

Planning and Assessment

IRF19/3796

Plan finalisation report

Local government area: City of Sydney

1. NAME OF DRAFT LEP

Sydney Local Environmental Plan 2012 (Sydney LEP 2012) (Amendment No 49).

2. SITE DESCRIPTION

The planning proposal applies to land at 4-6 Bligh Street, Sydney on land legally described as Lot 1 DP 1244245 (**Figure 1**).

The site has a singular frontage to Bligh Street of approximately 38 metres (m) and encompasses a total site area of approximately 1,218m². The existing commercial office building on the site was constructed in 1964 and is known as Bligh House.

The existing building comprises 16,500m² of retail and commercial office space and is 18 storeys (74m) in height. The ground plane of the site ranges from 21m AHD within the north-western corner, dropping to 19.5m AHD at the south-western corner.

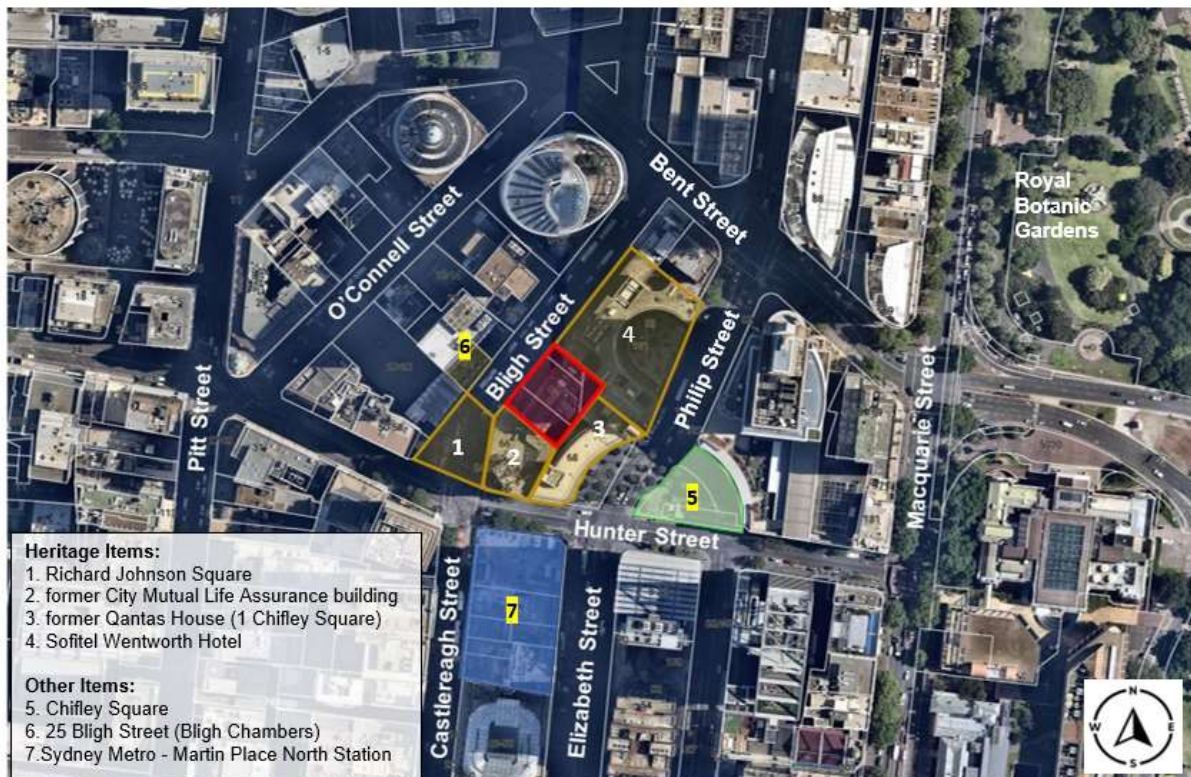


Figure 1: Site location (shown in red) and surrounding heritage and key landmarks map.

3. SURROUNDING AREA

The site is in the north-eastern part of the Sydney CBD and is bound by Bligh Street to the northwest, the former City Mutual Life Assurance building (37 Bligh Street) to the south west, the former Qantas House (1 Chifley Square) and the Sofitel Wentworth Hotel (61-101 Phillip Street) to the east (**Figure 1**). All three surrounding buildings are heritage listed under Sydney LEP 2012 (**Figure 1**). The site is also located near Richard Johnson Square, which is a local heritage item (**Figure 1**).

The surrounding area is characterised by a mix of commercial office and hotel uses with ground level retail, restaurant and café uses. Surrounding buildings are of varying heights, ages and styles. Building heights immediately surrounding the site are generally up to 20 storeys, with taller 30 to 40 storey buildings further beyond the subject site. The site is also located in proximity to business and tourism attractions such as Circular Quay and the Royal Botanic Gardens.

The site is highly accessible to train, bus and ferry services, including the new Sydney Metro Martin Place Station at 55 Hunter Street which is currently under construction (**Figure 1**).

4. CURRENT PLANNING CONTROLS

Zoning

Under the Sydney LEP 2012, the site is zoned B8 Metropolitan Centre, which permits commercial premises (including retail, business and office premises), entertainment facilities and tourist and visitor accommodation (including hotels) (**Figure 2**).

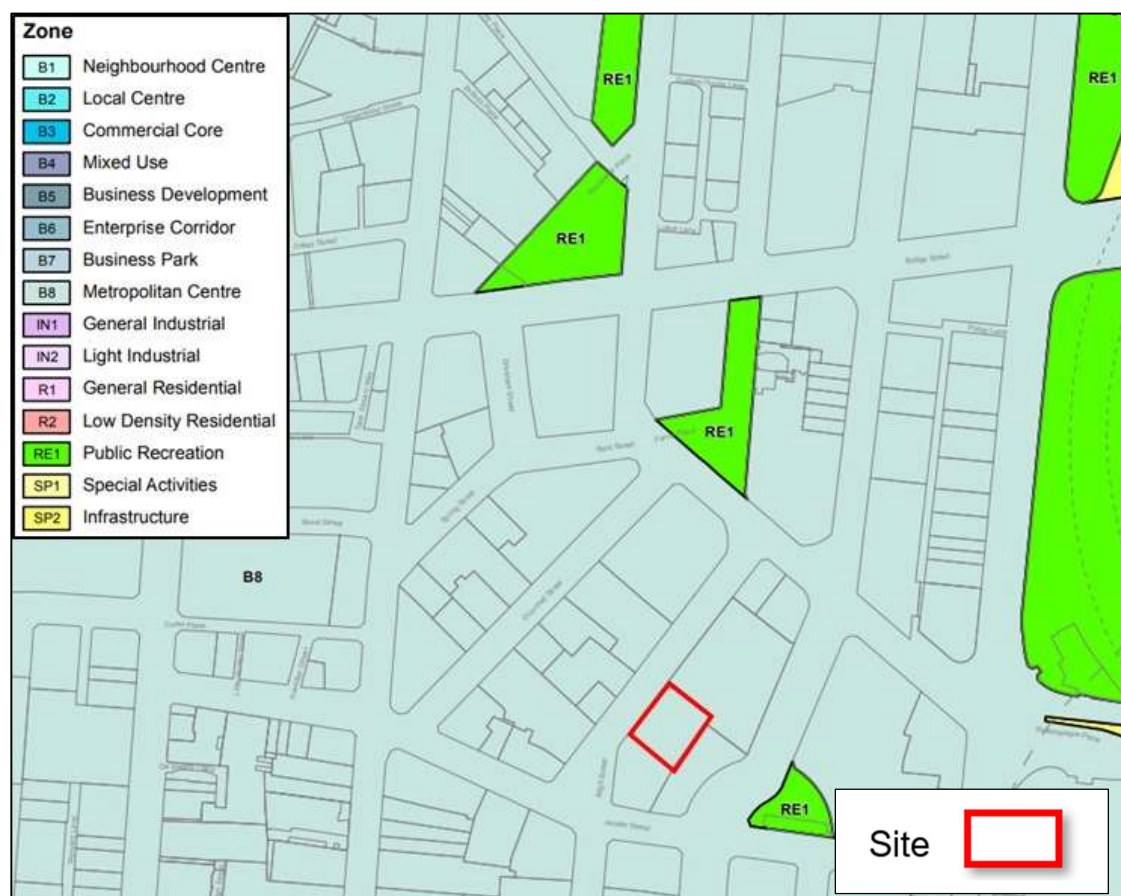


Figure 2: Land use zoning for the site (shown in red) and surrounds under Sydney LEP 2012.

