

ITEM 16. PLANNING PROPOSAL - SYDNEY LOCAL ENVIRONMENTAL PLAN 2012 - AMENDMENT TO CLAUSE 4.6 (EXCEPTIONS TO DEVELOPMENT STANDARDS)

FILE NO: X011948

SUMMARY

Sydney is one of the world's most liveable, welcoming and desirable cities. This is reinforced by the City of Sydney's parks and public places, which enhance the City's attractiveness to residents, workers and visitors.

To be successful, the City's parks and public places must be distinctive, flexible, engaging, inclusive and accessible so everyone can enjoy and use them. A number of the City's policies and strategies include objectives and actions so that our parks and public places achieve these characteristics.

The current drafting of certain planning controls in Sydney Local Environmental Plan 2012 (SLEP2012) has resulted in an unintended situation where some minor activities that enhance the functioning of the City's parks and public places require development consent, but cannot be assessed and determined. These activities include playground equipment, shade structures, awnings, sculptures and artworks and illuminated wayfinding signage.

This planning proposal will allow the Council to assess and determine development applications for these activities. This will provide more opportunities to enhance the City's public places, and to better align provisions in SLEP2012 with the objectives of the abovementioned policies and strategies.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee approve *Planning Proposal: Sydney Local Environmental Plan – Amendment to Clause 4.6 (Exceptions to development standards)*, shown at Attachment A to the subject report, for submission to the Greater Sydney Commission with a request for a Gateway determination;
- (B) the Central Sydney Planning Committee approve *Planning Proposal: Sydney Local Environmental Plan – Amendment to Clause 4.6 (Exceptions to development standards)* for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway determination;
- (C) the Central Sydney Planning Committee note that *Planning Proposal: Sydney Local Environmental Plan – Amendment to Clause 4.6 (Exceptions to development standards)* includes a request that public authority consultation and public exhibition not be required under the Gateway determination issued by the Greater Sydney Commission, on the basis that the planning proposal deals with matters that will not have any significant adverse impact on the environment;

- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 27 November 2017 that Council seek authority from the Greater Sydney Commission to exercise the delegation of the Minister for Planning of all their functions under section 59 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan as amended by *Planning Proposal: Sydney Local Environmental Plan – Amendment to Clause 4.6 (Exceptions to development standards)*;
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to *Planning Proposal: Sydney Local Environmental Plan – Amendment to Clause 4.6 (Exceptions to development standards)* following receipt of the Gateway determination; and
- (F) the Central Sydney Planning Committee note that, if public authority consultation and public exhibition is required by the Gateway determination, following consideration of any submissions, and refinements, as necessary, the planning proposal will be reported back to Council for final approval.

ATTACHMENTS

- Attachment A:** Planning Proposal: Sydney Local Environmental Plan – Amendment to Clause 4.6 (Exceptions to development standards)

BACKGROUND

1. Sydney is Australia's leading finance and business centre, as well as one of the world's most liveable, welcoming and desirable cities. This role is reinforced by the City of Sydney's parks and public places, which enhance the City's attractiveness to residents, workers and visitors. To be successful, the City's parks and public places must be distinctive, flexible, engaging, inclusive and accessible so everyone can enjoy and use them. A number of the City's policies and strategies include objectives and actions so that our parks and public places achieve these characteristics.
2. The *City of Sydney Open Space, Sports and Recreation Needs Study 2016* found that the public domain quality of some City Centre public spaces needs improvement to provide outdoor opportunities for workers and visitors. Age structure profiles for the City of Sydney show an increase in families with young children and young adults, who are heavy users of parks and public places. Parks and public places therefore need to be flexible and provide a diverse offer of recreational, social, cultural and creative activities and facilities to cater for various age, cultural and income groups.
3. The *City of Sydney Open Space, Sports and Recreation Needs Study 2016* found that, apart from Darling Harbour, the provision for children's play is limited in the City Centre. The Darling Quarter playground at Darling Harbour is extremely popular for city visitors and residents and highlights the need and demand for child friendly city centre spaces.
4. The City of Sydney's *Creative City Cultural Policy and Action Plan 2014-2024* and the *City Art Public Art Strategy* recognise the artistic and social value of public art and, in appropriate locations such as parks and public places, public art ensures creativity is visible and accessible.
5. Parks and public places also are appropriate locations for community notice and public information signs. The *Legible Sydney Wayfinding Strategy*, adopted in 2012, provides a coordinated signage framework so that pedestrians are directed to their desired destinations. Wayfinding pylons have been rolled out in recent years which include maps and locational information for a wide area. These are commonly located in important public places.
6. The current drafting of 'no additional overshadowing' provisions in *Sydney Local Environmental Plan 2012 (SLEP2012)* has resulted in an unintended situation where development applications for some development of minor impact, which can enhance the functioning of the City's parks and public places, cannot be assessed and determined if located within or nearby six specific public places identified in SLEP2012. These activities include playground equipment, shade structures, awnings, sculptures, artworks and illuminated wayfinding signage.
7. It is noted that in most cases these activities do not require development consent, as they are exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. These issues only arise where development consent is required for the relevant structures.
8. This planning proposal will allow the Council to assess and determine development applications for these structures, notwithstanding the constraints resulting from 'no additional overshadowing' provisions. This will provide more opportunities to enhance the City's public places, and to better align provisions in SLEP2012 with the objectives of the abovementioned policies and strategies.

