

DIRECTOR GENERAL'S CORRESPONDENCE

PRIORITY:

☐

URGENT

Date due: / /

☐

Early (2 weeks)



PMU030159

ACTION REQUIRED:

DRAFT LETTER FOR SIGNATURE BY:

Director General	(Full brief ☐ Short Brief ☐	☐
Deputy Director General		☐
Executive Director		☐
Director		☐
Regional Director		☐
BRIEFING NOTES FOR DIRECTOR GENERAL		☐
DISCUSSION WITH DIRECTOR GENERAL		☐
DEPARTMENTAL ACTION		☒
INFORMATION ONLY		☐
OTHER:		☐

INSTRUCTIONS/COMMENTS

Planning Operations & Growth Delivery

R. Hamman 25/10

RECEIVED

24 OCT 2013

Director-General



Reference: MC/13/123502

Enquiries: Landuse & Sustainability Division

Mr Sam Haddad
Director-General
Department of Planning and Infrastructure
23-33 Bridge Street
GPO Box 39, Sydney NSW 2001

Dear Mr Haddad,

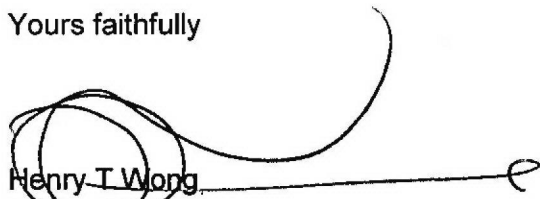
Re: Planning Proposal – 45 Pacific Parade, Manly

Council resolved at its Ordinary Meeting of 14th October 2013 to submit a Planning Proposal to rezone land known as 45 Pacific Parade, Manly from SP2 Infrastructure to R1 General Residential.

Due to the local nature of this Planning Proposal, Council seeks delegation for making this amendment to its LEP as detailed in the Planning Proposal. Council seeks to exhibit the Planning Proposal for twenty eight (28) days.

Should you require any further clarification or information about this Planning Proposal, please contact Nayeem Islam, Manager Land Use Planning on 02 9976 1582 or Nayeem.islam@manly.nsw.gov.au

Yours faithfully



Henry T Wong
General Manager
Manly Council

Date: 21/10/2013

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MANLY COUNCIL

Planning Proposal – Rezoning of 45 Pacific Parade, Manly

Part 1 Objectives of Planning Proposal

To enable a further range of land uses at 45 Pacific Parade (Lot 1 DP 115643) other than the single current permitted land use of a Child Care Centre. This is to enable the land owner to consider alternative residential land uses in the future. The range of land uses are to be compatible and in keeping with the surrounding area.

Part 2 Explanation of Provisions

The objectives of the planning proposal will be achieved by amending the Manly LEP 2013 land use zoning of 45 Pacific Parade from Zone SP2 Childcare Centre to Zone R1 General Residential.

Part 3 Justification

1. Is the planning proposal a result of any strategic study or report?

No. There is no strategic study or report associated with the intended rezoning.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The Planning Proposal is the best means of achieving the intended outcome. The current land use operation is a commercial land use and the applicant seeks the flexibility of the R1 zone in a consideration of any change in the viability of the current land use and/or a future redevelopment of the site.

3. 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)?

Yes. Increasing the range of land uses on the site, that are compatible and in keeping with the surrounding land uses, will allow the site to better meet the demands of any housing or employment targets proposed by current regional and sub-regional strategies (including the Sydney Metropolitan Strategy and exhibited draft strategies).

4. Is the planning proposal consistent with Council's local strategy or other local strategic plan?

Yes. The Planning Proposal is consistent with Manly's Community Strategic Plan, and will not limit in any way any other local strategic plans.

It is a guiding principle of the Manly Council Community Strategic Plan beyond 2023 as adopted 3rd June 2013 to provide, plan for and promote for the needs of children. The Strategic Plan notes the pressure on social infrastructure particularly associated with the demand for schooling and childcare. However the strategic implementation is very much associated with an advocacy role for Council to facilitate the interaction of providers and Government Agencies in assisting the provision of new and improved outcomes.

This application does not impact on the objectives of the Strategic Plan as the rezoning does not anticipate a cessation or change of the established land use. It simply seeks a broader zoning than that attributable to the site by the current zone and the insertion of a zoning that reflects that land use and the locality.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The applicant seeks the rezoning on the basis that the land use is not 'infrastructure' within the meaning of that term pursuant to State Environmental Planning Policy (Infrastructure) 2007. The LEP Practice Note – Standard Instrument for LEPS (ref. 10-001 dated 14 December 2010) relies on the categories of land use types identified in the SEPP (Infrastructure) 2007 when referring to infrastructure. 'Child care centres' are not one of the 25 categories of land use identified by the SEPP. Further the transfer of the site to an SP2 zone in Manly LEP 2013 from its former Special Use zone in Manly LEP 1988 appears to be contrary to the direction that special use zonings be rezoned the same as the adjacent zoned. In this instance the adjoining land is zoned R1 General Residential and consistent with the Practice Note there is no reason not to include the subject site in this residential zone given child care centres remain a permissible land use in this residential zone.

