

Item 6.

Post Exhibition - Planning Proposal - 55 Pitt Street, Sydney - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

File No: X027614

Summary

To maintain its role in delivering employment, growth and resilience for the economies of Greater Sydney, New South Wales and the nation, it is important that Central Sydney remains a competitive and attractive place for investment, business, employment and visitors. Capacity for employment growth, opportunities for investment and new development projects should be prioritised. It is important the City is prepared for appropriate development to occur during and after the Covid-19 pandemic.

The Central Sydney Planning Strategy has revised and established the City's planning vision to encourage growth in Central Sydney by setting out opportunities for additional building height and density in the right locations where development delivers high-quality public domain improvements, protects pedestrian amenity and includes environmental sustainability initiatives.

55 Pitt Street, Sydney is located within the Central Sydney's financial, professional and business services core. The site is located in the street block bound by Alfred, Pitt, Dalley and George Streets, also known as the APDG block, which has been the focus of substantial redevelopment in recent years as a result of planning controls that incentivise growth for strategic uses in exchange for significant public domain improvements.

This planning proposal will facilitate the redevelopment of 55 Pitt Street (37-49 Pitt, 49A-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street), the remaining parcels of land in the APDG block, to allow for a new commercial office tower while retaining essential utility buildings and delivering public domain improvements such as connections to the wider pedestrian laneway network envisaged under the original APDG controls. Council and the Central Sydney Planning Committee approved the planning proposal for public exhibition and Gateway request in May 2020.

This report describes the outcomes of the recent public exhibition of the planning proposal, draft Development Control Plan (DCP) and Voluntary Planning Agreement (VPA) for the site. The planning proposal, draft DCP and VPA were exhibited from 18 September 2020 to 16 October 2020. Twenty-four submissions were received, including two from the landowner and four from public authorities.

Matters raised in submissions include support for the proposal and objections that considered the increase in building height and density excessive, adverse impacts to pedestrian amenity in the public domain and did not support the chosen ecologically sustainable development initiatives. Submissions from the landowner sought clarification of minor amendments to the planning proposal, DCP and VPA, while public authority submissions highlighted legislative and referral obligations required to be fulfilled as part of the assessment of a future detailed development application. A summary of submissions and the City's response is at Attachment A, and issues are also discussed in this report.

Minor amendments to the planning proposal and draft DCP address matters raised from the submissions and are discussed in this report.

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

The gateway determination issued 22 June 2020 delegated authority to Council to liaise directly with Parliamentary Counsel to legally draft and make the Local Environmental Plan to give effect to the planning proposal. The gateway determination is at Attachment E.

If approved, the City will request Parliamentary Counsel commence the preparation of the Local Environmental Plan amendment. The Local Environmental Plan will come into effect when it is published on the NSW Legislation website. The Development Control Plan will come into effect at the same time.

Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note the matters raised in response to the public exhibition of Planning Proposal - 55 Pitt Street, Sydney, and the draft Sydney Development Control Plan 2012 - 55 Pitt Street, Sydney amendment, as shown in Attachment A to the subject report;
- (B) the Central Sydney Planning Committee approve Planning Proposal - 55 Pitt Street Sydney, 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) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 9 November 2020 that Council approve draft Sydney Development Control Plan 2012 - 55 Pitt Street, Sydney 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 - 55 Pitt Street, Sydney and draft Sydney Development Control Plan - 55 Pitt Street, Sydney amendment to correct any minor errors or omissions prior to finalisation; and
- (E) the Central Sydney Planning Committee note the 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 B.** Planning Proposal - 55 Pitt Street, Sydney (as amended)
- Attachment C.** Draft Sydney Development Control Plan 2012 - 55 Pitt Street, Sydney Amendment (as amended)
- Attachment D.** Planning Agreement
- Attachment E.** Gateway Determination
- Attachment F.** Resolutions of Council and the Central Sydney Planning Committee

