

## Item 4.

### **Post Exhibition - Planning Proposal - 72-84 Foveaux Street, Surry Hills - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment**

**File No: X023555**

#### **Summary**

Surry Hills' strong relationship with employment uses and commercial floor space on the CBD fringe continues with strong demand for floor space from creative and knowledge intensive industries. As these industries compete for the limited amount of affordable spaces within Central Sydney, Surry Hills functions as an overflow commercial market, providing affordable spaces and proximity to Central Sydney.

This Planning Proposal will facilitate the delivery of strategically important employment floor space in Surry Hills, encouraging the growth of creative and knowledge intensive industries and strengthening the economic role of the Harbour CBD strategic centre. The Harbour CBD is located within Sydney's Eastern Economic Corridor and is recognised as a strategically important area for productivity in the Eastern City District Plan. The delivery of additional commercial floor space close to Central Sydney and existing transport connections offers locational advantages, strengthening industry clusters by allowing firms to co-exist within close proximity to each other as well as facilitating the delivery of a 30-minute city, with strategic employment uses within close proximity of key transport hubs and improving commuting times for workers and visitors.

In March 2019, Ethos Urban planning consultants, on behalf of the landowner, Stasia Holdings Pty Ltd, submitted a request to amend the planning controls for the site at 72 - 84 Foveaux Street, Surry Hills.

Currently the site accommodates a 1970s six storey masonry commercial building located within a mixed use zone and includes ground floor retail and five floors dedicated to commercial office use. The existing building is nearly 24 metres high, exceeding the existing height control of 15 metres. The site is approximately 400 metres east of Central Station and the future light rail stop on Chalmers Street due for completion early next year.

In June 2019, Council and the Central Sydney Planning Committee (CSPC) resolved to seek Gateway Determination to publically exhibit the proposed planning controls for the site. The Planning Proposal sought the following amendments to the Sydney Local Environmental Plan 2012 (LEP) applying to a commercial office development:

- increase maximum building height control from 15 metres to 25 metres (RL 55.60) equivalent to the existing building height;
- increase maximum floor space ratio from 2.5:1 to 4:1;
- removal of all on-site car parking; and
- exclude residential accommodation and serviced apartments from the above provisions.

A site specific amendment to the Sydney Development Control Plan 2012 (draft DCP) was endorsed by Council and CSPC for public exhibition concurrent with the exhibition for the Planning Proposal. The draft DCP comprises provisions relating to the built form, public domain, heritage and public art, sustainability and parking, vehicular access and servicing.

A Gateway Determination was issued by the Department of Planning, Industry and Environment (the Department) on 10 September 2019. The Determination included several conditions requiring minor clarifications to the Planning Proposal prior to public exhibition.

Council has been authorised as the plan-making authority for this Proposal.

The Planning Proposal and draft DCP were exhibited from 30 September 2019 to 28 October 2019. Letters were sent to owners and occupiers within a 75 metre radius of the subject site. Transport for New South Wales and the Heritage Branch of the Department of Premier and Cabinet were also contacted as required by the Gateway Determination. Notification of the public exhibition was advertised in Sydney Morning Herald and on the Sydney Your Say website. Hard copies of the Planning Proposal were also made available at Town Hall Customer Service Centre and Surry Hills Library and Community Centre.

The City received four submissions from the community. One submission was received from the proponent. Two submissions were received from public authorities advising they had no objection to the Proposal.

During the public exhibition the community raised concerns relating to the expansion of the building envelope and footprint, overshadowing and impacts on amenity and the removal of on-site parking impacting on local traffic. The issues are discussed in detail in this report.

This report recommends approving the planning proposal and associated site specific Development Control Plan, which includes a minor change to the sustainability provisions, as discussed in this report.

If approved by Council, the City will work with Parliamentary Counsel to prepare the LEP amendment, which will come into effect when it is published on the NSW Legislation website. The site-specific DCP will come into effect at the same time as the LEP is published.

## Recommendation

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of the Planning Proposal for 72-84 Foveaux Street Surry Hills and draft Development Control Plan for 72-84 Foveaux Street, Surry Hills as shown in Attachment E to the subject report;
- (B) Council approve Planning Proposal: 72-84 Foveaux Street, Surry Hills as shown at Attachment A to the subject report, to be made as a local environmental plan;
- (C) Council approve the draft Development Control Plan for 72-84 Foveaux Street, Surry Hills, shown at Attachment B 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; and
- (D) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal 72-84 Foveaux Street, Surry Hills and draft Development Control Plan for 72-84 Foveaux Street, Surry Hills, to correct any minor errors or omissions prior to finalisation.

