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**PLANNING AND STRATEGY COMMITTEE**

**2 NOVEMBER 2009**

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**TO:** Planning and Strategy Committee - 2 November 2009  
**REPORT:** Planning And Strategy Division Report No. 40  
**SUBJECT:** Manly Local Environmental Plan 1988 – draft Amendment 81  
**FILE NO:**

**SUMMARY**

This report recommends that Council initiate an amendment to Manly Local Environmental Plan (LEP) 1988 for submission to the Minister for Planning (delegated to the Department's new 'Gateway' panel) in accordance with s. 54 and s. 55 of the *Environmental Planning and Assessment Act, 1979*, (the EP&A Act).

**REPORT**

**Introduction**

The proposed amendments to Manly LEP 1988 (Amendment 81) include:

- the zoning of a number of unzoned parcels of land adjoining Burnt Bridge Creek to be zoned either open space or industrial to be compatible with adjoining zones (refer to Attachment One, circulated under separate cover);
- the zoning of the closed and unzoned laneway between 18 & 20 Peronne Avenue and 21 & 23 Gordon Street, Clontarf to residential (refer to Attachment Two, circulated under separate cover);
- the listing of seven (7) properties as heritage items (refer to Attachment Three, circulated under separate cover); and
- Third Party Advertising being included as exempt development.

**Background**

Council previously resolved to minimize the number of amendments to the Manly LEP pending the finalization of a new comprehensive LEP in accordance with the standard LEP template. There have been many ongoing changes to the planning system which are relevant to the new LEP for Manly LGA, and a reprioritization of 67 councils (excluding Manly) as being of the highest priority to have a new LEP made. However, there is a need to progress a small number of amendments to the present LEP ahead of the new comprehensive Manly LEP.

A number of amendments to Manly LEP 1988 are now proposed in relation to the zoning of specific parcels of land, the listing of new heritage items, and third party advertising. These will be progressed under the new planning procedures.

*Explanation and Justification for LEP Amendments*

- Various land parcels adjoining Warringah LGA in the vicinity of Burnt Bridge Creek, Condamine Street and Kenneth Road, Balgowlah

The purpose of this amendment is to zone these lands into the relevant zoning and land use provisions of the Manly Local Environmental Plan 1988 (Manly LEP 1988) and repeal the application of Warringah LEP 1985 (which currently applies to the land pending a zoning under the Manly LEP 1988).

The land includes a number of parcels along the Burnt Bridge Creek Deviation that are owned by the RTA, Manly Council and private owners in the vicinity of Condamine and Kenneth Streets.

- The RTA parcels proposed to be zoned 6(a) Open Space are Lot 19 DP 836340; Lot 20 DP 836340; Lot 8 DP 788716; Lot 21 DP 836340; Lot 47 DP 836340 and Lot 22 DP 836340.
- The Warringah Council parcels, proposed to be zoned 6(a) Open Space, are Pt 7 DP 776891 and Pt 1 DP 1127989.

The above lands are located south of the Burnt Bridge Creek deviation and adjoin land zoned open space under the Manly LEP 1988. The proposed open space zoning is compatible with the adjoining zoning, the nature of the land as bushland reserve, and is consistent with its historic zoning under the Warringah LEP.

The RTA land was subject to unresolved issues with the RTA which objected to an earlier proposal by Council to rezone their land in Kitchener Street. It has recently been the subject of further consultations and review under the Manly Comprehensive (Standard Instrument) LEP. As a result of these further discussions with the RTA previous objections to the proposed zoning no longer exist. It is therefore proposed to zone these parcels as an amendment to the Manly LEP 1988, ahead of the Manly Comprehensive (Standard Instrument) LEP which is currently being prepared. Also the recent exhibition of the Warringah Comprehensive (Standard Instrument) LEP (which was prioritised by the Department earlier this year) provides further impetus to rationalise the zoning of this land.

The privately owned lands fronting Kenneth Road comprising Lot 1 DP 849654; Lot 1 DP 63250; Lot 22 DP 975160 and Lot 21 DP 541511 are proposed to be zoned Industrial 4(a). This land is located to the north of existing industrial land under the Manly LEP 1988 and the proposed zoning is compatible with the adjoining zoning and consistent with its historic zoning under the Warringah LEP. The proposal is also in accordance with the North East Subregion Draft Regional Strategy (June 2007) regarding the retention of land for industrial purposes. The owners of the land will be consulted after the Department's consideration of the proposal under the Gateway determination process.

#### ▪ Listing of Heritage Items

The 2007/2008 Heritage Review identified a number of potential individual heritage items. The properties identified were reviewed and a number were considered worthy of heritage protection. These properties were reported to the Heritage Committee which supported consultation with the property owners. The Committee identified twelve (12) potential items for stage one and the individual owners of this group were invited to discuss the proposed listing with Council's Heritage Planners prior to any further action regarding the listing of their property. Council received a positive response from seven (7) owners agreeing to the listing of their property as a heritage item.

The Council's Heritage Committee resolved on 2 September 2009, to recommend that Council proceed with the listing of seven (7) properties where owners have confirmed support in writing to the heritage listing.

