



Ms Karen Armstrong
Director, Sydney Region East
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

31 May 2016

Dear Ms Armstrong

Subject: Gateway Review Request - To introduce changes to the floor space ratio controls for residential development in the Residential General (R1) zone.

I refer to the Department's letter of 27 April 2016 requesting the Planning Assessment Commission's advice concerning the merits of the above request for review.

Ms Lynelle Briggs AO, Chair of the Planning Assessment Commission, nominated Mr Roger Fisher and me to constitute the Commission for the review. I chaired the Commission.

The Commission has carefully considered the documents provided and received separate briefings from the Department and (the former) Leichardt Municipal Council (the Applicant).

The Commission's advice is attached. In brief, the Commission considers that the planning proposal supporting Option 2 should **not** proceed past Gateway for the reasons summarised below:

- It is inconsistent with S117 Direction 3.1 Residential Zones in that it seeks to reduce the potential density of residential development in some localities.
- It does not sufficiently reduce reliance on clause 4.6, and as such does not sufficiently improve the transparency and performance of the planning process.
- It is inconsistent with the recommendations of the FSR Review.
- It is inconsistent with the outcome of community consultation on the matter.
- It is inconsistent with the advice of the co-Chairs of the Leichardt Independent Planning Panel.

The Commission notes that Option 3, subject to conditions recommended by the Department, is consistent with S117 and has the potential to address the issue of overuse of clause 4.6, and hence to enhance transparency in decision making as well as improving the planning approvals workflow and accelerating the planning approvals process. Option 3 is also supported by the FSR Review, Council officers, the community and the co-Chairs of the Leichardt Independent Planning Panel.

Yours sincerely

Ms Abigail Goldberg (Chair)
Commission Member

Cc Mr Marcus Ray, Deputy Secretary, Planning Services

Planning Assessment Commission Gateway Review

The Planning Assessment Commission (the Commission) has considered the request for a Gateway review of the planning proposal as detailed below:

Dept. Ref. No:	PP_2015_LEICH_005_00
LGA	Leichardt
LEP to be Amended:	Leichardt LEP 2013
Address / Location:	Leichardt LGA
Proposal:	To introduce changes to the floor space ratio controls for residential development in the Residential General (R1) zone.

Reason for review:	<input checked="" type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

In considering the request, the Planning Assessment Commission (the Commission) has reviewed the information provided and been briefed separately by the Sydney East Region team of the Department of Planning and Environment (the Department) and Leichardt Council, as the Applicant. A summary of these meetings is included at **Appendix A**. The Applicant provided supplementary information as noted in the meeting summary.

After careful consideration of the information available, the Commission recommends that the Planning Proposal should not proceed past Gateway in accordance with the original submission.

RECOMMENDATION:	<input checked="" type="checkbox"/>	The planning proposal should not proceed past Gateway.
	<input checked="" type="checkbox"/>	no amendments are suggested to original determination.
	<input type="checkbox"/>	amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original submission.

PLANNING ASSESSMENT COMMISSION ADVICE AND JUSTIFICATION FOR RECOMMENDATION:

- The planning proposal aims to introduce changes to clause 4.4 Floor Space Ratio (FSR) controls in the R1 – Residential General zone of the Leichardt Local Environmental Plan (LEP) 2013. The objective of the amendment is to reduce the reliance of Leichardt Municipal Council (Council) on clause 4.6 (Exceptions to Development Standards) for residential development applications that exceed the current FSR controls.

- Justification for the proposal has been provided in the form of a Floor Space Ratio Review, initiated by Council in 2009 at the request of the Department of Planning and Environment.
- The Review, completed in 2015, considered four options for addressing the issue.
- Council expressed a preference for Option 2, entitled 'FSR Controls Reflect the Average'. Option 2 is estimated to reduce reliance on clause 4.6 by 18%, leaving approximately 29% of the average annual number of residential DA's still requiring clause 4.6 variations. Council argues that Option 2 controls represent a significant improvement on the current controls as they acknowledge the diversity of lot sizes across the LGA, reflect what is being approved by Council and sufficiently reduce Council's reliance on clause 4.6.
- Information provide by Council indicate that Option 2 would in fact impose tighter FSR controls than currently apply in some localities.
- The Commission notes that Option 2 was not the option recommended to Council by the Review.
- The option recommended to Council was Option 3, a 'Balanced Approach to FSR Controls'. This option would bring the Council's delegation for clause 4.6 into line with other NSW Councils and result in 10 % of all residential Development Applications (DAs) being reported to the Leichardt Planning Panel for clause 4.6 FSR variations. In recommending Option 3, the Review noted that if Option 3 controls were adopted, the revised FSR control would be complemented by the built form controls in DCP 2013.
- While generally relaxing the current FSR controls, Option 3 would have imposed a tighter FSR control than currently applies in one locality.
- The co-Chairs of the Leichardt Independent Planning Panel both expressed support for Option 3.
- Extensive community consultation regarding the four options led to a small number of community submissions (39). Of these submissions, the majority (41%) indicated a preference for Option 3. No community submissions were provided in favour of Option 2.
- The original planning proposal to introduce the Option 2 FSR controls was rejected by the Department, which required adoption of Option 3, subject to a number of conditions.

