

ITEM 4. DEVELOPMENT APPLICATION: 286-296 SUSSEX STREET SYDNEY

FILE NO: D/2014/755

DEVELOPMENT APPLICATION NO: D/2014/755

SUMMARY

Date of Submission: 28 May 2014

Amended 6 January 2015

Applicant: Giovanni Cirillo

Architect: Tzannes Associates

Owner: Ausbao (286 Sussex St) Pty Limited

Cost of Works: \$75,621,700

Proposal Summary: The proposal (as amended) seeks consent for a Stage 1 concept proposal, including the following:

- in-principle approval for demolition of the existing commercial building;
- building envelope to a height of 80 metres (approximately 26-storeys);
- indicative future land uses of hotel and residential; and
- vehicular access off Sussex Street, with indicative basement levels.

The application was notified for a 28-day period in June/July 2014 and resulted in 11 submissions being received, objecting to the following matters:

- height;
- setbacks;
- privacy/overlooking;
- overshadowing/loss of light;
- traffic and parking impacts;
- lack of diversity in the land uses;
- impact on ground water table;
- loss of views/outlook; and
- wind tunnel effect on Drutt Lane.

**Proposal Summary:
(continued)**

Following a preliminary assessment of the application, notification to surrounding land owners and occupants and consideration of the matter by the City's Design Advisory Panel, the Applicant was advised that the proposal required amendment to address a number of issues, including:

- building form;
- tower setbacks and separation to adjacent development;
- residential amenity;
- appropriateness of the location of land uses;
- overshadowing; and
- driveway location.

Amended plans were received on 6 January 2015 to address the above matters, and considering the extent of modifications made, the application was re-notified for a further 28-day period in January/February 2015. The re-notification resulted in 4 submissions, with objection to the following matters:

- setbacks;
- overshadowing;
- height; and
- impact of form on adjacent heritage item.

It is considered that as amended, and subject to the imposition of the recommended conditions, the proposed building envelope and indicative land uses generally respond to the constraints of the site and applicable planning controls. In those instances where numeric variation is sought to the planning controls, such as side and rear setbacks, there is considered to be justifiable context and planning grounds to support the extent of variation.

As such, Development Application D/2014/755 is recommended for approval, subject to the recommended conditions.

Summary Recommendation:

The development application is recommended for approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act, 1979
- (ii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (iii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
- (iv) State Environmental Planning Policy No. 32 - Urban Consolidation
- (v) State Environment Planning Policy No. 55 - Remediation of Land
- (vi) State Environmental Planning Policy No. 65 – Design Quality of Residential Development
- (vii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (viii) State Environmental Planning Policy (Infrastructure) 2007
- (ix) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Attachments:

- A - Building Envelope Plans
- B - Indicative Floor Plans
- C - Shadow Analysis

RECOMMENDATION

It is resolved that, pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979, consent be granted to Development Application No. D/2014/755, subject to the following conditions:

SCHEDULE 1A**Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) STAGED DEVELOPMENT APPLICATION

Pursuant to Clause 100 of the *Environmental Planning and Assessment Regulation 2000*, this Notice of Determination relates to a Stage 1 development application and a subsequent development application (Stage 2) or applications are required for any work on the site.

(2) APPROVED STAGE 1 DEVELOPMENT

- (a) Development consent is limited to a Stage 1 Concept Plan building envelope and indicative land uses within this envelope, in accordance with Development Application No. D/2014/755, dated 28 May 2014 (as amended), and the following drawings:

Drawing Number	Architect	Date
0002 Revision B <i>Site Plan</i>	Tzannes Associates	5 January 2015
1003 Revision A <i>Floor Plate Schedule</i>	Tzannes Associates	31 March 2015
2000 Revision B <i>North Elevation</i>	Tzannes Associates	5 January 2015
2001 Revision B <i>East Elevation</i>	Tzannes Associates	5 January 2015
2002 Revision B <i>South Elevation</i>	Tzannes Associates	5 January 2015
2003 Revision B <i>West Elevation</i>	Tzannes Associates	5 January 2015
3000 Revision B <i>Section 1</i>	Tzannes Associates	5 January 2015

Drawing Number	Architect	Date
3001 Revision B <i>Section 2</i>	Tzannes Associates	5 January 2015

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(3) MATTERS NOT APPROVED

The following items are not approved and do not form part of this Stage 1 development consent:

- (a) any demolition, excavation and/or construction;
- (b) the vehicular access/crossover location on Sussex Street;
- (c) the layout and number of residential apartments;
- (d) the layout of the hotel use or the total number of hotel rooms accommodated,
- (e) the number of basement levels and/or the configuration of the basement car parking levels;
- (f) the number of car parking spaces, bicycle spaces, car share or loading spaces/zones;
- (g) the precise quantum of floor space; and
- (h) a 10% design excellence uplift in floor space ratio.

(4) LOCATION OF RESIDENTIAL LAND USES

No residential land uses are approved within the podium levels of the building. Residential apartments shall not be provided below Level 9 (RL 38.995).

(5) BUILDING ENVELOPES

Subject to the other conditions of this consent, the building envelope is only approved on the basis that the ultimate building design, including services, balconies, shading devices and the like will be entirely within the approved envelopes and provide an appropriate relationship with neighbouring buildings.

(6) DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS

- (a) A competitive design process in accordance with the provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 (as amended) shall be conducted prior to the lodgement of a Stage 2 Development Application (DA).
- (b) The detailed design of the development must exhibit design excellence.

(7) BUILDING HEIGHT

The maximum height of the building, as defined in the Sydney Local Environmental Plan 2012 (as may be amended), must not exceed 80 metres.

(8) FLOOR SPACE RATIO – CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permissible, and shall be calculated in accordance with the provisions of Clauses 4.4 and 6.4 of the Sydney Local Environmental Plan 2012 (as amended).
- (b) Notwithstanding clause (a) above, the proposal may be eligible for a 10% design excellence uplift in floor space ratio pursuant to the provisions of Clause 6.21(7) of Sydney Local Environmental Plan 2012.
- (c) Precise details of the distribution of floor space shall be provided with the future Stage 2 development application.
- (d) Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.11 of the Sydney Local Environmental Plan 2012.

(9) RESIDENTIAL LAND USE

- (a) The residential component of the development must be designed to comply with the principles of 'State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development', the guidelines of the Residential Flat Design Code (RFDC), and the provisions of the Sydney Development Control Plan 2012.
- (b) The residential component of the development shall be designed to be compliant with the dwelling mix requirements of Section 4.2.3.12 of the Sydney Development Control Plan 2012 (SDCP 2012).
- (c) The residential component of the development shall be provided with an area/s of communal open space in accordance with the requirements of both the RFDC and SDCP 2012.
- (d) A BASIX certificate in accordance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 must be submitted with the Stage 2 Development Application.

(10) DETAILED DESIGN OF BUILDING

The design brief for the competitive design process shall incorporate the following requirements:

- (a) Preference that vehicular access to the site be provided from Druitt Lane, with a thorough investigation of vehicle access opportunities to be submitted as part of the Stage 2 Development Application;
- (b) Provision of on-site hotel drop off facilities;
- (c) Greater activation of the Druitt Lane ground floor frontage through opportunities;
- (d) Provision of separate entry lobbies for the hotel and residential uses;
- (e) Consideration that the podium treatment to acknowledge the heritage items at 281-287 Sussex Street and 499-501 Kent Street;
- (f) Delivery of a 3.1 metre floor to floor height for all residential levels; and
- (g) A visually interesting treatment is to be applied to the exposed side elevation along the eastern boundary of the site.

(11) HOTEL USE

Documentation shall be submitted with the Stage 2 Development Application for the hotel use and its operation in accordance with the requirements of Section 4.4.8 of the Sydney DCP 2012.

(12) PUBLIC ART

- (a) A Public Art Strategy is to be developed for the site/development in accordance with the Sydney DCP 2012 and the Public Art Policy. This Strategy shall form part of the documentation lodged as part of a further Stage 2 Development Application.
- (b) The requirement to accommodate public art as part of the redevelopment of the site must form part of the competitive design process brief and the nominated location should be included as part of any further Stage 2 Development Application.

(13) WIND

Prior to the lodgement of a Stage 2 Development Application, the detailed design shall be subject to wind tunnel testing to ascertain the impacts of the development on the wind environment and conditions within the publicly accessible pedestrian space, the surrounding streets and neighbouring buildings, communal external areas within the subject development and private open space. Any recommendations of this wind tunnel testing and wind assessment report shall be incorporated into the final detailed design lodged as a Stage 2 Development Application.

(14) AUSGRID

- (a) Consultation is required with Ausgrid to ensure that technical and statutory requirements in regards to the safe and reliable operation and maintenance of Ausgrid's network are maintained.
- (b) Details of the consultation undertaken are to be provided with the Stage 2 Development Application.

(15) CONTAMINATION – DETAILED SITE ASSESSMENT

- (a) A Detailed Environmental Site Assessment (DESA) must be submitted for approval with the Stage 2 Development Application. The DESA must be carried out in accordance with the NSW EPA Contaminated Sites guidelines, certifying that the site is suitable (or will be suitable, after remediation) for the proposed use.

Note: Where the Detailed Environmental Site Assessment states the site is suitable for the proposed use, it is to be peer reviewed by a NSW EPA accredited site auditor and a Site Audit Statement submitted to Council prior to granting any consent, certifying that the site is suitable for the proposed use.

- (b) Where the Detailed Environmental Site Assessment states that a Remediation Action Plan (RAP) is to be undertaken, the RAP is to be peer reviewed by a NSW EPA Accredited Site Auditor and include a statement certifying that the RAP is practical and the site will be suitable after remediation for the proposed use before scheduled conditions of consent can be activated.
- (c) The RAP and NSW EPA Accredited Site Auditors review and statement must be submitted to the Health and Building Unit for review and written approval before scheduled conditions of consent can be activated.

(16) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN

All recommendations contained in the Acid Sulfate Soils Management Plan, prepared by Aurecon and dated 21 November 2014, must be implemented.

(17) AIR QUALITY ASSESSMENT

In accordance with the recommendations of the 'Desktop Air Quality Audit', prepared by Coffey Corporate Services Pty, dated 15 May 2014, and the requirements of Clause 7.24 of the Sydney Local Environmental Plan 2012 and Section 3.13.2 of the Sydney Development Control Plan 2012, an Air Quality Assessment Report must be prepared and submitted with the Stage 2 Development Application.

(18) CONSTRUCTION NOISE MANAGEMENT PLAN

A Construction Noise Management Plan must be prepared and submitted with the Stage 2 Development Application. This Plan must be prepared by a suitably qualified acoustic consultant and must detail, but not limited to, the following:

- (a) the equipment to be used during the construction on site, the quantity of all equipment and a plan of how equipment will be operated on site cumulatively;
- (b) the type of work that will be conducted during the construction process;
- (c) details on (any) respite periods and any noise mitigation measures required; and
- (d) detail the extent of community consultation to be undertaken.

(19) RESIDENTIAL ACOUSTIC AMENITY- ACOUSTIC REPORT

An Acoustic Impact Assessment must be undertaken by a suitably qualified acoustic consultant and submitted with the Stage 2 Development Application in accordance with the provisions of the *Sydney Development Control Plan 2012*.

(20) CAR PARKING SPACES AND DIMENSIONS

- (a) The permissible number of car parking spaces is to be established as part of the Stage 2 Development Application.
- (b) The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities.

(21) BICYCLE PARKING AND END OF TRIP FACILITIES

Details of the location, number and class of bicycle parking must be included in the Stage 2 Development Application.

Bicycle parking for residents and employees is to be provided in the uppermost basement parking level. Class 2 facilities, or a combination of Class 1 and Class 2 facilities, are considered acceptable for residents. Employee bicycle parking is to be provided in close proximity to end-of-trip facilities.

All visitor bicycle parking is to be provided at-grade in an easily accessible and visible location.

Note: Council supports the provision of innovative bicycle parking solutions in new development. Should the applicant wish to discuss bicycle parking options, please contact the City Access and Transport Unit.

(22) LOADING WITHIN SITE

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

(23) TRAFFIC WORKS

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS Technical Directives and must be referred to and agreed to by the Local Pedestrian, Cycling and Traffic Calming Committee prior to any work commencing on site.

(24) VEHICLES ACCESS

The site must be configured to allow all vehicles to be driven onto and off the site in a forward direction.

