



Planning,  
Industry &  
Environment

IRF21/832

## Plan finalisation report – PP\_2020\_SYDNE\_02\_00

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Sydney Local Environmental Plan 2012 – Central  
Sydney Planning Proposal

November 2021



Published by NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

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Subtitle: Sydney Local Environmental Plan 2012 – Central Sydney Planning Proposal

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# 1 Introduction

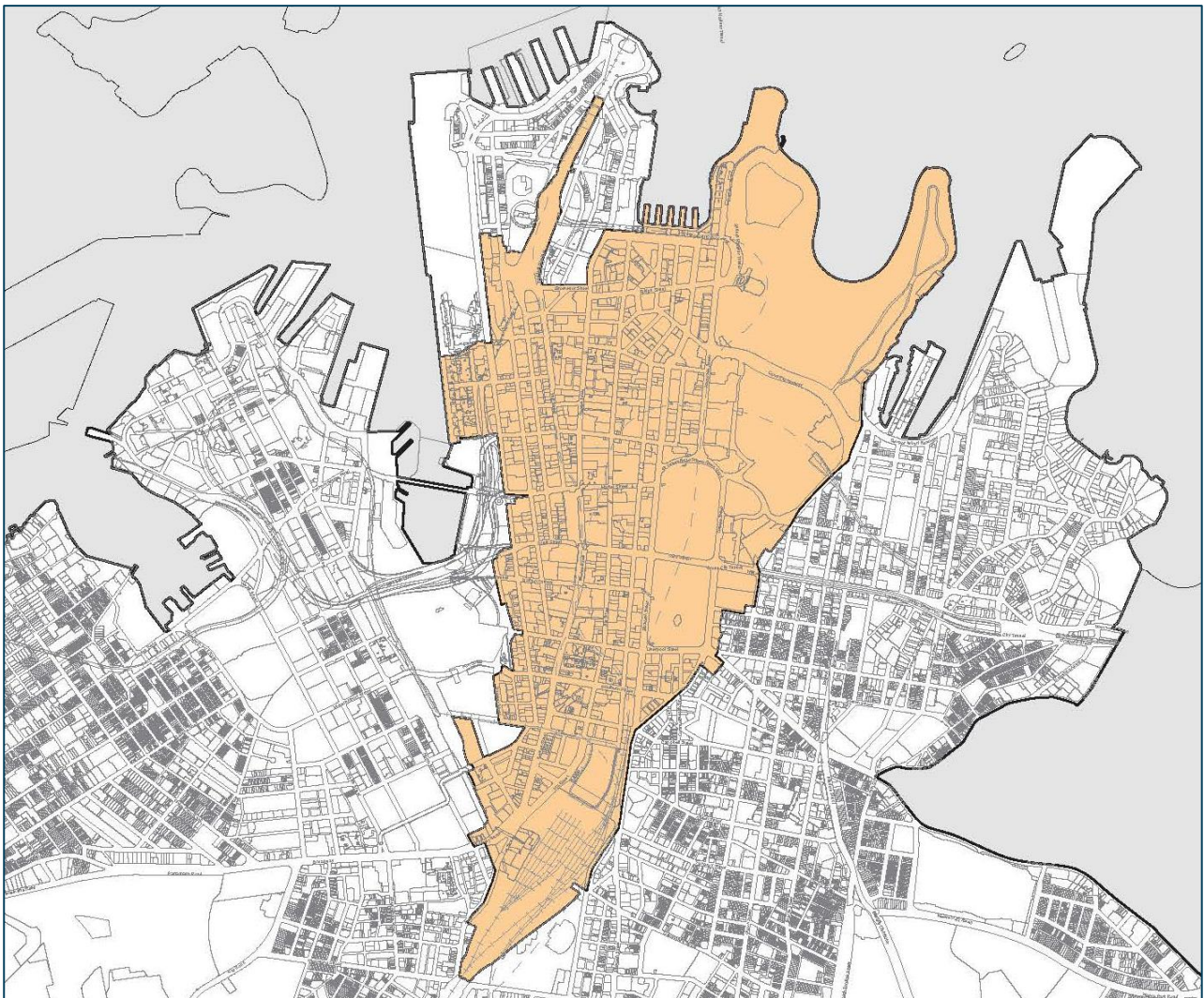
## 1.1 Overview

### 1.1.1 Name of draft LEP

Sydney Local Environmental Plan 2012 (Amendment No. 64).

### 1.1.2 Site description

The proposal applies to Central Sydney in the Sydney Local Government Area (LGA) as identified in **Figure 1**.



**Figure 1 Subject site (Source: Central Sydney Planning Proposal)**

The Central Sydney Planning Strategy which accompanied the planning proposal provides a detailed overview of the existing character of the Central Sydney area. Key items of note within the Central Sydney area include:

- a significant agglomeration of a wide variety of commercial, office and retail premises and some of Australia's tallest and most significant buildings;
- large public open spaces and places such as Hyde Park, the Botanical Gardens, Martin Place, Pitt Street Mall, the Domain, Circular Quay, and Sydney Square;

- a portion of Central Station Precinct which includes approximately 24 hectares of land above and adjacent to Central Station which is being investigated for transformation into an innovation and technology precinct;
- a highly connected centre accessible by seven rail stations (Circular Quay, Martin Place, Wynyard, Town Hall, St James, Museum, and Central), three metro stations (Central, Pitt Street, and Martin Place), numerous bus routes, ferry stops and light rail; and
- Central Sydney does not include State government precincts such as Barangaroo or Darling Harbour.

### 1.1.3 Purpose of plan

The Central Sydney planning proposal seeks to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) to:

- amend the objectives of the B8 Metropolitan Centre zone that apply to Central Sydney;
- amend the objectives of the RE1 Public Recreation zone which will apply to the entire Local Government Area (LGA);
- amend the additional floor space provisions under clause 6.4 Accommodation Floor Space of the Sydney LEP 2012 to:
  - remove 'residential accommodation and serviced apartments' from receiving additional floor space for all areas;
  - increase the additional floor space awarded for Area 3 (Western Edge) by 0.5:1; and
  - include office premises, business premises or retail premises in Area 4 (Chinatown and Haymarket).
- add a new design excellence 'plus' process which would allow for up to 50% additional floor space to be awarded for development with a site area greater than 2000m<sup>2</sup>, where it demonstrates design excellence in an identified tower cluster area;
- amend the height of building and sun access plan objectives;
- amend the building height map to increase height for some sites along Central Sydney's western edge from 80 metres (m) to 110m;
- amend the sun access plane and overshadowing controls including protecting Future Town Hall Square and removing Chifley Square from the controls;
- amend clause 6.16 Erection of tall buildings of the Sydney LEP 2012 to require a minimum site area for tall buildings (over 55m) to 1,000m<sup>2</sup> along with requiring a set of performance criteria to be met. In addition, buildings which seek an FSR greater than 8:1 will also be required to meet the performance criteria;
- add new provisions regarding the minimum ecological sustainable development (ESD) performance of both residential and commercial development; and
- add new provisions regarding protection of significant views from public places.

### 1.1.4 Background

The Central Sydney Planning Strategy (the Strategy) was prepared and submitted with the Department in 2016. The Strategy seeks to provide incentives to deliver new employment uses and is the product of a detailed review by Council of Central Sydney's planning controls. Council undertook the review in response to community consultation received during the preparation of the City's Sustainable Sydney 2030 program. During this review the community asked Council to ensure Sydney remained a globally competitive and innovative city, where change and growth in the city centre was planned and that growth was balanced with the attributes that make Sydney one of the world's most liveable cities. The draft Strategy is the first major review of Central Sydney planning controls in 45 years,

Central Sydney contributes approximately \$130 billion of economic activity annually which is approximately seven percent of the total national economy and is home to 31,600 residents, 12,600 businesses, accommodates close to 340,000 workers and over half a million domestic and



international visitors every day. Central Sydney plays a critical role in the continued growth and economic success of Greater Sydney, NSW and the national economy.

The Strategy sets a 20-year vision for Central Sydney and outlines how Central Sydney will grow and includes aims, objectives and actions to promote Central Sydney's role as the State and nation's economic, cultural and social engine.

The main aim to the Strategy is to unlock economic opportunities and investment in jobs, and support public improvements that make Sydney an attractive place for business, workers, residents and visitors. The draft Strategy is accompanied by a number of technical appendices and other supporting documentation. The Strategy includes 10 key moves, which include:

- prioritising employment growth and increasing employment capacity by implementing genuine mixed-use controls and lifting height limits along the western edge;
- ensuring development responds to context by providing minimum setbacks for outlook, daylight and wind;
- consolidating and simplify planning controls by integrating disconnected precincts back into the city, unifying planning functions and streamlining administrative processes;
- providing for employment growth in new tower clusters;
- ensuring infrastructure keeps pace with growth to sustain a resilient city with a strong community, economy and high standard of living;
- moving towards a more sustainable city with planning controls that require best practice energy and water standards and for growth sites to drive zero-net energy outcomes;
- protecting, enhancing and expanding Central Sydney's heritage and public places;
- moving people more easily by prioritising streets for walking and cycling and expanding the pedestrian and open space network;
- reaffirming commitment to design excellence by continuing to work in partnership with community and industry to deliver collaborative, iterative and tailored solutions; and
- monitoring outcomes and respond to issues that arise to ensure the Strategy's ongoing success.

The Strategy is accompanied by a planning proposal to amend Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The Department and Council have been discussing the draft Strategy and planning proposal over several years.

The Department and Council have worked closely and collaboratively to identify alternative approaches that would allow the Department to issue the Gateway determination and ensure the Council's intentions for Central Sydney can be achieved.

In December 2019, an agreement was reached by the Lord Mayor of Sydney and the Minister for Planning and Public Spaces to progress the planning proposal subject to the following amendments:

- removal of the proposed 50% cap on residential uses;
- introduction of a new design excellence 'plus' process in Council's LEP that could allow for up to 50% additional floor space for a building, where it demonstrates design excellence in a tower cluster area near Barangaroo, Circular Quay, Central or Town Hall; and
- the preparation of a development contributions plan under section 7.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to apply a 3% levy to all development applications over \$200,000 in the City. This would help fund the delivery of new public infrastructure to ensure the city retains its valued public and green spaces.

### 1.1.5 Key changes from 2016 to 2020

The Key changes from the 2016 planning proposal to the 2020 planning proposal include:

- removal of the Employment Land Use provision that capped the proportion of floor space to 50% that can be used for the purposes of residential accommodation and/or serviced

apartments with the updated proposal, and instead removing 'residential uses and serviced apartments' from receiving additional floor space under clause 6.4 Accommodation Floor Space of the Sydney LEP 2012 to incentivise employment uses;

- removal of the Key Use Floor Space provision which sought to further split additional floor space awarded under clause 6.4 Accommodation Floor Space of the Sydney LEP 2012;
- removal of the site-specific planning proposal guidelines including the strategic floorspace framework which required a public benefit offer and replace it with a section 7.12 contribution plan which would require a 3% levy to apply to all development applications over \$200,000 in the City;
- inclusion of a new design excellence 'plus' process which would allow for up to 50% additional floor space to be awarded for development with a site area greater than 2,000m<sup>2</sup>, where it demonstrates design excellence in an identified tower cluster area; and
- removal of the affordable housing provisions which required an affordable housing levy to be paid in Central Sydney. This planning proposal has been progressed separately.

### 1.1.6 Existing planning controls

Central Sydney is subject to the following development controls under the Sydney LEP 2012.

#### Zoning

Central Sydney is the commercial core of the Sydney metropolitan area and includes the following zones:

- B8 Metropolitan Centre;
- B4 Mixed Use;
- RE1 Public Recreation; and
- SP2 Infrastructure.

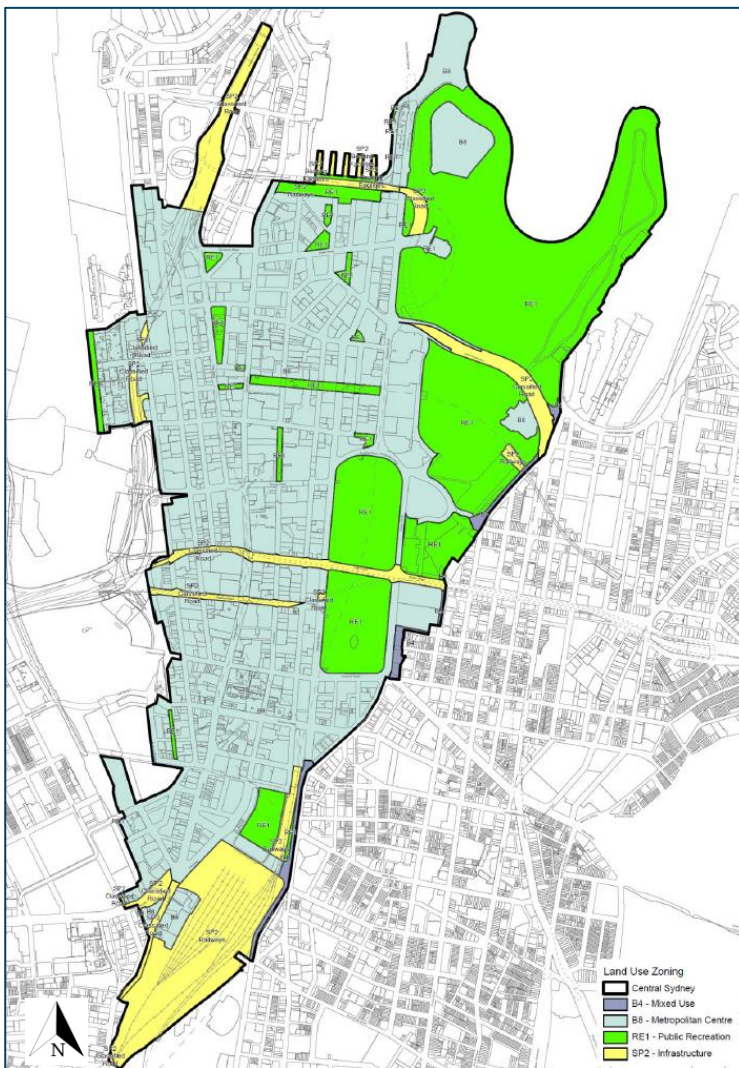
The majority of Central Sydney is zoned as either B8 Metropolitan Centre or RE1 Public Recreation (**Figure 2**).

Further details of the above-mentioned zones are provided in **Table 1**.

