

Planning Proposal

Sydney LEP 2012 – Minor Policy & Housekeeping Amendments 2014

November 2014

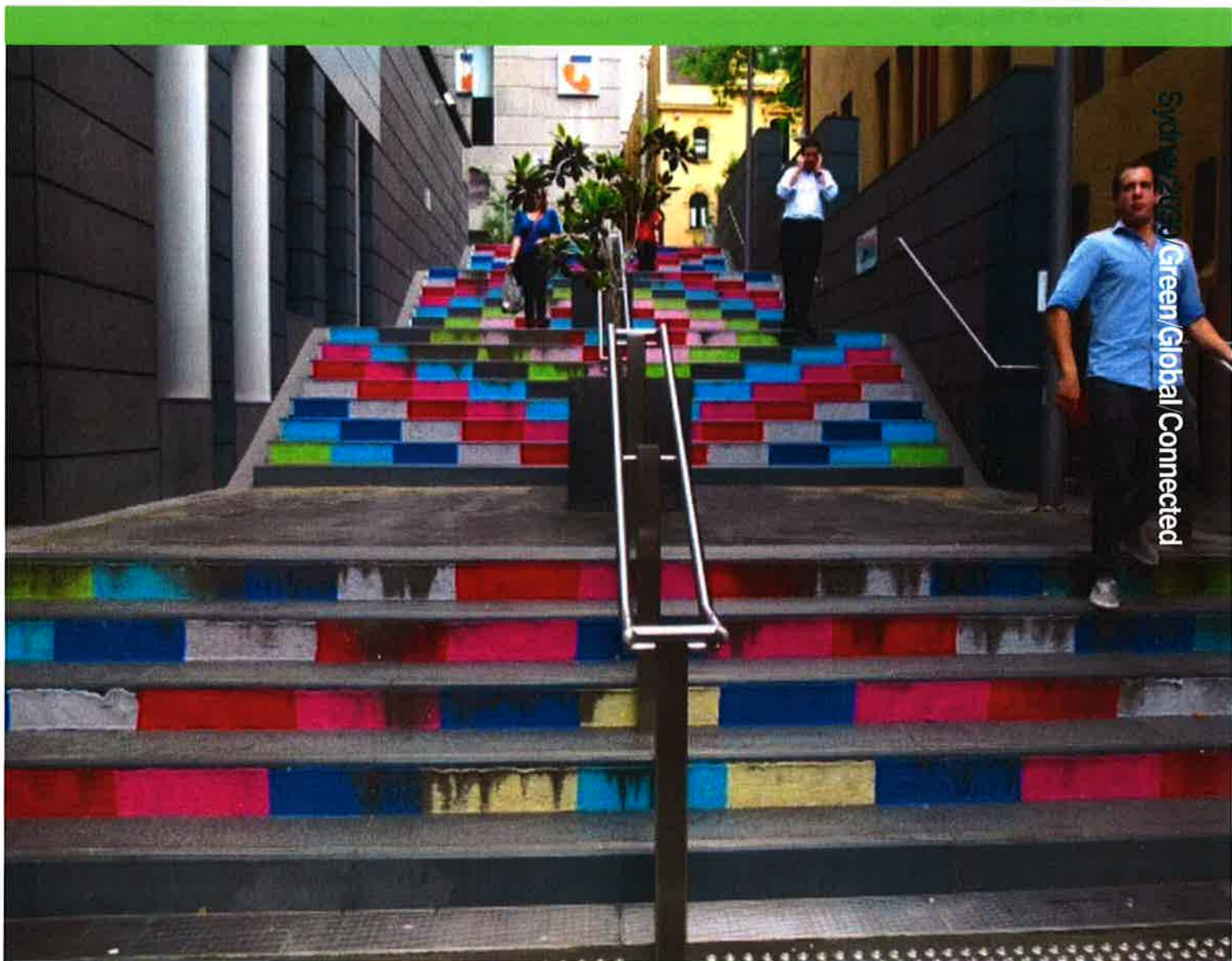


Table of Contents

Introduction..... iii

Background..... iv

Part 1: Objectives and intended outcomes iv

Part 2: Explanation of provisions..... iv

Part 3: Justification..... vi

Part 4: Mapping..... xii

Part 5: Community consultation..... xiii

Part 6: Project Timeline..... xiv

Appendices:

Appendix A: Proposed Amendments to Sydney LEP 2012

Introduction

The *Planning Proposal: Sydney LEP 2012 – Minor Policy and Housekeeping Amendments 2014* (planning proposal) explains the intent of, and justification for, the amendment to *Sydney Local Environmental Plan 2012* (the LEP).

The planning proposal is to implement minor policy and housekeeping amendments to the LEP that:

- align future development and the objectives of the City's *Sustainable Sydney 2030*, and
- improve the operation and accuracy of the plan by permitting additional uses to a site, correcting errors, refining definitions, correcting descriptions, removing barriers and updating details.

This planning proposal amends the LEP to:

- allow low impact creative uses in the R1 General Residential zone (amendment number 1),
- allow wind affected balconies on high rise residential towers to be partially enclosed without counting the floor space towards gross floor area (amendment number 2),
- remove a disincentive to providing community facilities and child care centres in Central Sydney under the accommodation floor space scheme (amendment number 3),
- refine the application of lanes development floor space (amendment number 4),
- clarify the meaning of car parking space and car share parking scheme to facilitate the provision of car share parking spaces (amendment number 5),
- allow 'business premises' to be permitted on land at 83-93 Dalmeny Avenue, Rosebery (amendment number 6),
- clarify the amount that a heritage floor space allocation may be reduced by for development in existing buildings (amendment number 7),
- clarify community floor space requirements in Green Square (amendment number 8),
- correct the description of sun access plane coordinates for Belmore Park and Hyde Park west (amendment 9),
- correct the design excellence clause by replacing the term 'capital value' with 'capital investment value' (amendment 10),
- update the opportunities site map to correctly identify opportunity sites eligible for additional floor space (amendment 11),
- update relevant maps to accurately show the site boundaries for 17 Elizabeth Bay Road Potts Point (amendment 12),
- correct an error in the heritage listing for 22-26 York Street Sydney which incorrectly identifies 345-355 George Street Sydney as part of the heritage item (amendment 13),
- update the heritage schedule to remove sites which do not have heritage significance (amendment numbers 14 and 15), and
- reflect the significance of various heritage items and ensure they are accurately described (amendment numbers 16 to 20)

A detailed explanation, justification and drafting instruction for each amendment is in **Appendix A**.

The proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning Guidelines, including A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals.

The planning proposal relates only to those matters to be amended in the LEP. For amendment numbers 2, 5 and 8, more detailed planning provisions are included in the *Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014* (draft DCP) that is to be exhibited with this planning proposal.

Background

The LEP came into effect on 14 December 2012. The LEP is the consolidation of the previous planning controls into one local environmental plan. It is also a translation of those controls into the NSW Government's Standard Instrument Local Environmental Plan.

Since the LEP has been in force, the City has identified a number of housekeeping amendments needed to improve the operation and accuracy of the plan. Minor policy amendments are also proposed so that the City's planning framework contributes to the City's environmental, social and economic aims for development.

The City continuously reviews Sydney LEP 2012 to ensure it aligns with Sustainable Sydney 2030 and delivers positive outcomes for the City of Sydney community. Objective 9.4 of the City's *Sustainable Sydney 2030* specifically recognises the City's planning framework and its implementation towards ensuring long term growth.

Part 1: Objectives and intended outcomes

The objectives of this planning proposal are to:

- (a) facilitate development that aligns with the objectives of *Sustainable Sydney 2030*,
- (b) allow for a greater range of uses at 83-93 Dalmeny Avenue, Rosebery in response to the current uses on the site,
- (c) improve the clarity and useability of the Plan, and
- (d) reflect the significance of heritage items and ensure they are accurately described.

