

Public Exhibition - Proposed Adoption of a Local Approvals Policy and Code of Practice for Hoisting and Construction Activities in Public Places

File No: S129097

Summary

Approval was given by Council at its meeting on 11 March 2019 to publicly exhibit two proposed new regulatory documents being a Local Approvals Policy for Hoisting and Construction Activities in Public Places (the Policy) and an associated Code of Practice for Hoisting and Construction Activities in Public Places (the Code). Exhibition of the draft documents was carried out in accordance with Section 160 of the Local Government Act 1993.

The draft Policy is a statutory document under the Local Government Act and gives legal empowerment to the draft Code. The draft Code sets out the City's technical requirements when undertaking various forms of hoisting operations and other construction-related activities carried out in or affecting public places.

This report sets out the results of the public exhibition process and includes several recommendations.

Recommendation

It is resolved that:

- (A) Council note the submissions and feedback received through the public exhibition process (Attachment D);
- (B) the proposed Local Approvals Policy for Hoisting and Construction Activities in Public Places (Attachment A) and the proposed Code of Practice for Hoisting and Construction Activities in Public Places (Attachment B) be approved, incorporating minor non-substantial amendments (Attachment C), for adoption under Section 161(1)(a) of the Local Government Act 1993;
- (C) authority be delegated to the Chief Executive Officer to make minor editorial adjustments to the Code of Practice in order to correct any drafting errors prior to formal notice being given of the adoption and commencement of the Local Approvals Policy and Code of Practice as required by Section 166 of the Local Government Act 1993;
- (D) persons who made submissions (Attachment D) be notified of the adoption of the draft Local Approvals Policy and draft Code of Practice;

- (E) authority be delegated to the Chief Executive Officer to make and approve minor housekeeping and editorial amendments to the adopted Code of Practice as may be required from time to time after commencement of the proposed Local Approvals Policy and the Code of Practice; and
- (F) public notice be given of the adoption of the Local Approvals Policy and Code of Practice in accordance with Section 166 of the Local Government Act 1993 with the notice being published in a local newspaper and include a date of commencement of the Policy and Code, as determined by the Chief Executive Officer.

Attachments

- Attachment A.** Draft Local Approvals Policy: Hoisting and Construction Activities in Public Places 2019
- Attachment B.** Draft Code of Practice: Hoisting and Construction Activities in Public Places 2019
- Attachment C.** Summary of Key Adjustments - Draft Code of Practice: Hoisting and Construction Activities in Public Places 2019
- Attachment D.** Public Exhibition – Submissions and Feedback

Background

1. A significant amount of construction-related work and other activities take place in, on and above public places (roads). These activities require the approval of the City under the provisions of the Local Government Act 1993 and the Roads Act 1993.
2. Due to the variable nature of works that take place and the associated potential impacts, the current website information is limited in detail to deal effectively and comprehensively with the regulation of development and worksites associated with public places.
3. There is also a lack of detailed information and guidance material for industry to understand fully the City's requirements. The draft Code, and its adoption through the draft Policy, has therefore been developed to provide more detailed regulatory content and guidance material in a single document allowing user-friendly access to the City's requirements.
4. The draft Code will assist industry when operating in the city and facilitate processes and procedures to achieve a greater level of orderly development and other work activities thereby minimising adverse impacts in public places and to surrounding land uses.
5. The Code will also be used internally in the assessment of applications and during fieldwork when inspecting and monitoring activities in public places. This will assist officers when needing to take corrective actions including the issuing of formal directions and imposing penalties, where necessary.
6. The draft Policy and draft Code were considered by the Transport, Heritage and Planning Committee at its meeting on 4 March 2019. Approval was given by Council at its meeting on 11 March 2019 to publicly exhibit the draft documents.
7. The exhibition process took place over approximately seven weeks during March-May. Public notices were published in the Central newspaper and Sydney Morning Herald.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

8. 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 proposed draft policy is aligned with the following strategic directions and objectives:
 - (a) Direction 4 - A City for Walking and Cycling - The draft Code contains provisions to regulate construction-type work and other activities on, in and above footways and cycleways to minimise impacts on the safe and convenient movement of people.

Organisational Impact

9. The draft Policy and draft Code will have substantial benefits for customers and the construction sector including sub-contractors. The Code will also be beneficial for internal City use by various business units and teams that approve and regulate construction-related activities, including projects undertaken by the City.

10. The draft Code sets out in prescriptive detail the City's requirements. This will therefore assist the organisation (multiple business units) in understanding the controls that apply when working and operating in public places. There will also be organisational benefits when contractors are appointed to undertake City projects particularly where the draft Policy and draft Code are specified in tender and contractual documents.

