

## Minutes

### Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 7 February 2005**

*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)*



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

The Land Use Management Committee, having met at 7:44 pm on Monday 7 February 2005, in the Council Chambers, Town Hall, Manly, to consider the various matters referred to it, now reports the decisions reached and the recommendations made which are stated hereunder.

The decisions taken and indicated by the prefix "Resolved" as distinct from "Recommendations" made to the Council, were taken pursuant to authority delegated to this Committee vide Minutes Number 139 of 6th September, 2004.

**PRESENT**

His Worship, The Mayor, Councillor Dr Peter Macdonald  
Deputy Mayor Councillor R Morrison (arrived 7.49pm)  
Councillor B Aird  
Councillor P Daley  
Councillor J Evans  
Councillor J Hay, AM  
Councillor A Heasman (arrived 7.55pm)  
Councillor J Lambert, Chairperson who presided  
Councillor D Murphy  
Councillor M Norek  
Councillor B Pedersen

**ALSO PRESENT**

Henry T Wong, General Manager  
Dave Stray, Manager Development Control  
Julia Paul, Minute Secretariat

**APOLOGIES  
(File A8/2)**

Apologies were tendered on behalf of Councillor S Cant, Deputy Chairperson, for non-attendance.

**RESOLVED: (Hay/Macdonald)**

That the apology received from Councillor Cant, be accepted and leave be granted.

**For the Resolution:** Councillors Hay, Lambert, Murphy, Daley, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

*Councillor Heasman and Councillor Morrison were not present in the Chamber when the vote was taken.*

**LEAVE OF ABSENCE**

Nil.

**DECLARATIONS OF PECUNIARY / CONFLICT INTERESTS (File A8/4)**

**(Note:** There were no Declarations of Interest.)

**CONFIRMATION OF MINUTES (FILE C17/23)****MOTION: (Pedersen/Macdonald)**

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 6 December 2004, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

**RESOLVED: (Pedersen/Macdonald)**

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 6 December 2004, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

**For the Resolution:** Councillors Hay, Lambert, Murphy, Daley, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

*Councillor Heasman and Councillor Morrison were not present in the Chamber when the vote was taken.*

**PUBLIC ADDRESSES**

<b>ITEM</b>	<b>PROPERTY DETAILS/PUBLIC SPEAKERS</b>
ES No 1	<b>29/43-45 East Esplanade, Manly</b>
Objector	Mr Pierre Wiart, 3/43 East Esplanade, Manly
Applicant	Ms Sarah McCarthy, representing Channel 7
ES No 2	<b>3 Cove Avenue, Manly</b>
Objector	Mr Duncan Band, 2/5 Cove Avenue, Manly
Applicant	Mr Joseph Shamia, Suite 1, 307-317 Condamine Street, Manly Vale
ES No 3	<b>121 Seaforth Crescent, Seaforth</b>
Objector	Ms Vivien Coulson, 67 Castle Circuit, Seaforth
Applicant	Mr James Waggett, 121 Seaforth Crescent, Seaforth
ES No 4	<b>51 Stuart Street, Manly</b>
Objector	Mr Greg Mullens, 313/11 Wentworth Street, Manly
ES No 5	<b>3 Beaconview Street, Balgowlah</b>
Objector	Mr Phil Mudge, 17A Whistler Street, Manly
Applicant	Mr Darren Crawford, 3 Beaconview Street, Balgowlah Heights

ITEM	PROPERTY DETAILS/PUBLIC SPEAKERS
ES No 6	<b>85-87 Lauderdale Avenue, Fairlight</b>
Objector	Mr Michael Staunton, Lvl 6, 2 Barrack Street, Sydney
Objector	Chantalle Grech – no contact details provided
Applicant	Ms Rothwell, Architects for 85-87 Lauderdale Avenue, Fairlight

**ENVIRONMENTAL SERVICES DIVISION REPORTS**

Environmental Services Division Report No. 1

**29/43-45 East Esplanade, Manly (DA565/04)**

**Application Lodged:** 8 December 2004

**Applicant:** MsW Projects

**Owner:** Peter M Nolan

**Estimated Cost:** \$35,000

**Zoning:** Manly Local Environmental Plan, 1988 - Business

**Surrounding Development:** Multi Storey Mixed Commercial and Residential Buildings

**Heritage:** Not Applicable to Subject Site, Items in Vicinity

**SUMMARY:**

1. COUNCIL IS IN RECEIPT OF AN APPLICATION FOR A FIT OUT AND USE OF THE EXISTING COMMERCIAL ALLOTMENT AT LEVEL 1 OF NO.43-45 EAST ESPLANADE AS A 100 SEAT RESTAURANT.
2. THE SUBJECT ALLOTMENT WAS PREVIOUSLY USED AS A RESTAURANT/ BAR AND MORE RECENTLY AS AN OFFICE AND SOLE OCCUPANCY UNIT.
3. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH SEVEN SUBMISSIONS RECEIVED.
4. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR MACDONALD.
5. A SITE INSPECTION IS RECOMMENDED.
6. THE APPLICATION IS RECOMMENDED FOR APPROVAL.

**Site Inspection**

A site inspection was conducted on Monday 7 February 2005 comprising of Councillors Aird, Evans, Heasman, Lambert, Macdonald, Morrison, Murphy, Hay and Norek

**Inspection Party Recommendation**

Approval as per staff recommendation with amendments to proposed conditions 3 & 4 as follows:

3. as before ... Note The flooring and ceiling (outside the bulkhead area) treatments if required are to be selected and installed in consultation with an Acoustic Engineer to ensure minimal noise from the restaurant operation is transmitted to adjoining and nearby units.
4. There is to be no restaurant activity on the external terrace areas other than access and egress, to minimise noise impacts on nearby and adjoining residents.

**MOTION: (Pedersen/Aird)**

That the Development Application No. 565/04 for fit out and use of Lot 29 No.43-45 East Esplanade Manly be deferred:

- a) to allow for further consultation with resident objectors regarding noise insulation and noise mitigation possibilities;
  - b) for Council to immediately notify the Chairperson of the Corso Precinct Committee regarding this DA;
  - c) that due to time constraints the matter be brought back to Council at the Ordinary Meeting in two weeks;
- and
- d) that the issue of disabled access be resolved with Body Corporate with regard to usage of the stairway on eastern side.

