

Planning Proposal – Dwelling Retention



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Executive summary

The City of Sydney Local Housing Strategy adopted in February 2020 anticipates an additional 56,000 dwellings to be built by 2036. The housing affordability challenges being experienced across Australia is placing increased pressure on local government to find ways to increase housing supply. It is anticipated that housing targets will be increased further as part of reviews of the Greater Cities Commission's strategic plans.

The City of Sydney (the City) has seen some reduction of dwellings due to the redevelopment of existing residential flat buildings, particularly towards the eastern suburbs. This occurs through the consolidation of two apartments into one, replacement of residential flat buildings with a single dwelling house or the speculative redevelopment of a large residential flat building containing smaller apartments into a development containing significantly fewer, larger apartments. This is leading to a reduction in the diversity of housing in parts of the local government area.

A review of dwelling loss was initiated in response to Council resolution on 18 September 2023. The resolution acknowledged that despite housing supply issues, there have been reports that developers are redeveloping multi-dwelling apartment buildings that have traditionally been affordable due to their age and size to make way for fewer apartments. It also noted that Waverley and Woollahra Councils are currently experiencing similar issues and are considering new planning controls to respond to this issue. The resolution requires the City to investigate preparing a planning proposal to protect against the net reduction of dwellings on a development site.

Over six years, since the start of 2018, there have been 25 development applications (DAs) in the City approved by either Council or the Land and Environment Court, resulting in the loss of 65 dwellings (as at May 2024). They vary in nature and scale with:

- 17 DAs merging two apartments into one;
- one DA merging three apartments into one;
- two DAs consolidating residential flat buildings into dwelling houses; and
- four DAs redeveloping residential flat buildings, reducing the number of dwellings.

Currently (as at May 2024), there are eight development applications under assessment that propose a reduction of a total of 143 dwellings. Notably these all involve large-scale redevelopment of residential flat buildings of between 7 and 80 apartments and continue to be concentrated in the City's east.

In response to this ongoing loss of dwellings and diversity of housing supply, this planning proposal introduces a new development standard to be inserted into the Sydney Local Environmental Plan 2012 (LEP) that limits the reduction in the number of dwellings through redevelopment of buildings that contain dwellings. This is to ensure that development does not significantly reduce the diversity of dwellings available particularly for smaller and more affordable apartment sizes.

Objectives and intended outcomes

The objective of this planning proposal is to amend Sydney LEP 2012 to minimise the loss of housing diversity through the redevelopment of existing dwellings. It will be applied across the City by introducing a 'Local Provision' in Part 6 of Sydney Local Environmental Plan 2012. The intended outcomes are to:

- Support housing diversity and affordability by discouraging the replacement of smaller apartments with fewer large apartments.
- Maintain and grow housing supply in the City, and
- Maintain residential densities close to amenities and public transport.

Explanation of provisions

The proposed provision:

- Is a new 'Local Provision' in Part 6 of Sydney LEP 2012 that applies across the entire City of Sydney LGA
- Applies to both development applications and applications to modify development consent, for alterations and additions or demolition of a residential flat building or a mixed use building that contains three or more dwellings.
- Has an objective that seeks to minimise the loss of dwelling diversity resulting from the consolidation of existing dwellings or the demolition of existing dwellings for the construction of new dwellings.
- Does not allow the consent authority to approve development which results in a reduction in the number of dwellings unless that reduction does not exceed the greater of one dwelling or 15 per cent of dwellings in the existing development.
- Does not apply to the conversion of residential floor space to a non-residential floor space. However, the provision is to apply to any residential floor space that will continue to be used for residential purposes in the development.
- Clause 4.6 will apply to this clause.

Savings and transitional provisions are proposed to be introduced by applying a new subclause in Clause 1.8A of Sydney LEP 2012 to the proposed provision. The subclause is to replicate Clause 1.8A(5), but apply to this new local provision. The effect of the subclause is to ensure this local provision would not apply to:

- development applications or concept development applications made but not finally determined and;
- development applications lodged after these amendments come into effect, that relate to a concept development application approved before the commencement of these amendments.

The drafting instructions to amend the Sydney LEP 2012 are provided as an appendix to this planning proposal.

A detailed explanation of provisions is also provided as an appendix to this planning proposal.

