

## Place, Design and Public Spaces

IRF20/3634

### Plan finalisation report

Local government area: Randwick

#### 1. NAME OF DRAFT LEP

Randwick Local Environmental Plan 2012 (Amendment No 8)

#### 2. SITE DESCRIPTION

*Randwick Local Environmental Plan 2012 (Amendment No 8)* (Draft LEP) seeks to encourage and guide the growth, development and renewal of the Kensington and Kingsford town centres within the Randwick LGA.

The town centres have a linear configuration and are located along the Anzac Parade and South East Light Rail corridor. The centres are approximately 9km from the Sydney CBD and adjacent to the Randwick Health and Education Precinct, which encompasses the University of NSW (UNSW) and Prince of Wales Hospital.

The Kensington Town Centre is approximately 9 hectares in area, comprising land from Carlton Street in the north to Doncaster Avenue in the south (**Figure 1**).



**Figure 1:** Kensington Town Centre (highlighted in red). (Source: Near Maps, overlay by DPIE)



The Kingsford Town Centre is approximately 6 hectares in area and includes land north of Barker Street to Sturt Street in the south (**Figure 2**).



**Figure 2:** Kingsford Town Centre (highlighted in red) (Source: Near Maps, overlay by DPIE)

### 3. PURPOSE OF PLAN

The planning proposal focuses on housing and jobs growth and supporting commercial and social activities in the town centres, capitalising on their proximity to the Randwick Education and Health Precinct and the State Government's investment in public transport infrastructure, namely the CBD & South East Light Rail. The above have contributed to the desirability of the Kensington and Kingsford areas as places to live, study and work.

The subject planning proposal was underpinned by a planning strategy for the Kensington and Kingsford town centres that seeks to enable sustainable growth and improve the urban design and place outcomes. The proposal provides for a mid-rise (9 storeys) building typology for the majority of the town centres to spatially reinforce Anzac Parade, with appropriate transition to the surrounding existing development. Higher built forms (up to 18 storeys) are envisaged at three key intersections adjoining the light rail stops – Todman Avenue, Middle/Strachan Streets and the “Nine Ways”.

The proposal would result in a capacity uplift of approximately 1,324 additional dwellings, bringing the total housing capacity under *Randwick Local Environmental Plan 2012* to approximately 5,200 dwellings (note: 4,800 – 5,500 dwellings depending on unit size). It would also facilitate the creation of 960 jobs by 2036. The proposal would also establish funding mechanisms to deliver public infrastructure upgrades and affordable housing to support the area's growth.

The Draft LEP, in conjunction with Council's Section 7.12 Development Contributions Plan (DCP) (adopted 10 December 2019), Affordable Housing Plan (adopted 10 December 2019), Community Infrastructure Contributions Plan (adopted 10 December 2019), Architectural Competition Policy (adopted 10 December 2019) and proposed DCP would form the planning framework for coordinating sustainable growth of these centres.

The key components of the proposal are summarised below and discussed in more detail under Section 10 of this Finalisation Report.

#### Extension of B2 Local Centre Zone boundary

The proposal seeks to extend the existing B2 Local Centre Zone boundary over several adjoining land parcels as follows:

Site	Current Zone	Proposed Zone
16-20 Barker Street, Kingsford	R3 Medium Density Residential	B2 Local Centre
582-584 and 586-592 Anzac Parade, Kingsford	R2 Low Density Residential	B2 Local Centre
63 Harbourne Road and 12-18 Rainbow Street, Kingsford	R3 Medium Density Residential	B2 Local Centre
7 Addison Street, Kensington	R3 Medium Density Residential	B2 Local Centre
157 Todman Avenue, Kensington	R3 Medium Density Residential	B2 Local Centre

#### Density and height

The proposal introduces alternative controls that allow an increase to the maximum building height from 24m (7 storeys) to up to 31m (9 storeys) and application of a maximum floor space ratio (FSR) of 4:1 across the majority of the centres, with additional height (maximum 51m to 60m) and FSR (maximum 5:1) on key sites adjacent to light rail stops. The additional heights and density beyond the existing controls may be achieved only if development contributes towards the delivery of community infrastructure, and for key sites, also exhibits design excellence through an architectural competition process. The additional building heights and FSR are identified on a set of Alternative Building Heights and Alternative FSR Maps.

It is noted that Council made post-exhibition changes to remove certain sites from uplift (i.e. application of the 4:1 FSR) in response to submissions and site-specific issues. These are discussed in Section 9 below.

Consistent with Council's intent for an improved urban layout, built form character and interface with adjoining residential land and public domain, the proposal seeks to incorporate transitional heights and secure the provision of new laneways / shared zones on urban renewal sites. This is achieved by incorporating a variety of building heights (ranging from 25m / 7 storeys, 19m / 5 storeys to 16m / 4 storeys) for land adjoining residential, school and open space uses and heritage items, and limiting maximum building heights within the future laneways / shared zones to 1m on the Alternative Building Heights Maps.

As part of the post-exhibition changes, the proposal also seeks to amend the existing maximum building heights applying to two areas in Kensington adjoining the Kensington Public School and an existing open space, as follows:

Site	Current Height Control	Proposed Height Control
2-6 Goodwood Street, Kensington	21m	19m
5-7 Ascot Street, Kensington	21m	19m
16 Bowral Street, Kensington	21m	Part 1m, 16m and 19m
8–14 Bowral Street, Kensington	21m	19m
122 Todman Avenue, Kensington	21m	19m
166 Anzac Parade, Kensington	25m	Part 19m and 25m

This in effect has resulted in the downscaling of permissible maximum heights for the above affected land.

### Community infrastructure

The proposal includes a community infrastructure provision to support the growth and renewal of the town centres. According to Council's Community Infrastructure Contributions Plan, the total dollar value of the intended contribution is based on the cost of delivering the identified community infrastructure within the town centres. It is calculated on the amount of additional residential floor space proposed in a development when utilising the alternative building height and FSR controls mentioned above.

### Affordable housing contributions

The proposal introduces an affordable housing contribution provision that requires all development for residential purposes within the town centres (unless expressly excluded in the LEP clause, such as development for the purposes of affordable or social housing and community facilities) to contribute towards affordable housing. This provision will apply to all land within the town centres (i.e. land zoned B2 Local Centre within Kensington and Kingsford), and not restricting to land identified for uplift.

### Non-residential FSR and active street frontage requirements

The proposal includes a minimum non-residential FSR of 1:1 for key sites adjacent to light rail stops to promote employment and commercial uses. Active frontage requirements that apply across the town centres are introduced to ensure street activation.

### Section 7.12 Development Contributions Plan

A draft Section 7.12 Contributions Plan was exhibited concurrently with the planning proposal with a contribution rate of 3%. The Plan, as amended after exhibition, allows a 2.5% contribution rate to be levied for development within the town centres to recover the identified cost of local infrastructure provision.



An amendment to Section 25K of the *Environmental Planning and Assessment Regulation 2000* (the Regulation) is required to implement the Section 7.12 contributions levy rate. This matter was progressed concurrently with the subject LEP amendment and the Regulation amendment is ready to be notified at the same time as the determination of the Draft LEP.

#### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Heffron and Maroubra State electorates. Ron Hoenig MP is the State Member for Heffron and Michael Daley MP is the State Member for Maroubra.

The site falls within the Kingsford Smith Federal electorate. Matt Thistlethwaite MP is the Federal Member.

Ron Hoenig MP has written to Council on behalf of a resident in Randwick, who was concerned about the proposed building heights in Kensington.

To the Eastern Harbour City branch's knowledge, Michael Daley MP and Matt Thistlethwaite MP have not 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 final planning proposal.

During the Gateway assessment of the proposal, the Department was contacted by a registered lobbyist regarding the timing of the finalisation of the proposal and pre-Gateway review. No contact was made by this lobbyist in relation to this final proposal.

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

#### 5. BACKGROUND

*A Plan for Growing Sydney*, which preceded the Greater Sydney Region Plan, identified the Kensington and Kingsford town centres within the Global Economic Corridor with major urban renewal opportunities.

Consistent with this State acknowledgement, the construction of the South East Light Rail and Council's own strategic aspirations for these centres, Council commenced its comprehensive review of the planning controls that apply to the town centres in 2016.

Following the release of an initial issues paper, an international design competition and public engagement process, Council endorsed the draft *Planning Strategy – Kensington and Kingsford town centres* (Planning Strategy) to highlight opportunities and challenges for accommodating projected housing growth in the town centres and capitalising on new transport infrastructure investment.

Through this period the NSW Government released the draft Greater Sydney Region Plan and draft Eastern City District Plan, which identified Randwick within the Eastern Harbour City and Eastern Economic Corridor as well as acknowledging the strategic importance of the Randwick Health and Education Precinct / Collaboration Area. The area benefits from global competitiveness, attractiveness and growth potential as a result of the improved connections with the CBD through key transport infrastructure investment.

In January 2017, Council submitted a planning proposal for Gateway determination to commence the plan making process to implement the policy framework under the Planning Strategy.

The proposal included an amendment to the zoning and built form controls for land within the town centres to allow intensified land uses with increased height and floor space. It also introduced new local provisions to secure community infrastructure and affordable housing contributions and to achieve design excellence, active street frontages and minimum non-residential floor space.

