

Item 10.

Post Exhibition - Planning Proposal - 30-62 Barcom Avenue, Darlinghurst - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

File No: X018299

Summary

In May 2018, Ethos Urban, on behalf of site owner Clanricarde, submitted a request to amend Sydney Local Environmental Plan 2012 (Sydney LEP 2012) as it applies to 30-62 Barcom Avenue, Darlinghurst (site). The request sought to increase the maximum building height and Floor Space Ratio (FSR) to enable a co-working office space above the existing warehouse building.

Council and the Central Sydney Planning Committee resolved to publicly exhibit draft planning controls for the site in September 2018. The draft controls consist of a Planning Proposal to increase the maximum FSR and building height controls in Sydney Local Environmental Plan (LEP) 2012 and an accompanying amendment to Sydney Development Control Plan (DCP) 2012 which establishes building envelope controls.

The site is located in a mixed-use area on the City's eastern fringe, within 800 metres of Kings Cross Station. It is part of the Harbour CBD in the Greater Sydney Commission's District Plan and the City Fringe precinct under the City's Local Strategic Planning Statement, both of which have a focus on productivity objectives following a period of sustained residential growth. It is serviced by a number of bus and cycle routes connecting the site to the CBD and Bondi Junction. It comprises a part-two, part-three storey warehouse building which is currently occupied by a self-storage facility.

The surrounding area is zoned B4 Mixed Use. It is generally residential in character, with a small cluster of commercial buildings immediately adjacent to and including the site. Directly opposite lies the Barcom Avenue Heritage Conservation Area which is dominated by one to three storey Victorian terraces. The site is not within the heritage conservation area.

In July 2019, the Department of Planning, Industry and Environment (Department) issued a Gateway Determination which allowed the public exhibition of the Planning Proposal subject to some changes to its intended outcomes. The most notable of these changes was a requirement by the Department to remove a proposed LEP provision requiring a 6 star NABERS Energy Commitment Agreement in conjunction with the increased building height and FSR.

A review of this Gateway Determination requirement by the Independent Planning Commission in May 2020 upheld the Gateway Determination. The NABERS provision was removed as required and the amended Planning Proposal and draft DCP were publicly exhibited from 17 December 2020 to 27 January 2021. However, due to an administrative oversight, the exhibition did not meet the minimum mandatory community consultation periods required under the Environmental Planning and Assessment Act 1979 and the Planning Proposal and draft DCP amendment were re-exhibited from 3 September to 1 October 2021.

The City received 17 submissions from, or on behalf of, local residents in addition to responses from Transport for New South Wales and the Office of Environment and Heritage. Key issues raised by local residents relate the scale of the proposal and likely impacts associated with overshadowing, loss of privacy, traffic and parking. The proponent has submitted further information and analysis to address these matters. Neither state agency raised concerns relating to the proposals.

A summary of submissions, including responses from the City, is provided at Attachment E and key issues are discussed in the body of this report.

A submission was also received from the proponent which requested changes to the built form envelope controls in the draft DCP. However, this would likely result in additional amenity impact on neighbours and is therefore not proposed for incorporation into the DCP following exhibition.

At their meeting of 14 October 2021 the Central Sydney Planning Committee deferred their consideration of the outcomes of the exhibition pending a site visit to better understand the issues raised by the community. Members of the Committee visited the site and several surrounding residential properties on 26 October 2021 and again on 2 November 2021.

The Planning Proposal has been updated in response to submissions following exhibition and the site visits to ensure overshadowing is addressed before development consent is granted for additional height and FSR. The draft DCP has also been amended to secure solar access and amenity for neighbouring dwellings.

In summary, the LEP amendment, as updated following exhibition, allows for a building with an FSR of up to 3.75:1 and height of 18 metres given the following conditions:

- the whole building is for a use other than residential accommodation or tourist and visitor accommodation;
- any building height and/or floor space additional to that already on site is restricted to commercial premises uses;
- the impact on solar access to neighbouring residential dwellings is considered by the consent authority when assessing any future development application; and
- no additional car parking is provided in association with any additional height and/or floor space.

The accompanying draft DCP, as amended following exhibition, proposes the following site-specific provisions:

- revised building envelope controls which setback the fourth storey and limit the height of the third and fourth storeys to ensure no additional overshadowing to the windows and open space of neighbours and remove the visual impact to the adjoining neighbour at 64 Barcom Avenue;
- setbacks, retention of the existing building and requirements for privacy treatments to improve amenity compared to a residential scheme under existing controls;
- a 6 star building NABERS Energy Commitment Agreement prior to development;
- the provision of a green roof to support the NABERS Energy outcome; and

- a requirement for a Green Travel Plan at development application stage to promote sustainable travel behaviours.

This report recommends the Central Sydney Planning Committee approve the Planning Proposal and draft DCP, as amended following exhibition. It is noted that the Council will seek to exercise its delegation to amend Sydney Local Environmental Plan 2012 in accordance with the Planning Proposal.

Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note the requirements of the Gateway Determination issued by the Department of Planning, Industry and Environment to amend the contents of Planning Proposal: 30-62 Barcom Avenue, Darlinghurst prior to exhibition, as shown at Attachment D to the subject report;
- (B) the Central Sydney Planning Committee note the matters raised in response to the public exhibition of Planning Proposal: 30-62 Barcom Avenue, Darlinghurst and Draft Sydney Development Control Plan 2012 - 30-62 Barcom Avenue, Darlinghurst, as shown at Attachment E to the subject report;
- (C) the Central Sydney Planning Committee approve Planning Proposal: 30-62 Barcom Avenue, Darlinghurst, shown at Attachment A to the subject report and amended in response to submissions, to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (D) the Central Sydney Planning Committee note the recommendation that Council approve Draft Sydney Development Control Plan 2012 - 30-62 Barcom Avenue, Darlinghurst, as shown at Attachment B to the subject report and amended in response to submissions, noting that the approved development control plan will come into effect on the date of publication of the subject local environmental plan; and
- (E) authority be delegated to the Chief Executive Officer to make minor variations to Planning Proposal: 30-62 Barcom Avenue, Darlinghurst and Draft Sydney Development Control Plan 2012 - 30-62 Barcom Avenue, Darlinghurst to correct any minor drafting errors prior to finalisation.

