

Attachment A

**Amended Planning Proposal
Sydney Local Environmental Plan 2012
Oxford Street Cultural and Creative
Precinct**

Oxford Street Cultural and Creative Precinct



Planning Proposal
~~July 2021~~ **March 2022**

Green Global Connected

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Executive Summary

Oxford Street and its surrounding area is one of Sydney's iconic places and has long been appreciated as a creative and cultural precinct both locally and internationally. It follows an ancient pathway used by the Gadigal people of the Eora Nation and is one of Sydney's earliest main streets. It is an important high street and the focus for daily needs and services of residents. For many years, it has been an iconic destination for nightlife and shopping and is home to the Mardi Gras Festival and parade.

Oxford Street's character is built on its diverse use, activities, heritage and building forms. It hosts a mix of fine grain businesses, educational institutions, health facilities, and spaces for residents, workers, visitors and festivals. The growth of larger shopping centres, increased online spending, the impacts of a noisy road environment underused public spaces and lockout laws have contributed to retail vacancies, fewer people and lower amenity on Oxford Street. The impact of the Covid-19 pandemic now presents businesses on Oxford Street with more challenges, particularly in the lead up to hosting World Pride in 2023.

The City has positioned Oxford Street as a key cultural centre within the Eastern Creative precinct in the 2020 *Local Strategic Planning Statement*. In this precinct, the City is encouraging cultural uses as a driver of creativity and enterprise, a source of job creation and potential for place-making. It builds upon existing and emerging employment and creative business clusters within the area and capitalises on the proximity of the area to long term establishments including the National Art School and UNSW Art and Design Campus.

This place-based approach to cultural activity is an extension of the City's planning reforms to help realise our creative city vision. Space for cultural activities and production, particularly those at small business and community level, are becoming harder to find as an unintended effect of rapid urban change. Internationally, cities similar to Sydney are putting their efforts into making space for culture and the planning framework is an important lever to achieve this.

The City's approach to land use planning can positively contribute to the evolution of Oxford Street as a cultural precinct. This proposal seeks changes to the Sydney Local Environmental Plan 2012 (the LEP) and Sydney Development Control Plan 2012 (the DCP). The changes are the result of a strategic review of planning controls applying to land identified within the Oxford Street corridor between Whitlam Square and Greens Road in Darlinghurst, to be known as the Oxford Street cultural and creative precinct. The proposals fit within a broad context for change proposed for Oxford Street by the City to address the public domain and improve conditions for walking, cycling and the enjoyment of the street.

The precinct contains 183,171 square metres (sqm) of employment floor space, including 50,664sqm for higher education, 26,875sqm of tourist, cultural and leisure floor space and 24,794sqm for Government uses. Only 9,268sqm is in use by creative industries and 29,924sqm is vacant.

While maximum permissible building heights range from 9 to 80 metres, the height control is generally 12 to 15 metres, resulting in a streetscape that is predominantly two to three storeys. The current planning controls include FSR generally between 2.5:1 - 4:1, with sites either built to their current maximum, over their current maximum or the height control does not allow a building height

to realise their maximum FSR. Most of the precinct is in a heritage conservation area, with 132 contributory buildings and 52 local listings.

This planning proposal explains the intent of and justification for the proposed amendment to the Sydney LEP 2012 relating to land identified as the Oxford Street cultural and creative precinct. It proposes to:

- ensure no additional loss of existing entertainment, creative and cultural floor space within the precinct
- incentivise the growth of creative and cultural floor space by permitting additional floor space and height
- incentivise business uses and activities that contribute to Oxford Street's role as a local centre
- unlock existing development potential through increases to height
- incentivise entertainment floor space at basement level
- protect heritage fabric and the structural integrity of heritage items by ensuring growth and growth scope is contingent on heritage considerations, **excluding selected heritage buildings on the southern blocks east and west of Taylor Square**
- allow additional permitted uses at the National Art School to diversify its commercial and entertainment activities
- provide a floor space ratio increase from 0.9:1 to 1:1 at the National Art School to support its redevelopment
- promote uses that attract pedestrian traffic balanced with the need to appropriately service sites
- expand the Oxford Street Heritage Conservation Area to include 276-278 Crown Street.

The 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, Planning, Infrastructure and Environment's 'Guide to preparing planning proposals' and 'A guide to preparing local environmental plans.'

It is informed by extensive consultation with community undertaken between October and December 2020, which demonstrates significant support for the activation of the precinct, improved amenity of public domain, reviews of planning approaches, including additions to heritage buildings and more affordable creative space. The planning proposal represents the first step in responding to issues raised in this consultation.

Consultant studies addressing Floor Space Supply and Demand, Cultural Activity and Urban Design and Heritage have been prepared which identify the need to incentivise and create diverse, affordable floor space and activity in the precinct with minimal impacts on heritage and local amenity.

The planning proposal provides the potential to unlock the redevelopment of sites within the precinct, which may be constrained by the existing height controls, and increase cultural and creative floor space. It does this by enabling buildings within the precinct to redevelop to an increased alternative height and floor space control. This redevelopment may only be triggered if 10 per cent of the building's floor area will be used for a cultural and creative purpose. Redevelopment will stimulate activity, increase employment and pedestrian activity and contribute to the overall revitalisation of the area.

The proposed controls could create ~~more than~~ **10,554sqm** of new creative and cultural floor space in a strategically appropriate location. They will encourage diverse and active streets and lanes which contribute to the cultural and creative offering and vibrancy of the day and night-time economies. The controls also conserving the heritage significance and respect the character of the buildings and streetscape.

The City has prepared the draft DCP to help ensure the objectives and intended outcomes of this planning proposal are achieved. The draft DCP controls relate to the built form, urban grain, architectural character, design of cultural and creative floor space, laneway activation **and** building setbacks ~~and highly visible sites~~. New building contributions to the heritage conservation areas are also proposed.

The draft DCP proposes new requirements for heritage buildings on Oxford Street. It encourages Heritage Principles to be agreed with the City as the first step, prior to the submission of an application and inform the design of vertical additions. It also requires a Heritage Structural Impact Statement to accompany development applications, to ensure that the structural stability of heritage buildings is not endangered.

These proposed DCP provisions do not form part of this planning proposal. The City intends to publicly exhibit this Planning Proposal concurrently with the draft DCP

1. Introduction

This planning proposal explains the objectives and justification for proposed amendments to the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012) that will apply to land identified within the Oxford Street corridor between Whitlam Square and Greens Road in Darlinghurst, known as the Oxford Street cultural and creative precinct.

The planning proposal is the result of a review of planning controls applying to Oxford Street. The review aims to respond to the high level of retail vacancy, noisy road environment, underused public spaces and the impact of the now repealed lockout laws and the Covid-19 pandemic on the patronage of Oxford Street.

This proposal aims to reposition the Oxford Street corridor as a vibrant cultural and creative precinct in accordance with directions in *Sustainable Sydney 2030*, the *Eastern District Plan*, *Local Strategic Planning Statement*, *OPEN Sydney and Action Plan*, *Creative City Cultural Policy and Action Plan*, *Live Music Action Plan* and the *Sydney Development Control Plan 2012* (Sydney DCP 2012) late night trading provisions and draft Open and Creative planning reforms.

The proposals aim to deliver on the priorities of the NSW Government's *Greater Sydney Region Plan*, *Eastern City District Plan* and the City's *Sustainable Sydney 2030* and *Local Strategic Planning Statement* to create a healthy, creative, and culturally rich and socially connected communities and the provision of services and social infrastructure to meet the changing needs of the community.

The Oxford Street cultural and creative precinct will be the focal point of the Eastern Creative and Cultural Precinct identified in the City's *Local Strategic Planning Statement* (the Planning Statement). The Eastern Creative and Cultural precinct aims to reposition eastern Oxford Street and encourage cultural uses as a driver of creativity and enterprise, a source of job creation, and potential for place-making. It aims to support existing and emerging employment clusters within the area and capitalise on the areas proximity to long term establishments including the National Art School (NAS) and UNSW Art and Design Campus.

This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning, Infrastructure and Environment (DPIE) Guidelines including 'A Guide to Preparing Local Environmental Plans' and 'A Guide to Preparing Planning Proposals'.

It is informed by extensive consultation with community and a range of consultant studies. Early consultation was undertaken between October and December 2020, which demonstrated significant support for the activation of the precinct, improved amenity of public domain, reviews of planning approaches, including additions to heritage buildings and more affordable creative space. Consultant studies addressing floor space supply and demand, cultural activity and urban design and heritage have been prepared which identify the need to incentivise and create more floor space and activity in the precinct with minimal impacts on heritage and amenity and consider more diverse and affordable models of creative space. These studies are included at Appendices A2-A5 of the planning proposal.

In summary, the proposals seek to amend the Sydney LEP 2012 as it applies to the Oxford Street cultural and creative precinct to:

- include a new site-specific clause applicable to land in the precinct, excluding the NAS **buildings at the following properties in Darlinghurst: 189 Oxford Street, 217 to 263 Oxford Street, 56 Oxford Street, 103–105 Oxford Street, 163–169 Oxford Street, 173–175 Oxford Street, 21 Oxford Street, 37–41 Oxford Street, 185 Oxford Street, 171 Oxford Street, 107–111 Oxford Street, 43 Oxford Street, 48 Little Oxford Street and 183-183A Oxford Street.** The site-specific clause will:
 - allow an alternative maximum building height and a maximum floor space ratio, provided that 10 percent of the total GFA is provided for a cultural and creative purpose and the development comprises uses that support the local centre role of Oxford Street
 - allow additional floor space of up to 0.8:1 where it is for an entertainment facility with live entertainment and below ground level
 - promote uses that attract pedestrian traffic along ground floor frontages
- include a new clause requiring the retention of existing floor space used for a cultural and creative purpose in all proposals for redevelopment in the precinct
- amend the maximum permissible floor space ratio from 0.9:1 to 1:1 and additional permitted uses with consent under Schedule 1 applying to NAS (156 Forbes Street, Darlinghurst, being Lot 1 DP 568755) and
- expand the Oxford Street Heritage Conservation Area to include 276-278 Crown Street.

The proposed LEP amendments described in this planning proposal will be supported by new provisions under the Sydney Development Control Plan (Sydney DCP) 2012 and other relevant DCPs which outline guidance relating to the cultural and creative precinct addressing:

- urban grain, articulation and architectural character
- design **and calculation** of cultural/ creative floor space
- laneway activation controls for large sites
- front upper level setback
- ~~highly visible sites~~
- public domain activation
- **servicing and access on laneways and streets**
- **diversity and inclusion**
- new building contributions
- preparation of Statement of Heritage Principles
- submission of Heritage Structural Impact Statement

These proposed DCP provisions do not form part of this planning proposal.

1.1 Response to early consultation

The planning proposal has been informed by early consultation which was undertaken from 6 October until 1 December 2020. The aims of the early consultation were to obtain the views of community, business and landowners about their current and future priorities, the planning controls, appetite for change and the changes desired on Oxford Street.

A range of consultation activities were undertaken including an online survey, a self-guided walking tour, the writing of love letters to Oxford Street, submissions via email, an ideas chalkboard at the NAS and a series of online workshops. An invitation to participate in the early consultation was sent to over 11,000 owners and occupiers and emailed over 150 stakeholders across Sydney.

In response to the early consultation, the City received:

- 1,742 responses to the online survey which captured views on the future vision, character and experience of the Oxford Street corridor
- 22 love letters to Oxford street about the hopes and aspirations for Oxford Street;
- 119 responses to a walking tour available via a mobile phone app posing questions about the future use of spaces and places around Oxford Street
- feedback from a chalkboard of ideas at the NAS
- 41 (32 plus nine late) submissions about built form, amenity, planning controls, public domain and street improvements
- attendance by 48 people at four online workshops about the attributes required for a successful creative and cultural precinct and options for creating more floor space.

Consultation outcomes are detailed in Appendix A1.

Responses to the online survey reflected strong support for Oxford Street as a cultural and creative precinct now and in the future:

- 93% supported making Oxford Street a creative and cultural precinct
- 80% said Oxford Street held social and cultural importance to them
- 83% identified the importance of the LGBTIQ identity of Oxford Street, and
- 88% supported reviews of planning approaches.

To achieve the community's aspiration to be a cultural and creative place, the consultation found that Oxford Street needs:

- cultural events and to be a destination
- to celebrate the LGBTIQ community
- visibility of First Nations cultures and stories of the place
- culture and creativity in streets and public spaces
- affordable creative spaces and spaces for creative business
- the right mix of businesses
- a pleasant street environment, and
- to build community connections.

Submissions from residents, resident associations, individuals, visitors, businesses, business associations, landowners, and Woollahra Council raised:

- uplift of FSR and height on certain sites and additions on heritage buildings
- reimagining of the Aboriginal track and street greening and landscaping
- removal of clearways, electrification of the bus fleet and improvement of crossings to increase pedestrian amenity
- more connected cycleways with better amenity and reduced traffic speeds
- impacts of night-time economy on residents and provision of spaces for families
- reuse of the toilet block at Taylor Square, removal of the fence from courthouse and open as a park, activation of Taylor Square with outdoor dining, street furniture and colour and markets
- removal of restrictive planning controls and road closures to provide activation
- use of billboard structures, bicycle lanes, furniture and shopfronts for public art
- redevelopment of the Flinders to South Dowling Street block to for restaurants and small bars
- activation of vacant premises, capping of rents and upgrading of built form
- residential laneway controls on Sturt Street
- upgrade public domain and provide a LGBTIQ **A+** community centre for World Pride.

This planning proposal is the first step in addressing matters raised in the early consultation relating to affordable spaces for creative businesses, the right mix of businesses and a more pleasant street environment. Other issues raised in consultation, including public domain improvements and operational issues will be addressed later through other avenues and projects undertaken by the City.

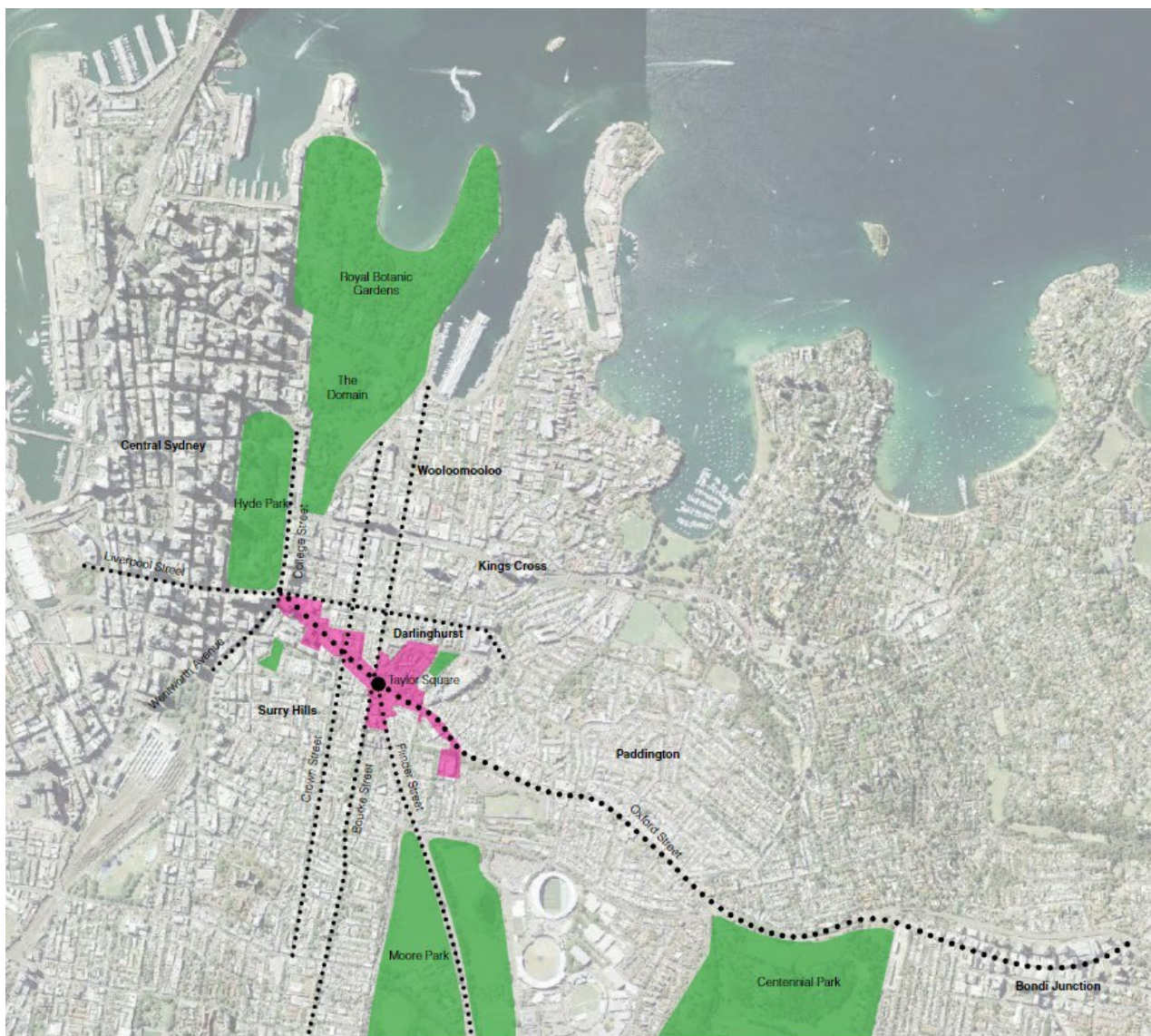
2. Background

2.1. Site location

2.1.1. Context

The Oxford Street cultural and creative precinct is in the eastern part of the City of Sydney Local Government Area and the suburbs of Surry Hills and Darlinghurst. As shown in Figure 1 below, it occupies the northern part of Oxford Street, a key vehicular and pedestrian path to and from Central Sydney. Oxford Street is a movement corridor and a place, linking Hyde Park along a ridgeline and an original arterial road from the City to Victoria Barracks, Bondi Junction and beyond to the Eastern suburbs and South Head.

Figure 1. Context of the Oxford Street cultural and creative precinct



2.1.2. Boundaries of the cultural and creative precinct

The boundaries of the precinct are shown in Figure 2 below and contain areas 139,965 sqm of the Oxford Street corridor zoned B4 mixed use, B2 Local Centre and SP2 education extending 1.3 km southeast between Whitlam Square to the east and Greens Road to the west.

Figure 2. Boundaries of the Oxford Street cultural and creative precinct



2.2. Precinct characteristics

2.2.1. Heritage

Oxford Street follows an ancient pathway used by the Gadigal people of the Eora Nation and other Aboriginal peoples of Sydney to move between the land around the Harbour and that to the east and south towards Botany Bay.

As one of Sydney's earliest main streets of the 1840s, the street is characterised by Edwardian, Victorian, Art Deco, Inter-War and Federation style architecture, including institutional buildings, theatres, commercial buildings, council reclamations, public conveniences and open spaces including Taylor Square. The largely homogenous and intact streetscape comprises buildings with robust materiality, elegant proportions and fine detailing. The northern end of the precinct at Whitlam Square is located 180 metres from the ANZAC memorial in Hyde Park.

2.2.2. Built form character

Oxford Street runs along a ridge line from Hyde Park to Taylor Square. It bisects the predominant street grid that runs through Surry Hills to the south and Darlinghurst to the north. This geography creates a clearly framed view corridor down the street towards Hyde Park and the city skyline beyond. The lots on the north side of the street, especially at their upper levels, are afforded views toward Sydney Harbour, as Darlinghurst falls away to the north.

The angle at which Oxford Street orientates to the predominant street grid pattern of the wider area creates a series of unusually proportioned and shaped blocks. These blocks comprise narrow and deep lots, as a result of their original terrace houses and commercial shop uses. Larger lots in the precinct have been consolidated from smaller lots or are the site of large public facilities such as the Darlinghurst Courthouse and the NAS.

The built form on Oxford Street includes taller buildings to the west near Whitlam Square reflecting the building scale of Central Sydney. Aside from the taller buildings to the west of the precinct, Oxford Street is generally lined by three storey buildings, located on sites with narrow frontages, in buildings serviced by rear lanes and with generally consistent facades and street awnings.

2.2.3. Land uses and employment

The key land uses in the precinct include higher education facilities such as the NAS and UNSW campuses, University of Notre Dame and Charles Sturt University, and tourist based and entertainment uses, food and drink establishment and retail and creative industries. In 2017 the precinct included 183,171 sqm of employment floor space, with 29,924sqm (16%) registered as vacant.

The City's 2017 Floor space and Employment Survey indicates that higher education and research uses occupy the highest amount of floor space (50,664sqm) out of any of the industries within the study area, with 28 per cent of the total employment floor space and 590 jobs. There is 26,875sqm of tourist, cultural and leisure floor space in the precinct, largely owing to the prominent role of pubs and clubs within the area. Government uses, including state government offices at 1-19 Oxford Street and the Darlinghurst Courthouse, include 11,700sqm and 883 jobs within the NSW Department of Education, along with 6,250sqm of floor space and 66 jobs at the Darlinghurst Court House. **It is understood that since the City's 2017 Floor space and Employment survey that the Department of Education have relocated from their offices at 1-19 Oxford Street.**

Floor space in ground floor retail shopfronts with frontages onto Oxford Street comprises 13,650sqm for food and drink uses and 13,200sqm for retail/personal services. Cafes and restaurants occupy 7,050sqm of floor space, with supermarkets and specialised food retailing taking up 3,600sqm and 3,050sqm respectively. The largest category is clothing and footwear retailing occupying 3,250sqm, although there is also a notable specialisation in adult stores which takes up 1,850sqm of floor space.

Creative industries occupy 9,268sqm of floor space in the precinct, providing 407 jobs. A total of 3,287sqm is in use for creative recreation, (i.e., cinemas or performing arts) and 3,009sqm for creative business (i.e., architecture, design, or music publishing services). Arts education is not included in the creative industry category and occupies 39,850sqm bringing the total floor space for creative uses in the precinct to 49,118sqm.

Key cultural, creative educational, tourist and leisure uses in and around the precinct include the Council-run Eternity Playhouse, East Sydney Community and Arts Centre, various commercial galleries and the Sydney Jewish Museum, National Art School, UNSW Art and Design Campus,

the Whitehouse School of Design and entertainment facilities including the Palace Verona Cinema and the Oxford Art Factory.

2.2.4. Public domain

Oxford Street is a key movement corridor, but also a place with open spaces with character and significance.

It is a key vehicular and pedestrian path to and from Central Sydney, classified as a regional road between College Street and Crown Street, and a classified State controlled road east of Crown Street. It accommodates six lanes of traffic, including bus lanes with major key intersections at Crown, Bourke, Riley, Flinders and South Dowling Streets.

Public spaces located along Oxford Street include:

- Whitlam Square, an intersection of Oxford Street, Liverpool Street, College Street and Wentworth Avenue
- Oxford Square which is an open space on two levels leading into Burton Street, Riley Street and Foley Lane
- Taylor Square, a key public space and pathway edged by heritage buildings and the Rainbow Crossing. It is historically, visually and physically connected to the Darlinghurst Courthouse and the Darlinghurst Police station across the road to the north
- Three Saints Square which is an area around the intersections of South Dowling and Victoria Streets, and which includes a small space with seating outside St Vincent's hospital and
- a small space with seating outside UNSW Art and Design campus shaded by large fig trees.

2.3. Existing development

The character and composition of existing development in the cultural and creative precinct can be described within four sub-precincts. These include (1) Whitlam Square to Riley Street, (2) Riley Street to Bourke Street, (3) Taylor Square and Darlinghurst Courthouse, Police Station and Gaol and (4) the Flinders Street to UNSW Art and Design Campus.

2.3.1. Whitlam Square to Riley Street

The section of Oxford Street between Hyde Park and Riley Street provides the entry and exit to the precinct. Located closest to the CBD this sub-precinct has a different character to the rest of the area where older built fabric is juxtaposed with contemporary built forms. Compared to the other blocks in the study area, the building scale is less homogenous, ranging from 2-3 to 24 storeys. Key elements of the sub-precinct include the Burdekin Hotel which is a heritage listed hotel on the north side of Oxford Street on the corner of Liverpool Street immediately adjacent to apartment towers. Oxford Village is a shopping centre occupying most of the southern block between Pelican Street and Riley Street. Oxford Square is a public open space located on two levels at the intersection of Riley and Burton Streets comprising an area up to 1,100sqm up to the edge of the sidewalks surrounded by heritage listed buildings.

Figure 3. Views of Whitlam Square to Riley Street



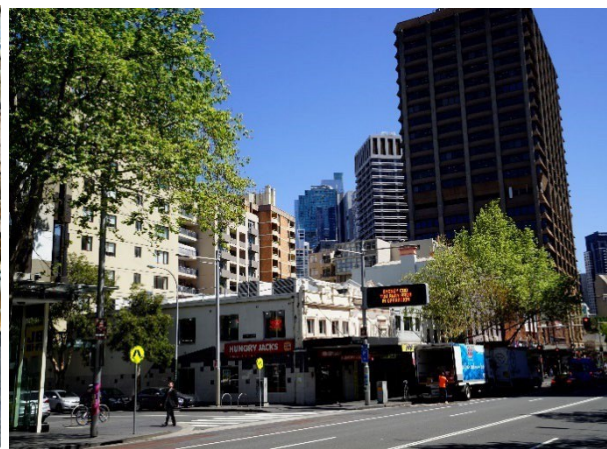
View looking west of the Burdekin Hotel and the Parkridge



View looking east of the Burdekin Hotel



View looking west from Oxford Square



View looking north west between Pelican and Brisbane Streets

2.3.2. Riley Street to Bourke Street

The sub-precinct between Riley and Bourke Streets has a strong low-rise built form and heritage character. There are 14 heritage listed buildings with the City's former owned properties 56-76, 82-106 and 110-122 Oxford Street, the Courthouse Hotel, the Brighton Hotel, former Arnolds Department Store, the Oxford Hotel and the Columbian Hotel marking most prominent corners on Oxford Street.

The southern block from Crown to Bourke Street is the longest in the precinct, hosting the most diverse collection of facades, architectural expressions, building heights, colours and textures. There is a strong ground floor retail/food and drink/entertainment presence, particularly adjacent to Crown Street. This block has a variety of ground floor shopfronts creating a multi-layered character with little unifying elements.