Simultaneously, the proposal was accompanied by an associated draft Section 7.12 Contributions Plan with a proposed amendment under Section 25K of the *Environmental Planning and Assessment Regulation 2000* to allow a levy rate of up to 3% be charged on development within the town centres. This amendment, if made by the Minister, would exempt Council from the applicable maximum payable rate for infrastructure charges. On 23 April 2019, the Department provided Council with in-principle support to seek an amendment under Section 25K of the Regulation.

## **6. GATEWAY DETERMINATION AND ALTERATIONS**

### **6.1 Gateway Determination**

On 12 December 2017, a Gateway determination was issued allowing the planning proposal to proceed subject to conditions.

The Gateway determination required specific revisions to the proposed planning framework. This included removal of the proposed LEP clause that seeks provision of community infrastructure contributions and requirements for further residential uplift through greater height and density controls.

### **6.2 Alteration of Gateway Determination**

On 5 March 2018, Council sought a review of this Gateway determination, raising concerns that the required changes had the potential to detrimentally impact on the amenity, traffic condition, heritage values and flight paths within and around the town centres.

After receiving advice from the Independent Planning Commission (IPC), the Department issued an Alteration to the Gateway determination on 19 December 2018, allowing the proposal to proceed subject to revised conditions. The revised conditions relate to the removal of requirements for further residential uplift, revisions to allow inclusion of a community infrastructure clause with updated feasibility assessment, and extension of time to complete the LEP.

## **7. PUBLIC EXHIBITION**

On 9 August 2019, the Department endorsed the planning proposal for public exhibition.

In accordance with the Gateway determination and the Department's endorsement, the proposal and associated draft Section 7.12 Contributions Plan were publicly exhibited from 20 August 2019 to 1 October 2019 (42 days).

Council undertook a range of engagement activities during the exhibition period, including:

- Issuing approximately 18,000 letters to local residents, landowners and businesses;

- On-line contents on Council's website, including a video and interactive mapping;
- Pop-up sessions in Kensington and Kingsford town centres;
- Advertisements in local print media;
- Emails and social media campaign;
- Local newsletters;
- Stakeholder and agency meetings and business forums; and
- Telephone surveys.

Council recorded approximately 400 submissions (382 as stated in Council's post-exhibition report - 71% opposed, 23% supportive and 6% neutral/unsure). Two telephone surveys were carried out with a total of 885 randomly selected residents across the LGA. The results show that 74% were supportive and 26% not supportive of the Planning Strategy.

The key issues raised by the community could be broadly identified as follows:

- Traffic congestion, parking demand, capacity of the light rail, and access;
- Local character, building height and associated amenity impacts, including overshadowing, privacy, noise, wind tunnelling and urban heat island effects;
- Groundwater interference and structural concerns;
- Development feasibility;
- Architectural competition and potential delays to the development process;
- Adequacy of the minimum commercial floor space controls;
- Adequacy of open space provision, infrastructure and supporting services;
- Impact on property values, and
- The need for design excellence, greening and activation.

Council has completed a detailed assessment against all the submissions received during exhibition of the proposal. This included a summary of all submission issues and response to each. It is considered that the justifications and reasons given by Council staff are adequate.

Submissions have also been received from landowners requesting zoning changes and increase to the density and height controls. Council has carried out a detailed review against each of these submissions, resulting in some changes to the planning proposal.

<b>Table: Submissions requesting changes to zoning and/or development standards for specific sites – summary of Council's response</b>	
Changes supported	2
Changes not supported	10
Changes not supported as part of the planning proposal, but could be further investigated in the future comprehensive LEP review	7
<b>Total</b>	<b>19</b>

The changes supported by Council relate to the rezoning and increase in development standards for two sites in Kensington, being 157 Todman Avenue and 7 Addison Street. A detailed discussion of these post-exhibition changes is provided in Section 10 of this report.

The other submissions requesting changes to zoning and/or development standards were not supported as part of this planning proposal for the following reasons:

- Inconsistency with the urban design vision in the Planning Strategy, which seeks to maintain a mid-rise building typology along Anzac Parade with transitions to adjoining residential areas and taller, slender built form at key nodes;
- Inadequate justifications on planning grounds or lack of merit having regard to the site context;
- Significant departure from the exhibited planning proposal; and
- The sites in question are outside the Kensington and Kingsford town centres (e.g. submission from the UNSW requesting changes to planning controls for the Kensington campus).

Among these submissions, Council has identified seven sites for further investigation as part of its future comprehensive LEP review. These sites are close to strategic and town centres and could potentially support further growth having regard to Council's draft Housing Strategy. For one of the sites, Council identified the potential for possible refined planning controls to provide an improved response to the local context.

The process undertaken by Council in reviewing these submissions is considered appropriate.

## **7.1 Key Issues Summary**

### Transport, traffic and parking

The submissions raised concerns over increased traffic congestion, loss of parking and impacts on the safety of pedestrians and cyclists.

The traffic report for the planning proposal has analysed the expected traffic movements in the context of the new light rail infrastructure. There will be reduced reliance on cars as a greater proportion of the existing and new residents and employees will use the light rail and buses. The traffic modelling showed that increased traffic movements can be accommodated within the street network.



The traffic analysis indicates that two key intersections will require modification to improve their performance and ensure road safety for all users. Further discussion on this element is provided in Section 8 of this report.

Council also proposes decreased car parking requirements to promote reduction in car dependency and encourage active and public transport. Matters on parking rates will be addressed in Council's Kensington and Kingsford draft DCP that was endorsed by Council for public exhibition on 28 July 2020.

The planning proposal seeks to facilitate housing growth and new employment opportunities within the Kensington and Kingsford town centres. These centres are promoted for urban renewal in relevant State and local strategic plans and aligned with investment in regional transport infrastructure, namely the South East Light Rail. Council's planning proposal has been informed by detailed traffic and parking analysis, as well as consultation with relevant State agencies. The modelling undertaken has indicated that the projected vehicular traffic could be accommodated within the existing street network. On this basis, the Department is satisfied that the issues raised have been satisfactorily addressed.

#### Capacity of the light rail in supporting growth

The submissions have raised questions around the capacity of the new light rail in handling peak hour demand and additional growth.

Council engaged a transport consultant to analyse the capacity of the light rail, considering the expected growth in the town centres over the next 15 years. Advice received by Council is that the transport demand can be met if the light rail together with buses continue to service the precincts.

Transport for NSW (TfNSW) has advised that all express buses and some of the existing buses to the City from the east and south will be maintained, and that the bus network will be scalable and flexible to respond to demand as the need arises. The initial service level of the light rail is 15 trains per hour. This can be increased to 20 services per hour at 6-minute intervals in future. As development in the town centres would occur over a 10 to 15-year horizon, transport services could be monitored, analysed and reviewed, having regard to the status of other key transport initiatives identified in Future Transport 2056.

#### Height and scale of buildings

The submissions raised issues regarding the proposed building heights, particularly those sites identified for bonus heights, and their impacts on the character of the town centres and the adjoining low-rise residential neighbourhoods. There are also concerns that the proposal would set an undesirable precedent for future height increases in the area.

The proposal is underpinned by design principles established in the Planning Strategy. These principles were informed by the international design competition for the two centres in 2016. The design intent is to provide for mid-rise building heights to maintain a human scale for the precinct, with higher, more slender buildings located at key intersections where they act as landmark and facilitate growth around light rail stops. The merit of this approach has been established through the plan-making process.

Acknowledging the concerns raised in the submissions regarding the scale and form of renewal and requests for increased yield for particular sites, Council sought advice from an urban design consultant (CM+) to consider alternative development outcomes that may achieve a similar dwelling uplift. This included testing and modelling of a 12-storey building height scenario across the town centres. This alternative was considered less desirable, with likely developments of large continuous street walls and shadowing along Anzac Parade and other key public places. Lesser heights across the centres with taller buildings at key junctions that demonstrate design excellence was considered to deliver a more desirable outcome.

Council has addressed community concerns regarding impacts on school and open space sites and residential areas. Following exhibition, Council has incorporated transition height controls into the LEP maps to ensure appropriate urban form and amenity outcomes will be achieved. More detailed controls on block layout, built form, setbacks and ground plane treatment are being addressed in the DCP.

In particular, submissions were received raising issues over the proposed heights adjacent to Kensington Public School. These submissions are concerned with overshadowing, overlooking, wind tunnelling and urban heat island effects at this educational facility.

The urban design consultant (CM+) engaged by Council undertook more detailed analysis of the block bound by the School, Todman Avenue, Anzac Parade and Bowral Street. As a result, transition heights and laneway requirements are applied to the land to the west of the School. The transition heights will minimise overshadowing of the School from the morning to after 2pm in mid winter. More detailed site layout, built form and setback controls will be contained in the DCP. Future development applications for this area will be subject to detailed assessment against the LEP, DCP, SEPP 65 and the Apartment Design Guide.

Concerns have also been raised regarding potential impacts on the heritage significance of Daceyville from the proposed heights around Kingsford junction. This matter is addressed in detail in the next section.