2.1. Introduce a development standard to minimise the loss of housing stock

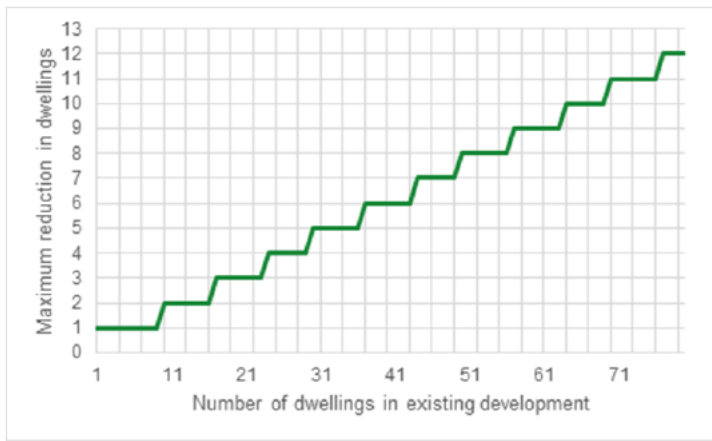
The proposed LEP clause will minimise the loss of diverse housing stock resulting from the consolidation of existing dwellings, or the demolition of existing dwellings for the construction of new dwellings, across the City.

The clause includes a development standard which limits the loss of housing stock through redevelopment of existing residential flat buildings or mixed-use developments to one dwelling or 15 per cent of dwellings, whichever is the greater. The 15 per cent is rounded to the nearest whole number.

The figure below illustrates the maximum loss of dwellings through redevelopment of existing buildings under the proposed clause. In practice, loss of dwellings through redevelopment of existing buildings containing up to nine dwellings would be capped to one dwelling. This minimises the cumulative impact of loss of housing diversity through smaller-scale redevelopments while also maintaining flexibility by allowing for the occasional merging of two dwellings into one.

Figure 1. Maximum loss of dwellings under the proposed clause

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2.2 Rationale for applying a 15% maximum rate of dwelling reduction

A tipping point analysis was undertaken to determine the appropriate maximum rate of dwelling reduction that should be permitted under the clause. The analysis applies rates of five, 10, and 15 per cent against recent development application examples. Figure 2 below illustrates how these rates influence the maximum allowable loss of dwellings.

Figure 2. Impact of applying different maximum rates

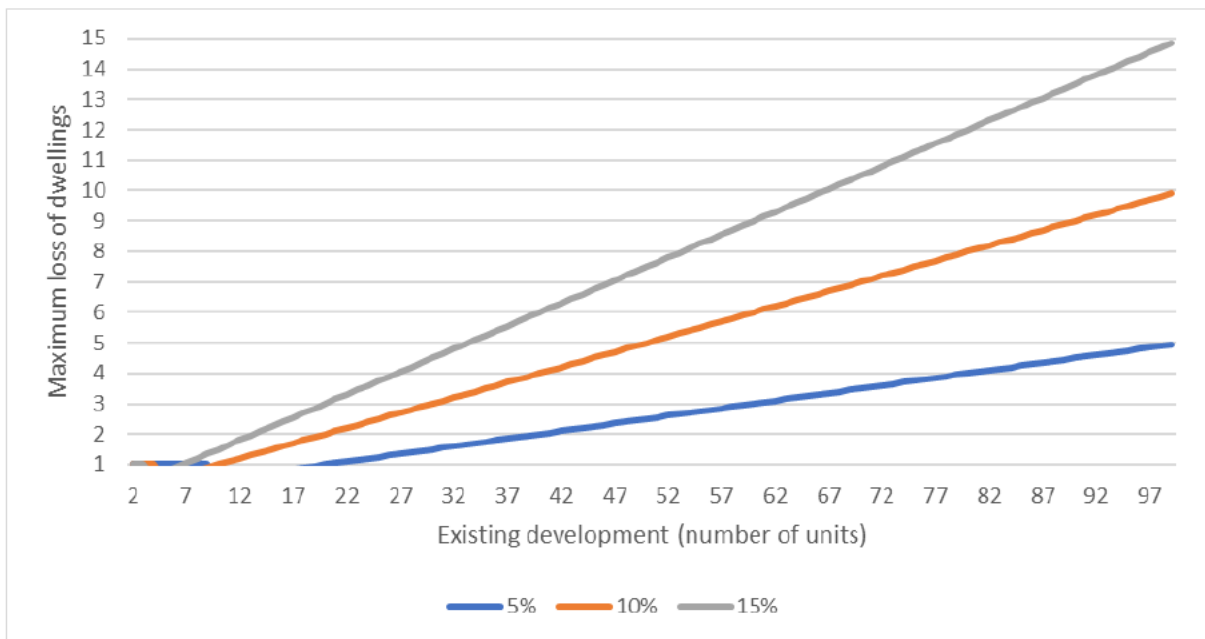


Figure 2 shows that where a five percent maximum would be applied, dwelling loss is limited to one dwelling for existing developments with up to 29 dwellings. Where a 15 per cent maximum is applied, dwelling loss is limited to one dwelling for existing developments with up to 10 units. This minimum allowance supports limited circumstances where an owner of two apartments may seek to combine them.

