

Ref: MC/16/84687



Carolyn McNally
Secretary,
Department of Planning and Environment
23-33 Bridge Street
GPO Box 39
SYDNEY NSW 2001



ATTN: Tessa Parmeter

Dear Ms McNally,

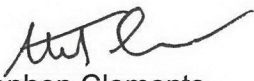
Re: Amendment to the *Manly LEP 2013* to allow secondary dwelling up to 75m² within existing dwelling houses.

Council resolved at its Ordinary Meeting of 16th June 2016 to submit a Planning Proposal to insert a clause similar to clause 6.10 of the *Warringah LEP 2011* allowing secondary dwellings up to 75m² within existing dwelling houses applicable for Zones R1, R2, R3, E3 and E4 within the *Manly LEP 2013*.

Due to the local nature of this Planning Proposal, Council seeks delegation for making this amendment to the *Manly LEP 2013* as detailed in the Planning Proposal. Council seeks to exhibit the Planning Proposal for Twenty Eight (28) days.

If you require any further information, please contact Nayeem Islam, Manager Land Use Planning on 02 9976 1582 or nayeem.islam@manly.nsw.gov.au

Yours faithfully,


Stephen Clements
Deputy General Manager, Planning and Community
Northern Beaches Council

Date: 30/6/16

INFORMATION CHECKLIST

Attachment 1

> STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- | | |
|--|--|
| <ul style="list-style-type: none"> • Objectives and intended outcome • Mapping (including current and proposed zones) • Community consultation (agencies to be consulted) | <ul style="list-style-type: none"> • Explanation of provisions • Justification and process for implementation (including compliance assessment against relevant section 117 direction/s) |
|--|--|

> STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
• Demonstrated consistency with relevant Regional Strategy	☐	☒	• Existing site plan (buildings vegetation, roads, etc)	☐	☒
• Demonstrated consistency with relevant sub-regional strategy	☐	☒	• Building mass/block diagram study (changes in building height and FSR)	☐	☒
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	☐	☒	• Lighting impact	☐	☒
• Demonstrated consistency with Threshold Sustainability Criteria	☐	☒	• Development yield analysis (potential yield of lots, houses, employment generation)	☒	☐
Site Description/Context			Economic Considerations		
• Aerial photographs	☒	☐	• Economic impact assessment	☐	☒
• Site photos/photomontage	☐	☒	• Retail centres hierarchy	☐	☒
Traffic and Transport Considerations			• Employment land	☐	☒
• Local traffic and transport	☒	☐	Social and Cultural Considerations		
• TMAP	☐	☒	• Heritage impact	☐	☒
• Public transport	☐	☒	• Aboriginal archaeology	☐	☒
• Cycle and pedestrian movement	☐	☒	• Open space management	☐	☒
Environmental Considerations			• European archaeology	☐	☒
• Bushfire hazard	☐	☒	• Social and cultural impacts	☐	☒
• Acid Sulphate Soil	☐	☒	• Stakeholder engagement	☐	☒
• Noise impact	☐	☒	Infrastructure Considerations		
• Flora and/or fauna	☐	☒	• Infrastructure servicing and potential funding arrangements	☐	☒
• Soil stability, erosion, sediment, landslip assessment, and subsidence	☐	☒	Miscellaneous/Additional Considerations		
• Water quality	☐	☒	List any additional studies		
• Stormwater management	☐	☒			
• Flooding	☐	☒			
• Land/site contamination (SEPP55)	☐	☒			
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☐	☒			
• Sea level rise	☐	☒			

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area: Northern Beaches Council.

Name of draft LEP: Manly LEP 2013 Amendment 13.

Address of Land (if applicable): N/A

Intent of draft LEP: To allow larger 75m² secondary dwellings within existing dwelling houses.

