

Northern Beaches Council Planning Certificate – Part 2&5

Applicant: Robinson Urban Planning Pty Ltd
83 Fletcher Street
TAMARAMA NSW 2026

Reference: 88 Bower Street Manly
Date: 26/04/2019
Certificate No. ePLC2019/2355

Address of Property: 88 Bower Street MANLY NSW 2095
Description of Property: Lot 1 DP 1244511

Planning Certificate – Part 2

The following certificate is issued under the provisions of Section 10.7(2) of the *Environmental Planning and Assessment Act 1979* (as amended – formerly Section 149). The information applicable to the land is accurate as at the above date.

1. Relevant planning instruments and Development Control Plans

1.1 The name of each environmental planning instrument that applies to the carrying out of development on the land:

1.1a) Local Environmental Plan

Manly Local Environmental Plan 2013

1.1b) State Environmental Planning Policies and Regional Environmental Plans

State Environmental Planning Policy 1—Development Standards
State Environmental Planning Policy 19 – Bushland in Urban Areas
State Environmental Planning Policy 21 – Caravan Parks
State Environmental Planning Policy 30 – Intensive Agriculture
State Environmental Planning Policy 33 – Hazardous and Offensive Development
State Environmental Planning Policy 50 – Canal Estate Development
State Environmental Planning Policy 55 – Remediation of Land
State Environmental Planning Policy 62—Sustainable Aquaculture
State Environmental Planning Policy 64 – Advertising and Signage
State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)
State Environmental Planning Policy (Affordable Rental Housing) 2009
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
State Environmental Planning Policy (Infrastructure) 2007
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007
State Environmental Planning Policy (State and Regional Development) 2011
State Environmental Planning Policy (State Significant Precincts) 2005
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
Wholly Affected - State Environmental Planning Policy (Coastal Management) 2018
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

1.2 Draft Environmental Planning Instruments

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 subject of community consultation or on public exhibition under the Act (unless the Secretary has notified the Council that the making of the proposed instrument has been deferred indefinitely or has not been approved):

1.2 a) Draft State Environmental Planning Policies

Review of State Environmental Planning Policy 44 – Koala Habitat Protection
State Environmental Planning Policy No 64— Advertising and Signage (Amendment No 3)
Draft State Environmental Planning Policy (Environment)
Draft State Environmental Planning Policy (Primary Production and Rural Development)
Draft Amendment to State Environmental Planning Policy (Affordable Rental Housing) 2009

1.2 b) Draft Local Environmental Plans

1.3 Development Control Plans

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

Manly Development Control Plan 2013

2. Zoning and land use under relevant Local Environmental Plans

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):

2.1 Zoning and land use under relevant Local Environmental Plans

2.1 (a), (b), (c) & (d)

The following information identifies the purposes for which development may be carried out with or without development consent and the purposes for which the carrying out of development is prohibited, for all zones (however described) affecting the land to which the relevant Local Environmental Plan applies.

FORESHORE SCENIC PROTECTION AREA ZONE RE1 Public Recreation

(b) Land uses for land within Zone RE1 that may be carried out without development consent:

Nil.

(c) Land uses for land within Zone RE1 that may be carried out only with development consent:

Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Car parks; Charter and tourism boating facilities; Child care centres; 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.

(d) land uses for land within Zone RE1 that are prohibited:

Any development not specified in item (b) and (c)

Additional permitted uses

Additional permitted uses, if any, for which development is permissible with development consent pursuant to Clause 2.5 and Schedule 1 of the relevant Local Environmental Plan:

Refer to Schedule 1 of Manly Local Environmental Plan 2013.

(e) Minimum land dimensions

The *Manly Local Environmental Plan 2013* contains no development standard that fixes minimum land dimensions for the erection of a dwelling house on the land.

(f) Critical habitat

The land does not include or comprise critical habitat.

(g) Conservation areas

The land is not in a heritage conservation area.

(h) Item of environmental heritage

The land does not contain an item of environmental heritage.

2.2 Draft Local Environmental Plan - if any

For any proposed changes to zoning and land use, see Part 1.2 b)

Please contact Council's Strategic and Place Planning unit with enquiries on 1300 434 434.

2A. Zoning and land use under State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* does not apply to the land.

3. Complying Development

The extent to which the land is land on which complying development may or may not be carried out under each of the codes for complying development because of the provisions of clauses

1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

a) Housing Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

b) Rural Housing Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

c) Low Rise Medium Density Code

Complying Development under the Low Rise Medium Density Code may not be carried out on all the land.