Considerations that formed part of the tipping point analysis are outlined below:

- Minimum of 20 per cent 3 bedroom units:** The tipping point analysis also tested whether a development can achieve a 20 per cent minimum dwelling mix for three or more bedroom apartments. The 20 per cent minimum dwelling mix is proposed to be introduced into Sydney DCP 2012 as part of the City's Policy and Housekeeping Planning Proposal and draft DCP, that is expected to be publicly exhibited later in 2024. This requirement aligns with broader goals for housing diversity by ensuring adequate provision for different household sizes. If it comes into effect, a development application would need to comply with this requirement as well as any future dwelling retention rate.

- *Six real scenarios tested:* The tipping point analysis was applied to six scenarios based on real development applications in the City of Sydney. The characteristics of these scenarios are summarised below:
 - proposed loss of dwellings ranged from 18 to 70 per cent;
 - three scenarios comprised entirely of studio apartments; and
 - average apartment size increased from around 300 to 450 per cent.
- *Examples involved creation of new floor space:* Usually, the redevelopment of existing unit blocks occur where the floor space ratio control has not been fully utilised. This is reflected in the six scenarios, where each development application proposed to increase gross floor area by 18 to 166 per cent. Generally, it's easier to minimise dwelling loss when there's a bigger increase in gross floor area.
- *New units meet minimum apartment size:* It is more difficult to maintain a mix of dwelling sizes while minimising dwelling loss when the average apartment size in the existing development is lower. As part of this analysis, apartments had to meet minimum internal area standards: 35 square metres for studios, 50 square metres for 1-bedroom units, 70 square metres for 2-bedroom units, and 90 square metres for 3-bedroom units.

The tipping point analysis started with the most restrictive dwelling retention rule of 5 per cent and gradually relaxed it until all six development scenarios could meet the rule while still providing a mix of dwelling sizes for different households. The results are summarised below:

- Applying a maximum reduction of dwellings of five and 10 per cent was unable to achieve the required dwelling mix in two of the six scenarios. This was due to the average apartment size of the existing developments being between 32 and 34 sqm, which is below the minimum apartment size of 35 square metres, a minimum requirement for the tipping point analysis.
- Applying a maximum reduction of dwellings of 15 per cent was able to achieve the required dwelling mix across all scenarios.

The intention of the tipping point analysis is to reach a percentage that maximises retention of dwellings while also achieving a diverse mix of dwelling sizes. At 15 per cent, this has been achieved. By going beyond 15 per cent, while this can achieve a diverse mix of dwelling sizes it leads to an increasingly unacceptable reduction on housing supply.

2.3. Does zoning trigger consideration of the provision?

Zoning of a site does not affect the applicability of the provision. Applicability of the provision is triggered by existing land-use. The provision applies to sites currently containing residential floor space, irrespective of whether it is stand-alone residential or mixed-use, or is proposed to contain a mix of residential and non-residential uses. In such cases, the resulting development would be required to retain a specific number of dwellings, determined by the number of dwellings in the existing development. This ensures that regardless of zoning, developments must maintain a certain level of residential housing, reflecting the existing composition of the site.

2.4. Allow flexibility for non-residential development

The development standard will not apply to any residential floor space that is to be converted to a non-residential use. This is to provide flexibility for the ongoing provision of services and businesses, particularly in mixed use and local centre zones, and to avoid those zones transforming to residential only precincts over time.

Where a mixed use development is proposed, the restriction on the loss of dwellings will apply to the residential floor space that is not being converted to a non-residential use.

For example, a proposal to halve the number of dwellings in a residential flat building containing 20 dwellings just because a ground floor unit is being converted to a shop would not be approved. The number of dwellings in the remaining residential floor space could not be reduced by more than one or 15 per cent of the dwellings occupying that floor space.

2.5. Allow for exceptional circumstances

The drafting of this clause as a numerical development standard enables the use of Clause 4.6 where the proponent can demonstrate sufficient planning grounds to justify contravening the development standard. One example of where this may be required is where a heritage item is being reinstated to its original layout for form.

There may also be scenarios where constraints around the built form mean application of this clause would conflict with the need to align with other planning controls in Sydney LEP 2012 and Sydney DCP 2012 and the apartment design guide in general.

2.6. No impact on floor space

This clause does not have an impact on permissible floor space for residential development. If a redevelopment of a residential flat building is able to achieve a higher gross floor area than the existing built form on the site, the clause only applies to the existing number of units, meaning that the developer has the option of building to the minimum number of units allowed under this clause, while also building within a much larger building envelope.

In such a circumstance it would still be possible to increase the average apartment size within the new development while maintaining or increasing the number of dwellings.

