



AGENDA

**Councillors Implementation Working Group
Ombudsman's Recommendations
9 November 2010, 7:30pm
Councillors Room - Town Hall**

Membership:

Mayor Jean Hay (Chair), Cllr Richard Morrison (Deputy Chair), Councillors: Barbara Aird; Hugh Burns; Lauren Elder; Cathy Griffin; Adele Heasman; Peter Macdonald; David Murphy; Mark Norek; Alan Le Surf, and Craig Whitting.

ITEM 1 Welcome and Apologies

ITEM 2 Declaration of Interests

ITEM 3 Terms of Reference

ITEM 4 Administrative matters

ITEM 4.1 Composition – at least 6 Councillors with a Quorum of 4

ITEM 4.2 Consultants attendance

ITEM 4.2a Staff attendance – General Manager, General Counsel, and DGMs as required

ITEM 4.3 Code of Meeting Practice

ITEM 4.4 The Working Group Makes recommendations to the Council

ITEM 4.5 Meeting Schedule

ITEM 4.6 Sunset Provision – after the completion of all recommendations.

ITEM 5 Implementation Plan (attached)

ITEM 6 General Business

1. Letter to Mr Wheeler 9 November 2010 (attached)

ITEM 7 Meeting Dates

Close

Implementation Plan - Ombudsman's Recommendations (as at 9.11.2010)

Recommendation	What	When	Who	Status*
7.1 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.	Mayoral Minute	11/10/10	Mayor	Completed
7.2 The elected Council reviews the performance of the General Manager in light of the information in this report.	GM and Mayor to agree on the process by 15/11/10	Dec 2010	Mayor and GM	OM 8/11/10 Review Committee Formed In Progress
7.3 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.	Mayor writes to the CEO of Div. Local Government.	Oct 2010	Mayor	Completed
7.4 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.	Seek Legal Opinion	Nov 2010	Counsel	Awaiting Advice
7.5 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 Manager'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.	Seek Legal Opinion	Nov 2010	Counsel	Awaiting Advice
7.6 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	Seek Legal Opinion	Nov 2010	Counsel	Awaiting Advice

Implementation Plan - Ombudsman's Recommendations (as at 9.11.2010)

Recommendation	What	When	Who	Status*
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.				
7.7 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.	Distribute to Councillors	2/11/10	GM	Completed 4/11/2010
7.8 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.	Request to for a meeting with Internal Auditor	1/11/10	Strategy, GM	For Audit Committee's consideration
7.9 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.	Appointment of Internal Auditor		GM	Internal Auditor was appointed in Nov 09
7.10 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.	Item for OM	July 2011	DGM	Pending
7.11 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.	DA data and stats – From Monthly format to Quarterly reporting at the end of each quarter	2 nd Quarter Report - Dec 10	Strategy, DGM	In Progress
7.12 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.	Review and report in DoP standard format	3 rd Quarter – Feb 11	DGM	Pending
7.13 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	Hold Councillor and staff workshops	Feb 11	DGM, GM	Pending

Implementation Plan - Ombudsman's Recommendations (as at 9.11.2010)

Recommendation	What	When	Who	Status*
be finalised within six months of the date of the issuing of this report.				
7.14 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.	Select a Consultant Contacted suitable providers with Governance and Risk assessment experience	Nov 10	Mayor, GM, and DGM	OM 8/11/10 In-Consult to be engaged
7.15 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.	Report	8 Nov 10	DGM	Completed
7.16 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.	Consultant Review Complaints Management Policy and the Code of Conduct	Dec 10	Mayor, GM, Governance, and HR	Draft out for public comment New – Revision being commissioned OM 8/11/10 Fraud Prevention be engaged
7.17 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.	Consultant Training	Feb 11	Mayor, GM, Governance and HR	OM 8/11/10 Fraud Prevention be engaged
7.18 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.	Consultant Training	Feb 11	Mayor, GM, Governance and HR	OM 8/11/10 Fraud Prevention be engaged
7.19 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	Consultant Review Complaints Handling Policy against AS10002	Mar 11	Mayor, GM, Governance and Strategy	OM 8/11/10 Fraud Prevention be engaged

Implementation Plan - Ombudsman's Recommendations (as at 9.11.2010)

Recommendation	What	When	Who	Status*
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.				
7.20 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.	Select a Consultant Contacted suitable providers with Governance and Risk assessment experience	Nov 10	Mayor, GM, DGM	OM 8/11/10 In-Consult to be engaged for Point one, Fraud Prevention be engaged for Point 2
7.21 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.	Briefed Internal Auditor on 1/11 Records Audit is on the 2011 Audit Program	Feb 2011	Internal Auditor & Manager Admin	Pending
7.22 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.	Review OD Plans	Dec 10	HR, GM	In Progress
7.23 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.	Select a Consultant Contacted suitable providers with Governance and Risk assessment experience	Nov 10	Mayor, GM, HR	OM 8/11/10 Fraud Prevention be engaged
7.24 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.	Council Meeting 11/10	OMBO Notified 15/10	Mayor	Completed

Date	Details	Checked
1/11/10	Initial Draft	Mayor
9/11/10	OM 8/11	Mayor

Manly Council



Our Ref: 09112010 JH:TOG
Enquiries: Mayor's Office 9976 1501

Mr Chris Wheeler
Deputy Ombudsman
NSW Ombudsman
Level 24, 580 George Street
SYDNEY NSW 2000

Mayor's Office

PO Box 82
Manly NSW 1655
AUSTRALIA

Telephone (02) 9976 1501
Facsimile (02) 9976 1400

records@manly.nsw.gov.au
www.manly.nsw.gov.au

ABN 43 662 868 065

COPY

Dear Mr Wheeler

Re: Implementation of the Recommendations of the Ombudsman's Report

Further to my letter of 14 October 2010, I would like to inform you that Council at its meeting of 8 November 2010, resolved on my Mayoral Minute to include all Councillors on the Working Group that was established by its resolution of 11 October 2010 to monitor the implementation of your recommendations. Additionally, I would like to inform you that Mr Bret Walker SC has been asked to provide Council with an opinion on your apology and ex-gratia payment recommendations.

At the Council Meeting of 8 November 2010, Council by its resolution confirmed the attached Implementation Plan and also the engagement of Fraud Prevention & Governance P/L and In-Consult as consultants to review Council's existing systems, policies and guidelines, as identified in your recommendations.

I will keep you informed as Council progresses through your recommendations.

Should you have any queries in the meantime, please do not hesitate to contact my office on 9976 1501.

Yours faithfully

Jean Hay AM
Mayor

Dated: 9/11/10

encl