

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

**File No: X091069**

### **Summary**

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

A planning proposal, consistent with the Central Sydney Planning Strategy, has been prepared for 383-395A Kent Street, Sydney, following a request by the applicant to amend the planning controls for the site. Located on the western edge of the CBD within a tower cluster area and linking Kent Street and Sussex Street, 300 metres away from the Queen Victoria Building and 500 metres away from Town Hall, the site is well positioned to support new commercial floor space while taking advantage of existing transport and social infrastructure.

The planning proposal seeks to amend the building height and floor space controls to replace and facilitate a 42-storey commercial development with ground floor retail, delivering more than 73,000 square metres of new office space. The site is located within an identified tower cluster area, where increased height can be accommodated while maintaining good amenity to public places. In addition, any redevelopment requires:

- the removal of a large existing commercial car park with approximately 800 parking bays, responding to reducing demand for private vehicle trips and encouraging walking and improving public transport to the CBD;
- the delivery of a new pedestrian through-site link connecting Kent Street and Sussex Street, increasing pedestrian permeability and encouraging ground floor activation; and
- the delivery of a shared precinct loading dock for the use of surrounding businesses, representing a more efficient use of land and enhancing local logistics and productivity.

The applicant has submitted a public benefit offer to enter into a planning agreement to secure a through-site link with an easement for public access, delivery of the shared loading dock, and a commitment to sustainability targets in addition to standard requirements. These public benefits will be provided in addition to required contributions under the Central Sydney Contributions Plan 2020 and affordable housing contributions and not financially offset.

This report recommends approval of the planning proposal for submission to the Department of Planning, Housing and Infrastructure seeking a Gateway Determination, followed by public exhibition. It also recommends that a draft site-specific Development Control Plan is endorsed for exhibition, and a draft planning agreement be prepared based on the public benefit offer.

## Recommendation

It is resolved that:

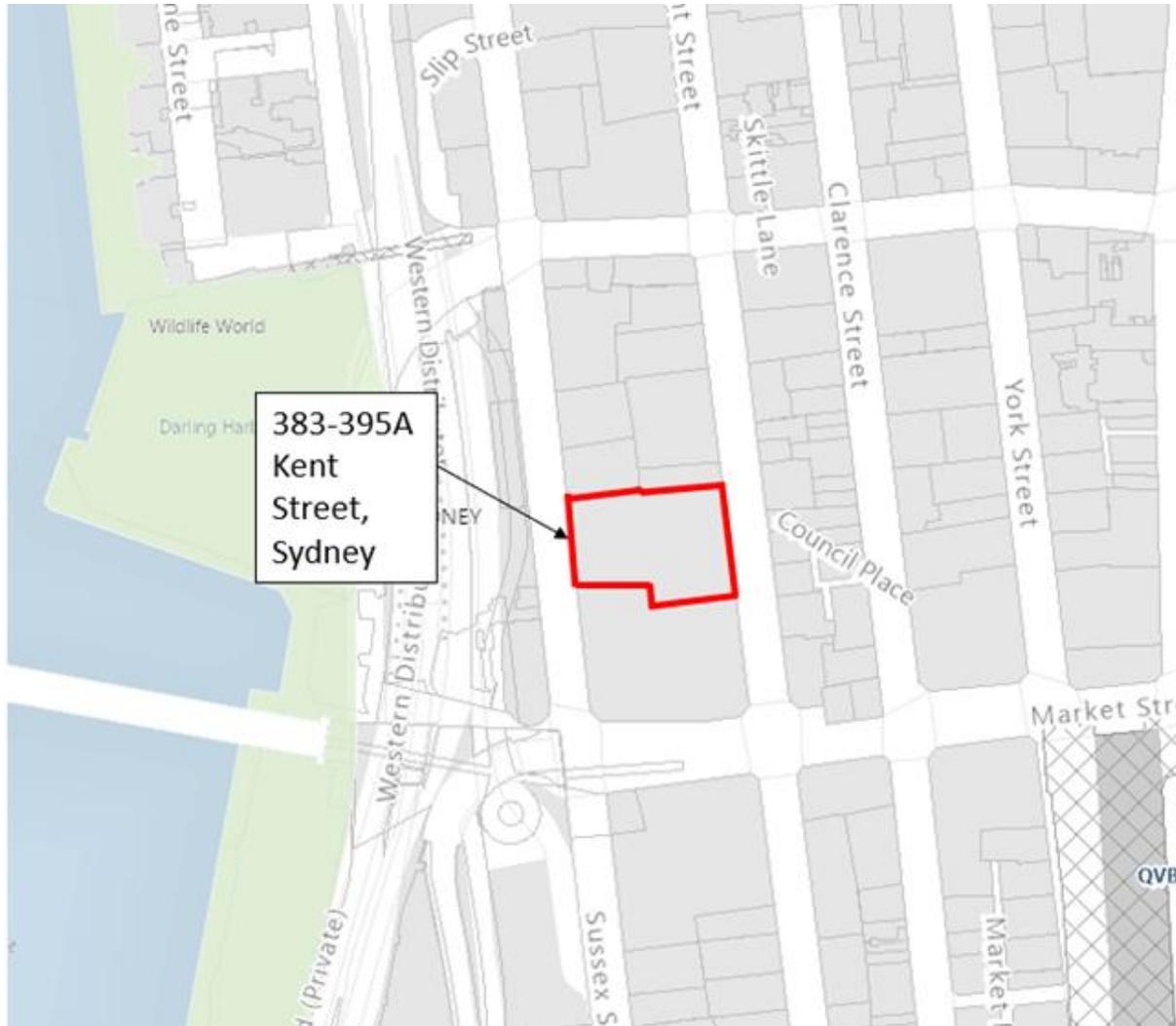
- (A) Council approve Planning Proposal - 383-395A Kent Street, Sydney, as shown at Attachment A to the subject report, to be submitted to the Minister for Planning and Public Spaces with a request for Gateway Determination;
- (B) Council approve Planning Proposal - 383-395A Kent Street, Sydney, as shown at Attachment A to the subject report, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council seek authority from the Minister for Planning and Public Spaces to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposal - 383-395A Kent Street, Sydney;
- (D) Council approve the Draft Sydney Development Control Plan 2012 - 383-395A Kent Street, Sydney, as shown at Attachment B to the subject report, for public authority consultation and public exhibition concurrent with the Planning Proposal;
- (E) authority be delegated to the Chief Executive Officer to make any variations to Planning Proposal - 383-395A Kent Street, Sydney, to correct any drafting errors or to ensure consistency with the Gateway Determination;
- (F) authority be delegated to the Chief Executive Officer to make any variations to Draft Sydney Development Control Plan 2012 - 383-395A Kent Street, Sydney, to correct any drafting errors or ensure it is consistent with the Planning Proposal following the Gateway Determination; and
- (G) Council note the Chief Executive Officer will prepare a draft planning agreement in accordance with the letter of offer dated 22 April 2024 at Attachment C to the subject report, and the requirements of the Environmental Planning and Assessment Act 1979, to be exhibited in accordance with the Act.

## Attachments

- Attachment A.** Planning Proposal - 383-395A Kent Street, Sydney and appendices
- Attachment B.** Draft Sydney Development Control Plan 2012 - 383-395A Kent Street, Sydney
- Attachment C.** Planning Agreement - Public Benefit Offer - 383-395A Kent Street, Sydney - dated 22 April 2024

## Background

1. A planning proposal request has been lodged for a site in Central Sydney. The site is located at 383-395A Kent Street, Sydney, and has street frontages to Kent Street and Sussex Street, as shown in Figure 1.



**Figure 1:** Land affected by this planning proposal

2. The site has an area of 3606 square metres. Existing development on the site consists of 10 storeys of commercial car park with 800 spaces and 11 storeys of offices containing almost 18,000 square metres of commercial floor space, in a 19-storey building. The commercial car park was constructed in 1976 and the office tower was built above the car park in 1998. The existing development is not a proposition to refurbish and to substantially add height.
3. Further details of the site and existing planning controls can be found in sections 1 and 2 of the Planning Proposal. Images of the site with the affected buildings outlined in red are shown at Figures 2 and 3.



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



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

4. Following comprehensive pre-lodgement advice, the applicant, Charter Hall, represented by Ethos Urban and fjcstudio, lodged a request to prepare a planning proposal in March 2024.