Risks

11. Undertaking works in public places has some risks to the general public including bicycle riders and motor vehicle drivers. Persons undertaking works, typically principal contractors, have statutory safety obligations under the Work Health and Safety Act 2011. This includes requirements to maintain the health and safety of persons in vicinity of a worksite and includes the general public passing a site.
12. The aims of the draft Policy and Code are to:
 - maintain public safety and convenience when passing worksites;
 - effectively isolate and secure sites in an appropriate manner;
 - set out detailed information and regulatory controls for industry to follow and apply as a means to minimise adverse impacts; and
 - prevent or minimise impacts on the City's infrastructure and assets.
13. This will be achieved through setting out the statutory requirements for:
 - obtaining approval to undertake works;
 - the standards that apply; and
 - clearly identifying and detailing other statutory provisions such as matters relating to the Work Health and Safety Act 2011, Local Government Act and the Roads Act that persons in control of a worksite have a statutory obligation to follow and satisfy.

Social / Cultural / Community

14. The draft Code aims to minimise public risks and inconvenience in the vicinity of worksites through controls that builders and contractors must follow and implement to provide safe, convenient and accessible public pathways and passage past worksites.
15. Older persons and persons with disabilities will benefit through clear and detailed requirements to:
 - provide and maintain safe accessible pathways including minimum clear widths;
 - provide acceptable temporary ramp design;
 - have appropriately designed and finished surfaces where temporary pathways are used; and
 - establish safety exclusion zones and appropriately designed and placed barriers to isolate and define worksite boundaries.

16. Property owners and businesses will also benefit through provisions that prescribe minimum requirements for ensuring acceptable access to buildings and shops when public place works are being undertaken.
17. Provisions requiring community consultation (residents and businesses) and notice of proposed works in certain circumstances are also included in the draft Code.

Environmental

18. Provisions for managing works to minimise environmental impacts such as noise, water, air quality (dust control) and light-spill when working at night are included. There are also requirements for keeping public place worksites clean and tidy to enhance public place amenity.

Economic

19. The draft Policy and Code will not impact (increase) operational costs for the development and construction sectors when undertaking works and other activities in public places as the key requirements currently apply through the issuing of permits.
20. The draft Code formalises these requirements in a manner that is easy to use through the extensive use of clause cross-referencing. This will assist industry in complying with acceptable minimum standards to ensure that all aspects of public safety, amenity, access and convenience are addressed when operating in public places.

Relevant Legislation

21. Local Government Act 1993.
22. Local Government (General) Regulation 2005.
23. Roads Act 1993.
24. Roads Regulation 2018.
25. Work Health and Safety Act 2011.
26. Work Health and Safety Regulation 2017.
27. Environmental Planning and Assessment Act 1979.
28. Environmental Planning and Assessment Regulation 2000.
29. Protection of the Environment Operations Act 1997.

Critical Dates / Time Frames

30. A timeframe for either the commencement of the draft Policy and draft Code is not nominated. The City's current adopted Guidelines for Hoardings and Scaffolding are scheduled to undergo a housekeeping review after some 2.5 years of operation. Part of the proposed review will require some adjustments and expansion of several sections in the Guidelines to reference the proposed draft Policy and draft Code for Hoisting and Construction Activities in Public Places.

31. The adoption (finalisation) of draft documents is therefore required to obtain certainty of content to facilitate amendments and enhancements to the Guidelines for Hoardings and Scaffolding.
32. The draft Policy and draft Code will therefore commence on a date to be determined by the Chief Executive Officer, subject to completion of the housekeeping review of the Guidelines for Hoardings and Scaffolding.

Public Consultation

33. The draft Policy and the draft Code were publicly exhibited for a period of 50 days. This timeframe complies with the requirements of Section 160(2) and (3) of the Local Government Act 1993 which stipulates an exhibition period of not less than 28 days and a period of at least 42 days in which submissions may be made.
34. The exhibition process took place during March-May. Public notices were published in the Central newspaper and Sydney Morning Herald. Formal notice was also given to key industry groups including major and minor construction firms, crane and hoisting companies and traffic control contractors. Relevant key government agencies were also notified together with Transdev, the operator of the light rail network.
35. Two submissions were received from external parties. Feedback and suggestions were also received from the City's Inclusion (Disability) Advisory Panel. Details of feedback including suggested amendments are set out in Attachment D. Internal feedback was also obtained from several units and teams of Council.
36. Although only three submissions were received website access data in relation to specific webpage views and downloading of the draft documents indicates an acceptable level of interest - details are as follows:
 - (a) Total page visits 307
 - (b) Unique page visits 255
 - (c) Document downloads 172

37. As a result of both external and internal feedback, the draft Code has been adjusted to:
- refine the provisions;
 - clarify the content in several areas;
 - expand several clauses to detail current City requirements and procedures; and
 - enhance cross-referencing throughout including general editorial changes.
38. The changes to the draft Code are not substantial to the extent that re-exhibition is necessary under Section 161(2) of the Local Government Act. A summary of the key changes to the Code is provided in Attachment C. There are no substantial changes to the draft Policy (minor editorial adjustments only).

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Peter Conroy, Standards and Policy Specialist (Construction)