

Post Exhibition - Planning Proposal - 383-395A Kent Street, Sydney - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

File No: X091069

Summary

The Central Sydney Planning Strategy is a 20-year growth strategy that recognises Central Sydney's role in metropolitan Sydney, NSW and Australia, and the need to maintain and grow its status as a global city with a dynamic economy and high quality of life. The Strategy prioritises employment growth with increased capacity, ensures development takes place in areas that can accommodate greater building height, protects Central Sydney's heritage and public places, encourages pedestrian connections and the use of public transport, and moves towards a more sustainable city.

This report recommends approving the planning proposal recently exhibited for 383-395A Kent Street, Sydney. The planning proposal seeks to amend the building height and floor space controls for the site. These changes will support the delivery of a 42-storey commercial development with ground floor retail, representing more than 73,000 square metres of new office space. In addition, any redevelopment need to remove an existing 800 space commercial car park and deliver a new pedestrian through-site link connecting Kent and Sussex Streets and a shared precinct loading dock for the use of surrounding businesses.

The planning proposal for 383-395A Kent Street and a draft development control plan were approved for public exhibition by the Central Sydney Planning Committee and Council on 9 and 13 May 2024 respectively. Council also noted the preparation of a draft planning agreement which was to be exhibited concurrently. The Department of Planning, Housing and Infrastructure issued a Gateway Determination on 30 August 2024.

The planning proposal, draft development control plan and voluntary planning agreement were exhibited from 8 November to 6 December 2024. 10 submissions were received. 3 were supportive, one raised concerns about the loss of the commercial car park and the walking distance to public transport, and 6 government agencies provided feedback.

No material changes are recommended to the planning proposal as a result of submissions received. Minor amendments have been made to the planning proposal document to update the project timeline and respond to feedback from the electrical supply authority regarding an easement on site. Minor amendments have been made to the development control plan to clarify provisions regarding the shared precinct loading dock.

This report recommends approval of the planning proposal and draft development control plan, without substantive change following public exhibition, and notes the City will enter into the planning agreement.

Recommendation

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of Planning Proposal - 383-395A Kent Street, Sydney, the draft Sydney Development Control Plan 2012 - 383-395A Kent Street, Sydney, and draft Voluntary Planning Agreement, as shown in Attachment D to the subject report;
- (B) Council approve Planning Proposal - 383-395A Kent Street, Sydney, as shown at Attachment A to the subject report, and request the relevant local plan making authority make the planning proposal as a Local Environmental Plan under section 3.36 of the Environmental Planning and Assessment Act 1979;
- (C) Council approve the draft Sydney Development Control Plan 2012 - 383-395A Kent Street, Sydney, as shown at Attachment B to the subject report, noting the approved Development Control Plan will come into effect on the date of publication of the subject Local Environmental Plan;
- (D) authority be delegated to the Chief Executive Officer to make any minor amendments to the Planning Proposal - 383-395A Kent Street, Sydney, and the draft Sydney Development Control Plan 2012 - 383-395A Kent Street, Sydney, to correct any minor errors or omissions prior to finalisation; and
- (E) Council note the draft Voluntary Planning Agreement, as shown at Attachment C to the subject report, will be executed under delegation of Council in accordance with the Environmental Planning and Assessment Act 1979.

Attachments

- Attachment A.** Planning Proposal - 383-395A Kent Street, Sydney and appendices
- Attachment B.** Draft Sydney Development Control Plan 2012 - 383-395A Kent Street, Sydney
- Attachment C.** Voluntary Planning Agreement
- Attachment D.** Summary of Submissions
- Attachment E.** Resolutions of Council and Central Sydney Planning Committee
- Attachment F.** Gateway Determination
- Attachment G.** Alteration of Gateway Determination

Background

1. Charter Hall, represented by Ethos Urban and architects fjcstudio, lodged a request to prepare a planning proposal for 383-395A Kent Street, Sydney ('the site'), in March 2024. The site is identified in Figure 1.



Figure 1: Land affected by this planning proposal

2. The site is located within the Western Edge tower cluster in Central Sydney. As outlined in the Central Sydney Planning Strategy, tower clusters are locations capable of accommodating increased height and density while taking advantage of existing infrastructure and minimising overshadowing to important public places.
3. The site has an area of 3,606sqm. Existing development on the site consists of 10 storeys of commercial car park with 800 spaces and 11 storeys of offices containing almost 18,000sqm of commercial floor space, in a 19-storey building. The commercial car park was constructed in 1976, and the office tower was built above the car park in 1998. Images of the site with the affected buildings outlined in red are shown at Figures 2 and 3.



