

Planning Proposal

Manly Local Environmental Plan 1988 Amendment No. 81

Introduction

This planning proposal details the intended effect of a group of several proposed minor amendments to Manly Local Environmental Plan (LEP) 1988 and sets out an explanation and justification for making the plan. Details of community consultation are also considered.

This planning proposal is prepared in accordance with *"A guide to preparing local environmental plans"* (Department of Planning, 2009) in conjunction with *"A guide to preparing local environmental plans"* and *Circular PS 09-015 "Commencement of Certain Provisions of the EP&A Amendment Act 2008 and EP&A Amendment (Plan Making) Regulation 2009"*.

Part 1 – Objectives

The objectives of this planning proposal are to ensure the appropriate zoning of certain unzoned land (consistent with the adjoining zones); the heritage listing of properties with identified heritage significance and to introduce Third Party Advertising as exempt development.

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;
- the zoning of the closed and unzoned laneway between 18 & 20 Peronne Avenue and 21 & 23 Gordon Street, Clontarf to zone No. 2 - Residential;
- the listing of a number of properties as heritage items; and
- Third Party Advertising being included as exempt development.

Part 2 – Explanation of provisions

Please refer to Attachment 1.

Part 3 – Justification

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.

A. Need for the planning proposal.

A1. Is the planning proposal a result of any strategic study or report?

The Manly Heritage Review has identified a number of properties with heritage significance and are subsequently recommended for listing as heritage items in the draft Local Environmental Plan (draft LEP). A copy of the relevant parts of this study are provided at Attachment 3.

In relation to the remaining amendments, the draft LEP is not a result of any other strategic study or report. All proposed amendments were reported to Council on 2 November 2009 at which time Council resolved as follows:

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.*

Note 1: All relevant Council reports and resolutions are at Attachment 4.

Note 2: In relation to para c. above, while the resolution refers to the listing of seven (7) items, this planning proposal refers to six (6) because one of the originally reported items has been omitted due to landowner objection.

A2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending Manly Local Environmental Plan 1988 is the only means to achieve the intended outcomes. Consideration has been given to deferring amendments for incorporation into the draft Comprehensive (standard instrument) LEP 2011. However the delay in dealing with these amendments in the circumstances is not justified.

A3. Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

The net community benefit includes improvement to the Council's Local Environmental Plan in terms of providing consistent and compatible zones to certain unzoned land; identifying agreed heritage significance of certain properties in Manly and enabling appropriate types of third party signage without consent. The potential for community impacts in relation to third party signage are minimised in the extent and type of structures permitted without consent as detailed in Attachment 1.4. The net community benefit of all the proposed LEP amendments are considered to outweigh the cost of implementing and administering the planning proposal.

B. Relationship to strategic planning framework.

B1. 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)?

The draft Local Environmental Plan is consistent with the objectives and actions contained within the Sydney Metropolitan Strategy and draft North East Subregional Strategy.

B2. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The draft Local Environmental Plan is consistent with Council's strategic plans.

B3. Is the planning proposal consistent with the applicable state environmental planning policies?

The draft Local Environmental Plan is consistent with the applicable state environmental planning policies.

B4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with the following applicable Ministerial directions (s.117 directions):

- *Business and Industrial zones*
- *Environmental Protection Zones*
- *Heritage Conservation*
- *Residential Zones*
- *Integrating Land Use and Transport*
- *Flood Prone Land*
- *Planning for Bushfire Protection (see Part 4 – Community Consultation)*
- *Approval and Referral Requirements*
- *Reserving Land for Public Purposes*
- *Implementation of the Metropolitan Strategy*

C. Environmental, social and economic impact.

C1. 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 planning proposal includes an LEP amendment to zone certain undeveloped and vegetated public lands along Burnt Creek as open space. These lands were identified as important as habitat for wildlife and corridor for native flora and fauna in the Burnt Bridge Creek Restoration Management Plan Issues Paper, August 1998. These lands are not however further identified in the Study 'Flora and Fauna of Manly Council's Bushland Reserves' prepared for Manly Council 2004 by N Skelton, E Donner & P Wong.

