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Plan Finalisation Report – PP-2024-497

Build-to-rent and co-living housing in Central Sydney

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Sydney Local Environmental Plan 2012 (Amendment No 106).

1.1.2 Site Description

The planning proposal applies to land in the City of Sydney local government area (LGA) identified as Central Sydney in the Sydney LEP 2012 (**Figure 1**). Broadly, this land is bound by Sydney Harbour to the north, the Royal Botanic Gardens and Hyde Park to the east, railway yards and Central Station to the south, and Darling Harbour to the west.

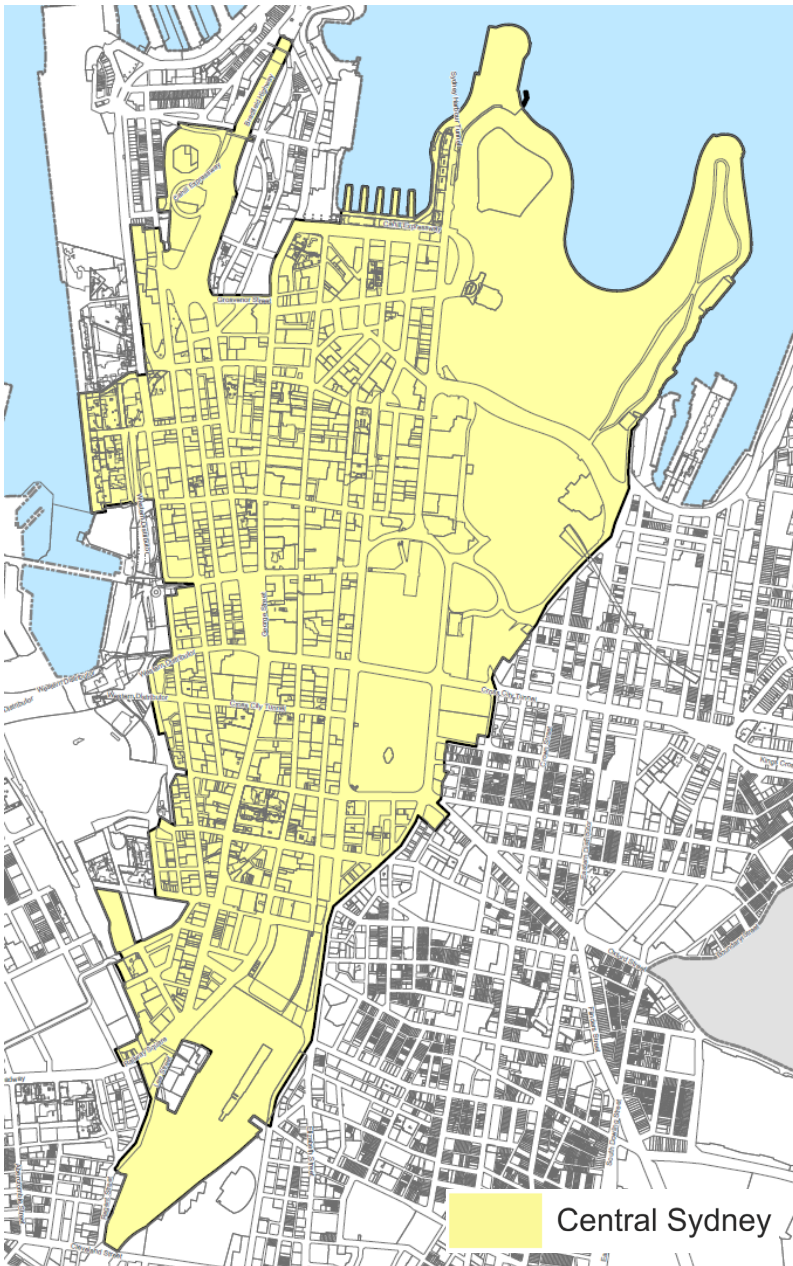


Figure 1 Central Sydney (Source: City of Sydney 2024)

1.1.3 Purpose of Plan

The objectives of the planning proposal are to:

- Support the delivery of build-to-rent (BTR) housing throughout Central Sydney and co-living housing in Haymarket without compromising long-term economic and jobs growth.
- Ensure BTR and co-living housing in Central Sydney is designed in a way that contributes to street activity and protects the amenity of future residents.
- Clarify the maximum car parking rates and FSRs that apply to BTR housing in Central Sydney.

