

ITEM 2. REQUEST TO COUNCIL TO PREPARE A PLANNING PROPOSAL TO AMEND SYDNEY LOCAL ENVIRONMENTAL PLAN 2005 AND ALSO TO PREPARE AN AMENDMENT TO CENTRAL SYDNEY DEVELOPMENT CONTROL PLAN 1996 – 108-120 PITT STREET SYDNEY – COMMONWEALTH BANK BUILDING

FILE NO: S063506-02

SUMMARY

The City has received a submission from Colonial First State (CFS) seeking site-specific amendments to *Sydney Local Environmental Plan 2005* (SLEP2005) and the *Central Sydney Development Control Plan 1996* (DCP1996) that will enable additions to the building known as the Commonwealth Bank “Money Box” located at 108-120 Pitt Street, Sydney.

The key amendment sought by CFS is to change the existing height control prescribed in SLEP2005 to 81 metres (RL 98 metres) over the south-eastern portion of the site. This part of the site is currently affected by a 55 metre height control and the Hyde Park West sun access plane height control of 150 metres. The key amendment proposed to DCP1996 is the insertion of a site specific “axonometric” diagram that will control the building envelope and setbacks on the site.

In response to a Central Sydney Planning Committee (CSPC) resolution of July 2008 that did not support a development application for the site and recommended further consultation, CFS appointed JPW Architects, who have prepared a revised scheme for the site. The scheme forms the concept design on which the proposed amendments to SLEP2005 and DCP1996 are required. The key driver behind the current scheme is to rejuvenate and enhance the heritage values of the existing Commonwealth Bank building in order to achieve a commercially viable and sustainable building appropriate for its site and context.

The current proposal has evolved in response to a lengthy process of discussions and negotiations, which has included: briefings to Council and the CSPC, responding to matters raised by the City’s Design Advisory Panel and an independent site-specific Heritage Committee, as well as extensive consultation with the City’s planning, urban design and heritage officers.

Following a thorough review of the proposal and consideration of advice from the Design Advisory Panel and independent Heritage Committee, it is considered that the scheme is a desirable outcome for the site, will be sympathetic to the character of the Martin Place precinct and result in positive heritage outcomes. The proponent has comprehensively addressed the “justification report” matters requested by the Council and CSPC in November 2008, therefore warranting the preparation of an LEP amendment (ie, a “planning proposal”) and a supporting DCP amendment to permit the revised scheme.

RECOMMENDATION

It is resolved that the City:

- (A) commence the process to amend the *Sydney Local Environmental Plan 2005* for the site known as 108-120 Pitt Street Sydney, with the amendment to be known as "*Sydney Local Environmental Plan 2005 (Amendment No 3)*", which will:
 - (i) add a subclause to clause 50 that increases the maximum height limit from 55 metres to 81 metres (ie, RL 98 metres) over the south-eastern corner of the site; and
 - (ii) amend the Central Sydney Height Map with a notation for the subclause to clause 50, as shown in Figure 4 of the subject report;
- (B) prepare a planning proposal for *Sydney Local Environmental Plan 2005 (Amendment No 3)* in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and forward it to the Minister for Planning in accordance with section 56(1) of the Act; and
- (C) amend section 2.12—Design Guidelines for Significant Sites (and any other consequential sections) of the *Central Sydney Development Control Plan 1996* to include provisions based on the planning proposal.

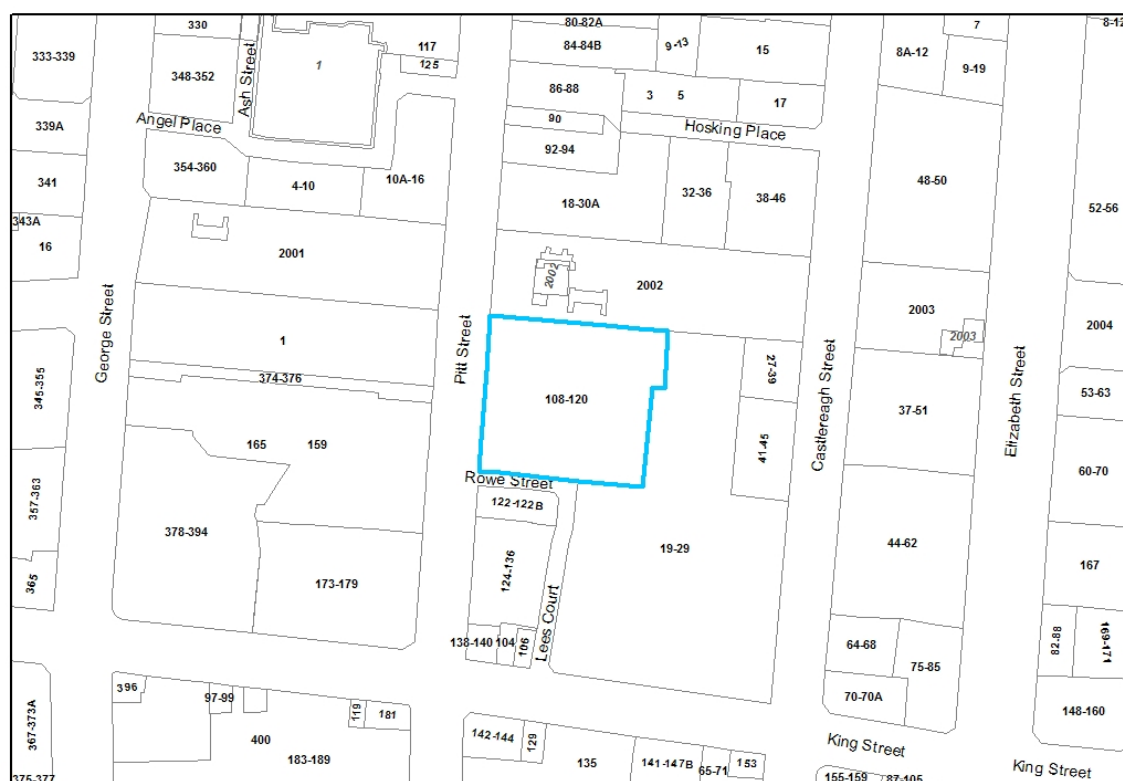
ATTACHMENTS

- Attachment A:** Resolution of Council of 24 November 2008 and Resolutions of the Central Sydney Planning Committee of 13 November 2008 and 26 June 2008
- Attachment B:** Reports to the Planning Development and Transport Committee on 17 November 2008 and the Central Sydney Planning Committee on 13 November 2008
- Attachment C:** LEP Amendment Request/Approval Process Justification Report prepared by JBA Planning on behalf of Colonial First State (May 2009). (Note – This attachment will be circulated separately from the Agenda Paper and to Councillors and relevant senior staff only. A copy will be available for viewing on Council's website and at the One Stop Shop and Neighbourhood Service Centres)
- Attachment D:** Heritage Committee Advice
- Attachment E:** Planning Circular PS06-005 – "*Local Environmental Plan Review Panel*"

BACKGROUND

1. The City has recently received a submission from Colonial First State (CFS) seeking amendments to *Sydney Local Environmental Plan 2005* (SLEP2005) and the *Central Sydney Development Control Plan 1996* (DCP1996) that will permit additions to the building known as the Commonwealth Bank "Money Box" located at 108-120 Pitt Street, Sydney. A site location plan is shown below.

Figure 1 – Location Plan



2. The key amendment sought by CFS is to change the existing height control prescribed in SLEP2005 to 81 metres (RL 98 metres) over the south-eastern portion of the site. This part of the site is currently subject to both a 55 metre height control and the Hyde Park West sun access plane height control of 150 metres. It is also proposed that this will be supported by an amendment to DCP1996 for a site specific building envelope.
3. In June 2008 the CSPC considered a Stage 1 development application (DA) lodged by CFS to redevelop the heritage listed site. Following consideration of the planner's report which recommended refusal of the application on urban design and heritage grounds, the CSPC resolved that consideration of the matter be deferred. The CSPC did not support the proposal and, in order to reach an appropriate solution, resolved that issues raised in the planning report should be considered as advice to the Proponent. In addition to this, the applicant was invited to consult with relevant committees, the Design Advisory Panel and Council staff. The CSPC resolution of June 2008 is at **Attachment A** to this report.