2.7. Application of dwelling retention provision: different scenarios and development types

The following worked examples show how the provision described in the planning proposal would apply to different scenarios and development types including:

- residential flat buildings;
- where there is a non-residential component; and
- where residential floor space is converted to non-residential floor space.

The proposed provision is easy to apply to scenarios where residential floor space is proposed to stay the same or increase irrespective of its composition with non-residential uses. This is where the 15 per cent rule is used to determine maximum dwelling loss. In all examples below, regardless of the composition of residential to non-residential uses, the residential floor space stays the same or increases.

Example 1: Conversion of residential flat building to residential flat building

Existing Situation: 100 apartments within 4000 sqm.

Proposed Conversion: Reduction to 85 units with an increased gross floor area of 5,000 sqm.

Compliance Assessment: The proposed conversion meets the requirement, ensuring that the reduction in dwellings does not exceed the allowable 15 per cent under the provision.

Example 2: Conversion from residential flat building to mixed-use development

Existing Situation: 100 apartments within 4000 sqm.

Proposed Conversion: 4500 sqm residential containing 85 units plus 500 sqm ground floor retail.

Compliance Assessment: The reduction to 85 units complies with the provision. The addition of retail does not affect the allowable reduction in dwellings.

Example 3: Conversion of mixed-use development to residential flat building

Existing Situation: 2500 sqm residential containing 50 apartments and 500 sqm retail.

Proposed Conversion: 43 units within 5000 sqm, no non-residential floor space.

Compliance Assessment: The reduction to 43 units complies with the provision. No new non-residential components are introduced.

Example 4: Conversion of mixed-use development to mixed-use development (reduced units)

Existing Situation: Mixed-use development with 50 units, comprising residential and retail space. Residential area: 2500 sqm. Retail area: 500 sqm.

Proposed Conversion: Reduction to 43 units with 4500 sqm residential area and 500 sqm retail.

Compliance Assessment: The reduction to 43 units complies with the provision, ensuring that the reduction in dwellings does not exceed the allowable 15%.

Example 5: Conversion of Mixed-Use with reduced residential floor space

Example 5 illustrates a mixed-use development with 50 units, consisting of 2,000 sqm residential area and 1,000 sqm retail space. As a result of the proposed redevelopment, there is no change to floor space, however 2,000 sqm will be allocated to retail and residential floor space will be halved to 1,000 sqm. The proposed number of units is also proposed to fall to 22 units.

The proposed clause allows the loss of dwellings up to a maximum of 15% of existing units, but exceptions allow conversion of residential space to non-residential use. Despite exceeding the 15% limit, due to reallocating residential space for retail, development consent can still be granted under this provision.

The method of calculating maximum loss of dwellings is shown below:

- Step 1: Adjust the number of units affected by the provision based on the loss in residential floor space. As the residential floor space is halved ($1000/2000 = 50\%$), the dwelling retention rule applies to 25 units.
- Step 2: Apply the dwelling retention rule to the 25 units. The maximum allowable loss is 4 units.
- Step 3: Determine if the maximum loss exceeds the number of units below 25. With proposed units reduced to 22 (3 lower than 25), the proposal complies.

Justification

Evidence base behind development standard

The City is meeting its housing targets set out by the Department of Planning and Environment. The need to provide additional housing is exacerbated by the current housing supply shortage. The loss of dwellings in the eastern part of the City is making it more challenging to deliver additional housing supply.

Nine development applications are currently under consideration as at November 2023 involving the loss of 124 dwellings, concentrated in the eastern area of the LGA. In addition to this, at least 63 dwellings have been lost since the start of 2018, across the City due to this type of development again, mostly concentrated in the east.

The majority of these lost dwellings involve the redevelopment of residential flat buildings containing relatively affordable studios and one-bedroom apartments with larger apartments.

The City aims to ensure that the overall supply of housing will not be compromised by developments involving a net loss while also allowing for renewal of older building stock.

A detailed justification for the development standard is provided as an appendix to this planning proposal.

Background

Based on recent development applications received, the City's eastern suburbs, including Potts Point, Rushcutters Bay and Elizabeth Bay, have seen the development of larger apartments developments have been at the expense of smaller and more affordable studio and one bedroom apartments.

The area has historically been popular to live in, given its proximity to Central Sydney, the harbour and to amenities and public transport. The housing stock has been dominated by less-expensive smaller studios or one bedroom apartments which has allowed the area to remain relatively affordable to those on lower incomes.

Due to the attractiveness of the area and the lack of larger apartments, there has been increased speculative activity in the area, with existing residential flat buildings being targeted for redevelopment, often replacing affordable smaller apartments with fewer, larger apartments. This has a detrimental impact on the availability of smaller and more affordable dwellings.

Scenario analysis – with and without the proposed clause

A scenario analysis was developed, using six development applications, recently approved or currently under assessment in the eastern part of the City. They contain between 12 and 80 apartments with average apartment sizes of 32 to 95 square metres.

