

Relevant Information for Council

FILE: X096329.003 **DATE:** 16 November 2023

TO: Lord Mayor and Councillors

FROM: Graham Jahn AM, Director City Planning, Development and Transport

SUBJECT: Information Relevant To Item 11.5 – Post Exhibition - Planning Proposal - 85-93 Commonwealth Street, Surry Hills - Sydney Local Environmental Plan 2012 Amendment

Alternative Recommendation

It is resolved that:

- (A) Council note the issues raised in the Summary of Submissions as shown at Attachment A to the subject report **and in the subject information Relevant to Memorandum;**
- (B) Council approve the Planning Proposal - 85-93 Commonwealth Street, Surry Hills (as amended) as shown at Attachment B to the subject report to be made as a local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979, **subject to replacing the first dot point on page 12 of the Planning Proposal with the following site specific provisions that:**
 - (i) **Allow a maximum floor space ratio of 4.5:1 subject to:**
 - (a) **a provision that removes the application of cl.6.21D of the Sydney LEP, so that the requirement for a competitive design process and any additional design excellence bonus for either height or floor space does not apply; and**
 - (b) **development utilising the additional floor space under the clause being restricted to alterations and/or additions to the existing building; and**
 - (c) **development utilising the additional floor space under the clause not being used for residential or serviced apartments.**

- (C) authority be delegated to the Chief Executive Officer to make ***amendments and*** minor variations to the Planning Proposal - 85-93 Commonwealth Street, Surry Hills (as amended) to ***ensure consistency with the matters in the subject Information Relevant to Memorandum and resolution (B), and to*** correct any minor errors prior to finalisation.

Additions shown in ***bold italics***.

Purpose

At the meeting of Council's Transport, Heritage and Planning Committee on 6 November 2023, the following further information was sought about Planning Proposal: 85-93 Commonwealth Street, Surry Hills:

- consider removing the design competition requirement while ensuring no further FSR increases (Alternative Recommendation), and
- consider the further late submission.

Removal of Design Excellence Requirement (competitive design process)

At the 6 November 2023 meeting of the Transport, Heritage and Planning Committee, the proponent SJB Planning, circulated to Committee members a submission on behalf of the landowner. SJB Planning also addressed the Committee.

The proponent's submission is provided in Attachment A.

City staff have reviewed the submission and note that subjecting the proposed addition to a design excellence competition is unreasonable in these circumstances. It is recommended that the planning proposal be amended by replacing the first dot point on page 12 of the Planning Proposal with site specific provisions that allow a maximum floor space ratio of 4.5:1 subject to:

- a provision that removes the application of cl.6.21D of the Sydney LEP, so that the requirement for a competitive design process and any design excellence bonus for either height or floor space does not apply; and
- development utilising the additional floor space under the clause being restricted to alterations and/or additions to the existing building; and
- development utilising the additional floor space under the clause not being used for residential or serviced apartments.

Late Submission

A late submission to the planning proposal was received from Milestone Town Planning on 6 November 2023, the same day as the Transport, Heritage and Planning Committee. The submission was on behalf of the owners corporation of the commercial building at 162-166 Goulburn Street, Surry Hills. The building is approximately 150 metres northeast of the subject site.

The submission raised three concerns for consideration:

- heritage impact and 'canyon effect,'
- adverse building bulk and view loss, and
- desired future character.

Heritage impact and canyon effect

The submission stated that the proposed envelope is inappropriate to the surrounding heritage streetscape character, in particular because of its:

- inappropriate bulk if viewed from Commonwealth Street and Hunt Street,
- potential to cause 'canyon effect', where tall street frontages can cause an undesirable, canyon-like appearance, and
- impact on view loss to heritage items from surrounding vantage points, including views to the Hollywood Hotel from the north and east aspects.
- City officers recommend that:
 - Existing development along Commonwealth Street and Hunt Street avoids causing a canyon effect and creates an appropriate pedestrian environment. The planning proposal is for a relatively modest increase in height to the northern portion of the site consistent with other development.
 - Post-exhibition amendments reduce the bulk.
 - The planning proposal is not anticipated to impact significant views to the Hollywood Hotel or other heritage items from public places.

Adverse building bulk

The submission said the proposed height and floor space will result in an inappropriate increase to the building's bulk and scale. In particular:

- heights are not appropriate for surrounding heritage items, and
- the proposed heights disrupt the transition in building heights to less densely developed parts of Surry Hills.

City officers recommend that:

- The planning proposal is consistent with surrounding development and responds to heritage items by continuing the street wall along Commonwealth and Hunt Street and maintaining the existing building height at its southern corner.