The importance of these lands as habitat for wildlife and corridor for native flora and fauna vegetation will be supported in the proposed zoning of these lands as open space. The land does not contain any identified critical habitat or threatened species, populations or ecological communities, or their habitats and the proposed LEP amendments are unlikely to affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

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

There are no negative environmental effects from this Draft Local Environmental Plan. The amendment has been undertaken in order to address minor or individual drafting and zoning matters and to improve interpretation within the existing Plan. In particular the proposed listing of heritage items will lessen the likelihood of environmental effects due to the increased identification and protection of heritage significance. Furthermore, as the proposed zoning of certain lands will apply land use provisions currently absent in relation to unzoned land, the likelihood of environmental effects is lessened.

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

The social and economic impacts of the rezoning are considered to be minimal.

D. State and Commonwealth interests.

D1. Is there adequate public infrastructure for the planning proposal?

The planning proposal does not increase the demand for public infrastructure.

D2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

(Note: the views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination.)

The planning proposal has been endorsed by Council and is being submitted for gateway approval.

The proposed amendments have been discussed with the Department of Planning Sydney East Regional Team when the Council report was previously forwarded for comment and subsequently discussed at the Quarterly meeting on 2 December 2009.

Part 4 – Community Consultation

Council proposes that the LEP is publically exhibited in accordance with the Environmental Planning and Assessment Act 1979 as a low impact proposal for a period of fourteen (14) days.

It is considered that extensive consultation with State or Commonwealth public authorities is not required as the Planning Proposal is not likely to increase the demand for public infrastructure. However, consultations with both the RTA and Warringah Council are proposed as they own land that is proposed to be zoned under this amendment. Consultation is proposed with all owners of land that is to be zoned including private land owners. It is intended that this consultation take place following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act. Previous consultations with Public Authorities in relation to land between Peronne Avenue and Gordon Street are detailed at Attachment 1.2.

As certain lands to be zoned in this planning proposal are Bushfire Prone Land, Manly Council will also consult with the Commissioner of the NSW Rural Fire Service in accordance with Ministerial Direction 4.4. This Consultation is to take place following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act. Manly Council will take into account any comments made in the preparation of the planning proposal.

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 Manly Comprehensive 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 - Open Space and zone 4 - 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 Zone 2 - Residential following the Council's approved sale of this land to the owners of adjoining residential properties.

The amendments also include the proposed listing of six (6) new heritage items following Council's major heritage review in 2007/2008. This represents the first group of properties that have been identified as having heritage significance sufficient to justify high priority for listing and also have the confirmed support of the landowners.

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. Council has resolved to initiate the proposed LEP amendments and a planning proposal is now submitted to the Department's LEP Gateway panel for review and determination.

Attachment 1 - Explanation and Justification for Individual LEP Amendments

Attachment 1.1. – Zoning of unzoned land to adjoining Open Space and Industrial zones

Objectives or intended outcomes

To zone various unzoned land parcels adjoining Warringah LGA in the vicinity of Burnt Bridge Creek, Condamine Street and Kenneth Road, Balgowlah 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).

Explanation

Amendment of the Manly LEP 1988 Land Zoning Maps are proposed to zone certain unzoned land described below and located on maps at Attachment 2.1. as follows:

It is proposed to zone the following lands as zone 6 - Existing Open:

- 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. These parcels are owned by the RTA.
- Pt 7 DP 776891 and Pt 1 DP 1127989. These parcels are owned by Warringah Council.
- Pt 1 of DP 1127989 and Pt 7 of 76891. These parcels are owned by Manly Council.
- Other un-zoned open space land including Burnt Bridge Creek.

It is proposed to zone the following lands as zone 4 – Industrial:

- Lot 1 DP 849654; Lot 1 DP 63250; Lot 22 DP 975160 and Lot 21 DP 541511. These parcels are privately owned properties.

Justification

The above lands are located along the LGA boundary shared with Warringah LGA. The land proposed to be zoned 6 - open space is along Burnt Bridge Creek, south of the Burnt Bridge Creek deviation and adjoins land zoned open space under the Manly LEP 1988. The proposed open space zone is compatible with the adjoining zone, the nature of the land as bush land reserve, and is consistent with its historic zoning under the Warringah LEP.

