

**ITEM 12. MINOR POLICY AND HOUSEKEEPING AMENDMENTS TO SYDNEY LOCAL ENVIRONMENTAL PLAN 2012 AND SYDNEY DEVELOPMENT CONTROL PLAN 2012****FILE NO: S121969****SUMMARY**

The City's planning framework plays a critical role in shaping the economic, cultural, social and environmental success of the city. It ensures we have the quantity and quality of space needed for the City's economy to be productive; there are sufficient quality homes for a diverse community; that heritage places are retained for future generations; that land uses take best advantage of transport, services and infrastructure and there is a high quality urban environment that makes a liveable and sustainable place.

The *Sydney Local Environmental Plan 2012* (LEP) and *Sydney Development Control Plan 2012* (DCP) came into operation on 14 December 2012. The planning controls are the product of a comprehensive program of review and rationalisation of the City's previous controls and development policies.

The controls implement the City's vision and objectives for the use and development of land. This strategic planning framework has focused on providing jobs and residential growth in Central Sydney, the city fringe and in renewal areas while conserving the characteristic heritage areas and high streets.

The City's focus for its strategic planning work has now shifted from the consolidation of the controls to delivering the long term vision described in *Sustainable Sydney 2030* and responding to the challenges and opportunities of evolving economic, demographic and environmental trends and NSW Government plans and projects.

A component of this work is the ongoing monitoring and review of the controls to deliver the intended planning outcomes and objectives of *Sustainable Sydney 2030*.

This report sets out five minor policy and fifteen housekeeping amendments to Sydney LEP 2012. The amendments are:

- (a) allow low impact creative uses in the R1 General Residential zone,
- (b) allow wind affected private balconies on high-rise residential flat buildings to be partially enclosed with wind screens without counting the balcony floor space towards gross floor area,
- (c) allow 'business premises' to be permitted with consent on land at 83-93 Dalmeny Avenue, Rosebery,
- (d) remove a disincentive to providing community facilities and child care uses in Central Sydney,
- (e) clarify where the lanes development floor space criteria can be awarded,
- (f) clarify the meaning of car share scheme parking spaces and car share parking schemes,
- (g) clarify the amount that a heritage floor space allocation may be reduced by for development in existing buildings,
- (h) clarify community floor space requirements in Green Square,

- (i) update the opportunities site map to correctly identify opportunity sites eligible for additional floor space,
- (j) update the heritage schedule for the following properties to reflect their significance and ensure they are accurately described:
  - (i) 22-26 York Street, Sydney,
  - (ii) 69-77 King Street, Newtown,
  - (iii) 117-119 Young Street, Redfern,
  - (iv) 97-99 Victoria Street, Potts Point,
  - (v) 1-3 Rosebery Avenue, Rosebery,
  - (vi) 168-174 Cathedral Street, Woolloomooloo,
- (k) update the heritage schedule to remove the following properties which do not have heritage significance:
  - (i) 372 Riley Street, Surry Hills, and
  - (ii) 73 Glebe Point Road, Glebe.

In addition, the DCP amendments:

- (a) clarify the requirements for the partial enclosure of wind affected balconies,
- (b) clarify the requirements for providing car share parking spaces,
- (c) clarify the method and process for assessing community infrastructure provision linked to additional floor space,
- (d) clarify how floor to ceiling heights are measured for non-residential buildings, and
- (e) clarify the requirements for apartments with setback bedrooms.

The amendments allow for or encourage desirable uses and forms of development, improve the operation of the controls to ensure the intended planning outcomes can be achieved and increase certainty for proponents, the community and the City.

The *Planning Proposal: Sydney LEP 2012 – Minor Policy and Housekeeping Amendments 2014* (the planning proposal) and associated *Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014* (draft DCP) are to implement the proposed amendments.

This report recommends that the Central Sydney Planning Committee approve the planning proposal at **Attachment A** for submission to the Department of Planning and Environment for Gateway Determination and then public exhibition.

It is also recommended that the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 28 October 2014 that Council approve the draft DCP at **Attachment B** for public exhibition alongside the planning proposal.

**RECOMMENDATION**

It is resolved that:

- (A) the Central Sydney Planning Committee approve the Planning Proposal: Sydney Local Environmental Plan 2012 – Minor Policy and Housekeeping Amendments 2014, shown at Attachment A to the subject report, for submission to the Minister for Planning under Section 57 (2) of the Environmental Planning and Assessment Act 1979 with a request for a Gateway Determination;
- (B) the Central Sydney Planning Committee approve the Planning Proposal: Sydney Local Environmental Plan 2012 – Minor Policy and Housekeeping Amendments 2014, for public authority consultation and public exhibition in accordance with the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 28 October 2014 that Council seek authority from the Secretary of the Department of Planning and Environment to exercise the delegation of the Minister for Planning of all her functions under section 59 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 28 October 2014 that Council approve the Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014, shown at Attachment B to the subject report, for public authority consultation and public exhibition in parallel with the public exhibition of the Planning Proposal: Sydney Local Environmental Plan 2012 – Minor Policy and Housekeeping Amendments 2014;
- (E) the Central Sydney Planning Committee delegate authority to the Chief Executive Officer to make minor changes to the Planning Proposal: Sydney Local Environmental Plan 2012 – Minor Policy and Housekeeping Amendments 2014, following receipt of the Gateway determination to prepare for public exhibition; and
- (F) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 28 October 2014 that Council authorise the Chief Executive to make any minor variations to the Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014, following receipt of the Gateway determination to prepare for public exhibition.

