

Item 6.

Post Exhibition – Development Control Plan – Waterloo Estate (South) – Sydney Development Control Plan 2012 Amendment

File No: X030481

Summary

The Department of Planning and Environment has finalised the planning controls for the Waterloo Estate (South), which come into effect on 28 February 2023. The new planning controls are located in the Sydney Local Environmental Plan 2012 and in the Waterloo Estate (South) Design Guide.

The change requires the Sydney Development Control Plan 2012 be updated so it is consistent with the new planning controls. This will ensure future development applications can be assessed using a cohesive suite of planning controls.

Council, at the 11 April 2022 meeting, approved the public exhibition of Draft Sydney Development Control Plan - Waterloo Estate (South) (the draft DCP), to amend the Sydney DCP.

The draft DCP was publicly exhibited between 18 July 2022 and 15 August 2022. Three submissions were received relating to provision of affordable and social housing as well as the heights and placement of towers. The matters raised in the submissions are beyond the scope of the exhibited draft DCP and as such, no amendments in response to the submissions are proposed.

Minor changes are proposed to the draft DCP following public exhibition to align it with the finalised planning controls.

This report recommends Council approve the draft Development Control Plan, as amended following public exhibition. The draft DCP, as amended, is provided at Attachment A.

Recommendation

It is resolved that:

- (A) Council approve Draft Sydney Development Control Plan - Waterloo Estate (South), as shown at Attachment A to the subject report, as amended following public exhibition, noting it will come into effect on the date of publication of the subject local environmental plan; and
- (B) authority be delegated to the Chief Executive Officer to make minor amendments to Sydney Development Control Plan - Waterloo Estate (South) to correct any minor errors or omissions prior to finalisation.

Attachments

Attachment A. Draft Sydney Development Control Plan - Waterloo Estate (South)
(post-exhibition additions are shown in bold red underline and deletions are struck-through)

Attachment B. Waterloo Estate (South) Design Guide (November 2022)

Background

1. The Department of Planning and Environment (Department) placed the Waterloo Estate (South) Planning Proposal and draft Waterloo Estate (South) Design Guide on public exhibition in March and April 2022.
2. At the meeting on 11 April 2022, when the Department's planning controls were on public exhibition, Council endorsed the draft Sydney Development Control Plan Waterloo Estate (South) (the draft DCP) for public exhibition. The intent of the draft DCP is to amend the Sydney Development Control Plan 2012 so it is consistent with the Department's design guide.
3. On 11 November 2022, the Department finalised the Waterloo Estate (South) planning controls with a deferred commencement to 28 February 2023 to allow a planning agreement between Land and Housing Corporation (LAHC) and City, for the delivery of public infrastructure, to be completed.
4. The new planning controls for Waterloo Estate (South) are provided in Sydney Local Environmental Plan 2012 (Sydney LEP) and in the Waterloo Estate (South) Design Guide. Together these planning controls will facilitate:
 - (a) about 3,012 dwellings, including about 847 social housing dwellings [about 28.2 per cent of dwellings and 26.5 per cent of residential gross floor area (GFA)], about 227 affordable dwellings (about 7.5 per cent of dwellings and 7.0 per cent of residential GFA) and about 1,938 market dwellings (about 64.3 per cent of dwellings and 66.5 per cent of residential GFA) on LAHC owned sites, plus about 127 additional market dwellings on privately owned sites;
 - (b) a main park adjoining Waterloo metro station of more than two hectares and a small park in the south of the site in the block bounded by Cope, John, George and McEvoy Streets;
 - (c) about 265,000 sqm GFA, including no less than 12,000 sqm for commercial premises and 5,000 sqm for community facilities, childcare and health facilities;
 - (d) four towers of between 27 and 33 storeys (maximum RL 126.4m refer section 5.1.6) and most other buildings generally around eight storeys (with some four storeys and others up to 13 storeys where development fronts a park or George or Pitt Street);
 - (e) new streets and through-site links; and
 - (f) and a new cycleway along Wellington Street.
5. No changes are proposed to the draft DCP in response to submissions. However, minor amendments are recommended as a result of changes made by the Department to the design guide following its public exhibition, to ensure consistency between the two documents.
6. This report recommends Council approve the draft DCP, provided at Attachment A, as amended following public exhibition. If approved, the DCP amendments will come into effect at the same time as the changes to the Sydney LEP 2012 commence.

