

FSR Review

Aim

The review of Council's Floor Space Ratio (FSR) controls is a response to a NSW Department of Planning and Environment concern that current FSR controls are restricting redevelopment of existing dwellings and resulting in excessive use of Clause 4.6 of Leichhardt Local Environmental Plan 2013 (LLEP 2013) which allows flexibility in the application of development standards. The aim of the Review is to identify:

- if Council's FSR controls are resulting in excessive use of clause 4.6 (formerly SEPP 1); and
- alternative FSR controls that could reflect actual FSRs in residential development approvals

Methodology

The review utilises an evidence-based approach as outlined below:

Sample Size and Selection

- A large amount of FSR and clause 4.6 (formerly SEPP 1) data was collected from a sample of 1,080 residential development approvals and 225 residential development refusals from 2000 to 2008, evenly distributed across different suburbs.
- Samples were randomly selected with no bias toward specific dwelling types, locations or ownership.
- A consultant statistician confirmed that the sample size and selection method was of 'sufficient size to give confidence to the pattern of all past Development Applications matches that of the sample Development Applications.'
- The consultant presented this rationale to Councillors at a briefing on 14 October 2010.

This table shows the sample of approved residential DAs.

Planning Area	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Annandale	20	20	20	20	20	20	20	20	20	180
Balmain	20	20	20	20	20	20	20	20	20	180
Birchgrove	20	20	20	20	20	20	20	20	20	180
Leichhardt	20	20	20	20	20	20	20	20	20	180
Lilyfield	20	20	20	20	20	20	20	20	20	180
Rozelle	20	20	20	20	20	20	20	20	20	180
Total	120	120	120	120	120	120	120	120	120	1080

Table 1: Sampled approved DAs were distributed across time and place

This data outlined in the table equates to:

- 20 DAs being sampled annually in each planning area for 9 years – these areas were Annandale, Balmain, Birchgrove, Leichhardt, Lilyfield and Rozelle (East & West).
- 120 DAs in total being sampled from each of the years 2000 to 2008.
- 180 DAs in total being sampled from each of the 6 planning areas for the period 2000 to 2008

The data collected from each of the approved and refused DAs was as follows:

- Development Application number
- Street address and suburb
- Description of development
- Estimated cost of development
- Date of approval

- Lot size
- Delegation of decision to Council officers
- SEPP 1 objections (now Clause 4.6)
- Number of objections
- FSR (existing, proposed and approved) – in accordance with both the LEP 2000 definition and LLEP 2013 NSW standard instrument definition
- Landscaped area (existing, proposed and approved) – in accordance with both the LEP 2000 definition and LLEP 2013 NSW standard instrument definition
- Building height
- Building location zone
- Site coverage

The review involved verification of the FSRs and landscaped areas for all the development applications sampled.

Findings

The four key findings from the review of FSR controls are:

1. ***The smaller the lot size the higher the FSR of dwellings approved by Council.*** For example, Table 2 shows that in Balmain the average FSR of dwellings on small lots between 0-149sqm is 0.9:1, while on larger lots that are over 450sqm the average FSR of dwellings is 0.5:1.
2. ***The approved FSR of dwellings varies between planning areas, which reflects the unique character of each suburb.*** For example, Table 2 shows that the average FSR of dwellings on a 150-299sqm lot in Leichhardt is 0.6:1 but in Birchgrove it is 0.8:1.
3. ***The approved FSR of dwellings on lots 0-300sqm tend to be over (in breach of) the current FSR controls, which confirms that most FSR breaches occur on smaller lots.*** For example Table 2 shows that in Annandale the average actual FSR of dwellings on lot sizes 0-149sqm is 0.8:1 and for dwellings on lot sizes 150-299sqm it is 0.7:1, both of which exceed the current maximum FSR control of 0.6:1.
4. ***The majority of residential lots across the Leichhardt LGA are less than 300sqm in size.*** Table 3 below illustrates that the majority of residential lots across the Leichhardt LGA are less than 300sqm in size. For example, 68% of all residential lots in Lilyfield are less than 300sqm while in Rozelle the proportion is 87%.