**Table 1: Zone objectives and general permissible uses.**

Zone	Objective	Permissibility
B8 Metropolitan Centre	<ul style="list-style-type: none"> <li>To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.</li> <li>To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.</li> <li>To provide opportunities for an intensity of land uses commensurate with Sydney's global status.</li> <li>To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.</li> <li>To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.</li> <li>To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.</li> </ul>	The B8 Metropolitan Zone permits a range of uses including but not limited to commercial premises (including business premises, office premises and retail premises), community facilities, educational establishments, entertainment facilities, recreational facilities, registered clubs, medical centres, tourist and visitor accommodation and residential accommodation and serviced apartments.
B4 Mixed Use	<ul style="list-style-type: none"> <li>To provide a mixture of compatible land uses.</li> <li>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.</li> <li>To ensure uses support the viability of centres.</li> </ul>	The B4 Mixed Use zone permits a range of uses including but not limited to commercial premises (including business premises, office premises and retail premises), community facilities, educational establishments, entertainment facilities, hotel and motel accommodation, registered clubs, medical centre, seniors housing, residential accommodation.
RE1 Public Recreation	<ul style="list-style-type: none"> <li>To enable land to be used for public open space or recreational purposes.</li> <li>To provide a range of recreational settings and activities and compatible land uses.</li> <li>To protect and enhance the natural environment for recreational purposes.</li> <li>To provide links between open space areas.</li> <li>To retain and promote access by members of the public to areas in the public domain including recreation facilities and waterways and other natural features.</li> </ul>	The RE1 Public Recreation zone permits (but not limited to) community facilities, food and drink premises, educational facilities, kiosks, recreational facilities, research stations, energy generation works and water recycling and water supply systems.
SP2 Infrastructure	<ul style="list-style-type: none"> <li>To provide for infrastructure and related uses; and</li> <li>To prevent development that is not compatible with or that may detract from the provision of infrastructure.</li> </ul>	The SP2 zone permits (but not limited to) roads, water storage facilities and water treatment facilities.





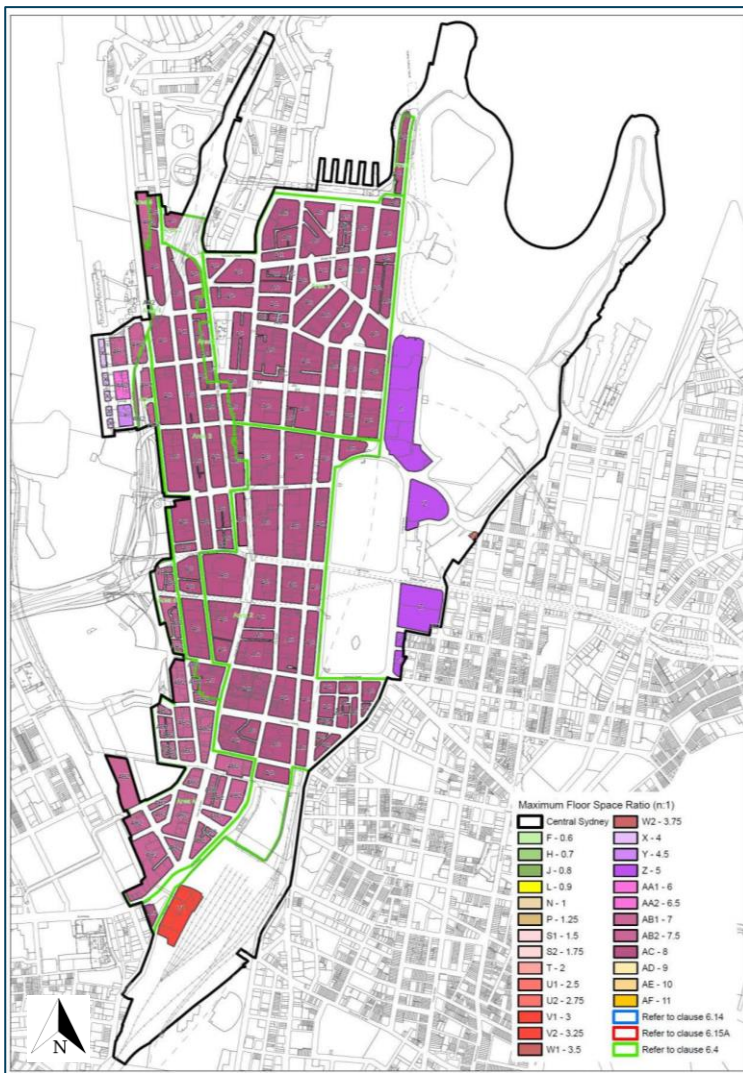
**Figure 2: Existing zoning in Central Sydney (Source: Central Sydney Planning Proposal, City of Sydney Council, 2020)**

## Floor Space

The base FSR control across Central Sydney is predominantly 8:1, with a slightly lower base of 7.5:1 in the southern precinct (**Figure 3**). Additional floor space may be awarded at the development application (DA) stage under the following bonus provisions of the Sydney LEP 2012:

- clause 6.4 Accommodation floor space;
- clause 6.5 Car parking reduction floor space;
- clause 6.6 End of journey floor space;
- clause 6.7 Entertainment and club floor space;
- clause 6.8 Lanes development floor space; and
- clause 6.9 Opportunity site floor space.

In addition, clause 6.21 Design Excellence of the Sydney LEP 2012 allows for up to 10% additional floor space for buildings over 55m if a competitive design process has been undertaken and design excellence is demonstrated. In order to be awarded additional floor space under clause 6.21 of the Sydney LEP 2012, heritage floor space (HFS) must be allocated in accordance with clause 6.11 of the Sydney LEP 2012.



**Figure 3: Existing base FSR Map (Source: Central Sydney Planning Proposal, City of Sydney Council, 2020)**

### Clause 6.4 Accommodation Floor Space

The intent of clause 6.4 Accommodation Floor Space of the Sydney LEP 2012 is to incentivise certain uses within certain areas of Central Sydney.

Accommodation floor space is permitted in four locations known as Areas 1, 2, 3 and 4 in the Sydney LEP 2012. In general, Area 1 is known as the City Core, Area 2 is known as Midtown to Central, Area 3 is known as the Western Edge and Area 4 is known as Chinatown and Haymarket (**Table 2 and Figure 4**).

Clause 6.4 of the Sydney LEP 2012 permits additional floor space to be awarded at the DA stage depending on the site's location, the building's use and the allocation of Heritage Floor Space (HFS). Accommodation floor space can only be awarded if HFS is allocated in accordance with clause 6.11 Utilisation of Certain Additional Floor Space Requires Allocation of HFS of the Sydney LEP 2012.

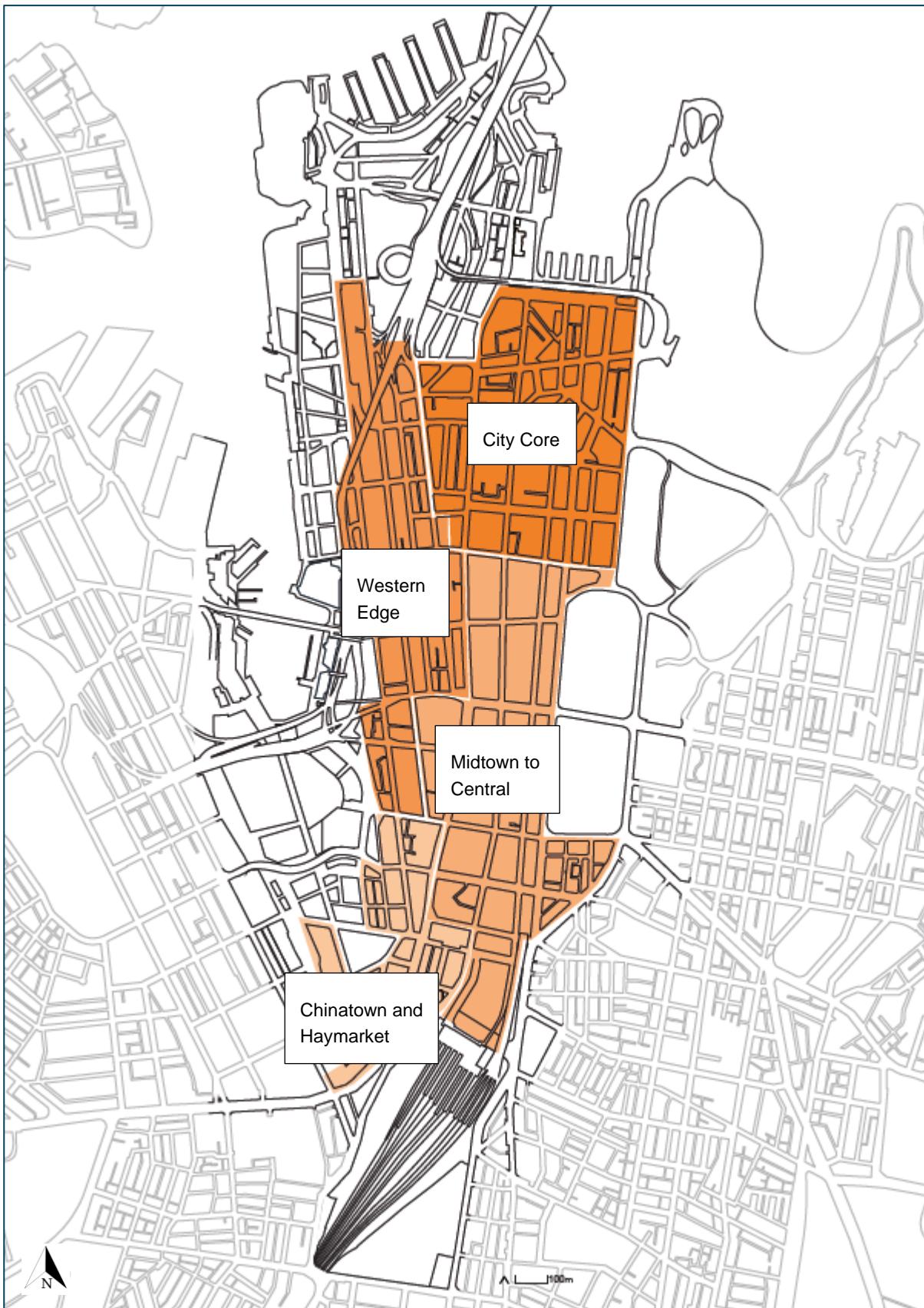
If a building is mixed use, then the amount of floor space that can be awarded under clause 6.4 of the Sydney LEP 2012 is proportional to its use.

**Table 2** details the base FSR and the amount of accommodation floor space achievable under clause 6.4 of the Sydney LEP 2012.

**Table 2: Base FSR and the amount of accommodation floor space achievable under clause 6.4 of the Sydney LEP 2012.**

Area	General Location	Base	Accommodation Floor Space
1	City Core	8.1	6:1 for hotel, motel.
		8.1	4.5: for office, business, retail, residential, serviced apartments.
2	Midtown to Central	8.1	6:1 for residential, serviced apartments, hotel or motel, community facilities or child care facilities.
		8.1	4.5:1 for office premises, business premises or retail premises.
3	Western Edge	8.1	3:1 for residential, serviced apartments, hotel or motel, community facilities or child care facilities.
		8.1	2:1 for office premises, business premises or retail premises.
4	Chinatown and Haymarket	8.1	1.5:1 for residential, serviced apartments, hotel or motel, community facilities or child care facilities.





**Figure 4: Existing general location of precincts identified in Table 2 (Source: draft Central Sydney Planning Strategy, City of Sydney Council, 2016)**

### **Clause 6.5 Car Parking Reduction Rates**

Under clause 6.5 Car Parking Reduction Rates of the Sydney LEP 2012, development on land in Central Sydney that results in the use of any part of a basement of a building being changed from a car park to any other use allows the building to be eligible for an amount of additional floor space (car parking reduction floor space) equal to the area of the changed use.

### **Clause 6.6 End of Journey Floor Space**

Under clause 6.6 End of Journey Floor Space of the Sydney LEP 2012, a building on land in Central Sydney that is used only for the purposes of commercial premises and provides end of journey facilities is eligible for up to 0.3:1 additional FSR.

### **Clause 6.7 Entertainment and Club Floor Space**

Under clause 6.7 Entertainment and Club Floor Space of the Sydney LEP 2012, a building on land in Central Sydney is eligible for an amount of additional floor space (entertainment and club floor space) equal to the floor space of any parts of the basement of the building used for the purposes of entertainment facilities or registered clubs.

### **Clause 6.8 Lanes Development Floor Space**

Clause 6.8 Lanes Development Floor Space of the Sydney LEP 2012 applies to development consisting of alterations or additions to a building that is in Central Sydney and adjoins a lane. It permits additional floor space for uses such as business premises, community facilities, entertainment facilities, food and drink premises, information and education facilities and pubs subject to the building meeting the following criteria:

- a) has a gross floor area of less than 100m<sup>2</sup>; and
- b) does not have direct access to any other premises in the building; and
- c) adjoins, and has direct access to a lane; and
- d) has a floor level no more than 5m above the ground level (existing) of the lane.

