



25 August 2014

Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Attention: Rachel Cumming, Director Metropolitan Delivery (Parramatta)

Dear Ms Cummings

Planning Proposal – Design Excellence

The purpose of this letter is to present a Design Excellence Planning Proposal to the Minister seeking a Gateway Determination in accordance with Clause 56 of the Environmental Planning and Assessment Act, 1979 (EP&A Act).

At its meeting on 13 August 2014, Council considered Group Manager's Report No. PL53/14 (copy attached) concerning options for ensuring that tall buildings are designed to the highest standard of architecture and urban design. Council resolved to progress a Planning Proposal to insert a clause into the Hornsby Local Environmental Plan (2013) requiring development over 10 storeys in height to demonstrate design excellence and setting out the matters for consideration in determining design excellence.

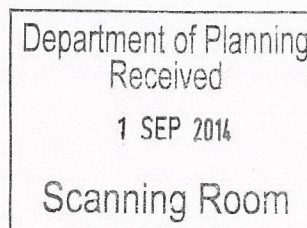
In accordance with Council's resolution, please find attached a Planning Proposal setting out Council's objectives and intended outcomes, justification for the proposal and the intended community consultation to be carried out. I would be pleased if you would refer it to the LEP Review Panel for a Gateway Determination. Council is also seeking Authorisation to Exercise Delegation for this Planning Proposal.

Should you have any further enquiries concerning this matter, please contact Katherine Vickery, Principal Strategic Planner on 9847 6728.

Yours faithfully



Fletcher Rayner
Manager
Strategic Planning Branch



Attachments: Design Excellence Planning Proposal
Group Managers Report No. PL53/14
Council resolution

TRIM Reference: D03211049

PLANNING PROPOSAL

Design Excellence

July 2014

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BACKGROUND

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 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 (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 32.5 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 detrimentally impacts on pedestrian movements and experience,
 - (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 and reflectivity,
 - (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.

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?*

Consultation will occur with relevant public authorities identified as part of the gateway determination.

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 would be required to be exhibited for a period of 28 days. At a minimum, the exhibition will include:

Public Authorities

Notification letters and a copy of the Planning Proposal will be sent to relevant public authorities (if any) outlined in the Gateway Determination.

Advertisement in local newspapers

An advertisement will be placed in local newspapers identify the purpose of the Planning Proposal and where the Planning Proposal can be viewed.

Advertisement on the Council website

The Planning Proposal will be 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 will 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 will 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

Review of Consultation Strategy

Where submissions warrant, the consultation strategy may be reviewed to extend the exhibition period and/or the methods of consultation. This may occur where a submission provides reasonable justification for a request for an extension to the exhibition period or where Council is of the opinion an amendment to the consultation strategy would facilitate greater feedback on the draft Plan.

Following the exhibition period, a report on submissions will be presented to Council for its consideration.

PROPOSED TIMELINE

Weeks after endorsement from DP&I for exhibition	Item
0	Endorsement of form and content of revised Planning Proposal
3	Exhibition Start
8	Exhibition end
89	Consideration of submissions
14	Report to Council on submissions
15	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	Repealed	

Development Proposals		
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 Infrastructure	Repealed	
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 Ellalong, 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 (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.

11 DESIGN QUALITY OF HIGH DENSITY DEVELOPMENT

EXECUTIVE SUMMARY

- At its meeting 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 concerning options for ensuring design quality of future high density development.
- 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 (Hornsby Shire Housing Strategy and Epping Urban Activation Precinct).
- Options to encourage the highest standard of architecture and urban design include design competitions, establishing an Independent Hearing and Assessment Panel or Design Review Panel, the addition of a design excellence clause in the Hornsby Local Environmental Plan (HLEP) 2013 or referrals to an architecture/urban design consultant. Consideration of these options should apply to all large scale high density development across the Shire.
- It is recommended that a design excellence clause be inserted in the HLEP 2013 applying to development proposals over 10 storeys in height. It is also recommended that development applications be assessed against the clause through a referral to an expert consultant.

