

Planning Services

Plan Finalisation Report

File Number: IRF18/1745

Name of Draft LEP	Sydney Local Environmental Plan 2012 Amendment No.42 (draft LEP)
LGA	City of Sydney LGA
Proposal	<p>The planning proposal for the Sydney Metro Martin Place Station Precinct seeks to amend Sydney LEP 2012 as follows:</p> <ul style="list-style-type: none"> • insert a new clause to increase the current floor space ratio (FSR) from 14.05:1 (including all potential bonuses) to 18.5:1 on the North Site and 22:1 on the South Site; and • to increase the maximum building height for the South Site.
Address	<p>North Site:</p> <ul style="list-style-type: none"> • 50 Martin Place • 8 – 12 Castlereagh Street • 5, 7 and 9 – 19 Elizabeth Street • 55 Hunter Street <p>South Site:</p> <ul style="list-style-type: none"> • 39 – 49 Martin Place
Applicant	Macquarie Corporate Holdings Pty Limited
Submissions	<ul style="list-style-type: none"> • public submission • public agency submissions • submissions from City of Sydney Council

1. NAME OF DRAFT LEP

Sydney Local Environmental Plan 2012 Amendment No. 42 (draft LEP)

2. SITE DESCRIPTION

The proposal relates to a precinct comprising two sites located on either side of Martin Place referred to as the North Site and the South Site, and a section of Martin Place (see **Figures 1 and 2**) in the CBD of the City of Sydney Local Government Area. The Precinct is bounded by Hunter Street to the north, Elizabeth Street to the east and Castlereagh Street to the west.

With a site area of approximately 6,022m² the North Site comprises the entire street block bound by Hunter Street, Castlereagh Street, Elizabeth Street and Martin Place.

The South Site is bounded by Martin Place, Castlereagh Street and Elizabeth Street and has a site area of approximately 1,897m². The sites are legally described in **Table 1**.

Table 1 – North and South Sites

Site	Address	Lot & DP (legal title)	Owner	Existing development
North Site	50 Martin Place	Lot 1 DP 182023	Macquarie	State Heritage Listed item, former Commonwealth Bank building
	8-12 Castlereagh St	Lots 1 & 2, DP929277 Lot 1 DP 173027	TfNSW*	14 storey commercial building
	5 Elizabeth St	Lot 2 in DP 548142	TfNSW*	13 storey commercial building
	7 Elizabeth St	SP 13171	TfNSW*	Local Heritage Listed item 10 storey commercial building
	9-19 Elizabeth St	Lot 1 DP 526161	Macquarie	12 storey commercial building
	55 Hunter St	Lot 1 DP 222356	TfNSW*	18 storey commercial building
South Site	39-49 Martin Place	Lots 1 & 2 DP 1103195	TfNSW	22 storey commercial building

*TfNSW – Transport for NSW

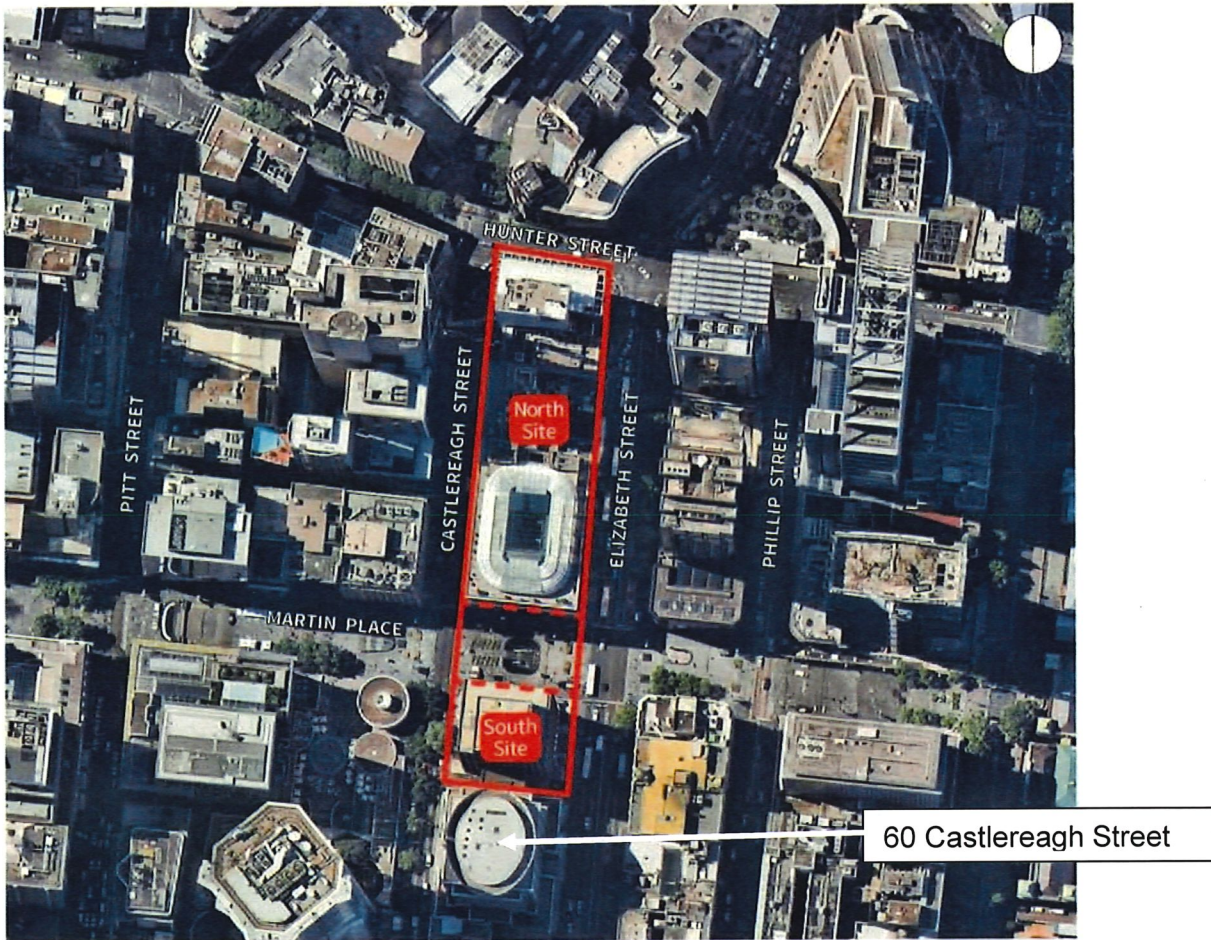
The Precinct is located within the central part of Martin Place, which is characterised by office buildings with ground floor retail, restaurants and hotels.

Martin Place is recognised as a key public and civic space for the city. It dissects and provides a wide pedestrian thoroughfare and plaza between Macquarie Street and George Street. The portion of Martin Place within the Precinct currently accommodates an entry into the Martin Place Shopping Circle and the current Martin Place Station.

The Precinct directly adjoins only one site, being 60 Castlereagh Street to the south (see **Figure 1**). This adjoining site accommodates a contemporary 23 storey commercial building, with a 5 storey podium and 17 storey tower.

In the vicinity of the Precinct notable sites include (**Figure 3**):

- The MLC Centre commercial building (67 storeys) and ground level forecourt area, which includes retail and outdoor dining areas (south west)
- The former MLC Centre at 38-46 Martin Place, which is a State Heritage Listed item (11 storeys) (west)
- Colonial Centre commercial building at 52 Martin Place (46 storeys) (east)
- 8-12 Chifley Square contemporary commercial building (34 storeys) (east)
- Former Australian Provincial Assurance Building at 53-63 Martin Place (14 storeys) (east)

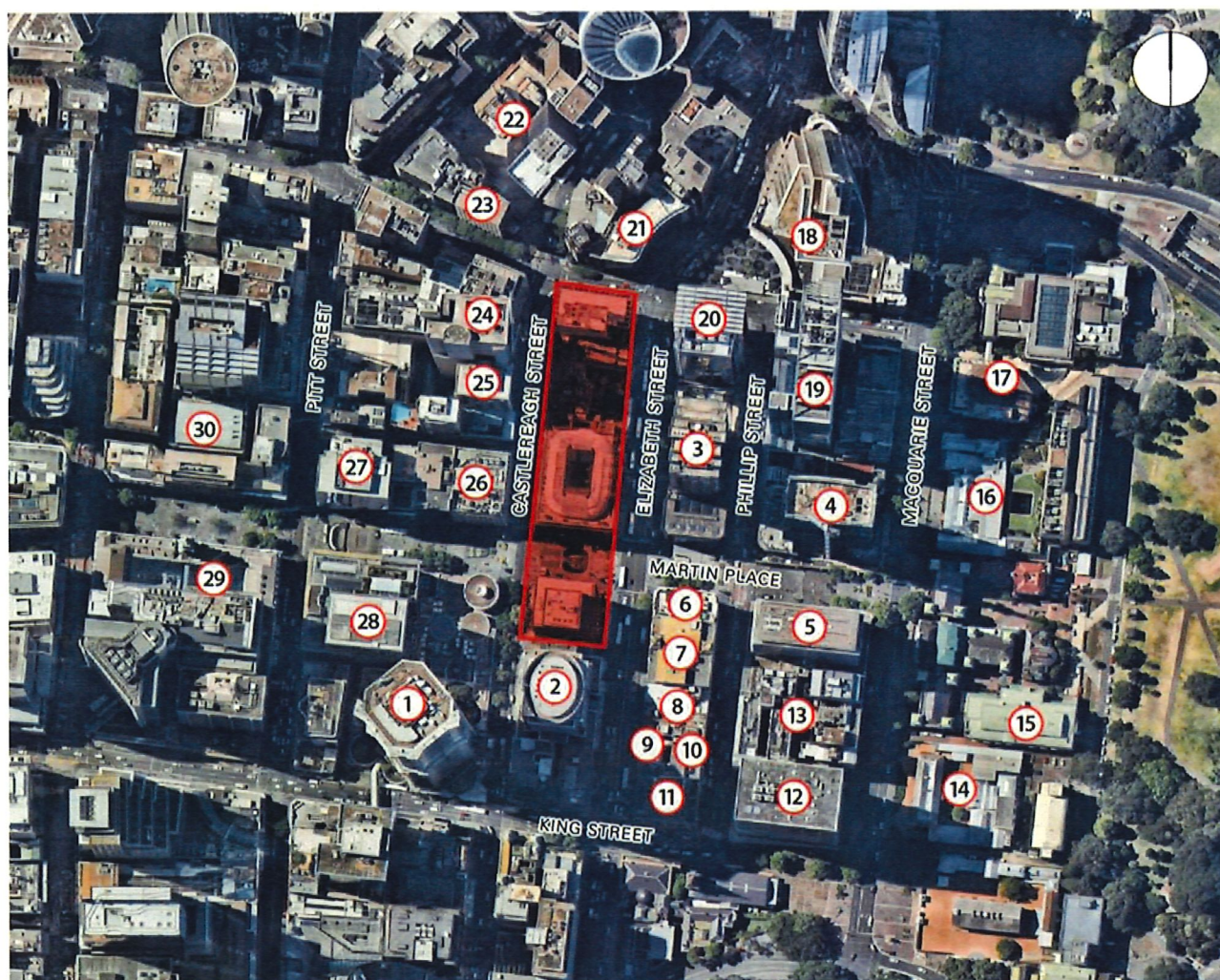


 The Precinct

Figure 1: Aerial photo of the Precinct



Figure 2: North and South Sites (source: Ethos Urban)



