

**ITEM 12. POST EXHIBITION - SYDNEY LOCAL ENVIRONMENTAL PLAN 2012  
– 230-238 SUSSEX STREET SYDNEY - PLANNING PROPOSAL –  
DRAFT SYDNEY DEVELOPMENT CONTROL PLAN 2012  
AMENDMENTS**

**FILE NO: S124316**

**SUMMARY**

The redevelopment at 230-238 Sussex Street, Sydney will allow a new tower with up to 200 hotel rooms and 90 dwellings, and secure the refurbishment and reuse of the heritage listed Foley Bros Warehouse.

This report details the outcomes of the recent public exhibition of the Planning Proposal and draft Development Control Plan (draft DCP) for 230-238 Sussex Street, Sydney (the site) and recommends the Central Sydney Planning Committee approve the Planning Proposal for finalisation and making as a local environmental plan, and note the attached DCP.

In May 2015, Urbis submitted a planning justification report on behalf of Karimbla Properties Pty Ltd, part of the Meriton group of companies (the proponent and landowner) requesting a change to *Sydney Local Environmental Plan 2012* (SLEP2012) and *Sydney Development Control Plan 2012* (SDCP2012) that applies to the site.

The request is to increase the existing height control from 80 metres to a maximum building of RL 115.9 to enable the development of a mixed-use hotel and residential tower. The request included the refurbishment and adaptive re-use of the heritage listed Foley Bros warehouse building to be incorporated into the proposed hotel.

The Planning Proposal and draft DCP were placed on public exhibition from 24 November to 21 December 2015. A Stage 1 development application was also lodged in November for the site and is currently being assessed. The exhibition for the Stage 1 development application overlapped with the Planning Proposal exhibition.

One submission and three government agency submissions were received. The submission, from a resident of an adjoining residential apartment building, primarily expresses concern about possible amenity impacts arising from height increase and proposed setbacks. The government agencies raise no objections.

In addition, a submission made in response to the Stage 1 development application was also considered, to ensure all concerns were taken into account. Received on behalf of the owners' corporation of the adjoining commercial building to the west, it raises issues directly relevant to the Planning Proposal and is relevant.

No changes are recommended to the Planning Proposal and draft DCP as a result of matters raised in submissions. However, the height provisions in the draft DCP, which primarily describe the methodology for calculating the height transition from the west to the east boundary, are recommended to be technically redescribed as a plane to provide greater certainty and clarity.

Located within the western corridor of central Sydney, the site lies to the east of Darling Harbour, north of Town Hall and west of George Street. Being approximately 200 metres from Town Hall Station, the site is in a highly accessible location.

Informed by detailed analysis, the proposed maximum height and height transition will limit overshadowing of the future Town Hall Square proposed in the block bounded by George, Park and Pitt Streets, opposite Town Hall.

## RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note matters raised in response to the public exhibition of Planning Proposal – Sydney Local Environmental Plan 2012 – and the draft Sydney Development Control Plan 2012 – 230-238 Sussex Street, Sydney, as shown at **Attachment A** to the subject report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal: 230-238 Sussex Street, Sydney, as shown at **Attachment B** to the subject report, to be made as a 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 23 February 2016 to approve the Sydney Development Control Plan 2012 – 230-238 Sussex Street, Sydney, as 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 23 February 2016 that authority be delegated to the Chief Executive Officer to make any minor changes to Planning Proposal – Sydney Local Environmental Plan 2012 – 230-238 Sussex Street, Sydney and the draft Sydney Development Control Plan 2012 – 230-238 Sussex Street, Sydney to correct drafting errors prior to finalisation of the local environmental plan.