Attachments

- Attachment A.** Planning Proposal: 30-62 Barcom Avenue, Darlinghurst. November 2021 (Post exhibition changes marked in red)
- Attachment B.** Draft Sydney Development Control Plan 2012 - 30-62 Barcom Avenue, Darlinghurst, November 2021 (Post exhibition changes marked in red)
- Attachment C.** Resolution of Council -17 September 2018 and Resolution of Central Sydney Planning Committee - 13 September 2018
- Attachment D.** Gateway Determination - 11 July 2019
- Attachment E.** Summary of Submissions and Responses
- Attachment F.** Overshadowing Analysis
- Attachment G.** Traffic and Parking Impact Assessment Prepared by Barker Ryan Stewart

Background

Site details and context

1. 30-62 Barcom Avenue, Darlinghurst (the site) comprises a part-two, part-three storey warehouse building occupied by a self-storage facility.
2. The site is an irregular 'L' shape with an area of 992.5 square metres and a frontage to Barcom Avenue of approximately 45 metres. The site slopes significantly from RL 15-16m AHD at Barcom Avenue to RL 8.7m AHD at the eastern boundary. The cross fall equates to approximately 7-8 metres over the site and results in the existing building presenting as a two storey warehouse on the Barcom Avenue frontage and three storeys at its rear elevation.
3. The surrounding area is mixed use, generally comprising residential development along with business uses at the north eastern end of Barcom Avenue with a five storey car dealership adjoining the site to the east (at the corner of New South Head Road and McLachlan Avenue), and a one to three storey car dealership located at the rear of the site (on McLachlan Avenue).
4. Adjoining the site to the west along Barcom Avenue are a number of two storey terrace houses. Similarly, two storey terrace houses are also located opposite the site, along the northern side of Barcom Avenue. A four storey residential apartment building is located to the south on McLachlan Avenue.
5. The site is directly opposite the Barcom Avenue Heritage Conservation Area, which is dominated by one to three storey Victorian terraces. All of the properties directly opposite the site are 'contributory buildings' within the heritage conservation area.
6. The area is zoned B4 Mixed Use. Commercial uses are permissible with consent.
7. The site is located in Darlinghurst, to the east of Central Sydney. It benefits from convenient public transport access, located within 800 metres of Kings Cross Station and serviced by a number of bus and cycle routes connecting the site to Central Sydney and Bondi Junction.
8. The site location and surrounding context are shown in Figures 1 and 2. Photos of the site and its surroundings are shown in Figures 3 and 4.



 32-60 Barcom Avenue (the site)

Figure 1: Site location

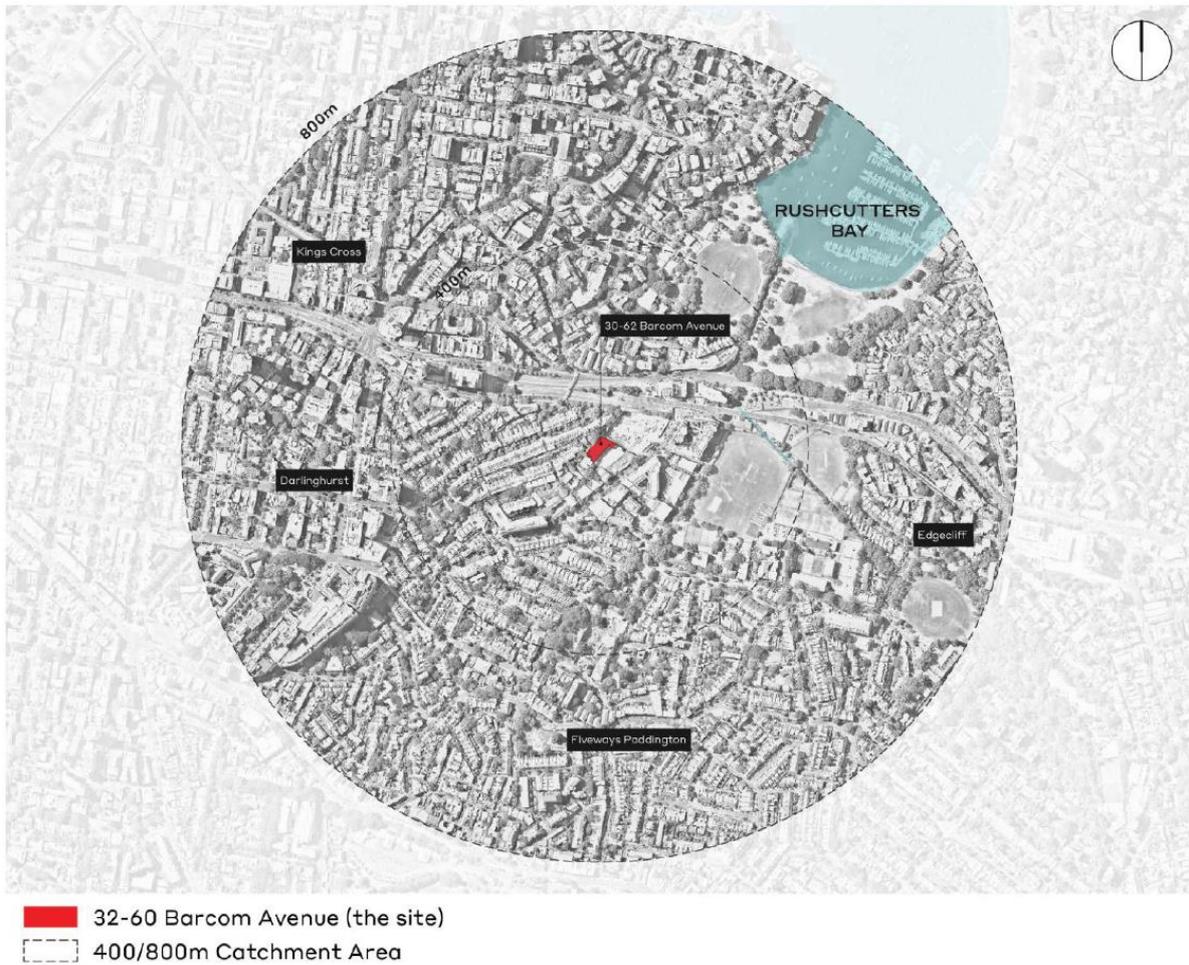


Figure 2: Site context



Figure 3: Photographs of the site and existing building, looking north-east towards the neighbouring commercial development (left) and looking south-west towards the neighbouring residential terraces (right) (taken 26 October 2021)



Figure 4: Residential interface with site, 2 storey terraces on Barcom Ave to south-west of site (left – photograph taken from balcony at 9/61-63 McLachlan Ave, fourth floor) and view towards four storey apartment building at 61-63 McLachlan Ave to south of site (right – photograph taken from rear of subject site, second floor) (taken 26 October 2021)

Planning History

9. The site has been the subject of two previous development applications. In July 1997 a development application for the renovation and refurbishment of the existing self-storage facility, including an additional storey providing an extra 860 square metres of floor area, was refused by Council as it did not comply with the height and FSR controls.
10. In September 2008 a development application (D/2008/1705) sought consent for several amendments to the existing building, including the construction of an additional storey. Council granted consent to the majority of amendments but did not grant development consent for the additional storey as it did not comply with the height control.
11. Previous development applications were determined eight and 19 years ago, when a former 12 metre height limit applied to the site. Recently a number of sites within the vicinity have been redeveloped, including the adjacent BMW vehicle dealership which is now of similar scale and height to the proposal.