Design guide and Draft DCP

7. A design guide generally performs the same function as a DCP, that is, it provides more detailed planning requirements and guidance to support the objectives of the planning provisions in a related planning instrument. It is typically prepared in conjunction with large rezonings where development is likely to be State Significant Development (SSD) and assessed by the NSW Government. This is because there is no statutory requirement to consider a DCP where development is SSD. A design guide is usually brought into effect by a reference to it in an LEP or State Environmental Planning Policy (SEPP).
8. The Waterloo Estate (South) Design Guide was prepared instead of a DCP because most of the sites within Waterloo Estate (South), in particular those owned by LAHC, are likely to be SSD due to the size or value of subsequent detailed applications. Those sites that are not likely to be SSD however, for example privately owned sites within Waterloo Estate (South), will be assessed by the City and remain subject to the Sydney DCP rather than the design guide.
9. Amendment is therefore required to the Sydney DCP to align it with the new planning controls. This will ensure resulting development can be assessed using a cohesive suite of planning controls, irrespective of who may be assessing it.
10. The amendment ensures that all development in Waterloo Estate (South) responds to the new public domain network articulated in the new planning controls, such as the augmented road network and the new parks. It also ensures new development is subject to a range of updated requirements, such as requirements for tree retention, sustainability and waste requirements.
11. To align the planning controls, the publicly exhibited draft DCP proposed the following changes to the Sydney DCP:
 - (a) a requirement all development in Waterloo Estate (South) remain consistent with the design guide. A copy of the finalised design guide has been provided at Attachment B for context;
 - (b) incorporation of the locality statement for Waterloo Estate (South) into the Sydney DCP and adjustment of other locality statements affected by the changes in the area; and
 - (c) updated maps and figures throughout Sydney DCP particularly the locality statements, hierarchy of centres map and specific areas map.

Submissions

12. The City publicly exhibited the draft DCP between 18 July to 15 August 2022 and received three submissions.
13. The main concern raised related to an inadequate allocation of social and affordable housing under the proposed scheme. Concerns were also raised about wind tunnel effects caused by the proposed placement of towers.
14. The City's submission to the Department's public exhibition of the planning proposal and draft design guide also raised concern that not enough social and affordable housing was being provided on Waterloo Estate (South). The City's submission also recommended that further wind analysis and testing is required.

15. No changes were made by the Department to the draft design guide as a result of the City's submission.
16. Notwithstanding the above, the matters raised in submission arise from changes that have been made to the Sydney LEP 2012 and cannot be addressed by making amendment to the Sydney DCP, that must remain consistent with the LEP. On balance, recognising the purpose of the proposed amendment is to align the design guide and Sydney DCP, no amendments, that relate to the submissions, are proposed to the draft DCP.

Proposed changes to exhibited draft DCP

17. Following public exhibition, minor changes are proposed to the exhibited draft DCP to align the wording of two principles in the proposed Waterloo Estate (South) locality statement with the wording in the now finalised design guide. Specific changes include:
 - (a) update of a principle relating to managing noise and pollution along McEvoy Street to remove reference to setbacks. This is to remove an overlap with numerical setback controls; and
 - (b) update of the principle relating to retention of trees to include a specific reference to 'significant trees'. This it to make the principle clearer in its intent and align it with the provisions in the body of the design guide.

Key Implications

Strategic alignment - Regional planning

18. The proposed draft DCP is consistent with the adopted planning controls for Waterloo Estate (South), that the Department have determined consistent with the NSW Government's Eastern City District Plan.

Strategic alignment - Sustainable Sydney 2030-2050 Continuing the Vision

19. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress.
20. The provisions in the design guide, as reference by the draft DCP, align with the following strategic directions and objectives:
 - (a) Direction 2 - A Leading Environmental Performer – the future development is committed to the reduction of greenhouse gas emissions through improved energy efficiency and low carbon energy in line with the City's 2026 targets for net zero emissions.
 - (b) Direction 3 - Public places for all - the future development ensures that welcoming, inclusive and connected streets and public spaces are created and maintained
 - (c) Direction 4 - Design excellence and sustainable development - the future development will provide design excellence by creating a high quality, comfortable, safe and inclusive built environment.

- (d) Direction 5 - A city for walking, cycling and public transport - the future development will encourage walking and active transport and minimise private car trips. The public domain is being updated, including new cycle routes, and it is located close to the future Waterloo metro station.
- (e) Direction 10 - Housing for all - the future development will contribute to the City's housing targets and provide a variety of residential living options, including social and affordable housing options, with apartment sizes that can accommodate all abilities and facilities to support the diverse needs of future residents. This will support varying household structures including people ageing in place.

Relevant Legislation

- 21. Environmental Planning and Assessment Act 1979.
- 22. Environmental Planning and Assessment Regulation 2021.

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