10 year strategy for the future, this will also include a review of maintenance processes and asset life expectancy.

A lot of the playground works with regard to softfall improvements and replacement equipment is generally maintenance works and should be considered in these terms in the future.

A lot of the refurbishment works does not call for the need to re design a playground. This should only be necessary for major projects.

The Committee will review the playgrounds on the basis of what playgrounds need extensive maintenance or improvements this is considered to be a maintenance process rather than a design process.

North Harbour playground is considered to fall into this category with only minor improvements required.

RECOMMENDATION

That the minutes of the Playground Committee meeting on 25 August 2011 be adopted including the following items:

ITEM 6 Next Potential Play Ground Upgrades From Playground Strategy

The Committee recommend to the General Manager and Council:

1. That Tania Park playground is assessed and options be brought back to the Committee at the February 2012 meeting for assessment and consideration by the committee.
2. That North Harbour Reserve playground works proceed on the basis that it is minor improvement works considered as maintenance.
3. That a 10 year strategy be initiated in the next financial year to set a direction for playgrounds based on asset life and community needs to 2022.
4. That in this process an independent audit of playground asset life is carried out.
That the next meeting be held onsite at North Harbour then Proceeding to Tania Park to consider possible improvements.

Report Of Committees Report No. 41 (Cont'd)

ATTACHMENTS

There are no attachments for this report.

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***** End of Report Of Committees Report No. 41 *****

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Report Of Committees Report No. 42
SUBJECT: Minutes for adoption by Council - Human Services Planning and Policy Committee - 23 August 2011
FILE NO:

This report was dealt with at the Human Services Planning and Policy Committee meeting of 23 August 2011 and was listed as a Recommendation in those minutes. The item is hereby submitted to the Planning and Strategy Meeting, together with the minutes for formal adoption by Council.

ITEM 4 Northern Sydney Area Health Services Briefing Report - Vicki Taylor, (Chief Executive, Northern Sydney Area Health Network), and Frank Bazik (GM Northern Beaches – NSW Health)

The presentation gave an update that the network were awaiting the NSW Government's Budget commitment to the development, planning and construction of the new Northern Beaches Hospital planned for Frenchs Forest.

The re-development of the North Shore Hospital (\$1.3 billion development) was also mentioned as an important regional initiative that they were awaiting completion (expected early next year).

The Commonwealth Government's health reform agenda was also mentioned as creating additional issues in terms of requirements for Local Health Districts (LHD), assessment criteria, and funds available. The size of the Northern Sydney area was already considerable (including the NSW Central Coast, Gosford and Wyong, then west to Ryde (re-development of Greywaihthe) and Hornsby Hospital areas), governing a number of public hospitals and facilities all requiring infrastructure improvements with limited government resources (at both state and commonwealth levels).

There were questions regarding levels of service, re-developments & upgrades proposed throughout the area, and expectations regarding the proposed Frenchs Forest hospital, including preparations for construction and development.

As well, it was mentioned that NSW Health was in the process of organising a community forum to be held at Dee Why RSL to invite public participation and prioritisation of future needs.

The Council report considered health and related services needs and issues arising for the Manly area as a background report arising from recommendations of its April 2011 committee meeting.

The report updates the list of local and regional health services that the committee developed in November 2009, and current information on available services.

This provided background information for the August presentation of the HSPP Committee meeting, and planning of future health related services.

Report Of Committees Report No. 42 (Cont'd)**RECOMMENDATION**

That the minutes of the Human Services Planning and Policy Committee meeting on 23 August 2011 be adopted including the following items:

ITEM 4 Northern Sydney Area Health Services Briefing Report - Vicki Taylor, (Chief Executive, Northern Sydney Area Health Network), and Frank Bazik (GM Northern Beaches – NSW Health)

- i) That the report be received and noted.
- ii) That the results of the Council community poll be communicated to Health Infrastructure.
- iii) That Council, in particular this committee, participate in a planned community forum to be held at Dee Why in September 2011, and possibly towards the end of this year, or early next year.

ATTACHMENTS

There are no attachments for this report.

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***** End of Report Of Committees Report No. 42 *****

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Environmental Services Division Report No. 29
SUBJECT: Development Applications Being Processed During October 2011
FILE NO:

SUMMARY

Development Applications being processed during October 2011.

REPORT

The following applications are with the Town Planners for assessment.

| | | | |
|-----|------|-----------------------|--|
| 114 | 2003 | 1 Russell Street | Section 96 Modification |
| 551 | 2003 | 18 Amiens Road | Section 96 Modification |
| 556 | 2003 | 68 Bower Street | Section 96 Modification |
| 230 | 2005 | 30 Castle Circuit | Section 96 Modification |
| 45 | 2006 | 41A Castle Circuit | Section 96 Modification |
| 101 | 2006 | 195 Condamine Street | Section 96 Modification |
| 343 | 2007 | 16 Ocean Road | Section 96 Modification |
| 104 | 2008 | 100 Seaforth Crescent | Section 96 Modification |
| 13 | 2010 | 47 North Steyne | Amended Plans - requested by LEC |
| 57 | 2010 | 29A Quinton Road | Section 96 Modification |
| 107 | 2010 | 17 Roseberry Street | Section 96 Modification |
| 218 | 2010 | 45 Lauderdale Avenue | Section 96 Modification |
| 280 | 2010 | 37 Peronne Avenue | 82A Review |
| 314 | 2010 | 42 Pacific Parade | 82A Review |
| 334 | 2010 | 6 David Place | Section 96 Modification |
| 345 | 2010 | 7 Laurence Street | Section 96 Modification |
| 367 | 2010 | 46 Victoria Parade | Demolition and new 7 storey dwelling |
| 368 | 2010 | 65 Peronne Avenue | Section 96 Modification |
| 420 | 2010 | 270 Pittwater Road | Section 96 Modification |
| 426 | 2010 | 3 Oyama Avenue | Section 96 Modification |
| 17 | 2011 | 10 Seaforth Crescent | Alterations and additions |
| 23 | 2011 | 6 Fairlight Crescent | 82A Review |
| 83 | 2011 | 91 West Street | Alterations and additions |
| 87 | 2011 | 2 Belgrave Street | Redevelopment of Manly Police Station |
| 100 | 2011 | 22 Roseberry Street | Demolition of existing, erection of 2 storey bulky goods warehouse |
| 105 | 2011 | 423 Sydney Road | Alterations and additions |
| 122 | 2011 | 41 Smith Street | Alterations and additions |
| 126 | 2011 | 4 West Street | RFB containing 8 units |
| 131 | 2011 | 52B Woodland Street | Alterations and additions |
| 134 | 2011 | 16 Augusta Road | Alterations and additions |
| 142 | 2011 | Manly Wharf | First storey addition containing 4 restaurants |
| 148 | 2011 | 77 Wood Street | Alterations and additions |
| 151 | 2011 | 44 Osborne Road | Alterations and additions |
| 154 | 2011 | 23 Arthur Street | Alterations and additions |

Environmental Services Division Report No. 29 (Cont'd)