The planning proposal is consistent with all relevant SEPPs as summarised in the following table:

<u>SEPP</u>	<u>COMMENT</u>	<u>CONSIS- TENT?</u>
SEPP 32 – Urban Consolidation	The aims of SEPP 32 are: <i>(a) to promote the orderly and economic use and development of land by enabling urban land which is no longer required for the purpose for which it is currently zoned or used to be redeveloped for multi-unit housing and related development, and</i> <i>(b) to implement a policy of urban consolidation which will promote the social and economic welfare of the State and a better environment by enabling:</i> <i>(i) the location of housing in areas where there are existing public</i>	Yes

infra-structure, transport and community facilities, and
(ii) increased opportunities for people to live in a locality which is close to employment, leisure and other opportunities, and
(iii) the reduction in the rate at which land is released for development on the fringe of existing urban areas.

The objectives of this SEPP are:

(a) to ensure that urban land suitable for multi-unit housing and related development is made available for that development in a timely manner, and

(b) to ensure that any redevelopment of urban land for multi-unit housing and related development will result in:

(i) an increase in the availability of housing within a particular locality, or
(ii) a greater diversity of housing types within a particular locality to meet the demand generated by changing demographic and household needs,

In accordance with clause 6 of this SEPP each Council must consider whether urban land is suitable for redevelopment for multi-unit housing and related development in accordance with the aims and objectives of this Policy and whether action should be taken to make the land available for such redevelopment.

The planning proposal will increase the opportunity for the use of the land for housing consistent with the land use in the vicinity of the site.

The site is ideally located for an additional dwelling in that it is located near public transport, employment opportunities, educational facilities, commercial, retail and recreational facilities and is adequately served by existing infrastructure.

**SEPP 55 –
Remediation of
Land**

When carrying out planning functions under the Act (including undertaking LEP amendments), SEPP 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination.

Yes

The site has historically been used for residential, education and public worship land use activities and there is no evidence of contamination.

SEPP (BASIX) 2004

The aim of this Policy is to encourage sustainable residential development.

Yes

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. The following table summarises the planning proposal's consistency with applicable Ministerial Directions:

<u>DIRECTION No and TITLE</u>	<u>COMMENT</u>	<u>CONSIS-TENT</u>
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres. The direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary). In accordance with this direction a planning proposal must: (a) give effect to the objectives of the direction (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director General of the Department of Planning. This direction is not applicable to this planning proposal.	Yes
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 direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. The direction states that a planning proposal must:	Yes

- (a) broaden the choice of building types in the housing market, and
- (b) make more efficient use of infrastructure and services, and
- (c) reduce consumption of land on the fringe, and
- (d) be of good design.

The proposed development has the ability to increase the supply of housing in the local area by a single dwelling house. The site is well serviced by existing infrastructure, including public transport and is in close proximity to jobs.

Notwithstanding the proposal has no significant consequence in terms of the intentions of the direction.

3.4 Integrating land use and transport

In accordance with this direction planning proposal's must be consistent with the aims, objectives and principles of "Improving Transport Choice" and "The Right Place for Business and Services" prepared by DUAP.

Yes

6.3 Site Specific Provisions

The planning proposal is consistent with these documents in providing opportunity for development of additional dwellings in an area which is well served by existing public transport services.

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

Yes

The direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.

The amendment of the planning controls is consistent with this direction in seeking to remove an inappropriate and unduly restrictive zone and replace with a zone that is consistent with that applicable to land adjoin the site and which will continue to permit the land to be used as child care centre consistent with that revised zoning.

7.1 Implementation of the Metropolitan Plan for Sydney 2036

In accordance with this direction planning proposals shall be consistent with the Metropolitan Plan for Sydney 2036.

The proposal's consistency with the Metropolitan Plan for Sydney has been addressed in detail in section 5.1.3 of this report.

Yes

7. 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?

No. The site is within an established suburban area and does not currently support any natural vegetation. No critical habitat, threatened species, populations, ecological communities or their habitats will be adversely affected as a result of the proposal.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The site is not affected by natural hazards such as land slip, flooding or bushfire hazard.

9. Has the planning proposal adequately addressed any social and economic effects?

The change in zoning has no immediate social or economic impact as no change of use or redevelopment of the site is contemplated by the application.

