Attachment A

Planning Proposal – 41-49 Mountain Street, Ultimo

CITY OF SYDNEY

Planning Proposal: 41-49 Mountain Street, Ultimo

Planning Proposal
February 2026

The City of Sydney acknowledges the Gadigal of the Eora Nation as the Traditional Custodians of our local area.

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Executive Summary

This planning proposal has been prepared by the City of Sydney (the City) for 41-49 Mountain Street, Ultimo (the site), in response to a request from the landowner to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) and the Sydney Development Control Plan 2012 (Sydney DCP 2012) as they apply to the site.

This planning proposal has been prepared by the City in accordance with section 3.33 of the Environmental Planning and Assessment Act 1979 and the Department of Planning, Housing and Infrastructure's (the Department) Local Environmental Plan Making Guideline dated August 2023.

The Site

Located in the western City Fringe area and within the Camperdown-Ultimo Health and Education precinct, the site has an area of 1,452.6 square metres with frontages to Mountain Street and Smail Street. Existing development comprises a State heritage listed former substation, and previously demolished buildings. Surrounding development includes several large former warehouses used mainly for business use, with more recent development further south towards Broadway.

Existing development controls

The site is zoned MU1 Mixed Use in the Sydney LEP 2012 which permits a range of uses including residential, office, retail, and entertainment facilities. The site has a maximum building height of 18 metres and maximum floor space ratio of 2:1, with up to an additional 10% floor space or height available should the future development demonstrate design excellence through the competitive design process.

Intended outcome for development on the site

The proposed change to the planning controls will facilitate redevelopment delivering the following key benefits:

- additional height and floor space in the form of a shop-top housing development used for build-to-rent housing in accordance with State Environmental Planning Policy (Housing) 2021
- provision of affordable housing consistent with the City's affordable housing program
- built form which respects and sensitively adaptively reuses the State heritage item on the site and is responsive to the heritage conservation area
- street activation and a pedestrian link through the site
- adequate provision of on-site loading to service the site
- ecologically sustainable development
- high quality residential amenity and public art
- achieves design excellence.

The planning proposal – Sydney Local Environmental Plan 2012 controls

This planning proposal seeks to insert a new site-specific clause in Division 5 of the Sydney LEP 2012 to:

- increase the maximum height to RL 58.85m, or about 52m above ground, from the current 18m above ground
- increase the maximum floor space ratio to 5.35:1, inclusive of design excellence
- ensure development consent may only be granted under this clause provided the future development:
  - will be for the purposes of shop top housing operated as build-to-rent housing under State Environmental Planning Policy (Housing) 2021 (the Housing SEPP), with provision for affordable housing to meet the City's affordable housing program

  - is respectful of, and sensitively adaptively reuses the State heritage listed former substation
  - includes a pedestrian link through the site
  - provides adequate on-site loading to service the development
- not permit additional height or floor space as a result of competitive design process under clause 6.21 as already included.
- continue to permit alternative development utilising the existing Sydney LEP 2012 controls.

Draft site specific Development Control Plan

The City has prepared a draft site-specific amendment to the Sydney DCP 2012 to help ensure the objectives and intended outcomes of this planning proposal are delivered, including built form, heritage, access and loading, residential amenity, public art and sustainability.

1. Background

1.1 Site identification

This planning proposal relates to the site known as 41-49 Mountain Street, Sydney (the site).

The site consists of two lots, known as Lot 21 DP 5567 and Lot 1 DP 191928. It is a corner site with frontages to Mountain Street to the east and Smail Street to the north. A map of the site, outlined in red, is shown in Figure 1.

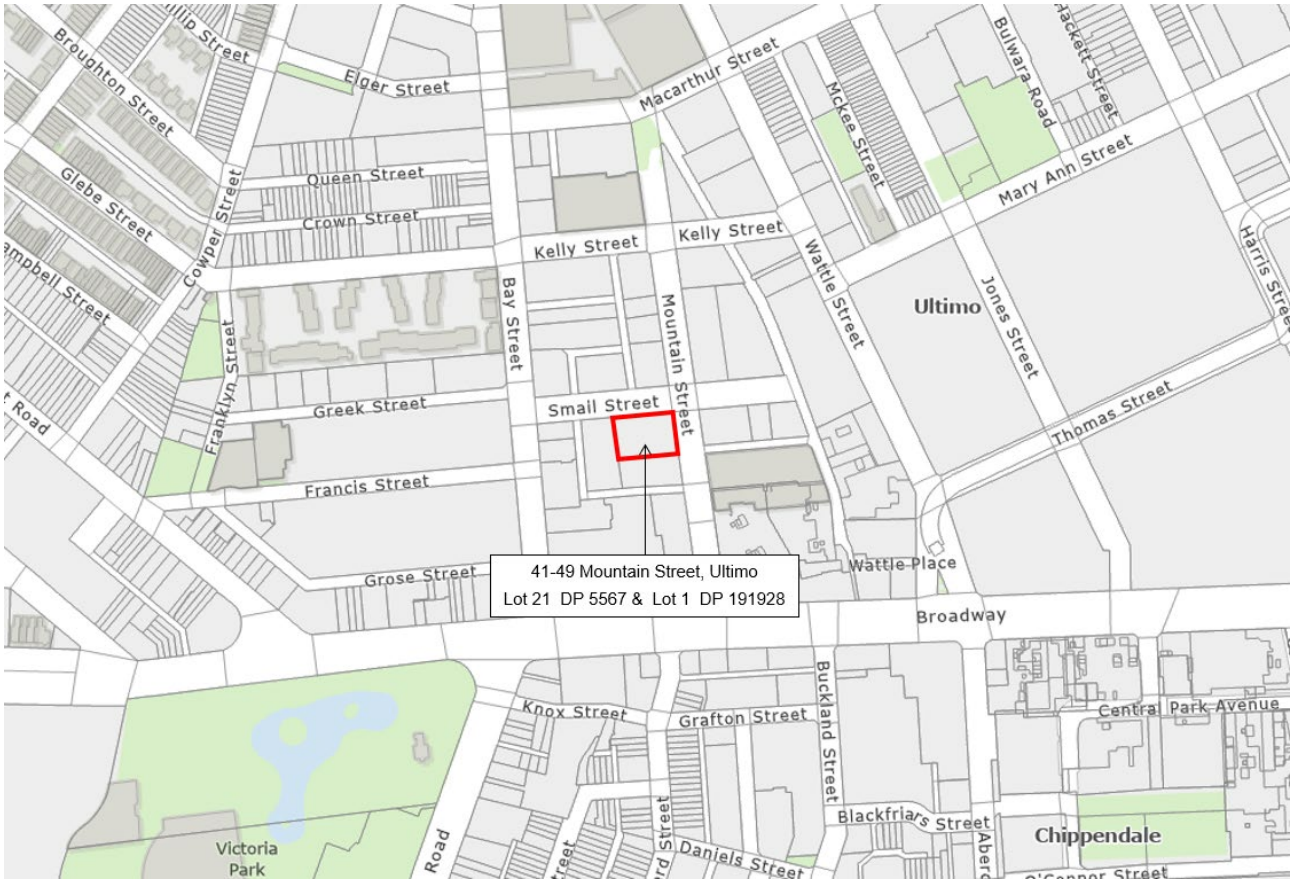

Figure 1. Land affected by this planning proposal

1.2 Site location

The site is located in Ultimo within the western City Fringe area and is located within the Camperdown-Ultimo Health and Education Precinct, which includes 3 universities and TAFE NSW, all within 600m of the site.

Public open spaces nearby include Victoria Park approximately 250m to the south-west, Central Park approximately 450m to the south-east, and Wentworth Park approximately 450m to the north.