4. In response to the CSPC's resolution of June 2008, the Proponent appointed JPW Architects, who prepared a revised scheme for the site. The revised scheme forms the concept design on which the proposed amendments to SLEP2005 and DCP1996 are required. In order for this scheme to be realised, it is necessary to amend existing planning controls as it does not comply with current height (LEP) controls and setback (DCP) controls. This process could run parallel to the preparation of the City Plan and is likely to be integrated into the City Plan in the future.
5. The current submission from CFS has been prepared in response to resolutions from the Central Sydney Planning Committee (CSPC) and Council in November 2008. The proponent was advised that should they request an LEP amendment to permit development of a revised scheme for the site, this would need to be accompanied by a detailed "justification report" to address matters in the planner's reports of November 2008. The Resolution of Council of 24 November 2008 and the Resolution of the CSPC of 13 November 2008 are also at **Attachment A** and the planner's reports are at **Attachment B**. The submitted justification report is at **Attachment C**.
6. The current proposal has evolved in response to a lengthy process of discussions and negotiations, which has included: briefings to Council and the CSPC, addressing matters raised by the Design Advisory Panel and an independent site-specific Heritage Committee, as well as extensive consultation with the City's planning, urban design and heritage officers.

The Revised Scheme

7. The key driver behind the current scheme is to rejuvenate and enhance the heritage values of the existing Commonwealth Bank building in order to achieve a commercially viable and sustainable long-term building appropriate for the site. A detailed concept design/scheme has been prepared, which is included in the LEP amendment request documentation.
8. The key components of the revised scheme are as follows:
 - (a) retention, conservation and enhancement of the significant envelope, façade and heritage fabric of the 1916-1933 building known as the "Money Box";
 - (b) demolition of the modified eastern portion of the 1933 addition, the 1968 Martin Place extension and the 1994 Rowe Street extension;
 - (c) construction of a consolidated commercial extension to the 1916/1933 heritage components, together with a vertical commercial office extension on the southern part of the site. The latter is proposed to have a maximum height of 81 metres (RL 98) and will rise 8 storeys above the roof of the existing heritage building;
 - (d) demolition of the existing intrusive 3 storey high plant room fronting Martin Place, which currently breaches the 55 metre height limit in SLEP2005;
 - (e) setbacks of 25 metres from Martin Place to the main building line, 13 metres from Pitt Street, and nil setbacks to the MLC forecourt and the building addition to Rowe Street;

- (f) a floor space area of approximately 39,992 square metres equating to a floor space ratio (FSR) of 11.65:1. This would be below the maximum allowable FSR of 12.5:1;
- (g) re-establishment of the 1933 lightwell in its entirety including a major internal lightwell within the new building;
- (h) public domain and ground plane improvements, such as activation of building frontages with retail uses and commercial lobbies on the ground floor, and provision of public space in the form of a through-site link from Martin Place to Rowe Street; and
- (i) the provision of architectural articulation and street frontage activation along Rowe Street to enhance pedestrian and laneway amenity.

Stage 1 Development Application and Competitive Design Process

- 9. CFS has requested that the requirement for a Stage 1 DA be waived. CFS has made this request because they consider that the scheme already achieves design excellence through a considered design response that has evolved through extensive consultation, and that the design detail that has been submitted far exceeds the level of detail usually required for a stage 1 DA.
- 10. CFS considers that a design competition/competitive process is not required in this case. This may be permitted by the provisions of DCP1996, which allow for an alternative process where exceptional circumstances can be demonstrated. CFS argues that an exception is warranted in this case because of the significant design excellence work that has already been undertaken to this point through the testing of a number of schemes, compliance with heritage principles developed by an independent Heritage Committee, and because site specific built form controls proposed to be integrated into DCP1996 will ensure that development of the site will be constrained in accordance with the proposed JPW scheme.
- 11. It is considered that a design competition/competitive process is not required in this case. The proponent's justification for this is supported because the scheme is considered to be consistent with the aims and objectives of SLEP2005, a feasible design option has been prepared for the site and because the proponent has, in effect, undertaken a competitive process through the testing of a number of schemes (which required significant and detailed analysis), thus exhibiting design excellence.

Key proposed amendments to planning controls

Sydney LEP 2005

- 12. With a proposed height of 81 metres (RL 98 metres), the revised scheme does not comply with the 55 metre height limit prescribed in SLEP2005 over an area of approximately 20% of the site. It is therefore proposed to add a subclause to Clause 50 (Height of Buildings) of SLEP2005 and amend the height map to account for this variation.

Central Sydney DCP 1996

13. The insertion of site-specific controls that allow for a setback above the street-wall height of a minimum of 13 metres (reduced from the current control of approximately 35 metres) from Pitt Street, and to allow development of the scheme to the eastern boundary. This may be achieved through the insertion of an "axonometric" diagram depicting the building envelope derived from the scheme.

KEY IMPLICATIONS

14. Following the extensive Council officer review of the proposal and consideration of advice from the Design Advisory Panel and independent Heritage Committee, it is considered that the scheme is a desirable outcome for the site and will be sympathetic to the character of the Martin Place precinct. The proponent has comprehensively addressed the "justification report" matters requested by Council and the CSPC in November 2008, therefore warranting the preparation of an LEP amendment (ie, a "planning proposal") and a supporting DCP amendment. These amendments will permit the revised scheme which is currently constrained by existing controls.
15. The proposal is likely to enhance and revitalise the heritage values of the site, providing a balance between commercial functions and the conservation of heritage fabric. It is considered that the existing height and setback controls that currently apply to the site contain disparities and promote an unsatisfactory built form outcome, as demonstrated by the potential bulk and scale of the DA withdrawn in 2008.
16. Therefore, site specific amendments to SLEP2005 and DCP1996 are justified and recommended for endorsement by Council in this report. The following section of this report summarises Council's evaluation of CFS's proposal.

Evaluation of the proposal*Heritage*

17. In support of the submitted justification report, a detailed Heritage Impact Statement and Heritage Design Details were prepared by the proponent. A Conservation Management Plan (CMP) prepared by Tanner Architects has also been submitted to the City for review. The CMP was endorsed by the Heritage Council of NSW in April 2009 and recommends that site-specific controls be established for the site, and that the redevelopment of the site is in accordance with a comprehensive range of heritage design parameters.

Independent Heritage advice

18. In the probable absence of a Stage 1 DA, it was appropriate to reconvene the independent Heritage Committee that provided earlier advice on the 2008 Stage 1 DA. This Committee met on 2 July 2009 and, *inter alia*, considered whether the new scheme has responded to the 11 design principles developed for the site in its earlier advice of May 2008. The Heritage Committee supported the LEP and DCP amendment and agreed that the scheme substantially complies with the guiding principles. A copy of the Committee's advice is at **Attachment D** to this report. As not all matters in the advice are directly relevant to the proposed LEP and DCP amendment, the advice will be provided to the proponent to inform the preparation of a possible future DA for the revised scheme.

