

Planning Services

Gateway Determination Report

LGA	City of Sydney
PPA	City of Sydney Council
NAME	4-6 Bligh Street, Sydney (775 jobs)
NUMBER	PP_2018_SYDNE_001_00
LEP TO BE AMENDED	Sydney Local Environmental Plan 2012
ADDRESS	4-6 Bligh Street, Sydney
DESCRIPTION	Lot A DP 184770 Lot 1 DP 919932 Lots 1 and 2 DP 134866
RECEIVED	27 March 2018
FILE NO.	IRF18/1634
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal submitted for consideration at the Gateway determination stage differs from the original planning proposal submitted as part of the rezoning review request that the Independent Planning Commission (IPC) reviewed and recommended to proceed to Gateway determination as it demonstrates strategic and site-specific merit.

The explanation of provisions for the planning proposal was amended to include the introduction of strategic floor space (SFS) as a new type of additional floor space permitted under the Sydney Local Environmental Plan (LEP) 2012. The SFS concept was first proposed by the draft Central Sydney Planning Strategy to re-balance incentives for commercial development in Central Sydney.

The revised planning proposal seeks to amend the Sydney Local Environmental LEP 2012 by:

- amending clause 6.3 “Additional floor space in Central Sydney” to introduce SFS as a new type of additional floor space permitted in the Sydney LEP 2012;
- inserting a new clause and schedule allowing SFS to apply to the site at 4-6 Bligh Street to enable an overall floor space ratio (FSR) of 20:1 (not including potential design excellence bonus); and
- amending clause 4.6 to ensure the development standards under SFS cannot be varied.

The proposed amendments will enable the redevelopment of the site for a 51-storey tower comprising:

- a 10 storey podium including hotel and commercial lobbies, food and beverage facilities;
- a 37 storey hotel (407 rooms);
- four levels at rooftop including hotel club lounge, function space, restaurant bar and publicly accessible landscape terrace; and
- four basement levels including 12 car parking spaces, gym, pool and end-of-trip facilities.

Site description

The subject site is located at 4-6 Bligh Street, Sydney (Figure 1). The site has a single frontage to Bligh Street of approximately 38m, an approximate depth of 32m and a site area of 1216m².

The existing building on-site was constructed in 1964 and is known as Bligh House. It is a B-grade commercial office building comprising approximately 16,500m² of retail (ground floor) and commercial floor space. The building is 74m in height (20 storeys) and has basement level car parking accessible via Bligh Street.

