

5.0 Local Statutory Planning Framework

The following local statutory planning instruments and development control plans are currently relevant to the CUB site:

- Sydney Local Environmental Plan 2005 (SLEP 2005);
- Central Sydney Development Control Plan 1996 (CSDCP 1996);
- City of Sydney Notification of Planning and Development Applications Development Control Plan 2005;
- City of Sydney Child Care Centres Development Control Plan 2005;
- City of Sydney Access Development Control Plan; and
- City of Sydney Contaminated Land Development Control Plan 2004.

Instruments and development controls affecting land immediately adjoining the site include:

- South Sydney Local Environmental Plan 1998
- South Sydney DCP 1997
- South Sydney DCP (Heritage Conservation) DCP 1998

5.1 Environmental planning instruments

Sydney Local Environmental Plan 2005 (SLEP 2005) includes the development standards for the assessment of development on the CUB site. It identifies land use zones within which certain land uses are permissible or prohibited. It also contains a number of clauses containing provisions that must be considered in determining development applications. As Part 3A of the Act expressly does not relate to Part 4 development applications these provisions do not apply to the site.

Nevertheless the DGRs require that they be identified, and the nature and extent of any non-compliances justified in the EAR.

Table 4 - Sydney Local Environmental Plan 2005 - Key development standards and land use zone

Instrument	Standard/Development Control
SYDNEY LOCAL ENVIRONMENTAL PLAN 2005	
Zone	City Edge Zone
Objectives	<ul style="list-style-type: none"> (a) to encourage a mixed-use, medium density area which will provide a physical transition between the City Centre zone and nearby lower density, mixed-use and residential areas, and (b) to encourage an increase in the permanent residential population through new residential development or the conversion of existing buildings and to ensure the maintenance of a range of housing choice, and (c) to recognise the development potential of certain major sites within the zone and to encourage development of them which is consistent with other zone objectives, and (d) to enhance the amenity of parks and community places by protection of sun access, and (e) to ensure wind levels are consistent with pedestrian comfort and the amenity of the public domain, and (f) to ensure adequate levels of daylight to streets, and (g) to recognise and enhance the character of Special Areas, and (h) to facilitate the conservation of items and areas of heritage significance, and (i) to ensure that the number and location of clinics, refuges, crisis centres and other welfare facilities within parts of this zone are compatible with the achievement of other zone objectives.
Permissible Uses (without development consent)	(1) Development may be carried out without consent within the City Edge zone if it is exempt development
Permissible Uses (with development consent)	(2) Within the City Edge zone, other development (including use of land for the purpose of advertisements and advertising structures and temporary uses) may be carried out, but only with development consent.
Prohibited Uses	<p>Development for the purpose of amusement centres is prohibited on land in the Oxford Street area shown shaded on Map 1 in Schedule 1.</p> <p>Development for the purpose of brothels is prohibited in the City Edge zone.</p>
Development Plans	<p>Development comprising the erection of a building exceeding 55 metres in height or development on land exceeding 1,500 m² requires the preparation of a development plan (subject to specific waiver clauses).</p> <p>Subject to waiver clauses, consent must not be granted for development to which this clause applies unless: a development plan is in force for the land on which the development is proposed to be carried out, and the consent authority has taken the development plan into consideration</p>
Height	Maximum height provisions for the site range from 15 metres to 45 metres.

