



northern
beaches
council

PLANNING PROPOSAL

Amendment to Schedule 2, Exempt Development
Manly Local Environmental Plan 2013

May 2018

Public Exhibition

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Part 1 – Intended Outcomes

The intended outcome of the Planning Proposal is to ensure consistent provisions for Exempt Development across Northern Beaches Council in relation to outdoor commercial uses of community land that is already authorised under the use and management provisions of Community Land under the Local Government Act 1993.

Both Warringah LEP 2011 and Pittwater LEP 2014 lists 'Outdoor areas of community land for commercial purposes' as Exempt Development where such purposes are authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act. This Planning Proposal seeks to insert the above development types into Schedule 2 in the Manly LEP 2013 (Manly LEP) in a similar manner to other LEPs for Northern Beaches Council.

Part 2 – Explanation of Provisions

The proposal seeks to amend Schedule 2 - Exempt Development of the Manly LEP by inserting a new development type as Exempt Development as follows:

Outdoor areas of community land for commercial purposes

Must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act

Part 3 – Justification

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report but the proposal is prepared as a result of Council's Events Team review of approval pathways for events held on land under the Manly LEP. It has been identified that certain provisions exist under Warringah LEP 2011 and Pittwater LEP 2014 which should be inserted into the Manly LEP. It is this recent Council review of practices and procedures in relation to events across Northern Beaches Council that has resulted in this Planning Proposal.

The Draft Northern Beaches Events Strategy was exhibited from Saturday 23 December 2017 to Sunday 11 February 2018. The Planning Proposal aligns with the priorities, directions and goals of this draft strategy in managing outdoor events on community land for various commercial purposes (further detailed below under Section B.4).

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Clause 3.1 and Schedule 2 of the Manly LEP provide the only means of achieving exempt development under the instrument.

Section B – Relationship to strategic planning framework

3. Is the Planning Proposal consistent with the objective and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

A Plan for Growing Sydney

A Plan for Growing Sydney, released in December 2014, is the NSW Government's plan for the future of the Sydney Metropolitan Area over 20 years. The Plan provides key directions and actions to guide Sydney's productivity, environmental management, and liveability.

The Plan provides investment in services in 28 strategic centres across the city including the Manly Strategic Centre. The proposed amendments to the Manly LEP, as particularly applicable to the Manly Strategic Centre, are consistent with the objectives and actions of *A Plan for Growing Sydney*.

A Plan for Growing Sydney also aims to ensure communities have access to the things they value including Community Land and the strategy recognises that arts and culture will help build vibrant communities. The Planning Proposal is consistent with the objective and actions of the strategy in ensuring consistent and appropriate approval pathways for local events. In this regard, many of the events to which the Planning Proposal will apply are aligned with the Arts and Culture.

Greater Sydney Region Plan

The Greater Sydney Region Plan - "A Metropolis of Three Cities – connecting people" March 2018 by Greater Sydney Commission establishes the concept of a metropolis of 3 cities – Western Parkland City, Central River City, and Harbour City,

The following Objectives in particular are relevant to the Planning Proposal:

Objective 7: Communities are healthy, resilient and socially connected. Comment: Provision for outdoor activities on Community Land under this Planning Proposal is consistent with Objective 7 which seeks to sustain social networks and allow social interaction and community cultural life.

Objective 9: Greater Sydney celebrates the arts and supports creative industries and innovation. Comment: In accordance with this objective, the Planning Proposal will introduce, through Exempt Development provisions, certain opportunities for the use of Community Land that are already authorised under the Local Government Act to facilitate opportunities for greater cultural and artistic expression with a minimum regulatory burden.

Objective 12: Great places that bring people together. Comment: This objective recognises that Great places have a focus on the public realm and open space that attracts residents, workers, visitors, enterprise and investment. This Planning Proposal which provides for outdoor activities on Community land is consistent with Objective 12.

Objective 22: Investment and business activity in centres. Comment: The Planning Proposal is consistent with Objective 22 in introducing limited Exempt Development provisions which encourage appropriate opportunities to attract investment, business activity and jobs in the centre.

Objective 31: Public open space is accessible, protected and enhanced. Comment: This Planning Proposal requires that the use of Community Land for commercial purposes as Exempt Development must be authorised under the Local Government Act, thereby providing protections consistent with this objective.