Building Height

Under the Sydney LEP 2012, the site has a maximum building height of 235m **(Figure 3)**, this could be potentially increased to 258.5m if a design competition was held in accordance with clause 6.21 of the Sydney LEP 2012 and additional height was awarded.



Figure 3: Maximum building heights for the site (shown in red) and surrounds under Sydney LEP 2012

Floor Space Ratio

Under Sydney LEP 2012, the site has a maximum base floor space ratio (FSR) of 8:1 (**Figure 4**). This does not include any bonus floor space that may be afforded under other provisions of Sydney LEP 2012.

The site is subject to additional floor space provisions including clause 6.4 'Accommodation floor space', as it is identified in Area 1 of the Sydney LEP 2012 FSR Map. Development for a hotel is eligible for additional floor space of up to 6:1, and office or retail premises may achieve additional floor space up to 4.5:1. Should a building include both a hotel and an office premises, then the amount of FSR that can be achieved would be reduced proportionally to its use.

Development on the site is eligible for up to 10% bonus floor space or additional building height if a competitive design process is undertaken and design excellence is demonstrated in accordance with clause 6.21 of the Sydney LEP 2012.



Figure 4: Maximum floor space ratio controls for the site (shown in red) and surrounds under Sydney LEP 2012



Figure 6: Land affected by Sun Access Planes and No Additional Overshadowing sites under Sydney LEP 2012, the site is shown in red.

5. PURPOSE OF PLAN

The planning proposal aims to increase the total floor space permitted on the site where development is for the purpose of non-residential uses and does not include serviced apartments. It also seeks to reduce the permitted building height. No changes are proposed to the existing B8 Metropolitan Centre zone.

Specifically, the proposal intends to amend Sydney LEP 2012 to include a site-specific provision for FSR to:

- permits a maximum floor space ratio of 20:1 inclusive of all additional floor space bonuses (clauses 6.4 to 6.9 of the Sydney LEP 2012) excluding any floor space awarded as a result of design excellence under clause 6.21 of the Sydney LEP 2012; or
- permits a maximum FSR of 22:1 inclusive of all additional floor space bonuses (clauses 6.4 to 6.9 of the Sydney LEP 2012) and any FSR that may be granted under design excellence (clause 6.21 of the Sydney LEP 2012). The makeup of this FSR is to be limited to 21.2:1 above existing ground level, with the remaining permitted floor space to be accommodated below ground (as subterranean floor space);

Additionally, a maximum FSR of 21.2:1 is sought for any development above existing ground level, with the remaining permitted floor space to be accommodated below ground (as subterranean floor space).

These floor space maximums can be attained where additional conditions are met by the development under this same proposed site provision. These include that the resulting development:

- must not include residential accommodation and/or serviced apartments;

- may have a maximum building height of 205m, and a maximum height of 45m within:
 - a) 8 metres of the north-western (Bligh Street) boundary;
 - b) 3 metres of the north-eastern boundary;
 - c) 5 metres of the south-eastern boundary; and
 - d) 3 metres of the south-western boundary.
 unless the development achieves better than existing wind comfort, wind safety or daylight levels in the public domain;
- does not any achieve any additional building height under the design excellence clause 6.21 of Sydney LEP 2012;
- cannot have a floor plate area above the podium greater than 600m²;
- includes end of journey facilities;
- must meet a 5.5-star NABERS energy rating for the commercial component, 4.5-star NABERS energy rating for the hotel component, and a 4-star NABERS water score for the commercial office and hotel component;
- ensures additional floor space must be commensurate with or support the capacity of existing and planned infrastructure;
- is to demonstrate equivalent or improved wind comfort, wind safety and daylight levels in adjacent public domain;
- does not permit the site-specific development standards to be varied under clause 4.6 of the Sydney LEP 2012.

While the proposal will result in additional floor space being permitted on the site, it reduces the maximum permitted building height by 30m (or approximately 9 storeys).

Council confirmed that the separate provision relates to wind comfort, wind safety and daylight and is not associated with the setbacks was a duplicate made in error and should not be included in the draft LEP amendment.

It is noted that the planning proposal is accompanied by a voluntary planning agreement (VPA) entered into by the proponent with Council and a site-specific DCP.

The site-specific DCP includes site specific provisions that include site-specific building setbacks, heritage controls, managing wind impacts, parking and vehicular access, design excellence and NABERS energy and water rating requirements (**Attachment F**).

The site-specific DCP was adopted by the Central Sydney Planning Committee (CSPC) on 15 November 2018. The CSPC resolved that the DCP will come into force when the subject LEP amendment is made.

It is noted that the approved site-specific DCP includes and repeats the required upper level building setbacks and NABERS requirements sought by the proposal. It also includes provisions and explanation for how to measure and assess wind impacts and daylight levels that may be associated with the development for the site.

The proposed amendments will enable the redevelopment of the site for a 55-storey tower (**Figure 7**). The proposal will facilitate the proposed hotel development that is subject of a State Significant Development (SSD) application in accordance with the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) and will result in a development with a total gross floor area of approximately 24,360m² (excluding design excellence) comprising:

- a 10-storey podium including hotel lobby, food and beverage facilities and commercial premises;
- a 37-storey luxury hotel (407 rooms);
- four levels at the top of the tower including hotel club lounge, function space, restaurant bar and publicly accessible landscape terrace; and
- four basement levels including 12 car parking spaces, gym, pool and end-of-trip facilities.