The site is located approximately 900m from Central Railway Station with intercity, suburban, light rail, metro and bus connections. Parramatta Road is situated close to site to the south, which serves as a key connector between the CBD and the western suburbs. The site is close to bus stops along Parramatta Road and City Road which provide access to various destinations across metropolitan Sydney.

An aerial photo of the site and surrounding area is shown in Figure 2.

Figure 2. Aerial view of subject site and local area

1.3 Site characteristics

The site comprises two lots with a combined total area of 1,452.6m^2. It has frontages of approximately 31m to Mountain Street and approximately 46m to Smail Street. The site has common boundaries of approximately 46m to the southern adjoining lot and approximately 32m to the western adjoining lot. The site is generally rectangular in shape, and its topography is relatively level, with a minor fall to the north-east corner.

Existing development on the site consists of a single storey State heritage listed former electrical substation located on Lot 1 DP 191928 in the north-eastern corner of the site. The remainder of site is generally vacant, with the exception of some single storey ancillary sheds, with buildings demolished in 2007 for a commercial development that did not proceed. Vehicle access to the site is via Smail Street.

A mature Plane tree, and smaller Jacaranda tree adjoin the site, in the public footpath area in Mountain Street. Inspection by City arborists has found that the Plane tree has multiple defects and damage from birds to create breeding hollows. It is expected that the damage to this tree will progress, reducing the life of the tree. Removal is supported.

The site is located within the Mountain Street heritage conservation area. Surrounding development consists of a large number of former warehouses, as well as more recent buildings used for a mixture of residential, commercial, retail and educational uses. Adjoining the site to the south is a 6 storey mixed use building at 51-55 Mountain Street which accommodates a retail tenancy on ground floor and office premises above. The west-adjoining site at 1-3 Smail Street currently accommodates an 8 storey commercial building with ground floor retail use. This site is, however, subject to an approved development application (D/2024/984) for alterations and additions to the existing building to allow for a co-living development with ground floor retail

tenancy and an additional rooftop area. The approval allows for a maximum building height of 35.22m and an FSR of 5.9:1.

Development opposite the site to the east is a 3 storey commercial building at 38-44 Mountain Street. The opposite site to the north-east is a 4 storey mixed use building at 22-36 Mountain Street accommodating commercial and residential uses. A 5 storey commercial building at 46-52 Mountain Street is located to the south-east of site, and further south at 70 Mountain Street, is a 9-15 storey residential apartment complex with ground floor retail and central courtyard.

Development on the northern side of Mountain Street opposite site includes a 4 storey hotel building at 35-39 Mountain Street, and a 5 storey residential strata building at 2-12 Smail Street.

The site is within the Mountain Street locality under the Sydney DCP 2012, which is an important entry to Central Sydney. Development principles are for a diverse and sustainable mix of uses in restored and adaptively reused warehouse buildings, or in new buildings of sympathetic bulk and scale. Avenue planting along Mountain Street is to enhance the streetscape and help break down scale of larger buildings.

Photographs of the site and its immediate context are shown in Figures 3 to 7.

Figure 3. Subject site outlined in red, looking south-west at corner of Mountain and Smail Streets

Figure 4. Looking south at the Smail Street frontage

Figure 5. Looking west at the Mountain Street frontage

Figure 6. Looking south down Mountain Street towards Broadway

Figure 7. Looking south-east down Smail Street towards the site

2. Existing planning controls

2.1 Zoning

The site is zoned MU1 Mixed Use in Sydney LEP 2012, as shown in Figure 8. The objectives of this zone are to:

- encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- minimise conflict between land uses within this zone and land uses within adjoining zones.
- encourage business, retail, community and other non-residential land uses on ground floors.
- ensure land uses support the viability of nearby centres.
- integrate suitable business, office, residential, retail and other land uses in accessible. locations that maximise public transport patronage and encourage walking and cycling.

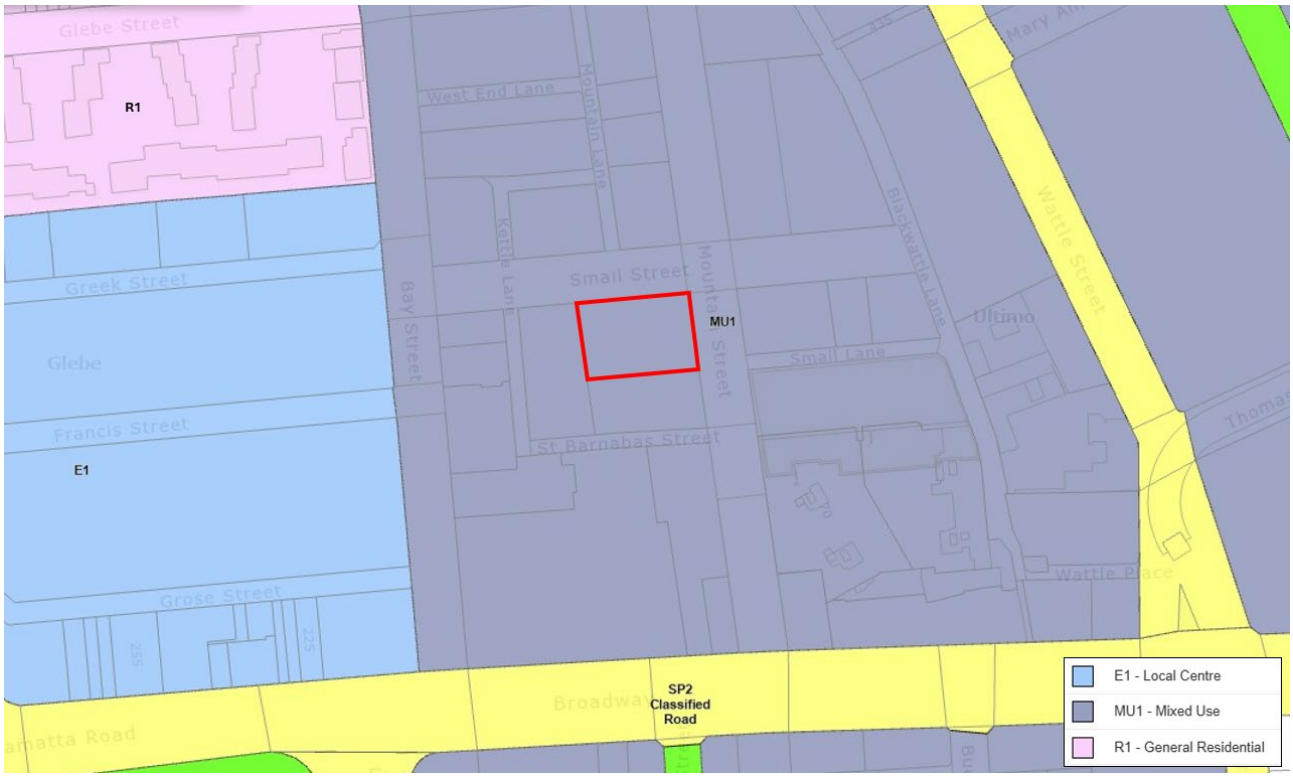

Figure 8. Extract from the Land Zoning map in Sydney LEP 2012

2.2 Building Height

Maximum height of building

The site is subject to a maximum height of building control of 18 metres in Sydney LEP 2012, as represented by 'P' and the light beige shading in Figure 9.