### **Clause 6.9 Opportunity Site Floor Space**

Clause 6.9 Opportunity Site Floor Space of the Sydney LEP 2012 applies to development that is identified as an opportunity site. Opportunity sites that meet specific criteria as identified by the clause are eligible for additional floor space equivalent to the lesser of the following:

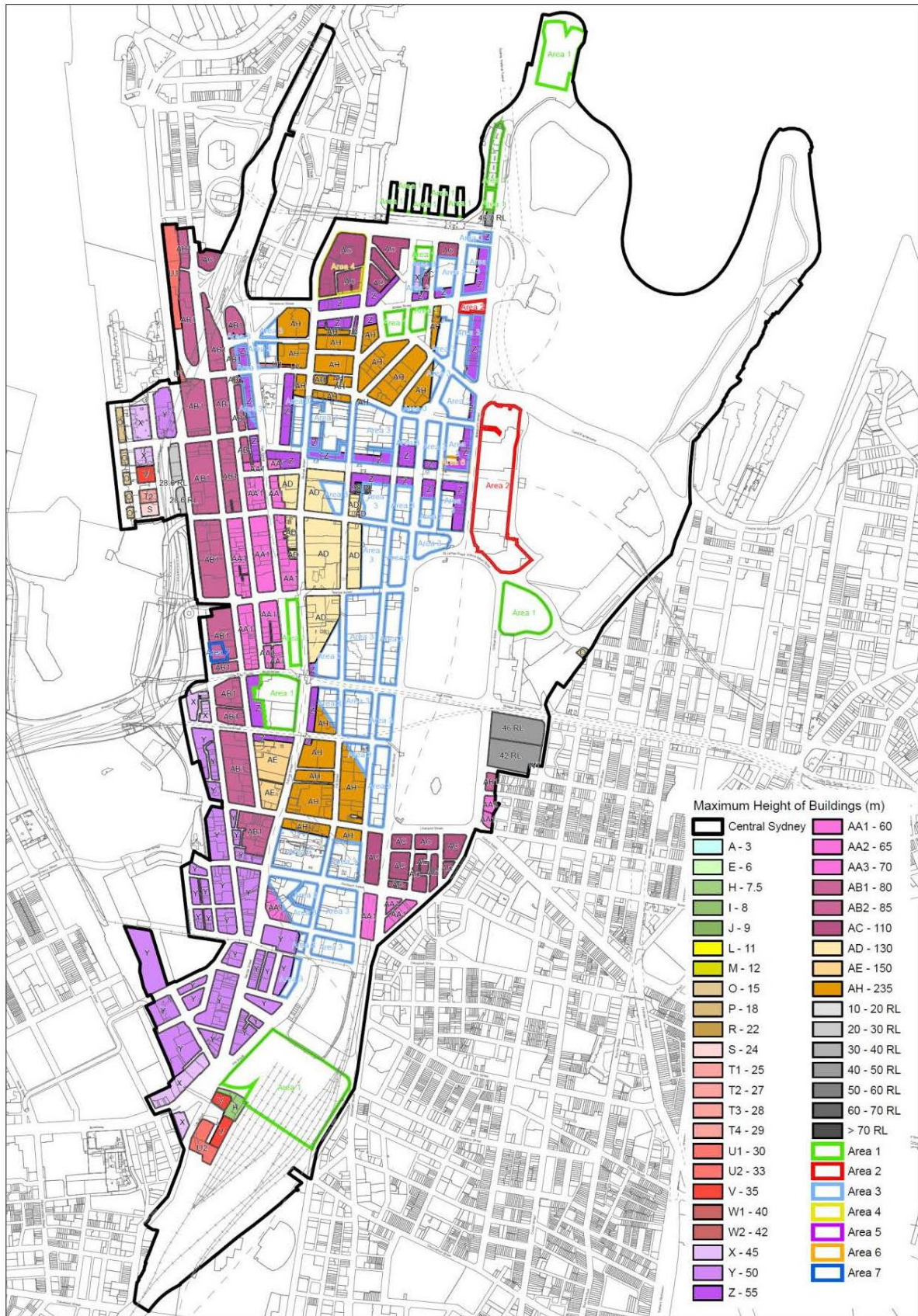
- a) the amount of floor space created by any alterations or additions to the building, being floor space with a floor level no more than 5m above the ground level (existing); and
- b) the amount of floor space that can be achieved by applying an FSR of 0.8:1 to the building.

In order to be awarded additional FSR under clause 6.9 of the Sydney LEP 2012, HFS must be allocated in accordance with clause 6.11 of the Sydney LEP 2012.

### **Building Height**

The height of building map stipulates the overall maximum permissible building height, which in Central Sydney varies from 7.5m to 235m (**Figure 5**).





**Figure 5: Existing Height of Buildings Map, areas where height is dictated by the sun access planes are marked in blue and known as Area 3 (Source: Central Sydney Planning Proposal, City of Sydney Council, 2020)**



## Sun Access Planes and No Additional Overshadowing

In certain areas located near public places building height is controlled by:

- Clause 6.17 Sun Access Planes of the Sydney LEP 2012; and
- Clause 6.19 Overshadowing of Certain Public Places of the Sydney LEP 2012.

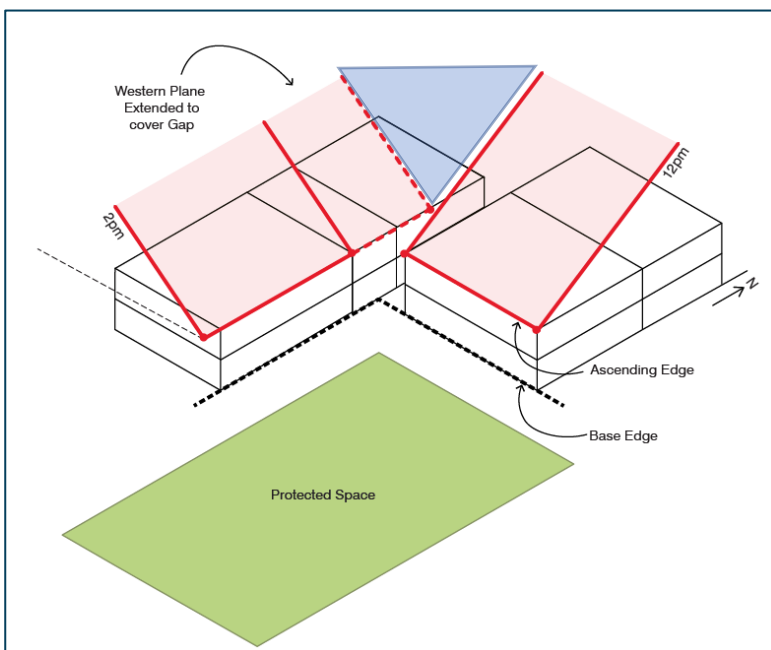
This ensures that solar access to key public places is maintained.

Currently solar access planes under clause 6.17 of the Sydney LEP 2012 protect Belmore Park, Hyde Park North, Hyde Park West, Macquarie Place, the Domain, Martin Place, Pitt Street Mall, Royal Botanic Gardens and Wynand Park (**Figure 7**). Places which are protected by No Additional Overshadowing controls under clause 6.19 include Martin Place, Australia Square, Chifley Square, First Government House Place, Lang Park, Macquarie Place, Pitt Street Mall, Prince Alfred Park, Sydney Town Hall Steps and Sydney Square. Pitt Street Mall, Macquarie Place and some parts of Martin Place are protected by both No Additional Overshadowing and Sun Access Planes.

The Sun Access Protection maps within the LEP identify sites that are affected by the Sun Access Planes but does not detail the actual heights or location of the planes (**Figure 7**). This is achieved by written description within the LEP which provides two points for each plane in MGA coordinates and specified horizontal bearings and vertical angles. The coordinates, horizontal bearings and vertical angles are intended to align with:

- the edge to the protected space (typically located at the building frontages to the space);
- the permissible street frontage height at each defined edge;
- at a plane which extends away from the space aligned the solar altitude and azimuth angles for the date and time for which the space is to be protected.

An example of this is provided at **Figure 6**.

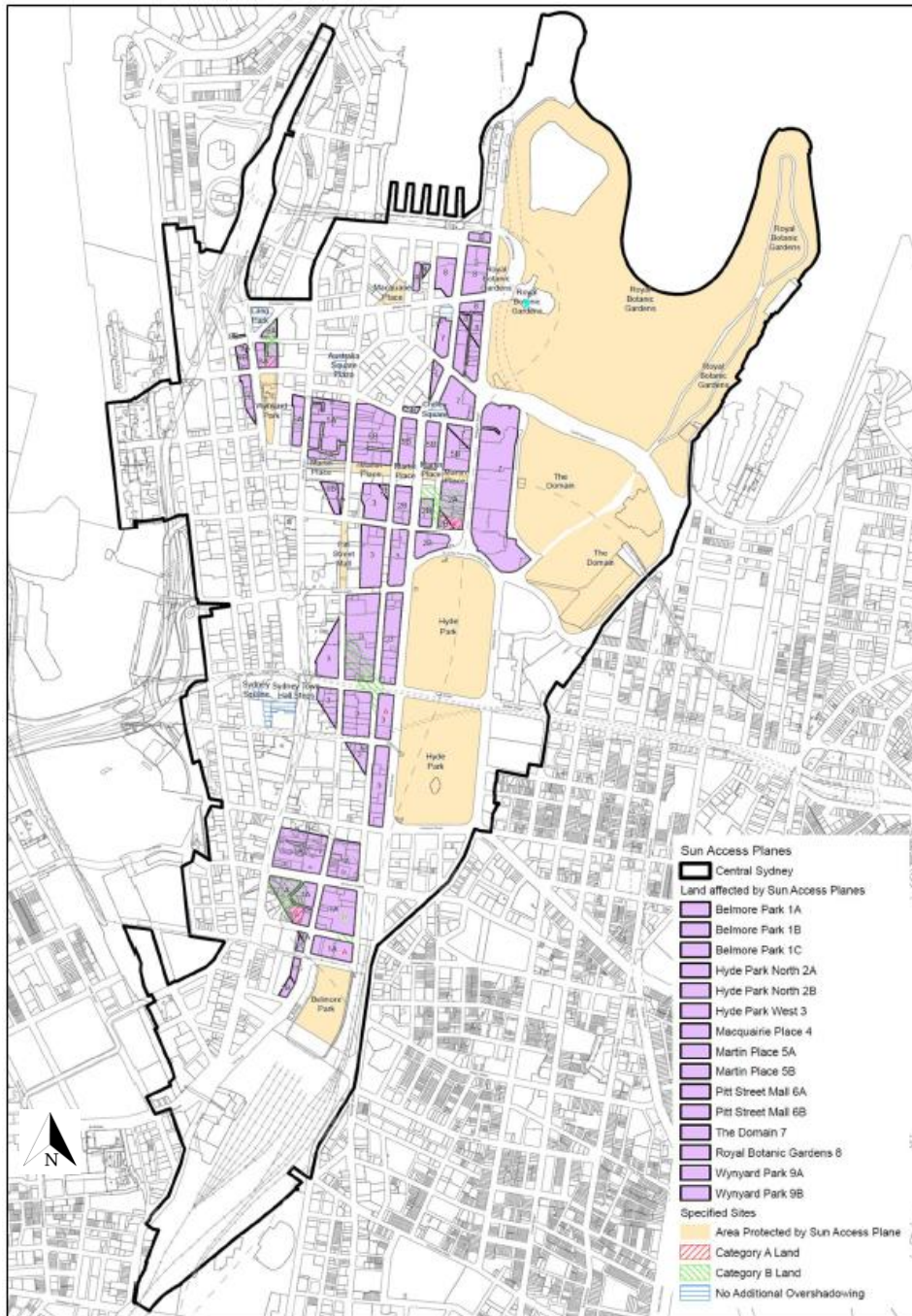


**Figure 6: Construction of Sun Access Planes (Source: Central Sydney Planning Strategy, City of Sydney Council, 2016)**

In some cases, where two planes are defined for one space, one plane extends further than the edge of the space, to account for the triangular gap created between the times (shown in blue in **Figure 6**). In some cases where two planes protecting the same space overlap, the higher plane prevails.

There are some exceptions to the sun access planes which are identified in clause 6.18 Exceptions to Sun Access Planes of the Sydney LEP 2012. This clause allows specified buildings to extend above the SAP if it results in at least a 50% reduction to overshadowing for specified parks (category A sites) or sites are located sunwards for the protected hours of existing buildings which are already projecting above the sun access places (category B sites).

The significant difference between the no additional overshadowing and the sun access plane controls is that sun access planes identify a maximum height for development, regardless of surrounding developments except category A and B sites. In the case of the no additional overshadowing controls (clause 6.19), the existing surrounding development, combined with the movement of the sun, create the height limitation for new development.



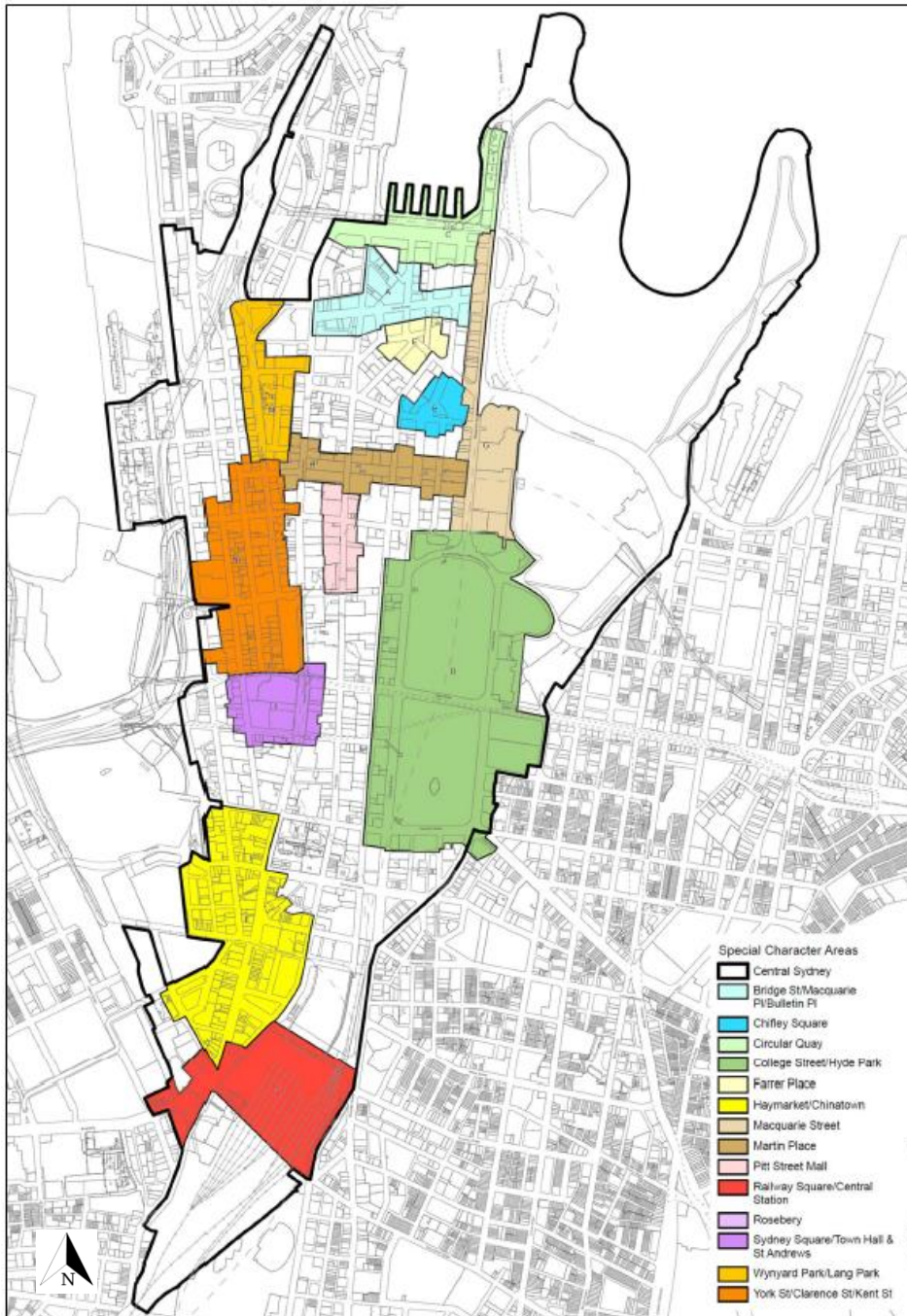
**Figure 7: Existing Sun Access Planes Map (Source: Central Sydney Planning Proposal, City of Sydney Council, 2020)**

## Airspace Operations

Clause 7.16 Airspace operations of the Sydney LEP 2012 ensures that the operation of Sydney (Kingsford-Smith) Airport is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport.