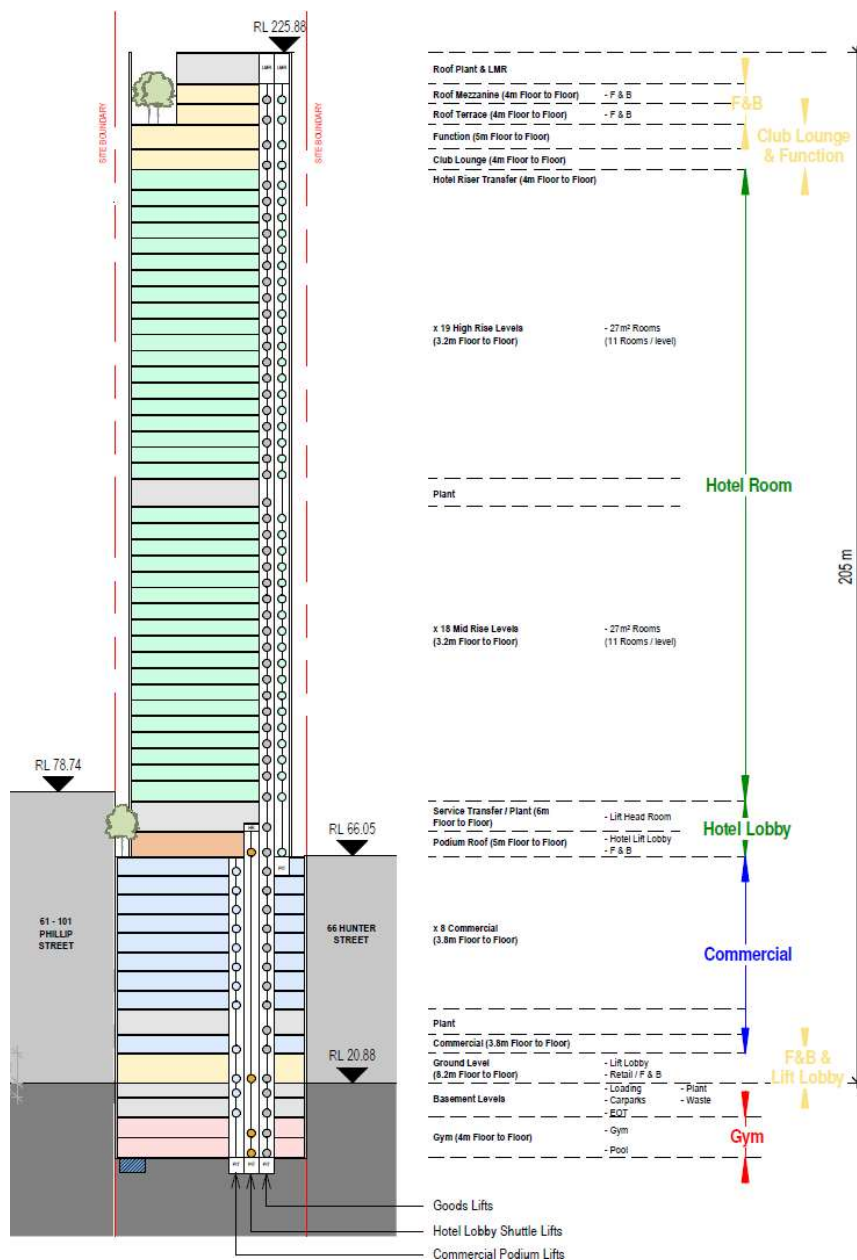


Figure 7: Concept design for 4-6 Bligh Street, Sydney

Under the current Sydney LEP 2012 controls, development on the site for a similar ratio of hotel to commercial uses can achieve a potential FSR of 13.55:1, including accommodation floor space bonuses and 14.9:1 where the design excellence floor space bonus is additionally granted. The breakdown of the FSR for the this concept under the Sydney LEP 2012 is detailed in **Table 1**.

Table 1: Existing floor space awarded under the current Sydney LEP 2012 provisions for the indicative concept.

Category	Retail/office	Hotel Accommodation
Indicative proportion use:	30%	70%
Accommodation floor space Awards (clause 6.4 of the Sydney LEP 2012):	4.5:1	6:1
Proportionate accommodation floor space FSR:	$30\% \times 4.5:1 = \mathbf{1.35:1}$	$70\% \times 6:1 = \mathbf{4.2:1}$
10% Design excellence	$(8:1 + 1.35:1 + 4.2:1) = 13.55:1 \times 10\% = \mathbf{1.35:1}$	
Total FSR including a base FSR of 8:1 and bonuses	14.9:1 ($8:1 + 1.35:1 + 4.2:1 + 1.35:1$)	

It should be noted that under current Sydney LEP 2012 controls, this concept would not be eligible for any additional floor space under clauses 6.5 to 6.9 of the Sydney LEP 2012 as:

- it is not proposed to convert a car park to another use (clause 6.5);
- it is not proposed to provide only a commercial premises (clause 6.6);
- it is not proposed to use the basement for an entertainment or club facility (clause 6.7);
- it is not proposed to conduct alterations or additions to a building that adjoins a lane (clause 6.8); and
- the site is not identified as an opportunity site (clause 6.9).

6. PLANNING BACKGROUND

Rezoning Review

The planning proposal was the subject of a rezoning review as Council did not support the planning proposal.

On 5 December 2017, the then Planning Assessment Commission (PAC) reviewed the planning proposal and recommended it proceed to Gateway determination given it demonstrated strategic and site-specific merit. The Department invited Council to be the planning proposal authority (PPA) to prepare a planning proposal for Gateway determination, which Council accepted.

Following the rezoning review, the proponent formally lodged a planning proposal request with Council including some refinements and clarifications to the building envelope beyond the scope of the planning proposal reviewed by the panel.

Development Application for Demolition and Excavation

On 3 August 2018, a development application (DA) was lodged with Council for the demolition of the existing commercial building and the excavation of the site, to accommodate the proposed development. At the time of writing this report the DA has yet to be determined by Council.

State Significant Development

On 6 August 2018, the proponent lodged a request for Secretary's Environmental Assessment Requirements (SEARs) for a proposed hotel development. Consistent with the supporting scheme for the planning proposal, the development includes a hotel development with ancillary commercial and retail development.

Given that the Capital Investment Value (CIV) of the hotel development is over \$100 million, the development is SSD pursuant to clause 13 of Schedule 1 of SRD SEPP.

On 3 September 2018, SEARs for the proposed development were issued and are consistent with the planning proposal. The corresponding SSDA has not yet been lodged with the Department for assessment.

Design Excellence

The proposed hotel development has been through a design excellence competition, which was awarded to Woods Bagot. The now approved setbacks in the site-specific development control plan (DCP) were considered in the design excellence competition.

Draft Central Sydney Planning Strategy

The Council's draft Central Sydney Planning Strategy is a 20-year strategic plan that seeks to deliver growth in Central Sydney through the revision of existing planning controls and the introduction of new controls. The draft strategy seeks to deliver the Council's Sustainable 2030 program for a green, global and connected city. It is supported by the draft Central Sydney planning proposal, draft Central Sydney DCP and Council's draft site-specific planning proposal guidelines to enact the changes. At the time of writing this report, the draft strategy has not been endorsed by the Department and the supporting draft Central Sydney planning proposal has not been considered for Gateway determination. Council has resolved to publicly exhibit (non-statutory) the draft strategy and supporting planning proposal in the near future, prior to further consideration of these for endorsement and Gateway determination, respectively.

The draft strategy includes a Strategic Floor Space Framework (SFSF) for Central Sydney, which proposes a new bonus scheme for height and floor space in addition to what can be achieved under clause 4.4, clause 6.21 and Part 6, subdivision 2 'Types of additional floor space' of Sydney LEP 2012. Council proposes to deliver the SFSF through site-specific planning proposals where these address their site-specific planning proposal guidelines and are accompanied by a public benefit offer. Council proposes to limit Strategic Floor Space (SFS) to particular uses including office premises, business premises, retail premises, hotels and community and cultural facilities.

The original Bligh Street planning proposal, as submitted to the Department for Gateway determination, included the SFSF. The Bligh Street planning proposal did not provide any justification for the introduction of the SFSF and did not demonstrate how preparing a site-specific planning proposal for an isolated site is the best means of implementing strategic floor space.

As such, the Department included a condition of Gateway determination requiring that SFSF be excluded from the Bligh Street planning proposal. The Department does not support the SFSF being implemented for isolated sites through site-specific planning proposals which require public benefit offers.

It is understood that under the proponent's VPA with the Council includes a contribution that will be additionally paid to Council for what would have constituted SFS per the original proposal.

7. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Sydney State Electorate. Alex Greenwich MP is the State Member for Sydney.

