



Planning,  
Industry &  
Environment

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IRF21/2643

## Gateway determination report – PP\_COUNCIL\_2021\_3645

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Oxford Street Creative and Cultural Precinct

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**Table 1 Reports and plans supporting the proposal**

<b>Relevant reports and plans</b>
Attachment D - Outgoing Correspondence Request for Gateway
Attachment E - Report Considered by the CSPC – Oxford Street Creative and Cultural Precinct
Attachment E1 - CSPC Resolution – 13 May 2021 – Oxford Street Creative and Cultural Precinct
Attachment F - Information Relevant To – Report considered by the Planning and Development Committee
Attachment F1 - Report Considered by the Planning and Development Committee – Oxford Street Creative and Cultural Precinct
Attachment F2 – Resolution of Council – Oxford Street Creative and Cultural Precinct
<b>Supporting PP Appendices</b>
Oxford Street Engagement Report
Oxford Street Urban Design Study – Parts 1-5
Oxford Street Heritage Study
Oxford Street Cultural Activity Study
Oxford Street Floor Space Supply and Demand Study
Draft Development Control Plan Oxford Street Creative and Cultural Precinct

# 1 Planning Proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	City of Sydney Local Government Area
<b>PPA</b>	City of Sydney Council
<b>NAME</b>	Oxford Street Creative and Cultural Precinct
<b>NUMBER</b>	PP-2021-3542
<b>LEP TO BE AMENDED</b>	Sydney Local Environmental Plan 2012
<b>ADDRESS</b>	Oxford Street Creative and Cultural Precinct, which comprises multiple allotments in Surry Hills, Darlinghurst and Paddington.
<b>RECEIVED</b>	20/05/2021
<b>FILE NO.</b>	IRF21/2643
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Encourage the provision of uses that support Oxford Street's role as a local centre and an activity street.
- Facilitate the provision of cultural and creative uses in the Oxford Street cultural and creative precinct to:
  - Encourage the cultural and creative, entertainment, education, commercial and tourism sectors and associated industries in the precinct;
  - Support the area's existing cluster of creative uses, anchored by the educational facilities in the area consistent with District Plan actions for the Harbour CBD;
  - Enhance the local area's cultural and night-time offering including supporting Oxford Street's role in the Eastern Creative Precinct and Harbour CBD; and
  - Prevent the loss of arts, cultural and creative floor space in the precinct.
- Support the local centre role of Oxford Street and facilitate the provision of cultural and creative space in the precinct by allowing for additional floor space and additional building height. The additional floor space and building height will only be available if development provides uses that are strategically important to the local centre and cultural and creative floor space on the site.

- Ensure that the scale and massing of the height and floor space ratio controls is appropriate in response to its context within the Oxford Street and Victoria Street, East Sydney, Oxford Street, Paddington Urban and Victoria Barracks Heritage Conservation Areas, setting of the surrounding heritage items, streetscapes and the surrounding low scale residential and commercial development.
- Ensure that additional floor space and additional building height is only permitted if it is demonstrated that it does not adversely affect heritage fabric or the structural stability of heritage items or contributory buildings.
- Retain and encourage other business, office, retail and education uses in the local centre, including shops, food and drink premises and educational facilities.
- Ensure that all new development protects and prevents the loss of existing entertainment and creative and cultural floor space within the precinct.
- Ensure that new development provides the diverse and activated street frontages that attract pedestrian traffic and contribute to the vibrancy, diversity and function of the high street, local centre, laneways and cultural and creative precinct.
- Facilitate the increased certainty, viability and activation of the NAS with additional uses that support its primary education and cultural and creative uses.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved, subject to Gateway Conditions.

The planning proposal seeks to amend the Sydney LEP 2012 (the LEP) as per the changes in **Table 3**, which contain a description the site (where relevant), an outline of the proposed amendments (including maps).

**Table 3 Oxford Street Cultural & Creative Precinct**

Proposed Amendment	Overview
Site-specific provision for the Oxford Street Cultural and Creative precinct	<ol style="list-style-type: none"> <li>1) Update the LEP to include a new site-specific provision applicable to land in the Oxford Street Cultural and Creative precinct, excluding the National Art School which would be subject to a separate clause. The precinct will be identified on the Locality and Site Identification Map.</li> <li>2) The objective of the provision is to provide for additional floor space on certain land to encourage the cultural and creative, entertainment, education, commercial and tourism sectors and associated industries in the Oxford Street area and support the role of Oxford Street as a local centre.</li> <li>3) The provision is to allow development on the subject land that will result in a building with the maximum FSR and heights shown on the alternative HOB and FSR maps (included in section 7 of this document), provided that: <ol style="list-style-type: none"> <li>i. Development includes one or more of the following: entertainment facility, health services facility, information and education facilities, hotel and motel accommodation, community facility, education facility, light industry, commercial premises</li> <li>ii. in developments where there are no existing cultural and creative uses - it includes a minimum of 10 per cent of the total GFA within the development for a creative purpose that involves live entertainment, performing arts, fine arts and craft, design (fashion, industrial or</li> </ol> </li> </ol>