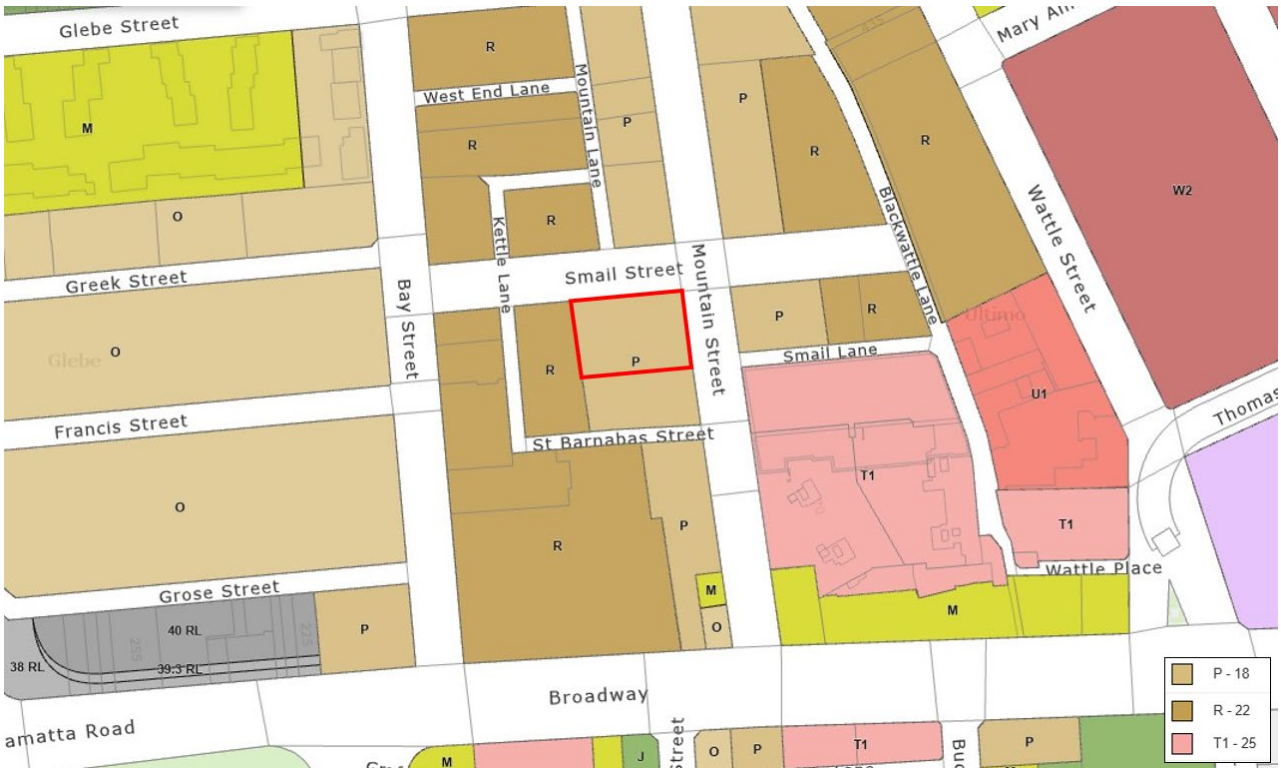

Figure 9. Extract from the Height of Buildings map in Sydney LEP 2012

2.3 Floor space ratio

The site is subject to a maximum floor space ratio control of 2:1 in Sydney LEP 2012, as represented by 'T1' and the pink shading in Figure 10.

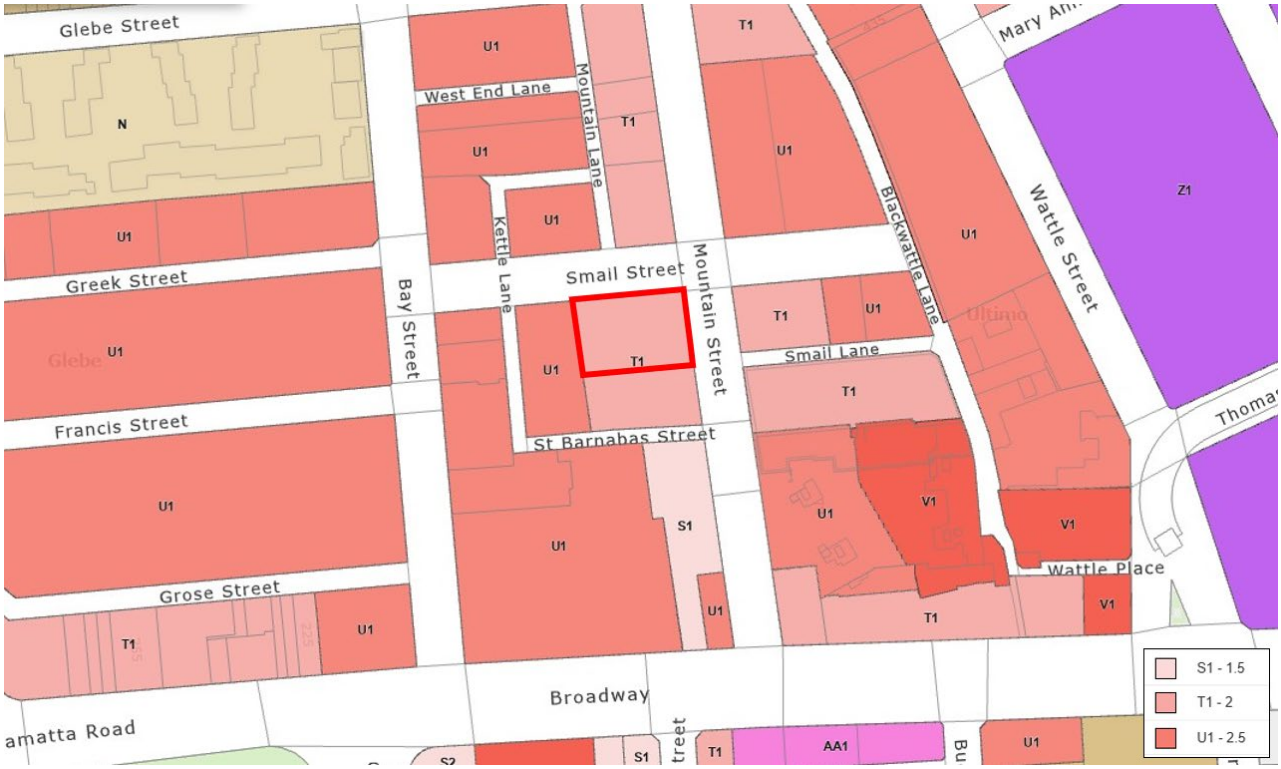

Figure 10. Extract from the Floor Space Ratio map in Sydney LEP 2012

2.4 Heritage

The site contains a State and locally listed heritage item, Item No. I2053: “Electrical substation” in the Sydney LEP 2012, located in the north-eastern corner of site on Lot 1 DP 191928.

The site is also located within the Mountain Street Heritage Conservation Area, identified as C68 in Sydney LEP 2012. This conservation area contains a large number of substantial Federation warehouses, and substantial street trees in Mountain Street softening the streetscape. Maintaining building alignments, retaining finishes and details, retaining stable buildings, and maintaining and enhancing street planting is recommended.

The site is located close to a number of local heritage items, shown in Figure 11, including:

- I2054 – Warehouse “Wilcox Mofflin Ltd” – 46-52 Mountain Street, Ultimo
- I2055 – St Barnabas Anglican Church site remnant building components and grounds – 57-61 Mountain Street, Ultimo
- I2018 – Former “Grace Bros Homewares” including interior – 185-211 Broadway, Ultimo
- I2003 – “Bay House” including interior – 76-82 Bay Street, Ultimo
- I2052 – Former Sydney Technical College School of Rural Studies including interior – 16-20 Mountain Street, Ultimo.

