

Planning Assessment Commission Rezoning Review – Recommendation Report

The Planning Assessment Commission (the Commission) has received the request for a rezoning review of the planning proposal as detailed below.

Date of Review:	1 December 2017
Department Ref. No:	PGR_2017_SYDNE_001_00
LGA:	City of Sydney
LEP:	Sydney Local Environmental Plan 2012
Address:	4 – 6 Bligh Street, Sydney
Commission Chair:	Abigail Goldberg
Commission Members:	Stephen O'Connor and Annelise Tuor

Reason for review:	<input checked="" type="checkbox"/>	The Council has notified the proponent that the request to prepare a planning proposal has not been supported
	<input type="checkbox"/>	The Council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

In considering the request, the Commission has reviewed all relevant information provided. The Commission was briefed separately by the Department of Planning and Environment (the Department), City of Sydney Council (the City) and Architectus Group Pty Ltd (the proponent). Summaries of these meetings are attached at Appendices 1, 2 and 3.

After carefully considering the relevant information the Commission recommends that the planning proposal should be submitted for a Gateway determination. The Commission's advice and justification for this recommendation is provided below.

Recommendation:	<input checked="" type="checkbox"/>	The proposal should be submitted for a Gateway determination, because the proposal has demonstrated Strategic Merit and Site Specific Merit.
	<input type="checkbox"/>	The proposal should not be submitted for a Gateway determination, because the proposal: <input type="checkbox"/> has not demonstrated Strategic Merit; or <input type="checkbox"/> has demonstrated Strategic Merit but not Site Specific Merit

Planning Assessment Commission Advice and Reasons for Recommendation:

Rezoning review process and role of the Commission

The Commission received a request from the Department on 31 October 2017 relating to a planning proposal for land at 4 -6 Bligh Street, Sydney (the site). The Commission was *'requested to review*

and determine its suitability to be referred to the Department for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979'.

The proponent began meeting with the City to discuss a planning proposal on 29 November 2016. The proponent is seeking an amendment to the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012) to increase the floor space ratio (FSR) on the site from 14.88:1 to 22.0:1 for commercial and hotel uses. On 7 September 2017, the City informed the proponent that it would not consider the planning proposal.

Strategic merit test

The Commission was required to consider whether the planning proposal meets one of the assessment criteria for strategic merit, as set out in *Planning Circular 16-004 – Independent reviews of the plan making decisions* (the Planning Circular).

Consistency with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or

The *Revised Draft Eastern City District Plan* (the draft District Plan) is the relevant strategic document to be considered for the review of strategic merit of the project.

The draft District Plan provides a 20-year strategy to develop jobs and skills in the City of Sydney local government area. It defines planning priorities for relevant authorities to consider in delivering this outcome, including a focus on planning infrastructure, growing investment, business opportunities and jobs in strategic centres and supporting growth of targeted industry sectors, including tourism.

In particular, the Commission considers planning priorities E1, E3, E7, E11 and E13 established by the draft District Plan as the most relevant to the project and the site.

Planning priorities E1, E3 and E7 emphasise the importance of appropriate planning and delivery of transport and social infrastructure and services to meet community requirements and expectations, while encouraging the expansion of the Sydney CBD. Planning priority E7, specifically highlights the need to “*Review the current planning controls and create capacity to achieve the job targets for the Harbour CBD*”.

Planning priorities E11 and E13 prioritise the need to identify and address limitations in the Sydney CBD, including growing demand for suitable office space and options regarding expanding building size. These planning priorities recognise that “*there will be significant demand for additional office floor space*” and the need for new office towers to have access to large floorplates. The draft District Plan recognises that certain industries, including tourism, play an important role in the economic function of Sydney and need to be appropriately fostered.

The Commission considers that the project is consistent with planning priorities in the draft District Plan relevant to the site. The Commission also considers that the project is likely to facilitate the implementation of the planning priorities detailed above, as set out in the draft District Plan.