## ATTACHMENTS

**Attachment A:** Summary of submissions

**Attachment B:** Planning Proposal: 230-238 Sussex Street, Sydney

**Attachment C:** Sydney Development Control Plan 2012 – 230-238 Sussex Street, Sydney Amendment

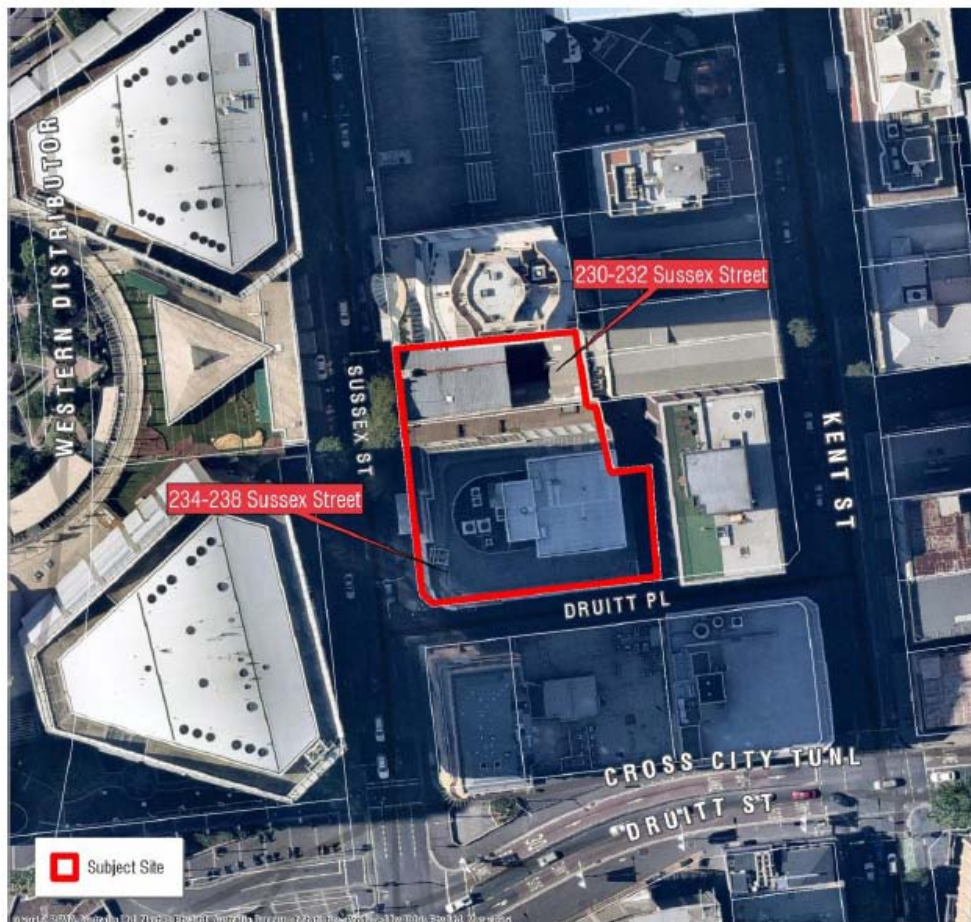
**BACKGROUND**

1. In May 2015, Urbis submitted a planning justification report on behalf of Karimbla Properties Pty Ltd – Meriton (the proponent and landowner) requesting a change to *Sydney Local Environmental Plan 2012 (SLEP2012)* and *Sydney Development Control Plan 2012 (SDCP2012)* that applies to 230-238 Sussex Street, Sydney.
2. The request is to enable the development of a mixed-use hotel and residential tower that can accommodate a hotel of over 200 rooms, with residential at upper levels where acceptable levels of amenity can be provided. The request includes the refurbishment and adaptive re-use of the heritage listed Foley Bros warehouse building to be incorporated into the proposed hotel use.
3. The existing height control is 80 metres. The proponent is seeking to change the height control to enable a maximum building height of RL115.9 taken from RL117.1 metres on the western site edge and RL 100.09 metres on the eastern site edge. This will enable a tower above a podium on the southern portion of the site adjacent to the heritage item.
4. In September 2015, Council and the Central Sydney Planning Committee resolved to seek a gateway determination from the Department of Planning and Environment to allow public exhibition of a Planning Proposal to amend Sydney Local Environmental Plan 2012, alongside a supporting site specific draft Development Control Plan (draft DCP).
5. A gateway determination was issued in October 2015, allowing community and public authority consultation. The Planning Proposal and draft Development Control Plan were placed on public exhibition from 24 November to 21 December 2015. Documents were made available for viewing at the One Stop Shop and on the City's website. Letters to surrounding building owners and tenants were sent. A public notice was also placed in The Sydney Morning Herald on 24 November 2015. The outcomes of public exhibition are discussed in detail in this report.
6. If the Council and the Central Sydney Planning Committee approve the changes to the City's planning controls recommended in this report, the City has delegation to amend SLEP2012 and to make the changes bringing them into effect.
7. Despite the establishment of the Greater Sydney Commission on 27 January 2016, ministerial delegations for planning proposals are maintained in transitional provisions in the Environmental Planning and Assessment Regulation 2000.

