

ITEM 11. REVISED PLANNING PROPOSAL, DEVELOPMENT CONTROL PLAN AND PLANNING AGREEMENT - LEND LEASE CIRCULAR QUAY SITE - ALFRED PITT DALLEY AND GEORGE STREET BLOCK

FILE NO: S108395

SUMMARY

In response to a request from Lend Lease, the City initiated *Planning Proposal: APDG Site Block 4* to facilitate a development proposal at 182 George Street and 33-35 Pitt Street, Sydney. The Council on 29 June 2015, and the Central Sydney Planning Committee on 25 June 2015, approved the planning proposal for public exhibition and the Minister for Planning issued a Gateway approval for it on 18 August 2015. The approved planning proposal has not been exhibited.

In December 2015, Lend Lease submitted a revised planning justification report to support a revised planning proposal and revised draft development control plan.

The attached revised planning proposal and revised draft development control plan differ from those previously approved in the following manner:

- an increase in the proposed maximum height of the tower building from 220m to 248m, partly due to increased floor to floor heights;
- inclusion of an additional objective and an associated floor space incentive relating to the provision of office premises within the podium of the tower building for use by the Council as a business innovation space (currently identified by the City as tech startup space);
- minor reconfiguration of the footbridge and open space to the south of the proposed community building; and
- updated information about land ownership and development consents in the block bounded by Alfred, Pitt, Dalley and George Streets, as well as changes to the statutory environment.

Despite the increased height of the tower building envelope, in this location the environmental impacts of the revised planning proposal are substantially the same as those attributable to the approved planning proposal.

Lend Lease has also updated its offer to enter into a voluntary planning agreement with the City. Planning agreements are enabled by the *Environmental Planning and Assessment Act 1979* and allow for the provision of public benefits. Both parties must enter into the agreement voluntarily and agreements are exhibited.

The updated offer includes the existing public benefits Lend Lease offered the City of Sydney in conjunction with the approved planning proposal including: a large public plaza on George Street with a basement level below; a small public plaza outside and to the south of the Rugby Club; a double height community building fronting the George Street plaza, with an underground bicycle facility; and an expanded laneway network. In addition, Lend Lease is offering the City a long-term lease of three floors within the tower podium for use as a business innovation space, as proposed in the City's publicly exhibited Draft Tech Startups Action Plan.

This report seeks endorsement of the proposed changes to the *Planning Proposal: APDG Site Block 4* and *Draft Sydney Development Control Plan 2012 – APDG Site Block 4*. It recommends that the City submit the revised planning proposal to the Greater Sydney Commission to progress the process of amending Sydney Local Environmental Plan 2012. It also recommends that the revised planning proposal, the revised draft development control plan and the draft Planning Agreement be exhibited concurrently.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee approve the revised *Planning Proposal - APDG Site Block 4*, shown at **Attachment A** to the subject report, for submission to the Greater Sydney Commission with a request for an altered Gateway determination;
- (B) the Central Sydney Planning Committee approve the revised *Planning Proposal - APDG Site Block 4* for public authority consultation and public exhibition in accordance with any conditions imposed under the altered Gateway determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016 to seek confirmation from the Minister or the Greater Sydney Commission whether it has the authority to exercise the plan making functions of the Greater Sydney Commission under section 59 of the *Environmental Planning and Assessment Act 1979* to make the amending local environmental plan;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016 to approve the revised *Draft Sydney Development Control Plan 2012 - APDG Site Block 4*, shown at **Attachment B** to the subject report, for public authority consultation and public exhibition in parallel with the draft Planning Proposal and draft Planning Agreement, and in accordance with an altered Gateway determination;
- (E) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016, that authority be delegated to the Chief Executive Officer to make any minor variations to *Planning Proposal - APDG Site Block 4* and *Draft Sydney Development Control Plan 2012 - APDG Site Block 4* following receipt of the Gateway Determination; and
- (F) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 23 February 2016, that authority be delegated to the Chief Executive Officer to prepare a draft voluntary Planning Agreement in accordance with the terms of the letter of offer at **Attachment C** to the subject report, and the requirements of the *Environmental Planning and Assessment Act 1979*, to be exhibited concurrently with the Planning Proposal and Development Control Plan amendment for the site.

ATTACHMENTS

Attachment A: *Planning Proposal - APDG Site Block 4* (revised January 2016)

Attachment B: *Draft Sydney Development Control Plan 2012 - APDG Site Block 4*
(revised January 2016)

