

Post Exhibition - Planning Proposal - 187 Thomas Street, Haymarket - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

File No: X034468

Summary

It is vital that Central Sydney remains competitive and attractive for investment, business, employment and visitors to continue delivering employment growth for metropolitan Sydney, New South Wales and the national economies. The Central Sydney Planning Strategy adopted by Council in December 2020 ensures Central Sydney remains Australia's leading economic centre by creating capacity for new business investment and is an attractive location for workers, residents and visitors. The Strategy creates opportunities for additional building height and density in the right locations and balanced with public domain amenity, environmental sustainability initiatives, design excellence and infrastructure provision.

187 Thomas Street, Haymarket is located at the southern end of Central Sydney. In this area clusters of technology, knowledge intensive, education and start-up sectors coverage alongside government, institutional and private sector investment as part of the Camperdown Ultimo Collaboration Area and the NSW Government's Tech Central Precinct and Western Gateway.

This planning proposal will facilitate the redevelopment of a strategic site in Haymarket for a new tower that will deliver additional employment generating floor space to support innovation enterprises and will also comprise commercial office space, retail uses and visitor accommodation with a pedestrian connection and public domain upgrades. Council and the Central Sydney Planning Committee approved the planning proposal for public exhibition and gateway request in September 2020.

This report details the outcomes of the public exhibition of the planning proposal, draft development control plan (DCP) and voluntary planning agreement (VPA) for the site. The documents were exhibited from 20 January to 18 February 2021. Twenty-two submissions were received including submissions from adjoining landowners, the Parish Council of a nearby church and five from public authorities and one in support.

Matters raised in submissions included concerns that the increase in building height and density is excessive, adverse impacts to the public domain and to Christ Church St Laurance. Specific issues have been raised relating to the adjoining site at 757-763 George Street such as the setback to the eastern boundary impacting upon the development potential and amenity of future development. A summary of submissions and the City's response is at Attachment A, and key issues are also discussed in this report.

Amendments to the planning proposal, planning envelope and draft DCP have been made to address matters raised in submissions. The amendments include an increased setback to the eastern boundary and changes to design competition provisions, which are discussed in the report.

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

Recommendation

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of Planning Proposal - 187 Thomas Street, Haymarket, the draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket amendment, and draft Voluntary Planning Agreement, as shown in Attachments A and A1 to the subject report;
- (B) Council approve Planning Proposal - 187 Thomas Street, Haymarket, 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) Council approve draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket 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 - 187 Thomas Street, Haymarket and draft Sydney Development Control Plan - 187 Thomas Street, Haymarket amendment to correct any minor errors or omissions prior to finalisation; and
- (E) Council note the draft Voluntary 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 A1.** Legal Correspondence (Confidential)
- Attachment B.** Planning Proposal - 187 Thomas Street, Haymarket (as amended)
- Attachment C.** Draft Sydney Development Control Plan 2012 - 187 Thomas Street, Haymarket Amendment (as amended)
- Attachment D.** Voluntary Planning Agreement
- Attachment E.** Gateway Determination
- Attachment F.** Resolutions of Council and the Central Sydney Planning Committee (September 2020)

Background

Strategic context of the planning proposal

1. Central Sydney will continue to play a vital role in the growth and economic success of metropolitan Sydney and the national economy. The southern part of Central Sydney, including Haymarket, has developed into an emerging precinct containing knowledge intensive, creative, technology and start-up industries leveraging off nearby research and academic institutions and industry in the innovation corridor.
2. Increasing the capacity for employment growth in Central Sydney is crucial for supporting a robust, resilient and competitive economy. Where there is capacity for employment growth, opportunities for investment and development projects, along with highly skilled jobs arise. This is particularly important in the current climate, noting the need to continue to plan for development during, and after, the Covid-19 pandemic.
3. The Central Sydney Planning Strategy (the Strategy) seeks to incentivise a wide range of employment generating floor space by providing opportunities for additional building height and density in the right locations. It ensures new development delivers a high quality public domain where pedestrian amenity and public spaces are protected, balanced with environmental sustainability initiatives and infrastructure provision.
4. This planning proposal aligns with the vision set out in the Strategy and will facilitate the redevelopment of a strategic site in Haymarket for a new mixed-use tower. The proposal also aligns with several NSW Government activities in the area, including Tech Central, based around Central Station and the wider Camperdown Ultimo Innovation Corridor.
5. The site referred to as 187 Thomas Street, Haymarket is located close to Central Station at the southern end of Central Sydney. The area comprises a mixture of commercial office, retail, residential and tourist accommodation uses. The site is in the future Haymarket/Ultimo tower cluster as identified in the Strategy, where opportunities exist to unlock additional capacity for economic and employment growth.
6. In April 2020, the landowner, Greaton Development, submitted a planning proposal request for 187 Thomas Street, Haymarket. The request seeks to insert site-specific provisions in the Sydney Local Environmental Plan 2012 (LEP) in line with the City's Central Sydney Planning Strategy and draft Guideline for Site-Specific Planning Proposals in Central Sydney.
7. At their September 2020 meetings, Council and the Central Sydney Planning Committee (CSPC) approved the planning proposal to seek gateway determination and be placed on public exhibition. Council approved the draft DCP and voluntary planning agreement (VPA) for public exhibition at that time.
8. The Department of Planning, Industry and Environment (Department) issued a gateway determination on 9 November 2020, approving the planning proposal to proceed to public exhibition. The gateway required public exhibition for at least 28 days and consultation with nominated public agencies. The gateway determination also included conditions to provide greater detail on the provision of below ground floor space, address the principles of growth in the City's Local Strategic Planning Statement (LSPS) and address the Ministerial Direction for acid sulfate soils. The additional information was included in an amended planning proposal prior to exhibition.

9. The planning proposal was publicly exhibited in accordance with the gateway determination from 20 January to 18 February 2021. The draft DCP and VPA were exhibited with the planning proposal. The City notified adjoining residents, occupants and landowners within 75 metres of the site of the public exhibition and that the planning proposal and appendices, which could be viewed on the City's website.
10. The City received 22 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 of issues raised in submissions the planning proposal has been updated and the planning envelope amended. Amendments to the planning proposal are shown in italics and deleted text shown as strikethrough. The draft DCP has also been updated with new amendments are shown in italics, deleted text and figures shown as strikethrough.

The site

11. The legal description of the land affected by this planning proposal is Lot 100 DP 204958, referred to in this report as 'the site' or '187 Thomas Street'. An aerial image and diagram of the site and surrounds are shown in Figure 1 and Figure 2 below.