Apart from the inclusion of transition heights into the LEP, certain sites are no longer proposed for uplifts and will not be subject to the alternative building height and alternative FSR provisions, due to Council's further consideration of their potential impacts.

It is considered that Council has appropriately responded to the issues raised.

### Structural concerns

Some submissions raised concerns regarding impacts on the structural integrity of the surrounding buildings and future development, due to the local soil and ground water conditions and potential interruption to the Botany Aquifer.

As part of the agency consultation process, the Environment, Energy and Science Group provided advice that the proposal is *“unlikely to create adverse impacts to natural hazards”*.

It is considered that this issue could be addressed further at the development application stage, when detailed geotechnical investigations would inform the structural design of future buildings.

Development which is likely to intersect the water table must be supported with a permit issued under the *Water Management Act 2000*, which sets out requirements for managing and minimising likely impacts to groundwater and aquifer.

#### Development feasibility and infrastructure and affordable housing contributions

While generally supportive of the planning proposal, some landowner/developer submissions raised concerns over the cumulative impact of the proposed community infrastructure contributions, increase in Section 7.12 contribution levy and affordable housing contributions on development feasibility.

Council has commissioned independent economic analysis and feasibility assessments (by Hill PDA) to test the impact of the contribution schemes. The studies indicate that the contributions will not affect the viability of development, when development sites are priced to reflect the planning controls and applicable contributions. As contributions are defined, prospective purchasers would be informed at the outset and able to make informed decisions at the time of site acquisition.

The proposed contribution schemes would provide clarity and certainty to developers and the wider community on what is expected in terms of contributions payable and infrastructure delivery. The alternative would be to rely on site by site negotiation in the form of a voluntary planning agreement, which would not provide for certainty and would involve considerable resource to secure a desirable planning outcome.

In relation to the proposed community infrastructure contribution, it would only apply to new floor area achieved by uplifts to the planning controls.

The proposed affordable housing contribution scheme has taken into account cumulative impact of infrastructure contributions to ensure it would not have unreasonable impact on the viability of development. The staged increase of the levy from 3% to 5% over time would allow the market to adjust to the contribution regime. (Further discussion on the implications of the COVID 19 pandemic on affordable housing levy is provided in Section 10 of this report.)

It is noted that a student accommodation provider raised concern that the financial testing did not model the impacts on purpose-built student accommodation. Council notes the commercial attractiveness of student accommodation and significant uptake of this type of development since 2009 within the wider precinct, indicating that these are generally feasible given the likely ongoing demand.

Following from above, Council has received development applications seeking consent for sites within the town centres, including two development proposals for student accommodation (DA/311/2020 at Kingsford Junction and DA/288/2020 at the Todman Avenue intersection in Kensington). These proposals are supported by offers to fund public amenities, such as public plazas. This attests to the current favourable response from the



industry towards student accommodation development and to the suite of controls proposed under the proposal.

There are also submissions requesting Council to consider opportunities for greater height and floor space. Council has undertaken a detailed review of each of these requests. Council has identified the merit for including two additional sites for rezoning and development uplift, being 7 Addison Street and 157 Todman Avenue, Kensington. A detailed discussion will be provided in Section 10 of this report.

#### Architectural Competition Policy

Some submissions have raised concerns about costs and potential delays associated with the design competition process.

Council's Architectural Competition Policy has considered current best practice in conducting design competitions, including approaches taken by other local councils. The Policy would provide a clear framework and guidance to landowners and developers and would minimise uncertainty.

#### Minimum non-residential floor space control

Some submissions state that the proposed minimum non-residential floor space control may restrict residential development.

This provision only applies to sites at key intersections near light rail stops and not across the entire town centres.

Council responded that the analysis undertaken shows that new developments in the town centres have provided a low quantum of commercial floor space, as the ground floor commonly provides for entry lobby areas, loading docks, services and storage facilities. If the current trend continues, the town centres would experience a supply deficit in commercial floor space, thereby compromising the economic role of the centres.

The Department considers that the proposed control is adequate and will ensure capacity for service provision and jobs growth.

#### Affordable housing, property values and anti-social behaviour

Some submission raised issues about property devaluation and anti-social behaviour due to the provision of affordable housing.

There is no evidence to suggest that the provision of affordable housing would bring a more transient population to an area or result in increased crime rates.

Council has advised that the LGA has been experiencing a loss in low cost housing due to gentrification, which results in an impact on the City's ability to attract and retain key workers to support the function of employment centres. Affordable housing could be of equal design standard to other residential accommodation and would not degrade the character of an area.

## Student accommodation

Certain submissions state that student housing would not contribute to the community and would become undesirable forms of housing should demand from overseas students decline.

Council responded that student population could contribute to the local economy and cultural life, and could also provide opportunities for creative and start-up businesses. The design quality of student accommodation could be addressed at the development assessment stage.

## Others

Other issues raised in the submissions relate to:

- need for a more comprehensive review of Council's planning controls;
- planning precedents;
- loss of, or need for more green space and open space;
- heritage impacts;
- uncertainty regarding future infrastructure provision; and
- lack of land use and building mix.

The above issues have been examined in the Planning Strategy and will be further addressed in the DCP for the town centres. The proposal has also incorporated statutory mechanisms to secure infrastructure funding from future development. Council has also identified specific sites for further investigation in the future comprehensive LEP review.

It is considered that Council has responded to the issues raised in the submissions adequately, and that those issues do not warrant any further amendment to the planning proposal.

## **7.2 Feedback and correspondence received by the Department**

After Council's lodgement of the planning proposal for finalisation, the Department has received correspondence and feedback from the local community concerning various aspects of the proposal (eight in total, with multiple correspondence from a single landowner which has been counted as one).

Part of these correspondences reiterate issues raised by local landowners and residents in their original submissions to Council relating to the exhibited proposal. Others are general feedback and concerns over certain post exhibition amendments.

The issues raised include:

- Traffic generation and safety particularly for school children;
- Amenity impacts from new high-rise development, including overshadowing and privacy;
- Potential for the area to accommodate greater density and the current proposal should be deferred and form part of an LGA-wide LEP;
- Requests for site-specific uplift;
- Objection to the late introduction of transition height controls in the LEP and removal of the originally proposed uplift;

- The “1m” height control for laneways / shared zones hinders development potential of large sites;
- Excessive parking requirements for student accommodation development; and
- Suggestion for closure of side streets to create public and green spaces.

Some of the above issues, including traffic, overshadowing, amenity, appropriateness of density and heights for specific sites and for the town centres, have been considered by Council and detailed in its post exhibition report.

Council has made changes to the exhibited proposal in response to results of the community consultation process. As will be discussed in Section 9 and 10 of this report, a key post exhibition amendment is the incorporation of the proposed DCP transition height requirements into the LEP. The concept of transition heights and new laneways / shared zones was informed by detailed urban design analysis undertaken by Council and illustrated in the Planning Strategy, which underpins, and was exhibited concurrently with, the planning proposal.

The post exhibition amendment seeks to address overshadowing, visual and amenity impacts on sensitive land uses, such as Kensington Public School, lower density residential properties, heritage items and open spaces. The Department supports this change and concurs with Council’s intent to provide greater certainty and clarity of the height and laneway requirements.

Council has prepared a draft DCP for the Kensington and Kingsford town centres to provide more detailed development controls supplementary to the LEP provisions. The DCP will include further guidance on block specific built forms and site layout, laneway / shared zone configuration, parking and public domain design and solar access, etc. The draft DCP was reported to the Ordinary Council Meeting on 28 July 2020 and will be placed on public exhibition by Council. The community will have the opportunity to provide input and make comments.

## **8. ADVICE FROM PUBLIC AUTHORITIES**

Condition 2 of the Gateway determination required initial consultation with relevant public authorities prior to exhibition. This included:

- Sydney Airport Corporation Ltd (SACL), Civil Aviation Safety Authority (CASA) and Air Services Australia (AsA) in relation to the maximum building heights and Ministerial Direction 3.5 Development Near Licensed Aerodromes; and
- Transport for NSW and the then Roads and Maritime Services in relation to the scope of the detailed traffic modelling and potential future road widening to support growth in the corridor.

Condition 5 also required consultation with the following public authorities pursuant to the current Section 3.34(2)(d) of the Act:

- Commonwealth Department of Infrastructure and Regional Development, SACL, AsA, Office of Environment and Heritage, Heritage Office, Transport for NSW, Roads and Maritime Services, Energy Australia, Sydney Water, Family and Community Services – Housing NSW, Department of Education, NSW Ministry of Health, Ausgrid and adjoining LGAs.



Council has satisfied the requirements for consultation with public authorities under Conditions 2 and 5 of the Gateway determination. A detailed response to the issues raised is provided in Council's post-exhibition report. There are no outstanding objections to the finalisation of the planning proposal. It is considered that Council has appropriately addressed the matters raised by the authorities.

Sydney Airport Corporation Ltd / Air Services Australia / Civil Aviation Safety Authority / Department of Infrastructure, Transport, Cities and Regional Development (DITCRD)

SACL advised that the building heights proposed at Kingsford Junction may result in the future development being a controlled activity. Notwithstanding, this was not raised as an impediment to the progressing of the proposal. This matter could be further addressed at the development application stage when detailed development schemes are available.