## Attachments

- Attachment A.** Planning Proposal: 72-84 Foveaux Street, Surry Hills
- Attachment B.** Draft Development Control Plan: 72-84 Foveaux Street, Surry Hills
- Attachment C.** Resolutions of Council and the Central Sydney Planning Committee, June 2019
- Attachment D.** Gateway Determination, Letter to Council and Approval to Exhibit
- Attachment E.** Summary of Matters Raised in Submissions

## Background

1. Surry Hills' strong relationship with employment uses and commercial floor space on the CBD fringe continues, with strong demand for floor space from creative and knowledge intensive industries. As these industries compete for the limited amount of affordable spaces within Central Sydney, Surry Hills functions as an overflow commercial market, providing affordable spaces and proximity to Central Sydney.
2. This Planning Proposal will facilitate the delivery of strategically important employment floor space in Surry Hills, encouraging the growth of creative and knowledge intensive industries and strengthening the economic role of the Harbour CBD strategic centre. The Harbour CBD is located within Sydney's Eastern Economic Corridor and is recognised as a strategically important area for productivity in the Eastern City District Plan. The delivery of additional commercial floor space close to Central Sydney and existing transport connections offers locational advantages, strengthening industry clusters by allowing firms to co-exist within close proximity to each other as well as facilitating the delivery of a 30-minute city, with strategic employment uses within close proximity of key transport hubs and improving commuting times for workers and visitors.
3. This report recommends approval of Planning Proposal for 72-84 Foveaux Street, Surry Hills, at Attachment A, to be made as a local environmental plan. The Planning Proposal amends the floor space ratio (FSR) and height control in the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) for a commercial scheme. The Planning Proposal also allows for the removal of on-site car parking which will be replaced by an end of journey facility and off-street building servicing.
4. This report also seeks approval of the draft Sydney Development Control Plan 2012 for 72-84 Foveaux Street, Surry Hills (draft DCP), at Attachment B. The draft DCP contains site specific controls relating to the built form, sustainability, heritage and public art, public domain as well as parking, vehicular access and servicing relevant to the development of a commercial scheme on the site.
5. At their June 2019 meetings, Council and the Central Sydney Planning Committee (CSPC) approved the Planning Proposal to seek Gateway Determination and public exhibition. Council approved the draft DCP for public exhibition at that time. The Council and CSPC resolutions are at Attachment C.
6. The Department of Planning, Industry and Environment (the Department) issued a conditioned Gateway Determination for the Planning Proposal on 10 September 2019. As part of the conditions, the Department requested several minor amendments to the Planning Proposal prior to going on public exhibition. These clarifications include explaining the inclusion of the end-of-journey facility as being a site-specific requirement, confirming the end-of-journey floor space can be awarded in the same manner as under Clause 6.13 of the Sydney LEP 2012 and removing the discussion on the draft DCP controls as part of the LEP provisions. All conditions, as identified in Attachment D, were satisfied and submitted to the Department prior to public exhibition. Approval to proceed with public exhibition was received from the Department on 16 September 2019.
7. The Planning Proposal was publicly exhibited in accordance with the Gateway Determination from 30 September 2019 to 28 October 2019. The draft DCP was exhibited with the Planning Proposal.

8. Letters were sent to owners and occupiers within a 75 metre radius of the subject site. Public agencies were also contacted as required by the Gateway Determination. Notification of the public exhibition was advertised in Sydney Morning Herald and on the Sydney Your Say website. Hard copies of the Planning Proposal were also made available at Town Hall Customer Service Centre and Surry Hills Library and Community Centre.
9. The City received four submissions from the community via the Sydney Your Say Website and two submissions from public authorities. The City also received a submission from the proponent during the exhibition period. A summary of all submissions, and the City's response, are discussed in this report.

#### Site details and context

10. The Planning Proposal relates to Lot 1 DP 625093 known as 72-84 Foveaux Street, Surry Hills. The subject site is 862 square metres and is owned by Stasia Holdings Pty Ltd. The site and surrounding context are shown in Figure 1 and Figure 2.



**Figure 1:** Site affected by this Planning Proposal



**Figure 2:** Aerial photo of subject site and surrounding context

11. The subject site is bounded by Waterloo Street in the west, Foveaux Street in the south and Corben Street in the east. The site is irregular in shape with three residential properties adjoining the property along the south east boundary of the site. Two residential properties adjoin the property located on the northern boundary of the site.
12. The site is located on the section of Foveaux Street with a gradient difference at ground level of approximately 4.5 metres from the eastern boundary at Corben Street to the western boundary at Waterloo Street.
13. Existing development on the site consists of a six storey circa 1970s masonry (concrete/brick) building almost 24 metres high and about 2,500sqm in total floor area, comprising a floor space ratio of nearly 3:1.

14. The site is well serviced by public transport. It is located approximately 400 metres from Central train station with rail and bus connections to the Sydney metropolitan area and elsewhere in New South Wales. The site is also situated within walking distance to Central Sydney. A light rail stop on the future CBD and South East Light Rail project will also be located on Chalmers Street adjacent to Central Station, about 500 metres from the subject site.
15. The site is surrounded by the following development:
  - (a) East - Two storey terraces directly adjoining the site and fronting Corben Street as well as an eight storey commercial office building on the opposite side of the street, located on the corner of Corben and Foveaux Streets.
  - (b) South - On the opposite side of Foveaux Street are a number of two storey residential terraces, multi-storey commercial buildings and a five storey mixed use building with residential apartments on the upper floors opening onto Foveaux Street.
  - (c) West - To the west of the site, is a row of two storey commercial terraces including the local heritage item 'Excelsior Hotel' that fronts Bellevue Street and Foveaux Street. To the south-west of the site is row of commercial and mixed use buildings that range between four and six storeys fronting the southern side of Foveaux Street towards Central Station.
  - (d) North - To the immediate north of the subject site is a row of two storey residential terraces fronting the western side of Corben Street as well as a two storey warehouse converted into a dwelling fronting Waterloo Street. A three-storey former warehouse that has been converted into a residential apartment building is also located within close proximity to the northern boundary of the site.