COMMISSION'S RECOMMENDATION:

With regard to the information provided, the Commission considers that the planning proposal supporting Option 2 should **not** proceed past Gateway for the reasons outlined above, summarised as:

- It is inconsistent with S117 Direction 3.1 Residential Zones in that it seeks to reduce the potential density of residential development in some localities.
- It does not sufficiently reduce reliance on clause 4.6, and as such does not sufficiently improve the transparency and performance of the planning process.
- It is inconsistent with the recommendations of the FSR Review.
- It is inconsistent with the outcome of community consultation on the matter.
- It is inconsistent with the advice of the co-Chairs of the Leichardt Independent Planning Panel.

The Commission notes that Option 3, subject to conditions recommended by the Department, is consistent with S117 and has the potential to address the issue of overuse of clause 4.6, and hence to enhance transparency in decision making as well as improving the planning approvals workflow and accelerating the planning approvals process. Option 3 is also supported by the FSR Review, Council officers, the community and the co-Chairs of the Leichardt Independent Planning Panel.

Date of Recommendation: 31 May 2016

Signed by:



Ms Abigail Goldberg (Chair)
Commission Member



Mr Roger Fisher
Commission Member

Appendix A – Summary of Meetings

1. Department of Planning and Environment
2. Director - Environment and Community Management, Leichardt Municipal Council

Appendix A
Summary Record of Commission Meetings

(1) Notes of meeting with the Department of Planning and Environment – 18 May 2016

Meeting note taken by: Stephen McDiarmid	Date: Thursday, 18 May 2016	Time: 12pm
Project: Gateway Review – changes to the floor space ratio controls for residential development in the Residential General (R1) zone, Leichardt Municipal Council LEP 2013.		
Meeting place: Planning Assessment Commission		
<p>Attendees:</p> <p>Commission Members: Abigail Goldberg (Chair) and Roger Fisher</p> <p>Commission Secretariat: Stephen McDiarmid</p> <p>Department of Planning and Environment: Martin Cooper (Acting Team Leader), Charlene Nelson (Senior Planner) and Chantelle Chow (Planning Officer).</p>		
Purpose of the meeting: To brief the Commission on the planning proposal and Gateway review requirements.		
<ul style="list-style-type: none"> • The Department requested that Council review their reliance on clause 4.6 in relation to the variation of development standards, particularly FSR, in 2009. • It was determined that Council were utilising clause 4.6 (formerly SEPP 1) nearly 3 times more than the 2nd highest use by a Council. . • The Department contributed \$30,000 toward this review as a “Round 6 Planning Reform Fund project”. • Following this review, the Council put forward an approach (Option 2) that the Department considered would result in continued excessive use of clause 4.6 to vary FSR controls, with an estimated 29 per cent of residential applications still being reported to Council. • The Department noted that this approach was inconsistent with s117 Direction 3.1 Residential Zones and with the recommendations of the Council’s own review and the advice of the Independent Planning Panel, and considered that it would result in continued high use of clause 4.6. • The Department considered that review Option 3, with suitable conditions, would improve planning processes and performance, and would improve transparency and reduce processing times for development applications. • The Department indicated that LEPs are generally subject to five yearly reviews, implying that the current LEP 2013 will soon be due for updating, and/or in the interim a new LEP may be required for the amalgamated Inner West Council. As LEP 2013 was considered to be largely a ‘translation’ of previous controls, the opportunity exists to contemporise the LEP at review time, further reducing complexity, facilitating streamlining of approvals processes and supporting faster approvals. 		
Documents tabled at meeting: Nil		
Meeting closed: 12:45pm		

(2) Notes of meeting with Leichardt Municipal Council – 18 May 2016

Meeting note taken by: Stephen McDiarmid	Date: 18 May 2016	Time: 1:30pm
Project: Gateway Review – changes to the floor space ratio controls for residential development in the Residential General (R1) zone, Leichardt Municipal Council LEP 2013.		
Meeting place: Planning Assessment Commission		
Attendees: Commission Members: Abigail Goldberg (Chair) and Roger Fisher Commission Secretariat: Stephen McDiarmid Leichardt Municipal Council: Clare Harley (Director – Environment and Community Management)		
Purpose of the meeting: to brief the Commission on the planning proposal and Gateway review request.		
<ul style="list-style-type: none">• Leichardt Council commenced the FSR review in 2009 in response the Department’s request to reduce reliance on clause 4.6 (<i>Exceptions to Development Standards</i>) of the LLEP 2013.• As part of this process, Council officers reviewed over 1,000 randomly selected DAs to examine how extensively clause 4.6 was being used to determine residential proposals that did not comply with clause 4.4 (<i>Floor Space Ratio</i>) within the R1 –<i>Residential General</i> zone.• The review presented four Options for reducing reliance on clause 4.6. The review report recommended Option 3. In considering these options, Councillors expressed concern regarding overdevelopment in the LGA, as well as a strong desire to retain the character of the area, and avoid impacts on amenity that can result from increased density. A preference for Option 2 was indicated.• Council sought community input on the options. Feedback from the community highlighted concerns regarding retention of the local character, streetscapes and heritage.• Council sought the advice of the co-Chairs of the Independent Planning Panel. The co-Chairs expressed a preference for Option 3.• Council officers retain their support for Option 3 as the current optimal planning solution.• Council officers note that several activities and initiatives are being undertaken to assist in contemporising the LEP when the opportunity presents. <p>The Commission requested clarification of certain elements of the options and further information on the outcomes of community consultation on the matter.</p>		
Documents provided subsequent to meeting: Advice on the formulation of the options; copy of document “Policy Council Meeting 14 April 2015 – Floor Space Ratio Review: Community Consultation Outcomes”		
Meeting closed: 2:15pm		