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Gateway Determination Report – PP-2024-709

City of Sydney Policy and Housekeeping Planning Proposal

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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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Relevant reports and plans
Planning Proposal (March 2024)
A – Local Environmental Plan Amendments (March 2024)
B – Local Environmental Plan Map Book (March 2024)
C – Draft Sydney Development Control Plan 2012 (December 2023)
D – Draft City of Sydney Competitive Design Policy (March 2024)
E – Guidelines for Waste Management in New Developments (March 2024)
F – Landscape Code Amendment (March 2024)

1 Planning Proposal

1.1 Overview

Table 2 Planning Proposal Details

LOCAL GOVERNMENT AREA (LGA)	City of Sydney
PLANNING PROPOSAL AUTHORITY	City of Sydney Council
NAME	Policy and Housekeeping Planning Proposal
NUMBER	PP-2024-709
LEPS TO BE AMENDED OR REVOKED	Sydney Local Environmental Plan 2005 Sydney Local Environmental Plan 2012 Sydney Local Environmental Plan (Harold Park) 2011 Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011 South Sydney Local Environmental Plan 1998 Sydney Local Environmental Plan (Green Square Town Centre) 2013 Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013
RECEIVED	3/04/2024
FILE NO.	IRF24/2066
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1.2 Objectives of the 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:

- Update planning controls to respond to changes in the LGA.
- Improve the clarity and useability of the LEPs that apply in the LGA.
- Facilitate development that aligns with the outcomes sought under Council's Local Strategic Planning Statement and Community Strategic Plan.
- Integrate the planning controls for various precincts into the Sydney LEP 2012.

The objectives of this planning proposal are clear and adequate.

1.3 Site Description and Surrounding Area

This planning proposal applies land in the City of Sydney LGA identified as ‘included areas’ in **Figure 1** below. The planning controls for ‘excluded areas’ will remain in other environmental planning instruments (EPIs), including *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021* (Eastern Harbour City SEPP) and the *Sydney Cove Redevelopment Authority (SCRA) Scheme*.

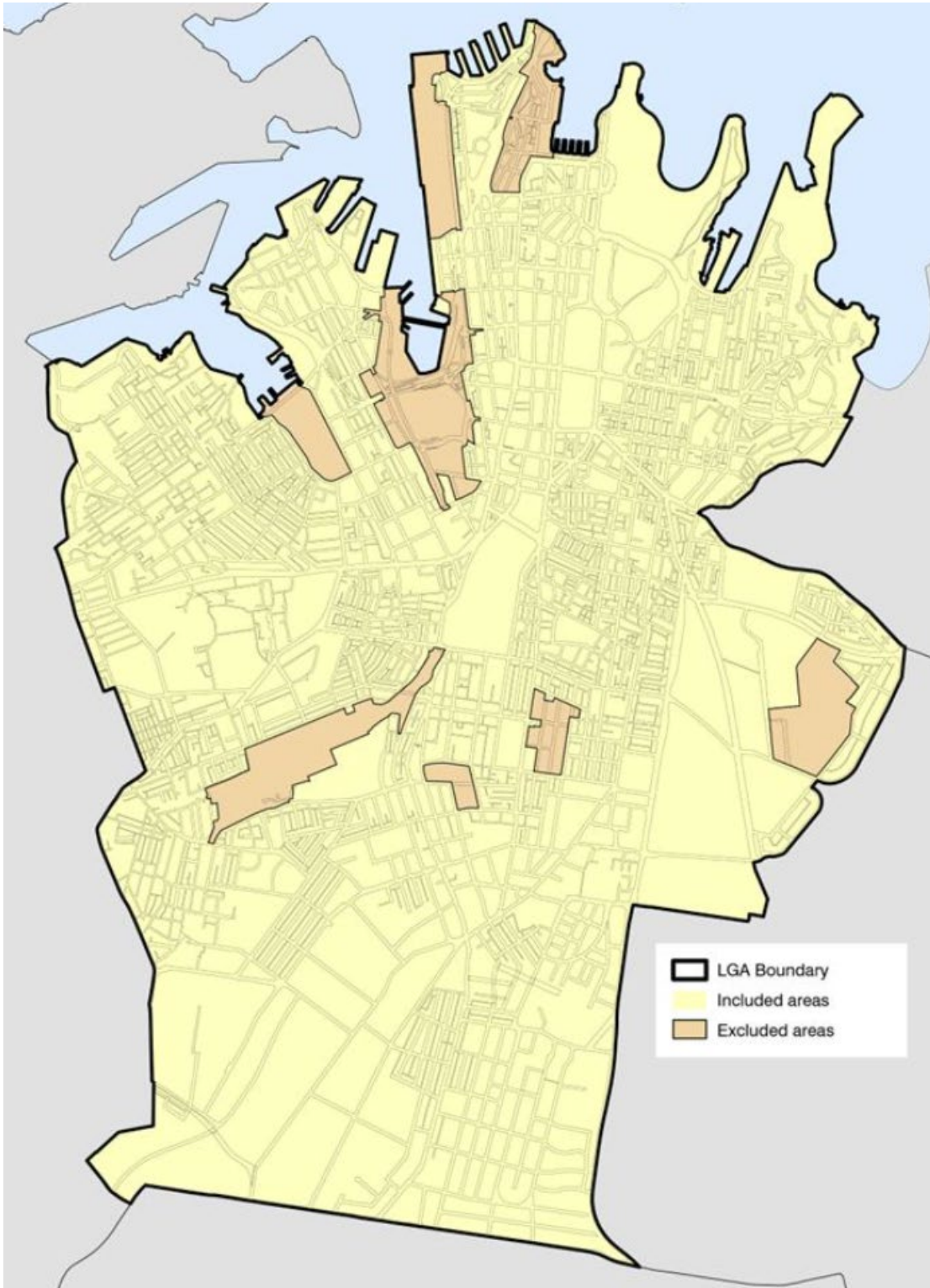


Figure 1 Land in the City of Sydney LGA subject to the Planning Proposal (Source: Council)

1.4 Explanation of Provisions

This planning proposal seeks to make various policy and housekeeping amendments to *Sydney Local Environmental Plan 2012* (Sydney LEP 2012), *Sydney Local Environmental Plan (Green Square Town Centre) 2013* and *Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013* (Green Square Town Centre LEPs 2013).

It also seeks to transfer the planning controls for various sites across the LGA from ‘legacy’ LEPs and the Eastern Harbour City SEPP into the Sydney LEP 2012.

An explanation of the proposed amendments is provided below. The final wording of clauses amended or introduced by the planning proposal would be subject to drafting and agreement by the Parliamentary Counsel’s Office. The proposed amendments are discussed in further detail below.

The planning proposal is accompanied by amendments to the Sydney Development Control Plan 2012 (Sydney DCP 2012) (see **Appendix C**).

1.4.1 Amendment 1 – Deep Soil Zones

The planning proposal seeks to amend the Sydney LEP 2012 and Green Square Town Centre LEPs 2013 to introduce a new clause requiring the consent authority to consider whether development includes deep soil zones sufficient to support the growth of trees. The new clause would not apply to land in Central Sydney.

It also seeks to introduce a definition of deep soil zones and make the provision of deep soil and tree planting:

- A mandatory consideration for the consent authority when determining whether a development exhibits design excellence.
- A matter that must be addressed when preparing a development control plan (DCP).

The proposed definition of a deep soil zone is different to the definition of a deep soil zone in the *State Environmental Planning Policy (Housing) 2021* (the Housing SEPP). This would mean that there would be multiple definitions of a deep soil zone applying across the LGA and in some cases to the same development application (DA).

To avoid complicating the DA process, a Gateway condition is recommended requiring the planning proposal to be updated prior to public exhibition to remove the proposal to add a definition of a deep soil zone that differs from the one in the Housing SEPP.

While the Department is supportive of measures to increase landscaping and tree planting, the new standalone clause would duplicate existing and proposed requirements in the Sydney LEP 2012 and Green Square Town Centre LEPs 2013. This includes the proposal to make the provision of deep soil and tree plantings a mandatory consideration for the consent authority when determining whether a development exhibits design excellence, which would apply to the erection of new buildings and significant alterations to existing buildings.

Requiring the consent authority to consider the provision of deep soil and tree planting when determining whether a development exhibits design excellence is considered more appropriate than introducing a new clause applying to all development across most of the LGA, including development where the provision of deep soil and tree planting is not relevant, such as shop fitouts and minor works to existing homes.

The Department also notes that requirements for deep soil are already included in the Apartment Design Guide and the Housing SEPP. The draft amendments to the Sydney DCP 2012 prepared by Council also contain detailed requirements for what constitutes sufficient deep soil and tree planting, including the size and amount of deep soil zones to be provided for different types of development and different sized sites.

For these reasons, a Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to remove the proposal to add a new deep soil clause to the Sydney LEP 2012 and the Green Square Town Centre LEPs 2013.

1.4.2 Amendment 2 – Structures Associated with Green Roofs

The planning proposal seeks to amend the Sydney LEP 2012 to encourage the use of rooftops for communal open space and gardens.

This would be achieved by allowing structures associated with rooftop gardens and communal open space (such as stairs, lift overruns, shading and toilets) to exceed the maximum building height, subject to meeting certain design requirements. The design requirements proposed by Council include that:

- A minimum of 30% of the roof must be used as a communal garden.
- An additional 15% of the roof must be used as a mix of communal open space and garden, with open and minimal structures.
- Areas of the roof not used as gardens, communal open space, solar panels or other plant and equipment must have a minimum Solar Reflectivity Index of:
 - 82 or more for non-glazed surfaces at roof level up to an angle of 45 degrees or less
 - 39 or more for non-glazed surfaces at roof level with an angle of more than 45 degrees.
- Roof structures must be compatible with the scale of the area and fully integrated into the design of the roof.
- Roof structures must not include signage, add to the gross floor area (GFA) of the building (except where it is for an accessible bathroom), or result in more than minimal overshadowing of adjoining land.

The proposed exemption to the maximum build height for rooftop structures would not apply to land on which a heritage item is located, in a heritage conservation area without a mapped maximum building height, or in Central Sydney.

While the Department supports making it easier to use rooftops for communal open space and gardens, some of the detailed design requirements proposed by Council are better suited for inclusion in the Sydney DCP 2012, rather than the Sydney LEP 2012.

A Gateway condition is therefore recommended requiring that the planning proposal be updated to remove the detailed design requirements for:

- The solar reflectivity of non-glazed surfaces
- The percentage of the roof that must be used as a communal open space and gardens.

1.4.3 Amendment 3 – Parking in New Developments

1.4.3.1 Amendments to the Public Transport Accessibility Level and the Land Use and Transport Integration Maps

The planning proposal seeks to amend the Public Transport Accessibility Level (PTAL) Map and the Land Use and Transport Integration (LUTI) Map in the Sydney LEP 2012.

These maps categorise the accessibility of different areas by public transport and walking. They are used to help determine the maximum car parking rates for most residential and non-residential uses. The PTAL Map categorises the accessibility of non-residential uses and the LUTI Map categorises the accessibility of residential uses. Different car parking rates apply to the different accessibility categories shown on the PTAL and LUTI maps.

The planning proposal states that updates to the PTAL and LUTI maps, which were developed in 2009, are needed to:

- Include the new areas proposed to be integrated into the Sydney LEP 2012 (see **Section 1.4.19**).
- Reflect how levels of accessibility have and will change, particularly as a result of new transport infrastructure like the Sydney Metro and the CBD and South East Light Rail.

The proposed changes to the PTAL and LUTI maps are shown at **Appendix A**.

1.4.3.2 Changes to Car Parking Rates

The planning proposal seeks to amend the car parking rates in the Sydney LEP 2012 for various land uses. The proposed car parking rates are summarised in **Table 3**.