The planning proposal seeks to amend the Sydney LEP 2012 to:

- Introduce a temporary accommodation floor space incentive, lasting 5 years (with a savings provision):
 - between 1.5:1 and 6:1 for BTR housing throughout Central Sydney (Areas 1-4 of the FSR Map (**Figure 2**)) (see **Table 1**)
 - 1.5:1 for co-living housing in Haymarket (Area 4 of the FSR Map (**Figure 2**)) (see **Table 1**).
- Require that BTR and co-living housing on land zoned SP5 Metropolitan Centre:
 - provide active frontages and non-residential uses on the ground floor to encourage street activity
 - not contain any dwellings on the first and second floors to provide a buffer between the street and the dwellings above.
- Set a maximum car parking rate for BTR housing in Central Sydney of 0.2 spaces for each dwelling.
- Clarify the planning controls for BTR housing in Central Sydney by introducing exclusions to provisions in *State Environmental Planning Policy (Housing) 2021* (the Housing SEPP) that are inconsistent with the intent of the planning proposal from land in Central Sydney.
- Clarify clause 6.4(1A), which relates to changes to accommodation floor space up until 1 July 2023, does not apply to BTR and co-living housing.
- Insert a definition of BTR housing in the Dictionary, consistent with the existing definition in the Housing SEPP.

Table 1 Proposed BTR and Co-Living Floor Space Incentives

Area on FSR Map	Base FSR	BTR Incentive FSR	Co-living Incentive FSR
Area 1	8:1	4.5:1	-
Area 2	8:1	6:1	-
Area 3	8:1	3.5:1	-
Area 4	7.5:1	1.5:1	1.5:1