### **Key Implications**

#### **Proponent requested changes to height and floor space controls to enable a commercial development, a through-site link and shared loading dock consistent with the Central Sydney Planning Strategy**

5. The proponent has requested a planning proposal to facilitate redevelopment as envisaged by the Central Sydney Planning Strategy. The proposal includes:
  - (a) a 42-storey future workspace building up to a maximum height of RL 189.80 metres (approximately 180 metres on Sussex Street);
  - (b) approximately 73,000 square metres of new commercial workspace with ground floor retail activation;
  - (c) a new pedestrian through-site link connecting Kent Street with Sussex Street;
  - (d) a shared precinct loading dock for the use of the subject site and surrounding businesses; and
  - (e) removal of the 800 bay commercial car park.
6. An image prepared by the proponent of the indicative development scheme is at Figure 4.



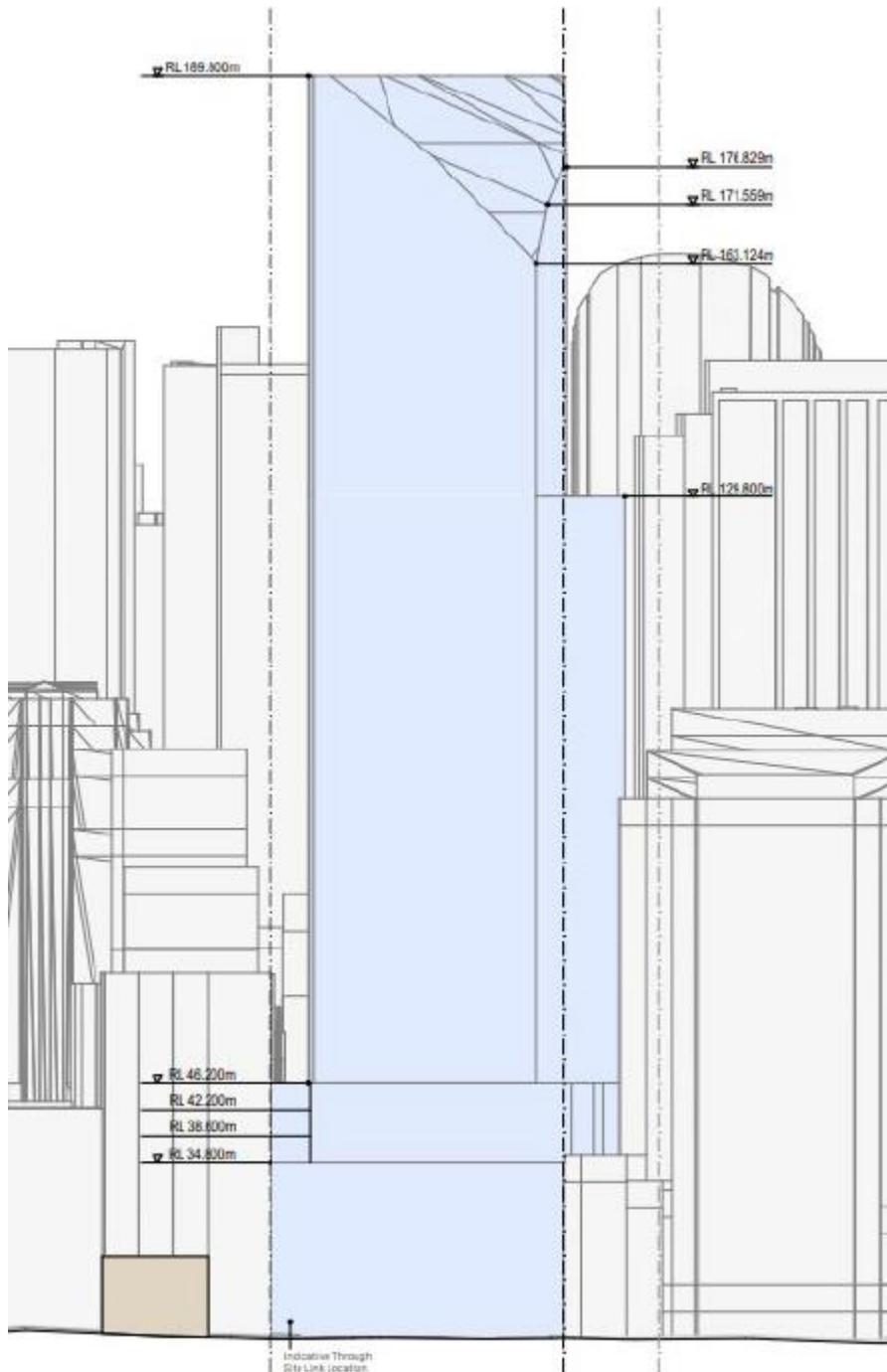
**Figure 4:** Artistic representation of reference design - Kent Street perspective