Instrument	Standard/Development Control
Floor Space Ratio	Maximum floor space ratio provisions for the site include 3:1, for Commercial, 4:1 for hotels and 5:1 for serviced apartments and residential development. The maximum FSR for mixed use development varies according to the proportion of the different uses proposed, calculated in accordance with the FSR formula in the LEP. The development with the mix of uses proposed in the Concept Plan referred to in this EAR would have a maximum permissible FSR of 4.18:1.
Car Parking	Commercial - 1 space/50m ² of site area Residential - Bed-sitter apartment 0.25 spaces 1 bedroom 0.50 spaces 2 bedroom 1.25 spaces 3 or more bedroom 2 spaces
Heritage items	<p>Schedule 1- Buildings and Sites</p> <p>Item 1: 8-12 Abercrombie Street Terrace (Part of Carlton United Brewery site) (5008D)</p> <p>Item 38: 20-24 Broadway County Clare Inn (5007)</p> <p>Item 39: 100-02 Broadway Australian Hotel (5009)</p> <p>Item 187: Administration Building (500?)</p> <p>Item 18: 46 & 48 Kensington Street (Terraces) (500?)</p> <p>Schedule 2 – Building Elements</p> <p>Item 4: 26-98 Broadway Former Irving Street Chimney stack (Part of Carlton United Brewery site) Brewery (5008C)</p> <p>Schedule 3 – Archaeological/Townscape /Landscape Elements</p> <p>Item 13: 26-98 Broadway No I Gate Portal (Part of Carlton and United Brewery site) (5008B)</p> <p>Heritage Streetscape</p> <p>CUB Site 26-98 Broadway Streetscape (Heritage Streetscape Map)</p> <p>Central Sydney Archaeological Zoning Plan 1992</p> <p>The study area is identified in the Archaeological Zoning Plan for Central Sydney Heritage Inventory as 'a partially disturbed archaeological site' and as having archaeological potential' on the Abercrombie Street (Nos 8-12 and 26-38) and Kensington Street (Nos 2-16, 22-40, 46-48 and 50-58) properties)</p>
Heritage Provisions	This section contains provisions relating to: The protection of heritage items; The protection of places of potential heritage significance; and Miscellaneous provisions.

Zoning and permissible uses

The zoning of the site under the SLEP 2005 and the zoning of the other land in the vicinity of the site is shown on the map at **Figure 7**. The CUB site is zoned City Edge under SLEP 2005.

5.2 Nature and extent of non-compliance with EPIs

Sydney Local Environmental Plan 2005

Land Use

The proposal seeks to develop a mixed use precinct for residential, commercial office and retail uses. Under the current zoning provisions redevelopment for residential, commercial office and retail uses are permissible forms of development, subject to approval of the consent authority.