Officer review of heritage impacts

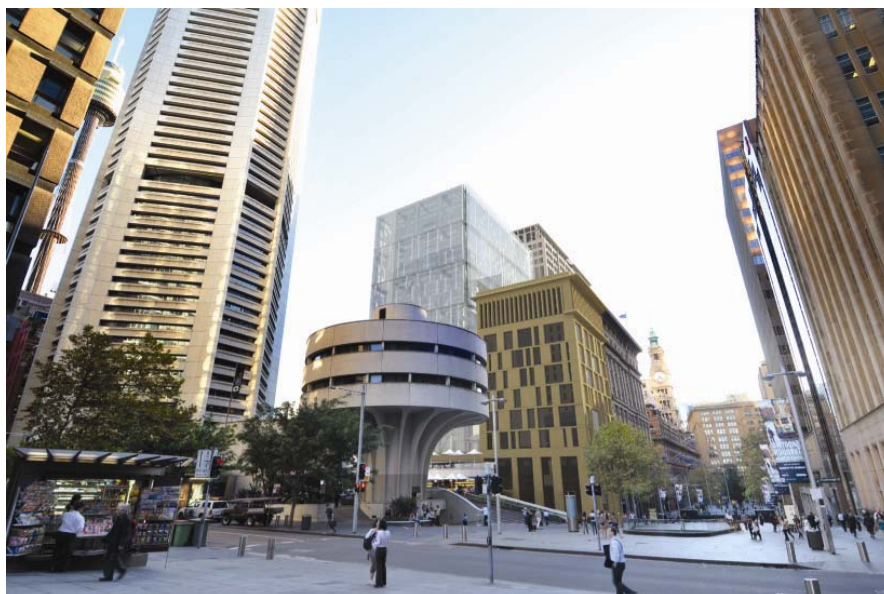
19. Submitted heritage documentation was reviewed by Council's Heritage Specialists to assess the direct heritage impacts that may arise from the proposed LEP and DCP amendments. Heritage impacts have been considered in substantial detail in order to effectively respond to matters that would normally be considered as part of a stage 1 DA assessment (as noted earlier in this report, a stage 1 DA is not proposed to be lodged).
20. Following an evaluation of heritage matters, it is considered that the key positive heritage outcomes are:
 - (a) the retention of the entire 1916-1933 heritage façade to Martin Place, Pitt Street and Rowe Street in unaltered form, thus enhancing perception of the heritage building;
 - (b) the removal of elements that currently intrude upon the building's contribution to the Martin Place and Rowe Street heritage streetscapes will substantially enhance significant views and increase the appreciation of the heritage building facade from Martin Place, particularly resulting from the removal of the existing three storey intrusive plant room;
 - (c) the reinstatement of the functioning of the central and eastern light wells of the 1933 building will substantially contribute to the original character and architectural form of important interior features;
 - (d) reinforcement of streetscape character, providing opportunities for connectivity between Martin Place, Rowe Street, and the adjoining MLC site;
 - (e) the proposed vertical addition will have sufficient setback to allow appreciation of the significant facades and envelope and to retain the sense of solidity of the significant Palazzo form;
 - (f) the proposed vertical addition will adopt a structural system that avoids structural loading through the heritage building or existing structure;
 - (g) the proposed reduction of the Pitt Street setback will have minimal impact in respect of overshadowing on Rowe Street; and
 - (h) the proposal is consistent with the Policy Recommendations of the Conservation Management Plan prepared by Tanner Architects (as endorsed by the Heritage Council of NSW).
21. Some heritage impacts have been identified relating to design features, views from higher points in Martin Place, and the overshadowing of Lee's Court to the south of the site. The impacts are considered to be minor when weighed against the positive heritage outcomes that will be made possible by the development of the site in accordance with the proposed scheme. These impacts can be addressed at the DA stage or are considered to not have any broader strategic impacts that would preclude the preparation of an amendment to SLEP2005 and DCP 1996.

22. On balance, it is clear that the scheme has the potential to deliver significant positive heritage outcomes for the site that may otherwise not be possible. The proposed LEP and DCP amendments will be fundamental to enhancing the building's presence in Martin Place and to ensuring sympathetic development. It is considered that negative heritage impacts discussed above are minimal when weighed against the positive planning outcomes that are likely to result from the proposal which are discussed in the following paragraphs of this report.

Height controls

23. It is considered that the proposal complies with Clause 47 of SLEP2005 – *Objectives for Building Height Controls*, despite being non-compliant with the existing 55m maximum height control over 20% of the site. It is apparent that the current maximum height controls in SLEP2005 in fact promote an inferior built form outcome, as demonstrated by the previous 2008 Stage 1 DA scheme. Although this scheme was in compliance with the permitted height limits, it was not considered satisfactory by the CSPC, therefore indicating that the strict application of current LEP height controls do not promote a satisfactory and sympathetic outcome for this important heritage site.
24. This is demonstrated by figures 2 and 3 below (extracted from the justification report) which provide a comparison between the bulk and scale of the current scheme, as opposed to the previous 2008 Stage 1 DA.

Figures 2 & 3 – Photomontages of Current Proposal and 2008 Stage 1 DA



Photomontage of Current Proposal



Photomontage of "Previous Stage 1 DA Scheme"

25. It is therefore considered that the proposed height variation for the site will only have minor impacts in relation to overshadowing, visual impact and views in that it:
- (a) complies with the Hyde Park West sun access plane and will result in only very minor additional overshadowing of Pitt Street Mall;
 - (b) provides an appropriate transition between the GPO tower and the MLC building;
 - (c) will not result in additional overshadowing of the MLC forecourt. Note that the proposed removal of plant rooms on the roof will marginally reduce current overshadowing on the MLC forecourt;

- (d) will allow for appropriate setbacks and separation from adjoining buildings; and
- (e) will have no sun access impacts on sandstone buildings in the Martin Place Special Area.

Strategic Planning Matters

26. Key strategic outcomes arising from the proposal include:

- (a) it will enable the sensitive upgrade and enhancement of a key commercial building in Central Sydney, enhancing qualities of the Martin Place Special Area;
- (b) demonstration of how existing heritage buildings can play a significant role in contributing to a sustainable city by allowing the site to redevelop in a manner that is both economically viable and sensitive to its existing heritage fabric and context;
- (c) it is consistent with the aims, objectives and provisions of the Metropolitan Strategy (as supported by the *Draft Sydney City Subregional Strategy*), particularly in that it will reinforce global competitiveness, and facilitate the introduction of premium grade commercial floor space, providing employment opportunities;
- (d) it is consistent with the directions and objectives of Sustainable Sydney 2030, particularly in that it will contribute to a globally competitive and innovative City through the provision of quality office accommodation in Central Sydney. The provision of sufficient commercial floor space is also inherent in a range of aims and objectives in SLEP2005;
- (e) it facilitates a sustainable design solution in close proximity to public transport; and
- (f) it responds to the particular characteristics of the Martin Place and Pitt Street Mall Special Areas, ensuring that the amenity and significance of these areas is maintained.

MLC Opportunity Site

27. The proposal is likely to set a positive development precedent and has the potential to trigger other high quality and sympathetic developments in the Martin Place precinct, particularly on the adjoining MLC opportunity site. The rejuvenation of the heritage qualities of the Commonwealth Bank building for public appreciation, proposed through-site link and activation of street frontages (particularly Rowe Street) are desirable and will make a real contribution to the public domain and are in the public interest.

Building Redundancy

28. Under current standards the Commonwealth Bank building would be classified as B or C grade office space. As a result, it has limited potential to attract long term commercial tenants commensurate with the historic reputation of Martin Place as a centre of commercial activity within Central Sydney. In order to avoid the building becoming redundant, a significant upgrade of the building (as is proposed by the JPW scheme) is required in the near future. This will also ensure the long term conservation of an important heritage building.

Design Advisory Panel Review

29. On 23 June 2009 the City's Design Advisory Panel (DAP) considered the proposal and advised that it generally supports it. DAP noted that the design approach and investigations are of a high standard and an appropriate response. Other issues raised by the DAP were primarily of a DA nature and these will be forwarded to the proponent and are to be addressed in the preparation of a possible future DA.

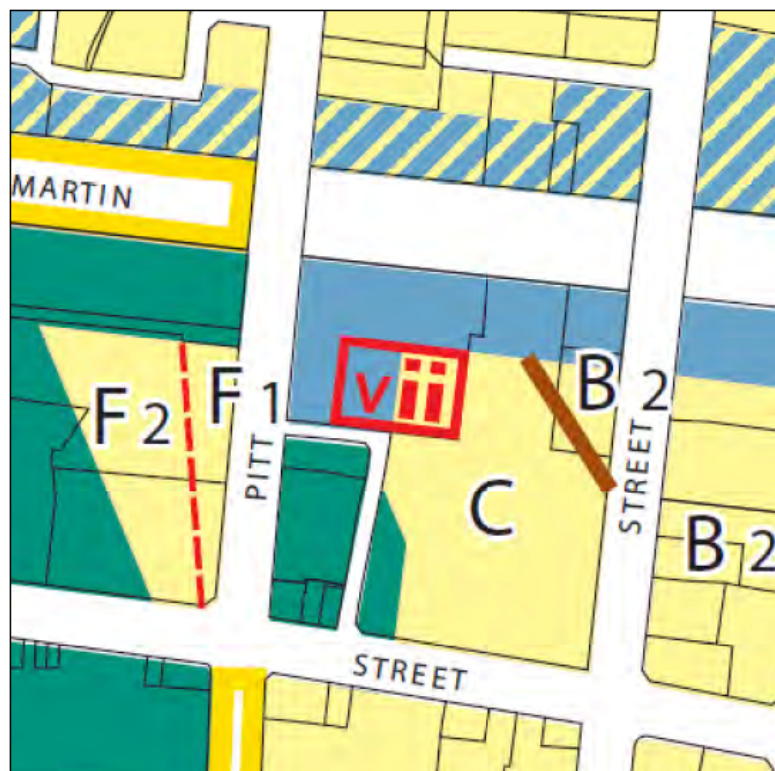
Amendment to Sydney Local Environmental Plan 2005

30. On July 1 2009 legislation came into effect that introduced a new "Gateway" process for the making of LEPs under Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The first step in creating a new LEP is the preparation of a "planning proposal" which replaces earlier requirements under the former section 54 of the EP&A Act, which sets out the justification for the making of an LEP.
31. Should Council adopt the recommendations of this report, it will be necessary for the City to address a number of substantive matters within a planning proposal in order to demonstrate the intended effect of a proposed LEP amendment. This includes: objectives or intended outcomes, an explanation of provisions, justification, and details of community consultation. It is considered that there is sufficient basis to adequately address these matters and substantially convey the intended effect of the LEP amendment.
32. Following consideration of the potential positive and negative impacts of the proposal discussed in this report, it is recommended that Council and the CSPC commence the process to prepare an amendment to SLEP2005. It is proposed that the LEP amendment would include the following:
- (a) the addition of a subclause to clause 50 of SLEP2005 (Height of Buildings) that changes the height limit on the south east portion of the site to 81 metres (ie, RL 98 metres). This increases the maximum height limit from 55 metres to 81 metres (ie, RL 98 metres) over an area of approximately 20% of the site.

