

PLANNING PROPOSAL

Design Excellence

March 2015

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BACKGROUND

March 2015

A Gateway Determination was received from the Department of Planning and Environment on 20 October 2014. The Design Excellence Planning Proposal was exhibited from 2 December 2014 to 30 January 2015. One submission was received and is addressed in Group Manager's Report PL25/15 (Appendix D). The Planning Proposal has been amended to modify the proposed design excellence clause consistent with a submission from Transport for NSW and gazetted clauses within the *Manly Local Environmental Plan 2013* and *Warringah Local Environmental Plan 2011*. The amendments are minor in nature and do not require re-exhibition.

Council requested authorisation to exercise delegations in relation to plan making as part of the Gateway submission process. However, it is unclear whether the Gateway Determination authorises delegation to Council. Although there is a delegated plan making reporting template attached to the Gateway Determination, there is no written authorisation to exercise delegation. Representatives from the Department of Environment and Planning have advised verbally that delegations were not intended to be granted, and that Council is required to forward a Planning Proposal which has been revised to the Department under Section 58(2) of the Act. Therefore the matter is being treated as a non-delegated Planning Proposal and will be finalised by the Department of Planning and Environment.

November 2014

In reviewing submissions received in response to the exhibition of the Hornsby West Side Planning Proposal, and during workshops with Councillors, the issue of design quality was raised. In particular, how to ensure that the new tall buildings proposed, which will change the skyline of Hornsby, are designed to the highest standard of architecture and urban design.

On 11 June 2014 Council resolved to forward the Hornsby West Side Planning Proposal to the Minister for Planning for finalisation, to amend and re-exhibit the supporting development controls and that a separate report be prepared for Council concerning options for ensuring design quality of future high density development.

Group Manager's Report No. PL53/14 was prepared for consideration by Council at its meeting on 13 August 2014. The report presents options available to Council for ensuring design quality of future high density development. It outlines that, along with the Hornsby West Side, a number of other planning strategies for Hornsby Shire have recently been gazetted which permit large scale high density development in town centres and major centres as follows:

- 10 storey Housing Strategy precincts in Thornleigh, Waitara and Asquith;
- 10 to 25 storey development within the Hornsby West Side Precinct; and
- 15 and 20 storey development within the Epping Town Centre.

This Planning Proposal has been prepared to insert a design excellence clause in the Hornsby Local Environmental Plan (HLEP) 2013 applying to development proposals at or over 10 storeys in height. Council is seeking Authorisation to Exercise Delegation to make the LEP amendment.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

The intended outcome of the Planning Proposal is to ensure that tall buildings (at or over 10 storeys in height) are designed to the highest standard of architecture and urban design.

PART 2 - EXPLANATION OF THE PROVISIONS

Amendment of the *Hornsby Local Environmental Plan 2013* by the addition of the following clause:

6.8 Design excellence

- (1) The objective of this clause is to deliver the highest standard of architectural and urban design.
- (2) This clause applies to development involving the construction of a new building or external alterations to an existing building which is, or will be, at least 29.6 metres in height.
- (3) Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.
- (4) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
 - (c) whether the proposed development detrimentally impacts on view corridors,
 - (d) any relevant requirements of applicable development control plans,
 - (e) whether the proposed development achieves transit oriented design principles including the need to ensure direct, efficient and safe pedestrian and cycle access to nearby transit nodes,
 - (f) how the proposed development addresses the following matters:
 - (i) the suitability of the land for development,
 - (ii) the existing and proposed uses and use mix,
 - (iii) any heritage issues and streetscape constraints,
 - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers and/or other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (v) the bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind, reflectivity, water and energy efficiency and water sensitive urban design,
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access and circulation requirements,
 - (x) the impact on, and any proposed improvements to, the public domain,
 - (xi) achieving appropriate interfaces at ground level between the building and the public domain,

- (xii) excellence and integration of landscape design, including the configuration and design of communal access and communal recreation areas, to incorporate exemplary and innovative treatments and promote a socially effective atmosphere.

PART 3 - JUSTIFICATION

Section A - Need for the planning proposal

1. *Is the planning proposal a result of any strategic study or report?*

The planning proposal has arisen from the exhibition of the Hornsby West Side Planning Proposal and supporting studies and reports. The West Side Planning Proposal, once finalised, will introduce large scale high density development into Hornsby at heights which have not been permitted in the past.

The requirement to comply with State Environmental Planning Policy 65 – Design Quality of Residential Flat Development is reiterated in the Hornsby Development Control Plan 2013 in the chapters relating to residential flat buildings of 3, 5 and 6 or more storeys and the chapter relating to mixed use development.

However, during the preparation and exhibition of the Hornsby West Side Planning Proposal, the issue of design quality was raised. In particular, how to ensure that the new tall buildings proposed, which will change the skyline of Hornsby, are designed to the highest standard of architecture and urban design.

Any design considerations applying to large scale high density development within the Hornsby West Side precinct should equally apply to all large scale developments across the Shire, including the Epping Urban Activation Precinct and high density Housing Strategy precincts. Therefore, an appropriate measure of 10 or more stories should apply when considering design quality for all future development within Hornsby Shire.

