

Waterloo Estate (South) Planning Proposal – Submission



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Introduction

In February 2020 the Council and the Central Sydney Planning Committee (CSPS) approved a planning proposal and draft design guide for the Waterloo Estate (South). The proposal was informed by the City's Alternative Approach to Waterloo, that was in turn reviewed and guided by an Expert Advisory Panel that included:

- Ken Maher AO (chair)
- Nathan Moran – CEO, Metropolitan Local Aboriginal Land Council
- Professor Nicole Gurran – Chair of Urbanism, University of Sydney
- David Riches – David Riches Associates (former Head of Projects, INSW)
- Wendy Hayhurst – CEO, Community Housing Industry Association
- Professor Bill Randolph – City Futures Research Centre, UNSW
- Andrew McAnulty – CEO, Link Housing

The final draft of the proposal was peer reviewed and thoroughly examined by some of Australia's most prominent urban designers and allied professionals who participated in a Design Challenge Review. The review was observed by staff of the City of Sydney, Department of Planning, Industry and Environment and the NSW Government Architect as well as the Greater Sydney Commission's District Commissioner for Eastern City and North District.

Participants in the Design Challenge Review included:

- Ken Maher AO, AIA Gold Medallist 2009 President of the Australian Sustainable Built Environment Council and Honorary Professor of Practice in the Built Environment Faculty at UNSW, (chair);
- Kerry Clare, AIA Gold Medallist 2010;
- Richard Johnson MBE, AIA Gold Medallist 2008 Professor of Architectural Studies in the Built Environment Faculty at the UNSW;
- Professor Nicole Gurran, Chair of Urbanism USYD;
- Peter Mould, NSW Government Architect Emeritus;
- Matthew Pullinger, architect and Acting Commissioner NSW Land and Environment Court;
- Rod Simpson, former Environment Commissioner Greater Sydney Commission; and
- David Riches, former Head of Projects INSW.

The City's proposal, following review by the Independent Advisory Panel, has been amended by the Department of Planning and Environment (Department) and is now being publicly exhibited.

The City welcomes the opportunity to respond to the public exhibition.

The City has closely reviewed the planning proposal and design guide and commends the Department for maintaining the core principles of the planning proposal and design guide as approved by the Council and CSPC.

However, the City is deeply concerned by several issues identified in its review of the publicly exhibited materials. Of particular concern is:

- the additional floor space that is facilitated by a drafting instruction that allows design excellence floor space above the mapped floor space, resulting in up to an additional 25,000sqm of floor space on Land and Housing Corporation (LAHC) owned land and 4,200sqm on privately owned sites in Waterloo Estate (South); and

- the significant reduction in the allocation of floor space for social and affordable housing that was required under the City's planning proposal adopted by Council and the Central Sydney Planning Committee in February 2021, noting the proportion of floor space to be provided for social and affordable housing is now below even the 30% social housing and 5% affordable housing of floor space the City understood to form part of LAHCs original planning proposal request in May 2020. The proposal also fails to meet the 30% target for social housing on redevelopment sites that form part of the NSW Government's Communities Plus program.

The City makes the following recommendations for change to the planning proposal and the draft design guide prior to making the new planning controls for Waterloo Estate (South).

Summary of recommendations

Built form

1. Reduce the mapped floor space so that any design excellence bonus does not exceed the maximum floor space contained in the City's planning proposal and confirmed by the Minister's Independent Advisory Group. This is the amount of floor space anticipated by the original Gateway Determination and illustrated in the Urban Design Review (Hassell 2022) and assumed in the Financial Feasibility Assessment (Savills, 2022).
2. Rearrange the height zones on the height map so they are consistent on each side of the various streets rather than on a block by block basis and more closely aligned with the height in storeys figure in the Design Guide.
3. Maintain existing floor space ratio and height standards on heritage listed sites.
4. Test the sun access to the small park and, if required, adjust the height of building maps and number of stories diagrams. Add a requirement in the Design Guide to ensure 50% of the park area receives 4 hours of sunlight at the winter solstice between 9am and 3pm.
5. Reposition and adjust the building envelope of the tower on Kellick and Gibson streets in consultation with a wind expert and with the aid of sun studies that model the heights of buildings shown on the height of buildings map and the height in storeys figure to ensure that pedestrian wind comfort and safety in the public space and at least 50% of the park area receives 4 hours of sunlight at the winter solstice between 9am and 3pm.
6. Retain the projecting building wings at George and McEvoy and Pitt and McEvoy; and make a narrower opening, say 6 metres wide, of Mead to McEvoy Streets subject to further noise testing and analysis.
7. Reinstate the guidance for breaks in towers more clearly noting that this is one of a range of measures to ensure pedestrian wind safety and amenity and do not add additional floorspace to the tower envelopes.
8. Remove the inconsistencies across all the documents to improve clarity and transparency for the community.
9. Publish a further addendum to the Addendum Urban Design Review (Hassell, 2022), to reconcile errors and inconsistencies in the various publicly exhibited materials.
10. Obtain certified land surveys from LAHC and use these to calculate site areas. Confirm all site boundaries and areas with a survey that complies with the Surveying and Spatial Information Regulation 2017. Remake and reconcile the maps, diagrams and calculations to provide clarity for future planning and assessment.

11. Reconsider and adopt where relevant the reduced building heights along streets shown in the preferred direction of the Addendum Urban Design Review.
12. Rework the maximum building height map in the planning proposal to have height zones relating to street widths and park locations.
13. Reconcile the height in storeys map in the draft design guide, with the maximum height of buildings map in the planning proposal to ensure they are consistent. This is to provide clarity for the community and future landowners and ensure certainty in the development application process.
14. Amend the mapped FSRs and heights on private sites so that the resulting floor space aligns with those in the City's planning proposal.
15. Ensure the landowners and the community can have a true understanding of the development that may result on the privately owned sites.
16. Consult further with the wind expert and conduct further wind testing to reduce the floor space allocated to the towers along McEvoy Street and to ensure enough flexibility to provide a comfortable and safe pedestrian wind environment.
17. Review the recommendations from the acoustic report and where appropriate reference the City's Alternative natural ventilation of apartments in noisy environments performance pathway guideline. Reference to this guide should be incorporated into the design guide. If the noise consultant advises that interior noise levels cannot be provided on this pathway, the design changes must be reversed including the following:
 - a. reduce the building depth of buildings on McEvoy Street to at least 12 metres to ensure that windows to habitable rooms can face away from the noise source; and
 - b. retain the projecting building wings in the setback zones at George and McEvoy and Pitt and McEvoy streets; and make a narrower opening, say 6 metres wide, of Mead Street to McEvoy Streets subject to further noise testing and analysis.

Housing

1. At a minimum, restore the requirement in the publicly exhibited planning proposal that at least 30% of gross residential floor space on LAHC owned land be for social housing and 20% be for affordable housing.
2. Ensure that the drafting instruction is explicit that the minimum % requirement for social and affordable housing applies to all residential floor space in Waterloo Estate (South) including any design excellence floor space.
3. Develop innovative funding and procurement models to allow for direct dealings with Community Housing Providers to support the increase of social and affordable housing in Waterloo Estate (South) and in later stages of the redevelopment in Waterloo Estate (North) and Waterloo Estate (Central).
4. Ensure the Department of Communities and Justice develops and implements the Human Services Plan including the delivery of services to existing residents, during the relocation of residents and all future residents.
5. Prioritise development of an independent Social Impact Assessment and Social Impact Management Plan to identify and mitigate impacts on communities from the redevelopment of the Waterloo Estate (South).

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6. Allocate 10 per cent or more of the total number of dwellings to be provided for Aboriginal and Torres Strait Islander households, noting there is much work to be done to achieve the outcomes aspired to in the draft design guide.
7. Amend the drafting of the affordable housing LEP clause for private sites to ensure the contribution requirement is commensurate with the increase in development capacity on those sites.
8. Work with the City of Sydney in finalising the drafting the affordable housing LEP clause for private sites to ensure consistency with other planning proposals currently under consideration.
9. Amend the requirement that the Housing SEPP does not apply to Waterloo Estate (South) so that only select parts of the SEPP, those that allow floor space bonuses and development concessions, are not applied.

Public infrastructure

1. Ensure that any deed or planning agreement between the City and LAHC is publicly exhibited, executed and registered on the title of LAHC owned land in Waterloo Estate (South) before any change is made to the Sydney LEP 2012 to facilitate redevelopment.
2. Repeal of the Redfern-Waterloo Authority Contributions Plan 2006, as it applies to Waterloo Estate (South), so that the City of Sydney Development Contributions Plan 2015 applies to the land if the subsequent development is categorised as State Significant Development.
3. Remove land for new roads from the land acquisition map and remove reference to the City of Sydney as an acquiring authority for the new roads, noting the City does not give concurrence for this provision to be included in the Sydney LEP 2012.

Sustainability

1. Support the long-term resilience of the community and lead by example by including in the LEP and design guide a requirement that all development in Waterloo Estate (South) demonstrate environmental performance beyond the minimum prescribed by BASIX.
2. Include an appropriate requirement in the planning controls to facilitate a water recycling facility to be in Waterloo Estate (South), noting this may include an allocation of space and a stronger requirement that all buildings be dual reticulated.

