

ITEM 9. POST EXHIBITION – MINOR POLICY AND HOUSEKEEPING AMENDMENTS TO SYDNEY LOCAL ENVIRONMENTAL PLAN 2012 AND SYDNEY DEVELOPMENT CONTROL PLAN 2012**FILE NO: S121969.003****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: that there are sufficient quality homes for a diverse community; that heritage places are retained for future generations; that land uses and development intensities relate to 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. We expect to continuously improve the LEP as omissions corrections and updates require attention.

This report sets out five minor policy and 14 housekeeping amendments to the LEP. The purpose of the amendments is to:

- (a) allow low impact creative uses in the R1 General Residential zone;
- (b) allow wind affected balconies on high-rise residential flat buildings to be partially enclosed without counting the 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 to clarify existing heritage item descriptions for the following properties:
 - (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; and
 - (vi) 168-174 Cathedral Street, Woolloomooloo.
- Note: The properties listed above are existing heritage items and are not being added as a result of this amendment.
- (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 and the community.

The amendment was exhibited from Tuesday 10 March to Tuesday 7 April 2015. The exhibition generated nineteen submissions; all are reviewed and summarised at **Attachment C**. The key issues raised in the submissions include:

- wind affected balcony requirements being overly prescriptive;

- expanding Clause 6.4 of the LEP to allow 'bonus' floor space ratios to a broader range of uses;
- both support and objections to the lane ways map; and
- clarification of heritage schedule descriptions of properties.

Further review was also undertaken, post exhibition, to improve the clarity of controls. This has resulted in recommending minor editorial amendments, deletions of some amendments and addition of supporting information. These include:

- removing a proposed control from Amendment 2 – Wind affected balconies;
- inserting an updated balcony floor figure in Amendment 2 – Wind affected balconies;
- deleting the heritage item name proposed in Amendment 19;
- removing proposed setback bedroom controls from the DCP; and
- amending the wording of car share scheme parking spaces in the DCP.

These changes will be discussed in detail further in this report.

For these amendments, new inserted text is shown as underline, new deleted text as strikethrough underline and deleted amendments as strikethrough.

This report recommends the Central Sydney Planning Committee approve the Planning Proposal at **Attachment A** and note the DCP at **Attachment B** and Table of submissions in **Attachment C**.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee approve the Planning Proposal for Sydney Local Environmental Plan 2012 - Minor Policy & Housekeeping Amendments 2014, as shown at **Attachment A** to the subject report, to be made as a local environmental plan under section 59 of the *Environmental Planning and Assessment Act 1979*;
- (B) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 4 August 2015 to approve the draft Sydney Development Control Plan - Minor Policy and Housekeeping Amendments 2014, shown at **Attachment B** to the subject report, noting it will come into effect on the date specified in the public notice to be given in accordance with Clause 21 of the *Environmental Planning and Assessment Regulation 2000*;
- (C) the Central Sydney Planning Committee note the submissions received during the public exhibition of the Planning Proposal and draft Sydney Development Control Plan - Minor Policy and Housekeeping Amendments 2014, shown at **Attachment C** to the subject report; and

- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 4 August 2015 that authority be delegated to the Chief Executive Officer to make any minor amendments to the Planning Proposal referred in clause (A) and the Draft Development Control Plan referred to in clause (B) to correct any minor drafting errors.

ATTACHMENTS

Attachment A: Planning Proposal for Sydney Local Environmental Plan 2012 – Minor Policy & Housekeeping Amendments 2014

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

Attachment C: Table of Submissions

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.

Public Exhibition

5. The Planning Proposal: Sydney Local Environmental Plan 2012 – Minor Policy & Housekeeping Amendments 2014 (the planning proposal) and associated Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014 (DCP) will implement the proposed amendments. The planning proposal and DCP are shown as **Attachments A** and **B** respectively.
6. In October 2014, the Central Sydney Planning Committee approved the Planning Proposal for public exhibition and noted the recommendation for Council to approve the draft DCP for exhibition. The NSW Department of Planning issued a Gateway Determination to proceed with the exhibition of the Planning Proposal and DCP dated 14 December 2014. The amendments were placed on public exhibition for a minimum of 28 days from Tuesday 10 March to Tuesday 7 April 2015. The exhibition generated 20 submissions; all are reviewed and summarised at **Attachment C**. The key issues raised in the submissions include:
 - (a) wind affected balcony requirements in Clause 4.2.3.13 of the DCP being overly prescriptive;
 - (b) expanding Clause 6.4 of the LEP to allow 'bonus' floor space ratios to a broader range of uses;
 - (c) both support and objections to the lane ways map; and
 - (d) identification of heritage places.
7. The matters arising from the exhibition and the amendments to the Planning Proposal and the DCP are discussed in the following sections of this report.

