

City of Sydney

PLANNING PROPOSAL

Ultimo Pyrmont Affordable Housing Scheme

Proposed Amendment to Clause 118 of Sydney
Local Environmental Plan 2005 (Amendment No. 4)

September 2009



Prepared by City of Sydney

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ATTACHMENTS

Attachment A:	Draft Revised City West Affordable Housing Program, October 2009
Attachment B:	Letter from the Director General, Department of Planning, dated 24 July 2009
Attachment C:	Resolution of Council of 10 August 2009 and CSPPC of 6 August 2009 in support of the proposed amendments
Attachment D:	Letter from the Chief Executive Officer, City West Housing Pty Ltd, dated 21 July 2009
Attachment E:	Letter from the Minister for Housing, received 22 July 2009

Part 1 - Objectives or Intended Outcomes

The Ultimo-Pyrmont Affordable Housing Scheme (the Scheme) allows the collection of contributions through development in Ultimo-Pyrmont for the development of affordable housing units in Ultimo-Pyrmont by City West Housing. To date, 446 units have been developed within the Ultimo-Pyrmont Precinct, which is 74% of the 600 units programmed to be delivered through the Scheme.

City West Housing has advised that there is no suitable land left within Ultimo-Pyrmont for the development of the remaining units.

To address this, the Department of Planning (on behalf of the Minister for Planning) proposes to amend the *Affordable Housing Revised City West Housing Program 2002* (the Affordable Housing Program) to extend the area for the expenditure of contributions to the entire City of Sydney Local Government Area (LGA).

The objective of the planning proposal is to amend Clause 118 of the *Sydney Local Environmental Plan 2005* (LEP 2005) to update the reference to the Program, as it is to be amended by the Minister.

Part 2 - Explanation of Provisions

2.1 What is the Scheme?

The Scheme was established in 1995 to provide long term secure affordable rental housing for people on low to moderate incomes living or working in Ultimo-Pyrmont. The Scheme was developed to mitigate the undesirable social impacts associated with the comprehensive redevelopment of Ultimo-Pyrmont in accordance with *Sydney Regional Environmental Plan No. 26 – City West* (SREP 26).

The Scheme allows development contributions to be collected within the Ultimo-Pyrmont area to be used to build affordable housing units within this area only. Ultimo-Pyrmont was defined by the now partly repealed SREP 26, and is currently defined by LEP 2005 (see **Figure 1**). (In 2005, LEP 2005 superseded SREP 26 and the provisions for Ultimo-Pyrmont were incorporated into the LEP.)

City West Housing was formed by the State Government in 1994 to implement the Scheme and have developed 446 units in Ultimo-Pyrmont so far. The units are retained in State Government ownership and leased to very low, low and moderate income earners who meet the required eligibility criteria.