Lot Size (sqm)	Annandale	Balmain	Birchgrove	Leichhardt	Lilyfield	Rozelle
0-149.9	0.8	0.9	1.0	0.7	0.9	0.8
150-299.9	0.7	0.7	0.8	0.6	0.6	0.6
300-449.9	0.6	0.7	0.6	0.5	0.5	0.6
450+	0.6	0.5	0.6	0.5	0.5	0.5
Average	0.7	0.8	0.8	0.6	0.5	0.7
Controls in LEP 2013	0.6	0.7	0.7	0.5	0.5	0.5 & 0.7

Table 2: Average Approved FSR for Residential DAs (Standard Instrument definition)

Lot Size (sqm)	Annandale	Balmain	Birchgrove	Leichhardt	Lilyfield	Rozelle
0-149.9	26%	32%	38%	17%	13%	34%
150-299.9	55%	48%	41%	57%	55%	53%
300-449.9	13%	11%	12%	19%	25%	9%
450+	6%	9%	9%	7%	7%	4%
Total	100%	100%	100%	100%	100%	100%

Table 3: Residential lot size distribution across Leichhardt LGA

Options for Action

Based on the aims and findings of the FSR Review it is recommended that any new residential FSR controls should meet the following criteria:

1. Reflect the diversity of lot sizes across the LGA;
2. Reflect the difference in lot sizes between suburbs;
3. Better reflect what is being approved by Council; and
4. Reduce Council's reliance on clause 4.6 (formerly SEPP 1).

The following four options for FSR controls have been assessed against the above criteria:

- Option 1** **No change** – No change to FSR controls;
- Option 2** **Minimal change** – FSR controls that would reflect average, actual FSRs in residential development approvals as summarised in Table 2;
- Option 3** **Modest change** – FSR controls that would balance a reduction of Council's reliance on clause 4.6 (formerly SEPP 1) and minimise the risk of unintended consequences that might arise from new controls; and
- Option 4** **Substantial change** – FSR controls high enough to significantly reduce reliance on clause 4.6 (formerly SEPP 1)

Note: These options all relate to Leichhardt LEP 2013 and all the analysis provided is based on the NSW Standard Instrument definition of FSR.

Summary of Options for FSR Controls by Suburb

The following table summarises four options for FSR controls in Leichhardt LEP 2013 by suburb.

Annandale	Lot Size (sqm)	Option 1	Option 2	Option 3	Option 4
	0-149.9	0.6	0.8	0.9	1.0
	150-299.9	0.6	0.7	0.8	0.9
	300-449.9	0.6	0.6	0.7	0.8
	450+	0.6	0.6	0.6	0.7
	Current Control	0.6	0.6	0.6	0.6
Balmain	Lot Size (sqm)	Option 1	Option 2	Option 3	Option 4
	0-149.9	0.7	0.9	1.0	1.1
	150-299.9	0.7	0.7	0.9	1.0
	300-449.9	0.7	0.7	0.8	0.9
	450+	0.7	0.5	0.7	0.8
	Current Control	0.7	0.7	0.7	0.7
Birchgrove	Lot Size (sqm)	Option 1	Option 2	Option 3	Option 4
	0-149.9	0.7	1.0	1.0	1.1
	150-299.9	0.7	0.8	0.9	1.0
	300-449.9	0.7	0.6	0.8	0.9
	450+	0.7	0.6	0.7	0.8
	Current Control	0.7	0.7	0.7	0.7
Leichhardt	Lot Size (sqm)	Option 1	Option 2	Option 3	Option 4
	0-149.9	0.5	0.7	0.8	0.9
	150-299.9	0.5	0.6	0.7	0.8
	300-449.9	0.5	0.5	0.6	0.7
	450+	0.5	0.5	0.5	0.6
	Current Control	0.5	0.5	0.5	0.5
Lilyfield	Lot Size (sqm)	Option 1	Option 2	Option 3	Option 4
	0-149.9	0.5	0.9	0.9	1.0
	150-299.9	0.5	0.6	0.8	0.9
	300-449.9	0.5	0.5	0.7	0.8
	450+	0.5	0.5	0.6	0.7
	Current Control	0.5	0.5	0.5	0.5
Rozelle	Lot Size (sqm)	Option 1	Option 2	Option 3	Option 4
	0-149.9	0.5/0.7	0.8	0.9	1.0
	150-299.9	0.5/0.7	0.6	0.8	0.9
	300-449.9	0.5/0.7	0.6	0.7	0.8
	450+	0.5/0.7	0.5	0.6	0.7
	Current Control	0.5/0.7	0.5/0.7	0.5/0.7	0.5/0.7

