



## Attachments

## Planning and Strategy Committee

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

**Monday 5 September 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. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.

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

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## Public Interest Disclosures Act 1994 (PID Act)— Timeline of changes

### Changes to the PID Act

On 3 March 2011, various amendments to the *Protected Disclosures Act 1994* were proclaimed. Amongst other changes, the *Protected Disclosures Act 1994* has been renamed the *Public Interest Disclosures Act 1994*. The amended PID Act requires public authorities to:

- Put in place a PID policy that provides for its procedures for receiving, assessing and dealing with protected disclosures. When developing this policy public authorities must also have regard to the Ombudsman's model policies which will be available from 1 July 2011.
- Provide information and comply with any requirements from the Ombudsman in relation to its audit function.
- Report any offences committed under section 20 – *Protections from reprisals* of the PID Act to the DPP or the Attorney General, in limited circumstances.
- Report annually to Parliament, from 1 January 2012, about the incidence and management of protected disclosures within their organisations. A copy of this report must also be provided to the Ombudsman.

The changes to the PID Act will come into force in three stages as demonstrated in the Table below and on the reverse side of this document.

2011	2012		
3 March	1 July	1 October	1 January
First changes	Second changes		Third changes

### Continued emphasis on the importance of protected disclosures

In addition to the reforms identified above, the amended PID Act reinforces existing provisions to encourage, facilitate, and effectively manage protected disclosures. Public authorities must maintain the confidentiality of the people who make protected disclosures, unless an exception applies, and must notify them of the action taken or proposed to be taken in relation to that disclosure within six months.

## General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

## NSW Ombudsman – Public Interest Disclosures Act 1994 (PID Act) – timeline of changes

First set of changes		Second set of changes		Third set of changes
3 March 2011 - 1 July 2011		1 July 2011 - 1 October 2011	1 October 2011 - 1 January 2012	1 January 2012
<p><i>Public authorities will:</i></p> <ul style="list-style-type: none"> <li>• Notify the Ombudsman of the name and contact details of their disclosures coordinator or other person responsible for coordinating their PID related work.</li> </ul>		<p><i>Public authorities will:</i></p> <ul style="list-style-type: none"> <li>• Draft and adopt PID policies or update their existing policies to comply with the amended Act by 1 October 2011. In so doing, public authorities must also have regard to the Ombudsman's model policies which will be available from 1 July 2011.</li> </ul>		<p><i>Public authorities will:</i></p> <ul style="list-style-type: none"> <li>• Start collecting data about the protected disclosures they receive and report them to Parliament within four months from the end of their annual reporting period. A copy of this report must also be provided to the Ombudsman.</li> </ul>
<p><i>The Ombudsman will provide information resources, including:</i></p> <ul style="list-style-type: none"> <li>• Guidance materials about the changes to the Act.</li> <li>• Regular email bulletins about PID related issues. Please email "subscribe" to: <a href="mailto:info@ombudsman.nsw.gov.au">info@ombudsman.nsw.gov.au</a>.</li> <li>• Respond to Frequently Asked Questions made via email or telephone enquiry.</li> <li>• A Consultation Forum and several information sessions.</li> </ul>		<p><i>The Ombudsman will provide information resources, including:</i></p> <ul style="list-style-type: none"> <li>• PID model policies.</li> <li>• Guidelines relating to the Ombudsman's model policies and an index of future guidelines to be released later this year.</li> <li>• Targeted training programs for public authorities and their staff.</li> </ul>		<p><i>The Ombudsman will provide information resources, including:</i></p> <ul style="list-style-type: none"> <li>• Training and educational materials to assist public authorities to fulfil their responsibilities under the Act.</li> <li>• Guidance materials to assist public authorities to establish appropriate systems for collecting and reporting information about the protected disclosures they receive.</li> </ul>
				<p><i>The Ombudsman will provide information resources, including:</i></p> <ul style="list-style-type: none"> <li>• Information about the Ombudsman's audit and monitoring functions.</li> </ul>

Handout 2: Timeline of changes – Public Interest Disclosures Information Sessions – June/July 2011

**General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy**

**Division of LG, Premier and Cabinet – Circular to Councils 11-13 – Strengthening Protections for Public Officials who make public interest disclosures**



Premier & Cabinet  
Division of Local Government

## Circular to Councils

Circular No. 11-13  
Date 7 July 2011  
Doc ID. A251323

Contact Division of Local Government  
02 4428 4100  
dlg@dlg.nsw.gov.au

### STRENGTHENING PROTECTIONS FOR PUBLIC OFFICIALS WHO MAKE PUBLIC INTEREST DISCLOSURES

The purpose of this circular is to advise councils of recent changes in legislation to protect public officials who disclose wrongdoing in accordance with the *Public Interest Disclosures Act 1994*.

The Division of Local Government is committed to the continuous improvement of the integrity of council administration and supporting public officials who make disclosures about wrongdoing in the local government sector, including preventing reprisal action against them.

The *Protected Disclosures Act 1994*, which has been renamed the *Public Interest Disclosures Act 1994* (the Act), sets out a comprehensive framework for protecting public officials who disclose wrongdoing in accordance with the Act.

The purpose of any protected disclosures system is to promote integrity and to enable councils to fix problems. Councillors and those who work for a council are often the best placed to identify and report problems. It is therefore in the public interest, and in the council's interest, that councillors and members of staff are encouraged to come forward with information of this kind and are supported when they do so.

Legislative changes to strengthen protections for public officials who disclose wrongdoing took effect on 1 July 2011.

These changes apply to all public authorities, which includes local councils.

Councils will need to ensure that they:

- are aware of the changes and make sure councillors and staff throughout the organisation are aware
- operate in accordance with the new strengthened procedures that apply from 1 July 2011, and
- adopt, by 1 October 2011, a policy for receiving, assessing and dealing with protected disclosures.

General Managers are reminded that the Standard Contract of Employment requires them to facilitate council staff awareness of the procedures for making protected disclosures and of the protection provided by the Act.

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## ATTACHMENT 2

### General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

#### Division of LG, Premier and Cabinet – Circular to Councils 11-13 – Strengthening Protections for Public Officials who make public interest disclosures

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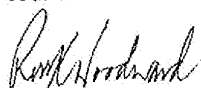
2

The NSW Ombudsman has established the Public Interest Disclosures Unit to help agencies by providing education, advice and assistance. Information about the legislative changes is available at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or via email to [pid@ombo.nsw.gov.au](mailto:pid@ombo.nsw.gov.au)

The Ombudsman's Office will be developing resources to assist councils with the implementation of the requirements of the new legislation, including the development of internal reporting policies for councils.

All councils (if they have not already done so) should nominate a person who will have responsibility for implementing the changes, and forward their name and contact information to the Ombudsman.

General Managers should ensure this circular is brought to the attention of all councillors and staff.



Ross Woodward  
Chief Executive, Local Government  
A Division of the Department of Premier and Cabinet



**Draft**

## **Internal Reporting Policy**

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**General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy**  
**Draft Manly Council Internal Reporting Policy**



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## ATTACHMENT 3

### General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy Draft Manly Council Internal Reporting Policy



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DRAFT

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# General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

## Draft Manly Council Internal Reporting Policy



**Title:** Internal Reporting Policy

**Policy No:** Contact Manager Administration for number

**Keywords:** Public Interest Disclosures, Whistleblowers, Internal Reporting, Protected Disclosures, Corrupt Conduct, Maladministration, Serious and Substantial Waste

**Responsible Officer:** General Manager

### 1. Purpose

This policy establishes an internal reporting system for the reporting and protection of staff who report wrongdoing – commonly known as “whistleblowers”. Manly Council believes that the reporting of wrongdoing helps promote integrity, accountability and good management within our organisation.

This policy provides protection to any public official who wishes to make a disclosure and is aimed at ensuring that any such person receives legal protection from reprisals and that matters raised in any disclosure are properly received, assessed and dealt with in accordance with the *Public Interest Disclosures Act (PID) 1994*.

Whistleblowers can play an important role in organisational accountability by bringing wrongdoing to the attention of those who can effect change. The protection of whistleblowers is fundamental to the implementation of the PID Act and to organisational integrity. Legislative provisions are however insufficient on their own to either protect or encourage whistle-blowing. An organisation-wide commitment to protecting and respecting whistleblowers and dealing properly with valid disclosures is essential.

This policy is designed to complement normal communication channels between supervisors and staff and staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a protected disclosure in accordance with this policy.

This policy should be read in conjunction with Council's Code of Conduct, Procedure for Misconduct Complaints and Complaints Handling procedures. Additionally Council's Protected Interest Disclosure Guidelines provides information on the implementation of this policy.

### 2. Principles

The reporting of misconduct or ethical issues which do not fall within the parameters of the PID Act, should follow the existing protocols for reporting matters.

Manly Council is committed to the following principles of the PID Act and by adopting this Policy we:

- Confirm that Council and the General Manager do not tolerate corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.
- Confirm that Council and the General Manager recognise the value and importance of individual staff contributions to high standards of administrative and management practices and strongly support reporting of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.
- State that while opportunities for reporting outside the Council are legal and valid, Council is committed to an effective response to internal disclosures in a way that will protect the identity of the whistleblower, wherever possible and appropriate.
- Establish procedures for protecting whistleblowers against reprisals for making a disclosure; and

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## General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

### Draft Manly Council Internal Reporting Policy



- Supplement normal communication channel between supervisors and staff. It is not intended that all issues must be realised as protected disclosures, rather that an option to do so is clearly available.

The provisions of the PID Act (commonly known as the "whistleblower" Act) are intended to support accountability and ethical conduct by encouraging and facilitating the disclosure in the public interest of the above.

### 3. Organisational Commitment

We have total commitment to providing services to the community of Manly in an ethical and accountable manner. Corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention and other wrongdoing will not be tolerated.

Manly Council is committed to acting in accordance with the spirit and letter of the PID Act by:

- creating a climate of trust, where staff are comfortable and confident about reporting wrongdoing
- encouraging staff to come forward if they have witnessed what they consider to be wrongdoing within the council
- keeping the identity of the staff member disclosing wrongdoing confidential, wherever possible and appropriate
- protecting staff who make disclosures from any adverse action motivated by their report
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping staff who make reports informed of their progress and the outcome
- encouraging staff to report wrongdoing within the council, but respecting any decision to disclose wrongdoing outside the council – provided that disclosure outside the council is made in accordance with the provisions of the PID Act
- ensuring managers and supervisors at all levels in the council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing
- providing adequate resources, both financial and human, to:
  - encourage reports of wrongdoing
  - protect and support those who make them
  - provide training for key personnel
  - investigate allegations
  - properly manage any workplace issues that the allegations identify or create
  - correct any problem that is identified
- reassess / review this policy each year to ensure it is still relevant and effective.

