

## Relevant Information for Central Sydney Planning Committee

**FILE:** X018846 **DATE:** 5 December 2019

**TO:** The Central Sydney Planning Committee

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

**SUBJECT:** Information Relevant To Item 7 – Public Exhibition - Planning Proposal - 4-22 Wentworth Avenue, Surry Hills – Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

## Second Alternative Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee approve Planning Proposal – 4-22 Wentworth Avenue, Surry Hills, shown at Attachments C1-C4 to the subject report, for submission to the Department of Planning, Industry and Environment with a request for a Gateway Determination;
- (B) the Central Sydney Planning Committee approve the Planning Proposal – 4-22 Wentworth Avenue, Surry Hills, shown at Attachments C1-C4 for 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 2 December 2019 that Council seek authority from the Department of Planning, Industry and Environment to exercise the delegation of all functions under the relevant local plan making authority of all the functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan to put into effect Planning Proposal – 4-22 Wentworth Avenue, Surry Hills;
- (D) the Central Sydney Planning Committee note the recommendation to Council’s Transport, Heritage and Planning Committee on 2 December 2019 that Council approve Draft Sydney Development Control Plan 2012 – 4-22 Wentworth Avenue, Surry Hills shown at Attachment D to the subject report for public authority consultation and public exhibition together with the Planning Proposal;

- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal – 4-22 Wentworth Avenue, Surry Hills, following receipt of the Gateway Determination;~~;~~ ~~and~~
- (F) authority be delegated to the Chief Executive Officer to make any minor variations to Draft Sydney Development Control Plan 2012 – 4-22 Wentworth Avenue, Surry Hills, to correct any drafting errors or to ensure it is consistent with the Planning Proposal following the Gateway Determination;~~;~~ **and**
- (G) ***authority be delegated to the Chief Executive Officer to amend the planning proposal at Attachments C1-C4 of the subject report to incorporate the following changes:***
  - (i) ***amend the objectives and intended outcomes to refer to supporting strategic employment and enterprises uses in the District Plan’s Harbour CBD strategic centre;***
  - (ii) ***amend the ‘Explanation of Provisions’ to:***
    - (a) ***incorporate a maximum building height control of 50 RL across 24, 26-28, 30-32, 34 and 36-38 Wentworth Avenue***
    - (b) ***incorporate a maximum building height control of RL 44.26m at 40 Wentworth Avenue***
    - (c) ***require that the maximum height for 24-44 Wentworth Avenue under the clause may only be achieved if the development is for commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry or information and education facilities; and***
  - (iii) ***amend other sections to incorporate the proposed controls for 24-44 Wentworth Avenue including their justification in accordance with the subject report.***

Additions shown in ***bold italics***, deletions shown in ~~strikethrough~~.

## Background

The subject report seeks approval of a Planning Proposal and Draft Development Control Plan (the draft planning controls) to request a Gateway Determination and publicly exhibit. The draft planning controls will provide for additional hotel accommodation supply in a highly central and accessible location in line with Sustainable Sydney 2030 and the City’s Visitor Accommodation Action Plan (2015).

This memo provides additional information to the Central Sydney Planning Committee (CSPC) following Council’s Transport, Heritage and Planning Committee meeting on 2 December 2019. The memo summarises the City’s approach to the built form and solar access to neighbouring buildings, describes alternative recommendations for the consideration of Council and the CSPC and addresses a submission from the proponent of 4-22 Wentworth Avenue related to the proposed floor space ratio.

## **1. The City's approach to solar access**

Solar access is important for apartments to ensure that they are considered an acceptable alternative to detached houses as the city intensifies.

The City requires that the design of new apartment buildings optimises solar access consistent with the NSW Government guidance in the Apartment Design Guide (ADG) which applies when preparing planning controls.

The City recognises that solar access to residential apartments should be reasonably balanced with meeting state and local strategic planning priorities and facilitating strategic uses in important Central Sydney and city fringe precincts.

Existing buildings neighbouring the Wentworth Avenue street block have a high degree of non-compliance with current solar standards. This makes it unusually difficult to protect the small amount of sun that they do receive and enable desirable development that delivers on an identified strategic need. The northern part of the block sits within the shadow of a very large building at 1 Oxford Street. As a result, the proposed form for 4-22 Wentworth, while complex, is relatively less constrained than potential development above the southern part of the block.

