



Agenda

Planning and Strategy Committee

Notice is hereby given that a Planning and Strategy Committee of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

Monday 11 September 2006

Commencing at 7:30:00 PM for the purpose of considering items included on the Agenda.

Persons in the gallery are advised that the proceedings of the meeting are being taped for the purpose of ensuring the accuracy of the Minutes. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.

*Copies of business papers are available at the Customer Services Counter at Manly Council, Manly Library and Seaforth Library and are available on Council's website:
www.manly.nsw.gov.au*

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General Managers Division Report No. 26	
<i>Tender Outdoor Dining Area - It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.</i>	
Corporate Planning And Strategy Division Report No. 44	
<i>Tender For Reconstruction of Boat Launching Ramp, Craig Avenue, Little Manly It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.</i>	

***** END OF AGENDA *****

TO: Planning and Strategy Committee - 11 September 2006
REPORT: General Managers Division Report No. 25
SUBJECT: Seaforth (Former) TAFE Site - Progress Update
FILE NO:

SUMMARY

- This matter was listed for Council's consideration at the Land Use Management Committee Meeting on 4th September, 2006. The matter was deferred and is now re-listed for consideration.
- A Progress Report was submitted to Council at its Planning and Strategy Committee Meeting on 14th August, 2006.
- That report gave notice to Council that a meeting of the Community Reference Group was to take place on 17th August, 2006 to consider the Report commissioned by Council from Gabrielle Morrish (GMU Design) in relation to Draft Urban Design Guidelines for the Seaforth site.
- The recommendations of the Community Reference Group are set out in the report hereunder.

REPORT

At the Community Reference Group (CRG) meeting on 17th August, 2006, Gabrielle Morrish presented the Draft Urban Design Guidelines for the former Seaforth TAFE site and surrounds. It should be noted that similar arrangements have been made for Gabrielle Morrish to present her Draft Report to Council (on 4th September, 2006) and to respond to questions in relation thereto.

Following the Gabrielle Morrish presentation to the CRG, representatives of Landcom and Allen Jack and Cottier Architects demonstrated how they had responded to these Draft Guidelines in terms of the building bulk, layout, landscaping, public space allocation, plus environmental issues such as solar access, etc.

Following lengthy discussion and questioning of both Gabrielle Morrish, Landcom and the Architects, the CRG adopted a series of recommendations as under:-

- "1. That the Community Reference Group endorses the Draft Urban Design Guidelines prepared by Gabrielle Morrish for the purpose of exhibiting to the broader community as part of the more formalised process of adopting guidelines for the former Seaforth TAFE Site and the immediate surroundings.
2. That Landcom be requested to further investigate the possibility of additional parking being provided as part of the project and that this parking preferably be underground, possibly within the adjoining road reserves.
3. That Council commission a Financial Report on the Economic Analysis of the development potential of the site and the associated cost to confirm the submissions made by Landcom in this regard.
4. That in reporting the matter to Council in support of the exhibition of the guidelines for the site, that the feedback from the Community Reference Group be incorporated in a Matrix form."

In response to these recommendations from the CRG, the following comments are made.

General Managers Division Report No. 25 (Cont'd)**Comments**

1. The Urban Design Guidelines prepared by Gabrielle Morrish are in draft form and in order that they be given some formal status, the process would require that the Draft Guidelines be placed on public exhibition and that after a period of 28 days, Council consider those responses, and if deemed appropriate, to modify the Guidelines accordingly thereafter.

A further process would ensue where Council's Codes would be modified and/or a rezoning application would be progressed. This would require another formal approval process involving both Council and the Department of Planning.

The two significant issues that were raised by the CRG were in relation to height and parking issues. It should be noted that Part 1 of the Recommendation is intended to get a response from the community in relation to the proposed Draft Guidelines and that Part 2 of the Recommendation addresses the issue of parking.

2. Landcom has been put on notice that it is required to further investigate the possibilities for additional parking and this process has commenced.
3. In relation to the Financial Report and Economic Analysis, Council staff met with Landcom and a representative of the firm which was used to guide the Economic Analysis of the site. It may be necessary and appropriate that when the report is brought back to Council following exhibition of the Urban Design Guidelines that a more detailed report on the Economic Analysis be provided at that time.

