Councillors Implementation Working Group - Ombudsman's Recommendations
(25/11/10)

	Recommendation	Completion Date set by OMBO	Requested Completion Date - Awaiting Advice	Actual Completion Date	Comment	Additional Information
1	The Mayor tables this report in full for discussion at the open session of an ordinary meeting of Council within six weeks of the issuing of this report	15-Oct-10		11-Oct-10		OM Agenda 11/10/2010
2	The elected Council reviews the performance of the General Manager in light of the information in this report.				McArthur Briefed CWG 22/11/10 McArthur appointment confiormed by Working Party on 15/11/2010	Review Template being prepared (22/11/2010) OM Agenda 8/11/2010 (Closed)
3	The elected Council invites the Chief Executive, Division of Local Government, Department of Premier and Cabinet to conduct a further Promoting Better Practice Review of Manly Council in 2011 and ensures that the General Manager and staff fully and properly co-operate with the officers of the Division appointed to conduct the Review.			28-Oct-10	Letter sent to the DLG	DLG by phone message advised Review will be done in Feb/Mar 2010
4	The elected Council makes an unreserved written apology to Mr and Mrs Humphreys for the unfair treatment in relation to their development applications and section 96 applications, the unreasonable conduct of planning staff when assessing their applications and the Council's failure to respond to their complaints, for the unfair and punitive enforcement action taken against them in 2005 and 2006, and for the inconvenience, stress and efforts they had to make when dealing with Manly Council. This apology should be provided immediately following the Council meeting referred to in recommendation 7.1. The Council should provide a copy of the apology to the Ombudsman when it is sent to Mr and Mrs Humphreys.				seeking Legal advice	
5	The elected Council makes an unreserved written apology to the Peninsula Owners Corporation for Council's failure to respond to their communications in 2003 regarding the Notices of Determination for the section 96 application for DA468/00 and for the failure to properly investigate and respond to their complaints about non-compliance at 30-32 South Steyne Manly, for the General Manger's failure to provide them with the full facts relating to consent for DA468/00 and frank advice about Council's inability to enforce the removal of structures on the rooftop and for the inconvenience, stress and efforts they had to make when dealing with Manly Council. This apology should be provided immediately following the Council meeting referred to in recommendation 7.1. The Council should provide a copy of the apology to the Ombudsman when it is sent to the Peninsula Owners Corporation.				seeking Legal advice	
6	The elected Council makes an ex-gratia payment to Mr and Mrs Humphreys to cover the costs of their legal fees incurred when they appealed against Order 38/05 issued on 12 May 2005 and for costs they incurred for the mediation conducted in 2006. Any dispute about the quantum of legal expenses should be referred to an agreed independent assessor to determine the quantum of compensation. The independent assessor could be drawn from a list of persons suggested by the Law Society of NSW. I further recommend that the elected Council make all reasonable efforts to make the ex-gratia payment within two months of the date of the Council meeting referred to in recommendation 7.1.				seeking Legal advice	
7	The elected Council requires the General Manager to provide each Councillor immediately with a copy of the former Department of Local Government's Promoting Better Practice Review report of Manly Council dated January 2006			04-Nov-10	By Mayoral Memo 4/11/10 to councillors provided a copy of the document together with progress reports sent to the DLG	
8	The elected Council ensures its Audit Committee either conduct or oversight the conduct of an audit of the expenditure of Council's funds on legal advice and legal action and develop a plan to manage legal costs in accordance with the Council's Budget and Management Plan. A part of the audit should include reviewing the current arrangements for the provision of legal advice, the approval arrangements and the reporting obligations regarding the provision of legal advice and the taking of legal action. This audit should be conducted within three months of the date of the issuing of this report.	03-Dec-10	28-Feb-11		Mayoral Memo by email to Internal Auditor 15 Nov 2010	Matter Considered by the Audit Committee on 24/11/2010 Included in Audit Program
9	The elected Council requires the General Manager to take immediate action to appoint a suitably qualified and experienced person to the position of internal auditor to properly implement the Council's internal audit charter and guidelines and to support the work of the Audit Committee.			01-Nov-09	Internal Auditor was appointed by the North Shore group of Council	
10	The elected Council requires the General Manager to provide it with the annual data supplied to the Department of Planning at the end of July each year for the Local Development Performance Monitoring Report	01-Jul-11			DGM advised he has incorporated the data into his reporting format	

