

Sydney Local Environmental Plan 2005 (Amendment No.4) (section 73A amendment)

Proposal Title : Sydney Local Environmental Plan 2005 (Amendment No.4) (section 73A amendment)

Proposal Summary : Proposed amendment to clause 52a of Sydney local Environmental Plan 2005 under section 73A of the Environmental Planning and Assessment Act 1979 to correct an error in the description of 'block 2'

PP Number : PP_2012_SYDNE_004_00 Dop File No : 12/15935-1

Proposal Details

Date Planning Proposal Received : 02-Oct-2012 LGA covered : Sydney

Region : Sydney Region East RPA : Council of the City of Sydney

State Electorate : SYDNEY Section of the Act : 73A - Minor Matter

LEP Type : 73A

Location Details

Street : 188-194A George Street

Suburb : Sydney City : Sydney Postcode : 2000

Land Parcel : Lot 1 DP 913005

DoP Planning Officer Contact Details

Contact Name : Dan Cutler

Contact Number : 0292286475

Contact Email : Daniel.Cutler@planning.nsw.gov.au

RPA Contact Details

Contact Name : Francesca O'Brien

Contact Number : 0292659069

Contact Email : fobrien@cityofsydney.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : N/A Release Area Name : N/A

Regional / Sub Regional Strategy : Metro Sydney City subregion Consistent with Strategy : Yes

Sydney Local Environmental Plan 2005 (Amendment No.4) (section 73A amendment)

MDP Number :	N/A	Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
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 :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **BACKGROUND**

Mirvac is the owners of land within the block bounded by Alfred, Pitt, Dalley and George Streets, Sydney (the APDG site). Mirvac has lodged a development application with City of Sydney Council for part of this site known as development block 2. The application was lodged under the provisions of Sydney LEP 2005 and consists of a 37 storey commercial tower with an estimated value of about \$250 million.

Sydney LEP 2005 provides alternative height controls for the APDG site. The alternative height controls were intended to encourage the redevelopment of the land and provide improved public open space. In preparing the development application for land in the APDG block, the land owner identified an error in the land description shown in Sydney LEP 2005.

Sydney LEP 2005 identifies three development blocks within the APDG site. These blocks are referred to by listing title descriptors. During the process of lodging a development application for development block 2 in the APDG site, the land owner and Council have identified that Lot 1 DP 913 005 has been omitted from the description of development block 2.

To take advantage of the alternative height limits that apply to the APDG site under Sydney LEP 2005, a development proposal for development block 2 must relate to the whole of the development block and no other land. The identified error means that Mirvac's development application cannot be assessed under the provisions of Sydney LEP 2005.

This error has been corrected in draft Sydney LEP 2012. However, the development application was lodged under Sydney LEP 2005. Clause 1.8A of draft Sydney LEP 2012 'Savings and transitional provisions' means that the application must be determined under the instrument in force at the time it was lodged. Therefore, the application would need to be re-lodged after draft Sydney LEP 2012 has been made in order to proceed. This would delay and add significant costs to an important redevelopment project in the Sydney CBD.

After discussing the issue with Council and the land owner, the Department requested Parliamentary Counsel's office amend clause 1.8A of the draft Sydney LEP 2012 to exclude

Sydney Local Environmental Plan 2005 (Amendment No.4) (section 73A amendment)

Mirvac's application. This has the effect of allowing the application to be determined under draft Sydney LEP 2012.

Council officers have advised that Mirvac's development application for the APDG site will most likely be assessed by Council and the Central Sydney Planning Committee in December 2012.

PROPOSAL

Council argues that this is an obvious error consisting of a misdescription and that Lot 1 DP 913005 should be inserted into the description of development block 2 in clause 52A(8) of Sydney LEP 2005 as an amendment under section 73A of the EP&A Act.

Adequacy Assessment

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

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

Comment : Council's submission requesting that the missing lot description be inserted in Sydney LEP 2005 as a minor amendment under s73A contains a section explaining the objectives of the proposed amendment.