Figure 2: 383-395A Kent Street, Kent Street frontage, outlined in red



Figure 3: 383-395A Kent Street, Sussex Street frontage, outlined in red

Proponent requested changes to height and floor space controls to enable a commercial development, pedestrian through-site link, and shared precinct loading dock

4. The proponent requested a planning proposal to facilitate redevelopment in line with the Central Sydney Planning Strategy. The proposal included:
 - (a) a 42-storey future workspace building up to a maximum height of RL189.90m (approximately 180m on Sussex Street);
 - (b) approximately 73,000sqm of new commercial workspace with ground floor activation;
 - (c) a new pedestrian through-site link connecting Kent Street and Sussex Street;
 - (d) a shared precinct loading dock for the use of the subject site and surrounding businesses; and
 - (e) removal of the 800 bay commercial car park.
5. An image prepared by the proponent of the indicative development scheme is at Figure 4.



Figure 4: Artistic representation of reference design - Kent Street perspective

The City prepared a planning proposal to increase the height and floor space controls for a commercial development

6. The planning proposal details the proposed amendments to the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) by inserting new site-specific provisions. The provisions are to:
 - (a) permit a maximum building height of RL 189.90m (180m), an increase from the current control of 110m;

- (b) increase the maximum floor space ratio control from 15.75:1 to 20.3:1 inclusive of design excellence, shared loading dock facility floor space and end of journey floor space;
 - (c) deliver a pedestrian through-site link connecting Kent Street and Sussex Street;
 - (d) ensure the building would not cause additional overshadowing of Sydney Square, Town Hall Steps and future Town Hall Square; and
 - (e) ensure the resulting building would not be used for the purposes of either:
 - (i) Residential accommodation or serviced apartments; or
 - (ii) A commercial car park.
7. Further explanations of the provisions can be found in section 4 of the Planning Proposal (Attachment A).

Changes to the Development Control Plan will ensure the development fits within the area, protects amenity and improves access and activation

8. A draft site-specific Development Control Plan (draft DCP) is at Attachment B and provides further guidance for development facilitated by this planning proposal. The draft DCP provisions include:
- (a) a maximum building envelope including setbacks, street wall heights and maximum height as shown at Figure 5;
 - (b) a pedestrian through-site link with a minimum clear width of 6m and minimum height of 10m to be provided connecting Kent Street and Sussex Street;
 - (c) active frontages to be provided along Kent Street, Sussex Street and both sides of the through-site link;
 - (d) requirements for access and operation of the shared precinct loading dock;
 - (e) a design excellence strategy; and
 - (f) requirements for sustainability and public art.