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 plan. There is scope under the Standard Instrument to add a clause under Part 6 – Additional Local Provisions using wording consistent with other gazetted LEPs. Most clauses outline that development consent must not be granted unless, in the opinion of Council, the proposal exhibits design excellence and set out what Council would assess in determining design excellence.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes. The Planning Proposal is the best means of achieving the intended outcome. Inserting a Design Excellence clause within the HLEP 2013 can only be achieved by means of progression of a planning proposal.

3. *Is there a net community benefit?*

Yes. The Planning Proposal will deliver a net community benefit by assisting Council to require:

- the highest standard of architectural and urban design for high density development in major centres and town centres;
- appropriate interfaces between new buildings and the public domain;
- consideration of any impacts on the public domain, pedestrian, cycle and circulation requirements.

Section B - Relationship to strategic planning framework

4. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional*

strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes. The *Planning Proposal* is consistent with the State Government's draft *Metropolitan Strategy for Sydney to 2031*. The design excellence clause will apply to large scale high density development which has or will be rezoned to increase housing choice along major transport corridors. The clause is consistent with gazetted clauses in other Sydney Councils' LEPs and aims to ensure quality outcomes for the long term benefit of the Shire.

5. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes. The Planning Proposal is consistent with Council's Community Strategic Plan. Your Community Plan 2013 – 2033 aims to achieve a harmonious natural and built environment by monitoring and reviewing existing planning controls to ensure quality outcomes for the long term benefit of the Shire.

6. Is the planning proposal consistent with applicable state environmental planning policies?

Yes. The Planning Proposal is consistent with relevant State Environmental Planning Policies (SEPPs) and deemed SEPPs. See Appendix A for details.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. The *Planning Proposal* is consistent with applicable s117 Ministerial Directions. See Appendix B for details.

Section C - Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No – This proposal relates to the insertion of a clause for Design Excellence.

9. Are there any other likely environmental effects as a result of the planning proposal and how they are proposed to be managed?

No – This proposal relates to the insertion of a clause for Design Excellence.

10. How has the planning proposal adequately addressed any social and economic effects?

High quality design is essential to the attractiveness of centres and can promote economic investment. This in turn will contribute to the elevation of the status of Hornsby's town centre and major centres. Design excellence can lead to increased sales and profitability. Social benefits include improvements to aesthetics, visual appeal and quality of life for future occupants and visitors to Hornsby's centres.

Section D - State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

N/A – This proposal relates to the insertion of a clause for Design Excellence.

12. What are the views of State and Commonwealth public authorities consulted in accordance within this gateway determination?

The gateway determination did not require consultation with any State or Commonwealth public authorities. However, a submission was received from Transport for NSW who were consulted as an affected property owner.



General Manager
Hornsby Shire Council
PO Box 37
Hornsby NSW 1630

RECEIVED
~ 5 FEB 2015
RECORDS

Attn: Trevor Taylor (Manager Development Policy and Regulation)

Dear Sir

PLANNING PROPOSAL – DESIGN EXCELLENCE

Thank you for your letter dated 2 December 2014 requesting for Transport for NSW (TfNSW) review and comment on the subject planning proposal.

The planning proposal was referred to Roads and Maritime Services and they raise no objection to the proposal.

TfNSW has undertaken a review of the documents associated with the planning proposal and the following comments are provided:

- Section 6.8, Clause (4f), (viii) and (ix) should be modified to:
 - (viii) *the achievement of the principles of ecologically sustainable development including the incorporation of travel demand management measures.*
 - (ix) *pedestrian and cycle connections and end of trip facilities as well as vehicular and service access and circulation requirements.*
- The following sub-clauses should be added to Section 6.8, Clause (4f):
 - (xiii) *the achievement of transit oriented design principles including the need to ensure direct, efficient and safe pedestrian and cycle access to nearby transit nodes.*
 - (xiv) *managing the impacts on rail corridors including limiting glare from the installation or use of lights, signs or reflective materials and installation of measures to prevent objects being thrown onto the rail corridor from balconies, windows and other external features of the building.*

Thank you again for the opportunity of providing advice for the subject proposal. Should you have any questions regarding this matter, please contact Edmond Platon, Transport Planner on 8202 2557.

Yours sincerely


3/2/15
Mark Ozinga
Manager Land Use Development & Planning
Planning & Programs

CD14/23344

PART 4 - MAPS

N/A - This proposal relates to the insertion of a clause for Design Excellence.

PART 5 - COMMUNITY CONSULTATION

In accordance with "A guide to preparing local environmental plans" prepared by the Department of Planning and Environment (2009) the Planning Proposal was exhibited from 2 December 2014 to 30 January 2015. The exhibition included:

Advertisement in local newspapers

An advertisement was placed in the Hornsby Advocate identifying the purpose of the Planning Proposal and where the Planning Proposal could be viewed.

Advertisement on the Council website

The Planning Proposal was exhibited on the Council website (www.hornsby.nsw.gov.au/onexhibition) under On Exhibition. Council's libraries have access to the website.

Letters to affected owners

A letter was be sent to landowners whose land may be development up to or greater than 10 storeys in height advising of the exhibition of the Proposal and inviting submissions.