Table 1. Recent development applications

| Example | 1 | 2 | 3 | 4 | 5 | 6 |
|--------------------------------------|------|------|------|------|------|------|
| Existing residential floor area (m2) | 2592 | 2928 | 804 | 432 | 1306 | 1938 |
| Proposed residential floor area | 3717 | 3456 | 1331 | 1149 | 1580 | 3758 |

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| Example | 1 | 2 | 3 | 4 | 5 | 6 |
|--|-----|-----|-----|-----|-----|-----|
| Existing average apartment size (m2) | 32 | 95 | 34 | 36 | 82 | 42 |
| Average dwelling size without net dwelling loss clause (m2) | 133 | 384 | 133 | 192 | 122 | 171 |
| Average dwelling size with dwelling loss clause (m2) | 55 | 133 | 67 | 115 | 113 | 96 |
| Existing number of dwellings | 80 | 31 | 24 | 12 | 16 | 46 |
| Proposed number of dwellings without net dwelling loss clause | 28 | 9 | 10 | 6 | 13 | 22 |
| Proportion of dwellings lost (%) | 65 | 71 | 58 | 50 | 19 | 52 |
| Proposed minimum number of dwellings with net dwelling loss clause | 68 | 26 | 20 | 10 | 14 | 39 |

Table 1 shows six recent examples of development applications received by the City relating to the redevelopment of residential flat buildings that result in a net reduction in the number of dwellings. They propose increases in the total residential floor area of between 18 and 166 per cent, and a reduction in the number of dwellings of between 19 and 71 per cent. Across these examples, it is a net dwelling loss of 121 dwellings.

The types of apartments currently being lost are smaller, unlikely to be replaced and are relatively affordable. Average existing apartment sizes in four of the above examples range from 32 to 42 square metres and are being replaced with apartments averaging 133 to 192 square metres. In contrast, developments under this proposed clause would result in average apartment sizes that are larger than existing but smaller than proposed in the example development applications. This will ensure that dwelling diversity can be maintained and that redevelopment of apartment buildings maintains smaller apartments while still offering the opportunity to provide some larger dwellings in a redeveloped building.

The potential for additional gross floor area and the ability to reduce the number of dwellings by 15 per cent means diversity and minimum amenity standards can still be achieved. This is particularly important where existing buildings exclusively consist of studio apartments, sometimes with average apartment sizes below 35 square metres.

Allowing flexibility

The drafting of the clause as a numerical development standard enables the use of Clause 4.6 variations.

The nature of development that this clause applies to may require some flexibility. There may be rare instances where a residential flat building may be proposed for redevelopment where the

apartment sizes are too small to enable a redevelopment that is appropriate for current minimum design standards.

Matters for consideration

This section provides a response to the 'matters for consideration' described in Table 3 of the Local Environmental Plan Making Guideline, published by the Department of Planning and Environment in August 2023, that are to be taken into account when describing, evaluating and justifying a planning proposal.

Section A – Need for the planning proposal

Is the planning proposal a result of an endorsed LSPS, strategic study or report?

Yes, this planning proposal aims to give effect to Priority L3 of the City of Sydney Local Strategic Planning Statement. The LSPS acknowledges that as infill development opportunities shrink, and urban renewal areas are built out, there is less opportunity to build more homes in the area. It acknowledged the need to retain and attract residents on lower incomes. This is more difficult when well-located, smaller and relatively affordable dwellings are lost in redevelopment.

Specifically, it gives effect to Action L3.2 to ensure that the dwelling mix supports a diverse community.

The planning proposal gives effect to the LSPS by ensuring that development does not reduce housing stock while also responding to the need to retain and attract residents on lower incomes.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Without a change to the planning controls the market is expected to continue reducing the number of dwellings on sites with a continuing loss of smaller and relatively affordable well-located dwelling units.

Section B - Relationship to the strategic planning framework

Will the planning proposal give effect to the objectives and action of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

A Metropolis of Three Cities – the Greater Sydney Region Plan

A Metropolis of Three Cities – the Greater Sydney Region Plan is the NSW Government's overarching strategic document for growth and change in Sydney. The 20 year plan with a 40 year vision seeks to transform Sydney into a metropolis of three cities being the Western Parkland City, the Central River City and the Eastern Harbour City. The City of Sydney LGA is positioned within the Eastern Harbour City.

The plan identifies key challenges facing Sydney including a population increase to eight million by 2056, 817,000 new jobs by 2036 and a requirement for 725,000 new homes.

