

A large, stylized graphic of a leaf or branch, rendered in shades of green and blue, spans across the top and middle of the page. The top half is green and the bottom half is blue, matching the background colors.

Prelodgement Report

Planning Proposal 88 Bower Street Manly



NORTHERN BEACHES COUNCIL

Information about this Package

This Planning Proposal Pre-lodgment Consultation Package has been compiled by Council on the basis of information provided by the Proponent and a consultation meeting with Council staff.

It has been prepared to assist Development Proponents to prepare and lodge a Planning Proposal which addresses the relevant statutory requirements and likely issues which may arise through the Assessment Process.

It does not provide a basis for Councils formal consideration and determination of any subsequent application.

Council also considers it essential that where a proposal is complex and/or departs from Councils requirement, and/or the risk assessment has identified issues which need to be addressed, proponent(s) seek the advice of appropriately qualified consultants to assist with proposals, and preparation of applications.

Consultation with the community including affected neighbours, nearby residents and community groups is also considered to be an essential part of preparing a Planning Proposal.

Property Details

Address: 88 Bower Street, Manly

Lot: 1

DP: 1244511

Description of Planning Proposal

Description: Amendment to Manly LEP 2014 to rezone a land parcel from RE1 Public Recreation to E4 Environmental Living.

Further, associated Development Standards are to be amended to reflect the residential use of the land as follows:

- site mapped on the minimum lot size map (LSZ_006) to 500sqm;
- site mapped on the height of building map (HOB_006) to 8.5m; and
- site mapped on the floor space ratio map (FSR_006) to 0.45:1.

Meeting

Date: 21 May 2019

Time: 2:30pm

Council Representatives: Neil Cocks Manager Strategic and Place Planning, Paul Christmas Principal Strategic Planner.

Proponents Representative: Kyeema Doyle, Robinson Urban Doyle.

Information provided by proponent: Planning Proposal Pre-Lodgement Submission to Northern Beaches Council prepared on behalf of the Trustees of the Roman Catholic Church for the Archdiocese of Sydney.

Site Inspection

Date: Nil

Pre-lodgment Report

INTRODUCTION

These notes are to be read in conjunction with the Planning Proposal Pre-Lodgment Submission provided by the proponent, which formed the basis of discussion in the pre-lodgment meeting. The meeting was held to discuss the possibility of a Planning Proposal for the rezoning of a small parcel of land (57sqm) from RE1 Public Recreation to E4 Environmental Living under Manly Local Environmental Plan (LEP) 2013.

DESCRIPTION OF PLANNING PROPOSAL:

Objectives or Intended Outcomes

The stated Objectives provided to Council for the Planning Proposal are:

- to correct an apparent anomaly within the Manly LEP 2013 Maps; and
- to enable the orderly use of the site for residential purposes, consistent with the sites' existing use and the surrounding area.

Accordingly, the proposal intends to amend the Manly LEP 2013:

- to rezone land to E4 Environmental Living; and
- to introduce a range of development standards consistent with the residential redevelopment of land.

The extent of the land being considered for rezoning is identified at Figures 1 to 4 in the Applicant's submission. While the subject land is described in the Applicant's submission as being 'part of the site known as 88 Bower Street Manly', the Pre-lodgement Meeting confirmed that the site is historically Crown Lands and a Certificate of Title was issued in October 2018 to transfer ownership of the land to the Church Trustees. It was also noted that a recent Development Application for alterations and additions to the dwelling house at 88 Bower St did not identify the land as part of the development site, being Crown Land zoned for public purposes.

Accordingly, the intended outcomes of the Planning Proposal are understood to arise from the recent disposal of the subject land by NSW Department of Industries as Crown Land to the Proponent. As residential purposes of the land are currently prohibited on the site, it is further understood that the site will be consolidated as part of the residential site known as 88 Bower Street, Manly.

Explanation of Provisions

The objectives or intended outcomes to be achieved by means of an amending Manly LEP 2013 are to provide for the future redevelopment of the land for Residential purposes permitted in the Environmental Living Zone (E4) under Manly LEP 2013.

