

ITEM 12. POST EXHIBITION – PLANNING PROPOSAL – HOUSEKEEPING AND MINOR POLICY AMENDMENTS TO SYDNEY LOCAL ENVIRONMENTAL PLAN 2012

FILE NO: X006012

SUMMARY

From time to time, the City undertakes minor Local Environmental Plan amendments to ensure provisions remain clear, relevant and appropriate.

This report details the outcomes of the recent public exhibition of the Planning Proposal and recommends Council and the Central Sydney Planning Committee approve the planning proposal for finalisation and making as a local environmental plan.

This Planning Proposal makes minor amendments to Sydney Local Environmental Plan 2012 to clarify, remove duplicated unnecessary provisions and consolidate several planning controls by:

- including public art as permissible with consent in the SP2 Infrastructure and RE1 Public Recreation zones;
- allowing demolition consent to be granted if a site-specific development control plan has been approved or as part of a staged development application;
- removing “use of footpath by food and drink premises” as exempt development as the provisions duplicate those in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*;
- amending Clause 6.11 and Clause 6.11A to specify that Heritage Floor Space is to be allocated to the site, rather than to the building; and
- amending Clause 7.22 to specify that it applies to existing non-residential buildings rather than land in the R1 General Residential zone.

The Planning Proposal was placed on public exhibition from 4 October to 1 November 2016. Three submissions were received, two submissions from residents and one from the Office of Environment and Heritage.

As a result, a few minor clarifications are recommended to the Planning Proposal to further clarify the intent in the controls.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note matters raised in response to the public exhibition of *Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012*, as shown at **Attachment A** to the subject report;

- (B) the Central Sydney Planning Committee approve the *Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012*, as shown at **Attachment B** to the subject report, to be made as a local environmental plan under section 59 of the *Environmental Planning and Assessment Act 1979*; and
- (C) the Central Sydney Planning Committee note the recommendation to Council’s Planning and Development Committee on 5 December 2016 that authority be delegated to the Chief Executive Officer to make any minor variations to *Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012* to correct drafting errors prior to finalisation of the local environmental plan.

ATTACHMENTS

Attachment A: Summary of submissions

Attachment B: Planning Proposal - Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012

BACKGROUND

1. The *Sydney Local Environmental Plan 2012 (SLEP 2012)* came into operation on 14 December 2012 and was the product of a comprehensive program of review and rationalisation of the City's previous controls and development policies.
2. In August 2016, Council and the Central Sydney Planning Committee (CSPC) resolved to approve *Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012* for submission to the Minister for Planning with a request for a Gateway determination.
3. The Minister's delegate issued a Gateway determination for the *Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012* on 7 September 2016, allowing community and public authority consultation.
4. The Planning Proposal was placed on public exhibition from 4 October to 1 November 2016. Documents were made available for viewing at all of the City's Neighbourhood Service Centres and the One Stop Shop, as well as on the City's website. A public notice was placed in *The Sydney Morning Herald*, the *Inner West Courier* and the *Southern Courier* on 4 October 2016, and the *Central Sydney* and the *Wentworth Courier* on 5 October 2016. The outcomes of public exhibition are discussed in detail in this report.
5. The plan making functions of the Minister for Planning have been delegated to the Council for this Planning Proposal. If the Council and the CSPC approve the changes to the City's planning controls recommended in this report, the City has delegation to amend SLEP 2012 and to make the changes bringing them into effect.

The Planning Proposal

6. The Planning Proposal at Attachment B seeks to amend SLEP 2012 by making minor policy and housekeeping amendments as follows:
 - (a) allowing Public Art as permissible development in the SP2 Infrastructure and RE1 Public Recreation zones;
 - (b) allowing demolition consent to be granted if a site-specific development control plan has been adopted or as part of a Stage 1 development application;
 - (c) removing use of footpath by food and drink premises as exempt development as the provisions duplicate those in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*;
 - (d) amending wording to explain the allocation of heritage floor space to be consistent with intent and *Sydney Development Control Plan 2012 (SDCP 2012)*; and
 - (e) amending wording to clarify Clause 7.22 applies to existing non-residential buildings to be consistent with the intent of the clause.

KEY IMPLICATIONS

Outcomes of public exhibition and public authority consultation

7. Public authority consultation was carried out in accordance with the Gateway determination, which nominated the Office of Environment and Heritage.
8. The Office of Environment and Heritage raised no objections to the Planning Proposal. Two objections were received from residents relating to public art, demolition consent and use of existing non-residential buildings in the general residential zone.
9. Key issues raised in public consultation are discussed below. All matters raised in submissions are addressed in detail in the submissions table at **Attachment A**.