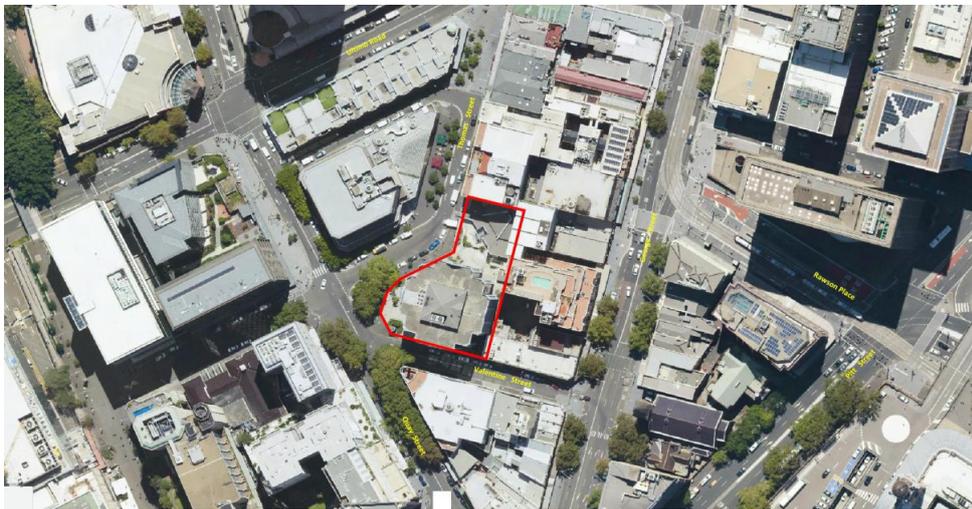


Figure 1: Aerial image of the subject site (in red) and immediate vicinity

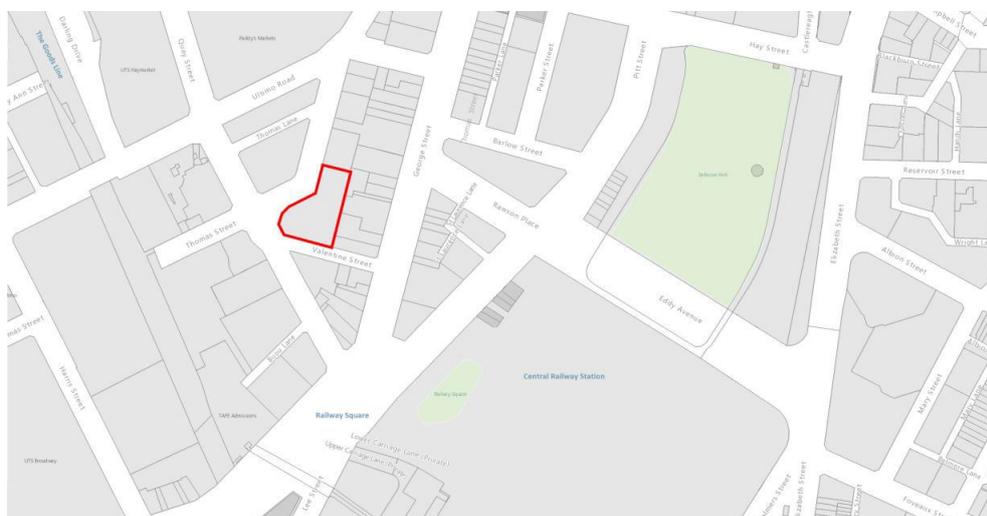


Figure 2: Diagram of the site location and surrounding area.

12. The site is irregular in shape and has a total area of 2,327 square metres. It has frontage to Thomas Street along its north-west boundary, Quay Street to the west, Valentine Street to the south and the east and north boundaries are shared with adjoining lots that front George Street to the east and Thomas Street to the north.

Existing development on the site

13. Existing development on site consists of a ten storey commercial office building with ground floor retail that opens onto a publicly-accessible open-air plaza that fronts the intersection of Quay Street and Valentine Street. The plaza is elevated relative to Thomas Street and forms part of a pedestrian connection to George Street through Capitol Terrace to the east of the site.

Adjoining Development

14. Development surrounding 187 Thomas Street comprises a mixture of retail, commercial, residential, student and tourist accommodation uses, as follows:
 - (a) a cluster of heritage listed commercial buildings, two to four storeys in height front George Street to the south of the site. Local heritage item, former 'Sutton Forest Meat' building adjoins the site to the east, as does a small retail building and a 14 storey retail and residential apartment building, Capitol Terrace.
 - (b) a six storey commercial building comprising retail, education and office uses adjoins the site on its northern boundary. To the north-west of the site on Thomas and Quay Street is the Prince Centre with food and drink premises in the podium and office uses above.
 - (c) a row of towers with residential, tourist and student accommodation fronts Quay Street to the west of the site. Outdoor dining is located on the widened footpath on the western side of Quay Street.
 - (d) small and medium commercial buildings between two and six storeys in height are located to the south of the site, in the block bound by Valentine Street, George Street and Quay Street. These buildings generally consist of office, retail, entertainment, food and drink and tourist accommodation uses.

Development intent for the site

15. The proposal's indicative scheme consists of a new 47 storey commercial tower to a height of RL 226.80 metres, with approximately 47,000 square metres of employment generating floor space that includes retail, office, visitor accommodation and an innovation tech hub.
16. The proposed tower will have frontages to Thomas, Quay and Valentine Streets. Vehicle access to the basement carpark, off street loading and end of journey facility will be from Thomas Street. The proposal includes an expanded public plaza fronting Quay Street at the intersection with Thomas and Valentine Street to integrate with the future public square to be located on Quay Street.

Planning proposal - amendments to the LEP

17. The planning proposal at Attachment B proposes to amend the LEP to insert new site-specific provisions for 187 Thomas Street, Haymarket under Division 5 Site specific provisions. The objectives of the provisions are as follows:
- (a) to permit new development that demonstrates the appropriate distribution of built form and floor space that is consistent with the future context described in the Central Sydney Planning Strategy;
 - (b) permit a new tower on site to a maximum building height of RL 226.80 metres;
 - (c) allow maximum floor space ratio (FSR) of 20:1, including design excellence, comprising:
 - (i) mapped floor space of 7.5:1;
 - (ii) accommodation floor space of 1.5:1 (anticipated to be delivered as part of the changed to the LEP in the Central Sydney planning proposal, or this proposal, whichever is gazetted first);
 - (iii) end of journey floor space of 0.3:1;
 - (iv) site specific floor space of 8.89:1;
 - (v) additional floor space up to 10 per cent if the proposal demonstrates design excellence, to a maximum floor space ratio of 20:1;
 - (d) an option of up to 1.5:1 additional floor space ratio (FSR) located below ground for the provision of a laboratory, auditorium or hotel back of house facilities; and
 - (e) to ensure development consent can only be granted if the development delivers employment generating uses, a through-site link and public domain improvements.

Draft development control plan

18. A site specific DCP is at Attachment C to this report and provides further guidance for development on the site consistent with the LEP amendments. The draft DCP provisions include:
- (a) built form
 - (b) tower location
 - (c) setbacks
 - (d) street frontage heights
 - (e) vehicular access
 - (f) environmental amenity impacts
 - (g) design excellence

- (h) environmentally sustainable development targets.
19. Following feedback raised in submissions, the eastern setback to the planning envelope has been increased from 1 to 3 metres. The planning proposal and draft DCP have been updated to detail the revised setbacks that provide greater separation. Discussion on the revised setback is in the following sections of this report, at paragraph 54.

Voluntary planning agreement (VPA)

20. A VPA at Attachment D to this report was prepared and exhibited concurrently with the planning proposal and draft DCP. The public benefits secured through this VPA include monetary contributions towards community infrastructure in Central Sydney, and affordable housing in the City of Sydney local government area, along with a restrictive covenant on the use of the below ground floor space.