- | | | |
|--|---|---|
| 1. MLC Centre | 10. 169-171 Phillip Street | 20. 8-12 Chifley Square |
| 2. 60 Castlereagh Street | 11. 148-160 King Street | 21. 1 Chifley Square |
| 3. 52 Martin Place | 12. Supreme Court of NSW | 22. Ashington House,
16 O'Connell Street |
| 4. 58-60 Martin Place
(under construction) | 13. Land and Environment
Court of NSW | 23. 50-56 Hunter Street |
| 5. Reserve Bank of Australia | 14. Historic Houses Trust,
10 Macquarie Street | 24. Capita Centre, 9 Castlereagh St |
| 6. Former Australian Provincial
Assurance Building,
53-63 Martin Place | 15. 8 Macquarie Street | 25. 15 Castlereagh Street |
| 7. Former GIO Building,
60-70 Elizabeth Street | 16. Parliament of NSW | 26. 44 Martin Place |
| 8. 165 Phillip Street | 17. State Library of NSW | 27. 20 Martin Place |
| 9. 82 Elizabeth Street | 18. Chifley Tower | 28. 5 Martin Place |
| | 19. Deutsche Bank Place | 29. 1 Martin Place |
| | | 30. 30 Recital Hall, Angel Place |

Figure 3: Surrounding development map (source: Ethos Urban)

3. PURPOSE OF PLAN

The draft LEP seeks to:

- insert a new clause to set new maximum FSR limits for the North and South Sites;
- to limit the extent of the 55m maximum building height development standard for the South Site to within an area setback 8m from the site's boundary to Martin Place; and
- to extend the Hyde Park North Sun Access Plan (SAP) to the remainder of the South Site.

The proposed building height amendments are show in **Figure 4** below.

A concept design has been prepared for the proposal showing two towers of 28 and 40 storeys within the Precinct for the North and South Sites, respectively. The overall proposal will enable approximately 153,141m² of commercial floor space to be developed across the Precinct.

The purpose of the proposal is to establish controls that will guide the future development of the Over Station Development (OSD) of a scale and quantum of development that enables a whole of precinct development that integrates with the delivery of a new Metro station and that delivers compatible development.

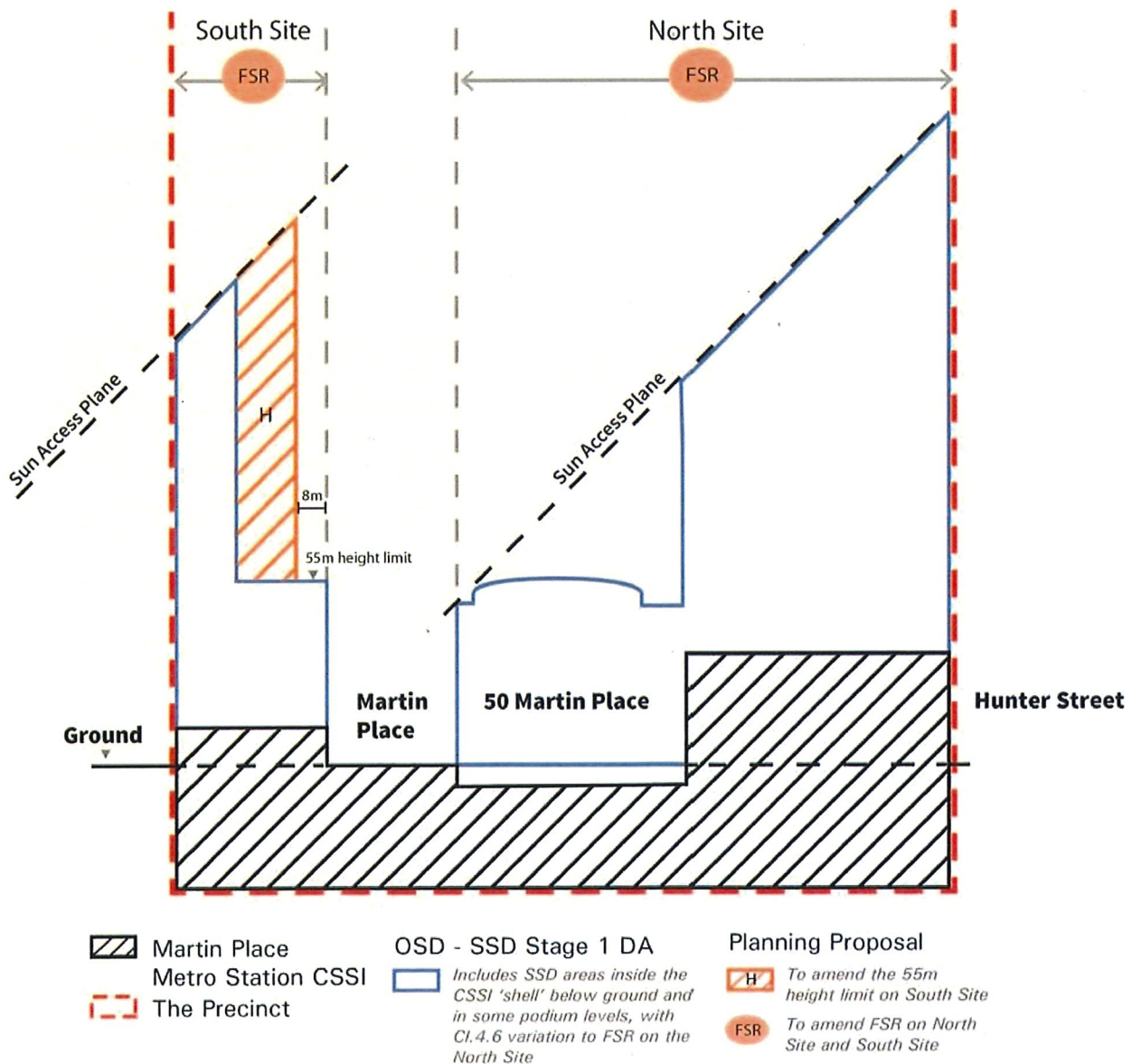


Figure 4: Proposed building height amendments (source: Ethos Urban)

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Sydney State Electorate. Mr Alex Greenwich MP is the State Member for Sydney.

The site falls within the Sydney Federal Electorate. Hon Tanya Plibersek MP is the Federal Member for Sydney.

To the regional Planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. BACKGROUND

Sydney Metro Project

The NSW Government's new Sydney Metro is a new rail network that consists of Sydney Metro Northwest (Stage 1) and Sydney Metro City & Southwest (Stage 2).

Stage 2 of the Metro entails the construction and operation of a new metro rail line from Chatswood, under Sydney Harbour through Sydney's CBD to Sydenham. The project also involves the delivery of seven (7) new Metro stations, including Martin Place.

As part of Stage 2 of the Sydney Metro project the subterranean area of Precinct will be developed for the new Martin Place Station. The project includes station entries from Martin Place. The Minister for Planning approved Stage 2 of Transport for NSW's Metro project as a Critical State Significant Infrastructure (CSSI) project (reference SS1 15_7400) on 9 January 2017.

The following amendments were approved under a modification to the CSSI (Mod 3) for the Martin Place Metro Station on 22 March 2018:

- a larger, reconfigured station layout, including the addition of land at 9-19 Elizabeth Street and alterations to the street level layout of the station entries;
- provision of a new concourse link between the northern and southern station entries, extending beneath 50 Martin Place; and
- retention of the existing MLC pedestrian link and works to connect the link to the Sydney Metro Martin Place Station.

Stage 1 State Significant Development (SSD)

A State Significant Development Application (SSDA) has also been approved for the Concept for the Over Station Development (OSD) for the Precinct, also referred to as the Stage 1 SSDA.

The Stage 1 SSDA establishes the planning and development framework for the OSD and forms the basis for the consent authority to assess a future detailed Stage 2 SSDA.

The concept for the South Site under the Stage 1 SSDA complies with the current building height and FSR provisions in Sydney LEP 2012. The concept approval for the North Site exceeds the maximum FSR under Sydney LEP 2012, and included a variation to the FSR standard in accordance with the provisions of clause 4.6 of the Sydney LEP 2012.

The Stage 1 SSDA was approved on 22 March 2018. A future Stage 2 SSDA will be based on the 55m building height limit being sought through this planning proposal for the South Site.

Unsolicited Proposal

Macquarie Group has submitted an Unsolicited Proposal (USP) to the NSW Government to deliver a single fully integrated station / OSD at Martin Place. The USP proposes to deliver the Sydney Metro station at Martin Place within an integrated civic, retail and commercial development. Key components of the USP include:

- delivery of the internal structure and fit out works of the new station;
- connections to the existing station at Martin Place, including pedestrian links and public domain upgrades;
- construction of a new publicly accessible (non-ticketed) concourse link below Martin Place linking the new north and south station entrances;
- construction of two commercial OSD buildings above the new north and south station entrances; and
- public domain improvements to Martin Place between Elizabeth and Castlereagh Streets.

In addition to seeking NSW Government approval of the USP, the proponent's vision for the Precinct relies on this Stage 1 SSDA concept approval, a modification to CSSI (SS1 15_7400) and this planning proposal. These applications have been considered on their individual merits, having regard to all relevant matters for consideration, separately to the Government's consideration of the USP.

Associated with both the USP process and timetable for delivering the Sydney Metro means there will effectively be two key phases:

Phase 1: involves the lodgement and overlap of three projects:

1. a Staged SSD DA for OSD (now approved);
2. a planning proposal, seeking to increase the permissible maximum FSR (North and South Sites) and increase the maximum building height (South Site) (the subject of this report); and
3. a modification application to the CSSI consent (approved as Mod 3 to SS1 15_7400).

Phase 2: involves the lodgement and overlap of two further projects:

1. a detailed SSD DA for the design and construction of the tower buildings for North and South Sites that will come out of a design excellence process; and
2. a modification application to amend the approved Envelope and Gross Floor Area approved for the South Site under the Staged SSD DA. This will seek to modify the building envelope for the South Site to match that sought by the subject planning proposal.

Progressing to Phase 2 is subject to the NSW Government's decision to accept the USP final binding offer by Macquarie and subject to a successful outcome on all three projects within Phase 1 of the overall project.

6. CURRENT PLANNING CONTROLS

The Precinct is zoned part B8 Metropolitan Centre and part RE1 Public Recreation (see **Figure 4**).

There are two current building height development standards that apply to the North Site and South Site (see **Figure 5**). Those parts of the North and South Site fronting Martin Place are limited to a maximum building height¹ of 55m.

The Sun Access Plane (SAP) controls the building height for the remainder of the South Site and wholly applies to the North Site.

Due to the depth of the South Site as measured from its northern boundary to its southern boundary to the adjoining site at 60 Castlereagh Street, when the current 55m maximum building height is applied (being setback 25m from Martin Place) this only leaves an approximate floor plate of 450m² (GFA) and a building width of approximately 16m.