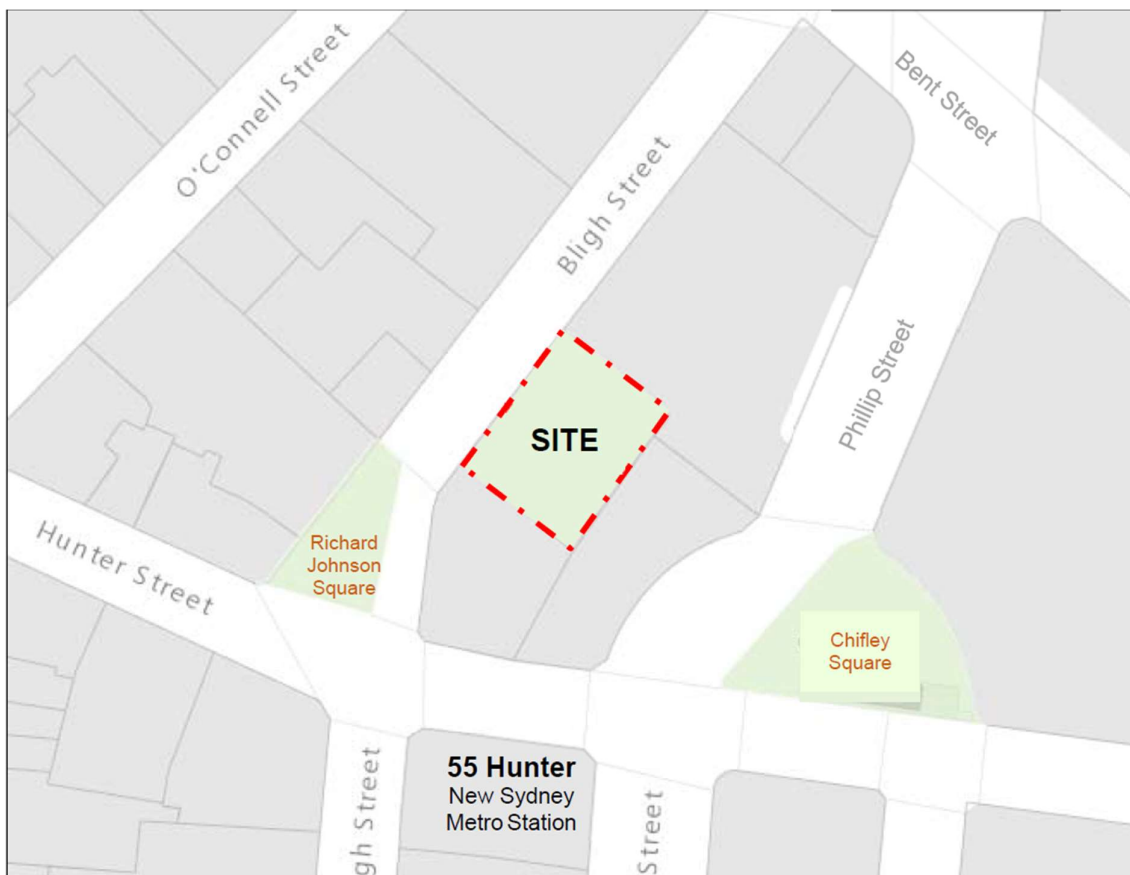


Figure 1: Site map (source: City of Sydney).

Existing planning controls

In accordance with the Sydney LEP 2012, the site is zoned B8 Metropolitan Centre with a maximum building height of 235m and FSR of 8:1 (not including bonuses).

The site is subject to additional floor space provisions under clause 6.4 “Accommodation floor space” of the Sydney LEP 2012. Development for a hotel or model accommodation is eligible for additional floor space up to 6:1, and office or retail premises may achieve additional floor space up to 4.5:1.

The development is also eligible for up to 10% bonus floor space or building height if a competitive design process is undertaken and design excellence is demonstrated. If all FSRs apply, the potential maximum FSR that could be achieved for the site is 22:1. An overall FSR of 22:1 is being sought by the proponent when including use of the design excellence provisions.

Surrounding area

The area is characterised by a mix of commercial office and hotel uses with some ground-level retail, restaurant and café uses in buildings of varying heights, ages and styles.

Existing building heights immediately surrounding the site are predominantly mid-rise buildings of 4-16 storeys with taller high-rise tower buildings of 30-40 storeys further beyond the subject site.

Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions because it:

- is consistent with the Greater Sydney Region Plan, the Eastern City District Plan and relevant section 9.1 Ministerial Directions and state environmental planning policies;
- increases the amount of commercial floor space available to support Central Sydney’s role as a global city; and
- delivers new hotel accommodation in close proximity to business and leisure attractors including Circular Quay and the Royal Botanic Gardens.

The planning proposal does not provide any justification for the introduction of the SFS framework. It also does not demonstrate how the proposed amendments to the Sydney LEP 2012 to introduce SFS are the best means of achieving the objectives and intended outcomes of the planning proposal.

It is recommended that the SFS framework be removed from the explanation of provisions and replaced with the site-specific provision proposed in the original planning proposal with an FSR of 20:1 as a condition of Gateway. The proponent may achieve an FSR of 22:1 if design excellence is achieved.

The intended outcomes and explanation of provisions should also be updated and included as a Gateway condition.

PROPOSAL

Objectives or intended outcomes

The statement of objectives accurately describes the intention of the revised planning proposal. The proposal intends to amend the Sydney LEP 2012 to:

- enable the redevelopment of the site with a maximum FSR of 22:1 (including all existing additional floor space and potential design excellence bonuses) for uses other than residential and serviced apartments;
- deliver a high-quality built form and protect public domain amenity;
- ensure development will be subject to architectural design competition;
- ensure adequate building separation and setback to ensure an appropriate level of wind and daylight amenity for pedestrians;
- ensure development meets 5.5-star NABERS Energy rating for the commercial component, 5-star for the hotel component, and a 4-star NABERS water score for the commercial office and hotel component;
- ensure development will include an end-of-trip facility, which is eligible for additional floor space; and
- ensure additional floor space is commensurate with or supports the capacity of existing and planned infrastructure.