**The City has prepared a planning proposal increasing height and floor space for a future work place development**

7. The planning proposal details the proposed amendments to the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) by inserting new site-specific provisions. The provisions are to:
  - (a) permit a maximum building height of RL 189.80 metres (180 metres), an increase from the current control of 110 metres;
  - (b) increase the maximum floor space ratio control from 15.75:1 to 20.3:1 inclusive of design excellence, shared precinct loading dock facility floor space and end of journey floor space;
  - (c) deliver a pedestrian through-site link connecting Kent Street and Sussex Street;
  - (d) ensure the building would not cause additional overshadowing of Sydney Square, Town Hall Steps and future Town Hall Square; and
  - (e) ensure the resulting building would not be used for the purposes of:
    - (i) residential accommodation or serviced apartments;
    - (ii) a large commercial car park.
8. Further explanation of the provisions can be found in section 4 of the Planning Proposal at Attachment A.

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

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

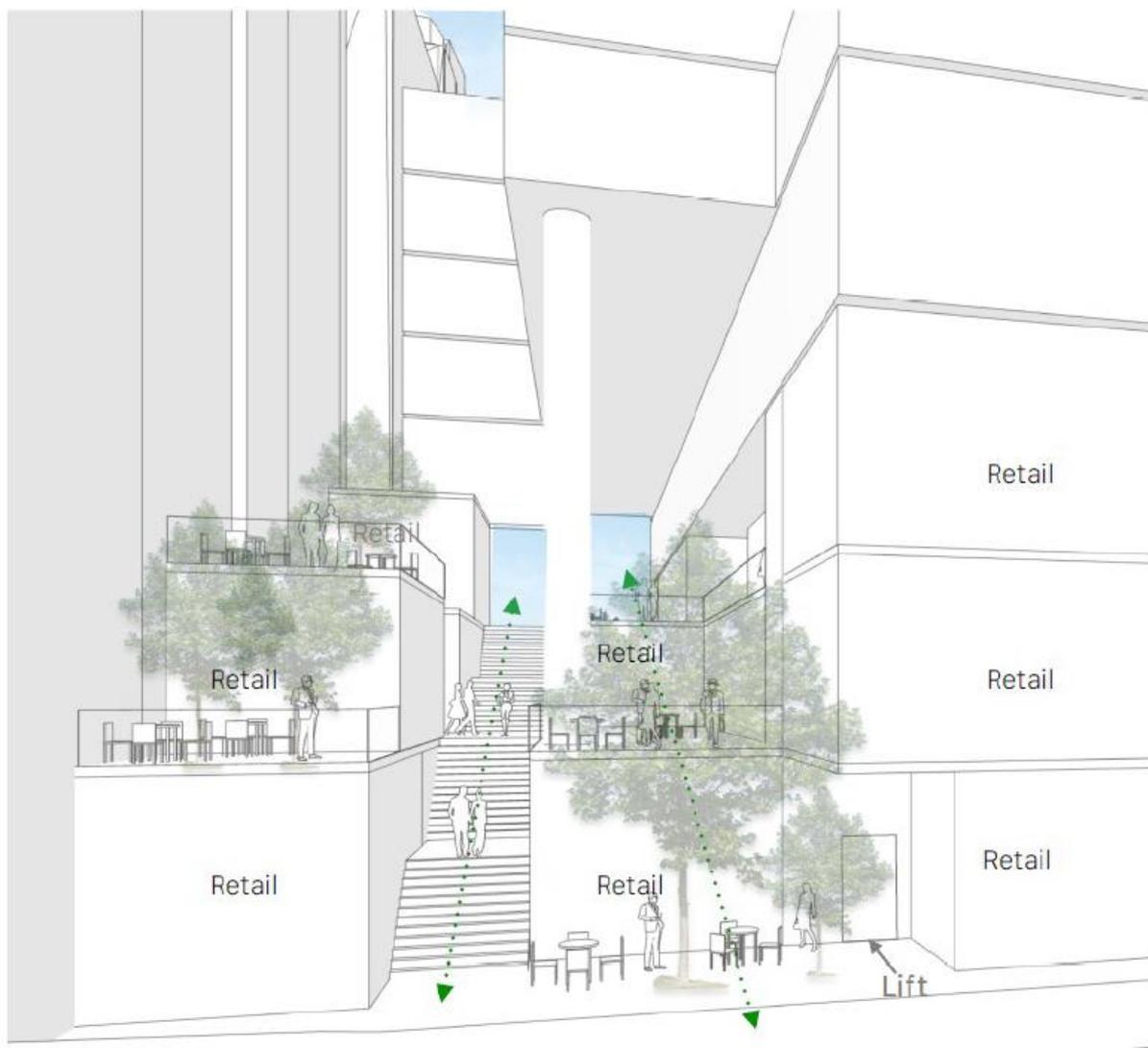


**Figure 5:** Proposed maximum building envelope - Sussex Street perspective

**The proposal is a good contextual fit and has site-specific merit**

10. The site is located in a tower cluster area, a location which has been identified by the City through the Central Sydney Planning Strategy as being capable of accommodating increased height and density while taking advantage of existing infrastructure and minimising overshadowing to important public places.

11. The proposed building envelope aligns with the no additional overshadowing controls protecting sun access to Sydney Square, Town Hall Steps and future Town Hall Square by reducing from the maximum height of RL 189.80 metres along the western and southern boundaries as illustrated in Figure 5 above.
12. Existing wind conditions in the Sussex Street public domain already exceed the City of Sydney's Wind Safety Standard. The proposed building envelope improves the wind conditions in the Sussex Street public domain due to the setback of the tower from the Sussex Street frontage and the introduction of a graded stepped form to the podium along the northern boundary, as illustrated in Figure 5.
13. The planning proposal would require the delivery of a pedestrian through-site link connecting Kent Street and Sussex Street in order for the increase in building height and floor space to be accessed by any future development. Additional controls including dimensions, active frontages and accessibility are included in the draft DCP, found at Attachment B. The through-site link aligns with a key move of the Central Sydney Planning Strategy to increase the number of east-west connections in Central Sydney, and indicatively identifies an opportunity in this area.



