

# Planning Proposal – 85-93 Commonwealth Street, Surry Hills



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# Executive Summary

The City of Sydney (the City) has prepared this planning proposal for 85-93 Commonwealth Street, Surry Hills (the site) following a request from the owner.

This planning proposal explains the intent and justification for the proposed amendments to the Sydney Local Environmental Plan 2012 (Sydney LEP) as it applies to the site. The proposed amendments are to increase the maximum building height and floor space ratio (FSR) controls applied to the site to:

- permit a three-storey addition on the northern part of the existing three-to-four storey building, and
- ensure the site's ongoing commercial use.

The site is a wedge shape formed from the intersection of Commonwealth and Hunt Streets and is approximately 571 square metres in area. The surrounding development is characterised by mixed-use developments featuring commercial uses on lower floors with residential above. The scale varies from 6-7 stories to the north and west of the site, with lower forms of 2-3 storeys to the south and east.

The proposed amendments support development consistent with the Greater Cities Commission's Eastern City District Plan and City's Local Strategic Planning Statement, by improving the built form design and aligning with principles of ESD, as well as by expanding the supply of employment floorspace in Surry Hills.

Under the existing Sydney LEP controls the site is zoned B4 Mixed Use, has a maximum building height of 18 metres, and a maximum FSR of 3:1, with additional floorspace available where development exhibits design excellence.

Specifically, this planning proposal seeks to amend the Sydney LEP to:

- increase the maximum FSR to 4.5:1 from 3:1,
- increase the maximum building height on the northern part of the site to RL 50.5 metres (6 stories plus basement) from 18 metres (3 stories plus basement), and
- lower the maximum building height on the southern part of the site from RL 40 metres from 18 metres (maintaining the existing 3-storey plus basement height).

This planning proposal also proposes provisions to ensure that the approval of any subsequent development application would be subject to the consent authority being satisfied that the use was not for residential accommodation or serviced apartments.

This planning proposal has been prepared in accordance with s3.33 of the Environmental planning and Assessment Act 1979 and the Department of Planning and Environment's Guide to Preparing Planning Proposals and Guide to Preparing Local Environmental Plans.

# 1. Background

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## 1.1 Landowner request

The City has received a request from the landowner of 85-93 Commonwealth St, Sydney (Surry Hills Pty Ltd) to amend the floor space ratio (FSR) and height of building (HOB) controls that currently apply to the site in Sydney LEP 2012.

The proponent has sought the following amendments to the Sydney LEP 2012:

- increase the height of building control from 18m to RL 51.66 across the site, allowing for an additional 3 storeys;
- increase the FSR control from 3:1 to 5.46:1, noting that the existing building FSR is 3.35:1 which exceeds the LEP control; and

The proponent request links these changes to a development that would be for commercial uses only.

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## 1.2 City response

The City has undertaken an urban design review of the impacts of a building envelope enabled by the heights and FSR sought by the proponent. The review concludes that while there is capacity on the site to increase employment floor space, while remaining compatible with the height and scale of surrounding development and the mixed-use character of the locality, a lower FSR and modified arrangement of height is appropriate. This is to ensure resulting development on the site that better suits the character of the area in terms of bulk, scale and height.

This planning proposal is therefore inconsistent with the landowners request.

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## 1.3 Site identification

This planning proposal relates to the property at 85-93 Commonwealth Street, Surry Hills. The property is legally defined as Lots 22 and 23 in DP 6380.

The site is a wedge shape, formed from the intersection from Commonwealth Street and Hunt Street. It is 571.14 square metres in area and falls approximately 4.65 metres from the Commonwealth Street frontage to the Hunt Street frontage. The site is currently occupied by a four-storey building, currently used as commercial office space. Development adjacent to the site is discussed below:

### North

The property adjoining the site to the north is a seven storey commercial building with retail uses on the ground floor along the Hunt Street frontage.

### South

The building opposite the site on Hunt Street is the three-storey Hollywood Hotel, a locally-listed heritage item

### East

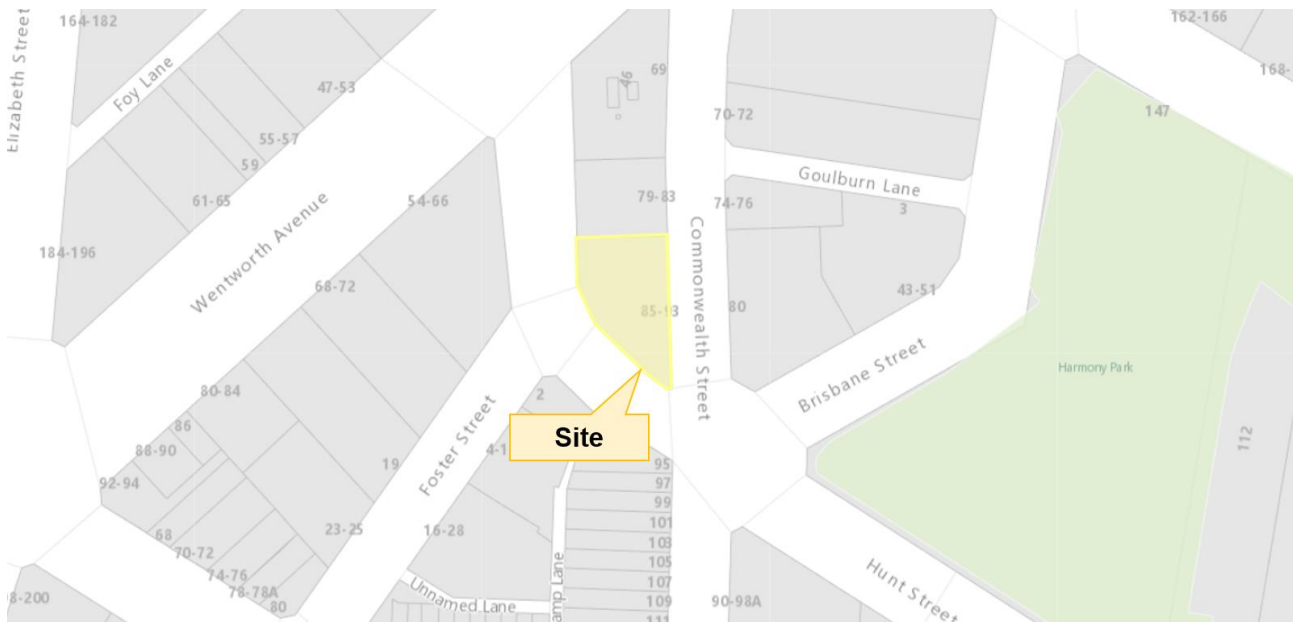
The properties adjacent to the east along Commonwealth Street are commercial and accommodate a variety of restaurant and active uses at the ground level. A three-storey building directly east of the site, known as the 'Paramount Building', is a locally listed heritage item.