Councillors and staff are encouraged to observe their duty to report all forms of wrongdoing and we will fully support any staff member or Councillor who wishes to utilise the Public Interest Disclosures Act to make disclosures within the parameters of the PID Act.

### 4. Roles and Responsibilities of staff

This policy applies to:

- council staff and councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for Council
- Volunteers
- Any other people or persons who perform public official functions and their conduct and activities could be investigated by an investigating authority. This can include volunteers and those contracted to work for the council.

## General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

### Draft Manly Council Internal Reporting Policy



A public official may make a protected disclosure about a NSW agency (including a Council) even if that person has never been, or is no longer employed by that agency or Council.

All staff at Manly Council are encouraged to report known and suspected wrongdoing within the Council.

Staff are also encouraged to support those who have made disclosures, as well as protect and maintain their confidentiality. Staff must not victimise or harass anyone who has made a disclosure.

This policy is just one of several relating to grievances and complaints – details of which appear in section 21 below and which can be accessed on Council's intranet.

#### 5. What should be reported?

You should report any wrongdoing you see within Manly Council about the four categories (a to d) of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, and government information contravention – which are dealt with under the PID Act as protected disclosures and according to this policy.

##### a. Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a member of the public influencing or trying to influence a public official to use their position in a way that is dishonest or breaches public trust.

For more information about corrupt conduct, refer to the NSW Ombudsman's guideline on [what can be reported](#).

##### b. Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motive.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant someone a licence for reasons that are not related to the merits of their application.

For more information about maladministration, refer to the NSW Ombudsman's guideline on what can be reported.

##### c. Serious and substantial waste in local government

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of local government money. This includes all revenue, loans and other money collected, received or held by, for or on account of the council.

For example, this could include:

- poor project management practices leading to projects running over time
- having poor or no processes in place for a system involving large amounts of public funds.

For more information about serious and substantial waste, refer to the NSW Ombudsman's guideline on [what can be reported](#).

**General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy**  
**Draft Manly Council Internal Reporting Policy**



**d. Government information contravention**

A government information contravention is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009* (GIPA Act).

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation

For more information about government information contravention, refer to the NSW Ombudsman's guideline on [what can be reported](#).

**e. Other wrongdoing (protection not offered under the PID Act)**

Although reports about the previous four categories (a to d above) of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of staff or the public.

These types of issues should be reported to a supervisor, in line with the appropriate Council policies, including, but not limited to:

- Workplace Grievances
- Occupational Health and Safety
- Human Resources Policies and Procedures
- Equal Employment Opportunity

If the wrongdoing is suspected to be a breach of Council's Code of Conduct then this should be reported to the **General Manager only** (refer section 11.6 of Council's Code of Conduct for further information.)

Even if these reports are not dealt with as protected disclosures, Manly Council will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.

**6. When will a report be protected?**

Manly Council will support any staff who report wrongdoing. For a report to be considered a protected disclosure, it has to meet all of the requirements under the PID Act.

A disclosure will only be protected by the PID Act if it is information that the person making it honestly believes, on reasonable grounds, shows or tends to show wrongdoing of one or more of the kinds referred to in **a**, **b**, **c** and **d** above (namely, 'corrupt conduct', 'maladministration', and 'serious and substantial waste in local government' or 'government information contravention').

A disclosure with respect to wrongdoing of the kinds referred to in **e** above (namely, 'other wrongdoing') is only capable of protection under the PID Act to the extent, if any, to which the conduct is of one or more of the kinds referred to in **a**, **b**, **c** and **d** above (namely, 'corrupt conduct', 'maladministration', and 'serious and substantial waste in local government' or 'government information contravention').

**General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy**  
**Draft Manly Council Internal Reporting Policy**



Any report in relation to corrupt conduct, maladministration, serious and substantial waste in local government or government information contravention has to be made to one or more of the following:

- a position nominated in this policy – see section 10 below
- the general manager
- one of the investigating authorities nominated in the PID Act – see section 10 below

Reports by staff and councillors will not be considered to be protected disclosures if they:

- mostly question the merits of government policy, including the policy of the governing body of the council,
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

#### **7. How to make a report**

You can report wrongdoing in writing or verbally. You are encouraged to make a reporting in writing as this can help avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The staff member should also keep a copy of this record.

If you are concerned about being seen making a report you are able to ask to meet in a discreet location away from the workplace.

#### **8. Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Manly Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If we do not know who made the report, it is very difficult for us to prevent any reprisal action.

#### **9. Maintaining confidentiality**

Manly Council realises many staff will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. We will discuss with you whether it is possible to keep your report confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan. You will also be told if your report will be dealt with under Council's Code of Conduct, as this may mean certain information will have to be tabled at a council meeting.

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the disclosures coordinator and the general manager. If you discuss your report more broadly, you may affect the outcome of any investigation.



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### Draft Manly Council Internal Reporting Policy



#### 10. Who can receive a report within Manly Council?

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that – for a report to be a protected disclosure – it must be made to a public official in accordance with council's disclosure procedures. For Manly Council, this means this policy and any supporting procedures.

Any supervisor who receives a report that they believe may be a protected disclosure must refer the staff member making the report to one of the positions listed below. The broader responsibilities of these positions will be outlined in Council's Internal Reporting Guidelines which support this policy.

If you are council staff and your report involves a councillor, you should make it to the general manager or the Mayor. If you are a councillor and your report is about another councillor, you should make it to the general manager or the Mayor.

The **following positions are the only people** within Manly Council who can receive a protected disclosure.

##### a. General manager

You can report wrongdoing directly to the general manager. The general manager is responsible for:

- deciding if a report is a protected disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified.

The general manager must make sure there are systems in place in Manly Council to support and protect staff who report wrongdoing.

They are also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

The General Manager can be contacted on 9976 1501 or via email [HTWong@manly.nsw.gov.au](mailto:HTWong@manly.nsw.gov.au).

##### b. Mayor

If you are making a report about the general manager, you should make your report to the Mayor. They are responsible for:

- deciding if a report is a protected disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified.

The Mayor must make sure there are systems in place in Manly Council to support and protect staff who report wrongdoing.

If the report is about the general manager, the Mayor is also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

The Mayor can be contacted on 9976 1750 or via email on [Jean.Hay@manly.nsw.gov](mailto:Jean.Hay@manly.nsw.gov).

##### c. Disclosures coordinator

The disclosures coordinator has a central role in dealing with reports made by staff. They receive them, assess them, and refer them to the people within Council who can deal with them appropriately.

The Disclosure Coordinator (Council's Public Officer, Manager Customer Service and Special Projects) can be contacted on 9976 1757 or via email on [Joanne.Bramma@manly.nsw.gov.au](mailto:Joanne.Bramma@manly.nsw.gov.au).

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#### d. Disclosures officer

Disclosures officers work closely with the disclosures coordinator, and are responsible for receiving and forwarding reports made in accordance with this policy.

The Disclosure officer (Council's Senior Human Resources Generalist) and can be contacted on 9976 1647 or via email on [Sarah.Eldridge-Smith@manly.nsw.gov.au](mailto:Sarah.Eldridge-Smith@manly.nsw.gov.au).

#### 11. Who can receive a report outside of Manly Council

Staff are encouraged to report wrongdoing within Manly Council, but internal reporting is not your only option. If you follow the guidance below, your report can still be a protected disclosure.

You can choose to make your report to an investigating authority. You can do this first, or at any stage after your initial report to Manly Council. If your report is about the general manager or the Mayor, you should consider making it to an investigating authority.

You can also choose to make a report to a Member of Parliament or a Journalist, **but only in limited circumstances.**

##### a. Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff can report wrongdoing to and the categories of wrongdoing each authority can investigate.

In relation to council, these authorities are:

- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Police Integrity Commission (PIC) — for police misconduct
- the PIC Inspector — for disclosures about the PIC or its staff
- the Division of Local Government, Department of Premier and Cabinet — for serious and substantial waste in local government (reports about serious and substantial waste in State government agencies should be made to the Auditor General)
- the ICAC Inspector — for disclosures about the ICAC or its staff
- the Information Commissioner — for disclosures about a government information contravention.

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that it is very likely the investigating authority will discuss the case with Manly Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff who report wrongdoing to an investigating authority.

##### b. Members of Parliament or journalists

To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the general manager
- a person nominated in this policy
- an investigating authority in accordance with the PID Act.

Also, Manly Council or the investigating authority that received the report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report



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### Draft Manly Council Internal Reporting Policy



- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

If you report wrongdoing to a person or an organisation that is not listed above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or Council's Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Manly Council, contact Council's disclosures coordinator on 9976 1757 or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

#### 12. The investigation process

All disclosures will be promptly and thoroughly assessed. Decisions as to the most appropriate action to be taken on the disclosure will also be made promptly. The basis for these decisions will be properly documented.

The principles of procedural fairness (natural justice) will be observed for all investigations. In particular, where adverse comment about a person is to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalised.

More information on Council's investigation process is contained in Council's Internal Reporting guidelines and Council's Guidelines for Conducting an Investigation.

#### 13. Feedback to staff who report wrongdoing

Staff who report wrongdoing will be told what is happening in response to their report.

When you make a report, you will be given:

- an acknowledgement that your disclosure has been received
- the timeframe for when you will receive further updates
- the name and contact details of the people who can tell you what is happening.

This information will be given to you **within two working days** from the date you make your report.

After a decision is made about how your report will be dealt with, you will be given:

- information about the action that will be taken in response to your report
- likely timeframes for any investigation
- information about the resources available within Manly Council to handle any concerns you may have
- information about external agencies and services you can access for support.

This information will be given to you **within 10 working days** from the date you make your report.

During any investigation, you will be given:

- information on the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

**General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy**  
**Draft Manly Council Internal Reporting Policy**



At the end of any investigation, you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

#### **14. Protection against reprisals**

The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the protected disclosure.

Manly Council will not tolerate any reprisal action against staff who report wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental actions are also misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

##### **a. Responding to reprisals**

Manly Council will act to protect staff who report wrongdoing from reprisals.

When a report is received, we will ensure that a thorough risk assessment is conducted. This will identify any risks to the member of staff who reported the wrongdoing, as well as strategies to deal with those risks.

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your supervisor, the disclosures coordinator or the general manager immediately.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the disclosures coordinator or the general manager.