Table 3 Proposed Car Parking Rates

Type of Development	Proposed Change																				
Residential																					
Residential Flat Buildings, Dual Occupancies and Multi Dwelling Housing	<p>The planning proposal seeks to reduce car parking rates for residential flat buildings, dual occupancies and multi dwelling housing to better align with existing rates of car ownership. The existing and proposed car parking rates are shown in Table 4 below.</p> <p>Table 4 Proposed Car Parking Rates for Residential Flat Buildings, Multi Dwelling Housing and Dual Occupancies</p> <table><tr><th>Dwelling</th><th>LUTI A</th><th>LUTI B</th><th>LUTI C</th></tr><tr><td>Studio</td><td>0.1</td><td>0.2 0.15</td><td>0.4 0.3</td></tr><tr><td>1 Bedroom</td><td>0.3 0.25</td><td>0.4</td><td>0.5</td></tr><tr><td>2 Bedroom</td><td>0.7 0.5</td><td>0.8 0.7</td><td>1 0.9</td></tr><tr><td>3+ Bedroom</td><td>1</td><td>1.1 1</td><td>1.2</td></tr></table> <p>Visitor Car Parking</p> <p>The planning proposal seeks to ensure that the number of visitor car parking spaces provided for residential flat buildings, dual occupancies and multi dwelling housing is in proportion to the total number of car parking spaces provided.</p> <p>Savings Provision</p> <p>The planning seeks to insert a savings provision for land at 118-130 Epsom Road, Zetland so that the maximum number of car parking spaces is the number permissible under Sydney LEP 2012 as at December 2023.</p>	Dwelling	LUTI A	LUTI B	LUTI C	Studio	0.1	0.2 0.15	0.4 0.3	1 Bedroom	0.3 0.25	0.4	0.5	2 Bedroom	0.7 0.5	0.8 0.7	1 0.9	3+ Bedroom	1	1.1 1	1.2
Dwelling	LUTI A	LUTI B	LUTI C																		
Studio	0.1	0.2 0.15	0.4 0.3																		
1 Bedroom	0.3 0.25	0.4	0.5																		
2 Bedroom	0.7 0.5	0.8 0.7	1 0.9																		
3+ Bedroom	1	1.1 1	1.2																		
Dwelling Houses, Attached Dwellings and Semi-Detached Dwellings	<p>To simplify the car parking rates for dwelling houses, attached dwellings and semi-detached dwellings, the planning proposal seeks to apply a maximum car parking rate of 2 spaces per dwelling across the LGA. This is higher than the current rate for LUTI Category A and B. It is the same as the current rate for LUTI Category C.</p>																				
Co-living Housing	<p>The planning proposal states that the car parking rates for boarding houses are proposed to apply to co-living housing. However, the Sydney LEP 2012 does not contain car parking rates for boarding houses. A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to clarify the proposed car parking rates for co-living housing.</p>																				

Non-Residential

Office Premises and Business Premises	<p>The planning proposal seeks to reduce the car parking rates for office premises and business premises in high accessibility areas by:</p> <ul style="list-style-type: none">Reducing the car parking rate for PTAL Category D by approximately a third.Introducing a new accessibility category for Central Sydney. The new car parking rate for Central Sydney would be approximately half the current car parking rate for PTAL Category D. <p>The planning proposal also seeks to simplify the formula for calculating car parking rates.</p>												
Retail Premises	<p>The planning proposal seeks to:</p> <ul style="list-style-type: none">Reduce the maximum car parking rates for retail premises in PTAL Category D with an FSR of more than 3:1 by approximately a third.Simplify the formula used for calculating car parking rates for retail premises with an FSR or more than 3.5:1.												
Serviced Apartments and Hotel or Motel Accommodation	<p>The planning proposal seeks to introduce car parking rates for serviced apartments and hotel and motel accommodation that are based on the accessibility of different areas. The existing and proposed car parking rates are shown in Table 5.</p> <p>Table 5 Proposed Car Parking Rates for Hotel or Motel Accommodation and Serviced Apartments</p> <table><tr><th></th><th>Central Sydney</th><th>PTAL D & E</th><th>PTAL F</th></tr><tr><td>Existing</td><td colspan="3"><ul style="list-style-type: none">1 space for every 4 bedrooms up to 100 bedrooms1 space for every 5 bedrooms more than 100 bedrooms.</td></tr><tr><td>Proposed</td><td>1 space per 10 rooms</td><td>1 space per 5 rooms</td><td>1 space per 4 rooms</td></tr></table> <p>The proposed car parking rate for Central Sydney is approximately half the current rate. The proposed car parking rate for PTAL Category D and E is lower than the current rate for the first 100 bedrooms and the same as the current rate above 100 bedrooms. The proposed car parking rate for PTAL Category F is higher than the current rate.</p> <p>Council is also seeking that the car parking rates for these uses be expressed per 'rooms', rather than 'bedrooms' (as currently in the LEP). The planning proposal states that this is because the reference to 'bedrooms' has caused uncertainty as serviced apartments tend to have more bedrooms per unit than a hotel or motel.</p> <p>To make the car parking rates clearer, the planning proposal seeks to include a note clarifying that a room refers to a self-contained hotel or motel room and a serviced-apartment premises.</p>		Central Sydney	PTAL D & E	PTAL F	Existing	<ul style="list-style-type: none">1 space for every 4 bedrooms up to 100 bedrooms1 space for every 5 bedrooms more than 100 bedrooms.			Proposed	1 space per 10 rooms	1 space per 5 rooms	1 space per 4 rooms
	Central Sydney	PTAL D & E	PTAL F										
Existing	<ul style="list-style-type: none">1 space for every 4 bedrooms up to 100 bedrooms1 space for every 5 bedrooms more than 100 bedrooms.												
Proposed	1 space per 10 rooms	1 space per 5 rooms	1 space per 4 rooms										
Places of Public Worship and Entertainment Facilities	<p>The planning proposal seeks to remove the maximum car parking rates for places of public worship and entertainment facilities by deleting clause 7.9(5). Car parking rates for these types of development would instead be determined by project-specific parking and access assessments prepared to support DAs.</p>												

1.4.3.3 Community Electric Vehicle Chargers

The planning proposal seeks to amend the Sydney LEP 2012 to exclude 'community electric vehicle charging spaces' from being counted towards the maximum number of car parking spaces that can be provided under clause 7.2.

This would help remove barriers to their installation, particularly for existing developments where the maximum number of car parking spaces is already provided.

It is also proposed to define a 'community electric vehicle charging space' as a car parking space in a building that:

- Is publicly accessible to any person 24 hours a day for the purposes of charging electric vehicles.
- Is used exclusively to charge the batteries of electric vehicles using a direct current electric vehicle charging standard of at least 50 kilowatts.
- Is not used by non-electric vehicles at any time.
- Includes a payment system to charge users for their usage.
- Has net zero emissions from energy used, including by using renewable energy generated on-site and off-site.

While the Department supports removing barriers to the installation of community electric vehicle chargers, some of the detailed design requirements proposed by Council are better suited for inclusion in the Sydney DCP 2012, rather than the Sydney LEP 2012.

A Gateway condition is therefore recommended requiring that the planning proposal be updated to remove the detailed design requirements for:

- A payment system to charge users.
- Net zero emissions from energy used, including by renewal energy generated on-site and off-site.

1.4.3.4 Bicycle Parking Devices as Exempt Development

The planning proposal seeks to amend the Sydney LEP 2012 and Green Square Town Centre LEPs 2013 to make development for the purposes of 'bicycle parking devices' in existing developments exempt development. This includes bicycle racks, rails and lockers. It is proposed that to qualify as exempt development, the installation of bicycle parking devices would need to be in accordance with *Australian Standard AS 2890.3-2015 (Parking Facilities, Part 3: Bicycle Parking)*. The proposed amendment would mean that installing bicycle parking devices would not require development consent from Council.

However, reference to the proposed exempt development provision applying 'within existing developments' is considered too vague. A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to clarify where the proposed exempt development provision would apply.

1.4.3.5 Electric Vehicle Charging Units as Exempt Development

The planning proposal seeks to amend the Sydney LEP 2012 and Green Square Town Centre LEPs 2013 to make development for the purposes of installing an electric vehicle charging unit in a car parking space exempt development.

However, since the planning proposal was submitted, *State Environmental Planning Policy (Transport and Infrastructure) 2021* (the Transport and Infrastructure SEPP) has been amended to clarify that development for the purposes of installing an electric vehicle charging unit in a car parking space is exempt development (under section 2.124D).

A Gateway condition is therefore recommended requiring that the planning proposal be updated prior to public exhibition to remove the proposed exempt development provision for electric vehicle charging units.

1.4.4 Amendment 4 – Protection of Sun Access to Gunyama Park and Cook and Phillip Park

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

- Introduce new sun access planes to protect Gunyama Park (see **Figure 2**) from overshadowing between 9am and 3pm, all year round. Buildings would be restricted from protruding above the sun access planes by clause 6.17.
- Require that new buildings not cause additional overshadowing of Cook and Phillip Park (see **Figure 3**) between 9am and 2pm, all year round, by adding it to the list of protected public spaces in clause 6.18.

For Cook and Phillip Park, additional overshadowing would not be allowed to exceed the 'theoretical' overshadowing that would be cast by a wall constructed to RL 37.6m along the southern alignment of St Mary's Cathedral, plus any existing overshadowing. This would allow for future alterations and additions to buildings immediately to the east of St Mary's Cathedral, including Cathedral House and St Mary's Cathedral College.

To give effect to the proposed amendments:

- Both Gunyama Park and Cook and Phillip Park would be identified on the Sun Access Protection Map.
- Technical descriptions of the sun access planes for Gunyama Park would be added to Schedule 6A.

The planning proposal also seeks to remove land identified as 'Land affected by Sun Access Planes' from the Sun Access Protection Map. This information would instead be included in the Sydney DCP 2012.



Figure 2 – Gunyama Park (Source: Planning Proposal)



Figure 3 – Cook and Phillip Park (Source: Planning Proposal)

The planning proposal does not include adequate justification for the proposed restrictions on overshadowing of Gunyama Park and Cook and Phillip Park. A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to provide a detailed:

- Justification for the proposed restrictions on overshadowing, including the times of day and year when overshadowing would be limited.
- Assessment of the potential impacts of the proposed overshadowing restrictions on existing and future development in the surrounding area.

The draft Sun Access Protection Map submitted with the planning proposal shows 'Central Station', including the Western Forecourt, Railway Square and parts of George Street, Lee Street and Pitt Street as 'Land Protected by Sun Access Planes'. This is not mentioned or justified in the planning proposal.

A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to remove the land shown as 'Central Station' from the draft Sun Access Protection Map.

1.4.5 Amendment 5 – Solar Energy Systems as Exempt Development

The planning proposal seeks to amend the Sydney LEP 2012 and Green Square Town Centre LEPs 2013 to make development for the purposes of solar energy systems (e.g. solar panels and ancillary equipment) exempt development on land containing State or local heritage items or in a heritage conservation area, so long as it does not protrude more than 0.5m from a building and is not attached to any wall or roof of a building facing a primary road.

1.4.6 Amendment 6 – Basement Intensive Plant Agriculture

The planning proposal seeks to amend the Sydney LEP 2012 to encourage intensive plant agriculture in the basements of existing buildings. To do so, it proposes to exclude floor space used for intensive plant agriculture in the basement of existing buildings from the calculation of GFA.

This approach is inconsistent with other floor space incentives in the Sydney LEP 2012 and would make the calculation of GFA and the maximum FSR unnecessarily complicated.

A Gateway condition is therefore recommended requiring that the planning proposal be updated prior to public exhibition to align the approach to incentivising basement intensive plant agriculture with existing clauses in Part 6 of the Sydney LEP 2012, such as clauses 6.5, 6.5A and 6.6.

1.4.7 Amendment 7 – Superseded Sustainability Targets for some Residential Development

The planning proposal seeks to amend the Sydney LEP 2012 to remove the Building Sustainability Index (BASIX) energy targets for:

- Central Sydney
- 2-32 Junction Street, Forest Lodge
- 600-660 Elizabeth Street, Redfern
- Botany Road Opportunity Land.

The planning proposal states that the site-specific BASIX energy targets are no longer required because the intended outcomes are now secured through the *State Environmental Planning Policy (Sustainable Buildings) 2022* (the Sustainable Building SEPP), which commenced on 1 October 2023.

1.4.8 Amendment 8 – Design Excellence Processes and Site-Specific Development Control Plans

The planning proposal seeks to make various changes to the requirements for design excellence and competitive design processes.

The proposed amendments to the Sydney LEP 2012 would:

- Permit the consent authority to award a bonus of up to 10% additional building height *and* up to 10% additional floor space to a building demonstrating design excellence as the result of a competitive design process. Currently, proponents must choose between a building height or floor space bonus.
- Increase the height at which a competitive design process is required on land outside of Central Sydney from 25m to 35m.