Additional Supporting Points/Information: See Planning Proposal

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		X		
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N	X		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N	X		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N	X		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N	X		

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		X		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		X		
Is the planning proposal proposed to rectify an anomaly in a classification?		X		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		X		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		X		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		X		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		X		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		X		
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		X		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		X		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		X		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		X		

Does the planning proposal create an exception to a mapped development standard?		X		
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	N	X		

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

PLANNING PROPOSAL

Increased Floor Area for Secondary Dwellings

Manly LEP 2013

Prepared by Northern Beaches Council

June 2016

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Acronyms used in this Report

Council	Northern Beaches Council
CSP	Community Strategic Plan
Department	Department of Planning and Environment
SEPPARH 2009	State Environmental Planning Policy (<i>Affordable Rental Housing</i>) 2009
Manly LEP 2013	<i>Manly Local Environmental Plan 2013</i>

Introduction

This Planning Proposal seeks to amend *Manly Local Environmental Plan 2013* (*Manly LEP 2013*) to allow Secondary Dwellings with floor areas up to 75 square metres, within existing dwellings, subject to development consent. This will allow for development of two bedroom Secondary Dwellings, suitable for an increased range of demographics. This Planning Proposal does not change floor space limits for other types of Secondary Dwellings.

The Department of Planning and Environment's *State Environmental Planning Policy (Affordable Rental Housing) 2009* (*SEPPARH 2009*) allows for secondary dwellings to be complying development in some circumstances and provides permissibility for secondary dwellings within the following zones:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,

SEPP (Affordable Rental Housing) 2009 allows for secondary dwellings to be constructed up to 60m². Unlike the family flat provisions, secondary dwelling provided under *SEPP (Affordable Rental Housing) 2009* are not required to be attached to or within the primary dwelling. Detached secondary dwellings are often the cause of complaints to Council in relation to secondary dwellings as they are more likely to result in impacts on the amenity.

During the drafting of the *Manly LEP 2013* Clause 5.4(9) was adopted that reduced the maximum size of secondary dwelling to 60m² or 30% of the floor area of the primary dwelling to comply with the Department of Planning and Environment's requirements for Standard Instrument LEPs.

Warringah Local Environment Plan 2011 Amendment 16

Northern Beaches Council (Central) recently amended the *Warringah Local Environment Plan (WLEP) 2011* to allow secondary dwelling to be built up to 75m². This amendment was gazetted on 6 May 2016. The Mayoral Minute that requested this LEP amendment makes clear that it seeks to replicate Manly's previous controls for family flats. The amendment adopted an additional local provision Clause 6.10 in the WLEP which states as follows:

"6.10 Development for the purposes of secondary dwellings in Zones R2 and R3

- (1) *The objective of this clause is to ensure that secondary dwellings on land to which this clause applies are of low impact and without adverse effects on the specific ecological, social and aesthetic values of the land.*
- (2) *This clause applies to land in the following zones:*
 - (a) *Zone R2 Low Density Residential,*
 - (b) *Zone R3 Medium Density Residential.*
- (3) *Despite clause 5.4 (9), development consent may be granted for development for the purposes of a secondary dwelling on land to which this clause applies if:*
 - (a) *the total floor area of the secondary dwelling does not exceed 75 square metres, and*
 - (b) *the consent authority is satisfied that the secondary dwelling will be located entirely within an existing principal dwelling that contains no other secondary dwelling.*
- (4) *In this clause:*
development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note. See also Division 2 of Part 2 of State Environmental Planning Policy (Affordable Rental Housing) 2009.”

On 16 June 2016, Northern Beaches Council resolved to prepare a planning proposal adopting a similar clause to clause 6.10 of the *Warringah LEP 2011*, allowing secondary dwellings up to 75m² within existing dwelling houses applicable for Zones R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, E3 Environmental Management and E4 Environmental Living within the *Manly LEP 2013*. This Planning Proposal seeks to amend *Manly LEP 2013* as per the resolution.

The Planning Proposal

This Planning Proposal comprises parts consistent with the *A Guide to Preparing Planning Proposals* (October 2012) and *A Guide to Preparing Local Environmental Plans* (April 2013):

Part 1 - Objectives or Intended Outcomes

Part 2 - Explanation of Provisions

Part 3 - Justification

Part 4 - Community Consultation

Part 1: Objectives or Intended Outcomes

The objective of this Planning Proposal is to allow Secondary Dwellings up to 75 square metres in floor area, subject to development consent, if they are:

- Within an Zones R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, E3 Environmental Management or E4 Environmental Living.
- Within an existing dwelling house

The intended outcome of the Planning Proposal is that larger Secondary Dwellings could be developed in established residential areas, increasing housing choice without increasing the size of existing dwellings. This outcome is supported by the objectives of Council's Community Strategic Plan, *A Plan for Growing Sydney (2014)* and *SEPP (Affordable Rental Housing)*, as described in Part 3.