Proposed Amendment	Overview
	<p>graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes.</p> <ul style="list-style-type: none"> <li>iii. in developments where there are existing cultural and creative uses - the existing cultural and creative uses must be maintained and an additional 10 per cent of the total GFA is provided within the development for a creative purpose that involves live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes</li> <li>iv. Does not undermine heritage significance of any heritage item or of the heritage conservation area, or endanger the structural stability of the existing heritage building or any heritage items on or under the land</li> <li>v. Additional height and floor space is not available under this clause to a building on the Courthouse Hotel and Kinselas site at 189 Oxford Street, Darlinghurst (Lot 1 DP 33381), 379-379A Bourke Street Darlinghurst (Lot 2 DP 51864), 381 Bourke Street Darlinghurst (Lot 1 DP 57383) or 383-387 Bourke Street Darlinghurst (Lot 1 DP 193949, Lot 2 DP 193949) unless there is a consolidated site with a minimum site area of 1,000sqm.</li> </ul> <p>4) The provision will provide that:</p> <ul style="list-style-type: none"> <li>i. Additional floor space of up to 0.8:1 may be awarded where it is for live entertainment and below ground level with a frontage onto Oxford Streets and Flinders Streets and where, consistent with section 102 of the Liquor Act Regulations, live entertainment means an event at which one or more persons are engaged to play or perform live or pre-recorded music, or a performance at which the performers (or at least some of them) are present in person and does not include that associated with sex industry or adult entertainment uses Oxford Street Cultural and Creative Precinct</li> <li>ii. Development facilitated under the clause will not be eligible to receive design excellence floor space</li> <li>iii. the consent authority will consider whether the development promotes uses that attract pedestrian traffic along ground floor frontages of streets in the precinct.</li> </ul> <p>5) Amend Clause 4.6(8) of the LEP to insert 'Clause 6.XX (Oxford Street cultural and creative precinct)' and ensure no additional height or floor space can be achieved by way of a variation inconsistent with the requirements of the proposed new clause.</p>
Retention of existing cultural and creative floor space	<ul style="list-style-type: none"> <li>1) Include in Division 5 Site-specific provisions, Part 6 Local Provisions a clause that applies to land identified on the Locality and Site Identification Map as the Oxford Street cultural and creative precinct (the precinct).</li> <li>2) The objective of the provision would be to maintain the amount of creative and cultural floor space on land identified on the Locality and Site Identification Map as the Oxford Street cultural and creative precinct.</li> <li>3) This provision will apply to development involving the change of use or erection of a building or alterations to existing building on land shown in the precinct.</li> </ul>

Proposed Amendment	Overview
	<ol style="list-style-type: none"> <li>4) It will require that development consent must not be granted within the precinct unless the consent authority is satisfied that it maintains or increases the creative and cultural floor space on the site on the date which this LEP provision is published.</li> <li>5) The clause will define cultural and creative GFA of the building as that used or proposed to be used for the purpose of a live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes.</li> </ol>
New additional permitted uses and increased height at National Art School (NAS)	<ol style="list-style-type: none"> <li>1) Insert 'entertainment facilities, community facilities, function centres, offices, information and education facilities, market retail, recreation, filming, shops and food and drink premises which support the ongoing education and cultural and creative use of the National Art School' as additional permitted uses with consent under Schedule 1 applying to NAS, (156 Forbes Street, Darlinghurst being Lot 1 DP 568755)</li> <li>2) Amend the Floor Space Ratio Map sheets 015, 022 and 023 of Sydney LEP 2012 in accordance with the Floor Space Ratio Map shown in Part 4 of this planning proposal to allow an increase from 0.9:1 to 1:1.</li> </ol>
Extension of heritage conservation area	<ol style="list-style-type: none"> <li>1) Amend map sheets HER_015 in the Sydney LEP 2012, to include 276-278 Crown Street in the C17 Oxford Street heritage conservation area as shown on the Heritage Conservation Maps shown in Part 4 of the planning proposal.</li> </ol>

## 1.4 Site description and surrounding area

The Oxford Street cultural and creative precinct occupies the northern part of Oxford Street and is located in the eastern part of the City of Sydney Local Government Area, and within the suburbs of Surry Hills and Darlinghurst. The subject site can be found along the Oxford Street corridor, between Whitlam Square and Greens Road in Paddington, with lots fronting Oxford Street and Whitlam, Oxford, Taylor and Three Saints Squares.



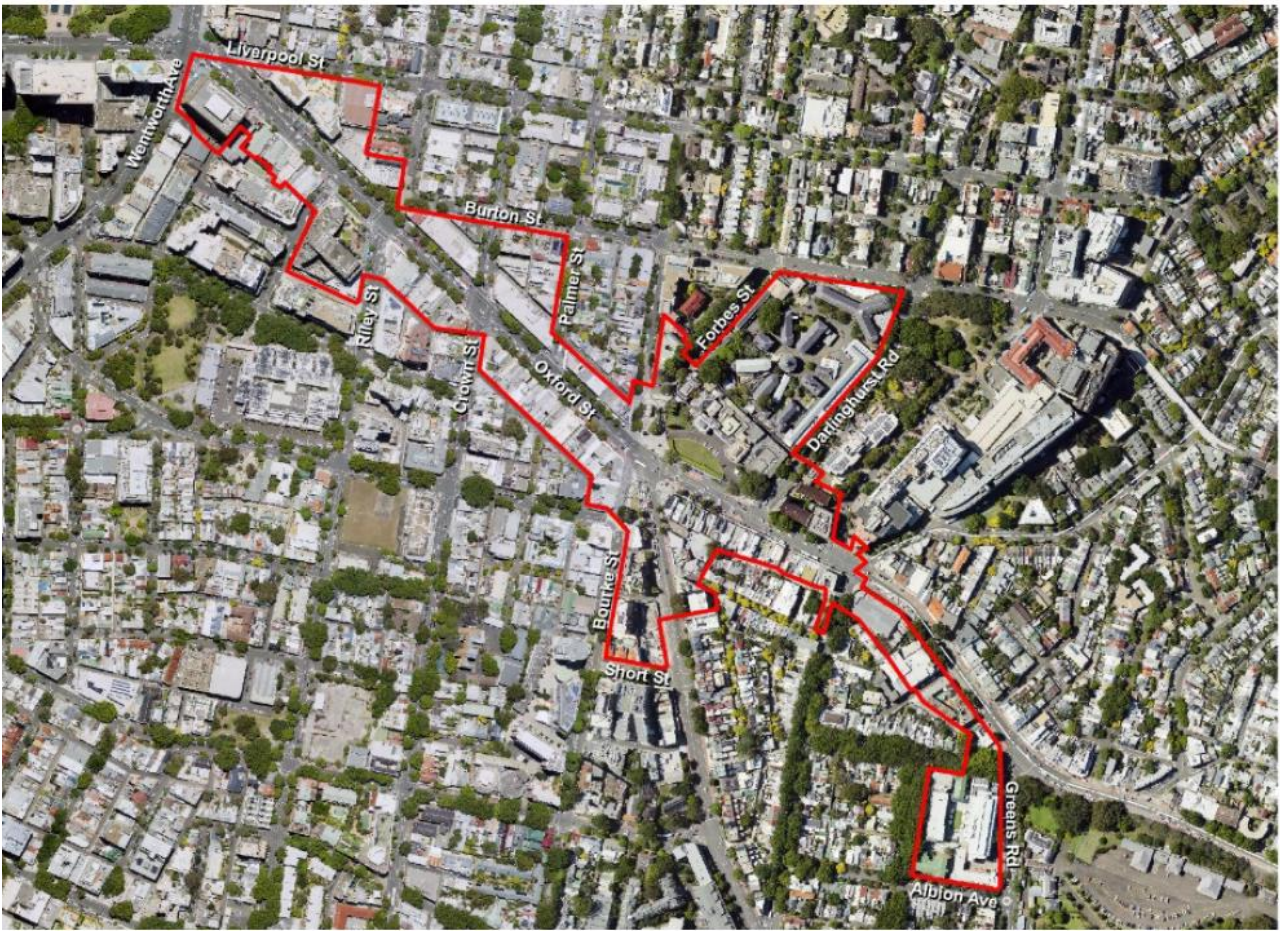
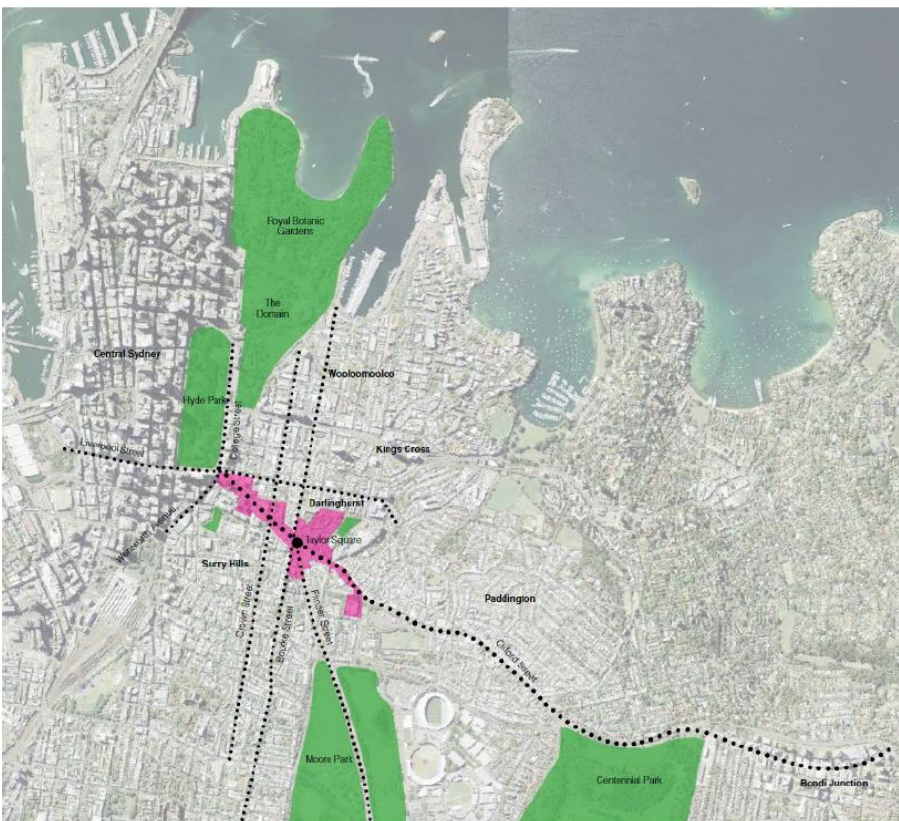