Amendments

8. This report recommends the approval of five minor policy and 14 housekeeping amendments to the LEP and amendments to the DCP. All proposed amendments are included in the Planning Proposal for Sydney LEP 2012 – Minor Policy & Housekeeping Amendments 2014 at **Attachment A** and the Draft Sydney Development Control Plan – Minor Policy and Housekeeping Amendments 2014 at **Attachment B**.
9. 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 the LEP.
10. The amendments to the DCP support the amendments to the LEP and improve the clarity of the controls.
11. 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.
12. 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.

LEP amendments - minor policy

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

LEP amendments - housekeeping

14. The housekeeping amendments to the LEP 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 7);
 - (ii) clarifying community floor space requirements in Green Square (Amendment 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); and
 - (vi) update the floor height and floor space map to accurately show the site boundaries for 17 Elizabeth Bay Road Potts Point (Amendment 12);
- (c) amendments to reflect the correct description of existing 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) correcting the property, name or address details of five sites (Amendments 16 to 20); and

Note: The properties listed above are existing heritage items and are not being added as a result of this amendment.
- (d) removing the heritage listing for the demolished buildings at:
 - (i) 372 Riley Street, Surry Hills (Amendment 14); and
 - (ii) 73 Glebe Point Road, Glebe (Amendment 15).

15. The proposed changes in the Amendments are recommended to proceed, with the exception of Amendment 19, which will be discussed further in this report.

DCP amendments - housekeeping

16. The amendments to the DCP support amendments to the LEP, 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 height and floor to floor height 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 balconies on high-rise residential buildings; and
- (e) updating the building contribution map for 372 Riley Street, Surry Hills.

Matters arising from exhibition

17. Submissions received during the exhibition will be discussed in the following paragraphs as well as recommended changes.

Wind affected balconies (Amendment 2)

18. Balconies on high-rise residential buildings above a certain level can suffer from very high wind speeds which make them difficult to regularly and comfortably use as usable private open space.
19. A new provision will allow the partial enclosure of balconies from wind on residential towers over 30m high without counting the balcony floor area towards the gross floor area. The consent authority is to be satisfied that the enclosure is designed for use as an external space, has adequate natural ventilation, cannot be fully enclosed and will not increase the bulk of the development.
20. Enclosed balconies were approved by the Central Sydney Planning Committee for the Greenland Centre at 115-119 Bathurst Street, Sydney as shown in Figure 1. These enclosed balconies were designed to be naturally ventilated external spaces protected from wind and rain. An alternative design response was also approved for the Lumiere Residences at 101 Bathurst Street, Sydney in 2003.



Figure 1 - Example of partially enclosed balcony at Greenland Centre at 115-119 Bathurst Street, Sydney

21. To help manage the bulk of the building, the amount of floor area for enclosed balconies that can be excluded from the gross floor area calculation is up to 15% of the gross floor area of the apartment to which it is connected. This takes into account the minimum sizes of balconies of the recently adopted NSW Government's Apartment Design Guide (ADG). Above 15% enclosed external space is counted as gross floor area.
22. To avoid the enclosed balconies being used as internal floor area and used to increase the overall development potential, the consent authority must be satisfied that the balconies are designed as naturally ventilated external spaces. DCP provisions guide the consent authority's consideration of the design of the balconies and enclosures.
23. One submission was received in relation to wind affected balconies. The issue it raises are the requirement for balcony floors to be at the same level as internal areas, average depth of balconies and balconies on podiums.

Balcony floor levels

24. The submission objects to the requirement for balcony floors not to be at the same level as internal areas. It notes that a seamless transition from inside to outside will not be achieved and will reduce the quality of apartments.