Traffic and transport

1. Revise the access and circulation plan in the draft design guide to address future traffic arrangements.

Minor issues

1. Correct and clarify the minor errors and inconsistencies in the draft design guide.

1. Built form

1.1. Addendum Urban Design Review

In general, the City supports the finding in the Addendum Urban Design Review, prepared by Hassell.

Unfortunately, the urban design review was conducted without the collaboration of wind and noise experts. The reports from these experts were made following the urban design review and indicate serious shortcomings in some of the recommended changes. Changes are required in relation to the expert findings to the design guide and the planning maps.

The study recommends a number of changes as follows:

- simplifying the height map
- changing the development standards on heritage sites
- building massing changes
- shifting the small Park to the north
- an additional walkway from Cope Street to the small park
- extending Mead Street to McEvoy Street
- further setback of buildings facing McEvoy Street between George and Pitt streets
- differential setbacks to the block bounded by Wellington, Gibson, Kellick and Pitt streets
- widening of the building faces McEvoy Street
- adding a tower on the corner of Gibson and Kellick streets
- removing some of the wind guidance and additional tower floor space

Simplifying the height map

The clear intention of building heights in the City's planning proposal is to arrange the taller buildings 11-13 storeys along the wider main street, George Street and facing the parks on Wellington, Pitt and Kellick streets. Here there is greater outlook and building separation giving more opportunity for sunlight to fill the streets. Medium height buildings, 7 – 9 stories face the majority of the narrower streets. Lower building heights are arranged between these on the east west running streets and on the narrower part of Cooper Street where there is less outlook and building separation and where the street orientation, east-west, allows less sunlight to penetrate.

The proposed simplifying of the heights on a whole block basis, rather than based on street widths undermines the relationship between amenity and height.

Extending Mead Street to McEvoy Street

No traffic movement between McEvoy and Mead streets is proposed nor allowed.

The urban design review incorrectly observed that there was no pedestrian connection provided between McEvoy Street in the City's planning proposal; a colonnade connection was provided. There is little if any demand for a pedestrian connection in this location, it is not possible to cross McEvoy Street at this location and there is little pedestrian flow on McEvoy Street. To ensure a choice of pedestrian route a connection was provided.

McEvoy Street is a busy street and the noise study notes that with the change - *Noise levels external to the buildings (east/west facades) fronting Mead Street may therefore be at a level where windows to bedrooms would need to be closed to achieve relevant internal noise levels.*

The Study's comparison of George Street to Mead Street neglects that Mead Street is narrower and therefore reflected noise is greater and on the eastern corner of McEvoy Street building projections, also removed by the study, gave some protection to the façade openings to the west.

Only a net gain of two additional trees are conserved by the opening.

Changing the development standards on heritage sites

Changes to height in metres and floor space ratios in the exhibited planning proposal, create unrealistic expectations on heritage sites, are not aligned with the built form articulated in the design guide, and place undue pressure on heritage items in the development application process.

Building massing changes

The recommended building massing changes to lower the heights of buildings in various places have not been incorporated into the building height maps or the design guide.

Shifting the small park to the north

This is a minor change. It is essential for the amenity of the park that at least 50% of the park receive 4 hours of sunlight on the winter solstice between 9am and 3pm. No study is provided to demonstrate this.

An additional walkway from Cope Street to the small park

The addition of this walkway is supported.

Further setback of buildings facing McEvoy Street between George and Pitt streets

There is no objection to this change.

Differential setbacks to the block bounded by Wellington, Gibson, Kellick and Pitt streets

There is no objection to this change.

Widening of the buildings facing McEvoy Street

The urban design review observation on the building depth of these buildings is:

“Building massing along McEvoy Street is very narrow, may result in bedrooms to be located on the McEvoy Street frontage which is noisy and polluted. Building mass does not provide enough depth to achieve good apartment amenity.”

The observation is incorrect and misleading. The narrower width is to specifically deal with the noise source as has been done in other locations. The narrow depth allows all habitable rooms including bedrooms to face away from the noise source towards the sunlight for good apartment amenity. Widening these buildings has the opposite effect of encouraging some habitable rooms, particularly bedrooms as the living rooms will be placed to face north, to face the busy road amplifying the noise effect on amenity.

Adding a tower on the corner of Gibson and Kellick streets

The addendum to the wind report states:

“The preferred location of the additional tower on Kellick Street to the north-east of the site ... is not ideally located from a wind perspective. A tall building in this elevated location is exposed to all prevailing strong wind directions. The wind conditions ... on the corner of

Kellick and Gibson Streets, ... approached the safety criterion. With the significant increase in building massing, this and nearby locations along Gibson and Kellick Streets, and Waterloo Park would be expected to exceed the safety criterion."

The City notes that the tower increases the overshadowing of Waterloo Park and that the sun studies in the urban design review contain buildings lower than those in the height of buildings map and the height in storeys figure and are therefore misleading.

Removing wind guidance and additional tower floorspace

The wind guidance on providing a break in towers ensures that if other guidance for shaping the towers are not successful wind safety can be maintained. It is not a mandated guidance.

The addendum to the wind report states:

"The removal of the mid-height slots and 3-4 storey increase in height to the three southern towers, and the enclosing of the Laneway from Cope Street, would all be expected to increase the wind conditions around the corner of McEvoy and Cope Streets. Without the mature trees in the vicinity of the corner, the wind conditions would be expected to exceed the safety criterion."

It further states:

"The safety wind conditions could be ameliorated with altering the building massing for example by rounding the south-west corner, increasing the tower setback from the podium edge to the west, reducing the height of the tower, introducing appropriate place articulation, and incorporating an awning structure around the corner."

These measures would decrease the yield for these sites to a greater extent than proposed risking the undermining of the pedestrian wind safety.

Recommendations

- Rearrange the height zones on the height map so they are consistent on each side of the various streets rather than on a block by block basis and more closely aligned with the height in storeys figure in the Design Guide.
- Maintain existing floor space ratio and height standards on heritage listed sites.
- Test the sun access to the small park and, if required, adjust the height of building maps and number of stories diagrams. Add a requirement in the Design Guide to ensure 50% of the park area receives 4 hours of sunlight at the winter solstice between 9am and 3pm.
- Reposition the tower location to ensure pedestrian wind comfort and safety in surrounding public space and 50% of the park area receives 4 hours of sunlight at the winter solstice between 9am and 3pm. This is to be carried out in consultation with the wind consultant to and with the aid of sun studies that model the heights of buildings shown on the height of buildings map and the height in storeys figure.
- Retain the projecting building wings at George and McEvoy and Pitt and McEvoy and make a narrower opening, say 6 metres wide, of Mead to McEvoy Streets subject to further noise testing and analysis.
- Reinstate the guidance for breaks in towers more clearly noting that this is one of a range of measures to ensure pedestrian wind safety and amenity and do not add additional floorspace to the tower envelopes.

1.2. Building envelopes (Floor Space Ratio and Height) – LAHC owned sites

The City's planning proposal and draft design guide facilitated a total Floor Space Ratio (FSR) of 3.04:1 on LAHC-owned land (including a bonus for high BASIX performance and design excellence). The total available floor area on LAHC sites in the City's planning proposal, including design excellence, is about 249,000 sqm (see Table 3 of the City's planning proposal), incorporating about 18,000 square metres for non-residential uses and about 231,000 square metres for residential uses. This generally matched the development outcomes described in the ~~what was proposed in the~~ planning proposal request made by LAHC to the City in May 2020. These yields will facilitate about 3,067 dwellings (at about 75sqm/dwelling).

Significantly increased floor area in the precinct

The publicly exhibited planning proposal results in significantly more floor space in Waterloo Estate (South). The main reason for the increase is that the publicly exhibited planning proposal maps in the LEP about the same amount of the maximum floor space that was available under the City's planning proposal (which included design excellence), but allows for a further 10% additional floor space above the mapped amount for design excellence.

The following table identifies the resulting floor space from the mapped FSRs. It shows the planning proposal will facilitate over 276,000sqm of floor area in Waterloo Estate (South) on LAHC owned sites. This is about 25,000sqm of additional floor area (approximately 330 additional dwellings at 75sqm/dwelling) above what was facilitated by the City's planning proposal adopted by Council and the Central Sydney Planning Committee and confirmed by the Minister's Independent Advisory Group.

This is addition to the up to 4,200sqm of additional floor space on privately owned sites (an estimated 55 potential dwellings), discussed later in this submission.

Table 1: Floor space facilitated by the publicly exhibited planning proposal

Site ⁺	Site area (sqm)*	Mapped FSR	Mapped floor area (sqm)	Total available floor area (sqm)**	Comment
2A	NA	NA	NA	NA	Excluded – site not owned by LAHC Includes future street widening
2B	1,297	1.45	1,881	2,069	Includes future street widening
2C	NA	NA	NA	NA	Excluded – site not owned by LAHC Includes future street widening
2D	1,884	3.59	6,764	7,440	Includes future street widening
2E	NA	NA	NA	NA	Excluded – site not owned by LAHC
2F	NA	NA	NA	NA	Excluded – site not owned by LAHC Includes future street widening

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3A	3,250	5.91	19,208	21,128	Includes future street widening
3B	2,978	5.31	15,813	17,394	Includes future street widening
4A	NA	NA	NA	NA	Excluded – site not owned by LAHC Includes future street widening
4B	1,315	3.12	4,103	4513	
4C	NA	NA	NA	NA	Excluded – site not owned by LAHC Partially includes and partially excludes future street
5A	3,326	4.68	15,566	17,122	Partially includes and partially excludes future street widening
6A	3,322	4.57	15,182	16,700	Partially includes and partially excludes future street Includes area currently in a separate lot
7A	3,266	6.3	20,576	22,633	
7B	3,400	3.35	11,390	12,529	
8A	3,695	7.45	27,528	20,381	Streets have been excluded
8B	1,930	3.73	7,199	7,919	Streets have been excluded
8C	1,793	4.74	8,499	9,349	Streets have been excluded
8D	996	0.95	946	946	Streets have been excluded
9A	3,480	6.86	23,873	26,260	Partially includes and partially excludes future street
9B	3,796	4.19	15,905	17,496	Partially includes and partially excludes future street
10A	3,390	6.44	21,832	24,015	Partially includes and partially excludes future street
10B	3,116	4.36	13,586	14,944	Partially includes and partially excludes future street
	71,389		251,239 sqm	276,268 sqm	

* See Figure 1 for site reference

* The site areas shown above are the areas contained within the site boundaries indicated in the exhibited FSR map. The map does not accurately represent the actual site areas.