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

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

Comment : The proposed amendment is to insert Lot 1 DP 913005 into the description of 'development block 2' in clause 52A of Sydney LEP 2005.

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

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

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

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided a map showing the location of Lot 1 DP 913005 in the APDG site.

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : Council proposes a section 73a amendment to Sydney LEP 2005 to insert a missing lot description. An amendment under section 73A does not require exhibition.

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 : **Council has submitted all the required information to allow the Department to assess its proposal as an amendment under section 73A of the EP&A Act.**

Proposal Assessment

Principal LEP:

Due Date : **October 2012**

Comments in relation to Principal LEP : **Draft Sydney LEP 2012 is currently being assessed by Parliamentary Counsel and is close to finalisation.**

Council has been formally consulted as required by section 59 of the EP&A Act and all issues with the written instrument have been resolved. PC is checking the draft LEP maps. Once the maps have been finalised, PC can issue an Opinion that the draft LEP can be legally made.

Lot 1 DP 913005 has been inserted into the description of development block 2 in draft Sydney LEP 2012 to rectify the error made in Sydney LEP 2005.

Draft Sydney LEP 2012 clause 1.8A 'Savings and transitional provisions' has been amended to allow Mirvac's development application relating to development block 2 in the APDG site to be assessed under the provisions of draft Sydney LEP 2012.

Assessment Criteria

Need for planning proposal : **Council advises that the amendment is required because of concern that a development application for the redevelopment of part of the APDG site cannot proceed without Lot 1 DP 913005 being inserted into the description of development block 2 in clause 52A of Sydney LEP 2005.**

Consistency with strategic planning framework : **The proposed amendment is consistent with Council's strategic vision for the redevelopment of the APDG site.**

Environmental social economic impacts : **The proposed amendment is to rectify an error in Sydney LEP 2005 to allow the alternative height controls for the APDG site to apply as intended by Council.**

The proposed amendment will create no additional environmental or social impacts and would have a positive economic impact by allowing a major development application to proceed.

Sydney Local Environmental Plan 2005 (Amendment No.4) (section 73A amendment)

Assessment Process

Proposal type : **Minor** Community Consultation
Period :

Timeframe to make **3 Month** Delegation :
LEP :

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **Council's proposed section 73A amendment should not proceed because:**

1. It cannot be considered a minor matter or an obvious error. The insertion of Lot 1 DP 913005 into the description of development block 2 will significantly alter Sydney LEP 2005 as it was not previously identified as part of development block 2, either in the written instrument or associated LEP maps. The amendment would need to be made via a planning proposal.
2. Draft Sydney LEP 2012 rectifies the problem identified in Councils submission by inserting the missing lot description into the description of development block 2 in the APDG site and excluding Mirvac's development application from the savings provisions to allow that application to be assessed under draft Sydney LEP 2012 when made, avoiding any delays.
3. Draft Sydney LEP 2012 is in its final stages of checking by Parliamentary Counsel and is expected to be made in the near future. It is highly unlikely that the proposed amendment to Sydney LEP 2005 would be made before draft Sydney LEP 2012.

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

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
proposed section 73A amendment to Sydney LEP2005.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

Additional Information : **Not proceed.**

Supporting Reasons : **Council's proposed section 73A amendment should not proceed because:**

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2. Draft Sydney LEP 2012 rectifies the problem identified in Council's submission by inserting the missing lot description into the description of development block 2 in the APDG site and excluding Mirvac's development application from the savings provisions to allow that application to be assessed under draft Sydney LEP 2012 when made, avoiding any delays.

3. Draft Sydney LEP 2012 is in its final stages of checking by Parliamentary Counsel and is expected to be made in the near future. It is highly unlikely that the proposed amendment to Sydney LEP 2005 would be made before draft Sydney LEP 2012 meaning the proposed amendment would have no effect.

Signature: _____

Printed Name: _____


Lise Spurling

Date: _____

8/10/2012