**AMENDMENT: (Macdonald/Murphy)**

- A.** That Development Application No. 565/04 for fit out and use of Lot29 No.43-45 East Esplanade Manly be approved subject to the following conditions.
1. This approval relates to plans/drawings Nos.FP.01 issue C dated 21 December 2004 and received by Council on 24 December 2004.
  2. This approval is operative for a twelve month trial period to enable full assessment of the impacts of the development. Continued use beyond that period is to be subject to a new development application.
  3. Noise from the restaurant operation is not to exceed 5 dBa above background measured at the boundary of the nearest residential premises, to minimise noise impacts on adjoining and nearby properties. Continuous monitoring under the supervision of an Acoustic Engineer is to be undertaken with the Engineers reports on noise levels submitted to Council at three monthly intervals. To ensure minimal noise from the restaurant operation is transmitted to adjoining and nearby units, the Acoustic Engineer (nominated by Council) is to advise of floor and ceiling treatments if necessary.
  4. There is to be no restaurant activity on the external terrace areas other than access and egress, to minimise noise impacts on nearby and adjoining residents. Queues to be contained indoors and that windows and doors remain closed to minimise noise impacts on other residents.
  5. A plan of management is to be submitted to Council regarding noise minimisation, waste movement and collection and site/patron security, prior to commencement of restaurant operations.
  6. There is to be no amplified music played on the premises, to minimise noise impacts on nearby and adjoining residents.
  7. The premises being limited to a "Bring Your Own" liquor license only unless otherwise approved by Council.
  8. The provision of a direct phone contact "hotline" with the restaurant management available during the hours of operation available to the residents of the subject building should valid complaints arise to enable any amenity/disturbance issues to be addressed immediately.

9. All serving staff are to be trained in "Responsible Service of Alcohol".
10. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$400.00. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

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

11. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
12. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
13. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
14. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

15. Four (4) certified copies of the Structural Engineer's details in respect to the structural details of the proposed building shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
16. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
17. The implementation of adequate care during demolition/ building/ construction to ensure that no damage is caused to any adjoining properties.
18. The construction, fitout and finishing of the premises shall comply with the Food Act 1989 and the Food Safety Standards. Certification as to compliance shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate.**
19. The walls of the food preparation shall be constructed of approved solid material finished with glazed tiles or other rigid, smooth-faced, impervious material to the satisfaction of the Group Manager, Land Use Management, evenly laid to a height of at least 2 metres above floor level and to the underside of the hoods and coved to a minimum radius of 25mm at the intersections with the floor.
20. The walls, where not tiled, shall be cement rendered, finished to a smooth, even surface, painted with a washable gloss paint of a light colour or sealed with other approved materials.

21. The floor of the food preparation area shall be constructed with an impervious, durable, non-slip and non-abrasive material (such as ceramic tiling), coved to a minimum radius of 25mm at the intersection with the walls.
22. The ceiling light fittings shall be installed flush with the ceiling surface or provided with an approved diffuser cover to prevent the accumulation of dust or the harbourage of vermin.
23. All service pipes including beer pipes, electrical conduits, and refrigeration condensate pipes shall be chased into walls, floor or plinths.
24. Where it is not possible or permitted to conceal service pipes, they are to be fixed on brackets so as to provide at least 25mm clearance between the pipe and adjacent vertical surface and 100mm between the pipe and adjacent DA196. The concrete floor(s) of the cool/freezer room(s) shall be at least 75mm thick, graded to the doorway, coved at the intersections with the walls finished so as to be impervious to liquids.
25. The concrete floor(s) of the cool/freezer room(s) shall be at least 75mm thick, graded to the doorway, coved at the intersections with the walls finished so as to be impervious to liquids.
26. The door(s) of the coolroom(s) shall be openable at all times from the inside without the use of a key.
27. All proposed shelving in the coolroom shall be free-standing, constructed of approved material and treated to prevent corrosion with the lowest 150mm clear of the floor.
28. The coolroom(s) shall operate so that all food capable of supporting rapid bacterial growth is kept cold at a temperature of not more than 5 degrees Celsius with the coolroom being provided with a numerically scaled thermometer or recording thermometer accurate to the nearest degree Celsius and able to be easily read from the room outside.
29. All fittings, where abutting walls or other fittings, shall be sealed in such a manner as to prevent the accumulation of food and access for vermin.
30. A hand basin with a common spout is to be provided within the premises in an approved and conveniently located position with a supply of hot and cold water under pressure.
31. Adequate efficient glass washing and/or dish washing machines or double bowl sinks or two-compartment tubs shall be provided for the washing and rinsing of drinking and eating utensils.
32. A cleaner's sink shall be provided in a room or space away from any food preparation area.
33. Adequate facilities shall be made available for the storage of cleaning equipment and material.
34. A garbage room or garbage receptacle storage area shall be provided within the site in an approved position constructed in accordance with the requirements of Council.
35. The grease arrester shall be relocated outside the kitchen/food preparation area.
36. A system of filtered mechanical exhaust ventilation shall be provided to the kitchen with hoods over all cooking and heating appliances, designed in accordance with AS1668, parts 1 and 2, with the exhaust air discharged above roof level where no nuisance will be created.

37. Documentation supplied by a practising mechanical engineer certifying that the mechanical exhaust ventilation system, as installed, complies with AS1668 must be provided to Council **prior to the issue of the Occupation Certificate.**
38. No storage of food in the storage loft unless otherwise approved by Council.
39. The operation of any plant or equipment shall not give rise to an offensive noise to be created. Offensive noise is defined in the Protection of the Environment Operations Act 1997.
40. The use at all times shall be conducted so that no odours or other air impurities are detectable beyond the boundaries of the premises.
41. The quality of any stack system discharge to the atmosphere shall comply with the requirements of the Protection of the Environment Operations Act 1997.
42. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
43. All demolition is to be carried out in accordance with AS2601-1991.
44. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

**Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.**

45. The collection of garbage and recycling materials from the premises is not to occur between the hours of 9.00pm and 7.00am Monday to Sunday, without the prior approval of Council, to minimise disruption to neighbouring properties.
46. All lights used to illuminate the exterior of the buildings or site shall be positioned and/or fitted with cut off luminaries (baffles) so as to prevent the emission of direct light onto adjoining roadways and land.
47. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
48. The works require the following inspection/certification during the course of construction:-

Health inspection  
Final inspection

The cost of these inspections by Council is \$183 (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