RECOMMENDATION

THAT:

1. Council 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).

PURPOSE

The purpose of this report is to address the design quality of high density development by presenting options to ensure that tall buildings are designed to the highest standard of architecture and urban design.

BACKGROUND

At its meeting on 11 June 2014, Council considered Group Manager's Report No. PL41/14 concerning the exhibition of the Hornsby West Side Planning Proposal. Council resolved (in part) to:

1. *Forward the Hornsby West Side Planning Proposal attached to Group Manager's Report No. PL41/14 to the Minister for Planning for finalisation pursuant to Section 59 of the Environmental Planning and Assessment Act 1979.*
2. *Re-exhibit revised Development Control Plan amendments for a period of 28 days incorporating:*
 - 2.1 *Sustainability requirements such as car share schemes, green walls and roofs and thermal efficiency;*
 - 2.2 *A requirement for a wind effects report for buildings over 13 storeys in height;*
 - 2.3 *Provisions addressing State Environmental Planning Policy 65 Design Quality of Residential Flat Buildings;*
 - 2.4 *A minimum site frontage of 40 metres for development over 10 storeys in height;*
 - 2.5 *An increase in the podium height for the Odeon Cinema from two storeys to three storeys;*
 - 2.6 *Administrative amendments including labelling Gateway sites, confirming that the western RSL car park in Ashley Street is included in the Planning Proposal and updating diagrams to reflect traffic modelling recommendations.*
3. *A separate report be prepared and presented to Council concerning options for ensuring design quality of future high density development.*

In accordance with Council's resolution, the Hornsby West Side Planning Proposal was forwarded to the Minister for Planning at the end of June 2014. The revised Development Control Plan amendments are currently on exhibition until 29 August 2014. This report addresses part 3 of Council's resolution to consider options for ensuring design quality of future high density development.

DISCUSSION

This report discusses the legislation which currently applies to high density development in relation to design quality, and provides options for Council to implement additional design quality measures.

State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Flat Development applies to residential flat buildings of 3 or more storeys containing 4 or more dwellings. The State Government policy seeks to improve the design quality of residential flat buildings in NSW. It contains principles for good design and requires Council to evaluate the design quality of proposed development against the following 10 principles:

Context	<i>Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.</i>
Scale	<i>Good design provides an appropriate scale in terms of the bulk</i>

	<i>and height that suits the scale of the street and the surrounding buildings.</i>
<i>Built form</i>	<i>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</i>
<i>Density</i>	<i>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</i>
<i>Resource, energy and water efficiency</i>	<i>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</i>
<i>Landscape</i>	<i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</i>
<i>Amenity</i>	<i>Good design provides amenity through the physical, spatial and environmental quality of a development.</i>
<i>Safety and security</i>	<i>Good design optimises safety and security, both internal to the development and for the public domain.</i>
<i>Social dimensions and housing affordability</i>	<i>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.</i>
<i>Aesthetics</i>	<i>Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.</i>

The requirement to comply with SEPP 65 and the above principles 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.

A number of planning strategies for Hornsby Shire have recently been adopted or 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 and 25 storey development within the Hornsby West Side Precinct
- 15 and 22 storey development within the Epping Town Centre

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. Therefore, an appropriate measure of 10 or more stories should apply when considering design quality for all future development within Hornsby Shire.

OPTIONS

The following options are examples of commonly applied methods that Council may apply to encourage the highest standard of architecture and urban design.

Option 1: Design Competition

A Design Competition is a contest between designers to create the winning design for a client's design brief. The landowner/developer is the proponent responsible for funding the competition, prepares the design brief and may either invite a shortlist of architectural design firms to participate or advertise an open competition and call for expressions of interest. Council's role in the process is to facilitate the design jury which would be represented by nominated Council representatives, the applicant and an independent.

A council's planning controls may require a design competition. However, due to the additional cost and effort required of the proponent by a competitive design process, a development bonus in height or floor space is often an outcome of the process.

