

# **Attachment A**

## **Draft Community Participation Plan**



Sydney2030/Green/Global/Connected

CITY OF SYDNEY  

# Draft Community Participation Plan

November 2019

*city of villages*



# Contents

<b>1.</b>	<b>Introduction</b>	<b>3</b>
<b>2.</b>	<b>Strategic planning</b>	<b>4</b>
<b>3.</b>	<b>Development assessment</b>	<b>7</b>
<b>4.</b>	<b>Planning agreements</b>	<b>29</b>

# 1. Introduction

## Where this plan applies

The Community Participation Plan (the Plan) applies to the City of Sydney local government area and the carrying out of the Council's planning functions under the *Environmental Planning and Assessment Act 1979* (the Act).

## What is included

It describes mandatory requirements for the City of Sydney's (the City) public exhibition and notification processes for land use planning matters. These requirements ensure the community can participate in planning matters that affect them.

The Plan covers planning matters including policy and plan-making, planning agreements and public benefit offers, and development assessment.

## Exhibition requirements

There are mandatory statutory timeframes for the public exhibition of planning related documents, planning proposals, planning agreements and development applications. These are set out in the Act and the *Environmental Planning and Assessment Regulation 2000* (the Regulation).

Mandatory public exhibition timeframes for relevant planning matters and the associated notification processes are described in this Plan.

## How this plan will be used

This Plan sets out the opportunities for the community to participate in planning matters in a single document. It will guide the City's processes and procedures for planning functions that involve the community.

The Plan is consistent with the City's *Community Engagement Strategy 2019*, which details how and why the City carries out community consultation and engagement.

## Sign up to the City's e-newsletter

You can sign up to the City of Sydney's weekly e-newsletter which provides subscribers with a list of development applications that are currently on exhibition and open for public comment.

You can subscribe at [www.cityofsydney.nsw.gov.au/development/development-applications](http://www.cityofsydney.nsw.gov.au/development/development-applications).

## 2. Strategic planning

### Policy and plan-making

Strategic planning involves long-term policy and plan-making for urban planning matters. The City's strategic planning direction is informed by regional and district policies, plans and guidelines, as well as strategic objectives that are based on Council's community strategic plan, Sustainable Sydney 2030.

#### Local Strategic Planning Statement

The City's Planning Statement links the NSW Government's strategic plans and the City's community strategic plan, Sustainable Sydney 2030, and the planning controls that guide development in our city.

#### Community Participation Plan

The City's Community Participation Plan (this document) describes how and when Council engages with the community on land use planning matters.

### Contributions Plans

Contributions plans are prepared by councils to levy new development to fund additional or improved local, public infrastructure needed by the development and used by the whole community.

#### Local Environmental Plans (Planning Proposals)

Local Environmental Plans are the local planning laws prepared by councils but approved by the NSW Government. They set out what development can take place where, the maximum height and density of development, and what places need to be protected for their heritage value. They are amended by preparing a Planning Proposal.

#### Development Control Plans

Development Control Plans are guidelines prepared by councils that describe the preferred way to undertake development that is enabled by a Local Environmental Plan to get good planning and design outcomes and manage impacts.

## Exhibition requirements

### Mandatory timeframes

The Act sets minimum public exhibition periods for plans and planning proposals as provided in Table 1 below.

**Table 1 – Plan-making**

Draft Document	Mandatory timeframe
Local Strategic Planning Statement	28 days
Community Participation Plan	28 days
Local Environmental Plans and amendments (Planning Proposals)	28 days – unless a greater or lesser period is specified in gateway determination
Development Control Plans	28 days
Contribution Plans	28 days

### Exhibition and notification

The Regulation requires the City to undertake the following consultation regarding draft Development Control Plans and draft Contributions Plans:

- give public notice in a local newspaper of the places, dates and times for inspection of the draft plan, and
- publicly exhibit a copy of the draft plan and a copy of any supporting documents on the dates and during the times set out in the notice.

Draft Local Strategic Planning Statements, draft Community Participation Plans and Planning Proposals are exhibited and notified in the same fashion.

The City exhibits all draft plans on its website. All written notices will:

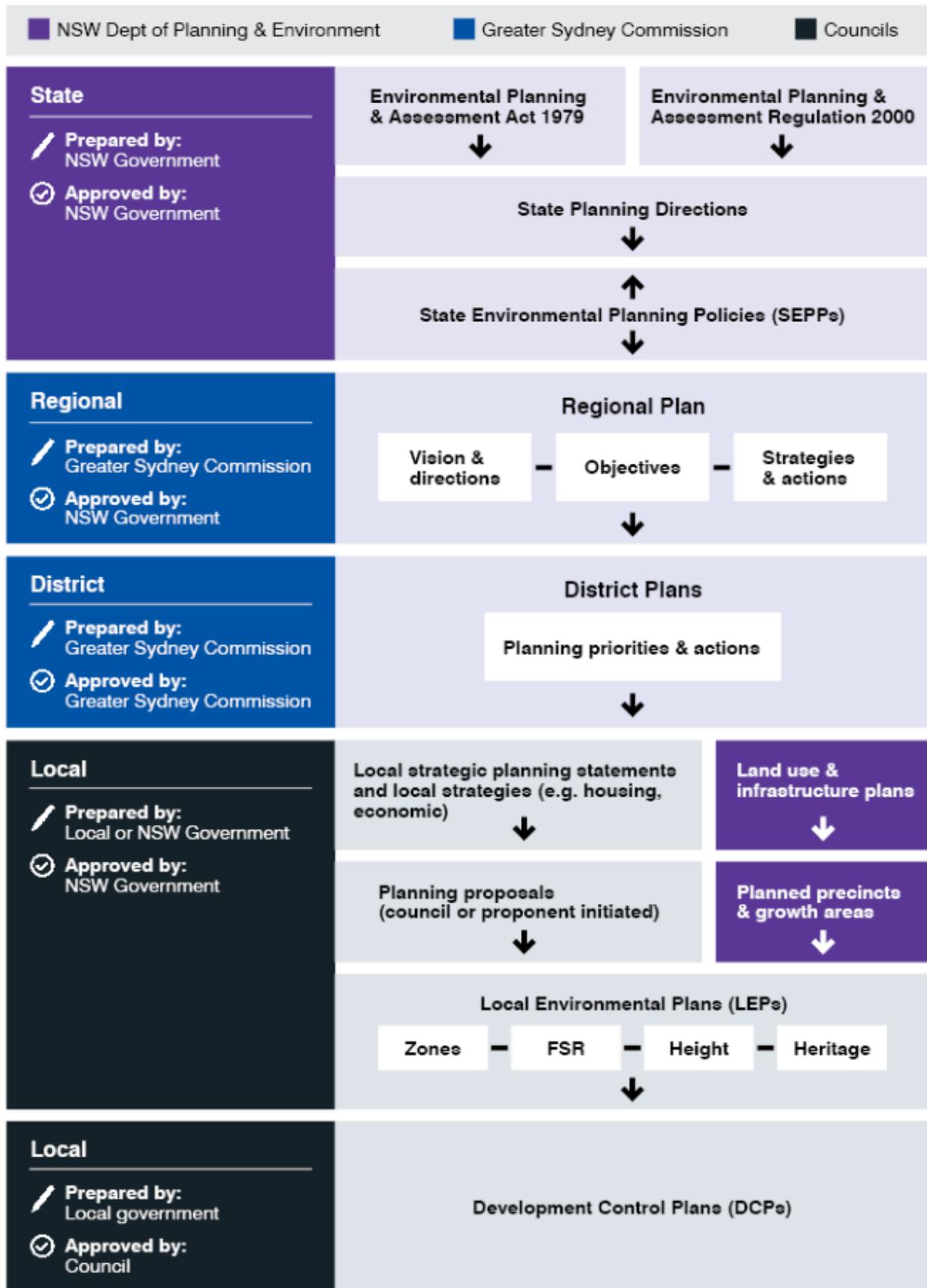
- give a brief description of the draft plan or its objectives and intended outcomes
- indicate the land affected by the draft plan
- state where and when the draft plan can be inspected
- provide contact details for the receipt of submissions
- indicate the last date for submissions, and
- in relation to Local Environmental Plan amendments, confirm whether delegation for making the plan has been issued to Council.

The City may also write to affected and adjoining land owners and occupants, depending on the nature, scale, potential environmental impact of the proposal and practicality of carrying out the notification. For example, the City may not issue written notifications where a city-wide administrative amendment has no material impact on the community.