Note: Pursuant to clause 3B.63 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, all land in Northern Beaches Council is a 'deferred area' meaning that the Low Rise Medium Density Code does not apply until 1 July 2019.

d) Greenfield Housing Code

Complying Development under the Greenfield Housing Code may not be carried out on all of the land.

e) Housing Alterations Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

f) General Development Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

g) Commercial and Industrial Alterations Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

h) Commercial and Industrial (New Buildings and Additions) Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

i) Container Recycling Facilities Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

j) Subdivisions Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

k) Demolition Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

l) Fire Safety Code

Environmentally Sensitive Area

For the purposes of clause 1.17A (1) (e), complying development may not be carried out as the land is within an environmentally sensitive area as defined in clause 1.5 of the Policy, as being either:

- (d) land reserved as an aquatic reserve under the Fisheries Management Act 1994 or as a marine park under the Marine Parks Act 1997,
- (f) land within 100m of an aquatic reserve under the Fisheries Management Act 1994,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies (see part 2 of this Certificate to see if this applies), or
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994* (see part 2 of this Certificate to see if this applies).

4, 4A (Repealed)

4B. Annual charges under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works

The owner of the land (or any previous owner) has not 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 (Mine Subsidence) district within the meaning of section 15 of the *Mine Subsidence (Mine Subsidence) Compensation Act, 1961*.

6. Road widening and road realignment

- (a) The land is not affected by a road widening or re-alignment proposal under Division 2 of Part 3 of the *Roads Act 1993*.
- (b) The land is not affected by a road widening or re-alignment proposal under an environmental planning instrument.
- (c) The land is not affected by a road widening or re-alignment proposal under a resolution of Council.

7. Council and other public authority policies on hazard risk restriction

- (a) Council has adopted a number of policies with regard to various hazards or risks which may restrict development on this land. The identified hazard or risk and the respective Council policies which affect the property, if any, are listed below (other than flooding – see 7A):

Acid Sulfate Soils - Class 5

This land is identified as Acid Sulfate Soils Class 5 on the Acid Sulfate Soils Map of the *Manly Local Environmental Plan 2013* (MLEP 2013). Restrictions apply to the carrying out of works on this land under Clause 6.1 of the MLEP 2013.

Geotechnical Risk (Landslip)

All of the land is affected by a policy regarding landslip. Restrictions apply to the carrying out of works on this land under *Manly Development Control Plan 2013* and Clause 6.8 - *Manly Local Environmental Plan 2013*.

Contaminated Lands

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.

- (b) The following information applies to any policy as adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to in a planning certificate issued by the Council. The identified hazard or risk and the respective Policy which affect the property, if any, are listed below:

Nil

7A. Flood related development control Information

- (1) Development on the land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.
- (2) Development on the land or part of the land for any other purpose is subject to flood related development controls.

8. Land reserved for acquisition

Environmental planning instrument referred to in Clause 1 does not make provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.

9. Contribution plans

The following applies to the land:

Manly Section 94 Contributions Plan 2004

9A. Biodiversity certified land

The land is not biodiversity certified land under Part 8 of the *Biodiversity Conservation Act 2016* (includes land certified under Part 7AA of the repealed *Threatened Species Conservation Act 1995*).

10. Biodiversity Stewardship Sites

The Council has not been notified by the Chief Executive of the Office of Environment and Heritage that the land is a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016* (includes land to which a biobanking agreement under Part 7A of the repealed *Threatened Species Conservation Act 1995* relates).

10A. Native vegetation clearing set asides

Council has not been notified by Local Land Services of the existence of a set aside area under section 60ZC of the *Local Land Services Act 2013*.

11. Bush fire prone land

Bush Fire Prone Land

The land is not bush fire prone land.

Draft Northern Beaches Bush Fire Prone Land Map 2018

The land is not bush fire prone land.

12. Property vegetation plans

The Council has not been notified that the land is land to which a vegetation plan under the *Native Vegetation Act 2003* applies.

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

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 not a 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

- (a) There is not a current site compatibility certificate (seniors housing), of which the council is aware, in respect of proposed development on the land.

- (b) No condition of consent applies to the property that limits the kind of people who may occupy the premises/ development. This refers only to consents granted after 11 October 2007 with conditions made in accordance with clause 18(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

16. Site compatibility certificates for infrastructure, schools or TAFE establishments

There is not a valid site compatibility certificate (infrastructure) or site compatibility certificate (schools or TAFE establishments), of which the council is aware, in respect of proposed development on the land.

17. Site compatibility certificate and conditions for affordable rental housing

- (a) There is not a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land.
- (b) There are not terms of a kind referred to in clause 17 (1) or 38 (1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* that have been imposed as a condition of consent to a development application in respect of the land.