Advantages

- Encourages high quality and innovative design
- Offers a diversity of architectural responses

Disadvantages

- High cost to applicant
- Difficulty and uncertainty for Council in offering development bonuses to offset the costs
- Winning design may not be feasible to construct
- Costs for staff administration
- Extended timeframes

Option 2: Independent Hearing and Assessment Panel

An Independent Hearing and Assessment Panel (IHAP) is a panel of appropriately qualified people independent of Council which can be established to comment on, or determine a range of development applications on behalf of Council. The establishment of an IHAP would provide the opportunity to call upon independent experts, along with community representatives, to consider the design quality of a proposal. The IHAP could also be given delegation to determine the development application.

Advantages

- Independent development application determination or recommendation
- Panel could include experts in architecture and urban design

Disadvantages

- Costs to Council for remuneration for panel members
- Costs to Council and resources to administer and run the panel
- Extended assessment timeframe

Option 3: SEPP 65 Design Review Panel

SEPP 65 contains provisions for the establishment of Design Review Panels. These Panels can provide independent advice to councils about the quality of developments against the SEPP 65 Design quality principles. The Panels can also provide pre-lodgement design advice to applicants regarding compliance with SEPP 65. The State Government has been conducting a review of SEPP 65 and the Residential Flat Design Code over the past two years. Submissions on the review were received by the Department of Planning and Environment in 2012 and although no further details or recommendations have been released, the Department has confirmed that design review panels are being examined as part of the review of the SEPP.

Advantages

- Independent expert assessment specific to the design quality principles in SEPP 65
- Panel could include experts in architecture and urban design

Disadvantages

- Costs to Council for remuneration for panel members
- Costs to Council and resources to administer and run the panel
- Extended assessment timeframe
- Uncertainty of the future of Design Review Panels due to the review of SEPP 65

Option 4: LEP Clause

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. A Planning Proposal would be required to be progressed to insert such a clause in the Hornsby Local Environmental Plan 2013.

Advantages

- Adds a statutory requirement for high quality design to Council's planning controls
- Strengthens the design detail elements in the Hornsby Development Control Plan 2013
- Efficient and less complex than setting up a panel

Disadvantages

- Review of design quality remains the responsibility of planning staff/Councillors

Option 5: Referrals to an Architecture/Urban Design Consultant

This option would involve the establishment of a panel of suitably qualified consultants that would be available from time to time to undertake a review of the design merit/quality of proposals. A panel of three or four consultants could be engaged to provide consulting services to Council. Development applications could be referred to a consultant for a design quality referral.

Advantages

- Independent expert assessment of design excellence
- Minimal cost compared to formal panels

Disadvantages

- Costs to Council for remuneration for consultants
- Costs to Council and resources to administer

A combination of Option 4 (LEP clause) and Option 5 (Referrals to a consultant) is recommended. Introducing a design excellence clause in the HLEP would establish a statutory requirement with specific matters which would be required to be addressed in achieving a high standard of architectural and urban design. Having a requirement for design excellence in the HLEP elevates it from the other design and building envelope controls in the HDCP and strengthens the requirement to achieve a built form which responds to the site, locality, landscape and streetscape.

However, the review of design quality against the new HLEP clause would remain the responsibility of planning staff. It is recommended that the Planning Division prepare an internal policy for referring development applications, to which the new LEP clause applies, to a consultant for a design excellence review. This would allow an independent expert assessment of design excellence against the LEP clause at a minimal cost to Council compared to formal panels.

As discussed above, this option would involve the establishment of a panel of architects/urban design consultants that would be available from time to time to comment on whether proposals meet the design excellence criteria. A panel of three or four consultants would be engaged to provide consulting services to Council. Development applications would be referred to a consultant for a design excellence referral as part of the assessment of the application.

A Design Excellence Planning Proposal has been drafted and is attached to this report. The Planning Proposal outlines the objectives, intended outcomes and justification for the proposal and a consultation strategy for endorsement by the Department of Planning and Environment.

