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Gateway determination report – PP-2024-452

O'Connell Street Precinct

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 11 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A - Planning Proposal (City of Sydney Council, July 2024)
Attachment D - Draft Site Specific Development Control Plan (City of Sydney, July 2024)
Attachment E - Planning Proposal Justification Report (Ethos Urban, July 2024)
Attachment F - Urban Design Report (Matthew Pullinger Architect, March 2024)
Attachment G - Survey Plan (Rygate Surveyors, June 2020)
Attachment H - Draft Design Excellence Strategy (Ethos Urban, March 2024)
Attachment I - Vision and Values Statement (Lendlease, March 2024)
Attachment J - Traffic and Transport Assessment (ARUP, February 2024)
Attachment K - Pedestrian Assessment Study (ARUP, February 2024)
Attachment L - ESD Strategy (Lendlease, March 2024)
Attachment M - Pedestrian Wind Environment Study (MEL Consulting, March 2024)
Attachment N - Heritage Impact Statement (Megan Jones Architect, February 2024)
Attachment O - Skyview Factor Report (Matthew Pullinger Architect, March 2024)
Attachment P - Preliminary Aeronautical Impact Assessment (Strategic Airspace, October 2022)
Attachment Q - Flood Study (ARUP, February 2024)
Attachment R - Public Benefit Offer (Lendlease, March 2024)
Attachment S – Resolution of Council and CSPC Resolution (City of Sydney, July 2024)

1 Planning proposal

1.1 Overview

Table 22 Planning proposal details

LGA	City of Sydney
PPA	City of Sydney Council
NAME	O'Connell Street Precinct
NUMBER	PP-2024-452
LEP TO BE AMENDED	Sydney Local Environmental Plan 2012
ADDRESS	1-25 O'Connell Street and 8-16 Spring Street, Sydney
DESCRIPTION	Lot 1, DP 814858 (1 O'Connell Street) Lot 2, DP 172068 (8 Spring Street) Lot 1 DP 74923 (10 Spring Street) Lot 1 DP 176768 (10 Spring Street) Lot 1 DP 724946 (16 O'Connell Street) Lot 2 DP 74923 (17 O'Connell Street) Lot 1 DP 131917 (19 O'Connell Street) SP 63932 (23 O'Connell Street)
RECEIVED	1/08/2024
FILE NO.	IRF24/2278
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. The objectives of the planning proposal are to:

- Deliver built form consistent with the desired future character of Central Sydney, with acceptable environmental outcomes and achievement of design excellence
- Encourage land uses other than residential accommodation or serviced apartments
- Retain the existing commercial office tower at 1-15 O'Connell Street and deliver a second new commercial office tower on the site

- Retain the Wintergarden corner podium scale and form, with a one storey addition on the podium roof, to respect the special character area and improve environmental conditions in the public domain
- Adaptively reuse the heritage items on the site and respect the heritage significance of adjoining buildings
- Improve pedestrian access and amenity through provision of a publicly accessible pedestrian through-site link and improved activation of streets
- Provide adequate loading and servicing spaces within the basement to service development on the site
- Provide a shared loading dock facility for a precinct wide logistics hub and reduce the demand for on-street parking by service vehicles servicing other sites

1.3 Explanation of provisions

The planning proposal seeks to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) to enable an increased floor space ratio (FSR) and increased maximum building height for development at the O'Connell Street precinct. This is to be achieved by introducing a new site-specific clause under Part 6, Division 5 to:

- Permit a maximum building height of RL 319.1 metres, subject to meeting all Sun Access Plane and Overshadowing of Certain Public Places controls.
- Permit a maximum floor space ratio of 23:1, inclusive of the following:
 - Maximum floor space ratio as shown on the Floor Space Ratio Map (under clause 4.4)
 - Maximum accommodation floor space ratio under to which the City's heritage floor space scheme will apply (under clause 6.4)
 - Shared loading dock facility floor space (under clause 6.5A)
 - End of journey floor space (under Clause 6.6).
 - Additional floor space, of up to 10%, if the building demonstrates design excellence (under clause 6.21D(3)(b) and no design excellence bonus under clause 6.21E)
- Prevent development consent being granted under this clause unless the consent authority is satisfied that the resulting building would comply with Clause 6.18 "Overshadowing of certain public places".
- Prevent development consent being granted under this clause unless the consent authority is satisfied that the resulting development:
 - Retains the existing tower at 1-15 O'Connell Street and the scale and form of the Wintergarden Podium, with a new single storey roof top addition
 - Provides improved maximum active frontages to O'Connell, Bent and Spring Street
 - Includes a pedestrian through-site link connecting O'Connell and Spring Streets with retail premises fronting the through-site link
 - Provides for loading and servicing spaces to adequately service development at the precinct
 - Includes a shared loading dock facility, in addition to the precincts own loading and servicing requirements for use by surrounding businesses
 - Will not be used for residential accommodation, serviced apartments or a commercial car park
 - Demonstrates design excellence as the winner of a design competition.
- Clarify that the development exclusive of the 1 O'Connell Street portion is not an alteration or addition to an existing building under clause 6.11(3).

