

Item 16.

Post Exhibition - Planning Proposal - Sydney Local Environmental Plan and Development Control Plan - Policy and Housekeeping Amendments (LEP/DCP Update)

File No: X039444

Summary

The City of Sydney (the City) has publicly exhibited an update to its planning framework, proposing changes to Sydney Local Environmental Plan 2012, the Green Square Town Centre Sydney Local Environmental Plans, Sydney Development Control Plan 2012, and to the City's Competitive Design Policy, Waste Management Guidelines and Landscape Code (collectively the LEP/DCP Update). This report recommends approval of the LEP/DCP Update with amendments following exhibition and referral to government agencies.

The City's planning statement City Plan 2036 is a 20-year vision to balance the need for additional housing and economic activities while protecting and enhancing individual character, heritage and public space and improving the sustainability of our area. Since 2020, the City has been implementing changes to its planning controls in line with the priorities and action of its local strategic planning statement.

The LEP/DCP Update gathers a series of smaller planning control changes related to housing, parking, greening, amenity, sustainability and design excellence to implement priorities of the planning statement as well as housekeeping changes to improve the operation of controls.

The LEP/DCP Update was placed on public exhibition for 12 weeks from 17 December 2024 to 14 March 2025. A total of 85 submissions were received, with the majority generally supportive of the proposals. Submissions supported the proposal to require new dwellings to install electric indoor appliances in preference to gas. Some submissions objected to aspects of the proposals including changes to require more accessible housing, more apartments suitable for families with children, and reduced parking for serviced apartments in Central Sydney.

Some changes have been made in response to submissions from the community and government agencies. A summary of submissions and the City's response is at Attachment A, along with a summary of changes made following exhibition at Attachment H.

This report recommends approval of the LEP/DCP Update as amended and recommends that the next steps be taken to have the Planning Proposal finalised as a local environmental plan, noting the draft Development Control Plan, Competitive Design Policy and Landscape Code will come into effect when the local environmental plan is published.

Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note the matters raised in submissions to the public exhibition of Planning Proposal - Sydney Local Environmental Plans Policy and Housekeeping Amendments 2023, Sydney Development Control Plan 2012 Policy and Housekeeping Amendments 2023, City of Sydney Competitive Design Policy, Guidelines for Waste Management in New Developments and Landscape Code as shown at Attachment A to the subject report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal - Sydney Local Environmental Plans Policy and Housekeeping Amendments 2023, as amended following public exhibition and shown at Attachment B to the subject report, to be submitted to the Department of Planning, Housing and Industry to be made as local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 16 June 2025, that Council approve Draft Sydney Development Control Plan 2012 - Policy and Housekeeping Amendments 2023, as amended following public exhibition and shown at Attachment C to the subject report, noting the draft development control plan 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;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 16 June 2025, that Council approve City of Sydney Competitive Design Policy and Landscape Code as shown at Attachments D and E respectively, noting they will come into effect at the same time as the draft development control plan;
- (E) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 16 June 2025, that Council, at the time the draft Development Control Plan comes into effect:
 - (i) adopt Section 3.7 "Water and Flood Management Policy" of the Sydney Development Control Plan 2012 as the Council's flood policy for the entire local government area, noting that the application of this section will be identified on the City's website; and
 - (ii) rescind the Interim Floodplain Management Policy;
- (F) the Central Sydney Planning Committee note that proposed amendments to the City of Sydney Waste Guidelines in New Developments and the proposed amendments to the Waste Management provisions in Draft Sydney Development Control Plan Policy and Housekeeping Amendments 2023 will not proceed at this time, pending a fuller review of the waste management provisions; and
- (G) authority be delegated to the Chief Executive Officer to make minor variations to the documents in Attachments B to E to correct minor errors and to maintain consistency with the Local Environmental Plan as published.

