

ITEM 4. POST EXHIBITION: PLANNING PROPOSAL AND DRAFT DEVELOPMENT CONTROL PLAN FOR 60 MARTIN PLACE**FILE NO: S110780****SUMMARY**

Sydney is Australia's premier global city, and home to the headquarters of almost 40 per cent of the top 500 Australian corporations. As a leading regional financial centre, almost 70 per cent of banks and financial institutions with a presence in Australia have offices in the City. Almost half of all the multinational corporations with a presence in Australia also have their regional headquarters in the City.

The City is home to Australia's largest and most globally connected clusters of finance and insurance employment, accounting for almost 50 per cent of the sectors' total employment in New South Wales. The most recent census figures show employment in the business and professional services sector is growing and continues to have a dominant share of total employment in the City.

To ensure the New South Wales economy remains robust and continues to grow, it is necessary to maintain adequate capacity for employment growth and create opportunities for investments and development projects which attract highly skilled employees and have a global focus. In order to attract the investment required for this growth, Sydney must also ensure commercial buildings are of high quality and good public domain design and amenity outcomes are achieved.

In September 2014, Council and the Central Sydney Planning Committee resolved to seek a Gateway Determination from the Department of Planning and Environment to allow exhibition of the Planning Proposal, alongside the accompanying draft Development Control Plan. After receipt of the Gateway Determination in November 2014, the Planning Proposal was publicly exhibited for a period of 28 days. In response to the public exhibition, one submission was received.

The proposed amendments to Sydney Local Environmental Plan 2012 would not permit replacement of the commercial tower with a residential tower. City officers have worked with the proponent to ensure that environmental impacts, including heritage impacts and any loss of sun access to Martin Place, are minimised.

This report recommends no significant changes to the Planning Proposal and draft Development Control Plan as a consequence of public exhibition. It recommends the Central Sydney Planning Committee endorse the Planning Proposal for finalisation and making as a Local Environmental Plan; and note the recommendation to Council's Planning and Development Committee on 17 February 2014 to adopt the Development Control Plan.

If the Central Sydney Planning Committee approves the Planning Proposal, it will be submitted to Parliamentary Counsel requesting the plan be legally drafted. It will then be made under Section 59 of the *Environmental Planning and Assessment Act 1979*, with final sign-off by the Chief Executive Officer under powers delegated by the Minister for Planning. Once finalised, the plan will be submitted to the Department of Planning and Environment for notification on the New South Wales legislation website.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note the matters raised in response to the public exhibition of Planning Proposal – Sydney Local Environmental Plan 2012 – 60 Martin Place and the draft Sydney Development Control Plan 2012 – 60 Martin Place, as shown at **Attachment A** to the subject report, and which are the subject of the report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal – Sydney Local Environmental Plan 2012 – 60 Martin Place, as shown at **Attachment B** to the subject report, to be made as an local environmental plan under section 59 of the *Environmental Planning and Assessment Act 1979*;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 17 February 2015 to approve the draft Sydney Development Control Plan 2012 – 60 Martin Place, shown at **Attachment C** to the subject report, specifying the date of publication of the subject local environmental plan as the date the approved development control plan comes into effect, in accordance with Clause 21 of the *Environmental Planning and Assessment Regulation 2000*; and
- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 17 February 2015 that authority be delegated to the Chief Executive Officer to make any minor changes to Planning Proposal – Sydney Local Environmental Plan 2012 – 60 Martin Place and the draft Sydney Development Control Plan 2012 – 60 Martin Place to correct drafting errors prior to finalisation of the local environmental plan.

ATTACHMENTS

Attachment A: Response to submissions

Attachment B: Planning Proposal – Sydney Local Environmental Plan - 60 Martin Place
(Note: This attachment will be circulated separately from the agenda paper and to Central Sydney Planning Committee members and relevant senior staff only. It will be available for viewing on Council's website and at the One Stop Shop and Neighbourhood Service Centres.)

