

Post Exhibition - Planning Proposal - 187 Thomas Street, Haymarket - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

File No: X034468

Summary

It is vital that Central Sydney remains competitive and attractive for investment, business, employment and visitors to continue delivering employment growth for metropolitan Sydney, New South Wales and the national economies. The Central Sydney Planning Strategy adopted by Council in December 2020 ensures Central Sydney remains Australia's leading economic centre by creating capacity for new business investment and is an attractive location for workers, residents and visitors. The Strategy creates opportunities for additional building height and density in the right locations and balanced with public domain amenity, environmental sustainability initiatives, design excellence and infrastructure provision.

187 Thomas Street, Haymarket is located at the southern end of Central Sydney. In this area clusters of technology, knowledge intensive, education and start-up sectors coverage alongside government, institutional and private sector investment as part of the Camperdown Ultimo Collaboration Area and the NSW Government's Tech Central Precinct and Western Gateway.

This planning proposal will facilitate the redevelopment of a strategic site in Haymarket for a new tower that will deliver additional employment generating floor space to support innovation enterprises and will also comprise commercial office space, retail uses and visitor accommodation with a pedestrian connection and public domain upgrades. Council and the Central Sydney Planning Committee approved the planning proposal for public exhibition and gateway request in September 2020.

This report details the outcomes of the public exhibition of the planning proposal, draft development control plan (DCP) and voluntary planning agreement (VPA) for the site. The documents were exhibited from 20 January to 18 February 2021. Twenty-two submissions were received including submissions from adjoining landowners, the Parish Council of a nearby church and five from public authorities and one in support.

Matters raised in submissions included concerns that the increase in building height and density is excessive, adverse impacts to the public domain and to Christ Church St Laurance. Specific issues have been raised relating to the adjoining site at 757-763 George Street such as the setback to the eastern boundary impacting upon the development potential and amenity of future development. A summary of submissions and the City's response is at Attachment A, and key issues are also discussed in this report.

Amendments to the planning proposal, planning envelope and draft DCP have been made to address matters raised in submissions. The amendments include an increased setback to the eastern boundary and changes to design competition provisions, which are discussed in the report.

This report recommends Council and the Central Sydney Planning Committee approve the planning proposal, draft DCP and notes the City will enter into the planning agreement.

Recommendation

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of Planning Proposal - 187 Thomas Street, Haymarket, the draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket amendment, and draft Voluntary Planning Agreement, as shown in Attachments A and A1 to the subject report;
- (B) Council approve Planning Proposal - 187 Thomas Street, Haymarket, as amended following public exhibition and shown at Attachment B to the subject report, and request the relevant local plan making authority make as a Local Environmental Plan under section 3.36 of the Environmental Planning and Assessment Act 1979;
- (C) Council approve draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket amendment, as amended following public exhibition and shown at Attachment C to the subject report, noting the approved Development Control Plan will come into effect on the date of publication of the subject Local Environmental Plan;
- (D) authority be delegated to the Chief Executive Officer to make any minor amendments to the Planning Proposal - 187 Thomas Street, Haymarket and draft Sydney Development Control Plan - 187 Thomas Street, Haymarket amendment to correct any minor errors or omissions prior to finalisation; and
- (E) Council note the draft Voluntary Planning Agreement, as shown at Attachment D to the subject report will be executed under delegation of Council in accordance with the Environmental Planning and Assessment Act 1979.

Attachments

- Attachment A.** Summary of Submissions
- Attachment A1.** Legal Correspondence (Confidential)
- Attachment B.** Planning Proposal - 187 Thomas Street, Haymarket (as amended)
- Attachment C.** Draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket Amendment (as amended)
- Attachment D.** Voluntary Planning Agreement
- Attachment E.** Gateway Determination
- Attachment F.** Resolutions of Council and the Central Sydney Planning Committee (September 2020)

Background

Strategic context of the planning proposal

1. Central Sydney will continue to play a vital role in the growth and economic success of metropolitan Sydney and the national economy. The southern part of Central Sydney, including Haymarket, has developed into an emerging precinct containing knowledge intensive, creative, technology and start-up industries leveraging off nearby research and academic institutions and industry in the innovation corridor.
2. Increasing the capacity for employment growth in Central Sydney is crucial for supporting a robust, resilient and competitive economy. Where there is capacity for employment growth, opportunities for investment and development projects, along with highly skilled jobs arise. This is particularly important in the current climate, noting the need to continue to plan for development during, and after, the Covid-19 pandemic.
3. The Central Sydney Planning Strategy (the Strategy) seeks to incentivise a wide range of employment generating floor space by providing opportunities for additional building height and density in the right locations. It ensures new development delivers a high quality public domain where pedestrian amenity and public spaces are protected, balanced with environmental sustainability initiatives and infrastructure provision.
4. This planning proposal aligns with the vision set out in the Strategy and will facilitate the redevelopment of a strategic site in Haymarket for a new mixed-use tower. The proposal also aligns with several NSW Government activities in the area, including Tech Central, based around Central Station and the wider Camperdown Ultimo Innovation Corridor.
5. The site referred to as 187 Thomas Street, Haymarket is located close to Central Station at the southern end of Central Sydney. The area comprises a mixture of commercial office, retail, residential and tourist accommodation uses. The site is in the future Haymarket/Ultimo tower cluster as identified in the Strategy, where opportunities exist to unlock additional capacity for economic and employment growth.
6. In April 2020, the landowner, Greaton Development, submitted a planning proposal request for 187 Thomas Street, Haymarket. The request seeks to insert site-specific provisions in the Sydney Local Environmental Plan 2012 (LEP) in line with the City's Central Sydney Planning Strategy and draft Guideline for Site-Specific Planning Proposals in Central Sydney.
7. At their September 2020 meetings, Council and the Central Sydney Planning Committee (CSPC) approved the planning proposal to seek gateway determination and be placed on public exhibition. Council approved the draft DCP and voluntary planning agreement (VPA) for public exhibition at that time.
8. The Department of Planning, Industry and Environment (Department) issued a gateway determination on 9 November 2020, approving the planning proposal to proceed to public exhibition. The gateway required public exhibition for at least 28 days and consultation with nominated public agencies. The gateway determination also included conditions to provide greater detail on the provision of below ground floor space, address the principles of growth in the City's Local Strategic Planning Statement (LSPS) and address the Ministerial Direction for acid sulfate soils. The additional information was included in an amended planning proposal prior to exhibition.

9. The planning proposal was publicly exhibited in accordance with the gateway determination from 20 January to 18 February 2021. The draft DCP and VPA were exhibited with the planning proposal. The City notified adjoining residents, occupants and landowners within 75 metres of the site of the public exhibition and that the planning proposal and appendices, which could be viewed on the City's website.
10. The City received 22 submissions. A summary of all submissions, and the City's response is at Attachment A. Key issues raised in the submissions are discussed later in this report. Following a review of issues raised in submissions the planning proposal has been updated and the planning envelope amended. Amendments to the planning proposal are shown in italics and deleted text shown as strikethrough. The draft DCP has also been updated with new amendments are shown in italics, deleted text and figures shown as strikethrough.

The site

11. The legal description of the land affected by this planning proposal is Lot 100 DP 204958, referred to in this report as 'the site' or '187 Thomas Street'. An aerial image and diagram of the site and surrounds are shown in Figure 1 and Figure 2 below.

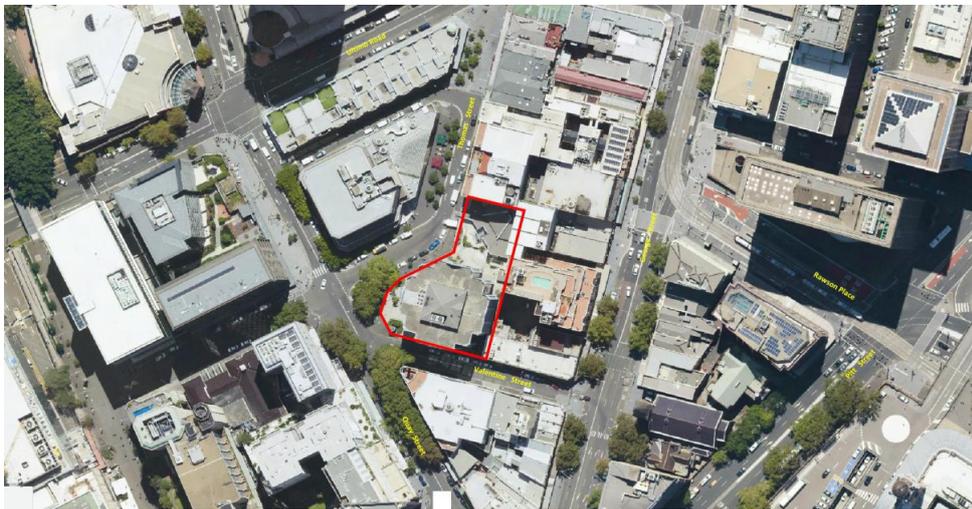


Figure 1: Aerial image of the subject site (in red) and immediate vicinity

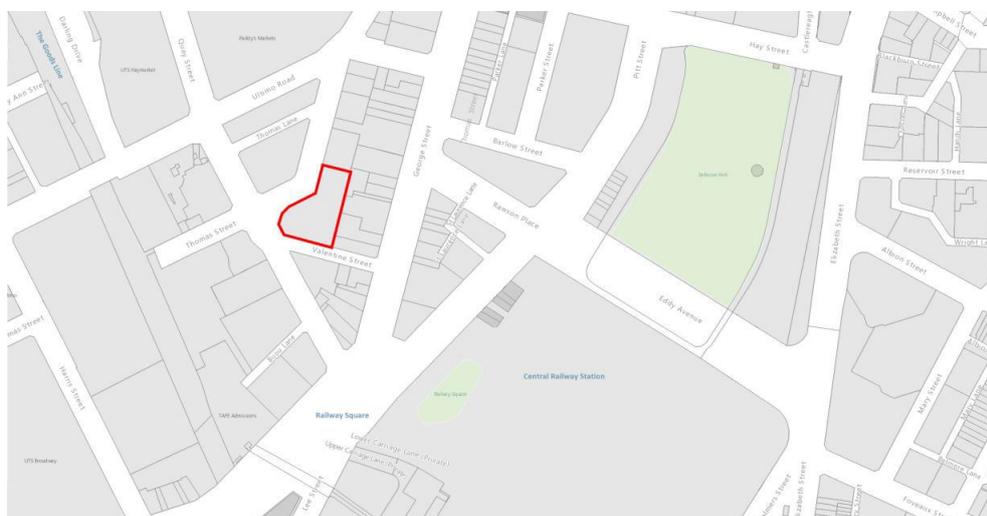


Figure 2: Diagram of the site location and surrounding area.

12. The site is irregular in shape and has a total area of 2,327 square metres. It has frontage to Thomas Street along its north-west boundary, Quay Street to the west, Valentine Street to the south and the east and north boundaries are shared with adjoining lots that front George Street to the east and Thomas Street to the north.

Existing development on the site

13. Existing development on site consists of a ten storey commercial office building with ground floor retail that opens onto a publicly-accessible open-air plaza that fronts the intersection of Quay Street and Valentine Street. The plaza is elevated relative to Thomas Street and forms part of a pedestrian connection to George Street through Capitol Terrace to the east of the site.

Adjoining Development

14. Development surrounding 187 Thomas Street comprises a mixture of retail, commercial, residential, student and tourist accommodation uses, as follows:
 - (a) a cluster of heritage listed commercial buildings, two to four storeys in height front George Street to the south of the site. Local heritage item, former 'Sutton Forest Meat' building adjoins the site to the east, as does a small retail building and a 14 storey retail and residential apartment building, Capitol Terrace.
 - (b) a six storey commercial building comprising retail, education and office uses adjoins the site on its northern boundary. To the north-west of the site on Thomas and Quay Street is the Prince Centre with food and drink premises in the podium and office uses above.
 - (c) a row of towers with residential, tourist and student accommodation fronts Quay Street to the west of the site. Outdoor dining is located on the widened footpath on the western side of Quay Street.
 - (d) small and medium commercial buildings between two and six storeys in height are located to the south of the site, in the block bound by Valentine Street, George Street and Quay Street. These buildings generally consist of office, retail, entertainment, food and drink and tourist accommodation uses.

Development intent for the site

15. The proposal's indicative scheme consists of a new 47 storey commercial tower to a height of RL 226.80 metres, with approximately 47,000 square metres of employment generating floor space that includes retail, office, visitor accommodation and an innovation tech hub.
16. The proposed tower will have frontages to Thomas, Quay and Valentine Streets. Vehicle access to the basement carpark, off street loading and end of journey facility will be from Thomas Street. The proposal includes an expanded public plaza fronting Quay Street at the intersection with Thomas and Valentine Street to integrate with the future public square to be located on Quay Street.

Planning proposal - amendments to the LEP

17. The planning proposal at Attachment B proposes to amend the LEP to insert new site-specific provisions for 187 Thomas Street, Haymarket under Division 5 Site specific provisions. The objectives of the provisions are as follows:
- (a) to permit new development that demonstrates the appropriate distribution of built form and floor space that is consistent with the future context described in the Central Sydney Planning Strategy;
 - (b) permit a new tower on site to a maximum building height of RL 226.80 metres;
 - (c) allow maximum floor space ratio (FSR) of 20:1, including design excellence, comprising:
 - (i) mapped floor space of 7.5:1;
 - (ii) accommodation floor space of 1.5:1 (anticipated to be delivered as part of the changed to the LEP in the Central Sydney planning proposal, or this proposal, whichever is gazetted first);
 - (iii) end of journey floor space of 0.3:1;
 - (iv) site specific floor space of 8.89:1;
 - (v) additional floor space up to 10 per cent if the proposal demonstrates design excellence, to a maximum floor space ratio of 20:1;
 - (d) an option of up to 1.5:1 additional floor space ratio (FSR) located below ground for the provision of a laboratory, auditorium or hotel back of house facilities; and
 - (e) to ensure development consent can only be granted if the development delivers employment generating uses, a through-site link and public domain improvements.

Draft development control plan

18. A site specific DCP is at Attachment C to this report and provides further guidance for development on the site consistent with the LEP amendments. The draft DCP provisions include:
- (a) built form
 - (b) tower location
 - (c) setbacks
 - (d) street frontage heights
 - (e) vehicular access
 - (f) environmental amenity impacts
 - (g) design excellence

- (h) environmentally sustainable development targets.
19. Following feedback raised in submissions, the eastern setback to the planning envelope has been increased from 1 to 3 metres. The planning proposal and draft DCP have been updated to detail the revised setbacks that provide greater separation. Discussion on the revised setback is in the following sections of this report, at paragraph 54.

Voluntary planning agreement (VPA)

20. A VPA at Attachment D to this report was prepared and exhibited concurrently with the planning proposal and draft DCP. The public benefits secured through this VPA include monetary contributions towards community infrastructure in Central Sydney, and affordable housing in the City of Sydney local government area, along with a restrictive covenant on the use of the below ground floor space.

Key Implications

Outcomes of public exhibition and public authority consultation

21. The planning proposal, draft DCP and planning agreement were exhibited from 20 January to 18 February 2021.
22. The City sent 900 letters to nearby landowners and occupants to notify them of the public exhibition and provided information on how to view the supporting documentation, which was featured on the City's Sydney Your Say website.
23. A total of 22 submissions were received in response to the exhibition, of which one submission was in support of the proposal.
24. The City's response to the issues raised in submissions are discussed below and in the submissions table at Attachment A. Detailed legal submissions from the adjoining landowner are included at Confidential Attachment A1.

Public agency submissions

25. Public agency consultation was carried out in accordance with the gateway determination. Heritage NSW, Sydney Airport Corporation, Air Services Australia, Commonwealth Department of Infrastructure and Regional Development, Civil Aviation Safety Authority (CASA) and Transport for NSW were all consulted.
26. In their submission, Transport for NSW raised no significant issues with the planning proposal. However they advised that during the preparation of any future detailed development application for the site, the applicant should consider the preparation of a transport impact assessment to identify any potential impacts that may arise.

27. In a separate submission, Transport for NSW raised concerns regarding the planning envelope overshadowing the future Central station 'third square', and potential public space in the proposed over-station development at Central which is not policy or publicly known about. The planning proposal is consistent with the sun access plane provisions for Railway Square as part of the Central Sydney Planning Strategy which protects solar access to the northern section of the future square between 11.00am and 12.00 noon. Furthermore, the height of the planning envelope is consistent with the heights for the Haymarket Ultimo tower cluster, identified in the Strategy as a location where additional building height and density may be considered to allow for greater employment generating floor space.
28. The Commonwealth Department of Infrastructure and Regional Development advised the change to the maximum permissible building height for the subject site will result in penetration of the prescribed airspace for Sydney Airport. Any future detailed development application would constitute a controlled activity and require consultation and approval from Sydney Airport prior to determination.
29. Heritage NSW advised the planning proposal is unlikely to have any physical impact on any State heritage items. They did note potential visual impact to two State heritage items, namely the Sydney Terminal and Central Railway Station Group and Christ Church St Laurence. They advised that the proposal had the potential to interrupt and impact upon significant views of the Central Station clock tower and views of the Church. Further work is recommended at the detailed design stage to demonstrate how the new development can provide a more sympathetic backdrop and setting for the heritage items. It was also recommended that actions are taken to mitigate, manage and avoid any adverse impacts to nearby heritage items.
30. Sydney Airport and the CASA raised no objection to the proposal yet noted that due to the height of the planning envelope, any future detailed development application would require controlled activity approval from Sydney Airport, who will also consult other stakeholders.

Support

31. During public exhibition, a submission was received in support of the proposed scheme, noting Haymarket is in need of quality high-rise development as the business district expands. Amending the planning controls to allow for an increased maximum building height would help deliver a strong vibrant future for the city to overcome the constraints of space which could prevent further economic growth.

Additional building height and floor space

32. Seven submissions objected to the proposed height and density. The submissions expressed concern at the increase in the maximum building height, labelling the revised controls an extraordinary height not in keeping and would dominate the area, resulting in an overly dense environment with congestion impacts in Haymarket.
33. This planning proposal seeks to increase the maximum building height and floor space capacity in a manner consistent with the Central Sydney Planning Strategy. The Strategy has identified locations that can support development and opportunities for further economic growth that support the productivity of Sydney and NSW. Additional height and density is needed in these locations as Central Sydney is geographically constrained by the harbour, parks and the rail corridors.

34. This site is within the Haymarket Ultimo tower future cluster area identified in the Strategy where additional building height and density can be accommodated without overshadowing parks and public squares and where it is well serviced by existing and future transport. The planning envelope, at 215 metres, is in line with the heights envisaged by the Strategy in this location, as well as the new proposed towers by Atlassian and Dexu/Frasers at the Western Gateway precinct at Central Station.

Adverse public domain amenity impacts

35. Six submissions objected to the proposal on the grounds it would result in adverse impacts to public domain amenity. The submissions note the proposal may create wind tunnels, particularly along Valentine Street. They also noted that a tower of this height may overshadow surrounding streets and residential apartment buildings.
36. These issues were key considerations. The planning proposal is consistent with a key move of the Strategy in that additional building height and density may be unlocked where it will not result in significant adverse wind and daylight impacts to the public domain. The proposed planning envelope has been developed to ensure adverse environmental amenity impacts including excessive wind speeds are minimised. Wind tunnel testing has been completed as part of the preparation of this planning proposal.
37. The Wind Impact Assessment found the wind conditions in the surrounding public domain would generally remain comfortable and equivalent to the existing wind conditions. It did however identify some instances where the wind conditions would exceed the criteria for some uses, such as outdoor dining, which typically require a calm wind environment. To mitigate against any potential adverse conditions, the draft site-specific DCP includes provisions describing built form measures to address these issues, if needed. These measures include a notch on the western elevation above the podium and a rounded south-west corner of the building, which would redirect wind horizontally and away from the public domain.
38. The planning envelope has been amended to increase the eastern boundary setback from 1m to 3m. This increased setback will provide greater building separation and visual separation between any future development on the subject and adjoining sites, as well as preventing adverse wind conditions on Valentine Street.
39. Additional wind testing will take place following the design competition, as part of the detailed development application. Additional wind tunnel testing will be undertaken following the design competition and accompany the detailed development application, providing a detailed analysis on the wind impacts as a result of future development on site.
40. The planning proposal was accompanied by an Urban Design Report prepared by FJMT detailing the environmental amenity testing undertaken for the planning envelope to ensure consistency with the Strategy. The analysis measured the public domain daylight levels of the planning envelope compared to the base case envelope, expressed numerically as sky view factor (SVF). The daylight analysis found that the SVF for the proposed planning envelope would be equivalent to that of the base case envelope, and consistent with the requirements of the Strategy.

Heritage

41. Five submissions raised the potential of the proposal to impact on the character of Haymarket, as well as adjacent heritage items. The historic character of Haymarket was highlighted, noting there are limited historical buildings in the area and they should be protected from rampant development and kept intact as it is.

42. This planning proposal facilitates the redevelopment of the subject site, including demolition of the existing building, which was constructed in the late twentieth century and is not listed as a heritage item.
43. The subject site adjoins a local heritage item, the Sutton Forest Meat building and is in proximity to Christ Church St Laurence, a State heritage item on George Street. The planning envelope has been designed to ensure future development sympathetically responds to adjacent heritage. The podium height aligns with the height of the Sutton Forest Meat building and an 8 metre setback to Valentine Street preserves views to the Christ Church St Laurence. The draft site-specific DCP has been prepared to guide future development that positively relates to adjoining development, in an appropriate form, articulation and materials that will appropriately respond to nearby heritage.

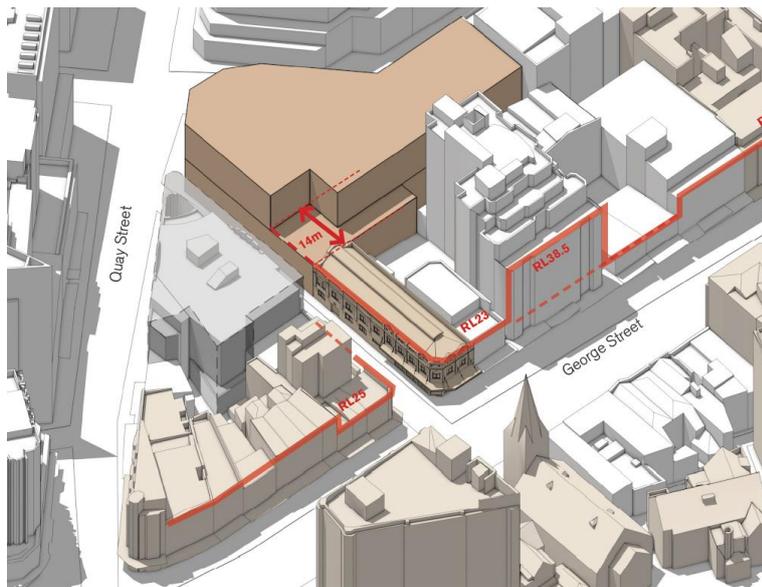


Figure 3: Podium height is setback to the eastern boundary to align with the adjoining Sutton Forest Meat Building heritage item.

Overshadowing of apartments

44. Three submissions objected to the planning proposal on the grounds the height and scale of the building would result in additional overshadowing of nearby residential apartment buildings, including the Quay Haymarket apartment building that fronts Quay Street to the west of the site.
45. A further detailed shadow study was prepared by FJMT and demonstrated that the proposal would not result in any additional overshadowing impacts at mid-winter to the Quay Haymarket apartment building, as it located to the north-west of the subject site. The adjacent apartment buildings fronting Quay Street, to the south of the site would experience some reduction in solar access, however most apartments will maintain at least two hours of daylight.

Impacts to Christ Church St Laurence

46. Five parishioners and the Parish Council of Christ Church St Laurence objected to the proposal, concerned future development would result in adverse impacts to the church. The church, located on George Street, fronts the intersection with Valentine Street and is 80 metres from the subject site. Issues raised include impacts to the view corridor along Valentine Street to the church, increased competition for on-street parking impacting elderly parishioners and additional overshadowing of the church and its stained-glass window. Objectors also noted the proposed tower may result in a wind tunnel effect along Valentine Street with adverse impacts upon outdoor liturgy services in front of the church, on George Street, as well as congregational gatherings after important services such as weddings and funerals.
47. Workers in the development are unlikely to drive to the new development and use on street parking as the subject site is located in close to Central Station which includes metropolitan and regional train connections, the Sydney Metro which is currently under construction, as well the tram and bus network. On-street parking in the area is also timed and unlikely to be used by workers. An amount of on-site parking is permitted under the current planning controls which will enable some on-site parking plus servicing.
48. Wind conditions in the Christ Church St Laurence forecourt on George Street were measured as part of the wind tunnel testing of the proposed envelope. Wind conditions outside the Church will generally remain suitable for standing, and congregating, following future development on the 187 Thomas Street site. Testing demonstrated a minor increase in wind speed from 3.6m/s to 4.2m/s, which is considered an appropriate wind speed for the use of the space, similar to the conditions for Railway Square and Hyde Park. The wind safety standard for the George and Pitt Street frontages of the church will continue to be achieved.
49. Following public exhibition additional shadow analysis was prepared on the impact of future development on the stained-glass windows on the Church's George Street elevation, shown in Figure 4 below. The study, prepared by FJMT tested shading on the Church's front facade every hour from 9.00am to 6.00pm, found the proposal would result in a modest amount of additional shadowing.
50. The results show 10 minutes of additional shadowing between 1.10pm and 1.20pm in summer; increasing to a maximum of 2hrs 15m between 1.25pm and 3.40pm at 21 March; and 5 minutes additional shadowing at 3.20pm in winter. It is noted the planning envelope forms the maximum extent of future development and it is anticipated that the final design may be reduced in bulk and scale following the design competition, reducing any further additional shadowing.

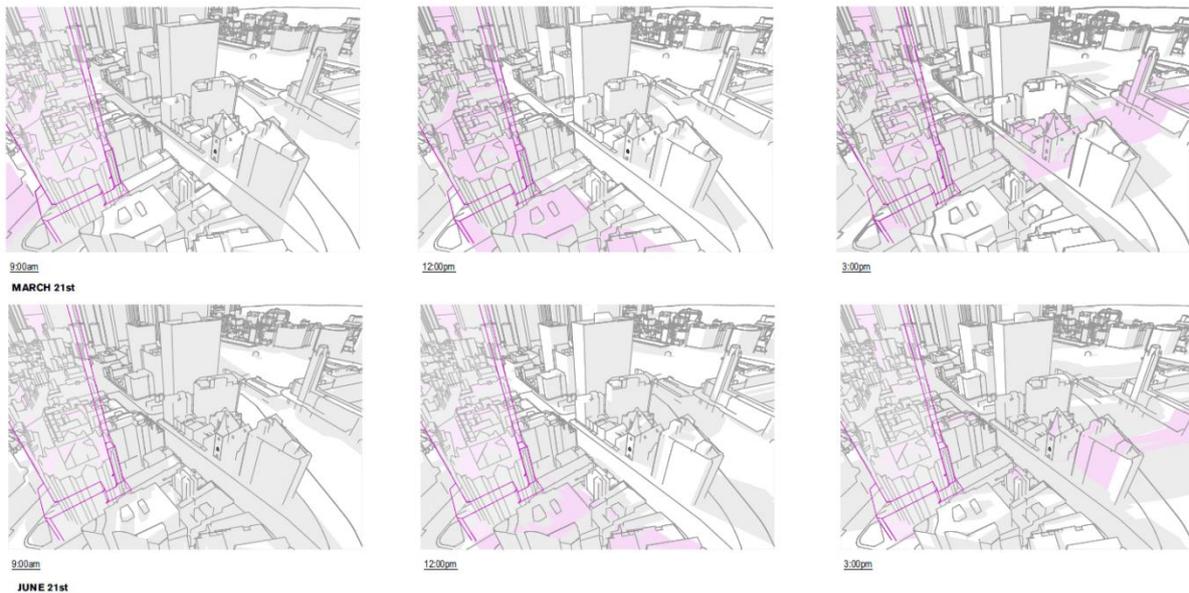


Figure 4: Shadow analysis of the planning envelope, outlined on Christ Church St Laurence, to the right, Existing shadows shown in grey and potential future shown in purple.

51. Views along Valentine Street towards Christ Church St Laurence, which is a State heritage item, were subject to careful considered during the preparation of the planning envelope, which includes a 14 metre podium setback to the eastern boundary to maintain the important views towards the Church, as shown in Figure 5, below.

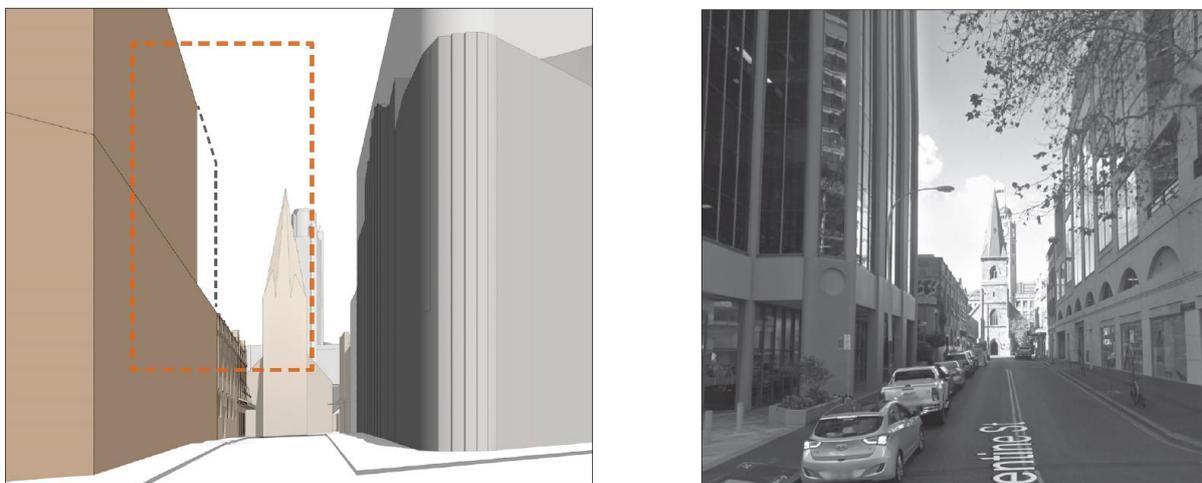


Figure 5: Existing and proposed views along Valentine Street towards Christ Church St Laurence, detailing the podium setback to the eastern boundary to maintain sky views (left).

Impacts to 757-763 George Street

52. The landowner of the two sites adjoining 187 Thomas Street along its eastern boundary lodged five submissions objecting to the planning proposal. Issues raised by the landowner are summarised and addressed below. The detailed legal submissions provided by the adjoining landowner are included at Confidential Attachment A1.

Contravenes the draft Central Sydney DCP and Sydney DCP 2012

53. The Central Sydney DCP provides guidance on suitable street and boundary setbacks and a mechanism to vary these setbacks where a planning envelope can demonstrate that it will not have an adverse impact on pedestrian wind and daylight conditions.
54. The publicly exhibited planning envelope included a one metre setback to the eastern boundary adjoining 757-763 George Street to a height of RL 178 metres. This elevation was primarily intended to accommodate the lift core and would not include any windows. Following a review of submissions, this setback has been revised to three metres, shown in Figure 6, below. The amended setback will increase the separation between future development on the adjoining sites to a minimum of six metres and nine metres to the west facing hotel rooms in the approved hotel development on the 757-763 George Street site.
55. This increased building separation will provide visual separation between the future buildings as read from Valentine Street and allow for the flow of wind to be directed between the two buildings, minimising adverse wind conditions and help maintain acceptable daylight levels at ground level. The increased building separation addresses the adjoining landowner's concerns regarding building separation and will provide the approved west facing hotel rooms with sufficient amenity.

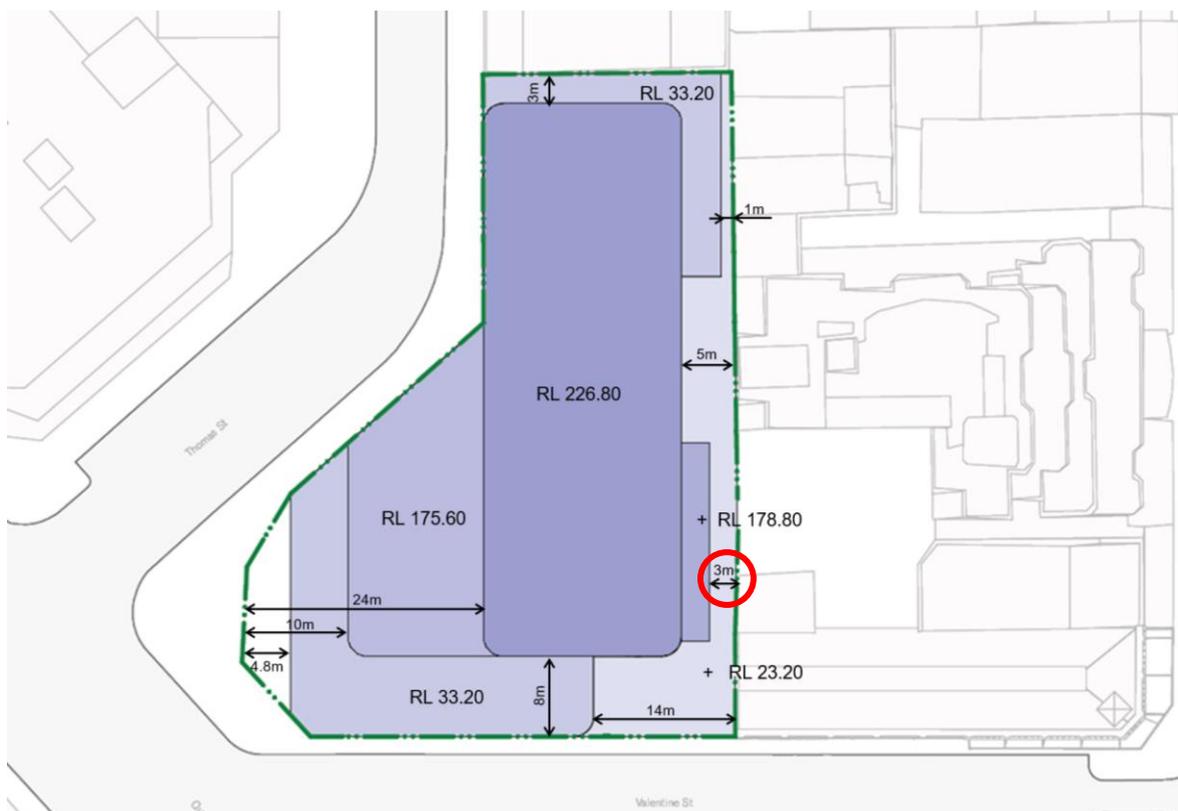


Figure 6: Indicative plans detailing the setbacks of the planning envelope, including the revised 3 metre eastern setback, shown circled.

Prevents amalgamation with 757-763 George Street

56. Progressing this planning proposal and the site-specific LEP provisions LEP does not require nor prevent the subject site amalgamating with an adjoining site in future. This planning proposal details the planning envelope and requirements to facilitate one particular development outcome. A development across amalgamated sites could proceed through various pathways depending on the nature of a proposal such as under the existing development controls of the LEP and DCP or further changes to the planning controls.
57. The Central Sydney Planning Strategy encourages amalgamation and identifies opportunities where amalgamation of adjoining sites could occur. However, it does not require amalgamation which could sterilise good development opportunities.

Fails to demonstrate site specific and strategic merit against Ministerial Directions and local strategies

58. In their submission, the adjoining landowner states that the subject planning proposal fails to demonstrate site specific and strategic merit in that it does not address the required Ministerial Direction, the Principles for Growth contained in the City's Local Strategic Planning Statement (LSPS) and the key moves of the Strategy.
59. The subject planning proposal for 187 Thomas Street, Haymarket has been assessed by the City and reported to Council, the Central Sydney Planning Committee and the Department who determined that it demonstrates sufficient site-specific and strategy merit to proceed.
60. In their gateway determination, the Department imposed conditions for greater discussion on the planning proposal's compliance with the section 9.1. Ministerial Directions and with the Principles for Growth contained in the City's (LSPS). All information requested by the Department in the gateway determination conditions was returned to the Department prior to commencement of public exhibition.
61. The planning proposal demonstrates sufficient site-specific and strategic merit as it will deliver additional employment generating floor space in a tower cluster area, close to public transport and will support emerging industries and businesses. The proposed development will also meet environmental requirements. Furthermore, as amended the planning envelope will help ensure future development will not result in significant adverse amenity impacts to the public domain and adjacent sites.

Inconsistent with the objects of the Environmental Planning and Assessment Act

62. The submission suggests that the subject planning proposal is contrary to the legislative objects of the Environmental Planning and Assessment Act relating to environmental outcomes, orderly development, design and amenity, assessment responsibilities and community participation as it did not acknowledge the non-compliances of the envelopes in its assessment.

63. The Strategy enables setbacks to be varied by creating metrics against which the planning envelope can be tested. The base case envelope, along with urban design considerations, enables variations where the planning envelope can demonstrate an equivalent or improved outcome. The Urban Design Report prepared by FJMT that accompanied the planning proposal included environmental amenity testing with a base case envelope that was consistent with the draft Central Sydney DCP requirements at the time when it was prepared and lodged. This includes the required 8 metre street setback, podium height, chamfers and tapering. As the base case envelope complies with the draft Strategy, the wind and daylight amenity testing is considered to give an appropriate assessment on the impact of future development on site.

Site isolation and impact on future development at 757-763 George Street

64. The planning envelope will not result in the isolation of any adjoining site. Surrounding sites are able to develop under the existing LEP provisions.
65. The adjoining site, 757-763 George Street currently holds development consent for a 15 storey hotel building (shown in Figure 7, below) that comprises the adaptive reuse of the Sutton Forest Meat Building, which is a local heritage item. This approval is independent of any development at the subject site and could proceed irrespective of a development on the subject site under the proposed planning controls.
66. The approval for 757-763 George Street includes west facing hotel rooms, approximately six metres from the common boundary. With the increased setback introduced following exhibition there is a minimum building separation of nine metres from the subject planning envelope, shown in Figure 8, below. This separation is considered to be appropriate and will deliver adequate amenity to these hotel rooms.
67. In addition to the development consent for a 15 storey hotel building, the adjoining site, 757-763 George Street landowner has also lodged a request to prepare a planning proposal to facilitate a taller hotel development. The request is currently under assessment by the City and will be reported to Council in coming months. The 187 Thomas Street planning proposal and the approved development consent for the 757-763 George Street site indicates that the site will not be adversely impacted or isolated by the subject planning proposal.

