

Attachment A

**Planning Proposal:
Sydney Local Environmental Plan 2012 -
Amendment to Clause 4.6
(Exceptions to Development Standards)**

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(Exceptions to development standards)

January 2018





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Introduction

This Planning Proposal explains the intent of, and justification for a proposed amendment to *Sydney Local Environmental Plan 2012* (SLEP2012) to allow council to consider and assess development applications for playground equipment; sculptures & artworks; and community notice and public information signs, that may result in minor additional overshadowing to certain parks and public places in Central Sydney.

The proposal has been prepared in accordance with Section 55 (now Section 3.33) of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

Part 1 – Objectives or Intended Outcomes

The **objective** is to allow the consent authority to assess and determine development applications for playground equipment, sculptures & artworks, and community notice and public information signs located on public land, which may result in additional overshadowing to certain public places.

The **intended outcome** of the planning proposal is enhance the functioning and usability of the City of Sydney's public places.

Part 2 – Explanation of the Provisions

The objective and intended outcome will be achieved by making a minor amendment to Clause 4.6 (Exceptions to development standards).

Current controls

Clause 4.6 in SLEP2012 allows a consent authority to grant consent for development, even though the development would contravene a development standard.

Clause 4.6(8) however lists a range of development standards that cannot be contravened via the application of clause 4.6.

One of the listed development standards is clause 6.19 of SLEP2012 (Overshadowing of certain public places), which lists ten parks and public places in the City of Sydney that are protected from additional overshadowing at specified times in the day between 14 April and 31 August.

Clause 4.6(8)(cg) however makes some exceptions; that is, additional overshadowing may be allowed to four of the ten listed parks and places following an appropriate assessment under clause 4.6.

Proposed change to Clause 4.6

The current drafting of clause 6.19 of SLEP2012 has resulted in an unintended situation where some minor types of development which can enhance the functioning of the City's parks and public places are currently prohibited development if they result in additional overshadowing to six public places identified in SLEP2012.

These activities include playground equipment, sculptures & artworks and wayfinding signage.

It is proposed to make a minor change to Clause 4.6(8)(cg) so that the six public parks and places listed in clause 6.19 that currently cannot be additionally overshadowed, may be overshadowed if the additional overshadowing is the result of a building that is:

- a) playground equipment,
- b) shade structures,
- c) awnings,
- d) sculptures or artwork, or
- e) a community notice or public information sign.

The table below illustrates the intended effect of this planning proposal

Name of Public Place (as identified by existing clause 6.19 in SLEP2012)	Current Provision (Clause 4.6 in SLEP2012)	Proposed Provision (Amended clause 4.6)
Australia Square Plaza	Additional overshadowing may be permitted from buildings (including playground equipment; a sculpture or artwork; or a community notice or public information sign)	No change
Chifley Square	Additional overshadowing may be permitted from buildings (including playground equipment; a sculpture or artwork; or a community notice or public information sign)	No change
First Government House Place	Additional overshadowing may be permitted from buildings (including playground equipment; a sculpture or artwork; or a community notice or public information sign)	No change
Lang Park	No additional overshadowing allowed by any building	Minor additional overshadowing may be permitted, but only by a building that is playground equipment; shade structures; awnings; sculptures or artwork; or a community notice or public information sign

Macquarie Place	No additional overshadowing allowed by any building	Minor additional overshadowing may be permitted, but only by a building that is playground equipment; shade structures; awnings; sculptures or artwork; or a community notice or public information sign
Martin Place	No additional overshadowing allowed by any building	Minor additional overshadowing may be permitted, but only by a building that is playground equipment; shade structures; awnings; sculptures or artwork; or a community notice or public information sign
Pitt Street Mall	No additional overshadowing allowed by any building	Minor additional overshadowing may be permitted, but only by a building that is playground equipment; shade structures; awnings; sculptures or artwork; or a community notice or public information sign
Prince Alfred Park	No additional overshadowing allowed by any building	Minor additional overshadowing may be permitted, but only by a building that is playground equipment; shade structures; awnings; sculptures or artwork; or a community notice or public information sign
Sydney Town Hall steps	Additional overshadowing may be permitted from buildings (including playground equipment; a sculpture or artwork; or a community notice or public information sign)	No change
Sydney Square	No additional overshadowing allowed by any building	Minor additional overshadowing may be permitted, but only by a building that is playground equipment; shade structures; awnings;

		sculptures or artwork; or a community notice or public information sign
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Part 3 – Justification

This section of the planning proposal provides the rationale for the amendments and responds to questions set out in the document entitled *A guide to preparing planning proposals*, published by the Department of Planning and Infrastructure in August 2016.

