

Manly LEP 2013 - Draft Amendment No.1

Proposal Title : **Manly LEP 2013 - Draft Amendment No.1**

Proposal Summary : **The purpose of this planning proposal is to amend the Manly Local Environmental Plan (LEP) 2013 to rezone 34, 36 and 38 Stuart Street, Manly to Zone E4 - Environmental Living and to amend respective land reservation acquisition, floor space ratio, height of buildings and minimum lot size mapped controls to assist in the management of Council's local open space.**

PP Number : **PP_2013_MANLY_001_00**

Dop File No : **13/06387**

Proposal Details

Date Planning : **03-Apr-2013**

Proposal Received :

LGA covered :

Manly

Region : **Sydney Region East**

RPA :

Manly Council

State Electorate : **MANLY**

Section of the Act :

55 - Planning Proposal

LEP Type : **Spot Rezoning**

Location Details

Street : **34, 36 and 38 Stuart Street**

Suburb : **Manly**

City : **Sydney**

Postcode : **2095**

Land Parcel :

Street : **Lot 8 D1108368**

Suburb : **Lot 1 DP 252420**

City : **and**

Postcode : **Lot 2 DP 252420**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Megan Hollingsworth**

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RPA Contact Details

Contact Name : **Nayeem Islam**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro North East subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	3	No. of Dwellings (where relevant) :	0
Gross Floor Area :	300.00	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :			
Have there been meetings or communications with registered lobbyists? : No			
If Yes, comment : The Department is not aware of any meetings or communications with registered lobbyists concerning this Planning Proposal.			

Supporting notes

Internal Supporting Notes : **34, 36, 38 and 40 Stuart Street, are situated between the Craig Avenue car park to the west and Little Manly Reserve to the east, and front Little Manly Beach to the south. 34, 36 and 38 Stuart Street each contain one dwelling house. 34 and 36 are owned by Council and 38 is privately owned. On 10 December 2012, Manly Council resolved to establish a right of way over 34 to 38 to provide legal access to number 40, and resolved to sell 34 to 36 to cover Council's acquisition costs for number 40 which adjoins the existing beach. The sale of 34 and 36 would not require a public hearing or reclassification under the Local Government Act as these properties are already classified as Operational. Council has resolved to approach the owner of 38 Stuart Street to seek agreement for a right of way at the rear of the property so as to link with a right of way proposed for 34 and 36. The Planning Proposal will not provide for any additional dwellings. Manly Council has delegation to make the plan and has submitted Attachment 4 - Evaluation Criteria for the delegation of plan making functions. Council has submitted a 3 month project timeline, which is not considered to be realistic as it does not seem to provide time for drafting of the instrument by Parliamentary Counsel.**

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives is not considered to be adequate. This should be amended as follows:
The purpose of this Planning Proposal is to amend Manly Local Environmental Plan 2013**

to rezone 34, 36 and 38 Stuart Street, Manly to Zone E4 Environmental Living and associated land reservation acquisition, floor space ratio, height of buildings and minimum lot size planning controls to reflect Manly Council's local strategic and operational outcomes.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The explanation of provisions is considered to be adequate, although reference to Zone E4 should refer to 'Environmental Living' not 'Environmental Protection'.

The Planning Proposal proposes to amend various maps under Manly LEP 2013 including:

- Zoning Map to rezone land at 34, 36 and 38 Stuart Street, Manly from Zone RE1 Public Recreation to Zone E4 Environmental Living;
- Land Reservation Acquisition Map to remove land labelled 'local open space' at 38 Stuart Street, Manly;
- Floor Space Ratio Map to add land at 34, 36 and 38 Stuart Street, Manly to Area 'F' providing a floor space ratio of 0.6:1;
- Height of Buildings Map to add land at 34, 36 and 38 Stuart Street, Manly to Area 'I' providing a maximum building height of 8.5 metres; and
- Minimum Lot Size Map to add land at 34, 36 and 38 Stuart Street, Manly to Area 'C' of that map providing for a minimum lot size of 250 sqm.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SREP (Sydney Harbour Catchment) 2005

e) List any other matters that need to be considered :

The Planning Proposal is consistent with applicable SEPPs. In relation to SREP (Sydney Harbour Catchment) 2005, Manly Council has advised the Planning Proposal is consistent with the Planning Principles for the Foreshores and Waterways Area and Clause 6.10 - Limited Development of Foreshore Land in Manly LEP 2013. Council is proposing to retain existing public facilities and improve public access via creating a three metre right of way at the rear of 34 and 36 Stuart Street to enable public access to Little Manly Beach from the Craig Ave car park. Also, Council is proposing to retain the dinghy storage facility located at the rear of 34 Stuart Street and will require the future purchaser of 34 Stuart Street to maintain the facility.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Direction 4.1 Acid Sulphate Soils - Council has advised this Direction is relevant to the rezoning of 34, 36 and 38 Stuart Street to Zone E4 - Environmental Living, as this land is situated within a potential Acid Sulphate Soils Area shown on the Acid Sulphate Soils Map for Manly LEP 2013.

