

Attachment B

**Planning Proposal – 85-93 Commonwealth
Street, Surry Hills (post exhibition
amendments shown in red)**

Planning Proposal – 85-93 Commonwealth Street, Surry Hills



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Executive Summary

The City of Sydney (the City) has prepared this planning proposal for 85-93 Commonwealth Street, Surry Hills (the site) following a request from the owner.

This planning proposal explains the intent and justification for the proposed amendments to the Sydney Local Environmental Plan 2012 (Sydney LEP) as it applies to the site. The proposed amendments are to increase the maximum building height and floor space ratio (FSR) controls applied to the site to:

- permit a three-storey addition on the northern part of the existing three-to-four storey building, and
- ensure the site's ongoing commercial use.

The site is a wedge shape formed from the intersection of Commonwealth and Hunt Streets and is approximately 571 square metres in area. The surrounding development is characterised by mixed-use developments featuring commercial uses on lower floors with residential above. The scale varies from 6-7 stories to the north and west of the site, with lower forms of 2-3 storeys to the south and east.

The proposed amendments support development consistent with the Greater Cities Commission's Eastern City District Plan and City's Local Strategic Planning Statement, by improving the built form design and aligning with principles of ESD, as well as by expanding the supply of employment floorspace in Surry Hills.

Under the existing Sydney LEP controls the site is zoned B4 Mixed Use, has a maximum building height of 18 metres, and a maximum FSR of 3:1, with additional floorspace available where development exhibits design excellence.

Specifically, this planning proposal seeks to amend the Sydney LEP to:

- increase the maximum FSR to 4.5:1 (inclusive of the 10 per cent design excellence bonus) from 3:1,
- increase the maximum building height on the northern part of the site to RL ~~51.5~~ 50.5 metres (7 stories plus basement) and the middle portion of the site to RL 47.2 metres (6 stories plus basement), both from 18 metres (3 stories plus basement), and
- lower the maximum building height on the southern part of the site to RL 40 metres from 18 metres (maintaining the existing 3-storey plus basement height).

This planning proposal also proposes provisions to ensure that the approval of any subsequent development application would be subject to the consent authority being satisfied that the use was not for residential accommodation or serviced apartments.

This planning proposal has been prepared in accordance with s3.33 of the Environmental planning and Assessment Act 1979 and the Department of Planning and Environment's Guide to Preparing Planning Proposals and Guide to Preparing Local Environmental Plans.

1. Background

1.1 Landowner request

The City has received a request from the landowner of 85-93 Commonwealth St, Sydney (Surry Hills Pty Ltd) to amend the floor space ratio (FSR) and height of building (HOB) controls that currently apply to the site in Sydney LEP 2012.

The proponent has sought the following amendments to the Sydney LEP 2012:

- increase the height of building control from 18m to RL 51.66 across the site, allowing for an additional 3 storeys;
- increase the FSR control from 3:1 to 5.46:1, noting that the existing building FSR is 3.35:1 which exceeds the LEP control; and

The proponent request links these changes to a development that would be for commercial uses only.

1.2 City response

The City has undertaken an urban design review of the impacts of a building envelope enabled by the heights and FSR sought by the proponent. The review concludes that while there is capacity on the site to increase employment floor space, a lower FSR and modified arrangement of height is appropriate to remain compatible with the height and scale of surrounding development and ~~the mixed use character of the locality~~, whilst preventing overshadowing private open space. This is to ensure resulting development on the site that better suits the character of the area in terms of bulk, scale and height.

This planning proposal is therefore inconsistent with the landowners request.

1.3 Site identification

This planning proposal relates to the property at 85-93 Commonwealth Street, Surry Hills. The property is legally defined as Lots 22 and 23 in DP 6380.

The site is a wedge shape, formed from the intersection from Commonwealth Street and Hunt Street. It is 571.14 square metres in area and falls approximately 4.65 metres from the Commonwealth Street frontage to the Hunt Street frontage. The site is currently occupied by a four-storey building, currently used as commercial office space. Development adjacent to the site is discussed below:

North

The property adjoining the site to the north is a seven storey commercial building with retail uses on the ground floor along the Hunt Street frontage.

South

The building opposite the site on Hunt Street is the three-storey Hollywood Hotel, a locally-listed heritage item

East

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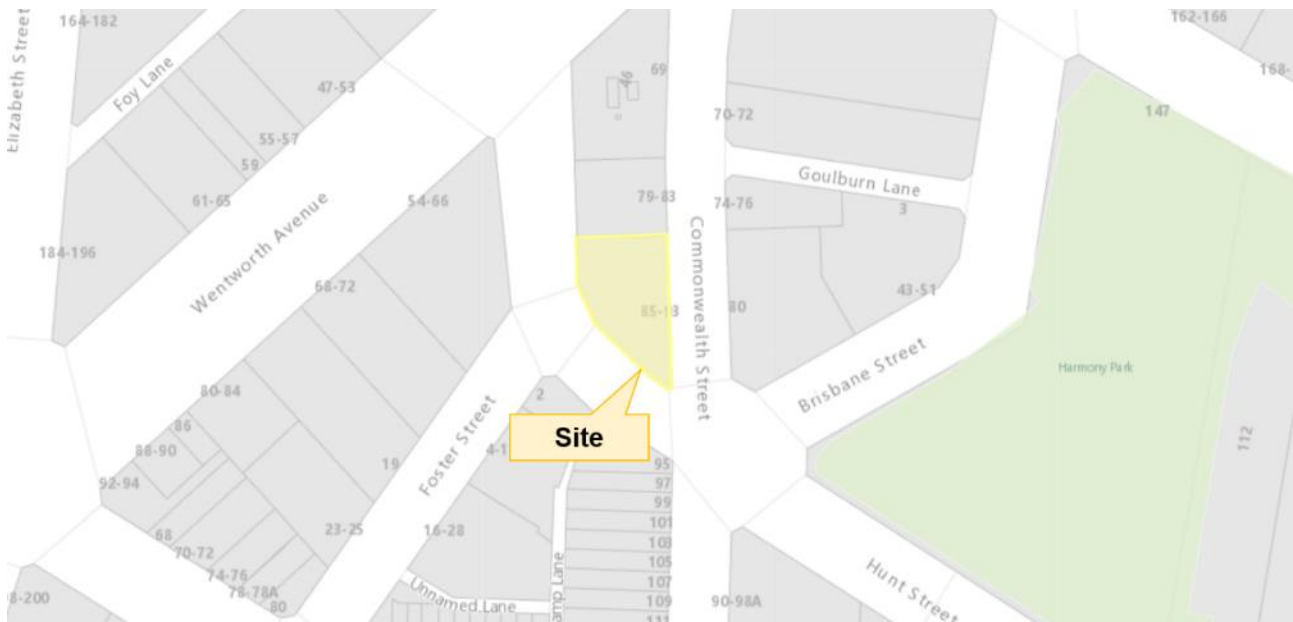
The properties adjacent to the east along Commonwealth Street are commercial and accommodate a variety of restaurant and active uses at the ground level. A three-storey building directly east of the site, known as the 'Paramount Building', is a locally listed heritage item.

West

The property to the west along Hunt Street comprises a seven-storey commercial building with carparking at ground level.

The location of the site is shown below in Figure 1.

Figure 1. Indicative plan showing the site's location and vicinity



The site is located within Surry Hills, a suburb immediately southeast of Sydney's CBD. The area around the site is characterised by a wide range of uses, including educational, food and drink premises, retail, residential and visitors accommodation. The site is highly accessible, being 200m south-east of an entry to the Museum train station, and well-served by a number of bus routes. The site's context is shown below in Figures 2 and 3.

Figure 2. Indicative plan showing the site's context and suburb boundaries



Figure 3. Oblique view from the south-east



2. Existing planning controls

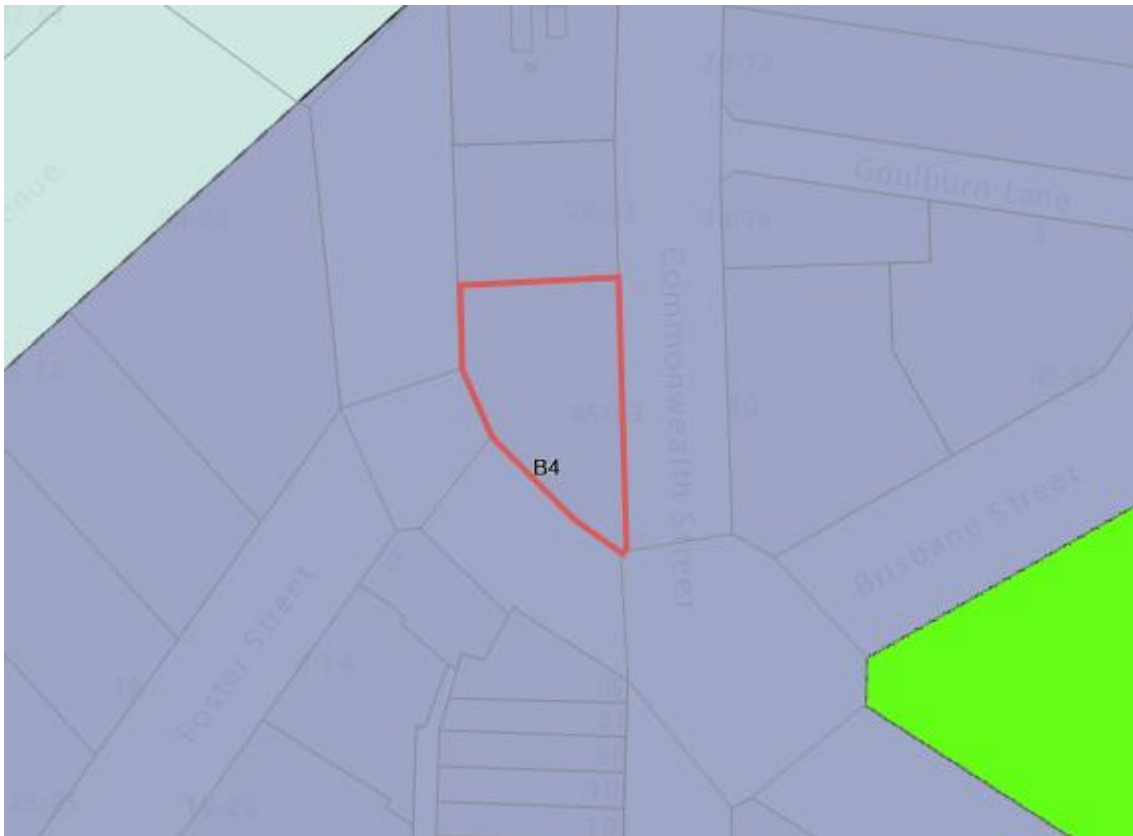
2.1 Zoning

The site is currently zoned Mixed Use in Sydney LEP, shown in purple on Figure 4.

Objectives of the MU1 zone include providing a mixture of compatible land uses; integrating sustainable business, office, residential, retail and other development in accessible locations; and ensuring uses support the viability of centres. The zone permits a broad range of uses, including commercial premises, residential, community facilities, education facilities, and visitor accommodation.

This planning proposal will not change the site's existing zoning.

Figure 4. Zoning in Sydney LEP

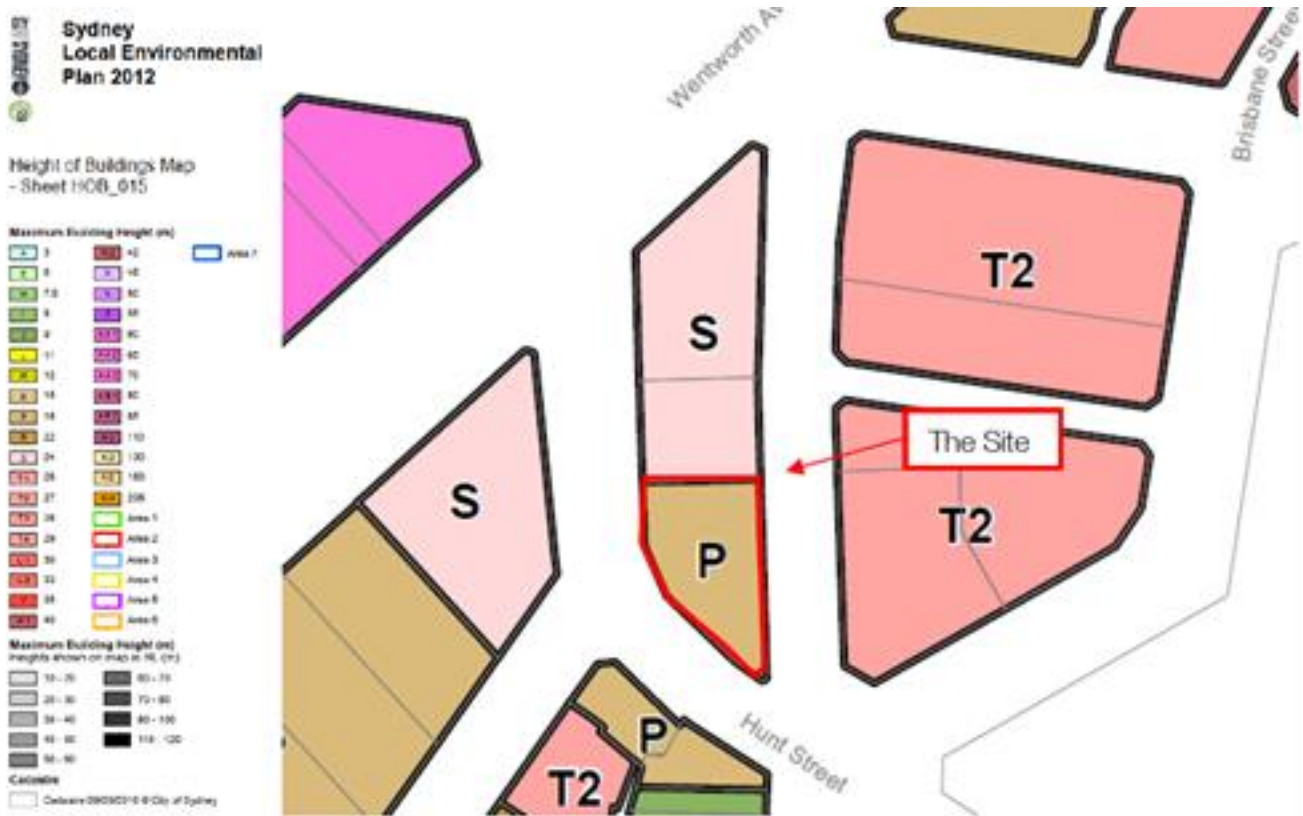


2.2 Development standards

Maximum height of building

The site is subject to a maximum height of building control of 18m in Sydney LEP 2012. As shown in Figure 5, a building height of 24 metres is permitted immediately to the north and to the west, 27 metres to the east, and 18 metres to the south.

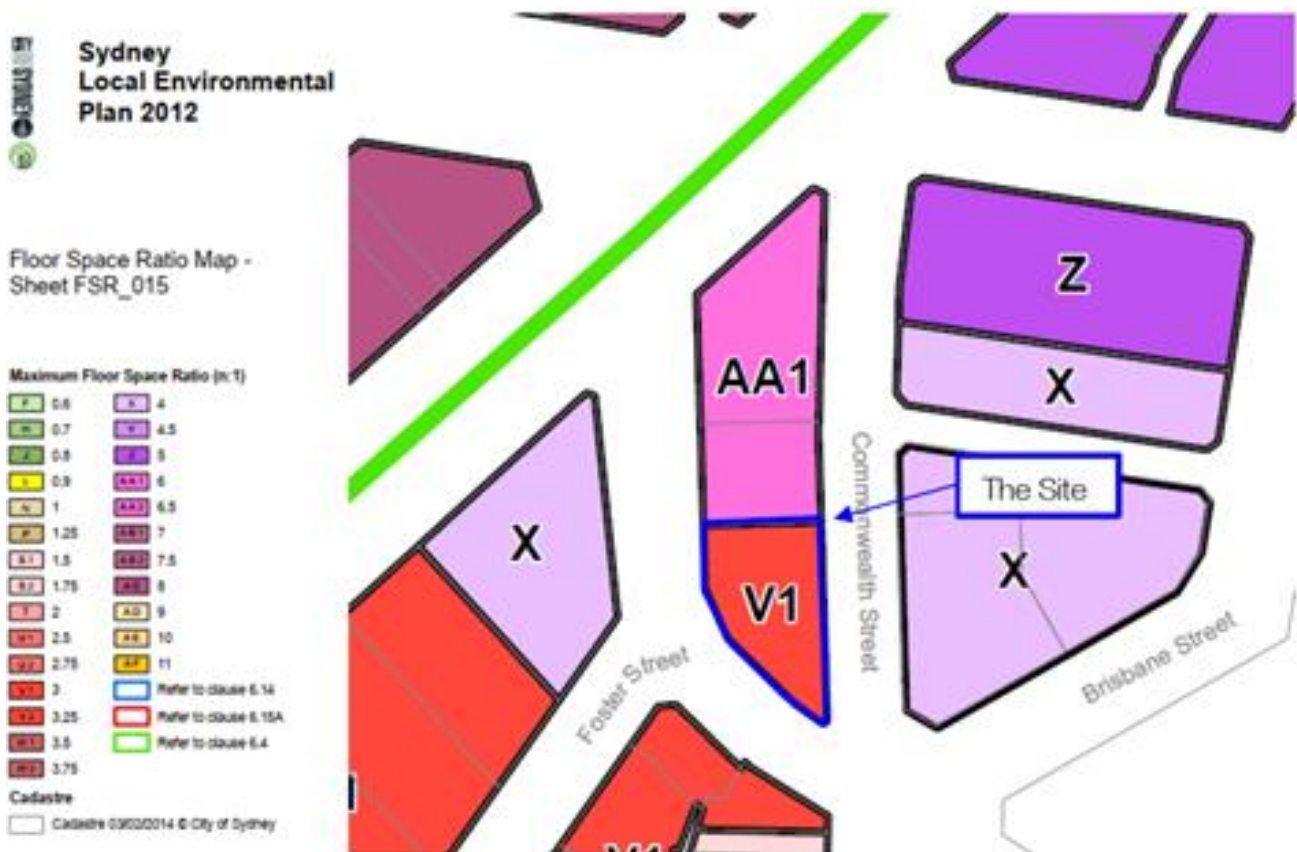
Figure 5. Height of building controls in Sydney LEP 2012



Floor space ratio

The site is subject to a maximum FSR control of 3:1 as shown in Figure 6. Higher FSRs are permitted on the surrounding properties to the north (6:1), east and west (4:1). Properties to the south have an FSR of 3:1.

Figure 6. Floor Space Ratio controls in Sydney LEP 2012



2.3 Sun access planes

The site is in close proximity to Harmony Park. Sydney LEP includes a sun access plane which prevents overshadowing of the park between 10am and 2pm all year round.

2.4 Heritage

The site is not heritage listed or within a heritage conservation area. However, there are a number of local heritage listed items within the site's vicinity. Figure 7 below shows the locations of these items in relation to the site, including:

- I1484 – Former “Paramount Pictures” including interior – 78-80 Commonwealth Street, Surry Hills;
- I1544 – “Hollywood Hotel” including interior – 2 Foster Street, Surry Hills;
- I1648 – “Griffith’s Building” including interior – 46-52 Wentworth Avenue, Surry Hills; and
- I1649 – “Ballarat House” – 68-72 Wentworth Avenue, Surry Hills.

Figure 7. Indicative plan showing the locations of heritage items and the boundary of the heritage conservation area



3. Objectives and intended outcomes

The objective of this planning proposal is to enable additional height on the northern part of the existing commercial building at 85-93 Commonwealth Street, Surry Hills and to facilitate additional commercial floor space to support jobs growth in the City Fringe.

4. Explanation of provisions

Explanation

It is proposed to amend Sydney LEP 2012 to allow for an increased FSR and maximum building height on part of the site but only if development is wholly used for commercial or other non-residential purposes.

A new provision in Division 5 – Site Specific Provisions in Sydney LEP 2012 will allow alternative FSR and Height of Building controls to those allowed by clauses 4.3 and 4.4 which will:

- allow a maximum floor space ratio of 4.5:1, **inclusive of the 10 per cent design excellence bonus**, to apply to the whole site; and
- allow for alternative building heights as shown on an Alternative Height of Building Map as follows:
 - RL ~~51.5~~ **50.5** metres on the northern part of the site (due to the gradient of the site this change approximately equals 28.5 to 24.5 metres above ground east to west); ~~and~~
 - **RL 47.2 metres in the middle part of the site (due to the gradient of the site this change approximately equals 19.2 to 23.2 metres above the ground east to west); and**
 - RL 40 metres on the southern part of the site (due to the gradient of the site this change approximately equals a height of 16 to 14 metres above ground east to west).

The alternative site-specific controls described above may only be achieved if the consent authority is satisfied that a building on the site is used wholly for purposes other than residential accommodation and serviced apartments. Otherwise the existing FSR and Height of Building controls (3:1 and 18 metres respectively) in Sydney LEP 2012 continue to apply; that is – the alternative controls cannot be accessed for the purposes other than specified non-residential uses.

Clause 4.6 of Sydney LEP should not apply to the alternative height and FSR controls, so that future development applications lodged under these proposed site-specific provisions do not further vary the controls for this site.

5. Justification

The purpose of this planning proposal is to increase the maximum permissible building height and FSR on the site to support the creation of new employment floorspace in Surry Hills. The proposal is considered to be of minor strategic impact and is consistent with local strategic planning objectives for the area.

Strategic merit

The planning proposal aligns with key City and State strategies, as detailed below.

City Plan 2036

The site is located in the City Fringe which is identified for jobs growth in City Plan 2036. It is also within the Eastern Creative Precinct as identified in the LSPS which comprises of a concentration of creative industries and information media clusters.

This planning proposal enables new employment floorspace in a strategic location and aligns strongly with the following LSPS priorities:

- *Infrastructure I1, 'align development and growth with supporting infrastructure'*
- *Productivity P2, 'developing innovative and diverse business clusters in City Fringe'*

New employment floorspace can be used to grow employment within clusters of highly skilled jobs. Increasing employment opportunities in the City Fringe is strategically important because it includes some of the City of Sydney's (and the Eastern City District's) most diverse and mature knowledge-based and creative clusters, is a leading place for investment and innovation, and has a highly specialised economic role. Additional employment floor space on the site will contribute to and reinforce these characteristics.