Part 2: Explanation of provisions

To achieve the proposed objectives, the planning proposal amends the provisions of the LEP as shown in Table 1. **Appendix A** provides further details of each item including the justification and drafting instructions.

Table 1 – List of amendments

Item number	Item name	Description
Minor Policy		
1	Creative uses	Introduce a new clause to reduce the barriers to the supply of work spaces for creative uses by allowing adaptive reuse of non-residential buildings in the R1 General Residential zone.
2	Wind protection floor space	Introduce a new clause to permit balconies on residential towers over 30m high to be partially enclosed without counting the balcony floor space towards gross floor area.

Item number	Item name	Description
3	Community facilities and child care centres	Amend clause 6.4 Accommodation Floor Space to remove a barrier for community facilities and child care centres by identifying those uses as being able to be awarded accommodation floor space.
4	Lanes development floor space	Amend clause 6.8(1)(c) and introduce a new map to identify where lanes development floor space may apply.
5	Car share parking spaces	Amend clause 7.2 under Part 7, Division 1 Car Parking ancillary to other development, to exclude car share scheme parking spaces and introduce a new provision to define the meaning of a car share scheme.
Housekeeping		
6	83-93 Dalmeny Avenue, Rosebery	Amend Schedule 1 Additional Permitted Uses to allow 'business premises' on the land.
7	Heritage floor space	Amend Heritage Floor Space clause 6.11(2)(c) to clarify the amount that a heritage floor space allocation may be reduced by for development in existing buildings.
8	Community Infrastructure – Green Square	Amend clause 6.14 to refine the meaning of community infrastructure and the basis upon which additional floor space for community infrastructure is appropriate.
9	Sun access planes	Amend clause 6.17 to correct the description of sun access coordinates for Belmore Park and Hyde Park west.
10	Capital Investment Value	Amend the Design Excellence clause 6.21(5)(b) by replacing the reference term 'capital value' with 'capital investment value', which is defined under the Environmental Planning and Assessments Regulation 2000.
11	453 and 443-451 Kent Street, Sydney	Amend the Opportunity Sites Map to remove 453 Kent Street, Sydney and identify 443-451 Kent Street, Sydney as an opportunity site.
12	17 Elizabeth Bay Road, Potts Point	Amend the Height of Building Map and Floor Space Ratio Map to align the building height and floor space boundaries with the lot boundary of 17 Elizabeth Bay Road, Elizabeth Bay.
13	22-24 York Street, Sydney (heritage item I1976)	Amend the Heritage Schedule to correct the property description for the heritage item at 22-26 York Street, Sydney so the listing does not apply to buildings that do not have heritage significance.
14	372 Riley Street, Surry Hills (heritage item I1612)	Amend the Heritage Schedule to remove 372 Riley Street, Surry Hills (Lot 1 DP 770605) as it has been demolished.

Item number	Item name	Description
15	73 Glebe Point Road, Glebe (heritage item I700)	Amend the Heritage Schedule to remove 73 Glebe Point Road, Glebe (Lot 1 DP 736366) as it has been demolished.
16	69-77 King Street, Newtown, Trocadero Hall (heritage item I988)	Amend the Heritage Schedule to replace 'Lot 1' with 'Lot 5' in the property description for 69-77 King Street, Newtown.
17	117-119 Young Street, Redfern, St Saviour's Anglican Church Group (heritage item I1369)	Amend the Heritage Schedule to replace 'Lot A' with 'Part Lot A' in the property description for 117-119 Young Street, Redfern.
18	97-99 Victoria Street, Potts Point (heritage item I1172)	Amend the Heritage Schedule to correct the item name details to reflect the significance of the dwellings at 97-99 Victoria Street, Potts Point.
19	1-3 Rosebery Avenue, Rosebery (heritage item I1379)	Amend the Heritage Schedule to correct the item name from 'National Springs' to 'Moffat Virtue' to reflect the significance of 1-3 Rosebery Avenue, Rosebery.
20	168-174 Cathedral Street, Woolloomooloo (heritage item I2132) 168-174 Cathedral Street, Woolloomooloo (174-174A Cathedral Street) (heritage item I2133)	Amend the Heritage Schedule to correct the item name and address details for properties to reflect their individual significance.