The Proposal is inconsistent with this Direction as it requires the preparation of an Acid Sulphate Soils Study prior to any rezoning, with Acid Sulphate Soil management

conditions applying to works. Council advises that Clause 6.1 of Manly LEP 2013 provides appropriate SI provisions for Acid Sulphate Soils, and the proposed public open space to residential rezoning may result in a very minor intensification of use if redeveloped as these sites already each contain a dwelling house. The agreement of the Director General is recommended for this inconsistency which is of minor significance.

The proposal is partially inconsistent with Direction 6.2 Reserving Land for Public Purposes. Direction 6.2 applies to the proposed rezoning of 34, 36 and 38 Stuart Street, Manly as the Planning Proposal is proposing to remove an existing reservation for local open space. Manly Council is the relevant public authority for local open space (land zoned RE1 in Manly LEP 2013).

The agreement of the Director General is recommended under Direction 6.2 as the land is no longer designated by Manly Council for acquisition. Council is rearranging and consolidating its local open space with existing open space adjoining Little Manly Beach.

The proposal is consistent with Directions 2.1 - Environmental Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land, 6.1 Approval and Referral Requirements, 6.3 Site Specific Provisions and 7.1 Implementation of the Metropolitan Plan for Sydney 2036.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : All maps are considered adequate and indicate current and proposed provisions including land use zoning, floor space ratio, height of buildings, minimum lot size and land reservation acquisition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council proposes a 28 day exhibition period for this Planning Proposal. This is supported as the proposal has generated considerable community interest. Council intends to consult with the Office of Environment and Heritage in relation to environmental issues including Threatened Species and Coastal Hazards (Sea Level Rise).

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **April 2013**

Comments in relation to Principal LEP : The Planning Proposal is the first amendment to Manly LEP 2013 which was notified on 5 April 2013 and will take effect on 19 April 2013. Manly Council received \$163,400 under the LEP Acceleration Fund to fund a planner, complete GIS mapping and a Biodiversity Study to complete the Section 68 submission of the Plan.

Assessment Criteria

Need for planning proposal :	The planning proposal is required to enable 34, 36 and 38 Stuart Street, Manly to be rezoned to Zone E4 - Environmental Living and related land reservation acquisition, floor space ratio, height of buildings and minimum lot size controls be amended. This rezoning will facilitate the sale of 34 and 36 Stuart Street which are owned by Manly Council, and will assist Council to cover the costs of purchasing lot 40 and is supported.
Consistency with strategic planning framework :	The Planning Proposal is considered to be consistent with the aims of the Metropolitan Plan 2036, draft Metropolitan Strategy for Sydney to 2031, draft North East Subregional Strategy and Manly Council's local strategies. These include studies informing the strategic framework of Manly LEP 2013 i.e. Manly Community Strategic Plan Beyond 2021 and Management Plan for the Little Manly Precinct.
Environmental social economic impacts :	No significant environmental, social or economic impacts are anticipated to result from this Planning Proposal. There is no likelihood that critical habitat or threatened species populations or ecological communities, or their habitats will be adversely affected by this Planning Proposal. Council considers its resolution in conjunction with this Planning Proposal to create a three metre right of way at the rear of 34 and 36 Stuart Street to enable public access to the beach from the Craig Avenue car park will have positive social and environmental impacts. It will also enable Council to expand existing open space with the addition of 40 Stuart Street.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 Month	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

Coastal Zone

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name

DocumentType Name

Is Public

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information :

It is recommended that the Planning Proposal proceed subject to the following conditions:

1. The Planning Proposal is exhibited for 28 days.
2. The Planning Proposal should be completed within 9 months of the Gateway Determination.
3. Council proposes to progress the Planning Proposal under delegation. This matter is considered to be of local significance and the use of Council's delegation is supported.
4. The Planning Proposal be amended prior to exhibition to include:
 - a) 'The purpose of this Planning Proposal is to amend Manly Local Environmental Plan 2013 to rezone 34, 36 and 38 Stuart Street, Manly to Zone E4 Environmental Living and associated land reservation, floor space ratio, height of buildings and minimum lot size planning controls to reflect Manly Council's local strategic and operational outcomes', in Part 1 - Objectives section of the Planning Proposal.
 - b) Reference to the 'Zoning Map to rezone land at 34, 36 and 38 Stuart Street from RE1 Public Recreation to Zone E4 Environment Protection' in Part 2 - Explanation of Provisions section of the Planning Proposal be amended to refer to 'Zone E4 Environmental Living' rather than 'Zone E4 Environmental Protection'.
5. Inconsistencies with Section 117 Directions 4.1 - Acid Sulphate Soils and 6.2 - Reserving Land for Public Purposes are considered to be of minor significance and the Director General's approval to proceed under this Direction is granted. No further consideration of Section 117 Directions is required.
6. Consult with Government agencies: Office of Environmental Heritage.
7. No further studies are required to be undertaken.

Supporting Reasons :

The Planning Proposal aims to rezone land at 34, 36 and 38 Stuart Street, Manly from Zone RE1 Public Recreation to Zone E4 Environmental Living and amend corresponding planning controls on the Land Reservation Acquisition Map, Floor Space Ratio Map, Height of Buildings Map and Minimum Lot Size Map. The Planning Proposal is of local significance and Council's view that this is the most efficient way to achieve its strategic and operational outcomes for the land is accepted.

Signature:

D. Pitney

Printed Name:

DAVID PITNEY

Date:

12/4/13