**ATTACHMENTS**

**Attachment A:** Planning Proposal: Sydney LEP 2012 – Minor Policy and Housekeeping Amendments 2014

**Attachment B:** Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014

**BACKGROUND**

1. The *Sydney Local Environmental Plan 2012* (LEP) and *Sydney Development Control Plan 2012* (DCP) came into operation on 14 December 2012. The planning controls are the product of a comprehensive program of review and rationalisation of the City's previous controls and development policies.
2. The controls implement the City's vision and objectives for the use and development of land. This strategic planning framework has focused on providing jobs and residential growth in Central Sydney, the city fringe and in renewal areas while conserving the characteristic heritage areas and high streets.
3. The City's focus for its strategic planning work has now shifted from the consolidation of the controls to delivering the long term vision described in *Sustainable Sydney 2030* and responding to the challenges and opportunities of evolving economic, demographic and environmental trends and NSW Government plans and projects.
4. A component of this work is the ongoing monitoring and review of the controls to deliver the intended planning outcomes and objectives of *Sustainable Sydney 2030*.
5. This report details five minor policy and fifteen housekeeping amendments to Sydney LEP 2012 and amendments to Sydney DCP 2012. All proposed amendments are discussed in sections of the report below and in **Attachment A** and **B**.
6. The minor policy amendments align future development with the objectives of *Sustainable Sydney 2030*. The housekeeping amendments seek to improve the clarity and useability of Sydney LEP 2012.
7. The amendments to Sydney DCP 2012 support the amendments to Sydney LEP 2012, improve the clarity of the controls or provide better planning outcomes.
8. The proposed amendments are the result of regular monitoring and review of land use and planning controls. The proposed amendments will ensure the City's planning framework continues to deliver the strategic directions under *Sustainable Sydney 2030* and desirable environmental, social and economic outcomes from development.
9. The proposed amendments will allow for or encourage desirable uses and forms of development, improve the operation of the controls to ensure the intended planning outcomes can be achieved and increase certainty for the community, proponents and the City.
10. The *Planning Proposal: Sydney LEP 2012 – Minor Policy & Housekeeping Amendments 2014* (the planning proposal) and associated *Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014* (draft DCP) will implement the proposed amendments. The planning proposal and draft DCP are shown as **Attachment A** and **B** respectively.
11. This report recommends approval of the planning proposal for submission to the Department of Planning and Environment for Gateway Determination and then public exhibition of the planning proposal. The draft DCP will be exhibited with the planning proposal.

**LEP amendments – minor policy**

12. The five minor policy amendments proposed to Sydney LEP 2012 include:
- (a) introducing new clauses to allow:
    - (i) low impact creative uses in the R1 General Residential zone (amendment number 1),
  - (b) wind affected balconies on high-rise residential flat buildings to be partially enclosed without counting the floor space towards gross floor area (amendment number 2) amending existing clauses to:
    - (i) remove a disincentive to providing community facilities and child care uses in Central Sydney (amendment number 3),
    - (ii) clarify where the lanes development floor space can be awarded (amendment number 4), and
    - (iii) clarify the meaning of car share scheme parking spaces and car share parking schemes (amendment number 5).

**LEP amendments – housekeeping**

13. The housekeeping amendments to Sydney LEP 2012 include:
- (a) allowing business premises to be permitted with consent on land at 83-93 Dalmeny Avenue, Rosebery under Schedule 1 Additional permitted uses (amendment 6),
  - (b) amendments to existing clauses:
    - (i) clarifying the amount that a heritage floor space allocation may be reduced by for development in existing buildings (amendment number 7),
    - (ii) clarifying community floor space requirements in Green Square (amendment number 8),
    - (iii) correcting the description of sun access plane coordinates for Belmore Park and Hyde Park West (amendment 9),
    - (iv) correcting the design excellence clause by replacing the term 'capital value' with 'capital investment value' (amendment 10),
    - (v) update the opportunities site map to correctly identify opportunity sites eligible for additional floor space (amendment 11),
    - (vi) update the floor height and floor space map for to accurately show the site boundaries for 17 Elizabeth Bay Road Potts Point (amendment 12),
  - (c) amendments to reflect the significance of heritage items and ensure they are accurately described by:

- (i) correcting an error where the heritage listing for 22-26 York Street Sydney incorrectly identifies 345-355 George Street Sydney as part of the heritage item (amendment 13),
- (ii) removing the heritage listing for the demolished buildings at:
  - a. 372 Riley Street, Surry Hills (amendment 14),
  - b. 73 Glebe Point Road, Glebe (amendment 15), and
- (iii) correcting the property, name or address details of five sites (amendments 16 to 20).