Objectives of Environmental Living Zone (E4) Zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.
- To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.
- To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.
- To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.

The proposed the zone would permit a range of new land uses identified in the LEP as follows:

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Dual occupancies (attached); Dwelling houses; Environmental protection works; Flood mitigation works; Health consulting rooms; Home businesses; Multi dwelling housing; Oyster aquaculture; Pond-based aquaculture; Residential flat buildings; Roads; Secondary dwellings; Semi-detached dwellings; Tank-based aquaculture; Water supply systems

SITE DETAILS

Site Improvements

The land to be subject of a future Planning Proposal is substantially unimproved. The site and locality are as described in the Applicant’s Submission.



Figure: Site Map

Existing Zoning

The existing zoning of the land is RE1 Public Recreation (RE1) under Manly LEP 2013 which permits a range of uses generally compatible with public open space or recreational purposes as follows:

Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Charter and tourism boating facilities; Community facilities; Depots; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Jetties; Kiosks; Marinas; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Restaurants or cafes; Roads; Take away food and drink premises; Water recreation structures; Water recycling facilities; Water reticulation systems; Water storage facilities

Any other land-uses not list above as permitted are currently prohibited land-uses.

Objectives of RE1 Zone are as follows:

1 Objectives of zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect, manage and restore areas visually exposed to the waters of Middle Harbour, North Harbour, Burnt Bridge Creek and the Pacific Ocean.*
- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

The zoning of the site prior to Manly LEP 2013 was Zone No.6 Open Space under the Manly LEP 1988.



Figure: Current Land Use Zoning

APPLICANTS JUSTIFICATION FOR PLANNING PROPOSAL

The basis for preparing a Planning Proposal should be further documented in submissions to Council as raised with the applicant in the pre lodgement meeting.

In relation to the strategic planning framework the applicant must address (but not be confined to) the following plans, policies and strategies in justifying the Planning Proposal:

Applicants consideration of relevant strategic planning framework	Details of relationship to Planning Proposal
Greater Sydney Regional Plan 'A Metropolis of Three Cities – connecting people' 2018.	The proposal would particularly respond to Eastern Harbour City visions in relation to Livability and Sustainability.
North District Plan 2018	Planning Directions under the North District include the following: A city for people Housing the City A city of great places A well connected city A city in its landscape A resilient city
Shape 2028 Northern Beaches Community Strategic Plan 2017-2028	The Northern Beaches Community Strategic Plan articulates the community's visions and priorities for the local government area.
Environment Protection and Biodiversity Conservation Act 1999	For consideration as applicable
Environmental Planning and Assessment Act 1979	Legislative requirements and procedures for Planning Proposal. Assessment requirements by IHAP also noted
Heritage Act 1977	No State listing
State Environmental Planning Policy (SEPP) – Coastal Management 2018	The land is contained within the Coastal Use Area and Coastal Environment Area (see Councils' Coastal Planners' comments for details) Under Coastal Management Directions under the Environmental Planning Assessment Act, 1979, the Planning Proposal would appear to be inconsistent with the terms of the Direction. In this regard the Planning Proposal is to demonstrate that the inconsistency is satisfactory with regards to the following: <i>'(a) justified by a study or strategy prepared in support of the planning proposal which gives consideration to the objective of this direction, or: (c) in accordance with the relevant Regional Strategy or District Plan, prepared under Division 3.1 of the Environmental Planning and Assessment Act 1979 by the relevant strategic planning authority, which gives consideration to the objective of this direction, or (d) of minor significance.'</i>