The site is also located within the Eastern Creative Precinct. This precinct comprises of a concentration of creative industries and information media clusters. In the Eastern City Creative Precinct, the City is encouraging cultural uses as a driver of creativity and enterprise, a source of job creation and potential for place-making. Additional employment floor space in this location will build upon existing and emerging employment and creative business clusters.

Eastern City District Plan 2018

This planning proposal supports the priorities of the Eastern City District Plan 2018 (ECDP), as follows:

Planning priority E6, 'creating and renewing great places and local centres'

The proposal incentivises the renewal of an existing commercial site. The creation of new commercial floorspace contributes to strengthening of the City Fringe and the Eastern Creative Precinct as an area where varied business types can emerge and develop.

Planning priority E11, 'growing investment, business opportunities and jobs in strategic centres'

Planning Priority E13, 'supporting growth of targeted industry sectors'

The proposal supports new employment floorspace in a strategic location. The future development will contribute to investment and jobs, supporting opportunities for innovative and diverse business clusters in the City Fringe, as well as for creative and emerging industries in the Eastern Creative Precinct.

Site-specific merit

The existing building is a 4-storey commercial building with a basement. The model of the envelope is shown in Figure 8 for comparison.

The landowners request shown in Figure 9 is for a building of 7 storeys across the whole site, plus the existing basement. The City's assessment is that carrying this 7-storey built form across the full extent of the site would result in unacceptable impacts on neighbourhood character, particularly in the future relationship with the adjacent Hollywood Hotel and Paramount House heritage items.

Notwithstanding this, it is agreed there is some capacity on the site to increase employment floor space, while remaining compatible with the height and scale of surrounding development and the mixed-use character of the locality. This is to ensure resulting development on the site that better suits the character of the area in terms of bulk, scale and height. This planning proposal is therefore inconsistent with the landowners request.

This planning proposal is to change the height and FSR controls to enable an additional **two-to-three** floors on the northern part of the site and maintain the existing developed building height on the southern part of the site.

~~The proposed building height of RL 40 metres at the southern triangular portion of the site maintains a consistent relationship with these buildings and the proposed height on the northern portion of the site of RL 51.5 metres closely matches the taller office building to the north of the site.~~

Post-exhibition amendments to the Planning Proposal

This planning proposal has been amended post-exhibition to reduce the maximum heights across the site, and to clarify that the proposed FSR of 4.5:1 includes the 10 per cent design excellence bonus. These amendments were made in response to submissions, but also owing to further overshadowing assessment prepared by the City, that showed the exhibited envelope having an overshadowing impact on private open space. The City's overshadowing analysis is provided in an addendum appended to this planning proposal. It is considered that with the amendments the planning proposal demonstrates site-specific merit.

The proposed envelope (as amended) has three different, tiered heights that each respond to a different design constraint:

- the first, lowest step, RL 40 metres at the site's southern portion, retains the buildings existing height and ensures that the building's important visual relationship with the intersection is unchanged;
- the next, middle step, RL 47.2 metres, requires the future additional floor(s) to include a southern setback that prevents overshadowing from being caused to private open space, to any extent more than what current controls allow; and
- the last, highest step, RL 50.5 aligns with the building adjacent to the north, providing visual consistency along the street walls of Commonwealth Street and Hunt Street.

These proposed heights will **also** maintain the relationship to heritage items within the site's immediate vicinity including the 3 storey Paramount Hotel to the east and the 3 storey Hollywood Hotel to the northwest. The existing building on the site at 3 storeys is slightly higher than the buildings to the west but closely matches the Paramount Hotel. This height is to be retained at the southern part of the site. Maintaining the as-built height of the southern portion of the height aligns with the lower scale 2 storey terraces to the south.

The proposed maximum FSR of 4.5:1, which includes the 10 per cent design excellence bonus, will enable a level of flexibility within the envelope to enable building articulation and the future design to meet the objectives at the development application stage e.g. the setback relationship to the adjoining property to the north.

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The increase in FSR does not require additional infrastructure to support the proposal. The site is already supported by adequate transport and civil infrastructure, including having good access to public and active transport as well as provisions for services and utilities.

An indicative envelope showing the proposed controls post-exhibition is shown below at Figure 11.

Figure 8. Existing built form, oblique view from southeast

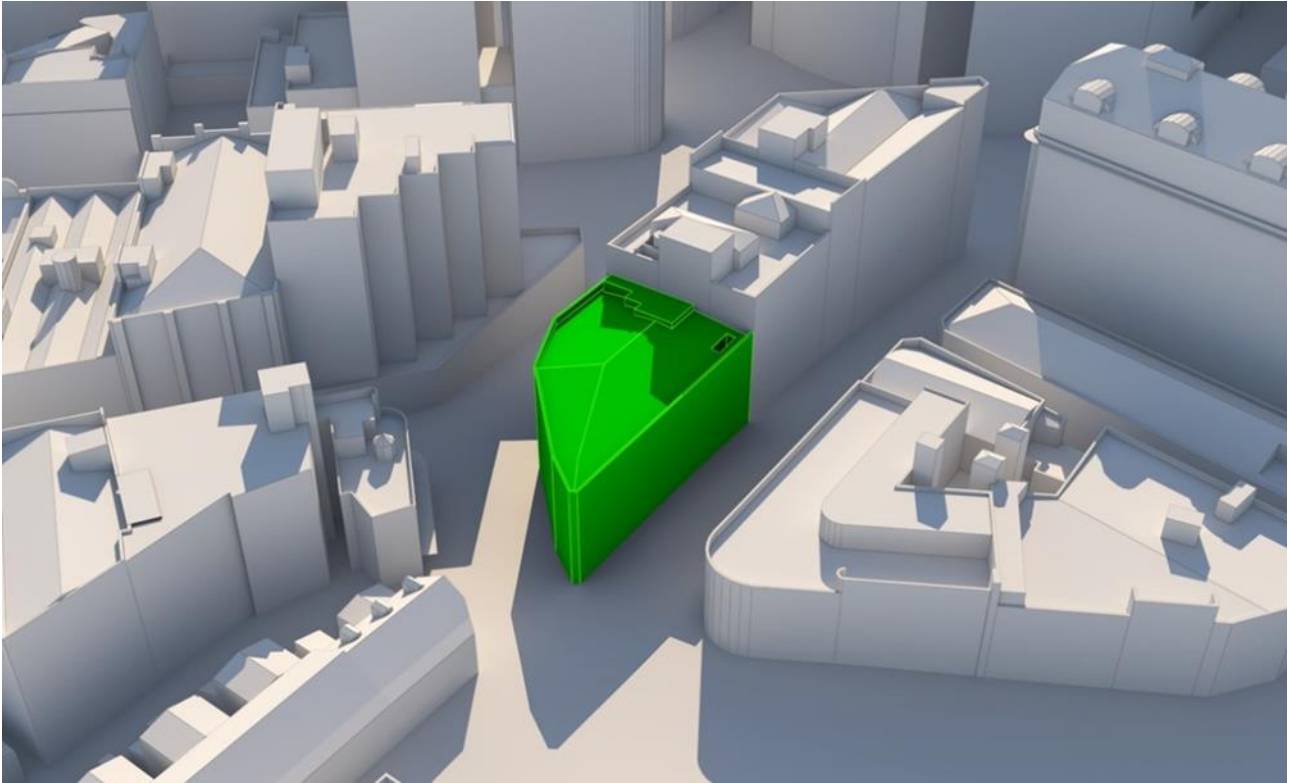


Figure 9. Building envelope resulting from proponent's request, oblique view from southeast

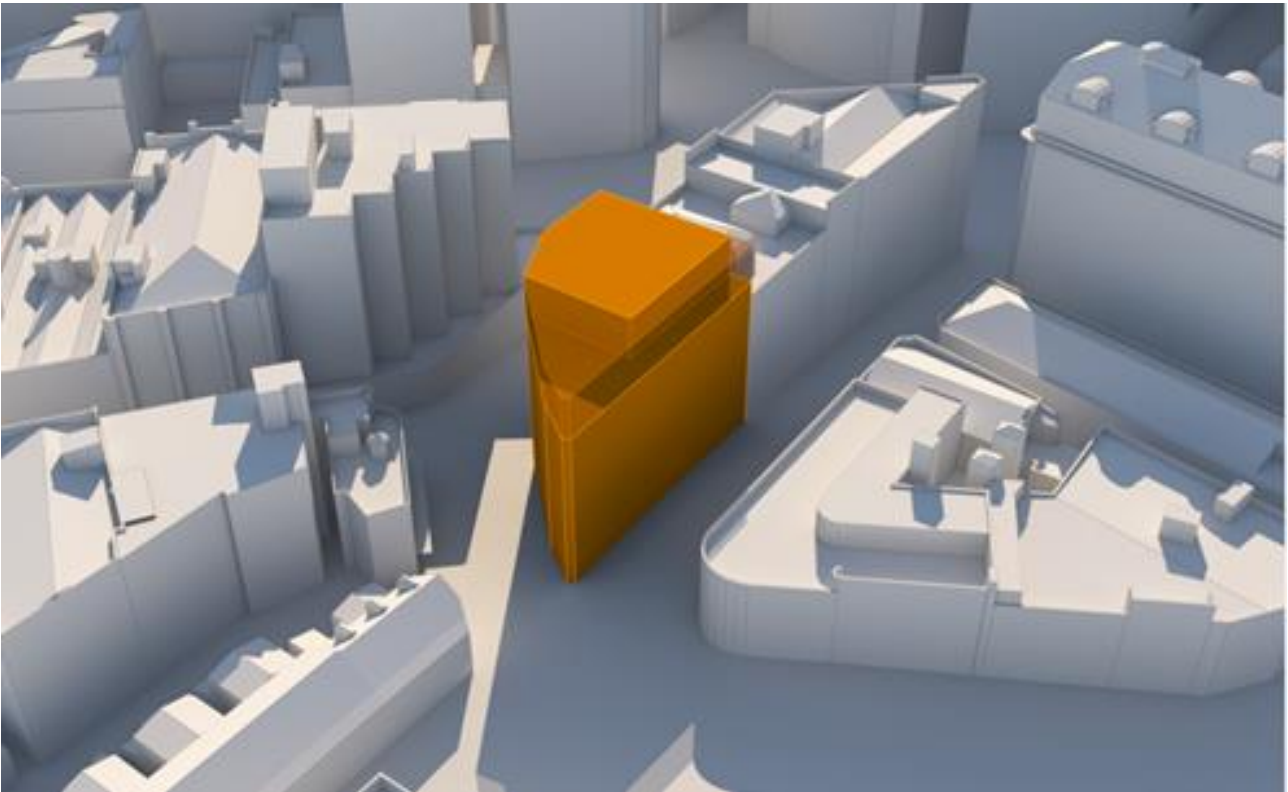


Figure 10. Building envelope resulting from the ~~exhibited~~ planning proposal, oblique view from southeast

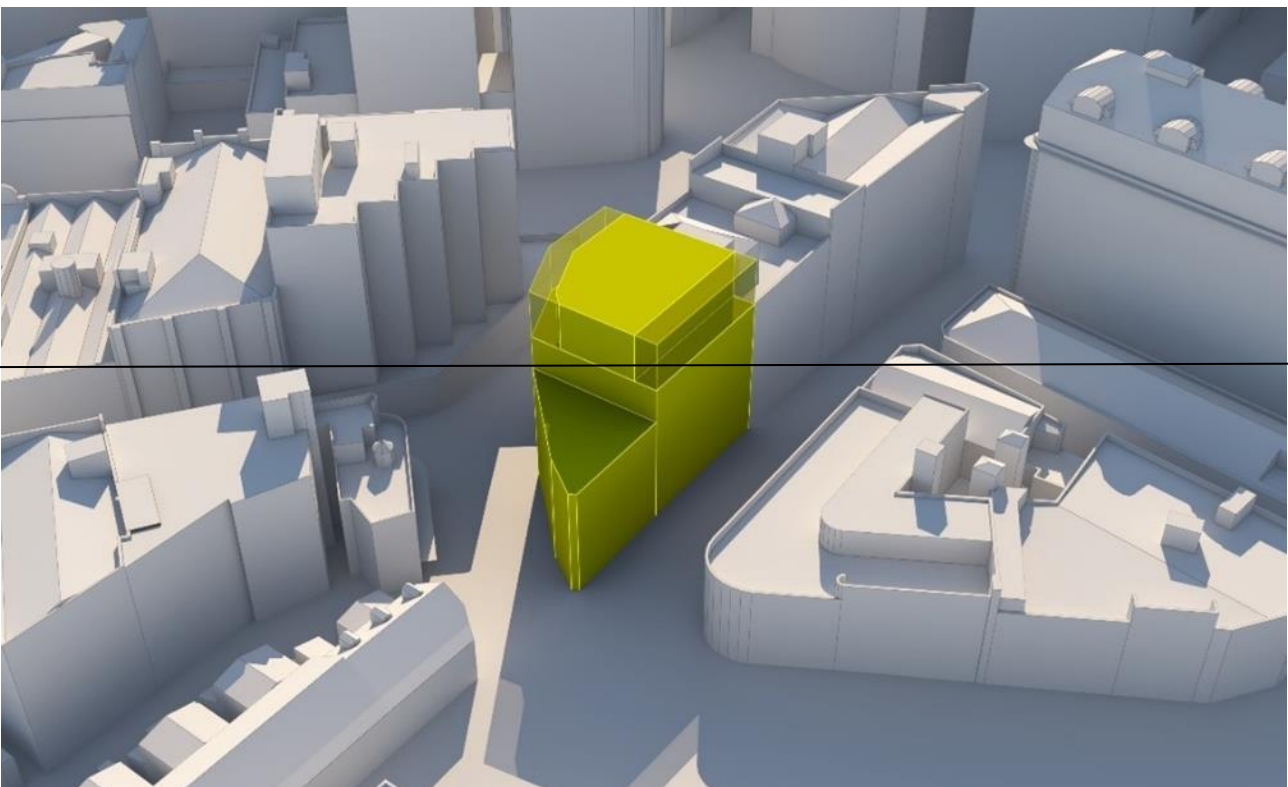
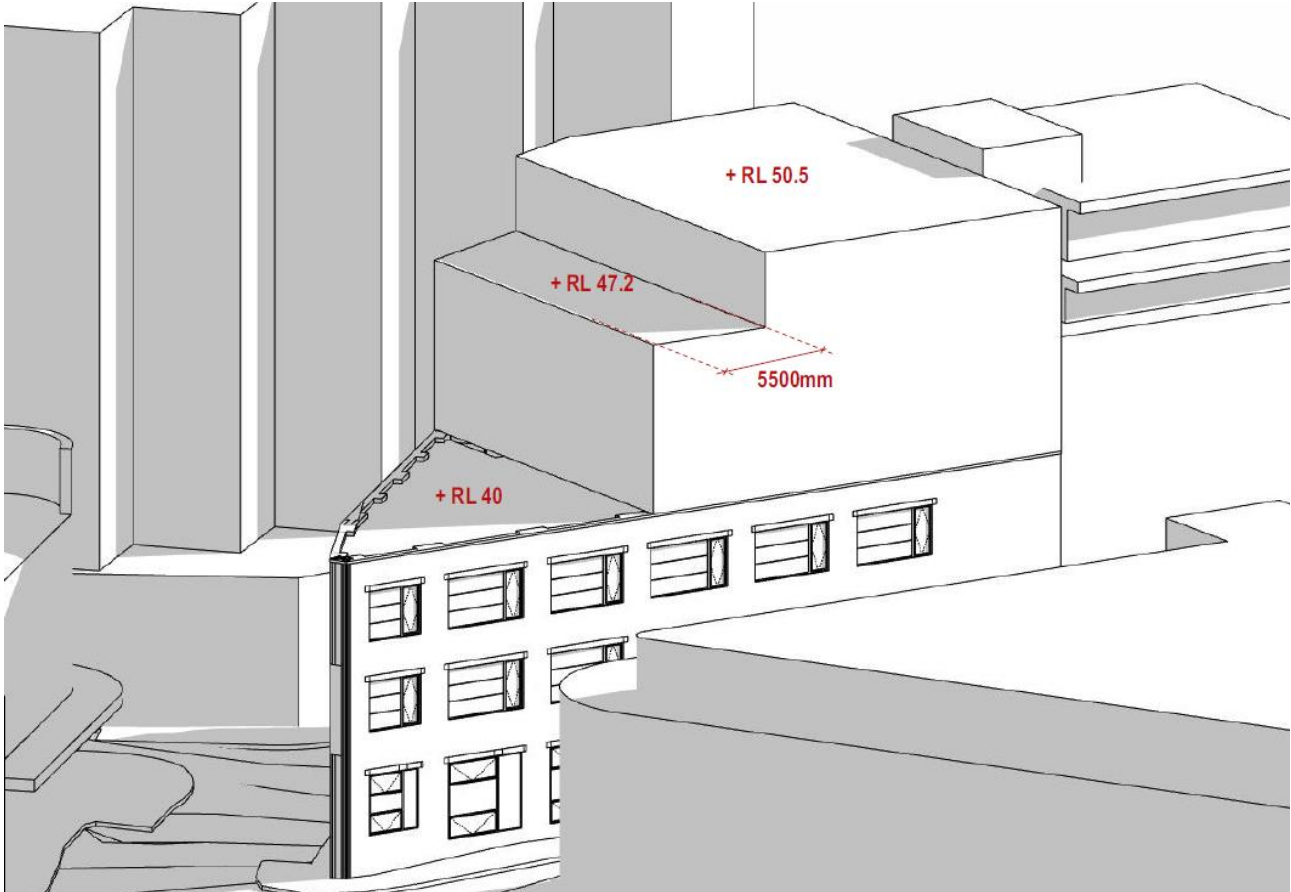


Figure 11. Building envelope resulting from the post-exhibition planning proposal, oblique view from southeast



Section A – Need for the planning proposal

Question	City response
Q1. Is the planning proposal a result of any strategic study or report?	The planning proposal is consistent with City Plan 2036 which encourages the provision of employment opportunities areas such as the City Fringe.
Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	<p>Yes, the main objective of this planning proposal is to allow for the minor expansion of an existing commercial use by inserting a new provision in Division 5 of the Sydney LEP for additional floor space and making a corresponding amendment to the Alternative Height of Buildings Map.</p> <p>A planning proposal is required for both of the above and is therefore considered the best means of achieving the objectives and intended outcomes.</p>

Section B1 – Relationship to the strategic planning framework

Question	City response
Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and the exhibited draft strategies)?	<p>Yes. The Greater Sydney Region Plan and the Eastern District City Plan are both prepared by the NSW Government and are the regional plans relevant to the site.</p> <p>This planning proposal aligns with the objectives of these strategies, particularly those around the creation of additional employment floorspace in central areas with existing accessibility and public infrastructure.</p>
Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?	<p>Yes. The City's vision for land use and planning is set out within City Plan 2036, the City's local strategic planning statement, and Sustainable Sydney 2030-2050. This planning proposal aligns with key priorities of City Plan 2036, namely:</p> <ul style="list-style-type: none"> • Priority I2, 'aligning development and growth with supporting infrastructure,' • Productivity P2, 'developing innovative and diverse business clusters in City Fringe'
Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?	<p>Yes, this planning proposal is consistent with applicable SEPPs. See Section B2.</p>
Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?	<p>Yes, this planning proposal is consistent with applicable Ministerial Directions. See Section B3.</p>

Section B2 – Assessment of planning proposal against applicable SEPPs

SEPP	Comment
SEPP (Biodiversity and Conservation) 2021	This planning proposal is consistent.
SEPP (Building Sustainability Index: BASIX) 2004	Not applicable to this proposal.
SEPP (Exempt and Complying Development Codes) 2008	This planning proposal is consistent.
SEPP (Housing) 2021	This planning proposal is consistent.

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SEPP	Comment
SEPP (Industry and Employment) 2021	This planning proposal is consistent.
SEPP (Planning Systems) 2021	This planning proposal is consistent.
SEPP (Precincts–Central River City) 2021	Not applicable to this proposal.
SEPP (Precincts–Eastern Harbour City) 2021	This planning proposal is consistent.
SEPP (Precincts–Regional) 2021	Not applicable to this proposal.
SEPP (Precincts–Western Parkland City) 2021	Not applicable to this proposal.
SEPP (Primary Production) 2021	Not applicable to this proposal
SEPP (Resilience and Hazards) 2021	This planning proposal is consistent.
SEPP (Resources and Energy) 2021	This planning proposal is consistent
SEPP No 65 - Design Quality of Residential Flat Development	Not applicable to this proposal.
SEPP (Transport and Infrastructure) 2021	This planning proposal is consistent

Section B3 – Assessment of planning proposal against applicable Ministerial Directions

Ministerial Direction	Response
Ministerial Direction 1.1 Implementation of Regional Plans	Consistent. The planning proposal will give effect to objectives and priorities of the Greater Sydney Region Plan as detailed in response to Q3 above.
Ministerial Direction 1.2 Development of Aboriginal Land Council Land	Not applicable.
Ministerial Direction 1.3 Approval and Referral Requirements	Consistent. The planning proposal does not include provisions that require the concurrence, consultation or referral of any future development application to a Minister or public authority. Future development in accordance with the proposed amendments will not be designated development.
Ministerial Direction 1.4 Site Specific Provisions	Consistent. The planning proposal does unnecessarily restrict the permitted uses on the land. The planning proposal provides development uplift for a range of commercial uses. This is consistent with strategic priorities for the area. Development that does not make use of the

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Ministerial Direction	Response
	uplift provided by the planning proposal can continue to make use of the full range of uses permitted in the MU1 zone.
Ministerial Direction 1.5 Parramatta Road Urban Transformation Strategy	Not applicable.
Ministerial Direction 1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
Ministerial Direction 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
Ministerial Direction 1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
Ministerial Direction 1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.
Ministerial Direction 1.10 Implementation of the Western Sydney Aerotropolis Plan	Not applicable.
Ministerial Direction 1.11 Implementation of Bayside West Precincts 2036 Plan	Not applicable.
Ministerial Direction 1.12 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.
Ministerial Direction 1.13 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.
Ministerial Direction 1.14	Not applicable.