The mapped floor areas are calculated by multiplying these site areas by the mapped FSR exhibited.

** This includes mapped floor area, plus 10% for design excellence

This is an unacceptable increase in the amount of floor area in Waterloo Estate (South) that will have significant urban design impacts. Moreover, it is the City's view the publicly exhibited planning

proposal and draft design guide misleads the community in what will be built at Waterloo Estate (South). The City's key concerns are discussed further below.

Density

There is a new mismatch between the floor space and the envelopes. The increase in floor space resulting from the publicly exhibited planning proposal will result in unacceptable densities in Waterloo Estate (South), creating pressures on the built form, amenity and access to services.

The Independent Advisory Group (IAG) report states that:

"There is a general view by commentators on this proposed development that the density is too high."

This statement is based on an outcome that facilitates about 3,060 dwellings. To add up to an additional 330 dwellings will result in an even more dense precinct, adding to the pressures that are noted by the IAG:

"The consequence of this density is that the design either includes many towers (LAHC) or higher street and courtyard walls than would be indicated for good solar access and amenity in order to accommodate the high number of units".

"High density apartment development creates additional pressures on the public realm and the levels of amenity available to residents. This is a consequence not only of the large number of people using the public realm in dense settings but also the need to access parkland as a contrast to the heavily built up environment and to provide recreational opportunities".

The IAG concluded that

"having tested multiple options, the density should remain as proposed in the [City's] Planning Proposal. The IAG considers, however, that at this density, design quality, building quality, and urban amenity are of significant importance at development assessment stage and at the construction stage."

Community understanding of the development outcomes

The significant increase in floor space resulting from the publicly exhibited planning proposal is not immediately apparent to the community. The planning proposal does not attempt to make clear what will actually result from the addition of design excellence floor space above what the maximum floor space that was established in the City's planning proposal.

The community, who are not planners, cannot be reasonably expected to further examine the intricacies of drafting instructions that add up to 10% of additional floor space above the development outcomes in the introduction on page 18, or to interpret what that means for the built form.

Most people in the community will use the draft design guide to understand what will be built in their neighbourhood in the future.

The City's draft design guide shows building heights consistent with what could be achieved under its planning proposal. It is shown this way to ensure that the community have clear understanding of the built form resulting from the planning proposal.

However, the building envelopes described in the Department's draft design guide do not reflect the additional floor space that will be facilitated by planning proposal. Neither does the Area Schedule on page 205 of the urban design review reflect this additional floor space.

The community at large will not understand that in future development applications. It is the FSRs and heights shown in the LEP that will prevail over those secondary controls and building envelopes shown in the design guide, ultimately resulting in larger buildings, and undermining the efficacy of the design guide.

Insufficient evidence for the increase in floor space

The urban design review does not show any evidence of testing building envelopes that would result from this additional floor space, with respect to either solar access to apartments or wind. Further, there is no indication in the publicly exhibited planning proposal documentation of any testing to confirm that the Height of Building controls in the LEP map can fit this additional floor space.

This concern applies to the sites owned by LAHC and to the sites in private ownership.

This not only creates challenges in the assessment of development applications with possible delays (where the LEP envelope will generally override what is facilitated in the design guide envelope), but it also establishes false expectations for the community, who will reasonably expect the built form to reflect that shown in the images in the design guide. It is also noted some of the private sites are heritage items and no analysis has been made in increasing the floor space and retention of their heritage values.

Insufficient consultation with the City

While the Department have engaged with the City about the planning proposal in preparing it and some information has been shared with the City as required by condition 2 of the Gateway Determination, there has been no consultation with the City regarding the sudden increase in the amount of floor space resulting from the Department's planning proposal.

In the City's view, this is a critical issue that will have substantial impact on the built form and the demand for public infrastructure. If this is an intended departure from all the previous work to date, the City should have been consulted on this matter.

Inconsistency within the publicly exhibited materials

There are inconsistencies in the publicly exhibited documents which make it difficult to deduce the actual outcomes of the planning proposal. Some examples include:

- section 5.1.5 of the planning proposal (p. 41) says the maps facilitate 236,404sqm of GFA on all LAHC-owned land;
- table 4 of the planning proposal (p.44) indicates a total of 254,850 sqm. of GFA on all LAHC-owned land can be provided;
- table 1 of the Design Guide (p. 18) indicates a total of 255,207 sqm. of GFA on all LAHC-owned land can be provided;
- all of the above figures are exclusive of up to an additional 10% floor space that could be achieved through a design excellence process;
- the Area Schedule on p. 205 of the urban design review, which was required by the Gateway, indicates 254,807 sqm. of GFA can be accommodated in the built form envelopes described in the Height in Storeys map of the Design Guide (p.51);
- discrepancies in the mapping of land to be included in calculations of GFA (see Table 1 above for comment);

- questions of whether the building heights described in the Height in Storeys map of the Design Guide can be facilitated by the proposed height standards described in the LEP Height of Buildings map.

Site areas

The maps in the urban design review, the draft design guide and the proposed LEP are inconsistent, and the exhibition material does not reconcile the differences or indicate how the floor space ratios have been calculated. Is the site area shown on the FSR map, on the design guide diagrams, or in the urban design review the basis of calculations?

In addition, none of these maps accord with the survey material submitted by LAHC that state that they cannot be used to verify the site areas. This is confusing to the community, the City and future applicants and assessors.

For example, when the floor space ratio map is overlaid with the land reservation acquisitions map, as shown at Figure 1, some sites on the floor space ratio map include land to be acquired, others do not, some sites partially, not fully include the land to be acquired. The land reservation acquisitions map is inconsistent with the land dedications and easements diagram in the design guide. The floor space ratio map is poorly, or inaccurately drafted. Street alignments that are shown straight and aligned step and change orientation without reason. Sites extend across deposited plan lots without need or explanation.

The impact of incorrect site areas has a significant flow on impact on the calculation of Gross Floor Area (GFA), for example, the floor areas shown in Table 1 of the draft design guide do not match the area schedule in the urban design review and cannot be reconciled to the floor space ratio map. Consequently, the GFAs exhibited in the publicly exhibited planning proposal are not an accurate indication of how much floor area will be facilitated by the FSR controls, an issue that is not made adequately clear to the community.

Figure 1: Site area discrepancies map



Note: This map overlays the land reservation acquisitions (yellow) and street widenings (red) that overlap with the site boundaries on the floor space ratio map (broken black lines).

Recommendations

- Reduce the mapped floor space so that any design excellence bonus does not exceed the maximum floor space contained in the City's planning proposal and confirmed by the Minister's Independent Advisory Group. This is the amount of floor space anticipated by the original Gateway Determination and illustrated in the Urban Design Review (Hassell 2022) and assumed in the Financial Feasibility Assessment (Savills, 2022).
- Remove the inconsistencies across all the documents to improve clarity and transparency for the community.
- Publish a further addendum to the Addendum Urban Design Review (Hassell, 2022), to reconcile errors and inconsistencies in the various publicly exhibited materials.
- Obtain certified land surveys from LAHC and use these to calculate site areas. Confirm all site boundaries and areas with a survey that complies with the Surveying and Spatial Information Regulation 2017. Remake and reconcile the maps, diagrams and calculations to provide clarity for future planning and assessment.

Maximum building heights - LEP maps

The maximum building heights in the planning proposal (LEP maps) (Figure 2) have significantly changed from what was proposed by the City (Figure 3). The change is prompted by the Gateway determination instruction to modify the height map to *"remove the 3m and/or 6m height control that depicts the location of private internal courtyards and apply the adjacent maximum heights"* and to *"set simplified maximum heights above ground on the Height of Building Map, including an allowance for roof top communal facilities and flood levels"*.

The proposal has removed the courtyard heights as instructed.

The setting of simplified maximum heights has been interpreted in the extreme with each block having a single height zone without regard to the widely varying circumstances of each street frontage.