Both the North and South Sites are subject to a maximum base FSR of 8:1. Given the Precinct is located within Area 1 under Sydney LEP 2012, development on these sites is permitted to obtain additional floor space of 4.5:1 for various uses including office, business, retail premises or residential apartments. Development is also eligible to obtain a further 10% floor space bonus if a competitive design process is undertaken and the development demonstrates design excellence. A further FSR of up to 0.3:1 can also be obtained if end of journey facilities are provided within the development (clause 6.6 of Sydney LEP 2012). In theory both sites are each able to obtain a total FSR of 14.05:1. When compared to the proposed FSRs this results in an uplift of FSR of 4.45:1 and 7.95:1 for the North and South Sites, respectively.



Figure 5: Zoning map under Sydney LEP 2012

¹ Building height is defined under Sydney LEP 2012 as follows:

"(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,
including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."

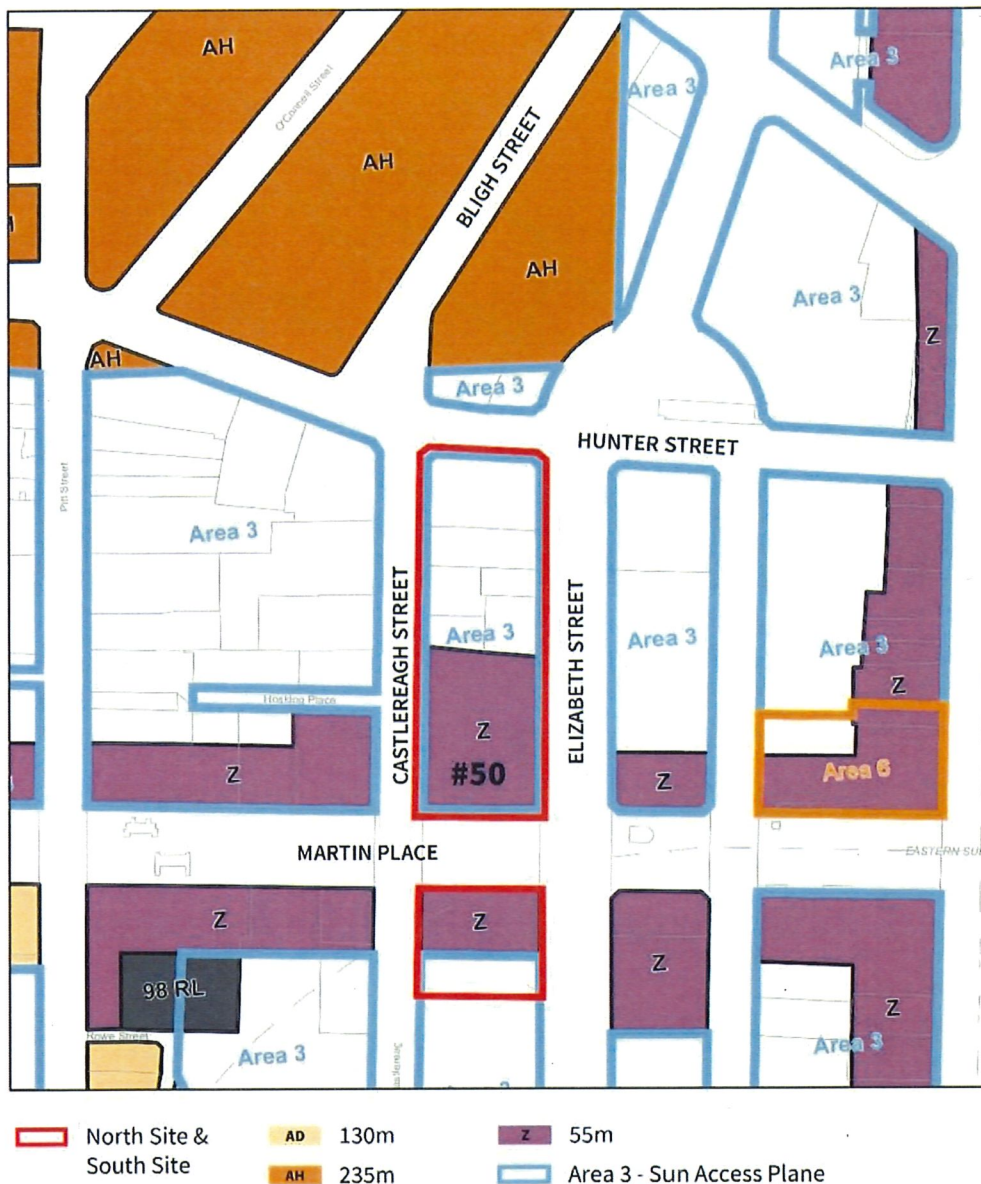


Figure 6: Height of Building Map under Sydney LEP 2012

Special Character Areas

The North Site is located within the 'Chifley Square Special Character Area' under Sydney DPC 2012 (see **Figure 6**). This special nominated area is to regulate development in and around Chifley Square, which is an important city public space. The desired principles applying to development in this area are to ensure that development is suited to the predominant character of this area and recognises and enhances the square.

Both the North and South Sites are included in the 'Martin Place Special Character Area' under Sydney DCP 2012 (see **Figure 6**). Like Chifley Square, Martin Place is an important public plaza within the city that is also characterised by State listed heritage buildings, being a place of civic importance that holds historical and ceremonial events, such as the commemorations for past wars. It also includes the Cenotaph outside the GPO building at the western end of Martin Place.

Under Sydney DCP 2012 the principles that apply to new development within the Martin Place Special Character Area include the following:

- (a) *Development must achieve and satisfy the outcomes expressed in the character statement and supporting principles*

- (b) *Conserve and enhance the significance of Martin Place as one of Central Sydney's grand civic and ceremonial spaces, and as a valued business location.*
- (c) *Retain and enhance the urban character, scale and strong linear enclosure of Martin Place by requiring new building to:*
 - i. *be built to the street alignment;*
 - ii. *have street frontage height consistent with the prevailing form of buildings in the area;*
 - iii. *to have building setbacks above those street frontage heights.*
- (d) *Protect and extend sun access and reflected sunlight to Martin Place during lunchtime hours from mid-April to the end of August.*
- (e) *Provide sun access to significant sandstone buildings in Martin Place to improve the ground level quality of the public space.*
- (f) *Protect existing significant vistas to the east and west and ensure new development will not detrimentally affect the silhouette of the GPO clock tower.*
- (g) *Retain human scale at street level, while respecting and positively responding to the monumental nature of the place.*
- (h) *Conserve and enhance the heritage significance of the nineteenth and twentieth century institutional and commercial building and their settings.*

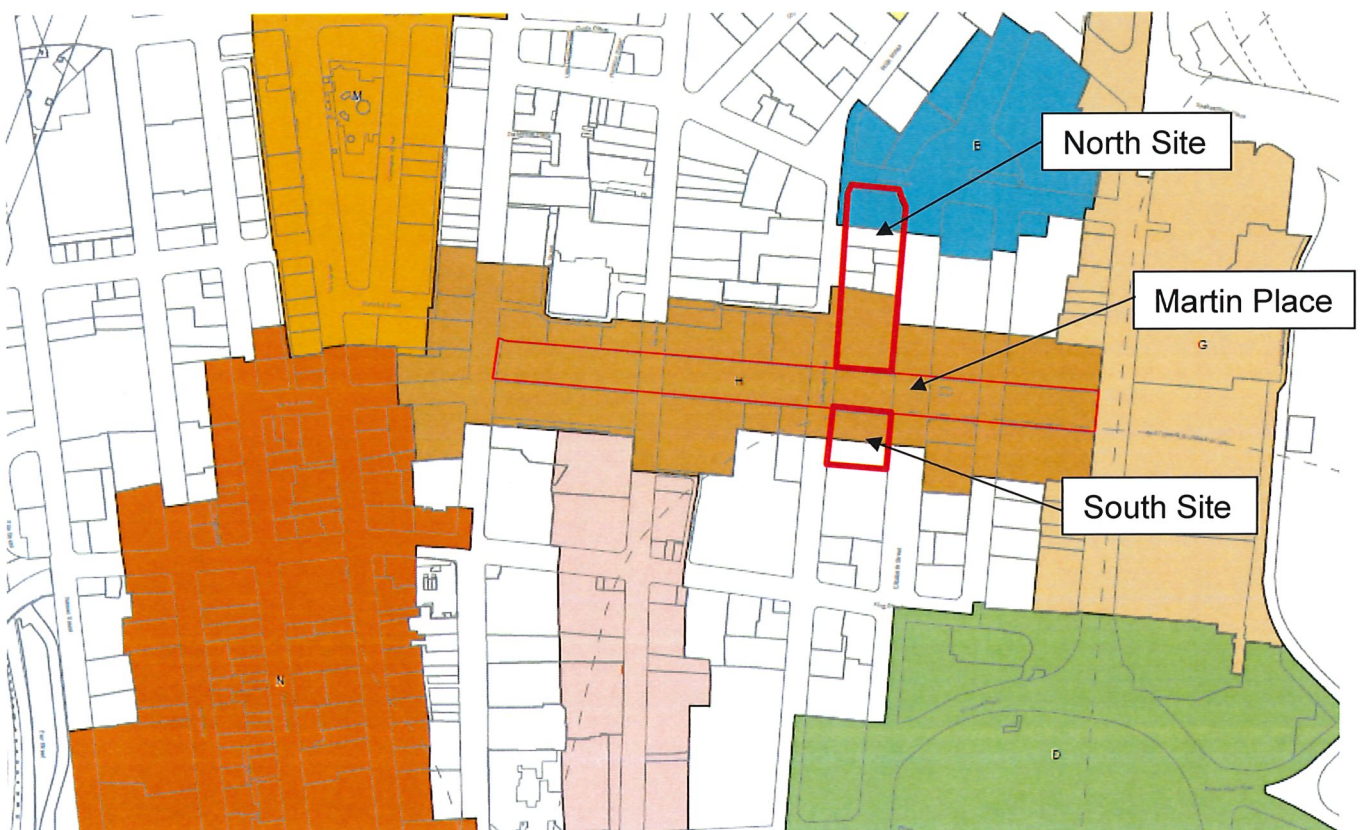


Figure 7: City of Sydney Special Character Map - Chifley Square Special Character Area (Blue) & Martin Place Special Character Area (Brown)

7. PLANNING PROPOSAL AUTHORITY

On 20 March 2017, JBA Urban Planning on behalf of Macquarie wrote to the Department of Planning and Environment formally requesting that the Secretary be appointed as the alternate Planning Proposal Authority (PPA) under section 3.32(2)(a) of the *Environmental Planning Assessment Act 1979* (the Act) in relation to the planning proposal.

The request outlined the following in support of the planning proposal:

- The planning proposal relates to land acquired by the NSW State Government to construct and deliver the Sydney Metro project;
- is necessary for delivery of the future development that is integrated with a Critical State Significant Infrastructure (CSSI) project already approved on the land (the Sydney Metro and its Martin Place Station);
- is part of an integrated project which will require modification to the CSSI consent for the Metro, and only the Minister has power to approve this. TfNSW would be responsible for the Modification; and
- is part of an integrated project which presents a unique opportunity with only a small window of time, due to the Sydney Metro construction program.