Section A – Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

Yes. The proposed amendment is consistent with the City of Sydney's *Open Space, Sports and Recreation Needs Study 2016*, *Creative City Cultural Policy and Action Plan 2014-2024*, the *City Art Public Art Strategy*, and the *Legible Sydney Wayfinding Strategy 2012*. The amendment supports these strategic studies and plans.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. Currently additional overshadowing is not permitted on six of the ten public parks and places listed in existing clause 6.19 in SLEP2012. As such, playground equipment, a sculpture or artwork, and community notice or public information signs are prohibited development. An LEP amendment is required to remove the prohibition.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The *draft Greater Sydney Region Plan* is the state government strategic document that outlines a vision for Greater Sydney over the next 40 years. The Plan outlines how Greater Sydney will manage growth and change and guide infrastructure delivery, and is to be implemented at a local level by District Plans.

The *draft Greater Sydney Region Plan* identifies key challenges facing Greater Sydney, which is forecast to grow from 4.7 million people to 8 million people by 2056. Greater Sydney must provide for an additional 817,000 jobs by 2036 and will need to provide 725,000 more homes over the next 20 years.

The planning proposal is consistent with the following relevant objective of the draft Greater Sydney Region Plan:

Objective 12 - Great places that bring people together.

The *draft Eastern City District Plan* sets the local planning context for the City of Sydney local government area. It provides a 20-year plan to manage growth and achieve the 40-year vision of the draft Greater Sydney Region Plan.

The planning proposal is consistent with the following relevant planning priorities and actions of the *draft Eastern City District Plan*:

Planning Priority E4 - Fostering healthy, creative, culturally rich and socially connected communities.

Planning Priority E16 - Protecting and enhancing scenic and cultural landscapes.

Action 13: Facilitate opportunities for creative and artistic expression and participation, wherever feasible with minimum regulatory burden.

Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Sustainable Sydney 2030 is the vision for sustainable development of the City of Sydney to 2030 and beyond. It includes 10 strategic directions to guide the future of the City of Sydney.

The Planning Proposal is consistent with *Sustainable Sydney 2030*, in particular:

Direction 5 - A Lively and Engaging City Centre

Direction 6 - Vibrant Local Communities and Economies

Direction 7 – A Cultural and Creative City

Is the planning proposal consistent with applicable state environmental planning policies?

The Planning Proposal has been assessed against each SEPP and REP.

Applicable SEPPs and REPs include: SEPP No 1 – Development Standards; SEPP No 55 – Remediation of Land; SEPP (Exempt and Complying Development Codes) 2008; SEPP (Infrastructure) 2007; SEPP (Miscellaneous Consent Provisions) 2007; SEPP (State and Regional Development) 2011; SEPP (Vegetation in Non-Rural Areas) 2017; SEPP (Vegetation in Non-Rural Areas) 2017; and Sydney REP (Sydney Harbour Catchment) 2005

This planning proposal is either consistent with, or does not hinder the application of any applicable SEPP or REP.

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal has been assessed against each Section 117 Direction. Applicable Directions include 2.3, 3.5, 4.1, 5.1, 5.10, 6.1, 6.2 and 7.1. The planning proposal is consistent with these Directions.

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No - it is unlikely that the proposed amendments will result in development creating any environmental effects that cannot be readily controlled, as it is intended to facilitate development that is of low or negligible impact.

Has the planning proposal adequately addressed any social and economic effects?

This Planning Proposal will provide further opportunity for certain types of buildings to add to the cultural life and enhancement of public places in the City, resulting in a positive social benefit.

Section D – State and Commonwealth interest

Is there adequate public infrastructure for the planning proposal?

Yes. The proposed amendments do not increase the need for infrastructure.

What are the views of State and Commonwealth public authorities consulted in the gateway determination?

If required, the appropriate consultation will be conducted when the gateway determination is issued.

Part 4 – Mapping

This Planning Proposal does not amend any maps.

Part 5 – Community Consultation

A Gateway determination was on 10 January 2018. It determined: the planning proposal is classified as low impact and be made publicly available for a minimum of 14 days; no consultation is required with public authorities/organisations; and the time frame for completing the LEP is to be 6 months following the date of the Gateway determination.

Part 6 – Project Timeline

The anticipated timeframe for the completion of the planning proposal is as follows:

Action	Anticipated Date
Commencement / Gateway determination	January 2018
Pre-exhibition government agency consultation	Not applicable
Public Exhibition	22 January 2018 to 5 February 2018
Consideration of submissions	February 2018
Post exhibition consideration of proposal	March 2018
Draft and finalise LEP	April 2018

Action	Anticipated Date
LEP made (if delegated)	May 2018
Plan forwarded to DPE for notification	May 2018

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