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Draft Central Sydney Planning Strategy (Ref: S064204.024 – Central Sydney Planning)

The Property Council welcomes the opportunity to provide comments to City of Sydney (Council) on the draft Central Sydney Planning Strategy.

As Australia's peak representative of the property and construction industry, the Property Council's members represent many of the major landowners, institutional investors and developers of office, residential and hotel assets within the Central Sydney area.

The Property Council and its members have worked with the City of Sydney for many years on the draft planning strategy and provided input to the planning team at Council on its design. We acknowledge and commend Council on the comprehensive body of work it has developed.

There is no doubt that the draft strategy represents a comprehensive vision for the long-term planning of Central Sydney. The Property Council supports its aims, intent and overall direction. However, we do question whether some aspects of the strategy will achieve the stated goals and the best possible outcomes. We have some concerns that parts of the strategy will create further complexity leading to investor uncertainty and delays in achieving planning approvals.

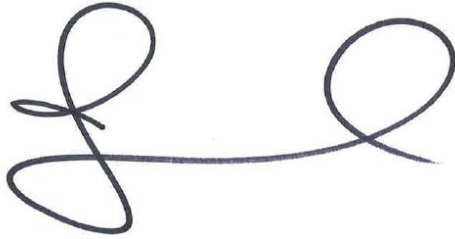
Within these general parameters, we are pleased to provide the following comments and recommendations to Council on the package of documents known as the draft Central Sydney Planning Strategy.

Our recommendations can be categorised into two groups. A small number of recommendations relate to significant threshold issues and are of greatest concern to our members. A second set of recommendations specifically go to technical matters and other matters of detail and are suggested as improvements to the implementation of the draft strategy.

Notwithstanding the timeframes that have been imposed upon Council by the Department of Planning, Industry and Environment to finalise the planning proposal, we would welcome the opportunity to discuss our concerns with these issues in detail after the end of the public exhibition with the appropriate Council officers.

Should you have any questions regarding the content of this submission, do not hesitate to contact Troy Loveday, Senior Policy Advisor, on 0414 265 152 or tloveday@propertycouncil.com.au

Yours sincerely

A handwritten signature in dark ink, appearing to be 'Jane Fitzgerald', with a large loop at the end.

Jane Fitzgerald
NSW Executive Director
Property Council of Australia

EXECUTIVE SUMMARY

The Property Council broadly supports the Council's policy intent that is contained within the draft Central Sydney Planning Strategy (draft CSPA). Given the draft CSPA represents the first major review of the Central Sydney planning controls since 1971, its significance to the future growth of Sydney's central business district should not be understated.

We agree that Central Sydney plays a crucial role in positioning Sydney as Australia's leading global city. It is at the core of the metropolitan area and is a key attractor for investment, talent and economic productivity in Australia. Central Sydney produces a \$68 billion output compared to Melbourne city centre at \$39 billion and Parramatta at \$8 billion. It is important that Sydney maintain its global status and to do this it needs to strengthen its role as an economic conduit between Australia and the rest of the world.

The Property Council and its members have a long-term interest in the growth and prosperity of the City of Sydney. Our members own/manage a majority of the approximately 5 million square metres of office space in Sydney's CBD and have been responsible for a majority of the significant commercial office, residential and hotel developments across the City in the last 50 years. Individually they have also played a leading role in the development of many of the significant urban renewal projects across the whole LGA generally and within the CBD specifically.

Our members will also play a significant role in the delivery of many of the Council's sustainability and environmental initiatives that have been and will be realised in the near future. Collectively, the Property Council's members have a very significant stake in ensuring Council's CSPA contains the right settings to realise its ambitions and goals.

The draft CSPA is a major change point for the future planning and development of Central Sydney, which is strongly welcomed. However, the vision and aspiration of the strategy to facilitate growth is not matched by the implementation strategy, which remains highly complex and limiting in certain areas, particularly in light of the significant economic implications of the COVID-19 pandemic and uncertainty surrounding the future of the commercial office market.

Our primary issues, that will be fully detailed in the submission, are as follows:

1. Facilitating future floorspace capacity and growth;
2. Balanced approach to residential; and
3. Infrastructure contributions.

Notwithstanding the timeframes that have been imposed upon Council by the Department of Planning, Industry and Environment to finalise the planning proposal, we would welcome the opportunity to discuss our concerns with these issues in detail after the end of the public exhibition.

RECOMMENDATIONS

Below is a summary of the recommendations the Property Council has provided for Council's consideration. Each of these recommendations relate to issues raised throughout the body of this submission.

Threshold Recommendations

Council should:

1. Modify its approach by allowing a small increase (an additional 1.5:1) in FSR for all commercial floor space in Central Sydney. This will benefit existing assets to be refurbished and recycled, as well as the tower cluster sites to be optimised, without the need for a planning proposal to further amend planning controls.
2. Simplify the draft DCP provisions to encourage the floor space growth that the strategy seeks to facilitate.
3. Provide further guidance material for landowners seeking to undertake Planning Proposals that increase floor space on sites outside as well as inside the identified Tower Cluster Areas.
4. Not remove the accommodation floor space incentive for residential accommodation and serviced apartments from the LEP, and instead explore a more nuanced approach to residential development that considers student housing, build to rent and sites which do not have the potential to be optimised for commercial use.
5. Not proceed with its proposal to increase the maximum contribution rate above 1% at this time.
6. Revisit the rate of its contribution levy in 18 months.
7. Consider a revised development cost threshold/sliding scale to ensure that they are not unreasonably penalising those doing smaller scale works that don't increase GFA.

Specific Recommendations

Council should

8. Continue to consider residential uses on appropriate sites to a scale that is currently achievable and this should be reflected in the objectives of the zone.
9. Review the Tower Cluster Areas to ensure they are suitable sites available to take advantage of the new planning pathway (or alternatively offered to specific sites under defined requirements to achieve the intended activation of new employment land uses).
10. Review and reduce the rigidity of the minimum site criteria required to be eligible to use the Tower Cluster uplift provisions.
11. Review the FSR standards for the western corridor precinct and increase the accommodation floor space incentive for commercial use in line with the Commercial Core of Central Sydney.
12. Increase building heights and FSR for the Western Corridor.
13. Not proceed with the proposed Public View Protection Planes for Martin Place Western Sky and Sydney Hospital Silhouette.