The zoning of this land was originally proposed in 1992 under draft LEP Amendment 9 which did not proceed. Limited Council records in relation to this draft LEP appear to indicate that the plan was subject to unresolved issues with the RTA particularly in relation to the zoning of certain RTA land in Kitchener Street. The draft LEP map dated 7.10.92 is at Attachment 2.1.1. The current planning proposal is consistent with this earlier plan. The zoning of this previously unresolved lands under draft LEP 9 have recently been the subject of further consultations and review under the Manly Comprehensive (Standard Instrument) LEP. By letter dated 5/1/09 the RTA's section 62 submission on the Manly Comprehensive LEP 2011

recommend that subject land be zoned RE1 which is the equivalent standard zone to Manly's zone 6 – Open Space. As a result of these further discussions and recommendations by the RTA, previous issues with the proposed zoning no longer appear to 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 at this time.

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 4 - Industrial. 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 Warringah LEP 1985. An extract of this LEP map and land-use table is at Attachment 2.1.3. The proposal is also in accordance with the Draft North East Sub-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.

Attachment 1.2. – Zoning of unzoned land to adjoining Residential zone

Objectives or intended outcomes

To zone various unzoned land parcels adjoining 18 & 20 Peronne Ave and 21 & 23 Gordon Street, Clontarf.

Explanation

Amendment of the Manly LEP 1988 Land Zoning Maps is proposed to zone certain unzoned land described below and located on maps at Attachment 2.2. as follows:

It is proposed to zone the following lands as 2 - Residential:

- Lots 1,2,3 & 4 DP 1070494.

Council owns this closed road but has resolved to dispose of the land to adjoining residential landowners.

Justification

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. Council has closed the laneway, subdivided the land for consolidation with adjoining residential allotments in Peronne Avenue and Gordon Street. In these circumstances and given the pending disposal of this land to the adjoining residential landowners, it is appropriate that a zone 2 - Residential apply to this land with the accompanying residential land use provisions.

The zoning of this land was originally proposed under draft LEP 69 which was progressed to the point of a certified draft LEP amendment at that time. This draft Plan was exhibited between 10 May 2004 and 2004 and no submissions were received. Consultations were undertaken with public authorities and both Sydney Water and Energy Australia advised at that time that they have no objections to the plan. This earlier draft LEP 69 was discontinued due to declining interest of landowners to acquire the land for residential purposes at that time. Council's Report and Attachments dated 8 March 2004 including plan and correspondence with the Department of Planning are at Attachment 4.5.

Attachment 1.3. - Heritage

Objectives or intended outcomes

To list new Heritage Items

Explanation and Justification

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 and Council's Heritage Committee recommend that Council proceed with the listing of these seven (7) properties. Since reporting to Council on these seven items, further submissions have been received in relation to one of these items and consequently not included in this planning proposal.

The six (6) proposed new heritage items are:

- *Edinboro*, 297 Sydney Road, Balgowlah

This proposed item meets criteria: historical, aesthetic/ technological, representativeness, rarity. Believed to be the oldest house in Balgowlah (1874).

Statement of Significance: *Edinboro*, 297 Sydney Road, is of significance for the local area as one of the oldest surviving houses in Balgowlah, as well as for its aesthetic values and for its ability to interpret the basic elements of Colonial style residences in the local area. The house, built c. 1874 by local stonemason and builder Andrew Mercer, is rare in the local context as an example of an early (pre-1880s) tradesman's cottage.

Recommended Management Guidelines: Conserve surviving original historic features of the house. Limited additions may be considered to the rear, as part of an approved adaptive reuse project.

- The Kiosk, Shelly Beach

This proposed item meets criteria: historic, aesthetic, community association, rarity. High integrity.

Statement of Significance: Shelly Beach Kiosk is of significance for historic, aesthetic and associative reasons, and as a rare example of its style and type. The Kiosk, created in 1927, has been in ongoing use as refreshment rooms, café and restaurant since that date and is appreciated in the wider community. The Kiosk is the oldest example of this type of building in the local area, and the only one from the 1920s. High integrity, interesting craftwork elements. Zoned Open Space.

Recommended Management: Conserve surviving original features including scale, elevation to the beach, elements of lateral elevations, roof form and historic elements and materials. Any potential additions and alterations should be single storey, located at the rear (potentially as a separate pavilion) and without impact on the roof form as visible to the general public.