Council consulted with SACL, AsA and CASA in 2016 when formulating the proposed heights in Kingsford. AsA has indicated that the matter is not under its jurisdiction and advice should be sought from Sydney Airport on any airspace aspects. Council has also received advice from CASA in March 2018 stating the planning proposal is a land use matter within the jurisdiction of DITCRD.

DITCRD advised that aircraft limitations affect land in the Kingsford town centre and that it cannot issue a 'blanket' approval for future building heights in the town centres. Council should apply DCP provisions to specify that development applications in the area will be subject to consideration under the *Airports (Protection of Airspace) Regulations 1996*. It is noted that Clause 6.8 of the Randwick LEP 2012 already contains provisions to ensure potential impacts on airport operations are considered when assessing a development application. It is considered that this matter could be further addressed at the development application stage.

Transport for NSW (TfNSW)

TfNSW (responding also on behalf of the former Roads and Maritime Services) requested further information and clarification, including:

- Assumptions on mode share and traffic generation rates;
- Traffic modelling and electronic data; and
- Proposed layout and geometric requirements of intersection improvements, which need to be agreed with TfNSW and form part of the planning proposal.

TfNSW advised that further advice would be provided upon receipt of the requested information. In subsequent correspondence from TfNSW and during a meeting between TfNSW, Council and the Department in early June 2020, the key outstanding issues were identified. These issues relate to clarity and certainty of how the road and intersection upgrades (as identified by Council) to support the uplift will be funded and delivered, and how land will be secured for future road widening. There is a risk of significant cost overrun for Council if the scope and concept design of the intersection upgrades are not determined prior to finalisation of the planning proposal if unforeseen land acquisition or major utility adjustments become necessary. TfNSW also provided recommendations on car parking rates to be considered as part of the proposed DCP.

Council has provided a formal response and confirmed that it is committed to funding the proposed intersection upgrades at Todman Avenue/Anzac Parade and Barker Street/Anzac Parade at no cost to the State government. Council indicated that this could be achieved through its proposed infrastructure funding mechanism and its own financial program. TfNSW does not object to this approach.

Building setbacks to enable road widening will be required as part of the proposed DCP for the town centres. The draft DCP will be placed on public exhibition, and according to Council its final adoption is anticipated by the end of 2020. It is also noted that modelling data and additional information have been provided to TfNSW.

It is considered that the issues raised by TfNSW do not represent an objection that would preclude the finalisation of the planning proposal, and that Council has proposed adequate measures to enable the delivery of intersection upgrades over the mid to longer term. The development of the intersection designs could form the subject of on-going discussion between Council and TfNSW.

#### Department of Education

The Department of Education identified a potential impact on primary school teaching spaces at Kensington Public School, citing that the School would not be able to accommodate increased enrolments due to site constraints.

Council provided more realistic dwelling projections, considering some of the sites that are likely to be developed for student housing rather than residential apartments. Based on the information provided, Education carried out further analysis and subsequently advised Council that one additional teaching space would be required. Education advised that it will monitor and review the School's operations to optimise use of teaching space.

#### Bayside Council

Bayside Council provided a submission outlining issues for Randwick City Council to consider. These issues included potential impact on the significance of the nearby heritage items, particularly the heritage listed Dacey Garden Reserve, substation and the broader Daceyville Garden Suburb Conservation Area, in terms of overshadowing, built form and scale. Bayside Council requested appropriate DCP controls to be prepared to ensure the significance of the above items is protected.

Bayside also noted issues with potential traffic congestion and increased parking demand in nearby roads, including Gardeners Road.

In response to the submission, Council undertook analysis of the potential impact on Daceyville to the south of the Kingsford town centre. This included shadow studies prepared by an urban design consultant (CM+) and a review of the potential heritage impact by Council's heritage advisor. The analyses show that the additional shadows from future development along Gardeners Road and Kingsford junction would affect a small portion of Daceyville Reserve, and would move through the day allowing the existing significant planting to continue to evolve and flourish. The majority of the shadows will fall onto the carriageway of Gardener's Road. Refer to **Figure 3** below.

Given that the carriageway of Gardener's Road is approximately 40m wide, the future development would not adversely affect the curtilage and setting of Daceyville and Dacey Gardens Reserve. Furthermore, detailed design guidance will be incorporated in the proposed DCP to address built form, expression, materiality and public domain improvement matters. Randwick City Council notes that the identified public domain improvement along Bunnerong Road and Gardeners Road under the DCP will improve the visual setting to the above heritage items. Further assessment of the heritage aspect could be undertaken as part of the future development assessment process.

9 Storey Built Form (with higher forms at the nodes)



(a) 9am, 21 June shadows - final proposal

9 Storey Built Form (with higher forms at the nodes)



(b) 12noon, 21 June shadows - final proposal

9 Storey Built Form (with higher forms at the nodes)



(c) 3pm, 21 June shadows - final proposal

**Figure 3: Shadow diagrams describing the expected impacts in mid-winter from the Kingsford Town Centre (source: CM+)**



A detailed traffic assessment for the proposal was undertaken in 2017. A supplementary review was undertaken in 2019 to confirm that the data and assumptions of the 2017 traffic study remained valid. Randwick City Council's traffic assessment determined that the anticipated level of traffic and demand for parking from residential and commercial development will be able to be accommodated within the town centre precinct. The proposal would also encourage a mode change towards public transport with a reduction in private car use.

Randwick City Council has provided additional information to address Bayside Council's concerns. On 16 June 2020, Bayside Council confirmed by email that it has no objection to the finalisation of the planning proposal.

There are no unresolved concerns or objections from Health Infrastructure/Ministry of Health, State Transit Authority, Sydney Water, Ausgrid, Land and Housing Corporation, UNSW, Woollahra Council and Waverley Council.

## **9. POST-EXHIBITION CHANGES**

Following the community consultation process, Council resolved to endorse the planning proposal and draft Section 7.12 Contributions Plan, with amendments to both documents. A number of changes to the proposal were made after exhibition.

In particular, the post-exhibition amendments include:

- rezoning of two additional sites from R3 Medium Density Residential to B2 Local Centre with increased development standards;
- incorporating the proposed DCP height transition controls into the LEP to replace the maximum building height limit of 31m, which was originally intended for the majority of the town centres (the transition height controls are also to facilitate creation of new laneways / shared zones);
- excluding a number of sites from the proposed uplift (that is, excluding those sites from the alternative building height and / or alternative FSR maps);
- reducing the existing maximum building heights applying to certain land within Kensington adjoining the Kensington Public School and an existing open space; and
- reducing the Section 7.12 contributions levy rate from the originally proposed 3% to 2.5%. This reduction of the levy rate is due to the removal of an infrastructure item relating to automated waste management, after Council had considered a feasibility report.


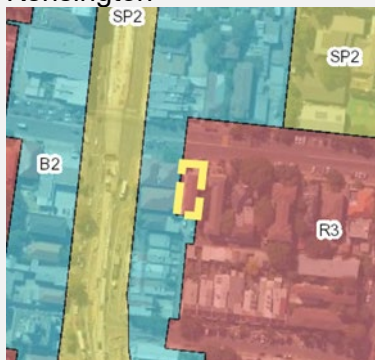
These changes are discussed in detail below.

## **10. ASSESSMENT**

### **10.1 Key Issues**

#### Extension of B2 Zone Boundary

Following exhibition of the planning proposal, Council included the following additional sites for rezoning and development uplift, which were not considered under the Gateway determination (as altered). The changes were made in response to submissions.

Site	Current Zone	Proposed Zone
<b>Figure 4:</b> 7 Addison Street, Kensington	R3 Medium Density Residential	B2 Local Centre
		
Site outlined in yellow		
Current Controls	Proposed Controls	
Height: 12m  FSR: 0.9:1	Alternative Height: Part 31m and 1m (the 1m height control relates to that part of the site designated for a laneway and adjoins the R3 zone)  Alternative FSR: 4:1	
Site	Current Zone	Proposed Zone
<b>Figure 5:</b> 157 Todman Avenue, Kensington	R3 Medium Density Residential	B2 Local Centre
		
Site outlined in yellow		
Current Controls	Proposed Controls	
Height: 12m  FSR: 0.9:1	Alternative Height: Part 31m and 1m (the 1m height control relates to that part of the site designated for a laneway and adjoins the R3 zone)  Alternative FSR: 4:1	

The inclusion of the above post-exhibition changes is supported as:

- In general, extending the B2 Local Centre zone boundary over a number of residential land parcels is considered a logical response to reinforce the existing town centres as detailed in the Department's initial Gateway determination assessment.
- The rezoning of the above sites to B2 would rationalise the extent and configuration of the B2 zone at the street corners and facilitate a better design outcome.
- The changes would facilitate the delivery of shared ways or through-site links consistent with the urban design vision of the Planning Strategy.
- The condition created by this change, that is, having B2 zoned land with an increased height limit of 31m, maximum FSR of 4:1 and a laneway adjoining R3 zoned land (which is subject to a height limit of 12m and maximum FSR of 0.9:1), applies consistently throughout both town centres.
- The post-exhibition changes are in response to feedback during the public exhibition process and Council has carefully considered the issues in recommending these changes as part of the finalisation of the planning proposal.