The plan aspires to deliver the following outcomes:

- liveability – enhancing cultural and housing diversity and designing places for people;
- productivity – developing a more accessible and walkable city and creating conditions for a stronger economy;
- sustainability – valuing green spaces and landscape, improving efficiency of resources and creating a resilient City; and
- infrastructure – ensuring infrastructure supports new developments and governments, community and businesses collaborate to realise the benefits of growth.

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To achieve the vision, the plan proposes 10 directions, 40 objectives and associated strategies. This planning proposal is consistent with the following objectives of the Greater Sydney Region Plan:

- Objective 10: Greater Housing Supply – the Plan identifies housing targets for the Eastern City, which the City forms part of. The planning proposal directly responds to this by ensuring that development does not result in a reduction in housing supply.
- Objective 11: Housing is more diverse and affordable – this planning proposal directly responds to the rental and purchasing affordability challenges identified in the Plan including the limited availability of smaller dwellings to meet the growing proportion of small households as well as the growing distance between areas where housing is affordable and the location of employment and education opportunities.

Eastern City District Plan

The Greater Sydney Commission released the District Plans for the Greater Sydney Metropolitan Region in March 2018. The District Plans set out how A Metropolis of Three Cities – the Greater Sydney Region Plan applies to local areas. The City of Sydney is in the Eastern City District.

The district plan has set a 20-year strategic target for housing and employment growth within the district, including a 2036 target of 157,500 dwellings and a short-term (5 years) housing target of 46,550 new dwellings. In the City of Sydney LGA, 18,300 dwellings are to be delivered.

This planning proposal is consistent with the following planning priorities of the Eastern City District Plan

- Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport This planning proposal gives effect to this priority by ensuring that development does not result in a reduction in housing supply and diversity.

Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Sustainable Sydney 2030-2050 “Continuing the Vision”

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:

Direction 10 – Housing for all, including:

- Objective 10.4 Every neighbourhood has a mix of housing accommodating diverse and growing communities. It sets the goal that by 2036 there will be 156,000 private dwellings and 17,500 non-private dwellings.

City Plan 2036 - Local Strategic Planning Statement

The City of Sydney Local Strategic Planning Statement (planning statement), adopted by Council in February 2020, sets out the land use planning context, 20-year vision and planning priorities to positively guide change towards the City’s vision for a green, global and connected city. The planning statement explains how the planning system will manage that change to achieve the desired outcomes and guides future changes to controls.

In giving effect to the planning statement, this planning proposal delivers on Priority L3 - New homes for a diverse community and Action L3.2 to increase the mix of dwelling types.

Is the planning proposal consistent with any other applicable State and regional studies or strategies?

Not applicable

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Is the planning proposal consistent with the applicable State Environmental Planning Policies?

This planning proposal is consistent with all applicable State Environmental Planning Policies (SEPPs) and Regional Environmental Plans (REPs), as summarised in Table 1.

| State Environmental Planning Policy | Comment |
|---|--|
| State Environmental Planning Policy (Biodiversity and Conservation) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| State Environmental Planning Policy (Housing) 2021 | Consistent – the amendments in this planning proposal will continue to support the delivery of diverse housing types, consistent with the principles of this SEPP. |
| State Environmental Planning Policy (Industry and Employment) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development | Not applicable. |
| State Environmental Planning Policy (Planning Systems) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| State Environmental Planning Policy (Precincts—Central River City) 2021 | Not applicable to this proposal |
| State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| State Environmental Planning Policy (Precincts—Regional) 2021 | Not applicable to this proposal |
| State Environmental Planning Policy (Precincts—Western Parkland City) 2021 | Not applicable to this proposal |
| State Environmental Planning Policy (Primary Production) 2021 | Not applicable to this proposal |
| State Environmental Planning Policy (Resilience and Hazards) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |

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| State Environmental Planning Policy | Comment |
|---|---|
| State Environmental Planning Policy (Resources and Energy) 2021 | Not applicable. |
| State Environmental Planning Policy (Sustainable Buildings) 2022 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| State Environmental Planning Policy (Transport and Infrastructure) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |

Table 2 Consistency with Ministerial Directions

Is the planning proposal consistent with applicable Section 9.1 Ministerial Directions?

This planning proposal is consistent with all Ministerial Directions issued under section 9.1 of the Environmental Planning and Assessment Act 1979, as summarised in Table 2.

| Ministerial Direction | Comment |
|---|--|
| Focus area 1: Planning Systems | |
| 1.1 Implementation of Regional Plans | Consistent. This planning proposal supports the Region Plan, as discussed in detail under question 3 (above) of this planning proposal. |
| 1.2 Development of Aboriginal Land Council land | Not applicable |
| 1.3 Approval and Referral Requirements | Consistent. This planning proposal does not include concurrence, consultation or referral provisions or identify any developments as designated development. |
| 1.4 Site Specific Provisions | Not applicable as the planning proposal does not apply to a particular development to be carried out. |
| 1.4A Exclusion of Development Standards from Variation | Consistent. This planning proposal does not propose to exclude the development standard from the operation of clause 4.6. |
| Focus area 1: Planning Systems – Place-based | |
| 1.5 Parramatta Road Corridor Urban Transformation Strategy | Not applicable |
| 1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan | Not applicable |