**Site details**

8. Until recently, the site comprised of two titles, being Lot 1, DP 71092 (230-232 Sussex Street) and Lot 11, DP809434 (234-238 Sussex Street). On 12 June 2015, the two titles were consolidated into Lot 1 in Deposited Plan 1207088.
9. Currently, the site encompasses the Foley Bros warehouse heritage building at 230-232 Sussex Street and a 13 storey commercial tower with podium and basement at 234-238 Sussex Street.

10. With an area of 2,086 square metres, the corner site has street frontages to Sussex Street and DrUITt Place. Sussex Street is the primary street frontage and pedestrian access, while DrUITt Place is a secondary street frontage currently providing vehicle access into 234-238 Sussex Street. Vehicular access is currently provided to 230-232 Sussex Street via Sussex Street.
11. The site is located within the western corridor of central Sydney in a block bordered by Market Street to the north, Kent Street to the east, DrUITt Place to the south and Sussex Street to the west. It is in a highly accessible location, approximately 200 metres from Town Hall Station, and is surrounded by a mix of development types consisting of commercial offices, shops, residential accommodation, serviced apartments and heritage buildings. The site is shown marked in red on the aerial photo in Figure 1.



**Figure 1 - Location Plan of 230-238 Sussex Street, Sydney**

12. The Foley Bros warehouse heritage building item at 230-232 Sussex Street is currently unoccupied, while the proponent has indicated that the commercial tower at 234-238 Sussex Street will be tenanted until March 2016. As well as retail and office tenancies, the site at 234-238 Sussex Street accommodates a commercial car park within the basement and elevated podium levels.

### The Planning Proposal

13. The Planning Proposal primarily seeks to amend the maximum height control in SLEP2012 to enable a mixed use hotel and residential tower and podium of up to RL115.9 in height.
14. Under the existing controls in SLEP2012, the site's permissible height is 80 metres, being RL 85.57. The permissible floor space ratio is 8:1. The site is eligible for additional floor space of 2:1 for office, business or retail premises and 3:1 for residential accommodation, serviced apartments or hotel or motel accommodation. Further to this, the proposal is eligible for 10% bonus floor space or height if a competitive design process is undertaken and design excellence is demonstrated.
15. The proposed changes to the planning controls will not increase the site floor space ratio.
16. The site contains a heritage item at 230-232 Sussex Street. The listed item is defined as Former "Foley Bros" warehouse, including cartway, courtyard and interiors. The site is also identified within the York Street/Clarence Street/Kent Street Special Character Area under SLEP2012.
17. Redevelopment will secure the refurbishment and adaptive re-use of the Foley Bros warehouse heritage building to be incorporated into the proposed hotel use and improve the amenity of the future residential apartments.
18. The redevelopment will contain up to 200 hotel rooms, increasing the supply in Central Sydney and supporting the City's recently adopted Tourist and Visitor Accommodation Action Plan

### Planning Proposal – Proposed Amendments to SLEP2012

19. The planning proposal at **Attachment B** proposes to insert an amending clause that will apply exclusively to the site to:
  - (a) establish objectives that promote solar access and limit the extent of additional overshadowing on future Town Hall Square; and
  - (b) permit a maximum building height of RL 115.9 metres.
20. These controls will result in an amendment to the height map to include a notation to the specific area applicable to the height increase, referencing the site-specific clause under Part 6 of SLEP2012.
21. The intent is to prescribe a maximum building height, as well as the requirement to transition the building envelope from this maximum height to lower heights at the east and south to limit the extent of overshadowing on future Town Hall Square.

