

Item 9.

Post Exhibition - Planning Proposal - Retail Review and Retail Parking - Sydney Local Environmental Plan 2012, Sydney Development Control Plan 2012 Amendment

File No: X084812

Summary

The City has exhibited changes to the City South retail planning controls to provide opportunities for larger supermarkets close to the Green Square Town Centre which are needed to serve the growing population.

This planning proposal was originally endorsed by Council as the Planning Proposal: Green Square and Southern Areas Retail Review. As a result of a requirement of the Gateway Approval issued prior to the public exhibition of this planning proposal, it is now known as the Planning Proposal: Retail Review and Retail Parking (planning proposal).

In 2012, the City introduced a hierarchy of centres in its planning controls. Green Square Town Centre is the primary commercial, retail and civic centre supported by planning controls that only allow larger retail premises in defined centres with smaller retail permitted throughout the City South area. This ensures that major retail, specifically supermarkets, locate in centres which are the focus for community activity and infrastructure investment.

In late 2021, the City commissioned SGS Economics and Planning to undertake the Green Square and Southern Areas Retail Review (Review). The objective of the Review was to understand the changes to demand and supply of retail in the area since the planning controls were introduced in 2012, and to recommend any changes required to ensure the retail needs of the community were being met. The Review identified a net shortfall of about 9,000 square metres of supermarket floor space in the eastern parts of Waterloo, the Town Centre and North Alexandria areas, close to dense residential communities.

Council and the Central Sydney Planning Committee, at their meetings on 21 November 2022 and 17 November 2022 respectively, approved for Gateway Determination and public exhibition the planning proposal and the draft DCP. The proposed planning controls remove the restriction on the size of retail tenancies from an 'expanded retail area' to facilitate more opportunity for supermarkets close the Green Square Town Centre and other areas of residential development.

The proposed planning controls also introduce a maximum parking rate for retail with a combined gross floor area greater than 2,000 square metres. The proposed changes apply to the entire local government area and encourage active transport modes and manage the impacts that larger retail developments may have on surrounding road networks.

The planning proposal and draft DCP were publicly exhibited from 12 April to 24 May 2023. The City received 11 submissions from the general community, mostly those living near the expanded retail area, one from a landowner in the North Rosebery precinct and five from public authorities. Most submissions expressed support for the removal of size restrictions in the expanded retail area, although some concern was raised about parking and loading zones and road and footpath infrastructure. A summary of all submissions, including responses from the City, is at Attachment D and significant issues are discussed in this report.

Only minor administrative changes to the planning proposal are recommended following consideration of submissions to reflect changes to project timeline and include details of the public exhibition. Minor changes to the draft DCP are recommended following consideration of submissions to reflect recently updated planning controls showing a retail centre at Waterloo Estate South, consolidate objectives and remove introduction to make the section more concise.

This report recommends Council approve the planning proposal and draft DCP, as amended following public exhibition. If approved, the proposal will be forwarded to the Department of Planning and Environment for finalisation. The amendment to the Sydney LEP 2012 will come into effect when it is published on the NSW Legislation website. The amendment to the Sydney Development Control Plan 2012 will come into effect at the same time as the LEP is published.

Recommendation

It is resolved that:

- (A) Council note the requirements of the Gateway Determination issued by the Department of Planning and Environment to amend the contents of Planning Proposal: Retail Review and Retail Parking, prior to public exhibition, as shown at Attachment C to the subject report;
- (B) Council note the matters raised in response to the public exhibition of Planning Proposal: Retail Review and Retail Parking and draft Sydney Development Control Plan 2012: Retail Review of Southern Sydney Amendment, as described in this report and shown at Attachments D to the subject report;
- (C) Council approve the Planning Proposal: Retail Review and Retail Parking, following consideration of submissions as shown at Attachment A to the subject report, to be sent to the Department of Planning and Environment to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (D) Council approve Sydney Development Control Plan 2012: Retail Review of Southern Sydney Amendment, following consideration of submissions, as shown at Attachment B to the subject report, noting that it will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 20 of the Environmental Planning and Assessment Regulation 2021; and
- (E) authority be delegated to the Chief Executive Officer to make minor amendments to Planning Proposal: Retail Review and Retail Parking and Sydney Development Control Plan 2012: Retail Review of Southern Sydney Amendment to correct any minor errors, or omissions or ensure consistency with legal drafting prior to finalisation.