The proposed amendments to the Sydney LEP 2012 and the Green Square Town Centre LEPs 2013 would:

- Consolidate the two existing competitive design processes. The preparation of design alternatives on a competitive basis would no longer be a competitive design process.
- Introduce a new streamlined alternative design review process (in place of an architectural design competition) for social and affordable housing projects by Tier 1 Community Housing Providers (CHPs).
- Add the internal layout and amenity of a building to the list of matters the consent authority must consider when determining whether a development exhibits design excellence.
- Ensure design excellence requirements apply to both the erection of a new building and significant alterations to an existing building.
- Remove the ability for proponents to voluntarily undertake a competitive design process where it is not required by the LEP.
- Streamline the process for waiving the requirement for competitive design processes by allowing Council, rather than the consent authority, to certify in writing that a competitive design process is not required.

While the proposal to streamline the process for granting waivers for competitive design processes is supported, it is not considered appropriate for Council to be responsible for granting waivers in circumstances where the consent authority for a DA is not Council, the City of Sydney Local Planning Panel (the Local Planning Panel), or the Central Sydney Planning Committee.

A Gateway condition is therefore recommended requiring the planning proposal to be updated prior to public exhibition to make it clear that Council would be responsible for granting exemptions for competitive design processes for DAs that are to be determined by Council, the Local Planning Panel, or the Central Sydney Planning Committee.

Updates to the Competitive Design Policy

Council is also proposing to make various updates to the *City of Sydney Competitive Design Policy* (Competitive Design Policy) to:

- Allow for the approval of a Design Excellence Strategy by Council in circumstances where a concept DA or site-specific DCP is not required.
- Reflect the consolidation of existing competitive design processes.
- Establish the new alternative design review process for affordable and social housing projects by CHPs.

- Provide additional guidance on design competitions, including requirements for jury composition, submissions, competitors, and the contents of a Design Excellence Strategy.

The draft updates to the Competitive Design Policy are provided at **Appendix D**. To give effect to the changes to the Competitive Design Policy, the planning proposal seeks to amend the Sydney LEP 2012 and the Green Square Town Centre LEPs 2013 so that they reference the latest version of Competitive Design Policy.

Some of the proposed changes to the Competitive Design Policy do not reflect the differences in the roles and requirements of Council and the Government Architect NSW for competitive design processes for State Significant Development (SSD) applications.

A Gateway condition is recommended requiring that Council consult with Government Architect NSW on the proposed changes to the Competitive Design Policy.

1.4.8.1 Site-Specific DCPs

Clause 7.20 of the Sydney LEP 2012 generally requires the preparation of a DCP for sites:

- Outside of Central Sydney with an area greater than 5,000m² or where development will have a height greater than 25m.
- In Central Sydney with an area greater than 1,500m² or where development will have a height greater than 55m.

The requirement to prepare a DCP is often satisfied through the approval of a concept DA.

To help reduce the number of site-specific DCPs and concept DAs required, the planning proposal seeks to amend the Sydney LEP 2012 to:

- Increase the height at which a site-specific DCP is required on land outside of Central Sydney from 25m to 35m.
- Streamline the process for waiving the requirement to prepare site-specific DCPs by allowing Council, rather than the consent authority, to certify in writing that a site-specific DCP is not required.

While the proposal to streamline the process for granting waivers for site-specific DCPs is supported, it is not considered appropriate for Council to be responsible for granting waivers in circumstances where the consent authority for the detailed DA is not Council, the Local Planning Panel, or the Central Sydney Planning Committee.

A Gateway condition is therefore recommended requiring the planning proposal to be updated prior to public exhibition to make it clear that Council would be responsible for granting exemptions for site-specific DCPs where the detailed DA is to be determined by Council, the Local Planning Panel, or the Central Sydney Planning Committee.

1.4.9 Amendment 9 – Change to Metropolitan Centre Zone and Central Sydney Boundary

The planning proposal seeks to amend the Sydney LEP 2012, as it relates to the Powerhouse Museum at 500 Harris Street, Ultimo to:

- Rezone the site from MU1 Mixed Use to SP5 Metropolitan Centre (see **Figure 4** and **Figure 5**).
- Identify the site as part of 'Central Sydney' on the Locality and Site Identification Map (see **Figure 6** and **Figure 7**).

- Identify the site as eligible for an award of Heritage Floor Space by amending Schedule 5 (Environmental Heritage).

This would expand the range of permissible land uses and turn on various local provisions under the Sydney LEP 2012 that apply to land in Central Sydney, including those dealing with competitive design processes, the design of tall buildings, eligibility for additional floor space, and the preparation of site-specific DCPs.

The planning proposal states that the proposed amendments would ‘help meet the strategic objectives of Council’s Central Sydney Planning Strategy’ and ‘better align with the role that the Powerhouse Museum has as a cultural and tourist facility critical to maintaining the diversity of Global Sydney.’

This justification is insufficient and a Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to clearly justify the proposed change to the planning controls for the Powerhouse Museum.

A Gateway condition is also recommended requiring that Council consult with the NSW Department of Creative Industries, Tourism, Hospitality and Sport.



Figure 4 – Existing Land Use Zoning Map (Source: Sydney LEP 2012)



Figure 5 – Proposed Land Use Zoning Map (Source: Planning Proposal)

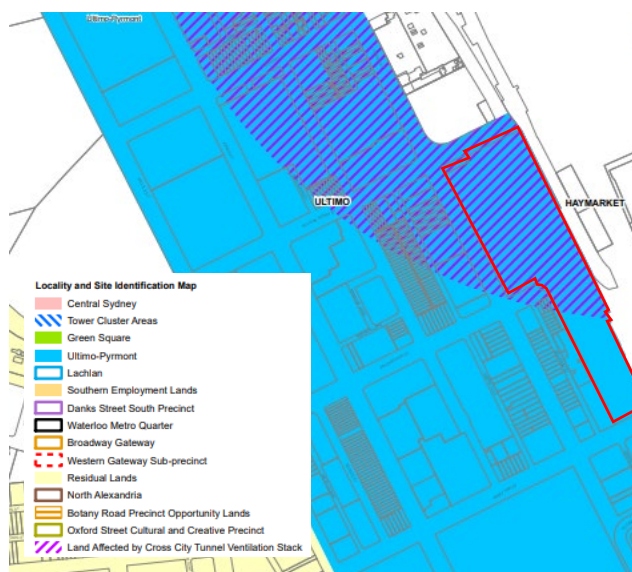


Figure 6 – Existing Locality and Site Identification Map (Source: Sydney LEP 2012)



Figure 7 – Proposed Locality and Site Identification Map (Source: Planning Proposal)

1.4.10 Amendment 10 – Additional uses for accommodation floor space in Central Sydney

To help encourage a mix of non-residential land uses in Central Sydney the planning proposal seeks to amend the Sydney LEP 2012 to add the following land uses to the list of land uses eligible for additional floor space under clause 6.4(1) (known as ‘accommodation floor space’):

- Public administration building
- Indoor recreation facilities
- Registered clubs
- Place of public worship
- Local distribution premises.

This would mean that where development includes any of these land uses, it would be eligible for an amount of additional floor space on top of the base FSR. Council is seeking to incentivise the delivery of these land uses because they believe that they contribute to the economic vitality and global function of Central Sydney.

Consistent with the current approach for accommodation floor space, the amount of additional floor space available would vary depending on which area of the FSR Map a site is in.

1.4.11 Amendment 11 – Superseded Opportunity sites in Central Sydney

The planning proposal seeks to amend the Sydney LEP 2012 to remove the opportunity site floor space incentive under clause 6.9.

Clause 6.9 provides an amount of additional floor space (known as ‘opportunity site floor space’) for development on certain ‘opportunity sites’ identified on the Opportunity Sites Map that delivers a more consistent alignment between buildings and the street. This includes relocating driveways and ramps, reconfiguring pedestrian and disabled access, infilling setback areas and colonnades, and modifying public open space between the street and existing buildings.

The planning proposal states that Council now wants to maintain and enhance these kinds of spaces, to provide more room for pedestrians and opportunities for landscaping and outdoor dining. The planning proposal therefore seeks to remove the opportunity site floor space incentive in the Sydney LEP 2012.

To support the removal of the opportunity site floor space incentive, the planning proposal also seeks to delete:

- Clause 6.11(1)(c), which deals with the allocation of heritage floor space for developments utilising opportunity site floor space,
- Reference to opportunity site floor space in clause 6.3(1)(c), which relates to floor space incentives in Central Sydney,
- Definitions of ‘opportunity site’ and ‘opportunity site floor space’ in clause 6.2,
- The definition of the Opportunity Sites Map in the Dictionary, and
- The Opportunity Sites Map.

1.4.12 Amendment 12 – Heritage Floor Space Scheme

The planning proposal seeks to amend clause 6.10 of the Sydney LEP 2012 to allow minor increases to the existing GFA (of 5% or 200m², whichever is lesser) of buildings on sites with registered Heritage Floor Space.

Council's Heritage Floor Space scheme provides an incentive for the conservation and ongoing maintenance of eligible heritage buildings in Central Sydney (zoned SP5 Metropolitan Centre).

However, the height and GFA of buildings with registered Heritage Floor Space cannot be increased. The proposed amendment would allow minor works that do not adversely affect the heritage significance of the building, such as those needed to meet accessibility or fire safety standards.

The planning proposal also seeks to clarify how to calculate the existing GFA of buildings for the purposes of the Heritage Floor Space scheme.

1.4.13 Amendment 13 – Rezoning part of 9-13 & 22 O'Riordan Street, Alexandria

To enable the delivery of a local road in Alexandria the planning proposal seeks to amend the Sydney LEP 2012 to:

- Rezone part of 9-13 O'Riordan Street and part of 22 O'Riordan Street, Alexandria from E3 Productivity Support to SP2 Infrastructure (Local Road) (see **Figure 8** and **Figure 9**).
- Identify part of 9-13 O'Riordan Street and part of 22 O'Riordan Street, Alexandria on the Land Reservation Acquisition Map as 'Local Road (SP2)' (see **Figure 10** and **Figure 11**).
- Identify Council as the relevant acquisition authority for land zoned SP2 Infrastructure and marked 'local road' on the Land Reservation Acquisition Map.
- Limit development on the land until it is acquired by Council to earthworks, public utility undertakings and roads by amending clause 5.1A.



Figure 8 – Existing Zoning Map (Source: Sydney LEP 2012)

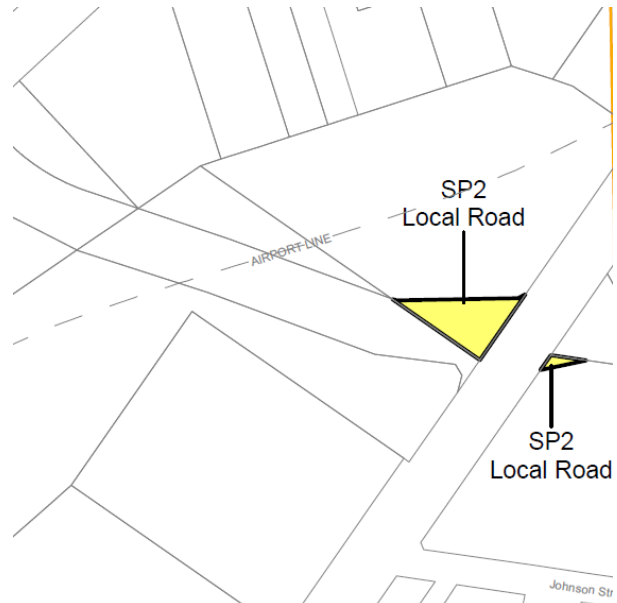


Figure 9 – Proposed Zoning Map (Source: Planning Proposal)



Figure 10 – Existing Land Reservation Acquisition Map (Source: Sydney LEP 2012)



Figure 11 – Proposed Land Reservation Acquisition Map (Source: Planning Proposal)

1.4.14 Amendment 14 – Development Near Zone Boundaries

The planning proposal seeks to amend clause 5.3 of the Sydney LEP 2012 to:

- Ensure it applies within land zoned SP2 Infrastructure, not just from land zoned SP2 Infrastructure, and
- Increase the distance within which land use flexibility is provided from 6m to 12m.