Response: the intent of the DCP provisions is to make sure balconies remain external spaces while allowing for wind protection. This can be suitably achieved through the screen openings, materials and proper drainage. It is recommended Clause 4.2.3.13(7) stating "The balcony floor is not to be at the same level as the internal areas", is deleted. This would allow for a floating floor over a set-down drained balcony. The relevant diagram has also been updated to reflect this change.

Average depth of balconies

25. The submission states the requirement for the average balcony depth to be less than the width should be deleted. A balcony could still be designed to meet amenity requirements.

Response: the intention behind limiting the depth of balconies is to maximise daylight access to living areas. Balconies that are too deep reduce daylight access to main living areas of apartments and the balcony it is attached to, and also impact on daylight access to apartments below. The clause also manages the overall building bulk increase, as deeper balconies will have a more significant and detrimental increase to the building bulk.

26. No change is recommended to the controls.

Balconies on podiums

27. The submission queries why wind affected balconies cannot be implemented on podiums. There are numerous examples of podiums in Sydney which are 45 metres high (or higher). These podiums exceed the 30 metre height requirement in the draft LEP and, subject to the correct architectural solution being adopted, believe that there should not be a complete ban on the use of wind affected balconies within a podium. The exhibited clause 4.2.3.13(2) states:

- (2) *Where a building elevation has a podium, wind screen protected balconies will only be permitted above the podium.*

Response: higher podiums will generally only be developed in Central Sydney where podiums are allowed to be between 20 metres and 45 metres high. The built form of Central Sydney is relatively consistent with street walls, podiums and set back towers. This consistency of form means that the lower building levels and the street level are generally protected from the more adverse wind conditions and wind protected balconies are not needed. In other areas of the City, podiums generally do not exceed 25 metres and are below the proposed 30 metre threshold in the LEP and will not be affected by the wind conditions experienced at higher building levels. It is recommended that the provision restricting wind screens to podium levels is retained. An amendment is recommended to clarify the podium needs a setback rather than just a change to façade design to mitigate the wind effects to the lower levels. The recommended provision is:

- (2) *Where a building elevation is required to have or provides a podium with a setback to the tower, wind screen protected balconies will only be permitted above the podium.*

Additional changes regarding intent for natural ventilation

28. The proposed LEP provisions establish a criteria for wind protected balconies to still allow for naturally ventilated apartments. The DCP then guides how that can be achieved. Natural ventilation of apartments is important for the circulation of fresh air and to create a healthy and comfortable indoor environment. It is recommended that an amendment to Clause 4.2.3.13 is made to clarify the requirements and intent for natural ventilation and provide consistency with the Apartment Design Guide. The amended and inserted clauses are shown below with new text ***bold italic*** and deleted text ~~strikethrough~~:

- (4) ***To allow adequate natural ventilation of the balcony and the apartment,*** the wind screen design must have openings that are at least 25 per cent of the external face of the balcony or as required by Clause (5) whichever is greater, including an opening at the top of the enclosure which:
- (a) is permanently open;
 - (b) is the width of the balcony; and
 - (c) has a minimum height that is the greater of 300mm or 10 per cent of the distance between the balcony floor and the finished balcony ceiling.
- (5) ***The floor area of a wind protected balcony is to be included in the calculation of floor area when determining the area of unobstructed window openings for naturally ventilated apartments under the Apartment Design Guide.***

Note: The Apartment Design Guide guideline for natural ventilation of habitable rooms states the area of unobstructed window openings should be equal to at least 5% of the floor area served.

Community facilities and child care centres floor space in Central Sydney (Amendment 3)

29. This amendment seeks to facilitate the provision of community facilities and child care centres in Central Sydney by removing a disincentive under Clause 6.4 of the LEP to ensure the maximum accommodation floor space bonus can be achieved.
30. Clause 6.4 allows for a floor space bonus, known as accommodation floor space. It encourages a building to include 'specified uses', such as residential, hotel, commercial and retail uses, within identified areas as shown on the Floor Space Ratio Map. The bonus floor space varies between 1.5:1 and 6:1 depending on the use and where in Central Sydney it is located. Clause 6.4(2) requires the bonus floor space to be reduced proportionally if part of the building is used for a specified use.