A matrix which gives Council some guidance on the attitude of individual members of the CRG to the proposed Guidelines is **attached** for the information of Councillors.

RECOMMENDATION

- A. That Council endorse Recommendations 1 to 3 of the Community Reference Group Meeting of 17th August, 2006, as follows:-
 1. That the Draft Urban Design Guidelines prepared by Gabrielle Morrish be endorsed for the purpose of exhibiting to the broader community as part of the more formalised process of adopting guidelines for the former Seaforth TAFE Site and the immediate surroundings.
 2. That Landcom be requested to further investigate the possibility of additional parking being provided as part of the project and that this parking preferably be underground, possibly within the adjoining road reserves.
 3. That Council commission a Financial Report on the Economic Analysis of the development potential of the site and the associated cost to confirm the submissions made by Landcom in this regard.
- B. That Council resolve to exhibit the Draft Urban Design Guidelines prepared by Gabrielle Morrish (GMU Design) for a period of 28 days.
- C. That a further report be presented to Council following the exhibition, including further reports in relation to points A2 and A3 of the recommendation above.

ATTACHMENTS

AT- 1 Summary of Responses to Questionnaire by CRG Members 2 Pages

PS110906GMO_1.doc

***** End of General Managers Division Report No. 25 *****

General Managers Division Report No. 25 - Seaforth (Former) TAFE Site - Progress Update
Summary of Responses to Questionnaire by CRG Members

SEAFORTH (FORMER) TAFE SITE

SUMMARY OF RESPONSES TO QUESTIONNAIRE BY COMMUNITY REFERENCE GROUP MEMBERS

Question	Yes	No	Undecided
1. In your opinion, does the "Seaforth Plaza" concept meet the community objectives set down by the CRG as under:-			
(a) A Community Place	12		
(b) A Learning Place	8	2	2
(c) Invigorate the Town Centre	12		
(d) A People Meeting Place	10	1	1
(e) Produce a Quality Urban Precinct	12		
(f) Address Traffic and Parking	7	2	3
(g) Address Pedestrian Access	10	1	1
(h) Address Safety and Security	8	2	2
2. (a) In your opinion, do the Draft Urban Design Guidelines reflect and address the above objectives agreed through the CRG process?	9	3	
2. (b) In your opinion, does the "Seaforth Plaza" concept satisfy the objectives and principles set out in the Draft Urban Design Guidelines, below? The objectives of these Guidelines are to:- (i) Ensure development in the Seaforth Centre relating to the Former TAFE site is of the highest architectural and urban design standards.	10	1	1

General Managers Division Report No. 25 - Seaforth (Former) TAFE Site - Progress Update
 Summary of Responses to Questionnaire by CRG Members

SEAFORTH (FORMER) TAFE SITE
 SUMMARY OF RESPONSES TO QUESTIONNAIRE BY COMMUNITY REFERENCE GROUP MEMBERS

Question	Yes	No	Undecided
(ii) To create a high quality domain that improves pedestrian amenity and safety.	10	1	1
(iii) Protect the scenic and landscape qualities of the Seaforth Centre and the areas surrounding the Seaforth Centre.	10	1	1
(iv) Maintain and continue the existing human scale of the Seaforth Centre at street level.	8	1	3
(v) Protect the historic character and setting of the former school building.	10	1	1
(vi) Improve the pedestrian and cyclist connectivity within the Seaforth Centre.	9	1	2
(vii) Ensure development relating to the site is sustainable and consistent with the principles of Ecologically Sustainable Development.	8	1	3
3. Do you support the public exhibition of the (Seaforth Plaza) concept and Draft Urban Design Guidelines to allow broader community comment on the proposal?	9	3	

PAGE: 2 of 2

MP: 0775JHFM2-3

TO: Planning and Strategy Committee - 11 September 2006
REPORT: Corporate Planning And Strategy Division Report No. 43
SUBJECT: Items For Brief Mention
FILE NO:

1. Minutes of Meetings:-

- (i) Sydney Water & Manly Council Partnership – Minutes of Meeting Held on 27 July 2006.
- (ii) Manly LEP & DCP Review Working Party – Minutes of Meeting Held on 2 August 2006.
- (iii) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 8 August 2006.
- (iv) Manly Scenic Walkway Committee – Minutes of Meeting Held on 8 August 2006.
- (v) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 24 August 2006.
- (vi) Manly Harbour Foreshore Management Committee – Minutes of Meeting Held on 15 August 2006.
- (vii) Heritage Committee – Minutes of Meeting Held on 2 August 2006.
- (viii) Manly Traffic Committee – Minutes of Meeting Held on 28 August 2006.
- (ix) SHOROC Executive Committee – Minutes of Meeting Held on 24 August 2006.