**Figure 6:** Indicative design of pedestrian through-site link - Sussex Street elevation

14. The planning proposal requires the removal of the large existing 10-storey, 800-bay commercial car park in order for the increase in building height and floor space to be accessed by any future development. It also requires the delivery of a shared precinct loading dock for the use of surrounding businesses. The removal of the car park reduces the demand for private vehicle trips, encouraging walking and the use of public transport. The delivery of the shared loading dock represents a more efficient use of land and will enhance local logistics and productivity.
15. An overshadowing analysis of nearby residential buildings was conducted to assess any adverse impacts. Two residential buildings, 25 Market Street and 222-228 Sussex Street, were found to be impacted by the proposal. 25 Market Street retains sun access in accordance with the requirements of the Apartment Design Guide. 222-228 Sussex Street does not currently meet the sun access requirements of the Apartment Design Guide and the impact of the proposed development affects non-essential windows on the boundary which are the subject to a covenant on title to be bricked up at council's direction. Further information on overshadowing can be found in section 5.4 of the planning proposal at Attachment A.
16. Further information on the urban design, environmental, social and economic impacts of the planning proposal can be found in section 5.4 of the planning proposal at Attachment A. In addition, the proponent commissioned a number of technical reports in support of their proposal which have been attached as appendices to the planning proposal. These include an Urban Design Report, Traffic and Transport Assessment, and Heritage Impact Statement.

**A Voluntary Planning Agreement will deliver a through-site link, shared loading dock and additional sustainability outcomes**

17. The proponent has offered to enter into a Voluntary Planning Agreement (VPA) with Council to deliver public benefits as part of this planning proposal. The Environmental Planning and Assessment Act 1979 (the Act) allows the proponent to enter into a VPA with Council. Voluntary Planning Agreements are voluntary and must be freely entered into by the public authority and a proponent. They are also publicly exhibited and held on a publicly accessible register.
18. The letter of offer from Charter Hall at Attachment C to this report outlines the public benefits. The benefits will be:
  - (a) the delivery of a shared precinct loading dock, providing shared loading facilities to the adjoining area, particularly for businesses located in nearby heritage buildings which lack appropriate loading and servicing facilities;
  - (b) the delivery of a pedestrian through-site link connecting Kent Street and Sussex Street, secured via an easement registered on the land title for unrestricted public access; and
  - (c) sustainability commitments in addition to the requirements of Sydney DCP 2012 for energy efficiency in non-residential developments.
19. This Voluntary Planning Agreement will not offset local infrastructure contributions required under a contributions plan (section 7.12 of the Act), and housing and productivity contributions (division 7.1, subdivision 4 of the Act).
20. The Voluntary Planning Agreement will be prepared and publicly exhibited with the planning proposal.