49. Issue of a Compliance Certificate from the Principal Certifying Authority prior to occupation to the effect that:



1. Required inspections have been undertaken and the work has been completed in accordance with the approved plans and specifications, the Development Consent and the Construction Certificate.
2. Documentary evidence relative to:
  - structural engineers inspection certificate
  - mechanical ventilation engineer's certificate
50. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
51. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.
52. The hours of operation of the premises shall not exceed 12.00 noon to 12.00 midnight Monday to Sunday **without the prior approval of Council.**
53. No sandwich boards or the like are to be placed on Council's footpath.
54. The proposed sign shall be erected in accordance with the requirements of Council's Advertising Development Control Plan.
55. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
56. That the seating be limited to 80 maximum.
57. That approval of the opening time be reviewed in June 2005.
58. The development shall be provided with access and facilities for people with disabilities in accordance with Australian Standard 1428.2-1992, Design for Access and Mobility Part 2: Enhanced and additional requirements (AS1428.2).
- B.** That the General Manager be authorised to issue separate approval for recording of a television program.

**For the Amendment:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Morrison, Evans and Macdonald.

**Against the Amendment:** Councillors Pedersen, Aird and Norek.

The **Amendment** became the **Motion** was put and declared **Carried**.

**RESOLVED: (Macdonald/Murphy)**

- A.** That Development Application No. 565/04 for fit out and use of Lot 29 No.43-45 East Esplanade Manly be approved subject to the following conditions.

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36. A system of filtered mechanical exhaust ventilation shall be provided to the kitchen with hoods over all cooking and heating appliances, designed in accordance with AS1668, parts 1 and 2, with the exhaust air discharged above roof level where no nuisance will be created.
37. Documentation supplied by a practising mechanical engineer certifying that the mechanical exhaust ventilation system, as installed, complies with AS1668 must be provided to Council **prior to the issue of the Occupation Certificate.**
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43. All demolition is to be carried out in accordance with AS2601-1991.
44. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction

Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

**Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.**

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46. All lights used to illuminate the exterior of the buildings or site shall be positioned and/or fitted with cut off luminaries (baffles) so as to prevent the emission of direct light onto adjoining roadways and land.
47. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
48. The works require the following inspection/certification during the course of construction:-

Health inspection  
Final inspection

The cost of these inspections by Council is \$183 (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

49. Issue of a Compliance Certificate from the Principal Certifying Authority prior to occupation to the effect that:
  1. Required inspections have been undertaken and the work has been completed in accordance with the approved plans and specifications, the Development Consent and the Construction Certificate.
  2. Documentary evidence relative to:
    - structural engineers inspection certificate
    - mechanical ventilation engineer's certificate
50. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
51. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

52. The hours of operation of the premises shall not exceed 12.00 noon to 12.00 midnight Monday to Sunday **without the prior approval of Council.**
  53. No sandwich boards or the like are to be placed on Council's footpath.
  54. The proposed sign shall be erected in accordance with the requirements of Council's Advertising Development Control Plan.
  55. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
  56. That the seating be limited to 80 maximum.
  57. That approval of the opening time be reviewed in June 2005.
  58. The development shall be provided with access and facilities for people with disabilities in accordance with Australian Standard 1428.2-1992, Design for Access and Mobility Part 2: Enhanced and additional requirements (AS1428.2).
- B.** That the General Manager be authorised to issue separate approval for recording of a television program.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Morrison, Evans and Macdonald.

**Against the Resolution:** Councillors Pedersen, Aird and Norek.

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Environmental Services Division Report No. 2

**3 Cove Avenue, Manly (DA486/04)**

**Application Lodged:** 8/10/2004  
**Applicant:** Mojocham  
**Owner:** Shamia family  
**Estimated Cost:** \$750,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential Foreshore Scenic Protection Area  
**Surrounding Development:** 2 - 4 storey detached dwellings and residential flat buildings  
**Heritage:** Nil.

**SUMMARY:**

1. DEVELOPMENT APPLICATION 486/04 FOR DEMOLITION AND CONSTRUCTION OF A 2 UNIT RESIDENTIAL FLAT BUILDING WITH BASEMENT PARKING WAS SUBMITTED TO COUNCIL ON 8 OCTOBER 2004. THE PLANS WERE ACCOMPANIED BY A DETAILED STATEMENT OF ENVIRONMENTAL EFFECTS TO ASSIST IN THE ASSESSMENT OF COMPLIANCE WITH COUNCIL'S PLANNING CONTROLS AND IDENTIFY IMPACTS TO NEIGHBOURING PROPERTIES.
2. NOTIFICATION OF THE PROPOSAL FROM 8 NOVEMBER 2004 – 22 NOVEMBER 2004 RESULTED IN RECEIPT OF EIGHT SUBMISSIONS, BEING FROM THE NEIGHBOURING UNIT OWNERS AT NO'S 1 AND 5 COVE AVE., RAISING CONCERNS OF NON-COMPLIANCE WITH THE DCP PROVISIONS (FRONT AND SIDE SETBACK, FSR), EXCAVATION IMPACTS, OVERLOOKING, VIEW LOSS, VISUAL BULK,

- OVERSHADOWING, CONSTRUCTION VEHICLE ACCESS AND PARKING.
3. APPLICANT LODGED AN APPEAL FOR DEEMED REFUSAL WITH THE LAND AND ENVIRONMENT COURT ON 25 NOVEMBER 2004.
  4. THE APPLICATION WAS CALLED TO COUNCIL'S LAND USE MANAGEMENT MEETING BY COUNCILLOR MACDONALD.
  5. AT THE 1<sup>ST</sup> COURT CALLOVER, DIRECTIONS WERE MADE TO THE EFFECT THAT IF COUNCIL REFUSES THE DEVELOPMENT APPLICATION, IT IS TO PRODUCE ITS REASONS FOR REFUSAL AND A STATEMENT OF ISSUES TO THE COURT BY 14 FEBRUARY 2004. CONSEQUENTLY COUNCIL IS REQUIRED TO DETERMINE THE PROPOSAL PRIOR TO THIS DATE.
  6. A SITE INSPECTION IS RECOMMENDED.
  7. APPROVAL OF THIS DEVELOPMENT APPLICATION IS RECOMMENDED SUBJECT TO THE APPLICANT SUBMITTING A CONSTRUCTION MANAGEMENT PLAN PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE.