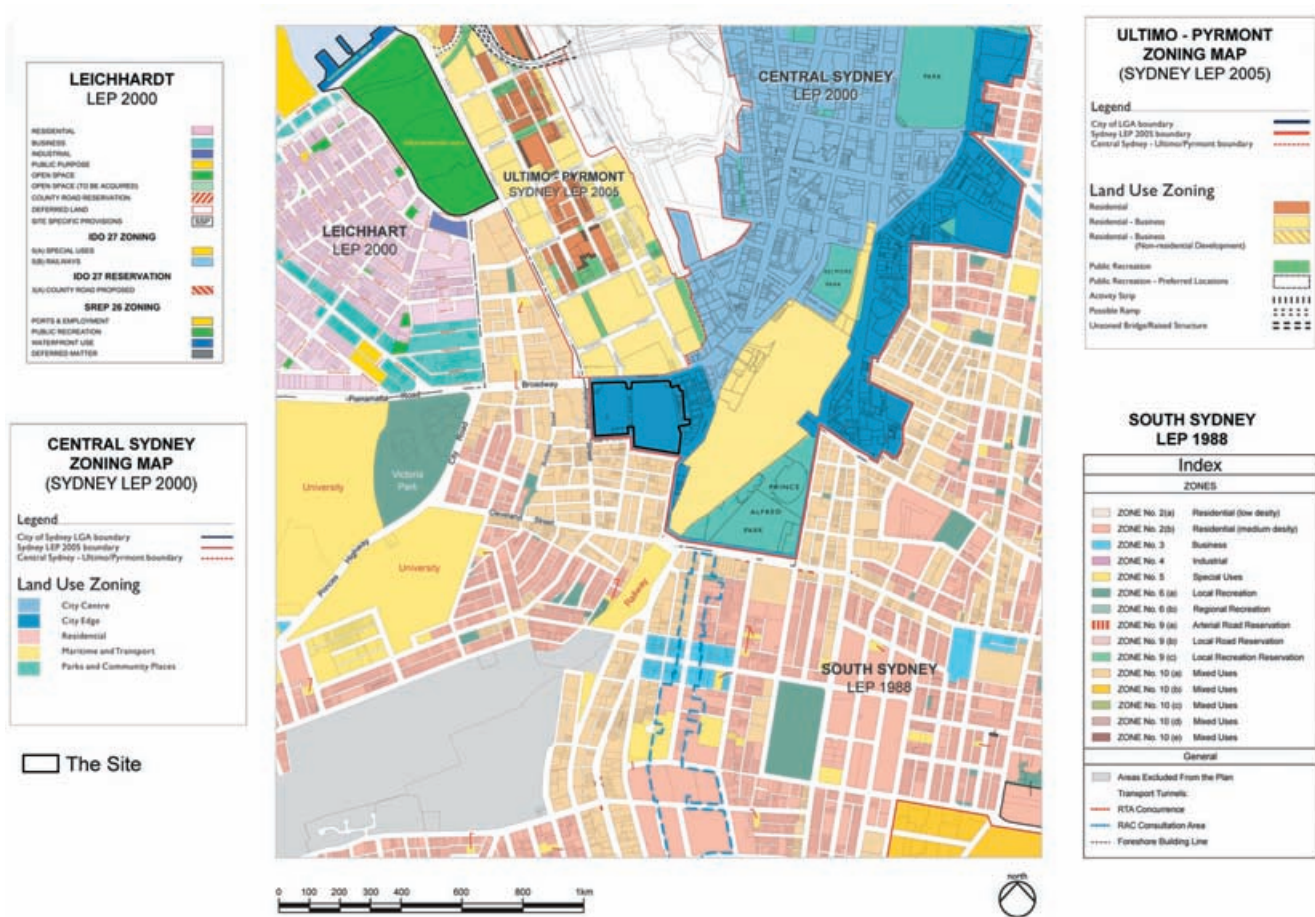


Figure 7 - LGA composite land use zoning map.

FSR

The proposed SEPP Amendment proposes to use the standard LEP template definition of GFA. The SLEP 2005 applies FSA in the calculation of FSR or density of development. The standard template has GFA as the standard measure of floor space for the calculation of density of development. The definition of FSA³ in (SLEP 2005) and the definition of GFA⁴ (LEP template) are identical with the exception that GFA provides for the exclusion of stairwells from floor space whereas FSA under the SLEP 2005 does not. Therefore GFA is typically a reduced figure when compared with FSA as defined in SLEP 2005 by an average of some 3%. This has been factored into floor space used for the purposes of making comparisons between CSLEP 2005 and the FSA/GFA of the Concept Plan proposal. (Note: Technical consultant reports have used a quantum of floor space equivalent to SLEP FSA notwithstanding the description of floor space as being GFA).

Applying the formula in Schedule 4 of SLEP 2005, the maximum permissible FSR is 4.18:1. The FSR proposed by the Concept Plan when calculated in accordance with the definition of FSA in SLEP 2005 is 4.36:1. The FSR when calculated in accordance with the definition of GFA in the standard LEP template is 4.23:1. The extent of variation with the SLEP 2005 maximum permissible FSR is therefore 0.18:1 or 4.3% greater than is permissible under SLEP 2005 for the land use mix proposed. However, 0.18:1 is equivalent to 10,431 square metres of GFA and is insignificant in the context of the site and its capacity to accommodate that floor space in an environmentally acceptable manner. In addition, being significantly less than 10% the additional floor space is also not inconsistent with the provisions of clause 10 of SLEP 2005 which contemplates variations of up to 10%.

