

Exceptions to Development Standards in St Leonards - Building Height

Proposal Title : **Exceptions to Development Standards in St Leonards - Building Height**

Proposal Summary : **The planning proposal extends the restriction under subclause 4.6(8)(ca) which limits the variation of the maximum height of buildings for certain land in St Leonards by more than three metres.**

PP Number : **PP_2014_NORTH_003_00** Dop File No : **14/17055**

Proposal Details

Date Planning Proposal Received : **30-Jul-2014** LGA covered : **North Sydney**

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

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

LEP Type : **Policy**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **Land in St Leonards bounded by Albany Street, Chandos Street, Hume Lane, Pacific Highway, and Sergeants Lane.**

DoP Planning Officer Contact Details

Contact Name : **Sandy Shewell**

Contact Number : **0285754115**

Contact Email : **sandy.shewell@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Adonna See**

Contact Number : **0299368100**

Contact Email : **adonna.see@northsydney.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Sandy Shewell**

Contact Number : **0285754115**

Contact Email : **sandy.shewell@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : **Metro Inner North subregion** Consistent with Strategy : **Yes**

Exceptions to Development Standards in St Leonards - Building Height

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 Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Conduct has been complied with. Metropolitan Delivery (CBD) has not met with or communicated with any lobbyist in relation to this planning proposal.**

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **This planning proposal was initiated by Council to reinstate the controls under subclause 4.6(8)(ca) of North Sydney Local Environmental Plan 2013 which limited the variation of the maximum building height for land in St Leonards by more than 3 metres.**

This is the second proposal to address this issue, the first was submitted to the Department on 1 October 2013, and was made as Amendment 2 to North Sydney Local Environmental Plan 2013 on 22 November 2013.

Amendment 2 implemented subclause 4.6(8)(ca) which limited the variation of the maximum building height for land in St Leonards by more than 3 metres. Subclause 4.6(8)(ca) ceased to apply on 11 March 2014.

This expiry date was intended to allow for Council to complete the studies for Precincts 2 and 3 of St Leonards/Crows Nest Planning Study. These studies are now anticipated to be completed during 2015.

The reinstatement of clause 4.6(8)(ca), or a variation of it, is intended to allow Council to complete the planning studies for Precincts 2 and 3 of the St Leonards/Crows Nest Planning Study and adopt new controls based on their findings.

Adequacy Assessment

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

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

Comment : **The objective of the planning proposal is to either delete clause 4.6(8A), or reactivate the restriction under subclause 4.6(8)(ca) of NSLEP 2013 which limits the variation of the maximum building height for land in St Leonards by more than 3 metres. Clause 4.6(8)(ca) ceased to apply on 11 March 2014.**

The proposal seeks to amend NSLEP 2013 to ensure that the restrictions of subclause 4.6(8)(ca) that applied prior to 11 March 2014 are reinstated until Council has completed the St Leonards/Crows Nest Planning Study for Precincts 2 and 3.

The purpose of the amendment is to limit the instances when a development can exceed the maximum building height requirements, and to require the merit considerations under Clause 4.6 - Exceptions to Development Standards of NSLEP 2013 to be satisfied until the St Leonards/Crows Nest Planning Study is completed.

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

Is an explanation of provisions provided? Yes

Comment : The planning proposal seeks to amend NSLEP 2013 by one of three options:

Option 1: delete clause 4.6 (8A);

Option 2: replace clause 4.6(8A) as follows -

"(8A) Subclause (8)(ca) ceases to apply on the day that Council adopts the recommendations of the completed St Leonards/Crows Nest Planning Study for Precincts 2 and 3;" or

Option 3: amend clause 4.6(8A) to reflect a new sunset clause date.

Council received a Planning Reform Fund grant to complete the St Leonards/Crows Nest Planning Study for Precincts 2 and 3 on 24 February 2014, two weeks before the original sunset clause date.

Council now anticipates completing the studies for Precinct 2 by early 2015 and Precinct 3 later in 2015. It is Council's intention that, upon completion of each Precinct Planning Study, Council will lodge a planning proposal to amend the Exceptions to Development Standards Map to NSLEP 2013 to exclude those areas for which comprehensive strategic plans have been completed.

Council is currently considering how to progress Precinct 3 having regard to a concept master plan received by Council for a large portion of the area. It is unknown whether this will result in an extended timeframe for the operation of the relevant clauses subject to the Planning Proposal.

Council's approximate timeline for Precinct 2 is:

- October 2014 - Draft Study to the Department, as per Planning Reform Fund Deed of Agreement
- 4th Quarter 2014 - Public Exhibition
- Early 2015 - Adoption of Planning Study & Post Exhibition Report.

Council is not able to give more specific dates due to significant variables, such as public exhibition and Council meeting dates. Note that Council has to date adhered to the Planning Reform Fund Deed of Agreement project schedule for the Study.

Of the options listed above, Option 1 is preferred by Council as it:

- (a) gives Council flexibility to vary the building height on a case by case basis, up to 3m over the permissible maximum height of buildings, until such a time as the studies are complete,
- (b) removes time pressures to complete the studies and draft the planning proposals to implement the findings in the form of changes to the NSLEP 2013, and
- (c) avoids the necessity of imposing different timeframes for the two precincts.

The Department of Planning and Environment considers that Option 1 is not ideal as it provides no surety that the NSLEP 2013 will be amended to incorporate the findings of the Planning Studies, and does not allow for flexibility greater than 3m above the maximum height of buildings permitted.