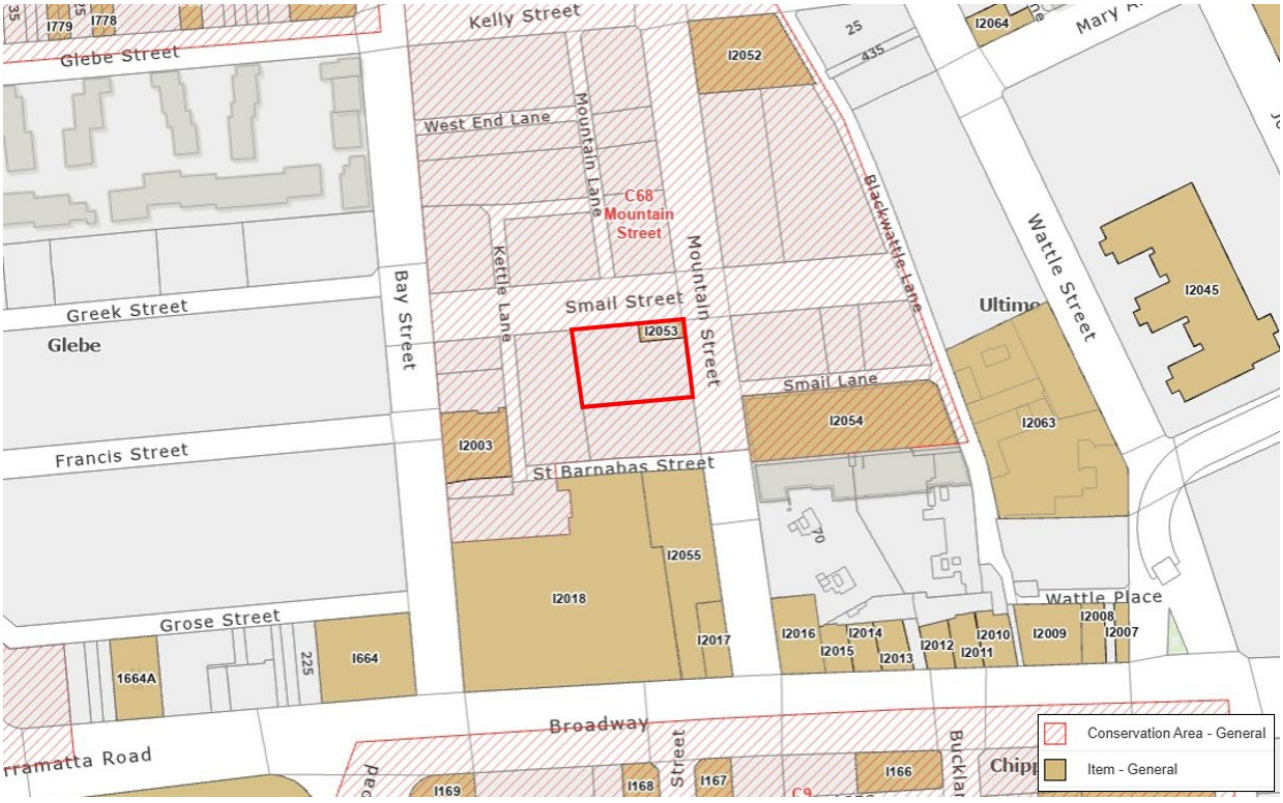

Figure 11. Extract from the Heritage map in Sydney LEP 2012

3. Objectives and intended outcomes

The objective of this planning proposal is to amend the Sydney LEP 2012 to insert new site specific provisions that increase the maximum floor space ratio and maximum height for the subject site to accommodate a new build-to-rent housing development.

Specifically, the objectives and intended outcomes of this planning proposal are to:

- facilitate additional height and floor space in a strategic location to support a new shop-top housing development used for build-to-rent housing in accordance with Chapter 3, Part 4 of the Housing SEPP
- provision for affordable housing consistent with the City's affordable housing program
- facilitate a built form which respects and sensitively adaptively reuses the State heritage listed former substation and is consistent with the desired future character of the Mountain Street heritage conservation area
- improve pedestrian access and amenity through active street frontages and provision of a publicly accessible pedestrian link through the site
- ensure adequate provision of on-site loading and servicing spaces to service the development
- deliver high quality residential amenity, sustainability outcomes and public art.

Draft site-specific amendments to the Sydney DCP 2012 accompanying this planning proposal provide detailed guidance for the future redevelopment of the site.

A planning agreement (VPA) will be exhibited to secure the delivery of affordable housing in perpetuity, and public access to the pedestrian link.

4. Explanation of provisions

4.1 Sydney Local Environmental Plan 2012

To achieve the objectives and intended outcomes, this planning proposal seeks to amend the Sydney LEP 2012 by inserting a new site specific clause under Division 5 Site Specific Provisions, as follows:

- Permit a maximum height of RL 58.85m.
- Permit a maximum floor space ratio of 5.35:1 that could be accommodated within the planning envelope for the site, inclusive of the following:
  - floor space ratio as shown on the Floor Space Ratio Map (under clause 4.4);
  - additional site-specific floor space; and
  - where the building demonstrates design excellence through a competitive design process, additional design excellence floor space of up to 10% of the sum of the mapped and site-specific floor space.
- Prevent development consent being granted under this clause unless the consent authority is satisfied that the future building:
  - will be for the purposes of build-to-rent housing under Chapter 3 Part 4 of the Housing SEPP, with the exception of any affordable housing delivered to meet the City's affordable housing program;
  - provides adequate on-site loading to service the development; and
  - includes a pedestrian link connecting Mountain Street and Smail Street adjoining the State heritage item.
- Clarify that no additional building height is available under clause 6.21D(3).

These controls should not prevent alternative development on the site taking place under the existing Sydney LEP 2012 controls.

Appendix 1 of this planning proposal provides some example clauses of the proposed controls. The final version of the clauses to be inserted into the Sydney LEP 2012 would be subject to drafting and agreement with the NSW Parliamentary Counsel's Office.

4.2 Sydney Development Control Plan 2012

To ensure future development is consistent with the objectives of the planning proposal, and to provide design guidance to address Chapter 3, Part 4 – Build-to-rent housing of the Housing SEPP, site specific provisions for the Sydney DCP 2012 DCP will be drafted to ensure development provides for a high-quality built form and public domain, and high quality residential amenity. These provisions are to include:

- maximum building envelope dimensions including setbacks and heights
- heritage considerations including materials and finishes
- vehicular access, loading and servicing
- ground floor level and street activation
- pedestrian link through the site including minimum unencumbered width
- residential amenity requirements
- landscaping

- sustainability
- flooding.

A draft of the new site specific provisions for the Sydney DCP 2012, also to be placed on exhibition, can be found at Attachment B.

5. Justification

This planning proposal amends the floor space ratio and building height controls to facilitate redevelopment for build-to-rent housing. No change to the land use zoning is proposed.

The following section provides justification for the planning proposal, outlining strategic and site specific merit, outcomes and process for implementation.

5.1 Landowner request

In November 2025, Apt.residential, the proponent, supported by Urbis, lodged a planning proposal request to insert site specific controls in Part 6, Division 5 of the Sydney LEP 2012.

The proposal is intended to deliver a shop-top housing development for the purposes of build-to-rent housing in accordance with the Housing SEPP. Retail and active uses are to front Mountain Street and Smail Street on the ground floor.

An indicative design of the proposed development for the site prepared by the proponent is at Figure 12.

Figure 12. Rendered drawing of indicative design

5.2 Need for the planning proposal

Is the planning proposal a result of an endorsed LSPS, strategic study or report?

This planning proposal has been prepared following a request from the landowner to change the planning controls that relate to the site in response to provisions in the Housing SEPP.

The landowner has provided a Planning Proposal Report prepared by Urbis and technical studies to their support their request, including an Urban Design Report prepared by Bates Smart. The report demonstrates how the proposal exhibits strategic and site specific merit and how the site could be capable of accommodating new residential floor space without unacceptable impacts.