The proposed Metro line and stations represent a significant public investment in transport infrastructure. As such, Transport for NSW (TfNSW) is required to optimise the development potential of all proposed station sites. The benefits of an integrated development approach to Over Station Development (OSD) generate income to offset the costs of building the new Sydney Metro.

Macquarie's proposal offers an opportunity to combine the new Martin Place Metro Station with an OSD and the existing Martin Place Station to deliver improved station facilities for commuters. The proposal will also deliver an integrated transport, commercial, retail and dining precinct in the heart of Sydney's CBD. This includes an underground public concourse that provides pedestrians with an all-weather walkway from Martin Place to Hunter Street, with the potential to connect through to O'Connell Street.

On 31 May 2017, the Secretary was appointed as the PPA, to progress the planning proposal.

8. CONSISTENCY WITH GATEWAY REQUIREMENTS

On 20 July 2017, a Gateway determination was issued for the planning proposal.

The Gateway required, prior to exhibition, the planning proposal and urban design study be revised to:

- (a) provide further justification for why the proposal would create a better design outcome than the current planning controls;
- (b) how the proposal will protect and enhance Martin Place's civic and ceremonial functions;
- (c) how the proposal will protect and enhance pedestrian amenity, heritage, existing sunlight and wind conditions, important vistas including the view of the sky and building scale for Martin Place, Elizabeth Street, Hunter Street, Castlereagh Street, as well as Richard Johnson and Chifley Squares; and
- (d) address the recommendations of the *Martin Place, area of special significance: proposal for Urban Design Development Controls* (1993) prepared by Denton Corker Marshall Pty Ltd for the City of Sydney Council.

The Gateway required the final planning proposal and associated documents to be publicly exhibited for a minimum of 28 days and specified a range of State agencies to be consulted.

On 5 September 2017, the proponent submitted a revised planning proposal and associated studies for exhibition. Revisions included:

- a revised heritage impact statement, shadow study, wind tunnel study and view impact analysis;
- a new sky view factor assessment; and
- a revised urban design study that addresses the Denton Corker Marshall report (1993).

On 27 October 2017, a revised planning proposal was submitted to the Department that increased the 55m maximum building height setback measured from Martin Place on the South Site from 6m to 8m.

The revised planning proposal and associated studies were considered suitable for public exhibition and agency consultation.

9. CONSULTATION

The planning proposal was publicly exhibited from 2 November to 1 December 2017.

Notification was placed in the Sydney Morning Herald, Daily Telegraph and Central Courier newspaper and notified adjoining landholders and relevant State and local government authorities in writing. The planning proposal and associated documents were made available on the Department's website.

In total, 13 submissions were received. This included 11 submissions from State agencies, 1 public submission and a submission from the City of Sydney Council (**Attachments 1 and 2**). No submissions were received from local members of Parliament.

A summary of the issues raised in the public and State agency submissions and the Department's response is provided as follows.

Public Submission

The MLC Centre submission raised the following concerns with the proposal in that:

- it inadequately addresses overshadowing, view and wind impacts on MLC Centre forecourt;
- the proposed floor space ratio limits were considered excessive;
- future development on the South Site will not appropriately respond to desired objectives of the Martin Place Special Character Area;
- it relies on the draft Central Sydney Strategy and associated planning proposal, which has not received a Gateway determination;
- the street level building setbacks to Hunter, Castlereagh and Elizabeth Streets under current controls have been ignored;
- it suggested the planning proposal is being advanced as part of the unsolicited proposal rather than as part of a strategic planning review; and
- the exhibition timeframe did not provide an adequate time to consider what is considered to be a complex planning proposal.

Submissions by public agencies

City of Sydney Council provided a detailed submission (**Attachment 1**) that raised a number of concerns with the planning proposal including:

- inconsistency with the Martin Place Special Character Area;
- the reduced building setback above 55m on South Site intrudes on Martin Place views;
- lack of side street building setbacks on both the North and South Sites;
- proposed FSRs are not supported by robust analysis;

- proposal should not use 60 Martin Place development consent as a precedent for the proposed setback for the South Site;
- request for a public hearing; and
- the proposal is inconsistent with the proposed Central Sydney Planning Strategy.

In accordance with the Gateway determination, the following public agencies were consulted:

- Transport for NSW
- Office of the Government Architect
- Infrastructure NSW
- Office of Environment and Heritage
- Environmental Protection Agency
- Roads and Maritime Services
- Department of Infrastructure and Regional Development
- Sydney Airport Corporation
- Civil Aviation Safety Authority
- Airservices Australia
- City of Sydney Council
- Greater Sydney Commission
- Ausgrid
- Sydney Water.

Heritage Council

The Heritage Council made a submission raising concerns that the 8m setback above 55m building height limit for the South Site is inadequate and recommended a minimum setback of 10m – 15m to minimise visual impacts on Martin Place. Additionally, the Heritage Council requested that the planning proposal not be finalised until it was satisfied with the final design of the development. The Heritage Council also notes further consultation will occur in 2018 for any subsequent development application for the South Site, which is expected to contribute to the refinement of the design to mitigate any heritage impacts.

On 28 February 2018, the additional view analysis by the proponent was forwarded to the Heritage Office and then tabled at the Heritage Council's meeting on 6 March 2018. The Heritage Council resolved to advise the Department that the further information and view analysis provided by Tzannes and TKD confirms that, while there is little difference between the 8m, 10m and 15m setbacks, and that none of these setback options are adequate to avoid adverse impacts on the scale and heritage values of Martin Place and the SHR and LEP listed buildings located within its immediate context. Consequently, the Heritage Council recommends that the existing 25m setbacks should be maintained to ensure that any proposed tower will not result in an unacceptable visual impact on the heritage values of Martin Place.

Other Agencies

Transport for NSW (TfNSW) and Roads and Maritime Services (RMS) advised that they have reviewed the planning proposal and raise no issues at this stage.

The Office of Environment and Heritage (OEH) advised that the matter does not contain biodiversity, natural hazards or Aboriginal cultural heritage issues that require a formal OEH response.

Sydney Airport Corporation noted that both proposed towers penetrate the Obstacle Layer Surface (OLS) for Sydney Airport and that any future development applications for these will need to be

referred to Airservices and Civil Aviation Safety Authority (CASA) for assessment prior to being sent to Department of Infrastructure and Regional Development for separate determinations.

CASA advised that due to the site's proximity to Sydney Airport the proposal should be referred to the Sydney Airport Corporation. CASA also determined that the proposed buildings will be shielded by the Sydney Centre point Tower and the Deutsche Bank Place. Therefore, obstacle marking and lighting is not required. It is noted the Stage 1 SSDA conditions of consent advise that the proposed tower on the South Site must not exceed a maximum height of 155.5m AHD to comply with the Hyde Park Solar Access Plane (SAP) and that separate approvals must be sought under the *Airports (Protection and Airspace) Regulations 1996* for any cranes required for construction.

The NSW Environmental Protection Authority (EPA) advised the development of the Precinct in accordance with the proposal will not require an Environment Protection Licence and no further consultation is required.

Sydney Water and Ausgrid raised no objection to the planning proposal, subject to conditions regarding any future development.

The Office of the Government Architect did not provide comments during the consultation period, but provided comments in response to the Department's independent view analysis by AECOM. The Government Architect advises that an 8m setback is suitable when all factors are taken into consideration (**Attachment 7**).

No response was received from Infrastructure NSW, Department of Infrastructure and Regional Development, Airservices Australia and the Greater Sydney Commission.

10. KEY ASSESSMENT ISSUES

The following section provides details of the key issues raised in submissions by the public, City of Sydney Council and public agencies. The Department's assessment is also provided below.

The proponent was given the opportunity to respond to key issues raised in submissions. The proponent's response (dated 20 December 2017) is outlined below and included at **Attachment 3**.

10.1 View impacts of tower setback above 55 metres on South Site

The key component of the planning proposal for the South Site is a proposed site specific clause that will allow development of a tower above 55m, but not within the area setback 8m from the boundary at Martin Place and that will not exceed the Hyde Park North SAP.

City of Sydney Council Submission

Council's submission objects to the significantly reduced tower setback to Martin Place for the Martin Place South Site, from 25m to 8m. In Council's opinion the reduced setback will significantly diminish the prominence of the GPO clock tower when viewed from the eastern end of Martin Place, close in the sky view along Martin Place and significantly overshadow the public plaza of the MLC centre (**Attachment 1**).

On 14 February 2018, Council provided further comments on additional view analysis provided by the proponent (**Attachment 5**). Council raised the following additional concerns:

- The view analysis uses building envelopes that are transparent, non-reflective, and indistinguishable in colour from the surrounding blue sky;
- the additional view analysis does not consider the range of important view corridors that have been identified in the Gazzard Partners Martin Place Study (1984);
- the planning proposal is inconsistent with the objectives of Sydney LEP 2012, and undermines and diminishes the heritage significance of Martin Place;
- Council's interpretation of the TDK Architects advice is that any setback between 10m and 15m will not materially alter the visual impact of the tower envelope, thus only a 25m setback will protect the heritage significance of Martin Place; and

- the architectural design of the tower and podium for the South Site will be more effective in achieving built form separation than a reduced setback for the tower.

Heritage Council comments

The Heritage Council comments raised concern that the:

- 8m setback above 55m for the South Site is inadequate and initially recommended a minimum setback of 10m – 15m to minimise visual impacts on Martin Place; and
- the planning proposal should not be finalised until the Heritage Council is satisfied with the final design of the development.

However, on 28 February 2018 and based on review of the additional view analysis the Heritage Council resolved to advise the Department of Planning and Environment that the further information and view analysis provided by Tzannes and TKD confirms that:

- while there is little difference between the 8m, 10m and 15m setbacks, such that none of these setback options are adequate to avoid adverse impacts on the scale and heritage values of Martin Place and the SHR and LEP listed buildings located within its immediate context; and
- the existing 25m setbacks should be maintained to ensure that any proposed tower will not result in an unacceptable visual impact on the heritage values of Martin Place.

Proponent's Comments

In response, the proponent considers the proposed building height limit and 8m tower setback is appropriate in the context of the Martin Place for the following reasons:

- the proposed building envelope is derived from a comprehensive review of past and current urban design studies, an analysis of existing tower setbacks along Martin Place, a review of the existing planning controls and an analysis of the immediate and broader context of Martin Place;
- proponent analysis concludes that buildings along Martin Place are of varying heights that do not conform to a standard tower setback, and that Martin Place derives its distinctive character from other attributes including the definition of the street boundary, the street wall at the boundary, building materials, details and quality, its pedestrian use and its use for public events;
- the Heritage Council and Council submissions place undue emphasis on tower setbacks (in particular the requirement for a 25m setback) as being integral to the long-term vision for Martin Place and its special character;
- the 25m setback is neither a typical nor consistent tower setback to Martin Place, and is not aligned with the Urban Design Studies that underpinned the development of Martin Place's controls;
- there are towers above 55m with a 0-10m setbacks in certain and inconsistent places along Martin Place;
- the 25m setback has not been consistently enforced with recent development on Martin Place, in particular a new tower at 60 Martin Place and the refurbishment of 20 Martin Place;
- without the Sydney Metro project a developer would not demolish the existing building and put in its place a tower with a 25m setback to Martin Place because the setback is not appropriate for the small site;
- the proposed envelope will allow the feasible redevelopment of the South Site and the delivery of an outcome that would be substantially better than the existing building on the site; and

- the proposed building envelope maintains the prominence of the GPO clock tower and street views to it, as demonstrated by the 'Visual Impact Analysis Report' that supports the planning proposal.

