

## Planning Services

### Gateway Determination Report

<b>LGA</b>	City of Sydney
<b>PPA</b>	City of Sydney
<b>NAME</b>	Serviced Apartments (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2016_SYDNE_010_00
<b>LEP TO BE AMENDED</b>	Sydney Local Environmental Plan 2012, Sydney Local Environmental Plan 2005, Sydney Local Environmental Plan (Green Square Town Centre) 2013 and Sydney Local Environmental Plan (Green Square Town Centre Stage 2) 2013.
<b>ADDRESS</b>	Whole LGA
<b>DESCRIPTION</b>	N/A
<b>RECEIVED</b>	24/01/2017. Additional information received 27 October 2017.
<b>FILE NO.</b>	IRF18/936
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The proposal seeks to ensure the *State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development* (SEPP 65) and the Apartment Design Guide (ADG) provisions apply to new serviced apartment development in the City of Sydney.

### Summary of recommendation

It is recommended that the planning proposal be supported to proceed with conditions. The proposal is consistent with Council's longstanding policy of applying SEPP 65 and ADG provisions to serviced apartments. The proposal will reduce barriers to residential conversion, as it seeks to ensure a comparable level of amenity to residential buildings so that any subsequent conversion of serviced apartments to permanent residential stock is not constrained by poor amenity.

## PROPOSAL

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### Objectives or intended outcomes

The objectives or intended outcome of the planning proposal is to ensure SEPP 65 and the Apartment Design Guide (ADG) apply to serviced apartments where sought for approval under:

- Sydney Local Environmental Plan 2012;
- Sydney Local Environmental Plan 2005;
- Sydney Local Environmental Plan (Green Square Town Centre) 2013; and
- Sydney Local Environmental Plan (Green Square Town Centre Stage 2) 2013.

### Explanation of provisions

The proposed outcome will be achieved by including a new local provision in each LEP that ensures SEPP 65 and the ADG standards apply to serviced apartments.

It is proposed to amend each LEP by inserting a new clause. Council has included a draft clause within the planning proposal as follows:

#### Serviced Apartments

*(1) The objective of this clause is to:*

*(a) ensure serviced apartments provide the same level of amenity as residential flat buildings; and*

*(b) prevent substandard residential accommodation occurring through the conversion of serviced apartments to residential flat buildings;*

*(2) This clause applies if development includes serviced apartments.*

*(3) Development consent must not be granted for a building or part of a building to be used for the purpose of serviced apartments unless the consent authority has considered the following:*

*(a) The design quality principles set out in Schedule 1 to State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development; and*

*(b) The design principles of the Apartment Design Guide (within the meaning of that Policy).*

It is recommended as a condition of Gateway to remove the example clause and include a plain English explanation of the intended planning outcomes.

### Mapping

The proposal does not seek to make any mapping amendments.

## NEED FOR THE PLANNING PROPOSAL

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The planning proposal is not a result of any strategic study or report.

A planning proposal is the best way to achieve the intended outcomes. The proposed serviced apartment provision will ensure new development for serviced apartments is afforded the same level of amenity as residential flat buildings.

Since 1996 Council has applied residential apartment amenity standards to serviced apartments through DCP provisions (Section 6, Central Sydney DCP 1996). These provisions ensure both high amenity standards for the proposed serviced apartment use and provide for future residents should the development be converted to residential apartment.

In 2002, SEPP 65 and the Residential Flat Design Code (RFDC) were introduced and in June 2015 amendments were made to SEPP 65 and a new Apartment Design Guide updated the former Code. Part 1 Clause 4 of SEPP 65 state that *unless a local environmental plan states otherwise, this Policy does not apply to a boarding house or serviced apartments.*

The Council's intent of the planning proposal is to ensure SEPP 65 and the Apartment Design Guide apply to serviced apartments, consistent with longstanding Council policy.

Since 2014, Council has received 17 applications for serviced apartments (including conversions) totalling 579 apartments. The most recent development application at 66-77 Epsom Road, Rosebery was approved in 17 March 2016 which sought to construct a 6 to 13 storey mixed use building containing 268 residential apartments and 49 serviced apartments. The application was assessed against Sydney DCP 2012.

The provisions under Section 4.4.8 of the Sydney DCP 2012 apply to serviced apartments including the conversion and alterations or additions.