Attachments

- Attachment A.** Summary of Submissions
- Attachment B.** Planning Proposal - Sydney Local Environmental Plan - Policy and Housekeeping Amendments and Appendices
- Attachment C.** Sydney Development Control Plan 2012 - Policy and Housekeeping Amendments
- Attachment C1.** Sydney Development Control Plan Map Book
- Attachment D.** City of Sydney Competitive Design Policy - as amended
- Attachment E.** Landscape Code - as amended
- Attachment F.** Gateway Determination - dated 23 February 2024
- Attachment G.** Gateway Determination - dated 8 October 2024
- Attachment H.** Summary of Post Exhibition Amendments

Background

1. This report follows consideration of submissions made to the public exhibition of updates to Council's planning framework (LEP/DCP Update). The LEP/DCP Update is described in detail in the pre-exhibition report to the Council which can be found at <https://city.sydney/c2q> (Item 9.7). It includes Planning Proposal - Sydney Local Environmental Plans Policy and Housekeeping Amendments 2023, Sydney Development Control Plan 2012 Policy and Housekeeping Amendments 2023, City of Sydney Competitive Design Policy, Guidelines for Waste Management in New Developments and Landscape Code.
2. The LEP/DCP Update amends the City's planning controls to implement priorities and actions in the City's local strategic planning statement City Plan 2036. The amendments bring together a series of smaller changes related to housing, parking, greening, amenity, sustainability and design excellence.
3. This report recommends the Central Sydney Planning Committee approve as amended the Planning Proposal, and note the draft Development Control Plan, Competitive Design Policy and Landscape Code. The report notes that the amendments to the Waste Guidelines in New Development are not proceeding at this time pending a fuller review of the Development Control Plan (DCP) Waste Management provisions and the Guidelines.
4. This report also recommends that when the draft DCP comes into effect, Council rescind the existing Interim Floodplain Management Policy and adopt the relevant section of the DCP as the flood policy for the local government area. By adopting this section as a specific policy, it will enable Council to require applicants to have regard to the provisions in all parts of the local government area, including areas and developments where the DCP does not apply. It is critical that local knowledge and consistent approaches to flooding are applied across the entire local government area. The application of this section to all land will be communicated via the City's website. The contents of the Interim Policy have been transferred to the draft DCP and updated.

Gateway determinations

5. On 7 December and 11 December 2023, the Central Sydney Planning Committee and Council respectively approved Planning Proposal – Policy and Housekeeping Amendments to be submitted to the Minister of Planning and Public Spaces with a request for Gateway Determination and public exhibition.
6. On 23 February 2024, the Department of Planning, Housing and Infrastructure issued the Gateway determination at Attachment F dated 23 February 2024, requiring the Planning Proposal to be revised to separate the proposed amendment for build-to-rent and co-living housing into its own Planning Proposal. The build-to-rent and co-living planning proposal was adopted by Council on 24 June 2024 and came into force on 13 December 2024.
7. On 8 October 2024, the Department issued the Gateway Determination at Attachment G approving the Planning Proposal for public exhibition and agency consultation. This Gateway Determination included conditions requiring changes to the Planning Proposal prior to public exhibition.

8. Most of the requested changes to the Planning Proposal were to provide additional clarification or justification in support of the proposed amendments. Others required specific changes to the Planning Proposal as outlined below:

(a) LEP Amendment 1 – Deep soil

This amendment proposed a new stand-alone LEP clause requiring consideration of deep soil to encourage greater tree planting and canopy coverage. Feedback from the Department did not support the proposed provision as it duplicates proposed design excellence considerations and DCP controls and required the stand-alone clause be removed from the Planning Proposal.

(b) LEP Amendment 2 – Structures associated with Green roofs

This amendment encourages green roofs and communal spaces on rooftops by allowing associated structures to exceed the height control. In response to the Gateway condition, some detailed design requirements have been removed from the proposed LEP provisions and placed in the DCP amendment.

(c) LEP Amendment 15 – Use of existing non-residential buildings that were shops or pubs

This amendment sought to resolve ambiguity with the permissibility food and drinks premises in the R1 General Residential zone. In assessment, the Department regarded the proposed change unnecessarily restrictive as these uses are permitted throughout the zone. To address the Gateway condition, the amendment was removed from the Planning Proposal and other amendments renumbered accordingly.

(d) LEP Amendment 18 – Integration of planning controls

The planning proposal initially recommended planning controls for the areas to be integrated into Sydney LEP 2012 that matched development as approved or built. In response to the Gateway Determination, these controls were revised to use the NSW Government's standard mapping approach wherever possible. The revised controls limit additional development potential as much as practical and are detailed in 2 new tables in the Planning Proposal at Attachment B to this report.

9. Minor amendments to the Planning Proposal, draft Development Control Plan, Competitive Design Policy and Guidelines for Waste Management in New Development were made to correct minor errors and support the Planning Proposal changes requested by the Gateway Determination. These were notified to the Department to allow public exhibition to proceed.