### **Site Inspection**

A site inspection was conducted on Monday 7 February 2005 comprising of Councillors Aird, Evans, Heasman Lambert, Macdonald, Morrison, Murphy, Hay and Norek

### **MOTION: (Macdonald/Norek)**

That Development Application 486/04 for demolition and construction of a 2 storey Residential Flat Building with basement parking at 3 Cove Avenue, Manly be refused for the following reasons:

1. Gross overdevelopment of the site;
2. Non-compliant with the front and side setbacks and impact on adjacent buildings;
3. Loss of privacy to 1 Cove Avenue;
4. Significant portico encroachment into the front setback;
5. Encroachments on established Right of Way and impact on access to adjoining properties;
6. The overshadowing issues relating to 5 Cove Avenue.

### **AMENDMENT: (Murphy/Evans)**

- A. That subject to the applicant discontinuing the appeal in the Land and Environment Court proceedings:
  - B. That Development Application 486/04 for demolition and construction of a 2 storey Residential Flat Building with basement parking at 3 Cove Avenue, Manly be approved with the following additional conditions
57. The building footprint be pushed back 600mm;
  58. Reduce front balconies by 1.2m to 2m in depth;
  59. The portico structure be removed;
  60. Side boundary decks and lobby be brought in line with rest of building;
  61. Observe right of way as per DP15065 i.e 1.5m wide driveway;

62. Existing row of conifer trees at rear boundary be protected by way of a tree bond.

**For the Amendment:** Councillors Hay, Heasman, Murphy, Daley, Morrison, Pedersen and Evans.

**Against the Amendment:** Councillors Lambert, Aird, Norek and Macdonald.

The **Amendment** became the **Motion** was put and declared **Carried**.

**RESOLVED: (Murphy/Evans)**

- A. That subject to the applicant discontinuing the appeal in the Land and Environment Court proceedings:
- B. THAT Development Application 486/04 for demolition and construction of a 2 storey Residential Flat Building with basement parking at 3 Cove Avenue, Manly be approved subject to the following conditions:
1. This approval relates to drawings/plans Nos. A01-A07, Issue B and Landscape Plan dated September, 2004 and received by Council on the 8<sup>th</sup> October, 2004 as amended by conditions No. 57-62.
  2. The existing row of conifer trees at the rear are to be protected during construction work and retained.
  3. A detailed stormwater management plan shall be prepared to fully comply with Council's "Specification for on-site Stormwater Management 2003" and shall be submitted with the Construction Certificate application. The stormwater management plan shall be prepared by an experienced Chartered Civil Engineer. The Principal Certifying Authority shall ensure that the design complies with the above said specification **prior to the issue of the Construction Certificate**.
  4. On completion of the drainage works the applicant is required to submit work as executed drawings of the on site stormwater detention system. The work as executed drawings shall be certified by a Chartered Professional Engineer and submitted to Council **prior to the Occupation Certificate is issued**.
  5. A positive covenant and the restriction on the use of land shall be imposed over the area of land affected by on site stormwater absorption/ detention system. The standard wording of the positive covenant shall be obtained from Council's "Specification for on-site Stormwater Management 2003" (Appendix A). The positive covenant shall be imposed **prior to the release of the Trust Fund Deposit**.
  6. The construction of a vehicular footpath crossing and kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out **prior to issue of the Occupation Certificate**.
  7. A Construction Management Plan is to be submitted to Council **prior to issue of a Construction Certificate**. This shall detail location of construction materials and possible construction vehicle parking so as to minimise conflict with resident street parking and through access for Cove Avenue.
  8. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$10,000. The Deposit is required as security of



compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

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

9. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
10. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
11. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
12. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
13. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
14. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

15. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
16. Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
17. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
18. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.

19. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
20. A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.
21. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
22. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
23. An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.
24. Four (4) sets of Architectural drawings and Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate.**
25. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
26. A system of onsite stormwater detention shall be provided within the property in accordance with Council's "Specification for on-site stormwater management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

The specification can be downloaded form Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.
27. The basement carparking level is to be adequately protected from flooding. Details are to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
28. All demolition is to be carried out in accordance with AS2601-1991.
29. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
30. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

**Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.**
31. The building being erected in Type B construction for a Class 2 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
32. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

33. All sound producing plant and equipment being installed and operated in such a manner so as not to create a noise nuisance.
34. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
35. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate**.
36. Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval shall be given to the purchaser, transferee, assignee, leasee, occupier or other person of that part of the land.
37. The works require the following inspection/certification during the course of construction:-
  - Silt control fences x 1
  - Footing inspection - trench and steel x 1
  - Reinforced concrete slab x 3
  - Wet area moisture barrier x 2
  - Drainage inspection x 1
  - Driveway crossing/kerb layback x 1
  - Landscaping inspection x 1
  - Retaining wall x 1
  - Final inspection

The cost of these inspections by Council is \$883. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

38. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development**.
39. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
40. De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:
  - a) Ground water or other water to be pumped from the site into council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines.
  - b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
  - c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.

- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
  - e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
  - f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.
41. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework**.
42. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
43. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
44. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
45. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.
- The measures must include:-
- (i) siltation fencing;
  - (ii) protection of the public stormwater system; and
  - (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
46. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.
- Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.
47. Approval of the application to Strata Subdivide the subject property is subject to the lodgement of a linen plan for certification and payment of the appropriate fee.
48. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
49. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite

protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".

50. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall be in hand prior to any track-equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.
51. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
52. Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.
53. Payment of \$5456.10 for the 1 additional dwelling in respect of the contribution for the provision of the public amenities and public services shall be in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979. Arrangements for such payment is to be made in accordance with Council's policy, **prior to issue of the Construction Certificate.**

**Note:** The attached yellow form is to be returned to Council with your payment of the Contribution.

54. A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund **Deposit prior to the issue of the Construction Certificate.**
55. A geotechnical engineer's report regarding the stability of the site is to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
56. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
57. The building footprint be pushed back 600mm;
58. Reduce front balconies by 1.2m to 2m in depth;
59. The portico structure be removed;
60. Side boundary decks and lobby be brought in line with rest of building;
61. Observe right of way as per DP15065 i.e 1.5m wide driveway;
62. Existing row of conifer trees at rear boundary be protected by way of a tree bond.