The City generally adopts development assessment procedures in regards to making, considering and responding to draft plan submissions, including:

- Anyone may make a submission regardless of whether they received a notification letter.
- Anonymous submissions will not be considered.
- Submissions are not confidential and are open to public access under Freedom for Information laws.
- All submissions received within the notification period will be considered, addressed and summarised in reports to Council, and
- Submissions received will be acknowledged as soon as practicable.

Figure 1: NSW planning system & processes



# 3. Development assessment

## Development assessment

Development assessment, or 'statutory planning', involves the assessment of a proposal (development application) to use land or undertake building works against planning controls.

Development applications can be determined by Council staff under delegation, the Local Planning Panel, or the Central Sydney Planning Committee where the cost of works exceeds \$50 million. For more information on how development applications are considered and determined at the City please visit the City's website ([www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au)).

At the City of Sydney, the majority of development and footway applications are assessed against:

- the Sydney Local Environmental Plan 2012
- the Sydney Development Control Plan 2012
- relevant State Environmental Planning Policies
- other relevant legislation, such as the *Local Government Act 1993*, the *Roads Act 1993* and the *City of Sydney Act 1988*.

These instruments, policies and guidelines, as well as the types of applications Council receives and assesses are detailed below.

There are some limited circumstances where historical local environmental plans and development control plans may apply.

## Development applications

Development applications are required for development which is identified in an environmental planning instrument as development requiring consent, which is not identified that is not 'exempt' or 'complying' development. They can range from small scale proposals to renovate and extend a house, to new multi-storey commercial towers.

## Footway applications

Outdoor dining within the local government area requires approval to use public land. Footway applications are assessed against various pieces of legislation, including but not limited to the *Roads Act 1993* and *Outdoor Dining Guidelines*. Footway approvals set out how much of the public footpath outside a premises can be taken up by outdoor dining.

## Section 4.55 modification applications

Under Section 4.55 of the Act, development consents are able to be modified. Applications to modify a development consent are split into three categories, based on the extent of environmental impact:

- Section 4.55(1) – modifications involving minor error, misdescription or miscalculation;
- Section 4.55(1A) – modifications involving minimal environmental impact; and
- Section 4.55(2) – other modifications.

## Section 4.56 modification applications

Section 4.56 modification applications are applications made to Council to modify a consent granted by the Land and Environment Court.

### Division 8.2 application reviews

An applicant for development consent may request Council review a determination or decision within 6 months of the determination.

### Environmental impact statements

Under Part 5 of the Act, some types of development do not require consent. In these instances, the public authority proposing the development or issuing an approval under other legislation, needs to carry out self-assessment via an environmental impact statement. This statement is required to be notified. Development that doesn't require consent under Part 5 generally consists of projects undertaken by public authorities.

### Mandatory public exhibition timeframes

The Act sets out mandatory timeframes for the notification of certain types of development applications as shown in Table 2.

Under the Act, Council can specify the types of development applications that require exhibition and notification, how long these applications are required to be publicly exhibited for, and how far notification should extend from the property proposed to be developed. Council's exhibition periods must comply with minimum mandatory timeframes in the Act.

**Table 2 – Development assessment**

Application type	Mandatory timeframe
Designated development	28 days and advertising
Integrated development	28 days and advertising
State significant development	28 days and advertising
Environmental impact statement	28 days

## Advertising and notification

### Objectives

- (a) Provide procedures for the notification and advertisement of development applications, applications to modify development consents and the review of development consents;
- (b) Provide an opportunity for public participation and comment in the development application;
- (c) Establish a communication process in relation to the assessment of development applications and related matters;
- (d) Increase public awareness of the development application process;
- (e) Specify circumstances when notification of development applications is not required;
- (f) Identify development applications that will be notified or advertised and who will be notified;
- (g) Ensure that there is consistency in the notification of similar applications; and
- (h) Facilitate the efficient processing of applications without compromising the opportunity for public participation

### Application of this plan

Table 3 below applies to all development applications and related procedures, other than for development categorised in the Act as either:

- Advertised Development;
- Designated Development;
- State Significant Development; or
- Integrated Development.

The Act and the *Environmental Planning and Assessment Regulation 2000* (Regulation) include separate procedures for public participation in the assessment of the above categories of development.

The Act and Regulation also include separate procedures for the public notification of any intended adoption or amendment of a Voluntary Planning Agreement.

This plan does not apply to permits for works to trees. Schedule 8 of the Sydney DCP 2012 establishes procedures for notification of neighbours when a tree is to be removed.

### Development applications

Except as provided below, the Council will adopt the procedures outlined in Table 3 to notify residents and relevant stakeholders that a development application has been lodged.

Where a development is not listed in Table 3, the Council will determine the most appropriate notification/advertising procedure using Table 3 as a guide.

Development categorised in the Act as either:

- Advertised Development;
- Designated Development;
- State Significant Development; or
- Integrated Development,

Will be notified in accordance with the timeframes specified in Table 2 above.

Table 3 – DA exhibition periods

	No notification or advertising	Notified for 14 days	Notified & advertised for 21 days	Notified & advertised for 28 days
Accommodation for aged and disabled persons provided under the Seniors Living SEPP			X	
Boarding houses (new)			X	
Change of use			X	
from a dwelling to another use			X	
to a non-residential use in a residential zone			X	
convenience stores; sex industry premises; places of public entertainment; pubs; night clubs; bars; amusement arcades and the like			X	
of a whole multi-storey building			X	
Child care centres			X	
Commercial/retail and other non-residential buildings:				
new buildings & additions less than 3 storeys		X		
new buildings & additions 3 or more storeys			X	
Community centres / facilities			X	
Community events		X		
Development where value of work exceeds \$50 million				X
Educational establishments (e.g. schools, higher education institutions)			X	
Food and drink premises (e.g. cafés, restaurants):				
not in residential zones		X		
in residential zones			X	

	No notification or advertising	Notified for 14 days	Notified & advertised for 21 days	Notified & advertised for 28 days
Heritage:				
applications for award of Heritage Floor Space				X
minor external alterations or additions to a Heritage Item		X		
minor external alterations or additions to a building within a Heritage Conservation Area		X		
significant alterations or additions to a Heritage Item				X
Significant alterations or additions, or new buildings, or full demolition of a contributory building within a Heritage Conservation Area				X
Home industry		X		
Industrial development:				
less than 500sqm new floor area		X		
500sqm to 1000sqm new floor area			X	
over 1000sqm new floor area				X
Minor work, with minimal impact, to residential or ancillary structures		X		
Modifications to consent which will not impact upon surrounding land uses or increase impacts in comparison with the previous approval(s)	X			
Place of Public Worship			X	
Professional consulting rooms		X		
Outdoor café seating and/or coffee carts on footways		X		
Residential flat buildings:				

	No notification or advertising	Notified for 14 days	Notified & advertised for 21 days	Notified & advertised for 28 days
new buildings and additions less than 3 storeys		X		
new buildings and additions 3 or more storeys			X	
Significant development or use of the public domain				X
Signs over 10sqm in area		X		
Single dwellings, including ancillary structures, involving construction; demolition; additions and/or alterations		X		
Subdivision – creation of new lots			X	
Telecommunications facilities (non-low impact facilities)				X
Visitor and tourist accommodation (including bed & breakfast premises that are not complying development, backpacker accommodation, motels and hotels)			X	
Trading hours:				
after 10 pm or 24 hour trading			X	
extension of trial periods		X		

Modifications to a consent which will not impact upon surrounding land uses or increase impacts in comparison with the previous approval(s) do not require exhibition.

Council has the discretion to alter the procedure in Table 3 for a particular application if the nature of the development, its location or the history of site development warrants a different form of consultation.

In such circumstances the notification/advertising period may be increased up to 40 days.

Should the timing of the application fall over the traditional holiday period of Christmas and New Years Day, the period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.

If a notification/advertising period finishes on a weekend or a public holiday, it will be extended to the next business day.

**Amendment of an application prior to determination (under Clause 55 of the Regulation)**

If an application is amended prior to determination, it will be re-notified (and re-advertised, if it is designated, integrated or State significant development), only if the amendments are considered to result in significant additional environmental impacts.

**Applications to modify an existing consent (under Section 4.55 of the Act)**

Section 4.55 applications will not be notified/advertised if the original development application was not notified/advertised.

Section 4.55 applications will be notified/advertised as follows:

**Applications for a review of a determination of an application**

Applications made under Division 8.2 of the Act to review the determination of a development application or Section 4.55 application will be notified or advertised in the same manner as the original application. Anyone who made a submission to the original application will be notified.