Planning Controls and proposed changes

12. The existing warehouse building is built to the boundary, with a maximum building height of around 12.1 metres and an existing FSR of approximately 2.45:1. The existing planning controls allow for a maximum building height of 15 metres and a maximum FSR of 2:1.
13. In May 2018, Ethos Urban, on behalf of site owner Clanricarde, submitted a request to amend Sydney Local Environmental Plan 2012 (Sydney LEP 2012) as it applies to 30-62 Barcom Avenue, Darlinghurst. The request sought to increase the maximum building height and FSR to enable a local co-working office space in and above the existing warehouse building.

14. The resulting development would be a four-storey non-residential building with a maximum gross floor area of 3,535 square metres, made up of:
 - (a) an existing 2,375 square metres of self-storage premises over three levels (basement to level 1); and
 - (b) 1,160 square metres of office premises over two storeys (levels 2 and 3).
15. An indicative development concept submitted with the Planning Proposal request envisages the co-working office space as comprising:
 - (a) a combination of private offices (90-95%) and permanent desks (5-10%), which will range in size to suit varying sizes of teams (from two person offices to 10 person offices);
 - (b) flexible spaces including meeting rooms, a board room, break out spaces and phone booths;
 - (c) kitchen facilities;
 - (d) bike storage and private end-of-trip facilities; and
 - (e) no parking for private vehicles.

Draft Planning Controls

16. Council and the Central Sydney Planning Committee resolved to publicly exhibit draft planning controls for the site in September 2018. The resolutions of Council and the Central Sydney Planning Committee are at Attachment C. The draft controls are in a Planning Proposal to amend Sydney LEP 2012 and an amendment to Sydney DCP 2012.
17. The proposed LEP amendments allowed a building with an FSR of 3.75:1 and height of up to 18 metres subject to all of the following conditions being met:
 - (a) the whole building is to be used for non-residential purposes;
 - (b) there is to be no increase in car parking on the site; and
 - (c) a 6 star building NABERS Energy Commitment Agreement is in place.
18. The draft DCP established detailed controls around the building envelope to ensure an appropriate relationship with the heritage conservation area and neighbouring residential terraces. It also supported an ecologically sustainable development opportunity presented through redevelopment of the site. The DCP provisions include:
 - (a) height in storeys;
 - (b) setbacks; and
 - (c) encouraging the provision of a green roof.

19. Council and the Central Sydney Planning Committee resolved that the proposal demonstrated strategic merit through sustainability improvements and the opportunity to support Sydney's start-up business community via the provision of flexible co-working office space. The proposal was considered to represent an appropriate built form outcome in a sustainable, mixed use location serviced by existing infrastructure.

Gateway Determination

20. The City requested a Gateway Determination from the Greater Sydney Commission (the GSC) in October 2018. Various requests for further information and clarification of the Planning Proposal's intentions and objectives were made by the Department of Planning, Industry and Environment (the Department) on the GSC's behalf until May 2019.
21. The Department issued a Gateway Determination and supporting report in July 2019, provided at Attachment D. It required the Planning Proposal to be amended prior to community consultation. The required amendments:
 - (a) clarify the explanation of provisions (and related objectives and intended outcomes);
 - (b) clarify the restrictions to land use types and car parking which are to apply to the additional floor space and height; and
 - (c) remove the provisions for a 6 star NABERS Energy Commitment Agreement.
22. The City supported the changes required by the Gateway Determination to the objectives and explanation of provisions in the Planning Proposal which relate to the description of land use types that are to be accommodated in the resulting floor space. These changes were worked through collaboratively to better reflect the intended outcomes of the Planning Proposal and the City agreed to the changes with the Department prior to issue of the Gateway Determination.
23. The City did not support the Department's grounds for removing the provision for a 6 star NABERS Energy Commitment Agreement from the Planning Proposal at the time.

Independent Planning Commission's review of the Gateway Determination

24. The City requested the Independent Planning Commission (the IPC) review the Gateway Determination requirement for the removal of the provision for a 6 star NABERS Energy Commitment Agreement from the Planning Proposal.
25. Following correspondence and meetings with the Department to discuss the contentions, the Department forwarded the Gateway Review request to the IPC in April 2020 and a decision was issued in May 2020.
26. The IPC decision concludes that appropriate ecological sustainable development (ESD) standards can be achieved on the site through the National Construction Code and the proposed site-specific amendment to the DCP. As a result, the Commission upheld the Gateway Determination.

Changes to the Planning Controls required by the Gateway Determination

27. In accordance with the conditions of the Gateway Determination, the Planning Proposal was amended to more clearly articulate the uses and any associated car parking which would be permitted for both the existing building and proposed floor space. The Planning Proposal was also amended to remove the requirement for a 6 star NABERS Energy commitment agreement.
28. The proposed LEP controls, as amended, allow a building with an FSR of 3.75:1 and height of up to 18 metres subject to all of the following conditions being met:
 - (a) the whole building is not used for residential accommodation or tourist and visitor accommodation;
 - (b) any building height and/or floor space additional to that already on site being restricted to commercial premises uses; and
 - (c) car parking associated with any additional height or floor space is prohibited.
29. The requirement for a 6 star NABERS Energy commitment agreement remains in the draft DCP.
30. In accordance with the requirements of the Gateway Determination, the revised Planning Proposal was provided to the Department for review and approved for community and agency consultation. The Department also extended the timeframe for completing the LEP until 11 June 2021.