**For the Resolution:** Councillors Hay, Heasman, Murphy, Daley, Morrison, Pedersen, Evans and Norek.

**Against the Resolution:** Councillors Lambert, Aird and Macdonald.

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**NOTE:** This item is the subject of a Rescission Motion received on 11 February 2005 which will be dealt with at the Ordinary Meeting of 21 February 2005

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Environmental Services Division Report No. 3

**121 Seaforth Crescent, Seaforth (DA499/04)**

**Application Lodged:** 29/10/2004  
**Applicant:** Mrs Sara L Walgett  
**Owner:** As above  
**Estimated Cost:** \$60,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
Foreshore Scenic Protection Area  
**Surrounding Development:** 2 – 3 storey detached dwellings  
**Heritage:** Nil.

**SUMMARY:**

1. THIS IS A PROPOSAL FOR A REPLACEMENT DECK, NEW SPA, RETRACTABLE AWNING AND BUSHBOX FENCE.
2. NOTIFICATION OF THE PROPOSAL RESULTED IN RECEIPT OF ONE SUBMISSION.
3. APPLICANT WAS CONTACTED TO DISCUSS THE OBJECTORS ISSUES AND DESIGN JUSTIFICATION. APPLICANT ADVISED SPA COULD NOT BE PLACED ON OPPOSITE NORTHERN SIDE OF DECK DUE TO OVERLOOKING FROM THE NORTHERN NEIGHBOURING DWELLING, AND THAT THE PROPOSED LOCATION WAS PREFERRED TO OBTAIN WATER VIEWS.
4. THE APPLICATION WAS CALLED TO COUNCIL'S LAND USE MANAGEMENT MEETING BY COUNCILLOR MORRISON.
5. A SITE INSPECTION IS RECOMMENDED.
6. APPROVAL OF THIS DEVELOPMENT APPLICATION IS RECOMMENDED SUBJECT TO CONDITIONS.

**Site Inspection**

A site inspection was conducted on Monday 7 February 2005 comprising of Councillors Aird, Evans, Heasman, Lambert, Macdonald, Morrison and Murphy

**Inspection Party Recommendation**

Approval as per staff recommendation with amendment to proposed condition No. 2 as follows:

- a) the spa is to be repositioned to the northern end of the deck with the western edge of the spa and awning to align with the edge of the new deck.

And new condition No 32 as follows:

32. The proposed brushwood screen (or similar more environmentally sustainable treatment) adjacent to the timber access stairs being reduced to 1.8m in height, plans being suitably amended prior to the issue of the Construction Certificate.

**MOTION: (Morrison/Macdonald)**

THAT Development Application 499/04 for demolition of an existing deck and construction of a new deck, installation of a spa, erection of a retractable awning and brush fencing at 121 Seaforth Crescent, Seaforth be approved subject to the following conditions:

1. This approval relates to drawings/plans Nos. 2a, 2b, 2c dated December 2004 dated December 2004 and received by Council on the 29<sup>th</sup> October, 2004.

## 2. Amended plans

- (a) the spa is to be repositioned to the northern end of the deck with the western edge of the spa and awning to align with the edge of the new deck.
- (b) A balustrade along the southern and western edges of the spa is to be provided and constructed of glass to minimise noise transmission and visual impacts.
- (c) The spa filter pump and motor unit is to be housed in a sound proof filter box to minimise audible noise transmission of its operation to neighbouring properties.

*Amended plans are to be submitted that satisfy these conditions prior to issue of the Construction Certificate.*

- 3. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$2200. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

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

- 4. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
- 5. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
- 6. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
- 7. Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
- 8. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
- 9. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
- 10. Four (4) sets of Architectural drawings and Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate.**
- 11. Roofwater and surface stormwaters from paved areas from the development shall be collected and piped to the harbour foreshore in a manner approved by the Principal Certifying Authority. If the piped system runs across park reserves, approval by Council's relevant officer shall be obtained. The stormwater disposal system must have a stilling sump and flow dissipater provided at the property line.

12. All demolition is to be carried out in accordance with AS2601-1991.
13. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
14. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
15. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
16. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate**.
17. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site**.
18. The works require the following inspection/certification during the course of construction:-
  - Silt control fences
  - Footing inspection - trench and steel
  - Reinforced concrete slab
  - Framework inspection
  - Final inspection

The cost of these inspections by Council is \$393. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

19. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
20. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
21. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

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

22. Building or construction work must be confined to the hours between 7.00am to 6.00pm,



Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

23. The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.
24. An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.
25. A railing or other safety measures or devices that are approved by the Principal Certifying Authority is to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Principal Certifying Authority **prior to issue of the Construction Certificate.**

Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

26. All protective fencing and gates are to be in accordance with Australian Standard 1926 **prior to the pool being filled with water.** The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.
27. There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises. In this regard the applicant's attention is drawn to the spa filter motor pump ventilation system.
28. Amended plans are to be submitted that specify the location of the spa filter motor and pump **prior to the issue of the Construction Certificate.**
29. The spa filter motor and pump is to be housed in a sound proof filter box to minimise audible noise of its operations to neighbouring properties.
30. A geotechnical engineer's report regarding the stability of the site is to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
31. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
32. The proposed brushwood screen (or similar more environmentally sustainable treatment) adjacent to the timber access stairs being reduced to 1.8m in height, plans being suitably amended prior to the issue of the Construction Certificate.

**AMENDMENT: (Hay/Daley)**

THAT Development Application 499/04 for demolition of an existing deck and construction of a new deck, installation of a spa, erection of a retractable awning and brush fencing at 121 Seaforth Crescent, Seaforth be approved subject to the following conditions:

1. This approval relates to drawings/plans Nos. 2a, 2b, 2c dated December 2004 dated December 2004 and received by Council on the 29<sup>th</sup> October, 2004.
2. **Amended plans**
  - (a) The western and southern edge of the spa and awning are to be re-positioned to align with the edge of the new deck.
  - (b) A balustrade along the southern and western edges of the spa is to be provided and constructed of glass to minimise noise transmission and visual impacts.
  - (c) The spa filter pump and motor unit is to be housed in a sound proof filter box to minimise audible noise transmission of its operation to neighbouring properties.  
*Amended plans are to be submitted that satisfy these conditions prior to issue of the Construction Certificate.*
3. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$2200. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.  
**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**
4. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
5. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
6. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
7. Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
8. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
9. The implementation of adequate care during demolition/ excavation/ building/ construction

to ensure that no damage is caused to any adjoining properties.