Background

1. Central Sydney will continue to play a vital role in the growth and economic success of Greater Sydney and the national economy. It is therefore important that capacity for employment growth, opportunities for investment and new development projects are prioritised to attract investment and highly skilled employees to help boost the economy.
2. The draft Central Sydney Planning Strategy (Strategy) seeks to incentivise additional employment generating floor space through additional building height and floor space in select locations where new development delivers significant public domain improvements where pedestrian amenity and public spaces are protected and environmentally sustainable targets are met.
3. Capacity for employment growth in Central Sydney will contribute to a robust, resilient and competitive economy that will also benefit Greater Sydney and New South Wales. Where there is additional capacity for employment growth, opportunities for investment and globally focused development projects highly skilled jobs will arise. This is particularly important in the current economic climate noting the need to plan for development throughout and after the Covid-19 pandemic.
4. The site is part of the APDG block bound by Alfred, Pitt, Dalley and George Streets as identified in the Sydney Local Environmental Plan 2012 (LEP) and Sydney Development Control Plan 2012 (DCP). The existing APDG controls allow for additional building height and floor space in selected locations subject to public domain upgrades. The composition of the block has been refined over time, through successive planning proposals and development applications. For example a new tower at 11-37 Pitt Street and relocated public plaza fronting George Street is currently under construction and was not envisaged in the original alternate controls.
5. Two planning proposals have previously been lodged for the 55 Pitt Street site. In 2015 and 2017, Mirvac Projects Pty Ltd (Mircac) sought to amend the LEP to increase the building height and floor space ratio building controls. Both proposals were withdrawn due to issues and delays in obtaining formal owner's consent from adjoining utility landowners. Following the withdrawals, the City continued to work with landowners to explore built form outcomes that are consistent with the draft Strategy.
6. Mirvac submitted a revised planning proposal request for 55 Pitt Street in December 2019. The request seeks to amend the APDG alternative controls in the LEP to include site-specific controls for the subject site, consistent with the City's draft Guideline for site specific planning proposals.

7. The amended planning controls will facilitate the renewal of 55 Pitt Street, consisting of the following key components:
 - (a) a 70,000 square metre commercial office tower up to 232m in height, with a 45m high podium;
 - (b) creation of a through-site link widening and connecting Queens Court to Underwood Street;
 - (c) a retail activated pedestrian colonnade along Underwood Street to improve pedestrian connections; and
 - (d) upgrades to facades and roof of the adjoining Ausgrid substation building and facade upgrade and new retail spaces to the Telstra exchange building.
8. At their May 2020 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 and voluntary planning agreement (VPA) for public exhibition at that time.
9. The Department of Planning, Industry and Environment (Department) issued a gateway determination for the planning proposal dated 22 June 2020, approving the planning proposal to proceed to public exhibition. Approval was subject to several conditions, specifying public exhibition was to take place for 28 days and listing the public agencies to be consulted. A further condition on the gateway determination sought for a minor amendment to the planning proposal to provide additional justification on how the proposal is consistent with Ministerial Directions, which has since been included.
10. The planning proposal was publicly exhibited in accordance with the Gateway Determination from 18 September to 16 October 2020. The draft DCP and VPA were exhibited with the planning proposal.
11. The City received 24 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 and as a result of feedback raised in submissions, the planning proposal has been updated. New amendments are shown in italics and deleted text shown as strikethrough. The draft DCP has been updated accordingly, new amendments are shown in bold italics, deleted text shown as bold strikethrough and updates to the figures are indicated by a red cloud.

Site details

12. The site this planning proposal refers to collectively as 55 Pitt Street, comprises five properties in Sydney's central business district, close to Circular Quay, at 37-49 Pitt Street, 49A-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street (all otherwise known as 55 Pitt Street or 'the site').

13. The legal descriptions and ownership of the land affected by this planning proposal are:

Mirvac

- Lot 1 DP 513109, known as 49A-57 Pitt Street
- Lots 2-3 DP 1092, Lots 1-2 DP 1112308, Lot 6 DP 75338, Lot 7 DP 110046, Lot 4 DP 524306, known as 37-49 Pitt Street
- Lot 501 DP 714847, known as 6-8 Underwood Street

Telstra

- Lot DP 787946, known as 6 Dalley Street

Ausgrid

- Lots A and B DP 104160, known as 8-14 Dalley Street

14. The site has frontage to Underwood Street to the north and west, Pitt Street to the east and Dalley Street to the south. Queens Court, a short laneway about 25 metres in length, bisects the site along its southern frontage. Queens Court is identified as a public road under the Local Government Act 1993. Public access to Queens Court will be maintained as a part of the planning proposal with occasional access required for service vehicles by Ausgrid.