- Exclude Clause 4.6 Exceptions to development standards from applying to floor space ratio controls for future development subject to the new site specific provision so that future development applications lodged cannot further vary the development standards that apply to the site.

Appendix 1 of the planning proposal includes an example for how the proposed provision may be drafted. The example seeks to clarify that the controls are to be on an opt in basis for uses other than residential accommodation and serviced apartments otherwise the mapped height of building, FSR controls and any other applicable bonuses under Part 6 of Sydney LEP 2012 will apply. It is not considered necessary to include this clarification because the proposed provision explicitly states in what circumstances and what uses it will apply to. A gateway condition has been included requiring this to be removed from Appendix 1, and anywhere else occurring in the planning proposal.

The planning proposal notes amendment are proposed to Sydney Development Control Plan 2012 (DCP) to provide detailed guidance for the precinct. The draft DCP includes controls relating to built form, active frontages, through-site link, loading, design excellence and sustainability. Council intends to publicly exhibit the draft DCP with this planning proposal.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The site is located in Central Sydney approximately 250 metres from Wynyard railway and light rail stations, 350 metres from Circular Quay railway station and 350 metres from Martin Place station. It is bounded by O'Connell Street to the southeast (145m frontage), Bent Street to the north and Spring Street to the northwest (94m frontage) (see Figure 1).

The site consists of eight lots, is irregular in shape and has a total area of 6,737sqm. Six buildings are located on the site ranging in heights from 8 to 36 storeys (see Figure 2). All of the buildings are used for commercial purposes with most also containing retail uses at lower levels.

The site contains the following heritage items:

- Former Rofe Chambers State Heritage item at 19-21 O'Connell Street (I1904 – State item)
- Former Chatsworth House façade at 1-15 Spring Street (I1900 – local item)
- Former Orient Building façade at 1-15 Spring Street (I1901 – local item)

The site also adjoins and is in the vicinity of various other local and State heritage items as shown in Figure 44 including the former Wales House at 64-66 Pitt Street, adjoining the southern side of the site and used as the Raddison Blue Hotel (I1915 - State heritage item).

Several points provide vehicular access to the site including three access points on Spring Street and an additional access point on Bent Street.

The scale of surrounding buildings range from approximately 8 storeys to 29 storeys, with buildings generally being used for commercial and retail purposes, as well as hotels and Sydney Metro West construction sites. A two-way cycleway is located on Pitt Street. Photos of the subject and surrounding areas are shown in Figure 22 and Figure 33.