The 60m² maximum set by state policy allows for a large 1 bedroom unit, a two bedroom secondary dwelling can only be achieved with smaller living areas that are below the current standards for unit sizes in residential flat buildings.

The Apartment Design Guide provides for the minimum sizes for apartments of residential flat buildings and requires the following minimum sizes:

Apartment type	Minimum internal area
Studio	35m ²
1 bedroom	50m ²
2 bedroom	70m ²
3 bedroom	90m ²

The apartment design guide requires an additional 5m² if the unit has more than 1 bathroom. As a result 75m² secondary dwelling provide for a moderate sized two bedroom secondary dwelling.

The effect of the State policy limit of 60m² is that secondary dwellings are less suitable for young families who require more space than single persons or older residents. The Northern Beaches (South), former Manly Council, has significant housing affordability problem with many younger persons leaving the area due to housing affordability. Larger secondary dwellings provide for greater housing choice and are generally more affordable in terms of rent. It should be noted that secondary dwellings cannot be separably titled and as a result are an effective form of affordable rental housing. The adoption of a larger secondary dwelling is likely to encourage existing large houses to be adapted to allow families to co-habit within the same dwelling house with increased privacy. This policy would also allow retirees to create an income stream from renting part of the existing dwelling house (either the secondary dwelling or the primary dwelling). This allows for a more efficient use of the existing housing stock and community infrastructure.

Part 2: Explanation of Provisions

Subject to future consultation with Parliamentary Counsel's Office for legal drafting of the amendment, Council foreshadows that the Planning Proposal would involve the following amendments to *Manly LEP 2013*:

Relevant sections of <i>Manly LEP 2013</i>	Proposed Amendments
Land Use Table: Zone R1 General Density Residential	Insert new item in 3. Permitted with consent "Secondary Dwellings"
Land Use Table: Zone R2 Low Density Residential	Insert new item in 3. Permitted with consent "Secondary Dwellings"
Land Use Table: Zone R3 Medium Density Residential	Insert new item in 3. Permitted with consent "Secondary Dwellings"
Part 6 Additional Local Provisions	Additional clause that: - Contains an objective that states 'The objective of this clause is to ensure that secondary dwellings on land to which this clause applies are of low impact and without adverse effects on the specific ecological, social and aesthetic values of the land.' - Insert the following three operative clause (1) The objective of this clause is to ensure that secondary dwellings on land to which this clause applies are of low impact and without adverse effects on the specific ecological, social and aesthetic values of the land. (2) This clause applies to land in the following zones: (a) Zone R1 General Residential, (b) Zone R2 Low Density Residential, (c) Zone R3 Medium Density Residential, (d) Zone E3 Environmental Management, (e) Zone E4 Environmental Living. (3) Despite clause 5.4 (9), development consent may be granted for development for the purposes of a secondary dwelling on land to which this clause applies if: (a) the total floor area of the secondary dwelling does not exceed 75 square metres, and (b) the consent authority is satisfied that the secondary dwelling will be located entirely within an existing principal dwelling that contains no other secondary dwelling. (4) In this clause: development for the purposes of a secondary dwelling includes the following: (a) the erection of, or alterations or additions to, a secondary dwelling, (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling. Note. See also Division 2 of Part 2 of State Environmental Planning Policy (Affordable Rental Housing) 2009.'

Table 1: Explanations of Provisions

Part 3: Justification

Section A - Need for the Planning Proposal.

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is the result of a Council resolution made on 16 June 2016 (Attachment 1) and the historic controls of the Council prior to the adoption of the standard instrument *Manly LEP 2013* (Attachment 3).

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is an appropriate means of achieving the objective listed in Part 1. The following is noted in support of this view:

- Secondary Dwellings controls are primarily defined by *SEPP (Affordable Rental Housing)*.
- *SEPP (Affordable Rental Housing)* allows environmental planning instruments, such as *Manly LEP 2013*, to increase limits to the total floor area of Secondary Dwellings.
- The proposed amendment allows for additional floor space for 'internal' Secondary Dwellings and does not modify or limit current controls on 'attached' or 'detached' Secondary Dwellings.
- The proposed amendment modifies *Manly LEP 2013* in a way which is consistent with existing controls in *SEPP (Affordable Rental Housing)*.