2. The following Minutes contain recommendations of a substantial nature requiring formal Council adoption as follows:-

- (a) Manly Harbour Foreshore Committee – Minutes of Meeting Held on 15 August 2006.

Item 4.1.2 Extension of Waterway Boat Speed Zoning

Recommendation:

That a letter be forwarded to NSW Maritime supporting the proposal to extend the existing speed zoning to include all areas between Cannae and Manly Points.

- (b) Manly Harbour Foreshore Committee – Minutes of Meeting Held on 15 August 2006.

Item 4.5.1 Pedestrian Boardwalk at North Harbour

Recommendation:

That the Committee does not support the concept of a pedestrian boardwalk linking North Harbour foreshore between North Harbour Reserve (King Street) and Lauderdale Ave due to the considerable cost in constructing such a structure, community opposition and the negative environmental and aesthetic impact.

Corporate Planning And Strategy Division Report No. 43 (Cont'd)

- (c) Heritage Committee – Minutes of Meeting Held on 2 August 2006.

Item 9 Heritage Review Budget

Recommendation:

That the Committee minute its thanks to Councillors for supporting the funding of the Comprehensive Heritage Review.

- (d) Manly Traffic Committee – Minutes of Meeting Held on 28 August 2006.

Item 73/06 Fairlight Shopping Centre

Recommendation:

That; Council adopts in principle the Fairlight Shopping Centre Urban Improvement Plan OPTION B (1) as presented at the meeting.

Further That; Council formally submits the design plan to the RTA and Manly Police for comment.

Further That; upon receiving RTA and Police advice Council then carry out the appropriate consultation with both the Fairlight and Ivanhoe Park Precincts.

Further That; Council carry out additional local consultation with residents of Hill Top Cres and William St in relation to the proposed 90 degree angle parking areas and traffic movements.

- (e) Manly Traffic Committee – Minutes of Meeting Held on 28 August 2006.

Item 74/06 Rolfe Street – Proposed Shared Zone

Recommendation:

That; Council submits an application to the RTA's Road Safety Section to implement a Shared Zone in Rolfe Street, between Balgowlah Road and Collingwood Street, including raised thresholds at both ends and all appropriate signage.

Further that; Council carry out a review of the shared zone 6 months after implementation.

RECOMMENDATION

1. That the recommendations of Minutes of Meetings, as listed in Item 1 above, being 1(i) to 1(ix), be adopted.
2. That in relation to all matters of a substantial nature listed in Item 2 above, being 2(a) to 2(e), be adopted as per the recommendation of the Committees.

ATTACHMENTS

There are no attachments for this report.

PS110906CPSD_1

***** End of Corporate Planning And Strategy Division Report No. 43 *****

TO: Planning and Strategy Committee - 11 September 2006
REPORT: Corporate Planning And Strategy Division Report No. 45
SUBJECT: Climate Change Forum, Manly
FILE NO:

SUMMARY

Climate Change is one of the most commanding concerns facing humans today. Manly Council's Climate Change Forum is in response to the need to look seriously at the issues and risks, particularly the more severe possibilities of extreme climatic events. The aim of this particular forum is to raise the awareness of key stakeholders from the Manly Local Government Area, including: residents, property owners and developers, business owners and community groups, in regard to the planning implications for adaptation to risks associated with climate change. The desired outcome is for key stakeholders to understand and actively support the need for effective adaptation to the risks associated with climate change, along with making some behavioural changes themselves to address their personal impact.

REPORT

Background:

The Climate Change Forum is an initiative of the Manly Environment Centre in response to the interest and level of concern expressed by members of the local community about climate change. This interest was evident during the consultation phase of the Manly Futures Forum resulting in Council's 20 year vision document "Surfing the Future".