Displays at the Council Administration Building and local libraries

The Planning Proposal was be displayed at the Council Administration Centre, 296 Pacific Highway, Hornsby and the following libraries:

Hornsby Library
Berowra Library
Galston Library
Pennant Hills Library
Epping Library

PROPOSED TIMELINE

Weeks after endorsement from DP&I for exhibition	Item
0	Gateway Determination
6	Exhibition Start – 2 December 2014
14	Exhibition end – 30 January 2015
20	Consideration of submissions
25	Report to Council on submissions
26	Request draft instrument be prepared

APPENDICES

Appendix A

State Environmental Planning Policy Checklist

State Environmental Planning Policies		
SEPP Title	Compliance	Comment
1. Development Standards	N/A	
2. Minimum Standards for Residential Flat Development	Repealed	
3. Castlereagh Liquid Waste Disposal Depot	Repealed	
4. Development Without Consent and Miscellaneous Complying Development	N/A	
6. Number of Storeys in a Building	N/A	
7. Port Kembla Coal Loader	Repealed	
8. Surplus Public Land	Repealed	
9. Group Homes	Repealed	
10. Retention of Low-Cost Rental Accommodation	Repealed	
11. Traffic Generating Developments	Repealed	
12. Public Housing (Dwelling Houses)	Repealed	
13. Sydney Heliport	Repealed	
14. Coastal Wetlands	N/A	
16. Tertiary Institutions	Repealed	
17. Design of Building in Certain Business Centres	Not Made	
18. Public Housing	Not Made	
19. Bushland in Urban Areas	N/A	
20. Minimum Standards for Residential Flat Development	Repealed	
21. Moveable Dwellings	N/A	
22. Shops and Commercial Premises	N/A	
24. State Roads	Not Made	
25. Residential Allotment Sizes	Repealed	
26. Littoral Rainforests	N/A	
27. Prison Sites	Repealed	
28. Town Houses and Villa Houses	Repealed	
29. Western Sydney Recreational Area	N/A	
30. Intensive Agriculture	N/A	
31. Sydney (Kingsford Smith) Airport	Repealed	
32. Urban Consolidation (Redevelopment of Urban Land)	N/A	
33. Hazardous and Offensive Development	N/A	
34. Major Employment Generating Industrial Development	Repealed	
35. Maintenance Dredging of Tidal Waterways	Repealed	
36. Manufactured Home Estates	N/A	
37. Continued Mines and Extractive Industries	Repealed	
38. Olympic Games and Related Development Proposals	Repealed	

39. Spit Island Bird Habitat	N/A	
40. Sewerage Works	Not Made	
41. Casino/Entertainment Complex	N/A	
42. Multiple Occupancy and Rural Land (Repeal)	Repealed	
43. New Southern Railway	Repealed	
44. Koala Habitat Protection	N/A	
45. Permissibility of Mining	Repealed	
46. Protection and Management of Native Vegetation	Repealed	
47. Moore Park Showground	N/A	
48. Major Putrescible Landfill sites	Repealed	
49. Tourism Accommodation in Private Homes	Draft	
50. Canal Estates	N/A	
51. Eastern Distributor	Repealed	
52. Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	
53. Metropolitan Residential Development	Repealed	
54. Northside Storage Tunnel	Repealed	
55. Remediation of Land	Yes	The Planning Proposal is consistent with SEPP 55. The Planning Proposal does not propose to rezone land or introduce new land uses.
56. Sydney Harbour Foreshores and Tributaries	Repealed	
58. Protecting Sydney's Water Supply	Repealed	
59. Central Western Sydney Economic and Employment Area	N/A	
60. Exempt and Complying Development	N/A	
61. Exempt and Complying Development for White Bay and Glebe Island Ports	Repealed	
62. Sustainable Aquaculture	N/A	
63. Major Transport Projects	Repealed	
64. Advertising and Signage	N/A	
65. Design Quality of Residential Flat Development	Yes	The Planning Proposal is consistent with SEPP 65. The Planning Proposal inserts design excellence provisions into the HLEP 2013 which aim to achieve high quality design.
66. Integration of Land Use and Transport	Draft	
67. Macquarie Generation Industrial Development	Repealed	
68. Not Allocated		
69. Major Electricity Supply Projects	Repealed	
70. Affordable Housing (Revised Schemes)	N/A	
71. Coastal Protection	N/A	
72. Linear Telecommunications Development – Broadband	Repealed	
73. Kosciuszko Ski Resorts	Repealed	
74. Newcastle Port and Employment Lands	Repealed	
SEPP 1989. Penrith Lakes Scheme	N/A	
SEPP 2004. Housing for Seniors or People with a Disability	N/A	
SEPP 2004. Building Sustainability Index: BASIX	Yes	The Planning Proposal inserts design excellence provisions into the HLEP 2013 which encourage the incorporation of ecologically sustainable design principles.
SEPP 2004. ARTC Rail	Repealed	