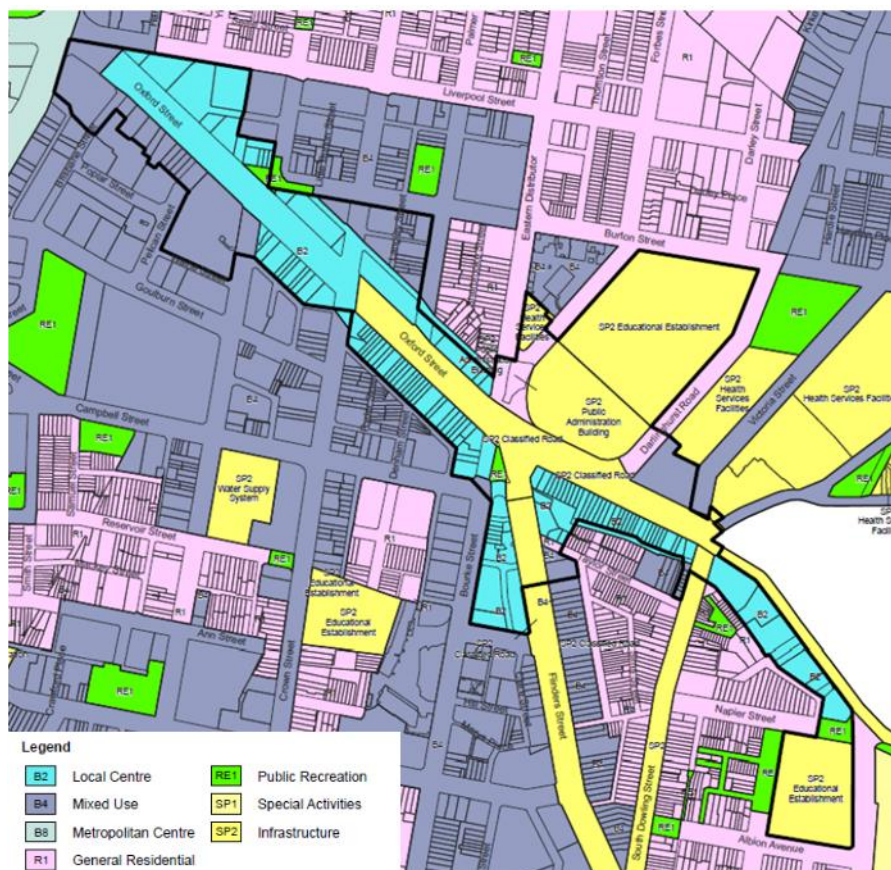
Figure 1 Subject site (Source: Planning Proposal)





**Figure 2 Site context (Source: Planning Proposal)**

This precinct has a total area of 139,965 sqm and is zoned B4 mixed use, B2 Local Centre and SP2 Education. The Oxford Street precinct is a movement corridor and key vehicular and pedestrian path connecting the eastern suburbs to Central Sydney and has a built form rich in heritage and character, with a significant number of heritage listed and contributory buildings. It hosts a mix of businesses, educational institutions, health facilities, and spaces for residents, workers, visitors and festivals, as well as open spaces. It is also home to the National Art School, Darlinghurst Court House and former Gaol and the UNSW Art and Design Campus.