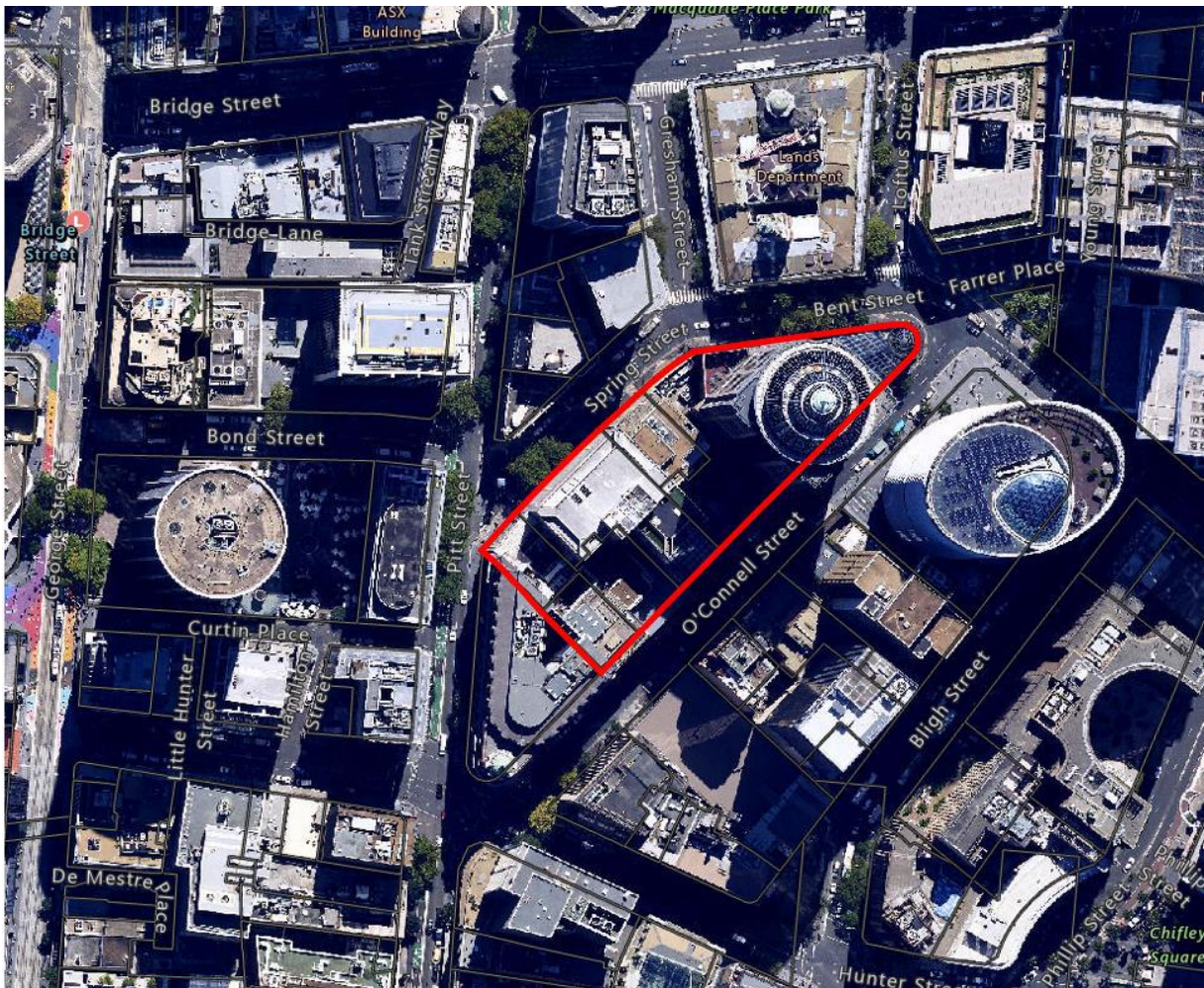


Figure 11 Site Location, site bound in red (source: City of Sydney)



Figure 22: View from corner of O'Connell Street and Bent Street - subject site bound in orange (Source: City of Sydney)

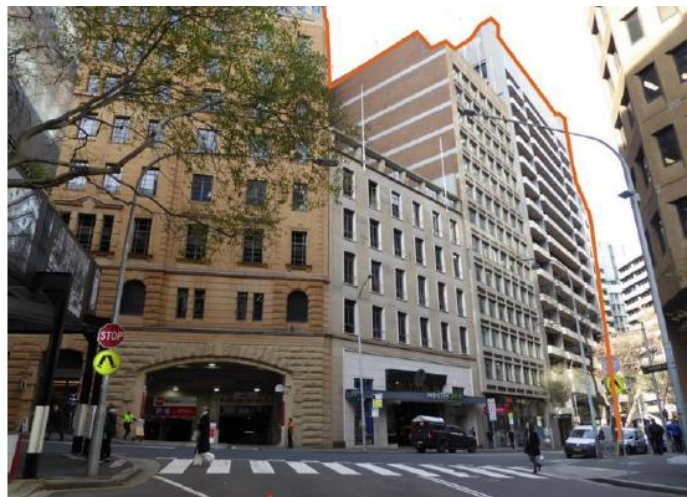


Figure 33: View at corner of Bent Street and Spring Street - subject site bound in orange (Source: City of Sydney)

Exclusion of Development Standards from Variation, a condition has been included in the gateway requiring removal of the exclusion of the proposed provision from Clause 4.6 from the planning proposal.

3 Strategic assessment

3.1 Regional Plan

The Greater Sydney Region Plan – A Metropolis of Three Cities (March 2018) (Region Plan) was prepared by the Greater Sydney Commission. Key objectives of the Region Plan are Infrastructure and Collaboration, Liveability, Productivity and Sustainability. The proposal is consistent with the Region Plan as it will support the delivery of higher capacity development in line with recent infrastructure investment by local and State government (i.e. Sydney Metro and Light Rail). It will also continue and build on the existing use of the site for employment and retail purposes.