Note: the proposed scheme is already compliant under the Hyde Park sun access plane (approximately 150 metres in height) which applies to the south east corner of the site. The proposed amendment to the height control will preclude development that is above 81 metres on an area of the site where the sun access plane currently applies.

- (b) amend the Central Sydney Height Map with a notation for a subclause to Clause 50 of SLEP2005 described above, as shown (as an extract) in figure 4 below (refer to area vii in red outline). This is consistent with other site specific height controls in SLEP2005 where a notation is marked on the height map.

Figure 4 – Proposed Amendment to SLEP2005 Height Map



33. The Department of Planning's current position on LEP amendments requires that the range of matters in the Department of Planning Circular No. PS06-005, dated 16 February 2006, titled "*Local environmental plan review panel*" is addressed. A copy of this Circular is provided at **Attachment E**. The Circular states that when considering whether to resolve to prepare a draft LEP, the City must address a number of questions as referenced in the "LEP Pro-forma Evaluation Criteria – Category 1: Spot Rezoning LEP". These questions have been addressed in the table below.

Department of Planning Criteria	Council Response
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transit node)?	Yes, the LEP supports the development of Central Sydney as a Global City. It does this by reinforcing the Global competitiveness of Sydney through the provision of high quality office accommodation that is integrated with an existing heritage building.

Department of Planning Criteria	Council Response
Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (section 117) directions?	Yes, the LEP will implement the work of the <i>Urban Design Report: 108-120 Pitt Street Commonwealth Bank Building</i> prepared by JPW Pty. Ltd. Architects & Tanner Architects, and the <i>Conservation Management Plan – 108-120 Pitt Street, Sydney</i> prepared by Tanner Architects as endorsed by the NSW Heritage Council. The LEP is consistent with State and regional policies and Ministerial (section 117) directions.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Yes, the LEP is located within Central Sydney, which is a global city.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes. The LEP will result in a substantially improved grade of office building that will contribute to Sydney as a principal centre of business. There will be no loss in employment lands as defined in the <i>Draft Sydney City Subregional Strategy</i> (Categories 1 and 2).
Will the LEP be compatible/complementary with surrounding land uses?	Yes, the LEP will be compatible with surrounding land uses, which are predominantly commercial/office buildings and heritage buildings, some of which have been re-adapted to contemporary standards (e.g. the GPO building).
Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	It is considered that the LEP is likely to create a positive precedent for heritage buildings, as it will be an innovative example of the rejuvenation of an existing heritage building to contemporary standards in an important commercial location. The LEP is unique in that it involves a highly significant heritage building that has undergone a necessarily rigorous process of “fine tuning” and consultation. Any future LEP amendment which may make a similar case for height variation of a heritage item will also have to demonstrate a similar degree of comprehensive analysis.

Department of Planning Criteria	Council Response
Will the LEP deal with a deferred matter in an existing LEP?	No. This is not applicable to the LEP.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	No other spot rezoning is currently proposed in the immediate vicinity. However, the City has recently lodged an LEP amendment proposal to change the height limits that apply to the 'Alfred, Pitt, Dalley and George Street' strategic site in Circular Quay. This is considered to be a significantly different LEP amendment to that proposed for the Commonwealth Bank site as it applies a coordinated 'development block' approach to planning controls. The City is also currently in the process of preparing a planning proposal for the Harold Park site in Glebe. This is also significantly different as it is an urban renewal area located outside of Central Sydney. Therefore, there will be no adverse cumulative impacts as a result of these LEP amendments.

34. The proposed amendment to SLEP2005 adequately satisfies the Department's criteria, as demonstrated in the table above.
35. Should Council and the CSPC resolve to prepare a planning proposal to amend *Sydney Local Environmental Plan 2005*, the City will forward the planning proposal to the Minister for Planning in accordance with section 56 of the *Environmental Planning and Assessment Act 1979*. Further details and explanation of the above criteria will be provided in the notification to the Minister, as well as planning proposal requirements summarised above.

Amendments to *Central Sydney Development Control Plan 1996*

36. In support of the LEP amendment described above, it is also proposed to amend DCP1996 to include site specific built form controls. The key reasons for an amendment to DCP1996 are to allow for a setback above street wall height of a minimum of 13 metres to Pitt Street (reduced from approximately 35 metres) and to allow the scheme to be built to the MLC (eastern) boundary. The proposed setback to Martin Place is compliant with the current DCP1996 setback of 25 metres, except for the minor intrusion of skylight elements.
37. To ensure the above, it is proposed that an "axonometric" diagram depicting the envelope derived from the scheme be inserted into Section 2.12 (Design Guidelines for Significant Sites) within DCP1996. This will ensure that the revised JPW scheme is "locked in", thus constraining the development in accordance with the revised JPW scheme. This approach parallels current provisions in Figure 2.47 – *GPO Site Development Control Envelope* of DCP1996 that apply to the adjacent GPO site.

38. It is also intended to provide a section in the DCP that allows suitable clearances above the lightwell to allow sufficient natural light to the underside of the cantilevered building. Draft diagrams indicating how this may be depicted in DCP1996 are on page 30 of the justification report at **Attachment C**.
39. Depending on the final form of the DCP controls, other consequential amendments may be required to other sections of the DCP, particularly to resolve any inconsistencies.

Waiver of Stage 1 DA and Competitive Process

40. Following consideration of the matters outlined in this report, and due to the uniqueness of the building, site and the level of detail in the justification report, the lodgement of a Stage 1 DA is unnecessary in this case. The proposal was referred to the City's Development Assessment Unit, which has also raised no objection to a waiver of the requirement for a stage 1 DA. However, it should be emphasised that such an exception is only supported due to the robustness and transparency of the concept development process to date, as well as the evident high quality of the revised scheme, which essentially replicates or even exceeds the degree of detail that normally would be provided in a stage 1 DA.
41. CFS considers that a design competition/competitive process is not required in this case. The proponent's justification for this is supported because the scheme is considered to be consistent with the aims and objectives of SLEP2005, a feasible design option has been prepared for the site, and because the proponent has, in effect, undertaken a competitive process through the testing of a number of schemes (which required significant and detailed analysis), thus exhibiting design excellence. Further to this, it considered that the development of a concept for such a complex and important heritage building is unlikely to be appropriately addressed in a meaningful way through a "normal" competition process. The recommendations of the Heritage Committee reaffirm this view.

BUDGET IMPLICATIONS

42. An agreement has been made with CFS, setting out terms where the Proponent will pay for Council's costs involved in the consideration of the LEP amendment. This is in accordance with Council's Fees and Charges Schedule.

RELEVANT LEGISLATION

43. *Environmental Planning and Assessment Act 1979.*

CRITICAL DATES / TIME FRAMES

44. It is recommended that this LEP and DCP amendment be progressed ahead of the City Plan to enable the assessment of the revised JPW scheme for the site, as it is anticipated that a stage 2 DA will be lodged in coming weeks. Since the commencement of the City Plan Review in 2005, site specific LEP amendments have been discouraged, as they are considered to be antipathetic to the "holistic" approach that has been taken in the preparation of the City Plan and divert the City's resources from completing it. The Department of Planning has a similar view, and has an objective to reduce the number of LEP amendments.