Infrastructure		
SEPP 2004. Sydney Metropolitan Water Supply	Repealed	
SEPP 2005. Development on Kurnell Peninsula	N/A	
SEPP 2005. Major Development	N/A	
SEPP 2006. Sydney Region Growth Centres	N/A	
SEPP 2007. Mining, Petroleum Production and Extractive Industries	N/A	
SEPP 2007. Temporary Structures	N/A	
SEPP 2007. Infrastructure	N/A	
SEPP 2007. Kosciuszko National Park – Alpine Resorts	N/A	
SEPP 2008. Rural Lands	N/A	
SEPP 2008. Exempt and Complying Development Codes	N/A	
SEPP 2009. Western Sydney Parklands	N/A	
SEPP 2009. Affordable Rental Housing	N/A	
SEPP 2009. Western Sydney Employment Area	N/A	
SEPP 2009. Affordable Rental Housing	N/A	
SEPP 2010. Urban Renewal	N/A	
SEPP 2011. Sydney Drinking Water Catchment	N/A	
SEPP 2011. State and Regional Development	N/A	
Sydney Regional Plans (deemed SEPPs)		
SREP 1. Dual Occupancy	Repealed	
SREP 2. Dual Occupancy	Repealed	
SREP 3. Kurnell Peninsula	Repealed	
SREP 4. Homebush Bay	Repealed	
SREP 5. Chatswood Town Centre	N/A	
SREP 6. Gosford Coastal Areas	Repealed	
SREP 7. Multi-Unit Housing – Surplus Government Sites	Repealed	
SREP 8. Central Coast Plateau Areas	N/A	
SREP 9. Extractive Industry (No. 2)	N/A	
SREP 10. Blue Mountains Regional Open Space	Repealed	
SREP 11. Penrith Lakes Scheme	N/A	
SREP 12. Dual Occupancy	Repealed	
SREP 13. Mulgoa Valley	N/A	
SREP 14. Eastern Beaches	Repealed	
SREP 15. Terrey Hills	Repealed	
SREP 16. Walsh Bay	N/A	
SREP 17. Kurnell Peninsula	N/A	
SREP 18. Public Transport Corridor	N/A	
SREP 19. Rouse Hill Development Area	N/A	
SREP 20. Hawkesbury Nepean River (No. 2 – 1997)	Yes	The Planning Proposal will not contradict or hinder application of this SREP.
SREP 21. Warringah Urban Release Area	Repealed	
SREP 22. Parramatta River	Repealed	
SREP 23. Sydney and Middle Harbours	Repealed	
SREP 24. Homebush Bay Area	N/A	
SREP 25. Orchard Hills	N/A	
SREP 26. City West	N/A	

SREP 27. Wollondilly Regional Open Space	Repealed	
SREP 28. Parramatta	N/A	
SREP 29. Rhodes Peninsula	N/A	
SREP 30. St Marys	N/A	
SREP 31. Regional Parklands	Repealed	
SREP 33. Cooks Cove	N/A	
SREP 2005. Sydney Harbour Catchment	Yes	The Planning Proposal will not contradict or hinder application of this SREP.

Appendix B

Local Planning Directions (s117) Checklist

Ministerial Directions (s117)		
S117 Direction Title & Summary	Compliance	Comment
1. Employment and Resources		
1.1 Business and Industrial Zones	Yes	The Planning Proposal does not affect the requirement for high density development on business zoned land to provide employment generating floor space.
1.2 Rural Zones	N/A	
1.3 Mining, Petroleum Production and Extractive Industries	N/A	
1.4 Oyster Aquaculture	N/A	
1.5 Rural Lands	N/A	
2. Environment and Heritage		
2.1 Environmental Protection Zones	N/A	
2.2 Coastal Protection	N/A	
2.3 Heritage Conservation	Yes	The design excellence provision requires consideration of any heritage issues and streetscape constraints when determining whether design excellence is demonstrated.
2.4 Recreation Vehicle Areas	N/A	
3. Housing Infrastructure and Urban Development		
3.1 Residential Zones	Yes	The planning proposal does not affect the provision of housing which broadens the choice of housing type and location in Hornsby Shire. Areas zoned for high density development take advantage of existing investments in infrastructure (including transport, water and sewerage) and social facilities and the Planning Proposal aims to secure design excellence for these sites.
3.2 Caravan Parks and Manufactured Home Estates	N/A	
3.3 Home Occupations	N/A	

3.4 Integrating Land Use and Transport	Yes	The planning proposal seeks secure design excellence for high density development located in areas serviced by public transport, and encourages the use of public transport, walking and cycling.
3.5 Development Near Licensed Aerodromes	N/A	
3.6 Shooting Ranges	N/A	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	N/A	
4.2 Mine Subsidence and Unstable Land	N/A	Direction applies to all councils that contain a mine subsidence district proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961 or that contain unstable land. Clarification was sought from the Department of Planning in late 2005 as to the meaning of 'unstable land'. A formal response has not been received. However, a Department representative advised by email 29 November 2005 that unstable land is land that is subject to land slip because of slope and soil/ geological conditions.
4.3 Flood Prone Land	Yes	The Planning Proposal does not contradict or hinder flood prone land provisions.
4.4 Planning for Bushfire Protection	Yes	Consultation with the Rural Fire Service Commissioner was undertaken during the preparation of the Planning Proposals which increased densities within Hornsby West Side, the Housing Strategy and the Epping UAP. This Planning Proposal relates to design excellence and does not change landuses.
5. Regional Planning		
5.1 Implementation of Regional Strategies	N/A	
5.2 Sydney Drinking Water Catchments	N/A	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
5.5 Development in the vicinity of Eilaiong, Paxton and Millfield	Revoked	

(Cessnock LGA))		
5.6 Sydney to Canberra Corridor	Revoked	
5.7 Central Coast	Revoked	
5.8 Sydney Second Airport: Badgerys Creek	N/A	
6. Local Plan Making		
6.1 Approval and Referral Requirements	Yes	The planning proposal does not contain provisions requiring concurrence, consultation or referral of development applications to a Minister or public authority.
6.2 Reserving Land for Public Purposes	N/A	
6.3 Site Specific Provisions	N/A	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Yes	The Planning Proposal does not contradict or hinder the achievement of the vision, land use strategy, policies, outcomes or actions of the <i>Metropolitan Plan for Sydney 2036</i> .