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Ministerial Direction	Response
Implementation of Greater Macarthur 2040	
Ministerial Direction 1.15 Implementation of the Pyrmont Peninsula Place Strategy	Not applicable.
Ministerial Direction 1.16 North West Rail Link Corridor Strategy	Not applicable.
Ministerial Direction 1.17 Implementation of the Bays West Place Strategy	Not applicable.
1.18 Implementation of the Macquarie Park Innovation Precinct	Not applicable.
Ministerial Direction 1.19 Implementation of the Westmead Place Strategy	Not applicable.
Ministerial Direction 1.20 Implementation of the Camellia-Rosehill Place Strategy	Not applicable.
Ministerial Direction 1.21 Implementation of the South West Growth Area Structure Plan	Not applicable.
Ministerial Direction 1.22 Implementation of the Cherrybrook Station Place Strategy	Not applicable.
Ministerial Direction 3.1 Conservation Zones	Not applicable.
Ministerial Direction 3.2 Heritage Conservation	Consistent. No heritage items are identified on the site and the site is not located within a heritage conservation area. Additionally, the planning proposal considers impacts on adjacent heritage items.
Ministerial Direction 3.3 Sydney Drinking Water Catchments	Not applicable.
Ministerial Direction 3.4	Not applicable.

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Ministerial Direction	Response
Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	
Ministerial Direction 3.5 Recreation Vehicle Area	Not applicable.
Ministerial Direction 3.6 Strategic Conservation Planning	Not applicable.
Ministerial Direction 3.7 Public Bushland	Not applicable.
Ministerial Direction 3.8 Willandra Lakes Region	Not applicable.
Ministerial Direction 3.9 Sydney Harbour Foreshores and Waterways Area	Not applicable.
Ministerial Direction 3.10 Water Catchment Protection	Not applicable.
Ministerial Direction 4.1 Flooding	Consistent. The land is not identified as flood affected.
Ministerial Direction 4.2 Coastal Management	Not applicable.
Ministerial Direction 4.3 Planning for Bushfire Protection	Not applicable.
Ministerial Direction 4.4 Remediation of Contaminated Land	Consistent. The land is currently fully developed and hosts an existing commercial use. This planning proposal allows for additional stories on top of the existing building. If needed a detailed contamination assessment can be carried out at the development application stage.
Ministerial Direction 4.5 Acid Sulfate Soils	Consistent. The site is located on land identified as Class 5 Acid Sulfate Soils as per the Acid Sulfate Soils Map in the LEP. The nearest Class 2 areas to the site are located 610m to its east, south of Darling Harbour, and 690m to its north, in Woolloomooloo, near William Street.
	The planning proposal will not incentivise residential development and is only to facilitate an addition to the building at its upper levels.

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Ministerial Direction	Response
	The planning proposal was accompanied by a Preliminary Structural Statement which advised that improvements to the footings and associated works may be required. A detailed Geotechnical Statement will accompany the detailed development application. The Statement will appropriately respond to the presence of acid sulfate soils, as well as detail how works will avoid their disturbance or impact on neighbouring sensitive uses.
Ministerial Direction 4.6 Mine Subsidence and Unstable Land	Not applicable.
Ministerial Direction 5.1 Integrating Land Use and Transport	Consistent. The site is located in an area that is well serviced by existing public and private transport options.
Ministerial Direction 5.2 Reserving Land for Public Purpose	Not applicable.
Ministerial Direction 5.3 Development Near Regulated Airports and Defence Airfields	Not applicable.
Ministerial Direction 5.4 Shooting Ranges	Not applicable.
Ministerial Direction 6.1 Residential Zones	Consistent. The planning proposal does not prevent a residential use from occurring on the site under the current zoning and development standards. The planning proposal allows additional development to encourage commercial uses.
Ministerial Direction 6.2 Caravan Parks and Manufactured Home Estates	Not applicable.
Ministerial Direction 7.1 Business and Industrial Zones	Consistent. The planning proposal will encourage employment growth in a suitable location, as well as protect and support the viability of an area prioritised for commercial uses.
Ministerial Direction 7.2 Reduction in non-hosted short-term rental accommodation period	Not applicable.
Ministerial Direction 7.3	Not applicable.

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Ministerial Direction	Response
Commercial and Retail Development along the Pacific Highway, North Coast	
Ministerial Direction 8.1 Mining, Petroleum Production and Extractive Industries	Not applicable.
Ministerial Direction 9.1 Rural Zones	Not applicable.
Ministerial Direction 9.2 Rural Lands	Not applicable.
Ministerial Direction 9.3 Oyster Aquaculture	Not applicable.
Ministerial Direction 9.4 Farmland of State Regional Significance on the NSW Far North Coast	Not applicable.

Section C – Environmental, social and economic impact

Question	City response
Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	No. This planning proposal would not significantly change the intensity of the use or development on the site. It is noted as well that the site is in a highly urbanised area and features no significant vegetation.
Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	No. As above, this planning proposal is for an increase in the amount of commercial floorspace available to an existing commercial use in a highly developed area. Any significant environmental effects would be adequately addressed by a future development application process.
Q9. Has the planning proposal adequately addressed any social and environmental effects?	This planning proposal will not result in any significant change to the planning controls, or the intensity of that use. No social or environmental effects are likely as an outcome of this proposal.

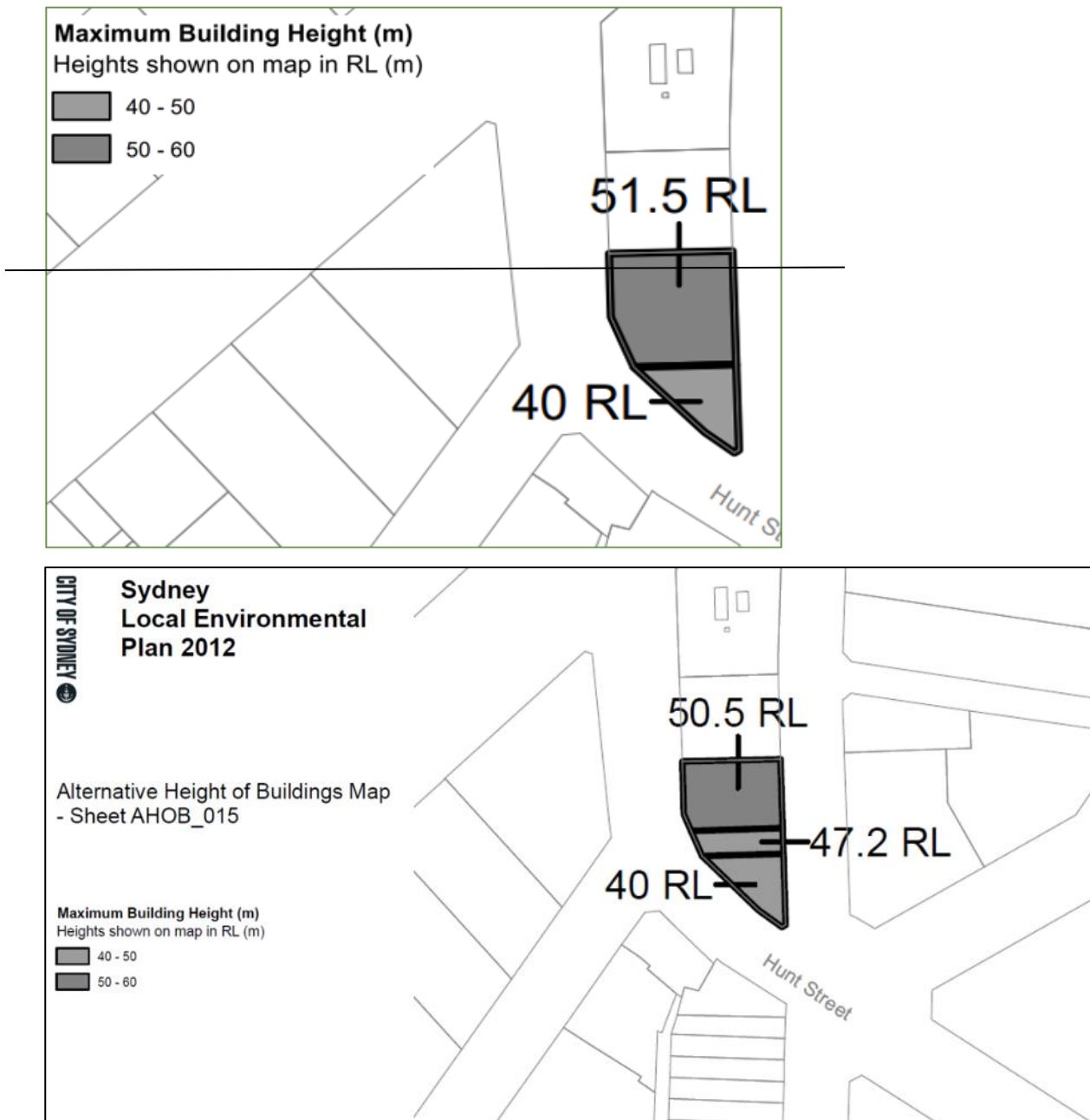
Section D – State and Commonwealth interests

Question	City response
Q10. Is there adequate public infrastructure for the planning proposal?	Yes, there is adequate public infrastructure to support this planning proposal. It is noted that the site is located within close proximity to existing public and active transport infrastructure.
Q11. What are the views of the State and Commonwealth public authorities consulted in accordance with the Gateway determination?	The Gateway Determination will identify the public authorities to be consulted as part of the planning proposal process and any views expressed will be included in this planning proposal following consultation. Formal consultation has not yet commenced.

6. Mapping

To support the new provisions it is proposed to amend sheet HOB_015 of the Alternative Height of Building Map adopted by the Sydney LEP, to identify the increased maximum building height described above (see Figure 11). The increased maximum FSR will be expressed in the text of Sydney LEP, linked to use, and not mapped.

Figure 12. Proposed amendment to the Alternative Height of Building Maps



7. Community consultation

This planning proposal is to be exhibited in accordance with the Gateway Determination once issued by the Department of Planning and Environment.

It is anticipated that the Gateway Determination will require public exhibition for a period of not less than 20 working days in accordance with the Environmental Planning and Assessment Act 1979 and s4.5 of the Department's guide to Preparing Local Environmental Plans.

Notification of the public exhibition will be consistent with the Gateway Determination and the City's Community Participation Plan. This will include publication on the City of Sydney website and notification via letters to surrounding owners and occupiers.

Consultation with relevant NSW agencies, authorities, and other referred entities will be undertaken if and where needed and in accordance with the Gateway Determination.

The planning proposal was exhibited in accordance with the above, for 20 working days between 21 August and 18 September 2023. 17 submissions were received in response to exhibition. Matters raised in submissions are summarised and responded to in the post-exhibition report to Council, and the amendments to the planning proposal are detailed in the above.

8. Project timeline

The anticipated timeline for the completion of the planning proposal is as follows:

Stage	Timeframe
Commencement / Gateway Determination	June 2023
Public exhibition	July 2023 August-September 2023
Consideration of submissions	August-September 2023 September-October 2023
Post-exhibition consideration of proposal	November 2023
Draft and finalise LEP	November-December 2023
LEP made	January 2024
Plan forwarded to the Department of Planning and Environment for notification	January 2024

Addendum to Planning Proposal – 85-93 Commonwealth Street, Surry Hills

Summary

The City has undertaken more work on whether a building under the proposed controls will overshadow Harmony Park and the terraces at 95-99 Commonwealth Street.

The work found that the studies prepared by the proponent were incorrect.

It also found that a building built to the full height allowed under the proposed controls would create additional overshadowing compared to the current controls.

The additional overshadowing is to:

1. the private open space (raised terrace) of the residential terrace at 97 Commonwealth Street between 10:30 and 11:30am, and
2. part of Harmony Park from 2:15pm at its south west corner (Brisbane and Commonwealth Streets).

The City will review the proposal and overshadowing impacts following public exhibition.

Background

This addendum accompanies a planning proposal for 85-93 Commonwealth Street, Surry Hills.

The planning proposal will amend the Sydney Local Environmental Plan 2012 (LEP) by inserting provisions that increase the maximum height to RL 51.5 and FSR to 4.5 on the affected land, subject to development being for a commercial use only. The Central Sydney Planning Committee on 11 May 2023 and Council on 15 May 2023 resolved to approve the planning proposal for public exhibition and request a Gateway determination.

The purpose of this addendum is to provide a detailed and accurate assessment of the overshadowing caused by the proposed envelope. It is supplementary to the planning proposal, which incorrectly states that the proposed envelope will not cause additional overshadowing to private open space. This error was made due to incorrect overshadowing analysis provided by the proponent in their urban design report, as part of their planning proposal request.

The proponent's request was for a larger envelope without setbacks. Their urban design report stated the larger envelope would not overshadow private open space. Through the planning proposal process the City reduced this larger envelope to improve its consistency with the built form of the surrounding context. Overshadowing analysis was not undertaken as the impact is reduced with the reduction in the envelope.

Because of the City's reduction to the proponent's requested envelope, the Department of Planning in their Gateway determination, issued on 21 June 2023, included a condition to "include shadow analysis demonstrating any additional overshadowing of the private open space of the residential terraces on Commonwealth Street and Harmony Park".

Findings

This analysis was prepared by the City and is provided below. It determines that the proposed envelope will cause some additional overshadowing to:

1. the private open space of the residential terrace at 97 Commonwealth Street between 10:30 and 11:30am, and
2. Harmony Park from 2:15pm.

Assessment

The planning proposal is to increase the maximum building height on the northern portion of the site to RL 51.5 and increase the maximum FSR across the site to 4.5:1. The additional overshadowing from this envelope was tested by the City using 3D modelling, as well as a site visit to verify the modelling approach.

The modelling results are set out in 15-minute increments, summarised in Table 1 below, and presented in full between pages 8 and 30.

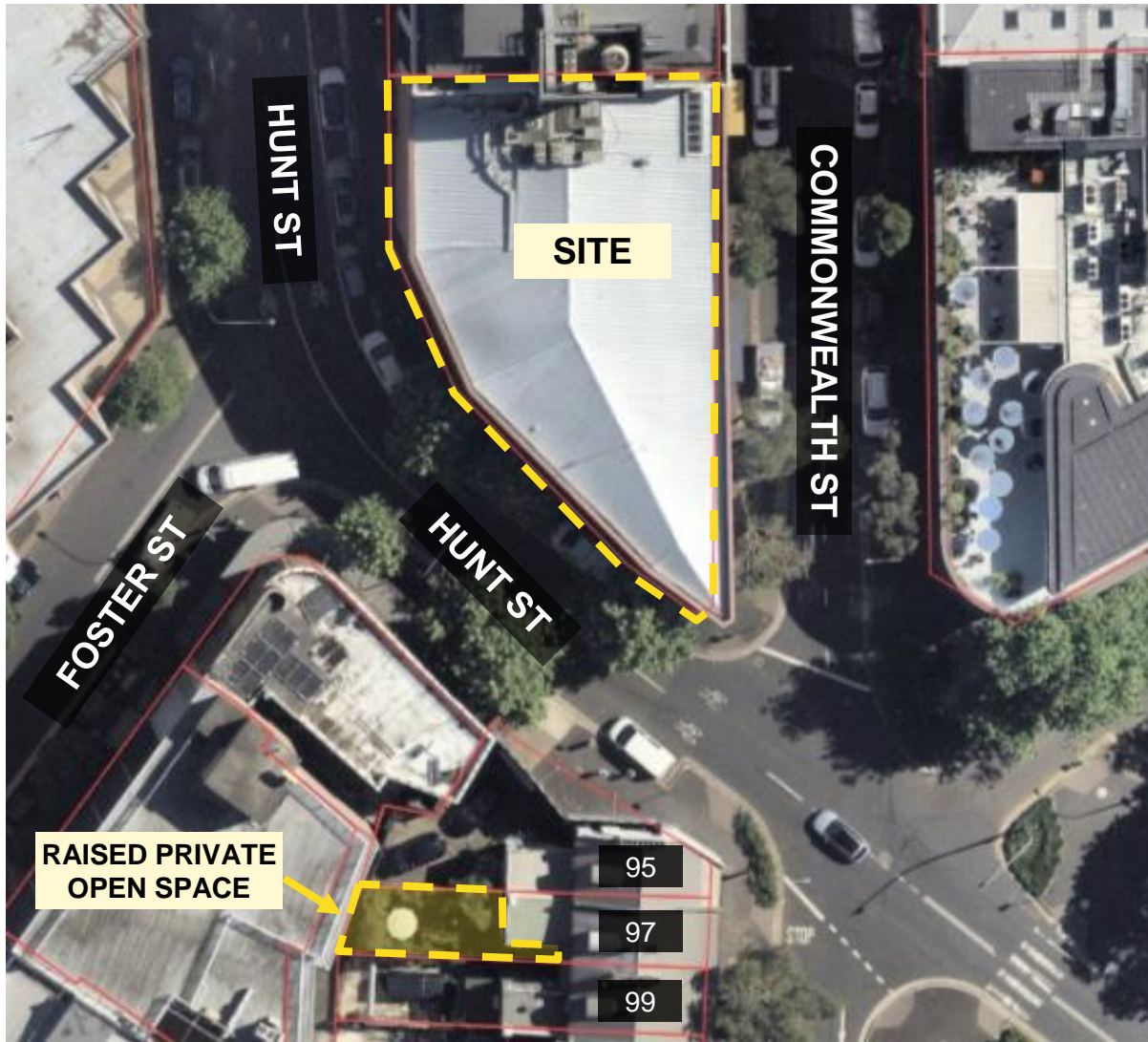
Overshadowing impacts to the residential terrace's private open space

South of the site there is a row of terrace dwellings along the western side of Commonwealth Street. The northernmost of these, no 95, is a commercial use. The remainder are residential dwellings. Each terrace has private open space in the form of a small backyard. The private open space of some terrace residences are raised above the ground level and sit above garages facing the rear Beauchamp Lane. The height of these garages, and the private open space, increases their exposure to overshadowing impacts (see Figures 1 and 2 below).

The modelling shows that the proposed envelope will overshadow the private open space of the terrace dwelling at 97 Commonwealth Street between 10:30 and 11:30am on 21 June. The area overshadowed is limited to a portion of the southeastern corner of the private open space.

Planning Proposal – 85-93 Commonwealth Street, Surry Hills

Figure 1. An indicative satellite photo showing the site in relation to the raised private open space at 97 Commonwealth Street. Source: Nearmap, 2023.



Planning Proposal – 85-93 Commonwealth Street, Surry Hills

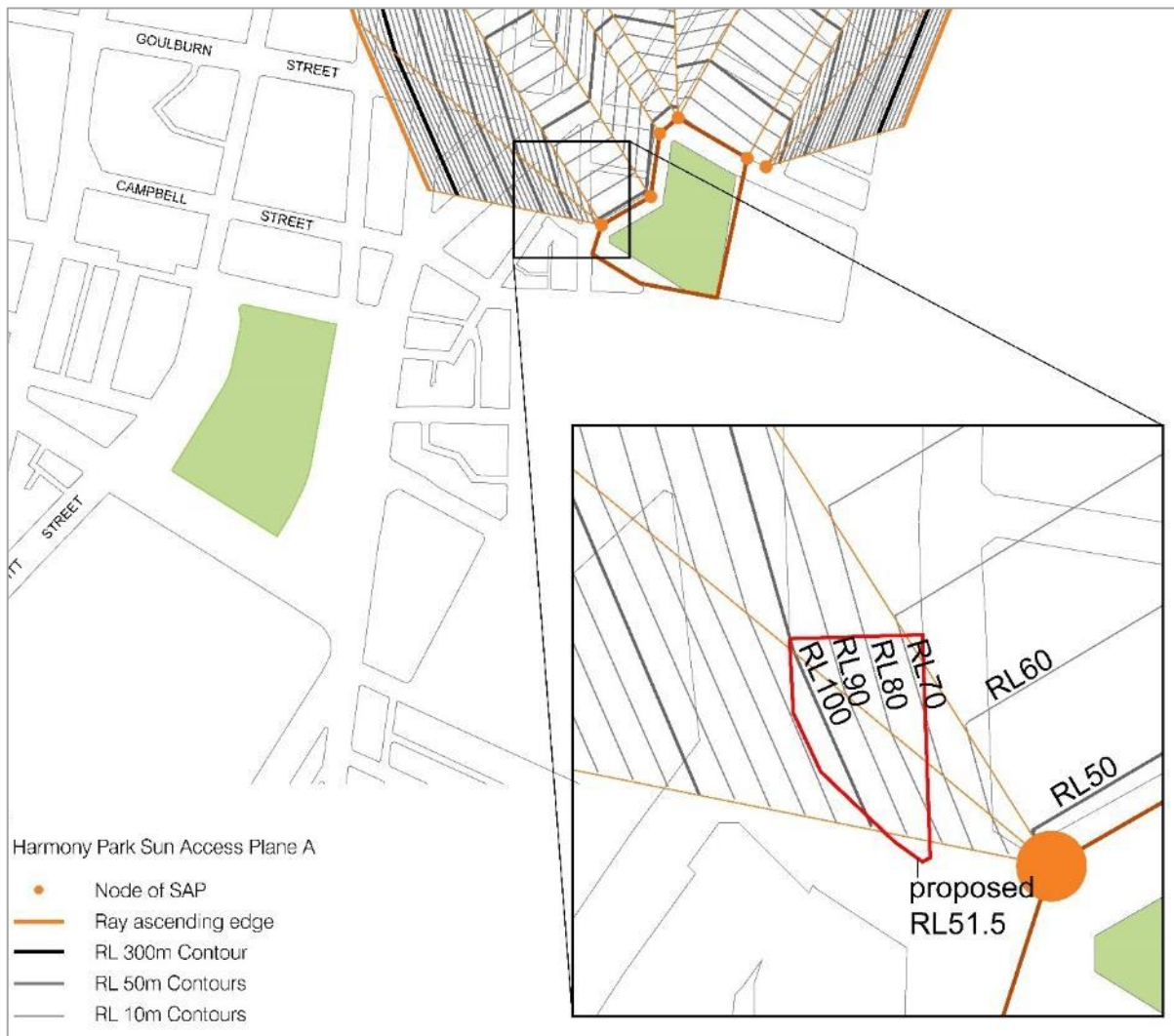
Figure 2. A photo of the raised terrace at the rear of 97 Commonwealth Street. Source: City of Sydney, 2023.



