



ACTION: Request that the Code SEPP be immediately amended to remove clause **1.19(3)(a)** so that Mosman Scenic Protection Area identified in the Mosman LEP 2012 will continue to be exempted from the application of the SEPP.

The foreshore slopes of Mosman have been recognised as needing planning controls to protect the qualities of a great national asset - Sydney Harbour. These controls include the need for appropriate merit assessment of development within the area that is currently known as the Scenic Protection Area.

JUSTIFICATION FOR THE NEED FOR SCENIC PROTECTION PROVISIONS

Mosman's location on Sydney Harbour at the opening of the Heads gives it a particular significance. Its headlands and its topography, its foreshore recreation areas, its bushland and National Parks all contribute to the visual amenity of a nationally and internationally recognised icon. The way the built environment sits within this landscape is the result of a planning framework that has recognised the need to protect the vegetation and to require high quality in the design of buildings and structures in residential foreshore areas.

Early State Recognition and Planning of Scenic Protection Area

Discussion about the protection of Sydney Harbour goes back to 1947.

Studies by the State Planning Authority in 1967 and 1971 recognised the dominance of the natural landscape over the built form on the Mosman slopes. They concluded that the variability of conditions and topography around the harbour would make the effective application of a general control code almost impossible to achieve.

The State Regional Environmental Plan (SREP) 23 which included Mosman in its scope, also stressed the importance of the scenic quality of Sydney Harbour.

Local Recognition and Planning of Scenic Protection Area

A foreshore scenic protection area was introduced in Mosman in 1994. It included most of the residential areas from the ridgeline to the harbour. Any development assessment had to consider the natural, visual and heritage environment.

The current Mosman LEP 2012 contains a Scenic Protection Clause – Clause 6.4

The objectives of the clause are:

- To recognise and protect the natural and visual environment of Mosman and Sydney Harbour
- To reinforce the dominance of landscape over built form
- To ensure that development on land to which this clause applies, is located and designed to minimise its visual impact on these.

The scenic protection area in the 2012 LEP is the area below the 60 m contour line, a smaller area than in the first foreshore scenic protection area, but strategically assessed as visually significant land. The smaller area allows increased conformity with state planning objectives.

NSW Planning & Environment Planning Circular PS 18-001 issued 16 January 2018

“Stepping up planning and designing for better places: respecting and enhancing local character” The foreshore slopes are part of Mosman's local character and are valued by the community. They are of even greater importance as part of the

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character of Sydney Harbour and of value to a much wider community – a NSW, Australian and international (tourist) community.

JUSTIFICATION FOR MERIT BASED PLANNING CONTROLS

The Mosman LEP has provisions to prevent inappropriate development in the “scenic protection areas” and has significantly contributed in the maintenance of the dominance of landscape over built form in this area.

Additional housing should be able to be located in the scenic protection areas but will need to be appropriately designed. It is essential that a merit based assessment is undertaken when development is proposed in this area. The Housing Code does not provide this.

It is known that developers will seek to exploit opportunities afforded by the Housing Code given the rewards of harbourside locations, so it is important that clear controls are set out and a merit based approach is taken.

It is inappropriate that development in these key areas be approved by a private certifier (working for the developer). It is also inappropriate that there would be no opportunity for Mosman Council or the local community to be able to comment on development proposals in such a significant area.

Furthermore, the complying development provisions allow for the clearing of trees without appropriate consideration of the impact on the scenic quality of the area. This is not consistent with the NSW Government’s Greener Places strategy.

ACTION REQUESTED

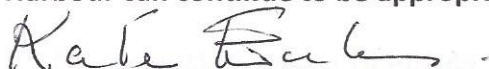
Currently under clause 1:19(2) and Schedule 5 of the Exempt and Complying Development Code SEPP 2008, 18 councils are listed with maps identifying land where the SEPP’s complying development provisions do not apply.

Other Local Government Areas which have scenic protection areas adjoining waterways which require consideration of the scenic quality when DAs are being considered include Manly, Randwick and Hurstville.

Four “*Mosman Complying Development Land Maps*” identify “*Complying Local Exclusion*” areas. These Local Exclusion areas are identical with the land identified in the Mosman LEP Scenic Protection Maps as scenic protection areas.

Currently under Clause 1:19(3)(a) the exemption of Mosman scenic protection areas from the complying development provisions in the SEPP will cease on 30 November 2018.

The Mosman Parks & Bushland Association’s view is that there is no justification for this action. **It is requested that Clause 1.19(3)(a) be removed from the SEPP so the importance of the scenic quality of Mosman’s slopes and its impact on Sydney Harbour can continue to be appropriately respected.**



Kate Eccles
President

17th May, 2018