16. Figure 3 shows the view looking north-east towards the subject site and Figure 4 shows the view looking north-west towards the subject site.



**Figure 3:** View looking north-east towards the subject site.



**Figure 4:** View looking north-west towards the subject site and residential terraces.



**Previous application history and Planning Proposal request**

17. The existing building on the site dates back to the 1970s. Development was approved by Council in 1972 and construction commenced the following year. Over the years, the site primarily accommodated commercial uses. Development approvals over the years also included use of the ground floor as retail and as a café.
18. The site currently has a development application (D/2013/1933) approved for major alterations to the existing commercial building including the construction of an additional storey to create a seven storey mixed use building with basement car parking, ground floor retail and 27 residential apartments. Works linked to this development application commenced earlier this year, to begin in parts the demolition as the landowner is keen to progress with development for their prospective tenant.
19. On 19 March 2019, the City received a request to prepare a Planning Proposal to amend the building height and FSR controls under the Sydney LEP 2012. The Proposal is to facilitate the refurbishment and upgrade of the existing commercial building to accommodate the corporate headquarters of a proposed new tenant, SafetyCulture, a tech firm specialising in software applications supporting safety audits and inspections.
20. A concurrent development application (D/2019/269) matching the specifications of the proposed Planning Proposal was also lodged on the same day on 19 March 2019. However, the City advised the proponent the development significantly exceeded the LEP height and FSR controls and was unable to progress the development application without an amendment to the controls in the LEP. Consequently, the development application was withdrawn on 15 May 2019.

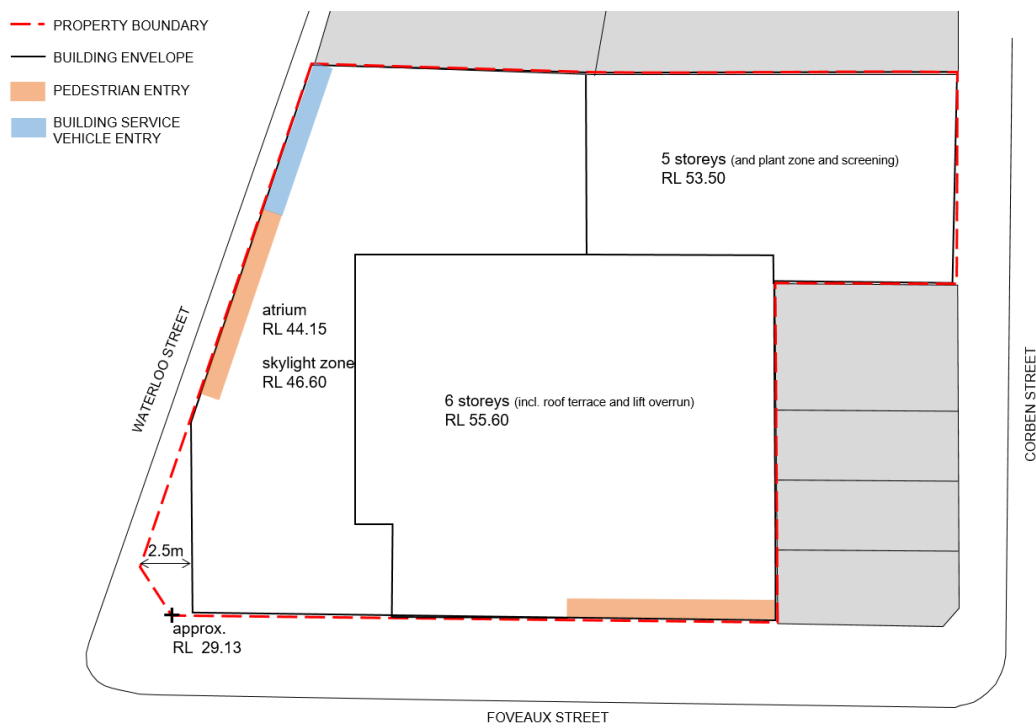
**LEP controls**

21. The Planning Proposal at Attachment A seeks to amend the Sydney Local Environment Plan 2012 (Sydney LEP 2012) to increase the maximum building height and FSR controls to facilitate the refurbishment and upgrade of the existing commercial building. The Planning Proposal seeks the following amendments to the Sydney LEP 2012 for a development that does not include residential or serviced apartment uses:
  - (a) increase the maximum building height control from 15 metres to 25 metres, equivalent to a building height of RL 55.60 metres;
  - (b) increase the maximum floor space ratio (FSR) control from 2.5:1 to 4:1
  - (c) removal of all on-site car parking;
  - (d) provision for off-street building servicing; and
  - (e) provision of end-of-journey facility.
22. The Planning Proposal will facilitate around 3,540 square metres of floor space in a refurbished commercial building which includes the relocation of the building core to deliver more efficient floor space on the site.