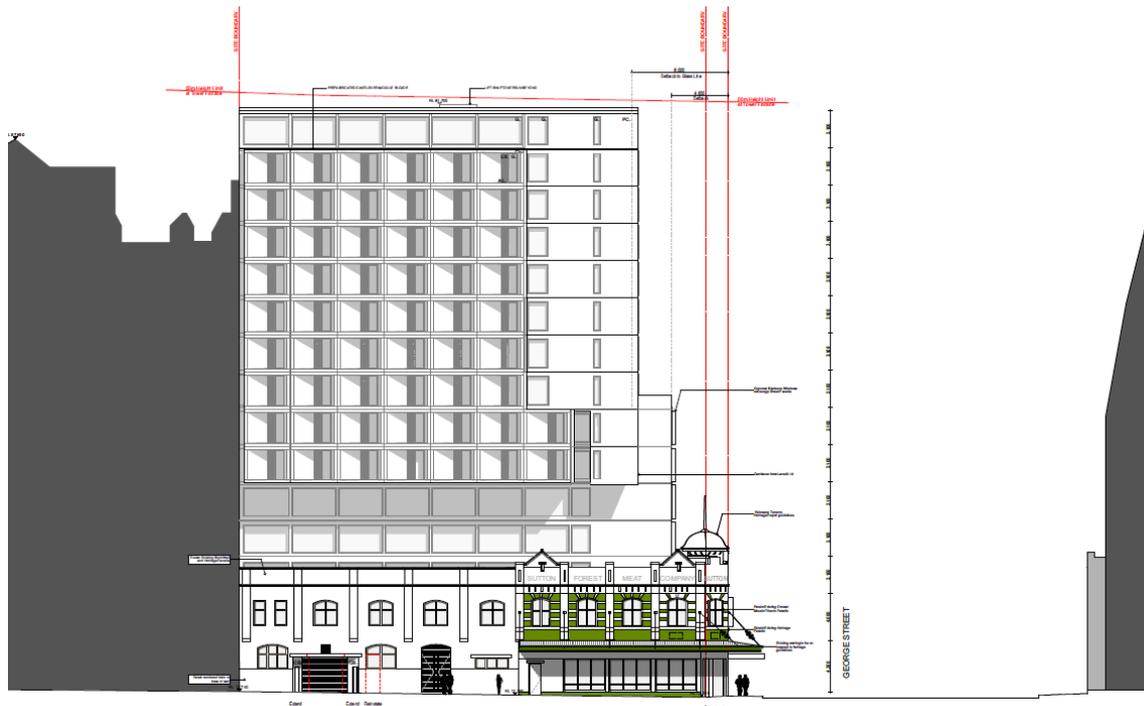


Figure 7: Valentine Street elevation of the approved hotel development on the 757-763 George Street site. Existing development on the 187 Thomas Street site is shown to the left.

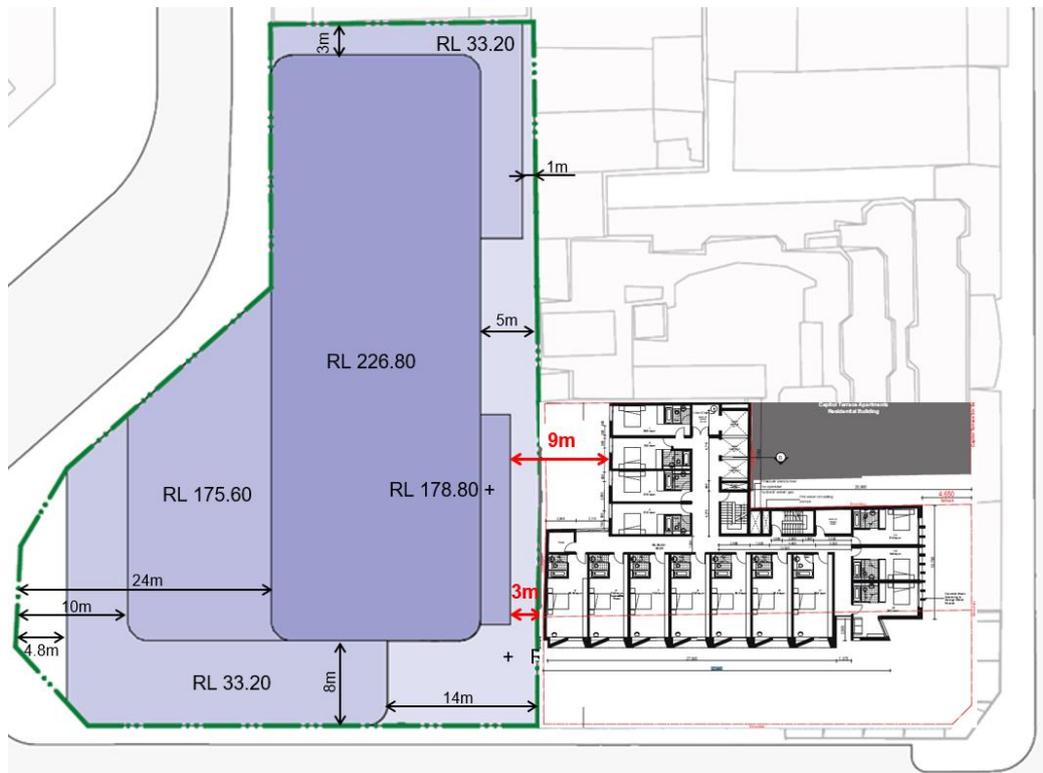


Figure 8: Indicative plans detailing the revised eastern setback of the planning envelope and separation to the west facing hotel rooms approved for the 757-763 George Street site.

Benefits of an amalgamated site

68. In their submission, the adjoining landowner suggests that a proposal that incorporates both the 187 Thomas Street and 757-763 George Street sites could result in greater benefits than a stand-alone proposal, maximising employment floor space yield.
69. The Strategy encourages the amalgamation of appropriate adjoining sites where possible, however, it does not require amalgamation. The Built Form Capacity Study, at Appendix B of the Strategy, identified possible amalgamations in Central Sydney including part of the subject block. The purpose of this study was to analyse the potential development capacity that could be delivered under the Strategy but was not to prescribe development outcomes. The Strategy does not establish a quantum of floor space that each site is required to achieve. The planning proposal is consistent with the intent of the Strategy as it will facilitate the delivery of additional employment generating floor space. It is a matter for individual landowners whether or not to proceed with site amalgamations.

Fails to give effect to the local strategic planning statement

70. The planning proposal is consistent with City Plan 2036, the City of Sydney's Local Strategic Planning Statement (LSPS). The planning proposal facilitates the delivery of additional employment generating floor space while protecting the amenity of the adjoining residential apartments in a planning envelope that ensures acceptable wind and daylight conditions in the adjacent public domain are maintained.
71. The City's LSPS sets a vision for a green, global and connected city, where new development will help deliver a stronger, more competitive Central Sydney that comprises a variety of business clusters. However, it does not place a target on the amount of new employment generating floor space that is to be delivered, nor does it require amalgamations. The planning proposal will deliver a significant amount of new commercial floor space, including an innovation tech hub to nurture and foster new start-up businesses.

Fails to properly consider the Central Sydney Planning Strategy

72. The planning proposal is consistent with the key moves of the Strategy as it will facilitate the delivery of additional employment generating floor space in a revised planning envelope that will result in acceptable amenity outcomes to adjoining sites and the public domain. Further, the proposal will deliver a development with design excellence and environmental performance, as well as capitalising on additional public transport in the precinct.

Fails to properly consider context through appropriate setbacks

73. The Strategy provides opportunities for tower setbacks to be varied where it can be demonstrated that adequate public domain amenity is maintained. The planning envelope has been prepared with consideration of its context and the surrounding heritage and urban built form.
74. The podium height fronting Valentine Street matches that of the adjoining heritage item, the Sutton Forest Meat Building and maintains views towards Christ Church St Laurence. Furthermore, the eastern setback has been increased to 3 metres to provide a clear visual distinction between any future development on the adjoining site and provide adequate separation.

Will not result in the orderly and economic use of land

75. The Strategy provides a 20 year plan to ensure Central Sydney is able to deliver continued growth. It includes new opportunities for additional building height and density that is balanced with the protection of public domain amenity and other urban design considerations. Provided sites meet a minimum size threshold (which the subject site does), the Strategy does not require sites to amalgamate to increase employment generating floor space through a planning proposal process.
76. The subject proposal provides for one specific development outcome for the 187 Thomas Street site. It will not render any adjoining site undevelopable nor impact any existing development approval as these sites will retain their existing development potential with the controls available under the LEP and DCP.

Fails to comply with the Department's Guideline for Preparation of Planning Proposals

77. The planning proposal is consistent with the requirements for the preparation and assessment of planning proposals as outlined in the Department's Guidelines. This is demonstrated by the issuing of the gateway determination. This planning proposal is consistent with the relevant state, district and local strategic plans.
78. The gateway determination confirms that the planning proposal has sufficient site specific and strategic merit to proceed to public exhibition, public authority consultation and plan making. The gateway determination notes the City was granted delegation to make the relevant amendments to the Sydney LEP 2012.

Economic justification

79. The planning proposal is consistent with the Strategy and LSPS in that it facilitates the delivery of additional employment generating floor space in an envelope that has appropriate environmental outcomes. It will not result in the isolation of any adjoining site or limit its development potential. Furthermore, the proposal will support increased economic activity that will contribute towards Haymarket's attractiveness for future economic investment, helping deliver a more competitive Central Sydney.

Validity of gateway determination

80. The issuing of a gateway determination by the Department indicates the planning proposal has demonstrated consistency with the relevant state, district and local strategic plans.
81. The gateway determination provisions under the EP&A Act provide for the Minister to determine that a "matter should proceed (with or without variation)" and "any conditions the council is required to comply with before the instrument is made". The gateway determination included a number of conditions, including providing greater discussion about the Ministerial Directions and the LSPS principles for growth prior to public exhibition.
82. The updated planning proposal was sent to the Department in November 2020. They advised that these conditions did not require approval prior to public exhibition, simply that the additional discussion should be included prior to commencing public exhibition. This condition of the gateway determination has been fulfilled.

Impacts to 191 Thomas Street

83. In their submission, the landowner of the adjoining site at 191 Thomas Street gives support to the proposal as it will enable the redevelopment of the subject site and help deliver on the vision of the Strategy. Objection is however raised in relation to the 3 metre setback to the common boundary between the two sites as it results in borrowing amenity from 191 Thomas Street and impacts the future development potential of 191 Thomas Street. The submission suggests that the planning proposal makes incorrect assumptions on potential future development scenarios and how the sites to the north are able to amalgamate under the Strategy, which impacts the redevelopment potential of the submitter's site.
84. The Strategy and draft Central Sydney DCP sets out that boundary setbacks may be varied where the planning envelope can demonstrate that it will not have an adverse impact on wind and daylight conditions in the public domain. The wind and daylight testing accompanying the planning proposal found the planning envelope will maintain equivalent daylight and wind public domain conditions as compared to the base case envelope. The testing was based on the existing built form on surrounding sites and no future development scenarios were included.
85. The planning envelope includes a 3 metre setback to the common boundary with the submitter's site to the north. This is consistent with the setback provisions in the Sydney DCP 2012 for commercial towers and would provide at least 6 metres separation between future development on both sites as required by the DCP.
86. The Built Form Capacity Study that accompanied the Strategy identified 187 Thomas Street forming part of an amalgamated block with the site to its east. The Study was an analysis of potential development capacity under the Strategy. Neither the Strategy or the Study prescribe a future development outcome or set a requirement for amalgamation.
87. This planning proposal seeks to facilitate site-specific provisions that detail one particular development outcome for the 187 Thomas Street site. The planning envelope will not prevent amalgamation or redevelopment of any adjoining site that may be sought under the existing controls of the Sydney LEP 2012 or through another planning proposal process consistent with the Strategy.

Post exhibition changes

Design Competition

88. The design excellence provisions in the draft DCP have been amended to reflect the changes to the competitive design policy for Central Sydney approved by Council in December 2020.
89. The landowner has committed to a process that reflects the amended competitive design policy. The draft DCP has been align with the competitive design policy for tower cluster areas. The amended provisions provide a higher benchmark for design excellence with greater sustainability credentials and gender representation, which aligns with the Strategy and Guidelines for Site Specific Planning Proposals.

Strategic Alignment

Strategic Alignment - Central Sydney Planning Strategy

90. As the economic heart of Australia's most global city, Central Sydney plays a critical role in the continued growth and economic success of Greater Sydney, New South Wales and the national economy. The Central Sydney Planning Strategy sets a planning approach to grow employment and productivity, create high quality places and deliver on the City's Sustainable Sydney 2030 program.
91. This planning proposal is aligned with the following relevant key moves of the Central Sydney Planning Strategy:
- (a) Key Move 1: Prioritise employment growth and increase capacity - this planning proposal will facilitate additional employment generating floor space in Haymarket, contributing to growth in Central Sydney.
 - (b) Key Move 2: Ensure development responds to context - by ensuring compliance with wind and daylight requirements, this planning proposal ensures future development is responsive to its context and will not result in adverse impacts in the public domain.
 - (c) Key Move 4 - Provide for employment growth in new tower clusters - this planning proposal is within the Haymarket Ultimo tower cluster area, with the proposal to deliver addition employment floor space.
 - (d) Key Move 5: Ensure infrastructure keeps pace with growth - in accordance with the Guidelines, this proposal facilitates a contribution towards community infrastructure in Central Sydney and towards the provision of more affordable housing in the City of Sydney local government area.
 - (e) Key Move 6: Move towards a more sustainable city - the draft DCP includes sustainability targets, in accordance with the Strategy and Guidelines.
 - (f) Key Move 7: Protect, enhance expand Central Sydney's heritage, public places and spaces - the proposed envelope includes sufficient setbacks and provisions to ensure future development is responsive and sensitive to nearby heritage.
 - (g) Key Move 8: Move people more easily - the site is well located, close to existing and planned public and active transport investment including the light rail, metro and upgrades to the pedestrian network.
 - (h) Key Move 9: Commitment to design excellence - future development will be subject to an architectural design competition.
92. This planning proposal is consistent with the vision and key moves of the Strategy.

Strategic Alignment – Metropolitan, regional and local planning

93. The Greater Sydney Commission's Greater Sydney Plan and Eastern City District Plan shape strategic planning and infrastructure across Greater Sydney. The plans align planning from a broad region plan to a suburban district and the local area. The City's LSPS sets the overall land use planning strategy for the city, and is required to align with the Region and District plans. The City's planning controls are required to give effect to these strategic plans.

94. The Region Plan, District Plan and Local Strategic Planning Statement adopt planning priorities of similar themes, being productivity, liveability, infrastructure, sustainability and governance. How this proposal gives effect to these priorities is discussed in detail in the planning proposal and summarised below:
- (a) **Productivity** - the planning proposal will deliver additional employment generating floor space for new hotel, innovation and office uses close to existing and future transport infrastructure, contributing to the Central Sydney economy. In addition to meeting this objective of the Greater Sydney Region Plan, the proposal gives effect to productivity strategic planning priorities, particularly:
- (i) Eastern City District Plan Priorities
- a. E7 - Growing a stronger and more competitive Harbour CBD
 - b. E11 - Growing investment, business opportunities and jobs in strategic centres
 - c. E13 - Supporting growth of targeted industry sectors in the District Plan
- (ii) Local Strategic Planning Statement Priorities
- a. P7 - Growing a stronger, more competitive Central Sydney
 - b. P8 - Developing innovative and diverse business clusters in City fringe
- (b) **Liveability** - the planning proposal's indicative concept includes retail activation and public domain upgrades - extending the adjoining future public square on Quay Street, improving the liveability of the surrounding area for local residents, workers and visitors. The proposal also gives effect to liveability strategic planning priorities, particularly:
- (i) Eastern City District Plan Priorities
- a. E10 - Delivering integrated land use and transport planning for a 30 minute 30
- (ii) Local Strategic Planning Statement Priorities
- a. L5 - Creating great places
- (c) **Infrastructure** - future development on site will support the delivery of community infrastructure including public domain upgrades in the City South and Chinatown areas. The proposal gives effect to the infrastructure strategic planning priorities particularly:
- (i) Eastern City District Plan Priorities
- a. E1 - Planning for a city supported by infrastructure in the District Plan
- (ii) Local Strategic Planning Statement Priorities
- a. I1 - Movement for walkable neighbourhoods and a connected city
 - b. I2 - Align development and growth with supporting infrastructure

- (d) **Sustainability** - this planning proposal will facilitate the delivery of a new building with markedly improved sustainability outcomes. In addition to meeting this objective of the Greater Sydney Region Plan, the proposal gives effect to the sustainability strategic planning priorities particularly:
- (i) Eastern City District Plan Priorities
 - a. E19 - Reducing carbon emissions and managing energy, water and waste efficiently in the District Plan.
 - (ii) Local Strategic Planning Statement Priorities
 - a. S11 - Creating better buildings and places to reduce emissions and water and use water more efficiently.

Strategic Alignment - Sustainable Sydney 2030

95. 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 plan is aligned with the following strategic directions and objectives:
- (a) Direction 1 - A globally competitive and innovative city - the proposal will support and foster new investment opportunities through the provision of additional employment generating floor space and the proposed innovation tech hub.
 - (b) Direction 2 - A leading environmental performer - the site-specific draft DCP that accompanies the planning proposal includes ambitious sustainability targets.
 - (c) Direction 3 - Integrated transport for a connected city - the site is well located to capitalise on existing and future public transport connections at Central train station, bus stops, the new light rail and future Sydney Metro station.
 - (d) Direction 4 - A city for walking and cycling - the proposal maintains and improves the accessibility of the existing pedestrian connection and will deliver public domain upgrades including extending the future square on Quay Street.
 - (e) Direction 5 - A lively and engaging city centre - the proposal includes a mix of active uses including fine grain retail, outdoor dining and visitor accommodation, which will deliver greater levels of activation to surrounding area.
 - (f) Direction 6 - Vibrant local communities and economies - the planning proposal will enhance Haymarket with increased opportunities for investment, employment and new facilities for workers, residents and visitors.
 - (g) Direction 7 - A cultural and creative city - the draft DCP includes provisions to ensure the delivery of high quality public art on site.
 - (h) Direction 8 - Housing for a diverse population - the planning proposal will facilitate a contribution towards affordable housing in the City of Sydney local government area.
 - (i) Direction 9 - Sustainable development, renewal and design - future development will be subject to the attainment of key sustainability benchmarks.

Relevant Legislation

- 96. Environmental Planning and Assessment Act 1979.
- 97. Environmental Planning and Assessment Regulation 2000.

Critical Dates / Time Frames

- 98. The gateway determination requires that the amendment to the Sydney LEP 2012 is completed by 9 November 2021.
- 99. The gateway determination authorises Council to exercise this delegation and liaise directly with Parliamentary Counsel to draft and make the local environmental plan. If the planning proposal is approved by Council and CSPP, the City will commence this process. Once this process is complete and the plan is made, the amendment to the Sydney LEP 2012 will come into effect when published on the NSW Legislation website.
- 100. If approved by Council, the revised DCP will come into effect on the same day as the amendment to the LEP.
- 101. The planning agreement is to be executed prior to the finalisation of the amendments to the LEP and DCP.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Daniel Thorpe, Specialist Planner

Attachment A

**Summary of Submissions
187 Thomas Street, Haymarket**

No.	Submitter	Submission	Response
1.	Department of Infrastructure, Transport, Regional Development and Communications	<p>Sydney Airport controlled activity – The proposed change to the maximum permissible building height will result in a penetration of prescribed airspace for Sydney Airport. Prescribed airspace includes the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport.</p> <p>Construction of a development to a height above 156 metres AHD would result in an intrusion into the OLS and as such, constitute a controlled activity under the Act. Controlled activities cannot be carried out without prior approval from the Department of Infrastructure, Transport, Regional Development and Communications.</p>	<p>Noted. A detailed development application will require concurrence from Sydney Airport as the proposed works penetrate the Operations Limitation Surface. This is consistent with clause 7.16 of the LEP and under the Airports Act 1996.</p>
2.	Transport for NSW	<p>Raise no significant issues – It is advised that any future development applications are carried out in accordance with the existing approvals for the Sydney Metro project.</p> <p>A detailed development application is to include a Traffic and Transport Impact Assessment to identify traffic and transport impacts associated the proposed development.</p>	<p>Noted. A detailed development application and associated public domain works will be referred to Transport for NSW for comment.</p>
		<p>Impact on Central Precinct Renewal – It is requested that the City of Sydney consider the impact of the planning proposal on the potential amenity of future public space envisaged as part of the Central Precinct Renewal.</p> <p>TfNSW advises that the planning proposal needs to recognise and facilitate the intended outcome for Central Precinct as set out in the draft Strategic Vision.</p> <p>The subject planning proposal must be balanced with protecting the amenity of public spaces, including those envisaged as part of Central Precinct Renewal, namely the future Western Forecourt, as well as other potential future public space as part of the precinct renewal.</p> <p>Shadow studies demonstrate the planning proposal would result in overshadowing of the Western Forecourt from approximately 12.30pm to 3pm in mid-winter, in addition to other shadow cast from existing development between approximately 12pm to 3pm. Which would only receive unimpeded solar access for a limited duration of approximately 1 hour (between 11am to 12pm) in mid-winter.</p> <p>TfNSW supports the protection of solar access to public places to ensure that each place benefits from sunlight. Solar access to such a key public space for a period of only one hour in mid-winter is likely to be insufficient having regard to the intended increased usage of this space. A more appropriate expectation for solar amenity to such a space would be between 11am to 2pm.</p> <p>Assessment of the planning proposal should have regard to the Central SSP planned future open spaces at over-station development. Protection of solar amenity to this future open space area is equally important given its likely demand and usage.</p> <p>The planning proposal for development of 187 Thomas Street would also result in overshadowing to the potential future deck-level open space from a period commencing between approximately 1.00-1.30pm until 3pm (and thereafter) in mid-winter. The projected overshadowing is considered excessive.</p> <p>Accordingly, it is recommended that the height of the planning proposal for 187 Thomas Street is modified to limit overshadowing.</p>	<p>The planning proposal is consistent with the additional sun access plane as detailed in the Central Sydney Planning Strategy (Strategy), which seeks to protect solar access to the northern section of the future third square between 11.00am and 12.00 noon.</p> <p>The subject site is located within the Haymarket/Ultimo tower cluster envisaged in the Strategy as a location of additional building height and density to provide for additional employment generating floor space. At 215 metres, the height of future development as facilitated by this planning proposal is consistent with the tower cluster requirements and the Strategy.</p>

3.	Heritage NSW	<p>Sydney Terminal and Central Railway Station Group – The subject site is located close to the State Heritage Register (SHR) listed item (SHR 01255).</p> <p>The heritage impact statement notes that “views of the clock tower from the south and south-east will be blocked or reduced” while other significant views will not be obstructed. The extent of this impact is not clearly illustrated in the “Heritage Impact Statement” or the “Visual Impact Photomontage Report” provided with the planning proposal.</p> <p>It is understood that the height and FSR of the proposed tower is consistent with the current strategy for the precinct. However, further work is recommended at the detailed design stage to demonstrate the potential impacts and the actions taken to mitigate, manage and avoid these impacts controls are considered appropriate and acceptable.</p>	Noted.
		<p>Christ Church St Laurence Anglican Church and Pipe Organ – The subject site is located close to the SHR item (SHR 00123).</p> <p>It is understood that the current building on the subject site creates an “unsympathetic backdrop” to this item. The “Heritage Impact Statement” illustrates that a new tower based on the planning proposal amendments will block out a significant portion of the “blue sky view” of the heritage item’s church spire as viewed from the exit of the Grand Concourse of Sydney Terminal and Central Railway Stations Group and looking towards the Western Forecourt of the subject site.</p> <p>Further work is recommended at the detailed design stage to demonstrate how the new development can provide a more sympathetic backdrop and setting for the heritage item.</p>	Noted. The planning envelope has been designed to ensure future development sympathetically responds to nearby heritage. An 8 metre setback to Valentine Street will ensure the important views towards the Christ Church St Laurence are suitably preserved. Further, the draft site-specific DCP includes provisions to ensure appropriate form, articulation and materials are used to respond to nearby heritage.
		<p>Local Heritage – the site is also located nearby to several Local heritage items listed on Council’s LEP, including the former Sutton Forest Meat Building (1843). As these items are listed under your LEP, Council is the consent authority, and the assessment and consideration of any impacts rests with Council.</p>	Noted
4.	Sydney Airport	<p>Concurrence/consultation – At the proposed height of 226.8m AHD, the proposed development would penetrate Sydney Airport’s Obstacle Limitation Surface (OLS) by approx. 76.8m and would therefore fall under the Federal Airports (Protection of Airspace) Regulations 1996.</p>	Noted. A detailed development application will require concurrence from Sydney Airport as the proposed works penetrate the Operations Limitation Surface. This is consistent with clause 7.16 of the LEP and under the Airports Act 1996.
5.	Civil Aviation and Safety Authority (CASA)	<p>Sydney Airport controlled activity – CASA does not object to the development. However, CASA will assess the building in detail under the Airspace Regulations on receipt of a request from Sydney Airport. CASA will consider several Airspace Protection aspects including helicopters, surrounding tall buildings and the Airservices Australia assessment. It is recommended that Airservices Australia is consulted early in the planning process. It is likely that CASA will recommend obstacle lighting when assessing the building under the Airspace Regulations. The construction cranes will also require assessment and approval under the Airspace Regulations.</p>	Noted. A detailed development application will require concurrence from Sydney Airport as the proposed works penetrate the Operations Limitation Surface. This is consistent with clause 7.16 of the LEP and under the Airports Act 1996.

No.	Submitter	Submission	Response
6.	Adjoining Landowner	<p>Contravenes the draft Central Sydney DCP and Sydney DCP 2012 – The planning proposal for 187 Thomas Street proposes substantial non-compliances with the setback requirements of the draft Central Sydney DCP and the current Sydney DCP 2012 which would adversely impact the adjoining site, 757-763 George Street and its approved hotel development and planning proposal that is currently under assessment.</p> <p>The draft Central Sydney DCP associated with the draft Central Sydney Planning Strategy (draft Strategy) permits non-compliant setbacks where a proposal satisfies various public domain amenity criteria. This procedure does not account for other amenity impacts such as private view loss, visual and solar impacts to adjoining properties. For this reason, it is considered a deficient process for justifying setback non-compliances.</p> <p>In the assessment of the planning proposal, the non-compliant setbacks were supported solely on the basis that the scheme satisfies the equivalent / improved public domain daylight and wind comfort requirements. This assessment fails to include a detailed discussion of the potential amenity impacts to the adjoining site, such as site isolation, loss of solar and visual impacts.</p> <p>It is contended that the planning proposal's compliance with the draft Central Sydney DCP should not be an 'as of right' to vary the setback provisions.</p> <p>The scheme also contravenes the setback provisions for towers in Central Sydney in the Sydney DCP 2012, which requires that buildings over 45 metres in height be appropriately setback from side and rear boundaries. The 1 metre setback provided by the planning proposal significantly contravenes the provisions and provides minimal building separation to the future development. Consequently, the planning proposal fails to achieve the objectives including protecting daylight access, ventilation and view sharing for neighbouring properties.</p> <p>The planning proposal provides a 1 metre setback to its eastern boundary, under the draft Central Sydney DCP the required setback is to be 7.2 metres. This represents a significant non-compliance with the control and will result in additional wind impacts and limit the amount of daylight and ventilation at the ground plane.</p> <p>The podium element of the planning envelope generally provides a blank wall to its eastern elevation that interfaces with the adjoining Sutton Forest Meat Building heritage item and will present as a blank wall as opposed to a clearly defined podium element that corresponds with the height along Valentine Street.</p> <p>The 1 metre setback provides minimal opportunity for the provision of adequate building separation and prevents the eastern elevation from having any visibility when viewed from the ground plane and precludes the proposed tower being viewed in the round.</p> <p>This would result in the future buildings on 187 Thomas Street and 757 George Street presenting as separate buildings instead of a 'wall of towers' particularly when viewed from Valentine Street. As the 1m eastern setback is inconsistent with the objective, when viewed from the ground plane these towers would present as one unbroken mass.</p> <p>The assessment of the planning proposal has justified the setbacks using a non-compliant base case envelope that did not adequately account for a podium height appropriate to its location adjoining a heritage item and in a special character area, which should match the height of the</p>	<p>While the draft Central Sydney Development Control Plan (DCP) details the required street frontage and boundary setbacks for development in Central Sydney, it also specifically provides for opportunities where these setbacks may be varied subject to public domain environmental amenity testing – where the planning envelope can demonstrate that it will have an equivalent or better impact in terms of wind and daylight conditions within the public domain.</p> <p>The Central Sydney DCP also includes urban design requirements, particularly in relation to heritage items and within special character areas. In response to this, the planning envelope includes a greater podium setback to the eastern boundary. In this location, the podium height responds to and aligns with the height of the adjoining heritage item, the Sutton Forest Meat Building and to maximise important views along Valentine Street towards State heritage item, Christ Church St Laurence.</p> <p>The planning envelope that was publicly exhibited included a 1 metre setback to the eastern boundary to a height of RL178 metres, primarily to accommodate the lift core and would not include windows. Following a review of submissions and noting the planning proposal request lodged for the adjoining site at 757-763 George Street, this setback has been increased to 3 metres in the DCP. The revised setback will increase the separation between any future development on the adjoining sites to a minimum of 6 metres. The increased building separation will provide greater visual separation between the buildings along Valentine Street and allow for the flow of wind to be directed between the two buildings, preventing adverse wind impacts and help maintain acceptable daylight levels in the public domain.</p> <p>The site-specific DCP for 187 Thomas Street has been prepared to guide future development to ensure it positively relates to adjoining development and includes provisions to require the treatment of any blank walls on the eastern elevation of the tower and podium to sympathetically relate to the adjoining Sutton Forest Meat heritage item.</p> <p>The base case envelope as detailed in the Urban Design Report prepared by FJMT that accompanied the planning proposal is consistent with the requirements of the draft Central Sydney DCP that were applicable at the time that the planning proposal was prepared and lodged in April 2020. A minor change was made to the provisions in the draft Central Sydney DCP to ensure street frontage heights for a base case building podium better align with any adjoining heritage items. The amended DCP was placed on public exhibition from May to July 2020, after the preparation and lodgment of the subject planning proposal.</p>

Sutton Forest Meat Building heritage item that fronts Valentine Street adjoining 187 Thomas Street.

Additionally the base case envelope contravenes the height provisions of the draft Central Sydney DCP which requires the envelope be extruded to the maximum permissible height as it varies round the site, which varies between RL 275m and 285m as opposed to the RL 295m nominated in the planning proposal which would encroach into the non-developable construction zone above the maximum height limit.

It is considered that the planning proposal should have been prepared in accordance with the version of the draft Central Sydney DCP that was exhibited alongside the draft Strategy from May to July 2020 as the subject planning proposal was reported to Council in September 2020.

Prevents amalgamation with 757-763 George Street – It is considered that there is an opportunity to pursue an amalgamated scheme that results in an improved urban design outcome that better aligns with the aspirations of the draft Strategy.

A standalone planning proposal for the 187 Thomas Street site has disadvantages in that it would result in greater environmental impacts including a wind tunnel, reduced daylight at ground level and inefficient floor plate.

Negotiations for a joint venture agreement between the owners of 187 Thomas Street and 757-763 George Street commenced in early 2018 with the intent to amalgamate both sites to develop a singular tower. Council encouraged both landowners to consult with neighbouring properties and to demonstrate why an amalgamated solution that included other adjoining sites could not be reasonably achieved. Accordingly, Council had a desire for an even larger site to be redeveloped.

In August 2019, Greaton Development attended a meeting with Council and confirmed its intent to pursue a standalone scheme independent of the 757-763 George Street site. At no point did they confirm their intention to terminate the joint venture. Amalgamation of both sites is feasible and could have been made possible if the landowner did not pursue a standalone scheme.

An amalgamation of both sites provides for a singular scheme that would deliver a more economically viable floor plate, no opportunity for wind tunnel between two towers, rationalization of vehicle entry points and continuous active frontage along Valentine Street. A single tower across both sites has the potential to achieve an improved sky view factor delivering improved pedestrian conditions at ground plane, in line with the draft Strategy, rather than two discrete towers.

Fails to demonstrate site specific and strategic merit

The planning proposal is inconsistent with many of the relevant objectives and actions espoused by the strategic planning framework as outlined below:

- Section 9.1 Ministerial Directions – require planning proposals inform the content of a local environmental plan and give effect to a range of aims and objectives.

The planning proposal isolates the adjoining site, which is contrary to the draft Strategy and reduces its potential to deliver an appropriate quantum of employment generating floor space.

It is noted that the 757-763 George Street landowner made an offer to amalgamate with the 187 Thomas Street site at a fair market price which was not accepted.

Further, the proposal did not include a detailed urban design study that addresses redevelopment and why the proposed scheme was preferable.

The approval of this planning proposal and the site-specific provisions proposed to be inserted into the Sydney LEP 2012 will not prevent the amalgamation of the subject site with any adjoining sites. The subject planning proposal proposes site-specific provisions for the 187 Thomas Street, Haymarket site, to facilitate one particular development outcome.

The existing development controls under the Sydney LEP 2012 are still applicable, for which an amalgamated option may apply, similarly future planning proposals are possible for a combined site.

While the Central Sydney Planning Strategy encourages amalgamation of sites, it does not require amalgamation. Amalgamation remains an opportunity for landowners.

The subject planning proposal has been assessed and determined to be consistent with the requirements of the City's Central Sydney Planning Strategy as it meets the public domain amenity requirements, delivers employment floor space and has been determined capable of progressing.

The planning proposal for 187 Thomas Street has been assessed by the City, presented to Council, the Central Sydney Planning Committee and the Department of Planning, Industry and Environment (Department). All have determined that it demonstrates site-specific and strategic merit.

Specifically, the planning proposal details the ministerial directions that it is consistent with and provides additional discussion on several key ministerial directions. For example, the planning proposal outlines how future development will affect airport operations and an expanded discussion on the acid sulfate soil requirements.

In the gateway determination issued by the Department, the planning proposal was to be updated to detail the proposal's compliance with the Principles for Growth contained in the City's Local Strategic Planning Statement. This additional discussion was included prior to public exhibition clearly detailing how

It is considered that the planning proposal does not satisfy the Ministerial Directions objectives in that the proposal is located within an existing business zone and as such the proposal is to ensure it encourages employment growth, protects employment plant and supports the vitality of the identified centre.

- The planning proposal is inconsistent with the *Principles for Growth* in the City's local strategic planning statement.

The proposal does not provide an appropriate transition in height of the site and its approved development, undermines the redevelopment potential of the adjoining site and limits the employment generating floor space quantum envisaged and compromises the full development potential of the area.

It fails to produce an 'overall better urban design outcome' as it results in a less optimal outcome relative to a proposal that incorporates the adjoining site. The proposal contravenes setback controls and in turn borrows amenity of surrounding properties.

- The planning proposal is inconsistent with the relevant 'Key Moves' of the draft Central Sydney Planning Strategy.

By not amalgamating with the adjoining site, the planning proposal is restricting its redevelopment potential as it does not prioritise employment growth and results in a significant truncation of the adjoining site's density and employment capacity.

The proposal does not respond to its context as the proposed building height would not provide an appropriate transition in height, and isolates the adjoining site.

The planning proposal misses the opportunity to redevelop a consolidated block with greater capacity to support more employment floor space and results in a significant truncation of its capacity.

The non-compliant setbacks of the proposal result in amenity impacts to the adjoining site and its development approval, these impacts have not been acknowledged or justified in the planning proposal.

The proposal does not exhibit design excellence as it does not respond to the amalgamation pattern envisaged in the draft Strategy and is at odds with the approved built form on the 757-763 George Street site.

the planning proposal demonstrates strategic and site-specific merit, particularly as it will deliver additional employment generating floor space in a strategic location close to public transport and within a designated tower cluster area.

The planning proposal is consistent with the key moves of the Strategy as it will facilitate the provision of additional employment generating floor space and, as amended, includes sufficient setbacks to ensure future development is visually distinct from adjoining buildings and will not result in significant adverse amenity impacts to the surrounding public domain and adjacent sites, within close proximity to additional transport capacity.

Inconsistent with the EPA Act objects – The planning proposal is required to be prepared in accordance with Section 3.33 of the EPA Act and its objects which guide its implementation. The 187 Thomas Street planning proposal is contrary to the legislative objects for the following reasons:

- the planning proposal's setback variations rely on a non-compliant base case envelope that consequently does not adequately identify actual wind and daylight impacts associated with the proposal. It has not provided a detailed assessment of the potential impacts to the adjoining site. It is expected for the scheme to comply with the base case envelope and ameliorate its amenity impacts it would need to be significantly reduced in scale. For this reason, the planning proposal does not promote the welfare of the community and an improved environmental outcome.
- the planning proposal does not promote the orderly economic use and development of land by isolating the adjoining site and limiting its development potential. Further, the proposal is unfeasible and unlikely to be built, notwithstanding its impacts to 757-763 George Street;

The Strategy enables variations to setbacks by creating metrics against which the planning envelope can be tested. The base case, along with urban design considerations, sets the performance criteria against which a planning envelope can demonstrate an equivalent or improved outcome. The base case envelope detailed in the Urban Design Report that accompanied the planning proposal is consistent with the requirements of the Strategy including the 8 metre setback provided to all street frontages and all boundaries, including the boundary with 757-763 George Street, podium height, chamfers and tapering. As the base case envelope is consistent with the requirements of the Strategy, the wind and daylight amenity testing is considered to give an appropriate assessment on the impact of future development on site. The proposal was reviewed by the City's Design Advisory Panel who advised that while views along Valentine Street must be maintained, the building's volume was similarly important and has been reflected in the podium setback to the Sutton Forest Meat building.

The proposed planning controls do not limit the development potential of any adjoining sites which

- the proposal has a sub-optimal design outcome that contravenes the controls and associated objects which results in undue amenity impacts;
- assessment of the planning proposal did not acknowledge many of the envelopes non-compliances. As such these matters have not been disclosed. The disclosure of these non-compliances is necessary to facilitate the proper assessment of the proposal; and
- neither Council nor the applicant have sought to consult with the 757-763 George Street landowner.

remain developable under current approvals and current controls. In addition, planning proposal requests can be considered under the Strategy for adjoining sites.