14. Provide industry stakeholders with further details regarding the proposed ESD clause after it has been drafted and include an appropriate exemption and/or transition arrangements to the new requirement where the compliance costs will be unreasonable or make a proposed development economically unviable.
15. Streamline supporting planning guidance documents, in particular the DCP, to ensure they do not become a barrier to development occurring.
16. Remove the tapered building form requirement.
17. Ensure street frontage/podium heights are derived from an urban context analysis as opposed to a numeric one size fits all control.
18. Review the wind speeds and criteria to ensure they are appropriate and do not become a barrier to development.
19. Introduce greater flexibility in developing a base case that is relevant to the particular circumstances of the site.
20. Reconsider its prohibition of development over heritage-listed items.
21. Reconsider the prescriptive requirements for both sun shading and architectural articulation, and when preparing a new draft guideline, these principles should be included as objectives which are capable of being achieved in different ways depending on the unique conditions of a site rather than numeric controls that assume one size fits all.
22. Not change the current composition of jury members whereby half of the members of the jury be nominated by the consent authority and half by the proponent irrespective of development proposals within or outside of the Tower Cluster Areas.
23. Revise its works schedule to be funded by the draft contributions plan to only relate to development that will occur under the new planning controls (employment land uses).
24. Not use contributions paid by new commercial development to subsidise the provision of facilities and services for the existing residential population of Central Sydney.

PLANNING STRATEGY

The Property Council notes the considerable time and resources that have been allocated to the draft CSPA. This has been a very long process that dates back as far as October 2010 when the then Minister for Planning requested Council to undertake a review of the Sydney CBD and its planning controls.

The Property Council took a very strong view in its submission to Council on its draft LEP 2011 that the City's planning controls needed to accommodate future demand for commercial and other employment floor space up to 2030. The decision of the Council in 2012 to commence its review of the Central Sydney planning controls was generally welcomed given the Sydney LEP 2012 had carried over the existing planning controls from Sydney LEP 2005 as a standard instrument LEP.

Aims

The Property Council supports the following nine aims that underpin the draft CSPA:

- 1) To promote sustainable buildings with great design and architecture,
- 2) To create opportunities for beautiful parks and places,
- 3) To enable the protection and adaption of our heritage,
- 4) To ensure a resilient and diverse economy,
- 5) To promote efficient and effective transportation,
- 6) To make efficient use of land,
- 7) To support great streets,
- 8) To deliver a city for people, and
- 9) To ensure strong community and service infrastructure accompanies growth.

10 Key Moves

The draft CSPA has proposed ten key moves that will facilitate projected growth in Central Sydney until 2036 and beyond. These moves will be implemented in three stages (immediate, medium-term and ongoing) and subject to regular review and monitoring. The ten moves are as follows:

- 1) Prioritise employment growth and increase capacity,
- 2) Ensure development responds to context,
- 3) Consolidate and simplify planning controls,
- 4) Provide for employment growth in new tower clusters,
- 5) Ensure infrastructure keeps pace with growth,
- 6) Move towards a more sustainable city,
- 7) Protect, enhance and expand Central Sydney's heritage, public places and spaces,
- 8) Move people more easily,
- 9) Reaffirm commitment to design excellence, and
- 10) Monitor outcomes and respond.

It is the Property Council's view that these are appropriate basis for the future planning of Central Sydney and are supported.

PLANNING PROPOSAL

The Property Council welcomes the opportunity to provide Council with detailed comments on the Planning Proposal intended to amend *Sydney Local Environmental Plan 2012 (Sydney LEP 2012)*. The following comments are provided for Council's consideration.

High Priority Issues:

Issue 1- Facilitating Future Floorspace Capacity and Growth

It is our view that the planning controls to support the increase in commercial floor space capacity of Central Sydney, while welcome, remain complex and anticipated to be difficult to satisfy. For example:

- The tower cluster maximum 50% FSR uplift is not expected to optimise the potential within these identified precincts. To realise such potential, it is anticipated that this will necessitate landowner-initiated site-specific planning proposals;
- The draft DCP provisions are too restrictive and complex. They are very likely to unreasonably limit the floor space growth that the planning strategy is seeking to facilitate; and
- There is no flexibility for modest incremental floor space growth above current FSR standards to encourage asset recycling and improvement, which is vital for many commercial office buildings.

In respect to the 50% FSR uplift for tower cluster areas, the potential site capacity of some of these key sites within the tower clusters have been modelled by the City of Sydney with the modelling showing capacity greater than what is allowed by the 50% uplift.

Even outside the nominated tower cluster areas a general observation is that there is no flexibility for even incremental floor space growth above current FSR standards to encourage asset recycling and improvement, which is vital for many commercial office buildings. Too often, there are examples where incremental floor space could be added to improve a building asset without any adverse environmental impact but such proposals are thwarted by a rigid and historic FSR standard.

We recommend that Council consider a slightly modified approach by allowing a small increase in the FSR for all commercial floor space in Central Sydney. For example, an additional 1.5:1 on the accommodation floor space for commercial (as was the case with residential development) would potentially solve a number of these concerns. The Council's 'City Living' policy of the 1990s incentivised residential development in light of a clear and identified need, the same approach should now be taken to incentivising employment generating uses such as commercial offices.

Such an approach would provide the opportunity for tower cluster sites to reach just over 20:1, which is likely to make the proposed DA pathway attractive and useable – giving proponents an option of avoiding the costs and lengthy planning proposal pathway. It will also mean there is a development application pathway for development that is closer to the range of floor space that was anticipated for many sites by Council's *Central Sydney Capacity Study 2012* which accompanied the draft strategy (Appendix A).

By introducing a mechanism that allocates a small increase in additional accommodation FSR would allow incremental growth of gross floor area for many sites that are at their maximum FSR. In turn this supports the recycling and refurbishment of buildings and avoid unnecessary planning proposals for minor increases in floor area.