## Special Character Areas

Special character areas are required to be considered during the design excellence process (clause 6.21 of the Sydney LEP 2012), during demolition (clause 7.19 of the Sydney LEP 2012), and when preparing a development control plan (clause 7.20 of the Sydney LEP 2012). The Sydney LEP 2012 includes a special character map which is shown in **Figure 8**.



**Figure 8: Existing Special Character Areas Map (Source: Central Sydney Planning Proposal, City of Sydney Council, 2020)**



## Site Specific Provisions

In addition, some sites and precincts have site-specific controls for building height, FSR, and site-specific matters which are stipulated in Division 5, Part 6 of the Sydney LEP 2012.

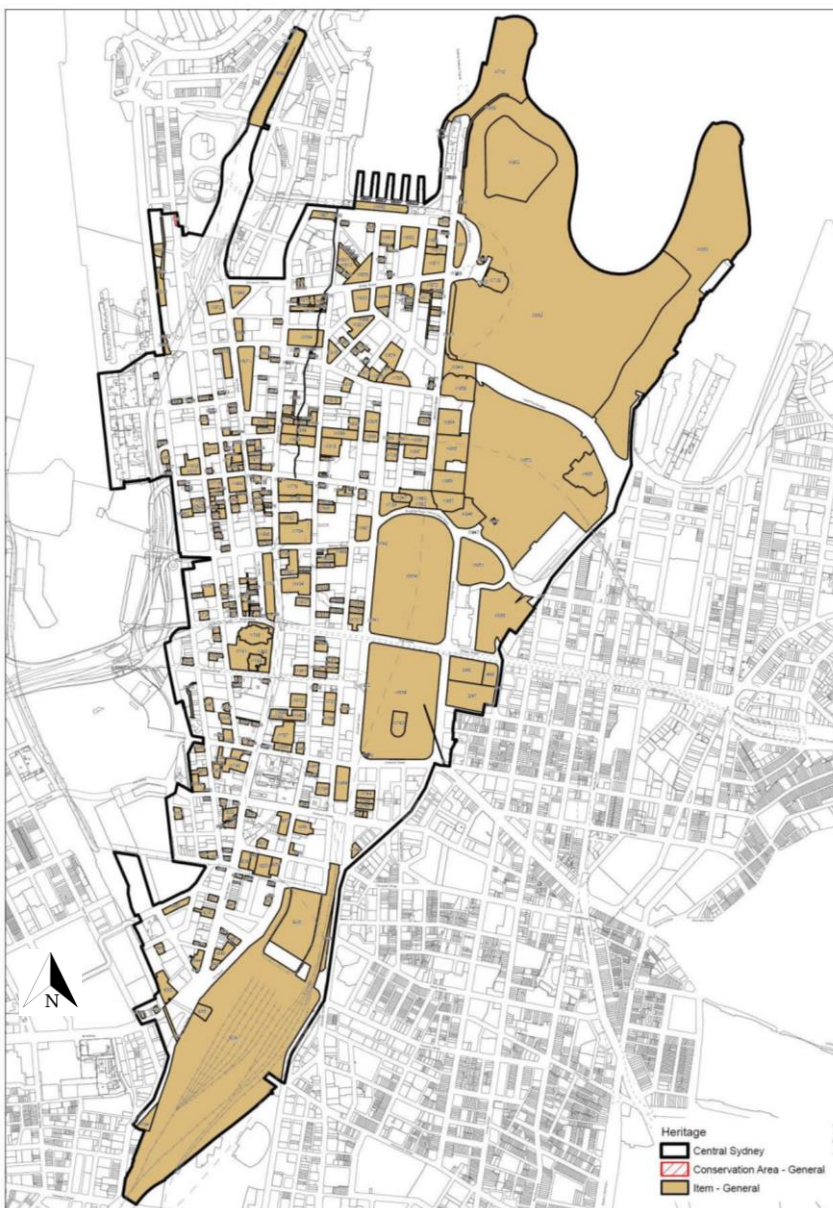
## Design Excellence

Clause 6.21 Design Excellence of the Sydney LEP 2012 allows for up 10% additional height (or floor area) for buildings over 55m if a competitive design process has been undertaken and design excellence is demonstrated.

## Heritage

At the time the planning proposal was lodged, Council states that there were over 270 heritage items listed in Schedule 5 of the Sydney 2012 that are located within Central Sydney (**Figure 9**).

Clause 5.10 Heritage Conservation of the Sydney LEP 2012 applies to these heritage items and requires the heritage impacts to be further considered prior to development consent being issued.



**Figure 9: Existing Heritage Items Map (Source: Central Sydney Planning Proposal, City of Sydney Council, 2020)**

## Heritage Floor Space

Clause 6.10 Heritage Floor Space of the Sydney LEP 2012 enables a land owner of a heritage building in Central Sydney to be awarded HFS after completing conservation works on the building. That owner may sell that HFS to a developer who is required to allocate HFS when seeking to obtain additional floor space for their development. In accordance with clause 6.11 of the Sydney LEP 2012 development consent cannot be granted unless HFS is allocated for the following provisions:

- accommodation floor space (clause 6.4);
- opportunity floor space (clause 6.9);
- floor space awarded as part of design excellence (clause 6.21); and
- floor space awarded as part of a clause 4.6 Exceptions to Development Standards of the Sydney LEP 2012 variation.

## Erection of Tall Buildings

Clause 6.16 Erection of Tall Buildings in Central Sydney of the Sydney LEP 2012 seeks to ensure that tower development on small lots in Central Sydney provide amenity to occupants of the development and of neighbouring buildings.

The current clause 6.16(3) of the Sydney LEP 2012 requires that where a tower development is sought with a building height greater than 55m, development consent must not be granted on a site less than 800m<sup>2</sup> unless the consent authority is satisfied that the following performance criteria are met:

- the building will have a freestanding tower, each face of which will be able to be seen from a public place; and
- the development will provide adequate amenity and privacy for occupants of the building and will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings; and
- the ground floor of all sides of the building facing the street will be used for the purposes of business premises or retail premises.

### 1.1.7 State electorate and local member

The site falls within the Sydney state electorate. Alex Greenwich MP is the State Member. The site falls within the Sydney federal electorate. Tanya Plibersek MP is the Federal Member. To the team's knowledge, neither MP has made any written representations regarding the proposal

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and alterations

The Gateway determination issued on 11/03/2020 (**Attachment B**) determined that the proposal should proceed subject to conditions.

## 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 1/05/2020 to 10/07/2020.

An additional public exhibition was undertaken between 27 August 2020 and 30 September 2020, for specific property owners to correct a mapping error identified in the Draft Central Sydney Contributions Plan 2020.

A total of 87 public submissions were received (**Attachment D**).

No public meeting was held following public exhibition.

### 3.1 Submissions during exhibition

#### 3.1.1 Submissions supporting the proposal

Key supporting points raised in the community submissions of the positive contributions of the proposal:

- support the vision of the City of Sydney to set an agenda for growth, while protecting the special places of Sydney, including the heritage buildings which are acknowledged in the draft CSPA as a key aspect of what makes Sydney such a unique and beautiful place.
- the ten key moves are all supportable, but the actual implementation of these moves into the other exhibition documents requires further consideration.
- the new plan will be easier to navigate and use and are particularly pleased that Council has made it easier to secure access to the bonus floorspace scheme without necessarily having to lodge a planning proposal.
- commend City's strong position on affordable housing and for continuing to uphold and represent this position.

#### 3.1.2 Submissions objecting to and/or raising issues about the proposal

There were 87 submissions received from individuals, residents, community groups, industry peak bodies, planning consultants representing developers/ landowners and state agencies.

The City also had 102 participants attend online discussion forums and received 94 complete responses to an online survey about the key moves in the Central Sydney Planning Strategy.

Key matters raised in written submissions and consultation activities include:

- **Tower Clusters** - impacts of the tall towers that may be built in the tower cluster areas and requested clarification of the minimum site requirements for a potential development in tower cluster areas. There were concerns with the minimum 2,000 square metre site requirement for tower cluster areas and requested heritage items be included in the minimum site requirement for tower cluster areas.
- **Development Contributions Plan** - concerns regarding the proposed increase to the levy rate, in particular, the proposed change from a 1% to a 3% levy for developments worth over \$1 million, cumulative impact of the levy increase alongside other contributions obligations and costs in Central Sydney such as affordable housing contribution, the cost of acquiring heritage floor space, design competition costs, provision of public art and environmental compliance costs. The proposed contributions increase would reduce development feasibility in Central Sydney and make other centres more attractive as investment options.
- **Accommodation floor space** – request for Council to not remove the Accommodation Floor Space bonuses for residential accommodation and serviced apartments. Council should explore more nuanced approaches to residential development such as build-to-rent,



provide greater incentives to employment land uses, assess residential developments on a case-by-case basis or defer the removal of the residential bonus.

- **Design Competition Process** - The tower cluster areas competition process proposed a number of differences to the existing design competition process including, jury composition, minimum number of competitors, inclusion of emerging architects, skills in sustainable design, female representation and minimum fees for competitors. The requirement for emerging architects is inappropriate and for competitors to demonstrate a minimum 50 per cent female representation in their design team and leadership team should not be enforced by a competitive design policy.
- **Setback variations through wind and daylight testing - Schedule 11 (DCP)** - clarification sought of the 'base case' concept and considered the proposed equivalence procedure to be onerous and suggested it will limit development potential. Submissions also questioned if compliance with Schedule 11 means all impacts on surrounding land is considered reasonable. The tapered building form of the base case is generally not supported.
- **Savings and transitional provisions** - concerns with the absence of savings and transitional provisions for Stage 1 Development Applications DA either approved or lodged but not determined. This is particularly relevant for Stage 1 DAs that include residential accommodation in Central Sydney.
- **Special Character Areas (DCP)** - concerns about the readability of the maps and requested confirmation that the correct controls apply to specific sites, in particular, reflecting the new 110 metre height limit for the Western Edge.
- **Key Public Views** - the view corridors reduced the potential for employment floor space in an area of the City unencumbered by sun access planes, and that this is contrary to the overall intent of the Strategy. The view corridors intersect with elements of existing buildings, reduce currently permissible building heights and development potential and they limit potential for refurbishment by creating a prohibition.

A summary of issues raised in submission and Council's response is detailed in Table 3.

**Table 3 Summary of Key Issues**

Issue raised	Council response and Department assessment of adequacy of response
<b>Tower Cluster areas – General</b>	
<p>Submissions raised concerns with the proposed tower cluster areas, including impacts on heritage streetscapes, sight lines, sunlight to the street level and overshadowing of Kent Street apartments located north of Gas Lane.</p>	<p><i>Council's Response</i></p> <p>The Central Sydney Planning Framework contains planning controls for the proposed tower cluster areas which provide reasonable flexibility for tall buildings.</p> <p>Site specific considerations, such as site area, adequate building separations and outlook, heritage curtilage, wind impacts, sunlight and air movement will determine how a new tower can appropriately be accommodated and better able to respond to their context.</p> <p>The City supports SEPP65 and the Apartment Design Guide (ADG) provisions for sun access and other residential amenity issues. The City will continue to support the ADG and apply it. The City has amended the Kent St tower cluster area to exclude the northern area of the Tower Cluster Area around Gas Lane.</p>

	<p>The proposed tower cluster areas are focused in those areas of Central Sydney less constrained by sun access planes and airport controls. The location of tower clusters is primarily driven by locations that will not impact on public spaces.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
<p>Submissions questioned the 2,000 square metres the minimum site area for tall towers in the cluster areas and requested the site size be reduced to 1,000 square metres.</p> <p>The 2,000 square metre minimum site area provision should be a guide to allow marginal variation based on site-specific circumstances and should be the subject of clause 4.6 variation.</p>	<p><i>Council's Response</i> In order to achieve tall buildings in the tower cluster areas a minimum site area of 2,000 square metres is required to accommodate the minimum street wall heights and setbacks, minimum side and rear setbacks and appropriate building separations. A minimum site area ensures that wind comfort, wind safety and daylight levels in adjacent Public Places are acceptable. For sites smaller than 2,000 square metres, it is difficult to achieve a commercial floor plate once setbacks and efficiencies have been applied.</p> <p>The minimum site area ensures that wind comfort, wind safety and daylight levels in adjacent Public Places are acceptable. For sites smaller than 2,000, it is difficult to achieve a commercial floor plate once setbacks and efficiencies have been applied. The city does not support variation to the minimum site requirements.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
<p>Submissions requested to remove the heritage exclusion from the proposed Tower Clusters LEP clause to enable redeveloped to incorporate heritage items.</p>	<p><i>Council's Response</i> As Australia's oldest city, Central Sydney has many layers of history and culture embodied in its buildings. The City has listed over 2,000 local heritage items, as well as buildings of state, national and world heritage significance. To ensure Central Sydney's rich and diverse heritage is appropriately managed for the benefit of current and future generations, heritage sites have been excluded from the minimum site area in tower cluster areas. While there are past examples of heritage items being integrated into modern tower developments, the sensitive nature of heritage items and their context requires a strategic approach that is informed by a detailed analysis of heritage impacts. Incorporating a heritage item into the site area will incentivise developing over an item which likely to have heritage impact in many instances. Where a development proposal seeks to incorporate a heritage item and the land it occupies, a proposal should use a site specific planning proposal pathway so all heritage matters can be properly assessed and managed.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>

Submissions outlined some sites in Tower Cluster areas may be able to achieve more than 50% additional floor space. Submissions recommend the City remove the 50% bonus limit in the tower cluster pathway, and rather enable an uncapped floor space ratio subject to satisfying the range of other requirements in the planning framework.	<p><b>Council's Response</b> Where a site may potentially achieve more floor space than what is available in the Sydney LEP, the option to prepare a site-specific planning proposal is still available under the EP&amp;A Act.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>
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### Site Specific requests for inclusion in tower cluster areas

*Site specific requests for inclusion in tower cluster areas, include:*

- 338 Pitt Street, Sydney
- 49-51 Market Street and 452-478 George Street, Sydney
- 1, 10, 12 Shelley Street, Sydney
- 59-69 Goulburn Street, Haymarket
- 691 George Street, Haymarket
- 53-63 Martin Place
- 1 Margaret Street, Sydney
- 81 Quay Street, Haymarket.