Council carried out a detailed review of the submissions for these two sites, including an evaluation of the site suitability, justifications given by the submitter, urban design merit and potential public benefits, such as new laneways. The process and level of analysis

undertaken by Council are considered appropriate and the Department concurs with its conclusion.

In relation to the site at 157 Todman Avenue, a development application (DA) is currently under consideration by Council (DA/288/2020) which incorporates this lot. The development application is for demolition of existing structures and construction of a 19-storey mixed-use building comprising commercial uses at the basement, ground and first levels, and a boarding house above with 381 rooms; provision of a public plaza and through-site links; basement parking and associated works. The proposal relates to 157 Todman Avenue and 182-190 Anzac Parade, Kensington.



**Figure 6:** Photomontage showing the proposed mixed-use development at 157 Todman Avenue and 182-190 Anzac Parade, Kensington. (Source: Plus Architecture)

The development scheme seeks to use the proposed floor space uplift from 157 Todman Avenue to create a tower building, which would predominantly be situated within the adjoining lots. A laneway will be provided along the eastern boundary of 157 Todman Avenue immediately adjacent to the R3 zoned land and the height of the podium is approximately 12m, commensurate with the existing height control for this lot.



The application is supported by a suite of technical investigations and assessments, which are specific to the development site. They include design justification, Apartment Design Guide compliance, shadow diagrams, heritage, social impact, airspace protection, wind impact, acoustic impact, geotechnical, and civil engineering reports. These specialist studies identify the intended outcomes, site suitability and likely impacts of what the planning proposal would result for the amalgamated site. It is considered that this development scheme could be used as a proxy for reviewing the likely impact of the post-exhibition changes for 157 Todman Avenue introduced by Council.

Based on the design drawings, the built form outcome of this scheme for 157 Todman Avenue would be similar to what is currently permissible in the Randwick LEP. The parapet of the podium is at a similar height to the roof of the adjoining residential flat building at 159 Todman Avenue. The low-rise scale of the podium in conjunction with the side setback and laneway are to mitigate the visual and amenity impacts on the adjoining residential building. Although the floor space is 'transferred' to the adjoining lots fronting Anzac Parade, these lots are envisaged for a high-rise built form addressing the major intersection between Anzac Parade and Todman Avenue.

The DA was publicly exhibited until 31 July 2020 and Council has forwarded 22 submissions to the Department, including one submission from School Infrastructure NSW. The key issues raised include:

- Height and scale of the 19-storey building;
- Lack of design merit;
- Laneway proposed to be dedicated is of low amenity;
- Amenity impacts such as overshadowing, wind tunnel and downdraft effects, privacy, noise, light spill and community safety;
- Density;
- Lack of landscaped and private open space and deep soil planting;
- Traffic generation and insufficient car, motorcycle and bicycle parking;
- Construction related impacts and structural damage;
- Over-supply of student accommodation and inadequate facilities for residents;
- Property devaluation;
- Insufficient infrastructure to support the proposed development;
- Reliance on a planning proposal which has not been gazetted; and
- Inadequate documentation.

Among the submissions, one was made on behalf of the owners of the adjoining property at 159 Todman Avenue, which requests certain design solutions to mitigate against privacy and noise impacts. This submission does not object to the built form outcome.

The exhibition of this DA provides an opportunity for the community to review and provide feedback on the development outcome as a result of the zoning changes, including the post-exhibition changes for 157 Todman Avenue. Although the submissions raise concerns over

the height and scale of the tower form and associated amenity impacts, the merit for the increased density and height for the Kensington town centre has already been recognised through the plan-making process. The site-specific development outcomes can be appropriately addressed through the development application process currently in progress.

In summary, the inclusion of the post-exhibition changes for both 7 Addison Street and 157 Todman Avenue are considered to be consistent with the intent and objectives of the planning proposal and would facilitate the achievement of the urban design vision in the Planning Strategy.

### Density and height

Following the community consultation process, Council made the following post exhibition changes in the final proposal with regard to the density and height controls from what were considered under the Gateway determination assessment. They include:

- Incorporating the proposed DCP height transition controls into the LEP. Note that the transition heights also include controls to facilitate new laneways / shared zones;
- Reducing the existing maximum building height controls for two areas in the Kensington town centre; and
- Excluding a number of sites from the proposed alternative building height and / or alternative FSR maps.

Each type of changes is individually discussed below.

#### *Transition heights:*

The Planning Strategy contains a transition heights map with the intent of reducing heights on certain sites to mitigate visual and overshadowing impacts, and to create a more appropriate transition in scale between the town centre and surrounding land use zones. The transition heights map was exhibited with the planning proposal. The map was originally intended to be incorporated in the town centre DCP.

However, to provide certainty and clarity and to ensure the transitions could be effectively implemented, Council made a post-exhibition amendment to change the LEP alternative height maps. Council's decision is also a response to submissions which raised concerns regarding amenity impacts as a result of increased heights.

Given the intent was explained in the Planning Strategy and was communicated as part of the exhibition, and that the amendments are to address community concerns, these post-exhibition changes are supported.

#### *Laneways / shared zones:*

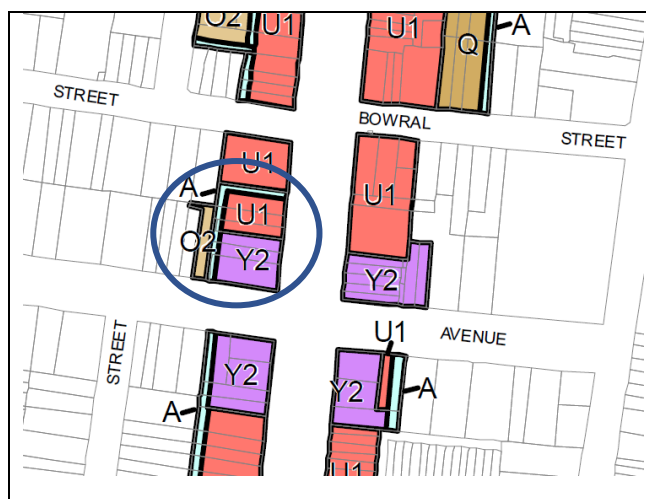
The proposal seeks to secure future laneways / shared zones within the town centres, through the application of a maximum 1m building height provision to urban renewal sites. The 1m was specified to allow for minor landscaping works and excavation or fill to facilitate the laneways / shared zones.

The inclusion of the laneways / shared zones reflects the urban design intent for the town centres as identified in the exhibited Planning Strategy. This component was originally proposed to be included as DCP controls.

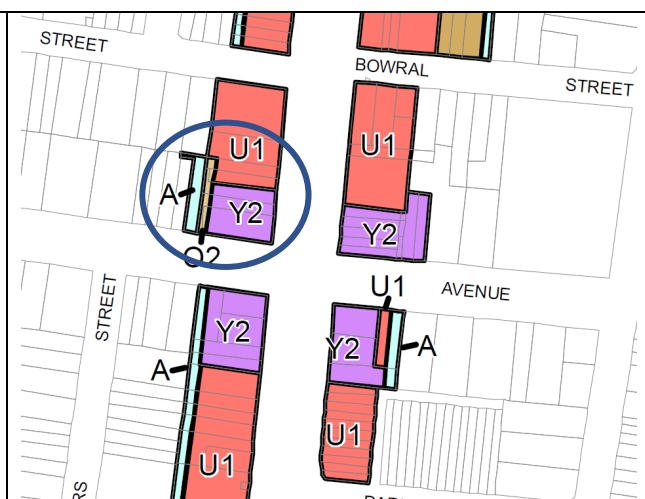
Council is seeking to include these provisions under the LEP to remove ambiguity regarding maximum building heights in the town centres and reduce risk of challenge through DA processes. This post-exhibition amendment is supported as it would give effect to the intent of the exhibited Planning Strategy.

The Department considers that the realisation of these laneways / shared zones through the proposed controls would be challenging given the number of properties involved and would possibly occur over the longer term. However, the current DA for 182-190 Anzac Parade and 157 Todman Avenue (DA/288/2020, as discussed above) does incorporate a laneway consistent with the proposed controls.

Following exhibition, Council has made mapping changes to the laneway controls for a development site at the Todman Avenue/Anzac Parade intersection in Kensington (112 Todman Avenue and 111-125 Anzac Parade, Kensington). The changes were to enable a laneway on the western boundary of 112 Todman Avenue, rather than through mid-block and connecting to Anzac Parade. Council's justification is that the changes were informed by an architectural design competition process undertaken for the site. They would enable a better urban design outcome and also remove a 4-storey (16m) narrow and unviable built form against the western boundary required by the exhibited controls. It is considered that the changes are minor and reflect the intent of the exhibited Planning Strategy, and therefore are supported for inclusion in the draft LEP.



**Figure 7:** Original Alternative Building Heights Map, note the alignment of the 1m height control (shown in light blue and denoted as A).