(25) ACCESSIBLE PARKING SPACE

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities.

(26) LOCATION OF ACCESSIBLE CAR PARKING SPACES

Where a car park is serviced by lifts, accessible spaces for people with mobility impairment are to be located to be close to lifts. Where a car park is not serviced by lifts, accessible spaces for people with mobility impairment are to be located at ground level, or accessible to ground level by a continually accessible path of travel, preferably under cover.

(27) CAR SHARE SPACES

A minimum of 1 car share space per 50 car spaces for the exclusive use of car share scheme vehicles are to be provided. The basement floor plans submitted with the Stage 2 Development Application must illustrate where these spaces are to be located.

(28) COACH PARKING MANAGEMENT PLAN

A Coach Parking Management Plan for the hotel use is to be submitted with the Stage 2 Development Application.

(29) SERVICE VEHICLE SIZE LIMIT

The Stage 2 Development Application must include swept paths for the largest vehicles to access the building. These will be used to determine a condition for the largest vehicle permitted to service the site.

(30) TRANSPORT IMPACT ASSESSMENT

A detailed Transport Impact Study must be prepared in accordance with the provisions of Section 7.4 of SDGP 2012, and shall be submitted with the Stage 2 Development Application.

(31) WASTE COLLECTION

The future Stage 2 Development Application shall demonstrate compliance with Council's requirements for waste collection for residential development and Policy for Waste Minimisation in New Development 2005 (as may be amended).

(32) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

An Access Report shall be submitted with the Stage 2 Development Application to demonstrate that the building has been designed, and is capable of being constructed, to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

(33) ALIGNMENT LEVELS – MAJOR DEVELOPMENT

- (a) The proposed building floor levels, basement levels, basement car park entry levels and ground levels shown on the approved plans are indicative only and have not been approved as part of this consent.
- (b) Prior to any Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, alignment levels for the building and site frontages must be submitted to and approved by Council. The submission must be prepared by a Registered Surveyor, must be in accordance with the City of Sydney's *Public Domain Manual* and must be submitted with a completed Alignment Levels checklist (available in the *Public Domain Manual*) and Footpath Levels and Gradients Approval Application form (available on the City's website).
- (c) These alignment levels, as approved by Council, are to be incorporated into the plans submitted with the application for a Construction Certificate for any civil, drainage and public domain work as applicable under this consent. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

(34) PUBLIC DOMAIN PLAN

- (a) A Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with any Stage 2 Development Application for the site. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's *Public Domain Manual*).

- (b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.
- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Stage 1 approved Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.
- (e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued for Stage 2 development.
- (f) The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council, in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(35) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 74 lineal metres of stone (granite and trachyte) site frontage and 36 lineal metres of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to an approval for demolition being granted or a Construction Certificate being issued for Stage 2 Development Application works, whichever is earlier.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements, 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

SCHEDULE 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

SCHEDULE 3

(36) TRANSPORT FOR NSW CONCURRENCE CONDITIONS

Transport for NSW has provided the following concurrence conditions under the provisions of Clause 88 of *State Environmental Planning Policy (Infrastructure) 2007*:

- (a) The owners of the site are required to consult with Transport for NSW (TfNSW) prior to lodgement of relevant designs as part of any Design Competition under the relevant provisions of the Sydney Local Environmental Plan 2012 (SLEP) to ensure that the relevant designs have taken into consideration the relationship of the designs with the future CBD Rail Link (CBDRL).
- (b) The owners of the site of the approved development must enter into a Deed of Agreement with TfNSW prior to the lodgement of any Stage 2 application to address the adverse effects of the approved development on the CBDRL identified in State Environmental Planning Policy (Infrastructure) 2007. The Agreement must provide for the following:
 - (i) the design, construction and maintenance of the approved development so as to satisfy the requirements in conditions (c) to (i) below;
 - (ii) allowances for the future construction of railway tunnels in the vicinity of the approved development;
 - (iii) allowances in the design, construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
 - (iv) consultation with TfNSW;
 - (v) access by representatives of TfNSW and Sydney Trains to the site of the approved development and all structures on that site;
 - (vi) provision to TfNSW and Sydney Trains of drawings, reports and other information related to the design, construction and maintenance of the approved development;

- (vii) creation of a restrictive covenant on each of the titles which comprise the approved project so as to satisfy condition (i) below;
 - (viii) such other matters which TfNSW and Sydney Trains considers are appropriate to give effect to (i) to (vii) above; and
 - (ix) such other matters as the owners and TfNSW and Sydney Trains may agree.
- (c) All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development which have a potential impact on the CBDRL must be designed, constructed and maintained in accordance with design criteria specified by TfNSW
 - (d) The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW.
 - (e) The developer must undertake detailed geotechnical analysis prior to lodgement of any Stage 2 DA to demonstrate likely movements of the ground due to the future CBDRL.
 - (f) No modifications may be made to that the approved design without the consent of TfNSW.
 - (g) TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.
 - (h) Copies of any certificates, drawings or approvals given to or issued by TfNSW must be delivered to Council for its records.
 - (i) Prior to issue of any Occupation Certificate, a restrictive covenant is to be created upon each of the titles which comprise the approved development pursuant to Section 88E of the Conveyancing Act 1919, restricting any alterations or additions to any part of the approved development which are reasonably likely to adversely affect, or which otherwise are likely to interfere with the design, construction and operation of the proposed Sydney Metro the prior written consent of TfNSW.

(37) ROADS AND MARITIME SERVICES CONDITIONS

The Roads and Maritime Services has provided the following conditions under the provisions of Clause 88 and 103 of *State Environmental Planning Policy (Infrastructure) 2007*:

- (a) Roads and Maritime has previously acquired a strip of land for road at the North East corner of Sussex and Bathurst Streets at the frontage of the subject property, being Lot 1 DP 571666. Roads and Maritime has previously acquired an easement for rock anchors along the northern boundary of Bathurst Street as shown on DP 1046874. The Cross City Tunnel (CCT) runs in stratum beneath Bathurst Street and Sussex Street abutting the subject property. Therefore there are no objections to the development proposal on property grounds provided:
 - (i) any proposed buildings or structures are erected clear of the CCT, Lot 1 DP 571666 and easement for rock anchors;
 - (ii) access to the Roads and Maritime easement is not denied; and
 - (iii) the integrity of the CCT and easement is not compromised.
- (b) The developer is to comply with the requirements of Technical Direction (GTD 2012/001). This will require the developer to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the Roads and Maritime for assessment prior to the approval of any Construction Certificate. The developer is to meet the full cost of the assessment by the Roads and Maritime. This report would need to address the following key issues:
 - (i) The impact of excavation/rock anchors on the stability of the CCT and detailing how the carriageway would be monitored for settlement.
 - (ii) The impact of the excavation on the structural stability of the CCT.
 - (iii) The development must not interfere with the ongoing operation and maintenance of the CCT.
 - (iv) If the development is likely to impact on the CCT, the developer must consult with the operator of the CCT and Roads and Maritime Motorway Management on 8837 0937.
- (c) A Construction Management Plan should be prepared as part of the Stage 2 Development Application documentation which specifies any potential impacts to regular bus services operating on roads within the vicinity of the site. Any impacts from construction vehicles during construction of the proposed works need to be mitigated. Potential impacts on pedestrian access to public transport infrastructure (including bus stops), should be specified. Should any impacts be identified, the duration of the impacts and measures proposed to mitigate these are to be clearly explained and committed to being enforced.

BACKGROUND

The Site

1. The site has a legal description of Lot 1 DP 185342, Lot 1 DP 650321, Lot 1 DP 650520 and Lot DP 657427 and is commonly known as 286-296 Sussex Street, Sydney. The site has three street frontages, Sussex Street to the west, Bathurst Street to the south and DrUITt Lane to the north.
2. The site is irregular in shape, with a splayed corner at the intersection of Bathurst Street and Sussex Street resulting from a previous road widening dedication. The site has a frontage to Sussex Street of 33.59 metres, a 28.82 metre frontage to Bathurst Street and a 31.55 metre frontage to DrUITt Lane. The site has an area of 1,255sqm.
3. Existing on site is a 9-10 storey commercial building, containing ground floor retail uses and commercial office floor space on levels above. The site currently has vehicular access via a driveway from Sussex Street and DrUITt Lane.
4. **Figures 1 to 4**, below, illustrates the context of the site and the existing built form.

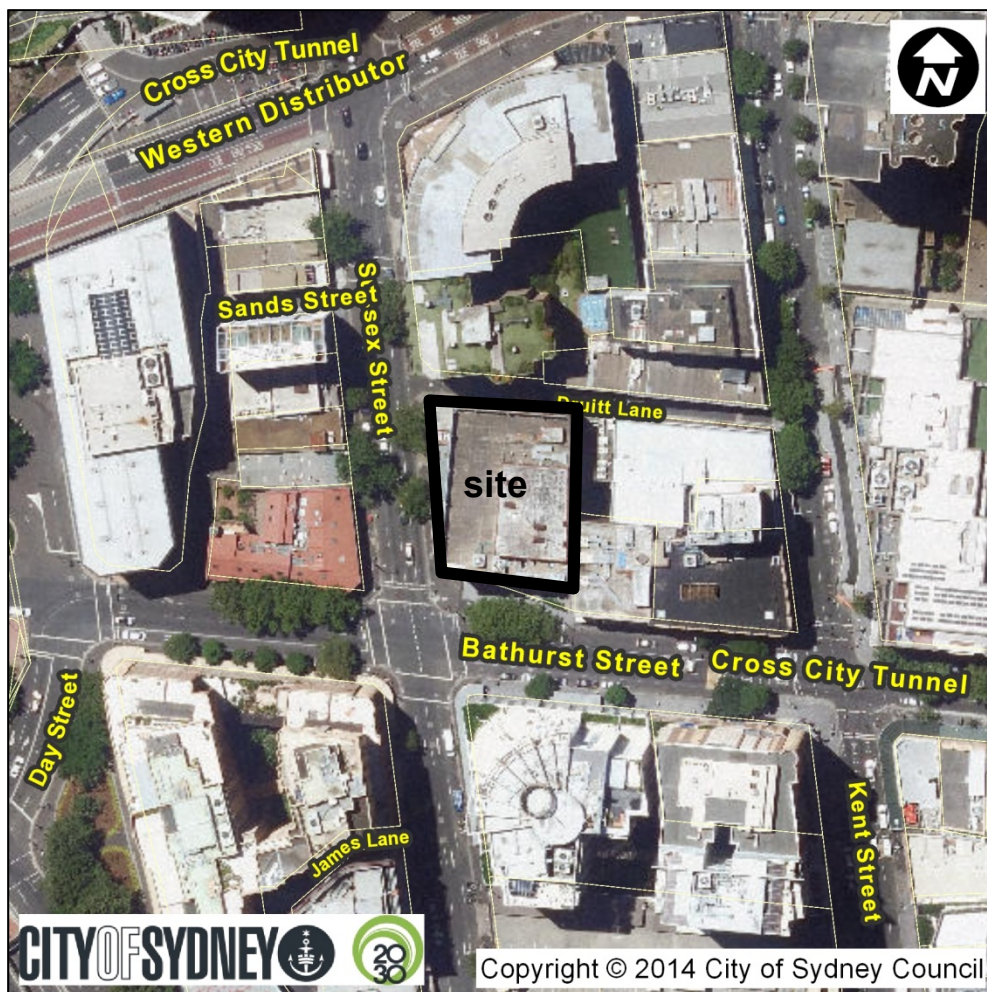


Figure 1: Location Plan



Figure 2: The site as viewed from Bathurst Street



Figure 3: The site as viewed from the intersection of Bathurst and Sussex Streets looking north



Figure 4: The existing ground floor retail and vehicular access to the site on its Sussex Street frontage

Surrounding Development

5. Development in the vicinity of the site is generally mixed use and is characterised by commercial, retail and residential land uses.
6. To the north of the site, on the opposite side of Druitt Lane, is 278-284 Sussex Street, which is a 16-storey residential apartment building known as the 'Newhaven' (refer to **Figure 5**, below).
7. To the east of the site, on its Bathurst Street frontage, is the 7-storey commercial building at 70-72 Bathurst Street (refer to **Figure 6**, below). To the east of the site, on its Druitt Lane frontage, is the heritage listed 3-4-storey warehouse building at 499-501 Kent Street (refer to **Figure 7**, below).
8. To the south of the site, on the opposite side of Bathurst Street, is the mixed-use development at 298-304 Sussex Street, known as Maestri Towers (refer to **Figure 8**, below).
9. To the west of the site, on the opposite side of Sussex Street, are a series of low-rise buildings (refer to **Figure 9**, below). Directly to the west, on the opposite side of the intersection of Sussex and Bathurst Streets, is the 4 storey mixed-use building at 281-287 Sussex Street, which has residential apartments on its upper levels.