Response: the amendment proposes to remove this disincentive by including 'community facilities' and 'child care centres' in the specified uses under Clause 6.4 to enable those uses to be awarded the maximum bonus throughout Central Sydney. This will allow buildings that include these uses to achieve the maximum floor space. The proposed amendment will not allow buildings to exceed the absolute maximum floor space that can be achieved using accommodation floor space.

31. The provision of community facilities and child care centres are integral components of building communities and local economies. The City encourages child care centres, as they are under supplied in parts of Central Sydney.
32. Four submissions were received regarding this amendment, including one submission of support. No submissions object to the amendment. The majority of submissions seek to expand the application of the 'bonus' floor space ratios available to a broader range of non-residential uses, including function centres, entertainment facilities, registered clubs, and the like.
33. Historically, various uses have or have not been entitled to the accommodation floor space bonus, depending on the city's policy position. The City has progressed this minor amendment to the clause on the clear policy and public interest objectives for child care centres and community facilities.
34. It is acknowledged that a wider range of uses that are strategically important to the City or have a public interest outcome could be potentially provided in floor space bonuses.
35. The City is currently undertaking the 'Central Sydney Planning Review' which is considering the operation of floor space bonuses and the range of uses which may be incentivised.
36. No change is recommended to the planning proposal.

Lanes development floor space in Central Sydney (Amendment 4)

37. This amendment seeks to refine the criteria for application of the lanes development floor space to ensure the intent of Clause 6.8(1) of the LEP is achieved.

38. The amendment proposes to change the application of Clause 6.8(1) from applying to lanes less than 6m to instead apply to those identified on a 'Lanes Map'. The map is based on the existing lanes map in the DCP, a review of the potential opportunities for the incentive to be taken up and the City's program for laneway upgrades. As per the existing clause, the amendment will only apply to laneways located within the Central Sydney area.
39. Approximately one quarter of Central Sydney lanes are estimated to be less than 6m wide. Approximately 10% of lanes have variable width, depending at which point along the lane measurements are taken. Approximately 60% of the lanes are estimated to be wider than 6m. Given the varying widths of laneways and some lanes are called streets in Central Sydney, identification of the lanes through a map provides greater certainty for the application of the Clause.
40. Sustainable Sydney 2030 includes an objective to support cultural, creative, retail and small business activity in the city centre. The City's laneways revitalisation program, fine grain matching grants and planning controls support this objective.
41. The proposed change will ensure the intent of the clause is achieved and increase certainty to existing building owners about the applicability of lanes development floor space.
42. During the exhibition, a number of enquiries about the nature of the proposed amendment were received. To clarify, the amendment is a change to an existing planning control that encourages, but does not require particular uses of buildings. The control does not affect the use of the lane on a public road reserve. It only relates to the building that adjoins a lane. Additionally, no Council works are proposed to the lanes as part of this amendment or under the planning controls generally. The amendment does not change the range of uses permissible under the Metropolitan centre zone.
43. Six submissions were received generally supporting the clause.
44. Seven submissions objecting to the inclusion of the following laneways were received:
 - (a) Gas Lane;
 - (b) Laneway north of Albert steps;
 - (c) Market Row and Mullins Street;
 - (d) Sand Street Laneway; and
 - (e) Cunningham Street and Eager Street.
45. The submissions objected to the inclusion of their respective lanes, raising similar concerns, including reducing access to laneways by service vehicles, development of businesses within the roadway, commercial uses surrounding laneways are satisfactory and increasing noise and disturbances to residents, including accessing their car parks.

Response: the intent of the amendment is to promote the activation of laneways with small retail tenancies such as small shops, cafes and bars, etc. The amendment encourages existing buildings to introduce such uses on their ground level up to 100m² through floor space incentives. There are no works proposed under this amendment, nor will it allow new fine-grain developments to operate on the roadway of a laneway. New uses will only be allowed within existing buildings facing the laneways. New uses on any laneway will still be subject to the controls of the LEP and DCP and a development application.