Existing alternative planning control for the APDG block

15. In 2008, the City commissioned the NSW Government Architect's Office to prepare an urban design study for the APDG block. The key purpose of the study was to develop a consistent set of planning controls that encourage high quality built form and urban design outcomes for both the public and private domain. Completed in 2009, the study recommended a large centrally located public square, retail activated pedestrianised laneways and three tower buildings. Additional building height would be considered in exchange for significant public domain improvements.
16. Adopted as an alternative scheme by Council and the CSPP on 15 and 11 November 2010, respectively, a number of LEP and DCP amendments based on the recommendations of the urban design study as developed came into effect on 29 April 2011.
17. Since 2009, land ownership across the APDG block has changed significantly, making it difficult to achieve the intended built form and public domain outcomes. Adjustments to the APDG provisions have been therefore to ensure the original vision is delivered.
18. A planning proposal was approved by Council in 2015 to amend the LEP to facilitate the redevelopment of 33 Pitt Street. Introducing a second option for the delivery of the APDG block and created a new development block, known as 'block 4'. Development on block 4 includes a new office tower and relocates the public plaza to front George Street. These amended alternative controls in the LEP and DCP came into effect in December 2016. The development of block 4 has meant that block 1 cannot be developed under the current controls. New controls for the remainder of block 1 are the subject of this planning proposal and are required to facilitate the redevelopment of the subject site.

Indicative scheme

19. The indicative scheme for 55 Pitt Street envisages a new 50 storey commercial tower 232 metres in height, with approximately 70,000 square metres of office floor space, more than 500 square metres of retail space and a new through-site link, connecting Queens Court with Underwood Street.
20. The future tower will front and have a street address to Pitt Street. Vehicle access will be from Dalley Street to three basement levels, off street loading, end of journey facility and car parking. The proposal includes upgrades to the adjacent Telstra and Ausgrid utility buildings.

Planning proposal - amendments to the Sydney LEP 2012

21. The planning proposal at Attachment B proposes to amend the APDG precinct controls to:
 - (a) identify the subject site as a new development option, block 5, for the appropriate distribution of built form and floor space within the APDG block;
 - (b) permit a maximum building height of 232 metres with the tower comprising no more than 44 percent of the area of the block;
 - (c) allow a maximum floor space ratio of 15.02:1, comprising:
 - (i) mapped floor space ratio of 8:1;
 - (ii) accommodation floor space of 4.5:1;
 - (iii) site specific floor space of 2.52:1; and
 - (iv) additional floor space up to 10% if the building demonstrates design excellence, to a maximum floor space ratio of 16.52:1;
 - (d) ensure development consent can only be granted if the proposal delivers employment generating uses, a through-site link and improvements to the Ausgrid and Telstra utility buildings; and
 - (e) permit for the purposes of calculating the gross floor area for block 5, the inclusion of floor space ratio generated by the adjoining Telstra and Ausgrid sites to be transferred for the use on the subject site.

Site specific draft Development Control Plan

22. A site specific draft DCP is at Attachment C to this report and provides further guidance for development of the site consistent with the proposed amendments to the LEP. The draft DCP provisions include:
 - (a) building form and external appearance;
 - (b) tower location;
 - (c) setbacks;
 - (d) street frontage heights;
 - (e) environmental impacts;

- (f) vehicular access;
- (g) design excellence; and
- (h) environmentally sustainable development targets.

Voluntary Planning Agreement

23. A voluntary planning agreement at Attachment D to this report was prepared and exhibited concurrently with the planning proposal and draft DCP. The public benefits that will be delivered are:
- (a) monetary contribution to community infrastructure in Central Sydney;
 - (b) monetary contribution to affordable housing in the local government area;
 - (c) provision of public art on the site;
 - (d) dedication of land for footpath widening on Underwood Street;
 - (e) construction of the Underwood Street footpath widening; the through-site link incorporating Queens Court; improvements to the colonnade of the Telstra building and public art to the through-site link (if required);
 - (f) creation of public access easements for the Telstra colonnade and the through-site link; and
 - (g) ecologically sustainable development targets:
 - (i) minimum 6 star Office Green Star v1.3 Design and Construct rating;
 - (ii) minimum 5.5 star rating on operation under the NABERS energy scheme; and
 - (iii) minimum 4-star rating in operation under the NABERS water scheme.

Key Implications

Outcomes of public exhibition and public authority consultation

24. The planning proposal, draft DCP and planning agreement were exhibited from 18 September to 16 October 2020.
25. The City sent over 160 letters to landowners and occupants to notify them of the public exhibition and provided information on how to view the supporting documentation. The exhibition was also advertised in the Sydney Morning Herald and featured on the City's Sydney Your Say website.
26. Public authority consultation was carried out in accordance with the gateway determination. The Heritage Council of NSW, Sydney Water, Sydney Airport Corporation, Air Services Australia, Commonwealth Department of Infrastructure and Regional Development, Civil Aviation Safety Authority and Transport for NSW were consulted.