Figure 5: View of the adjacent residential building to the north of the site at 278-284 Sussex Street (Newhaven)



Figure 6: The adjacent commercial building to the east of the site on Bathurst Street (70-72 Bathurst Street)



Figure 7: View of the adjacent heritage listed warehouse building to the east of the site at 499-501 Kent Street, and view of Druitt Lane (looking west)



Figure 8: View of the mixed-use development at 298-304 Sussex Street (known as Maestri Towers), on the southern side of Bathurst Street



Figure 9: Existing development located to the west of the site, on the opposite side of Sussex Street

PROPOSAL

10. The subject application seeks consent for a Stage 1 concept proposal for the following:
- (a) in-principle approval for demolition of the existing commercial building on site;
 - (b) a 26-storey (80 metre) building envelope, which has been tested to accommodate approximately 15,098sqm of gross floor area (GFA) or a FSR of 12.03:1;
 - (c) indicative future land uses of hotel (within the podium levels being ground floor to Level 8) and residential (in the tower from Level 9 to Level 25);
 - (d) basement levels (indicatively shown as 4 levels); and
 - (e) vehicular access off Sussex Street.
11. **Figures 10 to 13**, below, illustrate elevations of the proposed development. Building envelope plans and elevations of the proposed development are provided at **Attachment A**. Indicative floor plans are provided at **Attachment B**.

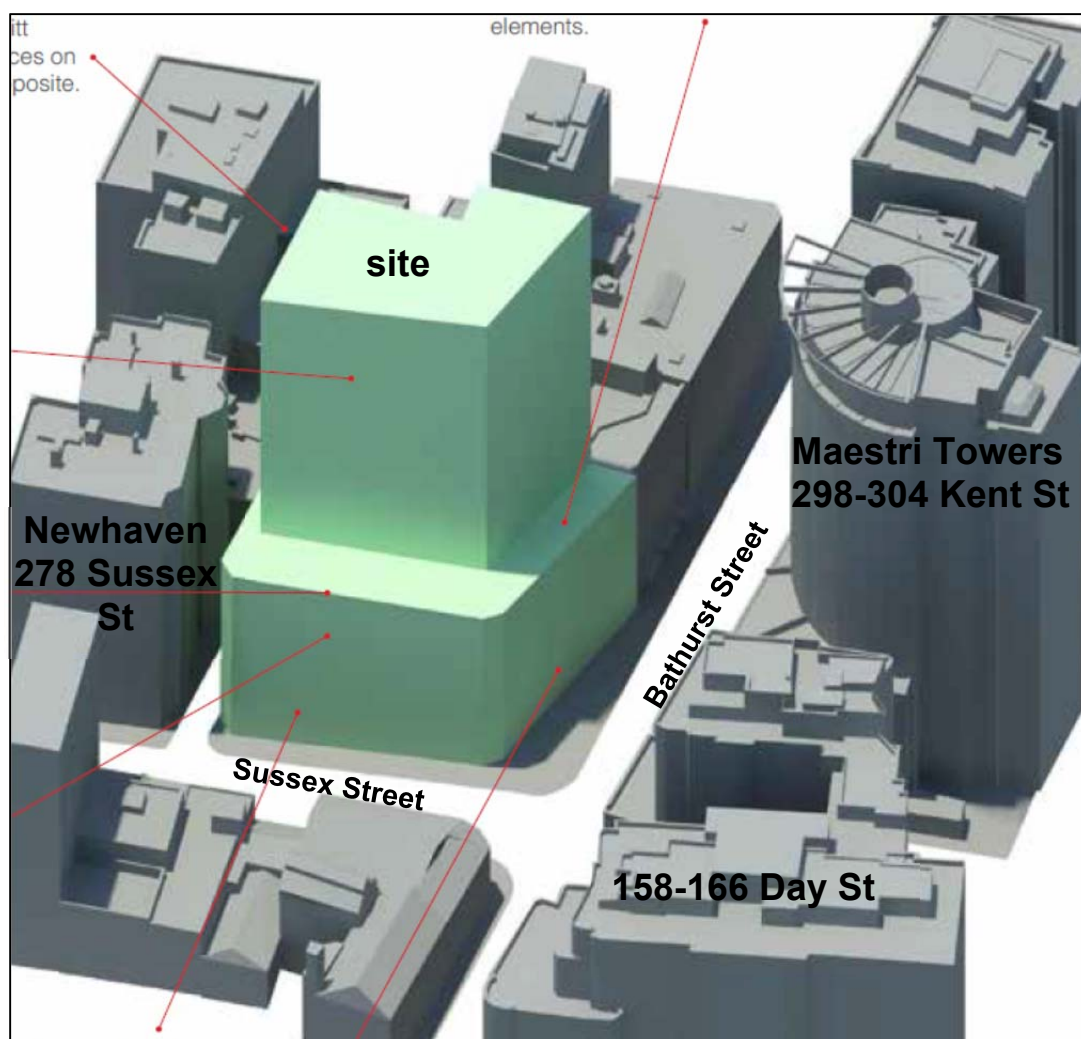


Figure 10: The proposed building envelope, looking east

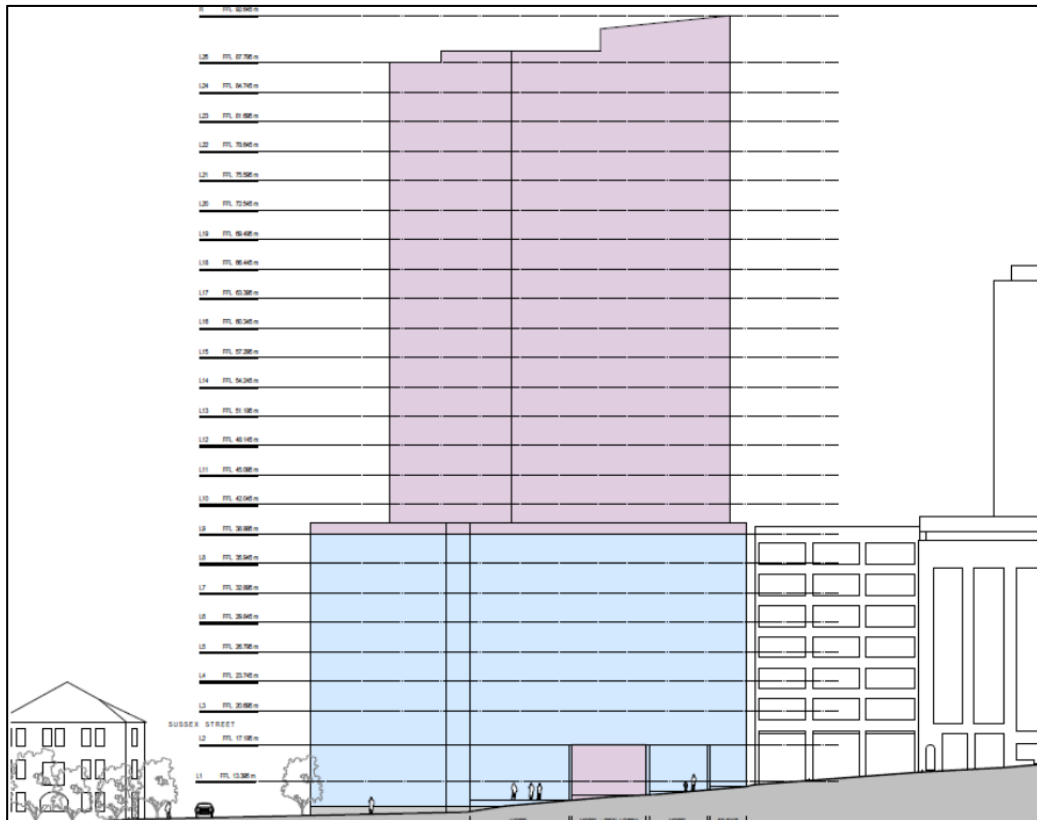


Figure 11: The southern elevation of the proposed building envelope, as viewed from Bathurst Street

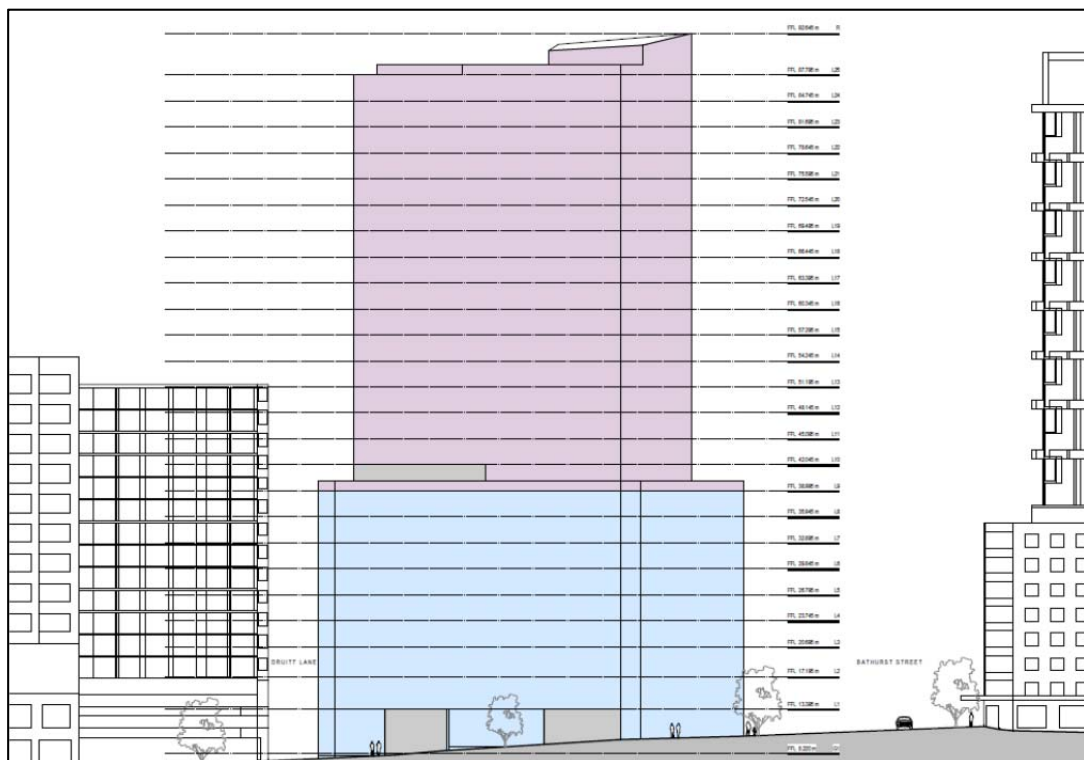


Figure 12: The western elevation of the proposed building envelope, as viewed from Sussex Street