46. The NSW Government's City Centre Access Strategy estimates that approximately 630,000 trips are made to the City centre daily. Walking is the dominant mode, with 1.15 million walking trips each day, that is, 92% of all trips within the city centre. Walking trips are mostly for short distances – 46% are less than 500m and 80% are less than 1km. During work hours the number of people in the centre of Sydney grows tenfold, providing opportunities for businesses to have a steady stream of pedestrians walking around the city.
47. It should be noted that Gas Lane, Market Row, Mullins Street, Sand Street laneway, Cunningham Street and Eager Street are all under 6m in width. Therefore, these laneways were already subject to incentives under the existing clause.
48. The Laneway north of Albert steps is 7m wide and, as such, adjoining buildings were not subject to the incentive under the existing clause. The uses adjoining the lane consist of a real estate office and residential apartments. The submitter believes that the present commercial uses of the walkway area are satisfactory and recommends the commercial area not be extended, because the number of tourists walking to and from the Opera House area is very large and just about at capacity for the amount of pedestrian space presently available. The laneway referenced represents a prime opportunity to further enhance inner-city lanes that are currently being underutilised, but with high pedestrian traffic flows.
49. A submission was also received requesting that Wemyss Lane be included on the Lanes Map. However, as Wemyss Lane is outside the Central Sydney area, it cannot be included as part of this amendment, but may be considered in the Central Sydney controls review.
50. It is recommended that incentive applies to all the laneways identified in the submissions (with the exception of Wemyss Lane) because they will benefit from activation, can coexist with the servicing of laneways, contribute to a more lively, safe and engaging City, and offer additional services for residents, workers and visitors, as well as commercial opportunities for businesses.

Correct description of Schedule 5 Heritage Item - 22-24 York Street, Sydney (heritage item I1976) (Amendment 13)

51. This amendment seeks 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.
52. The amendment proposes to remove Lot 1 DP 1006536, which relates to 345 George Street Sydney, from the property description for the heritage listed item 22-26 York Street.

53. The property description for 22-26 York Street in Schedule 5 includes the Lot and DP details of 345-355 George Street. There are no other references to 345-355 George Street in the listing. There is no reference to 345-355 George Street on the heritage map sheet HER_014 (refer to Figure 2).
54. This amendment was prompted by correspondence received by consultants representing the landowners of 345-355 George Street prior to the exhibition of the LEP and DCP. The correspondence requests the removal of their site from the listing for 22-26 York Street based on the following:
- (a) 345-355 George Street is not identified within the NSW Heritage Inventory or within the Statement of Significance for the building at 22-26 York Street;
 - (b) the proposed removal of the property description of 345-355 George Street from Schedule 5 will not impact on the heritage significance of 22-26 York Street, as the buildings do not historically or physically relate to each other; and
 - (c) the proposed removal of the property description of 345-355 George Street from Schedule 5 will not alter the character of the Special Character Area.
55. The proposed removal 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.
56. A submission of support from both the NSW Heritage Council and the landowners planning consultant was received for the proposed changes included in the amendment.

Response: the submissions were noted and no changes are recommended to the amendment.

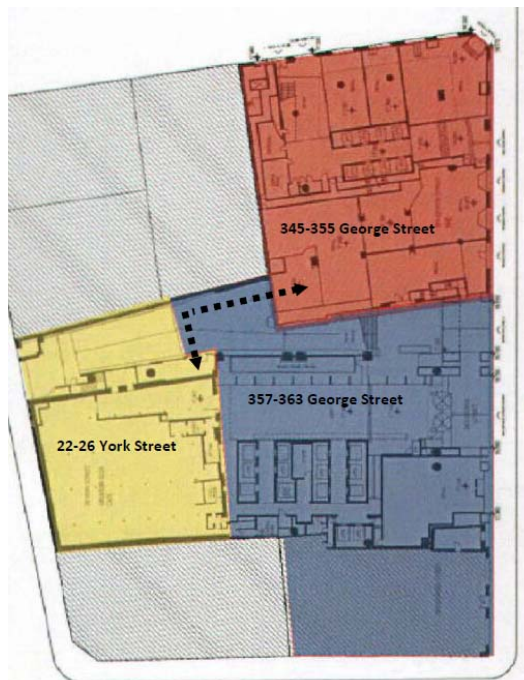


Figure 2 - Location of 22-24 York Street, Sydney

Correct description of Schedule 5 Heritage Item - 69-77 King Street, Newtown, Trocadero Hall (heritage item I988) (Amendment 16)

57. The amendment seeks to correct an inaccuracy in the property description for the heritage item (I988) at 69-77 King Street, Newtown, within Schedule 5 of LEP. The item name for the listing is "Commercial building 'Trocadero Hall' including interior". The item listing incorrectly has the property description as Lot 1 DP 67004. The correct property description for 69-77 King Street is Lot 5 DP67004. A map extracted from the City's Property Information system detailing the property information is reproduced in Figure 3 below. The amendment will correct this discrepancy.
58. A submission of support was received from the NSW Heritage Department for the proposed changes included in the amendment.