A paper entitled The Enhanced Greenhouse Effect: Local Climate Change in the 21st Century, prepared by Dr Peter Mitchell (founding member of Council's Scientific Advisory Panel) in November 2005 is circulated under separate cover as Appendix A to this report.

This paper was reviewed by other members of Council's Scientific Advisory Panel and accompanies this report, as it provides a plain English summary for Councillors of the range of issues and future challenges associated with climate change.

The paper also makes reference to the diversity of opinion on this subject, part of the importance of encouraging debate and holding a forum to assist in finding a consensus on the most appropriate and feasible responses governments (at all levels) may take in addressing issues relating to climate change in the future.

Proposed Forum Details

In order to present a purposeful event, significant effort in research has been made to design and structure an event that will have useful information and provide opportunities for functional outcomes. The following is proposed:

- The Climate Change Forum event theme is to be entitled "*Climate Change - Planning for the Future*".
- Following investigation of other key events and activities taking place locally and regionally the date of the event is Sunday 29th October, 2006 from 2-4pm.
- Venue - the Great Hall, International College of Tourism and Hotel Management. After event catering on the lawns outside the college.

Corporate Planning And Strategy Division Report No. 45 (Cont'd)

- Format of the event is for a facilitator to engage an expert panel of 4-6 members in a concise and lively discussion on climate change impacts and adaptation for Manly. The event will run for two hours and include an open Q & A and afternoon tea. The Great Hall can accommodate 300 people.
- The topics to be covered include issues relating to coastal and estuarine vulnerability, infrastructure, planning, legal, insurance, economic, social/health and climate risk assessments.
- This forum will deal with Manly specific issues and each speaker will be asked to address the challenges in the Manly context.
- Council's Events Team will assist with technical event production to ensure the event is professionally presented.
- Event production will include "scripting" the facilitator (as required), formally briefing the speakers to ensure the diversity of themes as desired are covered.
- Council's Natural Resources and Environmental Education staff will be encouraged to have information on display at this event eg, environmental educators workshops and associated programs.

Facilitator/Speakers Panel:

The event will obtain a high profile personality as a facilitator who also has highly regarded credentials in the environmental/scientific field. Negotiations are currently in progress.

The speaker panel will consist of academics, consultants, lawyers and economists who are leaders in their fields from universities, the professions and industry. While final speakers will depend on peoples' availability the draft program is as follows:

Name	Company/Area
Dr Peter Cowell	University of Sydney Marine Institute; researcher in marine shore interaction with particular reference to risks associated with climate change in Manly
Monique Willis	Baker & Mackenzie – legal issues
Mark Leplastrier	IAG Insurance – insurance risk
Greg Britton	Patterson Britton & Partners – engineering & infrastructure
Dr John Marsden	Marsden Jacobs Associates, economist, author and presenter of the current Australian Greenhouse Office publication and workshops on Climate Change Risk and Adaptation for Business and Government.
Professor Ed Blakely	School of Architecture - University of Sydney – planning issues
Dr Anna Lyth	Macquarie University – ESD planning for Local Government and climate change risk
Special Guest Presenters	Room is left in the program for 2 special guest speakers – to be announced closer to the event.

Corporate Planning And Strategy Division Report No. 45 (Cont'd)**Conclusion:**

Issues of climate change are of concern to people in the local community. The science associated with this topic is at times complex for the lay person and the reports sometimes differing even amongst "experts" in the field. This report proposes the conduct of a climate change forum focusing on Manly specific issues and delivered in an "accessible" way to assist in informing the local community and Council generally on the issues and challenges that will need to be addressed now and in the future in relation to climate change.

RECOMMENDATION

1. That Council receive and note the report.
2. That Council endorse the organisation of the Climate Change Forum as outlined in the body of the report.

ATTACHMENTS

There are no attachments for this report

PS110906CPSD_3

***** End of Corporate Planning And Strategy Division Report No. 45 *****

TO: Planning and Strategy Committee - 11 September 2006
REPORT: Corporate Planning And Strategy Division Report No. 46
SUBJECT: Manly Cemetery Conservation Management Plan
FILE NO:

SUMMARY

Council commissioned a Conservation Management Plan (CMP) for the Manly Cemetery, Balgowlah in order to assist in the management of this local heritage listed item. This CMP has been completed and received by Council and is ready to be implemented. Council also applied to have the Cemetery listed as an item of State Significance and the CMP will assist in this process as well.