The Planning Proposal seeks to amend the HLEP 2013 by addition of the following clause under Part 6 – Additional local provisions:

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 32.5 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 detrimentally impacts on pedestrian movements and experience,*
- (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 and reflectivity,*
 - (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.*

Should Council be of a mind to insert the above design excellence clause into the HLEP 2013, it is recommended that Council endorse the exhibition of the attached Design Excellence Planning Proposal by forwarding it to the Department of Planning and Environment for Gateway Determination.

As part of the consideration of planning proposals, Council is required to consider the relevance of any State Environmental Planning Policy (SEPP) or Ministerial Direction under Section 117 of the *Environmental Planning and Assessment Act, 1979*. The proposal is not contrary to any SEPP or relevant Section 117 Directions. An assessment of relevant SEPPs and Section 117 Directions is contained in the Planning Proposal.

CONSULTATION

"A guide to preparing local environmental plans" was prepared by the Department of Planning and Environment (2009) to assist councils in preparing planning proposals and LEPs. In accordance with the *Guidelines*, the Planning Proposal is required to be exhibited for a period of 28 days. A consultation strategy relevant to the public exhibition of the draft LEP has been prepared as part of the *Planning Proposal* for endorsement by the Department. Exhibition would involve a newspaper advertisement, notification of Council's website and letters to landowners whose land may be developed up to or greater than 10 storeys.

BUDGET

There are no budget implications for the preparation of the Design Excellence Planning Proposal. However, the implementation of a policy requiring an assessment of design quality against the proposed HLEP design excellence clause would require funding for the referral to an architect or urban design expert. 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

It is recommended that an internal policy be drafted by the Group Manager, Planning Division to set out:

- the engagement of a panel of architects/urban design consultants;
- the process for referring development applications over 10 storeys in height to a consultant from the panel for an assessment against the design excellence clause (once implemented); and
- an amendment to reporting templates to include comments from the consultant in regard to design excellence as part of the overall assessment of development applications over 10 storeys in height.

The above process would assist Council's assessment officers to undertake rigorous assessment of proposals that exceed 10 storeys. Feedback to developers would be provided throughout the application process with the objective of ensuring that final plans for determination represent an appropriate architectural response and achieve design excellence.

CONCLUSION

There are a number of options available to Council to encourage design excellence. These include Design Competitions, the establishment of an Independent Hearing and Assessment Panel or SEPP 65 Design Review Panel, the inclusion of a Design Excellence clause in the HLEP 2013 or referrals to an architectural review panel.

It is recommended that both a design excellence clause be inserted in the HLEP 2013 and a process for referrals to an architecture/urban design consultant be implemented. A Design Excellence Planning Proposal is attached to this report for Council endorsement for exhibition subject to a Gateway Determination from the Department of Planning and Environment.

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.

FLETCHER RAYNER
Manager - Strategic Planning
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

General Meeting

13 August 2014

1. Design Excellence Planning Proposal - July 2014

File Reference: F2014/00312

Document Number: D03268209

(F2004/07599)

RESOLVED ON THE MOTION OF COUNCILLOR COX, seconded by COUNCILLOR TILBURY,
THAT the contents of Group Manager's Report No. PL57/14 be received and noted.

FOR: COUNCILLORS ANISSE, AZIZI, BERMAN, BROWNE, COX, HUTCHENCE,
 RUSSELL AND TILBURY

AGAINST: NIL

11 PL53/14 Design Quality of High Density Development

(F2014/00312)

RESOLVED ON THE MOTION OF COUNCILLOR COX, seconded by COUNCILLOR TILBURY,
THAT:

1. Council 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).

FOR: COUNCILLORS ANISSE, AZIZI, BERMAN, BROWNE, COX, HUTCHENCE,
 RUSSELL AND TILBURY

AGAINST: NIL

**12 PL54/14 Report on Submissions - Draft Voluntary Planning Agreement - 26-30
 Orara Street and 39 Waitara Avenue, Waitara**

(DA/1370/2013)

Dr Soumendu Majumdar, of Waitara, addressed Council regarding this item.

RESOLVED ON THE MOTION OF COUNCILLOR ANISSE, seconded by COUNCILLOR

This is page 9 of the Minutes of the General Meeting of Hornsby Shire Council held on 13 August 2014.