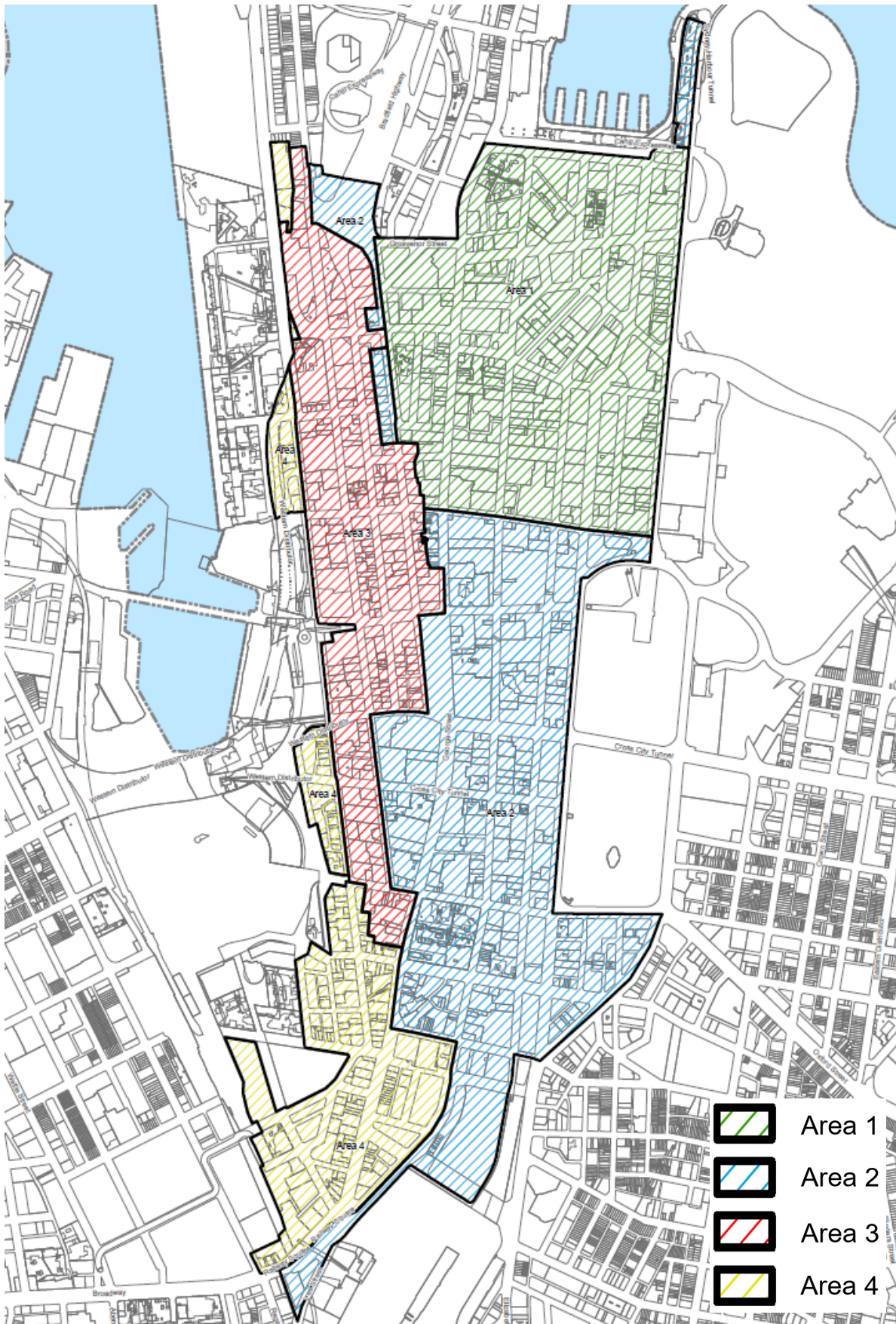


Figure 2 Areas 1-4 of the FSR Map (Source: City of Sydney 2024)

1.1.4 State and Federal Electorates

Central Sydney spans several State and Federal electorates (see **Table 2**).

Table 2 State and Federal Electorates

Electorate	Member
State	
Sydney	Alex Greenwich MP
Newtown	Jenny Leong MP
Federal	
Sydney	Tanya Plibersek MP

To the team’s knowledge:

- the MPs have not made any written representations regarding the planning proposal.
- There are no donations or gifts to disclose, and a political donation disclosure is not required.
- There have been no meetings or communications with registered lobbyists.

2 Gateway Determination and Alterations

The Gateway determination issued on 5 April 2024 (**Attachment B**) determined that the planning proposal should proceed subject to conditions. The Gateway determination has not been altered.

In accordance with the conditions of the Gateway determination, the planning proposal was updated prior to public exhibition to:

- Remove reference to *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* and *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*.
- Clarify that the proposed time-limited floor space incentives for BTR and co-living housing would apply to development applications lodged, but not determined, within 5 years of the LEP commencing.
- Provide a plain English justification for the proposed exclusions to the Housing SEPP.

The Department is satisfied that Council has met all the conditions of the Gateway determination.

The planning proposal was due to be finalised by 2 September 2024. Council formally submitted the planning proposal to the Department for finalisation on 3 July 2024. The extended completion time to make the LEP is considered minor in this instance as finalisation will occur within the benchmark timeframe, the intent of the planning proposal is clear, and it was exhibited in accordance with the Act.

3 Public Exhibition and Post-Exhibition Changes

In accordance with the Gateway determination, the planning proposal was publicly exhibited from 15 April to 14 May 2024.

Council sent approximately 16,500 letters to property owners within the Central Sydney area.