Such an incremental approach can bring latent capacity without adverse consequences. In the absence of a flexible approach to floor space growth, the implementation strategy would be limited to the tower clusters, which in some cases could take a considerable amount of time to realise due to the difficulty in amalgamating sites.

The lack of any real guidance for planning proposals for sites located outside of the Tower Cluster Areas remains an area of great concern.

We suggest that if the LEP cannot provide a mechanism for this type of incremental growth, the Council should provide further guidance material for landowners that will be forced to resort to this approach. Guidance for planning proposals within the Tower Cluster Areas should also be prepared and exhibited to facilitate growth to meet the employment use objectives in the CBD.

Recommendations

Council should:

- 1. Modify its approach by allowing a small increase (an additional 1.5:1) in FSR for all commercial floor space in Central Sydney. This will benefit existing assets to be refurbished and recycled, as well as the tower cluster sites to be optimised, without the need for a planning proposal to further amend planning controls.***
- 2. Simplify the draft DCP provisions to encourage the floor space growth that the strategy seeks to facilitate.***
- 3. Provide further guidance material for landowners seeking to undertake Planning Proposals that increase floor space on sites outside as well as inside the identified Tower Cluster Areas.***

Issue 2 - Balanced Approach to Residential

Removing the accommodation floor space incentive for residential accommodation and serviced apartments from the LEP will act as a major disincentive to any future residential development in Central Sydney. This will be a major policy shift in a period of global uncertainty. We think a more precautionary approach should be taken at this time.

This change will also have the potential to remove opportunities for emerging sectors such as 'build-to-rent' and student housing from being developed in the fringe areas of the CBD. This would be a significant missed opportunity for quality 'commercial residential development'.

We are concerned that there are sites that are not suitable for commercial use. This change will not only prevent these sites being optimised to their full potential but render them commercially undevelopable. It is very unlikely that the type of sites that fall into this category will be viable for any residential development, based on a FSR of 8:1 and a 10% design excellence bonus. The proposed planning controls do not allow for full site optimisation in these cases.

Specific sites and areas of Central Sydney naturally lend themselves to residential development (both apartments and serviced apartments), irrespective of planning controls. Mirvac's recent project with Coombes Property Group, 505 George Street is an example of a project that will redefine Sydney's mid-city precinct providing quality retail amenities and residential accommodation for the CBD, which under the proposed planning controls would not have been achieved. Similarly, the mixed-use redevelopment of the former David Jones building in Market Street would not be achievable under the proposed controls.

We *strongly* advocate that Council consider whether now is the right time to impose such a significant disincentive to residential use and to review these provisions of the Planning Proposal.

Rather than proceed with such a strong and harmful proposal to end all FSR incentives for residential development, we suggest an alternative approach be considered that allows a future for some residential accommodation (such as student housing in the southern part of the CBD and the emerging build-to-rent sector).

It is also noted that substantial potential exists for a more nuanced approach to residential development (including serviced apartments) compared to the proposed blanket reduction in FSR, that might involve different provisions for certain parts of the CBD, for example (but not limited to) mid-town and other peripheral precincts.

Recommendation

Council should

- 4. Not remove the accommodation floor space incentive for residential accommodation and serviced apartments from the LEP, and instead explore a more nuanced approach to residential development that considers student housing, build to rent and sites which do not have the potential to be optimised for commercial use.***

Issue 3 - Infrastructure Contributions

The draft Contributions Plan is proposing a new 3% infrastructure contribution for all development exceeding \$1 million. This represents a significant increase from the current 1% levy and will not be offset by any corresponding reduction of other levies or contributions that apply. While alone this is a substantial increase, the full effect of development contributions cannot be considered in isolation particularly in Central Sydney where there is a raft of contributions and a cumulative effect that already makes much development unfeasible (this is discussed further below).

The following table indicates both the dollar value increase and percentage increase for a range of project values between \$100,000 and \$20 million.

Value of Development	Current s61 Levy	Proposed Levy	% increase
\$100,000	Nil	Nil	Nil
\$250,000	\$2,500	\$2,500	Nil
\$750,000	\$7,500	\$15,000	100%
\$1,500,000	\$15,000	\$45,000	200%
\$3,000,000	\$30,000	\$90,000	200%
\$5,000,000	\$50,000	\$150,000	200%
\$20,000,000	\$200,000	\$600,000	200%

Unlike a section 7.11 contribution plan, there is no requirement for the Council to establish a nexus between the proposed development and the infrastructure works being delivered. Further consideration of this issue is provided elsewhere in this submission but in short we would argue that such a nexus should exist.

Cumulative Impact

A typical development project within the Central Sydney area will incur many other costs on top of the current section 61 levy. These include:

- Acquiring Heritage Floor Space (HFS) approx. \$1,575/m² on applicable floor space;
- Public art levy typically 1% of construction cost;
- Affordable Housing Contribution (imminent): \$10,588/m² applied to 1% of total floor area (non-residential floor area);
- Compliance costs associated with demonstrating ESD targets, design excellence and other significant project fees paid to Council.

These costs, when combined with the proposed contribution levy of 3% represent a significant increase in the taxation burden faced when investing within Central Sydney. Importantly, when compared with competitive markets for employment floor space, the cumulative contribution costs within Central Sydney exceeds North Sydney by a factor of 939% and Melbourne by a factor of 1289%. The following tables demonstrate contributions in two scenarios, including a LEP compliant tower redevelopment and a planning proposal for a super tower within a Tower Cluster Area.

We request Council to consider the ramifications of imposing exorbitant levies and charges that will deter investment in Central Sydney, having observed capital (and subsequently tenants) shifting towards Melbourne given the difficulties associated with local planning processes and contribution costs.