The Commission considers that, while negotiations are ongoing, the project is likely to contribute to the City’s development of infrastructure and services through an infrastructure contribution to the City. The proposal would also be developed on a site permitting either employees or visitors to easily access and utilise public transport as well as other infrastructure servicing the visitor economy.

The Commission considers the development of the project would facilitate opportunities “to enhance the tourist and visitor economy in the District, including a coordinated approach to tourism activities, events and accommodation”. Through the provision of modern office and hotel space, the project is likely to promote other targeted industries that rely on these facilities.

The Commission notes the proponent’s view that the increased FSR will allow for the most effective use of the site in meeting the planning priorities of the draft District Plan. However, the Commission recognises that the requested FSR incorporates the bonus FSR that can be achieved through the Design Excellence provisions of Sydney LEP 2012. The proposed envelope accommodates less FSR than the maximum proposed FSR of 22:1. The proposal should clarify how the additional FSR is to be accommodated or the maximum FSR should be reduced to reflect what is achievable. Accordingly, meeting these requirements will need to be demonstrated by the proponent for the additional FSR, up to 22:1, to be allowable.

Strategic merit summary

The Commission notes the proponent’s view that the project is consistent with the aims and planning controls set in the *Draft Central Sydney Planning Strategy 2012 – 2036*. However, the Commission also notes that this strategy has not been publicly exhibited or endorsed by the Department and is therefore not a relevant consideration in relation to assessing strategic merit.

The Commission notes that there are changes to circumstances in the locality of the site arising from investment in infrastructure, such as the Sydney Metro rail system. This view was supported by the proponent but of itself this would not constitute strategic merit.

The Commission considers the planning proposal is consistent with the relevant priorities and actions of the draft District Plan, particularly in relation to increasing investment in both high-quality office space, accommodation to improve tourism offerings and infrastructure funding, pending finalisation of negotiations. The Commission therefore considers the review of the existing controls is appropriate and potentially of benefit to the wider area.

The Commission notes that the strategic merit of the project is intrinsically linked to the proposed development of hotel accommodation and modern office space. As such, changes to the proposal which change the final land use at the site may reduce or remove the strategic merit of the project. The strategic merit of the project is also intrinsically dependent on the provision of infrastructure funding and satisfactory arrangements are required for the proposal to progress to finalisation.

Site-specific merit test

The Commission was required to consider whether the planning proposal meets the three assessment criteria for site-specific merit, as set out in the Planning Circular.

The natural environment (including known significant environmental values, resources or hazards)

The planning proposal identified the impacts to the natural environment which may occur from developing the project. These include impacts on site amenity, heritage values, traffic and rail access. The proponent provided a preliminary assessment of the impacts, with the view of providing further information as part of the detailed consideration of the planning proposal.

The proponent found the proposed building envelope may result in slight amenity impacts as a result of overshadowing impacts and solar access. The planning proposal identified that proposed tower setback could result in an improved outcome for the site with regard to pedestrian wind impacts.

The proponent identified that the site is adjacent to three heritage properties: the Qantas House, the Sofitel Wentworth Hotel and the City Mutual Life Assurance Building. The preliminary heritage assessment found that *the proposed development does not generate any unacceptable impacts to surrounding heritage items, will not result in visual dominance over, or detract from, the context or setting of these items within the Streetscape.*"

The Commission notes that while potential impacts from the project have been identified, preliminary assessment of these impacts suggests they are unlikely to be significant. The provided documentation, such as the Pedestrian Wind Environment Study wind and the Sky View Factor Report, also indicates that acceptable outcomes are capable of being achieved on the site and will be informed through the detailed design process.

The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal

The site currently holds an 18-story building containing commercial office space. The site is zoned B8 – Metropolitan Centre, which is consistent with the site's existing and proposed uses. The surrounding area comprises offices, retail space and hotel accommodation.

