

Relevant Information for Central Sydney Planning Committee

FILE: D/2018/405 **DATE:** 5 December 2018

TO: The Central Sydney Planning Committee

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

SUBJECT: Information Relevant To Item 4 – Development Application: 378-394 George Street, Sydney

For Noting

That the Central Sydney Planning Committee note the information contained in this memo.

Background

At its meeting on 15 November 2018, the Central Sydney Planning Committee (CSPC) resolved to defer the matter following receipt of a late submission prepared by Boskovitz Lawyers on behalf of Politics Pty Ltd (owner of 365 George Street, Sydney). The CSPC resolved to seek further advice from City officers as well as to enable the applicant to consider the issues raised in the submission.

In summary, Boskovitz Lawyers submits that the assessment report has failed to adequately consider relevant clauses of the Sydney Local Environmental Plan (SLEP) 2012 in relation to the requirement for a site specific development control plan (DCP) and competitive design process. The submission also states that the amendments to the proposed design are substantial with potential environmental impacts and warrant re-notification in accordance with provisions under the Sydney Development Control Plan (SDCP) 2012.

The submission also states that the applicant's Clause 4.6 written justification seeking to vary the FSR development standard does not adequately address the matters for consideration and the CSPC cannot grant approval to the proposal in its current form.

The City's planning officers and legal advisers have reviewed the submission and relevant clauses from the planning controls.

The matters raised in the submission are detailed and addressed as follows:

- 1. Council has failed to adequately consider the provisions of Clauses 6.21 and 7.20 of the Sydney LEP 2012 requiring the preparation of a site specific DCP and undertaking a competitive design process. As such, consent cannot be granted for the development.**

Response: In accordance with Clause 7.20 of the SLEP 2012, the subject site has an area greater than 1,500sqm and requires the preparation of a site specific DCP unless the consent authority is satisfied that such a plan is unreasonable **or** unnecessary in the circumstances **or** that the development includes the following:

- (a) involves only alterations or additions to an existing building, and*
- (b) does not significantly increase the height or gross floor area of the building, and*
- (c) does not have significant adverse impacts on adjoining buildings or the public domain, and*
- (d) does not significantly alter any aspect of the building when viewed from public places.*

As discussed in the assessment report, the preparation of a DCP to enable alterations to the existing lower levels of the tower and erection of a new 5 storey podium building is considered unnecessary as:

- The new works are contained within the forecourt and less than 1,500sqm; does not exceed the maximum 55m height control and does not substantially alter the form of the existing tower;
- The proposal, as amended in consultation with the Design Advisory Panel (DAP) and City officers, provides a building that appropriately addresses the public domain, is consistent with the predominant street wall height of podium buildings along both George and King Streets;
- The proposal improves pedestrian amenity, particularly weather protection and contributes to the retail and commercial nature of the locality; and
- There are no adverse environmental or amenity impacts on pedestrians or adjoining properties.

Having regard to the site constraints, including the retention of the existing tower, preparation of a site specific DCP is considered unnecessary in the circumstances as it is unlikely the process will result in a substantially different building envelope to that currently proposed.

Should the CSPC be satisfied that the preparation of a site specific DCP is unreasonable or unnecessary in the circumstances, it is not required to be satisfied that the proposal also achieves the matters identified in subclause (a) to (d).

Clause 6.21 of the SLEP requires the consent authority to be of the opinion that the proposed development exhibits design excellence subject to the matters for consideration in Clause 6.21(4)(a)-(d).

In this regard, City officers have discussed in the assessment report how the proposal, as amended, satisfactorily addresses design excellence and will not result in any adverse environmental impacts. In particular, the proposed additional retail and commercial floor space is consistent with the existing and proposed uses on the site and locality, the podium building complies with building height and street wall heights to define the street, will improve pedestrian amenity and activate the public domain.

It is noted that the applicant is not seeking approval for additional floor space up to 10% above the maximum FSR as permitted under Clause 6.21(7) of the SLEP 2012.

Clause 6.21(6) of the SLEP does not require a competitive design process to be undertaken if the consent authority is satisfied that such a process would be unreasonable **or** unnecessary in the circumstances **or** the development satisfies the criteria under subclauses (a) to (d), as follows:

(a) involves only alterations or additions to an existing building, and

(b) does not significantly increase the height or gross floor area of the building, and

(c) does not have significant adverse impacts on adjoining buildings and the public domain, and

(d) does not significantly alter any aspect of the building when viewed from public places.

A competitive design process is considered unreasonable and unnecessary in the circumstances that the new podium building is not greater than 55m in height, does not have a capital investment value of more than \$100,000,000 and is not required to prepare a DCP under Clause 7.20, for reasons outlined above.