#### West

The property to the west along Hunt Street comprises a seven-storey commercial building with carparking at ground level.

The location of the site is shown below in Figure 1.

**Figure 1. Indicative plan showing the site's location and vicinity**



The site is located within Surry Hills, a suburb immediately southeast of Sydney's CBD. The area around the site is characterised by a wide range of uses, including educational, food and drink premises, retail, residential and visitors accommodation. The site is highly accessible, being 200m east of an entry to the Museum train station, and well-served by a number of bus routes. The site's context is shown below in Figures 2 and 3.

Figure 2. Indicative plan showing the site's context and suburb boundaries



Figure 3. Oblique view from the south-east



## 2. Existing planning controls

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### 2.1 Zoning

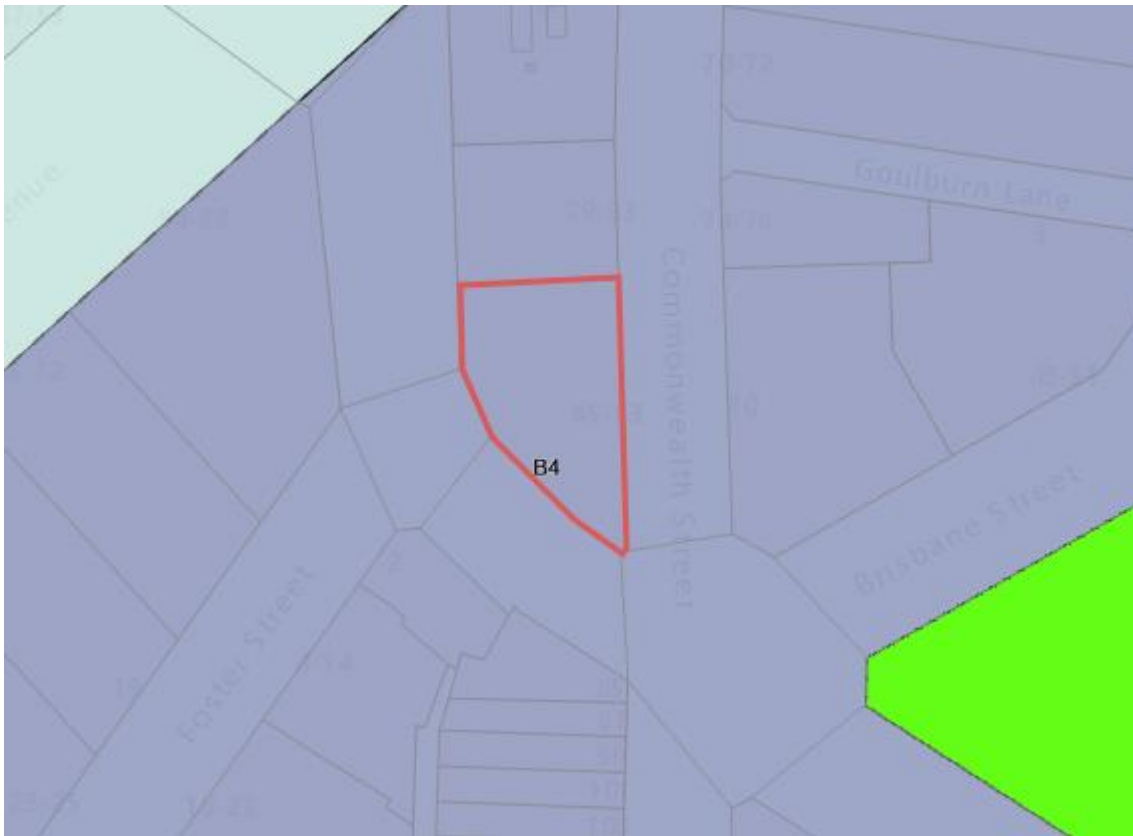
The site is currently zoned Mixed Use in Sydney LEP, shown in purple on Figure 4.

Objectives of the MU1 zone include providing a mixture of compatible land uses; integrating sustainable business, office, residential, retail and other development in accessible locations; and ensuring uses support the viability of centres. The zone permits a broad range of uses, including commercial premises, residential, community facilities, education facilities, and visitor accommodation.

This planning proposal will not change the site's existing zoning.

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Figure 4. Zoning in Sydney LEP