Documentation submitted by the proponent in support of their request are as follows:

- Attachment A1 – Planning Proposal Report – Urbis
- Attachment A2 – Draft Site specific DCP – Urbis
- Attachment A3 – Urban Design Report – Bates Smart
- Attachment A4 – Arboricultural Impact Assessment – Arbor Express
- Attachment A5 – Aboriginal Object Due Diligence Assessment -Urbis
- Attachment A6 – Heritage Impact Statement - Urbis
- Attachment A7 – Historical Archaeological Assessment - Urbis
- Attachment A8 – Traffic Impact Statement – PDC Consultants
- Attachment A9 – Report on Detailed Site (Contamination) Investigation – Douglas Partners
- Attachment A10 – ESD Strategies - Flux
- Attachment A11 – Flood Impact Risk Assessment - ADP
- Attachment A12 – Landscape Report – Subtropic Design
- Attachment A13 – Design Excellence Strategy - Urbis
- Attachment A14 – Owners consent
- Attachment A15 – Architectural Plans – Bates Smart
- Attachment A16 – Dewatering Management Plan – Douglas Partners
- Attachment A17 – Water Cycle and Stormwater Management – ADP
- Attachment A18 – Site Survey and adjoining elevations - Geoserv

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This planning proposal seeks to insert new site-specific provisions into Division 5 of Sydney LEP 2012 for the subject site. The proposed envelope has been assessed to ensure future development is appropriate to its context and will not result in any unacceptable impacts on adjoining properties or the public domain. The amended controls facilitate additional residential floor space consistent with the Local Strategic Planning Statement.

As the proposed changes are greater than those acceptable through an application to vary development standards via clause 4.6 of the Sydney LEP 2012, the planning proposal approach is the most appropriate option.

5.2 Relationship to the strategic planning framework

Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy?

This planning proposal is consistent with the relevant actions and objectives of the applicable regional and district plans, as summarised below.

A Metropolis of Three Cities – The Greater Sydney Region Plan

The Greater Sydney Region Plan is the NSW Government's overarching strategic plan for growth and change in Sydney.

The Plan outlines how Greater Sydney will manage and deliver growth and guide infrastructure delivery. This planning proposal gives effect to the Plan, as follows:

- Infrastructure – the site is well-positioned to benefit from surrounding public infrastructure including rail, light rail, metro and bus services, ensuring future growth is supported by necessary infrastructure.
- Liveability – future development on site will contribute to greater housing supply and choice through the provision of build-to-rent housing with adequate dwelling mix. Additionally, future development will improve the public domain surrounding site through new retail, greater activation and passive surveillance.
- Productivity – future redevelopment on site will enable a greater number of dwellings and employment floor space to be located within 30 minutes by public transport of the Sydney CBD metropolitan centre. Future development will also contribute to local employment through the introduction of active ground floor retail premises.
- Sustainability – future development on site will achieve high sustainability targets.

Eastern City District Plan

The Eastern City District Plan sets out the vision, priorities and actions for the Eastern District of the Greater Sydney area, which includes the City of Sydney.

This planning proposal is consistent with the following priorities from the Plan:

- Planning Priority E1 – Planning for a city supported by infrastructure – this planning proposal will deliver additional housing and employment-generating floor space on a site close to existing and future transport infrastructure, helping maximise infrastructure assets.
- Planning Priority E5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport – this planning proposal will contribute to increased housing supply and diversity in a well-serviced location through the provision of build-to-rent dwellings and will help in addressing housing affordability issues through the provision of on-site affordable housing.
- Planning Priority E6 – Creating and renewing great places and local centres, respecting the District's heritage – this planning proposal will adaptively reuse the existing heritage substation building on site to facilitate retail use, street level activation and increased pedestrian permeability through the introduction of a through-site link.
- Planning Priority E10 – Delivering integrated land use and transport planning for a 30 minute city – the future development scheme supports the goal for a 30 minute city by delivering additional housing and employment floor space close to public transport.
- Planning Priority E19 – Reducing carbon emissions and managing energy, water and waste efficiency – this planning proposal will achieve high sustainability targets.

Draft Sydney Plan

The draft Sydney Plan sets out how growth is to be addressed in Sydney over the next 20 years. The planning proposal is consistent with the following priority responses of the draft plan:

- Implement Sydney housing targets – the future development provides for additional housing to assist in meeting the City of Sydney's housing targets.
- Increase housing diversity and choice – this planning proposal will provide for additional and diverse housing to increase housing choice, in an area identified in Council's strategic plans for jobs, services and amenities.
- Secure the supply of affordable housing – the proponent has offered to enter into a VPA with the City for the delivery of affordable housing in perpetuity as part of a future development.

- Grow well-located jobs – this planning proposal facilitates jobs growth by providing for non-residential uses on the ground floor, that will increase activation of the adjoining streets which supports walking and public transport use.
- Create a more vibrant Sydney – the future development provides for more jobs and housing with active street frontages, in an area well serviced by public transport that promotes active travel.
- Minimise the impact of natural hazards to communities – the future development is capable of minimising impacts from natural hazards, especially flooding, including provision of flood planning levels and managing hazard risk during flood events.
- Protect and enhance the natural environment – the Plane tree in Mountain Street adjoining the site can be removed due to defects found in this tree, however future development will be required to provide landscaping and greening to support biodiversity, reduce water run-off and minimise urban heat island effects.

Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?

City Plan 2036 – Local Strategic Planning Statement

The City's local strategic planning statement (LSPS) sets the land use planning context, vision and planning priorities to positively guide future development in the City. This planning proposal aligns with the following priorities of the LSPS:

Infrastructure

- Priority I1 – Movement for walkable neighbourhoods and a connected city – this planning proposal will facilitate additional dwellings and new retail development in a well-located area that enables integration with existing and future transport connections, within walking distance to key destinations for shopping, socialising, exercising and essential services.
- Priority I2 – Align development and growth with supporting infrastructure – future redevelopment on site would ensure additional residential and commercial floor space is appropriately located close to existing infrastructure, including heavy rail, light rail and metro connections, as well as bus services and cycleways.

Liveability

- Priority L2 – Creating great places – this planning proposal would deliver improved street life and public domain outcomes through ground floor retail activation of Mountain St and Smail St.
- Priority L3 – New homes for a diverse community – this planning proposal would contribute to increased housing supply through the provision of BTR housing with an appropriate apartment mix, along with the delivery of affordable housing on site. This will assist in meeting the diverse housing needs of the community.

Sustainability

- Priority S2 – Creating better buildings and places to reduce emissions and waste and use water efficiently – future development on site will prioritise energy efficient outcomes through the implementation of 5-Star NABERS, WELS and Green Star Rating targets, BASIX compliance for residential components. Any future development will also deliver an all-electric building with renewable energy generation and will avoid using HFC synthetic greenhouse gases.

Sustainable Sydney 2030-2050: Continuing the vision

Sustainable Sydney 2030-2050 provides a vision for a green, global and connected city and includes directions for sustainable growth, creativity and innovation. This planning proposal gives effect to the following strategic directions:

- Direction 2 – A leading environmental performer – this planning proposal ensures future development on site achieves adequate environmental sustainability outcomes through the

implementation of 5-Star NABERS, WELS and Green Star Rating targets as well as BASIX compliance for residential components.
- Direction 3 – Public places for all – future redevelopment on site would activate the ground floor with retail premises to improve the public domain and street life experience surrounding site.
- Direction 4 – Design excellence and sustainable development – future development on site would be subject to a competitive design process to ensure the built form achieves design excellence. Although the mature Plane tree in Mountain Street will be removed due to defects, additional greening of the site will support sustainability and biodiversity outcomes.
- Direction 5 – A city for walking, cycling and public transport – the site is well positioned to take advantage of existing transport infrastructure, including rail, light rail, metro and bus connections as well as nearby cycleways.
- Direction 10 – Housing for all – this planning proposal contributes to increased housing supply that is diverse in its dwelling mix and tenure and is to includes a portion of affordable housing in perpetuity, delivered through a voluntary planning agreement, to help meet the complex housing needs of our community.