Additional view impact analysis

In response to Council and Heritage Council original submissions, the Department requested the proponent prepare additional view impact analysis for the South Site showing the tower set back at 10m, 12m and 15m.

On 29 January 2018, a View Impact Analysis Report prepared by Tzannes and a cover letter by TKD Architects was submitted to the Department (**Attachment 4**).

The additional view impact analysis concludes that the 8m setback from Martin Place for the South Site ensures that the building has an appropriate floor plate depth and area to support its use as a commercial building. The analysis also points to the urban design principles included in the planning proposal and the proposed architectural design of the building, which are thought to ensure that the building will be of high quality appropriate to Martin Place including masonry facades and intricate architectural detailing.

The TKD response concludes that an increase in the proposed set back of the tower from 8m to a setback of between 10m and 15m will not materially alter the visual impacts of the tower envelope on the important characteristics and heritage significance of Martin Place.

TKD also note that the Heritage Impact Statement that supports the planning proposal indicates that the use of appropriate building materials will ensure a visual distinction between the podium and tower elements and the use of materials in the façade of the podium building will be complementary to those of historic buildings in Martin Place.

The additional view analysis was forwarded to Council and the Heritage Council with a request for any further comments (see above for their respective comments). The Department also commissioned AECOM to undertake an independent review of the additional View Impact Analysis prepared by Tzannes.

Independent review of additional view impact analysis

The Department engaged AECOM to undertake an independent peer review of the visual impact of the South Site building envelope for 8m, 10m, 12m and 15m setbacks for three key viewpoints within Martin Place. The review was undertaken with reference and regard to the Guidelines for Landscape and Visual Impact Assessment (GLVIA) and the Sydney DCP 2012 - Martin Place Special Character Area (**Attachment 6**).

AECOM's review notes that the methodology employed by Arterra Interactive is clearly explained and used a 24mm camera lens given the need to illustrate the contextual setting of Martin Place. AECOM notes that the photomontages are therefore not representative of what is seen by the human eye. The following sections summarise the independent review of the various setbacks from three view points in Martin Place (see **Figure 8**).

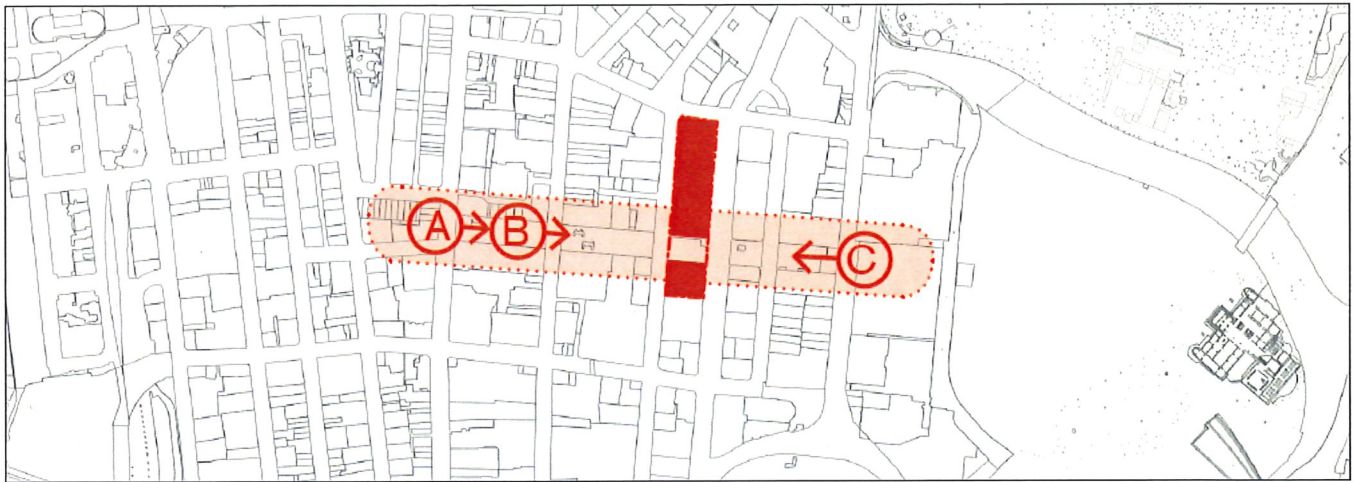


Figure 8: Key view points within Martin Place to the Precinct

The building of a tower to the height of the solar access plane and with a 25m setback for the South Site is currently a permissible outcome for the proponent under Sydney LEP 2012. However, the narrowness of the resulting tower would itself comprise a highly visually uncharacteristic building form within the visual catchment of the Martin Place public domain. This would particularly be the case when seen from View A, arguably the most important of the three key views.

AECOM's assessment of the three key view points finds the following:

- for View 'A', the least visually intrusive setback distance is considered to be 12m on basis that the tower wall sits noticeably behind the end of the 5 Martin Place street wall which assists in defining separation with the podium street wall.
- for View 'B', the least visually intrusive tower is considered to be that with the 15m setback due primarily to:
 - the setback between the podium edge and tower envelope being the most clearly defined of the three alternatives; and
 - it noticeably reduces visibility of the tower wall, helping to reduce the visual prominence of the tower.
- for View 'C', the least visually intrusive setback distance is considered to be 15m on the basis that the proportions of the 15m setback tower appear to be visually complimentary with those of the former APA building; and they provide the most visually definitive setback of the three alternative options. However, the 12m setback is also considered to be an acceptable outcome in that the tower no longer projects beyond the street wall of the former APA building, and the proportions of the tower relative to the former APA building are seen to be complimentary.

On balance AECOM's review suggest the 12m setback is considered to be the least visually intrusive. The rationale for this is:

- View 'A' and the visual relationship between the proposed 12m and 15m setback towers with the 5 Martin Place building, with the 12m setback tower appearing to be visually preferable; and
- View 'A' is considered to be the most important of the three views, and potentially the most susceptible to adverse visual effects arising from the proposal.

However, AECOM's review notes that all the assessed setback options for the Proposal comprise uncharacteristic building forms relative to Sydney LEP 2012. Although the 8m setback of the Proposal would introduce an uncharacteristic new building form to the southern street wall, it should be noted that the new 60 Martin Place building to the northern street wall will have a similarly close tower setback behind podium and increased tower height.

Also, the assessment of alternative setbacks and its view analysis does not take into account the architectural response to the site, including articulation of the podium/ tower interface, and the visual relationship between the tower and the podium, other than through the high level design principles set out within the Proposal and the Urban Design Guidelines.

Therefore, AECOM recommends consideration should be given to the podium and tower having an integrated architectural language of form and materials that recognises the whole building as being 'of the place', e.g. a substantial use of the masonry used for the podium may also be appropriate for the tower.

In conclusion, AECOM's review finds 12m setback is the most visually appropriate of the four alternatives. However, the proposal is also seen as a potentially acceptable outcome at a 8m setback subject to the use of an integrated architectural language of form and materials that recognises the whole building as being 'of the place', articulation of the podium/ tower interface, and the visual relationship between the tower and the podium.

Consultation with the Government Architect

The Government Architect also undertook a detailed review of the proposal and its visual impact to Martin Place (**Attachment 7**).

The Government Architect formed the view that the rationale for a tower on the South Site has been clearly articulated in the Tzannes studies and are predicated on a significant change to the status of this site due to the new Metro Station directly below. It was thought that this new paradigm is further discussed by Tzannes in terms of Sydney's aspiration as a global city with Martin Place as the centre of business and commercial activity.

The view by the Government Architect is that the current controls for the site reflect a time when these were not a consideration and hence it is appropriate to reappraise the existing conditions and controls. Furthermore, the Tzannes report was thought to provide a detailed analysis of Martin Place that identifies a clear change in its nature from George Street to Macquarie Street and the need for a more nuanced or detailed response to the South Site.

A view analysis by Tzannes assesses visual impacts of new structures and should in the Government Architect's view be considered in unison with other impacts and benefits of the development. In the case of the proposed tower for the South Site at Martin Place, some loss of view to the sky is apparent from the static visualisations presented by Macquarie Bank in all options. However, the increased setbacks do reduce impacts.

Despite this the 8m setback recommended by the Design Review Panel and the Government Architect strike a balance between this single consideration and other factors.

The Government Architect forms the view that to isolate the loss of sky view as a single element for analysis is counter to the best urban outcomes for the South Site following reasons:

1. The sky view is not perceived in a static manner from prescribed viewpoints but is experienced in the round and in motion. Hence, it is important to note the dynamic and everchanging aspect to our spatial and view experience. Single points of reference are not definitive.
2. The 8m setback is more in keeping with the streetscape for Martin Place as it sufficiently articulates street wall and tower whilst clearly identifying the subordinate nature of the tower.
3. A setback greater than 8m reduces the opportunity for the building form to be articulated and modelled, thus potentially reducing potential quality design outcomes.
4. The floor plates that result from a greater setback do impact on usefulness of internal space and potentially on commercial outcome.

Department Comments

The Department has considered submissions, additional analysis, independent advice and comments from the Government Architect regarding the proposed tower setback for the South Site, and makes the following observations and recommendations. The key underlining concerns raised by Council and the Heritage Council relates to the impacts to Martin Place, as a place of visual and heritage significance.

LEP Compliant 25m tower setback option

While the current setback of 25m from Martin Place is the preferred by both the Council and Heritage Council, in applying this setback it results in a tower form with a very slim 16m depth. The resultant floor plate at this setback will not provide a flexible or feasible floor plate to best accommodate commercial development in a prime business and commercial precinct of the City Centre. Additionally, the ensuing narrow tower element created by this setback is considered to look out of context with the remainder of Martin Place, where towers along the plaza are generally of greater bulk and footprint.

Views along Martin Place

View positions selected for the original view impact analysis and additional view impact analysis are based on key views that Council has sought to protect, including views of the GPO clock tower, the western sky from Martin Place and the Sydney Hospital in Macquarie Street. The Department is satisfied these view positions represent that most important views within Martin Place.

In all options for the setbacks for the South Site it is noted that these will all maintain a view corridor along Martin Place that retains direct views to the GPO clock tower in each direction. Therefore, the proposed setbacks in each option will not then reduce the prominence of the GPO clock tower as contended by Council.

There are no statutory planning controls that seek to protect views of the sky along Martin Place. Despite this the proposal is supported by a sky view analysis that notes the width of the Martin Place plaza affords a significant amount of sky view for Martin Place even with a 8m setback tower. The casual observer when looking down or along Martin Place when in close proximity to the South Site would not see the town element in their view line, to then appreciate the distinct openness of the sky view. This is particularly also the case given a setback of 25m versus that of a 8m setback would not afford additional solar penetration to Martin Place, than if this site were located to the north of Martin Place.