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11	The elected Council requires the General Manager to provide it with an additional report to accompany the quarterly updates on the Management Plan that measures Council's quarterly performance against the mean gross determination times and other statistics published in the previous Department of Planning's Local Development Performance Monitoring Report	2nd Quarter Report			Statistical Mean and Median will be included in all standard GM monthly reports as from Dec 10 - 24/11	
12	The elected Council requires the General Manager to implement recommendations in the report of May 2008 regarding improvements in the methods of collecting and verifying development application data that is used for the Department of Planning's Local Development Performance Monitoring Report	3rd Quarter			DGM is progressing with this recommendation - 24/11	
13	The elected Council and the senior executive work together to develop and implement a compliance and enforcement plan for the full range of its regulatory functions, including the appropriate measurement of performance against the plan, reporting obligations and the requirement for periodic review of the plan. The council should consider advice published by the NSW Government's Better Regulation Office when preparing its plan. This plan should be finalised within six months of the date of the issuing of this report.	03-Mar-11			In-Consult to assist. Councillors workshop in Feb 11	Documents: Compliance and Enforcement policy
14	The elected Council engages a suitably qualified and experienced external consultant to develop written guidelines for preparing planning assessment reports to ensure consistency in reporting in terms of format and content, and guidance on the interpretation of codes and planning instruments and the exercise of discretion by planning staff. In developing the written guidelines, the consultant should make reference to best practice guidelines for local Government and the Development Assessment Internal Audit Tool published by The Independent Commission Against Corruption in April 2010. I further recommend that the elected Council should ensure all relevant staff are trained in the use of the guidelines for preparing planning assessment reports. These guidelines should be implemented within three months of the date of the issuing of this report.	03-Dec-10	31-Jan-11		In-Consult working with DGM	Document: Compliance and Enforcement policy Delegated planning report template Development Assessment Unit report template Manly Independent Assessment Panel charter Manly independent Assessment report template General conditions of consent document
15	The elected Council requires the General Manager to provide a report to the next ordinary meeting of Council regarding the implementation of Professor Sourdin's recommendations in her report on DA Processing at Manly Council.			08-Nov-10	Mayoral Minute to OM	Attached to Mayoral Minute in OM Agenda 8/11/2010
16	The elected Council develops and implements written procedures for assessing and investigating complaints alleging misconduct by staff, the General Manager and councillors, that include, but are not limited to, procedures in sections 12 to 14 of the Model Code of Conduct for Local Councils in NSW 2008 and section 5 of Guidelines for the Model Code of Conduct for Local Councils in NSW published by the former Department of Local Government in October 2008. I further recommend that these new written procedures be implemented within three months of the date of this issuing of this report.	03-Dec-10	31-Jan-11		Requested the assistance of Fraud Prevention & Governance to develop gudelines and procedures (Related recommendation 7.17, 7.18, 7.19, 7.20)	
17	The elected Council conducts training for its members and staff on the new procedures for dealing with complaints alleging misconduct by staff, the General Manager and Councillors. I further recommend that the training be conducted within one month of the implementation of the new written procedures recommended in 7.16.	03-Jan-11	28-Feb-11		Fraud Prevention & Governance	
18	The elected Council conducts refresher training for members and staff regarding their obligations to comply with Manly Council's Code of Conduct adopted in September 2009. This training should be conducted by a person not associated with Manly Council and with expertise in Code of Conduct training. I further recommend that the training be conducted within three months of the date of issuing of this report.	03-Dec-10	28-Feb-11		Fraud Prevention & Governance	
19	The elected Council and the senior executive work together to develop and implement a complaints management framework as recommended in the Australian Standard AS ISO 10002-2006 Customer satisfaction - Guidelines for complaints handling in organisations, the Ombudsman's Complaint Handlers Took Kit 2004 and the Complaints Management in Councils Practice Note No 9 which is a joint publication of the Division of Local Government, Department of Premier and Cabinet and the NSW Ombudsman. This framework should be finalised within six months of the date of the issuing of this report	03-Mar-11			Fraud Prevention & Governance	

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20	The elected Council engages a suitably qualified and experienced external policy consultant to revise the following policies and guidelines for adoption by the Council within six months of the date of issuing of this report: • Council's Compliance and Enforcement Policy and Guidelines of October 2009 • Council's draft Complaints Management Policy published in September 2008.				In-consult Fraud Prevention & Governance	Documents: Compliance and Enforcement Policy Draft Complaints Management Policy Code of Conduct TellUs Flowchart Handling Customer Complaints
21	The elected Council requires its Audit Committee or the newly appointed internal auditor to audit the implementation of the recommendations for improving Council's records management processes as listed in Sine Solutions' November 2008 report within three months of the issuing of this report.	03-Dec-10	28-Feb-11		Mayoral Memo by email to Internal Auditor 15 Nov 2010	Matter Considered by the Audit Committee on 24/11/2010 Included in Audit Program
22	The elected Council requires the General Manager to integrate into the performance management plans of all senior staff obligations for the management of complaints, correspondence handling and record keeping within three months of the date of the issuing of this report.	03-Dec-10	31-Jan-11		Fraud Prevention & Governance	
23	The elected Council engages a suitably qualified and experienced external policy consultant to develop the following documents for adoption by the Council within six months of the date of issuing of this report: • A recruitment policy and procedures that includes measures to ensure that employees provide full, accurate and honest advice regarding their personal details and qualifications. • A performance management policy • Written correspondence handling procedures to support the Customer Service Charter.	03-Mar-11			Fruad Prevention & Governance was appoint and confirmed by Working Party on 15/11/2010	Documents: Business Administration Rules HR Policies & Procedures Performance Appraisal Guidelines Performance Appraisal Form A Performance Appraisal Form B
24	That at the time the Mayor notifies me of any action taken or proposed to be taken in consequence of this report that a copy of that notification be forwarded to the Minister for Local Government.			14-Oct-10	Letter sent to Mr Wheeler	