Attachment C: Draft Amendment to Sydney Development Control Plan 2012 – 60 Martin Place

BACKGROUND

1. Delivering commercial office development to support Sydney's economic growth is increasingly difficult in the current market. The development of commercial office space in Central Sydney is strongly influenced by the market's preference for office buildings with large floor plates, and in locations characterised by predominantly commercial buildings of high design quality and access to views. Central Sydney's broad zoning creates significant competition amongst a range of uses, especially residential, but also commercial, tourist accommodation and retail.
2. Martin Place has had a prominent role in Sydney's emergence as an international commercial city, being a key location in the early growth of Sydney's financial and services industry. It is advantaged by its proximity to the centre of State Government on Macquarie Street, and the legal precinct at St James. Its commercial role has been augmented over the years by an increasing civic role, as the focus of Remembrance Day services, cultural events and public forums. Its pedestrianisation in the 1970s consolidated its place as Sydney's commercial and civic heart, with a key place in Sydney's narrative as a commercial city.
3. The market preference for commercial floor space in modern buildings with large floor plates, employee amenities and modern sustainable design features has seen the rise of new commercial precincts such as Barangaroo. Meanwhile Martin Place, with its older and less adaptable building stock, has struggled to attract and retain premium tenants. The current planning controls place constraints on the 60 Martin Place site which inhibit commercial development that is appealing to the market and commensurate with the prestigious location.
4. The City has been working closely with the Martin Place Owners' Group to understand the challenges the precinct faces, with a view to informing long-term strategies to promote revitalisation. Development of a high quality commercial office building at 60 Martin Place to provide an attractive location for employment uses supports revitalisation efforts.
5. Carefully considered amendments to the planning controls can help deliver improved development outcomes. In doing so, the City has the opportunity to show leadership, unlock economic opportunities and investment in jobs, and support the revitalisation of an important financial precinct.

Planning Proposal

6. The 60 Martin Place site is located at the corner of Martin Place and Macquarie Street. It is directly across Martin Place from the Reserve Bank of Australia building. A 33 storey commercial office tower and podium structure occupies the site. The Peddle, Thorpe and Walker tower is 118 metres tall (RL 148.145 as surveyed), and was completed in 1971. The podium and tower relate poorly to each other and to the context of the prominent and prestigious location.
7. The tower pre-dates, and does not comply with, the height limits and sun access plane provisions in Sydney Local Environmental Plan 2012 (Sydney LEP 2012). It protrudes through the sun access plane and exceeds the 55m height limit. Together, these controls discourage redevelopment, and would produce an ungainly building form not suitable for modern business needs.

8. Investa, the building owner, submitted a request that the City prepare site-specific amendments to Sydney LEP 2012 and Sydney Development Control Plan 2012 (Sydney DCP 2012) to allow for replacement of the tower with a larger tower of high design quality.
9. The Planning Proposal, shown at **Attachment B** to this report, proposes the following changes to Sydney LEP 2012:
 - (a) an exception to the sun access plane and the 55 metre height limit for 60 Martin Place, allowing development to RL 167.1 (approximately 33 stories) provided the development is for non-residential uses and is neutral for sun access to Martin Place; and
 - (b) an exception to the sun access plane and the 55 metres height limit for a portion of the St Stephen's site, being no more than 8 metres from the common boundary with 60 Martin Place, provided it is part of the development for non-residential uses at 60 Martin Place referred to in (a).
10. Neither exception is available for a building proposing residential uses.
11. The Planning Proposal would ensure no additional overshadowing to Martin Place, or the buildings on its southern edge, between 12 noon and 2pm on 14 April. On 14 April at 12 noon, the sun is in the same position in the sky as 31 August at 12 noon – the only pair of dates for which this coincidence occurs. Together, they mark out what can be considered as our winter period.
12. The Sun Access Plane for Martin Place in Sydney LEP 2012 is set at 12 noon on 14 April (referred to as the 'control time'). This is in recognition that, due to its east-west orientation and the height of the buildings on its northern side, Martin Place receives very little sun at lunchtime in winter. For this reason, winter sun to Martin Place is not explicitly protected by the Sun Access Plane in Sydney LEP 2012.
13. Accompanying the Planning Proposal are suggested amendments to *Sydney DCP 2012*, with detailed provisions to shape the built form and manage impacts, including:
 - (a) reducing the setback requirement above the street frontage height to allow for a tower with an expanded footprint;
 - (b) requirements for street frontage uses that will bring activation to Martin Place;
 - (c) ensuring that the podium allows views through to the significant heritage fabric of St Stephen's; and
 - (d) managing the relationship between the tower cantilever and the church.
14. These amendments would operate as alternative planning controls, and would only be available for non-residential development. Any proposal for residential development on the site would have to comply with the existing height and sun access plane controls in Sydney LEP 2012, and would not be able to make use of the cantilever option.