10. Is there adequate public infrastructure for the planning proposal?

The site has convenient access to public transport. Bus services are located in close proximity to the site.

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

Relevant public authorities will be consulted following the gateway determination. It is not anticipated the Planning Proposal will raise any concerns with any State and Commonwealth public authorities consulted.

Part 4 Mapping

Please see attached maps '45 Pacific Parade_Current' and '45 Pacific Parade_Proposed' for relevant mapping information.

Part 5 Community Consultation

Council proposes that the LEP be publically exhibited in accordance with the Environmental Planning and Assessment Act 1979 for a period of twenty eight (28) days. Manly Council resolved to exhibit the Planning Proposal for 28 days at its Ordinary Meeting on 14th October 2013.

It is considered that extensive consultation with State or Commonwealth public authorities is not required due to the limited nature of the Planning Proposal.

It is intended that consultation takes place following the Gateway determination under Section 56 of the Act (delegated).

Community consultation is to be commenced by giving notice of the public exhibition of the Planning Proposal in the local newspaper (the *Manly Daily*), on the Manly Council website and in writing to adjoining landowners.

The written notice of the Planning Proposal will:

- Give a brief description of the objectives or intended outcomes of the planning proposal;
- Indicate the land affected by the planning proposal;
- State where and when the planning proposal can be inspected;
- Give the name and address of the relevant planning authority (Manly Council) for the receipt of submissions; and
- Indicate the last date for submissions.

Part 6 Project Timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion
Anticipated commencement date (date of Gateway determination)	November 2013
Anticipated timeframe for the completion of required technical information	None anticipated
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	None anticipated
Public exhibition period	January 2014 (28 days)
Timeframe for consideration of submissions	February 2014 (2 weeks)
Date of submission to the department to finalise the LEP	None – proposal to be subject to delegation
Anticipated date RPA (Manly Council) will make the plan (if delegated)	February 2014
Anticipated date RPA (Manly Council) will forward to the department for notification	February 2014



Manly Local Environmental Plan 2013

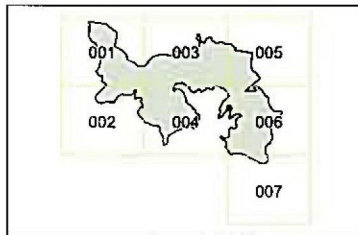
Land Zoning Map - Current

Zone

- R1** General Residential
- RE1** Public Recreation
- RE2** Private Recreation
- SP2** Infrastructure

Cadastral

Cadastral - Base Data 18/12/2008
© NSW Land and Property Information (LPI). Addendum Date 30/08/2011
© Manly Council



Projection: GDA 1994
MGA Zone 56

Scale: 1:20,000 @ A3

File Number





Manly Local Environmental Plan 2013

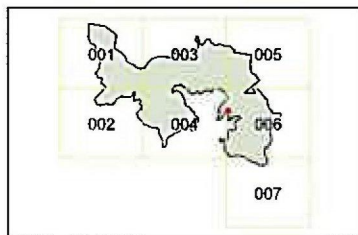
Land Zoning Map - Proposed

Zone

- R1** General Residential
- RE1** Public Recreation
- RE2** Private Recreation

Cadastral

Cadastral - Base Data 18/12/2008
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(LPI), Addendum Data 30/08/2011
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Projection: GDA 1984
MGA Zone 56

Scale: 1:20 000 @ A3

File Number



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:Manly

Name of draft LEP:Manly LEP 2013 Amendment 2

Address of Land (if applicable):45 Pacific Parade, Manly (Lot 1 DP 115643)

Intent of draft LEP: To rezone land from SP2 Infrastructure to R1 Residential at 45 Pacific Parade, Manly.

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?	Y			
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?	N	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?	N	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?	N	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?	N			
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?	N			
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?	N			
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?	N			
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.

ENVIRONMENTAL SERVICES DIVISION

Councillor Aird left the chamber having declared an item in this report.

Environmental Services Division Report No. 30

Proposed Exhibition of Amendment to Manly Local Environmental Plan 2013 - Rezoning of 45 Pacific Parade (MC/13/106197)

SUMMARY

THIS REPORT RECOMMENDS THAT COUNCIL SUPPORT THE EXHIBITION OF PROPOSAL FOR PUBLIC CONSULTATION TO AMEND THE MANLY LEP 2013 LAND USE ZONING FOR 45 PACIFIC PARADE FROM ZONE SP2 CHILDCARE CENTRE TO ZONE R1 GENERAL RESIDENTIAL AS PART OF THE LEP GATEWAY DETERMINATION PROCESS UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.