If the disclosures coordinator becomes aware of reprisal action against a person who has made a disclosure, they will:

- ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal
- give the results of that investigation to the general manager for a decision
- give the results of that investigation to the Mayor for a decision if the allegation of reprisal action is about the general manager
- if it has been established that reprisal action is occurring against someone who has made a disclosure, take all steps possible to stop that activity and protect the member of staff who made the disclosure
- take appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.

If you report reprisal action, you will be kept informed of the progress of any investigation and the outcome.

## General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

### Draft Manly Council Internal Reporting Policy



The general manager may issue specific directions to help protect against reprisals. If the allegation of reprisal action is about the general manager, the Mayor may issue similar directions. These may include:

- issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure
- relocating the member of staff who made the disclosure or the subject officer within the current workplace
- transferring the member of staff who made the disclosure or the staff member who is the subject of the allegation to another position for which they are qualified
- granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.

These directions will only be taken if the member of staff who made the disclosure agrees to it. The disclosures coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support – and it is not a punishment.

If you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the NSW Ombudsman or the ICAC – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are included at the end of this policy.

#### **b. Protection against legal action**

If you make a disclosure in accordance with the PID Act, you will not be subject to any liability and no action, claim or demand can be taken against you for making the disclosure. You will not have breached any confidentiality or secrecy obligations and you will have a defence of absolute privilege in defamation.

#### **15. Support for those reporting wrongdoing**

Manly Council will make sure that staff who have reported wrongdoing, regardless of whether they have made a protected disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice.

We also have staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal.

Council's support officer – Manager Customer Service and Special Projects can be contacted on 02 9976 1757.

All supervisors must notify the disclosures coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

#### **16. Sanctions for making false or misleading disclosures**

It is a criminal offence under the PID Act to wilfully make a false or misleading statement (disclosure) when reporting wrongdoing.

#### **17. Support for the subject of a report**

Manly Council is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

- treated fairly and impartially

# General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

## Draft Manly Council Internal Reporting Policy



- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- told the result of any investigation.

### 18. Policy Review

This policy will be reviewed by council every twelve months.

Any recognised change to relevant legislation; or directives or guidelines issued by agencies including the NSW Ombudsman and the Department of Local Government; or to Manly Council's related guidelines and procedures will activate an immediate review of this policy to ensure it remains current and aligned to best practice policies.

### 19. More Information

Advice and guidance is available from Council's Disclosures Coordinator and/or from the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

### 20. Resources

The contact details for external investigating authorities that can deal with disclosures from public officials or who can provide advice are listed below:

#### **For disclosures about corrupt conduct:**

Independent Commission Against Corruption (ICAC)  
Ph: 02 8281 5999  
Toll free: 1800 463 909  
Tel. Typewriter (TTY): 02 8281 5773  
Facsimile: 02 9264 5364  
Email: [icac.nsw.gov.au](mailto:icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
Address: Level 21, 133 Castlereagh Street, Sydney NSW 2000

#### **For disclosures about serious and substantial waste:**

Audit-General of the NSW Audit Office  
Phone: 02 9275 7100  
Facsimile: 02 9275 7100  
Email: [mail@audit.nsw.gov.au](mailto:mail@audit.nsw.gov.au)  
Web: [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)  
Address: Level 15, 7 Margaret Street, Sydney NSW 2000

#### **For disclosures about police misconduct:**

Police Integrity Commission (PIC)  
Phone: 02 9321 6700  
Toll free: 1800 657 079  
Facsimile: 02 9321 6799  
Email: [contactus@pic.nsw.gov.au](mailto:contactus@pic.nsw.gov.au)  
Web: [www.pic.nsw.gov.au](http://www.pic.nsw.gov.au)  
Address: Level 3, 111 Elizabeth Street, Sydney NSW 2000

#### **For disclosures about maladministration:**

NSW Ombudsman  
Ph: 02 9286 1000  
Toll free (Outside Sydney metro): 1800 451 524  
Tel. Typewriter (TTY): 02 9264 8050  
Facsimile: 02 9263 2911  
Email: [nswomb@ombo.nsw.gov.au](mailto:nswomb@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
Address: Level 24, 580 George Street, Sydney NSW 2000

#### **For disclosures about serious and substantial waste in Council:**

Division of Local Government in the Department of Premier and Cabinet  
Phone: 02 4428 4100  
Tel. Typewriter (TTY): 02 4428 4209  
Facsimile: 02 4428 4199  
Email: [dlg@dlg.nsw.gov.au](mailto:dlg@dlg.nsw.gov.au)  
Web: [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au)  
Address: 5 O'Keefe Avenue, Nowra NSW 2541

#### **For disclosures about breaches of the GIPA Act:**

Information Commissioner  
Toll free: 1800 463 626  
Facsimile: 02 8114 3756  
Email: [picinfo@oic.nsw.gov.au](mailto:picinfo@oic.nsw.gov.au)  
Web: [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)  
Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

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**Draft Manly Council Internal Reporting Policy**



## 21. Relevant References & Legislation

Manly Council: Code of Conduct  
 Manly Council: Gathering Information procedure  
 Manly Council: Procedure for Misconduct Complaints  
 Manly Council: HR Policies and Procedures  
 Manly Council: Policy - Occupational Health and Safety  
 Manly Council: Equal Employment Opportunity Policy  
 Manly Council: Workplace Grievance Procedure  
 Manly Council: Manly Council Customer Service Charter  
 Manly Council: Complaints Handling procedures  
 Manly Council: Correspondence Handling procedures  
 Manly Council: Staff Guide to Ethical Behaviour  
 Manly Council Guidelines for Conducting an Investigation

NSW Ombudsman: Changes to the public interest guidelines system – information for public authorities 2011

NSW Ombudsman: Model Internal Reporting Policy (local government) 2011

NSW Ombudsman: What should be reported –  
<http://www.ombo.nsw.gov.au/aboutus/PublicInterestDisclosures.html#newguidelines>  
 /PID\_guideline\_B2-What\_should\_be\_reported\_6 June2011[1]

Independent Commission Against Corruption and the Local Government Managers Association of NSW: Governance Health Check 2004

## 22. Revision Schedule

Minute No	Date of Issue	Action	Author	Checked by
	17 August 2011	1 <sup>st</sup> Draft prepared	Manager Corporate Governance	
	18 August 2011	2 <sup>nd</sup> Draft prepared	Manager Corporate Governance	Consultant Solicitor & Disclosures Coordinator

Policy Name: Draft Internal Reporting Policy  
 Adopted:

Policy Number  
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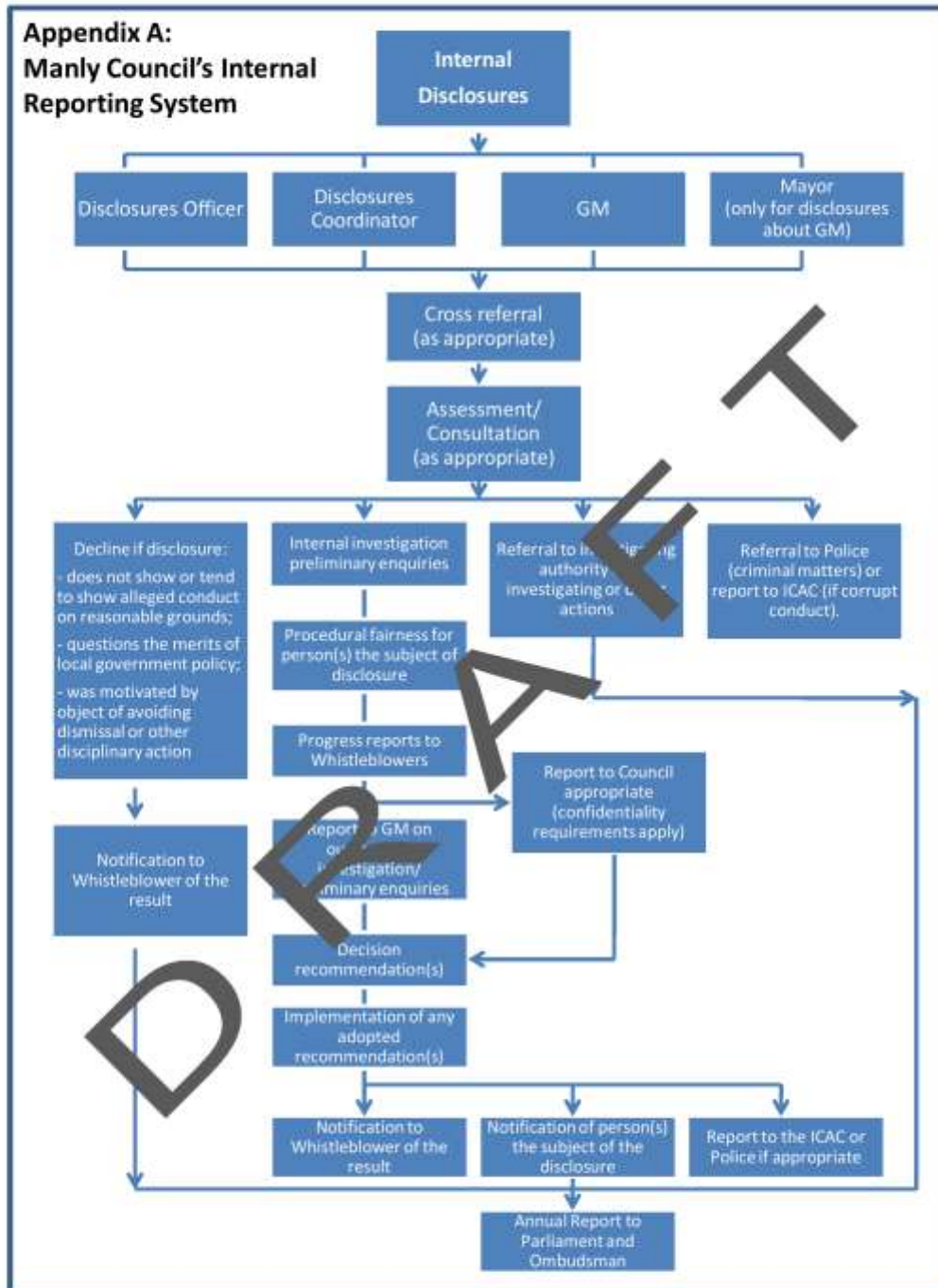
### ATTACHMENT 3

## General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy

### Draft Manly Council Internal Reporting Policy



#### Appendix A:



Policy Name: Draft Internal Reporting Policy  
Adopted:

Policy Number  
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## ATTACHMENT 3

### General Managers Division Report No. 9 - Public Interest Disclosures Act – Draft Internal Reporting Policy Draft Manly Council Internal Reporting Policy