A total of 23 submissions were received during the public exhibition period, including:

- 15 individual community submissions.
- 8 submissions from organisations and industry groups, including Urbis, A+ Design Group, the Property Council of Australia, Urban Taskforce, GoGet, Mirvac, Scape and Stockland.

A summary of these submissions is provided in Council’s post exhibition report.

A submission was received from the NSW Department of Education after the public exhibition period had concluded (see **Section 3.2** below).

3.1 Submissions During Exhibition

Of the 23 submissions received during public exhibition, there were:

- 12 submissions supporting the planning proposal, or supportive but requesting further refinements.
- 6 submissions objecting to the planning proposal.
- 5 submissions raising other changes that should be considered to increase housing supply, or raising issues related to site-specific planning proposals.

Council’s post exhibition report provides a detailed response to issues raised in submissions.

The key issues raised in submissions, Council’s response, and the Department’s assessment of Council’s response is summarised in **Table 3** below.

Table 3 Summary of Key Issues

Issue Raised	Council and Department Response
Timeframe for Floor Space Incentive	
The proposed 5-year timeframe for the floor space incentive is too short. The timeframe should apply from the determination of a concept DA, not a detailed DA.	<p>Council Response:</p> <p>The objective of the time-limited floor space incentives is to encourage the supply of rental housing in Central Sydney in the short to medium-term. In response to submissions, Council has updated the planning proposal to:</p> <ul style="list-style-type: none">• Clarify that the timeframe applies to DAs lodged or determined within 5 years of the LEP commencing.• Include a savings provision to ensure detailed DAs can still take advantage of the floor space incentive after 5 years where they relate to a DA or concept DA for the same development that was made while the floor space incentives were still in effect. <p>Department Response:</p> <p>The Department is satisfied that Council’s updates to the planning proposal adequately respond to the matters raised. The proposed savings provision is discussed in further detail in Section 3.3.</p>

Issue Raised	Council and Department Response
Amount and Application of Floor Space Incentive	
<p>The floor space incentive for co-living housing should apply in all areas on the FSR Map.</p>	<p>Council Response:</p> <p>Council noted that the floor space incentives for co-living housing are proposed in Area 4 on the FSR Map (the southern part of Central Sydney) because this is where there is greatest demand for co-living housing, being close to universities, Ultimo TAFE and Royal Prince Alfred Hospital.</p> <p>Department Response:</p> <p>The Department considers that Council has adequately responded to the matters raised.</p>
<p>The floor space incentive for BTR and co-living housing should be the same as that available for non-residential uses in all areas on the FSR Map.</p>	<p>Council Response:</p> <p>Council noted that accommodation floor space has historically differed for different types of non-residential uses in different areas of the FSR Map. Council also noted that there are some areas on the FSR Map where the floor space incentive for BTR housing is greater than non-residential uses like office and business premises (e.g., Area 2 on the FSR Map).</p> <p>Department Response:</p> <p>The Department considers that Council has adequately responded to the matters raised.</p>
<p>The tower cluster provisions (clause 6.21E) should apply to BTR and co-living housing.</p>	<p>Council Response:</p> <p>Council noted that the intent of the tower cluster provisions is to incentivise the delivery of employment floor space critical to maintaining and strengthening the global competitiveness of Central Sydney.</p> <p>Council noted that the proposed floor space incentive would apply to BTR and co-living housing in the tower cluster areas of Central Sydney.</p> <p>Department Response:</p> <p>The Department considers that Council has adequately responded to the matters raised.</p>
Building Design	
<p>Some submissions raised concerns about the amenity impacts of allowing buildings to exceed the maximum building height and FSR.</p>	<p>Council Response:</p> <p>Council noted that the size and scale of BTR and co-living housing that could be delivered using the proposed floor space incentive would be no greater than what has previously been allowed in Central Sydney. Council is therefore confident that amenity impacts can be appropriately managed as part of future DAs. Council also noted that there is no change proposed to the maximum building heights in Central Sydney.</p>

