

Attachment – Proposed LEP clauses

Explanatory note: The proposed LEP clauses below are indicative and for information only. They are provided here to give an indication of the type of clause that Council is intending to pursue in consultation with Parliamentary Counsel. They are likely to change during the plan making process and before finalisation stage.

1. Diversity of apartment sizes

Proposed new Clause:

Diverse Housing

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure the provision of a mix of dwelling types in residential flat buildings, providing housing choice for different demographics, living needs and household budgets,*
 - (b) *to promote development that accommodates the needs of a range of household sizes.*
- (2) *This clause applies to development for the purposes of a residential flat building or a mixed use development that includes shop top housing but only if the development includes at least 10 dwellings.*
- (3) *Development consent must not be granted to development to which this clause applies unless:*
 - (a) *at least 20% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are self-contained studio dwellings or one-bedroom dwellings, or both, and*
 - (b) *at least 20% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development are 3 or more bedroom dwellings.*

2. Affordable housing

Proposed new Clause:

Contribution for purpose of affordable housing

- (1) *This clause applies to land as shown on the Affordable Housing Map.*
 - (2) *The objectives of this clause are as follows:*
 - (a) *Ensure that affordable housing is provided to mitigate the impact on housing affordability for very low to moderate income households; and*
 - (b) *Recognise affordable housing as critical social infrastructure necessary to support economic and social functions of commercial, retail and community uses.*
 - (2) *The consent authority may, when granting consent to the carrying out of development (other than development that is excluded development) on land mapped in its Affordable Housing Contribution Scheme, impose a condition requiring a contribution equivalent to the **affordable housing contribution**, being:*
 - (a) *as prescribed for each location by the Affordable Housing Contribution Scheme, a percentage of the total gross floor area of the development that is intended to be used for residential purposes, or*
 - (b) *where permitted by the Affordable Housing Contribution Scheme, a percentage of any **additional** floor area created by the development that is intended to be used for residential purposes.*
 - (3) *The floor area of any excluded development is not to be included as part of the total floor area of a development for the purposes of calculating the applicable affordable housing levy contribution.*
 - (4) *A condition imposed under this section must permit a person to satisfy the affordable housing levy contribution:*
 - (a) *by way of a dedication in favour of the Council of gross floor area comprising one or more dwellings (each having a total floor area of not less than 50 square metres) with any remainder being paid as a monetary contribution to the Council, or*
 - (b) *if the person so chooses, by way of a monetary contribution to the Council.*
 - (5) *The rate at which a monetary contribution is to be taken to be equivalent to floor area for the purposes of this clause is to be calculated in accordance with the City of Canada Bay Affordable Housing Contribution Scheme adopted by the Council xxxxxx 2019.*
- Note:** The Scheme is available from Council's website: www.canadabay.nsw.gov.au.
- (6) *To avoid doubt:*
 - a) *it does not matter whether the floor area, to which a condition under this clause relates, was in existence before, or is created after, the commencement of this clause, or whether or not the floor area concerned replaces a previously existing area, and*

- (b) the demolition of a building, or a change in the use of land, does not give rise to a claim for a refund of any contribution.
- (7) In this clause—
excluded development means the following:
- (a) exempt development
 - (b) Development for non-residential floorspace (unless identified as adaptable floor space under the scheme)
 - (c) development for the purposes of residential accommodation that will result in the creation of less than 200 square metres of gross floor area,
 - (d) development for the purposes of residential accommodation that is used to provide affordable housing or public housing,
 - (e) development for the purposes of community facilities, schools, public roads or public utility undertakings,
 - (f) development on land in Zone IN1 General Industrial.
 - (g) refurbishment or repair of a building that results in additional residential floorspace less than 100 sqm

3. Minimum lot size for boarding houses

Proposed amended Clause:

4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

- (1) The objectives of this clause ~~is~~ are as follows:
- (a) to achieve planned residential density in certain zones,
 - (b) to ensure that boarding houses in Zone R2 Low Density Residential retain a low-density scale and character, and achieve adequate setbacks, private open space and landscaped area, driveways and vehicle manoeuvring areas.
- (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 of the Table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table and only if the lot has a street frontage of at least 20.0m.

Column 1	Column 2	Column 3
....
Boarding houses	Zone R2 Low Density Residential	800 square metres

4. Aircraft noise

Proposed new Clause:

Development in areas subject to aircraft noise

- (1) The objectives of this clause are as follows—
- (a) to prevent certain noise sensitive developments from being located near the Sydney (Kingsford-Smith) Airport and its flight paths,
 - (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings.
- (2) This clause applies to development that—
- (a) is on land that is in an ANEF contour of 20 or greater, and
 - (b) the consent authority considers is likely to be adversely affected by aircraft noise.
- (3) Before determining a development application for development to which this clause applies, the consent authority—
- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
 - (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2015, and
 - (c) must be satisfied that suitable arrangements will be in place to ensure that the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2015.
- (4) In this clause:
- ANEF contour** means a noise exposure contour shown as an ANEF contour on the Australian Noise Exposure Forecast Contour Map for the Kingsford Smith Airport prepared by the Department of the Commonwealth responsible for airports.

AS 2021—2015 means AS 2021—2015, Acoustics—Aircraft noise intrusion—Building siting and construction.

5. Environmentally Sensitive Land

Proposed amended text:

Zone SP2 Infrastructure

1 Objectives of zone

....

- To ensure that works are compatible with and protect the ~~biodiversity values~~ environmentally sensitive status of the natural environment.

6.3 ~~Terrestrial biodiversity~~ Environmentally Sensitive Land

- (1) The objective of this clause is to ~~maintain terrestrial biodiversity~~ protect and enhance environmentally sensitive land by:

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