10. Four (4) sets of Architectural drawings and Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate.**
11. Roofwater and surface stormwaters from paved areas from the development shall be collected and piped to the harbour foreshore in a manner approved by the Principal Certifying Authority. If the piped system runs across park reserves, approval by Council's relevant officer shall be obtained. The stormwater disposal system must have a stilling sump and flow dissipater provided at the property line.
12. All demolition is to be carried out in accordance with AS2601-1991.
13. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
14. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
15. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
16. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
17. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
18. The works require the following inspection/certification during the course of construction:-
  - Silt control fences
  - Footing inspection - trench and steel
  - Reinforced concrete slab
  - Framework inspection
  - Final inspection

The cost of these inspections by Council is \$393. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

19. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
20. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
21. The applicant and/or builder must prior to the commencement of work, install at the

periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

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

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

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

23. The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.
24. An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.
25. A railing or other safety measures or devices that are approved by the Principal Certifying Authority is to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Principal Certifying Authority **prior to issue of the Construction Certificate.**

Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

26. All protective fencing and gates are to be in accordance with Australian Standard 1926 **prior to the pool being filled with water.** The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.
27. There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises. In this regard the applicant's attention is drawn to the spa filter motor pump ventilation system.
28. Amended plans are to be submitted that specify the location of the spa filter motor and pump **prior to the issue of the Construction Certificate.**
29. The spa filter motor and pump is to be housed in a sound proof filter box to minimise audible noise of its operations to neighbouring properties.
30. A geotechnical engineer's report regarding the stability of the site is to be submitted to the

Principal Certifying Authority **prior to the issue of the Construction Certificate.**

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

**For the Amendment:** Councillors Hay, Daley and Norek.

**Against the Amendment:** Councillors Heasman, Lambert, Murphy, Morrison, Pedersen, Aird, Evans and Macdonald.

The **Amendment** was declared **Lost**.

**RESOLVED: (Morrison/Macdonald)**

THAT Development Application 499/04 for demolition of an existing deck and construction of a new deck, installation of a spa, erection of a retractable awning and brush fencing at 121 Seaforth Crescent, Seaforth be approved subject to the following conditions:

1. This approval relates to drawings/plans Nos. 2a, 2b, 2c dated December 2004 dated December 2004 and received by Council on the 29<sup>th</sup> October, 2004.

2. **Amended plans**

- (a) the spa is to be repositioning to the northern end of the deck with the western edge of the spa and awning repositioning to align with the edge of the new deck.  
(b) A balustrade along the southern and western edges of the spa is to be provided and constructed of glass to minimise noise transmission and visual impacts.  
(c) The spa filter pump and motor unit is to be housed in a sound proof filter box to minimise audible noise transmission of its operation to neighbouring properties.

*Amended plans are to be submitted that satisfy these conditions prior to issue of the Construction Certificate.*

3. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$2200. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

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

4. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
5. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
6. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
7. Consent given to build in close proximity to the allotment boundary is in no way to be

construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

8. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.
9. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
10. Four (4) sets of Architectural drawings and Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate**.
11. Roofwater and surface stormwaters from paved areas from the development shall be collected and piped to the harbour foreshore in a manner approved by the Principal Certifying Authority. If the piped system runs across park reserves, approval by Council's relevant officer shall be obtained. The stormwater disposal system must have a stilling sump and flow dissipater provided at the property line.
12. All demolition is to be carried out in accordance with AS2601-1991.
13. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
14. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
15. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
16. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate**.
17. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site**.
18. The works require the following inspection/certification during the course of construction:-
  - Silt control fences
  - Footing inspection - trench and steel
  - Reinforced concrete slab
  - Framework inspection
  - Final inspection

The cost of these inspections by Council is \$393. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

19. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
20. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
21. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

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

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

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

23. The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.
24. An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.
25. A railing or other safety measures or devices that are approved by the Principal Certifying Authority is to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Principal Certifying Authority **prior to issue of the Construction Certificate.**

Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

26. All protective fencing and gates are to be in accordance with Australian Standard 1926 **prior to the pool being filled with water.** The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.
27. There is to be no noise emitted from any process carried on within the premises that will

register more than 5 decibels above the background noise at any point more than 3m outside the premises. In this regard the applicant's attention is drawn to the spa filter motor pump ventilation system.

28. Amended plans are to be submitted that specify the location of the spa filter motor and pump **prior to the issue of the Construction Certificate.**
29. The spa filter motor and pump is to be housed in a sound proof filter box to minimise audible noise of its operations to neighbouring properties.
30. A geotechnical engineer's report regarding the stability of the site is to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
31. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
32. The proposed brushwood screen (or similar more environmentally sustainable treatment) adjacent to the timber access stairs being reduced to 1.8m in height, plans being suitably amended prior to the issue of the Construction Certificate.

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

**Against the Resolution:** Councillors Hay and Daley.

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Environmental Services Division Report No. 4

**51 Stuart Street, Manly (DA250/04)**

**Application Lodged:** 27.5.2004 with amended plans 22.10.04  
**Applicant:** BDG Architects  
**Owner:** Mrs Hall  
**Estimated Cost:** \$700 000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** Residential Flat Buildings and Dwelling Houses  
**Heritage:** n/a

**SUMMARY:**

1. COUNCIL IS IN RECEIPT OF AN APPLICATION FOR DEMOLITION OF AN EXISTING DWELLING AND ERECTION OF A NEW DWELLING.
2. SEVEN (7) SUBMISSIONS WERE RECEIVED IN RESPONSE TO NOTIFICATION.
3. THE APPLICATION WAS REFERRED TO THE LITTLE MANLY COMMUNITY PRECINCT FORUM.
4. THE APPLICATION WAS REPORTED TO THE DEVELOPMENT ASSESSMENT UNIT ON 9 SEPTEMBER, 2004 AND DEFERRED FOR DISCUSSION WITH THE APPLICANT TO SEEK REDUCTIONS TOWARDS IMPROVING COMPLIANCE UNDER THE RESIDENTIAL DCP AND REDUCE AMENITY IMPACTS.
5. AMENDED PLANS WERE RECEIVED ATTEMPTING TO ADDRESS ISSUES RAISED BY THE DEVELOPMENT ASSESSMENT UNIT AND ISSUES RAISED IN PUBLIC SUBMISSIONS, WITH THESE PLANS REPORTED TO THE DEVELOPMENT ASSESSMENT UNIT ON 4 NOVEMBER, 2004. THE APPLICATION WAS AGAIN DEFERRED FOR FURTHER DISCUSSIONS WITH THE APPLICANT.
6. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE AT THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.