The City has used the ADG approach for assessing solar access impact as it provides a reasonable degree of flexibility to accommodate a range of planning objectives. It is a well understood and used solar access standard. The ADG requires applicants to “optimise the number of apartments receiving sunlight”, the supporting design criteria explains that this can be demonstrated if:

- at least 70% of apartments receive 2 hours of sun, and
- no more than 15% of apartments receive no sun (less than 15 minutes);

The ADG requires applicants to demonstrate how “overshadowing of neighbouring properties is minimised during mid-winter”. This means that the sunlight levels of the neighbours continue to meet the above criteria and with some reduction allowed where the existing situation does not meet the criteria. Where this is not possible, the applicant is required to demonstrate that the additional impact has been minimised given other relevant considerations. Existing height controls and FSRs are relevant matters for consideration.

The City has identified the need to review its approach to solar access, particularly in strategic locations such as the CBD, in both the draft Central Sydney Planning Strategy and the Local Strategic Planning Statement. This work will be progressed as part of the City’s update of the LEP and DCP.

## **2. Recommended envelope**

In March 2012, the Council and the CSPC resolved that consideration was being given to preparing a planning proposal to amend the planning controls for the site.

Various iterations of the proposal were provided to the City between 2014 and 2016. In early 2016, buildings at 4-34 Wentworth Avenue were heritage listed by the City as a group heritage item.

A draft proposal was first presented to the Design Advisory Panel (DAP) in April 2016 where they advised it was not supported in part due to the *unacceptable extent of overshadowing to existing apartment buildings*.

A revised draft proposal was presented to the DAP in November 2016 where they supported the proposed massing subject to recommendations.

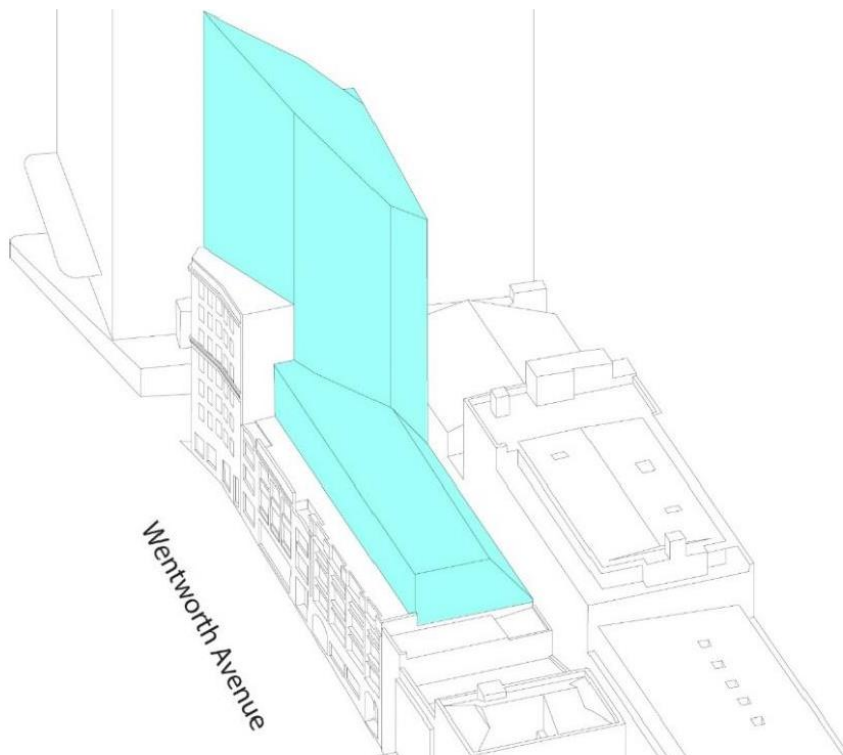
In December 2016, the City wrote to the Proponent inviting them to submit a request to prepare a planning proposal for 4-22 Wentworth Avenue, identifying that overshadowing impacts on neighbouring residential apartment buildings, including Meta, must be addressed in compliance with Apartment Design Guide (ADG). This advice reflected previous advice to the Proponent in correspondence from June 2016.

In March 2019 the proposal was presented to DAP where they supported the proposed envelope as it mitigated the issue of overshadowing.