#### **Council's Response**

Landowners may request the City prepare a site-specific planning proposal. The City welcomes initial discussions for specific sites, and will assess any request, lodged with the appropriate fee and justification reports, on its strategic and site-specific merits.

The City notes that these site-specific requests may be positioned on land with more environmental constraints than the land within the tower cluster areas, including wind and sun access. Therefore, detailed analysis of the development potential is required before progressing to a planning proposal or development application. The presence of sun access planes, heritage items and key public views may also constrain the development potential of these sites.

It is noted that the 338 Pitt Street site has lodged a stage two development application with Council prior to the exhibition of the draft CSPF. The City will provide savings and transitional provisions for any development applications lodged and/or approved. While the site does conform to the site size requirements, the site was not included in a tower cluster area as it has sun access restrictions.

#### **Department's Assessment**

The Department considers Council's response adequately responds to the submission.

### Draft Development Contributions Plan

The Central Sydney planning controls be extended to cover the same areas as the Draft Central Sydney Development Contributions Plan. Land subject to the proposed increase in development contributions should benefit from planning controls that would support and facilitate the future viability of sites in a manner that would enable them to fund the contributions being sought. The increased contribution levy should not be applied to land which has not been given the opportunity to be part of the future planning for Central Sydney.

#### **Council's Response**

The Draft Central Sydney Development Contributions Plan 2020 ("draft Contributions Plan") is proposed to apply to the same land as the existing Central Sydney Development Contributions Plan 2013. No changes are proposed in terms of the land in Central Sydney to which the development contribution levy is proposed to apply.

The land to which the Central Sydney planning controls are proposed to apply differs to that which the draft Contributions Plan is proposed to apply because these boundaries were historically developed at different times.

Levies collected from new development within the draft Contributions Plan's boundaries will fund local infrastructure within those boundaries, as per the Plan's Schedule of Works.

#### **Department's Assessment**

The Department considers Council's response adequately responds to the submission. The assessment of the 7.12

	Regulation Amendment does not form part of the planning proposal and draft LEP.
<p>The full effect of the contribution increase is intensified in the current economic context.</p> <p>The timing of the proposed contributions increase is inappropriate.</p> <p>The proposed contribution increase is likely to reduce new property investment in Central Sydney in such uncertain times and work against stimulating a strong post Covid economic recovery.</p> <p>In this difficult economic climate where there is much uncertainty, Council should not proceed with the proposed levy increase for development contributions.</p> <p>Development contributions should remain at 1% for works over \$200,000.</p> <p>Many submissions noted that if Council does opt to proceed with the levy increase, it should delay its introduction or phase it in overtime to provide certainty in development costs.</p>	<p><i>Council's Response</i></p> <p>Development contributions in Central Sydney have remained at 1% of the development cost since 1997. Over this 23 year period, demands on local infrastructure have continued to increase alongside a growing population. The City has also helped fund regionally significant projects such as the light rail. The 1% levy is too low to support the infrastructure demands arising in Central Sydney, and over many years the City has been required to supplement infrastructure funding from other sources.</p> <p>The City acknowledges the economic conditions currently being experienced across many sectors of the economy as a result of the Covid-19 pandemic.</p> <p>The proposed increase in contributions is necessary to more fully reflect the rising costs of infrastructure provision.</p> <p>The provision of infrastructure not only has significant benefits for communities through facilities provided, it also has wider economic benefits.</p> <p>It is for these reasons the City intends to proceed with implementing the proposed contributions levy increase. Some minor adjustments are proposed to more accurately account for changes between development cost brackets, with the following rates now proposed:</p> <ul style="list-style-type: none"> <li>• Less than \$250,000 = No levy.</li> <li>• \$250,000 or more, but less than \$500,000 = 1% levy (consistent with current rate)</li> <li>• \$500,000 or more, but less than \$1,000,000 = 2% levy</li> <li>• \$1,000,000 or more = 3% levy.</li> </ul> <p>It is proposed to commence the draft Contributions Plan and implement the contribution increase at the same time that the LEP is made, or shortly thereafter. Clause 25K of the EP&amp;A Regulation requires amendment to enable the draft contributions Plan to impose a levy of up to 3%. It is proposed that Council request the Minister for Planning and Public Places to amend Clause 25K of the EP&amp;A Regulation.</p> <p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>Increased contributions should only apply to tower cluster developments where favourable heights and FSR bonuses are achieved. Increasing contributions for smaller developments will be damaging to their viability.</p>	<p><i>Council's Response</i></p> <p>The proposed sliding scale levy, where contributions increase according to the development cost, requires a greater contribution from those developments which are likely to place greater demands on infrastructure.</p> <p>Large scale projects which have a development cost of over \$999,999 (including tower cluster developments) will attract a contribution at 3% of the development cost.</p>

	<p>This is consistent with the maximum contribution levy charged in other major city centres in NSW such as Parramatta, Chatswood and Newcastle.</p> <p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>The proposed contributions increase should not be considered in isolation. The proposed contributions increase is not supported given the cumulative impact of all the contributions and levies applying in Central Sydney.</p> <p>The cumulative impacts of all contributions, levies and charges in Central Sydney on development feasibility should be taken into account. This includes the forthcoming affordable housing levy, the heritage floor space scheme, public art levy, ESD compliance. There are also the costs associated with design competitions. The City should undertake further analysis that takes into consideration the layering of these contributions and how that impacts on feasibility.</p>	<p><i>Council's Response</i></p> <p>A 3% levy is consistent with other major centres and the NSW Government's proposed guidance on implementing higher percentage rates for section 7.12 contributions for centres, which was exhibited from April to June 2020.</p> <p>The analysis indicates that for proposed tower cluster developments, the proposed contributions increase to 3% do not impact on feasibility, given the significant development uplift achievable with the new design excellence pathway delivering up to 50% bonus floor space.</p> <p>The proposed new contributions could increase statutory fees from 2% - 3% to 3.5% - 4.5% (as a percentage of total development costs).</p> <p>For alterations and additions (including office and retail fitout works), the wide variation in development types and costs means that there is also a wide variation in the contributions. Overall, when analysed in terms of how much additional contribution would be payable, the proposed contribution levy increases are relatively minor, ranging from \$2 - \$48 per square metre per annum when considered in the context of a 5 year lease</p> <p>More generally, regarding contributions and charges levied in Central Sydney, it is noted:</p> <ul style="list-style-type: none"> <li>• The market has had around two years advance notice of the affordable housing program.</li> <li>• The heritage floor space scheme has been in operation for over 40 years, having successfully conserved over 80 buildings in Central Sydney.</li> <li>• The City requests the preparation of a public art strategy for site specific development control plans and Stage 1 development applications to guide the delivery of public art in new development, but the City does not impose a 1% public art levy or set a monetary value in relation to this.</li> <li>• The competitive design process is integral to achieving design excellence as currently required by the LEP.</li> <li>• The City has existing planning controls relating to environmentally sustainable design, some of which align with requirements in the National Construction Code. While the City also encourages development to incorporate design features to achieve excellent environmental performance, these are not mandatory.</li> </ul> <p><i>Department's Assessment</i></p>

	<p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>The cumulative contributions required in Central Sydney are much greater than other centres such as Melbourne City, Parramatta and North Sydney which do not have such a layered contributions framework.</p> <p>When compared with competitive markets for employment floor space, the cumulative contributions within Central Sydney exceed North Sydney by a factor of 939% and Melbourne by a factor of 1289%.</p>	<p><i>Council's Response</i></p> <p>There is a strong depth of market demand in Central Sydney which drives high rental potential and asset performance. This is evident in recent gross rent figures for these locations – Central Sydney \$1300/sqm, North Sydney \$950/sqm, Parramatta \$700/sqm, Melbourne \$500/sqm). While the cumulative costs of contributions and levies in Central Sydney may exceed those in other metropolitan areas, asset value and performance also exceeds other areas.</p> <p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>A transition is recommended for existing development sites and a sliding scale especially for larger projects (i.e. lower percentage for larger projects, base 1% for smaller projects).</p>	<p><i>Council's Response</i></p> <p>The draft Contributions Plan contains transitional provisions which have the effect of saving the 1% contributions rate for any development applications or modification applications which were made when the existing Central Sydney Development Contributions Plan 2013 was in effect, but determined at a time when the higher rates in the new Central Sydney Development Contributions Plan 2020 have commenced.</p> <p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>Unclear whether the proposed increase in development contributions would eliminate any requirement for additional contributions secured through a voluntary planning agreement. There was concern raised about the capacity to absorb the additional costs associated with a VPA in addition to other contributions and levies.</p>	<p><i>Council's Response</i></p> <p>Voluntary Planning Agreements (VPAs) exist under the Environmental Planning and Assessment Act 1979. They will remain as a mechanism that can be used to deliver public benefits voluntarily offered by a proponent.</p> <p>The implementation of the contribution increase of up to 3% considers the increased demand of infrastructure resulting from changes to the planning controls. This will assist with the delivery of infrastructure when there are increases in density.</p> <p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>Support for the exemption of "places of public worship provided by a charity organisation" from the payment of development contributions.</p>	<p><i>Council's Response</i></p> <p>The support for the exclusion of "places of public worship provided by a charity" from the need to pay a contribution is noted.</p>



	<p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
The proposed contributions levy is far too low for a global city – 5% of the construction cost should be the minimum for creating public benefits beyond the site.	<p><i>Council's Response</i></p> <p>Development contributions are an important funding mechanism which assist the City to deliver the infrastructure a world class city needs to support growth, attract business and investment and enhance public amenity.</p> <p>The proposal to commence the draft Contributions Plan and implement the contributions increase at the same time the LEP is made, or shortly thereafter, will allow infrastructure to align with growth. This will benefit communities through the provision of infrastructure identified in the draft Contribution Plan's Schedule of Works.</p> <p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
The payment of development contributions at the construction certificate stage is too early in the financial cycle of a building. Occupation certificate is a more appropriate stage for payment of contributions.	<p><i>Council's Response</i></p> <p>Deferring payment until the occupation certificate stage interrupts the funding process and makes it inevitable that infrastructure will follow far behind development.</p> <p>While the draft Contributions Plan allows for the deferral of 50% of the payment to the occupation certificate stage, this is limited to non residential developments with a cost of \$50 million or more.</p> <p><i>Department's Assessment</i></p> <p>The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
In the City's Visitor Accommodation Action Plan, one of the actions identified to encourage the supply of 3 star hotels was to reduce development costs, including through reducing development contributions.	<p><i>Council's Response</i></p> <p>The City's Visitor Accommodation Action Plan, dated June 2015, included an action to investigate encouraging 3-star hotels in certain parts of Central Sydney by providing an exemption from development contributions.</p> <p>The City does not intend to include 3-star hotels on the list of development excluded from the need to pay a contribution, nor maintain the existing 1% levy specifically for hotel developments.</p> <p>The analysis has taken into account other contributions obligations within Central Sydney, such as the heritage floor space scheme and the forthcoming affordable housing levy. The City continues to encourage hotel development in Central Sydney, retaining and increasing (in some instances) the Accommodation FSR for hotel uses.</p> <p>Hotels are rarely the highest and best use of a site where other uses are permitted (e.g. residential, commercial) but can be a viable option where other uses suffer site constraints. More</p>

	<p>recently, hotels are progressed as a mixed-use development combined with retail, commercial and other uses. The impact of the proposed contributions on hotel development would therefore be similar to the impact on commercial development.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>An investment decision to upgrade office space in a heritage listed building will be severely challenged due to the proposed increase in contributions, along with other contributions and levies.</p>	<p><i>Council's Response</i> The analysis of the proposed levy increase on office fit outs indicates that there is a wide variation in office fitout types undertaken (e.g. basic to high quality, as well as office size) which in turn means there is a wide variation in the contributions expense.</p> <p>When analysed in terms of how much additional contribution would be payable per annum per square metre, the proposed contribution levy increases are relatively minor.</p> <p>The analysis also found that upgrades to office buildings assist in unlocking revenue generation potential. An office may be upgraded for BCA compliance, to accommodate a new tenant or to unlock opportunity for new uses. While the upgrade work requires expense, it generally enables the proponent to secure a financial outcome (e.g. avoidance of vacancy, securing higher rent or stronger lease arrangements etc.).</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>The City should reconsider the new contributions plan and seek to facilitate outcomes which maximise investment. Examples include recent Ministerial Direction to defer payment of contributions from construction certificate to occupation certificate stage. There is also a comprehensive review of the infrastructure contributions system being conducted by the NSW Productivity Commissioner.</p>	<p><i>Council's Response</i> In March 2020, as part of the City's Covid-19 response package for businesses, the proposed levy increase was revised from 3% for all development to a sliding scale with levies of between 1 and 3% depending on development cost.</p> <p>Deferring funding to occupation certificate stage will exacerbate the existing infrastructure lag problem at a time when councils are making significant efforts to use public works to stimulate economic activity and bolster the long term attractiveness of the city for investment.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>There is concern that the increased levy will be applied to major refurbishment works which involve no increase in floor area or demand for infrastructure.</p> <p>Many of these proposals would relate to B grade office buildings, and a 3% levy would</p>	<p><i>Council's Response</i> The current Central Sydney Development Contributions Plan 2013 applies to refurbishment works, including for offices, where there is no increase in floor area. The draft Contributions Plan is also proposed to apply in such circumstance.</p>

discourage upgrade and refurbishment proposals which would be of benefit to many small and medium business which occupy tenancies in these buildings.

The proposed sliding scale levy, where contributions increase according to the development cost, seeks to limit cost increases for smaller scale developments. No levy increase is proposed for development with a cost below \$500,000.

The analysis has tested the tolerance of office fitout developments to the proposed levy increase, including for large scale refurbishments. Overall, when analysed in terms of how much additional contribution would be payable per annum per square metre, the proposed contribution levy increases are relatively minor.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.

There is concern about the application of the increased contributions to projects for minor building alterations.

*Council's Response*

The Draft Contributions Plan is proposed to apply to developments (including building alterations) of \$250,000 or more.

The analysis has tested the tolerance of alterations and additions (including fitouts) to the increased contribution rates. Overall, when analysed in terms of how much additional contribution would be payable per annum per square metre, the proposed contribution levy increases are relatively minor.

The analysis also found that upgrades to office buildings assist in unlocking revenue generation potential. While the upgrade work requires expense, it generally enables the proponent to secure a financial outcome (eg. avoidance of vacancy, securing higher rent or stronger lease arrangements etc.).

*Department's Assessment*

The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.