Response: the submission was noted and no changes are recommended to the amendment.

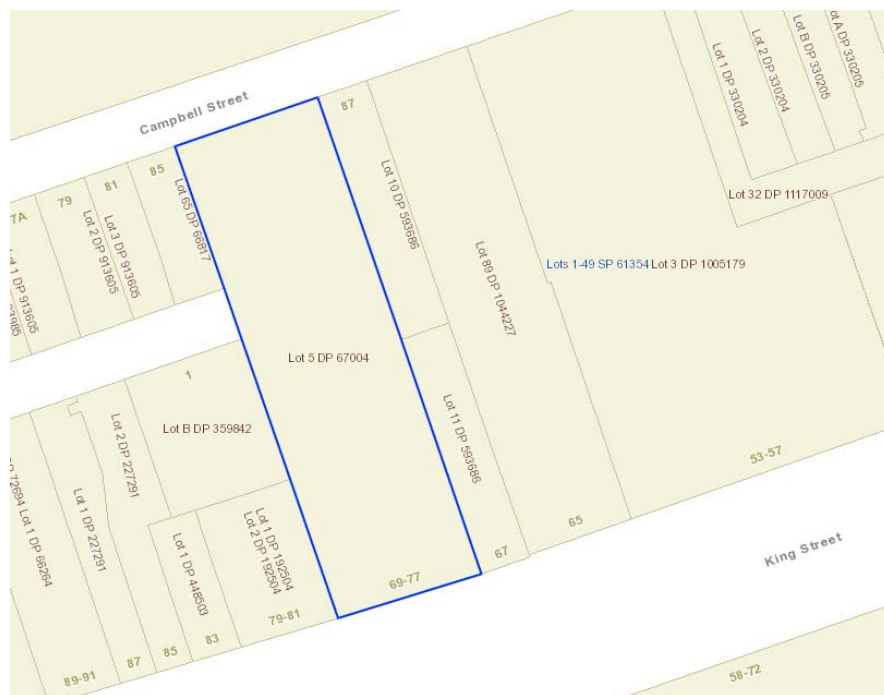


Figure 3 - Location of 69-77 King Street, Newtown, Trocadero Hall

Correct description of Schedule 5 Heritage Item - 97-99 Victoria Street, Potts Point (heritage item I1172) (Amendment 18)

59. This amendment seeks to accurately describe the individual dwellings under the heritage listing for 97-99 Victoria Street, Potts Point. The amendment proposes to correct the item name description to refer to the two dwellings that exist at 97-99 Victoria Street, Potts Point. A map extracted from the City's Property Information system detailing the property information is reproduced in Figure 4 below.



Figure 4 - Location of 97-99 Victoria Street, Potts Point

- 60. 97 and 99 Victoria Street, Potts Point are two lots under separate ownership (refer to Figure 5). Both sites are listed as one heritage item under Schedule 5 and heritage map HER_021 of LEP. The buildings are also within the Potts Point heritage conservation area.



Figure 5 - Photo of 97-99 Victoria Street, Potts Point

- 61. The heritage significance of each dwelling is unclear, as the description listing suggests that only one dwelling is listed. However, both buildings have heritage significance based on the heritage inventory sheets for each site.

62. In accordance with the Department of Planning's LEP Practice Note PN11-001 'Preparing LEPs using the Standard Instrument: Standard Clauses', the "Item Name" column should include a brief description of things that are part of the heritage significance of the item.
63. The "Property Description" column for 97-99 Victoria Street in Schedule 5 describes the two separate lots, whereas the "Item name" column states "Terrace house including interior and front fence".
64. It is proposed the "Item Name" column be amended to clarify that both dwellings are part of the heritage listing. The one heritage listing over both sites will remain in effect and has the same effect as if the sites were individually listed.
65. A submission was received by the landowner objecting to 97 Victoria Street being included on the local heritage register and requests its removal. The landowner provided an extract from a Heritage Impact Statement over the site against the NSW Heritage Office Criteria providing evidence that the property had no interior integrity relating back to its heritage and has no significance to the front or rear façade. The submission also detailed that the property was only located on Council's heritage register and not the State Heritage Register.