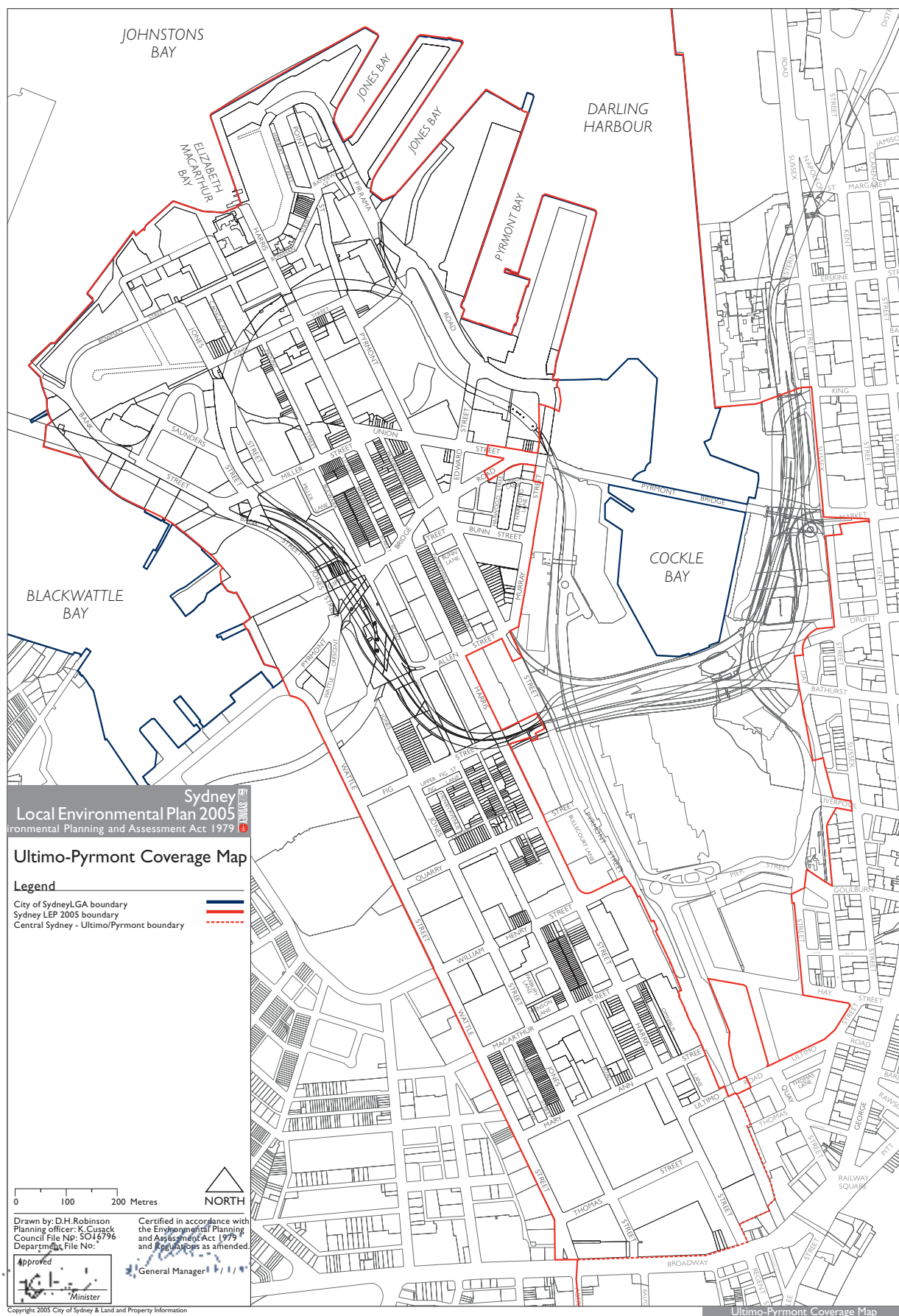


Figure 1 – The Ultimo-Pyrmont area, as defined in LEP 2005

2.2 Relevant Legislation

The Scheme is currently enacted by the following:

Environmental Planning and Assessment Act 1979 (the Act)	Section 94F Allows Councils to impose conditions of development consent to dedicate land and/or make a contribution for affordable housing where the need is identified in a State Environmental Planning Policy, and allows it to be required as a condition of development consent. Section 94G Ensures land dedicated and/or contributions collected for affordable housing are used for that purpose, and enables the Minister to distribute affordable housing contributions made under the Act.
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP 70)	SEPP 70 ‘inserts’ revised affordable housing clauses in specific environmental planning instruments and provides the mechanism to enable affordable housing contributions under the Act. Clause 3(1)(a) Inserts affordable housing provisions into the <i>Sydney Regional Environmental Plan No 26—City West</i>. Clause 9 Identifies the need for affordable housing in the City of Sydney. <i>Note: When LEP 2005 was gazetted, the provisions of SREP 26 as they applied to the City at that time were repealed and became Chapter 3 of LEP 2005.</i>
Sydney Local Environmental Plan 2005 (LEP 2005)	Clause 118 Defines the <i>Affordable Housing Program</i> as the “<i>Affordable Housing Revised City West Housing Program</i> adopted by the Minister in May 2002”. Clause 120 Identifies the matters for consideration in imposing affordable housing conditions of development consent. Clause 121 Requires that affordable housing be developed in accordance with the Affordable Housing Program. Sets out the quantum of contributions Council can impose on development.
Affordable Housing Revised City West Housing Program (Affordable Housing Program)	The Affordable Housing Program is City West Housing’s guiding document. It sets out: • how land is to be dedicated and/or contributions are to be made; • how affordable units are to be developed; and • how units are to be leased and managed.