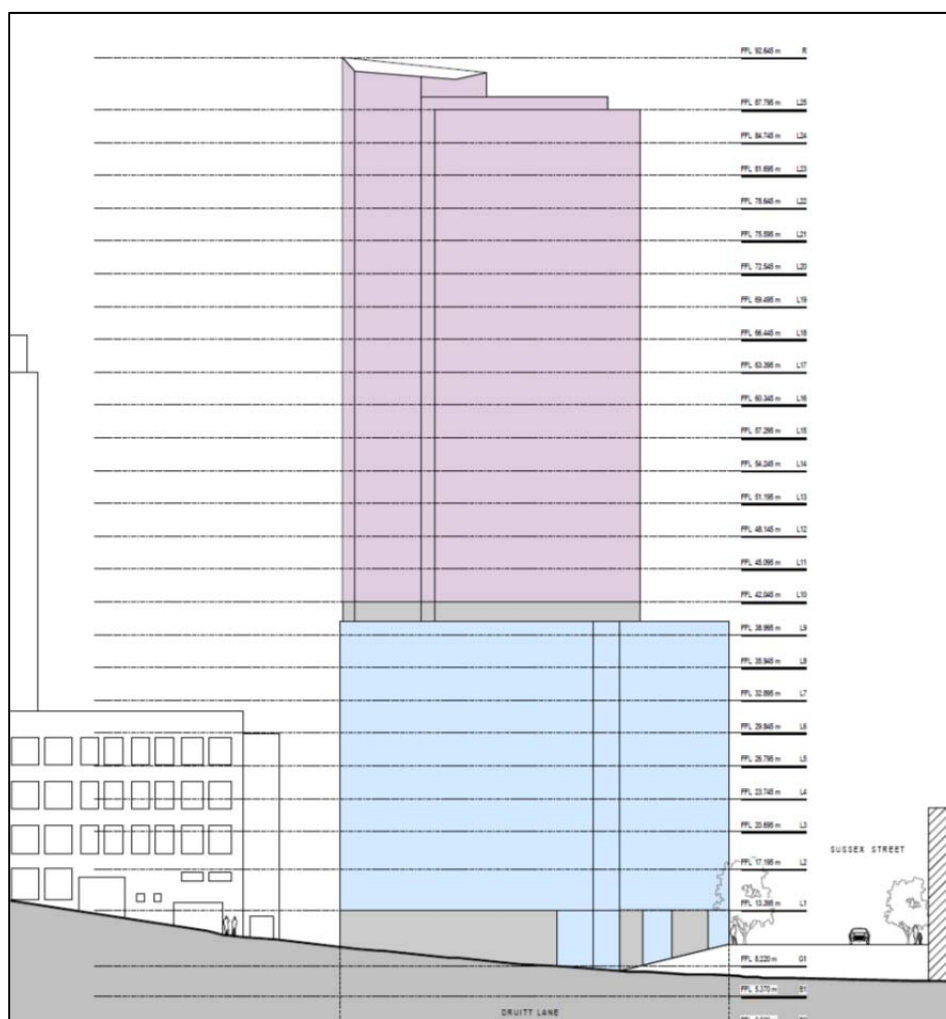


Figure 13: The northern elevation of the proposed building envelope, as viewed from DrUITT Lane

APPLICATION HISTORY AND AMENDMENTS

12. The subject application was lodged on 28 May 2014. At the time of lodgement, the application sought consent for a different building envelope, footprint and land uses than the proposal which is the subject of assessment in this report.
13. **Figures 14 and 15**, below, illustrate the building envelope and tower footprint of the proposal as originally lodged in May 2014.

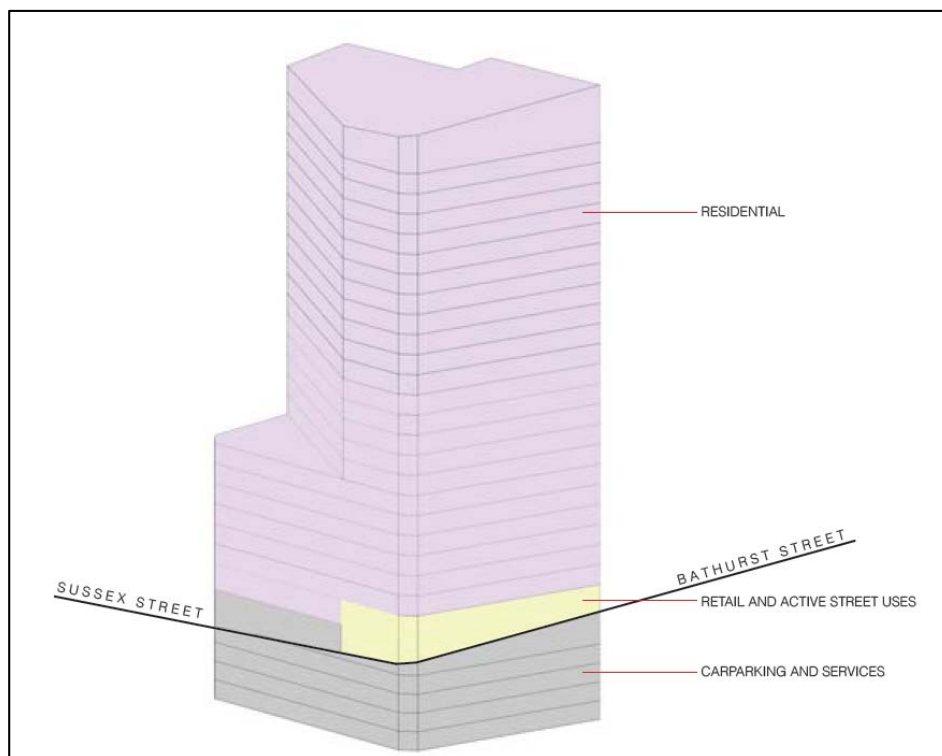


Figure 14: The building envelope, as originally lodged in May 2014

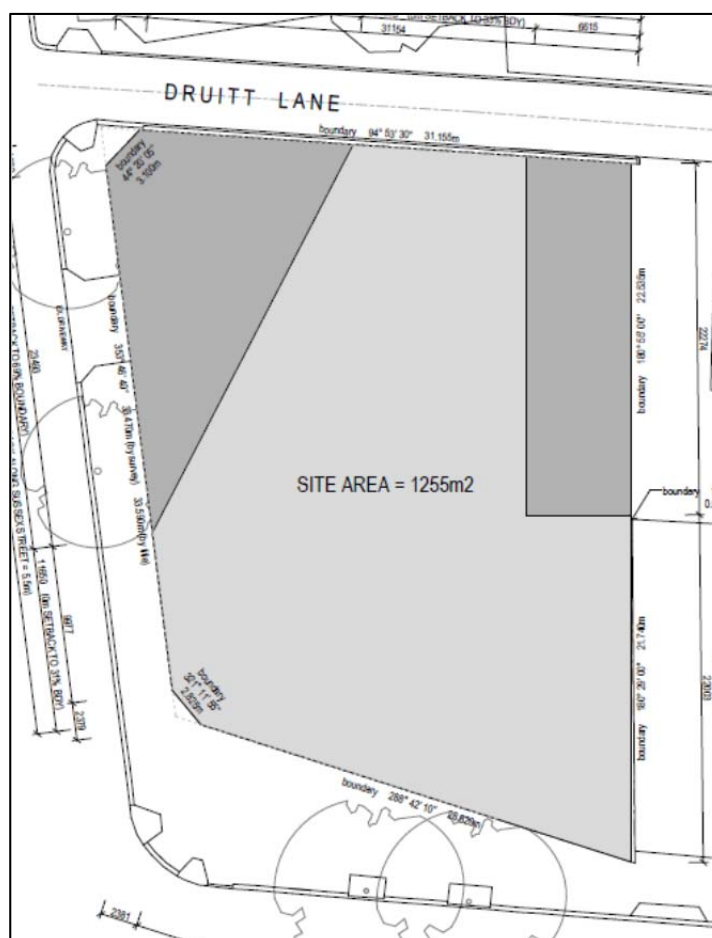


Figure 15: The tower footprint of the originally lodged proposal

14. Following a preliminary assessment of the application, including consideration of the matter by the City's Design Advisory Panel, the Applicant was advised in correspondence, dated 1 October 2014, that the proposal was not supported in its current form.
15. The following issues were raised with the proposal following the preliminary assessment:
 - (a) **Front setbacks** – As lodged, the above street frontage height front setbacks of the tower on both Sussex and Bathurst Street frontages were non-compliant with the requirements of SDCP 2012. The applicant was advised that the nil setback of the tower on Bathurst Street was not supported and was contextually inappropriate;
 - (b) **Side setbacks** – Inadequate side setbacks were proposed from the eastern boundary of the site on the originally lodged scheme. It was recommended that the tower floor plate be setback to lessen the bulk of the tower and improve the amenity of future residential apartments;
 - (c) **Lane setbacks** – The proposal as lodged did not comply with the lane setback provisions of SDCP 2012 and was not considered to be sufficient to achieve adequate separation to existing residential apartments on the opposite side of Druitt Lane. It was recommended that the tower component of the development be setback in accordance with the DCP provisions and the rules of thumb of the Residential Flat Design Code (RFDC);
 - (d) **Overshadowing** – Preliminary assessment of the proposal noted that the proposed envelope cast additional shadowing on the existing residential apartment buildings to the south of the site (on the opposite side of Bathurst Street). In addition to the modifications sought to the envelope, it was requested that further shadowing analysis be undertaken to ensure that any new shadowing does not reduce the level of solar access below 2 hours of solar access on the winter solstice;
 - (e) **Land use** – Concern was raised to the appropriateness of residential land uses in the podium levels of the building due to the level of amenity of these lower floors (with regard to solar access, light, separation across the lane, traffic noise and air quality). It was recommended that consideration be given to an alternative land use in the podium;
 - (f) **Residential amenity** – The indicative apartment layouts submitted testing the envelope did not achieve a scheme that was compliant with the residential amenity provisions of SDCP 2012 or the RFDC with regard to solar access and cross ventilation. The applicant was advised that at Stage 1, the scheme needed to demonstrate a level of certainty on the envelope being able to deliver a complying scheme with good amenity;
 - (g) **Driveway location** – The preferred location for vehicular access to the site is from Druitt Lane. It was recommended that the proposal be amended to relocate the vehicular access to the lane, or alternatively additional information be submitted to justify that waste and service vehicles are unable to service the site from Druitt Lane; and

- (h) **Provision of Additional information** – Insufficient information was submitted with the application to address site contamination and acid sulfate soils. Additional information was requested to address these matters.
16. Following a number of meetings held with the Applicant and Architect for the project in October and November 2014, an amended scheme was formally lodged with Council on 6 January 2015. The key changes made to the scheme were:
- (a) a change in land use for the podium of the building (Ground floor to Level 8) from residential to hotel;
 - (b) provision of a 6-metre setback of the tower from Bathurst Street;
 - (c) provision of an 8-metre setback of the tower from Sussex Street;
 - (d) provision of a 6-metre setback of the tower from the centre of Druitt Lane; and
 - (e) amended indicative floor plans to illustrate the ability of the envelope to accommodate a DCP compliant unit mix and greater compliance with the principles of SEPP 65/RFDC.
17. This amended scheme is the subject of assessment in this report.

CITY OF SYDNEY ACT 1988

18. Section 51N requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines a DA that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works likely to have a significant impact on traffic and transport in the Sydney CBD. A full extract of this Section is provided below.

51N Planning proposals having a significant impact on traffic and transport in the Sydney CBD

- (1) *The Planning Committee must consult the CSTTC before it exercises a function under Part 4 that will result in the making of a decision that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.*
- (2) *The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.*
- (3) *The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.*

- (4) *The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee."*
19. Having liaised with the City's Access Unit, in this instance, the proposal is not considered by the CSTTC delegate, the Director City Planning, Development and Transport, to have a significant impact on traffic and transport in the CBD, and formal consideration by the CSTTC is not necessary.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

20. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
- (a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

21. SEPP 55 requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation.
22. A Preliminary Environmental Site Assessment was submitted with the amended application to address the requirements of SEPP 55. Based on the information submitted and a historical land use study undertaken by City staff, it has been concluded that further detailed site investigation will be required prior to any works commencing on site.
23. As the subject application is for a concept approval only, Council's Health Compliance Unit are satisfied that sufficient information can be submitted as part of the Stage 2 development application to conclude that the site can be made suitable for the proposed uses and satisfy the requirements of SEPP 55. An appropriate condition has been recommended for imposition.

State Environmental Planning Policy (Infrastructure) 2007

24. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Clause 45 – Electricity transmission

25. As the development site is within the vicinity of existing power lines and an electricity substation, the application was referred to Ausgrid under the provisions of Clause 45 of SEPP (Infrastructure) 2007.
26. It is recommended that a condition be imposed requiring that the applicant liaise with Ausgrid prior to the lodgement of a Stage 2 development application and that any required infrastructure be accommodated within the detailed design of the development.

Clause 88 – Development within or adjacent to interim corridor

27. The application was referred to Sydney Trains and Transport for NSW on 4 June 2014 under the provisions of Clause 88 of the SEPP (Infrastructure) 2007, as the site is located above an interim rail corridor.

28. In correspondence, dated 14 August 2014, Sydney Trains and Transport for NSW have granted their concurrence, subject to the imposition of conditions outlined in Schedule 3.
29. The amended scheme was referred to Sydney Trains and Transport for NSW on 13 January 2015. No modification has been made to the original concurrence conditions provided on 14 August 2014 as a result of the amended scheme.