Fisheries Management Act 1994	The site adjoins the Cabbage Tree Bay Aquatic Reserve subject to the Cabbage Tree Bay Aquatic Reserve - Management Plan Regulation and Implementation Strategy.
SEPP - Design of Quality Residential Apartment Development	Not applicable for Planning Proposal involving low density residential development.
SEPP – Affordable Housing (Revised Schemes)	The site is located within an LGA to which this SEPP applies.
SEPP – (Affordable Rental Housing) 2009 (Affordable Rental Housing SEPP)	There is no indication at this stage that this SEPP would be applicable to future redevelopment under the Planning Proposal.
SEPP (BASIX) 2004	To be considered in any future Development Application.
Manly Local Environmental Plan 2013	<p>Clause 6.9 - Foreshore scenic protection area seeks to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore. As the site is contained in this area, the proposal must ensure that future development consent may be granted considering impacts to the visual amenity of the foreshore, any loss of views from a public place to the foreshore, and measures to protect and improve scenic qualities of the coastline.</p> <p>Clause 4.3 - Height of Buildings: The site is not subject to existing building height limitations. Land in the vicinity of the site is subject to a maximum of 8.5m building height</p> <p>Clause 4.3 - The site is not subject to existing FSR limitations. Land in the vicinity of the site is subject to a maximum 0.45:1 FSR</p>
Manly Development Control Plan 2013	Should the proposal achieve a residential zone of the land the provision of Manly Development Control Plan 2013 will apply with particular regard to Part 4.1 – Residential Development Controls.

SPECIFIC ISSUES FOR PLANNING PROPOSAL

Justification for the Planning Proposal

In accordance with the NSW publication 'Planning Proposals: A guide to preparing Planning Proposals' a Planning Proposal must set out a case for making the proposed LEP. In this regard, the level of justification should be proportionate to the impact the Planning Proposal will have. The Planning Proposal follows the recent disposal of the parcel as Crown Land. Further details of the recent land dealings in relation to the land that is no longer available for a public purpose under the Crown are sought.

In this regard it is understood the Proponent is investigating why the lot was sold by the Dept. of Industry following queries raised by Council at the meeting. In particular:

- a) “Did the Lands Office carry out a review of its holdings, and determine the site was no longer required or was redundant, and decided to sell?” and
 b) “Was Council consulted during that time, to see if they would be interested in purchasing the public land?”

In relation to the above questions, it is anticipated that the Planning Proposal would be accompanied by the Lands Office assessment report, prepared in relation to suitability of the sale of this lot.

Future Land Use

Having regard to the size and shape of the subject site, future use of the site under this Planning Proposal is not likely to be considered for separate residential development. In this regard, the land consolidation with 88 Bower Street, Manly is to be addressed with the Planning Proposal.

Consideration should be given to how the consolidation of the land with 88 Bower Street, Manly will affect the future development of the future combined parcel. In this regard, the application of development standards and DCP controls in relation to the future redevelopment of 88 Bower Street, Manly should be addressed.

ENVIRONMENTAL SOCIAL AND ECONOMIC IMPACT

Impact	Comment
Habitat or threatened species, populations or ecological communities, or their habitats	The Planning Proposal will not include Biodiversity Assessment and Reporting.
Likely environmental social and economic effects	The Planning Proposal is to address the consequences of the proposed zoning of the land, the introduction of development standards and the application of Residential DCP controls to the site as part of 88 Bower Street Manly. See Coast and Catchment team below for further comments.
Traffic and Parking	The Planning Proposal will not result in significant traffic and parking issues with the site consolidated with 88 Bower Street Manly, providing access from Bower Street. Access to Marine Parade is limited.

COUNCIL CONSULTATIONS

REFERRAL COMMENTS FROM RELEVANT BUSINESS UNITS PREPARED	
Referral Body	Comments
Property Assets – Land Dealings	With regard to the history of land tenure of the subject parcel, Council’s Property Information Team have provided comment as follows: “It would appear the parcel was sold by Crown to the Church last year and as such we had no prior management of it. It is assumed