| | | | |
|-----|------|--------------------------|--|
| 158 | 2011 | 61 Woodland Street | Alterations and additions |
| 161 | 2011 | 468 Sydney Road | Demolition of existing and new RFB |
| 169 | 2011 | 18 Lombard Street | Demolition of dwelling and new 2x2 dwellings |
| 171 | 2011 | 72 Fairlight Street | Alterations and additions |
| 172 | 2011 | 46 Osborne Street | Alterations and additions |
| 177 | 2011 | 23 Dobroyd Road | Alterations and additions |
| 181 | 2011 | 101 Wanganella Street | Alterations and additions |
| 182 | 2011 | 40 Heathcliff Crescent | Demolition and new 2 storey dwelling |
| 185 | 2011 | 1 Monash Crescent | Demolition of existing, new two storey dwelling |
| 186 | 2011 | 25A Cliff Street | Alterations and additions |
| 189 | 2011 | 34 Beatty Street | Alterations and additions |
| 190 | 2011 | 91A Seaforth Crescent | Alterations to create 3 Storey dwelling |
| 191 | 2011 | 6 King Avenue | Demolition of existing new 2 storey garage, ground floor cabana, deck and pool |
| 192 | 2011 | 28 Abernethy Street | Double garage over existing hardstand |
| 193 | 2011 | 27 Richmond Road | Alterations and additions |
| 195 | 2011 | 54 Ellery Parade | Alterations and additions |
| 198 | 2011 | 13 Woodland Street | Alterations and additions |
| 201 | 2011 | 12 Panorama Parade | Alterations and additions |
| 204 | 2011 | 51 Gordon Street | Demolition, new 2 storey dwelling |
| 208 | 2011 | 39 Balgowlah Road | Alterations and additions |
| 209 | 2011 | 70 Bower Street | Alterations and additions |
| 210 | 2011 | 12 Beatty street | Demolition, new 2 storey dwelling |
| 212 | 2011 | 10 Iluka Avenue | Alterations and additions |
| 213 | 2011 | 25 High Street | Alterations and additions |
| 214 | 2011 | 5 Pittwater Road | Change of use to a 24 hours gym |
| 215 | 2011 | 18A Whistler Street | Change of use to a Beauty Salon |
| 216 | 2011 | 8 Brisbane Street | Alterations and additions |
| 217 | 2011 | 18A Dudley Street | Alterations and additions |
| 218 | 2011 | Marine Parade - Le Kiosk | Alterations and additions |
| 219 | 2011 | 57 Castle Circuit | Alterations and additions |
| 221 | 2011 | 19A West Street | Alterations and additions |
| 222 | 2011 | 15 Malvern Avenue | Alterations and additions |
| 223 | 2011 | 25 Osborne Road | Alterations and additions |
| 224 | 2011 | 12 Kareema Street | Pool and landscaping |
| 227 | 2011 | 51 Lauderdale Avenue | Alterations and additions |
| 229 | 2011 | 42 Alexander Street | Alterations and additions |
| 230 | 2011 | 35 Kangaroo Street | Alterations and additions |
| 231 | 2011 | 66 Raglan Street | Alterations and additions |
| 232 | 2011 | 21 Lodge Street | Demolition of existing carport and 3 new garages |
| 233 | 2011 | 18 Alan Avenue | Demolition and new 2 storey dwelling |
| 234 | 2011 | 141 Griffiths Street | Alterations and additions |
| 237 | 2011 | 31 The Corso | Advertising signage - ATM |
| 238 | 2011 | 45 Edgecliffe Esplanade | Alterations and additions |
| 239 | 2011 | 151A Condamine Street | Alterations and additions |
| 247 | 2011 | 8 The Corso - Coles | 3 lot Commercial Strata Subdivision |
| 248 | 2011 | 8 The Corso - Coles | 60 Lot Residential Strata Subdivision |
| 249 | 2011 | 8 The Corso - Coles | 2 lot Stratum Subdivision |

Environmental Services Division Report No. 29 (Cont'd)

The following applications are with Lodgment and Quality Assurance for notification, advertising and referral to relevant parties.

- 240/2011 489 Sydney Road, BALGOWLAH 2093
Alterations and additions to the existing Balgowlah Boys High School including new covered outdoor work area and materials storage bins for the Workshop Building (Building J)
- 241/2011 88 Birkley Road, MANLY 2095
Alterations and additions to an existing dwelling including first floor addition
- 77/2011 14 Linkmead Avenue, CLONTARF 2093
Section 96 to modify approved Alterations and additions to an existing dwelling including front addition, vergolas (pergolas) to the rear, deck extension and internal alterations
- 415/2000 157 Seaforth Circuit, SEAFORTH 2092
Section 96 to modify approved alterations & additions to existing dwelling and new garage
- 251/2011 40 Peacock Street, SEAFORTH 2092
Alterations and additions to an existing dwelling including first floor addition with terrace, rear extension to ground floor terrace, rear lower ground floor extension and terrace, new swimming pool in front setback and landscaping
- 252/2011 North Steyne, MANLY 2095
Alterations and additions to the existing Queenscliff Surf Life Saving Club including internal alterations and extension of storage area
- 253/2011 87 Gurney Crescent, SEAFORTH 2092
Alterations and additions to existing dwelling including rear lower ground floor addition and ground floor balcony
- 254/2011 49 Hope Street, SEAFORTH 2092
Alterations and additions to existing dwelling including carport in front of existing garage, driveway and front fence
- 255/2011 7 Kanangra Crescent, CLONTARF 2093
Alterations and additions to existing dwelling including demolition of existing carport, new double garage and access stairs
- 256/2011 46 Upper Beach Street, BALGOWLAH 2093
Alterations and additions to existing Residential Flat Building including side extension to ground and first floor, and conversion to a single dwelling
- 257/2011 43-45 Castle Circuit, SEAFORTH 2092
Demolition of existing dwelling and construction of a new two (2) storey dwelling, cabana, front fence and landscaping
- 258/2011 244 Pittwater Road, MANLY 2095
Alterations and additions to existing dwelling including front fence and replacement of garage doors
- 376/2010 17 Cove Avenue, MANLY 2095
Section 96 to modify approved Alterations and additions to existing Manly Waters Private Hospital including new front and rear extension, indoor swimming pool, central roof terrace and signage
- 261/2011 2 Rolfe Street, MANLY 2095
Alterations and additions to existing semi-detached dwelling including first floor extension, internal alterations, double carport, rear deck with pergola and landscaping

Environmental Services Division Report No. 29 (Cont'd)

263/2011 8 Carlton Street, MANLY 2095

Alterations and additions to existing Residential Flat Building including front fence, replace first floor sunroom windows, new louvers and roof to second floor balcony

264/2011 72 Fairlight Street, FAIRLIGHT 2094

Strata Subdivision of existing Residential Flat Building into two (2) lots

387/2003 69-71 The Corso, MANLY 2095

Section 96 to modify Court approved alterations and additions to the New Brighton Hotel

415/2009 14 Plant Street, BALGOWLAH 2093

Section 96 to modify approved Alterations and additions to an existing three (3) storey dwelling including swimming pool and landscaping

364/2010 6 Mossgiel Street, FAIRLIGHT 2094

Section 96 to modify approved Alterations and additions to an existing terraced house including new basement, first floor addition, rear extension, swimming pool, deck and landscaping

420/2010 270 Pittwater Road, MANLY 2095

Section 96 to modify approved Change of use to an Educational Establishment (Stella Maris College), alterations and additions to an existing building including new lift, fit out, signage and front fence

265/2011 9-15 Central Avenue, MANLY 2095

Advertising Structure

266/2011 81 Boyle Street, BALGOWLAH 2093

Residential Flat Building

267/2011 39 Ellery Parade, SEAFORTH 2092

Alterations & Additions to Dwelling

268/2011 11 Palmerston Place, SEAFORTH 2092

Alterations & Additions to Dwelling

269/2011 86 Addison Road, MANLY 2095

First Floor Addition

The following development applications are being forwarded to the Manly Independent Assessment Panel to be held Thursday 20 October, 2011.

| DA# | Site | Proposal |
|--------|-------------------|--|
| 146/11 | 4 Nolan Place | Alterations and additions including double carport and fence |
| 360/10 | 46 Malvern Avenue | Alterations and additions to existing motel including 4 th level addition |
| 401/10 | 35 Arthur Street | Section 96 Modification |

Environmental Services Division Report No. 29 (Cont'd)

The following development applications are being forwarded to the Manly Independent Assessment Panel (Review) to be held Thursday 20 October, 2011.

| DA# | Site | Proposal |
|--------|--------------------|----------------------------------|
| 123/10 | 220 Sydney Road | Alterations and additions to RFB |
| 367/10 | 46 Victoria Parade | Demolition and new 7 storey RFB |
| 280/10 | 37 Peronne Avenue | Alterations and additions |

Decisions from the Manly Independent Assessment Panel 15 September, 2011.

| DA# | Site | Proposal | Decision |
|--------|--|--|--------------------------------------|
| 132/11 | 19 West Street Balgowlah | Alterations and additions to existing two storey dwelling house, including front and rear additions, extension of front balcony and landscaping works. | Approved |
| 124/11 | 73 Wanganella Street Balgowlah | Demolition of dwelling house, torrens title subdivision of the land into two allotments and construction of a two storey dwelling house and landscaping works on each allotment | Approved |
| 381/10 | 49 Seaforth Crescent Seaforth | Alterations and additions to existing three storey dwelling house including additional three levels with carparking above family flat, roof terraces, retaining walls and landscaping works. | Approved |
| 159/11 | 28A Alexander Street Manly | Construction of 2x2 storey semi-detached dwellings with double garages, swimming pools and torrens title subdivision | Approved |
| 72/11 | 16 Birkley Road Manly | Alterations and additions to an existing dwelling including rear addition, double garage, terrace, deck and landscaping | Approved |
| 149/11 | 23 Bollingbroke Parade Fairlight | Alterations and additions to an existing dwelling including first floor extension and decks. | Deferred Commencement Approval |

RECOMMENDATION

THAT the information be received and noted.

ATTACHMENTS

There are no attachments for this report.

