

Planning Proposal to include residential flat buildings as a permissible use within the B4 Mixed Use zone and amend clause 4.4A Non-residential floor space ratio

Proposal Title : **Planning Proposal to include residential flat buildings as a permissible use within the B4 Mixed Use zone and amend clause 4.4A Non-residential floor space ratio**

Proposal Summary : **The planning proposal seeks to include residential flat buildings within the B4 Mixed Use zone, remove maximum non-residential floor space ratio (FSR) controls and exclude serviced apartments from the calculation of non-residential floor space under North Sydney Local Environmental Plan 2013.**

PP Number : **PP_2015_NORTH_003_00** Dop File No : **15/01478**

Proposal Details

Date Planning Proposal Received : **06-Jan-2015** LGA covered : **North Sydney**

Region : **Metro(CBD)** RPA : **North Sydney Council**

State Electorate : **NORTH SHORE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street : **Various**

Suburb : City : Postcode :

Land Parcel : **Various land within North Sydney local government area**

DoP Planning Officer Contact Details

Contact Name : **Nava Sedghi**

Contact Number : **0285754117**

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RPA Contact Details

Contact Name : **Mark Yee**

Contact Number : **0299368100**

Contact Email : **Mark.Yee@northsydney.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Consistent with Strategy :

Regional Strategy :

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

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

If No, comment :

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

If Yes, comment : The Department of Planning and Environment's Code of Practice in relation to communication and meetings with lobbyists has been complied with. Metropolitan Region (East) has not met any lobbyists in relation to this proposal, nor has the Director been advised of any meetings between other Departmental officers and lobbyists concerning this proposal.

Supporting notes

Internal Supporting
Notes :

On 15 December 2014, North Sydney Council considered three separate planning proposals where it resolved to forward all three proposals for a Gateway determination under the Environmental Planning and Assessment Act 1979 (EP&A Act). It is recommended that all three proposals be consolidated into one planning proposal for efficiency and clarity purposes prior to public exhibition.

DELEGATION OF PLAN MAKING FUNCTIONS

North Sydney Council is seeking delegation to carry out the Minister's functions under section 59 of the EP&A Act to progress this planning proposal. Council has provided Attachment 4 - Evaluation criteria for the delegation of plan making functions. Delegation is considered appropriate.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objectives of the planning proposal are provided below:

1. Improve the flexibility of existing planning controls within the B4 Mixed Use zone. This will be achieved by allowing residential accommodation to be provided at the ground floor and lower ground floor levels, where that residential accommodation does not prevent the provision of active street frontages or the meeting of the non-residential floor space ratio controls.
2. Promote employment generation and protect the provision of non-residential floor space within the B4 Mixed Use zone by removing serviced apartments from the calculation of non-residential floor space.

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3. Improve flexibility of the existing planning controls, especially within the B4 Mixed Use zone, by removing the maximum non-residential floor space ratio requirement over land subject to clause 4.4A.

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

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

Comment : The planning proposal seeks to amend North Sydney Local Environmental Plan 2013 in the following way:

1. Include residential flat buildings as a permissible use with development consent within the B4 Mixed Use zone.

2. Introduce a new local clause that ensures residential flat buildings are only permissible within the B4 Mixed Use zone if they are provided as part of mixed use development and achieve active street frontages.

3. Amend clause 4.4A Non-residential floor space ratio ranges by:

- amending the objective in subclause (1)(d) to ensure that a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of commercial centres;
- excluding serviced apartments in the calculation of non-residential FSR;
- removing the maximum non-residential FSR requirements from land subject to the clause;
- amending the definition of non-residential FSR range map; and
- amending all the non-residential FSR range maps to reflect the minimum non-residential FSR requirement only.

Objective 4 of the B4 Mixed Use zone currently reads:

"To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses on the lower levels and residential uses above those levels."