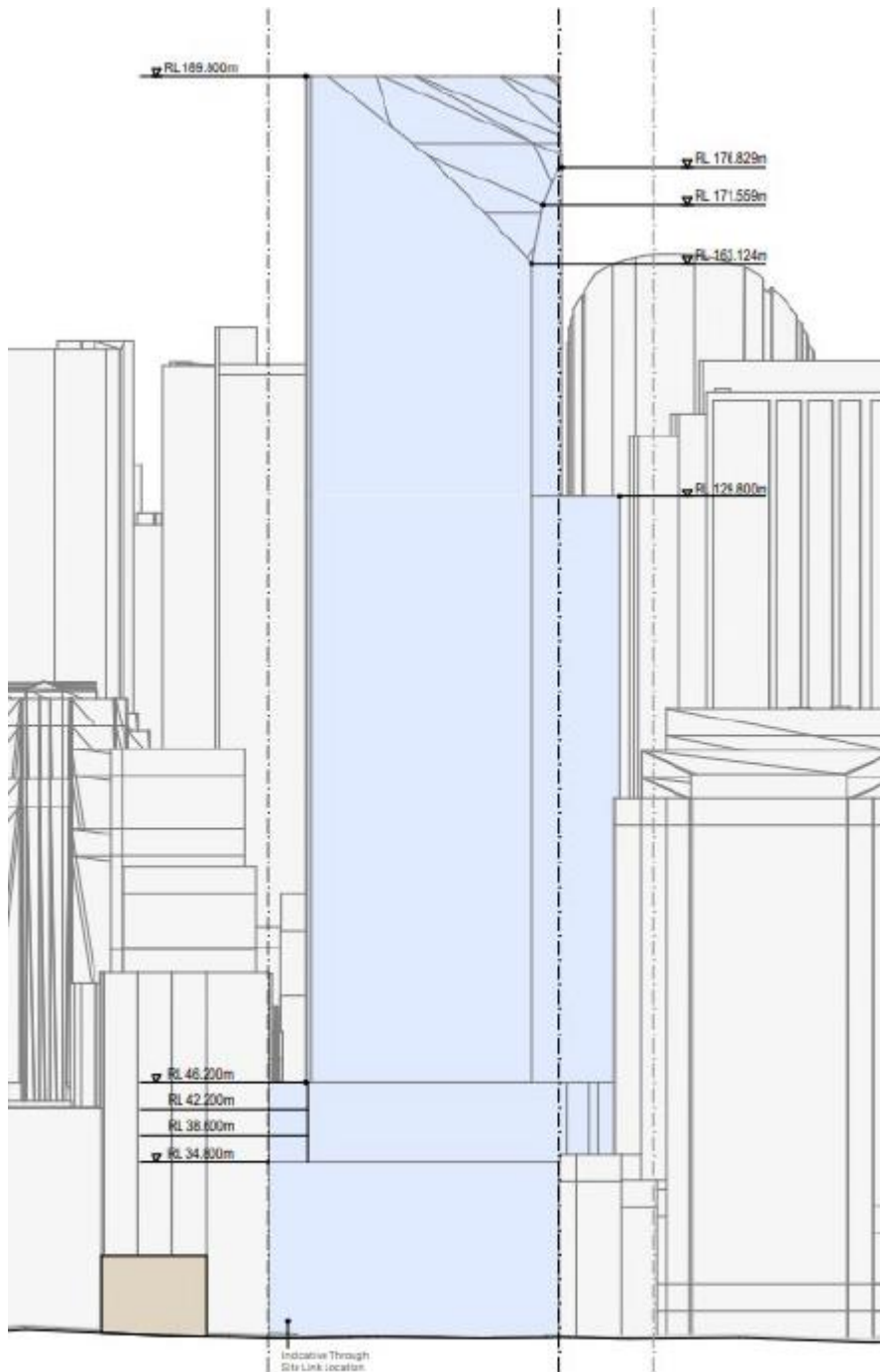


Figure 5: Proposed maximum building envelope - Sussex Street perspective

A voluntary planning agreement is required to deliver the through-site link, shared precinct loading dock and additional sustainability outcomes

9. The proponent offered to enter into a Voluntary Planning Agreement (VPA) with Council to deliver public benefits as part of this planning proposal. The VPA has been publicly exhibited.

10. The public benefit offered in conjunction with this planning proposal is:
 - (a) the delivery of a pedestrian through-site link connecting Kent Street and Sussex Street, secured via easement registered on the land title for unrestricted public access;
 - (b) the delivery of a shared precinct loading dock, referred to as a 'Logistics Hub', providing shared loading facilities to the adjoining area, secured via a public positive covenant and right of carriageway registered on the land title; and
 - (c) sustainability commitments in addition to the requirements of Sydney DCP 2012 for energy efficiency in non-residential developments.
11. The VPA does not offset local infrastructure contributions required under a contributions plan (section 7.12 of the Environmental Planning and Assessment Act 1979 ['the Act']), and housing and productivity contributions (division 7.1, subdivision 4 of the Act).

The planning proposal received gateway determination and was placed on public exhibition

12. The planning proposal was approved to be submitted to the Minister for Planning and Public Spaces with a request for gateway determination, and approved for public authority consultation and public exhibition with any conditions imposed under the gateway determination, by the Central Sydney Planning Committee on 9 May 2024 and by Council on 13 May 2024. The Council also approved the draft DCP for public authority consultation and public exhibition with the planning proposal.
13. The planning proposal was sent to the Department of Planning, Housing and Infrastructure for a gateway determination on 20 May 2024. Gateway determination was received from the Department on 30 August 2024 and is provided at Attachment F. On 31 January 2025 an Alteration of gateway determination was issued which updated the deadline for making the amendment to the Sydney LEP to be consistent with timeframes in NSW guidelines. This alteration is at Attachment G.
14. Council also noted that the Chief Executive Officer would prepare a draft VPA in accordance with the letter of offer received from the proponent and the requirements of the Act, which would be exhibited in accordance with the Act and concurrently with the planning proposal. The exhibited draft VPA is at Attachment C.
15. The planning proposal, draft DCP and draft VPA, was on public exhibition from 8 November to 6 December 2024.

