

TO: Planning and Strategy Committee - 5 September 2011
REPORT: Planning And Strategy Division Report No. 17
SUBJECT: Manly Local Environmental Plan 1988 - Draft Amendment 82
FILE NO:

SUMMARY

This report recommends that Council lodge 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). This will be Amendment 82 to the Current LEP.

Subsequently Council will amend the Manly Development Control Plan for the Residential Zone 2007 - [Amendment 1] to incorporate the land proposed to be zoned Residential. The proponent is Manly Golf Club and the planning proposal was prepared by Ingham Planning Pty Ltd.

REPORT

Introduction

The proposed amendment to Manly LEP 1988 (Amendment 82) shall:

- Rezone land at lots 29, 30, 31 and 32 in Section 5 of DP 939916, known as 15 - 17 Suwarrow Street Fairlight, from No. 6 Open Space Zone to No. 2 Residential Zone.

The planning proposal also seeks to amend the Manly Development Control Plan for the Residential Zone 2007 – Amendment 1 Residential Density and Height Subzone Map to include 15-17 Suwarrow Street Fairlight as well as 28-34 Balgowlah Road within Density Sub-zone 3.

Background

Council previously resolved to minimize the number of amendments to the Manly LEP 1988 pending the finalization of a new Manly LEP in accordance with the standard instrument LEP template. The proposal for rezoning is outside the Standard Instrument LEP drafting process, the proponent is Manly Golf Club and the planning proposal was prepared by Ingham Planning Pty Ltd.

The land was originally zoned open space (proposed) within the Manly Planning Scheme 1968 and previously contained 2 dwellings. Manly Golf Club acquired 15 Suwarrow Street in 1969 and in the Manly Local Environment Plan 1988 both 15 and 17 Suwarrow Street were zoned No. 6 Open Space Zone. Manly Golf Club acquired number 17 in 1999 and on 2 August 1999 Manly Council approved the demolition of both dwellings.

Suwarrow Street (between Balgowlah and Kenneth Roads) was formally closed and gazetted on 1st November 1991 and is now known as Lot 1 in DP 821350. It was acquired by the Council from the Department of Lands for the purpose of inclusion in L M Graham Reserve (which is Council owned Community Land under the Manly Plan of Management for Community Lands). The written consent for the closing of the road was obtained from the adjoining properties including Manly Golf Club and previous private residential property owners. As a consequence of the closure of the road a right of way was granted over section of the now expanded LM Graham Reserve, in order to provide for vehicular access to the adjacent dwellings. The provision of vehicular access through the open space is a unique arrangement and relates to the historical acquisition of the land. The question of future vehicular access to the site will still need to be considered in the context of the works proposed in future development applications.

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On the 4th August 2011, Council Officers met with a representative of the Golf Club to discuss issues with future vehicular access via LM Graham Reserve for any intensification of development. Following this meeting Council received a letter from Ingham Planning Pty Ltd stating that the Club now intend to construct two dwellings on the rear lots rather than a more intense development involving the lots fronting Balgowlah Road.

Explanation and Justification for LEP Amendments

The purpose of this amendment is to zone the subject lands from No. 6 Open Space Zone to No. 2 Residential Zone of the Manly Local Environmental Plan 1988 (Manly LEP 1988). The site is currently unused and is surplus to the needs of Manly Golf Club. Given that the site is unused it is presently of no community benefit and rezoning the land to residential would provide for additional housing stock.

Given that the current zoning is for open space which has a very limited range of uses and does not allow for residential development, the future development potential of the site is extremely limited. Further, due to the site location and size it is unlikely that the site would be suitable for another private recreational use and other permissible uses such as a refreshment room are undesirable for the site. Any other currently permissible use that maximises the value of the land such as a child care centre, would also have greater impacts than the proposed use. As such, given the history, location and characteristics of the site it is preferable that zoning match the predominant historical use as residential.

The Manly LGA has significant percentage of the total land area occupied by golf courses, and is well serviced with Manly Golf Club and Balgowlah Golf Club within the LGA and Wakehurst Golf and Warringah Golf Club less than 1 km of the LGA.



Golf Clubs located in Manly LGA or within 1km

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Manly Golf Club currently occupies approximately 42 Hectares with and Balgowlah Golf Club approximately 10.2 Hectares which equates to 3.4% of the total land area of the Manly LGA and 29.3% of the open space zone. The Northern Beaches as a whole has 567 hectares of golf courses which constitutes 36% of all non-bushland open space. (Source: Department of Planning, North East Sub region Regional Strategy, NSW Government Metropolitan Strategy) As such it is unlikely that there will be a need for significant areas of additional land for Golf Courses in the Manly LGA or the northern beaches generally in the foreseeable future.