The site falls within the Sydney Federal Electorate. Tanya Plibersek MP is the Federal Member for Sydney.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

8. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 4 June 2018 determined that the proposal should proceed subject to conditions (**Attachment B**).

As previously discussed, the original proposal included the introduction of a new additional floor space incentive known as the SFSF. The conditions of the Gateway determination required that references to the SFSF be removed from the planning proposal prior to public exhibition.

The conditions of the Gateway determination also required Council to update the project timeline and address the proposal's consistency with the Greater Sydney Region Plan and Eastern City District Plan.

On 16 July 2018, the Department wrote to Council advising that the required updates were in accordance with the conditions of the Gateway determination and that Council may proceed to public exhibition.

As part of the Gateway determination, Council was required to exhibit the planning proposal for 28 days and consult with:

- Transport for NSW (TfNSW); and
- Office of Environment and Heritage (OEH).

On 14 July 2018, a Gateway alteration was issued to reduce the NABERS energy requirement for the hotel component of the site from 5 to 4.5 stars (**Attachment C**).

The timeframe for the draft LEP to be finalised is 4 June 2019. The Department is satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

9. PUBLIC EXHIBITION

In accordance with the Gateway determination, Council exhibited the planning proposal for 28 days, from 24 July 2018 to 20 August 2018 and consulted with both TfNSW and OEH.

Council has also satisfied its obligations under section 39(1) of the City of Sydney Act 1988 as it has referred and received approval to proceed with the planning proposal by the CSPC.

A total of five submissions were received in response to the public exhibition which comprised of the following:

- three public submissions (one submission in support and two that raised concerns with the proposal); and
- two public authority submissions (both of which provided comments).

Council acknowledged that the issues raised in submissions in the exhibition period did not warrant an amendment to the planning proposal. Council's detailed response to submissions can be found at **Attachment D**.

10. PUBLIC SUBMISSIONS

The key issues raised in the public submissions are discussed below and include:

- view loss;
- inconsistent and non-compliant setbacks regarding both the tower and podium;
- loss of residential development potential to adjacent sites; and
- loss of natural light.

View Loss

The loss of views towards the Domain, Rushcutters Bay and to the eastern suburbs was raised by the owner of 25 Bligh Street (Bligh Chambers) (**Figure 1**).

Council's response:

Council notes that the Bligh Chambers building currently benefits from views over the site looking south west to the Domain. This is due to lower scaled buildings over sites on the south east side of Bligh Street, including the current building on the site. Consequently, any development on the site in accordance with the proposal would likely result in view loss for the Bligh Street Chambers building.

Council stated in its response to submissions that the resultant view loss does not include loss of views to any iconic views or landmarks such as the harbour or Sydney Harbour Bridge and that the view from Bligh Chambers over the site is not considered a whole view (**Attachment D**). As Bligh Chambers is a commercial building not directly fronting the Domain, allowing 4-6 Bligh Street to reach its development potential and provide an increase employment floor space in Central Sydney Council considered this outcome as being reasonable.

Council is also of the view that the proposal's ability to support economic growth for the city through the provision of additional visitor accommodation should be outweighed by potential view loss.

Department's view and assessment:

The proponent and Council did not provide a view analysis from Bligh Chambers. However, due to the location and orientation of the Bligh Chambers building any redevelopment of the subject site in accordance with the maximum FSR and building heights sought by the proposal would mostly likely result in partial loss of views towards the Domain.

Whilst the proposal will permit an increase building bulk over the site, it will reduce the permitted building height for the subject site by 30m, which alone would most likely potentially result in reduced view loss from Bligh Street. Added to this the combined setback controls now endorsed by the site specific DCP will further contribute to reduce view losses.

Moreover, while the development scheme is still subject to requiring and obtaining a development application approval, the scheme has been in principally supported the through a design competition process through the appointment of the successful architects for the project Woods Bagot.

On this basis the Department considers Council's response adequately responds to this issue and that with further design evolution of the development scheme for the site at the development application stage, this potential impact can be further assessed.

Setbacks

Representations on behalf of owners of both 1 Chifley Square and 25 Bligh Street raised concern that the proposed setback controls for the subject site are not consistent with the Sydney DCP 2012 or the draft Central Sydney DCP (which forms part of the draft Central Sydney Planning Strategy). It was requested that there be no further reduction to the proposed setbacks and that a reasonable amount of light to 1 Chifley Square be retained.

Council's response:

Council states in its response to submissions that Section 5.1.2 of Sydney DCP 2012 allows a 3m side and rear setback above the street frontage, which is consistent with the planning proposal (see **Attachment D** and **Table 2 below**).

Council also states that the proposal is additionally consistent with the draft Central Sydney Planning Strategy and the associated draft Central Sydney DCP, which permits variation to the side and rear setbacks controls provided equivalent or improved wind comfort, wind safety and daylight levels in adjacent public domain is achieved.

Council states that the proposal demonstrated acceptable wind and daylight impacts on the public domain and therefore the setbacks were reduced (see **Table 2**).

The now adopted site-specific DCP provisions were also revised to ensure the proposed development respects and reinforces the significance of the adjacent heritage items including maintaining daylight to the light well area at 1 Chifley Square.

Department's views and assessment:

The Department considers Council's response adequately responds to the issue raised in the submissions.

The Department also notes that the proposal complies with the Sydney DCP 2012 and the draft Central Sydney DCP, but then seeks to replicate these controls into the proposed LEP amendment for the site (**Table 2**). Additionally, clause 4.6 of Sydney LEP 2012 does not apply to the site-specific provision and would preclude variation to each of the specific controls, however, the proposal still intends to allow for variation to the setback controls where it can be demonstrated that there is improved wind comfort and daylight outcomes in the public domain.

Whilst the Department considers these setback controls are appropriate and are consistent with Council's current DCP, their inclusion within an LEP is unnecessary as:

- the rear setback controls under the adopted site-specific DCP and the proposed LEP are not entirely consistent (see **Table 2**); and
- the preclusion of clause 4.6 under the Sydney LEP 2012 and then additionally permitting variation to the setback controls in the site-specific clause under the LEP is contrary and confusing.

As the setbacks in the LEP are an inconsistent duplicate of the site-specific DCP setbacks the Department has recommended that the setbacks be excluded from the LEP amendment. This will also minimise confusion for the consent authority, proponent and the community when the controls are implemented and ensure only one lot of setbacks apply. This matter is discussed further in **Section 12**.

Table 2: Minimum setbacks above street frontage based off a building height of 205m.

Boundary	Proposed LEP	Adopted Site-specific DCP	Draft Central Sydney DCP	Sydney DCP 2012 (current)
north-western (Bligh Street) boundary (street frontage)	8m	8m	8m	8m
north-eastern boundary (side setback)	3m	3m-3.4m	3.33% of proposed total height of building depending on height of part of building	3m
south-eastern boundary (rear setback)	5m	4.9m-6m	3.33% of proposed total height of building depending on height of part of building	3m
south-western boundary (side setback)	3m	3m-3.6m	6.66% of proposed total height of building depending on height of part of building	3m
Variations Permitted	Unless the development achieves better than existing wind comfort, wind safety or daylight levels in the public domain	Variation ordinarily permitted where adequately justified	Variation to side and rear setbacks and building form separations controls may be permitted provided that equivalent or improved wind comfort, wind safety and daylight levels in adjacent public places when compared to a scheme that fully complies with the required setbacks and building form separation controls.	Variation ordinarily permitted where adequately justified

Note: Section 5.1.2 of Sydney DCP 2012 relates to setbacks, and defines a hotel as a commercial building

Future development potential due to loss of natural light and views

The owner of 25 Bligh Street (Bligh Chambers) raised concern that the proposal would result in limiting future development potential of the site at 25 Bligh Street, particularly for any future residential development due to loss of natural light and views.