Key issues raised in submissions

Public Art

10. Both submissions object to green spaces having public art, skateboard ramps, cafes or any other built environmental features. There is concern that making public art permissible in the parks would result in clutter, and loss of landscape areas, and threaten the heritage values of parks.
11. There is also concern much of the land in the public recreation zone and infrastructure zone is on the heritage register, and public art will not be consistent with the plan of management.
12. A need to clarify the objective and intent for public art was expressed and that public art be defined.
13. In response, the proposed amendment relates specifically to public art and does not permit skateboard ramps, cafes or other built environment features. Independent of Council policy, sculptures and artwork may be exempt development under the State Environmental Planning Policy (Exempt and Complying) 2008. Sustainable Sydney 2030 and the City Art Public Art Strategy support public art as a result of consultation and community request. This amendment allows consideration of public art in public spaces. The City actively manages its Public Art collection in line with the Guidelines for Acquisitions and Deaccessions 2010 which include criteria for consideration of public art in the public domain. Development applications will be assessed on a site by site basis and on the individual artwork, including any resultant impacts.
14. It is recommended the Planning Proposal be amended to clarify the objective and intent and ensure heritage impacts are considered. It is not necessary to separately define public art, as the ordinary meaning of the word is sufficient. The new clause outlines criteria to be met, including that it must comprise an artwork or element of design by an artist.

Demolition Consent

15. The submission objects to streamlining the process for demolition consent to make it easier for heritage buildings to be demolished and harder for people to prevent this.

16. The proposed amendment would not make it easier for heritage buildings to be demolished or harder for people to raise their concerns. The assessment consideration for demolition and the requirements for public consultation are unchanged. The proposal only allows streamlining of the process once consent has been issued.

Use of Existing non-residential buildings in the general residential zone

17. The submission is concerned the proposal would allow businesses to rent garages in residential streets and use them as cheap commercial industrial workshops or 24 hour storage.
18. This proposed amendment clarifies Clause 7.22 of SLEP 2012 to allow reuse of existing non-residential buildings in the R1 General Residential zone. This clause only applies if the building was designed and constructed for a non-residential use and satisfies the criteria, for example, a corner store which may have been operating prior to the residential zoning. Under Clause 7.22, the impact and compatibility of the development on the amenity of the surrounding locality must be satisfied prior to granting consent.

Changes to Planning Proposal

19. To further clarify the intent of the Planning Proposal in relation to public art, it is recommended the planning proposal is amended as follows:
 - (a) clarify the objective and intent for public art;
 - (b) ensure heritage impacts are considered; and
 - (c) ensure the proposed artwork is consistent with an adopted plan of management.
20. The changes to the revised Planning Proposal are identified at Attachment B, with deleted wording shown shaded grey with ~~strikethrough~~ and additional wording shown shaded grey with *italics*.

Strategic Alignment- A Plan for Growing Sydney and Sustainable Sydney 2030 Vision

21. A Plan for Growing Sydney (the Plan) is a State Government strategic document that outlines a vision for Sydney over the next 20 years.
22. The Plan identifies key challenges facing Sydney, including a population increase of 1.6 million by 2034, 689,000 new jobs by 2031, and a requirement for 664,000 new homes. The Plan sets out the following four goals for Sydney, which are supported by 22 directions and numerous associated actions:
 - (a) a competitive economy with world-class services and transport;
 - (b) a city of housing choice with homes that meet our needs and lifestyles;
 - (c) a great place to live with communities that are strong, healthy and well connected; and

- (d) a sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.
23. The Planning Proposal is consistent with relevant goals, directions and actions of the Plan. By supporting creative expression, enabling timely delivery of development and clarifying LEP provisions, the Proposal will support Goal 3: A great place to live with communities that are strong, healthy and well connected.
24. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. The Planning Proposal is aligned with the following SS2030 strategic directions and objectives:
- (a) Direction 7 - A Cultural and Creative City – Allowing public art as permissible with consent in the SP2 Infrastructure and RE1 Public Recreation zones will support cultural activity, participation and interaction, in particular, Action 7.2.3 Use Sydney's streets, laneways and public spaces to showcase different forms of art.

RELEVANT LEGISLATION

25. Environmental Planning and Assessment Act 1979 and City of Sydney Act 1988.

CRITICAL DATES / TIME FRAMES

Planning Proposal process

26. If Council and the Central Sydney Planning Committee approve the Planning Proposal, it will be submitted to NSW Parliamentary Counsel for drafting. The LEP can be made by the Chief Executive Officer, under delegation. Once finalised, the plan will be submitted to the Department of Planning and Environment for notification on the New South Wales legislation website.
27. The Gateway determination sets the completion date for the Planning Proposal as September 2017.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Karen Judd, Specialist Planner)