Public exhibition

10. The Planning Proposal, draft Development Control Plan, draft Competitive Design Policy and updated development guidelines were on public exhibition for an extended period of more than 12 weeks from 17 December 2024 to 14 March 2025. This period exceeds the 30 working days requested in the Gateway Determination.

11. The following activities were undertaken to support the public exhibition:
- (a) A webpage and survey were created for people to view the planning proposal, policy updates and other documentation, and provide their feedback.
 - (b) Notification letters were sent to affected property owners. In total, 5,011 letters were sent to property owners who were directly subject to changes included in the following LEP amendments:
 - (i) Amendment 4 – Protection of sun access to Gunyama and Cook and Phillip Parks
 - (ii) Amendment 11 – Removal of Opportunity floor space
 - (iii) Amendment 12 – Heritage floor space
 - (iv) Amendment 15 – 257 Sussex Street, Sydney
 - (v) Amendment 18 – Integration Areas
 - (c) A notification letter was sent to directly affected property owners and occupiers, informing them of the proposed changes to some late-night trading precincts included in DCP Amendment 13 – Late night trading.
 - (d) The project was included in the December 2024 edition of the Sydney Your Say eNews.
 - (e) The planning proposal was referred to the following agencies:
 - (i) NSW Department of Creative Industries, Tourism, Hospitality and Sport
 - (ii) NSW Environment Protection Authority
 - (iii) Placemaking NSW
 - (iv) Transport for NSW
 - (v) Government Architect NSW
 - (vi) NSW Land and Housing Corporation
 - (vii) Heritage NSW
 - (viii) Sydney Airport Corporation
 - (ix) Department of Infrastructure, Transport, Regional Development, Communications and the Arts
 - (x) Civil Aviation Safety Authority
 - (f) Community groups and other key stakeholders, including community housing providers and Asthma Australia, were directly advised of the public consultation by email.

12. In total 85 submissions were received in response to the exhibition. 16 responses were via the online survey and 68 by email, and 7 government agencies responded. Of the responses, 14 were received from the development industry and related groups, 16 submissions were provided from stakeholder and community groups, and 55 submissions were received from individuals, including responses to the online survey, email and by proforma email.
13. A summary of and response to all themes and issues raised in submissions is available at Attachment A. Below are the most significant themes raised in submissions. A complete list of changes made following public exhibition is included at Attachment H.

Indoor air quality and electrification of new residential development

Issues

14. The Draft DCP proposed a new provision to restrict indoor gas appliances, including cooktops, ovens, and space heaters, to promote healthier homes through electrification of new residential developments. These controls were informed by research highlighting the health risks of indoor gas use, including its links to respiratory conditions and other long-term health issues.
15. 45 submissions were received in response, including 35 pro forma submissions. Generally, submissions were very supportive of the proposal. The submissions suggested that the provisions should go further and restrict all gas use including domestic hot water appliances. Others suggested it should be extended to existing residential development and other types of development including commercial buildings and hotels, and other fuel types such as wood-burning stoves.
16. A submission from the development industry objected to the proposal on the grounds that they were unnecessarily restrictive and would reduce consumer choice. They also indicated the proposal would include substantial additional cost and design challenges in integrating new substations.

Response

17. Following Council resolution of August 2023, the City exhibited the All-electric New Development Discussion paper. The outcomes of that exhibition are addressed in a separate report also to be considered at Council's June 2025 meeting. That report proposes a more comprehensive change in the draft All-Electric Development DCP for new residential and large commercial development to be all-electric and not be serviced by fossil fuel gas. The recommendation is for the public exhibition of that more comprehensive change and, if supported by Council, there would be further opportunity for comment on the proposed amendments.
18. In response to submissions to the Discussion Paper, the draft All-Electric Development DCP proposes that the new provisions would, if adopted, commence applying to development applications lodged from January 2027. This transitional period will give the development industry time to prepare and build capacity to implement the new controls. It is proposed that the indoor air quality controls in the draft Policy and Housekeeping DCP are also amended to commence from 1 January 2027.
19. In relation to the current proposed amendments, the draft DCP has been amended with a re-wording of the provision and its objective to focus on the provision's objective to improve health outcomes.