Built form and design outcomes

It is also noted that the current building on the South Site (which is currently in the progress of being demolished), has itself not retained or represented a tower element or setback to Martin Place (see **Figure 9**). Therefore, the proposal for a setback at any dimension will create a podium element that is not currently evident at this part of Martin Place and that will mirror the upper parapet of 50 Martin Place.

The Department acknowledged the Heritage Council and City of Sydney Council's concerns by engaging AECOM to conduct an independent review of the additional view analysis. AECOM's independent review notes that a setback of 12m is a visually appropriate outcome as it would adequately provide a clear separation between the podium and the tower. However, the Department notes that this review is based purely on evaluation of block diagrams that do not represent the final built form and considerations should be allowed for an integrated architectural language of form and materials that recognises the whole building as being 'of the place', including articulation of the podium/ tower interface, and the visual relationship between the tower and the podium. It is accepted that with architectural design development for the South Site an 8 metre setback can be made acceptable while achieving a form that is distinct from the podium as sought by applying the current 25m setback requirement.

It is noted that a site-specific Design Review Panel will be chaired by the Government Architect and consisting of independent and local government members will contribute to the detailed design process. Design guidelines approved as part of the Stage 1 SSDA will lead the Design Review Panel's contribution and assessment for the Stage 2 SSDA. It is also noted that an 8m setback is a minimum requirement and the design process may result in a greater setback.



Figure 9 – View of Martin Place and South Site (to the right of photo) as viewed from nearby development (source: City of Sydney Council).

Consistency with Sydney DCP 2012

The Department notes the Sydney Development Control Plan 2012 (DCP) generally requires a 45m street wall and 8m front setback to reinforce the characteristic built form of Central Sydney. Council's DCP notes that a built form that applies this prescribed street wall height and front setback will preserve reasonable levels of daylight and reduce wind impacts to the street level. While a tower setback greater than 8m may marginally improve pedestrian comfort at the street level, the Department does not accept that the South Site must implement a tower setback that is not characteristic with other built form in Central Sydney.

Past and current urban design studies

As part of the Gateway determination the proponent was required to conduct a review of past urban design studies for Martin Place. The Department reviewed the revised urban design study and planning proposal prior to public exhibition and was satisfied the Gateway determination conditions had been met. The Department notes the proposed podium for the South Site is consistent with past and present urban design guidelines, which is considered of greater importance in achieving a consistent street wall and retaining a human scale at the street level with Martin Place.

Heritage significance

While it is acknowledged that the Heritage Council formed the view that any change to the upper level setbacks was expected to have adverse impacts to the heritage significance of Martin Place and its listed items, it is difficult to fully appreciate the basis for this view point. No further justification has been provided by the Heritage Council to substantiate this view.

The Department is of the view that the proposed built form for the South Site is not out of context with other development in Martin Place, particularly given that views to key heritage elements buildings within and adjoining Martin Place will not be obscured by the proposal.

Solar access to Hyde Park

The solar amenity of Hyde Park is protected by City of Sydney's Sun Access Planes as defined in the LEP. The proposal to extend the Sun Access Plane for the South site will not result in any additional overshadowing on Hyde Park.

Recommendation

In conclusion the Department is satisfied that an 8m setback for the building height control above the podium is appropriate for the South Site in that:

- the final built form and design for the site will be subject to rigorous architectural design review that will further ensure that a development will implement visual distinction between the podium and tower element and allow for design flexibility;
- the resulting floor plate for the tower development will maximise the versatility of this space, while still ensuring the creation of a separate tower element that is distinct from the podium;
- it will not result in development that will obstruct key views along Martin Place, in particular that of the GPO clock tower;
- the detailed design and proposed use of materials in the façade of the podium building will ensure the development is complementary to historic buildings in Martin Place;
- views to the sky along Martin Place will not be detrimentally diminished beyond that currently afforded by the existing development on the South Site;
- it will afford a tower element of regular shaped footprint that replicates and is balanced with other existing and approved tower development along Martin Place;
- a variation in the tower setback along Martin Place is not out of context with other existing development that does not conform with the 25m setback; and
- the visibility of the proposed tower on the South Site will identify the new Martin Place Metro Station that will contribute to an important evolution of the Martin Place precinct, which follows on from the recent redevelopment of 20 Martin Place and the current redevelopment of 60 Martin Place.

10.2 Special character area

Council's submission asserts that Martin Place is a linear pedestrian place bounded by office and civic buildings. These buildings are shaped by controls designed to achieve consistency in building height, setback, massing, scale and materiality. These are applied to sites as they redevelop to achieve the long-term vision. Much of the vision has been realised through this approach, with some components still to be realised. **Figure 10** shows a section of Martin Place that is consistent with the Martin Place Special Character Area controls.

The principle objectives of the Martin Place Special Character Area are:

- preserve the visual prominence of the GPO clock tower;
- reinforce the street wall to Martin Place by setting back any new tower development at least 25m from the street wall alignment;
- protect open views to the sky; and
- improve Martin Place for pedestrians by protecting precious solar access, daylight and the wind environment.



Figure 10: Photo of Martin Place street wall and tower setbacks (source: City of Sydney Council submission)

Public Submission

The public submission argues that Martin Place is one of the most civic spaces in the Sydney CBD, which has long been the subject of Special Character Area controls. Recent approvals for sites in Martin Place, including 60 Martin Place have not undermined the long-held controls (as is claimed in the Planning Proposal) and are certainly not a precedent for the bulk and scale which is proposed and due to the lack of an adequate tower setback from Martin Place.

City of Sydney Council Submission

Council argues that any new development of the South Site should observe the objectives and intent of the current planning controls so that Martin Place continues to be distinguished from other streets as a civic and ceremonial place.

To illustrate its point, Council provided the diagram in **Figure 11** that shows:

- Three sites, shown in orange depart from the tower setback requirements and pre-date the 1984 Gazzard Partners study, which first identified the need for tower setbacks that would contributed to the delivery of the Martin Place Special Character Area controls.
- The sites coloured blue in have been developed since 1984, and all respect the 25m or more tower setback.
- The sites coloured grey in were developed before 1984 and all respect with the 25m tower setback.
- The sites coloured light-blue are the tower at 60 Martin Place and Reserve Bank building, for which their matching 4m setback profiles are an exception to the Special Character Area controls.

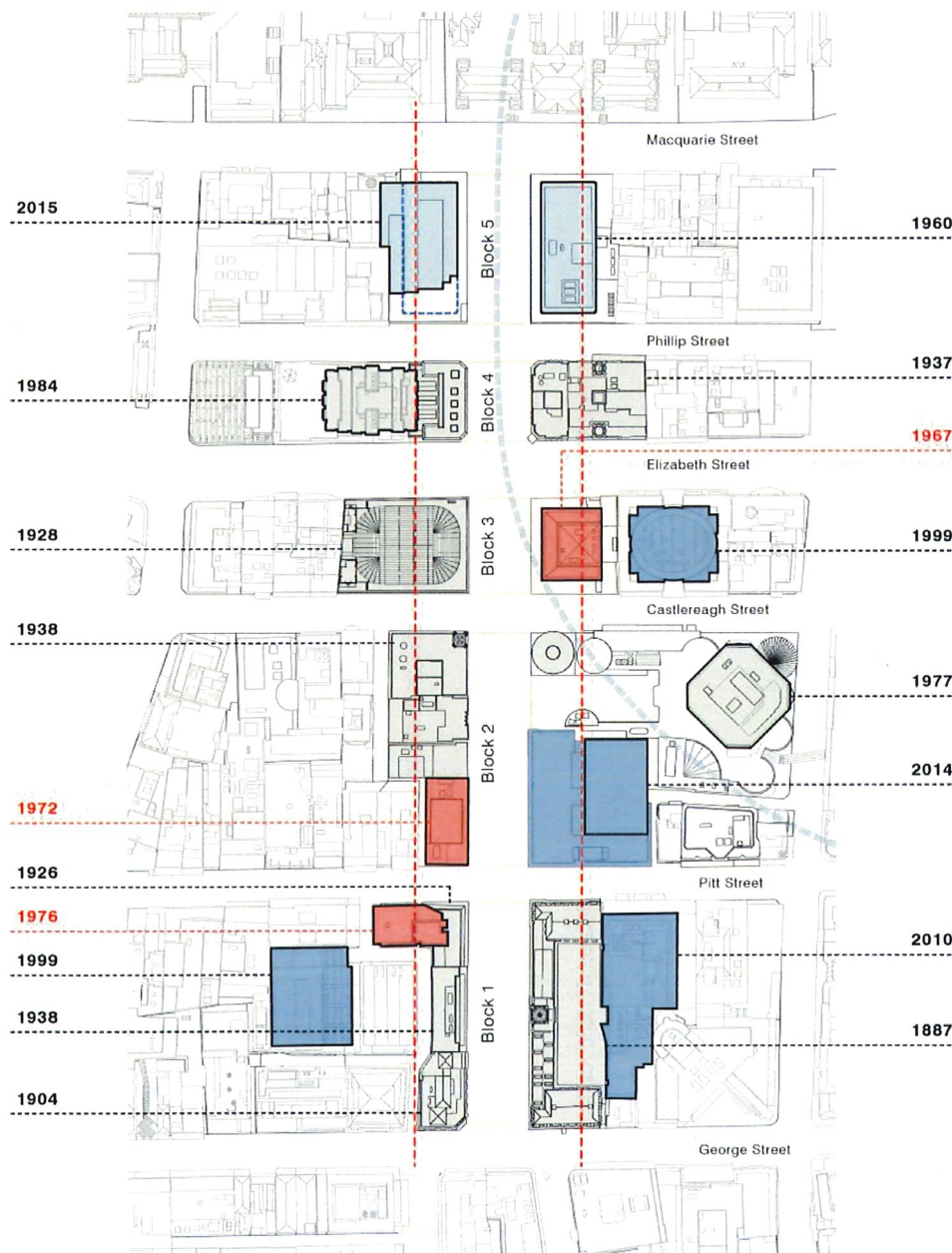


Figure 11: Martin Place tower setbacks (source: City of Sydney Council submission)

Proponent's Comments

The proponent response states the planning proposal is consistent with the long-term vision for the Martin Place Special Character Area because it:

- will encourage the redevelopment of a podium and viable tower that re-instates the desired built form along Martin Place. This will then develop a strong podium and linear enclosure of the street, with a street frontage height consistent with the prevailing form of buildings in the area, and a contextually responsive tower, clearly setback and distinguishable from the street alignment podium;
- protects existing significant public vistas to the east and west and ensures the South Site will not undermine the appreciation of the GPO clock tower;
- provides open views to the sky and respects pedestrian amenity along Martin Place particular with regards to solar access, daylight and wind conditions;
- strikes an appropriate balance between conserving and enhancing the significance of Martin Place as one of Central Sydney's civic and ceremonial spaces and also expanding on its role as a valued business and commercial location with excellent access to public transport;
- the towers over the podiums in Martin Place are varied in their setback and not consistently aligned, and do not contribute to the idea of Martin Place as a singular space; and
- the MLC Centre breaks the street wall alignment with a defined functional split in Martin Place with civic, ceremonial and event functions primarily occurring to the west, and commercial development and transport to the east. This is reflected by the 25 tower setbacks to the west established by heritage buildings such as the GPO, and re-affirms the appropriate contextual response of the proposed southern tower to conditions east of the MLC Centre.