15. To ensure the alternative planning controls are only available for non-residential uses, Investa proposes to enter into a Deed of Consent with Council, agreeing to place a restrictive covenant on the property title for 60 Martin Place, prohibiting use of the site for residential development. The Deed of Consent would be executed at the same time as the amendments to Sydney LEP 2012 and Sydney DCP 2012 come into force.

Public exhibition and consultation

16. In September 2014, Council and the Central Sydney Planning Committee resolved to seek a Gateway Determination from the Department of Planning and Environment to allow exhibition of the Planning Proposal, alongside the accompanying draft Development Control Plan.
17. A Gateway Determination was issued on 10 November 2014, allowing consultation to take place. Public exhibition was for a period of 28 days, from 25 November to 22 December 2014. The Planning Proposal and draft Development Control Plan were made available for viewing at the One Stop Shop, Customs House Library, and on the City's website.
18. Public agency consultation was also carried out in accordance with the Gateway Determination. Four public agencies were nominated in the Gateway Determination - Ausgrid, Sydney Water, Office of Environment and Heritage, and Transport for NSW. Three of the four nominated agencies responded, with two raising no issues with the Planning Proposal. The Heritage Council of NSW made a submission which is addressed in more detail at **Attachment A** and in this report.
19. The City mailed letters to building owners and tenants within a 100 metre radius of the site, providing notification of the public exhibition. One submission was received in response to public exhibition, from a building owner on Martin Place. The submission made comment about overshadowing of Martin Place, and is addressed in detail at **Attachment A** and in this report.
20. No changes to the Planning Proposal are proposed as a result of matters raised in submissions. Some minor changes to the Development Control Plan are proposed to clarify and strengthen its intent. The minor changes are identified at **Attachment C**, with additional wording shown *in italics*.

Issues raised in public consultation

21. One submission was received in response to the public exhibition of the Planning Proposal. This submission generally supports the planning proposal, but asks that further overshadowing analysis is undertaken for 21 July and 21 August to fully understand the implications of the proposal for overshadowing on Martin Place.

Response: The two dates would not provide significant additional information to the analysis that has already been undertaken in the Planning Proposal, which includes the control time, mid-winter, mid-summer and the spring equinox. The 21 August date requested would show almost the same situation as 14 April/31 August. The 21 July date would show a situation between 31 August and 21 June (mid-winter). Both of the suggested additional dates are in winter, a period where sun access to Martin Place is not protected by the planning controls in Sydney LEP 2012. For these reasons, no further shadow analysis is recommended.

22. The submission also notes that the locality statement for the Martin Place Special Character Area in Sydney DCP 2012 includes the following principle at Section 2.1.7(d):

‘protect and extend sun access and reflected sunlight to Martin Place during lunchtime hours from mid-April to the end of August.’

Response: The Sydney DCP 2012 principle highlighted in the submission is one of 7 principles for assessment of development applications in the Martin Place locality. Another principle guides development towards maintaining Martin Place as a valued business location. These principles are considered together and in a balanced manner. They are not being changed as part of the Planning Proposal or draft Development Control Plan, and continue to guide future development.

23. Sunlight to Martin Place in the winter months – mid-April to the end of August – is not currently protected by the Sun Access Plane provisions in Sydney LEP 2012. This is in recognition that, due to its east-west orientation and the height of heritage buildings along much of its northern edge, there is very little sun access to the space. Instead, sun access is protected for the rest of the year when sunlight on the ground plane of Martin Place is available. The Planning Proposal does not change this approach.

Issues raised in agency consultation

24. Three submissions were received from public authorities, and are discussed in more detail in **Attachment A**. The submissions from Ausgrid and Transport for NSW support the proposal and require no action from the City. The submission from the NSW Heritage Council also supports the Planning Proposal, and makes some recommendations for incorporation in the Development Control Plan.
25. The Heritage Council considers that the proposed separation of the cantilever element from the spire of St Stephen’s Church is insufficient to protect the Church’s setting, and suggests it should be further separated at the lower two levels. It also recommends a provision be included to ensure that the podium and tower design both have a respectful relationship with the Church.

