

ATTACHMENT B

**TABLE OF REQUIRED AMENDMENTS TO
SYDNEY LOCAL ENVIRONMENTAL PLAN
2012 AND SOUTH SYDNEY LOCAL
ENVIRONMENTAL PLAN 1998**

Required Amendments to Sydney Local Environmental Plan 2012 and South Sydney Local Environmental Plan 1998

1. Sydney Local Environmental Plan 2012

Clause No.	Current Wording	Required Changes	Reason for Change	Approval to Proceed
6.10(2)(d) – Creation of heritage floor space	“(d) a covenant is registered that prevents development that increases the total gross floor space area of all buildings on the site on which the heritage building is located or that increases the height of the heritage building, and...”	Deletion of the word ‘space’, as shown in strike through below: “(d) a covenant is registered that prevents development that increases the total gross floor space area of all buildings on the site on which the heritage building is located or that increases the height of the heritage building, and...”	The insertion of the word ‘space’ within the term ‘total gross floor area’ means that the term is inconsistent with the Standard Instrument dictionary definition of ‘gross floor area’ and should be removed.	Yes – Gateway Determination issued on 28/03/2013 for progression under S.73A.
6.11(1) – Utilisation of certain additional floor space requires allocation of heritage floor space	“(1) Despite any other provision of this Part, development consent must not be granted to development in respect of a building on land in Central Sydney that utilises any amount of additional floor space specified in paragraph (a), (b), (c), (d) or (e) unless an amount of heritage floor space is allocated to the building in accordance with the relevant paragraph: (a) accommodation floor space in respect of a building on land in Area 1, 2 or 3—unless an amount of heritage floor space is allocated to the building that is equal to 50% of the accommodation floor space to be utilised, or (b) accommodation floor space in respect of a building on land in Area 4 (but only if the accommodation floor space causes the floor space ratio of the building to be greater than 8:1)—unless an amount of heritage floor space is allocated to the building that is equal to 50% of any accommodation floor space to	Deletion of the word ‘or’, as shown in strike through below: “(1) Despite any other provision of this Part, development consent must not be granted to development in respect of a building on land in Central Sydney that utilises any amount of additional floor space specified in paragraph (a), (b), (c), (d) or (e) unless an amount of heritage floor space is allocated to the building in accordance with the relevant paragraph: (a) accommodation floor space in respect of a building on land in Area 1, 2 or 3—unless an amount of heritage floor space is allocated to the building that is equal to 50% of the accommodation floor space to be utilised, or (b) accommodation floor space in respect of a building on land in Area 4 (but only if the accommodation floor space causes the floor space ratio of the building to be greater than 8:1)—unless an amount of heritage floor space is allocated to	The intent of the subclause is that each relevant amount of heritage floor space is to be allocated as specified in (a), (b), (c), (d) and (e), less any discount as relevant in 6.11(2). Subclauses (a), (b), (c), (d) and (e) are not mutually exclusive and therefore the addition of the word ‘or’ after subclauses (a) to (d) is incorrect because more than one type of additional floor space may be pursued at any one time.	Yes – Gateway Determination issued on 28/03/2013 for progression under S.73A.