Overshadowing impacts to Harmony Park

The proposed envelope was assessed against Harmony Park’s sun access plane provisions during earlier planning proposal work. Harmony Park’s protected times under sun access plane provisions are 10am to 2pm year-round. The modelling results show that the proposal will not overshadow any part of Harmony Park between these times, reaffirming that the proposed heights comply with Harmony Park’s sun access plane provisions. The proposal’s compliance with these provisions is illustrated indicatively in Figure 3 below.

Figure 3. An indicative illustration demonstrating the envelope’s compliance with Harmony Park’s sun access plane



The modelling results show the proposed envelope will overshadow the southwest corner of the park for a short period during the afternoon (from approx 2:15pm) on 21 June. The small area of the park affected by the overshadowing is predominantly paved due to the chamfering of the turfed area (see Figures 4 and 5). This limits any detrimental impacts on vegetation or the enjoyment of the park’s grassed areas. Any additional overshadowing caused to Harmony Park is outside of the times protected by the sun access plane provisions.

Planning Proposal – 85-93 Commonwealth Street, Surry Hills

Figure 4. The southwest corner of Harmony Park, looking southwest from Brisbane Street. Source: Google Maps, 2023.



Figure 5. The southwest corner of Harmony Park, looking northeast from Hunt Street. Source: Google Maps, 2023.



Table 1. Comparison of additional overshadowing caused by different envelopes to private open space

Time of day	Additional overshadowing caused to terrace dwelling at 97 Commonwealth Street		
	Existing building	Existing LEP (compared with existing building)	Planning proposal (compared with existing LEP)
21 June			
9am	No shadow	No additional shadow	No additional shadow
9:15am	No shadow	No additional shadow	No additional shadow
9:30am	Shadow	No additional shadow	No additional shadow
9:45am	Shadow	Additional shadow	No additional shadow
10am	No shadow	Additional shadow	No additional shadow
10:15am	No shadow	Additional shadow	No additional shadow
10:30am	No shadow	Additional shadow	Additional shadow
10:45am	No shadow	Additional shadow	Additional shadow
11am	No shadow	No additional shadow	Additional shadow
11:15am	No shadow	No additional shadow	Additional shadow
11:30am	No shadow	No additional shadow	Additional shadow
11:45am	No shadow	No additional shadow	No additional shadow
12pm	No shadow	No additional shadow	No additional shadow
12:15pm	No shadow	No additional shadow	No additional shadow
12:30pm	No shadow	No additional shadow	No additional shadow
12:45pm	No shadow	No additional shadow	No additional shadow
1pm	No shadow	No additional shadow	No additional shadow
1:15pm	No shadow	No additional shadow	No additional shadow
1:30pm	No shadow	No additional shadow	No additional shadow
1:45pm	No shadow	No additional shadow	No additional shadow
2pm	No shadow	No additional shadow	No additional shadow
2:15pm	No shadow	No additional shadow	No additional shadow
2:30pm	No shadow	No additional shadow	No additional shadow
2:45pm	No shadow	No additional shadow	No additional shadow
3pm	No shadow	No additional shadow	No additional shadow
3:15pm	No shadow	No additional shadow	No additional shadow
Total time	30min	1hr	1hr

Overshadowing modelling results

The overshadowing impacts of three different envelopes are compared over the subsequent pages, using two different scales.

Rather than compare the additional overshadowing created by the planning proposal envelope with that from the existing building, the planning proposal envelope is compared with what is currently permissible under the LEP. That is, the proposed controls are compared with the existing controls, not the existing building. This draws a clearer comparison between the overshadowing amounts.

The three envelopes assessed are:

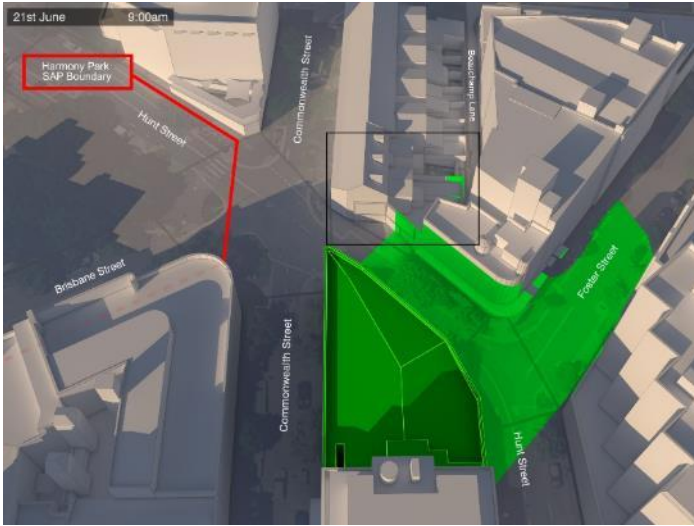
- that of the existing building (with current overshadowing shown in **green**),
- that of the maximum permissible LEP envelope (with additional overshadowing shown in **blue**), and
- the planning proposal envelope (with additional overshadowing created shown in **orange**).

It should be noted that the planning proposal includes a decrease in the maximum permissible LEP height on the south of the site, generating a slight reduction in overshadowing, while the increase in height at the northern portion of the site generates an increase in overshadowing. The overshadowing analysis should be read together as outlined below.

The two scales used are:

- a zoomed-out, oblique angle showing the overshadowing caused in terms of the site's general surrounds, including the terrace dwellings along Commonwealth Street and Harmony Park (pp 8-20); and
- a zoomed-in perspective focusing specifically on the additional overshadowing caused to the private open space of the residential dwelling at 97 Commonwealth Street (pp 21 to 31).

Planning Proposal – 85-93 Commonwealth Street, Surry Hills



9am - Existing building



9am - Existing LEP



9am - Planning proposal



9:15am – Existing building

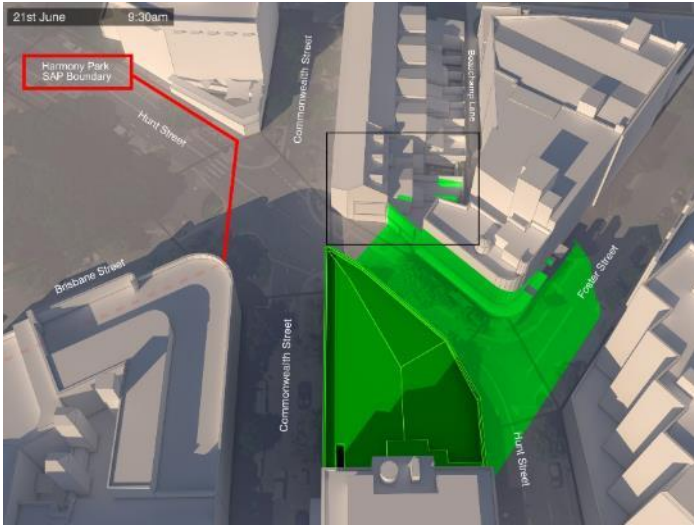


9:15am – Existing LEP

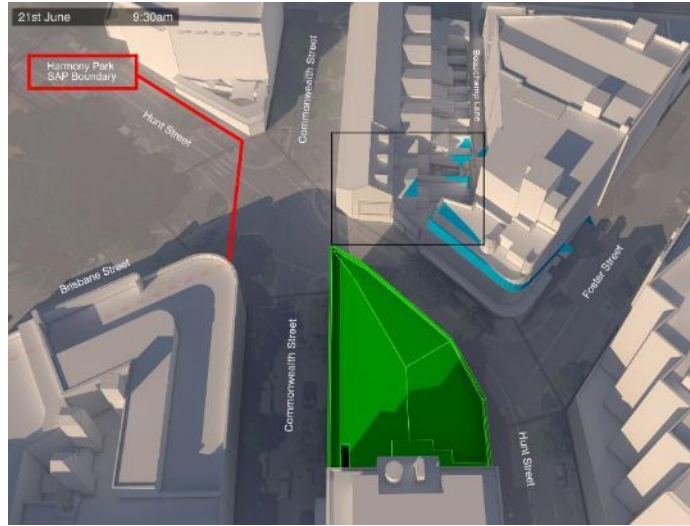


9:15am – Planning proposal

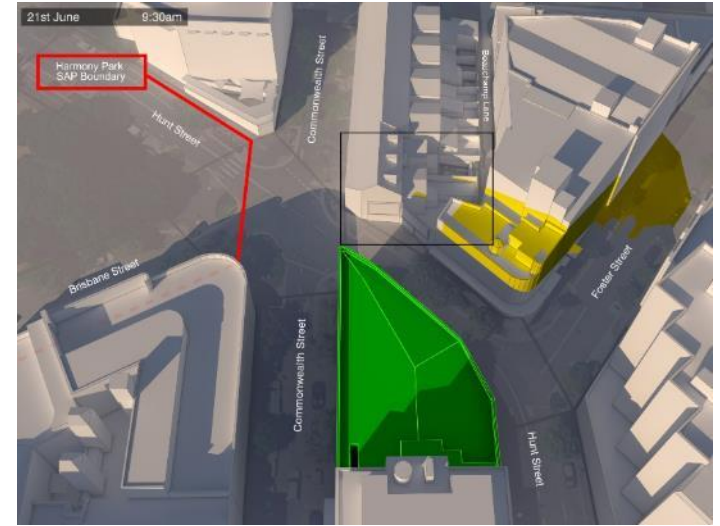
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



9:30am - Existing building



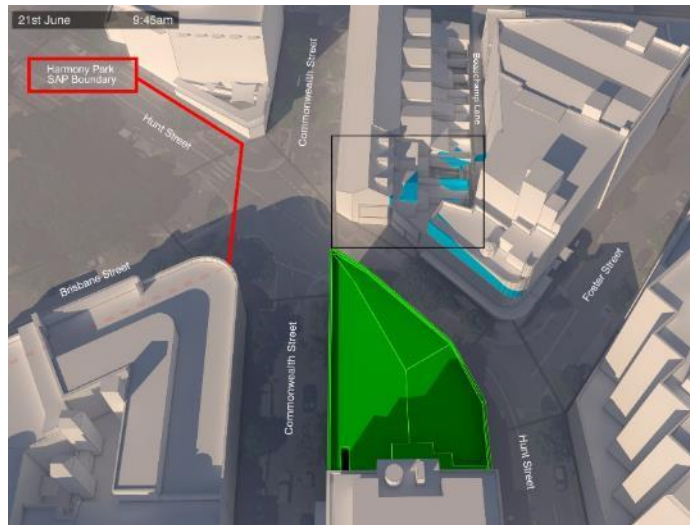
9:30am - Existing LEP



9:30am - Planning proposal



9:45am – Existing building

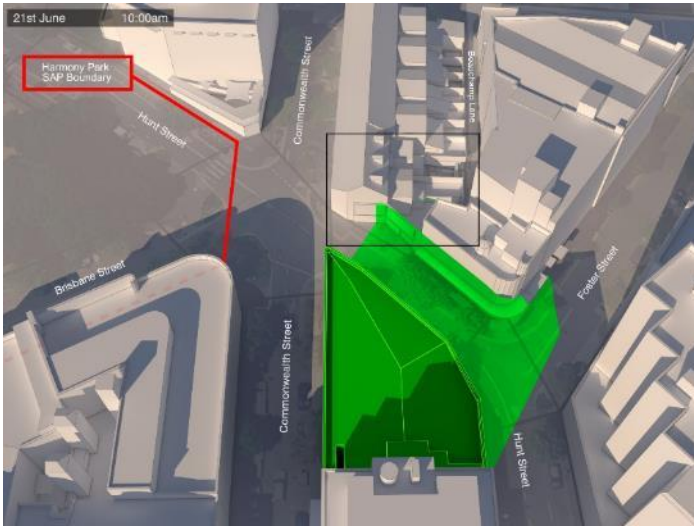


9:45am – Existing LEP

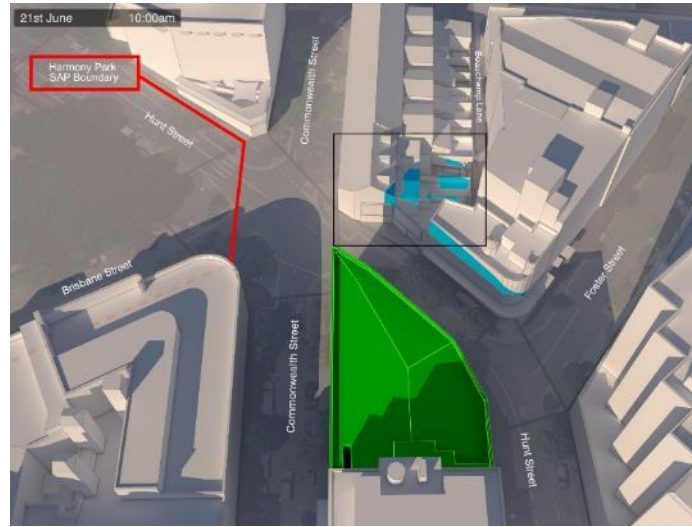


9:45am – Planning proposal

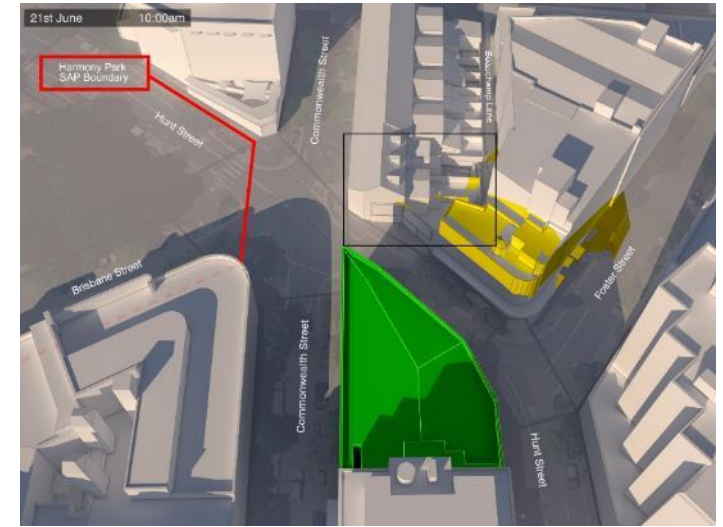
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



10am - Existing building



10am - Existing LEP



10am - Planning proposal



10:15am – Existing building

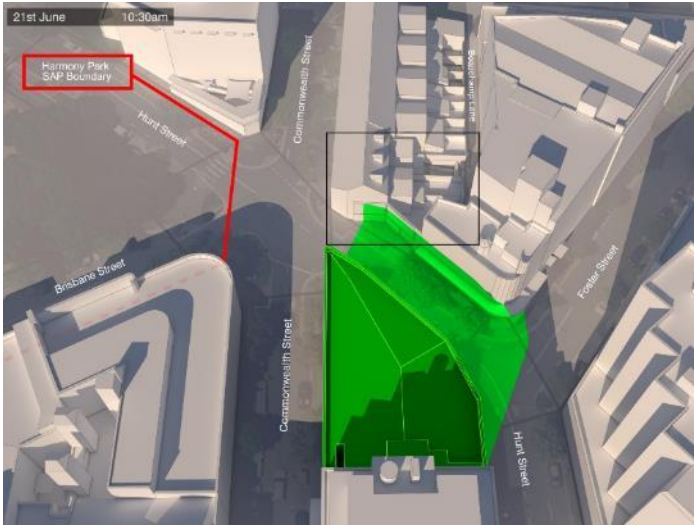


10:15am – Existing LEP

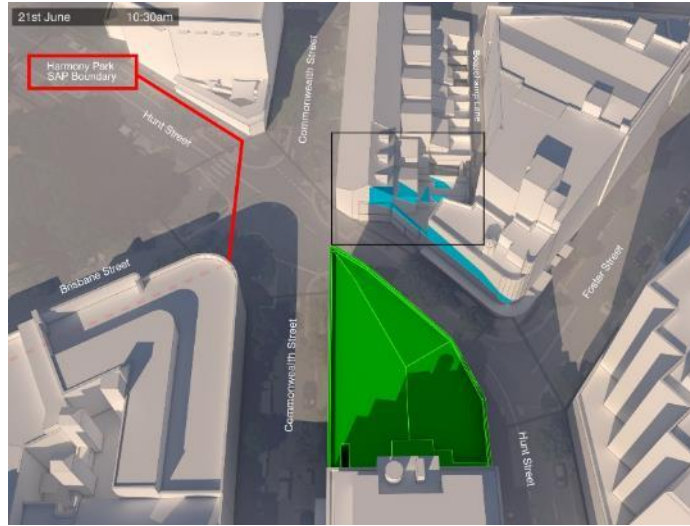


10:15am – Planning proposal

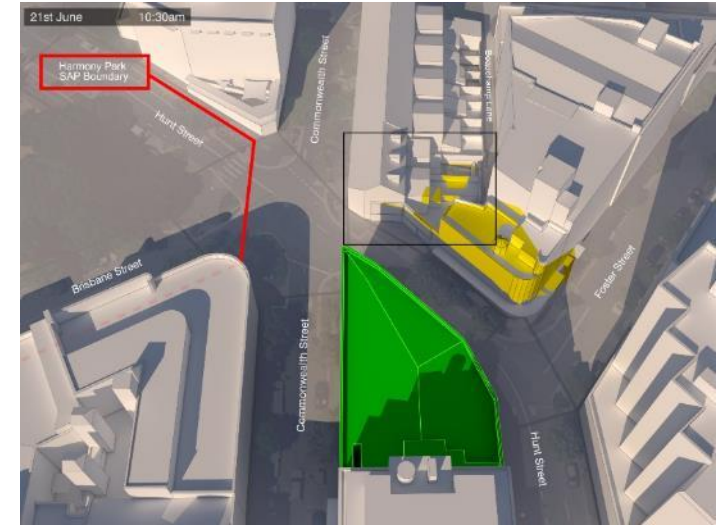
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



10:30am - Existing building



10:30am - Existing LEP



10:30am - Planning proposal



9:15am – Existing building



10:45am – Existing LEP



10:45am – Planning proposal

Planning Proposal – 85-93 Commonwealth Street, Surry Hills



11am - Existing building



11am - Existing LEP



11am - Planning proposal



11:15am – Existing building



11:15am – Existing LEP



11:15am – Planning proposal

Planning Proposal – 85-93 Commonwealth Street, Surry Hills



11:30am - Existing building



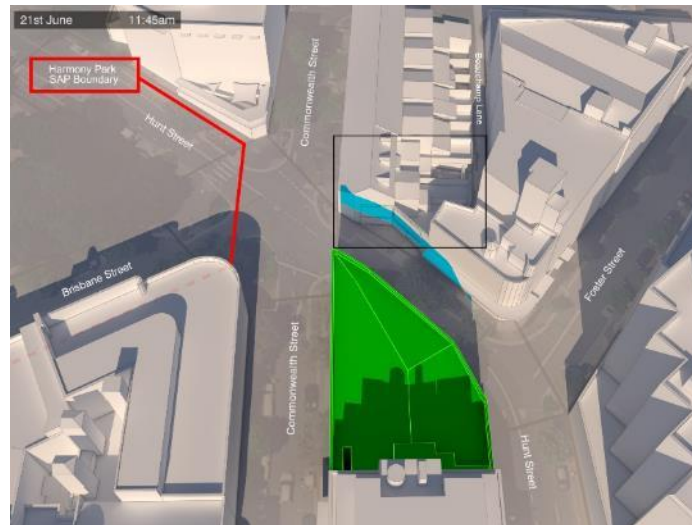
11:30am - Existing LEP



11:30am - Planning proposal



11:45am – Existing building



11:45am – Existing LEP

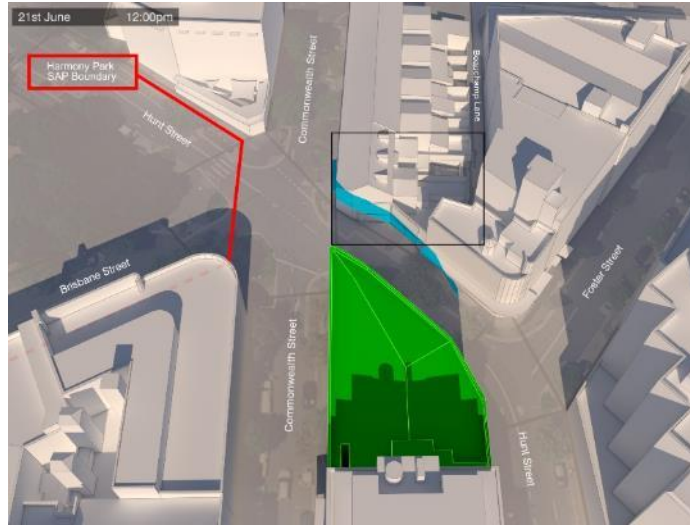


11:45am – Planning proposal

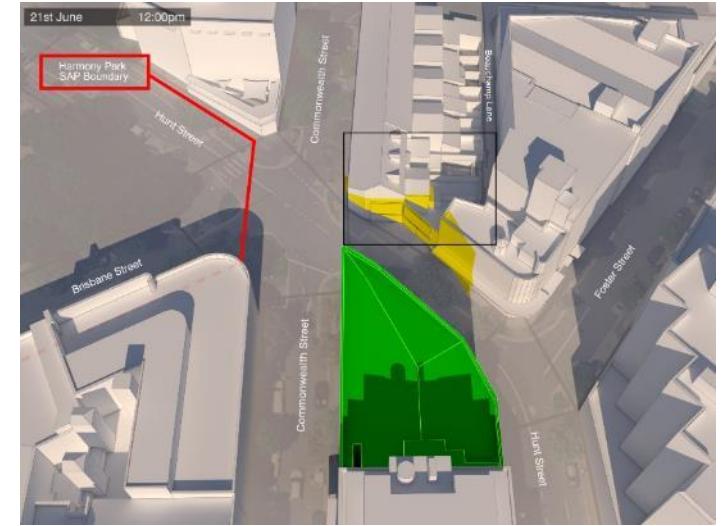
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