Three blocks of the north side of the precinct are occupied by the large three storey Federation Freestyle commercial buildings which provide a rich heritage character with consistently articulated and intact facades and parapets. The remainder of the buildings in the precinct are two storeys in height. The southern blocks include Brighton Hotel and the former Edward Arnold's Co Department Store, a five-storey Inter-War Classical style building with relatively intact facades.

The Eternity Playhouse is a heritage listed theatre located within the precinct on Burton Street, opposite the East Sydney Community centre outside of the precinct boundary.

The sub-precinct includes the following laneways:

- Arnold Place, a 6m and 4.5m laneway which runs the length of the rear of south block between Crown Street and Riley Street. It provides servicing and access only.
- Little Oxford Street, a 5m wide lane to the rear of the south block between Crown Street and Taylor Square which is accessed from Campbell Street. It intersects with Ryder and Denham Streets, an area of small-scale residential terraces. This laneway provides servicing and access only;
- Foley Street spans three blocks running parallel to Oxford Street to the north of the block between Burton Street and Crown Street, Crown Street and Palmer Streets, and then onto Forbes Street. The first block of Foley Street is a laneway activated ground floor frontages. The remainder of Foley Street is a laneway which provides access and servicing only; and
- Kells Lane and Langley Street are narrow lanes off Crown, Palmer and Burton Streets measuring 4m, 6m, and 5m, respectively.
- Iona Lane is a 6.2m laneway which connects Rosebud lane and Verona Street behind the block containing the Arts Hotel and Berkelouw Books. Rosebud Lane is a 7m laneway runs between the Shamrock and Thistle Hotel at 19-33 Oxford Street and the Service Station at 59 Oxford Street Paddington. Verona Street is a 9m access road into the block with through no through access.

Figure 4. Views of Riley Street to Bourke Street



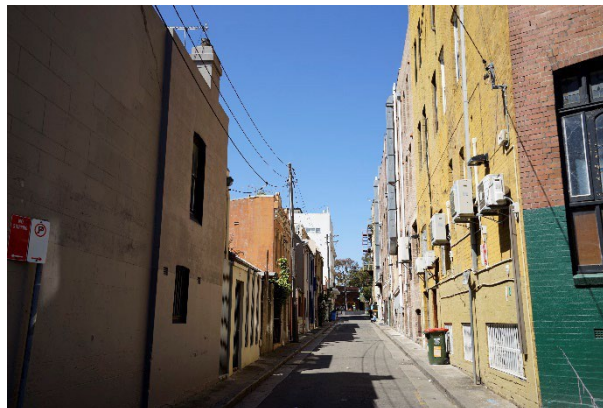
View looking south-east at corner of Riley Street



View looking north-west from Crown Street down Foley Lane



View looking north-east at corner of Palmer Street



View looking south-east at Foley Street from Palmer Street



View from Arnold Place looking north-west to Riley Street



View of Little Oxford Street looking south-east

2.3.3. Taylor Square, Darlinghurst Courthouse, Former Police Station and Gaol

Taylor Square at the centre of the cultural and creative precinct is a 1,300 sqm triangular shaped open space, edged by Flinders Street, Bourke Street, Oxford Street and heritage buildings from the Victorian, Federation, Art Deco and Inter-War periods. These buildings include the Courthouse Hotel, Kinsella's Hotel and the Former Commonwealth Bank building. It includes a 200sqm elevated grass area with informal perimeter seating and provides access from Oxford Street through to Bourke Street. The building on the corner of Oxford and Flinders Street has billboard signage that has long standing associations to the commercial development of Oxford Street. A rainbow pedestrian located on the corner of Campbell Street and Taylor Square symbolises the strong associations that the area has with the LGBTIQ community.

The Oxford Hotel, Darlinghurst Courthouse and former Police Station is located to the north of Taylor Square with strong visual connections to Taylor Square. Between the Oxford Hotel and the Darlinghurst Courthouse is an open space occupied only by the small above ground structure of the underground public conveniences. Behind the Darlinghurst Courthouse, the former Darlinghurst Gaol's sandstone walls surround the now NAS. The NAS campus occupies the former Darlinghurst Gaol and is a state heritage item comprising 18,000sqm of floor space.

Figure 5. Views of Taylor Square, Darlinghurst Courthouse, former Police Station and Gaol



View looking south from the corner of Oxford and Flinders



View looking west from Flinders Street



View of the Darlinghurst Courthouse looking north-east



View looking south-east of the NAS (former Gaol) from Forbes Street

2.3.4. Flinders Street to UNSW Art and Design Campus

The Sacred Heart Catholic Church, the Benedict XVI Medical Library, the former Olympia Theatre (also known as the Academy Twin) and the Beauchamp Hotel, are prominent heritage items in the area which contribute to the streetscape of this sub-precinct. The remainder of the sub-precinct is comprised of a mix of two-storey heritage and modern commercial terraces, and a small number of three storey buildings.

While the entire row of terraces on the southern block is of the Victorian era and includes some the oldest buildings in the precinct, they have been significantly modified and many of the tenancies are vacant and unkempt. In this block, the footpath on this southern block also narrows, increasing closeness to the street and reducing pedestrian amenity.

Sturt Street is a small street to the rear of commercial premises on Oxford Street, although these are located outside of the precinct, it includes 23 two-storey residential terraces with gabled roofs and chimney stacks. The north side of Sturt Street is characterised by the less developed rear of the Oxford Street facing commercial premises buildings.

Terraces facing South Dowling Street have been converted to commercial use. The blocks east of South Dowling Street are generally two-three storeys in height and front commercial properties in the Woollahra LGA to the north. These blocks contain the former Olympia Theatre, commercial terraces, the Verona Cinema, the Art House Hotel and the heritage listed Rose, Shamrock and Thistle Hotel. A service station and the UNSW Art and Design Campus are located at the eastern most end of the precinct on Greens Road, adjacent to a small seated open space area shaded by large Fig Trees.

Figure 6. Views of the Flinders Street to UNSW Art and Design Campus



View looking south-east of the Former Olympia Theatre



View looking east at the between Flinders to South Dowling Street



View looking north-west of the service station and Rose & Thistle



View from Oxford street looking south of Sturt Street

2.4. Surrounding development

The site is surrounded by mixed use development, including pockets of fine grain residential and institutional buildings.

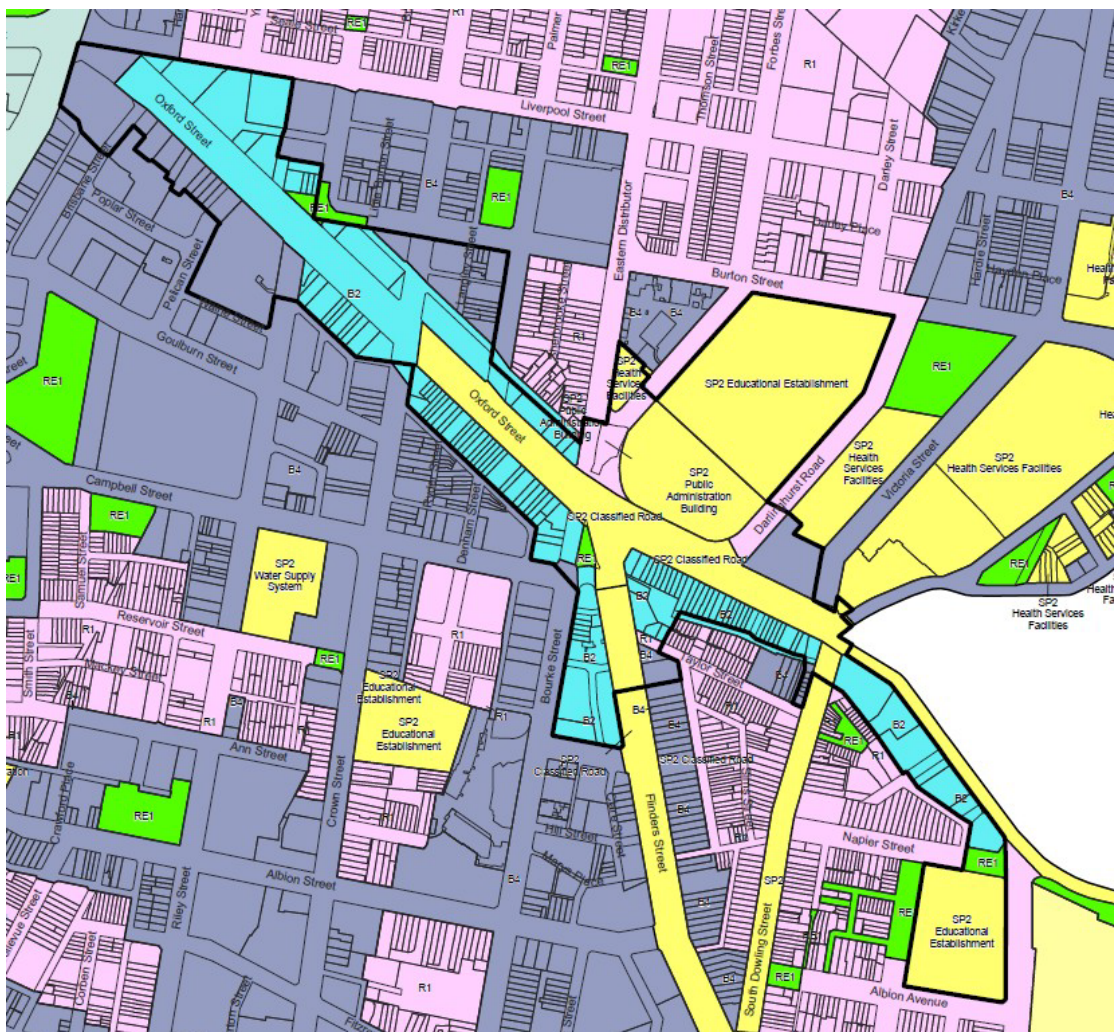
- **North of the precinct** is comprised of mix of commercial and residential properties ranging two to five storeys in height. There are pockets of fine grain residential and apartment blocks located between Burton and Forbes Streets near the NAS. The area has a strong mixed use neighbourhood character, particularly around Burton Street where East Sydney Community Centre is located. St Vincent's Hospital is located further northeast of the precinct occupying large blocks and creating an institutional character.
- **East of the precinct** is comprised of two storey commercial and residential terraces in Paddington in the Woollahra LGA and the Victoria Barracks.
- **South of the precinct** is comprised of mix of commercial and residential properties ranging two to three storeys in height. Pockets of residential terraces are located immediately behind commercial premises on Oxford Street behind the Flinders to South Dowling Street blocks and the block between South Dowling Street to Greens Road. Sturt Street is a small lane to the rear of commercial premises on Oxford Street, including two storey fine grain residential terraces.
- **West of the precinct** is Hyde Park and the commercial development comprising taller towers and buildings of Central Sydney.

3. Current planning controls

3.1. Zoning

The Sydney LEP 2012 contains the zoning and principal development standards for the precinct. The zoning and permissible uses within the precinct (shown in black outline) are shown in Figure 7 and discussed below.

Figure 7. Extract from Sydney LEP 2012 Zoning Map



Legend

B2	Local Centre	RE1	Public Recreation
B4	Mixed Use	SP1	Special Activities
B8	Metropolitan Centre	SP2	Infrastructure
R1	General Residential		

3.1.1. B2 Local Centre zone

The majority of the cultural and creative is on land zoned B2 - Local Centre. The objectives of the zone include providing a range of retail, business, entertainment, community and residential uses to encourage employment opportunities, maximise public transport usage and support the vitality of local centres. The zoning permits a broad range of uses including commercial premises, entertainment, education and community facilities. This planning proposal does not seek to change the zoning of this part of the precinct.

The Open and Creative planning reforms approved by Council in March 2020 will allow light industry as a use permitted will consent and facilitate creative production spaces, such as makerspaces in this zone.

3.1.2. B4 Mixed Use zone

Sites located on the south side of Oxford Street between Wentworth Avenue and Crown Street, and north of Foley Street are zoned B4. The objectives for the B4 zone include providing a mixture of compatible land uses, integrating suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling and to support the viability of centres.

Although similar to the B2 zone, the B4 zone permits a broader range of uses including residential. This planning proposal does not seek to change the zoning of this part of the precinct.

3.1.3. SP2 Infrastructure zone

The NAS and the UNSW Art and Design Campus are on land zoned SP2 Infrastructure (Education). The objectives of the SP2 zone are to provide for infrastructure and related uses and prevent development that is not compatible with, or that may detract from the provision of infrastructure.

The uses permitted in this zone are limited to aquaculture, horticulture, water storage facilities, water treatment facilities or the purpose shown on the land zoning map, including any development that is ordinarily incidental or ancillary to development for that purpose.

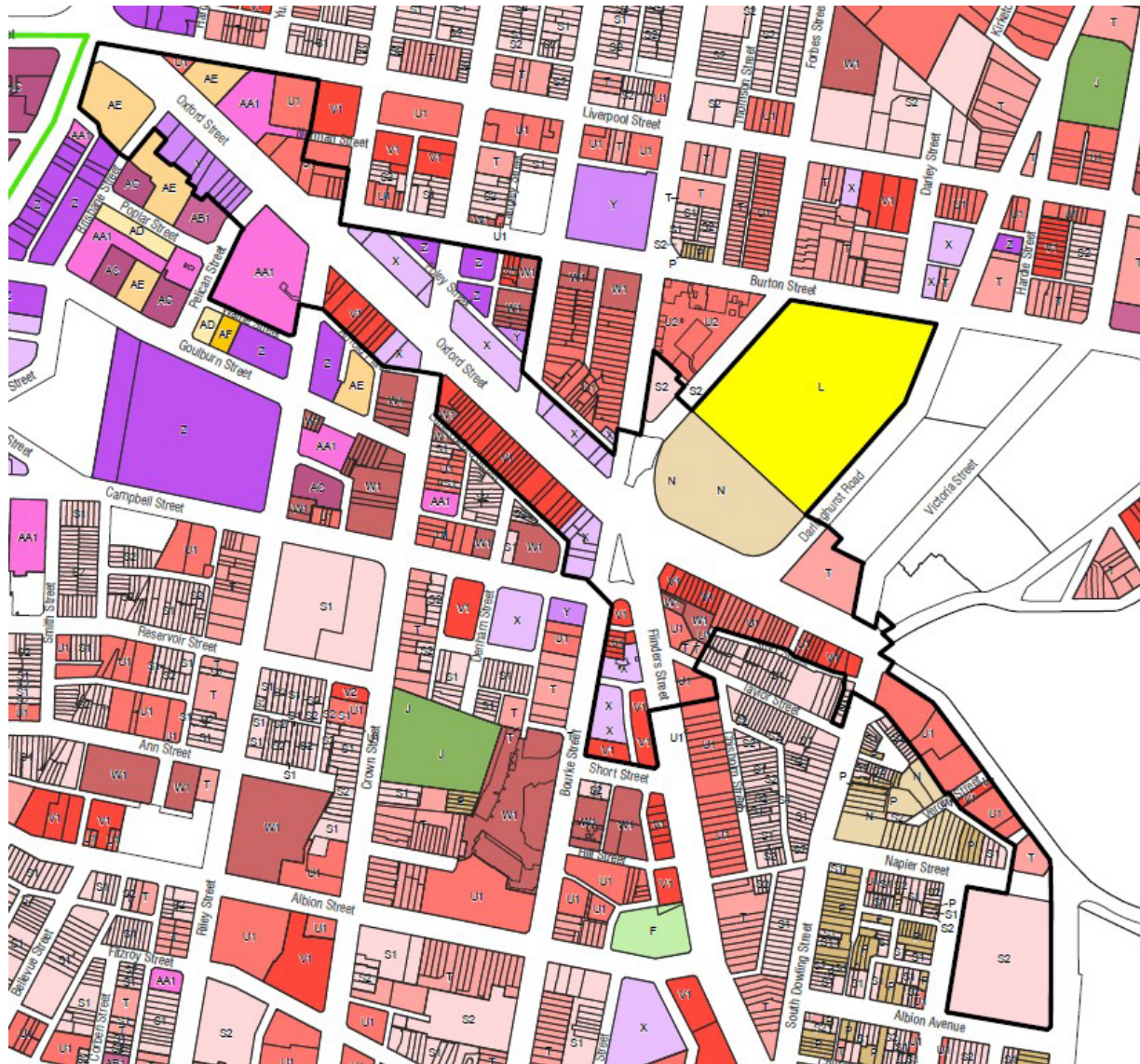
The SP2 zoning in practice is restrictive. Although incidental and ancillary uses are permitted, it requires a merit assessment at development application stage to determine if development applications for activities such as events, functions or other commercial activities are incidental and ancillary to the site's primary use as an educational establishment. The planning proposal proposes to remove any ambiguity by permitting additional permitted uses for the NAS that will complement its existing use and ensure its future financial sustainability.

3.2. Floor space ratio

Maximum floor space ratio controls are shown in the Floor Space Ratio (FSR) Maps referred to in clause 4.4 of the Sydney LEP 2012.

Maximum floor space ratios are generally between 2.5:1 - 4:1, with 4:1 generally permitted on the north side of Oxford Street and 3:1 on the south side. The Darlinghurst Courthouse FSR is 1:1 and the NAS is 0.9:1 and reducing to 2.5:1 further east. The UNSW Art and Design Campus has an FSR of 1.75:1.

Figure 8. Extract from the Sydney LEP 2012 Floor Space Ratio Map



Maximum Floor Space Ratio (n:1)

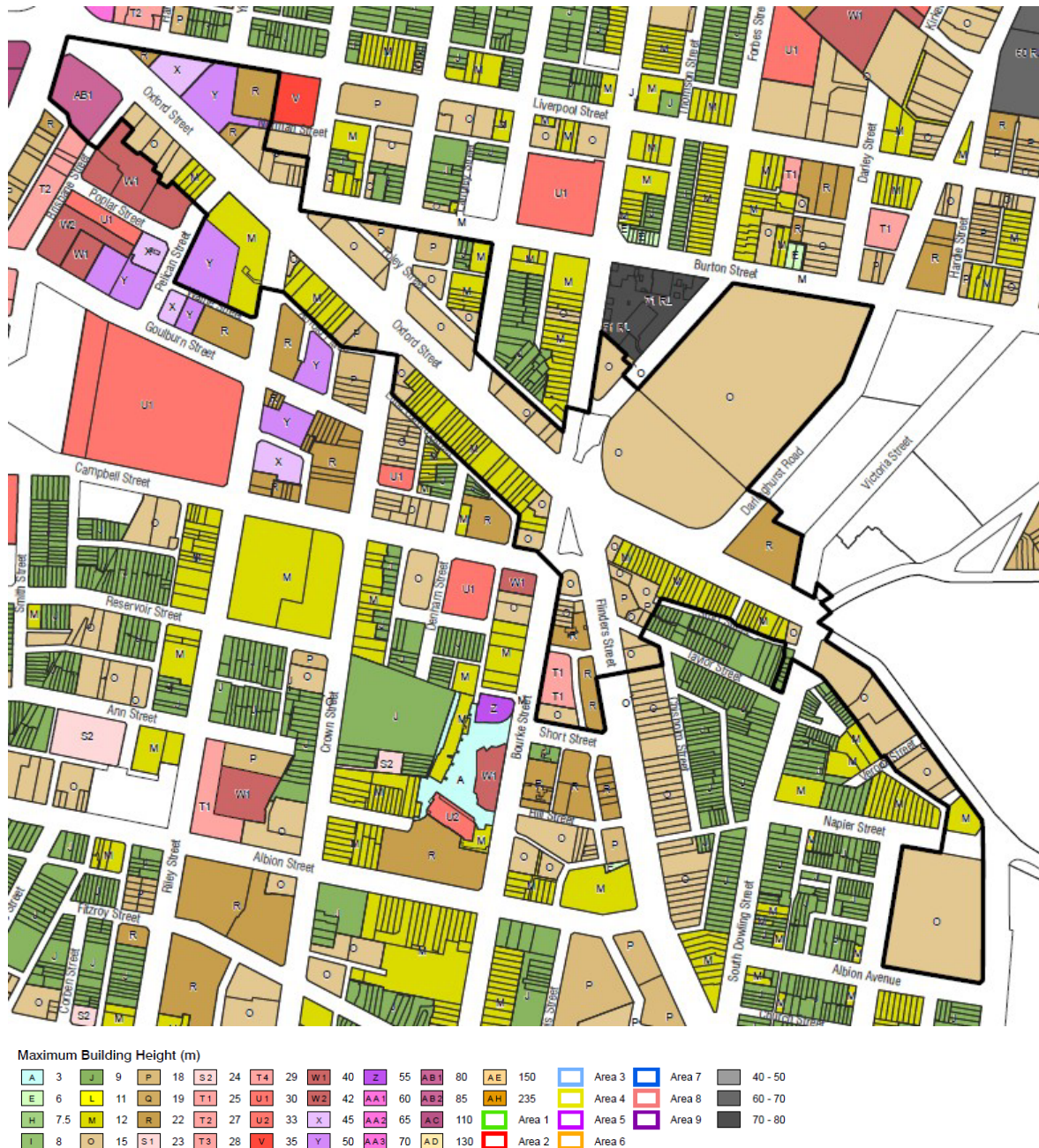
A	0.35	L	0.9	S2	1.75	V1	3	X	4	AA2	6.5	AD	9
F	0.6	N	1	T	2	V2	3.25	Y	4.5	AB1	7	AE	10
H	0.7	P	1.25	U1	2.5	W1	3.5	Z	5	AB2	7.5	AF	11
J	0.8	S1	1.5	U2	2.75	W2	3.75	AA1	6	AC	8		

3.3 Building height

Maximum building height is shown on the Building Heights Maps referred to in clause 4.3 of the Sydney LEP 2012.

Maximum permissible building heights range from 9 to 80 metres. The predominant height control is 12 to 15 metres, with 15 metres generally on the north side of Oxford Street and 12 metres on the south side. Maximum building heights of 45 metres, 50 metres and 80 metres are permitted to the west of the precinct. A maximum building height of 15 metres is permitted at the Darlinghurst Courthouse, NAS and UNSW Art and Design Campus.

Figure 9. Extract from the Sydney LEP 2012 Building Height (in metres) Map



3.4 Heritage Conservation

The precinct is located within the Oxford Street and Victoria Street (C12), East Sydney (C13), Oxford Street (C17), Paddington Urban (C50) and Victoria Barracks (C59) heritage conservation areas, excluding 1 Oxford Street and the Monument Apartment Building at 20 Pelican Street and 276-278 Crown Street. The precinct includes the state listed NAS site and 52 buildings which are locally listed in the Sydney LEP 2012.

Figure 10. Extract from the Sydney LEP 2012 Heritage Conservation Map



Heritage

- Conservation Area - General
- Heritage items - General

3.5 Sydney DCP 2012 controls

Although not the subject of this planning proposal, the Sydney DCP includes guidance which applies to the precinct including:

The current DCP contains site specific built form, land use and public domain controls, addressing:

- height in storeys with 2-3 storey heights through most of the precinct and 5, 12 and 15 storeys in the western part of the precinct
- active frontages from Hyde Park to Taylor Square, and on the south side of Oxford Street up to South Dowling Street
- building contributions including 132 contributory buildings
- late night management, city living and local centre late night trading areas
- footpath awnings and colonnades, pedestrian priority and signage controls.

4 Objectives and Intended outcomes

4.1. Objectives

The objective of this planning proposal is to implement changes to planning controls in the Sydney LEP 2012 to:

- Encourage the provision of uses that support Oxford Street's role as a local centre and an activity street.
- Facilitate the provision of floor space for a cultural and creative purpose in the Oxford Street cultural and creative precinct to:
 - Encourage the cultural and creative, entertainment, education, commercial and tourism sectors and associated industries in the precinct;
 - Support the existing cluster of creative uses in the area, anchored by the educational facilities in the area consistent with District Plan actions for the Harbour CBD;
 - Enhance the local area's cultural and night-time offering including supporting Oxford Street's role in the Eastern Creative Precinct and Harbour CBD; and
 - Prevent the loss of arts, cultural and creative floor space in the precinct.
- Support the local centre role of Oxford Street and facilitate the provision of cultural and creative space in the precinct by allowing for additional floor space and additional building height. The additional floor space and building height will only be available if development provides uses that are strategically important to the local centre and cultural and creative floor space on the site.
- Ensure that the scale and massing of the height and floor space ratio controls is appropriate in response to its context within the Oxford Street and Victoria Street, East Sydney, Oxford Street, Paddington Urban and Victoria Barracks Heritage Conservation Areas, setting of the surrounding heritage items, streetscapes and the surrounding low scale residential and commercial development.
- Ensure that additional floor space and additional building height is only permitted if it is demonstrated that it does not adversely affect heritage fabric or the structural stability of heritage items or contributory buildings.
- Retain and encourage other business, office, retail and education uses in the local centre, including shops, food and drink premises and educational facilities.
- Ensure that all new development protects and prevents the loss of existing entertainment and creative and cultural floor space within the precinct.
- Ensure that new development provides the diverse and activated street frontages that attract pedestrian traffic and contribute to the vibrancy, diversity and function of the high street, local centre, laneways and cultural and creative precinct.
- Facilitate the increased certainty, viability and activation of the NAS with additional uses that support its primary education use and cultural and creative purpose.

4.2. Outcomes

The intended outcomes of the planning proposal are:

- Alternative additional height and floor space will facilitate the provision of businesses and activities that support the local centre and floor space for a cultural and creative purpose in a strategically appropriate location;
- A built form that protects heritage and manages environmental impact; and
- A built form that provides increased activation of the cultural and creative precinct.

These changes give effect to *Sustainable Sydney 2030*, the *Eastern District Plan*, the *City of Sydney Local Strategic Planning Statement*, *OPEN Sydney and Action Plan*, *Creative City Cultural Policy and Action Plan*, *Live Music Action Plan* and the Sydney DCP late night trading provisions and draft Open and Creative planning reforms.