Consultation and submissions

31. The revised Planning Proposal and DCP amendment were placed on public exhibition from 17 December 2020 to 27 January 2021. The City sent 37 letters to local residents and adjoining business owners to notify them of the exhibition and it was also advertised via the City's Sydney Your Say webpage and in the Sydney Morning Herald. Given that the original exhibition included the Christmas and New Year period, it did not meet the minimum mandatory community consultation periods required under the Environmental Planning and Assessment Act 1979. The Planning Proposal and DCP amendment were therefore re-exhibited from 3 September to 1 October 2021, with local residents and adjoining business owners being re-notified by letter.
32. The Gateway Determination required the City to consult with various State agencies, including the Office of Environment and Heritage (OEH), Transport for NSW (TfNSW), and Roads and Maritime Services (RMS).
33. The Office of Environment and Heritage noted the proposed building envelopes and indicative concept designs would not result in any additional overshadowing of the local heritage items or heritage conservation area and that a two-storeyed street wall character would be maintained adjacent to the heritage conservation area. As such, OEH considers this to be an acceptable heritage response. OEH also noted that as these items and the conservation area are listed under the City's LEP, Council is the consent authority and consideration of any impacts rests with Council.
34. Transport for NSW raised no objection to the Planning Proposal, noting the integrity of TfNSW infrastructure and reservations is to be maintained.
35. No response was received from RMS.

36. A number of local resident submissions were received, 12 individual written submissions, 3 submissions via Sydney Your Say and 1 on behalf of the owners corporation at 61-63 McLachlan Avenue. A submission was also made by Alex Greenwich (MP) on behalf of his constituents in the local area. No additional comments were received as a result of the re-exhibition.
37. The key issues raised by local residents relate to the scale and bulk of the resulting building, with most submissions considering the proposal to represent an overdevelopment of the site in a residential and heritage area. Many submissions also highlighted concerns over likely impacts on traffic and parking in the area. The impacts of overshadowing and loss of privacy were also raised by adjacent properties.
38. On 26 October 2021, and again on 2 November 2021, visits of the Central Sydney Planning Committee were organised for available members to view the site and nearby residential properties at 1A Barcom Ave, 64 Barcom Ave, and apartments 1, 2 and 9 of 61-63 McLachlan Ave to further understand the issues raised in submissions.
39. The issues are discussed below. The submissions received, together with the City's response, are summarised at Attachment E.

Scale and bulk

40. A number of local residents expressed concern over the scale and bulk of the proposal, believing that it will result in a large, bulky commercial building that will be too large for the street. Residents in the immediate vicinity of the site are concerned about the impact on outlook from their properties. The potential for the proposal to feel overbearing from within the private open space of 64 Barcom Ave was also raised.
41. Whilst the existing warehouse on the subject site currently only has two storeys, these are warehouse storeys which have a greater floor to floor height than the nearby residential properties. At its highest point, the existing building sits below the current 15 metre height limit, equivalent to four residential storeys. Its skillion roof slopes down by approximately 1.67 metres to the street frontage.

42. The development concept incorporates a third storey partially within the roof space of the existing warehouse, so that it would exceed the existing height of the building's eastern wall by 180mm. This increased scale would be seen by the neighbour at 64 Barcom Avenue. Therefore it is proposed to include an additional requirement in the DCP which restricts the third storey height to that of the height of the existing building at this point on the site being RL 25.61. (see Figure 6.)

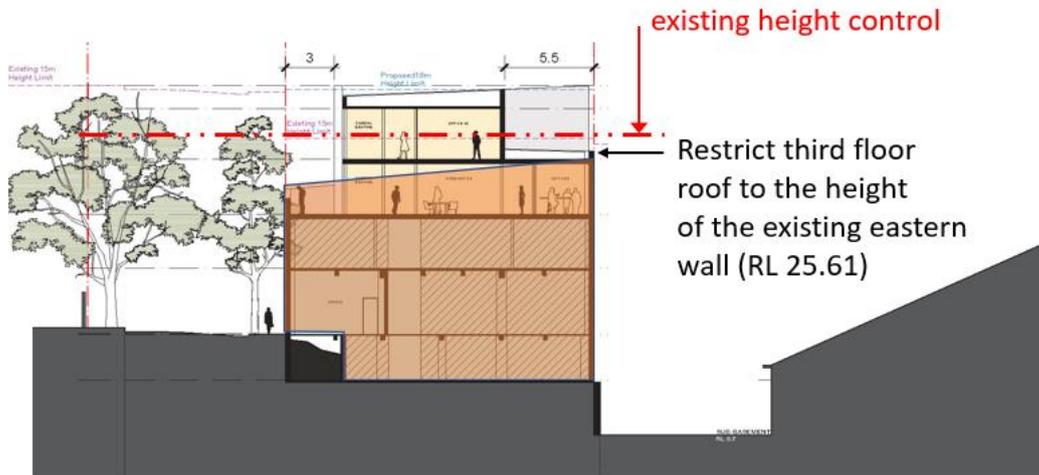


Figure 6: Sections viewed from south-west. Proposed building envelope (shown in yellow) and existing warehouse (shown in orange) superimposed to demonstrate relative heights and overall additional height and bulk proposed.

43. The proposed fourth storey which takes advantage of the additional height is to be set back 6 metres from the south-west elevation (adjoining 64 Barcom Avenue) and 5.5 metres from the rear building line for a defined distance, so that it will not be perceived from the private open space of 64 Barcom Avenue. These setbacks are required by the DCP.
44. At the street front, both the third and fourth storeys are to be set back three metres from the street frontage, so that it sits well behind the building line of the residential terraces on the same side of Barcom Avenue and some 15 metres away from 1A Barcom Avenue opposite. These setbacks, which are to be secured via provisions in the DCP, are considered to set appropriate limits on any future development's overall scale and bulk.
45. A 3D diagram at Figure 7 shows the proposed building envelope in perspective looking north towards the side and rear elevations.