27. In their submission, Transport for NSW raised no significant issues, but noted the subject development is located within the Sydney Metro Corridor, above the Chatswood to Sydenham section of the Sydney Metro tunnels that are currently under construction and as such, the proposal is subject to the relevant provisions of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). Furthermore, the submission advised that any subsequent detailed development application is to include a detailed traffic and transport assessment to identify any traffic and transport impacts that may arise from the subject development.
28. In their submission, the Commonwealth Department of Infrastructure and Regional Development advised that the change to the maximum permissible building height will result in a penetration of the prescribed airspace for Sydney Airport and the future detailed development application would constitute a controlled activity and require consultation and approval from Sydney Airport before development consent can be granted.
29. Heritage NSW raised no objection to the proposal. They noted the site is close to the State Heritage listed Tank Stream and the identified mitigation measures to minimise impact on this item are appropriate and acceptable. The submission also noted that the future detailed development application should be informed by a detailed historical archaeological impact assessment and include consultation from Heritage NSW on mitigation and management strategies. A provision has been included in the DCP to ensure Heritage NSW is consulted in preparation of the detailed development application to minimise impacts on the Tank Stream.
30. Sydney Metro advised that while the planning proposal is not subject to the provisions of the Infrastructure SEPP, any future development application that involves more than two metres of excavation will trigger concurrence requirements. Furthermore, Sydney Metro request consultation with the landowner prior to the lodgement of the detailed development application to review interfaces between the proposed development and Sydney Metro infrastructure. While a future development application will trigger concurrence requirements with Sydney Metro, the DCP has been updated to include a provision to ensure Sydney Metro is consulted during preparation of the detailed development application to further ensure impacts to the Metro corridor are minimised.
31. Sydney Water raised no objection to the proposal, noting that the detailed development application will require formal approval from Sydney Water. They recommended the proponent consult with Sydney Water in preparing relevant studies to meet waste and storm water servicing requirements.
32. The Civil Aviation Safety Authority (CASA) advised that they did not object to the proposal, however noted that due to the height of the planning envelope, the detailed development application would require controlled activity approval from Sydney Airports, who will also consult and include comments from stakeholders including CASA.
33. A total of 24 submissions was received in response to the exhibition.
34. The City's response to the issues raised in submissions are discussed below and in the submissions table at Attachment A.

Additional building height and floor space

35. During public exhibition, six submissions were received in support of the proposed scheme, noting the necessity to refresh ageing building stock with a proposal that includes additional public space and improved public domain while positively contributing to the skyline.
36. Six submissions objected to the proposal, opposing the height and density changes. These submissions stated that, at 232 metres in height, the building is considered too tall, beyond a human scale and is too close to adjacent towers and constitutes overdevelopment on the subject site without providing a benefit to the future of Sydney.
37. The proposal to increase building height and floor space capacity is consistent with the aims of the draft Central Sydney Planning Strategy which allows development potential for this site and opportunities for economic growth in Central Sydney on suitable sites.
38. It is considered that, the proposed new commercial office tower will be consistent with the future surrounding context, as the site is located in a future tower cluster identified in the Strategy and draft Central Sydney planning proposal. Tower clusters have been designated as locations where additional building height and density may be accommodated without overshadowing key public spaces and deliver additional employment generating floor space. Such projects are required to deliver key sustainability targets and ensure the protection of acceptable public domain amenity. The height of the tower is also consistent with the heights envisaged under the Strategy for this location.
39. This planning proposal introduces an alternative building height of 232 metres for the subject site, by amending the APDG provisions in the LEP. By delivering significant public domain improvements, new pedestrian laneways and other links throughout the site, the proposal delivers on the objective for clause 6.25 of the LEP and as such meets the requirements for additional building height at this location.
40. The proposed indicative development concept includes a maximum building height of 232 metres on no more than 44% of the block, to accommodate up to 50 storeys of new office floor space. New active uses and ground floor retail will be included in the podium, which will front an upgraded public domain, comprising of a new north-south through-site link achieved by extending Queens Court north to form a new connection with Underwood Street, which will feature an east-west pedestrian colonnade. These new pedestrian connections will connect to the wider pedestrian laneway network that is currently being delivered across the APDG block, providing more accessible open space and activated pedestrian laneways that will be suitable for public sitting or outdoor dining.

Adverse public domain amenity impacts

41. Three submissions objected to the proposal due to its adverse impact on public domain amenity. These submissions argued that, due to the modified setbacks and proximity to adjacent buildings, the proposed envelope would heavily restrict natural light, will not provide sufficient views to the open sky and exacerbate wind impacts, creating a wind tunnel for pedestrians in the public domain.
42. It is considered that the planning proposal delivers on the objective of the APDG block by providing for additional building height in a high-quality built form that delivers an improved public domain with new pedestrian connections. A proposed tower has been envisaged in this location since the controls were initially developed.