5 Explanation of Provisions

5.1. Sydney Local Environmental Plan 2012

5.1.1. Site-specific provision for the Oxford Street Cultural and Creative precinct

A new site-specific provision will incentivise the provision of business uses and activities and cultural and creative floor space through an alternative development scenario for buildings within the precinct. Floor space used for a cultural and creative purpose will be defined in the site-specific provision incorporating activities such as:

live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media film and television, photography or publishing or museums and archives dedicated to these purposes

This wording has been adapted from an existing provision in the Sydney LEP 2012 clause 7.22A(2) relating to the reuse of non-residential floor space in the R1 zone for creative purposes.

The clause will apply to all land in the precinct except for **buildings at the following properties in Darlinghurst: 189 Oxford Street, 217 to 263 Oxford Street, 56 Oxford Street, 103–105 Oxford Street, 163–169 Oxford Street, 173–175 Oxford Street, 21 Oxford Street, 37–41 Oxford Street, 185 Oxford Street, 171 Oxford Street, 107–111 Oxford Street, 43 Oxford Street, 48 Little Oxford Street and 183-183A Oxford Street are excluded from the alternative planning provisions. The location of these buildings is shown at Figure 11 below.**

The alternative provisions do not apply to the NAS, which will be the subject of a separate clause. The precinct will be identified on the Locality and Site Identification Map.

Alternative Height of Building (HOB) and Floor Space Ratio maps are included in section 7 and appendix 1 of this document which allow a two storey uplift on all **non-excluded** existing buildings in the precinct, provided certain conditions are met. The two storey uplift has been measured from the height of an upper level ceiling and equates to an increase of **up to 33,865sqm** floor space within the precinct.

Development eligible for the alternative planning controls must include one, or a combination of the following uses that support Oxford Street's local centre role: entertainment facility, health services facility, information and education facilities, hotel and motel accommodation, community facility, education facility, light industry, commercial premises. Development can only receive the uplift if it includes within the proposed GFA a minimum of 10 per cent of cultural and creative floor space on-site. The provision will allow additional floor space below ground level if it is for an entertainment facility with live entertainment **or cinema(s)**. These incentives must be read in conjunction with, and do not detract from, any heritage controls applicable to a site (see below).

A minimum site area is required for development of the amalgamated Courthouse Hotel and Kinselas site (including sites between) as greater height and floor space is to be permitted on the Kinselas and between sites to protect the heritage significance and typology of the Courthouse Hotel.

Two other minimum site areas will facilitate amalgamation of sites at 21-25 and 27-33 Oxford Street (The Art Hotel and the Rose, Shamrock and Thistle Hotel) and 4-6 Flinders, 4-6 Taylor Street, 10-28 Flinders and 2 Sturt Street (the former ARQ site and other sites).

Another specific provision will allow development to exceed the FSR of the existing planning controls by 1,825sqm only if it is located in a 5 storey podium on Wentworth Avenue and Oxford Street frontages to better define the corner and improve wind conditions and activate the entrance to Oxford Street at Whitlam Square.

Development must not adversely impact on the heritage significance of the heritage conservation area, on the built form, fabric and heritage significance of the heritage item, or endanger the structural stability of the existing building or any heritage items on or under the land, and not result in the loss of an entertainment facility or creative floor space. Development approved under this clause cannot receive additional height or floor space for exhibiting design excellence under Clause 6.21(7) and cannot apply for additional height through a variation under clause 4.6 of the LEP.

The site-specific provision will require a condition of consent and restriction on the use of land to be registered on the title which identifies the quantum of floorspace to be used for a cultural and creative purpose. The condition and restriction on title will require that the area is not used for any purpose other than a cultural and creative purpose (as defined in clause 5.1.1 of this document), and will not become subject to applications to change the use, unless it is for other cultural and creative purposes.

An example of how this provision may be drafted subject to agreement with the NSW Department of Planning Industry and Environment and Parliamentary Counsel is included in Appendix 2.

5.1.2. Retention of existing cultural and creative floor space

The proposed LEP amendment will ensure that all development in the precinct, whether or not it seeks to provide new cultural and creative floor space, will not result in the loss of existing cultural and creative floor space which existed in the precinct on the date that the provisions are placed on public exhibition.

An example of how this provision may be drafted subject to agreement with the NSW Department of Planning Industry and Environment and Parliamentary Counsel is included in Appendix 2.

Council ~~may consider including an~~ **will allow an** exception to this requirement to retain existing floor space used for cultural and creative purposes, **if a proponent is not seeking to access the increased uplift under the alternative planning controls**. The exception clause ~~may require~~ **a** proponent of development to demonstrate genuine and compelling site-specific reasons why this existing floor space cannot be retained. **If these can be demonstrated, then the consent authority will consider allowing the floor space to be used for an alternative broader range of cultural and creative purposes.**

5.1.3. New additional permitted uses and increased height at National Art School (NAS)

Two LEP amendments are proposed for the National Art School (NAS) located in the precinct.

The first amendment seeks to add entertainment facilities, community facilities, function centres, offices, information and education facilities, market retail, recreation area, filming, shops and food and drink premises as additional uses permitted with consent for the site. Only uses that support the educational use and cultural and creative activity on the site will be permitted.

An example of how this provision may be drafted subject to agreement with the NSW Department of Planning Industry and Environment and Parliamentary Counsel is included in Appendix 2.

The second amendment is to the existing FSR applying to the NAS, to increase it from 0.9:1 to 1:1. This minor increase in FSR will increase the permissible floor space on the site from 18,200 to 20,256sqm.

5.1.4. Extension of heritage conservation area

The proposed amendment will include 276-278 Crown Street within the C17 Oxford Street Heritage Conservation area.

5.2. Draft DCP guidance

The planning proposal does not seek to amend any other environmental planning instruments.

As noted in section 1 of this document it will be supported by associated amendments to the Sydney Development Control Plan 2012 which are addressed in a separate document and are not part of this planning proposal.

Site-specific guidance is proposed to support the amendments to the Sydney LEP 2012. The provisions will be contained within section 5 of the Sydney DCP 2021. The draft DCP controls relate to the built form, urban grain, architectural character, design of cultural and creative floor space, laneway activation, **servicing and access on laneways, diversity and inclusion** and building setbacks. New building contributions to the heritage conservation areas are also proposed.

The proposal aims to ensure that heritage is a key and consistent consideration throughout the design of additions and alterations to heritage buildings. The draft DCP introduces requirements to ensure that the heritage significance, including the need to conserve significant heritage fabric and structural stability informs development to heritage buildings in the precinct.

The draft DCP encourages a Statement of Heritage Principles to be agreed with the City prior to the submission of an application and for it to inform the design of changes to heritage buildings. It also requires a Heritage Structural Impact Statement to ensure that the structural stability of heritage buildings is not endangered.

The draft DCP will be publicly exhibited with the planning proposal.

6 Justification

This section of the planning proposal provides the rationale for the amendments and responds to questions set out in the document entitled *A guide to preparing planning proposals*, published by the Department of Planning and Environment in August 2016.

6.1. Strategic Merit

The planning proposal demonstrates strategic merit. It will recognise in the Sydney LEP 2012 and Sydney DCP 2012 a cultural and creative precinct in and around Oxford Street to support the proposed Eastern Creative Precinct, which is located within the Eastern District Plan's Harbour CBD strategic centre.

The proposal provides incentives to support creative and cultural, night-time and other supporting commercial activity in the Oxford Street B2 local centre and activity street. It will encourage a creative, and culturally rich and socially connected city and the provision of services and social infrastructure to meet the changing needs of the community.

The strategic merits of the proposal are discussed below, followed by consistency with the Eastern City District Plan, and the City's Sustainable Sydney 2030 strategy.

6.1.1. Making space for culture

Globally, an increasing number of cities are struggling to maintain their distinctive cultures in the face of rapid urban change. The fast pace of development, growing populations and increased property prices have had unintended impacts on cultural spaces like live music venues, small theatres, galleries, studios and rehearsal spaces. Redevelopment of industrial areas has reduced workspace for industries such as fashion, craft, media and design. Moreover, rising housing costs have shaped the cultural workforce along socio-economic lines, limiting creativity to those who can afford the rent.

Internationally, cities similar to Sydney are trying to address the issue and make space for culture. The substantial gap in the supply of cultural space or infrastructure, particularly for creation and production, will take collaboration and partnerships to close.

6.1.2. Floor space used for a cultural and creative purpose is a strategic need

The creative sector is vital to Sydney's future. Small art galleries, creative production and performance spaces and music venues, as well as start-ups and social enterprises, are incubators for Sydney's creative life. They diversify both the day and night-time economy, attract tourists and provide places for people to produce and engage with local culture.

At the 10 December 2018 Council Meeting, a Minute (Item 3.2) by the Lord Mayor was endorsed and adopted unanimously. The Minute discussed the challenge of making space for creativity and culture, and how vital having a rich creative and cultural community is to the creation of a strong, thriving and prosperous city. It outlined the need for clusters of new creative activities. It also

identified the shortage in the LGA of small to medium sized performance and rehearsal space venues, ranging from 200-500 people.

The City's *Local Strategic Planning Statement* (the Planning Statement) supports amending planning controls to include cultural uses as a strategic need and overcome the challenges of providing cultural and creative industry space in the city. Action L1.4 of the Planning Statement requires that the City investigate approaches for no net loss of creative, arts and cultural floor space.

In 2020 the City commissioned a Cultural Activity Study and a Floor Space Supply and Demand Study for the Oxford Street precinct to determine the locational and operational needs of creative businesses and the demand for floor space. These studies are included at Appendices A4 and A5. Both studies conclude that rents for floor space with a cultural and creative purpose in city fringe locations like Oxford Street can be unsustainable for most creative operators to afford. Without subsidies such as those offered through the City's Accommodation Grants or Creative Spaces program, many businesses simply cannot locate in the precinct.

Further, that despite a high level of vacancy (16 per cent of total employment floor space in 2017), existing floor space available on Oxford Street is not necessarily fit for purpose for different types of creative and cultural uses. Many of the premises along Oxford Street at the ground level are designed as shopfronts, which can only accommodate certain types of creative activity. Those businesses who place a value on having some form of affordable floor space at the expense of the perfect type of floor space take up these subsidies and make do with the confines of the spaces they tenant.

Creative manufacturing uses where producers make artworks or rehearse performances may require spaces that are more like warehouses with larger floorplates and higher ceilings. The types of creative uses which can utilise office spaces is also limited, and the retrofitting of existing built forms to better meet these needs can also be expensive, and out of reach for many potential creative tenants. The studies conclude that more diverse and affordable models of creative space should be incentivised in the precinct and ways of reworking existing vacant space explored.

6.1.3. Oxford Street as a local centre and a cultural and creative precinct

Oxford Street has a long history as a hub of creativity and culture, with long standing associations as a commercial shopping precinct, an iconic destination for nightlife and home to the annual Mardi Gras Festival and parade. Historically, the land use and built form diversity of the area has contributed significantly to its character, hosting a mix of fine grain businesses, educational institutions, health facilities, and spaces for residents, workers, visitors and festivals.

Oxford Street is also one of the city's local centres and characteristic 'high streets'. Most local or neighbourhood services and infrastructure are located in local centres. These places are the focus for community infrastructure, activity and most importantly, daily services and needs. Increasing the amount of space for business and activity allows a greater diversity of businesses to locate in centre, encourages specialisation and creates agglomeration benefits which drive more economic activity. This in turn provides more diverse services and activities for the wider community.

Over recent years, a high level of retail vacancy has occurred on Oxford street, the result of the loss of flagship stores and other retail outlets since the opening of larger shopping centres and increased trends in online spending.

This, alongside the impact of a noisy road environment, underused public spaces and repealed lockout laws have led to a decrease in patronage of Oxford Street. The impact of the COVID-19

pandemic now presents businesses on Oxford Street with more challenges, particularly in the lead up to hosting World Pride in 2023.

Despite these challenges, the Oxford Street precinct with significant built form, infrastructure and character, provides an opportunity for change and re-activation. The precinct retains:

- Its role as a historical main street, identified as the focal point of the Eastern Creative precinct and an activity street in the City's *Local Strategic Planning Statement*.
- Infrastructure which has supported the traditional creative and night-time hubs and festivals.
- Strong heritage character from its heritage properties, fine grain retail tenancies and character laneways
- Significant public domain, such as Taylor Square and Oxford Square and laneways such as Arnold Place, Little Oxford Street and Foley Street.
- The National Art School and the UNSW Art and Design Campus which offer the potential to anchor the precinct and foster creativity and innovation in the area.
- Potential to accommodate more efficient transport to increase space for people and improve amenity by encouraging cycling, rerouting traffic and reducing speed.
- A focus for investment as the City receives DAs and requests to change the planning controls in the precinct, with the scheduling for World Pride in 2023 motivating some developments.

The City identified Oxford Street as a centrepiece of the Eastern Creative Precinct as part of its Local Strategic Planning Statement. The Eastern Creative Precinct aims to support existing and emerging employment clusters within the area with Oxford Street having the opportunity to capitalise on the areas proximity to long term establishments including the NAS and UNSW Art and Design. Actions in the Planning Statement address investigating planning approaches to support creative industries, the cultural and performance sector and night-time businesses.

The Planning Statement includes an action to strengthen the economic and cultural role of the Eastern Creative Precinct by protecting and enhancing the entertainment, arts, performance and cultural role of areas and high streets within the Precinct, including through the provision of space for cultural performance and production. The first step in addressing the Eastern Creative precinct is outlined in Action L1.5 of the Planning Statement, to investigate planning approaches to support a creative and cultural precinct around Oxford Street and Taylor Square in collaboration with institutions, businesses and other stakeholders in the precinct.

The Planning Statement also calls for the City to plan for local communities to be able to access daily needs and essential services, including fresh food and health and personal services, within walking distance by providing an appropriate mix of uses, including local retail, services, infrastructure and recreation, in local centres (Action 2.1). The increased height and floor space will encourage activities and uses that support Oxford Street's role as a local centre.

This planning proposal establishes the Oxford Street cultural and creative precinct as the focal point of the Eastern Creative and Cultural Precinct. It aims to reposition Oxford Street by encouraging cultural uses as a driver of creativity and enterprise, a source of job creation, and potential for place-making. It also supports Oxford Street's role as a local centre.

6.1.4. Provision and retention of floor space used for cultural and creative purposes

Floor space with a cultural and creative purpose is a strategic need and is incentivised in the precinct include activities that involve:

live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes

These activities focus on creative and production purposes. They could include live entertainment, including the presentation or rehearsal of music, film, theatre, spoken word, comedy or dance, or the on-site display, production and sale of an artwork, craft, design or media, film, technology, image, and meet-the-maker style retail spaces and creative enterprises. They could also include facilities for the training and teaching of art, craft and design.

The proposal incentivises the provision of cultural and creative space as a strategic need, through an alternative development scenario within the precinct. This scenario provides the option for increased floor space up to a maximum of two storeys on the basis that 10 per cent of floor space is provided in the building is used for a cultural and creative purpose. This percentage is based on a reasonable proportion of the development given the increased height and/or floor space and provides for a diversity of creative spaces. The approved floor space for a cultural and creative purpose will be retained by the applicant during the life of the consent and will not become subject to applications to change the use, unless it is for other cultural and creative purposes. **A restriction on the use of land pursuant to section 88E of the Conveyancing Act 1919 will be registered on the title to the land requiring that the specified floor space is not used for any purpose other than a cultural and creative purpose (as defined in clause 5.1.1 of this document), and will not become subject to applications to change the use, unless it is for other cultural and creative purposes. The restriction on the use of land will be on terms required by the consent authority, will be prepared by the consent authority and must be registered on the title to the land prior to any Occupation Certificate being issued for the new development.**

The proposal also requires floor space currently in use for a cultural and creative purpose is to be retained in any future development. This will support the growth of the creative precinct and ensure it can build from its existing base. Buildings in the precinct which contain existing floor space used for cultural and creative purposes and seek to access increased height and/or floor space will be required to retain the existing floor space used for cultural and creative purposes and provide an additional 10 per cent of the total proposed GFA **of the entire building** for cultural and creative purposes.

Redevelopment which exceeds the current planning controls will accommodate creative and production activities, which often cannot afford to locate in inner city locations and for which the city has a strategic need. The redevelopment of sites within the precinct will increase the provision of floor space used for cultural and creative purposes and stimulate activity, by encouraging mixed uses, increased employment and pedestrian activity and contributing to the overall revitalisation of the local area.

The proposals to increase the provision of creative and production activities in the precinct could encourage other related businesses associated with the creative industry to locate in or around the precinct, but are not being incentivised. These other business uses could benefit from co-locating in the vicinity of creative and production activities and support and expand the creative precinct. These supporting uses could include for example, architecture, advertising and web and software design firms.

6.1.5. Retention of existing floor space used for a cultural and creative purpose in all redevelopment

Existing floor space in the precinct with a cultural and creative purpose has a significant role in re-positioning the Oxford Street cultural and creative precinct. This floor space includes for example Council-run Eternity Playhouse, East Sydney Community and Arts Centre, various commercial galleries and the Sydney Jewish Museum, National Art School, UNSW Art and Design Campus, the Whitehouse School of Design and entertainment facilities including the Palace Verona Cinema and the Oxford Art Factory.

The objective of the planning proposal is to leverage existing activity in the precinct and encourage a net gain in floor space with a creative and cultural purpose in the precinct. If existing floor space with a cultural and creative purpose is removed as part of redevelopment proposals, this net gain is not achievable. This is because the proposals which require a percentage of development floorspace to be provided for a cultural and creative purpose will only be replacing cultural and creative floorspace which has been removed.

For this reason, the proposed LEP provision requires the retention of all floor space with a cultural and creative purpose in all redevelopment proposals. This requirement will apply regardless of whether redevelopment seeks to access the alternative FSR and height provisions.

The following policy options may be considered to assist the implementation of this proposal.

Benchmarking

The planning proposal **has** benchmarked existing floor space with a cultural and creative purpose in the precinct. This is to ensure that there is no wilful removal of this floorspace prior to the consideration and publication of the LEP controls.

Floorspace used for a creative and cultural purpose in the precinct will be defined as that existing in the precinct from the date of the public exhibition, **10 September 2021**.

Council ~~will~~ **has used** use the data obtained from its Floor space Employment Survey 2017, database of business mailing addresses and a 2021/2022 survey of properties to verify existing floor space with a cultural and creative purpose. ~~It is the intention of Council to publish this information alongside the alternative LEP provisions.~~ **Properties with existing floorspace used for a cultural and creative purposes in the precinct as of 10 September 2021 and the quantum of floorspace used for a cultural and creative purpose will be listed in the Sydney DCP 2012.**

Exceptions

In some redevelopment proposals which do not seek to access the alternative FSR and height, there may be commercial reasons which preclude the retention of existing floorspace for a cultural and creative purpose. To ensure that this requirement is not anti-competitive, Council will consider providing an exception to this requirement only where genuine and compelling site-specific circumstances can be demonstrated.

Council ~~may consider~~ **will** allowing an exceptions to the retention requirement if a proponent can demonstrate site-specific and compelling reasons why the floor space is not able to be retained. This may include ~~the provision of evidence of the non-viability of the floor space~~ **and** a demonstration that all reasonable efforts have been made to preserve the floor space, including active and appropriate marketing over a stipulated continuous period.

If Council is satisfied that the floor space for a cultural and creative purpose as defined in this proposal cannot be retained, it may require that this floor space be tenanted instead for a broader purpose associated with cultural and creative purposes more generally. This broader purpose

could include for example architecture studios, heritage services, music publishing, advertising services, other specialised design services and other commercial businesses supporting the cultural and creative activities in the precinct.

6.1.6. National Arts School (NAS)

Education facilities such as the NAS and the UNSW School of Art and Design serve to anchor the precinct and foster more creativity and innovation in the area. The NAS is Australia's leading independent fine art school and has been operating on the site of the old Darlinghurst Gaol at the corner of Burton and Forbes Street, Darlinghurst since 1922. The old Darlinghurst Gaol includes a number of heritage buildings including the Cell Block theatre, the former Chapel and Governor's residence and is a state listed heritage item.

The NAS site is 20,256 sqm in area and located on land zoned SP2 – Infrastructure, Educational Establishment. This infrastructure zoning does not include flexibility for the art school to hold regular cultural and creative events, functions, markets, theatres, cafes, and performance space. The FSR on the site is currently 0.9:1 and the height control is 15m.

The NAS forms part of a growing and vibrant arts and education precinct. In early 2019, the Arts Minister announced a 45-year lease over the site for NAS, guaranteeing the future of the school and ending ongoing uncertainty around its tenure. NAS is now recognised as a State Significant Organisation in NSW, attaining the same status and funding category as Carriageworks and the Museum of Contemporary Art.

The NAS seeks to have additional uses permitted with consent and increase the FSR on the site to ensure the commercial viability of the school and support the school's role as a cultural destination, increase public access and provide the opportunity to extend their programs to the community. These outcomes will strongly contribute to the Oxford Street creative precinct.

Additional uses permitted with consent

The NAS has in the past operated an unlimited number of events and exhibitions on site, some in connection with NAS operations, and some commercial, third party events. Examples include well-established community events such as VIVID and Mardi Gras, corporate events, cultural and arts events, fundraising events, and weddings.

In recent years the City has required the NAS to formalise the use of the site for additional events. Recent approvals have enabled a limited number of events (up to 52 per year) to take place within the Cell Block Theatre of building 20 on the site.

The School wishes to expand the types of complementary uses that are permissible on the site to ensure the commercial viability of the School and to support the Eastern Creative Precinct.

The additional uses sought include: commercial events, commercial hire of office space, artist studios and rehearsal space, corporate functions, venue hire for private functions, including weddings, arts and cultural festivals, public art events, charity events, filming on site, weekend markets, community gardens, food and beverage offerings, performing arts events and site activation and exhibition.

Increasing the range of appropriate events and uses at the NAS site would support the objectives of the Oxford Street cultural and creative precinct. Many of these activities occur on other tertiary education sites in the LGA and are acceptable in the given the location of the NAS in the precinct close to Oxford Street. Allowing additional permitted uses for this site will provide certainty for the School and respond to issues raised in the early consultation about better activating this site.

The proposal will attract creative activity and audiences to the precinct and recognise the NAS as an accessible community and creative and cultural facility. Cultural and creative facilities on the

site will provide spaces for professional artistic development, cultural participation and expression by the general public. The proposal would enable NAS to host events and workshops for the broader community – rather than just for enrolled students.

The additional uses at NAS are likely to support an expanded range of regular activity, helping the site integrate into the mixed-use cultural and entertainment precinct. The additional uses at NAS will generate further direct and indirect employment opportunities, generating an additional visitation and workers associated with additional activities and events. These ongoing jobs will generate additional economic output, including significant contributions from industry sectors such as creative and performing arts services.

The proposal to increase the range of events and uses that could be approved at the NAS is acceptable as it will support the objectives of the Oxford Street cultural and creative precinct. These uses will include only those which will support the educational use and cultural activity on the site. Many of these activities occur on other tertiary education sites in the LGA and are acceptable in the given the location of the NAS in the precinct and close to Oxford Street.

Allowing additional permitted uses for this site which support the educational use and cultural activity on the site, will provide certainty for the School and respond to issues raised in the City's Oxford Street early consultation about better activating the site.

Increase in floor space

The NAS currently occupies 13,385 sqm of floor space on their site, which has a size of 20,256 sqm. The current FSR of 0.9:1 permits 18,230 sqm of floor space.

As a result of master planning for the site in association with NSW Create, the NAS is proposing redevelopment to address failing infrastructure and provide additional educational floor space. To unlock the sensitive redevelopment of the state listed heritage site, the NAS is seeking to increase and redistribute floor space to achieve a total of 19,600 sqm of educational floor space on the site. To enable this, it is proposed to increase the current FSR from 0.9:1 to 1:1, which would allow a total of 20,256 sqm.

The proposals seek:

- To restore original heritage fabric of the site where possible
- Buildings height increases from two storeys to the original three storey form
- Removal of inefficient additions and structures that will improve the amenity of the site
- New buildings which respond to the panopticon design on the site; and
- Increased functionality of the existing buildings, such as the Cell Block Theatre with contemporary back of house facilities and multi-purpose spaces to allow flexibility alongside purpose-built artform studios.

This increase in floor space across the site is considered minimal given the size and location of the site. The impact of the specific built form proposals on the state listed heritage site and the surrounding development will be addressed at the development application stage.

The proposals are generally acceptable as they are consistent with the objectives of the Eastern Creative Precinct and will increase the capacity of this educational institutional to anchor the precinct and support the growth of floor space used for a creative arts and cultural purpose. An increase in floor space will contribute to Sydney's day and night-time arts and cultural economies and assist with the regeneration and repositioning of the Oxford Street cultural and creative precinct.

6.2. Consultation and design input

The impacts of the proposal, including additional scenarios for changes to height and FSR were considered by a sub-committee of the City's Design Advisory Panel which supported:

- an increase of two storeys on buildings within the precinct to protect character and prevent disproportionate additions and amalgamations which could erode heritage character
- a 3 metre setback from the front of sites to prevent the damage or loss of parapets
- protection of existing street trees
- the activation of laneways and protection of solar access to these spaces
- further work in relation to Whitlam Square and Taylor Square to reinforce their role as framing this entry corridor to the city and increasing pedestrian amenity
- special conditions to be addressed in the draft DCP relating to the form of redevelopment for 1-19 Oxford Street (corner of Wentworth Avenue and Oxford Street), 115 Oxford Street (the former Arnold and Co Department Store) and 55-73 Oxford Street (Oxford Village) and 59 Oxford Street, Paddington (service station).

In February 2021 Council and CSPC resolved to set up the working group to assist City staff in preparing updates to the City's LEP and DCP. In March 2021 the proposals received support from the Planning Control Update Working Group which included City Councillors and representatives of the Department of Planning Industry and Environment and the Office of NSW Government Architect. The Department of Planning sought the temporary activation of vacant uses and the need for heritage and public domain opportunities around Oxford street to inform the proposals.

As outlined in section 1, this proposal has been informed by the outcomes of early consultation which have confirmed significant support for the cultural and creative precinct, activation of the precinct, more cultural and creativity in the precinct, improved amenity of public domain, reviews of planning approaches including additions to heritage buildings and more affordable creative space.