#### Appendix B:

	<b>Manly Council</b> Council Offices 1 Belgrave Street Manly PO Box 82 MANLY NSW 1655 AUSTRALIA DX 9205 Manly <a href="http://www.manly.nsw.gov.au">www.manly.nsw.gov.au</a> Phone 02 9976 1500 Fax 02 9976 1400 Email: <a href="mailto:records@manly.nsw.gov.au">records@manly.nsw.gov.au</a>	<b>Internal Disclosure Form (Confidential)</b> <small>Public Interest Disclosures Act 1994 ABN 43 002 808 005</small>
<b>Report under Public Interest Disclosures Act 1994 To a Designated Officer of Manly Council</b>		
Date:	Name of Reporter (Councillor/ member of staff / contractor / volunteer reporting the protected disclosure):	
Contact number:		
Name of the designated officer receiving the protected disclosure:	Report Ref. No.	
Type of disclosure: (circle relevant item or items) a. Corrupt Conduct    b. Maladministration    c. Substantial Waste    d. government information contravention		
Name(s) of persons(s) who is / are the subject of this protected disclosure:		
Nature and explanation of allegation. Attach any relevant supporting evidence or documents:		
Signature of reporter:	Date:	
For more information regarding protected disclosures, please refer to Council's Internal Reporting Policy		
<b>INTERNAL USE ONLY:</b>		
File created:	Disclosure referred to and date:	
Assessment conducted and date:		
Internal Reporting Form		

Policy Name: Draft Internal Reporting Policy  
Adopted:

Policy Number  
Page 17 of 17

**Planning And Strategy Division Report No. 17 - Manly Local Environmental Plan 1988 - Draft Amendment 82**

**Letter from Ingham Planning**

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*Our ref: 11015*

8 August 2011

Manly Council  
by email

Attention – Glen Hugo

Dear Glen

**RE: Planning Proposal for Manly Golf Club land Suwarrow Street, Balgowlah**

We refer to the above and discussion between the Club and Planning Manager Stephen Clements. In response to the matter of vehicular access raised in these discussions we provide the following comments.

As noted in our Planning Proposal, the requested rezoning simply seeks to re-establish the historical use of the land, which until 1999 contained two dwelling houses. If it were not for this demolition, the dwellings would enjoy existing use rights. Both of these dwellings had frontage and access to Suwarrow Street. Use of this street for access remains, with a recently constructed crossing to the subject land and a crossing for the existing dwelling at No 28 Balgowlah Road.

Despite making recent enquiries to Council regarding more intense use of the land, it is now the Club's intention, if the rezoning proceeds, to seek consent to replace the 2 demolished dwellings. In this case there will be no change to the use of the land that existed in 1999 and therefore no change to traffic conditions in Suwarrow Street. Even ignoring the previous use, Suwarrow Street is presently used by the golf club and No 28 Balgowlah Road and so the traffic associated with two new dwellings would add very little traffic to this street.

Notwithstanding the above, we understand that as part of Council's consideration, it must have regard to possibility of more intense use of the land. In this regard, it would be unlikely for the land to be used for higher density development without the inclusion of the properties fronting Balgowlah Road as part of the scheme. This being the case,

Urban and Regional Planning, Environmental Planning and Statutory Planning  
Registered Office: Lyndhurst, Suite 19, 303 Pacific Highway, Lindfield N.S.W 2070  
Telephone: (02) 9416 8111 Facsimile: (02) 9416 9799  
email: [admin@inghamplanning.com.au](mailto:admin@inghamplanning.com.au)  
A.C.N. 108 713 768



## ATTACHMENT 1

### Planning And Strategy Division Report No. 17 - Manly Local Environmental Plan 1988 - Draft Amendment 82

#### Letter from Ingham Planning

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Council could require access for such a development to be via Balgowlah Road and not Suwarrow Street.

Therefore having regard to the above, we conclude that the issue of vehicular access to the site should not be a reason for rejecting the Planning Proposal. This is particularly the case where it is the intention to simply re-establish rights which existed on the land until 1999.

We trust the above addresses your concerns and that Council can now forward the Planning Proposal to the Department of Planning and Infrastructure for Gateway determination.

Please do not hesitate to contact Brett Brown if you wish to discuss this matter.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Brett Brown', with a long, sweeping horizontal line extending to the right.

**DIRECTOR**

CC Stephen Clements



## PLANNING PROPOSAL

### 15-17 Suwarrow Street Fairlight

Prepared for Manly Golf Club

By

INGHAM PLANNING Pty Ltd

Job No. 11015

June 2011

Urban and Regional Planning, Environmental Planning and Statutory Planning  
Registered Office: Lyndhurst, Suite 19, 303 Pacific Highway, Lindfield N.S.W 2070  
Telephone: (02) 9416 9111 Facsimile: (02) 9416 9799  
email: admin@inghamplanning.com.au  
A.C.N. 106 713 768

## ATTACHMENT 2

### Planning And Strategy Division Report No. 17 - Manly Local Environmental Plan 1988 - Draft Amendment 82

#### Planning Proposal from Ingham Planning

## Contents

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#### APPENDICES

Appendix A	Indicative zoning map for proposed LEP amendment
Appendix B	Information from service providers
Appendix C	Information on sewer connection

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Ingham Planning Pty Ltd

1

## Introduction

This document has been prepared in accordance with the Department of Planning (Department of Planning) Guidelines for Preparing Planning Proposals. It outlines a proposal to rezone the subject land at 15-17 Suwarrow Street Fairlight from the 6. Open Space zone to the 2. Residential zone under Manly LEP 1988.

This Planning Proposal aims to rezone the land consistent with its previous use for residential purposes.

2

The Site

Local Government Area: Manly

Address of land: 15-17 Suwarrow Street Fairlight. No 15 comprises Lots 31-32 and No 17 comprises Lots 29-30 in DP939916 (see Figures 1 and 2).

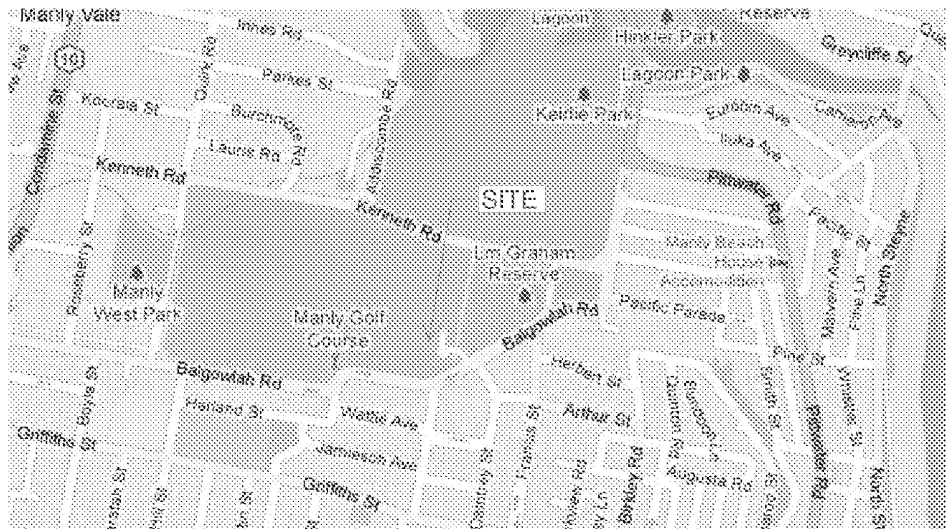


Figure 1 - Location

The site has an area of 899.27sqm and is located adjacent to the intersection of Balgowlah Road and Suwarrow Street, to the north of 28-32 Balgowlah Road, properties which are also owned by Manly Golf Club. In their advice dated November 2010, Manly Council provided the following information in relation to the subject site and these adjoining properties.

*“15 & 17 Suwarrow St, Fairlight:* This land is zoned Open Space. It was previously developed for single dwellings. Manly Golf Club purchased the two properties No 15 in 1969 and No 17 in 1999 respectively. Manly Council approved the demolition of these two properties by letter dated 2<sup>nd</sup> August 1999. Since then the land has remained vacant. Manly Golf Club advises that it was previously paying rates although the land was zoned Open Space.

*28 Balgowlah Rd, Fairlight:* A cottage appears to have been constructed in or about the year 1916 and hence prior to the commencement of the Local Government Act, 1919. A number of alterations were made to the cottage by previous owners until Manly Golf Club purchase the property in 2002.

This property along with No. 30, 32 and 34 Balgowlah Road had been reserved under the Manly Planning Scheme since 1968 for “New Parks and Recreation Areas”.

## ATTACHMENT 2

### Planning And Strategy Division Report No. 17 - Manly Local Environmental Plan 1988 - Draft Amendment 82

#### Planning Proposal from Ingham Planning

*30 Balgowlah Rd, Fairlight:* Manly Golf Club has just recently purchase this property.

*32 & 34 Balgowlah Rd, Fairlight:* In 1990, the Town Clerk at the time confirmed that both properties are zoned Residential and not open space as previously indicated in Manly Local Environmental Plan 1988. This is an error since Council's plans indicate properties fronting Suwarrow Street and not Balgowlah Road in which properties actually facing Balgowlah Road do exists. This property was purchased by Manly Golf Club in 1997."

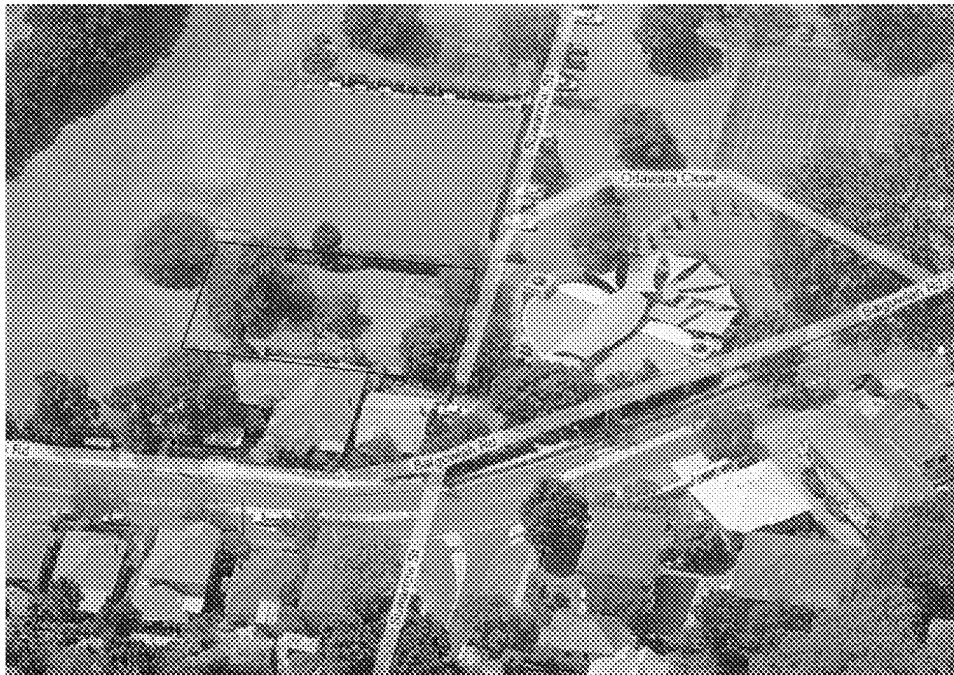


Figure 2 – Aerial photo showing site and surrounding development

Further to the above it is noted that the site previously had vehicular access to Suwarrow Street and a new driveway crossing has recently been constructed by Council provided as part of the roadworks that are being undertaken in Suwarrow Street (see Figure 3). No 28 Balgowlah Road also has vehicular access via Suwarrow Street (see Figure 4).

