Waterloo Metro Quarter State Significant Precinct

Explanation of Intended Effect - proposed amendment to SEPP (State Significant Precincts) 2005

Submitted to Department of Planning and Environment
On behalf of UrbanGrowth NSW Development Corporation

UrbanGrowth NSW Development Corporation

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1.0 Introduction

1.1 Waterloo Nominated State Significant Precinct

Waterloo Estate and the Waterloo Metro Quarter together make up the Waterloo Nominated State Significant Precinct. Under State Environmental Planning Policy (State Significant Precincts) 2005, the Minister for Planning can nominate precincts that have planning significance to the State of NSW. UrbanGrowth NSW Development Corporation (UrbanGrowth) is managing preparation of the State Significant Precinct Study.

The Department of Planning and Environment issued separate Study Requirements for the Waterloo Estate and the Waterloo Metro Quarter in May 2017. The Study Requirements set out the scope and approach to investigations, and matters to be addressed by a planning instrument and Development Control Plan that will control and enable development in the Precinct.

Although the Waterloo Congregational Church is within the nominated precinct boundary of Waterloo Metro Quarter, it is not part of the re-zoning proposal.

1.2 Proposed Planning Instrument Amendments

It is proposed to amend State Environmental Planning Policy (State Significant Precincts) 2005 to include a new Part in Schedule 3 of the SEPP. The new Part will contain planning controls including land use zones, development standards, and local planning provisions for the Waterloo Metro Quarter. The proposed SEPP would, when finalised, mean that the City of Sydney Local Environmental Plan 2012 no longer applies to the Metro Quarter.

The proposed SEPP is supported by a State Significant Precinct Study that includes a Planning report, urban design report and supporting technical studies that address the Study Requirements. UrbanGrowth has undertaken extensive consultation with the community in relation to both the Waterloo Estate and Metro Quarter. The outcomes from the consultation process have informed the State Significant Precinct Study.

1.3 Objectives or intended outcomes

Waterloo Metro Station is part of the Sydney Metro CBD and South West Project. The metro project was approved as State Significant Infrastructure in January 2017 (SSI 15_7400). The State Significant Infrastructure approval includes construction of the station box and the metro line.

The Waterloo Metro Quarter State Significant Precinct planning process is intended to enable the integrated development of the Metro Quarter and the Waterloo Metro Station, to create a highly accessible, attractive mixed use precinct around the station. The proposed planning controls will enable the delivery of:

- Approximately 69,000 square metres of gross floor area (GFA), comprising:
  - approximately 56,500 square metres GFA of residential accommodation, providing for approximately 700 dwellings, including a minimum of 5% and up to 10% affordable housing dwellings;
  - approximately 4,000sqm of GFA for retail premises and entertainment facilities; and
  - approximately 8,500sqm GFA for business and commercial premises and community and recreation facilities (indoor).
- A public plaza of approximately 1,400 square metres.
- A three storey mixed-use non-residential podium, including a free standing building located within the plaza.
- Three residential buildings of 23, 25 and 29 storeys, and four mid-rise buildings of up to 10 storeys above the approved metro station infrastructure.
- Parking for approximately 65 cars, 700 residential bicycles and 520 public bicycles.
- Two east-west, mid-block pedestrian connections.
The approved Sydney Metro station on the site comprises approximately 8,415 sqm of GFA. The total GFA, including the metro station and Metro Quarter, is approximately 77,500 sqm. Transport interchange facilities including bus stops on Botany Road and kiss and ride facilities on Cope Street will be provided under the existing CSSI Approval.

All comments received during the exhibition of the State Significant Precinct Study, including the rezoning proposal and this statement, will be duly considered in the drafting of the proposed SEPP. The proposed SEPP will be consistent with current Government policy and will aid in the delivery of housing and employment targets set out in the Greater Sydney Region Plan and Eastern City District Plan.

The Environmental Planning and Assessment Act 1979 (the Act) requires that the SEPP be made by the Governor. Section 3.29 of the Act provides that the Governor may make a SEPP in respect of any matter, which in the opinion of the Minister, is of State or regional environmental planning significance.