MOTION (Heasman / J Griffin)

THAT Council place the proposal to rezone 45 Pacific Parade (LOT 1 DP 115643) from SP2 Childcare Centre to R1 General Residential on exhibition for twenty-eight (28) days.

For the Resolution: Councillors Burns, Heasman, Bingham, Pickering, Le Surf, J Griffin, C Griffin and Hay

Against the Resolution: Nil.

185/13 RESOLVED: (Heasman / J Griffin)

THAT Council place the proposal to rezone 45 Pacific Parade (LOT 1 DP 115643) from SP2 Childcare Centre to R1 General Residential on exhibition for twenty-eight (28) days.

Councillor Aird was not in the Chamber when the voting took place.

Councillor Aird returned to the Chamber.

Environmental Services Division Report No. 31

**Proposed Amendment to Manly Development Control Plan 2013
– Boarding Houses (MC/13/115298)**

SUMMARY

THIS REPORT RECOMMENDS THE ADOPTION OF EXHIBITED AMENDMENTS TO MANLY DEVELOPMENT CONTROL PLAN (DCP) 2013 PROVIDING FURTHER GUIDANCE IN THE DEVELOPMENT OF BOARDING HOUSES / AFFORDABLE ACCOMMODATION FOR MANLY.

MOTION (Heasman / Le Surf)

THAT this report be deferred over to the next Ordinary meeting Agenda on 11 November 2013 for consideration by Council.

For the Resolution: Councillors Aird, Burns, Heasman, Bingham, Pickering, Le Surf, J Griffin, C Griffin and Hay

Against the Resolution: Nil.

TO: Ordinary Meeting - 14 October 2013
REPORT: Environmental Services Division Report No. 30
SUBJECT: Proposed Exhibition of Amendment to Manly Local Environmental Plan 2013 - Rezoning of 45 Pacific Parade
FILE NO: MC/13/106197

SUMMARY

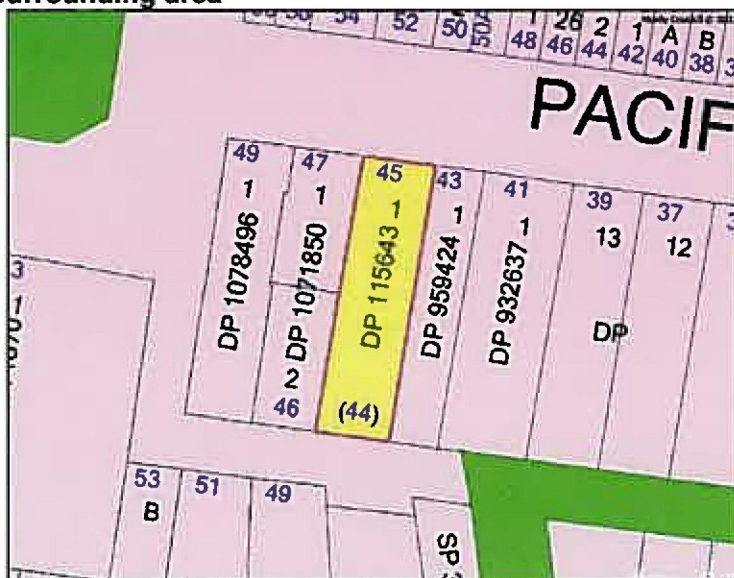
THIS REPORT RECOMMENDS THAT COUNCIL SUPPORT THE EXHIBITION OF THE PROPOSAL FOR PUBLIC CONSULTATION TO AMEND THE MANLY LEP 2013 LAND USE ZONING FOR 45 PACIFIC PARADE FROM ZONE SP2 CHILDCARE CENTRE TO ZONE R1 GENERAL RESIDENTIAL AS PART OF THE LEP GATEWAY DETERMINATION PROCESS UNDER THE *ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979*.

REPORT

Council received a formal proposal to rezone 45 Pacific Parade (LOT 1 DP 115643) from Boston Blyth Fleming Town Planners, acting on behalf of Mr. Mark Arnold, the land owner of the subject site.