Comparison Table 1 – Contributions comparison for a 41,250m² office redevelopment

Location	Total Proposed Contributions	Contributions as a % of construction value	Multiplier when compared to Central Sydney
Central Sydney	\$25,211,925	13.9%	-
North Sydney CBD	\$2,685,981	1.5%	939%
Melbourne CBD	\$1,956,570	1.1%	1,289%

Comparison Table 2 – Contributions comparison for a 96,000m² office planning proposal within tower cluster

Location	Total Proposed Contributions	Contributions as a % of construction value	Multiplier when compared to Central Sydney
Central Sydney	\$47,195,730	7.2%	-
North Sydney CBD	\$10,325,331	1.6%	457%
Melbourne CBD	\$7,114,800	1.1%	663%

Comparable s7.12 levies across Sydney

Council would be aware that currently there are six local councils in New South Wales that have been approved to levy section 7.12 contributions above the current 1% maximum. They include:

- Liverpool (2% for high density residential and 3% for commercial core)
- Wollongong (2% for commercial core)
- Parramatta (3%)
- Newcastle (3%)
- Willoughby (3%), and
- Burwood (4%).

Most of these councils do not have the significant framework of other levies and charges such as those identified earlier that the City of Sydney has. It is unclear whether Council has carried out any benchmarking of the proposed 3% levy including the cumulative effect which includes Heritage Floor Space (which we estimate to be approximately \$2,200/m² based on the current bonded rate), the new affordable housing levy and requirements to contribute towards public art.

For these reasons we strongly recommend Council should not proceed with its proposed increase to the contribution levy above the current rate of 1%.

COVID-19

The full effect of the proposed development contribution increases, both as part of this new Contributions Plan and other concurrent LEP amendments, are intensified in the current context of the economy which has been crippled by the COVID-19 pandemic. The worldwide pandemic has not only impacted the general way of life in cities, it has a sweeping economic impact and has significantly impacted the commercial office market.

The need to overcome barriers to stimulate development and the economy has been acknowledged at many levels of government, such as the decision to allow contributions to be paid prior to Occupation Certificate instead of upfront at the Construction Certificate phase, and also the comprehensive review of the infrastructure contributions system currently being conducted by the NSW Productivity Commissioner to examine the performance of existing arrangements and make recommendations for reform.

Given the current uncertain economic period and the impact it will have on development within Central Sydney, we recommend that Council consider revisiting the contribution rate issue in 18 months when there is likely to be greater certainty about the impact of the COVID-19 pandemic on the Australian and NSW economies. This would also ensure Council had the benefit of the Productivity Commissioner's final report which could be taken into consideration.

Projects for Alterations and Additions

We are also concerned that levy will also be applied to major refurbishment works that may involve no increase in floor area or demand for infrastructure. This could have the unintended consequence of delaying major upgrades and improvements to buildings to avoid payment of this tax.

The increase in the maximum rate of the levy from 1% to 3% will impose a significant tax burden on most development projects within Central Sydney, particularly those that do not involve any the creation of additional floor space or demand for additional services/facilities. This would be an entirely unacceptable outcome.

It is unclear from the draft planning strategy whether Council has undertaken any modelling to determine the proportion of current section 61 levies that comes from major development (including alterations and additions that increase GFA) and what proportion is attributed to minor refurbishment projects. It would be helpful to see Council's analysis of the projects that contribute the most revenue and how much revenue is collected from building refurbishment as opposed to new building construction.

We suggest that Council considers a revised development cost threshold/sliding scale to ensure there is not an unreasonable penalty for those doing smaller scale works that don't increase GFA. It is appropriate that all minor projects that result in no net additional floor space should be levied at no more than the current 1% contribution rate which may involve adjusting the value of development where no contribution is incurred.

Recommendations

Council should

- 5. Not proceed with its proposal to increase the maximum contribution rate above 1% at this time.***
- 6. Revisit the rate of its contribution levy in 18 months.***
- 7. Consider a revised development cost threshold/sliding scale to ensure that they are not unreasonably penalising those doing smaller scale works that don't increase GFA.***

General Discussion of Planning Proposal

The City has prepared a Planning Proposal (PP_2020_SYDNE_002_00) to progress four significant amendments to Sydney LEP 2012 to give effect to the Central Sydney Planning Strategy.

Each of the four amendments contained within the Planning Proposal are considered below:

Amendment 1 - Zoning

The Planning Proposal indicates the Council's intention to strengthen and update the existing zone objectives applying to the B8 Metropolitan Zone and the RE1 Public Recreation Zone that apply to land within the Central Sydney area.

Amendment 1.1 - B8 Metropolitan Zone

In respect to the B8 Metropolitan Zone, four new objectives are proposed to be inserted into the instrument.

All four of these objectives address to the promotion of employment uses in Central Sydney, including the promotion of active street frontages, diversity of commercial opportunities and the promotion of the zone's primary role as a centre for employment.

All four of these additional objectives are appropriate, however as noted above we request that Council consider residential uses on appropriate sites to a scale that is currently achievable. This should be reflected in the objectives of the zone.

Amendment 1.2 - RE1 Public Recreation Zone

In respect to the RE1 Public Recreation Zone, one additional objective, to protect sun access to publicly accessible land, is proposed to be inserted into the instrument.

This additional objective is intended to reinforce the important role that high-amenity public space and places play in a global city.

This additional objective is supported.

Recommendation

Council should

- 8. Continue to consider residential uses on appropriate sites to a scale that is currently achievable and this should be reflected in the objectives of the zone.***

Amendment 2 – Density & Land uses

As indicated above, these proposed amendments, are have the greatest potential to impact Property Council members. They key changes are summarised below:

Amendment 2.1 – Tower Clusters & Additional Employment Capacity (clause 6.3)

The Planning Proposal will provide a pathway for additional employment capacity, up to 50% more floor space and additional height, for development in four new tower clusters. These clusters areas include Barangaroo, Circular Quay, Central and Town Hall.

For projects to qualify for the additional floor space, they must deliver design excellence. It is proposed that amendments will be made to clause 6.3 to establish this new pathway.

Property Council response:

The Property Council broadly supports the tower cluster process and agrees with Council providing a planning pathway for increased heights and densities. However, we recommend the tower cluster areas should be broadened to ensure there are suitable sites available to take advantage of this new planning pathway (or alternatively offered to specific sites under defined requirements to achieve the intended activation of new employment land use).