The Economic Impact Assessment that accompanied the planning proposal indicates that the proposal will support increased economic activity that will benefit Central Sydney but will add to Haymarket's attractiveness for future economic investment.

The City has met with the adjoining landowner as part of the public exhibition process of the subject planning proposal and regarding the preparation of their own planning proposal for the 757-763 George Street site.

Site isolation – The proposed 1m setback to the site's common boundary with 757-763 George Street reaches a height of 175 metres and presupposes that the adjoining site is unable to accommodate a tall building. The planning proposal for 187 Thomas Street misses the opportunity for a coordinated scheme that would incorporate 757-763 George Street and would therefore render the site unable to develop and isolated.

The planning proposal fails to consider the likelihood that it would isolate the adjoining property by departing from a planning proposal that combines the development of both sites. This has significant implications for the adjoining property because any development on its own does not trigger the requisite 2,000m² site area requirement to allow it to be developed under the tower cluster controls in the draft Strategy and would render it an isolated site, incapable of achieving the strategic planning objectives applicable in the City.

The draft Strategy identifies 187 Thomas Street and the adjoining site as a located capable of accommodating increased densities within a tower cluster. The "*The Built Form Capacity Study*" which forms an appendix to the draft Strategy identifies site amalgamations that would deliver on the strategic goal of increased development density. With the 187 Thomas Street excluded, the 757-763 George Street site includes a heritage item and as such is constrained and becomes an isolated site. Amalgamation of the adjoining site in the 187 Thomas Street planning proposal would prevent it becoming an isolated site and enable attainment of the strategic planning objectives.

The planning proposal does not address this issue at all and provides no justification as to why it should be considered separately to the adjoining property. This is contrary to the strategic objectives of the draft Strategy.

In the decision of *Cornerstone Property Group Pty Ltd v Warringah Council*, the Court held that a key principle when considering the issue of redevelopment that will result in the isolation of a site is whether both sites can achieve a development that is consistent with the development controls. If a variation to the planning controls is required, then consideration is given as to whether both sites can achieve a development of appropriate urban form and with an acceptable level of amenity. This will not be able to occur should the planning proposal proceed as the adjoining site would not be able to achieve the minimum site area requirement and will no longer be capable of achieving the development intensity intended by the tower cluster provisions.

The planning proposal and any site-specific provisions, or future development on the 187 Thomas Street site will not result the isolation any adjoining site.

For example, the submitter's site, 757-763 George Street, Haymarket that adjoins the subject site and fronts the intersection of George Street and Valentine Street holds a development consent for a 15 storey hotel that incorporates and includes the adaptive reuse of Sutton Forest Meat building heritage item.

The exhibited planning envelope detailed a 1 metre setback to the site's eastern boundary with 757-763 George Street to a height of RL178 metres. This elevation was designed to primarily accommodate the lift core and a blank eastern facade. Following a review of submissions, this setback has been amended to 3 metres to provide sufficient building separation and will provide a clear visual distinction between the future development and any adjoining buildings.

Further to the above, the 757-763 George Street site is subject to a planning proposal to include site-specific provisions in the LEP to facilitate a taller hotel development. While this planning proposal is currently under assessment by the City and will be reported to Council accordingly, it indicates that the subject planning proposal will not isolate the 757-763 George Street site. Furthermore, the site could also be the subject of an amalgamated redevelopment in accordance with the existing development controls under the LEP.

Impact on 757-763 George Street DA approval – The planning proposal for the 187 Thomas Street site excludes any reference to the existing development approval for the adjoining 757-763 George Street site, that was granted in October 2017. The approved scheme consists of a hotel building with a total height of 50m (15 storeys).

The planning envelope includes a blank eastern façade to a height of RL178 metres primarily to accommodate the lift core. Initially this was setback 1 metre from the boundary, however following feedback raised in the public exhibition, the setback has been amended to 3 metres, which is consistent with the Sydney DCP 2012.

The amended setback will provide a separation of at

The approval includes a 0m setback to the common boundary and hotel rooms that face west. These rooms would be heavily affected by the proposed development and were not considered at all in the planning proposal. A solar access study has been conducted, which found that the planning envelope for 187 Thomas Street would have a significant impact on solar access to the approved development. Most heavily affected were the west facing rooms, which showed a 37% reduction when compared to a scheme with compliant setbacks.

least 9 metres from the west facing hotel rooms in the approved hotel development on 757-763 George Street site. As amended, the 9 metres separation is considered to be appropriate and will allow for adequate amenity to these west facing hotel rooms.

Impact on 757-763 George Street planning proposal – The 187 Thomas Street proposed scheme does not acknowledge the development potential for 757-763 George Street and the current planning proposal that is being assessed for the adjoining site.

As detailed above, following feedback raised in submissions, the 1 metre setback was increased to 3 metres.

The proposed building massing for each of the sites in context of each other highlights how the 1 metre setback to the common boundary allows for minimal building separation. The effect of this setback is to greatly increase the perceived mass when viewed from the public domain and reduce the available daylight levels,

The revised setback will provide at least 6 metres building separation between future development on the 187 Thomas Street and 757-763 George Street sites, which is consistent with the building separation provisions for two commercial buildings in the DCP.

Combined site benefits – A proposal that incorporates both the 187 Thomas Street and 757-763 George Street site potentially could result in more benefits than two standalone proposals, as it would allow for greater tower setback to George Street, optimization of building services and connections, and an efficient building arrangement. A combined tower would deliver on missed opportunities and would maximise the yield and potential public benefit through a highly integrated ground plan.

While the Central Sydney Planning Strategy encourages amalgamation of adjoining sites where possible, it does not require all planning proposals prepared under the Strategy to amalgamate, nor does the Strategy establish a quantum of floor space that is to be delivered.

Notwithstanding this, the planning proposal is consistent with the intent of the Strategy as it will facilitate the delivery of additional employment generating floor space.

Fails to give effect to the City's local strategic planning statement – Council has endorsed the prepared the City Plan 2036: Local Strategic Planning Statement as required by the EP&A Act. A planning proposal is required to address whether the proposal will give effect to the LSPS. This planning proposal does not appear to properly give effect to the priorities, actions and strategic objectives in the LSPS and therefore does not achieve the vision with respect to future changes to the planning controls, specifically:

The planning proposal is consistent with City Plan 2036, the City of Sydney's Local Strategic Planning Statement (LSPS). Prior to public exhibition, additional discussion was included to detail how the proposal is consistent with the strategic and site-specific principles for growth contained in the City's LSPS.

- it is not consistent with the relevant priorities, objectives and actions in the LSPS;
- it fails to include an amount of non-residential floor space appropriate to the site's strategic location as a future tower cluster area and will result in lost opportunity for additional non-residential floor space as it will render the adjoining property incapable of achieving the development intensity intended by those provisions; and
- it fails to provide an overall better urban design outcome as it does not include the adjoining property.

The planning proposal facilitates the delivery of additional employment generating floor space while ensuring appropriate amenity of the public domain including acceptable wind and daylight conditions.

The City's LSPS sets a vision for a green, global and connected city, where new development will help deliver a stronger, more competitive Central Sydney that includes a variety of business clusters. It does not however place a target on the amount of new employment generating floor space that is to be delivered, nor does it require each site to maximise this provision. The planning proposal will deliver a significant amount of new commercial floor space, including an innovation tech hub to nurture and foster new start-up businesses.

Fails to justify making of the instrument – Section 3.33(1) of the EPA Act provides that before an environmental planning instrument is made, a document must be prepared that explains its intended effect. The planning proposal does not appear to meet this requirement as follows:

The Planning Proposal is consistent with the Strategy and does not depart from it. The Strategy sets objectives for the growth of Central Sydney and outlines a process to realise growth through planning proposals. The subject proposal is proceeding through the process and achieves the objectives of the Strategy.

- it fails to provide adequate justification as to why the planning proposal should depart from the draft Strategy;
- it fails to provide adequate justification as the departure the planning proposal would have on a combined proposal will have on the orderly and economic use of the land; and
- it fails to provide adequate justification on the impacts on the adjoining property and its current development approval.

The subject planning proposal includes detailed explanation of the planning envelope, the objectives and intended outcomes of the planning proposal and an explanation of the provisions, as well as a justification.

The planning proposal maintains the orderly and economic development of the land as the adjoining sites retain their development potential within the controls available under the LEP and DCP and under existing approvals.

In response to submissions the setback on the

adjoining boundary has been increased to manage potential impacts on the approved development of the adjoining site. Impacts are further considered during the DA process.

Fails to properly consider the draft Central Sydney Planning Strategy – The planning proposal fails to properly consider the draft Strategy prepared by the City of Sydney, as follows:

- it fails to prioritise employment growth and increase capacity (key move 1), appropriately respond to context (key move 2), and promote the efficient use of land in tower cluster areas (key move 4);
- it fails to consider or provide justification for the fact that the planning proposal will render the adjoining property an isolated site contrary to the draft Strategy;
- it fails to adequately justify setbacks and base case envelope variations which will result in a building envelope that fails to respond to its context including inadequate setbacks to the adjoining property.

As the draft Strategy is the City's most up to date strategy guiding future development in Central Sydney there is a reasonable expectation that planning proposals should comply with the strategic principles and not depart from them. The planning proposal does not provide adequate justification for the departures.

Failure by the City to consider these matters means the planning proposal is premature and should not proceed.

The planning proposal is consistent with the key moves of the Strategy. It delivers additional employment generating floor space. It responds to its context with appropriate setbacks and podium height based on heritage, wind, daylight and amenity to neighbours. It promotes the efficient use of land by increasing floor space and height for employment uses.

The planning envelope has been amended following feedback raised in submissions, increasing the eastern setback from 1 metre to 3 metres. This will provide at least 6 metres building separation from new development and 9 metres from the approved hotel which is consistent with the DCP.

The planning proposal will not isolate the adjoining site. The site has development consent for a 15 storey hotel and the landowner has lodged a planning proposal request for a taller hotel envelope. The site can also develop under existing controls of the LEP and DCP.

Fails to properly consider context – Whilst the draft DCP – Central Sydney allows for variations to street and side setback controls if equivalent wind comfort, wind safety and daylight levels in adjacent public places relative to a base case building envelope, the draft DCP also provides that greater setbacks may be required through the application of a number provisions.

The planning proposal fails to consider these additional matters as there is no analysis of the impacts a reduced setback will have on future development on the adjoining property and the approval for a 15 storey hotel.

The eastern setback has been increased to a minimum of 3 metres to provide a clear visual distinction between any future development on the adjoining site. It will result in a 9 metre separation between the subject site and the west facing rooms of the approved hotel.

Will not result in the orderly and economic use of land – The planning proposal fails to consider the effect of the departure from the draft Central Sydney Planning Strategy with respect to a combined development with the adjoining property will have on the orderly and economic use of the land. And fails to meet one of the key objectives in that it does not prioritise employment growth nor does it increase the capacity to the extent contemplated under the draft Strategy.

There is no analysis of these matters in the planning proposal which fails to consider this important object of the EP&A Act.

The Central Sydney Planning Strategy provides a 20-year growth strategy to ensure Central Sydney is capable to deliver continued growth. The Strategy provides new opportunities for additional building height and density balanced with the protection of public domain amenity and urban design considerations. The planning proposal provides for additional employment floor space consistent with the Strategy.

The subject planning proposal and planning envelope provides for one specific development outcome based on the 187 Thomas Street site. It will not render any adjoining site undevelopable, nor undermine any existing development approval. These sites retain their existing development potential with the controls available under the LEP and DCP.

Fails to comply with Guideline for Preparation of Planning Proposals – The planning proposal fails to adhere to the "*Planning Proposals – A guide to Preparing Planning Proposals*" issued by the Planning Secretary under s3.33(3) of the EPA Act, for the following reasons:

- it fails to provide information sufficient to justify the strategic merit of the planning proposal in that it does not provide enough information on relevant environmental, economic and other site-specific considerations;
- it fails to give effect to the endorsed local strategic planning statement and does not provide adequate justification from its departure;
- it fails to give effect to the endorsed draft Central

The planning proposal is consistent with the requirements for the preparation and assessment of planning proposals as outlined in the Guidelines. This has been demonstrated by the issue of the gateway determination by the Department, which indicates that the proposal has demonstrated sufficient strategic and site-specific merit to proceed to public exhibition, consultation with key public authorities and grant the City delegation of the local-plan making authority to make the relevant amendments to the Sydney LEP 2012.

As discussed above, the planning proposal has demonstrated its consistency with the relevant state, district and local strategic plans and will not adversely impact upon the amenity of adjoining residential apartments or the surrounding public domain, or upon

Sydney Planning Strategy;

- it will prevent the achievement of the objectives set out in draft clause 6.21 (7A) as it does not provide any justification as to why it should be considered separately to the adjoining property;
- it fails to justify the site-specific merit test in that there is no consideration on the impacts to adjoining property;
- it has not addressed the social and economic effects as it does not adequately consider impacts on adjoining heritage item and fails to consider why the planning proposal should be considered separately to the adjoining property.

the economic potential of any adjoining site.

Economic justification – The proposed redevelopment at 187 Thomas Street is not financially viable. If approved in its current form, it would never be built due to the low returns such a development project would incur. The feasibility is premised on the take up of office space at rental rates higher than those achieved in this location. The Thomas Street proposal does not meet the premium office grade floor plate criteria and will not attract institutional investment in its current form. The proposal is likely not to get built in its current form as it will not secure funding, nor meet tenant demand without a full redesign. The current floor plate design is too small, difficult to fit out and will not appeal to tenants. Similarly, the mixed-use nature of the proposal, particularly the hotel use would not be favoured by large commercial tenants and would not provide any real amenity. This submission highlights the lost opportunity by not amalgamating with the 757-763 George Street site, which would result in an enhanced economic outcome as it allows for a larger, more functional floor plate design what would appeal to a broader tenant market.

This planning proposal does not prevent the amalgamation of the subject site with any adjoining sites, but simply describes one potential future development outcome.

The planning proposal is consistent with the Strategy and LSPS in that it facilitates the delivery of additional employment generating floor space in an envelope that does not result in significant adverse impacts. It will not result in the isolation of any adjoining site or limit its development potential. The proposal will support increased economic activity that will contribute towards Haymarket's attractiveness for future economic investment.

7. Adjoining Landowner

Validity of gateway determination – The validity of the gateway determination is open to challenge on several grounds including:

- it fails to comply with the requirements of section 3.33(1) of the EP&A Act because it does not set out the justification for making the proposed instrument in that it fails to address at all: the draft Central Sydney Planning Strategy site amalgamation requirement which proposes the amalgamation of 187 Thomas Street and 757 George Street; and the likely reduction in the development potential of 757 George Street if the sites are not amalgamated;
- the planning proposal fails to give proper justification under section 3.33(1) of the EP&A Act as to why the planning proposal should depart from the draft Central Sydney Planning Strategy in that it fails to promote the efficient use of land in a tower cluster area, fails to give proper justification for the departures from setbacks and base case envelopes and fails to increase capacity to the extent contemplated under the strategy;
- it fails to comply with section 3.33(2)(c) of the EP&A Act because it does not address a direction made by the Minister under s9.1(3) of the EPA Act, namely Direction 4.1 'Acid Sulfate Soils'. It is mandatory for a planning proposal to address all applicable s9.1 directions at the time a gateway determination is made; and
- the 'conditional' gateway certificate purportedly issued by the Minister's delegate contains which require deficiencies in the planning proposal to be rectified after the making of the gateway determination. Those 'conditions' are not within the permissible scope of 'conditions the council is required to comply with before the instrument is made' under s3.34(2)(g) of the EPA Act, but are matters which demand a

The planning proposal is consistent with the relevant state, district and local strategic plans as demonstrated by the issue of the gateway determination.

While site amalgamation is encouraged by the Strategy, it is not required. The proposal facilitates site-specific controls to help deliver one particular development outcome. The existing development controls under the Sydney LEP 2012 are still applicable, for which an amalgamated option may apply.

The planning proposal is demonstrably consistent with the Strategy in that boundary setbacks will not result in adverse impacts to public domain amenity and the planning envelope maintains acceptable daylight and wind conditions relative to a base case envelope.

While the Strategy seeks to increase the provision of employment generating floor space in Central Sydney, it does not place targets for the delivery of this floor space. Planning envelopes under the Strategy are shaped by meeting the public amenity requirements.

The gateway determination provisions under the EP&A Act provide for the Minister to determine that a "matter should proceed (with or without variation)" and "any conditions the council is required to comply with before the instrument is made". It is noted that the gateway determination for the subject proposal included a number of conditions, including to provide more information regarding Ministerial Directions and the LSPS principles for growth prior to public exhibition.

The revised planning proposal was sent to the Department in November 2020 who advised that these conditions did not require approval from the Department prior to public exhibition, simply that the additional discussion should be included in the planning proposal when public exhibition commenced. This condition of

		<p>determination either: that the planning proposal should not proceed; or that the Council should resubmit the planning proposal for further information or revision.</p> <p>Given the serious nature of the issues raise, the Council should resolve not to proceed with the planning proposal. Failing that, our client may have no choice but to commence judicial review proceedings under S123 of the EP&A Act seeking to set aside the gateway determination.</p>	<p>the gateway determination was fulfilled.</p>
8.	Adjoining Landowner	<p>Reputation of developer – Correspondence addressed to the Lord Mayor and passed on to Strategic Planning regarding concerns with track record of the landowner of the subject site.</p>	<p>This submission is not a relevant matter of consideration in the assessment of the planning proposal</p>
9.	Adjoining Landowner	<p>Impacts to 191 Thomas Street – Support is given to the primary objectives of the Proposal in relation to enabling development that is consistent with the CSPS and contributes to the vision and aims of the Strategy through new employment space, protection of public spaces, design excellence and improved public domain outcomes.</p> <p>With reference to the subject site, significant concerns are expressed with certain aspects of the Proposal that will detrimentally impact on the potential for future development on the site.</p> <p>Objection is raised in relation to the proposed 3 metres setback of the proposed building envelope at 187 Thomas Street to the boundary with the subject site to the north.</p> <p>An objective of the amended DCP provisions relating to 187 Thomas Street, Haymarket states the following: <i>Define the maximum envelope that respects the local context and achieves acceptable levels of solar access, acoustic amenity, wind comfort and daylight.</i></p> <p>To determine whether a defined maximum building envelope respects the local context and achieves acceptable levels of solar access, acoustic amenity, wind comfort and daylight, it is critical to undertake environmental impact assessments against existing and likely future development in the locality, particularly in relation to adjacent properties.</p> <p>It is argued the proposed 3m setback of the proposed building envelope to the northern boundary does not meet the requirements of this objective because:</p> <ul style="list-style-type: none"> – The 3m setback to the building envelope extends uniformly to a building height of 216.4m above ground level, a very tall building tower. While it is understood that this is just a building envelope, the Sydney DCP 2012 is silent on how, as part of any future development application, the boundary setback of 3m should or could be further articulated or not. – Good planning practice dictates where taller buildings are proposed, setbacks and separation distances proportionate to the increase in building height. This is best expressed when defining maximum building envelopes and should be implemented now in the particular circumstances of this proposal rather than at the development application stage. – Sydney DCP 2012 does not provide any guidance on the application of creative solutions to offset actual or future tower separation distances to ensure sky views are maintained and adverse solar access, acoustic amenity, wind comfort & daylight impacts are minimised – The Urban Design Study provides an inadequate assessment of setbacks and potential development on adjacent blocks by assuming “single site amalgamation for the remainder of Block 153 to the north of 187 Thomas St”. Block 153 North is identified in the Built Form Capacity Study that supports the CSPS. This assumption supports a scenario that allows for a future tower to be located away from development on 187 Thomas Street. Given the location of the heritage site that traverses Block 153 North from George Street 	<p>The Strategy and draft Central Sydney DCP provides guidance on the required street and boundary setbacks for future development in Central Sydney. It also provides the opportunity for these setbacks to be varied where the planning envelope can demonstrate that it will not have an adverse impact on wind and daylight conditions in the public domain.</p> <p>The subject planning proposal was accompanied by detailed wind and daylight analysis measuring impact to public domain amenity. This testing compared the proposed planning envelope to a base case envelope consistent with the requirements of the Strategy and the existing built form of the surrounding area. No assumptions on future development scenarios were made as part of this testing.</p> <p>This wind and daylight testing demonstrated that the planning envelope will maintain equivalent daylight and wind conditions in the adjacent public domain as compared to the base case envelope. The proposal is therefore consistent with the Strategy.</p> <p>The planning envelope includes a 3 metre setback to the boundary with the submitter’s site, 191 Thomas Street, Haymarket. This setback is consistent with the setback provisions for commercial towers in the Sydney DCP 2012 and would provide at least 6 metres separation between future development on both adjoining sites as required by the DCP.</p> <p>The Built Form Capacity Study that accompanied the Strategy identified 187 Thomas Street as part of an amalgamated block with the site to its east. It is noted that this Study was an indicative analysis exploring potential future development that may occur under the Strategy. Future development is not required to meet this amalgamation pattern, nor will adjoining sites be required to amalgamate.</p> <p>This planning proposal seeks to facilitate site-specific provisions that detail one particular development outcome for the 187 Thomas Street site. The planning envelope will not prevent amalgamation or redevelopment of any adjoining site that may be sought under the existing controls of the Sydney LEP 2012 or through the Strategy.</p>

through to Thomas Street it is most likely that this block will be developed as two distinct parcels.

- The Urban Design Study also shows future built form located on Block 153 North being located 8m from the boundary with 187 Thomas Street compared to a corresponding 3m setback for development on 187 Thomas. This is an inequitable sharing of setbacks to a common boundary and severely compromises the development potential of the subject site.
- The Urban Design Study does not consider the self-sufficiency of the proposed tower with not enough space provided around the building to adequately respect any possible future development on the subject site.
- The proposed 3m setback to the northern boundary will borrow amenity from any development on the site.
- Future potential for a wall of towers where groups of buildings appear as one solid mass.
- Inconsistent with Central Sydney Planning Strategy (CSPS) that actions side and rear setbacks to be not less than 3.33% of the height of the building or 4m whichever is greater to a maximum of 8m.
- Variation to the setback requirements of the CSPS are allowed subject to modeling of equivalent daylight and wind conditions in the public realm. Modeling for daylight and wind conditions has not adequately taken into consideration the most likely development scenario on the subject site.

There is Inconsistency with CSPS that envisages the site at 187 Thomas Street forming part of an amalgamated block. Sets the precedent for future inconsistencies with the CSPS.

10.	Individual	<p>Support – I support this change of planning controls for 187 Thomas Street.</p> <p>This part of town is crying out for quality development at street level and the additional height should be a mere formality in this southern CBD zone which is clearly ripe for quality hi-rise tower development as the CBD expands outwards from its inner core. I believe this entire area should have relaxed planning controls to allow for maximum height development.</p> <p>I have no vested interest in this proposal other than being a passionate Sydney person who wants to see a strong and vibrant future for an inner city which needs quality hi-rise development to overcome the constraints of space which could easily prevent future economic growth. I spent time in inner city Melbourne and the re-development of the northern end of the CBD is an excellent example of future Haymarket.</p>	<p>Noted. The proposal is consistent with the aims and key moves of the Central Sydney Planning Strategy which allows development potential for the site and opportunities for economic growth in Central Sydney on suitable sites through additional building height and floor space.</p>
11.	Individual	<p>Adverse amenity impacts – The planning proposal will adversely impact the nearby residential apartment building, Quay Haymarket from changes to the planning controls for 187 Thomas Street, Haymarket.</p> <ul style="list-style-type: none">- the additional height will create an overly dense environment within a restricted amount of space;- the proposed height is not in keeping with neighbouring buildings;- additional occupants will cause congestion and impact on neighbouring roads;- there is insufficient infrastructure to accommodate the proposed changes; and- overshadowing will impact the Quay Haymarket residential apartment building.	<p>The proposal is consistent with a key move of the Central Sydney Planning Strategy in that additional building height and density may be unlocked in suitable locations where it will not result in adverse wind and daylight impacts to the public domain. The planning envelope has been developed to ensure any adverse environmental amenity impacts including excessive wind speeds are minimised. The proposed planning envelope has been subject to wind tunnel testing where it was compared to a base case envelope consistent with the Strategy. The proposed planning envelope has demonstrated an equivalent or improved performance. A detailed Wind Impact Assessment accompanied the planning proposal that assessed pedestrian wind comfort and safety conditions in the adjacent public domain. The report found that conditions would generally remain comfortable, close to the existing wind conditions. However, the report did find that the planning envelope may result in instances where the wind conditions exceed that required for the existing uses in that area, for example for outdoor dining on Thomas Street and for Valentine Street. To mitigate</p>
12.	Individual	<p>Adverse amenity impacts – Having read the proposed planning for the site, I understand the intent and justification for the proposed amendments. It is refreshing to see the planning authority has foresight and vision for the future of this wonderful city, transforming from a financial hub to a tech start-up hub. This alone can make</p>	

a handsome economic contribution to the southern end of the Sydney CBD, if not for the economy of NSW and the nation. I can offer the following concerns:

- the building height will impact upon nearby residents and presents as a challenge to planning;
- tall buildings have a habit of creating wind tunnels, wind testing after design competition is not a satisfactory outcome;
- overshadowing from the tower will impact nearby Quay Haymarket building and its podium garden as well as surrounding outdoor eateries and cafes;
- The City and landowner should consult with the parish council for Christ Church St Laurence, if there is a clash with tradition and the modern business world, the newcomer should fit in with this surrounding environment;
- the viability of the proposed commercial uses, office, tech start-up and hotel uses within future development is questioned. We do not want a white elephant on Thomas Street, we already have too many empty shops and office spaces in Haymarket;
- traffic and construction vehicle impacts to congestion and residential amenity; and
- construction noise and dust impacts to residents

these issues, the draft DCP for the site includes mitigation measures to suitably address these issues if needed, including an additional opening above the podium and smoothing the façade to redirect wind away from the public domain. Furthermore, additional wind testing will take place following the design competition as part of the detailed development application. It is anticipated that any further adverse impacts will be addressed at this stage once the final geometry of the future development is established.

Concern was raised regarding the potential of the proposed planning envelope to overshadowing nearby residential apartments, including the Quay Haymarket apartment building located adjacent to the corner of Quay Street and Ultimo Road. A detailed shadow study was prepared by FJMT which demonstrated that the proposal would not result in any additional overshadowing impacts at mid-winter. The apartment buildings that front Quay Street, to the south of the site would experience some reduction in solar access, however most will maintain at least 2 hours of daylight. A detailed solar access study would accompany a future detailed development application.

13. Individual

Excessive height/density – We object to the proposal for a building of up to 215 metres tall at 187 Thomas Street, Haymarket. We would like to see the area protected from rampant development.

We are concerned about the extraordinary height and the implications for overshadowing of the church and possibility of a 'wind tunnel' effect.

There are many empty shops in the area partly as a result of COVID. Do we really need another ultra-high rise building that may never be filled.

The subject planning envelope, at 215 metres in height that comprises commercial uses is consistent with the requirements of the Strategy and Central Sydney planning proposal. The subject site is located in the Haymarket Ultimo tower cluster, a designated location where additional building height and density may be accommodated to deliver additional employment generating floor space. Such projects are required to ensure key public places are not significantly overshadowed and acceptable public domain amenity is maintained. The height of the tower is consistent with the heights envisaged by the Strategy in this location.

It is acknowledged that the future development facilitated through this planning proposal would result in some additional impact to solar access and wind conditions in the surrounding public domain as compared to the existing building on site.

Notwithstanding this, the proposal is consistent with the requirements of the Strategy with the planning envelope resulting in equivalent or improved daylight and wind conditions in the surrounding public domain. The daylight analysis that accompanied the planning proposal indicates that the proposed planning envelope will maintain equivalent daylight conditions.

14. Individual

Excessive height/density – I ask you to reject the proposal to increase the maximum building height from 50m to 226.8m.

The tower proposed would dominate the landscape in a negative way overshadowing buildings in a large radius.

The 50m maximum height, allow up to about 15 floors, is already very high for a site with many heritage items nearby. Allowing a taller building would only benefit the developers and would be negative to others who live and work in the area.

A detailed wind impact assessment accompanied the planning proposal, which assessed the pedestrian wind comfort levels in the surrounding public domain in wind tunnel equivalence testing. The assessment found that public domain wind conditions would remain generally equivalent to that of a building envelope that is consistent with the Strategy. The assessment did however identify several locations where the proposed planning envelope may result in conditions that might not match its existing use, such as outdoor dining, which typically needs calm wind environments. The site-specific draft DCP includes provisions to address this, including an additional notch on the western elevation above the podium and a rounded south-west corner of the building. The testing found that these measures would redirect wind horizontally and away from the public domain.

The planning envelope has been amended to increase the setback from the eastern boundary from 1m to 3m to provide greater building separation from any future development on this site. This setback and the draft

15. Individual

Excessive height/density – Another not needed tall building to create a wind tunnel and overshadow the last 20th century intact precinct in the City.

People are already not coming to the city because of it not being "user" friendly, full of wind tunnels & issues with parking. The building does not have enough parking for a 49 storey building. The shadow cast by the building will be year-round and make the area most unpleasant. The numbers of people who will be working/staying in the building will increase the traffic flow & create traffic issues. There is already a large student population plus China Town which already cause traffic issues.

Not all people especially older people are willing to travel by public transport due to safety issues & convenience distance to walk from the public transport. A hotel in this part of town it will be catering to Asian travelers which means that large tourist buses will parking & navigating the narrow streets in the area.

I am not sure the Unions will be happy with the change to the area. This whole area should be kept intact as it should be heritage listed, so that it cannot be destroyed as it is going to be. Shame we do not appreciate our heritage.

16.	Individual	<p>Excessive height/density – Objection. This building is unnecessary to the current needs of the area. It is a historical area that would currently throw shadow over the small amount of historical buildings in the area.</p> <p>There is not enough of the historical buildings left in this part of Sydney and they seem to be becoming overshadowed by cold mountainous buildings that have no need to be in the area.</p>	<p>DCP provisions will provide a suitable visual separation and ensure future development will not result in excessive wind conditions on Valentine Street and elsewhere in the public domain.</p> <p>The redevelopment of the subject site facilitated by the planning proposal would include the demolition of the existing buildings on site. The existing building was constructed in the late twentieth century and is not listed as a heritage item.</p>
17.	Individual	<p>Excessive height/density – The current building is not at all in keeping with the area, but the answer should not be a 49-story building. The whole neighbouring area is part of Sydney's heritage.</p> <p>The University of Technology, Sydney in the building adjacent to Paddy's Market. That development was made with great care to take in the environment and its heritage - the front walls of the former buildings were kept and the new low-level buildings built behind.</p> <p>It would be in Sydney's interests to keep high rise development at a minimum in this area and not to blindly follow the example of the already approved Atlassian development near to Central Station. If this is approved, it will only be the start of massive high-rise development in the Haymarket area.</p>	<p>The subject site adjoins the Sutton Forest Meat building, a local heritage item that fronts the corner of Valentine Street and George Street and Christ Church St Laurence, a State heritage item, is located about 70 metres from the site, fronting the intersection of Valentine Street and George Street. The planning envelope has been designed to ensure future development sympathetically responds to adjacent heritage. This includes a podium height that aligns with the height of the Sutton Forest Meat building; an 8 metre setback to Valentine Street to preserve views to the Christ Church St Laurence; and suitable provisions have been included in the draft site-specific DCP to ensure future development includes appropriate form, articulation and materials to respond to nearby heritage.</p>
18.	Individual	<p>Excessive height/density – I object to the proposed very high high-rise development at the corner of Valentine & Thomas Streets.</p> <p>I am really astonished at the prospect of a nearly 50 storied building imposing itself over the community. The impact of shade and shadows - plus the wind tunnels that will be added to the deterioration of the fragile environment that I really feel moved to protect.</p> <p>The possibility of another hotel in the area bring with it the strong likelihood of more vehicular traffic, wish of course less availability for parking as the plan shows less parking in the new development than current.</p> <p>I can't imagine what positive outcomes could come out of this development and please request that permission to proceed not be permitted.</p>	
19.	Individual	<p>Impacts to Christ Church St Laurence – I am a regular church attender and a parishioner of Christ Church St Laurence (CCSL) and wish to express my utmost objection of the proposed plan due to the following reasons:</p> <ul style="list-style-type: none"> – the proposal would reduce number of car spaces provided under the building putting more pressure on already limited street access and car parking near CCSL, with many parishioners living in other suburbs which would require driving especially on Sunday; – adverse changes to wind tunneling effects in around Valentine Street and across CCSL; and – overshadowing of CCSL hours earlier each and every afternoon of the year, with lots of stained-glass windows losing the beauty of reflecting sunlight caught inside the church. 	<p>Workers in the development are unlikely to drive to the new development and use on street parking as the subject site is located in close to Central Station which includes metropolitan and regional train connections, the Sydney Metro which is currently under construction, as well the tram and bus network. On-street parking in the area is also timed and unlikely to be used by workers. An amount of on-site parking is permitted under the current planning controls which will enable some on-site parking plus servicing.</p> <p>The forecourt and public domain adjacent to Christ Church St Laurence on George Street was measured as part of the wind tunnel testing on proposed planning envelope detailed in the Environmental Wind Assessment included with the planning proposal. The wind conditions outside the Church will generally remain suitable for standing and congregating following future development on the 187 Thomas Street site. While the results indicate that the wind conditions would change from a wind speed of 3.6m/s to 4.2m/s and from a sitting classification to standing classification, the conditions are appropriate for the use of the space and are similar to Railway Square and Hyde Park. The wind safety conditions for the George Street frontage of the Church would continue to be achieved and the safety conditions at the rear of the Church on Pitt Street would slightly improve.</p>
20.	Individual	<p>Impacts to Christ Church St Laurence – Such a building is totally inappropriate for this area and skyline. As a parishioner at CCSL, I am horrified. In 2019 a proposed 16 storey building adjacent to our church was defeated. This new monstrosity would be three times that height. It would overshadow the church (founded in 1845), blocking the light which illuminates our beautiful 19th century windows.</p> <p>It would be a vulgar eyesore, out of place in this part of Sydney. Perhaps it would be more appropriate replacing that obscenity of a casino at Barangaroo!</p> <p>It would cause adverse changes to wind tunneling effects in and around Valentine Street and across to CCSL. It would also decrease the number of car spaces provided</p>	<p>Following the public exhibition of the planning proposal additional shadow analysis on the impact of future development on the stained-glass windows on the</p>

under the building, putting more pressure on already limited street access and car parking near CCSL, inconveniencing elderly and disabled parishioners. For these reasons I strongly urge this proposal be rejected.

21. Individual

Impacts to Christ Church St Laurence – We are marking the submission as parishioners of Christ Church St Laurence. The place of CCSL in people's lives and the life of the Anglican Church in Australia and worldwide is significant. It provides liturgy second to none in Sydney Diocese every day of the year. Music is an integral part of this. It is also a place where people meet and support each other. CCSL provides often lifesaving and life-changing assistance at critical times.

CCSL is located within Sydney CBD, close to several heritage buildings. The heritage aesthetics must be protected and maintained. The proposed development only one block away would enormously detract from these existing heritage buildings. Sydney's remaining built heritage must be protected and preserved.

This building will cast significant shadow during all daylight hours, most notably on CCSL. This church has several magnificent stained-glass windows which will lose their natural light because of this increased shadow. The Proposal would negatively impact on this, which is of high historical and cultural significance.

The design of The Proposal would also create a wind tunnel along Valentine Street (directly opposite CCSL), making it very unpleasant to congregate outside the church in George Street.

The proposed changes to permit such development would open the floodgates for further monstrous high rise and eventually destroy existing character of the area.

Services are held every day at CCSL. The Proposal lessens street car spaces available for CCSL parishioners. This particularly effects the elderly and people with mobility issues who require close ground level parking. Road access to the church front in George Street is already limited and further changes to the back streets which enable access from the west will further restrict such accessibility. There are very many special services – weddings, funerals and other days where liturgy occurs outside the church building. The wind tunnel created along Valentine Street by the proposal will make it impossible for significant events and other emotional times.

The Proposal undermines the principle of Safe Environments through the alteration of pedestrian density around the church and adjoining precinct.

Traffic associated with the proposed 49 storey building will make accessing CCSL from the west much more difficult, with Valentine Street being the only entry from that direction. As recent transport interchange construction and permanent road closures have already increased the difficulty of accessing the church by road.

The proposal does not appear to be a safe one in terms of emergency evacuation in an already busy precinct.

There will be increased noise emanating from and around this building, with the inclusion of an auditorium along with other facilities will contribute to additional noise generation. As will construction noise and disruption to traffic flow during the construction phase. This will have a detrimental impact to the local churches and businesses.

This proposal is at least thirty (30) storeys higher than any other similar building in this block where CCSL is located. As such it is not in character with the Haymarket area. The building in the proposal does not blend with any surrounding aesthetics or styles. Whilst the inclusion of open space may be an attempt to lessen the negative impact of this eyesore, the height of the construction

George Street façade of Christ Church St Laurence. The study found that while the proposal would result in additional shadowing on the façade as follows:

- Summer – 21 December
10 minutes additional shadowing, between 1.10pm and 1.20pm;
- Equinox – 21 March
Additional impact increasing to a maximum of 2hrs 15m between 1.25pm and 3.40pm.
- Winter – 21 July
5 minutes additional shadowing at 3.20pm.

The above additional shadowing is based on the planning envelope and it is likely that the final design of the future development will be reduced in bulk and scale following the design competition, reducing any further additional shadowing. It is also noted that additional shading is unlikely to occur during key use times for the Church (7-9.30am and 5pm onward). A healing mass is also held on a Wednesday at 12.30pm however additional shadows will not affect the church at this time.

negates this attempt at cosmetic veneer. The surrounding Haymarket district is one with a distinct village atmosphere, steeped and rooted in its early colonial and earlier twentieth century history. This development is not compatible with this unique history.

The density of the proposed development overwhelmingly exceeds all existing nearby structures, and thus detracts from the aesthetic and environmental characteristics of an already congested city where retention of public space and open sky is increasingly important.

Summary - Sydney City is suffocating from over-development. This proposed construction and its proposed enabling legislation are totally inappropriate in this location, having a negative and detrimental impact on their surroundings as outlined above. The Proposal will detract from the significant heritage character of the immediate precincts. Sydney has minimal culturally or historically significant sites which are not obscured by surrounding tall buildings. It is essential to maintain what little still exists. The Heritage Precincts of The Rocks and Haymarket should be protected and promoted as historic gateways to the CBD.