KEY IMPLICATIONS

9. The planning proposal will allow playground equipment, shade structures, awnings, sculptures, artworks and wayfinding signage located in certain public places nominated in SLEP2012 to be assessed and determined, but only when a robust process is undertaken to ensure that the impacts of these developments is minimal.
10. Specifically, the planning proposal will allow development applications for playground equipment, shade structures, awnings, sculptures and artworks or illuminated wayfinding signage to be assessed and determined if the activity is located within or nearby six of the 10 public places listed in SLEP2012 clause 6.19 (Overshadowing of certain public places). The six public places are: Lang Park; Macquarie Place; Martin Place; Sydney Square; Pitt Street Mall; and Prince Alfred Park. The Council would need to be satisfied that a development application for playground equipment, shade structures, awnings, sculptures and artworks and wayfinding signage is acceptable on planning grounds and that it is in the public interest.
11. To achieve this, a minor amendment is proposed to *clause 4.6 (Exceptions to development standards)*. *Planning Proposal: Sydney Local Environmental Plan – Amendment to Clause 4.6 (Exceptions to development standards)* at **Attachment A** provides a detailed technical explanation of the planning mechanism required to effect this change.

Strategic Alignment

12. The *draft Greater Sydney Region Plan* is the State Government strategic document that outlines a vision for Greater Sydney over the next 40 years.
13. The planning proposal is consistent with the Objective 12 of the *draft Greater Sydney Region Plan - Great places that bring people together*.
14. The *draft Eastern City District Plan* sets the local planning context for the City of Sydney local government area.
15. The planning proposal is consistent with the following relevant planning priorities and actions of the *draft Eastern City District Plan*:
 - (a) Planning Priority E4 - Fostering healthy, creative, culturally rich and socially connected communities.
 - (b) Planning Priority E16 - Protecting and enhancing scenic and cultural landscapes.
 - (c) Action 13: Facilitate opportunities for creative and artistic expression and participation, wherever feasible with minimum regulatory burden.
16. *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. This planning proposal is aligned with the following SS2030 strategic directions:
 - (a) Direction 5 - A Lively and Engaging City Centre - It will strengthen the City of Sydney's public domain identity.

- (b) Direction 6 - Vibrant Local Communities and Economies – It will support and enhance vibrant places.
- (c) Direction 7 – A Cultural and Creative City – It will facilitate creativity as a consistent and visible feature of the public domain.

RELEVANT LEGISLATION

17. *Environmental Planning and Assessment Act 1979; City of Sydney Act 1988.*

CRITICAL DATES / TIME FRAMES

Planning Proposal process

18. Should Council and the Central Sydney Planning Committee endorse the attached planning proposal, it will be forwarded to the Greater Sydney Commission in accordance with section 56 of the *Environmental Planning and Assessment Act 1979* with a request for a Gateway determination.
19. The Greater Sydney Commission will then provide a Gateway determination to proceed to consultation, with or without variation, or to resubmit the planning proposal. The Gateway determination will also determine the timeframe for the completion of the Local Environmental Plan amendment.
20. The planning proposal requests that a Gateway determination issued by the Greater Sydney Commission does not require community consultation, on the basis that the planning proposal deals with matters that will not have any significant adverse impact on the environment. This request is made in accordance with section 56(3) of the *Environmental Planning and Assessment Act 1979*.
21. If a gateway requires public authority consultation and public exhibition, the outcomes will be reported to Council and the Central Sydney Planning Committee. If a gateway does not require community consultation, then the plan-making process will proceed directly to the making of the Local Environmental Plan.

Delegation of plan-making functions

22. In October 2012, the Minister for Planning delegated plan-making functions to councils to improve the local plan-making process. In December 2012, Council resolved to accept the delegation.
23. Council needs to receive an authorisation on a case-by-case basis to exercise the delegation. The authorisation is given through the Gateway process. Exercising the delegation means a faster plan-making process with less involvement of the Department of Planning and Environment.
24. The report to Council's Planning and Development Committee on 27 November 2017 recommends that the Council seek confirmation of its delegated authority to exercise the plan-making functions of the Greater Sydney Commission (as part of an amended Gateway determination) under section 59 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan.

PUBLIC CONSULTATION

25. Due to the minor nature of the proposed amendment to SLEP2012, the planning proposal requests that a Gateway determination issued by the Greater Sydney Commission not require community consultation. However, if a Gateway determination requires public consultation, the outcomes of the consultation will be reported back to Council for final approval.

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