6.3. Site specific merit

6.3.1. Retention of cultural and creative floor space in the precinct

The planning proposal will require that all development in the precinct retains floor space in use for a cultural and creative purpose (as defined in the clause) existing from the date of the commencement of the public exhibition of the proposals **(10 September 2021)**. This will apply to all development in the precinct, including development which does not seek to provide new cultural and creative floor space. Council ~~may consider including~~ **has included** an exception clause as outlined in section 6.1.5 of this proposal.

6.3.2. Proposed development outcome

The planning proposal takes a place-based approach to providing cultural and creative activity and activating the Oxford Street corridor. It does this by enabling buildings within the precinct to redevelop to an increased alternative height and FSR. This redevelopment may only be triggered if

floor space used for cultural and creative purposes, is provided in a specified proportion of the GFA of a building.

A scale and massing of development is proposed which is appropriate to protect the heritage and built form character and public domain of Oxford Street and provide the quantum of floor space required to encourage redevelopment and the provision of creative and cultural floor space in the precinct.

A number of buildings have been excluded from the south side of the precinct. These buildings have roofscape heritage features that are visible from the public domain of Oxford Street or are heritage listed and contributory buildings and which will cause impacts on residential amenity from overshadowing. The south side of the precinct is characterised by earlier fine grain buildings, which were not developed as groups and have a greater diversity in form and roofscape which should be retained. Buildings on the south side of Oxford Street create a character that is different to the north side where buildings were developed as more uniform groups and are more able to absorb change.

The National Art School, the Courthouse Hotel on Taylor Square at 189 Oxford Street and buildings at the following properties in Darlinghurst: 217 to 263 Oxford Street, 56 Oxford Street, 103–105 Oxford Street, 163–169 Oxford Street, 173–175 Oxford Street, 21 Oxford Street, 37–41 Oxford Street, 185 Oxford Street, 171 Oxford Street, 107–111 Oxford Street, 43 Oxford Street, 48 Little Oxford Street and 183-183A Oxford Street are excluded from the alternative planning provisions. The location of these buildings is shown at Figure 11 below:

Oxford Street Cultural and Creative Precinct

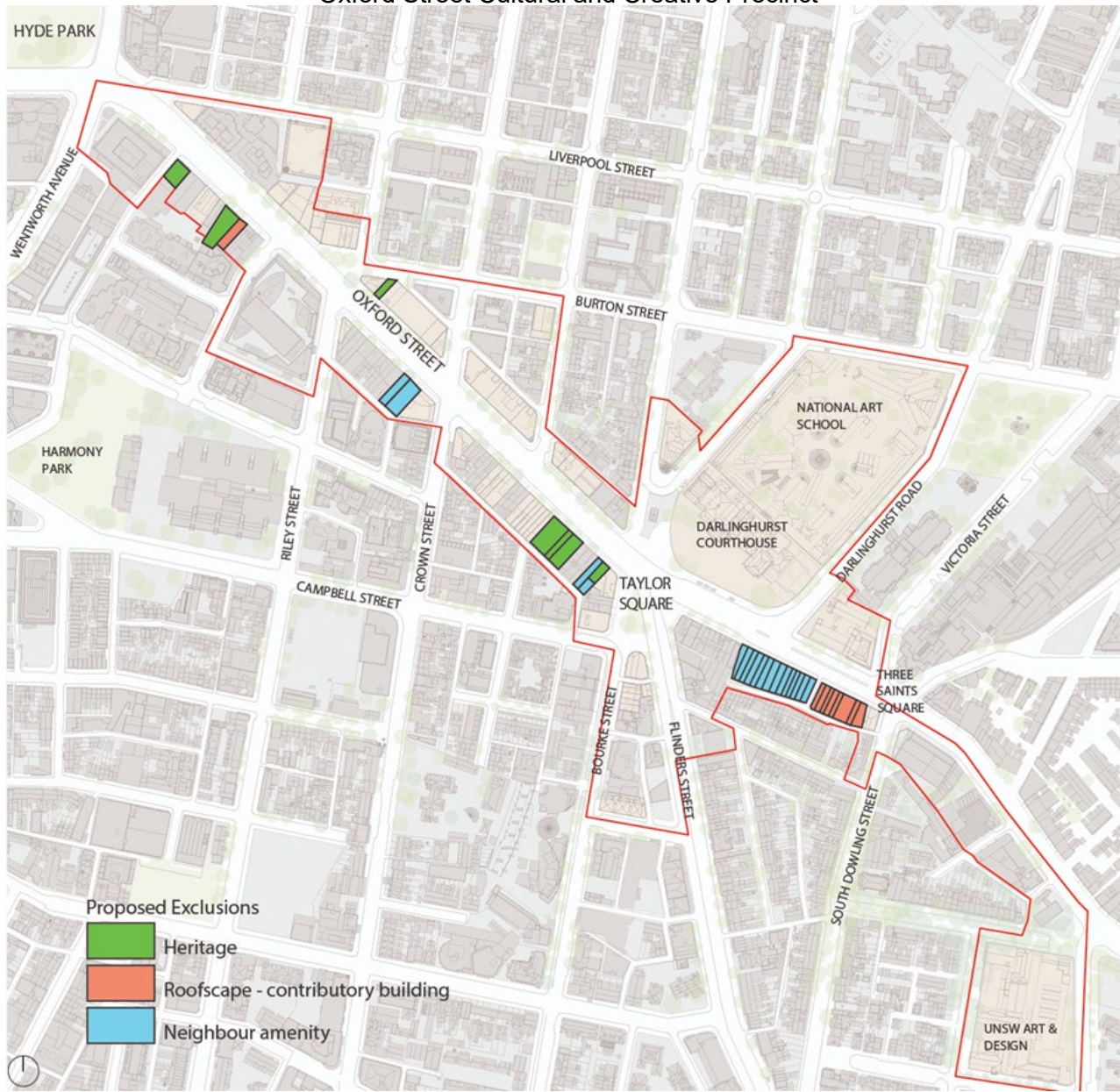


Figure 11. Buildings excluded from the planning proposal

The planning proposal includes a separate amendment to the floor space for the National Art School to support its ongoing use and contribution to the precinct while accounting for its unique heritage qualities. The Courthouse Hotel at 189 Oxford Street, is a heritage item which is not considered appropriate for vertical additions due to its heritage significance and typology. In the case that this site is amalgamated with the Kinselas Hotel site, uplift may be permitted on part of the amalgamated site. This matter is detailed further below.

The proposed changes to the built form will deliver **up to 33,865 sqm** of new floor space throughout the precinct. This floor space will be able to be approved provided heritage is managed and where existing cultural and creative floor space is retained and a portion of the new development includes floor space used for a cultural and creative purpose.

The proposed controls will facilitate **up to 10,554sqm** of creative and cultural floor space in the precinct, including entertainment, community and education facilities, light industry, business premises, retail premises and office premises. This could almost double the existing cultural and creative space in the precinct. The impacts of this proposal have been subject to analysis and testing through an urban design and heritage study prepared by Studio Hollenstein and attached at Appendix A2.

~~The City's proposed building envelopes are shown in Figure 11 below~~

6.3.3. Height and building envelope

This Planning Proposal is to provide alternative height and building height controls in the LEP to achieve intended outcomes of the proposed development concept. The proposed increase in height will provide the potential to unlock the FSR and redevelopment of sites that may be constrained by the current height controls.

The planning proposal allows a two-storey increase in height up to a maximum height and massing which is acceptable within the scale of the streetscape and will maintain the contribution of buildings in the precinct to the significance of the conservation area. The draft DCP establishes the building envelope and setbacks to retain the prominence of the original facades and corner elements.

The alternative height and FSR is measured in respect of the existing built form on a site, so as a result the alternative FSR and height controls are varied and specific to individual sites. New building heights are measured from the upper ceiling height of the existing top floor of a building.

Individual sites in the precinct will be eligible for either:

- An increase in height and FSR, or;
- Only a height increase, to accommodate the existing allowable FSR for the site, or
- No increase in height or FSR, because the two-storey addition is within the existing capacity of the current height and floor space controls.

Table 1 shows the range of existing and proposed maximum building height controls mapped in Part 4 of this proposal.

Block	North or south	Existing FSR Range	Proposed Alternative FSRs for sites which receive uplift	Existing height of building	Proposed Alternative Height of building In metres or sites which receive uplift
Whitlam Square to Riley Street	N	2.5:1, 2.75:1, 4:1, 5:1, 6:1, 10:1	3.25:1 , 4:1, 4.5:1, <u>5:1, 2.75:1</u>	15m, 22m, 45m, 50m,	22m, 24m, 27m, 29m
	S	4.5:1, 6:1, 10:1	6:1	12m, 15m, 80m	18m, 20m, 23m , 28m
Riley Street to Flinders Street	N	1.75:1, 3.5:1, 4:1, 4.55:1	4.5:1, 5:1	12m, 15m, 18m	23m, 24m, 25m, 27m
	S	3:1, 4:1	3.75:1, 3.25:1, 3.5:1, <u>4:1, 4.5:1</u> , 5:1	12m, 15m, 18m	18m, 20m, 22m, 23m, 24m, 25m,
Flinders Street to South Dowling Street	N	1:1, 2:1, 0.9:1	1:1 (new NAS)	15m, 22m	Excluded (NAS)
	S	3:1, 3.5:1, 2.5:1	<u>2.75:1, 3.25:1</u> , 3.5:1, 4:1, 3.75:1, 3:1	12m, 15m	18m, 20m, 22m, 23m
South Dowling Street to Greens Road	N	Woollahra	Woollahra	Woollahra	Woollahra
	S	1.75:1, 3:1, 2.5:1, 2:1	3.5:1, 3.25:1	12m, 15m	20m

Table 1 Existing and proposed FSR and height controls on blocks on Oxford Street

New building heights will vary on each block in the precinct, and will range from 18 to 29 metres, equivalent to two storeys, to a maximum height unique to each site. Special conditions relating to the form and the vertical location of additions apply to 1-19, 115 and 55-73 Oxford Street Darlinghurst and 59 Oxford Street, Paddington and are addressed in the draft DCP. New building heights have been measured from the upper ceiling height of the existing top floor of a building.

The proposed increased in building heights distributes floor space in the precinct without compromising the heritage character, amenity of surrounding uses, and low-scale residential uses to the north and south. It will also deliver better public domain and design outcomes, compared to outcomes that would be achieved under existing controls.

The massing of development onto rear laneways, will be required to be designed to ensure that laneways receive sunlight and that overshadowing is minimised through the solar access controls in the Sydney DCP 2012. To limit any impact on laneways and residential areas abutting these laneways most of the proposed built form will be massed to the Oxford Street side with only minor increase in height at the rear.

6.3.4. Protection of heritage conservation and character

The precinct is in the Oxford Street and Victoria Street (C12), East Sydney (C13), Oxford Street (C17), Paddington Urban (C50) and Victoria Barracks (C59) Heritage Conservation Areas and includes 52 locally listed buildings and 132 contributory buildings.

The proposal will ensure that development is to respond to and complement heritage items and contributory buildings, including streetscapes and lanes. It will recognise the existing character of a site and ensure that disproportionate additions and amalgamations are not encouraged on buildings within the precinct which will erode heritage character. The two-storey additions will be measured from the upper ceiling levels of the existing buildings to respect character and continue the diversity in building heights across the precinct.

The proposal ensures that two storey additions on heritage buildings within the precinct will not proceed if they result in the loss of heritage character, significance or damage to heritage fabric. To preserve heritage character and prevent the loss or damage of parapets, the proposal will be supported by site-specific guidance for the precinct in the Sydney DCP 2012 which requires a 3m upper level setback from the front of sites.

In addition to the National Art School and the Courthouse Hotel on Taylor Square at 189 Oxford Street, 24 contributory buildings, seven heritage items and two heritage items for amenity reasons will be excluded from the proposals for additional development. Heritage listed and contributory buildings at the following properties in Darlinghurst are excluded from the alternative planning provisions: 217 to 263 Oxford Street, 56 Oxford Street, 103–105 Oxford Street, 163–169 Oxford Street, 173–175 Oxford Street, 21 Oxford Street, 37–41 Oxford Street, 185 Oxford Street, 171 Oxford Street, 107–111 Oxford Street, 43 Oxford Street, 48 Little Oxford Street and 183-183A Oxford Street.

Extension to Oxford Street Conservation Area

A minor extension to the Oxford Street Conservation Area (C17) is proposed to include the site at 276-278 Crown Street. This building is a three storey, early twentieth century brick commercial building, consistent with the character of the surrounding built form of the conservation area. The exclusion of this site from the Oxford Street Conservation Area is an anomaly which should be addressed to protect character and ensure a consistent built form, particularly if the site is amalgamated as a result of redevelopment proposals.

New building contributions to the heritage conservation areas in the precinct are proposed which are supported by the Heritage Study at Appendix A3. An amended Heritage Conservation map is included in section 7 and appendix 1 of the Planning Proposal.

6.3.5. Design and type of floor space used for cultural and creative purposes

A total of 10 per cent of total GFA in a new development accessing the two-storey uplift must be for floor space used for cultural and creative purposes. This percentage is based on a reasonable proportion of the development given the increased height and/or floor space and provide for a diversity of creative spaces. To encourage entertainment **and cinema(s)** uses, additional floor space below ground level may be awarded for that use, subject to compliance with heritage controls applicable to the site.

The approved floor space for a cultural and creative purpose will be required to be retained by the applicant during the life of the consent, **will be subject to a restriction on the use of land pursuant to section 88E of the Conveyancing Act 1919 requiring that the specified floor space is not used for any purpose other than a cultural and creative purpose (as defined in clause 5.1.1 of this document)**, and will not become subject to applications to change the use, unless it is for other cultural and creative purposes. **The restriction on the use of land will be**

on terms required by the consent authority, will be prepared by the consent authority and must be registered on the title to the land prior to any Occupation Certificate being issued for the new development.

Floor space for cultural and creative purpose will be located within the new development and encouraged in ground floor locations where they may activate street frontages and attract pedestrian traffic. Floor space for maker spaces or performance venues may not need to locate at street level and will be permitted anywhere in the redevelopment.

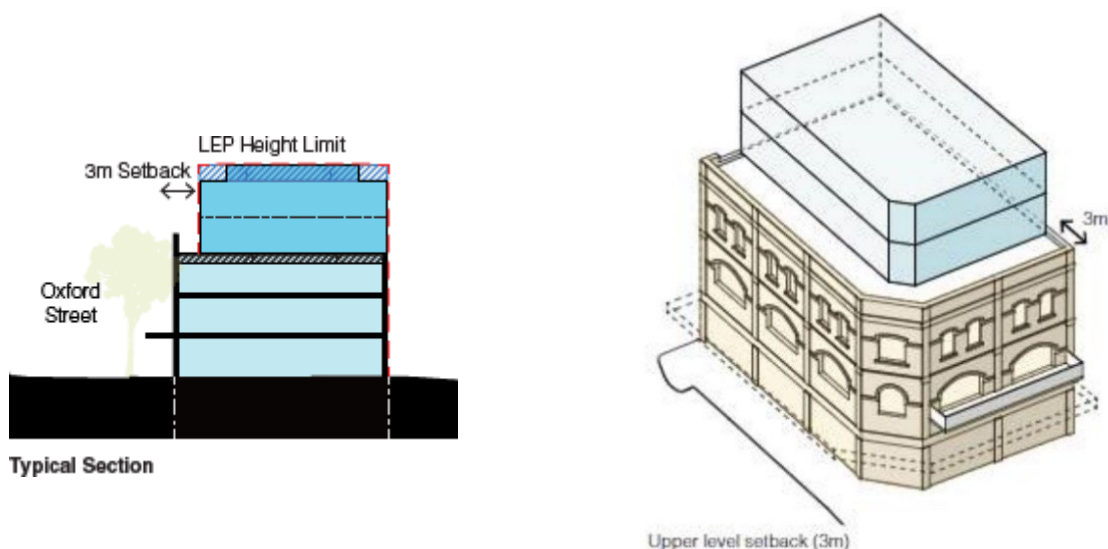
The Draft DCP provides guidance relating to how the provision of floor space for cultural and creative purposes should be **calculated and** designed so it's fit for purpose and outline the types of creative spaces the City is seeking in the precinct. Creative space sought as a priority within the OxfordStreet precinct includes performance spaces with 200–500 person capacity, creative manufacturing spaces (ceramics, glass, plastics and metalwork), visual arts studios, large rehearsal spaces, music production, film, TV and recording studios and multi-purpose collaborationand education space.

It is anticipated that the proposed controls could facilitate ~~more than~~ **10,554 sqm** of cultural and creative floor space in the precinct in spaces ranging between 20sqm workshop/studio spaces, 100 to 300sqm performance and rehearsal spaces and 400 to 700 sqm gallery and live music spaces. This could almost double the current provision of creative space in the precinct.

6.3.6. Built form

The planning proposal allows a two storey increase in height **to some properties.** The massing of the proposal is acceptable within the scale of the streetscape and maintains the contribution of the building to the significance of the conservation area. As a result no variations to the alternative height and floor space controls will be permitted under the new controls.

Figure 12. Building envelope and above level setback



The draft DCP establishes the building envelope and upper level setbacks to retain the prominence of the original facades and corner elements as shown in Figure 12 above.

6.3.7. Design excellence

If sites seeking redevelopment in the precinct triggers the design excellence requirements of Clause 6.21 of Sydney LEP 2012 a competitive design process must be carried out. This will ensure that the highest standard of architectural, urban and landscape design is achieved on large sites in the precinct.

Additional floor space or height will not be awarded in the precinct as a result of a competitive design process. This is because the additional height and floor space is to be provided through the alternative height and floor space controls in this planning proposal. The alternative height and floor space will result in a scale and massing of development that is considered appropriate to heritage significance and character of the built form.

6.3.8. Courthouse Hotel, Kinselas and 379-381 Bourke Street

The Courthouse Hotel at 189 Oxford Street on the corner of Taylor Square and Oxford Street is an intact heritage listed building with a narrow typology, shallow foundations and a courtyard to the rear. The hotel and Kinselas (383-387 Bourke Street) and 379-381 Bourke Street are recently in single ownership. Together they represent four highly visible sites with an important frontage and built edge onto Taylor Square. Given the prominence of this site, it is appropriate to take a holistic view in how these amalgamated sites might redevelop and how additional massing might be established.

The approach taken in the planning proposal is to permit the equivalent uplift available across other sites in the precinct but limit increase in height to Kinselas and 379-381 Bourke Street **and other selected heritage buildings east and west of Taylor Square**. This is because vertical additions to this building **Kinselas and 379-381 Bourke Street** will result in unacceptable impacts on the heritage significance and structure **and integrity** of the Courthouse Hotel. As this site is under the same parcel of ownership as Kinselas Hotel, the increase that may have been afforded to the Courthouse Hotel can be consolidated to the site at 379-381 Bourke Street between Kinselas and the Courthouse Hotel, bringing the total additional height to four storeys subject to heritage principles being agreed at the outset. A minimum site area control facilitates the redistribution of the built form. Figure 13 shows the proposed massing on this amalgamated site.

Figure 13. Indicative massing of the Courthouse Hotel, Kinselas and 379-381 Bourke Street

6.3.9. Uses that attract pedestrian traffic

The proposed LEP clause requires the provision of uses that promote pedestrian traffic along ground floor frontage of streets in the precinct. This is to ensure that retail, commercial, business, light industrial and community uses can activate the street and attract pedestrian traffic and interest. The intention of this clause is to ensure genuine active uses for all, or the majority of, ground floor floorplates.

This wording has been proposed instead of applying the model clause 7.27 (Active Frontages) of the Sydney LEP, which would only allow the provision of retail and business premises to activate streets in the precinct. This is not appropriate as it would exclude entertainment facilities, maker spaces and community facilities and other desirable uses from locating at ground level and activating the street.

The requirement will complement the existing active frontages encouraged and mapped in the precinct in the Sydney DCP 2012.

6.3.10. Activation of public domain and laneways

The proposal encourages the activation of the public domain by requiring active ground floor uses in ground floor tenancies and continuous awnings above retail units.

The proposal includes DCP controls which require street level tenancies with a frontage to public places and maximise street level food and drink premises. This will be applied to frontages onto Taylor Square, Oxford Square and identified corner sites in the precinct

The proposal includes new DCP controls to encourage the activation of laneways in the precinct, such as Arnold Place, Foley Street, Iona Lane, Verona Street, Rosebud Lane or Little Oxford Street.

While the activation of the laneways in the precinct is broadly encouraged, it is acknowledged that many of these lanes provide an important servicing and access function for the adjacent business

and residential tenancies. As a result, the requirement in the draft DCP to activate laneways is only applied to large sites, where wider frontages will enable the incorporation of a small tenancy as well as providing for servicing and access.

On sites with a 6m wide frontage onto these laneways, the draft DCP requires the site to:

- activate the laneway with small scale tenancies and spaces with active frontages at ground level to promote activities such as retail, food and drink, service and community facilities that contribute to the enjoyment of lane way; and
- promote and create the opportunity for the inclusion of art, landscaping, street furniture, activity spaces; and
- improve the pedestrian amenity of the laneway through the use of materials, lighting and designated areas for pedestrians and vehicles.

Development fronting onto a laneway is encouraged to respond to the fine grain pattern, create visual interest and vertical articulation, not impede pedestrian movement and orientate windows and balconies to overlook lane ways.

DCP controls require a transport management plan which demonstrates a consolidated, single building approach to the servicing and access of commercial properties to minimise impacts on residential amenity.

6.3.11. Additional below ground space for entertainment

The use of basements for entertainment facilities **and the presentation of film in a cinema complex** is encouraged by allowing 0.8:1 additional floorspace below ground to provide more cultural and creative and late night uses in the precinct.

Basements provide ideal, characterful and unique spaces for late night trading uses, such as clubs and performance spaces. In these below ground spaces, it can be far easier to attenuate noise

impacts and achieve separation from other land uses. The reuse of existing basements and careful redevelopment of new basement spaces may help activate a more diverse night-time economy on Oxford Street. These controls must be read in conjunction with the heritage provisions described at 6.3.4.

6.3.12. Traffic and transport

Although not the subject of this planning proposal, Council is also considering the long-term improvement of public domain on Oxford Street. This includes a strategic revisioning of the public domain and reconsideration of the street's movement functions to improve amenity and conditions for walking and cycling.

It is anticipated that in the future, more efficient transport and reduced traffic speeds on Oxford Street will free up space for people, improve amenity and conditions for walking, increase safety and decrease noise. This will make Oxford Street a more inviting and comfortable place.

Council is changing traffic by developing cycleways. Proposals for a separated centre-running cycleway running west of Taylor Square were exhibited in late 2020. Council is currently considering feedback on the design of the cycleway, the impact on businesses, Mardi Gras and connections to other cycleways in the city. To further improve the amenity of Oxford Street the City is also advocating for the consolidation of the buses, electrification of the bus fleet and re-rerouting of traffic to purpose built arterial roads.

6.4. Managing Impacts

The City has developed a draft DCP with this planning proposal including site-specific measures to help guide development in the precinct and ensure that impacts from the proposed increased building heights and FSR can be effectively managed. These are discussed below.

6.4.1. Impacts on heritage significance and structural stability

The proposal ensures that two storey additions on heritage buildings within the precinct will not proceed if they result in the loss of heritage character, significance or damage to heritage fabric. To preserve heritage character and prevent the loss or damage of parapets, the proposal will be supported by site-specific guidance for the precinct in the Sydney DCP 2012 which requires a 3m setback from the front of sites.

The proposal aims to ensure that heritage is a key and consistent consideration throughout the design of additions and alterations to heritage buildings. The draft DCP amendment introduces requirements to ensure that the heritage significance, including the need to conserve significant heritage fabric and structural stability informs the design of additions to heritage buildings in the precinct. The draft guidance will require that a:

- *Statement of Heritage Principles* is encouraged to be agreed to by the City prior to the submission of a development application. This document will address (1) the heritage significance of the place, site and building and the contribution of the building to the conservation area, (2) specific heritage arrangement and features, including the grading of elements to be preserved, and (3) detailed physical structure of the building and methods to ensure that the stability of this structure is not endangered;
- Heritage Structural Impact Statement accompanies the Heritage Impact Statement in applications for development consent. This document will outline how the proposal is consistent with the Statement of Heritage Principles and the method for: (1) retaining all significant fabric on the site during the demolition and construction stage, (2) enabling the structural stability for the long term retention and (3) minimising any impact on the heritage features and adjoining structures.

Other DCP guidance will be required **to protect identified roof features that are visible from Oxford Street**, respect the prevailing scale, character and form of the street, as defined by the Victorian, Federation and Inter-war heritage buildings, retain significant shop fronts, and ensure the existing heritage item on the site will be given an appropriate visual and physical setting that retains its significance **and does not result in facadism**.

6.4.2. Impacts on built form

The draft DCP provides controls to ensure an acceptable outcome in relation to the heritage significance of the building, the conservation area, surrounding heritage items and the streetscape.

Building street frontage height in storeys

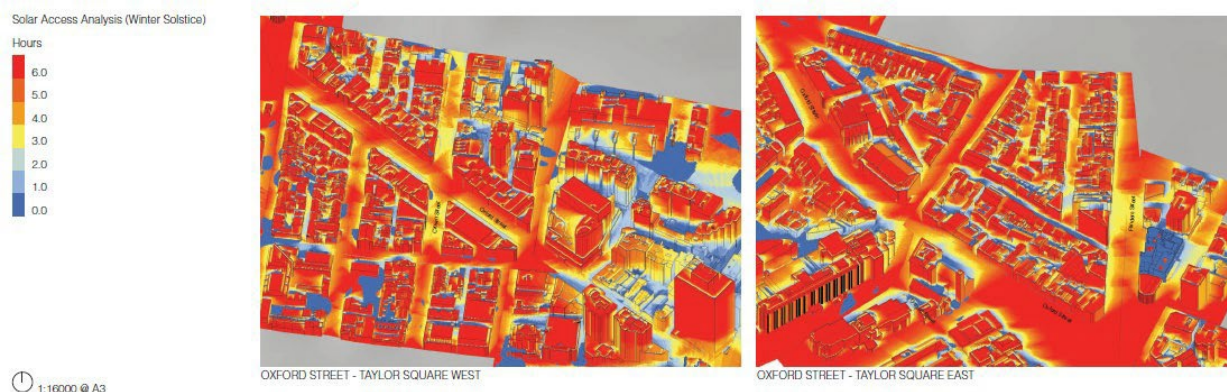
To manage the massing of development and the impacts on the surrounding streetscape, the DCP amendment will map new building street front heights in the DCP which allow 2, 3, 4 and 5 storey heights in the precinct, including 4 and 5 storey blocks on the north side, and mainly 3 stories on

blocks east of South Dowling Street.