Clause 5.3 provides flexibility where a land use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the objectives of both zones. However, the clause does not currently apply within land zoned SP2 Infrastructure, only from land zoned SP2 Infrastructure.

The proposed amendments would primarily benefit properties along Cleveland Street, McEvoy Street and Botany Road that are partially zoned SP2 Infrastructure.

The planning proposal also seeks to disapply clause 5.3 from land zoned SP1 Special Activities. It states that this is because issues associated with a lack of land use flexibility predominately impact land zoned SP2 Infrastructure, not SP1 Special Activities.

This justification is insufficient and a Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to provide additional justification for removing the application of clause 5.3 from land zoned SP1 Special Activities.

1.4.15 Amendment 15 – Use of Existing Non-Residential Buildings that were Shops or Pubs

The planning proposal seeks to amend clause 7.22 of the Sydney LEP 2012 to restrict development for the purposes of shops and food and drinks premises on land zoned R1 General Residential to buildings that were originally designed and constructed for the purposes of a shop or a pub. The proposed amendment is discussed in further detail in **Section 3**.

1.4.16 Amendment 16 – 257 Sussex Street, Sydney

The planning proposal seeks to amend the Sydney LEP 2012, as it applies to land at 257 Sussex Street, Sydney (the southern part of Lot 2 in DP 1031912) to introduce a maximum building height of 45m and a maximum FSR of 7.5:1.

The site is located at the southern side of the intersection between Sussex Street and the on ramp to the Western Distributor. It is owned by Transport for NSW, has an area of approximately 80m², and contains a three-storey commercial building.

The site currently has no maximum building height or FSR. The proposed maximum building height and FSR is consistent with surrounding land. This is discussed in further detail in **Section 3**.

1.4.17 Amendment 17 – Affordable Housing Contributions

The planning proposal seeks to amend clause 7.13 of the Sydney LEP 2012 to clarify that for land identified as Central Sydney or 'residual land' on the Locality and Site Identification Map, affordable housing contributions also apply to applications to modify development consents where they relate to development applications lodged after 1 July 2021. The planning proposal states that this would ensure consistency in how affordable housing contributions are levied across the LGA.

To ensure the intent of the proposed amendment is clear, a Gateway condition is recommended requiring that the planning proposal be updated to prior to public exhibition to clarify the circumstances where affordable housing contributions would apply to applications to modify development consents.

1.4.18 Amendment 18 – Cross City Tunnel Ventilation Stack

The planning proposal seeks to remove the requirement in clause 7.24 of the Sydney LEP 2012 for development near the Cross City Tunnel ventilation stack to consider impacts on and from the dispersal of emissions (from the Cross City Tunnel ventilation stack).

It is also proposed to remove the related 'Land Affected by Cross City Tunnel Ventilation Stack' layer on the Locality and Site Identification Map (shown in **Figure 12**).

As a result of the proposed amendments, applicants for development on land near the Cross City Tunnel ventilation stack would no longer be required to prepare and submit an air quality assessment with DAs.

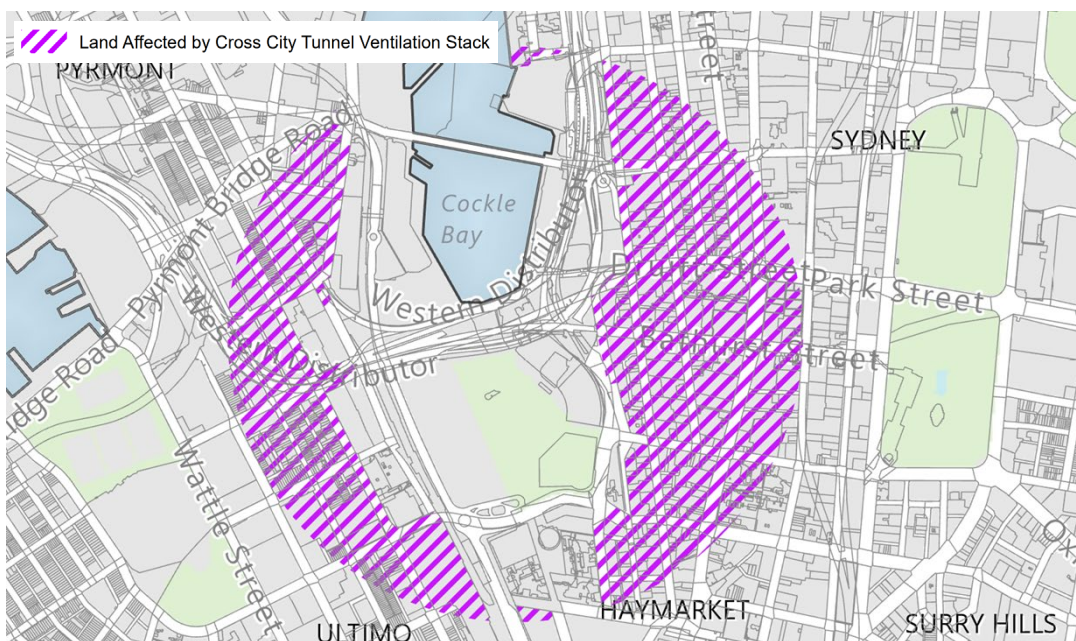


Figure 12 Land Affected by Cross City Tunnel Ventilation Stack (Source: Planning Proposal)

1.4.19 Amendment 19 – Integration Areas

The planning proposal seeks to transfer the planning controls for various sites across the LGA from 'legacy' LEPs and the Eastern Harbour City SEPP into the Sydney LEP 2012. These sites, which are referred to in the planning proposal as 'integration areas', are shown in **Figure 13** and include:

- Glebe Affordable Housing Project
- Harold Park development in Forest Lodge
- Central Park Precinct, Chippendale (formerly known as the Carlton & United Brewery Site)
- 216-412 Gardeners Road, Roseberry
- Certain sites in Redfern, Waterloo and Eveleigh whose planning control site under the Eastern Harbour City SEPP.

The existing and proposed planning controls for the integration areas are summarised in **Section 1.4.19.1** to **Section 1.4.19.5**.

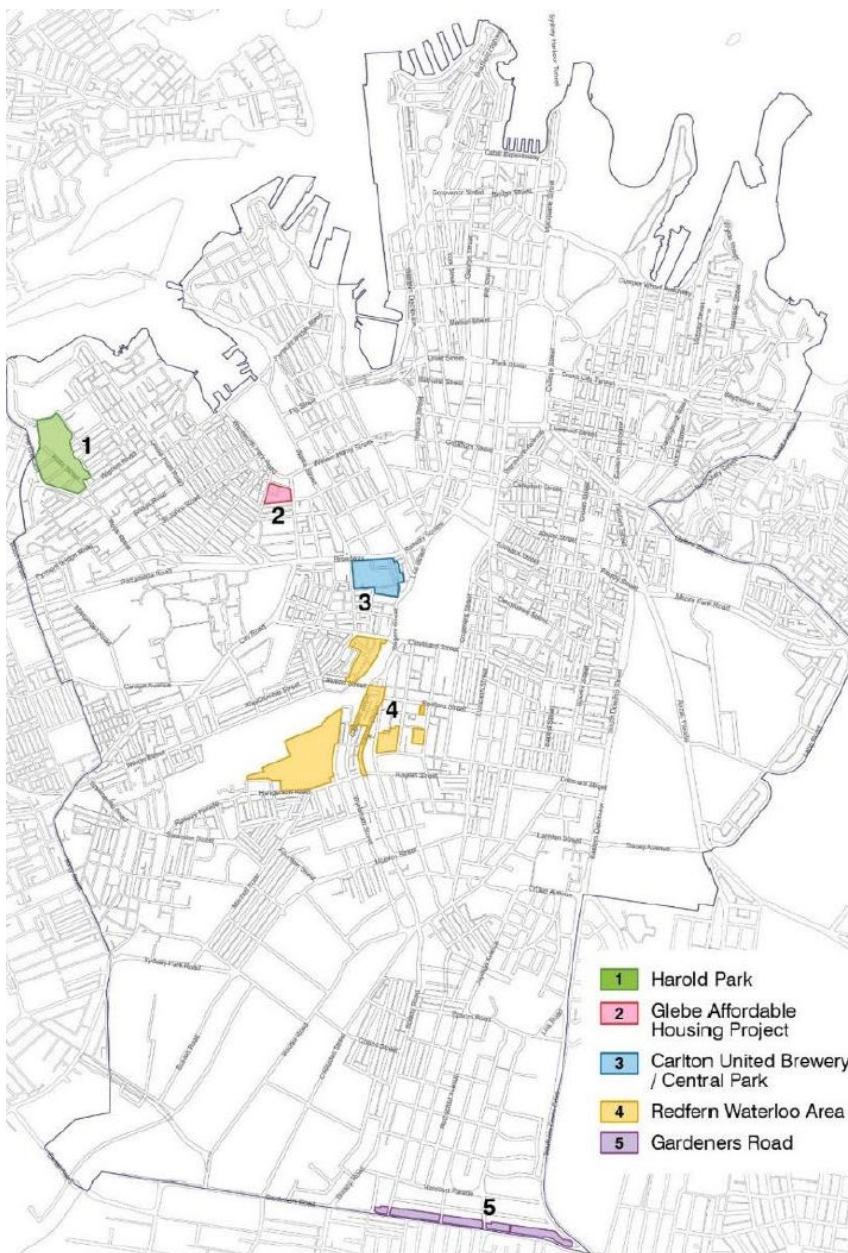


Figure 13 Integration Areas (Source: Planning Proposal)

The planning proposal also seeks to:

- Require future development in the integration areas to make an affordable housing contribution in accordance with the existing *City of Sydney Affordable Housing Program* (the Affordable Housing Program). This is to be achieved by identifying all the integration areas as 'residual land' on the Locality and Site Identification Map.
- Remove the ability for consent authorities to grant consent to development that contravenes the proposed maximum GFAs or FSRs. This is to be achieved by excluding the application of clause 4.6 from the new FSR and GFA schedule in the Sydney LEP 2012.

For the purposes of setting the maximum permissible building heights and floor space for the integration areas, Council is proposing that:

- Some sites would have a maximum FSR shown on the FSR Map
- Most sites would have a maximum FSR or GFA set on a block-by-block basis in a new schedule in the Sydney LEP 2012.
- All sites would have maximum building heights (generally on a block-by-block basis) shown on the Height of Buildings Map, in either metres or a reduced level (RL).

The proposed block-by-block maximum GFAs are shown in **Appendix A**. The proposed maximum building heights are shown in **Appendix B**.

The proposed approach for setting maximum building heights, GFAs and FSRs is overly restrictive and complicated. A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to simplify the proposed planning controls for the integration areas and make them more consistent with how principal development standards are expressed elsewhere in the LGA.

1.4.19.1 Glebe Affordable Housing Project

The planning proposal seeks to transfer the planning controls for the Glebe Affordable Housing Project, which was completed in 2020, from the Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011 (Glebe Affordable Housing Project LEP 2011) to the Sydney LEP 2012. The existing and proposed planning controls are shown in **Table 6**.

Table 6 Existing and proposed planning controls for Glebe Affordable Housing Project

Provision	Current	Proposed
Land Use Zoning	R1 General Residential	MU1 Mixed Use RE1 Public Recreation
Maximum Floor Space	FSR of 1.3:1	Block-by-block maximum GFAs based on approved DAs.
Maximum Building Heights	21 to 33m	Block-by-block maximum building heights (in RL) based on approved DAs.
Acid Sulfate Soils	Class 2 and 5	As per Glebe Affordable Housing Project LEP 2011.

1.4.19.2 Harold Park

The planning proposal seeks to transfer the planning controls for the Harold Park development in Forest Lodge, which was completed in 2018, from the Sydney Local Environmental Plan (Harold Park) 2011 (Harold Park LEP 2011) to the Sydney LEP 2012. The existing and proposed planning controls are shown in **Table 7**.