Council's response:

Council states that the Bligh Chambers is one of many sites within Central Sydney that is located within a highly dense urban environment and certainty for the protection of private amenities such as sunlight and views cannot be guaranteed.

Council was also of the view that any residential development on the Bligh Chambers site would need to comply with *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65) and the Apartment Design Guideline (ADG) like many other sites within Central Sydney and would be addressed as part of a detailed DA.

Department's view:

The Department considers Council's response adequately responds to the issue and that future development in Central Sydney would be required to meet the requirements of the Sydney LEP 2012, SEPP 65 and the ADG and would be subject to a detailed DA.

Additionally, and due to the orientation of the subject proposal site, all shadows cast by any resulting development on the proposal site would all fall to sites east, west and south of the site, whereas Bligh Street is located north west of the site and would not likely be detrimentally affected by shadows cast by the site's development.

11. ADVICE FROM PUBLIC AUTHORITIES

In accordance with the Gateway determination, Council consulted with TfNSW and OEH. No objections were received from the agencies. The key matters and recommendations raised by these agencies are discussed further below.

Transport for NSW

TfNSW raised no significant issues with the planning proposal, however raised several matters that should be considered as part of any future development application, including:

- further consultation with TfNSW and Sydney Metro regarding the detailed design and the location of transport corridors;
- the preparation of a coach parking and passenger pick-up and set-down management plan and a pedestrian route assessment;
- works required to improve pedestrian facilities to support the development need to be identified; and
- further details of the development's freight and servicing profile should be provided.

Council's response:

Council noted TfNSW comments.

Department's views:

The Department considers Council's response to be adequate and notes that the above matters would be addressed as part of any future DA(s).

Office of Environment and Heritage

OEH raised no significant issues with the proposal and made the following recommendations:

- Aboriginal Cultural Heritage should be assessed if there is evidence of the original land/surface natural soil profiles occurring at the site; and
- green roofs should be incorporated into the design of the development.

Council's response:

Council has amended its site-specific DCP to require Aboriginal cultural heritage to be assessed if there is evidence of the original land surface/natural soil profiles occurring at the site and an archaeological assessment to be undertaken to ensure archaeological relics are appropriately identified. Council also amended the site-specific DCP to require a green roof as part of the development and encourage cool roofs and green walls.

Department's views:

The Department considers Council's response adequately responds to the issues raised by the OEH and that Council can consider these matters as part of the current proposed DA for demolition and excavation of the site.

Additionally, the SEARs issued on 3 September 2018 for the proposed hotel development require the preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR) as part of any future DA(s). Therefore, this matter will be further considered at the detailed DA phase.

12. POST-EXHIBITION CHANGES

Council has not made any post-exhibition changes to the planning proposal and has addressed the concerns raised in submissions through the following amendments to the now adopted site-specific DCP:

- the rear podium setback should respect the significant features of the adjacent heritage item including maintaining daylight to light wells, particularly 1 Chifley Square;
- future development applications are required to prepare an ACHAR and an archaeological assessment;
- green roofs are to be included in the development and, cool roofs and green walls are to be encourage; and
- the design excellence jury is to consist of five members in accordance with the Government Architect's Design Competition Guidelines.

12.1 Consultation with Council

In the drafting of the proposed LEP amendments Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979 (Attachment E)*.

Council's response to the draft LEP was received on 8 July 2019. Council did not support the Department's proposed removal of the required setbacks, NABERS or the provision relating to the delivery of infrastructure. Despite this, the Department considers the removal of these provisions to be acceptable as further outlined below in Section 12.2.

Council additionally requested that the objective of the site-specific provision be altered to state that the purpose of the site-specific provision is to 'encourage employment uses'. The Department has not accepted this change as the term employment uses is not defined in Sydney LEP 2012 or the Standard Instrument—Principal Local Environmental Plan.

In relation to the proposed maximum floor plate provision, Parliamentary Counsel was unable to introduce a new definition and term 'floor plate' into Sydney LEP 2012 as this definition is not a standard definition. Council advised that this was intended to reflect a floor plate with a maximum Gross Floor Area of 470m², which is equivalent to a gross building area of 600m². The Department also consulted with the proponent on this matter, who advised that they were satisfied with this revised floor plate provision. This change is reflected in the proposed LEP amendments and the development consent cannot be granted for the additional floor space unless the consent authority is satisfied that any floor above the podium level of the building, does not have a gross floor area greater than 470m². The provision maintains the intent of the planning proposal to limit bulk and scale above the podium.

Due to difficult in quantifying the difference of when all floor space bonuses under clauses 6.4 and 6.9 of Sydney LEP 2012 were applied over the based 8:1 floor space ratio and the proposed new maximum proposed FSRs sought for the site specific provision, and ensuring that heritage floor space under clauses 6.11 and 6.11A would be still be required to allocated to the site's development, the Department requested that Council clarify how it was intended that this provision to be drafted in the LEP amendment. Council stated it was not able to quantify the accommodation floor space nor was Council able to provide draft a specific provision for the Department's consideration to give rise to this intention until a detailed land use mix was determined for site. Therefore, to ensure flexibility in the final commercial development mix for the site, the drafting of the LEP amendment for the proposal reflects both the intended upper FSRs for the site while ensuring the heritage floor

space will continue to apply to the site and its development. This matter is discussed further in Section 12.2.

12.2 Department's Assessment

Following a detailed assessment of the planning proposal, consideration of the matters raised in the submissions and Council's comments, it is recommended that the following alterations to the planning proposal are reflected in the draft LEP before it is made:

- the proposed minimum (but variable) required building setback controls to inform the tower podium be removed;
- the NABERS energy and water rating provision be removed;
- the provision relating to the delivery of infrastructure be removed;
- Clause 6.19 of the Sydney LEP 2012, which relates to overshadowing of Chifley Square not apply to the site-specific provisions to ensure the clause does not preclude development on the site; and
- removal of additional floor space provisions within the maximum FSR and inclusion of a formula to calculate and replicate the heritage floor space requirements as per clause 6.4 and 6.11 of the Sydney LEP 2012.

The Department's assessment of these matters, Council's views and the reasons for the alterations to the proposal is provided below.

Setbacks

The planning proposal seeks to include building setbacks to create a tower podium, these setbacks do not match those in the draft site-specific DCP (see **Table 2** in **Section 10** of this report). The proposed controls also intended to be able to be varied and reduced where the development achieves better than existing wind comfort, wind safety or daylight levels in the public domain.

The proponent has raised concern regarding the setback controls as the proposed building massing has already demonstrated that it provides equivalent or improved wind comfort, wind safety and day light levels in the adjacent public domain. Therefore, demonstrating a further reduction of wind and daylight impacts would not be achievable. As the proposal does not permit for variations, clause 4.6 of the Sydney LEP 2012 is precluded from applying. As such, the proponent is concerned that the setback controls are unnecessarily restrictive and would prevent wind mitigation measures such as awnings from being permitted at the podium level.

The Department has consequently recommended the removal of the following from the planning proposal:

- a) 8 metres of the north-western (Bligh Street) boundary;*
- b) 3 metres of the north-eastern boundary;*
- c) 5 metres of the south-eastern boundary; and*
- d) 3 metres of the south-western boundary.*

unless the development achieves better than existing wind comfort, wind safety or daylight levels (sky view factor) in the public domain.

Council's response:

Council does not support the removal of the setbacks as Council's intent was to define the building envelope by detailing the podium height and setbacks to the future tower ensuring minimum wind and daylight conditions are met in the public domain.