Nearby, existing and future land uses are limited by buildings of heritage significance adjacent to the project site, as discussed previously. The Commission considers the project is unlikely to impact on the current or future land uses, which are limited by planning controls managing development on or near heritage items and streetscapes.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

The planning proposal has identified that the site is serviced by existing public transport infrastructure, including access to heavy rail, buses and ferry terminals within 500 metres. Access to transport is expected to be further enhanced through the expansion of the light rail system along George Street, and construction of the Sydney Metro, including a station at Martin Place.

The proponent identified that services to the site, including electricity, water, sewer, stormwater and telecommunication infrastructure may require upgrades because of the project. The necessity for, and extent of, these upgrades would be considered as part of the detailed review of the planning proposal.

The Commission considers that the services and infrastructure are either likely to be suitable to meet the demand established by the project, or will be upgraded accordingly by the applicant. The Commission notes the willingness of the proponent to negotiate an appropriate infrastructure contribution payable to the City to address increased demand for public transport infrastructure resources.

Site specific merit summary

The Commission concludes that site specific merit for the proposed increase in FSR has been established by the planning proposal. The proponent has demonstrated the appropriateness of a proposed increase in FSR controls in terms of effectively developing the site to meet the expanding needs of the Sydney CBD, especially regarding modern office space and the expansion of centrally located premium tourist accommodation. The need for additional premium tourist accommodation has been highlighted in the *City of Sydney's Tourism Action Plan (2013)*, which recognises the need for additional hotel rooms to meet expected increase in demand.

While the Commission notes that refinements will be required to fully characterise the potential impacts of the development, these assessments can be finalised as part of the detailed design process, the completion of the design excellence competition and the detailed review of the planning proposal. Similarly, while the negotiations regarding the proponent's financial contribution to infrastructure are ongoing, the Commission considers that they provide a suitable mechanism to address increased demand and ensure a public benefit is achieved.

Conclusion

The Commission notes that the City identified concerns regarding the procedural appropriateness of the request for rezoning review. The City and the proponent provided clarification of their positions in this regard that was subsequently reviewed by the Department. The Department confirmed that a valid request, including the required information, had been made (Appendix 4).

The Commission concludes that the request for a rezoning review should proceed at this time as the proposal before the Commission is considered to meet the strategic merit test and the site-specific merit test.

The proponent and the City are encouraged to build on the extensive work undertaken to date and to collaborate regarding the form that an amendment to the provisions of Sydney LEP 2012 should take. The Commission notes the extent and duration of consultation which has already been undertaken between the City, the proponent and the Department. Accordingly, the Commission considers that it is reasonable for procedural aspects of the review to now be expedited.

Date of Recommendation: 22 December 2017


Signed by:



Abigail Goldberg
Chair of the Commission



Stephen O'Connor
Member of the Commission



Annelise Tuor
Member of the Commission

Appendix 1: Department of Planning & Environment Briefing with Planning Assessment Commission

This meeting is part of the review process.		
Meeting notes taken by David Way	Date: 5 December 2017	Start Time: 9:30 am
Project: Request for Rezoning Review for land at 4-6 Bligh Street, Sydney		
Meeting place: Planning Assessment Commission Offices, 201 Elizabeth Street, Sydney		
Attendees: Commission Members: Abigail Goldberg (chair), Stephen O'Connor and Annelise Tuor Commission Secretariat: David Mooney (Team Leader) and David Way (Senior Planning Officer) Department of Planning and Environment: Wayne Williamson (Team Leader, Metropolitan Delivery) and Mary Su (Planner Metropolitan Delivery)		
The purpose of the meeting is for the Department to brief the Commission on the request for rezoning review.		
Topics Discussed <ul style="list-style-type: none"> Procedural considerations of the review process including: <ul style="list-style-type: none"> Consultation process between the Department, Architectus Group Pty Ltd (the proponent) and the City of Sydney Council (Council). Confirmation of the documents and reports which were provided to Council, as detailed in the Department's briefing report. Review Request and Site Description <ul style="list-style-type: none"> Specifications for the project and the provided project rationale, including the development of additional accommodation and office space in the Sydney Central Business District. Identification of the adjacent heritage buildings and the limitations to the project site regarding potential amalgamation with adjacent sites. Consistency of the size and access of the proposed project having regard to the <i>Sydney Local Environment Plan 2012</i> and the <i>Revised Draft Eastern District Plan</i>. The status and content of the <i>Draft Central Sydney Planning Strategy 2012 – 2036</i>, including the nature of the Department's comments back to Council The submission by Council, dated 20 November 2017, including procedural considerations for the review request in relation to Council's submission and confirmation from the Department that a valid request had been made. Context of the review request and the advice requested by the Department, including consideration of the strategic and site based merit of the proposal. The Commission requested that the Department provide clarification on the procedural concerns raised in Council's submission dated 17 November 2017. 		
Documents tabled: NA		
Meeting to be closed at 10:30 am		