Explanation of provisions

City of Sydney Council has amended the original planning proposal to ensure a new value capture mechanism applies to the additional floor space being sought by the proponent.

The proposal seeks to address the above objectives by amending the Sydney LEP 2012 as follows:

- amend clause 6.3 to introduce strategic floor space as a new type of additional floor space in the Sydney LEP 2012;
- insert a new clause and schedule allowing SFS for the site at 4-6 Bligh Street to enable a total FSR of 20:1 (not including potential design excellence bonus); and
- amend clause 4.6 to ensure the development standards under SFS cannot be varied.

Specifically, the proposal seeks to meet the objectives by introducing and amending the Sydney LEP 2012 with the following suggested clauses and schedule. The following is an example and is subject to future legal drafting:

Insert – Clause 6.X Strategic floor space in Central Sydney

1) *The objective of this clause is to:*

- a) allow additional height or floor space on sites in Central Sydney for uses other than residential accommodation and serviced apartments;*
- b) deliver a high quality built form and protect public domain amenity;*
- c) achieve a high standard of design, ecologically sustainable development and contribute towards zero net energy; and*
- d) ensure any development utilising strategic floor space is commensurate with or supports the capacity of existing and planned infrastructure.*

- 2) This clause applies to land in Central Sydney identified in Column A of Schedule XX.
- 3) Despite clauses 4.3 and 4.4, the consent authority may grant development consent to the erection of a building that:
- a) has a maximum height shown in Column B, Schedule XX, subject to the development satisfying the specified matters in Column D of Schedule XX; and
 - b) Has a strategic floor space ratio described in Column C, Schedule XX, subject to the development satisfying the specified matters in Column D of Schedule XX.
- 4) Despite any other provision of this Plan, a building erected in accordance with a development consent granted under subclause (3) must:
- a) not be built or used in the future for the purpose of residential accommodation or serviced apartments;
 - b) include an end of trip facility;
 - c) exhibit design excellence as a result of an architectural design competition in line with the City's Competitive Design Policy; and
 - d) Meet 5.5 star Base Building NABERS Energy rating for the commercial component and 5 star for the hotel component and 4 star NABERS water score for commercial office and hotel.
- 5) The consent authority must not grant consent unless it is satisfied that development is commensurate or supports the capacity of existing and planned infrastructure.

Insert – Schedule XX – Strategic height and floor space in Central Sydney

Column A – Land	Column B – strategic height	Column B – strategic floor space	Column C – matters to be satisfied
4-6 Bligh Street, Sydney being Lot A DP 184770, Lot 1 DP 919932, Lot 1 DP 134866, Lot 2 DP 134866	<p>A maximum building height of 205m and a maximum height of 45m within:</p> <ul style="list-style-type: none"> a) 8 metres of the northwestern (Bligh Street) boundary; b) 3 metres of the northeastern boundary; c) 5 metres of the southeastern boundary; and d) 3 metres of the southwestern boundary. 	<p>Difference between 20:1 and any floor space eligible under clauses 6.4 to 6.9 but excluding any floor space awarded as a result of design excellence.</p>	<p>The development:</p> <ul style="list-style-type: none"> 1) Has a maximum building height as shown in Column B or achieves better daylight and wind condition in the public domain. 2) is not eligible for any additional height under any clause 3) will not have an FSR greater than 21.3:1 for all floor space above ground level including any awarded as a result of design excellence. 4) If additional floor space is awarded under Clause 6.21(7), calculation will include the Strategic floor space set up in this clause/schedule.