Livable apartments - adaptability and accessibility

Issues raised

20. The draft DCP proposes changes to promote more accessible dwellings, allowing dwellings to be more suitable to a greater proportion of the population. It proposed that all new dwellings are built to a minimum Livable Housing Australia's (LHA's) Livable Housing Guideline Silver Standard. For larger developments, it proposes that 15% are also provided at the Livable Housing Guidelines Platinum Standard. This is equivalent to the current DCP requirement for 15% of dwellings to be delivered to the Australian Standard for Adaptable Housing.
22. Submissions acknowledged the need for greater accessible and adaptable housing. Submissions from the development industry objected to the new provisions on the grounds that it would add cost to residential development and reduce the dwelling yield in development due to increased space requirements for accessible design. These submissions noted that developments already provided accessible dwellings to the National Construction Code (NCC), NSW Apartment Design Guide (ADG) and Sydney DCP requirements.
21. Specifically, the Urban Taskforce's submission suggested an additional cost of 10-15% or \$65,000 to \$97,000 per apartment, largely due to increased size of carpark and the need for extra basements to accommodate additional parking requirements. Submissions note that these changes are not supported by cost-benefit analysis and that they should be delayed pending the outcome of the NSW Building Commissioner's enquiry into Livable Housing standards in NSW.
22. The Property Council Australia (NSW) suggest that development incentives be considered for livable housing. City West Housing note that LHA's Livable Housing Guidelines have been adapted by the Australian Building Codes Board (ABCB) as the Livable Housing Design Standard, and that this would be a better standard to be referenced in the DCP. City West also ask Council to consider not using the Platinum Standard to replace the Adaptable Dwelling Standard as they require more space, do not allow for future adaptation to support accessibility and are more expensive to deliver.

Response

23. In 2022 the National Construction Code introduced livable housing standards for all new dwellings throughout Australia, equivalent to the LHA's silver standard. The silver standard requires step-free access and shower recess, slightly wider doors and hallways for ease of access with mobility aids, slightly more space in bathrooms, and bathroom walls that are strong enough to install grab rails. NSW and WA opted not to adopt the standard, but they have been in use in all other jurisdictions for at least 12 months.

24. The NSW Building Commissioner prepared a Discussion Paper to support its recent enquiry into livable housing, which has not yet handed down its findings. The Discussion Paper found that requiring apartments to be designed to silver level standards would increase the cost of delivery by 0.8%. This is considerably short of the estimate of 10-15% quoted in the Urban Taskforce submission. The Urban Taskforce cited increased costs of parking provision for accessible parking spaces as a major factor, however the draft DCP does not propose additional parking requirements for silver or platinum standard apartments, either in terms of number of spaces or the design of those spaces. With good design the internal space requirements for silver apartments can generally be adequately accommodated within a NSW Apartment Design Guide-compliant residential flat building.
25. Since this draft DCP was put forward, Livable Housing Australia have decided to wind-up operations and will no longer exist as an organisation after June 30, 2025. As a result, the Livable Housing Guidelines will not be updated or maintained. This introduces an element of uncertainty for the currency of the guidelines into the future.
26. Given that uncertainty, the City agrees with City West Housing that the ABCB Livable Housing Design Standard is a more appropriate standard to reference consistent with the NCC approach. The draft DCP will be changed to reference this standard. The proposal to adopt the Platinum Standard instead of the Australian Standard for Adaptable Housing will also not proceed. The current practice of requiring 15% of all apartments in larger developments as adaptable apartments consistent with the Australian Standard will remain. Family-friendly apartments - Dwelling mix

Issues raised

27. To encourage the provision of larger apartments more suited to families with children, the draft DCP proposes changes to increase the minimum number of 3-bed apartments in larger developments from 10% of the total, to 20%.
28. Submissions from the development industry objected to the proposal. They either said that the current mix is sufficient and should be maintained, or that dwelling mix requirements should not be included in the DCP and that the market should decide. Urban Taskforce suggests that it is appropriate that families with children move to other areas as their children get older. City West Housing have asked that the requirements are not applied to Community Housing Providers (CHP), who tailor apartment mix to the anticipated needs of residents. Submissions also noted that the proposed mix controls are inflexible and allowing dwelling types to be delivered within a percentage range was preferred.
29. An increase in 3-bed apartments is important to encourage more families with children to choose apartment living, and to remain in apartments as the children age. Currently our local area sees an exodus of families from apartments as children age. Having more family-friendly 3-bed apartments would enable more families to choose City apartment living and allow them to stay here longer. Almost all new dwellings in our local area are apartments, and it is critical that they can appeal to families to allow a wide cross-section of the community to have the opportunity to live here. Forcing families to move elsewhere to find suitable housing has social and economic impacts and there will be fewer opportunities for stand-alone housing in other parts of Sydney as NSW Government's Transport Orientated Development and Low and Mid Rise housing reforms target medium to high density housing in well located areas. No change is proposed.