Department's views:

The site-specific setbacks have been informed by an assessment undertaken by Council against the Sydney DCP 2012 and the draft Central Sydney DCP. Council determined the proposed building envelope has an acceptable level of wind and daylight impacts. The Department acknowledges that the setbacks are consistent with Council's current DCP and the draft Central Sydney DCP. However, including the setbacks within an LEP for a site in Central Sydney is considered overly restrictive, unnecessary and generally results in duplication of the controls within the adopted draft site-specific DCP.

Moreover, the rear setback control adopted under the site-specific DCP do not match those proposed in the LEP (**Table 2**). To minimise confusion for the consent authority, the proponent and the community the Department has removed the setbacks from the LEP so that the site-specific DCP setbacks prevail and there is no duplication.

It is considered more appropriate planning practice to include minimum required setbacks within a DCP. Whilst DCPs do not strictly apply to SSD, these setbacks have informed the initial design of the development that was subject to design excellence competition.

The proposal's requirements for limited FSR standards and a limited floor plate size for development above the podium, will further ensure that the building massing above the podium respects the adjoining heritage items and will result in appropriate built form outcomes.

The proposed setback provision also introduces new standards and terms such as 'wind comfort', 'wind safety' and 'daylight levels' which are not defined or adopted under the standard LEP template and are best explained in more detail in a DCP as to how these are applied and measured against any proposed development of the site.

There is also a fundamental contradiction in permitting variation to these setback development standards in the site specific LEP clause proposed while also excluding the operation of clause 4.6 Variation to Development Standards as it applies to the full clause. It is reasonable to expect variation to occur for building setbacks where this is suitable and justified, particularly as the intended development scheme is not fully resolved and could still be subject to refinement, and any proposed development is subject to a thorough assessment by the relevant consent authority.

For these reasons the proposed setback provision is not supported for inclusion within the draft LEP.

Ecological Sustainable Development

The planning proposal seeks to support ecologically sustainable development by requiring minimum NABERS energy and water ratings for the new development to activate the site-specific FSR bonus.

The Department has recommended that the provision relating to NABERS energy and water ratings be removed from the planning proposal and considers it more appropriate to be assessed at the detailed design stage.

Council's response:

Council states that a key requirement of the planning proposal under the draft Central Sydney Planning Strategy is to contribute towards a zero-net energy and deliver ecological sustainable development and therefore inclusion of the NABERS provision is required.

Department's views:

The principle objective of encouraging and supporting the attainment of ecological sustainable development is supported by the Department.

NABERS is a national government program used to measure a building's energy efficiency, carbon emissions and water consumption and is administered in NSW by the OEH.

The Department has consulted with the OEH and the Department's Building Policy team in relation to the proposed inclusion of the NABERS ratings in the LEP. The Department understands that NABERS ratings achievements for a development cannot be determined until 12 months after the development has been in operation. Therefore, in assessing a development it is pre-emptive to ensure that it will achieve the required rating at the time the DA is assessed and considered for approval. Therefore, the proposed NABERS minimum requirements cannot strictly be complied with at the time the DA is determined.

The Department is also of the view that the inclusion of NABERS ratings in an LEP provision is overly prescriptive at this stage of the planning process. It is considered more appropriate to consider the requirement at the DA stage where detailed design and feasibility have been considered and that any expectation for this be outlined in a DCP and/or agreed to between a proponent and the Council under a planning agreement. In this instance Council has already both adopted a minimum requirement for NABERS in the site specific DCP and under a planning agreement.

The new National Construction Code (NCC) was adopted by all states and territories and commenced on 1 May 2019. Section J of the NCC identifies mandatory energy efficiency requirements that are applicable to different building types. The energy efficiency requirements set by the NCC are based upon consultation with industry and development feasibility, whilst also ensuring the federal government's broader strategy to reduce greenhouse gas emissions is implemented.

The NCC is to apply to all new buildings, however NABERS is not a verification method used for hotels under the NCC as it is a Class 3 Building per the NCC. In order for the hotel to comply with the NCC it would need to be verified by Green Star, reference buildings and building envelope sealing. If the proposed requirement was included in the LEP the hotel would need to undergo two separate verification methods to meet the LEP requirements and the NCC requirements, which is considered onerous and unnecessary.

Given the energy efficiency criteria under the NCC can be verified by multiple methods approach provides flexibility, promotes innovation and accommodates existing rating tools. The Department considers that limiting the verification method to only one method (being NABERS) is overly restrictive and unnecessary.

The inclusion of a minimum NABERS energy requirement would also conflict with commitments made by the NSW Government under the Australian Building Code Board

Intergovernmental Agreement. Under the agreement the NSW Government has agreed that it would limit local governments from setting prescriptive standards that prevail over the NCC.

It is understood that the VPA also requires:

- a 5-star base building NABERS energy rating for the commercial component; and
- a 4-star NABERS water rating for the commercial component; and
- a 4.5-star NABERS energy rating for the hotel.

These requirements are inconsistent the requirements of the planning proposal which seeks to include:

- a 5.5-star base building NABERS energy rating for the commercial component;
- a 4.5-star NABERS energy rating for the hotel; and
- a 4-star NABERS water rating for the commercial component and hotel.

Consequently, including the NABERS requirement in the LEP is considered an unnecessary inconsistent duplication of the requirements of the VPA.

In addition, as variations under clause 4.6 of the Sydney LEP 2012 are precluded for the site-specific provision, should the proponent wish to amend the NABERS provision in the LEP, they would be unable to do so.

Furthermore, the NABERS energy and water rating targets are already required by the site-specific DCP, including the requirement under the LEP would be considered a further unnecessary duplication.

For these reasons, the Department has removed the proposed NABERS provision from the LEP amendment.

Existing and planned infrastructure

The planning proposal seeks to ensure that the proposed bonus floor space supports and is commensurate with existing and planned infrastructure.

The Department requested further details from Council regarding how it anticipated the proposed infrastructure provision would be delivered. Council indicated that this provision would be satisfied via a VPA.

The planning proposal does not detail the type of infrastructure that would benefit from the VPA, why the VPA is required or whether the public benefit has a clear link to the development.

Council's response:

Council states that this provision assists in delivering the outcomes of the draft Central Sydney Planning Strategy by requiring an infrastructure contribution. However, Council noted that a VPA for the development has already been registered on title.

Department's views:

While the Department has not endorsed the draft Central Sydney Planning Strategy, Clause 7.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) states that a provision of an environmental planning instrument that expressly requires a planning agreement to be entered into before a DA can be made, considered or determined has no effect. The proposed LEP provision would result in a mandatory requirement to enter into a

VPA thereby not making the agreement voluntary. As such, a provision which can only be satisfied by a VPA is not permitted under the EP&A Act.

The planning proposal lacks sufficient detail on the type of infrastructure that would benefit from the VPA, or whether the public benefit has a clear link to the development. The proposed provision is not considered to be transparent and is ambiguous.

The Department considers that development contributions under section 61 of the *City of Sydney Act 1988* is a more appropriate option for Council to identify and deliver necessary and key local infrastructure to support additional development.

It is therefore recommended that the draft LEP is made without the infrastructure provision. Notwithstanding, the VPA between the proponent and Council is already registered on title and will run with the title of the land even if the land is sold.

Overshadowing of Chifley Square

Under clause 6.19(1)(b) of Sydney LEP 2012 development on a site should not result in additional overshadowing to Chifley Square between 12pm and 2pm between 14 April and 31 August in any year. Any additional overshadowing to Chifley Square from development to the site would require a clause 4.6 variation to the planning controls. The Department has recommended that clause 6.19 of the Sydney LEP does not apply to development on the site, so that the development is not precluded.