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| Ministerial Direction | Comment |
|---|---|
| 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable |
| 1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable |
| 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor | Not applicable |
| 1.10 Implementation of the Western Sydney Aerotropolis Plan | Not applicable |
| 1.11 Implementation of Bayside West Precincts 2036 Plan | Not applicable |
| 1.12 Implementation of Planning Principles for the Cooks Cove Precinct | Not applicable |
| 1.13 Implementation of St Leonards and Crows Nest 2036 Plan | Not applicable |
| 1.14 Implementation of Greater Macarthur 2040 | Not applicable |
| 1.15 Implementation of the Pyrmont Peninsula Place Strategy | Consistent. This Planning proposal does not hinder the application of the Pyrmont Peninsula Place Strategy. |
| 1.16 North West Rail Link Corridor Strategy | Not applicable |
| 1.17 Implementation of the Bays West Place Strategy | Not applicable |
| 1.18 Implementation of the Macquarie Park Innovation Precinct | Not applicable |
| 1.19 Implementation of the Westmead Place Strategy | Not applicable |
| 1.20 Implementation of the Camellia-Rosehill Place Strategy | Not applicable |
| 1.21 Implementation of South West Growth Area Structure Plan | Not applicable |
| 1.22 Implementation of the Cherrybrook Station Place Strategy | Not applicable |
| Focus area 2: Design and Place | No directions in place |
| Focus area 3: Biodiversity and Conservation | |

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| Ministerial Direction | Comment |
|---|--|
| 3.1 Conservation Zones | This planning proposal is consistent |
| 3.2 Heritage Conservation | <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>This planning proposal is consistent with this direction because it does not change existing provisions that facilitate conservation.</p> |
| 3.3 Sydney Drinking Water Catchments | Not applicable |
| 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs | Not applicable |
| 3.5 Recreation Vehicle Areas | Not applicable |
| 3.6 Strategic Conservation Planning | Not applicable |
| 3.7 Public Bushland | Consistent. This planning proposal does not affect public bushland. |
| 3.8 Willandra Lakes Region | Not applicable |
| 3.9 Sydney Harbour Foreshores and Waterways Area | Consistent. The proposed amendments do not affect the Sydney Harbour Foreshores and Waterways Area. |
| 3.10 Water Catchment Protection | Not applicable. |
| Focus area 4: Resilience and Hazards | |
| 4.1 Flooding | Consistent. The proposed amendments does not rezone any land within a flood planning area. |
| 4.2 Coastal Management | <p>Consistent. The planning proposal applies to land within the coastal zone, however this change does not rezone land nor does it enable increased development or more intense land-use.</p> <p>It is consistent with all relevant Acts, manuals, guidelines and plans identified in Ministerial Direction 4.2.</p> |
| 4.3 Planning for Bushfire Protection | Not applicable |
| 4.4 Remediation of Contaminated Land | Consistent. The proposed amendments do not change the zoning of any land. |

| Ministerial Direction | Comment |
|--|--|
| 4.5 Acid Sulfate Soils | Consistent. The proposed amendments do not hinder the acid sulfate soil provisions in Sydney LEP 2012 |
| 4.6 Mine Subsidence and Unstable Land | Not applicable |
| Focus area 5: Transport and Infrastructure | |
| 5.1 Integrating Land Use and Transport | Consistent. This planning proposal supports this direction by ensuring dwelling density is maintained in areas well serviced by public transport and within close walking distance to services. |
| 5.2 Reserving Land for Public Purposes | Not applicable |
| 5.3 Development Near Regulated Airports and Defence Airfields | Consistent. The proposed amendments will not adversely impact the safe and effective operation of nearby airports nor constitute an obstruction and potential hazard to aircraft flying in the vicinity. |
| 5.4 Shooting Ranges | Not applicable |
| Focus area 6: Housing | |
| 6.1 Residential Zones | Consistent. See discussion below. |
| 6.2 Caravan Parks and Manufactured Home Estates | Not applicable. |
| Focus area 7: Industry and Employment | |
| 7.1 Employment Zones | This planning proposal is consistent. It does not make changes to zoning or reduce the total potential floor space area for employment uses and related public services. |
| 7.2 Reduction in non-hosted short-term rental accommodation period | Not applicable |
| 7.3 Commercial and Retail Development along the Pacific Highway, North Coast | Not applicable |
| Focus area 8: Resources and Energy | |
| 8.1 Mining, Petroleum Production and Extractive Industries | Not applicable |
| Focus area 9: Primary Production | |

| Ministerial Direction | Comment |
|--|----------------|
| 9.1 Rural Zones | Not applicable |
| 9.2 Rural Lands | Not applicable |
| 9.3 Oyster Aquaculture | Not applicable |
| 9.4 Farmland of State and Regional Significance on the NSW Far North Coast | Not applicable |