Council has recently received funding from the NSW Heritage Office for conservation works and repairs to damaged graves further to the application for State listing. All works will be done in accordance with the recommendations of the CMP and in accordance with the principles of heritage conservation and management. The Cemetery has sustained damage from vandalism and misuse over the years and Council is committed to restoring it in recognition of its importance as a heritage item and its high value to the community. To this end, Council in August 2006 convened a Working Party in order to guide and manage the restoration and maintenance of the Manly Cemetery.

REPORT

Background

The Conservation Management Plan (CMP)

Manly Council commissioned Jeff Thompson, Cemetery Specialist, to develop the Manly General Cemetery Conservation Management Plan (CMP) 2006. This document is **tabled** for Councillors information. The CMP includes an assessment of the heritage significance of the Cemetery and outlines policies to manage and conserve this significance.

In summary, the CMP assesses the cultural significance of the Manly Cemetery in accordance with the criteria of the New South Wales Heritage Office (Heritage NSW) and gives the following summary Statement of Significance:

“Manly Cemetery is of representative and important significance as the burial ground of approximately 6,000 people who contributed to the founding and shaping of this region of NSW. The layout, design, use of materials and craftsmanship displayed in Manly Cemetery demonstrate historic religious and social trends and provide evidence of changing attitudes to death and religion dating from the establishment of the Cemetery as a public burial place in the mid-nineteenth century in one of the early settlements of the Greater Sydney Area. Manly Cemetery provides a direct historical record of communities in the Manly and Greater Sydney Area. The headstones document essential data concerning the births, deaths and burial of many of the earliest residents of the area and provide a valuable body of historical information for the use of present and future generations.”

The CMP follows the principles and conservation guidelines of the *Australia International Convention on Monuments & Sites Burra Charter 1999* for the conservation of heritage significance and recommends the retention of all significant fabric including the monuments and graves, the historic landscaped setting, allotment boundaries, significant street tree planting and the vegetation within the cemetery. Recommendations for the restoration of the graves and their on-going maintenance and care are also broadly addressed.

Corporate Planning And Strategy Division Report No. 46 (Cont'd)

As a result of heritage research done for the CMP as well as community input, the cemetery has been nominated for State heritage listing. This nomination is currently being assessed by Heritage NSW. Council also applied to Heritage NSW for funding assistance for conservation works for damaged graves and was in July 2006 granted \$15,000 for this work. The CMP will guide this conservation and repair work.

A copy of the CMP will be provided to the Manly Local Studies Library, Planning & Strategy, Development Control and relevant maintenance staff.

The Manly Cemetery Working Party

In August 2006, Manly Council convened a Cemetery Working Party to be responsible for reviewing the CMP, coordinating maintenance work and liaising with the Heritage Committee and the community. This group will be an action-based working group that will ensure that the Cemetery is restored and its heritage significance retained. The primary roles of the working party are as follows:

- Review the recommendations from the Plan.
- Develop and action plan from the implementation proposal.
- Coordinate with maintenance staff and other relevant staff whose roles impact or relate to the Cemetery.
- Source funding for ongoing maintenance works in the Cemetery.
- Improve Customer Service in relation to administration and public enquiries regarding the Cemetery.
- Restoration.
- Significant grave maintenance.
- Advertisements for restorations of graves and headstones.

The Manly Cemetery has been allocated \$60,000 by Manly Council in order to carry out repairs and maintenance and to implement the Conservation Management Plan. The \$15,000 grant from Heritage NSW will be used entirely for restoring damaged headstones. The Working Party will meet monthly in the initial phases of project work and it is anticipated that this frequency will be reduced as work gets underway.

Members of the Working Party comprise community representatives, Councillors and Council staff. Work will be done by Council staff as well as contractors and heritage specialists.

The Cemetery Working Party Action List includes all of the following actions. These works require co-ordination across all Divisions of Council.

