

**The Owners Corporation  
Strata Plan No 51487',  
197 Castlereagh Street,  
SYDNEY NSW 2000**

**July 10<sup>th</sup>, 2020**

**Strategic Engagement and Community Relations**

**City of Sydney- [sydneyyoursay@cityofsydney.nsw.gov.au](mailto:sydneyyoursay@cityofsydney.nsw.gov.au)**

**Town Hall House, Level 7**

**456 Kent Street, SYDNEY NSW 2000**

Dear City of Sydney Council,

**Reference S064204.024 – Central Sydney Planning. Submission for new Central Sydney Planning Framework.**

## **INTRODUCTION**

On behalf of the owners of lots in Strata Plan 51487, known as Victoria Tower, 197 Castlereagh Street, Sydney, we make a submission regarding the changes proposed in the 2020 Central Sydney Planning Framework, placed on public consultation until 10 July 2020.

The invitation (8/5/20) for feedback placed on the Council website seeks feedback on a... "Planning Framework to improve and retain Sydney's standing as Australia's premier business district and global city.... The first major review of planning controls in Central Sydney for 45 years. It sets out a plan for growth for Central Sydney to be able to support a further 100,000 jobs over the next 20 years, be resilient to market challenges and stimulate enterprise."

As well ... "the strategy ensures the sustainable growth of Central Sydney, incentivises high-quality design and respects our special places, spaces and parklands."

The homepage for the Framework states "Central Sydney is the engine room of the NSW economy. We have updated our planning framework to ensure future growth occurs where it respects our special places, spaces, and parkland, and is highly sustainable, resilient, and responsive to climate change. With the significant investment in transport infrastructure, Central Sydney must support more jobs, while maintaining our quality of life. While COVID – 19 is impacting our lives, our jobs and the economy, there is also a place for us to continue with good and thoughtful planning for our city's recovery and future livelihoods. The Planning Framework provides a clear path for investment to help rebuild business confidence and support jobs in small and large businesses. It considers commercial development, hotel and visitor accommodation, cultural uses and retail alongside residential living."

The homepage then identifies the areas affected by the changes including Central Sydney bounded by Central Station to the south, the Domain and Hyde Park on the east, Observatory Hill on the west and King Street wharf, then Sussex Street to Chinatown and Haymarket, apparently, the area covered by the B8 Metropolitan zone Central Sydney which stretches from Darling Harbour to Elizabeth Street and from Circular Quay to Belmore Park.

The accompanying proposed Contributions Plan for infrastructure for the area, also covers Millers Point, Barangaroo, Woolloomooloo Wharf, businesses in Oxford Street and Elizabeth Street to Central Park on the southern side of Broadway and Prince Alfred Park, allowing these areas to contribute to the cost of infrastructure in the remainder of the Central Sydney area.

The reader is then invited to review a mind-boggling list of documents from the Planning Proposal through related projects, links, COVID-19 response documents, planning strategy and attachments including maps, appendices, correspondence and other documents starting with “Our Sustainable Sydney 2030” vision.

### **PRELIMINARY COMMENTS**

Our preliminary conclusion, having done our best to review and understand the mountain of documentation, is that the Council has abandoned its often stated commitment to the residents of Sydney City, recently stated in the 2016 “Our Sustainable Sydney 2030 vision”, in favour of a complete re-prioritising in favour of office developers and commercial interests.

The presentation of the proposals comprising many complicated, interrelated, and interacting provisions, broken into many unindexed parts, mostly unauthored, including complex technical detail, gaps, and errors, makes it exceedingly difficult to respond. The mechanisms used to review the 2030 vision, amend the Sydney LEP 2012 via the Planning Proposal and amendment upon draft amendment of the 2012 DCP do not assist.

The Summary of Key Changes proposed for Central Sydney in the Documents lists the major changes which are proposed, and which warrant noting in detail –

- Amend zone objectives to promote wide ranging employment uses in Central Sydney.
- Provide a pathway for a design excellence bonus of up to 50% more floorspace plus additional height in the four Tower cluster areas.
- Amend provisions for tall buildings to meet performance criteria, including limiting building heights to 55 m on sites 1000 m<sup>2</sup> or less.
- Increase building heights from 80 m to 110 m on the western edge of Central Sydney.
- Amend sun access provisions that affect building height.
- Introduce a new provision to preserve significant views from public places by restricting encroachment of tall buildings.
- Remove the extra incentive for residential floorspace.
- Update the provision for improved energy efficiency.