REFERRAL COMMENTS FROM RELEVANT BUSINESS UNITS PREPARED

	<p>that the main residence at Lot 3, DP 8075 is also a leasehold from the Church (being part of the Bower Estate) and if possible we would like to see the two parcels of land consolidated given the small size of the parcel in question.”</p>
<p>Coast & Catchments</p>	<p>With regard to the location of the land in relation to the Coastal Zone and Coastal Erosion and Inundation mapping, the views of Council’s Coastal Risk Team are as follows:</p> <ul style="list-style-type: none"> • The site is subject to impacts from wave overtopping. Property damage occurred in and around that site as recently as the East Coast Low in June 2016. • Should the rezoning of the parcel enable the combined site at 88 Bower Street to be subdivided or residential use intensified, sole access (or increased access) to the site from Marine Parade is not supported due to above-mentioned coastal hazards making this area sometimes unsafe and impassable. Marine Parade is periodically closed to the public in such conditions. Primary access to the site is to remain from Bower Street. • The site has been identified by a policy regarding landslip ‘Manly Landslide Risk Map’ (see Manly Ocean Beach and Cabbage Tree Bay Coastline Hazard Definition Study, 2003). Restrictions apply to works on this land under Manly DCP 2013 and Clause 6.8 – Manly LEP 2013. • Any planning proposal will need to be consistent with the Coastal Management Act 2016 and Clauses 13, 14 and 15 of the Coastal Management SEPP 2018. • Under Section 117(2) Directions May 2018, Section 2.2 Coastal Management reads: <i>(6) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land: (a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or (b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken: (i) by or on behalf of the relevant planning authority and the planning proposal authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</i> <p>https://www.planning.nsw.gov.au/-/media/Files/DPE/Directions/section-9-1-local-planning-directions-2018-05-01.pdf</p> <p>It is noted that the subject site meets point 6(b) above and this should be considered in the Planning Proposal. The applicant needs to consider the need for any coastal study to accompany the Planning Proposal given the parcel is subject to impacts from wave overtopping and coastal inundation.</p>

General Community Consultation and Referral Practices

Following formal lodgment of any Planning Proposal, Council will consider the Planning Proposal. At this initial stage Council will place the Planning Proposal on exhibition for a period of 14 days and notify nearby properties and relevant community groups. This exhibition is non-statutory and in addition to the statutory exhibition that occurs if the proposal receives Gateway approval. Relevant state agencies may also be notified and invited to provide commentary.

Council's preliminary non-statutory public exhibition is likely to comprise:

A public notice in the Manly Daily notifying of the public exhibition;
Letters to any effected land owners and occupiers in the vicinity
Electronic copies of the exhibition material on Council's website.

Submissions received in response to the public exhibition period will be reported to Council.

In accordance with the Minister's direction signed on the 23 February 2018 under Section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), planning proposals are referred to the Northern Beaches Local Planning Panel for advice before being forward to the Minister. Planning Proposals must go to the Panel unless the council's general manager determines that the proposal relates to:

- (a) the correction of an obvious error in a local environmental plan,
- (b) matters that are consequential, transitional, machinery or other minor nature,
- or
- (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.

It is Northern Beaches Council practice that all Planning Panel be forwarded to Northern Beaches Local Planning Panel for advice.

If the application is supported by Council, the Planning Proposal will be forwarded to the Department of Planning and Environment. The Departments' Gateway Determination will confirm the public and agency consultation that must be undertake and requirements for a statutory exhibition at that stage.

LODGEMENT REQUIREMENTS

Documentation to accompany the Planning Proposal

Under Council's Fees and Charges, the Planning Proposal would be classed as 'involving one lot or no environmental study required' and will incur a fee as detailed Fees required the class of Planning Proposal to be lodged are in accordance with the current Northern Beaches Council Fees and Charges. In this regard, the Planning Proposal Fee is \$30,640 up until 30 June 2020

Additionally, in accordance with Clause 11 of the Environmental Planning and Assessment Regulations, additional charges may apply. In relation to prescribed fees for DCP Amendments, Council confirms that any DCP amendments submitted with the Planning

Proposal would not be subject to a separate fee.

An indicative list of documents required to support a Planning Proposal is as follows:

- Five printed copies of the Planning Proposal, including all supporting information and reports, are to be provided to Council for public exhibition. One electronic copy on a USB is also required.

- Completed Planning Proposal Application form in accordance with NSW Department of Planning and Environment's Guide to Preparing Local Environmental Plans and Guide to Preparing Planning Proposals.