#### **DCP amendments – housekeeping**

14. The amendments to Sydney DCP 2012 support amendments to Sydney LEP 2012, improve the clarity of existing controls or improve planning outcomes. They include:
- (a) amending the existing car share scheme parking clause,
  - (b) amending the existing floor to ceiling heights and floor to floor heights clauses,
  - (c) amending the existing community floor space clause and inserting a new schedule to detail the assessment method,
  - (d) inserting a new clause for wind affected private balconies on high-rise residential flat buildings,
  - (e) inserting a new clause for apartments with setback bedrooms, and
  - (f) updating the building contribution map for 372 Riley Street Surry Hills

#### **KEY IMPLICATIONS**

15. The key considerations for the proposed controls and their rationale is explained below. A detailed explanation and justification for each LEP amendment is included in the planning proposal at **Attachment A**. For each draft DCP amendment information is provided in the report below and the draft DCP document can found at **Attachment B**.

#### **Low impact creative uses**

16. It is proposed to permit low impact office, business and light industrial creative uses in the R1 General Residential zone (R1 zone). The objective is to reduce barriers to the supply of workspaces for creative uses by allowing adaptive reuse of non-residential buildings.

17. Creative uses can provide social capital and contribute to community well-being, engagement and skills development. Creative uses also contribute to the City's economy, and a city that is an attractive place to live, work and invest. *Sustainable Sydney 2030* and the *Creative City Cultural Policy and Action Plan 2014 – 2024* have objectives to support the development of creative industries. Challenges for creative industries include an adequate supply of affordable and appropriate workspaces to showcase, practise or sell their work. To date the City's support has been through the provision of vacant Council properties and grants.
18. The NSW Department of Culture, Media and Sport's *Creative Industries Mapping Document* (2001) defines creative industries as those industries which have their origin in individual creativity, skill and talent, and that have a potential for wealth and job creation through the generation and exploitation of intellectual property. The industries are formed from a broad range of sub-sectors.
19. For the purposes of this LEP amendment, creative uses are considered to be those uses with a low impact, such as media, fine arts, arts & crafts, design (fashion, industrial, graphic), film and television, photography and publishing. These uses usually fall within the planning definitions of business premises, office premises or light industrial uses.
20. Much of the City is zoned as mixed use or business where a large range of creative uses are permitted as commercial premises (a group term including retail, office and business premises). Industrial zones also permit and attract creative industrial uses due to lower land values.
21. In the residential zones, however, business and office premises and light industry are prohibited. This means creative uses such as artist studios, arts & craft or photography studios, graphic design and film editing premises are prohibited. These creative uses are prohibited even though they may be low impact and compatible with the area.
22. The LEP translated three different zoning approaches under the previous controls into the NSW Government's Standard Instrument format. Residential zones were generally converted to the R1 General Residential zone. The South Sydney LEP 1998 permitted compatible non-residential development in the 2(b) residential zone. However, the R1 General Residential zone only permits very limited non-residential uses, such as shops and food and drink premises.
23. Areas zoned residential have traditionally supported compatible non-residential development. Non-residential buildings that have not yet been converted to residential offer opportunities for workspaces for compatible creative uses. There are existing warehouses and corner shops, that could continue to be appropriately used for non-residential purposes, but which the LEP does not currently allow.
24. It is proposed to insert a new clause in the LEP that will permit specific low impact creative uses in the R1 General Residential zone. The clause limits these uses to existing non-residential buildings and requires Council to be satisfied that the use does not detract from the amenity of the residential area.
25. It is recommended that the amendment not result in any changes to the Land Use Table for the R1 General Residential zone to minimise any unintended effects that may arise from exempt and complying development applications in future.

**Balconies on high-rise residential flat buildings**

26. Balconies on high-rise residential flat buildings can suffer from very high wind speeds and other amplified adverse weather conditions, making them difficult to regularly and comfortably use as private open space. The definition of gross floor area in the LEP requires the floor area of enclosed balconies to be counted towards the total gross floor area. Enclosing balconies to provide reasonable wind protection reduces the development potential of the site by about 15 to 20 per cent.
27. It is proposed to allow the floor area of partially enclosed balconies on high-rise residential flat buildings to be excluded from the calculation of gross floor area. The clause requires the balconies to be designed for use as external space and limits the amount of floor area to be excluded to control the bulk of the building. The proposed amendment will allow for more usable balcony spaces with relatively minor changes to the overall bulk of a high-rise residential flat building.
28. Wind protected balconies were approved by the Central Sydney Planning Committee for the Greenland Centre at 115-119 Bathurst Street, Sydney on 8 May 2014. The Committee also endorsed the preparation of planning controls to allow a floor space exemption for the partially enclosed balconies.
29. A new clause and diagram is proposed to be inserted under section 4.2 Residential flat, commercial and mixed use developments in the DCP 2012 to support the LEP amendment. The new clause will include provisions to ensure wind affected balconies are designed for use as external open space, are naturally ventilated and are of high quality design.