Response: there are two types of heritage registers, being the State Heritage Register and a local council heritage register. Places and objects of particular importance may be included on one or both registers. There is no requirement for a heritage item to be on both registers.

66. The purpose of Amendment 18 is to correct the item name description to refer to the two dwellings that currently exist. Both are currently listed as one heritage item under Schedule 5 and Heritage map HER_021 of the Sydney LEP 2012.
67. Furthermore, the Heritage Impact Statement was submitted with a recent development application for 97 Victoria Street (D/2014/1633) which determined that the site satisfied the historic, social and representative criterion for local heritage significance. It is recommended the heritage item listing is retained.

Amendment 19 - Correct description of Schedule 5 Heritage Item - 1-3 Rosebery Avenue, Rosebery (heritage item I1379)

68. This amendment sought to accurately reflect the significance of 1-3 Rosebery Avenue, Rosebery by correcting the item name.
69. An amendment to this listing was resolved through Amendment number 7 of 2014 to the Sydney LEP 2012. The land owner made a submission highlighting that the issue had been resolved and should not be part of this LEP. That amendment was finalised during preparation of this planning proposal.

Response: therefore, this amendment does not need to progress as part of this planning proposal and is recommended to be deleted.

Floor to floor heights clauses (draft DCP)

70. A minor change was proposed to clarify that heights for residential buildings are measured as 'finished' floor to 'finished' ceiling which is consistent with the terms used in the previous NSW Residential Flat Design Code and update a "Note" providing guidance on the floor to floor height typically needed to comply with the Code.
71. A submission raised concern that Council is being overly prescriptive by nominating the minimum floor to floor heights that are required to meet the minimum 2.7m requirement for apartment floor to ceiling heights.

Response: the floor to floor heights provided in the draft DCP are as a note for information only. The 0.4m differentiation between the ceiling and the floor above consists of thermal and acoustic insulation, battens, mechanical ventilation and the like, with little physical ability to reduce the height. No changes are recommended.

Apartments with setback bedrooms

72. A submission was received advising that the proposed controls of apartments with setback bedrooms are overly prescriptive, do not provide sufficient flexibility to allow setback bedroom apartments and penalise a development which proposes to include setback bedroom apartments, affecting housing affordability, opportunities to provide product diversity and the ability to derive creative layout solutions on complex sites. The submission requests that the new clause either should be deleted or a series of general amenity considerations should be adopted, against which setback bedroom apartments can be assessed.
73. The DCP amendment introduces a diagrammatic control to achieve certainty regarding amenity for apartments with bedrooms setback from the building elevation. These bedrooms are connected to a corridor-like space leading to a window, resulting in overly deep apartments that receive less light and ventilation. This is not regarded as 'creative' or improving affordability.
74. The previous Residential Flat Design Code did not explicitly address the amenity requirements for apartments with setback bedrooms. Controls are needed to ensure satisfactory daylight access and ventilation to all habitable spaces, including bedrooms.
75. The proposed controls included 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 noted that design excellence bonus floor space would not be awarded to projects that have apartments with poorly designed setback bedrooms.
76. The NSW Government released the Apartment Design Guideline (ADG) and revised the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65), which took effect on 17 July 2015.

77. On review of these documents it became clear that the controls proposed by the exhibited DCP were in part addressed by the provisions of the new ADG.

Response: a review of SEPP 65 and the ADG controls related to setback bedrooms has been undertaken. Changes have been proposed to the exhibited setback bedroom controls to ensure consistency with the ADG. These include deleting provisions relating to the depth of the space from the outermost façade to the windows, from the window to the recessed bedroom area and the total depth of the bedroom. These dimensions are now influenced by provisions of the ADG.

78. A new note has been included in the draft DCP stating that the following ADG design elements will need to be taken into consideration including:

- (a) natural ventilation of habitable rooms;
- (b) the location and visibility of windows;
- (c) habitable room depths;
- (d) location of bedrooms on the external face of the building; and
- (e) minimum areas and dimensions.