Table 7 Existing and proposed planning controls for Harold Park

Provision	Current	Proposed
Land Use Zoning	MU1 Mixed Use	MU1 Mixed Use E2 Commercial Centre RE1 Public Recreation SP2 Infrastructure
Maximum Floor Space	FSR of 1.15:1	Block-by-block maximum GFAs based on approved DAs.
Maximum Building Heights	RL 16 to RL 36	Block-by-block maximum building heights (in RL) based on approved DAs.
Acid Sulfate Soils	Class 1, 2, 3 and 5	As per Harold Park LEP 2011.
Heritage	Fig trees (Item 2), paceway cutting (Item 3), various trams (Items 4, 5, 6 and 7), and the Former Rozelle Tram Depot and curtilage including Water Tank, former tram access way and tram track fencing adjacent to Johnsons Creek (Item 1).	All items currently identified in Schedule 5 of Harold Park LEP 2011.

1.4.19.3 Central Park Precinct (former Carlton & United Brewery Site)

Development in the Central Park Precinct (formerly known as the Carlton & United Breweries Site) is currently governed by:

- Sydney Local Environment Plan 2005 (Sydney LEP 2005)
- A concept plan (MP 06_0171) originally approved by the then Minister for Planning in 2007 (under Part 3A of the EP&A Act).

Under clause 3B of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* the provision of any LEP or DCP do not have effect if they are inconsistent with the terms of a Part 3A Concept Plan.

The planning proposal seeks to transfer the planning controls for the Central Park Precinct from the Sydney LEP 2005 and Part 3A Concept Plan (as modified) into the Sydney LEP 2012. Council also intends to write to landowners in the Central Park Precinct to obtain consent to revoke the Part 3A Concept Plan.

It is unclear whether Council intends to repeal the Sydney LEP 2005 as part of the planning proposal. A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to clarify whether it seeks to repeal the Sydney LEP 2005.

The existing and proposed planning controls for the Central Park Precinct are shown in **Table 8**.

Except for the Brewery Yard Building (due for completion in 2024), the redevelopment of the Central Park Precinct is complete.

Table 8 Existing and proposed planning controls for Central Park

Provision	Current	Proposed
Land Use Zoning	City Edge (under Sydney LEP 2005)	MU1 Mixed Use RE1 Public Recreation
Maximum Floor Space	Various block-by-block maximum residential and non-residential GFAs, totalling 257,953m ² (under Part 3A Concept Plan).	Block-by-block maximum GFAs generally in accordance with the Part 3A Concept Plan.
Maximum Building Heights	Various block-by-block building heights, up to a maximum of RL 133 (under Part 3A Concept Plan).	Block-by-block maximum building heights (in metres and RL) generally in accordance with the Part 3A Concept Plan.
Acid Sulfate Soils	-	Class 5
Heritage	<p>Current heritage items under the Sydney LEP 2005:</p> <ul style="list-style-type: none"> • Australian Hotel - 102 Broadway (Item 39) • Terrace - Part of former Carlton United Brewery site – 8-12 Abercrombie Street (Item 1) • Administration Building (part of former Carlton United Brewery site) (Item 187) • County Clare Hotel (Item 38) • Terraces - 46-48 Kensington Street (Item 188) • The chimney stack (of the Former Irving Street Brewery) (Building Element 3). 	<p>As per Sydney LEP 2005. The planning proposal also seeks to locally heritage list:</p> <ul style="list-style-type: none"> • Chimney Stack, former filtration building, former malt silo building, former gas receiving station, former old boiler house (3-5 Central Park Avenue) • Gates and part of former main avenue - Kent Road (Carlton Street) • Kensington Street Store (2-14 Kensington Street) • Terraces (20-28, 30-32, 34-36, 38 Kensington Street) • Terraces (40 Kensington Street) • Castle Connell Hotel (Builder's Store) (63 Kensington Street).

1.4.19.4 216-412 Gardeners Road, Roseberry

The planning proposal seeks to transfer the planning controls for land at 216-412 Gardeners Road, Roseberry from the Sydney Local Environmental Plan (1998) (Sydney LEP 1998) and South Sydney Development Control Plan 1997 (Sydney DCP 1997) into the Sydney LEP 2012. The existing and proposed planning controls are shown in **Table 9**.

Table 9 Existing and proposed planning controls for 216-412 Gardeners Road, Roseberry

Provision	Current	Proposed
Land Use Zoning	2(a) Residential Zoning	R2 Low Density Residential
Maximum Floor Space	FSR of 0.6:1 (South Sydney DCP 1997)	FSR of 0.6:1
Maximum Building Heights	5.2m (South Sydney DCP 1997)	7.5m
Acid Sulfate Soils	-	Class 5

1.4.19.5 Redfern-Waterloo Authority Sites

The planning proposal seeks to transfer the planning controls for some of the Redfern-Waterloo Authority Sites from the Eastern Harbour City SEPP to the Sydney LEP 2012. The Redfern-Waterloo Authority Sites are shown in **Figure 14** and the existing and proposed planning controls for them are summarised in **Table 8**. The redevelopment of the Redfern-Waterloo Authority Sites proposed to be transferred into the Sydney LEP 2012 is largely now complete.

However, the planning proposal does not include the amendments to the Eastern Harbour City SEPP needed to give effect to the transfer of the planning controls for the Redfern-Waterloo Authority Sites into the Sydney LEP 2012. This would mean a separate planning process would need to occur in parallel to amend the Eastern Harbour City SEPP.

To help simplify and streamline the transfer of planning controls, a Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to also include the amendments to the Eastern Harbour City SEPP needed to give effect to the transfer of the planning controls for the Redfern-Waterloo Authority Sites into the Sydney LEP 2012.

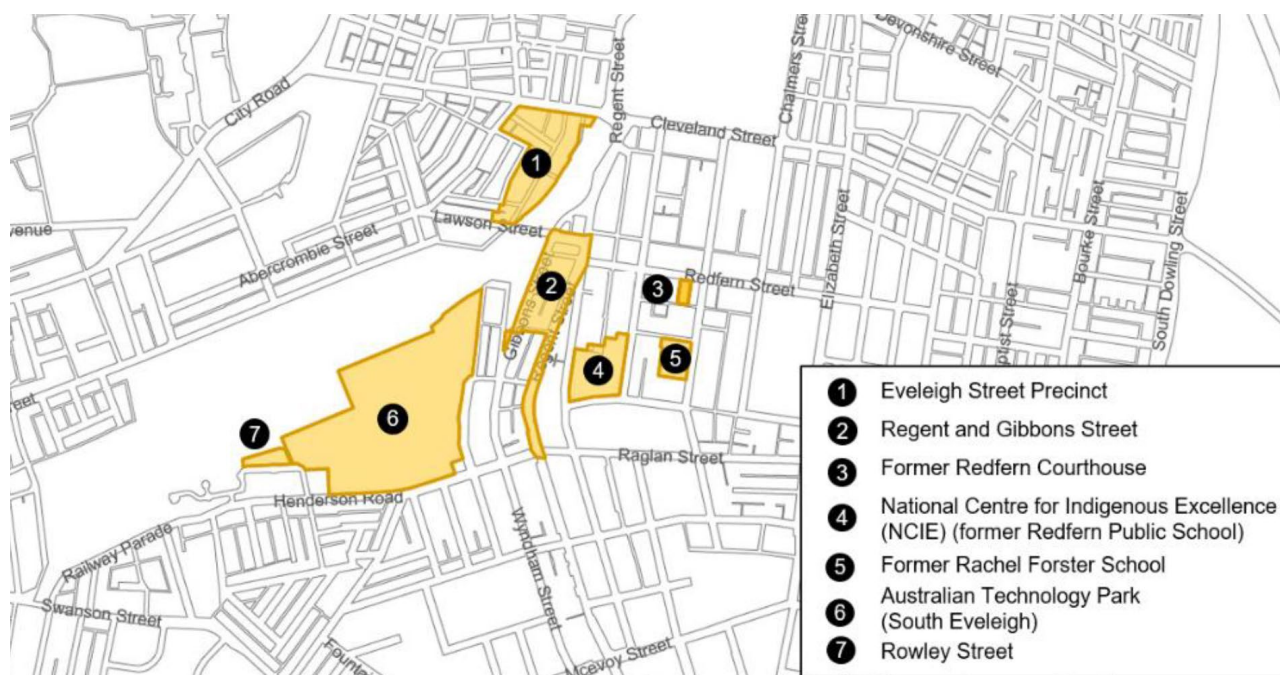
**Figure 14 Redfern-Waterloo Authority Sites (Source: Planning Proposal)**

Table 10 Existing and proposed planning controls for RWA Sites

Provision	Current	Proposed
Eveleigh Street Precinct		
Land Use Zoning	Business Zone – Mixed Use	MU1 Mixed Use
Maximum Floor Space	FSRs of: <ul style="list-style-type: none"> 1.5:1 (with an FSR for residential development of 0.75:1) 2:1 (with an FSR for residential development of 1:1) 3:1 (with an FSR for residential development of 1:1). 	Block-by-block maximum residential and non-residential FSRs based on approved DAs.
Maximum Building Heights	3-5 storeys	Block-by-block maximum building heights (in metres and RL) based on approved DAs.
Acid Sulfate Soils	-	Class 5
Heritage	-	Include two rows of terraces (fronting Abercrombie Street and Lawson Street) in Heritage Conservation Area 19.
Regent and Gibbons Street Precinct		
Land Use Zoning	Business Zone – Commercial Core Recreation Zone – Public Recreation	MU1 Mixed Use RE1 Public Recreation SP2 Local Infrastructure (Classified Road)
Maximum Floor Space	FSR of 7:1	Block-by-block maximum GFAs based on approved DAs.
Maximum Building Heights	2-18 storeys	Block-by-block maximum building heights (in metres and RL) based on approved DAs.
Acid Sulfate Soils	-	Class 5
Retail Premises Map	-	Identify some land as 'Restricted Retail Development' on the Retail Premises Map. Clause 7.23 of the Sydney LEP 2012 limits the size of shops and markets to no more than 1,000m ² of GFA on land mapped as 'Restricted Retail Development'.

Provision	Current	Proposed
National Centre for Indigenous Excellence (NCIE)		
Land Use Zoning	Business Zone – Mixed Use Recreation Zone – Private Recreation Special Purpose Zone – Community	MU1 Mixed Use SP1 Special Activities (Community) SP2 Local Infrastructure (Carpark) Include additional permitted uses for the site to align with permissible land uses under the Eastern Harbour City SEPP.
Maximum Floor Space	FSR of 2:1	No FSR is proposed for the parts of the site proposed to be zoned SP1 Special Activities and SP2 Local Infrastructure. For the remainder of the site, an FSR of 2:1 is proposed.
Maximum Building Heights	4 storeys The maximum building height of part of the site occupied by the former Redfern Public School buildings is shown as 'existing' on the on the Height of Buildings Map.	Block-by-block maximum building heights (in metres and RL) based on approved DAs. Retain the 'existing' building height control for the part of the site occupied by the former Redfern Public School.
Acid Sulfate Soils	-	Class 5
Heritage	Two Buildings on George and Phillip Streets (part of the former Redfern Public School) (Item 12).	List the former Redfern Public School as a heritage item in Sydney LEP 2012 Include the site in Heritage Conservation Area 56.
Retail Premises Map	-	Identify the site as 'Restricted Retail Development' on the Retail Premises Map.

South Eveleigh / Australian Technology Park

Land Use Zoning	Business Zone – Business Park Recreation Zone – Public Recreation	E3 Productivity Support RE1 Public Recreation Include additional permitted uses for the site to align with permissible land uses under the Eastern Harbour City SEPP.
Maximum Floor Space	Block-by-block maximum GFAs.	Block-by-block maximum GFAs based on approved DAs.

Provision	Current	Proposed
Maximum Building Heights	The maximum building heights of heritage items are shown as 'existing' on the Height of Buildings Map. On the remainder of the site, maximum building heights range between 3 and 12 storeys.	Retain the maximum building heights for heritage items as 'existing'. On the remainder of the site, block-by-block maximum building heights (in RL) based on approved DAs.
Acid Sulfate Soils	-	Class 5
Heritage	<ul style="list-style-type: none"> • Locomotive Workshop (Item 1) • New Locomotive Workshop (Item 2) • Works Managers Office (Item 3) 	List existing heritage items and surrounding areas of public domain collectively as the 'Former Eveleigh Rail Yard'.