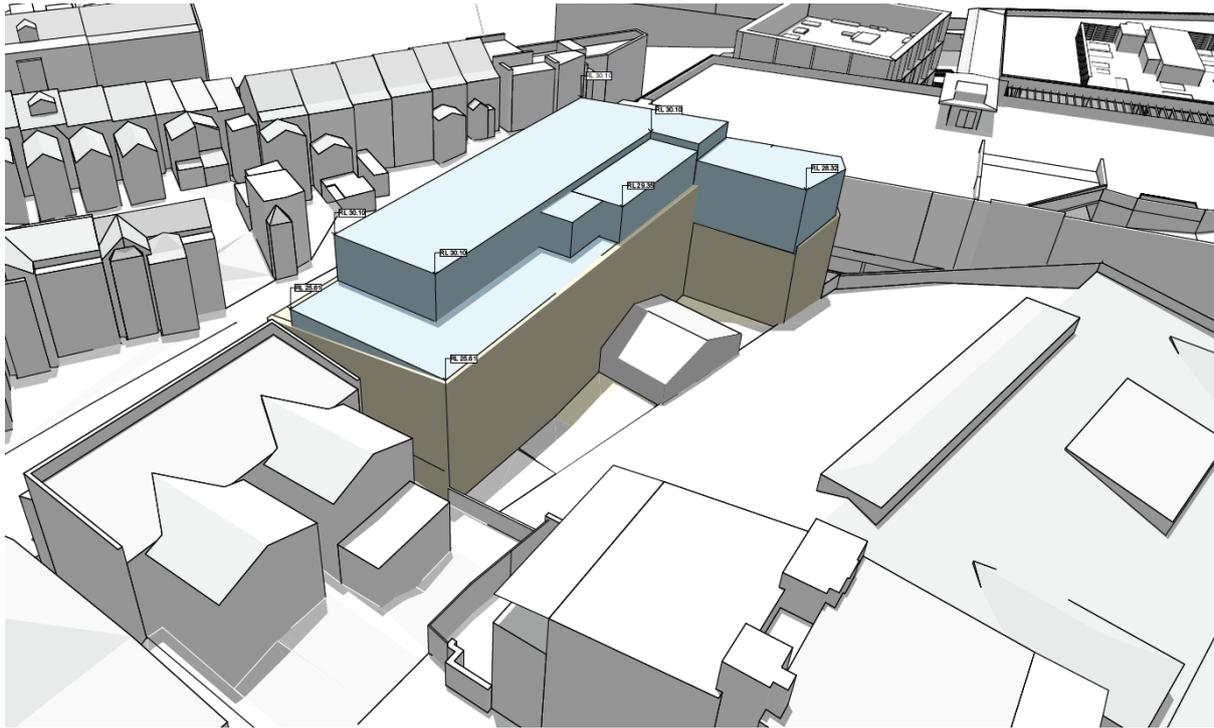


Figure 7: 3D diagram of the proposed building envelope looking north towards the side and rear elevations, with third storey height limited to highest point of existing warehouse building and fourth storey setback 6 metres from the side boundary and 5.5 metres from part of the rear boundary.

46. Were the site to redevelop under current controls, a residential development could be achieved, with allowable lift overrun, that results in a building envelope as demonstrated in Figure 8. The additional building mass permitted by the Planning Proposal which would sit above the existing height control, as illustrated in Figure 9, is considered to be relatively modest.

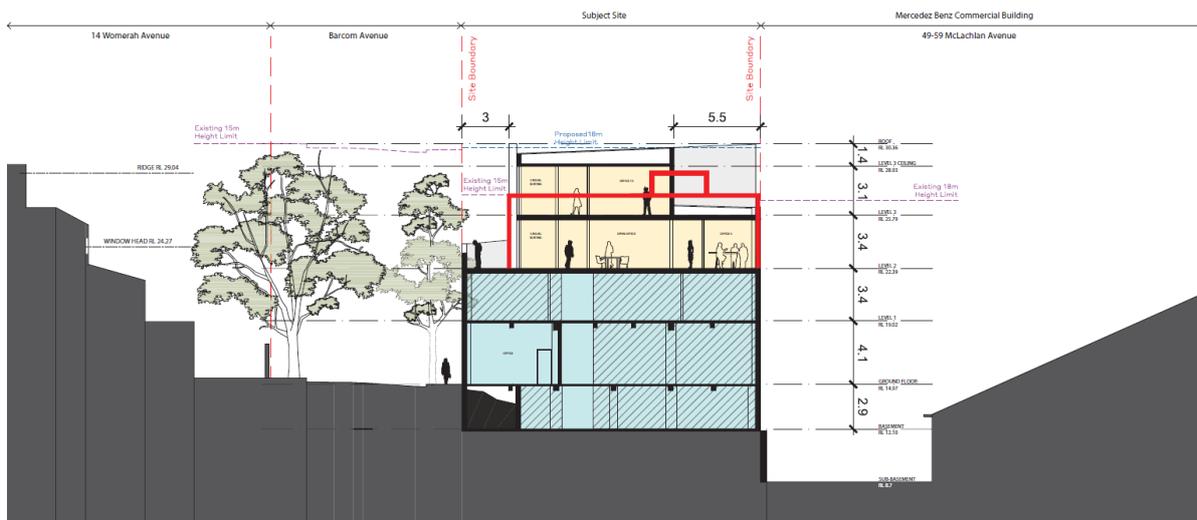


Figure 8: Cross-section to show a residential building envelope (outlined in red) which would be possible under existing controls relative to the proposed development concept.

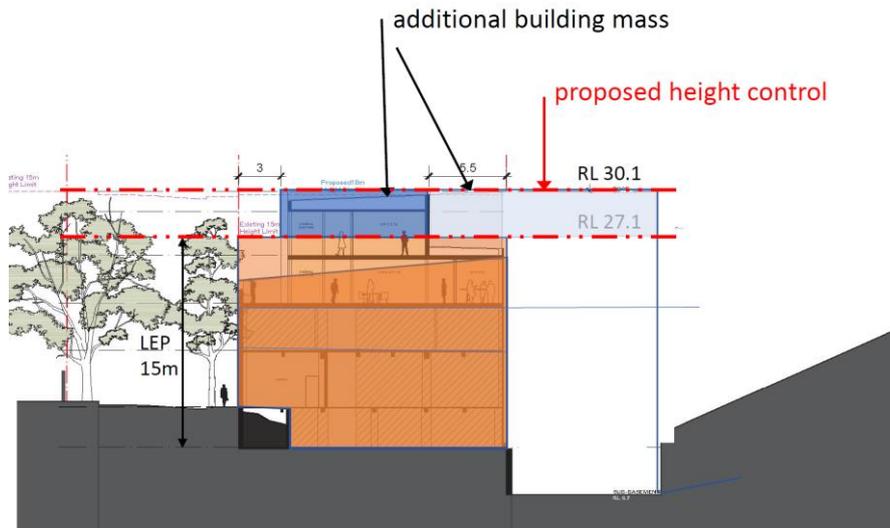


Figure 9: Cross section showing the additional building mass in blue between the current and proposed height controls compared to the existing building shown in orange.

47. Submissions also raised concern that justifying the proposal with the height of the adjacent buildings will result in further precedent to increase the height throughout the area.
48. Current LEP and DCP controls set an 18m height limit and allow for buildings of up to 5 storeys on the commercial sites which adjoin the subject site (to the north-east and rear). It is considered that the Planning Proposal is in keeping with this scale. It is unlikely that a development of a similar scale on the site would become a precedent for the rest of the street given the difference in use between this commercial end of Barcom Avenue and the residential typology of the remainder.
49. The Office of Environment and Heritage also consider the scale and form of the proposal to be an acceptable heritage response in this location.