Appendix C

Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils
(Attachment 4 from "A guide to preparing local environmental plans")

Local Government Area:

Hornsby

Name of draft LEP:

Design Excellence Planning Proposal

Address of Land (if applicable):

Not applicable – inserts a clause

Intent of draft LEP:

The intended outcome of the Planning Proposal is to ensure that tall buildings (at or over 10 storeys in height) are designed to the highest standard of architecture and urban design.

Additional Supporting Points/Information:

During the preparation and exhibition of the Hornsby West Side Planning Proposal, the issue of design quality was raised. In particular, how to ensure that the new tall buildings proposed, which will change the skyline of Hornsby, are designed to the highest standard of architecture and urban design.

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 plan. There is scope under the Standard Instrument to add a clause under Part 6 – Additional Local Provisions using wording consistent with other gazetted LEPs. The proposed clause is based on other gazetted clauses which outline that development consent must not be granted unless, in the opinion of Council, the proposal exhibits design excellence and set out what Council would assess in determining design excellence.

These design considerations should apply to all large scale developments across the Shire, including the Epping Urban Activation Precinct and high density Housing Strategy precincts. Therefore, an appropriate measure of development of 10 or more stories has been identified for the clause to apply to.

Update - March 2015: Council requested authorisation to exercise delegations in relation to plan making as part of the Gateway submission process. However, it is unclear whether the Gateway Determination authorises delegation to Council. Although there is a delegated plan making reporting template attached to the Gateway Determination, there is no written authorisation to exercise delegation. Representatives from the Department of Environment and Planning have advised verbally that delegations were not intended to be granted, and that Council is required to forward a Planning Proposal which has been revised to the Department under Section 58(2) of the Act. Therefore the matter is being treated as a non-delegated Planning Proposal and will be finalised by the Department of Planning and Environment.

Appendix D

Group Manager's Report No. PL25/15

Planning Division

Date of Meeting: 8/04/2015

5 DESIGN EXCELLENCE PLANNING PROPOSAL - AFTER EXHIBITION

EXECUTIVE SUMMARY

- The *Design Excellence Planning Proposal* was exhibited from 2 December 2014 to 30 January 2015. The aim of the Proposal is to introduce controls into the Hornsby Local Environmental Plan 2013 to promote development that delivers the highest level of architectural and urban design.
- One submission was received in response to the exhibition. Minor amendments to the proposed design excellence clause have been made as a result of the submission and in relation to sustainability criteria.
- In February 2015, expressions of interest were sought from suitably qualified consultants to form a Design Excellence Referral Panel which would undertake assessments against the new design excellence clause.
- A total of fifteen expressions of interest were received. All demonstrate a high level of skills and experience. However, after an evaluation on the basis of brief appreciation, methodology, skills, experience and value for money, five consultants are recommended for appointment.
- It is recommended that the amended *Design Excellence Planning Proposal* be forwarded to the Minister for Planning for finalisation and that the five consultants recommended in this report be endorsed to form Council's Design Excellence Referral Panel.

RECOMMENDATION

THAT:

1. Council forward the *Design Excellence Planning Proposal* attached to Group Manager's Report No. PL25/15 to the Minister for Planning for finalisation pursuant to Section 59 of the *Environmental Planning and Assessment Act 1979*.
2. Submitters be advised of Council's decision.
3. Council engage the following consultants to form its Design Excellence Referral Panel:
 - a) Brett Newbold Urban Planning
 - b) DEM
 - c) GMU
 - d) Johannsen and Associates
 - e) LFA
4. Unsuccessful consultants be advised of Council's decision and thanked for their submission.

PURPOSE

The purpose of this Report is to review submissions received in response to the exhibition of the *Design Excellence Planning Proposal*, and to seek Council's endorsement to engage suitably qualified consultants to form a Design Excellence Referral Panel.

BACKGROUND

At its meeting on 13 August 2014, Council considered Group Manager's Report No. PL53/14 concerning the design quality of high density development. Council resolved to:

1. *Endorse progression of the Design Excellence Planning Proposal attached to Group Manager's Report No. PL53/14 and forward the Planning Proposal to the Minister for Planning seeking a Gateway Determination to exhibit the Proposal.*
2. *Should the Minister determine under Section 56(2) of the Environmental Planning and Assessment Act 1979 that the matter may proceed without significant amendment to the Proposal, Council publicly exhibit the Planning Proposal in accordance with the Gateway Determination.*
3. *Following the exhibition, a report on submissions received in response to the public exhibition be presented to Council.*
4. *The Group Manager, Planning Division prepare an internal policy for referring development applications over 10 storeys in height to a suitably qualified urban design/architecture consultant for review against the design excellence clause (once implemented).*

In accordance with Council's resolution, the *Design Excellence Planning Proposal* was sent to the Minister for Planning requesting a Gateway Determination. A Gateway Determination was received on 20 October 2014, stating that the *Planning Proposal* should proceed subject to conditions. The Planning Proposal was required to be amended to clarify whether the Design Excellence Clause would apply to development of 10 storeys or higher or only development higher than 10 storeys.