It is also recommended that Council review the proposed criteria for being able to follow the tower cluster pathway, because as drafted there are some concerns around the rigidity and ambiguity of terms associated with establishing what constitutes the minimum 2,000m² site area requirement, such as excluding heritage, easements, private open space and the like. There should be greater discretion in the draft provisions so as to prevent otherwise suitable sites being ineligible due to the mandatory site criteria.

As foreshadowed, Council should give consideration to a slightly modified approach by allowing small incremental uplift in FSR for all commercial floor space in Central Sydney. Through greater incentives across the entirety of Central Sydney, the development industry will be able to deliver additional floor space where first principle controls can be respected.

The western corridor of the CBD has demonstrated itself capable of accommodating significant buildings (including 275 Kent Street and the International Towers) and is now served by significant infrastructure such as Wynyard Walk and the Barangaroo ferry wharves (and the future Sydney Metro) is considered to be a lost opportunity in a once in a decade LEP amendment. The western corridor should brought into line with the remainder of the CBD to allow for accommodation floor space for employment uses of 4.5:1.

Recommendation

Council should

- 9. Review the Tower Cluster Areas to ensure they are suitable sites available to take advantage of the new planning pathway (or alternatively offered to specific sites under defined requirements to achieve the intended activation of new employment land uses).***
- 10. Review and reduce the rigidity of the minimum site criteria required to be eligible to use the Tower Cluster uplift provisions.***
- 11. Review the FSR standards for the western corridor precinct and increase the accommodation floor space incentive for commercial use in line with the Commercial Core of Central Sydney.***

Amendment 2.2 - Removal of Accommodation Floor Space incentive (clause 6.4)

The Planning Proposal involves changes to clause 6.4 to remove the current incentive for accommodation floor space (residential accommodation and serviced apartments) and increase the additional floor space for employment land uses within the western edge of Central Sydney from 2:1 to 2.5:1.

Property Council response:

It is recommended the Council defer removing the residential floor space bonus and look to assess potential residential developments on a case by case basis or indeed precinct by precinct basis. This would allow for an efficient rebalance between employment and residential floor space in Central Sydney and the wider market over the next decade. If the proposed cap is implemented, it will all but stop any future residential development in Central Sydney. As a minimum it is recommended that the accommodation floor space bonus is retained for non-strata forms of residential development such as build-to-rent and student housing.

Amendment 3 - Heights

The Planning Proposal seeks to make changes to the relevant clauses of the *Sydney LEP 2012* including amendment to the Height of Building objectives, amendments to the Sun Protection Controls (clause 6.18).

Amendment 3.1 - Objectives for Sun Access Planes

The Planning Proposal involves a proposal to amend the objective at clause 4.3(1)(c) with respect to view sharing. The Council's basis for this change is that the maintenance of private views should not unduly restrict the economic performance and economic growth of Central Sydney, where a proposed development has demonstrated compliance with the LEP's height and FSR controls and relevant DCP controls.

Property Council response:

This change is supported as we agree the maintenance of private views should not unduly restrict or impede the economic performance and economic growth of Central Sydney.

Amendment 3.2 - Refinement of Sun Access Planes

The Planning Proposal seeks to refine the description of the eleven sun access planes identified in the *Sydney LEP 2012* to accurately reflect the details and coordinates of each access plane.

Each sun access plane protects an important area of green space within Central Sydney including the Royal Botanical Gardens, The Domain, Wynyard Park, Lang Park, Prince Alfred Park, Belmore Park, Hyde Park and Martin Place. They limit further adverse overshadowing from tall buildings to these areas, in most cases, twelve months of the year (mostly between the hours of 10am and 2pm).

It is proposed that clauses 6.17(5) and 6.17(19) of the instrument will be replaced with new descriptions outlined in the Planning Proposal.

Property Council Response:

Each of the sun access planes identified in this clause serves an important purpose to protect solar access to the city's main green spaces. We recognise that these provide significant amenity to the city's workers and it is important that all reasonable steps are taken to protect the useability of these spaces.

We provide in-principle support to the proposed changes to each sun access plane.

Amendment 3.3 - Exceptions to Sun Access Planes

The Planning Proposal involves the removal of redundant provisions contained within clauses 6.18(a), 6.18(b) and 6.18(c).

Property Council response:

These changes are supported.

The LEP should specifically note that minor alterations and additions to existing buildings above the sun access plane are permissible. This has been an area of confusion since repeal of *Sydney LEP 2005*.

Amendment 3.4 - Changes to Tall Buildings Controls - Overshadowing of Certain Public Spaces

The Planning Proposal has proposed changes to the 'no additional overshadowing' controls set out in clause 6.19 of *Sydney LEP 2012*.

The intention of the proposed amendments include providing more clarity around the current controls that protect daytime solar access for eight public spaces within Central Sydney, namely:

- a) Macquarie Place
- b) Martin Place (block containing the GPO)
- c) Pitt Street Mall
- d) Australia Square Plaza
- e) First Government House Place
- f) Sydney Town Hall Steps
- g) Sydney Square
- h) Future Town Hall Square

Key changes from the current clause 6.19 are the removal of some redundant places that are protected by existing or proposed sun access planes, the addition of a new place to be protected at all times (the future Town Hall Square) and revising the times periods that 'no additional overshadowing' controls apply.

Property Council response:

These are reasonable changes and are supported.

Amendment 3.5 - Changes to Building Height Controls on sites within Central Sydney's western edge

The Planning Proposal also seeks to amend *Sydney LEP 2012* to increase the maximum building height restriction for sites along the Western Edge of Central Sydney (between Kent Street and Sussex Street) from 80 metres to 110 metres.

Property Council response:

As highlighted above, the western corridor is being redefined by significant development on the western edge of the CBD. To deliver on the overall strategy to facilitate long term floor space capacity, a greater increase in building height should be considered for the western corridor and this to be matched with appropriate FSR controls.