2.0 Explanation of Provisions

This section provides an explanation of the proposed zoning and development controls to be introduced into SEPP (State Significant Precincts) 2005 by the proposed SEPP. Terms used in this description have the same meaning as in the Act and the Standard Instrument Local Environmental Plan. A draft Land Application Map, Zoning Map, Height of Building Map, Floor Space Ratio Map, and Active Street Frontages Map for the precinct are attached to this Explanation of Intended Effect to illustrate the changes under the proposed SEPP.

The Study Requirements specify that the proposed controls should be prepared in a format consistent with the Standard Instrument – Principal Local Environmental Plan and be capable of insertion into the City of Sydney Local Environmental Plan 2012. The structure and content of the proposed SEPP therefore corresponds with the City of Sydney Local Environmental Plan, except where specific provisions are required to reflect the objectives and intended outcomes for the Waterloo Metro Quarter.

2.1 Amendment of SEPP (State Significant Precincts) 2005

Schedule 3 of SEPP (State Significant Precincts) 2005 is enacted by clause 7 of SEPP (State Significant Precincts) 2005 and identifies and establishes planning controls for State Significant Precincts.

The proposed SEPP will amend SEPP (State Significant Precincts) 2005 by inserting a new Part in Schedule 3. The new Part will identify the Waterloo Metro Quarter as a State Significant Precinct (by reference to a land application map) and will include provisions relating to the carrying out of development (described below).

The proposed amendments to SEPP (State Significant Precincts) 2005 will commence when they are published in the NSW Government Gazette.

The following sections describe the provisions proposed to be included in Schedule 3.

2.2 Preliminary

This Division of the proposed SEPP will set out the following provisions, consistent with the Standard Instrument and Sydney LEP 2012:

- The aims of the Plan.
- Definitions (by reference to Definitions under the Standard Instrument – Principal Local Environmental Plan).
- The consent authority for development (noting that SEPP (State and Regional Development) also applies and specifies that the Minister for Planning is the consent authority for certain development in rail corridors, including the Waterloo Metro Quarter).
- The relationship to other environmental planning instruments, including repeal of the Sydney Local Environmental Plan 2012 (as it relates to the Metro Quarter) and the application of other SEPPs.
2.3 Permitted or Prohibited Development

This Division will apply land use zones and include a zoning table and other provisions that set out which types of development are permitted (either with or without consent) and prohibited. The following provisions are proposed to be included in this Division:

- Land use zones (the B4 Mixed Use zone is proposed to apply to the entire Waterloo Metro Quarter precinct)
- Zoning of land to which Plan applies (with reference to the Land Zoning Map)
- Zone objectives and Land Use Table
- A provision specifying that subdivision of land requires consent
- A provision specifying that demolition of buildings and works requires consent
- Provisions that permit certain temporary uses of land

The proposed provisions are further explained below.

2.3.1 Zoning of land

The entire Waterloo Metro Quarter is proposed to be zoned B4 Mixed Use. The objectives of the B4 zone under the Sydney LEP 2012 are proposed to be included, and are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To ensure uses support the viability of centres.

The land use table will specify that home occupations are permitted without consent. The following uses will be permitted with consent:

- Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Any other development not specified as prohibited or permitted without consent

Extractive industries; Heavy industrial storage establishments; Heavy industries are proposed to be prohibited.

2.3.2 Subdivision and Demolition

The proposed SEPP will include provisions, consistent with the Standard Instrument – Principal Local Environmental Plan, that require development consent for the subdivision of land and demolition of buildings and works. Demolition of buildings and works in the Metro Quarter has been undertaken as part of the State Significant Infrastructure approval for the Metro Station. Subdivision would require development consent, noting that SEPP (Exempt and Complying Development Codes) 2008 permits certain types of subdivision as exempt or complying development.