**Table 4 – Modification applications**

Type of modification or review application	Notification
Section 4.55(1) application (i.e. correction of minor error)	No advertising or notification
Section 4.55(1A) application (i.e. involving minimal environmental impacts)	No advertising or notification
Section 4.56 application (i.e. in relation to consents granted by the Land and Environment Court)	Notified and/or advertised in the same manner as the original DA, unless the amendment is minor. Anyone who made a submission to the original application will be notified or reasonable attempts will be made by sending written notice to the last address known to the City of the submitter
Section 4.55(2) application (i.e. other modifications)	<ul style="list-style-type: none"> <li>i. Notified or advertised for 14 days; and</li> <li>ii. Notified to anyone who made submissions to the original application or reasonable attempts will be made by sending written notice to the last address known to the City of the submitter</li> </ul>

### Deficient applications

The Council may not notify or advertise a development application which is considered incomplete or inadequate.

### How is an application notified?

The Council notifies an application in two ways:

<b>Notification</b>	Sending a letter to surrounding property owners and occupiers
<b>Notification and advertising</b>	In addition to the above notification, a notice is placed in a daily metropolitan newspaper and a relevant local newspaper.

### Public notification

- (1) Where a surrounding property is in single ownership, including properties owned by a single company, the letter will be addressed to that owner.
- (2) Where a surrounding property has multiple owners but is not under strata or community title (i.e. more than one individual owner or more than one company owner), letters will be addressed to all owners.
- (3) Where a surrounding property is in strata or community title, letters will be addressed to the Owners Corporation and to individual owners of strata units.
- (4) The notification letters will specify (as applicable):
  - a. the general nature and purpose of the development proposal;
  - b. the address of the proposed development;
  - c. the name of the applicant;
  - d. the application reference number;
  - e. where and when the development application can be inspected;
  - f. the invitation to make a written submission;
  - g. the period during which submissions can be made;
  - h. Council's contact details including address, telephone and e-mail;
  - i. a statement outlining the privacy rights of any person making a submission to Council;
  - j. a statement outlining the requirement for a submitter to a development application to make a public disclosure of any donation to a Councillor and/ or gift to a Councillor or Council employee in the previous two (2) years.  
 Failure to disclose relevant information is an offence under the *Environmental Planning and Assessment Act 1979*. It is also an offence to make a false disclosure statement. Further information, including a "*Political Donation and Gifts Disclosure Statement*" form and a glossary of terms, is available online or in person at any of Council's office locations; and
  - k. the date of the notification letter.
- (5) The notification period commences one day after the date of the notification letter.
- (6) The notification area, as shown in Figures 2 to 13, is measured from the boundary of the site that is subject to the application and comprises all properties within a radius of:
  - a. 25m for development notified for 14 days;
  - b. 50m for development notified for 21 days; and
  - c. 75m for development notified for 28 days.

- (7) The notification area may be increased (but not reduced) based on the nature and the likely impact of the development proposal.
- (8) Properties in adjoining local government areas within the minimum radius detailed above will be notified in accordance with these provisions if the adjoining local government authority provides the City of Sydney with the relevant property details within 48 hours of making a request.
- (9) The site notice will be placed on the main frontage(s) (not service lanes, except where significant development is proposed on that service lane) of the site(s) in a position where it will be able to be read from a public place.
- (10) The notice will specify:
  - a. the general nature and purpose of the development proposal;
  - b. the address of the proposed development;
  - c. the name of the applicant;
  - d. the application reference number;
  - e. where and when the development application can be inspected;
  - f. the invitation to make a written submission;
  - g. the period during which submissions can be made;
  - h. Council's contact details including address, telephone and e-mail;
  - i. a statement outlining the privacy rights of any person making a submission to Council; and
  - j. a statement outlining the requirement for a submitter to a development application to make a public disclosure of any donation to a Councillor and/ or gift to a Councillor or Council employee in the previous two (2) years.

Failure to disclose relevant information is an offence under the *Environmental Planning and Assessment Act 1979*. It is also an offence to make a false disclosure statement. Further information, including a "*Political Donation and Gifts Disclosure Statement*" form and a glossary of terms, is available online or in person at any of Council's office locations.

## Advertising

- (1) For development advertised for 28 days, one notice is to be placed in a daily metropolitan newspaper (e.g. the Sydney Morning Herald) and one in a relevant local newspaper (e.g. the Inner West Courier).
- (2) For development advertised for 21 days, one notice is to be placed in a relevant local newspaper (e.g. the Inner West Courier).
- (3) The notice will specify:
  - a. the general nature and purpose of the development proposal;
  - b. the address of the proposed development;
  - c. the name of the applicant;
  - d. the application reference number;
  - e. where and when the development application can be inspected;
  - f. the invitation to make a written submission;
  - g. the period during which submissions can be made;
  - h. Council's contact details including address, telephone and e-mail;
  - i. a statement outlining the privacy rights of any person making a submission to Council;
  - j. a statement outlining the requirement for a submitter to a development application to make a public disclosure of any donation to a Councillor and/ or gift to a Councillor or Council employee in the previous two (2) years.

Failure to disclose relevant information is an offence under the *Environmental Planning and Assessment Act 1979*. It is also an offence to make a false disclosure statement. Further information, including a "*Political Donation and Gifts Disclosure Statement*" form and a glossary of terms, is available online or in person at any of Council's office locations.

### **Making a submission**

Anyone may make a submission, regardless of whether they received a notification letter.

Submissions should be made in writing, should include the development address or application number and should be delivered to the Council either personally, by post, facsimile or electronic mail.

Submissions must include contact details including a return address (postal or email address). This will allow acknowledgement letters to be sent.

Anonymous submissions will not be considered.

### **Administration of submissions**

- (1) Submissions received will be acknowledged as soon as practicable.
- (2) Anonymous or illegible submissions will not be acknowledged.
- (3) Where the submission comprises a petition, the acknowledgement and all future contact will be sent to the head petitioner or, where not nominated, the first petitioner supplying contact details.
- (4) Acknowledgement letters will include advice that if the person making the submission wishes to be notified of the Local Planning Panel or Central Sydney Planning Committee meeting where the development application is to be considered, they must provide day-time contact details.
- (5) Best endeavour will be made to contact people prior to the applicable meeting of the Council or the Central City Planning Committee. However the onus remains on the person to seek information about meeting dates from the officer dealing with the application or the City website.
- (6) Following determination of an application, anyone who made a submission will be notified in writing of the decision.
- (7) Submissions are not confidential and are open to public access via Council's Freedom of Information Officer.
- (8) If a person making a submission does not wish to have the content of the submission or their identity revealed, the submission should include a clear request to that effect and reasons given. Issues raised within the submission may still be made available on a paraphrased or summarised basis.

### **Consideration of submissions**

All submissions received within the notification period will be considered in the assessment of the application and summarised in the assessment report.