**Figure 1 Current zoning map (Source: Sydney LEP 2012)**

The angle at which Oxford Street orientates to the predominant street grid pattern of the wider area creates a series of unusually proportioned and shaped blocks. These blocks comprise narrow and deep lots, as a result of their original terrace houses and commercial shop uses. Larger lots in the precinct have been consolidated from smaller lots. The built form on Oxford Street includes taller buildings to the west near Whitlam Square reflecting the building scale of Central Sydney. Oxford Street is generally lined by three storey buildings, located on sites with narrow frontages, in buildings serviced by rear lanes and with generally consistent facades and street awnings.

The site is surrounded by mixed use development, including pockets of fine grain residential and institutional buildings. North of the precinct is comprised of mix of commercial and residential properties ranging two to five storeys in height. St Vincent's Hospital is located further northeast of the precinct. East of the precinct is comprised of two storey commercial and residential terraces in Paddington in the Woollahra LGA and the Victoria Barracks. South of the precinct is comprised of mix of commercial and residential properties ranging two to three storeys in height. West of the precinct is Hyde Park and the commercial development comprising taller towers and buildings of Central Sydney.

Oxford Street and its surrounding area is one of Sydney's iconic places and has long been appreciated as a creative and cultural precinct both locally and internationally. Oxford Street is an important place for the LGBTIQ community. For many years, Oxford Street has been an iconic destination for nightlife and shopping and is home to the annual Mardi Gras Festival and parade.

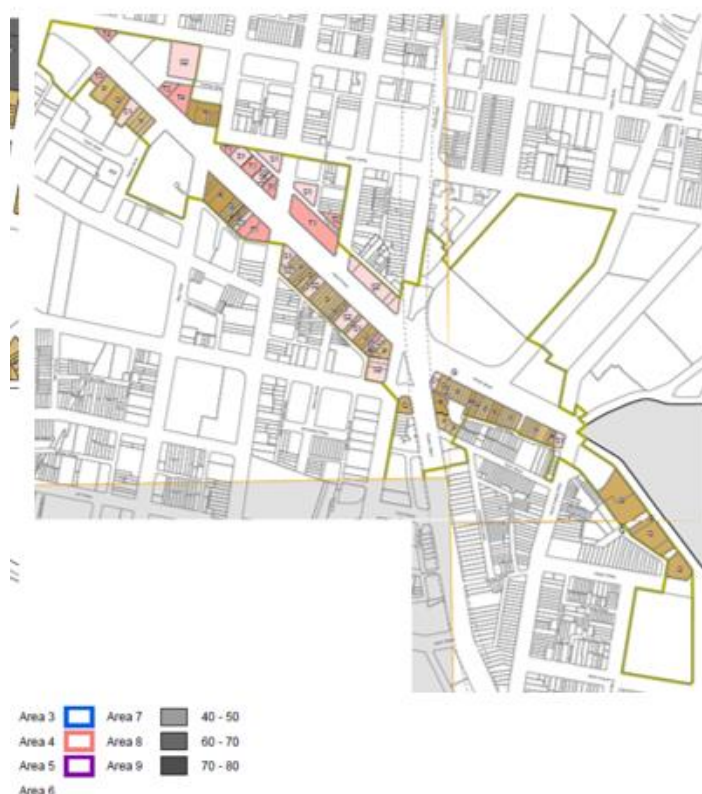
## 1.5 Mapping

This planning proposal is to make the following amendments to the Sydney Local Environmental Plan 2012 maps to:

- Establish new Site and Locality identification map for the Oxford Street Cultural and Creative Precinct;
- Establish new alternative Building Height and FSR maps to which a new site-specific clause for the Oxford Street cultural and creative precinct would apply;
- Amend the existing FSR map FSR\_022 from 0.9:1 to 1:1 for the National Art School; and
- Amend the existing Heritage Conservation map HER\_015 to include 276-278 Oxford Street being Lot 1 DP 655152 within the Oxford Street Heritage Conservation Area.

The mapping included in the planning proposal should be amended prior to public exhibition to clearly demonstrate the changes proposed. All maps should clearly show the proposed amendments highlighted in red (or appropriate colour) and include the context of the surrounding area. In particular, the Department notes that the draft Heritage Map omits the broader surrounding heritage items and conservation areas outside of the proposed Oxford Street Cultural and Creative precinct.

Once updated in accordance with the conditions, the mapping will be suitable for public exhibition.



**Figure 4 Proposed Alternative Maximum Building Height (Source: Planning Proposal)**



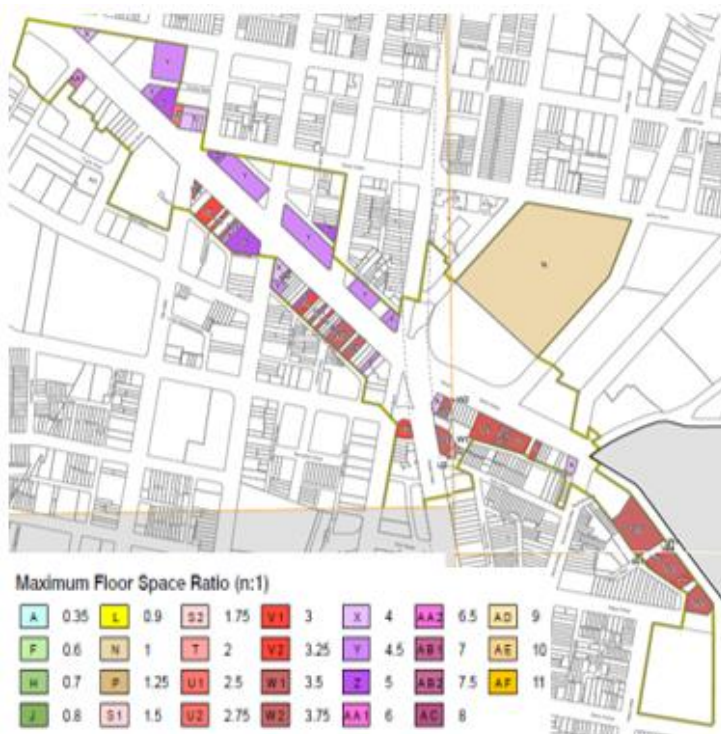


Figure 5 Proposed Alternative Floor Space Ratio Map (Source: Planning Proposal)



Figure 6 Current Heritage Map and proposed Heritage Map amendment (Source: Planning Proposal)

## 1.6 Background

- In 2020, the City commissioned a Cultural Activity Study and a Floor Space Supply and Demand Study for the Oxford Street precinct to determine the locational and operational needs of creative businesses and the demand for floor space. The Cultural Activity Study

was undertaken by SGS Economics and Planning, to look at the specific operational and locational needs of creative and cultural businesses in and around Oxford Street. The Floor Space Supply and Demand Study looked at the demand for retail, food and drink, employment and creative floor space.