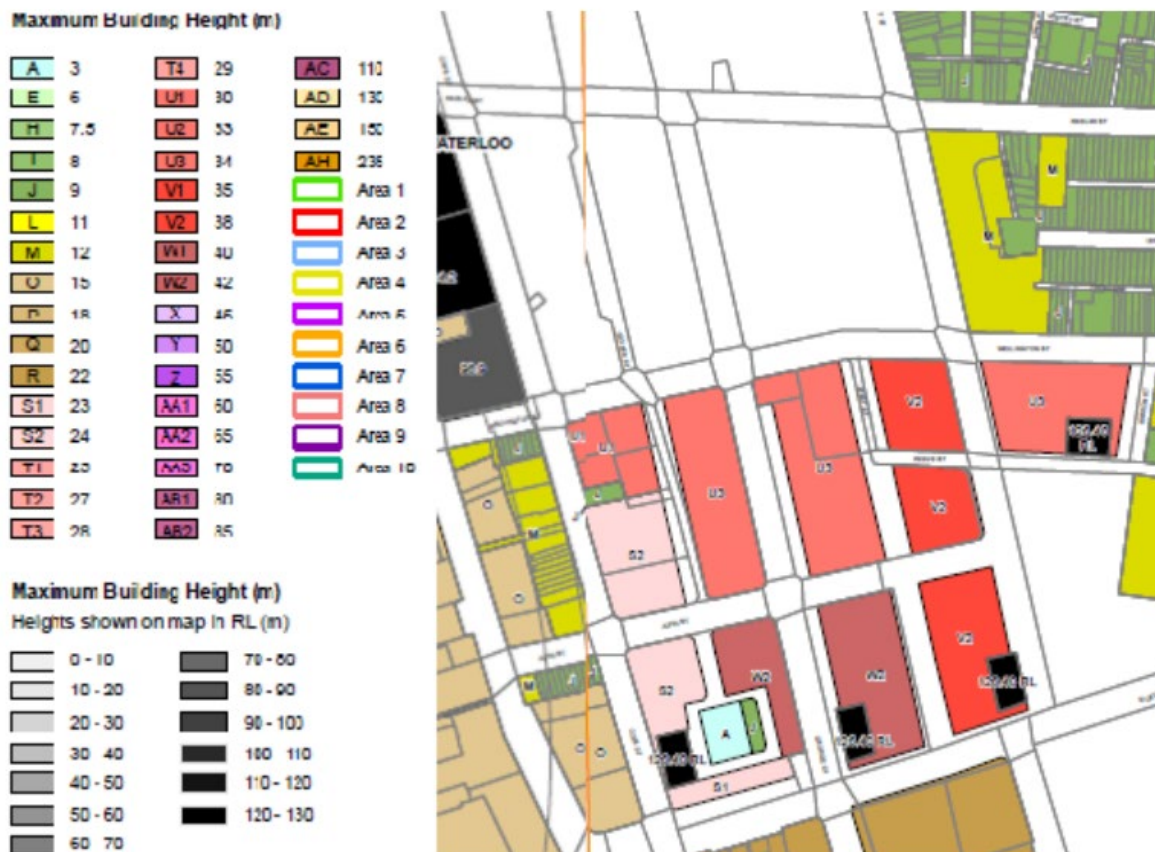
The simplification of the LEP maps allows for a significantly altered building envelope than that shown in the draft design guide and places several of the aims and principles of the planning proposal in jeopardy. Key risks include:

- placing heights on lots containing heritage items well beyond the existing height of the item;
- increased height immediately adjacent to heritage items;
- exposing narrower streets to heights that are in proportion to wider streets or park frontages on the opposite side of the blocks;
- loss of articulation of height in relation to street width and orientation, park frontage, [and](#) corner emphasis;
- substantial decreases of sun access to streets and parks;
- loss of relationship to areas subject to flooding; and
- loss of relationship to the topography.

Figure 2: City's proposed height in metres map (LEP)



Figure 3: Department's proposed height in metres map (LEP)



Height in storeys maps - draft design guide

The height in storeys diagram in the Departments exhibited draft design guide (shown at Figure 4) replicates the City's height in storeys diagram (shown at Figure 5) except where some of the changes recommended by urban design review have been incorporated.

The adjustments that have been made to the building envelopes along McEvoy have resulted in some minor changes to height at the north of the small park. For part of the east side of Cooper Street between Wellington Street and the walkway, the building height is reduced by one storey. The block bounded by Wellington, Gibson, Kellick and Pitt streets contains the additional tower and the other towers have an extra 3 storeys added.

Despite the observations of Addendum Urban Design Review that building heights be reduced in some locations (to compensate for floor space that has been used into the new tower), there has been no decrease in the general heights of buildings shown in the draft design guide. The result of this is that the capacity of building envelopes to accommodate floor space may have increased.

Figure 4: Department's exhibited draft design guide - height in storeys diagram



Figure 5: City's draft design guide - height in storeys diagram



Recommendations

- Reconsider and adopt where relevant the reduced building heights along streets shown in the preferred direction of the Addendum Urban Design Review.
- Rework the maximum building height map in the planning proposal to have height zones relating to street widths and park locations.
- Reconcile the height in storeys map in the draft design guide, with the maximum height of buildings map in the planning proposal to ensure they are consistent. This is to provide clarity for the community and future landowners and ensure certainty in the development application process.

1.3. Building envelopes (Floor Space Ratio and Height) – privately owned sites

The City's planning proposal includes FSRs and heights for privately owned sites in Waterloo Estate (South).

The publicly exhibited planning proposal makes several unexplained and unjustified changes to the FSRs proposed on privately owned sites. Moreover, significant errors have been made, with information provided conflicting across several sections of the planning proposal. The following table identifies the proposed changes, highlights errors and provides additional comment.

Table 2: Building envelope comparison

Site	City's planning controls + *	Publicly exhibited planning controls**	Comment
233 Cope Street, Waterloo	FSR - 2.15:1 Height - up to 33m HiS (DG) – 8 storeys	FSR - 2.75:1 (drafting instruction / mapped) Height – 24m HiS (DG) – 8 storeys	The mapped FSR conflicts with Table 3 of the planning proposal (page 42), which identifies a mapped FSR of 2.4:1. The increase FSRs (in the drafting instruction and on the FSR map) is unexplained, with no justification provided in the planning proposal or urban design review.
221-223 Cope Street, Waterloo	FSR - 2.61:1 Height – 35m HiS (DG) – 8 storeys	FSR - 3.35:1 (drafting instruction / mapped) Height – 30m HiS (DG) – 8 storeys	The mapped FSR conflicts with Table 3 of the planning proposal (page 42), which identifies a mapped FSR of 2.61:1. The increase FSRs (in the drafting instruction and on the FSR map) is unexplained, with no justification provided in the planning proposal or urban design review.
116 Wellington Street, Waterloo	FSR - 2.65:1 Height – 35m	FSR - 3.35:1 (drafting	The mapped FSR conflicts with Table 3 of the planning proposal (page 42),

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	HiS (DG) – 8 storeys	instruction / mapped) Height – 30m HiS (DG) – 8 storeys	which identifies a mapped FSR of 2.65:1. The increase FSRs (in the drafting instruction and on the FSR map) is unexplained, with no justification provided in the planning proposal or urban design review.
110 Wellington Street, Waterloo	FSR - 2.32:1 Height – 30m HiS (DG) – 8 storeys	FSR - 3.15:1 (drafting instruction / mapped) Height – 34m HiS (DG) – 8 storeys	The mapped FSR conflicts with Table 3 of the planning proposal (page 42), which identifies a mapped FSR of 2.57:1. The increase FSRs (in the drafting instruction and on the FSR map) is unexplained, with no justification provided in the planning proposal or urban design review.
111 Cooper Street, Waterloo	FSR - 1.75:1 Height – 15m HiS (DG) – 4 storeys	FSR - 1.75:1 (drafting instruction / mapped) Height – 24m HiS (DG) – 4 storeys	The mapped FSR conflicts with Table 3 of the planning proposal (page 42), which identifies a mapped FSR of 2:1. The increase FSRs (in the drafting instruction and on the FSR map) is unexplained, with no justification provided in the planning proposal or urban design review.
225-227 Cope Street, Waterloo (heritage item)	FSR - 1.75:1 Height – 9m HiS (DG) – None shown	FSR - 1.75:1 (drafting instruction / mapped) Height – 30m HiS (DG) – None shown	The mapped FSR conflicts with Table 3 of the planning proposal (page 42), which identifies a mapped FSR of 2:1. The increase FSRs (in the drafting instruction and on the FSR map) is unexplained, with no justification provided in the planning proposal or urban design review.
291 George Street, Waterloo (heritage item)	FSR - 1.75:1 Height – 18m HiS (DG) – None shown	FSR - 3.35:1 (drafting instruction) Height – 34m HiS (DG) – None shown	The publicly exhibited planning proposal has mapped this site at 1.75:1 (note the 3.35:1 in the drafting instruction). It is noted the FSR in the drafting instruction conflicts with Table 3 of the planning proposal (page 42), which identifies an FSR of 2:1. The increase FSRs (in the drafting instruction and on the FSR map) is unexplained, with no justification provided in the planning proposal or urban design review.

+ Noting minor inconsistencies were identified with the City's planning proposal, confirmation of City's proposed FSR's was provided by email to Department 3 September 2021 and are shown above

* In addition to the mapped FSR, a bonus of 0.25:1 was facilitated in the City's planning proposal where BASIX was exceeded (the BASIX bonus), as well as a 10% of floor space bonus for design excellence (based in both mapped and BASIX bonus floor space)

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** It is presumed the BASIX bonus was intended to be incorporated into new mapped FSR's (given the bonus was removed in the publicly exhibited planning proposal). In addition to the mapped FSR, a 10% floor space bonus is available for design excellence.