45. However, the Department's stated position on LEP amendments in Planning Circular PS06-005 is that if Council can justify a proposal for consideration and demonstrate that it is in the public interest, then an LEP amendment may proceed. It is considered that there is sufficient justification to amend SLEP2005 and DCP1996 for the site prior to the finalisation of the City Plan.

PUBLIC CONSULTATION

46. Public consultation will take place in accordance with the "gateway" determination made by the Minister for Planning in accordance with new Sections 56 and 57 of the *Environmental Planning and Assessment Act 1979*. At a minimum, it is intended to inform the Minister that public consultation will involve:
- (a) consultation with relevant agencies and landowners;
 - (b) a public exhibition period of no less than 28 days; and
 - (c) exhibition of a draft planning proposal and relevant supporting documentation during the public exhibition period.

MICHAEL HARRISON

Director City Strategy and Design

(Nicholas Knezevic, Specialist Planner)

ITEM 5. REQUEST THE CENTRAL SYDNEY PLANNING COMMITTEE TO PREPARE A PLANNING PROPOSAL TO AMEND SYDNEY LOCAL ENVIRONMENTAL PLAN 2005 - 108-120 PITT STREET, SYDNEY - COMMONWEALTH BANK BUILDING

FILE NO: S063506-02

SUMMARY

The City has received a submission from Colonial First State (CFS) seeking site-specific amendments to *Sydney Local Environmental Plan 2005* (SLEP2005) and the *Central Sydney Development Control Plan 1996* (DCP1996) that will enable additions to the building known as the Commonwealth Bank “Money Box” located at 108-120 Pitt Street, Sydney.

The key amendment sought by CFS is to change the existing height control prescribed in SLEP2005 to 81 metres (RL 98 metres) over the south-eastern portion of the site. This part of the site is currently affected by a 55 metre height control and the Hyde Park West sun access plane height control of 150 metres. The key amendment proposed to DCP1996 is the insertion of a site specific “axonometric” diagram that will control the building envelope and setbacks on the site.

In response to a Central Sydney Planning Committee (CSPC) resolution of July 2008 that did not support a development application for the site and recommended further consultation, CFS appointed JPW Architects who have prepared a revised scheme for the site. The scheme forms the concept design on which the proposed amendments to SLEP2005 and DCP1996 are required. The key driver behind the current scheme is to rejuvenate and enhance the heritage values of the existing Commonwealth Bank building in order to achieve a commercially viable and sustainable building appropriate for its site and context.

The current proposal has evolved in response to a lengthy process of discussions and negotiations, which has included: briefings to Council and the CSPC, responding to matters raised by the City’s Design Advisory Panel and an independent site-specific Heritage Committee, as well as extensive consultation with the City’s planning, urban design and heritage officers.

Following a thorough review of the proposal and consideration of advice from the Design Advisory Panel and independent Heritage Committee, it is considered that the scheme is a desirable outcome for the site, will be sympathetic to the character of the Martin Place precinct and result in positive heritage outcomes. The proponent has comprehensively addressed the “justification report” matters requested by the Council and CSPC in November 2008, therefore warranting the preparation of an LEP amendment (i.e. a “planning proposal”) and a supporting DCP amendment to permit the revised scheme.

RECOMMENDATION

It is resolved that the Central Sydney Planning Committee:

- (A) commence the process to amend the *Sydney Local Environmental Plan 2005* for the site known as 108-120 Pitt Street, Sydney, with the amendment to be known as "*Sydney Local Environmental Plan 2005 (Amendment No 3)*", which will:
 - (1) add a subclause to clause 50 that increases the maximum height limit from 55 metres to 81 metres (i.e. RL 98 metres) over the south-eastern corner of the site; and
 - (2) amend the Central Sydney Height Map with a notation for the subclause to clause 50, as shown in Figure 3 of the subject report;
- (B) prepare a planning proposal for *Sydney Local Environmental Plan 2005 (Amendment No 3)* in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and forward it to the Minister for Planning in accordance with section 56(1) of the Act; and
- (C) note that Council will amend section 2.12 - Design Guidelines for Significant Sites (and any other consequential sections) of the *Central Sydney Development Control Plan 1996* to include provisions based on the planning proposal.

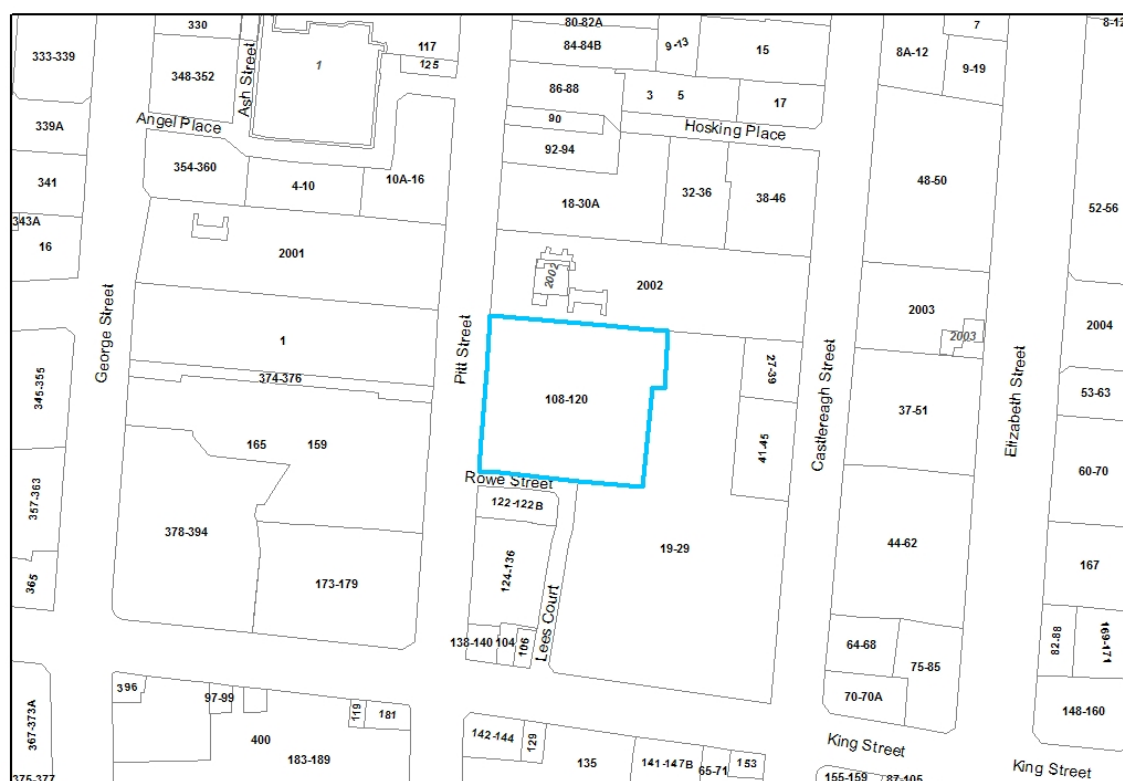
ATTACHMENTS

- Attachment A:** Resolution of Council of 24 November 2008 and Resolutions of the Central Sydney Planning Committee of 13 November 2008 and 26 June 2008.
- Attachment B:** Reports to the Planning Development and Transport Committee on 17 November 2008 and the Central Sydney Planning Committee on 13 November 2008.
- Attachment C:** LEP Amendment Request/Approval Process Justification Report prepared by JBA Planning on behalf of Colonial First State (May 2009). (Note – This attachment will be circulated separately from the Agenda Paper and to the Central Sydney Planning Committee and relevant staff only. A copy will be available for viewing on Council's website and at the One Stop Shop and Neighbourhood Service Centres).
- Attachment D:** Heritage Committee Advice.
- Attachment E:** Planning Circular PS06-005 – "*Local Environmental Plan Review Panel*".

BACKGROUND

1. The City has recently received a submission from Colonial First State (CFS) seeking amendments to *Sydney Local Environmental Plan 2005* (SLEP2005) and the *Central Sydney Development Control Plan 1996* (DCP1996) that will permit additions to the building known as the Commonwealth Bank "Money Box" located at 108-120 Pitt Street, Sydney. A site location plan is shown below.