The applicant undertook a pre-DA lodgement informal design competition involving three architect firms, namely Grimshaw, Make and FJMT. At the conclusion of the informal design competition, the design by FJMT was selected as the preferred scheme.

On 8 June 2017, a summary of the informal design competition with details of the winning scheme was presented to the Design Advisory Panel (DAP) to seek pre-DA lodgement advice on scale, materiality and public domain interface.

Images of the schemes considered at the informal design competition are provided below:



Figure 1. Photomontage of design by Grimshaw, at corner of George Street and King Street

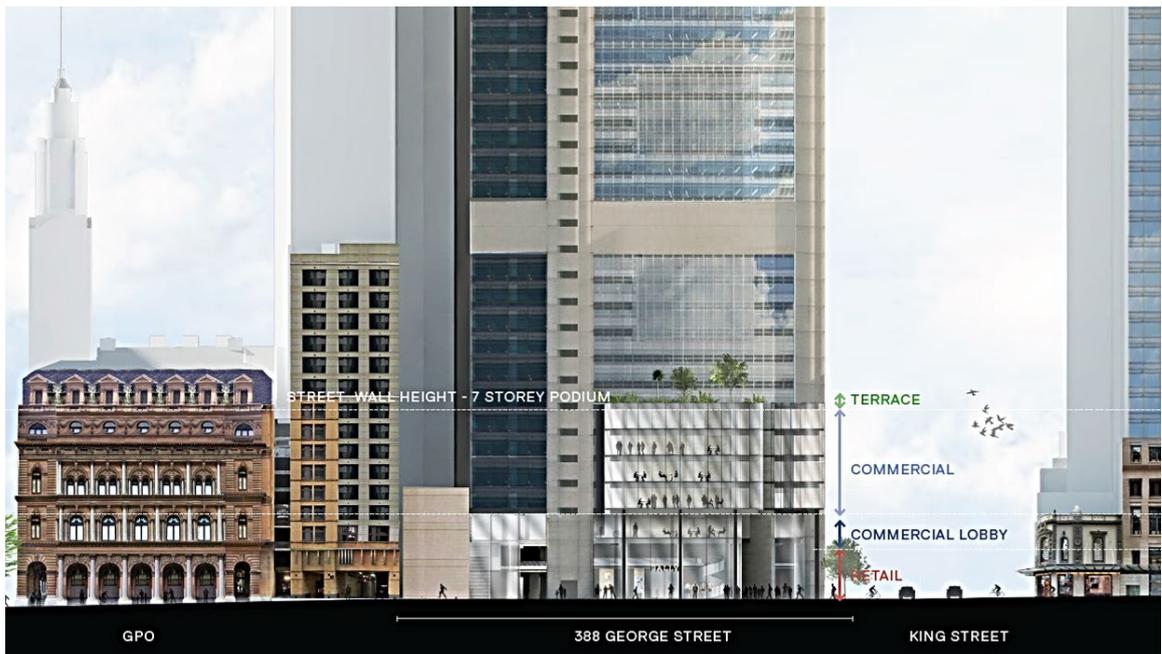


Figure 2: Western elevation of Grimshaw design



Figure 3: Photomontage of design by Make (George Street view)



Figure 4: View of design by Make, looking south along George Street



Figure 5: Photomontage of design by FJMT from intersection of George Street and King Street



Figure 6: Photomontage of design by FJMT from King Street

DAP provided advice at pre-lodgement and during the assessment process with recommendations to refine the detailed design to reduce the scale of the podium building, align the podium to the corner of George Street and King Street, simplify architectural expression and materials to complement the character of the existing tower, enhance pedestrian amenity. The amended proposal has incorporated the recommendations into the design and is supported.

2. Re-notification of amended plans.

Response: Compared to the notified plans, the amended proposal includes a reduction in building height, provision of a continuous awning along George Street and King Street, and simplification of the facade treatment. The amendment adequately addresses issues raised by City officers, the DAP and submissions.

In accordance with Section 1.3 in Schedule 1 of the SDCP 2012, an amended proposal is re-notified '*if the amendments are considered to result in significant additional environmental impacts*'.

In this regard, the amendments are not considered to have any significant additional environmental impacts on adjoining properties or the public domain and therefore re-notification is not required.

3. The applicant's Clause 4.6 written justification for non-compliance with the FSR development standard is insufficient and approval cannot be granted.

Response: The applicant has submitted a revised Clause 4.6 written justification in which provides additional considerations to address the objectives of the FSR development standard.

The applicant's amended Clause 4.6 written justification submits that the proposal achieves the objectives of the FSR development standard despite non-compliance with the numeric standard as follows:

Objective A – to provide sufficient floor space to meet anticipated development needs for the foreseeable future

- Additional retail and commercial floor space contributes to the supply of tenancies within Central Sydney to accommodate additional workers forecasted in the Central Sydney Planning Strategy.
- The upgrade of services and tenancies in the existing tower improves amenity for occupants, improves competitiveness of the building and Central Sydney in meeting future needs of businesses and the community.