43. The proposal is also consistent with a key move of the draft Central Sydney Planning Strategy in that additional building height and density may be unlocked where the project does not result in adverse wind and daylight impacts in the public domain. The proposed indicative scheme has been developed to minimise any adverse environmental impacts, including excessive wind speeds. To ascertain the impacts of the proposal on the surrounding environmental amenity, the Strategy establishes a base case building envelope against which a planning envelope must demonstrate improved or equivalent performance. Further testing will be required at the development application stage.
44. The Urban Design Study that accompanied the planning proposal request included a daylight analysis that found the proposed envelope will maintain daylight levels in the public domain equivalent to the base case envelope. The planning envelope as outlined in this planning proposal is therefore consistent with the requirements for daylight levels under the Strategy. Further testing will be required at the development application stage.
45. A detailed Wind Impact Assessment accompanied the planning proposal, which assessed pedestrian wind comfort. The assessment included wind tunnel equivalence testing to determine the impacts of the proposed planning envelope on wind conditions. The assessment found that public domain conditions would generally remain suitable for pedestrian walking activities, however there were some areas that required some mitigation to ensure that the wind conditions matched the character of the location. For example, while conditions would remain calm in Dalley Street and Underwood Street, a high-level glazed roof/awning above the enhanced Queens Court through-site link would provide for a comfortable environment, suitable for dwelling, seating and outdoor dining to complement the fine-grain retail spaces that are proposed to front the laneway. The draft DCP includes provisions for a high-level glazed roof/awning above the Queens Court through-site link.
46. The planning proposal was accompanied by an Urban Design Study that included a detailed shadow analysis that demonstrated the proposed planning envelope will not result in any additional overshadowing to nearby identified public places, including Macquarie Place Park and Australia Square plaza.

Ecological sustainable development

47. One submission did not support the proposed changes in consideration of ecologically sustainable development, noting the selected programmes were too simplistic and for a development of this scale, sustainability should be a central focus of the project and that the NABERs and Green Star systems have serious flaws.
48. The proposed development concept is required to achieve the ecological sustainable development targets, which have been agreed to and secured through a planning agreement. The target ESD ratings are consistent with the City's current minimum sustainability targets and include a 5.5 star NABERs energy rating, 4 star NABERs water rating and 6 star Green Star office rating. The NABERs and Green Star initiatives are industry standards and widely used on new and existing developments across New South Wales and Australia and are well-suited for inclusion in planning commitments.

49. Notwithstanding the criticisms of the NABERs and Green Star rating systems, the draft DCP includes measures to ensure future development on site will deliver significantly improved environmental performance and sustainability outcomes. The proposal includes further ESD initiatives that go beyond the above programs. The Ecologically Sustainable Design Statement that accompanied the planning proposal details specific sustainability initiatives that are to be implemented throughout the whole lifecycle of the building. Initiatives secured in the VPA as part of Green Star system include construction environment management, building metering and monitoring systems and operation waste management to divert from landfill in the operation phase. The ESD provisions in the DCP ensure that future development on site will net-zero carbon, zero waste and water efficient outcomes.

Heritage

50. One submission suggested that one of the existing buildings that comprises the 55 Pitt Street site, 49A-57 Pitt Street, is worthy of heritage listing as a remaining example of Post war international style medium-rise office buildings that was formerly prevalent across the area.
51. In 2017-2018, the City conducted a review of modernist buildings within the local government area, to ensure that the best examples of this architectural period were identified, assessed and heritage listed to ensure their conservation. This review included an assessment of many buildings of this architectural style and 49A-57 Pitt Street was not identified for heritage listing in the recent proposal.
52. Demolition of buildings on the land has been anticipated in the vision for the APDG block in the LEP and DCP to facilitate the redevelopment of the whole block and deliver significant improvements to the public domain and pedestrian network. Furthermore, the planning proposal was accompanied by a Heritage Impact Statement supported by Council's heritage specialists which did not consider any of the existing buildings on site to be of sufficient significance to justify its retention or listing.

Economic and public domain benefits

53. Several submissions welcomed the proposal and the economic benefits it would have on Central Sydney's economy in providing future opportunities for jobs. The planning proposal will also provide necessary local improvements to the streetscape and accessibility in the area.
54. These comments are noted. Capacity for future employment growth in Central Sydney is important to ensure the New South Wales economy can deliver resilience and future growth for recovery. This planning proposal provides for additional employment floor space to increase the capacity of new jobs and investment, as well as public domain improvements and the delivery of the City's long held vision for this block.