Part 3: Justification

Section A – Need for this planning proposal

A detailed justification of each amendment including relevant background information is included in **Appendix A**.

1. Is the planning proposal a result of any strategic study or report?

No. The proposed amendments are the result of ongoing monitoring and review of the land use and planning controls. The proposed amendments relate to minor policy and housekeeping only.

The minor policy and housekeeping amendments will encourage desirable uses and forms of development, improve the operation of the controls to ensure the intended planning outcomes can be achieved and increase certainty for proponents, the community and the City.

The proposed amendments will improve the clarity and useability of the LEP by providing consistent development control, improving certainty, correcting identified errors and anomalies.

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

Yes. The planning policy is the best means of achieving the objectives and intended outcomes in Part 1.

Amendments to the planning instrument will help the City deliver outcomes on policy matters relating to creative uses, car share schemes, laneways revitalisation and community and child care facilities for its communities.

Public and private investment in development that will achieve the policy outcomes could be assisted with the removal of planning barriers and ensuring planning controls are effective as possible.

3. Is there a net community benefit?

Yes. It is considered that the planning proposal will provide a net community benefit in that:

- it provides increased certainty and clarity to proponents, landowners and the broader community,
- the amendments will contribute positively to the community by:
 - supporting the supply of work spaces for creative uses,
 - encouraging the provision of community facilities and child care centres in Central Sydney,
 - activating laneways with fine grain development and contributing to a vibrant city,
 - encouraging sustainable transport habits, and
 - ensuring the type of community infrastructure provided contributes to the amenity of the community.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and the exhibited draft strategies)?

The planning proposal is consistent with the objectives and actions of *Sydney Metropolitan Plan for Sydney 2036* and the draft *Sydney City Subregional Strategy*.

Table 2 – Consistency with draft Sydney City Subregional Strategy Key Directions

Key Direction	Statement of Consistency
Reinforce global competitiveness and strengthen links to the regional economy.	Not inconsistent. The planning proposal will have negligible impact on the regional economy.
Ensure adequate capacity for new office and hotel developments.	Not inconsistent. The planning proposal will have negligible impact on capacity for office and hotel developments.
Plan for sustainable development of major urban renewal projects.	Consistent. The amendment to clarify the community floor space requirements in Green Square will support the provision of infrastructure in Green Square.

Key Direction	Statement of Consistency
Plan for housing choice	Consistent. The planning proposal will not reduce the opportunities to provide a range of housing types in the council area. Changes to land uses at 83-93 Dalmeny Avenue and in the R1 General Residential zone support appropriate non-residential development while continuing to allow for the current range of housing opportunities.
Develop an improved and increasingly integrated transport system that meets the City's multiple transport needs.	Consistent. The planning proposal will have negligible impact on existing and future road infrastructure. The amendment to the car parking space controls removes a barrier to providing parking spaces for car share schemes in private development. Car share schemes encourage sustainable transport habits and provides walkers, cyclists and public transport users with convenient access to a vehicle. Car share spaces in off-street development will bring wider benefits through reduced impacts on traffic and parking.
Improve the quality of the built environment and aim to decrease the subregion's ecological footprint.	Consistent. The planning proposal will have negligible impact on the quality of the built environment and the subregion's ecological footprint. The amendment relating to partially enclosed balconies will make these private external open spaces more useable. The group of amendments to reflect the significance of various heritage items and ensure they are accurately described supports the conservation of heritage items.
Enhance the City's prominence as a diverse global & cultural centre.	Consistent. The amendment to the lanes development floor space clause supports 'finegrain' laneway development which contributes to a more lively and engaging City.

5. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Sustainable Sydney 2030 (SS2030) outlines the City's vision for a 'green', 'global' and 'connected' City of Sydney and sets targets, objectives and actions to achieve that vision. The vision was adopted by Council in 2008. Six of the ten strategic directions of SS2030 which relate to the planning proposal are:

- Direction 3 - Integrated Transport for a Connected City – the draft controls provide more certainty about car share, which increases the range of transport options for City residents.
- Direction 4 – A City for Walking and Cycling – the draft controls provide more certainty about car share, which encourages sustainable transport habits and provides walkers, cyclists and public transport users with convenient access to a vehicle.
- Direction 5 - A Lively and Engaging City Centre – the draft controls create opportunities for finegrain laneway development and encourage cultural, creative, retail and small business activity in the City Centre.

- Direction 6 - Vibrant Local Communities and Economies – the draft controls facilitate the provision of community facilities and child care centres in Central Sydney.
- Direction 7 - A Cultural and Creative City – the draft controls create opportunities for the supply of work spaces for creative uses.
- Direction 9 - Sustainable Development, Renewal and Design – the draft controls promote development that is well designed and fit for purpose. The draft controls are the result of regular monitoring and review of land use and planning controls to ensure sustainable long-term growth.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The planning proposal is consistent with applicable SEPPs and deemed State Environmental Planning Policies (formerly known as Regional Environmental Plans (REPs)) as shown in Table 3. In this section, 'consistent' means that the planning proposal does not contradict or hinder application of the relevant SEPP.

Table 3 – Consistency with SEPPs and REPs

<i>SEPPs with which the planning proposal is consistent</i>
6—Number of Storeys in a Building; 22—Shops and Commercial Premises; 32—Urban Consolidation (Redevelopment of Urban Land); 33—Hazardous and Offensive Development; 55—Remediation of Land; 60—Exempt and Complying Development; 64—Advertising and Signage; 65—Design Quality of Residential Flat Development; 70—Affordable Housing (Revised Schemes); SEPP (Building Sustainability Index: BASIX) 2004; SEPP (Housing for Seniors or People with a Disability) 2004; SEPP (Major Development) 2005; SEPP (Infrastructure) 2007; SEPP (Temporary Structures) 2007; SEPP (Exempt and Complying Development Codes) 2008; SEPP (Affordable Rental Housing) 2009
<i>SEPPs that are not applicable to the planning proposal</i>
4—Development Without Consent and Miscellaneous Exempt and Complying Development; 10—Retention of Low Cost Rental Accommodation; 14—Coastal Wetlands; 15—Rural Landsharing Communities; 19—Bushland in Urban Areas; 21—Caravan Parks; 26—Littoral Rainforests; SEPP No 29—Western Sydney Recreation Area; 30—Intensive Agriculture; 33—Hazardous and Offensive Development; 36—Manufactured Home Estates; 39—Spit Island Bird Habitat; 41—Casino Entertainment Complex; 44—Koala Habitat Protection; 47—Moore Park Showground; 50—Canal Estate Development; 52—Farm Dams and Other Works in Land and Water Management Plan Areas; 59—Central Western Sydney Regional Open Space and Residential; 62—Sustainable Aquaculture; 71—Coastal Protection; SEPP (Kurnell Peninsula) 1989; SEPP (Penrith Lakes Scheme) 1989; SEPP (Sydney Region Growth Centres) 2006; SEPP (Kosciuszko National Park— Alpine Resorts) 2007; SEPP (Mining, Petroleum Production and Extractive Industries) 2007; SEPP (Miscellaneous Consent Provision) 2007; SEPP (Rural Lands) 2008; SEPP (Western Sydney Employment Area) 2009; SEPP (Western Sydney Parklands) 2009; SEPP (Urban Renewal) 2010; SEPP (SEPP 53 Transitional Provisions) 2011; SEPP (State and Regional Development) 2011; SEPP (Sydney Drinking Water Catchment) 2011; SEPP (Three Ports) 2013
<i>REPs with which the planning proposal is consistent</i>
Sydney REP (Sydney Harbour Catchment) 2005