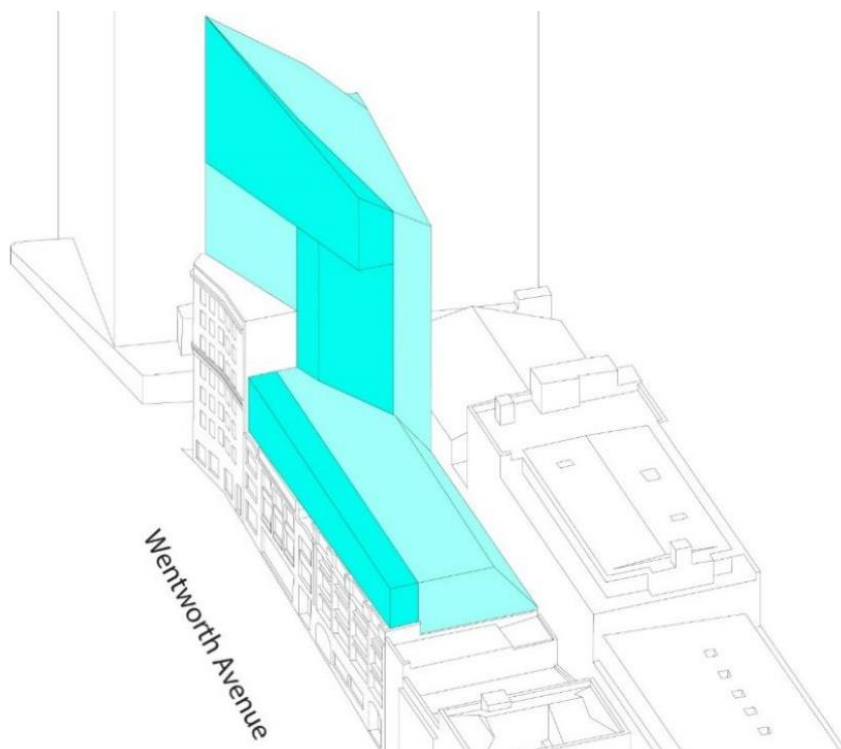
The subject report seeks approval of a Planning Proposal and Draft Development Control Plan (the draft planning controls) to request a Gateway Determination and publicly exhibit. The draft planning controls applying to 4-22 Wentworth include (see Figure 1 and 2):

- an increase to the maximum height control for the site from 22m at 4-6 Wentworth and 18m at 8-22 Wentworth to RL 100.57, or 62.25m, and
- an increase to the maximum floor space ratio control from 5.22:1 to 5.7:1 across the whole site (an increase of 585.1m) or 6.3:1 with design excellence.

The planning controls establish an envelope that enables the FSR to be achieved in a form that protects neighbouring residential solar access in line with the ADG. Without a change to the controls, the existing FSR permissible under the LEP is not achievable and a strategic hotel use could not be realised.



**Figure 1:** City recommended envelope without design excellence (light blue)



**Figure 2:** City recommended envelope with design excellence (dark blue)

### 3. Alternative solar non-compliant envelope

In August 2019, a planning proposal for 4-22 Wentworth Avenue was deferred by Council to enable an investigation of the whole street block and the preparation of a planning proposal for 4-44 Wentworth Avenue.

