

## 4.0 SEPP Amendment Controls

### 4.1 Introduction

Listing of the CUB site as a State Significant Site within Schedule 3 of the Major Projects SEPP provides the Minister with the opportunity to establish a new planning regime for the site, including any new zoning and planning controls considered appropriate. To this end the following new zonings and planning controls are recommended for the Minister's inclusion in the SEPP amendment.

This is considered necessary to provide additional certainty for all stakeholders, as an approval under Part 3A of the Act effectively nullifies the application of the current LEP and DCP under the provisions of section 75R(3) of the Act. The only applicable environmental planning instruments remaining are the SEPPs, unless expressly excluded. By transferring new controls to the Major Projects SEPP the planning regime for the site is clearly set out for all future development proposals.

The proposed zoning and planning controls are outlined below and a copy of a draft amendment to the SEPP is included in full at **Appendix J**. This draft amendment is provided in a format consistent with that used for other State Significant Sites included in Schedule 3 of the Major Projects SEPP.

### 4.2 Land to which the SEPP applies

The land to which the SEPP amendment applies is all of that land covered by the Ministerial order of 21 July 2006, and shown on the map attached to that order included in **Appendix I**, and a portion of Balfour Street, north of Wellington Street.

### 4.3 Exempt and Complying development

The exempt and complying development provisions that currently apply to the site under the Central Sydney DCP 1996 remain applicable to the site.

### 4.4 Land Use Zoning

The current "City Edge" zoning under the Sydney LEP 2005 permits a wide range of uses including all the uses proposed. However, the draft SEPP amendment proposes to introduce a mixed use zoning modelled on the NSW standard LEP template, consistent with State policy for all new statutory instruments. The proposed Business Zone – Mixed Use includes all the uses that are currently permissible with consent under the City Edge Zone. The proposed zoning, however, is more restrictive in that it prohibits most industrial uses. Industries, for example, and will no longer be permitted on the site, although use of the site for a brewery will remain as a use that is permissible with consent. This is considered necessary because a 'boutique brewery' may be a suitable use on the site, especially in the 'Brewery Yard' heritage precinct.

To provide certainty as to the location of the public park and to ensure that it will be delivered as proposed in the Concept Plan and as recommended in the panel's report, the main park will be rezoned from its current "City Edge" zone to a new open space zone, also based on the standard LEP template.

The land use zoning section of the SEPP amendment includes the objectives of the zone, the land uses permitted with consent and the uses prohibited.

## 4.5 Definitions

The draft SEPP amendment adopts the definitions found in the standard LEP template dictionary with some minor changes as set out in the draft instrument at **Appendix J**.

## 4.6 Special Provisions

Development controls are proposed for the following:

- Building height, including solar access planes to limit overshadowing of the main park and the neighbouring development to the south, and building height planes from dominant streets to provide a built form that sets back from those streets above the street wall.
- Gross floor area distribution across the site to ensure a variety of block densities. The higher densities and buildings heights have been located in the north east quadrant of the site. The lesser density and lower building heights are located on the southern side of the site near the proposed main park and neighbouring Chippendale mixed use area.
- Heritage items to be retained are clearly identified and a special provision included so that even minor development involving heritage items can not proceed without consent.
- A land use mix that provides for a minimum of percentage (30%) of the gross floor area to be used for non-residential purposes, and a minimum percentage (also 30%) for residential development to ensure that there is sufficient 'critical mass' to create a sustainable mixture of uses and reasonable balance of live and work opportunities and to provide a vibrant 24 hour 'living' neighbourhood.
- The parking rates proposed for residential buildings, serviced apartments, hotels, clubs cinemas, theatres and recital halls are the same as those currently applying to the site under the Sydney LEP 2005. The parking rate proposed for other uses, which includes office and retail premises is based on the Sydney LEP formula, and distilled to the rate of 1 space per 212 square metres of gross floor area for those uses. This figure is consistent with the Sydney LEP formula as follows.

**The SLEP 2005 formula is as follows:**

$$\frac{\text{Total 'other' GFA}}{\text{Total GFA within development}^*} \times \frac{\text{Site Area}^{**}}{50}$$

\* Total GFA = CUB site area x 4.232 = 245,244 square metres

\*\* Site Area = all land owned by CUB + Sydney Electricity only ((i.e. excludes Council owned land) = 57,950 square metres

**Applying the formula:**

Assuming formula applied with 'other' GFA of 100,903 square metres (as per the Concept Plan)

$$\frac{100,902}{245,244} \times \frac{57,950}{50}$$

$$= 0.411 \times 1,159$$

$$= 476 \text{ spaces (100,902 square metres / 476 spaces)}$$

$$= \mathbf{1 \text{ space per 212 square metres GFA (rounded)}}$$

## 4.7 Design Excellence

The draft SEPP amendment includes a design competition process to help achieve design excellence similar to that currently applying to large sites in the Sydney CBD and to land administered by the Redfern-Waterloo Authority. The design competition process is to apply for any development involving the erection of a building of over 25 metres in height. The 25 metre height limit will capture development for the majority of the buildings on the site.

## 4.8 Other SEPPs and Ministerial Directions Applying

Key environmental planning legislation, including state planning policies as well as Ministerial Directions are considered and their relevance is assessed.