Issue Raised	Council and Department Response
	<p>Department Response:</p> <p>The Department considers that Council has adequately responded to the matters raised.</p>
Application of Housing SEPP	
<p>The planning proposal should remove existing exclusions to the application of the Housing SEPP in clause 1.9(2A) and (2B).</p>	<p>Council Response:</p> <p>Council noted that proposed floor space incentive is significantly greater than those in the Housing SEPP and consistent with the Central Sydney Planning Strategy.</p> <p>Council also noted that changes to clause 1.9(2B) is outside the scope of the planning proposal because it does not apply to land in Central Sydney.</p> <p>Department Response:</p> <p>The Department considers that Council has adequately responded to the matters raised.</p>
Infrastructure Capacity	
<p>Some submissions raised concerns about the planning proposal:</p> <ul style="list-style-type: none"> • exceeding the capacity of existing water and sewerage infrastructure • increasing traffic and demand for car parking. 	<p>Council Response:</p> <p>Council noted that:</p> <ul style="list-style-type: none"> • Central Sydney is well serviced by public transport and utilities, including water and sewerage infrastructure. • Consultation with utility providers will occur as part of future DAs. <p>Department Response:</p> <p>The Department considers that Council has adequately responded to the matters raised.</p> <p>The Department also notes that trips generated by any new BTR and co-living housing are expected to be made predominately by walking, cycling or public transport, rather than private vehicles, given:</p> <ul style="list-style-type: none"> • The proposed maximum car parking rates will limit private vehicle usage. • Central Sydney is highly accessible by active and public transport, which will be further improved by new Sydney Metro stations opening in 2024.
Housing Affordability	
<p>Some submissions raised concerns about housing affordability in Central Sydney and queried whether new BTR and co-living housing would be affordable.</p>	<p>Council Response:</p> <p>Council noted that the intent of the planning proposal is to increase the diversity and overall supply of purpose-built rental housing in Central Sydney.</p> <p>Council also noted that future BTR and co-living housing development in Central Sydney will be required to make an</p>

Issue Raised	Council and Department Response
	<p>affordable housing contribution in accordance with Council's Affordable Housing Program.</p> <p>Department Response:</p> <p>The Department considers that Council has adequately responded to the matters raised.</p>

Other matters of concern raised by submissions included:

- That BTR and co-living housing should be allowed within existing approved developments without a new DA.
- That Council should prepare an implementation strategy for BTR and co-living housing in Central Sydney.
- The number of car share parking spaces that should be required for BTR and co-living housing.
- That changes are required to Council's *Guideline for Site Specific Planning Proposals in Central Sydney*.
- That the minimum site area for buildings taller than 55m in Central Sydney should be reduced.
- The need to limit short-term rental accommodation in Central Sydney.
- That dwellings should be permitted on the first and second floors of BTR and co-living housing in Central Sydney.

The Department is satisfied that these matters have been addressed by Council in their response to submissions.

3.2 Advice from Agencies

The Gateway determination did not require that Council consult with government agencies or public authorities.

The NSW Department of Education after the public exhibition period had ended. While the submission noted that the planning proposal would not directly affect schools, it raised concerns generally about policy changes and planning proposals potentially impacting the assumptions used by government agencies and public authorities to determine the demand for infrastructure. It stated that this could lead to educational establishments being at or above capacity in the future. The NSW Department of Education requested that Council monitor and consider the cumulative impact of population growth on planning for schools in the LGA.

Council noted the feedback from the NSW Department of Education. Council also noted that:

- It publishes population forecasts and an annual housing audit and development monitor on its website.
- The common planning assumptions used by government agencies and public authorities are the responsibility of the NSW Government.

The Department considers that the matters raised by the NSW Department of Education have been satisfactorily addressed by Council.