Attachment C: Planning agreement – Updated Letter of Offer

BACKGROUND

Request to amend City of Sydney planning controls

1. Lend Lease Development Pty Ltd (Lend Lease) has requested that a planning proposal be prepared to amend the planning controls applying to land within the city block bound by Alfred, Pitt, Dalley and George Streets, Sydney (the APDG block) to facilitate a development proposal at 182 George Street and 33-35 Pitt Street.
2. Following consideration of Lend Lease's planning justification report dated September 2014, Council on 29 June 2015, and the Central Sydney Planning Committee (CSPC) on 25 June 2015, resolved to approve *Planning Proposal - APDG Site Block 4* for submission to the Minister for Planning with a request for a Gateway determination. At the same time, they approved an associated draft development control plan.
3. The Minister's delegate issued a Gateway determination for *Planning Proposal - APDG Site Block 4* on 18 August 2015. However, as Lend Lease subsequently initiated discussions with Council staff about amending the approved planning proposal, it has not been exhibited.
4. In December 2015, Lend Lease submitted a revised planning justification report to the City seeking amendments to *Planning Proposal - APDG Site Block 4* to allow for changes to their development proposal. They have submitted updated studies to support the revised scheme and consulted with Council staff about an updated offer to enter into a planning agreement with the City (**Attachment C**).
5. If approved, the amended planning controls will enable significant renewal of the Lend Lease Circular Quay site (APDG Site Block 4) consisting of the following key components:
 - (a) a commercial office tower of 248m in building height, with additional low scale buildings;
 - (b) a significant public plaza directly accessible from George Street with a low public building to one edge, and a secondary plaza space on Rugby Place;
 - (c) a pedestrian bridge/walkway link from the primary plaza to the commercial office tower podium;
 - (d) an enhanced network of lanes within and connected to the Lend Lease Circular Quay site, with activated laneway frontages; and
 - (e) the remodelling of 'Jacksons on George' licensed premises and the optional refurbishment and reuse of the Rugby Club building at 31A Pitt Street.

Site details

6. The planning proposal relates to a collection of properties close to Circular Quay with frontage to Pitt and George Streets, referred to in this report as the Lend Lease Circular Quay site. A location map is shown at Figure 1 and the relevant properties are identified on the diagram at Figure 2.
7. The total site area is approximately 4,600m², excluding the Rugby Club, or 5,036m², including the Rugby Club.

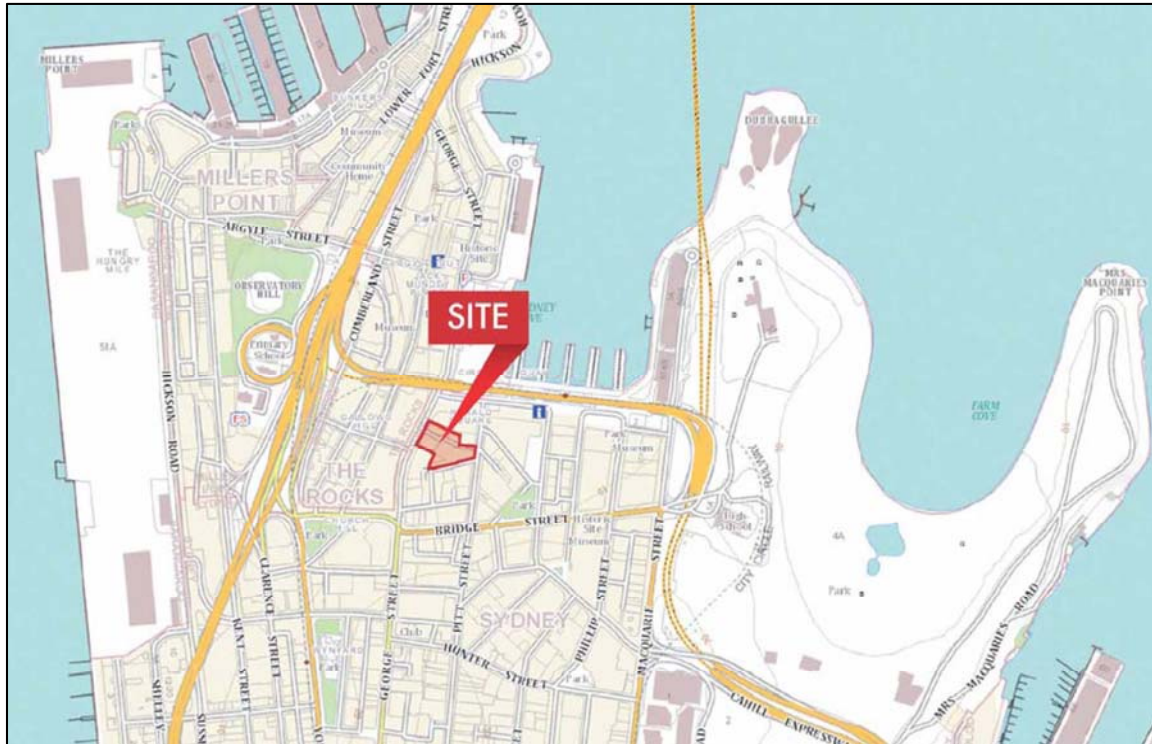


Figure 1: Location map

8. Lend Lease now owns the “Jacksons on George” site, 33 to 35 Pitt Street and 182 George Street. When Lend Lease initiated the planning proposal, they were in discussions with the Rugby Club about the possibility of including the Rugby Club site in a future combined development. The Rugby Club site has since been sold to Wanda One Pty Ltd and is included in their development proposal for the adjoining land (discussed below).
9. The City of Sydney owns Crane Lane which is classified as operational land under the *Local Government Act 1993*. It is not classified as a public road and is therefore available for disposal. The triangular portion of land known as the Mirvac Triangle is proposed to be transferred to the City of Sydney under a Planning Agreement relating to the Mirvac site at 200 George Street. It is proposed that the City will then transfer that land to Lend Lease in return for completed public realm. Matters relating to the land transfers will be the subject of separate reports for future consideration by Council.