Laneway solar protection

Figure 44 **13** below shows that due to the orientation of Oxford Street running north-west to south eastmost adjoining properties are oriented towards the north east providing significant morning to midday solar access. Due to the 30m width of Oxford Street, only very few properties on the north side of the street overshadow properties on its southern side. The street itself has good solar access which is an important component in promoting on street dining, activity and pedestrian amenity.

Figure 44. **13** Oxford Street precinct solar access analysis



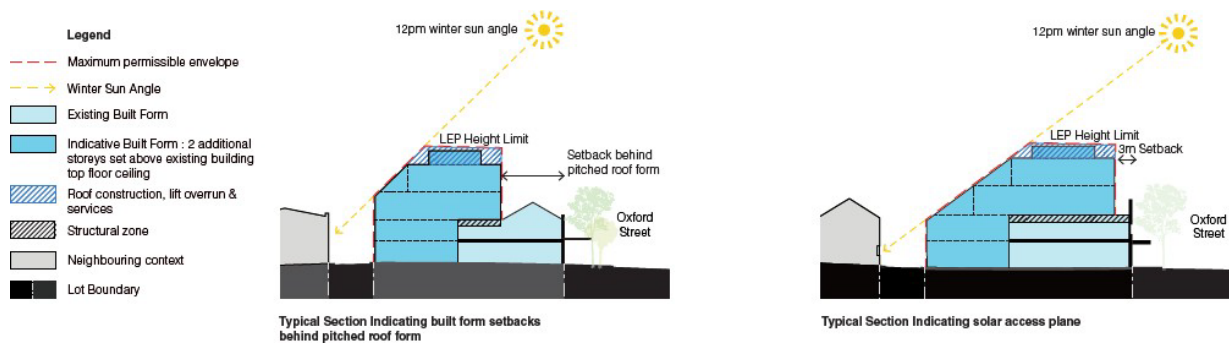
The relatively narrow width of rear laneways and streets means that uplift in properties in the precinct could impact the solar access of development on laneways. This is particularly true for properties on ~~Sturt Street~~, Little Oxford Street, Arnold Place and Iona Lane.

The massing of development onto rear laneways, ~~such as Sturt Street~~, will be required to be designed to ensure that laneways receive sunlight and that overshadowing is minimised through the solar access controls in section 4.1.3.1 of the DCP 2012.

While the detailed assessment of overshadowing will be considered at development application stage, a preliminary assessment has been considered in this planning proposal. To limit any impact on laneways and residential areas abutting these laneways most of the proposed built form will be massed to the Oxford Street side with only minor increase in height at the rear.

Figure 45 **14**. Solar access to adjacent low scale buildings and laneways

Oxford Street Cultural and Creative Precinct



The sections shown in Figure 45 **14** above show the impact of the increase in built form on adjacent low scale buildings. The section on the right shows the proposed massing of laneways.

Figure 46. **15** Solar access to adjacent higher scale buildings

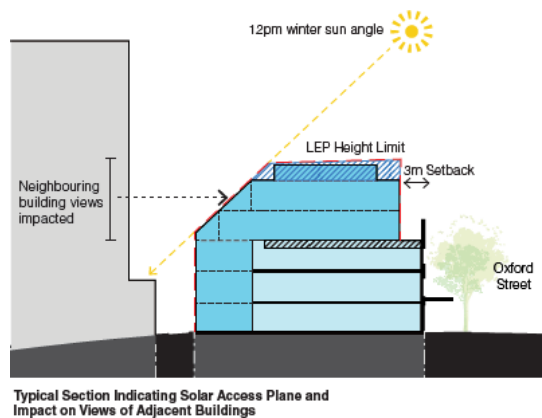


Figure 46 **15** shows the indicative massing and solar access to higher scale buildings, typically located west of Crown Street.

6.4.3. Traffic, transport and parking impacts

A Transport Study has been prepared to support the planning proposals and the establishment of 42,500sqm of proposed employment floorspace, including the 11,000sqm of floorspace for a cultural and creative purpose. Since commissioning, the total employment floorspace has been reduced to 33,865sqm and floor space for cultural and creative purpose to 10,554sqm.

The Study recognises that the planning proposal is developed in parallel with local planning strategies Sustainable Sydney 2030 and NSW Future Transport 2056 to encourage active and public transport use in the Oxford Street City Fringe area. The Study concludes that the additional trip demand generated by the planning proposal is 1,392 in the morning and afternoon peaks the majority of which use public transport and can be accommodated within the capacity of the existing transport network. The planning proposal is forecast to generate an additional 70 trips by car in both the am and pm peaks. This is considered insignificant when set against the heavy regional traffic carried by Oxford Street and is not expected to have any material effect on intersection level of service.

Development in the creative and cultural precinct will take advantage of future cycleway and public

domain improvement proposals (not part of this planning proposal) and good proximity to public transport links, on high capacity bus routes running along Oxford Street, connecting the area to Central Sydney, Bondi Junction and eastern Sydney beaches.

The planning proposal and draft DCP does not propose additional controls to address traffic, transport and parking. Traffic, transport and parking impacts of individual developments will be subject to assessment through applications for development consent on a case by case basis against the planning controls in the Sydney LEP and DCP 2012.

6.4.4. Activation of the National Art School (NAS)

The activation of the NAS will increase patronage and employment at the School.

To address the impacts of increased activation on surrounding has undertaken a transport assessment. The Transport Assessment has concluded that:

- The site has access to high frequency bus services
- The additional permissible uses would draw from a local catchment that generally walks or cycles to the site (e.g. weekend markets) and for events
- For uses that draw on a wider audience (e.g. functions, weddings) the site's location, accessibility and constrained parking will encourage most visitors to arrive by sustainable modes of transport.
- For those that drive there are a number of public parking facilities in close proximity to the site.
- Transport management measures will be in place to reduce the impacts arising from future site uses to the surrounding community.
- A Green Travel Plan and Transport Access Guide will be developed as part of a future Development Application for the site to promote sustainable means of transport to the NAS campus.

The NAS has undertaken consultation with neighbouring residents and groups undertaking letterbox drops, a meeting with residents from the Dominion apartments and a webinar. Issues raised have included appropriateness of the proposed events, acoustic, traffic and security impacts.

To minimise the impact of increased activity on local residents, the NAS is currently considering the provision of access to *and egress from the* site and these events through an alternative locations from Darlinghurst Road where there are less residential neighbours.

The impacts of these additional permitted uses for entertainment facilities, community facilities, function centres, offices, information and education facilities, filming, market retail, recreation area, shops and food and drink premises will be assessed through applications for development consent, where the community will have the opportunity to comment.

Each event will be required through conditions of consent to occur within prescribed hours and to mitigate noise and other potential impacts on local amenity. Issues relating to hours of operation, noise, traffic management and operational issues such as security can be addressed through existing DCP controls, conditions on consent and plans of management.

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is informed by the outcomes of an early consultation process and a set of consultant reports prepared in respect of urban design and heritage, floor space supply and demand and cultural activity.

- **Early consultation** was undertaken from 6 October until 1 December 2020 to obtain the views of community, business and landowners about their current and future priorities, the planning controls, appetite for change and the changes desired within the Oxford Street cultural and creative precinct. A range of consultation activities were undertaken including an online survey, a self-guided walking tour, the writing of love letters to Oxford Street, submissions via email, an ideas chalkboard at the NAS and a series of online workshops. An invitation to participate in the early consultation was sent to over 11,000 owners and occupiers and emailed over 150 stakeholders across Sydney. A significant response was received confirming strong support for the cultural and creative precinct, improved amenity and activation and reviews of planning approaches. The outcomes of consultation are detailed in the engagement report by Cred Consulting in Appendix A1 of this planning proposal.
- **An Urban Design and Heritage Study** (Studio Hollenstein and Curio) was undertaken to review the development potential and heritage significance of the existing built form on Oxford Street. It identifies key opportunities to reconsider public domain including open spaces and rear lanes and through site links, to activate laneways and street frontages and encourage development with minimal impacts on heritage and amenity. To maintain the heritage character and not erode heritage significance it supports a scenario for a two storey uplift on all properties in the precinct, up to a maximum height and with a 3m front setback. The massing of development onto rear laneways and side streets, will be required to be designed to ensure that laneways receive sunlight and are not overshadowed by built form to ensure that the amenity of these streets, and residential properties fronting these streets, is not significantly reduced. The Heritage Study recommends new building contributions within the precinct. The Urban Design and Heritage Study is included in Appendices A2 and A3 respectively of this planning proposal.
- **A Cultural Activity Study** (SGS Economics and Planning) was undertaken to look at the specific operational and locational needs of creative and cultural businesses in and around Oxford Street. Issues for creative businesses include high rents, the presentation of the street, declining patronage, regulatory processes, affordability, lack of diversity, limitations on type of spaces available. The Study concludes that there will be demand for creative users who require some form of subsidy and boutique agencies or high-end retail requiring high quality and flexible commercial floor space.

It recommends amending controls in the precinct to allow for light industrial uses where possible, mandating higher ceilings in new developments to allow for flexibility in usage and exploring opportunities to improve the streetscape and/or appearance of buildings and better utilise existing space for different activities. The Study also recommends using future developments to support creative and cultural uses by investigating and implementing a bonus floor space scheme to incentivise new creative space as part of redevelopment projects and exploring live/workspaces in and around the precinct. The Cultural Activity Study is included in Appendix A4 of this planning proposal.

- **A Floor Space Supply and Demand Study** (SGS Economics and Planning) was undertaken to look at the demand for retail, food and drink, employment and creative floor space in the precinct. The Study concludes that while the projected need for additional floor space in the precinct to 2036, is 12,200 sqm (with the largest proportion in office space), if COVID trends of working are applied, there would only be demand for 5,700 square metres of additional new floor space. This suggests that while there is not likely to be a significant need for additional floor space in the precinct to meet the projected total demand, a small amount of additional office and creative floor space capacity over this period is likely to be required.

It recommends the reuse of existing floor space within the precinct to cater to different types of demand, and to target redevelopment to deliver new capacity while respecting the precinct's heritage and character. The Study concludes that the character of demand be considered because despite the high rates of vacancy, existing space on Oxford Street is not fit for purpose, particularly for creative uses. The Cultural Activity Study is included in Appendix A5 of this planning proposal.

The planning proposal is also the result of the City's *OPEN Sydney Strategy and Action Plan*, *Creative City Cultural Policy and Action Plan*, *Live Music and Performance Action Plan* and the City's *Open and Creative City Discussion Paper* and exhibited planning reforms. These strategies set out a vision and actions to create a city with a strong cultural life, diverse and safe night-time economy and thriving live music and performance industry, which support the objectives of the Oxford Street cultural and creative precinct.

- *A Creative City Cultural Policy and Action Plan 2014-2024* supports the greater diversification of the night-time economy and details the vision and foundation principles for supporting Sydney's cultural life. It defines six strategic priorities and accompanying actions for implementation over the next 10 years, some of which address creativity in the public domain, new avenues for creative participation, sector sustainability, improving access and creating markets. The strategic framework encourages activities and strategies which ensure new developments anticipate cultural uses and impacts and that regulatory and planning instruments are reviewed to encourage a diversity of cultural activities, clusters and hubs. Action 1.30 is for the culture-led revitalisation of the Oxford Street precinct including curated creative retailing, affordable creative spaces, cultural and community events, pop-up retail, public art, open studios and establishment of the Oxford Street Creative Precinct Network. Action 1.16 is to develop the City's urban-planning function and capability to consider cultural precincts and infrastructure, and ensure the city is planned to protect and enhance its cultural layer. Action 3.2 seeks to engage business and commercial developers to incorporate temporary and long-term creative workspace into new developments.
- The City's *OPEN Sydney Strategy and Action Plan* strategy forms the basis for how the City makes decisions about Sydney at night between now and 2030. The strategy includes actions for making Sydney's night-time economy better connected, more diverse, inviting, safe, and responsive to change. The City is committed to improving the functioning of the city at night to ensure night-time experiences are balanced with daytime activities and are inclusive of the broader population. Achieving this is important as tourism markets, work practices and leisure patterns change. A thriving night-time economy is also an integral part of the City's social sustainability, providing an important role in social interaction and connection, and employment. The *OPEN Sydney Strategy* includes Action 3.1.5 which describes new uses for underutilised night-time and fine grain spaces, including extending laneway activation beyond central Sydney and encouraging the use of rooftop spaces and activating vacant tenancies.
- *The Live Music and Performance Action Plan* focuses on the regulation of live music and the growth of night-time leisure and entertainment options in Sydney. The action plan commits the City to regulatory reform, advocacy, research and strategic projects across four areas:

development controls and noise, National Construction Code, liquor licensing and audience and sector development. Action 1.1.1 is to optimise support for live music and performance by identifying and protecting areas with strong traditions of live music and performance and by supporting areas where urban and cultural amenity can be improved by live music and performance activity.

- The City's *Open and Creative City* Discussion Paper was circulated for public comment in October 2017. The proposed regulatory reforms were developed into planning controls and aim to strengthen the city's cultural and night-time economy. They propose to enable unlicensed shops and businesses to trade later into the night, make it easier for small scale cultural activities to take place in shops, offices, warehouses and community facilities, and encourage light industrial, including makerspaces, in the B2 zone. These proposals were exhibited in 2020 and approved by Council for making as a LEP in March 2021. Once published, they will apply to the B4 and B2 zones on Oxford Street.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

In preparing this planning proposal, three options were considered in relation to the intended outcomes in Part 1. These are listed and discussed below:

Option 1: Do nothing

Option 1 is the continued operation of Oxford Street in its current form as local centre precinct, with a high level of retail vacancy, low levels of amenity and struggling businesses and the retention of planning controls which do not promote redevelopment and revitalisation. This option represents a lost opportunity and will not achieve the key strategic outcomes to support cultural and creative purposes and the commercial and the cultural and tourism sectors or strengthen the economic and cultural role and character of Eastern Creative Precinct.

Option 2 Planning Proposal for as of right uplift across the precinct

Option 2 is a wholesale amendment to increase the height and FSR controls across the precinct to encourage redevelopment. This option would not incentivise floor space for cultural and creative purposes or business activities desirable for the local centre for which there is a strategic need.

Option 3 Planning Proposal for significant uplift through incentive floor space only on identified opportunity sites

Option 3 is allowing significant uplift in the height and FSR controls on sites on identified sites in the precinct, only if a proportion of cultural and creative floor space is provided. This would be allowed only on sites, such as corner sites, or sites in Taylor Square where it may be argued that increased height could be accommodated without significant impact on the public domain.

The supporting urban design and heritage study tested the impacts of a range of scenarios for increased height in specific locations. The City's Design Advisory Panel expressed concerns about significant uplift on identified sites. This is because it could result in significant impacts on heritage significance, structure and stability and features as a result of amalgamations of sites and disproportionate additions to heritage buildings which would erode heritage character. The Panel instead supported a two-storey uplift across the entire precinct.

Option 4 Planning Proposal for uplift through incentive floor space across precinct and retention of existing cultural and creative floor space

As a result, Option 4 is selected as the most suitable pathway to achieve the desired outcomes for the precinct. The planning proposal seeks to allow alternative additional height and FSR on all sites in the precinct (except the NAS and Courthouse Hotel) to facilitate the strategic uses in the precinct, while also ensuring the heritage conservation informs development and protects character.

This is achieved by setting appropriate height and FSR controls tied to the provision of the strategic uses and the requirement that the development does not endanger heritage significance or structural stability of heritage buildings.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and the exhibited draft strategies)?

Greater Sydney Region Plan: A Metropolis of Three Cities

The Greater Sydney Region Plan is a NSW Government strategic document that outlines a 40 year vision and 20 year plan for Greater Sydney. It identifies key challenges facing Sydney including a population increase of 3.3 million by 2056, 817,000 new jobs by 2036 and a requirement for 725,000 new homes over the next 20 years.

In responding to these and other challenges, the plan sets out four goals and ten directions:

- Infrastructure and collaboration – securing ‘a city supported by infrastructure’ and ‘a collaborative city’
- Liveability – achieving ‘a city for people’, ‘housing the city’ and ‘a city of green places’
- Productivity – creating ‘a well-connected city’ and ‘jobs and skills for the city’
- Sustainability – delivering ‘a city in its landscape’, ‘an efficient city’ and ‘a resilient city’

To achieve these goals and directions, the plan proposes 40 objectives, with 15 associated actions. Objectives of relevance to this planning proposal include:

Objective 4: Infrastructure use is optimised

Objective 9: Greater Sydney celebrates the arts and supports creative industries and innovation

Objective 13: Environmental heritage is identified, conserved and enhanced

Objective 14: Integrated land use and transport creates walkable and 30-minute cities

Objective 18: Harbour CBD is stronger and more competitive

Objective 21: Internationally competitive health, education, research and innovation precincts

Objective 22: Investment and business activity in centres

Objective 24: Economic sectors are targeted for success.

NSW Government District Plans – Eastern City District

The NSW Government has prepared plans for each of the five districts that comprise the Greater Sydney area. The City of Sydney is in the Eastern City District. The District Plans set out how the Greater Sydney Region Plan will apply to local areas. They will influence the delivery of housing

supply, inform and influence planning for business and jobs growth, particularly in strategic centres and inform the decision making for infrastructure planning.

The Eastern City District Plan, completed in March 2018, identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth.

This planning proposal is consistent with the following planning priorities of the Eastern City District Plan:

- **Planning Priority E4: Fostering healthy, creative, culturally rich and socially connected communities** – This planning proposal will support action 10 and will deliver healthy, safe and inclusive places by providing walkable places at a human scale with active street life. It will give effect to action 14 by encouraging the provision of cultural and creative floor space in new redevelopments and facilitating opportunities for creative and artistic expression and participation, including arts enterprises and facilities. It will support this action also by promoting creative industries and the night-time economy.
- **Planning Priority E6: Creating and renewing great places and local centres and respecting the District's heritage** – This planning proposal will support cultural and creative, food and drink and entertainment activities providing night-time businesses, creative uses and performance venues to contribute to a vibrant Oxford Street precinct. It will also protect the heritage significance of the site by including heritage conservation considerations in the site specific LEP clause and heritage conservation controls in the site specific DCP amendment.
- **Planning Priority E7: Growing a strong and more competitive Harbour CBD** – The precinct is on the boundary of the Harbour CBD, one of Sydney's three metropolitan centres. The planning proposal will give effect to action 24 to provide a wide range of cultural, entertainment, arts and leisure activities and a diverse and vibrant night-time economy, in a way that responds to potential negative impacts. It will also give effect to action 25 to grow the vibrancy through tourism and entertainment facilities, supporting a night-time economy and contributing to the Harbour CBDs job targets.
- **Planning Priority E8: Growing and investing in health and education precincts and the Innovation Corridor** – This planning proposal incentivises the provision of arts and culture as well as education floor space and will as a result support the needs of the education sector. Both the NAS and the UNSW Art and Design Campus offer the potential to anchor the precinct and foster more creativity and innovation in the area. It proposes to increase the education floor space at the NAS.
- **Productivity Priority E13: Supporting growth of targeted industry sectors** – the planning proposal will give effect to action 54 and will support the development of places for artistic and cultural activities, supporting appropriate growth of the night-time economy and protect heritage. The precinct's location on the CBD fringe and in walking distance of the City of Sydney villages of Paddington, Surry Hills and Darlinghurst will support the use of public transport and the needs of tourists and other visitors.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

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. The Planning Proposal and amendment to the DCP are aligned with the following Sustainable Sydney 2030 strategic directions and objectives:

- **Direction 1 - A Globally Competitive and Innovative City** - The proposed amendments to planning controls for the site will facilitate cultural and creative purposes, retail, education and entertainment facilities. This will support Sydney's tourist, leisure and cultural sector, which are sectors of critical importance to Sydney's economy and contributes to making Sydney attractive to global investors.
- **Direction 3 - Integrated Transport for a Connected City** - The future creative and cultural precinct will take advantage of future cycleway proposals and good proximity to public transport links, on a high capacity bus routes running along Oxford Street, connecting the area to Central Sydney, Bondi Junction and eastern Sydney beaches.
- **Direction 5 - A Lively and Engaging City Centre** - Redevelopment in the precinct will provide active uses, including entertainment, community and education facilities, office, retail and other employment uses in a city fringe location and accessible from the city centre. This will continue long-term activation on the precinct and for the eastern part of Oxford Street.
- **Direction 6 - Vibrant Local Communities and Economies** - The planning proposal facilitates redevelopment in the precinct will increase diversity in the area, providing more floor space for cultural and creative purposes and entertainment, community and education facilities, and office, retail and other employment uses. This will continue long-term activation on the precinct and for the eastern part of Oxford Street, contributing to the day and night-time economies.
- **Direction 7 - A Cultural and Creative City** - The planning proposal will serve as the focal point of the Eastern Creative precinct. It will strengthen the economic and cultural role and character of the Eastern Creative Precinct, enhancing the entertainment, arts, performance and cultural role of areas and high streets by requiring as part of the development to be a creative, cultural or entertainment facility, helping to meet the identified shortage of small to medium sized performance and rehearsal space venues.
- **Direction 9 - Sustainable Development, Renewal and Design** - The planning proposal is consistent with the principle of transit-oriented development by co-locating employment opportunities in an accessible location.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The consistency of this planning proposal with current State Environmental Planning Policies (SEPPs) and former Regional Environmental Plans (REPs) is outlined in the table below. SEPPs and SREPs which have been repealed or were not finalised are not included in this table.

State Environmental Planning Policy	Comment
SEPP No 1—Development Standards	Consistent, this planning proposal does not contain provisions that contradict or hinder the application
SEPP 10 - Retention of Low-Cost Accommodation	Not applicable
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	Consistent – This planning proposal does not contradict or hinder application of this SEPP.
SEPP No 33—Hazardous and Offensive Development	Consistent - This planning proposal does not contradict or hinder application of this SEPP.
SEPP No 42 – Casino Entertainment Complex	Not applicable.
SEPP No 47—Moore Park Showground	Not applicable.

SEPP No 53 – Metropolitan Residential Development	Not applicable.
SEPP No 55—Remediation of Land	Consistent - This planning proposal does not contradict or hinder application of this SEPP.
SEPP 60 Exempt and Complying Development	Consistent – This planning proposal does not contradict or hinder application of this SEPP.
SEPP No 64—Advertising and Signage	Consistent - This planning proposal does not contradict or hinder application of this SEPP.
SEPP No 65—Design Quality of Residential Flat Development	Not applicable.
SEPP No 70—Affordable Housing (Revised Schemes)	Not applicable.
SEPP (Building Sustainability Index: BASIX) 2004	Consistent - The planning proposal does not contradict or hinder application of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Not applicable.
SEPP (Major Development) 2005	Not applicable.
SEPP (Sydney Region Growth Centres) 2006	Not applicable.
SEPP (Infrastructure) 2007	Not applicable.
SEPP (Exempt and Complying Development Codes) 2008	Consistent - The planning proposal does not contradict or hinder application of this SEPP.
SEPP (Affordable Rental Housing) 2009	Not applicable.
SEPP (Coastal Management) 2018	Not applicable.
Sydney REP (Sydney Harbour Catchment) 2005	Consistent - The planning proposal does not contradict or hinder application of this REP.
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	Consistent – This planning proposal does not contradict or hinder application of this SEPP.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

This planning proposal has been assessed against each Section 9.1 direction. Consistency with these directions is shown in the table below.

Direction	Comment
Employment and Resources	
1.1 Business and Industrial Zones	Consistent. The planning proposal is consistent with this Direction as it will facilitate the provision of additional employment floor space, fostering new jobs and small business.
1.2 Rural Zones	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable
1.4 Oyster Aquaculture	Not applicable
1.5 Rural Lands	Not applicable
Environment and Heritage	
2.1 Environment Protection Zones	Not applicable
2.2 Coastal Protection	Not applicable
2.3 Heritage Conservation	Consistent. This planning proposal will protect the heritage significance of the site within the Oxford Street and Victoria Street, East Sydney, Oxford Street, Paddington Urban and Victoria Barracks Heritage Conservation Areas
2.4 Recreation Vehicle Areas	Not applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable
2.6 Remediation of land	Consistent. The planning proposal does not introduce any sensitive uses that are not already permissible in the Sydney LEP 2012. Education uses are incentivised, but these uses are already permissible in the B2 and B4 zones. The proposal does not incentivise residential uses. The proposal facilitates additions to existing buildings in the Oxford Street cultural and creative precinct, where remediation will not be required. On any public domain and sites where there are no heritage constraints and demolition and redevelopment is permitted, the submission of a detailed site investigation and implementation of a remediation plan will be required at the development application stage. The existing LEP and DCP contain sufficient provisions and controls, in addition to the requirements of SEPP 55, to require the remediation of any contaminated land where appropriate at development application stage.
Housing Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. This planning proposal does not contain provisions that will reduce the permissible residential density of the land.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable
3.4 Integrating Land Use and Transport	Consistent. The proposal seeks to facilitate the intensification of employment generating uses in an accessible location. This planning proposal is consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and The Right Place for Business and Services – Planning Policy (DUAP 2001).
3.5 Development Near Licensed Aerodromes	Not applicable
3.6 Shooting Ranges	Not applicable

Hazards and Risk	
4.1 Acid Sulfate Soils	Consistent. This planning proposal does not contradict or hinder application of acid sulphate soils provisions in Sydney LEP 2012.
4.2 Mine Subsidence and Unstable Land	Not applicable
4.3 Flood Prone Land	Not applicable
4.4 Planning for Bushfire Protection	Not applicable
Regional Planning	
5.1 Implementation of Regional Strategies	Not applicable
5.2 Sydney Drinking Water Catchments	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.5 Second Sydney Airport, Badgerys Creek	Not applicable
5.6 North West Rail Link Corridor Strategy	Not applicable
5.17 Implementation of Regional Plans	Not applicable
Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. This planning proposal does not include any concurrence, consultation or referral provisions nor does it identify any development as designated development.
6.2 Reserving Land for Public Purposes	Consistent. This planning proposal will not affect any land reserved for public purposes.
6.3 Site Specific Provisions	Inconsistent, but of minor significance. The planning proposal introduces a new site-specific provision involving development standards, however these allow alternative additional height and floor space, not restrictions. The inconsistency is justified because to benefit from the increased development standards a development must satisfy the conditions of providing strategic land uses supporting the local centre, 10% of the total GFA of a development as floor space used for cultural and creative purposes and uses that attract pedestrian traffic and protect heritage. To ensure that the proposal achieves a net gain in floor space for a cultural and creative purpose, a site-specific provision requires the retention of all existing cultural and creative floor in the precinct. The proposed controls could create more than 11,000sqm of new creative and cultural floor space in a strategically appropriate location. Redevelopment within the parameters set by this planning proposal will stimulate activity, increase employment and pedestrian activity and contribute to the overall revitalisation of the area while conserving its built heritage and cultural significance.
Metropolitan Planning	
7.1 Implementation of the Greater Sydney Region Plan: A Metropolis of Three Cities	Consistent. This planning proposal facilitates the implementation several objectives and actions of the Greater Sydney Region Plan.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The precinct is currently occupied by buildings built up to their boundaries and does not contain any known critical habitat or threatened species, populations or ecological communities or habitats.