Clause 103 – Excavation in or immediately adjacent to corridors and Clause 104 – Traffic generating development

30. The application was referred to the Roads and Maritime Services (RMS) pursuant to Clauses 103 and 104 of SEPP (Infrastructure) 2007 on 4 June 2014.
31. In correspondence, dated 26 June 2014, the RMS has advised that they raise no objection to the proposed development, subject to the imposition of conditions relating to the Cross City Tunnel that runs beneath the site.
32. The amended scheme was referred to the RMS on 13 January 2015. In correspondence, dated 11 February 2015, the RMS advised that they raise no objection to the amended scheme and that the conditions provided in their previous correspondence (dated 26 June 2014) still stand. These conditions have been recommended for imposition at Schedule 3.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

33. SEPP 65 requires that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality.
34. The proposed development is for conceptual building envelope only and no physical building works are sought, or recommended for approval, as part of this application. In the event that the subject application is approved, the detailed design of the development will be the subject of both a competitive design process and Stage 2 Development Application.
35. Clause 70B of the Environmental Planning and Assessment Regulation 2000 provides that design verification required under clause 50(1A) is not required for Stage 1 Development Applications unless the DA contains detailed proposals for a residential flat development or part of that development.
36. As the proposal seeks consent for the indicative residential land use on the site, consideration has been given below to the ability of the envelope and indicative floor plans to achieve the design principles of SEPP 65. A further, more detailed, assessment against these principles would occur with any Stage 2 Development Application.

(a) Principles 1, 2 and 3: Context, Scale and Built Form

The proposed scale and massing of the building envelope is contextually appropriate to this CBD location and provides an appropriate form to accommodate its intended future uses.

(b) **Principle 4: Density**

The proposal results in a density of development as envisaged by the planning controls. The proposed density is considered to be appropriate given the CBD context of the site, particularly given its proximity to established infrastructure, public transport, community and recreational facilities.

(c) **Principle 5: Resource, energy and water efficiency**

Complies: The proposed envelope and its indicative floor plates have been designed to maximise cross ventilation and solar access penetration into future residential apartments. The energy efficiency and sustainability of the design will form part of the future detailed design development application. Appropriate conditions are recommended for imposition to require that the Stage 2 DA comply with SEPP 65 and BASIX.

(d) **Principle 6: Landscape**

It is noted that the CBD context, site area and setbacks established by surrounding development generally preclude the provision of ground floor level communal open space and/ or deep soil planting on the subject site.

The proposal seeks consent for an indicative building envelope only, and it will be necessary for a more detailed analysis and assessment of any scheme against the landscape principles as part of a future Stage 2 Development Application. It should also be noted that prior to a Stage 2 development application, a competitive design process will be required to be held for this site. The provision and location of communal and private areas open space within the development will form part of the overall architectural design.

(e) **Principle 7: Amenity**

As the proposal is for a Stage 1 concept proposal only, a more rigorous assessment of the amenity for future residents will occur as part of the Stage 2 detailed design development application. However, as part of the subject application, indicative floor plans have been submitted in order to demonstrate that the floor plates and envelope sought are capable of accommodating a SEPP 65 compliant design. Based on these indicative floor plans, it is considered that the site is capable of providing an adequate level of amenity as:

- (i) 70.6% of the indicative apartments are able to receive two hours of solar access between 9.00am and 3.00pm on the winter solstice, which complies with the 70% requirement of the RFDC guidelines.
- (ii) 67% of the indicative apartments are naturally cross ventilated, which proves the floor plate is able to comply with the RFDC guideline of 60%.
- (iii) All apartments are able provided with private outdoor space, which will be detailed in the Stage 2 Development Application.

- (iv) Storage areas are able to be provided within the development in accordance with the storage requirements of the RFDC.

(f) **Principle 8: Safety and Security**

The proposal is for a conceptual building envelope only, with the detailed design of the building to be the subject of a competitive design process prior to the lodgement of a Stage 2 DA. It is considered that the building is able to be designed to ensure compliance with the safety and security principle of the RFDC and the principles of Crime Prevention through Environmental Design.

(g) **Principle 9: Social Dimensions**

The indicative scheme accommodates the following unit mix within the building envelope:

- (i) 36 x studio/1 bedroom – 39.1% (DCP control is maximum of 40%);
- (ii) 47 x 2 bedroom – 51.1%; (DCP range is 40-75%); and
- (iii) 9 x 3 bedroom – 9.8 % (DCP range is 10-100%).

It should be noted that this unit mix is not locked in/approved as part of the subject application and will be subject to change as part of the detailed design application, however, it does demonstrate that a generally compliant mix is able to be accommodated within the envelope. A condition requiring compliance with the SDCP 2012 unit mix provisions is recommended for imposition.

(h) **Principle 10: Aesthetics**

The proposal is for a conceptual building envelope only, with the detailed design and aesthetics of the building to be the subject of a competitive design process prior to the lodgement of a Stage 2 DA.

37. Considering the constraints of the site, the development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

38. Any future Stage 2 Development Application will be required to satisfy BASIX requirements. A condition is recommended for imposition to advise that any future residential scheme must comply with SEPP (Building Sustainability Index: BASIX) 2004, and that a BASIX certificate must be submitted with any future Stage 2 DA.

State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)

39. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
40. The proposed development of the site is consistent with the aims and objectives of SEPP.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

41. The site is located within the designated catchment for Sydney Harbour, and is subject to the provisions of the SREP (Sydney Harbour Catchment) 2005.
42. Whilst the site is within the Sydney Harbour Catchment and eventually drains into the Harbour, it is not located in the Foreshores Waterways Area or adjacent to a waterway. The proposed development is considered to be in keeping with the provisions and principles of SREP (Sydney Harbour Catchment) 2005.

Sydney LEP 2012

43. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposal is defined as a '*residential flat building*' and '*tourist and visitor accommodation*', both of which are permissible uses within the B8 – Metropolitan Centre zone pursuant to Clause 2.3 of SLEP 2012.
44. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	<p>Clause 4.3 of SLEP 2012 permits a maximum height of 80 metres for the subject site.</p> <p>The proposed envelope has a variable height between RL 87.795 and RL 92.645 metres. The variable maximum height reflects the sloping topography of the site, with the envelope being compliant with the 80 metre building height development standard.</p>
4.4 Floor Space Ratio	Able to comply	<p>Clause 4.4 of SLEP 2012 stipulates a base floor space ratio of 8:1 for the site. Based on the indicative land uses sought at this concept stage of the proposal, Clause 6.4 of SLEP 2012 provides an opportunity for a further 3:1 of floor space where accommodation floor space uses are provided. This equates to a maximum FSR for the development of 11:1.</p> <p>The documentation submitted by the applicant demonstrates that the proposed building envelope is able to accommodate 15,098sqm of gross floor area, which would equate to a FSR of 12.03:1.</p>

Compliance Table		
Development Control	Compliance	Comment
4.4 Floor Space Ratio (continued)	Able to comply	<p>In order to achieve this FSR, the applicant is reliant on any future architectural design being awarded the 10% design excellence floor space under the provisions of Clause 6.21 of SLEP 2012.</p> <p>Further discussion is provided at this issues section of this report, however, it should be noted that no gross floor area or FSR would be approved as part of the subject application.</p>
5.10 Heritage conservation	Yes	<p>The concept plan seeks in-principle consent for demolition of the existing building on site. This building was constructed in 1973, and does not have any heritage contribution to the streetscape or immediate locality.</p> <p>The site itself is not of heritage significance, however, it is located in the vicinity of a locally listed heritage items at 499-501 Kent Street and 281-287 Sussex Street.</p> <p>The proposed scale of the building envelope and its siting is not considered to detract from the significance of either item, and is considered acceptable with regard to the provisions of Clause 5.10 of SLEP 2012.</p>
6.4 Accommodation floor space	Able to comply	<p>The site is located in 'Area 3', and as such, based on the indicative land uses proposed is eligible for additional accommodation floor space of up to 3:1 of the site area. This accommodation floor space has been included in the collective permissible FSR for the development, as discussed elsewhere within this report. However, no FSR is approved as part of this application.</p>
6.11 Allocation of heritage floor space (HFS)	Able to comply	<p>Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.11 of SLEP 2012.</p>

Compliance Table		
Development Control	Compliance	Comment
6.16 Erection of tall buildings in Central Sydney	Yes	The proposed building envelope has a height in excess of 55 metres, and as such, the provisions of Clause 6.16 are applicable. The proposed envelope is considered to be consistent with the objectives of Clause 6.16.
6.21 Design excellence	Able to comply	<p>In accordance with Clause 6.21(7) of SLEP 2012, an additional 10% FSR or height may be approved if a competitive design process has been undertaken, and it is considered that the scheme exhibits design excellence.</p> <p>As the proposal is a Stage 1 development application, no architectural design details have been provided. A competitive design process will need to be undertaken prior to any Stage 2 development application being lodged.</p>
7.5 & 7.9 Car parking ancillary to other development	Able to comply	<p>The proposal illustrates 4 levels of basement levels as part of the concept proposal.</p> <p>Car parking numbers for residential and hotel uses can only be assessed as part of a Stage 2 DA. Parking numbers are determined having regard to the residential unit mix proposed and size and number of rooms within the hotel, which is only conceptual at this stage.</p> <p>A condition has been recommended for imposition to advise that no consent is granted to 'lock in' car parking numbers or number of basement levels as part of Stage 1 DA.</p>

Compliance Table		
Development Control	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	<p>An Acid Sulfate Soil Investigation Report and Management Plan has been submitted with the amended application, as the site is identified in SLEP 2012 as being within an area with Class 2 Acid Sulfate Soils.</p> <p>Council's Environmental Health Officer has advised that the proposed development is satisfactory with Clause 7.14 of SLEP 2012, subject to the imposition of a condition requiring compliance with the Acid Sulfate Soils Management Plan.</p>
7.15 Flood planning	Able to comply	<p>The City's Engineers have reviewed the proposal with regard to flooding and overland flows. It has been advised that the subject property is not located on flood prone land. It has been recommended that the future basement car park entry be set 300mm above the gutter invert level. A alignment level condition has been recommended for imposition to address this matter.</p>
7.16 Airspace operations	Yes	<p>The building envelope is not proposed to be constructed to a height that penetrates the prescribed airspace for Sydney Airport.</p>
7.20 Development requiring preparation of a development control plan	Yes	<p>As the height of the proposed envelope exceeds 55 metres, the provisions of Clause 7.20 of SLEP 2012 are applicable and the preparation of a site specific DCP is required.</p> <p>However, pursuant to the provisions of Section 83C(2) of the Environmental Planning and Assessment Act, 1979, the lodgement of a Stage 1 DA may be considered by the consent authority as satisfying this obligation.</p>

Compliance Table		
Development Control	Compliance	Comment
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>The site is located within the vicinity of the Cross City Tunnel ventilation stack, and as such, the applicant has submitted an Air Quality Audit.</p> <p>Council's Environmental Health Officer has concurred with the content of this report and its recommendation that a formal air monitoring study be conducted. This study should be submitted with the Stage 2 development application, and a condition to this effect is recommended for imposition.</p> <p>Based on the information submitted, and subject to the imposition of a condition, the Health and Building Unit are satisfied that sufficient information has been submitted at this time to ensure that the proposed development is consistent with the requirements of Clause 7.24 of SLEP 2012 and the Section 3.13.2 of SDCP 2012.</p>

Sydney DCP 2012

45. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Able to comply	<p>The site adjoins Druitt Lane along its northern boundary.</p> <p>Pursuant to the provisions of Section 3.1.1.3 of SDCP 2012, mixed-use development in Central Sydney located adjacent to a lane/s, is to activate the lane at ground level and enhance pedestrian activity.</p> <p>In its current form, the concept floor plate for ground floor has concentrated plant and fire egress locations on the lane, and nominates a predominately blank facade.</p> <p>It is recommended that a condition be imposed requiring greater activation of the lane and consideration to the ground floor interface as part of the design competition process.</p>
3.1.5 Public art	Able to comply	<p>A Public Art Strategy is to be developed for the site in accordance with the Sydney DCP 2012 and the Public Art Policy. This Strategy shall be form part of the documentation lodged as part of a further Stage 2 Development Application.</p> <p>The requirement to accommodate public art as part of the redevelopment of the site must form part of the competitive design process brief and the nominated location should be included as part of any further Stage 2 Development Application.</p>
3.2 Defining the Public Domain	Able to comply	<p>The proposal was referred to the City's Public Domain Unit, who have recommended the imposition of appropriate conditions on any consent granted. Primarily these conditions will require more detailed plans of the development's public domain interface and scope of works are part of any Stage 2 DA.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2.1.1 Sunlight to publicly accessible spaces	Yes	The proposed envelope has been assessed as not resulting in the creation of additional shadowing to publicly accessible open space at the DCP nominated times of the year (being April and June).
3.2.6 Wind effects	Able to comply	A condition is recommended for imposition requiring the submission of wind effects report as part of the Stage 2 development application.
3.3 Design Excellence and Competitive Design Processes	Able to comply	<p>Prior to a submission of a Stage 2 DA, a competitive design process will need to be undertaken.</p> <p>A Design Excellence Strategy has been submitted with the subject application in accordance with the requirements of Section 3.3.8 of SDCP 2012.</p>
3.5.3 Tree Management	Yes	No physical works are proposed as part of the subject application, however, it is noted that at this indicative stage that the proposal does not impact on the 4 existing street trees located along the Sussex and Bathurst Street frontages of the site.
3.6 Ecologically Sustainable Development	Able to comply	Compliance with the requirements of BASIX will be assessed at Stage 2. Details will need to be submitted with the future Stage 2 DA to demonstrate compliance.
3.7 Water and Flood Management	Yes	Refer to discussion in LEP compliance table.
3.9 Heritage	Yes	Refer to discussion in the LEP compliance table.