3.2 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the District Plans priorities for infrastructure and collaboration, liveability, productivity, and sustainability. The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 3 District Plan assessment

District Plan Priorities	Justification
Planning for a city supported by infrastructure (Planning Priority E1)	The planning proposal will facilitate new office space in proximity to existing and planned transport infrastructure, maximising the efficient use of rail, light rail, Metro and bus services.
Creating and renewing great places and local centres, and respecting the District's heritage (Planning Priority E6)	<p>The planning proposal includes a pedestrian link through the site between O'Connell Street and Spring Street which will contribute to more efficient pedestrian movement through the city and connections to the future Hunter Street Metro station.</p> <p>The site includes a State heritage item and two local heritage items under the Sydney LEP 2012. The site is also located close to other State heritage items and local heritage items listed under Schedule 5 of the Sydney LEP 2012 and as shown in Figure 44.</p> <p>The planning proposal is supported by a Statement of Heritage Impact that concludes that development resulting from the planning proposal has the potential to avoid, minimise, or mitigate potential adverse impacts on the heritage items located on the site as well as buildings adjoining and immediately adjacent to the site.</p>
Growing a stronger and more competitive Harbour CBD (Planning Priority E7)	The subject site is located at the northern end of the Harbour CBD. The planning proposal will enable the development of additional employment floorspace and the creation of jobs supporting the strength and competitiveness of the Harbour CBD.
Delivering integrated land use and transport planning and a 30-minute city (Planning Priority E10)	The site is located approximately 250 metres from Wynyard railway and light rail stations, 350 metres from Circular Quay railway station, 350 metres from Martin Place Metro and railway station and is located opposite the Hunter Street Metro station currently under construction. The planning proposal will facilitate the delivery of new office space close to a range of existing and planned transport infrastructure, maximising the efficient use of rail, light rail, Metro and bus services.
Growing investment, business opportunities and jobs in strategic centres (Planning Priority E11)	The planning proposal will enable the development of additional employment floorspace in the northern part of the Harbour CBD contributing to the creation of jobs as well as growth in investment and business opportunities.

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies as stated in the table below:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement City Plan 2036	<p>The planning proposal is consistent with the LSPS because it will:</p> <ul style="list-style-type: none"> Facilitate well positioned commercial development close to existing and future transport connections, while encouraging walking through a new pedestrian through-site link (I1 Movement for walkable neighbourhoods and connected city) Facilitate the development of new commercial office space close to existing and future transport infrastructure (I2 Align development and growth with supporting infrastructure) Deliver improved street activation through the new pedestrian through-site link, providing shared off street loading facilities and new opportunities for retail and food and drink premises further enhancing the character and walkability of the northern part of Central Sydney (L5 Creating great places) Support growth in Central Sydney by facilitating development that will deliver additional capacity for economic and employment growth (P1 Growing a stronger and more competitive Central Sydney).
Sustainable Sydney 2030-2050	<p>Sustainable Sydney 2030-2050 is the City of Sydney's overarching Community Strategic Plan (CSP), setting out Council's vision for the LGA. The planning proposal is consistent with the CSP because it would support additional employment floor space in a highly accessible location, helping to:</p> <ul style="list-style-type: none"> Meet the City of Sydney's target for 200,000 new jobs by 2036 (Ten targets to measure progress) Encourage people to walk, cycle or use public transport to get to and from work (Direction 5: A city for walking, cycling and public transport) Maintain the City's position locally, nationally and internationally as a destination for business investment and talent (Direction 9: A transformed and innovative economy).
Central Sydney Planning Strategy (CSPS)	<p>The CSPS sets out a 20-year growth strategy through 10 keys moves that aim to balance opportunities for development to meet the demands of growing numbers of workers, residents and visitors and their changing needs in Central Sydney. The planning proposal is consistent with the CSPS because it will:</p> <ul style="list-style-type: none"> Prioritise employment growth and increase employment capacity (Key move 1) Ensure new increased density responds to its context (Key move 2) Provide for new employment space in tower cluster areas (Key move 4) Protect and enhance Central Sydney's public places (Key move 6) Provide for enhanced pedestrian movement corridors through provision of a through site link (Key move 8) Ensure development will exhibit design excellence (Key move 9).