**Community facilities and child care centres in Central Sydney (clause 6.4)**

30. The LEP uses floor space formulae to create the total yield. This includes a base floor space ratio and accommodation floor space which is added to the base. It is proposed to amend the accommodation bonus floor space controls for Central Sydney to remove a barrier that discourages the provision of community facilities and child care centres. Clause 6.4 allows bonuses for various uses, such as residential, hotel, commercial and retail uses but does not allow bonuses for community facilities and child care centres.
31. If a building contains a community facility or child care centre the bonus floor space is reduced proportionally. A proponent is discouraged from providing a community facility or child care centre as they will not be able to develop as large a building. For example, if five per cent of a building is used for a child care centre and the remainder a residential flat building, only 95 per cent of the bonus can be awarded.
32. The proposed amendment will mean the full bonus floor space can be achieved if a community facility or child care centre is included in a building. This removes a barrier for those desirable uses which have a wider community benefit.

**Lanes development floor space in Central Sydney (clause 6.8)**

33. It is proposed to refine the lanes development floor space criteria to ensure the intent of the clause is achieved. Clause 6.8 promotes the activation of laneways by providing additional floor space for existing buildings that provide fine-grain development accessed from the laneway.



34. Clause 6.8(1) establishes the circumstances when a development is able to apply for lanes development floor space. The current clause applies to existing buildings fronting lanes with a width of 6m or less in Central Sydney. This criteria does not reflect the majority of Central Sydney lanes and acts as a barrier to the lanes development floor space incentive being taken up. Around 60 per cent of Central Sydney lanes are generally wider than 6 metres and around 10 per cent have variable width depending at which point along the lane measurements are taken.
35. The proposed amendment will replace the 6 metre reference with a map identifying Central Sydney lanes to better assist adjoining building owners identify whether lanes development floor space applies. The other subclauses under clause 6.8 will be maintained.

#### **Car parking and car share scheme parking (Part 7, Division1)**

36. The intent of this amendment is to ensure remove a disincentive to providing car share scheme parking in new development by ensuring the maximum car parking rate can be achieved. The amendment excludes car share scheme parking spaces from the definition of a car parking space and clarifies the definition of a car share scheme under clause 7.2.
37. Under the current definition of clause 7.2 a car share scheme parking space is a 'car parking space' and therefore counted towards the maximum achievable. It means that including car share scheme parking spaces in a development reduces the number of car parking for private motor vehicles that can be achieved and acts as a disincentive to provide car share scheme parking spaces.
38. Amendments to the car share scheme parking provisions under the DCP will provide a clearer link to the LEP clause. It will also clarify the requirements for providing car share scheme parking spaces that car share scheme parking can be provided in addition to the maximum number of car parking spaces.

#### **83-93 Dalmeny Avenue, Rosebery**

39. 83-93 Dalmeny Avenue, Rosebery is a medium-density residential development located adjacent to the Green Square redevelopment area. The site is zoned R1 General Residential, which is a translation of the previous 2(b) Medium Density Residential Zone.



Figure 1: Aerial photograph showing 83-93 Dalmeny Avenue, Rosebery and surrounds

40. The City was made aware of a prohibited hairdresser use through a complaint. However, the City did not proceed with compliance action as it was determined that the works involved (ie, installation of dividing wall) were undertaken more than two years ago, the harm caused by the use was minimal in relation to safety and amenity and representations from the business owners that they are in the process of addressing the planning issue preventing lawful consent for the use being obtained, to the extent that is within their control.
41. The merit of the amendment has been considered on strategic planning principles and not the nature of the individual businesses.
42. The non-residential premises on the site that are permissible with consent are currently occupied by a convenience store, fashion retail shop, café and a restaurant. The other non-residential premises are occupied by a hairdresser that has been operating for around three years, as well as a tutoring service for primary school children. The existing group of shops and businesses in this mixed use development provide a neighbourhood level of service to a well-established residential population.
43. The businesses benefit from being different to one another and provide residents with options that are convenient and local. There is unlikely to be demand for other shops, cafes and restaurants and a range of uses is appropriate. A wider range of permissible but compatible uses will support the needs of residents and maximise the site as attractive to a range of businesses.

44. It is proposed to amend Schedule 1 of Sydney LEP 2012 to permit “business premises” as permissible uses on the land at 83-93 Dalmeny Avenue, Rosebery to allow for the continued operation of existing businesses which are well established. The objectives of the R1 zone will still apply and ensure compatible uses and that, along with DCP controls, impacts can be managed. It will provide opportunities for a greater range of compatible non-residential uses to service the needs of residents.