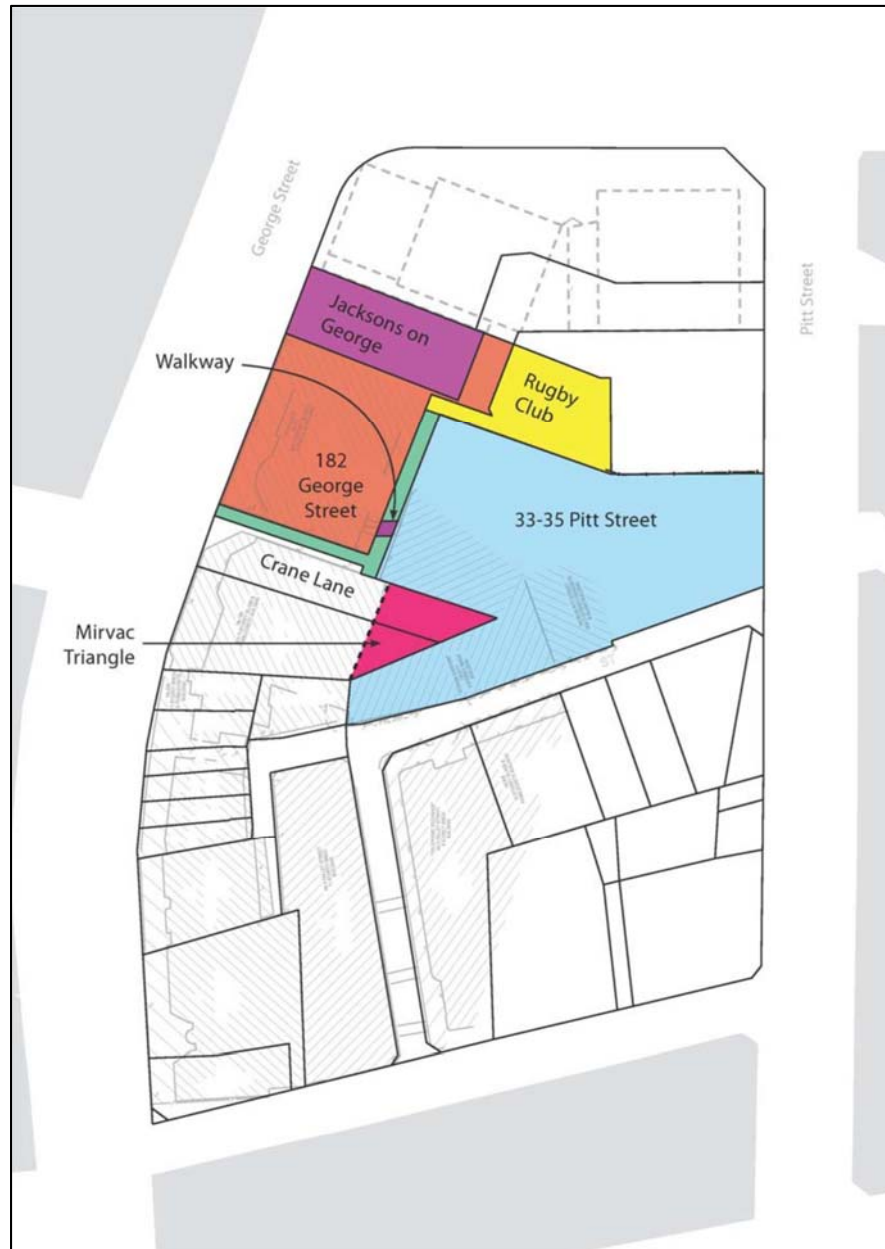


Figure 2: Properties subject to new controls in the planning proposal

Recent development consents for Wanda One site

10. Adjoining the Lend Lease Circular Quay site to the north is land owned by Wanda One Pty Ltd for which development consents were issued on 10 December 2015. They relate to:

- (a) 1 Alfred Street, 19-31 Pitt Street and 31A Pitt Street Sydney – State Significant Development concept plan approval for Stage 1 building envelopes and proposed uses for two towers. Tower A comprises a mixed use (residential and retail) building with a proposed maximum height of 185m / RL191. Tower B comprises a mixed use (hotel and retail premises) building with a proposed maximum height of 110m / RL112.5. The concept plan includes demolition of the Rugby Club building and its replacement with part of Tower B; realignment of Rugby Place; and a new pedestrian link connecting Rugby Place to Herald Square; and
- (b) 1 Alfred Street – Stage 2 approval for the demolition of Goldfields House and construction of a single, 57-storey tower containing 184 apartments, retail space and landscaping. This is an amendment of a consent issued in 2012 and relates to Tower A in the State Significant Development concept plan. While the tower retains the building height approved in 2012, it is marginally wider on two sides than approved under the original consent.

The Lend Lease Circular Quay concept

11. Lend Lease's vision for the Lend Lease Circular Quay site is:

To create an internationally recognised business address together with a new network of lanes and public places that radiate benefits – social, cultural, environmental and economic – outwards to the surrounding areas, contributing to the transformation of George Street and Circular Quay and the evolution of Sydney into a truly global city.

12. The key elements of the concept are:
 - (a) a major new public plaza at George Street level, with comparable dimensions and overall size to Australia Square, along with a secondary plaza at a lower level;
 - (b) a new laneway network at Pitt Street level, creating key connections and providing fine grain active uses along all frontages; and
 - (c) a new world class, sustainable commercial tower with an elevated lobby providing a controlled through site link to Pitt Street and activated lower levels to contribute to a more lively, engaging City.
13. The project is intended to deliver distinct publicly accessible spaces stitched into the fabric of the city. It is proposed that people will be prioritised, with spaces for dining, shopping and relaxing, and places that are comfortable, safe and active, both during the day and at night. The built form and landscape are intended to be an exemplar of high quality, sustainable design.