Attachments

- Attachment A.** Planning Proposal - Retail Review and Retail Parking - as amended
- Attachment B.** Sydney Development Control Plan 2012 - Retail Review of Southern Sydney Amendment - as amended
- Attachment C.** Gateway Determination
- Attachment D.** Summary of Submissions and Responses
- Attachment E.** Council and Central Sydney Planning Committee Resolutions

Background

1. This report follows the public exhibition of Planning Proposal: Retail Review and Retail Parking(planning proposal) and draft Sydney Development Control Plan 2012: Retail Review of Southern Sydney Amendment (draft DCP).
2. The proposed planning controls apply, in the main, to the Green Square and Southern Area (city south area). The extent of the city south area is shown at Figure 1. The planning proposal mostly effects an 'expanded retail area' (outlined in orange). The area includes the Green Square Urban Renewal Area and the City's southern enterprise areas, but also includes some land at the fringe of those areas, including parts of the Botany Road Precinct and the Waterloo Metro Quarter.

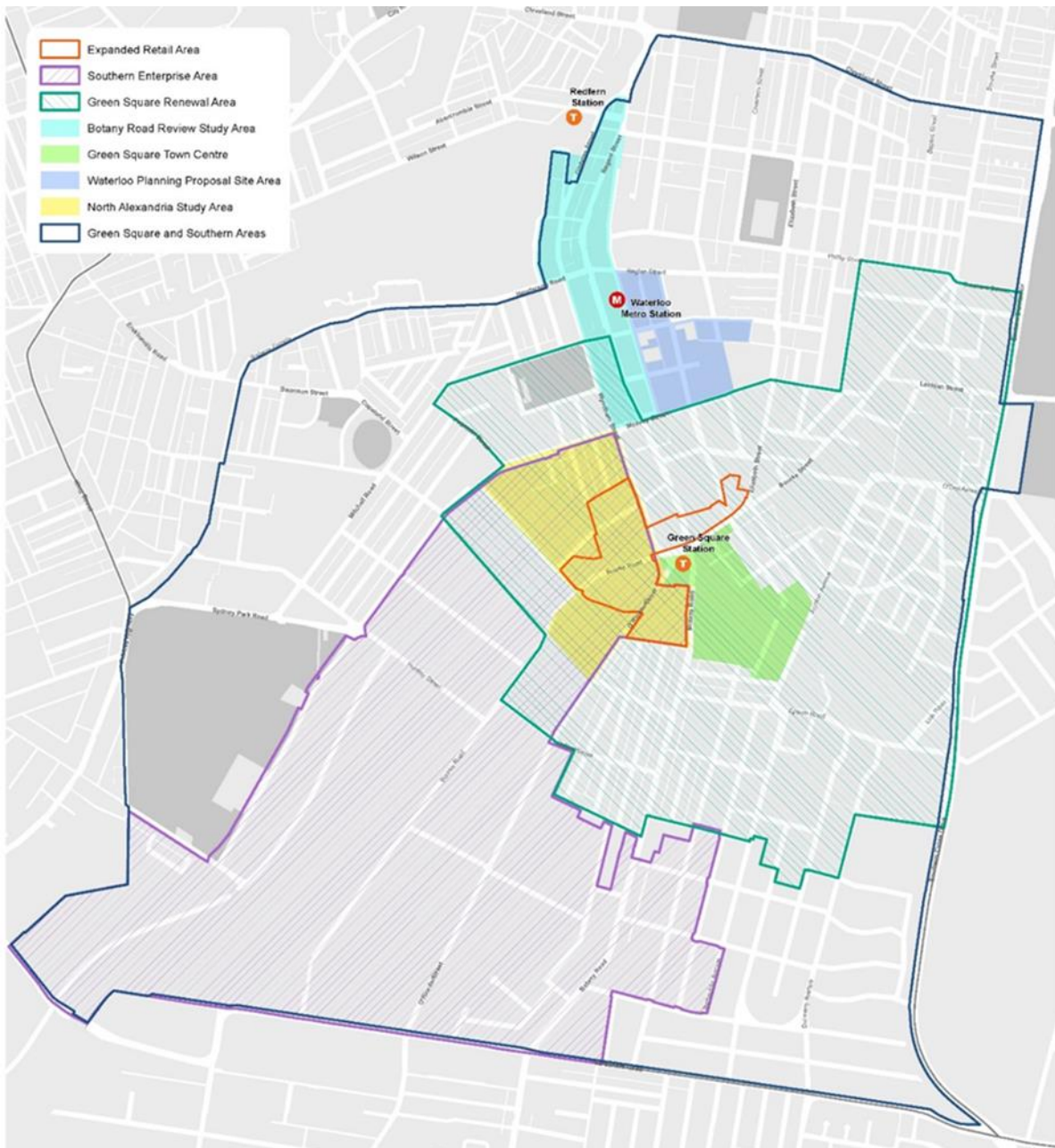


Figure 1: City south area

3. Site details, the strategic context, the findings of the Retail Review, current planning controls and proposed planning controls are described in detail in the November 2022 pre-exhibition report to the Transport, Heritage, Environment and Planning Committee at: city.sydney/wno (Item 5).
4. The planning proposal is to:
 - (a) remove the 1,000 square metres restriction on the amount of consolidated floor space for 'shops' and 'markets' from an expanded retail area;
 - (b) ensure retail development in the expanded retail area activates the street; and
 - (c) apply a maximum parking rate for retail greater than 2,000 square metres across the City.
5. Together, the planning proposal and the draft DCP (proposed controls) promote the Green Square Town Centre as the primary retail, community and entertainment centre in the City South area by facilitating the following:
 - (a) more opportunity for supermarket floor space to be provided in an 'expanded retail area' to address the 9,000 square metre shortfall identified in the City south area to 2041;
 - (b) more opportunity for other retail (small format), that must co-locate with anchor retail such as supermarkets;
 - (c) active and vibrant streets;
 - (d) ensure all retail development in the local area will have a maximum parking rate that is consistent with those that apply to retail development less than 2,000 square metres; and
 - (e) ensure retail spaces are fit for purpose, but also flexible and able to be used for other employment generating uses over time.
6. Council and the Central Sydney Planning Committee (CSPC), at their meeting on 21 November 2022 and 17 November 2022 respectively, approved for submission to the Department of Planning and Environment for Gateway Determination and public exhibition the planning proposal and the draft DCP. The Council and CSPC resolutions are shown at Attachment E to this report.
7. In January 2023, NSW Department of Planning and Environment issued a conditional Gateway Determination for the planning proposal requesting minor changes and clarifications be made prior to public exhibition. The Gateway Determination is shown at Attachment C to this report. Although requested, Council was not given delegation to make the local environmental plan.
8. In response to the Gateway Determination, the planning proposal was revised prior to exhibition to change the title from "Green Square and Southern Areas Retail Review" to "Retail Review and Retail Parking ". Other key changes include additional justification for the proposed controls, particularly why some controls are proposed to be included in the LEP rather than the DCP. The Department of Planning and Environment confirmed in writing that the changes satisfied their request.

9. The planning proposal, draft DCP and background studies were placed on public exhibition from 12 April to 24 May 2023. Seventeen submissions were received in response to the public exhibition.
10. This report recommends Council approve the planning proposal to amend the Sydney Local Environmental Plan 2012 (Sydney LEP) and approve the draft DCP to amend the Sydney Development Control Plan 2012 (Sydney DCP) with minor amendments.

Public Exhibition

11. The planning proposal, draft DCP and background study were publicly exhibited for six weeks from 12 April 2023 to 24 May 2023. This exceeded the four-week public exhibition requirement of the Gateway determination. Public exhibition was in accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2022.
12. The City sent approximately 5,000 notification letters to landowners and occupants of surrounding properties. The exhibition was also advertised on the City's 'Sydney Your Say' page and included in the May 'Sydney Your Say' e-newsletter which was sent to 6,938 subscribers. In accordance with the Gateway determination, notification of the public exhibition was also made to seven public authorities.
13. A total of seventeen submissions were received in response to the public exhibition, including:
 - (a) eleven submissions from the general community were received during the public exhibition period. Eight of these submissions were in support of the expanded retail area, three submissions provided mixed feedback and were in support of specific elements of the proposal but had concerns about other elements;
 - (b) one submission on behalf of a landowner in North Rosebery; and
 - (c) five submissions from public authorities.
14. A summary of submissions and the City's detailed response is included at Attachment D of this report, with the key issues discussed below.

Support for expanded retail area

15. Eight submissions expressed general support for the proposed expanded retail area (North Alexandria). Key reasons for support include:
 - (a) an appreciation that the planning proposal will allow locals to walk to large format retail instead of having to drive to shopping centres further away;
 - (b) an increased opportunity for larger retail will complement current opportunities in the area; and
 - (c) it will create more opportunity for retail in walking distance of densely populated areas.
16. No changes to the publicly exhibited planning controls are needed in response to these submissions.

Support for parking caps for large retail

17. Two submissions support the implementation of a parking cap for large retail to manage parking demand and encourage alternative modes of transportation, such as walking, cycling, and public transit.
18. No changes to the publicly exhibited planning controls are needed in response to these submissions.

Parking and loading zones

19. Three submissions raise the need for more diverse forms of parking and loading needed to support retail development, including short-term parking, cargo bike parking (wider cycle parking), drop-off zones, waiting zones, loading zones and kiss and ride facilities.
20. One submission suggests that larger cargo bikes could help to replace car trips and reduce traffic in the area.
21. This planning proposal, while primarily focused on expanding opportunities for supermarkets in the Green Square Area, also includes provision to amend the Sydney LEP to introduce a maximum parking rate for retail with a combined gross floor area greater than 2,000 square metres.
22. More detailed provisions related to parking and loading are included in the Sydney DCP 2012 and do not fall within the scope of this planning proposal. This submission has been referred for consideration in the broader review of the City's LEP and DCP controls.
23. No changes to the publicly exhibited planning controls are needed in response to these submissions.

Road and footpath infrastructure

24. Two submissions raise concerns about the road and footpath infrastructure in the proposed expanded retail area.
25. One submission expressed concern about how the council plans to manage an increase in traffic and whether the existing roads and footpaths can safely accommodate the additional traffic when it consists of a wide range of users including cyclists and trucks.
26. The second submission raises the need for an improved cycling network to improve accessibility, particularly east/west connections.
27. Locating supermarkets in centres and close to dense residential communities reduces the need for people to drive to supermarkets outside the area. The proposed changes do not increase the total retail floor space permitted overall hence minimal changes to traffic impacts are expected. Additionally, each development will also be required to assess pedestrian and traffic impacts as part of the subsequent development application process.

28. The City has the following initiatives to improve the road and footpath environment in the area:
- (a) City of Sydney Cycling Strategy and Action Plan;
 - (b) provision of east-west public/active transport link from Erskineville and Green Square Town Centre currently under construction;
 - (c) land dedication requirements in North Alexandria as sites are redeveloped will widen paths and create new streets and lanes;
 - (d) Green Square and Waterloo Transport Action Plan; and
 - (e) behaviour change campaign at Green Square to encourage sustainable transport use.
29. No changes to the publicly exhibited planning controls are needed in response to these submissions.