Rowley Street

Land Use Zoning	Residential Zone – Medium Density Residential	R1 General Residential
Maximum Floor Space	FSR is shown as 'existing' on the FSR Map.	FSR of 1.5:1
Maximum Building Heights	The maximum building height is shown as 'existing' on the Height of Buildings Map.	18m
Acid Sulfate Soils	-	Class 5

Former Redfern Courthouse

Land Use Zoning	Business Zone – Local Centre	E1 Local Centre
Maximum Floor Space	FSR of 1.3:1	Maximum GFA based on approved DAs
Maximum Building Heights	The maximum building height is shown as 'existing' for the former Redfern Courthouse. The remainder of the site has a maximum building height of part 3 storeys and part 6 storeys.	Retain the 'existing' building height control for the former Redfern Courthouse. The remainder of the site is proposed to have a maximum building height of part 12m and part 22m.
Acid Sulfate Soils	-	Class 5
Heritage	Former Court House Building (Item 14)	As per Eastern Harbour City SEPP. Add the site to Heritage Conservation Area 56.

Provision	Current	Proposed
Former Rachel Foster Hospital		
Land Use Zoning	Residential Zone – Medium Density Residential	R1 General Residential
Maximum Floor Space	FSR of 2:1	Maximum GFA based on approved DAs
Maximum Building Heights	3 and 6 storeys.	Block-by-block maximum building heights (in RL) based on approved DAs.
Acid Sulfate Soils	-	Class 5
Heritage	Five Storey Surgery Building and Part of Two Storey Colonnade Building (Item 14).	Add the site to Heritage Conservation Area 56. Note: Council is not proposing to locally heritage list the 'Five Storey Surgery Building and Part of Two Storey Colonnade Building (Item 14).'
Retail Premises Map	-	Identify the site as 'Restricted Retail Development' on the Retail Premises Map.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the following maps in the Sydney LEP 2012:

- Acid Sulfate Soils Map
- Locality and Site Identification Map, Key Sites Map and Foreshore Building Line Map
- Special Character Areas Map and Retail Premises Map
- Floor Space Ratio Map
- Heritage Map
- Height of Buildings Map
- Land Application Map
- Land Reservation Acquisition Map
- Land Zoning Map
- Land Use and Transport Integration Map
- Sun Access Protection Map
- Public Transport Accessibility Level Map.

The planning proposal also seeks to remove the Opportunity Sites Map and include a new Special Provisions Area Map.

The draft LEP maps are provided at **Appendix B**.

1.6 Background

An earlier version of the planning proposal (PP-2023-2785) was submitted in January 2024 but was withdrawn in response to feedback from the Department.

The earlier version of the planning proposal sought amendments to the planning controls for build-to-rent and co-living housing in Central Sydney. To allow for the consideration and assessment of the proposed amendments to the planning controls for build-to-rent and co-living housing to be fast-tracked, they were unbundled and included in a new planning proposal (PP-2024-497) submitted for a separate Gateway determination.

The Gateway determination for PP-2024-497 was issued on 5 April 2024. The planning proposal was publicly exhibited from 15 April to 14 May 2024 and has now been submitted to the Department for finalisation.

Need for the Planning Proposal

The planning proposal is not a result of a single strategy or study prepared by Council or the Department. It instead responds to a combination of:

- Various actions identified in Council's Local Strategic Planning Statement and Community Strategic Plan.
- Matters raised by Council staff, councillors and the community regarding the operation of the various LEPs and SEPPs in force across the LGA.

The objectives and intended outcomes of most of the proposed amendments are best achieved through a planning proposal because they require changes to existing LEPs and/or the Eastern Harbour City SEPP.

However, the objectives and intended outcomes of some of the proposed amendments can be achieved by other means, including through amendments to Council's DCP or as part of the assessment of DAs. Where this is the case, Gateway conditions are recommended requiring that the proposed amendments be removed.

2 Strategic Assessment

2.1 Region Plan

The Greater Sydney Region Plan – A Metropolis of Three Cities (the Region Plan), released by the NSW Government in 2018, sets out the strategic planning vision for Greater Sydney.

The Region Plan aligns land use, transport and infrastructure planning to reshape Greater Sydney as a metropolis of three connected cities: the Western Parkland City, the Central River City, and the Eastern Harbour City. The City of Sydney LGA is in the Eastern Harbour City.

Under section 3.8 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) a planning proposal is to give effect to the relevant District Plan. By giving effect to the District Plan, the proposal is also consistent with the Regional Plan. Consistency with the District Plan is addressed in **Section 3.2** below.

2.2 District Plan

The City of Sydney LGA is in the Eastern City District. The then Greater Sydney Commission released the District Plan for the Eastern City District in March 2018. It contains the planning priorities and associated actions for implementing the Region Plan in the Eastern City District.

Section 4 of the planning proposal addresses the priorities of the District Plan. The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the EP&A Act. **Table 11** assesses the planning proposal against the relevant priorities and actions of the District Plan.

Table 11 Assessment against the District Plan

Planning Priority	Justification
Planning for a city supported by infrastructure (Priority E1)	The plan proposal would help align growth with infrastructure by supporting the delivery of a new local road in Alexandria, which will make it easier to get between Green Square and Erskineville.
Providing housing supply, choice and affordability with access to jobs, services and public transport (Priority E5)	The planning proposal would help allow new homes to be built sooner by streamlining the planning approvals process for some DAs and reducing the number of different LEPs applying across the LGA.
Creating and renewing great places and local centres, and respecting the District's heritage (Priority E6)	<p>The planning proposal would help respect the District's heritage by</p> <ul style="list-style-type: none"> Supporting the continued operation of Council's Heritage Floor Space scheme, which provides an incentive for the conservation and ongoing maintenance of eligible heritage buildings in Central Sydney. Introducing new heritage items into the Sydney LEP 2012 as part of the transfer of planning controls from 'legacy' LEPs and the Eastern Harbour City SEPP.
Delivering integrated land use and transport planning and a 30-minute city (Priority E10)	The planning proposal would help integrate land use and transport planning by updating maximum car parking rates to align with existing and committed investment in public transport infrastructure, including the new Sydney Metro stations in Central Sydney, Pyrmont and Waterloo.
Increasing urban tree canopy cover and delivering Green Grid connections (Priority E17)	<p>The planning proposal would help increase urban tree canopy coverage by ensuring the provision of deep soil and tree planting is:</p> <ul style="list-style-type: none"> A mandatory consideration for the consent authority when determining whether a development exhibit design excellence. A matter that must be addressed when preparing a DCP.
Delivering high quality open space (Priority E18)	The planning proposal would help protect existing public open spaces from overshadowing, including Gunyama Park and Cook and Phillip Park.
Reducing carbon emissions and managing energy, water and waste efficiently (Priority E19)	<p>The planning proposal would help reduce carbon emissions by:</p> <ul style="list-style-type: none"> Encouraging intensive plant agriculture in the basements of existing buildings. Promoting walking, cycling and the use of public transport by reducing maximum car parking rates in areas close to public transport infrastructure, including the new Sydney Metro. Making it easier for people to install bicycle parking devices and solar panels.

2.3 Local Plans

The planning proposal states that it is consistent with the following local plans and endorsed strategies:

- City Plan 2036 (Local Strategic Planning Statement).
- Sustainable Sydney 2030-2050 (Community Strategic Plan).

Consistency with these local plans and strategies is considered further in **Table 12** below.

Table 12 Local Strategic Planning Assessment

Local Strategies	Justification
City Plan 2036 (Local Strategic Planning Statement)	<p>The planning proposal is consistent with the City Plan 2036 because it would:</p> <ul style="list-style-type: none"> • Encourage walking, cycling and the use of public transport by reducing maximum car parking rates in areas close to public transport infrastructure, including the new Sydney Metro. • Support the delivery of new infrastructure to support growth in Green Square. • Encourage good built form and public domain outcomes by limiting overshadowing of Gunyama Park and Cook and Phillip Park. • Integrate the planning controls from 'legacy' LEPs and the Eastern Harbour City SEPP into the Sydney LEP 2012 (Action G1.4).
Sustainable Sydney 2030-2050 (Community Strategic Plan)	<p>Sustainable Sydney 2030-2050 is the Council's overarching Community Strategic Plan, setting out Council's vision for the LGA. The planning proposal is consistent with the Community Strategic Plan because it would support the delivery of new infrastructure and affordable housing, encourage walking, cycling and the use of public transport, and improve the operation of the Sydney LEP 2012 and Green Square Town Centre LEPs 2013.</p>

2.4 Section 9.1 Ministerial Directions

Table 13 provides an assessment of the planning proposal's consistency with the relevant Directions issued by the Minister for Planning and Public Spaces under section 9.1(2) of the EP&A Act (section 9.1 Direction).

Table 13 Assessment against relevant section 9.1 Directions

Directions	Consistency	Reasons for Consistency or Inconsistency
Focus Area 1: Planning Systems		
1.1 Implementation of Regional Plans	Consistent	The planning proposal is consistent with the relevant directions and objections of the Region Plan (see Section 3.1).
1.3 Approval and Referral Requirements	Consistent	The planning proposal does not include concurrence, consultation or referral provisions, or identify any development as designated development.

1.4 Site Specific Provisions	Unresolved	<p>The Direction seeks to discourage unnecessarily restrictive site-specific planning provisions in LEPs.</p> <p>The planning proposal would remove an existing site-specific provision for land near the Cross City Tunnel ventilation stack (see Section 1.4.18).</p> <p>However, consistency with the Direction remains unresolved until the planning proposal is updated in accordance with the recommended conditions of the Gateway determination to:</p> <ul style="list-style-type: none"> • Simplify the proposed planning controls for the integration areas and make them more consistent with how principal development standards are expressed elsewhere in the LGA. • Include the amendments to the Eastern Harbour City SEPP needed to give effect to the transfer of the planning controls for the Redfern-Waterloo Authority Sites into the Sydney LEP 2012.
1.4A Exclusion of Development Standards from Variation	Inconsistent	<p>The Direction seeks to maintain flexibility in the application of development standards by limiting exclusions to clause 4.6.</p> <p>The Direction requires that planning proposals have regard to the <i>Guide to Exclusions from Clause 4.6 of the Standard Instrument</i> (the Guide) and limit exclusions to clause 4.6 to circumstances where they are consistent with the Guide.</p> <p>The planning proposal is inconsistent with the Direction because it seeks to exclude development standards for FSR and GFA from variation under clause 4.6 of the Sydney LEP 2012 (see Section 1.4.19) and is not consistent with the criteria in the Guide.</p> <p>A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to remove the proposed exclusion to clause 4.6 of the Sydney LEP 2012.</p>

Focus Area 1: Planning Systems – Place-based

1.15 Implementation of the Pyrmont Peninsula Place Strategy	Consistent	The planning proposal does not hinder the application of the Pyrmont Peninsula Place Strategy.
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Focus Area 3: Biodiversity and Conservation

3.2 Heritage Conservation	Consistent	<p>Heritage items transferred from 'legacy' LEPs and the Eastern Harbour City SEPP into the Sydney LEP 2012 would continue to be subject to provisions requiring heritage conservation to be considered in the assessment of any future DAs (particularly clause 5.10).</p> <p>The Department is satisfied that the existing provisions in the Sydney LEP 2012 and Sydney DCP 2012 can help facilitate the conservations of items, objects, areas and places of environmental</p>
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		<p>and Aboriginal heritage significance. The planning proposal is therefore consistent with the Direction.</p> <p>An assessment of the potential heritage impacts of the planning proposal is provided in Section 4.</p>
3.9 Sydney Harbour Foreshores and Waterways Area	Consistent	<p>Parts of the LGA are in the Foreshores and Waterway Area under <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (the Biodiversity and Conservation SEPP). The planning proposal is consistent with the objectives of the Direction and would not affect Sydney Harbour or the Foreshores and Waterways Area.</p>