Objective B – to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic.

- The proposal has a FSR of 13.2:1 which exceeds the maximum FSR of 12.65:1 for the site. It is noted that surrounding sites are subject to a maximum FSR (including additional accommodation floor space) Central Sydney is 12.5:1. A further additional FSR of up to 10% (total of 13.75:1) may be achieved, subject to successfully undertaking a competitive design process and a proposal exhibits design excellence. The applicant submits that the FSR development standard for the site and surrounding properties

indicate that the controls contemplate the potential for sites to achieve a FSR of 13.75:1.

- Although the proposal exceeds the maximum FSR of 12.65:1 for the site, it does not exceed the potentially achievable FSR of 13.75:1, should a competitive design process be undertaken seeking additional FSR.
- The historic development of the site envisaged a podium building built to the street alignment on George Street and King Street and included alternative pedestrian pathways through the site. Whilst a podium building defining both street frontages was not constructed in conjunction with the tower, the proposal seeks to erect a podium building that is consistent with the original design intent for the whole site.
- The form and scale of the proposed podium building responds appropriately to the surrounding urban context comprising of retail podiums with towers above. Given the existing tower exceeds the FSR standard, further exceedance of the development standard is required to enable a podium to define the street alignment at the prominent street corner of George Street and King Street.
- The proposal satisfies the objectives and provisions for built form in the SDCP 2012 by defining the public domain, reinforcing the streetscape and complimenting the street wall height of surrounding properties. In this regard, the proposal will not have any adverse impacts on the significance of surrounding heritage items.
- Although the proposal seeks additional floor space, the total number of car parking spaces will be reduced and additional bicycle parking facilities provided to minimise traffic generation in the locality.
- The proposed through site link generally satisfies the objectives to enhance pedestrian amenity as an alternative pathway is provided to the pedestrian network within Central Sydney.

Objective C – to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.

- The proposed alterations and additions are limited to the lower levels of the existing tower. Having regard to the scale of the existing tower, the additional floor space contained in the lower levels of the tower is contextually appropriate and will not have any adverse impacts on existing or planned infrastructure servicing the site.

In accordance with Clause 4.6, the CSPC may grant consent to the proposal if it is satisfied that the applicant's written request, as amended, has adequately addressed the matters as follows:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's now revised Clause 4.6 variation, in the opinion of City officers, is that it provides a more robust justification as to why compliance with the FSR is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

4. The justification for non-compliance with Clauses 6.21 and 7.20 are not appropriate and are inadequate.

Response: As discussed above, City officers are satisfied that the requirement to undertake another competitive design process and site specific DCP for the proposed development is unreasonable and unnecessary in the circumstances. The views of the submitter are not supported.

5. Amendment to the materiality and architectural expression has impacts on the significance of the heritage item at 365 George Street. Potential impacts could not be considered as the amended proposal was not renotified.

Response: The amended proposal presents a simplified facade with external materials and finishes that complement the architectural expression of the existing tower. The amendments are consistent with the recommendations provided by DAP.

The amended proposal is contemporary in form and style and does not detract from the character or significance of surrounding heritage items. The amended proposal has no additional environmental impacts on surrounding properties or the public domain. As such, re-notification of the amended plans is not considered necessary under the provisions of the SDCP.

6. The planning matters raised by Mr Darroch's submission dated 21 May 2018 on behalf of Politic Pty Ltd have been ignored despite responses to submissions in the assessment report.

Response: The assessment report, particularly the sections addressing built form, heritage and submissions, sufficiently discusses how the amended proposal addresses each of the issues raised by Mr Darroch. The City's planning officers are of the view that the amended proposal is contextually appropriate, will not have any adverse impacts on the significance of surrounding heritage items and will enhance pedestrian amenity and the public domain.

7. Substantive responses have not been provided relating to the reorientation of the pedestrian through site link, streetscape and view loss impacts to the heritage listed ES & A Bank Building.

Response: The proposed pedestrian through site link and its variation to the orientation identified in the SDCP has been addressed in the assessment report. The provisions for through site links in the DCP are subject to merit assessment and has been considered in detail. The City's planning officer, public domain officer and specialist surveyor raise no objection to the creation of a through site link which will improve pedestrian amenity.

Prepared by: Peggy Wong, Specialist Planner

Attachments

Attachment A. Revised Clause 4.6 Variation

Attachment B. Submission prepared by Boskovitz Lawyers on behalf of Politic Pty Ltd

Attachment C. Submission prepared by Mr Darroch on behalf of Politic Pty Ltd

Approved



GRAHAM JAHN, AM

Director City Planning, Development and
Transport