Amend – clause 6.3 Additional floor space in Central Sydney

Despite clause 4.4, the gross floor area of a building on land in Central Sydney may exceed the maximum permitted as a result of the floor space ratio shown for the land on the Floor Space Ratio Map by an amount no greater than the sum of any one or more of the following for which the building may be eligible:

- a) Any accommodation floor space,*
- b) Any amount determined by the consent authority under clause 6.21(7)(b),*
- c) Any car parking reduction floor space, end of journey floor space, entertainment and club floor space, lanes development floor space or opportunity floor space.*
- d) - (f) (Repealed)*

(g) Any Strategic floor space under Clause 6.X and Schedule XX

Original explanation of provisions

The original planning proposal sought to amend the Sydney LEP 2012 by introducing the following draft clause:

Insert - Clause 6.X – 4–6 Bligh Street, Sydney

- (1) The objective of this clause is to provide for additional floor space for development for any of the following purposes:
 - (a) Commercial premises;*
 - (b) Hotel or motel accommodation; and*
 - (c) Recreation facility (indoor)**
- (2) This clause applies to 4-6 Bligh Street, being Lot 1, DP 919932, Lot 1, DP134866, Lot 2, DP 134866, and Lot A, DP 184770.*
- (3) A building on land to which this clause applies that is used for any of the purposes referred at subclause (1) is eligible for an amount of additional floor space, in excess of that permitted by the Floor Space Ratio Map and any other additional floor space that is otherwise permitted by this plan, by applying a floor space ratio of 7.12:1.*
- (4) Development consent must not be granted to development under this clause if the development will result in a building in the site having a floor space ratio greater than 22:1.*

It is noted that the introduction of the SFS framework as a new type of additional floor space in Central Sydney did not form part of the original planning proposal that was considered by the Independent Planning Commission (**Attachment E**). Further, the proposal does not consider if this revised approach by Council is the best means of achieving the intended outcome of the planning proposal. This is discussed below.

Mapping

The planning proposal does not amend any maps.

NEED FOR THE PLANNING PROPOSAL

The planning proposal was the subject of a rezoning review. On 5 December 2017, the Independent Planning Commission (formerly the Planning Assessment Commission) reviewed the planning proposal and recommended it proceed to Gateway determination because it has strategic and site-specific merit (**Attachment E**).

The revised proposal is considered to be consistent with the draft Central Sydney Planning Strategy 2016-2036, which seeks to allow increased building height and FSR to be achieved on sites where it can be demonstrated that this will not result in any unacceptable impacts on adjoining properties or the public domain.

This planning proposal is the best approach for amending the Sydney LEP 2012 and delivering the intended outcomes for this site.

STRATEGIC ASSESSMENT

The following is assessed against the revised planning proposal:

Region

The proposal is consistent with the Greater Sydney Region Plan, particularly *Objective 24 Economic sectors are targeted for success* and Strategy 24.2 to support the visitor economy by developing industry skills critical to growing the visitor economy.

The planning proposal refers to the superseded draft Greater Sydney Region Plan, it is recommended the planning proposal be updated to demonstrate consistency with the final plan.

District

The proposal is consistent with the following relevant planning priorities and actions of the Eastern City District Plan:

- Planning Priority E7: Growing a stronger and more competitive Harbour CBD;
- Planning Priority E9: Growing international trade gateways;
- Planning Priority E11: Growing investment, business opportunities and jobs in strategic centres;
- Planning Priority E13: Supporting growth of targeted industry sectors; and
- Planning Priority E19: Reducing carbon emissions and managing energy, water and waste efficiently.

The proposed amendments to the Sydney LEP 2012 will support these priorities by creating additional floor space for commercial office and hotel use and contributing to affordable housing through State Environmental Planning Policy No. 70 Affordable Housing (Revised Schemes).

The planning proposal refers to the superseded Revised Draft Eastern City District Plan. It is recommended the planning proposal be updated to demonstrate consistency with the final Eastern City District Plan.

Local

The proposal is consistent with City of Sydney's Sustainable Sydney 2030 Plan, which outlines Council's vision for a green, global and connected City of Sydney and sets targets, objectives and actions to achieve that vision.

The proposal will support the delivery of a high-quality built form outcome that will provide new employment opportunities. The proposed amendments to the Sydney LEP 2012 seek to support a more ecologically sustainable development on the site that is required to meet a minimum 5.5 stars NABERS energy rating for the commercial component and 5 stars for the hotel component of the development, and a 4 star NABERS water score for the commercial office and hotel components of the development.

Draft Central Sydney Planning Strategy

The proposal is consistent with the draft Central Sydney Planning Strategy, which seeks to allow for increases in building height and FSR where it can be demonstrated that this will not result in any unacceptable impacts on adjoining properties or the public domain.