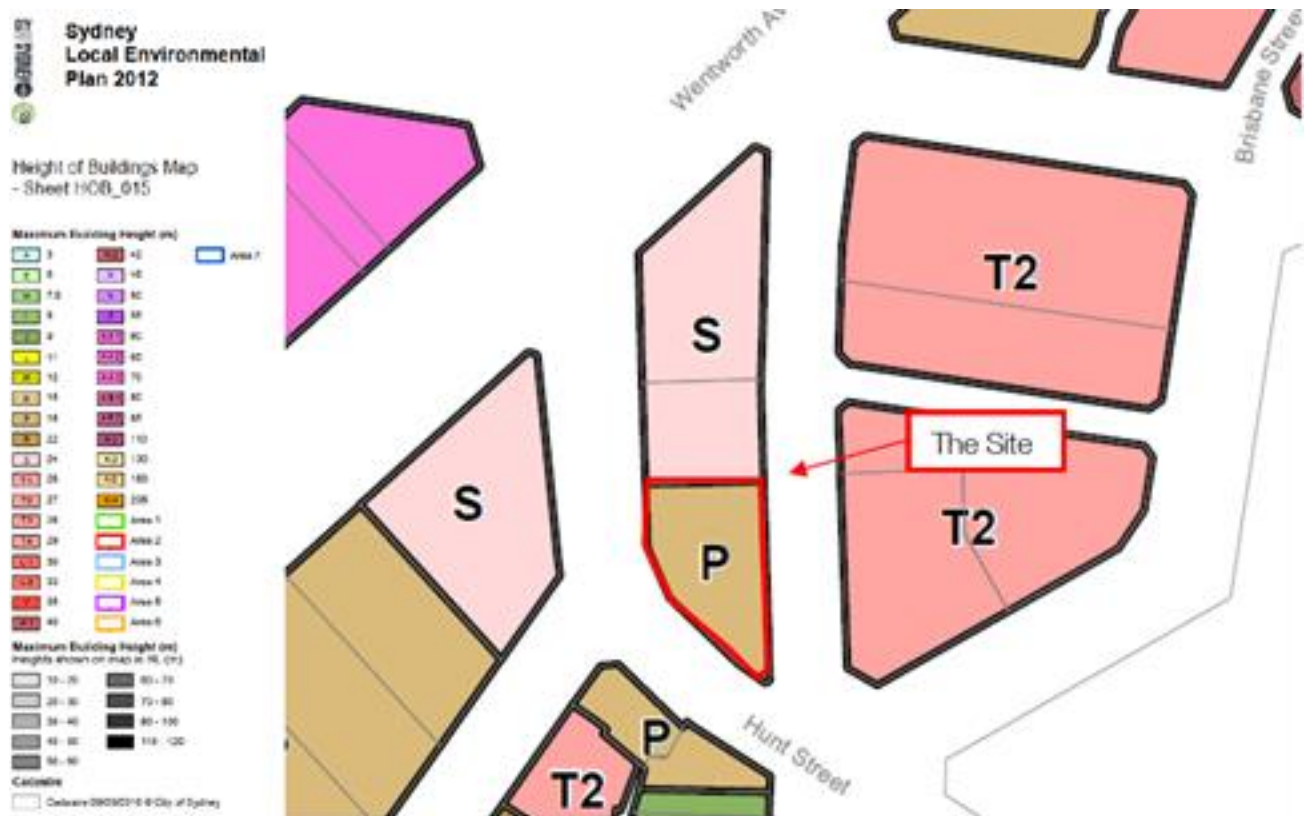


### 2.2 Development standards

#### Maximum height of building

The site is subject to a maximum height of building control of 18m in Sydney LEP 2012. As shown in Figure 5, a building height of 24 metres is permitted immediately to the north and to the west, 27 metres to the east, and 18 metres to the south.

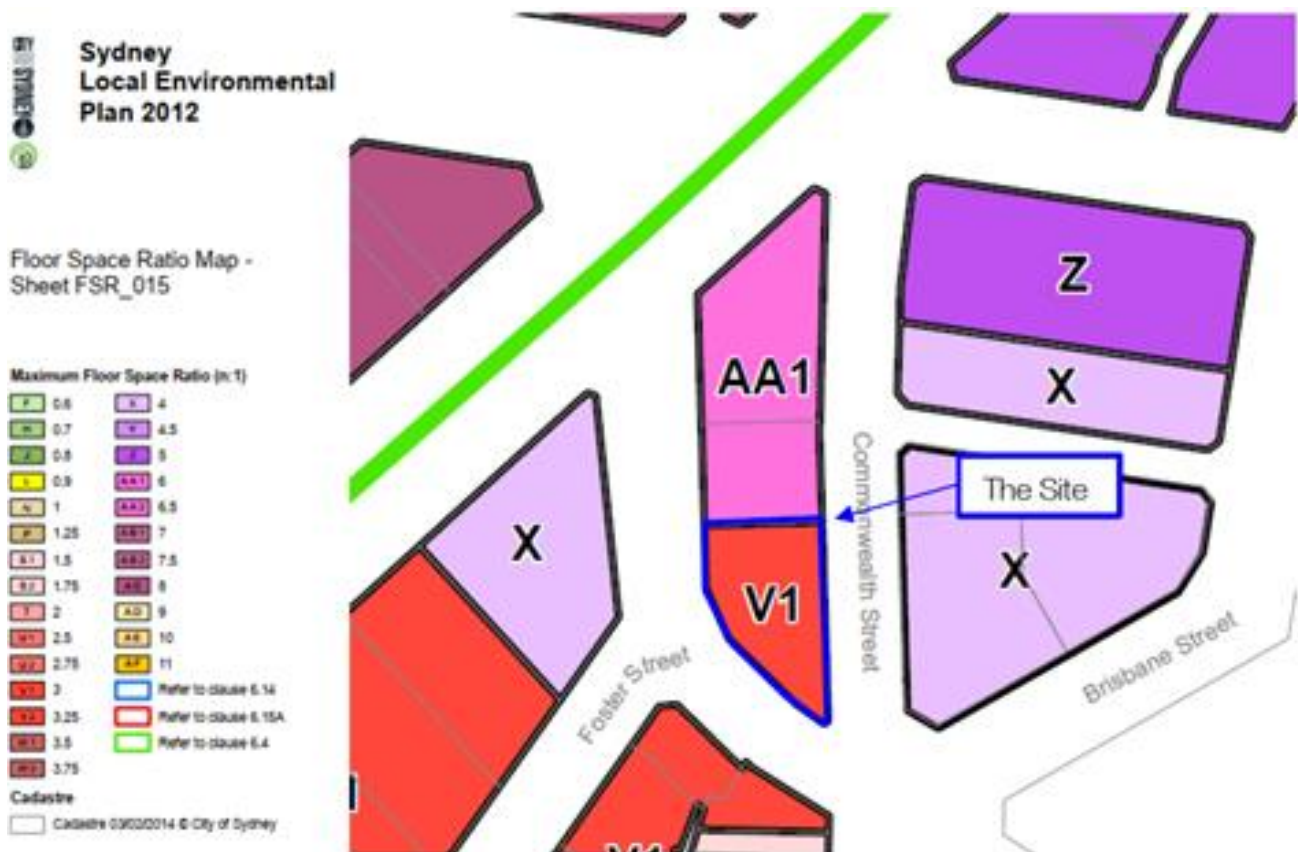
Figure 5. Height of building controls in Sydney LEP 2012



### Floor space ratio

The site is subject to a maximum FSR control of 3:1 as shown in Figure 6. Higher FSRs are permitted on the surrounding properties to the north (6:1), east and west (4:1). Properties to the south have an FSR of 3:1.