### Proposed amendments to Sydney Development Control Plan 2012

22. Site specific DCP provisions at **Attachment C** of this report provide further guidance to the proposed amendments to SLEP2012. The DCP provisions refer to site specific controls and provisions in Section 6.3 of SDCP2012, including:

- (a) building form and external appearance;
  - (b) tower location;
  - (c) setbacks;
  - (d) street frontage heights;
  - (e) environmental impacts;
  - (f) vehicular access; and
  - (g) design excellence.
23. To provide further clarity and certainty, it is recommended that the methodology for calculating the transition in height be replaced with the details of a plane. The details are discussed in the “height transition” section of this report.
24. The changes are identified at **Attachment C**, with deleted wording shown in ~~striketrough~~ and additional wording shown in *italics*.

## KEY IMPLICATIONS

### Outcomes of public exhibition and public authority consultation

25. Public authority consultation was also carried out in accordance with the Gateway Determination, which nominated five public authorities for consultation - Transport for NSW, Roads and Maritime Services, the Office of Environment and Heritage, Sydney Water and Ausgrid.
26. Transport for NSW, Ausgrid, and Sydney Water raise no objections to the Planning Proposal, although Sydney Water and Transport for NSW specify matters to be considered in a future development application.
27. One submission was received from a resident at 222-228 Sussex Street which adjoins the site to the north.
28. As the Planning Proposal was advertised at the same time as the Stage 1 development application, the relevant concerns raised by the body corporate of 447 Kent Street in the Stage 1 submission are also addressed.
29. Key issues raised in public consultation are discussed below. All matters raised in submissions are addressed in detail in the submissions table at **Attachment A**.

### Key issues raised in submissions

#### Height

30. The increase in height would be inconsistent with the height of surrounding buildings.

## Response

31. The proposed maximum height is inconsistent with heights of the surrounding buildings. The diagram in Figure 2 shows existing tower buildings in the vicinity range from 80 metres to 130 metres. For example, Mantra on Kent, north west of the site, has a building height of approximately 80 metres, Astoria Apartments to the north is approximately 96 metres, the two Darling Park Towers are approximately 126 metres and 127 metres, and the office building at 1 Market Street is approximately 133 metres. The proposed maximum height of building prescribed by RL115.9 would be approximately 110.15 metres and is within this range.



Figure 2: Heights of existing buildings in the vicinity of the subject site (outlined in blue)

## Setback

32. Inadequate tower setbacks on all sides will cause privacy, ventilation, sunlight, heritage, views and character impacts.

## Response

33. The setbacks are consistent with the existing requirements of SDCP2012, the Apartment Design Guide guidelines or improve on the setbacks of the existing building and nearby buildings. Potential impacts will be minimised or improved as a result of a new development complying with the proposed setbacks.

34. Both objectors at 222-228 Sussex Street and 447 Kent Street have buildings with windows on the boundary with the subject site. For the residential tower at 222-228 Sussex Street, the southern windows were approved provided they could be sealed up or enclosed at a later date should a building be built on the subject site within 12 metres of the boundary. This is subject of a covenant registered on title. The proposed tower is setback 15 metres from the boundary and would not trigger the covenant obligation to seal or enclose the southern windows. The potential privacy and ventilation concerns are minor and will be mitigated further through future design and assessment.
35. For the commercial building at 447 Kent Street, adequate setbacks are provided. It is appropriate to equitably share building separation to protect privacy between adjoining sites. Generally, the objective of the character areas include conserving, maintaining and enhancing existing views and vistas to buildings and places of historical and aesthetic significance, predominately from the public domain. While Darling Harbour is a significant historic view, the objector's site is not of historic significance to the area, and any private view loss would not be considered detrimental to the character of the area as a whole.