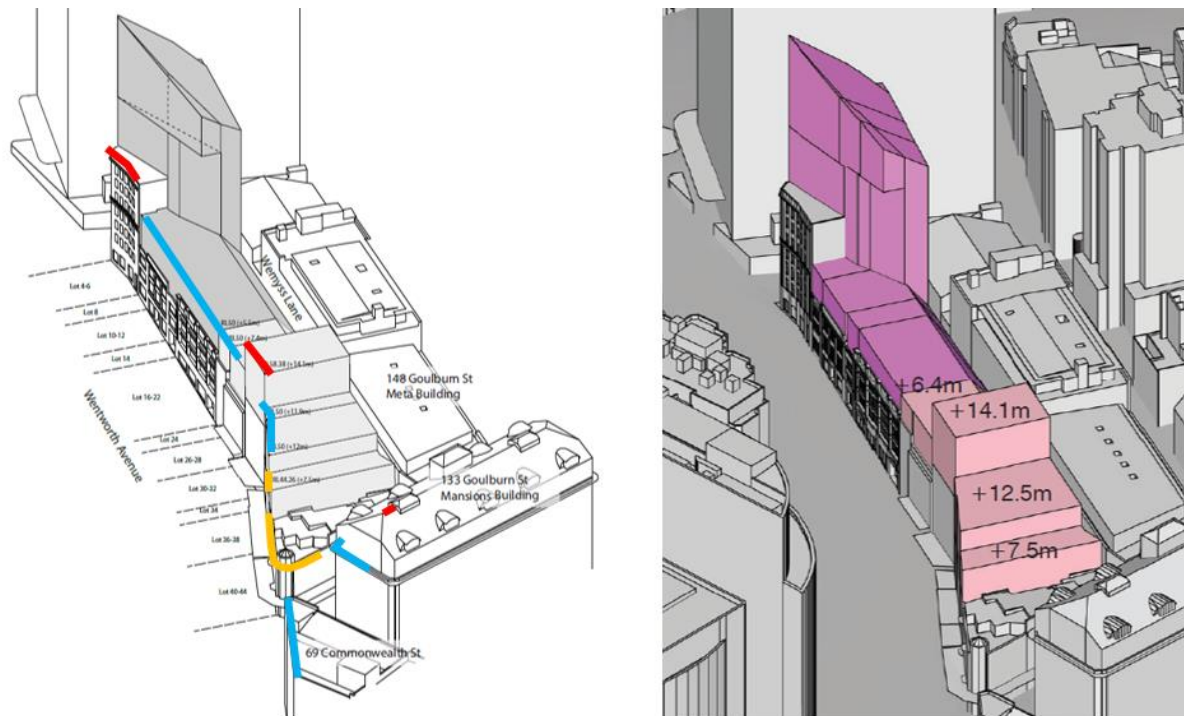
The City carried out an internal urban design analysis of the street block, exploring a built form option that frames the width of Wentworth Avenue, incentivises change and provides diversity to reflect the street's fine grain. Building heights at the southern half of the street block were established by:

- the parapet of 4-6 Wentworth Avenue and the roofline at Sydney Mansions, which provides an additional 4 storeys to the tallest building in the southern half of the street block (shown in red in Figure 3 below)
- the proposed podium addition at 4-6 Wentworth Avenue, the Sydney Mansions parapet and the Griffith's Teas parapet, which allows for 2-3 storeys of additional height to most buildings in the southern half of the street block (shown in blue), and
- the individually listed heritage item at 40-44 Wentworth Avenue, which allows for 2 additional storeys above the non-heritage listed portion of the site, transitioning down to the hotel on the corner (shown in yellow).

The envelope was tested against the solar access objectives of the ADG, which seek to minimise overshadowing to neighbouring residential properties. Solar testing indicates the massing of the built form results in additional overshadowing to apartments in the Meta building at 148 Goulburn Street.

The proposal results in amenity impacts to neighbouring properties, however the form is based on context and character of the block and on achieving strategic uses to support the City's productivity objectives for this precinct.

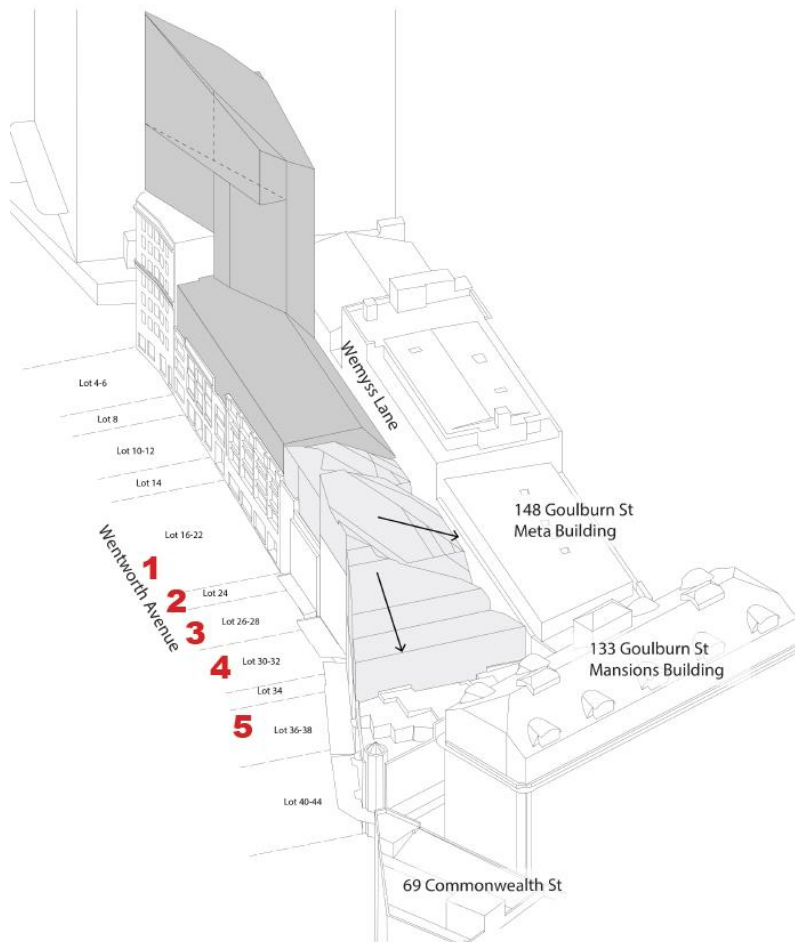
An alternative recommendation to facilitate a solar non-compliant envelope has been included at paragraph 30 of the City's report, should Council and the CSPC determine to prioritise the built form and strategic uses for the remainder of the street block. See Figure 4 below.



