

ITEM 6. POST EXHIBITION - PLANNING PROPOSAL: AMENDMENT TO SYDNEY LOCAL ENVIRONMENT PLAN 2012 - SYDNEY FISH MARKET - 56-60 PYRMONT BRIDGE ROAD PYRMONT

FILE NO: S110701

SUMMARY

In December 2012, Council and the Central Sydney Planning Committee endorsed the Planning Proposal to amend the controls for Sydney Fish Market – 56-60 Pyrmont Bridge Road, Pyrmont under *Sydney Local Environmental Plan 2012*. The amendments introduce “warehouse or distribution centre” to the list of permissible uses in the land use table and reinstate the site’s FSR from 1:1 to 2.5:1.

The Planning Proposal was submitted to the Department of Planning and Infrastructure, with a request for a Gateway Determination in accordance with section 56(1) of the *Environmental Planning and Assessment Act 1979*. The Gateway Determination to proceed with the public exhibition of the Planning Proposal was received on 5 February 2013.

The Planning Proposal was publicly exhibited from 4 March 2013 to 18 March 2013. The exhibition generated one submission from JBA Planning Consultants Pty Ltd on behalf of the site’s lessee, Sydney Fish Market Pty Ltd. The submission supported the Planning Proposal, but requested some additional water-based uses be made permissible, consistent with current and future uses on the site in accordance with *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. The additional water-based uses comprise charter and tourism boating facilities, jetties, port facilities and water recreation structures.

This report seeks Council’s endorsement of a revised Planning Proposal, shown at **Attachment A**, incorporating these additional water-based uses within Schedule 1 of *Sydney Local Environmental Plan 2012* specific to the Fish Market site.

The proposed amendments to Sydney LEP 2012 are minor and are consistent with the Master Plan, the approved Concept Plan and the previous planning controls for the site.

The Minister has authorised Council to exercise its delegation to make the local environmental plan following drafting by Parliamentary Counsel.

It is recommended that the Planning Proposal at **Attachment A** be endorsed by Council and the Central Sydney Planning Committee for submission to Parliamentary Counsel for legal drafting.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note one submission was received in response to the public exhibition of the *Planning Proposal: Amendment to Sydney Local Environmental Plan 2012 – Sydney Fish Market – 56-60 Pyrmont Bridge Road, Pyrmont*, as outlined in the subject report;

- (B) the Central Sydney Planning Committee approve the revised Planning Proposal, shown at **Attachment A** to the subject report, incorporating minor amendments to the recently exhibited *Planning Proposal: Amendment to Sydney Local Environmental Plan 2012 – Sydney Fish Market – 56-60 Pyrmont Bridge Road* in accordance with Section 39(1) of the City of Sydney Act 1988, to be made as a local environmental plan under section 59 of the Environmental Planning and Assessment Act 1979; and
- (C) authority be delegated to the Chief Executive Officer to make any minor amendments to the revised Planning Proposal, as shown at **Attachment A**, to correct any minor drafting errors before submitting it to Parliamentary Counsel.

ATTACHMENTS

- Attachment A:** Revised Planning Proposal: Amendment to Sydney Local Environmental Plan 2012 – Sydney Fish Market – 56-60 Pyrmont Bridge Road, Pyrmont – July 2013
- Attachment B:** Gateway Determination from the Department of Planning and Infrastructure to publicly exhibit the Planning Proposal

BACKGROUND

Site description and context

1. The Sydney Fish Market is located at the south western end of the Pyrmont peninsula along Blackwattle Bay. The Fish Market has operated at this site since 1966, when it moved from its previous location in Haymarket. The Market comprises of a number of different buildings and large at-grade car park. It has a site area of approximately 44,000sqm. The Fish Market site is outlined in red in the aerial photo shown in Figure 1 below.



Figure 1: Sydney Fish Market aerial photo

2. The Sydney Fish Market comprises retail and wholesale operations and a large number of tenants. The various uses of the site include an auction hall, wholesaling, processing and distribution, restaurants, takeaway food outlets, ancillary retail and office, ice manufacturing, refrigeration, and a seafood school.
3. The Sydney Fish Market site is leased from the State Government under a 50 year lease to Sydney Fish Market Pty Ltd, the shareholders of which include a consortium of merchants and tenants who sell at the Market, and the NSW commercial fishers and aquaculturists who supply the market.

Previous Resolution of Council and CSPC

4. In December 2012, Council and the Central Sydney Planning Committee endorsed the Planning Proposal to amend the controls for Sydney Fish Market – 56-60 Pyrmont Bridge Road, Pyrmont under *Sydney Local Environmental Plan 2012* (Sydney LEP 2012). The amendments introduce “warehouse or distribution centre” to the list of permissible uses for the B3 Commercial Core zone and reinstate the site’s FSR from 1:1 to 2.5:1.
5. Sydney LEP 2012 is largely a translation of existing controls in the City’s previous planning instruments, including those for Pyrmont under *Sydney Local Environmental Plan 2005*. The key planning controls for the Fish Market in Sydney LEP 2012 are a B3 Commercial Core zoning, an FSR control of 1:1 and height controls varying from 15m to 33m across the site. The application of an FSR of 1:1 for the site was an error and misreading of the existing controls for the site originally established under the Master Plan in 2005 and in the approved Concept Plan from May 2011.
6. As noted in the previous reports to Council and the Central Sydney Planning Committee, the Department of Planning and Infrastructure requested that the City initiate a planning proposal to reinstate the site’s FSR from 1:1 to 2.5:1 and to add “warehouse or distribution centre” to the list of permissible uses in the land use table. These matters were identified in a late submission to the Department of Planning and Infrastructure prior to Sydney LEP 2012 coming into effect on 14 December 2012.

