



Planning Certificate Under Section 149

Of the Environmental Planning & Assessment Act 1979

Manly Council

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Reference: Helen Lowridas

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149(2) & 149(5) Certificate

Elders Manly
47 Sydney Road
MANLY NSW 2095

Address: 2 Pacific Parade MANLY 2095
Legal Description: LOT: 40 SEC: 1 DP: 4603

The following certificate is issued under the provisions of Section 149(2) and Section 149(5) of the Environmental Planning and Assessment Act 1979 (as amended). The information applicable to the land is accurate as at the above date.

1. Names of relevant planning instruments and DCPs

- (1) The name of each environmental planning instrument that applies to the carrying out of development on the land:

Manly Local Environmental Plan 1988

Draft Manly Local Environmental Plan 2011

SREP (Sydney Harbour Catchment) 2005 (Deemed SEPP)
SEPP 1 – Development Standards
SEPP 4 – Development without Consent
SEPP 6 – Number of Storeys in a Building
SEPP 10 – Retention of Low-Cost Rental Accommodation (Repealed)
SEPP 19 – Bushland in Urban Areas
SEPP 21 – Caravan Parks
SEPP 22 – Shops and Commercial Premises
SEPP 30 – Intensive Agriculture
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)
SEPP 33 – Hazardous and Offensive Development
SEPP 50 – Canal Estate Development
SEPP 55 – Remediation of Land
SEPP 60 – Exempt and Complying Development
SEPP 64 – Advertising and Signage
SEPP 65 – Design Quality of Residential Flat Development
SEPP 70 – Affordable Housing (Revised Schemes)
SEPP 71 – Coastal Protection
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Repeal of Concurrence and Referral Provisions) 2004
SEPP (Seniors Living) 2004
SEPP (Major Projects) 2005
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Temporary Structures and Places of Public Entertainment) 2007
SEPP (Infrastructure) 2007
SEPP (Exempt and Complying Development Codes) 2008

SEPP (Repeal of Concurrence and Referral Provisions) 2008
SEPP (Repeal of REP Provisions) 2009
SEPP (Affordable Rental Housing) 2009

- (2) The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless the Director General has notified the Council that the making of the proposed instrument has been deferred indefinitely or has not been approved):

Draft Manly Local Environmental Plan (Amendment No. 18)

Draft Manly Local Environmental Plan (Amendment No. 20)

Draft Manly Local Environmental Plan (Amendment No. 22)

Draft Manly Local Environmental Plan (Amendment No. 44)

Draft Manly Local Environmental Plan (Amendment No. 60)

Draft Manly Local Environmental Plan (Amendment No. 78)

Draft SEPP (Application of Development Standards) 2004

Draft SEPP – Integration of Land Use and Transport

- (3) The name of each development control plan that applies to the carrying out of development on the land:

The Development Control Plan for the Residential Zone 2007 - Amendment 2 applies to the land.

The Development Control Plan for Waste Minimisation and Management 2000 applies to the land.

The Development Control Plan for Access 1996 applies to the land.

The Development Control Plan for Energy Efficient Buildings 1998 applies to the land.

The Development Control Plan for Telecommunications and Radiocommunications 2005 applies to the land.

The Development Control Plan for Notification 1999 (Amendment No. 2) applies to the land.

The Development Control Plan for Advertising Signs 1993 applies to the land.

The Development Control Plan for Landslip and Subsidence 2001 applies to the land.

The Development Control Plan for Childcare Centres 2004 applies to the land.

2. Zoning and land use under relevant LEPs

For each environmental planning instrument or proposed instrument referred to in Clause 1 (other than a SEPP or proposed SEPP) that includes the land in any zone (however described):

- (a) According to **Manly Local Environmental Plan 1988**, this property lies within:

ZONE NO.2 RESIDENTIAL ZONE

and ENVIRONMENTALLY SENSITIVE AREA

(b) Land use for land within Zone No. 2 that can be carried out without development consent:

Bed and breakfast accommodation; home occupations.

(c) Land use for land within Zone No. 2 that can be carried out only with development consent:

Any purpose other than a purpose included in item (b) or (d).

(d) Land use for land within Zone No. 2 that is prohibited:

Advertising structures; amusement centres; bulk stores; car repair stations; backpacker accommodation; clubs; hotels; motels; refreshment rooms; service stations and tourist facilities (other than backpacker accommodation; clubs, hotels, motels, refreshment rooms, service stations and tourist facilities in the Tourist Area); commercial premises; gas holders; generating works; heliports; industries other than home industries; institutions; junk yards; liquid fuel depots; mines; shops; transport terminals; warehouses. motor show rooms; public buildings; restricted premises; retail plant nurseries; roadside stalls; sawmills; service stations; shops other than small shops; transport terminals; warehouses.

(e) Minimum Land Dimensions

Manly Local Environmental Plan 1988 contains no development standard applying to the land which fix minimum land dimensions for the erection of a dwelling house on the land.