Is there a net community benefit?

The Planning Proposal will deliver a net community benefit. The key community benefits include:

- Delivery of additional housing choice in the Northern Beaches (South).
- Maintenance of the existing character and built form of established areas.

Section B - Relationship to Strategic Planning Framework

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy, including the Sydney Metropolitan Strategy and exhibited draft strategies?

1. A Plan For Growing Sydney (2014)

A Plan for Growing Sydney is the latest metropolitan strategy released by the Department of Planning and Environment to set the framework for Sydney's growth to 2031 and beyond.

A key focus of the strategy is boosting housing and jobs growth across Sydney. The strategy sets a dwelling target (net additional) of 664,000 new dwellings across Sydney by 2031.

The Planning Proposal is consistent with the relevant objectives summarised in the table below:

A Plan For Growing Sydney Action	Consistency
2.1.1 Accelerate housing supply and local housing choices	The Planning Proposal will allow for more flexible Secondary Dwelling layouts that will improve housing choice, benefiting land owners and future tenants.
2.1.2 Accelerate new housing in designated infill areas (established urban areas) through the priority precincts and Urbangrowth NSW programs	The Planning Proposal supports development within existing residential areas. This will take advantage of current infrastructure and reduces the need for greenfield development.
2.2.3 Deliver more opportunities for affordable housing	The Planning Proposal encourages the development of Secondary Dwellings, a type of affordable rental housing. By allowing larger Secondary Dwellings, they are likely to be more appealing to a wider variety of household types. This supports the objective to deliver more opportunities for affordable housing.

Table 2: A Plan for Growing Sydney Actions Summary

2. Draft North East Subregional Strategy (2007)

The draft *North East Subregional Strategy* translates the objectives of NSW Government's *Metropolitan Strategy* (2005) to the local level. The following actions are relevant to the Planning Proposal:

Draft North East Subregion Strategy Action	Consistency
C2.3.2 North East councils to provide for an appropriate range of residential zoning to cater for changing housing needs	The Planning Proposal will allow for larger Secondary Dwellings in R1, R2 R3, E3 and E4 Zones. Larger Secondary Dwellings can provide more flexible affordable housing layouts for downsizing seniors, young families and other demographics.

Table 3: A Plan for Growing Sydney Actions Summary

Is the Planning Proposal consistent with council's local strategy or other local strategic plan?

The Planning Proposal is consistent with the Community Strategic Plan. While the Planning Proposal is not directly related to an action area of the CSP, it is consistent with the following objective:

Objective	Consistency
2 Create liveable neighbourhoods with more affordable housing choices	The Planning Proposal will encourage the provisioning of a variety of housing choices across the Northern Beaches (South). Internally constructed Secondary Dwellings will complement the local character of residential areas by maintaining the built form of the local area, thereby maintaining the liveability of neighbourhoods.

Table 4: CSP Objective Summary

Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPP's)?

The Planning Proposal is consistent with the relevant SEPP. The relevant SEPP is summarised below:

SEPP	Consistency
SEPPARH 2009	The SEPP provides a consistent planning regime for the provision of affordable rental housing. The Planning Proposal allows for larger Secondary Dwellings, a type of housing allowed by the SEPP. This will allow for more flexibility in the types of Secondary Dwellings built in the Northern Beaches (South).

Table 5: SEPP Summary

Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)?

The following Ministerial Directions are applicable to the proposal:

- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 6.1 Approval and Referral Requirements
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Ministerial Direction	Objectives	Comment
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	The Planning Proposal is consistent with the objectives of the direction and will: - encourage variety and choice of housing types by allowing more types of affordable housing development - promote development in established areas, maintaining access to infrastructure and services - reduce the need for development on the urban fringe by increasing the development potential of established areas
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services	The Planning Proposal is consistent with the objectives of the direction as it will increase housing choice in established areas. New residents may take advantage, and enhance the viability of existing services

Ministerial Direction	Objectives	Comment
	by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight	(e.g. commercial uses and public transportation).
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal is consistent with the objective of the direction as it will encourage efficient and appropriate assessment of developments.
7.1 Implementation of the Metropolitan Plan for Sydney 2036	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	The Planning Proposal is consistent with the <i>Plan for Growing Sydney</i> , the most recent Metropolitan Plan, as discussed above.