The purpose of the proposed amendment to the B4 Mixed Use zone is to allow dwellings at ground level or lower ground levels without impacting active street frontages or meeting non-residential floor space requirements. This is inconsistent with objective 4 of the B4 Mixed Use zone, where residential uses are required to be above ground level.

The Department recommends the planning proposal review objective 4 of the B4 Mixed Use zone to consider the objectives of the planning proposal. It is recommended the objective be amended prior to public exhibition of the planning proposal.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

3.1 Residential Zones

3.4 Integrating Land Use and Transport

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?

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

SECTION 117 DIRECTION - 1.1 BUSINESS AND INDUSTRIAL ZONES

The planning proposal is consistent with this direction in that it will continue to protect floor space for employment purposes by maintaining the minimum non-residential FSR requirements within the local government area (LGA). In addition, it supports

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employment generation by allowing greater flexibility for sites capable of accommodating greater amounts of non-residential floor space.

It should be noted that serviced apartments will continue to be permissible within the B4 Mixed Use zone. The removal of serviced apartments from the calculation of non-residential floor space will enable other non-residential uses that have higher employment generation than serviced apartments be provided within the B4 Mixed Use zone.

SECTION 117 DIRECTION - 3.1 RESIDENTIAL ZONES

The planning proposal is consistent with this direction in that it will potentially encourage greater housing choice by allowing residential flat buildings within the B4 Mixed Use zone. B4 zones within the LGA are accessible by existing infrastructure and services.

SECTION 117 DIRECTION - 7.1 IMPLEMENTATION OF A PLAN FOR GROWING SYDNEY

The proposal is consistent with direction 1.7 in A Plan for Growing Sydney, in that it will potentially allow for employment growth in St Leonards and North Sydney strategic centres by removing maximum non-residential FSR controls within the LGA.

The planning proposal is consistent with relevant State Environmental Planning Policies and other relevant section 117 directions.

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 : **The planning proposal contains existing non-residential FSR range mapping and proposed non-residential FSR mapping reflecting the intent of the amendment to North Sydney Local Environmental Plan 2013.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A 14 day public consultation period is considered appropriate and consistent with the Department's guidelines for low impact proposals.**

PROJECT TIMELINE

Council's estimated project timeline for completion of the planning proposal is August 2015. The Department considers a 9 month project timeline for completion is adequate.

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 :

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Proposal Assessment

Principal LEP:

Due Date : August 2013

Comments in
relation to Principal
LEP :

North Sydney Local Environmental Plan 2013 was notified on 2 August 2013.

Assessment Criteria

Need for planning
proposal :

PROPOSED PERMISSIBLE USE OF RESIDENTIAL FLAT BUILDINGS WITHIN THE B4 ZONE

The proposed permissible use of residential flat buildings within the B4 Mixed Use zone is not a result of any strategic study or report. Council has indicated the assessment of a number of development applications has highlighted the unreasonable restriction placed on some proposals for mixed use developments where the applicant can satisfy the minimum non-residential FSR and provision of active street frontages applying to a site.

Specifically, Council has identified certain sloping sites would trigger more than one level of the building having ground floor access. This would prevent shop top housing being located above ground floor retail or business premises for part of a building.

The proposal would enable another compatible land use within the B4 Mixed Use zone without undermining the provision of active street frontages.

PROPOSED AMENDMENT RELATING TO SERVICED APARTMENTS IN CLAUSE 4.4A NON-RESIDENTIAL FLOOR SPACE RATIO RANGES

The proposed exclusion of serviced apartments from the calculation of non-residential floor space and removal of maximum non-residential FSR requirements arises from preliminary work that has been undertaken by Council in relation to the North Sydney Economic Development Strategy. Despite the Strategy being in its preliminary stages, initial research undertaken to date has indicated a pressing need to strengthen mechanisms that promote the provision of employment generating uses. Council's report dated 15 December 2014, provides background information relating to the Strategy.