North District Plan

The North District Plan – "Our Greater Sydney 2056 North District Plan – connecting communities" March 2018 by Greater Sydney Commission provides a 20-year plan to manage growth and achieve the 40-year vision, while enhancing Greater Sydney's

liveability, productivity and sustainability into the future. It is a guide for implementing the North District Plan at a district level and is a bridge between regional and local planning.

The Planning Proposal is consistent with a number of general directions/ priorities in the North District Plan.

Manly Town Centre is identified as a Strategic Centre in the North District Plan prepared by the Greater Sydney Commission. Actions in the Plan to strengthen the Manly Local Centre include:

- Further develop Manly as a cultural, tourist, retail and entertainment precinct
- Improve public transport connections to Manly Wharf from other lower Northern Beaches suburbs
- Provide improved public transport to Chatswood, Frenches Forest, St Leonards, Macquarie Park and Macquarie University
- Encourage diversified commercial activity to improve economic resilience
- Encourage eco-tourism around North Head and the Cabbage Tree Bay Aquatic Reserve.

4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

A review has been undertaken of the Planning Proposal against certain policies and plans of Northern Beaches Council (including the former Manly Council) as follows:

Draft Northern Beaches Events Strategy

The Draft Northern Beaches Events Strategy is a recently exhibited document designed to support the visioning, strategic planning, management and delivery of our annual event programs for the community. Events, festivals and social activities provide opportunities to bring people together and support greater connectivity between cross-sections of the community. The development of an Events Management Strategy and Framework will help the Northern Beaches develop a vibrant, exciting and accessible events programme that brings our community together and attracts visitors.

In the initial community engagement stages for this strategy, Council had broadly reviewed event planning across the Northern Beaches and the Planning Proposal is consistent with Councils review of event planning dealing with the outdoor events on Community Land for commercial purposes.

Northern Beaches Draft Community Strategic Plan 2017-2028 'SHAPE 2028'

The Northern Beaches Community Strategic Plan will be adopted by the Northern Beaches Council by June 2018 following 2 stages of engagement and drafting in September/October 2016 (developing community issues, priorities and visions) and in March/April 2017 (developing draft goals and strategies to achieve the vision).

The Plan is built around themes of community, place, environment and leadership. The objectives and intended outcomes of the Planning Proposal support the Community Strategic Plan by enabling appropriate regulation associated with approval pathways for outdoor uses of community land including events which are already authorised under the Local Government Act. In particular, the Planning Proposal supports the Community Strategic Plan's key outcome areas in terms of good governance and regulatory provisions that enable the growth of a vibrant economy and connected community in a sustainable way.

Standard Instrument Order (Local Environmental Plans) 2006

Pursuant to the Standard Instrument Order (Local Environmental Plans) 2006, all 3 of the Northern Beaches standard LEPs include provisions for Exempt Development pursuant to clause 3.1 which reads as follows:

3.1 Exempt development

Note. Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and*
- (b) cannot be carried out in a declared area of outstanding biodiversity value under the Biodiversity Conservation Act 2016 or declared critical habitat under Part 7A of the Fisheries Management Act 1994, and*
- (c) cannot be carried out in a wilderness area (identified under the Wilderness Act 1987).*

(1) The objective of this clause is to identify development of minimal environmental impact as exempt development.

(2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.

(3) To be exempt development, the development:

- (a) must meet the relevant deemed-to-satisfy provisions of the Building Code of Australia or, if there are no such relevant provisions, must be structurally adequate, and*
- (b) must not, if it relates to an existing building, cause the building to contravene the Building Code of Australia, and*
- (c) must not be designated development, and*
- (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the Heritage Act 1977 or that is subject to an interim heritage order under the Heritage Act 1977.*
- (4) Development that relates to an existing building that is classified under the Building Code of Australia as class 1b or class 2–9 is exempt development only if:*
 - (a) the building has a current fire safety certificate or fire safety statement, or*
 - (b) no fire safety measures are currently implemented, required or proposed for the building.*
- (5) To be exempt development, the development must:*
 - (a) be installed in accordance with the manufacturer's specifications, if applicable, and*
 - (b) not involve the removal, pruning or other clearing of vegetation that requires a permit, development consent or other approval unless it is undertaken in accordance with a permit, development consent or other approval.*

Note. See State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and Part 5A of the Local Land Services Act 2013.

(6) A heading to an item in Schedule 2 is part of that Schedule.

Schedules 2 Exempt Development under both Warringah Local Environmental Plan 2011 and Pittwater Local Environmental Plan 2014 specify exempt development which may be carried out in accordance with Clause 3.1 including the following:

Outdoor areas of community land used for commercial purposes

Must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993.