Figure 6. Floor Space Ratio controls in Sydney LEP 2012



## 2.3 Sun access planes

The site is in close proximity to Harmony Park. Sydney LEP includes a sun access plane which prevents overshadowing of the park between 10am and 2pm all year round.

## 2.4 Heritage

The site is not heritage listed or within a heritage conservation area. However, there are a number of local heritage listed items within the site's vicinity. Figure 7 below shows the locations of these items in relation to the site, including:

- I1484 – Former “Paramount Pictures” including interior – 78-80 Commonwealth Street, Surry Hills;
- I1544 – “Hollywood Hotel” including interior – 2 Foster Street, Surry Hills;
- I1648 – “Griffith’s Building” including interior – 46-52 Wentworth Avenue, Surry Hills; and
- I1649 – “Ballarat House” – 68-72 Wentworth Avenue, Surry Hills.

Figure 7. Indicative plan showing the locations of heritage items and the boundary of the heritage conservation area



### 3. Objectives and intended outcomes

The objective of this planning proposal is to enable additional height on the northern part of the existing commercial building at 85-93 Commonwealth Street, Surry Hills to facilitate additional commercial floor space to support jobs growth in the City Fringe.

## 4. Explanation of provisions

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### Explanation

It is proposed to amend Sydney LEP 2012 to allow for an increased FSR and maximum building height on part of the site but only if development is wholly used for commercial or other non-residential purposes.

A new provision in Division 5 – Site Specific Provisions in Sydney LEP 2012 will allow alternative FSR and Height of Building controls to those allowed by clauses 4.3 and 4.4 which will:

- allow a maximum floor space ratio of 4.5:1 to apply to the whole site; and
- allow for alternative building heights as shown on an Alternative Height of Building Map as follows:
  - RL 51.5 metres on the northern part of the site (due to the gradient of the site this change approximately equals 28.5 to 24.5 metres above ground east to west); and
  - RL 40 metres on the southern part of the site (due to the gradient of the site this change approximately equals a height of 16 to 14 metres above ground east to west).

The alternative site-specific controls described above may only be achieved if the consent authority is satisfied that a building on the site is used wholly for purposes other than residential accommodation and serviced apartments. Otherwise the existing FSR and Height of Building controls (3:1 and 18 metres respectively) in Sydney LEP 2012 continue to apply; that is – the alternative controls cannot be accessed for the purposes other than specified non-residential uses.

Clause 4.6 of Sydney LEP should not apply to the alternative height and FSR controls.

## 5. Justification

The purpose of this planning proposal is to increase the maximum permissible building height and FSR on the site to support the creation of new employment floorspace in Surry Hills. The proposal is considered to be of minor strategic impact and is consistent with local strategic planning objectives for the area.

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### Strategic merit

The planning proposal aligns with key City and State strategies, as detailed below.

#### City Plan 2036

The site is located in the City Fringe which is identified for jobs growth in City Plan 2036. It is also within the Eastern Creative Precinct as identified in the LSPS which comprises of a concentration of creative industries and information media clusters.

This planning proposal enables new employment floorspace in a strategic location and aligns strongly with the following LSPS priorities:

- *Infrastructure I1, 'align development and growth with supporting infrastructure'*
- *Productivity P2, 'developing innovative and diverse business clusters in City Fringe'*

New employment floorspace can be used to grow employment within clusters of highly skilled jobs. Increasing employment opportunities in the City Fringe is strategically important because it includes some of the City of Sydney's (and the Eastern City District's) most diverse and mature knowledge-based and creative clusters, is a leading place for investment and innovation, and is has a highly specialised economic role. Additional employment floor space on the site will contribute to and reinforce these characteristics.

The site is also located within the Eastern Creative Precinct. This precinct comprises of a concentration of creative industries and information media clusters. In the Eastern City Creative Precinct, the City is encouraging cultural uses as a driver of creativity and enterprise, a source of job creation and potential for place-making. Additional employment floor space in this location will build upon existing and emerging employment and creative business clusters.

#### Eastern City District Plan 2018

This planning proposal supports the priorities of the Eastern City District Plan 2018 (ECDP), as follows:

*Planning priority E6, 'creating and renewing great places and local centres'*

The proposal incentivises the renewal of an existing commercial site. The creation of new commercial floorspace contributes to strengthening of the City Fringe and the Eastern Creative Precinct as an area where varied business types can emerge and develop.

*Planning priority E11, 'growing investment, business opportunities and jobs in strategic centres'*

*Planning Priority E13, 'supporting growth of targeted industry sectors'*

The proposal supports new employment floorspace in a strategic location. The future development will contribute to investment and jobs, supporting opportunities for innovative and diverse business clusters in the City Fringe, as well as for creative and emerging industries in the Eastern Creative Precinct.

## Site-specific merit

The existing building is a 3-storey commercial building with a basement. The model of the envelope is shown in Figure 8 for comparison.

The landowners request shown in Figure 9 is for a building of 6 storeys across the whole site, plus the existing basement. The City's assessment is that carrying this 6-storey built form across the full extent of the site would result in unacceptable impacts on neighbourhood character, particularly in the future relationship with the adjacent Hollywood Hotel and Paramount House heritage items.

Notwithstanding this, it is agreed there is some capacity on the site to increase employment floor space, while remaining compatible with the height and scale of surrounding development and the mixed-use character of the locality. This is to ensure resulting development on the site that better suits the character of the area in terms of bulk, scale and height. This planning proposal is therefore inconsistent with the landowners request.

This planning proposal is to change the height and FSR controls to enable an additional three floors on the northern part of the site and maintain the existing developed building height on the southern part of the site.

The site is prominently located at a key intersection of Commonwealth, Hunt and Brisbane Streets which is defined by relatively low scale buildings on each corner. The proposed building height of RL 40 metres at the southern triangular portion of the site maintains a consistent relationship with these buildings and the proposed height on the northern portion of the site of RL 51.5 metres closely matches the taller office building to the north of the site.

The height and massing avoids overshadowing of the residential terraces on Commonwealth Street and to Harmony Park and is compatible with the scale of development within the locality (See Figure 10).

