

Hornsby LEP 2013 - Design excellence for tall buildings

Proposal Title : **Hornsby LEP 2013 - Design excellence for tall buildings**

Proposal Summary : **The proposal is to add a local provision to Hornsby Local Environmental Plan 2013 requiring developments of 10 storeys or more to exhibit design excellence.**

PP Number : **PP_2014_HORNS_003_00** Dop File No : **14/14903**

Proposal Details

Date Planning Proposal Received : **03-Sep-2014** LGA covered : **Hornsby**

Region : **Metro(Parra)** RPA : **The Council of the Shire of Hornsby**

State Electorate : **CASTLE HILL
EPPING
HAWKESBURY
HORNSBY
KU-RING-GAI** Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :
Suburb : City : Postcode :
Land Parcel : **The proposal applies to all land covered by Hornsby Local Environmental Plan 2013.**

DoP Planning Officer Contact Details

Contact Name : **Shane Nugent**
Contact Number : **0298601173**
Contact Email : **shane.nugent@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Katherine Vickery**
Contact Number : **0298476728**
Contact Email : **kvickery@hornsby.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Terry Doran**
Contact Number : **0298601149**
Contact Email : **terry.doran@planning.nsw.gov.au**

Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
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 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 :

Supporting notes

Internal Supporting Notes : Note that the planning proposal was originally received by the Department of Planning and Environment on 1 September 2014. Additional information was sought from Hornsby Shire Council and received on 3 September 2014. The date of receipt has been amended accordingly.

External Supporting
Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? Yes

Comment : The objective of the proposal is to ensure that tall buildings of over 10 storeys in height are designed to the highest standard of architecture and urban design.

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

Is an explanation of provisions provided? Yes

Comment : The planning proposal provides that development consent must not be granted to developments of 32.5 metres or more in height, unless, in the opinion of the consent authority, the development exhibits design excellence.

The Planning proposal (under Section A - Need for the planning proposal) indicates 'almost half of Sydney councils' including Sydney City, The Hills, Strathfield, Liverpool, Parramatta, Warringah, Manly Gosford and Wyong have a design excellence clause in their local environmental plans. This statement requires clarification in the planning proposal. A review of local environmental plans indicates there are 15 local environmental plans in the wider Sydney region with a design excellence clause. These are: Blacktown, Botany Bay, Camden, Gosford, Liverpool, Manly, Parramatta, Penrith, Randwick, South Sydney,

Strathfield, Sydney, The Hills, Warringah and Wyong

A draft local provision proposed to be added to Hornsby Local Environmental Plan 2013 is included in Part 2 of the planning proposal.

The draft clause in the planing proposal closely follows similar clauses in: The Hills, Sydney, Penrith, Parramatta, Liverpool, Gosford and Blacktown Local Environmental Plans i.e. the draft Hornsby clause adopts the same or similar wording. Clauses in the other 8 Local Environmental Plans (for the other Local Government Areas of: Botany Bay, Camden, Manly, Randwick, South Sydney, Strathfield, Warringah and Wyong) do not follow a common format/wording and do not include all the subclauses and intent in the Hornsby draft clause. Copies of relevant clauses for all 15 Local Government Areas are in 'Documents'.

A number of these clauses, but not all, include provisions requiring a design competition. The Hornsby proposal does not include provisions for a design competition.

The draft Hornsby clause strictly follows the provisions in The Hills, Sydney, Penrith, Parramatta Liverpool, Gosford and Blacktown Local Environmental Plans, with some exceptions:

- . In Blacktown and Sydney, the corresponding clauses do not require consideration of any relevant requirements of applicable development control plans, whereas this subclause is included in the Hornsby draft and the other Local Environmental Plans.
- . Similarly, Blacktown and Sydney do not require consideration to be given to pedestrian, cycle, vehicular and service access and circulation requirements, whereas this subclause is included in the Hornsby draft and the other Local Environmental Plans.
- . Further in the Blacktown plan, there is no requirement for consideration to be given to (1) the existing and proposed landuses and use mix, and; (2) any heritage issues and streetscape constraints. These subclauses are included in the Hornsby draft and the other relevant local environmental plans.
- . In addition, the Hornsby provision has introduced additional matters into the subclause (common to the other relevant local environmental plans) dealing with environmental impacts. These are: solar access, visual and acoustic privacy and noise.

In respect of items (4)(f)(xi) and (xii) (i.e. (xi) achieving appropriate interfaces at ground level between the building and the public domain and (xii) excellence and integration of landscape design) in the Hornsby draft, it is noted that these subclauses are not included in any of the relevant local environmental plans (above), with the exception of the relevant subclauses in the Sydney Local Environmental Plan.

Department's comments:

There is no departmental settled model clause for 'design excellence'. The most applicable is the relatively uniform clause within the Hills, Sydney, Penrith, Parramatta Liverpool, Gosford and Blacktown Local Environmental Plans.

Hornsby Council in preparing the planning proposal draft clause have, in the main, strictly followed the relevant wording in the above local environmental plans. The notable minor exceptions are highlighted above.