Figure 1 – Location Plan



2. The key amendment sought by CFS is to change the existing height control prescribed in SLEP2005 to 81 metres (RL 98 metres) over the south-eastern portion of the site. This part of the site is currently subject to both a 55 metre height control and the Hyde Park West sun access plane height control of 150 metres. It is also proposed that this will be supported by an amendment to DCP1996 for a site specific building envelope.
3. In June 2008 the CSPC considered a Stage 1 development application (DA) lodged by CFS to redevelop the heritage listed site. Following consideration of the planner's report which recommended refusal of the application on urban design and heritage grounds, the CSPC resolved that consideration of the matter be deferred. The CSPC did not support the proposal, and in order to reach an appropriate solution resolved that issues raised in the planning report should be considered as advice to the Proponent. In addition to this, the applicant was invited to consult with relevant committees, the Design Advisory Panel and Council staff. The CSPC resolution of June 2008 is at **Attachment A** to this report.

4. In response to the CSPC's resolution of June 2008, the Proponent appointed JPW Architects who prepared a revised scheme for the site. The revised scheme forms the concept design on which the proposed amendments to SLEP2005 and DCP1996 are required. In order for this scheme to be realised, it is necessary to amend existing planning controls as it does not comply with current height (LEP) controls and setback (DCP) controls. This process could run parallel to the preparation of the City Plan and is likely to be integrated into the City Plan in the future.
5. The current submission from CFS has been prepared in response to resolutions from the Central Sydney Planning Committee (CSPC) and Council in November 2008. The proponent was advised that should they request an LEP amendment to permit development of a revised scheme for the site, this would need to be accompanied by a detailed "justification report" to address matters in the planners' reports of November 2008. CSPC and Council Resolutions of November 2008 are also at **Attachment A** and planners' reports are at **Attachment B**. The submitted justification report is at **Attachment C**.
6. The current proposal has evolved in response to a lengthy process of discussions and negotiations, which has included: briefings to Council and the CSPC, addressing matters raised by the Design Advisory Panel and an independent site-specific Heritage Committee, as well as extensive consultation with the City's planning, urban design and heritage officers.

The Revised Scheme

7. The key driver behind the current scheme is to rejuvenate and enhance the heritage values of the existing Commonwealth bank building in order to achieve a commercially viable and sustainable long-term building appropriate for the site. A detailed concept design/scheme has been prepared which is included in the LEP amendment request documentation.
8. The key components of the revised scheme are as follows:
 - (a) Retention, conservation and enhancement of the significant envelope, façade and heritage fabric of the 1916-1933 building known as the "Money Box";
 - (b) Demolition of the modified eastern portion of the 1933 addition, the 1968 Martin Place extension and the 1994 Rowe Street extension;
 - (c) Construction of a consolidated commercial extension to the 1916/1933 heritage components, together with a vertical commercial office extension on the southern part of the site. The latter is proposed to have a maximum height of 81 metres (RL 98) and will rise 8 storeys above the roof of the existing heritage building;
 - (d) Demolition of the existing intrusive 3 storey high plant room fronting Martin Place which currently breaches the 55 metre height limit in SLEP2005;
 - (e) Setbacks of 25 metres from Martin Place to the main building line, 13 metres from Pitt Street, and nil setbacks to the MLC forecourt and the building addition to Rowe Street;

- (f) A floor space area of approximately 39,992 square metres equating to a floor space ratio (FSR) of 11.65:1. This would be below the maximum allowable FSR of 12.5:1;
- (g) Re-establishment of the 1933 lightwell in its entirety including a major internal lightwell within the new building;
- (h) Public domain and ground plane improvements such as activation of building frontages with retail uses and commercial lobbies on the ground floor, and provision of public space in the form of a through-site link from Martin Place to Rowe Street;
- (i) The provision of architectural articulation and street frontage activation along Rowe Street to enhance pedestrian and laneway amenity.

Stage 1 Development Application and Competitive Design Process

- 9. CFS has requested that the requirement for a Stage 1 DA be waived. CFS has made this request because they consider that the scheme already achieves design excellence through a considered design response that has evolved through extensive consultation, and that the design detail that has been submitted far exceeds the level of detail usually required for a stage 1 DA.
- 10. CFS consider that a design competition/competitive process is not required in this case. This may be permitted by the provisions of DCP1996, which allow for an alternative process where exceptional circumstances can be demonstrated. CFS argue that an exception is warranted in this case because of the significant design excellence work that has already been undertaken to this point through the testing of a number of schemes; compliance with heritage principles developed by an independent Heritage Committee; and because site specific built form controls proposed to be integrated into DCP1996 will ensure that development of the site will be constrained in accordance with the proposed JPW scheme.
- 11. It is considered that a design competition/competitive process is not required in this case. The proponent's justification for this is supported because the scheme is considered to be consistent with the aims and objectives of SLEP2005, a feasible design option has been prepared for the site and because the proponent has in effect undertaken a competitive process through the testing of a number of schemes (which required significant and detailed analysis), thus exhibiting design excellence.

Key proposed amendments to planning controls

Sydney LEP 2005

- 12. With a proposed height of 81 metres (RL 98 metres), the revised scheme does not comply with the 55 metre height limit prescribed in SLEP2005 over an area of approximately 20% of the site. It is therefore proposed to add a subclause to Clause 50 (Height of Buildings) of SLEP2005 and amend the height map to account for this variation.

Central Sydney DCP 1996

13. The insertion of site-specific controls that allow for a setback above the street-wall height of a minimum of 13 metres (reduced from the current control of approximately 35 metres) from Pitt Street, and to allow development of the scheme to the eastern boundary. This may be achieved through the insertion an "axonometric" diagram depicting the building envelope derived from the scheme.

KEY IMPLICATIONS

14. Following the extensive Council officer review of the proposal and consideration of advice from the Design Advisory Panel and independent Heritage Committee, it is considered that the scheme is a desirable outcome for the site and will be sympathetic to the character of the Martin Place precinct. The proponent has comprehensively addressed the "justification report" matters requested by Council and CSPC in November 2008, therefore warranting the preparation of an LEP amendment (i.e. a "planning proposal") and a supporting DCP amendment. These amendments will permit the revised scheme which is currently constrained by existing controls.
15. The proposal is likely to enhance and revitalise the heritage values of the site, providing a balance between commercial functions and the conservation of heritage fabric. It is considered that the existing height and setback controls that currently apply to the site contain disparities and promote an unsatisfactory built form outcome, as demonstrated by the potential bulk and scale of the DA withdrawn in 2008.
16. Therefore, site specific amendments to SLEP2005 and DCP1996 are justified and recommended for endorsement in this report. The following section of this report summarises Council's evaluation of CFS's proposal.

Evaluation of the proposal*Heritage*

17. In support of the submitted justification report, a detailed Heritage Impact Statement and Heritage Design Details were prepared by the proponent. A Conservation Management Plan (CMP) prepared by Tanner Architects has also been submitted to the City for review. The CMP was endorsed by the Heritage Council of NSW in April 2009 and recommends that site-specific controls be established for the site, and that the redevelopment of the site is in accordance with a comprehensive range of heritage design parameters.

Independent Heritage advice

18. In the probable absence of a Stage 1 DA, it was appropriate to reconvene the independent Heritage Committee that provided earlier advice on the 2008 Stage 1 DA. This committee met on 2 July 2009 and, *inter alia* considered whether the new scheme has responded to the eleven design principles developed for the site in their earlier advice of May 2008. The Heritage Committee supported the LEP and DCP amendment and agreed that the scheme substantially complies with the guiding principles. A copy of the Committee's advice is at **Attachment D** to this report. As not all matters in the advice are directly relevant to the proposed LEP and DCP amendment, the advice will be provided to the proponent to inform the preparation of a possible future DA for the revised scheme.