The urban design report prepared for the planning proposal demonstrates that development undertaken in accordance with the proposal will result in additional overshadowing to Chifley Square (**Figure 7**).

The draft Central Sydney Planning Strategy and associated draft planning proposal seeks to remove Chifley Square from clause 6.19 of the Sydney LEP 2012 as it is substantially overshadowed by existing development therefore, retaining this clause is not deemed to be necessary.



Figure 7: Anticipated overshadowing from the concept design (shown in red) of Chifley Square (shown in yellow) (Source: Architectus)

Council's response:

Council agrees with the Department's proposed provision as it would ensure that the development is not precluded.

Department's views:

Given that it is Council's intention is to support additional development on the site, albeit with a reduced building height, the removal of Clause 6.19 from applying to any future

development on the site aligns with the Council's intentions not to preclude development due to additional overshadowing to Chifley Square.

Accommodation Floor Space and allocation of Heritage Floor Space

The proposal intends to amend the Sydney LEP 2012 to include a site-specific provision which permits:

- a maximum floor space ratio of 20:1 inclusive of all bonuses (clause 6.4 to 6.9 of the Sydney LEP 2012) excluding any floor space awarded as a result of design excellence under clause 6.21 of the Sydney LEP 2012; and
- a maximum FSR of 22:1 inclusive of all other floor space bonuses (clause 6.4 to 6.9 of the Sydney LEP 2012) including additional floor space obtained through achievement of design excellence under clause 6.21 of the Sydney LEP 2012.

The planning proposal's intent is to ensure that the maximum FSR under the site-specific provision is inclusive of all additional floor space bonuses (clause 6.4 to 6.9 of the Sydney LEP 2012). However, as previously mentioned only clause 6.4 'accommodation floor space' would apply to the proposed concept and the intent is that heritage floor space would be required to be allocated in accordance with clause 6.11 of the Sydney LEP 2012.

Normally, depending on a building's use, additional floor space (accommodation floor space) is awarded in accordance with clause 6.4 of the Sydney LEP 2012. This floor space is in addition to the prescribed base floor space. The base floor space for the site currently under the Sydney LEP 2012 is 8:1.

As per the existing LEP controls, as the site is in Area 1, the site is eligible for the following amounts of additional floor space (*accommodation floor space*) in accordance with clause 6.4 of the Sydney LEP 2012:

- for hotel or motel accommodation, community facilities or centre-based child care facilities an additional FSR of up to 6:1 is permitted;
- for office premises, business premises, retail premises, residential accommodation or serviced apartments an additional FSR of up to 4.5:1 is permitted.

The additional floor space that can be achieved is proportional to the buildings uses.

Clause 6.11 of the Sydney LEP 2012 sets out the requirements for the allocation of heritage floor space if:

- accommodation floor space obtained under clause 6.4 of the Sydney LEP 2012; and
- additional floor space awarded under clause 6.21 of the Sydney LEP 2012.

The objective of clause 6.11 of the Sydney LEP 2012 is to provide an incentive for the conservation and on-going maintenance of heritage buildings within Central Sydney. In accordance with clause 6.11 of the Sydney LEP 2012, development consent cannot be granted to a building that uses accommodation floor space unless the amount of heritage floor space allocated is equal to 50% of the accommodation floor space to be utilised and 50% of the amount of floor space allocated as a result of design excellence (clause 6.21 of the Sydney LEP 2012).

As the planning proposal seeks to include the additional floor space (accommodation floor space) within the site specific maximum FSR, the Department requested that Council quantify the accommodation floor space so that the allocation of heritage floor space could be determined.

Council's response:

Council stated that they were not able to quantify the accommodation floor space until the detailed design is known as it is calculated proportional to land use mix.

Council later proposed a notional heritage floor space provision to replicate the requirements of clause 6.4 and 6.11 of the Sydney LEP 2012.

Department's views:

The Department consulted with Parliamentary Counsel on this matter, who advised that additional floor space under clauses 6.4 to 6.9 of the Sydney LEP 2012 could not be included in the maximum FSR of 20:1 as it would no longer be considered 'additional' floor space if it were included in the maximum FSR.

To ensure that heritage floor space was allocated consistent with clause 6.4 and 6.11 of the Sydney LEP 2012, Parliamentary Counsel recommended the following provision which includes a formula to calculate heritage floor space based upon clauses 6.4(1) (a) and (b) and clause 6.11 of the Sydney LEP 2012:

If a building, or part of a building, on land to which this clause applies is used for the purposes of hotel or motel accommodation, community facilities or centre-based child care facilities, an amount of heritage floor space is to be allocated to the building, using the following formula: $A \times 0.15:1 = B$

If a building, or part of a building, on land to which this clause applies is used for the purposes of office premises, business premises or retail premises an amount of heritage floor space is to be allocated to the building, using the following formula: $A \times 0.1125:1 = B$

where:

A is the total floorspace ratio of the building, not being a ratio of more than 20:1, used for the purposes of hotel or motel accommodation, community facilities or centre-based child care facilities.

B is the ratio of heritage floor space to be allocated to the building.

The formula is calculated using the amount of floor space permitted by the relevant use under clause 6.4(1) (a) and (b), divided by 20:1 (to get a percentage), multiplied by 50% to get a number which represents the rate at which heritage floor space should be applied.

To get to 0.15:1 in the above-mentioned formula, the following calculation was used:

- for a hotel the maximum accommodation floor space that can be awarded is 6:1, this represents 30% of the maximum FSR ($6:1/20:1=0.3:1$), this has then been multiplied by 50% (as per the heritage floor space rates) which equates to 0.15:1;

To get to 0.1125:1 in the above-mentioned formula, the following calculation used:

- for an office the maximum accommodation floor space amount that can be awarded is 4.5:1, this represents 22.5% of the maximum FSR ($4.5:1/20:1=0.225:1$), multiplied by 50% (as per the heritage floor space rates), which equates to 0.1125:1.

The allocation of heritage floor space is then calculated proportional to the buildings use as per clause 6.4 of the Sydney LEP 2012. **Table 3** demonstrates the indicative amount of heritage floor space required to be allocated if a development with an FSR of 20:1 had a mix of 70% hotel and 30% office/retail (as per the indicative concept).

Table 3: Indicative heritage floor space calculated using formula in site-specific LEP.

Category	Retail/Office	Hotel Accommodation
Site Area	1,218 m ²	
Indicative Total Floor Space (based off an FSR of 20:1):	7,308m ²	17,052m ²

Category	Retail/Office	Hotel Accommodation
Indicative Proportional Use:	30%	70%
Indicative Proportional FSR:	30% x 20:1 = 6:1	70% x 20:1 = 14:1
Design excellence (Clause 6.21 of Sydney LEP 2012)	2:1	
Heritage Floor Space (as calculated by site specific formula)	<u>Retail/Office</u> $6:1 \times 0.1125:1 = 0.675:1$ $= 822.15\text{m}^2$ <u>Hotel</u> $14:1 \times 0.15:1 = 2.1:1$ $= 2,557.8\text{m}^2$ Total: 3,379.95m² <u>Design Excellence</u> $2:1 \times 50\% = 1:1$ $= 1,218\text{m}^2$ Total HFS to be allocated: 4,597.95m²	

As demonstrated in **Table 4**, this is the same amount of heritage floor space as if clause 6.4 and 6.11 of the Sydney LEP 2012 applied.

Table 4: Indicative heritage floor space calculated as per clause 6.4 and 6.11 of the Sydney LEP 2012.