#### **Heritage floor space/ Existing buildings (clause 6.11.2(c))**

45. Clause 6.11(2)(c) was intended to make clear that heritage floor space must be allocated for all newly created floor area in existing buildings and that the allocation of heritage floor space exclude floor area already in existence prior to the proposed alterations and additions.
46. This is important because of the effects of changes in how floor area is counted under the LEP definitions compared to the definitions in the previous controls. The same existing building may have more or less floor space area under the current controls because different types of spaces are included or excluded when counting the gross floor area. The definitional changes means in some situations existing floor area is now counted that wasn't previously.
47. Any new floor area in a building that exceeds the maximum floor space ratio relies on the accommodation floor space bonus and the allocation of heritage floor space for the newly counted floor area to be approved.
48. The problem with the clause is that it goes beyond what the City seeks to achieve as it allows for no heritage floor space to be allocated even in the case where new floor area is being created and added to the building.
49. It is proposed to amend the clause so that it is clear that heritage floor space must be allocated for all newly created floor area in existing buildings. The allocation of heritage floor space should not include floor area that exists prior to the proposed alterations and additions to the building.

#### **Community floor space in Green Square (clause 6.14)**

50. It is proposed to amend the wording of clause 6.14 to clarify the meaning of community infrastructure and the basis upon which additional floor space for community infrastructure is appropriate. Community infrastructure includes physical and social infrastructure that contributes to the amenity of the community. The clause complements public infrastructure delivery mechanisms such as section 94 developer levies.
51. The current clause wording does not state the intended aim to allow additional floor space only where the type of infrastructure provided is required in Green Square. Nor does it ensure the community infrastructure is of a value equal to providing for the increased population densities generated by additional floor space.
52. The clause does not permit the alternative of a cash payment, where community infrastructure is not appropriate on a site but can be provided by Council elsewhere in Green Square.

53. The proposed amendments will clarify and improve transparency of the City's requirements for community infrastructure provision and ensure the intent of the clause is achieved.
54. It is proposed to amend 5.2.3 of Sydney DCP 2012 and add a new schedule to strengthen the method of assessing community infrastructure provision linked to additional floor space and provide a clearer link to LEP clause.
55. Amendments to section 5.2.3 clarify the circumstances for which community infrastructure floor space may be achieved. Development must contribute to the desired character of the locality, have minimal negative impacts and provide infrastructure that is of an appropriate value.
56. A new schedule is also proposed detailing the assessment process to determine the appropriateness of proposed community infrastructure. The schedule includes the method of calculation of the total value of the infrastructure that is to be provided to achieve community infrastructure floor space. It is based on a dollar rate per square metre of floor space and varies depending on floor space type.
57. The information, method of calculation of infrastructure value and dollar rates included in the proposed Schedule 9 are currently in operation and publicly available as guidelines that complement the existing LEP and DCP provisions. The system for assessing community infrastructure has been in place since 2003 and seeks to ensure an equitable and transparent assessment of the public benefits that may be derived from the provision of community infrastructure with development.

#### **Sun access plane points (clause 6.17)**

58. It is proposed to amend clause 6.17 to correct the notes which describe the points from which the sun access planes are drawn for the Belmore Park and Hyde Park west sun access planes. The intent of the sun access planes clause is to maximise sunlight access to eight major public spaces. A building is not permitted to project above any sun access plane.
59. Each sun access point is described using two points identified by mapping grid coordinates. A note accompanies each clause describing the location of the coordinates in plain English. Currently, the notes for Belmore Park and Hyde Park west do not match the mapping grid coordinates for these sun access planes. The amendment corrects these misdescriptions.

#### **Capital investment value (clause 6.21)**

60. It is proposed to amend clause 6.21 to more accurately define the trigger for undertaking a competitive design process. The amendment replaces 'capital value' with 'capital investment value', which is an accepted definition under the *Environmental Planning and Assessment Regulation 2000*. The change ensures a consistent application of the requirement to undertake a competitive design process.

### Opportunity site

61. It is proposed to amend the opportunity sites map to remove 453 Kent Street Sydney and identify 443-451 Kent Street Sydney as an opportunity site. Opportunity sites are existing buildings in Central Sydney with colonnades or forecourts that do not make a positive contribution to the streetscape, pedestrian amenity or the public domain. Under clause 6.9 of the LEP, opportunity sites are eligible for additional floor space to infill colonnades and forecourts.
62. A submission has been received on behalf of the owners at 443-451 Kent Street requesting clarification on whether the opportunity site clause applies to the site.
63. 453 Kent Street is located on the western side of Kent Street, north of the intersection of Drutt Street. Its location is shown in Figure 9. The building is a seven storey inter-war commercial building built boundary to boundary and does not have any colonnades or forecourts, as shown in Figure 8.