Since 1996, the FSR controls in the Sydney CBD have operated on a base FSR of 8:1 and an additional FSR known as “accommodation floor space”. Accommodation floor space varies across the four identified areas of the CBD and provides different bonus FSRs for different uses. For example, an FSR of 6:1 for hotel or motel accommodation and an FSR of 4.5:1 for office premises, business premises, retail premises, residential accommodation or serviced apartments may be additionally applied as accommodation floor space to the 8:1 base FSR applying to land in Central Sydney.

The draft strategy seeks to re-balance commercial uses by introducing a “key use floor space” in the form of a 1.5:1 bonus FSR for hotel and motel accommodation, community facilities or child care centres. The draft strategy also seeks to introduce new provisions for tower development to meet BASIX+ targets and minimum 5-star NABERS ratings.

The subject planning proposal has components of the key use floor space and NABERS ratings proposed in Council’s draft strategy and has combined these into a new “strategic floor space in Central Sydney” clause that will allow CBD sites to achieve an FSR of up to 20:1. The proposed clause and schedule are intended to eventually apply to the entire CBD, with 4-6 Bligh Street being the first site listed in the schedule.

The detailed review of the draft strategy undertaken by the Department raised concerns with the proposed adjustments to FSR and the introduction of a new floor space category. The Department’s review requested Council consider providing higher FSRs for commercial floor space as an incentive for commercial over residential development.

The Department’s review also raised concerns with Council’s proposal to vary BASIX and NABERS standards. The Department noted that these provisions should not impact on development feasibility and should not be mandatory. While there is no feasibility analysis supporting the planning proposal, the proposed NABERS standard is not mandatory as it is associated with an FSR bonus that the proponent may opt in or out of.

The planning proposal does not provide any justification or demonstrate the need for the introduction of SFS in Central Sydney.

Given there is no justification for this amendment, the Department does not support the introduction of the SFS framework as a general amendment to the Sydney LEP 2012 when considering a proposal for an isolated site. Therefore, the SFS framework should continue to be considered as part of Council’s draft strategy and associated planning proposal.

It is recommended that the SFS framework be removed from the explanation of provisions and replaced with the site-specific provision proposed in the original planning proposal with an FSR of 20:1 as a condition of Gateway. The proponent may achieve an FSR of 22:1 if design excellence is achieved.

The intended outcomes and explanation of provisions should also be updated and included as a Gateway condition.

Section 9.1 Ministerial Directions

The proposal is consistent with the following section 9.1 Ministerial Directions:

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.3 Flood Prone Land
- 5.10 Implementation of Regional Plans
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 7.1 Implementation of A Plan for Growing Sydney

State environmental planning policies

The proposal is consistent with the application of the following SEPPs:

- SEPP 1 – Development Standards
- SEPP 19 – Bushland in Urban Areas
- SEPP 21 – Caravan Parks
- SEPP 30 – Intensive Agriculture
- SEPP 33 – Hazardous and Offensive Development
- SEPP 50 – Canal Estate Development
- SEPP 55 – Remediation of Land
- SEPP 62 – Sustainable Aquaculture
- SEPP 70 – Affordable Housing (Revised Schemes)
- SEPP (Affordable Rental Housing) 2009
- SEPP (Educational Establishments and Child Care Facilities) 2017
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure) 2007
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (State and Regional Development) 2011
- SEPP (State Significant Precincts) 2005
- SEPP (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

A Stage 1 preliminary contamination review has been undertaken and identified potential areas of environmental concern relating to:

- hazardous building materials in current site structures;
- isolated leaks and spills from mechanical plant infrastructure within the basement; and
- suspected underground storage tanks.

The study concluded that the site can be made suitable for the proposed commercial development with minimal access to soils in accordance with SEPP 55, provided that further investigations are undertaken, such as a Stage 2 detailed site investigation (including inspection of the suspected underground storage tanks and/or fill points).

State Environmental Planning Policy (Infrastructure) 2007

The site is identified within the Interim CBD Rail Link Corridor (Zone B – Tunnel) under the Infrastructure SEPP (Figure 2). The CBD Metro and future Martin Place station will be located within close proximity to the site.