An objective of this Section is to:

- (b) Ensure serviced apartment developments to provide a level of health and amenity for residents to ensure any future conversion to residential flats is not compromised by poor amenity.*

Additional controls include:

- (2) Serviced apartments are to be designed so that the level of residential amenity within each apartment is equivalent to the requirements of a residential flat development.*
- (4) Developments of more than 20 serviced apartments must provide the following mix of apartments:*
  - (a) studio and 1 bed apartments: 60% maximum; and*
  - (b) 2 or more bedroom apartments: 40% minimum.*

Where serviced apartments are to be converted to residential flats, the unit mix is to be compliant with controls for residential apartment buildings.

Also, a Plan of Management is required with the development application describing the operation and management of the serviced apartment.

Examples of approved development applications of serviced apartments provided by Council are all mixed-use development with a residential apartment component. The

Department notes that it will be difficult for a sole serviced apartment building to be fully compliant with SEPP 65 and the ADG, as it is very difficult to achieve compliance, such as solar access, at the lower levels of the building.

## **STRATEGIC ASSESSMENT**

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### **State**

The proposal does not address consistency with the Greater Sydney Region Plan.

The Greater Sydney Region Plan outlines the strategies to support the visitor economy. The visitor economy is one of the key economic sectors in the Eastern Harbour City. Strong growth in the visitor economy interacts with all facets of the District including business, leisure and visiting friends and family. The planning proposal is consistent with Strategy 24.2 in encouraging the development of a range of well designed and located facilities when preparing plans for tourism and visitation.

It is recommended as a condition of Gateway that the planning proposal be updated to demonstrate consistency with the Greater Sydney Region Plan.

### **District**

The proposal does not address consistency with the Eastern City District Plan.

City of Sydney is part of the Eastern City District. The Eastern City District Plan states that the Harbour CBD has a strong cultural, arts and entertainment focus, attracting 8 million domestic and international visitors in 2016.

The proposal is consistent with Planning Priority E13 Supporting Growth of Targeted Industry Sectors which prompts councils to consider opportunities to enhance the tourist and visitor economy in the District, including a coordinated approach to tourism activities, events and accommodation. The application of SEPP 65 provisions to new serviced apartment developments ensures high quality development that will enhance the role of the Eastern City as one of the world's premier tourism destination.

It is recommended as a condition of Gateway that the planning proposal be updated to demonstrate consistency with the Eastern City District Plan.

### **Local**

The proposal is consistent with Council's Sustainable Sydney 2030 Community Plan, particularly:

- Direction 8 - Housing for a Diverse Population - By requiring the same development standards as residential apartments, conversions of serviced apartments will need to consider the design principles such as diversity and adaptability.

### **Section 9.1 Ministerial Directions**

The proposal is consistent with the following Section 9.1 Ministerial Directions:

- 2.3 Heritage Conservation
- 4.3 Flood Prone Land
- 6.1 Approval and Referral Requirements

- 6.2 Reserving Land for Public Purposes
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

### **State environmental planning policies**

The proposal is consistent and will not contradict or hinder the application of the following SEPPs:

- SEPP No 1—Development Standards
- SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)
- SEPP No 55 - Remediation of Land
- SEPP No 64 – Advertising and Signage
- SEPP No 65 – Design Quality of Residential Flat Development
- SEPP No 70 – Affordable Housing (Revised Schemes)
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP (State Significant Precincts) 2005
- SEPP (Infrastructure) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Affordable Rental Housing) 2009
- SEPP (State and Regional Development) 2011
- Sydney REP (Sydney Harbour Catchment) 2005

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

The proposal ensures that serviced apartments are subject to the design quality and amenity considerations of residential apartments provided through SEPP 65 and the ADG. Should a future development application propose the conversion of serviced apartments to permanent residential stock they would not be constrained by poor amenity.

### **Environmental**

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

The proactive approach sought through the planning proposal promotes sustainability by reducing unnecessary resource wastage caused by retrofitting serviced apartments for residential apartments. Design improvements may also reduce the need for mechanical ventilation and lighting, through cross ventilation and improved solar access.

### **Economic**

Council suggests that by applying SEPP 65 and the ADG guidelines to serviced apartments at the development application stage, the economic longevity of a

building is increased as the amenity of future occupants, whether as serviced apartments and permanent residences, has already been considered.