The *Design Excellence Planning Proposal* was amended to clarify that the new clause would apply to development of 10 storeys or higher. The amended *Planning Proposal* was exhibited from 2 December 2014 to 30 January 2015. One submission was received and is addressed in this report.

In accordance with part 4 of Council's resolution, an internal policy for design excellence referrals has been established. Expressions of interest for suitably qualified consultants to form Council's Referral Panel have been sought with submissions discussed in this report.

DISCUSSION

This report presents a summary of the exhibition of the *Design Excellence Planning Proposal* and proposed amendments to the new clause in relation to sustainability criteria. The report also seeks endorsement for the engagement of consultants to form a Design Excellence Referral Panel.

1. EXHIBITION

The *Design Excellence Planning Proposal* was exhibited from 2 December 2014 to 30 January 2015. The exhibition included letters to affected property owners, advertisements in the Hornsby Advocate and on Council's website, along with displays at the Administration Centre and libraries.

One submission was received (copy attached) from Transport for NSW (TfNSW) who was consulted as an affected property owner. The submission confirms that the Roads and Maritime Services raises no objection to the *Planning Proposal* and contains suggestions from TfNSW for amendments to the design excellence clause. The suggestions are discussed below:

1.1 Modified Subclauses

The submission suggests that subclause 4(f) (viii) and (ix) of the Design Excellence clause be amended to include achievement of travel demand management measures and end of trip facilities.

Comment: The proposed design excellence clause already contains a subclause 4(e) which aims to optimise pedestrian movements and experience. In addition, the new planning controls for Hornsby West Side in the *Hornsby Development Control Plan (DCP)* incorporate a requirement for the submission of a Travel Plan with any development application, which is a travel demand management tool. It would be appropriate and consistent to add this requirement to other parts of the *Hornsby Development Control Plan (DCP)* to ensure that large scale developments in all locations within Hornsby Shire are designed to optimise pedestrian movements and experience.

Recommendation: No change is recommended to the *Planning Proposal* as a result of the submission concerning the achievement of travel demand management measures and end of trip facilities. However, it is recommended that the upcoming housekeeping amendment to the *Hornsby DCP* include the requirement for submission of a Travel Plan to be submitted for large scale development in all locations within Hornsby Shire.

1.2 Additional Subclauses

The submission suggests additional subclauses which reference transit oriented design principles and the management of impacts on the rail corridor including, glare, reflectivity and measures to prevent objects being thrown onto the rail corridor.

Comment: As discussed above, subclause 4(e) of the proposed design excellence clause has been drafted to ensure that all large scale development across the Shire is designed to optimise pedestrian movements and experience. Rather than add an additional subclause concerning transit oriented design principles, existing subclause 4(e) may be strengthened to define the optimisation of pedestrian movements as the achievement of direct, efficient and safe pedestrian and cycle access to nearby transit nodes.

Impacts such as glare and reflectivity are already addressed in the design excellence clause through subclause 4(f) (vii). Although measures to prevent objects being thrown onto the rail corridor would be appropriate for tall buildings located on or near the rail corridor, these would be better enforced as planning controls within the Hornsby Development Control Plan. The design and aesthetics of such measures would be addressed through assessment of whether the form and external appearance of the proposed development would improve the quality and amenity of the public domain, which is an existing subclause in the proposed Design Excellence clause.

Recommendation: It is recommended that the *Planning Proposal* be amended to reword clause 4(e) to incorporate transit oriented design principles. No change is recommended concerning the management of impacts on the rail corridor. However, it is recommended that the upcoming housekeeping amendment to the Hornsby Development Control Plan include the addition of controls for tall buildings on, or near, rail corridors to require measures to prevent objects being thrown onto the rail corridor from balconies or windows.

2. EVALUATION

Minor changes are recommended to the proposed design excellence clause in relation to sustainability criteria. Subclause 4(f) (vii) relates to environmental impacts. The subclause has been strengthened to include additional sustainability measures (energy and water efficiency and water sensitive urban design) consistent with gazetted design excellence clauses in the *Manly Local Environmental Plan 2013* and *Warringah Local Environmental Plan 2011*. Subclause 4(f) (xii) relates

to landscape design and has been amended consistent with the gazetted design excellence clause in the *Warringah Local Environmental Plan 2011* to include the configuration and design of communal access and communal recreation areas.