As the site is within the CBD rail link corridor, review and approval by the relevant authorities will be necessary for any proposed works in the vicinity. The proposal will also be subject to the provisions in Division 15 of the Infrastructure SEPP. It is recommended that agency consultation with Transport for NSW be conditioned in the Gateway determination.

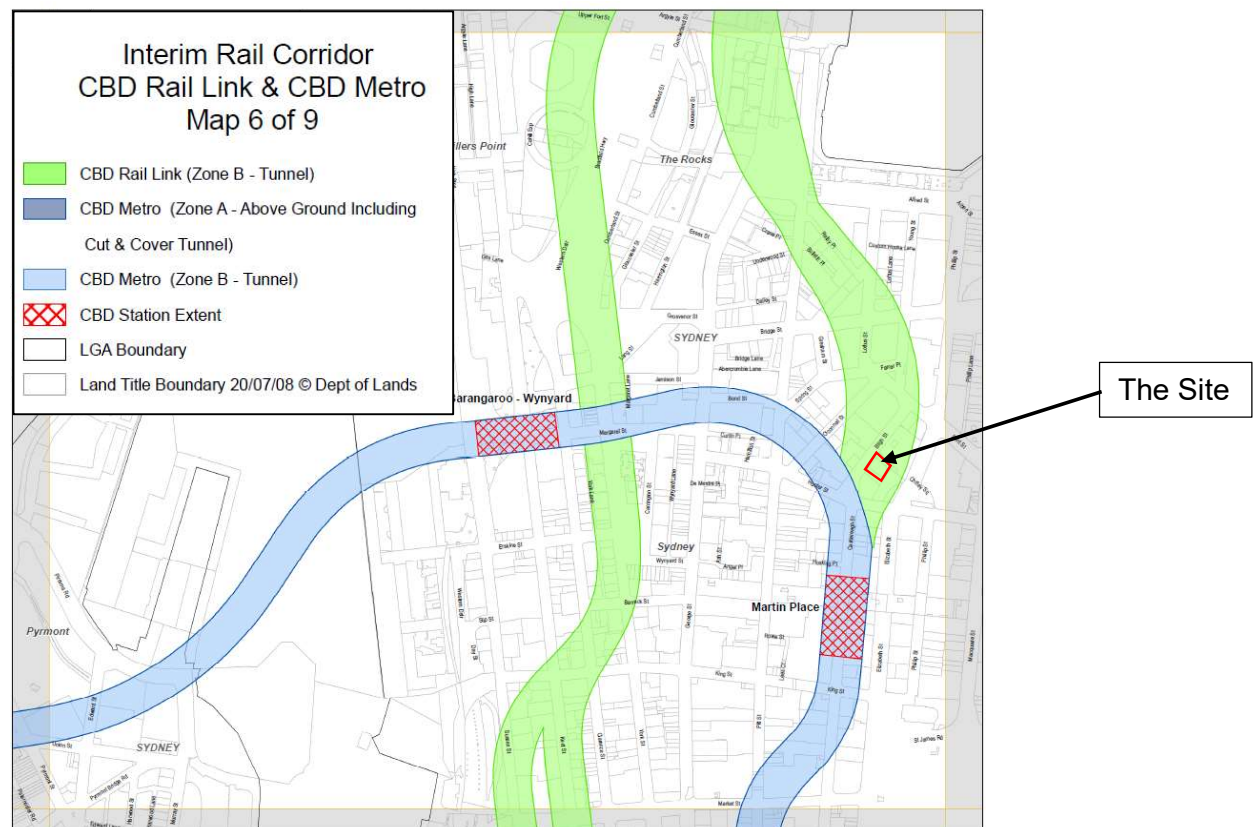


Figure 2: Interim CBD Rail Link Corridor Map

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, the site is located within the Sydney Harbour Catchment boundary but not within the foreshores and waterways area boundary. The planning proposal does not contradict any planning principles for the Sydney Harbour Catchment, as set out in clause 13 of the Sydney Regional Environmental Plan.