The impacts on floor space availability under the Sydney LEP 2012 are shown in Table 3

Table 3: Floor space resulting from proposed changes to FSRs on private sites

Site	Site area (sqm)	Floor space available under the City's planning proposal*	Floor space available under the publicly exhibited planning proposal (mapped FSR)**
233 Cope Street, Waterloo	2,732	7,212	8,264
221-223 Cope Street, Waterloo	843	2,652	3,106
116 Wellington Street, Waterloo	948	3,024	3,493
110 Wellington Street, Waterloo	2,410	6,813	8,351
111 Cooper Street, Waterloo	205	451	395
225-227 Cope Street, Waterloo (heritage item)	662	1,456	1,274
291 George Street, Waterloo (heritage item)	583	1,283	2,148
		22,892sqm	27,032sqm

* In addition to the mapped FSR, a bonus of 0.25:1 was facilitated in the City's planning proposal where BASIX was exceeded (the BASIX bonus), as well as a 10% of floor space bonus for design excellence (based in both mapped and BASIX bonus floor space)

** In addition to the mapped FSR, a 10% of floor space bonus for design excellence is facilitated through the drafting instruction

As above, there are several errors and inconsistencies in the planning proposal that make it impossible to determine the intent of FSRs on private sites. If the mapped FSRs are indeed what is intended to be facilitated through the planning proposal, and not the FSRs shown in Table 3 of the planning proposal (page 42), the City is extremely concerned with what is proposed and notes the following key issues:

- the increase would result in over an additional 4,200sqm of floor space above what is facilitated in the masterplan. While not all sites will redevelop, theoretically at least this would allow for an additional 55 dwellings (at 75sqm/dwelling);
- the height in storeys map in the design guide remains unchanged as it pertains to the private sites and does not allow for the additional floor space. This not only creates challenges in the assessment of development applications (where the LEP envelope will generally override what is facilitated in the design guide envelope), but it also establishes false expectations for the

community, who will reasonably expect the built form to reflect that shown in the images in the design guide;

- there has been no testing of the impacts of the additional FSRs and height in the urban design review and no justification provided as to why FSRs and heights should be increased on private sites; and
- there has been no consultation with the City about such a significant increase in FSRs, as was required by condition 2 the Gateway Determination.

Notwithstanding the above, the City supports the retention of the 1.75:1 FSR for heritage items, noting it is not the intention that this planning proposal would encourage the redevelopment of these sites.

Recommendations

- Amend the mapped FSRs and heights on private sites so that the resulting floor space aligns with those in the City's planning proposal.
- Ensure the landowners and the community can have a true understanding of the development that may result on the privately owned sites.

1.4. Wind

The wind report concludes that the changes proposed will create a poorer pedestrian wind environment, and the pedestrian wind environment safety criterion is expected to be exceeded, particularly around the new tower on the corner of Kellick and Gibson Street and wind comfort is likely to be worse.

The suggestion that wind safety and comfort can be achieved through the design excellence competitions is unworkable due to the complexity of all competitors undertaking wind tunnel testing during a competition and the likelihood of solutions requiring change to a Stage 1 building envelope and does not accord with the City's experience.

Recommendation

- Consult further with the wind expert and conduct further wind testing to reduce the floor space allocated to the towers along McEvoy Street and to ensure enough flexibility to provide a comfortable and safe pedestrian wind environment.

1.5. Noise

The noise report clearly describes that the proposed changes to the building envelopes create a noise environment in apartments that will exceed the accepted standards at night and, in particular, bedrooms cannot be provided with natural ventilation as windows must be closed to provide a comfortable internal noise environment.

McEvoy Street is a busy road and the noise study notes that with the change - *Noise levels external the buildings (east/west facades) fronting Mead Street may therefore be at a level where windows to bedrooms would need to be closed to achieve relevant internal noise levels.*

The apartment design guide requires all habitable rooms, including bedrooms, to have openable windows for natural ventilation. The noise consultant's recommendation to close windows cannot be reconciled with the apartment design guide and therefore the built form must be adjusted at this stage.

Recommendations

- Review the recommendations from the acoustic report and where appropriate reference the City's *Alternative natural ventilation of apartments in noisy environments performance pathway guideline*. Reference to this guide should be incorporated into the design guide. If the noise consultant advises that interior noise levels cannot be provided on this pathway, the design changes must be reversed including the following:
 - reduce the building depth of buildings on McEvoy Street to at least 12 metres to ensure that windows to habitable rooms can face away from the noise source; and
 - retain the projecting building wings in the setback zones at George and McEvoy and Pitt and McEvoy streets; and make a narrower opening, say 6 metres wide, of Mead Street to McEvoy Streets subject to further noise testing and analysis.

1.6. Trees

The City supports the retention of more existing trees, particularly significant trees where this does not compromise the expected amenity of people in apartment buildings.

On McEvoy Street the intention of conserving additional trees is supported but the maintenance of protection of residents from the adverse effects of noise must also be retained.

2. Social and affordable housing

2.1. Social housing and affordable housing

Background

Throughout the planning process for the Waterloo Estate the City's has advocated for an alternative approach to increase the provision of social and affordable housing and maximise the retention of government owned land for future generations.

The City engaged an Expert Advisory Panel that included: Ken Maher AO, Professor Nicole Gurran – Chair of Urbanism, University of Sydney, David Riches – David Riches Associates, Wendy Hayhurst – CEO, Community Housing Industry Association, Nathan Moran – CEO, Metropolitan Local Aboriginal Land Council, Professor Bill Randolph – City Futures Research Centre, UNSW, and Andrew McAnulty – CEO, Link Housing. The panels expertise on social, affordable and Indigenous peoples housing models and provision, development and design expertise, and academic research informed the City's approach, advocacy, planning and design.

The City consulted with community housing providers, institutions including the National Housing Finance and Investment Corporation, undertook feasibility studies, policy development and lobbied State and Federal Governments ministers. The City joined with other capital cities in this effort. The City's alternative approach paralleled, adopted and supported approaches made by others including Shelter, Community Housing Industry Association, academic research groups and other non-government organisations.

This work and the work of others show that alternative approaches to development, financing, design and planning can provide more and better quality social and affordable housing than proposed by the Land and Housing Corporation or facilitated in the Department's publicly exhibited planning proposal.

The Minister's Independent Advisory Group supported most but not all of the City's alternative approach and the former Minister for Planning accepted their findings in June 2021. In January 2022 the density was increased without explanation, but otherwise the City's alternative approach has been successful in improving the public space and built form of LAHC's proposal but has not succeeded in convincing Government to change the approach to development to increase the provision of social and affordable housing.

Reduced social and affordable housing

The City's planning proposal included requirement that 30% of residential floor space on LAHC owned land be for social housing, and 20% be for affordable housing. The requirement was to result in about 920 social housing dwellings and 613 affordable dwellings being provided as part of the redevelopment of the Waterloo Estate (South).

The publicly exhibited planning proposal significantly reduces the requirement for the provision of social and affordable housing in Waterloo Estate (South) to about 847 social housing dwellings (28.2% of dwellings and 26.5% of residential floor space) and about 227 affordable dwellings (7.5% of dwellings and 7% of residential floor space). It is not clear in the drafting instruction if the minimum 26.5% and 7% of residential floor space requirement in the LEP is to be calculated on the mapped floor space, or also any floor space achieved through design excellence.

The City is concerned with the reduction in affordable and social housing proposed in Waterloo Estate (South), noting the proportion of floor space to be provided for social and affordable housing is now below even the 35% of floor space the City understood to form part of LAHCs original planning proposal request made to the City in May 2020. The proposal also fails to meet the 30% target for social housing on redevelopment sites that form part of the NSW Government's Communities Plus program.

Access to affordable and social housing is essential for a diverse, cohesive, and economically successful global city. At a time when the wait list for social housing in NSW is almost 50,000 people, the demand for social housing has never been greater. In NSW the total housing stock increased by 15.4% from 2.8 million in 2011 to 3.3 million in 2020. Comparatively, NSW's social housing stock has increased by only 8.7% over the same period from 142,320 to 154,717, according to a recent UNSW analysis of housing in NSW.

With a five to 10 year waiting period for social housing in the local area, and the extra demand that will be created by the health, social and economic impacts of Covid-19, there is a critical need to deliver more social and housing in the City.

LAHC states the barrier to providing more social and affordable housing on Waterloo Estate (South) is the feasibility of redevelopment. The City acknowledges LAHC is an NSW government organisation that is not budget funded. It generally relies on the profits generated from the redevelopment of public land for market housing to renew and increase the amount social housing on the same site or elsewhere and contribute to other ongoing organisational costs.

The financial feasibility assessment (Savills, 2022) appended to the public exhibition materials describes at a broad level its study objectives and methodology but contains scant and insufficient detail on assumptions adopted for the scenario modelling to allow meaningful review.

Notwithstanding the above, it is the City's strong view that a greater percentage of social and affordable housing on Waterloo Estate (South) should and can be achieved. While the City's feasibility work show that increased affordable housing, greater than 10% up to 20%, can be provided at no cost to Government and the IAG confirmed that at least 10% could be provided; LAHC and the department have not released feasibility studies that demonstrate the quantity of affordable housing that can be sustained. Rather the studies simply state that the bare minimum, 5%, is sustainable. Different and more innovative approaches to development at no cost to government will achieve a higher proportion of affordable housing at Waterloo. Targeted additional funding by Government and/or, the application of innovative funding models and a procurement model that allows for direct dealings with Community Housing Providers (CHPs) are able to lift the combined proportion of social and affordable housing beyond the provision in the revised planning proposal and must be further investigated and supported by changes to the planning framework.