3. General Provisions		
Development Control	Compliance	Comment
3.11 Transport and Parking	Able to comply	<p>The concept plan has indicatively illustrated 4 basement car parking levels. It is noted that parking numbers or rates are not approved as part of a Stage 1 DA, and would form part of the detailed Stage 2 DA design assessment when the exact land uses and residential apartment mix numbers are known.</p> <p>Based on the indicative parking layout and number of spaces proposed, the City Access and Transport Unit have advised that they are of opinion that the proposal would not significantly increase traffic generation.</p> <p>Appropriate conditions are recommended for imposition to advise that parking numbers and number of basement levels are not approved as part of this application, and outlines matters that must be included in any future Stage 2 DA (i.e. bicycle parking and on-site waste collection).</p>
3.11.11 Vehicle access	Able to comply	<p>Vehicular access to the site is currently available via driveways from both Sussex Street and Druitt Lane.</p> <p>The proposal seeks to maintain vehicular access from the Sussex Street frontage of the site, in a similar location to the existing crossover.</p> <p>The applicant was advised following a preliminary assessment of the application that consideration should be given to relocating vehicular access to the site from Druitt Lane. Druitt Lane was the preferable location due to streetscape, activation and facade impacts of a Sussex Street driveway, as well as impacts on pedestrian movements.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.11.11 Vehicle access (continued)	Able to comply	The amended scheme has retained the Sussex Street driveway location, with the Applicant providing further justification that a waste collection vehicle cannot access the site via Druitt Lane. Refer to further discussion in the Issues section, below.
3.11.13 Design and location of waste collection 3.14 Waste	Able to comply	Refer to further discussion on vehicular access in the Issues section, below.
3.12 Accessible Design	Able to comply	A condition has been recommended that the development is to provide appropriate access and facilities for persons with disabilities in accordance with the relevant legislation.
3.13 Social and Environmental Responsibilities	Able to comply	Details will need to be submitted with the future Stage 2 DA to demonstrate compliance with the CPTED principles.
3.13.2 Air quality for development near the Cross City Tunnel	Yes	Refer to discussion in the LEP compliance table.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1.2 Floor to ceiling heights	Able to comply	The proposed building envelope has included concept plans and sections with the residential floor-to-floor heights of 3.05 metres. It is recommended that a condition be imposed requiring the detailed design to be developed with floor to floor height of 3.1 metres to ensure that a finished internal clearance height of 2.7 metres.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3.1 Solar Access		Refer to issues section below.
4.2.3.12 Flexible housing and dwelling mix	Able to comply	<p>Indicative floor plans were submitted with the concept plan demonstrating that the envelope is able to accommodate a generally compliant unit mix, and that this layout can achieve the residential amenity criteria of the DCP and RFDC.</p> <p>Compliance with the unit mix provisions of the DCP will form part of the Stage 2 DA.</p>
4.4.8 Visitor Accommodation		
Development Control	Compliance	Comment
4.4.8.1 General	Able to comply	<p>Consent is sought for indicative/in-principle approval only for the hotel component of the development. Further detailed internal fit-out/design and operational matters will be subject to the detail design at the Stage 2 Development Application.</p> <p>A condition is recommended for imposition to advise that further information is to be submitted with the Stage 2 DA to demonstrate compliance of the hotel with the provisions of Section 4.4.8 of SDCP 2012.</p>

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.1 Street frontage heights	Yes	<p>The proposed development has a variable podium height of between 26.5 and 30.775 metres (RL 40.183).</p> <p>The proposal is compliant with the permissible street wall height control (of between 20-45 metres) and is considered to be contextually appropriate with the predominant street frontage height of adjacent buildings in Bathurst Street.</p>
5.1.2.1 Front setbacks	Yes	<p>The proposed envelope has setback the tower form 8 metres from the Sussex Street frontage of the site in accordance with the provisions of Section 5.1.2.1 of SDCP 2012.</p> <p>The tower envelope has been setback 6 metres from the Bathurst Street frontage of the site. A 6 metre setback on the Bathurst Street frontage of the site is supported in this instance as the DCP permits a reduction of tower setbacks by up to 2 metres (i.e. from 8 metres to 6 metres) on a secondary street where the 8 metre setback is retained on the north-south street (which in this instance is Sussex Street).</p>
5.1.2.2 Side and rear setbacks	No (but assessed as acceptable)	Refer to discussion in the Issues section of this report.
5.1.2.3 Setbacks for buildings adjoining or fronting lanes	Yes	Refer to discussion in the Issues section of this report.
5.1.4 Building bulk	Yes	The proposed tower has residential floor plates of 475sqm, which is consistent with the provisions of Section 5.1.4 of SDCP 2012.
5.1.5 Building exteriors	Able to comply.	The proposal is a concept envelope only. The architecture and materiality will form part of a competitive design process and Stage 2 Development Application.

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.8 Award and allocation of heritage floor space	Able to comply	Refer to discussion in LEP compliance table.

ISSUES

Separation across Druitt Lane (to north)

46. As detailed in **Figure 16**, below, the podium (ground to Level 8) of the subject development is proposed to have a nil setback along the northern boundary of the site to Druitt Lane. This equates to a separation between the future hotel use in the podium of the proposed development and the existing residential building to the north, known as 'Newhaven' (278-284 Sussex Street), of between 6 to 9 metres.
47. A nil setback from the lane for the podium levels is consistent with the provisions of Section 5.1.2.3 of SDCP 2012, which permits new development fronting a lane to be built to the street alignment up to the permitted street frontage height. In this instance, a nil setback to the Druitt Lane frontage is proposed for 9 levels.
48. Section 5.1.2.2 of SDCP 2012 requires a separation between residential buildings and commercial use (which a hotel is defined as for the purposes of this section of the DCP) of 9 metres.
49. In this instance, a separation of 7 to 9 metres is achieved from the proposed northern wall of the podium to the south facing windows of the Newhaven building (located on the opposite side of Druitt Lane). A review of the floor plans of the Newhaven building has revealed that the windows that are directly oriented south to front the lane are bedroom windows and not the principal living windows of these apartments.
50. Where the separation between the buildings is reduced to a minimum of 6 metres, this is limited to two locations along the facade, as illustrated on **Figures 17 and 18**, below, with these being to a blank side wall and the other to the side elevation of a balcony.