Recommendation

Council should

- 12. Increase building heights and FSR for the Western Corridor.***

Amendment 3.6 - Protection of Public Views

The Planning Proposal involves the insertion of a new clause into *Sydney LEP 2012* designed to protect significant views of public places from tall buildings.

Six view corridors have been identified for protection through imposition of a view protection plane:

- a) Central Station Clock Tower Public View Protection Plane;
- b) Martin Place View of Western Sky Public View Protection Plane;
- c) Martin Place View of GPO Clock Tower;
- d) Martin Place View of Sydney Hospital Silhouette;
- e) Sydney Observatory View to Macquarie Lighthouse at Vaucluse;
- f) Observatory Hill Rotunda View to Thompsons Corner and Observatory Park, Pennant Hills.

Property Council response:

While several view corridors are proposed, only two substantially impact development potential in Central Sydney (and potentially beyond to areas outside of Central Sydney), being the two views west from Martin Place (identified as (b) and (d) above). We do not support the proposed view protections as they will unduly restrict development in locations not affected by significant environmental considerations, such as sun access planes.

While we understand the intent of the view corridors and the notion that certain views and vistas in a city may be more significant than others, we do not agree with the proposed approach to prohibiting development within these corridors. The lack of clear objectives and statements of significance in the draft Strategy is in stark contrast to the volume of work completed in other areas (for example development capacity, solar access studies and the like). New development proposals should be afforded the opportunity to demonstrate a positive contribution to these corridors as would be possible under a merit or performance-based assessment.

The approach of prohibitions for building height is a recognised tool in Central Sydney, the primary restriction of height apart from general maximum limits in Central Sydney has always related to solar access planes for the protection of important public places and parks. The amount of shadow, and prohibition plane is an acceptable method of protection. However, views cannot always be assessed by such a quantitative method.

Due to the lack of clear objectives and value statements for the proposed view corridors, we do not consider there is sufficient justification for the implementation of these controls and do not support their implementation as a prohibition. While understanding the intent, we recommend Council undertake a more detailed analysis of views in Central Sydney, loss of developable employment land use, and identify through a comprehensive study the key objectives and significance of views and why they are important in the City as opposed to developable employment land use.

Recommendation

Council should

13. Not proceed with the proposed Public View Protection Planes for Martin Place Western Sky and Sydney Hospital Silhouette.

Amendment 4 - Ecologically Sustainable Development

An objective of the Planning Proposal is to “ensure development in Central Sydney sets a new benchmark with regard to ecologically sustainable development” and the related intended outcome is to “encourage building design of large-scale development that minimises the consumption of energy”. We are supportive of both of these being achieved. We are, however, cautious of the way the outcome will be implemented.

The Planning Proposal seeks to establish new baseline ESD provisions for office development within Central Sydney that will be regarded as an acceptable minimum. Where an office development is seeking additional floor space under clause 6.21(7) it will be required to demonstrate a higher level of ESD performance than those mandated by this provision.

Property Council response:

It is understood that a proposed office development following the Tower Cluster pathway will be required to achieve the following outcomes:

- Move towards a more sustainable city with planning controls that require best practice energy for growth sites to drive net zero energy outcomes,
- Include new provisions regarding ESD, and
- Achieve best practice NABERS energy.

We understand this new requirement will work with the current ESD requirements contained within *Sydney DCP 2012* that were introduced in 2018.

There will be situations where a development project can readily achieve this requirement without significant additional cost or design variation. In those cases, it is appropriate that those office building developments within the four Tower Cluster Areas aim for an appropriate ESD response.

There may be other projects within the four Tower Cluster Areas where full compliance with this requirement is inappropriate due to the type of building proposed (for example a A-grade building) or a refurbishment of an existing building. We would welcome the opportunity to review the final drafting of this clause once it has been drafted to ensure that it does not impose an unreasonable outcome for other sections of the commercial office market.

Clause 3.6.1(8) (b) of *Sydney DCP 2012* provides landowners with an opportunity to avoid major ESD upgrades where the compliance costs are unreasonable. We would expect that Council provide an exemption to the proposed ESD requirement where the likely costs are unreasonable or would make a proposed office development economically unviable.

Recommendation

Council should

- 14. Provide industry stakeholders with further details regarding the proposed ESD clause after it has been drafted and include an appropriate exemption and/or transition arrangements to the new requirement where the compliance costs will be unreasonable or make a proposed development economically unviable.***

AMENDMENTS TO SYDNEY DCP 2012

The Property Council of Australia welcomes the opportunity to provide Council with comments on the proposed amendments to *Sydney Development Control Plan 2012* (Sydney DCP 2012) that will work alongside the planning controls contained within *Sydney LEP 2012*.

The following comments relate only to those amendments that have been identified as having a significant impact on development within Central Sydney.

General

A number of amendments are proposed to the *Sydney DCP 2012* that aim to support and implement the draft Strategy. In addition, to introducing new and detailed controls within the DCP, Council also continues to release guidelines, adding further layers and complexities around development.

Recommendation

Council should

- 15. Streamline supporting planning guidance documents, in particular the DCP, to ensure they do not become a barrier to development occurring.***

Built Form

The proposed requirement for a tapered building form is generally not supported. As with most developers and especially with commercial development, efficiencies are gained through the repetition of consistent tower floor plates. The objective of slender and sculpted built form outcomes particular for tall towers, can be achieved through the comprehensive design excellence processes, as opposed to mandated DCP standards.

The driver for reducing street frontage heights is noted and generally supported, however it is recommended that flexibility is introduced as it currently the case within the DCP where site specific circumstances may dictate that a better design outcome is achieved through a higher podium form. This should be more specifically identified in the DCP and sky view testing should be benchmarked according to such outcome.

Recommendation

Council should

- 16. Remove the tapered building form requirement.***
- 17. Ensure street frontage/podium heights are derived from an urban context analysis as opposed to a numeric one size fits all control.***

Wind

Wind has a greater degree of external factors (than sky view for example) that will influence the outcome of modelling, more so than when built form outcome is tested on site.