(f) Critical Habitat

This land does not include Critical Habitat.

(g) Conservation Areas

This land is not in a conservation area.

(h) Environmental Heritage Provisions according to Manly Local Environmental Plan 1988

This land is not an item of environmental heritage, nor is there an item of environmental heritage situated on the land.

(a1) According to Draft Manly Local Environmental Plan 2011, this property lies within:

ZONE R1 GENERAL RESIDENTIAL

(b1) Land use for land within Zone R1 that can be carried out without development consent:

Home-based child care; Home occupations.

(c1) Land use for land within Zone R1 that can be carried out only with development consent :

Attached dwellings; Boarding houses; Boat launching ramps; Boat sheds; Bed and breakfast accommodation; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home business; Home industries; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities(indoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Water recreation structures; Water recycling facilities; Water supply systems.

(d1) Land use for land within Zone R1 that is prohibited:

Advertising structures; Water treatment facilities; Any development not specified in items (b1) and (c1);

(e1) Minimum Land Dimensions

Draft Manly Local Environmental Plan 2011 contains no development standard applying to the land which fix minimum land dimensions for the erection of a dwelling house on the land.

(f1) Critical Habitat

This land does not include Critical Habitat.

(g1) Conservation Areas

This land is not in a conservation area.

(h1) Environmental Heritage Provisions according to Draft Manly Local Environmental Plan 2011

This land is not an item of environmental heritage, nor is there an item of environmental heritage situated on the land.

3. Complying Development

General Housing Code

Complying development under the General Housing Code may not be carried out on the land. The land is affected by specific land exemptions:

Land is excluded by an environmental planning instrument;

Rural Housing Code

The Rural Housing Code does not apply to the land.

Housing Alterations Code

Complying development under the Housing Alterations Code may be carried out.

General Development Code

Complying Development under the General Development Code may be carried out.

Demolition Code

Complying Development under the Demolition Code may be carried out.

General Commercial and Industrial Code

Complying development under the General Commercial and Industrial Code may be carried out.

The Subdivisions Code

Complying development under the Subdivisions Code may be carried out.

4. Coastal Protection

This land is not identified as located in the Coastal Zone for the purposes of the Coastal Protection Act 1979. Land outside of the coastal zone may still be affected by the provisions of State Environmental Planning Policy No. 71 (SEPP 71). For further information on SEPP 71 refer to the Department of Planning.

4A

- (1) There is no order made under Part 4D of the Coastal Protection Act 1979 in relation to emergency coastal protection works on the land (or on public land adjacent to that land).

- (2) The Council has not been notified under Section 55X of the Coastal Protection Act 1979 that emergency coastal protection works (within the meaning of that Act) have been placed on the land (or on public land adjacent to that land).
- (3) The Council has not been notified under the regulations under Section 56B of the Coastal Protection Act 1979 of any information that is required to be included in the planning Certificates pursuant to those regulations.

4B

No owner of the land (or any previous owner) has consented in writing to the land being subject to annual charges under Section 496B of the Local Government Act 1993 for Coastal Protection Services that relate to existing Coastal Protection Works (within the meaning of Section 553B of that Act)

5. Mine Subsidence

The land has not been proclaimed to be a mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act, 1961.

6. Road Widening and Road Realignment

- (1) This land is not affected by any corner splay under Division 2 of Part 3 of the Roads Act 1993 or any environmental planning instrument or any resolution of Council.
- (2) The land is not affected by any road widening or re-alignment proposal under Division 2 of Part 3 of the Roads Act 1993 or any environmental planning instrument or any resolution of Council.

7. Council and other Public Authority Policies on Hazard Risk Restrictions

- (1) The land is not affected by a policy regarding landslip. (See Council's Landslip and Subsidence Development Control Plan 2001).
- (2) The land is not affected by a policy regarding Acid Sulphate Soils. (See Clause 33 - Manly Local Environmental Plan 1988).
- (3) Council has adopted a contaminated land policy which may restrict the development of land. This policy is expressed to apply when zoning or land use changes are proposed on lands which are considered to be contaminated, or on lands which have been remediated for a specific use. However, from an administrative point of view the policy is currently no longer applied or implemented (and is treated by Council staff as being redundant).
A new draft policy with respect to the same subject-matter is currently being prepared by Council staff but is yet to be presented to or adopted by Council.

7A. Flood Related Development Control Information

- (1) Development on the land or part of the land for the purposes of dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is not subject to Council's "Interim Policy and Administration Guidelines for Development & Use of Land Affected by a 1 in 100 Year Flood - Manly Lagoon" as in force from time to time.
- (2) Development on the land or part of the land for any other purpose is not subject to Council's "Interim Policy and Administration Guidelines for Development & Use of Land Affected by a 1 in 100 Year Flood - Manly Lagoon" as in force from time to time.

8. Land Reserved for Acquisition

No environmental planning instrument referred to in Clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.