#### **Hotel Use**

36. Objects to a hotel use which would cause noise impacts.

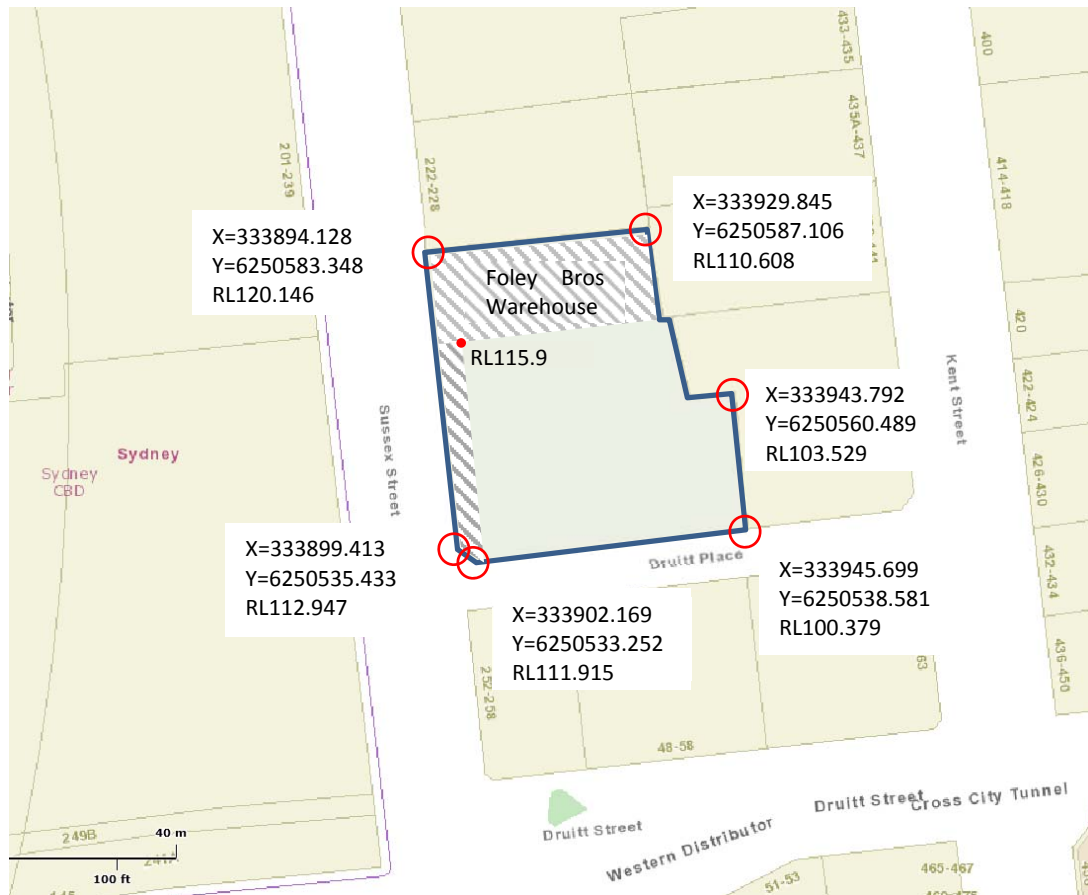
#### **Response**

37. The site is zoned B8 Metropolitan Centre. The objectives of the zone is to provide for a variety of uses characteristic of Sydney's global city status. It is desirable to have a mixture of uses within Central Sydney. A hotel use supports Sydney's visitor accommodation industry and economy in line with the City of Sydney Visitor Accommodation Action Plan.