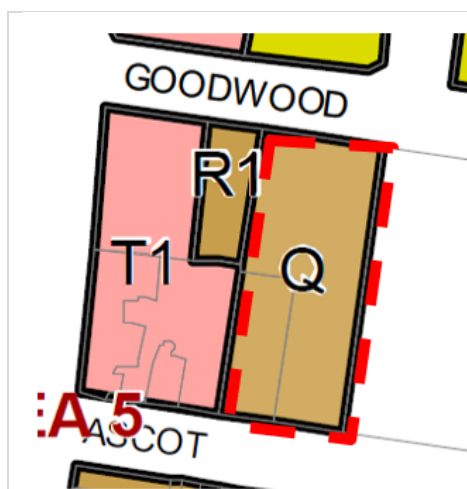


**Figure 8:** Updated Alternative Building Heights Map showing the proposed 1m height control (shown in light blue and denoted as A).

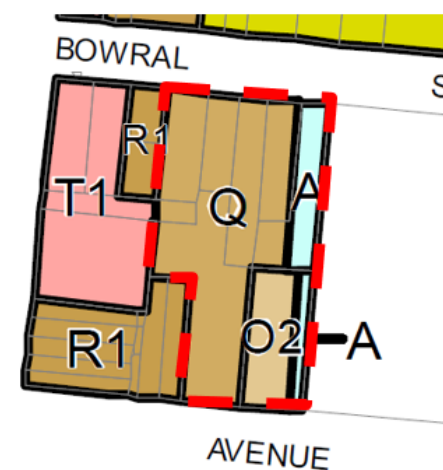
### Amendments to existing Height of Buildings Maps:

The proposal seeks to amend the existing maximum building height for the following sites:

Site	Current Height Control	Proposed Height Control
2-6 Goodwood Street, Kensington	21m (R1)	19m (Q)
5-7 Ascot Street, Kensington (Figure 9)	21m (R1)	19m (Q)
16 Bowral Street, Kensington	21m (R1)	Part 1m (A), 16m (O2) and 19m (Q)
8 – 14 Bowral Street, Kensington	21m (R1)	19m (Q)
122 Todman Avenue, Kensington	21m (R1)	19m (Q)
166 Anzac Parade, Kensington (Figure 10)	25m (T1)	Part 19m (Q) and 25m (T1)



**Figure 9:** Proposed Height of Buildings Map showing lots between Goodwood and Ascot Streets where existing building height has been reduced (bound by red dotted line)



**Figure 10:** Proposed Height of Buildings Map showing lots between Bowral Street and Todman Avenue where existing building height has been reduced (bound by red dotted line)

The down-scaling of height controls applying to this land in Kensington is in response to issues raised in submissions made during exhibition of the planning proposal, notably the potential impacts on the Kensington Public School, such as overshadowing, privacy and wind tunnelling. The change is also to address potential impacts on public open space, such as Kokoda Memorial Park in Kensington.

Council has commissioned an urban design study (by CM+) to recommend an appropriate site planning and built form arrangement for the land adjoining the Kensington Public School (see **Figure 11**). The study informs an update to the height limits for this land.

The updated controls (see **Figure 10**) will ensure a transition of building height between development fronting Anzac Parade and established lower scaled residential neighbourhoods to the east, consistent with the urban design principles and desired outcome for the town centres.





**Figure 11:** Urban design study for properties to the west of Kensington Public School (source: CM+)

Although the post-exhibition changes will decrease the existing building height limits applying to the above areas, they are similar to the provisions in the current Randwick DCP 2013. The existing DCP 2013 already contains a set of height transition and building layout provisions relating to the aforementioned land.

While the proposed LEP height controls and draft DCP provisions for the land adjacent to Kensington Public School differ from those in the current DCP, they employ a similar strategy of maintaining a 4- to 5-storey scale near the school to minimise visual and amenity impacts. For the land between Goodwood and Ascot Streets, the existing DCP indicates a building height of 4 to 5 storeys. The proposed LEP height limit of 19m for this area is consistent with the existing DCP provision. The incorporation of transition heights and modelling of built form in future developments have always been the intent of Council's controls; this approach is also consistent with the exhibited Planning Strategy.

Having regard to the above, the post-exhibition changes are considered to result in an appropriate planning outcome and are supported.

*Land excluded from the Alternative Building Height and/or Alternative FSR Maps:*

Council has refined the proposed Alternative Building Heights and Alternative FSR maps for the following sites within the town centres from what was considered under the Gateway determination:

Site	Post exhibition changes
Land between Ascot and Goodwood Streets, Kensington (i.e. land identified in <b>Figure 9</b> above)	Excluded from both the Alternative Building Heights and Alternative FSR Maps
Land adjoining Kensington Public School (i.e. land identified in <b>Figure 10</b> above)	Excluded from both the Alternative Building Heights and Alternative FSR Maps
Land between Ascot and Bowral Streets, north of Kensington Public School	Excluded from the Alternative FSR maps
67-71 Boronia Street and part 95 Anzac Parade, Kensington	Excluded from the Alternative FSR maps
268-270 Anzac Parade, Kensington (Doncaster Hotel)	Excluded from the Alternative FSR maps
199-201 Anzac Parade, Kensington (Masonic Hall)	Excluded from the Alternative FSR maps
203-207 Anzac Parade, Kensington (land adjoining Masonic Hall)	Excluded from the Alternative FSR maps
16-20 Barker Street, Kingsford	Excluded from the Alternative FSR maps
68-70 Gardeners Road, Kingsford	Excluded from both the Alternative Building Heights and Alternative FSR Maps
424-436 Anzac Parade, Kingsford	Excluded from both the Alternative Building Heights and Alternative FSR Maps
Part 1-11 Rainbow Street, Kingsford	Reduced alternative building heights from 57m to 1m (to create plaza areas);  The exhibited alternative FSR of 4:1 will still apply to the site
112 Todman Avenue, Kensington	Reduced alternative building heights from 31m to part 16m and 1m;  The exhibited alternative FSR of 5:1 will still apply to the site

These sites were previously identified for development uplift. They have been removed from uplift in response to submissions, statutory heritage status of some buildings, Council's decision to incorporate the proposed DCP height transition controls into the LEP and the vision to create a public plaza (through redevelopment of the Council owned site at 1-11 Rainbow Street, Kingsford). These changes are a result of Council's analysis of community concerns and the intent to achieve the urban design vision for the town centres, and as such are supported. (Refer to further discussions below regarding development feasibility and affordable housing contributions.)

In summary, while the above changes occurred post Gateway and following public exhibition, they are the outcome of Council's further refinement of the proposed LEP controls. The amendments are considered consistent with the intent and objectives of the planning proposal and the underpinning strategic planning investigations. As such, the above changes are supported. As detailed in the Department's initial Gateway determination and through this finalisation assessment, the provisions being considered under the final planning proposal for the town centres have demonstrated merit and consistency with relevant Ministerial directions, and are not subject to objection from any State agencies.

### Community infrastructure

The proposal seeks to establish a statutory mechanism via an LEP clause to secure public benefits from development that utilises the alternative maximum building height and FSR controls.

Council has prepared and adopted a Community Infrastructure Contributions (CIC) Plan to provide the community and industry certainty regarding what public benefit offer may be considered, when seeking to apply the Alternative Building Height and Alternative FSR controls. This includes a monetary contribution of \$475 per square metre of additional residential floor space as a result of the bonus provisions, which will be subject to consumer price indexation.

The CIC Plan identifies the types of community infrastructure to be provided through the collection of monetary contributions, which range from road, footpath and intersection upgrades, transport facilities, community facilities, and public domain and landscape embellishment. The above includes proposed upgrade works for the Todman Avenue / Anzac Parade and the Barker Street / Anzac Parade intersections, which have been the subject of discussion between Transport for NSW and Council.

Precedents exist in other local government areas for similar funding mechanisms to provide community infrastructure as part of development. For example, Burwood LEP 2012 contains a provision for bonus floor space where community infrastructure is delivered on identified key sites; whereas the Sydney LEP 2012 has a provision that allows greater development densities in Green Square where community infrastructure is provided.

The Department recognises the need to provide infrastructure to support growth. Consistent with the Gateway determination (as altered), the draft LEP amendment will allow development within the town centres that results in additional building height and/or floor space if it includes community infrastructure on the site.

### Affordable housing contributions

The proposal seeks the inclusion of an affordable housing provision that requires all development for residential purposes within the town centres to contribute towards affordable housing, as either a monetary contribution or works-in-kind.

An Affordable Housing Plan was exhibited with the planning proposal and has since been adopted by Council. The original intent of the provision as per the Affordable Housing Plan

was for the proposed levy rate to commence at 3% following gazettal and increase to 5% from 1 July 2021.

In June 2020, Council provided an additional economic advice, which recommended deferred commencement of the 5% affordable housing levy, being 5 years from the date when the LEP is made (in lieu of 1 July 2021 as originally proposed). The deferral was to address development feasibility (including the impact on sites which are no longer proposed for uplift as part of post-exhibition changes) and economic recovery due to the COVID-19 pandemic.

The 5-year deferred commencement of the 5% levy is not reflected in Council's adopted Affordable Housing Plan and may lead to a reduction in the amount of affordable housing aimed to be achieved by the planning proposal. Following a discussion between the Department and Council, Council has advised its intent to commence the 5% levy two years after the LEP is made, that is, August 2022. It is considered that the timing of this change achieves a balance between feasibility and meeting the affordable rental housing targets established by the Greater Sydney Commission in its Greater Sydney Region Plan and Eastern City District Plan. The Department's Housing Policy unit has been consulted and no objection was raised regarding this change.