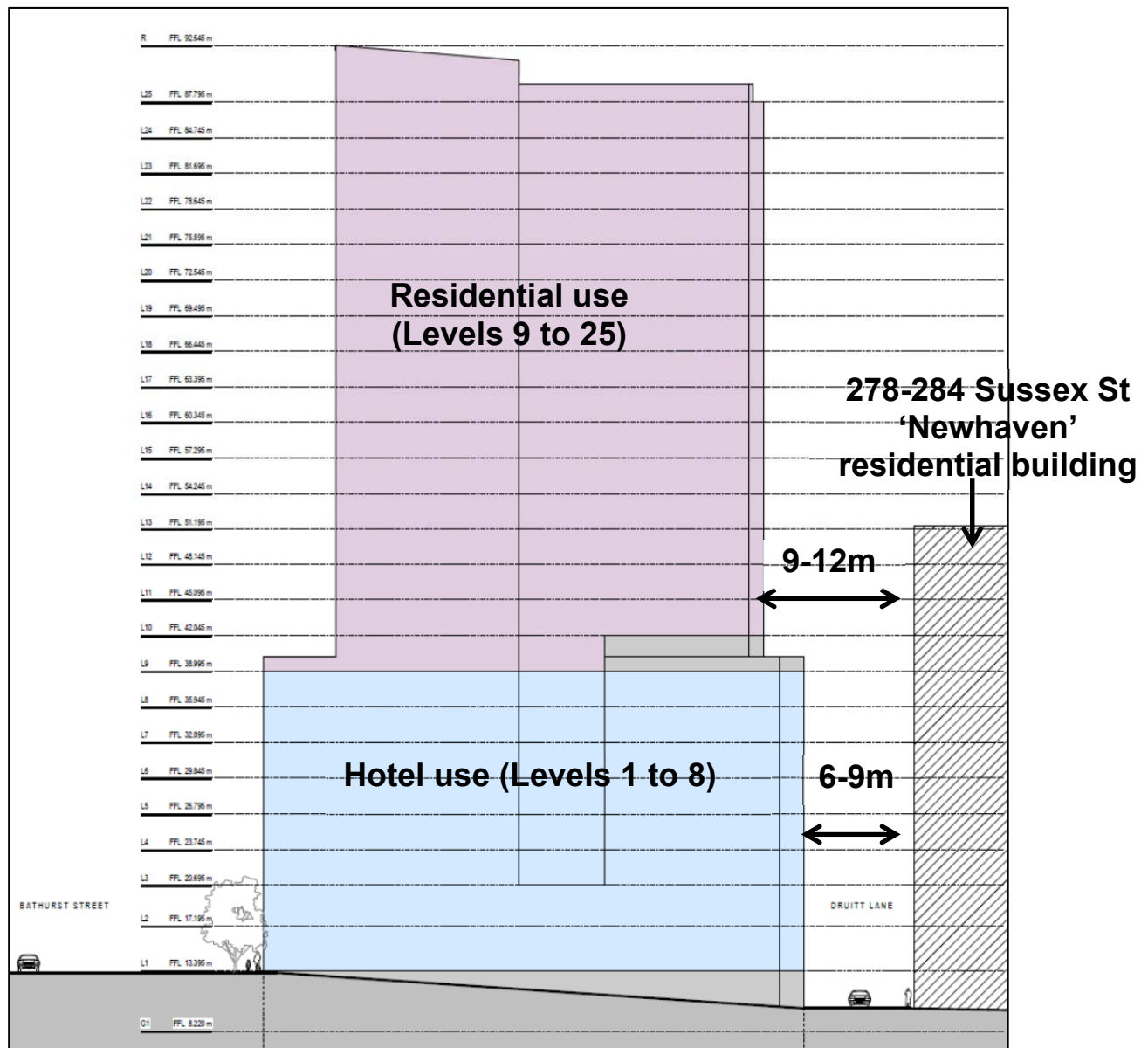


Figure 16: Proposed separation distances achieved across DrUITT Lane

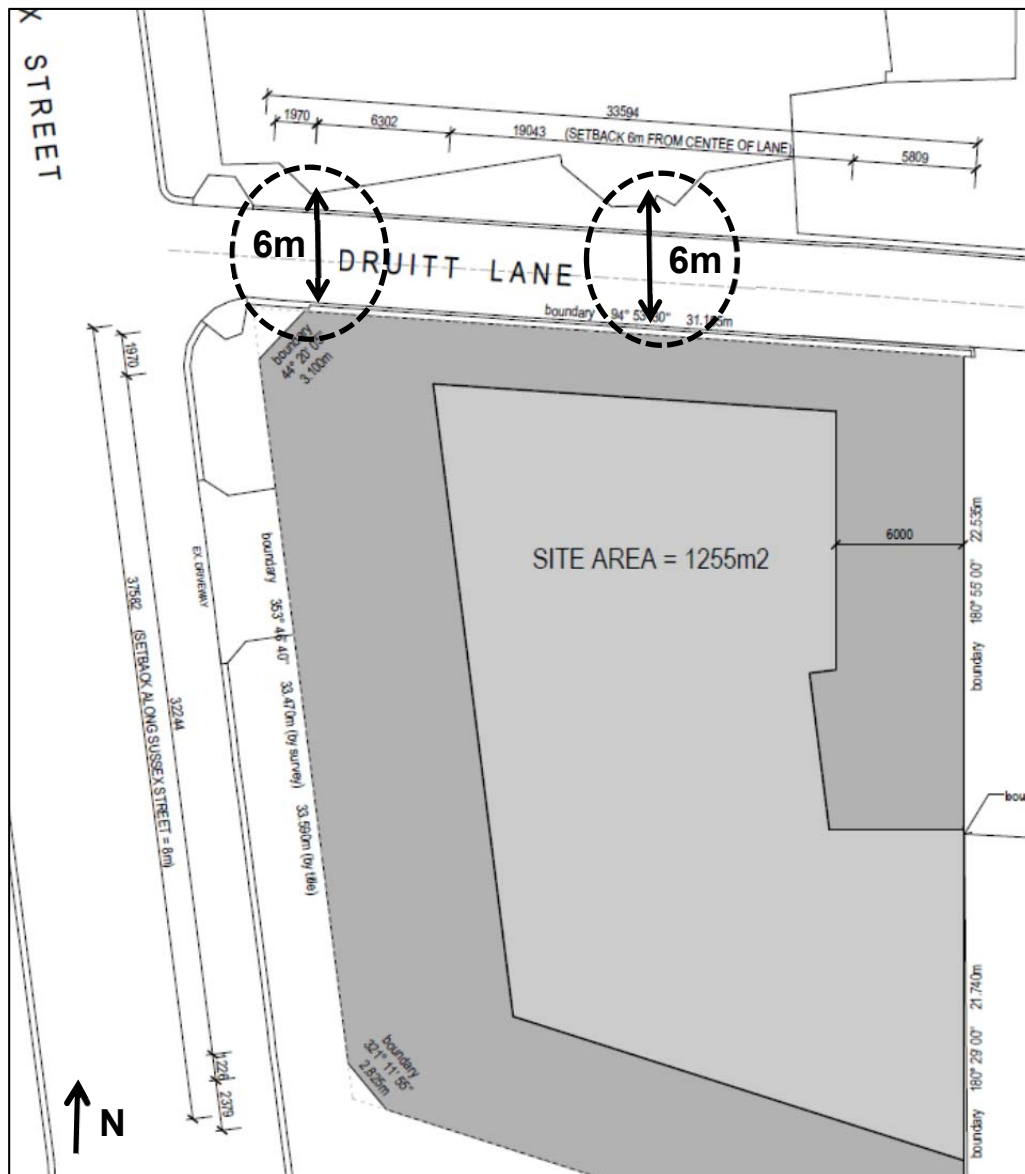


Figure 17: Locations where separation between proposed podium (hotel use) and adjacent residential building across lane is 6 metres

51. In this instance, the separation distances across the lane (for the podium levels) is considered to be adequate as:
 - (a) There is only one location where an area of principal open space or living room would not be separated from a commercial use by the desired separation of 9 metres. It is noted that both the living room windows and its associated balcony are not oriented to the south (towards the site) but rather towards the southwest (i.e. towards Sussex Street);
 - (b) The existing commercial building on site is built to the northern laneway boundary of the site and already contains windows on this northern elevation (as illustrated in **Figure 19**, below). As a hotel is defined as a commercial use, the proposal is not resulting in any greater privacy impacts than the existing situation;

- (c) It is considered that those areas with 6 metre separation could be resolved through skilful design of the detailed internal planning of the future hotel, and through the architectural treatment of the podium through both the competitive design process and the Stage 2 Development Application.



Figure 18: View of the southern elevation of the Newhaven residential building

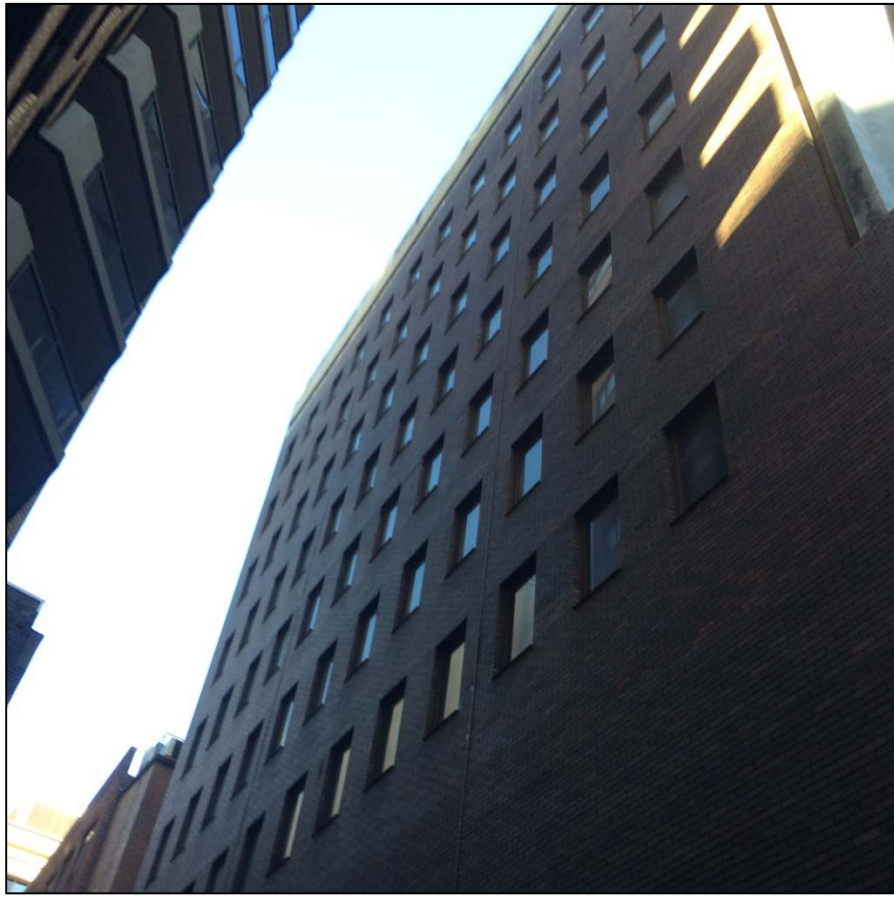


Figure 19: Existing northern elevation windows of the existing commercial building on site fronting Druitt Lane.

52. As detailed in **Figure 16**, above, the tower floor plate (Levels 9 to 25) of the subject development have been setback 6 metres from the centre of Druitt Lane, in accordance with the provisions of Section 5.1.2.3 of SDCP 2012. The provision of this setback achieves a separation between the future residential apartments within the proposed tower and the Newhaven apartments of between 9 to 12 metres.
53. Whilst the tower envelope has been designed to comply with laneway setback provisions of the DCP, it is noted that the separation between the two residential buildings will not achieve the recommended separation guidelines of the Residential Flat Design Code (RFDC). The RFDC recommends a separation of between 18 to 24 metres, depending on whether habitable rooms or non-habitable rooms are located opposite each other.
54. In this CBD context, the proposal is considered to be acceptable as:
 - (a) the proposal complies with the laneway setback provisions of the SDCP 2012, as outlined above;
 - (b) the Newhaven building has been developed so it is built on, or close to, its southern boundary. Therefore, if a numerically compliant RFDC setback was sought, the tower on the subject site would need to be setback a further 15 metres, which would limit any viable tower floor plates on the subject site;

- (c) as the Newhaven building is 16-storeys in height, it is only the upper 4-storeys of that building (being Levels 9 to 12 on the subject site) where the separation between residential apartments is less than the desirable separation of the RFDC. For levels 13 to 25, separation between buildings is no longer an issue;
- (d) as is demonstrated in **Figure 20**, below, the width of the future tower on the subject site would limit a maximum of two apartments to this northern face, and it could reasonable be assumed that each of these apartments will be designed so that its oriented to either the east or west, not to the north. Therefore, it is considered that the 4 floors where there is an interface between the buildings across the lane could be skilfully designed to address privacy and overlooking;
- (e) with regard to outlook from the southern apartments within the Newhaven building, as demonstrated at **Figure 20**, below, the siting of the tower envelope on the subject site would not preclude the view and amenity from the principal living areas and open space of these units from being maintained.

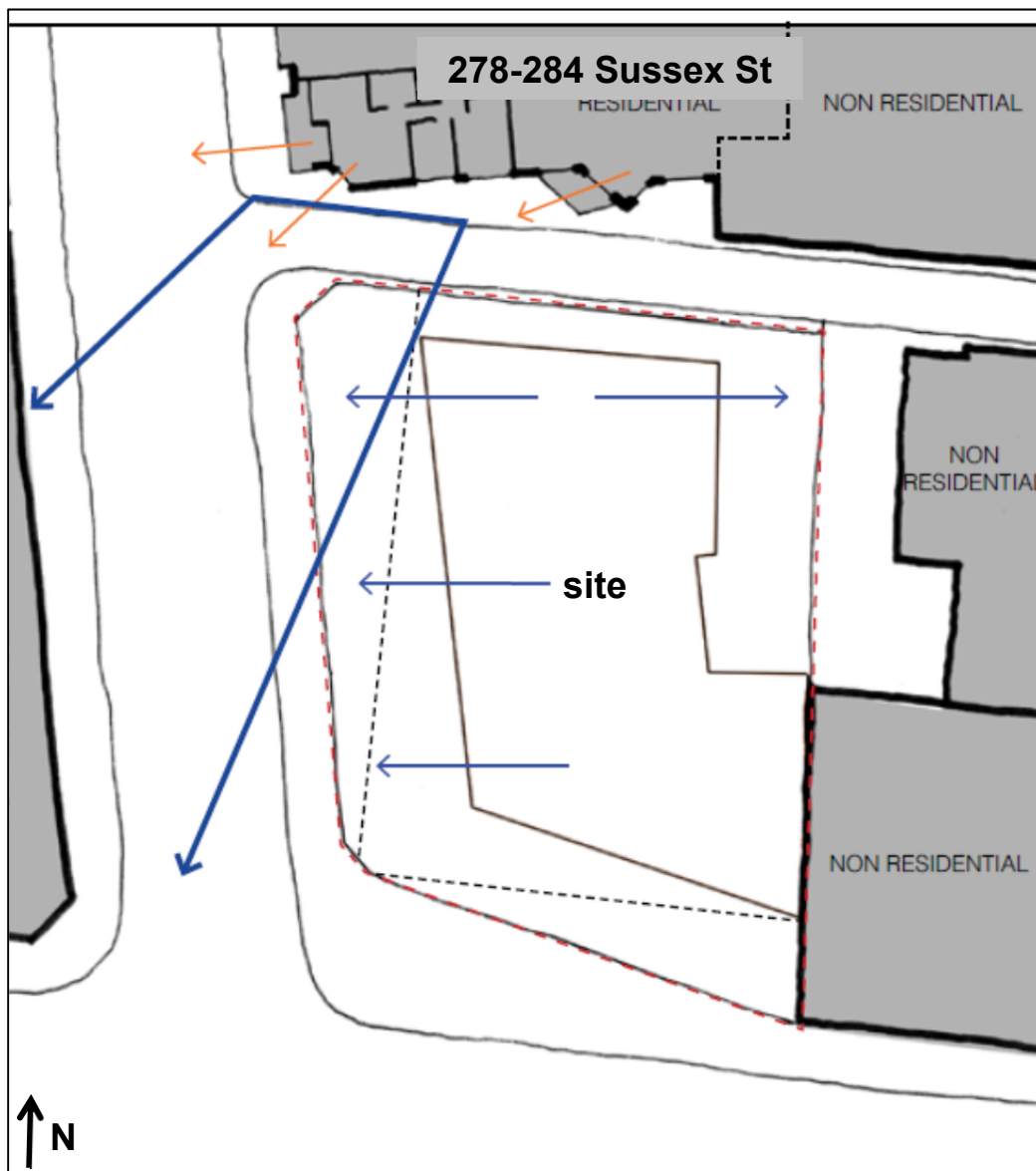


Figure 20: Analysis to illustrate retention of outlook from Newhaven apartments

Side and Rear Setbacks

55. The proposed development has been designed with the following setback to the side (eastern) boundary (refer to **Figure 21** below):

- (a) a nil side setback for its podium levels (up to Level 8);
- (b) a variable tower setback (from Levels 9 to 25) between:
 - (i) a nil setback adjacent to its boundary with 70-72 Bathurst Street; and
 - (ii) a 6-7 metre setback adjacent to its boundary with 499-501 Kent Street.