**Figure 8:** 453 Kent Street Sydney as at May 2014



**Figure 9:** Location of 453 Kent Street, Sydney (southern-most site) and 443-451 Kent Street, Sydney (northern-most site)

64. The existing building on the site does not meet the intent of clause 6.9. Incorrectly identifying 453 Kent Street as an opportunity site may encourage proponents to seek additional floor space which is not appropriate. A 2002 review of opportunity sites in Sydney LEP 1996 shows that the mapping of 453 Kent Street as an opportunity site is an error and that 443-451 Kent Street should be mapped instead.
65. 443-451 Kent Street is located north of 453 Kent Street and is a 16 storey commercial building. The building is set back from Kent Street by approximately 9m, as shown in Figures 10 and 11. The forecourt disrupts the consistent street wall, is under used and provides little amenity and with improvement could meet the terms of clause 6.9.
66. 443-451 Kent Street was identified in the 2002 review of opportunity sites. The review justified the listing of 443-451 Kent Street on the basis that the space created by the setback is poor in quality, receiving little sunlight and protection from the elements.
67. 443-451 Kent Street has a forecourt and the potential for in-fill or reconfiguration at the ground level to improve its relationship to the street and amenity for its users, pedestrians and the public. It is able to achieve the Council's policy intent and is the sort of building the clause is intended for. It is recommended 443-451 Kent Street be identified as an opportunity site on the opportunities site map.



Figure 10: 443-451 Kent Street Sydney



Figure 11: 443-451 Kent Street Sydney forecourt

### 17 Elizabeth Bay Road, Elizabeth Bay – mapping correction

68. It is proposed to update the height of buildings map and floor space to ensure 17 Elizabeth Bay Road, Elizabeth Bay and surrounding properties are accurately mapped. Currently, the site's height and floor space ratio boundaries do not align with the property boundaries as recorded by the NSW Land and Property Information digital cadastral database. The database is the primary source of land and property boundaries in NSW.

69. The error was identified as part of a recent development application. The change will accurately reflect the true property boundary for the site. There is no change to the intended height and floor space ratio controls. They will remain in effect.

### **Amendments to Schedule 5 Environmental Heritage**

#### 22-26 York Street, Sydney

70. It is proposed to correct the property description in the heritage listing for 22-26 York Street, Sydney so that the listing does not apply to buildings that do not have heritage significance. The listing currently refers to the Lot and Deposited Plan (DP) for 345-355 George Street Sydney. Neither the heritage map sheet or the NSW Heritage Inventory for 22-26 York Street identify 345-355 George Street as a significant component of 22-26 York Street.
71. The City has received a request on behalf of the building owner to remove the reference to the Lot and DP details of 345-355 George Street from the listing of 22-26 York Street.
72. 22-26 York Street is occupied by two heritage warehouses: 24 York Street a local heritage item, and 22 York Street Sydney a state heritage item, as shown in Figure 2. 345-355 George Street is a contemporary commercial office building and shown in Figure 3. The relationship between the two buildings shown in Figure 4.

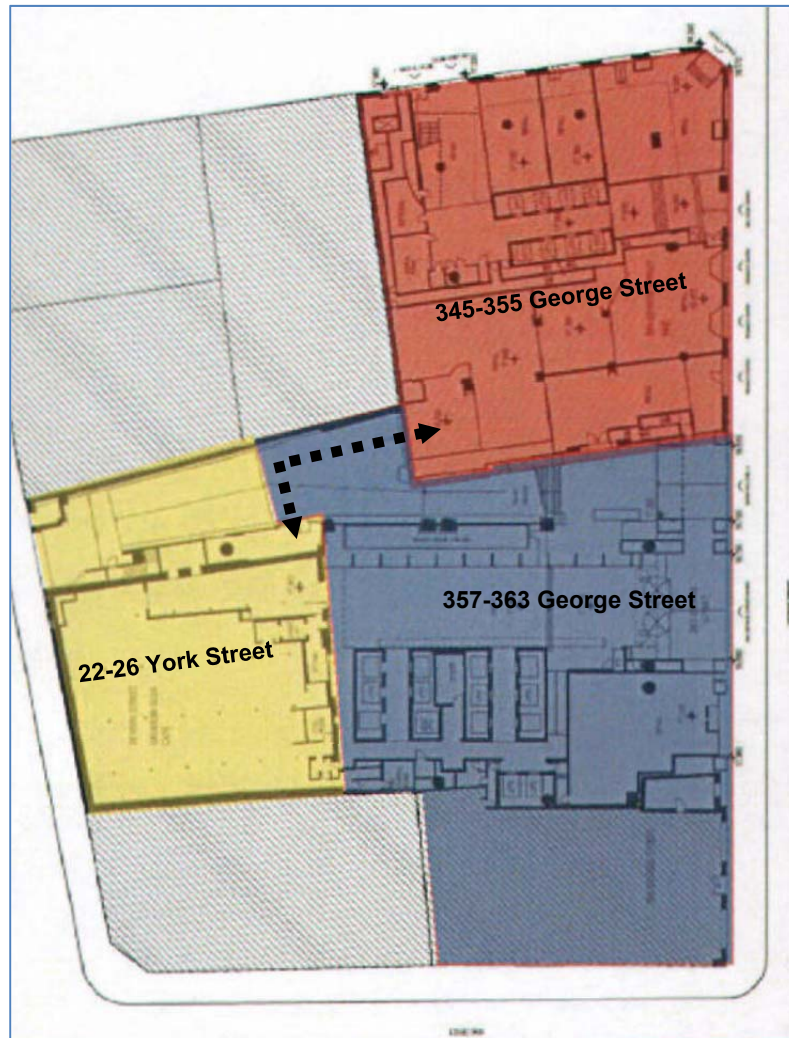


**Figure 2:** 22-26 York Street Sydney as at May 2014





Figure 3: 345-355 George Street Sydney as at May 2014



**Figure 4:** Location of 22-26 York Street Sydney (coloured yellow), 357-363 George Street Sydney (coloured blue) and 345-355 George Street Sydney (coloured red). Through-site link shown as dashed line.