Approved built form envelope

14. Figure 3 below, extracted from Lend Lease's September 2014 justification report, shows the approved built form envelope reflected in *Planning Proposal - APDG Site Block 4* for which a Gateway determination was issued on 18 August 2015.

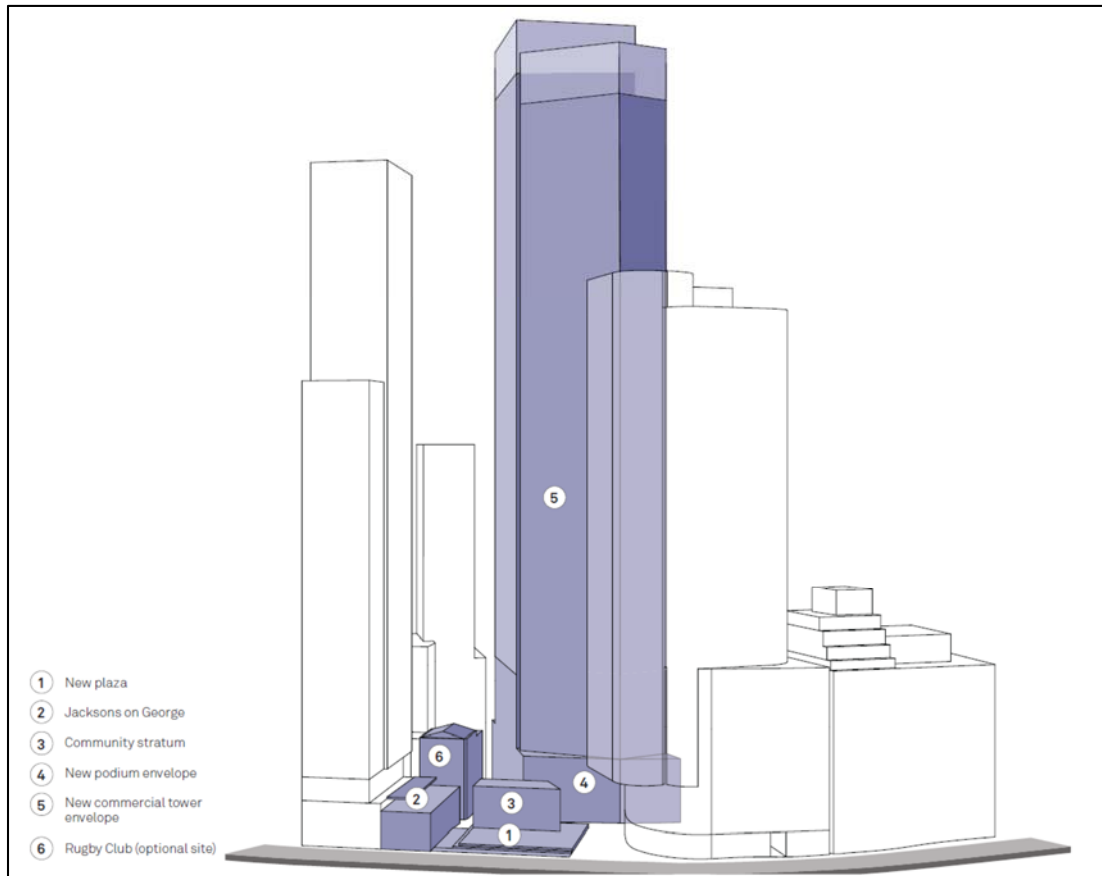


Figure 3: Lend Lease Circular Quay site previously proposed built form envelope

15. The key components of the previously proposed built form envelope are:
- (a) a new plaza fronting George Street (1);
 - (b) remodelling of the Jacksons on George building (2);
 - (c) a low scale plaza community building fronting both the George Street square and a new north-south lane (3);
 - (d) a podium envelope with a maximum height of 45m, connected to the plaza level via a bridge over the new north-south laneway (4);
 - (e) a commercial tower with a maximum building height (excluding roof feature zone) of 220m on the east stepping down to 210m on the west (5); and
 - (f) adaptive reuse of the Rugby Club building, if this optional site is included in the development (6) (The Wanda development consent makes this option redundant).

Revised planning proposal

16. **Attachment A** is a copy of *Planning Proposal - APDG Site Block 4* as revised in January 2016, with the revisions clearly identified in the body of the document.

17. The revised planning proposal is largely the same as that endorsed for public exhibition in June 2015 by Council and the Central Sydney Planning Committee and for which the Gateway determination was issued. However, there are significant and substantial differences that necessitate a new Gateway determination. The differences are that:
- (a) it includes an additional objective, namely “to encourage the inclusion of a business innovation space in the Lend Lease Circular Quay site”;
 - (b) the height of the commercial tower building has increased from 220m to 248m, with the consequence that clause 6.25 of Sydney LEP 2012 is to be altered to:
 - (i) allow a maximum building height of 248m (rather than 220m) on a building footprint on block 4 comprising no more than 25% of the area of block 4; and
 - (ii) allow a maximum building height of 238m (rather than 210m) on a building footprint on block 4 comprising no more than 12% of the area of block 4;
 - (c) it proposes to insert a new clause in Sydney LEP 2012 to exclude from the calculation of FSR on block 4 the GFA, up to a maximum of 4,000m², of office premises located within the podium of the tower building and provided to the City for the purpose of promoting business innovation and economic development; and
 - (d) the body of the document has been updated to take account of:
 - (i) the recently approved concept plan for State Significant Development at 1 Alfred Street, 19-31 Pitt St and 31A Pitt Street Sydney;
 - (ii) the recent Stage 2 development consent for 1 Alfred Street;
 - (iii) altered land ownership within the block bounded by Alfred, Pitt, Dalley and George Streets; and
 - (iv) the current statutory context, including the creation of the Greater Sydney Commission and changes to various planning instruments.