Table 6: S117 Summary

Section C - Environmental, Social and Economic Impact.

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

The type of development, Secondary Dwellings within existing dwellings, is currently permitted. The proposal will not increase the likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The type of development, Secondary Dwellings within existing dwellings, is currently permitted. Development controls are managed through *SEPPARH 2009*, *SEPP (Exempt and Complying Development) 2008*, *Manly LEP 2013* and *Manly Development Control Plan 2013*.

Future applications allowed by the Planning Proposal will be assessed under the same suite of controls which mitigate the likelihood of environmental effects. Any environmental effects that may occur will be managed through those controls.

As the amendment only allows 75m² secondary dwellings within the footprint of existing dwelling house the adoption of this policy will not result in significant visual bulk, amenity or streetscape impacts. Clause 22(4)(b) of *SEPP (Affordable Rental Housing) 2009* prevents Council from requiring additional car parking for secondary dwellings.

Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal will have positive social and economic effects, as it will allow for more flexibility in the types of affordable housing in Northern Beaches (South). This will increase housing choice, providing benefits for both land owners and tenants.

Section D - State and Commonwealth Interests.

Is there adequate public infrastructure for the Planning Proposal?

The type of development, Secondary Dwellings within existing dwellings, is currently permitted. The Planning Proposal may increase development of Secondary Dwellings, increasing density by a marginal amount. However, any additional density would be located in established areas with a nominal impact on public infrastructure and this would be offset by section 94 contributions commensurate with the decrease in occupancy of the existing dwelling house.

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

The views of State and Commonwealth agencies will be known after the gateway determination.

Part 4: Community Consultation

Council will exhibit the Planning Proposal in accordance with the requirements of section 57 of the *Environmental Planning and Assessment Act 1979*.

Council also proposes to undertake community consultation in accordance with Council's adopted Community Engagement Policy, in the following manner:

- Advertise the Planning Proposal in a local newspaper and on Council's website at the start of the exhibition period
- Exhibit the Planning Proposal for the period of time stipulated by the Gateway Determination. (28 Days is suggested)

Conclusion

The Planning Proposal has been written with consideration to the Department's *Guide to Preparing Planning Proposals, SEPP (Affordable Rental Housing)* and State and local strategies. It contributes to Council's commitment to create liveable neighbourhoods with more affordable housing choices.

The Planning Proposal will amend controls in *Manly LEP 2013* to allow development of Secondary Dwellings, of floor areas up to 75 square metres, when within existing dwellings. In doing so, it will increase the capacity for affordable housing choice within Northern Beaches (South) and provide for viable homes for a range of demographics.

By encouraging larger Secondary Dwellings within existing dwellings additional housing can be provided while preserving the local character by maintaining the bulk and scale of existing dwellings. In addition, development will largely be located in established areas, allowing for use of existing services and infrastructure.

Attachment 1: Resolution of Council

NORTHERN BEACHES
COUNCIL

MINUTES OF EXTRAORDINARY COUNCIL MEETING

16 JUNE 2016

9.0 PLANNING & COMMUNITY DIVISION REPORTS

9.1 MINOR REZONING 47 FISHER STREET AND SURROUNDS, BALGOWLAH HEIGHTS

026/16 RESOLVED

D Persson

That Council:

- A. Prepare a planning proposal to rezone Lot 2759 DP 752038 to R2 Low Density Residential with the same floor space ratio, height of building and minimum lot size development standards as 47 Fisher Street and rezone Lot 1 DP 577319 as RE1 Public Recreation with the same development standards as the adjoining Heathcliff Park in the *Manly Local Environmental Plan 2013*.
- B. Prepare DCP Maps to be exhibited at the same time as the planning proposal adopting the same development controls as 47 Fisher Street for Lot 2759 DP 752038 and providing for normal RE1 DCP controls for Lot 1 DP 577319 within the *Manly DCP 2013*.