The planning proposal includes analysis of alternative options considered by Council including the following:

- Applying SEPP 65 and ADG only to strata subdivided serviced apartments,
- Require only when application to convert is lodged,
- Restrict subdivision and or conversions through a covenant or condition of consent, and
- Adopt similar provisions in other LEPs, which require amenity consideration to existing serviced apartments.

Council is of the view these options were seen to provide a substandard outcome, as they would result in significant retrofitting of existing buildings or add unnecessary delays to the approval process. A proactive approach is favoured by Council which requires design consideration at the initial development application stage.

It is acknowledged that City of Sydney Council's approach seeks to reduce barriers to serviced apartment conversions, which can lead to costly and time consuming non-compliant uses and uncertainty for investors and apartment owners. However, the options considered by Council assume that serviced apartments will be converted to apartments at a future date and that requiring residential design guidelines is a broad solution.

It is likely that not all serviced apartment providers will seek to convert to residential, which may increase both design and construction costs for these providers, without justification. Based on these concerns, the Department commissioned an independent review of the planning proposal prepared by SGS Economic and Planning (**Attachment E**).

#### Independent Analysis

SGS Economics and Planning recommended more rigorous analysis of the impacts of applying SEPP 65 and the ADG to serviced apartment developments would be required to inform the planning proposal. A Cost Benefit Analysis or similar methodology, including multiple case study comparisons, is recommended to determine the extent to which the application of design and amenity provisions would differ from existing design and construction practice.

Council's analysis should include a 'base case' where SEPP 65 and the ADG do not apply to serviced apartment developments and no apartments are converted to residential, and at least 3 project case scenarios. Scenarios could include, but are not limited to:

- SEPP 65 and ADG do not apply to serviced apartment developments and 50% 'convert' to residential apartments;
- SEPP 65 and ADG apply to serviced apartment developments and no serviced apartments are 'converted' to residential apartments; and
- SEPP 65 and ADG apply to serviced apartment developments and 50% are 'converted' to residential apartments.

In September 2017, the Department requested further information from Council to address the matters identified in the independent analysis (**Attachment F**). Council responded, with further justification for the merits of the planning proposal, but did not include a cost benefit analysis or similar analysis of the proposed provision as requested by the Department (**Attachment G**). Council states that a Cost Benefit Analysis would be a useful tool if there was a policy change, however the proposal does not include a Policy change. Council has applied their longstanding DCP controls which require serviced apartments to meet residential standards to serviced apartments applications for the last 20 years.

### **Infrastructure**

The proposal does not increase the need for infrastructure.

## **CONSULTATION**

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### **Community**

Public consultation will be undertaken in accordance with the Gateway determination. Council suggests an exhibition period of 28 days, which is considered adequate.

The Department recommends that consultation be required with major serviced apartments providers and all serviced apartment owners in the City of Sydney Local Government Area. This is to ensure all stakeholders are consulted with and have the opportunity to provide comments to the planning proposal.

### **Agencies**

No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act.

## **TIME FRAME**

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Council has provided an indicative project timeline. The Department considers a 12 month project timeline for completion is adequate.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be authorised as the local plan-making authority for this amendment. Given the nature of Council's planning proposal and the potential implications it has on State Policy it is recommended that Council not be given the authorisation to the local plan-making authority.

## **CONCLUSION**

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The planning proposal is supported and recommended to proceed with conditions. The proposal is consistent with Council's longstanding policy requiring serviced apartments to have the same amenity standards as residential apartments. The proposed provisions will provide clarity on how serviced apartments are assessed and remove barriers to conversion which may lead to non-compliant uses. However, the Department understands that not all serviced apartment providers will seek to convert to residential and that the proposed provision may increase both design and construction costs for these providers. For this reason, it is recommended that Council consult with major serviced apartments providers and all owners of serviced apartments.

## RECOMMENDATION

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

1. Prior to community consultation the planning proposal is to be amended to:
  - (a) demonstrate consistency with the Greater Sydney Region Plan and Eastern City District Plan;
  - (b) update the project timeline; and
  - (c) remove the example clause and include a plain English explanation of the intended planning outcomes.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. All owners of serviced apartments and major serviced apartments providers in City of Sydney Local Government Area are to be given notice of the proposal and public exhibition.
4. No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act.
5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.

Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



5/06/2018

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