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	<p>be utilised, or</p> <p>(c) opportunity site floor space—unless an amount of heritage floor space is allocated to the building that is equal to 50% of the opportunity site floor space to be utilised, or</p> <p>(d) additional floor space granted by a consent authority under clause 6.21 (7) (b)—unless an amount of heritage floor space is allocated to the building that is equal to 50% of the additional floor space to be utilised, or</p> <p>(e) additional floor space permitted under clause 4.6 in respect of a building that also utilises additional floor space referred to in paragraph (a), (b), (c) or (d)—unless an amount of heritage floor space is allocated to the building that is equal to the additional floor space permitted under that clause.”</p>	<p>the building that is equal to 50% of any accommodation floor space to be utilised, or</p> <p>(c) opportunity site floor space—unless an amount of heritage floor space is allocated to the building that is equal to 50% of the opportunity site floor space to be utilised, or</p> <p>(d) additional floor space granted by a consent authority under clause 6.21 (7) (b)—unless an amount of heritage floor space is allocated to the building that is equal to 50% of the additional floor space to be utilised, or</p> <p>(e) additional floor space permitted under clause 4.6 in respect of a building that also utilises additional floor space referred to in paragraph (a), (b), (c) or (d)—unless an amount of heritage floor space is allocated to the building that is equal to the additional floor space permitted under that clause.”</p>		
<p>6.11(2) – Utilisation of certain additional floor space requires allocation of heritage floor space</p>	<p>“(2) The consent authority may reduce the amount of heritage floor space that is required to be allocated to a building under subclause (1) as follows (and in such a case that reduced amount is the amount of heritage floor space that is required to be allocated):</p> <p>(a) if the proposed development is the winner of an architectural design competition carried out in accordance with the City of Sydney Competitive Design Policy—the amount of heritage floor space may</p>	<p>Deletion of the word ‘or’, as shown in strike through below:</p> <p>“(2) The consent authority may reduce the amount of heritage floor space that is required to be allocated to a building under subclause (1) as follows (and in such a case that reduced amount is the amount of heritage floor space that is required to be allocated):</p> <p>(a) if the proposed development is the winner of an architectural design competition carried out in accordance with the City of Sydney</p>	<p>The intent of the subclause is that the consent authority may reduce the amount of heritage floor space required to be allocated under subclause 6.11(1) providing certain circumstances are met.</p> <p>Subclauses (a), (b) and (c) are not mutually exclusive and therefore the addition of the word ‘or’ after subclauses (a) and (b) is incorrect.</p>	<p>Yes – Gateway Determination issued on 28/03/2013 for progression under S.73A.</p>

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	<p>be reduced by up to 50% or 1,000 square metres, whichever is the lesser, or</p> <p>(b) if the development includes any covered or partially covered pedestrian route through the site at street level and the consent authority is satisfied that the pedestrian route provides a vital and publicly accessible link between 2 streets—the amount of heritage floor space may be reduced by up to 50% or 250 square metres, whichever is the lesser, or</p> <p>(c) if the development is an alteration or addition to a building that is in existence at the commencement of this plan (the commencement date) and the additional floor space created by the development does not cause the building to exceed the maximum floor space ratio for the land under Sydney Local Environmental Plan 2005 immediately before the commencement date—the amount of heritage floor space may be reduced by up to 100%.”</p>	<p>Competitive Design Policy—the amount of heritage floor space may be reduced by up to 50% or 1,000 square metres, whichever is the lesser, or</p> <p>(b) if the development includes any covered or partially covered pedestrian route through the site at street level and the consent authority is satisfied that the pedestrian route provides a vital and publicly accessible link between 2 streets—the amount of heritage floor space may be reduced by up to 50% or 250 square metres, whichever is the lesser, or</p> <p>(c) if the development is an alteration or addition to a building that is in existence at the commencement of this plan (the commencement date) and the additional floor space created by the development does not cause the building to exceed the maximum floor space ratio for the land under Sydney Local Environmental Plan 2005 immediately before the commencement date—the amount of heritage floor space may be reduced by up to 100%.”</p>		
<p>6.11(2)(c) – Utilisation of certain additional floor space requires allocation of</p>	<p>“(2) The consent authority may reduce the amount of heritage floor space that is required to be allocated to a building under subclause (1) as follows (and in such a case that reduced amount is the amount of heritage floor space that is required to be allocated): ...</p>	<p>Deletion of subclause (c).</p>	<p>In the drafting instructions provided by the City, it was requested that only those buildings which have theatres or clubs in the basement should be eligible for the discount on heritage floor space, rather than</p>	<p>No – proposal not considered to be of a minor nature and is not supported under S.73A.</p>