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Focus area 1: Planning Systems		
1.4 Site Specific Provisions	Inconsistent, but minor and justified	<p>While the planning proposal will introduce site specific provisions into the Sydney LEP 2012, inconsistency with the Direction is considered minor and justified.</p> <p>This is because a site-specific provision is the most appropriate mechanism to give effect to the Central Sydney Planning Strategy because it will:</p> <ul style="list-style-type: none"> • Facilitate redevelopment of the site to deliver new employment floor space and increasing capacity within Central Sydney, • Ensure future development has appropriate built form including setbacks, separation, and through site pedestrian link, • Increase height and floor space in an identified tower cluster area, permitting greater development and density while preserving public amenity; <p>Additionally, the proposal will not restrict other permissible land uses in the SP5 Metropolitan Centre zone.</p>
1.4A Exclusion of Development Standards from Variation	Inconsistent – to be resolved through gateway condition	<p>The proposal seeks to exclude the application of clause 4.6 exceptions to development standards from applying to future development subject to the new site specific provision so that future development applications lodged cannot further vary the development standards.</p> <p>The primary objective of clause 4.6 is to provide an appropriate degree of flexibility for future development. The objective of Ministerial Direction 1.4A Exclusions of Development Standards from Variation is to maintain flexibility in the application of development standards by ensuring that exclusions from the application of clause 4.6 are only applied in limited circumstances. Any proposed exclusion from clause 4.6 should also be consistent with the criteria in Part 2 of the <i>Guide to exclusions from clause 4.6 of the Standard Instrument</i> (the Guide) prepared Department of the Planning and Environment in November 2023.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>The planning proposal states it is consistent with the Guide because the planning proposal enables the delivery of substantial public benefits including through site link and public loading/unloading spaces and includes development standards that safeguard public domain amenity. The proposal also states that the proposed development standards have been subject to detailed amenity testing to ensure they result in acceptable amenity impacts and any further variation would result in adverse public domain amenity impacts.</p> <p>It is acknowledged that the proposal does include various public benefits including through site link and loading facilities. However, considering the Ministerial Direction, the objective of clause 4.6 and the Guide, the proposed exclusion of clause 4.6 is not considered appropriate for the following reasons:</p> <ul style="list-style-type: none"> • As detailed in the Guide the proposed uplift should be linked to the provision of the specific public benefit. The proposed bonus FSR and height are not being proposed to facilitate the through site link or public loading/unloading space alone, rather they are proposed to incentivise commercial development in addition to the public benefits • Sydney LEP 2012 contains Sun Access Planes (SAP) and No Additional Overshadowing (NAO) controls to protect the amenity of public places and these controls cannot be varied through clause 4.6. These controls are considered adequate to protect the amenity of the public spaces and guide the built form of future development • The proposed exclusion undermines the flexibility of clause 4.6 in Sydney LEP 2012 particularly because there are other provisions in place in the Sydney LEP 2012 that guide the height of development and protect amenity. <p>Given the above, a condition has been included in the gateway requiring removal of the exclusion of the proposed provision from clause 4.6 from the planning proposal.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
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Focus Area 3: Biodiversity and Conservation

3.2 Heritage Conservation	Consistent	<p>The following heritage items are located on the site (See Figure 44):</p> <ul style="list-style-type: none"> • Former “Rofe Chambers” at 19-21 O’Connell Street (Item 1904 – State heritage item) • Former Chatsworth House façade at 1-15 Spring Street (I1900 – local heritage item) • Former Orient Building façade at 1-15 Spring Street (Item 1901 – local heritage item) <p>Former Wales House (State Heritage Item – I1915) at 64-66 Pitt Street adjoins the site to the south and there are also several heritage items in the vicinity of the site. No amendments are proposed to the existing heritage provisions and listings that apply to the site.</p> <p>The planning proposal is supported by a Heritage Statement that concludes that development resulting from the planning proposal will be capable of avoiding, minimising and mitigating potential adverse impacts on the heritage items located on the site as well as heritage buildings adjoining and immediately adjacent to the site.</p> <p>The planning proposal is consistent with the Direction having adequately considered potential impacts on nearby heritage items and maintaining existing provisions to ensure these remain considerations for future development.</p> <p>Heritage NSW (part of the Department of Climate Change, Energy, the Environment and Water) are responsible for delivering State outcomes relating to heritage. As the subject site contains a State Heritage Item it is recommended that NSW Environment and Heritage (Department of Climate Change, Energy, the Environment and Water) be consulted on the planning proposal and given at least 30 days to comment.</p>
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Focus Area 4: Resilience and Hazards