**Planning Proposal is consistent with the City's strategic vision**

21. The Central Sydney Planning Strategy is a 20-year growth strategy that revised previous planning controls to create opportunities for height and density in the right locations, balanced with environmental sustainability initiatives and excellence in urban design. This planning proposal aligns with the Central Sydney Planning Strategy by:
  - (a) prioritising employment growth and increasing capacity in new tower clusters as demand requires, to facilitate the delivery of more than 73,000 square metres of replacement and new commercial floor space in the Western Edge tower cluster area
  - (b) ensuring development responds to context and protects Central Sydney's heritage and public spaces, as this planning proposal aligns with no additional overshadowing protections for Sydney Square, Town Hall Steps and future Town Hall Square while the accompanying draft DCP contains a maximum building envelope designed to protect the amenity of the public domain.
  - (c) expanding the pedestrian network with the delivery of a through-site link connecting Kent and Sussex Streets that helps to move people around Central Sydney more easily.
  - (d) moving towards a more sustainable city, as this planning proposal encourages walking and the use of public transport through the delivery of a new pedestrian through-site link and reduction of private parking on site.
22. The City's Local Strategic Planning Statement, City Plan 2036, sets out the 20-year vision for land use planning in the city and the planning priorities and actions needed to achieve the vision. This planning proposal gives effect to City Plan 2036 by facilitating a commercial development that delivers additional capacity for economic and employment growth, that is well-positioned to connect to existing and future transport infrastructure, and that delivers improved street life and activation with opportunities for new retail and food and drink premises along Kent Street, Sussex Street and the through-site link. This will enhance the character and walkable nature of the western edge of the CBD.
23. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions for the future of the city, as well as 10 targets against which to measure progress. This planning proposal is aligned with the following strategic directions and objectives:
  - (a) Direction 5 - A city for walking, cycling and public transport - the site is well positioned to take advantage of existing and future transport infrastructure, including rail, light rail, Metro and ferry connections in Central Sydney, as well as the Kent Street cycleway. The provision of a new pedestrian through-site link and east-west connection enhances the existing pedestrian permeability of the CBD. The removal of the commercial car park will reduce the demand for private vehicle trips, encouraging walking and the use of public transport.

- (b) Direction 9 - A transformed and innovative economy - this planning proposal supports employment growth in Central Sydney, helping to maintain the city's position locally, nationally and globally as a destination for business, investment and talent.
24. Further information regarding the alignment of the Planning Proposal with the strategic planning framework can be found in section 5.3 of the Planning Proposal at Attachment A.

### **Relevant Legislation**

- 25. Environmental Planning and Assessment Act 1979.
- 26. Environmental Planning and Assessment Regulation 2021.

### **Critical Dates / Time Frames**

27. Should Council and the Central Sydney Planning Committee endorse the attached planning proposal for public exhibition, it will be forwarded to the Department of Planning, Housing and Infrastructure in accordance with section 3.34 of the Act for Gateway Determination. The Gateway Determination will provide the required date for the completion of the Local Environmental Plan amendment. Following public exhibition, the outcomes will be reported back to Council and the Central Sydney Planning Committee.

### **Public Consultation**

28. The public exhibition process for this planning proposal will be determined by the Department of Planning, Housing and Infrastructure. It is planned for the public exhibition of the planning proposal, draft Development Control Plan and notification of the planning agreement will run concurrently. The consultation will be in accordance with:
- (a) the Gateway Determination issued by the Department of Planning, Housing and Infrastructure under section 3.34 of the Act;
  - (b) the Environmental Planning and Assessment Regulation 2021;
  - (c) in relation to the Voluntary Planning Agreement, section 7.5(2) of the Act; and
  - (d) the City of Sydney's Community Engagement Strategy and Participation Plan.

29. It is likely that the public exhibition period for the planning proposal would be a minimum of 28 days.
30. The planning proposal, draft Development Control Plan and draft Voluntary Planning Agreement will be publicly exhibited online on the City of Sydney website in accordance with the Environmental Planning and Assessment Regulation 2021.

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

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