30. The City West Housing submission is noted; however, Community Housing Providers are already exempt from this provision in the DCP, and the provisions would not apply to CHP development. The dwelling mix, while expressed as a minimum or maximum in effect operates as a range, and this will be clarified in the draft DCP.

Family friendly apartments - location and additional design features

Issues raised

31. The Draft DCP proposes that all apartments on the ground-floor and on the same floor as communal open space, should be 3 bed apartments suitable for families with children. It also proposes that these apartments should have 2 of the 3 bedrooms at a larger size, being 12 square metres. Current requirements are for 1 larger bedroom with other bedrooms at least 9 square meters in size.
32. Submissions from the development industry objected on the basis that this would make ground floor layouts difficult to plan and inefficient and would reduce apartment yield. It would also reduce choice for residents by mandating only one type of apartment on the ground floor. The same submissions objected to the requirement for an additional larger bedroom as it would also reduce yield and was counter to the NSW Apartment Design Guide standards.

Response

33. On consideration of the submissions, the City agrees that the requirement for all ground-floor units to be 3-beds could cause layout difficulties for ground floors of apartment buildings. It is proposed that the requirement be amended to require at least 50% of apartments on the ground floor and the same floor as communal open space to be 3-beds. In tandem with the overall number of 3-bed apartments, this change will maintain flexibility to locate a greater variety of apartment types at these locations, while encouraging a greater number of apartments suitable for families with children.
34. The larger additional bedroom does not require the apartment size to be increased and can be accommodated with good design of the internal apartment spaces. The size of the additional bedroom has been amended to 10 square metres excluding wardrobe, consistent with the NSW Apartment Design Guide. There is no other change proposed to that part of the Draft DCP.

Family friendly apartments - play space for children

Issues raised

35. The Draft DCP proposes a new requirement to incorporate play space for children in new apartment buildings. The requirement includes space for younger children of 0-5 years in smaller buildings, and also for 6-10 years in larger developments. It is included as part of communal open space requirements, rather than being an additional requirement.
36. Submissions from the development industry have objected to the proposal on the basis that it will add cost and complexity to design and maintenance and could pose legal liabilities.

Response

37. Play space is an important factor in making apartment buildings more suitable for families, and it is proposed that this provision is largely retained. Play space for children can be provided through design of the communal open space, with only a small proportion of the communal open space required to accommodate play space. Play space can be managed as part of the overall maintenance for the communal open space. A small amendment is proposed to remove the requirement for buildings with less than 20 apartments.

Family-friendly apartments - exclusions for specific types of residential development.

Issues raised

38. The submission from the Property Council Australia (NSW) asked that certain development types be excluded from the family-friendly apartment requirements, where they are not expected to accommodate a significant number of families with children.

Response

39. The City agrees and will not apply dwelling mix, apartment location and play space requirements to specific development types. These are build-to-rent housing, affordable housing provided by a CHP, social housing, seniors housing, co-living housing and boarding houses.

Parking in new developments

Issues raised

40. Generally, submissions were supportive of the reduced parking rates for new residential development. However, some submissions from the development industry questioned the basis and research for the reductions, questioned whether parking provision can be linked to peak hour congestion and requested release of economic and traffic modelling. Impacts cited the loss of consumer choice from having fewer small apartments with parking, impacts on families who wish to live in apartments as an affordable housing option, potential impacts on street parking from having fewer on-site spaces and impacts on development feasibility. They also suggested reductions are inappropriate in peripheral areas not near metro and train stations.
41. Submissions from the development industry also objected to the reduction in parking for hotels and serviced apartments, especially for serviced apartments in Central Sydney. The submissions note that parking drives higher room rates and occupancy and that the proposed reductions will impact feasibility especially for serviced apartments in Central Sydney. Meriton and Urban Taskforce submissions also objected to including pick-up/set-down spots for childcare centres within the LEP maximum rate, when previously these provisions had been applied as additional to that rate, noting that there is often insufficient on-street space available.