Response: The City will amend the detailed design guidance in the draft Development Control Plan to include a provision ensuring the podium respects the setting and heritage significance of the Church, and to reduce the depth of the lower two levels of the cantilever, as suggested by the Heritage Council. The effect of reducing the lower two levels of the cantilever is shown in **Figure 1**.

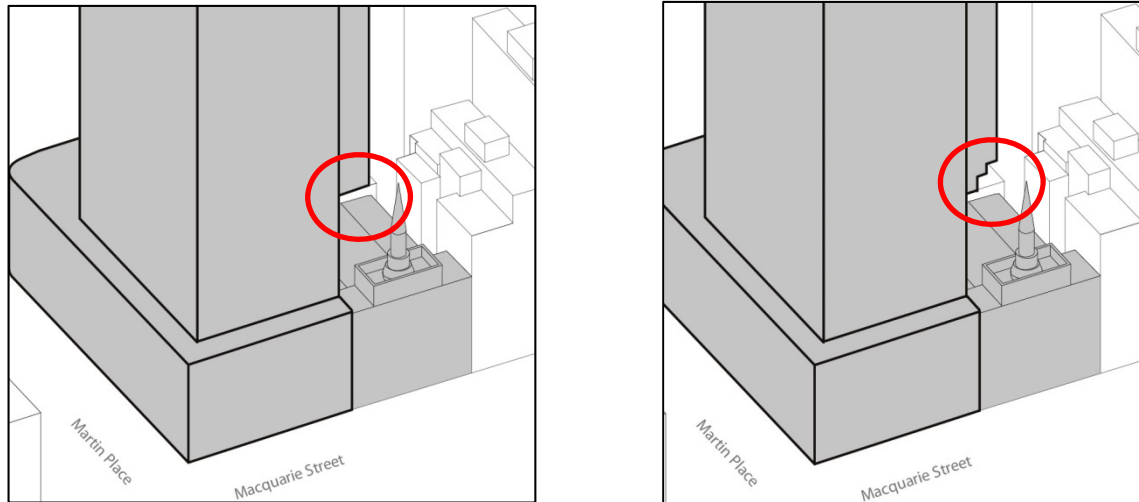


Figure 1: showing an increase setback to the lower cantilever, highlighted in red

26. The Heritage Council has also suggested that the City include in Sydney LEP 2012 a provision to ensure that the tower is setback from Macquarie Street above the podium level.

Response: Above-podium setbacks are a detailed design matter currently contained in Sydney DCP 2012. Including the detail in Sydney LEP 2012 would be overly restrictive, and may reduce the capacity of building designers to find innovative solutions that display design excellence. For this reason, the setback will not be included in Sydney LEP 2012, and remain in Sydney DCP 2012.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030 Vision

27. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This report is aligned with the following SS2030 strategic directions and objectives:
- (a) Direction 1 - *A Globally Competitive and Innovative City* - The Planning Proposal will strengthen the role and function of Martin Place as a key global financial and economic hub within the Sydney CBD.
 - (b) Direction 2 - *A Leading Environmental Performer* – Investa has committed to delivering a building that performs to the highest Economically Sustainable Development standards.
 - (c) Direction 3 - *Integrated Transport for a Connected City* – The Planning Proposal will provide additional employment opportunities in close proximity to public transport networks, remove a vehicle access point on Macquarie Street, and provide enhanced facilities for cyclists within the development.
 - (d) Direction 5 - *A Lively and Engaging City Centre* - The Planning Proposal provides for the establishment of retail, restaurants, bars and the like at the ground floor interface and the podium levels, encouraging after-hours activation of Martin Place.

- (e) Direction 7 - *A Cultural and Creative City* - The activation of the public domain will reinvigorate Martin Place's position as Sydney's major civic precinct.

RELEVANT LEGISLATION

- 28. *Environmental Planning and Assessment Act 1979; Environmental Planning and Assessment Regulation 2000.*

CRITICAL DATES / TIME FRAMES

- 29. The Gateway Determination set the completion date for the Planning Proposal as November 2015.

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