

Planning Services

Gateway Determination Report

LGA	City of Sydney
RPA	City of Sydney Council
NAME	Planning proposal to amend Clause 4.6 (Exceptions to Development Standards) of the Sydney LEP 2012 to permit certain development structures that may result in additional overshadowing on or near public parks and places as identified in Central Sydney (0 homes, 0 jobs)
NUMBER	PP_2017_SYDNE_008_00
LEP TO BE AMENDED	Sydney Local Environmental Plan 2012
ADDRESS	Lang Park; Macquarie Place Park; Martin Place; Pitt Street Mall; Prince Alfred Park; and Sydney Square.
DESCRIPTION	Six (6) of the ten (10) public parks and places listed in clause 6.19 as referenced under clause 4.6(8)(cg)
RECEIVED	19 December 2017
FILE NO.	17/729
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks a minor amendment to Clause 4.6 (Exceptions to development standards) so that public parks and places that cannot be additionally overshadowed, may be overshadowed if the additional overshadowing is the result of playground equipment, sculptures and artworks, or community notice and public information signs located on public land.

Site Description

The planning proposal relates to six (6) public parks and places across the Sydney Local Government Area (LGA). The land that is the subject of the planning proposal includes:

- Lang Park (Lot 7304 DP 1157738);
- Macquarie Place Park (Lot 1 DP 758942 Section 48; Lot 7048 DP 93668);
- Martin Place (Lot 7005 DP 1120403 & Lot 7006 DP 1120394);
- Pitt Street Mall (Lot 1 DP 879538; Lot 2 DP 879538);
- Prince Alfred Park (Lot 1 DP 874757; and
- Sydney Square (Lot 100 DP 1048011; Lot 1 DP 596863 & Lot 5 DP 785173)

Summary of Recommendation

It is recommended that the planning proposal proceed, subject to conditions.

The planning proposal will allow the opportunity for Council to grant development consent for specific types of development that may result in minor additional overshadowing to certain public parks and places.

PROPOSAL

Objectives or Intended Outcomes

The statement of objectives adequately describes the intention of the planning proposal. The objective is to allow the consent authority to assess and determine development applications for playground equipment, sculptures and artworks, or community notice and public information signs located on public land, which may result in additional overshadowing to certain public places.

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

Explanation of Provisions

The objectives and intended outcome will be achieved by making a minor amendment to clause 4.6 (Exceptions to development standards). It is noted that Clause 4.6 of Sydney LEP 2012 allows a consent authority to grant consent for development, even though the development would contravene a development standard.

Clause 4.6(8) however lists a range of development standards that cannot be contravened via the application of clause 4.6. One of the listed development standards is clause 6.19 (Overshadowing of certain public places) of the Sydney LEP 2012, which lists 10 parks and public spaces in the City of Sydney that are protected from additional overshadowing at specified times in the day between 14 April and 31 August.

Clause 4.6(8)(cg) however makes some exceptions that allow for additional overshadowing to be allowed to 4 of the 10 listed parks and places following an appropriate assessment under clause 4.6.

The planning proposal thereby seeks to make a minor change to Clause 4.6(8)(cg) so that the 6 public parks and places listed in clause 6.19 that currently cannot be additionally overshadowed, may be overshadowed if the additional overshadowing is the result of a building type identified above.

The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal.

Mapping

No amendments to maps are required subject to this planning proposal.

NEED FOR THE PLANNING PROPOSAL

The planning proposal states that it is the best means of achieving the objectives as currently additional overshadowing is not permitted on 6 of the 10 public parks and places listed in the existing clause 6.19 in Sydney LEP 2012. This has resulted in an unintended situation where some minor types of development which can enhance the functioning of the City's parks and public spaces are currently prohibited development if they result in additional overshadowing. The types of development including playground equipment, a

sculpture or artwork, and community notice or public information signs are prohibited development. Therefore, an amendment is required to remove the prohibition.

It is confirmed that an amendment to clause 4.6(8)(cg) to include the identified 6 public parks and places to be of exception to allow for additional overshadowing is the best means to achieve the intended outcome.

STRATEGIC ASSESSMENT

State

Draft Greater Sydney Region Plan

The planning proposal addresses and is broadly consistent with the Draft Greater Sydney Regional Plan. In particular, the proposal is consistent with Objective 12 'Great places that bring people together', as it will amend the LEP to permit development uses that activate public parks and places.

Regional / District

Revised Draft Eastern District Plan

The proposal states that the proposed amendment is consistent with the following relevant planning priorities of the revised draft Eastern District Plan:

- Planning Priority E4 – Fostering healthy, creative, culturally rich and socially connected communities;
- Planning Priority E 21 – Protecting and enhancing scenic and cultural landscapes; and
- Action 13 – Facilitate opportunities for creative and artistic expression and participation, where ever feasible with minimum regulatory burden.

It is considered that the proposal is consistent with the revised draft Eastern District Plan and consistently satisfies the priorities of the Plan.

Local

Sustainable Sydney 2030

The planning proposal is consistent with Sustainable Sydney 2030 that underpins the vision for sustainable development of the City. The proposal outlines the amendment is consistent is particularly consistent with:

- Direction 5 – A lively and engaging City Centre
- Direction 6 – Vibrant local communities and economies
- Direction 7 – A cultural and creative City

Section 117(2) Ministerial Directions

The planning proposal is consistent with the following 117 Directions:

- 2.3 Environmental Heritage
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 5.1 Implementation of Regional Strategies
- 5.10 Implementation of Regional Plans
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 7.1 Site Specific Provisions

State Environmental Planning Policies

The planning proposal is consistent with the relevant state environmental planning policies (SEPPs) including:

- SEPP No. 1 – Development Standards
- SEPP No. 55 – Remediation of Land
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

SITE SPECIFIC ASSESSMENT

Social

The proposal will provide further opportunity to permit certain types of buildings that will add to the cultural life and enhancement of public places in the City, resulting in a positive public benefit.

Environmental

It is unlikely the proposal will result in development creating any environmental effects that cannot be readily controlled, as it is intended to facilitate development that is of low or negligible effect.

The planning proposal is considered unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

Economic

The proposal will permit playground equipment, sculptures and artworks, and community notice and public information signs located on public land, which will provide for economic benefits and activation within these public places and parks.

CONSULTATION

Community

Council have requested that a Gateway determination does not include a requirement for community consultation, on the basis that the planning proposal does not have any significant adverse impact on the environment in accordance with section 56(3) of the *Environmental Planning and Assessment Act 1979* (the Act).

It is acknowledged that the planning proposal proposes a minor amendment that may not have any obvious impacts, however, it is considered appropriate for the proposal to be publicly exhibited for a minimum of 2 weeks to allow the community to comment.

Agencies

No government agencies are to be consulted subject to the Gateway Determination.

TIMEFRAME

The proponent has proposed a timeframe of 3 months to complete the LEP. A timeframe of 6 months is considered appropriate and will account for any unforeseen circumstances.

DELEGATION

Council seeks to exercise delegation of the Greater Sydney Commission's plan making functions under Section 59 of the Act. Delegation is considered appropriate as the matter is of local significance.

CONCLUSION

The planning proposal is supported to proceed, subject to conditions outlined below. The planning proposal is considered to enhance the functioning and usability of the City of Sydney's public places.

RECOMMENDATION

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
2. No consultation is required with public authorities under section 56(2)(d) of the Act
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be **6 months** following the date of the Gateway determination.



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