-
22. Christ Church St Laurence
- Impacts to Christ Church St Laurence** – The location is a small block west along Valentine Street opposite Christ Church St Laurence.
- As its meeting on 11 February, the Parish Council of Christ Church St Laurence discussed this proposal and determined to inform the parishioners and to make a submission.
- CCSL Parish Council has the following concerns about these proposed changes that would permit such a tall building a block to the west of CCSL:
- overshadowing of CCSL hours earlier each and every afternoon of the year;
 - adverse changes to wind tunneling effects in and around Valentine Street and across to CCSL;
 - decrease from 92 to 79 of the number of car spaces provided under the building putting more pressure on the already limited access and parking near CCSL (We note that the City has changed its requirements for new commercial building parking spaces).
- CCSL notes that we are included among the local heritage areas that would be part of design consultation down the track. We'd prefer that such a tall building did not get that far down the track.
- The proposed height of such a building would far surpass any existing building within several blocks and be totally out of place in this whole area. We note the approval for the tall Atlassian Building over Central Station but as this is further south-east of CCSL, it will not have near the same extent of issues as that at 187 Thomas Street.
-

Document is Restricted

Attachment B

**Planning Proposal
187 Thomas Street, Haymarket**

Planning Proposal – 187 Thomas Street, Haymarket



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Executive Summary

The City of Sydney (the City) has prepared this planning proposal for 187 Thomas Street, Haymarket (the site), in response to a request from the owner, Greaton, for the City to prepare a planning proposal for the site.

This planning proposal explains the intent and justification for the proposed amendments to the Sydney Local Environmental Plan 2012 (LEP) as it applies to the site. This planning proposal has been prepared by the City in accordance with section 3.33 of the Environmental Planning and Assessment Act 1979 and the Department of Planning, Industry and Environment's 'A guide to preparing planning proposals' and 'A guide to preparing local environmental plans'.

The planning proposal will enable development consistent with the Central Sydney Planning Strategy and contributes to the vision and aims of the Strategy through new employment space, protection of public spaces, design excellence and improved public domain outcomes.

The site is approximately 2,327 square metres in area and is bound by Thomas Street, Quay Street and Valentine Street. The site is adjoined by low to medium scale commercial development and a residential apartment building along its eastern boundary and a six storey commercial office building along its northern boundary. Existing development on the site includes a ten storey commercial office building with ground floor retail and a publicly accessible elevated plaza and auditorium. Surrounding development comprises a mixture of uses ranging from ground floor retail and food and drink premises, commercial and office uses to residential apartments and student accommodation.

Under the existing LEP controls, the site is zoned B8 Metropolitan Centre, has a maximum building height of 50 metres and a maximum floor space ratio of 7.5:1, with additional floor space available, including where the development exhibits design excellence. The site's B8 Metropolitan Centre zoning permits a broad range of uses including office, retail, commercial and residential uses.

The City has prepared this planning proposal following a detailed review of the proponent's planning proposal request and accompanying documentation. Clarification has been sought from the landowner and minor changes have been made to consultant reports to address issues relating public domain and wind conditions.

This planning proposal seeks to insert a new site-specific clause in Division 5 of the LEP to:

- set a maximum building height of RL 226.8 metres;
- set a maximum floor space ratio of 20:1 including design excellence;
- restrict development to non-residential uses only;
- allow development consent to only be granted if a through-site link and public domain upgrades are provided; and
- provide additional site-specific floor space for commercial development, including floor space up to 1.5:1 below ground level (***below the ground level of the adjacent public domain on the Thomas, Quay and Valentine Streets frontages***) for specific uses, including an auditorium and laboratory for the innovation tech hub, along with back of house facilities for the hotel.

The City has prepared a draft site-specific amendment to the Sydney Development Control Plan 2012 (draft DCP) to help ensure the objectives and intended outcomes of this planning proposal are achieved. The draft DCP includes controls relating to the built form of the proposed development, public domain, active frontages, public art, design excellence and sustainability. The City intends to publicly exhibit the draft DCP with this planning proposal.

Planning Proposal – 187 Thomas Street, Haymarket

This proposal provides for an increase to the maximum building height and floor space ratio which will allow for the future redevelopment of the site delivering the following key benefits:

- Retention of employment uses – the future tower will retain and expand the provisions of employment floor space, with new commercial office, business innovation, retail and hotel floor space on the site and will increase Central Sydney’s capacity for employment growth;
- Foster growth in the innovation sector – future development facilitated by this planning proposal will accommodate an innovation tech hub, which includes a laboratory and auditorium space and other shared facilities, which will foster new and emerging tech businesses, contributing towards a culture of innovation across Central Sydney, Haymarket and nearby Chippendale;
- Improved built form – the planning proposal facilitates a high quality built form with appropriate setbacks and podium height that sit comfortably in the context and relate sympathetically to nearby heritage items and surrounding public domain.
- Public domain improvements – improved, accessible, retail activated pedestrian connection to George Street, public domain upgrades, footpath widening and an expanded public plaza to integrate with future public domain improvements on Quay Street.
- Pedestrian amenity – the planning proposal sets controls from a building envelope that does not detrimentally impact pedestrian amenity in the public domain and delivers acceptable daylight and wind conditions.
- Ecologically sustainable development – the draft DCP associated with the planning proposal includes ambitious ecologically sustainable development benchmarks to ensure an energy efficient built form is delivered.

This planning proposal has been amended, new text is shown in ***bold italics*** and deleted text is shown as **~~bold strikethrough~~**.

This planning proposal was amended in June 2021 following public exhibition, new text is shown in *italics* and deleted text shown as ~~strikethrough~~, and deleted images are struck through

1. Site identification

1.1 Site identification

This planning proposal relates to Lot 100 DP 804958, known as 187-189 Thomas Street, Haymarket. This site is referred to in this report as 'site' or '187 Thomas Street'. The site is shown at Figure 1.

Figure 1. Land affected by this Planning Proposal



1.2 Site location

187 Thomas Street is located in Haymarket, which comprises part of Central Sydney, in the City of Sydney local government area. The site has frontage to Thomas Street along its north-west boundary, Quay Street to the west and Valentine Street to the south. The eastern boundary of the site adjoins a number of different sites which have frontages to George Street and the northern boundary adjoins the adjacent site to the north with frontage to Thomas Street.

Central railway station, which includes metropolitan and intercity train, light rail and bus connections is located about 200 metres to the south-east of the site, accessed from the site via George Street and Rawson Place or through Railway Square and the Devonshire Street pedestrian tunnel. The Haymarket light rail stop is located about 100 metres from the site on Rawson Place. Railway Square is about 130 metres to the south of the site along Quay Street and connects Broadway and Lee Street with George Street and Pitt Street.

A site location plan and aerial photo of the surrounding area are shown at Figures 2 and 3.

Planning Proposal – 187 Thomas Street, Haymarket

Figure 2. Site location

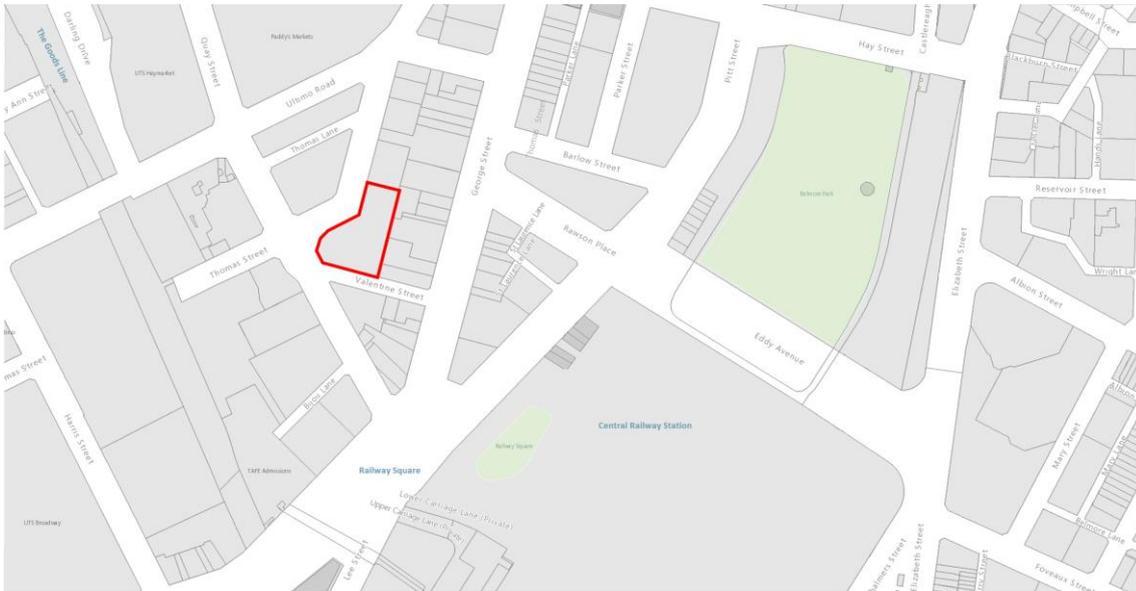
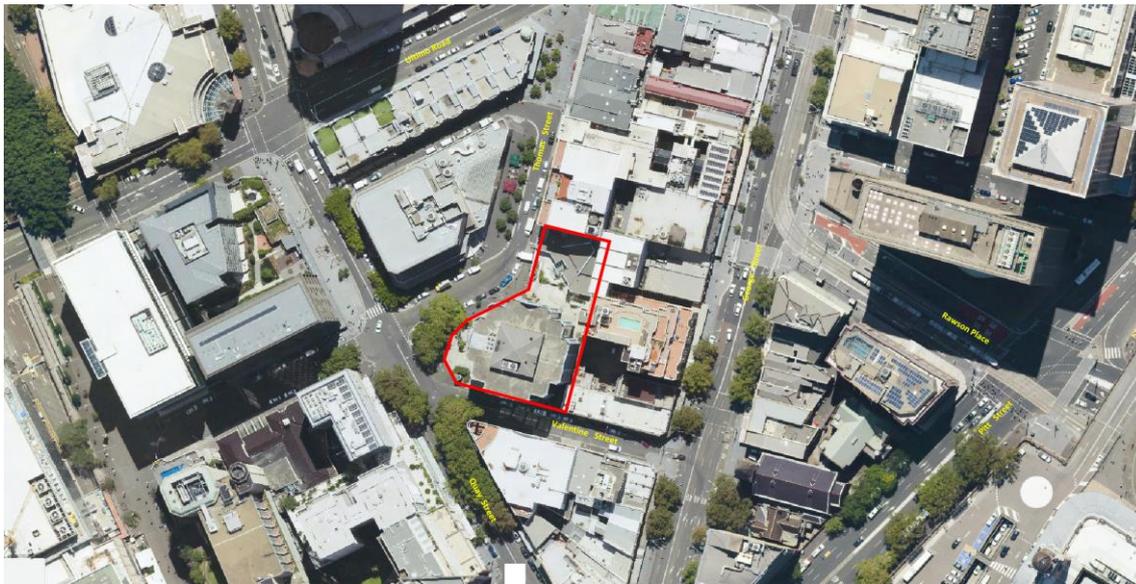


Figure 3. Aerial photo of the site



1.3 Site characteristics and context

The site is irregular in shape and has total area of 2,327m². The site's eastern boundary adjoins a number of properties that front George Street, its total length is 66 metres. The site's northern boundary with the adjoining site to the north is 25 metres. The north-western frontage to Thomas Street is 59 metres. The site's western frontage to Quay Street is 18 metres and the southern frontage to Valentine Street is 44 metres.

Existing development consists of a ten storey commercial office building with ground floor retail that opens onto a publicly-accessible plaza that fronts the intersection of Quay Street and Valentine Street.

Planning Proposal – 187 Thomas Street, Haymarket

Surrounding development comprises a mixture of retail, commercial, residential, student and tourist accommodation uses.

- East – On the south-eastern side of the intersection of Valentine Street with George Street is a cluster of mid-sized heritage listed commercial buildings. The subject site adjoins the former ‘Sutton Forest Meat’ building, a local heritage item, which fronts George Street adjacent to the intersection with Valentine Street. A three storey retail building with a rear at-grade carpark connected to George Street by a short driveway that separate it from Capitol Terrace, a mixed use building including ground floor retail and residential apartments. A retail arcade connects Capitol Terrace with the subject site, providing a pedestrian connection from George Street to Thomas Street.
- North – A six storey commercial building featuring ground floor retail, education and office uses directly adjoins the subject site to the north with frontage to Thomas Street. The Prince Centre, a nine storey complex that includes office and commercial uses on the upper floors, retail and food and drink premises on lower levels, is located to the north-west of the site adjacent to the intersection of Thomas Street and Quay Street. The footpath on the western side of Thomas Street has been widened to accommodate outdoor dining from the adjacent restaurants in the Prince Centre.
- West – Quay Street to the west of the subject site is characterised by a generally consistent row of buildings between 16 and 18 storeys in height and include residential, tourist and student accommodation above podiums that include retail and active uses. Outdoor dining is located on the widened footpath on the west side of Quay Street.
- South – Small to medium sized commercial buildings ranging between two and six storeys in height are located to the south of the site on the block bound by Valentine Street, George Street and Quay Street. A row of heritage listed commercial terraces front George Street. These buildings primarily consist of commercial office, retail, entertainment, food and drink and tourist accommodation uses.

The subject site does not contain a heritage item, however there a several heritage items located within its vicinity, including local heritage item, the former ‘Sutton Forest Meat’ building, which directly adjoins the site. The Christ Church St Laurence, a State heritage item, is located on the eastern side of George Street adjacent to the intersection with Valentine Street. A row of heritage listed commercial terraces between three and four storeys in height are located to the south of the site, fronting the western side of George Street.

Figures 4 to 6 show existing development on the site. The surrounding area is shown in Figures 7 to 9.

Planning Proposal – 187 Thomas Street, Haymarket

Figure 4. Looking south along Thomas Street towards the subject site, shown in red



Planning Proposal – 187 Thomas Street, Haymarket

Figure 5. Photo of the subject site as viewed from the intersection of Thomas and Quay Streets



Figure 6. View along Valentine Street towards subject site and Christ Church St Laurence



Planning Proposal – 187 Thomas Street, Haymarket

Figure 7. View looking north along Quay Street towards subject site and the corner of Thomas Street on the right and Darling Harbour



2. Existing planning controls

The LEP contains zoning and principal development standards for the site. These are discussed below.

2.1 Zoning

The site is zoned B8 Metropolitan Centre, as shown in Figure 8. The zone permits a broad range of uses, including commercial premises, community facilities, food and drink premises, as well as residential accommodation and tourist and visitor accommodation.

Figure 8. Extract from Zoning Map in the Sydney Local Environmental Plan 2012



2.2 Building height

The maximum permissible height for the site is 50 metres, as shown in Figure 9.

Figure 9. Extract from Height of Building Map in the Sydney Local Environmental Plan 2012



2.3 Floor space ratio

The maximum floor space ratio for the site is 7.5:1, as shown in Figure 10. Clause 6.4 of the LEP provides additional FSR of up to 1.5:1 for residential accommodation, serviced apartments, hotel or motel accommodation, community or childcare facilities and purchase of heritage floor space. Up to 10 per cent additional floor space may be granted under clause 6.21(7) of the LEP subject to a competitive design process and demonstration of design excellence.

In total, an FSR of 9.9:1 is potentially achievable for a residential or tourist accommodation development and 8.25:1 for a commercial development.

The site is in the Haymarket and Ultimo tower cluster area, identified in the Central Sydney planning proposal, and as such could, in the future, be eligible for a new design excellence bonus pathway of up to 50 per cent additional floor space, subject to satisfying several criteria. The future changes to the LEP as part of the Central Sydney planning proposal will also provide additional FSR of 1.5:1 for office, business and retail premises on the site.

Figure 10. Extract from Floor Space Ratio Map in the Sydney Local Environmental Plan 2012



2.4 Heritage

The subject site does not contain any heritage items but it is located in the vicinity of several heritage items, including the former 'Sutton Forest Meat' building, adjoining the site and State heritage item, Christ Church St Laurence, on the eastern side of George Street.

Figure 11. Extract from Heritage Map in the Sydney Local Environmental Plan 2012



2.5 Landowner request

In April 2020, the landowner, Greaton Development, submitted a request to prepare a planning proposal for 187 Thomas Street, Haymarket. The request was accompanied by a number of specialist reports including a Planning Justification Report, Urban Design Study, Design Excellence Strategy, Visual Impact Assessment, Ecologically Sustainable Development Concept Report and Wind Impact Assessment. The City has prepared this planning proposal following consideration and assessment of the request.

The request seeks to insert new site-specific controls in the LEP to permit redevelopment of the site with a new commercial tower. The request is to increase the maximum building height control from 50m to RL 226.8m and set a maximum floor space ratio of 20:1, including design excellence floor space.

The landowner's design vision for the site seeks to deliver a connected and integrated hybrid tower that combines multiple commercial uses that are vertically, physically and functionally connected with shared facilities. The proposal will deliver approximately 47,000m² of new commercial floor space in a 47 storey tower consisting of retail, commercial, innovation and visitor accommodation uses.

Ground level retail and active uses front an upgraded public domain and a new through-site link connection to George Street. The proposal includes an innovation tech hub in the podium and low-rise tower, which will deliver affordable innovation space, labs and equipment for small and start-up companies in the technology sector.

Commercial work space will comprise up to twenty storeys across the low-rise and high-rise sections of the proposed tower. A hotel will be located in the upper ten storeys of the tower accessed by separate shuttle lifts to the sky lobby. Shared facilities such as meeting rooms, event space and food and drink offerings are proposed to support business visitors staying in the hotel and utilising the innovation tech hub.

The proposal includes additional floor space of up to 1.5:1 to be located below ground level, in the basement for the provision of a laboratory for the innovation tech hub and back of house facilities for the hotel. The existing auditorium that is currently located on the ground floor of the site will be relocated into the basement of the future development, providing a raked space for collaborative

Planning Proposal – 187 Thomas Street, Haymarket

workshops, presentations and conferences complimenting the proposed provision of meeting rooms, collaboration space and shared services for use by the innovation tech hub and hotel.

The landowner's request includes a building envelope that has been subject to wind, daylight and solar access testing to establish the envelope form. A large 20 metre, four storey high void has been included on the north elevation of the building to provide views and solar access to the north-west facing apartments of the adjoining residential apartment building Capitol Square.

Assessment

This planning proposal is the result of more than twelve months of consultation and collaboration between Greater Development, the landowners, and the City. During this time, the proposal has progressed through a number of iterations that have been further refined to address the specific challenges of the site, ensure compliance with the draft Central Sydney Planning Strategy and to respond to the particular urban design issues.

Two indicative designs were provided when the planning proposal was initially lodged in April 2020, as follows:

- Option 1 – Building height: RL 209m (49 storeys), FSR: 22:1 (51,700m²); and
- Option 2 – Building height: RL 206m (47 storeys), FSR 20:1 (47,000m²).

As part of its assessment, this planning proposal was referred to the City's internal specialist units, including City Design, Transport, Design Excellence, Sustainability, Heritage and Urban Design teams. The proposal was also referred to the City's Design Advisory Panel (DAP) in May 2020 for expert design advice and guidance in nominating a preferred building envelope to progress as part of this planning proposal.

The City's Design Advisory Panel expressed their preference for the 20:1 building envelope (above ground) as it allowed for greater daylight access and improved wind conditions in the public domain. Furthermore, the preferred option allowed for greater design flexibility and more opportunity for building expression.

Overall, the Panel supported the proposal, noting that the delivery of new future work space at the southern end of the CBD near transport is considered a positive outcome and a proposal at this location and of this scale demands an exemplary outcome.

Additional wind testing was undertaken to further understand the wind impacts of the proposed building envelope and ensure wind conditions in the public domain remain suitable for existing activities such as outdoor dining. Computation Fluid Dynamics (CFD) testing assessed the impact of proposed mitigation measures, including an additional notch on the western elevation above the podium and a rounded south-west corner, with the intent of redirecting wind horizontally and upwards away from the public domain. The draft DCP includes provisions to ensure further wind tunnel testing is undertaken following the design competition.

The proposal accommodates additional floor space of up to 1.5:1 below ground level, primarily for the provision of laboratory floor space to complement the innovation tech hub. It will be located on the lowest floor of the basement to minimise noise and vibration impacts.

Planning proposal

The City has prepared this planning proposal following detailed review and assessment of the proposed development concept. The City has worked with the proponent and their consultants to achieve a building envelope that responds to its context, maintains acceptable wind and daylight conditions in the public domain adjacent to the subject site and is capable of being consistent with the draft Central Sydney Planning Strategy (Strategy) and the draft Development Control Plan: Central Sydney.

An amendment to the Sydney Development Control Plan 2012 (DCP), to be exhibited with this planning proposal, contains more detailed site-specific planning provisions.

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The planning proposal and draft DCP address issues arising from the assessment of the landowner's planning proposal request.

This planning proposal has been prepared noting the recent exhibition of the revised draft Central Sydney planning proposal. This site has been the subject of ongoing discussions for some time and is ready to be progressed, without waiting for a change to the LEP prior to seeking a Concept Plan approval.

Figure 12. Photomontage of the future development concept



3. Objectives and intended outcomes

This planning proposal will enable the redevelopment of 187 Thomas Street, Haymarket to deliver:

- Additional floor space for employment uses,
- a built form consistent with the future character of Central Sydney and with acceptable environmental outcomes, and
- greater street activation, public domain improvements and pedestrian connections,

by:

- increasing the maximum building height to RL 226.8m;
- increasing the maximum floor space ratio to 20:1 above ground inclusive of design excellence;
- allowing additional floor space of up to 1.5:1 to be located below ground level (***below the ground level of the adjacent public domain on the Thomas, Quay and Valentine Street frontages of the site***) for limited purposes; and
- provisions to ensure the application of accommodation floor space .

The draft DCP accompanying the planning proposal will facilitate the following:

- a tower comprising commercial uses with a maximum height of RL 226.8m including podium to provide definition to and activation of the public domain;
- an appropriate building form with sufficient setbacks to reinforce adequate public domain wind and daylight amenity;
- a flexible building envelope to comfortably accommodate architectural articulation and wind mitigation measures without resulting in additional impacts to public domain amenity;
- deliver public domain improvements including an extension to the adjoining future public square on Quay Street and pedestrian connections to George Street.
- provisions and parameters for an architectural design competition; and
- achieve high standard of ecological sustainable development targets, including 5.5 star NABERS Energy rating for the commercial component, 5 star NABERS Energy rating for the hotel component and 4 star NABERS water score for commercial and hotel.

The planning envelope has been amended following feedback received in public exhibition. The eastern setback has been increased from 1 metre to 3 metres to provide greater building separation with the adjoining site.

4. Explanation of provisions

4.1 Sydney Local Environmental Plan 2012

To achieve the intended outcomes, this planning proposal seeks to amend the Sydney Local Environmental Plan 2012 by inserting a new site specific clause for 187 Thomas Street, Haymarket under Division 5 Site specific provisions to:

- allow a maximum building height of RL 226.8 metres;
- permit a maximum floor space ratio of 20:1, inclusive of design excellence and additional floor space of 8.89:1, **above ground level**;
- additional floor space of up to 1.5:1 to be located below ground level (**below the ground level of the adjacent public domain on Thomas, Quay and Valentine Streets, between RL 8.1 and RL 12 metres**) for limited purposes that will support the related uses in the above ground portion of the building;
- provide a through-site link and extension of the future Quay Street square;
- ensure the building is not used for residential accommodation or serviced apartment uses; and
- ensure that additional floor space can be awarded where development demonstrates design excellence.

Revised building height

The current maximum permissible building height for the subject site pursuant to clause 4.3 of the LEP is 50 metres. This planning proposal is to insert new site specific provisions into the LEP with a maximum building height of RL 226.8 metres for uses proposed.

The indicative building designs developed by FJMT and the landowner includes a lower building height than the proposed maximum building height to be inserted into the site-specific provisions for the site, to ensure sufficient opportunities for architectural articulation and flexibility to respond to amenity issues are able to be explored during the design competition within a building envelope that has been tested.

Floor space ratio

The planning proposal will deliver employment generating development on the subject site with a maximum floor space ratio of 20:1 inclusive of design excellence.

Commercial development can currently achieve floor space ratio of 8.25:1, which comprises mapped FSR of 7.5:1 and 10 per cent design excellence floor space. This planning proposal anticipates and provides for additional floor space of 1.5:1 for office, business and retail premises, which will be inserted into the LEP as part of changes to accommodation floor space in the Central Sydney planning proposal. This planning proposal provides for additional site-specific floor space of 8.89:1, resulting in maximum floor space ratio of 20:1, **above ground level**, should the building exhibit design excellence. The application of the various floor space provisions applicable to the subject site is shown at Table 1 below.

The site-specific provisions ensure heritage floor space is applicable to future development on the subject site, in accordance with the existing provisions of clause 6.11 of the LEP. There is no change to the application of heritage floor space for accommodation floor space. Heritage floor space is not applicable for the provision of the site-specific floor space.

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The proposed development concept includes an end of journey facility within the basement, a clause will be inserted into the site-specific provisions for the subject site to ensure that the existing end of journey provisions in the LEP apply to the site.

The site-specific provisions include additional floor space of up to 1.5:1, to be located below ground level, **set by the ground level on the adjacent public domain on the Thomas, Quay and Valentine Streets frontages, between RL 8.1 and RL 12 metres**. The purpose of this additional floor space is to provide ancillary floor space in the below ground portion of the building to support the related uses in the tower and podium. This additional floor space will be restricted to laboratory floor space for the innovation tech hub, an auditorium and back of house facilities for the hotel only.

Table 1: Application of the various floor space provisions applicable for 187 Thomas Street

LEP clause	Applicable floor space	Floor space ratio
cl. 4.4	Mapped floor space ratio	7.5:1
cl. 4.6	Accommodation floor space	1.5:1
cl. 6.6	End of journey floor space	0.3:1
TBA	Site-specific floor space	8.89:1
		18.19:1
cl. 6.21(7)(a)	Additional floor space – design excellence	up to 10%
		20:1
TBA	Site-specific floor space – below ground – below the ground level of the adjacent public domain	1.5:1

Non-residential uses

To facilitate the delivery of additional employment generating floor space in Central Sydney, only non-residential uses will be permitted on the subject site under the new site-specific provisions in the LEP, and as such, residential or serviced apartment uses are excluded.

This planning proposal does not propose to change the current zoning for the subject site, which is B8 Metropolitan Centre and permits a wide range of uses including retail, commercial and residential uses. Any future redevelopment of the site to include residential or serviced apartment uses will however be limited to the existing building height and floor space ratio controls under clauses 4.3 and 4.4 of the LEP respectively.

Design excellence

Future development on site will be subject to an architectural design competition consistent with clause 6.21 of the LEP, the draft Guideline for Site Specific Planning Proposals and the Central Sydney Planning Proposal.

Clause 6.21(7) of the LEP provides up to 10 per cent additional floor space subject to an architectural design competition and demonstration of design excellence. The additional floor space is capable of being accommodated within the RL 226.8m building ensure that is the subject

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of this planning proposal and as such a new provision is to be included to ensure additional floor space is taken up rather than additional building height.

Drafting instructions

To deliver the objectives and intended outcomes of this planning proposal, a new site specific clause for 187 Thomas Street will be inserted to Division 5 Site specific provision of the LEP.

Drafting instructions are shown at Table 2 below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

Table 2: Drafting instructions for 187 Thomas Street, Haymarket in LEP

6.## 187 Thomas Street, Haymarket

- (1) The objective of this clause is to encourage:
 - (a) land uses other than residential accommodation and serviced apartments, and
 - (b) the provision retail activation, pedestrian connections and publicly accessible open space.
- (2) This clause applies to 187-189 Thomas Street, Haymarket, being Lot 100 DP 804958.
- (3) Despite clause 4.3, development consent may be granted to the erection of a building with a maximum height of RL 226.80 metres.
- (4) Despite any other provision of this Plan, a building on land to which this clause applies may have a maximum floor space ratio comprising:
 - (a) mapped floor space ratio under clause 4.4, and
 - (b) accommodation floor space ratio under clause 6.4, and
 - (c) end of journey floor space under clause 6.6, and
 - (d) an additional site specific floor space ratio of
 - (i) 8.89:1, located in the above ground portion of the building, and
 - (ii) 1.5:1 for the purposes of hotel back of house, auditorium and laboratory uses, located in the below ground portion of the building as ancillary floor space to support related uses in the above ground portion of the building.
 - (e) an amount of additional floor space, to be determined by the consent authority, of up to 10% if the building demonstrates design excellence within the meaning of clause 6.21(7)(b).
- (5) Clause 4.6 does not apply to development to which this clause applies.
- (6) Development consent must not be granted under this clause unless the consent authority is satisfied that the development will–
 - (a) include a through-site link and publicly accessible open space as an extension of the future square to be located adjacent to the site on Quay Street, and
 - (b) include business premises and retail premises fronting the through-site link and future public square at ground level, and
 - (c) provide a satisfactory distribution of built form and floor space, and
 - (d) will not be used for the purpose of residential accommodation or serviced apartments.
- (7) Clause 6.21(7)(a) does not apply to development on land to which this clause applies.
- (8) In this clause–

hotel back of house means facilities that assist with the operation of the hotel, including office space and housekeeping and are not accessible to guests or the public.

auditorium means a space for public speaking, conferences and workshops with tiered seating.

laboratory uses means space equipped for the experimental study, research, testing, manufacture and teaching.

below ground means below the public domain ground level on Thomas, Quay and Valentine Street frontages of the site.

4.2 Sydney DCP 2012 amendments

To ensure future development is consistent with the objectives of the planning proposal, site specific provisions for the DCP will accompany to ensure a high quality built form and public domain outcome is achieved.

The DCP provisions describe and outline the desired future development and include the following key design considerations:

- active frontages;
- building height;
- street frontage heights and setbacks;
- building design and bulk;
- parking and vehicular access;
- public domain;
- public art;
- environmentally sustainable development targets; and
- design excellence strategy.

Following feedback received in the public exhibition of the planning proposal, the draft DCP has been updated to reflect the amended eastern setback, which increased from 1 metre to 3 metres to provide greater building separation with the adjoining site.

5. Justification

This section is structured as follows:

- 5.1 – Description of the proposed development concept
- 5.2 – Proposed changes to, benefits of and managing impacts of increasing building height and floor space ratio controls
- 5.3 – Draft development control plan
- 5.4 – Need for the planning proposal
- 5.5 – Relationship to strategic planning framework
- 5.6 – Environmental, social and economic impact
- 5.7 – State and Commonwealth interests

5.1 Description of the proposed development concept

The City's vision for the development of the site is based on an assessment of the landowner's concept, which the City has amended to address issues and achieve improved outcomes.

The proposed development concept includes redevelopment of the site to accommodate a new commercial tower comprising work spaces, innovation and visitor accommodation uses, including ground floor active uses, a pedestrian through-site link and a ground floor setback to provide additional public space adjoining the future public square created through the closure of Quay Street between Thomas Street and Valentine Street. Key elements of the proposed development concept are discussed in greater detail below.

Building height

This planning proposal inserts site-specific provisions into the LEP providing a new building height to a maximum of RL 226.80 metres for the subject site (about 215 metres above ground level), shown in Figure 14. There is no change to the existing mapped building height control for the site of 50 metres.

The site-specific provisions will facilitate the delivery of a new commercial tower consisting of work space, innovation floor space, retail and hotel uses on the subject site. To achieve the proposed development concept, the site-specific provisions will restrict the additional building height to non-residential and non-serviced apartment uses only.

The ground floor and podium will comprise retail and active uses fronting an upgraded public domain and enlarged public open space that will adjoin the future public square on Quay Street directly adjacent to the site. A new through-site link will connect with the existing pedestrian connection through Capitol Square to the adjoining residential apartment building that fronts George Street.

The planning proposal delivers on a key move of the draft Central Sydney Planning Strategy by unlocking additional employment generating floor space within designated tower cluster area, shown in Figure 13. The draft Strategy allows opportunities for additional building height and density to be unlocked balanced with key environmental sustainability targets and where the project will not result in adverse wind and daylight impacts to the public domain. The height of the tower is consistent with the heights envisaged under the draft Strategy.

The proposed concept includes tower setbacks of 10m to Quay Street, 8m to Valentine Street and a 20m void on the north elevation, shown in Figure 15. *Following feedback raised in the public exhibition of the planning proposal, the eastern setback has been increased from 1 metre to 3*

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metres to provide greater building separation with the adjoining site. As these setbacks vary from those set by the draft Strategy, this planning proposal is accompanied by a sky view factor and wind impact assessment of the impacts from the variations. Wind mitigation measures, including a notch on the western elevation and a rounded south-west corner of the building are detailed in the draft DCP.

To accommodate architectural articulation and mitigation measures to maintain pedestrian amenity, this planning proposal sets a maximum building height that includes adequate flexibility within the envelope to respond to any issues that may arise within a tested building envelope.

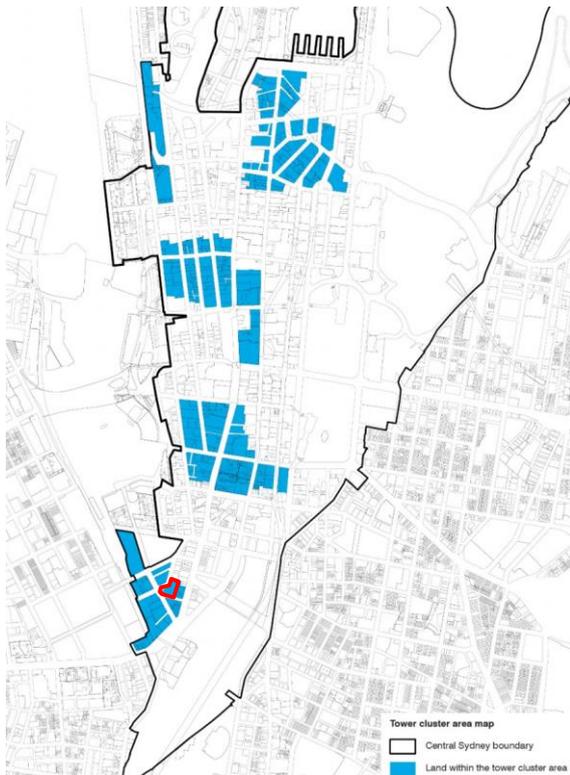
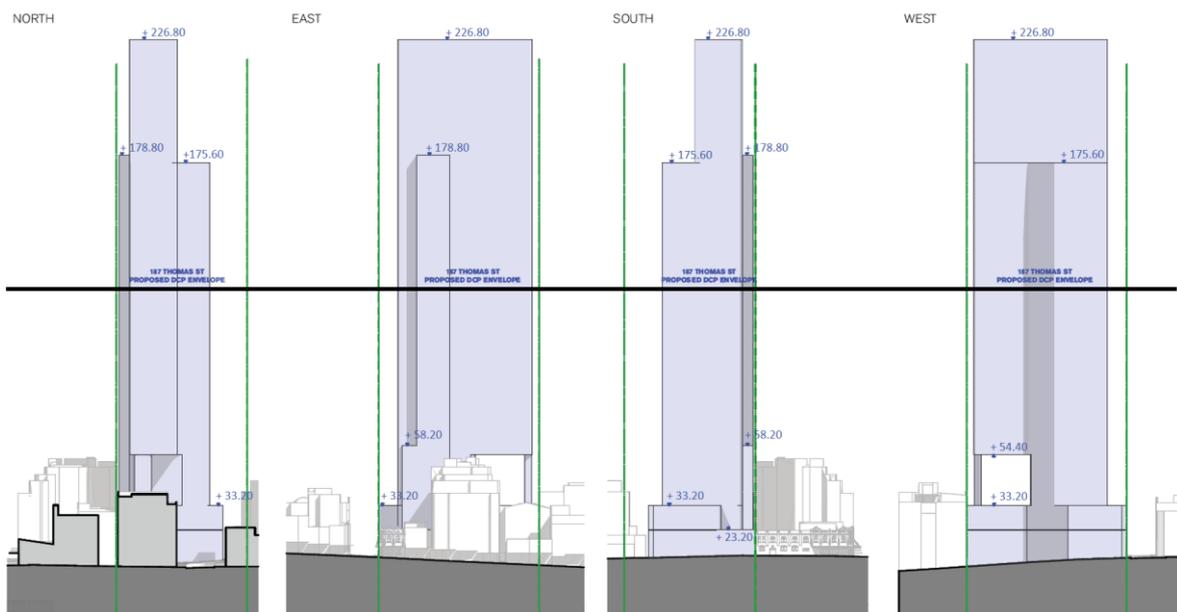


Figure 13. Identified Tower Cluster Map proposed as part of Central Sydney planning proposal



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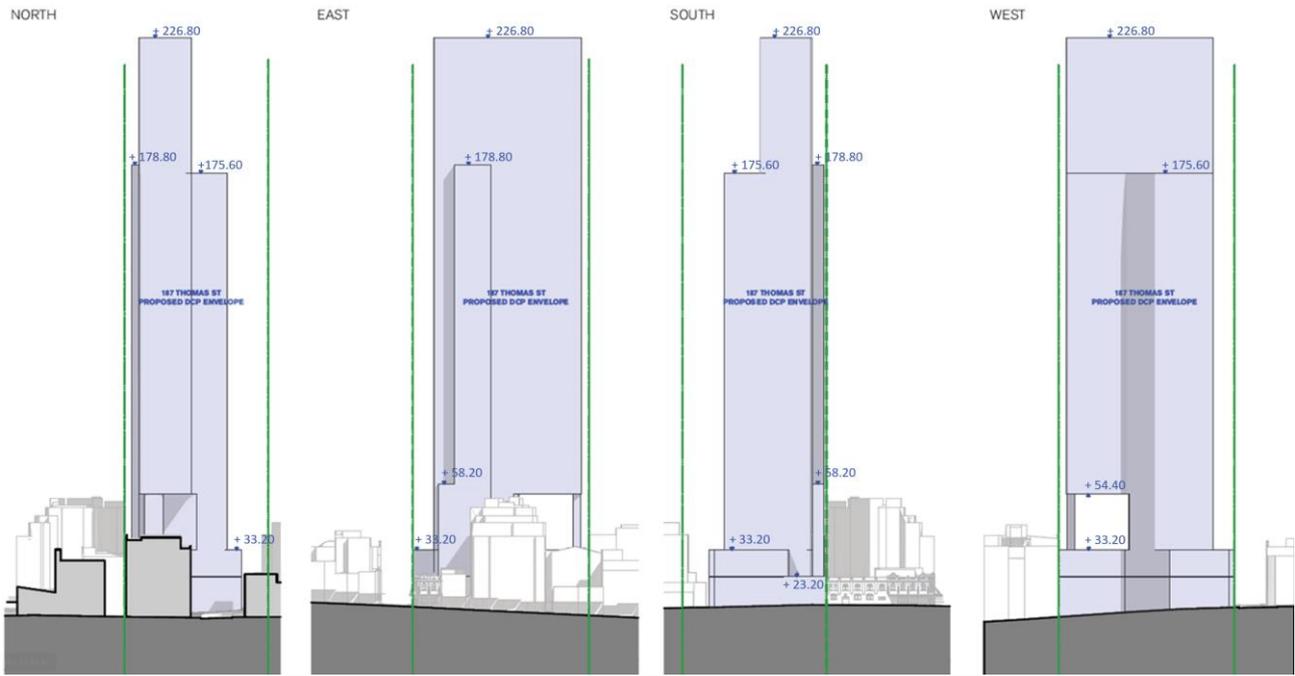


Figure 14. Elevations of the indicative building envelope



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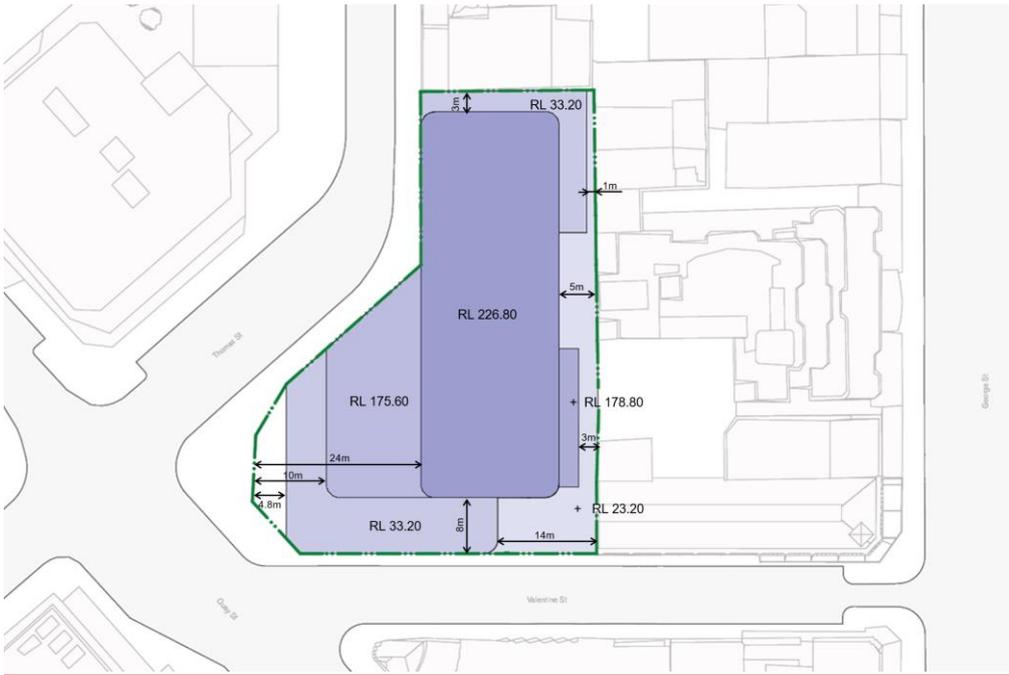


Figure 15. Setbacks of the indicative building envelope

Floor space ratio

This planning proposal will facilitate a maximum above ground floor space ratio on site of 20:1, inclusive of design excellence.