9.2 PLANNING PROPOSAL FOR 75M2 SECONDARY DWELLINGS WITHIN EXISTING DWELLINGS

027/16 RESOLVED

D Persson

That Council prepare a planning proposal adopting a similar clause to clause 6.10 of the *Warringah LEP 2011*, allowing secondary dwellings up to 75m² within existing dwelling houses applicable for Zones R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, E3 Environmental Management and E4 Environmental Living within the *Manly LEP 2013*.

8.2 RFT 2015/103 - MINOR WORKS PANEL - ASPHALTIC CONCRETE RESTORATION, ASPHALTIC CONCRETE HEAVY PATCHING AND CONCRETE RESTORATION WORKS

028/16 RESOLVED

D Persson

That Council resolve to accept the recommendation contained in the confidential report for Environment and Infrastructure, Report No. 15.1.

10.0 TRANSFORMATION, PEOPLE & CULTURE DIVISION REPORTS

Nil

Attachment 2: Report to Council

ITEM 9.2	PLANNING PROPOSAL FOR 75M2 SECONDARY DWELLINGS WITHIN EXISTING DWELLINGS
REPORTING MANAGER	DEPUTY GENERAL MANAGER PLANNING & COMMUNITY
TRIM FILE REF	2016/178991
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To initiate a planning proposal to allow for larger secondary dwelling up to 75m² under the *Manly LEP 2013* and provide for increased harmonisation of the planning controls in relation to secondary dwellings on the Northern Beaches.

SUMMARY

The *Warringah LEP 2011* recently adopted an amendment that allows for secondary dwellings to be approved up to 75m² in gross floor area, subject to the secondary dwelling being located entirely within an existing principal dwelling. This amendment replicates the family flat provisions of the *Manly Residential Development Control Plan 2007* which during the drafting of the *Manly LEP 2013*, Council was unable to retain due to the Department of Planning and Environments requirements for Standard Instrument LEP's. Allowing larger secondary dwellings subject to them being located within the existing dwelling would allow for additional housing choice, improved housing affordability while maintaining the existing character and built form of the established areas.

RECOMMENDATION OF DEPUTY GENERAL MANAGER PLANNING & COMMUNITY

That Council prepare a planning proposal adopting a similar clause to clause 6.10 of the *Warringah LEP 2011*, allowing secondary dwellings up to 75m² within existing dwelling houses applicable for Zones R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, E3 Environmental Management and E4 Environmental Living within the *Manly LEP 2013*.

REPORT

BACKGROUND

The Manly LGA's development controls have historically permitted family flats up to 75m² to be constructed if they are attached to or within an existing dwelling house subject to a merit assessment. Family flats were first adopted within the Manly Development Control Plan for the Residential Zone 1986 (Amendment 3) on the 7 March 1995. The 1995 family flat provisions originally contained no maximum size but required compliance with other DCP provisions and prevented strata subdivision.

The Manly Development Control Plan for the Residential Zone 2001 (DCP 2001) substantially amended the family flat provisions by adding a maximum size of 75m² of gross floor area and requiring that they are within the envelope of the existing dwelling or attached to the primary dwelling. The Manly Development Control Plan for the Residential Zone 2007 maintained the DCP 2001 family flat provisions.

The Department of Planning and Environment's State Environmental Planning Policy (Affordable Rental Housing) 2009 allows for secondary dwellings to be complying development in some circumstances and provides permissibility for secondary dwellings within the following zones:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,

SEPP (Affordable Rental Housing) 2009 allows for secondary dwellings to be constructed up to 60m². Unlike the family flat provisions, secondary dwelling provided under SEPP (Affordable Rental Housing) 2009 are not required to be attached to or within the primary dwelling. Detached secondary dwellings are often the cause of complaints to Council in relation to secondary dwellings as they are more likely to result in impacts on the amenity.

During the drafting of the Manly LEP 2013 Clause 5.4(9) was adopted that reduced the maximum size of secondary dwelling to 60m² or 30% of the floor area of the primary dwelling to comply with the Department of Planning and Environment's requirements for Standard Instrument LEPs. Since Council adopted its Standard Instrument LEP the Department of Planning and Environment's attitude to local provisions has softened and as a result Council is in a position to revisit this planning control.