Focus Area 4: Resilience and Hazards

4.1 Flooding	Unresolved	<p>The planning proposal has not addressed consistency with the specific requirements of the Direction. Given the planning proposal seeks to create, remove and alter zones and provisions that affect parts of the LGA identified as flood prone, a Gateway condition is recommended requiring the planning proposal to be updated prior to public exhibition to address the specific requirements of the Direction. This includes the proposal to introduce a maximum building height of 45m and a maximum FSR of 7.5:1 for land at 257 Sussex Street, Sydney.</p>
4.2 Coastal Management	Consistent	<p>The objective of the Direction is to protect and manage coastal areas of NSW.</p> <p>Some parts of the LGA near Sydney Harbour and the Alexandra Canal are in the Coastal Environment Area, Coastal Use Area and Coastal Wetlands and Littoral Rainforests Area under <i>State Environmental Planning Policy (Resilience and Hazards)</i> (the Resilience and Hazards SEPP).</p> <p>However, the planning proposal does not seek to rezone any land, change the range of permissible uses, or increase the overall intensity of development in these parts of the LGA. It is therefore consistent with the Direction.</p>
4.4 Remediation of Contaminated Land	Consistent	<p>The Direction seeks to reduce the risk of harm to human health and the environment from contaminated land.</p> <p>The proposed rezoning of parts of 9-13 and 22 O’Riordan Street, Alexandria from E3 Productivity Support to SP2 Infrastructure would not allow more sensitive uses on the land. It is therefore consistent with the Direction.</p>
4.5 Acid Sulfate Soils	Inconsistent, but minor and justified.	<p>The Direction requires that planning proposals for land identified as having a probability of containing acid sulfate soils be supported by an acid sulfate soils study.</p> <p>Integration Areas</p> <p>The planning proposal seeks to map the Redfern-Waterloo Authority Sites, Central Park Precinct and land at Gardeners Road,</p>

		<p>Roseberry as having a probability of containing Class 5 acid sulfate soils on the Acid Sulfate Soils Map.</p> <p>Consistent with the Direction, this would ensure development on land identified as having a probability of containing acid sulfate soils is regulated under clause 7.14 of the Sydney LEP 2012, which is consistent with the Acid Sulfate Soils Model LEP in <i>the Acid Sulfate Soils Planning Guidelines</i>.</p> <p>257 Sussex Street, Sydney</p> <p>The planning proposal seeks to introduce a maximum building height of 45m and a maximum FSR of 7.5:1 for land at 257 Sussex Street, Sydney.</p> <p>The Direction applies because the site is identified as having a probability of containing Class 2 acid sulfate soils on the Acid Sulfate Soils Map.</p> <p>While an acid sulfate soils study has not been prepared, consistency with the Direction is considered minor and justified given:</p> <ul style="list-style-type: none"> • The extent of development on the site and the associated difficulties of carrying out further testing. • Any future DAs for the site would be required to consider the presence of acid sulfate soils in accordance with clause 7.14 of the Sydney LEP 2012.
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Focus Area 5: Transport and Infrastructure

5.1 Integrating Land Use and Transport	Consistent	<p>The planning proposal is consistent with the Direction because it would:</p> <ul style="list-style-type: none"> • Enable the delivery of a local connector road in Alexandria to support growth in Green Square and Erskineville (see Section 1.4.13). • Encourage people to get around by walking, cycling and using public transport by updating car parking rates to better reflect the delivery of transport infrastructure in the LGA, including the new Sydney Metro (see Section 1.4.3).
5.2 Reserving Land for Public Purposes	Unresolved	<p>Under this Direction, a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or their delegate).</p> <p>The planning proposal seeks to reserve part of 9-13 O’Riordan Street and part of 22 O’Riordan Street, Alexandria for the public purpose of a ‘local road’. To give effect to the reservation:</p> <ul style="list-style-type: none"> • The land would be identified on the Land Reservation Acquisition Map. • Council would be identified as the relevant acquisition authority under clause 5.1 of the Sydney LEP 2012.

		<p>To ensure consistency with the Direction is resolved, a Gateway condition is recommended requiring that Council write to the Department to formally approve the listing of land at 9-13 and 22 O’Riordan Street, Alexandria on the Land Reservation Acquisition Map and the identification of Council as the relevant acquisition authority under clause 5.1.</p> <p>It is also unclear whether the transfer of planning controls from ‘legacy’ LEPs and the Eastern Harbour City SEPP necessitates including any additional land on the Land Reservation Acquisition Map.</p> <p>A Gateway condition is recommended requiring the planning proposal to be updated prior to public exhibition to:</p> <ul style="list-style-type: none"> • Clarify ownership and any existing agreements for land proposed to be zoned for a public purpose (e.g. RE1 Public Recreation and SP2 Infrastructure) in the Sydney LEP 2012. • Confirm whether any additional amendments are required to the Land Reservation Acquisition Map and clause 5.1 of the Sydney LEP 2012.
5.3 Development Near Regulated Airports and Defence Airfields	Unresolved	<p>The planning proposal has not addressed consistency with the Direction. Given the proximity of the LGA to Sydney Airport, a condition has been included in the Gateway determination requiring:</p> <ul style="list-style-type: none"> • The planning proposal to be updated to address the Direction. • Consultation with the Sydney Airport Corporation, Department of Infrastructure, Transport, Regional Development, Communications and the Arts, and the Civil Aviation Safety Authority.

Focus Area 6: Housing

6.1 Residential Zones	Unresolved	<p>The Direction aims to encourage a variety of housing types, make efficient use of infrastructure and services, and minimise the impacts of residential development on the environment and resource lands. The Direction requires that planning proposals not contain provisions that would reduce the permissible residential density of land (clause (2)(b)).</p> <p>The proposal to remove the opportunity site floor space incentive under clause 6.9 (see Section 1.4.11) would reduce the permissible residential density of some land in Central Sydney shown on the Opportunity Sites Map. This is inconsistent with the Direction.</p> <p>The proposed restrictions on overshadowing of Gunyama Park and Cook and Phillip Park (see Section 1.4.4) could also reduce the permissible residential density of land (by limiting maximum building heights) in Green Square and Woolloomooloo.</p> <p>The planning proposal does not acknowledge these existing and potential inconsistencies with the Direction. A Gateway condition is therefore recommended requiring that the planning proposal be updated prior to public exhibition to address and justify inconsistency with the Direction.</p>
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Focus Area 7: Industry and Employment

7.1 Employment Zones	Unresolved	<p>The Direction aims to encourage employment growth in suitable locations, support the viability of existing centres, and protect industrial and employment lands. Of relevance to the planning proposal, the Direction requires that planning proposals give effect to the objectives of the Direction (clause (1)(a)) and not reduce the total potential floor space for employment uses and related public services in employment zones (clause (1)(c)).</p> <p>The proposal to remove the opportunity site floor space incentive under clause 6.9 is inconsistent with the Direction because it would reduce the total potential floor space for development on sites in Central Sydney shown on the Opportunity Sites Map.</p> <p>The proposed restrictions on overshadowing of Gunyama Park and Cook and Phillip Park are also potentially inconsistent with the Direction because they may affect the height of future development in Green Square and Woolloomooloo.</p> <p>The planning proposal does not acknowledge these existing and potential inconsistencies with the Direction. Given both amendments have the potential to reduce the total potential floor space for employment uses and related public services in employment zones, a Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to address and justify inconsistency with the Direction.</p>
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2.5 State Environmental Planning Policies

The consistency of the planning proposal with relevant SEPPs is discussed in **Table 14** below.

Table 14 Consistency with applicable SEPPs

SEPPs	Consistency	Justification
SEPP (Biodiversity and Conservation) 2021	Consistent	The planning proposal is consistent with the SEPP and would not affect the operation of provisions relating to development in the Sydney Harbour Catchment, the Foreshores and Waterways Area, and heritage conservation in Sydney Harbour. Any future DAs will need to consider the requirements of the SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Consistent	<p>The planning proposal seeks to introduce new exempt development provisions into the Sydney LEP 2012 and Green Square Town Centre LEPs 2013 for bicycle parking devices, electric vehicle chargers, and solar energy systems.</p> <p>These types of development are not already exempt or complying development under the SEPP. The planning proposal is therefore consistent with the SEPP.</p>

SEPPs	Consistency	Justification
SEPP (Housing) 2021	Consistent	<p>The planning proposal seeks to clarify that affordable housing contributions apply to applications to modify development consents where they relate to DAs lodged after 1 July 2021.</p> <p>It also seeks to require future development in the integration areas to make an affordable housing contribution in accordance with Council's Affordable Housing Program.</p> <p>The proposed amendments would not conflict with Chapter 2 of the Housing SEPP.</p>
SEPP (Planning Systems) 2021	Consistent	<p>The planning proposal does not seek any amendments that would affect the operation of the SEPP.</p>
SEPP (Precincts-Eastern Harbour City) 2021	Unresolved	<p>The planning proposal seeks to transfer the planning controls for the Redfern-Waterloo Authority Sites into the Sydney LEP 2012.</p> <p>The proposed planning controls are generally comparable to the existing planning controls in the SEPP (see Section 1.4.19.5). The key difference is Council's approach to setting maximum building heights, GFAs and FSRs.</p> <p>Other differences are the result of changes in how planning controls are drafted between the Eastern Harbour City SEPP and the Standard Instrument LEP.</p> <p>As discussed in Section 1.4.19.5, Gateway conditions are recommended requiring that the planning proposal be updated prior to public exhibition to:</p> <ul style="list-style-type: none"> • Simplify the proposed planning controls for the integration areas and make them more consistent with how principal development standards are expressed elsewhere in the LGA. • Include the amendments to the Eastern Harbour City SEPP needed to give effect to the transfer of the planning controls for the Redfern-Waterloo Authority Sites into the Sydney LEP 2012. <p>The recommended Gateway conditions would help improve alignment between the planning proposal and the Eastern Harbour City SEPP.</p>
SEPP (Resilience and Hazards) 2021	Consistent	<p>Some parts of the LGA near Sydney Harbour and the Alexandra Canal are in the Coastal Environment Area, Coastal Use Area and Coastal Wetlands and Littoral Rainforests Area.</p> <p>The planning proposal is consistent with the SEPP and would not affect the operation of provisions relating to development in the Coastal Environment Area, Coastal Use Area and Coastal Wetlands and Littoral Rainforests Area under Chapter 2. It also would not affect provisions relating to the remediation of land under Chapter 4. Any future development applications will need to consider the requirements of the SEPP.</p>

SEPPs	Consistency	Justification
SEPP (Sustainable Buildings) 2022	Consistent	The planning proposal responds to the introduction of the SEPP (see Section 1.4.7). The planning proposal does not seek any amendment that would affect the operation of the SEPP.
SEPP (Transport and Infrastructure) 2021	Consistent	<p>Exempt Development: Electric Vehicle Charging Units</p> <p>As discussed in Section 1.4.3.5, the proposed exempt development provision for electric vehicle charging units in car parking spaces duplicates section 2.124D of the SEPP. A Gateway condition requiring that it be removed is recommended.</p> <p>Exempt Development: Solar Energy Systems</p> <p>The proposed exempt development provision for solar energy systems on land containing State or local heritage items or in a heritage conservation area does not include requirements that are inconsistent with the SEPP.</p>

3 Site-Specific Assessment

The Department's consideration of potential environmental, social, economic and infrastructure issues is provided in **Table 15**.