Appendix 2: Planning Assessment Commission meeting with City of Sydney Council (Council)

This meeting is part of the review process.		
Meeting notes taken by David Way	Date: 5 December 2017	Start Time: 10:45 am
Project: Request for Rezoning Review for land at 4-6 Bligh Street, Sydney		
Meeting place: Planning Assessment Commission Offices, 201 Elizabeth Street, Sydney		
<p>Attendees:</p> <p>Commission Members: Abigail Goldberg (chair), Stephen O'Connor and Annelise Tuor</p> <p>Commission Secretariat: David Mooney (Team Leader) and David Way (Senior Planning Officer)</p> <p>City of Sydney Council: Andrew Thomas (Executive Manager, Strategic Planning & Urban Design), Sally Peters (Manager Central Sydney Planning), Tim Wise (Senior Specialist Planner) and Karen Judd (Specialist Planner)</p> <p>Department of Planning and Environment: Mary Su (Planner Metropolitan Delivery), as an observer.</p>		
The purpose of the meeting is for the City of Sydney Council to discuss the rezoning request with the Commission		
<p>Topics Discussed</p> <ul style="list-style-type: none"> • Procedural considerations and Council Submission: <ul style="list-style-type: none"> - The inconsistent application of <i>Planning Circular 16-004 – Independent reviews of the plan making decisions</i> to the project, noting the amendments of documentation, the rezoning request being made after 42 days and an application for a planning proposal had not been made to Council. - Discussion of the planning proposal and application process. Council confirmed that the application form is not publicly available and must be requested directly from the planning branch at Council. - Council confirmed that the application form for a planning proposal was provided to the Architectus Group Pty Ltd (the proponent) after they had received notice of the zoning review from the Department and after Council had notified the applicant that they would not consider any planning proposals. • The strategic merit of the project <ul style="list-style-type: none"> - The inconsistency of the proposal against planning priorities established in the <i>Revised Draft Eastern District Plan</i> (the district plan). - Specific concerns were raised in relation to: Priority E1: a city supported by infrastructure, Priority E3: providing services and social infrastructure to meet people's changing needs, Priority E7: growing a stronger and more competitive Harbour CBD and Priority E19: reducing carbon emissions and managing energy, water and waste efficiently. - The inconsistency was supported by Council's views that the applicant had not provided a suitable infrastructure contribution in relation to the amount of additional requested floor space and a lack of commitment to manage carbon and waste stream. - The lack of commitment within the provided planning proposal for the development to implement energy, water and waste efficiency measures consistent with the district plan and Council's expectations. • The site specific merit of the proposal <ul style="list-style-type: none"> - Inconsistencies in the building envelopes based upon a proposed floor space ratio (FSR) of 20.3:1 - 20.4:1 and a requested FSR of 22:1 despite not demonstrating design excellence. - the limitations of the project to provide a public benefit due to the inadequate contribution by the 		

applicant to infrastructure funding.

- Insufficient protection for the site to be developed as hotel accommodation and office space in the provided draft amendment. The Council noted that any strategic and site based merit described by the applicant relates only to office and accommodation developments.
- The Commission requested clarification of the City of Sydney's view on the procedural concerns raised in their submission dated 17 November 2017 and the Strata and amalgamation restrictions on the adjacent heritage properties.