The maximum floor space ratio, comprises the mapped FSR of 7.5:1 and other additional floor space that the future development may be eligible for, including end of journey floor space. The future changes to the accommodation floor space provisions for the site, which are to be inserted into the LEP as part of the Central Sydney planning proposal are anticipated as part of this planning proposal and will provide additional FSR of 1.5:1 for a commercial development.

The planning proposal also provides for site-specific floor space of 8.89:1 for commercial development, resulting in a maximum above ground floor space of 18.19:1. Future development on site is also eligible for 10 per cent bonus floor space subject to a competitive design process and demonstration of design excellence, in a maximum floor space of 20:1, **above ground level**.

The indicative concept provides for about 47,000m² of new employment generating floor space, located above ground in a new tower, which includes active uses and ground floor retail fronting an improved public domain, an innovation tech hub in the podium and commercial office and hotel uses in the tower above.

The indicative design concept includes laboratory floor space to be located below ground level, in the lowest basement level. The laboratory is required to be situated in this location to minimise noise and vibration impacts to sensitive equipment. The site-specific provisions include additional floor space of up to 1.5:1, below ground level, restricted to laboratory floor space for the innovation tech hub, an auditorium and back of house facilities for the hotel only. **Ground level is established by the public domain ground level on Thomas, Quay and Valentine Streets adjacent to the subject site, which ranges from RL 8.1 to RL 12 metres.**

Public domain and pedestrian connections

Existing development on site includes a pedestrian connection and through-site link to George Street through the adjoining residential apartment building, Capitol Square. The existing conditions include several level changes, accessed via stairs from Thomas Street, or at-grade, indirectly through the building forecourt at Quay and Valentine Streets.

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The proposed indicative concept seeks to retain the pedestrian connection to George Street, enhance the conditions by providing a wider, more direct and accessible connection to Thomas Street lined by retail tenancies and entries to the hotel and commercial components of the building.

This planning proposal includes upgrades to the surrounding public domain, with widening of the footpath on Valentine Street adjacent to the site, an expanded pedestrian plaza at the corner of Thomas and Quay Streets and integration with the proposed Quay Street public domain works.

Ecologically sustainable development

Future development on the subject site is to achieve ambitious ecologically sustainable development ratings, including a 5.5 star NABERS Energy rating and 4 star NABERS Water rating for the office component and 4.5 star NABERS Energy rating and 4 star NABERS Water rating for the hotel component.

The ESD Concept Report accompanying the planning proposal has been prepared in accordance with the City of Sydney's Draft Guideline to Preparing Planning Proposals in Central Sydney and posits that future development on the subject site is capable of achieving a 25 per cent reduction in carbon emissions achieved through the provision of photovoltaic panels on the façade and efficient energy and water systems.

The design excellence provisions in the draft DCP will include the above sustainability targets to ensure future development on site delivers significantly improved environmental performance and sustainability outcomes.

5.2 Proposed changes to, benefits of and managing impacts of increasing building height and floor space ratio

The planning proposal seeks to amend the maximum building height and floor space ratio controls to facilitate the redevelopment of the subject site with a built form that has acceptable impacts on the surrounding area.

Commercial use

This planning proposal will facilitate the redevelopment of the subject site with a new commercial tower comprising ground floor retail and active uses, including an innovation tech hub in the podium, commercial office space and hotel accommodation in the tower above. This proposal will deliver about 47,000m² of new employment floor space, increasing Central Sydney's employment generating floor space capacity.

The proposed development concept includes upgrades to the surrounding public domain, fronted by fine-grain retail premises and capable of accommodating outdoor dining. These active uses will help generate increased activity in and around the subject site, improving the amenity and quality of the public domain.

The additional building height and floor space delivered by this planning proposal is only available to commercial uses. This will be achieved through the insertion of a restriction into the new site-specific provisions for 187 Thomas Street in the LEP.

This outcome is consistent with the objectives of the City of Sydney's Local Strategic Planning Statement and the draft Central Sydney Planning Strategy in that the planning proposal will deliver new growth and additional employment generating floor space in a key location that is well placed to take advantage of infrastructure and planned additional capacity.

Height and FSR changes

The planning proposal will insert site-specific building height and floor space ratio controls in the LEP for the subject site, 187 Thomas Street, Haymarket.

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The building height and floor space ratio controls are specific to the building envelope outlined in this planning proposal, provided by the landowner. To be eligible for the increased development controls, future development on the site is to meet the site-specific requirements in the LEP, such as restricting future development on site to non-residential uses only and provision of a through-site link, public domain upgrades and ground floor active uses.

The new site-specific provisions are to be inserted into Division 5 of the LEP for 187 Thomas Street will provide for a maximum building height of up to RL 226.80 metres. The maximum building height is capable of comfortably accommodating the proposed indicative concept design with sufficient flexibility to accommodate any required mitigation to respond to and address any issues and provide architectural articulation.

The planning proposal provides for a maximum floor space ratio of 20:1, inclusive of design excellence, above ground. The site-specific provisions outline the FSR provisions that are applicable for the site, comprising the mapped and various additional FSR and site-specific FSR of 8.89:1, providing a maximum above ground FSR of 18.19:1, to which the additional design excellence floor space of up to 10 per cent can be applied, following a competitive architectural design competition. The site-specific provisions to be inserted into the LEP can accommodate the indicative concept design and additional floor space within a tested building envelope.

An Urban Design Study accompanies this planning proposal detailing how the surrounding area can accommodate the proposed building envelope without significant adverse impacts to pedestrian amenity and will deliver commercial floor space to ensure Central Sydney can remain a competitive economic centre without significant adverse impacts.

The site-specific provisions include additional floor space of up to 1.5:1, below ground level restricted to laboratory floor space for the innovation tech hub, an auditorium and back of house facilities for the hotel only. This will accommodate a laboratory that has been included in the indicative design concept that will complement the innovation tech hub with shared equipment for research and testing.

Built form

The proposed indicative scheme has been developed to respond to the conditions on the subject site while delivering acceptable daylight and wind conditions within the public domain.

The proposed envelope includes a four storey podium, RL 33.20 metres in height, and a commercial tower above, to a height of RL 226.80 metres. The tower includes a 10m setback to Quay Street, 8m to Valentine Street and a general rear setback to the eastern boundary of 5m. A 20 metre, four story void is located above the podium at the north of the site to maintain light and views to the windows of the adjoining residential apartment building to east. The upper levels of the tower are further setback from the western boundary of the site to provide a visual distinction for hotel from the commercial office component below.

The wind and daylight assessments that accompanied the planning proposal demonstrate that the proposed building envelope would deliver public domain daylight and wind conditions that are generally equivalent to that of a building envelope that is consistent with the requirements of the draft Central Sydney Planning Strategy.

The wind impacts were higher at a small number of locations. Additional CFD wind testing was undertaken to demonstrate the effect of potential mitigation measures such as an additional notch on the western elevation above the podium and a rounded south-west corner of the building. The testing found that these measures would redirect wind away from the public domain, ensuring sufficient public domain amenity is maintained. The site-specific provisions include sufficient flexibility to address any issues that may arise in the design competition.

The new building will be significantly higher than other existing buildings within its immediate vicinity. The subject site is however located in a future tower cluster, where the City has identified further towers may be located. The tower is consistent with the intended built form for this part of

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the Central Sydney as described in the Draft Strategy. The proposed indicative concept includes design measures to minimise the building's impact on the adjacent heritage items and surrounding public domain, such as greater ground floor setbacks, a sympathetic podium height and greater tower setbacks.

The draft DCP, which accompanies the planning proposal, includes detailed site-specific provisions to describe and outline the desired future development on site to ensure a high quality built form and public outcome is delivered. *The draft DCP has been amended following feedback received during public exhibition, with the eastern setback increased from 1 metre to 3 metres to provide greater building separation with the adjoining site.*

Heritage

The subject site is not identified as a heritage item, nor is it located in a heritage conservation area. The proposed redevelopment facilitated by this planning proposal will not include the demolition of any heritage item.

There are several heritage items located in the vicinity, including the former 'Sutton Forest Meat' building which adjoins the subject site on its south-east boundary and a row of commercial terraces that front George Street to the south of Valentine Street are identified as local heritage items in the LEP. State heritage item, Christ Church St Laurence is located on the eastern side of George Street adjacent to the intersection with Valentine Street. The subject site is also located within the Haymarket/Chinatown Special Character Area under section 2 of the DCP.

The planning proposal is accompanied by a Heritage Impact Statement which advised that although the proposed building envelope will be significantly larger than the existing building on site, the proposal will have a limited impact to the significance of nearby items. The existing office building on site is not considered particularly significant and provides an unsympathetic backdrop to adjacent heritage items.

The proposed reference scheme offers a design that is able to better relate to its context, the podium and tower setbacks will ensure key view corridors along George Street, Valentine Street and Thomas Street will not be further interrupted or obscured as a result of the proposal, nor will there be any additional overshadowing to Central Station.

The planning proposal is accompanied by site-specific provisions for the DCP to ensure future development on site relates sympathetically to adjacent heritage items in terms of locations of voids, blank walls, façade treatments and materials.

Design excellence

Future development on site will be subject to an architectural design competition consistent with the requirements of clause 6.21 of the LEP, as anticipated by the Guideline for Site Specific Planning Proposals and the Central Sydney Planning Proposal.

A Design Excellence Strategy accompanied the planning proposal provides for an invited architectural design competition consisting of a minimum of five competitors ranging from emerging and established local and national architectural firms and a competition jury that will comprise of representatives nominated by the City and who are part of the Design Advisory Panel. The accompanying draft DCP includes design excellence provisions for an architectural design competition.

Traffic and transport

The future development concept includes basement parking for up to 79 vehicles, loading facilities, bicycle parking and an associated end of journey facility. The basement will be accessed through a new driveway on Thomas Street at the north of the site. The quantum of parking spaces is less than the maximum parking rate of 91 spaces set by the LEP for this site.

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This planning proposal is accompanied by a Traffic Impact Assessment Report which noted that the proposal would result in a minor increase in traffic generation of up to four vehicles in the morning peak and eight vehicles in the afternoon peak. The assessment found that the local road network was capable of absorbing these additional volumes without major external improvements as volumes at this level are considered minimal and within the typical fluctuations in background road traffic volumes.

The subject site is located close to a number of significant changes to the pedestrian, cycle and road network that are proposed or part of long term visions identified by the City, including closure of Quay Street between Thomas Street and Valentine Street to create a new public plaza, conversion of Valentine Street to a shared zone and pedestrianisation of George Street to Railway Square.

The draft DCP includes provisions to ensure that future development on the site is designed to anticipate and respond to future pedestrianisation of adjacent streets and conversion to shared zones. A further detailed traffic, access and parking assessment will occur as part of any future detailed application for the redevelopment of the site.

Pedestrian activity and comfort

A Footpath Pedestrian Capacity Study accompanied the planning proposal and assessed the impacts of the scheme on adjacent footpaths and pedestrian links in accordance with the City's Pedestrian Level of Comfort assessment tool.

The pedestrian assessment looked at pedestrian facilities on George, Valentine, Thomas and Quay Streets surrounding the site as well as the through-site links. Existing pedestrian numbers and conditions were compared to anticipated pedestrian volumes based on the proposed building envelope and identified the proposed changes to Quay Street, including the public plaza and potential conversion of Valentine Street to a one-way street and potential future shared zone.

The assessment noted that the majority of surrounding pedestrian footpaths would continue to operate satisfactorily and could safely accommodate increased pedestrian numbers. The modelling notes that Valentine Street would only achieve an 'F' rating based on the increase in pedestrian numbers as a result of the indicative concept scheme and their circulation. To safely accommodate the increase in pedestrian numbers, the assessment recommends increasing the footpath width on Valentine Street or conversion to a shared zone. Conversion of Valentine Street to a shared zone is consistent with the Chinatown Public Domain Plan and the City's vision of the precinct, relevant provisions are included in the draft DCP to ensure that the future development on the site is designed and constructed to accommodate any future pedestrianisation on Valentine Street and to other streets surrounding the site.

Geotechnical assessment

The planning proposal includes the excavation for a basement to accommodate parking, site servicing and end of journey facilities. A Geotechnical Assessment accompanied the planning proposal, which found that the subject site consists of Sydney Basin Hawkesbury Sandstone Bedrock below a layer of soil and fill and that excavation is possible without significant adverse impacts.

The study did however indicate that potential contamination was noted in the investigation report for the adjacent site at 757 George Street. A detailed excavation and contamination investigation will be undertaken as part of the detailed development application phase.

5.3 Draft development control plan

As a consequence of the proposed site-specific controls in the LEP, it is also proposed to insert site-specific DCP controls into Section 6 of the Sydney DCP 2012. The draft DCP amendments will be publicly exhibited with the planning proposal.

The draft DCP amendment includes provisions to ensure delivery of the future development on site in a manner that is consistent with this planning proposal. The draft DCP addresses the following key design considerations:

- building height;
- street frontage heights and setbacks;
- building design and bulk;
- parking and vehicular access;
- active frontages;
- public domain and through-site link;
- public art;
- design excellence provisions; and
- environmentally sustainable development provisions.

Following feedback raised in the public exhibition of the planning proposal, the draft DCP has been updated to include an amended eastern setback, which has increased from 1 metre to 3 metres to provide greater building separation with the adjoining site.

5.4 Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal is consistent with the draft Central Sydney Planning Strategy. The draft Strategy describes objectives and a framework to ensure future growth is employment focused, occurs where it respects our special places, spaces and parkland, and is highly sustainable, resilient and responsive to climate change.

This planning proposal is a result of a request from the landowner to change the planning controls that relate to the subject site.

The landowner has undertaken a number of studies in support of the request, including an Urban Design Study prepared by FJMT. The study describes how the proposal is consistent with the City's vision for Central Sydney to remain economically competitive and capable of accommodating growth in employment generating floor space through additional building height and floor space in selected locations that do not result in unacceptable impacts on public domain amenity.

The supporting documents commissioned by the landowner to support their request are attached as the following appendices to this planning proposal:

- Part A: Vision and Value Proposition – Greaton
- Part B: Planning Justification Report – MG Planning
 - Appendix 1: Design Excellence Strategy – Greaton
 - Appendix 2: Public Benefit Offer – Greaton
 - Appendix 3: Heritage Impact Statement – Weir Phillips
 - Appendix 4: Acoustic Impact Assessment – White Noise Acoustics
 - Appendix 5: ESD Concept Report – WSP
 - Appendix 6: Capital Investment Value Summary – Rider Levett Bucknall
 - Appendix 7: Preliminary Geotechnical Assessment – ARUP
 - Appendix 8: Draft DCP 2012 Amendment – Greaton

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- Appendix 9: Environmental Wind Assessment – ARUP
- Appendix 10: Economic Impact Assessment – Atlas Urban Economics
- Appendix 11: Visual Impact Photomontage Report – Virtual Ideas
- Appendix 12: Traffic Impact Assessment – Traffix
- Appendix 13: Footpath Capacity Study – Traffix
- Appendix 14: Aeronautical Impact Assessment – AVLAW Consulting
- Appendix 15: Preliminary Operational Waste Management Plan – Elephants Foot
- Appendix 16: Civil Engineering Advice – ARUP
- Part C: Urban Design – FJMT

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This planning proposal seeks to insert new site-specific provisions into the LEP for the subject site. The resultant conditions have been tested to ensure the future built form is appropriate and does not result in any unacceptable impacts on adjoining properties or the public domain. The amended controls would facilitate the delivery of additional employment generating floor space consistent with the vision of the draft Central Sydney Planning Strategy.

This can be achieved in a timelier manner by considering these site specific changes as part of the planning proposal than with the City's proposed changes to the LEP through the Central Sydney planning proposal.

5.5 Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and the exhibited draft strategies)

A Metropolis of Three Cities – The Greater Sydney Region Plan

A Metropolis of Three Cities – The Greater Sydney Region Plan is the NSW Government's overarching strategic plan for growth and change in Sydney. The 20 year plan provides a 40 year vision that seeks to transform Great Sydney into a metropolis of three cities, being the Western Parkland City; the Central River City; and the Eastern Harbour City.

It identifies key challenges facing Greater Sydney, including a projected population increase of 1.7 million and the associated requirements to deliver 725,000 new homes and create 1 million new jobs by 2036.

The Plan outlines how Greater Sydney will manage growth and change and guide infrastructure deliver. The Plan is to be implement at a local level by District Plans. This planning proposal is consistent with several relevant directions and objectives of the Plan, as follows:

- **Infrastructure** – Future development on the site will support the delivery of investment into community infrastructure, in particular key public domain projects in close proximity to the site, such as new public square on Quay Street and upgrades to Railway Square and George Street.
- **Liveability** – The proposed development concept includes retail activation and will facilitate the delivery of public domain upgrades delivering opportunities greater public life for people to walk and improving the permeability of Central Sydney.
- **Productivity** – The proposal will deliver additional commercial floor space for new hotel, innovation and office uses close to existing and future transport infrastructure contributing to Central Sydney's economy.
- **Sustainability** – Delivery of a new building with improved sustainability outcomes than the current building stop is a key priority of this planning proposal.

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Eastern City District Plan

The Eastern City District Plan sets out the NSW Government's vision, priorities and actions for the Eastern District of the Greater Sydney area, which includes the City of Sydney. It establishes a 20 year vision for the Eastern District to be a global sustainability leader, managing growth while maintaining and enhancing liveability, productivity and attractiveness for residents and visitors. Planning priorities and associated actions for productivity, liveability and sustainability seek to deliver on this vision.

This planning proposal is consistent with the following priorities from the Plan:

- **Planning Priority E1 – Planning for a city supported by infrastructure** – To refresh and renew the offering of commercial floor space in Haymarket and Central Sydney, this planning proposal seeks to expand and enhance commercial uses on the subject site by facilitating the delivery of new office, innovation and visitor accommodation floor space on a site that is located close to existing and planned transport infrastructure to maximise the efficient use of the existing and future new capacity.
- **Planning Priority E7 – Growing a stronger and more competitive Harbour CBD** – Haymarket and Central Sydney lie at the core of the Harbour CBD, within the Eastern Economic Corridor. This Planning Proposal will help facilitate new commercial office space, as well as new visitor accommodation and innovation floor space, which will maximise on the site's central location on the CBD fringes and close to nearby universities and research institutions.
- **Planning Priority E10 – Delivering integrated land use and transport planning for a 30 minute city** – The future development concept satisfies the 30 minute city objective as it will deliver access to employment opportunities close to existing and future public transport connections, for example Central train station, which includes direct train connections to many parts of Greater Sydney within 30 minute travel time.
- **Planning Priority E11 – Growing investment, business opportunities and jobs in strategic centres** – This planning proposal will facilitate the delivery of additional employment generating floor space, including an innovation hub on the subject site, strategically located close to academia and research institutes in Ultimo and Camperdown and key industry sectors in Central Sydney.
- **Planning Priority E13 – Supporting growth of targeted industry sectors** – This planning proposal will deliver innovation floor space and will be primarily tech-focused, an industry sector that is targeted by the City and NSW government. The innovation hub will provide co-working space, equipment and support for start-ups and small entrepreneurs to foster and grow their business.
- **Planning Priority E19 – Reducing carbon emissions and managing energy, water and waste efficiently** – The proposed development concept will deliver a new commercial building with significantly improved sustainability outcomes. Future development on the site is to achieve ambitious ecological sustainable development targets.

Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Sustainable Sydney 2030

Sustainable Sydney 2030 is the vision for sustainable development of the City of Sydney to 2030 and beyond. It includes 10 strategic directions to guide the future of the local government area. The plan outlines the City's vision for a 'green', 'global' and 'connected' city and sets targets, objectives and actions to achieve this vision. This planning proposal is aligned with the following relevant strategic directions and objectives:

- **Direction 1 – A globally competitive and innovative city** – The proposal will support a future high quality urban design outcome that will provide new employment opportunities, particularly the proposed innovation hub, which will provide space for new tech start-up businesses with a focus on innovation, helping to make Sydney attractive to global investors.

Planning Proposal – 187 Thomas Street, Haymarket

- **Direction 2 – A leading environmental performer** – This planning proposal will deliver ecological sustainable development on the site by establishing ambitious minimum sustainability targets for future development.
- **Direction 3 – Integrated transport for a connected City** – Future development on the subject site is well placed to capitalise on its proximity to Central Station and Railway Square which feature excellent existing and planned transport infrastructure with train, light rail and bus connections, with a new stop on the future Sydney Metro line currently under construction.
- **Direction 4 – A city for walking and cycling** – The proposed development concept facilitated by this planning proposal includes ground floor retail activation, a through-site link and an end of journey facility which will encourage greater active transport use, helping deliver a more people oriented city.
- **Direction 5 – A lively and engaging city centre** – The mix of uses on the subject site will deliver greater activation and a livelier engaging city. Future ‘fine grain’ retail premises, as well as outdoor dining and other late night and entertainment uses will be encouraged to complement the proposed office space, innovation hub and visitor accommodation.
- **Direction 6 – Vibrant local communities and economies** – Future development facilitated by the planning proposal will contribute to Haymarket and the nearby Chinatown and Central Sydney area through greater opportunities for business, start-ups and entrepreneurs, as well as new retail activation and a wider selection of food and drink and potentially new entertainment premises for local residents and visitors.
- **Direction 7 – A cultural and creative city** – Public art delivered through the future development on the site will provide new creative and cultural experiences and opportunities for engagement with the public.
- **Direction 9 – Sustainable development, renewal and design** – this planning proposal will support delivery of future development that is more ecologically sustainable than the current building on site by establishing aspirational sustainability benchmarks.

Local Strategic Planning Statement

City of Sydney’s endorsed Local Strategic Planning Statement sets the land use planning context, 20-year vision and planning priorities to positively guide change towards the City’s vision for a green, global and connected city. The planning statement explains how the planning system will manage change to achieve the desired outcomes, and guides future changes to the City’s controls, including those sought by proponents through planning proposals. This planning proposal gives effect to the following priorities of the Statement:

Infrastructure

- **I1. Movement for walkable neighbourhoods and a connected city** – The future development concept for the subject includes a through-site link that will connect Thomas Street with the existing arcade in the adjoining residential apartment building, providing a direct connection to George Street and beyond, maintaining the existing permeable pedestrian network.
- **I2. Align development and growth with supporting infrastructure** – The subject site is well located to take advantage of nearby existing and future transport infrastructure, including the new light rail and the Sydney Metro that is currently under construction. Both projects will increase the public transport capacity within Central Sydney considerably.

Liveability

- **L5. Creating great places** – The planning proposal will deliver improved street life and activation through a greater ground floor setback fronting the future square on Quay Street, which will be read as additional public space and activated by fine-grain retail premises, where new food and drink premises and entertainment uses will be encouraged.

Productivity

- **P7. Growing a stronger, more competitive Central Sydney** – This planning proposal supports growth in Central Sydney by facilitating future development that will deliver additional capacity for economic and employment growth.
- **P8. Developing innovative and diverse business clusters in City Fringe** – The proposed indicative scheme includes the provision of an innovation tech hub to support and foster small and start-up tech businesses, intended to act as a catalyst for a wider tech industry cluster in the City Fringe, building on the separate development emerging from the nearby Western Gateway precinct at Central.

Sustainability

- **S11. Creating better buildings and places to reduce emissions and water and use water efficiently** – Future development facilitated through this planning proposal will be required to meet ambitious sustainability benchmarks ensuring the new buildings will be more sustainable than the existing building stock.

Principles for growth

The planning proposal is consistent with relevant principles for growth contained in the City of Sydney’s Local Strategic Planning Statement (LSPS) and demonstrates strategic merit and site-specific merit. More information on the proposal’s compliance with the relevant principles are detailed in the below table:

Table 2: Consistency with the Strategic Principles for Growth in the LSPS

Object	Comment
Proposals must be consistent with the Greater Sydney Region Plan and Eastern City District Plan	Consistent. This planning proposal will facilitate the delivery of additional commercial floor space in a location close to public transport connections to help create a 30 minute city for workers and visitors.
Proposals for sites in the Innovation Corridor must be consistent with the objectives for these areas in the Eastern City District Plan.	Consistent. The proposal is well located, close to both research and industry partners to support the growth and success of the Innovation Corridor.
Proposals must be consistent with the relevant directions, objectives and actions of the City’s Sustainable Sydney 2030.	Consistent. This planning proposal will facilitate the delivery of new employment opportunities in targeted industries with a focus on innovation and start-up businesses.
Proposals must be consistent with the relevant liveability, productivity, infrastructure and sustainability priorities, objectives and actions in this LSPS.	Consistent. The proposal will deliver additional capacity for economic and employment growth, providing a catalyst for new emerging sectors in Central Sydney and the City Fringe. The proposal includes ground floor retail floor space to provide activation to the public domain, including the extended future square on Quay Street, which will be in part facilitated through a contribution towards local infrastructure secured by a voluntary planning agreement. Following the issuing of a gateway determination approving this planning proposal to go

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Object	Comment
	<i>on public exhibition, all adjacent landowners will be consulted, and the proposal may be amended where necessary.</i>
<i>Proposals must be consistent with the relevant priorities, objectives and actions of the Local Housing Strategy</i>	<i>Not applicable</i>
<i>Proposals must support the strategic objectives in the City’s adopted strategies and action plans.</i>	<i>Consistent. This planning proposal is aligned with the City’s draft Central Sydney Planning Strategy in that it will facilitate the delivery of additional commercial and hotel floor space, increasing the employment capacity and growth in Central Sydney. The planning envelope includes appropriate setbacks to the public domain and common boundaries to ensure future development is responsive to its context and will not impinge upon the future redevelopment of adjacent sites.</i>
<i>Proposals must not compromise non-residential development needed to meet employment targets for centres.</i>	<i>Consistent. This proposal will not compromise future non-residential development on adjacent sites. The planning envelope established by this planning proposal includes sufficient setbacks to its northern and eastern boundaries for appropriate building separation. The indicative concept for the future tower situates the building core close to the site’s eastern boundary to provide a blank wall that will not adversely impact the adjacent heritage item, or any associated future development.</i>
<i>Proposals which seek to respond to a significant investment in infrastructure must be considered in a wider strategic context with other sites.</i>	<i>Consistent. This proposal has been prepared in response to the requirements of the draft Central Sydney Planning Strategy and as such includes a contribution towards local infrastructure secured through a planning agreement.</i>
<i>Proposals must give consideration to strategically valuable land uses that are under-provided by the market.</i>	<i>Consistent. The planning proposal includes floor space for a new hotel, an innovation tech hub, which may include the provision of laboratory floor space and an auditorium.</i>

Table 3: Consistency with the Site-Specific Principles for Growth in the LSPS

Object	Comment
<i>Proposals must locate development within reasonable walking distance of public transport that has capacity</i>	<i>Consistent. The proposal is located within 200 metres from Central Station, with Metropolitan Sydney, intercity, interstate rail connections and planned increase in capacity following the delivery of the new</i>

Object	Comment
	<i>Sydney Metro connections, as well as bus and light rail connections.</i>
<i>Proposals must meet high sustainability standards and mitigate negative externalities</i>	<i>Consistent. The draft DCP associated with this planning proposal includes provisions to secure ambitious environmentally sustainable development targets. The planning envelope includes flexibility to mitigate against any adverse wind impacts in the adjacent public domain.</i>
<i>Proposals must include an amount and type of non-residential floor space appropriate to the site's strategic location and proximity to or location within a centre or activity street.</i>	<i>Consistent. This planning will facilitate the delivery of additional commercial floor space and will increase Central Sydney's employment generating floor space capacity, within the Innovation Corridor.</i>
<i>Proposals must create public benefit.</i>	<i>Consistent. The voluntary planning agreement associated with this planning proposal secures community infrastructure and affordable housing contributions consistent with requirements of the draft Central Sydney Planning Statement. The proposal will also facilitate the delivery of an innovation tech hub that will foster and benefit new and start-up businesses, as well as the provision of a new auditorium to replace the existing one on site.</i>
<i>Proposals must be supported by an infrastructure assessment and demonstrate any demand for infrastructure it generates can be satisfied, assuming existing development capacity in the area will be delivered.</i>	<i>Consistent. The voluntary planning agreement associated with the planning proposal was prepared with the supervision of the City's VPA and Contributions Executive Steering Committee with regard to the City's Chinatown Public Domain Plan, the planned schedule of works and in accordance with the draft Guideline for Site Specific Planning Proposals in Central Sydney.</i>
<i>Proposals must make a positive contribution to the built environment and result in an overall better urban design outcome than existing planning controls</i>	<i>Consistent. This planning proposal will deliver public domain improvements including a retail activated pedestrian connection to George Street and an expanded public plaza that will integrate seamlessly with the future public domain improvements on Quay Street. Furthermore, the proposed envelope has been subject to extensive amenity testing to ensure that future development on site will maintain acceptable wind and daylight conditions in the public domain.</i>
<i>Proposals must result in high amenity for occupants or users</i>	<i>Consistent. The planning envelope includes sufficient setbacks to ensure that acceptable conditions are maintained in the adjacent public domain. Additional wind analysis was undertaken to identify mitigation measures to ensure conditions in Thomas Street and</i>

Object	Comment
	<p><i>Valentine Street remain suitable for their current uses. Furthermore, the planning envelope includes sufficient setbacks and voids to maintain daylight access and important views from the adjacent residential apartment building and provide acceptable building separation from future development on the adjoining sites.</i></p>
<p><i>Proposals must optimise the provision and improvement of public space and public connections</i></p>	<p><i>Consistent, the proposal includes greater retail activation to Thomas, Quay and Valentine Streets, which will front an expanded public plaza that will be delivered on Quay Street as part of the City’s Chinatown Public Domain Plan.</i></p>

Draft Central Sydney Planning Strategy

The draft Central Sydney Planning Strategy is a 20-year growth strategy that revises previous planning controls and delivers on the City’s Sustainable Sydney 2030 program. As the economic heart of Australia’s global city, Central Sydney plays a critical role in the continued growth and economic success of Greater Sydney and the national economy.

The draft Strategy includes opportunities for additional height and density in the right locations balanced with environmental sustainability and sets criteria for excellence in urban design. This planning proposal is aligned with the following relevant key moves of the draft Strategy:

- **1. Prioritise employment growth and increase capacity** – This planning proposal will facilitate the delivery of additional employment generating floor space, in the form of office, innovation and visitor accommodation uses, increasing the employment capacity and growth within Central Sydney.
- **2. Ensure development responds to context** – The site-specific DCP that accompanies this planning proposal includes provisions to ensure future development responds to its context with a built form that includes sufficient tower setbacks and does not result in adverse wind and daylight impacts in the public domain.
- **4. Provide employment growth in new tower clusters** – The subject site is located in the Haymarket and Ultimo tower cluster where additional building height may be accommodated.
- **5. Ensure infrastructure keeps pace with growth** – This planning proposal facilitates a contribution towards community infrastructure in Central Sydney and towards the provision of affordable housing.
- **6. Move towards a more sustainable city** – Future development is to achieve the ambitious sustainability targets as set out in this planning proposal, consistent with the draft Strategy.
- **8. Move people more easily** – 187 Thomas Street is well located to capitalise on the recent NSW Government investment in public transport including the new light rail and metro projects.
- **9. Reaffirm commitment to design excellence** – Future development on site will be subject to a full competitive design competition with the draft DCP to include design excellence provisions to ensure a high quality built form.

Is the planning proposal consistent with applicable state environmental planning policies (SEPPs)?

This planning proposal is consistent with applicable SEPPs and deemed SEPPs (formally known as Regional Environmental Plans (REPs)) shown in Table 3. In this table, consistent means that the planning proposal does not contradict or hinder the application of the relevant SEPP or REP.

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Table 2 4: Consistency with SEPPs and REPs

SEPPs with which this planning proposal is consistent	SEPP 1 – Development Standards; SEPP 19 – Bushland in Urban Areas; SEPP 21 – Caravan Parks; SEPP 33 – Hazardous and Offensive Development; SEPP 50 – Canal Estate Development; SEPP 70 – Affordable Housing (Revised Schemes); SEPP (Affordable Rental Housing) 2009; SEPP (Educational Establishments and Child Care Facilities) 2017; SEPP (Exempt and Complying Development Codes) 2008; SEPP (Infrastructure) 2007; SEPP (Mining, Petroleum Production and Extractive Industries) 2007; SEPP (Miscellaneous Consent Provisions) 2007; SEPP (State and Regional Development) 2011; SEPP (State Significant Precincts) 2005; SEPP (Vegetation in Non-Rural Areas) 2017;
SEPPs that are not applicable to this planning proposal	SEPP 36 – Manufactured Home Estates; SEPP 44 – Koala Habitat Protection; SEPP 47 – Moore Park Showground; SEPP 64 – Advertising and Signage; SEPP 65 – Design Quality of Residential Flat Development; SEPP (Building Sustainability Index: BASIX) 2004; SEPP (Coastal Management) 2018; SEPP (Housing for Seniors or People with a Disability) 2004; SEPP (Integration and Repeals) 2016; SEPP (Kosciuszko National Park— Alpine Resorts) 2007; SEPP (Kurnell Peninsula) 1989; SEPP (Penrith Lakes Scheme) 1989; SEPP (Rural Lands) 2008; SEPP (Sydney Drinking Water Catchment) 2011; SEPP (Sydney Region Growth Centres) 2006; SEPP (Three Ports) 2013; SEPP (Urban Renewal) 2010; SEPP (Western Sydney Employment Area) 2009; SEPP (Western Sydney Parklands) 2009
REPs with which this planning proposal is consistent	Sydney REP (Sydney Harbour Catchment) 2005
REPS that are not applicable to this planning proposal	Sydney REP 8 – (Central Coast Plateau Areas); Sydney REP 9 – Extractive Industry (No 2 – 1995); Sydney REP 16 – Walsh Bay; Sydney REP 20 – Hawkesbury- Nepean River (No 2 – 1997); Sydney REP 24 – Homebush Bay Area; Sydney REP 26 – City West; Sydney REP 30 – St Marys; Sydney REP 33 – Cooks Cove; Greater Metropolitan REP No 2 – Georges River Catchment; Darling Harbour Development Plan No. 1; Sydney Cove Redevelopment Authority Scheme.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure across the State and identifies matters to be considered in the assessment of development adjacent to particular types of infrastructure.

As any future development on the site will be considered a 'traffic generating development' for the purposes of the SEPP as over 10,000m² of commercial floor space is proposed, any future development application will be required to be referred to Transport for NSW for concurrence prior to determination.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, 187 Thomas Street is located within the Sydney Harbour Catchment Boundary but not within the Foreshore and Waterways Area Boundary.

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The planning proposal does not contradict or hinder the application of the planning principles for the Sydney Harbour Catchment, as set out in Clause 13 of the REP.

Is the planning proposal consistent with applicable Ministerial Directions?

The planning proposal is consistent with the applicable ministerial directions as shown in Table 5.