2.3 Proposed Amendments to the Scheme

In order to extend the area for expenditure of Ultimo-Pyrmont affordable housing contributions to the entire City of Sydney LGA it is necessary that:

1. The Affordable Housing Program be amended by the Minister to allow for the expenditure of these contributions within the entire City of Sydney. A copy of the Draft Revised City West Affordable Housing Program, dated October 2009, is contained at **Attachment A**.
2. The City of Sydney initiate an amendment to LEP 2005 to update the reference to the Program as it is to be adopted by the Minister.

A letter from the Department of Planning in support of the City's proposed amendment to LEP 2005 is contained at **Attachment B**.

The proposed amendment to Clause 118 of LEP 2005 is shown below, with inserted text shown in **red bold** and deletions shown in ~~strikethrough~~:

118 What are the “Affordable Housing Program” and “total floor area”?

In this Part:

Affordable Housing Program means the ~~Affordable Housing~~ Revised City West **Affordable** Housing Program adopted by the Minister in ~~May 2002~~ **(insert month, 2009)**, copies of which are available from the Department's Head Office.

total floor area means the total of the areas of each floor of a building. The area of each such floor is taken to be the area within the outer face of the external enclosing walls, but excluding:

- (a) columns, fin walls, sun control devices, awnings and other elements, projections or works outside the general lines of the outer face of the external walls (other than balconies), and
- (b) ancillary car parking required by the consent authority and any associated internal vehicular and pedestrian access to that car parking, and
- (c) space for the loading and unloading of goods

The proposed amendment **does not change the boundary for the collection of contributions under the Scheme**. Contributions can only be collected from development within Ultimo-Pyrmont.

2.4 Resolutions of Council and Central Sydney Planning Committee

Council on 10 August 2009 and the Central Sydney Planning Committee (CSPC) on 6 August 2009 resolved to support the proposed approach and the amendment to LEP 2005. A copy of both resolutions is contained at **Attachment C**.

Part 3 - Justification

3.1 Section A - Need for the planning proposal

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

No. The proposed amendment is required because City West Housing has identified that it can not continue to implement the Affordable Housing Program under the current controls. The Program has not been exhausted (i.e. developer contributions are available and only 446 of 600 units have been developed), and there is no suitable land available for development within Ultimo-Pyrmont.

City West Housing identifies the need for the amendment in the letter at **Attachment D** to this report.

The Ultimo-Pyrmont Affordable Housing Scheme itself was first made by the Minister for Planning under SREP 26. Research was undertaken at that time to demonstrate the need for affordable housing in Ultimo-Pyrmont and to establish the best mechanism to provide affordable housing.

Since then, research and studies undertaken to support the preparation of the *City of Sydney's Sustainable Sydney 2030* and the *City of Sydney Draft Affordable Rental Housing Strategy* have confirmed that more affordable housing is required in the City of Sydney and have reiterated the social and economic benefits associated with providing affordable housing in the City.

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

An amendment to LEP 2005 is necessary to put into effect the amended Affordable Housing Program and allow the full implementation of the Scheme.

The Department of Planning's letter contained at **Attachment B** provides in principle support for this approach.

3.1.3 Is there a net community benefit?

A net community benefit assessment has been undertaken in respect of the proposed amendment to expand the area within which affordable housing units will be able to be built. It is not relevant to assess the Scheme in this instance.

The proposed amendment will not:

- change land use zones in LEP 2005;
 - approve any specific development;
 - change the boundaries for levying contributions;
 - change the amount of contributions collected through the Scheme;
- and

- change the amount of units to be developed through the Scheme (600 units, as contained in the Affordable Housing Program and is proposed to remain unchanged).

Table 1 below demonstrates the net community benefit of the proposed amendment assessed under the criteria set out in the Department of Planning's Draft *Centres Policy*.

Table 1 - Net Community Benefit Test Assessment (adapted from the Draft *Centres Policy*)

Evaluation Criteria	Assessment	
<i>Will the LEP be compatible with agreed State and regional strategic direction for development in the area?</i>	• Yes. The proposed amendment will allow for the full implementation of the Scheme and ultimately result in more affordable housing within the City of Sydney. • See Section B of this report for an assessment of the proposed amendment against relevant policies.	✓
<i>Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?</i>	• Yes. The City of Sydney comprises 'Global Sydney', Green Square as a 'Planned Major Centre', and a series of Town Centres and Villages. • The extension of the area for expenditure of contributions is likely to result in the development of affordable housing in these key locations, especially in areas such as Green Square where suitable land is available. It is desirable to have affordable housing located in these centres.	✓
<i>Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?</i>	• No. This amendment will not create a precedent for unacceptable development or other LEP amendments. The development of affordable housing throughout the entire LGA is a desirable objective for the City of Sydney.	✓
<i>Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?</i>	• No. There have not been any other spot rezonings relating to affordable housing made or proposed within the City of Sydney. There is therefore no cumulative impact.	✓