Response

42. The City's residential parking rates are established using census data to track closely with household car ownership. They reflect the actual choices that households make when making decisions about car ownership. Reductions are only proposed where the current LEP parking rate is higher than actual household car ownership rates for dwelling types. Larger 3 bed apartments will continue to be allowed at least one car spot to support families with children to live in apartments.

43. For serviced apartments in Central Sydney, the City notes the points made in submissions and considers that a smaller reduction would be a better outcome. We are proposing a post-exhibition change where serviced apartments in Central Sydney will have a rate of 1 space per 5 rooms, rather than 1 per 10 rooms as originally proposed. The rate for serviced apartments would still be lower than for residential apartments, which is a comparable development type. The rate for hotels will remain as exhibited.
44. For child-care centres the City has considered the points made and will not proceed with the proposed change. Pick-up and set-down parking will remain in addition to the LEP maximum parking rate, which is intended for the use of centre staff.

Design excellence

45. While submissions were generally supportive of the changes to streamline the design excellence process, introduce flexibility and reduce the number of competitions overall, submissions from Meriton and Urban Taskforce asked that the changes go further, either eliminating or greatly reducing the requirement for design competitions and not extending them to significant refurbishment of buildings. They both ask for a mechanism to allow developers to change architects where that architect is delaying a project. The Property Council Australia (NSW) supported the proposed changes, including the extension to refurbishments, but proposed that more development feasibility experience be required on competitive process selection panels.

Response

46. The proposed changes to competitive design processes are intended to reduce the overall number of competitions, streamline the development approval process and offer floorspace and height flexibility for new buildings. Design competitions allow for the exploration and testing of multiple opportunities to improve design outcomes. They are accompanied by a 10% bonus increase in floor space and height. Removing requirements for design competitions would remove the opportunity for the 10% cent additional floor space and height and reduce overall floor space for housing development.
47. A mechanism to change underperforming architects already exists in the standard conditions for development. With respect to selection panel composition, proponents are able to nominate panellists with a range of complementary experiences that can include development feasibility within their skillset. No changes are proposed to this proposal.

The proposal was referred to Government agencies

48. The proposal was referred to 9 government agencies for comment, summarised in Attachment A. In general, the agency referrals were either supportive of the City's proposals or made no specific comment. Government Architect NSW (GANSW) asked for a clarification in the draft Competitive Design Policy.
49. The City of Sydney first introduced required competitive design processes for larger building types in 1998. The City has now streamlined some processes in response to the current development conditions. GANSW were generally very supportive of the amendments to support a streamlined and flexible approach to competitive design processes. The submission notes that for State Significant Development (SSD) in the City of Sydney, the current practice is for GANSW to endorse the Design Excellence Strategy, Brief, and Jury, not the City of Sydney. The City agrees and the draft Competitive Design Policy at Attachment D has been amended to make that distinction.

50. The Environmental Protection Agency (EPA) and Placemaking NSW did not support the proposal to remove the requirement for an Air Quality Assessment Report for development in the vicinity of the Cross City Tunnel ventilation stack. Since the requirement was first introduced there have been significant changes to development patterns near the stack, to the emission profile of vehicles and to criteria for air pollution. The requirement of an air quality assessment report will remain in the LEP. The City will work with the Environmental Protection Agency NSW, Placemaking NSW and the Department of Planning, Housing and Industry to re-examine the process for assessing air quality impacts and update it to reflect the current context.

Other issues raised

Haymarket and Chinatown locality statement

51. A submission asked that the locality statement for the Haymarket and Chinatown locality be amended to better reflect the significance of Haymarket. This change is supported, and changes have been made to the Locality Statement to better recognise the significance of Haymarket and distinguish particular aspects from Chinatown while acknowledging that shared history. Another change will correct a misspelling of Christ Church St Laurence on George Street.