3

## Surrounding Environment

As noted above, to the south of the site are 4 lots containing 3 dwellings fronting Balgowlah Road (see Figure 5). This development is typical of the residential development found in the immediate locality.

To the north and west of the site is Manly Golf Club. As can be seen on Figure 2, the area adjoining the site to the north is used as a bowling green.



Figure 3 – New driveway crossing to site in Suwarrow Street

To the east, across Suwarrow Street is a Council run child care centre known as 'The Roundhouse' (see Figure 6).

Suwarrow Street itself is currently being reconstructed and provides access to a number of Council sporting facilities in the vicinity.

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Figure 4 – Driveway crossing to No 28 Balgowlah Road in Suwarrow Street

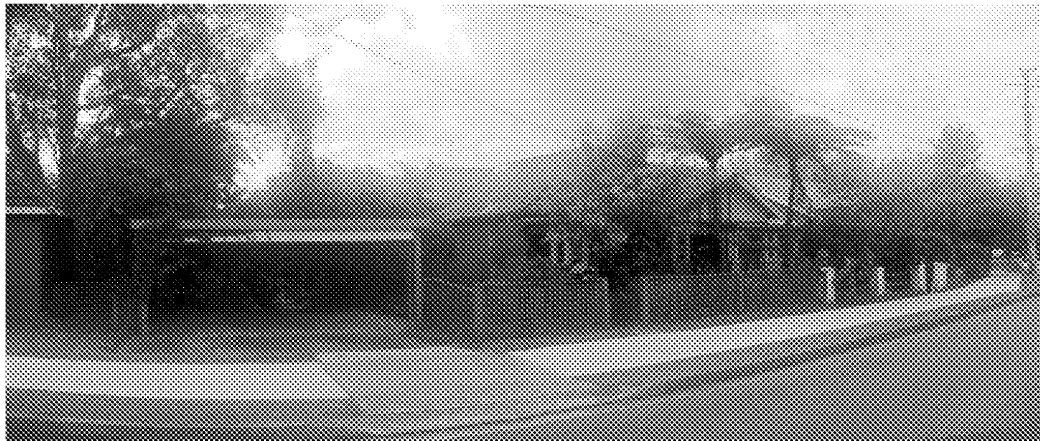


Figure 5 – Adjoining development fronting Balgowlah Road



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Figure 6 – The Roundhouse child care centre opposite the site

## 4

## Details of Planning Proposal

The Planning Proposal seeks to change the existing Open Space zoning to the Residential Zone under Manly LEP 1988. The land has not been used for open space for very many years (if ever) and it is not intended to be used for this purpose by Manly Golf Club. Given the recent use of the site for residential purposes, the proposed rezoning should be seen as correcting an anomaly in the current zoning which is inconsistent with this most recent use.

Although not part of the proposed amendment to LEP 1988, it is intended that the Manly Residential Development Control Plan 2007 be concurrently amended to include the site within Density Subzone 3 (1 unit per 250sqm of site area), consistent with adjacent residential areas. In this regard it is noted that the current version of the Density Map of the DCP does not include the existing residential land adjoining the site at 28-32 Balgowlah Road (see Figure 7).



Figure 7 – Extract of Density Map of Residential DCP

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**Planning And Strategy Division Report No. 17 - Manly Local Environmental Plan 1988 - Draft Amendment 82**  
**Planning Proposal from Ingham Planning**

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**Part 1 - Objectives or Intended Outcomes**

The overarching objective of the Planning Proposal is:

To rezone the land to be consistent with its most recent use – residential, in order to facilitate development that would be permitted on other residential land in the vicinity.

**Part 2 - Explanation of Provisions**

The requested amendment comprises a change to the zoning indicated on Council's LEP map from Open Space to Residential. The existing zoning is shown below and the proposed zoning is shown in **Appendix A**.

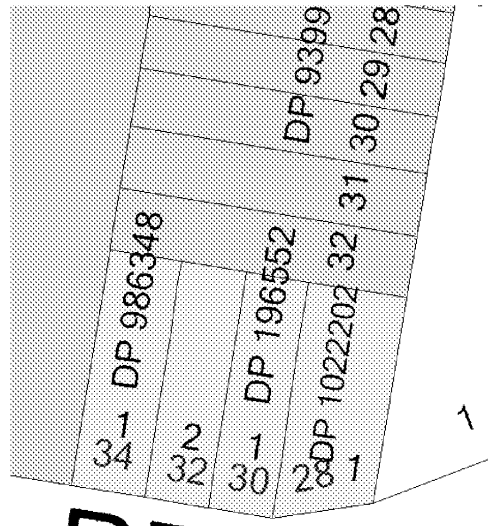


Figure 8 – Current zoning (as indicated in Council's advice dated November 2010)

**Part 3 – Justification**

Section A - Need for the planning proposal.

**1. Is the planning proposal a result of any strategic study or report?**

No, the Planning Proposal is very minor in nature and of little planning significance. As noted above it should be seen as simply correcting an anomaly in the existing zoning as the land has been used for many years for residential purposes (and would continue to be if the previous dwellings were not demolished).

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Further, the proposal is considered to be consistent with the provisions of Manly LEP 1988 the main strategic planning instrument applicable.

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The land is not required for private recreation associated with the golf club and as such a more appropriate land use is necessary. It is considered that the Planning Proposal is the best means of achieving the objectives for the site. As the previous dwellings have been demolished there is unlikely to be any existing use rights applying to the land and so any new residential use would be prohibited. Being zoned Open Space the permitted range of uses is very limited.

**3. Is there a net community benefit?**

The Planning Proposal is considered to be of net community benefit as the current vacant state of the land is of no community benefit. The current use is not public open space and it is surplus to the needs of Manly Golf Club for their private recreational use. The provision of additional land for residential use will increase the amount of local housing stock and contribute to more affordable housing. Increasing the population will have flow on economic benefits to local businesses and Council's Section 94 Contribution requirements will ensure that there are adequate services and facilities to meet the needs of the additional people on the site.

**Section B - Relationship to strategic planning framework.**

**4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The site is within the area covered by the draft North East Subregional Strategy ('the draft Strategy'). The Planning Proposal is very minor in nature and simply seeks to rezone the land consistent with its most recent residential use. However, it may result in additional dwellings (even accounting for the previously demolished dwellings) and so will assist in meeting the objectives of the draft Strategy in regard to provision of additional dwellings and provide the opportunity to provide a greater range of dwelling types.

**5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

We are not aware of any strategic plan of relevance to the subject site except for Council's draft LEP 2011 which is currently being prepared. As detailed in Council's advice dated November 2010, the properties along Suwarrow Street are intended to be zoned RE2 Private Recreation. The properties facing Balgowlah Road are intended to be zoned R2 Low Density Residential. This confirms there is no 'public' open space issue in this case as the land is and has for many years been privately owned and never used as public open space. If the Planning Proposal is supported and the land rezoned to Residential under LEP 1988, it would be appropriate to adopt an R2 zoning, consistent with the adjoining properties under the new draft 'template' LEP.

It is noted that the adjoining land including the child care centre, Suwarrow Street and the adjoining parkland is part of a Council reserve known as LM Graham Reserve (see Figure 9).

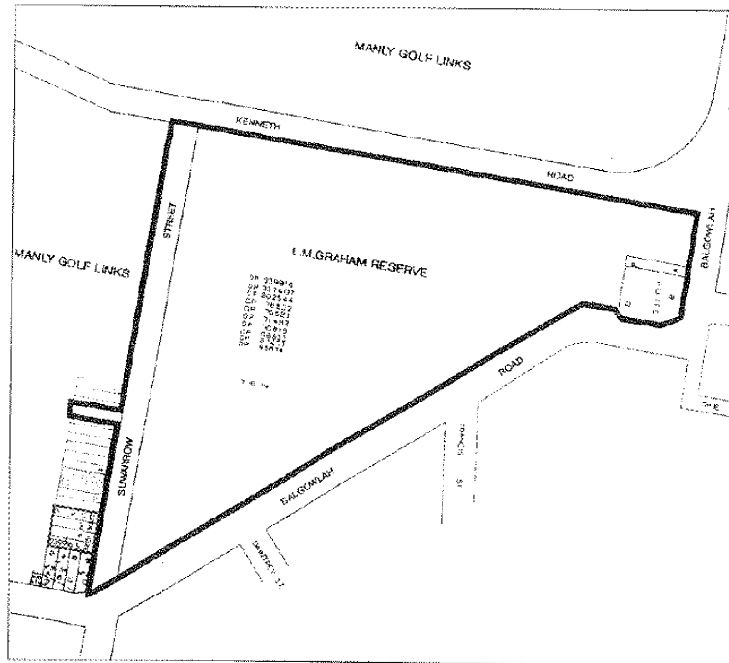


Figure 9 – Extent of LM graham Reserve detailed in Manly Plan of Management for Community Lands

This land is part of the Manly Plan of Management (PoM) for Community Lands dated June 1996. Whilst the detailed provisions relating to this land do not refer to existing access for adjoining properties, this land has always been used for access by both the general public accessing the child care centre and other facilities, Manly Golf Club and the private properties constituting the subject site and No 28 Balgowlah Road. This access still remains and has recently been upgraded. The Plan of Management, community use designation or the zoning of the land does not prohibit this access and as such its retention and use consistent with the proposed residential zoning is appropriate.

