

Relevant Information for Council

FILE: X039444 **DATE:** 8 December 2023

TO: Lord Mayor and Councillors

FROM: Graham Jahn AM, Director City Planning, Development and Transport

SUBJECT: Information Relevant To Item 9.7 – Public Exhibition - Planning Proposal - Sydney Local Environmental Plan and Development Control Plan - Policy and Housekeeping Amendments (LEP/DCP Update)

Alternative Recommendation

It is resolved that:

- (A) Council approve Planning Proposal – Sydney Local Environmental Plans - Policy and Housekeeping Amendments 2023, shown at Attachments A, A1 and A2 to the subject report for submission to the Department of Planning and Environment with a request for a Gateway Determination and public consultation and exhibition in accordance with any conditions imposed under the Gateway Determination;
- (B) Council seek authority from the Department of Planning and Environment to exercise the delegation of all functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect the Planning Proposal – Sydney Local Environmental Plans - Policy and Housekeeping Amendments 2023;
- (C) Council approve Planning Proposal - Sydney Local Environmental Plans - Dwelling Retention shown at Attachment B to the subject report for submission to the Department of Planning and Environment with a request for Gateway Determination and public consultation and exhibition in accordance with any conditions imposed under the Gateway Determination;
- (D) Council seek authority from the Department of Planning and Environment to exercise the delegation of all functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposal – Sydney Local Environmental Plan 2012 - Dwelling Retention;

- (E) Council approve draft Sydney Development Control Plan 2012 - Policy and Housekeeping Amendments 2023 at Attachments C, C1 and C2 to the subject report for public exhibition with the Planning Proposal – Sydney Local Environmental Plans - Policy and Housekeeping Amendments 2023 **subject to the following insertion:**

Indoor air quality in new residential development

Objectives

(a) Reduce indoor air pollutants associated with the onsite combustion of gas to improve air quality.

Provisions

(1) Gas cooktops, gas ovens or gas internal space heating systems are not permitted in new residential development; instead, electric systems should be installed.

- (F) Council approve updates to City of Sydney Competitive Design Policy, Guidelines for Waste Management in New Developments, and Landscape Code shown at Attachments D, E and F to the subject report for public exhibition with the Planning Proposal – Sydney Local Environmental Plans - Policy and Housekeeping Amendments 2023 and draft development control plan;
- (G) Council rescind the Green Roofs and Wall Policy as shown at Attachment G to the subject report;
- (H) authority be delegated to the Chief Executive Officer to make any minor amendments to Planning Proposal – Policy and Housekeeping Amendments 2023 shown at Attachments A, A1 and A2 to the subject report prior to public exhibition to correct any drafting errors or to ensure consistency with the Gateway Determination;
- (I) authority be delegated to the Chief Executive Officer to make any minor amendments to Planning Proposal – Dwelling Retention shown at Attachment B to the subject report prior to public exhibition to correct any drafting errors or to ensure consistency with the Gateway Determination; and
- (J) authority be delegated to the Chief Executive Officer to make any minor amendments to the draft Sydney Development Control Plan 2012 - Policy and Housekeeping Amendments 2023 and other development guidelines, codes and policies shown at Attachments C - F to the subject report, prior to public exhibition to correct any drafting errors or ensure consistency with the Planning Proposal – Sydney Local Environmental Plans - Policy and Housekeeping Amendments 2023.

Additions shown in ***bold italics***.

Purpose

To provide an alternative recommendation and further information about the potential to incorporate controls for the electrification of buildings in the draft Development Control Plan and explanation of the proposed controls for adaptable and accessible dwellings.

Background

At the meeting of Council's Transport, Heritage and Planning Committee on 4 December 2023, further information was sought in relation to planning controls for electrification of buildings and accessible housing.

Electrification of buildings

On 23 August 2023 Council resolved to:

"...investigate the opportunities and challenges with amending the City of Sydney's planning controls to require all new residential developments, and development not captured by the City's new Net Zero planning controls, to be all electric and report back to Council via the CEO Update, including next steps, as soon as possible."

Two written submissions to the Committee requested Council include provisions to require electrification of buildings within the Draft Development Control Plan (DCP).

The submission from 350 Australia notes that several other Councils have either introduced similar provisions or have resolved to investigate them. They have prepared these controls on the basis of the health and economic impacts of continuing gas appliance installations in development. The submission from Dr Ben Ewald, an epidemiologist, notes the causative link between the combustion by-products of domestic gas use and asthma.

In response to the Council resolution, staff advised Councillors via CEO Update on 20 October 2023 of the program of works to investigate planning controls requiring all new residential development, and all other development not already captured by our net-zero planning controls, to be electric-only. The program of works includes:

- Research - a research brief is currently being prepared and will be issued to consultants in early 2024. The research will investigate both residential and non-residential development gas usage in the local area. This will allow a clear understanding of the most impactful users of gas (in terms of climate and health), the availability of electric alternatives, and the suitability for transitioning to electricity given the pressures, constraints, and emissions profile of the power grid itself. A cost-benefit analysis will also be conducted.
- Targeted stakeholder engagement - this will include consultation with diverse stakeholder groups to understand the health, environmental, economic and operational implications for electrification for different users and sectors of the economy. This will be particularly important for business and industrial uses with specific operational needs, for example, the restaurant and food manufacturing sectors. This engagement will commence in January 2024.
- Discussion Paper - Preparation of a discussion paper for broad public consultation. The discussion paper will summarise the findings of the research and targeted stakeholder engagement and propose options for new planning controls. The paper is planned to be reported to Council prior to mid-2024 seeking approval for broader community engagement.