Table 35: Consistency with Ministerial Directions

Ministerial Directions with which this planning proposal is consistent	1.1 Business and Industrial Zones; 2.3 Heritage Conservation; 2.6 Remediation of Contaminated Land; 3.4 Integrating Land use and Transport; 3.5 Development Near Licensed Aerodromes; 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land; 5.10 Implementation of Regional Plans; 6.1 Approval and Referral Requirements; 6.3 Site Specific Provisions; 7.1 Implementation of A Plan for Growing Sydney
Ministerial Directions that are not applicable to this planning proposal	1.2 Rural Zones; 1.3 Mining, Petroleum Production and Extractive Industries; 1.4 Oyster Aquaculture; 1.5 Rural Lands; 2.1 Environmental Protection Zones; 2.2 Coastal Protection; 2.4 Recreation Vehicle Areas; 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs; 3.1 Residential Zones; 3.2 Caravan Parks and Manufactured Home Estates; 3.3 Home occupations; 4.2 Mine subsidence and Unstable land; 4.4 Planning for Bushfire Protection; 5.2 Sydney Drinking Water Catchments; 5.3 Farmland of State and Regional Significance on the NSW Far North Coast; 5.4 Commercial and Retail Development along the Pacific Highway, North Coast; 5.8 Second Sydney Airport, Badgerys Creek; 5.9 North West Rail Link Corridor Strategy; 6.2 Reserving Land for Public Purposes; 7.2 Implementation of Greater Macarthur Land Release Investigation; 7.3 Parramatta Road Corridor Urban Transformation Strategy; 7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan; 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan; 7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan; 7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor

2.6 Remediation of Contaminated Land

The Remediation of Contaminated Land Ministerial Direction promotes remediation of contaminated land for the purpose of reducing the risk of harm to human health. When rezoning land and as part of development applications, it is required to be considered and to ensure remediation work meets certain standards.

This planning proposal was not accompanied by a preliminary site investigation as the site is currently used for commercial purposes and the proposed future use will remain commercial. The planning proposal was however accompanied by a Preliminary Geotechnical Assessment, which noted that contamination was noted in the adjacent site at 757 George Street.

Further investigation of any potential contamination is recommended to be undertaken. Notwithstanding, the potential contamination issues identified are unlikely to significantly impact future redevelopment of the site. The site's suitability will be demonstrated as part of a future detailed development application for the site.

3.5 Development Near Licenced Aerodromes

This Ministerial Direction seeks to ensure the safe and effective operation of regulated airports is not compromised by development that might constitute an obstruction of potential hazard to aircraft flying in the vicinity.

The proposed development concept includes construction of a new tower up to RL 226.80m, which would encroach into the Obstacle Limitation Surface (OLS), and as such, Direction 3.5 applies. Clause 4 of the Ministerial Direction states that in preparation of the planning proposal, the relevant planning authority is to consult with the operator of the airport to prepare appropriate height controls and ensure development on the site is not incompatible with the airport's operation.

This planning proposal is not consistent with Ministerial Direction 3.5, however this will be addressed through consultation with the relevant agencies as part of the public exhibition process.

The planning proposal process for this project includes consultation with the relevant public authorities following the issue of a gateway determination. In this instance, this includes consultation with the Sydney Airport Corporation, Airservices Australia and the Civil Aviation Safety Authority.

Following consultation with these public agencies, the planning proposal will be amended where necessary and reported back to Council and the Central Sydney Planning Committee for final approval prior to the drafting of the relevant amendments to the LEP.

4.1 Acid Sulfate Soils

This Ministerial Direction seeks to avoid adverse environmental impacts from the use of land that contains acid sulfate soils. As this planning proposal is considered an intensification of land uses, the proposal must suitably address the requirements of this Direction.

The subject site is located on land identified as Class 5 Acid Sulfate Soils as per the Acid Sulfate Soils Map in the LEP, however it is within 500 metres of a Class 2 site, which is located on Quay Street about 150 metres to the north of the site. The planning proposal was accompanied by a Preliminary Geotechnical Statement, which advised that due to the additional excavation required and potential dewatering of the site, a detailed Acid Sulfate Soil Assessment may be required. This assessment is to include the identification of any contamination, presence of aggressive soils and acid sulfate soils.

Due to the excavation of the basement, the detailed development application will require concurrence with Water NSW and will identify and appropriately respond to the presence of acid sulfate soils prior to determination.

6.3 Site Specific Provisions

The objective of this Ministerial Direction is to discourage unnecessarily restrictive site specific planning controls.

This planning proposal is not consistent with Ministerial Direction 6.3, however this is justified as the landowner submitted a request to prepare a planning proposal to facilitate redevelopment of the subject site for a new commercial tower.

The proposed development concept described in this planning proposal, the amendments to the LEP and the draft DCP have been developed by the City in consultation with the landowner based on their design vision for the site as well as the City's vision for future development in Central Sydney. Despite the recent public exhibition of the revised Central Sydney planning proposal, the landowners of 187 Thomas Street have been involved in ongoing discussions with the City for some time and the proposal can be progressed at this time without waiting for the future changes to the LEP for Central Sydney.

Furthermore, the site specific provisions would not restrict future development from being undertaken on the subject site, as the site's existing controls in the LEP remain applicable.

5.6 Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitat, will be adversely affected as a result of the proposal?

The planning proposal is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats. The subject site is located in Central Sydney, which does not contain any critical habitats or threatened species, populations or ecological communities.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The changes to the maximum building height and floor space ratio controls will provide for the redevelopment of the subject site.

It is unlikely that the proposed amendments will result in any adverse amenity impacts that cannot be controlled. Existing policies, regulations and standards are already in place to ensure environmental impacts are mitigated during the construction phase and eventual use of the development.

The proposed scheme has been developed in collaboration with the proponent with any environmental impacts resulting from the proposal having been identified and resolved during assessment.

The key environmental consideration arising from the planning proposal, particularly in relation to urban amenity, are discussed below.

Building height and tower setbacks

The planning envelope facilitated by this planning proposal has been tested against public domain amenity and is capable of comfortably accommodating the proposed indicative concept design with sufficient flexibility to accommodate any required mitigation to respond to and address any issues and provide architectural articulation without resulting in adverse conditions at ground level. Figure 16 details the maximum envelope available under the draft Strategy and the proposed building envelope.

The tower is within the Haymarket/Ultimo tower cluster and consistent with the heights envisaged for this part of Central Sydney under the draft Strategy. The concept envelope has been designed with four distinct visual elements that is modulated as the building gets higher to maximise daylight access and reflect the existing stratification of buildings in the precinct.

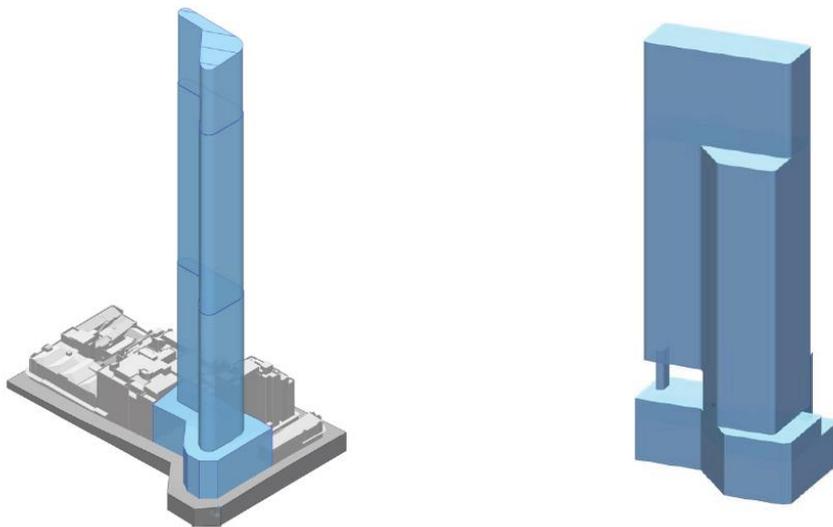
The podium provides a consistent street wall height that matches the adjoining commercial building to the north and the adjacent buildings on Valentine Street. Appropriate tower setbacks have been incorporated into the proposed building envelope that despite not being consistent with the draft Strategy, help mitigate public domain wind impacts and provide a suitable curtilage to the adjoining heritage item. Following feedback raised in the public exhibition of the planning proposal, the eastern setback has been increased from 1 metre to 3 metres to provide greater building separation with the adjoining site. Furthermore, the wind mitigation measures identified in the additional CFD wind testing such as an additional notch on the western elevation above the podium and a rounded south-west corner of the building will be detailed in the draft DCP provisions to ensure sufficient public domain amenity is maintained.

Notwithstanding the variations to tower setbacks, the proposed maximum planning envelope is consistent with the objectives of the draft Central Sydney Planning Strategy in that the planning

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proposal will facilitate additional employment generating floor space through additional building height and floor space without detrimentally impacting pedestrian amenity, solar access and wind conditions in the public domain.

Figure 16. Draft Central Sydney Planning Strategy envelope (left) and proposed envelope under this planning proposal (right)



View analysis

The Urban Design Study accompanying the planning proposal provides a preliminary view analysis exploring the impact of the indicative concept from key viewpoints in the public domain in Central Sydney, Haymarket, Surry Hills and Chippendale.

The study found that in locations closer to the subject site, the podium height and setbacks will help the proposed building relate in a sympathetic manner to adjacent buildings and heritage items. The tower setbacks will provide adequate visual curtilage and improve views to the Christ Church St Laurence as viewed along Valentine Street.

In locations such as from Thomas Street and George Street in Haymarket, the proposed tower will be visible above existing lower buildings and will be higher than existing buildings in its immediate vicinity, however this is consistent with the City's future tower cluster identified in the draft Strategy where additional building height may be located subject to adequate public domain conditions.

Solar access and overshadowing

Clause 6.19 of the LEP prevents new buildings from creating additional overshadowing to certain public places. The public places within proximity of the subject that may be impacted include Prince Alfred Park and Railway Square (Future Third Square). Sun access planes for these public places are proposed to be inserted into the LEP as part of the Central Sydney planning proposal, shown in Figure 17. The Urban Design Study that accompanies the planning proposal includes a solar and overshadowing analysis.

The proposed planning envelope is not located within the Railway Square sun access plane and the upper levels of the building will not intersect the Prince Alfred Park sun access plane. Despite not being a nominated public place in the LEP, the proposed building may impact Chippendale Green, to the southwest of the site, however analysis indicates that the shadow of the proposed scheme falls within the existing shadow cast by the existing Central Park main tower and will not result in any additional overshadowing to Chippendale Green.

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The analysis assessed the impact of the proposed planning envelope on existing residential development within the vicinity of the site. Residential buildings that front Quay Street, the Central Park towers, several sites within Surry Hills receive additional overshadowing as a result of the proposed building envelope, which are within the DCP requirements.

Due to the orientation of the west-facing windows of the apartments in Capitol Square, there will be some impact to direct solar access within mid-winter. To address this, the proposed building envelope has been designed to include a 4 storey void about 20 metres in height to ensure light and views are protected to these existing apartments.

The solar access analysis found most overshadowing as a result of the proposed envelope occurs closest to the site, with some reduction of sun, however two hours of sun access is maintained. Notwithstanding this, a more detailed study of the nearby residential buildings will be included as part of a detailed development application.



Figure 17. Sun Access Protection Map proposed by the Central Sydney planning proposal

Daylight access / Sky view factor

The draft Central Sydney Planning Strategy seeks to unlock additional employment generating floor space in Central Sydney and Haymarket through opportunities for additional height and density in select locations that will not result in adverse impacts to public domain amenity including daylight access.

The draft Strategy provides for a 'base case' building envelope with a maximum height to the aviation level, 8 metre street setbacks and a curved and tapered form. Planning proposals may vary from an envelope set by the draft Strategy subject to equivalent or improved daylight access to the surrounding public domain.

The Urban Design Study that accompanied the planning proposal included a Daylight Analysis that measured the daylight levels within the public domain up to 200m from the site, represented numerically as a sky view factor.

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The proposed building envelope RL 226.80 metres in height includes tower setbacks of 10m to Quay Street, 8m and 9.5m to Valentine Street, zero setback to Thomas Street, 3m to the northern boundary and between 1m and 5m to the eastern boundary, as well as a four storey, 20 metre void was compared to the base case envelope.

The results found that the proposed building envelope results in a minor improvement from the base case envelope and would maintain an acceptable level of daylight access to the public domain.

Wind assessment

The planning proposal was accompanied by an Environmental Wind Impact Assessment prepared by ARUP which assessed pedestrian wind comfort levels as a result of future development on the subject site. The assessment included a wind tunnel test of the surrounding area to 480m from the site with wind speed measurements captured at various locations.

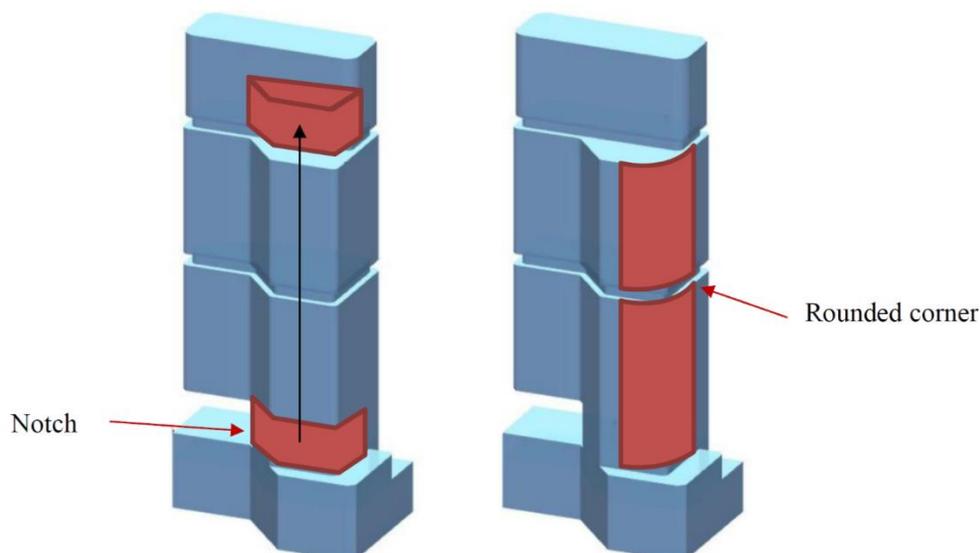
The assessment included wind equivalence testing of two scenarios – the proposed planning envelope at RL 226.80 metres in height and a base case envelope to the maximum height and with tower setbacks that are consistent with the draft Strategy.

The wind assessment found that proposed envelope results in improved overall wind conditions as compared to the base case envelope. Overall, the wind conditions remained generally within the comfort range, suitable for pedestrian standard – the same rating as the existing wind conditions.

Notwithstanding the above, the assessment did find that wind conditions close to the site on Thomas Street and Valentine Street could be improved by the further work.

Additional CFD wind testing was undertaken to assess proposed mitigation measures to improve wind conditions in these locations with exceedances. The tested measures included extending the opening/void from the north of the building to the western elevation and smoothing the south-west corner of the tower, as shown in Figure 18. The additional testing found that a portion of the wind is redirected away from the public domain and will improve the wind conditions on Thomas Street and Valentine Street. The draft DCP includes provisions that will provide guidance on these mitigation measures to be explored as part of the design competition and detailed design phase. The proposed building envelope provided in the site-specific provisions includes considerable flexibility to ensure public domain wind conditions generally remain calm and suitable for dwelling.

Figure 18. Wind mitigation measures to improve conditions in the public domain



Planning Proposal – 187 Thomas Street, Haymarket

Additional wind tunnel testing will take place following the design competition, to assess the winning detailed building design, as such, the draft DCP includes provision to ensure public domain conditions are sufficiently addressed.

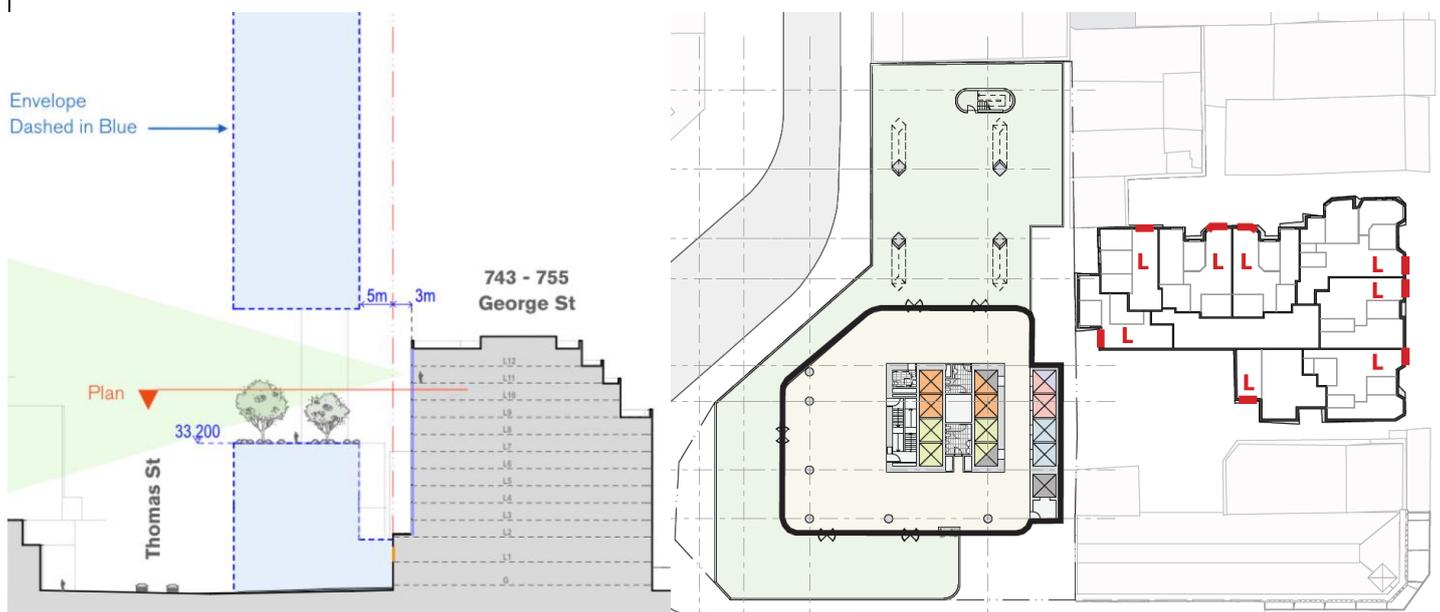
Residential amenity

Capitol Square, 755 George Street, directly adjoins the subject site along the eastern boundary, while it is a mixed use building, comprising retail and commercial tenancies, the building is however predominantly residential primarily consisting of apartments on the upper levels from level 4 to 13.

The proposed envelope without the specific recommendations may have the potential to impact on the residential amenity on apartments within this building, particularly to apartments on the rear western elevation. This planning proposal has been prepared to ensure the protection of the residential amenity of the affected units. A large several storey void has been included in the northern section directly above the podium to preserve views, solar access and outlook.

The proposed opening/void, shown in Figure 19, will begin at RL 33.20m and extend to at least RL 54.40m and will maintain views and aspect from the affected units and ensures light and solar access with the tower sitting above. The Urban Design Study included as an appendix to this planning proposal includes an analysis of the impacts of the proposal to these apartments. However the analysis indicates that the proposed envelope will not impact on the west-facing apartments being able to achieve a minimum of two hours solar access in midwinter. Further assessment will be undertaken at the detailed development application stage.

Figure 19. Location of the void in the indicative design and adjoining residential apartments – the original eastern setback is shown.



Acoustic impact

The concept scheme includes an outdoor terrace above the podium in the north-facing void. While the primary purpose of this void is to maintain views and daylight access to adjoining residential apartments, it is proposed that the outdoor terrace is used as part of the Innovation Tech Hub located in the podium of the building subject to management controls.

The indicative use of the terrace and void could have the potential to impact upon the residential amenity of nearby apartments. The planning proposal is accompanied by an Acoustic Impact Assessment that recommended the underside of the tower structure above the terrace include

Planning Proposal – 187 Thomas Street, Haymarket

acoustic absorption material, no amplified music be permitted on the terrace and the house of operation be restricted and other management measures.

The draft DCP includes relevant provisions to ensure a future detailed development application for the site further details measures to ensure any adverse impact to residential amenity from the proposal is minimised.

Has the planning proposal adequately assessed any social and economic effects?

This planning proposal provides an opportunity for the redevelopment of the subject site, located in an identified future tower cluster where additional building height may be accommodated subject to acceptable public domain amenity conditions. Redevelopment will provide positive social and economic effects including:

- Providing 20,000m² of additional employment generating floor space to contribute to and strengthen Central Sydney's role as a globally competitive city;
- Creating an estimated 1,357 additional jobs;
- Delivery of an innovation tech hub supporting and providing equipment for small and start up businesses in the technology industry;
- Leverage of locational benefits the subject site provides, part of an emerging innovation and technology precinct, adjacent to the Camperdown-Ultimo Collaboration Area, the Western Gateway Precinct and the Sydney CBD;
- A new hotel providing accommodation for business visitors to the tech hub and tourists, contributing to Central Sydney's economy and tourist industry;
- Increased activation and accessibility of the surrounding public domain, delivering improved amenity and safety for the public.

5.7 State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

As the subject site is in Central Sydney, it is well served by the full range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded where required by the developer.

The proposal will provide upgraded public domain and pedestrian infrastructure across the site, helping future development capitalise on its location adjacent to a planned future square on Quay Street, improving the public amenity for the surrounding area.

The detailed development application will be subject to the statutory development contributions, which will contribute to the provision of other community facilities, the demand for which will be generated by the development.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The gateway determination will advise the public authorities to be consulted as part of this planning proposal process. Any issues raised will be incorporated into this planning proposal following consultation in the public exhibition period.

Clause 7.16 of the LEP requires concurrent approval from Sydney Airport for all works proposed to penetrate the OLS height, which is 152-156 metres in this location. At RL 226.80 metres in height, the future development concept would require approval under the Airports Act 1996 before the detailed development application can be approved by the City.

6. Mapping

This planning proposal does not include any amendments to maps.

No change will be made to any maps contained in the LEP as part of this planning proposal, instead additional building height and floor space ratio is proposed to be included through new site-specific provisions under Division 5 as discussed earlier in this planning proposal document.

Updated maps and new figures to reflect the proposed future development concept as discussed in this planning proposal are detailed in the draft DCP, included as an appendix.

7. Community consultation

This planning proposal is to be exhibited in accordance with the gateway determination once issued by the Department of Planning, Industry and Environment.

It is anticipated that the gateway determination will require public exhibition for a period of not less than 28 days in accordance with the Environmental Planning and Assessment Act 1979 and section 4.5 of A guide to preparing Local Environmental Plans.

Notification of the public exhibition will be consistent with the Gateway Determination and the City's Community Participation Plan and include publication on City of Sydney website and notification to surrounding owners and occupiers.

Consultation with relevant NSW agencies, authorities and other relevant organisations will be undertaken in accordance with the gateway determination.

8. Project timeline

The anticipated timeframe for the completion of the planning proposal is as follows:

Stage	Timeframe
Commencement / Gateway Determination	September/October 2020
Government agency consultation	November 2020
Public exhibition	November 2020
Consideration of submissions	December 2020
Post exhibition consideration of proposal	February 2021
Draft and finalise LEP	March 2021
LEP made	March 2021
Plan forwarded to Department of Planning, Industry and Environment for notification	March 2021



Attachment C

**Sydney Development Control Plan 2012
187 Thomas Street Haymarket
Amendment**

Sydney Development Control Plan 2012 – 187 Thomas Street, Haymarket



The purpose of this Development Control Plan

The purpose of this Development Control Plan (DCP) is to amend the *Sydney Development Control Plan 2012*, which was adopted by Council on 14 May 2012 and came into effect on 14 December 2012.

The amendment provides objectives and provisions to inform future development on 187 Thomas Street, Haymarket.

This plan is to be read in conjunction with draft Planning Proposal: 187 Thomas Street, Haymarket.

This planning proposal and DCP has been amended. New text is shown in *italics* and deleted text shown as ~~strike through~~, and deleted images are struck through

Citation

This amendment may be referred to as *Sydney Development Control Plan 2012 – 187 Thomas Street, Haymarket*.

Land covered by this plan

This land applies to the identified as 187 Thomas Street, Haymarket – which is Lot 100 DP 804958.

Relationship of this plan to Sydney Development Control Plan 2012

This plan amends the Sydney Development Control Plan 2012 in the manner set out in Schedule 1 below.

Schedule 1 – Amendment to Sydney Development Control Plan 2012

Figure 6.1 Specific sites map

Amend Figure 6.1: Specific sites map to include 187 Thomas Street, Haymarket.

Amendment to Section 6.3

Insert a new sub-section at the end of Section 6.3 containing all text and figure as shown below, with existing text shown in *italics* and deleted text shown as ~~striketrough~~.

6.3.# 187 Thomas Street, Haymarket

The following objectives and provisions apply to 187 Thomas Street, Haymarket as shown in 'Figure 6.1 Specific sites map', where relevant site specific provisions of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) are implemented.

Clause 6.## of the Sydney LEP 2012 enables development to exceed the height and floor space ratio shown in the building height in metres and floor space ratio maps up to a prescribed amount, providing the subject site is developed for commercial use.

If a development at 187 Thomas Street, Haymarket, seeks to utilise additional height or floor space ratio permitted by clause 6.## of the Sydney LEP 2012, then the provisions in this section also apply to the assessment of the proposed development and override other provisions in this DCP where there is an inconsistency.

Objectives

- (a) Provide detailed controls to satisfy the provisions of Clause 6.## 187 Thomas Street, Haymarket in Sydney LEP 2012.
- (b) Facilitate the redevelopment of the site to achieve a high quality urban form.
- (c) Ensure that development on the site results in significant public benefits.
- (d) Ensure publicly accessible open space is fronted with active uses and suitable for outdoor dining.
- (e) Enable additional building height where the redevelopment of the site does not include residential or serviced apartment uses.
- (f) Define the maximum envelope that respects the local context and achieves acceptable levels of solar access, acoustic amenity, wind comfort and daylight.
- (g) Deliver additional publicly accessible space adjacent to the future public square to be located on Quay Street.
- (h) Meet high performance benchmarks for ecologically sustainable development.
- (i) Maximise active frontages with retail and business premises uses at ground level and minimising services, vehicle access and lobbies.
- (j) Provide a through-site link to improve pedestrian permeability for the public and support greater activation.
- (k) Incorporate high-quality public art.
- (l) Positively relates to adjoining development.

Provisions

6.3.X.1 Maximum Envelope

- (1) Building massing, height, footprint and setbacks are to be consistent with 'Figure 6.XX – Indicative envelope massing' and 'Figure 6.XX Elevation of indicative envelope'.

- (2) The maximum building height is to be RL 226.80m to the highest point on the building including any plant and rooftop architectural features.
- (3) Building height of the various components of the building is to be consistent with 'Figure 6.XX Elevation of indicative envelope', specifically:
 - (a) the maximum street wall height facing Thomas, Quay and Valentine Street shall not exceed RL 33.20m;
 - (b) the opening/void tower component of the building is to have a minimum height of RL 54.40m;
 - (c) the commercial tower component of the building is to have a maximum height of RL 175.60m; and
 - (d) the skysrise component of the building is to have a maximum height of RL 226.80m.
- (4) Tower setbacks are to be consistent with 'Figure 6.XX Indicative envelope – setbacks', specifically:
 - (a) a ground floor setback of 4.8m to Quay Street;
 - (b) a podium setback of 14m to the Sutton Forest Meat building;
 - (c) the opening/void tower component of the building (between RL 33.20m and 54.40m) is to be setback 26.5m from the northern boundary (with the exception of support columns);
 - (d) the tower (above RL 33.20) is to include the following setbacks:
 - (i) 8m to Valentine Street;
 - (ii) 10m to Quay Street;
 - (iii) 3m to the northern boundary;
 - (iv) 5m to the eastern boundary (with the exception of the lift core, which has a 4 3m setback to a height of RL 178.60m); and
 - (e) upper level setback (above RL 155.40m) of 24m from Quay Street.
- (5) The envelope detailed in 'Figure 6.XX – Indicative envelope massing' is the maximum permissible extent of the building form, and the final building design must be appropriately massed wholly within this envelope.
- (6) Tower setbacks are to maintain views from the public domain to Christ Church St Laurence as viewed from the future Quay Street public square and from Thomas Street towards to the future Quay Street public square.

6.3.X.2 Ground floor

- (1) Entry to the basement carpark is to be located at the north of the site from Thomas Street, as shown on 'Figure 6.XX Indicative ground floor layout plan'.
- (2) All street frontages and the through-site link, as shown on 'Figure 6.XX Indicative ground floor layout plan', are to be activated with retail or business premises or both.
- (3) The building shall maximise active frontages by minimising building services, vehicle entries and lobbies.

6.3.X.3 Wind

- (1) A quantitative wind effects report is to be submitted with a detailed development application for the subject site.
- (2) The quantitative wind effects report is to demonstrate that the proposed development will not:
 - (a) cause wind speeds that exceed the Wind Safety Standard, the Wind Comfort Standard for Walking and the Wind Comfort Standard for Sitting in Parks except where the existing wind speeds exceed the standard; and
 - (b) worsen an existing wind condition that exceeds the Wind Safety Standard, the Wind Comfort Standard for Walking and the Wind Comfort Standard for Sitting in Parks by increasing the spatial extent, frequency or speed of the wind.
- (3) The quantitative wind effects report is to further demonstrate the proposed development incorporates measures to create a comfortable wind environment that is consistent with the Wind Comfort Standards for Sitting and Standing.

Wind Safety Standard is an annual maximum peak 0.5 second gust wind speed in one hour measured between 6am and 10pm Eastern Standard Time of 24 metres per second.

Wind Comfort Standard for Walking is an hourly mean wind speed, or gust equivalent mean wind speed, whichever is greater for each wind direction, for no more than 292 hours per annum measured between 6 am and 10 pm Eastern Standard Time (i.e. 5% of those hours) of 8 metres per second.

Wind Comfort Standard for Sitting in Parks is an hourly mean wind speed, or gust equivalent mean wind speed, whichever is greater for each wind direction, for no more than 292 hours per annum measured between 6 am and 10 pm Eastern Standard Time of 4 metres per second and applies to Public Places protected by Sun Access Planes and/or No Additional Overshadowing Controls.

Wind Comfort Standards for Sitting and Standing is hourly mean wind speed, or gust equivalent mean wind speed, whichever is greater for each wind direction, for no more than 292 hours per annum measured between 6 am and 10 pm Eastern Standard Time of; 4 metres per second for sitting; and 6 metres per second for standing.

- (4) The building shall be designed to mitigate wind impacts on Thomas and Valentine Streets, including through the use of active systems, form, materials and where necessary, redistribution of building bulk as shown in 'Figure 6.XX Wind mitigation envelope options'.

6.3.X.4 Haymarket Special Character Area

- (1) The development is to complement the civic character of the Haymarket Special Character Area by way of suitable façade composition, building materials, colours and textures, and by appropriate building articulation.
- (2) The building is to be designed to positively contribute to vistas, preserve key views and enhance the skyline in the locality.

6.3.X.5 Development Adjacent to Heritage Items

- (1) The development is to be designed to respect and reinforce the historic scale, form, modulation, articulation, proportions, street alignment, materials and finishes that contribute to the heritage significance of the former Sutton Forest Meat heritage item at 757-759 George Street.
- (2) The maximum street wall height fronting Valentine Street extending 14m to the west of the boundary with the Sutton Forest Meat building is to be RL 23.20m consistent with the height of the heritage item.
- (3) Consideration is to be given to the impact the development would have on the significance, setting, landmark values and ability to view and appreciate the heritage item from public places.
- (4) The development is to respond to and maintain the significant view corridor towards the Christ Church St Laurence heritage item at 814A George Street through appropriate podium height and setbacks.

6.3.X.6 Public Domain

- (1) A ground floor setback of at least 4.8m to Quay Street is to be included to provide additional publicly accessible open space to be read as an extension of the future public plaza on Quay Street.
- (2) The building is to be planned and designed to accommodate future conversion of adjacent streets into shared or pedestrian zones and associated stormwater works.
- (3) Incorporate high quality public art in publicly accessible locations to contribute to the identity and amenity of the place.
- (4) High quality public art is to be incorporated into the design of the publicly accessible open space adjacent to the future public plaza on Quay Street.
- (5) A feature tree is to be located in the publicly accessible open space adjacent to the future public plaza on Quay Street.

6.3.X.7 Residential Amenity

- (1) The building is to provide a high level of amenity for occupants of the adjacent residential building by ensuring:
 - (a) good solar access – minimum 2 hours direct sunlight between 9.00am and 3.00pm on 21 June; and
 - (b) a void at the north wing of the building is to be provided between RL 33.20m and RL 54.40m with a minimum setback of 26.5m from the northern boundary.
- (2) The design, construction and ongoing operation of the external terrace through a management plan is to minimise any adverse acoustic impacts to adjacent residents, as follows:
 - (a) the hours of operation are to be restricted to 7.00am to 8.00pm Monday to Friday;
 - (b) no playing of amplified speech or music will be undertaken on the external terrace; and
 - (c) acoustic absorption shall be applied to the underside of the building structure above the external terrace:
 - (i) Absorption will be included to approximately 50% of the soffit above; and
 - (ii) Include a material or construction with a minimum NRC of 0.6.

6.3.X.8 Parking and vehicular access

- (1) Parking on site is to be limited to a total of not more than 79 car parking spaces having regard to the site's high level of accessibility by public transport services and active transport modes.
- (2) Vehicular access to the basement is to be from Thomas Street only, with no access from Quay or Valentine Streets.
- (3) Site loading facilities are to be useable and delivery and servicing needs are not to impact the use of the footpath in any way.

6.3.X.9 Design Excellence Strategy

- (1) An invited architectural design competition is to be undertaken in accordance with clause 6.21 of the Sydney Local Environmental Plan 2012 and the City of Sydney Competitive Design Policy.
- (2) The competition is to include:
 - (a) no less than ~~five~~ six competitors;
 - (b) the majority to be local or national Australian firms; and
 - (c) ~~include emerging and established architectural firms~~ at least one competitor that is an emerging architect or in partnership with emerging architect;
 - (d) competitors with demonstrated experience on projects that have either received an environmental sustainability award or achieved high Green Star Design & As Built or NABERS Energy/Water ratings high level of skill in sustainable design; and
 - (e) competitors with gender representation ratio of 40% male, 40% female, 20% any gender in their design team.
- (3) The jury is to comprise a total of six (6) members. The proponent is to nominate three (3) jurors and the City of Sydney is to nominate three (3) jurors. At least one (1) juror is to have sustainability expertise.
- (4) Any additional floor space pursued for a building demonstrating design excellence under clause 6.21(7)(b), is to be accommodated within the building envelope shown within 'Figure 6.XX – Indicative envelope massing'.
- (5) No additional building height under clause 6.21 (7)(a) is to be awarded as a result of the competition.

6.3.X.10 Sustainability

- (1) The building is to be designed to meet 5.5 star NABERS Energy rating for the commercial component and 4.5 star NABERS Energy rating for the hotel component, evidenced by provision of NABERS Energy Commitment Agreement at detailed design stage.

Sydney Development Control Plan 2012 – 187 Thomas Street, Haymarket

- (2) The building is to be designed to meet a 4 star NABERS Water score for both the commercial and hotel components as evidenced by hydraulic engineers report at detailed design stage.
- (3) The building is to include photovoltaic systems to achieve a minimum of 88kWp.
- (4) The building is to include a rainwater harvesting and storage strategy.