PS101011ESD_2.doc

***** End of Environmental Services Division Report No. 29 *****

TO: Planning and Strategy Committee - 10 October 2011

REPORT: Environmental Services Division Report No. 30

SUBJECT: A List of Legal Appeals Relating to Development Applications During October 2011

FILE NO:

SUMMARY

A list of current legal appeals relating to Development Applications during October 2011.

REPORT

| DA# | L&E Appeal Reference | House # | Address | Date Appeal Lodged | Solicitor Company | Current Status |
|--------|---------------------------------------|---------|------------------|--------------------------|-------------------|---|
| 13/10 | Class 1 10584/10 S56A Appeal | 46-48 | North Steyne | 27/07/10 27/09/11 | HWL | Callover 21/10/11 |
| 162/10 | Class 1 10671/11 | 27 | Daintry Street | 03/08/11 | Pikes | S34AA Conference/hearing 10&11/10/11 |
| 159/11 | Class 1 10711/11 | 28A | Alexander Street | 16/08/11 | HWL | S34AA Conference/hearing 31/10/11 & 01/11/11 |
| 11/10 | Class 1 10744/11 | 44 | Alma Street | 25/08/11 | Pikes | S34AA Conference/hearing 19&20/10/11 |
| 332/10 | Class 1 10766/11 | 15A | Linkmead Av | 02/09/11 | Pikes | S34AA Conference/hearing 09&10/11/11 |
| 367/10 | Class 1 10823/11 | 46 | Victoria Parade | 12/09/11 | HWL | Callover 12/10/11 |
| 64/11 | Class 1 10839/11 | 23 | Beatrice Street | 15/09/11 | Pikes | Callover 13/10/11 |

RECOMMENDATION

THAT the information be received and noted.

ATTACHMENTS

There are no attachments for this report.

PS101011ESD_3.doc

***** End of Environmental Services Division Report No. 30 *****

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Planning And Strategy Division Report No. 18
SUBJECT: Draft Manly Local Environmental Plan 2011
FILE NO:

SUMMARY

The Draft Manly Local Environmental Plan 2011 (Draft LEP) has been prepared under the *Environmental Planning and Assessment Act 1979* (The Act) and the *Environmental Planning and Assessment Regulation 2000* (The Regulation).

Preparation of the draft LEP commenced in 2006. LEP preparation is an extensive drafting and mapping process informed by consultation, research and analysis of local needs and responds to state and national strategic policy. This is regulated under the direction of the Minister of Planning and must meet a complex range of requirements before the Draft is ready to be certified for public exhibition.

On 23 August, 2011 the draft LEP was considered in a formal pre-lodgment meeting between Manly Council staff and the Department of Planning and Infrastructure (DoPI). Drafting directions were received by Council on 7 September, 2011 and considered by Council's LEP and DCP Working Group on 20 September, 2011.

The Draft LEP is now formally presented to Council under Section 64 of The Act to resolve that the draft LEP be lodged to seek Director General (DG) permission under Section 65 of The Act to certify the plan for public exhibition. The draft LEP is circulated separately for the information of Councillors as **Attachment 1, circulated separately**.

Preparation of the Draft LEP has involved extensive statutory consultation with public authorities and has been subject to review at Council workshops and working groups over the past four years. (**detailed in section 1 of Attachment 2, circulated separately**). Public exhibition is the next step in the plan making process.

Council's formal public exhibition of the Draft LEP will enable a large audience to make submissions. It is expected that the Draft LEP will be on Public Exhibition from around mid November, 2011 till at least the end of January 2012, subject to the minimum period prescribed by the DG.

Once the exhibition closes, council planning staff will review the Draft LEP in response to public submissions under Section 68 of The Act and update Council on any amendments made prior submission of the LEP to the DG in March 2012.

REPORT

Background

Local Environmental Plans are statutory planning instruments, which aim to make local environmental planning provisions for land in accordance with The Act. They specify land use zones, and permissibility of land uses for each zone through a land use table to meet specific planning objectives, which respond to various natural and man-made characteristics of the land.

Council's current planning controls for Manly are based on planning studies and community consultation undertaken over 20 years ago. The current LEP was gazetted on 16th September 1988 and preparation started in 1984. Subsequently, many of the planning studies that informed the current LEP were published as early as 1980. Therefore, in order for Manly Council to

Planning And Strategy Division Report No. 18 (Cont'd)

effectively respond to emerging land use issues, it is necessary to review and update the current LEP, related mapping and supporting Development Control Plan (DCP).

The *Standard Instrument (Local Environmental Plans) Order 2006* was gazetted by the NSW Government on the 31st March 2006. The Standard Instrument prescribes a standard form and content of a principal LEP for the purposes of section 33A of the Act.

At its meeting of 9th October 2006, Council resolved to prepare a draft LEP that was consistent with the *Standard Instrument (Local Environmental Plans) Order 2006* to replace the Manly LEP 1988 (current LEP). Council gave advice to this effect to the Director General of NSW Planning by letter dated 21st June 2007.

Note. This Draft LEP is not required to follow the 'gateway' plan making process which commenced under The Act in 2009 due to transitional arrangements.

The NSW Government initially required all local councils to prepare a new principal LEP that incorporates the *Standard Instrument (Local Environmental Plans) Order 2006* by the 31 March 2011. However, in April 2009, this was revised and sixty seven (67) priority councils were identified by NSW Planning to complete a Standard Instrument LEP by March 2011. Manly Council was not listed a priority and this has affected processing times until 2011 when Council entered a funding agreement under the LEP Acceleration Fund to complete submission of the LEP under Section 68 by the end of March 2012.

Useful information: Standard Instrument LEPs

The standard instrument mandates land use zones, planning provisions and a dictionary of definitions to be applied across NSW. Changes to zoning, Drafting comparisons, local provisions, a list of maps, permissibility of land uses and definitions are all **detailed in sections 2- 8 of Attachment 2.**

Only two outstanding drafting matters remain under discussion, which Council has sought to resolve directly with the DG (**detailed in section 9 of Attachment 2, circulated separately**).

Additional provisions, also commonly referred to as 'local provisions' or 'model local clauses' have been settled by the Parliamentary Counsel's Office, which address common topics raised by various councils in their standard instrument LEP preparation. The use of such settled clauses are intended to reduce the time required to prepare an exhibition standard instrument LEP. In some cases Manly has drafted its own local provisions to address unique local circumstances including tourist and visitor accommodation and design excellence in town centres.

Amendments to the Standard Instrument LEP template have been ongoing and a number of provisions continue to be settled by Parliamentary Counsel for use by Councils in Draft LEP's. Where councils use settled local clauses, but wish to make some minor alterations to suit their specific circumstances, these may be considered by the Department with the appropriate justification, although they recommend they be adopted 'as is' wherever possible.

In Draft Standard Instrument LEP's all local clauses are written in red text and compulsory clauses are black text to help distinguish between mandated and optional provisions.

Planning And Strategy Division Report No. 18 (Cont'd)**The Plan Making Process**

The finalized draft LEP is presented to Council under Section 64 of the Act.

Council is required to submit a copy of the draft LEP, Maps and supporting documentation to the Director-General of NSW Planning with a request to publicly exhibit the draft plan. The Director-General may then issue a certificate certifying that the draft plan may be exhibited for public comment. When the Director General issues a certificate to publicly exhibit the draft LEP, the matter will again be reported to Council. The report to Council will provide information of any advice or direction received from the department regarding the content of the draft LEP. Further information regarding the community consultation strategy and exhibition timeframe will also be provided at this time.

The draft LEP will be placed on public exhibition to allow for extensive consultation with the Manly community. Following exhibition, submissions will be reviewed and the draft LEP will be presented to Council for resolution to request the Director General to provide the Minister of Planning with a report recommending the draft LEP be made through gazettal. It will then become the principal LEP for Manly and replace the current LEP.

The plan making process is summarized in **section 10 of Attachment 2 (circulated separately)** to this report.

RECOMMENDATION

1. That Council resolves to lodge the Draft LEP, maps and documents required for certification by the Director General under Section 65 of The Act to seek permission to publically exhibit the Draft Manly LEP 2011.
2. Following certification, the Draft LEP be placed on public exhibition under Section 66 for longer than the minimum period required by the Director General, extending to at least the end of January 2012.
3. Once the exhibition closes, council staff will consider all public submissions and update Council on any amendments made to the Public Exhibition Draft LEP prior to final submission to the DG under Section 68.