Figure 2 – Development notified for 14 days to properties within Central Sydney

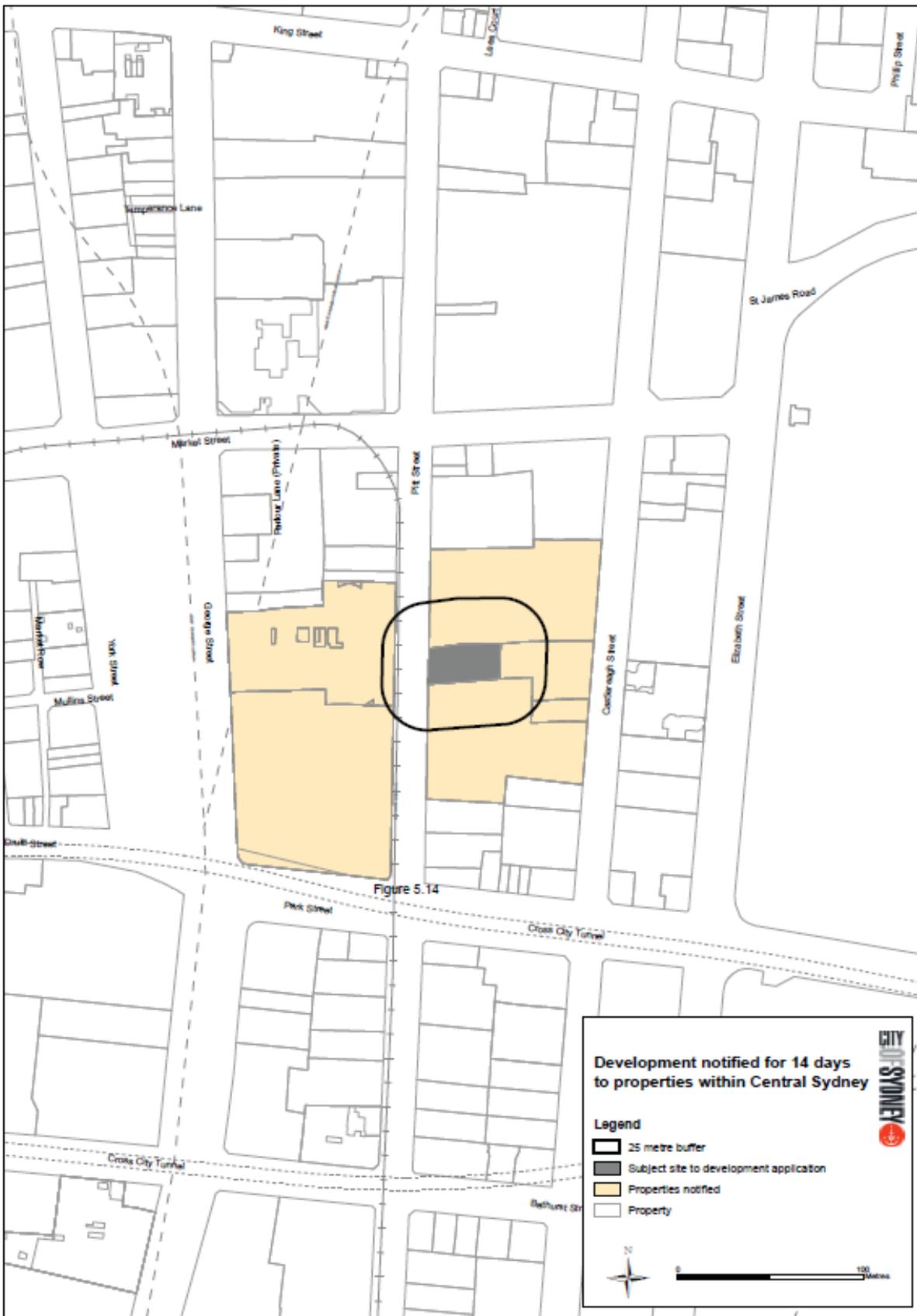


Figure 3 – Development notified for 14 days to properties within Inner City of Sydney