- Implement one customer service enquiry number for all Cemetery enquiries.
- Create a proforma of conditions of consent for restoration to occur and an application process
- Develop grave site restoration, cleaning and weeding guidelines.
- Review fees and charges structure for restoration works.
- Create a significant grave list for priority restorations.
- Contact the major Sydney based heritage stone masons about Council's conditions for working in the Cemetery.

Corporate Planning And Strategy Division Report No. 46 (Cont'd)

- Creation and installation of signage in the Cemetery with customer service, heritage, directional and behavioural information.
- Audit of dangerous graves in the cemetery, do a make safe analysis.
- Complete the photographic record of every grave, some of which is already available and make available via Council's Local Studies Library collection. This data base needs to be compiled in a computer programme that is easily accessible and searchable.
- Investigate the feasibility of installing cost effective security lighting (certain sections of the Cemetery only/issues of residential amenity to be considered).
- Review arrangements relating to after hour procedures, specifically responses to reports of vandalism and/or storm damage.
- Audit of trees in the Cemetery and their status, recommendations on existing trees.

CONCLUSIONS

The Manly Cemetery has high local heritage significance and potential State heritage significance. The Conservation Management Plan will assist Council in the management of the place to retain its heritage significance for current and future generations.

RECOMMENDATION

1. That the report be received and noted.
2. That Council receive a further report from staff on the progress of implementing the recommendations of the Manly General Cemetery Conservation Management Plan 2006 in 12 months time.

ATTACHMENTS

There are no attachments for this report.

PS110906CPSD_4

***** End of Corporate Planning And Strategy Division Report No. 46 *****

TO: Planning and Strategy Committee - 11 September 2006
REPORT: Corporate Planning And Strategy Division Report No. 47
SUBJECT: Draft LEP Amendments - Amendment No. 77
FILE NO:

SUMMARY

- Reporting on proposed amendments to the Manly LEP 1988.
- A number of matters, heritage related and administrative, are “bundled” into one LEP as required by the Department of Planning.
- It is recommended that the Council resolve to prepare the Plan.

REPORT

Background

It was reported to the meeting of the Planning and Strategy Committee on 14 November 2005 (“State Government Planning Reform”, CPS Report No. 62) that in order to facilitate the process of the LEP review, the Department of Planning (DOP) had written to Council recommending that Council cease to make minor LEP amendments in the interim. It was subsequently resolved that Council “cease making minor LEP amendments except where they are necessary to achieve planning objectives in the short-term, pending the outcome of the LEP review”.

Recent events and consideration of issues through the review of Manly LEP 1988 have drawn attention to planning considerations which warrant attention in the short term. The Department of Planning has also advised that Council has an opportunity to consider annual “housekeeping” amendments to its current LEP to attend to any such matters, and encourages the grouping together of issues to be addressed in the one amending LEP. In preparing amending LEPS, the DOP has advised Councils are to take into account the public interest and the possible implications of not proceeding with the proposed amendments at this time.

Matters for consideration in Amendment No. 77 to Manly LEP 1988

The following matters have been identified as potentially requiring amendments to Manly LEP 1988:-

- Floor area definition
- 33 Alexander Street – heritage listing
- 3 Oyama Street - heritage listing
- 29 Victoria Parade – heritage listing
- 1-7 Augusta Road – include in heritage schedule

Floor Area Definition

Manly LEP 1988 effectively calls up the definition of floor space ratio/gross floor area from Council’s DCPs via Clause 3(1)(b) of the Aims and Objectives under Manly LEP 1988. Manly LEP 1988 also calls up various provisions of the Model Provisions 1980 under Clause 6, which has also been interpreted to include calling up the definitions of gross floor area from the Model Provisions which differs from that, for example, in Council’s Residential DCP.

It has been highlighted in a number of appeals to the Land and Environment Court, including a recent appeal in relation to 66B Ponsonby Parade Seaforth, that there is some confusion over which definition of gross floor area called up by the Manly LEP 1988 is required to be complied with particularly as affecting floor space ratios.

Council’s practice has been consistently and clearly applied in that such calculations involve consideration of gross floor space as per the definition under Council’s DCP. Whilst this practice has been recognised and upheld in the Land and Environment Court, it is considered early attention to appropriately amending Manly LEP 1988 to clarify the situation is warranted.