ATTACHMENTS

| | | | |
|-------------|--|-----------|-----------------------|
| AT-1 | Draft Pre-Exhibition Manly Local Environmental Plan 2011 | 128 Pages | Circulated Separately |
| AT-2 | Summary comparison of current and draft LEP and associated information | 27 Pages | Circulated Separately |

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***** End of Planning And Strategy Division Report No. 18 *****

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Planning And Strategy Division Report No. 19
SUBJECT: Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly
FILE NO:

SUMMARY

This report recommends that Council adopt the exhibited Draft Urban Design Guidelines for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly. It is also recommended that the Urban Design Guidelines be used in the Council's submission on the Exhibition prepared on the Part 3a Major Project by the Department of Planning and Infrastructure.

REPORT

The Draft Urban Design Guidelines was exhibited in response to Council's resolution [PS90/11] of 1 August 2011 as follows:

- 1. Council resolves to exhibit the Draft Urban Design Framework for the urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly for public consultation for 28 days.*
- 2. Council strengthens the through site pedestrian link requirements;*
- 3. A floor space ratio be set so that the envelope is not fully saturated, and*
- 4. Consideration of desirable locations for motor vehicular access to basement parking be addressed.*

In relation to Council's particular requests for strengthening of requirements for pedestrian links, floor space ratio and the location of vehicular access, the Guidelines are amended for adoption as follows:

- Inclusion of through site pedestrian link requirements on the 'Urban Design Framework diagram'.
- Floor space ratio is set as a statutory development standard in the Manly Draft Local Environmental Plan 2011 as indicated on the LEP Floor Space Ratio Map.
- The location of desirable locations for motor vehicular access to basement parking is detailed on the 'Urban Design Framework diagram' from both Wentworth Street and South Steyne.

The Exhibition and Submissions

This Draft Urban Design Framework was exhibited for 28 days from 8 August 2011 to 5 September 2011 for public comment. Submissions were received from Fairlight and Fairy Bower Precincts as well as Urbis Consultants, on behalf of Royal Far West, (refer to Attachment 1). The three submissions received are summarised in the attached matrix (Attachment 2) along with a staff response.

CONCLUSION

On 14 February 2011 Council resolved that design control guidelines be prepared for the site bounded by Wentworth St, Darley Rd, Victoria Parade and South Steyne to address the significant access, parking, urban design, landscape and environmental planning issues on the site.

Planning And Strategy Division Report No. 19 (Cont'd)

The Draft Urban Design Guidelines has now been prepared and exhibited to ensure that the re-development of the Far West Site is of an acceptable scale, comparable to the surrounding area. Submissions received in response to exhibition have been considered as reported and have resulted in minor changes to the exhibited document for adoption as reported (refer to Attachment 3, circulated separately). The maximum height at the corner of Wentworth Street and South Steyne is also proposed to be reduced from 18m (as exhibited) to 15m to better relate to the height of existing buildings in the vicinity. Some inconsistencies between maps in the exhibited draft are also corrected.

It is also recommended that the adopted Urban Design Guidelines be used in the Council's submission on the exhibition of the Major Project ('Part 3A development') currently being undertaken by the Department of Planning and Infrastructure.

RECOMMENDATION

It is recommended that:

1. Council adopts the draft Urban Design Guidelines for the urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly as exhibited.
2. Council has regard to the Urban Design Guidelines in preparing its submission on the exhibition of the Major Project ('Part 3A development') by the Department of Planning and Infrastructure.

ATTACHMENTS

| | | | |
|-------------|--|----------|-----------------------|
| AT-1 | Submission by Urbis on behalf of Royal Far West dated 26 August 2011 | 6 Pages | |
| AT-2 | Summary of three submissions received with staff responses | 4 Pages | |
| AT-3 | Urban Design Guidelines | 25 Pages | Circulated Separately |

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***** End of Planning And Strategy Division Report No. 19 *****

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Submission by Urbis on behalf of Royal Far West dated 26 August 2011



24 August 2011

The General Manager
Manly Council
PO Box 82
MANLY NSW 1655



Dear Sir,

Draft Urban Design Controls – Royal Far West, Manly

1 Introduction

On behalf of our client, Royal Far West (RFW), we are writing in relation to the 'Draft Urban Design Controls for the urban block bounded by Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly' which were placed on public exhibition on the 8 August 2011. The document principally relates to the RFW site in Manly.

On 4 November 2010 the Minister declared the redevelopment of the RFW site to be a project to which Part 3A of the Environmental Planning and Assessment Act 1979 applies. As part of this process, Director General Requirements (DGRs) issued for the site specifically require the applicant to provide "details of proposed urban design, building mass and streetscape controls for future development" and a range of similar design related principles relevant to the future development of the site.

Both prior and subsequent to the project being declared a Major Project, our project team has met with the Council on numerous occasions seeking constructive feedback regarding the development of the Concept Plan and urban design related aspects of the application. More recently, prior to the submission of the Environmental Assessment (EA) for 'test of adequacy' (submitted 3 June 2011), we briefed Manly Council as part of a formal stakeholder consultation session on the most recent plans currently before the Department of Planning. We have subsequently received no feedback or comments from the Council.

In light of our efforts to engage with Council, it is very disappointing that Council have prepared site-specific guidelines without notifying, consulting or liaising with our client.

The absence of pre-exhibition consultation of the guidelines has resulted in Manly Council presenting a document for public exhibition that contains a range of flaws, which regrettably could have been avoided had there been prior consultation with Royal Far West. These matters clearly need review and reparation, to ensure that the Council are providing the public with accurate information. These include:

- Erroneous reference to the RFW Concept Plan – The draft guidelines critique our proposal on the basis of a Preliminary Environmental Assessment (PEA) scheme, despite our briefing to Council several months ago in relation to a significant reduction in the proposed height in the submitted EA.
- Courtyard adjacent to Wentworth Street – RFW strongly objects to the unwarranted size of the public plaza required adjacent to Wentworth Street. This occupies land more appropriately used

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**Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly
Submission by Urbis on behalf of Royal Far West dated 26 August 2011**



for RFW purposes, and the objective of activating the frontage of Wentworth Avenue can be achieved with a much smaller space, as proposed in the EA.

- Solar access and building heights – Council suggests a building height plane approach that will create an unpractical and unsightly “wedding cake” massing that is contrary to the defined street edge character of Manly and serves no identified planning purpose.

2 Review and Comments on Draft Guidelines

2.1.1 ERRONEOUS REFERENCE TO THE RFW CONCEPT PLAN

Pages 7, 8, 9, 15 and 16 of the draft document refer to an earlier scheme of the Concept Plan redevelopment scheme specifically presented to the Department of Planning at the Preliminary Environmental Assessment (PEA) stage. As explained to Council previously, the PEA document was submitted in November 2010 prior to detailed consultation on environmental testing.

As part of the EA process, various analyses have been undertaken, resulting in a two storey height reduction, and other changes, regarding which Council was extensively brief on 31 March 2011. We are concerned that Council is formally exhibiting a critique of a PEA scheme, in the full knowledge that it differs significantly from the reduced scheme documented in the EA.

2.1.2 COURTYARD ADJACENT TO WENTWORTH STREET

Page 17 of the draft guidelines suggests a ‘public forecourt/courtyard’ in front of the proposed RFW building on the eastern side of Wentworth Street. Page 12 describes this in more detail:

“North facing aspect opportunity for public and semi-public plaza spaces and provides an opportunity to make a forecourt for the RFW Hospital and would create a public realm focus point to this street block that will help tie it back to The Corso and the greater Manly Town Centre.”



Draft guidelines



Proposed Concept Plan treatment of the forecourt

The document proposes a large area of ‘public domain’ and ‘semi-public domain’ within the RFW site boundary with the view of creating a “public realm focus point” which provides linkage to The Corso.

Given that RFW purchased the site for the purposes of providing specialist health services for country children and their families, through public donations and contributions, the retention of land for the use of RFW within the Concept Plan is very important. On this basis, the proposed use of this land for undefined public uses is ill-advised. For the following reasons, we strongly object to the Council’s proposed treatment of this interface:

- Severs connection to the street and will undermine the quality of the built form and interface here.

**Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly
Submission by Urbis on behalf of Royal Far West dated 26 August 2011**



- Activation of the southern side of Wentworth Street, opposite Rialto Square, has merit and a 8m setback is in the EA. While the treatment could easily be replaced with an active plaza treatment, the required approx. 20m setback is excessive.
- It compromises the opportunity for RFW to improve its important community function. Enriching the quality and functionality of passive open space and children's playground areas components was a fundamental objective of the site redevelopment.
- It is not warranted by the nature of the proposal and it is unclear how such a large space would be activated.