The proposed heights will maintain the relationship to heritage items within the site's immediate vicinity including the 3 storey Paramount Hotel to the east and the 3 storey Hollywood Hotel to the northwest. The existing building on the site at 3 storeys is slightly higher than the buildings to the west but closely matches the Paramount Hotel. This height is to be retained at the southern part of the site. Maintaining the as-built height of the southern portion of the height aligns with the lower scale 2 storey terraces to the south.

The increase in FSR does not require additional infrastructure to support the proposal. The site is already supported by adequate transport and civil infrastructure, including having good access to public and active transport as well as provisions for services and utilities.

Figure 8. Existing built form, oblique view from southeast

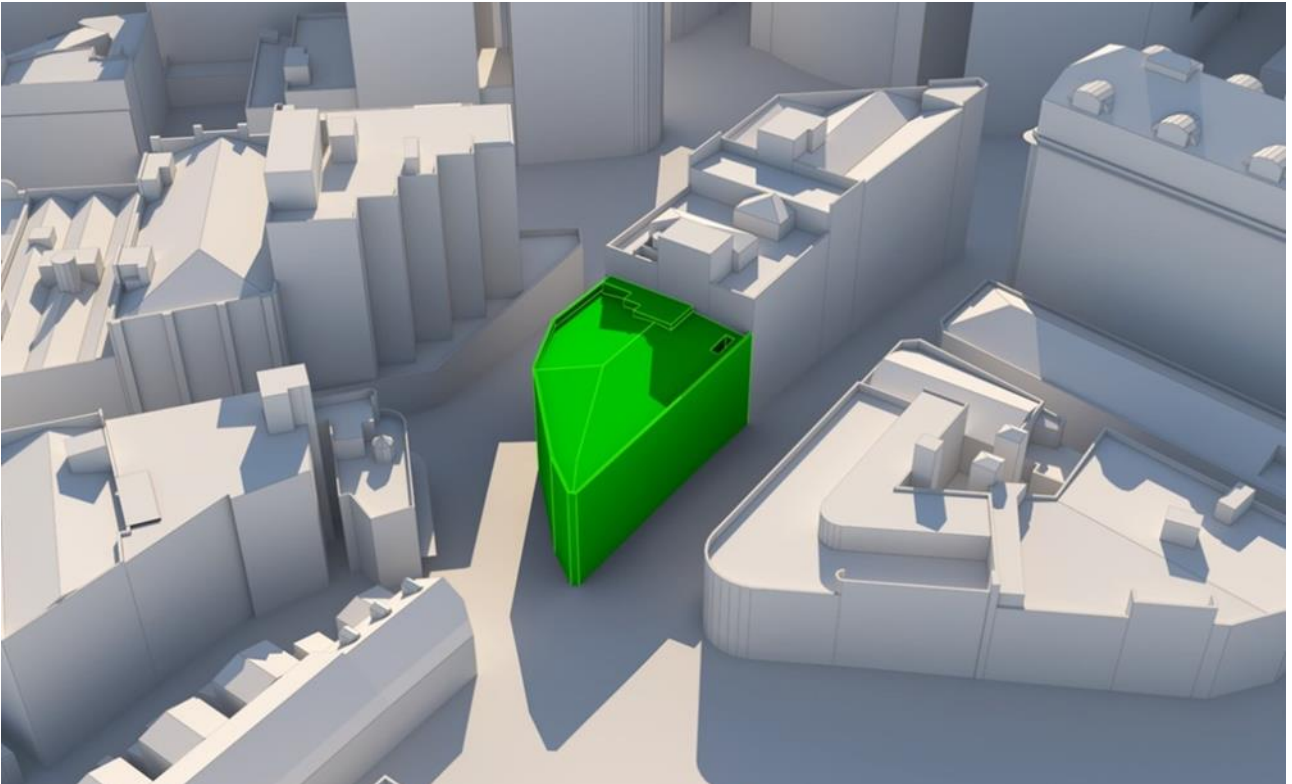


Figure 9. Building envelope resulting from proponent's request, oblique view from southeast