In making the above plans, the department has given its defacto endorsement for the form and text of the provision. Consequently, as Hornsby Council has not significantly deviated from the wording in the relevant made plans and sought to limit the application of the provision to the development of significant buildings, there are no objections to the planning proposal proceeding as proposed, provided the planning proposal is amended to clarify the geographical extent/number of made local environmental plans that include this

provision.

Note: Explanation of Height

Note that the objectives of the planning proposal refer to development over ten storeys, and the explanation of provisions provides for the clause to apply to development of at least 32.5 metres i.e. more than 10 storeys. However other discussion in the planning proposal refers to development of 10 or more storeys. Council officers have confirmed that it was intended to apply to developments of 10 or more storeys i.e. including development of exactly ten storeys. A height limit of 29.5 metres or 30 metres would be appropriate to include ten storey developments in the provisions of the clause. This matter should be clarified prior to public exhibition.

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

2.3 Heritage Conservation

* May need the Director General's agreement

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

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 55—Remediation of Land

SEPP No 65—Design Quality of Residential Flat Development

SEPP (Building Sustainability Index: BASIX) 2004

SREP (Sydney Harbour Catchment) 2005

SREP No. 20 - Hawkesbury—Nepean River (No. 2 - 1997)

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

The planning proposal is not inconsistent with any S. 117 Directions or State Environmental Planning Policies

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

Maps are not required for this planning proposal. It will apply to all development with a height of 32.5 metres or more. The maximum permissible height of buildings is shown on the Height of Buildings Map, and no map amendments are required.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

It is proposed to place the proposal on public exhibition for a period of 28 days.

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 :

There is a need to address inconsistencies in the planning proposal as to whether it is intended to apply to development of greater than ten storeys of 10 or more storeys.

Further, clarification is required over the number of local environmental plans that currently contain a design excellence clause.

Proposal Assessment**Principal LEP:**

Due Date :

Comments in
relation to Principal
LEP :

Hornsby Local Environmental Plan 2013 was notified on 27 September 2013 and came into effect on 11 October 2013.

Assessment Criteria

Need for planning
proposal :

The issue of ensuring the highest standards of architecture and urban design was raised in the preparation and public exhibition of the Hornsby West Side Planning Proposal, which increases height limits and will change the skyline of Hornsby Central Business District.

Council resolved that similar provisions should also apply to tall buildings in other areas, such as the Epping Urban Activation Precinct.

A planning proposal is required to achieve the objective to require the consent authority to consider excellence of design in granting development consent for tall buildings.

Consistency with
strategic planning
framework :

The proposal to promote high design standards is consistent with the Draft Metropolitan Strategy for Sydney to 2031, and with Hornsby Shire Council's Community Strategic Plan.

Environmental social
economic impacts :

The proposed introduction of a design excellence clause will not have any environmental impacts.

The planning proposal states that high quality design can promote economic investment, elevating the status of Hornsby and other major centres and potentially increasing sales and profitability. Social benefits may include improvements to aesthetics, visual appeal and quality of life for future occupants and visitors.

Assessment Process

Proposal type :

Consistent

Community Consultation
Period :

28 Days

Timeframe to make
LEP :

6 months

Delegation :

DDG

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

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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
Hornsby cover letter.pdf	Proposal Covering Letter	Yes
Hornsby planning proposal .pdf	Proposal	Yes
Examples - Local Environmental Plans containing a design excellence clause.pdf	Study	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**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036**

Additional Information : **DELEGATION OF GATEWAY DETERMINATION**

While the proposal is consistent with the position of Hornsby Shire Council, it is acknowledged the proposal is a policy decision, as it will allow a relatively onerous provision to apply to a wider area i.e. Hornsby Shire Council, than currently exists.

In these circumstances it is considered that the delegation to the Director, Metropolitan Delivery (Parramatta) to issue the Gateway determination in relation to this planning proposal does not apply and it is recommended that the Gateway determination function be exercised by the Acting General Manager, Metropolitan Delivery.

DELEGATION OF PLAN-MAKING FUNCTION

Hornsby Shire Council has requested delegation of the Minister's plan making function in relation to this planning proposal. While it is acknowledged the matter holds some local planning significance, and is consistent with provisions of a number of other local environmental plans, it also acknowledged that there is a fine line between achieving

design excellence and imposing requirements that may stifle development. For this reason it is considered that the department should take an active role in the finalisation of the planning proposal and it is recommended that the plan making function not be delegated to Hornsby Council.

GATEWAY DETERMINATION AND CONDITIONS

It is recommended that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, Council is required to amend the planning proposal:
 - 1.1 To clarify whether the proposal is to apply to developments of exactly 10 storeys, or only to developments of greater than 10 storeys, and to revise the height in metres to which the proposal applies accordingly, if necessary (a revised Gateway determination is to be sought, if required).
 - 1.2 Clarify and justify the statement under Section A - Need for the planning proposal, that almost half of Sydney councils have a design excellence clause in their local environmental plans.
2. Public consultation for a period of 28 days.
3. No consultation with public authorities is required.
4. The due date for finalisation of the planning proposal is 6 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal has arisen from consideration of the Hornsby West Planning Proposal, which increases the maximum permissible building heights in that area. A number of local environmental plans in the Sydney metropolitan area include the same or similar provisions.

Signature:



Printed Name:

T DORAN

Date:

23/9/14