12 noon - Existing building



12 noon - Existing LEP



12 noon - Planning proposal



12:15pm – Existing building

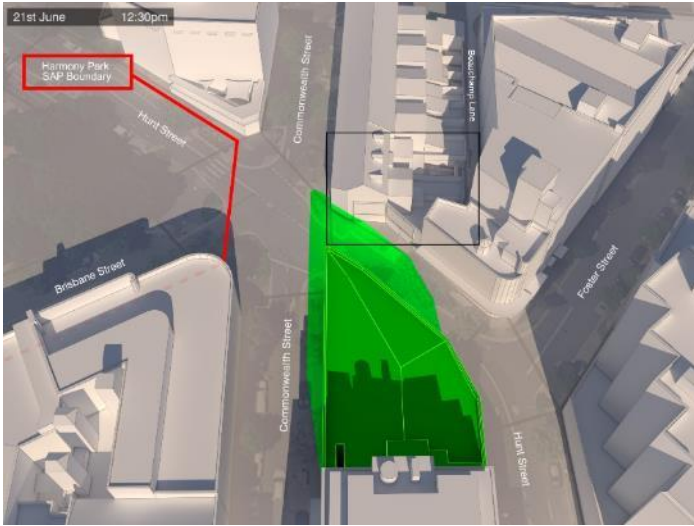


12:15pm – Existing LEP



12:15pm – Planning proposal

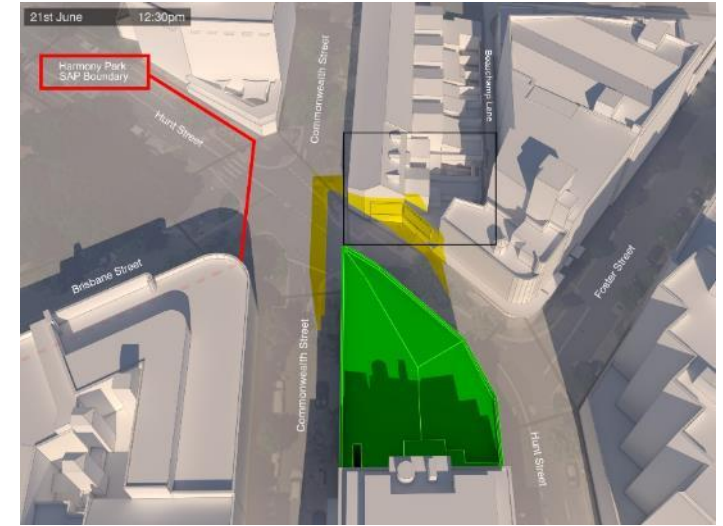
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



12:30pm - Existing building



12:30pm - Existing LEP



12:30pm - Planning proposal



12:45pm – Existing building

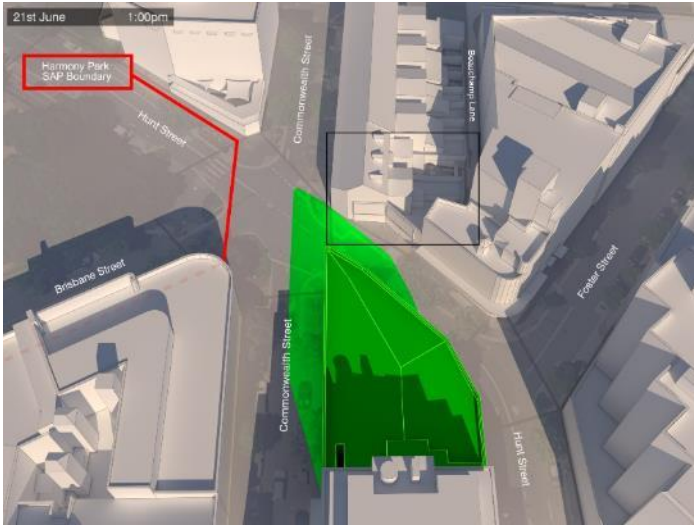


12:45pm – Existing LEP

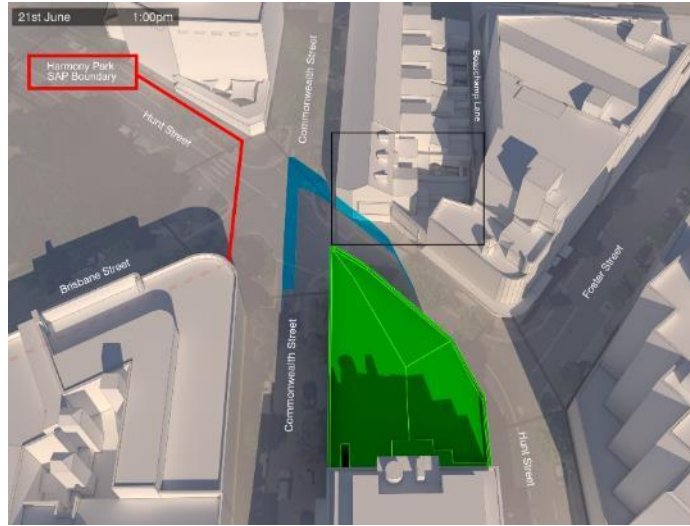


12:45pm – Planning proposal

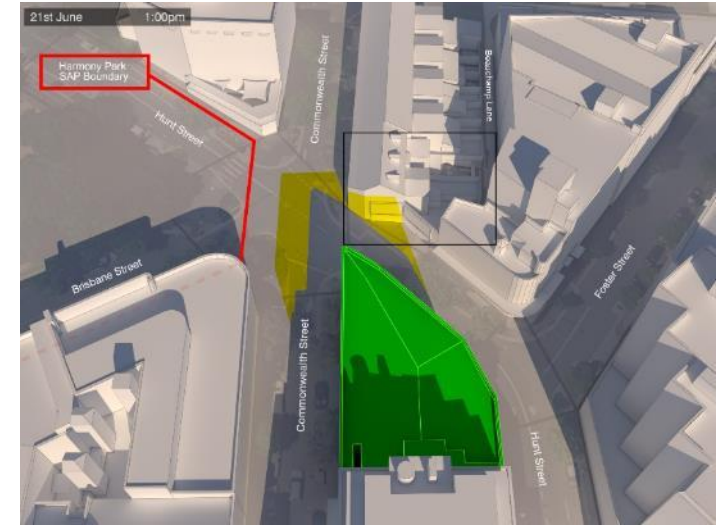
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



1pm - Existing building



1pm - Existing LEP



1pm - Planning proposal



1:15pm – Existing building

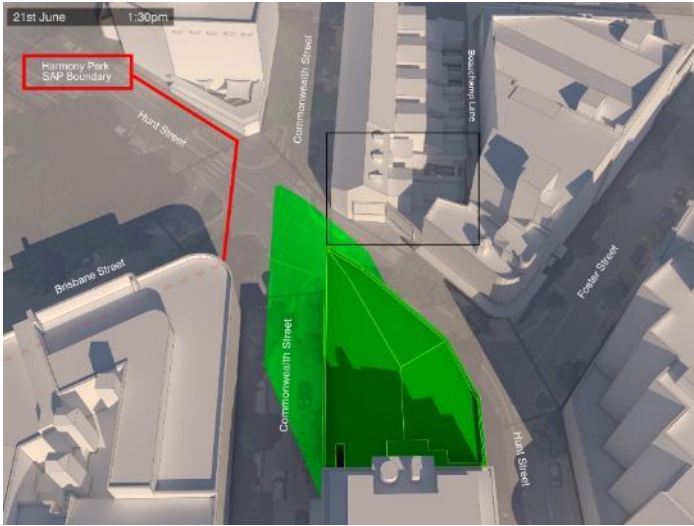


1:15pm – Existing LEP



1:15pm – Planning proposal

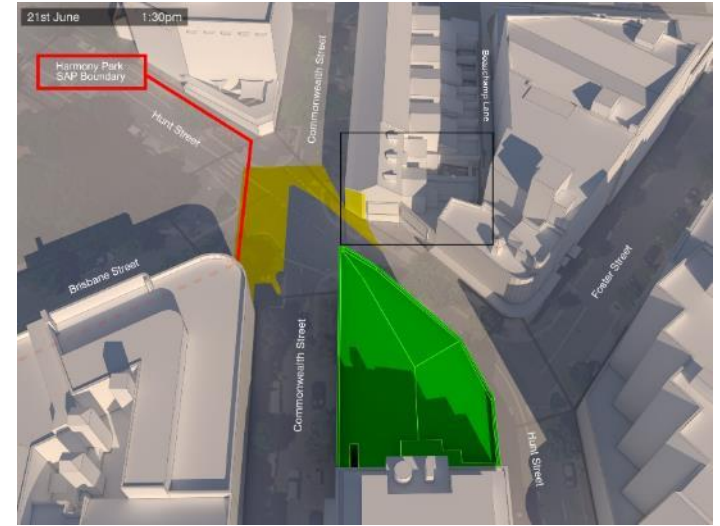
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



1:30pm - Existing building



1:30pm - Existing LEP



1:30pm - Planning proposal



1:45pm – Existing building



1:45pm – Existing LEP



1:45pm – Planning proposal

Planning Proposal – 85-93 Commonwealth Street, Surry Hills



2pm - Existing building



2pm - Existing LEP



2pm - Planning proposal



2:15pm – Existing building



2:15pm – Existing LEP



2:15pm – Planning proposal

Planning Proposal – 85-93 Commonwealth Street, Surry Hills



2:30pm - Existing building



2:30pm - Existing LEP



2:30pm - Planning proposal



2:45pm – Existing building



2:45pm – Existing LEP



2:45pm – Planning proposal

Planning Proposal – 85-93 Commonwealth Street, Surry Hills



3pm - Existing building



3pm - Existing LEP



3pm - Planning proposal



3:15pm – Existing building

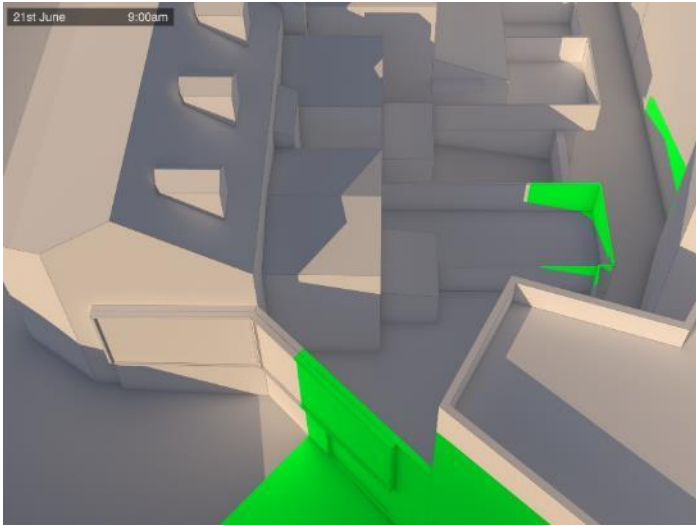


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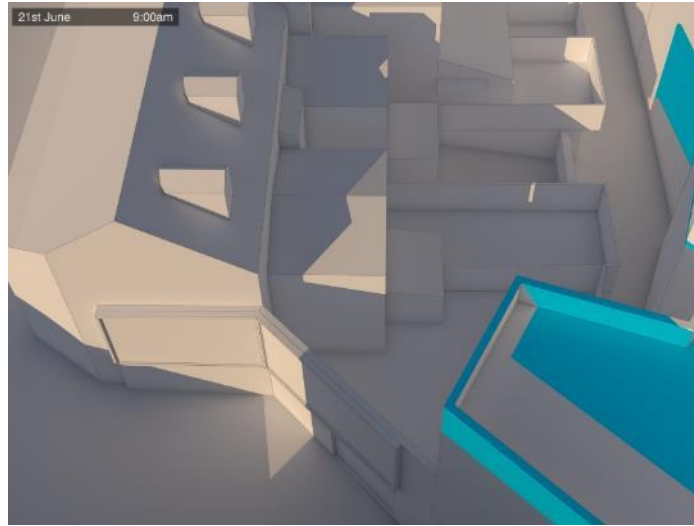


3:15pm – Planning proposal

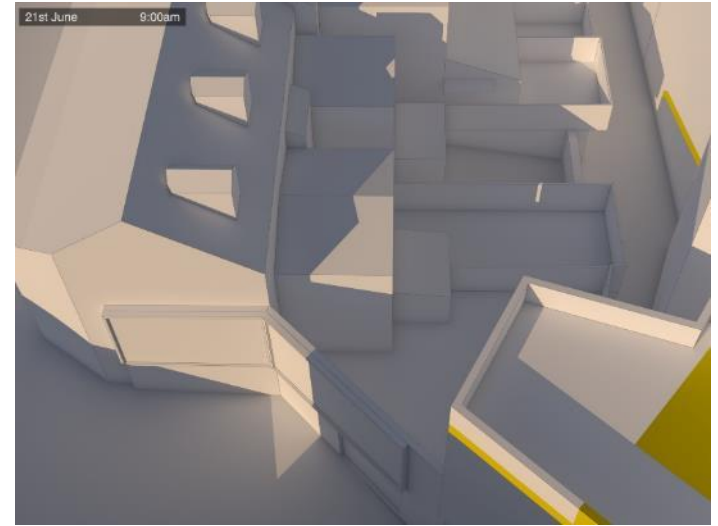
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



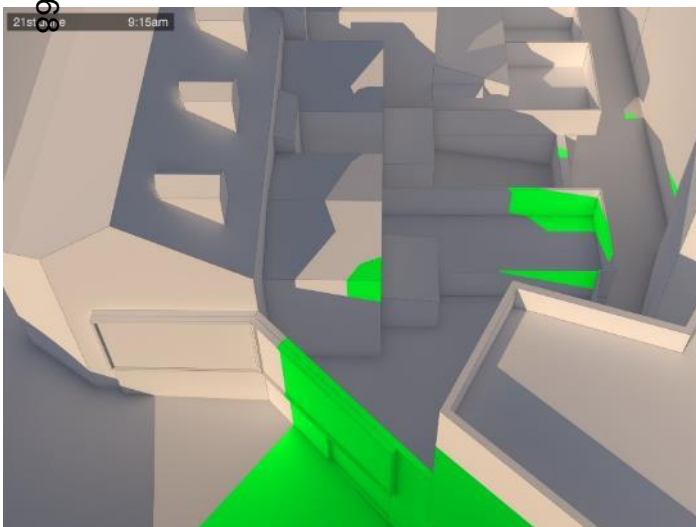
9am - Existing building



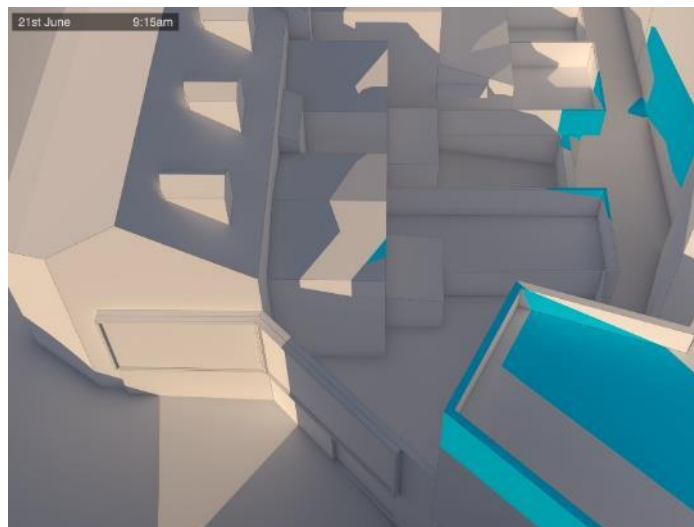
9am - Existing LEP



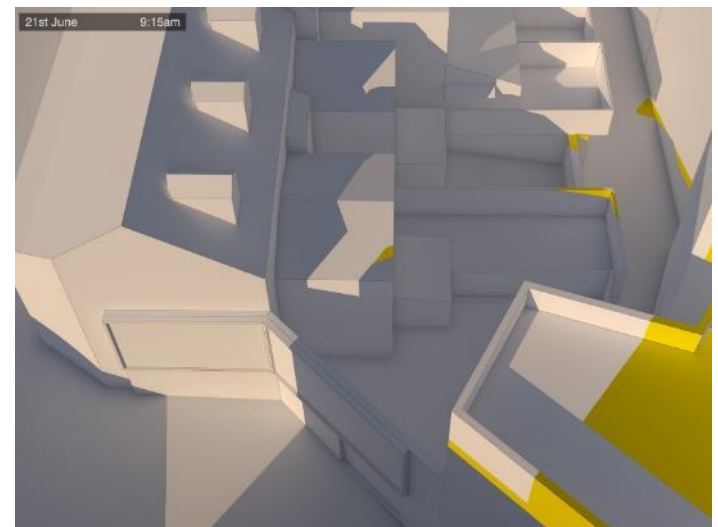
9am - Planning proposal



9:15am – Existing building

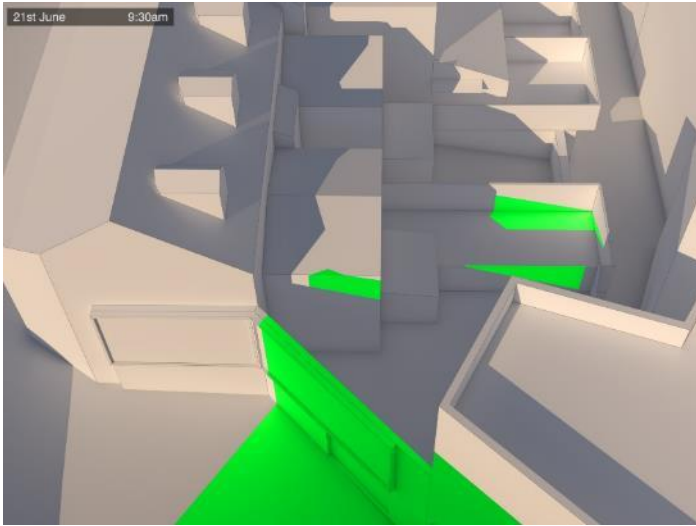


9:15am – Existing LEP

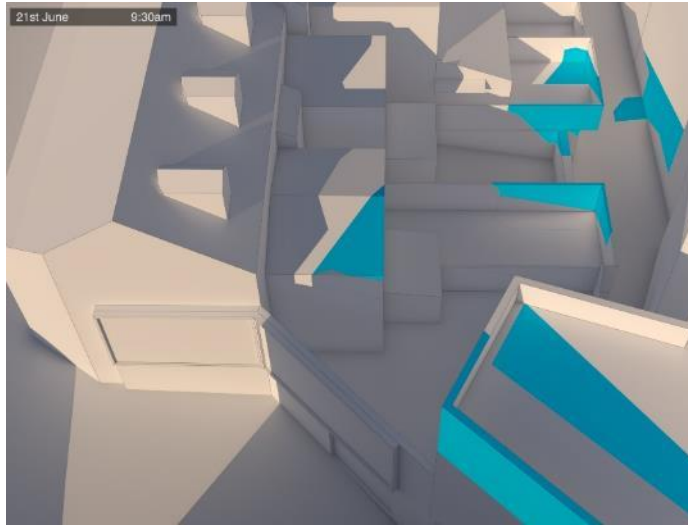


9:15am – Planning proposal

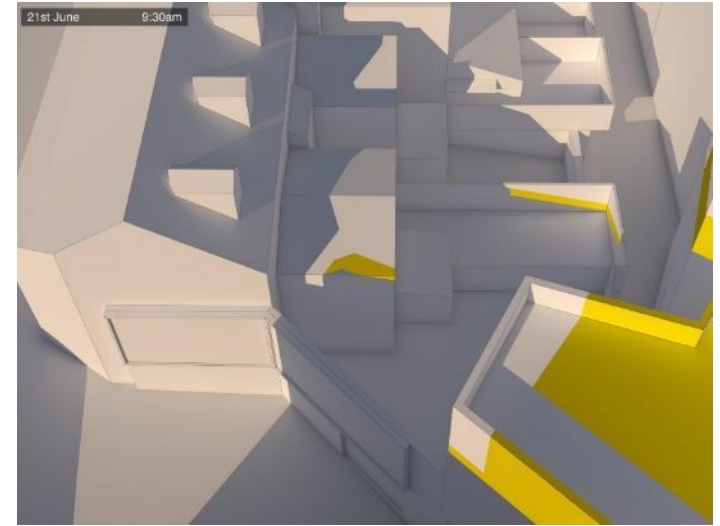
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