- Electricity Substation 15151, Condamine Street, Balgowlah (ES 15151)

This proposed item meets criteria: historic, associative, rarity, representativeness. High integrity, sensitive façades. Note: Built by Manly Council.

Statement of Significance: An unusual example of a combined electricity substation and public toilet block, located in a public park. The building was originally constructed by the Municipal Council of Manly c. 1940 as a part of the council-operated electricity network. Substation no 15151 was built by the Municipal Council of Manly c. 1940. At that time the Council operated the local electricity network, with the Municipal Council of Sydney supplying bulk high voltage power. The location of the substation in a park and its dual use as a substation and public toilet exemplifies its original status as a local council asset.

Recommended Management: This item contributes to local character and should be conserved. Original details should be maintained including doors, windows and original signage. New materials should be sympathetic to the nature and character of the original building. In the event of major proposed changes, prepare a Conservation Management Strategy and undertake an archival recording. Wherever possible, changes should be restricted to the interior of the building. Routine maintenance of existing fabric is essential.

- Electricity Substation 16124, Ashburner Street, Manly (ES 16124)

This proposed item meets criteria: historic, associative, rarity, representativeness. High integrity, sensitive façades, built by Manly Council.

Statement of Significance: Substation no 16124 is a well-detailed example of a distribution substation with Art Deco elements built by the Municipal Council of Manly in 1937. It is one of a very few substations still in operation for the early period of electricity distribution in the area. Substation no 16124 was built by the Municipal Council of Manly Electricity Undertaking in 1937. It was one of a number of council-operated distribution substation supplying power to the local area. The substation was taken over by the Mackellar County Council in 1957 and subsequently transferred to the Sydney County Council in 1980.

Recommended Management: This item contributes to local character and should be conserved. Original details should be maintained including doors, windows and original signage. New materials should be sympathetic to the nature and character of the original building. In the event of major proposed changes, prepare a Conservation Management Strategy and undertake an archival recording. Wherever possible, changes should be restricted to the interior of the building. Routine maintenance of existing fabric is essential.

- Electricity Substation ES 16453, Krui Street, Fairlight (ES 16453), and;

This proposed item meets criteria: historic, associative, rarity, representativeness. High integrity, sensitive façades, built by Manly Council.

Statement of Significance: Substation no 16453 is a modest example of electricity infrastructure built by the Municipal Council of Manly in the 1920s. It is one of a small number of substations remaining from this period of electrical development in this area of Sydney. Substation no 16453 was commissioned in 1927 by the Municipal Council of Manly as a part of the local electricity distribution network. It was subsequently taken over by Mackellar County Council in 1957 and Sydney County Council in 1980. The site was previously known as "Substation #15121 Krui St" and was decommissioned in 1994. It was re-established later that year under its present substation number.

Recommended Management: This item contributes to local character and should be conserved. Original details should be maintained including doors, windows and original signage. New materials should be sympathetic to the nature and character of the original building. In the event of major proposed changes, prepare a Conservation Management Strategy and undertake an archival recording. Wherever possible, changes should be restricted to the interior of the building. Routine maintenance of existing fabric is essential.

- Pumping Station SP 0036, Golf Parade, Manly

This proposed item meets criteria: historical, aesthetic, rarity, representativeness

Statement of Significance: SP0036 Manly is of historic, aesthetic and technical/research significance. Commissioned in 1916, it was among a small group of low level sewage pumping stations which served the Manly Sewerage System and later Northern Suburbs Ocean Outfall Sewer (NSOOS). The station along with the construction of the NSOOS formed a part of the major advance in the development of municipal services in the Manly district in the early part of the 20th century. Aesthetically it is a good example of a robust and well proportioned small scale Federation Free Style industrial building generating aesthetic appeal through the use of contrasting materials, colours and textures. Prominently located on a corner block in Manly, the station has considerable streetscape significance. Technically, SP0036 still fulfils its role over 85 years after its introduction as a low level sewage pumping station as originally designed and constructed apart from mechanical and electrical upgrading.