Recommendation

Council should

- 18. Review the wind speeds and criteria to ensure they are appropriate and do not become a barrier to development.***

Schedule 11 – Guidelines to Vary Setbacks

Very detailed guidance has been prepared under Schedule 11 to outline the circumstances and criteria that must be met to justify any variation to tower setbacks. In effect, the guidelines require a minimum equivalence test that demonstrates that daylight to streets (skyview) and wind conditions are equal or improved compared to a “complying” or base case position. While in theory this is a laudable approach, it is equally very constraining, particularly when the “base case” modelling is very demanding and restrictive.

It is noted that the proposed DCP street frontage height control (reduced from the current DCP) is effectively adopted for base case modelling. This situation however could lead to a perverse outcome where the base case podium is not achievable or realistic given the predominant existing podium heights are higher. Similarly, tower setbacks to the street are required to be strictly compliant with the DCP for the base case, but this may not reflect the prevailing streetscape pattern, and therefore reflect an unrealistic and unstoppable outcome from an urban design perspective.

Another anomaly of the base case is that no building form is to be modelled over heritage items. As such, even a one-storey heritage addition which slightly varies setbacks would never pass sky view or wind equivalency tests as it would be tested against a ‘no development’ scenario. This is significantly limiting of heritage protection and adaption as it means there will not be any new development to heritage unless strictly internal refurbishments are made, which in many cases is not economically feasible.

Recommendation

Council should

- 19. Introduce greater flexibility in developing a base case that is relevant to the particular circumstances of the site.***

Heritage

Proposed amendments to *Sydney DCP 2012* include greater restrictions on the ability to undertake alterations and additions to heritage items, stating *“no additions to or development above heritage items will be permitted...”*. More prescriptive Special Character Area mapping also generally notes “no further development” on heritage listed buildings. While the Property Council supports the need to protect and preserve the integrity of the historical fabric of Central Sydney, consideration must be made for the negative impact these prescriptive requirements can have on adaptive re-use and renewal of heritage items.

Adaptive re-use is a more fluid and relational approach to heritage practice where the boundaries between past and present are thoughtfully and ethically addressed in the material transformation of a heritage item, layering of past elements is the object of focus rather than the strict preservation of the item. We are concerned that the proposed heritage provisions represent a move away from the opportunity to integrate heritage buildings into larger redevelopment proposals, which to date has been allowed for the efficient use of land, integration of, and long-standing preservation of these buildings.

Further to this, there are examples of developments that have been approved to build over heritage items, which may not have progressed if these requirements were implemented. For example, the developments at 111-121 Castlereagh Street (City Tattersalls Club redevelopment) and 183-185 Clarence Street stand out. Given the importance of enhancing and expanding Central Sydney’s heritage landscape, it is recommended that Council provides flexibility in allowing buildings over heritage items. This will allow for greater employment and accommodation opportunities while improving the sustainability of heritage buildings.

Recommendation

Council should

20. Reconsider its prohibition of development over heritage-listed items.

Assumptions for Floor Space Calculations

The specific DCP provisions stipulating the calculation of FSRs in the tower cluster pathway include the removal of 750mm of the gross building envelope for sun shading and 15% of the envelope for architectural articulation. While seemingly minor considerations, these reductions are substantial to the end outcome, and effectively reduce developable area for seemingly little benefit apart from a catch-all response to solar conditions and greater flexibility in a design competition.

The overarching principle of flexibility for design competitions is one which is supported, but we feel that a one-size-fits all approach of 15% flexibility in an envelope is not appropriate, particularly in the complex context of Central Sydney. It is our opinion that site-specific considerations will be important in determining appropriate sun shading and articulation opportunities, and a reasonable FSR should be provided within an envelope to achieve the objective of flexibility, while also implementing the intent and objectives of the draft Strategy to deliver greater employment capacity.

Tower cluster and planning proposal opportunities offer the most suitable locations for delivering employment floor space capacity in Central Sydney. Council has clearly noted the geographical limitations of Sydney in the draft Strategy, meaning there is limited land in Central Sydney suitable for greater increases in height and floor space. As such, these opportunities must be maximised where possible, but we agree this should not be at the expense of what makes Central Sydney a beautiful and special place to live, work and visit. In acknowledging these opportunities are limited, an objective-based approach to these developments is most appropriate with clear guidance on the principles and objectives which must be achieved in new commercial towers, such as best practice sustainability and design excellence.

Recommendation

Council should

- 21. Reconsider the prescriptive requirements for both sun shading and architectural articulation, and when preparing a new draft guideline, these principles should be included as objectives which are capable of being achieved in different ways depending on the unique conditions of a site rather than numeric controls that assume one size fits all.***

COMPETITIVE DESIGN POLICY

The Property Council of Australia welcomes the opportunity to provide comments to Council on the proposed amendments to the City of Sydney Competitive Design Policy (the Policy) that will work alongside the changes proposed to Sydney LEP 2012.

The proposal amends the Policy by inserting a new section (to be numbered Section 5.4) into the current policy. These new provisions will apply to development within the four new tower cluster areas.

The specific changes relevant to the tower cluster area projects will be:

Jury Establishment

The amended policy requires that a jury must comprise a minimum of six members, whereby four nominated by the consent authority and two nominated by the proponent. At least one member of the jury should be a sustainability expert.

Competitors

Proponents will be required to invite a minimum of six competitors to participate in the competition. The following criteria applies to competitors:

- A minimum of half of the competitors must be Australian-based architects;
- At least one of the competitors is to be an emerging architect or all competitors are in partnership with emerging architects;
- A minimum 50% female representation in the design team and leadership.

Property Council response:

The new competition procedures will be the most prescriptive in Australia. Whilst we support the intent of the targets outlined by Council, we would note that in some instances, strict compliance might be challenging. It would be a poor outcome if the proposed requirements actually limited the architects that are eligible for the design competition within Tower Cluster Areas rather than creating greater diversity and promoting excellence.

The current competitive design process which provides for a jury consisting of three members chosen by the Council and three members chosen by the proponent has provided exceptional design outcomes throughout Central Sydney. There is no appropriate justification to deviate from the current process.