#### **Transitional height**

38. The intent of the proposal is to specify a maximum building height and transition height across the site to limit overshadowing of the future Town Hall Square.
39. The exhibited DCP provides a methodology to calculate this transition in height by setting the vertical angle which informs the maximum height. Together with a horizontal angle, an irregular plane is formed under which a building would not adversely overshadow future Town Hall Square.
40. Figure 3 shows the coordinates where this plane crosses the site. Because of the location of the heritage item and front setback, the maximum building height of RL 115.9 is achievable.
41. As the coordinates of the plane provide greater clarity and certainty, they will replace the methodology provisions in the draft DCP controls.
42. To ensure no additional height can be achieved by way of a variation to the new clause, an amendment to clause 4.6(8) is also proposed. By identifying the site specific controls in the clause, the development standards cannot be varied.





**Figure 3 Coordinates for a Maximum Building Height Plane over 230-238 Sussex Street**

### Refinement of Upper levels

43. The indicative building shows overshadowing of a residential building to the south.
44. The proposed DCP requires solar access is met, in accordance with the Apartment Design Guide. The building envelope will need further minor sculpting or refining as a result. Analysis of the planning proposal to date indicates solar access compliance to nearby residential buildings is achievable.
45. The minor refinement will be considered and assessed as part of the design excellence process and subsequent development application stages.

### Strategic Alignment - A Plan for Growing Sydney and Sustainable Sydney 2030 Vision

46. *A Plan for Growing Sydney* is the State Government strategic document that outlines a vision for Sydney over the next 20 years. It 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. In responding to these and other challenges, the Plan for Sydney sets out four goals:

- (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.
47. To achieve these goals, the plan proposes 22 directions and associated actions, including: *Direction 1.1 Grow a more internationally competitive Sydney CBD; Direction 1.11 – Deliver Infrastructure; Direction 1.7 Grow strategic centres – providing more jobs closer to home; Direction 2.1 – Accelerate housing supply across Sydney.*
48. The Planning Proposal is consistent with these goals, directions and actions of the plan in that it will:
- (a) provide new residential, hotel and commercial floor space to meet the needs of a global city;
  - (b) facilitate development which is highly accessible by public transport; and
  - (c) increase housing supply.
49. *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 planning proposal is aligned with the following *Sustainable Sydney 2030* strategic directions and objectives:
- (a) *Direction 1 - A Globally Competitive and Innovative City* - The proposal provides an innovative urban design solution that will provide new housing and employment opportunities. New hotel rooms, close to the new Darling Harbour investment by the State Government, will support Sydney's tourist industry, a sector of critical importance to Sydney's economy, and contribute to making Sydney attractive to global investors.
  - (b) *Direction 3 - Integrated Transport for a Connected City* - The residential accommodation and hotel will take advantage of excellent proximity to public transport links and a broad range of services.
  - (c) *Direction 4 - A City for Walking and Cycling* - Opportunities for active retail frontage and greater access to the heritage courtyard and cartway. The removal of the existing commercial car park will reduce the supply of parking and help to ease congestion.
  - (d) *Direction 5 - A Lively and Engaging City Centre* - Retail opportunities at the ground floor at Sussex Street and Druitt Place will further activate this area of the City Centre.

- (e) *Direction 8 - Housing for a Diverse Population* - The proposal will increase living opportunities in the Sydney CBD. A range of unit sizes and types will be provided.
- (f) *Direction 9 – Sustainable Development, Renewal and Design* – The proposal is consistent with the principle of transit oriented development by co-locating accommodation and employment opportunities in a highly accessible area.

#### **RELEVANT LEGISLATION**

- 50. *Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and City of Sydney Act 1988.*

#### **CRITICAL DATES / TIME FRAMES**

- 51. The Gateway Determination sets the completion date for the Planning Proposal as October 2016.

#### **Next Steps**

- 52. If Council and the Central Sydney Planning Committee approve the Planning Proposal, it will be submitted to the NSW 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. Under transitional provisions this process is preserved, despite the establishment of the Greater Sydney Commission on 27 January 2016. Once finalised, the plan will be submitted to the Department of Planning and Environment for notification on the New South Wales legislation website.

#### **GRAHAM JAHN, AM**

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