2.3.3 Temporary uses

Early activation of the Waterloo Metro Quarter will be critical to creating an appropriate sense of place, surveillance and safety, particularly for users of the Metro Station, which is planned to open in 2024. A wide range of potential uses are likely to be attractive and contribute to activation of the public domain, particularly in the early stages of development and occupation. Retail, commercial, community, artistic and cultural uses and creative industries may want to locate in the Metro Quarter and would make a positive contribution to the character, amenity and liveability of the precinct.

The Standard Instrument – Principal Local Environmental Plan includes a provision that permits any temporary use of land for up to (usually, although this number can be varied) 52 days per year. The provision also permits temporary use of a dwelling as a sales and display centre for new housing estates and does not limit the number of days per year that the use may operate. Matters for consideration are included in the provision to ensure temporary uses do not unreasonably impact on the locality or environment.
The proposed SEPP amendment would include the Standard Instrument clause for temporary uses, with the number of days per year proposed to be increased to 100 days. Additional provisions are also proposed to enable the temporary use of a retail premises or commercial premises in a building for any use, for a period of up to three years, with no restriction on the number of days per year.

### 2.4 Exempt and Complying Development

In addition to development that is exempt development or complying development under any other planning instrument, a provision is proposed to be included in the SEPP permitting temporary use of public spaces in Waterloo Metro Quarter for community events. SEPP (Exempt and Complying Development Codes) permits structures including stages, tents and marquees for community events as complying development, but the events themselves are not exempt development under that SEPP. The proposed provision is similar to that which applies to temporary events at the Sydney Opera House and to the Redfern Waterloo Authority sites under SEPP (State Significant Precincts) and would be generally as follows:

- Exempt development includes the temporary use of public space for community events that are open to the general public with no entry charges, including public gatherings, ceremonies, celebrations, sporting events, events for community and outdoor exhibitions that may involve the installation of temporary structures having minimal visual impact (such as barricading) and temporary signage, that are otherwise ancillary to the event.

- Any such use must comply with the following requirements:
  - the use occurs between the hours of 8.00am to 11.00pm on Sundays to Thursdays and 8.00am to midnight on Fridays and Saturdays,
  - set-up and clean-up can occur one day before and one day after each event.
  - all amplified music is to commence after 8.00am and to cease by 10.30pm on Sundays to Thursdays and 11.30pm on Fridays and Saturdays,
  - lighting associated with events must not cause adverse impact on the area surrounding the site,
  - the event does not include staging of private or commercial functions,
  - back of house areas must be carefully designed (fencing and gates must be of high quality, and provide artwork and visual interest/public information in appropriate places).

### 2.5 Principal Development Standards

The following principal development standards are proposed to apply to the Waterloo Metro Quarter:

- Maximum height of buildings as per the Standard Instrument clause, with reference to a height of buildings map that shows a maximum building heights (Australian Height Datum, or AHD) of RL116.9 metres, 104.2 metres and 96.9 metres.

- Maximum Floor Space Ratio (FSR) of 6.1:1 applying to the whole site (excluding land in the precinct that is currently used for public roads). The proposed maximum FSR control accommodates floorspace for the Metro Quarter development, and floor space for the approved Metro Station.

- Provisions explaining how FSR is calculated (as per the Sydney LEP 2012).

- A provision that excludes certain enclosed balconies from the calculation of total floor space (as per clause 4.5A of the Sydney LEP 2012).

- Exceptions to development standards, which will enable a development to be approved that does not comply with a development standard, where compliance with the standard is unnecessary or unreasonable and there are sufficient environmental planning grounds to justify contravening the development standard. This clause would not apply to the exclusion of enclosed balconies from the calculation of total floor area.