In our view, the combined proposals amount to an enrichment of unidentified owners of employment sites, loss of amenity and life in the city, additional congestion, and construction disruption, all at the expense of residents’ amenity, views and expectations based upon long expressed policies and views of the Council and community.

## SUBSTANCE OF IMPACTS ON RESIDENTS

Cutting through the mass of documentation, explanations and justifications, the Proposal is to:

- **favour** developers and employment opportunities over residents, visitors, connection amongst people, walking and cycling networks, community and cultural life, a sense of well-being and programs and services including artistic expression, performance, events, and festivals.
- **give** developers massive gifts of extra floor space for no proven public benefit, and no consideration, potentially leaving the city unprotected against corruption risk, and
- **strip** away from residents, owners and tenants long-held rights to recognise private views and view sharing, which are fundamental components of our property system, paid for by purchasers, owners and tenants and long-recognised by the property industry, the courts and government, no matter how inconvenient to planners.

Whilst the proposal and consultation period purport to provide transparency and an adequate opportunity for consultation we cannot ignore the process adopted by Council which has amounted to a jettisoning of long-held policies and principles through the unannounced adoption of a "Strategy Addendum" which summarily changes the 2030 Vision to support and require the options contained in the Planning Proposal, without justification or consultation.

The Proposal also purports to defend sun protection of public parks and places as a key objective, however through the proposed adoption of a dense, complex set of indecipherable shadowing data, in fact, for some areas, the Proposal completely withdraws the protection provided by the sun access regime, which has been a feature of the city planning regime for decades. The sun access planes have imposed restrictions on development, for the benefit of city users and residents. The Proposal to replace the restriction on future redevelopment of Category A sites by introducing a regime of no controls, with approvals reliant on a loose, potentially corruption-risky process, of individual site decision-making by the Council and its officers is particularly worrying.

We are troubled by the presentation of the Planning Proposal. There are so many disconnected documents and we remain uncertain whether the dense suite of documentation in fact operates as the Planning Proposal states it is intended, and troubled that there is no independent review and testing of the statements, calculations and conclusions in the documents, especially given the recent and on-going pandemic.

## SYDNEY CITY PLANNING CONTEXT

Although the "Planning Proposal: Central Sydney" document, dated February 2020 provides an outline under "Background" (page 3) of the Draft Central Sydney Planning Strategy as a ... "long term strategy for business and residential development in Central Sydney that maintains Sydney's global status." It does not explicitly state that the 2016 draft has been updated by the Strategy Addendum 2020 which apparently responds to the Metropolis of Three Cities – Greater Sydney Region Plan, most particularly identifying the employment targets for the Eastern Harbour city vision and concluding that there is a shortfall or gap of some 40,000 to 85,000 jobs under the "business- as- usual scenario".

The Strategy Addendum 2020 describes Central Sydney's role in generating \$130 billion (2017/ 2018) of economic activity annually – over 7% of the total national economy and noting the concentration of ASX top 500 companies, mainstream artistic and cultural institutions, and Australia's largest retail centre. It predicts that "the District Plan requires the City to plan for and deliver at least 165,100 new jobs by 2036 in the Harbour CBD, with a higher aspirational target of 266,100 new jobs" (page 8).

The Addendum also notes that the Region Plan identifies key challenges facing Sydney including a population increase of 3,300,000 by 2056, 817,000 new jobs by 2036 and a requirement for 725,000 new homes over the next 20 years.

We question the reliability and validity of these projections.

The Planning Proposal document is extremely light on in any discussion of planning options or history. It notes that Sydney is also home to 31,600 residents, 12,600 businesses, accommodates close to 340,000 workers and a large proportion of the City of Sydney's 660,000 domestic and international visitors every day. However, as the document predates the COVID –19 crisis, it does not contemplate the changes to growth, work requirements and economic circumstances now impacting upon and ahead of the City.

The Document also fails to discuss the broader City population trends (summarised on the City's website) including the estimated residential population of the local area increasing between 2009 and 2019 by 39.1%, or 69,193 people, compared to Greater Sydney growth of 18.2% and NSW, 14.7% over the same period. It notes the expectation that the local population is projected to grow to more than 320,000 by 2031 and that the population density within the City is 9,212 per square kilometre (in June 2019). Again, there is no discussion as to the on-going reliability of these projections.

All these figures and projections are difficult to reconcile.