Figure 6.XX 187 Thomas Street, Haymarket – Indicative envelope massing

Insert new figure – 187 Thomas Street – Indicative envelope massing

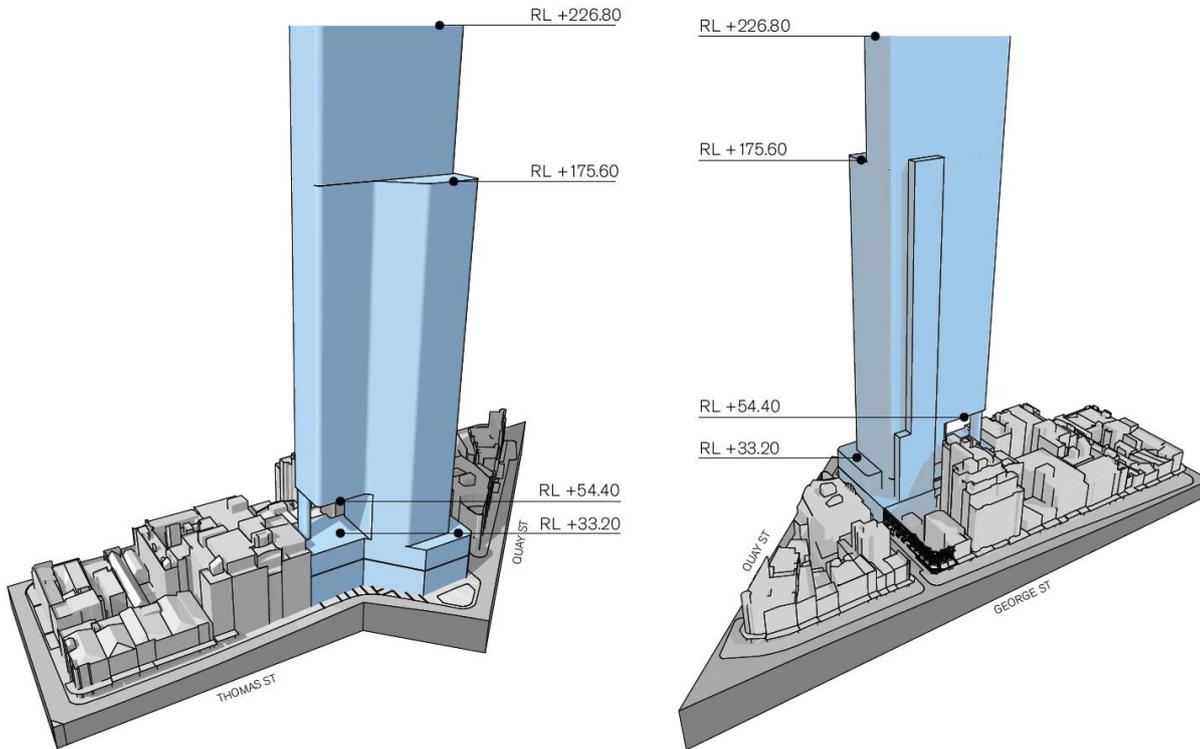


Figure 6.XX 187 Thomas Street, Haymarket – Elevation of indicative envelope

Insert new figure – 187 Thomas Street – Elevations of indicative envelope

Sydney Development Control Plan 2012 – 187 Thomas Street, Haymarket

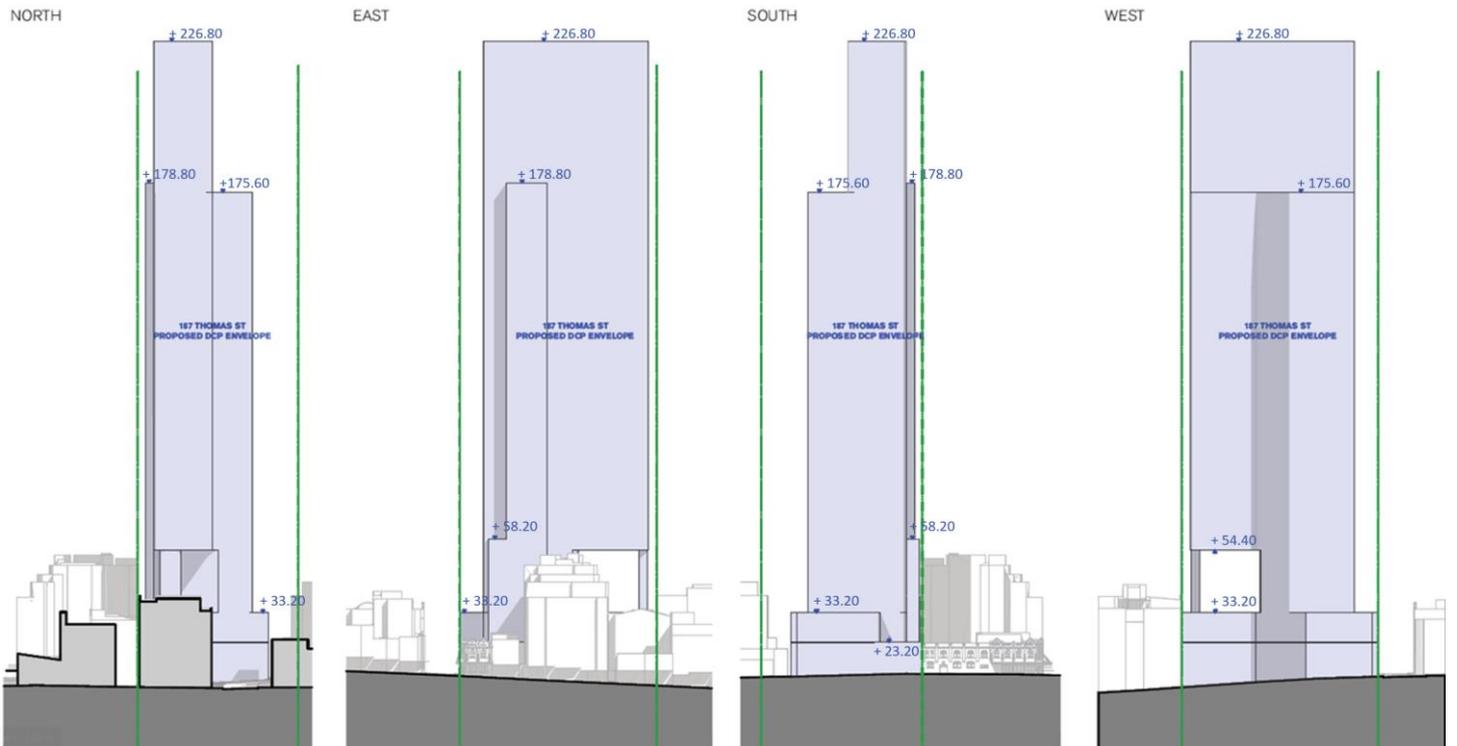
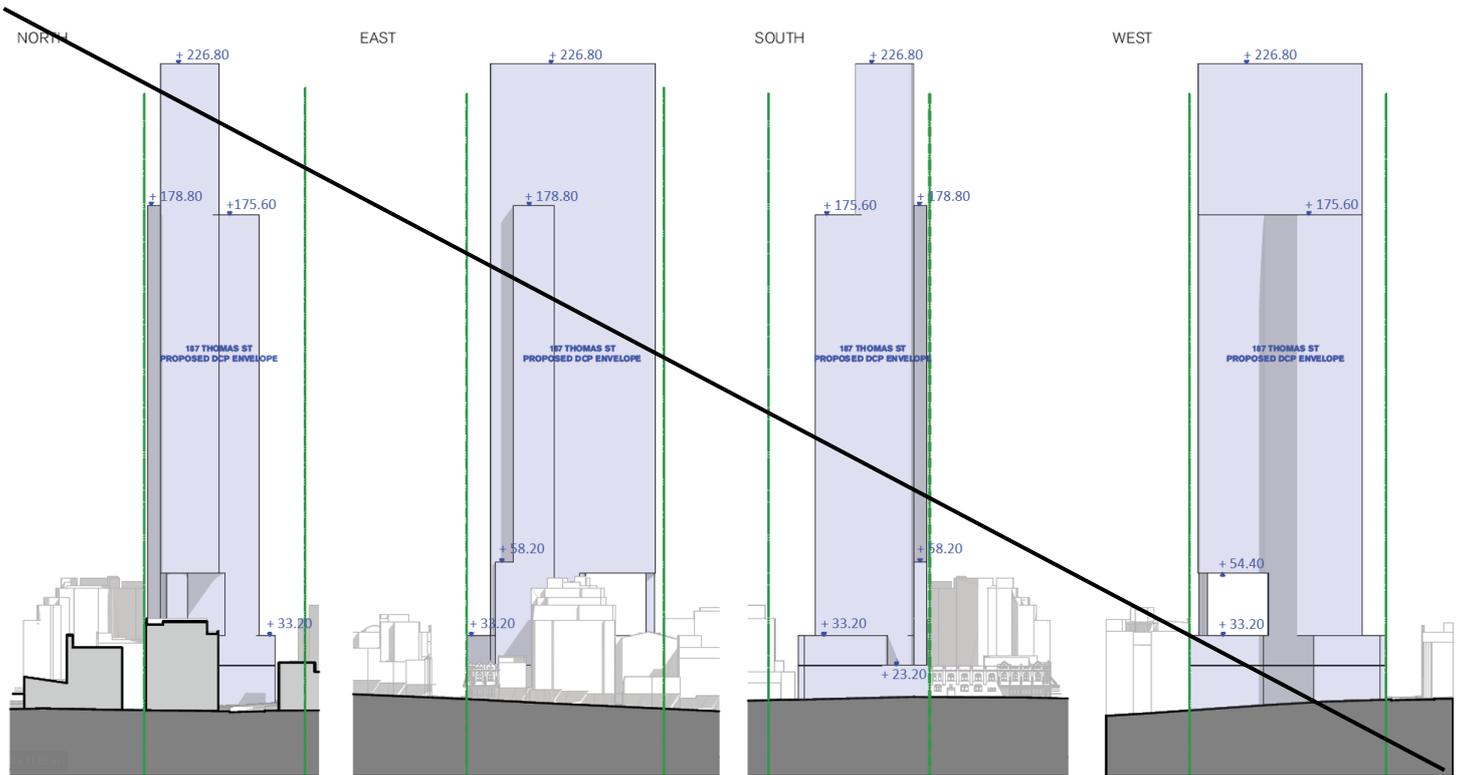


Figure 6.XX 187 Thomas Street, Haymarket – Cross-section of indicative envelope

Insert new figure – 187 Thomas Street – Cross-section of indicative envelope

Sydney Development Control Plan 2012 – 187 Thomas Street, Haymarket

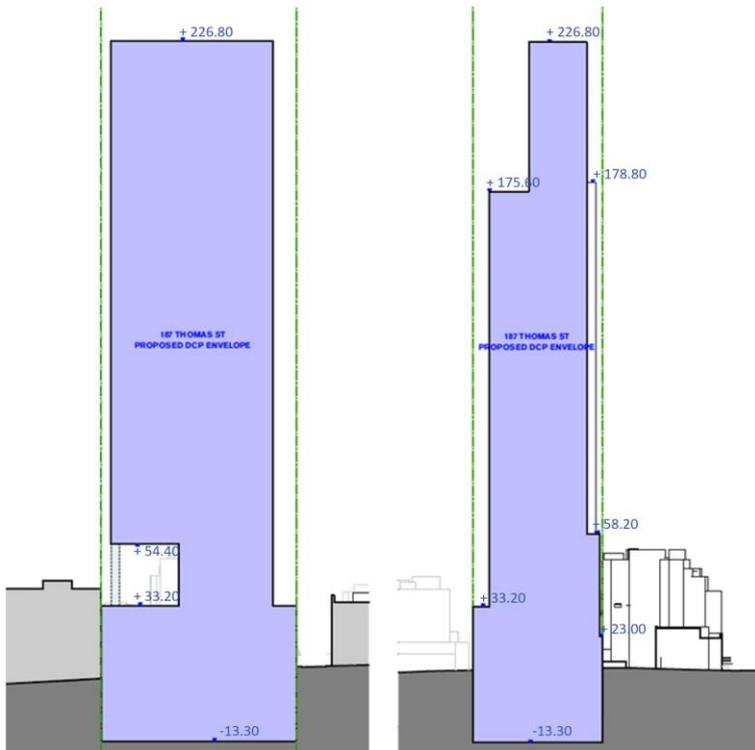
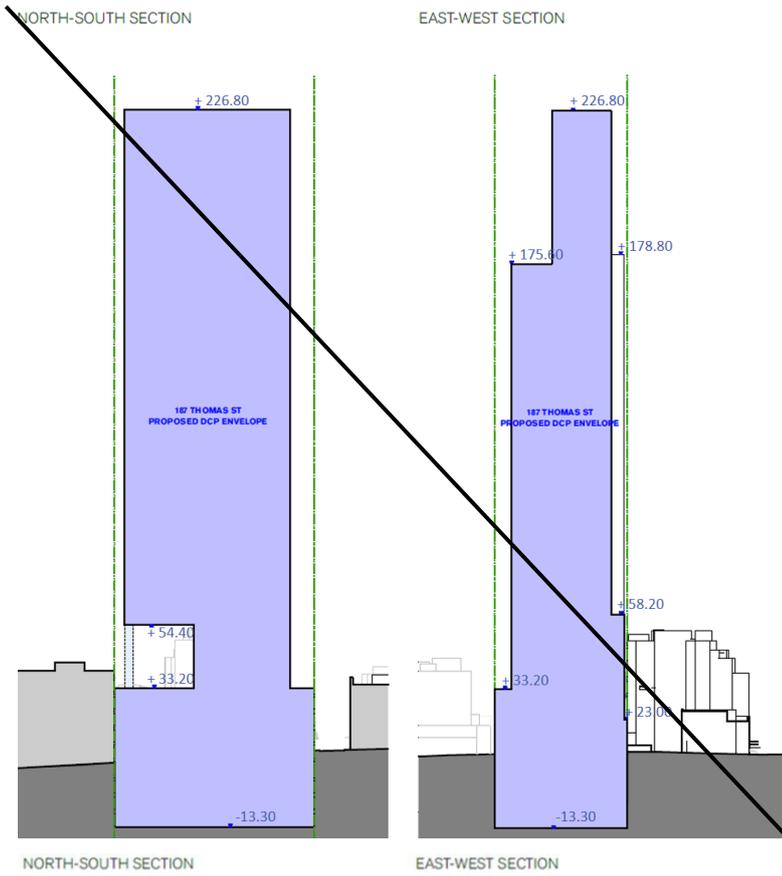


Figure 6.XX 187 Thomas Street, Haymarket – Indicative envelope – setbacks

Insert new figure – 187 Thomas Street – Indicative envelope – setbacks

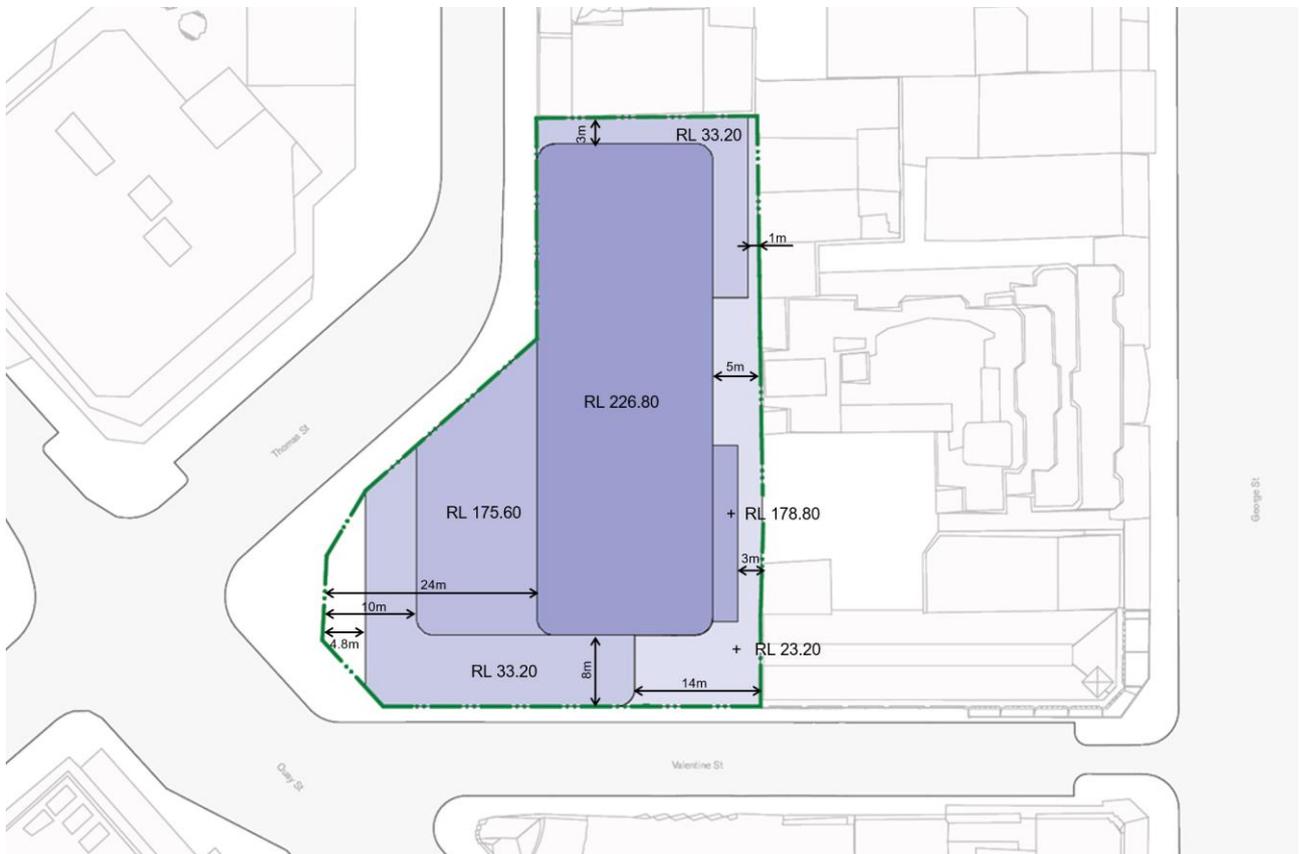
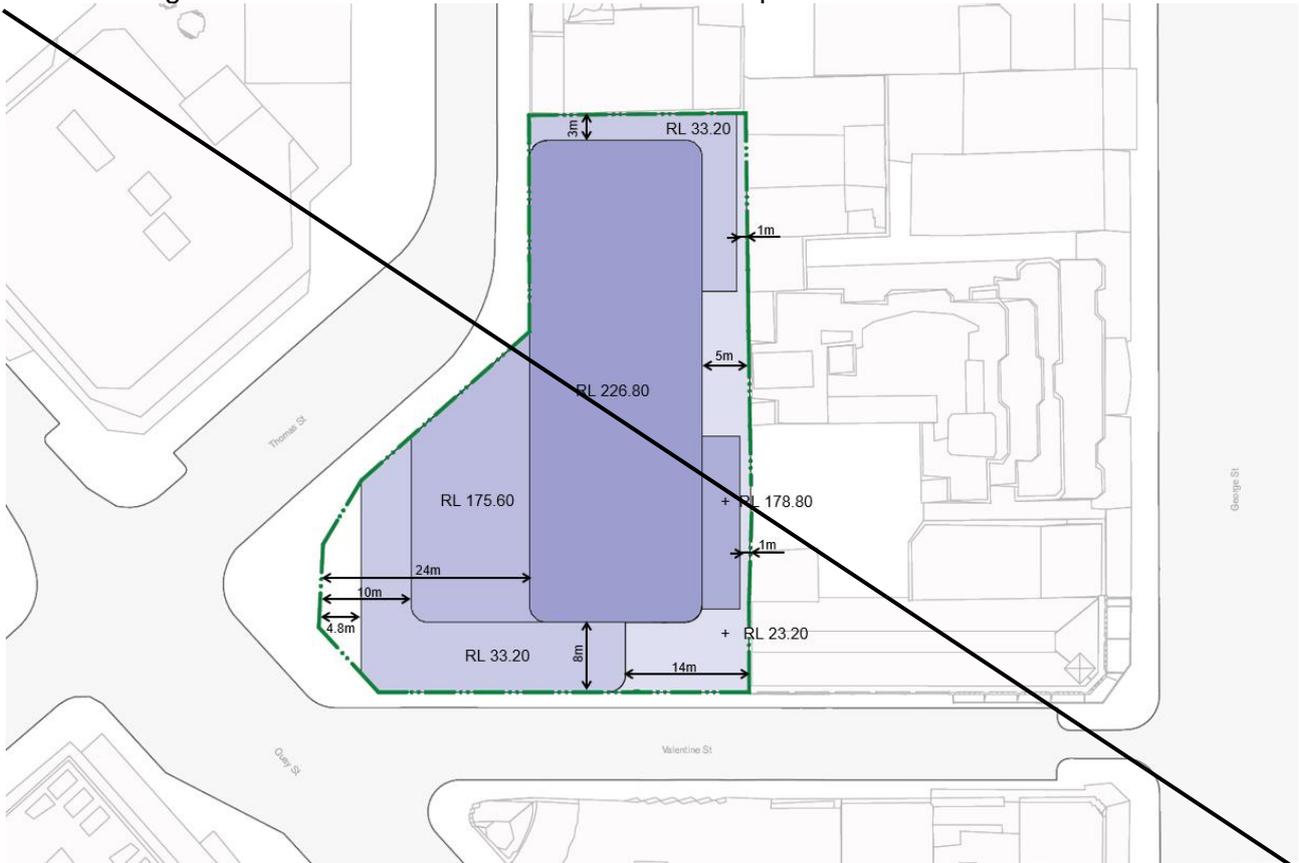


Figure 6.XX 187 Thomas Street, Haymarket – Indicative envelope – void tower floor plan

Insert new figure – 187 Thomas Street – Indicative envelope – void tower floor plan

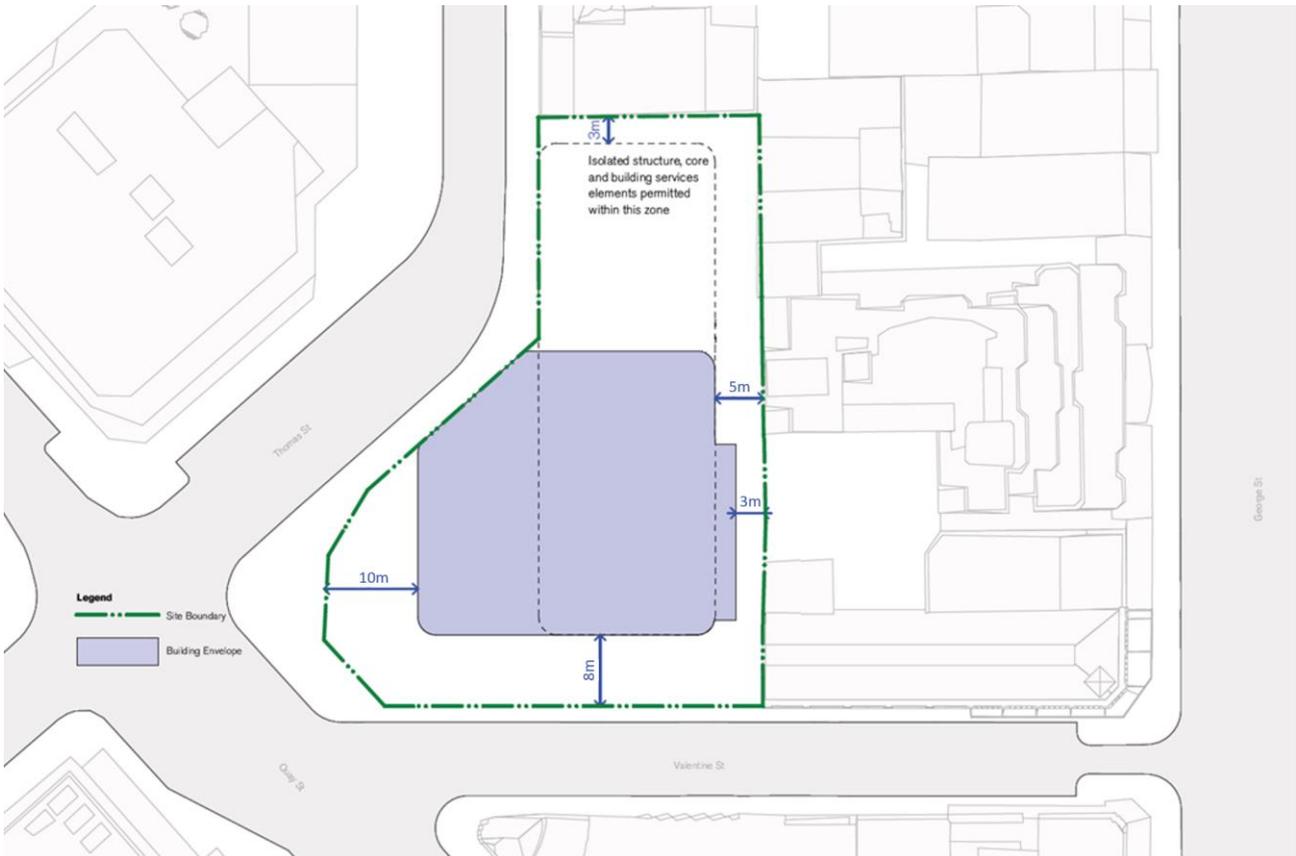


Figure 6.XX 187 Thomas Street, Haymarket – Indicative ground floor layout plan

Insert new figure – 187 Thomas Street – Indicative ground floor layout plan

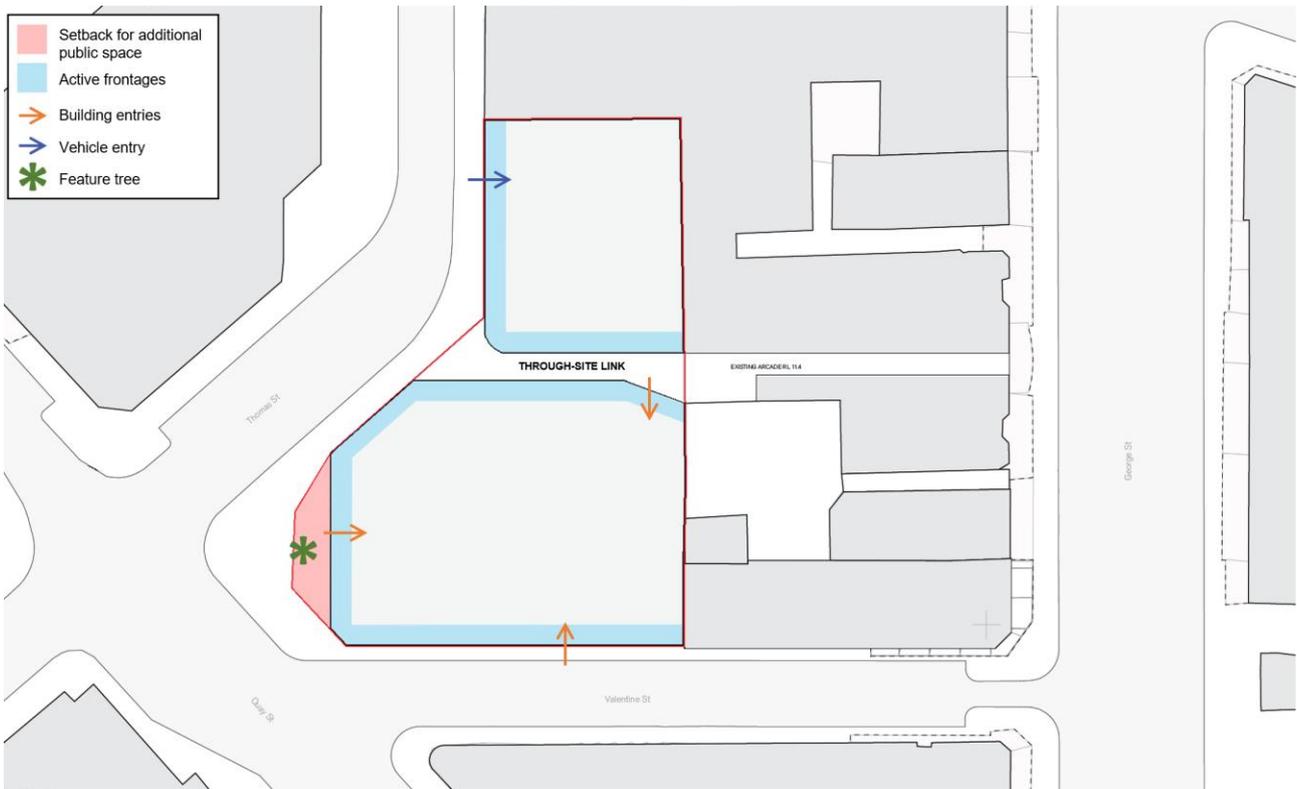
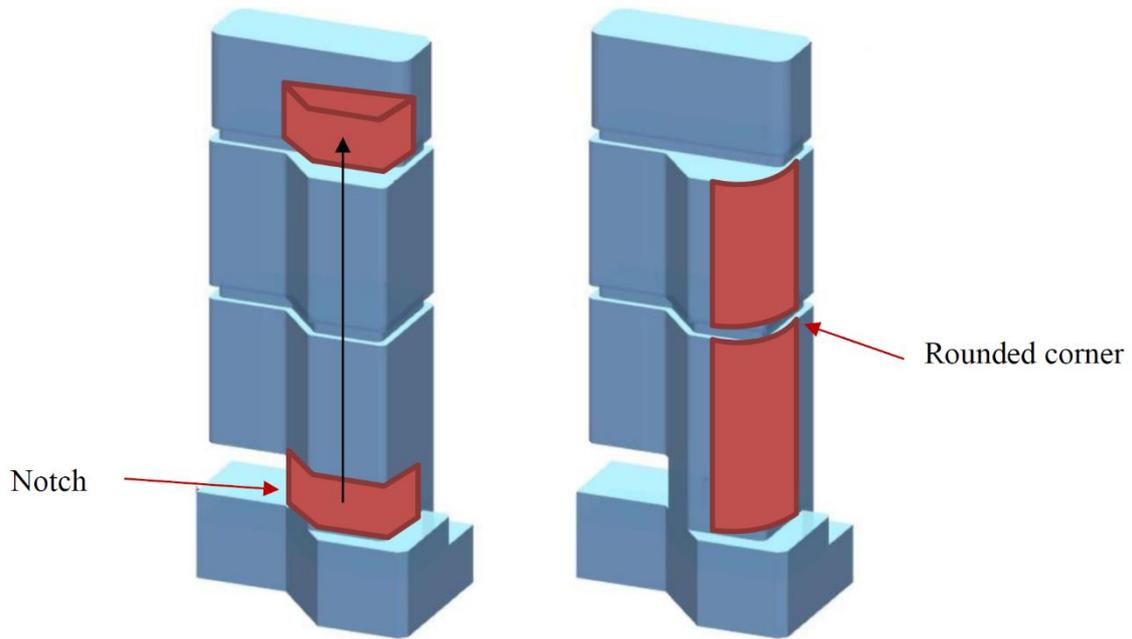


Figure 6.XX 187 Thomas Street, Haymarket – Wind mitigation envelope options

Insert new figure – 187 Thomas Street – Wind mitigation envelope options





Attachment D

**Voluntary Planning Agreement –
187 Thomas Street, Haymarket**

Planning Agreement - 187 Thomas Street, Haymarket

The Council of the City of Sydney

and

Greaton Thomas Pty Ltd
as trustee for the Greaton Thomas Unit Trust
ACN 623 405 621

The Council of the City of Sydney
Town Hall House
456 Kent Street
SYDNEY NSW 2000

Reference: VPA/2020/5
X034468 | 2020/432144 Rev14

3467-6718-4146v1

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THIS PLANNING AGREEMENT is made on

2021

BETWEEN:

- (1) **The Council of the City of Sydney ABN 22 636 550 790**
of Town Hall House, 456 Kent Street, SYDNEY NSW 2000 (the **City**); and
- (2) **Greaton Thomas Pty Ltd ACN 623 405 621**
as trustee for the Greaton Thomas Unit Trust ABN 32 243 425 645
of Level 20, 20 Bond Street, SYDNEY NSW 2000 (the **Developer**)

BACKGROUND

- (A) The Developer is the owner of the Land and intends to undertake the Development on the Land.
- (B) The Developer has offered to enter into this document with the City to provide the Public Benefits on the terms of this document.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Affordable Housing Monetary Contribution means that part of the Monetary Contribution described as "Affordable Housing Monetary Contribution" in clause 1 of Schedule 3 to be paid by the Developer to the City in accordance with this document.

Attributed Value means the value the City and the Developer agree is to be attributed to each element of the Public Benefits as at the date of this document, as set out in clause 1 of Schedule 3 of this document.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, permit, licence, notarisation or waiver, however it is described, and including any condition attached to it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, Australia.

City's Representative means the person named in Item 3 of Schedule 1 or his/her delegate.

Community Infrastructure Monetary Contribution means that part of the Monetary Contribution described as "Community Infrastructure Monetary Contribution" in clause 1 of Schedule 3 to be paid by the Developer to the City in accordance with this document.

Confidential Information means:

- (a) information of a party (**disclosing party**) that is:
 - (i) made available by or on behalf of the disclosing party to the other party (**receiving party**), or is otherwise obtained by or on behalf of the receiving party; and
 - (ii) by its nature confidential or the receiving party knows, or ought reasonably to know, is confidential.

Confidential Information may be made available or obtained directly or indirectly, and before, on or after the date of this document.

Confidential Information does not include information that:

- (a) is in or enters the public domain through no fault of the receiving party or any of its officers, employees or agents;
- (b) is or was made available to the receiving party by a person (other than the disclosing party) who is not or was not then under an obligation of confidence to the disclosing party in relation to that information; or
- (c) is or was developed by the receiving party independently of the disclosing party and any of its officers, employees or agents.

Construction Certificate has the same meaning as in the Act.

Covenant means a binding agreement in a form and on terms capable of being registered by the Registrar-General in the relevant folio of the Register and may include a public positive covenant, a provision in a strata management statement or other form of registrable document.

Dealing means selling, transferring, assigning, novating, mortgaging, charging, or encumbering and, where appearing, **Deal** has the same meaning.

Deed of Novation means the deed substantially in accordance with the format set out in **Annexure C**.

Developer's Representative means the person named in Item 4 of Schedule 1 or his/her delegate.

Development means the development of the Land by the Developer described at Item 2 of Schedule 1.

Development Application means the development application identified in Item 5 of Schedule 1 and includes all plans, reports models, photomontages, material boards (as amended supplemented) submitted to the consent authority before the determination of that Development Application.

Development Consent means the consent granted to the Development Application for the Development and includes all modifications made under section 4.55 of the Act.

Dispute means any dispute or difference between the parties arising out of, relating to or in connection with this document, including any dispute or difference as to the formation, validity, existence or termination of this document.

Environmental Laws means all laws and legislation relating to environmental protection, building, planning, health, safety or work health and safety matters and includes the following:

- (a) the *Work Health and Safety Act 2011 (NSW)*;
- (b) the *Protection of the Environment Operations Act 1997 (NSW)*; and
- (c) the *Contaminated Land Management Act 1997 (NSW)*.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Gross Floor Area has the meaning given to that term in the *Sydney Local Environment Plan* in effect at the date of this document.

GST means the same as in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Index Number means the Consumer Price Index (Sydney all groups) published by the Australian Bureau of Statistics from time to time.

Land means the land described in Item 1 of Schedule 1 of this document.

Laws means all applicable laws, regulations, industry codes and standards, including all Environmental Laws.

Monetary Contribution means that part of the Public Benefits to be paid by the Developer to the City as the Community Infrastructure Monetary Contribution and the Affordable Housing Monetary Contribution in accordance with this document.

Personnel means the Developer's officers, employees, agents, contractors or subcontractors.

Planning Proposal means the planning proposal lodged by or on behalf of the Developer on or about 14 April 2020 with the City.

Public Benefits means the provision of benefits to the community by the Developer in the form and at the times specified in Schedule 3.

Regulation means the *Environmental Planning and Assessment Regulation 2000 (NSW)*.

Sydney LEP means *Sydney Local Environmental Plan 2012*.

Tax means a tax, levy, duty, rate, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

1.2 **Rules for interpreting this document**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) A reference to **including** means "including, without limitation".
- (g) A reference to **dollars** or **\$** is to an amount in Australian currency.
- (h) A reference to **this document** includes the agreement recorded by this document, including all schedules and annexures.
- (i) Words defined in the GST Act have the same meaning in clauses about GST.

- (j) This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

2. **APPLICATION OF THE ACT AND THE REGULATION**

2.1 **Application of this document**

This document is a planning agreement within the meaning of section 7.4 of the Act and applies to:

- (a) the Land; and
- (b) the Development.

2.2 **Public Benefits to be made by Developer**

Clause 5 and Schedule 3 set out the details of the:

- (a) Public Benefits to be delivered by the Developer;
- (b) time or times by which the Developer must deliver the Public Benefits; and
- (c) manner in which the Developer must deliver the Public Benefits.

2.3 **Application of sections 7.11, 7.12 and 7.24 of the Act**

- (a) The application of sections 7.11, 7.12 and 7.24 of the Act are excluded to the extent set out in Items 5 and 6 of Schedule 2 to this document.
- (b) For the avoidance of doubt, if the City imposes a condition of consent on a Development Consent for the Development under section 7.11 of the Act requiring payment of a contribution authorised by a contributions plan approved under section 61 of the *City of Sydney Act 1988 (NSW)*, no further contributions pursuant to section 7.11 or section 7.12 of the Act are payable in relation to the Development other than in accordance with clauses 2.3(c) and 2.3(d).
- (c) Where a Development Consent requires the payment of a Monetary Contribution in accordance with:
 - (i) section 61 of the *City of Sydney Act 1988 (NSW)* (**City of Sydney Act**), then the Monetary Contribution must be paid in accordance with the City of Sydney Act; or
 - (ii) section 7.12 of the Act, then the amount to be paid will be the amount payable in accordance with section 61 of the City of Sydney Act as it applied at the date of this document.
- (d) For the avoidance of doubt, the value of the Monetary Contribution is the same under either option in clause 2.3(c). The Developer will only be required to make payment to the City under either clause 2.3(c)(c)(i) or clause 2.3(c)(c)(ii), but not both.

2.4 **City rights**

This document does not impose an obligation on the City to:

- (a) grant Development Consent for the Development; or
- (b) exercise any function under the Act in relation to a change to an environmental planning instrument, including the making or revocation of an environmental planning instrument.

2.5 **Explanatory note**

The explanatory note prepared in accordance with clause 25E of the Regulation must not be used to assist in construing this document.

3. **OPERATION OF THIS PLANNING AGREEMENT**

3.1 **Commencement**

This document will commence on the date of execution of this document by all parties to this document.

4. **WARRANTIES**

4.1 **Mutual warranties**

Each party represents and warrants that:

- (a) (**power**) it has full legal capacity and power to enter into this document and to carry out the transactions that it contemplates;
- (b) (**corporate authority**) it has taken all corporate action that is necessary or desirable to authorise its entry into this document and to carry out the transactions contemplated;
- (c) (**Authorisations**) it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that it contemplates;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; or
 - (iii) enable it to properly carry on its business as it is now being conducted, and it is complying with any conditions to which any of these Authorisations is subject;
- (d) (**documents effective**) this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and Laws affecting creditors' rights generally), subject to any necessary stamping or registration;

- (e) **(solvency)** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable; and
- (f) **(no controller)** no controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries.

4.2 **Developer warranties**

- (a) The Developer warrants to the City that, at the date of this document:
 - (i) it is the registered proprietor of the Land;
 - (ii) it is legally entitled to obtain all consents and approvals that are required by this document and do all things necessary to give effect to this document;
 - (iii) all work performed by the Developer and the Personnel under this document will be performed with due care and skill and to a standard which is equal to or better than that which a well experienced person in the industry would expect to be provided by an organisation of the Developer's size and experience; and
 - (iv) it is not aware of any matter which may materially affect the Developer's ability to perform its obligations under this document.
- (b) The Developer warrants to the City that, prior to commencing delivery of the Public Benefits it will have obtained all Authorisations and insurances required under any Law to carry out its obligations under this document.

5. **PUBLIC BENEFITS**

5.1 **Developer to provide Public Benefits**

The Developer must, at its cost and risk, provide the Public Benefits to the City in accordance with this document.

6. **INDEMNITY**

The Developer indemnifies the City against all damage, expense, loss or liability of any nature suffered or incurred by the City arising from any act or omission by the Developer (or any Personnel) in connection with the performance of the Developer's obligations under this document, except where the damage, expense, loss or liability suffered or incurred is caused by, or contributed to by, any wilful or negligent act or omission of the City (or any person engaged by the City).

7. **REGISTRATION AND CAVEAT**

7.1 **Registration of this document**

- (a) The Developer:
 - (i) consents to the registration of this document at NSW Land Registry Services on the certificate of title to the Land;

- (ii) warrants that it has obtained all consents to the registration of this document on the certificate of title to the Land; and
- (iii) must within 10 Business Days of a written request from the City do all things necessary to allow the City to register this document on the certificate of title to the Land, including but not limited to:
 - (A) producing any documents or letters of consent required by the Registrar-General;
 - (B) providing the production slip number when the Developer produces the certificate of title to the Land at NSW Land Registry Services; and
 - (C) providing the City with a cheque for registration fees payable in relation to registration of this document at NSW Land Registry Services.
- (iv) The Developer must act promptly in complying with and assisting to respond to any requisitions raised by NSW Land Registry Services that relate to registration of this document.