- The amended proposal has decreased heights at the northern end. The proposed height is lower than the existing maximum height on the adjoining property to the north, includes a step to the mid-section and retains the existing building height on the southern corner.
- The height provides a transition from taller existing buildings to the north to the lower existing building to the south.

Inconsistency with desired future character

The submission also stated that:

- The building's presentation as three-storeys to Commonwealth Street is consistent with the Hollywood Hotel and Paramount House.
- The addition would facilitate a design outcome that is inconsistent with these adjoining buildings.

City officers recommend that:

- The relationship with the Hollywood Hotel and Paramount House is acceptable as the height at the southern end of the site matches the existing building and the existing street wall is continued.

No changes are recommended in response to the late submission.

Memo from Graham Jahn AM, Director City Planning, Development and Transport

Prepared by: Ben Schneider, Cadet Planner

Attachments

Attachment A. Proponent Submission by SJB Planning to the 6 November 2023 Transport, Heritage, Planning and Environment Committee

Approved



GRAHAM JAHN AM

Director City Planning, Development and Transport

Attachment A

**Proponent Submission by SJB Planning to
the 6 November 2023 Transport, Heritage
and Planning Committee**



To: Transport, Heritage and Planning Committee

From: Michael Baker, Director

Date: 6 November 2023

Subject: Item 5 - Planning Proposal - 85-93 Commonwealth Street, Surry Hills - Sydney LEP 2012 Amendment

We have reviewed Council's report and are generally supportive of the Council recommendation to support the Planning Proposal, however we have concerns that the proposed maximum FSR control of 4.5:1 can **only** be achieved via a Design Competition for the following reasons:

1. The objective of the Planning Proposal is to allow a part 2/part 3 storey addition to the existing former warehouse building.
2. In consultation with Council staff, the land owner agreed to and the planning proposal was exhibited with a proposed maximum FSR of 4.5:1.
3. The proposed envelope has been amended to ensure that there are no overshadowing impacts on neighbouring properties and public spaces. The maximum FSR of 4.5:1 readily fits within this envelope as illustrated in Figure 1.
4. We understood Council staff were supportive of the envelope presented.
5. Now through this current report, we have learnt that a base FSR of 4.1:1 is being proposed and that a maximum FSR of 4.5:1 is conditional on a Design Competition. At no time have we been advised of this.
6. The imposition of a 4.1:1 base FSR, means a 2 storey addition cannot be realised without going through a Design Competition as illustrated in Figure 2.
7. We presume that this approach is being taken to ensure that a FSR greater than 4.5:1 cannot be achieved through the bonus provisions available under Council's Design Excellence provisions.
8. Our client has no intention of seeking a bonus beyond the 4.5:1 FSR proposed nor seeking to utilise Clause 4.6 for additional FSR beyond the 4.5:1 sought.
9. A 10% GFA bonus for design excellence represents only 230m² of additional floor space.
10. The cost of a Concept DA and a design excellence competition relative to the scale of this Planning Proposal and to achieve this additional floorspace is unreasonable and unnecessary.
11. We understand that the Stage 1 Concept DA requirements may be waived in certain circumstances. However, in our experience, Council's Design Excellence Policy still requires a Design Excellence Strategy to be approved. Council has been unable to provide another mechanism to have a Design Excellence Strategy approved other than through a Concept DA. Further to this, recent advice from Council on another matter advised that in the absence of a Concept DA Approval, i.e. an approved

Design Excellence Strategy, a clause 4.6 is required. The draft PP prevents clause 4.6 from applying to the site so this could not be achieved.

12. We also believe that any additions to the site can achieve design excellence without a costly competitive design process, especially on a project of this scale whereby it is only a 2 storey addition to an existing building. Alterations and additions should be permitted to an existing building without the need for a Design Competition. We note that Clause 6.21D of the SLEP 2012 permits this, however from recent experience Council has not been willing to accept the use of this clause.

We request that the maximum 4.5:1 FSR control be reinstated, without the requirement for a Design Competition to be held.