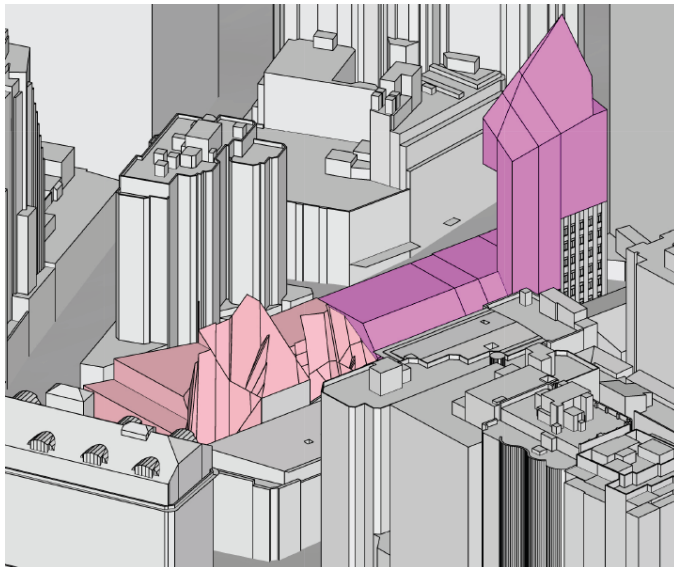
**Figure 3 and 4:** Alternate recommendation for solar non-compliant envelope

#### 4. Second alternative: solar compliant envelope

A further alternative option is to proceed with a solar shaped envelope on the southern half of the block which protects solar access but provides limited additional development opportunity. The solar shaped envelope is shown below in Figures 5 and 6. The envelope complies with the solar access provisions of both the ADG and DCP, maintaining existing levels of solar access to neighbouring residential properties whilst allowing for some additional height on a limited floor plate above 24-44 Wentworth Avenue.



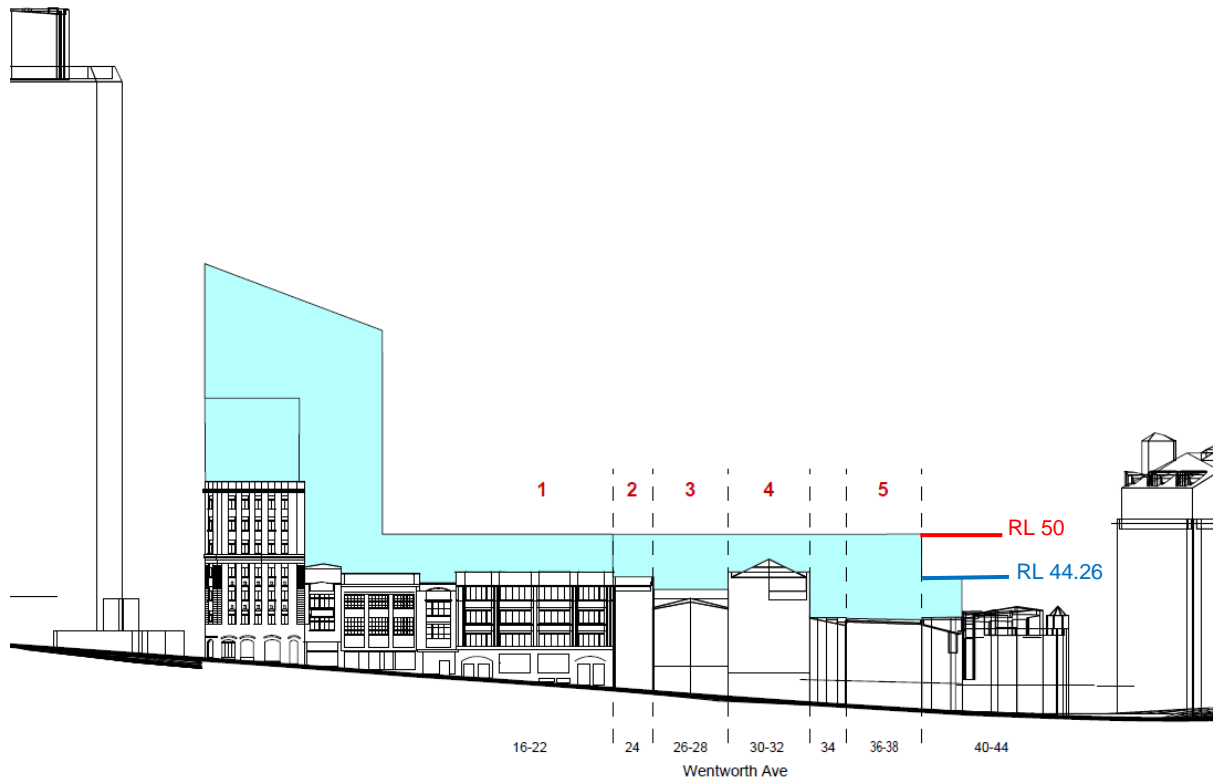
**Figure 5:** Solar compliant envelope above 24-44 Wentworth (light grey) looking north-east