#### 6. Is the planning proposal consistent with applicable state environmental planning policies?

The proposal is consistent with all relevant state planning policies (SEPP's). Those most relevant are noted and commented upon below:

SEPP 55 Remediation of Land – our client is unaware of any previous use of the land for a purpose that would result in a contamination hazard. The site has a long history of residential use. Further in Council's advice dated November 2010 it was noted that:

*"The properties are ~~not~~ declared to be significantly contaminated land according to advice from the Department of Environment, Climate Change & Water confirmed by the Council's Environmental Health Officer. Currently, the land is not subject to a management order, not the subject of an approved*

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**Planning And Strategy Division Report No. 17 - Manly Local Environmental Plan 1988 - Draft Amendment 82**  
**Planning Proposal from Ingham Planning**

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*voluntary management proposal, not subject to an ongoing maintenance order and there is no copy of any site audit statement that has been provided at any time to Manly Council."*

SEPP 71 Coastal Protection - the subject site is land within the Coastal Zone under the NSW Coastal Protection Act 1979. SEPP No 71—Coastal Protection applies to all land within that zone. The policy ensures:

- Development in the NSW Coastal Zone is appropriate and suitably located;
- There is a consistent and strategic approach to coastal planning and management;
- There is a clear development assessment framework for the Coastal Zone

The Planning Proposal is minor in nature and will not be inconsistent with any aspect of this Policy. The area is subject to coastal flooding from Manly Lagoon, however as discussed below the subject land is not specifically affected and this will not be significantly altered by anticipated rises in sea level identified in the NSW Sea Level Rise Policy Statement and guidelines.

SEPP (Housing for Seniors or People with a Disability) 2004 – this SEPP will apply if the land is rezoned and as with all residential land in the State could be used for this type of housing subject to development consent.

SEPP BASIX – All future residential development will be required to comply with this SEPP.

There are no REP's of relevant to the proposal.

**7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The proposal is consistent with all relevant Section 117 Directions. Those most relevant are noted and commented upon below:

2.2 Coastal Protection - in accordance with this direction the Planning Proposal is not inconsistent with any of the following:

- (a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, and
- (b) the Coastal Design Guidelines 2003, and
- (c) the manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 (the NSW Coastline Management Manual 1990).

3.1 Residential Zones - in accordance with this direction:

- the proposal will potentially increase in housing diversity in the area;
- the proposal makes use of existing infrastructure in that it involves the reinstatement of the most recent use of the site for residential purposes and is located close to existing services and facilities;
- the proposal will assist in meeting metropolitan housing targets aimed at reducing the need for development on the urban fringe;
- the proposal will have minimal impact on the environment. In this regard it is noted that the site does not contain any significant vegetation or habitat;
- the subject land is adequately serviced (see **Appendix B**).

3.4 Integrating Land use and Transport - in accordance with this direction the Planning Proposal provides for development with good access to transport as the No 142 public bus uses Balgowlah Road adjacent to the site. Further the proposal is not inconsistent with the following:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
- (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

4.1 Acid Sulphate Soils – the subject site is affected by Acid Sulphate soils as indicated in an extract from Council's map at **Figure 9**. Therefore any future development must have regard to provisions of Clause 33 of Manly LEP 1988. This affectation does not mean the site is unsuitable for residential use but rather that certain measures will need to be undertaken depending on the nature of future development. These measures will be specified as part of any future DA for the site.

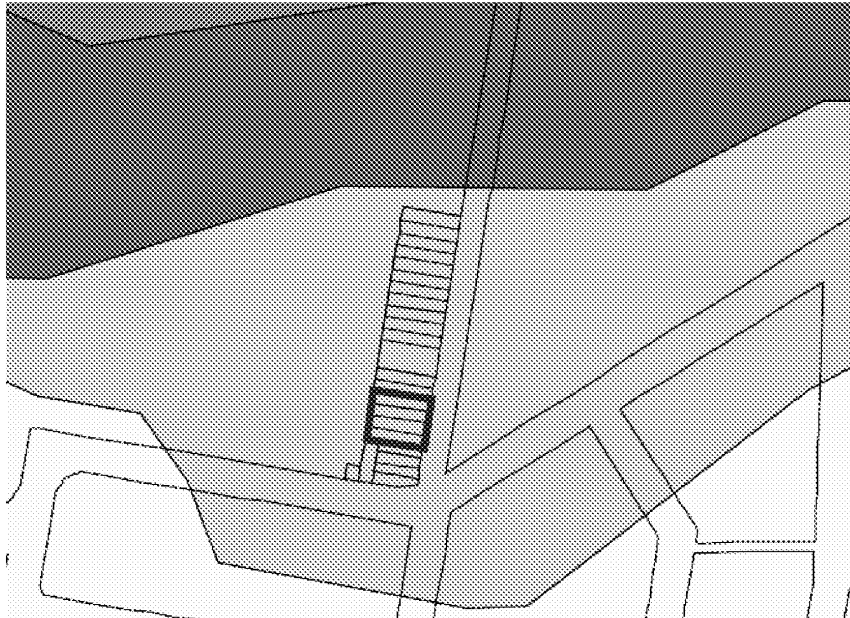


Figure 9 – Extract of LEP Acid Sulphate Soil map

4.3 Flood Prone Land – in this regard the following comments were included in Council's advice dated November 2010:

*"The properties are in close proximity but are not within the current Manly Flood Zone (Potential 1:100) Map and therefore is not subject to Council's Interim Policy and Administration Guidelines for Development & Use of Land Affected by a 1 in a 100 Year Flood - Manly Lagoon."*

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Further to the above it is noted that the above Policy generally provides a 1:100 Yr Flood Level of RL2.6-2.7m. The 'freeboard' level is 0.5m above this level (ie RL3.1-3.2m). The NSW Sea Level Rise Policy Statement and guidelines indicate that an additional 90cm needs to be added to existing coastal flooding levels to account for sea level rise to 2100. This results in a level of RL4.0-4.1m. The lowest point of the site is RL4.43m and therefore it is not likely to be affected by coastal flooding even when climate change is taken into account.

#### 7.1 Implementation of the Metropolitan Strategy

The proposal is consistent with the Metropolitan Strategy as indicated in the discussion of the draft North East Subregional Strategy above.

#### Section C - Environmental, social and economic impact.

#### **8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The site contains minimal vegetation and no significant native vegetation. As such it is extremely unlikely that any of the above would be issues in this case.

#### **9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Most of the potential impacts have been addressed above. In addition Council has indicated that the following issues should be addressed.

##### Vehicular access

The existing vehicular access to the site is via Suwarrow Street which is closed at its intersection with Balgowlah Road and so access to the wider road network is via Odawarra Close. As noted above the previous dwellings on the site gained access in this way and No 28 Balgowlah Road continues to use this access.

Council has raised concern about the potential to increase traffic in the context of these roads being zoned for Open Space and designated community land and there being a child care centre across the road. In response it is noted that access rights to existing lots cannot be taken away and there is still a road fronting the site which provides suitable access to all four lots. Further, a recently constructed driveway crossing has been provided to the site.

If the Density Control of 1 unit/250sqm of site area of the Residential DCP is applied to the site, up to 3 dwellings could be provided. This is only one additional dwelling to that which previously existed and as such the potential for increased impact is minimal.

If the subject land were redeveloped in conjunction with the Balgowlah Road properties also owned by the Club, a maximum of 7 dwellings could be achieved. If this were the case the impacts of traffic associated with such development would have to be considered on its merits as part of any future DA.



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Services

The existing dwellings on site had access to the necessary infrastructure with the exception that they had on-site septic sewer systems. As indicated in **Appendix B**, the relevant services remain easily accessible. In regard to sewer, connection to the existing system which runs through the golf club has been reviewed by a hydraulics engineer and an architect. As detailed in **Appendix C**, the indicative connection would require a floor level for any future development to be at PL6.0-6.3m. This is achievable on the site without any adverse impacts as it is only 0.5m (south boundary) and 1.5m (north boundary) above existing ground levels.

The rezoning will not significantly increase demand for services.

Climate change/Sea level rise

As detailed above, taking into account the potential for sea level rise to 2100 to increase flood levels in the area, the development of the site can be undertaken at a level above predicted levels without any unreasonable impacts.

Further to the above, the following impacts are also considered.

Impact on neighbours

The impact on neighbours is limited to the adjoining properties to the south. The next nearest neighbour, the child care centre, has limited potential for impacts as it is across Suwarrow Street. The only significant potential for impact on the Balgowlah Road properties relates to overshadowing and loss of privacy. However these matters can be suitably addressed and adequate controls are contained in the Residential DCP to ensure that amenity is appropriately protected.

Parking

Any future development will be required to provide parking in accordance with the Residential DCP. However if Council considers that due to the lack on street parking in the vicinity that additional parking should be provided, this will be considered as part of pre-DA discussions.

**10. How has the planning proposal adequately addressed any social and economic effects?**

Yes. There is minimal potential for impact. Additional population will be of benefit to the local economy and Council has Section 94 contributions which ensure that adequate social and other facilities will be available.

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Section D - State and Commonwealth interests.

11. Is there adequate public infrastructure for the planning proposal?

As noted above there is adequate transport and service infrastructure available in close proximity.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Planning Proposal is minor in nature and significant consultation is unlikely to be required as part of the 'Gateway Determination'.

**Part 4 – Community Consultation**

Given the minor nature of the proposal and the fact that the site was previously used for residential purposes it is considered that there will be adequate community consultation during the formal public exhibition stage should 'Gateway' approval be granted.

7

Conclusion

The Planning Proposal aims to rezone the land consistent with its previous use for residential purposes. The potential for adverse impact is minimal. There are adequate services and infrastructure available for the site. The Planning Proposal is consistent with all relevant local, subregional and State planning policies and strategies.

In view of the above, we fully support the Planning Proposal and request that Council agree to the support the proposed change in zoning and request the Department of Planning and Infrastructure to undertake their 'Gateway' consideration.