The impact of rezoning this land on the overall area of open space available to the public is nil as the site is privately owned (by Manly Golf Club) and not currently available to the public. The adjacent LM Graham Reserve is more than adequate in providing for the open space recreational needs of the immediate locality. Manly LGA has 178.3 hectares of land zoned open space which is 11.8% of the LGA. It should be noted that this is in addition to the 268 hectares (or 17.7%) of the Manly LGA that are National Parks. (Source: Manly Council Website) As such the loss of approximately 905m² of land zoned open space (although not available to the public) is not significant in terms of the overall LGA.

Given the sites proximity to the "Roundhouse Childcare Centre," any future development that increases the use of the existing right of carriageway over L M Graham Reserve to that beyond its historic use (for two detached dwellings) should provide access via Balgowlah Road. The details of which would need to be resolved at the development application stage. Any future Residential Flat Building would currently require a development application, furthermore it is recommended that Council resolve to require access via Balgowlah Road for any development more intensive than two dwellings.

Should future development on the site maintain the historic use, that of two dwellings, it will be necessary to alter the existing vehicular access to the site by allowing a two way shared vehicular access for the dwellings and childcare centre as well as pedestrian access to the main entrance to the childcare centre. Given the nature of the use, in order to ensure safe pedestrian access at a two metre pedestrian access way directly adjacent to the childcare centre would be necessary. The minimum width for a two way shared driveway is 5.5 metres. This would allow for safe vehicular movements for both the childcare centre, the existing dwelling and future dwellings as well as sufficient space to allow larger removalist vehicles to access the properties. In order to provide a 2 metre pedestrian access and a 5.5 metre two way shared driveway, 1metre a right of way will be required for lots 29 and 30 in Sec 5 DP 939916. The right of way should nominate Council or any person nominated by Council as the beneficiary as well as Lot 1 in DP1022202, the other lots of the site, lots 29, 30, 31 and 32 in Section 5 of DP 939916.

STATUTORY EVALUATION

Recent reforms to planning legislation regarding the preparation of LEPs (Part 3 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 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.

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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.

CONCLUSION

The location and characteristics of the site mean other permissible open space uses are undesirable and the small size of the site prevent its effective use for other private recreation. The land is surplus to the requirements of Manly Golf Club. The history and location of the site the most appropriate use of the land would be for residential development. Therefore it is necessary to consider the rezoning of the land. In order for a residential development to occur the site must be zoned residential. Residential development on this site will assist in Council achieving its targets under the Sydney Metropolitan Strategy. The rezoning of this land will not have a significant impact on the provision of open space in the immediate locality or the LGA as a whole.

RECOMMENDATION

THAT Council:-

1. Council resolve to initiate an amendment to Manly Local Environmental Plan 1988, being Amendment 82, pursuant to sections 54-55 of the *Environmental Planning & Assessment Act, 1979*, in respect of:
 - a. The re zoning of lots 29 - 31 and 32 in Sec 5 of DP 939916, known as 15-17 Suwarrow Street Fairlight from No. 6 Open Space Zone to No. 2 Residential Zone.
2. Council resolve to amend the Manly Development Control Plan for the Residential Zone 2007 – Amendment 1 to include 15-17 Suwarrow Street Fairlight and 28-34 Balgowlah Road Fairlight within Density Sub-zone 3 on the Residential Density and Height Subzone Map.
3. Council resolve that any future development that is for more than two dwellings overall on lots 29, 30, 31 and 32 in Sec 5 of DP 939916, known as 15-17 Suwarrow Street, Fairlight be required to provide vehicular access via Balgowlah Road through one of the adjoining lots known as 28-40 Balgowlah Road (lots 1 and 2 in DP 986348, Lot 1 in DP 196552, Lot 1 in DP1022202 and Lot 1 in DP 1063317).
4. Council resolve that should vehicular access for future development be through L M Graham Reserve, a right of way will be required at the eastern most part of the site being. A 1 metre right of way will be required for lots 29 and 30 in Sec 5 DP 939916. The right of way should nominate Council or any person nominated by Council as the beneficiary as well as Lot 1 in DP1022202, the other lots of the site, lots 29, 30, 31 and 32 in Section 5 of DP 939916.

ATTACHMENTS

AT- 1	Letter from Ingham Planning	2 Pages	Circulated Separately
AT- 2	Planning Proposal from Ingham Planning	29 Pages	Circulated Separately
AT- 3	Survey Plans	3 Pages	Circulated Separately
AT- 4	Potential Future Access Plan	1 Page	Circulated Separately

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