Is the planning proposal consistent with any other applicable State or regional studies or strategies?

Housing for All: City of Sydney local housing strategy

The City's local housing strategy establishes priorities, objectives and actions for future housing delivery to 2036 in line with the housing related priorities of the Eastern City District Plan. This planning proposal aligns with the following priorities of the strategy:

- Priority H1 – Facilitating more homes in the right locations – this planning proposal would deliver additional dwellings in a well-established area that is close to public transport, social infrastructure, public facilities and retail uses.
- Priority H3 – Increasing diversity and choice in housing – this planning proposal would contribute to increased housing diversity and affordability with the provision of build-to-rent housing with a mix of dwelling sizes, as well as the delivery of on-site affordable housing through a voluntary planning agreement.
- Priority H4 – Increasing the diversity and number of homes available for lower-income households – this planning proposal includes a dedication of 20% of the total floor space uplift for affordable housing, delivered through the voluntary planning agreement, to provide greater housing opportunities for lower-income households.
- Priority H7 – Increasing liveability, sustainability and accessibility through high-quality residential design – future development would be subject to a competitive design process to ensure delivery of a high-quality residential building that demonstrates design excellence.

Is the planning proposal consistent with applicable SEPPs?

The following table (Table 1) outlines the consistency of this planning proposal with applicable State Environmental Planning Policies (SEPPs).

Table 1. Consistency with State Environmental Planning Policies

State Environmental Planning Policy	Comment
SEPP (Biodiversity and Conservation) 2021	This planning proposal is consistent. Chapters 3, 4, 5 and 13 are not applicable to this site. In regard to Chapter 2, the proposal is accompanied by an Arboricultural Impact Assessment that recommends protection of 2 existing street trees, but

State Environmental Planning Policy	Comment
	removal of 2 trees adjoining site due to current tree health. Street tree planting is proposed as part of the future development and will need to be addressed at the DA stage including number and species of trees consistent with the City's Urban Forest Strategy. In regard to Chapter 6, the site is located within the Sydney Harbour Catchment Area but not within the Foreshores and Waterways Area. The planning proposal request was accompanied by a Flood Impact Risk Assessment (Attachment A11) and a Water Cycle and Stormwater Management Report (Attachment A17). These have been considered as part of the planning proposal to demonstrate that the site can accommodate the proposed redevelopment, with either planning controls recommended, or additional details required at the DA stage.
SEPP (Exempt and Complying Development Codes) 2008	This planning proposal is consistent.
SEPP (Housing) 2021	This planning proposal is to allow a build-to-rent housing development in accordance with the SEPP. Future development will need to be consistent with Departmental Fact Sheet for Build-to-Rent Housing and Flexible Design, which states build-to-rent developers tend to focus on shared facilities and services and more communal space for each apartment. The Housing SEPP identifies 3 areas where flexibility is to be considered by the consent authority – balconies and open space, storage and apartment mix, and non-compliance with Apartment Design Guide for these criteria can be achieved by replacing some of the 'missing' elements for apartments elsewhere in the development through additional communal open space and/or storage space, and to reflect apartment mix tailored to the area's demographics. Solar and day light access, apartment size and layout and common circulation spaces can also be considered flexibly. To provide guidance for appropriate consideration of flexibility for this site, controls have been recommended in the draft site specific DCP.
SEPP (Industry and Employment) 2021	This planning proposal is consistent.
SEPP (Planning Systems) 2021	This planning proposal is consistent.
SEPP (Precincts–Eastern Harbour City) 2021	This planning proposal is consistent.
SEPP (Resilience and Hazards) 2021	This planning proposal is consistent. The site is not located within the Coastal Environment Area nor the Coastal Use Area.

State Environmental Planning Policy	Comment
	This planning proposal is accompanied by a Report on Detailed Site (Contamination) Investigation (Attachment A9) which identified potential sources of contamination on site such as imported fill of unknown origin and demolition of previous structures that may have included hazardous materials. The reports have been reviewed, and it is considered that the site can be made suitable for the proposed development, subject to the implementation of a Remediation Action Plan that will need to be lodged with a future development application.
SEPP (Resources and Energy) 2021	This planning proposal is consistent.
SEPP (Sustainable Buildings) 2022	This planning proposal is consistent.
SEPP (Transport and Infrastructure) 2021	This planning proposal is consistent. The site is not located in or adjacent to rail corridors, road corridors or reservations listed in Section 2.121 of the SEPP. The proposed development is not a traffic generating development for the purposes of this SEPP.

The following SEPPs are not applicable to this planning proposal:

- SEPP (Precincts – Central River City) 2021, SEPP (Precincts – Regional) 2021, SEPP (Precincts – Western Parkland City) 2021, SEPP (Primary Production) 2021

Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

The following table (Table 2) outlines the consistency of this planning proposal with applicable Ministerial Directions.

Table 2. Consistency with Ministerial Directions

Ministerial Direction	Comment
Focus area 1: Planning Systems	
1.1 Implementation of Regional Plans	This planning proposal is consistent, as demonstrated in section 5.3 of this document.
1.3 Approval and Referral Requirements	This planning proposal is consistent. The subject site contains a State listed heritage item known as former “Electrical substation”. Agency consultation is likely to be required with NSW Heritage as part of the Gateway Determination. In addition, future development will be Integrated Development and will require concurrence from NSW Environmental and Heritage.

Ministerial Direction	Comment
1.4 Site Specific Provisions	This planning proposal is consistent. The planning proposal does not restrict the permitted uses on the land. The planning proposal provides development uplift for residential and retail uses. This is consistent with strategic priorities established in the relevant regional and district plan and LSPS. Development that does not make use of the uplift provided by the planning proposal can continue to make use of the full range of uses permitted in the MU1 Zone.
1.4A Exclusion of Development Standards from Variation	This planning proposal is consistent. The planning proposal does not propose to exclude a development standard from variation under clause 4.6.
Focus area 3: Biodiversity and Conservation	
3.1 Conservation Zone	This planning proposal is consistent. The site is located within the Mountain Street Conservation Area. This planning proposal will not reduce the conservation standards that apply to the land.
3.2 Heritage Conservation	This planning proposal is consistent. The site contains a State and locally listed heritage item identified as Item No. I2053: “Electrical substation” in Sydney LEP 2012. A Heritage Impact Statement and Historical Archaeological Assessment were prepared submitted with the proposal, attached to this document at Attachment A6 and Attachment A7. These serve to inform the consideration of future development on the site Initial consultation with Heritage NSW has been undertaken. Additionally, a site specific DCP accompanies this planning proposal which includes heritage provisions that facilitate conservation and sympathetic adaptive reuse of the significant heritage item on site.
3.5 Recreation Vehicle Areas	This planning proposal is consistent. The site is not being developed for the purpose of a recreation vehicle area.
3.7 Public Bushland	This planning proposal is consistent. The site does not contain any urban bushland.

