

# Deacons

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9 June 2009

The General Manager  
Manly Council  
1 Belgrave Street  
MANLY NSW 2095

**Attention:** Eric Armstrong

Dear Sir

**Stockland Balgowlah - 197-215 Condamine Street, Balgowlah  
Section 96(1A) Modification Applications from various retail tenancies relating to  
plastic bag and plastic packaging conditions ANS01 and ANS02**

We refer to the judgment of Commissioner Brown in *Stockland and anor v Manly Council [2009] NSWLEC 1145*.

## Section 96(1A) modification applications

Please find enclosed 17 separate section 96(1A) modification applications which we have been instructed to lodge on behalf of the following retail tenancies in the Balgowlah Village development:

DA number	Applicant
DA 52/09	Moreish Foods
DA 40/09	La Petit Lorraine
DA 76/09	Michels Patisserie
DA 37/09	Café Balgowlah
DA 38/09	Amore Nails and Spa
DA 65/09	Dare Food
DA 474/08	Balgowlah Seafood
DA 461/08	Prime Quality Meats
DA 02/09	Bakers Delight
DA 66/09	Mandarin Massage

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DA 452/08	Pharmacy Select
DA 34/09	Steve Rafeletos
DA 471/08	Sushi Bar
DA 35/09	John Brennan
DA 80/09	Cas Dei Café
DA 05/09	Escape Skin Bar
DA 470/08	The Village Grocer

The enclosed modification applications seek to modify the plastic bag and plastic packaging conditions (ANS01 and ANS02) currently contained in the development consents for these retail tenancies.

#### Fees

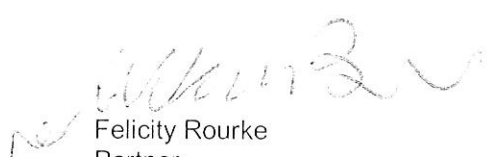
In light of the findings of Commissioner Brown in *Stockland and anor v Manly Council*, the conditions originally imposed cannot be sustained. The modification applications seek to bring conditions of the above consents into line with the judgment. In this situation it is entirely appropriate for Council exercise its discretion to waive the application fees that would otherwise be payable for the section 96(1A) modification applications, and we request that Council waive the fees.

#### Urgency

As retail trading is due to commence on 15 June 2009, we respectfully request that Council consider and determine the enclosed section 96(1A) modification applications as a matter of urgency.

Please contact Deacons if you require any further information in support of the applications.

Yours faithfully



Felicity Rourke

Partner

Deacons

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Encl: