

Post Exhibition - Planning Proposal - Build-to-Rent Housing and Co-Living Housing in Central Sydney

File No: X103423

Summary

The City of Sydney has proposed changes to provide additional floor space to incentivise more build-to-rent residential and co-living housing in Central Sydney in response to the significant need for rental housing.

Central Sydney is Australia's most productive and strategically important economic centre. Residential development continues to be important to the mix of development in Central Sydney. There are almost 17,500 dwellings in Central Sydney. The Haymarket area, in the southern part of Central Sydney, is now the densest suburb in NSW and third densest in Australia. In the last five years, about 3,200 dwellings have been built in Central Sydney with almost 5,000 new dwellings in the 'pipeline'. The City is on track to meet its Local Strategic Planning Statement (LSPS) housing target of 56,000 additional dwellings between 2016 and 2036 with nearly 40,000 dwellings delivered or in the pipeline.

Following a dip in demand during Covid, the Covid recovery demand for rental housing has grown but not supply. Owner occupiers replaced investors in the market while household size (occupancy rate) have declined. Population numbers have increased with the reintroduction of immigration.

The supply of new housing in inner Sydney had not recovered from the 2016-18 apartments oversupply (a glut induced by low interest rates and significant Asian investment). Post Covid conditions brought on a sharp increase in construction and finance costs, enduring supply chain disruption, skilled labour shortages coupled with poor weather and natural disasters and rapidly rising interest rates. The poor business conditions for multi-unit housing production resulted in reduced lodgements, reduced commencements and completions waiting for market conditions to improve.

Recent changes to State Environmental Planning Policy (Housing) 2021 (the SEPP) means that build-to-rent housing in Central Sydney remains long term rental housing, whereas previously it was possible to strata subdivide after 15 years. This promotes vibrancy through more occupied dwellings while maintaining the integrity of the Central Sydney Planning Strategy, which must also ensure capacity for business to grow in Australia's global city centre.

On 7 December and 11 December 2023, the Central Sydney Planning Committee and Council respectively approved Planning Proposal – Policy and Housekeeping Amendments (LEP/DCP Update) to be submitted to the Minister of Planning and Homes with a request for Gateway determination and to be placed on public exhibition. Changes to the build-to-rent housing and co-living housing planning controls have been separated from and expedited ahead of this larger Planning Proposal.

The proposed changes introduce floor space incentives for build-to-rent housing in Central Sydney co-living housing in the Haymarket area. To address the urgent rental housing need, they will apply to new applications submitted within five years of the changes being formally made to the LEP.

The planning proposal was exhibited from 15 April to 14 May 2024, with a total of 23 submissions being received.

Submissions were largely in support with some also recommending changes to increase the floor space ratios, maximum heights and minimum site area provisions, as well as extending the timeframe for the incentive controls to be in place.

On the other hand, concerns were raised about the impacts on height and scale, social character and infrastructure of future development that could be, by the proposed changes.

In response, it is recommended the proposal be amended to enable the incentive to be available for where a development application is lodged within five years of the LEP amendment, and a savings provision for the subsequent detailed development application which relies on the incentives. It is also proposed to clarify that existing Central Sydney site-specific and tower cluster provisions are opt-in provisions and the standard LEP provisions are still available for build-to-rent or Co-living development.

It is recommended that the Council approve the planning proposal as shown at Attachment A for making as a local environmental plan.

Recommendation

It is resolved that:

- (A) Council note the issues raised during the public exhibition of the Planning Proposal - Build-to-rent housing and Co-living housing in Central Sydney as provided in the Summary of Submissions as shown at Attachment A to the subject report;
- (B) Council approve the Planning Proposal – Build-to-rent housing and co-living housing in Central Sydney (as amended) as shown in Attachment B to the subject report to be made as a local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979; and
- (C) authority be delegated to the Chief Executive Officer to make minor amendments to the Planning Proposal – Build-to-rent housing and co-living housing in Central Sydney (as amended) to correct any minor errors prior to finalisation.

Attachments

- Attachment A.** Summary of Submissions
- Attachment B.** Planning Proposal - Build-to-Rent Housing and Co-Living Housing in Central Sydney (post-exhibition amendments shown in red)
- Attachment C.** Resolutions of Council and the Central Sydney Planning Committee
- Attachment D.** Gateway Determination dated 23 February 2024
- Attachment E.** Gateway Determination dated 5 April 2024

Background

1. Build-to-rent housing is purpose built residential held in single ownership and professionally managed. Co-living housing is a compact rental accommodation for a range of occupants with shared facilities and minimum tenancies of three months. It is also managed and held in single ownership. This new form of housing is important to the supply and diversity of housing in the city as they meet different housing needs compared to typical market housing.
2. The recent changes to State Environmental Planning Policy (Housing) 2021 (Housing SEPP) means that build-to-rent housing in Central Sydney remains long term rental housing, whereas previously it was possible to strata subdivide after 15 years. This change provides certainty to support housing supply while maintaining the integrity of the Central Sydney Planning Strategy and increasing vibrancy with a new class of occupied dwellings.
3. On 7 December and 11 December 2023, the Central Sydney Planning Committee and Council respectively approved Planning Proposal – Policy and Housekeeping Amendments (LEP/DCP Update) to be submitted to the Minister of Planning and Public Spaces with a request for Gateway determination and to be placed on public exhibition. This planning proposal included changes to incentivise build-to-rent housing and co-living housing in Central Sydney.
4. The proposed changes introduce floor space incentives for build-to-rent housing in Central Sydney and co-living housing in the Haymarket area (Area 4 on the FSR Map near the universities and Sydney TAFE). These incentives can be applied to knock down rebuilds or building conversions and will be available for five years to address the urgent need for rental housing. The amount of additional floor space matches that previously available for residential accommodation in Central Sydney. The bonuses range from 1.5:1 to 6:1 depending on location and represent a 20 per cent to 75 per cent increase in density.
5. These proposed changes also provide more certainty on the maximum floor space and parking rates for build-to-rent and co-living housing in Central Sydney by removing the application of specific provisions in the Housing SEPP. If these provisions continued to apply the proposed bonuses may not be achievable and removes the FSR controls for sites and precincts purposely incentivised for business development.

The proposal has been separated from the LEP/DCP Update and fast tracked and updated to meet Gateway conditions

6. The Department issued a Gateway Determination for the LEP/DCP Update on 23 February 2024 at Attachment D. It required the Planning Proposal to be revised to remove the proposed amendments for build-to-rent housing and co-living housing in Central Sydney, and that a separate planning proposal for build-to-rent housing and co-living housing in Central Sydney be prepared so that it may be expedited.
7. On 6 March 2024, the separate Planning Proposal – Build-to-rent housing and co-living housing in Central Sydney was submitted to the Department for a further Gateway Determination to enable public exhibition. This revised planning proposal addressed the matters raised by the Department in the Gateway Determination issued on 23 February 2024.

8. The Department issued the Gateway Determination, at Attachment E, dated 5 April 2024 subject to public exhibition and consultation requirements. It also determined the City will not be the local plan-making authority and set a timeframe for the LEP amendment to be completed by 2 September 2024. Specifically, it required the following amendments to the Planning Proposal prior to exhibition:
 - provide a plain English justification relating to the proposed exclusions to State Environmental Planning Policy (Housing) 2021;
 - clarify the proposed build-to-rent and co-living housing incentives would apply to development applications lodged within five years of the proposed controls coming into effect; and
 - amended references to NSW planning legislation.
9. In addition to the amendments required by the Department for the Gateway Determination issued on 5 April 2024, some minor edits have been undertaken to adjust the timeframe for completion. Overall, the amendments to the Planning Proposal are considered to be minor in nature and there has been no material change to the proposed controls as part of this process.

The City exhibited the planning proposal and received 23 submissions which were generally supportive

10. The Planning Proposal - Build-to-Rent and Co-living Housing in Central Sydney was placed on public exhibition from 15 April to 14 May 2024.
11. The City's engagement activities included creating a Sydney Your Say webpage, which included a brief background and the planning documents placed on public exhibition. 16,498 letters were sent to property owners within the affected area of Central Sydney.
12. During that time a total of 23 submissions were received, 15 from individuals in the community and eight from organisations or industry groups.
13. There was general support for the proposal in the submissions, either with the controls as proposed, or with suggested additional changes.
14. A summary of submissions and responses to matters raised is provided at Attachment A. The numbers of submissions are as follows:
 - twelve submissions were in support of the proposal, or supportive and requesting further changes to the proposal;
 - six submissions were not supportive of the changes; and
 - five submissions raised other issues including other changes that should be considered for improving housing supply, and issues relating to site-specific planning proposals.

15. The key themes raised in the submissions were:
 - general support for the proposed changes to encourage housing diversity and rental accommodation;
 - additional changes to controls should be considered, including increasing floor space ratios, maximum heights and minimum site area, and extending the timeframe for the controls to be in place; and
 - concerns about the impacts on height and scale, social character and infrastructure of future development that could be by the proposed changes.
16. A more detailed response to the predominant issues arising from submissions is provided below.

The incentive should be available for longer than five years

17. Four industry submissions requested that the proposed changes should not be limited to the five-year timeframe, or should apply to the determination of a concept development application.
18. The five-year timeframe is to accelerate of the delivery of in-demand housing and avoid approval banking or speculation, to address the urgent need for rental accommodation.
19. In response to these submissions, the planning proposal has been amended to clarify that the timeframe applies to development applications lodged within five years of the commencement of the LEP amendment. Further a savings provision is recommended that ensures subsequent detailed development applications which rely on the floor space incentives are available. These changes have been marked up in the amended planning proposal at Attachment B.

The incentive should be extended to more uses and other areas in Central Sydney

20. Submissions requested the floor space bonus for both build-to-rent and co-living housing be increased to the same as that for non-residential in all four areas of Central Sydney, or that the tower cluster provisions be available for build-to-rent and co-living housing.
21. Floor space incentives for co-living housing are proposed in Area 4, which is the southern part of Central Sydney, close to universities, Ultimo TAFE and Royal Prince Alfred Hospital. Students and essential workers in particular could benefit from this type of rental accommodation due to the location. Encouraging this type of accommodation in Area 4 would be of greatest benefit to occupants. There has been limited demand for co-living housing in most of Central Sydney. Despite the accommodation floor space bonuses being available to co-living housing prior to 2022, the City's 2023 housing audit recorded only 17 non-private dwellings in the CBD and Harbour area but almost 1,500 non-private dwellings in the Chinatown and CBD South area.

22. The tower cluster provisions provide incentives for premium work places, hotels, education and entertainment facilities which are critical for Sydney's global city status and attracting business, investment and talent. These uses rely on large well located sites connected to transport and are unlikely to develop to the same scale and quality in other parts of Sydney. Office occupancy continues to rise with CBRE reporting occupancy in Sydney is now up to 77 per cent, compared to pre-Covid level of 84 per cent. Providing employment and business opportunities in Central Sydney will become more important as the NSW Government's Transport Orientated Development program as the new homes in station precincts require easy access to employment.
23. Build-to-rent and co-living housing are still permitted in these areas and are able to utilise the proposed accommodation floor space provisions, plus a further 10 per cent additional floor space if they undergo a competitive design process and achieve design excellence.

There should be flexibility for amenity requirements

24. One industry submission requested build-to-rent and co-living housing be permitted on the first and second floors, and that daylight and balcony requirements be flexible.
25. Requiring non-residential uses on the ground, first and second floors ensures active streets and provides occupants reasonable acoustic and visual privacy from the busy Central Sydney streets.
26. The Department of Planning, Housing and Infrastructure's fact sheet ' Build-to-rent housing and flexible design' provides flexibility for private open space and balconies, storage and apartment mix. It also describes the flexibility that currently exists in the Apartment Design Guide for solar access, apartment size and circulation space.

The minimum site area requirement should be reduced

27. Two industry submissions requested that the minimum 1,000sqm lot size for buildings over 55m in height should be reduced to 800sqm.
28. Appendix N (Erection of Tall Buildings) of the Central Sydney Planning Strategy details the result of extensive testing and review of tall buildings on sites smaller than 1,000sqm. Issues of concern included poor public domain impacts including wind, sky view and daylight, and poor street activation outcomes, and poor built form outcomes and outlook due to minimal setbacks. Site size was increased from 800sqm to 1,000sqm on that basis.
29. The minimum lot size controls are appropriate and not recommended to change.

The Housing SEPP should apply to build-to-rent housing throughout the City, and the floor space bonus for co-living should also be available

30. Three industry submissions requested the removal of clauses in the Sydney LEP 2012 restricting the application of part of the Housing SEPP.
31. Retain the restriction of the Housing SEPP for build-to-rent and co-living housing is appropriate to avoid 'double dipping' on bonuses, and provide certainty for developers and the consent authority about which controls apply.
32. Removing the application of the Housing SEPP to areas outside Central Sydney is outside the scope of this planning proposal.

There will be built form, social, infrastructure and noise impacts

33. Six individual submissions were received which raised concerns about bulk and scale, social and infrastructure impacts and the social character and diminishing the quality of life in of Central Sydney.
34. The size and scale of build-to-rent and co-living housing that could be delivered under the proposed controls would be no greater than that of a residential development previously enabled by the controls. These controls having been previously tested, means there is high level of confidence that impacts on the public domain would be generally acceptable. Existing maximum building heights are not proposed to be changed. Nonetheless, the impacts of any future build-to-rent or co-living development will still need to be assessed as part of the development application process.
35. The proposed controls allow a wide range of non-residential uses on the first three floors of build-to-rent and co-living housing developments to provide future occupants reasonable amenity. Non-residential uses on lower floors are common in most proposals in Central Sydney and any impacts will be consistent with the levels of activity currently in Central Sydney.
36. The City values the contribution of communities to the character and identity of Central Sydney as a vibrant and inclusive place. Providing a diverse choice of housing and workplaces will support the ongoing social and cultural diversity in the city.

Lack of clarity in the application of the proposed controls

37. Several submissions suggested a lack of clarity with the proposed controls and the relationship to the existing incentives, like the tower cluster or site specific provisions which have been initiated through planning proposals and supported by the Central Sydney Planning Strategy.
38. The proposed re-introduction of floor space incentives for build-to-rent and co-living housing will apply in Central Sydney as part of the standard LEP provisions. Where there are further opt-in incentives like the tower cluster provisions or site-specific provisions the standard LEP provisions will continue to apply. The opt-in incentives are available subject to meeting certain requirements, such as site size and specific land uses.

Recommended Amendments to Planning Proposal

39. In response to the public exhibition the proposal has been amended to clarify that the timeframe of the incentives be amended to development applications lodged within 5 years of the commencement of the LEP amendment. Further a savings provision is recommended that subsequent future detailed development applications which rely on the floor space incentives are available. These changes have been marked up in the amended planning proposal at Attachment B.
40. In addition, further clarifications have also been included in response to some confusion in the submissions on the application of controls. As the City does not have delegation for the finalisation of the LEP amendment it is important the planning proposal is clear on the intended outcomes to be achieved by the amendments.

41. It is recommended that two additional points be included in the planning proposal, under the Explanation of Provisions. These being to clarify that the Sydney LEP provisions for either site-specific clauses, or the tower cluster provisions are opt in provisions and the standard LEP provisions are still available for build-to-rent or co-living development.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

42. 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. This planning proposal is aligned with the following relevant strategic directions and objectives:
 - (a) Direction 1 - Responsible governance and stewardship - this planning proposal will ensure the City of Sydney's planning control framework is up to date and reflects current policies and strategies and delivers on balancing the needs of a global city.
 - (b) Direction 5 - A city for walking, cycling and public transport - this planning proposal will provide more housing in Central Sydney that is well connected and encourages the use of public transport and walking and cycling.
 - (c) Direction 6 - An equitable and inclusive city - this planning proposal provides for an alternative type of housing that increases diversity of residential offering, appealing to a range of people in the community.
 - (d) Direction 7 - Resilient and diverse communities - this planning proposal include provisions that will support and strengthen our community.
 - (e) Direction 9 - A transformed and innovative economy - this planning proposal will continue to support Central Sydney as a global business centre.
 - (f) Direction 10 - Housing for all - this planning proposal incentivises build-to-rent housing throughout Central Sydney and co-living housing in the Haymarket area, in direct response to the current shortage of rental housing.

Relevant Legislation

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

Critical Dates / Time Frames

45. The Gateway Determination requires the planning proposal be made by 2 September 2024.
46. The amendment to the Sydney Local Environmental Plan 2012 will come into effect when published on the NSW Legislation website.

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