Key Implications

Outcomes of public exhibition and public authority consultation

21. The planning proposal, draft DCP and planning agreement were exhibited from 20 January to 18 February 2021.
22. The City sent 900 letters to nearby landowners and occupants to notify them of the public exhibition and provided information on how to view the supporting documentation, which was featured on the City's Sydney Your Say website.
23. A total of 22 submissions were received in response to the exhibition, of which one submission was in support of the proposal.
24. The City's response to the issues raised in submissions are discussed below and in the submissions table at Attachment A. Detailed legal submissions from the adjoining landowner are included at Confidential Attachment A1.

Public agency submissions

25. Public agency consultation was carried out in accordance with the gateway determination. Heritage NSW, Sydney Airport Corporation, Air Services Australia, Commonwealth Department of Infrastructure and Regional Development, Civil Aviation Safety Authority (CASA) and Transport for NSW were all consulted.
26. In their submission, Transport for NSW raised no significant issues with the planning proposal. However they advised that during the preparation of any future detailed development application for the site, the applicant should consider the preparation of a transport impact assessment to identify any potential impacts that may arise.

27. In a separate submission, Transport for NSW raised concerns regarding the planning envelope overshadowing the future Central station 'third square', and potential public space in the proposed over-station development at Central which is not policy or publicly known about. The planning proposal is consistent with the sun access plane provisions for Railway Square as part of the Central Sydney Planning Strategy which protects solar access to the northern section of the future square between 11.00am and 12.00 noon. Furthermore, the height of the planning envelope is consistent with the heights for the Haymarket Ultimo tower cluster, identified in the Strategy as a location where additional building height and density may be considered to allow for greater employment generating floor space.
28. The Commonwealth Department of Infrastructure and Regional Development advised the change to the maximum permissible building height for the subject site will result in penetration of the prescribed airspace for Sydney Airport. Any future detailed development application would constitute a controlled activity and require consultation and approval from Sydney Airport prior to determination.
29. Heritage NSW advised the planning proposal is unlikely to have any physical impact on any State heritage items. They did note potential visual impact to two State heritage items, namely the Sydney Terminal and Central Railway Station Group and Christ Church St Laurence. They advised that the proposal had the potential to interrupt and impact upon significant views of the Central Station clock tower and views of the Church. Further work is recommended at the detailed design stage to demonstrate how the new development can provide a more sympathetic backdrop and setting for the heritage items. It was also recommended that actions are taken to mitigate, manage and avoid any adverse impacts to nearby heritage items.
30. Sydney Airport and the CASA raised no objection to the proposal yet noted that due to the height of the planning envelope, any future detailed development application would require controlled activity approval from Sydney Airport, who will also consult other stakeholders.

Support

31. During public exhibition, a submission was received in support of the proposed scheme, noting Haymarket is in need of quality high-rise development as the business district expands. Amending the planning controls to allow for an increased maximum building height would help deliver a strong vibrant future for the city to overcome the constraints of space which could prevent further economic growth.

Additional building height and floor space

32. Seven submissions objected to the proposed height and density. The submissions expressed concern at the increase in the maximum building height, labelling the revised controls an extraordinary height not in keeping and would dominate the area, resulting in an overly dense environment with congestion impacts in Haymarket.
33. This planning proposal seeks to increase the maximum building height and floor space capacity in a manner consistent with the Central Sydney Planning Strategy. The Strategy has identified locations that can support development and opportunities for further economic growth that support the productivity of Sydney and NSW. Additional height and density is needed in these locations as Central Sydney is geographically constrained by the harbour, parks and the rail corridors.

34. This site is within the Haymarket Ultimo tower future cluster area identified in the Strategy where additional building height and density can be accommodated without overshadowing parks and public squares and where it is well serviced by existing and future transport. The planning envelope, at 215 metres, is in line with the heights envisaged by the Strategy in this location, as well as the new proposed towers by Atlassian and Dexu/Frasers at the Western Gateway precinct at Central Station.

Adverse public domain amenity impacts

35. Six submissions objected to the proposal on the grounds it would result in adverse impacts to public domain amenity. The submissions note the proposal may create wind tunnels, particularly along Valentine Street. They also noted that a tower of this height may overshadow surrounding streets and residential apartment buildings.
36. These issues were key considerations. The planning proposal is consistent with a key move of the Strategy in that additional building height and density may be unlocked where it will not result in significant adverse wind and daylight impacts to the public domain. The proposed planning envelope has been developed to ensure adverse environmental amenity impacts including excessive wind speeds are minimised. Wind tunnel testing has been completed as part of the preparation of this planning proposal.
37. The Wind Impact Assessment found the wind conditions in the surrounding public domain would generally remain comfortable and equivalent to the existing wind conditions. It did however identify some instances where the wind conditions would exceed the criteria for some uses, such as outdoor dining, which typically require a calm wind environment. To mitigate against any potential adverse conditions, the draft site-specific DCP includes provisions describing built form measures to address these issues, if needed. These measures include a notch on the western elevation above the podium and a rounded south-west corner of the building, which would redirect wind horizontally and away from the public domain.
38. The planning envelope has been amended to increase the eastern boundary setback from 1m to 3m. This increased setback will provide greater building separation and visual separation between any future development on the subject and adjoining sites, as well as preventing adverse wind conditions on Valentine Street.
39. Additional wind testing will take place following the design competition, as part of the detailed development application. Additional wind tunnel testing will be undertaken following the design competition and accompany the detailed development application, providing a detailed analysis on the wind impacts as a result of future development on site.
40. The planning proposal was accompanied by an Urban Design Report prepared by FJMT detailing the environmental amenity testing undertaken for the planning envelope to ensure consistency with the Strategy. The analysis measured the public domain daylight levels of the planning envelope compared to the base case envelope, expressed numerically as sky view factor (SVF). The daylight analysis found that the SVF for the proposed planning envelope would be equivalent to that of the base case envelope, and consistent with the requirements of the Strategy.

Heritage

41. Five submissions raised the potential of the proposal to impact on the character of Haymarket, as well as adjacent heritage items. The historic character of Haymarket was highlighted, noting there are limited historical buildings in the area and they should be protected from rampant development and kept intact as it is.

42. This planning proposal facilitates the redevelopment of the subject site, including demolition of the existing building, which was constructed in the late twentieth century and is not listed as a heritage item.
43. The subject site adjoins a local heritage item, the Sutton Forest Meat building and is in proximity to Christ Church St Laurence, a State heritage item on George Street. The planning envelope has been designed to ensure future development sympathetically responds to adjacent heritage. The podium height aligns with the height of the Sutton Forest Meat building and an 8 metre setback to Valentine Street preserves views to the Christ Church St Laurence. The draft site-specific DCP has been prepared to guide future development that positively relates to adjoining development, in an appropriate form, articulation and materials that will appropriately respond to nearby heritage.