Ministerial Direction	Comment
3.9 Sydney Harbour Foreshores and Waterways Area	This planning proposal is consistent. The site is not located within the Foreshores and Waterways Area.
3.10 Water Catchment Protection	This planning proposal is consistent. The site is located within the Sydney Harbour Catchment but outside the Foreshores and Waterways Area boundary. The planning proposal does not conflict with the objectives of the Direction. A Water Cycle and Stormwater Management Report (Attachment A17) accompanies this planning proposal which identifies strategies to allow for stormwater runoff across the site to be conveyed to the designated legal point of discharge, to ensure water flows within the catchment are not adversely impacted.
Focus area 4: Resilience and Hazards	
4.1 Flooding	This planning proposal is consistent. Mountain Street and an eastern portion of Smail Street adjoining site are impacted by high hazard flooding in a PMF event. An eastern portion of the site is impacted by low hazard flooding in a PMF event. A Flood Risk Assessment Report accompanies this planning proposal (Attachment A11) and has been reviewed by the City's environment and water engineers. The site is capable of redevelopment to meet the requirements in the NSW Flood Risk Management Guideline including EM01 Support for Emergency Management Planning, FB01 Understanding and Managing flood, and NSW shelter in-place guidelines. A detailed Flood Impact and Risk Assessment (FIRA), and Flood Emergency Response Plan, along with other supporting studies is required at the DA stage to address these requirements and suitably manage flooding impacts. The flood planning levels have been indicated on the reference design plan to indicate the proposed development can be accommodated within the envelope, and the draft DCP will require vehicular access to the site from Smail Street due to the high hazard risk in Mountain Street.
4.2 Coastal Management	This planning proposal is consistent. The site is not located within the coastal environment area or coastal use area.

Ministerial Direction	Comment
4.4 Remediation of Contaminated Land	This planning proposal is consistent. The Detailed Site Investigation prepared by Douglas Partners as part of the planning proposal request identifies several contamination risks, which can be addressed as part of a Remediation Action Plan to be prepared as part of the development application to make the site suitable for the proposed development.
4.5 Acid Sulfate Soils	Consistent. The site is classified as part Class 2 and part Class 5 Acid Sulfate Soils as per the LEP. A Report on Detailed Site (Contamination) Investigation (Attachment A9) that accompanies this planning proposal identified low risk of acid sulfate soils on the subject site and that testing for acid sulfate soils was not considered warranted. Further detailed investigation and the need for an Acid Sulfate Soils Management Plan will be addressed through any future development application.
Focus area 5: Transport and Infrastructure	
5.1 Integrating Land Use and Transport	This planning proposal is consistent. The site is located in an area that is well serviced by existing public transport options.
5.3 Development near Regulated Airports and Defence Airfields	The planning proposal is consistent. The proposed maximum height of RL 58.85m (approximately 53m) is less than the obstacle Limitation Surfaces (OLS) of 120m for this site for Sydney Airport.
Focus area 6: Housing	
6.1 Residential Zones	This planning proposal is consistent. The provision of diverse housing through build-to-rent and affordable housing, will be enabled by this planning proposal. Requirements for the land to be adequately serviced will be included in the planning proposal.
6.2 Caravan Parks and Manufactured Home Estates	This planning proposal is consistent. It provides an alternative set of planning controls for residential and retail use of the site. It is not a suitable zone or location for the provision of a caravan park.
Focus area 7: Industry and Employment	
7.1 Employment Zones	This planning proposal is consistent. It will facilitate additional retail floor space to encourage

Ministerial Direction	Comment
	employment opportunities in a suitable location, helping to protect and support the viability of this area.

The following Directions are not applicable to this planning proposal:

– Ministerial Direction 1.2 Development of Aboriginal Land Council Land, 1.4A Exclusion of Development Standards from Variation, 1.5 Parramatta Road Urban Transformation Strategy, 1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan, 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan, 1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan, 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor, 1.10 Implementation of the Western Sydney Aerotropolis Plan, 1.11 Implementation of Bayside West Precincts 2036 Plan, 1.12 Implementation of Planning Principles for the Cooks Cove Precinct, 1.13 Implementation of St Leonards and Crows Nest 2036 Plan, 1.14 Implementation of Greater Macarthur 2040, 1.15 Implementation of the Pyrmont Peninsula Place Strategy, 1.16 North West Rail Link Corridor Strategy, 1.17 Implementation of the Bays West Place Strategy, 1.18 Implementation of the Macquarie Park Innovation Precinct, 1.19 Implementation of the Westmead Place Strategy, 1.20 Implementation of the Camellia-Rosehill Place Strategy, 1.21 Implementation of the South West Growth Area Structure Plan, 1.22 Implementation of the Cherrybrook Station Place Strategy, 3.3 Sydney Drinking Water Catchments, 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs, 3.6 Strategic Conservation Planning, 3.8 Willandra Lakes Region, 4.3 Planning for Bushfire Protection, 4.6 Mine Subsidence and Unstable Land, 5.3 Development Near Regulated Airports and Defence Airfields, 5.4 Shooting Ranges, 5.5 High Pressure Dangerous Goods Pipelines, 7.2 Reduction in non-hosted short-term accommodation period, 7.3 Commercial and Retail Development along the Pacific Highway, North Coast, 8.1 Mining, Petroleum Production and Extractive Industries, 9.1 Rural Zones, 9.2 Rural Lands, 9.3 Oyster Aquaculture, 9.4 Farmland of State Regional Significance on the NSW Far North Coast.

5.3 Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

This planning proposal is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities of their habitats. The site does not currently contain any vegetation within its boundaries. The site is located in Ultimo close to the Sydney CBD, which does not contain any known critical habitats or threatened species, populations or ecological communities.

Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

Floor space ratio, building height and building envelope

An FSR of 5.35:1 provides for around 47 square metres more floor space than the proponent's reference scheme. The recommended FSR is considered to be suitable for the site, as on balance it provides for sufficient design flexibility for future development on the site, while maintaining confidence that the following can be managed appropriately:

– impacts on the heritage conservation area and State heritage listed former substation
– impacts on adjoining buildings located on the site boundary;

- meeting Apartment Design Guide requirements including flexibility provisions under the Housing SEPP; and
- meeting flood risk planning requirements.

Future development using the controls for this planning proposal will be subject to a competitive design process under Clause 6.21D of the Sydney LEP 2012, which currently requires a competitive design process for buildings greater than 25m on this site, or 35 metres in accordance with the amendment to the LEP adopted by Council on 23 June 2025.

Heritage

The planning envelope, which accommodates the maximum floor space ratio and maximum height, was informed by DAP and controls have been provided in the draft DCP. The envelope distributes height across the site to balance the impacts of the conservation area while providing for affordable housing to be delivered as part of the development. As a result, the planning envelope locates the tallest part of the building closer to the adjoining building 5 Smail Street, to better maintain the street wall height in Mountain Street.

Preliminary advice was sought from Heritage NSW due to the State listing of the item as it will require their approval at the development application stage as it will be Integrated Development under the Act. Heritage NSW recommended the width of the pedestrian link through the site should be increased to more than 3m or a colonnade be provided within the site to increase separation of the new buildings from the heritage item. It was also recommended the overall height considered to reduce impacts on the State heritage listed former substation.

To respond to these comments, while balancing the strategic need for greater and more diverse housing, draft DCP controls have been recommended to provide guidance for consideration of Heritage NSW comments for the detailed design stage.

The proponent advised that further consideration of urban design, architectural and public domain options based on the advice from Heritage NSW will be included within and progressed as part of the Design Competition and future DA. It was also stated that they will work with Heritage NSW and the City to strengthen the heritage considerations in the DCP in consultation with the City's Heritage specialists.

Residential amenity

The Housing SEPP requires the consent authority to be flexible in the application of Apartment Design Guide (ADG) design criteria for build-to-rent housing, with clarification on flexibility provided by a Department of Planning, Housing and Infrastructure Fact Sheet dated February 2023. Flexibility must be applied in the consideration of balconies, storage and apartment mix, and potentially, depending on site characteristics, for solar and daylight access, apartment size and layout, and common circulation spaces. Flexibility is achieved by providing high amenity communal spaces and facilities in excess of minimum ADG requirements in the building, while also requiring the applicant to demonstrate how the amenity of residents still meets the objectives of the ADG.