3 FSA Sydney Local Environmental Plan 2005

gross floor space area or FSA of a building in Central Sydney means the sum of the gross horizontal areas of each floor of the building contained within the inner faces of the outer walls measured at a height of 1.5 metres above the floor, **including the space occupied by internal walls, staircases, lobbies, corridors and toilets, but excluding the following:**

- (a) the horizontal cross section area of lift shafts and vertical service ducts measured between the wall faces internal to the lift shaft or duct,
- (b) any underground space permanently set aside within the building for:
 - (i) parking (other than spaces used for public car parking),
 - (ii) the unloading or loading of vehicles, including ramps or other means of access,
 - (iii) storage space that is linked to a residential dwelling or serviced apartment by a strata scheme,
 - (iv) cinemas, recital halls, historic clubs and theatres for public use and other similar public uses or facilities,
- (c) any space for the accommodation of mechanical or electrical plant or equipment servicing the building,

4 GFA Standard Instrument (Local Environmental Plans) Order 2006

gross floor area means the sum of the floor area of each storey of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and **includes:**

- (a) the area of a mezzanine within the storey, and
 - (b) habitable rooms in a basement, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:**
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement: (i) storage, and (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

Height

The height of a number of building envelopes proposed exceeds the maximum height permissible in SLEP 2005. The extent of the deviation from the current height controls is a significant departure from the current limits which for the majority of the site is set at 45 metres. The height above ground of building envelopes in development block 2 (110m), block 5 (90m) block 9 (60m) block 11 (66m) exceed the maximum permissible.

The current height controls are shown on the following extract from the SLEP 2005 Height Map. (See **Figure 8**).

The maximum permissible height above ground is 15m generally on the perimeter of the site, and 45m over the substantive area of the site.

The proposal, however, applies the existing 15 metre height limit along the southern boundary of the site to Wellington Street, with a solar access plane sloping in a northerly direction to mitigate overshadowing of the adjoining land to the south. The height increases to 25m along the northern edge of the main park as part of the desired wall height on the park edge.