Heritage floor space

55. In a submission from the landowner, further clarification on the application of heritage floor space (HFS) and include references for the proposal to access the alternative heritage floor space allocation scheme was raised.

56. This planning proposal does not seek to change the application of the existing heritage floor space provisions as contained within the LEP. The APDG block provisions under clause 6.25 of the LEP will be amended to detail the proposed planning envelope for 55 Pitt Street and will direct future development to the operation of the heritage floor space scheme pursuant to clause 6.11.
57. The alternative heritage floor space scheme provides temporary measures for allocating HFS for new developments in Central Sydney. The scheme was introduced to address a temporary shortage of available HFS. A proponent is required to demonstrate real and ongoing efforts to acquire HFS and that they have been unable to secure the required amount. The alternative arrangements are secured through a planning agreement and are triggered by a modification application to amend the relevant condition in the development consent. As such, it is not necessary to modify this planning proposal to reference the alternative scheme as this will need to be addressed following a detailed development application, and only as required.

Lanes development floor space

58. The landowner points out that in their initial request, the planning proposal was to include an amendment to the Lanes Map of the LEP to reflect the Queens Court through-site link to ensure future development is eligible for lanes development floor space under clause 6.8 of the LEP.
59. The planning proposal has been updated to include the extended Queens Court through-site link on the Lanes Map and the draft provisions have been amended to include reference to clause 6.8 of the LEP to reflect the application of lanes development floor space as initially omitted.

Queens Court through-site link

60. In their submission, the landowner notes minor discrepancies between the proposed indicative scheme and the planning proposal, including a 10m glazed awning height above the through-site link and accommodating double height retail spaces between the basement and the ground floor.
61. Draft DCP provision 6.1.5.2(18)(c) states that a high-level glazed roof/awning is to be included above the Queens Court through-site link at a minimum height of 10metres above ground level. This is to ensure that Queens Court continues to feel as an outdoor space to pedestrians and diners and a visual connection is maintained between any double-height retail spaces and the laneway to maximise activation. In their submission, the landowner states that while this remains their intention, the indicative design indicates that the awning is able to align with the juncture between the first and second floors at a height of 9.2 metres above ground level. As such, the provision and relevant figure in the draft DCP has been updated to reflect the above.
62. The provisions in the draft DCP seeks to maximise the amount of retail activation that fronts the Queens Court through-site link by encouraging double height retail spaces that may link from the ground floor to the basement or first floor. However, in their submission, the landowner has indicated that it is unlikely that retail space will be able to be accommodated in the basement of the building due to site constraints such as potential flooding. As such, this provision has been reworded to provide flexibility in the provision of fine grain retail fronting the through-site link.

Design excellence

63. One submission highlighted the need for the Design Excellence Strategy to include criteria of Diversity and Inclusion for competitors and jury, as a diverse community requires a diversity of built form practitioners. The landowner also made a submission regarding minor amendments to the proposed design excellence provisions.
64. The Design Excellence Strategy has not been amended to include this change. The current policy does not require the detailed membership of the jury to form part of the strategy. Nevertheless, the proponent has put forward a jury with equal gender representation. The draft update to the Design Excellence provisions for tower cluster areas in Central Sydney currently includes requirements for gender representation and will be a guideline following adoption by Council.
65. In their submission, the landowner sought clarification on whether the design excellence provisions in the draft DCP should reference the draft APDG provisions that refer to the provision of additional floor space rather than the existing provisions under clause 6.21(7)(b). The proposed LEP provisions references the applicable clause for the application of additional floor space should the building exhibit design excellence. The draft DCP has been updated to reference the draft LEP provisions accordingly.

Tower setbacks

66. One submission raised concern about the proposed tower setbacks between the proposal and the tower under construction at 37 Pitt Street. The submission states the tower element of the planning envelope is setback three and four metres from Underwood Street, resulting in reduced sun and daylight access to the public domain. Sky views are significantly reduced, resulting in an erosion of the benefits from the wider Underwood Street footpath. Consideration should be given to the tower setback from Underwood Street and retaining the APDG tower setback of eight metres. The submission also states the proximity of the two towers compromises privacy for the office areas and consideration of privacy should be included in the design competition brief. It is noted that both towers include limited setbacks as a result of limited site area and tower floor space requirements. The adjacent tower includes a nil setback along its southern boundary, however as this is predominantly building core privacy concerns are limited to the north-east corner of the subject site. The Building Design provisions in the DCP has been updated to ensure sufficient treatments are included to minimise any privacy impacts to adjacent towers.
67. Setbacks help manage impacts to amenity and environmental conditions, including wind, daylight access and privacy. The draft Strategy generally recommends an 8 metre setback and allows setbacks to be varied where the proposal can demonstrate equivalent daylight access is maintained compared to the performance of a base case envelope.
68. The planning proposal was accompanied by a daylight analysis in the Urban Design Study that compared the impact of the planning envelope on daylight levels in the public domain as compared to the base case envelope. The analysis demonstrated that overall, the proposal is capable of maintaining equivalent levels of daylight access to surrounding public domain and is considered acceptable. Furthermore, the east-west section of Underwood Street will include a publicly accessible colonnade, replicating the current pedestrian conditions. Increasing the tower setbacks on the northern boundary will not result in a significant increase to pedestrian daylight levels along the colonnade.