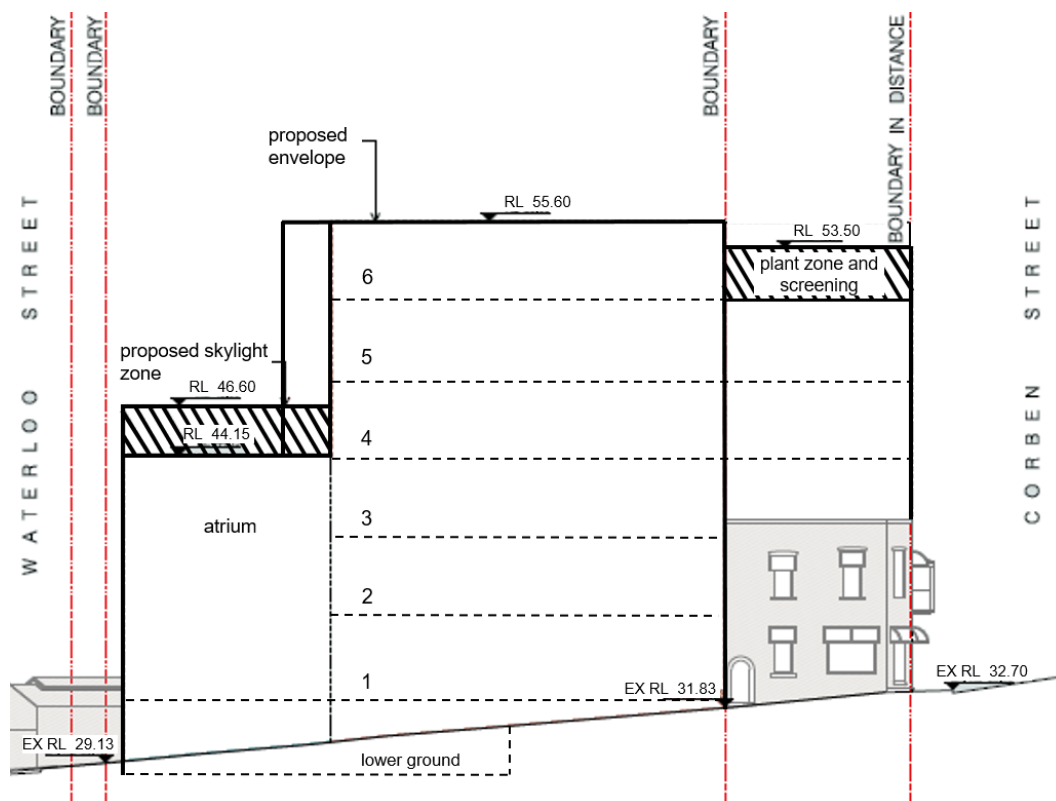
23. The proposed maximum height control of 25 metres is equivalent to the height of the existing building located on the subject site at 23.8 metres. The increase in the proposed FSR control from 2.5:1 to 4:1 partly reflects the removal of on-site car parking from the site and replacement with multi-purpose event space, staff canteen and breakout spaces located in the lower ground floor.
24. The site is also eligible for additional FSR of up to 0.3:1 for the provision of an end-of-journey facility under Clause 6.13 of the LEP.
25. The change to the controls will facilitate a development that retains employment uses in a strategic centre, improves the contribution of the building to the heritage conservation area and public domain without adversely impact surrounding buildings and reduces reliance on private transport alleviating local traffic congestion.