Overshadowing

50. Many submissions raised concerns about overshadowing. As a result of submissions by residents, and later site visits, the proposed building envelope in the DCP has been refined to include detailed setback and building height provisions that ensure any additional development on the subject site creates no further overshadowing.
51. Submitters were concerned the shadow analysis is incorrect, with several questioning the testing parameters and the narrow focus of the images presented in the original Planning Proposal request from the proponents. Submitters on the northern side of Barcom Avenue feel they have been missed from the analysis whilst others question why the assessment is limited to mid-winter impacts and why a period of two hours is considered to be an acceptable amount of solar access.
52. Solar access is measured at mid-winter because this is when the sun is lowest in the sky and therefore represents a 'worst case scenario' for overshadowing. At the mid-winter solstice the sun's altitude causes shadows three times as long as the height of the object casting them. The two hour parameter is used within the Sydney Metropolitan Area as being a reasonable amount of winter sun given the density of development in an urban area.

53. To assess solar access, it is usual to test the solar impact associated with a proposal at 15 minute increments from 9am to 3pm on June 21st. Given that the original Planning Proposal request presented hourly overshadowing data, the City requested additional overshadowing analysis to further investigate the issues raised.
54. Existing Sydney DCP controls require new development to be designed so as to ensure neighbouring dwellings receive a minimum of 2 hours' direct sunlight between 9am and 3pm on 21st June onto at least 1 sqm of living room windows and to at least 50 per cent of the minimum amount of private open space. Where existing levels of solar access are less than this, new development is not to create any additional overshadowing (excluding side windows).
55. Following submissions the City requested the proponent prepare further overshadowing analysis to ensure there was no additional overshadowing to the windows and private open space of adjoining properties.
56. The proponent submitted a detailed CAD model of the proposal, which is embedded with grid alignments and coordinates used by the City's own modelling team for accuracy. It also factors in a five metre boundary wall surrounding the ground level courtyard belonging to apartment 1 and 2 of 61-63 McLachlan Avenue, which was noted during the site visit. The boundary wall generates significant overshadowing of the courtyard but acts to limit any shadow impact associated with the subject site on this residence.
57. In undertaking the analysis, refinements to the setbacks and building heights were incorporated to remove any additional overshadowing impacts. The amended setbacks and heights sit in the revised DCP. The detailed overshadowing analysis is provided at Attachment F. The modelling shows the existing overshadowing conditions and the overshadowing which would be generated in midwinter by the amended building envelope. Analysis is also presented for the spring and autumn equinoxes and the summer solstice.
58. The overshadowing analysis shows that 66 and 68 Barcom Avenue will receive some morning overshadowing of their roofs, and 64 Barcom Avenue, which adjoins the subject site to its south-east, will receive some morning overshadowing to its roof and side wall. None of the properties will receive additional overshadowing to windows or private open spaces.
59. Other nearby properties currently experience overshadowing, particularly in midwinter, but this is generated by other buildings and not the proposal on the subject site.
60. The proposed building envelope in the amended DCP and controls ensure no additional overshadowing to residential private open space. This has been achieved through the DCP requirement for 5.5 metre rear and 6 metre side setbacks to the fourth storey and the requirement to limit the height of the third storey (to that of the existing building) and the fourth storey, as detailed earlier in this report and shown in Figure 7 above.
61. To further secure this outcome, it is proposed to amend the Planning Proposal to require overshadowing be addressed before additional height and floor space is awarded. Any future development application will need to work within the LEP and DCP controls as a minimum to contain overshadowing between 9am to 3pm and further detailed analysis of the compliance of any proposed development scheme would also occur at the development application stage.

Privacy

62. Submitters also raised concerns about loss of privacy, fearing that the new office accommodation would overlook them and impact on their amenity. Given the Planning Proposal is currently only an indicative development scheme within a proposed building envelope, this would be an issue that would be considered and addressed at Development Application stage under existing controls that protect privacy. It is however proposed to include additional provisions in the DCP to require suitable screening of windows and to restrict the use of the roof of the third storey, preventing its use as a terrace. This will also remove the need for balustrades around a balcony, which could cause unforeseen overshadowing.

Traffic and parking

63. Many submissions raised issues concerning traffic and parking in connection with the proposal. Local residents fear an increase in traffic in an already congested residential area and greater competition for parking spaces between residents and commercial users due to the lack of on-site parking proposed. Residents highlight that parking has already been impacted by the nearby BMW showroom and feel that additional traffic could impact pedestrian safety.
64. In response, the City requested that the Traffic and Parking Impact Assessment be updated by the proponent to address the issues raised. The updated assessment can be found at Attachment G.
65. The assessment finds the site is well served by public transport, with bus connections and King's Cross railway station located in close proximity to the site. King's Cross station is 800m away and provides frequent train services to the CBD and Sydney's east and south on the T4 South Coast Line, with a frequency of ~15 minutes during off-peak times and ~8 minutes during peak times. Similarly buses between the Sydney CBD and nearby bus stops on New South Head Road operate with a 15-minute frequency during off-peak times and a 10-minute frequency during peak hours.
66. The pedestrian network surrounding the site is also good, being a 10-minute walk to Kings Cross station, less than 250m to a number of bus stops and less than 200m from various neighbourhood services including cafes. A number of car share spaces are also located in the vicinity.
67. The updated assessment demonstrates that the demographic in the Darlinghurst area, compared to that of other areas, relies significantly less on private vehicles for their commute to work, favouring public and active transport especially bus, train and walking.
68. According to the 2016 census, public transport has the highest mode share for people commuting to Darlinghurst, with 40.45% of people using public transport to get to work in the area. A further 13.38% used forms of active transport, including walking and riding to work. 32.6% of commuters travelled to work by car, which is lower than an average of 57.8% for NSW and 61.5% for Australia. Those commuting within the area also favour public and active transport over private vehicles, with only 17% of people from surrounding suburbs travelling to work in the area by car.
69. Given the likely mode share and potential staff density associated with the proposal, the updated assessment anticipates a maximum of 18 trips per hour in the AM peak and 14 trips per hour in the PM peak could be generated. A minor increase in courier and delivery vehicles are also anticipated off peak.

