

Waverley LEP 2012 - Repeal clause 4.4B Incentives for providing affordable rental housing

Proposal Title : **Waverley LEP 2012 - Repeal clause 4.4B Incentives for providing affordable rental housing**

Proposal Summary : **The purpose of this planning proposal is to repeal the non-mandatory clause 4.4B Incentives for providing affordable rental housing. No new affordable housing provisions are proposed for inclusion in the Waverley LEP 2012.**

PP Number : **PP_2014_WAVER_004_00** Dop File No : **14/12620**

Proposal Details

Date Planning Proposal Received :	02-Sep-2014	LGA covered :	Waverley
Region :	Metro(CBD)	RPA :	Waverley Council
State Electorate :	VAUCLUSE	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **No specific land parcels are involved in this proposal**

DoP Planning Officer Contact Details

Contact Name : **Lauren Templeman**
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RPA Contact Details

Contact Name : **Angela Hynes**
 Contact Number : **0293698223**
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DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Metro East subregion	Consistent with Strategy :	N/A

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MDP Number :

Date of Release :

Area of Release
(Ha) :

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 : **Yes**

If No, comment : The Department of Planning and Environment's Code of Practice in relation to communication and meetings with lobbyists has been complied with. Metropolitan Delivery has not met any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other Department officers and lobbyists concerning this proposal.

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

Valuation advice, prepared by HillPDA (2014), on behalf of Council concludes that clause 4.4B does not deliver a benefit to Council of equal value to the additional floor space (the affordable housing incentive) permitted for development. To achieve this outcome, HillPDA (2014) estimate that for every 2 units in additional FSR sought by a developer under clause 4.4B, 1 unit would need to be provided to Council for the purposes of affordable rental housing for a period of approximately 19 years.

Given clause 4.4B currently requires the dwelling or dwellings provided for affordable housing in a development to be leased for this purpose for "at least 3 years", HillPDA (2014) conclude that Council is currently forgoing approximately 16 years rent per affordable housing unit.

Repealing clause 4.4B will allow for Council to pursue a policy position, through Council's affordable housing program and VPA Policy that provides measured community benefit and the delivery of affordable housing.

Prior to lodging this proposal, Waverley Council and the Department discussed options for improving Council's affordable housing incentives. There was in principal support for the clause repeal option contained in this proposal.

External Supporting Notes :

Adequacy Assessment

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

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

Comment :

The objectives of this proposal are to:

- repeal clause 4.4B Incentives for providing affordable rental housing; and
- remove "Area 1" from floor space ratio maps.

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

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

Comment : **The planning proposal seeks to remove the non-mandatory clause 4.4B Incentives for providing affordable rental housing and no new provision is being proposed. Council is not seeking to amend clause 4.4B as further work needs to be undertaken to clarify how the clause currently operates.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

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 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 65—Design Quality of Residential Flat Development

SEPP No 70—Affordable Housing (Revised Schemes)

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

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

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 :

During the preparation of Council's comprehensive LEP, Council liaised with the Department to draft an affordable housing clause to resolve issues surrounding the ongoing application of the Waverley Affordable Housing Program adding a further dimension to the available choice of housing types in the Waverley Local Government Area. By repealing the non-mandatory clause 4.4B, Council will pursue a policy position through Council's affordable housing program and VPA Policy that provides measured community benefit and the delivery of housing choice through affordable housing.

The inconsistency with s117 Directions 3.1 is considered justifiably inconsistent because Council is pursuing an alternative policy position to deliver housing choice.

It is recommended that the Secretary approve the inconsistency with s117 Direction 3.1 on the basis it is justifiably inconsistent.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping is adequate.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Consultation will be undertaken in accordance with the Gateway determination. Notwithstanding, Council suggests that an exhibition period of 14 days would be appropriate.**

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 : **The proposal and clause 4.4B Valuation Assessment report prepared by HillPDA (2014) addresses all adequacy criteria.**

Proposal Assessment

Principal LEP:

Due Date : **December 2012**

Comments in relation to Principal LEP : **Waverley comprehensive was finalised in December 2012.**

Assessment Criteria

Need for planning proposal : **The need for a planning proposal is based on Council's need to repeal the clause as it is not operating in the way that was intended and it is not achieving the same dollar value that the previous voluntary incentive scheme under the Waverley Affordable Housing Program calculator was achieving in terms of public benefit (approximately 50%).**

The intent of clause 4.4B was to continue the growth of Waverley's Affordable Housing Program by providing rent-capped units. However, Council's initial understanding of the clause was that the inclusion of the term 'at least' would allow for some flexibility.

The interpretation of the clause, and specifically the wording of 'at least 3 years', was tested in legal proceedings which concluded that a developer has to provide affordable housing units for only 3 years. The incentives clause is heavily weighted towards the developer, who is only required to provide affordable housing units for 3 years under the clause for up to 15% additional floor space.

Consistency with strategic planning framework : **The repeal of clause 4.4B will allow for Council to better ensure the delivery of affordable housing within the Waverley LGA, which is consistent with the objectives and actions contained in the Sydney Metropolitan Strategy and East Subregion Draft Subregional Strategy.**

The proposal is also consistent with several strategic objectives of the Waverley Together 3 community plan.

Environmental social economic impacts : **The land which is subject to this planning proposal does not include any land which contains critical habitat or threatened species populations or ecological communities or their habitats.**

Social and economic impacts

The removal of clause 4.4B will allow Council to facilitate the delivery of significantly greater public benefit equitable to any developer incentive under Council's Planning Agreement Policy and Waverley LEP 2012 Clause 4.6 Exceptions to development standards. The Waverley Affordable Housing Program (WAHP) has successfully provided FSR and height bonuses to developers and provided monetary contributions, units in perpetuity and rent-capped units through a voluntary planning agreement (VPA) process. Monetary contributions received in accordance with Council's VPA Policy will allow Council to maintain existing affordable housing stock, acquire property for the purposes of affordable housing, and provide further capital to pursue joint ventures or partnerships.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - s56(2)(d) : **Family and Community Services - Housing NSW**

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

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
Planning Proposal - Waverley Clause 4.4B.pdf	Proposal	Yes
Maps.pdf	Map	Yes
Valuation Advice - Hill PDA.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **3.1 Residential Zones**
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions
7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the planning proposal be supported with the following conditions:**
1. That the Secretary approves the inconsistency with s117 direction 3.1 Residential Zones on the basis it is justifiably inconsistent;
2. Council be given plan making delegation;
3. The planning proposal be considered as routine and exhibited for a period of 14 days;

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- 4. Consultation is required with the Department of Family and Community Services - Housing NSW;
- 5. A public hearing is not required; and
- 6. The planning proposal to be finalised within 9 months from a week following the date of the gateway determination.

Supporting Reasons :

The removal of Clause 4.4B will allow Council to facilitate the delivery of significantly greater public benefit equitable to any developer incentive under Council's Planning Agreement Policy and Waverley LEP 2012 Clause 4.6 Exceptions to development standards.

Signature:



Printed Name:

Tim Archer

Date:

14/10/14