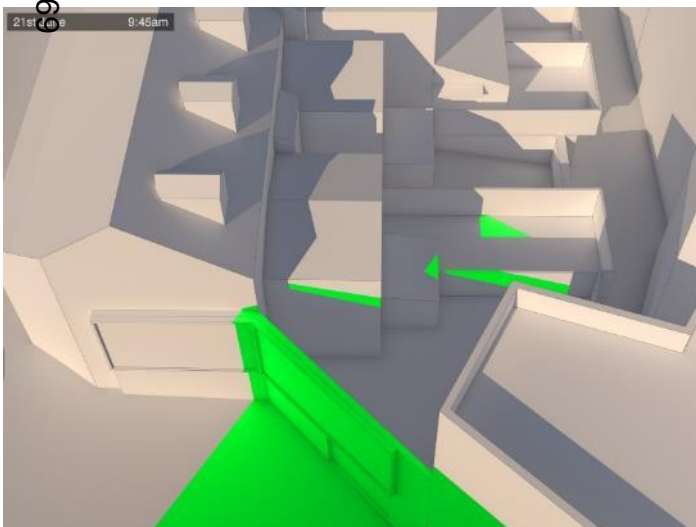
9:30am - Existing building



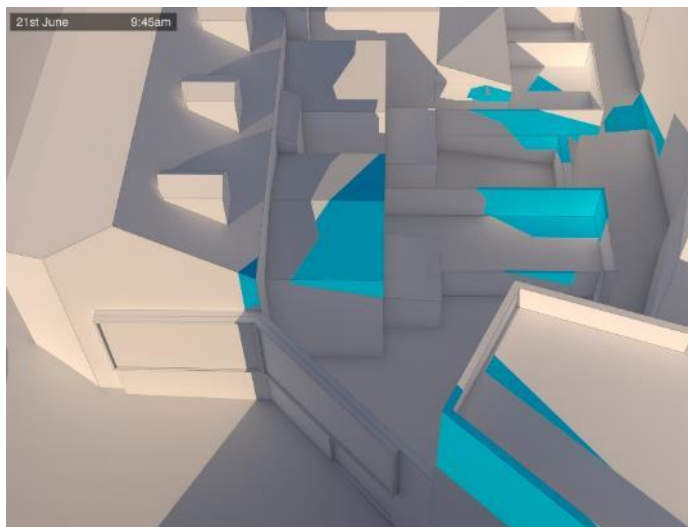
9:30am - Existing LEP



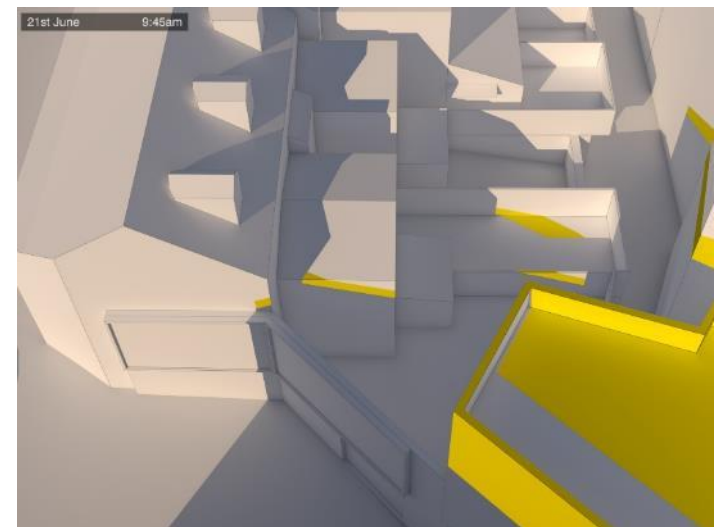
9:30am - Planning proposal



9:45am – Existing building

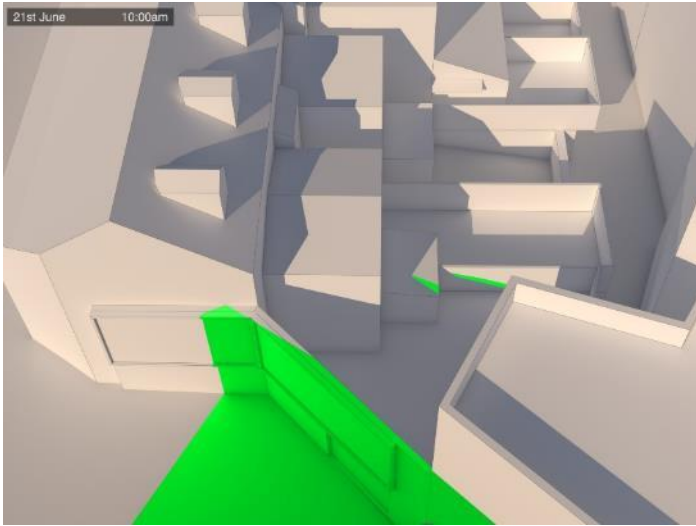


9:45am – Existing LEP

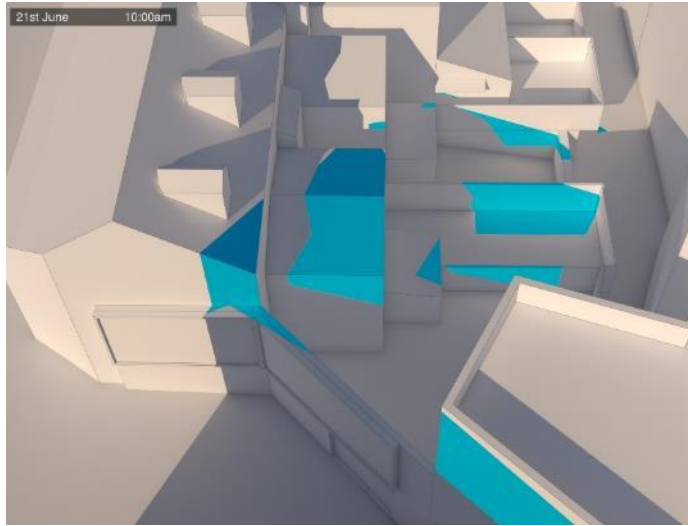


9:45am – Planning proposal

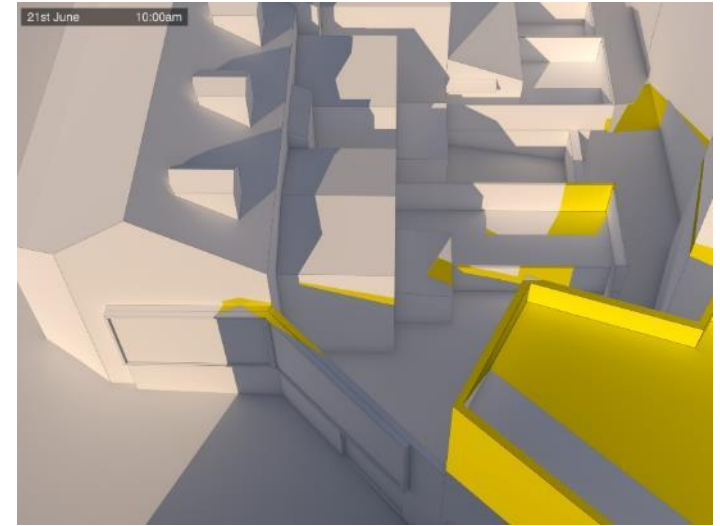
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



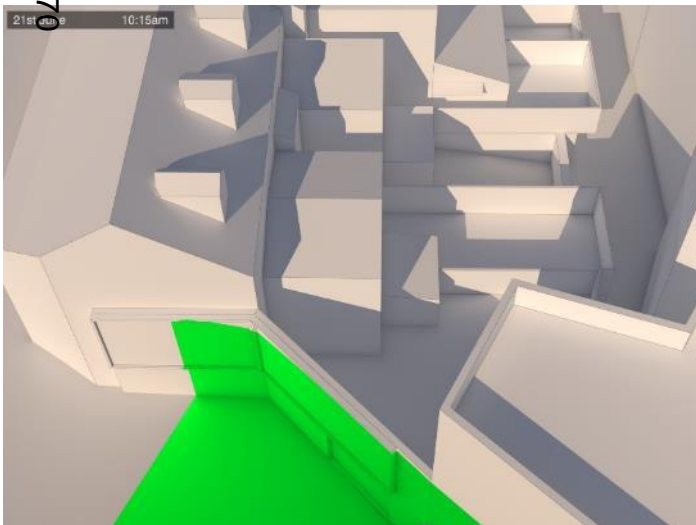
10am - Existing building



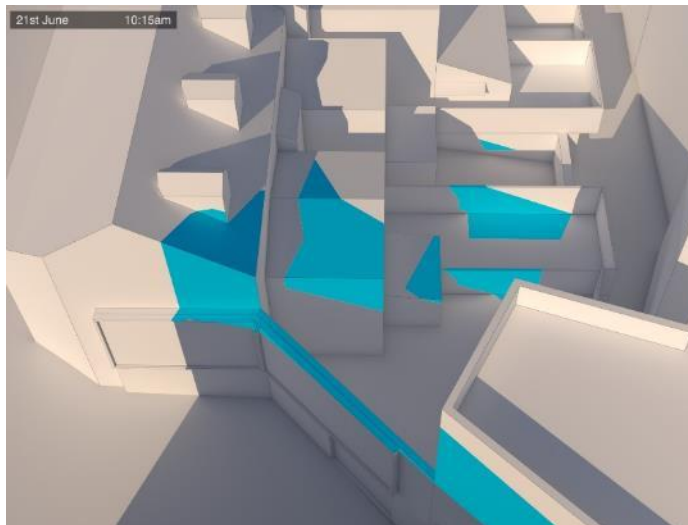
10am - Existing LEP



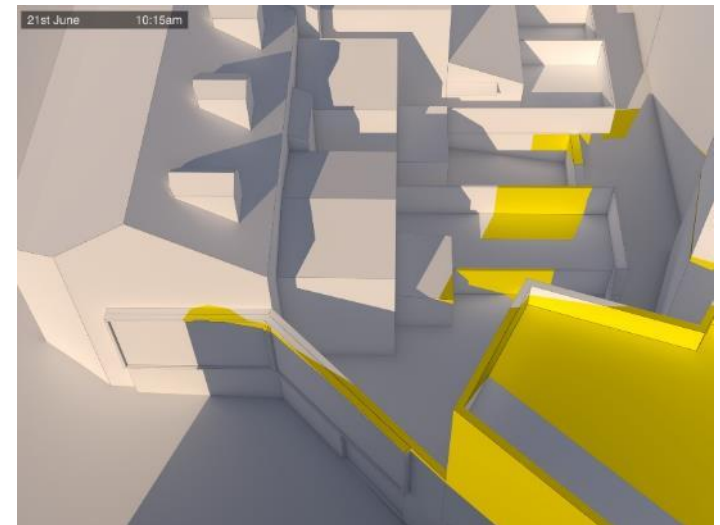
10am - Planning proposal



10:15am – Existing building

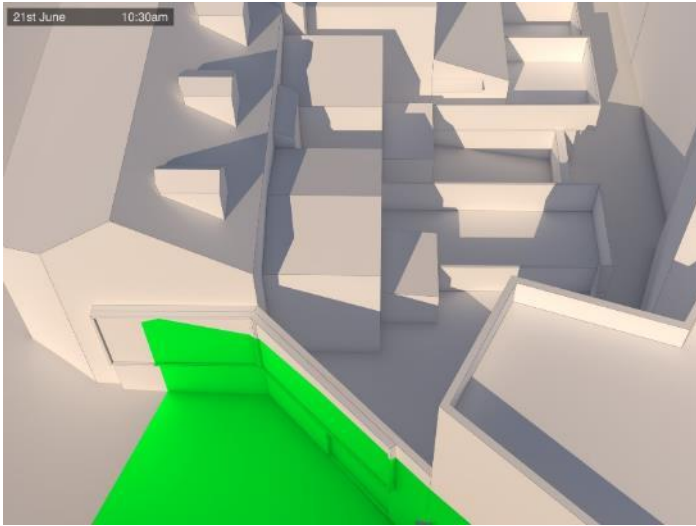


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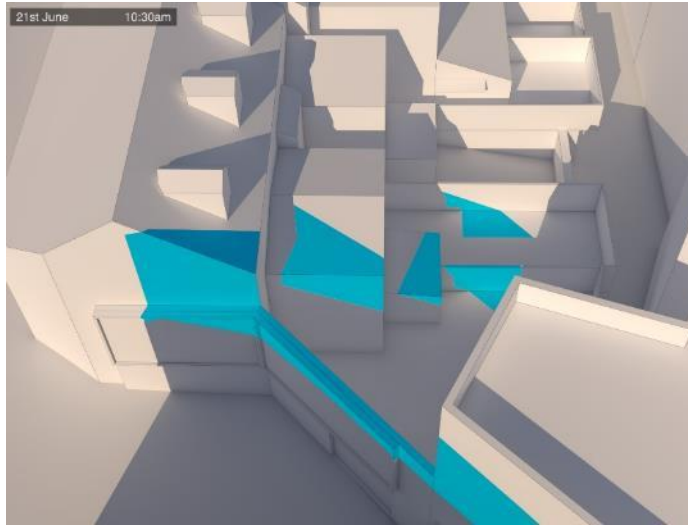


10:15am – Planning proposal

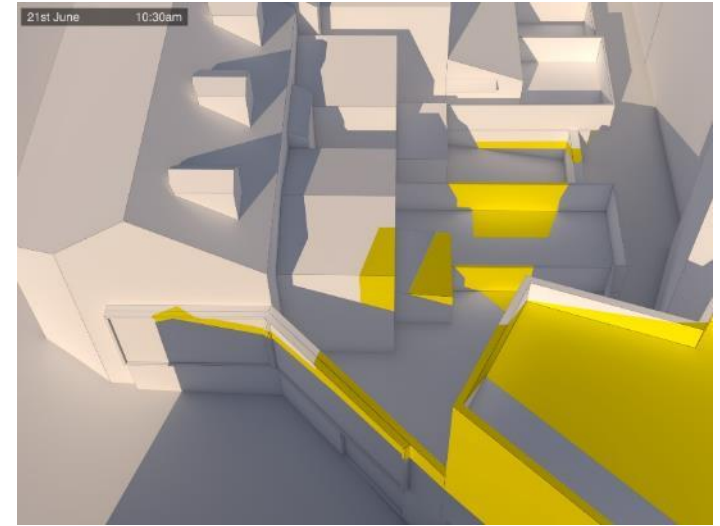
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



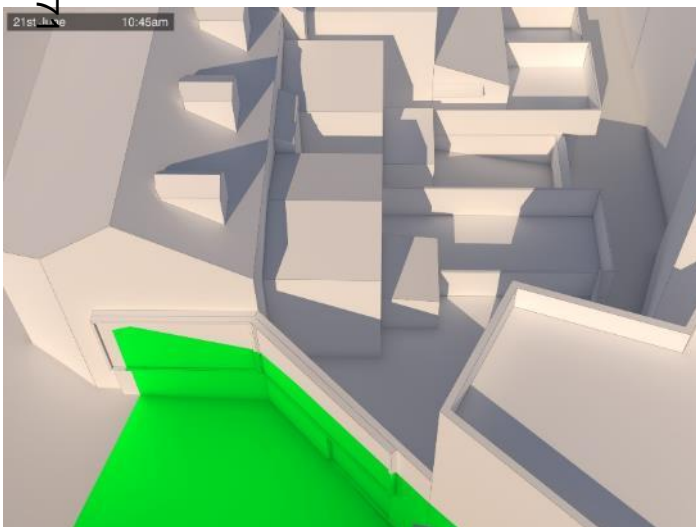
10:30am - Existing building



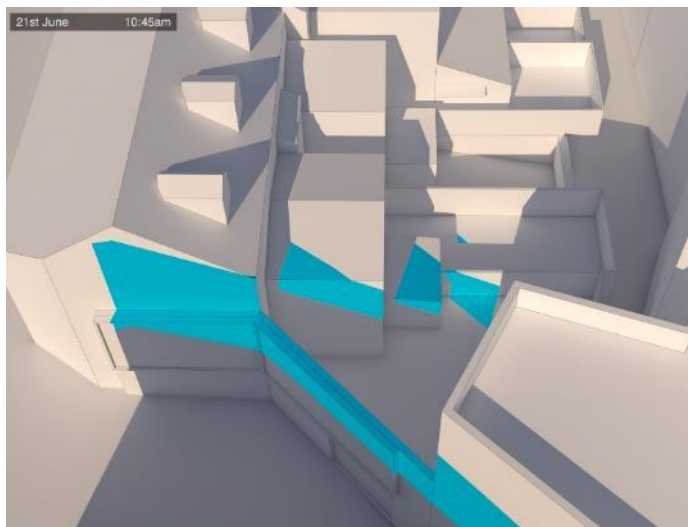
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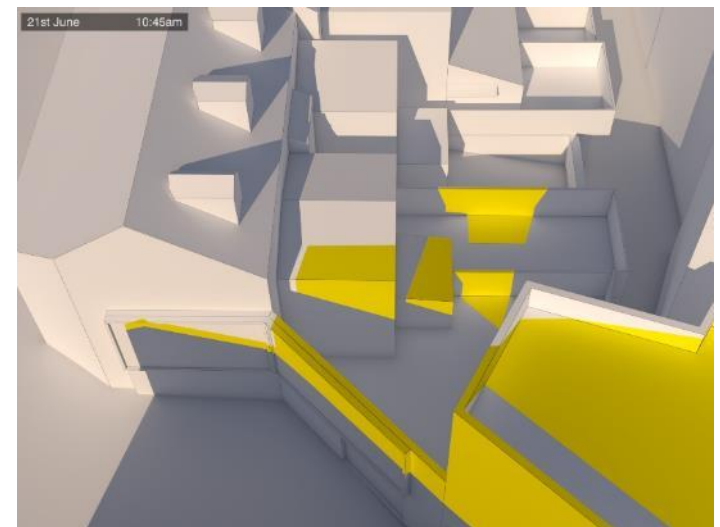
10:30am - Planning proposal



9:15am – Existing building

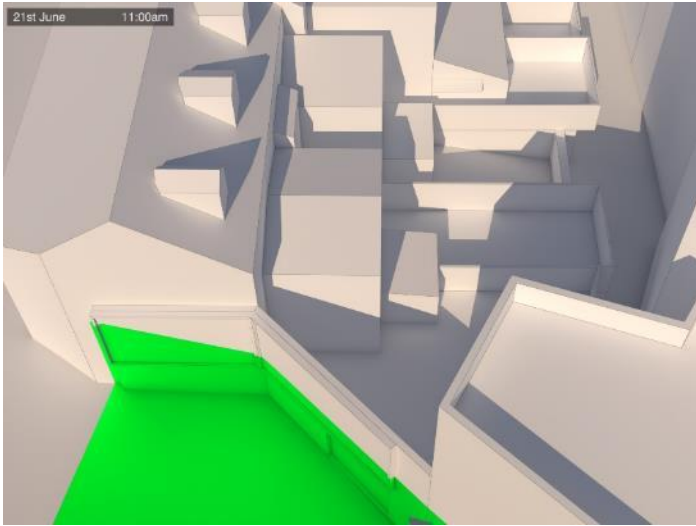


10:45am – Existing LEP

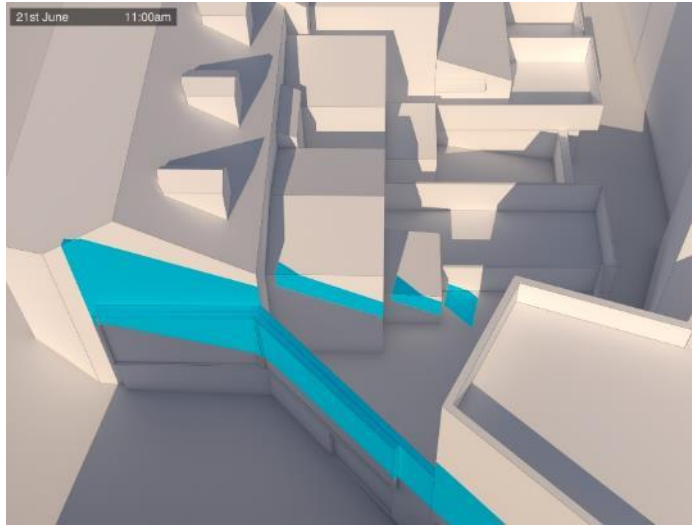


10:45am – Planning proposal

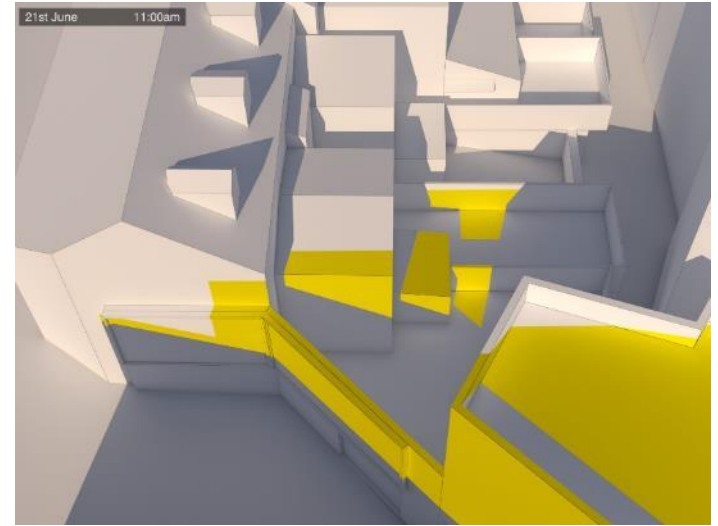
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