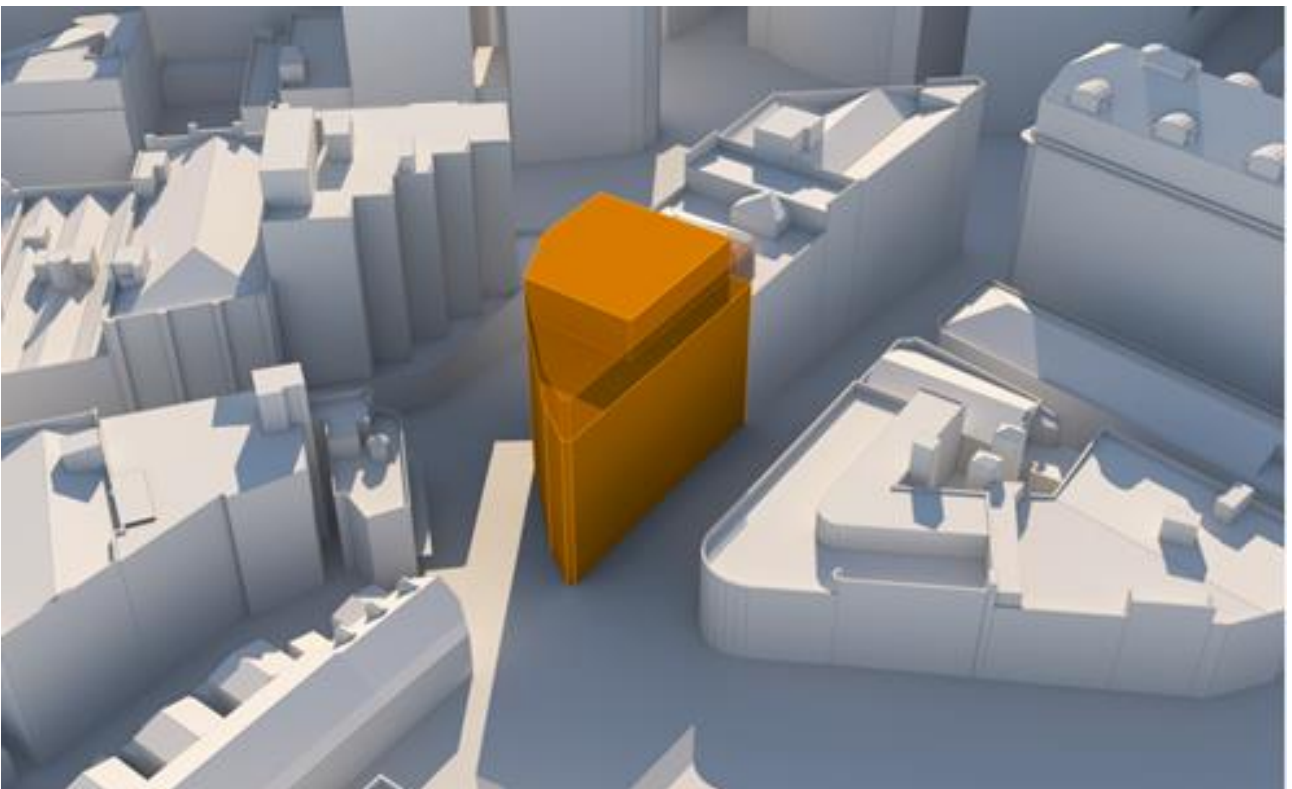
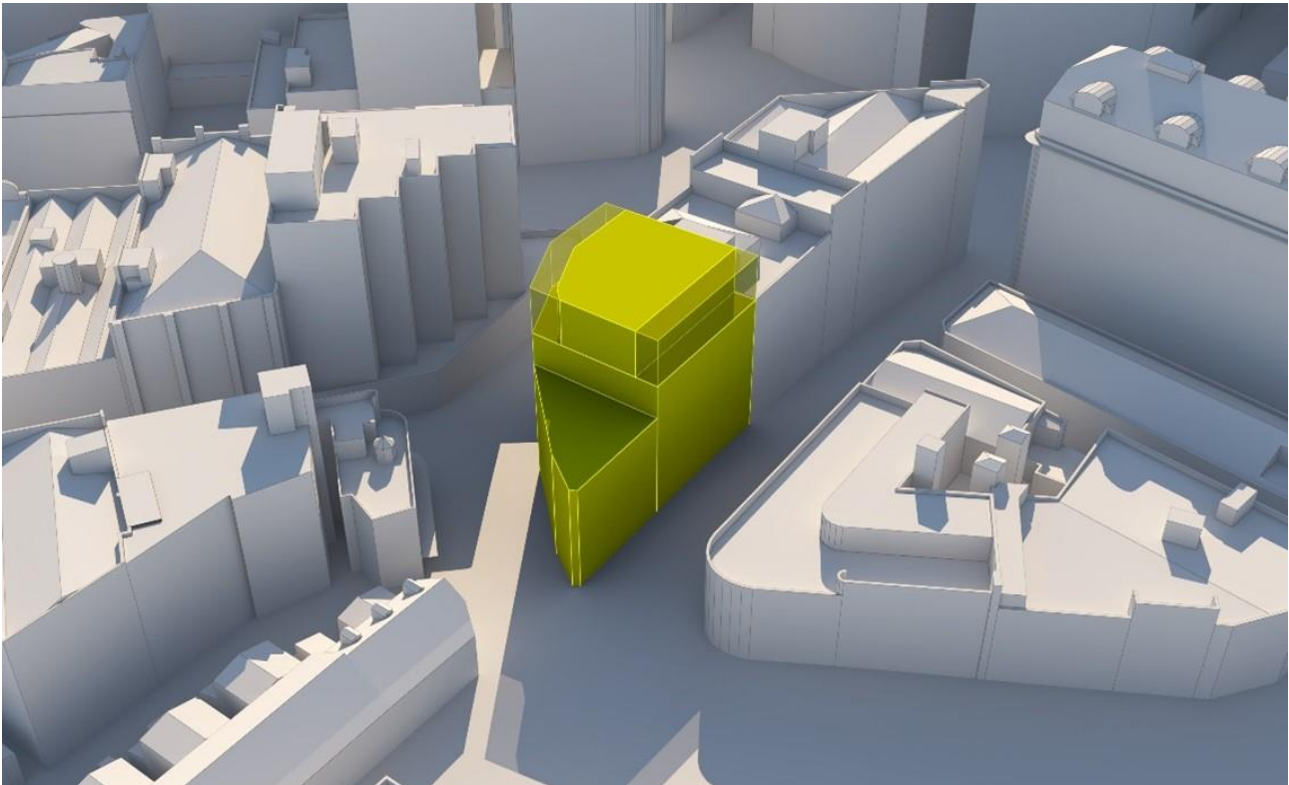


Figure 10. Building envelope resulting from this planning proposal, oblique view from southeast



## Section A – Need for the planning proposal

Question	City response
Q1. Is the planning proposal a result of any strategic study or report?	The planning proposal is consistent with City Plan 2036 which encourages the provision of employment opportunities areas such as the City Fringe.
Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	<p>Yes, the main objective of this planning proposal is to allow for the minor expansion of an existing commercial use by inserting a new provision in Division 5 of the Sydney LEP and making a corresponding amendment to the Height of Buildings Map.</p> <p>A planning proposal is required for both of the above and is therefore considered the best means of achieving the objectives and intended outcomes.</p>

## Section B1 – Relationship to the strategic planning framework

Question	City response
Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and the exhibited draft strategies)?	<p>Yes. The Greater Sydney Region Plan and the Eastern District City Plan are both prepared by the NSW Government and are the regional plans relevant to the site.</p> <p>This planning proposal aligns with the objectives of these strategies, particularly those around the creation of additional employment floorspace in central areas with existing accessibility and public infrastructure.</p>
Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?	<p>Yes. The City's vision for land use and planning is set out within City Plan 2036, the City's local strategic planning statement, and Sustainable Sydney 2030-2050. This planning proposal aligns with key priorities of City Plan 2036, namely:</p> <ul style="list-style-type: none"> <li>• Priority I2, 'aligning development and growth with supporting infrastructure,'</li> <li>• Productivity P2, 'developing innovative and diverse business clusters in City Fringe'</li> </ul>
Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?	Yes, this planning proposal is consistent with applicable SEPPs. See Section B2.
Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?	Yes, this planning proposal is consistent with applicable Ministerial Directions. See Section B3.