Table 2 Consistency with Ministerial Directions

Housing Diversity

This Direction seeks to encourage housing diversity to address future needs that minimises adverse environmental impacts and makes efficient use of existing infrastructure. It lists matters that the planning proposal must include. Matters relevant to this planning proposal include:

- broaden the choice of building types and locations available in the housing market;
- make more efficient use of existing infrastructure and services;
- reduce the consumption of land for housing and associated urban development on the urban fringe; and
- not contain provisions which will reduce the permissible residential density of land.

This planning proposal contains provisions to ensure that the number of dwellings and residential diversity is not reduced where sites containing dwellings are proposed for redevelopment. This directly supports the ministerial direction by maintaining dwelling diversity in the City.

Importantly, it protects the availability of relatively affordable, smaller apartments close to the Sydney CBD, an area which has the highest rents and housing demand.

Section C - Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No. it is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of this planning proposal.

Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

No.

Has the planning proposal adequately addressed any social and economic effects?

This planning proposal will result in positive social and economic effects through the maintenance of relatively affordable housing supply close to infrastructure and public transport in an area that has a limited supply of housing.

Section D - Infrastructure (Local, State and Commonwealth)

Is there adequate public infrastructure for the planning proposal?

The planning proposal does not increase the density of development in the area. Local infrastructure will be delivered in accordance with the City of Sydney Development Contributions Plan 2015 and 2020, community infrastructure provisions of the LEP and Council's long term capital works program.

Planning Proposal – Dwelling Retention

What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

To be determined in further consultation with public authorities following Gateway determination.

Community consultation

This planning proposal shall be exhibited in accordance with the requirements of the gateway determination once issued by the Department of Planning and Environment.

It is anticipated that public exhibition of the planning proposal will be for a period of at least 20 working days, which is consistent with the Environmental Planning and Assessment Act 1979 and the Local Environmental Plan Making Guideline dated August 2023.

The public exhibition documentation will be available on the City of Sydney website, in accordance with the City's Community Engagement Strategy and Participation Plan 2023.

Consultation with the necessary state and federal agencies, authorities and other relevant organisations will be undertaken in accordance with the conditions contained in the gateway determination.

Project timeline

This planning proposal is categorised as a Complex planning proposal as per the Local Environmental Plan Making Guidelines dated August 2023, the anticipated timeframe for the completion of the planning proposal is as follows:

| Stage | Timeframe |
|--|--------------------------|
| Gateway Request | December 2023 |
| Commencement / gateway determination | February 2024 |
| Government agency consultation | March – April 2024 |
| Public exhibition | March– April 2024 |
| Review of issues raised in submissions | April – June 2024 |
| Post-exhibition reporting | August 2024 |
| LEP drafting | September – October 2024 |
| LEP made | November 2024 |
| LEP notification | November 2024 |

Appendix

Drafting instructions

Introduce clause 6.XX of Sydney LEP 2012 as follows:

6.XX Dwelling retention

(1) The objective of this clause is to minimise the loss of housing diversity resulting from the consolidation of existing dwellings or the demolition of existing housing for the construction of new dwellings.

(2) Subject to subsection (3) below, development consent or consent to an application to modify a development consent must not be granted for development (including demolition) to an existing residential flat building, or an existing mixed-use development that contains three or more dwellings, unless the consent authority is satisfied that the number of dwellings will not be reduced by the greater of:

- (a) 1 dwelling; or
- (b) 15% of dwellings in the development (rounded to the nearest whole number).

(3) Despite subsection (2) above, development consent or consent to an application to modify a development consent may be granted for development (including demolition) to an existing residential flat building or a mixed-use development that contains shop top housing where the decrease in dwellings will occur as a result of a change of use of residential floor space to a non-residential use.

Amend Clause 1.8A (X) Savings provisions relating to development applications as follows (changes shown in **bold**):

1.8A (X) The amendments made to this plan by Sydney Local Environmental Plan 2012 **Sydney Local Environmental Plan 2012 (Amendment No XX)** do not apply to—

- (a) a concept development application or a development application made but not finally determined before the commencement of the amendments, or
- (b) a development application made after the commencement of the amendments, if the development application is subsequent to, and made in reliance on, a concept development application in relation to the same development that was—
 - (i) made but not finally determined before the commencement of the amendments, or
 - (ii) granted development consent before the commencement of the amendments.