The proposed amendment to the makeup of the jury, which provides for four members to be chosen by the Council and only two by the proponent, is arbitrary and creates an unnecessary imbalance in the process. The significant investment by the proponent not only in the competitive design process, but ultimately in the development itself, should, at the very least, provide an equitable entitlement as to the selection of the jury, noting the pre-qualifications for appointment in any event.

Hung jury outcomes are incredibly rare and can be managed appropriately through the current competitive design framework.

Recommendation

Council should

- 22. Not change the current composition of jury members whereby half of the members of the jury be nominated by the consent authority and half by the proponent irrespective of development proposals within or outside of the Tower Cluster Areas.***

DRAFT CENTRAL SYDNEY CONTRIBUTIONS PLAN

The Property Council welcomes the opportunity to provide Council with comments on the draft Central Sydney Contributions Plan (draft Contributions Plan).

This submission provides detailed consideration of the draft contribution plan below that should be considered along with the earlier comments and recommendations on pages 9 to 12.

Background

Currently contributions within the Central Sydney area are required under the *Central Sydney Development Contributions Plan 2013* prepared in accordance with section 61 of the *City of Sydney Act 1988*. The current contributions plan levies are set at 1% of the cost of development for works exceeding \$200,000. There are a number of exemptions from the current contributions plans that apply such as affordable or social housing, heritage works, not-for-profit development, energy saving measures, water saving measures, end of journey facilities, development of 'through site links' and 'fine-grain space'.

The current contributions plan provides Council with funds that enable it to provide public facilities, amenities and services to meet the needs of the growing residential and workforce population within the Central Sydney area.

A total of 13 projects valued at \$157 million that have been delivered and 14 new projects valued at \$283 million are funded under the existing 2013 contributions plan. Examples of infrastructure projects delivered or to be delivered by the current plan include, Kent Street Cycleway, King Street Cycleway, Wentworth Avenue cycleway, Cook and Phillip Street Park irrigation upgrade, Cook and Phillip Street aquatic centre, Greening Sydney tree planting, works to deliver the Hyde Park Masterplan, Customs House refurbishment, various footpath improvements throughout the CBD, Haymarket Library refurbishment, Regimental Square embellishment and public art enhancements.

Proposed Contribution Rate

The draft contributions plan is seeking to introduce a new levy framework for development within the Central Sydney area. Rather than a single flat percentage, a sliding scale of rates ranging between 1% and 3% is proposed based on the value of development being undertaken.

Development valued at less than \$250,000 will not incur a levy. The current 1% levy would continue to apply to development valued between \$250,000 and \$499,999.

Proposals valued at more than \$500,000 but less than \$1 million will attract the higher contribution rate of 2%. A contribution rate of 3% applies to development projects valued at \$1,000,000 and above.

Council has based these rates on the need for infrastructure to support growth in workers and residents over the next six years. The draft plan indicates that there will be almost 5,500 new dwellings occupied by more than 11,000 additional residents and approximately 30,000 additional workers within Central Sydney. The levies collected under the draft plan will provide for approximately \$250 million in funds for infrastructure projects to support that growth.

Property Council response:

The proposal is concerning both in terms of the increase in the maximum contribution from 1% to 3% and the application of the contributions to projects for minor building alterations.

The tripling of the maximum contribution rate from 1% to 3% is a significant increase and will be paid on top of the existing other charges that apply to development, including purchasing Heritage Floor space, a potential affordable housing levy for Central Sydney and the costs associated with demonstrating design excellence. The cumulative impact of these levies is substantial and already a significant barrier to development in the CBD.

As with Section 7.12 levies, the proposed contributions will be applied to works that do not involve any additional floor space or demand for services. This includes relatively minor building works such as refurbishments and building upgrades that do not place any additional demand on Council infrastructure or facilities. It is important that the minimum threshold should be determined to avoid unreasonably penalising those undertaking smaller scale works that don't involve an increase in gross floor area.

In the current period of economic uncertainty due to the COVID-19 pandemic, we would strongly oppose increasing the contribution rate above the existing 1%. The Department of Planning, Industry and Environment recently released an issues paper which considered potential criteria for considering increasing section 7.12 levies above the current 1% maximum. We have provided in principle support for the criteria that have been developed by the Department but suggested that any proposal to increase a levy over 1% should be deferred until the State's economy returns to normal conditions.

Resident and Dwelling Growth

Appendix A of the draft plan indicates that almost 5,596 new dwellings are projected within Central Sydney between 2020 and 2025. Further growth has been forecast for Central Sydney out to 2036. Council's basis for this projected growth is a greater availability of development sites during the 2021-2025 period. Page 25 of the draft contributions plan has projected the development of an additional 467,000 m² of residential floor space between 2020 and 2025.

Council should clarify how this growth in residential dwellings and population can be achieved with the proposed removal of the incentives for additional residential FSR within *Sydney LEP 2012*. We argue that the proposed changes to the additional accommodation floor space clauses within the LEP will have a dramatic impact on the commercial viability of residential development within Central Sydney.

Infrastructure Works Schedule

Appendix B of the draft contributions plan provides a schedule of works to be funded by the development levy. Contributions collect by the levy are applied to the capital costs incurred by Council to provide new, extended or augmented public facilities, amenities and services within Central Sydney.

Approximately \$251 million in contributions are expected to be collected under the draft contributions plan between 2020 and 2025. The funds collected under the plan are combined with other funds raised by Council that are applied to its extensive capital works budget.

Key projects to be funded include new and upgraded open space, public domain improvements, community facilities, roads/traffic and transport facilities totalling more than \$655 million. Many of the projects to be provided are to support future growth of the city's residential population. Given the removal of the incentive for residential floor space, we argue that it will be highly unlikely this growth will eventuate. If Council holds information that indicates that residential development will continue in Central Sydney despite the removal of the floor space incentive, we would welcome it being released for review and comment.

Recommendation

Council should

- 23. Revise its works schedule to be funded by the draft contributions plan to only relate to development that will occur under the new planning controls (employment land uses).***
- 24. Not use contributions paid by new commercial development to subsidise the provision of facilities and services for the existing residential population of Central Sydney.***