70. To address this, a number of sustainable travel initiatives are proposed to be incorporated into the design and management of the building to complement the existing transport options and to provide a holistic strategy to positively influence occupant behaviour.
71. The overall site strategy is based around reducing car usage, with public transport as the primary mode choice for distance trips and pedestrian/cyclist provisions for shorter trips.
72. A Green Travel Plan is to be prepared and submitted with any future development application for the site alongside the implementation and ongoing monitoring of any sustainable travel initiatives it includes.
73. Indicatively, the floor space proposed is able to accommodate 13 bike parking spaces - 9 for employees and 4 for visitors - plus end of journey facilities to promote the option of cycling to the site. This number of spaces exceeds current minimum requirements in Sydney DCP 2012 and will be secured via an additional provision in the DCP amendment. Further, with no additional vehicle parking spaces being proposed on site, commuting to the site by private vehicle is discouraged.
74. It should also be noted that the proposal for no additional car parking is in line with the City's own approach to reducing the reliance on private vehicles, expressed in both the LEP and DCP, with the restriction of on-site car parking at origin and destination being a major driver for alternative, sustainable transport modes.
75. Time-restricted parking in the local area also reduces the likelihood of 'spillover' parking into residential streets as this is not suitable for office staff with long term parking needs.
76. Overall, it is considered the proposal will have a negligible impact on the safety and efficiency of the surrounding road network and parking availability in the area and likely result in a lesser impact than a residential development under the current controls.

The impact of Covid-19

77. Some submissions raised questions about the need for additional commercial floor space given the potential impacts of Covid-19 on demand for commercial floor space.
78. The City's Local Strategic Planning Statement identifies the need for more non-residential floor space, in diverse forms, to achieve our 2036 target for 200,000 additional jobs.
79. The long-term impacts of Covid-19 are not yet understood. While there will almost certainly be a change to the way some businesses and their employees work, it is considered that employment space will still be in demand over time.

Submission from the proponent requesting building envelope modifications

80. As part of the consultation, the City also received a submission from the consultant acting for the proponent. In the submission, the proponent confirmed their commitment to NABERS and commissioned advice from ARUP to confirm whether the concept scheme is capable of achieving a 6 star NABERS Energy outcome. ARUP confirmed that the indicative development scheme would be able to achieve the 6 star target subject to key design inclusions comprising:
 - (a) use of natural ventilation to significant portions of the floor plate;

- (b) high level clerestory windows to allow daylight to the whole office space via internal atria;
 - (c) efficient envelope performance to reduce cooling/heating loads;
 - (d) operable windows to allow natural ventilation in air-conditioned spaces;
 - (e) high efficiency, locally controlled lighting to ensure lights are only operating when people are using the space;
 - (f) dedicated HVAC to each office space to ensure efficient operation of systems, only when occupancy is detected; and
 - (g) 11kWp roof mounted photovoltaic array power building services.
81. In developing the design of the concept scheme further to address the first three design inclusions necessary for the NABERS outcome, the proponent requested amendments to the building setbacks and height in storeys shown in the draft DCP to reflect a modified building envelope. The changes requested to the building envelope by the proponent are shown at Figure 10.

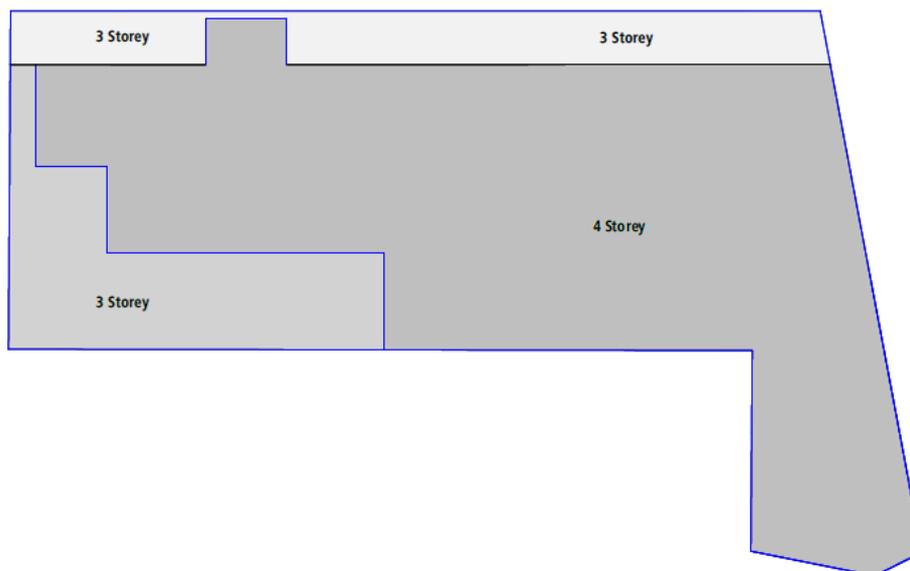


Figure 10: Changes requested by the proponent to the building envelope

82. However, upon consideration of the request the changes proposed by the proponent in their submission are not supported because they result in an incremental creep in building envelope closer to all neighbours, with the potential to generate more visual and amenity impact.

Summary of changes to the planning controls following exhibition

83. Following consideration of submissions, the Planning Proposal has been updated to require consideration of overshadowing impacts before awarding additional floor space. It has also been updated with details of the community and agency consultation that was undertaken and to update the anticipated timeline for finalising the LEP amendment.
84. Following consideration of submissions, and the subsequent site visits, refinements are recommended to the draft DCP to secure acceptable levels of amenity for neighbours and to assist with securing sustainable travel behaviours to and from the site. The recommended changes relate to:
- (a) the built form provisions which establish the building envelope to ensure appropriate transitions in height and compliance with overshadowing controls. This includes:
 - (i) a reconfiguration of the setbacks of the fourth storey along the rear façade, which address the overshadowing generated by this section of the proposed building envelope (shown in Figure 11); and
 - (ii) limitations on the height of the third storey, to match the existing building height at the rear boundary, and parts of the fourth storey to ensure no additional overshadowing and reduce visual impact from 64 Barcom Avenue.