4.1 Flooding	Consistent	The subject site is identified as flood affected in the City Area Catchment Flood Study and City
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Area Floodplain Risk Management Study which found the following:

- The site is not identified as being of hazard as defined in the 2005 *NSW Government's Floodplain Development Manual* (the Manual) based on the depth and velocity of floodwaters
- There is a major overland flow path along Pitt Street flowing towards Sydney Harbour.
- The peak 1% AEP flow surrounding the site is contained within the road carriageway and the Probable Maximum Flood is within the road carriageway in Spring Street and Pitt Street
- Pitt Street which is the closest major overland flow path and Bent Street which adjoins the site are defined as high hazard areas at peak 1% AEP (now referred to as Hazard category H5 or H6 in accordance with the Flood risk Management Manual released in 2023)
- The streets adjoining the site, with the exception of Pitt Street will not be inundated above 0.3 metres. Pitt Street which is the closest major overland flood path will not be inundated above 0.3 metres for more than 2 hours.

While Pitt Street and Bent Street adjoining the site is mapped as high hazard, O'Connell Street adjoining the site to the south east is a low hazard area which is generally safe for vehicles, people and buildings and will provide appropriate access to and from the site in a flood emergency.

The planning proposal is also supported by a desktop flood impact assessment which assesses the flooding conditions of the site in the 1% AEP and PMF flood events to inform the preliminary Flood Planning Levels for the proposal. The assessment confirms that future development on the site is capable of being consistent with the City of Sydney Interim Floodplain Management Policy which has been prepared with regard to the Floodplain Development Manual 2005 (replaced by the Flood Risk Management Manual 2023).

Given the above, the planning proposal is consistent with the Direction, future development is capable of being consistent with the Floodplain Development Manual 2005 and the proposed

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		provision is commensurate with flood behaviour at the site and surrounds.
4.5 Acid Sulfate Soils	Inconsistent, but minor and justified	<p>The site is identified as Class 5 Acid Sulfate Soils in the Sydney LEP 2012. No Acid Sulfate Soils review or study has been submitted with the planning proposal to demonstrate environmental impacts will be avoided on land having a probability of acid sulfate soils.</p> <p>The inconsistency with the Direction is considered minor and justified because:</p> <ul style="list-style-type: none"> • The planning proposal does not seek to change the SP5 Metropolitan zone • Class 5 Acid Sulphate Soils are considered low risk (i.e. unlikely to be present) • Sydney LEP 2012 contains suitable provisions to ensure acid sulfate soils can be appropriately considered and addressed through further investigation and testing of the soil as part of any future development application.

Focus Area 5: Transport and Infrastructure

5.3 Development Near Regulated Airports and Defence Airfields	Unresolved, to be resolved through gateway condition	<p>The height of development resulting from the provisions of the planning proposal would constitute a controlled activity under the Airports Act 1996, due to penetration of the Obstacle Limitation Surface (OLS). Under this Direction during the preparation of the planning proposal the relevant authority must obtain permission from the Department of the Commonwealth responsible for airports prior to public exhibition.</p> <p>An aeronautical impact assessment submitted in support of the planning proposal notes that any future development on the site will be significantly lower than the Radar Terrain Clearance Chart surface height and therefore is unlikely to result in adverse impacts on safety or efficiency of airport traffic.</p> <p>The planning proposal notes that the required consultation will be undertaken during public exhibition. It is considered acceptable to undertake consultation and obtain feedback during public exhibition given there are other buildings that exceed the OLS nearby in Central Sydney that have recently obtained advice from</p>
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Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>the Department of Infrastructure, Transport, Regional Development, Communications and the Arts and Sydney Airport as operator.</p> <p>A Gateway condition has been included requiring consultation with the Australian Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, Sydney Airport as operator, Civil Aviation Safety Authority (CASA) and Air Services Australia.</p>

Focus Area 6: Housing

6.1 Residential Zones	Consistent	<p>The planning proposal is consistent with the Direction as while it seeks to incentivise commercial development in accordance with the Central Sydney Planning Strategy it will not reduce the permissible residential density of the land.</p>
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Focus Area 7: Industry and Employment

7.1 Employment Zones	Consistent	<p>The Planning Proposal is consistent with the Direction as it will facilitate development of a commercial tower that will:</p> <ul style="list-style-type: none"> • Encourage employment growth in Central Sydney • Support the viability of Central Sydney by increasing the floor space for employment uses.
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3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below. Table 6 Assessment of planning proposal against relevant SEPPs