The abovementioned provision is the same provision as sought in this Planning Proposal for the Manly LEP, thereby providing for consistent Exempt Development provisions across Northern Beaches Council.

This Planning Proposal seeks to insert the above development types into Schedule 2 in the Manly LEP in a similar manner to both Warringah LEP 2011 and Pittwater LEP 2014.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with applicable State Environmental Planning Policies as shown in the following table.

Table 1. Compliance with State Environmental Planning Policies (SEPPs)

SEPPs (as at September 2017)		Applicable	Consistent
1	Development Standards	YES	YES
14	Coastal Wetlands	NO	N/A
19	Bushland in Urban Areas	YES	YES
21	Caravan Parks	YES	YES
26	Littoral Rainforests	NO	N/A
30	Intensive Agriculture	NO	N/A
33	Hazardous and Offensive Development	YES	YES
36	Manufactured Home Estates	NO	N/A
44	Koala Habitat Protection	YES	YES
47	Moore Park Showground	NO	N/A
50	Canal Estate Development	YES	YES
52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	N/A
55	Remediation of Land	YES	YES
62	Sustainable Aquaculture	YES	YES
64	Advertising and Signage	YES	YES
65	Design Quality of Residential Apartment Development	YES	YES
70	Affordable Housing (Revised Schemes)	YES	YES
71	Coastal Protection	YES	YES
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	YES	YES
	(Affordable Rental Housing) 2009	YES	YES
	(Building Sustainability Index: BASIX) 2004	YES	YES
	(Exempt and Complying Development Codes) 2008	YES	YES
	(Housing for Seniors or People with a Disability) 2004	YES	YES
	(Infrastructure) 2007	YES	YES
	(Integration and Repeals) 2016	NO	N/A
	(Kosciuszko National Park – Alpine Resorts) 2007	NO	N/A
	(Kurnell Peninsula) 1989	NO	N/A
	(Mining, Petroleum Production and Extractive Industries) 2007	YES	YES
	(Miscellaneous Consent Provisions) 2007	YES	YES
	(Penrith Lakes Scheme) 1989	NO	N/A
	(Rural Lands) 2008	NO	N/A
	(State and Regional Development) 2011	YES	YES
	(State Significant Precincts) 2005	YES	YES
	(Sydney Drinking Water Catchment) 2011	NO	N/A
	(Sydney Region Growth Centres) 2006	NO	N/A
	(Three Ports) 2013	NO	N/A
	(Urban Renewal) 2010	NO	N/A
	(Western Sydney Employment Area) 2009	NO	N/A
	(Western Sydney Parklands) 2009	NO	N/A

6. Is the planning proposal consistent with applicable Ministerial Directions?

Yes. The Planning Proposal is consistent with applicable Ministerial Directions (as shown in Attachment 1). Comments on each of the applicable Directions are provided in Table 2 below.

Table 2: Ministerial Directions

Ministerial Direction	Comment
1. Employment and Resources	
1.1 Business and Industrial Zones	
The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified centres.	As the Planning Proposal will apply only to Community Land this direction, as applying to land within a business or industrial zone is not applicable.
2 Environment and Heritage	
2.1 Environment Protection Zones	
The objective of this direction is to protect and conserve environmentally sensitive areas.	As the Exempt Development under this Planning Proposal must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, adequate provisions are included that facilitate the protection and conservation of environmentally sensitive areas.
2.2 Coastal Protection	
The objective of this direction is to implement the principles in the NSW Coastal Policy	As the Exempt Development under this Planning Proposal must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, adequate provisions are included that give effect to, and are consistent with the relevant policy, guidelines and manual as may be applicable.
2.3 Heritage Conservation	
The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	As the Exempt Development under this Planning Proposal must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, adequate provision is made that facilitate the conservation of heritage under this direction.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	
The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	As the Exempt Development under this Planning Proposal must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, appropriate considerations are made of any land having a probability of containing acid sulfate soils.
4.3 Flood Prone Land	
The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off	As the Exempt Development under this Planning Proposal must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, appropriate considerations are given to any land having a probability of flood risk.