Officer review of heritage impacts

19. Submitted heritage documentation was reviewed by Council's Heritage Specialists to assess the direct heritage impacts that may arise from the proposed LEP and DCP amendments. Heritage impacts have been considered in substantial detail in order to effectively respond to matters that would normally be considered as part of a stage 1 DA assessment (which as noted earlier in this report, a stage 1 DA is not proposed to be lodged).
20. Following an evaluation of heritage matters, it is considered that the key positive heritage outcomes are:
 - (a) The retention of the entire 1916-1933 heritage façade to Martin Place, Pitt Street and Rowe Street in unaltered form, thus enhancing perception of the heritage building;
 - (b) The removal of elements that currently intrude upon the building's contribution to the Martin Place and Rowe Street heritage streetscapes will substantially enhance significant views and increase the appreciation of the heritage building facade from Martin Place, particularly resulting from the removal of the existing three storey intrusive plant room;
 - (c) The reinstatement of the functioning of the central and eastern light wells of the 1933 building will substantially contribute to the original character and architectural form of important interior features;
 - (d) Reinforcement of streetscape character, providing opportunities for connectivity between Martin Place, Rowe Street, and the adjoining MLC site;
 - (e) The proposed vertical addition will have sufficient setback to allow appreciation of the significant facades and envelope and to retain the sense of solidity of the significant Palazzo form;
 - (f) The proposed vertical addition will adopt a structural system that avoids structural loading through the heritage building or existing structure;
 - (g) The proposed reduction of the Pitt Street setback will have minimal impact in respect of overshadowing on Rowe Street; and
 - (h) The proposal is consistent with the Policy Recommendations of the Conservation Management Plan prepared by Tanner Architects (as endorsed by the Heritage Council of NSW).
21. Some heritage impacts have been identified relating to design features, views from higher points in Martin Place, and the overshadowing of Lee's Court to the south of the site. The impacts are considered to be minor when weighed against the positive heritage outcomes that will be made possible by the development of the site in accordance with the proposed scheme. These impacts can be addressed at the DA stage or are considered to not have any broader strategic impacts that would preclude the preparation of an amendment to SLEP2005 and DCP 1996.

22. On balance it is clear that the scheme has the potential to deliver significant positive heritage outcomes for the site that may otherwise not be possible. The proposed LEP and DCP amendments will be fundamental to enhancing the building's presence in Martin Place and to ensure sympathetic development. It is considered that negative heritage impacts discussed above are minimal when weighed against the positive planning outcomes that are likely to result from the proposal which are discussed in the following paragraphs of this report.

Height controls

23. It is considered that the proposal complies with Clause 47 of SLEP2005 – *Objectives for Building Height Controls*, despite being non-compliant with the existing 55m maximum height control over 20% of the site. It is apparent that the current maximum height controls in SLEP2005 in fact promote an inferior built form outcome as demonstrated by the previous 2008 Stage 1 DA scheme. Although this scheme was in compliance with the permitted height limits it was not considered satisfactory by the CSPC, therefore indicating that the strict application of current LEP height controls do not promote a satisfactory and sympathetic outcome for this important heritage site.
24. This is demonstrated by figures 1 and 2 below (extracted from the justification report) which provide a comparison between the bulk and scale of the current scheme as opposed to the previous 2008 Stage 1 DA.

Figures 2 & 3 – Photomontages of Current Proposal and 2008 Stage 1 DA



Photomontage of Current Proposal



Photomontage of "Previous Stage 1 DA Scheme"

25. It is therefore considered that the proposed height variation for the site will only have minor impacts in relation to overshadowing, visual impact and views in that it:
- (a) Complies with the Hyde Park West sun access plane and will result in only very minor additional overshadowing of Pitt Street Mall;
 - (b) Provides an appropriate transition between the GPO tower and the MLC building;
 - (c) Will not result in additional overshadowing of the MLC forecourt. Note that the proposed removal of plant rooms on the roof will marginally reduce current overshadowing on the MLC forecourt;
 - (d) Will allow for appropriate setbacks and separation from adjoining buildings;
and

- (e) Will have no sun access impacts on sandstone buildings in the Martin Place Special Area.

Strategic Planning Matters

26. Key strategic outcomes arising from the proposal include:

- (a) It will enable the sensitive upgrade and enhancement of a key commercial building in Central Sydney, enhancing qualities of the Martin Place Special Area;
- (b) Demonstration of how existing heritage buildings can play a significant role in contributing to a sustainable city by allowing the site to redevelop in a manner that is both economically viable and sensitive to its existing heritage fabric and context;
- (c) It is consistent with the aims, objectives and provisions of the Metropolitan Strategy (as supported by the *Draft Sydney City Subregional Strategy*), particularly in that it will reinforce global competitiveness, and facilitate the introduction of premium grade commercial floor space providing employment opportunities;
- (d) It is consistent with the directions and objectives of Sustainable Sydney 2030 particularly in that it will contribute to a globally competitive and innovative City through the provision of quality office accommodation in Central Sydney. The provision of sufficient commercial floor space is also inherent in a range of aims and objectives in SLEP2005;
- (e) It facilitates a sustainable design solution in close proximity to public transport; and
- (f) It responds to the particular characteristics of the Martin Place and Pitt Street Mall Special Areas, ensuring that the amenity and significance of these areas is maintained.

MLC Opportunity Site

27. The proposal is likely to set a positive development precedent, and has the potential to trigger other high quality and sympathetic developments in the Martin Place precinct, particularly on the adjoining MLC opportunity site. The rejuvenation of the heritage qualities of the Commonwealth Bank building for public appreciation, proposed through site link and activation of street frontages (particularly Rowe Street) are desirable and will make a real contribution to the public domain and are in the public interest.

Building Redundancy

28. Under current standards the Commonwealth Bank building would be classified as B or C grade office space. As a result, it has limited potential to attract long term commercial tenants commensurate with the historic reputation of Martin Place as a centre of commercial activity within Central Sydney. In order to avoid the building becoming redundant, a significant upgrade of the building (as is proposed by the JPW scheme) is required in the near future. This will also ensure the long term conservation of an important heritage building.

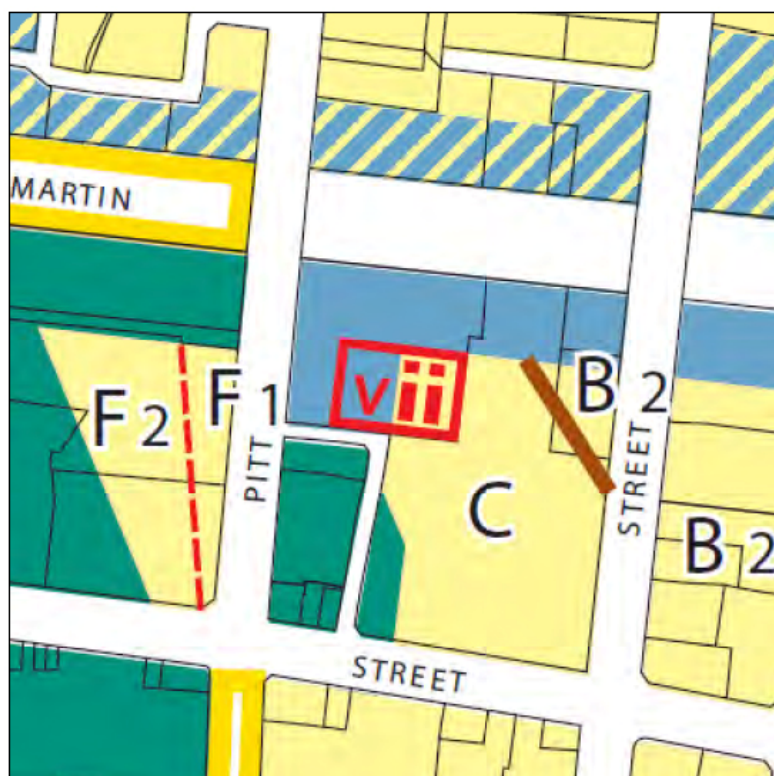
Design Advisory Panel Review

29. On 23 June 2009 the City's Design Advisory Panel (DAP) considered the proposal and advised that they generally support it. DAP noted that the design approach and investigations are of a high standard and an appropriate response. Other issues raised by the DAP were primarily of a DA nature and these will be forwarded to the proponent and are to be addressed in the preparation of a possible future DA.

Amendment to Sydney Local Environmental Plan 2005

30. On July 1 2009 legislation came into effect that introduced a new "Gateway" process for the making of LEPs under Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The first step in creating a new LEP is the preparation of a "planning proposal" which replaces earlier requirements under the former section 54 of the EP&A Act, which sets out the justification for the making of an LEP.
31. Should the Council and CSPC adopt the recommendations of this report it will be necessary for the City to address a number of substantive matters within a planning proposal in order to demonstrate the intended effect of a proposed LEP amendment. This includes: objectives or intended outcomes, an explanation of provisions, justification, and details of community consultation. It is considered that there is sufficient basis to adequately address these matters, and substantially convey the intended effect of the LEP amendment.
32. Following consideration of the potential positive and negative impacts of the proposal discussed in this report, it is recommended that Council and the CSPC commence the process to prepare an amendment to SLEP2005. It is proposed that the LEP amendment would include the following:
- (a) The addition of a subclause to clause 50 of SLEP2005 (Height of Buildings) that changes the height limit on the south east portion of the site to 81 metres (i.e. RL 98 metres). This increases the maximum height limit from 55 metres to 81 metres (i.e. RL 98 metres) over an area of approximately 20% of the site.
- Note: the proposed scheme is already compliant under the Hyde Park sun access plane (approximately 150 metres in height) which applies to the south east corner of the site. The proposed amendment to the height control will preclude development that is above 81 metres on an area of the site where the sun access plane currently applies.
- (b) Amend the Central Sydney Height Map with a notation for a subclause to Clause 50 of SLEP2005 described above, as shown (as an extract) in figure 3 below (refer to area vii in red outline). This is consistent with other site specific height controls in SLEP2005 where a notation is marked on the height map.