At its meeting, the Committee raised the possibility of inserting planning controls requiring electrification for all development into the draft Development Control Plan update ahead of the investigation required by the August 2023 resolution.

Introducing draft planning controls without research and targeted consultation on circumstances and timing is likely to result in significant issues being raised by the most affected sectors, particularly those local food and beverage businesses and industrial uses with specific operational needs, retail, small-scale commercial and manufacturing. Addressing issues raised may also require re-exhibition of draft planning controls. The economic and operational implications of electrification for these different users should be examined through research and consultation.

An alternative 'meanwhile' approach for Council is to resolve to insert controls into the draft Development Control Plan update to improve indoor air quality and deliver health benefits in new residential development by preventing the installation of indoor gas appliances (gas cooktops, gas ovens and gas internal space heating systems).

The impacts of residential gas usage and the associated health impacts are better understood and the phasing out of gas cooktops and appliances from homes is consistent with the recommendation from Doctors for the Environment Australia submission. As advised in the 20 October 2023 CEO Update, requiring complete electrification of new residential development is not possible because the NSW Government's Sustainable Building SEPP says that controls that aim to reduce greenhouse gas emissions in residential development are of no effect.

The ongoing research and consultation will continue for all other development given the breadth of additional circumstances captured in the 23 August 2023 resolution.

Adaptable and accessible housing

Councillors asked for further explanation on the proposed controls for adaptable and accessible dwellings in the draft DCP.

The proposed controls are for 15 per cent of dwellings in a development to meet the highest platinum level and all other dwellings to meet the silver level under the Livable Housing Design Guidelines (LHDG).

Platinum level housing

Sydney DCP 2012 currently requires 15 per cent of dwellings be designed as adaptable dwellings in accordance with Australian Standard 4299-1995. The Australian Standard was last updated in 1995, and the National Construction Code, the state's Apartment Design Guide and many other council DCPs have since adopted the Livable Housing Design Guidelines instead.

The Livable Housing Design Guidelines were developed from the National Dialogue on Universal Housing Design in October 2009 in which stakeholders from the residential building and property industry, the ageing, disability and human rights sector and government agreed to develop and implement nationally consistent design guidance for universal housing. The Guidelines describe Silver, Gold and Platinum levels of design for universal and adaptable housing.

There is no option within the Guidelines that matches exactly the current requirements in the Australian Standard. Neither the Silver nor the Gold level will deliver car parking space dimensions, living room circulation areas, shower size and kitchen workspace clearances to the same accessibility standard as currently required.

The City is proposing to change the current DCP requirement for 15 per cent of dwellings to be designed to LHDG Platinum level standard rather than AS 4299-1995. This is even higher than the previous standard. The Platinum level has the same key dimensions for access as the Australian Standard but adds requirements, for example, increased internal corridor and door widths. The requirement will be for the 15 per cent of dwellings to include 1-bed, 2-bed and 3-bed options where possible.

Silver level housing

In addition, the City is also proposing to apply the Silver level as the minimum standard for all new dwellings, except for those required to be designed to the Platinum level. Silver level has been adopted in the National Construction Code 2022 as the national standard following an extensive program of consultation and impact analysis. However, the NSW Government has elected to not adopt the standard. The Silver level requires step free access to dwellings amongst other things, and the ability to more easily retrofit accessibility features in future. This change represents a significant improvement in access and adaptability compared to the current requirements for non-adaptable dwellings.

The City has not included a proportion of dwellings to the Gold level. Gold level is a lower standard than currently required by the DCP. Gold level has necessary internal dimensions and clearances to enable improved accessibility and manoeuvrability, but less than the dimensions in the current Australian Standard and the Platinum level. These additional dimensions have impacts on construction costs and the number of dwellings that can be delivered within a fixed amount of gross floor area, and so the Gold level is not suitable as a universal minimum standard. The Gold standard appears to be most suitable for developments that will self-impose the standard on the basis of knowing their residents have need a greater degree of accessibility. For example, social housing specifically designed for older people and people with disability who do not require permanent use of a wheelchair.

An analysis of other councils in NSW shows very mixed uptake of the Livable Housing Design Guidelines. The NSW Apartment Design Guide includes non-mandatory guidance for 20 per cent of dwellings to be designed to the Silver level, which some councils have adopted in their DCPs as a minimum requirement. The City is aligned with the councils in the highest level of requirements in adopting the Silver level as a minimum standard, with an additional requirement for 15 to 20 per cent of dwellings being Gold or Platinum level.

Memo from Graham Jahn AM, Director City Planning Development and Transport

Prepared by: David Fitzpatrick, Senior Planner

Approved

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

GRAHAM JAHN AM

Director City Planning, Development and
Transport