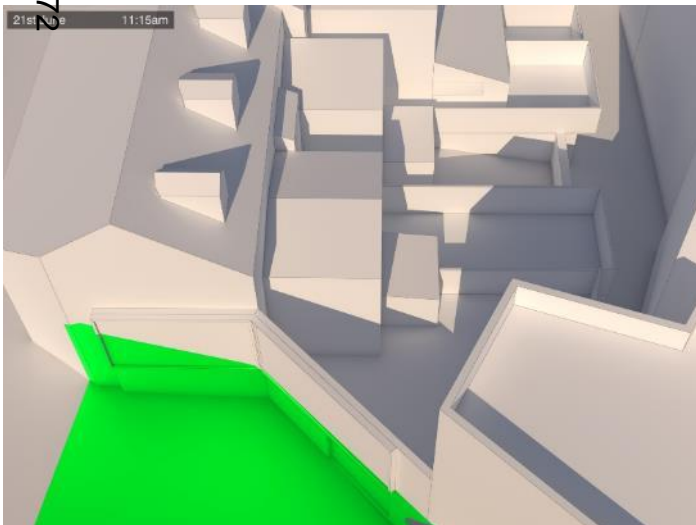
11am - Existing building



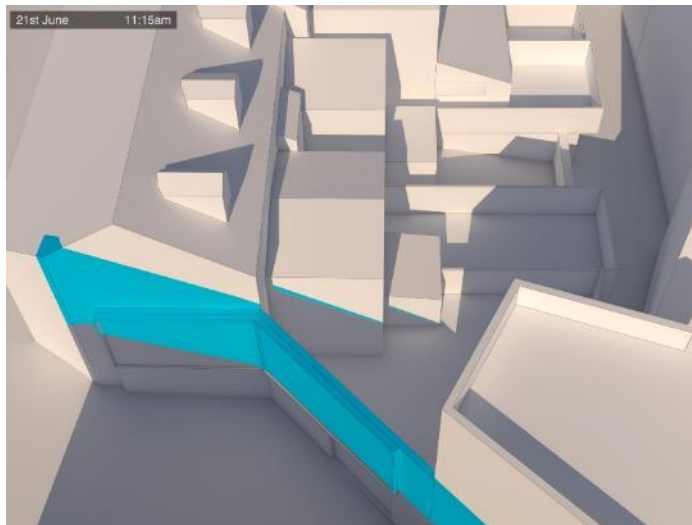
11am - Existing LEP



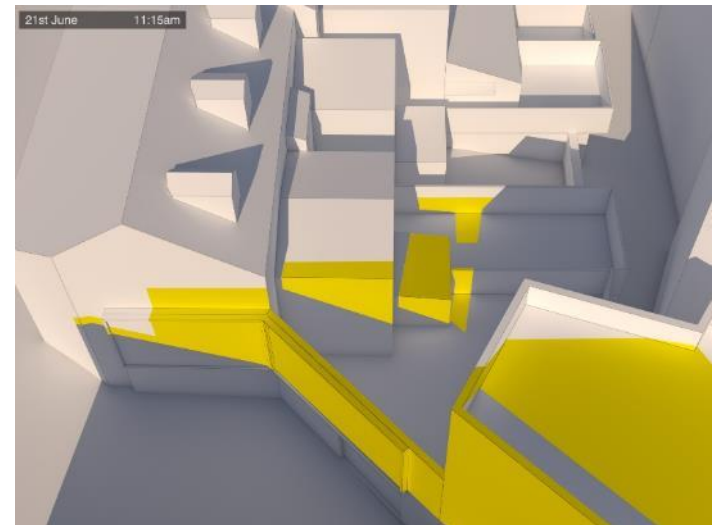
11am - Planning proposal



11:15am – Existing building

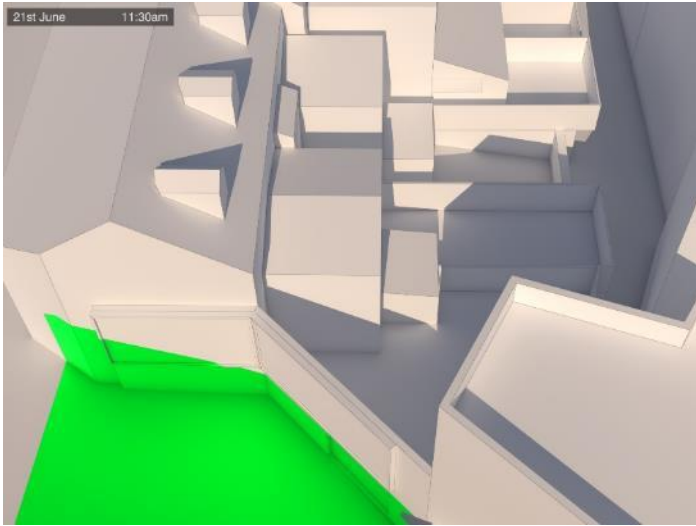


11:15am – Existing LEP

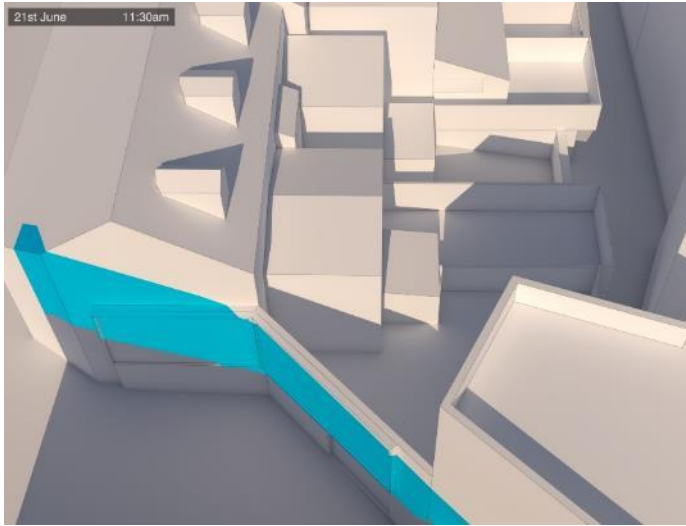


11:15am – Planning proposal

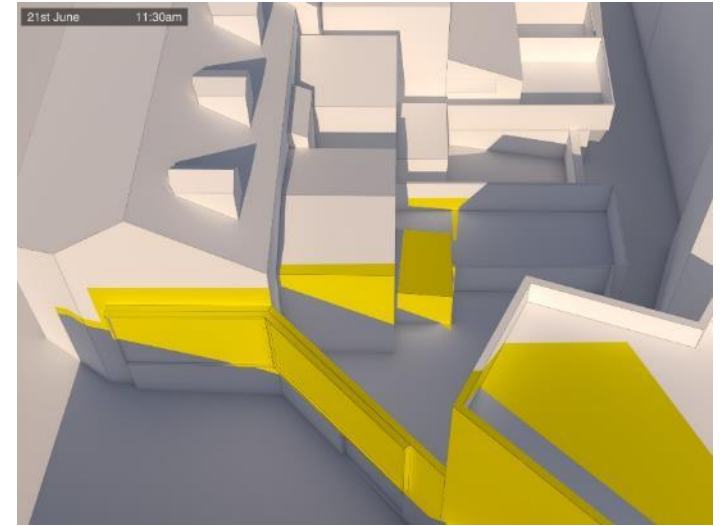
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



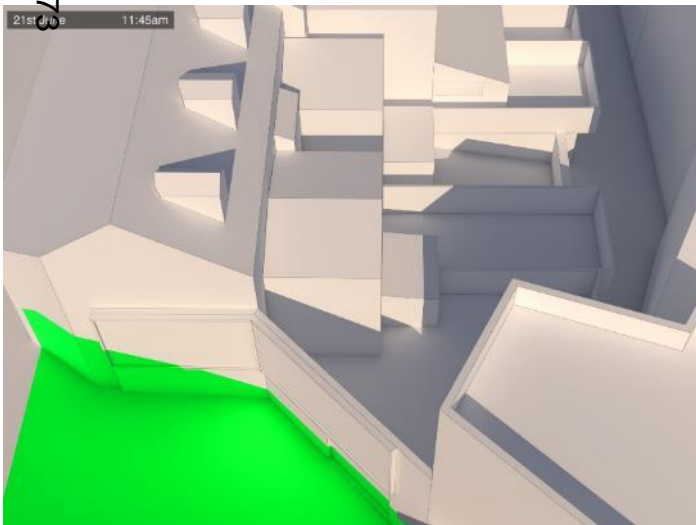
11:30am - Existing building



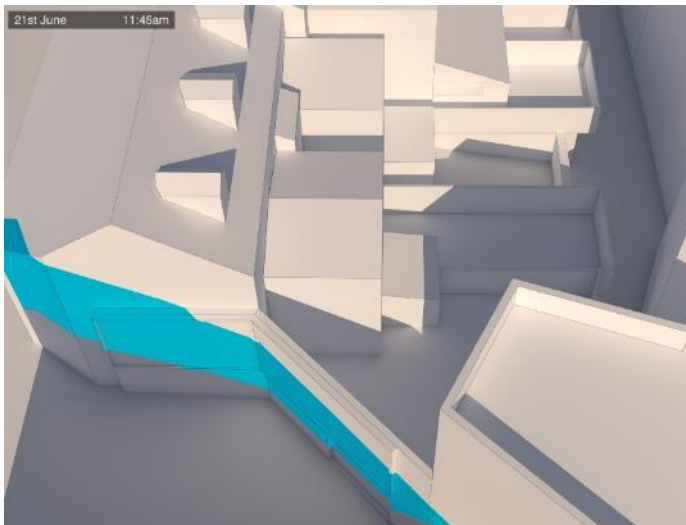
11:30am - Existing LEP



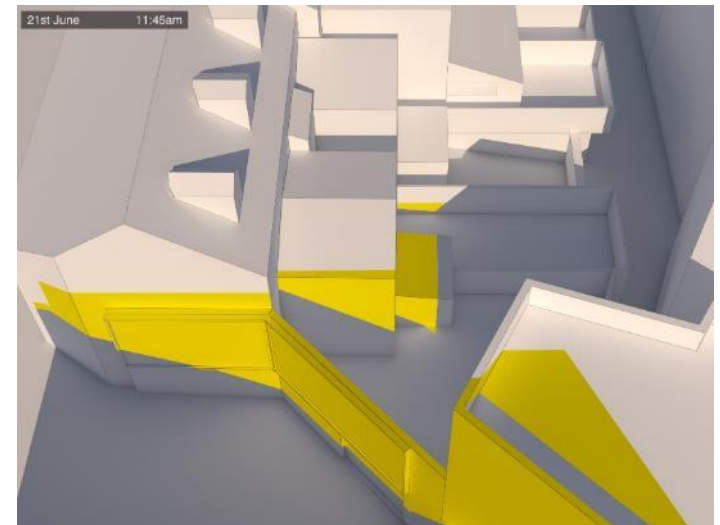
11:30am - Planning proposal



11:45am – Existing building

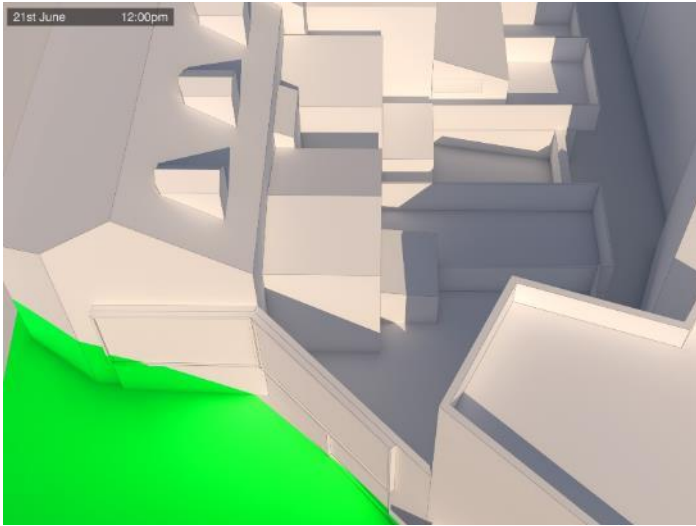


11:45am – Existing LEP

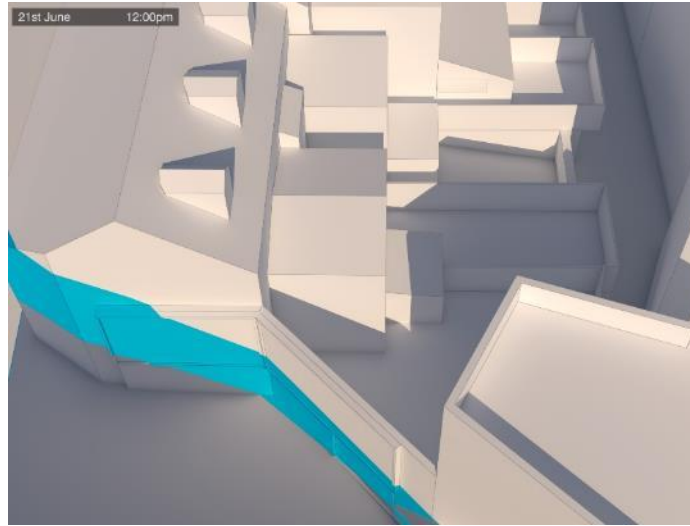


11:45am – Planning proposal

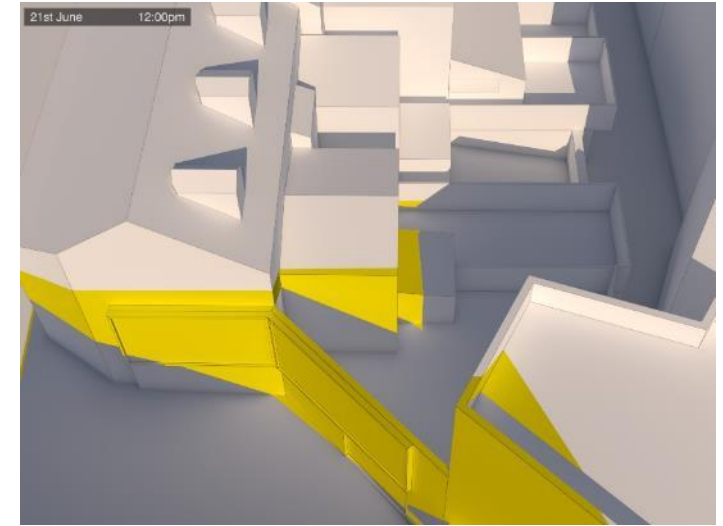
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



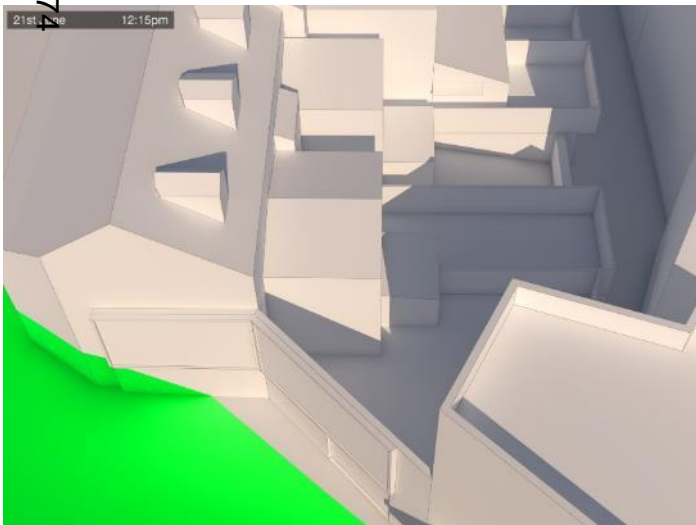
12 noon - Existing building



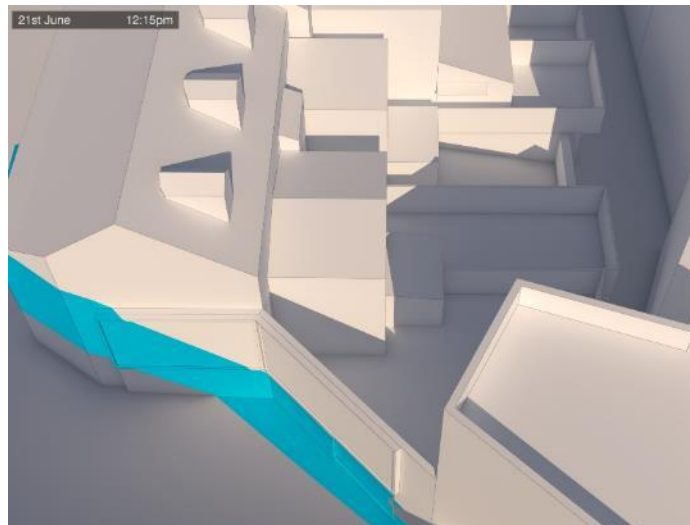
12 noon - Existing LEP



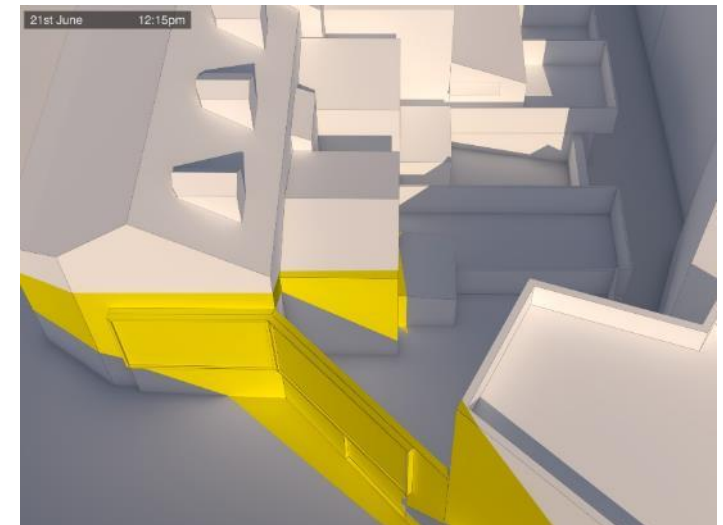
12 noon - Planning proposal



12:15pm – Existing building

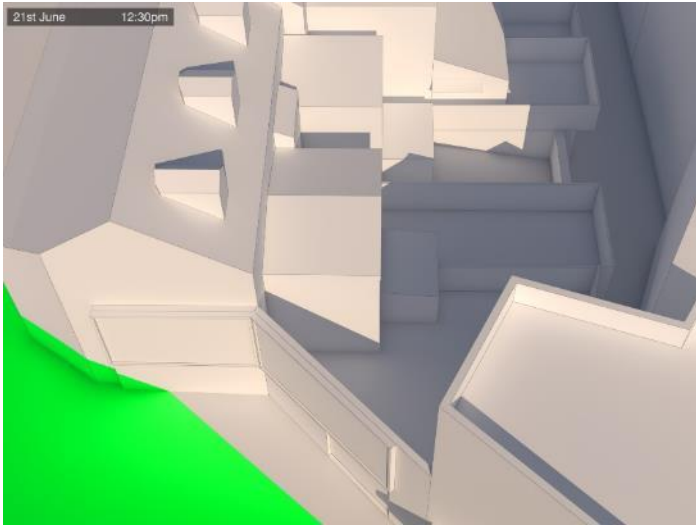


12:15pm – Existing LEP

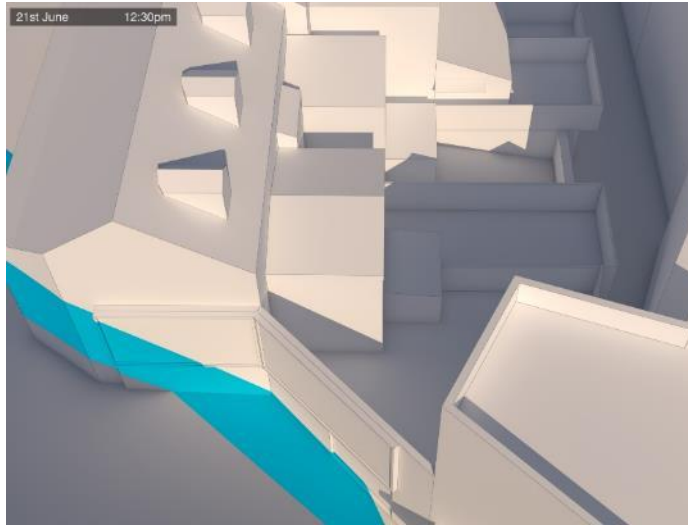


12:15pm – Planning proposal

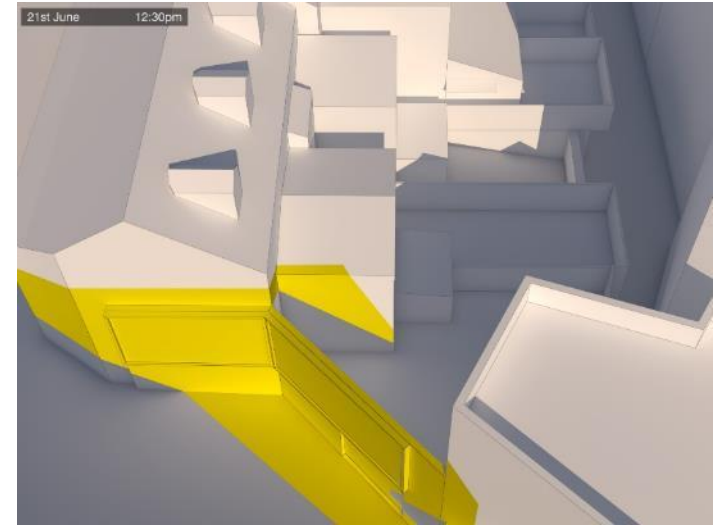
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