Figure 4 – Proposed Amendment to SLEP2005 Height Map



33. The Department of Planning's current position on LEP amendments requires that the range of matters in the Department of Planning Circular No. PS06-005, dated 16 February 2006, titled "*Local environmental plan review panel*" are addressed. A copy of this Circular is provided at **Attachment E**. The Circular states that when considering whether to resolve to prepare a draft LEP, the City must address a number of questions as referenced in the "LEP Pro-forma Evaluation Criteria – Category 1: Spot Rezoning LEP". These questions have been addressed in the table below.

Department of Planning Criteria	Council Response
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transit node)?	Yes, the LEP supports the development of Central Sydney as a Global City. It does this by reinforcing the Global competitiveness of Sydney through the provision of high quality office accommodation that is integrated with an existing heritage building.

Department of Planning Criteria	Council Response
Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (section 117) directions?	Yes, the LEP will implement the work of the <i>Urban Design Report: 108-120 Pitt Street Commonwealth Bank Building</i> prepared by JPW Pty. Ltd. Architects & Tanner Architects, and the <i>Conservation Management Plan – 108-120 Pitt Street, Sydney</i> prepared by Tanner Architects as endorsed by the NSW Heritage Council. The LEP is consistent with State and regional policies and Ministerial (section 117) directions.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Yes, the LEP is located within Central Sydney, which is a global city.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes. The LEP will result in a substantially improved grade of office building that will contribute to Sydney as a principal centre of business. There will be no loss in employment lands as defined in the <i>Draft Sydney City Subregional Strategy</i> (Categories 1 and 2).
Will the LEP be compatible/complementary with surrounding land uses?	Yes, the LEP will be compatible with surrounding land uses, which are predominantly commercial/office buildings and heritage buildings, some of which have been re-adapted to contemporary standards (e.g. the GPO building).
Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	It is considered that the LEP is likely to create a positive precedent for heritage buildings, as it will be an innovative example of the rejuvenation of an existing heritage building to contemporary standards in an important commercial location. The LEP is unique in that it involves a highly significant heritage building that has undergone a necessarily rigorous process of “fine tuning” and consultation. Any future LEP amendment which may make a similar case for height variation of a heritage item will also have to demonstrate a similar degree of comprehensive analysis.
Will the LEP deal with a deferred matter in an existing LEP?	No. This is not applicable to the LEP.

Department of Planning Criteria	Council Response
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	No other spot rezoning is currently proposed in the immediate vicinity. However, the City has recently lodged an LEP amendment proposal to change the height limits that apply to the 'Alfred, Pitt, Dalley and George Street' strategic site in Circular Quay. This is considered to be a significantly different LEP amendment to that proposed for the Commonwealth Bank site as it applies a coordinated 'development block' approach to planning controls. The City is also currently in the process of preparing a planning proposal for the Harold Park site in Glebe. This is also significantly different as it is an urban renewal area located outside of Central Sydney. Therefore, there will be no adverse cumulative impacts as a result of these LEP amendments.

34. The proposed amendment to SLEP2005 adequately satisfies the Department's criteria, as demonstrated in the table above.
35. Should Council and the CSPC resolve to prepare a planning proposal to amend *Sydney Local Environmental Plan 2005*, the City will forward the planning proposal to the Minister for Planning in accordance with section 56 of the *Environmental Planning and Assessment Act, 1979*. Further details and explanation of the above criteria will be provided in the notification to the Minister, as well as planning proposal requirements summarised above.

Amendments to Central Sydney Development Control Plan 1996

36. In support of the LEP amendment described above, it is also proposed to amend DCP1996 to include site specific built form controls. The key reasons for an amendment to DCP1996 is to allow for a setback above street wall height of a minimum of 13 metres to Pitt Street (reduced from approximately 35 metres) and to allow the scheme to be built to the MLC (eastern) boundary. The proposed setback to Martin Place is compliant with the current DCP1996 setback of 25 metres, except for the minor intrusion of skylight elements.
37. To ensure the above it is proposed that an "axonometric" diagram depicting the envelope derived from the scheme be inserted into Section 2.12 (Design Guidelines for Significant Sites) within DCP1996. This will ensure that the revised JPW scheme is "locked in" thus constraining the development in accordance with the revised JPW scheme. This approach parallels current provisions in Figure 2.47 – *GPO Site Development Control Envelope* of DCP1996 that apply to the adjacent GPO site.

38. It is also intended to provide a section in the DCP that allows suitable clearances above the lightwell to allow sufficient natural light to the underside of the cantilevered building. Draft diagrams indicating how this may be depicted in DCP1996 are on page 30 of the justification report at **Attachment C**.
39. Depending on the final form of the DCP controls, other consequential amendments may be required to other sections of the DCP, particularly to resolve any inconsistencies.

Waiver of Stage 1 DA and Competitive Process

40. Following consideration of the matters outlined in this report, and due to the uniqueness of the building, site and the level of detail in the justification report, the lodgement of a Stage 1 DA is unnecessary in this case. The proposal was referred to the City's Development Assessment Unit who have also raised no objection to a waiver of the requirement for a stage 1 DA. However, it should be emphasised that such an exception is only supported due to the robustness and transparency of the concept development process to date, as well as the evident high quality of the revised scheme, which essentially replicates or even exceeds the degree of detail that would be normally be provided in a stage 1 DA.
41. CFS consider that a design competition/competitive process is not required in this case. The proponent's justification for this is supported because the scheme is considered to be consistent with the aims and objectives of SLEP2005, a feasible design option has been prepared for the site and because the proponent has in effect undertaken a competitive process through the testing of a number of schemes (which required significant and detailed analysis), thus exhibiting design excellence. Further to this, it considered that the development of a concept for such a complex and important heritage building is unlikely to be appropriately addressed in a meaningful way through a "normal" competition process. The recommendations of the Heritage Committee reaffirm this view.

BUDGET IMPLICATIONS

42. An agreement has been made with CFS, setting out terms where the Proponent will pay for Council's cost involved in the consideration of the LEP amendment. This is in accordance with Council's Fees and Charges Schedule.

RELEVANT LEGISLATION

43. *Environmental Planning and Assessment Act, 1979.*

CRITICAL DATES / TIME FRAMES

44. It is recommended that this LEP and DCP amendment be progressed ahead of the City Plan to enable the assessment of the revised JPW scheme for the site, as it is anticipated that a stage 2 DA will be lodged in coming weeks. Since the commencement of the City Plan Review in 2005, site specific LEP amendments have been discouraged, as they are considered to be antipathetic to the "holistic" approach that has been taken in the preparation of the City Plan and divert the City's resources from completing it. The Department of Planning has a similar view, and has an objective to reduce the number of LEP amendments.

45. However, the Department's stated position on LEP amendments in Planning Circular PS06-005 is that if Council can justify a proposal for consideration and demonstrate that it is in the public interest, then an LEP amendment may proceed. It is considered that there is sufficient justification to amend SLEP2005 and DCP1996 for the site prior to the finalisation of the City Plan.

PUBLIC CONSULTATION

46. Public consultation will take place in accordance with the "gateway" determination made by the Minister for Planning in accordance with new Sections 56 & 57 of the *Environmental Planning & Assessment Act 1979*. At a minimum it is intended to inform the Minister that public consultation will involve:
- (a) Consultation with relevant agencies and landowners;
 - (b) A public exhibition period of no less than 28 days; and
 - (c) Exhibition of a draft planning proposal and relevant supporting documentation during the public exhibition period.

MICHAEL HARRISON

Director City Strategy and Design

(Nicholas Knezevic, Specialist Planner)