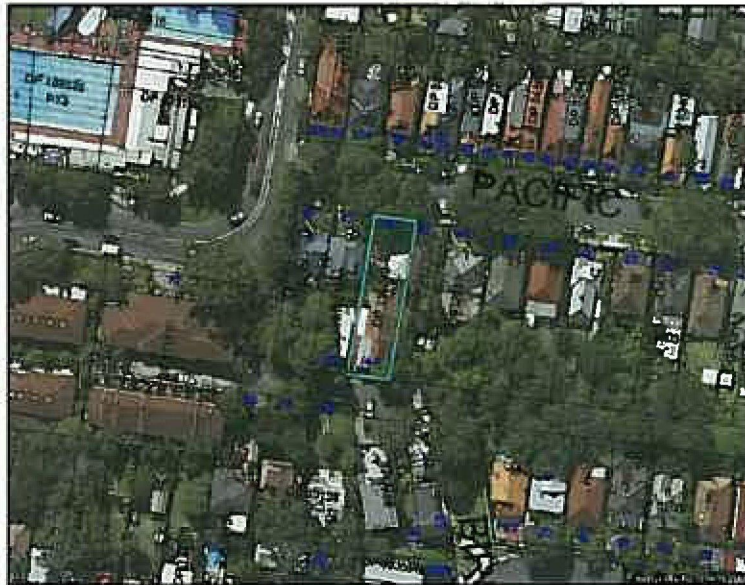
The Proposal requests Council to rezone the subject site from
Current Zone SP2 Childcare Centre Manly LEP 2013
To
Proposed Zone R1 General Residential Manly LEP 2013

Site location and surrounding area



Land use zoning and cadastre

Environmental Services Division Report No. 30 (Cont'd)



Ariel view (2011) and cadastre

Report

The immediate area surrounding the proposal is characterized by detached residential housing. The site is surrounded by Zone R1 General Residential land use. The subject site is currently being used as a Childcare Centre known as 'Manly Noah's Ark Child Care Centre'. It is operating under a commercial lease from the land owner (the proponent of this Planning Proposal).

Rezoning of the subject site is the most appropriate way to achieve the objectives in ensuring flexible land use of the site.

The proposed land use Zone R1 General Residential still permits the use of a Childcare Centre and ancillary development related to a Childcare Centre (see emboldened text above in Zone R1 General Residential – 3 Permitted with consent).

The rezoning of the site will not restrict the current use of the site as a Childcare Centre, or restrict redevelopment of the site as a Childcare Centre. However it will allow other land uses to be considered by the applicant should they decide to discontinue the Childcare Centre, such as a residential dwelling. As the subject site is surrounded by land that is zoned R1 General Residential, the proposed zoning of the subject site would be consistent with the surrounding area and any development type.

Current and Proposed Land Use Zoning**Current land use restrictions**

The current land use Zone SP2 Childcare Centre is described in the Manly Local Environmental Plan 2013 as;

Zone SP2 Infrastructure**1 Objectives of zone**

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To minimise loss of views to, from and within heritage items and minimising intrusion on the heritage landscape and visual curtilage of heritage items.

Environmental Services Division Report No. 30 (Cont'd)**2 Permitted without consent***Nil***3 Permitted with consent**

- *Roads; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose*

4 Prohibited

- *Any development not specified in item 2 or 3*

The purpose shown on the Land Zoning Map is 'Childcare Centre' (Figure 1). The naming convention for this specific site is 'Zone SP2 Childcare Centre'. This stipulates only a Childcare Centre and related ancillary development may be allowed on the subject site.

Proposed land use restrictions

The proposed land use Zone R1 General Residential is described in the Manly Local Environmental Plan 2013 as;

Zone R1 General Residential**1 Objectives of zone**

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

2 Permitted without consent

- *Home-based child care; Home occupations*

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Water recreation structures; Water recycling facilities; Water supply systems

4 Prohibited

Advertising structures; Water treatment facilities; Any other development not specified in item 2 or 3

Notation: Childcare Centres are permitted with consent in Zone R1 General Residential.

Conclusion

The proposal is consistent with the requirements of the *Environmental Planning and Assessment Act 1979* and is supported to progress to the next stage and placed on public exhibition for 28 (twenty-eight) days.

Environmental Services Division Report No. 30 (Cont'd)

RECOMMENDATION

1. THAT Council place the proposal to rezone 45 Pacific Parade (LOT 1 DP 115643) from SP2 Childcare Centre to R1 General Residential on exhibition for twenty-eight (28) days.

ATTACHMENTS

There are no attachments for this report.

OM14102013ESD_1.DOC

***** End of Environmental Services Division Report No. 30 *****

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25 July 2013

General Manager
Manly Council
Town Hall
1 Belgrave Street
Manly NSW 1655

Dear Sir

Re: 45 Pacific Parade Manly NSW 2095
PT 1 DP 115643

This letter authorises Ross Fleming of Boston Blyth Fleming Town Planners to make a planning proposal application for the above property on my behalf.