Per the considerations above regarding the CIC, Council would need to employ best practice principles, policies and procedures when pursuing works-in-kind, conditions of consent and planning agreements for capturing affordable housing contribution and importantly, consistency with the *Environmental Planning and Assessment (Planning Agreements) Direction 2019*.

Amendment to *Environmental Planning and Assessment Regulation 2000* / Section 7.12 development contributions levy

The Gateway determination and the Department's correspondence of 23 April 2019 acknowledged the suitability for pursuing an amendment to Section 25K of the *Environmental Planning and Assessment Regulation* to impose a levy of up to 3% from new development within the town centres to support urban renewal and growth.

A draft Section 7.12 Development Contributions Plan was exhibited concurrently with the planning proposal with a maximum 3% local contributions levy. Following exhibition, the contribution levy rate was reduced from 3% to 2.5% after the removal of an infrastructure item relating to automatic waste management. The Contributions Plan was subsequently adopted by Council in December 2019.

An amendment to the Regulation is being progressed concurrently with the subject amendment to the LEP to ensure uplift and renewal will be supported by adequate local infrastructure funding.



## 10.2 Section 9.1 Directions

Consistency with all applicable Ministerial Directions was assessed at the Gateway determination stage, except for Direction 2.6 Remediation of Contaminated Land and Direction 3.5 Development near Regulated Airports and Defence Airfields. A review of these Directions is provided below.

### Direction 2.6 Remediation of Contaminated Land

This Direction (introduced since the planning proposal was exhibited) aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered.

The proposal seeks to permit development uplift on land with zoning that allows residential developments. Detailed site-specific assessment will be undertaken as part of any future development application to verify if the land contains contaminants, and if it is suitable for the intended purposes following any required site remediation and auditing requirements. The Department is satisfied that this issue will be appropriately assessed and determined by Council in accordance with relevant statutory requirements.

### 3.5 Development near Regulated Airports and Defence Airfields

The objective of this direction is to ensure the effective and safe operation of regulated airports and defence airfields, and that their operation is not compromised by development.

In accordance with this Direction and the Gateway determination, Council has consulted with Sydney Airport Corporation Ltd (SACL), Commonwealth Department of Infrastructure, Transport, Cities and Regional Development (DITCRD) and Civil Aviation Safety Authority (CASA) regarding the proposed building heights.

In response:

- AsA and CASA indicated that the matter was not under their jurisdiction.
- SACL indicated that the heights proposed may result in future development being a controlled activity; however, it did not raise this as an impediment to development or progressing of the proposal.
- DITCRD advised that it cannot issue a 'blanket' approval for future building heights in the town centres and indicated that Council should apply development control provisions to guide future development application processes.

Clause 6.8 *Airspace operations* of the Randwick LEP 2012 as well as provisions in the Randwick DCP 2013 serve to ensure potential impacts on airport operations are taken into consideration when assessing development applications. In addition, the Commonwealth *Airports (Protection of Airspace) Regulations 1996* establishes consultation and approval processes for development and/or crane activities which breach protected surfaces.

The Department is satisfied that Council has taken into consideration the objectives and requirements of the Direction.

Further consideration of other relevant Ministerial Directions is undertaken, considering the timing since the Gateway determination was issued and the post-Gateway changes.

### Direction 1.1 Business and Industrial Zones

The Direction aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres. It applies to all proposals affecting land within existing and proposed business or industrial zones, which must retain such zonings and total potential floor space for employment and business uses.

The final proposal seeks to reduce maximum building heights for certain sites within Kensington, which in turn could reduce potential commercial floor space. This potential loss of commercial floor area is offset, however, through the provisions being sought under the proposal.

The proposal includes alternative building heights and alternative FSR controls providing uplift for development. This would facilitate an increase in the total potential floor space for employment uses across the B2 zone, consistent with the Direction.

The proposal also seeks to include a new provision that requires minimum non-residential floor space (proposed to be 1:1) applying to sites at the key intersections of Todman Avenue, Middle/Strachan Streets and the Nine-Ways.

Furthermore, the proposal introduces a new clause requiring active frontages to be provided in new development as identified in the Active Street Frontage Map (noting that standalone residential accommodation is a permissible use within the B2 Local Centre zone). The requirement will apply to most part of Anzac Parade and street corners. The clause will require ground floor commercial or retail floor space to support viability and vibrancy to the town centres.

Overall, the proposal would enable an increase in total potential floor space for commercial / employment uses in the B2 zone consistent with the Direction. Any inconsistency with the Direction is considered to be of minor significance.

### Direction 2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The proposal does not alter existing heritage listing under the Randwick LEP 2012. The proposed built form controls have considered the spatial relationship and interface with various heritage items and contributory buildings. More detailed design guidance will be incorporated in the proposed DCP.

### Direction 3.1 Residential Zones

The Direction seeks to encourage housing diversity and choice to provide for housing needs, make efficient use of existing infrastructure and services, and minimise the impacts of development on the environment.

While the final proposal reduces the amount of uplift within the town centres from what was previously supported by the Gateway determination (through the introduction of transition heights and removal of certain sites from uplift), it remains consistent with this direction as it

would broaden housing choice in areas which is accessible to services and upgraded public transport infrastructure.

Regarding the post exhibition changes to reduce existing height controls for the two areas in Kensington town centre (see discussion in Section 10.1 above), Council has provided further justification stating that the density reduction would be minor and be offset by significant density increases across the entire town centre under the planning proposal, which applies a precinct based approach to accommodating growth.

Similar to the justifications against Direction 1.1 above, any perceived inconsistency with this Direction due to the downscaling of height controls is considered to be justified and of minor significance, considering the proposal would broaden housing choice through increased density and supply from what is currently permissible under Randwick LEP 2012.

#### Direction 3.4 Integrating Land Use and Transport

This Direction seeks to ensure development is appropriately located to improve access to housing, jobs and services by walking, cycling and public transport and to reduce car dependency.

The proposal seeks to facilitate housing growth and diversity and increased commercial uses along the South East Light Rail line, and has been informed by traffic analysis, modelling and consultation with transport providers.

Through the plan making process, Council has identified the required road and intersection improvements to support renewal of the town centres. The land dedication requirements, funding and delivery mechanism for road upgrades, car parking rates appropriate to the highly accessible location of the town centres, and sustainable transport initiatives will be addressed and detailed in the DCP.

#### Direction 4.3 Flood Prone Land

The objectives of this direction are to ensure the provisions of an LEP for flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.

Recent flood modelling from Council, which considers the floodplain behaviour post construction of the light rail, indicates that Anzac Parade acts as a floodway when runoff exceeds the capacity of the underground system.

As part of Council's Centennial Park Floodplain Risk Management Study and Plan, Council is investigating potential improvements throughout Kensington and Kingsford to alleviate flooding impacts. There are also additional opportunities through using water sensitive urban design throughout the town centres and surrounding areas. Specific flood management strategies and measures could be incorporated in the DCP and applied through the development assessment process.

It is considered that any inconsistency with this direction is of minor significance.

#### Direction 6.1 Approval and Referral Requirements

The proposal does not include changes to any approval and referral requirements. The maximum building heights of the proposal will increase the number of controlled activity approvals pursuant to the *Airports Act 1996*. The consultation undertaken with airspace

controllers has indicated that the development application process will be the appropriate stage to consider these controlled activity requests. No objection from relevant agencies to the proposed height limits was raised.

#### Direction 6.2 Reserving Land for Public Purposes

The objective of this Direction is to facilitate the provision of public services by reserving land for public purposes.

There is a significant amount of infrastructure required to support the growth of the town centres. The proposal does not seek to change any land reservations for public purposes. Council has advised DCP provisions will be utilised to require land dedication for public purposes, such as building setbacks to allow road widening. These considerations will be separate to this plan making process.

#### Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.

The proposal seeks to introduce a number of site-specific provisions, which have been supported as part of the Gateway determination. These provisions will create the necessary planning framework to guide urban renewal within the town centres with supporting development contribution requirements.

### **10.3 State Environmental Planning Policies**

The proposal does not hinder or contradict the application of relevant State Environmental Planning Policies (SEPPs). The relevant SEPPs to the proposal are discussed below.

SEPP	Proposal
SEPP 55 – Remediation of Land	The proposal seeks to permit development uplift on land already zoned for urban purposes. Detailed site-specific assessment will be undertaken as part of any future development assessment process to verify whether the land contains contaminants and whether any site remediation will be required.
SEPP 70 – Affordable Housing (Revised Schemes)	The proposal introduces an affordable housing provision to the Randwick LEP 2012. An Affordable Housing Plan has been prepared to support the planning proposal. The Plan has been reviewed by the Department's Policy (Housing) unit and no objection has been raised.
SEPP (Infrastructure) 2007	The proposal does not contain provisions that would preclude the application of this SEPP, including its referral requirements for traffic generating development.