The reference scheme prepared by the proponent for the site indicates that a future development on the site is capable of providing high amenity communal spaces to exceed the quantum of spaces required in the ADG, including rooftop spaces, courtyard spaces and internal communal spaces. These spaces could also be appropriately landscaped to achieve environmental and amenity benefits such as slowing stormwater runoff, improving air quality and reducing urban heat island effects. Controls are proposed for the draft DCP to provide site specific guidance for the consideration of communal and common spaces should a future development application not achieve the minimum standards in the ADG.

Access, Servicing and Flooding

Mountain Street and an eastern portion of Smail Street adjoining site are identified as having a high flood hazard risk. The reference scheme and Flood Risk Assessment Report prepared to support the planning proposal request demonstrate that future development sought for the site is

capable of meeting NSW Government flood planning requirements, including Ministerial Directions. A future development application for the site will need to be supported by a detailed Flood Impact and Risk Assessment (FIRA) and Flood Emergency Response Plan, and supporting studies, to demonstrate the NSW Government requirements will be met. To ensure the driveway access to the site avoids being located from Mountain Street due to flood risk, a control in the draft DCP has been included. A control has also been included in the draft DCP for future development on the site to be in accordance with the updated water and flood management amendment to Sydney DCP 2012 as adopted by Council on 23 June 2025, so the most up-to-date requirements are met.

Draft site specific Development Control Plan

A draft Development Control Plan has been prepared and will be exhibited alongside this planning proposal and provides site specific controls to be inserted into Section 6 of the Sydney DCP 2012. It includes objectives and provisions to ensure a high quality built form is delivered.

The draft DCP amendment includes provisions to ensure the delivery of future development is undertaken in a manner that is consistent with the objectives and intended outcomes of this planning proposal. The draft DCP amendments address the following considerations:

- maximum building envelope dimensions including setbacks and heights
- heritage considerations including materials and finishes
- vehicular access, loading and servicing
- ground floor level and street activation
- public pedestrian through-site link including minimum unencumbered width
- residential amenity requirements
- landscaping
- sustainability
- flooding.

Has the planning proposal adequately addressed any social and economic effects?

Economic impact

This planning proposal provides an opportunity for the redevelopment of the subject site, which is located within the Camperdown-Ultimo Health and Education Precinct. Future development facilitated by this planning proposal will comprise around 107 dwellings, operated primarily as build-to-rent housing with approximately 15 of these dwellings to be affordable housing units in perpetuity delivered through a VPA. It will provide for around 115 construction jobs and around 10 equivalent full time operational jobs.

By providing for more diverse housing close to health, education and research jobs, this has can help grow a stronger, more competitive city. It also aligns with the key moves of the City's local strategic planning statement and the Eastern City District Plan.

Social impact

The project will deliver considerable social benefits to Central Sydney, by providing more diverse housing, activating Mountain and Smail Streets to create more lively and safe streets, as well as the delivery of a new pedestrian connection through the site, and protection of important heritage values.

5.4 Infrastructure (Local, State and Commonwealth)

Is there adequate public infrastructure for the planning proposal?

There is adequate public infrastructure to support this planning proposal. The site is located in Ultimo within close proximity to bus services along Parramatta Road and is situated approximately 900m from Central Station that provides rail, light rail, metro and bus connections. The site is within walking distance of key public infrastructure including Victoria Park, Wentworth Park, Central Park,

Broadway shopping centre, University of Technology Sydney campus and University of Sydney campus.

The site is already serviced by public utilities including water, sewer and stormwater, electricity and telecommunications. Any development application for the site will be subject to section 7.11 development contributions under the City of Sydney Development Contributions Plan 2015, to ensure that the additional demand for infrastructure generated by the proposal can be met through the provision of new or improved infrastructure.

5.5 State and Commonwealth interests

What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

The gateway determination will advise the public authorities to be consulted as part of this planning proposal process. Any issues raised will be incorporated into this planning proposal following consultation in the public exhibition period.

6. Mapping

This planning proposal does not include any amendments to maps.

Instead, new site specific provisions relating to height and FSR will be inserted into Part 6, Division 5 of Sydney LEP 2012.

The draft DCP that accompanies this planning proposal includes detailed figures and diagrams to reflect the proposed future development concept as discussed in this planning proposal.

7. Community consultation

This planning proposal is to be exhibited in accordance with a Gateway Determination issued by the Department of Planning, Housing and Infrastructure.

Notification of the public exhibition will be consistent with the Gateway Determination and the City's Community Engagement Strategy and Participation Plan and include publication on the City of Sydney website and notification to surrounding owners and occupiers.

Consultation with relevant NSW agencies, authorities and other relevant organisations will be undertaken in accordance with the Gateway Determination.

8. Project timeline

This planning proposal is categorised as a Principal planning proposal as per the Local Environmental Plan Making Guidelines dated August 2023.

It is noted that this planning proposal is being considered as a trial project following a request by the proponent for the planning proposal and development application to be exhibited concurrently. This approach is permitted under the Environmental Planning and Assessment Act 1979. This approach means the design competition is brought forward and carried out prior to the planning controls being finalised.

There is risk for the proponent of completing the design competition and lodging a development application before the planning proposal has been finalised, however the proponent has advised that they understand this and is willing to take on this risk. A review will inform whether this approach could be used for other sites in the future, and in which circumstances.

Due to this trial process, extra time has been included to allow for the exhibition of the planning proposal, design excellence strategy, VPA and development application concurrently. It is noted that the inclusion of the development application in the exhibition can only be accommodated if it meets the timeframe set out in the Department's Guideline for the LEP amendment.

The anticipated timeframe for the completion of the planning proposal is as follows:

Stage	Timeframe
Commencement / gateway determination	April 2026
Government agency consultation	June 2026
Public exhibition	June 2026
Review of issues raised in submissions	July / August 2026
Post-exhibition reporting	October 2026
LEP drafting	November 2026
LEP made	January 2027
LEP notification	January 2027

Appendix 1

Example provisions

The final version of the site specific provisions to be inserted into the LEP are subject to drafting and agreement with NSW Parliamentary Counsel's Office, but may be as follows:

Part 6 Local provisions – height and floor space

Division 5 Site specific provisions

6.XX 41-49 Mountain Street, Ultimo

(1) The objectives of this clause are to provide additional height and floor space to encourage:

- **(a)** build-to-rent housing in accordance with the Housing SEPP and affordable housing
- **(b)** respectful and adaptive reuse of the State heritage item on the site
- **(c)** provision of a pedestrian link through the site
- **(d)** on-site servicing of the development

(2) This clause applies to Lot 21 DP 5567 and Lot 1 DP 191928, 41-49 Mountain Street, Ultimo

(3) The maximum height for a building on the land to which this clause applies is RL 58.85 metres.

(4) The maximum floor space ratio for a building on the land to which this clause applies is 5.35:1, which is inclusive of:

- **(a)** the floor space ratio shown for the land on the Floor Space Ratio Map;
- **(b)** additional site-specific floor space; and
- **(c)** if the building demonstrates design excellence through a competitive design process – the gross floor area, determined by the consent authority, of up to 10% of the sum of (a) and (b).

(5) Subclauses (3) and (4) do not apply unless the consent authority is satisfied that the development:

- **(a)** is only for the purposes of shop-top housing used for build-to-rent housing under Chapter 3 Part 4 of the Housing SEPP and affordable housing in accordance with Council's affordable housing program;
- **(b)** provides on-site loading to service the site; and
- **(c)** includes a pedestrian link through the site connecting Mountain Street and Smail Street.

(6) Clauses 6.21D(3) does not apply to a building on the land to which this clause applies.

CITY OF SYDNEY