- In 2020, an Urban Design and Heritage Study was undertaken by Studio Hollenstein and Curio, to review the development potential and heritage significance of the existing built form on Oxford Street.
- In March 2020, the Open and Creative planning reforms was approved by Council and will allow light industry as a use permitted with consent. When published, this LEP change will facilitate creative production spaces, such as makerspaces in this zone.
- In May and August 2020, the review of planning controls for Oxford Street were presented to the City's Nightlife and Creative Sector Panel where they received general support.
- From 6 October until 1 December 2020, early consultation was undertaken. This helped to inform the planning proposal with an aim to obtain the views of community, business and landowners about their current and future priorities, the planning controls, appetite for change and the changes desired on Oxford Street. Through this, it became evident the significant support for the activation of the precinct, improved amenity of public domain, reviews of planning approaches, including additions to heritage buildings and more affordable creative space.
- In February 2021, Council and CSPP resolved to set up the working group to assist City staff in preparing updates to the City's LEP and DCP.
- In March 2021, the proposals received support from the Planning Control Update Working Group which included City Councillors and representatives of the Department of Planning Industry and Environment and the Office of NSW Government Architect. The Department of Planning sought the temporary activation of vacant uses and the need for heritage and public domain opportunities around Oxford Street to inform the proposals.
- In March 2021, the City's Design Advisory Panel formed a sub-committee to review the City's Urban Design Study which tested the townscape and amenity impacts of scenarios for changing the built form of the precinct.

## 2 Need for the planning proposal

The proposal will give effect to the Eastern District Plan and the City of Sydney Local Strategic Planning Statement. It will help to facilitate the creation of a cultural and creative precinct in and around Oxford Street as identified in the Eastern Creative Precinct, which is located at the periphery of the Eastern District Plan's Harbour CBD strategic centre.

The proposal will also deliver objectives and actions from a number of local plans and strategies including: Sustainable Sydney 2030, OPEN Sydney and Action Plan, Creative City Cultural Policy and Action Plan, Live Music Action Plan and the Sydney DCP late night trading provisions and draft Open and Creative planning reforms.

The planning proposal is the best means to formalise the area as a Cultural and Creative Precinct. It is the only mechanism by which the proposed provisions, maps and definitions may be introduced and amended within the Sydney LEP 2012.

The proposal includes the introduction of site-specific planning provisions in order to encourage the provision of cultural and creative uses whilst managing the impacts of future development on the character, significance and functionality of the area.

The proposed LEP amendments described in this planning proposal will be supported by new provisions under the Sydney Development Control Plan (Sydney DCP) 2012 and other relevant DCPs which outline guidance relating to the cultural and creative precinct addressing:

- urban grain, articulation and architectural character
- design of cultural/ creative floor space
- laneway activation controls for large sites
- front upper level setback
- highly visible sites
- public domain activation
- new building contributions
- preparation of Statement of Heritage Principles
- submission of Heritage Structural Impact Statement.

The DCP will be exhibited concurrently with the Planning Proposal. This has formed a condition of the Gateway determination.

## 3 Strategic assessment

### 3.1 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan in March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

**Table 5 District Plan assessment**

District Plan Priorities	Justification
Planning Priority E4: Fostering healthy, creative, culturally rich and socially connected communities	<p>The proposal is consistent with this priority and will deliver Action 10a and Action 14 of The Eastern City District Plan:</p> <p><i>Action 10:</i></p> <p><i>Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities by:</i></p> <p><i>a. providing walkable places at a human scale with active street life</i></p> <p><i>Action 14:</i></p> <p><i>Facilitate opportunities for creative and artistic expression and participation, wherever feasible with a minimum regulatory burden, including:</i></p> <p><i>a. arts enterprises and facilities, and creative industries</i></p> <p><i>b. interim and temporary uses</i></p> <p><i>c. appropriate development of the night-time economy.</i></p> <p>The proposal will achieve this by Introducing incentives to encourage creative and cultural uses, and other supporting commercial activity in the Oxford Street B2 local centre.</p> <p>The amendments are consistent with the district plan's vision to co-locate artistic and creative organisations to support creative enterprises and precincts. The changes will generate employment generate employment</p>

	<p>opportunities and strengthening the precinct's night-time economy, on street activation, and local activity.</p> <p>The proposal will facilitate the delivery of venues, organisations and activities that promote social connections such as educational facilities community facilities and entertainment facilities.</p> <p>The changes will help to promote a culturally rich experience for locals and visitors by offering a diverse mix of uses within a walkable area supported by services and social infrastructure.</p>
<p>Planning Priority E6: Creating and renewing great places and local centres and respecting the District's heritage</p>	<p>The proposal is consistent with the objectives of this planning priority which are:</p> <p><i>Objective 12 Great Places that bring people together</i></p> <p><i>Objective 13 Environmental Heritage is identified, conserved and enhanced</i></p> <p>The proposal will promote the redevelopment of sites within the precinct by allowing additional height and FSR for proposals that deliver creative and cultural uses.</p> <p>The amendments will stimulate day and night-time activity by encouraging a diverse range of uses and employment opportunities. The proposal includes clauses to increase street activation and pedestrian activity, contributing to the overall revitalisation of the area and its function as a local centre.</p> <p>The proposal seeks to protect heritage significance within the precinct by including heritage conservation considerations in the site specific LEP clause and heritage conservation controls in a supporting site specific DCP amendment. The proposal also includes the extension of the C17 Oxford Street Heritage Conservation area to include 276-278 Crown Street. These amendments are supported by the Heritage Study attached to the Planning Proposal.</p>
<p>Planning Priority E7: Growing a strong and more competitive Harbour CBD</p>	<p>The proposal is consistent with this priority and will deliver Action 24 of the Eastern City District Plan:</p> <p><i>24. Strengthen the international competitiveness of the Harbour CBD and grow its vibrancy by:</i></p> <ul style="list-style-type: none"> <li><i>a) further growing an internationally competitive commercial sector to support an innovation economy</i></li> <li><i>b) providing residential development without compromising commercial development</i></li> <li><i>c) providing a wide range of cultural, entertainment, arts and leisure activities</i></li> <li><i>d) providing a diverse and vibrant night-time economy, in a way that responds to potential negative impacts.</i></li> </ul> <p>The Oxford Street Cultural and creative precinct will contribute to the growth and performance of the Harbour CBD with a diverse range of uses which will stimulate local activity, night-time economy and tourism. The proposal will also generate new and diverse employment opportunities.</p>
<p>Planning Priority E8: Growing and investing in health and education precincts and the Innovation Corridor</p>	<p>The proposal will encourage the colocation of social infrastructure with uses that promote social connection and innovation.</p> <p>The NAS and the UNSW Art and Design Campus are both located within the precinct. The proposal will leverage these existing uses to establish a cultural and creative precinct which includes incentives for the development</p>