2.1.3 SOLAR ACCESS AND BUILDING HEIGHTS

The draft design guidelines (pgs. 21-22) require a dated and discredited stepped building height approach which results in an inefficient and unsightly "wedding cake" effect, for no apparent planning purpose.

The proposed Concept Plan provides a 4/5 storey street edge along Wentworth Street and South Steyne which is broadly consistent with the draft guidelines. The height of the hotel component is 9 storeys, consistent with the top height of the Sebel and Peninsular. We note that this is also generally consistent with the draft guidelines.

As discussed above, building heights proposed as part of the Concept Plan have been reduced from the scheme presented in the Preliminary Environmental Assessment. The reduced heights both at the street and within the site reflect a detailed consideration of surrounding built form and amenity considerations.

The draft document also indicates that the proposed Concept Plan height overshadows the promenade to Manly Beach. However, shadow diagrams submitted with the Concept Plan (see below) demonstrate that the proposed building heights will not cast any shadow on either Manly Beach or the promenade adjacent to the beach on the winter solstice. In addition, surrounding residential properties will receive at least 3 hours of sunlight on the winter solstice in accordance with the Residential Flat Development Code (RFDC) which accompanies SEPP 65.



9am winter solstice

Noon winter solstice

3pm winter solstice

ATTACHMENT 1

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Submission by Urbis on behalf of Royal Far West dated 26 August 2011



3 Conclusions

We strongly object to the proposed draft urban design guidelines, and request that the Council do not proceed with these flawed controls.

Despite numerous attempts to gain constructive feedback from Council, it is disappointing that there have been no attempts to consult with our client prior to the exhibition of the draft controls. As a result, the Council have formally exhibited a critique of a PEA scheme, in the full knowledge that it differs significantly from the reduced scheme documented in the EA.

The absence of pre-exhibition consultation of the guidelines has presented a range of un-sound findings and matters that require clarification. Specifically, we are concerned with erroneous references to the RFW Concept Plan, the proposed public plaza adjacent to Wentworth Street, and unpractical and unsightly "wedding cake" massing of building heights. Many of these matters could have been clarified prior to the document being placed on public exhibition – which may confuse those with a stake in the project.

On this basis, the Council should not proceed with the draft controls. We would appreciate if you could provide a response at your earliest convenience.

Should you have any questions, please do not hesitate to contact us on 8233 9900.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "A. Harvey".

Andrew Harvey
Senior Consultant

Cc: Department of Planning & Infrastructure

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Submission by Urbis on behalf of Royal Far West dated 26 August 2011



24 August 2011

Mr Michael Woodland
Director
Metropolitan Projects
Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Michael,

Royal Far West Concept Plan (MP 10-0159): Draft Urban Design Controls – Royal Far West, Manly

Further to the recent submission of our EA for public exhibition, we are writing to inform the Department that Manly Council have recently released 'Draft Urban Design Controls for the urban block bounded by Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly' which were placed on public exhibition on the 8 August 2011. The document principally relates to the RFW site in Manly.

Both prior and subsequent to the project being declared a Major Project, our project team has, in a proactive manner, met with the Council on numerous occasions to illicit genuine feedback regarding the development of the Concept Plan and urban design related aspects of the application. More recently, prior to the submission of the Environmental Assessment (EA) for 'test of adequacy' (submitted 3 June 2011), we briefed Manly Council as part of a formal stakeholder consultation session on the most recent plans currently before the Department of Planning. We have subsequently received no feedback or comments from the Council.

In light of our efforts to welcome and consider feedback on the scheme, it is therefore very disappointing that Council have prepared site-specific guidelines without notifying, consulting or liaising with our client. This approach is contrary to RFWs ongoing efforts to engage with a range of stakeholders to ensure the redevelopment provides a wide scope of community benefits – many of which are relevant to the Council.

Specifically, the Director General Requirements (DGRs) issued for the site require the applicant to provide "details of proposed urban design, building mass and streetscape controls for future development" and a range of similar design related principles relevant to the future development of the site. Our EA provides commentary on our response to these matters.

In summary, the absence of pre-exhibition consultation of the guidelines has presented a range of unsound findings and matters that we consider require clarification. Many of these matters could have been clarified prior to the document being placed on public exhibition – which may confuse those with a stake in the project. These include:

- Erroneous reference to the RFW Concept Plan – The draft guidelines critique our proposal on the basis of a Preliminary Environmental Assessment (PEA) scheme, despite our briefing to Council several months ago in relation to a significant reduction in the proposed height in the submitted EA.

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ATTACHMENT 1

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Submission by Urbis on behalf of Royal Far West dated 26 August 2011



- Courtyard adjacent to Wentworth Street – RFW strongly objects to the unwarranted size of the public plaza required adjacent to Wentworth Street. This occupies land more appropriately used for RFW purposes, and the objective of activating the frontage of Wentworth Avenue can be achieved with a much smaller space, as proposed in the EA.
- Solar access and building heights – Council suggests a building height plane approach that will create an unpractical and unsightly "wedding cake" massing that is contrary to the defined street edge character of Manly and serves no identified planning purpose. The draft document also indicates that the proposed Concept Plan height overshadows the promenade to Manly Beach. As shown in our shadow diagrams, this is clearly not the case – at the worst case, the shadow of the proposal will not extend beyond the road verge of South Steyne.

In light of the above concerns, we have written to Manly Council asking them not to proceed with these flawed controls.

Should you have any questions, please do not hesitate to contact us on 8233 9900.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "A. Harvey".

Andrew Harvey
Senior Consultant

Cc: The General Manager - Manly Council.

ATTACHMENT 2

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Summary of three submissions received with staff responses

| SUBMISSION | COMMENTS OR ISSUES RAISED | STAFF RESPONSE |
|--------------------|--|--|
| Fairlight Precinct | <p>Council draft guidelines are in envelope / bulking generalities, analyse the surrounding area well & represent a reasonable MAXIMUM approach consistent with the Peninsula site. Hotel & residential become the main focus of the site.</p> <p>Do the RFW deeds permit the change of major use of the site?</p> <p>There should be a detailed study of the traffic generating potential of the site.</p> <p>There should be a requirement that the site generate no extra parking demand, i.e. all parking should be basement, not dealt with by contribution in lieu to Council. The implications for parking and ingress and egress for the site for vehicles and pedestrians was not defined.</p> <p>Worry about the impact of introducing effective 24 hour alcohol service via hotel next to children's area.</p> <p>Children have lost out – relegated from beach view to buried within the complex with no view and no sunlight.</p> <p>We ask for more complete shadow studies, especially re the children's area, Manly Village School & the beach.</p> <p>The proposal appears to delete the current children's play area.</p> <p>Shadow could be an issue with the school.</p> <p>The hospital would not have any outlook and none to the sea.</p> | <p>Noted.</p> <p>Deeds pertaining to RFW are a matter for the owner.</p> <p>Agreed and a Transport Report is being exhibited by the Department of Planning and Infrastructure at Appendix J of the RFW's Environmental Assessment.</p> <p>While this matter is beyond the scope of the Urban Design Guidelines, detailed environmental assessment should encompass these matters.</p> <p>Agreed and may be incorporated into Council's further submissions to the Department of Environment and Infrastructure.</p> <p>While beyond the scope of the Urban Design Guidelines, if it is agreed and may be incorporated into Council's further submissions to the Department of Environment and Infrastructure.</p> <p>While this matter is beyond the scope of the Urban Design Guidelines, the Department's environmental assessment should encompass this matter.</p> <p>While beyond the scope of the Urban Design Guidelines, if it is agreed and may be incorporated into Council's further submissions to the Department.</p> <p>See above.</p> |

ATTACHMENT 2

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Summary of three submissions received with staff responses

| SUBMISSION | COMMENTS OR ISSUES RAISED | STAFF RESPONSE |
|----------------------|---|--|
| | <p>There appears to be no functional (purpose of the development) or master plan for the site other than the block drawings showing the height and the scale of the development. Quantum of parking and the calculations of such were not defined.</p> <p>The very legality of the development was questioned.</p> | <p>Beyond the scope of the Urban Design Guidelines.</p> <p>Beyond the scope of the Urban Design Guidelines.</p> <p>Noted.</p> |
| Fairy Bower Precinct | <p>The Precinct commends Council on taking this proactive step to establish design guidelines for this iconic site. The original proposal for the site is considered totally inappropriate in terms of height, bulk and scale.</p> <p>A comprehensive Masterplan for the site should be mandatory as required under Manly LEP.</p> <p>Any redevelopment of the site must respect the existing scale of development in Manly and what is proposed in <i>Manly2015</i>.</p> <p>The proposed Design Guidelines generally encompass an acceptable scale of development subject to more detailed controls being developed.</p> <p>A generous curtilage around Drummond House needs to be established so that it is not dwarfed and overwhelmed by adjoining development.</p> <p>Any impacts on the school and its grounds in particular overshadowing and overlooking must be minimised.</p> | <p>Noted.</p> <p>The Draft Manly LEP 2011 proposes a local clause for the preparation of site specific DCPs including the Royal Far West Site.</p> <p>The location of the proposed public courtyard also assists in relation to this concern.</p> <p>While beyond the scope of the Urban Design Guidelines, further consideration may be incorporated into the Precinct and/or Council's further submissions to the Department of Planning in relation to their exhibition of the development.</p> |