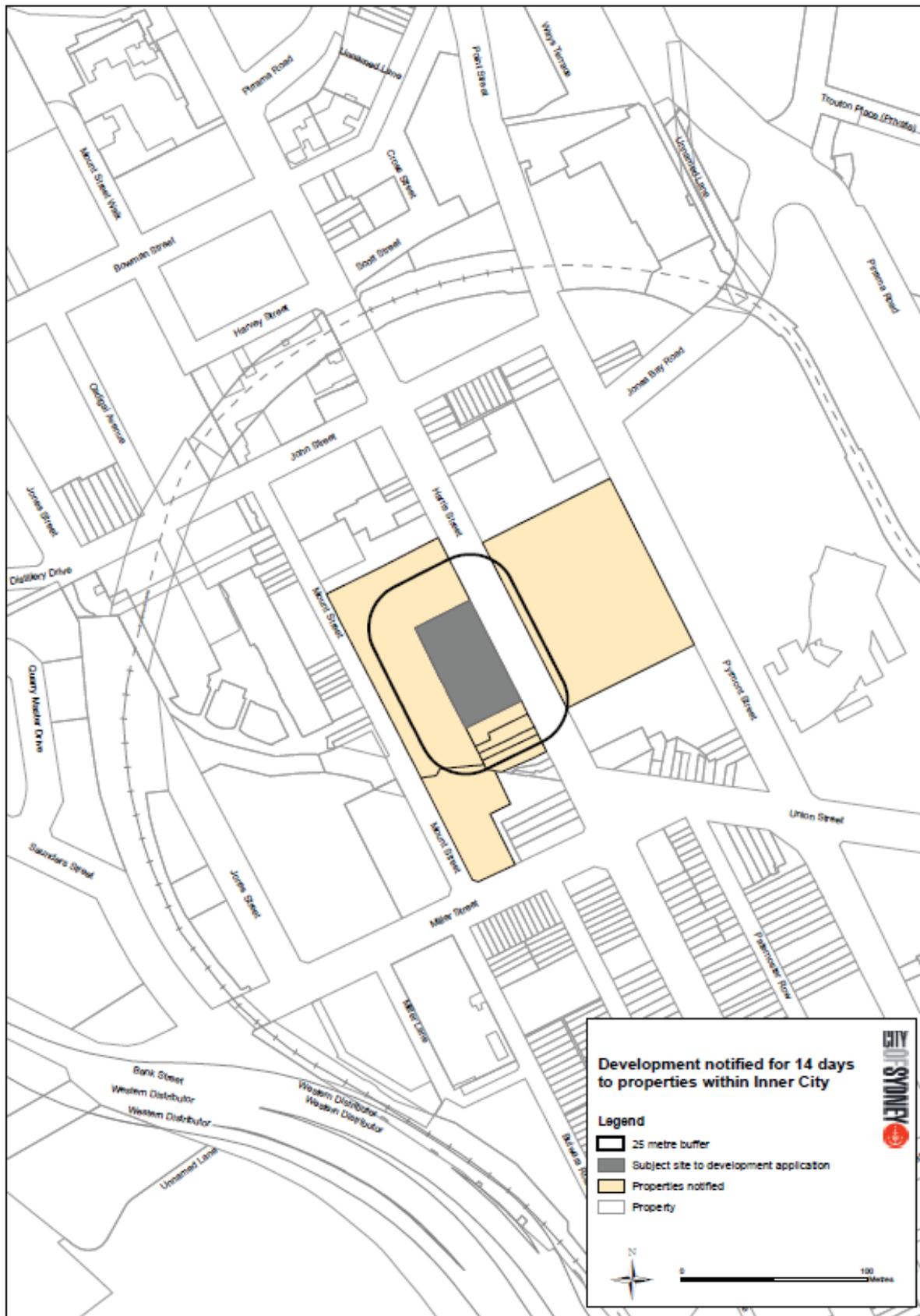


Figure 4 – Development notified for 14 days to properties within Terrace Area

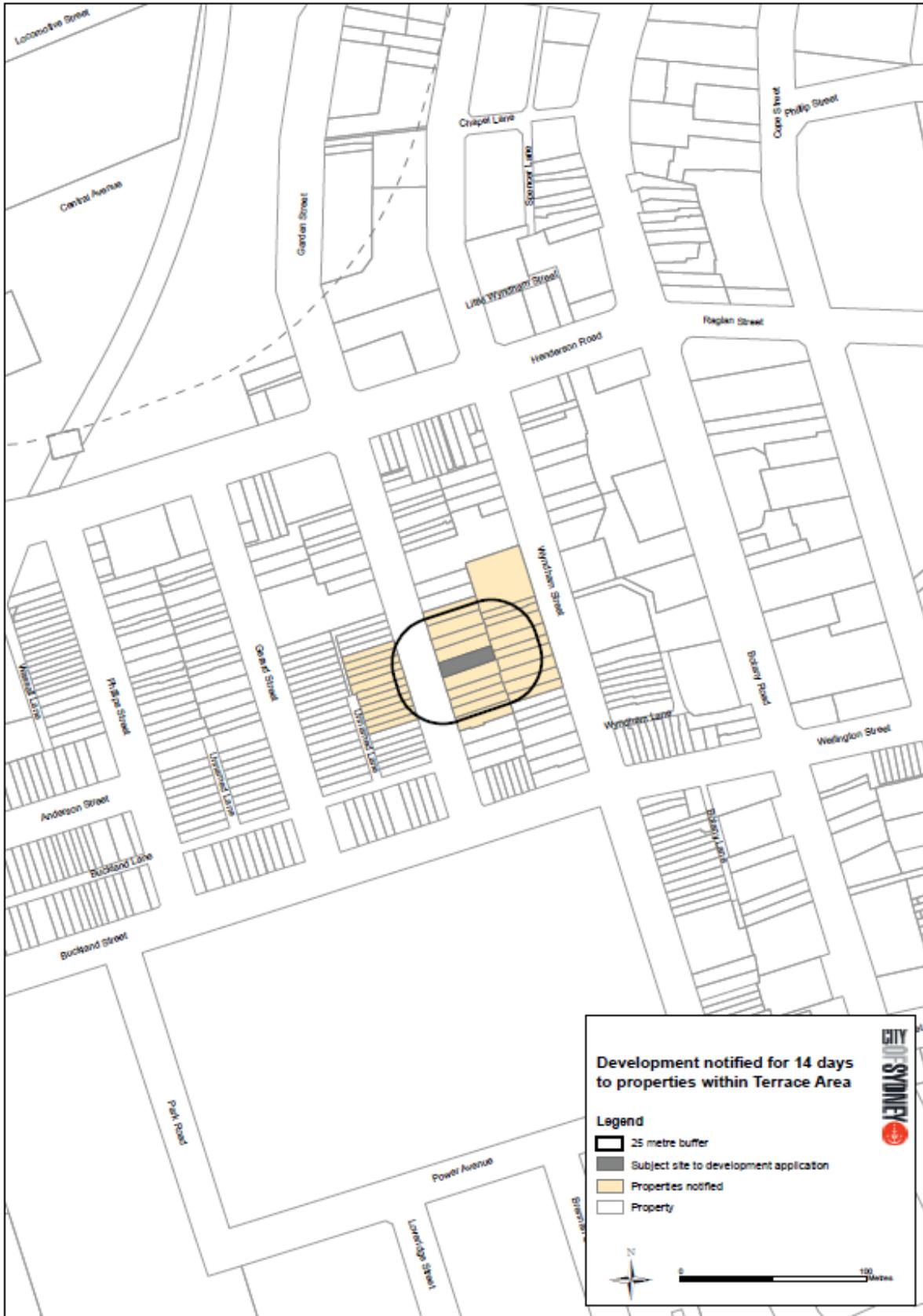


Figure 5 – Development notified for 14 days to properties within Industrial Area

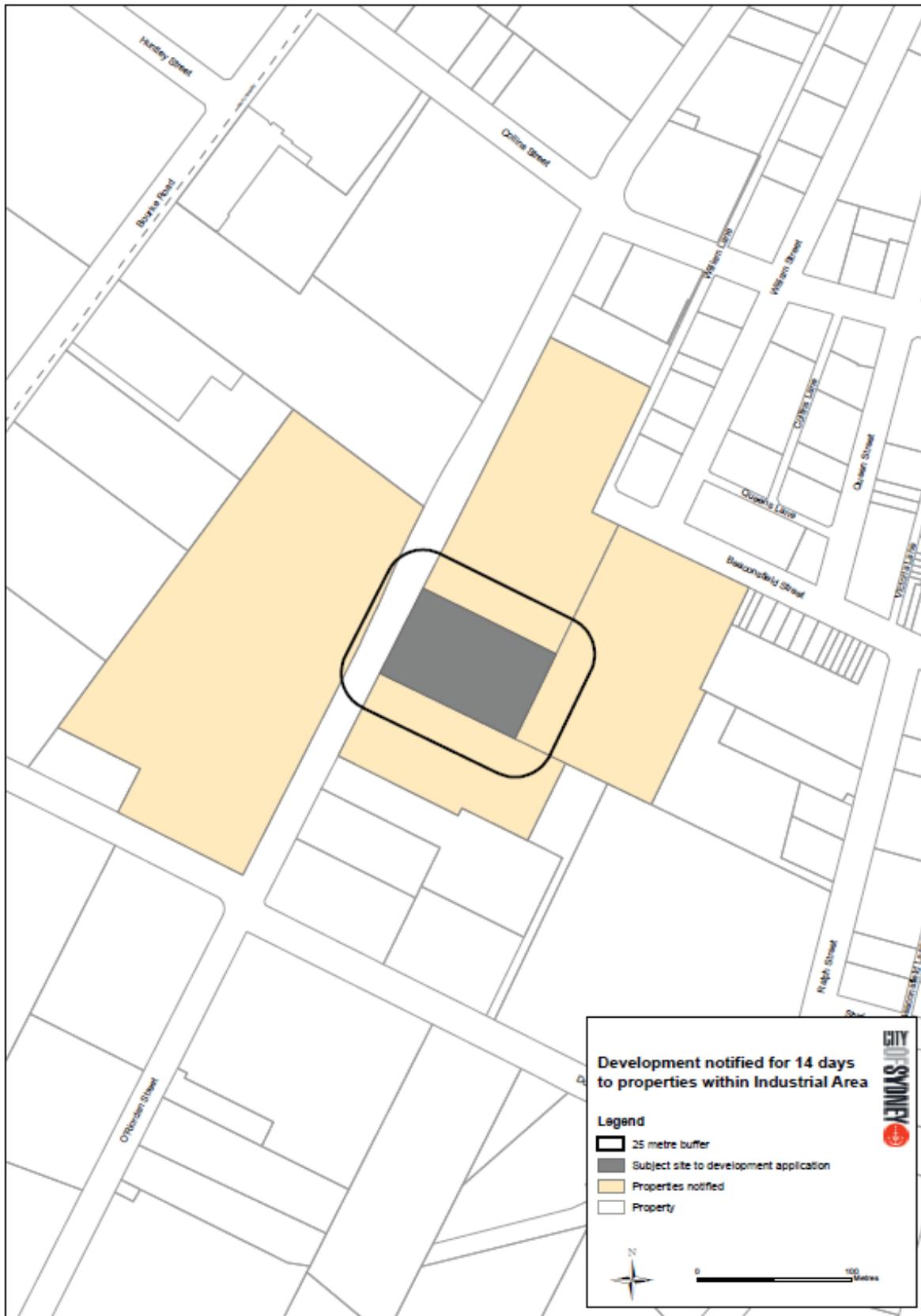


Figure 6 – Development notified for 21 days to properties within Central Sydney

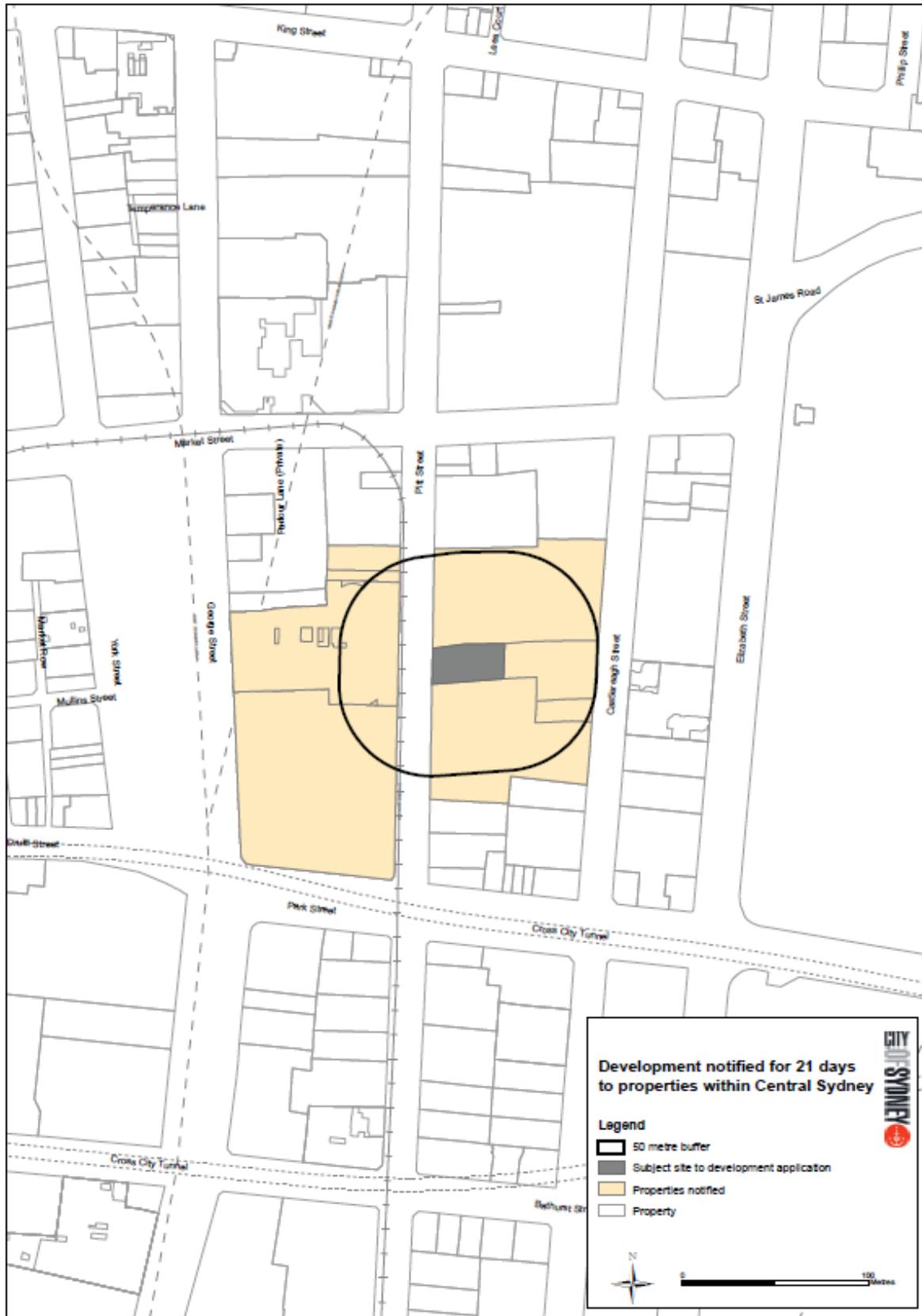


Figure 7 – Development notified for 21 days to properties within Inner City of Sydney