While it is acknowledged these remedies sit outside the planning system, government commitment to achieving a high proportion of social and affordable housing should be reflected in the minimum requirements set out in the planning controls.

Human services plan

The City continues to support the community is its advocacy for a robust human services plan.

Staff from the City are participating in the development of the human services plan, which focuses on six priority areas: safety, health and wellbeing, communication and consultation and community participation, customer service, service integration and service accessibility for all service users, and responses to systemic issues (and accountability) on an ongoing basis. The Department of Communities and Justice is responsible for the endorsement, publication and delivery of the plan. The City may have a lead or supporting role in carrying out actions under the plan.

It is the City's strong view the Department of Communities and Justice must have the Human Services Plan in place prior to the planning proposal being finalised.

Recommendations

- At a minimum, restore the requirement in the publicly exhibited planning proposal that at least 30% of gross residential floor space on LAHC owned land be for social housing and 20% be for affordable housing.
- Ensure that the drafting instruction is explicit that the minimum % requirement for social and affordable housing applies to *all* residential floor space in Waterloo Estate (South), including any design excellence floor space.
- Develop innovative funding and procurement models to allow for direct dealings with Community Housing Providers to support the increase of social and affordable housing in Waterloo Estate (South) and in later stages of the redevelopment in Waterloo Estate (North) and Waterloo Estate (Central).
- Ensure the Department of Communities and Justice develops and implements the Human Services Plan including the delivery of services to existing residents, during the relocation of residents and all future residents.
- Prioritise development of an independent Social Impact Assessment and Social Impact Management Plan to identify and mitigate impacts on communities from the redevelopment of the Waterloo Estate (South).

2.2. Aboriginal and Torres Strait Islander housing

The City's draft design guide included provisions to encourage LAHC, and any future community housing providers to:

- deliver in excess of 10 per cent or more of the affordable housing for Aboriginal and Torres Strait Islander people;
- maintain or increase the current proportion of social housing provided to Aboriginal and Torres Strait Islander people; and
- ensure Aboriginal and Torres Strait Islander housing is culturally appropriate housing and developed in consultation with Aboriginal and Torres Strait Islander people.

Notwithstanding the above, the City recommends allocating 10 per cent or more of the total number of dwellings to be provided for Aboriginal and Torres Strait Islander housing, noting there is much work to be done to achieve the outcomes aspired to in the draft design guide.

The City acknowledges the Department for maintaining the requirements in the publicly exhibited draft design guide, noting there is much work to be done to achieve the outcomes aspired to in the draft design guide.

Recommendation

- Allocate 10 per cent or more of the total number of dwellings to be provided for Aboriginal and Torres Strait Islander households, noting there is much work to be done to achieve the outcomes aspired to in the draft design guide.

2.3. Affordable housing on private sites

The City's planning proposal introduced a new clause and schedule into Sydney LEP 2012 to identify privately owned sites within Waterloo Estate (South) as 'planning proposal land' and require an affordable housing contribution commensurate with the increase in development capacity. This approach aligns with the affordable housing target in the Eastern City District Plan that says 5% - 10% of new floor space should be affordable housing, subject to viability.

The publicly exhibited planning proposal has generally maintained this approach, however some adjustment is required to the drafting instruction included in the planning proposal in response to changes to the proposed floor space ratios on private sites.

The affordable housing requirement on private sites, that captures a contribution on new floor space facilitated by the planning proposal, needs to state the proportion of floor space in the planning proposal that is new. The following changes are therefore required, noting additional adjustment will be necessary should FSRs again change following consideration of public submissions:

Table 4: Affordable housing contribution on private sites

Site	Current FSR	Proposed FSR	Required contribution adjustment*
233 Cope Street, Waterloo, being Lot 12 DP 1099410	1.75:1	2.75:1	A required affordable housing contribution of: <ul style="list-style-type: none"> 36% of total floor area: 9% contribution, plus 64% of total floor area: Contribution required under clause 7.13 of Sydney LEP 2012.
221-223 Cope Street, Waterloo, being Lot 6 DP 10721, Lot 7 DP 10721, Lot 9 DP 10721 and Lot 8 DP 1147179	1.75:1	3.35:1	A required affordable housing contribution of: <ul style="list-style-type: none"> 48% of total floor area: 9% contribution, plus 52% of total floor area: Contribution required under clause 7.13 of Sydney LEP 2012.
116 Wellington Street, Waterloo, being Lot 10 DP 10721 and Lot 11 DP 10721	1.75:1	3.35:1	A required affordable housing contribution of: <ul style="list-style-type: none"> 48% of total floor area: 9% contribution, plus 52% of total floor area: Contribution required under clause 7.13 of Sydney LEP 2012.
110 Wellington Street, Waterloo, being Lot 101 DP 1044801;	1.75:1	3.15:1	A required affordable housing contribution of: <ul style="list-style-type: none"> 44% of total floor area: 9% contribution, plus

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			<ul style="list-style-type: none"> 56% of total floor area: Contribution required under clause 7.13 of Sydney LEP 2012.
111 Cooper Street, Waterloo, being Lot 15 DP 10721	1.75:1	1.75:1	Only clause 7.13 applies to all total floor area
225-227 Cope Street, Waterloo, being Lot 4 DP 10721 and Lot 5 DP 10721	1.75:1	1.75:1	Only clause 7.13 applies to all total floor area
291 George Street, Waterloo, being Lot 10 DP 1238631	1.75:1	3.35:1	<p>A required affordable housing contribution of:</p> <ul style="list-style-type: none"> 48% of total floor area: 9% contribution, plus 52% of total floor area: Contribution required under clause 7.13 of Sydney LEP 2012.

* The proportion of floor area that is subject to the high contribution requirement is based on how much floor area is as a result of the planning proposal. For example, where a site that has a current FSR for 1.75:1, and the planning proposal increases the FSR by 1.6:1 (to 3.35), then 48% of the FSR on that site is 'new' and subject to a higher contribution rate

It is noted this approach is reflected in a number of other planning proposals in the City that are yet to be finalised. The City would appreciate the opportunity to work with the Department in finalising the clause to ensure consistency across all proposals.

Recommendations

- Amend the drafting of the affordable housing LEP clause for private sites to ensure the contribution requirement is commensurate with the increase in development capacity on those sites.
- Work with the City of Sydney in finalising the drafting the affordable housing LEP clause for private sites to ensure consistency with other planning proposals currently under consideration.

2.4. Application of the Housing SEPP

The City's planning proposal included a requirement that State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP) does not apply to Waterloo Estate (South). The intent of this was generally to ensure that those floor space bonuses and development concessions available under the AHSEPP could not be applied.

In the interim, the Department have made State Environmental Planning Policy (Housing) 2021 (Housing SEPP), which has replaced the AHSEPP as well as other housing related SEPPs.

The publicly exhibited planning proposal includes a requirement that the Housing SEPP not apply to Waterloo Estate (South), however it was not the intention of the City's planning proposal to remove the applicability of all housing related SEPPs.

To maintain the original intent of excluding the AHSEPP, the planning proposal should be amended to exclude the following Chapters, Parts and Divisions of the Housing SEPP from applying to land at Waterloo Estate (South):

- Chapter 2, Part 2, Divisions 1, 2, 3 and 5 and Chapter 3, Part 3
- Chapter 3, Part 4

It is noted the above generally do not apply in other parts of the local government area under Clause 1.9 of the Sydney LEP 2012, including, Cowper Street Green Square, Waterloo Metro Quarter, 17–31 Cowper Street or 2A–2D Wentworth Park Road, Glebe, 600–660 Elizabeth Street, Redfern (only Chapter 3, Part 4).

Recommendation

- Amend the requirement that the Housing SEPP does not apply to Waterloo Estate (South) so that only select parts of the SEPP, those that allow floor space bonuses and development concessions, are not applied.

3. Public infrastructure

3.1. Public infrastructure schedule

The draft public infrastructure schedule being publicly exhibited concurrently with the planning proposal sets out the key public infrastructure items to be provided by LAHC in conjunction with the redevelopment of Waterloo Estate (South).

It is noted a draft planning agreement is to be jointly prepared by the City and LAHC for public exhibition as soon as is practicably possible in accordance with the Environmental Planning and Assessment Regulation 2000.

The City notes changes to the planning controls should not be made until such time as a planning agreement is executed and registered on title of the land, as is normal practice. To make changes to the planning controls ahead of registration of the planning agreement on title would introduce significant risk in the delivery of the necessary public infrastructure needed to make Waterloo Estate (South) a successful place.

Recommendation

- Ensure that any deed or planning agreement between the City and LAHC is publicly exhibited, executed and registered on the title of LAHC owned land in Waterloo Estate (South) before any change is made to the Sydney LEP 2012 to facilitate redevelopment.

3.2. Contributions planning

The City of Sydney Development Contributions Plan 2015 currently applies to Waterloo Estate (South). However, should the redevelopment of the Waterloo Estate (South) be identified as State Significant Development, contributions will be paid to Infrastructure NSW under the Redfern-Waterloo Authority Contributions Plan 2006 (currently one per cent of development costs).