Revised draft development control plan

18. The revised *Draft Sydney Development Controls Plan 2012 – APDG Site Block 4 at Attachment B* includes changes to the approved draft DCP maps as a consequence of
- (a) the increase in height of the proposed tower building; and
 - (b) realignment of the footbridge and open space at the southern end of the community building.
19. The only change to the text of the draft DCP previously approved for exhibition is an updated reference to the development approval for 19-31 Pitt Street so that it relates to the building envelope for the State Significant Development approved on 10 December 2015.

KEY IMPLICATIONS

Benefits of the planning proposal and draft DCP controls

20. The revised planning proposal and revised draft DCP continue to facilitate a broad range of public benefits ranging from promoting economic growth to public domain improvements that will enhance people's day-to-day enjoyment of Central Sydney.
21. In summary, the key benefits are:
 - (a) a realistic and achievable opportunity to unlock the floor space potential of the site and meet demand for high end global office space in central Sydney within a commercial tower building;
 - (b) significant revitalisation of the block bounded by Alfred, Pitt, Dalley and George Streets;
 - (c) design excellence embedded across the entire Lend Lease Circular Quay site;
 - (d) remodelling of the Jacksons on George building and the option to also upgrade the Rugby Club;
 - (e) a large public square on George Street, with excellent solar access during the lunch time peak in mid-winter;
 - (f) a public square on Rugby Place;
 - (g) creation of a fine-grain network of lanes and a through site link that will improve pedestrian connections between Circular Quay and the commercial core and between George and Pitt Streets;
 - (h) a new retail destination with maximised active frontages;
 - (i) a new late-night trading precinct which will enhance the city's night-time economy;
 - (j) reduced vehicular movements within the block and rationalisation of loading dock and vehicular access points;
 - (k) the delivery of community facilities, including a public cycle facility; and
 - (l) the delivery of a business innovation space, as proposed in the City's Draft Tech Startups Action Plan, including the cost of fitout.

Voluntary planning agreement

22. Section 93F(1)(a) of the *Environmental Planning and Assessment Act 1979* enables a proponent to provide a material public benefit through entering into an agreement with a planning authority. A Planning Agreement is the legal mechanism for securing public benefits. Planning Agreements are voluntary and must be freely entered into by a planning authority and a proponent. They are also publicly exhibited and held on a publicly accessible register.

23. The City's position on Planning Agreements is informed by the City's needs, as outlined in our strategic plans. Opportunities to enter into Planning Agreements arise as the City changes and improves planning controls to meet its strategic aims.
24. The updated letter of offer from Lend Lease Development Pty Ltd at **Attachment C** outlines the public benefits that will be provided. It includes the same commitments as detailed in the letter of offer submitted by Lend Lease in association with the approved planning proposal. In addition, the revised letter of offer includes a commitment by Lend Lease to make available to Council office space comprising up to three floors or around 3,900sq.m of GFA within the lowest levels of the tower. Lend Lease is offering to lease the space to the Council at the cost of outgoings only for 20 years or at a discount to market value plus outgoings for 99 years in order to enable the City to provide affordable rental space for tech startups or other innovative high growth businesses. It will be designed, constructed and fitted out at no cost to Council.
25. It is recommended that a Planning Agreement be prepared as the preferred mechanism to ensure that the public benefits outlined in the updated letter of offer can be delivered by the planning controls applying to the site.
26. The detailed terms of the Planning Agreement are yet to be finalised. A recommendation of this report is that the draft Planning Agreement be publicly exhibited, together with the revised planning proposal and the revised draft amendment to *Sydney Development Control Plan 2012*.
27. The public benefit offer does not affect or off-set any development contributions that may be payable under section 61 of the *City of Sydney Act 1988*.

Consideration of Environmental Impacts

28. The revised planning proposal is informed by a number of detailed studies undertaken on behalf of the landowner. The studies are included as appendices to the revised planning proposal at **Attachment A** and will be publicly exhibited as supporting documentation. They are considered to provide a sound basis upon which to progress the planning proposal and draft DCP although, with the exception of the visual impact analysis, they do not address the most recent development consents for the Wanda One site.
29. The environmental impacts of the revised planning proposal are not significantly different to those arising from the approved planning proposal. The key change is the increased height of the tower building. The findings of the studies most relevant to building height are discussed below.

Solar Access and Overshadowing

30. The planning proposal at **Attachment A** includes a Shadow Studies Report within its Appendix A, prepared by Hassell, which considers shadows cast by the proposed building envelope. It confirms that the revised Lend Lease Circular Quay building envelope will not cause additional overshadowing to Australia Square, Lang Park or Macquarie Place between 14 April and 31 August at the critical times of day nominated in SLEP2012 clause 6.19 *Overshadowing of certain public places*.