Yours faithfully



Mark Arnold

P6 Fees/chgs. R/N 961551 25/7/13
(30) Re-zoning Application Fee \$13,000 -
22002.6510.6451



PLANNING PROPOSAL REPORT

45 Pacific Parade

MANLY

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PLANNING PROPOSAL

Planning Proposal to amend the Manly Local Environmental Plan 2013

45 Pacific Parade MANLY

Prepared on behalf of

Mr M Arnold

By

Ross Fleming

B Urb & Reg. Plan (UNE) MPIA

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July 2013

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1.0 INTRODUCTION & BACKGROUND

This report has been prepared in support of a planning proposal to amend provisions of the Manly Local Environmental Plan 2013 as it relates to the subject site. The Manly LEP 2013 prescribes a zoning to the site as SP2 Infrastructure – Childcare being a specific 'special purpose' zone that limits the permissible use on the land to (in this instance) a childcare centre purpose and uses that are ancillary or incidental to that purpose.

2.0 SITE AND LOCATION

2.1 Site Description

The subject site comprises:

- Lot 1, DP 115643, 45 Pacific Parade Manly

The outcome anticipated by the planning proposal is to rezone the land R1 General Residential consistent with zoning of the surrounding residential zone

2.2 Surrounding Development

The site is within an established residential zone characterised by single dwelling houses on individual allotments.

3.0 RELEVANT LOCAL ENVIRONMENTAL PLAN PROVISIONS

3.1 Manly Local Environmental Plan 2013

Zoning and Permissibility

Manly Local Environmental Plan 2013 applies to the site. Pursuant to the provisions of the Manly Local Environmental Plan 2103 the site has a site specific SP2 Infrastructure zoning with a specific purpose notation as a child care centre.



Extract Manly LEP 2013

Pursuant to Clause 2.3 (2) of the LEP the consent authority to take into account the specific objectives of the zone in a consideration of any development application that relates to the zone.

The objectives of the SP2 Infrastructure zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To minimise loss of views to, from and within heritage items and minimising intrusion on the heritage landscape and visual curtilage of heritage items.*

The land use table to the LEP presents a restricted outcome limiting permissible uses to:

Roads; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

All other development is prohibited.

4.0 PLANNING PROPOSAL

4.1 Objectives or Intended Outcomes

The objective of this planning proposal is to amend the Manly Local Environmental Plan 2013.

The proposed amendment to the Manly Local Environmental Plan 2013 is to rezone the subject site R1 General Residential.

4.2 Explanation of the Provisions

The planning proposal seeks to amend the zoning consistent with the zoning applicable to adjacent lots.

The land was formerly zoned 5 Special Uses – Church pursuant to the Manly LEP 1988 representing the prior ownership of the land by the Assembly of God. The church divested itself of the site in 2010 when it was acquired by the applicant and the commercial child care centre established by the Church has continued on site as commercial leasehold to that operator.

Manly LEP 2013 defines a child care centre as:

child care centre means a building or place used for the supervision and care of children that:

(a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and

(b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

(c) a building or place used for home-based child care, or

(d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or

(e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

(f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or

(g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or

(h) a service that is concerned primarily with the provision of:

(i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or

(ii) private tutoring, or

(i) a school, or

(j) a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

Pursuant to the R1 General Residential zone of the 2013 LEP child care centres are a permissible land use with the consent of the Council.

5.0 JUSTIFICATION

5.1 Need for the Planning Proposal

6.1.1 *Is the planning proposal a result of any strategic study or report?*

There is no strategic or planning study associated with the intended rezoning.

The applicant seeks the rezoning on the basis that the land use is not 'infrastructure' within the meaning of that term pursuant to State Environmental Planning Policy (Infrastructure) 2007. The LEP Practice Note – Standard Instrument for LEPS (ref. 10-001 dated 14 December 2010) relies on the categories of land use types identified in the SEPP (Infrastructure) 2007 when referring to infrastructure. 'Child care centers' are not one of the 25 categories of land use identified by the SEPP. Further the transfer of the site to an SP2 zone in Manly LEP 2013 from its former Special Use zone in Manly LEP 1988 appears to be contrary to the direction that special use zonings be rezoned the same as the adjacent zoned. In this instance the adjoining land is zoned R1 General Residential and consistent with the Practice Note there is no reason not to include the subject site in this residential zone given child care centres remain a permissible land use in this residential zone. Whilst the standard instrument does not define the term 'infrastructure', clause 5.12 of the Standard Instrument applies itself to development by the Crown. This is clearly not the case on the current site. The operation on the site as a commercial child care centre is not consistent with the citation to the zone associated with infrastructure.

5.1.2 *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning proposal is the best means of achieving the intended outcome. The current land use operation is a commercial land use and the applicant seeks the flexibility of the R1 zone in a consideration of any change in the viability of the current land use and/or a future redevelopment of the site.

5.1.3 *Is there a net community benefit?*

The 'Guide to Preparing a Planning Proposal' produced by the Department of Planning states that the guidance on conducting a Net Community Benefit Test included in the Draft Centres Policy should be followed when assessing the net community benefit of a planning proposal.