Documents tabled: Written statement

Meeting to be closed at 11:45 am

Appendix 3: Planning Assessment Commission Meeting with Architectus Group Pty Ltd (the proponent)

This meeting is part of the review process.		
Meeting notes taken by David Way	Date: 5 December 2017	Start Time: 13:00
Project: Request for Rezoning Review for land at 4-6 Bligh Street, Sydney		
Meeting place: Planning Assessment Commission Offices, 201 Elizabeth Street, Sydney		
<p>Attendees:</p> <p>Commission Members: Abigail Goldberg (chair), Stephen O'Connor and Annelise Tuor</p> <p>Commission Secretariat: David Mooney (Team Leader) and David Way (Senior Planning Officer)</p> <p>Architectus: Andrew Heithersay (Managing Director SC Capital Partners Group (owner)), Sam Haddad – SG Haddad Advisory), Ray Brown (Managing Director, Architectus), Michael Harrison (Director Urban Design and Planning, Architectus), Jane Fielding (Senior Associate & Urban Planner, Architectus), Taylar Vernon (Senior Urban Planner, Architectus) and Henry Newman (Project Director, Coffey).</p> <p>Department of Planning and Environment: Mary Su (Planner Metropolitan Delivery), as an observer.</p>		
The purpose of the meeting is for Architectus to discuss the proposed rezoning request with the Commission.		
<p>Topics Discussed</p> <ul style="list-style-type: none"> • Project description and procedural considerations of the review process <ul style="list-style-type: none"> - The proponent highlighted the extensive and long consultation process between themselves, the Department and the City of Sydney Council (Council). The proponent noted the long timeframes for consultation with little progress. - Status of negotiations with council regarding infrastructure contributions and the stated differences in contribution expectations in relation to the amount of additional floor space to be considered. - The need for a measurable advancement of the project to secure continued funding from the parent company to continue development of the project. - The studies to date which have been completed to support the proposed project, including reviews of the amenity impacts, heritage considerations and infrastructure considerations. - The applicant stated their view that a number of the issues raised by Council could more appropriately be managed through as part of the detailed design phase of the project and associated review as part of a determination process. • The strategic merit of the project <ul style="list-style-type: none"> - Planning instruments and plans considered during the development, including identified actions to foster the tourism industry and to meet expanding demand for hotel and high-quality office space. - The status of Sydney hotel accommodation and the limited development of new accommodation to meet expanding need, as identified in the <i>City of Sydney's Tourism Action Plan</i>. - The consistency of the project with the <i>Draft Central Sydney Planning Strategy 2012 – 2036</i> as well as the <i>Revised Draft Eastern District Plan</i>. • The site specific merit of the project <ul style="list-style-type: none"> - Limitations of development at the site as a result of the adjacent heritage listed buildings, including the limited potential for site amalgamation as a method for increase floor space ratio (FSR). - Connection of the site to public transport and associated access for both office users and tourism operators and customers. 		

- Justification for the additional FSR requirements beyond the modelled 20.3:1 to ensure flexibility in design for the planned design excellence competition. Confirmation from the proponent that the additional FSR up to 22.0:1 could be accommodated within the proposed envelope by measures such as providing floor area such as gyms in basements and it does not object to the envelope forming part of the proposed LEP amendment.
- Potential timeframes for the proposal, assuming the Commission advised that the request proceed to a Gateway determination.
- Confirmation from the proponent that it would enter into an agreement which requires a financial contribution to infrastructure funding that complies with the requirements of policies and plans adopted for the City in its future planning framework.
- The Commission requested clarification of Architectus' view that a valid review request had been submitted, reflecting the procedural concerns raised by Council's submission of 17 November 2017.

Documents tabled: Summary of Planning Proposal – Rezoning Review 4 – 6 Bligh Street, Sydney

Meeting to be closed at 14:00