### DCP controls

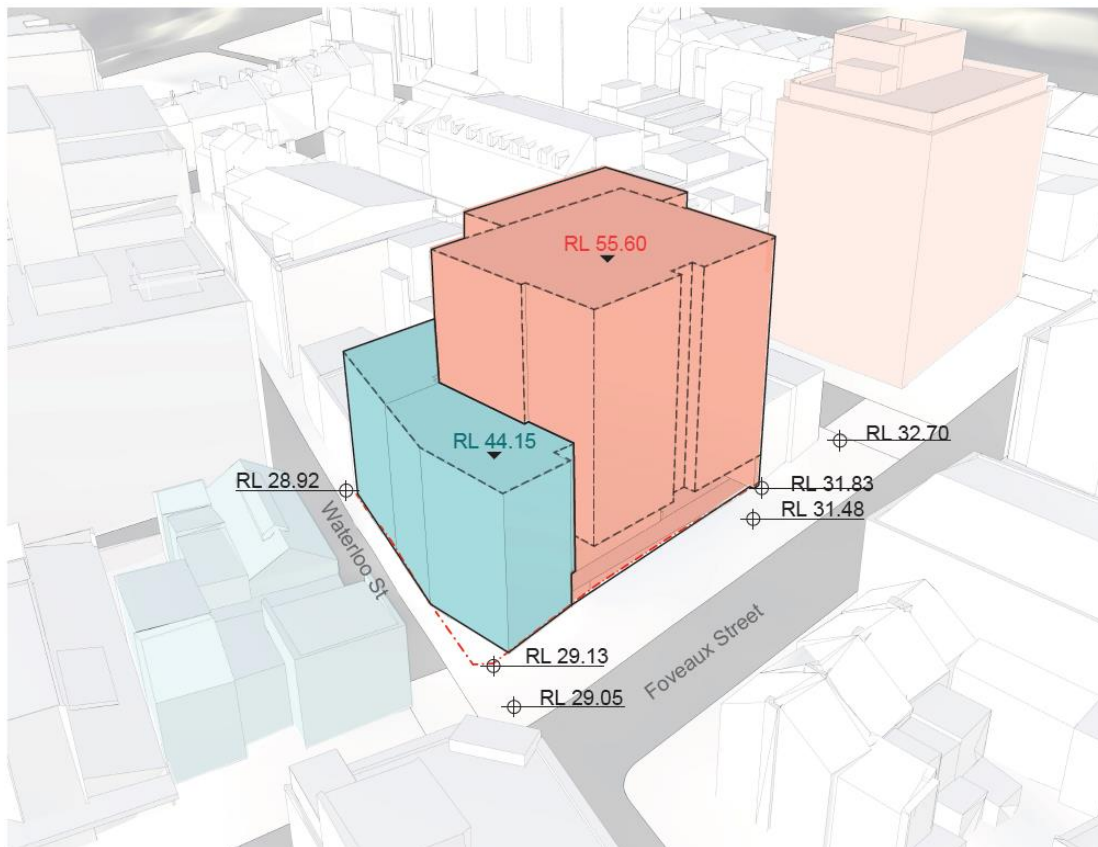
26. The draft DCP at Attachment B, publicly exhibited with the Planning Proposal, includes detailed site-specific provisions relating to the desired built form, public domain, heritage and public art, sustainability as well as parking, vehicular access and servicing.
27. The proposed DCP controls have been developed to complement the proposed site-specific provisions in the Sydney LEP 2012 to ensure commercial uses continue to be retained on the site. The draft DCP only applies for a commercial (non-residential) scheme seeking to build to the proposed maximum building height of 25 metres and floor space ratio of 4:1.
28. The built form provisions of the draft DCP establishes a building envelope based on adaptively repurposing the existing core structure, designed to minimise impacts to adjacent residential dwellings, by facilitating a maximum building height of six storeys on the Foveaux Street frontage and five storeys on the Corben Street frontage. A glazed atrium of up to 15 metres incorporating decorative skylights to a maximum height of 17 metres fronts Waterloo Street. The variation of height across the site provides an appropriate height transition between taller and lower scale buildings along Foveaux Street, ensuring the bulk and massing responds to characteristics of the surrounding streetscapes and minimises adverse impacts relating to solar access and acoustic amenity. Figure 5, Figure 6 and Figure 7 below shows the proposed structure plan, elevation profile of the building envelope and the maximum building envelope identified in the draft DCP.



**Figure 5: Structure plan for 72-84 Foveaux Street, Surry Hills**



**Figure 6:** Elevation of proposed building envelope for 72-84 Foveaux Street, Surry Hill



**Figure 7:** Maximum building envelope for 72-84 Foveaux Street, Surry Hills

29. The draft DCP provides for the expansion of the building footprint to the site boundary along Foveaux Street and Waterloo Streets. Active uses will be located on the ground floor and visible from Waterloo and Foveaux Streets and encouraging the passive surveillance of the public domain. The draft DCP does require a small setback of 2.5 metres, at its widest point, from the building envelope to the site boundary located at the corner of Foveaux and Waterloo Streets. There is also a provision requiring the development to not detrimentally impact the root system of existing trees located on the street adjacent to the site.
30. The heritage and public art provisions of the draft DCP ensures the design of the building will relate sympathetically to the heritage conservation area by incorporating fine grain glazing and façade detail that responds to the vertical rhythm of the area. The glazed atrium on the western boundary provides a visual transition between the taller commercial building fronting Foveaux Street located to the east of the site and lower scale commercial premises in terraces located to the west of the site. The introduction of the public art feature within the building's façade and glazed atrium will provide visual interest to pedestrians travelling east along Foveaux Street.
31. The draft DCP includes parking, vehicle access and servicing provisions for the replacement of on-site car parking with an end-of-journey facility, bicycle parking and single vehicle access from Waterloo Street for servicing. The removal of on-site car parking will encourage sustainable development outcomes by encouraging greater active and public transport use and reduce local vehicle congestion.

32. The sustainability provisions of the draft DCP require the development to include operable windows on the upper floors to assist natural cross ventilation, photovoltaic system on the roof contributing to renewable energy use and an end of journey facility and bicycle parking in the basement to encourage active transport use. The development should also be accompanied by a 6 star NABERS Energy Commitment Agreement.

### **Submissions from Public Exhibition**

33. The Planning Proposal and draft DCP were exhibited from 30 September to 28 October 2019. The City sent letters to owners and occupiers within 75m of the site notifying them of the public exhibition period. Transport for New South Wales and the Heritage Branch of the Department of Premier and Cabinet were also contacted as required under s.56(2)(d) of the Environmental Planning and Assessment Act 1979. A total of four submissions were received from the local community via the Sydney Your Say website. A summary of submissions is provided at Attachment E.