### Ministerial Directions Section 117

Ministerial Directions under Section 117 of the EP&A Act provide measures for consideration in preparing draft LEPs. However, it is considered they are also relevant matters for consideration as part of this study.

The relevant Section 117 directions are considered in **Table 3** and include:

- No 9 – Conservation and Management of Environmental and Indigenous Heritage
- No 17 – Integrating Land Use and Transport
- No 21 – Residential zones
- No 26 – Special Area Zones and Recreation Zones

### State Environmental Planning Policies

In addition to the site-specific controls above, a variety of other controls will apply to the site, in particular, SEPP 65 which addresses the detailed design of residential development, SEPP 55 which deals with contaminated land and SEPP 11 which deals with major traffic generating development.

The State Environmental Planning Policies (SEPPs), which are relevant to the proposed rezoning include:

- SEPP 11 – Traffic Generating Development
- SEPP 32 – Urban Consolidation
- SEPP 55 – Remediation of Land
- SEPP 65 – Design Quality of Residential Flat Development
- SEPP Building Sustainability Index 2004
- Draft SEPP 66 – Integration of Land Use and Transport

Consideration of the relevant provisions within these SEPPs is provided in **Table 3**

**Relevant Acts**

- Redfern and Waterloo Act 2005, with respect to affordable housing levies.
- City of Sydney Act 1988, with respect to the 1% (of construction cost) development levy.

**Table 3 – Consistency with State planning policies and strategies and 117 Directions**

Section 117 Directions	Requirement	Compliance/relevance
<b>No 9 Conservation and management of Environmental and Indigenous Heritage</b>	Environmental heritage and ecologically significant items and areas must be conserved, except where justified by an environmental study.	The heritage values are noted and the proposed SEPP amendment responds to the findings of the Heritage Assessment and CMP and identifies items to be conserved.
<b>No 17 Integrating Land Use and Transport</b>	Seeks to ensure that urban structure, building form, land use locations and subdivision design helps to integrate land use and transport and minimise the need to travel by private car, increases choice of public transport, reduce travel demand, and supports viable operation of public transport.	The site is ideally placed to maximise use of the existing transport infrastructure of Central Railway Station and the transport interchange at Railway Square, located some 300m from the site, and the high frequency bus services provided along Broadway.
<b>No 21 Residential Zones</b>	Draft LEPs shall require that residential development is not permitted until land is, or can be shown to be, adequately serviced with water and sewerage.	The site can be adequately serviced for residential and all other proposed development. Refer to the Urban Infrastructure Management Strategy at <b>Appendix P</b> .
<b>No 26 Special Area Zones and Recreation Zones</b>	Seeks to facilitate the provision of public services and facilities by ensuring land for public purposes, providing for the creation of zones and reservations for public purposes and provide for land to be acquired by the Crown or any public authority when requested by that agency.	The draft SEPP amendment includes rezoning approximately 5,000 square metres for public recreation.
SEPPs	Requirement	Compliance/relevance
<b>SEPP 11 Traffic generating development</b>	Where a consent authority receives a development application to carry out development specified in Schedule 1, the consent authority shall, within 7 days of its receipt of the application, forward a copy of the application to the Traffic Authority for comment.	The proponent has consulted extensively with the RTA who will be involved in the assessment via referral from the DOP.
<b>SEPP 32 Urban Consolidation – Redevelopment of Urban Land</b>	The policy focuses on the redevelopment of urban land that is no longer required for the purpose it is currently zoned or used.	The proposal involves a major urban renewal for a mixture of uses and at a density appropriate to its inner city/CBD edge location. The mixed use zone and controls in the draft SEPP reflect this.
<b>SEPP No 55 Remediation of Land</b>	Land must not be rezoned unless contamination has been considered and, where relevant, land has been appropriately remediated.	A Phase 1 and Phase 2 Contamination study has been undertaken for the site. A Remediation Strategy for the site is included at <b>Appendix L</b> .
<b>SEPP No 65 Design Quality of Residential Flat Development</b>	Includes design principles to raise the design quality of residential flat buildings. It also requires that in the preparation of Environmental Planning Instruments and DCPs. Provisions are included to ensure the achievement of design quality principles.	The proposed zoning will provide for residential flat buildings on the site. Any future development proposal needs to demonstrate how it satisfies the design principles and objectives of SEPP65.
<b>SEPP Building Sustainability Index 2004</b>	This SEPP operates in conjunction with Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 to ensure the effective introduction of BASIX in NSW. The SEPP ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, and specifying that SEPP 1 does not apply in relation to any development standard arising under BASIX.	The proposed zoning will permit residential flat buildings on the site with consent. Any future development proposal for the site will need to demonstrate design principles and objectives consistent with BASIX requirements.
<b>Draft SEPP No 66 Integration of Land Use &amp; Transport</b>	Draft LEPs should ensure that urban structure, building form, land use locations and subdivision design help integrate land use and transport and minimise the need to travel by private car.	The proposal is entirely consistent with the objectives of the draft SEPP. The site has and will continue to have excellent access to direct public transport by bus, and secondary rail access and other services and is therefore ideally suited for redevelopment of the type and density proposed.