31. The Shadow Studies Report also provides a comparison of shadows cast over the proposed plaza, and compares this with the current *Sydney Development Control Plan 2012* scheme. The revised planning proposal does not alter solar access conditions in the proposed George Street square. As noted in respect of the approved planning proposal, the proposed George Street plaza is able to achieve excellent solar access throughout the year, in contrast to the poor solar amenity which would be afforded to the centrally located plaza envisaged under the existing DCP controls.
32. Although the Shadow Studies Report prepared by Hassell incorporates the previously approved building envelopes for the Wanda One site, the consent for State Significant Development on the Wanda One site took account of potential overshadowing of the proposed George Street square. Shadow diagrams prepared by Crone Architects on behalf of Wanda One Pty Ltd indicated that the revised Wanda One proposal will not result in any discernible increase in overshadowing of the proposed George Street plaza between 10am and 2pm compared with the previously approved building envelopes.

Wind Analysis

33. Cermak, Peterka Pattersen (CPP) Wind Engineering Consultants have undertaken a wind tunnel study of the proposed development to assess pedestrian wind comfort at ground level. The wind tunnel study, included as an appendix to the planning proposal at **Attachment A**, found the street level wind environment to be similar to typical street level wind conditions in the surrounding area.
34. The study assessed a number of different design outcomes, including that 1 Alfred Street and 19-31 Pitt Street would be developed as per development consents issued before December 2015 plus buildings on the perimeter, largely the eastern edge, of the Lend Lease Circular Quay plaza. Under this configuration, locations in the public domain were found to pass the distress criterion, with the exception of three locations on Pitt Street outside the site, supporting the proposed land uses and general configurations contemplated under the Lend Lease Circular Quay proposal.
35. Wind conditions in the proposed plaza were found to be relatively calm for an outdoor area in central Sydney, thereby supporting the proposed public plaza land use and general configuration as contemplated under the Lend Lease Circular Quay proposal. Portions of the internal laneways were found to be suitable for window-shopping and café-style activities, thereby supporting the proposed laneway configuration for pedestrian access as contemplated under the Lend Lease Circular Quay proposal. Windier conditions were observed along Pitt Street, but these conditions were considered typical of this location and due, in large part, to the surrounding massing.
36. An October 2015 assessment by CPP of the impact of changes to the Lend Lease Circular Quay envelope, reflected by the current proposal, concludes that the changes to the scheme will not significantly change the local wind conditions from those measured with the massing model during the November 2013 wind-tunnel testing.

37. The previously proposed planning proposal for the Lend Lease site provided for wind effects to be further considered as part of the future DA, and mitigating measures incorporated, where appropriate. Accordingly, the draft DCP at **Attachment B** includes provisions requiring the design of the tower on Block 4 to mitigate wind impacts on Pitt Street and Underwood Street.
38. CPP recently undertook a wind assessment on behalf of Wanda One Pty Ltd for the 1 Alfred Street development. One of the findings of that November 2015 report was that reconfiguration of the tower buildings on the Wanda One site is likely to increase wind flow through the north-south laneway that connects to and extends across the Lend Lease Circular Quay site in the vicinity of the proposed plaza on Rugby Place. CPP noted that any activation of the section of the north-south lane on the Wanda One site for pedestrian sedentary activities, such as an outdoor café, would require additional local amelioration in the space. Such measures may include vertical screens and would be needed particularly in the summer months when the north-east winds are prevalent. For the purposes of consultation and to better inform the DCP, it is proposed to seek an update of the wind assessment for the Lend Lease Circular Quay proposal to take account of the December 2015 consents for the Wanda One site.

Visual and View Analysis

39. A View Impact Analysis has been prepared by Hassell which considers public and private view impacts from 23 vantage points on three types of views, that is, street level views from prominent locations, high level views at roof level of 10 existing towers, and views of the new George Street plaza. Appendix 21 of the revised planning proposal at **Attachment A** comprises a view impact analysis incorporating the December 2015 approved towers on the Wanda One site, as well as the tower at 200 George Street.
40. The Lend Lease Circular Quay tower will not unduly impact on important public views and view corridors, including those from the waterway and foreshores of Sydney Harbour. Further, due to the proximity of the proposed Lend Lease Circular Quay tower to the 200 George Street tower and the approved towers on the Wanda One site, the visual presence of the proposed tower is balanced by the adjoining towers of a similar, but staggered, height.
41. The proposed Lend Lease Circular Quay building envelope impacts on some private commercial building view corridors, in some cases more significantly than others. However, the impact on private views from commercial buildings is considered to be reasonable and is mostly beneficial when balanced with the exceptional public benefit associated with the Lend Lease Circular Quay proposal.
42. Figure 4 below shows the 'before and after' visual impact of the tower from the waterway of Sydney Cove, with existing approved surrounding developments shown in grey. The Lend Lease Circular Quay tower will not be a dominant individual feature in the skyline, but rather one of a small cluster of new, landmark commercial and residential towers which will mark the revitalised APDG Block. The visual impact is therefore considered to be acceptable and consistent with the location and context of the site.