Table 6 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Transport and Infrastructure) 2021	The SEPP requires consultation with public authorities for certain types of development applications.	Consistent	<p>Under the SEPP development resulting from the planning proposal will require referral to Transport for NSW due likely excavation depths combined with the sites location in a rail corridor and the traffic generating nature of the development.</p> <p>A Gateway condition has been included requiring consultation with Transport for NSW during the exhibition period.</p>
SEPP (Biodiversity and Conservation) 2021	The SEPP contains provisions to protect the catchment, foreshores, waterways and islands of Sydney Harbour.	Consistent	<p>The site is located on land in the Sydney Harbour Catchment under the SEPP. However, it is not within the Foreshore and Waterway Area.</p> <p>The SEPP contains general controls, as well as controls for development in specific areas and for specific purposes in the Sydney Harbour Catchment. The SEPP controls can be considered during the assessment of future development applications.</p> <p>The planning proposal does not contain any provisions that will impede the operation of the SEPP.</p>

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Solar, Access and Overshadowing	<p>An Urban Design Report prepared by Matthew Pullinger Architect accompanying the planning proposal includes a reference design that illustrates an approach to the proposed controls. The shadow diagrams included illustrate the reference design will not result in additional overshadowing of The Domain, Hyde Park, Martin Place and Pitt Street Mall during the hours specified in Clause 6.17 and Clause 6.18 of Sydney LEP 2012 in mid winter.</p> <p>The planning proposal does not include an analysis of the overshadowing impacts to nearby residential properties. The site is Central Sydney and the planning proposal gives effect to the Central Sydney Planning Strategy (CSPS) which envisages increased heights and density for employment uses in suitable locations in Central Sydney. The CSPS seeks to ensure that future development considers local context and adequate amenity (including access to sunlight) is provided for. A gateway condition has been included requiring the planning proposal to be updated to include an overshadowing analysis for residential properties in the vicinity of the site for the purposes of public exhibition.</p>
Heritage	<p>Three heritage items are located on the site and various other heritage items in the vicinity of the site. A Heritage Impact Statement has been submitted with the planning proposal that concludes the proposal would not impact these heritage items. This is discussed in further detail in Section 3.4.</p>
Flooding	<p>The subject site is identified as flood affected in the City Area Catchment Flood Study. A desktop flood impact assessment has been submitted with the planning proposal which is discussed in further detail in Section 3.4.</p>
Contamination	<p>The planning proposal does not involve any changes to the permitted land uses and is therefore not likely to increase contamination risk. Further investigation regarding potential contamination and remediation will be undertaken as part of the any future development application.</p>
Sustainability	<p>The planning proposal is supported by an ecological sustainable design report confirming that development permitted under the planning proposal will meet and, in some cases, exceed the relevant sustainability requirements and City of Sydney sustainability provisions.</p>
Wind	<p>The planning proposal is supported by a pedestrian wind environment study which demonstrates that wind conditions for the maximum planning envelope permitted under the planning proposal will achieve or exceed the target criteria for pedestrian wind comfort and safety.</p>
Airport Operations	<p>The planning proposal is supported by an aeronautical impact report given the proposed height would exceed the Obstacle Limitation Surface (OLS). The report concludes that the proposed reference building would not create any adverse impact on the safety and operation of Sydney Airport because:</p> <ul style="list-style-type: none"> • The site is located close to existing buildings in CBD which are taller • The proposed height is below the RTCC surface height.

4.2 Social and economic

The planning proposal will have positive economic impacts, with development resulting from the planning proposal providing additional commercial floor space and jobs, supporting the economic growth of Sydney and contributing to strengthening Sydney's role as a globally competitive city.

The planning proposal will also have positive social impacts through the provision of a through site link improving walkability and connections in the Central Sydney area.

It is not expected that development resulting from the planning proposal will have adverse social and economic impacts.

4.3 Infrastructure

Table 8 assesses the adequacy of infrastructure to service development resulting from the planning proposal, as well as proposed infrastructure to support future development.