REPs that are not applicable to the planning proposal
5—(Chatswood Town Centre); 8—(Central Coast Plateau Areas); 9—Extractive Industry (No 2—1995); 11—Penrith Lakes Scheme; 13—Mulgoa Valley; 16—Walsh Bay; 17—Kurnell Peninsula (1989); 18—Public Transport Corridors; 19—Rouse Hill Development Area; 20—Hawkesbury-Nepean River (No 2—1997); 24—Homebush Bay Area; 25—Orchard Hills; 26—City West; 28—Parramatta; 29—Rhodes Peninsula; 30—St Marys; 33—Cooks Cove; Greater Metropolitan REP No 2— Georges River Catchment; Darling Harbour Development Plan No. 1.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with applicable Ministerial Directions as shown in Table 4. A discussion of key issues arising from particular Ministerial Direction for the planning proposal follows. In this section, 'consistent' means that the planning proposal does not contradict or hinder application of the relevant SEPP.

Table 4 – Consistency with Ministerial Directions under section 117

Ministerial Directions with which this planning proposal is consistent
1.1 Business and Industrial Zones; 2.3 Heritage Conservation; 3.1 Residential Zones; 3.3 Home occupations; 3.4 Integrating Land use and Transport; 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land; 6.1 Approval and Referral Requirements; 6.2 Reserving Land for Public Purposes; 6.3 Site Specific Provisions; 7.1 Implementation of the Metropolitan Plan for Sydney 2036
Ministerial Directions that are not applicable to the planning proposal
1.2 Rural Zones; 1.3 Mining, Petroleum Production and Extractive Industries; 1.4 Oyster Aquaculture; 1.5 Rural Lands; 2.1 Environmental Protection Zones; 2.2 Coastal Protection; 2.4 Recreation Vehicle Areas; 3.2 Caravan Parks and Manufactured Home Estates; 3.5 Development Near Licensed Aerodromes; 3.6 Shooting Ranges; 4.2 Mine subsidence and Unstable land; 4.4 Planning for Bushfire Protection; 5.1 Implementation of Regional Strategies; 5.2 Sydney Drinking Water Catchments; 5.3 Farmland of State and Regional Significance on the NSW Far North Coast; 5.4 Commercial and Retail Development along the Pacific Highway, North Coast; 5.8 Second Sydney Airport, Badgerys Creek; 5.9 North West Rail Link Corridor Strategy

Direction 1.1 Business and Industrial Zones: the proposed amendments do not affect the areas or locations of existing business zones nor does it reduce the total floor space capacity for industrial uses in industrial zone.

Direction 3.1 Residential Zones: the proposed amendment to allow business uses at 83-93 Dalmeny Avenue, Rosebery is to allow for the continued operation of existing businesses that are well established and service the needs of local residents. It will not result in a loss of the net amount of land zoned residential nor affect the permissible residential density of the land.

The amendment to permit low impact creative uses in the R1 General Residential zone will not reduce the amount of land used as residential in these zones as low impact creative uses will be restricted to the use of existing non-residential buildings only.

Direction 3.4 Integrating Land Use and Transport: the amendment to the car parking controls will remove a barrier to providing car share schemes in development. Car share schemes encourage sustainable transport habits and provide walkers, cyclists and public transport users with convenient access to a vehicle when needed.

Direction 7.1 Implementation of the Metropolitan Plan for Sydney 2036: the planning proposal is consistent with the *Metropolitan Plan for Sydney 2036* or *Draft Metropolitan Strategy for Sydney 2031*.

Section C – Environmental, social and economic impact

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

The planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

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

No. The proposed amendments will not result in environmental impacts that cannot be controlled through development assessment processes.

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

Introducing creative uses into R1 General Residential zones will increase the opportunities for creative work spaces. Creative uses can provide social capital to well-being, engagement and skills development. Creative uses also contribute to the City's economy. It may also represent competition with other non-residential uses in the zone and an intensification of a mix of activities in residential zone. Public exhibition of the planning proposal and consultation will allow the views of affected communities to be considered.

The amendment to the car parking space controls removes a barrier to facilitating the provision of parking spaces for car share schemes, which contribute to a wider range of transport options to meet the City's transport needs.