Recommended Management: Where no Conservation Management Plan, Heritage Assessment or Statement of Heritage Impact is in place, or where works are outside the scope existing heritage documentation, assess heritage impacts of proposed works in accordance with Sydney Water Environment Impact Assessment procedures. Undertake a Heritage Assessment and/or Statement of Heritage Impact as required. Liaise with the Sydney Water Heritage Manager when major changes are planned for the item. Undertake archival and photographic recording before major changes, in accordance with Heritage Council guidelines. Lodge copies of the archival record with the Sydney Water Archives and the NSW Heritage Office.

Map and photographic details of significance are included in Attachment Three illustrating the curtilage and recommended management guidelines to this report.

Attachment 1. 4. - Third Party Advertising signage

Objectives or intended outcomes

To insert Third Party Advertising signage as exempt development.

The purpose of this amendment is to make third party advertising signage exempt development (i.e. no DA approval required) where such signage conforms to the definition of "commercial sign" in Part E of Manly Development Control Plan for Advertising Signs 1993.

It is proposed to insert a new provision to permit Third Party Advertising signage as exempt development where such signage conforms to the Manly DCP definition of "commercial sign".

Explanation

At its Ordinary Meeting of 15 June 2009, the Council resolved:

"That in order that there be clarity and consistency in terms of the status of third party advertising signage, pursuant to the provisions of Manly Local Environmental Plan 1988 and Manly Development Control Plan for Advertising Signs 1993, third party advertising signage be deemed exempt development where such signage conforms to the definition of "commercial sign" of Manly Development Control Plan for Advertising Signs 1993."

The above resolution of Council is given effect in this planning proposal to amend the Manly LEP 1988 by adding this development type to the schedule of Exempt Development (schedule 8, MLEP). Potential impacts in relation to this proposal are considered in the drafting of the recommended LEP amendment.

Third party advertising signage may be generally described as signs used to advertise a certain good or service as distinct from signs that identify buildings and occupations and generally assist people to find their way around Manly. Third party advertising signs, as permitted under the DCP definition are only loosely related to the places or premises where they are proposed. For example, a third party sign may advertise a certain drink, ice cream or cigarettes etc. if any of these goods are sold on the premises. The size of such a sign under the DCP definition would also need to fit within a rectangular figure 1.2m in length and 0.6m in height.

Existing Plans and Policies

Manly Local Environmental Plan 1988 ('The LEP')

Third party advertising signage is not a development type that is currently listed as exempt development under clause 10A and Schedule 8 under the LEP. The only exemptions in the LEP concern certain identification signs. Advertising structures are generally permissible with development consent in Manly Business and Industrial zones; and prohibited in the Residential, Open Space and Special Use zones.

Also, the relevant objectives concerning advertising structures in the LEP Business Zone is:

"1. To communicate to people in Manly the facilities, amenities, goods and services which exist within the Business Zone."

Manly Development Control Plan for Advertising Signs 1993 ('The DCP')

The Manly DCP definition of 'commercial sign' broadly includes signs that identify or describe the place or premises, particulars of any occupation, directional signs as well as signs that advertise certain goods provided at the place or premises.

Under Part E the DCP, a 'commercial sign' is subject to the following definitional terms:

- 'an advertisement whether illuminated or not which:*
- (i) has an outline that would fit within a rectangular figure 1.2m in length and 0.6m in height; and*
 - (ii) in respect of any place or premises to which it is affixed contains only:*
 - (a) a reference to the identification or description of the place or premises;*
 - (b) a reference to the identification or description of any person residing or carrying on an occupation at the place or premises;*
 - (c) particulars of any occupation carried on at the place or premises;*
 - (d) such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on there at;*
 - (e) particulars or notifications required or permitted to be displayed by or under any Act or any Act of the Parliament of the Commonwealth;*
 - (f) particulars relating to the goods, commodities or services dealt with or provided at the place or premises;*
 - (g) a notice that the place or premises is or are for sale or letting together with particulars of the sale or letting;*
 - (h) particulars of any activities held or to be held at the place or premises; or*
 - (i) a reference to an affiliation with a trade, professional or other association relevant to the business conducted on the place or premises;*

The Objectives of the DCP refer to the need to ensure advertising is 'in harmony with the buildings to which they are attached' and as such appear to limit third party signage. In this regard general objective b) is as follows:

"To ensure that advertising is in harmony with the buildings to which they are attached, and to their surroundings."