## 8. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

**Inspection Party**

A site inspection was conducted on Monday 7 February 2005 comprising of Councillors Aird, Evans, Heasman, Lambert, Macdonald, Morrison, Murphy, Hay and Norek

**MOTION: (Macdonald/Hay)**

That Development Application 250/04 for demolition and construction of a 2 storey dwelling with basement parking at 51 Stuart Street, Manly, be refused for the following reasons:

1. The proposal is not considered to satisfy the objectives of the Residential Zone pursuant to Clause 10 – Development Control Table of Manly Local Environmental Plan 1988, in particular with respect to the amenity of neighbouring residents.
2. The proposal is considered an overdevelopment of the site having regard to its non-compliance with the provisions for open space, Floor Space Ratio, setback and excavation as specified in Part 3 of the Manly Development Control Plan for the Residential Zone (“The Residential DCP”).
3. The proposal is considered to result in unreasonable amenity impacts to neighbouring properties, particularly with respect to loss of water and foreshore views obtained looking over the subject site, and is not considered to satisfy the objectives of view sharing contained in Part 3 of the Residential DCP.
4. Pursuant to S.79C(1)(c) of the EP&A Act 1979, the site is considered unsuitable to support the proposed development given its small area, narrow form and position within a view corridor from neighbouring properties.
5. Pursuant to S.79C(1)(d) the proposal is considered unsatisfactory in response to issues raised in neighbours submissions, particularly with respect to view loss.
6. Pursuant to S.79C(1)(e) the proposal is not considered within the Public Interest.

**RESOLVED: (Macdonald/Hay)**

That Development Application 250/04 for demolition and construction of a 2 storey dwelling with basement parking at 51 Stuart Street, Manly, be refused for the following reasons:

1. The proposal is not considered to satisfy the objectives of the Residential Zone pursuant to Clause 10 – Development Control Table of Manly Local Environmental Plan 1988, in particular with respect to the amenity of neighbouring residents.
2. The proposal is considered an overdevelopment of the site having regard to its non-compliance with the provisions for open space, Floor Space Ratio, setback and excavation as specified in Part 3 of the Manly Development Control Plan for the Residential Zone (“The Residential DCP”).
3. The proposal is considered to result in unreasonable amenity impacts to neighbouring properties, particularly with respect to loss of water and foreshore views obtained looking over the subject site, and is not considered to satisfy the objectives of view sharing contained in Part 3 of the Residential DCP.
4. Pursuant to S.79C(1)(c) of the EP&A Act 1979, the site is considered unsuitable to support the proposed development given its small area, narrow form and position within a view corridor from neighbouring properties.
5. Pursuant to S.79C(1)(d) the proposal is considered unsatisfactory in response to issues

raised in neighbours submissions, particularly with respect to view loss.

6. Pursuant to S.79C(1)(e) the proposal is not considered within the Public Interest.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Morrison, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

*Councillor Pedersen was not present in the Chamber when the vote was taken.*

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Environmental Services Division Report No. 5

**3 Beaconview Street, Balgowlah (DA467/04)**

**Application Lodged:** 22.9.2004

**Applicant:** Mr Darren Crawford

**Owner:** D Crawford & A Salini

**Estimated Cost:** \$235,000

**Zoning:** Manly Local Environmental Plan, 1988 - Residential

**Surrounding Development:** One and Two Storey Dwelling Houses

**Heritage:** N/A

**SUMMARY:**

1. COUNCIL IS IN RECEIPT OF AN APPLICATION FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING HOUSE INCLUDING A NEW FIRST FLOOR LEVEL.
2. THE APPLICATION WAS NOTIFIED IN ACCORDANCE WITH COUNCIL'S NOTIFICATION DCP AND SEVEN (7) SUBMISSIONS WERE RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE LOCAL COMMUNITY PRECINCT FORUM.
4. AMENDED PLANS WERE RE-NOTIFIED WITH OBJECTIONS RECEIVED.
5. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR MACDONALD.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR APPROVAL.

**Inspection Party**

A site inspection was conducted on Monday 7 February 2005 comprising of Councillors Aird, Evans, Heasman, Lambert, Macdonald, Morrison, Murphy, Hay and Norek

**MOTION: (Hay/Heasman)**

That Development Application No 467/04 for proposed alterations and additions to the existing dwelling house at 3 Beaconview Street, Balgowlah Heights, be approved subject to the following conditions:

1. This approval relates to drawings/plan Nos. 04007-1 Revision A dated June 2004 and received by Council 15 December, 2004 and drawings/plan Nos. 04007-2 dated July 2004 and received by Council 8 October, 2004.
2. The provision of openings (apart from ventilation grilles) into basement areas nominated as void spaces are not permitted under this development application. In this regard the Construction Certificate must indicate existing opening to these areas be bricked up and notated accordingly on both plans and elevations.
3. The proposed opaque glass treatment of the bedroom window in the rear elevation is to be

undertaken prior to occupation and is to be maintained.

4. Landscaping Plans are to be submitted with the Construction Certificate detailing the use of planting species (including a minimum 3 endemic trees) and sufficient soil depth to enable visual screening between neighbours at the boundary at the scale of a medium to large shrub. Details are to be submitted by an appropriately qualified landscape body to the satisfaction of the Council/ Certified Authority prior to the issue of a Construction Certificate.
5. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$5,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

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

6. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
7. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
8. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
9. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
10. Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
11. A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Principal Certifying Authority in respect of the load carrying capabilities of the existing structure to support the proposed **additions prior to the issue of the Construction Certificate.**
12. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
13. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in

accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.

14. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
15. An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.
16. Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate.**
17. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
18. All demolition is to be carried out in accordance with AS2601-1991.
19. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
20. An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.
21. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
22. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
23. The works require the following inspection/certification during the course of construction:-
  - Silt control fences
  - Footing inspection - trench and steel
  - Framework inspection x2
  - Wet area moisture barrier
  - Final inspection

The cost of these inspections by Council is \$463. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

24. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
25. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category

relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework.**

26. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
27. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
28. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

- (i) siltation fencing;
  - (ii) protection of the public stormwater system; and
  - (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
29. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

30. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate.** Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
31. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".
32. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
33. If the roof pitch of the first floor addition is altered to 22½° the ridge level must remain unchanged.