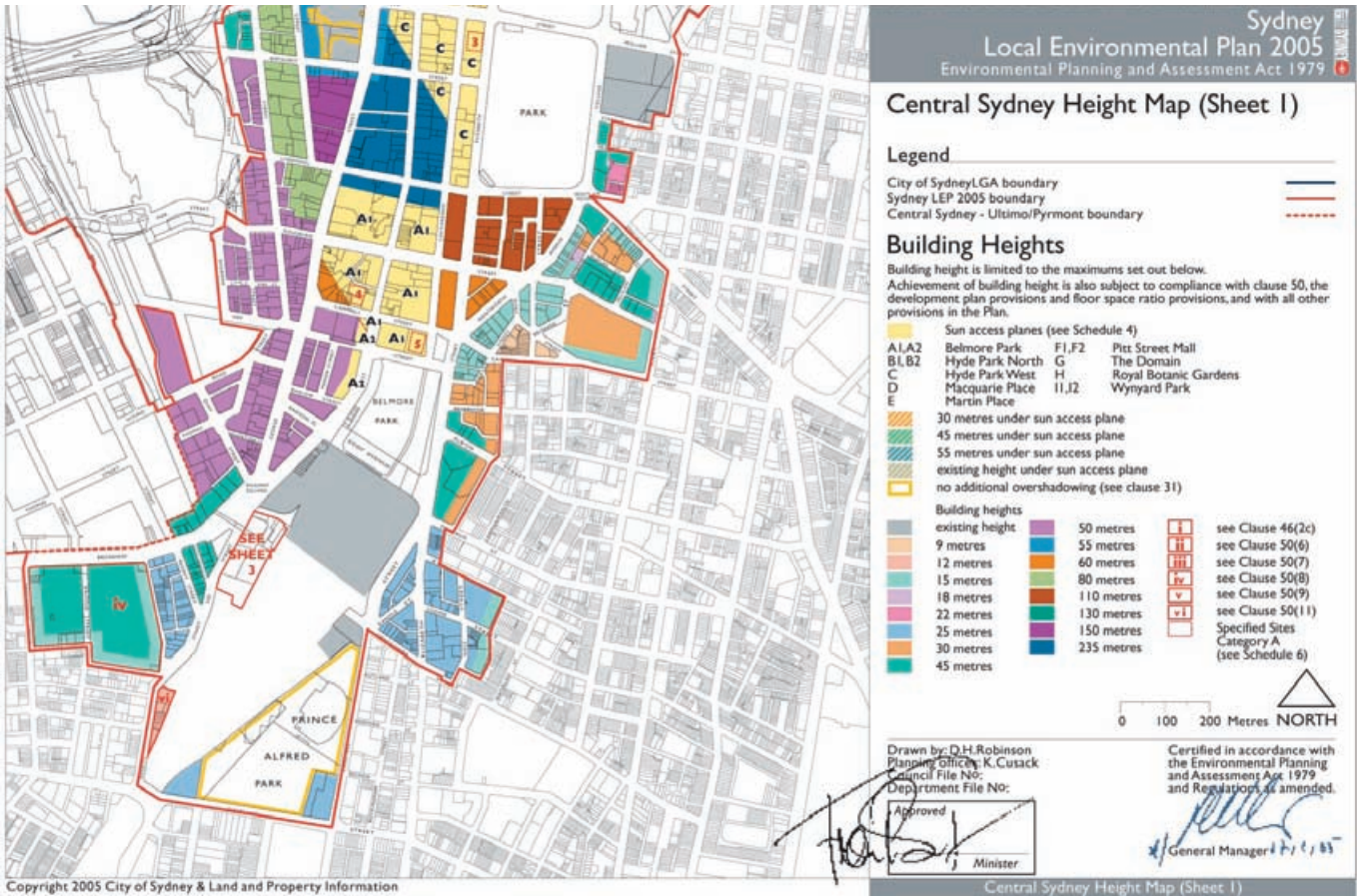


Figure 8 – SLEP Height Map

Along the other perimeter streets, the heights proposed are:

- To Abercrombie Street, generally 25m at the street boundary with a 45 degree plane sloping in an easterly direction allowing building heights above 25m setback from the property boundary.
- To Broadway, west of Balfour Street, the street boundary height is 45 metres consistent with the current height limit, increasing slightly into the site behind a 45 degree plane sloping in a southerly direction, coupled with a 45 degree plane sloping in the reverse direction (northerly) direction from Tooth Avenue.
- To Broadway, east of Balfour Street, a podium at 25 metres is proposed with two towers, one of 110 metres in height and the other, 90 metres, significantly greater than the SLEP 2005 limit of 45 metres.

The heights are considered to be consistent with the recommendations of the EAP relation to height. In addition, the site specific draft LEP for the CUB site prepared by the City of Sydney proposed to control height by the application of solar access planes. The proposed building envelopes are not significantly inconsistent with the height contemplated by the solar access plane in the draft LEP.

Car parking spaces

Regarding the amount of parking proposed, the Concept Plan provides for a parking rate for the apartments, which is the same as the SLEP 2005 rate, which are the same as the former CSLEP 1996. Rates for other uses are also consistent with the SLEP 2005. The rate for the 'other' category and which includes office and retail uses, has been simplified to a formula of 1 space per 212m² GFA. The SLEP 2005 formula for the land use mix and FSA proposed generates 476 car spaces for the 'other uses'. Applying the formula used in the draft SEPP amendment, the GFA proposed also generates 476 car spaces as the formula is based on the proportion of land use mix over the site area which is a constant. The Concept Plan proposes 436 spaces, which is less than the maximum permissible under SLEP 2005.

5.3 Part 4 of the EP&A Act

The direction to consider identifying those parts of the site which should be subject to Part 4 of the EP&A Act with the City of Sydney as the consent authority is noted.

CUB prefers that the approval role for the site be retained with the Minister. This view has been formed having regard to:

- the process to date; and
- the Minister as the one consent authority would assist in the consistency and efficiency of decision making.

The proposed amendment to the SEPP provides for development under \$5 million to be dealt with under Part 4 of the Act, but with the Minister as consent authority. This would enable the Minister to delegate this category of development for assessment and determination to the City of Sydney.