Warringah LEP 2011 Amendment 16

Northern Beaches Council (Central) recently amended the Warringah LEP 2011 to allow secondary dwelling to be built up to 75m². This amendment was gazetted on 6 May 2016. The Mayoral Minute that requested this LEP amendment makes clear that it seeks to replicate Manly's previous controls for family flats. The amendment adopted an additional local provision Clause 6.10 that states:

**6.10 Development for the purposes of secondary dwellings in Zones R2 and R3*

- (1) *The objective of this clause is to ensure that secondary dwellings on land to which this clause applies are of low impact and without adverse effects on the specific ecological, social and aesthetic values of the land.*
- (2) *This clause applies to land in the following zones:*
 - (a) *Zone R2 Low Density Residential,*
 - (b) *Zone R3 Medium Density Residential.*

- (3) *Despite clause 5.4 (9), development consent may be granted for development for the purposes of a secondary dwelling on land to which this clause applies if:*
- (a) *the total floor area of the secondary dwelling does not exceed 75 square metres, and;*
 - (b) *the consent authority is satisfied that the secondary dwelling will be located entirely within an existing principal dwelling that contains no other secondary dwelling.*
- (4) *In this clause:*
- development for the purposes of a secondary dwelling includes the following:*
- (a) *the erection of, or alterations or additions to, a secondary dwelling,*
 - (b) *alterations or additions to a principal dwelling for the purposes of a secondary dwelling.*

Note: See also Division 2 of Part 2 of State Environmental Planning Policy (Affordable Rental Housing) 2009."

Rationale and Impacts of Allowing Larger Secondary Dwellings

The 60m² maximum set by state policy allows for a large 1 bedroom unit, a two bedroom secondary dwelling can only be achieved with smaller living areas that are below the current standards for unit sizes in residential flat buildings.

The Apartment Design Guide provides for the minimum sizes for apartments of residential flat buildings and requires the following minimum sizes:

Apartment type	Minimum internal area
Studio	35m ²
1 bedroom	50m ²
2 bedroom	70m ²
3 bedroom	90m ²

The apartment design guide requires an additional 5m² if the unit has more than 1 bathroom. As a result 75m² secondary dwelling provide for a moderate sized two bedroom secondary dwelling.

The effect of the State policy is that secondary dwellings are less suitable for young families who require more space than single persons or older residents. The former Manly LGA has significant housing affordability problem with many younger persons leaving the area due to housing affordability. Larger secondary dwellings provide for greater housing choice and are generally more affordable in terms of rent. It should be noted that secondary dwellings cannot be separately titled and as a result are an effective form of affordable rental housing. The adoption of a larger secondary dwelling is likely to encourage existing large houses to be adapted to allow families to co-habit within the same dwelling house with increased privacy. This policy would also allow retirees to create an income stream from renting part of the existing dwelling house (either the secondary dwelling or the primary dwelling). This allows for a more efficient use of the existing housing stock and community infrastructure.

Impacts of development

As the amendment only allows 75m² secondary dwellings within the footprint of existing dwelling house the adoption of this policy will not result in significant visual bulk, amenity or streetscape impacts. Clause 22(4)(b) of *SEPP (Affordable Rental Housing) 2009* prevents Council from requiring additional car parking for secondary dwellings.

Impacts on Infrastructure

Additional demands on the provision of infrastructure are offset by the payment of Section 94 contributions. Currently secondary dwellings are subject to the same Section 94 contributions as dwelling houses. Given the consequential reduction in the number of bedrooms within the existing dwelling it may be appropriate for Council to consider a suitable discount to Section 94 contributions for secondary dwelling provided within the existing dwelling. The current contribution under the Manly Section 94 Contributions Plan is \$20,000 which creates a significant disincentive for the provision of this housing type. The current contribution for secondary dwellings under the Manly Section 94 Contributions Plan 2004 is the highest in the northern region.