### **Traffic congestion and parking**

34. Two submissions identified concerns with the provision to remove on-site parking. One submission suggested there were too many high rise buildings and the removal of car parking. The other submission suggested the need for car parking in the area should be prioritised over the use of the building for commercial purposes.
35. The site is very accessible and well serviced by public transport. It is close to key transport nodes, with Central Station and the future light rail stops at Devonshire Street and Chalmers Street within 400 - 500 metres walk. The extensive public transport options available along with access to the City's walking and cycling network and the proposed end of trip facilities reduces car dependency for those travelling to and from the site. Reducing car parking in highly accessible locations such as this helps reduce congestion and create more liveable, healthy and productive places.
36. One submission positively viewed the proposal by acknowledging the need to increase commercial activity along Foveaux Street, though they felt the provision of the end of journey facility and building servicing contributed very little to city life.
37. The site is currently well serviced by existing bicycle networks with dedicated bike lanes located along Bourke Street and Campbell Street as well as off-road shared paths located along sections of Elizabeth and Chalmers Street. The end of journey facility which comprises personal lockers, shower and change cubicles along with the provision of bicycle spaces will encourage greater uptake of active transport such as cycling and walking amongst people commuting to and from the site. The requirement for servicing space reduces the need for on street servicing allowing the public space to be used more efficiently and minimises disruption to local traffic.
38. One submission raised concerns regarding the proposed event space on the lower ground floor requiring vehicles delivering acoustic and electrical equipment to and from the site.



39. The draft DCP requires access for service vehicles onto the site from Waterloo Street. This will minimise disruption to traffic along Foveaux Street. Under Schedule 7 of the existing DCP, the proposed commercial development is required to deliver at least one service vehicle parking space on-site. The provision of servicing on the site is critical as it will minimise disruption to local traffic and ease any congestion issues which may arise from service vehicles. It will also ease the burden on relying on the existing loading zone located in front of the site along Foveaux Street
40. Transport for New South Wales have reviewed the Planning Proposal and supporting documentation and had no further comments in relation to the Planning Proposal.

#### **Built Form - building mass, envelope, height and FSR**

41. Two submissions refer to the built form provisions. They raise concerns about overshadowing impacts; the increased intensity of development and too many high rise buildings; losing sunlight and sky view from the building extension on the corner of Foveaux and Waterloo Streets; and the reduced setbacks to Foveaux Street and Waterloo Streets.
42. Potential overshadowing impacts generated from the proposed building envelope were explored in detail. A four storey residential apartment and a short row of four terraces (two storeys in height) on the southern side of Foveaux Street will lose some solar access as a result of a proposed development being built to the maximum envelope identified in the draft DCP. However, these buildings will still continue to receive at least two hours of direct sunlight between 9:00 am and 3:00 pm at midwinter as required by the Apartment Design Guide. The full extent of the future development and the impact of additional overshadowing will be analysed as part of a detailed development application.
43. The Planning Proposal seeks to change the FSR from 2.5:1 to 4:1 for a commercial development. The proposal is not considered to result in overdevelopment as the existing FSR is about 3:1 and the majority of the additional floor space will be located in the basement and lower ground floor. A multi-purpose space is proposed for the lower ground floor whilst a commercial lobby, canteen and breakout spaces represents some of the proposed uses contributing to the additional space located on the ground floor.
44. The reduced setbacks to Foveaux and Waterloo Streets are an improvement. Foveaux Street has a consistent character where the facades of existing buildings are typically located at the street boundary, forming a generally consistent street wall. These built form characteristics are also evident in the surrounding streets with a mix of residential terraces, multi-unit dwellings and commercial premises, many with no setback consistent with the historic built form characteristics of the area.
45. The proposal will contribute to the streetscape by removing inefficient external space and front setbacks associated with the existing development. The contribution to the streetscape will occur with active uses on the ground floor, visible to passing foot traffic and enabling passive surveillance of public domain. Pedestrian entry points to the building will be aligned closer to the Waterloo Street and Foveaux Street footpaths to encourage a seamless connection with the public domain.

**Heritage**

46. One submission from the community raised concern regarding the proposed architectural design as lacking heritage appeal.
47. The Heritage Branch also reviewed the Planning Proposal and advised the Proposal is unlikely to result in any direct physical or visual impacts on items listed on the State Heritage Register.
48. The draft DCP includes measures to improve the design and presentation of the existing building, which is identified as a detracting building located within the Little Riley Street Heritage Conservation Area. The draft DCP will facilitate a building design which sympathetically responds to the surrounding area through the use of fine grain glazing and public art integrated into the primary façade.
49. The existing building is identified as a detracting building located within the Little Riley Street Heritage Conservation Area. The planning proposal encourages renewal of the building and provides an opportunity to improve the architectural contribution to the area. The design of a building will be assessed at the development application stage.
50. The proposed building envelope is consistent with the existing mixed character of the Little Riley Street Heritage Conservation area. This includes diverse building typologies and uses, with low scale residential and commercial terraces co-existing with masonry warehouse buildings as well as multi-storey commercial and residential buildings. The proposed building height is equivalent to the existing building. The proposed building envelope responds to the mixed character of the area, incorporating varying heights of RL55.60 (six storeys) which steps down to RL 44.15 and delivers an appropriate height transition between taller commercial and residential buildings (east and south of the sites respectively) and lower scale residential and commercial terraces (west of the site).

**Noise**

51. The proposed roof terrace was identified in one submission, with concern raised about potential late-night events generating noise concerns.
52. Use of the future building will be subject to a development application. Any after hours use of the terrace will be assessed in accordance with noise assessment criteria and the DCP. This may result in a plan of management, conditions of consent or other mitigation measures to minimise disturbance to neighbouring residents.