	for health services, educational and community facilities. The proposal will activate the NAS and increase its potential as an event space and support the school's role as a cultural destination.
Productivity Priority E13: Supporting growth of targeted industry sectors	<p>The planning proposal supports the following actions set under this priority:</p> <p><i>54. Consider the following issues when preparing plans for tourism and visitation:</i></p> <ul style="list-style-type: none"> <li><i>a) encouraging the development of a range of well-designed and located facilities</i></li> <li><i>b) enhancing the amenity, vibrancy and safety of centres, places and precincts</i></li> <li><i>c) supporting the development of places for artistic and cultural activities</i></li> <li><i>d) improving public facilities and access</i></li> <li><i>e) protecting heritage and biodiversity to enhance cultural and eco-tourism</i></li> <li><i>f) supporting appropriate growth of the night-time economy</i></li> <li><i>g) developing industry skills critical to growing the visitor economy</i></li> <li><i>h) incorporating transport planning to serve the transport access needs of tourists</i></li> <li><i>i) Councils and other planning authorities</i></li> </ul> <p><i>56. Consider opportunities to implement place-based initiatives to attract more visitors, improve visitor experiences and ensure connections to transport at key tourist attractions.</i></p> <p><i>57. Consider opportunities to enhance the tourist and visitor economy in the District, including a coordinated approach to tourism activities, events and accommodation Councils, other planning authorities and State agencies</i></p> <p>The proposal will allow for the creation of a Cultural and Creative Precinct in close proximity and well connected to many other Sydney hotspots including Sydney Central Business District, Sydney Harbour and other popular locations such as Kings cross, Darlinghurst, Paddington, Surry Hills and Chippendale. This will promote the Visitor and Tourism economy within the Eastern City District. The proposal will increase daytime and night time activity along oxford street, offering a diverse range of experiences within a walkable precinct. The proposal also seeks to protect local heritage and character which will preserve the unique identity of the precinct.</p>

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement	<p>The proposal supports the following planning priorities within the LSPS:</p> <p><i>Priority I1 Movement for walkable neighbourhoods and a connected city; and</i></p> <p><i>Priority I2 Align development and growth with supporting infrastructure</i></p> <p><i>Priority I3 Supporting community wellbeing with social infrastructure</i></p>



Local Strategies	Justification
	<p>The increased height and floor space will stimulate development. to a diversification of uses and spaces to and off uses that support Oxford Street's role as a local centre, encouraging day and night activities within the precinct. The proposal also incentivises social infrastructure to service the daily needs of the community by seeking to encourage the provision of a broad range of land uses including entertainment facility, health services facility, information and education facilities, hotel and motel accommodation, community facility, education facility, light industry, commercial premises and the nominated cultural and creative uses.</p> <p><i>Priority L1A creative and socially connected city</i></p> <p>This priority is supported through enabling the delivery of a creative and cultural precinct around Oxford Street which is specifically identified as an Action (L1.5) to deliver this priority. The proposal also supports Action L1.4 which seeks to prioritise the preservation of and investigate approaches for no net loss of creative, arts and cultural floor space, including production and performance spaces.</p>
Sustainable Sydney 2030	<p>Sustainable Sydney 2030 is Council's Community Strategic Plan. It contains 10 strategic directions to guide the future of the City.</p> <p>The proposal will help to deliver on the following directions:</p> <ul style="list-style-type: none"> <li>• A Globally Competitive and Innovative City</li> <li>• A Lively and Engaging City Centre</li> <li>• Resilient and inclusive local communities</li> <li>• A Cultural and Creative City</li> <li>• Sustainable development, renewal and design.</li> </ul>

### 3.3 Central Sydney Planning Committee

On 13 May 2021 the Central Sydney Planning Committee reviewed the planning proposal for the Oxford Street Creative Precinct and Sydney Development Control Plan 2012 Amendment (**Attachment E and E1**). The committee resolved to approve that the planning proposal for submission to the Department with a request for a Gateway Determination.

### 3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
<b>1. Employment and Resources</b>		
1.1 Business and Industrial Zones	Consistent	This direction aims to encourage employment growth in suitable locations, protect employment land in existing business and industrial zones, and support the viability of identified centres. The proposal is consistent with this direction as it gives effect to the objectives of this direction, retains areas and locations of existing business zones, does

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
		<p>not reduce total potential floor space for employment uses, and ensures that future development is aligned with ECDP.</p> <p>In particular, whilst the proposal includes amendments to provisions within the B2 Local Centre zone, these changes will provide for additional floorspace encouraging cultural and creative uses, entertainment, education, commercial, tourism and associated industries.</p>

## 2. Environment and Heritage

2.3 Heritage Conservation	Consistent	<p>This planning proposal will protect the heritage significance of the site within the Oxford Street and Victoria Street, East Sydney, Oxford Street, Paddington Urban and Victoria Barracks Heritage Conservation Areas. In particular, the proposal includes an extension of the C17 Oxford Street Heritage Conservation area to include 276-278 Crown Street. This is supported by a heritage study which supports the proposal.</p>
2.6 Remediation of Contaminated Land	Further justification required	<p>This Direction requires that before including any land specified in paragraph (2) (of the Direction) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The proposal is not considered to compromise the intent of this objective. However, the planning proposal has not addressed this ministerial direction in relation to the potential redevelopment of the site for educational purposes and a condition of gateway has been included to update the planning proposal prior to public exhibition.</p>