In summary, the submission from TfNSW and the review of sustainability criteria have identified the need for minor amendments to the proposed design excellence clause. As these amendments are minor in nature they do not require re-exhibition. The *Planning Proposal* has been amended to seek the addition of the following clause under Part 6 – Additional local provisions of the HLEP 2013:

6.8 Design excellence

- (1) *The objective of this clause is to deliver the highest standard of architectural and urban design.*
- (2) *This clause applies to development involving the construction of a new building or external alterations to an existing building which is, or will be, at least 29.6 metres in height.*
- (3) *Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.*
- (4) *In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
 - (c) *whether the proposed development detrimentally impacts on view corridors,*
 - (d) *any relevant requirements of applicable development control plans,*
 - (e) *whether the proposed development achieves transit oriented design principles including the need to ensure direct, efficient and safe pedestrian and cycle access to nearby transit nodes,*
 - (f) *how the proposed development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *the existing and proposed uses and use mix,*
 - (iii) *any heritage issues and streetscape constraints,*
 - (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers and/or other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *the bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind,*

reflectivity, water and energy efficiency and water sensitive urban design,

- (viii) the achievement of the principles of ecologically sustainable development,*
- (ix) pedestrian, cycle, vehicular and service access and circulation requirements,*
- (x) the impact on, and any proposed improvements to, the public domain,*
- (xi) achieving appropriate interfaces at ground level between the building and the public domain,*
- (xii) excellence and integration of landscape design, including the configuration and design of communal access and communal recreation areas, to incorporate exemplary and innovative treatments and promote a socially effective atmosphere.*

3. DESIGN EXCELLENCE REFERRAL PANEL

In accordance with Council's resolution to establish a policy for referring development applications at or over 10 storeys in height to suitably qualified consultants, expressions of interest were called for in February 2015. Advertisements for membership of Council's Design Excellence Referral Panel were placed in the Sydney Morning Herald, the ArLib (Architectural Library Services) website, the Planning Institute of Australia Employment Directory and Council's Tenderlink portal.

Submissions closed on 12 March 2015. Council received 15 expressions of interest for membership on the Panel. A summary of the expressions of interest is provided below in alphabetical order.

Applicant	Summary of Experience
<i>Annand Associates Urban Design</i>	Peter Annand, Principal, has been nominated for the panel. Peter has experience in architecture, planning, urban design and public policy. Clients of the firm have included development corporations as well as local, State and Federal Government. Peter has been a member of the Congress for New Urbanism in the USA for 15 years and a regular member of the St George Design Review Panel for Kogarah, Hurstville and Rockdale Councils.
<i>Brett Newbold Urban Planning</i>	Brett Newbold, Principal, has been nominated for the panel. Brett has experience as chairman of Liverpool Council's Design Review Panel, an independent member of Penrith City's Urban Design Review Panel, an author of design excellence guidelines for Rockdale City Council, an author of strategic planning policies for metropolitan and outer-metro councils housing and development strategies. Brett has also assisted Council with the preparation of urban design advice and diagrams for the draft HDCP, and design quality assessments including developments at Beecroft Village.
<i>Custances Associates Australia Pty Ltd</i>	Craig Shelsher, Director, has been nominated for the panel. Craig has experience as an assessor on design review panels and providing advice throughout Land Environmental proceedings (in particular Section 34 conferencing), and has been involved in large scale developments including the National design award winning "ICON" Brisbane, comprising 580 units, 230

	room hotel, public square, 4000m ² retail, child care and health care centre.
DEM (Aust) Pty Ltd	Managing Partners, Rudi Valla and Jon Pizey have been nominated for the panel. The consultants have experience in Master planning such as Norwest Business Park, and large scale architectural flat buildings including the Regency twin towers, Beau Monde tower in North Sydney and Rosedale apartments in St Ives.
GMU - Urban Design and Architecture	Gabrielle Morrish, Managing Director and Director Karla Castellanos have been nominated for the panel. The consultants have experience as design review panel members for other local Sydney councils and have provided advice on several development projects within Hornsby Shire. Recent examples of work include recommendations to improve the design outcome of a 6 storey residential development in Beecroft Village and a peer review urban design assessment of an 18 storey mixed use development at 42-54 Pacific Highway, Waitara.
HBO + EMTB Urban and Landscape Design	Mary Anne McGirr, National Principal, has been nominated for the panel. Mary Anne has experience as an urban design advisor to Holroyd City Council – including pre lodgement advice and DA reviews for multi-storey developments, was a member of the North Sydney Urban Design Advisory Panel, has had involvement in the Merrylands and Wentworthville Built Form and Urban Design Modelling Study for City of Sydney Urban Design Studies which culminated in the development of controls and built form guidelines.
Hedstrom Planning	Rodger Hedstrom, Principal, has been nominated for the panel. Rodger has experience as a member of the Urban Design Review Panel for Botany Bay City Council for major residential, commercial and industrial development, a member of the Liverpool City Council Design Review Panel and Architectural Design Jury, member of the Canterbury City Council IHAP, and member of the SEPP 65 Central Coast Design Review Panel serving Gosford and Wyong Councils for residential flat development.
JBA	Tim Corcoran, Senior Urban Designer and Vishal Lakhia, Urban Designer with architectural qualifications, have been nominated for the panel. Tim has experience as a member of the Edmondson Park Design Review Panel, involvement with design evaluation of public housing projects, involvement in the Hornsby West Side Precinct, the Spit Junction Masterplan and the Wentworthville Urban renewal master planning process. Vishal has experience in providing urban design advice for Parramatta City Council, master planning building massing studies and design testing.
Johannsen and Associates	Jon Johannsen, Principal, has been nominated for the panel. Jon has experience as a member of North Sydney Council, Liverpool City Council and Parramatta City Council Design Excellence Advisory Panels, and has been involved in the Sutherland, Kingsgrove and Banksmeadow conceptual urban design reviews to explore appropriate residential development models and densities. Jon has also been an urban design consultant to the Land and Housing Commission NSW.
John Brunton Planning Pty Ltd	John Brunton, Principal, has been nominated for the panel. John has experience in strategy, heritage planning and town planning, and has chaired