Section 94 and Section 94A contributions in the Northern Region:

Plan	Contributions for Secondary Dwellings
Hornsby S94 Plan	\$10,421.99 - \$10,520.96 (depending on area)
Ku-ring-gai S94A Plan	0% - 1% of the cost of works
Mosman S94A Plan	0% - 1% of the cost of works
North Sydney S94 Plan	\$10,397.59 (1 bedroom) - \$14,432.50 (2 bedroom)
Pittwater Council S94 Plan	\$0
Warringah S94A Plan	0% - 1% of the cost of works
Willoughby S94A Plan	0% - 1% of the cost of works

North Sydney Council has the only Section 94 Contributions Plan that operate in a similar way to the Manly Section 94 Contributions Plan 2004. North Sydney provides for credits for a reduction in the number of bedrooms in the primary dwelling when a secondary dwelling is proposed within the footprint of the existing dwelling.

Following the same methodology as North Sydney of providing credits for a reduction in bedrooms in existing primary dwelling the following example contributions would apply:

Example 1:

- 4 bedroom dwelling house (occupancy 3.4 persons)
- 2 bedroom secondary dwelling (occupancy 1.9 persons)
- 4 bedroom dwelling house converted into 2 bedroom secondary dwelling and 2 bedroom primary dwelling (increased occupancy 0.4 persons)
- Section 94 contributions after credits \$6,403.76

Example 2:

- 5 bedroom dwelling (occupancy 3.9 persons)
- 2 bedroom secondary dwelling (occupancy 1.9 persons)

- 3 bedroom primary dwelling (occupancy 2.3 persons)
- 5 bedroom dwelling house converted into 2 bedroom secondary dwelling and 3 bedroom primary dwelling (increased occupancy 0.3 persons)
- Section 94 contributions after credits \$4,802.82.

Example 3:

- 4 bedroom dwelling house (occupancy 3.4 persons)
- 1 bedroom secondary dwelling (occupancy 1.4 persons)
- 3 bedroom primary dwelling (occupancy 2.3 persons)
- 4 bedroom dwelling house converted into 1 bedroom secondary dwelling and 3 bedroom primary dwelling (increased occupancy 0.3 persons)
- Section 94 contributions after credits \$4,802.82.

Council's existing Section 94 contributions policy allows for such credits to be provided and no change in the Section 94 contributions plan is necessary to provide these credits. The adoption of larger secondary dwellings within the existing dwelling house will encourage the use of unused bedrooms for affordable housing for members of the community.

CONSULTATION

Council will exhibit the planning proposal in accordance with the requirements of the section 57 of the *Environmental Planning and Assessment Act 1979* and Gateway determination.

TIMING

Statutory consultation will occur after gateway determination from the Department of Planning and Environment is received.

FINANCIAL IMPACT

The preparation of the planning proposal will use the existing strategic planning resources. The Department of Planning and Environment may require an affordable housing strategy to be developed which may require additional financial resources.

SOCIAL IMPACT

The amendment is likely to increase the supply of secondary dwellings under the *Manly LEP 2013* and have positive social impacts associated with an increase in affordable housing.

ENVIRONMENTAL IMPACT

Due to the nature of the amendment environmental impacts are likely to be minimal.

Attachment 3: Historic Controls

Manly DCP for the Residential Zone 1986 (Amendment 3) controls

Operative 11 March 1995 – 14 October 2001.

“Family Flat” is the conversion of an existing dwelling house into two dwellings where the resultant development meets all the requirements of the D.C.P. for a single dwelling.

2.6 Family Flats

The conversion of an existing dwelling house into two dwellings (as defined) can occur when the provisions of this D.C.P. are met. In case of older dwellings that do not comply with the D.C.P., applications for family flats will be considered on merit subject to the provisions of this D.C.P. Family flats can not be strata subdivided.

Manly DCP for the Residential Zone 2001 controls

Operative 15 October 2001 – 1 April 2007.

Family Flat means a secondary dwelling within the envelope of the original dwelling or attached at ground level to the original dwelling, where the development meets the provisions and objectives of a single dwelling-house (except density provision), but:

- Is not more than 75m² in gross floor area
- May not be separately titled.

Manly DCP for the Residential Zone 2007 controls

Operative 2 April 2007 – 18 April 2013.

Family Flat means a secondary dwelling within the envelope of the original dwelling or attached at ground level to the original dwelling, where the development meets the provisions and objectives of a single dwelling-house (except density provision), but:

- a) Is not more than 75m² in gross floor area; and,
- b) May not be separately titled.