Corporate Planning And Strategy Division Report No. 47 (Cont'd)

It is also timely to consider the proposed amended definition under Council draft Residential DCP which adopts the definition of floor space contained in the Standard LEP gazetted 31 March 2006. It is a requirement in any amendments to Manly LEP 1988 to consider, amongst other matters as appropriate, the gazetted Standard LEP.

Heritage Matters

LEP amendments to list 33 Alexander Street and 3 Oyama Street as heritage items were effectively rejected by the Department of Planning, when it forwarded advice pursuant to section 54. The Department has adopted a policy of discouraging "spot rezonings" to reduce the number of LEPs. The Department indicated, however, that it would consider an LEP Amendment, which "bundled" a number of matters in the one LEP. It is now appropriate to include them in this LEP amendment.

The Council sought a Heritage listing on 29-31 Victoria Parade. However, because of a matter before the Land and Environment Court with regard to 27-29 Victoria Parade, the Minister only agreed to the listing of 31 Victoria Parade and deleted 29 Victoria Parade. Subsequently the Court dismissed the appeal, which was for a DA involving the demolition of the existing buildings and the erection of a residential flat building. Heritage, compliance and SEPP 10 were the main issues. It is now appropriate to pursue the listing of No. 29 Victoria Parade.

Nos 1, 3, 5 and 7 Augusta Road are shown coloured on the Heritage Map, but are not listed in Schedule 4 (Items of Environmental Heritage) in Manly LEP. It is proposed, by way of this amendment, to correct this anomaly and include them in Schedule 4.

CONCLUSION

Council is required under the Environmental Planning and Assessment Act 1979 (EP&A Act) to resolve to prepare local environmental plans and notify any such decision to the Director-General of the Department of Planning under section 54 of the EP&A Act.

It is considered that the amendments to Manly LEP 1988 identified in this report are justifiable in terms of the public interest, could lead to adverse outcomes if not attended to in the short term, and satisfy particular outcomes resolved by the Council in regard to heritage listings.

RECOMMENDATION

1. That Council resolve, pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, to prepare a draft Local Environmental Plan to amend the Manly LEP, 1988 to achieve the amendments and their objectives as outlined in this report.
2. That Council notify the Department of Planning of its decision and request 'Written Authorisation to Exercise its Delegation' for the issue of a Section 65 Certificate, and the preparation of Section 69 Report following exhibition.
3. Consult as required by Section 62 of the *Environmental Planning and Assessment Act, 1979*, including with relevant Government and other Authorities and all owners of any properties affected by the heritage matters identified in the report.
4. Exhibit the draft Local Environmental Plan pursuant to Section 66 of the EP&A Act 1979, following the issue of a Certificate under Section 65 of the EP&A Act, 1979.

ATTACHMENTS

AT- 1 Proposed draft amending LEP No 77 1 Page

PS110906CPSD_5

***** End of Corporate Planning And Strategy Division Report No. 47 *****

ATTACHMENT 1

Corporate Planning And Strategy Division Report No. 47 - Draft LEP Amendments - Amendment No. 77

Proposed draft amending LEP No 77

Manly Local Environmental Plan 1988 (Amendment No. 77)

under the
Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the Environmental Planning and Assessment Act 1979.

The Hon. Frank Sartor
Minister for Planning

1 Name of Plan

This plan is Manly Local Environmental Plan 1988 (Amendment No77)

2 Aims of Plan

This plan aims to amend Manly Local Environment Plan 1988 by:

1. listing certain properties as items of environmental heritage;
2. correcting the identification of a heritage listing;
3. removing a reference to the Model Provisions definition of “gross floor area” from the plan;

3 Land to Which Plan Applies

This plan applies to in the local government area of Manly, and includes lands specifically identified as:

- 29 Victoria Parade
- 3 Oyama Avenue
- 33 Alexander Street
- 1 – 7 Augusta Road

4 Amendment of Manly Local Environmental Plan 1988

Manly Local Environmental Plan 1988 is amended by;

A) Inserting in the appropriate order in the definition of **the map** in Clause 7(1), the following words:

Manly Local Environmental Plan (Amendment No. 77).