SITE-SPECIFIC ASSESSMENT

Social

The proposal states that the redevelopment will allow for positive social and economic effects given that it will:

- increase the amount of commercial floor space available to further support Central Sydney's role as a global city;
- provide new hotel accommodation in close proximity to business and leisure attractors, including Circular Quay and the Royal Botanic Gardens; and
- support job creation through the delivery of a hotel, commercial and retail tenancies.

Environmental

The planning proposal is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

Heritage

There are no listed heritage items within the site. However, there are several heritage items of local significance in the vicinity of the site, including Richard Johnson Square, the Sofitel Wentworth Hotel, the former City Mutual Assurance building, the former NSW Club Building and the former Qantas Building.

GBA Heritage consultants were engaged to undertake a heritage assessment on the impacts of the indicative scheme. The study concluded:

- the proposed new site-specific FSR controls are in keeping with the intended future use and character of the area;
- the significance of the heritage items in the vicinity and their ability to contribute to the streetscape will be retained;
- the proposed development does not generate any unacceptable impacts, as the contexts and settings of the four heritage items in the vicinity of the site are retained and protected; and
- the proposed envelope has been designed and sited to minimise visual dominance and respect the heritage items directly adjacent and in the vicinity.

The Gateway determination has been conditioned to require consultation with the Office of Environment and Heritage.

Economic

The proposed development will achieve a mix of land uses on the site comprising hotel, commercial and retail uses. The redevelopment seeks to provide 6137m² of commercial floor space, 407 hotel rooms and 775 jobs to the local workforce.

The Department notes that the planning proposal is accompanied by a voluntary planning agreement (VPA) that Council resolved to exhibit concurrently with the planning proposal and site-specific development control plan.

Detailed in the public benefit offer outlined in the VPA, the landowner is committed to a one-off monetary contribution to Council's affordable housing program and infrastructure delivery fund, which is equivalent to \$1003/m² of gross floor area (GFA) above the GFA that is available under the currently permissible FSR of 14.88:1 (includes base FSR and existing additional floor space bonus). This is essentially a contribution for the proposed SFS Council is seeking to apply to the site. If the SFS framework is not provided through the proposal, the VPA may be re-negotiated.

The VPA also includes the following environmentally sustainable development commitments:

- 5-star NABERS Energy for the base building commercial/office component;
- 4.5-star NABERS Energy for the hotel component; and
- 4-star NABERS Water for the commercial component.

Infrastructure

The site is well serviced by a range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded where required by the developer.

CONSULTATION

Community

Public consultation will be undertaken in accordance with the Gateway determination. Council suggests an exhibition period of 28 days, which is considered adequate.

Agencies

It is recommended that consultation be required with the following public authorities under section 3.34(2)(d) of the *Environmental Planning and Assessment Act 1979*:

- Transport for NSW; and
- Office of Environment and Heritage.

TIME FRAME

Council has provided a completion date of October 2018. The Department considers a 12-month project timeline more appropriate to allow adequate time for consultation and drafting of the LEP. It is recommended that the project timeline be updated in the planning proposal as a condition of Gateway.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be authorised as the local plan-making authority for this amendment. Given that the planning proposal went through a rezoning review process, it is recommended that Council not be given this authorisation.

CONCLUSION

The planning proposal is supported to proceed subject to conditions. The proposal will facilitate the redevelopment of the site for the purpose of a commercial and hotel building. The proposal is consistent with the Greater Sydney Region Plan and the Eastern City District Plan as it provides for approximately 775 additional jobs in the CBD.

It is recommended as a condition of Gateway to remove the SFS framework from the explanation of provisions to ensure the planning proposal is consistent with the original planning proposal submitted for the rezoning review request.

RECOMMENDATION

It is recommended that the delegate of the Greater Sydney Commission determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be amended to:
 - a) remove the strategic floor space framework from the explanation of provisions and replace with a site-specific provision proposed in the original planning proposal with an FSR of 20:1;
 - b) update the intended outcomes of the proposal to remove reference to the strategic floor space framework;
 - c) demonstrate consistency with the Greater Sydney Region Plan and the Eastern City District Plan; and
 - d) update the project timeline.
2. The revised planning proposal is to be provided to the Department for review and approval prior to community consultation.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. Consultation is required with the following public authorities:
 - a) Transport for NSW;
 - b) the Heritage Council of NSW
5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



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