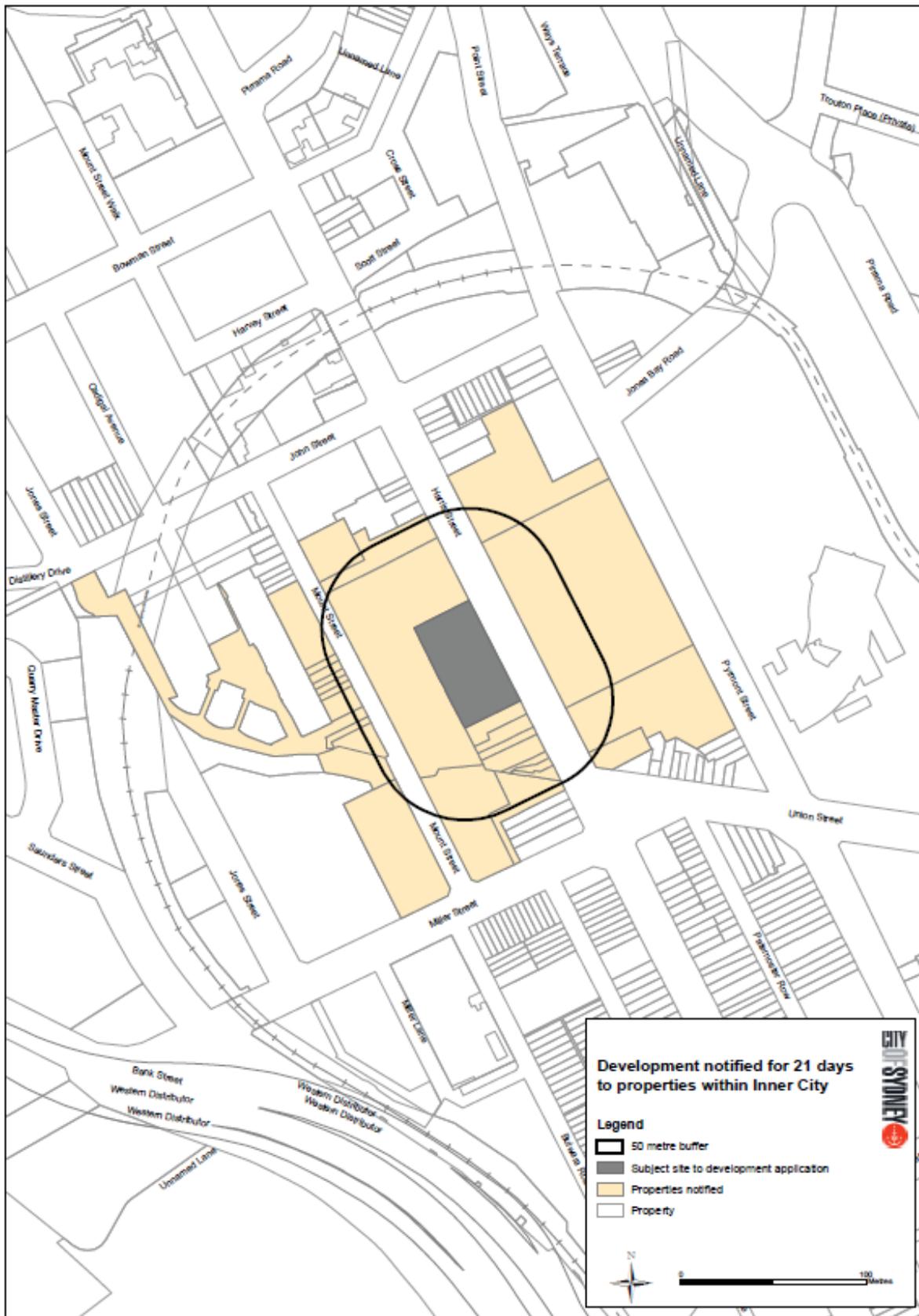




Figure 9 – Development notified for 21 days to properties within Industrial Area

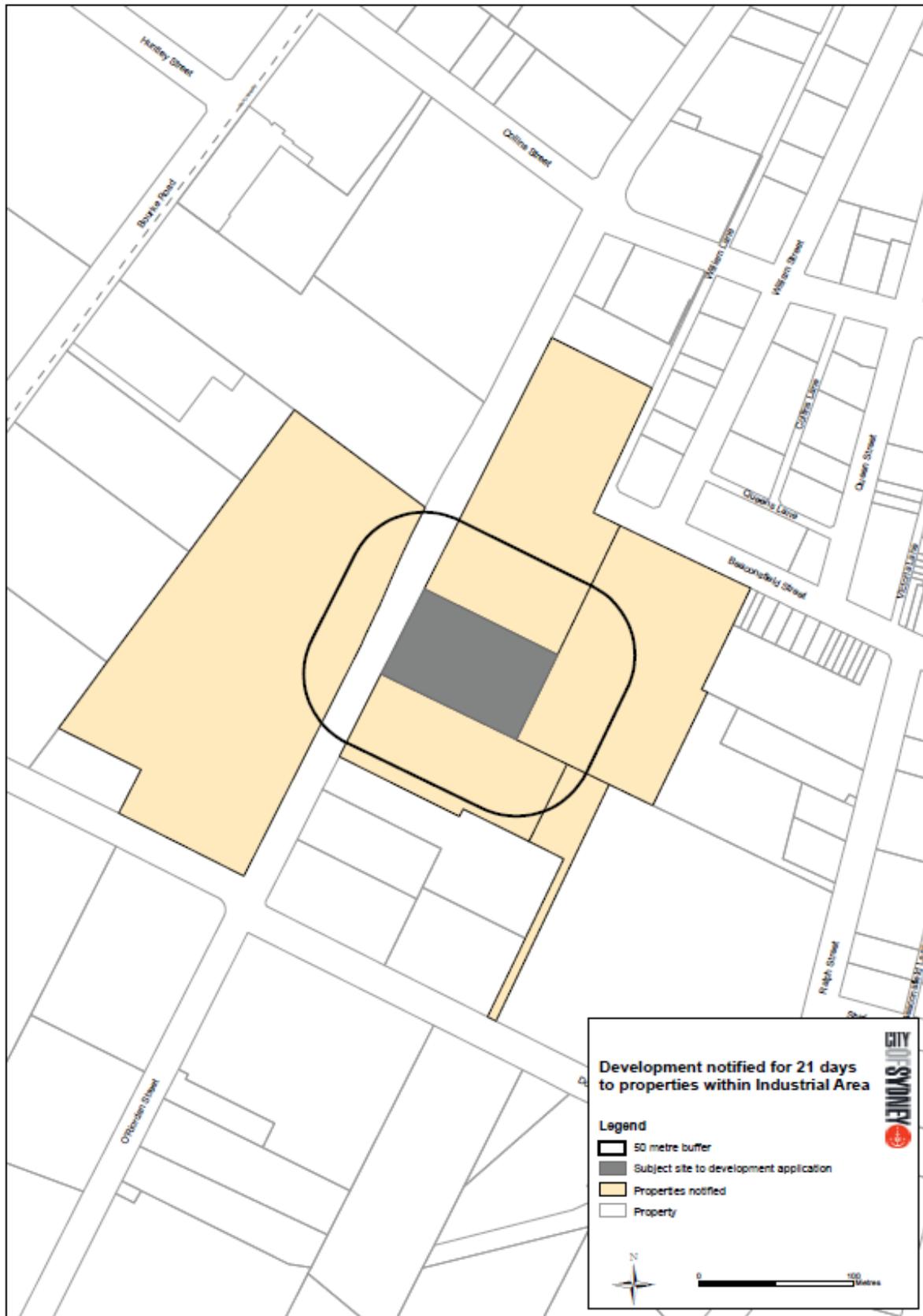


Figure 10 – Development notified for 28 days to properties within Central Sydney

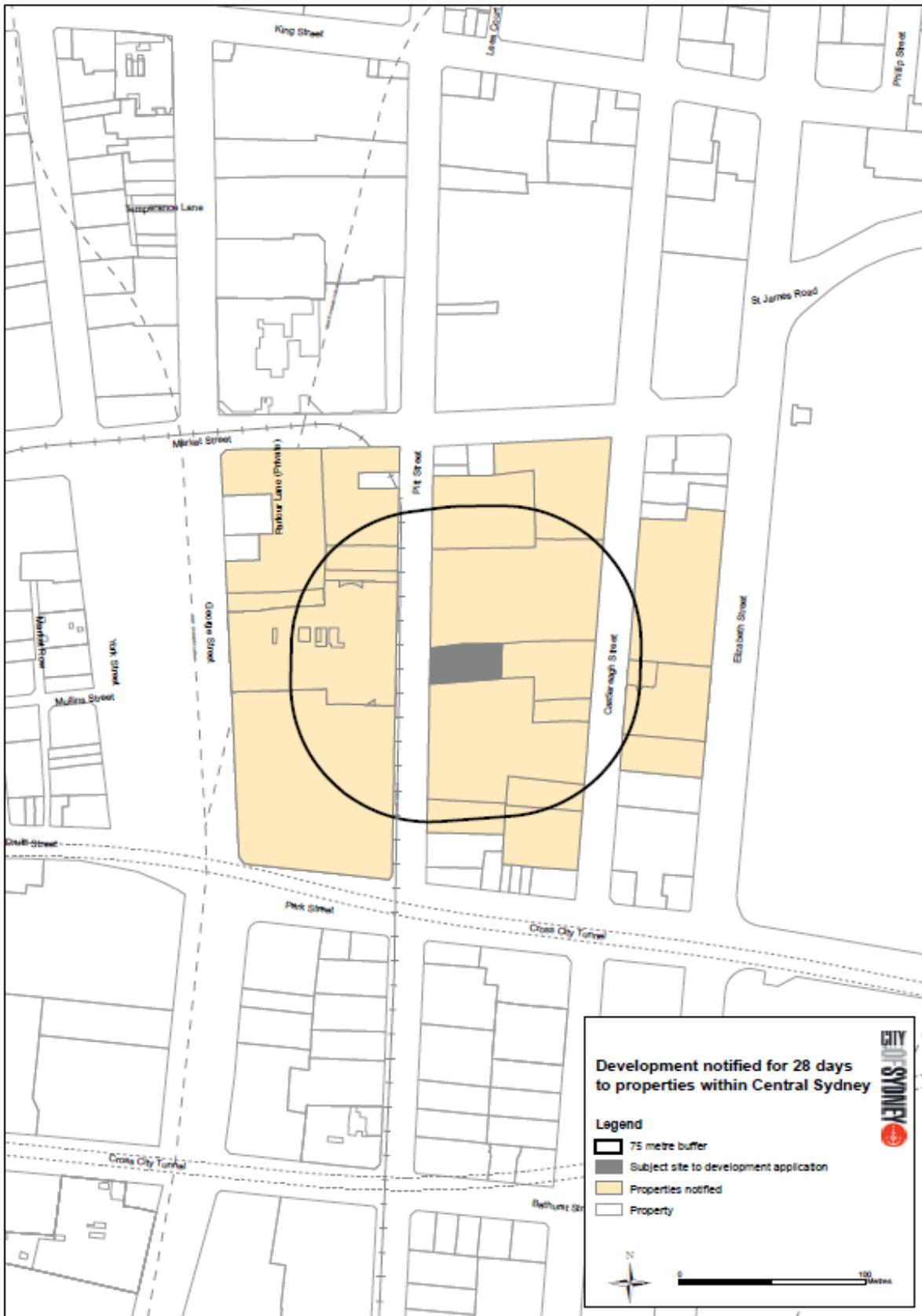


Figure 11 – Development notified 28 days to properties within Inner City

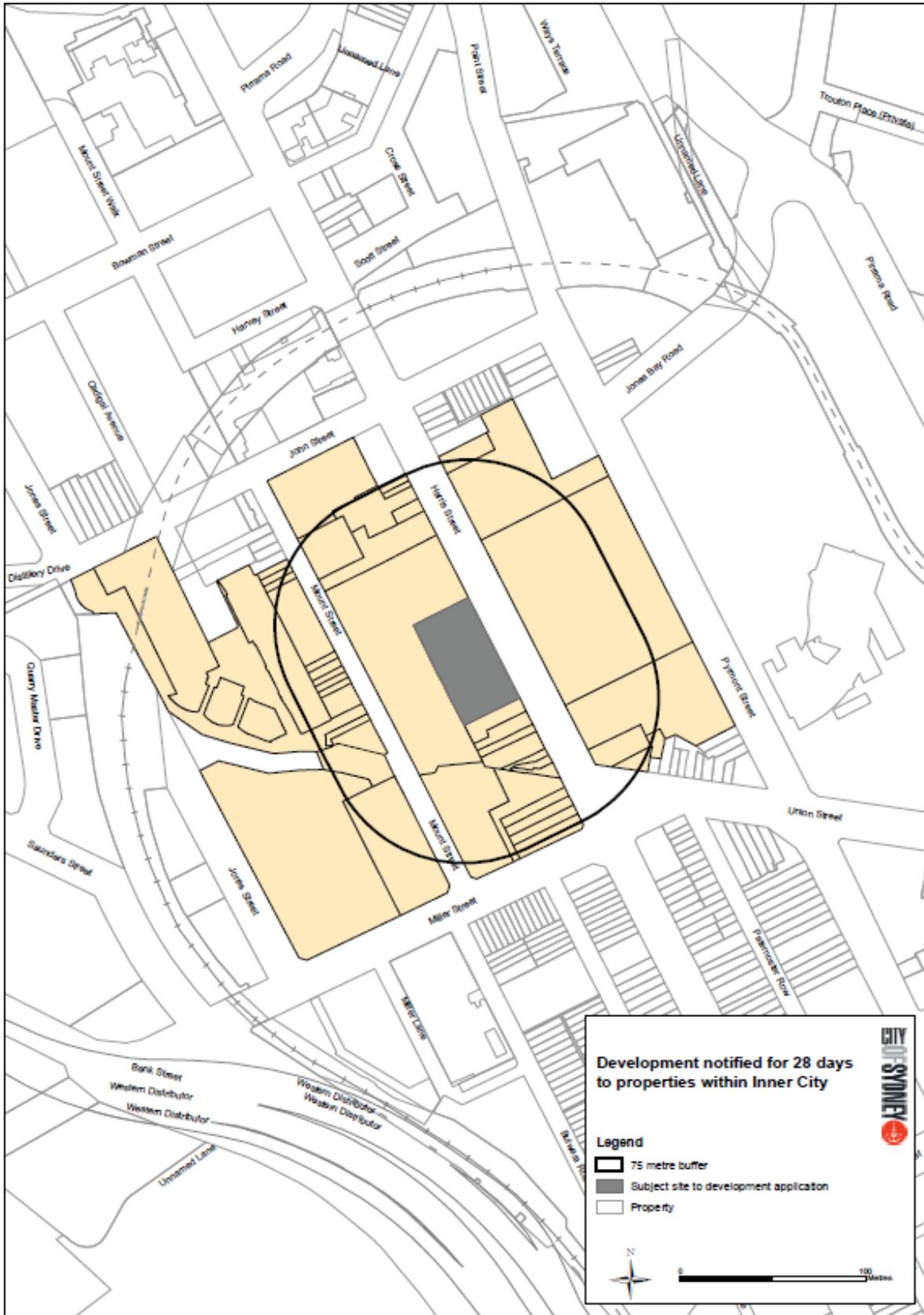


Figure 12 – Development notified for 28 days to properties within Terrace Area

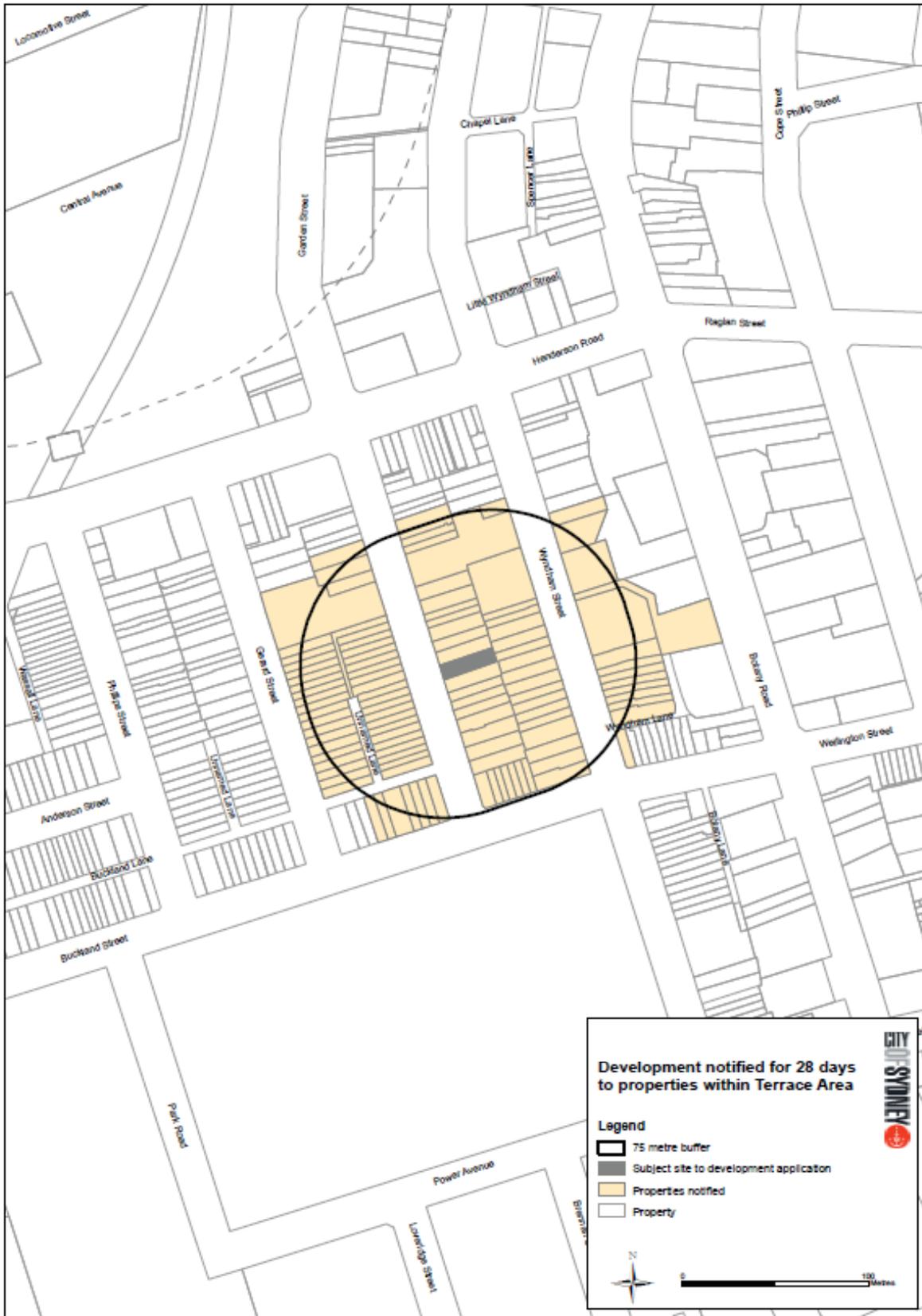
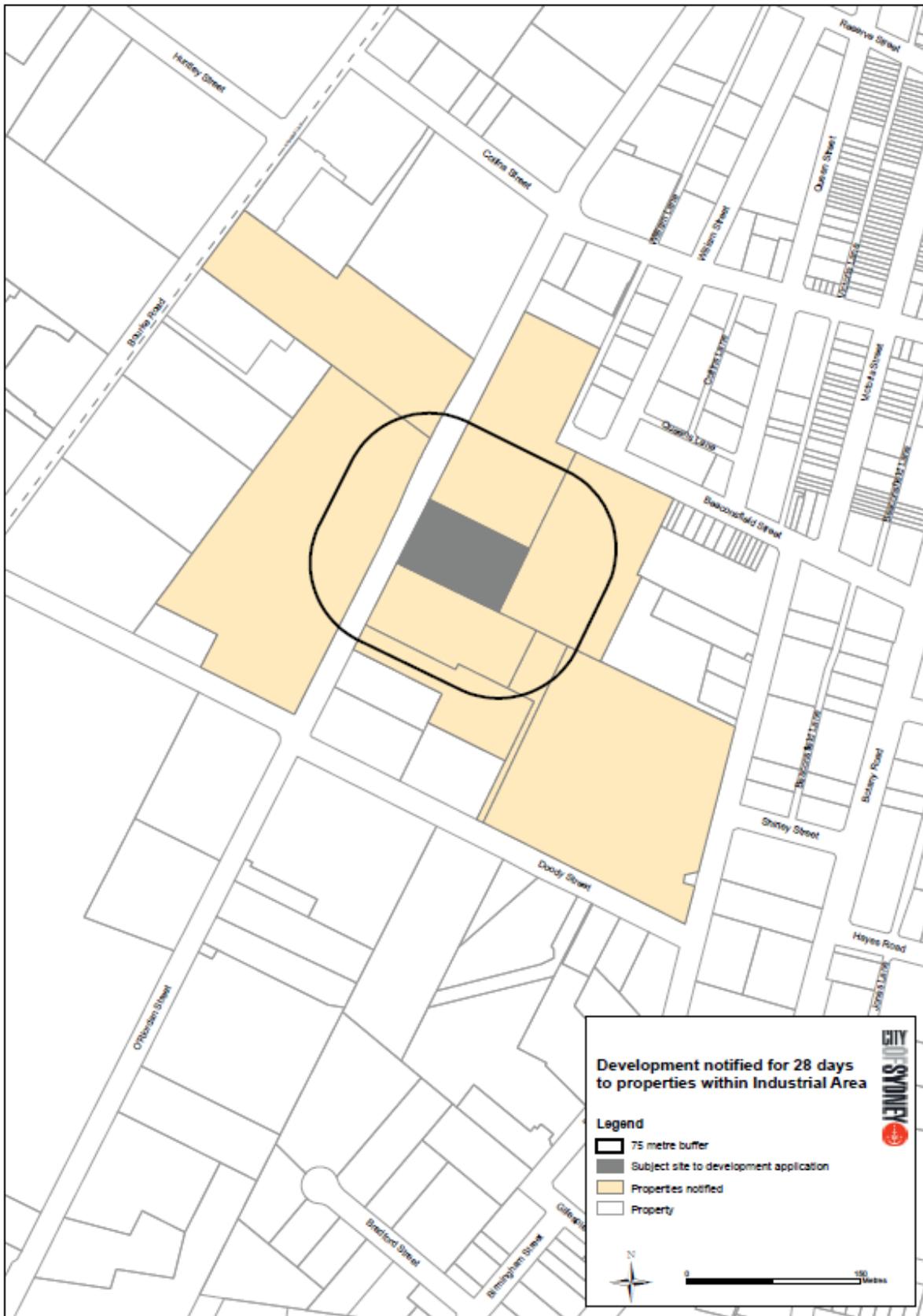


Figure 13 – Development notified for 28 days to properties within Industrial Area



# 4. Planning agreements

## Planning agreements

Planning agreements are voluntary agreements entered into by the City and a person, usually a developer, to deliver public benefits.

Public benefits may include the dedication of land to Council, monetary contributions, public infrastructure, community facilities, affordable housing, any other material public benefit or any combination of these.

Planning agreements are prepared under the Act in relation to either a planning proposal or a development application.

## Public notification

A planning agreement cannot be entered into, amended or revoked unless public notice is given and the planning agreement is first made publicly available for inspection for a minimum period of 28 days.

If the planning agreement is in connection with a development application, the public notice will be given as soon as possible after a draft agreement has been prepared and agreed by the parties, in the same manner as any public notice of the relevant development application that is required under this plan and the Act.

If the planning agreement is in connection with a planning proposal, the public notice will be given, if practicable, as part of and concurrently with, and in the same manner as, any public notice of the relevant planning proposal that is required under this plan.

Where it is not practicable to give public notice at such times, the Regulation requires that it be given as soon as possible after as determined by Council.

Amendments may be required as a result of public submissions or for other reasons. Where amendments are required to a draft planning agreement, the amended draft planning agreement and explanatory note will be re-exhibited.

Table 5 – Planning agreements

Document	Notification
Draft, amended or revoked planning agreements	Notified and advertised for 28 days