ATTACHMENT 2

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Summary of three submissions received with staff responses

| SUBMISSION | COMMENTS OR ISSUES RAISED | STAFF RESPONSE |
|--|---|---|
| | <p>The Precinct is particularly concerned about what will happen to the current residents of Elderslie House and feel the community has a social and moral obligation to provide affordable housing in this central location.</p> <p>It is also not clear as to where the Royal Far West School and Hospital fits in with the proposed redevelopment and whether the best interests and well-being of the children are enhanced.</p> | <p>As above.</p> <p>Noted.</p> |
| <p>Urbis (This submission is attached as Attachment 1)</p> | <p>Urbis comment on the status of the proposed development and concerns regards process and consultation.</p> <p>Concern in relation to the proposed courtyard opposite Rialto Square, Wentworth Street. Urbis considers this space to be of an 'unwarranted size; and "severs connection to the street and will undermine the quality of the built form and interface here". The submission also says 'Activation of the southern side of Wentworth Street opposite Rialto Square has merit and an 8m setback is in the EA" (point 2.1.2).</p> | <p>Council's Draft Urban Design Guidelines has been exhibited for public comment. The concern regards Council's lack of pre-exhibition consultation with Royal Far West is unfounded as the purpose of Council preparing and exhibiting the document is to ensure that the redevelopment of the Far West Site is of an acceptable scale, comparable to the surrounding area. It has been appropriate that the preparation of this Council's guidelines occur at arm's length of the proponent for the development.</p> <p>The proposed size of the courtyard has been determined by Council with detailed consideration of site constraints and opportunities at a width and alignment to complement and enhance the existing Rialto Square Space and also having regard to the heritage significance of Drummond House adjoining the courtyard. The land occupied by the courtyard as a public domain space (with 'public' and 'semi public' parts as shown in Council's "Draft Urban Design controls") and is not considered excessive or unreasonable having regard to the scale of the development overall. Given an 8 storey height near this part of the development and fronting this space it is felt that a public space of any consequence here would need to be deeper than 8m to act as a forecourt of appropriate scale.</p> |

ATTACHMENT 2

Planning And Strategy Division Report No. 19 - Draft Urban Design Framework for the Urban block located within Darley Road, South Steyne, Victoria Parade and Wentworth Street, Manly Summary of three submissions received with staff responses

| SUBMISSION | COMMENTS OR ISSUES RAISED | STAFF RESPONSE |
|------------|--|--|
| | <p>In relation to 'wire frame' envelope controls Urbis state the draft design guidelines (pgs 21-22) "require a dated and discredited stepping building height approach which results in an inefficient and unsightly 'wedding cake' effect for no apparent planning purpose" (point 2.1.3).</p> <p>Detailed aspects of height and solar access.</p> | <p>It appears from these comments on Council's 'wire frame' maximum building envelope control, that Urbis has reviewed these requirements as if they reflect a final building structure. In this regard "a building envelope is not a building. It defines a generous three dimensional space within which quality residential design can occur". (Part 1 – Building Envelopes, Residential Flat Design Code under SEPP 65 - Design Quality of Residential Flat Development)</p> <p>The drafting of the exhibited 'wire frame' envelope involves certain stepping of height and modulation which is justified given the size of the development site and recognising a maximum allowable height of building at specific and purposeful locations on the site. Various height limits at these 'stepped' locations identify where it is considered development must be controlled to protect the amenity of adjoining development, streetscape character and landscape and architectural heritage.</p> <p>Other concerns and issues raised in the Urbis submission regarding more detailed aspects of height and solar access are more appropriately addressed in Council's future submission on the Department of Planning and Infrastructure's exhibition of the Project (due by 4 November 2011).</p> |

TO: Planning and Strategy Committee - 10 October 2011
REPORT: Corporate Services Division Report No. 37
SUBJECT: Policy on Payment of Expenses and Provision of Facilities to Mayor and Councillors
FILE NO:

SUMMARY

Council is required to adopt a Policy concerning payment of expenses and the provision of facilities to the Mayor and Councillors within five (5) months after the end of each year, and to forward a copy of the Policy to the Director General.

REPORT

Council's Policy on "Payment of Expenses and Provision of Facilities to Mayor and Councillors", was adopted at the Ordinary Meeting of 8 November 2010.

Section 252(1) of the *Local Government Act 1993*, provides that within five (5) months after the end of each year, Council is required to adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and Councillors (irrespective of whether there are any changes to the current policy).

Where a Council is to adopt or amend its policy section 253(1) requires that public notice be given allowing at least 28 days for the making of public submissions. Council must publicly exhibit the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy before they annually adopt the policy, even if the policy is not amended or the amendments are not substantial.

In accordance with Local Government Circular 11-27, the wavering of the need to give public notice under Section 253(3) does not apply to the annual policy adoption process. This only relates to minor amendments that Council may wish to make to the policy at other times during the year.

Section 253(4) then requires that a copy of the policy be forwarded to the Director General within 28 days of its adoption.

After reviewing this Policy it is considered that Council's Policy meets the requirements of the legislation and the guidelines issued in October 2009 by the Division of Local Government, in relation to the payment of expenses incurred and the provision of facilities to the Mayor and Councillors. No changes are proposed at this time.

It is therefore recommended that Council give notice of its intention to adopt the Payment of Expenses and Provision of Facilities Policy pursuant to section 253(3) of the *Local Government Act 1993*, and publicly exhibit it for 28 days to allow submissions to be made. At the expiration of the 28 days a further report be submitted to Council for adoption and addressing any submissions.

Corporate Services Division Report No. 37 (Cont'd)**RECOMMENDATION**

That:

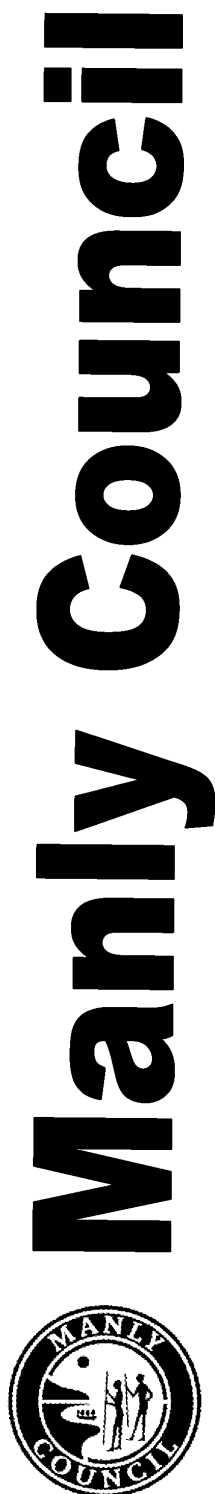
1. Pursuant to section 253 of the *Local Government Act 1993*, Council gives public notice of its intention to adopt the Policy on Payment of Expenses and Provision of Facilities to the Mayor and Councillors.
2. The Policy be public exhibited for at least 28 days to allow for public submissions to be received.
3. At the expiration of the exhibition period any submissions be considered and the Policy be submitted to Council for adoption.

ATTACHMENTS

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| AT-1 | Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy | 16 Pages |
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***** End of Corporate Services Division Report No. 37 *****



Policy on Payment of Expenses & Provision
of Facilities to Mayor & Councillors

ADOPTED November 2010

ATTACHMENT 1

Corporate Services Division Report No. 37 - Policy on Payment of Expenses and Provision of Facilities to Mayor and Councillors

Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy

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Payment of Expenses & Provision of Facilities Policy

PART 1 INTRODUCTION

1. Preliminary

1.1 Title: Payment of Expenses & Provision of Facilities – Mayor and Councillors

This policy is in accordance with the requirements of the Local Government Act 1993 and may be cited as the "Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy".

1.2 Policy No: MAN-POL-P51

1.3 Keywords

Payments, Expenses, Facilities, Benefits, Travel, Mayor, Councillors, Equipment, Private Use, Accommodation, Spouse.

1.4 Policy Objectives

The purpose of this policy is to allow for Councillors to receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties as elected representatives of their local communities.