Department Comments

The Department accepts that any podium design for the South Site will be consistent with the Special Character Area controls by reflecting the scale and materiality of 50 Martin Place. It is also accepted that the 25m setback above the street wall is not consistently applied throughout Martin Place with variations to the setback represented by the MLC Centre, Reserve Bank Building, 20 Martin Place and 60 Martin Place. Therefore, the character of Martin Place and Sydney is already formed by taller modern buildings mixed with older lower scale buildings, with differences in setbacks above podium elements.

While Council argues that Martin Place is a linear pedestrian place that requires planning controls to achieve a consistent built form, it accepts that buildings varying in both height and setbacks in different sections of Martin Place. The middle blocks of Martin Place, where the South Site is located, are a mix of building forms with a distinctive break in the street wall at the MLC centre site. This variation does not make Martin Place a single linear place. The proponent states that Martin Place should be dealt with on a block by block approach which would suggest the proposed podium South Site should reflect the bulk and scale of 50 Martin Place as it is the partner building on the opposite site of Martin Place.

The balance between preserving the significance of Martin Place as a prominent civic place for the CBD, while also contributing to Martin Place's ongoing role and character of the place as a business and commercial centre is largely dealt with by the tower setback discussed in Section 5.1 of this report. In particular, the reinforcement of a street wall and tower setback sufficiently enough to read as two separate building elements is crucial. This approach is not strictly consistent with the special character area controls, but is consistent with Council's DCP and considered justifiably inconsistent with the Special Character Area controls.

10.3 Floor space ratio

The planning proposal seeks to increase the maximum Floor Space Ratio (FSR) of the north site to 18.5:1 and the South Site to 22:1, inclusive of several existing FSR bonuses available in the Sydney LEP 2012. The proponent explains that the intent of the proposed changes is to capitalise on the strategic merit of the site and compensate for the floor area attributed by the Metro Station and related facilities, most of which is located below ground level and accounts for approximately 1.08:1 of the proposed FSR on the north site and 1.31:1 of the proposed FSR on the South Site.

Public submission

The public submission argues the planning proposal shows complete disregard for the current planning controls by introducing replacement controls which are excessive, unreasonable and out of context. In particular, the public submission disputes the claim the planning proposal's request for an FSR of 22:1 is somehow essential because of the inclusion of railway infrastructure. They conclude that over station development (OSD) and CSSI approval should be treated separately and no special treatment should be provided.

City of Sydney Council Submission

Council states that the planning proposal is not clear about what is included or excluded from the FSR calculation, pointing out that some of the FSR is below ground for the Metro Station and other purposes, and some applies to the commercial and other uses in the planned towers. This raises uncertainty as to the ultimate outcome for development of the sites and could lead to pressure to breach the building envelopes currently being proposed. Council requests the planning proposal be revised to provide clarity about the development outcomes being sought.

Proponent's Comments

In response to submissions the proponent reiterates the following justifications previously outlined in the planning proposal:

- the construction of the Sydney Metro has a reasonable expectation to increase the development capacity of the site based on the future growth of Sydney;
- the planning proposal supports a significant financial investment in the ongoing renewal of Martin Place as the commercial heart of the Sydney CBD and would accommodate approximately 15,000 jobs;
- although development standards do not apply to the CSSI application, the GFA used for the over station development application uses controls from the Sydney LEP 2012, thus additional FSR is incorporated to account for this effect;
- the concept plans have established the maximum building envelopes in terms of their impacts and a "loose fit" FSR has been requested through the planning proposal to allow sufficient room for changes to the building envelopes at the detailed design stage; and
- proposed FSRs are similar to sites tested by the Council as part of its recent Built Form Capacity Study that informed the Central Sydney Planning Strategy.

Additionally, the Sydney Metro represents a significant investment in public transport. Over station development is a key component of the overall project, which supports the NSW Government in funding the cost of public transport infrastructure.

Department Comments

The Department acknowledges that the FSR was not updated when the proponent submitted the revised planning proposal with a setback of 8m. It is also noted that the proposal is unclear on exactly what FSR is being provided for which elements of the proposed station, concourse and tower development. The proponent adequately responds to the concerns raised in submissions regarding the allocation of FSR and the irregularity with the CSSI application.

The Department notes the planning proposal is seeking to afford sufficient floor space changes that may result from the detailed design of the Stage 2 SSDA. Given the proposed FSR is the maximum

achievable for the South Site, and other controls including building height and setbacks will be used to determine the final building envelope, the Department accepts the proponent's argument that the proposed FSR will allow sufficient flexibility for the detailed design stage. It is expected that the Stage 2 SSDA will provide a detailed breakdown of FSR allocation for the CSSI and OSD components of the development.

10.4 Street level building setbacks

The concept plan for both the North and South Sites proposes zero tower setbacks to Hunter, Castlereagh and Elizabeth Streets. This is a design related issue where Council's preference is for tall towers to be setback above a podium. Conversely, the proponent's current concept design is for zero setbacks to all boundaries with an internal void to provide sunlight into the building.

Public Submission

The public submission raised concern that the planning proposal appears to disregard the setback control that would apply above street frontage height in Castlereagh, Hunter and Elizabeth Streets. The public submission suggests setbacks are vital in ensuring a satisfactory relationship between tower elements and the public domain and increase sky views and outlook, mitigate against adverse wind conditions and reduce overshadowing.

City of Sydney Council Submission

Council considers that the proposed building envelopes need further consideration, in particular, setbacks of at least 4m above the street wall to Elizabeth Street and Castlereagh Street for the full length of the building should be introduced. This is to allow light, air circulation and daylight to adjacent development and to the public domain, and to provide wind protection.

Proponent's Comments

The proponent states that the urban design work that supports the planning proposal is based on the following concepts:

- zero setbacks to both Elizabeth and Castlereagh Streets play important roles in the urban morphology of this part of the city and provide distinctive thresholds into major public spaces in the City, namely Chifley Square and Martin Place;
- the zero setback to Hunter Street is a site-specific response related to the predominant zero setback of the towers directly to the east; 8 Chifley and the Deutsche Bank Building;
- modelling of the proposed building envelopes reveal that there are negligible additional impacts with regards to shadows, wind and sky view when compared to compliant building envelopes;
- Council's request that 4m setbacks would be acceptable is at odds with its own DCP controls, which request an average 8m setback provided under its DCP; and
- the proposed building envelopes are the starting point, with the future detailed design to go through a rigorous design excellence process.

Department Comments

As part of the Stage 1 SSDA approval, the Independent Planning Commission (formerly the Planning Assessment Commission) recommended 4m tower setbacks along Elizabeth and Castlereagh Streets (for the towers on the North and South Sites) should be incorporated into the concept approval. The Department's addendum Report for the Concept proposal for the Martin Place Station Precinct (SSD 8351) notes this approach rigidly enforces a generic setback for the North and South Sites. The Department considers this evidence base will ensure the future buildings can provide an appropriate design response to the distinctly varied streetscape character of the area, with a more articulate, design-led approach.

The Department considers the recommendation by the Government Architect NSW, to engage an independent analysis to further examine the effectiveness and appropriateness of setbacks along Elizabeth and Castlereagh Streets to be an appropriate response to Council's concerns. This

independent analysis would be provided to the Design Review Panel as an evidence base to inform its review of the detailed architectural design during the assessment of the Stage 2 SSDA.

10.5 Impacts on MLC Centre forecourt

The public submission and the Council submission raised concerns with overshadowing and visual impacts associated with the proposed building envelope for the South Site.

Public submissions

One public submission is supported by a design analysis prepared by Harry Seidler & Associates. The analysis found the MLC Centre will:

- suffer additional over-shading of the public plaza (Figure 10) in the morning, throughout the year, when compared to the existing conditions;
- wind tunnel testing has not been carried out on the footpaths adjacent to the MLC Centre or within the MLC Centre boundaries;
- existing outlook and views to the north-east from the MLC Centre tower are significantly impacted by the Planning Proposal building envelope for the South Site when compared to the permissible building envelope under the Sydney LEP 2012; and
- sky view from the public plaza of the MLC Centre is significantly impacted when compared to the permissible building envelope.



Figure 10: MLC centre forecourt with existing building in background (Source: Public submission)

City of Sydney Council Submission

Council raised concerns that the planning proposal will cause significant additional overshadowing of the forecourt at the MLC Centre. The 25m tower setback on the South Site has the effect of allowing sun to the MLC Centre steps and forecourt. The overshadowing is produced by the component of the tower that is proposed within the 25m tower setback above 55m. Council notes the MLC forecourt is a well-used publicly accessible space along Martin Place and this public amenity should not be overshadowed.

Proponent Comments

The proponent chose to respond to submissions regarding the impacts on the MLC Centre in 3 separate sections:

Solar Access / Overshadowing

The proponent states the MLC Centre and forecourt is privately owned land that is not afforded any special protection under Sydney LEP 2012. Shadow diagrams prepared by the proponent additional overshadowing will occur as a result of the proposed building envelope on a limited portion of the MLC forecourt, which will generally be limited to between 9am and 10:30am in the months outside of midwinter. The majority of the MLC Centre forecourt will still receive direct sunlight for 2-3 hours over the lunch time period outside of midwinter despite the additional minor overshadowing cast by the proposed building envelope. The shadow diagrams at **Figure 12** prepared by the proponent demonstrates that additional overshadowing of the MLC forecourt (in pink) and LEP / DCP Compliant Envelope shown in red outline.