Both Options 1 and 2 effectively allow for:

- the uncertainty regarding the timing to complete the Study;
- the uncertainty regarding the different timing to complete the work for Precincts 2 and 3.
- avoid the need for Council to lodge a further planning proposal to amend an additional sunset clause, should the date again become unachievable; and

Exceptions to Development Standards in St Leonards - Building Height

- allow Council to determine proposals that seek to exceed the maximum building height by more than 3 metres, up until such a time that the Planning Study is translated into the NSLEP 2013.

Option 3 provides known timeframes for amending the NSLEP 2013, to incorporate the findings of the Planning Studies, however it could also:

- potentially necessitate an additional planning proposal to further extend the sunset date if a new sunset clause date is again unable to be met; and
- in order to avoid having to change the sunset date a third time, it would be necessary to build in an extended timeframe to allow for contingencies; and

The Department recommends that Option 3 be adopted, with a new sunset clause date being 31 December 2015. This option:

- provides certainty that the clause will not continue indefinitely;
- achieves the objective of applying the restriction of the clause to limit variation of the maximum building height for land in St Leonards by more than 3 metres; and
- the recommended sunset clause cease date provides an achievable deadline to Council for the completion of the Planning Studies.

The insertion of the new sunset clause cease date of 31 December 2015 will allow sufficient time for Council to complete the studies, factoring in the timeline provided by Council, Council meeting dates, and timeframe for making the amending NSLEP 2013 (which is recommended to be 6 months).

Council has been consulted regarding the new sunset clause cease date of 31 December 2015 and has agreed that it is feasible for the relevant studies to be completed and a new planning proposal submitted to introduce new planning controls for the area by this date.

Although Council suggests in its report of 21 July 2014 that community consultation is not required, it is recommended that the planning proposal be exhibited for a period of 14 days as it represents a change in the status quo regarding permissible building heights in St Leonards.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

2.3 Heritage Conservation

3.1 Residential Zones

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?

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

1.1 Business and Industrial Zone

The planning proposal is inconsistent with this Direction in that it reduces the total potential floor space for employment uses and related public services in business zones. The planning proposal seeks to limit the variation of the maximum building height for land in St Leonards by more than 3 metres. The inconsistency requires the Director General's delegate approval. It is recommended that the Director General's delegate approve the inconsistency which is considered of minor significance. The increase in potential floor space was a drafting error in NSLEP 2013.

3.1 Residential Zone

The planning proposal is inconsistent with this Direction in that it contains provisions which will reduce permissible residential density of land. The planning proposal seeks to limit the variation of the maximum building height for land in St Leonards by more than 3 metres. The inconsistency requires the Director General's delegate approval. It is

Exceptions to Development Standards in St Leonards - Building Height

recommended that the Director General's delegate approve the inconsistency which is considered of minor significance. The increase in permissible residential density of land was a drafting error in the NSLEP 2013.

The planning proposal is considered consistent with all other section 117 directions.

The planning proposal is considered consistent with the relevant SEPPs.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping is not required.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : **Although Council has proposed that community consultation is not required, it is recommended that the planning proposal be exhibited for a period of 14 days as it represents a change in the status quo regarding permissible building heights in St Leonards.**

A project timeline for the planning proposal has not been provided. A 6 month timeline is considered 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 :

Proposal Assessment

Principal LEP:

Due Date : **August 2013**

Comments in relation to Principal LEP : **North Sydney Local Environmental Plan 2013 (NSLEP 2013) was notified on 2 August 2013. The planning proposal will proceed as an amendment to NSLEP 2013.**

Assessment Criteria

Need for planning proposal : **The intent of clause 4.6(8)(ca) to NSLEP 2013 was to enable a strategic study of the subject area to be undertaken, without being compromised by development consents, allowing building heights beyond existing controls.**

Consistency with strategic planning framework : **The planning proposal is consistent with the Sydney Metropolitan Strategy 2036, draft Metropolitan Strategy 2031 and draft Inner North Subregional Strategy.**

Environmental social economic impacts : **It is not envisaged that the planning proposal will have adverse environmental, social or economic impacts.**

Exceptions to Development Standards in St Leonards - Building Height

Assessment Process

Proposal type : **Routine** Community Consultation Period : **Nil**

Timeframe to make LEP : **6 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's letter.pdf	Proposal Covering Letter	Yes
Council Report.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: **1.1 Business and Industrial Zones**
2.3 Heritage Conservation
3.1 Residential Zones
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 the planning proposal proceed subject to the following conditions:**

1. Prior to being submitted for finalisation, the planning proposal is to be revised to reflect the new cease date for subclause 4.6(8)(ca), being 31 December 2015.

Exceptions to Development Standards in St Leonards - Building Height

2. Community consultation is required under sections 56(2)(c) and 57 of the 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).

3. The planning proposal is to be completed within six months of the gateway determination.

4. The inconsistencies with section 117 Directions 1.1 Business and Industrial Zone and 3.1 Residential Zone to be of minor significance.

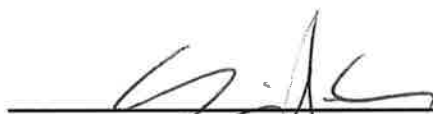
5. A written authorisation to exercise delegation under section 59 of the Environmental Planning and Assessment Act, 1979 is issued to Council in relation to the planning proposal.

Supporting Reasons :

The planning proposal extends the restriction under subclause 4.6(8)(ca) which limits the variation of the maximum height of buildings for certain land in St Leonards by more than three metres. This subclause was introduced to address a drafting error which automatically granted an additional three metres in permissible building height to the aforementioned land.

The new sunset clause cease date of 31 December 2015, will allow Council sufficient time to complete the St Leonards/Crows Nest Planning Study, which will be able to give strategic direction for the locality.

Signature:



Printed Name:

Tim Archer

Date:

16/10/14