## Section B2 – Assessment of planning proposal against applicable SEPPs

SEPP	Comment
SEPP (Biodiversity and Conservation) 2021	This planning proposal is consistent.
SEPP (Building Sustainability Index: BASIX) 2004	Not applicable to this proposal.
SEPP (Exempt and Complying Development Codes) 2008	This planning proposal is consistent.
SEPP (Housing) 2021	This planning proposal is consistent.

SEPP	Comment
SEPP (Industry and Employment) 2021	This planning proposal is consistent.
SEPP (Planning Systems) 2021	This planning proposal is consistent.
SEPP (Precincts–Central River City) 2021	Not applicable to this proposal.
SEPP (Precincts–Eastern Harbour City) 2021	This planning proposal is consistent.
SEPP (Precincts–Regional) 2021	Not applicable to this proposal.
SEPP (Precincts–Western Parkland City) 2021	Not applicable to this proposal.
SEPP (Primary Production) 2021	Not applicable to this proposal
SEPP (Resilience and Hazards) 2021	This planning proposal is consistent.
SEPP (Resources and Energy) 2021	This planning proposal is consistent
SEPP No 65 - Design Quality of Residential Flat Development	Not applicable to this proposal.
SEPP (Transport and Infrastructure) 2021	This planning proposal is consistent

## Section B3 – Assessment of planning proposal against applicable Ministerial Directions

Ministerial Direction	Response
Ministerial Direction 1.1 Implementation of Regional Plans	Consistent. The planning proposal will give effect to objectives and priorities of the Greater Sydney Region Plan as detailed in response to Q3 above.
Ministerial Direction 1.2 Development of Aboriginal Land Council Land	Not applicable.
Ministerial Direction 1.3 Approval and Referral Requirements	Consistent. The planning proposal does not include provisions that require the concurrence, consultation or referral of any future development application to a Minister or public authority. Future development in accordance with the proposed amendments will not be designated development.
Ministerial Direction 1.4 Site Specific Provisions	Consistent. The planning proposal does unnecessarily restrict the permitted uses on the land. The planning proposal provides development uplift for a range of commercial uses. This is consistent with strategic priorities for the area. Development that does not make use of the

Ministerial Direction	Response
	uplift provided by the planning proposal can continue to make use of the full range of uses permitted in the MU1 zone.
Ministerial Direction 1.5 Parramatta Road Urban Transformation Strategy	Not applicable.
Ministerial Direction 1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
Ministerial Direction 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
Ministerial Direction 1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
Ministerial Direction 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.
Ministerial Direction 1.10 Implementation of the Western Sydney Aerotropolis Plan	Not applicable.
Ministerial Direction 1.11 Implementation of Bayside West Precincts 2036 Plan	Not applicable.
Ministerial Direction 1.12 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.
Ministerial Direction 1.13 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.
Ministerial Direction 1.14	Not applicable.

Ministerial Direction	Response
Implementation of Greater Macarthur 2040	
Ministerial Direction 1.15 Implementation of the Pyrmont Peninsula Place Strategy	Not applicable.
Ministerial Direction 1.16 North West Rail Link Corridor Strategy	Not applicable.
Ministerial Direction 1.17 Implementation of the Bays West Place Strategy	Not applicable.
1.18 Implementation of the Macquarie Park Innovation Precinct	Not applicable.
Ministerial Direction 1.19 Implementation of the Westmead Place Strategy	Not applicable.
Ministerial Direction 1.20 Implementation of the Camellia-Rosehill Place Strategy	Not applicable.
Ministerial Direction 1.21 Implementation of the South West Growth Area Structure Plan	Not applicable.
Ministerial Direction 1.22 Implementation of the Cherrybrook Station Place Strategy	Not applicable.
Ministerial Direction 3.1 Conservation Zones	Not applicable.
Ministerial Direction 3.2 Heritage Conservation	Consistent. No heritage items are identified on the site and the site is not located within a heritage conservation area. Additionally, the planning proposal considers impacts on adjacent heritage items.
Ministerial Direction 3.3 Sydney Drinking Water Catchments	Not applicable.
Ministerial Direction 3.4	Not applicable.

Ministerial Direction	Response
Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	
Ministerial Direction 3.5 Recreation Vehicle Area	Not applicable.
Ministerial Direction 3.6 Strategic Conservation Planning	Not applicable.
Ministerial Direction 3.7 Public Bushland	Not applicable.
Ministerial Direction 3.8 Willandra Lakes Region	Not applicable.
Ministerial Direction 3.9 Sydney Harbour Foreshores and Waterways Area	Not applicable.
Ministerial Direction 3.10 Water Catchment Protection	Not applicable.
Ministerial Direction 4.1 Flooding	Consistent. The land is not identified as flood affected.
Ministerial Direction 4.2 Coastal Management	Not applicable.
Ministerial Direction 4.3 Planning for Bushfire Protection	Not applicable.
Ministerial Direction 4.4 Remediation of Contaminated Land	Consistent. The land is currently fully developed and hosts an existing commercial use. This planning proposal allows for additional stories on top of the existing building. If needed a detailed contamination assessment can be carried out at the development application stage.
Ministerial Direction 4.5 Acid Sulfate Soils	Consistent.
Ministerial Direction 4.6 Mine Subsidence and Unstable Land	Not applicable.
Ministerial Direction 5.1 Integrating Land Use and Transport	Consistent. The site is located in an area that is well serviced by existing public and private transport options.

Ministerial Direction	Response
Ministerial Direction 5.2 Reserving Land for Public Purpose	Not applicable.
Ministerial Direction 5.3 Development Near Regulated Airports and Defence Airfields	Not applicable.
Ministerial Direction 5.4 Shooting Ranges	Not applicable.
Ministerial Direction 6.1 Residential Zones	Consistent. The planning proposal does not prevent a residential use from occurring on the site under the current zoning and development standards. The planning proposal allows additional development to encourage commercial uses.
Ministerial Direction 6.2 Caravan Parks and Manufactured Home Estates	Not applicable.
Ministerial Direction 7.1 Business and Industrial Zones	Consistent. The planning proposal will encourage employment growth in a suitable location, as well as protect and support the viability of an area prioritised for commercial uses.
Ministerial Direction 7.2 Reduction in non-hosted short-term rental accommodation period	Not applicable.
Ministerial Direction 7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.
Ministerial Direction 8.1 Mining, Petroleum Production and Extractive Industries	Not applicable.
Ministerial Direction 9.1 Rural Zones	Not applicable.
Ministerial Direction 9.2 Rural Lands	Not applicable.
Ministerial Direction 9.3 Oyster Aquaculture	Not applicable.