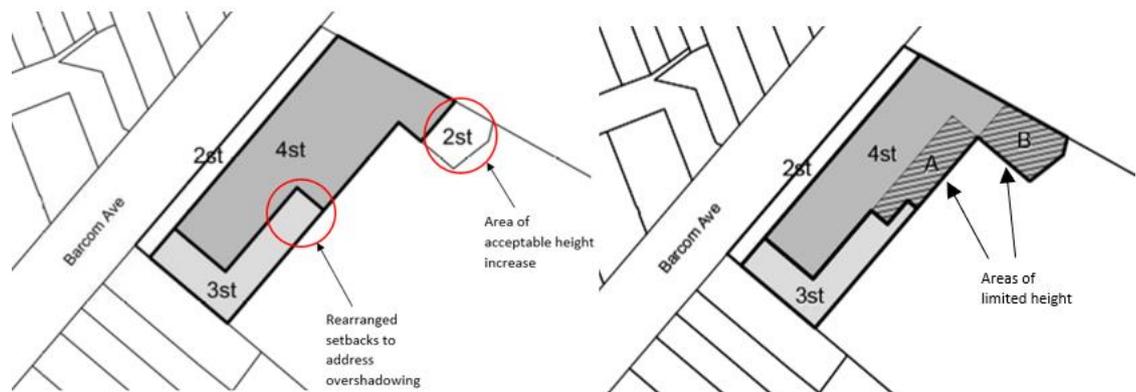


Figure 11: Building envelope showing height in storeys and building setbacks as included in the exhibited draft DCP (left, annotated with proposed changes) and as amended in the DCP following exhibition (right)

- (b) an increase from two to four storeys at the rear eastern corner of the building (shown in Figure 11), which is considered acceptable given the significant distance between this part of the site and any residential neighbours and is shown not to create additional overshadowing in the analysis discussed earlier;
- (c) protecting amenity through the restriction of upper level private open space on the site;
- (d) requiring the retention and adaptation of the existing building;
- (e) securing 13 bike parking spaces (9 employee and 4 visitor spaces) for use in connection with the office space; and

- (f) a requirement for a Green Travel Plan to be submitted with any future development application.
85. The Planning Proposal and draft DCP, as amended following public exhibition, are at Attachment A and Attachment B respectively.

Key Implications

Strategic Alignment - Greater Sydney Region Plan

86. The Greater Sydney Region Plan, completed in March 2018, is a State Government strategic document that sets the 40 year vision and 20 year plan for all of Greater Sydney. The Plan outlines how Greater Sydney will manage growth and change and guide infrastructure delivery and is to be implemented at a local level by District Plans.
87. The Plan identifies key challenges facing Greater Sydney, which is forecast to grow from 4.7 million people to 8 million people by 2056. Greater Sydney is to provide for an additional 817,000 jobs by 2036 and will need to provide 725,000 more homes over the next 20 years.
88. By facilitating development of additional commercial floor space on a site with good levels of accessibility by public and active transport, and within a building which can appropriately address its heritage context and promote ecologically sustainable development, the Planning Proposal is consistent with the relevant objectives and planning priorities of the Plan as follows:
- (a) Objective 4: Infrastructure use is optimised;
 - (b) Objective 13: Environmental heritage is identified, conserved and enhanced;
 - (c) Objective 14: Integrated land use and transport creates walkable and 30-minute cities;
 - (d) Objective 18: Harbour CBD is stronger and more competitive;
 - (e) Objective 22: Investment and business activity in centres;
 - (f) Objective 24: Economic sectors are targeted for success; and
 - (g) Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change.

Strategic Alignment - Eastern City District Plan

89. The Eastern City District Plan, also completed in March 2018, sets the local planning context for the City of Sydney local government area. It provides a 20-year plan to manage growth and achieve the 40-year vision of the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning.
90. As part of a Greater Sydney metropolis of three cities, the eastern district covers the council areas of Bayside, Burwood, Canada Bay, City of Sydney, Inner West, Randwick, Strathfield, Waverley and Woollahra.

91. The Eastern City District Plan identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth.
92. This Planning Proposal gives effect to these planning priorities and actions as follows:
 - (a) Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage;
 - (b) Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city;
 - (c) Planning Priority E7: Growing a stronger and more competitive Harbour CBD;
 - (d) Planning Priority E11: Growing investment, business opportunities and jobs in strategic centres; and
 - (e) Planning Priority E19: Reducing carbon emissions and managing energy, water and waste efficiently.
93. The Planning Proposal will support the growth of a stronger and more competitive Harbour CBD through the provision of new and innovative office space which will foster investment and employment opportunities, especially for small business. The proposal supports strategic priorities to create a more productive, liveable and sustainable city in a CBD-fringe location, which is close to homes and serviced by existing infrastructure.

Strategic Alignment - Sustainable Sydney 2030

94. 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 policy is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - A Globally Competitive and Innovative City - The proposal will provide additional employment floor space on the fringe of Sydney. The co-working office space will facilitate jobs growth and promote collaboration and innovation, supporting small businesses and start-ups.
 - (b) Direction 2 provides a road map for the City to become A Leading Environmental Performer - Together, the Planning Proposal and draft DCP will support a more ecologically sustainable development on the site, with a target of meeting a 6 star NABERS Energy rating. Additional DCP controls also secure rooftop photovoltaics and a green roof. The proposed controls will contribute towards net-zero carbon emissions, water sensitive urban design and urban ecology outcomes.
 - (c) Direction 3 - Integrated Transport for a Connected City - The proposal will capitalise on its close proximity to existing heavy rail train stations and a significant number of bus routes connecting with the CBD and Bondi Junction. The proposal incorporates zero parking provision further limiting potential future trips by private vehicle and encouraging sustainable transport choices.

- (d) Direction 4 - A City for Walking and Cycling - The site is located in an inner-city suburb, close to existing local centres including Kings Cross, Edgecliff, Fiveways Paddington and Darlinghurst. It benefits from convenient public transport and a number of on-road and separated cycleways connecting with the CBD. The proposal also incorporates nine bicycle parking spaces and end of journey facilities to encourage active transport to and from the development.
- (e) Direction 9 - Sustainable Development, Renewal and Design - The proposed planning controls will achieve a building envelope in keeping with its surroundings, cognisant of the heritage items and conservation area in close proximity to the site and its impact on adjoining residential buildings. Further, the proposal will support a future development that will feature additional ESD initiatives.

Relevant Legislation

- 95. Environmental Planning and Assessment Act 1979.

Critical Dates / Time Frames

- 96. The Gateway Determination, provided at Attachment D, included a finalisation date for the LEP as 11 July 2020. Prior to the community consultation process, this was extended by the Department until 11 June 2021. The Department has recently declined to extend this date further and has asked the City to expedite the completion of the LEP amendment.
- 97. The Gateway Determination authorises Council to liaise directly with Parliamentary Counsel to draft and make the LEP under delegation, giving effect to the Planning Proposal.
- 98. If the Planning Proposal is approved by Council and the Central Sydney Planning Committee, the City will commence this process. Once this process is complete and the plan is made, the amendment to Sydney LEP 2012 will come into effect when published on the NSW Legislation website.
- 99. If approved by Council, the draft DCP will come into effect on the same day as the amendment to Sydney LEP 2012.

GRAHAM JAHN AM

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