## 3. Housing, Infrastructure and Urban Development

3.4 Integrating Land Use and Transport	Consistent	<p>The proposal is considered consistent with this direction, Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and The Right Place for Business and Services – Planning Policy (DUAP 2001), as it will intensify a diversity of uses in close proximity to existing public transport, access routes and local jobs and services.</p>
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## 4. Hazard and Risk

4.1 Acid Sulfate Soils	Consistent	<p>The subject sites are identified as having Class 5 Acid Sulfate soils. Acid Sulfate Soils are not typically found in Class 5 areas and are classed as such if they are located within 500</p>
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Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
		metres on adjacent class 1,2,3 or 4 land. Council provides that <i>'This planning proposal does not contradict or hinder application of acid sulphate soils provisions in Sydney LEP 2012.'</i>

## 6. Local Plan Making

6.1 Approval and Referral Requirements	Consistent	This planning proposal does not include any concurrence, consultation or referral provisions nor does it identify any development as designated development.
6.3 Site Specific Provisions	Inconsistent, but of minor significance.	<p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.</p> <p>The proposal seeks to introduce site specific provisions in order to establish the area as Cultural and Creative Precinct. Site specific planning controls have been introduced to encourage cultural and creative uses whilst managing the impacts of future development on the character, significance and functionality of the area. The proposal also includes a requirement for retention of existing cultural and creative uses within the precinct.</p> <p>These uses are then subject to development standards in addition to those already contained within the SLEP 2012. It is noted that these additional development standards allow alternative additional height and floor space, and do not seek to further restrict development. To benefit from the increased development standards a development must satisfy the conditions of providing strategic land uses and protecting heritage.</p> <p>However, it is also noted that the proposal references the definition of cultural and creative uses which includes terms not defined in the Sydney LEP. This approach may cause confusion and a gateway condition is proposed requiring Council to explore alternate approaches which avoid ambiguity around the establishment of an additional land use. For example, these uses could be described as 'Creative Purposes' which would avoid uncertainty.</p> <p>As such, the inconsistency is considered minor, subject to a refinement of the approach to defining preferred uses in the precinct.</p>

### 3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs, as discussed in the table below.

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Consistent / Not Consistent	Reasons for Consistency or Inconsistency
State Environmental Planning Policy No 1—Development Standards	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy 32 – Urban Consolidation (Redevelopment of Urban Land)	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy No 33 - Hazardous and Offensive Development	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy No 55—Remediation of Land	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy No 60 - Exempt and Complying Development	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy No 64 - Advertising and Signage	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
State Environmental Planning Policy (Infrastructure) 2007	Consistent	The planning proposal does not propose provisions that would impact the application of this SEPP.
Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005	Consistent	The planning proposal does not propose provisions that would impact the application of this REP.

## 4 Site-specific assessment

### 4.1 Environmental

#### **Vegetation:**

The planning proposal would not result in adverse impacts to significant vegetation. This is because the precinct is already well established and occupied by development. The precinct does not contain any known critical habitats or threatened species, populations or ecological communities or habitats.

Vegetation impacts resulting from any future development in the precinct would be assessed as part of any future Development Application (DA).

#### **Built Form:**

The planning proposal would facilitate a maximum two storey increase to buildings in the precinct. The Department considers this maximum two storey increase to building heights appropriate, given the site's close proximity to Sydney CBD and sufficient public transport infrastructure.

The draft DCP associated with the planning proposal establishes a building envelope for the proposed maximum two storey building height increase, which includes a 3m upper level setback. The inclusion of a 3m upper level setback is considered appropriate, as this would:

- Reduce the prominence of the proposed allowable two storey extension.
- Reduce potential adverse heritage impacts to buildings in the precinct, as it would ensure a bulky and obtrusive two storey extension could not be constructed.
- Reduce potential overshadowing impacts to adjoining buildings, laneways, streets and the public domain in the precinct.
- Reduce potential view loss from buildings and the public domain in the precinct to significant views of the Sydney CBD skyline and surrounding heritage structures.

Built form and overshadowing impacts resulting from any future development in the precinct would be assessed as part of any future DA.

#### **Traffic and Parking:**

The planning proposal does not consider or provide commentary on potential vehicular traffic and parking impacts resulting from increased development in the precinct.

The precinct is contained to the 'Category 1' area on the Sydney LEP 2012 Land Use and Transport Integration Map, which seeks to minimise the provision of on-site parking. Whilst it is acknowledged that future DA's for the precinct will be required to be accompanied by a traffic and parking report to assess anticipated traffic impacts and justify proposed parking provision (or lack of), the Department recommends that:

- Prior to public exhibition, Council updates the planning proposal to provide an assessment of anticipated traffic and parking impacts resulting from the planning proposal.
- Council undertakes consultation with Transport for NSW (TfNSW) to ensure a holistic view of anticipated traffic and parking impacts resulting from the planning proposal are assessed, and any required mitigation measures identified.

### 4.2 Social and economic

The planning proposal would provide a range of social and economic benefits. These include, but are not limited to, the following:

- The planning proposal would ensure Oxford Street acts as a successful local centre that services the needs of residents, employers, employees and visitors.
- The planning proposal would increase the number of temporary construction jobs and on-going employment opportunities in creative, cultural, social, educational, entertainment and commercial industries.
- The planning proposal would increase the overall activation of buildings, laneways streets and the public domain in the precinct, which would consequentially increase the precinct's overall vibrancy, liveliness and economic viability.
- The planning proposal would increase the overall availability of fit for purpose creative, cultural, social, educational, entertainment and commercial floor space in the precinct, which is located in close to Sydney CBD and a range of public transport connections.
- The planning proposal would lead to the on-going revitalisation of buildings in the precinct. For heritage buildings in the precinct, this would ensure that they are restored, and its heritage values protected into the future.

However, it is noted that the planning proposal seeks to require that any existing cultural and creative uses in the precinct are retained. It is noted that Council has expressed concerns around how this would be defined and what uses would be identified as 'existing' and from when.

The Department supports the principle of incentivising the retention and expansion of cultural and creative uses through providing access to greater heights and FSRs. However the retention of these uses in development which does not seek to access these uplifts may unduly limit potential future uses.