**Submission from proponent**

53. The City received a submission from the proponent during the exhibition period. The issues raised by the proponent mainly relate to the sustainability provisions in the draft DCP.
54. The proponent suggests the proposed 6 stars NABERS Energy Commitment Agreement requirement in the site-specific DCP is difficult to achieve for a refurbished building as there are constraints imposed by using the existing building elements and fabric. This compromises the ability of the building to be naturally cross ventilated and limits the opportunity for a new building with a more efficient building envelope to be achieved. The proponent also suggests the draft DCP controls are not consistent with industry guidelines which provide allowances for buildings where existing elements are to be retained.
55. The submission notes existing building elements such as the building core, walls along the façade and floor slabs are to be retained. This constrains the extent of insulation that could be integrated into the building and compromises the building's overall energy performance and ability of building to achieve NABERS 6 Star Energy Rating.
56. The submission further identifies the draft DCP provision relating to the installation of a 14kWp photovoltaic system on the roof cannot be achieved given the roof area dedicated to mechanical plant and landscaped terrace area. The draft DCP provision for operable windows to encourage passive ventilation would otherwise reflect heat back out, and therefore impact thermal comfort levels. The proponent also raises concerns about the inclusion of a NABERS rating as an LEP provision it is a detailed design matter that is more appropriate for application in a DCP, as currently proposed.
57. The City acknowledges the Planning Proposal is to facilitate the refurbishment of an existing commercial building and not a new building. However, the City considers the development as having potential to be a strong energy performer given the scale and use of the building. The City has consistently sought to improve the environmental performance of its buildings where additional opportunities have been agreed through the planning proposal process.
58. Amendments to the Sydney DCP 2012 in August 2018 require all new commercial office developments, over 1,000 sqm net lettable area, to achieve 5.5 star NABERS Energy rating with a commitment agreement. The DCP also requires applications involving alternations, additions and refurbishments to existing development over \$5M and a net lettable area of 1,000sqm to seek a NABERS Energy Commitment Agreement of 5 stars.
59. The advice provided by the landowner with their submission proposes that a 5.5 Star NABERS Energy Commitment Agreement be made with a DA condition to supplement the remaining 0.5 Stars through Green Power offsets to achieve an overall 6 Star NABERS Energy certified rating.

60. City staff have reviewed the documentation provided in the landowner's submission, and noting the constraints of the retention of the existing building fabric limiting opportunities for a more efficient building envelope, it is proposed to modify the requirement to 5.5 NABERS Energy Commitment Agreement. The draft DCP is proposed to be updated to reflect this change. The City's DCP does not enable the use of Green Power offsets to contribute to a NABERS rating as there is limited security through the planning system that it will continue to be purchased. Furthermore, the DCP provisions for the installation of photovoltaic panels on the roof will remain, to help the refurbished building generate a substantial portion of its energy requirements onsite and to assist with achieving a 5.5 star NABERS rating.
61. The proponent also asserts the site-specific LEP provision should apply for either a new building or an existing building, irrespective of whether it represents an alteration, addition or refurbishment. They further go on to suggest that any wording of the LEP provision limits the potential for the building to be replaced in the future due to unforeseen circumstances such as fire.
62. The Planning Proposal, and supporting draft DCP, have been prepared on the basis of the retention of the existing structure rather than a new building. Consideration of a new building would be approached differently, particularly around sustainability measures but also providing an appropriate built form for the conservation area. No change is proposed in this regard to the Planning Proposal or draft DCP.
63. This report recommends approving the post exhibition planning proposal without change and the associated draft DCP with a minor change to the sustainability provisions, as discussed above.

### **Strategic Alignment - Eastern City District Plan**

64. The City of Sydney is located in the Eastern City District, with adjacent local government areas including Inner West, Woollahra, Bayside and Randwick Local Government Areas. The Eastern City District Plan sets the local planning context for the City of Sydney local government area. It provides a 20-year plan to manage growth and achieve the 40-year vision of the Greater Sydney Region Plan.
65. The Planning Proposal is consistent with the following relevant planning priorities and actions of the Eastern City District Plan:
  - (a) Planning Priority E1: Planning for a city supported by infrastructure;
  - (b) Planning Priority E6: Creating and renewing great places and local centres and respecting the District's heritage;
  - (c) Planning Priority E7: Growing a stronger and more competitive Harbour CBD;
  - (d) Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city;
  - (e) Planning Priority E13 Supporting growth of targeted industry sectors; and
  - (f) Planning Priority E19: Reducing carbon emissions and managing energy, water and waste efficiently.

66. While the Planning Proposal does not seek to change the zoning for the subject site, it will facilitate the retention and expansion of employment uses in a location that is close to mass transit infrastructure. The proposed concept seeks to refurbish what is classed as a detracting building in the heritage conservation area, to deliver a high quality built form that provides activation of the public domain and contributes to the streetscape.
67. The subject site is located in the Harbour CBD and Eastern Economic Corridor as set out in the Eastern City District Plan. The Planning Proposal will deliver improved and additional commercial floor space within the Eastern Economic Corridor, close to Central Sydney, existing transport connections and other competitive advantages that this location provides. Particularly, facilitating the delivery of a 30-minute city, providing employment uses for a targeted industry close to transport or within a short commute of residential area.
68. As the concept facilitated by this Planning Proposal seeks to retain the core building structure and includes other ecologically sustainable development measures, it will help reduce carbon emissions. The Proposal will deliver a refurbished built form to achieve a NABERS 5.5 star rating through photovoltaic panels, rainwater capture and passive ventilation. Importantly, the building will also contribute to reduction in motor vehicle emissions by encouraging active and public transport use through the removal of all on-site car parking.