73. All sites were part of a larger site, which also included 357-363 George Street, that was developed and subdivided and strata subdivided. 345-355 George Street and 22-26 York Street are now on separate titles.
74. There is a ground floor through-site link that connects 22-26 York Street to 345-355 George Street (via 357-363 George Street) as shown by the dashed line in Figure 4. There is an easement affecting 22-26 York Street and benefitting 345-355 George Street that allows vehicle and pedestrian access and utility services from York Street. However, 345-355 George Street is not linked to 22-26 York Street in terms of heritage significance, titles or ownership.
75. The proposed removal of the Lot and DP of 345-355 George Street from the heritage listing for 22-26 York Street will not affect the heritage significance of 22-26 York Street.

#### Heritage listing removal

76. It is proposed to remove the heritage listing for 372 Riley Street, Surry Hills and 73 Glebe Point Road, Glebe as the buildings have been demolished.

77. 372 Riley Street Surry Hills is located on the eastern side of Riley Street, north of the intersection of Collins Street. The site is currently listed as a heritage item in Sydney LEP 2012 (I1612).
78. Demolition of the single storey mid-Victorian cottage was approved by the City's Small Permits and Appeals Panel in January 2013 (RD/2007/2159/A). It was noted that the property had been subject to vast changes and only a very minor amount of original fabric with heritage significance or value remained, which was incapable of being made compliant with current building codes. A new residential dwelling has been approved for the site and construction is underway (D/2013/37) as shown in Figure 5. As the heritage building no longer exists, the heritage listing for the site is no longer applicable and should be removed from schedule 5.
79. The site is located within the Little Riley Street heritage conservation area and identified as a contributory building on the Building Contributions Map sheet 016 of Sydney DCP 2012. It is recommended that it be reclassified as a neutral building to reflect the building and its contribution to the streetscape.



Figure 5: 372 Riley Street, Surry Hills as at June 2014

80. 73 Glebe Point Road Glebe is located on the north-eastern side of Glebe Point Road. The site is currently listed as a heritage item in Sydney LEP 2012 (I700).
81. The site was previously occupied by a single storey masonry building that was used as a restaurant. The building was destroyed by fire and subsequently demolished as shown in Figure 6. The site currently contains a building which is a reconstruction of the previous premises approved with development consent D/2013/273 as shown in Figure 7. While the consent included that the reconstruction be sensitive to and acknowledge the building's prior history there is no original or surviving fabric that remains for heritage listing. The heritage listing for the site is no longer applicable and should be removed from schedule 5.

82. The site is located within the Glebe Point Road heritage conservation area. This listing will remain in effect. The proposed change has no effect on this. The site is identified as a neutral building under clause 3.9.8 of Sydney DCP 2012. It is an appropriate classification and no change is recommended.



Figure 6: 73 Glebe Point Road Glebe as a vacant site, April 2013



Figure 7: 73 Glebe Point Road Glebe as at June 2014

Property description, name and address amendments

83. It is proposed to correct inaccuracies in the property description, names and addresses in Schedule 5 for 69-77 King Street Newtown, 117-199 Young Street Redfern, 97-99 Victoria Street Potts Point, 1-3 Rosebery Avenue Rosebery, and 168-174 Cathedral Street Woolloomooloo.
84. The amendments will not affect the significance of each heritage item. The amendments will provide an accurate property description or accurate reflection of the significance of the buildings under the heritage listing.

**DCP amendments**Floor to floor heights

85. The draft DCP proposes amendments to the minimum floor to ceiling height controls for commercial and retail buildings in section 4.2.1.2. Height of a floor level is currently measured from 'floor to ceiling'. It is proposed to change the measure to 'floor to floor'. This is a more practical measure of the height as commercial buildings are typically constructed with fixed concrete slabs and suspended ceilings which conceal services. Architectural plans typically show floor to floor heights. The new measure means the height cannot be manipulated by making the services space larger or smaller or exposing the services. The change in measure will make it easier to manage the number of storeys in a building and make the assessment of development applications easier.
86. The second change is to the minimum height requirement. The draft DCP maintains the equivalent minimum heights for basement and ground levels but reduces the height for the first floor and above. Currently the control requires 3.3 metres floor to ceiling. The proposed 3.6 metres floor to floor height reduces the floor to ceiling height to about 2.8 to 2.9 metres.
87. The proposed heights are based on that adopted for the Green Square Town Centre DCP and heights of select recent commercial development. The Green Square Town Centre DCP requires 3.6 metres. Recent major commercial developments in Central Sydney have heights of about 3.8 metres, Brisbane developments range from 3.5 to 3.9 metres and Melbourne developments about 4.2 to 4.5 metres. The reduced height is consistent with industry practice and will still meet the City's objectives to provide daylight access and flexible use of buildings.
88. A third minor change clarifies that heights for residential buildings are measured as 'finished' floor to 'finished' ceiling which is consistent with the terms used in the NSW Residential Flat Design Code.