Table 4: Summary of Four Options by Suburb

Evaluation of Four Options

The table below (Table 5) summarises the impact of the four options on the use of clause 4.6. The NSW Department of Planning and Environment guidelines require that any DA that would exceed FSR controls by more than 10%, if approved, should be decided at a Council meeting. The Department has relaxed this requirement temporarily while the FSR review is being completed.

Assessment Criteria	Option 1	Option 2	Option 3	Option 4
Do the FSR controls differ between suburbs?	YES	YES	YES	YES
Do the FSR Controls differ between Lot Size	NO	YES	YES	YES
Do the FSR controls reduce Council's reliance on clause 4.6? What % of residential DAs would have to be reported to a Council meeting?	44% NO	29% YES	10% YES	4% YES

Table 5: Assessment Criteria – Four Options

Compliance with the Department of Planning and Environment Directive to Reduce Use of Clause 4.6

Under Option 1 and Option 2 a substantial number of Development Applications (DAs) would continue to be reported to Council meetings. This may increase development application processing times. Option 3 and Option 4 would significantly reduce the number of DAs referred to Council meetings and assist Council in reducing DA processing times.

Risk of Unintended Consequences

Any change to planning controls can have unintended consequences. Higher FSRs might result in more expensive property values, changes to the character of neighbourhoods, higher density development, loss of tree cover and increases in population.

The more FSR controls increase the greater the risk of unintended consequences becomes. This is not a concern for Option 1, and the risk is minimal for Option 2. Options 3 and 4 do increase the risk of some unintended consequences, but as changes to the FSR controls should reflect what has previously been approved any increase in the controls should **not** result in any additional increase in development densities. Other Local Environmental Plan and Development Control Plan controls can also reduce these risks and the following measures would further minimise the risk of unintended consequences that might arise from changes to FSR controls:

- 1) Monitoring unintended consequences arising from FSR control changes
- 2) Introduction of internal procedures/guidelines to adjust assessment of FSR matters in DAs by Council officers
- 3) Introduction of new FSR controls on a trial basis with a review after a year or two

FSR Review Recommendation – Option 3

Based on the research and analysis undertaken during this study, the FSR controls for Option 3 appear to balance the need to reduce Council’s reliance on clause 4.6 whilst minimising the risk of unintended consequences that might arise from new controls. The Option 3 FSR controls are shown in the following table.

Lot Size (sqm)	Annandale	Balmain	Birchgrove	Leichhardt	Lilyfield	Rozelle
0-149.9	0.9	1.0	1.0	0.8	0.9	0.9
150-299.9	0.8	0.9	0.9	0.7	0.8	0.8
300-449.9	0.7	0.8	0.8	0.6	0.7	0.7
450+	0.6	0.7	0.7	0.5	0.6	0.6
Current Control	0.6	0.7	0.7	0.5	0.5	0.5 & 0.7

Table 6: Option 3: FSR Controls (modest change)

The potential benefits of the Option 3 controls are that they:

- are more sensitive to subdivision patterns, dwelling types, lot sizes and suburb differences;
- can be complemented by improved built form controls in Development Control Plan 2013;
- will enable Council to monitor and minimise unintended consequences arising from changes to FSR and DCP controls;
- will reduce the number of clause 4.6 variations that have to be referred to Council meetings for determination; and
- can be reviewed to ensure the desired future character is being achieved.

Value Uplift as a Result of Implementing Option 3

The proposed new controls under Option 3 have the potential to increase land values in the Leichhardt local government area. The market has however already factored in the reality that new residential development in Leichhardt local government area is usually approved above the current FSR controls.

The increase in land value from a change to current FSR controls could therefore be the difference between what the market already factors in and a marginal increase in FSR that might result from new controls. Quantifying this change is difficult as the actual impact on land values is highly dynamic and will vary from property to property.