Underwood Street

69. One submission requested Figure 6.8A - Streets, Lanes and Through-Site Links - Option B of the draft DCP be corrected as the legend for Lane Type C places a time limit on vehicles using the east-west section of Underwood Street. That section of Underwood Street currently provides vehicle access to the basement carpark of Sydney Place at 37 Pitt Street.
70. Regulation of the use of the roadway takes place under the Roads Act 1993 and is not governed by the planning controls. The planning controls set out the available space of the roadway suitable for its intended future use. The draft DCP includes a provision to ensure development on site will not impact the future conversion of adjacent roadways to shared zones. The draft DCP has been updated to remove reference 'No vehicle access 8am-6pm Monday to Friday' from the legend in Figure 6.8A as it relates to Lane type C for the east-west section of Underwood Street.

Drafting instructions

71. The adjacent landowner's submission suggested minor amendments to the drafting instructions in the planning proposal to correct errors and provide clarification. The requested amendments and the City's responses are included below:
- (a) Clause 6.25 (3A): correct first sentence to remove redundant words - The planning proposal has been updated to delete (shown as strikethrough) the duplicate words;
 - (b) Clause 6.25 (3A)(d): include specific clause reference at the end of this paragraph to replace 'within the meaning on that clause' - Noted, the draft provisions in the planning proposal have been updated (shown in italics) to reference the specific clause as follows "building demonstrating design excellence as defined under clause 6.21(9)";
 - (c) Clause 6.25 (8)(b): correct the paragraph to ensure it is specific to 55 Pitt Street (block 5) - clause 6.25 (8) defines block 5 and includes lot descriptions, the ensure the draft provisions are clear, the planning proposal has been updated to include "sub" clause in 6.25 (8)(b); and
 - (d) Clause 6.25 (8)(c) should apply to block 5 and not all of the APDG block - to ensure the land to which these provisions apply, the planning proposal has been updated to include "sub" clause in 6.25 (8)(c).

Planning agreement amendments

72. The landowner, in a submission, indicated that some minor changes were needed to be made to the instruments plan included in the planning agreement to reflect the correct land to be burdened by positive covenants with respect to the through-site link and colonnade as well as the blast wall, if constructed.
73. Noted. No objection to these minor changes is raised by the City as they will not change the public benefits and the VPA will be amended prior to execution.

Strategic Alignment - Greater Sydney Region Plan

74. 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 Greater Sydney into a metropolis of three cities. It outlines how Greater Sydney will manage growth and change will guide infrastructure delivery.
75. The Greater Sydney Region Plan is to be implemented at a local level by District Plans. This planning proposal is consistent with the following relevant directions and objectives of the Plan:
- (a) Infrastructure - redevelopment of the site will benefit from additional transport infrastructure capacity and will contribute towards the delivery of new community infrastructure.
 - (b) Liveability - the future development concept includes retail activation of the future laneway network, consistent with the APDG vision and will encourage greater public domain activity.
 - (c) Productivity - the proposal will deliver additional office floor space close to transport connections contributing towards Central Sydney's economy.
 - (d) Sustainability - this planning proposal will facilitate the redevelopment of the site with a new building featuring improved sustainability outcomes.

Strategic Alignment - Eastern City District Plan

76. The Eastern City District Plan sets the local planning context for the Eastern City District, which includes the City of Sydney local government area and provides a 20 year plan to manage growth. This planning proposal gives effect to the following relevant planning priorities from the plan:
- (a) Planning Priority E1 - Planning for a city supported by infrastructure
 - (b) Planning Priority E7 - Growing a stronger and more competitive Harbour CBD
 - (c) Planning Priority E10 - Delivering integrated land use and transport planning for a 30 minute City
 - (d) Planning Priority E11 - Growing investment, business opportunities and jobs in strategic centres
 - (e) Planning Priority E13 - Supporting growth of targeted industry sectors
 - (f) Planning Priority E19 - Reducing carbon emissions and managing energy, water and waste efficiently.
77. This planning proposal supports the above key directions of the Plan in that it will provide additional employment space to support productivity in Central Sydney through the delivery of a premium quality office building in a highly-accessible location; promote sustainable redevelopment of the APDG block; complement the new light rail and proposed cycle network; and provide for recreation and retail activities.