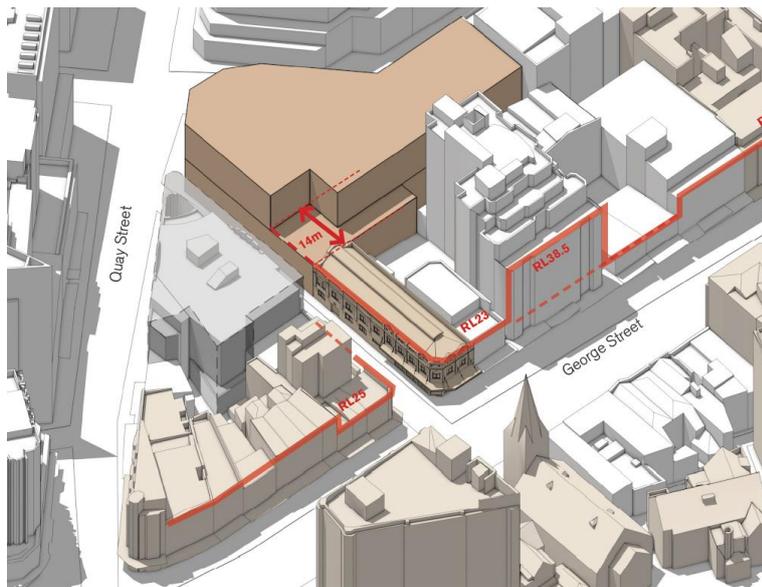


Figure 3: Podium height is setback to the eastern boundary to align with the adjoining Sutton Forest Meat Building heritage item.

Overshadowing of apartments

44. Three submissions objected to the planning proposal on the grounds the height and scale of the building would result in additional overshadowing of nearby residential apartment buildings, including the Quay Haymarket apartment building that fronts Quay Street to the west of the site.
45. A further detailed shadow study was prepared by FJMT and demonstrated that the proposal would not result in any additional overshadowing impacts at mid-winter to the Quay Haymarket apartment building, as it located to the north-west of the subject site. The adjacent apartment buildings fronting Quay Street, to the south of the site would experience some reduction in solar access, however most apartments will maintain at least two hours of daylight.

Impacts to Christ Church St Laurence

46. Five parishioners and the Parish Council of Christ Church St Laurence objected to the proposal, concerned future development would result in adverse impacts to the church. The church, located on George Street, fronts the intersection with Valentine Street and is 80 metres from the subject site. Issues raised include impacts to the view corridor along Valentine Street to the church, increased competition for on-street parking impacting elderly parishioners and additional overshadowing of the church and its stained-glass window. Objectors also noted the proposed tower may result in a wind tunnel effect along Valentine Street with adverse impacts upon outdoor liturgy services in front of the church, on George Street, as well as congregational gatherings after important services such as weddings and funerals.
47. Workers in the development are unlikely to drive to the new development and use on street parking as the subject site is located in close to Central Station which includes metropolitan and regional train connections, the Sydney Metro which is currently under construction, as well the tram and bus network. On-street parking in the area is also timed and unlikely to be used by workers. An amount of on-site parking is permitted under the current planning controls which will enable some on-site parking plus servicing.
48. Wind conditions in the Christ Church St Laurence forecourt on George Street were measured as part of the wind tunnel testing of the proposed envelope. Wind conditions outside the Church will generally remain suitable for standing, and congregating, following future development on the 187 Thomas Street site. Testing demonstrated a minor increase in wind speed from 3.6m/s to 4.2m/s, which is considered an appropriate wind speed for the use of the space, similar to the conditions for Railway Square and Hyde Park. The wind safety standard for the George and Pitt Street frontages of the church will continue to be achieved.
49. Following public exhibition additional shadow analysis was prepared on the impact of future development on the stained-glass windows on the Church's George Street elevation, shown in Figure 4 below. The study, prepared by FJMT tested shading on the Church's front facade every hour from 9.00am to 6.00pm, found the proposal would result in a modest amount of additional shadowing.
50. The results show 10 minutes of additional shadowing between 1.10pm and 1.20pm in summer; increasing to a maximum of 2hrs 15m between 1.25pm and 3.40pm at 21 March; and 5 minutes additional shadowing at 3.20pm in winter. It is noted the planning envelope forms the maximum extent of future development and it is anticipated that the final design may be reduced in bulk and scale following the design competition, reducing any further additional shadowing.

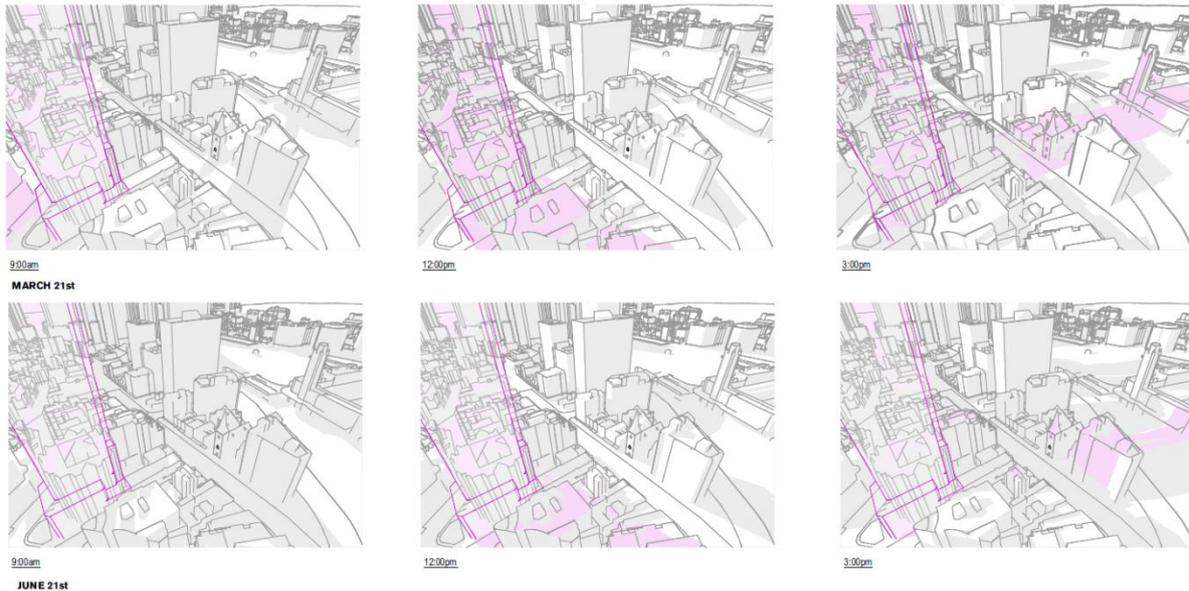


Figure 4: Shadow analysis of the planning envelope, outlined on Christ Church St Laurence, to the right, Existing shadows shown in grey and potential future shown in purple.

51. Views along Valentine Street towards Christ Church St Laurence, which is a State heritage item, were subject to careful considered during the preparation of the planning envelope, which includes a 14 metre podium setback to the eastern boundary to maintain the important views towards the Church, as shown in Figure 5, below.