Where the Redfern contributions plan continues to apply, the City cannot offset under its plan any public infrastructure provided by LAHC. This may have significant impact on the delivery of public infrastructure.

The City has requested this matter be addressed and resolved by the Department as soon as possible to ensure the City's contribution plan applies.

Recommendation

- Repeal of the Redfern-Waterloo Authority Contributions Plan 2006, as it applies to Waterloo Estate (South), so that the City of Sydney Development Contributions Plan 2015 applies to the land if the subsequent development is categorised as State Significant Development.

3.3. Land acquisition map

The City's planning proposal did not identify new roads to be provided as part of the Waterloo Estate (South) redevelopment on the land acquisition map and did not identify any additional requirement for an authority to acquire land.

As new land is required for roads in Waterloo Estate (South), a planning agreement between the City and LAHC is intended to be prepared for the dedication of new finished streets by LAHC to the City free of cost (see draft public infrastructure schedule also on public exhibition), and as such the requirement in the LEP is unnecessary.

The publicly exhibited planning proposal identifies, on both private and LAHC owned land, some (but not all) road reserves on the Land Acquisition map and proposes City of Sydney as the acquiring authority. The City has requested advice from the Department, but remains unclear, as to why some but not all future road reserves are identified.

The Land Acquisition Map exposes the City to the risk, that should a planning agreement not be agreed to, a future landowner / developer of the site might require the City to acquire its land under the Land Acquisition (Just Terms Compensation Act). This is a significant financial risk to the City, who is already making substantial contribution to the development by agreeing to offset the landowner's payable development contributions for the provision of public infrastructure as well as other ongoing costs the City will bear, such as the upkeep and maintenance of parks and community facilities.

Regulation 10 of the Environmental Planning and Assessment Regulation 2000 provides that Council's concurrence would be required prior to being identified as an acquiring authority. Council has not and will not provide concurrence.

Recommendation

- Remove land for new roads from the land acquisition map and remove reference to the City of Sydney as an acquiring authority for the new roads, noting the City does not give concurrence for this provision to be included in the Sydney LEP 2012.

4. Sustainability

4.1. Stretch BASIX provisions

The City's planning proposal included a BASIX stretch bonus of 0.25:1 FSR where BASIX-affected development (residential development) exceeds the BASIX commitments for water and energy by not less than 10 points for energy and 5 points for water. The purpose of this provision is to couple with significant planning uplift on land, a requirement that the resulting development demonstrate more than the minimum requirement for environmental performance.

Despite the retention of the objective in the LEP that seeks to ensure that development is of high environmental performance, the publicly exhibited planning proposal does not include any provision that requires it and has removed the City's incentive for higher environmental performance.

The City is disappointed with the removal of the BASIX stretch provisions from both the planning proposal and the design guide. The state government should be leaders in this space, demonstrating that high levels of environmental performance can and must be achieved in the face of the climate crisis.

More energy and water efficient buildings are critical to ensure the resilience of social housing tenants, who are some of our most at need community members, in the face of climate change and escalating costs of living.

Where significant development uplift is being achieved in the planning process, the inclusion of BASIX stretch provisions is a common practice for the City. Example clauses in the Sydney LEP 2012, including objectives and provisions, can be found at:

- **Cl. 6.23 / 6.24** 87 Bay Street, Glebe—floor space
- **Cl. 6.37** 296–298 Botany Road and 284 Wyndham Street, Alexandria
- **Cl. 6.39** Surry Hills Shopping Village
- **Cl. 6.54** 17–31 Cowper Street and 2A–2D Wentworth Park Road, Glebe

Recommendation

- Support the long-term resilience of the community and lead by example by including in the LEP and design guide a requirement that all development in Waterloo Estate (South) demonstrate environmental performance beyond the minimum prescribed by BASIX.

4.2. Water recycling

The City commends the Department for maintaining in the draft design guide the City's requirement that where there is a commitment to provide a recycled water network, all buildings are to be constructed to be capable of providing a dual reticulation water system for water services and be capable of fully connecting to a non-potable recycled water network.

Sustainability studies supporting LAHC's planning proposal request make multiple references to the opportunities and benefits of using recycled water. The studies include recommendations to explore options to use decentralised technologies such as recycled water networks, and the installation of a third pipe system.

While there has been no commitment from LAHC to provide an on-site water recycling facility, the City is working with Sydney Water to investigate options for how this may be realised. This may require some space within Waterloo Estate (South), although the nature and scale of that space has not been determined at this time.

Recommendation

- Include an appropriate requirement in the planning controls to facilitate a water recycling facility to be in Waterloo Estate (South), noting this may include an allocation of space and a stronger requirement that all buildings be dual reticulated.

5. Heritage

The City's planning proposal and draft design guide includes planning controls to facilitate the appropriate protection of heritage in Waterloo Estate (South).

As noted elsewhere in this submission, the City has significant concerns with changes to height in metres and FSRs in the publicly exhibited planning proposal, noting the changes create unrealistic expectations on heritage sites, are not aligned with the built form articulated in the design guide, and place undue pressure on heritage items in the development application process.

Notwithstanding the above, it is noted the height in storeys map in the draft design guide for heritage items and development around heritage items remains mostly unchanged.

To test the potential impacts of the publicly exhibited planning controls in Waterloo Estate (South), the Department commissioned the Addendum Heritage Impact Statement (Artefact, November 2021) and the Addendum Aboriginal Cultural Heritage Study (Artefact, November 2021).

The Addendum Heritage Impact Statement notes there are some differences in the distribution of new impacts to ground surfaces and building heights (between the first and the current PP). The report notes that there is some increased visual impact on some heritage items, reduced visual impact on others, and no change to visual impact on others. Importantly, it notes:

- there would be no direct impact to any City of Sydney LEP 2012 heritage items
- there may be direct impact to SHR item Potts Hill to Waterloo Pressure Tunnel and Shafts (SHR no. 01630). Further detailed design is required to adequately assess impact; and
- there is potential to impact archaeological resources.

The City notes the potential impact upon the Potts Hill to Waterloo Pressure Tunnel and Shafts need to be carefully managed in any future development, including protection measures for heritage items during construction, appropriate design in the vicinity of heritage items, and a heritage induction process.

The Addendum Aboriginal Cultural Heritage Study (Artefact, November 2021) notes that there are some differences in the distribution of new impacts to ground surfaces (between the first and the current PP), but that there would be no additional impacts to Aboriginal archaeological values as a result of the publicly exhibited planning proposal.

Several recommendations have been made in this study, in addition to those included in the earlier Urbis 2020 report. In particular, the recommendations regarding the need for an unexpected heritage finds procedure and detailed Aboriginal community engagement to identify cultural values and guide design are essential.

6. Design excellence

The City's planning proposal include provisions that allow for up to 10% additional floor space (not height) where the development is subject to design excellence processes. The City's draft design guide includes more detailed provisions to guide competitive design processes, as well as a design excellence strategy for undertaking competitive processes.

The publicly exhibited planning proposal and draft design guide generally maintain the City's approach to design competitions, however, also includes an additional requirement that wind and noise issues be considered in the design excellence process. This responds to the limited testing and advice that the changes to the built form made will most likely result in unsafe and uncomfortable pedestrian wind environments and expose residents to poor health outcomes from exposure to noise.

The suggestion that wind safety and comfort, and achieving safe noise levels for people in apartments, can be achieved through the design excellence competitions is highly unlikely and does not accord with the City's experience. An architectural firm participating in the competition/s will not and cannot make wind and noise their primary consideration, above matters such as achieving the floor space. Resolving these issues when the planning for the sites is so far progressed is rarely, if ever, possible.

As noted elsewhere in this submission, it is the City's strong view that additional wind and noise testing is required and adjustments to the proposed planning controls for built form and street layout made in response to expert advice and not left to be resolved in the design excellence process.

7. Traffic and transport

The City's draft design guide includes detailed provisions guiding the street, pedestrian and cycle network in Waterloo Estate (South), including a plan that showed details of access and circulation within the precinct.

The publicly exhibited draft design guide has made a number of changes to the access and circulation plan, that are underpinned by the Addendum Urban Design Review (Hassell, 2021) and the Addendum Transport Assessment Report (Bitzios, 2021).

The City makes the following comment to the changes in the publicly exhibited draft design guide:

- road network around the small park - the draft design guide shows a green strip between the small park and the development block to the east of the small park. The City does not support any vehicular movement through this strip, preferring the different uses (open space on the west and potentially a community facility on the east) to operate together without interruption. It is recommended this be made clear in the legend;
- Mead Street to McEvoy Street pedestrian connection - this was not shown in the City's Planning Proposal due to noise impacts from McEvoy Street on residential buildings on Mead Street. Notwithstanding this, we support the principle of a pedestrian connection through to McEvoy Street noting it should be either a narrow walkway open to the sky or a colonnade underneath a building as included in the City's planning proposal. Either option would be subject to acoustic assessment;
- John Street ramps - the grade change going east along John Street means ramps are needed to enable accessibility for all users. These ramps are shown in the urban design review, but have been omitted in the draft design guide. The City urges they be reintroduced in the final design guide to ensure movement through the precinct is accessible for all;
- Mead Street treatment - the City prefers that Mead Street be identified as a yield street in the final design guide, as per the City's draft design guide. A yield street is a narrowed two-way street where drivers pass each other by negotiating space between on-street parking, as is common in older, dense Sydney areas such as the Marrickville or Petersham. NACTO guidelines (page 17) provide best practice advice on their use and design;
- Botany Road onto Wellington Street right turn ban - the City supports the removal of this ban as per the recommendation in the Addendum Transport Assessment Report. The original intention was to discourage through traffic using Botany - Wellington - Elizabeth that would result from the right turn ban from Botany Road to McEvoy Street. However, the City understands the need for legible access into the precinct and acknowledge that the northbound through traffic can be encouraged to use Botany Road / Bourke Street / Elizabeth Street instead of Wellington Street through design treatments; and
- Pitt Street / McEvoy Street intersection - the right turn bans shown in the City's draft design guide were indicative only, acknowledging that a solution would need to be found for the intersection. The turn bans have the advantage of being simple to implement, reducing conflicting movements and minimising delay on McEvoy. Another option is to convert the offset (dog leg) intersection to a four-way intersection. This would be the best outcome for connectivity, access and safety although would require realignment of the road and cause delays on McEvoy. This latter option also increases the effective length of Pitt Street and would mean a break would be needed somewhere north of the precinct to avoid attracting through traffic.