As part of a future detailed development applications, the City will consider environmental impacts that may be generated by the development incentivised by the proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

This planning proposal seeks to provide alternative height and FSR controls for the site under Sydney LEP 2012 and in doing so facilitate floor space for cultural and creative purposes with strategic merit for the area. In preparing this planning proposal, environmental considerations were assessed.

The proposed changes will help deliver a development that is consistent with the surrounding streetscape and heritage conservation area. Design principles have been adopted to ensure environmental effects such as solar access and overshadowing, visual impacts, heritage and access are appropriately mitigated and incorporated into the draft DCP. Environmental impacts are discussed in this Planning Proposal.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal demonstrates social and economic strategic merit. It will support an existing education cluster it will support the tourism industry and will strengthen the economic and cultural role and character of the proposed Eastern Creative Precinct. The social and economic benefits of the proposal are discussed in detail in this Planning Proposal.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The potential for future creative, cultural, entertainment, education and supporting commercial uses in the precinct will take advantage of good proximity to public transport links, on a high capacity bus routes running along Oxford Street, connecting the area to central Sydney, Bondi Junction hub and eastern Sydney beaches.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Gateway Determination will identify the public authorities to be consulted as part of the planning proposal process and any views expressed will be included in this planning proposal following consultation. Formal consultation has not yet been undertaken.

7 Mapping

This planning proposal is to make the following amendments to the Sydney Local Environmental Plan 2012 maps to:

- Establish new Site and Locality identification map for the Oxford Street Cultural and Creative Precinct
- Establish new alternative Building Height and FSR maps to which a new site-specific clause for the Oxford Street cultural and creative precinct would apply
- Amend the existing FSR map FSR_022 from 0.9:1 to 1:1 for the National Art School
- Amend the existing Heritage Conservation map HER_015 to include 276-278 Oxford Street being Lot 1 DP 655152 within the Oxford Street Heritage Conservation Area

The following amended maps are included in Appendix 1.

Site and Locality Identification maps	7200_COM_CL1_015_005_20210421 7200_COM_CL1_022_005_20210421 7200_COM_CL1_023_005_20210421
Alternative Height of Building maps	7200_COM_AHOB_015_005_20210421- <u>20220318</u> 7200_COM_AHOB_022_005_20210421- <u>20220318</u> 7200_COM_AHOB_023_005_20210421- <u>20220318</u>
Alternative Floor space Ratio maps	7200_COM_AFSR_015_005_20210421- <u>20220318</u> 7200_COM_AFSR_022_005_20210421- <u>20220318</u> 7200_COM_AFSR_023_005_20210421- <u>20220318</u>
Heritage Conservation maps	7200_COM_HER_015_005_20210713 7200_COM_HER_016_005_20210713 7200_COM_HER_022_005_2021 0713 7200_COM_HER_023_005_20210713

8 Community consultation

Public consultation will be undertaken with the requirements of the Gateway Determination. It is proposed that, at a minimum, this will involve the notification of the public exhibition of the planning proposal on the City of Sydney website and in writing to the owners and occupiers of adjoining and nearby properties.

It is anticipated that the planning proposal will be publicly exhibited for a period of not less than 28 days in accordance with section 4.5 of 'A guide to preparing local environmental plans'.

It is proposed that exhibition material will be made available on the City of Sydney Website and at the City of Sydney customer service centres.

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

9 Project timeline

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

Action	Anticipated Date
Commencement / Gateway Determination	May-July 2021
Government agency consultation and public exhibition	August-September 2021
Consideration of submissions	September 2021
Post exhibition consideration of proposal	October- November 2021 <u>April 2022</u>
Draft and finalise LEP	November 2021 <u>April 2022</u>
LEP made	December 2021 <u>July 2021</u>

Appendices

1. Proposed Mapping Amendments to the Sydney LEP 2012
 - A1: Oxford Street Early Consultation Engagement Report
 - A2: Oxford Street Urban Design Study
 - A3: Oxford Street Heritage Study
 - A4: Oxford Street Cultural Activity Study
 - A5: Oxford Street Floorspace Supply and Demand Study
2. Drafting instructions and example LEP clauses


Sydney Local Environmental Plan 2012

Locality and Site Identification Map Foreshore Building Line Map - Sheet CL1_015

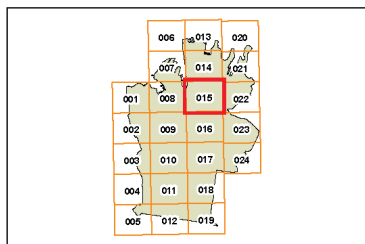
Locality and Site Identification Map

 Oxford Street Cultural and Creative Precinct

Cadastre

 Cadastre 21/04/2021 © City of Sydney

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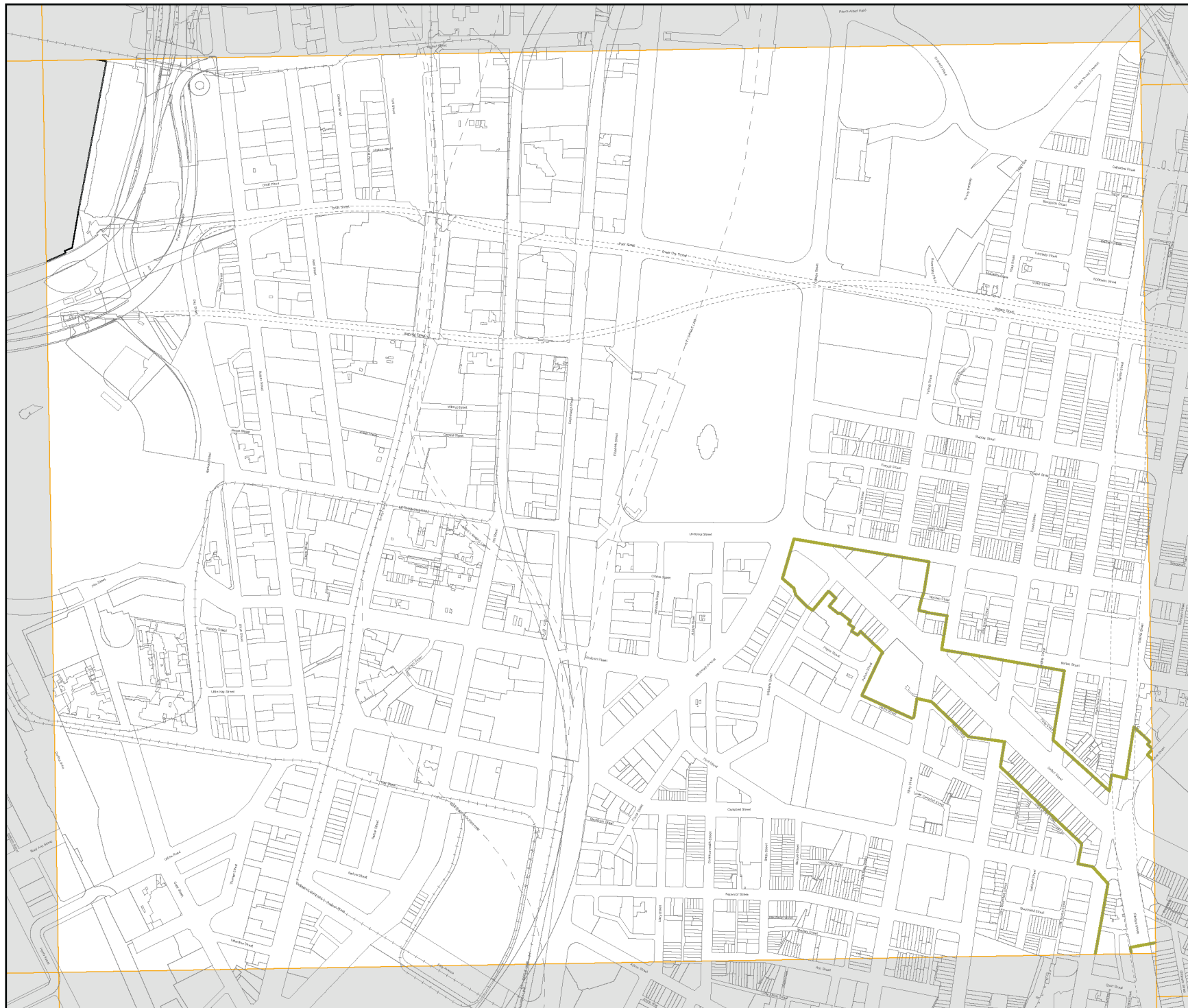


Projection: GDA 1994
Zone 56

0 200m

Scale: 1:5,000 @A3

Map identification number:
7200_COM_CL1_015_005_20210421




Sydney Local Environmental Plan 2012

Locality and Site Identification Map Foreshore Building Line Map - Sheet CL1_022

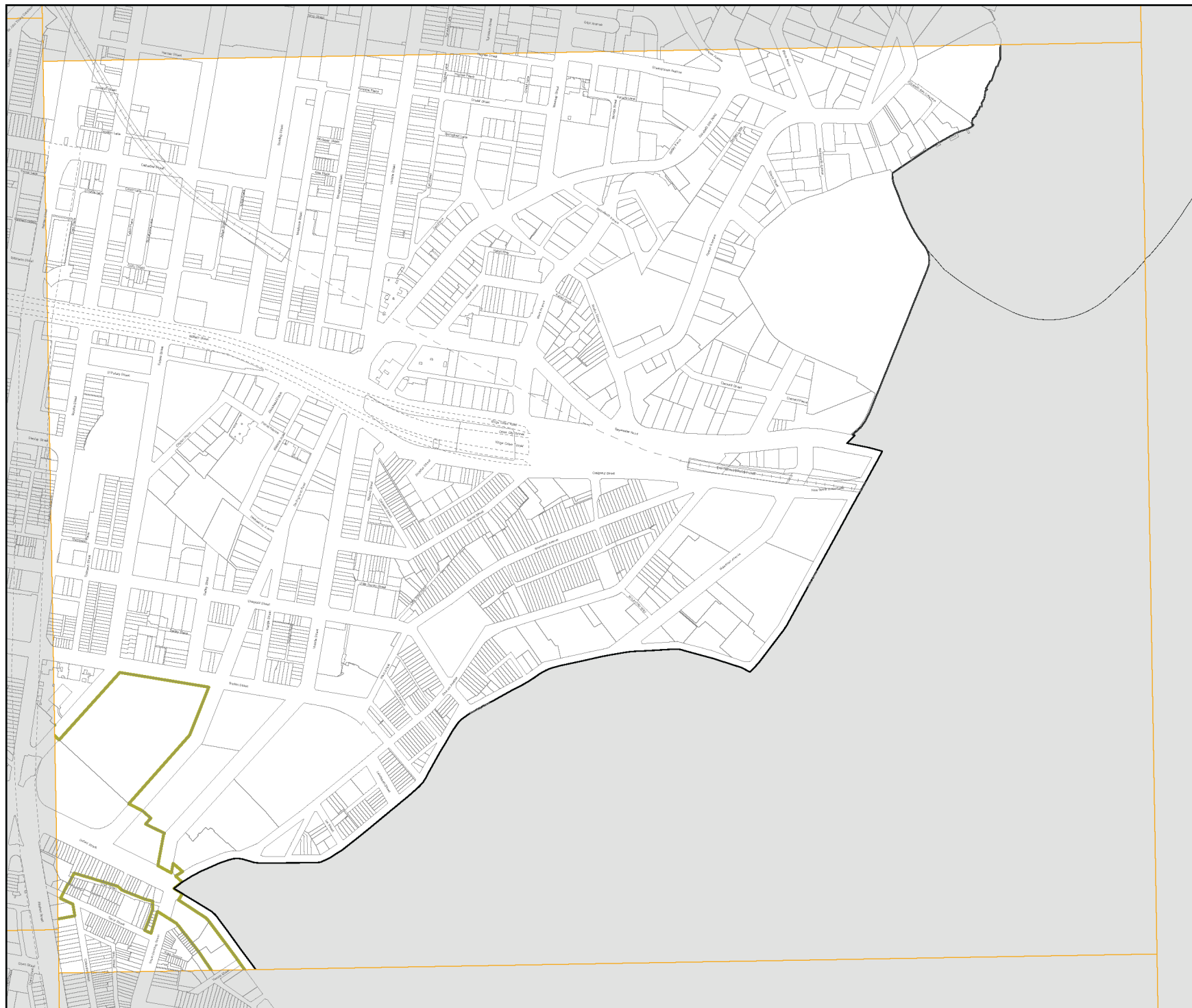
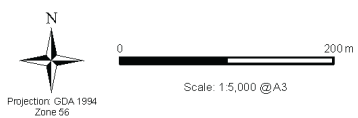
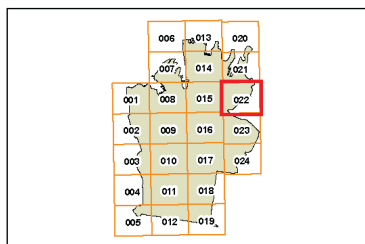
Locality and Site Identification Map

 Oxford Street Cultural and Creative Precinct

Cadastre

 Cadastre 21/04/2021 © City of Sydney

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Locality and Site Identification Map
Foreshore Building Line Map
- Sheet CL1_023

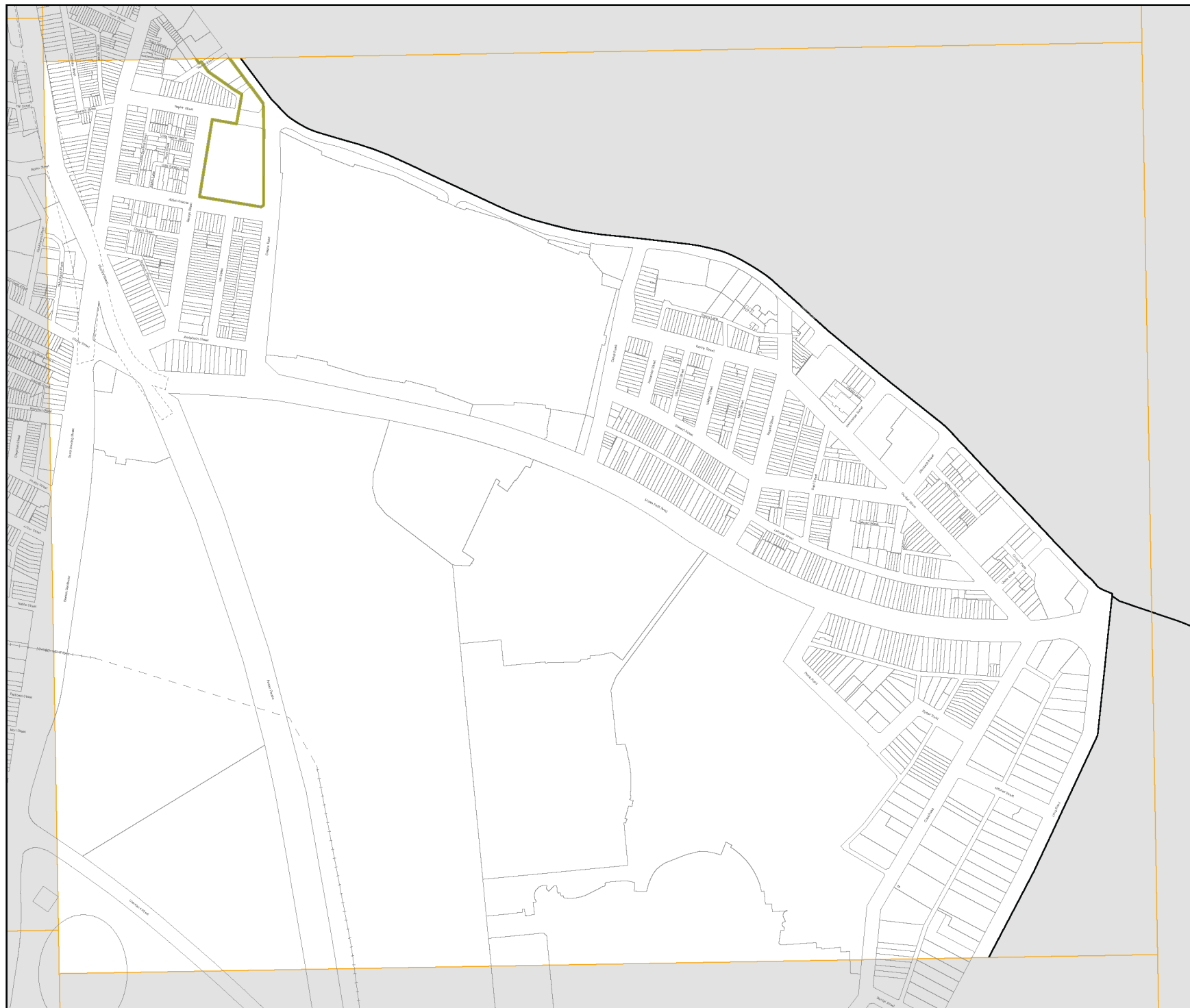
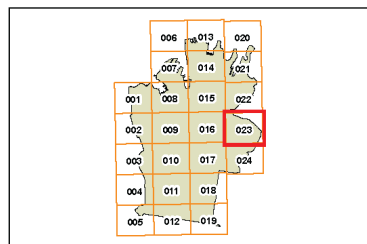
Locality and Site Identification Map

 Oxford Street Cultural and Creative Precinct

Cadastral

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Alternative Floor Space Ratio Map
- Sheet FSR_015

Alternative Maximum Floor Space Ratio (n:1)

Oxford Street Cultural and Creative Precinct

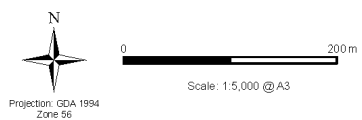
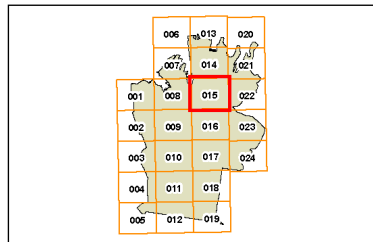
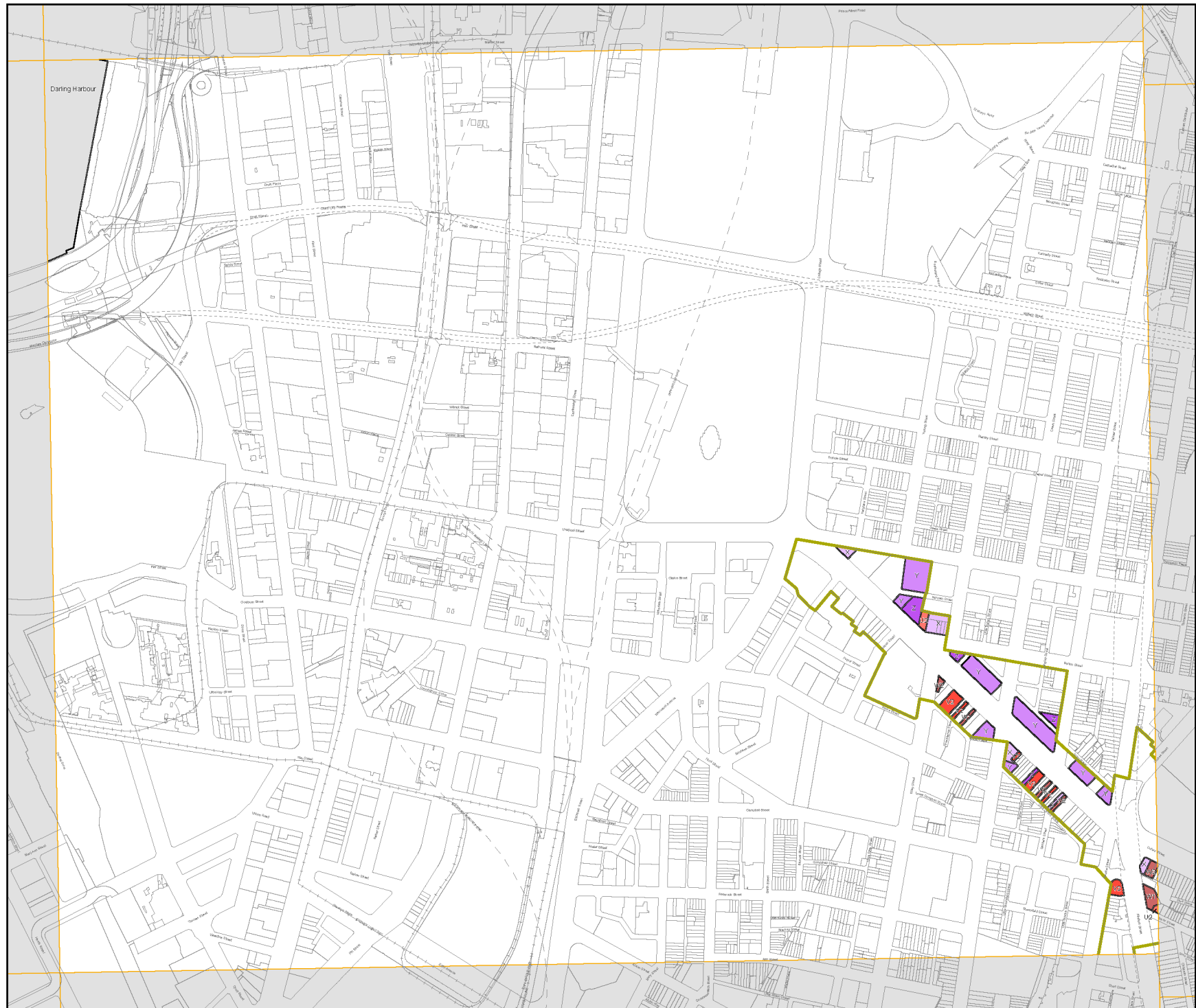
N	1
U2	2.75
V2	3.25
W1	3.5
W2	3.75
X	4
Y	4.5
Z	5

Note: Within precinct LEP Clause XXXX applies

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Alternative Floor Space Ratio Map - Sheet FSR_022

Alternative Maximum Floor Space Ratio (n:1)

Oxford Street Cultural and Creative Precinct

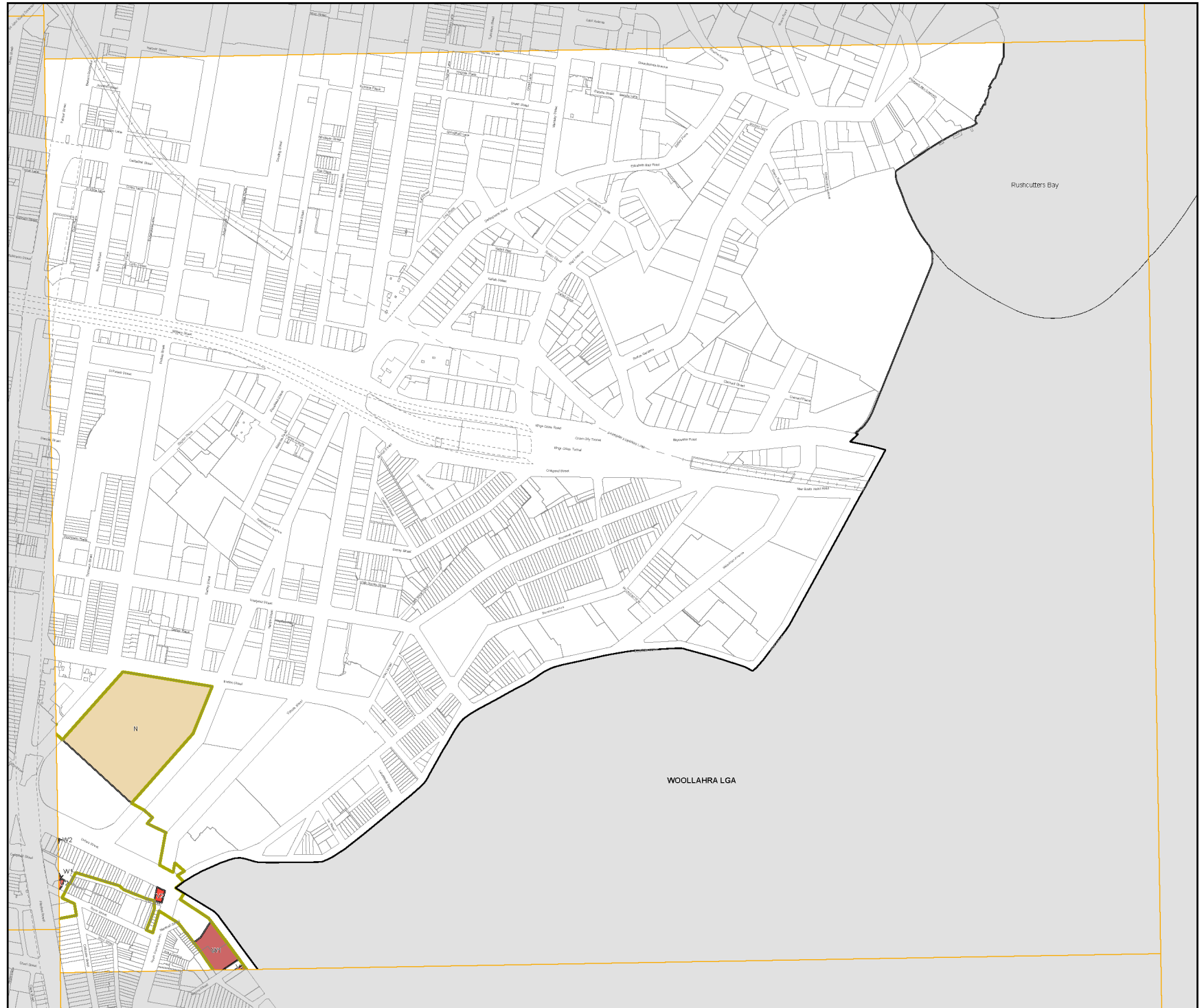
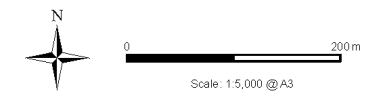
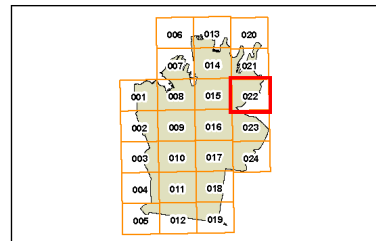
N	1
U2	2.75
V2	3.25
W1	3.5
W2	3.75
X	4
Y	4.5
Z	5

Note: Within precinct LEP Clause XXXX applies

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Alternative Floor Space Ratio Map
- Sheet FSR_023

Alternative Maximum Floor Space Ratio (n:1)

Oxford Street Cultural and Creative Precinct

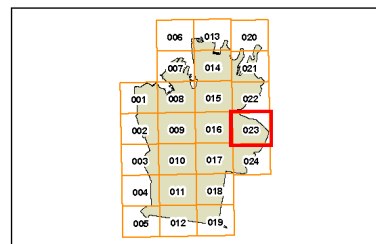
N	1
U2	2.75
V2	3.25
W1	3.5
W2	3.75
X	4
Y	4.5
Z	5

Note: Within precinct LEP Clause XXXX applies

Cadastrate

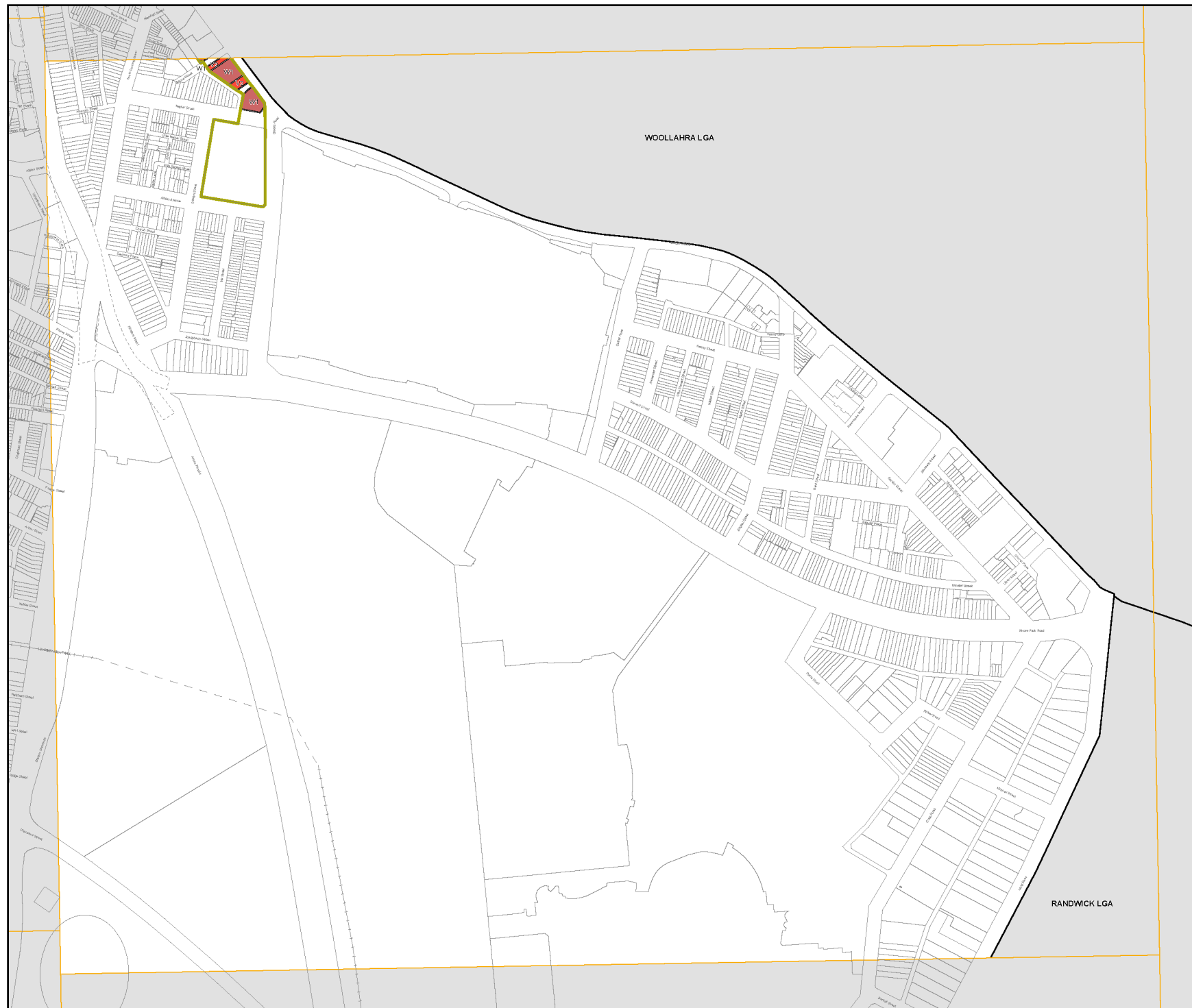
Cadastrate 25/03/2022 © City of Sydney

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0 200 m

Scale: 1:5,000 @ A3

Projection: GDA 1994
Zone 56Map identification number:
7200_COM_AFSR_023_005_20220325

Alternative Height of Buildings Map
- Sheet HOB_015

Alternative Maximum Building Height (m)

Oxford Street Cultural and Creative Precinct

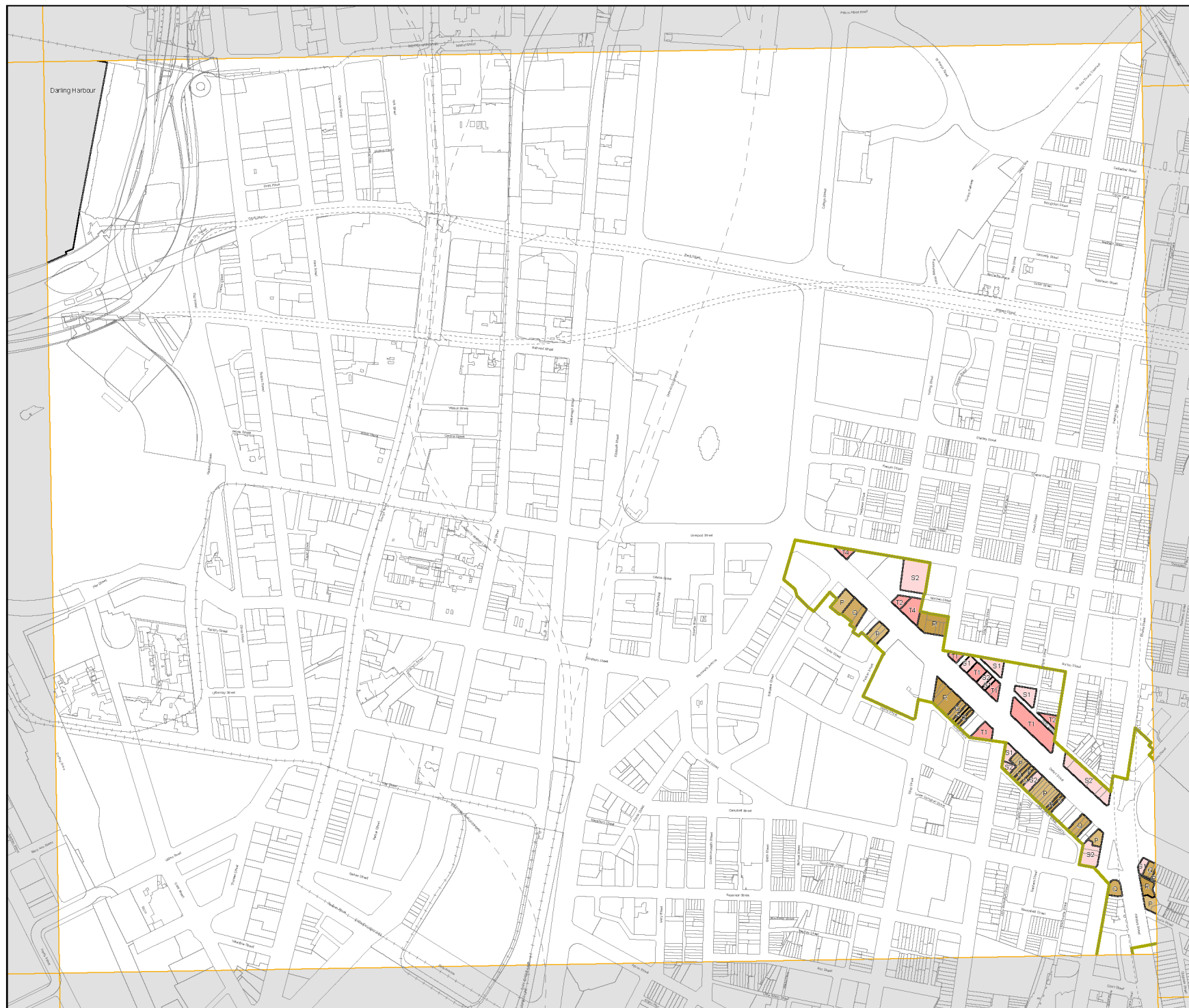
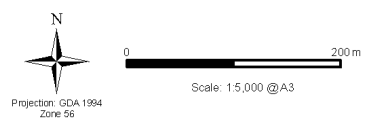
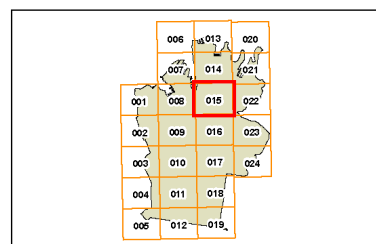
P	18
G	20
R	22
S1	23
S2	24
T1	25
T2	27
T4	29

Note: Within precinct LEP Clause XXXX applies

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Cadastre 25/03/2022 © City of Sydney

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Alternative Height of Buildings Map
- Sheet HOB_022

Alternative Maximum Building Height (m)

Oxford Street Cultural and Creative Precinct

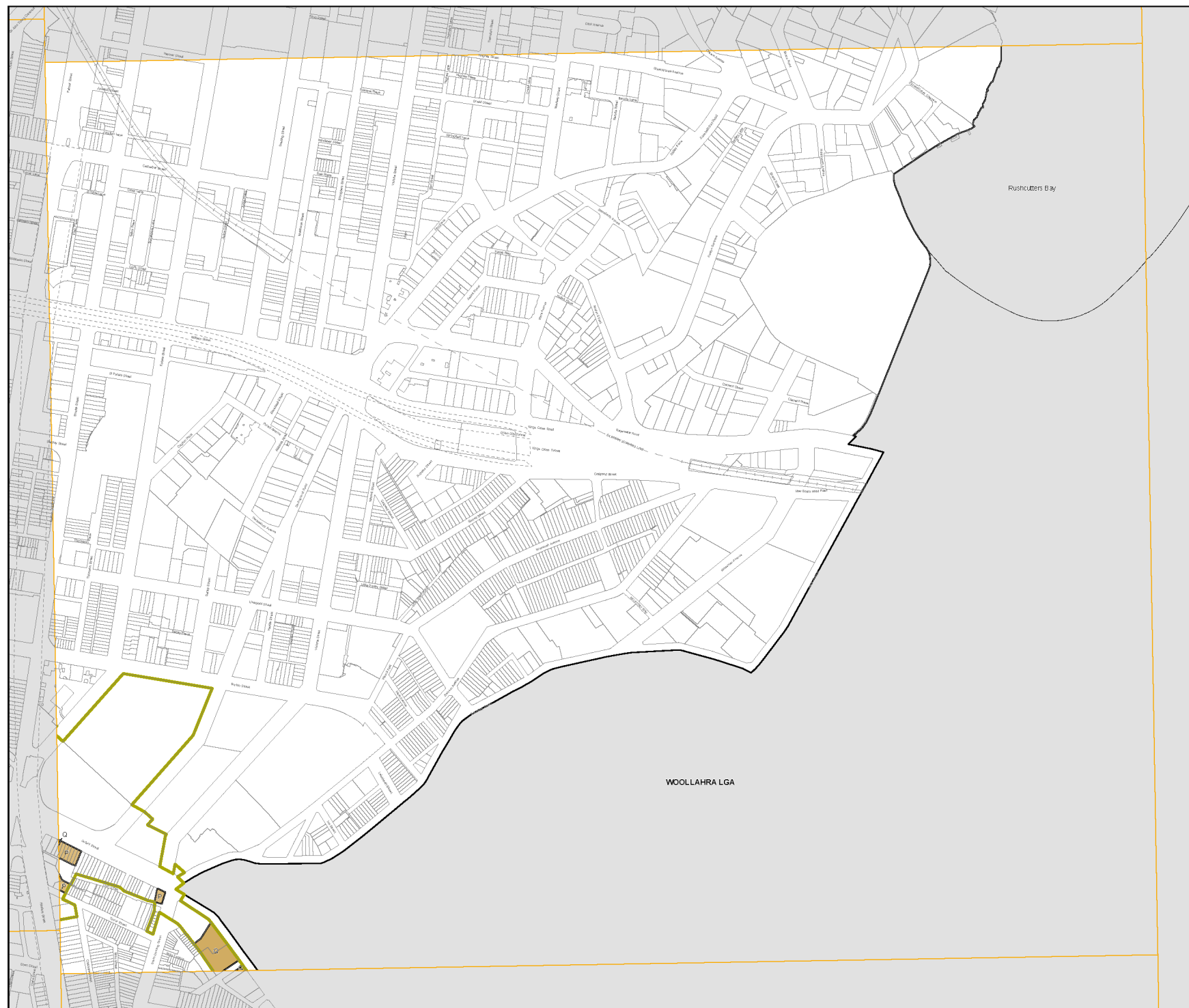
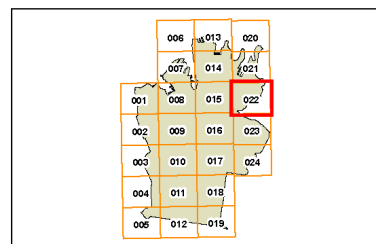
P	18
Q	20
R	22
S1	23
S2	24
T1	25
T2	27
T4	29

Note: Within precinct LEP Clause XXXX applies

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Alternative Height of Buildings Map
- Sheet HOB_023

Alternative Maximum Building Height (m)

Oxford Street Cultural and Creative Precinct

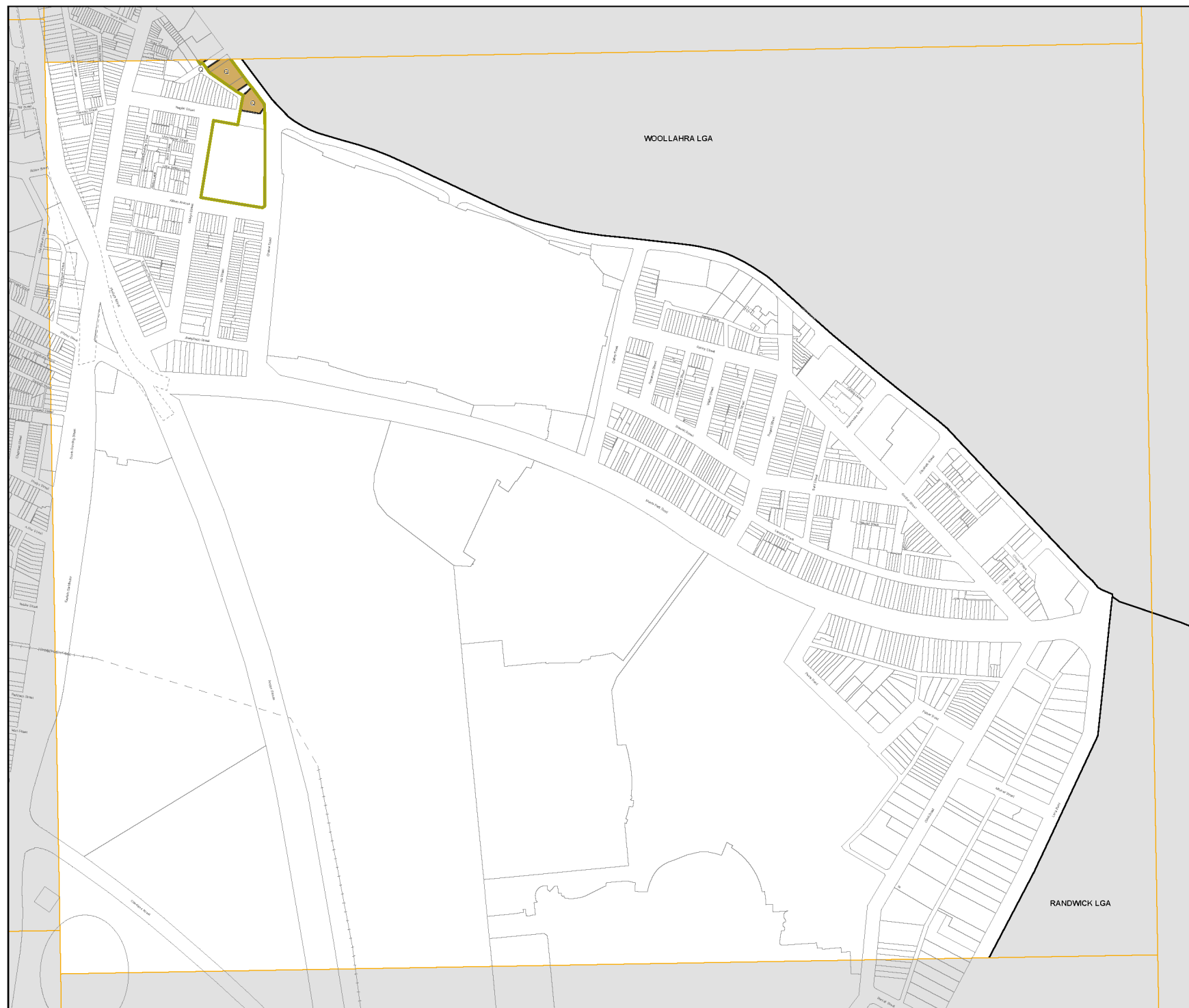
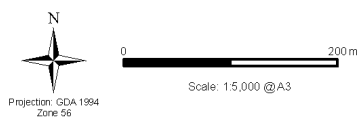
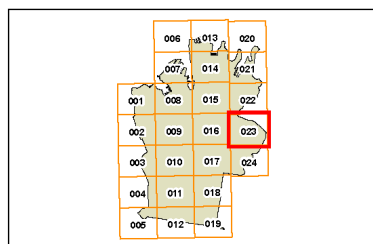
P	18
O	20
R	22
S1	23
S2	24
T1	25
T2	27
T4	29

Note: Within precinct LEP Clause XXXX applies

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Heritage Map - Sheet HER_015

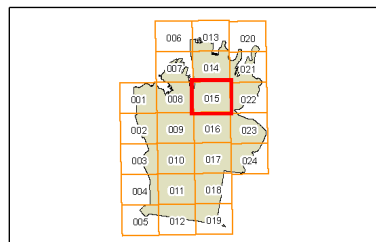
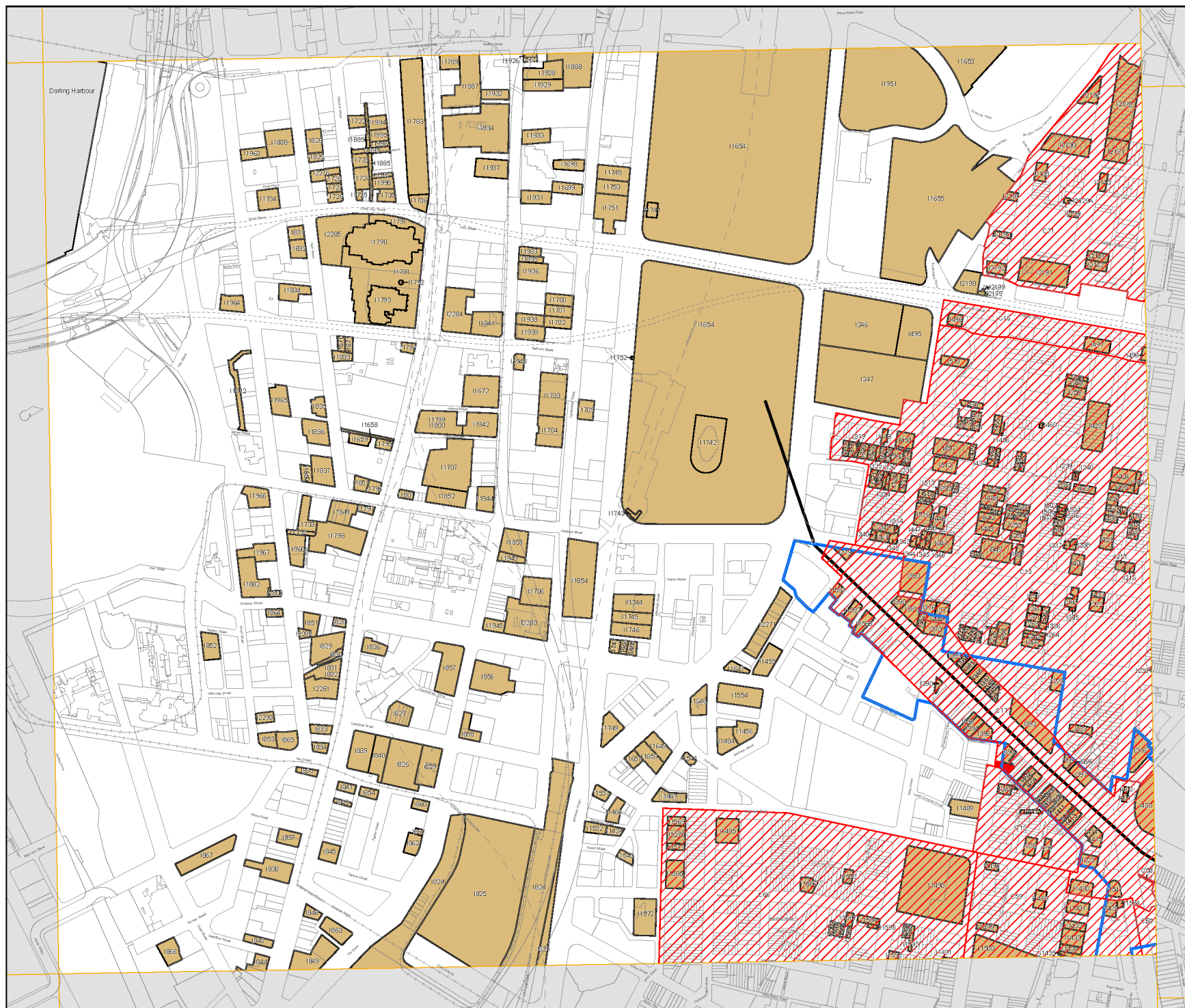
Heritage

-  Conservation Area - General
-  Item - General
-  Proposed included area for HCAC17
-  Oxford Street Cultural and Creative Precinct

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-  Cadastre 13/07/2021 © City of Sydney

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0 200m

Scale: 1:5,000 @A3

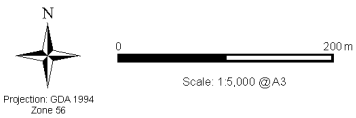
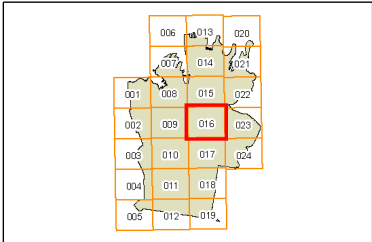
Projection: GDA 1994
Zone 56Map identification number:
7200_COM_HER_015_005_20210713

Heritage Map - Sheet HER_016

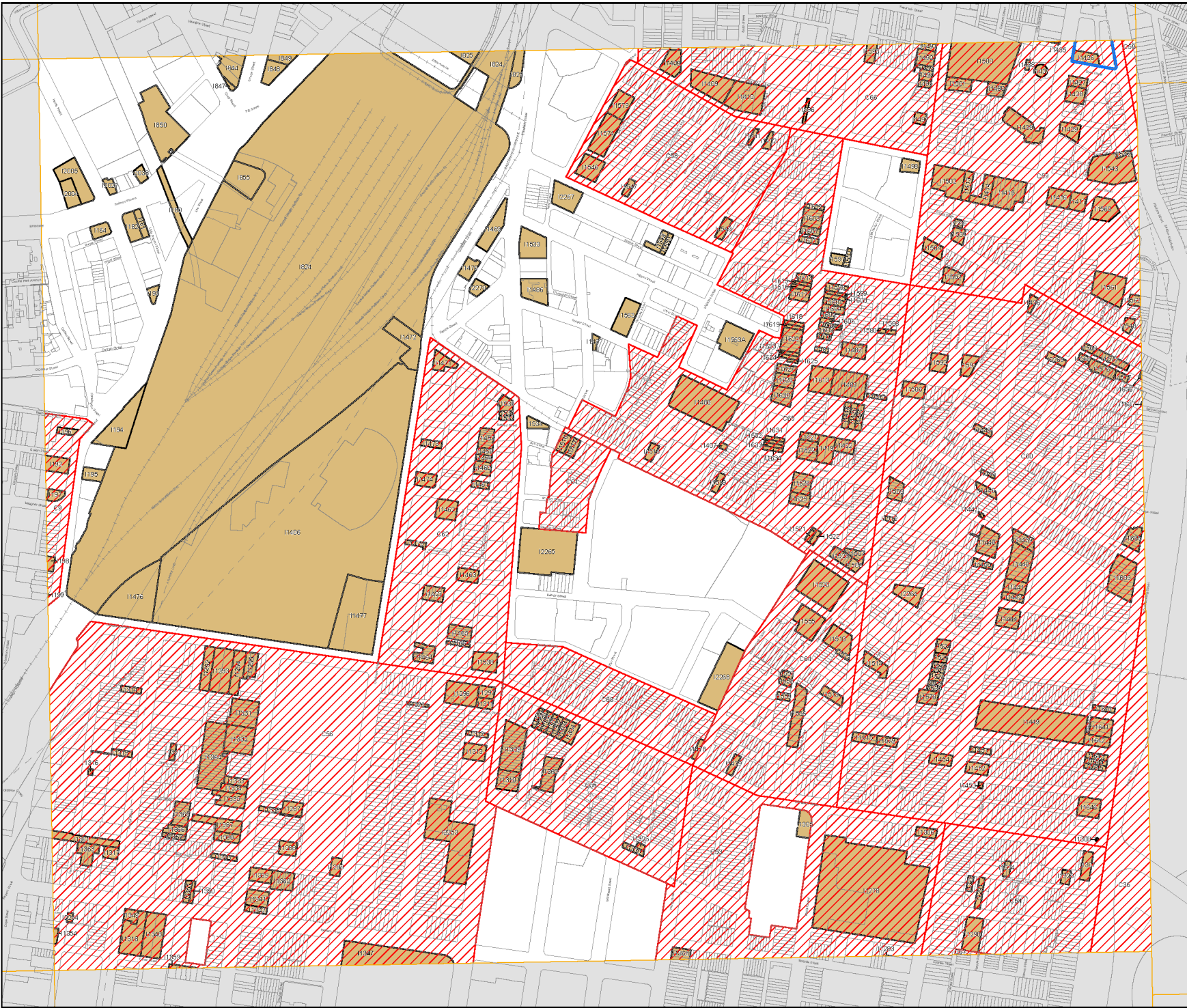
Heritage

-  Conservation Area - General
 Item - General
 Proposed included area for HCA C17
 Oxford Street Cultural and Creative Precinct
Cadastral
 Cadastral 13/07/2021 © City of Sydney

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Map identification number:
7200 COM HER 016 005 20210713




Heritage Map - Sheet HER_022

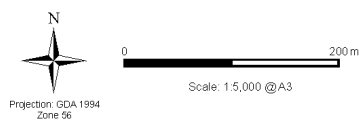
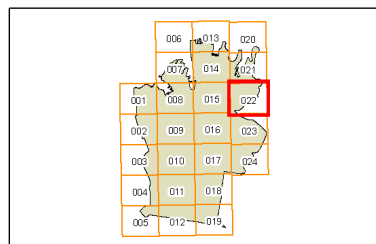
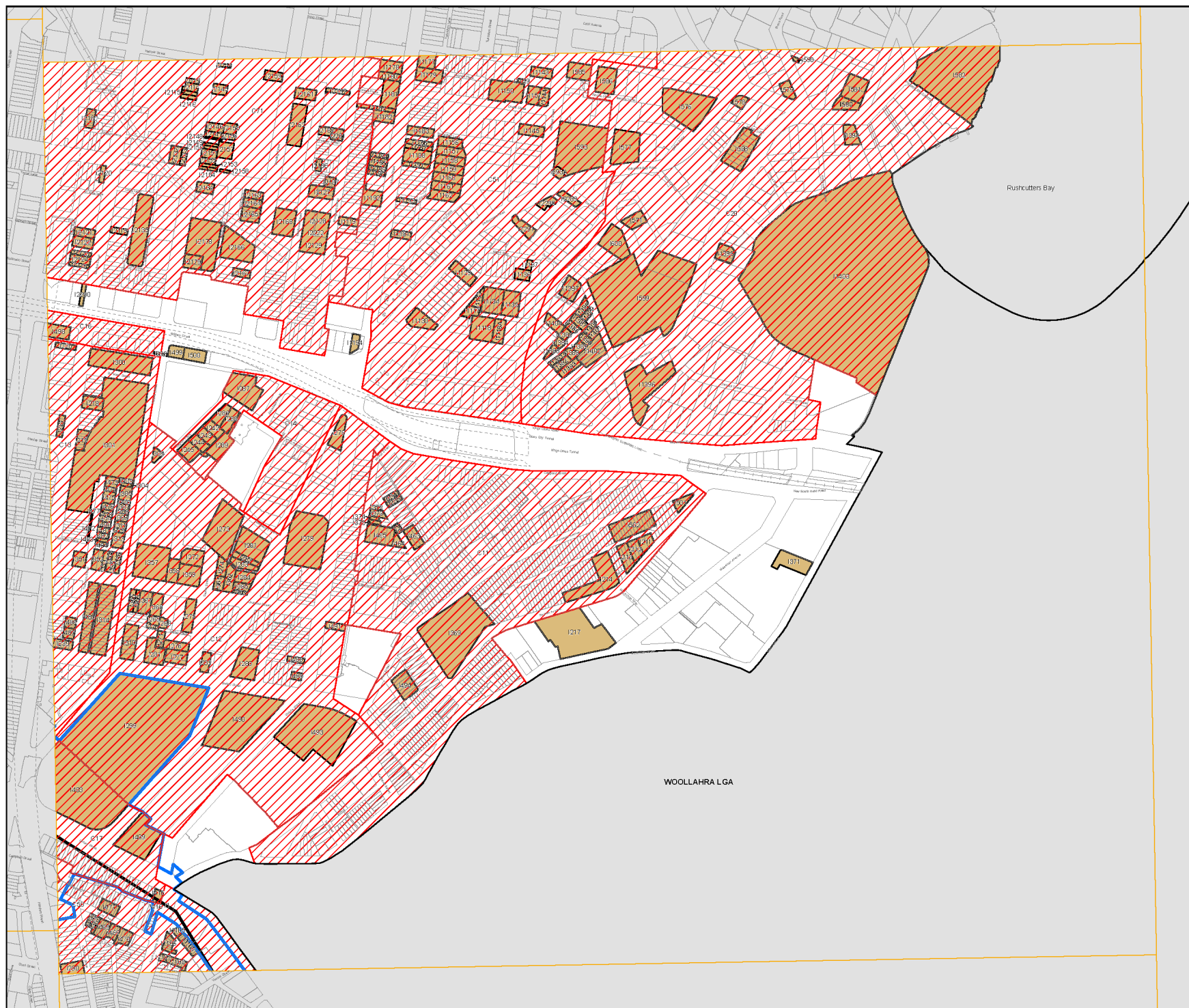
Heritage

-  Conservation Area - General
-  Item - General
-  Proposed included area for HCA C17
-  Oxford Street Cultural and Creative Precinct

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-  Cadastre 13/07/2021 © City of Sydney

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Heritage Map - Sheet HER_023

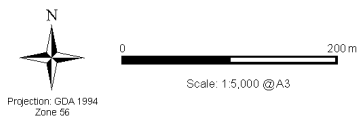
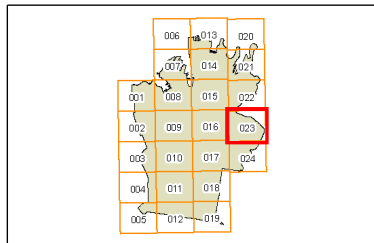
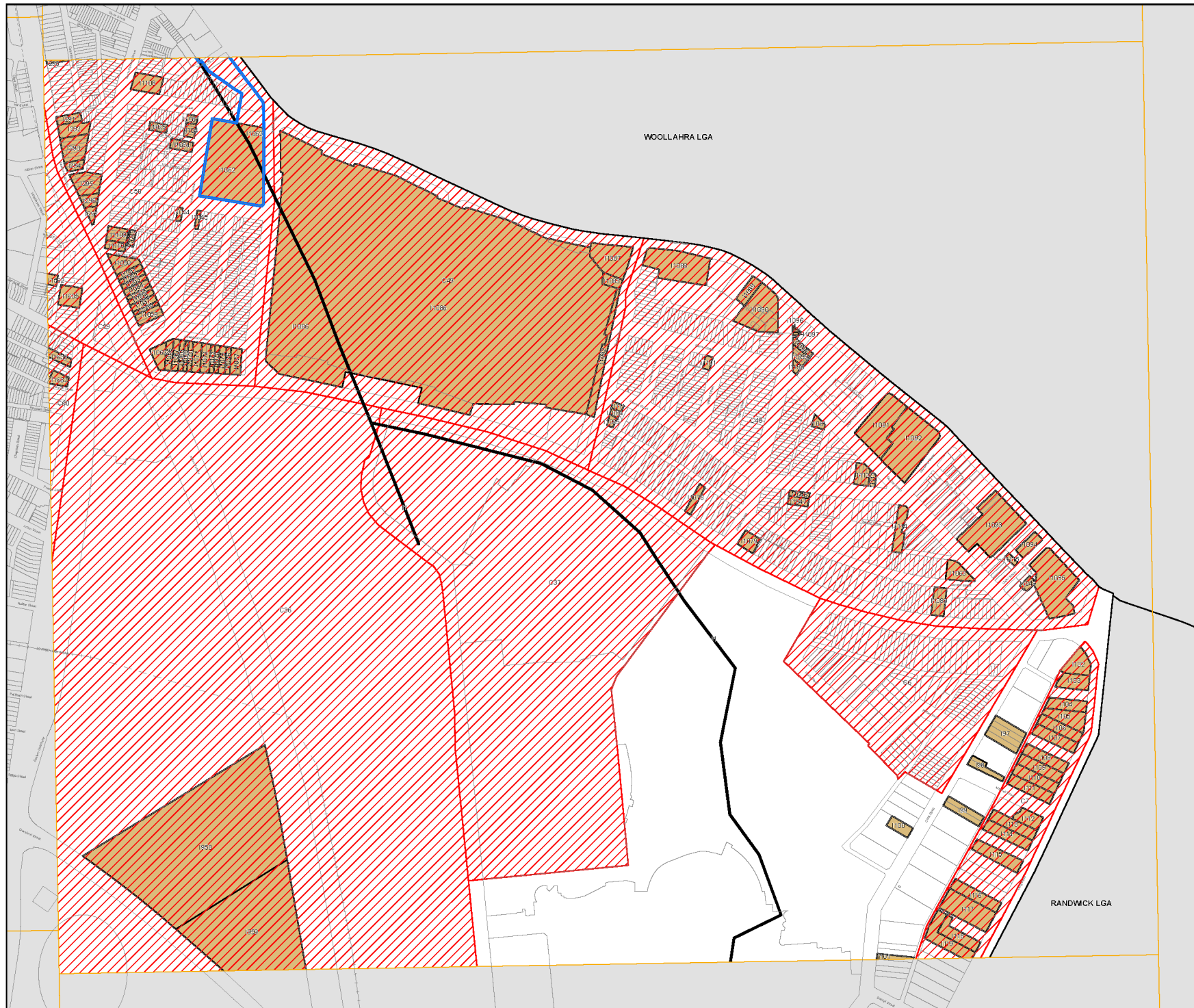
Heritage

- Conservation Area - General
- Item - General
- Proposed included area for HCA C17
- Oxford Street Cultural and Creative Precinct

Cadastre

- Cadastre 13/07/2021 © City of Sydney

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Map identification number:
7200_COM_HER_023_005_20210713

Appendix 2

Drafting instructions

Site-specific provision for the Oxford Street Cultural and Creative precinct

- (1) Include in Division 5 Site-specific provisions, Part 6 Local Provisions a clause applies to land identified on the Locality and Site Identification Map as the Oxford Street cultural and creative precinct (the precinct) but excludes the land zoned SP2 Infrastructure at the NAS, 156 Forbes Street (Lot 1 DP 568755), **217 to 263 Oxford Street, 56 Oxford Street, 103–105 Oxford Street, 163–169 Oxford Street, 173–175 Oxford Street, 21 Oxford Street, 37–41 Oxford Street, 185 Oxford Street, 171 Oxford Street, 107–111 Oxford Street, 43 Oxford Street, 48 Little Oxford Street and 183-183A Oxford Street.**
- (2) The objective of the clause is to provide for additional floor space on certain land to encourage the cultural and creative, entertainment, education, commercial and tourism sectors and associated industries in the Oxford Street area and support the role of Oxford Street as a local centre.
- (3) The clause is to allow development on the subject land that will result in a building with the maximum FSR and heights shown on the alternative HOB and FSR maps (included in section 7 of this document), provided that:
 - (i) Development includes one or more of the following: entertainment facility, health services facility, information and education facilities, hotel and motel accommodation, community facility, education facility, light industry, commercial premises
 - (ii) in developments where there are no existing cultural and creative activities - it includes a minimum of 10 per cent of the total GFA within the development for a creative purpose that involves live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes
 - (iii) in developments where there are existing cultural and creative activities - the existing floor space for a cultural and creative purpose must be maintained and an additional 10 per cent of the total GFA is provided within the development for a creative purpose that involves live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes.
 - (iv) Does not undermine heritage significance of any heritage item or of the heritage conservation area, or endanger the structural stability of the existing heritage building or any heritage items on or under the land
 - (v) Additional height and floor space is not available under this clause to a building on the Courthouse Hotel and Kinselas site at 189 Oxford Street, Darlinghurst (Lot 1 DP 33381), 379-379A Bourke Street Darlinghurst (Lot 2 DP 51864), 381 Bourke Street Darlinghurst (Lot 1 DP 57383) or 383-387 Bourke Street Darlinghurst (Lot 1 DP 193949, Lot 2 DP 193949) unless there is a consolidated site with a minimum site area of 1,000sqm.
 - (vi) **Additional height and floor space is not available under this clause to a building on 4-6 Flinders Street, Darlinghurst (Lot 100 DP 746537), 10-16 Flinders Street, Darlinghurst (Lot 1 DP 9347), 18- 26 Flinders Street Darlinghurst (Lot 2 DP 9347), 4-6 Taylor Street, Darlinghurst (Lot 3 DP 9347), 8-10 Taylor Street, Darlinghurst (Lot 4 DP 9347) and 2 Sturt Street, Darlinghurst (Lot 5 DP 9347 and Lot 1 DP 819569), unless the building is on land with a site area of more than 1,500 square**

(vii) metres and do not exceed 3.3:1 FSR.

(viii) Additional height and floor space is not available under this clause to a building on 21-25 Oxford Street, Darlinghurst (lot 1 DP 84976) and 27-33 Oxford Street, Darlinghurst (Lot 1 DP 1045284) unless the buildings are on land with a site area of more than 1,142.5 square metres and do not exceed 3.44:1 FSR.

(ix) Additional height and floor space is not available under this clause to a building on 1-19 Oxford Street, Darlinghurst, however development may exceed the FSR by 1,825sqm only if it is located in a 5 storey podium on the Wentworth Avenue and Oxford Street frontages to a height of RL52.223.

(4) The clause will provide that:

- (i) Additional floor space of up to 0.8:1 may be awarded where it is for an entertainment facility with live entertainment or the presentation of film within a cinema complex and below ground level with a frontage onto Oxford Streets and Flinders Streets and where, consistent with section 102 of the Liquor Act Regulations, live entertainment means an event at which one or more persons are engaged to play or perform live or pre-recorded music, or a performance at which the performers (or at least some of them) are present in person and does not include that associated with sex industry or adult entertainment uses
- (ii) Development facilitated under the clause will not be eligible to receive design excellence floor space
- (iii) the consent authority will consider whether the development promotes uses that attract pedestrian traffic along ground floor frontages of streets in the precinct. Ground floor uses that are encouraged are those with active uses for all floorspace on the ground floor.
- (iv) When development consent is granted allocating additional GFA for a cultural or creative purpose under (3) or (4) a condition of consent will be imposed requiring a restriction on the use of land pursuant to section 88E of the Conveyancing Act 1919 to be registered on the title of the land that prevents the additional GFA (need to identify) from being used for any purpose other than a cultural or creative purpose.

(5) Amend Clause 4.6(8) of the LEP to insert 'Clause 6.XX (Oxford Street cultural and creative precinct)' and ensure no additional height or floor space can be achieved by way of a variation inconsistent with the requirements of the proposed new clause.

Retention of existing cultural and creative floor space

- (1) Include in Division 5 Site-specific provisions, Part 6 Local Provisions a clause applies to land identified on the Locality and Site Identification Map as the Oxford Street cultural and creative precinct (the precinct).
- (2) The objective of the clause is to maintain the amount of creative and cultural floor space on land identified on the Locality and Site Identification Map as the Oxford Street cultural and creative precinct.
- (3) This clause will apply to development involving the change of use or erection of a building or alterations to existing building on land shown in the precinct.

It will require that development consent will not be granted within the precinct unless the consent authority is satisfied that it maintains or increases the creative and cultural floorspace on the site on 10 September 2021 ~~the date which this LEP provision is placed on public exhibition.~~

- (4) *The clause will allow exceptions to the requirement to retain cultural and creative floor space only for redevelopment which does not seeks to access alternative height and floor space provisions. Exceptions will be required to demonstrate genuine and compelling site-specific reasons for why existing floor space for a cultural and creative purpose cannot be retained. This will include evidence of marketing of the site over a stipulated and continuous 6 month period for the cultural and creative purposes as defined. If this can be demonstrated, then the clause will allow the tenanting of the space for an alternative cultural and creative purposes. These other creative purposes will include architecture studios, music publishing, advertising, heritage services, other specialised design services and other commercial businesses which service the specific needs of cultural and creative floor space in the precinct.*
- (5) ~~(5)~~ The clause will define cultural and creative GFA of the building as that used or proposed to be used for the purpose of a live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes.

New additional permitted uses and increased height at National Art School (NAS)

- (1) Insert 'entertainment facilities, community facilities, function centres, offices, information and education facilities, market retail, recreation, filming, shops and food and drink premises which support the ongoing education and cultural and creative use of the National Art School' as additional permitted uses with consent under Schedule 1 applying to NAS, (156 Forbes Street, Darlinghurst being Lot 1 DP 568755)
- (2) Amend the Floor Space Ratio Map sheets 015, 022 and 023 of Sydney LEP 2012 in accordance with the Floor Space Ratio Map shown in Part 4 of this planning proposal to allow an increase from 0.9:1 to 1:1.

Extension of heritage conservation area

- (1) Amend map sheets HER_015 in the Sydney LEP 2012, to include 276-278 Crown Street in the C17 Oxford Street heritage conservation area as shown on the Heritage Conservation Maps shown in Part 4 of the planning proposal.

Example clauses

The final clauses to be inserted into Division 5 would be subject to drafting and agreement by Parliamentary Counsel's Office but may be written as follows.

Part 6 Local provisions—height and floor space Division 5 Site specific provisions

xx Oxford Street Cultural and Creative precinct

- (1) The objective of this clause is to provide for additional floor space on certain land to encourage the cultural and creative, entertainment, education, commercial and tourism sectors and associated industries in the Oxford Street area and to support the role of Oxford Street as a local centre.
- (2) This clause applies to land identified on the Locality and Site Identification Map as the Oxford Street cultural and creative precinct (the precinct), and excludes the National Art School, (156 Forbes Street, Darlinghurst being Lot 1 DP 568755). **217 to 263 Oxford Street, 56 Oxford Street, 103–105 Oxford Street, 163–169 Oxford Street, 173–175 Oxford Street, 21 Oxford Street, 37–41 Oxford Street, 185 Oxford Street, 171 Oxford Street, 107–111 Oxford Street, 43 Oxford Street, 48 Little Oxford Street and 183-183A Oxford Street.**
- (3) Despite clause 4.3 and 4.4, the consent authority may grant development consent for development on the subject land that will result in a building with the maximum FSR and heights shown on the alternative HOB and FSR maps.
- (4) Development consent must not be granted under subsection (3) unless the consent authority is satisfied that the development is for any one or more of the following purposes:
 - (i) entertainment facilities
 - (ii) community facility
 - (iii) education facility
 - (iv) hotel or motel accommodation
 - (v) health services facility
 - (vi) light industry
 - (vii) commercial premises
 - (viii) information and education facilities
- (5) Development consent must not be granted under subsection (3) to development where there are no existing cultural and creative uses on site unless the consent authority is satisfied that 10 per cent of the total GFA is allocated within the development for a creative purpose that is live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes.
- (6) Development consent must not be granted under subsection (3) to development where there are existing cultural and creative uses on the site unless the consent authority is satisfied that the existing GFA for cultural and creative uses is maintained and an additional 10 per cent of the total GFA is allocated the development for a creative purpose that is live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes.
- (7) For the purposes of this clause, live entertainment means an event at which one or more persons are engaged to play or perform live or pre-recorded music, or a performance at which the performers (or at least some of them) are present in person. Live entertainment does not include that associated with sex industry or adult entertainment uses **or the presentation of film within a cinema complex.**
- (8) Development consent must not be granted under subsection (3) unless the consent authority is satisfied that the development will not:
 - (a) impact on heritage significance of the heritage conservation area, and on the built form, fabric and heritage significance of a heritage item, or
 - (b) endanger the structural stability of the existing building or any heritage items on or under the land.
- (9) Development consent must not be granted under subsection (3) for development on 189 Oxford Street, Darlinghurst (Lot 1 DP 33381), 379-379A Bourke Street Darlinghurst (Lot 2 DP 51864), 381 Bourke Street Darlinghurst (Lot 1 DP 57383) or 383-387 Bourke Street Darlinghurst (Lot 1 DP 193949, Lot 2 DP 193949) unless the building is on land having a site area of more than 1,000 square metres.
- (10) **Development consent must not be granted under subsection (3) for development on 4-6 Flinders Street, Darlinghurst (Lot 100 DP 746537), 10-16 Flinders Street, Darlinghurst (Lot 1 DP 9347), 18-26 Flinders Street Darlinghurst (Lot 2 DP 9347), 4-6 Taylor Street, Darlinghurst (Lot 3 DP 9347), 8-10 Taylor Street, Darlinghurst (Lot 4 DP 9347) and 2 Sturt Street, Darlinghurst (Lot 5 DP 9347 and Lot 1 DP 819569), unless the building is on land with a site area of more than 1,500 square metres and do not exceed 3.3:1 FSR..**
- (11) **Development consent must not be granted under subsection (3) for development on 21-25 Oxford Street, Darlinghurst (lot 1 DP 84976) and 12-93 Oxford Street, Darlinghurst (Lot 1 DP 1045284) unless the building are on land with a site area of more than 1,142.5 square metres and**

do not exceed 3.44:1 FSR.

- (12) **Development at 1-19 Oxford Street, Darlinghurst may exceed the FSR by 1,825sqm only if it is located in a 5 storey podium on the Wentworth Avenue and Oxford Street frontages to a height of RL52.223.**

~~(10)~~(13) Clause 6.21(7) does not apply to development on land to which this clause applies.

~~(11)~~(14) For buildings with a frontage onto Oxford Street and Flinders Street development may exceed the maximum floor space ratio for the site by up to 0.8:1 where that floor space is located below and is used for an entertainment facility that provides live entertainment.

~~(12)~~(15) Before granting consent to development the consent authority is to consider whether the development promotes uses that attract pedestrian traffic in and around ground floor tenancies of streets in the precinct.

(16) When development consent is granted allocating additional GFA for a cultural or creative purpose under (3) or (4) a condition of consent will be imposed requiring a restriction on the use of land pursuant to section 88E of the Conveyancing Act 1919 to be registered on the title of the land that prevents the additional GFA (need to identify) from being used for any purpose other than a cultural or creative purpose.

Part 4 Principal development standards

4.6 Exceptions to development standards

- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(xx) Clause 6.xx (Oxford Street cultural and creative precinct, Darlinghurst)

Part 6 Local provisions—height and floor

space Division 5 Site specific provisions

6.xx Oxford Street Cultural and Creative precinct

Retention of cultural and creative uses

- (1) The objective of this clause is to maintain the amount of creative and cultural floor space on land identified on the Locality and Site Identification Map as the Oxford Street cultural and creative precinct (the precinct)
- (2) This clause applies to development involving the change of use or erection of a building or alterations to existing building on land shown in the precinct.

Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied that the creative and cultural floor space will be the same as or greater than the total cultural and creative GFA of all buildings on the site on ~~(insert date of public exhibition).~~ **10 September 2021.**

- (3) **Development consent must not be granted to development under subsection (3) which does not seek to access the alternative height and floor space provisions in clause XXX(3), unless the consent authority is satisfied that:**

- (i) **the existing floor space used for a cultural and creative purpose has been the subject of active and appropriate marketing for a cultural and creative tenant over a continuous period of at least 6 months and**
- (ii) **all reasonable efforts have been made to preserve the floor space, and**
- (iii) **the space is proposed to be tenanted for an alternative creative purpose including architecture studios, music publishing, advertising, heritage services, other specialised design services and other commercial businesses which service the specific needs of cultural and creative floor space in the precinct.**

- ~~(5)~~(4) In this clause cultural and creative GFA means the gross floor area of the building used or proposed to be used for the purpose of live entertainment, performing arts, fine arts and craft, design (fashion, industrial or graphic), media, film and television, photography or publishing, or museums and archives dedicated to these purposes.

Schedule 1 Additional Permitted uses**Use of certain land at 156 Forbes Street, Darlinghurst**

- (1) This clause applies to land at National Art School, 156 Forbes Street, Darlinghurst, being Lot 1 DP 568755
- (2) Development for the purposes of entertainment facilities, community facilities, function centres, offices, information and education facilities, market retail, recreation, filming, shops and food and drink premises which support the ongoing education and cultural and creative use of the National Art School' is permitted with development consent.