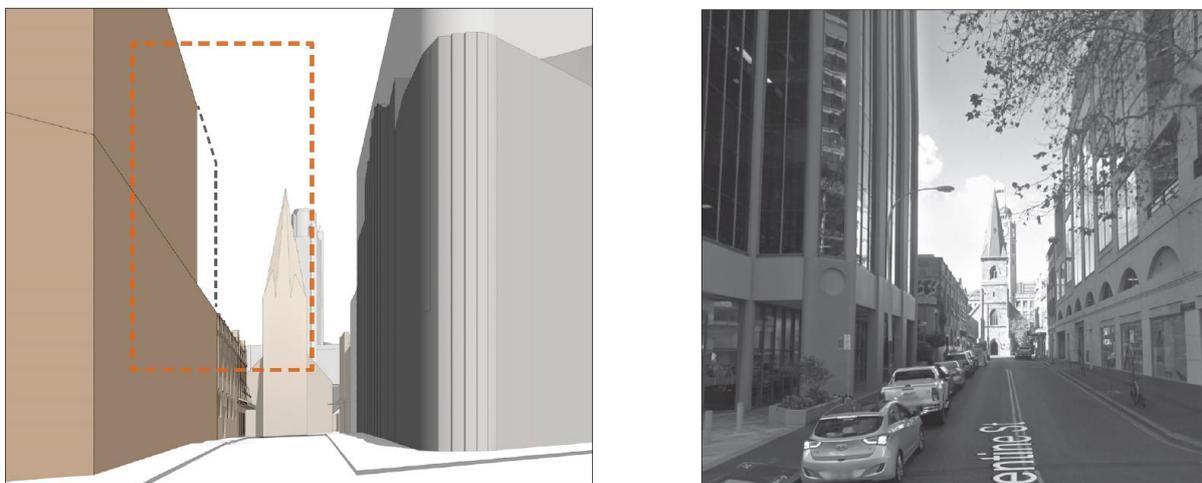


Figure 5: Existing and proposed views along Valentine Street towards Christ Church St Laurence, detailing the podium setback to the eastern boundary to maintain sky views (left).

Impacts to 757-763 George Street

52. The landowner of the two sites adjoining 187 Thomas Street along its eastern boundary lodged five submissions objecting to the planning proposal. Issues raised by the landowner are summarised and addressed below. The detailed legal submissions provided by the adjoining landowner are included at Confidential Attachment A1.

Contravenes the draft Central Sydney DCP and Sydney DCP 2012

53. The Central Sydney DCP provides guidance on suitable street and boundary setbacks and a mechanism to vary these setbacks where a planning envelope can demonstrate that it will not have an adverse impact on pedestrian wind and daylight conditions.
54. The publicly exhibited planning envelope included a one metre setback to the eastern boundary adjoining 757-763 George Street to a height of RL 178 metres. This elevation was primarily intended to accommodate the lift core and would not include any windows. Following a review of submissions, this setback has been revised to three metres, shown in Figure 6, below. The amended setback will increase the separation between future development on the adjoining sites to a minimum of six metres and nine metres to the west facing hotel rooms in the approved hotel development on the 757-763 George Street site.
55. This increased building separation will provide visual separation between the future buildings as read from Valentine Street and allow for the flow of wind to be directed between the two buildings, minimising adverse wind conditions and help maintain acceptable daylight levels at ground level. The increased building separation addresses the adjoining landowner's concerns regarding building separation and will provide the approved west facing hotel rooms with sufficient amenity.

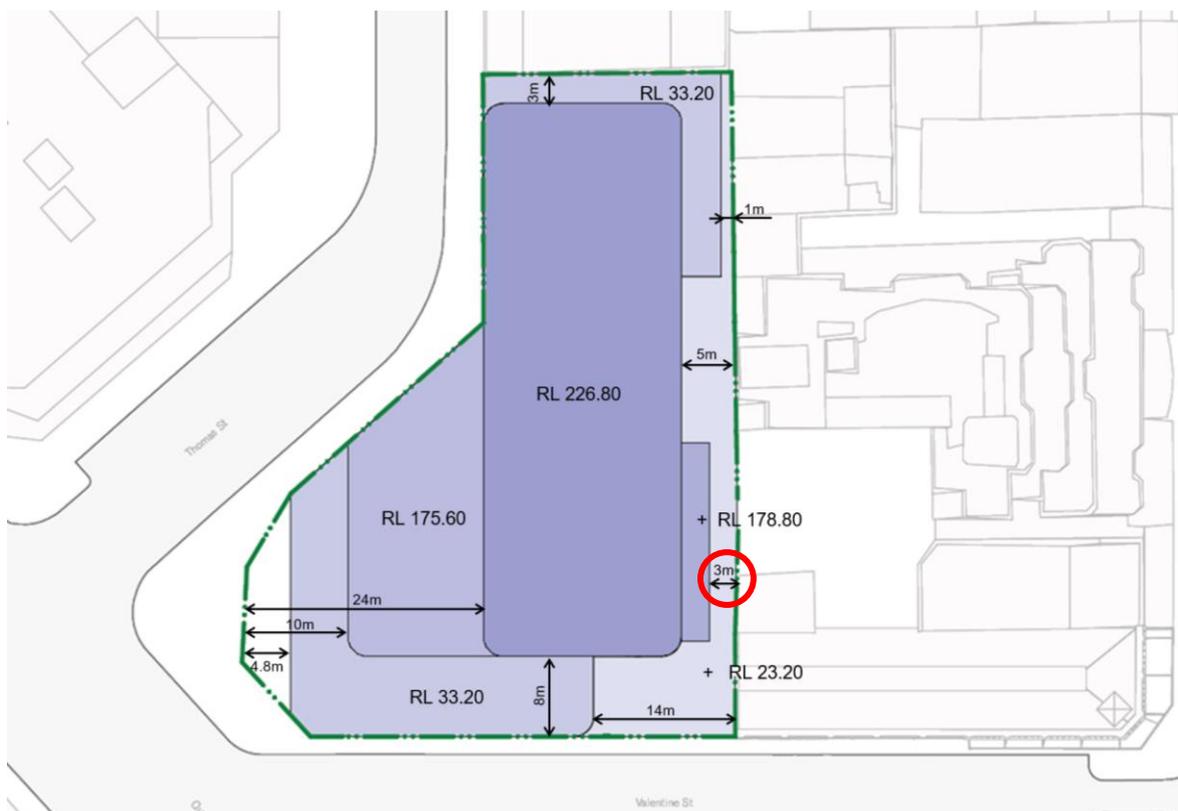


Figure 6: Indicative plans detailing the setbacks of the planning envelope, including the revised 3 metre eastern setback, shown circled.

Prevents amalgamation with 757-763 George Street

56. Progressing this planning proposal and the site-specific LEP provisions LEP does not require nor prevent the subject site amalgamating with an adjoining site in future. This planning proposal details the planning envelope and requirements to facilitate one particular development outcome. A development across amalgamated sites could proceed through various pathways depending on the nature of a proposal such as under the existing development controls of the LEP and DCP or further changes to the planning controls.
57. The Central Sydney Planning Strategy encourages amalgamation and identifies opportunities where amalgamation of adjoining sites could occur. However, it does not require amalgamation which could sterilise good development opportunities.

Fails to demonstrate site specific and strategic merit against Ministerial Directions and local strategies

58. In their submission, the adjoining landowner states that the subject planning proposal fails to demonstrate site specific and strategic merit in that it does not address the required Ministerial Direction, the Principles for Growth contained in the City's Local Strategic Planning Statement (LSPS) and the key moves of the Strategy.
59. The subject planning proposal for 187 Thomas Street, Haymarket has been assessed by the City and reported to Council, the Central Sydney Planning Committee and the Department who determined that it demonstrates sufficient site-specific and strategy merit to proceed.
60. In their gateway determination, the Department imposed conditions for greater discussion on the planning proposal's compliance with the section 9.1. Ministerial Directions and with the Principles for Growth contained in the City's (LSPS). All information requested by the Department in the gateway determination conditions was returned to the Department prior to commencement of public exhibition.
61. The planning proposal demonstrates sufficient site-specific and strategic merit as it will deliver additional employment generating floor space in a tower cluster area, close to public transport and will support emerging industries and businesses. The proposed development will also meet environmental requirements. Furthermore, as amended the planning envelope will help ensure future development will not result in significant adverse amenity impacts to the public domain and adjacent sites.