<p>Many of the works listed in the draft Contribution Plan's Schedule of Works are to support future growth of the City's residential population. The removal of the incentive for residential floor space means that it is highly unlikely that this growth will eventuate. Council should revise its Schedule of Works to only relate to types of development which will occur under the new planning controls (employment land uses). It should also not use contributions paid by new commercial development to subsidise the provision of facilities and services for the existing residential population of Central Sydney.</p>	<p><b>Council's Response</b> The Draft Plan's Schedule of Works describes over \$600 million worth of infrastructure works for Central Sydney which have either been delivered and the costs recouped, or are anticipated to be delivered and funded through the levy.</p> <p>Levy income will not cover the full costs of delivering this infrastructure. Most local infrastructure, such as roads, cycleways, public toilets and public domain improvements, is used by residents, visitors and workers, rather than exclusively one population type. Under the draft Contributions Plan all types of development where the cost of works is \$250,000 or above will be required to pay a contribution, regardless of the land use.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<p>No transitional or savings provisions are proposed in terms of concept DAs and development contributions. Certain concept DAs currently under assessment with Council which are subject to existing planning controls and were lodged prior to the exhibition of the Central Sydney Planning framework should be subject to savings provisions so that they are subject to existing contributions rates.</p>	<p><b>Council's Response</b> When a development is subject to both a Stage 1 (concept) DA and a Stage 2 DA, the contributions liability falls to the Stage 2 DA as it is at this point that a more reliable estimated development cost can be provided for the purposes of calculating contributions. Given this, which ever contribution plan is in existence at the time a Stage 2 DA is lodged is the one which determines the levy rates payable.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission. The assessment of the 7.12 Regulation Amendment does not form part of the planning proposal and draft LEP.</p>
<b>Accommodation Floor Space</b>	
<p>Request to not remove the accommodation floor space incentive for residential accommodation and serviced apartments or defer removing the residential floor space bonus.</p>	<p><b>Council's Response</b> The intent of the Central Sydney Framework is to rebalance the planning controls with a long-term focus on economic and employment floor space Growth.</p> <p>The City recommends a staged removal of the incentive over 2 years as a post exhibition change. This will provide the market with a wider range of development opportunities during the COVID-19 recovery and further time to adjust to the new controls. It is proposed that the accommodation floor space for residential accommodation and serviced apartments is reduced by 50 per cent after 1 year, and 100 per cent after 2 years from the making of the LEP, except for the City Core (Area 1) which is to be reduced by 100 per cent on the making of the LEP.</p> <p><b>Department's Assessment</b> The Department supports the staged removal of the incentive over 2 years as a post exhibition change.</p>
<b>Design Excellence</b>	

<p>Sydney DCP 2012 are particularly detailed, even prescribing a method of calculating floor space ratios which takes into account sun shading (750mm requirement) and architectural articulation (15%). These provisions are overly detailed and consider them to be a broad method of implementing best practice design which seeks to control solar loads and enable flexibility in design competitions.</p>	<p><b>Council's Response</b> These provisions were included to ensure a consistent approach to determining the floor space ratio for inclusion in the Competitive Design Brief for developments within a tower cluster area. In response to submissions these provisions have been simplified to a sliding scale. Where the floor space ratio efficiency relates to the proposed height, e.g. the taller the proposal, the greater the efficiency required.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission. DCP updates are generally the responsibility of Council.</p>
<p>The design excellence process needs to be combined with greater flexibility by the consent authority when considering design evolution between a competition-winning concept and a detailed DA design.</p>	<p><b>Council's Response</b> The policy does not restrict the design development of the winning competition scheme subject to maintaining design integrity, and ensuring it is equivalent to an improvement upon the design excellence qualities of the winning competition scheme.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>
<b>Design Competition Process</b>	
<p>Reconsider the need for a sustainability specialist on the jury as focus on sustainability is assured through the required certification frameworks such as NABERS and Green Star.</p>	<p><b>Council's Response</b> Design excellence encourages above best practice sustainability performance. A specialist on the jury will assist in judging the sustainability outcomes of design competition entrants.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>
<p>The clause demanding "emerging architects" is inappropriate.</p>	<p><b>Council's Response</b> The City supports emerging architects with demonstrated capabilities by being the recipient of an Australian Institute of Architects (AIA) commendation or award in the past 5 years or in the case of overseas competitors, the same with their equivalent professional association. Emerging status is recognised by way of relative experience in architectural typology, scale and complexity appropriate to a specific development project.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>
<p>It is recommended to have a minimum 5 jurors rather than 6 – with 2 appointed by Council, one by the Government Architect and two by the applicant – with the chair decided by the jurors. Similarly, a minimum number of 5 competitors would be just as effective as six.</p>	<p><b>Council's Response</b> The proposed jury composition is similar in structure to that of the existing City of Sydney Competitive Design Policy - Architectural Design Competitions, with an equal balance between proponent and City nominees. The structure is devised to foster collaboration within a legislative framework, facilitating an appropriate mix of experience engaged in competition selection processes, and balance of public and private interests.</p> <p><b>Department's Assessment</b></p>

	The Department considers Council's response adequately responds to the submission.
The fee for such large buildings should be at least \$250,000 AUD (2020 adjusted by CPI) rather than 150K – given such a fee would be the minimum costs incurred by architectural/consultant teams for such major projects for buildings taller than 220m or 56 office storeys.	<p><i>Council's Response</i> A minimum fee is established as a baseline only and does not preclude increased fees commensurate to competition deliverables, estimated cost of works, scale and complexity of the proposed development. The City recommends proponents remunerate accordingly.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
The proposal to pay competitors at least \$150,000 in fees, a substantial increase from the existing policy.	<p><i>Council's Response</i> The existing Competitive Design Policy does not set or specify competitor participation fees. Fees are established at the discretion of the proponent, and the City recommends, commensurate to, competition deliverables, estimated cost of works, scale and complexity of the proposed development.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
The requirement for competitors to demonstrate a hard figure of a minimum 50% female representation in their design team and leadership team should not be enforced by a competitive design policy.	<p><i>Council's Response</i> The wording of the draft Competitive Design Policy will be amended to adopt the 40:40:20 ratio initiated by the Male Champions of Change. It refers to 40% men, 40% women and 20% of any gender.</p> <p>The intent of the Male Champions of Change ratio is to aim for diversity of gender in workplace leadership and in teams, which aligns with the City's aspirations for prompting diversity and gender equity.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission and supports the update to the draft Competitive Design Policy.</p>
<b>Schedule 11</b>	
Multiple submissions received for Procedure B of Schedule 11 consider that the requirements are onerous and will significantly limit the development potential of sites.	<p><i>Council's Response</i> Setbacks are largely about ensuring good daylight and wind conditions in public places which is essential to achieving ensuring Central Sydney remains an attractive place for people while supporting growth. The City is allowing a flexible approach to the built form controls as long as the proposed envelope provides equivalent, or an improvement, on wind and daylight testing to the base case.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission. Further assessment of Schedule 11 is at section 4 of this report.</p>
Clarification of the 'base case' concept.	<p><i>Council's Response</i> The base case is used to model wind and daylight impacts. It provides indicative information on the site's suitability for</p>



	<p>additional height and/or density. Schedule 11 has been restructured and reworded for greater clarity. The base case will provide a general indication of how suitable a site is to accommodate a tall tower.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission. Further assessment of Schedule 11 is at section 4 of this report.</p>
<p>The proposed requirement for a tapered building form is generally not supported. As with most developers and especially with commercial development, efficiencies are gained through the repetition of consistent tower floor plates. It is recommended that the tapered building form requirement is removed.</p>	<p><i>Council's Response</i> Tapering is a component of the base case requirements for wind and daylight testing. It is also a consideration in the final planning envelope allowing for efficiencies for the design competition and architectural variation. A development proposal may have a form that is not tapered provided it meets or improves on the wind and daylight performance of the tapered base case.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission. Further assessment of Schedule 11 is at section 4 of this report.</p>
<b>Sun Access Planes</b>	
<p>Expansion of the SAP controls to all year or several months.</p>	<p><i>Council's Response</i> The April 14 to August 31 and August 31 to April 14 dates which are not equinox dates but are used because it's when the sun is in the same point in the sky. The sun follows slightly different paths in Autumn and Spring. In instances where a public space is completely overshadowed in mid-winter, these other dates are typically used to check when the sun reaches the space.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
<p>The Darling Harbour SAP does not protect the sun access to the foreshore because various developments do not comply and extend well above it.</p>	<p><i>Council's Response</i> The City is proposing a strategy to transition building heights along the Darling Harbour edge of Central Sydney using a SAP. There are properties on the eastern side of Darling Harbour that could develop to significant heights. The City's wind advice notes significant impacts on Darling Harbour.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
<p>Concerns that the Harmony Park SAP, which is only intended to apply to land within Central Sydney, also applies to land outside of the Central Sydney boundary.</p>	<p><i>Council's Response</i> The City acknowledges the unintended application of the Harmony Park SAP. The City will address this issue through the Central Sydney South project.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
<b>Savings Provision</b>	

<p>The exhibited planning proposal and proposed LEP provisions do not currently contain savings and transitional provisions for Stage 1 Development Applications (DA) approved under the current LEP controls. This is particularly pertinent for Stage 1 DAs that include residential accommodation in Central Sydney.</p>	<p><b>Council's Response</b> The City will include savings and transitional provisions in the amended planning proposal. There are a number of live concept DA approvals in Central Sydney. The proposed removal of accommodation floor space for residential land uses under cl. 6.4 will have a significant impact on these approvals.</p> <p><b>Department's Assessment</b> The Department supports Council's inclusion of a savings provision.</p>
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### Additions to heritage items

<p>'Section 5.1.3.1 Additions to Heritage Items' of the DCP be revised to acknowledge that additions and building over heritage items is appropriate but will be subject to a thorough assessment.</p> <p>Submissions requested the deletion of the sentence: "no additions to or development above heritage items will be permitted".</p>	<p><b>Council's Response</b> In many cases a planning proposal is needed to assess the impacts on the heritage item in detail and how the proposal will include the heritage item.</p> <p>Notwithstanding, the City has amended the legend on the Special Character Area maps to remove "no further development" for heritage items and included a new provision 5.1.3.1(5) to allow consideration of vertical additions to heritage items that are not visible from adjacent streets.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>
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### Special Character Areas

<p>The concept of 'no further development' on any site is not practical or reasonable for the above reasons as the remit of 'development' is too broad in the context of the general requirements of any site.</p>	<p><b>Council's Response</b> The SCA work takes the existing SCA and tries to refine the way the controls were written but did not look to change the controls or question if they are useful or something different.</p> <p>As noted above the SCA maps, along with the DCP, have been updated to include reference to a new provision clarifying that, any vertical addition to that heritage item must not be visible from adjacent public places. This will enable minor development changes to occur through the development application process.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>
<p>The proposed DCP control is inconsistent with both the new 110m height limit for York Street / Clarence Street / Kent Street Special Character Area.</p>	<p><b>Council's Response</b> The special character area maps have been reviewed and updated to reconcile western edge uplift to 110 metres in the York Street / Clarence Street / Kent Street Special Character Area.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>
<p>A specific Clause for 53-63 Martin Place be included in the DCP stating that a rooftop addition which is acceptable on heritage and visual grounds may be considered, including where it is a visual improvement compared to the existing rooftop structures.</p>	<p><b>Council's Response</b> The City has included a new provision 5.1.3.1(5) to allow consideration of vertical additions to heritage items that are not visible from adjacent streets.</p> <p><b>Department's Assessment</b> The Department considers Council's response adequately responds to the submission.</p>

Key Public Views	
The view protection planes should not affect development beyond Central Sydney.	<p><i>Council's Response</i> View protection planes are intended to apply to all development covered by Sydney LEP. They are intended to apply to any development covered by Sydney LEP that would intrude into the identified protected views. The coordinates have been updated to provide clarity.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
The view protection coordinates intersect existing buildings, including 345 George Street. This will reduce the current 130m building height, and any refurbishment of the existing building above this plane will be prohibited.	<p><i>Council's Response</i> The City will raise the view protection plane for the GPO clock tower to sit above the visible plant structures on the roofs of 341 and 343 George Street.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission and supports the post exhibition change.</p>
Unacceptable reduction in permissible development from 80m (88 with 10% design excellence height) for 301 Kent Street.	<p><i>Council's Response</i> It is proposed to adjust the western plane view corridor to match the height of recent development on Clarence Street of 88m.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission and supports the post exhibition change.</p>
Objection to the Public View Protection Planes for Martin Place Western Sky.	<p><i>Council's Response</i> The view to the western sky is already protected by the height limit of 80m to the west of Martin Place. This has been in place since the Sydney LEP 1996.</p> <p>The Martin Place view corridors are focused views incorporating significant elements of Martin Place. They protect the background of the GPO clock tower and the western sky setting to Martin Place. They are considered to have limited capacity to absorb change from significant new development.</p> <p>The intention of the view corridors is to prevent further development intruding on the protected view.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission. Further assessment of the Martin Place Western Sky Public View Plane is discussed in section 4 of the report.</p>
The view protection plane is not consistent with the proposed raising of heights to 110m along the western edge of the CBD.	<p><i>Council's Response</i> The proposed adjustment to the western plane view corridor to match recent development heights at 88m.</p> <p><i>Department's Assessment</i> The Department considers Council's response adequately responds to the submission.</p>
Tall Buildings	
The threshold in cl 6.16 of SLEP for site area to allow height greater than 55m be retained at 800 sqm and not increased to 1,000 sqm.	<p><i>Council's Response</i></p>

A review of development applications since 1998 demonstrates that a site area of 1,000 sqm is the minimum area required to include setbacks above a street wall.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

### Street frontage height and setbacks

That DCP amendments to reduce the heights of building frontages, and increase in rear and side setbacks will reduce the floor space capacity on some sites.

*Council's Response*

The background analysis for Central Sydney Planning Framework found a wide range of street frontage heights. With the exception of a small number of areas in the western edge, individual streets do not have a high level of consistency. The street wall is generally between 20 and 45 metres, but from building to building it's very common for them to go up and down. Therefore, the street frontage height of development outside of special character areas should range between 20 and 45 metres. The draft DCP provides a range of Street Frontage Heights depending on the proposed total building height.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

### Guideline for site specific planning proposals

Recommend the City update and reinstate its draft Guideline to assist and guide planning proposals. The existing version was a useful tool to provide clarity and certainty to both industry and authorities on the pathway, requirements and process.