the subject land.	
4.4 Planning for Bushfire Protection	
The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	As the Exempt Development under this Planning Proposal must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993 appropriate considerations are made of land mapped as bushfire prone land.
6. Local Plan Making	
6.1 Approval and Referral Requirements	
The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal is consistent with the terms of this direction as follows: a) provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority are minimised (b) no provisions are contained in the Planning Proposal requiring concurrence, consultation or referral of a Minister or public authority. (c) no development is identified as designated development.
6.2 Reserving Land for Public Purposes	
The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The proposal is inconsistent with this Direction as the approval of the Secretary has not been obtained in relation to the alteration of existing zoning or reservation of land for public purposes. Considering the proposal will contribute to community participation and an enhanced sense of place and liveability, the inconsistency with this Direction is of minor significance and considered justified by the terms of the Direction.
6.3 Site Specific Provisions	
The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	This direction applies as the Planning Proposal will allow certain development types to be carried out as Exempt Development but must be authorised under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993.
7 Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney	
The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	The Planning Proposal is consistent with the NSW Government's "A Plan for Growing Sydney".

Section C – Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The provisions of the Local Government Act, Chapter 6, Part 2 Division 2, provides appropriate protections for community land comprising the habitat of endangered species (clause 36A) and of threatened species (clause 36B).

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The Planning Proposal will ensure that Commercial Development on Community Land is subject to the provisions of the Local Government Act, Chapter 6, Part 2 Division 2. As landowner, Council will review and approve all private proposals for use of Community Land, ensuring environmental impacts are addressed.

9. Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal makes provision for the appropriate use of Community Land in accordance with authorised activities under the Local Government Act. Social and Economic benefits accrue from with the orderly management of land in this regard for the further development of the Manly area as a cultural, tourist, retail and entertainment precinct.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The Exempt Development is proposed, will not result in an increase in demand for public infrastructure. Under the Local Government Act, Chapter 6, Part 2 Division 2 requirements for adequate public infrastructure are addressed for the management and use of Community Land.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

No formal consultation has been undertaken with other State or commonwealth authorities. Where necessary, consultation with relevant authorities will be undertaken as required in accordance with initial Gateway determination. A stated action of the NSW Governments' draft North District Plan for the Manly Strategic Centre is its growth as a cultural, tourist, retail and entertainment precinct.

Part 4 – Maps

There are no maps associated with the Planning Proposal

Part 5 – Community Consultation

Council will place the planning proposal on public exhibition in accordance with the Gateway Determination and consistent with Council's Community Engagement Policy including:

- A public notice in the Manly Daily notifying of the public exhibition;
- Letters to key stakeholders including public authorities and / or organisations under section 3.34(2)(d) of the Act including Roads and Maritime Services; Environmental Protection Agency; Office of Environment and Heritage; and Department of Primary Industries – Crown Lands Division;
- Hard copies of the exhibition material at Council's offices; and
- Electronic copies of the exhibition material on Council's website.

The Gateway determination will confirm the public consultation that must be undertaken.

Part 6 – Project Timeline

Task	Anticipated timeframe
Referral to Department of Planning & Environment for Gateway determination	April 2018 (completed)
Issue of Gateway determination	3 May 2018 (completed)
Government agency consultation	June 2018 (commenced)
Public exhibition period	2 June 2018 to 1 July 2018 (commenced)
Consideration of submissions	July 2018
Report to Council to determine Planning Proposal	August 2018
Submit Planning Proposal to the Department of Planning & Environment for determination	September 2018

Attachment 1 – Ministerial s.117 directions

Directions		Applicable	Consistent
1	Employment and Resources		
1.1	Business and Industrial Zones	YES	YES
1.2	Rural Zones	NO	N/A
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A
2	Environment and Heritage		
2.1	Environment Protection Zones	YES	YES
2.2	Coastal Protection	YES	YES
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	NO	N/A
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP's	NO	N/A
3	Housing, Infrastructure and Urban Development		
3.1	Residential Zones	NO	N/A
3.2	Caravan Parks and Manufactured Home Estates	NO	N/A
3.3	Home Occupations	NO	N/A
3.4	Integrating Land Use and Transport	NO	N/A
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A
4	Hazard and Risk		
4.1	Acid Sulfate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	YES
4.4	Planning for Bushfire Protection	YES	YES
5	Regional Planning		
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	NO	N/A
5.6	Sydney to Canberra Corridor (Revoked 10 July 2008 See amended Direction 5.1)	NO	N/A
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A
5.9	North West Rail Link Corridor Strategy	NO	N/A
5.1	Implementation of Regional Plans	NO	N/A
6	Local Plan Making		
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Provisions	YES	YES
7	Metropolitan Planning		
7.1	Implementation of A Plan for Growing Sydney	YES	YES
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	NO
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	NO	NO
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	NO
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	NO
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	NO