According to the Draft Manly Local Environmental Plan 2011 clause 5.1 and 5.2 are not applicable to the subject site. Refer to Land Reservation Acquisition Map.

9. Contribution Plans

Manly Section 94 Contributions Plan 2004 applies to the land.

10. Biobanking Agreements

The Council has not been notified if the land is land to which a biobanking agreement relates under Part 7A of the Threatened Species Conservation Act 1995.

11. Bush Fire Prone Land

The land is not bush fire prone land.

12. Property Vegetation Plans

The Council has not been notified of the existence of any property vegetation plan under the Native Vegetation Act 2003 applying to the land to which this certificate relates.

13. Orders under Trees (Disputes Between Neighbours) Act 2006

The Council has not been notified of the existence of an order made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land.

14. Directions under Part 3A

There is no direction by the Minister in force under section 75P(2) (c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect.

15. Site compatibility certificates and conditions for seniors housing

There is no valid site compatibility certificate (seniors housing), of which the Council is aware, in respect of proposed development on the land.

16. Site compatibility certificates for infrastructure

There is no valid site compatibility certificate (infrastructure), of which the Council is aware, in respect of proposed development on the land

17. Site compatibility certificate and conditions for affordable rental housing

There is no valid site compatibility certificate (affordable rental housing), of which the Council is aware, in respect of proposed development on the land.

Note. The following matters are prescribed by section 59 (2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate:

- (a) that the land to which the certificate relates is significantly contaminated land within the meaning of that Act – if the land (or part of the land) is declared to be significantly contaminated land at the date when the certificate is issued,

No part of the land is declared to be significantly contaminated land as at the date of issue of this certificate.

- (b) that the land to which the certificate relates is subject to a management order within the meaning of that Act – if it is subject to such an order at the date when the certificate is issued,

The land to which this certificate relates is not subject to a management order as at the date of issue of this certificate.

- (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act – if it is the subject of such an approved proposal at the date when the certificate is issued,

The land to which this certificate relates is not the subject of an approved voluntary management proposal as at the date of issue of this certificate.

- (d) that the land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act – if it is subject to such an order at the date when the certificate is issued,

The land to which this certificate relates is not subject to an ongoing maintenance order as at the date of issue of this certificate.

- (e) that the land to which the certificate relates is the subject of a site audit statement—if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

No copy of any site audit statement for the land to which the certificate relates has been provided at any time to Manly Council.

SECTION 149(5) INFORMATION

The following is information provided under the provisions of Section 149 (5) of the Environmental Planning and Assessment Act 1979 (as amended) and lists relevant matters affecting the land of which Council is aware. You should note that Section 149 (6) of the Act provides that Council shall not incur any liability in respect of any advice provided in good faith pursuant to Section 149 (5) of the Act.

A Section 65 certificate was issued by the Department of Planning on 19 April 2012. The Draft Manly Local Environmental Plan 2011 was on public exhibition from 30 April 2012 to 29 June 2012.

No foreshore building line applies to any land under the Manly Local Environmental Plan 1988. Development control relating to foreshore building line setbacks is either fixed by Council resolution or contained in the relevant Development Control Plan. Refer to Council for details.

According to Manly Local Environmental Plan 1988 (MLEP88), an item of the environmental heritage is located in the vicinity of this land. Clause 19 of MLEP88 provides standards for development in the vicinity of an item of the environmental heritage.

According to the Draft Manly Local Environmental Plan 2011 the Foreshore Building Line is not applicable to the subject site. Refer to Foreshore Building Line Map

You are advised that Australian Standard 3660.1 – Protection of Buildings Against Subterranean Termites, recommends that buildings are inspected and maintained in order to achieve total termite control. In the regard, you should contact a licensed pest control contractor to ensure all necessary termite controls are achieved.

NSW Fisheries has adopted Fisheries NSW (1988) Policy and Guidelines Aquatic Habitat Management and Fish Conservation. Any development within or adjacent to coastal or river waters will be assessed by Council against these guidelines. Refer to Council for details.

As part of the NSW Planning Reforms announced by the NSW State Government in September 2004, planning policies in NSW are under review. More information about the NSW Planning Reforms is available at the NSW Department of Planning (website: www.planning.nsw.gov.au). Manly Council resolved in October 2004 to carry out a review of its planning controls including the Manly LEP 1988. In October 2006, Manly Council resolved to prepare a new comprehensive LEP for the Manly Council area consistent with the Standard LEP Instrument. The draft Manly Local Environmental Plan 2011 was on exhibition as a result of this process.

Recent evidence indicates that climate change as a result of global warming is occurring much more rapidly than previously expected. Climate change will vary in its effects across Australia. As well as affecting homes, climate change may affect infrastructure, commercial and industrial buildings and other physical assets. Climate change may affect coastal areas, in particular, through sea-level rise, increased temperatures, and changed storm events. The effects of climate change may impact on the future use and development potential of the land that is the subject of this certificate.

Henry T Wong
GENERAL MANAGER
per:

