

Attachment B

**Planning Proposal – Build-to-Rent Housing
and Co-Living Housing in Central Sydney**

Planning Proposal – Build-to-rent housing and co-living housing in Central Sydney



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1. Background

1.1 History

The proposed changes to Sydney LEP 2012 for build-to-rent housing and co-living housing in Central Sydney originally formed part of the Planning Proposal - Policy and Housekeeping Amendments (LEP/DCP Update), which was approved by the Central Sydney Planning Committee and Council on 7 December and 11 December 2023 respectively, to be submitted to the Minister for Planning and Public Spaces with a request for Gateway determination and to be placed on public exhibition.

Following this decision, the planning proposal was sent to the Department of Planning, Homes and Infrastructure (the Department) with a request for Gateway determination. On 23 February 2024, the Department issued the Gateway determination, which included a requirement for the build-to-rent housing and co-living housing in Central Sydney proposal to be removed from the planning proposal, and re-submitted as a separate planning proposal. This planning proposal is a result of that Gateway determination requirement.

The amendments in this planning proposal will ensure the City's planning control framework is up to date, addresses current needs and is consistent with planning strategies.

1.2 Affected area

This planning proposal relates to the Sydney local government area, it applies to land zoned SP5 Metropolitan Centre in Sydney LEP 2012, also known as Central Sydney.

1.3 Introduction

This Planning Proposal for build-to-rent housing and co-living housing in Central Sydney (planning proposal) details the intent and justification for the proposed amendments to Sydney LEP 2012. This proposal will introduce an accommodation floor space bonus to incentivise build-to-rent housing and co-living housing in Central Sydney. It will also remove the application of certain provisions in the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) which cause there to be no FSR standard in tower cluster areas. This proposal will ensure consistency with the endorsed strategic planning objectives of the Central Sydney Planning Strategy by retaining opportunities to support the viability of new commercial development to ensure a genuine mixed use centre.

This planning proposal has been prepared in accordance with the Environmental Planning and Assessment Act 1979 (the Act) and Local Environmental Plan Making Guideline published by the Department of Planning and Environment (the Department) in August 2023.

2. Objectives and intended outcomes

The proposed changes to the Sydney LEP 2012 provide a floor space incentive to encourage build-to-rent housing and co-living housing in Central Sydney and provide more certainty for developers and the community on the maximum floor space and supporting controls for build-to-rent housing and co-living housing in Central Sydney.

The objectives of this planning proposal are as follows:

- a. facilitate development that aligns with the strategic planning framework including the Central Sydney Planning Strategy, and the outcomes sought under *City Plan 2036 Local Strategic Planning Statement* and *Sustainable Sydney 2030-2050 Continuing the Vision*;
- b. update planning controls to respond to the current circumstances of a changing City;
- c. improve clarity and useability of the *State Environmental Planning Policy (Housing) 2021* as it applies to Central Sydney;
- d. to incentivise and support the delivery of build-to-rent housing and co-living housing in Central Sydney through changes to Sydney LEP 2012, to address the temporary post pandemic rental housing shortage;
- e. to establish the intended floor space ratio for build-to-rent and co-living housing in Central Sydney, without compromising the City's Central Sydney Planning Strategy's long-term vision to provide for capacity for productive employment in a mixed-use global city.

3. Explanation of provisions

To achieve the objectives and intended outcomes, this planning proposal seeks to amend the Sydney LEP 2012 by:

- Amending Clause 6.4(1) to include a temporary accommodation floor space incentive in Central Sydney for build-to-rent housing in the following Areas on the FSR map:
 - Area 1 – 4.5:1
 - Area 2 – 6:1
 - Area 3 – 3.5:1
 - Areas 4 – 1.5:1.
- introducing a temporary accommodation floor space incentive in Central Sydney for co-living in Haymarket (Area 4 of the FSR map) as follows:
 - Area 4 – 1.5:1
- clarifying that the temporary accommodation floor space incentives apply for applications lodged within five (5) years from these amendments being made, **and provide for a savings provision for detailed development applications made on a concept plan that is lodged within the 5 year period and approved utilising the incentive floor space.**
- clarifying that Clause 6.4(1A) regarding changes to additional floor space beyond 1 July 2023 do not apply to build-to-rent and co-living housing
- amending Clause 6.4 by introducing a sub-clause to specify the requirements for active uses on the lower levels of build-to-rent housing and co-living housing in the SP5 zone by:
 - including an objective of the sub-clause to clarify that build-to-rent housing and co-living housing is to have active uses and ancillary uses at lower levels to encourage the presence and movement of people, while also protecting the amenity of residents in the build-to-rent and co-living housing.
 - requiring the consent authority to not grant consent to build-to-rent housing and co-living housing unless the following is satisfied:
 - locate active uses on the ground floor, consistent with the Housing SEPP including that an active street frontage is not required for part of a building used for one or more of the following:
 - entrances and lobbies
 - access for fire services
 - vehicular access
 - restrict dwellings on levels 1 and 2 above the ground floor to protect residential amenity, but allow for non-residential uses or communal spaces associated with the build-to-rent or co-living development
- inserting a definition of build-to-rent housing consistent with the definition in the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023
- amending Clause 1.9 to exclude the application of parts of the Housing SEPP in Central Sydney to provide certainty about the floor space ratio for build-to-rent housing
- amending Part 7, Division 1 of the Sydney LEP 2012 to include a maximum rate of parking provision for build-to-rent housing in Central Sydney of 0.2 car parking spaces per dwelling.

- Clarify that LEP provisions delivered by site specific planning proposals (Division 5 Part 6 clauses) in line with the City's Central Sydney Planning Strategy, are alternate controls and the standard LEP provisions remain available for all applicable development, including build-to-rent or co-living housing.
- Clarify that the tower cluster provisions (Clause 6.21E) are opt in provisions and the standard LEP provisions, including the amended accommodation floor space bonus, are available for all applicable development, including build-to-rent or co-living housing.

4. Justification

This section provides a justification of the strategic merit of the planning proposal and has been prepared in accordance with the Department's *Local Environmental Plan Making Guideline* (August 2023). It assesses the proposed amendments as a whole and its alignment with the region and district plans as well as the City's local strategic planning statement and strategic plans.

In 2021, the Housing SEPP introduced new provisions for build-to-rent housing. This type of purpose-built rental housing is held in single ownership and professionally managed, and in some commercial only zones, the residential tenanted components are restricted from subdivision after 15 years. As of December 2023, the Central Sydney (the SP5 zone) is one of the areas where build-to-rent is unable to be subdivided after 15 years.

The Housing SEPP controls include compliance with the maximum height and floor space ratio (FSR) standards in LEPs, providing active uses at street level in business zones, and a flexible application of the Apartment Design Guide as shared facilities and communal spaces are an increased feature of these developments.

The Housing SEPP also provides controls for co-living housing, which is a type of residential accommodation featuring communal spaces for residents and requires a manager of the property to be contactable at all times. This is often a type of accommodation used for student housing. Rooms can be smaller than build-to-rent housing and can be rented or leased for shorter periods of time but can't be used for short term visitor or tourist accommodation.

The build-to-rent housing and co-living housing provisions in the Housing SEPP seek to encourage the delivery of these types of housing across Sydney, to contribute to a greater diversity of housing and address the current housing supply shortage.

This amendment will insert a floor space incentive into the Sydney LEP 2012 for build-to-rent and co-living housing in areas of Central Sydney to be available for 5 years from the commencement of these controls, to help address the temporary rental housing shortage while continuing to meet the strategic direction endorsed for Central Sydney through the Central Sydney Planning Strategy.

Use of accommodation floor space bonuses for build-to-rent housing and co-living housing

Although all forms of housing development are permitted in Central Sydney, Sydney LEP 2012 incentive accommodation floor space provisions under Clause 6.4 currently do not apply to residential development. It is proposed that the controls be amended to introduce incentive accommodation floor space for build-to-rent housing in Areas 1 to 4 on the Floor Space Ratio Map.

The incentive accommodation floor space for residential uses were switched off to support the delivery of the approved employment targets for Central Sydney. However due to the current rental housing supply situation and the recent amendment to the Housing SEPP, it is considered opportune to switch on incentive provisions for built-to-rent housing as a way of encouraging more diverse housing options in Central Sydney.

Incentive accommodation floor space provisions for co-living housing in Area 4 are also proposed, as this Area is in the southern part of Central Sydney close to universities, Ultimo TAFE and Royal Prince Alfred Hospital. Students and essential workers such as teachers and nurses in particular could make use of these types of rental accommodation due to their convenient locations including proximity to other services such as full-line supermarkets and recreation facilities.

These proposed changes will set out the incentive floor space provisions for build-to-rent housing and co-living housing, being the accommodation floor space incentive and design excellence bonus of up to 10%. The provisions will clarify that while the new incentives apply to Central Sydney, the unique opportunity in the mapped tower cluster areas of an additional 50% design excellence bonus, will continue to be available for non-residential uses only.

As the supply of rental housing is an urgent issue, it is recommended that the incentive accommodation floor space provisions apply to build-to-rent and co-living housing developments for a period of 5 years to accelerate the delivery of housing. It is recommended that it apply where a development consent for a Stage 2 development application is lodged no later than 5 years from the commencement of these controls.

Ground and lower level uses of build-to-rent housing

Due to high levels of activity in Central Sydney, including very high foot traffic levels, entertainment uses and frequent special events, specific amenity and acoustic privacy protections should be provided for future residents of build-to-rent housing and co-living housing. In addition to the ground floor activation required by the Housing SEPP, it is proposed to require non-residential uses, or ancillary residential uses (including common spaces and shared facilities provided for the use of residents of the dwellings) to be located on the first and second floors.

This will provide an amenity buffer area for residents, while still providing significant floor space above for build-to-rent or co-living dwellings. This is consistent with the approach used for the Pitt Street South over-station development, which is the first build-to-rent housing development in Central Sydney, with residences starting at level 7 of the building (above the Metro station entrance).

Definition of build-to-rent housing

To provide clarity as to what constitutes build-to-rent housing, it is proposed to add a definition for build-to-rent housing in the Dictionary of the Sydney LEP 2012. The wording is the same as that in Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023. Co-living housing is already defined in the Sydney LEP 2012.

Maximum parking rate for build-to-rent

Rates of parking spaces per dwelling for build-to-rent housing are established in clause 74 (2) (d) of the Housing SEPP. The rate of 0.2 parking spaces per dwelling is applicable to Central Sydney.

The Housing SEPP does not specify whether this rate is a maximum cap or a minimum requirement. The City's parking rates set a maximum and no private parking can be provided if a developer chooses. To ensure that build-to-rent housing developments are able to deliver less parking than the SEPP's rate if desired, it is proposed to set a maximum cap of 0.2 parking spaces per dwelling.

Amendments to remove the application of parts of the Housing SEPP for build-to-rent

The Central Sydney Planning Strategy delivered controls tailored to Central Sydney's unique characteristics. It enables opportunities for development to preserve and grow commercial, retail, and cultural uses while balancing other uses, including housing, community and recreational uses. FSRs are a complex arrangement of incentives for uses, design excellence and other desirable outcomes in Central Sydney.

Clause 74(2) of the Housing SEPP sets floor space ratios (FSRs) for build-to-rent as either matching the maximum for residential accommodation or the maximum for other uses if residential is prohibited.

The lack of clarity and potential tension caused by the SEPPs FSR controls for build to rent is proposed be resolved by excluding the two SEPP provisions s74(2)(b) and (c) from applying in Central Sydney under clause 1.9 of the LEP.

The intention of the relevant provisions of the SEPP is to provide development standards for build to rent as the SEPP introduces its permissibility and standards may not have (clearly) existed in an LEP.

The provision is not necessary for Central Sydney as the base (mapped) FSR applies to all permissible development and the proposed incentive provides additional floor space for BTR.

This proposal is to exclude the operation of the Housing SEPP's Clause 74(2)(b) and (c) relating to FSRs for build-to-rent housing in Central Sydney, as they create the following issues.

1. The Housing SEPP caps FSR to that for residential accommodation under the LEP, working against the City's proposed incentive in Central Sydney.

The Housing SEPP caps FSR for build-to-rent at that for residential accommodation. In Central Sydney this is the mapped FSR, as there is no bonus for residential accommodation under the LEP. The SEPP's non-discretionary standard FSRs means the proposed incentive for build-to-rent and co-living housing could not be awarded.

2. Removes all FSR standards for build to rent on Central Sydney sites incentivised for business uses through site specific planning proposals

Where specific sites have been incentivised with FSR uplift for employment uses, the SEPP creates the situation where no FSR standard applies for build to rent development.

Neither s74(2)(b) or (c) of the Housing SEPP apply. Residential accommodation is permitted in the SP5 Zone – Metropolitan Centre, meaning that the maximum FSR for other uses does not apply. Meanwhile there is no maximum residential accommodation FSR in the site-specific clauses that can be relied upon.

As no standard applies, the FSR for a build to rent project will be determined by a merit assessment only. This enables a proposal for build-to-rent within the envelope generated by the site specific planning controls intended to deliver strategic business floor space.

Such an approach undermines the intent of site specific provisions and the Central Sydney Planning Strategy.

3. Lack of clarity and certainty for Tower Cluster Areas

The Housing SEPP clauses erode the intent of the Tower Cluster Area FSR bonus under Clause 6.21E of Sydney LEP 2012. These Tower Cluster Area provisions, were introduced to incentivise employment generating uses in specific areas where there is opportunity for additional height and density following the City's detailed analysis of overshadowing to key public spaces.

The uplift awarded as part of the Tower Cluster Area provisions is for specific employment generating uses as detailed in Clause 6.21E(6)(b), which does not include residential accommodation or build-to-rent housing. However, there is a concern that once the envelope has been established through a Stage 1 concept development application, like the site-specific planning proposal pathway, an argument to vary the land use within the larger envelope could be made through a modification application.

By removing the application of the specific Housing SEPP clauses in Central Sydney this ensures there is clarity in the applicable FSR for build-to-rent housing. This greater clarity and certainty of the applicable planning controls and development outcomes, improves consistency in its application and provides for a more efficient development application assessment process. It also ensures the broader intent of the Central Sydney Planning Strategy is not undermined, delivering the desired land uses and built form outcomes.

The removal of the application of these two clauses in the Housing SEPP in Central Sydney addresses the first two issues raised above, and removes the threat of the third issue. Switching off these specific clauses only for Central Sydney is a clear and simple way to address the above issues, while an FSR incentive for build-to-rent is introduced as part of this proposal.

In addition, the car parking requirements in Clause 74 (2) (d) of the Housing SEPP are proposed to be excluded for Central Sydney to ensure the proposed maximum rate of 0.2 car parking spaces applies. Given the high accessibility of Central Sydney and the high cost of building car parking, we should avoid setting a minimum amount of car parking. Car share and servicing spaces are provided for in other controls.

The proposed changes will ensure the proposed controls will be consistent with the Central Sydney Planning Strategy, whilst still being consistent with the intent of the Housing SEPP.

4.1 Need for the planning proposal

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

This planning proposal has been prepared to be consistent with the Central Sydney Planning Strategy by accommodating reasonable growth while maintaining Central Sydney's internationally competitive global status.

The planning proposal is consistent with *City Plan 2036* – the City of Sydney's local strategic planning statement connecting the City's recently updated community strategic plan *Sustainable Sydney 2030 – 2050 Continuing the Vision* with NSW Government strategic plans. In *City Plan 2036*, the City outlines how the planning framework will plan for and manage change and deliver the City's vision for a green, global and connected city.

Key priorities identified in *City Plan 2036* that are being delivered by this planning proposal are provisions to encourage the delivery of diverse types of rental housing

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

This planning proposal seeks to amend Sydney LEP 2012 by introducing new controls that respond to matters since the instrument was implemented through the City's local strategic planning actions.

There is no other means of achieving the objective or intended outcomes as they specifically related to matters that are best addressed by local environmental plan controls.

4.2 Relationship to the strategic planning framework

4.2.1 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

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

Greater Sydney Region Plan

A Metropolis of Three Cities – The Greater Sydney Region Plan is the NSW Government's overarching strategic plan for growth and change in Sydney. It provides a vision to transform Greater Sydney into a metropolis of three cities, being the Western Parkland City; the Central River City; and the Eastern Harbour City.

The Plan outlines how Greater Sydney will manage and deliver growth and guide infrastructure delivery. The Plan is implemented by District Plans. This planning proposal is consistent with several relevant directions and objectives of the Plan, as follows:

- **Infrastructure and collaboration** – the proposed amendments are consistent with the objectives of this direction in that it will ensure existing infrastructure is optimised through more effective car parking controls.
- **Liveability** – the planning proposal will deliver bonus floor space for new build-to-rent housing and co-living developments in Central Sydney to encourage more rental and diverse housing.

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- **Productivity** – this planning proposal makes no change to any existing employment lands and zones. This retains and protects industrial and urban services land as well as existing economic centres, contributing towards a stronger and more competitive Harbour CBD.
- **Implementation** – this planning proposal is the result of regular ongoing monitoring of the City’s planning controls and includes amendments to ensure their continued application remains effective. This proposal has been informed by the application region and local planning strategies demonstrating alignment down to the local area.

Eastern City District Plan

The Eastern City District Plan sets out the vision, priorities and actions for the eastern district of Greater Sydney, which includes the City of Sydney. It establishes a plan to manage growth and achieve the vision while maintaining and enhancing liveability, productivity and attractiveness.

In line with obligations imposed on the City of Sydney for the delivery of housing under the State’s Eastern District Plan, these targets are set out in the City’s Local Strategic Planning Statement, City Plan 2036, as required by legislation. These targets are informed by, amongst other things, Future Transport 2056 which identifies city-shaping transport projects that will improve accessibility to jobs and services, and act as a catalyst for certain types of development.

Strategic alignment of the Eastern District Plan and City Plan 2036, the City’s local strategic planning statement is imperative. With City Plan 2036 reinforcing the link between the NSW Governments strategic plans and the City’s community strategic plan, the City is able to deliver on the targets for additional jobs capacity and housing.

These targets include the capacity for up to 200,000 jobs noting the Eastern District Plan baseline jobs requirements is 166,500, but in line with productivity desires this was increased to up to 200,000. The LSPS also noted that Central Sydney Planning Strategy identified capacity for 158,000 jobs. It also notes that achieving the higher 200,000 could rely on a decrease in work-space ratios or other management tools.

In addition, the City’s Local Housing Strategy 2016-2036, includes the NSW target of 56,000 additional dwellings within that timeframe. As of June 2022, the City is on track to achieve this target with nearly 40,000 dwellings delivered, approved or under construction.

As part of this planning proposal the City is taking the initiative and anticipating a strong desire to see build-to-rent housing in Central Sydney following a number of enabling changes. If taken up, this will naturally adjust the balance of future housing and work place capacity against state agreed targets. The changes contained in this planning proposal anticipate a careful approach to safeguard the productivity driver of Central Sydney as well as addressing the current shortage of rental housing.

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

- **Liveability**
- **E3 – Providing services and social infrastructure to meet peoples changing needs**
- **E4 – Fostering healthy, creative, culturally rich and socially connected communities**
- **E5 – Providing housing supply, choice and affordability, access to jobs, services and transport**
- **E6 – Creating and renewing great places and local centres, respecting the District’s heritage**

This proposal introduces provisions for a floor space incentive to encourage build-to-rent housing and co-living developments in Central Sydney to support the delivery of diverse housing options.

Productivity

- **E7 – Growing a stronger and more competitive Harbour CBD**
- **E8 – Growing and investing in health and education precincts and the innovation corridor**
- **E10 – Delivering integrated land use and transport planning for a 30 minute city**
- **E11 – Growing investment, business opportunities and jobs in strategic centres**
- **E13 – Supporting growth of targeted industry sectors**

The provisions in this planning proposal includes no change to any industrial or employment generating zones, ensuring the City's jobs capacity target outside Central Sydney will not be impacted. Nor will this proposal adversely impact upon the existing policies aimed towards business opportunities, jobs and investment growth of targeted industry sectors in the innovation corridor or in strategic centres.

Implementation

- E21 – Preparing Local Strategic Planning Statements informed by local strategic planning
- E22 – Monitoring and reporting on the delivery of the Plan

This planning proposal has been informed by City Plan 2036 - Local Strategic Planning Statement and ongoing strategic planning undertaken by the City which has monitored the application of the LEP and seeks to make refinements to improve its operation and efficacy.

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

Sustainable Sydney 2030-2050 Continuing the Vision

Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the Sydney Local Government Area to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This planning proposal is aligned with the following relevant strategic directions.

- **Responsible governance and stewardship**

The proposed amendments in this planning proposal will ensure that the City of Sydney's planning control framework is up to date and reflects current policies and strategies.

- **Design excellence and sustainable development**

This planning proposal includes amendments to design excellence and sustainability provisions ensuring they continue to deliver new buildings and alterations centred around good design and sustainability.

- **A city for walking, cycling and public transport**

New and amended provisions will reduce car parking rates and to increase the supply of EV chargers and bicycle parking racks to help reduce private vehicle use and provide for a city designed for walking, cycling and public and zero-carbon transport.

- **An equitable and inclusive city**

Provisions contained in this proposal help the City deliver on this direction by increasing tree canopy coverage, protecting and enhancing new parks and encouraging less vehicle use.

- **Resilient and diverse communities**

This planning proposal includes provisions that will support and strengthen our community through greener, more resilient suburbs and greener less carbon intensive development.

- **A transformed and innovative economy**

All existing employment generating land uses remain unaffected by this planning proposal and will continue to drive the local, metropolitan and state economies delivering opportunities for new jobs and investment.

- **Housing for all**

Floor space incentives are being introduced for build-to-rent housing and co-living housing in Central Sydney to encourage the delivery of new and diverse rental housing.

The proposal will support the strategic direction of *Housing for all* through floor space incentives for build-to-rent housing and co-living housing in Central Sydney to encourage the delivery of new and diverse rental housing.

City Plan 2036 – Local Strategic Planning Statement

City of Sydney's endorsed local strategic planning statement, City Plan 2036 sets the land use planning context, vision and planning priorities to positively guide development. The planning statement outlines how the City will plan for and manage change, while delivering on the City's vision for a green, global and connected city. This planning proposal gives effect to the following priorities of the Statement:

Liveability

- L1. A creative and socially connected city
- L2. Creating great places
- L3. New homes for a diverse community

The proposed amendment in this planning proposal will provide for a creative and socially connected city by introducing floor space incentives to encourage build-to-rent housing and co-living developments in Central Sydney.

Governance

- G1. Open, accountable and collaborative planning

This proposal will update the City of Sydney's primary planning controls to respond to current council and state strategic directions.

Central Sydney Planning Strategy

One of the Central Sydney Planning Strategy's key strategic directions is to maintain and strengthen Central Sydney's status as a globally competitive city by continuing to attract business investment and be a preferred location for workers, residents and visitors. Challenges for Central Sydney to meet this strategic direction include a constrained geography for office expansion (unlike many other cities), and pre-Covid market conditions which meant that residential development tends to deliver more attractive one-off financial gain for developers than income-earning commercial development.

Prioritising employment capacity, especially in the commercial core, is to ensure employment floor space will be able to accommodate projected jobs growth (as a correlation of population growth) and maintain Sydney's competitive advantage well into the future. Residential development is still important in Central Sydney, with around 5,000 dwellings in the development pipeline as of 30 June 2023.

The Central Sydney office market is naturally cyclical, but the pandemic and post pandemic impacts are anticipated to contract the previously expected demand in workspace by around 25 per cent. This reduction below trend will fade over time as the population continues to grow. Due to recent changes, build-to-rent housing and co-living housing is considered a compatible use to help meet the post pandemic rental housing shortage while not compromising the long-term viability of other forms of commercial development. This is on the basis that build-to-rent housing and co-living housing in Central Sydney cannot be subdivided. When market cycles again see high demand for income-producing space, potential reuse or conversion of these sites to other uses is not constrained by individual strata owners. Therefore, the proposed changes are compatible with the strategy, though they rely on not allowing build-to-rent housing subdivision in order to make it easier to refresh and redevelop Central Sydney as market conditions change.

4.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?

This planning proposal is consistent with all applicable State Environmental Planning Policies (SEPPs), as summarised in Table 2

Table 1. Consistency with State Environmental Planning Policies

| State Environmental Planning Policy | Comment |
|--|--|
| SEPP (Biodiversity and Conservation) 2021 | Consistent – no amendment in this proposal hinders the application of this SEPP. |
| SEPP (Exempt and Complying Development Codes) 2008 | Consistent – no amendment in this proposal hinders the application of this SEPP. |
| SEPP (Housing) 2021 | Consistent – amendments in this planning proposal will continue to support the delivery of diverse housing types, consistent with the principles of this SEPP. |
| SEPP (Industry and Employment) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| SEPP (Planning Systems) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| SEPP (Precincts–Central River City) 2021 | Not applicable. |
| SEPP (Precincts–Eastern Harbour City) 2021 | Consistent – no amendment in this planning proposal will hinder the application of this SEPP. |
| SEPP (Precincts–Regional) 2021 | Not applicable. |
| SEPP (Precincts–Western Parkland City) 2021 | Not applicable. |
| SEPP (Primary Production) 2021 | Not applicable. |
| SEPP (Resilience and Hazards) 2021 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| SEPP (Resources and Energy) 2021 | Not applicable. |
| SEPP (Sustainable Buildings) 2022 | Consistent – no amendment contained in this planning proposal will hinder the application of this SEPP. |
| SEPP (Transport and Infrastructure) 2021 | Consistent – no amendment in this proposal hinders the application of this SEPP. |

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

This planning proposal is consistent with all Local Planning/Ministerial Directions issued under section 9.1 of the Environmental Planning and Assessment Act 1979, as summarised in Table 3.

Table 2. Consistency with Local Planning/Ministerial Directions

| Ministerial Direction | Comment |
|---|---|
| Focus area 1: Planning Systems | |
| 1.1 Implementation of Regional Plans | Consistent - this proposal supports the Region Plan. |
| 1.2 Development of Aboriginal Land Council land | Not applicable. |
| 1.3 Approval and Referral Requirements | Consistent - no amendment includes concurrence, consultation or referral provisions or identify any designated development. |
| 1.4 Site Specific Provisions | Consistent - this planning proposal does not propose any site specific planning controls. |
| 1.4A Exclusion of Development Standards from Variation | Consistent - this planning proposal does not propose to exclude a development standard from variation under clause 4.6 |
| Focus area 1: Planning Systems – Place-based | |
| 1.5 Parramatta Road Corridor Urban Transformation Strategy | Not applicable. |
| 1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan | Not applicable. |
| 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable. |
| 1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable. |
| 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor | Not applicable. |
| 1.10 Implementation of the Western Sydney Aerotropolis Plan | Not applicable. |
| 1.11 Implementation of Bayside West Precincts 2036 Plan | Not applicable. |

| Ministerial Direction | Comment |
|---|--|
| 1.12 Implementation of Planning Principles for the Cooks Cove Precinct | Not applicable. |
| 1.13 Implementation of St Leonards and Crows Nest 2036 Plan | Not applicable. |
| 1.14 Implementation of Greater Macarthur 2040 | Not applicable. |
| 1.15 Implementation of the Pyrmont Peninsula Place Strategy | Not applicable. |
| 1.16 North West Rail Link Corridor Strategy | Not applicable. |
| 1.17 Implementation of the Bays West Place Strategy | Not applicable. |
| 1.18 Implementation of the Macquarie Park Innovation Precinct | Not applicable. |
| 1.19 Implementation of the Westmead Place Strategy | Not applicable. |
| 1.20 Implementation of the Camelia-Rosehill Place Strategy | Not applicable. |
| 1.21 Implementation of the South West Growth Structure Plan | Not applicable. |
| 1.22 Implementation of the Cherrybrook Station Place Strategy | Not applicable. |
| Focus area 2: Design and Place | No directions in place. |
| Focus area 3: Biodiversity and Conservation | |
| 3.1 Conservation Zones | Not inconsistent |
| 3.2 Heritage Conservation | Consistent - the proposed amendments will not adversely impact the ongoing conservation of heritage items. |
| 3.3 Sydney Drinking Water Catchments | Not applicable. |
| 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs | Not applicable. |
| 3.5 Recreation Vehicle Areas | Not inconsistent. |
| 3.6 Strategic Conservation Planning | Not applicable. |
| 3.7 Public Bushland | Not inconsistent. |
| 3.8 Willandra Lakes Region | Not applicable. |

| Ministerial Direction | Comment |
|---|---|
| 3.9 Sydney Harbour Foreshores and Waterways Area | Consistent – the proposed amendments will not impact controls for the Harbour, foreshores or waterways. |
| 3.10 Water Catchment Protection | Not applicable. |
| Focus area 4: Resilience and Hazards | |
| 4.1 Flooding | Consistent - the proposed amendments do not hinder the flood prone land provisions in Sydney LEP 2012 |
| 4.2 Coastal Management | Consistent – the proposed amendments do not change provisions relevant to coastal management. |
| 4.3 Planning for Bushfire Protection | Not applicable. |
| 4.4 Remediation of Contaminated Land | Consistent - this Planning proposal includes no change to the City's current policy and LEP provisions relating to contaminated land and remediation. |
| 4.5 Acid Sulfate Soils | Consistent - the proposed amendments do not hinder the acid sulfate soil provisions in Sydney LEP 2012 |
| 4.6 Mine Subsidence and Unstable Land | Not applicable |
| Focus area 5: Transport and Infrastructure | |
| 5.1 Integrating Land Use and Transport | Consistent – see discussion below. |
| 5.2 Reserving Land for Public Purposes | Consistent - the proposed amendments do not contain provisions relevant to the reservation of land for public purposes. |
| 5.3 Development Near Regulated Airports and Defence Airfields | Consistent - the proposed amendments will not adversely impact the safe and effective operation of nearby airports nor constitute an obstruction and potential hazard to aircraft flying in the vicinity. |
| 5.4 Shooting Ranges | Not applicable. |
| Focus area 6: Housing | |
| 6.1 Residential Zones | Consistent – see discussion below. |
| 6.2 Caravan Parks and Manufactured Home Estates | Not inconsistent. |
| Focus area 7: Industry and Employment | |

| Ministerial Direction | Comment |
|--|--|
| 7.1 Business and Industrial Zones | Consistent – the amendments make no change to employment land zones. |
| 7.2 Reduction in non-hosted short-term rental accommodation period | Not applicable. |
| 7.3 Commercial and Retail Development along the Pacific Highway, North Coast | Not applicable. |
| Focus area 8: Resources and Energy | |
| 8.1 Mining, Petroleum Production and Extractive Industries | Not applicable. |
| Focus area 9: Primary Production | |
| 9.1 Rural Zones | Not applicable. |
| 9.2 Rural Lands | Not applicable. |
| 9.3 Oyster Aquaculture | Not applicable. |
| 9.4 Farmland of State and Regional Significance on the NSW Far North Coast | Not applicable. |

5.1 Integrating Land Use and Transport

The objective of this Direction is to ensure that urban structures improve choice and access to active and public transport infrastructure, reducing private vehicle demand and supports the efficient movement of freight.

This planning proposal includes changes to maximum parking rates for build-to-rent housing to minimise any overprovision and effects from induced demand. This is consistent with the aims of this Direction.

6.1 Residential Zones

This Direction seeks to encourage housing diversity to address future needs that minimises adverse environmental impacts and makes efficient use of infrastructure. This planning proposal introduces provisions to encourage the delivery of build-to-rent housing, and co-living housing helping to deliver more housing diversity in Central Sydney to address current supply issues.

This planning proposal is therefore consistent with the requirements of this Direction as existing provisions for housing supply will not be impacted and the amended provisions will encourage housing variety.

4.3 Environmental, social and economic impact

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

The planning proposal is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats. Land affected by this planning proposal is

in an inner city, highly urbanised environment and does not contain any significant critical habitats or threatened species, populations or ecological communities.

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

It is unlikely that the proposed amendments will result in development with significant adverse environmental impacts that cannot be readily managed.

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

This planning proposal will deliver amendments to the Sydney LEP 2012 that will result in positive social and economic effects through introducing provisions that will encourage the delivery of new and diverse forms of rental housing to address the current housing challenges.

4.4 State and Commonwealth interests

4.4.1 Is there adequate public infrastructure for the planning proposal?

Yes, land affected by this planning proposal is well served by the full range of public utilities and infrastructure, including electricity, telecommunications, water, sewer and stormwater. It is expected that these services will be upgraded as required. Nothing contained in this planning proposal will adversely impact any planned public infrastructure upgrades.

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

Formal consultation has not yet been undertaken on the amendments contained in this planning proposal. Appropriate consultation with the relevant state and federal public authorities and government agencies will be conducted as per advice from the Department of Planning in gateway determination once issued. Consultation will take place at the public exhibition stage of this planning proposal process.

5. Mapping

This Planning Proposal does not amend any maps.

6. Community consultation

~~This planning proposal shall be exhibited in accordance with the requirements of the gateway determination once issued by the Department of Planning.~~

~~It is anticipated that public exhibition of the planning proposal will be for a period of at least 28 days, which is consistent with the *Environmental Planning and Assessment Act 1979* and the *Local Environmental Plan Making Guideline* dated August 2023.~~

~~It is proposed that, at a minimum, the local community, residents, rate payers and relevant community interest groups shall be notified of the public exhibition by mail, email and social media, with all public exhibition documentation available on the City of Sydney website, in accordance with the City's Community Engagement Strategy and Participation Plan 2023. If necessary, exhibition material shall be made available at Town Hall House at 456 Kent Street, Sydney.~~

~~Consultation with the necessary state and federal agencies, authorities and other relevant organisations will be undertaken in accordance with the conditions contained in the gateway determination.~~

Community consultation was undertaken in accordance with the requirements of the Gateway determination.

Notification of the public exhibition of this planning proposal was made on the City of Sydney website, by email, social media and in writing to the property owners in Central Sydney.

The planning proposal was publicly exhibited from 15 April to 14 May 2024, meeting the requirements for a standard planning proposal under the Department of Planning, Housing and Infrastructure's Local Environmental Plan Making Guideline.

The exhibition material was made available on the City of Sydney website.

Consultation was not undertaken with public authorities or government agencies in accordance with the Gateway determination.

7. Project timeline

This planning proposal is categorised as a Complex planning proposal as per the Local Environmental Plan Making Guidelines dated August 2023, the anticipated timeframe for the completion of the planning proposal is as follows:

Table 3. Project timeline

| Stage | Timeframe |
|--|------------------|
| Commencement / gateway determination | April 2024 |
| Government agency consultation | April - May 2024 |
| Public exhibition | April - May 2024 |
| Review of issues raised in submissions | May 2024 |
| Post-exhibition reporting | June 2024 |
| LEP drafting | July 2024 |
| LEP made | August 2024 |
| LEP notification | August 2024 |

Appendix

Example Clauses

The final version of the clauses to be amended or inserted into the Sydney LEP 2012 would be subject to drafting and agreement by the Parliamentary Counsel's office, but may be written as follows:

1. Amend Clause 6.4 Accommodation floor space to incorporate build-to-rent housing and co-living housing:

6.4 Accommodation floor space

(1) A building that is an Area, and is used for a purpose specified in relation to the Area in paragraph (a), (b), (c), (d), (e), (f) or (g), is eligible for an amount of additional floor space (accommodation floor space) equivalent to that which may be achieved by applying to the building the floor space ratio specified in the relevant paragraph—

(a) Area 1, hotel or motel accommodation, community facilities or centre-based child care facilities—6:1,

(b) Area 1, business premises, educational establishments, entertainment facilities, function centres, health services facilities, information and education facilities, light industries, office premises or retail premises, **build-to-rent housing**,—4.5:1,

(c) Area 2, business premises, educational establishments, entertainment facilities, function centres, health services facilities, information and education facilities, light industries, office premises or retail premises—4.5:1,

(d) Area 2, centre-based child care facilities, community facilities or hotel or motel accommodation, **build-to-rent housing** —6:1,

(e) Area 3, business premises, educational establishments, entertainment facilities, function centres, health services facilities, information and education facilities, light industries, office premises or retail premises—2.5:1,

(f) Area 3, centre-based child care facilities, community facilities or hotel or motel accommodation, **build-to-rent housing**—3.5:1,

(h) Area 4, business premises, centre-based child care facilities, community facilities, educational establishments, entertainment facilities, function centres, health services facilities, hotel or motel accommodation, information and education facilities, light industries, office premises or retail premises, **build-to-rent housing, co-living housing** —1.5:1.

(1A) A building in Area 2, 3 or 4 that is used for the purposes of residential accommodation or serviced apartments (**excluding build-to-rent housing and co-living housing**) is eligible for the amount of accommodation floor space calculated by applying the relevant floor space ratio available on the date the development application is made to the building, as follows—

| Area | Additional floor space available until 30 June 2022 | Additional floor space available from 1 July 2022 to 30 June 2023 | Additional floor space available from 1 July 2023 |
|--------|---|---|---|
| Area 2 | 6:1 | 3:1 | Nil |

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| | | | |
|--------|-------|--------|-----|
| Area 3 | 3:1 | 1.5:1 | Nil |
| Area 4 | 1.5:1 | 0.75:1 | Nil |

(2) The amount of additional floor space that can be achieved under subclause (1) or (1A) is to be reduced proportionally if only part of a building is used for a purpose specified in subclause (1) or (1A).

(3) More than one amount under subclause (1) and (1A) may apply in respect of a building that is used for more than one purpose

(4) Build-to-rent housing or co-living housing is eligible for an amount of additional floor space (accommodation floor space) identified in subclause (1) only in relation to an application for development consent for a detailed development application which is lodged no later than [5 years from the commencement of the LEP amendment]

2. Insert clause (X) of Sydney LEP 2012 as follows with new text shown in **bold red**:

(X) Active uses on lower levels of built-to-rent housing or co-living housing in the SP5 Metropolitan Centre zone

(1) The objective of build-to-rent or co-living housing in the SP5 Metropolitan Centre zone is for active uses and ancillary residential uses to be provided at lower levels to encourage the presence and movement of people while protecting the amenity of residents.

(2) Development consent must not be granted for build-to-rent or co-living housing unless the consent authority is satisfied that a building:

(a) all ground floor street frontages are to have active street frontages, with the remainder of the ground floor used for non-residential uses, and

(b) will not contain dwellings on the first and second floors.

(3) An active street frontage is not required for a part of a building used for 1 or more of the following-

(a) Entrances and lobbies

(b) Access for fire services

(c) Vehicular access

3. Amend the Dictionary of Sydney LEP 2012 as follows with new text shown in **bold red**:

Build-to-rent housing means development to which Part 4 of Chapter 3 of State Environmental Planning Policy (Housing) 2021 applies and for which development consent is granted in accordance with that Part to enable certain residential accommodation to be used for build-to-rent housing.

4. Amend clause 1.9 of Sydney LEP 2012 as follows with deletion shown as ~~strike through~~ and new as suggested in **bold red**:

1.9 Application of SEPPs

(1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 3.28 of the Act.

(2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies—

(2A) State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Divisions 1, 2, 3 and 5 and Chapter 3, Part 3 do not apply to—

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- (a) land at Green Square Urban Renewal Area or at Ultimo-Pyrmont, or
 - (b) southern employment land, or
 - (c) land at the Waterloo Metro Quarter, or
 - (d) land in Central Sydney, or
 - (e) land at 17–31 Cowper Street or 2A–2D Wentworth Park Road, Glebe, or
 - (f) Botany Road Precinct Opportunity Land, or
 - (g) Waterloo Estate (South)—Area 1, or
 - (h) Waterloo Estate (South)—Area 2-
- (2B) State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 4 does not apply to—
- (a) land at Green Square Urban Renewal Area or at Ultimo-Pyrmont, or
 - (b) southern employment land, or
 - (c) land at the Waterloo Metro Quarter, or
 - (d) land at 17–31 Cowper Street or 2A–2D Wentworth Park Road, Glebe, or
 - (e) Waterloo Estate (South)—Area 1, or
 - (f) Waterloo Estate (South)—Area 2.
- (2C) State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 does not apply to land at 600–660 Elizabeth Street, Redfern.
- (2D) State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 4, Clauses 74(b), (c) and (d) and 76 do not apply to—**
- (d) land in Central Sydney**

5. Amend Part 7, Division 1, Clause 7.9 as follows with new text shown in **bold red**:

(x) Build-to rent housing: The maximum number of car parking spaces for a building used for the purpose of build-to-rent housing is 0.2 space for each dwelling.

6. **Amend Part 1, Clause 1.8A Savings provisions by adding a clause:**

(9) An amount of additional floor space calculated under clause 6.4 (x) as inserted by [this amendment]

(a) applies to a development application subsequent to, and made in reliance on, a development application or concept development application made in relation to the same development, and

(b) is calculated by reference to the additional floor space available on the date the application being relied on was made.