Setback for 90-100 Hay Street, Haymarket

52. A submission requested an amendment to the setback for a building at 96-100 Hay Street within the Haymarket/Chinatown special character area in Sydney DCP. The amendment would amend the existing requirements for an above-street frontage setback of 8 metres to Hay Street and instead allow it to be considered on merit. While much of Chinatown is fine-grained, Hay Street itself is a wide street, carrying light rail. The submission notes the building's more restrictive setback to the much narrower Dixon Street would remain. This change for this location is supported.
53. 90-94 Hay Street was constructed on the other side of Kimber Lane as a part of a pair of buildings with 96-100 Hay Street. Both buildings have recently been proposed as heritage items, and the heritage assessment recommends that any future changes should encourage the buildings to be understood as a pair. To encourage this, the 8 metre setback to Hay Street for 90-94 Hay Street will also be amended to allow it to be considered on merit.

Heritage floor space

54. The planning proposal introduces floor space flexibility for buildings using the Heritage Floor Space scheme, with a flexibility of 200 square metres or 5%, whichever is the lowest. One submission from a heritage building owner proposed increasing the flexibility from 200 square metres to 300 square metres, to allow for reasonable upgrades to larger heritage buildings. For larger buildings, 200 square metres is often not enough to provide meaningful change such as for new end-of journey facilities, which are a key feature of a high-quality office-building. This change to 300 square metres is supported. Smaller buildings will continue to be capped by the proposed 5% lower limit.

Assessing amenity impacts on existing residential development in Central Sydney

55. A submission raised the issue that solar access requirements for older residential development in Central Sydney unduly restricts the development of new employment-generating uses. Much of this older residential stock was approved before the NSW Apartment Design Guide, and often the buildings were not designed to be capable of satisfying the solar access requirements of the ADG and by extension, Sydney DCP 2012. The submission asks that clarity be given in the DCP so that solar access considerations for older residential buildings does not unduly restrict the development of new employment-generating uses in Central Sydney.
56. The Central Sydney Planning Strategy and Framework was adopted by Council in December 2020. It seeks to prioritise income earning employment-generating uses in Australia's most productive and strategically important employment centre. An aim of the Strategy and an objective of Sydney DCP 2012 is ensuring the development of new employment-generating land uses is not unreasonably impeded by existing residential buildings. Provision 5.1.2(6) of Sydney DCP and the associated objective 5.1.2(e), were drafted to achieve that intent. However, the drafting of the provision could be clearer, particularly as it makes reference to compliance with other parts of the DCP before considering amenity impacts. This is unnecessary as compliance with other parts of the DCP is required in any case, but not as a prerequisite.
57. To clarify the provision and allow it to operate as intended it is proposed to amend 5.1.2 (6) by removing the unnecessary references to other provisions of the DCP. The effect will be to make it clear that for new employment-generating developments in Central Sydney, amenity impacts on existing residential development will be considered reasonable. Compliance with Sydney LEP and the other parts of Sydney DCP in relation to the form of development continue to be assessed as standard practice.
58. New residential development will continue to be assessed under the ADG provisions as required by the Housing SEPP (2021), to minimise loss of solar access for existing residential development.

Environmental noise and entertainment sound

59. Merivale raised concerns with the concurrent exhibition of the LEP/DCP Update which contains Environmental Noise provisions, and the Entertainment Sound DCP, raising the potential for crossover and incompatibility. The 2 amendments have been considered together by the same staff members and have been checked to ensure there is no incompatibility. The environmental noise and entertainment sound DCP provisions will be together in the same section of the updated Sydney DCP, to allow easier understanding of how they work together.
60. The entertainment sound section includes specific sound criteria for new or substantially changed venues, and for residential development in mapped locations that may be affected by entertainment sound. The environmental noise section lists a wide range of noise sensitive and noise generating development. These may include construction noise, mechanical plant, waste disposal and other noise sources. The sound criteria in the environmental noise section is for new residential development that may be subject to this wide range of environmental noise sources, including road noise.

Savings provisions for Waterloo Estate (South)

61. Stockland and Homes NSW have raised concerns that the LEP/DCP Update, if applied to the proposed redevelopment of the Waterloo Estate, may introduce new considerations, including reduced parking and new urban design considerations, which could undermine the feasibility of the project, on which contracts have been signed. The Planning Proposal has been updated to include a savings provision to acknowledge the parking rates at the level in the Sydney LEP at December 2023. Similarly, Sydney DCP Section 5.12 Waterloo Estate (South) site-specific provisions will be updated to ensure the provisions apply as of December 2023. This will allow development to proceed as contracted and approved.
62. Attachment A provides a full summary of all issues raised in submissions along with the City's response.