Land Uses and zoning

7. The Sydney Fish Market is zoned B3 Commercial Core under Sydney LEP 2012. The objective of the zone is to provide a wide range of retail, business, office, entertainment, community and other suitable land uses to serve the needs of the local and wider community. The zone permits a range of commercial uses and prohibits residential development.
8. The B3 Commercial Core zone was chosen for the Fish Market site and other areas of Pyrmont, as it was the most closely-aligned Standard Instrument zone to the previous zoning under *Sydney Local Environmental Plan 2005*. The Standard Instrument LEP requires councils to nominate permissible and prohibited land uses in a land use table. In Sydney LEP 2012 “warehouse or distribution centre” is currently prohibited in the B3 Commercial Core zone. The current and future operations at the Fish Market involve warehousing and distribution.
9. Some of the inconsistencies between Sydney LEP 2012 land use table and the land uses envisaged for the site under the Sydney Fish Market Master Plan have occurred due to the application of the Zone B3 Commercial Core which has also been applied elsewhere in the Local Government Area. The prohibition of “warehouse or distribution centre” was not deliberate on the Fish Market site.
10. Accordingly, the Planning Proposal seeks to add “warehouse or distribution centre” to the permitted with consent list in the land use table for Zone B3 Commercial Core.

Public exhibition and consideration of submissions

11. The Gateway Determination to proceed with the public exhibition of the Planning Proposal was received on 5 February 2013, as shown at **Attachment B**. The Planning Proposal was exhibited from 4 March to 18 March 2013.
12. The exhibition generated one submission from JBA Planning Pty Ltd on behalf of the owners of the site - Sydney Fish Market Pty Ltd. The submission supported the proposed changes to the FSR control and the addition of "warehouse or distribution centre" to the land use table in the B3 Commercial Core zone, but requested additional water-based activities be made permissible, consistent with current and future uses and *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. The additional water-based activities comprise charter and tourism boating facilities, jetties, port facilities and water recreation structures.
13. In order to ensure that the provisions of Sydney LEP 2012 work effectively for the current and future uses on the Fish Market site, it is recommended that Schedule 1 of Sydney LEP 2012 be amended to list these additional water-based uses. Schedule 1 supports clause 2.5 "Additional permitted uses for particular land." It lists permitted land uses (in addition to those permitted by the Land Use Table) which may be carried out with consent on the nominated land.
14. To enable the current water-based functions of the Fish Market to continue specifically on the site, Schedule 1 Additional permitted uses is to be amended to include "Charter and tourism boating facilities", "Jetties", "Port facilities" and "Water recreation structures". These uses are prohibited in the B3 Commercial Core zone, but their addition as a permissible use in Schedule 1 will override this prohibition. The prohibition of these uses was not deliberate on the Fish Market site and, as such, this Planning Proposal recommends making these land uses permissible with consent to ensure that the current and future operations are not compromised.
15. The addition of these permissible uses through site-specific provisions will not have any adverse impacts on the other areas of our Local Government Area, because they relate to current and future uses of the Fish Market anticipated under the 2005 Master Plan and *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.
16. The changes recommended for inclusion in the Planning Proposal are shown at **Attachment A**.
17. As the changes are minor and will not have any adverse impacts, there is no need to obtain another Gateway determination or re-exhibit the revised Planning Proposal.

Next steps

18. If Council and the Central Sydney Planning Committee endorse the revised Planning Proposal at **Attachment A**, it will be submitted to Parliamentary Counsel requesting a local environmental plan be legally drafted. It will then be made under Section 59 of the *Environmental Planning and Assessment Act 1979* and a copy will be provided to the Department of Planning and Infrastructure for notification on the NSW Legislation website.

RELEVANT LEGISLATION

19. The *Environmental Planning and Assessment Act 1979*; the *Environmental Planning and Assessment Regulation 2000*; *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*; and *Sydney Regional Environmental Plan No 26-City West*.

CRITICAL DATES / TIME FRAMES

20. The Gateway Determination requires that the Planning Proposal be finalised by November 2013.

PUBLIC CONSULTATION

21. The exhibition of the Planning Proposal was subject to the conditions of the Gateway Determination issued by the Department of Planning and Infrastructure.
22. The Planning Proposal was exhibited for 14 days from 4 March until 18 March 2013. Public notice of the exhibition was provided in The Sydney Morning Herald on 18 February 2013, City News newspaper on 21 February and the City of Sydney website. One submission was received in response to the public exhibition and owing to the minor nature of the amendments requested, it is not recommended that the Planning Proposal be re-exhibited.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Jonathon Carle, Senior Specialist Planner)