Strategic Alignment - Sustainable Sydney 2030

78. 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 report is aligned with the following strategic directions and objectives:
- (a) Direction 1 - A Globally Competitive and Innovative City - the proposal will support a future high quality outcome, delivering more employment and investment opportunities, helping make Central Sydney attractive to global investors.
 - (b) Direction 2 - A Leading Environmental Performer - this planning proposal facilitates new ecologically sustainable development onsite, ensuring future development achieves ambitious targets.
 - (c) Direction 3 - Integrated Transport for a Connected City - the site is well located to capitalise on existing and future public transport infrastructure including the nearby Circular Quay train station, light rail and bus stops and the future Metro stations in Central Sydney.
 - (d) Direction 4 - A City for Walking and Cycling - the proposal will support a more people-oriented city through the delivery of enhanced and retail activated laneways and a new through-site link.
 - (e) Direction 5 - A Lively and Engaging City Centre - a mix of active uses including fine grain retail will deliver improved levels of activation to this part of Central Sydney, contributing to a livelier, engaging city.
 - (f) Direction 6 - Vibrant Local Communities and Economies - this planning proposal will enhance Central Sydney with increased business opportunities for investment, employment and new facilities for local residents and visitors.
 - (g) Direction 7 - A Cultural and Creative City - the planning agreement that accompanies this planning proposal ensures public art is delivered as part of the future concept for the site, providing new creative and cultural experiences.
 - (h) Direction 8 - Housing for a Diverse Population - this planning proposal will facilitate a contribution towards the provision of affordable housing in the City of Sydney local government area.
 - (i) Direction 9 - Sustainable Development, Renewal and Design - future development will be subject to ambitious sustainability benchmarks.

Strategic Alignment - Local Strategic Planning Statement

79. The City of Sydney's Local Strategic Planning Statement sets out 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.

80. This planning proposal gives effect to the following priorities of the Statement:

Infrastructure

- I1. Movement for walkable neighbourhoods and a connected city
- I2. Align development and growth with supporting infrastructure
- I3. Supporting community wellbeing with social infrastructure

Liveability

- L5. Creating great places

Productivity

- P7. Growing a stronger, more competitive Central Sydney

Sustainability

- S11. Creating better buildings and places to reduce emissions and water and use water efficiently.

Strategic Alignment - Central Sydney Planning Strategy

81. Central Sydney plays a critical role in the continued growth and economic success of Greater Sydney, the state and the national economy due to its position as the economic heart of Australia's most global city. The draft 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 program.
82. The Strategy includes opportunities for additional height and density in the right locations, balanced with environmental sustainability initiatives, and sets criteria for excellence in urban design.
83. This planning proposal is aligned with the following relevant key moves of the Central Sydney Planning Strategy:
 1. Prioritise employment growth and increase capacity - this planning proposal will help contribute to growth within Central Sydney by facilitating the delivery of additional commercial floor space and increasing employment capacity.
 2. Ensure development responds to context - the provisions contained within the draft DCP ensures that future development will be responsive to its context and will not result in adverse impacts in the public domain.
 4. Provide employment growth in new tower clusters - the subject site is located in an identified tower cluster in Central Sydney where additional building height and floor space may be accommodated.
 5. Ensure infrastructure keeps pace with growth - in accordance with the guidelines, this planning proposal facilitates a contribution towards community infrastructure in Central Sydney and towards the provision of affordable housing within the local government area.

6. Move towards a more sustainable city - the planning agreement that accompanies the planning proposal includes ambitious sustainability targets.
8. Move people more easily - the subject site is well placed to benefit from the recent and planning upgrades to the surrounding public transport network such as the light rail, future metro and upgrades to the pedestrian and cycle network.
9. Commitment to design excellence - future development will be subject to an architectural design competition.

Relevant Legislation

84. Environmental Planning and Assessment Act 1979.
85. Environmental Planning and Assessment Regulations 2000.

Critical Dates / Time Frames

86. The gateway determination requires that the amendment to the Sydney LEP 2012 is completed by June 2021.
87. 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.
88. If approved by Council, the revised DCP will come into effect on the same day as the amendment to the LEP.
89. The planning agreement is to be executed prior to the finalisation of the amendments to the LEP and DCP.

GRAHAM JAHN AM

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