Table 15 Consideration of Environmental, Social, Economic and Infrastructure Issues

Issue	Assessment
Environmental	
Air Quality	<p>The planning proposal seeks to remove the requirement for development near the Cross City Tunnel ventilation stack to consider impacts on and from the dispersal of emissions from the Cross City Tunnel ventilation stack.</p> <p>The planning proposal states that air quality assessments prepared to support DAs on land near the Cross City Tunnel ventilation stack have shown:</p> <ul style="list-style-type: none"> • Development is not having a material affect on, or being materially affected by, the dispersal of emissions from the ventilation stack. • The ventilation stack is unlikely to be a major contributor to the concentration of pollutants, levels of which have not changed significantly since the opening of the Cross City Tunnel. <p>The Department also notes that emissions from the ventilation stack will continue to be monitored by the NSW Environment Protection Authority.</p> <p>However, to ensure that the potential implications of removing the requirement for air quality assessments are properly understood, a Gateway condition is recommended requiring that Council consult with the NSW Environment Protection Authority and Placemaking NSW.</p>

Issue	Assessment
Amenity	<p>The planning proposal has not considered the potential impacts of introducing a maximum building height of 45m and a maximum FSR of 7.5:1 for land at 257 Sussex Street, Sydney.</p> <p>A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to consider the potential impacts of the proposed building heights and FSR.</p>
Heritage	<p>Some of the heritage items and additions to heritage conservation areas proposed as part of the transfer of the planning controls for the integration areas into the Sydney LEP 2012 (see Section 1.4.19) need to be supported by an assessment of heritage significance prepared in accordance with the <i>Assessing Heritage Significance</i> guidelines (NSW Environment and Heritage, 2023).</p> <p>A Gateway condition is recommended requiring that the planning proposal be updated prior to public exhibition to remove any proposed heritage items or additions to heritage conservation areas that are not conserved by an existing or draft LEP or SEPP, or have not been assessed against the <i>Assessing Heritage Significance</i> guidelines (NSW Environment and Heritage, 2023) and found to meet the threshold for local heritage listing.</p> <p>Given some of the proposed local heritage items are in or near items and areas of State heritage significance, a Gateway condition is recommended requiring Council to consult with Heritage NSW (part of the NSW Department of Climate Change, Energy, the Environment and Water).</p> <p>Solar Energy Systems</p> <p>The proposed exempt development provision for solar energy systems has been designed to minimise potential impacts on heritage items and conservation areas. The installation of solar energy systems would only be able to be carried out as exempt development if they:</p> <ul style="list-style-type: none"> • Do not protrude more than 0.5m from the building • Are not attached to any wall or roof facing a primary road. <p>This would help ensure that solar energy systems do not substantially alter the form and character of roofs when viewed from the street or unreasonably affect neighbouring properties.</p>
Critical Habitat and Threatened Species	<p>The planning proposal is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.</p> <p>This is because the land affected by the planning proposal is already highly urbanised and the planning proposal would not rezone the habitat of any threatened species, populations or ecological communities, or materially increase the overall intensity of development across the LGA. Further consideration of potential biodiversity impacts will occur as part of future DAs.</p>

Social and Economic

Social	<p>The planning proposal would have a positive social impact by:</p> <ul style="list-style-type: none"> • Encourage walking, cycling and the use of public transport by reducing maximum car parking rates in areas close to public transport infrastructure, including the new Sydney Metro. • Support the delivery of a new local road in Alexandria, which will make it easier to get between Green Square and Erskineville.
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Issue	Assessment
	<ul style="list-style-type: none"> • Encourage good built form and public domain outcomes by limiting overshadowing of Gunyama Park and Cook and Phillip Park. • Support the delivery of new homes and employment floor space by simplifying the planning approvals process for some DAs and reducing the number of different LEPs applying across the LGA.
Economic	<p>Restrictions on shops and food and drink premises in the R1 General Residential Zone</p> <p>The Department does not support the proposal to limit development for the purposes of shops and food and drinks premises on land zoned R1 General Residential to buildings that were originally designed and constructed for the purposes of a shop or a pub.</p> <p>This is because the proposed amendment, which would effectively prohibit shops and food and drink premises across most of the R1 General Residential zone, is considered unnecessarily restrictive. It would treat shops and food and drink premises differently to other land uses that would continue to be permitted with consent throughout the R1 General Residential zone, including:</p> <ul style="list-style-type: none"> • Business premises like banks, hairdressers, dry cleaners and post offices. • Other types of retail premises, including garden centres, hardware and building supplies, markets, specialised retail premises, timber yards, and vehicle sales or hire premises. <p>It is considered appropriate that applications for shops and food and drink premises in the R1 General Residential zone continue to be assessed on their merits in accordance with the requirements of the Sydney LEP 2012, Sydney DCP 2012 and the EP&A Act.</p> <p>A Gateway condition is therefore recommended requiring that the planning proposal be updated prior to public exhibition to remove the proposal to limit development for the purposes of shops and food and drinks premises on land zoned R1 General Residential to buildings that were originally designed and constructed for the purposes of a shop or a pub.</p>
Infrastructure	
Traffic, Transport and Car Parking	<p>While the Department is supportive of measures to encourage walking, cycling and the use of public transport by reducing maximum car parking rates in well-located areas, the analysis supporting the proposed changes has not been provided by Council.</p> <p>A Gateway condition is recommended requiring that the planning proposal be updated to include supporting analysis for the proposed car parking rates.</p> <p>To help ensure that potential effects on the existing and future transport network are appropriately considered as part of the planning proposal, a condition requiring that Council consult with Transport for NSW has also been included in the Gateway determination.</p>
Utilities and Services	<p>Council has advised that land affected by the planning proposal is adequately serviced by public utilities and infrastructure, including water and sewerage services, telecommunications, electricity and gas. It is expected that these services will be upgraded as required as part of any future DAs, in consultation with relevant providers.</p>

4 Consultation

4.1 Community

The planning proposal is categorised as ‘principal’ under the LEP Making Guideline (August 2023). Accordingly, a public exhibition period of 20 working days is recommended. This forms a condition of the Gateway determination.

4.2 Agencies

The planning proposal does not specifically identify which public authorities and government agencies will be consulted.

It is recommended that the following government agencies and public authorities be consulted on the planning proposal and given 30 working days to comment:

- NSW Department of Creative Industries, Tourism, Hospitality and Sport
- NSW Environment Protection Authority
- Placemaking NSW
- Transport for NSW
- Government Architect NSW.
- NSW Land and Housing Corporation
- Heritage NSW (part of the NSW Department of Climate Change, Energy, the Environment and Water)
- Sydney Airport Corporation
- Department of Infrastructure, Transport, Regional Development, Communications and the Arts
- Civil Aviation Safety Authority.

5 Timeframe

The LEP Plan Making Guideline (August 2023) establishes maximum benchmark timeframes for different categories of planning proposals. The planning proposal is categorised as ‘principal’.

Given the complexity of the planning proposal, number of unresolved matters and delay in issuing the Gateway determination, a recommended LEP completion date of 28 November 2025 is included in the Gateway determination.

6 Local Plan-Making Authority

Council has advised that it would like to exercise its functions as a local plan-making authority (LPMA).

It is recommended that Council not be authorised to be the LPMA given the nature of the planning proposal, the number of unresolved matters, and the need for the Department to coordinate amendments to the Eastern Harbour City SEPP.

7 Assessment Summary

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

- It would improve the operation of the Sydney LEP 2012 and the Green Square Town Centre LEPs 2013.
- It would help protect the amenity of important public open spaces, include Gunyama Park and Cook and Phillip Park.
- It would help streamline the planning approvals process for some DAs and reduce the number of different LEPs applying across the LGA.
- It is generally consistent with relevant SEPPs. Consistency with the Eastern Harbour City SEPP can be resolved subject to further work in accordance with the conditions of the Gateway determination.
- It is consistent with the relevant provisions of the District Plan and Council's Local Strategic Planning Statement and Community Strategic Plan.
- Inconsistency with section 9.1 Direction 4.5 Acid Sulfate Soils is minor and justified.
- Outstanding inconsistencies with other applicable section 9.1 Directions can be resolved subject to further justification and consultation in accordance with the conditions of the Gateway determination.
- The objectives and intended outcomes of most of the proposed amendments are best achieved through a planning proposal. Where this is not the case, the recommended Gateway conditions require they be removed.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that inconsistency with section 9.1 Direction 4.5 Acid Sulfate Soils is minor and justified.
- Note that consistency with the following section 9.1 Directions is unresolved and will require further justification, consultation and updates to the planning proposal: 1.4 Site Specific Provisions; 1.4A Exclusion of Development Standards from Variation; 4.1 Flooding; 5.2 Reserving Land for Public Purposes; 5.3 Development Near Regulated Airports and Defence Airfields; 6.1 Residential Zones; and 7.1 Employment Zones.

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

1. The planning proposal is to be updated to prior to public exhibition to:
 - Resolve inconsistencies between the explanation of provisions and the example drafting provided in **Appendix A**.
 - Clarify that the 'drafting instructions' provided in **Appendix A** are only one example of how the proposed amendments could be worded, with the final wording subject to drafting and agreement by the Parliamentary Counsel's Office.
 - Clarify whether the planning proposal seeks to repeal Sydney LEP 2005.
 - Remove the proposal to add a definition of a deep soil zone that differs from the one in the Housing SEPP.

- Remove the proposal to add a new deep soil clause to the Sydney LEP 2012 and the Green Square Town Centre LEPs 2013
- Remove the following detailed design requirements for structures associated with rooftop gardens and communal open space:
 - The solar reflectivity of non-glazed surfaces.
 - The percentage of the roof that must be used as a communal open space and gardens.
- Clarify the proposed car parking rates for co-living housing.
- Remove the following detailed design requirements for community electric vehicle chargers:
 - A payment system to charge users.
 - Net zero emissions from energy used, including by renewal energy generated on-site and off-site.
- Clarify where the proposed exempt development provision for bicycle parking devices would apply.
- Remove the proposed exempt development provision for electric vehicle charging units in existing car parking spaces.
- Provide a detailed justification for the proposed restrictions on overshadowing of Gunyama Park and Cook and Phillip Park, including the times of day and year when overshadowing would be limited.
- Provide a detailed assessment of the potential impacts of the proposed restrictions on overshadowing of Gunyama Park and Cook and Phillip Park on existing and future development in the surrounding area.
- Remove the land shown as 'Central Station' from the draft Sun Access Protection Map.
- Align the approach to incentivising basement intensive plant agriculture with existing clauses in Part 6 of the Sydney LEP 2012.
- Clarify that Council would be responsible for granting exemptions for competitive design processes for DAs that are to be determined by Council, the Local Planning Panel, or the Central Sydney Planning Committee.
- Clarify that Council would be responsible for granting exemptions for site-specific DCPs where the detailed DA is to be determined by Council, the Local Planning Panel, or the Central Sydney Planning Committee.
- Provide additional justification for the proposed changes to the planning controls for the Powerhouse Museum.
- Provide additional justification for removing the application of clause 5.3 from land zoned SP1 Special Activities.
- Clarify the circumstances where affordable housing contributions would apply to applications to modify development consents.

- Simplify the proposed planning controls for the integration areas and make them more consistent with how principal development standards are expressed elsewhere in the LGA.
 - Include the amendments to the Eastern Harbour City SEPP needed to give effect to the transfer of the planning controls for the Redfern-Waterloo Authority Sites into the Sydney LEP 2012.
 - Remove the proposed exclusion to clause 4.6 of the Sydney LEP 2012.
 - Clarify ownership and any existing agreements for land proposed to be zoned for a public purpose in the Sydney LEP 2012.
 - Confirm whether any additional amendments are required to the Land Reservation Acquisition Map and clause 5.1 of the Sydney LEP 2012.
 - Consider the potential impacts of the proposed building heights and FSR for 257 Sussex Street, Sydney.
 - Remove any proposed heritage items or additions to heritage conservation areas that are not conserved by an existing or draft LEP or SEPP, or have not been assessed against the Assessing Heritage Significance guidelines (NSW Environment and Heritage, 2023) and found to meet the threshold for local heritage listing.
 - Remove the proposal to limit development for the purposes of shops and food and drinks premises on land zoned R1 General Residential to buildings that were originally designed and constructed for the purposes of a shop or a pub.
 - Provide additional supporting analysis for the proposed car parking rates.
 - Provide further information addressing the planning proposal's consistency with the following section 9.1 Directions: 1.4 Site Specific Provisions; 4.1 Flooding; 5.2 Reserving Land for Public Purposes; 5.3 Development Near Regulated Airports and Defence Airfields; 6.1 Residential Zones; and 7.1 Employment Zones.
2. The planning proposal is to be updated prior to the LEP being made to address consistency with section 9.1 Direction 5.3 Development Near Regulated Airports and Defence Airfields.
 3. Council is to write to the Department prior to the LEP being made to formally approve the listing of land at 9-13 and 22 O'Riordan Street, Alexandria on the Land Reservation Acquisition Map and the identification of Council as the relevant acquisition authority under clause 5.1.
 4. Consultation is required with the following public authorities and government agencies:
 - NSW Department of Creative Industries, Tourism, Hospitality and Sport
 - NSW Environment Protection Authority
 - Placemaking NSW
 - Transport for NSW
 - Government Architect NSW.
 - NSW Land and Housing Corporation
 - Heritage NSW (part of the NSW Department of Climate Change, Energy, the Environment and Water)

- Sydney Airport Corporation
- Department of Infrastructure, Transport, Regional Development, Communications and the Arts
- Civil Aviation Safety Authority.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 30 working days to comment.

5. The planning proposal should be made available for community consultation for a minimum of 20 working days.
6. It is recommended that Council not be authorised to be the LPMA given the nature of the planning proposal, the number of unresolved matters, and the need for the Department to help coordinate amendments to the Eastern Harbour City SEPP.
7. The recommended completion date for the LEP is on or before 28 November 2025.



26 August 2024

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30 August 2024

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