Inconsistent with the objects of the Environmental Planning and Assessment Act

62. The submission suggests that the subject planning proposal is contrary to the legislative objects of the Environmental Planning and Assessment Act relating to environmental outcomes, orderly development, design and amenity, assessment responsibilities and community participation as it did not acknowledge the non-compliances of the envelopes in its assessment.

63. The Strategy enables setbacks to be varied by creating metrics against which the planning envelope can be tested. The base case envelope, along with urban design considerations, enables variations where the planning envelope can demonstrate an equivalent or improved outcome. The Urban Design Report prepared by FJMT that accompanied the planning proposal included environmental amenity testing with a base case envelope that was consistent with the draft Central Sydney DCP requirements at the time when it was prepared and lodged. This includes the required 8 metre street setback, podium height, chamfers and tapering. As the base case envelope complies with the draft Strategy, the wind and daylight amenity testing is considered to give an appropriate assessment on the impact of future development on site.

Site isolation and impact on future development at 757-763 George Street

64. The planning envelope will not result in the isolation of any adjoining site. Surrounding sites are able to develop under the existing LEP provisions.
65. The adjoining site, 757-763 George Street currently holds development consent for a 15 storey hotel building (shown in Figure 7, below) that comprises the adaptive reuse of the Sutton Forest Meat Building, which is a local heritage item. This approval is independent of any development at the subject site and could proceed irrespective of a development on the subject site under the proposed planning controls.
66. The approval for 757-763 George Street includes west facing hotel rooms, approximately six metres from the common boundary. With the increased setback introduced following exhibition there is a minimum building separation of nine metres from the subject planning envelope, shown in Figure 8, below. This separation is considered to be appropriate and will deliver adequate amenity to these hotel rooms.
67. In addition to the development consent for a 15 storey hotel building, the adjoining site, 757-763 George Street landowner has also lodged a request to prepare a planning proposal to facilitate a taller hotel development. The request is currently under assessment by the City and will be reported to Council in coming months. The 187 Thomas Street planning proposal and the approved development consent for the 757-763 George Street site indicates that the site will not be adversely impacted or isolated by the subject planning proposal.

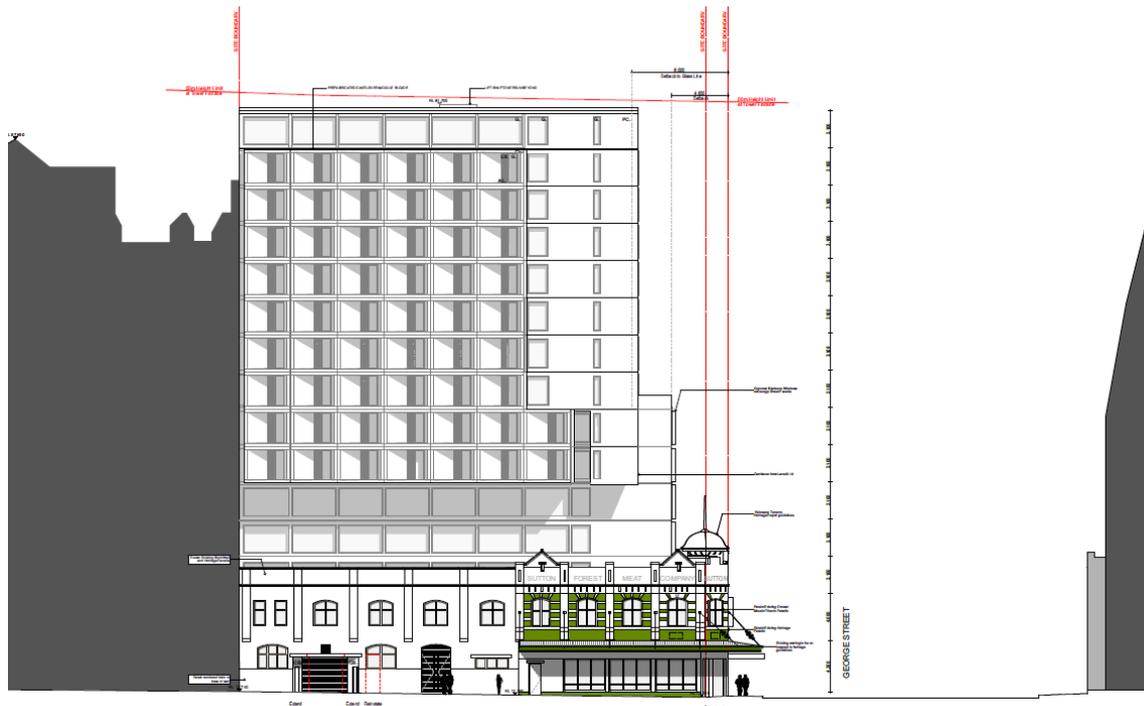


Figure 7: Valentine Street elevation of the approved hotel development on the 757-763 George Street site. Existing development on the 187 Thomas Street site is shown to the left.

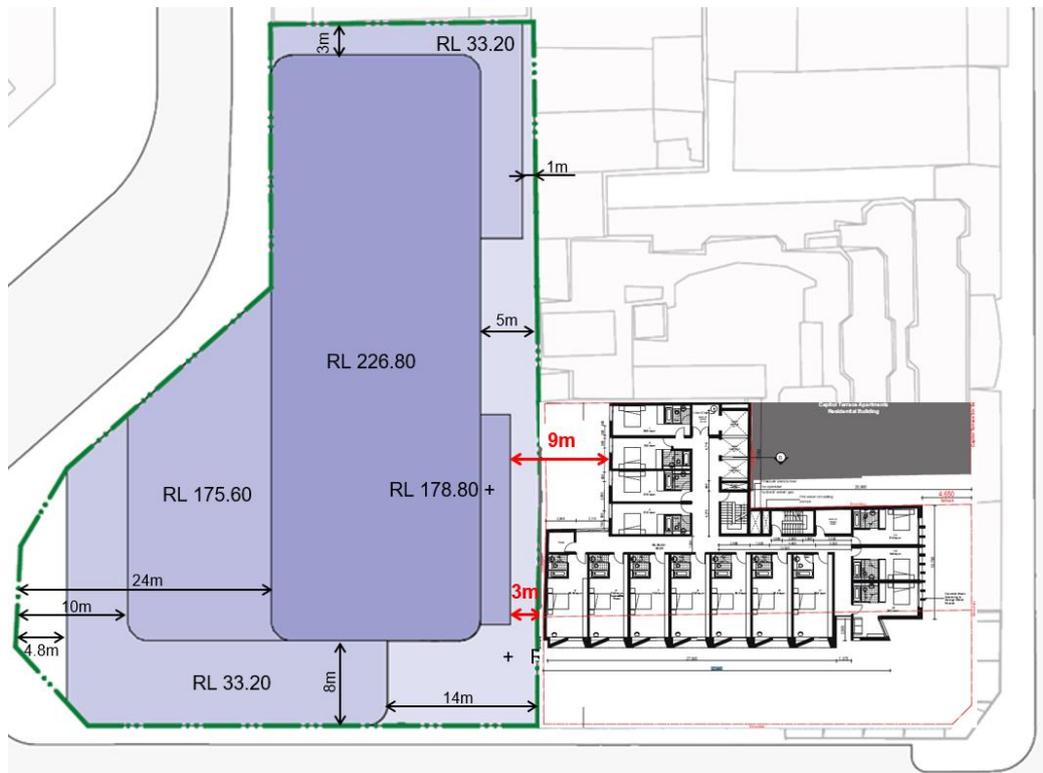


Figure 8: Indicative plans detailing the revised eastern setback of the planning envelope and separation to the west facing hotel rooms approved for the 757-763 George Street site.