Key Implications

We received 10 responses to the public exhibition of the Planning Proposal

16. The following activities were undertaken to support the public exhibition:
 - (a) a webpage and survey were created for people to review the planning proposal and supporting documentation, and provide their feedback;
 - (b) 938 notification letters were letterbox dropped to property owners and occupiers within a 75m radius of the site boundary;

- (c) the project was included in the November 2024 edition of the Sydney Your Say eNews; and
 - (d) the planning proposal was referred to Transport for NSW, Sydney Water, Ausgrid, Sydney Airport Corporation, Civil Aviation Safety Authority and the federal Department of Infrastructure, Transport, Regional Development, Communications and the Arts, for consultation and comment as required by the gateway determination.
17. A total of 10 submissions were received in response to the exhibition. 3 of these submissions were supportive, one provided feedback without a position, and all 6 government agencies provided comment.
18. The City's response to the issues raised in submissions are discussed below and in the summary of submissions at Attachment D.

Supportive submissions focused on the appropriateness of the location for increased density and the provision of a shared loading dock

19. All 3 supportive submissions focused on the appropriateness of the location for increased density, noting its location within Central Sydney and proximity to public transport options. One submission indicated support for the provision of a shared loading dock for the use of neighbouring buildings. One submission supported the proposal to remove the commercial car park currently located on site as it would reduce reliance on private vehicles.
20. One submission was received raising concerns regarding the loss of the commercial car park currently located on site and the lack of on street parking, increasing the walking distance for people located in neighbouring buildings.

Response:

21. The site is located 400m from the QVB light rail stop, 500m from Town Hall railway station, and Wynyard railway station and Barangaroo wharf is also located within walking distance. Sydney Buses service Kent and Sussex Streets with connections to the Inner West and Eastern Suburbs.
22. The removal of a commercial car park on this site is consistent with the objectives of the Greater Sydney Region Plan, Eastern City District Plan, City Plan 2036, Sustainable Sydney 2030-2050: Continuing the Vision, and the Central Sydney Planning Strategy, all of which seek to reduce private vehicle trips and encourage walking and the use of public transport. The reduction in parking spaces could also result in a potentially significant reduction in traffic in this part of Central Sydney.

Government agencies provided in principle support

23. Sydney Airport Corporation, the Civil Aviation Safety Authority (CASA), and the federal Department of Infrastructure, Transport, Regional Development, Communications and the Arts raised no objections to the planning proposal, with CASA noting that the proposed development would be shielded in Aviation Airspace terms considering its location within Central Sydney where there are existing taller buildings. The proposed height of the development is higher than the prescribed airspace in this location, so compliance with relevant regulations including approval of any construction equipment and cranes, will be considered as part of any future Development Application.

24. Transport for NSW reviewed the planning proposal and had no specific requirements as the proposed development would not, in their opinion, pose significant impacts to the transport network. They noted that the removal of the commercial car park, with potential traffic generation of 320 vehicles per hour, could result in a significant reduction in traffic volumes in this part of Central Sydney. They supported the number of car parking spaces and end of journey facilities proposed for the new development.
25. Ausgrid, as the electrical supply authority, noted that the subject site contains an easement. This triggers the application of section 2.48 of the State Environmental Planning Policy (Transport & Infrastructure), requiring the consent authority to give written notice to Ausgrid before determining any future development application or modification.