The seven proposed new heritage items are:

- *Edinboro, 297 Sydney Road, Balgowlah*
- *The Kiosk, Shelly Beach*
- *3 Arthur Street, Fairlight*
- *Electricity Substation 15151, Condamine Street, Balgowlah (ES 15151)*
- *Electricity Substation 16124, Ashburner Street, Manly (ES 16124)*
- *Electricity Substation ES 16453, Krui Street, Fairlight (ES 16453), and;*
- *Pumping Station SP 0036, Golf Parade, Manly*

Details of significance, curtilage and recommended management guidelines are included in Attachment Three to this report (circulated separately).

- *18 & 20 Peronne Ave and 21 & 23 Gordon Street, Clontarf*

This land is bound by residential zoned land both to the northern and southern sides under the Manly LEP 1988. There are no other zones in the vicinity. As Council is in the process of disposing of this land to the owners of the adjoining residential land, it is appropriate that residential 2(a) zoning and land use provisions apply to this land.

- *Third Party Advertising signage*

It is also proposed to insert a new provision to permit Third Party Advertising signage as exempt development. Council's has already resolved to proceed with an LEP amendment in relation to this matter at its meeting on 7 September 2009.

## **STATUTORY EVALUATION**

Recent reforms to planning legislation regarding the preparation of LEPs (Part 5 of the EPA Act 1979) were introduced on 1 July 2009. Council's decision to prepare a draft local environmental plan under section 54 of the *Environmental Planning and Assessment Act, 1979* now requires Council to prepare a planning proposal to the 'gateway'. The planning proposal will be reviewed at an early stage by the Department of Planning. This will provide an upfront determination by the Department on the proposal; the level of community consultation required; input from public authorities, and appropriate timeframes.

The submission of a planning proposal to the gateway must include:

- A statement of the objectives and intended outcome of the proposal.
- An explanation of the provisions of the proposal.
- A justification for the objectives and outcomes, including how this is to be implemented.
- Maps providing the appropriate detail of the areas.
- Details of the community consultation.

Having regard to Department of Planning 'Guide to preparing Local Environmental Plans (July 2009), the proposed LEP amendments are considered to be compatible with the NSW government's plans and strategies including the Metropolitan Strategy and North East Subregion draft Subregional Strategy. Appropriate consideration has been given to the State Plan. In particular the proposed amendments satisfy State and corporate objectives in terms of service delivery and ongoing maintenance of Council's plans.

## CONCLUSION

Council has from time to time undertaken similar amendments to the Manly LEP 1988 incorporating a range of amendments largely dealing with 'housekeeping' matters that may proceed ahead of the drafting of the comprehensive Manly LEP (under the standard instrument template).

The current proposed amendment addresses existing anomalies by zoning a small number of parcels of land in the vicinity of Burnt Bridge Creek and Condamine Street, Balgowlah to 6(a) Open Space and 4(a) Industrial following recent consultations that resolved earlier RTA objections to the zoning of the land. It also zones land between 18 & 20 Peronne Ave and 21 & 23 Gordon Street, Clontarf to 2(a) Residential following the Council's approved sale of this land to the owners of adjoining residential properties.

In addition, the amendment includes the proposed listing of seven (7) new heritage items following Council's major heritage review in 2007/2008. This represents the first group of buildings that have been identified as having heritage significance sufficient to justify high priority for listing and also have the confirmed support of the individual owners.

It is also proposed to include Third Party Advertising signage as exempt development in Manly LEP 1988 in accordance with Council's previous resolution of 7 September 2009.

The recommended amendments are consistent with Council's practice to limit the number of minor miscellaneous LEP amendments by grouping issues to be addressed in one amending LEP. Once Council resolves to initiate the proposed LEP amendments a planning proposal will be submitted to the Department's LEP Gateway panel for review and determination.

## RECOMMENDATION

It is recommended that:

1. Council resolve to initiate an amendment to Manly Local Environmental Plan 1988, being Amendment 81, pursuant to sections 54-55 of the *Environmental Planning & Assessment Act, 1979*, in respect of:
  - a. the zoning of several parcels of land adjoining the Burnt Bridge Creek to open space or industrial zoning;
  - b. the zoning of land consisting of the closed and unzoned laneway between 18 & 20 Peronne Ave and 21 & 23 Gordon Street, Clontarf, to residential;
  - c. the listing of seven (7) properties are recommended for listing as heritage items; and
  - d. Third Party Advertising as exempt development.

## ATTACHMENTS

|      |                                                                             |          |                       |
|------|-----------------------------------------------------------------------------|----------|-----------------------|
| AT-1 | Locality Maps for Burnt Creek, Condamine Street and Kenneth Rd unzoned land | 3 Pages  | Circulated Separately |
| AT-2 | Locality Map for Peronne Ave and Gordon Street unzoned Land                 | 1 Page   | Circulated Separately |
| AT-3 | Proposed New Heritage Items in Manly LGA                                    | 14 Pages | Circulated Separately |

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