Landowner submission

30. One submission was made from a landowner at 1-3 Rosebery Avenue in North Rosebery, stating overall support for the retail review and expressing interest in potentially locating supermarket floor space on their site in the future.
31. Their rationale for having a larger supermarket on the site is primarily based around an identified supermarket accessibility gap in the area around Rosebery North and the significant population growth forecast around the site.
32. The Review does not support an expansion of larger format supermarket floor space in North Rosebery. Amendment to the planning proposal is not supported on the following grounds.
- (a) significant sites are yet to be developed in Rosebery North which will fill the supermarket accessibility gap. This includes the Suttons Site in Epsom Park (this planning proposal was endorsed by Council for finalisation in June 2023) which includes provision for a 1,200 square metre supermarket. If 1-3 Rosebery Avenue also includes a small supermarket in its redevelopment, it will mean that there will be two new supermarkets in addition to the two existing supermarkets in the area. This will be enough to close this accessibility gap without the need for a large supermarket that will detract from the identified centres;
 - (b) the existing retail cap encourages a more dispersed pattern of smaller supermarkets and ancillary retail for day-to-day needs with larger supermarkets supporting identified centres. This pattern enables for more people to be within walking distance of a supermarket while also supporting the vitality of major centres, such as the Green Square Town Centre;
 - (c) projected dwellings, population growth and anticipated supermarket expenditure per capita has all been factored in as part of the Review. The Review identified the need for an additional 9,256 square metres of supermarket floor space to 2041 with an existing shortfall of 2,112 square metres. This figure is in addition to a number of supermarkets in the study area that are approved but not yet built; and

- (d) the Review did not recommend removal of the retail cap on or near the submitter's site as it was not identified as a retail centre and there was only a small forecast of under provision of supermarket floor area in the "Rosebery North" cluster.
33. Forming a centre with a larger supermarket at this location contradicts the recommendations of the Retail Study and is not supported. However, delivery of a smaller supermarket is considered acceptable and consistent with the recommendations of the Retail Study.

Submissions from public authorities

34. Transport for NSW provided a submission in support of the planning proposal. It also outlined matters that should be considered and authorities that should be consulted with at the development application stage. The submission also outlined active and freight transport initiatives that Council could generally consider.
35. Submissions were also received from the Heritage NSW, Sydney Airport, Airservices Australia and Civil Aviation Safety Authority outlining the future approvals required at the development application stage.
36. In response to matters raised, no changes to the publicly exhibited planning controls are needed.

Key Implications

37. Following consideration of submissions, no changes are recommended to the publicly exhibited planning controls.
38. An administrative amendment to the draft DCP is proposed to reflect changes made to Sydney DCP 2012 on 28 February 2023 as part of the Waterloo Estate South amendments. They include amending Figure 3.12: Hierarchy for Centres, City South Map and Table 3.3: Desired character of centres, to include Waterloo Estate (South) areas as a 'Local Village.' The changes are consistent with the Retail Review.
39. Further amendments to the draft DCP are proposed to align the structure of this section with the future LEP/DCP review. The changes include fewer objectives and removal of preambles to chapters.
40. Additional minor amendments are recommended to the planning proposal to update sections related to the recent public exhibition and the timeline.

Strategic Alignment

41. 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. The proposed planning controls are aligned with the strategic directions and objectives.
42. The proposed planning controls give effect to the infrastructure, liveability, productivity and sustainability priorities in the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement.

Relevant Legislation

- 43. Environmental Planning and Assessment Act 1979.
- 44. Environmental Planning and Assessment Regulation 2021.

Critical Dates / Time Frames

- 45. The Gateway Determination of 3 February 2023 requires that the amendment to Sydney LEP 2012 is completed on or before 6 November 2023.
- 46. Council has not been given delegation to make the local environmental plan due to the complexities of the planning proposal and the conditions required to be imposed.
- 47. If approved by Council, the planning proposal will be forwarded to the Department of Planning and Environment with a request to draft and publish the LEP. The amendment to Sydney DCP 2012 will come into effect on the same day as the amendment to Sydney LEP 2012.

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