Recommendation

- Revise the access and circulation plan in the draft design guide to address future traffic arrangements.

8. Design guide review

In its review of the draft design guide the City has identified key issues and inconsistencies that should be addressed prior to finalising the new planning controls for Waterloo Estate (South), shown in Table 5.

Table 5: Issues in the draft design guide

Page	Reference	Content	Comment
3.	cl. 1.1	“adopted by Council”	The Design Guide will be adopted by DPE.
6	First paragraph	Locality Statement	Please amend to read: “Waterloo’s Traditional Custodians are the Gadigal people of the Eora Nation.” Gal’ means ‘people’, so a reference to Gadigal people means Gadi people people.
8	Principle 2 (13)	noise & pollution impacts	Setting buildings back from street in the context of McEvoy St will have little if any consequence and is misleading. DELETE the phrase <i>including setting buildings back from the street frontage</i> .
8	Principle 2 (18)	trees	Mentioning some but not all the streets where trees are to be retained places an inappropriate hierarchy on tree retention, a better hierarchy would give emphasis to significant trees. DELETE <i>along McEvoy Street, George Street, and at the corners of the north eastern street block bound by Wellington, Kellick, Gibson and Pitt Streets</i> ; replace with <i>particularly significant trees</i>
9.	Provision 3.1.1 (5) & (6)	Re. social housing provision	Language used can be interpreted relatively and is not measurable. A commitment to social housing should be expressed as a numerical % for planning certainty.
12.	Para. 4	ref. to cl. 4.4 of SLEP2012	No minimum floor space requirements are mentioned for social / affordable housing, non-residential floor space, community facilities, child care or health services. Measurable minimums should be articulated to give certainty to the community. The requirement to exceed minimum BASIX requirements must be reinstated to deliver an outcome that is addresses increasing pressures of climate change. Solar access, and management of wind and noise issues must be achievable in the proposed envelopes that inform the FSR and height LEP standards. Design Excellence processes are an insufficiently robust tool to manage these issues and would occur too late in the development process to ensure acceptable outcomes.

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			<p>A stage 1 DA must explicitly demonstrate resolution of wind impacts and noise issues in addition to solar access and tree retention.</p> <p>The dot point on noise should be rewritten to place emphasis on the design of the apartment layout ADD <i>The impacts of external noise and pollution are minimised through careful siting and layout of buildings including apartment layout, acoustic treatment to ...</i></p>
12.	Para. 5 dot point 4	Urban comfort	DELETE <i>Urban comfort</i> , it is a jargon term and its meaning is not defined
13	Provisions 4.1 (3) (a) and (b)	Street wall heights and setbacks	Building lots do not facilitate heights or setbacks, these provisions belong elsewhere, DELETE
14.	provision 4.1 (9)	Community facility options	This clause needs to clarify that any temporary facility cannot remain as a permanent facility. 'Temporary' can have implications for standard of facilities that would be inappropriate for a permanent arrangement.
22.	Provision 5.2.1 (1)		Minimum rates of dwelling tenure mix need to be articulated to ensure certainty for the community and to enable the City to achieve social and affordable housing targets set out in its LSPS.
34.	Fig. 8(b)	Wellington Street	Commercial floor at ground floor level should be shown raised above street level to indicate addressing flooding issues in this location
35.	Fig. 8(c)	Pitt Street	Residential floor at ground floor level should be shown raised above immediate ground level to improve privacy
36.	Fig. 8(d)	Cooper Street (north)	Residential floor at ground floor level should be shown raised above street level to indicate flooding issues in this location
37.	Fig. 8(e)	West Street	Residential floor at ground floor level should be shown raised above street level to improve privacy
38.	Fig. 8(f)	Mead Street	Residential floor at ground floor level should be shown raised above street level to improve privacy
39.	Fig. 8(g)	Cooper Street (south)	<p>Residential floor at ground floor level should be shown raised above street level to improve privacy.</p> <p>Height in storeys map shows 6 storeys in total at this location, not 8.</p>
40.	Fig. 9		<p>Some minor changes to the map style to avoid any confusion in interpretation in the future are recommended, including:</p> <ul style="list-style-type: none"> the hatched red for road closures is missing on the legend;

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			<ul style="list-style-type: none"> the "yield traffic flow" symbol is on the legend but is not on the map. It is assumed this should have been shown on Mead Street; the colouring of existing and future cycleways is hard to distinguish; and the elevator symbol does not match the legend.
44.	Table 4	From Mead to Pitt Street	Publicly accessible lift should be provided in addition to ramps to ensure universal access even in event of lift breakdown or if, in the future access is denied. DELETE or <i>ADD in addition...may be included</i>
46.	cl. 8 (g)		<p>This additional objective will lead to confusion in the assessment process:</p> <p>"... provides for urban amenity in the form of solar access ... and that there is variation in street wall height ..."</p>
46.	cl.8 (h)		tower location for Kellick and Gibson not tested for wind impacts REPLACE at with <i>near</i>
50.	Provision 8.3 (6)		Street cross sections need to support this provision, see above
50.	Provision 8.3 (6) (b)		Fig. 8(b) needs to support this provision see above
51.	Fig. 12	Height in Storeys	<p>Generally, changes in height in storeys do not appear to accommodate the changes in FSR. The GFA capacity of these envelopes should be checked.</p> <p>The three towers along McEvoy St show the horizontal breaks to the tower forms have been removed. This will create problems for managing wind impacts at street level. Relying on existing or future street trees to manage these impacts is not acceptable practice and cannot be relied on. Further, wind can degrade the quality of tree canopy cover over time.</p> <p>Additional wind studies are needed to support the proposed 27-storey tower at Kellick and Gibson Sts.</p> <p>Building envelope depths along McEvoy St are shown at 15m. These depths will create problems for managing noise issues. Noise attenuation plenums are problematic over the long term for provision of natural ventilation and internal air quality and can impact on GFA yield. They should not be relied upon to solve these problems.</p>
59.	8.5.3 (1)		Opening Mead St to McEvoy Street will contribute to noise experienced further north inside the site along Mead St.

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			ADD <i>carefully layout apartments so that windows to habitable rooms face away from the noise source and... prior to acoustic treatments.</i>
59.	8.5.3 (2),(3),(4),(5),(10)		Depths of building envelopes along McEvoy St should be reduced to enable issues of noise and natural ventilation to be managed through floor plan layout without having to rely on building materials, window and other building treatments.
59.	8.5.3 (2)		The 15 metre depth makes it difficult, if not impossible to design the apartments with habitable room windows facing away from the noise source REPLACE with 12 metres or a lesser figure.
59.	8.5.3 (3)		DELETE <i>wherever possible.</i>
60.	Fig. 17		Habitable rooms and balconies located on McEvoy St frontage will lead to unacceptable residential amenity outcomes. Dimension for maximum floor plate depth must be shown on cross section, this should be 12 metres or less.
61.	Provision 8.6.1 (2) & Fig. 18		Fig 18 shows areas for principle useable open space in locations overlooking the internal courtyards. They should be located away from this edge to avoid noise issues to courtyards. Additionally, the diagram does not account for structures on roof.
64.	Fig.19		Dark green strip along street setbacks to Mead and West Streets not indicated in the legend.
65.	Provision 8.6.2 (6)		This provision in contradiction to Fig. 18 adjust the figure
65.	Provision 8.6.2 (7)		This provision in contradiction to Fig. 18 adjust the figure
65 & 66.	Provision 8.6.3 (4) & Provision 8.6.4 (3)		This provision could lead to no trees if found that wind conditions will not support any trees.
66.	Table 6.		Block 7 as shown accommodates more than 20% deep soil. The figure should be increased appropriately.
71.	Objective 8.12 (g)		Testing of proposed envelopes for wind and solar prior to plan making will obviate the need for this provision and give greater planning certainty to the project.
71.	Provision 8.12.1 (4)		This is problematic – transferring bonus floor space to other sites yet to be developed will complicate the process for future sites. The cycle of transferring could cascade through the precinct causing unnecessary testing, delays, planning uncertainty, and poor amenity outcomes.

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79.	Provision 11.1		The stretch BASIX goals have been removed and should be reinstated to ensure housing typologies that are better placed to cope with climate change.
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Recommendation

- Correct and clarify errors and inconsistencies in the draft design guide.