The proposal is assessed against the evaluation criteria for the net community benefit test in the following table.

Criteria	Comment
<i>Will the LEP be compatible with agreed State and regional strategic</i>	There no state or regional strategic plans applicable to this site or to the current child care land use and given the street trees

<i>direction for development in the area?</i>	in Pacific Parade are an item of local heritage (item I191 at Schedule 5 of Manly LEP 2013 the prospect of significant change in the local character is considered remote.
<i>Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?</i>	The Metropolitan Plan for Sydney 2036 focus' on Dee Why & Brookvale as regional growth centres with Frenchs Forest identified as a specialised centre associated with the Frenchs Forest regional hospital. Accordingly this local area of Manly is not located within any strategic area of the strategy.
<i>Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?</i>	These implications of the change of zoning as contemplated are confined to subject site.
<i>Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?</i>	There are no other rezoning proposals in this locality.
<i>Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?</i>	The rezoning is sought to correct an anomaly associated with the application of an 'infrastructure' zoning to the site and to facilitate a general degree of flexibility associated with the R1 zone.
<i>Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?</i>	The planning proposal will reinstate the opportunity for the land to be utilised for a residential purpose consistent with the original subdivision intention of the land and with the surrounding land uses.
<i>Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site?</i>	The rezoning is sought to correct the zoning anomaly. No change of use is contemplated by the rezoning. Any such change of use would be confined to a single dwelling, well within the established capacity of the public infrastructure.
<i>Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?</i>	The site is well serviced by public transport given its proximity to the established bus routes along Pittwater Road (400m) east of the site and the Manly Wharf transport interchange.
<i>Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?</i>	The current child care centre land use is a commercial activity and its continuation will be dependent upon the ongoing viability of that land use. The change in zoning of the land as contemplated does not impact on the future continued utilisation of the site for that purpose.
<i>Are there significant Government investments in infrastructure or services in the area whose</i>	The proposal does not require any additional Government investment or services.

<i>patronage will be affected by the proposal? If so, what is the expected impact?</i>	
<i>Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?</i>	The proposal will not impact on land that has been identified for protection. The land is not affected by environmental constraints such as land slip, flooding or bushfire hazard.
<i>Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?</i>	The proposed rezoning is consistent with the zoning generally applicable to land in the locality and that adjoins the site.
<i>Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?</i>	The proposed development will not increase the number of retail and commercial premises in the area.
<i>If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?</i>	No.
<i>What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?</i>	The rezoning removes an inappropriate and unduly restrictive zoning that is inappropriate to the use of the site and to the surrounding land uses. In the event of the discontinuance of the current child care operation the rezoning permits the redevelopment of the site for residential purposes consistent with the established land use function and pattern of the locality.

Based on the above consideration of the evaluation criteria it is considered that the proposal will have a net community benefit.

5.2 Relationship to Strategic Planning Framework

5.2.1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Metropolitan Plan for Sydney 2036

The proposal has no effect on the strategy.

Manly LEP 2013 and Development Control Plan

Refer to 4.2 above.

5.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

It is a guiding principle of the Manly Council Community Strategic Plan beyond 2023 as adopted 3rd June 2013 to provide, plan for and promote for the needs of children. The Strategic Plan notes the pressure on social infrastructure particularly associated with the demand for schooling and childcare. However the strategic implementation is very much associated with an advocacy role for Council to facilitate the interaction of providers and Government Agencies in assisting the provision of new and improved outcomes.

This application does not impact on the objectives of the Strategic Plan as the rezoning does not anticipate a cessation or change of the established land use. It simply seeks a broader zoning than that attributable to the site by the current zone and the insertion of a zoning that reflects that land use and the locality.

5.2.3 Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with the all relevant State Environmental Planning Policies as summarised in the following table:

SEPP	Comment	Consistent
SEPP 32 – Urban Consolidation	The aims of SEPP 32 are: <i>(a) to promote the orderly and economic use and development of land by enabling urban land which is no longer required for the purpose for which it is currently zoned or used to be redeveloped for multi-unit housing and related development, and</i> <i>(b) to implement a policy of urban consolidation which will promote the social and economic welfare of the State and a better environment by enabling:</i> <i>(i) the location of housing in areas where there are existing public infra-structure, transport and community facilities, and</i> <i>(ii) increased opportunities for people to live in a locality which is close to employment, leisure and other opportunities, and</i> <i>(iii) the reduction in the rate at which land is released for development on the fringe of existing urban areas.</i> The objectives of this SEPP are: <i>(a) to ensure that urban land suitable for multi-unit housing and related development is made available for that development in a timely manner, and</i>	Yes