Category	Retail/Office	Hotel Accommodation
Site Area	1,218 m ²	
Indicative Total Floor Space (based off an FSR of 20:1):	7,308m ²	17,052m ²
Indicative Proportion Use:	30%	70%
Accommodation Floor Space rate (Clause 6.4 of the Sydney LEP 2012):	4.5:1	6:1
Indicative Accommodation floor space FSR (proportional to use):	$30\% \times 4.5:1 = 1.35:1$	$70\% \times 6:1 = 4.2:1$
	Total: 5.55:1	
Design excellence (Clause 6.21 of Sydney LEP 2012)	2:1	
Heritage Floor Space (Clause 6.11 of the Sydney LEP 2012)	<u>Accommodation Floor Space:</u> $5.55:1 \times 50\% = 2.775:1$ $= 3,379.95\text{m}^2$ <u>Design Excellence</u> $2:1 \times 50\% = 1:1$ $= 1,218\text{m}^2$ Total HFS to be allocated: 4,597.95 m²	

The Department agrees with Parliamentary Counsel that additional floor space cannot be included within a maximum FSR and that the proposed formula which allocates heritage floor space in accordance with clause 6.11 and 6.4 of the Sydney LEP 2012 meets the intent of the planning proposal. As demonstrated in **Table 3** and **4** the amount of heritage

floor space to be allocated via the proposed formula is consistent with clause 6.4 and 6.11 of the Sydney LEP 2012.

The Department could not support Council's proposed 'notational heritage floor space' as it is not a standard definition under the Standard Instrument. The Department previously requested a similar provision to Council's; however, it was not supported by Parliamentary Counsel for this reason.

The proposed heritage floor space formula achieves the same outcomes as clause 6.4 and 6.11 of the Sydney LEP 2012. The Department recommended that clause 6.11(2), 6.11(3), 6.11(4) and 6.11A continue to apply to the site-specific provision to ensure heritage floor space is consistently applied across Central Sydney. The Department acknowledges that this is a site-specific provision which replicates the requirements of clause 6.4 and 6.11 of the Sydney LEP 2012 and that there is no reduction in heritage floor space as a result of the site-specific heritage floor space formula.

13. ASSESSMENT

13.1. Section 9.1 Directions

The draft LEP is considered consistent with all relevant Section 9.1 Directions. The table below provides an assessment of the proposal against the relevant Section 9.1 Directions.

Section 9.1 Direction	Consistent	Comment
1. Employment and Resources		
1.1 Business and Industrial Zones	Yes	The direction applies as the site is located in a B8 Metropolitan Centre zone. The planning proposal is considered consistent as it seeks to promote employment growth in a strategic location and increases the potential floor space area for employment uses at the site.
2. Environment and Heritage		
2.3 Heritage Conservation	Yes	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. Council has addressed heritage and aboriginal heritage impacts through amending its site-specific DCP so that the rear podium setback respect the significant features of the adjacent heritage items including maintaining daylight to light wells, particularly 1 Chifley Square and future development applications include an ACHA and an archaeological assessment.
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Yes	The direction applies as the B8 Metropolitan Centre zone permits significant residential development. It is noted that the draft LEP seeks a site-specific provision to ensure that a development for residential purposes is not built under the proposed site-specific controls and bonuses. However, the proposal is considered consistent as the making of the LEP does not preclude residential development occurring under the existing controls.
3.4 Integrating Land Use and Transport	Yes	The planning proposal is consistent with the direction as it encourages increased efficiency of land use in proximity to several public transport options. The provision of additional jobs, employment generating floor space and tourist accommodation in proximity to the new Sydney metro, rail, ferry and bus services is considered appropriate.

5. Regional Planning		
5.10 Implementation of Regional Plans	Yes	The planning proposal has demonstrated consistency with the relevant regional and district plan. This is discussed in greater detail below.
6. Local Plan Making		
6.1 Approval and Referral Requirements	Yes	The planning proposal does not include any provisions that require additional concurrence or referrals of development applications to a minister or public authority.
6.3 Site Specific Provisions	Yes	Although the planning proposal seeks to implement a range of site-specific provisions it is considered consistent with this direction as it allows the development to be carried out in its existing zone. Additionally, the site-specific provisions do not preclude development at the site from being undertaken in accordance with the site's existing controls.
7. Metropolitan Planning		
7.1 Implementation of a Plan for Growing Sydney	Yes	See Direction 5.10.

13.2. State environmental planning policies

The draft LEP is considered consistent with all relevant SEPPs and deemed SEPPs.

SEPP No. 55 – Remediation of Land

The planning proposal includes a preliminary site investigation prepared by Coffey dated July 2017. The report identifies several areas of potential environmental concern including existing hazardous building materials, leaks and spills from mechanical plant infrastructure within the existing basement and suspected underground storage tanks.

The review recommends a detailed site investigation be undertaken at the development application stage. The review also concluded that the site can be made suitable for commercial development in accordance with SEPP 55. The SEARs issued on 3 September 2018 require the statutory requirements under the SEPP to be fulfilled and request a soil and contamination report to be prepared.

SEPP (Infrastructure) 2007

SEPP (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure across the State and identifies matters to be considered in the assessment of development adjacent to particular types of infrastructure including rail infrastructure.

The site is identified in the CBD Rail link Corridor (Zone B Tunnel) under the SEPP. As such, the site will be subject to the provisions in Division 15 of the Infrastructure SEPP and review and approval by the relevant authorities including Transport for NSW will be required at the SSD application stage.

Eastern City District Plan

The Eastern City District Plan operates as a bridge between regional and district planning by seeking to implement the Region Plan at the district level. The Eastern City District Plan encompasses the Sydney Local Government Area. The proposal is consistent with the outcomes and directions outlines in the plan as outlined below:

- *Priority E7: Growing a strong and more competitive Harbour CBD and Priority E13: Supporting growth of targeted industry sectors:*

The district plan recognises the need to grow the tourism sector and its significance to the district economy. In the 2015/16 financial year eight million visitors stayed overnight in Sydney, contributing \$8.6 billion to the districts economy. The district

plan identifies the need to promote a link between business and leisure visits in Central Sydney.

Council recognises that the number of visitors coming to Sydney for business trips staying in upscale hotels has increased whilst visitors staying in standard hotels has declined. This provides further evidence for the need to promote development that links the tourism and business sectors.

The redevelopment of the site seeks to provide 24,360m² of hotel/commercial floor space, 407 hotel rooms and 775 jobs to the local workforce.

The site is in a strategic location with access to business, particularly the legal and financial sectors and provides suitable visitor accommodation to support the link between business and tourism.

- *Priority E19: Reducing carbon emissions and managing energy, water and waste efficiently*

Although the minimum NABERS requirement is not recommended to be included as a provision within the LEP, the site-specific DCP seeks to encourage ecological sustainable development by requiring NABERS. In addition, the NCC includes energy efficiency targets which will be required to be met in order to obtain a construction and occupation certificate.

14. MAPPING

There are no proposed mapping changes sought by the planning proposal.

15. PARLIAMENTARY COUNSEL OPINION

On 26 August 2019, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

16. RECOMMENDATION

It is recommended that 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 it:

- is consistent with the Eastern City District Plan, relevant section 9.1 Ministerial Directions and state environmental planning policies;
- facilitates the ability and delivery of hotel accommodation in close proximity to business and tourism attractors including Circular Quay, Royal Botanic Gardens and established transport infrastructure;
- increases the amount of commercial floor space available to support Central Sydney's role as a global city;
- would not preclude development capacity of surrounding sites; and
- would have minimal environmental, social and economic impact.



Amanda Harvey
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