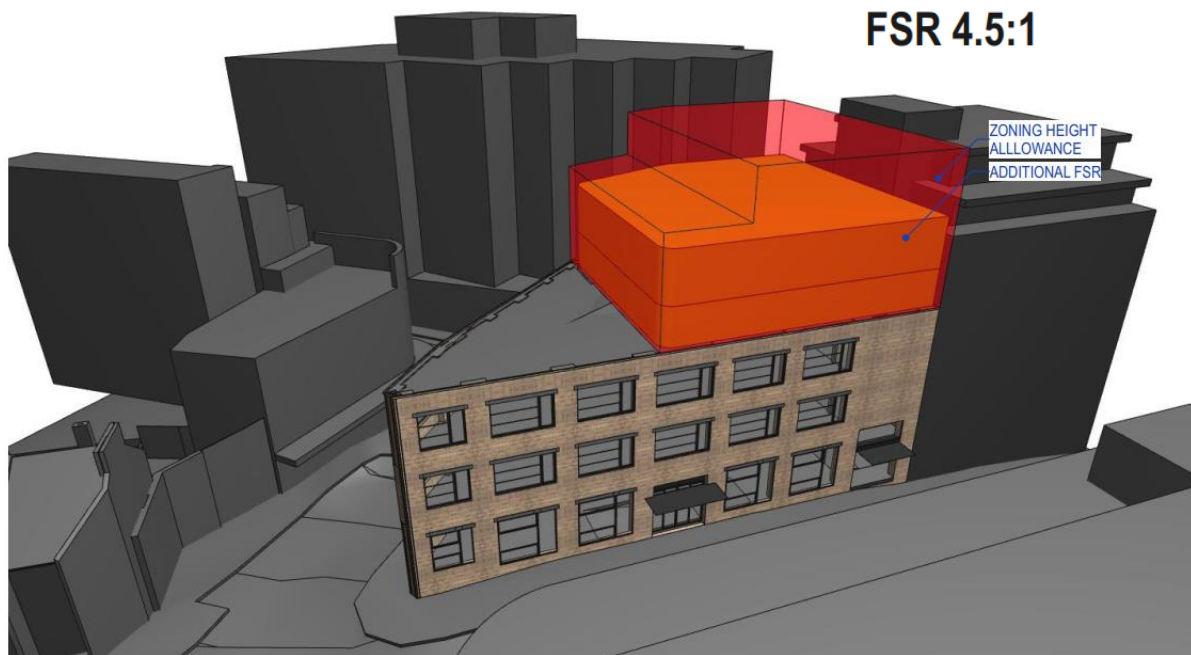


Figure 1: 4.5:1 FSR

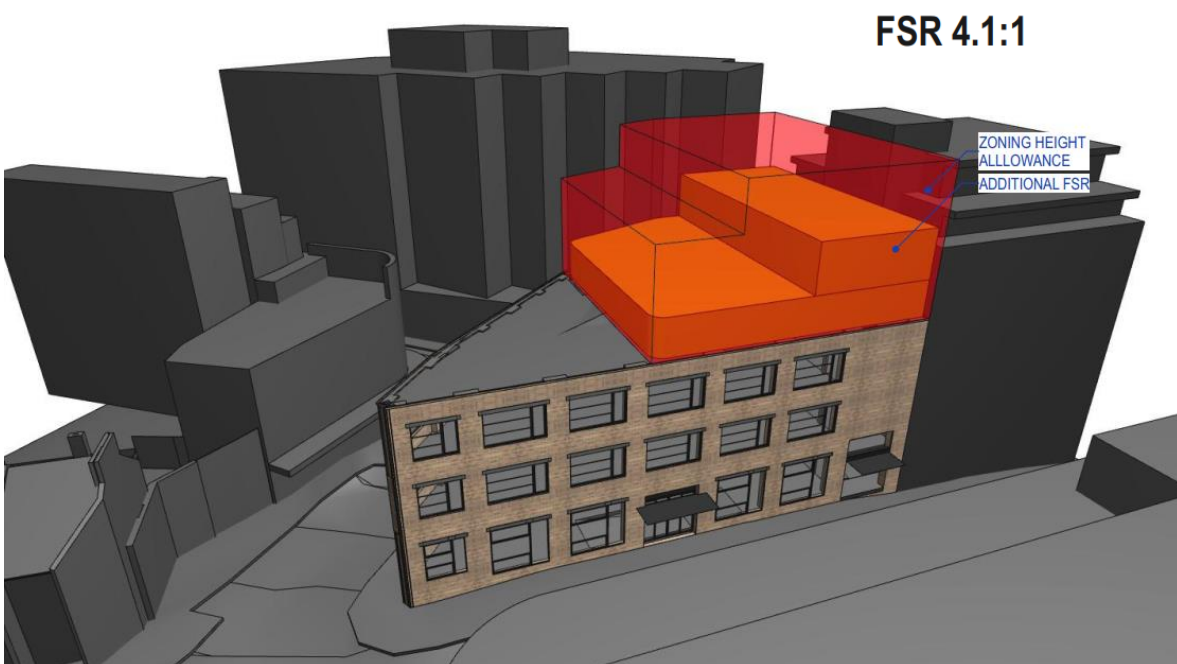


Figure 2: 4.1:1 FSR