It would potentially limit a landowner's ability to respond to market forces or potentially result in spaces being kept vacant for extend periods, undoing the positives outcomes that the proposal is seeking to deliver. Also, it is noted that the uses proposed as creative and cultural uses are very specific and do not recognise other more broader ranging uses which would support other associated creative and cultural uses. This includes office premises, retail premises and business premises, dependant on the type of business occurring within the premises. This is somewhat addressed and acknowledged in Council's Oxford Street Cultural Activity Study which identifies a broad range of businesses such as:

- Music Publishing;
- Architectural Services;
- Other Specialised Design Services;
- Advertising Services;
- Professional Photographic Services;
- Music and Other Sound Recording Activities; and
- Creative retailing.

There are also practical limitations in terms of how such a control could be applied and enforced in the longer term.

Accordingly, a gateway condition is proposed requiring further justification for the retention of existing creative and cultural uses in development which does not seek to access the alternate height and FSR controls for the precinct. This should also demonstrate consideration of different options for how the policy intent for retention of existing cultural and creative uses could be achieved.

Social and economic impacts resulting from any future development in the precinct would be assessed as part of any future DA.

## 4.3 Infrastructure

### **General:**

The planning proposal would facilitate the development of increased fit for purpose creative, cultural, social and educational infrastructure in the precinct. The precinct contains sufficient public transport infrastructure to service an uplift in development.

### **Utility and Servicing Infrastructure:**

The planning proposal does not consider or provide commentary on existing utility and servicing infrastructure in the precinct. The Department recommends that Council undertakes consultation with each of the relevant utility and servicing providers, including Sydney Water, to ensure each required utility and service in the precinct can adequately support, or be upgraded to support the additional development that would be facilitated by the planning proposal.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

Given the nature of the planning proposal, this exhibition period proposed by Council is considered appropriate and forms to the conditions of the Gateway determination.

### 5.2 Agencies

The planning proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- NSW Heritage.
- Transport for NSW.
- NSW Department of Education.
- Relevant utility and service providers, including Sydney Water.

## 6 Timeframe

A project timeline is included in the planning proposal which as a timeframe of December 2021 to complete the LEP.

The Department recommends a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority. Noting the inconsistency with the Section 9.1 directions and various updates required to the Planning Proposal prior to exhibition, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.



## 8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is consistent with the Eastern City District Plan and the City of Sydney Local Strategic Planning Statement.
- It is consistent with the relevant section 9.1 Ministerial Directions. Any inconsistencies or Directions which are not currently addressed, will be addressed by way of Gateway Conditions before public exhibition and during agency consultation.
- It will formalise the area as Cultural and Creative Precinct and will encourage retention and provision of new cultural and creative uses.
- It will facilitate management of environmental impacts resulting from development and preserve local character and heritage.

As discussed in the previous sections 3 and 4, the proposal should be updated to:

- Provide further justification to demonstrate consideration and consistency with section 9.1 Direction 2.6 Remediation of Contaminated Land.
- Provide further justification to demonstrate that inconsistency with section 9.1 Direction 6.3 Site Specific Provisions is justified.
- Remove any draft clauses from the planning proposal and place into an appendix as example clauses. Refine the planning proposal to include a plain English explanation of the principles of the proposed provisions and intended policy outcomes they need to secure.
- Provide further justification for the proposed requirement to retain existing creative and cultural uses in development which does not seek to access the alternate height and FSR controls for the precinct. This should also demonstrate consideration of different options for how the policy intent for retention of existing cultural and creative uses could be achieved.
- Amend Section 5.1 of the planning proposal to make it clear that no additional land use terms are proposed, noting that the additional creative and cultural uses are for a purpose rather than defined land use term.
- Include proposed LEP Maps to replace existing Sydney LEP maps for the applicable Heritage Conservation Areas. All maps to include red highlight for proposed changes.
- Provide a consideration of anticipated traffic and parking impacts.

## 9 Recommendation

It is recommended the delegate of the Secretary:

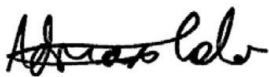
- Agree that any inconsistencies with section 9.1 Direction 4.1 Acid Sulfate Soils, are justified.
- Note that the consistency with section 9.1 Directions 2.6 Remediation of Contaminated Land and 6.3 Site Specific Provisions is unresolved and will require further resolution.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition the Planning proposal is to be updated to:
  - a) Provide further information to demonstrate consistency with section 9.1 Directions 2.6 Remediation of contaminated land
  - b) Provide further justification to demonstrate that inconsistency with section 9.1 Direction 6.3 Site Specific Provisions is justified.



- c) Remove any draft clauses from the planning proposal and place into an appendix as example clauses. Refine the planning proposal to include a clear plain English explanation of the principles of the proposed provisions and intended policy outcomes they need to secure.
  - d) Provide further justification for the proposed requirement to retain existing creative and cultural uses in development which does not seek to access the alternate height and FSR controls for the precinct. This should also demonstrate consideration of different options for how the policy intent for retention of existing cultural and creative uses could be achieved.
  - e) Amend Section 5.1 of the planning proposal to make it clear that no additional land use terms are proposed, noting that the additional creative and cultural uses are for a purpose rather than defined land use term.
  - f) Include proposed LEP Maps to replace existing Sydney LEP maps for the NAS and C1 Heritage Conservation Area. All maps to include red highlight for proposed changes.
  - g) Provide a consideration of anticipated traffic and parking impacts.
2. Council is to exhibit the associated draft amendment to Sydney Development Control Plan 2012 concurrently with the Planning Proposal.
  3. Consultation is required with the following public authorities:
    - NSW Heritage
    - Transport for NSW
    - NSW Department of Education
    - Relevant utility and service providers, including Sydney Water
  4. The planning proposal should be made available for community consultation for a minimum of 28 days.
  5. The planning proposal must be exhibited within 6 months from the date of the Gateway determination.
  6. The planning proposal must be reported to council for a final recommendation 10 months from the date of the Gateway determination.
  7. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
  8. Council has requested to be the local planning making authority, however the department does not grant local plan-making authority.



\_\_\_\_\_ (Signature)

01/07/21

(Date)

Adrian Melo

Manager, City of Sydney



\_\_\_\_\_ (Signature)

\_2/7/2021\_\_\_\_\_ (Date)

David McNamara

Director, Eastern Harbour, City of Sydney