B) Inserting in the appropriate order in Schedule 4 the following:

Residential Building	29 Victoria Parade (Lot 1 DP65863)
House	3 Oyama Avenue (Lot 14 DP1049394)
House	33 Alexander Street (Lot 9 DP 4603)
Semi-detached cottages	1-3 Augusta Road (Lots X&Y DP441080)
Residential Building	5 Augusta Road (Lot 1 DP 925171)
Residential Building	7 Augusta Road (SP 16188)

C) Adding to Clause 6 , after, the words “general store” the words “gross floor area”.

TO: Planning and Strategy Committee - 11 September 2006
REPORT: Corporate Planning And Strategy Division Report No. 48
SUBJECT: Update on the Development Control Plan (DCP) Process
FILE NO:

SUMMARY

This report updates Council on the recent further changes to the process affecting the preparation of Development Control Plans (DCPs), including the extension in time for Council to comply with the one DCPs per site rule, and the new powers the Minister has with respect to DCPs.

REPORT

Background

Previous reports to Council have identified changes through the NSW Planning Reforms affecting, amongst various other matters, the process and considerations relating to the preparation of Development Control Plans (DCPs). There have been a number of amendments relating specifically to the DCPs process.

New requirements in respect of DCPs were introduced with amendments to the Environmental Planning and Assessment Act 1979 which came into effect on 30th September 2005. The amendments required that only one DCP per planning authority may apply to the same land. Councils were given a period within which to comply with this requirement otherwise DCPs which did not comply would be invalid. Further amendments commencing 9th December 2005 extended the time for compliance, thus enabling Council to adopt DCPs which had been in the process of preparation for some time.

Since that time further amendments, and also new powers for the Minister with respect to the preparation of DCPs, amongst other changes to the planning system have been made. These were flagged in a report to Council's Land Use Management Committee on 3rd April 2006 ("Changes to the Environmental Planning and Assessment Act 1979" CPS Report No. 19).

Later in April 2006, a further change was made to the timeframes within which Councils are required to comply with the one DCP per site as outlined below.

One DCP Per Site Rule

Amendments gazetted 28th April 2006 affecting DCPs extend the time within which Council is required to comply with the one-DCP per site rule. Compliance is now required either once a Council has prepared a new principal LEP that adopts the provisions of the Standard LEP Instrument, or, by 31st March 2011, whichever is the sooner. Manly Council has been given 5 years from the gazettal of the Standard LEP instrument to prepare its new principal LEP which corresponds with the same 31st March 2011 deadline for consolidation of its DCPs.

This change allows Council more time to progress the preparation and consolidation of its current DCPs into one version.

Current Status of Manly's DCPs

As a result of the changes to the DCP process, Council now has until 31st March 2011, or sooner, in conjunction with the preparation of a new principal LEP, to comply with the one DCP per site rule.

Minister's New Powers Relating to DCPs

Changes effective from 30th June 2006 (through the commencement of the Environmental Planning and Assessment Amendment Act 2006 assented to on 30th April 2006) mean that with respect to DCPs:-

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- the Minister now has powers to direct Council to amend, revoke or make a DCP;
- if the Council does not comply with the Ministerial direction, the Minister can bypass the Council and make the DCP himself;
- the Minister may intervene in a DCP to ensure that it does not undermine an LEP, nor prevent appropriate development or increase the cost of development;

The Minister's direction is not subject to the normal DCP making process under the Regulations. There is no need for an exhibition, report to Council or public notice.

The one DCP per site rule does not apply to the Minister. This means that in the event of DCPs made or amended by or at the direction of the Minister, there will not have to be any unnecessary amendments made (by Council) to any other DCP that applies to the same land as the DCP that is made or amended by the Minister.

Conclusion

As planning considerations warrant, amendments to Council's DCPs will continue in consultation with Council, for example, the minor amendments currently in progress regarding Council's Residential and Business Centres DCPs. Amalgamation of Council's DCPs is underway as a broader process to produce a single DCP for the Council area. More DCP review will be required as Council moves through the LEP review process to ensure consistency between the LEP and DCPs, and to assist the process of consolidation of the DCPs. This process will, as necessary, be concurrent with the LEP review process to ensure compliance with the required timeframe.

RECOMMENDATION

1. That Council receive and note the information contained in this report.

ATTACHMENTS

There are no attachments for this report.

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***** End of Corporate Planning And Strategy Division Report No. 48 ***** .