Evaluation Criteria	Assessment
<i>Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?</i>	- The amendment to LEP 2005 will facilitate the continuation of the Scheme and the development of the remaining 154 units. Permitting this development (which might not occur in the absence of the proposed amendment) will generate jobs in the construction industry and continue to employ City West Housing staff to coordinate the construction and management of the affordable housing units. - The proposed amendment does not change any land use zoning, and therefore does not result in a loss of employment lands.
<i>Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?</i>	The proposed amendment will facilitate the development of affordable housing units in the City of Sydney, having a positive contribution towards the supply of affordable rental accommodation.
<i>Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?</i>	- The policies of City West Housing and the City of Sydney seek to ensure that affordable housing developed through the Scheme is well located near public transport and community facilities. - The proposed amendment will only facilitate residential development in zones where residential development is already permissible with consent. - Affordable housing that is developed as a result of the proposed amendment will still be subject to the development application and assessment process, where these issues will be addressed in detail and assessed against the City's controls.
<i>Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?</i>	As discussed above, the proposed amendment does not change land use zoning or approve development. Additional affordable housing units developed as a result of the proposed amendment will be subject to City of Sydney's planning controls and policies which are guided by sustainability goals.

3.2 Section B - Relationship to strategic planning framework.

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

The proposed development is consistent with State policy. The Scheme was introduced by the NSW State Government as part of the comprehensive redevelopment of Ultimo-Pyrmont under SREP 26. The proposed amendment seeks to ensure that the Affordable Housing Program can be fully realised.

Affordable Rental Housing SEPP

The proposed amendment is also consistent with the aims of the recently gazetted *State Environmental Planning Policy (Affordable Rental Housing) 2009* (the Affordable Rental Housing SEPP), in that it will facilitate the development of affordable housing in NSW.

The aims of the Affordable Rental Housing SEPP include:

“(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing”

The amendment and enabling City West Housing to spend contributions outside of Ultimo-Pyrmont do not affect the operation of the Affordable Rental Housing SEPP.

The Metropolitan Strategy

The NSW State Government’s Metropolitan Strategy provides the following directions for the provision of affordable housing:

C4 IMPROVE HOUSING AFFORDABILITY

C4.1.5 Incorporate housing affordability objectives in urban renewal planning, and encourage agencies responsible for urban renewal to assess impacts on the affordability of housing and use mitigative measures.

C4.3 Use planning mechanisms to provide affordable housing.

C4.3.3 Provide for inclusionary zoning which requires an affordable housing levy from development.

The proposed amendment, which allows the full realisation of the Ultimo-Pyrmont Scheme is consistent with these directions.

The Sydney City Draft Subregional Strategy

The NSW State Government’s *Sydney City Draft Subregional Strategy* states the following in respect of the provision of affordable housing:

Action C4 IMPROVE HOUSING AFFORDABILITY

...

It is important to have a local supply of affordable housing for lower

income households in supporting global centre objectives. ...

The proposed amendment, which facilitates the full implementation of the Ultimo-Pyrmont Scheme is consistent with this action.

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

Sustainable Sydney 2030 is the City of Sydney's guiding strategic policy document and provides targets and project ideas to achieve goals that are fundamental to making Sydney **green**, **global** and **connected**.

In terms of providing housing within the City of Sydney, *Sustainable Sydney 2030* provides the following directions:

Key Strategic Direction 8

Housing a Diverse Population

Objective 8.4 - *Facilitate and promote growth in the 'affordable housing' sector including by Not-for-Profit (NFP) and other housing providers.*

Action 8.4.1 - *Support the NFP sector in providing affordable housing.*

Action 8.4.2 - *Investigate an affordable housing pilot project in partnership with NFP sector and Department of Housing.*

Action 8.4.3 - *Investigate the benefits and opportunities of expanding existing included zones for affordable housing to fund the NFP sector, such as expansion in future renewal areas or on all commercial developments across the City.*

TARGET 3

By 2030, there will be at least 138,000 dwellings, 48,000 additional dwellings in the City for increased diversity of household types, including a greater share of families.