### **10.4 Eastern City District Plan**

The Eastern City District Plan was released on 18 March 2018. The District Plan contains planning priorities and actions to guide the growth of the Eastern City District while improving its social, economic and environmental assets. It implements the objectives and directions of the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning.



The Eastern City District encompasses the Randwick LGA. The relevant planning priorities in the District Plan are addressed as follows:

Planning Priority	Comments
Planning Priority E1 – Planning for a city supported by infrastructure	The proposal provides opportunities for additional housing and jobs in proximity to a range of existing and planned infrastructure investment. The proposal sets out infrastructure funding mechanisms, being the affordable housing contribution, community infrastructure contribution and an increased Section 7.12 contribution levy, ensuring growth and renewal of the town centres will be supported by coordinated infrastructure delivery.
Planning Priority E3 - Providing services and social infrastructure to meet people's changing needs	The proposal facilitates urban renewal and growth within the town centres and ensures adequate social infrastructure will be provided through the establishment of infrastructure funding mechanisms.
Planning Priority E4 - Fostering healthy, creative, culturally rich and socially connected communities	<p>The proposal will facilitate renewal and growth of the town centres serviced by the City to South East Light Rail. The proposed controls will enable active street frontages as well as minimum level of commercial uses at key junctions near light rail stops. The above will encourage walking, cycling and use of public transport.</p> <p>Additionally, the infrastructure funding mechanism established in the proposal will provide for public domain improvements and community facilities. The above would provide increased street activities and opportunity for social interaction and cultural pursuits.</p>
Planning Priority E5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport	The proposal has the capacity to deliver approximately 1,300 new dwellings in the town centres over and above what is permitted under the existing LEP controls. These additional homes will be provided in an area with good access to public transport, services and job opportunities.
Planning Priority E6 - Creating and renewing great places and local centres and respecting the District's heritage	<p>The proposal facilitates urban renewal and growth within the town centres. Specific provisions have been included to ensure activation of the streets and commercial uses at key junctions to service the local community.</p> <p>The proposed design excellence provisions will enable high quality and innovative architecture in future development at key sites.</p> <p>The built form controls have been formulated to ensure cultural heritage is conserved and integrated with future development.</p>
Planning Priority E9 - Growing international trade gateway	Relevant agencies have been consulted during the plan making process to ensure the proposed renewal will not adversely affect operation of Sydney Airport.
Planning Priority E10 Delivering integrated land use	The proposal will facilitate increased housing and jobs, capitalising on the new South East Light Rail line and accessibility to goods, services and jobs. The proposal will

Planning Priority	Comments
and transport planning and a 30-minute city	effectively implement the 30-minute initiative through integrated land use and transport planning.
Planning Priority E17 - Increasing urban tree canopy cover and delivering Green Grid connections	The proposal will encourage urban renewal and growth of the town centres, supported by infrastructure funding mechanisms to deliver public domain improvements. The above will indirectly contribute to urban greening and Green Grid connections.
Planning Priority E18 Delivering high quality open space	The proposal will enable urban renewal and growth of the town centres, supported by enhanced infrastructure funding capability to deliver public domain improvements and open space.
Planning Priority E20 - Adapting to the impacts of urban and natural hazards and climate change	The proposal will not inhibit the capability of future development to respond to natural and urban hazards.

## 10.5 Randwick Local Strategic Planning Statement

In March 2020, the Randwick Local Strategic Planning Statement (LSPS) - *Vision 2040* was made. The LSPS responds to the local context and gives effect to the Eastern City District Plan. The proposal is consistent with the relevant planning priorities of the LSPS:

Planning Priority	Comments
1. Provide diverse housing options close to employment, services and facilities	The proposal will broaden housing choice in the town centres which have good access to goods, services and jobs.
2. Increase the supply of affordable rental housing stock to retain and strengthen our local community	The proposal incorporates an affordable housing contribution provision to deliver affordable rental housing in the town centres.
3. Encourage development that responds to the local character and desired future character of our neighbourhoods	The proposed controls will ensure appropriate transitions between the town centres and the surrounding land uses. The proposed alternative building height controls will facilitate the creation of new laneways to improve permeability and accessibility across the centres.
4. Conserve and protect our unique built cultural heritage	The proposal does not alter existing heritage listing under the Randwick LEP. Appropriate height transitions will be provided to ensure heritage items and contributory buildings will be integrated with future development.
6. Support the delivery of social infrastructure to meet the needs of our diverse community	The proposal establishes statutory mechanisms to require development contributions towards infrastructure.
7. Provide greater access and opportunities for walking and cycling	The proposal incorporates active street frontage controls to promote activation and walking and cycling.

Planning Priority	Comments
	The proposed controls will enable the creation of new laneways to improve permeability and accessibility across the centres.
8. Plan for and support strong connections to support a 30-minute city	The proposal will facilitate increased housing and jobs, capitalising on the new South East Light Rail line and accessibility to goods, services and jobs. The proposal will effectively implement the 30-minute initiative through integrated land use and transport planning.
9. Focus economic development, innovation and jobs growth in strategic centres	The proposal incorporates a minimum non-residential floor space control at key junctions near light rail stops to ensure an appropriate quantum of commercial and employment floor areas are provided.
10. Support the long term economic viability of our town and neighbourhood centres	The proposed design excellence provision includes an incentive clause to encourage provision of community facilities and innovate work hubs at key sites.
11. Develop a diverse, thriving and inclusive night time economy	The proposed active street frontage requirements would indirectly support extended hours of activation of the town centres.
14. Provide high quality open space and recreational facilities 15. Implement the Green Grid 16. Increase tree canopy cover	The proposal will facilitate urban renewal and growth of the town centres, supported by infrastructure funding mechanisms to deliver public domain improvements. The above will indirectly contribute to urban greening and Green Grid connections.
21. Develop an integrated approach to more sustainable transport	The proposal will enable renewal and growth of the town centres, capitalising on the South East Light Rail line and will encourage walking and cycling.
22. Align planned growth with infrastructure delivery	The proposal establishes statutory mechanisms to require development contributions towards infrastructure.
23. A collaborative approach to guide and manage future growth in Randwick City	An appropriate consultation process with government agencies has been undertaken.

## 11. MAPPING

The proposal seeks to amend the Randwick LEP 2012 by updating the following maps as they relate to the Kensington and Kingsford town centres:

- Land Zoning Maps: LZN\_001 and LZN\_002; and
- Height of Buildings Map: HOB\_001.

The proposal also seeks to amend the Randwick LEP by introducing the following maps:

- Alternative Building Heights Maps: ABH\_001 and ABH\_002;

- Alternative Floor Space Ratio Maps: AFSR\_001 and AFSR\_002;
- Active Street Frontages Map: ASF\_001 and ASF\_002;
- Non-Residential Floor Space Ratio Map: LCL\_001 and LCL\_002; and
- Special Provisions Area Map: SPA\_001 and SPA\_002.

The mapping and map cover sheet have been checked by the Department's e-planning data and information team and are considered to be adequate. The mapping and signed map cover sheet will be forwarded to Parliamentary Counsel's Office following notification of the LEP amendment.

## **12. CONSULTATION WITH COUNCIL**

Council was consulted on the terms of the draft instrument under section 3.36(1) of the *Environmental Planning and Assessment Act 1979* (Act).

Council advised on 6 and 7 August 2020 supporting the LEP to be made, subject to specific changes to the community infrastructure and design excellence clauses.

Consistent with the altered Gateway determination, the LEP to be made will include a new community infrastructure clause, which requires development with uplift in floor space and/or height to provide community infrastructure on the site to which the development relates.

This will ensure the community infrastructure clause is consistent with the infrastructure contribution provisions of the Act. Regarding the design excellence clause, in order to ensure best practice is adopted, the design competition process will be required to be in accordance with the procedures approved by the Planning Secretary.

## **13. PARLIAMENTARY COUNSEL OPINION**

On 11 August 2020, Parliamentary Counsel provided the final Opinion that the Draft LEP can legally be made.

## **14. RECOMMENDATION**

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

- The proposal has demonstrated strategic merit and consistency with the Greater Sydney Region Plan, Eastern City District Plan and Randwick Local Strategic Planning Statement;
- There are no unresolved inconsistencies with the applicable Section 9.1 Directions or SEPPs;
- The planning proposal will facilitate the coordinated and sustainable growth and renewal of the Kensington and Kingsford town centres, capitalising on the area's accessibility to public transport, services and jobs;
- The proposal will support housing growth and diversity and additional employment opportunities in the established town centres and in proximity to the Randwick Education and Health Precinct;



- The proposal demonstrates site-specific merit with appropriate transition in scale from the town centres to the surrounding land uses, protection of the amenity of school infrastructure and open space, integration with heritage items and contributory buildings, and enhanced permeability and accessibility through a system of laneways;
- The proposal establishes a statutory mechanism to enable the levy of development contributions for infrastructure upgrades and delivery of affordable housing;
- There is no unresolved objection from relevant Government agencies and public authorities;
- The issues raised in the submissions have been satisfactorily addressed by Council;
- All conditions of the Gateway determination have been satisfied; and
- The post-exhibition amendments made by Council are consistent with the intent of the planning proposal and the urban design vision of the underpinning planning strategy, and are an appropriate response to issues raised in the submissions.



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