**Figure 6:** Solar compliant envelope looking north-west (4-22 Wentworth shown purple, 24-44 Wentworth 24-44 shown pink)

An alternative recommendation has been prepared should Council and CSPC wish to pursue the solar compliant envelope. The solar compliant recommendation proposes:

- an RL of 50 across most of the southern half of the street block (including no's 24, 26-28, 30-32, 34, and 36-38 Wentworth Avenue);
- an RL of 44.26 at 40 Wentworth Avenue (which is the non-heritage listed portion of 40-44 Wentworth Avenue, at the southernmost end of the block). See Figure 7 below.



**Figure 7:** Maximum heights detailed in second alternative recommendation

This option preserves solar access to the neighbouring residential apartment buildings at 148 Goulburn Street whilst allowing for an increase in height for most properties in the southern half of the street block, better aligning potential building heights with the site's existing FSR control of 5:1.

The exception in this case is 30-32 Wentworth, which is an existing 5 storey building. As demonstrated by the built form testing carried out by the City, meaningful or developable additional height above 30-32 Wentworth cannot be provided without resulting in overshadowing impacts to nearby residential properties.

As depicted in Figures 5 and 6, the solar compliant envelope is impractical and irregular. Should Council and CSPC wish to pursue the solar compliant form, the envelope for the southern half of the street block will need to be refined in the draft development control plan to precisely identify the full extent of development potential above 24-44 Wentworth Avenue. It is unlikely that additional development will extend across the full site area of any of the sites except for 40 Wentworth.



## 5. Proposed floor space ratio for 4-22 Wentworth Avenue

At the Transport, Heritage and Planning Committee meeting on 2 December 2019, the proponent's architect queried the FSR calculations for the planning proposal, stating a FSR higher than that being proposed could be achieved within the proposed building envelope. Committee members sought further information regarding the calculation of the FSR. As part of the planning proposal, the City has recommended an increase in FSR to 5.7:1 across 4-22 Wentworth Avenue, with the potential for it to be increased to 6.3:1 should the proposed scheme exhibit design excellence.

The maximum FSR has been calculated based on the indicative design scheme submitted by the applicant. The City measured the gross floor area before adjusting it to ensure the relationship between the FSR and the envelope allows for flexibility, external shading and room for architectural articulation. The resulting maximum FSR of 6.3:1 includes:

- a 600mm external sun shading zone on the western facade, and
- a low range reduction of the envelope for building articulation of 15% (where the Central Sydney Planning Strategy nominates a range of 15-30%).

The proponent has suggested a higher FSR of 6.4 or 6.5:1 is achievable within the envelope through a reduced western solar protection zone. After consideration of the information provided by the proponent, a higher FSR is not supported at this stage.

The City's approach to the relationship between the proposed building envelope and FSR accommodates solar facade fenestration and promotes a meaningful design competition process.

Prepared by: Tim Wise, Acting Manager Planning Policy

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Approved



**GRAHAM JAHN AM**

Director City Planning, Development and  
Transport