It is understood that a number of applicants have sought to convert serviced apartments to residential units post development consent, primarily due to serviced apartments being financially unviable. This results in a reduction in employment floor space being made available for other potential non-residential uses. Further, it is noted that serviced apartments generally contribute to low employment generation, approximately 1-2 employees per 5 bedrooms.

The planning proposal may impact on the feasibility of future serviced apartments being developed in the B4 zone, as this use would be competing directly with residential uses. Notwithstanding, the proposal would prevent the provision of unfeasible serviced apartments in the calculation of non-residential floor space within the B4 zone. It is appropriate that the proposal proceed to exhibition but with consultation with Destination NSW as part of agency consultation.

PROPOSED AMENDMENT TO REMOVE MAXIMUM NON-RESIDENTIAL FSR CONTROL IN CLAUSE 4.4A NON-RESIDENTIAL FLOOR SPACE RATIO RANGES

The proposed removal of the maximum non-residential FSR requirement will allow greater flexibility for affected sites to be developed to maximum non-residential use potential.

The planning proposal will support the provision of employment floor space as an interim measure whilst the broader Economic Development Strategy is being prepared. It is anticipated that the Strategy will be completed by the end of 2015.

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Council deems a planning proposal is the appropriate mechanism to achieve the objectives of the preliminary findings of the North Sydney Economic Development Strategy as highlighted in Council's report, dated 15 December 2014.

Consistency with strategic planning framework :

The planning proposal is consistent with A Plan for Growing Sydney, the draft Inner North Subregional Strategy (draft Inner North Strategy) and Council's strategic planning documents in that it will potentially allow greater housing choice and strengthen employment function within the LGA, in particular North Sydney and St Leonards strategic centres.

It is recommended that the planning proposal be updated to address consistency with 'A Plan for Growing Sydney' prior to public exhibition.

Environmental social economic impacts :

It is not considered that there would be adverse environmental, social, economic impacts associated with the planning proposal.

Provisions are proposed to maintain active street frontages and encourage employment generating floor space which contributes to overall economic vitality with the LGA.

Assessment Process

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

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

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

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 cover letter.pdf	Proposal Covering Letter	Yes

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Planning proposal - Exclude serviced apartments from non-residential FSR calculation .pdf	Proposal	Yes
Planning proposal - removal of maximum non-residential FSR control.pdf	Proposal	Yes
Planning proposal - residential flat buildings in the B4 Mixed Use Zone.pdf	Proposal	Yes
Council report 15.12.14 - non-residential FSR ratio controls.pdf	Proposal	Yes
Council report 15.12.14 - Residential flat buildings in B4 zone.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
3.1 Residential Zones
3.4 Integrating Land Use and Transport
7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

- 1. Prior to public exhibition, Council is to consolidate the three individual planning proposals into one proposal for efficiency and clarity purposes.**
- 2. Prior to public exhibition, Council is to amend the fourth objective of the B4 Mixed Use zone to consider the planning proposal's objective to permit residential flat buildings within the B4 Mixed Use zone.**
- 3. Prior to public exhibition, the planning proposal is to be revised to demonstrate consistency with A Plan for Growing Sydney, released on 14 December 2014.**
- 4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:**
 - (a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning and Environment 2013) and must be made publicly available for a minimum of 14 days; and**
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).**
- 5. Consultation is required with Destination NSW under section 56(2)(d) of the EP&A Act. Destination NSW is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.**
- 6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**
- 7. A written authorisation to exercise delegation under section 59 of the EP&A Act is issued to Council in relation to the planning proposal.**
- 8. The planning proposal is to be completed within 9 months from the week following the date of the Gateway determination.**

Supporting Reasons : **The planning proposal is supported for the following reasons:**

- it will not impact the ability of providing sufficient levels of employment floor space;**
- it seeks to protect and promote employment generation;**

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- it provides greater housing choice close to public transport, shops and services; and
- Council proposes to progress the planning proposal under delegation. The matter is considered to be of local significance and the use of council's delegation is supported.

Signature:

S. Shewell

Printed Name:

Sandy Shewell

Date:

5-2-15