### **Strategic Alignment - Sustainable Sydney 2030 Vision**

69. 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 Planning Proposal and proposed amendment to the DCP is aligned with the following strategic directions and objectives:
  - (a) Direction 1 - A Globally Competitive and Innovative City - The refurbishment of the building delivers an improved building stock to cater for a local organisation to consolidate their existing offices, supporting the delivery of a globally competitive and innovative city.
  - (b) Direction 2 provides a road map for the City to become A Leading Environmental Performer - This Planning Proposal will deliver a refurbished building that is a better environmental performer, with less energy consumption and will directly contribute towards the City's target for a reduction in emissions of 70% by 2030.
  - (c) Direction 3 - Integrated Transport for a Connected City - The site is well served by public transport. It is within walking distance from Central Station that provides direct train connections to Central Sydney, Sydney Airport, Parramatta and the wider rail network. Bus services operate along Foveaux Street and the future CBD and South East Light Rail includes a new stop on Chalmers Street, 400 metres to the west of the site.
  - (d) Direction 4 - A City for Walking and Cycling - The proposed concept will increase sustainable and active transport patronage through the removal of all on-site car parking and the provision of an end of journey facility. The removal of inefficient ground floor space and provision of greater passive surveillance of the public domain will help foster a greater sense of security encouraging further pedestrian activity.



- (e) Direction 6 - Vibrant Local Communities and Economies - The Planning Proposal secures the provision of employment uses within Surry Hills. Ensuring employment opportunities are retained in an area close to existing transport connections and local community.
- (f) Direction 7 - A Cultural and Creative City - The proposed development concept includes the provision of public art to the future building's primary facades. The delivery of high quality public art will improve the visual quality of the streetscape and contribute to the cultural vitality of the City.
- (g) Direction 9 - Sustainable Development, Renewal and Design - This Planning Proposal will facilitate a refurbished and improved building stock as opposed to the demolition of the building and reconstruction, a positive sustainable outcome. The incorporation of photovoltaic panels, rainwater capture and passive ventilation into the design will help the future building achieve a NABERS 5.5 star rating.

### **Strategic Alignment - Local Strategic Planning Statement**

- 70. The draft Local Strategic Planning Statement (the Planning Statement) sets out the City's land use planning vision, priorities and actions to guide the growth and change of the local area over the next twenty years to 2036. The Planning Statement has been prepared to give effect to the Eastern City District Plan and is informed by our local characteristics and opportunities, the directions in Sustainable Sydney 2030 as well as various local plans and strategies.
- 71. The City refers to the Planning Statement when considering planning proposals to change the LEP and this ensures any changes give effect to the priorities, objectives and actions in the Planning Statement.
- 72. This Planning Proposal is consistent with the following planning priorities:
  - (a) Priority 1 - Movement for walkable neighbourhoods and a connected city - This Planning Proposal will encourage greater sustainable and active transport use through the removal of on-site car parking and a new end of journey facility.
  - (b) Priority 5 - Creating great places - Through the inclusion of public art to the building's primary façade and the elimination of inefficient ground floor space will help this Planning Proposal deliver design excellence and improved amenity in the public domain, while delivering a safer experience for pedestrians through increased passive surveillance.
  - (c) Priority 8 - Developing innovative and diverse business clusters in City Fringe - By facilitating the refurbishment of a commercial building, this Planning Proposal will help support the delivery and expansion of knowledge-intensive industries, strengthening Surry Hills' position within the Innovation Corridor.
  - (d) Priority 11 - Creating better buildings and places to reduce emissions and waste and use water efficiently - The improved building delivered by this Planning Proposal delivers a positive sustainable outcome through the retention of the building structure and design measures to help it achieve a 5.5 star NABERS rating.

- (e) Priority 13 - Open, accountable and collaborative planning - This Planning Proposal supports the retention of employment uses within Surry Hills, consistent with the City's vision in the Sustainable Sydney 2030 and the Eastern City District Plan.

### **Relevant Legislation**

- 73. Environmental Planning and Assessment Act 1979.
- 74. Environmental Planning and Assessment Regulation 2000.

### **Critical Dates / Time Frames**

- 75. The Gateway determination requires the amendment to Sydney LEP 2012 to be completed by 10 September 2020.
- 76. The Gateway determination authorises Council to exercise plan-making delegation and liaise directly with Parliamentary Counsel to draft and make the LEP.
- 77. If approved by Council and the CSPC, the City will commence the drafting and plan making process. Once completed, the amendment to Sydney LEP 2012 will come into effect when published on the NSW legislation website.
- 78. If approved by Council and the CSPC, the amendment to Sydney DCP 2012 will come into effect on the same day as the LEP.

### **GRAHAM JAHN, AM**

Director City Planning, Development and Transport

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