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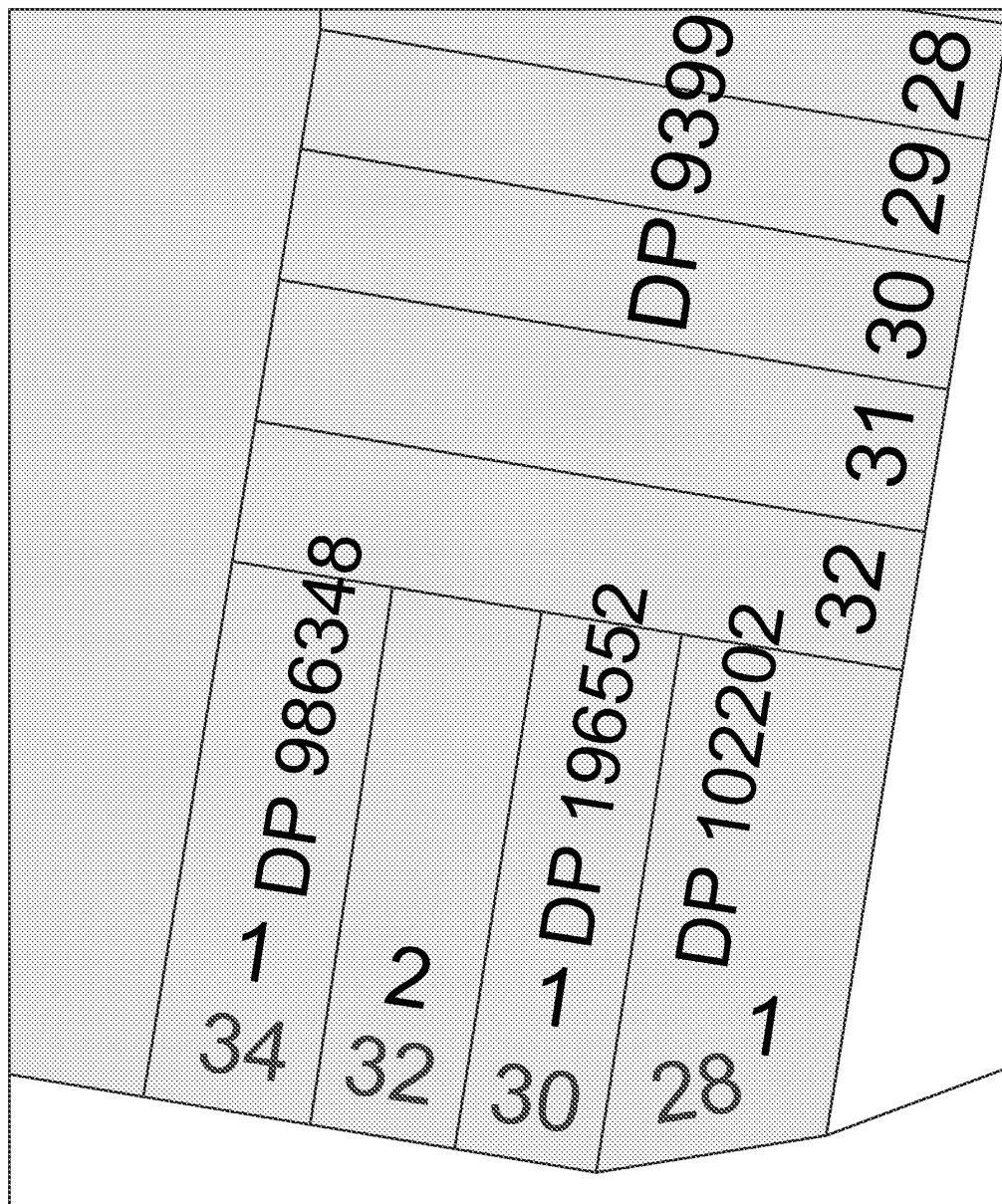
### Appendix A

Indicative zoning map for proposed LEP amendment

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### Appendix B

Information from infrastructure providers

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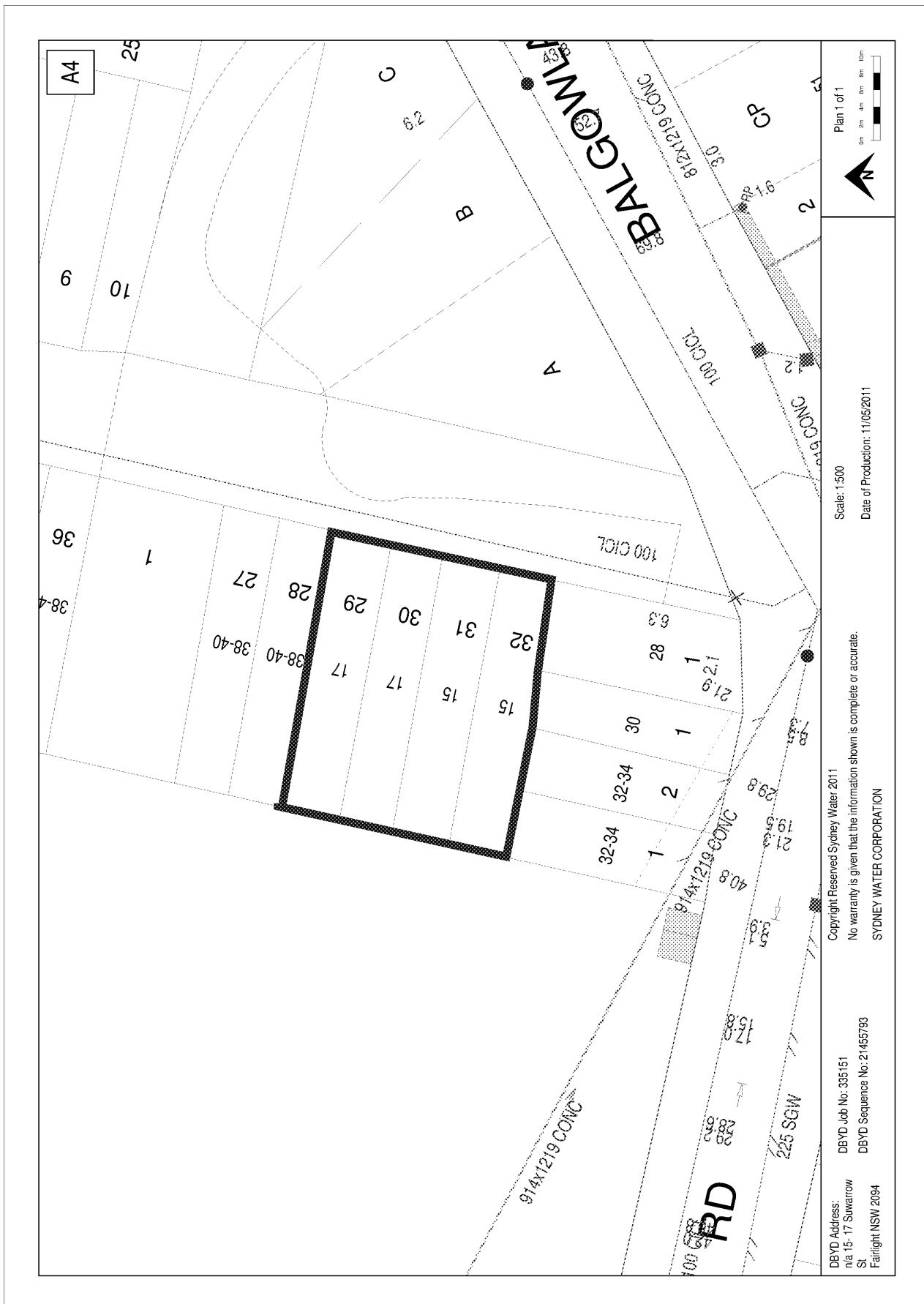




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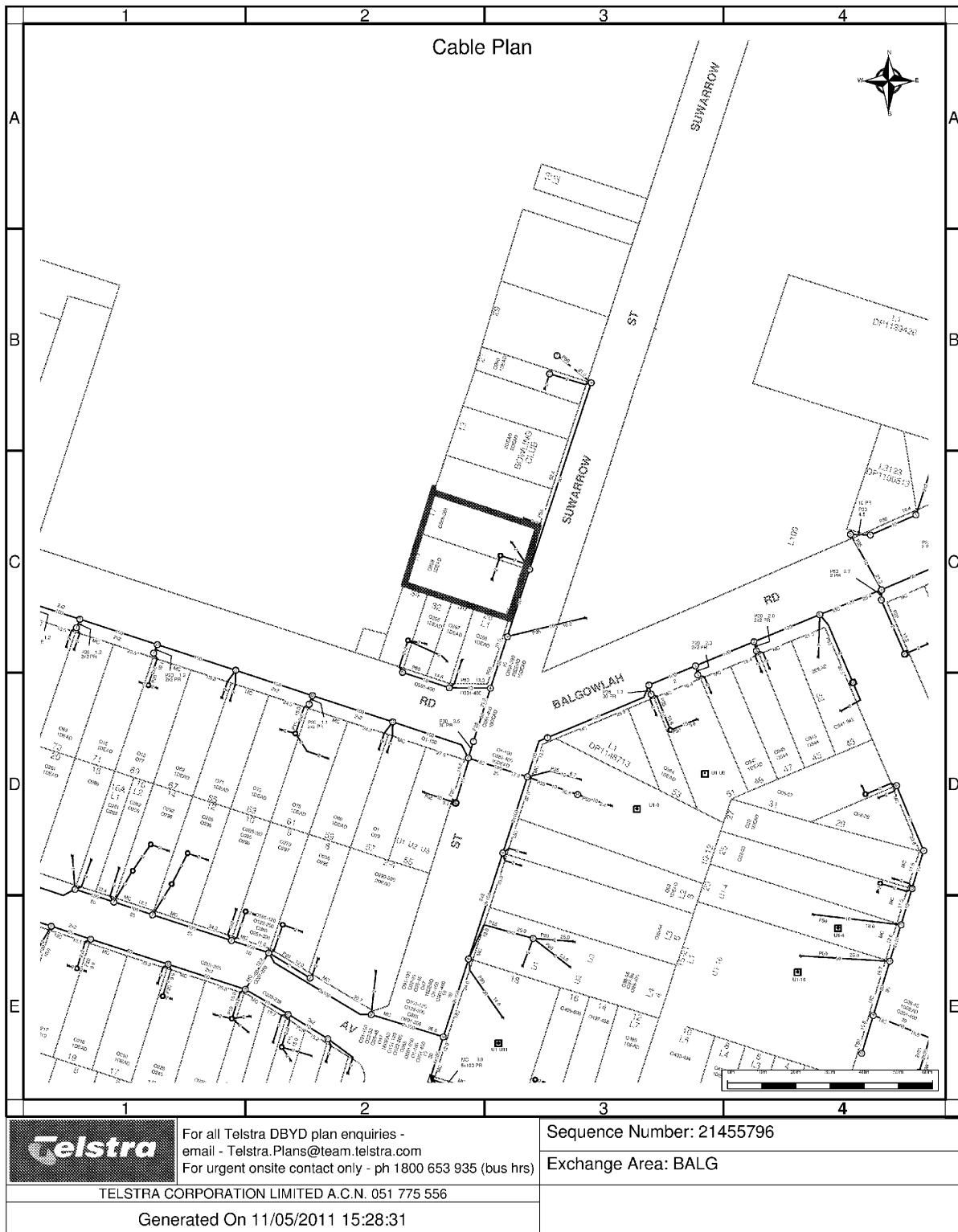
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The above plan must be viewed in conjunction with the Mains Cable Plan on the following page

**WARNING** - Due to the nature of Telstra underground plant and the age of some cables and records, it is impossible to ascertain the precise location of all Telstra plant from Telstra's plans. The accuracy and/or completeness of the information supplied can not be guaranteed as property boundaries, depths and other natural landscape features may change over time, and accordingly the plans are indicative only. Telstra does not warrant or hold out that its plans are accurate and accepts no responsibility for any inaccuracy shown on the plans.