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heritage floor space	<p>(c) if the development is an alteration or addition to a building that is in existence at the commencement of this plan (the commencement date) and the additional floor space created by the development does not cause the building to exceed the maximum floor space ratio for the land under Sydney Local Environmental Plan 2005 immediately before the commencement date—the amount of heritage floor space may be reduced by up to 100%.”</p>		<p>a building “in existence at the commencement of this plan” . Under the Standard Instrument definition of gross floor area, the floor space controls in Sydney LEP 2012 capture habitable rooms in basements. This floor space was not captured under the Sydney LEP 2005 definition of ‘floor space area’ in Central Sydney.</p> <p>The retention of clubs and the like is important, and the intention of this subclause was to ensure that an existing building with a registered club or entertainment facility in its basement should not be penalised by that space pushing the floor space ratio above the threshold that requires heritage floor space allocation.</p> <p>The subclause as currently worded captures any existing building, rather than just those with a registered club or entertainment facility in the basement. This may be used by developers to avoid having to make any heritage allocation. Deletion of the subclause is considered appropriate to address this matter, as an alternate provision in Sydney LEP 2012 achieves the same policy intent – Clause 6.7 of Sydney LEP 2012 allows for</p>	<p>Gateway Determination issued on 28/03/2013 requires proposal to delete 6.11(2)(c) to be removed from the LEP amendment.</p>

Clause No.	Current Wording	Required Changes	Reason for Change	Approval to Proceed
6.21(7)(b) – Design excellence	<p>“(b) an amount of floor space that exceeds the amount permitted as a result of the floor space ratio shown for the land on the Floor Space Ratio Map by up to 10% or, if the building or alteration is eligible for any accommodation floor space or community floor space under Division 1, by up to 10% plus the sum of that accommodation floor space and community floor space.</p> <p>Note. Development may exceed the amount permitted by clause 4.4 by more than 10% only in relation to accommodation floor space or community floor space but not in relation to any other form of additional floor space under Division 1 or 2.”</p>	<p>Insertion of the words ‘or 2’ as shown in bold below: “(b) an amount of floor space that exceeds the amount permitted as a result of the floor space ratio shown for the land on the Floor Space Ratio Map by up to 10% or, if the building or alteration is eligible for any accommodation floor space or community floor space under Division 1 or 2, by up to 10% plus the sum of that accommodation floor space and community floor space.</p> <p>Note. Development may exceed the amount permitted by clause 4.4 by more than 10% only in relation to accommodation floor space or community floor space but not in relation to any other form of additional floor space under Division 1 or 2.”</p>	<p>additional floor space for the purposes of entertainment facilities or registered clubs without a requirement to allocate heritage floor space.</p> <p>Additional floor space is available to certain development in Central Sydney and Green Square, namely ‘accommodation floor space’ and ‘community floor space’ respectively. The subclause references Division 1 (which details accommodation floor space) but omits a reference to Division 2 (which details community floor space). The note below the subclause contains the correct reference to Division 2. The words ‘or 2’ need to be added to subclause (b) for correct reference to Division 2 as well.</p>	<p>Yes – Gateway Determination issued on 28/03/2013 for progression under S.73A.</p>

2. South Sydney Local Environmental Plan 1998

Clause No.	Current Wording	Required Changes	Reason for Change	Approval to Proceed
Part 4, Division 3 – Affordable Housing at Green Square	Repealed following the making of <i>Sydney Local Environmental Plan 2012</i> (14 December 2012).	<p>Reinstate Part 4: Special Provisions Division 3: Affordable Housing at Green Square as it existed on 13 December 2012.</p> <p>A copy is attached for ease of reference.</p>	<p>Prior to its repeal on 14 December 2012, South Sydney LEP 1998 contained affordable housing provisions at Part 4, Division 3. These provisions enabled the collection of affordable housing contributions in connection with development in the Green Square Urban Renewal Area.</p> <p>Through the consequential amendment of other planning instruments listed in Schedule 6 of Sydney LEP 2012 (clause 6.2[3] Part 4 Special provisions), these provisions were repealed when the Sydney LEP 2012 commenced on 14 December 2012.</p> <p>Affordable housing provisions are contained in Sydney LEP 2012. However, the repeal of Division 3 of South Sydney LEP 1998 overlooked that some sites in Green Square, including a 17 hectare redevelopment area known as the Lachlan Precinct and 18 hectares of employment lands, are currently excluded from Sydney LEP 2012. The South Sydney LEP 1998 is the current instrument that applies to these sites and, as such, the affordable housing provisions in South Sydney LEP 1998 still need to apply.</p> <p>The LEP amendment reinstates the affordable housing provisions as contained at Part 4, Division 3 of South Sydney LEP 1998 on the day preceding their repeal, namely 13 December 2012.</p>	Yes – Gateway Determination issued on 28/03/2013 for progression under S.73A.