This policy will also apply as applicable to NSW Council administrators in the event of their appointment.

1.5 Legislative and other Government Policy Provisions

1. This policy is made under the Local Government Act 1993 ("the Act"), including sections 252 to 254. The Act requires that Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and other Councillors.
 - The Local Government (General) Regulation 2005 ("the Regulation").
 - Division of Local Government, Department of Premier and Cabinet Guidelines for the payment of expenses and provision of facilities for Mayors and Councillors for Local Councils in NSW" (October 2009).
 - Department of Local Government Circular No 05/08 – Legal Assistance for Councillors and Council Employees and No 08/24 – Mis-use of Council Resources
 - Council's Code of Conduct
 - ICAC Publication – No Excuse for Misuse, preventing the misuse of Council resources
 - Other relevant publications.
2. Clause 403 of the Regulation states that a policy under section 252 of the Act must not include any provision enabling Council:
 - (a) to pay any councillor an allowance in the nature of a general expense allowance, or

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- (b) to make a motor vehicle owned or leased by Council available for the exclusive or primary use or disposition of a particular Councillor other than the Mayor.

1.6 Reporting

Section 428(2) (f) of the Act requires a council to include in its Annual Report:

- Council's policy on the provision of facilities for, and the payment of expenses to Councillors.
- Total amount of money expended during the year on providing those facilities and paying those expenses.

Clause 217(1)(a) and (a1) of the Regulation requires Council to include in the Annual Report the total cost of expenses and provision of facilities for the Mayor and Councillors, specifically:

- details (including the purpose) of overseas visits undertaken during the year by Councillors while representing Council
- cost of the provision, including rental, of dedicated office equipment allocated to councillors on a personal basis such as laptop computers, mobile phones, telephones and facsimile machines and internet installed in Councillors homes
- cost of telephone calls including mobiles, home located landlines, facsimile and internet services
- attendance of Councillors at conference and seminars
- interstate visits and cost of travel, accommodation, etc
- overseas visits and cost of travel, accommodation, etc
- spouse/partner/accompanying person expenses
- care and other related expenses

1.7 Monetary Limits

The payment of expenses and provision of equipment and facilities is limited by the budget allocations made for Councillor expenses each year in the adopted Estimates which are included and exhibited as part of Council's Annual Management Plan, or as otherwise indicated in this policy.

Any claim submitted to Council for reimbursement must be approved by the General Manager. The General Manager will assess the appropriateness of the claim and shall have regard to the budget allocations.

1.8 Dispute Resolution

Any dispute by a Councillor relating to the administration of this policy must be made in writing to the General Manager detailing the grounds of the dispute.

All such disputes will be referred to the Full Council for determination and resolution.

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PART 2 FACILITIES FOR MAYOR AND COUNCILLORS

2.1 Mayor

In addition to those facilities provided to the Councillors below, the Mayor is entitled to receive the benefit of:

- use of the Mayoral office;
- a mobile telephone for use for in relation to official duties;
- secretarial services associated with office of the mayor;
- cost of transport to official functions (if required);
- provision and maintenance of mayoral chain and robes.

2.2 Councillors

The Councillors, including the Mayor and Deputy Mayor are to receive the benefit of:

- use of official council stationery;
- postage of official correspondence - all mail is to be directed through the Council's own mailing system;
- meals/refreshments prior to Council and Committee Meetings;
- cost of transport to official functions (if required) when deputising for the Mayor
- an electronic access card for parking in the Whistler Parking Station seven (7) days per week;
- provision (on loan) of a facsimile machine at place of residence or business;
- provision of a laptop personal computer (on loan), modem, and a fax/laser printer, and domicile support services from Council IT staff;
- provision of broadband internet services to the Councillor's residence;
- provision of a residential telephone service (where requested), and payment of monthly line rental fee and 50% of call charges including designated mobile and STD calls relating to council business up to maximum \$100.00 per month (*CPI Indexed Annually*) (subject to below[#]);
- Councillor's own residential telephone service OR mobile telephone service - reimbursement of reasonable telephony expenses incurred by Councillors for telephone calls made in the performance of their duty, up to a maximum of \$100 per month (*CPI Indexed Annually*) (subject to below[#]);

Provided that:

- a) Councillor's telephone numbers in respect of which a claim is made are made available to the public;
- b) claims for reimbursement are made no later than three (3) months after the account is due for payment;
- c) claim for payment of telephone calls are to be certified as being substantially incurred on council business;
- d) copy of telephone account to be provided;

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- e) maximum claim for telephone service(s) is limited to \$50.00 per month where calls have not been itemised. Where the account exceeds \$50.00, maximum claim will be \$100.00 per month provided telephone calls made in the performance of their duty are itemised on the account;

Attendance at political fundraising functions are considered to be a personal interest and not covered in the policy.

2.3 Spouse/Partner/Accompanying person

Council may from time to time hold functions or civic events where Councillor's spouses, partners or accompanying person are also invited. In these instances, Council shall meet the cost of meals and refreshments.

2.4 Private Use of Equipment and Facilities

Council acknowledges that incidental private use of equipment and facilities may occur from time to time and such use is not subject to compensatory payment. The General Manager shall determine the standard and quality of equipment provided. However, Councillors must not obtain more than incidental private use of facilities.

2.5 Unauthorised use of Council Facilities, Equipment and Services

Council facilities, equipment and services are not to be used to produce election material or for any other political purposes.

2.6 Return of Equipment and Facilities by Councillors

Councillors are required to return all Council issued equipment to Council after the completion of the Councillors term of office or at the cessation of their civic duties.

Councillors may choose to purchase Council equipment previously allocated to them at the cessation of their duties. Items will be offered at the written down value at the time of purchase.

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PART 3 ANNUAL FEES

3.1 Mayor and Councillors

The Councillors are paid an annual fee (s248), and in addition the Mayor receives an annual allowance (s249). Members fees and the Mayoral allowance are set by resolution of Council in accordance with the determination of the Local Government Remuneration Tribunal for the category of Council each year, and do not form part of this policy.

At Council's Meeting held on 27th July 1998, Council resolved as follows:

"That in respect of future determinations by the Local Government Remuneration Tribunal, Council, as policy, set the Mayor and Councillor remuneration fees at the maximum level determined by that body."

A councillor may elect by agreement with Council to forgo part of their fees under s248 or 249 in return for contributions paid to a complying Superannuation Fund (see Australian Tax Office Interpretive Decision (ATO ID 2007/205)). (Cnl 18/02/2008)

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PART 4 PAYMENT OF EXPENSES FOR MAYOR AND COUNCILLORS

4.1 Transport

In addition to the payment of annual fees in accordance with sections 248 and 249 of the Act, Councillors are entitled to claim "mileage" allowance for use of private vehicles to drive between their place of residence and the Council Chambers, inspections within the area of the Council undertaken in compliance with a resolution of the Council, meetings which Council has endorsed the Councillor's membership, civic receptions hosted by Council, or meetings or functions approved by the Mayor or General Manager, and return. "Mileage" rates will be paid at the then current rate set by the appropriate Local Government Industrial Award or equivalent.

Other out of pocket expenses associated with travel by motor vehicle such as parking fees and road toll charges may be claimed, noting that the driver is personally liable for all traffic or parking fines while travelling in private or council vehicles on Council business.

Reimbursement is subject to a formal claim being lodged not later than three (3) months after the expense was incurred.

Alternatively, Councillors may travel by taxi and use a Councillor issued Taxi charge-card.

4.2 Conferences and Seminars

4.2.1 Who May Attend Conferences and Seminars

Councillors may be nominated to attend conferences, seminars and similar functions by:

- the Council, through resolution duly taken;
- the Mayor and General Manager acting under delegated authorities and subject to budget requirements being adhered to.

In addition the Mayor may nominate a substitute attendee for functions within the Council area or general Sydney Metropolitan Area or on those occasions where the Mayor is unable to be in attendance.

4.2.2 What Conferences and Seminars may be Attended

The conferences, seminars, workshops, courses and similar to which this policy applies shall generally be confined to:

- Local Government Association Annual Conferences (Federal and State);
- special "one-off" conferences called by Local Government Association on important issues;
- annual conferences and congresses of the major industry associations and professions in local government;

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- seminars which further the training and development efforts of the Council and within the budget framework.

4.2.3 Overseas Travel

The cost of overseas travel for purposes such as conferences and delegations to friendship communities shall not be met by Council. In extenuating circumstances, any agreement to meet the costs of overseas travel either in whole or in part, shall be specifically resolved by a meeting of Council and subject to a detailed report to Council on all aspects of the trip relevant to Council business within three (3) months of the completion of the travel.