The amendment relating to 83-93 Dalmeny Avenue Rosebery to B4 Mixed Use is to ensure the current and future operations of existing businesses on site are not compromised. The existing group of shops and businesses in this development provide a neighbourhood level of service to this well-established residential population.

The proposed amendments reflect the significance of various heritage items and ensure they are accurately described. This assists the conservation of items that have cultural significance to the local community.

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

Yes. The proposed amendments do not increase the need for infrastructure.

12. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Appropriate consultation will be conducted when the Gateway determination is issued. Formal consultation has not yet been undertaken. The Department of Planning shall inform Council which State and Commonwealth authorities must be consulted during the public exhibition period.

Given the amendment to 22-24 York Street Sydney and 69-77 King Street Newtown relate to state heritage items, consultation the Office of Environmental Heritage or Heritage Council is likely to be required.

Part 4: Mapping

All draft maps accompanying this planning proposal are included with the relevant amendment item in **Appendix A**. In summary they relate to:

- a new Lanes Map that identifies the lanes that lanes development floor space applies to (amendment 4),
- amend the Opportunity Sites Map sheet (OPS_015) to remove 453 Kent Street Sydney and identify 443-451 Kent Street Sydney as an opportunity site (amendment 11),
- amend the building heights map sheet (HOB_022) and floor space ratio map sheet (FSR_022) for 17 Elizabeth Bay Road, Elizabeth Bay to align with the lot boundaries (amendment 12),
- the deletion of 372 Riley Street, Surry Hills from the heritage schedule and heritage map sheet HER_016 (amendment 14), and
- the deletion of 73 Glebe Point Road, Glebe from the heritage schedule and heritage map sheet HER_009 (amendment 15).

Part 5: Community consultation

The planning proposal is to be exhibited for a period of not less than 28 days in accordance with section 4.5 of *A Guide to preparing LEPs*, to allow for proper consultation with the community and affected landowners.

Public exhibition will include:

- advertisement on the City of Sydney website
- advertisement in The Sydney Morning Herald and relevant local newspapers
- directly inviting comments from the private owners of the affected land at:
 - Properties adjoining Central Sydney lanes identified by the amendment to clause 6.8
 - 83-93 Dalmeny Avenue, Rosebery
 - 22-26 York Street, Sydney and 345-355 George Street, Sydney
 - 372 Riley Street, Surry Hills
 - 73 Glebe Point Road, Glebe
 - 69-77 King Street, Newtown
 - 117-119 Young Street, Redfern
 - 97-99 Victoria Street, Potts Point
 - 1-3 Rosebery Avenue, Rosebery
 - 168 Cathedral Street, Woolloomooloo, 170 Cathedral Street, Woolloomooloo and 172-174 Cathedral Street, Woolloomooloo
 - 453 Kent Street, Sydney and 443-451 Kent Street, Sydney
 - 17 Elizabeth Bay Road, Elizabeth Bay

Exhibition material is proposed to be on display at the following City of Sydney customer service centres:

CBD

Level 2, Town Hall House
456 Kent Street
Sydney NSW 2000

Kings Cross

50 - 52 Darlinghurst Rd
Kings Cross NSW 2011

Redfern

158 Redfern Street
Redfern NSW 2016

Green Square

100 Joynton Avenue
Zetland NSW 2017

Glebe

186 Glebe Point Road
Glebe NSW 2037

The exact requirements for community consultation are to be set out in the Gateway Determination issued by the Minister for Planning.

Part 6: Project Timeline

The anticipated timeframe for the completion of the planning proposal is as follows:

	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15
Commencement/ submit to DP&E for Gateway Determination									
Gateway Panel consider Planning Proposal									
Receive Gateway Determination									
Public Exhibition of Planning Proposal									
Consideration of submissions									
Post Exhibition report to Council and CSPC									
Council meetings									
Draft and finalise LEP									
LEP made (if delegated)									
Plan forwarded to DP&E for notification									