Table 8 Infrastructure assessment

Infrastructure	Assessment
Traffic, Transport and Movement	<p>A Traffic Impact Assessment and a Pedestrian Assessment Study were submitted in support of the planning proposal, it concludes the following:</p> <ul style="list-style-type: none"> • Development permitted under the planning proposal would be able to comply with LEP and DCP parking requirements for bicycle parking, end of trip, car share, motorcycle and accessible parking • The proposed provisions require a shared loading dock which will accommodate service vans that currently use O'Connell St (limited to vans due to height clearance) with larger vehicles using the main loading dock • A future freight and servicing strategy for site will ensure adequate loading spaces are provided in accordance with the City of Sydney requirements • The increase in private vehicle, rideshare and taxi trips is not expected to have a significant impact on the existing road network • Public transport is considered to have sufficient capacity to accommodate additional public transport demand • Together, the through-site link and proposed street upgrades will provide additional walking space resulting in greater comfort and safety for O'Connell Precinct users and more broadly, Sydney CBD pedestrians.
Utilities and Services	<p>The planning proposal confirms the site is adequately serviced by public utilities and infrastructure, including electricity, telecommunications, water, sewerage and stormwater.</p> <p>Noting the planning proposal involves increasing commercial floorspace, a Gateway condition has been included to consult with relevant utility providers including Sydney Water during the exhibition period.</p>

5 Consultation

5.1 Community

The planning proposal is categorised as standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Transport for NSW
- Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts
- Sydney Airport
- Civil Aviation Safety Authority
- Air Services Australia
- Utility Providers, including Sydney Water
- Heritage NSW (Department of Climate Change, Energy, the Environment and Water)

Consultation with the above agencies has been included as a condition of the Gateway determination.

6 Timeframe

Council proposes an 8 month time frame to complete the LEP.

The Department recommends an LEP completion date of 11 September 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to this effect is recommended in the Gateway determination.

7 Local plan-making authority

At its meeting on 29 July 2024, Council resolved to seek authority from the Department to exercise the delegation of all the functions under Section 3.36 of the EP&A Act 1979 as the Local Plan-Making Authority (LPMA).

Council also resolved to provide delegated authority to Council's CEO to make any minor variations to the planning proposal to correct any drafting errors or to ensure consistency with the Gateway Determination.

The Department recommends that Council be authorised to be the LPMA given the standard nature of the planning proposal and given the planning proposal is consistent with the District Plan, the endorsed LSPS, applicable SEPPs and has minor and justifiable inconsistencies with Section 9.1 Directions.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is consistent with the District Plan and Council's Local Strategic Planning Statement enabling the delivery of additional employment floor space in the CBD, helping to accommodate more jobs and support continued economic growth.
- Inconsistency with Section 9.1 Directions 1.4 Site Specific Provisions and 4.5 Acid Sulfate Soils are minor and justified. A Gateway condition requiring consultation with the Department of Infrastructure, Transport, Regional Development, Communication and the Arts will resolve consistency with Direction 5.3 Development Near Regulated Airports and Defence Airfields
- A gateway condition is included requiring the planning proposal to be updated prior to public exhibition to:
 - Remove the exclusion of the proposed provision from Clause 4.6 to address inconsistency with Section 9.1 Direction 1.4A Exclusion of Development Standards From Variation
 - Remove reference to the proposed provision being on an opt-in basis from Appendix 1 of the planning proposal and anywhere else occurring in the planning proposal
 - Provide an assessment of overshadowing impacts on residential properties in the vicinity of the site.
- The planning proposal is consistent with all other relevant Section 9.1 Directions.
- An amendment to the Sydney LEP 2012 is the best means of achieving the objectives and intended outcomes of the planning proposal.
- Likely environmental, social, economic and infrastructure impacts have been considered.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with the following section 9.1 Directions are minor and justified:
 - 1.4 Site Specific Provisions
 - 4.5 Acid Sulfate Soils
- Note that consistency with Section 9.1 Direction 5.3 Development Near Regulated Airports and Defence Airfields is unresolved and will require permission being granted for the proposal from the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

It is recommended the delegate of the Minister determine that the planning proposal should proceed to Gateway determination subject to the following conditions.

1. The planning proposal is to be updated prior to community consultation to:
 - Remove the exclusion of the proposed provision from Clause 4.6 to address inconsistency with Section 9.1 Direction 1.4A Exclusion of Development Standards From Variation
 - Remove reference to the proposed provision being on an opt-in basis from Appendix 1 of the planning proposal and anywhere else occurring in the planning proposal
 - Provide an assessment of overshadowing impacts on residential properties in the vicinity of the site.
2. Consultation is required with the following public authorities:
 - Transport for NSW
 - Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts
 - Sydney Airport

- Civil Aviation Safety Authority
- Air Services Australia
- Utility Providers, including Sydney Water
- Heritage NSW (Department of Climate Change, Energy, the Environment and Water)

3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 11 September 2025 be included on the Gateway.



5 November 2024

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15 November 2024

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