Benefits of an amalgamated site

68. In their submission, the adjoining landowner suggests that a proposal that incorporates both the 187 Thomas Street and 757-763 George Street sites could result in greater benefits than a stand-alone proposal, maximising employment floor space yield.
69. The Strategy encourages the amalgamation of appropriate adjoining sites where possible, however, it does not require amalgamation. The Built Form Capacity Study, at Appendix B of the Strategy, identified possible amalgamations in Central Sydney including part of the subject block. The purpose of this study was to analyse the potential development capacity that could be delivered under the Strategy but was not to prescribe development outcomes. The Strategy does not establish a quantum of floor space that each site is required to achieve. The planning proposal is consistent with the intent of the Strategy as it will facilitate the delivery of additional employment generating floor space. It is a matter for individual landowners whether or not to proceed with site amalgamations.

Fails to give effect to the local strategic planning statement

70. The planning proposal is consistent with City Plan 2036, the City of Sydney's Local Strategic Planning Statement (LSPS). The planning proposal facilitates the delivery of additional employment generating floor space while protecting the amenity of the adjoining residential apartments in a planning envelope that ensures acceptable wind and daylight conditions in the adjacent public domain are maintained.
71. The City's LSPS sets a vision for a green, global and connected city, where new development will help deliver a stronger, more competitive Central Sydney that comprises a variety of business clusters. However, it does not place a target on the amount of new employment generating floor space that is to be delivered, nor does it require amalgamations. The planning proposal will deliver a significant amount of new commercial floor space, including an innovation tech hub to nurture and foster new start-up businesses.

Fails to properly consider the Central Sydney Planning Strategy

72. The planning proposal is consistent with the key moves of the Strategy as it will facilitate the delivery of additional employment generating floor space in a revised planning envelope that will result in acceptable amenity outcomes to adjoining sites and the public domain. Further, the proposal will deliver a development with design excellence and environmental performance, as well as capitalising on additional public transport in the precinct.

Fails to properly consider context through appropriate setbacks

73. The Strategy provides opportunities for tower setbacks to be varied where it can be demonstrated that adequate public domain amenity is maintained. The planning envelope has been prepared with consideration of its context and the surrounding heritage and urban built form.
74. The podium height fronting Valentine Street matches that of the adjoining heritage item, the Sutton Forest Meat Building and maintains views towards Christ Church St Laurence. Furthermore, the eastern setback has been increased to 3 metres to provide a clear visual distinction between any future development on the adjoining site and provide adequate separation.

Will not result in the orderly and economic use of land

75. The Strategy provides a 20 year plan to ensure Central Sydney is able to deliver continued growth. It includes new opportunities for additional building height and density that is balanced with the protection of public domain amenity and other urban design considerations. Provided sites meet a minimum size threshold (which the subject site does), the Strategy does not require sites to amalgamate to increase employment generating floor space through a planning proposal process.
76. The subject proposal provides for one specific development outcome for the 187 Thomas Street site. It will not render any adjoining site undevelopable nor impact any existing development approval as these sites will retain their existing development potential with the controls available under the LEP and DCP.

Fails to comply with the Department's Guideline for Preparation of Planning Proposals

77. The planning proposal is consistent with the requirements for the preparation and assessment of planning proposals as outlined in the Department's Guidelines. This is demonstrated by the issuing of the gateway determination. This planning proposal is consistent with the relevant state, district and local strategic plans.
78. The gateway determination confirms that the planning proposal has sufficient site specific and strategic merit to proceed to public exhibition, public authority consultation and plan making. The gateway determination notes the City was granted delegation to make the relevant amendments to the Sydney LEP 2012.

Economic justification

79. The planning proposal is consistent with the Strategy and LSPS in that it facilitates the delivery of additional employment generating floor space in an envelope that has appropriate environmental outcomes. It will not result in the isolation of any adjoining site or limit its development potential. Furthermore, the proposal will support increased economic activity that will contribute towards Haymarket's attractiveness for future economic investment, helping deliver a more competitive Central Sydney.

Validity of gateway determination

80. The issuing of a gateway determination by the Department indicates the planning proposal has demonstrated consistency with the relevant state, district and local strategic plans.
81. The gateway determination provisions under the EP&A Act provide for the Minister to determine that a "matter should proceed (with or without variation)" and "any conditions the council is required to comply with before the instrument is made". The gateway determination included a number of conditions, including providing greater discussion about the Ministerial Directions and the LSPS principles for growth prior to public exhibition.
82. The updated planning proposal was sent to the Department in November 2020. They advised that these conditions did not require approval prior to public exhibition, simply that the additional discussion should be included prior to commencing public exhibition. This condition of the gateway determination has been fulfilled.

Impacts to 191 Thomas Street

83. In their submission, the landowner of the adjoining site at 191 Thomas Street gives support to the proposal as it will enable the redevelopment of the subject site and help deliver on the vision of the Strategy. Objection is however raised in relation to the 3 metre setback to the common boundary between the two sites as it results in borrowing amenity from 191 Thomas Street and impacts the future development potential of 191 Thomas Street. The submission suggests that the planning proposal makes incorrect assumptions on potential future development scenarios and how the sites to the north are able to amalgamate under the Strategy, which impacts the redevelopment potential of the submitter's site.
84. The Strategy and draft Central Sydney DCP sets out that boundary setbacks may be varied where the planning envelope can demonstrate that it will not have an adverse impact on wind and daylight conditions in the public domain. The wind and daylight testing accompanying the planning proposal found the planning envelope will maintain equivalent daylight and wind public domain conditions as compared to the base case envelope. The testing was based on the existing built form on surrounding sites and no future development scenarios were included.
85. The planning envelope includes a 3 metre setback to the common boundary with the submitter's site to the north. This is consistent with the setback provisions in the Sydney DCP 2012 for commercial towers and would provide at least 6 metres separation between future development on both sites as required by the DCP.
86. The Built Form Capacity Study that accompanied the Strategy identified 187 Thomas Street forming part of an amalgamated block with the site to its east. The Study was an analysis of potential development capacity under the Strategy. Neither the Strategy or the Study prescribe a future development outcome or set a requirement for amalgamation.
87. This planning proposal seeks to facilitate site-specific provisions that detail one particular development outcome for the 187 Thomas Street site. The planning envelope will not prevent amalgamation or redevelopment of any adjoining site that may be sought under the existing controls of the Sydney LEP 2012 or through another planning proposal process consistent with the Strategy.