7.2 **Caveat**

- (a) Where the Developer has not complied with clause 7.1(a)(iii) within the stated timeframe, the City may, at any time register a caveat over the Land preventing any Dealing with the Land that is inconsistent with this document. Provided that the City complies with this clause 7.2, the Developer must not object to the registration of this caveat and may not attempt to have the caveat removed from the certificate of title to the Land.
- (b) In exercising its rights under this clause 7.2 the City must do all things reasonably required to:
 - (i) remove the caveat from the Land once this document has been registered on the certificate of title to the Land; and
 - (ii) consent to the registration of:
 - (A) this document; and
 - (B) any plan of consolidation, plan of subdivision or other Dealing required by this document or the Development Consent.

7.3 **Release of this document**

If the City is satisfied that the Developer has provided all Public Benefits and otherwise complied with this document then the City must promptly do all things reasonably required to remove this document from the certificate of title to the Land.

8. **ENFORCEMENT – GUARANTEE**

Not used.

9. **DISPUTE RESOLUTION**

9.1 **Application**

Any Dispute must be determined in accordance with the procedure in this clause 9.

9.2 **Negotiation**

- (a) If any Dispute arises, a party to the Dispute (**Referring Party**) may by giving notice to the other party or parties to the Dispute (**Dispute Notice**) refer the Dispute to the Developer's Representative and the City's Representative for resolution. The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 9; and
 - (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any:
 - (aa) provisions of this document; and
 - (bb) acts or omissions of any person, relevant to the Dispute; and
 - (C) where applicable, the amount in dispute (whether monetary or any other commodity) and if not precisely known, the best estimate available.
- (b) Within 10 Business Days of the Referring Party issuing the Dispute Notice (**Resolution Period**), the Developer's Representative and the City's Representative must meet at least once to attempt to resolve the Dispute.
- (c) The Developer's Representative and the City's Representative may meet more than once to resolve a Dispute. The Developer's Representative and the City's Representative may meet in person, via telephone, videoconference, internet-based instant messaging or any other agreed means of instantaneous communication to effect the meeting.

9.3 **Not use information**

The purpose of any exchange of information or documents or the making of any offer of settlement under this clause 9 is to attempt to settle the Dispute. Neither party may use any information or documents obtained through any dispute resolution process undertaken under this clause 9 for any purpose other than in an attempt to settle the Dispute.

9.4 **Condition precedent to litigation**

Subject to clause 9.5, a party must not commence legal proceedings in respect of a Dispute unless:

- (a) a Dispute Notice has been given; and
- (b) the Resolution Period has expired.

9.5 **Summary or urgent relief**

Nothing in this clause 9 will prevent a party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

10. **TAXES AND GST**

10.1 **Responsibility for Taxes**

- (a) The Developer is responsible for any and all Taxes and other like liabilities which may arise under any Commonwealth, State or Territory legislation (as amended from time to time) as a result of or in connection with this document or the Public Benefits.
- (b) The Developer must indemnify the City in relation to any claims, liabilities and costs (including penalties and interest) arising as a result of any Tax or other like liability for which the Developer is responsible under clause 10.1(a).

10.2 **GST free supply**

To the extent that Divisions 81 and 82 of the GST Law apply to a supply made under this document:

- (a) no additional amount will be payable by a party on account of GST; and
- (b) no tax invoices will be exchanged between the parties.

10.3 **Supply subject to GST**

To the extent that clause 10.2 does not apply to a supply made under this document, this clause 10.3 will apply.

- (a) If one party (**Supplying Party**) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the consideration (**Receiving Party**) must also pay an amount (**GST Amount**) equal to the GST payable in respect of that supply.
- (b) Subject to first receiving a tax invoice or adjustment note as appropriate, the receiving party must pay the GST amount when it is liable to provide the consideration.
- (c) If one party must indemnify or reimburse another party (**Payee**) for any loss or expense incurred by the Payee, the required payment does not include any amount which the Payee (or an entity that is in the same GST group as the Payee) is entitled to claim as an input tax credit, but will be

increased under clause 10.3(a) if the payment is consideration for a taxable supply.

- (d) If an adjustment event arises in respect of a taxable supply made by a Supplying Party, the GST Amount payable by the Receiving Party under clause 10.3(a) will be recalculated to reflect the adjustment event and a payment will be made by the Receiving Party to the Supplying Party, or by the Supplying Party to the Receiving Party, as the case requires.
- (e) The Developer will assume the City is not entitled to any input tax credit when calculating any amounts payable under this clause 10.3.
- (f) In this document:
 - (i) consideration includes non-monetary consideration, in respect of which the parties must agree on a market value, acting reasonably; and
 - (ii) in addition to the meaning given in the GST Act, the term "GST" includes a notional liability for GST.

11. **DEALINGS**

11.1 **Dealing by the City**

- (a) The City may Deal with its interest in this document without the consent of the Developer if the Dealing is with a Government Agency. The City must give the Developer notice of the Dealing within five Business Days of the date of the Dealing.
- (b) The City may not otherwise Deal with its interest in this document without the consent of the Developer, such consent not to be unreasonably withheld or delayed.

11.2 **Dealing by the Developer**

- (a) Prior to registration of this document in accordance with clause 7, the Developer must not Deal with this document or the Land without:
 - (i) the prior written consent of the City; and
 - (ii) the Developer and the third party the subject of the Dealing entering into the Deed of Novation (or other document agreed by the City in relation to a Dealing that is a mortgage, charge or encumbrance) by delivering to the City prior to completing that Dealing the Deed of Novation (executed in triplicate or counterparts or as agreed) properly executed by those parties.
- (b) On and from registration of this document in accordance with clause 7:
 - (i) the Developer may Deal with this document without the consent of the City only as a result of the sale of the whole of the Land (without subdivision) to a purchaser of the Land, provided the parties the subject of the Dealing enter into the Deed of Novation by delivering

to the City prior to completing that Dealing the Deed of Novation (executed in triplicate or counterparts or as agreed) properly executed by those parties;

- (ii) the Developer may register a plan of strata subdivision, and the City consents to this document remaining registered only on the certificate of title to the common property of the strata plan upon registration of the strata plan; and
- (iii) the Developer must not otherwise Deal with this document to a third party that is not a purchaser of the whole or any part of the Land without:
 - (A) the prior written consent of the City; and
 - (B) the City, the Developer and the third party the subject of the Dealing entering into the Deed of Novation (or other document agreed by the City in relation to a Dealing that is a mortgage, charge or encumbrance) by delivering to the City prior to completing that Dealing the Deed of Novation (or other agreed document) (executed in triplicate or counterparts or as agreed) properly executed by those parties.
- (c) The Developer must pay the City's costs and expenses relating to any consent or documentation required due to the operation of this clause 11.2.
- (d) For a Deed of Novation to the City under clause 11.2(a) or clause 11.2(b) the City will:
 - (i) provide the Developer with a letter of consent by the City as caveator to the registration of the transfer Dealing transferring title to the Land to the purchaser named as the incoming party under the Deed of Novation; and
 - (ii) provide the Developer and the third party the subject of the Dealing with counterparts of the Deed of Novation properly executed by the City.

12. **TERMINATION**

- (a) The City may terminate this document by notice in writing if the amendment to the Sydney LEP contemplated by the Planning Proposal is:
 - (i) subsequently amended by an environmental planning instrument made after the Planning Proposal in a way that prevents the Development from proceeding; or
 - (ii) declared to be invalid by a Court of competent jurisdiction.
- (b) If the City terminates this document then:
 - (i) the rights of each party that arose before the termination or which may arise at any future time for any breach or non-observance of obligations occurring prior to the termination are not affected;

- (ii) the Developer must take all steps reasonably necessary to minimise any loss that each party may suffer as a result of the termination of this document;
- (iii) not used; and
- (iv) the City will, at the Developer's cost, do all things reasonably required to remove this document from the certificate of title to the Land.

13. **CONFIDENTIALITY AND DISCLOSURES**

13.1 **Use and disclosure of Confidential Information**

A party (**receiving party**) which acquires Confidential Information of another party (**disclosing party**) must not:

- (a) use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this document; or
- (b) disclose any of the Confidential Information except in accordance with clauses 13.2 or 13.3.

13.2 **Disclosures to personnel and advisers**

- (a) The receiving party may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:
 - (i) the disclosure is necessary to enable the receiving party to perform its obligations or to exercise its rights under this document; and
 - (ii) prior to disclosure, the receiving party informs the person of the receiving party's obligations in relation to the Confidential Information under this document and obtains an undertaking from the person to comply with those obligations.
- (b) The receiving party:
 - (i) must ensure that any person to whom Confidential Information is disclosed under clause 13.2(a) keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under clause 13.2(a); and
 - (ii) is liable for the actions of any officer, employee, agent, contractor or legal, financial or other professional adviser that causes a breach of the obligations set out in clause 13.2(b)(i).

13.3 **Disclosures required by law**

- (a) Subject to clause 13.3(b), the receiving party may disclose Confidential Information that the receiving party is required to disclose:
 - (i) by law or by order of any court or tribunal of competent jurisdiction; or

- (ii) by any Government Agency, stock exchange or other regulatory body.
- (b) If the receiving party is required to make a disclosure under clause 13.3(a), the receiving party must:
 - (i) to the extent possible, notify the disclosing party immediately it anticipates that it may be required to disclose any of the Confidential Information;
 - (ii) consult with and follow any reasonable directions from the disclosing party to minimise disclosure; and
 - (iii) if disclosure cannot be avoided:
 - (A) only disclose Confidential Information to the extent necessary to comply; and
 - (B) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.

13.4 **Receiving party's return or destruction of documents**

On termination of this document the receiving party must immediately:

- (a) deliver to the disclosing party all documents and other materials containing, recording or referring to Confidential Information; and
- (b) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information,

which are in the possession, power or control of the receiving party or of any person to whom the receiving party has given access.

13.5 **Security and control**

The receiving party must:

- (a) keep effective control of the Confidential Information; and
- (b) ensure that the Confidential Information is kept secure from theft, loss, damage or unauthorised access or alteration.

13.6 **Media releases**

The Developer must not issue any information, publication, document or article for publication in any media concerning this document or the Public Benefits without the City's prior written consent.

14. **NOTICES**

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or email. If it is sent by mail, it is taken to have been received 5 Business Days after it is posted. If it is sent by email, it is taken to have been received the same day the email was sent, provided

that the sender has not received a delivery failure notice (or similar), unless the time of receipt is after 5:00pm in which case it is taken to be received on the next Business Day.

- (b) A person's address and email address are those set out in Schedule 1 for the City's Representative and the Developer's Representative, or as the person notifies the sender in writing from time to time.

15. **TRUSTEE LIMITATION OF LIABILITY AND WARRANTIES**

15.1 **Limitation of liability**

- (a) In this clause 15.1 and clause 15.2, Trustee means the Developer.
- (b) The Trustee enters into this document only in its capacity as trustee of the Greaton Thomas Unit Trust (**Trust**) constituted under the Trust Deed dated 13 December 2017 as varied on 27 March 2018 (**Trust Deed**) and in no other capacity. A liability arising under or in connection with this document is limited to and can be enforced against the Trustee only to the extent to which it can be and is in fact satisfied out of property of the Trust from which the Trustee is actually indemnified for the liability. Subject to clause 15.1(c), this limitation of the Trustee liability applies despite any other provision of this document and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (c) No party to this document may sue the Trustee in any capacity other than as the Trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trustee or proving in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust).
- (d) The provisions of this clause 15.1 shall not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because, under this document or by operation of law, there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust as a result of the Trustee's fraud, negligence or wilful default.
- (e) The Trustee is not obliged to do or refrain from doing anything under this document (including incur any liability) unless its liability is limited in the same manner as set out in clauses 15.1(b) to 15.1(d).

15.2 **Trustee warranties**

- (a) The Trustee warrants that, as at the date of this document:
 - (i) the Trustee is the trustee of the Trust;
 - (ii) it has not been removed as the trustee under the Trust Deed;
 - (iii) no release or revocation of the Trustee's powers under the Trust Deed has occurred;

- (iv) it is the sole trustee of the Trust;
 - (v) it is not in breach of the Trust Deed and is entitled to be indemnified or reimbursed out of the assets of the Trust in respect of any liability it incurs under or in respect of this document; and
 - (vi) it has the power under the Trust Deed to execute and perform its obligations under this document and all necessary action has been taken under the Trust Deed to authorise the execution and performance of this document.
- (b) If the Trustee's position in respect of the matters specified in clause 15.2(a) changes, the parties are to negotiate, in good faith and without delay, any necessary changes to this document to secure the provision of the Public Benefits.
 - (c) If the Trustee is to be replaced as trustee under the Trust Deed, then the Trustee will procure entry by the replacement trustee into a document with the City on terms approved by the City (such approval not to be unreasonably withheld or delayed) under which the replacement trustee agrees to:
 - (i) be bound by the provisions of this document; and
 - (ii) pay the City's costs in relation to the replacement of the trustee and the costs of registering any new planning agreement on title, if required.
 - (d) Immediately upon the Trustee becoming aware of a proposed termination of the Trust, the Trustee is to notify the City, and the parties are to negotiate, in good faith and without delay, any necessary changes to this document, or other arrangements arising from the proposed termination of the Trust, to secure the provision of Public Benefits.

16. GENERAL

16.1 Governing law

- (a) This document is governed by the Laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

16.2 Access to information

In accordance with section 121 of the *Government Information (Public Access) Act 2009 (NSW)*, the Developer agrees to allow the City immediate access to the following information contained in records held by the Developer:

- (a) information that relates directly to the delivery of the Public Benefits by the Developer;

- (b) information collected by the Developer from members of the public to whom the Developer provides, or offers to provide, services on behalf of the City; and
- (c) information received by the Developer from the City to enable the Developer to deliver the Public Benefits.

16.3 **Liability for expenses**

- (a) The Developer must pay its own and the City's expenses incurred in negotiating, executing, registering, releasing, administering and enforcing this document.
- (b) The Developer must pay for all reasonable costs and expenses associated with the preparation and giving of public notice of this document and the explanatory note prepared in accordance with the Regulations and for any consent the City is required to provide under this document.

16.4 **Relationship of parties**

- (a) Nothing in this document creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) No party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

16.5 **Giving effect to this document**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

16.6 **Time for doing acts**

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this document,
expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

16.7 **Severance**

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this

document without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

16.8 Preservation of existing rights

The expiration or termination of this document does not affect any right that has accrued to a party before the expiration or termination date.

16.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this document for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

16.10 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

16.11 Operation of this document

- (a) This document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

16.12 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

16.13 Inconsistency with other documents

Unless the contrary intention is expressed, if there is an inconsistency between any of one or more of:

- (a) this document;
- (b) any Schedule to this document; and
- (c) the provisions of any other document of the Developer,

the order of precedence between them will be the order listed above, this document having the highest level of precedence.

16.14 No fetter

Nothing in this document in any way restricts or otherwise affects the City's unfettered discretion to exercise its statutory powers as a public authority.

16.15 Counterparts

This document may be executed in counterparts.

SCHEDULE 1

Agreement Details

ITEM	TERM	DESCRIPTION
1.	Land	Folio Identifier 100/804958 known as 187 Thomas Street, Haymarket
2.	Development	<p>Development of a proposed new tower on the Land up to maximum height of RL 226.8m as contemplated in the Planning Proposal encompassing the setbacks on the Land adjacent to the public domain.</p> <p>The maximum total Gross Floor Area of the Development on the Land is 50,546 square metres.</p>
3.	City's Representative	<p>Name: Director, Planning, Development and Transport</p> <p>Address: Level 1, 456 Kent Street, Sydney NSW 2000</p> <p>Email address: gjahn@cityofsydney.nsw.gov.au</p>
4.	Developer's Representative	<p>Name: Nicho Teng</p> <p>Address: Level 20, 20 Bond Street, Sydney NSW 2000</p> <p>Email address: nicho.t@greatondevelopment.com.au</p> <p><i>Copy of general correspondence (excluding notices under clause 14) to:</i></p> <p>Name: Paul Lee</p> <p>Address: Level 20, 20 Bond Street, Sydney NSW 2000</p> <p>Email address: paul.l@greatondevelopment.com.au</p>
5.	Development Application	Means any development application submitted to the City in connection with the Development.
6.	Guarantee Amount	Not used

7.	Guarantee Amount Due Date	Not used
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SCHEDULE 2

Requirements under the Act and Regulation (clause 2)

The below table summarises how this document complies with the Act and Regulation.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
1.	<p>Planning instrument and/or development application (section 7.4(1) of the Act)</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument;</p> <p>(b) made, or proposes to make, a Development Application; or</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) Yes</p> <p>(b) Yes</p> <p>(c) No</p>
2.	<p>Description of land to which this document applies (section 7.4(3)(a) of the Act)</p>	Item 1 of Schedule 1.
3.	<p>Description of change to the environmental planning instrument to which this document applies and/or the development to which this document applies (section 7.4(3)(b) of the Act)</p>	The Development as described in Item 2 of Schedule 1.
4.	<p>The nature and extent of the provision to be made by the developer under this document, the time or times by which the provision is to be made and the manner in which the provision is to be made (section 7.4(3)(c) of the Act)</p>	Schedule 3 and Annexure A.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
5.	Whether this document excludes (wholly or in part) of does not exclude the application of section 7.11, 7.12 or 7.24 to the development (section 7.4(3)(d) of the Act)	Sections 7.11 and 7.12 are not excluded to the extent set out in clause 2.3. Section 7.24 is not excluded.
6.	Applicability of section 7.11 of the Act (section 7.4(3)(e) of the Act)	The application of section 7.11 of the Act is not excluded to the extent set out in clause 2.3.
7.	Consideration of benefits under this document if section 7.11 applies (section 7.4(3)(e) of the Act)	Benefits are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.
8.	Mechanism for Dispute Resolution (section 7.4(3)(f) of the Act)	Clause 9
9.	Enforcement of this document (section 7.4(3)(g) of the Act)	Clause 7
10.	No obligation to grant consent or exercise functions (section 7.4(9) of the Act)	Clause 2.4
11.	Registration of this document (section 7.6 of the Act)	Clause 7
12.	Whether certain requirements of this document must be complied with before a construction certificate is issued (clause 25E(2)(g) of the Regulation)	Yes – payment to the City of Community Infrastructure Monetary Contribution and Affordable Housing Monetary Contribution (Schedule 3)
13.	Whether certain requirements of this document must be complied with before a subdivision certificate is issued (clause 25E(2)(g) of the Regulation)	NIL

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
14.	Whether certain requirements of this document must be complied with before an occupation certificate is issued (clause 25E(2)(g) of the Regulation)	NIL
15.	Whether the explanatory note that accompanied exhibition of this document may be used to assist in construing this document (clause 25E(7) of the Regulation)	Clause 2.5

SCHEDULE 3

Public Benefits (clause 5)

1. PUBLIC BENEFITS - OVERVIEW

The Developer must provide the Public Benefits in accordance with Schedule 3 and this document. The Attributed Value, timing of delivery and additional specifications relating to the Public Benefits is set out in following table:

Item	Public Benefit – Monetary Contribution	Attributed Value	Due date	Additional specifications
1.	Community Infrastructure Monetary Contribution	\$12,540,234	On or before the issue of the first Construction Certificate for the Development	Refer Annexure A
2.	Affordable Housing Monetary Contribution	Affordable Housing Monetary Contribution Formula in Annexure B	On or before the issue of the first Construction Certificate for the Development	Refer Annexure B
3.	Registration of Restrictive Covenant (if applicable under clause 3(c) of this Schedule 3)	Not applicable	On or before the issue of the first Construction Certificate for the Development	Refer to clause 3 of this Schedule 3 – Covenant substantially in the form set out in Annexure D

2. PAYMENT OF MONETARY CONTRIBUTION

2.1 Payment

The Developer must pay the Monetary Contribution to the City on the due dates stated in Items 1 and 2 in the table in clause 1 of Schedule 3 in cash or by unendorsed bank cheque.

2.2 Indexation

If the Monetary Contribution is not paid to the City on the date of this document then at the date of payment the Monetary Contribution must be indexed in accordance with the formulas set out in **Annexures A** and **B** of this document.

2.3 **No trust**

Nothing in this document creates any form of trust arrangement or fiduciary duty between the City and the Developer. Following receipt of the Monetary Contribution, the City is not required to separately account for the Monetary Contribution, report to the Developer regarding expenditure of the Monetary Contribution or comply with any request by the Developer to trace the Monetary Contribution.

2.4 **Expenditure by the City**

A. Community Infrastructure Monetary Contribution

The City will use the Community Infrastructure Monetary Contribution to achieve the public benefit of public domain improvements identified in the Chinatown and City South Public Domain Plan (available on the City's website at <https://www.cityofsydney.nsw.gov.au/strategies-action-plans/chinatown-public-domain-plan>) such as the Quay Street Upgrade and other projects in the general vicinity of the Development.

B. Affordable Housing Monetary Contribution

The City will use the Affordable Housing Monetary Contribution to achieve the public benefit of increasing the amount of affordable housing in the City of Sydney local government area to achieve the City's affordable housing targets in Sustainable Sydney 2030.

3. **BELOW-GROUND OPTION AND COVENANT**

(a) In clause 3 of Schedule 3:

Approved Purpose means hotel back-of-house, auditorium, multi-purpose presentation facility or laboratory uses as ancillary gross floor area to support related Specific Uses in the above-ground portion of the Building;

Below-Ground Option means an option in the Planning Proposal approved by the City of up to an additional 1.5 : 1 floor space ratio to be located below ground in the Building as gross floor area for the Approved Purpose;

Due Date means the due date stated in Item 1 in the table in clause 1 of Schedule 3 (or date otherwise agreed by the City);

Notice means the Developer's notice in writing that the Development Application will include or not include the Below-Ground Option for the Development;

Specific Uses means uses such as the Tech Hotel and Innovation Hub outlined in the Planning Proposal or similar uses approved by the City; and;

Restrictive Covenant means the Covenant stated in Item 3 in the table in clause 1 of Schedule 3.

(b) The Developer must give the Notice to the City on the same date that the Development Application is lodged.

- (c) If the Notice states that the Development Application includes the Below-Ground Option or no development whatsoever below ground (and the Development Consent includes the Below-Ground Option or no development below ground):
- (i) the Community Infrastructure Monetary Contribution is as specified in clause 1 of Schedule 3;
 - (ii) the Developer must only use the below-ground portion of the Building for an Approved Purpose (or not develop below ground without the City's prior approval); and
 - (iii) the Restrictive Covenant must be registered on the title to the Land. The Developer must, at its cost, take all steps required to register the Restrictive Covenant by the Due Date.

EXECUTION

EXECUTED as a deed.

Signed, sealed and delivered for
**THE COUNCIL OF THE CITY OF
SYDNEY** (ABN 22 636 550 790) by
its duly authorised officer, in the
presence of:

Signature of officer

Signature of witness

Name of officer

Name

Position of officer

456 Kent Street, Sydney NSW 2000
Address of witness

EXECUTED by **GREATON THOMAS
PTY LTD** (ACN 623 405 621) **as
trustee for the GREATON THOMAS
UNIT TRUST** in accordance with
s127(1) of the Corporations Act 2001
(Cth):

Signature of director

Signature of director/secretary

Name

Name

ANNEXURE A

COMMUNITY INFRASTRUCTURE MONETARY CONTRIBUTION

(Clause 5 and Schedule 3)

1. MONETARY CONTRIBUTION RATE

The Monetary Contribution rate for infrastructure is \$600.00 per square metre of Strategic Gross Floor Area.

Strategic Gross Floor Area is the additional floor space granted under the Sydney LEP being the difference between the maximum floor space of 19.54:1 and the following:

- (a) Mapped FSR of 7.5:1;
- (b) Any type of additional floor space under clauses 6.4 to 6.9 of the Sydney LEP (excluding any below-ground floor space under the Restrictive Covenant in Item 3 in the table in clause 1 of Schedule 3).

2. INDEXATION OF RATES

Adjustments are to be made to the Monetary Contribution rates in clause 1 of this **Annexure A** as follows:

Monetary Contribution (to be provided) = Monetary Contribution (as per Annexure A, Clause 1) x (A/B)

Where:

A is the Index Number most recently published before the date the Monetary Contribution is to be paid

B is the Index Number most recently published before the date this agreement commenced in accordance with clause 3.1 of this document

3. PAYMENT

Payment will be by unendorsed bank cheque to the City prior to issue of any Construction Certificate for the Development. In circumstances where no construction certificate is required at all for the Development, payment is required prior to commencement of construction works for the Development.

ANNEXURE B

AFFORDABLE HOUSING MONETARY CONTRIBUTION

(Clause 5 and Schedule 3)

1. BASE MONETARY CONTRIBUTION

The base Monetary Contribution for Affordable Housing is as follows:

- 0.5% x Total Floor Area x \$10,588* – where Development Consent is determined between 1 June 2020 to 31 May 2022
- 1% x Total Floor Area x \$10,588* - where Development Consent is determined from 1 June 2022 onwards

Total Floor Area means the total of the areas of each floor of a building within the outer face of the external enclosing walls and including balconies, but excluding the following:

- columns, fins, sun control devices, awnings and other elements, projections or works outside the general lines of the outer face of the external walls,
- any area of a balcony that is more than the minimum area required by the consent authority in respect of the balcony,
- the maximum ancillary car parking permitted by the consent authority and any associated internal vehicular and pedestrian access to that car parking,
- space for the loading and unloading of goods, and
- space used for public utility undertakings, community facilities or roads.

2. INDEXATION OF RATES

Adjustments are to be made to the Monetary Contribution Rates in clause 1 of this **Annexure B** to account for movements in the cost of housing over time on a quarterly basis, within one week of the first days of March, June, September and December each year.

Rates are adjusted with reference to movements in the median price for strata dwellings in the City of Sydney LGA. The median strata dwelling price is published quarterly in the NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata.

The formula for adjusting the contribution amount is:

Monetary Contribution = Base Contribution Amount x (MDP2/MDP1)

Where:

Base Contribution Amount is the amount calculated in accordance with clause 1 of this **Annexure B**, based on the contribution rates applicable at the time of lodgement of the DA.

MDP1 is the median strata dwelling price applied on the date this agreement commenced in accordance with clause 3.1 of this document.

MDP2 is the median strata dwelling price that applies at the time of payment of the Monetary Contribution.

Monetary Contributions are adjusted and to be confirmed with the City prior to payment being made.

If after the formula is applied the Monetary Contribution will be less than the amount calculated in accordance with clause 2 of this **Annexure B**, the Monetary Contribution will not be adjusted.

3. PAYMENT

Payment will be by unendorsed bank cheque to the City prior to issue of any Construction Certificate for the Development. In circumstances where no Construction Certificate is required at all for the Development, payment is required prior to commencement of use/occupation.

4. CREDIT

Where a future Development Consent for the Development requires an affordable housing monetary contribution under the Sydney LEP (**Future Affordable Housing Contribution**), payment of the Affordable Housing Monetary Contribution calculated under **Annexure B** will be considered by the City to be satisfaction in full of that Future Affordable Housing Contribution even if the monetary contribution required under the Sydney LEP is less than the amount calculated in accordance with this **Annexure B**.

ANNEXURE C

DEED OF NOVATION

(Clause 11)

THIS DEED OF NOVATION is made on 20[insert] between the following Parties:

The Council of the City of Sydney ABN 22 636 550 790
of Town Hall House, 456 Kent Street, SYDNEY NSW 2000 (the **Council**);

[Insert name] ABN [insert number]
of [insert address] (the **Outgoing Party**); and

[Insert name] ABN [insert number]
of [insert address] (the **Incoming Party**).

BACKGROUND

- A. The Council and the Outgoing Party are Parties to the VPA.
- B. The VPA relates to the whole of the Land.
- C. The Outgoing Party wishes to [transfer] the [Land/part of the Land] to the Incoming Party.
- D. The Incoming Party agrees to perform the obligations and seeks to obtain the benefits of the Outgoing Party under the VPA.
- E. The Outgoing Party and the Incoming Party have agreed to enter into this Deed of Novation, in accordance with clause 11 of the VPA, at the request of the Council.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

VPA is the Planning Agreement entered into between the Council and the Outgoing Party on [date], registered number [#].

1.1 Definitions

Words and expressions defined in the VPA have the same meaning in this Deed.

1.2 Headings

Headings do not affect the interpretation of this document.

2. PERFORMANCE OF OBLIGATIONS

2.1 Incoming Party

On and from the date of this Deed, the Incoming Party:

- (a) is substituted for the Outgoing Party as a party to the VPA and acknowledges itself to be bound by the provisions of the VPA, as if the Incoming Party had originally been named as the Outgoing Party in that VPA;

- (b) without limiting clause 2.1(a), must punctually carry out and perform all other obligations of the Outgoing Party under the VPA which are not performed at the date of this Deed; and
- (c) will be:
 - (i) entitled to the benefit of the VPA; and;
 - (ii) entitled to enforce the VPA against Council,as if the Incoming Party had originally been named as the Outgoing Party in that VPA.

2.2 Notices

The Council must address all notices and communications to be given or made by it to the Incoming Party under the VPA to the following address:

[Insert Incoming Party address]

3. PERFORMANCE AFFECTED BY NOVATION

3.1 Performance by Outgoing Party

The Outgoing Party:

- (a) (subject to clause 3.3 of this Deed) releases and discharges Council from its obligations under the VPA and from all claims and demands in respect of the performance of and obligations under the VPA prior to the date of this Deed; and
- (b) warrants to the Council that it has properly performed its obligations under the VPA up to and including the date of this Deed, complying with all contractual requirements.

3.2 Developer's obligations

The Incoming Party must perform all of the Developer's obligations under the VPA as if named as the Developer, whether or not the relevant obligations relate to works that were to be performed prior to the date of this Deed, including the delivery of all Public Benefits to Council.

3.3 Release by Council

Council releases and discharges the Outgoing Party from all of its obligations under the VPA and from all claims and demands in respect of the performance of and obligations under the VPA that arise.

4. GOVERNING LAW

This deed is governed by the laws of New South Wales.

5. FURTHER ACTS

Each party will take all steps, execute all deeds and do everything reasonably required by any other party to give effect to any of the actions contemplated by this deed.

6. COUNTERPARTS

This deed may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

EXECUTED as a deed.

Signed, sealed and delivered for
**THE COUNCIL OF THE CITY OF
SYDNEY** by its duly authorised officer,
in the presence of:

Signature of officer

Signature of witness

Name of officer

Name

Position of officer

456 Kent Street, Sydney NSW 2000

Address of witness

EXECUTED by [**OUTGOING PARTY**]
[**ABN**] in accordance with s127(1) of the
Corporations Act 2001 (Cth):

Signature of director

Signature of director/secretary

Name

Name

EXECUTED by [**INCOMING PARTY**]
[**ABN**] in accordance with s127(1) of the
Corporations Act 2001 (Cth):

Signature of director

Signature of director/secretary

Name

Name

ANNEXURE D

TERMS OF RESTRICTIVE COVENANT

1. Covenant by Grantor

The Grantor covenants with the Grantee that any premises provided in new and existing Buildings within the Lot Burdened in accordance with the Development Consent that comprise below-ground development floor space must not be developed, redeveloped, consolidated or otherwise varied in a way that would cause one or more of the relevant premises to cease to satisfy each of the following criteria, without the prior written consent of the City:

- (a) have a Gross Floor Area of less than or equal to 3,526 square metres; and
- (b) be used for the Approved Purpose.

2. Persons empowered to release, vary or modify the restriction

This restriction may only be released, varied or modified with the consent of the Grantee.

3. Definitions

Approved Purpose means hotel back-of-house, auditorium, multi-purpose presentation facility or laboratory uses as ancillary gross floor area to support related Specific Uses in the above-ground portion of the Building.

Building means a building on the Lot Burdened.

City means The Council of the City of Sydney.

Development Consent means the consent, as modified from time to time under section 4.55 of the EP&A Act, granted to the development application [# insert] and lodged with Council.

EP&A Act means the *Environmental Planning and Assessment Act 1979 (NSW)* (as amended).

Gross Floor Area has the meaning given in the LEP as at the date of this instrument.

Specific Uses means uses such as [the Tech Hotel and Innovation Hub under the Development Consent] or similar uses approved by the City.

Attachment E

**Gateway Determination –
Planning Proposal - 187 Thomas Street,
Haymarket**



Gateway Determination

Planning proposal (Department Ref: PP-2020-1046): to amend the Sydney Local Environmental Plan 2012 to increase the maximum building height from 50 metres to RL226.8 metres, increase the maximum floor space from 7.5:1 to 20:1 inclusive of design excellence, and introduce site specific provisions for 187-189 Thomas Street, Haymarket.

I, the Director, Eastern District (City of Sydney) at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Sydney Local Environmental Plan (LEP) 2012 should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be revised as follows:
 - (a) provide further definition of 'above ground' and 'below ground' floor space ratio;
 - (b) address the principles for growth within the LSPS; and
 - (c) address section 9.1 Ministerial Direction 4.1 Acid Sulfate Soils.
2. Prior to finalisation of the planning proposal, information addressing the likelihood of site contamination is to be provided.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (d) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (e) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Heritage NSW;
 - Sydney Airport Corporation;
 - Airservices Australia;

- Commonwealth Department of Infrastructure, Cities and Regional Development;
 - Civil Aviation Safety Authority; and
 - Transport for NSW;
5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
7. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 9th day of November 2020.



David McNamara
Director, Eastern District (City of Sydney)
Greater Sydney, Place and Infrastructure
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces



Ms Monica Barone
Chief Executive Officer
City of Sydney Council
GPO Box 1591
SYDNEY NSW 2001

Dear Ms Barone

Planning proposal PP-2020-1046 to amend Sydney Local Environmental Plan 2012 for 187-189 Thomas Street, Haymarket.

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the Environmental Planning and Assessment Act 1979 (the Act) to amend Sydney Local Environmental Plan 2012 to increase the maximum building height from 50 metres to RL226.8 metres, increase the maximum floor space from 7.5:1 to 20:1 inclusive of design excellence, and introduce site specific provisions for 187-189 Thomas Street, Haymarket.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions, enclosed is the Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 9.1 Ministerial Direction 6.3 Site-Specific Provisions, 2.6 Remediation of Contaminated Land and 4.1 Acid Sulphate Soils are justified in accordance with the terms of the Direction. No further approval is required in relation to these Direction/s.

Council may still need to obtain the agreement of the Department of Planning and Environment's Secretary to comply with the requirements of section 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields. Council should ensure this occurs prior to the plan being made

The Department's assessment of the proposal has identified that the Planning Proposal will need to be updated prior to exhibition to address the following:

- provide further definition of 'above ground' and 'below ground' floor space ratio;
- address the principles for growth within the LSPS;
- address section 9.1 Direction 4.1 Acid Sulfate Soils.

In addition, prior to finalisation of the planning proposal, information addressing the likelihood of site contamination is to be provided.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have

conditioned the Gateway for Council to be authorised as the local plan-making authority, provided that the revised planning proposal is submitted to the Department for review and approval prior to public exhibition.

Amending the local environmental plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning, Industry and Environment.

The State government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Mr Luke Thorburn, Planning Officer, to assist you Mr Thorburn can be contacted on (02) 8275 1283.

Yours sincerely



9/11/2020

David McNamara
Director, Eastern District (City of Sydney)
Greater Sydney, Place and Infrastructure
Department of Planning, Industry and Environment

Attachment F

**Council and CSPC Resolutions –
Planning Proposal - 187 Thomas Street,
Haymarket**

Resolution of Council

21 September 2020

Item 9.3

Public Exhibition - Planning Proposal - 187 Thomas Street, Haymarket - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

It is resolved that:

- (A) Council approve Planning Proposal - 187 Thomas Street, Haymarket, as shown at Attachment A to the subject report, to be submitted to the Minister for Planning and Public Spaces with a request for gateway determination;
- (B) Council approve Planning Proposal - 187 Thomas Street, Haymarket, as shown at Attachment A to the subject report to public authority consultation and public exhibition in accordance with any conditions imposed under the gateway determination;
- (C) Council seek authority from the Minister for Planning and Public Spaces to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposal - 187 Thomas Street, Haymarket;
- (D) Council approve the Draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket Amendment, shown at Attachment B to the subject report for public authority consultation and public exhibition concurrent with the Planning Proposal;
- (E) authority be delegated to the Chief Executive Officer to make any variations to Planning Proposal - 187 Thomas Street, Haymarket, following receipt of the gateway determination;
- (F) authority be delegated to the Chief Executive Officer to make any minor variations to Draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket Amendment to correct any drafting errors or ensure it is consistent with the Planning Proposal following the gateway determination; and

- (G) authority be delegated to the Chief Executive Officer to prepare a draft planning agreement in accordance with the letter of offer dated 2 September 2020 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 Draft Development Control Plan for the site.

Carried unanimously.

X034468

Resolution of Central Sydney Planning Committee

17 September 2020

Item 4

Public Exhibition - Planning Proposal - 187 Thomas Street, Haymarket - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

Moved by the Chair (the Lord Mayor), seconded by Councillor Scully –

It is resolved that:

- (A) the Central Sydney Planning Committee approve Planning Proposal - 187 Thomas Street, Haymarket, as shown at Attachment A to the subject report, to be submitted to the Minister for Planning and Public Spaces with a request for gateway determination;
- (B) the Central Sydney Planning Committee approve Planning Proposal - 187 Thomas Street, Haymarket, as shown at Attachment A to the subject report to public authority consultation and public exhibition in accordance with any conditions imposed under the gateway determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 14 September 2020 that Council seek authority from the Minister for Planning and Public Spaces to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposal - 187 Thomas Street, Haymarket;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 14 September 2020 that Council approve the Draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket Amendment, shown at Attachment B to the subject report for public authority consultation and public exhibition concurrent with the Planning Proposal;
- (E) authority be delegated to the Chief Executive Officer to make any variations to Planning Proposal - 187 Thomas Street, Haymarket, following receipt of the gateway determination;

- (F) authority be delegated to the Chief Executive Officer to make any minor variations to Draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket Amendment to correct any drafting errors or ensure it is consistent with the Planning Proposal following the gateway determination;
- (G) authority be delegated to the Chief Executive Officer to prepare a draft planning agreement in accordance with the letter of offer dated 2 September 2020 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 Draft Development Control Plan for the site.

Carried unanimously.

X034468