18. Paper subdivision information

There is no current paper subdivision, of which council is aware, in respect of this land according to Part 16C of the *Environmental Planning and Assessment Regulation 2000*.

19. Site verification certificates

There is no current site verification certificate, of which council is aware, in respect of the land according to Part 4AA of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

20. Loose-fill asbestos insulation

The residential dwelling erected on this land has not been identified in the Loose-Fill Asbestos Insulation Register as containing loose-fill asbestos ceiling insulation.

This clause applies to residential premises (within the meaning of Division 1A of part 8 of the Home Building Act 1989) that are listed in the register that is required to be maintained under that Division.

Contact NSW Fair Trading for more information.

21 Affected building notices and building product rectification orders

- (1) There is not an affected building notice of which the council is aware that is in force in respect of the land.

- (2) There is not a building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with, and
- (3) There is not a notice of intention to make a building product rectification order of which the council is aware has been given in respect of the land and is outstanding.

In this clause:

affected building notice has the same meaning as in Part 4 of the *Building Products (Safety) Act 2017*.

building product rectification order has the same meaning as in the *Building Products (Safety) Act 2017*.

Additional matters under the Contaminated Land Management Act 1997

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) the land to which the certificate relates is not significantly contaminated land within the meaning of that Act
- (b) the land to which the certificate relates is not subject to a management order within the meaning of that Act
- (c) the land to which the certificate relates is not the subject of an approved voluntary management proposal within the meaning of that Act
- (d) the land to which the certificate relates is not subject to an ongoing maintenance order within the meaning of that Act
- (e) the land to which the certificate relates is not the subject of a site audit statement

If contamination is identified above please contact the Environmental Protection Authority (EPA) for further information.

Planning Certificate – Part 5

ePLC2019/2355

The following is information provided in good faith under the provisions of Section 10.7(5) of the *Environmental Planning and Assessment Act 1979* (as amended – formerly Section 149) and lists relevant matters affecting the land of which Council is aware. The Council shall not incur any liability in respect of any such advice.

Persons relying on this certificate should read the environmental planning instruments referred to in this certificate.

Company Title Subdivision

Clause 4.1 of the *Pittwater Local Environmental Plan 2014*, *Warringah Local Environmental Plan 2011* or *Manly Local Environmental Plan 2013* provides that land may not be subdivided except with the consent of the Council. This includes subdivision by way of company title schemes. Persons considering purchasing property in the Northern Beaches local government area the subject of a company title scheme are advised to check that the land has been subdivided with the consent of the Council.

District Planning

As part of ongoing NSW Planning Reforms, the Greater Sydney Commission is preparing six District plans for Sydney in consultation with local Councils. Northern Beaches LGA is part of the North District Plan. More information about the NSW Planning Reforms is available at the NSW Department of Planning (website: www.planning.nsw.gov.au).

Council Resolution To Amend Environmental Planning Instrument

The following instrument or resolution of Council proposes to vary the provisions of an environmental planning instrument, other than as referred to in the Planning Certificate – Part 2:

Planning Proposal - Response to Low Rise Medium Density Code

Applies to land: Certain land in the Pittwater Local Environmental Plan 2014 (PLEP 2014) and Manly Local Environmental Plan 2013 (MLEP 2013)

Outline: Seeks to amend the PLEP 2014 and MLEP 2013 in response to issues arising from the future implementation of the NSW Governments' SEPP (Exempt and Complying Development) Amendment (Low Rise Medium Density Code). The intent of the Planning Proposal is to prohibit:

- manor houses and multi-dwelling housing (including terraces) in zone R2 Low Density Residential zone under the Manly LEP 2013
- dual occupancy in zone R2 Low Density Residential zone under the Manly LEP 2013 and Pittwater LEP 2014
- multi-dwelling housing and dual occupancies in the R3 Zone in the Warriewood Valley under Pittwater LEP 2014

Council resolution: 26 June 2018

Nil

Additional Information Applying To The Land

Additional information, if any, relating to the land the subject of this certificate:

Nil

General Information

Termites

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.

Flood

Information available to Council indicates properties within the catchments of Manly Ocean Beach, North Head, North Harbour, Manly Lagoon and Middle Harbour, may be flood affected. This includes parts of the suburbs of Balgowlah Heights, Clontarf, Manly, Manly Vale, Fairlight, Balgowlah and Seaforth. It is important to note this information may be used by Council for

development assessment purposes. Please contact Northern Beaches Council for further information.

Climate Change

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.

A handwritten signature in black ink, appearing to read 'Ray Brownlee', with a long horizontal stroke extending to the right.

Ray Brownlee PSM
Chief Executive Officer
26/04/2019