4.2.4 Registration

The Council will pay all normal registration costs which are charged by organisers, including the costs of related official luncheons, dinners and tours which are relevant to the interests of the Council or assist Councillors to discharge the functions of their civic office.

4.3 Expenses Incurred

Payment or reimbursement of expenses incurred or to be incurred shall be subject to the requirements that:

- (a) travel expenses relate to travel that is on Council business, being to and from the periodical conferences and seminars of local government related organisations (generally as listed above) at which attendance has been approved.
- (b) the travel is undertaken with all due expedition, and by the shortest route and the most practicable and economical transport;
- (c) only reasonable amounts are claimed or accepted towards necessary out-of-pocket expenses;
- (d) out-of-pocket expenses for which amounts are claimed relate only to the verified costs of meals, travel, registration fees, accommodation, stationery and the like;
- (e) any time occupied or travel incurred in other than Council business is not included in the calculation of expenses to be paid; and
- (f) the claim is made not later than three (3) months after the expenses were incurred, and upon an approved claim form, supported by appropriate receipts and tax invoices.
- (g) any expenses in relation to Council related business should only be incurred by Councillors in accordance with the provisions of this policy. All claims shall be submitted for approval by the General Manager or his delegate.

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4.4 Payment In Advance

The Council will normally pay registration fees, accommodation deposits and airline tickets direct in advance. Where this is not appropriate or possible, a cash allowance or cheque equivalent thereto will be paid to the attendee in advance.

An allowance for estimated "out-of-pocket" expenses may be paid to an attendee in advance upon request.

Any advance payments are subject to a reconciliation statement accompanied by tax invoices/receipts, verification of expenses and the refund of any unexpended amount being submitted within ten (10) days of the close of the conference, seminar or function.

4.5 Categories of Payment or Reimbursement

Subject to nomination in accordance with the provisions of Clause 4.4, the categories of payment or reimbursement are as follows:

(a) Travel

- All reasonable travel costs will be met by the Council. Where appropriate, travel will be provided by air (economy class). Depending upon the circumstances, it may be more appropriate for travel to be undertaken by car or train. Where trains are used, the Council will provide first class travel, including a sleeping berth where necessary.
- Travel by motor vehicle may be undertaken by Council vehicle (where available) or by private vehicle subject to prior approval from the General Manager. Persons using private vehicles will be paid the "mileage" allowance at the then current rate set by the appropriate Local Government Industrial Award from time to time, but subject to any such payment not exceeding economy class air fares to and from the particular destination.
- Costs of vehicle hire and/or taxi fares which are reasonably incurred while attending conferences will be reimbursed by the Council.

(b) Accommodation

Reasonable accommodation costs (including meals), including the night before and/or after the conference where this is necessary, will be met by the Council.

(c) Out-of-Pocket Expenses

Reasonable out-of-pocket expenses will be reimbursed for costs associated with attending the conference, seminar, meeting or function including entertainment but excluding expenses of a normal private nature.

(d) Spouse/Partner

All other costs for the spouse/partner (including travel and meals) are to be borne by the attendee.

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PART 5 INSURANCE - COUNCILLORS

Councillors are to receive the benefit of insurance cover for:

(a) Personal Injury

Whilst ever on Council business, world-wide covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit for death of \$500,000. Also covering permanent disablement, temporary total disability and temporary partial disability. The cover does not include medical expenses other than that covered by travel insurance taken out in respect of the travel on approved council business. Full details of personal accident insurance are available in Council's Insurance Manual held by the Risk Manager.

(b) Professional Indemnity

For matters arising out of Councillors' performance of civic duties or exercise of their functions as councillors, provided the performance or exercise of the relevant civic duty or function is *authorised under the Act, was carried out in good faith and is* in the opinion of Council bona fide and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out. No such benefit, irrespective of insurance cover, shall be provided in relation to an action by one Councillor against another Councillor or a Councillor against a member of staff.

(c) Public Liability

For matters arising out of Councillors performance of civic duties or exercise of their functions as councillors provided the performance or exercise of the relevant civic duty or function is *authorised under the Act, was carried out in good faith and is* in the opinion of Council bona fide and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out. No such benefit, irrespective of insurance cover, shall be provided in relation to an action by one Councillor against another Councillor or a Councillor against a member of staff

(d) Councillors and Officers Liability

For matters arising out of Councillors performance of civic duties or exercise of their functions as councillors provided the performance or exercise of the relevant civic duty or function is *authorised under the Act, was carried out in good faith and is* in the opinion of Council bona fide and/or proper; subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out.

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PART 6 LEGAL ASSISTANCE FOR COUNCILLORS

6.1 Legal Assistance for Councillors

In the event of:

1. An enquiry, investigation or hearing by any of:
 - The Independent Commission Against Corruption
 - The Office of the NSW Ombudsman
 - Division of Local Government, Department of Premier and Cabinet
 - The NSW Police Force
 - The Director of Public Prosecutions; or
 - The Local Government Pecuniary Interest and Disciplinary Tribunal
 - Council's Conduct Review Committee/Reviewerinto the conduct of a Councillor provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the body makes a finding substantially favourable to the Councillor, or
2. Legal proceedings being taken against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor, Council shall, providing the body makes a finding substantially favourable to the councillor, reimburse such Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:
 - a. the amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis;
 - b. the Councillor's performance or exercise of the civic duty or function was, in the opinion of Council, bona fide and/or proper.
 - c. the amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's solicitors will be paid, ie any portion of the expenses representing any hourly charge rate higher than the hourly charge rate of Council's solicitors will not be reimbursed.
 - d. In the case of a conduct complaint made against a Councillor, legal costs should only be made available where a matter has been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the Model Code of Conduct.
 - e. In the case of a pecuniary interest misbehaviour matter, legal costs will only be made available where a formal investigation has been commenced by the Division of Local Government.

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Despite the above, Council in its absolute discretion may refuse any or part of a reimbursement.

3. Defamation proceedings, or other proceedings arising from the making of public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

6.2 General

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- i. The statement was made or the act was done in relation to discharging the functions of civic office;
- ii. The Councillor concerned was acting in good faith; and
- iii. The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

Then Council will indemnify or reimburse the Councillor for:

- i. All legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- ii. Any other loss, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceedings **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any moneys that may or are recouped by the Councillor on any basis.

6.3 Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must:
 - (a) Be in written or electronic form;
 - (b) Include all details including any correspondence from the alleged injured party concerning the possible claim; and
 - (c) Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by council or its solicitor

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or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council fully informed of any oral or written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to claim, notify and forward to Council's insurer any information in relation to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied
4. (a) If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in-turn notify the Councillor concerned in written or electronic form of that view.
(b) If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause 4(a), the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated the President for the being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have sole carriage of the matter and Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the Insurers the General Manager in consultation with Council's solicitors will take what ever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:

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- (a) Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - (b) Accounts being considered and approved by the General Manager prior to payment; and
 - (c) All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.
8. Notwithstanding the provisions of paragraphs 2(b) and 5 above, once proceedings have actually been commenced then the procedures set out in paragraph 5 above must be followed.

[Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.]

6.4 Exclusion from Policy

This policy will not apply to:

- 1. any action in defamation taken by a Councillor or Council staff member as plaintiff in any circumstances as Council will not meet these costs.
- 2. costs incurred by a Councillor or Council employee seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation as Council will not meet these costs.
- 3. any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:
 - a) the statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
 - b) the statement:
 - i. is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefings; and
 - ii. is in accordance with the Local Government (General) Regulation 2005 (Meetings) and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
 - iii. does not breach any other law.

ATTACHMENT 1

Corporate Services Division Report No. 37 - Policy on Payment of Expenses and Provision of Facilities to Mayor and Councillors

Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy



Payment of Expenses & Provision of Facilities Policy

PART 7 POLICY HISTORY

| Date of Council Resolution | Details | Report / Source | Minute No | Author |
|----------------------------|--|--------------------|-----------|---------|
| 16 August 2004 | Policy adopted by Council | Policy No. M70 | | |
| 19 February 2007 | Policy revised | DLG Circular 06/57 | OM15/07 | |
| 18 February 2008 | Minor amendment to Cl 3.1 | CSD Report No 3 | OM19/08 | |
| 8 December 2008 | Minor amendment to Cl 2.2 | CSD Report No 28 | OM198/08 | |
| 14 December 2009 | Compliance with DLG Circular 9/36 and Guidelines | CSD Report No 32 | OM182/09 | |
| 8 November 2010 | Minor revision only | CSD Report No | OM 207/10 | DGM PPI |

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