

Amend the Design Excellence Incentive clause in the Sydney Local Environment Plan 2012

Proposal Title : **Amend the Design Excellence Incentive clause in the Sydney Local Environment Plan 2012**

Proposal Summary : **The planning proposal aims to amend the incentive offered for design excellence under Sydney Local Environmental Plan 2012. The recommended change will allow the design excellence incentive to be calculated on top, rather than prior to, the additional floor space that may be awarded in connection with the provision of accommodation floor space in Central Sydney or community infrastructure in Green Square.**

PP Number : **PP_2013_SYDNE_008_00** Dop File No : **13/12683**

Proposal Details

Date Planning Proposal Received :	29-Jul-2013	LGA covered :	Sydney
Region :	Sydney Region East	RPA :	Council of the City of Sydney
State Electorate :	BALMAIN HEFFRON MARRICKVILLE SYDNEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **Applies to the majority of the LGA**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro Sydney City subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney Region East has not met any lobbyist in relation to this proposal, nor has the Regional Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Since 1996, planning controls applying to Central Sydney provided that the consent authority, in considering whether a development exhibited design excellence, was to consider whether it was the result of a competitive design process. Where an applicant demonstrated design excellence through a competitive process the consent authority was able to award an incentive as part of the approved development application. It was Council's intention that these provisions be carried into Sydney LEP 2012 and apply to the entire LGA.**

Sydney LEP 2012 contains various other provisions aimed at providing an incentive for certain development including visitor accommodation and commercial development. The current wording of clause 6.21(7) means the 10% design excellence bonus is calculated on the FSR shown on the Floor Space Ratio Map, prior to the award of any other applicable floor space bonus. Council's intention is that the design excellence bonus be calculated once other floor space bonuses have been applied.

The intended outcome from the amendment of clause 6.21(7) is that developers would be rewarded for the additional costs that they may occur in undertaking a competitive design process.

Council argues that this amendment is required to ensure adequate incentive for design excellence is provided under Sydney LEP 2012.

It should be noted that Council has referred to the clause as 6.2.1(7)(b) in some cases when the Design Excellence Incentive clause is actually 6.21(7)(b).

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The Planning Proposal will enable the amendment of Clause 6.21(7)(b) in Sydney LEP 2012 so that, where a site is eligible for additional accommodation or community floor space, the potential 10% design excellence incentive is calculated based on the combined total FSR of that site.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **This Planning Proposal is to amend Clause 6.21(7)(b) of the Sydney LEP 2012 so that the floor space incentive which may be awarded for successfully demonstrating design excellence includes up to 10% of any applicable accommodation floor space under Division 1 of the LEP or community floor space under Division 2 of the LEP, rather than only as a percentage of the FSR shown on the Floor Space Ratio Map.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 6—Number of Storeys in a Building

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

SEPP No 65—Design Quality of Residential Flat Development

SEPP No 70—Affordable Housing (Revised Schemes)

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

SEPP (Major Projects) 2005

SREP (Sydney Harbour Catchment) 2005

SEPP (Affordable Rental Housing) 2009

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **The proposal is not considered to be inconsistent with any SEPP or s.117 directions.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : **This Planning Proposal is to be exhibited in accordance with the Gateway Determination once issued by the Minister for Planning and Infrastructure. The Gateway Determination should require a public exhibition for a period of no less than 14 days.**

The Council will put out notifications about public exhibition via:

- **The City of Sydney website**
- **In newspapers that circulate widely within the area**

The Council will consult with relevant NSW agencies and authorities and other organisations undertaken in accordance with the Gateway Determination.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **December 2012**

Comments in
relation to Principal
LEP :

The Sydney LEP commenced on 14 December 2012

Assessment Criteria

Need for planning
proposal :

The Sydney LEP 2012 includes a Design Excellence Incentive that extends across the entire Local Government Area (LGA) to ensure that significant new development contributes positively to the overall architectural quality of the City. This contribution will typically come in the form of a well designed building that fits sensitively into the streetscape and responds to the public domain.

Calculating the design excellence incentive in accordance with the current wording of the clause has meant that the 10% design excellence bonus produces comparatively less floor space for eligible sites. This reduction in total redevelopment capacity was an unintended effect of the amendments made to the draft Sydney LEP 2011 and may result in insufficient incentive to undertake a competitive design process. Changing the wording in the clause will allow the design excellence incentive to function in its intended way.

The amended clause will allow eligible sites to have a 10% design excellence bonus added to the site; this figure would come from the combined total FSR of that site. The design excellence bonus for floor space is not absolute. The consent authority has discretion to award less than 10% should the site constraints prevent the full incentive being appropriately accommodated.

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Consistency with strategic planning framework :

The proposed change relates to key metropolitan and sub-regional policy to improve the quality of design and renewal across Sydney and its region. The Metropolitan Plan for Sydney 2036 recognises that the promotion of design excellence can act as a catalyst for investment and demonstrates commitment to high quality urban renewal. The achievement of excellent urban design, architecture and renewal continues to be a key theme in the draft Metropolitan Strategy for Sydney to 2031.

The Sydney LEP 2012 design excellence provisions are consistent with these strategic policy objectives, recognising the importance of achieving design excellence across the LGA. The proposed change in wording is not inconsistent with these overall objectives. It seeks to ensure sufficient incentive is offered to cover the cost of undertaking a competitive design process and as such will facilitate design excellence.

The proposal is also consistent with the City's Sustainable Sydney 2030 strategic plan as it is consistent with the 10 strategic directions outlined in the plan. The proposal is also consistent with Sustainable Sydney 2030.

Environmental social economic impacts :

The proposed amendment to Sydney LEP 2012 is unlikely to result in negative environmental effects that cannot be mitigated. All potential environmental impacts, including sustainable design, overshadowing, solar access, visual privacy, acoustic privacy, noise, wind and reflectivity must be considered by the consent authority in determining whether a proposed development demonstrates design excellence.

Calculating the design excellence incentive in accordance with the current wording of the clause has resulted in the design excellence bonus producing comparatively less floor space for eligible sites. This reduction in total redevelopment capacity was an unintended effect of the amendments. The planning proposal seeks to address this by re-installing the higher potential floor space achievable for demonstration of design excellence.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	Department of Planning and Infrastructure - Sydney Harbour Foreshore Authority		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			
Resubmission - s56(2)(b) : No			
If Yes, reasons :			
Identify any additional studies, if required. :			
If Other, provide reasons :			
Identify any internal consultations, if required :			
No internal consultation required			

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Council Resolution.pdf	Proposal	Yes
Planning Proposal.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **2.3 Heritage Conservation**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 6.1 Approval and Referral Requirements
 6.2 Reserving Land for Public Purposes
 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that:**

- 1. The planning proposal be supported;**
- 2. That the planning proposal be considered as routine and exhibited for a period of 14 days;**
- 3. Consultation is required with the Sydney Harbour Foreshore Authority;**
- 4. A public hearing is not required;**
- 5. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.**

Supporting Reasons : **Clause 6.21(7)(b) of Sydney LEP 2012 establishes an incentive for undertaking a competitive design process, namely the potential for the consent authority to grant up to an additional 10% height or FSR. This incentive is in recognition of achieving design excellence and of the additional cost of undertaking such a process. The current wording of the clause may result in insufficient incentive to provide design excellence across the LGA. The proposed amendment should proceed.**

Signature:



Printed Name:

Tim ARCHER

Date:

7.8.13