	and established a Design Review Panel for Sutherland Shire Council.
Leech Harmon Architects	Dennis Leech, Principal, along with Sinead Harmon, Architect, have been nominated for the panel. Dennis has experience as an architect with involvement in large developments including medium-high residential flat buildings, office buildings and retail centres. Sinead has experience in domestic and commercial architectural projects.
LFA	Alf Lester, Senior Director, has been nominated for the panel. Alf has experience as a member of the Baulkham Hills Urban Design Review Panel, the Rouse Hill Regional Centre Design Review Panel, the Liverpool City Council Independent Hearing and Assessment Panel and the North Sydney Independent Planning Panel.
Shoba Designs	Nilesh Munot, Principal, has been nominated for the panel. Nilesh has experience in providing advice on DA's for Lane Cove and Holroyd Councils, and providing urban design assessment and review reports based on NSW's SEPP 65 principles for a large mixed use development at Port Adelaide.
Strategy Hunter Consultants	David Crofts, Director, has been nominated for the panel. David has experience as a member of the Wollongong City Council, Shellharbour and Liverpool Independent Hearing and Assessment Panel, and management of the award winning Local Approvals Review Program.
Studio Colin Polwarth	Colin Polwarth, Director, together with Alan Cadogan, Director of Urbanac, have been nominated for the panel. Colin has experience as a member on the Barangaroo Delivery Authority for the Headland Park. Alan has experience providing design advice for State significant development assessment sites including Luna Park, Pyrmont Point, Rhodes Peninsula, Homebush Bay West waterfront, Taronga Zoo, Fox Entertainment Quarter, the Rocks, King Street Wharf, Cockle Bay, Honeysuckle (Newcastle Waterfront), Sydney Olympic Park and Kosciusko Alpine Area.

All submissions were of a high level and all consultants would provide a large range of skills and experience which would assist Council. Expressions of interest were evaluated on the basis of brief appreciation, methodology for carrying out services, skills and experience, and value for money. In light of the evaluation, the following consultants are recommended for appointment to the Design Excellence Referral Panel:

- a) Brett Newbold Urban Planning
- b) DEM
- c) GMU
- d) Johannsen and Associates
- e) LFA

The allocation of Design Excellence referrals to panel members would occur via email notification. Panel members would express their availability to undertake the referral within 48 hours of receiving the request by email. Council would select one or more consultants who have confirmed availability to undertake the referral to provide comments and attend meetings as required. Consultants on the Referral Panel would also be utilised from time to time to seek advice on significant strategic projects, such as the review of planning controls and guidelines.

BUDGET

The implementation of a Design Excellence Referral Panel to make an assessment of design quality against the proposed design excellence clause would require remuneration for the expert consultant panel members. Funding of this process would be absorbed by the Planning Division budget given the higher development application fee anticipated from this scale of development and the limited number of eligible development sites.

POLICY

The engagement of suitably qualified consultants to form part of Council's Design Excellence Referral Panel is addressed in this report. An internal process for referring development applications at or over 10 storeys in height to a consultant from the Panel for an assessment against the design excellence clause (once implemented) has been prepared. Reporting templates have been amended to include comments from the consultant in regard to design excellence as part of the overall assessment of development applications at or over 10 storeys in height.

NEXT STEPS

Should Council be of a mind to adopt the amended *Design Excellence Planning Proposal* (attached) it would be forwarded to the Department of Planning and Environment for finalisation.

The endorsed consultants would be notified of their successful application for membership to Council's Design Excellence Referral Panel. Upon finalisation of the *Planning Proposal*, design excellence referrals would commence for development at or over 10 storeys in height. The terms of engagement for Council's Design Excellence Referral Panel will be for a 2 year period, plus a one year option to extend based on satisfactory performance. Membership of the panel will be reviewed after two years.

CONCLUSION

The *Design Excellence Planning Proposal* was exhibited from 2 December 2014 to 30 January 2015. One submission was received from TfNSW in response to the exhibition. The submission and review of sustainability criteria have led to minor amendments to the proposed design excellence clause which are minor in nature. It is recommended that the amended *Planning Proposal* attached to Group Manager's Report No. PL25/15 be forwarded to the Minister for Planning for finalisation.

Expressions of interest for membership of Council's Design Excellence Referral Panel were called for in February 2015. Fifteen submissions have been received, with each person that lodged a submission demonstrating that they have the skills and experience to provide advice to Council. Following an evaluation on the basis of brief appreciation, methodology for carrying out services, skills and experience and value for money, it is recommended that five consultants be invited to form Council's Design Excellence Referral Panel.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Strategic Planning – Fletcher Rayner, who can be contacted on 9847 6744.

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General Meeting

8 April 2015

Attachments:

1. Design Excellence Planning Proposal - March 2015
2. Submission - Transport for NSW

File Reference: F2014/00312

Document Number: D04895904