It is your responsibility to locate Telstra's underground plant by careful hand pot-holing prior to any excavation in the vicinity and to exercise due care during that excavation.

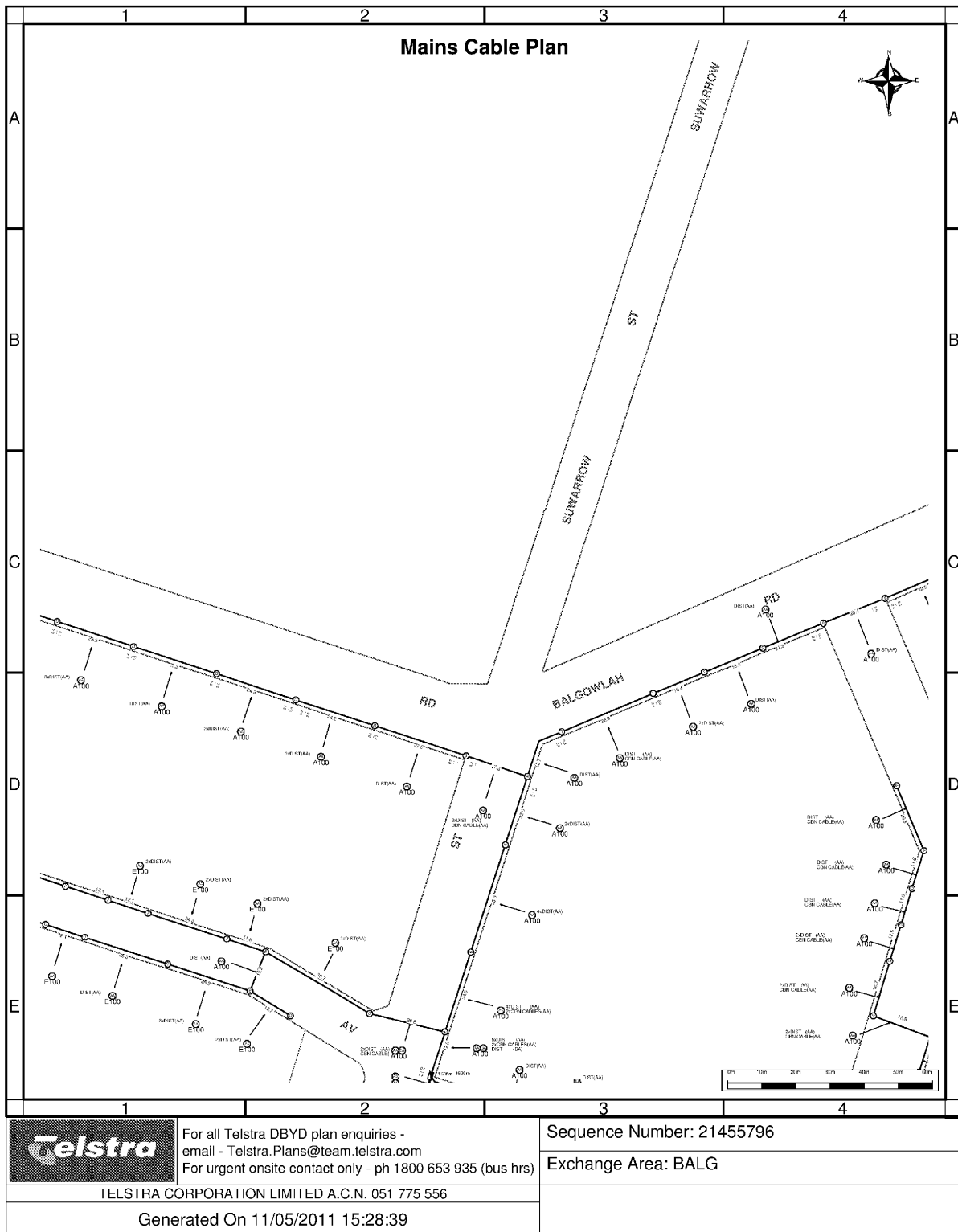
Please read and understand the information supplied in the duty of care statement attached with the Telstra plans. TELSTRA WILL SEEK COMPENSATION FOR LOSS CAUSED BY DAMAGE TO ITS PLANT.

Telstra plans and information supplied are valid for 60 days from the date of issue. If this timeframe has elapsed, please reapply for plans.

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**WARNING** - Due to the nature of Telstra underground plant and the age of some cables and records, it is impossible to ascertain the precise location of all Telstra plant from Telstra's plans. The accuracy and/or completeness of the information supplied can not be guaranteed as property boundaries, depths and other natural landscape features may change over time, and accordingly the plans are indicative only. Telstra does not warrant or hold out that its plans are accurate and accepts no responsibility for any inaccuracy shown on the plans.

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### Appendix C

Information regarding sewer connection

PETER BELL | ARCHITECT

30 Monash Crescent, Ciontarf, NSW 2093

Ph: 9907 9650 - 0419 603 319

26.5.2011

Bob Re: Sewer accessibility for lots 29, 30, 31, 32

The possible floor levels are estimated from the information supplied by the club [survey by Framley] and from Gary Bloomfield [Sydney Water info]

I am not a hydraulic specialist and this should be checked if it is critical.

1. Invert of oviform sewer at existing junction at 103.3m. . . . . R.L. 3.72 (by calc)
2. Add 300 for connection (Gary). . . . . 4.02
3. Add for gradient at 1 in 60 to connect to lots 29, 30, 31, 32 from the junction to the furthest service. [1.52m + 1500 pipe]  
The underside of the structure . . . . . 5.7
4. If units the structure could be 600 deep so the floor level (lowest) . . . . . 6.3 (no tolerance)
5. If houses the structure could be 300 deep so the floor level (lowest) . . . . . 6.0 (no tolerance)

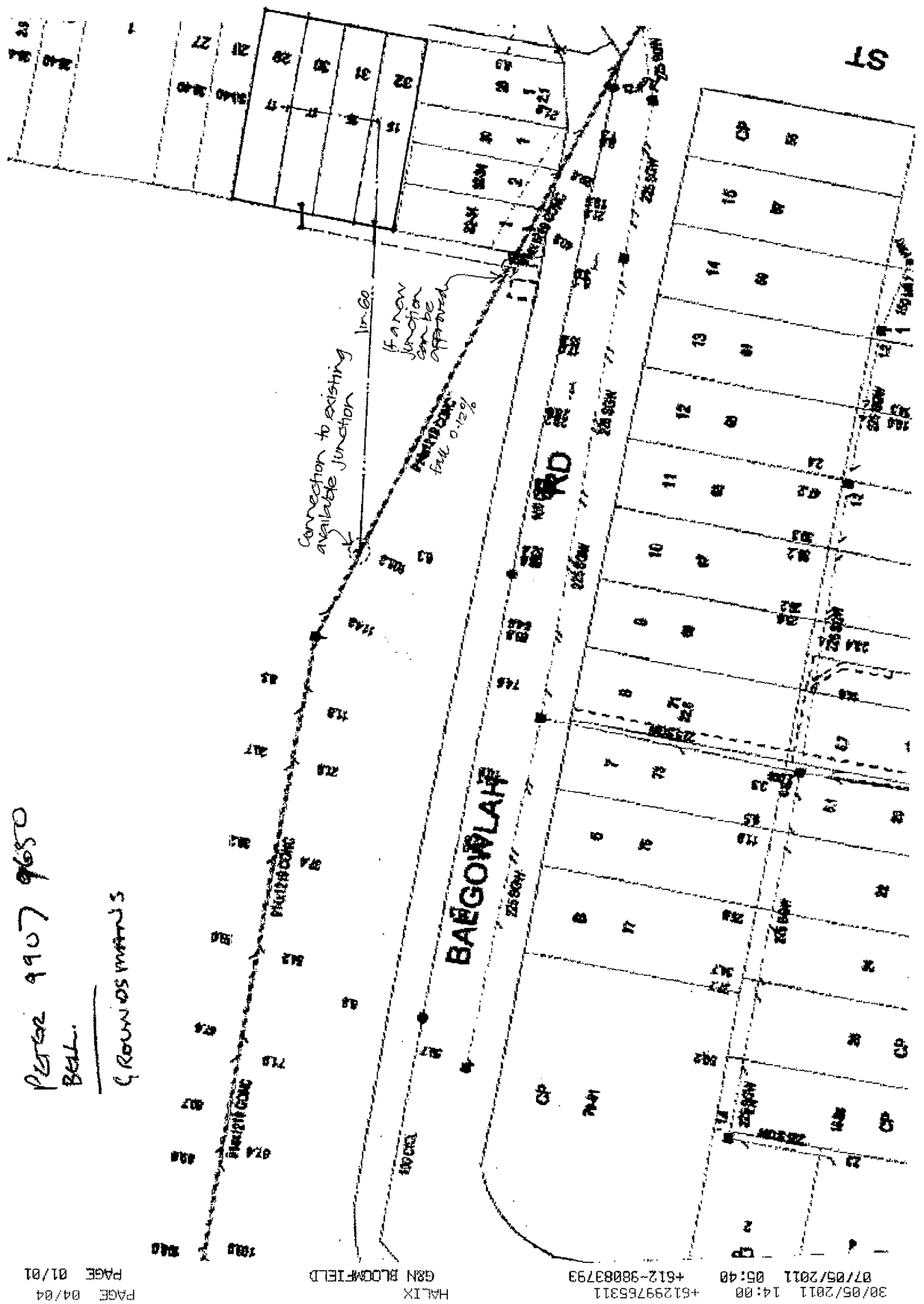
Both scenarios may require fill and/or easements to provide cover or avoid tree roots.

Another possibility could be the construction of a new junction to the main at a closer location with less length of pipe and therefore lower floor levels

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**Survey Plans**





# ATTACHMENT 3

## Planning And Strategy Division Report No. 17 - Manly Local Environmental Plan 1988 - Draft Amendment 82 Survey Plans



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**Potential Future Access Plan**