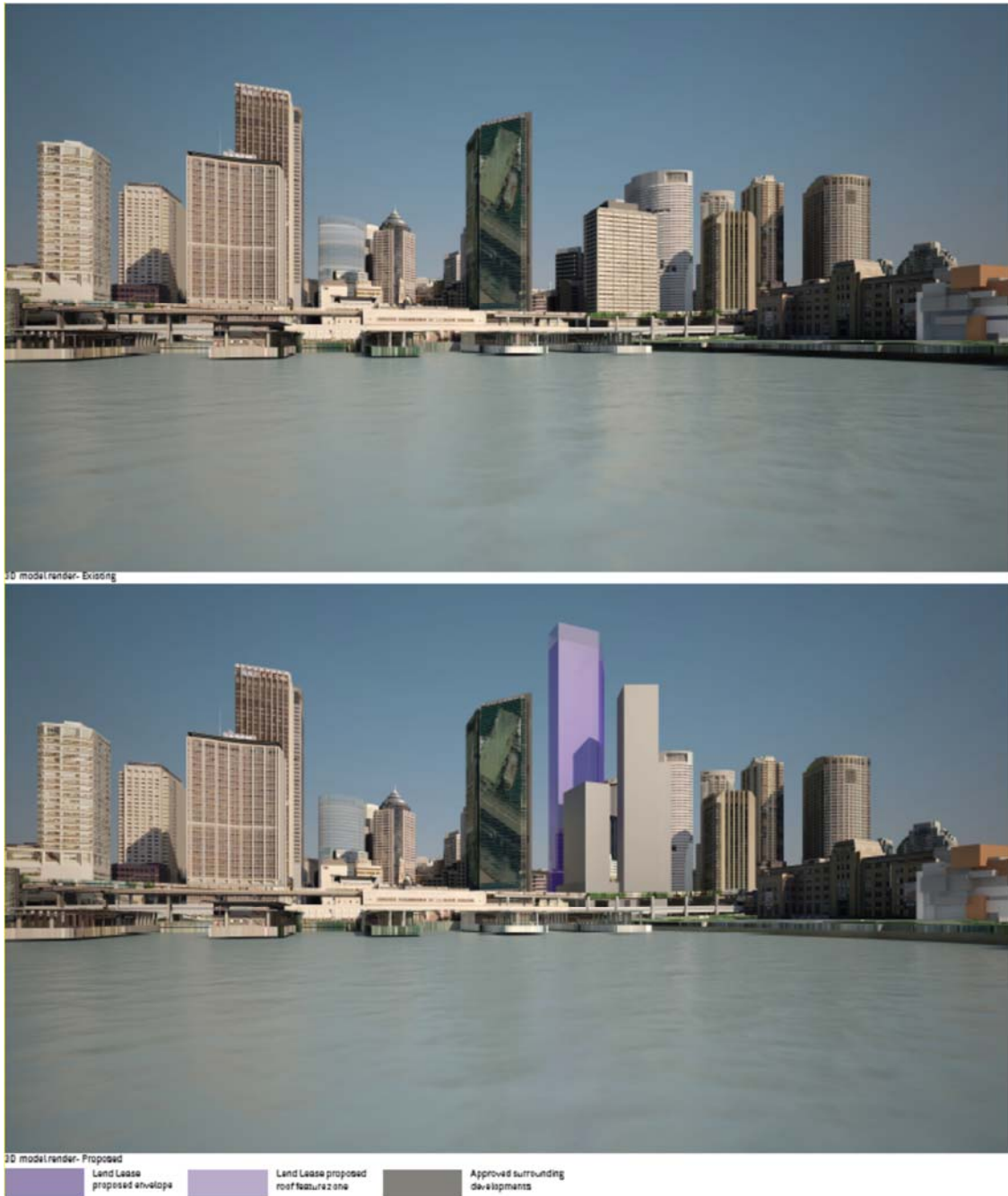


Figure 4: View impacts from Sydney Cove waterway

Strategic Alignment

43. *A Plan for Growing Sydney* is a State Government strategic document that outlines a vision for Sydney over the next 20 years. Under amendments to the *Environmental Planning and Assessment Act 1979* that took effect on 27 January 2016, it is taken to be the regional plan for the Greater Sydney Region and must be given effect in any planning proposal applying to land within the region.

44. *A Plan for Growing Sydney* identifies key challenges facing Sydney, including a population increase of 1.6 million by 2034, 689,000 new jobs by 2031, and a requirement for 664,000 new homes. *A Plan for Growing Sydney* sets out the following four goals for Sydney, which are supported by 22 directions and numerous associated actions:
- (a) a competitive economy with world-class services and transport;
 - (b) a city of housing choice with homes that meet our needs and lifestyles;
 - (c) a great place to live with communities that are strong, healthy and well connected; and
 - (d) a sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.
45. The revised planning proposal remains consistent with relevant goals, directions and actions of the Plan. By facilitating the development of commercial premises on a site that is highly accessible by public transport, it will support the achievement of *Goal 1: A competitive economy with world class services and transport* and *Direction 1.1: Grow a more internationally competitive CBD*. In particular, the planning proposal is consistent with the action *create new and innovative opportunities to grow Sydney CBD office space by identifying redevelopment opportunities and increasing building heights in the right locations*.
46. *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. The revised planning proposal and amendments to Sydney Development Control Plan 2012 continue to be aligned with the following SS2030 strategic directions and objectives:
- (a) Direction 1 - A Globally Competitive and Innovative City - The planning proposal 'unlocks' capacity in order to provide for employment growth in Central Sydney. It provides the opportunity to design a large floor-plate, quality commercial tower as favoured by globally oriented organisations.
 - (b) Direction 3 - Integrated Transport for a Connected City - The planning proposal allows for development that will complement the light rail and the Circular Quay transport hub by providing increased employment and recreational opportunities nearby.
 - (c) Direction 4 - A City for Walking and Cycling - The planning proposal provides for enhanced pedestrian access via activated laneways between George Street and Pitt Street. It also provides for the incorporation of cycling facilities that would complement the proposed Pitt Street cycleway.
 - (d) Direction 5 - A Lively and Engaging City Centre - The planning proposal is intended to facilitate transformation of the Lend Lease Circular Quay site into a new, activated destination, with laneway retail, dining and bars. With its concentration on 'fine grain' development at the ground plane, redevelopment of the site will contribute to a livelier, engaging city.