<http://www.planning.nsw.gov.au/~media/Files/DPE/Guidelines/guide-to-preparing-planning-proposals-2016-08.ashx>

- Concept Plans to be included if applicable
- Assessment against DCP
- View impact analysis if applicable
- Photo montages and visual site context analysis;
- Stormwater and Waste Management Plans;
- Environmental Risk Report;
- Statement of Heritage Impact.

Failure to provide the required supporting documentation may result in a staff recommendation for refusal based on insufficient information. Please note that Council does not necessarily accept the provision of additional information after the Planning Proposal has been formally lodged with Council.

PRIVACY AND PERSONAL INFORMATION

You are advised that Council is obliged to make Planning Proposal applications and supporting documents available for public inspection. We do this via the Customer Service Centre and by placing copies of the documents on Council's web-site (under the Your Say Northern Beaches page.)

Final Comments

These Minutes are in response to a pre-lodgment meeting to discuss the lodgment of a Planning Proposal.

In conclusion, it is recommended that any Planning Proposal lodged should address matters raised in the comments contained in this report.

These notes are largely an account of the specific issues discussed at the meeting but also includes further more detailed considerations and comments following discussion at the meeting. They do not represent a complete set of planning and related comments for the proposal. A fuller assessment can only be made following the lodgment, assessment and preliminary exhibition (pre Gateway Determination) of the Planning Proposal.

In addition to the comments made within these notes, it is a requirement of the applicant to address ALL relevant pieces of legislation including (but not limited to) any SEPP, relevant Clauses of the MLEP 2013 and MDCP 2013 within the supporting documentation of the Planning Proposal.

You are advised to carefully review these notes. If there is an area of concern or non-compliance that cannot be supported, you are strongly advised to review and reconsider the appropriateness of any Planning Proposal for your site.

Principal Officer
Paul Christmas

Date: 1 July 2019

Attachment - Checklist for Preparing Planning Proposals

(Extract from NSW Guidelines, 2018)

STEP 1: REQUIRED FOR ALL PROPOSALS

(under s3.33(2)(a-e) of the EP&A Act)

- | | |
|--|--|
| <ul style="list-style-type: none"> Objectives and intended outcome Mapping (including current and proposed zones) Community consultation (agencies to be consulted) | <ul style="list-style-type: none"> Explanation of provisions Justification and process for implementation (including compliance assessment against relevant section 9.1 direction/s) |
|--|--|

STEP 2: MATTERS – CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

Planning Matters or Issues	to be considered			to be considered	
		N/A			N/A
Strategic Planning Context			Environmental Considerations		
Consistent with the relevant regional, district or corridor/precinct plans applying to the site, including any draft regional/district or corridor/precinct plans released or public comment; or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Flooding	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consistent with a relevant local council strategy that has been endorsed by the Department; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Land/site contamination (SEPP55)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls; or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Seeking to update the current planning controls if they have not been amended in the last 5 years	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sea level rise	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Site Description / Context			Urban design Considerations		
Aerial photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Existing site plan (buildings, vegetation, roads, etc)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Site photos / photomontage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Building mass/block diagram study (changes in building height and FSR)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Traffic and Transport Considerations			Lighting impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Local traffic and transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Development yield analysis (potential yield of lots, houses, employment generation)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TMAP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Economic Considerations		
Public transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Economic impact assessment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cycle and pedestrian movement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Retail centres hierarchy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental Considerations			Employment land	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bushfire Hazard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Social and Cultural Considerations		
Acid sulphate Soil	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Heritage impact	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Noise impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Aboriginal archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Flora and/or fauna	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Open space management	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Soil stability, erosion, sediment, landslip assessment and subsidence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	European archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Water quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Social and cultural impacts	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stormwater management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stakeholder engagement	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Infrastructure Considerations		
			Infrastructure servicing and potential funding arrangements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			Miscellaneous / Additional Considerations		
			List any additional studies that should be undertaken post Gateway determination	<input type="checkbox"/>	<input checked="" type="checkbox"/>