3.3 Post-Exhibition Changes

3.3.1 Council Resolved Changes

At its meeting on 20 June 2024, Council resolved to submit the planning proposal for finalisation, subject to the following post-exhibition changes:

- Clarifying that the proposed time-limited floor space incentives for BTR and co-living housing will apply to DAs lodged within 5 years of the LEP amendment commencing.
- Including a savings provision to ensure that detailed DAs can still take advantage of the floor space incentives for BTR and co-living housing after the 5-year period has ended where they follow on from a concept DA that:
 - was lodged within 5 years of the changes to the LEP commencing
 - relied on the floor space incentives for BTR and co-living housing.
- Clarifying that the tower cluster and site-specific provisions in the Sydney LEP 2012 are opt-in provisions and that the 'base' LEP provisions remain available to BTR and co-living housing development in Central Sydney.

3.3.2 The Department's Recommended Changes

The Department is of the view that it is already sufficiently clear where and to what development the tower cluster and site-specific provisions apply under the Sydney LEP 2012. For this reason, Council's suggested post-exhibition change has not been included in the draft LEP.

If Council has specific concerns about the operation of the tower cluster provisions or certain site-specific provisions, these could be explained and justified through a separate proposal.

3.3.3 Justification for Post-Exhibition Changes

The Department supports Council's post exhibition change to including a savings provision for the proposed floor space incentives to ensure that they apply to DAs lodged or determined within 5 years of the LEP commencing.

While the savings provision did not form part of the exhibited planning proposal, it would provide greater certainty and transparency regarding when and where the proposed incentives apply. It would also:

- Respond to feedback received in submissions that the timeframe for the proposed floor space incentives would not allow enough time for the preparation and approval of a concept DA and subsequent detailed DA.
- Replicate the approach taken for comparable amendments to the Sydney LEP 2012 (e.g. Sydney LEP 2012 Amendment No 64).

The Department notes that this post-exhibition change is justified and does not require re-exhibition of the planning proposal. The changes are relatively minor and would not alter the overall intent of the planning proposal nor result in any significant additional impacts.

4 Department's Assessment

The planning proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement (see **Section 3**).

The following section reassesses the proposal against relevant directions issued by the Minister for Planning and Public Spaces under section 9.1 of the *Environmental Planning and Assessment Act*

1979 (EP&A Act) (section 9.1 Directions), SEPPs, the Region Plan and District Plan, and Council's Local Strategic Planning Statement.

The following tables identify that the proposal as submitted for finalisation is consistent with the assessment undertaken at the Gateway determination stage.

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 5 Summary of Site-Specific Assessment

Site-Specific assessment	Consistent with Gateway Determination Assessment	
Social and Economic Impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Environmental Impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

5 Post-Assessment Consultation

After assessing the planning proposal, the Department consulted with the stakeholders identified in **Table 5** when preparing the draft LEP.

Table 4 Consultation following the Department's Assessment

Stakeholder	Consultation	Department is satisfied with draft LEP
Council	<p>Council was consulted on the terms of the draft instrument under section 3.36(1) of the EP&A Act (Attachment D).</p> <p>Council's response to the draft LEP was received on 27 November 2024 (Attachment E). Council raised some concerns regarding the wording of the draft LEP. The Department is satisfied that</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

Stakeholder	Consultation	Department is satisfied with draft LEP
	Council's concerns have been adequately addressed in the draft LEP.	
Parliamentary Counsel's Office	Parliamentary Counsel issued a Certificate on 12 December 2024 that the draft LEP is in an appropriate form for it to be published on the NSW Legislation website.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

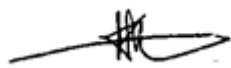
6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under section 3.36(2)(a) of the EP&A Act because:

- It is consistent with the strategic planning framework, including the Region Plan, District Plan, Local Strategic Planning Statement, Community Strategic Plan, and Local Housing Strategy.
- It is consistent with the Gateway determination.
- Issues raised during consultation have been addressed and there are no outstanding objections from government agencies or public authorities.
- It would support the delivery of well-designed BTR and co-living housing in Central Sydney, which would add housing diversity without constraining long-term economic and jobs growth.



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