Planning proposal is consistent with the City's strategic vision

26. The Central Sydney Planning Strategy is a 20-year growth strategy that facilitates opportunities for additional height and density for jobs growth where balanced with environmental sustainability initiatives and excellence in urban design. This planning proposal aligns with the Central Sydney Planning Strategy by:
 - (a) prioritising employment growth and increasing capacity to enable 73,191sqm of new office space in the Western Edge tower cluster area, providing for up to 6,000 jobs;
 - (b) ensuring future development is responsive to its context within the Kent Street Special Character Area with appropriate street frontage heights and setbacks, in addition to a built form which causes no additional overshadowing to important public places such as Sydney Square, Town Hall Steps and future Town Hall Square;
 - (c) improving and enhancing the pedestrian network of Central Sydney with a new east-west connection, while reducing demand for private vehicle trips and encouraging walking and the use of public transport with the removal of the commercial car park;
 - (d) achieving the City's 2026 performance standards for net zero energy buildings, in particular a minimum 5.5-star NABERS Energy rating +25% and 100% renewable energy provision; and
 - (e) reaffirming the commitment to design excellence with future development on site facilitated by this planning proposal subject to a full competitive design process, with the site-specific DCP including a design excellence strategy.
27. The City's Local Strategic Planning Statement, City Plan 2036, sets out the 20-year vision for land use planning in the city and the planning priorities and actions needed to achieve the vision. This planning proposal gives effect to City Plan 2036 by facilitating a commercial development that delivers additional capacity for economic and employment growth, that is well-positioned to connect to existing and future transport infrastructure, and that delivers improved street life and activation with opportunities for new retail and food and drink premises along Kent Street, Sussex Street and the through-site link. This will enhance the character and walkable nature of the western edge of the CBD.

28. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This planning proposal is aligned with the following strategic directions and objectives:
- (a) Direction 5 - A city for walking, cycling and public transport - the site is well positioned to take advantage of existing and future transport infrastructure, including rail, light rail, Metro and ferry connections in Central Sydney, as well as the Kent Street cycleway. The provision of a new pedestrian through-site link and east-west connection enhances the existing pedestrian permeability of the CBD. The removal of the commercial car park will reduce the demand for private vehicle trips, encouraging walking and the use of public transport.
 - (b) Direction 9 - A transformed and innovative economy - this planning proposal supports employment growth in Central Sydney, helping to maintain the city's position locally, nationally and globally as a destination for business, investment and talent.
29. The Community Strategic Plan Delivering Sustainable Sydney 2030-2050 implements Sustainable Sydney 2030-2050 Continuing the Vision. This planning proposal is aligned with Direction 4: Design excellence and sustainable development, where productivity will be supported by planning for jobs, innovation and enterprise activities. The site is located within Central Sydney and will deliver new jobs and employment floor space, helping to reach the target of 200,000 new jobs by 2036.
30. Further information regarding the alignment of the Planning Proposal with the strategic planning framework can be found in section 5.3 of the Planning Proposal at Attachment A.

Risks

31. City staff have undertaken a thorough assessment of the planning proposal and found that it demonstrates strategic and site-specific merit in accordance with NSW Government guidelines. The NSW Government also assessed and issued a Gateway Determination. The planning proposal is consistent with Sustainable Sydney 2030-2050 Continuing the Vision.
32. Progressing the planning proposal is within the City's risk tolerance and appetite.
33. The planning proposal has demonstrated that development will be capable of complying with relevant environmental and planning laws, regulations and industry standards and is within the City's minimal appetite for non-compliance with environmental laws, regulations and industry standards.
34. Proceeding with the planning proposal will meet the City's minimal appetite for disruption to our regulatory functions as decisions will be within the timeframes set in the NSW Government's Statement of Expectations Order 2024.

Relevant Legislation

35. Environmental Planning and Assessment Act 1979
36. Environmental Planning and Assessment Regulation 2021
37. Environmental Planning and Assessment (Statement of Expectations) Order 2024

Critical Dates / Time Frames

38. The gateway determination requires that the amendment to the Sydney LEP 2012 is completed by 20 June 2025.
39. The gateway determination authorises Council to exercise its delegation and liaise directly with Parliamentary Counsel to draft and make the local environmental plan. If the planning proposal is approved by the Central Sydney Planning Committee and Council, the City will commence this process. Once the process is complete and the plan is made, the amendment to the Sydney LEP 2012 will come into effect when published on the NSW Legislation website.
40. If approved by Council, the draft DCP will come into effect on the same day as the amendment to the Sydney LEP 2012.
41. The Voluntary Planning Agreement is to be executed prior to the finalisation of the amendments to the Sydney LEP 2012 and Sydney DCP 2012.

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