Post exhibition changes

Design Competition

88. The design excellence provisions in the draft DCP have been amended to reflect the changes to the competitive design policy for Central Sydney approved by Council in December 2020.
89. The landowner has committed to a process that reflects the amended competitive design policy. The draft DCP has been align with the competitive design policy for tower cluster areas. The amended provisions provide a higher benchmark for design excellence with greater sustainability credentials and gender representation, which aligns with the Strategy and Guidelines for Site Specific Planning Proposals.

Strategic Alignment

Strategic Alignment - Central Sydney Planning Strategy

90. As the economic heart of Australia's most global city, Central Sydney plays a critical role in the continued growth and economic success of Greater Sydney, New South Wales and the national economy. The 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 2030 program.
91. This planning proposal is aligned with the following relevant key moves of the Central Sydney Planning Strategy:
- (a) Key Move 1: Prioritise employment growth and increase capacity - this planning proposal will facilitate additional employment generating floor space in Haymarket, contributing to growth in Central Sydney.
 - (b) Key Move 2: Ensure development responds to context - by ensuring compliance with wind and daylight requirements, this planning proposal ensures future development is responsive to its context and will not result in adverse impacts in the public domain.
 - (c) Key Move 4 - Provide for employment growth in new tower clusters - this planning proposal is within the Haymarket Ultimo tower cluster area, with the proposal to deliver addition employment floor space.
 - (d) Key Move 5: Ensure infrastructure keeps pace with growth - in accordance with the Guidelines, this proposal facilitates a contribution towards community infrastructure in Central Sydney and towards the provision of more affordable housing in the City of Sydney local government area.
 - (e) Key Move 6: Move towards a more sustainable city - the draft DCP includes sustainability targets, in accordance with the Strategy and Guidelines.
 - (f) Key Move 7: Protect, enhance expand Central Sydney's heritage, public places and spaces - the proposed envelope includes sufficient setbacks and provisions to ensure future development is responsive and sensitive to nearby heritage.
 - (g) Key Move 8: Move people more easily - the site is well located, close to existing and planned public and active transport investment including the light rail, metro and upgrades to the pedestrian network.
 - (h) Key Move 9: Commitment to design excellence - future development will be subject to an architectural design competition.
92. This planning proposal is consistent with the vision and key moves of the Strategy.

Strategic Alignment – Metropolitan, regional and local planning

93. The Greater Sydney Commission's Greater Sydney Plan and Eastern City District Plan shape strategic planning and infrastructure across Greater Sydney. The plans align planning from a broad region plan to a suburban district and the local area. The City's LSPS sets the overall land use planning strategy for the city, and is required to align with the Region and District plans. The City's planning controls are required to give effect to these strategic plans.

94. The Region Plan, District Plan and Local Strategic Planning Statement adopt planning priorities of similar themes, being productivity, liveability, infrastructure, sustainability and governance. How this proposal gives effect to these priorities is discussed in detail in the planning proposal and summarised below:
- (a) **Productivity** - the planning proposal will deliver additional employment generating floor space for new hotel, innovation and office uses close to existing and future transport infrastructure, contributing to the Central Sydney economy. In addition to meeting this objective of the Greater Sydney Region Plan, the proposal gives effect to productivity strategic planning priorities, particularly:
- (i) Eastern City District Plan Priorities
- a. E7 - Growing a stronger and more competitive Harbour CBD
 - b. E11 - Growing investment, business opportunities and jobs in strategic centres
 - c. E13 - Supporting growth of targeted industry sectors in the District Plan
- (ii) Local Strategic Planning Statement Priorities
- a. P7 - Growing a stronger, more competitive Central Sydney
 - b. P8 - Developing innovative and diverse business clusters in City fringe
- (b) **Liveability** - the planning proposal's indicative concept includes retail activation and public domain upgrades - extending the adjoining future public square on Quay Street, improving the liveability of the surrounding area for local residents, workers and visitors. The proposal also gives effect to liveability strategic planning priorities, particularly:
- (i) Eastern City District Plan Priorities
- a. E10 - Delivering integrated land use and transport planning for a 30 minute 30
- (ii) Local Strategic Planning Statement Priorities
- a. L5 - Creating great places
- (c) **Infrastructure** - future development on site will support the delivery of community infrastructure including public domain upgrades in the City South and Chinatown areas. The proposal gives effect to the infrastructure strategic planning priorities particularly:
- (i) Eastern City District Plan Priorities
- a. E1 - Planning for a city supported by infrastructure in the District Plan
- (ii) Local Strategic Planning Statement Priorities
- a. I1 - Movement for walkable neighbourhoods and a connected city
 - b. I2 - Align development and growth with supporting infrastructure

- (d) **Sustainability** - this planning proposal will facilitate the delivery of a new building with markedly improved sustainability outcomes. In addition to meeting this objective of the Greater Sydney Region Plan, the proposal gives effect to the sustainability strategic planning priorities particularly:
- (i) Eastern City District Plan Priorities
 - a. E19 - Reducing carbon emissions and managing energy, water and waste efficiently in the District Plan.
 - (ii) Local Strategic Planning Statement Priorities
 - a. S11 - Creating better buildings and places to reduce emissions and water and use water more efficiently.

Strategic Alignment - Sustainable Sydney 2030

95. 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 plan is aligned with the following strategic directions and objectives:
- (a) Direction 1 - A globally competitive and innovative city - the proposal will support and foster new investment opportunities through the provision of additional employment generating floor space and the proposed innovation tech hub.
 - (b) Direction 2 - A leading environmental performer - the site-specific draft DCP that accompanies the planning proposal includes ambitious sustainability targets.
 - (c) Direction 3 - Integrated transport for a connected city - the site is well located to capitalise on existing and future public transport connections at Central train station, bus stops, the new light rail and future Sydney Metro station.
 - (d) Direction 4 - A city for walking and cycling - the proposal maintains and improves the accessibility of the existing pedestrian connection and will deliver public domain upgrades including extending the future square on Quay Street.
 - (e) Direction 5 - A lively and engaging city centre - the proposal includes a mix of active uses including fine grain retail, outdoor dining and visitor accommodation, which will deliver greater levels of activation to surrounding area.
 - (f) Direction 6 - Vibrant local communities and economies - the planning proposal will enhance Haymarket with increased opportunities for investment, employment and new facilities for workers, residents and visitors.
 - (g) Direction 7 - A cultural and creative city - the draft DCP includes provisions to ensure the delivery of high quality public art on site.
 - (h) Direction 8 - Housing for a diverse population - the planning proposal will facilitate a contribution towards affordable housing in the City of Sydney local government area.
 - (i) Direction 9 - Sustainable development, renewal and design - future development will be subject to the attainment of key sustainability benchmarks.

Relevant Legislation

- 96. Environmental Planning and Assessment Act 1979.
- 97.** Environmental Planning and Assessment Regulation 2000.

Critical Dates / Time Frames

- 98. The gateway determination requires that the amendment to the Sydney LEP 2012 is completed by 9 November 2021.
- 99. 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.
- 100. If approved by Council, the revised DCP will come into effect on the same day as the amendment to the LEP.
- 101. 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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