Other changes to the exhibited documents

O'Riordan Street road rezoning

63. The proposal to rezone parts of O'Riordan Street for the construction of a road linking Green Square Town Centre and the Ashmore Estate will not proceed. The road has now been completed, and the rezoning is no longer necessary.

Waste management guidelines

64. Proposed changes to the Waste Management Guidelines and related provisions in the DCP will not proceed at this time pending a broader review of the waste management provisions including the size of trucks required to enter residential buildings.

Integration of planning controls

65. In transferring planning controls from the former Redfern Waterloo Authority sites to Sydney LEP and DCP, an existing area at Redfern West, identified in Sydney Late Night Trading DCP 2007, was omitted. This will be brought into Sydney DCP 2012, allowing the 2007 DCP to be rescinded. There is no change to the extent or operation of the late night trading area.

Shelter in place guidelines

66. The draft DCP Amendment 10 Water and Flood Management has been updated to include appropriate references to the NSW Government recently released Shelter-in-Place Guidelines for flash flooding.
67. Attachment H includes a summary of all the post exhibition changes.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

68. 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 strategic directions and objectives:
- (a) Direction 1 - Responsible governance and stewardship - this planning proposal will ensure that the City of Sydney's planning control framework is up to date and reflects current policies and strategies.
 - (b) Direction 2 - A leading environmental performer - provisions will help deliver on sustainability goals of reducing carbon emissions and increasing tree canopy and vegetation coverage.
 - (c) Direction 3 - Public places for all - this planning proposal will extend solar access protections to more public places, so they remain inviting, comfortable and usable spaces year-round.
 - (d) Direction 4 - Design excellence and sustainable development - design excellence amendments will help update and streamline the process to deliver new buildings centres around good design and sustainability.
 - (e) Direction 5 - A city for walking, cycling and public transport - revised car parking rates and provisions to streamline EV chargers and bicycle racks will help reduce private vehicle use and provide a city designed for walking, cycling and public and zero-carbon transport.
 - (f) Direction 6 - An equitable and inclusive city - this planning proposal will increase tree canopy, protect and improve new parks and encourage less vehicle use.
 - (g) Direction 7 - Resilient and diverse communities - this proposal includes provisions that will support and strengthen our community through greener, more resilient suburbs and greener less carbon-intensive development.
 - (h) Direction 9 - A transformed and innovative economy - changes continue to support Central Sydney as a global business centre and implement actions for the revitalisation of Chinatown and Haymarket.
 - (i) Direction 10 - Housing for all - affordable housing contributions will be further clarified ensuring greater consistency with how contributions are applied leading to the delivery of new and diverse rental housing.

Risks

69. City staff have considered potential risks and mitigation measures. Progressing the planning proposal, draft DCP and policy updates is within the City's risk appetite.

70. Proceeding with the LEP/DCP Update is within the City's risk appetite for reputation and image. There is a risk some stakeholders may disagree with the proposed development controls. However, we aim to strike a balance between achieving our strategic objectives, implementing change and embracing innovation, and protecting our reputation. The project aligns with our appetite to tolerate complaints when implementing agreed actions within the Community Strategic Plan and minor complaints relating to action which has long-term community benefit.
71. Development consistent with the LEP/DCP Update will be capable of complying with relevant environmental and planning laws, regulations and standards and is within the City's minimal appetite for non-compliance.
72. Proceeding with the LEP/DCP Update will meet the City's minimal appetite for disruption to our regulatory functions as decisions will be within the timeframes set in the NSW Government's Statement of Expectations Order 2024.

Relevant Legislation

73. Environmental Planning and Assessment Act 1979.
74. Environmental Planning and Assessment Regulation 2021.
75. Environmental and Assessment (Statement of Expectations) Order 2024.

Critical Dates / Time Frames

76. The Gateway Determination requires the amendments to the Sydney local environmental plans be completed by 28 November 2025.
77. The Gateway determined Council would not be the local plan-making authority to finalise the local environmental plan amendments. If the planning proposal is approved, the proposal will be forwarded to the Department to be finalised. City staff will work with the Department in drafting the provisions.
78. The amendment to the Sydney Local Environmental Plan 2012 will come into effect when published on the NSW Legislation website.
79. If approved by Council, the draft DCP, Competitive Design Policy and Landscape Code will come into effect on the same day as the amendment to the Sydney LEP 2012.

GRAHAM JAHN AM

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