	(b) to ensure that any redevelopment of urban land for multi-unit housing and related development will result in: (i) an increase in the availability of housing within a particular locality, or (ii) a greater diversity of housing types within a particular locality to meet the demand generated by changing demographic and household needs, In accordance with clause 6 of this SEPP each Council must consider whether urban land is suitable for redevelopment for multi-unit housing and related development in accordance with the aims and objectives of this Policy and whether action should be taken to make the land available for such redevelopment. The planning proposal will increase the opportunity for the use of the land for housing consistent with the land use in the vicinity of the site. The site is ideally located for and additional dwelling in that it is located near public transport, employment opportunities, educational facilities, commercial, retail and recreational facilities and is adequately served by existing infrastructure.	
SEPP 55 – Remediation of Land	When carrying out planning functions under the Act (including undertaking LEP amendments), SEPP 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination. The site has historically been used for residential, education and public worship land use activities and there is no evidence of contamination.	Yes
SEPP (BASIX) 2004	The aim of this Policy is to encourage sustainable residential development.	Yes

5.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s.117directions)?

The following table summarises the planning proposal's consistency with applicable Ministerial Directions:

S.117 Direction No. and Title	Comment	Consistent
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres. The direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including	Yes

	the alteration of any existing business or industrial zone boundary). In accordance with this direction a planning proposal must: (a) give effect to the objectives of the direction (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director General of the Department of Planning. This direction is not applicable to this planning proposal.	
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 direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. The direction states that a planning proposal must: (a) broaden the choice of building types in the housing market, and (b) make more efficient use of infrastructure and services, and (c) reduce consumption of land on the fringe, and (d) be of good design. The proposed development has the ability to increase the supply of housing in the local area by a single dwelling house. The site is well serviced by existing infrastructure,	Yes

	including public transport and is in close proximity to jobs. Notwithstanding the proposal has no significant consequence in terms of the intentions of the direction.	
3.4 Integrating land use and transport	In accordance with this direction planning proposal's must be consistent with the aims, objectives and principles of "Improving Transport Choice" and "The Right Place for Business and Services" prepared by DUAP. The planning proposal is consistent with these documents in providing opportunity for development of additional dwellings in an area which is well served by existing public transport services.	Yes
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. The direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. The amendment of the planning controls is consistent with this direction in seeking to remove an inappropriate and unduly restrictive zone and replace with a zone that is consistent with that applicable to land adjoin the site and which will continue to permit the land to be used as child care centre consistent with that revised zoning.	Yes
7.1 Implementation of the Metropolitan Plan for Sydney 2036	In accordance with this direction planning proposals shall be consistent with the Metropolitan Plan for Sydney 2036. The proposal's consistency with the Metropolitan Plan for Sydney has been addressed in detail in section 5.1.3 of this report.	Yes

5.3 Environmental, Social and Economic Impact

5.3.1 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 site is within an established suburban built up area and does not currently support any natural vegetation. No critical habitat, threatened species, populations, ecological communities or their habitats will be adversely affected as a result of the proposal.

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

The site is not affected by natural hazards such as land slip, flooding or bushfire hazard.

5.3.3 How has the planning proposal adequately addressed any social and economic effects?

The change in zoning has no immediate social or economic impact as not change of use or redevelopment of the site is contemplated by the application.

5.4 State and Commonwealth Interests

5.4.1 Is there adequate public infrastructure for the planning proposal?

The site has convenient access to public transport. Bus services are located in close proximity to the site.

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

Relevant public authorities will be consulted following the gateway determination.

5.5 Community Consultation

'A guide to preparing local environmental plans' produced by the NSW Department of Planning sets out the community consultation requirements for planning proposals.

The guide indicates that consultation will be tailored to specific proposals. The exhibition for low impact planning proposals will generally be 14 days and all other planning proposals will be 28 days. It is likely that the proposal will be advertised for 28 days.

Community consultation is to be commenced by giving notice of the public exhibition of the planning proposal in a local newspaper, on the Manly Council website and in writing to adjoining landowners.

The written notice of the planning proposal will:

-
- Give a brief description of the objectives or intended outcomes of the planning proposal;
 - Indicate the land affected by the planning proposal;
 - State where and when the planning proposal can be inspected;
 - Give the name and address of the relevant planning authority (North Sydney Council) for the receipt of submissions; and
 - Indicate the last date for submissions.

6.0 CONCLUSION

This planning study has demonstrated that the planning proposal is site specific and seeks to correct an anomaly associated with the current zoning and has no strategic consequence in terms of consistency with the current Metropolitan Plan for Sydney, the draft subregional strategies and the Manly Community Strategic Plan.

For the reasons outlined above in my opinion it would be appropriate for Manly Council, as the relevant planning authority, to support the planning proposal.