Apartments with setback bedrooms

89. The draft DCP introduces new controls to achieve reasonable amenity for apartments with setback bedrooms. Bedrooms setback from the building elevation with a corridor leading to the window result from overly deep apartments and receive less light and ventilation. These apartments can occur even if the requirements of the NSW Residential Flat Design Code are met.

90. Neither, the Residential Flat Design Code, nor the recently released Draft Apartment Guideline, explicitly address the amenity requirements for apartments with setback bedrooms. Controls are needed to ensure satisfactory day light access and ventilation to all habitable spaces.
91. The controls proposed include a maximum number of apartments with setback bedrooms and a restriction on orientation and minimum widths to ensure daylight to setback bedrooms. The DCP also notes that design excellence bonus floor space will not be awarded to projects that have apartments with setback bedrooms.

### **Strategic Alignment - Sustainable Sydney 2030 Vision**

92. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress.
93. *Sustainable Sydney 2030* seeks to ensure the City's planning framework and implementation strategy ensures sustainable long-term growth (Direction 9, objective 9.4). The strategies to achieve this include regularly reviewing planning instruments.
94. The proposed amendments are consistent with the following strategic directions:
  - (a) Direction 3 - Integrated Transport for a Connected City – the proposed controls encourage car share in development that contributes to the transport options for City residents
  - (a) Direction 5 - A Lively and Engaging City Centre – the proposed controls encourage fine-grain laneway development in the City Centre
  - (b) Direction 6 - Vibrant Local Communities and Economies – the proposed controls facilitate the provision of community facilities and child care centres in Central Sydney, to support the growing working community
  - (c) Direction 7 - A Cultural and Creative City – the proposed controls create opportunities for the supply of work spaces for creative uses
  - (d) Direction 9 - Sustainable Development, Renewal and Design – the proposed controls contribute to sustainable development, renewal and design by encouraging balconies on new high-rise residential flat buildings that are useable, well designed and fit for purpose. The proposed controls have been developed within the context of, and are the result of, regular ongoing monitoring and review of land use and planning controls to ensure intended planning outcomes can be achieved.
95. The proposed controls are also supported by the objectives within the City's *Economic Development Strategy (2013)*, *Creative City Cultural Policy and Action Plan 2014-2024* and *Car Share Policy (2011)*. Each of these strategies identify key issues and challenges that are relevant to the proposed amendments including:

- (a) planning effectively to ensure the City's planning controls reinforce the role of the city as a primary centre for Metropolitan Sydney, as well as reducing regulatory barriers to make it easier and more efficient to do business,
- (b) supporting the development of creative industries, and
- (c) increasing the uptake of car sharing to 10% of all households by 2016 through planning controls to integrate car sharing into urban renewal areas.

### RELEVANT LEGISLATION

96. *Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Act 2000.*

### PUBLIC CONSULTATION

97. If the recommendations of this report are adopted, the planning proposal and draft DCP will be placed on public exhibition in accordance with the requirements of any Gateway Determination issued by the Minister for Planning. It is recommended that the proposed controls be placed on public exhibition for a minimum of 28 days.
98. The City will consult with the Heritage Council about the heritage related amendments for state heritage items at 22-26 York Street Sydney and 69-77 King Street Newtown.
99. The public exhibition is to be notified by way of:
- (a) advertisement on the City of Sydney website
  - (b) advertisement in *The Sydney Morning Herald* and relevant local newspapers
  - (c) directly inviting comments from the owners of the affected land at:
    - (i) Properties adjoining Central Sydney lanes identified by the amendment to clause 6.8
    - (ii) 83-93 Dalmeny Avenue, Rosebery
    - (iii) 22-26 York Street, Sydney and 345-355 George Street, Sydney
    - (iv) 372 Riley Street, Surry Hills
    - (v) 73 Glebe Point Road, Glebe
    - (vi) 69-77 King Street, Newtown
    - (vii) 117-119 Young Street, Redfern
    - (viii) 97-99 Victoria Street, Pyrmont
    - (ix) 1-3 Rosebery Avenue, Rosebery
    - (x) 168 Cathedral Street, Woolloomooloo, 170 Cathedral Street, Woolloomooloo, 172-174 Cathedral Street, Woolloomooloo

(xi) 453 Kent Street, Sydney and 443-451 Kent Street, Sydney

(xii) 17 Elizabeth Bay Road, Elizabeth Bay

100. Exhibition materials are to be made available at all the City's customer service centres and on the City's website.

101. Following public authority consultation and public exhibition, the outcomes will be reported to back to Council and the Central Sydney Planning Committee.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Anita Leong, Specialist Planner)