*Council's Response*

The City has previously prepared a draft Guideline. The City has amended the Guideline for Site Specific Planning Proposals and included it in this post-exhibition package.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

### Site Specific Requests

*Site specific requests to review planning controls in Central Sydney, include:*

- 81 York Street, 83 York Street and 144 Clarence Street – request to increase building height.
- 81 Sussex Street, Sydney – request to increase building height and floor space ratio.
- 296 George St, Sydney – request to be mapped as an opportunity site.
- 211-215 Thomas St, Sydney – request to increase building height.
- 1-19 Hargrave Street and 38-52 College Street, Darlinghurst – request to increase building height and floor space ratio.
- King Street Wharf – request to increase building height and floor space ratio.
- St Mary's Cathedral – request to apply a new building height. Instead of using the existing height of the building on the land.

*Council's Response*

The Central Sydney Planning Framework did not exhibit site-specific changes to the planning controls, such as building height and floor space ratio.

Landowners may request the City prepare a site specific planning proposal.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.



- Australian Museum - request to apply floor space ratio and accommodation floor space.

### Western Edge

A greater increase in building height should be considered for the western edge corridor and this to be matched with appropriate FSR controls.

#### *Council's Response*

The proposed increase in the building height and FSR for the Western Edge is informed by a review of development approvals in the area. Capacity for further additional height and density along the western edge is restricted with the proposed Martin Place, western view plane. The City will continue to monitor development activity in this area.

#### *Department's Assessment*

The Department considers Council's response adequately responds to the submission.

Effects of a western edge height increase on tunnelling and down drafting of the prevailing wind, the added shading, and the lost views amenity of other city buildings are obvious.

#### *Council's Response*

The effects of increasing the FSR and building height in the Western Edge will be assessed during the detailed development assessment stage.

The recent approval and construction at 230 Sussex Street demonstrates appropriate setbacks and tower form can be achieved in this area. A minor amendment has been made to the northern section of the western edge height increase, in response.

#### *Department's Assessment*

The Department considers Council's response adequately responds to the submission.

### Residential Amenity

Object to the proposal to remove consideration of private views from the planning process.

#### *Council's Response*

Views are considered and retained where possible on the basis of view sharing principles where development is otherwise supported. However, private views beyond the site boundary and over other private land cannot be guaranteed.

#### *Department's Assessment*

The Department considers Council's response adequately responds to the submission.

Council should adopt a less rigid approach to the application of the Apartment Design Guide (ADG).

#### *Council's Response*

It is a requirement of the City's assessment practices to apply the Apartment Design Guide to proposed developments.

#### *Department's Assessment*

The Department considers Council's response adequately responds to the submission.

### Heritage Floor Space

Support the City's decision not to expand the HFS to floor space that may be achieved through the 50% design excellence bonus scheme.

#### *Council's Response*

Noted.

#### *Department's Assessment*

Noted.

Request the City review the HFS formulas of the DCP to incentivise the award of HFS relevant to the development potential which could otherwise be attained.

#### *Council's Response*

The City's Heritage Floor Space (HFS) scheme incentivises the conservation of heritage items in Central Sydney by awarding owners of conserved heritage buildings transferable development potential that can be sold for use elsewhere in

Central Sydney. Since its inception in the early 1970s, the HFS scheme has conserved over 80 buildings. The City will monitor and review the HFS scheme to ensure it remains an incentive for conservation, including by reviewing the awards, allocations and projected supply and demand and the approach for non-rateable buildings.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

## Environmentally Sustainable Development

Energy efficiency controls need to be ground truthed.

*Council's Response*

Any new performance requirements will be determined through the performance standard pathways to net zero energy buildings project. That project involves energy modelling and a cost benefit analysis to inform new standards.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission. Further assessment of energy performance targets is discussed in section 3 of the report.

Clarify DCP requirement for applications for new developments containing office premises with a net lettable area of 1,000sqm or more are to be submitted with documentation confirming that the building will be capable of supporting a Base Building National Australian Built Environment Rating System (NABERS) Energy Commitment Agreement of 5.5 stars with the NSW Office of Environment and Heritage.

*Council's Response*

The DCP requirement of a 5-star NABERS Energy Commitment Agreement (CA) is below the current requirement of the National Construction Code of a 5.5 star NABERS Energy CA, which is the minimum performance requirement for the construction of buildings and alterations and additions.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

## Wind

A review of wind speeds and criteria to ensure they are appropriate and do not become a barrier to development.

*Council's Response*

The City has used the most permissive standard being comfort for walking. This is the lowest comfort level for a minimum for people to be able to move around the City. The business walking standard is mostly uncomfortable at greater than 8 metres per sec for 5% of all hours. The City proposes to reduce the safety wind speed, i.e. make it more conservative, based on expert advice that the current standard allows unsafe conditions. The City has had significant engagement with wind consultants who have provided important technical input into this issue. The control has been designed to acknowledge existing exceedances, but it is not appropriate to increase exceedances and create poorer conditions where it is already uncomfortable for walking or unsafe.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

## Zone Objectives

Proposed "active street frontage" objective should be amended to allow greater flexibility of ground floor uses.

*Council's Response*

The City supports active street frontages, wherever possible. The proposed wording of the new zone objective is indicative and subject to final legal drafting.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

**Southern CBD**

Increase the 'base' FSR, height, accommodation floor space controls for sites in the Southern Precinct located in proximity to Central Station to facilitate the delivery of slim towers capable of aiding the preservation of heritage buildings and the achievement of a land-use intensity commensurate with the proximity to heavy infrastructure and the planned Sydney Innovation Technology Precinct.

*Council's Response*

The City approach to growth under the LEP is to identify opportunities in tower clusters where additional height and floor space can be accommodated. The proposed controls identify parts of Haymarket as a tower cluster area for additional growth with up to 50% bonus FSR. Site specific opportunities can be considered through the planning proposal process as permitted by the Act.

The south precinct around Central Station with Ultimo, Haymarket and parts of Surry Hills is the future southern extension of Central Sydney with the Central Station precinct earmarked for an additional 25,000 workers. The first stage of the Central Station precinct is currently progressing to the detailed assessment of new commercial towers. The City is committed to reviewing the planning controls for the Central Sydney South precinct in response to new infrastructure like Sydney Metro West and the proposed third city square at Central Station, which is an essential place making element that will be the mark of success for the precinct.

*Department's Assessment*

The Department considers Council's response adequately responds to the submission.

### 3.1.3 Other issues raised

Other matters of concern raised by submissions included:

- identifying Creative Spaces
- the need for Short Term Accommodation and Build to Rent
- improvements to Public Domain
- review of future population and jobs
- revision of Central Sydney Boundary.

The Department notes the above matters raised in the submissions and considers these comments are outside the scope of the planning proposal.

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in Table 4 who have provided the following feedback.

**Table 4 Advice from public authorities**

Agency	Advice raised	Department's assessment
Department of Infrastructure, Transport, Regional Development and Communications	<p>The proposed changes to maximum permissible building heights may result in penetrations of prescribed airspace for Sydney Airport.</p> <p>Accordingly, any proposed development above 156 meters AHD (the OLS) would constitute a controlled activity under the Act, which cannot be carried out without approval from the Department of Infrastructure, Transport, Regional Development and Communications.</p>	<p>The Department notes Department of Infrastructure, Transport, Regional Development and Communications submission. Future development above the OLS will be required to be referred to DITRDC for approval.</p>
Heritage NSW	<p>Heritage NSW generally supports the planning proposal and provides the following recommendations:</p> <ul style="list-style-type: none"> <li>• LEP mapping should be amended to clearly show the different levels of heritage significance of items in the subject area.</li> <li>• Amend Council's Competitive Design Policy to include heritage considerations.</li> <li>• Heritage NSW is now the public authority responsible for both non-Aboriginal and Aboriginal heritage in NSW, the DCP is to be updated to reflect the new agency name.</li> </ul>	<p>The Department notes the recommendations from Heritage NSW. The LEP mapping is required to be prepared in accordance with the standard map tiles as part of the standard instrument LEP.</p> <p>The recommended changes to the Competitive Design Policy and DCP is a consideration for Council.</p>
Transport for NSW	<p>TfNSW did not object to the planning proposal but suggested the following recommendations:</p> <ul style="list-style-type: none"> <li>• Council should engage with TfNSW to determine the feasibility of the catalytic projects identified in the strategy and to assess the implications on the broader transport system including general traffic, freight, public transport, cyclists and pedestrians within Central Sydney.</li> <li>• Any changes to bus operations or reduction in bus services in Central Sydney could only be considered following a detailed assessment in consultation with all relevant stakeholders.</li> <li>• TfNSW advises that the CSPA and supporting planning framework needs to recognise and facilitate the intended outcome for Central Precinct as set out in the Strategic Framework.</li> <li>• It is requested that Central Precinct be excluded from the Draft Central Sydney Development Contributions Plan 2020.</li> <li>• Refer to the role of Circular Quay Renewal (referred to in the Eastern</li> </ul>	<p>Council is working with TfNSW and Sydney Metro on the Central Station State Significant Precinct. The City will continue to collaborate with TfNSW to understand the traffic, freight, public transport, cycling and pedestrian implications of the proposed Metro stations within Central Sydney.</p> <p>Key changes in the Sydney LEP for the Central Station Precinct, have been reflected in the amended DCP.</p> <p>DCP maps will be amended to reflect LEP map changes implemented through the Central Station Western Gateway rezoning.</p> <p>In the draft Contributions Plan, the City has rationalised the list of development types that may</p>



Agency	Advice raised	Department's assessment
	<p>District Plan as Circular Quay Precinct Renewal) in revitalising transport infrastructure and stimulating the day-time and night-time economies through a mix of land-uses reflecting place-based planning principles. .</p> <ul style="list-style-type: none"> <li>• Amendments be made to the principles of the Circular Quay Special Character Area.</li> <li>• Circular Quay Renewal be specifically excluded from the application of this Development Contributions Plan on the basis that, subject to NSW Government and planning approval.</li> </ul>	<p>be excluded from the need to pay a contribution. This is due to the critical importance of funding the local infrastructure needed to support our communities, and also to more closely align exclusions with those in the City of Sydney Development Contributions Plan 2015 which applies elsewhere in the local government area.</p> <p>The draft Contributions Plan is proposed to apply to the same land as the current Central Sydney Development Contributions Plan 2013 with no boundary adjustments. It is not proposed to remove the Circular Quay renewal area or the Central Precinct from the land to which the draft Contributions Plan will apply, or to exclude these renewal projects it from the need to pay contributions.</p> <p>The Department supports further continued collaboration between TfNSW and Council on future initiatives.</p>

Agency	Advice raised	Department's assessment
Sydney Water	<p>Sydney Water does not object to the planning proposal but provides the following advice:</p> <ul style="list-style-type: none"> <li>Delivering infrastructure upgrades to meet servicing demands, water pressure, licensing and firefighting requirements can be especially challenging in dense urban areas and asset upgrades within infill areas can cause disruption to roads and access if they are not effectively coordinated. As such, Sydney Water would like to take this opportunity to request early engagement with the City where there are planning proposals and/or development applications that could trigger significant growth.</li> <li>To assist Sydney Water with assessing future planning proposals that present multiple changes to planning controls, a summary of the total anticipated additional growth is requested. Early commentary on staging, if known, is also appreciated as this information provides context for assessing the total impact of the proposed changes and enables Sydney Water to effectively plan for any upgrades in a controlled and sequenced manner.</li> </ul>	<p>The Department notes Sydney Water has no objection to the proposal. Council should consider early engagement with Sydney Water for any future planning proposals in context of its growth impact with respect to services.</p>
Sydney Opera House	<p>The Sydney Opera House Trust (SOHT) is a statutory body established under the Sydney Opera House Trust Act 1961 (SOHT Act) and is subject to the control and direction of the NSW Minister for the Arts.</p> <p>As a not-for-profit, public entity consistently achieving the aims of the Draft Plan, the Opera House considers that it should be exempt from the payment of developer contributions.</p> <p>It is requested that the Opera House site is either:</p> <ul style="list-style-type: none"> <li>Removed from the map of Central Sydney to which the Draft Plan applies for the purpose of assessing development contributions; or</li> <li>Added to the list of development types in section 2.2 of the Draft Plan as an exclusion, either for all works on the site or alternatively for any works which the Opera House can demonstrate would not increase the demand on council services and facilities.</li> </ul> <p>Other recommendations include:</p> <ul style="list-style-type: none"> <li>The Opera House site and Bennelong Point (as a significant performing arts centre and place for the community) should also be recognised within the</li> </ul>	<p>The Department acknowledges Sydney Opera House significant heritage value and economic contribution.</p> <p>In the draft Contributions Plan, the City has rationalised the list of development types that may be excluded from the need to pay a contribution. This is due to the importance of funding the local infrastructure needed to support our communities, and also to more closely align exclusions with those in the City of Sydney Development Contributions Plan 2015 which applies elsewhere in the local government area.</p> <p>The draft Contributions Plan is proposed to apply to the same land as the current Central Sydney Development Contributions Plan 2013 with no boundary adjustments.</p> <p>It is not proposed to remove the Sydney Opera House from the land to which the draft Contributions Plan will apply, or</p>

Agency	Advice raised	Department's assessment
	<p>strategy and mapping as part of the City's 'Cultural Precincts'.</p> <ul style="list-style-type: none"> <li>View lines to and from the Opera House should be considered in all relevant development applications.</li> </ul>	<p>to exclude it from the need to pay contributions where they would be applied.</p> <p>Development within the Sydney Opera House is guided by the Conservation Management Plan (confirm), rather than the City's LEP.</p>
Sydney Airport	<p>Sydney Airport does not object the planning proposal however provide the following advice:</p> <ul style="list-style-type: none"> <li>Consider replacing the existing standard airspace protection cluse with alternative clause.</li> <li>Clause 7.16 of the Sydney LEP 2012, recognises only two airspace protection surfaces, being the OLS and Protection of Air Navigation Services-Aircraft Operations (PANS-OPS). There are several other airspace protection surfaces that, collectively, comprise Sydney Airport's prescribed airspace.</li> </ul> <p>Other Sydney councils have adopted a new LEP clause that recognises all airspace protection surfaces. Sydney Airport recommends council to consider replacing the existing standard airspace protection clause with the alternative clause.</p>	<p>Council is considering the proposed alternative clause as part of the LEP/DCP review. It is noted that there are 5 airspace protection surfaces and the implications of these needs to be considered in detail before any LEP amendment is implemented.</p> <p>The Department considers that insertion of additional airspace controls can be considered in Council's comprehensive LEP review.</p>
Australian Museum	<p>Australian Museum makes the following recommendations:</p> <ul style="list-style-type: none"> <li>'Section 5.1.3.1 Additions to Heritage Items' should be revised to acknowledge that additions and building over heritage items is appropriate but will be subject to a thorough assessment against specified criteria.</li> <li>Remove the detailed mapping provisions from the DCP and ensure that the opportunities of the special character areas reflect the mapped height controls of the Sydney LEP, specifically removing reference to <i>'retaining the existing height of building (no further development)'</i> at the Australian Museum site.</li> <li>Retain the existing wording of 'Principle C' of the College Street/Hyde Park Special Character Area, as per the existing Sydney DCP 2012, to maintain the current level of flexibility for building heights to integrate with the form of existing buildings in the Special Character Area.</li> </ul>	<p>Council outlines the economic analysis indicates that the impact of the proposed contribution increase is relatively minor. New development or upgrade works unlock revenue generation potential. While the upgrade work requires expense, it generally enables the proponent to secure a financial outcome.</p> <p>In the Draft Contributions Plan, the City has rationalised the list of development types that may be excluded from the need to pay a contribution. This is due to the critical importance of funding the local infrastructure needed to support our communities, and also to more closely align the exclusions with those in the City of Sydney Development Contributions Plan 2015 which applies elsewhere in the local government area. No changes</p>