Ministerial Direction	Response
Ministerial Direction 9.4 Farmland of State Regional Significance on the NSW Far North Coast	Not applicable.

## Section C – Environmental, social and economic impact

Question	City response
Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	No. This planning proposal would not significantly change the intensity of the use or development on the site. It is noted as well that the site is in a highly urbanised area and features no significant vegetation.
Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	No. As above, this planning proposal is for an increase in the amount of commercial floorspace available to an existing commercial use in a highly developed area. Any significant environmental effects would be adequately addressed by a future development application process.
Q9. Has the planning proposal adequately addressed any social and environmental effects?	This planning proposal will not result in any significant change to the planning controls, or the intensity of that use. No social or environmental effects are likely as an outcome of this proposal.

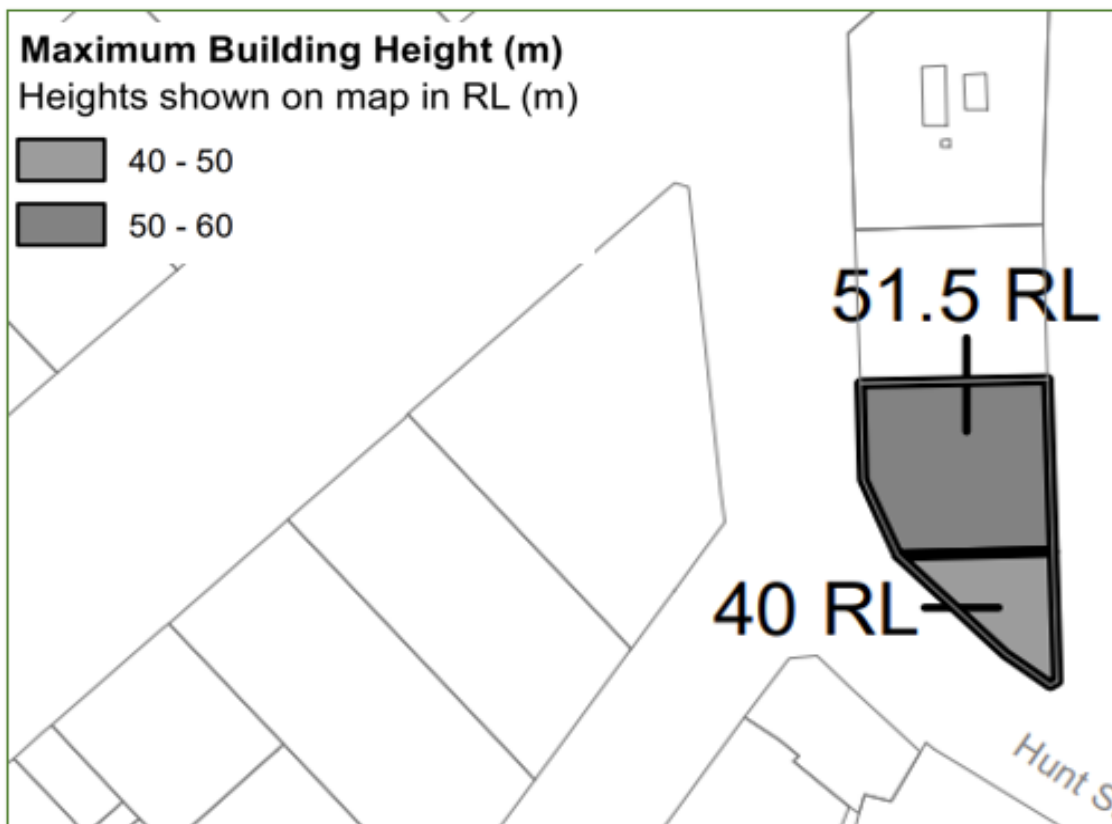
## Section D – State and Commonwealth interests

Question	City response
Q10. Is there adequate public infrastructure for the planning proposal?	Yes, there is adequate public infrastructure to support this planning proposal. It is noted that the site is located within close proximity to existing public and active transport infrastructure.
Q11. What are the views of the State and Commonwealth public authorities consulted in accordance with the Gateway determination?	The Gateway Determination will identify the public authorities to be consulted as part of the planning proposal process and any views expressed will be included in this planning proposal following consultation. Formal consultation has not yet commenced.

## 6. Mapping

To support the new provisions it is proposed to amend sheet HOB\_015 of the Alternate Height of Building Map adopted by the Sydney LEP, to identify the increased maximum building height described above (see Figure 11). The increased maximum FSR will be expressed in the text of Sydney LEP and not mapped.

**Figure 11. Proposed amendment to the Alternative Height of Building Maps**



## 7. Community consultation

This planning proposal is to be exhibited in accordance with the Gateway Determination once issued by the Department of Planning and Environment.

It is anticipated that the Gateway Determination will require public exhibition for a period of not less than 20 working days in accordance with the Environmental Planning and Assessment Act 1979 and s4.5 of the Department's guide to Preparing Local Environmental Plans.

Notification of the public exhibition will be consistent with the Gateway Determination and the City's Community Participation Plan. This will include publication on the City of Sydney website and notification via letters to surrounding owners and occupiers.

Consultation with relevant NSW agencies, authorities, and other referred entities will be undertaken if and where needed and in accordance with the Gateway Determination.

## 8. Project timeline

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

Stage	Timeframe
Commencement / Gateway Determination	June 2023
Government agency consultation	July 2023
Public exhibition	July 2023
Consideration of submissions	August-September 2023
Post-exhibition consideration of proposal	October 2023
Draft and finalise LEP	November-December 2023
LEP made	January 2024
Plan forwarded to the Department of Planning and Environment for notification	January 2024