- (e) Direction 9 - Sustainable Development, Renewal and Design - The planning proposal includes building envelope controls that are aimed at delivering design excellence. It also provides for new public squares and development that will activate the public domain.
47. In 2015, the City exhibited a *Draft Tech Startups Action Plan* which outlines how the City can work with partners to create an environment that enables technology entrepreneurs to start and grow successful global businesses. Feedback on the Action Plan, a component of the City's Economic Development Strategy, will be the subject of a future report to be considered by Council.
48. The *Draft Tech Startups Action Plan* proposes that, to increase the density of the tech startup ecosystem, the City will:
- (a) use planning regulations to encourage more innovation spaces and/or affordable office spaces; and
 - (b) create affordable work spaces.
49. The revised planning proposal gives effect to these actions and provides the opportunity for the City to secure well-located, dedicated workspace that could be made available to support fledgling and innovative high-growth businesses, such as tech startups, or otherwise used to support the City's Economic Development Strategy.

BUDGET IMPLICATIONS

50. In accordance with Council's Fees and Charges Schedule, a fee has been paid for an 'LEP Amendment: Major Application' for the consideration of the revised planning proposal and revised draft amendment to *Sydney Development Control Plan 2012*.

RELEVANT LEGISLATION

51. *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

CRITICAL DATES / TIME FRAMES

Planning Proposal process

52. An amendment to the *Environmental Planning and Assessment Act 1979* came into force on 27 January 2016 and transferred to the Greater Sydney Commission certain functions in the planning process that were previously undertaken by the Minister. They include the issuing of a Gateway determination for a planning proposal and the making of local environmental plans for land in the Greater Sydney Region.
53. Should Council and the Central Sydney Planning Committee endorse the attached revised planning proposal for exhibition and consultation, it will be forwarded to the Greater Sydney Commission in accordance with section 56 of the Environmental Planning and Assessment Act 1979. The Greater Sydney Commission will then provide a new Gateway determination to either proceed to consultation, with or without variation, or to resubmit the planning proposal.

54. The typical timeframe, once a Gateway determination is made, is 21 days for public authority consultation and 28 days public exhibition. The Gateway will also determine the timeframe for the completion of the Local Environmental Plan amendment.
55. In relation to any future Planning Agreement, Section 93F(1)(a) of the *Environmental Planning and Assessment Act 1979* enables a proponent to provide a material public benefit by entering into an agreement with the City. Section 93G(1) requires that a draft Planning Agreement be publicly exhibited for at least 28 days and section 93G(2) requires that, where possible, the Agreement be exhibited concurrent with any other publicly notifiable matters relating to the Agreement.
56. As the City and the proponent are not yet in a position to finalise the terms of a Planning Agreement – required to legally capture the public benefit of the proposal – the recommendation of this report requests that the City prepare a draft Planning Agreement ready for public exhibition alongside the draft planning proposal and draft *Sydney Development Control Plan 2012* amendment.
57. Following public authority consultation and public exhibition, the outcomes will be reported to Council and the Central Sydney Planning Committee.

Delegation of plan-making functions

58. In October 2012, the Minister for Planning delegated plan-making functions to councils to improve the local plan-making process. In December 2012, Council resolved to accept the delegation.
59. Council needs to receive an authorisation on a case-by-case basis to exercise the delegation. The authorisation is given through the Gateway process and may be for spot rezonings consistent with surrounding zones and matters of local significance. Exercising the delegation means a faster plan-making process with less involvement of the Department of Planning and Environment.
60. The Gateway determination issued by the Minister on 18 August 2015 was accompanied by written authorisation for the Council to exercise the Minister's functions under section 59 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan. Under the *Environmental Planning and Assessment Amendment (Savings and Transitional) Regulation 2015*, a Ministerial delegation in force immediately before 27 January 2016 is taken to be a delegation from the Greater Sydney Commission.
61. The report to Council's Planning and Development Committee on 23 February 2016 in respect of this planning proposal recommends that Council seek confirmation of its delegated authority to exercise the plan making functions of the Greater Sydney Commission (as part of an amended Gateway determination) under section 59 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan.

PUBLIC CONSULTATION

62. The public exhibition process for the planning proposal will be determined by the Greater Sydney Commission. It is proposed that public exhibition of the planning proposal, public exhibition of the amendment to Sydney Development Control Plan 2012 and the notification of the Planning Agreement run concurrently. The consultation would take place in accordance with the requirements of:

- (a) an altered Gateway determination to be issued by the Greater Sydney Commission under s.56 of the *Environmental Planning and Assessment Act 1979*;
 - (b) the *Environmental Planning and Assessment Regulation 2000*; and
 - (c) in relation to the Planning Agreement, cl. 93G(2) of the *Environmental Planning and Assessment Act 1979*.
63. This means the public exhibition would be a minimum of 28 days, with notification:
- (a) on the City of Sydney website;
 - (b) in newspapers that circulate widely in the City of Sydney Local Government Area; and
 - (c) in writing to the owners, adjoining and nearby landowners, relevant community groups and stakeholders, and the community in the immediate vicinity of the site.
64. Section 93G(1) of the *Environmental Planning and Assessment Act 1979* requires that a draft Planning Agreement be publicly exhibited for at least 28 days and section 93G(2) requires that, where possible, the agreement be exhibited concurrent with any other publicly notifiable matters relating to the agreement.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Glenda Goldberg, Senior Planner)