The proposed amendment to LEP 2005 will allow City West Housing to develop affordable housing units outside of Ultimo-Pyrmont and achieve the 600 unit target of the Ultimo-Pyrmont Scheme. The proposed amendment will therefore facilitate the development of the remaining 154 affordable housing units that could not otherwise be built in the immediate future, and contribute to the City-wide affordable housing targets set by *Sustainable Sydney 2030*.

The proposed amendment may also provide support for other *Sustainable Sydney 2030* affordable housing initiatives within the City of Sydney, such as the Bay Street Affordable Housing Project.

3.2.3 Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policy No 70—Affordable Housing

SEPP 70 enables the Ultimo-Pyrmont Scheme. It identifies the need for

affordable housing in the *City of Sydney*. The proposed amendment is consistent with SEPP 70.

State Environmental Planning Policy (Affordable Rental Housing) 2009

As discussed in Section 3.2.1, the proposed amendment is consistent with the Affordable Rental Housing SEPP, in that it will facilitate the development of affordable housing in NSW.

The amendment to allow City West Housing to spend contributions outside of Ultimo-Pyrmont will not affect the operation of the Affordable Rental Housing SEPP.

3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (section 117 directions)?

There are no Local Planning Directions issued under section 117 of the Act that are relevant to the proposed amendment to LEP 2005.

3.3 Section C - Environmental, social and economic impact

3.3.1 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 proposed amendment to LEP 2005 does not propose development on any specific site, or propose a change to the existing land use zoning. The proposed amendment enables development for affordable housing units to occur within a wider area.

In itself, the proposed amendment has no potential for critical habitat or threatened species, populations or ecological communities, or their habitats, to be adversely affected. Any development proposal to result from the proposed amendment will be subject to the development application process and will be assessed at that time.

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

There are no identifiable environmental impacts associated with the proposed amendment.

As mentioned above, should the amendment to LEP 2005 be made, all development to result from the proposed amendment will be subject to individual development applications. Through this process, impacts can be identified and addressed.

3.3.3 How has the planning proposal adequately addressed any social and economic effects?

The proposed amendment to LEP 2005 is considered minor. It does not propose development on any specific site, or propose a change to the existing land use zoning.

There are social benefits resulting from the amendment and allowing the full realisation of the Affordable Housing Program and development of the remaining 154 units in a timely fashion. The proposed amendment to LEP 2005 and the Program will not permit development. Proposals for affordable housing that arise from the amendments in the future will require development consent, and any associated potential impacts associated will be assessed at that time.

As outlined in City West Housing's letter included at **Attachment D**, its ongoing strategy is to develop housing that integrates with existing communities and is managed to minimise social impact. Existing City West Housing developments demonstrate this.

The proposed amendment will not have any impact on the quantum of contributions collected through the Scheme, as the area for the levying of contributions is not proposed to be altered.

The additional 154 units that will be facilitated by the proposed amendment will provide economic benefits to the wider City. As established in the research for developing the Scheme as part of the State Government's redevelopment of Ultimo-Pyrmont, affordable housing in the City provides accommodation for families and key workers that are essential elements of the City's diversity and economy.

3.4 Section D - State and Commonwealth interests

3.4.1 Is there adequate public infrastructure for the planning proposal?

The proposed amendment does not propose any development or change in land use zoning.

3.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The following State public authorities support the proposed development:

Department of Planning

Following consultation with the City of Sydney and City West Housing the Department of Planning advised that it intended to amend the Affordable Housing Program to allow the expenditure of funds within the wider area.

The letter at **Attachment B** confirms the Department of Planning's in principle support for the proposed amendment.

Department of Housing

A letter of support from the Minister for Housing is contained at **Attachment E**.

City West Housing

City West Housing's request for the City to undertake the necessary planning amendment to enable the expansion of its operations is contained at **Attachment D**.

Part 4 - Community Consultation

It is proposed that the amendment to LEP 2005 be publicly exhibited for a 14 day period. The public exhibition is to be notified through:

- A newspaper advertisement at the beginning of the 14 day period; and
- the City of Sydney's website.

It is intended that the City of Sydney's public exhibition of the amendment to LEP 2005 will take place concurrently with the Department of Planning's exhibition of the Draft *Revised City West Affordable Housing Program*.

No additional consultation with public authorities is considered necessary.