As noted above, the invitation to comment upon the Central Sydney Planning Framework invokes the "Our Sustainable Sydney 2030 vision" as identifying " ... a key goal of nurturing a competitive global Sydney" as the driver of the first major review of the Central Sydney planning framework ... " in 45 years and which has taken years of study." However, there are remarkably few comments about the many other focuses and strategic directions outlined in that 2030 vision, particularly as they affect residents.

Similarly there is no discussion of the long history of the development of the key planning principles applied in the growth of the City, although there is a useful summary of the controls and principles adopted at least since 1971 contained in clause 2.1 (page 10) and clause 3.7 of the Height of Buildings Study (Appendix C) which, curiously, like many of the documents, does not identify the author.

Although the Height of Buildings Study expresses numerous conclusions about the development potential of the Sydney Central CBD including opinions about how the market operates, what will drive developers and conclusions about the viability of broader site amalgamations and height, there is little to support the conclusions reached that the solutions require greater height in Tower Clusters, removal of residential incentives, removal of overshadowing/sun access protection and confiscation of private view rights.

The Mayoral Minute proposing the Strategy, adopted by Council in December 2019 noted that the Planning Proposal, based upon the Addendum to the 2030 vision, provides for employment growth and supporting:

- **removal** of the proposed 50% cap on residential accommodation and instead, remove the existing residential accommodation bonus in the LEP
- **allowing** up to 50% additional floorspace in the Tower Cluster areas and
- **introducing** a new contributions plan to fund development of new public infrastructure,

the Minute was not the subject of any public consultation process which included the residents we represent.

The Minutes made no reference at all to the key features of Our Sustainable Sydney 2030, which had been made in 2016 with public input, included making Sydney green, global, connected, a great place to live work and visit, with walking and cycling networks, a lively engaging city centre, vibrant local communities and economies, cultural and creative Sydney and housing for a diverse population which includes affordable housing, “ a basic requirement and essential component of an inclusive, dynamic and sustainable city” (2030 vision updated to September 2016).

Also missing are the commitments to renewable energy, decentralised water masterplan, light rail, car share, and culture including art for village centres, town squares and local parks.

Whilst the State and City objectives to prioritise employment growth and capacity as expressed in Key Move 1 might be considered self-evident, the Planning Proposal fails to canvass other options or to demonstrate how it reaches conclusions. Instead there are simply statements of conclusion, for example: “New development controls will rebalance floorspace incentives for residential and serviced apartment floor space in large developments. By removing the existing incentive for residential development, the proposal will rebalance floorspace incentives towards employment uses “(page 4).

A curious feature of the document package is in the DCP amendments which are marked “Draft April 2013.”

## **KEY ISSUES**

### **1.1 FAILURE TO ADEQUATELY DEMONSTRATE THE NEED TO PRIORITISE EMPLOYMENT DEVELOPMENT, ALTERNATIVES, AND ITS CONSEQUENCES**

It is not apparent from the documents presented how the conclusions are reached in the Planning Proposal Objectives listed on page 16 of the Proposal. The so-called “Objectives” are simply statements of opinion repeated in the documentation, rather than being conclusions supported by evidence or logic.

Under “Intended Outcomes”, also on page 16, the first Outcome, “enable the Key Moves and priority actions in the draft Central Sydney planning strategy.” Is a meaningless statement of a statement.

Whilst the Height of Buildings Study Appendix C includes significant useful information and reinforces important principles such as preserving sunlight to important public parks and places, and the role of sun access planes, it does not include any clear or obvious consideration of other options for releasing height in central Sydney other than its own conclusions. Indeed, it is made obvious on page 33 of Attachment A, that the Capacity Study is not a feasibility analysis, assumes maximum potential amalgamation of sites, does not reflect growth potential for all sites and does not assess design merit or notional tower forms. There is little logic which leads to the section entitled “Preferred Height Strategy Central Sydney” nor the “Results and Recommendations”. As mentioned above, as a result of the Covid-19 crisis there are potentially and in reality, very significant changes to growth projections, types of properties, work practices and other requirements in the current environment, and into the future, which are not considered or tested at all in the Proposal.

Questions which obviously arise as to the enrichment of owners of properties which will have up to a 50% increase in floorspace and increased heights by 30 m, or how those decisions will be made and what measures are intended to ensure there is no corruption risk in any of these decisions, are not addressed. This enrichment is multiplied by the apparent intention not to require purchase of heritage floorspace under clause 6.11 of the 2012 LEP in respect of extra floorspace which is unexplained and buried on page 23 of the Proposal.

