

## RELEVANT INFORMATION FOR THE CENTRAL SYDNEY PLANNING COMMITTEE

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**FILE:** S122551 **DATE:** 29 October 2014  
**TO:** Central Sydney Planning Committee Members  
**FROM:** Graham Jahn, Director City Planning, Development and Transport  
**SUBJECT:** Information Relevant To Item 11 - Millers Point Heritage Conservation Area - Amendment to Planning Controls - At CSPC - 30 October 2014

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### Alternative Recommendation

(deleted text in ~~strikethrough~~ and added text in **bold italics**)

It is resolved that:

- (A) the Central Sydney Planning Committee approve the *Planning Proposal: Sydney Local Environmental Plan 2012 - Millers Point Amendment*, shown at Attachment A to the subject report, for submission to the Minister for Planning under Section 57(2) of the *Environmental Planning and Assessment Act 1979* with a request for a Gateway Determination, **subject to the following amendments:**
- (i) ***Under LEP Drafting Notes on page 9 insert into Clause (3) after the word 'site' the following words: "and that is endorsed under Section 38A of the Heritage Act, 1977";***
  - (ii) ***Delete Item No. 1880 Former Warehouse "MSB Stores" at 36 Hickson Road, Millers Point from the table titled 'Properties within the Millers Point Heritage Conservation Area to which this Planning Proposal applies' in Appendix B of the Planning Proposal;***
- (B) the Central Sydney Planning Committee approve the *Planning Proposal: Sydney Local Environmental Plan 2012 – Millers Point Amendment* for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 28 October 2014 that Council seek authority from the Secretary of the Department of Planning and Environment to exercise the delegation of the Minister for Planning of all of her functions under section 59 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 28 October 2014 that Council approve the *Draft Sydney Development Control Plan 2012 – Millers Point Amendment*, shown at Attachment B to the subject report, for public authority consultation and public

exhibition in parallel with the Planning Proposal, ***subject to the addition of the following principle to the Locality Statement Principles under Section 2.6:***

- (i) ***In the event of destruction of a building; replacement buildings must have a floor area that does not exceed that which it replaces and be sympathetic to the scale, setting and proportions of existing development, including adjacent heritage items, and use materials, finishes, textures and details appropriate to the building type and style.***
- (E) the Central Sydney Planning Committee delegate authority to the Chief Executive Officer to make minor changes to the *Planning Proposal: Sydney Local Environmental Plan 2012 – Millers Point Amendment*, following receipt of the Gateway determination to prepare for public exhibition; and
- (F) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 28 October 2014 that Council delegate authority to the Chief Executive Officer to make any minor changes to the *Draft Sydney Development Control Plan 2012 – Millers Point Amendment* following receipt of the Gateway Determination.

## **Background**

At its meeting on 28 October 2014, the Planning and Development Committee requested further information on conservation management plans, replacement buildings and infilled verandahs. A similar memo will also be prepared for Council's consideration at its meeting on Monday 3 November 2014.

## **Conservation Management Plans**

The Planning Proposal seeks to introduce a clause requiring any height and floor space increase in Millers Point to be consistent with an endorsed conservation management plan. Concern was raised at Committee that less robust conservation management plans could be provided with a development application.

The conservation management plans set out the history and significance of an item and the policies for how they are to be conserved. The plans also set out how to make sympathetic changes to a property.

The NSW Department of Family and Community Services have commissioned heritage professionals to update existing conservation management plans for each heritage listed property.

A copy will be provided with the sale documents to ensure prospective buyers are fully aware of their responsibilities and limitations with regard to future development of the properties. All conservation management plans for Millers Point properties will be endorsed by the NSW Heritage Council.

It is recommended the words 'endorsed under Section 38A of the *Heritage Act, 1977*' be added into clause (3) of the drafting notes to ensure alternative and less robust conservation management plans are not submitted in support of a development application. The amended clause will read:

- (3) Consent to contravene the maximum height and floor space ratio controls under clause 4.6 must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development is consistent with ~~the~~ a heritage conservation management plan for the site **and that is endorsed under Section 38A of the Heritage Act, 1977.**

### **Replacement Buildings**

The Planning and Development Committee raised concerns about the nature of a replacement building if a building was to be demolished, destroyed or burnt down through carelessness or accident.

The LEP drafting notes on page 9 of the Planning Proposal set the maximum height and floor space ratio as that of the building at 'the commencement of the plan.' This means that a replacement building will only be permitted the height and floor space of the demolished building, with minor variations able to be considered under clause 4.6 of the LEP. There would be no advantage gained in replacing a building.

An additional principle is proposed to the Millers Point Locality Statement under Section 2.6 of the DCP. The proposed principle will guide the design of a replacement building and require the consideration of scale, setting, proportions, finishes, textures and details.

### **Infilled Verandahs**

The Planning and Development Committee raised concerns about infilled, or enclosed, verandahs and whether the controls should specify their restoration.

All conservation management plans prepared and endorsed for Millers Point properties identify the fabric which contributes to the overall significance of the building. The fabric is ranked with the level of significance from exceptional through to high, moderate, little or intrusive.

It is intended that the conservation management plans guide the assessment of proposals for the items as the plans contain the most detailed analysis of the item's fabric, history and significance.

The proposed principle (c) under DCP Section 2.6 Millers Point requires development to be consistent with the conservation management plan.

The effect is illustrated at Figure 5 of the subject report, which is an extract from a Conservation Management Plan showing the policies for treatment of the fabric. The figure shows that maintenance (generally referring to repair work only) and reconstruction are the only acceptable options for works to the enclosed verandah. Adaptation or reconfiguration of the verandah is not appropriate.

The combination of the conservation management plans and the development controls supports the reconstruction of significant verandahs if works are proposed.

### **Former Warehouse MSB Stores**

The Former Warehouse MSB Stores at 36 Hickson Road, Millers Point is a heritage listed item (1880) under Schedule 5 of *Sydney Local Environmental Plan 2012*. The item is within the Millers Point suburb but outside the Millers Point Heritage Conservation Area. It should not be included as part of this amendment. It is recommended the item is deleted from the table 'Properties within the Millers Point Heritage Conservation Area to which this Planning Proposal applies' in Appendix B of the Planning Proposal.

Prepared by: Marie Ierufi, Planner

TRIM Document Number: 2014/487511

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Approved

A handwritten signature in black ink, appearing to read 'GJahn', is positioned to the right of the 'Approved' text.

**Graham Jahn, Director City Planning,  
Development and Transport**