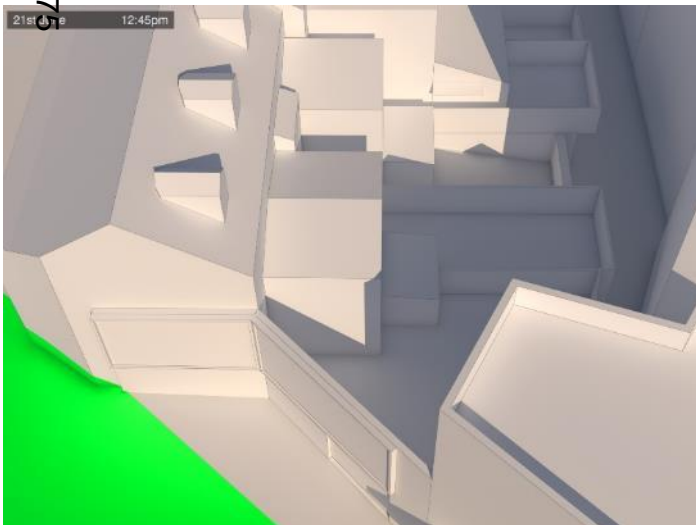
12:30pm - Existing building



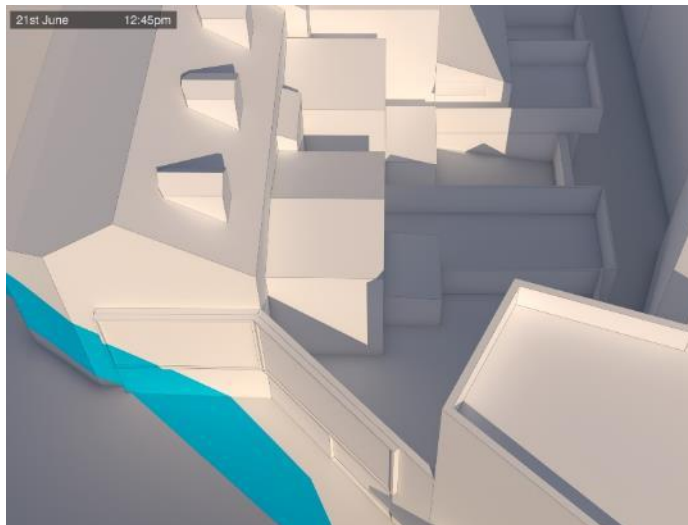
12:30pm - Existing LEP



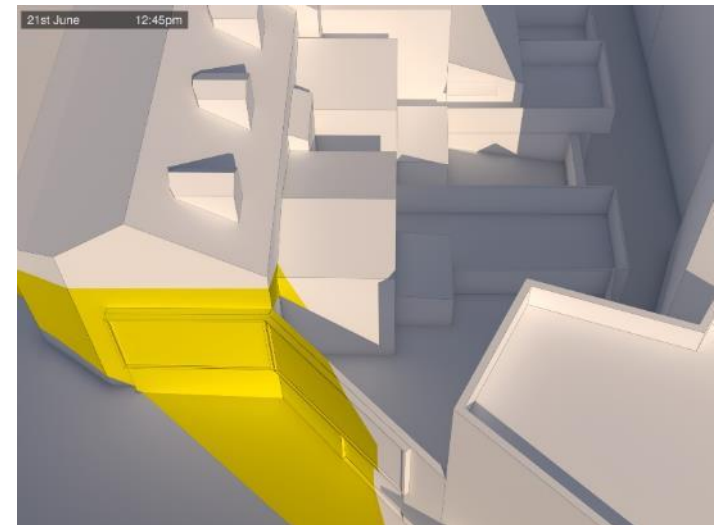
12:30pm - Planning proposal



12:45pm – Existing building

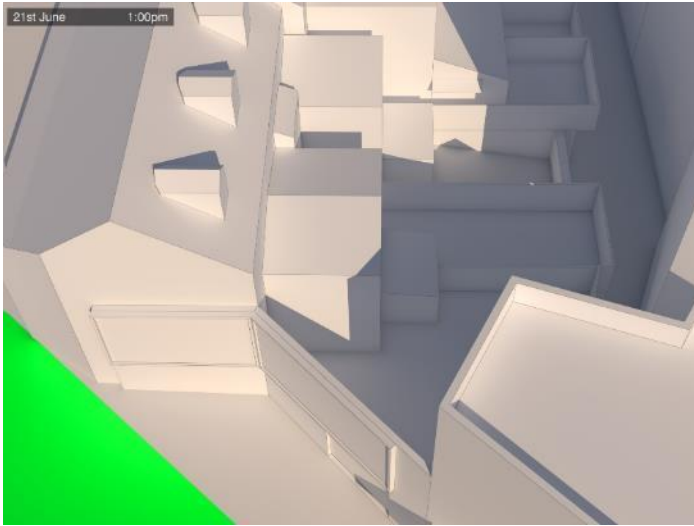


12:45pm – Existing LEP

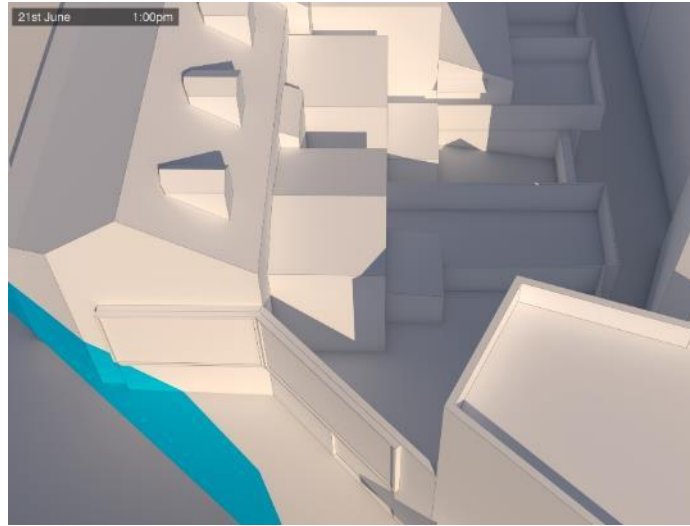


12:45pm – Planning proposal

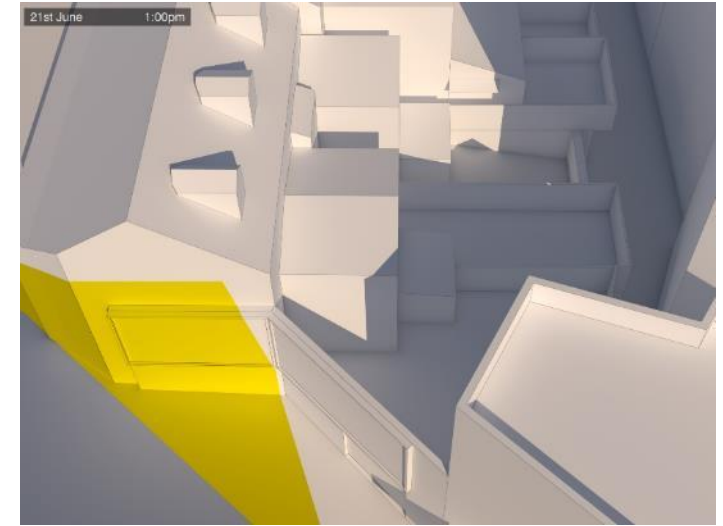
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



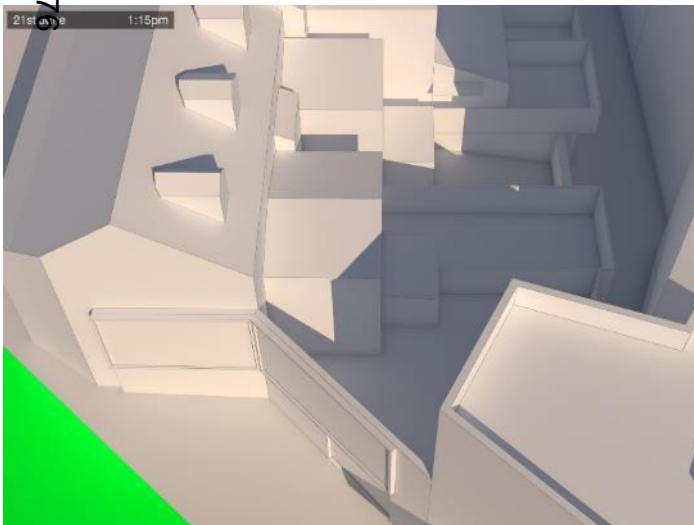
1pm - Existing building



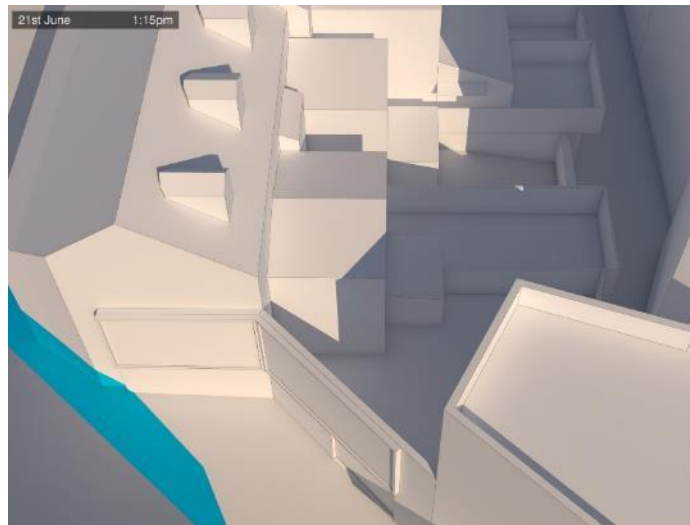
1pm - Existing LEP



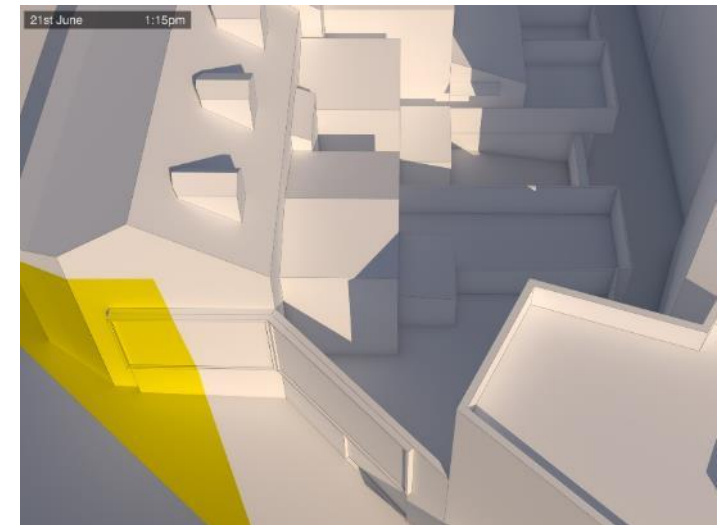
1pm - Planning proposal



1:15pm – Existing building

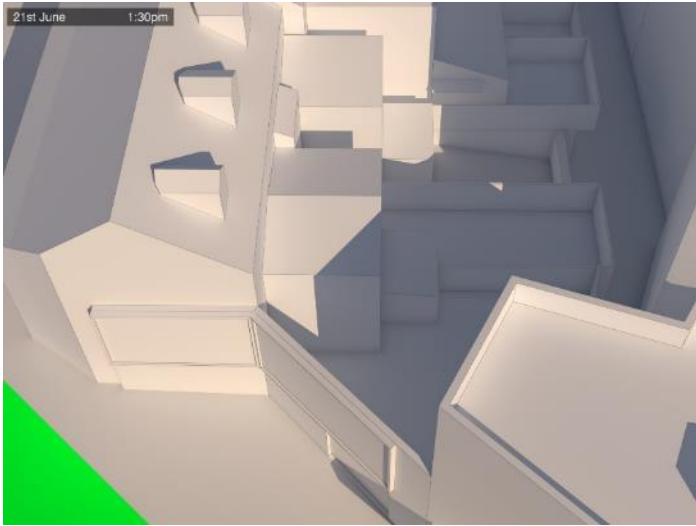


1:15pm – Existing LEP

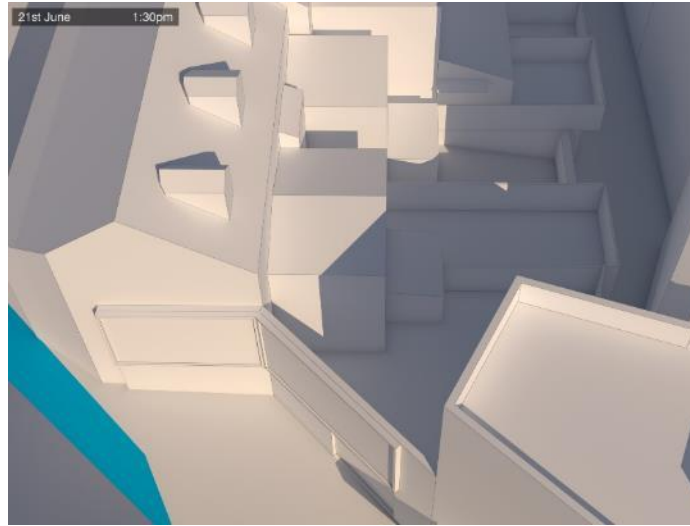


1:15pm – Planning proposal

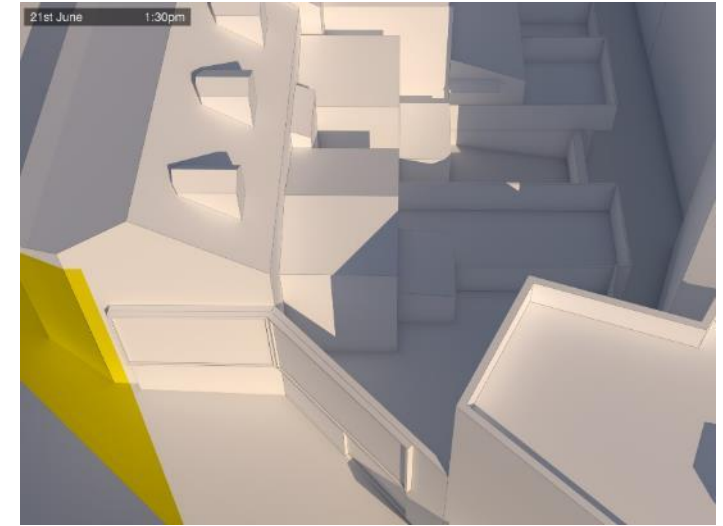
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



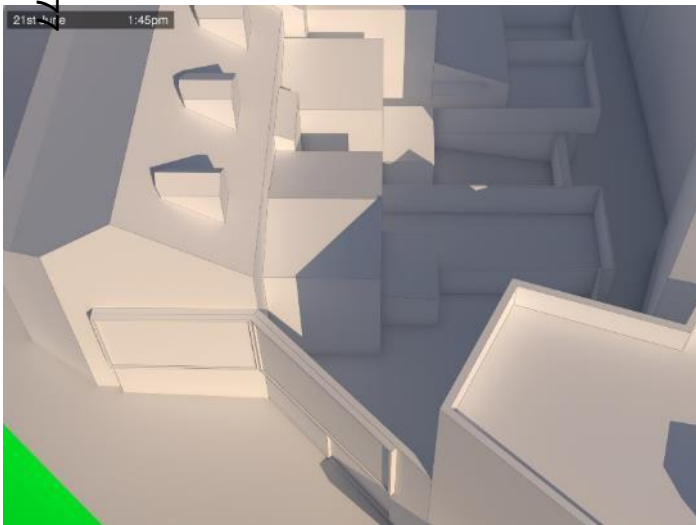
1:30pm - Existing building



1:30pm - Existing LEP



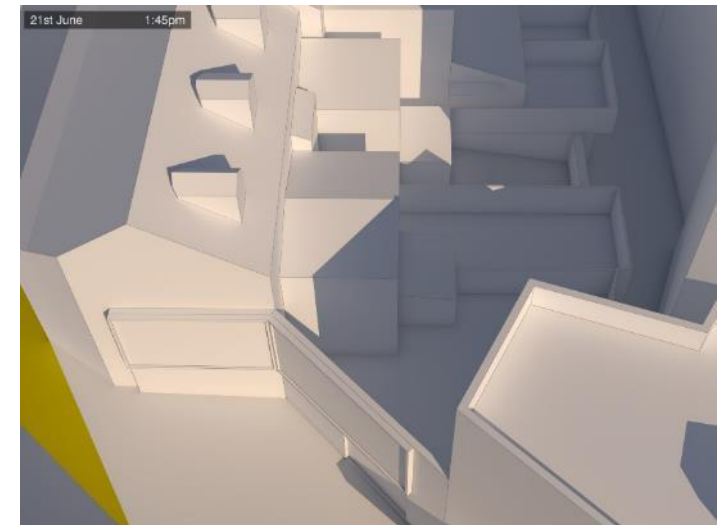
1:30pm - Planning proposal



1:45pm – Existing building

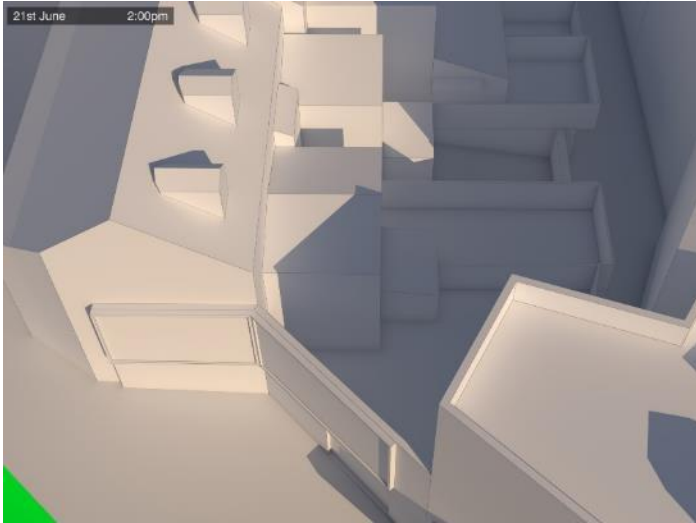


1:45pm – Existing LEP

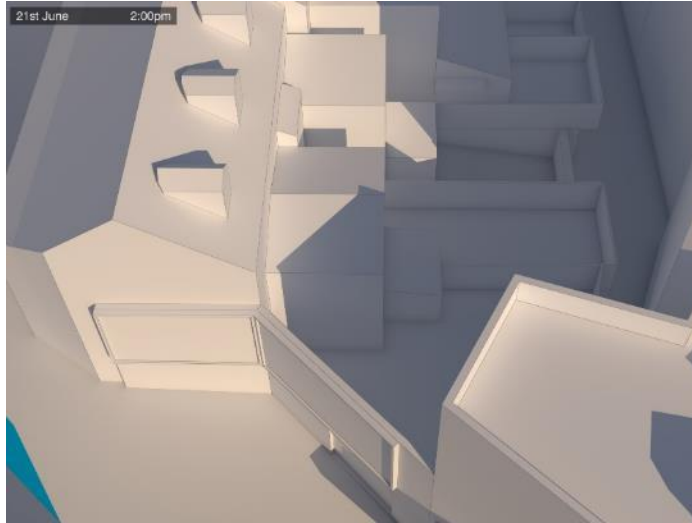


1:45pm – Planning proposal

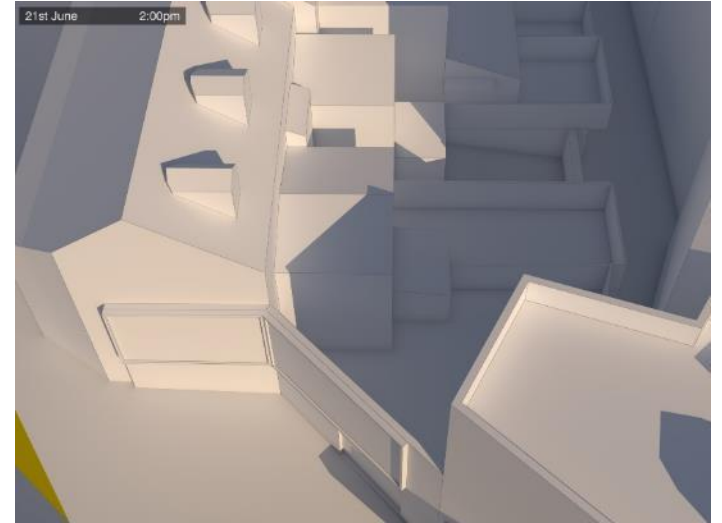
Planning Proposal – 85-93 Commonwealth Street, Surry Hills



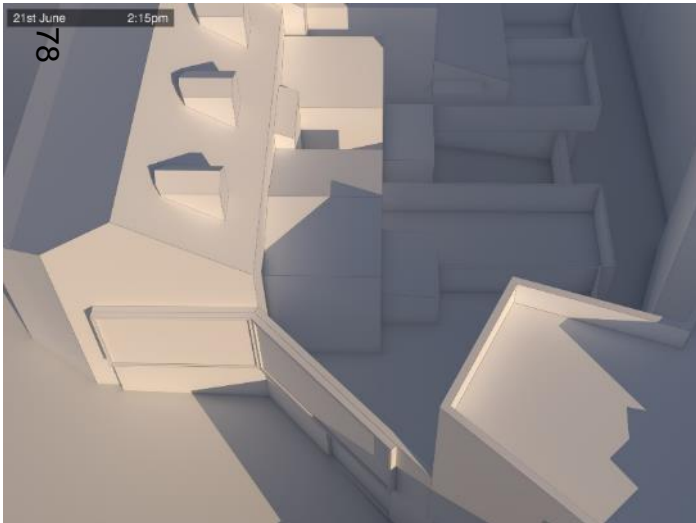
2pm - Existing building



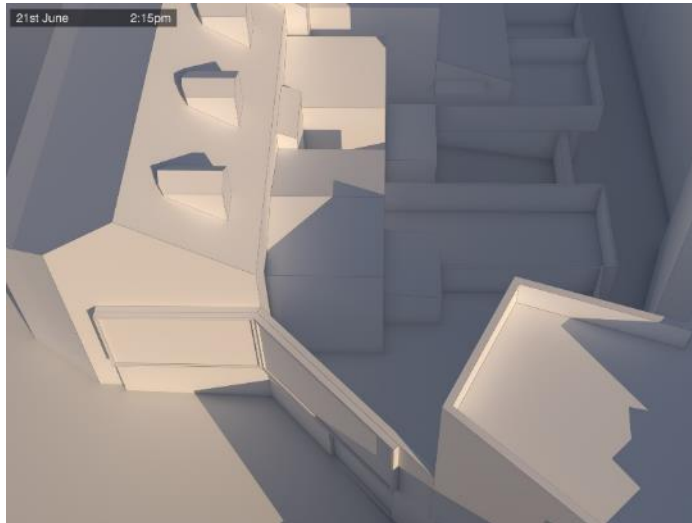
2pm - Existing LEP



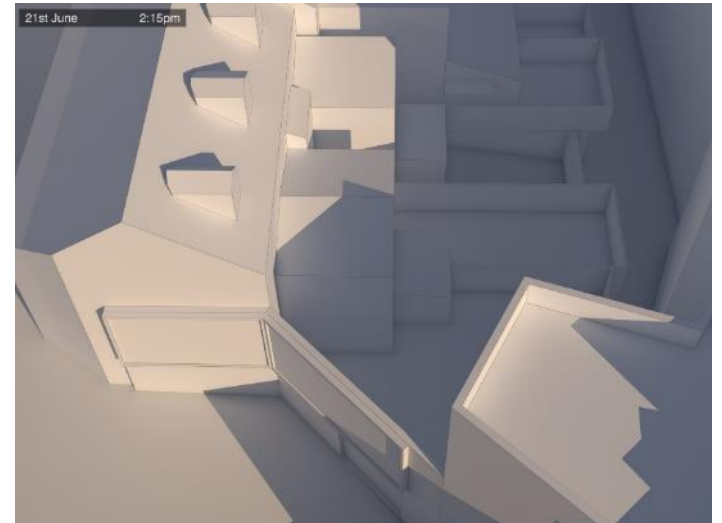
2pm - Planning proposal



2:15pm – Existing building



2:15pm – Existing LEP



2:15pm – Planning proposal