There is no discussion as to how future residential growth will be facilitated nor any discussion as to why the existing controls including incentives for residential development should be altered, notwithstanding that many ownership and other decisions have been made by stakeholders in the city based on those provisions. No compensation is offered for any loss of opportunity which owners and developers may legitimately have considered likely.

Whilst there is considerable discussion and amendments in relation to detrimental impacts of the possible changes including wind, loss of light and amenity at street level it is impossible for residents to assess these impacts and the amendments without independent expert advice and verification, which Council should provide before acting on the Strategy.

## **1.2 REMOVAL OF CLAUSE 6.18 – Exceptions to Sun Access Plane**

The Planning Proposal document, in the section on “Intended Outcomes” includes “protect the amenity of public places by ensuring good sunlight access and comfortable wind conditions “and “update sun access planes and no additional overshadowing controls “(page 16). It continues under the heading “Explanation of the Provisions” – “revise and update sun access plane controls to improve accuracy and levels of protection of important public parks and places” (Page 17) and observes that “the planning controls deliver Key Move 7 (protect, enhance and expand central Sydney’s heritage and public places) through “refinements and updates to the sun access controls, built form controls that protect community public spaces.”(Page 6).

Then, “maintaining sunlight to important public parks and places is a critical principle that underpins the current controls that moderate building height in central Sydney .... It is therefore necessary to retain and strengthen sun protection control framework to ensure continued enjoyment of important parks and public places in central Sydney.”(Page 27)

Whilst the comments – “a key approach for promoting the enjoyment of parks and other public spaces is to protect their access to direct sunlight, particularly during the middle of the day when it is most critical public enjoyment and growth. This is best achieved through attention to building heights and the skyline.” (page 26) and, “the recognition of the critical importance of sun access planes and no additional overshadowing and the necessity to retain and strengthen the sun protection control framework” (page 27) ARE Supported, we do not support the removal of clause 6.18 – “Exceptions to sun access plane”.

It is also difficult to reconcile these statements with the statement on page 54 that ...”the proposed revisions to sun access controls will serve to ensure good sunlight access to existing and proposed public parks and spaces in perpetuity.”

We believe removal of this provision may achieve exactly the reverse of these stated intentions and open-up the ability for a free-for-all for developments on sites that come under this clause.

We note that it is repeatedly stated in the documents that the aim of removing this clause is to remove the ambiguity caused by the clause specifically the categorisation of Category ‘A’ and ‘B’ land and to remove the chance of reduction in commercial floor space. However, the complete removal of this clause will allow for developments that:

- Do not contribute to sun lit public spaces
- Will not protect sun access to publicly accessible land
- Decrease the liveability in the City of Sydney due to deprivation of private residents from sunlight, privacy, and amenity.
- Not align with current street scapes
- Have larger environmental impacts through noise, overshadowing and lack of sunlight.

We vigorously reject the proposition that the restriction on Category A sites, which requires that if they are to redevelop, they must produce a 50% reduction of overshadowing, should be removed. The Proposal does not make this suggestion based upon any planning argument or logic but appears simply to suggest that redevelopment may be uneconomic on certain Category A land (see discussion on pages 52 and 55 of Appendix C). Note the commentary on page 69 (and other places) that ...“sun access planes are Council’s highest order of height control. Their intent is to protect important public places from further overshadowing by development, and to reduce existing levels of overshadowing sites redevelop. The intent of SATs is still current. SAT controls should not be lifted or reviewed in any part of the city unless there was demand for commercial floorspace that could not be found by first reviewing other, lower order, controls.” and “There are alternative areas in the city which are less constrained by SAPS and NAOs. These could meet more immediate demand for commercial floorspace without compromising the amenity of the city.”

Contrast this with the clear statements on page 20 .... “The A and B sites framework assumes that some buildings may redevelop to lower than existing heights.” and page 50 that ... “It was assumed that the Category A site would be redeveloped to a lower height, though not as low as the SAP.”

It should be noted as well that all the properties affected by the sun access planes have been acquired with full knowledge as to the restrictions and the purpose.

We also note that clause 6.11 of the 2012 LEP applies to require purchase of heritage floor space for extra development on these sites and seek Council's confirmation that the proposed amendments do not remove this requirement, giving affected owners a free economic benefit.

We do support the removal of Category B land sites and the comments on page 52 (of the Height Study) and also agree that the Category B sites ...” effectively undermine the intent of the SAPs.”( Page 55). The obvious difficulty with the Category B concept is in the assumption on page 50 that ... “This assumes that no additional shadow is created (on Category B) beyond that already cast by the Category A building ...” in the event the Category A site is later redeveloped in a different configuration, leaving continued overshadowing from the Category B building/s.