### 2.6 Miscellaneous Provisions

The Sydney LEP 2012 contains a number of miscellaneous provisions that are also relevant to development in the Waterloo Metro Quarter. The following miscellaneous provisions are to be included in the proposed SEPP:

- Controls relating to miscellaneous permissible uses (see clause 5.4 of Sydney LEP 2012), including:
- Limiting the number of bedrooms in bed and breakfast accommodation to no more than three
- Limiting the floor area of a dwelling used as a home business or home industry to no more than 45 square metres
- A maximum floor area of 20 square metres for kiosks
- Architectural roof features are permitted to exceed the maximum building height (as per clause 5.6 of Sydney LEP 2012)
- Conversion of fire alarms (as per clause 5.8 of Sydney LEP 2012)
- Heritage conservation (as per clause 5.10 of Sydney LEP 2012)
- Infrastructure development and use of existing buildings by the Crown, which clarifies that nothing in this plan restricts or prevents public authority infrastructure development under SEPP (Infrastructure) 2007 or use of existing buildings of the Crown by the Crown.

2.7 Local Provisions

2.7.1 Additional floor space

Provisions are proposed that exclude end of journey floorspace from the calculation of gross floor area, and enable a building to exceed the maximum FSR control by an amount equivalent to the end of journey floor space. Part 6 Division 2 of Sydney LEP 2012 contains provisions similar to those proposed for the Waterloo Metro Quarter. All end of trip facilities, including those proposed as part of the Sydney Metro State Significant Infrastructure project and the development of the Metro Quarter, are proposed to be exempt from the calculation of FSR. The provision is also proposed to apply to end of journey facilities that are related to any type of development (the provisions in Sydney LEP 2012 apply only to wholly commercial development).

2.7.2 Design excellence

The proposed planning framework will include design excellence provisions, including through involvement of a Design Excellence Evaluation Panel (DEEP).

2.7.3 Active Street Frontage

The Department of Planning and Environment has published a model LEP clause for Active Street Frontages, and guidance on its application, including that it is appropriate to apply this provision to the B4 Mixed Use zone. The model clause is as follows:

(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B3 Commercial Core and Zone B4 Mixed Use.
(2) This clause applies to land identified as ‘Active street frontage’ on the Active Street Frontages Map.
(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.
(4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:
   a) entrances and lobbies (including as part of mixed use development),
   b) access for fire services,
   c) vehicle access.
(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.

This clause is proposed to apply to parts of street frontages along Botany Road and Raglan Street as shown on the Active Street Frontages Map. The DCP will also include provisions that provide more detail on the design of street frontages.

2.7.4 Requirement to prepare a Development Control Plan

A clause is proposed to be included in the proposed SEPP that requires the preparation of a Development Control Plan prior to consent being granted for any new building on the Waterloo Metro Quarter. Clause 7.20 of Sydney LEP 2012 lists matters
that a Development Control Plan must address, and has been used as a model for the content of the DCP that is required under the proposed SEPP. The matters to be provided for by the DCP include:

- requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain,
- requirements to minimise the detrimental impact of proposed development on view corridors,
- how proposed development addresses the following matters:
  - the proposed uses and use mix,
  - any heritage issues and streetscape constraints in particular the relationship of development to the Waterloo Congregational Church,
  - the location of any taller buildings proposed, having regard to the need to achieve an acceptable relationship with other taller buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
  - the bulk, massing and modulation of buildings,
  - street frontage heights,
  - environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, flooding and stormwater management
  - achievement of the principles of ecologically sustainable development,
  - pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,
  - the impact on, and any proposed improvements to, the public domain,
  - achieving appropriate interface at ground level between the building and the public domain,
  - the excellence and integration of landscape design,
  - the incorporation of high quality public art in the public domain or in other areas to which the public has access.

### 2.7.5 Flood Planning

Clause 7.15 of Sydney LEP 2012 provides controls to minimise the risks to life and property associated with flooding and the development and use of land. This clause is proposed to be included in the proposed SEPP to ensure any flooding risks are appropriately considered in the assessment and determination of development applications.

### 2.7.6 Airspace Operations

Waterloo Metro Quarter is within the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the Sydney (Kingsford-Smith) Airport. Sydney LEP 2012 includes a provision requiring referral of development applications to the relevant Commonwealth body where impacts on airspace operations could potentially occur. The same provision is to be included in the proposed SEPP.