Section 2.10 of the DCP specifically deals with the advertising content of signs and states:

"Only under exceptional conditions will third party advertising be permitted i.e. advertising content must relate to the building or premises or goods sold on the premises to which it is attached. No cigarette or alcohol advertising will be permitted, unless it relates to goods sold on the premises and does not dominate the advertising area of the subject sign."

State Environmental Planning Policy (Exempt and Complying Development) 2007 (the Codes SEPP)

The Codes SEPP specifies certain advertisements as exempt development. At this stage the Codes SEPP only lists changes to the content of identification signs as a type of exempt development. However the Department of Planning indicate that further amendments to the Codes SEPP will consider exemptions of a wider range of advertising structures. It is also noted that the Codes SEPP override any similar LEP provisions.

In relation to the draft codes on exhibition earlier this year the Department identified advertising structures as complying development where not on a heritage item, not

illuminated or not encroaching over the footpath less than 2.6m above ground level. Notwithstanding these exhibited draft documents, it is not certain at this stage whether third party advertisements will be a type of exempt developments under future versions of the Codes SEPP. In this regard Council's letter to the Department in relation to these matters dated 10 September 2009 is attached at Attachment 4.4

Draft LEP Amendment

The purpose of the proposed amendment is to permit third party advertising signage as exempt development subject to compliance with the definition of commercial signs in the DCP i.e. complying with minimum dimensions and advertising a product sold on the premises. Also, it is proposed that the exemption be limited to non-illuminated signs in centres; with just one sign per premises and not on a heritage item. The drafted LEP amendment (including a minor clarifying amendment in the DCP) is described as follows:

1. Insert into Schedule 8 "Exempt Development" in the Manly LEP 1988, a new development type with additional standards as follows:

"Development Type: 'Signs – Third Party Advertising'

Additional Standards:

- *Only one sign per premises;*
- *In business and industrial zones only;*
- *Not on a heritage item*
- *Comply with the definition of 'commercial sign' in the Advertising DCP. In particular:*
 - *Advertising content must relate to a good, commodity or service dealt with or provided at the place or premises;*
 - *outline that would fit within a rectangular figure 1.2m in length and 0.6m in height;*
 - *must not be illuminated;*
 - *not encroach on a footpath or street (as defined by the Roads Act, 1993)"*

In addition, accompanying amendments will also be proposed to the Manly DCP for advertising structures to reword DCP paragraph 2.10 - 'Advertising Content', to clarify conditions for third party advertising to read:

"The advertising content of all third party advertising must

- relate to the building or premises or goods sold on the premises to which it is attached*
- not dominate the advertising area of the subject sign."*

Justification

Exempt development is development of minimal environmental impact that may be carried out without any approval under the planning system.

Third Party Advertisement Signs are of a commercial nature or for promotional purposes that do not generally serve to assist people in identifying premises or places or providing directional assistance. As well, the signs are only loosely related to the buildings or uses where they are located. As such, third party signs can potentially detract from other signs which assist and serve to identify buildings or uses. The potential also exists for advertising signage to detrimentally affect amenity and townscape qualities, and may add to the visual clutter of a locality.

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Justification

Exempt development is development of minimal environmental impact that may be carried out without any approval under the planning system.

Third Party Advertisement Signs are of a commercial nature or for promotional purposes that do not generally serve to assist people in identifying premises or places or providing directional assistance. As well, the signs are only loosely related to the buildings or uses where they are located. As such, third party signs can potentially detract from other signs which assist and serve to identify buildings or uses. The potential also exists for advertising signage to detrimentally affect amenity and townscape qualities, and adding to the visual clutter of a locality.

With particular regard to considerations of potential impacts above, the drafting of the LEP amendment for third party advertising as a type of exempt development is drafted such that these signs are controlled to minimise any impact as detailed above and summarised as follows:

- Only one sign per premises in business or industrial zones and not on a heritage item;
- Advertising content must relate to a good, commodity or service dealt with or provided at the place or premises;
- The size of the sign must fit within a rectangular figure 1.2m in length and 0.6m in height;
- The sign must not be illuminated or encroach on a footpath or street.