We also note the Proposal's intention to provide new sun access protection for various future spaces, including possible Future Town Hall Square, and find it perplexing that whilst it is considered appropriate to protect these possible future sites it is considered at the same time, appropriate to remove long established protections of other sites, parks and public spaces.

We also support the amendments proposed to clause 6.17 which include sun access planes for various locations including Hyde Park will now be protected all year from 10 AM to 2 PM (Appendix M reference 05 and 06)(page 28).

We also have no confidence in the proposition that “where a development already exceeds a sun access plane and wishes to redevelop in any configuration other than complying with the sun access plane, it will be facilitated through a site specific planning proposal with the aim of seeking an improvement to existing conditions.”(Page 29 Planning Proposal).

### **1.3 REMOVAL OF CONSIDERATION OF PRIVATE VIEWS**

We strongly object to the proposal to remove consideration of private views from the planning process.

Views are a critical factor in property ownership and occupation, and this is particularly the case in the City of Sydney. Whilst it is accepted that development may inevitably mean some loss of views, the caselaw, practice and development approval processes have all embraced concepts of preservation of views where possible and view sharing where development is otherwise supported.

The property industry unequivocally operates in all respects recognising significant value in views and the market reflects this. The Height of Buildings Study Appendix C outlines the importance of promoting view sharing and private views at least since the 1960s (see page 10).



There is simply no justification in any of the documents for the appropriation of the value of private views within the City and the transfer of those benefits, entitlements, and value to owners of properties which are redeveloped for employment use. Appendix C – Height of Buildings Study simply asserts, without any supporting basis that:

“the objectives relating to views in central Sydney are:

to identify and preserve significant views from public spaces,

to ensure that new developments is not impeded by the preservation of private views,

to promote the sharing of private views, where appropriate and goes on

the changes required to the planning framework to achieve the objectives are:

remove protection of private views as a development consent consideration.”(Page 56).

There is simply no supporting material which leads to the conclusion in the Planning Proposal under “Amendment to Height of Buildings Objectives” that ... “the maintenance of private views should not unduly restrict the economic performance and economic growth of Central Sydney where proposed development has demonstrated compliance with the LEP, in relation to height and FSR, and development control plans provisions. This is especially the case for proposed employment related developments that impact on existing residential serviced apartment developments”(page 26).

This is particularly contradictory given that the very next paragraph discloses that the intention to ensure compliance with the LEP is achieved by removing the requirement in clause 4.3(1)c in the 2012 LEP “to promote the sharing of views” that applies across the City of Sydney local government area.(Page 27)

#### **1.4 DESIGN COMPETITION BONUSES**

We have strong misgivings about the City’s policy and practices in relation to bonuses for floorspace in buildings which are the subject of design competitions.

The practice of considering applications and agreeing to State Significant Stage 1 approvals which include within the building envelope the 10% bonus for a design competition and design excellence, when the competition has not occurred or been determined, has no basis in logic and amounts to a pre-determination handing the developer a significant value.

The proposal is to entrench this for the maximum 50% contained in the DCP Amendments (clause 3.3.8). It makes the process a foregone conclusion by automatically including the extra bonus without any actual consideration of design excellence. The conduct of the competitions is highly questionable given that it is left to the developer to manage the process, pay the cost of the process, and select the participating architects and then select the winner.

The Proposal is particularly objectionable given the extra floor space that is to be provided free of cost contrary to the existing requirement for acquisition of heritage floorspace which provides much needed and beneficial assistance in maintaining the City’s heritage and streetscapes.

The whole Tower cluster approach is questionable and poses the risk of creating cold, empty, dark and dangerous valleys of empty buildings at night and on weekends, contrary to the 2030 vision for a green, cultural, lively and active city.

## **CONCLUSION**

The Owners Strata Plan 51487 cannot support the Central Sydney Planning Framework for the reasons outlined above and seek the support of Council for the residents and users of the City through further work to identify suitable strategies which aim to maintain Sydney's status as a global city, but without depriving residents and users of amenity, private rights and appropriate consultation.

We particularly urge that these far-reaching proposals which potentially adversely affect amenity of residents and users of the city during demolition and construction, future congestion, loss of light, views and protection from wind and noise should be independently checked and reviewed, including in light of changing conditions for the city.

Yours faithfully,

A handwritten signature in cursive script that reads "MWallace".

**MARK WALLACE**

**Chair, Owner's Corporation SP 51487**