The supporting figure has also been updated to reflect the new ADG requirements. In particular, the figure shows:

- (a) a 2:1 building indentation width to depth;
- (b) a window being visible from any point in the habitable room;
- (c) master bedrooms having a minimum area of 10m²;
- (d) other bedrooms having a minimum area of 9m² (excluding wardrobe space);
- (e) bedrooms have a minimum dimension of 3m (excluding wardrobe space); and
- (f) a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high.

Car share schemes (DCP)

79. The DCP included amendments to the controls for car share schemes to clarify their intent and align them with the proposed changes to the LEP. The DCP was exhibited with an amendment to clause 3.11.2(2) that replaced the current wording, which reads, "The minimum number of on-site parking spaces to be made available for car share schemes is to be provided according to the following rates:..." with, "The appropriate rates for the provision of car share parking spaces are considered to be as follows:...". On review, the existing clause is preferred and it is recommended the exhibited amendment does not proceed, as it may erode our transport objectives.

Response: the amendment has been deleted from the draft DCP and the existing DCP provision remains unchanged.

KEY IMPLICATIONS**Strategic Alignment - Sustainable Sydney 2030 Vision**

80. *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. This report is aligned with the following SS2030 strategic directions and objectives:
- (a) Direction 3 - Integrated Transport for a Connected City - the draft controls provide more certainty about car share, which increases the range of transport options for City residents.
 - (b) Direction 4 - A City for Walking and Cycling - the draft controls provide more certainty about car share, which encourages sustainable transport habits and provides walkers, cyclists and public transport users with convenient access to a vehicle.
 - (c) Direction 5 - A Lively and Engaging City Centre - the draft controls create opportunities for fine-grain laneway development and encourage cultural, creative, retail and small business activity in the City Centre.
 - (d) Direction 6 - Vibrant Local Communities and Economies - the draft controls facilitate the provision of community facilities and child care centres in Central Sydney.
 - (e) Direction 7 - A Cultural and Creative City - the draft controls create opportunities for the supply of work spaces for creative uses.
 - (f) Direction 9 - Sustainable Development, Renewal and Design - the draft controls promote development that is well designed and fit for purpose. The draft controls are the result of regular monitoring and review of land use and planning controls to ensure sustainable long-term growth.

Social / Cultural / Community

81. The community will benefit from the amendments by:
- (a) supporting the supply of work spaces for creative uses;
 - (b) encouraging the provision of community facilities and child care centres in Central Sydney;
 - (c) activating laneways with fine grain development and contributing to a vibrant city;
 - (d) encouraging sustainable transport habits; and
 - (e) ensuring the type of community infrastructure provided contributes to the amenity of the community.

Economic

82. Introducing creative uses into R1 General Residential zones will increase the opportunities for creative work spaces. Creative uses can provide social capital to well-being, engagement and skills development. Creative uses also contribute to the City's economy.
83. The amendment to the car parking space controls removes a barrier to facilitating the provision of parking spaces for car share schemes, which contribute to a wider range of transport options to meet the City's transport needs.
84. The amendment relating to 83-93 Dalmeny Avenue Rosebery to B4 Mixed Use is to ensure the current and future operations of existing businesses on site are not compromised. The existing group of shops and businesses in this development provide a neighbourhood level of service to this well-established residential population.

RELEVANT LEGISLATION

85. *The Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000.*

CRITICAL DATES / TIME FRAMES

86. The NSW Department of Planning issued a Gateway Determination to proceed with the exhibition of the Planning Proposal and DCP dated 14 December 2014. The Gateway determination stated that the amending LEP is to be finalised within 12 months of the week following the date of the Gateway determination.

PUBLIC CONSULTATION

87. The amendments were placed on public exhibition for a minimum of 28 days between Tuesday 10 March and Tuesday 7 April 2015. Notices were placed in The Sydney Morning Herald, Central Sydney, Southern Courier, Inner West Courier, Wentworth Courier and City News newspapers at the beginning of the exhibition. Owners of properties affected by specific amendments were notified by letter. Copies of the Amendments were available online and at all Neighbourhood Service Centres and the One Stop Shop.
88. The exhibition generated 20 submissions; all are reviewed and summarised at **Attachment C**.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Jonathan Saavedra, Specialist Planner)