Agency	Advice raised	Department's assessment
	<ul style="list-style-type: none"> <li>The City should not proceed with development contribution plan as drafted, in particular the current exemptions of the existing Central Sydney Development Contributions Plan 2013 for not for profits and adaptive re-use should remain.</li> <li>The City excludes development for the sole purpose of the adaptive reuse of an item of environmental heritage from the need to pay a contribution, as per the existing Central Sydney Development Contributions Plan 2013.</li> <li>The City continues to provide an exemption from the need to pay a contribution for not-for-profit development that provides a distinct community benefit, as per the existing Central Sydney Development Contributions Plan 2013.</li> <li>The City identifies the Australian Museum site within 'Area 2' in the FSR Map of Sydney LEP 2012 to allow access to available floor space bonuses for accommodation floor space.</li> </ul>	<p>are proposed to the Draft Contribution Plan's list of development types excluded from the need to pay a contribution.</p> <p>While it is acknowledged that not-for-profit developments may provide community benefits, it remains that new development generates demands on local infrastructure. It is appropriate that new development contribute its fair share towards the cost of new and improved infrastructure from which it will benefit.</p> <p>This site is unique and has both State and National heritage listings. Any alterations or additions to this important building will require detailed master planning to understand what are appropriate planning controls that could be applied to the site.</p>
Sydney Living Museums	Sydney Living Museums suggest applying Sun Access Protection control mechanism NAO to Hyde Park Barracks and Queens Square heritage curtilage.	The Department notes Sydney's Living Museums request for additional sun access protection for Hyde Park Barracks and Queens Square heritage curtilage, however further testing by Council would be necessary to justify any additional controls.
Botanic Gardens	<p>The Trust has no objection to the overall intent of the Strategy to provide for the continued growth of Central Sydney.</p> <p>However, any change to the development controls that would allow for significantly greater development in the CBD (such as those in the Planning Proposal) need to be carefully assessed to identify any potential impacts on Trust land and activities.</p>	The Department notes Royal Botanic Garden and Domain has no objection to the proposal.
CASA	CASA has no specific comments on the planning proposal, however, notes the central business district is located under the OLS known as the Outer Horizontal Surface for Sydney Airport. The height of the Outer Horizontal Surface above the Sydney CBD is 156m above Australian Height Datum.	The Department notes CASA has no objection to the proposal.



### 3.3 Post-exhibition changes

Following the community consultation process, Council resolved to endorse the planning proposal and draft Section 7.12 Contributions Plan, with amendments to both documents. The post-exhibition amendments include:

- **Savings provision:** Council proposed a savings provision noting there are several live Concept (Stage 1) DA approvals in Central Sydney, likely to be affected by the proposed removal of the accommodation floor space bonus for residential uses.
- **Tower cluster and western edge height changes:** modifications have been made to the Kent St tower cluster area to exclude the very northern part of the tower cluster around Gas Lane. The area is a transition between the residential character of Millers Point and the commercial core. The proposed additional 30 metres in the height control proposed along the western edge has also been removed.
- **Accommodation Floor Space Bonus Removal:** Council proposed a stage removal of the incentive over 2 years. The accommodation floor space for residential accommodation and serviced apartments is reduced by 50 per cent after 1 year, and 100 per cent after 2 years from the making of the LEP, except for the City Core (Area 1) which is to be reduced by 100 per cent on the making of the LEP.
- **The Guideline for Site Specific Planning Proposals:** updated to acknowledge there is an entitlement under the Environmental Planning and Assessment Act 1979 for landowners to lodge planning proposals. The Guideline will inform those lodging planning proposals of the City's requirements and expectations for assessment processes. The community infrastructure contribution rate has been removed from the updated Guideline.

#### 3.3.1 The Department's recommended changes

Following the receipt of the revised planning proposal from Council, the Department has made further changes to the proposal.

##### **Ecological Sustainable Office Development**

The planning proposal seeks to require all development within Tower Cluster Areas utilising the bonus floor space provisions to achieve best practice NABERS energy. One of the ways best practice energy performance could be defined is to relate to certain market percentile for a specific area. For example, the 90th percentile of ratings in City of Sydney, Greater Metropolitan Sydney or NSW. However, if the provision is not well defined the burden is up to the application or development to demonstrate best practice energy performance.

The Department support initiatives to improve energy performance in commercial buildings and requested further justification from Council to define best practice energy performance. Council submitted additional information on 17 June 2021 and suggested defining best practice as:

- maximum 45.0 kWh/yr/m<sup>2</sup> of Gross Floor Area, or
- 5.5 Star National Australian Built Environment Rating System (NABERS) Energy Commitment Agreement + 25 per cent, or
- certified Green Star Buildings rating with a 'credit achievement' in Credit 22: Energy Use, or
- equivalent

The policy team was consulted on the use of the specific standards and advised the standards are above the minimum requirements but appear to be in line with good practice considering the conditions and markets in Sydney CBD.

The Department considers this to be an appropriate post exhibition change as it aligns with the original intent of the planning proposal which was publicly exhibited. The purpose of the clause in the explanation of provisions of planning proposal is to:

*“establish base line provisions for Central Sydney in relation to ensuring everyday ecologically sustainable office development. These provisions should be the accepted minimum for office developments in Central Sydney, where office developments that seek additional floor space under Clause 6.21(7) should demonstrate a higher level of Ecologically Sustainable Development performance than those mandated by this provision”*

### **Martin Place View of Western Sky Public View Protection Plane**

The introduction of the Martin Place public view protection plane was raised as a concern during public exhibition of the planning proposal. The view corridors potentially reduce the potential for employment floor space in an area of the City unencumbered by sun access planes, and that this is contrary to the overall intent of the Strategy. The control seeks to reduce currently permissible building heights and development potential; and they limit potential for refurbishment by creating a prohibition.

The intention of the view corridors is to prevent further development intruding on these important public views. The Martin Place view corridors are constrained views focussing on specific aspects of the significance of Martin Place. They protect the background of the GPO clock tower and the western sky setting to Martin Place in a limited and focussed way.

In response to the issue raised during public exhibition, Council amended the view protection plane to:

- update the GPO clock tower to sit above the visible plant structures on the roofs of 341 and 343 George Street to avoid elements of existing structures;
- match the height of recent development on Clarence Street of 88 metres, to allow existing development potential to be realised on these blocks; and
- permit exceptions to the view protection planes to allow refurbishment and maintenance, but not to allow additions to existing buildings.

Council contends the Martin Place view is currently protected through the existing height controls (limit of 80 metres to the west of Martin Place). However, the introduction of the public view plane acts as a prohibition to development which is more restrictive than the existing height development standard which under existing controls could be varied through cl4.6, subject to merit assessment.

The Department does not support Council's contention that view protection plane is an acceptable approach, being an equivalent control to the building height limit. The Department recommends amending the proposed view plane control to read as a development standard instead of a prohibition to development. This will allow for the same level of protection to Martin Place as under existing controls whilst allowing merit assessment for any variation through cl4.6.

The Department recommends that the draft instrument allow for clause 4.6 to apply to these views.



Figure 10: Photograph of protected view (source: CSPS)

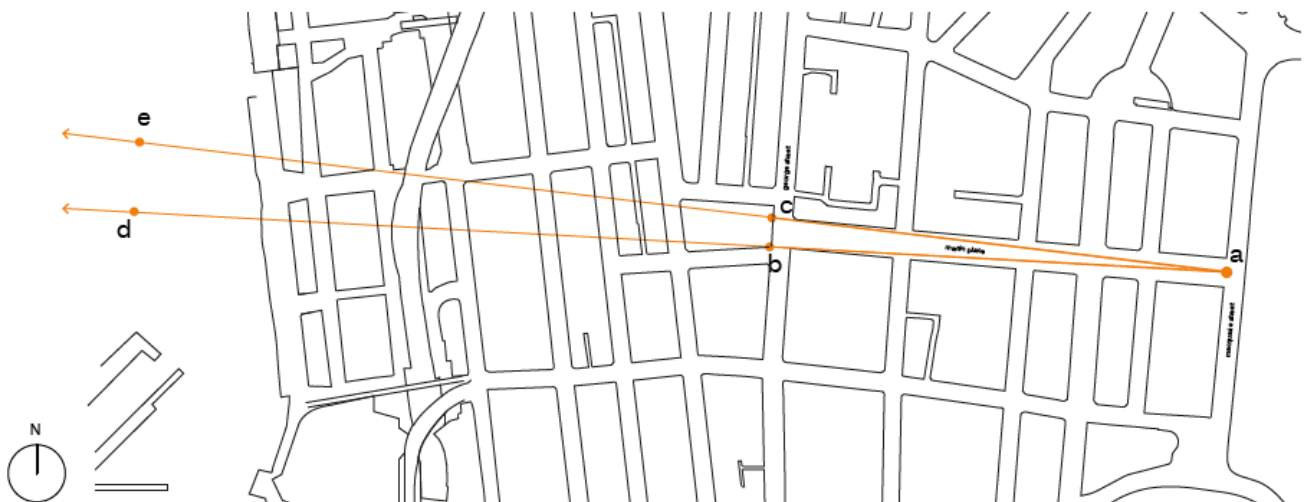


Figure 11: Protected Martin Place View Plane (Source: CSPS)

### 3.3.2 Justification for post-exhibition changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes are a reasonable response to comments provided by the public authorities and do not alter the intent of the planning proposal and are minor amendments to the planning proposal.

## 4 Department's Assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment C**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Remains consistent with all relevant Section 9.1 Directions.
- Remains consistent with all relevant SEPPs, except State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

**Table 1 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment		
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1	
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1	
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1	
Local Planning Panel (LPP) recommendation	<input type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1	<input checked="" type="checkbox"/> N/A
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1	
State Environmental Planning Policies (SEPPs)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1	

**Table 2 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environment impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1



Site-specific assessment	Consistent with Gateway determination report Assessment	
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

## 4.1 Detailed Assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

### State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed clause seeks to require for any part of the building that is BASIX affected to be rated at 5 BASIX points above the State-mandated target for water and 10 BASIX points above the State mandated target for energy if additional floor space is achieved through cl6.3 of Sydney LEP 2012.

Given that BASIX will only apply to residential development, the effect of these changes are that development which seeks to access a bonus 10% floor space under clause 6.21 Design Excellence will be subject to the higher BASIX requirements.

The Department considers the requirement for higher residential sustainability standards based on incentives for additional floor space is not a competing provision within the meaning given by the BASIX SEPP.

The Department recommends inserting the provision for higher BASIXs applying to development achieving additional floor space under cl6.3 of Sydney LEP in line with the exhibited planning proposal.

### Schedule 11 (DCP)

At its meeting on 14 December 2020, Council resolved to carry out workshops with industry stakeholders on the Guideline for Site Specific Planning Proposals in Central Sydney, and Schedule 11 of the Development Control Plan.

Council is responsible for any updates or adoption of a DCP. The Department understands Council met with key industry representative in a workshop in late March 2021 and Council are making some amendments to Schedule 11 to address the industry's concerns. Council advised the amendments to Schedule 11 will not impact the draft LEP.

### Infrastructure

Infrastructure to support the potential future development is to be funded by a 7.12 Development Contributions Plan prepared by Council and submitted in support of the planning proposal. Whilst the Section 7.12 Development Contribution Plan does not form part of the planning proposal, it will be mechanism to ensure that sufficient local infrastructure is delivered in Central Sydney

A draft Section 7.12 Contributions Plan was exhibited concurrently with the planning proposal by Council, which proposed to introduce a 3% local contributions levy on development over \$1 million.

An amendment to the Environmental Planning and Assessment Regulation is required to implement Council's Section 7.12 contributions levy rate.

Whilst the Section 7.12 Development Contribution Plan does not form part of the planning proposal it will be mechanism to ensure that sufficient local infrastructure is delivered in Central Sydney.

Having the LEP and Regulation amendments made concurrently would ensure Central Sydney will be supported by adequate developer contributions for infrastructure upgrade. This would enable

Council's timely collection of contribution levy from development benefiting from uplift introduced by the LEP and provide certainty for the community.

The Department notes the Central Sydney Planning Proposal and its framework is focused on the ability of the property market to adjust to the new and updated controls in Central Sydney and the success of the Strategy is reliant on various factors such as the supporting DCP, draft Contributions Plan, the tower clusters and design excellence plus bonus.

## 5 Post assessment consultation

The Department has consulted with the following stakeholders after the assessment.

**Table 3 Consultation following the Department's assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Maps have been prepared by Council and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> ( <b>Attachment E</b> )  Council was sent the final LEP and Opinion and on 18/11/2021. ( <b>Attachment F</b> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 18/11/2021 , Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at <b>Attachment PC</b> .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with Eastern District Plan and City of Sydney's Local Strategic Planning Statement;
- It is consistent with the Gateway Determination;
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal;
- It is a comprehensive review of Central Sydney planning controls in 45 years and facilitates up to 1.6 million square metres of additional employment floor space, which can accommodate approximately 46,650 jobs; and
- It balances the need to grow commercial, retail, tourism and cultural uses over the longer term alongside residential uses that all contribute to a vibrant city centre.



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19 November 2021

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23 November 2021

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## Attachments

Attachment A - Planning proposal

Attachment B - Gateway determination

Attachment C -Gateway determination Report

Attachment D - Council's Post Exhibition Report

Attachment E - Section 3.36(1) consultation with Council

Attachment F - Council comments on draft LEP

Attachment PC - Parliamentary Counsel's Opinion

Attachment LEP - Draft LEP