**RESOLVED: (Hay/Heasman)**

That Development Application No 467/04 for proposed alterations and additions to the existing dwelling house at 3 Beaconview Street, Balgowlah Heights, be approved subject to the following conditions:

1. This approval relates to drawings/plan Nos. 04007-1 Revision A dated June 2004 and

received by Council 15 December, 2004 and drawings/plan Nos. 04007-2 dated July 2004 and received by Council 8 October, 2004.

2. The provision of openings (apart from ventilation grilles) into basement areas nominated as void spaces are not permitted under this development application. In this regard the Construction Certificate must indicate existing opening to these areas be bricked up and notated accordingly on both plans and elevations.
3. The proposed opaque glass treatment of the bedroom window in the rear elevation is to be undertaken prior to occupation and is to be maintained.
4. Landscaping Plans are to be submitted with the Construction Certificate detailing the use of planting species (including a minimum 3 endemic trees) and sufficient soil depth to enable visual screening between neighbours at the boundary at the scale of a medium to large shrub. Details are to be submitted by an appropriately qualified landscape body to the satisfaction of the Council/ Certified Authority prior to the issue of a Construction Certificate.
5. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$5,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

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

6. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
7. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
8. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
9. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
10. Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
11. A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Principal Certifying Authority in respect of the load carrying capabilities of the existing structure to support the proposed **additions prior to the issue of the Construction Certificate.**

12. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
13. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
14. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
15. An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.
16. Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate.**
17. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
18. All demolition is to be carried out in accordance with AS2601-1991.
19. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
20. An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.
21. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
22. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
23. The works require the following inspection/certification during the course of construction:-
  - Silt control fences
  - Footing inspection - trench and steel
  - Framework inspection x2
  - Wet area moisture barrier
  - Final inspection

The cost of these inspections by Council is \$463. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete

works will incur a fee of \$80.00.

24. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development**.
25. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework**.
26. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
27. Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
28. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

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

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

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

30. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
31. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".
32. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.



33. If the roof pitch of the first floor addition is altered to 22½° the ridge level must remain unchanged.

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

**Against the Resolution:** Councillor Daley.

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Environmental Services Division Report No. 6

**85 - 87 Lauderdale Avenue, Fairlight (DA386/04)**

**Application Lodged:** 10/8/2004

**Applicant:** Susan Rothwell Architects

**Owner:** Susan Rothwell Investments P/L, RJC Developments P/L, Delbant P/L, Clodene P/L

**Estimated Cost:** \$4,000,000

**Zoning:** Manly Local Environmental Plan, 1988 - Residential Foreshore Scenic Protection Area

**Surrounding Development:** 2 - 4 storey detached dwellings and residential flat buildings

**Heritage:** Esplanade Park adjoining the site is landscape heritage

**SUMMARY:**

1. DEVELOPMENT APPLICATION 386/04 FOR DEMOLITION AND CONSTRUCTION OF A STRATA 4 UNIT RESIDENTIAL FLAT BUILDING WITH BASEMENT PARKING WAS SUBMITTED TO COUNCIL ON 10 AUGUST 2004. THE PLANS WERE ACCOMPANIED BY A DETAILED VISUAL IMPACT STUDY TO ASSIST IN THE ASSESSMENT OF VIEW IMPACTS TO NEIGHBOURING PROPERTIES.
2. NOTIFICATION OF THE PROPOSAL FROM 23 AUGUST 2004 – 6 SEPTEMBER 2004 RESULTED IN RECEIPT OF FOUR SUBMISSIONS RECEIVED.
3. AMENDED PLANS WERE REQUESTED 5 NOVEMBER, 2004, IDENTIFYING ISSUES OF NARROW DRIVEWAY ACCESS ACROSS THE FRONT OF NO.89, REQUESTING INVESTIGATION OF AN ALTERNATE DRIVEWAY DESIGN.
4. AMENDED PLANS WERE RECEIVED DECEMBER, 2004, PROVIDING A WIDENED ACCESSWAY TO 4.4M WIDTH.
5. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR APPROVAL.

**Inspection Party**

A site inspection was conducted on Monday 7 February 2005 comprising of Councillors Aird, Evans, Heasman, Lambert, Macdonald, Morrison, Murphy, Hay and Norek

**MOTION: (Daley/Heasman)**

- A. That the Development Application 386/04 for demolition and construction of a two (2) storey Residential Flat Building containing four (4) strata units with basement parking at 85-87 Lauderdale Avenue, Fairlight **be deferred** awaiting satisfactory mutual resolution of issue on the driveway access.
- B. That the issue of lowering the height of the building and pyramid roof height at No. 87 be investigated to bring it further in line with the existing roof line.
- C. That this issue be brought back to the Ordinary meeting of Council in two weeks.

**RESOLVED: (Daley/Heasman)**

- A. That the Development Application 386/04 for demolition and construction of a two (2) storey Residential Flat Building containing four (4) strata units with basement parking at 85-87 Lauderdale Avenue, Fairlight **be deferred** awaiting satisfactory mutual resolution of issue on the driveway access.
- B. That the issue of lowering the height of the building and pyramid roof height at No. 87 be investigated to bring it further in line with the existing roof line.
- C. That this issue be brought back to the Ordinary meeting of Council in two weeks.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Morrison, Pedersen, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

*Councillor Aird was not present in the Chamber when the vote was taken.*

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Environmental Services Division Report No. 7

**Development Applications Being Processed During February, 2005****SUMMARY**

Development Applications Currently Being Processed During February, 2005.

**RESOLVED: (Hay/Pedersen)**

That the information in the Development Applications being Processed during February 2005, be noted.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Morrison, Pedersen, Norek and Macdonald.

**Against the Resolution:** Nil.

*Councillors Aird and Evans were not present in the Chamber when the vote was taken.*

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Environmental Services Division Report No. 8

**Appeals List for February 2005****SUMMARY**

LIST OF APPEALS RECEIVED AND THEIR CURRANT STATUS FOR COUNCILLORS' INFORMATION.

**RESOLVED: (Hay/Heasman)**

That the information in the List of Appeals for February 2005, be noted.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Morrison, Pedersen, Norek and Macdonald.

**Against the Resolution:** Nil.

*Councillors Aird and Evans were not present and did not take part in the voting on this item.*

**CLOSE**

The meeting closed at 11.17pm

The above minutes were confirmed at a **Land Use Management Committee** of Manly Council held on 7 March 2005.

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**CHAIRPERSON**

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