

**TO:** Planning and Strategy Committee - 2 May 2016  
**REPORT:** Environmental Services Division Report No. 12  
**SUBJECT:** Proposed Amendment to Manly Development Control Plan 2013  
**FILE NO:** MC/16/56902

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## SUMMARY

This report recommends various amendments to be made to the Manly Development Control Plan (DCP) 2013 to improve guidelines in relation to a range of design matters. It is recommended that Council exhibit the draft amendments, as supported by the Manly LEP/DCP Working Group at its meeting on 9th March 2016 and adopted by Council at its Ordinary Meeting of 4th April 2016.

## REPORT

### Introduction

It is proposed to amend Manly DCP 2013 to improve guidelines in relation to a range of design matters including:

- Visual Privacy;
- Open Space;
- Setbacks;
- Streetscape;
- Solar Access and Natural Ventilation;
- Density and Unit Size; and
- Design Excellence.

### Background

In 2015 the NSW Government published an amendment to the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development i.e. the SEPP and introduced a new NSW Apartment Design Guide i.e. the NSW Guide. As a consequence of the amendments, Councils' Strategic Planners reviewed the Manly DCP to ensure consistency, up-to-date and generally improved policy for the assessment of residential development.

A key objective of the NSW Apartment Design Guide is to 'support councils in developing planning controls and master plans through improved guidance'. In this regard certain amendments to terminology and the framing of policy are proposed for the Manly DCP in accordance with this guidance. The Manly DCP is also to be amended to improve compatibility with the NSW Guide and ensure that the documents read well together, including appropriate referencing. It is also recommended that certain design guidance in the SEPP be adapted as appropriate for the DCP in relation to certain developments not already covered in the NSW Guide/SEPP such as dwelling houses.

### Details for Proposed DCP Amendment

The proposed amendments to the Manly DCP 2013 document are detailed, paragraph by paragraph, in the attachment to this report and are reported in summary as follows:

#### Visual Privacy

While Manly DCP objectives for visual privacy seek to 'minimise loss of privacy', the NSW Guide objectives goes further in seeking to 'increase' privacy 'without compromising access to light and air and balance outlook and views from habitable rooms and private open space'. In this regard it is recommended that the DCP objective be revised to better align with the NSW Guide to both



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increase and strengthen privacy considerations without compromising other amenity considerations (e.g. sunlight and views).

In relation to balconies and terraces, the DCP currently provides for architectural or landscape screens to limit overlooking nearby properties. A more diverse range of design solutions are provided in the NSW Guide which are proposed to be similarly provided in the DCP including the use of recessed balconies in achieving privacy between adjacent balconies/dwellings.

Open Space

It is proposed to introduce new definitions from the NSW Guide including 'Deep Soil Zone' and require that the minimum tree plantings (in accordance with existing DCP Figure 37) must be located in a deep soil zone as defined. Other definitions that are proposed to be adopted from the NSW Guide into the DCP include 'façade', 'building line' and 'studio dwelling'.

Setbacks

Further guidance is proposed in relation to setbacks for privacy in the DCP. The NSW Guide states 'windows should be offset from the windows of adjacent buildings' (without exception) whereas the DCP only provides this guidance for 'when building (are) close to boundaries'. It is proposed to amend the DCP such that 'All new windows from habitable rooms of dwellings that face the side boundary are to be setback at least 3m from the boundary'. It is considered reasonable to apply the existing minimum 3m window setback in relation to all new windows to habitable rooms given that the building separation requirements in the NSW Guide require at least 6m between non-habitable rooms increasing to 9m separation between habitable and non-habitable rooms and 12m between habitable rooms and balconies.

In response to the NSW Guide's suggestions for drafting street setback controls, it is proposed to amend the DCP to improve guidance for front setbacks and to satisfy objectives particularly in terms of protecting and enhancing streetscape. Increased setbacks are proposed under the DCP to protect significant trees and to increase setback of upper floor levels where streetscapes are predominantly single storey in character.

Further consideration is given to DCP guidance for rear setbacks on sloping sites and the established pattern of rear setbacks in the vicinity. DCP amendments are proposed to consider increased setback on sloping sites including situations where new development is uphill, established patterns of rear setbacks, enhanced natural vegetated settings, and sensitive foreshore locations.

Streetscape

Consideration of Site and Locality Analysis in the DCP may be improved with further clarity that streetscape analysis is to include both sides of the street with particular regard to the pattern of building frontages, street and side setbacks and heights of buildings (in metres and storeys).

Solar access

Existing DCP paragraph 3.4.1.3 Overshadowing Solar Systems is to be simplified and generally consistent with the NSW Guide requiring solar access to be retained to solar collectors on neighbouring properties.

Existing paragraph 3.5.1.1 Building Form, Design and Orientation is proposed to be edited to more clearly state that northern orientation is to be maximised to optimise passive solar access and energy efficiency. Reference to the Window Energy Rating Scheme is deleted given the overriding provisions of BASIX.

Natural Ventilation

Existing paragraph 3.5.3 Ventilation was initially drafted under Manly Energy Efficiency DCP in 1996 and is proposed to be updated and edited to accord with industry standards similar to the NSW Guide.



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New DCP provisions are proposed for minimum unit size in conjunction with existing DCP guidelines for density. In this regard the existing minimum unit size that apply to certain units under the NSW Guide are proposed to be adopted for all dwellings in Manly. Council's Assessment staff advised that recent DAs highlight a need to adopt into the DCP the minimum unit size which are not covered by the NSW Guide. In this regard reliance on the density provisions alone to prevent very small units is difficult as it is often possible to justify that the development is consistent with the objectives for density. Extremely small units are undesirable in terms of internal amenity and tend to increase pressure on existing infrastructure and on street car parking demand. An additional DCP objective is also proposed to provide an acceptable level of internal amenity for dwellings associated by the proposed minimum unit size guideline.

Design Excellence

Opportunities exist to better promote design excellence as demonstrated in the NSW Guide. Appropriate references are proposed in the DCP to existing requirements for design excellence at LEP clause 6.13. In particular the DCP design principles for Local and Neighbourhood centres are strengthened by proposed references to the underlying design excellence consideration in the LEP as well as the DCP townscape (design) principles. The DCP design principles are also referenced as relevant considerations when evaluating appropriate planning grounds to support variations or exceptions to development standards under clause 4.6 of the LEP.

DCP Paragraph 5.3 provides guidelines to support LEP clause 6.13 Design Excellence in relation to St Patrick's Estate. In this regard DCP Amendments highlight considerations most relevant to St Patrick's Estate including the setting; protection and enhancement of natural topography and vegetation (and other natural features); promotion of vistas from public places to prominent natural and built landmarks; and high standards of design, material and detailing.

**Conclusion**

The proposed draft DCP amendments are reported following the considerations and support from the Manly LEP/DCP Working Group. It is also recommended that a further minor amendment be exhibited ahead of the next Manly LEP/DCP Working Group which clarifies that reference to 'subdivision' also includes lot consolidation.

The complete drafting of the proposed amendments is attached. In summary, the proposed DCP amendments introduce improvements in relation to a range of existing development guidelines.

The proposed amendments to the DCP are now recommended for exhibition as reported. Following a 28 day exhibition period any submissions are to be reviewed and reported back to Council.

**RECOMMENDATION**

That:

1. Council resolve to amend Manly Development Control Plan 2013; and
2. Council exhibit the proposed amendments, as reported, for a period of twenty-eight (28) days.

**ATTACHMENTS**

AT-	Details of Proposed Amendments to Manly Development Control Plan	9
1	Amendments to Manly Development Control Plan 2013)	Pages

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