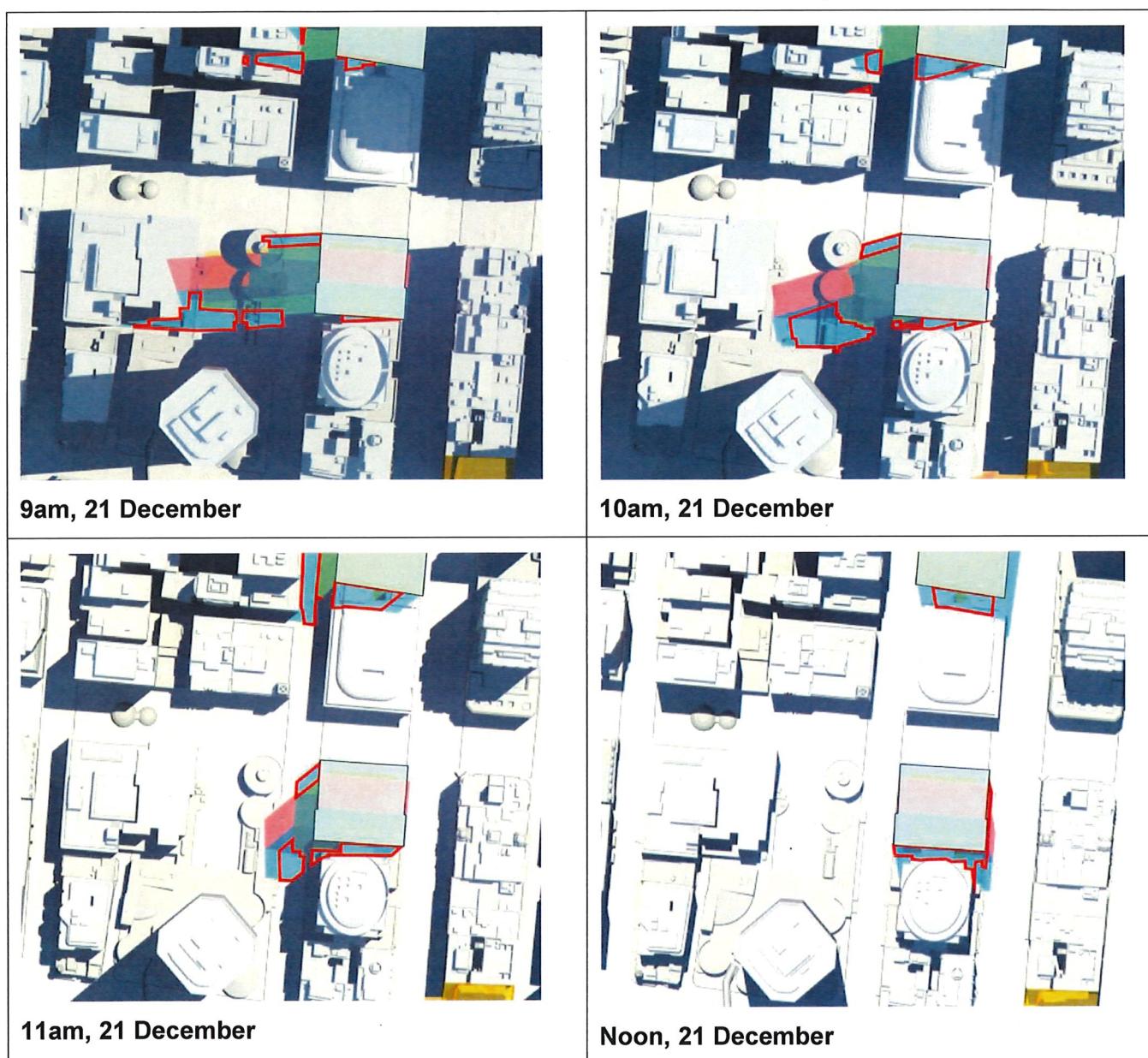


Figure 12 – Shadow diagrams for the MLC forecourt with the proposal

View Impacts

In response to outlook and view concerns raised by the MLC Centre, the proponent prepared a focussed View Impact Analysis. Results for the view analysis conclude the proposed building envelope will impact views from the MLC Centre tower and forecourt. However, given the commercial office use and CBD context of Martin Place, the proposed outlook change is considered reasonable. The analysis says MLC Centre forecourt will continue to benefit from substantial views of Martin

Place and the sky despite the proposed building envelope. The proposed building envelope describes the maximum parameters and a future Stage 2 SSDA design will accommodate more detailed articulation which will result in a potentially reduced visual impact.

Wind Impacts

In response to the lack of wind tunnel testing in the vicinity of the MLC Centre the proponent commissioned a Qualitative Wind Assessment that assesses the wind conditions on the footpath, steps, and forecourt of the MLC Centre. Locations tested in close proximity to the MLC Centre were found to remain in the same comfort categories, being pedestrian sitting and pedestrian standing. The assessment concludes that pedestrian wind comfort and safety in the area of concern will not be significantly affected by the inclusion of the south tower per the Planning Proposal Envelope.

Department Comments

The planning proposed is consistent with the Martin Place and Hyde Park North Sun Access Planes in the Sydney LEP 2012. The Stage 1 SSDA consent addresses additional overshadowing of Martin Place and notes Martin Place is already significantly overshadowed by existing buildings to the north for much of the day and year, especially at mid-winter.

The Department notes the MLC forecourt is completely overshadowed by the buildings to the north, particularly during the winter months. While the Sydney LEP 2012 does not protect solar access to the MLC forecourt, the additional overshadowing in the summer months is not of significance to materially impact the amenity of the MLC forecourt for direct sunlight during lunch time hours. A wind assessment that supports the planning proposal is considered satisfactory and will be subject to further testing by the anticipated Stage 2 SSDA for the South Site.

10.6 Other matters raised

4.6.1 Draft Central Sydney Strategy

The public submission notes the planning proposal points to the Draft Central Sydney Strategy to justify the proposed FSRs. The public submission argues no reliance should be placed on the Draft Strategy as it's a draft document that may not become more than a draft. If the Central Sydney planning proposal is supported at the Gateway and subsequently finalised the subject planning proposal would fail to comply with setbacks in a Special Character Area. Council also notes this inconsistency.

Department Comments

Draft Central Sydney Strategy and Central Sydney planning proposal were adopted by Council in July 2016. The Central Sydney planning proposal was lodged with the Department for consideration at the Gateway. Although the Department has not issued a Gateway determination for the proposal this does not preclude planning proposals for demonstrating consistency with the Draft Central Sydney Strategy as it is an adopted Council strategy that can be considered by planning proposals in the CBD.

4.6.2 Public hearing

Section 3.34(2)(e) of the *Environmental Planning and Assessment Act 1979* has provision for the Planning Proposal Authority (PPA) to hold a public hearing by the Independent Planning Commission or other specified person or body.

Council requests that the PPA hold a public hearing as the matters included in their submission are of a serious nature as the planning proposal relies on an inaccurate, incomplete, and misleading urban design analysis. The outcome of that analysis is a proposal which sweeps aside a long-term vision for the city's pre-eminent civic and ceremonial space.

Department Comments

The request for a public hearing is noted. There is no requirement of a public hearing other than for planning proposal's that are seeking to reclassify land. In this instance the Department does not

considered a public hearing to be necessary when only one public submission was received during the public exhibition.

4.6.3 Unsolicited proposal

The public submission notes the planning process has been advanced by the NSW Government's Unsolicited Proposal process and not as part of a strategic planning review that supports the casting aside of a long-established FSR limit and Special Character Area tower setback control for Martin Place. There is no proper and adequate strategic planning basis to abandon these long established and well-founded key controls on either the North Site or the South Site.

Department Comments

The introduction section of this report notes an USP to the NSW Government for the delivery of an integrated Sydney Metro Station and 2 commercial towers has progressed to Stage Three of the unsolicited proposal process. This planning proposal, a Stage 1 SSDA and CSSI application are part of a broader planning process being pursued cooperatively by Macquarie and TfNSW. These applications are all being considered on their individual merits.

4.6.4 Exhibition timeframe

The public submission said the timeframe provided for comments on the planning proposal fails to reflect the significance of the shift in FSR, height, and setback controls which is sought to be achieved.

Department Comments

The public exhibition timeframe for the planning proposal was 28 days, which is consistent with the community participation requirements set out in the Act and conditions of the Gateway determination.

11. ASSESSMENT

The draft LEP is considered to have merit, providing redevelopment opportunity of underutilised land in association with a new and key public transport interchange within the core part of the Sydney CBD.

The redevelopment of the site will contribute to housing supply and choice in the area and provides benefits including open space for future residents.

11.1 Section 9.1 Directions

At the time of the Gateway determination, the delegate of the Secretary agreed that the Planning Proposal's with all relevant Directions with exception of the following:

- Direction 2.3 Heritage Conservation
- Direction 3.5 Development Near Licensed Aerodromes

The proposal is justifiably inconsistent with these Directions on the following basis.

Direction 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. This Direction applies to this Planning Proposal as the site is located within a heritage conservation area. Both 50 Martin Place and Martin Place are both listed heritage items, however neither is the subject of the proposed amendments sought by the proposal.

The key concerns raised by the Heritage Office and the City of Sydney Council relate to off site and contextual impacts associated with the obstructing views along Martin Place to the GPO clock tower. As demonstrated by the view analysis submitted by the proponent the modified building envelope for the South Site will not obstruct views or reduce the prominence of the GPO clock tower when viewed

from Martin Place. Therefore, an adequate upper level setback will be afforded by the resultant permitted building envelope for the South Site.

The modification to the extent of the 55m building height limit for the South Site will also maintain and replicate the tower and podium building envelope configuration sought to be achieved by both City of Sydney Council and the Heritage Council.

The proposal is therefore consistent with this Direction.

Direction 3.5 Development Near Licensed Aerodromes

Relevant to the proposal and the Precinct the objective of this Direction is to ensure the effective and safe operation of aerodromes and that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity.

By extending the Hyde Park SAP for the South Site, the proposal vertically extends the maximum building height for the South Site. This extension protrudes above the Obstacle limitation Surface (OLS) for Sydney Airport for this part of the Precinct.

As part of the consultation for the proposal Sydney Airport Corporation noted that any future development applications for the Precinct will need to be referred to Airservices and Civil Aviation Safety Authority (CASA) for assessment prior to being sent to Department of Infrastructure and Regional Development for separate determinations.

CASA additionally advised that due to the site's proximity to Sydney Airport the proposal should be referred to the Sydney Airport Corporation. CASA however also determined that the proposed buildings will be shielded by the Sydney Centre point Tower and the Deutsche Bank Place. Therefore, any building to the fuller building extent proposed for the South Site would not require obstacle marking and lighting. It is noted the Stage 1 SSDA conditions of consent advise that the proposed tower on the South Site must not exceed a maximum height of 155.5m AHD to comply with the Hyde Park Solar Access Plane (SAP) and that separate approvals must be sought under the *Airports (Protection and Airspace) Regulations 1996* for any cranes required for construction.

The proposal is therefore consistent with this Direction

11.2 State environmental planning policies

The draft LEP is consistent with all relevant SEPPs or deemed SEPPs.

11.3 State, Regional and District plans

The proposal directly relates to actions and goals in the NSW State Plan 2021 – Premier's Priorities, Greater Sydney Region Plan and Eastern City District Plan given that it will:

- Create additional and innovative opportunities to grow Sydney CBD office space;
- support the potential for growth of high-skilled jobs in global Sydney;
- encourage stronger economic development in strategic centres and transport gateways; and
- support integrated development and transport outcomes for Sydney CBD.

12. POST-EXHIBITION CHANGES

The Department has not undertaken any further post-exhibition changes to the planning proposal.

13. MAPPING

There are no maps associated with this amendment.

14. PARLIMENTARY COUNSEL OPINION

On 1 May 2018 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

15. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate as the local plan-making authority determine to make the draft LEP under section 3.36(2)(a) of the Act because:

- The proposal is considered to have strategic merit, particularly in relation to consistency with the Greater Sydney Region Plan and Eastern City District Plan, in terms of creating new and innovative opportunities to grow Sydney CBD office space;
- supporting high-skilled jobs in global Sydney; and
- utilising future transport and road corridors to support future growth.

Endorsed by:



Amanda Harvey 24/4/18
Director, Sydney Region East


1 May 2018
Stephen Murray
Executive Director, Regions
Planning Services

Attachment 1: City of Sydney Council's submission – 1 December 2017

Attachment 2: Submissions from agencies

Attachment 3: Proponent's response to submissions – 20 December 2017

Attachment 4: Additional View Impact Analysis – March 2018

Attachment 5: Supplementary comments from City of Sydney – February 2018

Attachment 6: Independent review of view impact analysis – April 2018

Attachment 7: Government Architect response to independent view impact analysis – April 2018