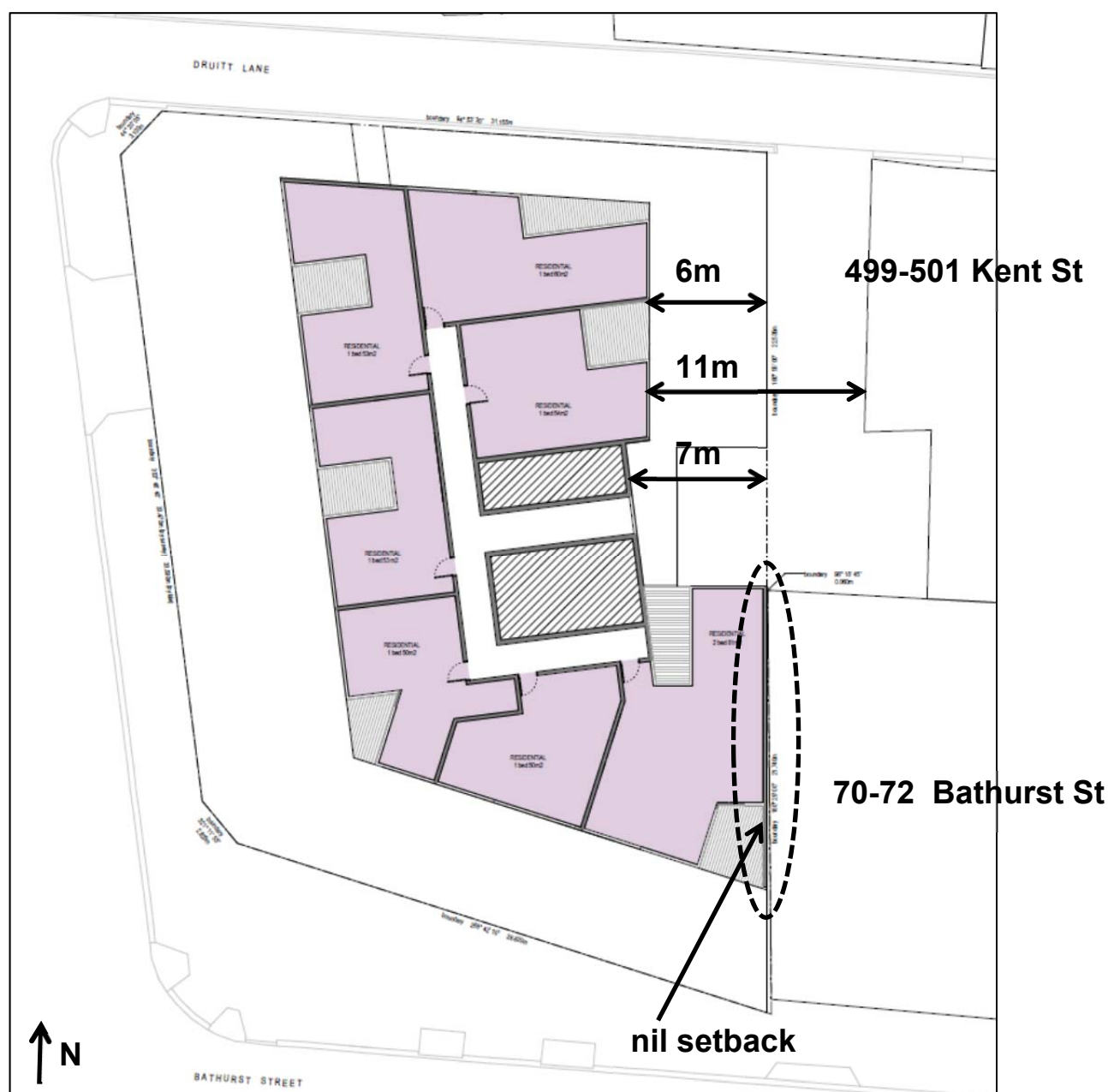


Figure 21: Proposed tower setback from the eastern side boundary

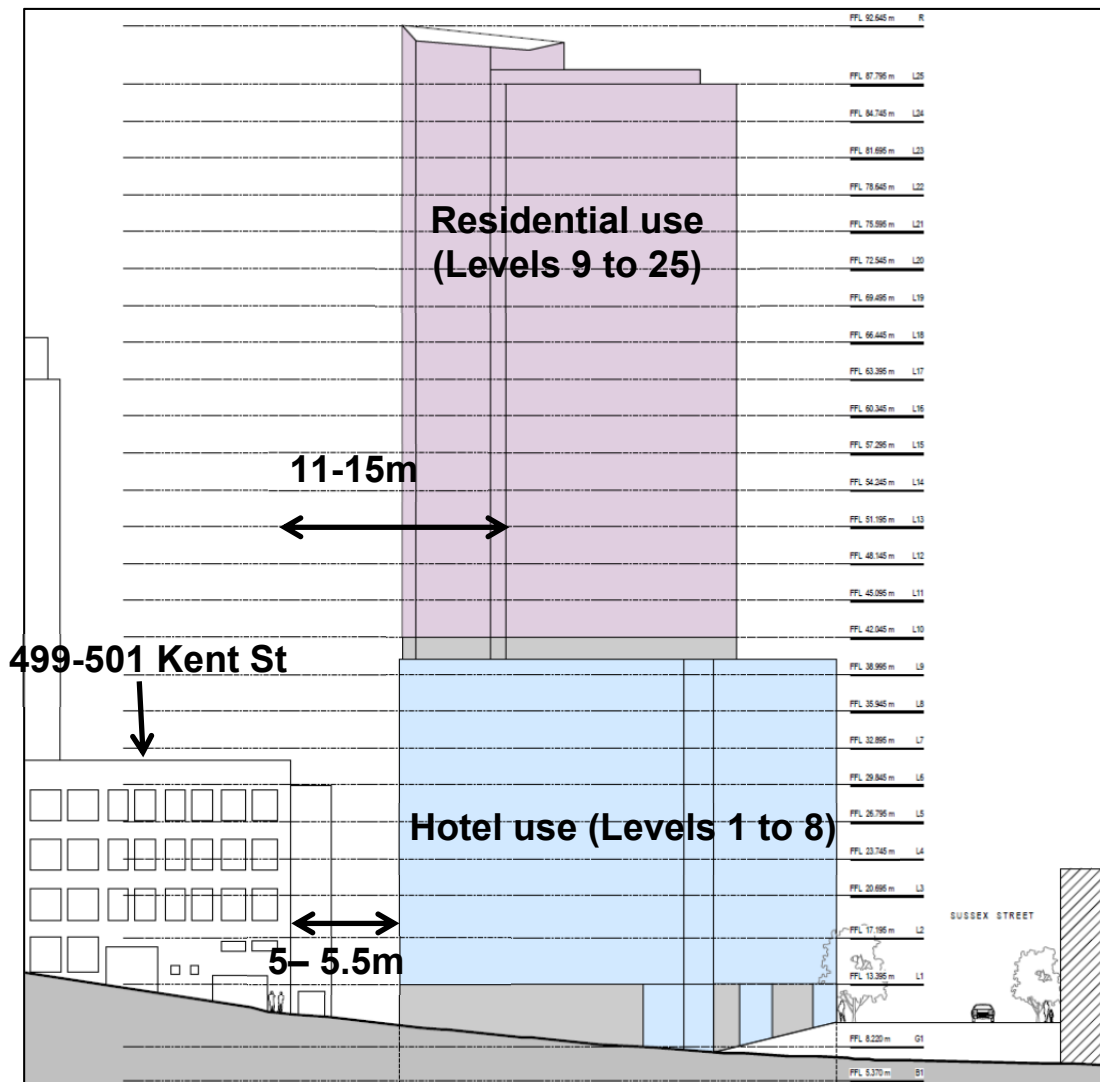


Figure 22: Northern elevation illustrating the relationship to the adjacent heritage item to the east of the site at 499-501 Kent Street

56. With regard to the nil side setback for the podium levels, no objection is raised in this instance to this design, as:
- (a) the podium height will generally align with the existing blank western side wall of the adjacent commercial building at 70-72 Bathurst Street;
 - (b) the existing heritage listed building at 499-501 Kent Street is separated from the proposed podium wall by approximately 5 to 5.5 metres, being the width of the rear cart way of the heritage site. This separation is generally consistent with the 6 metre setback provisions of Section 5.1.2.2 of SDCP 2012 between commercial land uses; and

- (c) whilst the subject application is conceptual and is for indicative land uses only, as the podium is proposed to be built to the boundary and no easement currently exists over the cart way on the adjacent site of 499-501 Kent Street for light and ventilation, it is reasonable to expect that this side elevation will be blank in the future detailed design for the hotel (i.e. accommodating back of house operations and the like). In the event that during the competitive design process and/or Stage 2 Development Application, it becomes desirable to accommodate windows on this section of the elevation, then a further setback could be provided to ensure adequate separation is achieved, or alternatively, an easement may be able to be obtained over the adjacent property.
57. With regard to the proposed tower footprint and envelope, Section 5.1.2.2 of SDCP 2012 requires the principal windows and balconies of residential buildings to be setback 12 metres from the side boundary, where those windows are located above a height of 45 metres. Where no windows and/or balconies are proposed (i.e. a blank elevation), then the DCP does permit a nil setback.
58. As detailed on **Figure 22**, above, a portion of the tower (for a length of 15 metres) is proposed with a nil setback adjacent to the site's side boundary with the commercial building at 70-72 Bathurst Street. The indicative floor plans submitted with the application demonstrate that a blank facade would be presented to the east, and that the future apartment accommodated adjacent to this boundary would be oriented north-south. No objection is raised to the proposed nil setback at this location as it is consistent with the setback provisions of the DCP and does not sterilise the development potential on the adjacent site, which is able to orient any windows in a future tower on its site in a north-south direction.
59. The proposal seeks to vary the side setback provisions of 5.1.2.2 of SDCP 2012, with a 6-7 metre setback proposed for the portion of the tower that is located adjacent to the boundary with the heritage building at 499-501 Kent Street.
60. As detailed elsewhere within this report, the existing building on the site at 499-501 Kent Street is a 4-5 storey heritage listed warehouse building, with its interiors and rear cartway also being listed. Therefore, in its current form, there is no separation or privacy impacts between the two sites, as the residential floors proposed in the tower of the subject site commence 3 levels above the roof of the existing heritage item.
61. However, in the event that there is future redevelopment in the form of a tower above the existing heritage item at 499-501 Kent Street, the following is noted:
- (a) with the inclusion of the cartway, the future tower on the subject site is separated between 11-15 metres from the existing western wall of the heritage item;
 - (b) in the event that a tower is developed on the heritage item, it is important to note that there is more stringent setback requirements for development located above a heritage item (i.e. a 10 metre setback from its street frontages) and that the retention of important heritage listed interiors will also predicate where a tower form can be sited. As such, this site is highly constrained, and it may not be reasonably possible to accommodate any significant tower form; and

- (c) noting the above, consideration has been given to whether adequate separation can be achieved. It is considered that a separation of approximately 18 metres could reasonably be achieved between any future towers. This would exceed the separation requirement between a residential and commercial building. In the scenario where each site is redeveloped for residential uses, it is considered that the numeric non-compliance (of 6 metres) could be designed around through internal planning and screening mechanisms.
62. With consideration to the constraints of the site, including siting the tower to respect the contextual podium form, the siting of existing buildings and future redevelopment potential on surrounding sites, it is considered that the proposed envelope is generally compliant with the setback provisions of SDCP 2012 and a satisfactory response to the established built form.

Vehicular access

63. The site currently has dual vehicular access locations, one from Druiitt Street and the other from Druiitt Lane. The proposal is seeking to limit vehicular access to the site via a single driveway location on Sussex Street, as illustrated on **Figure 23**, below.

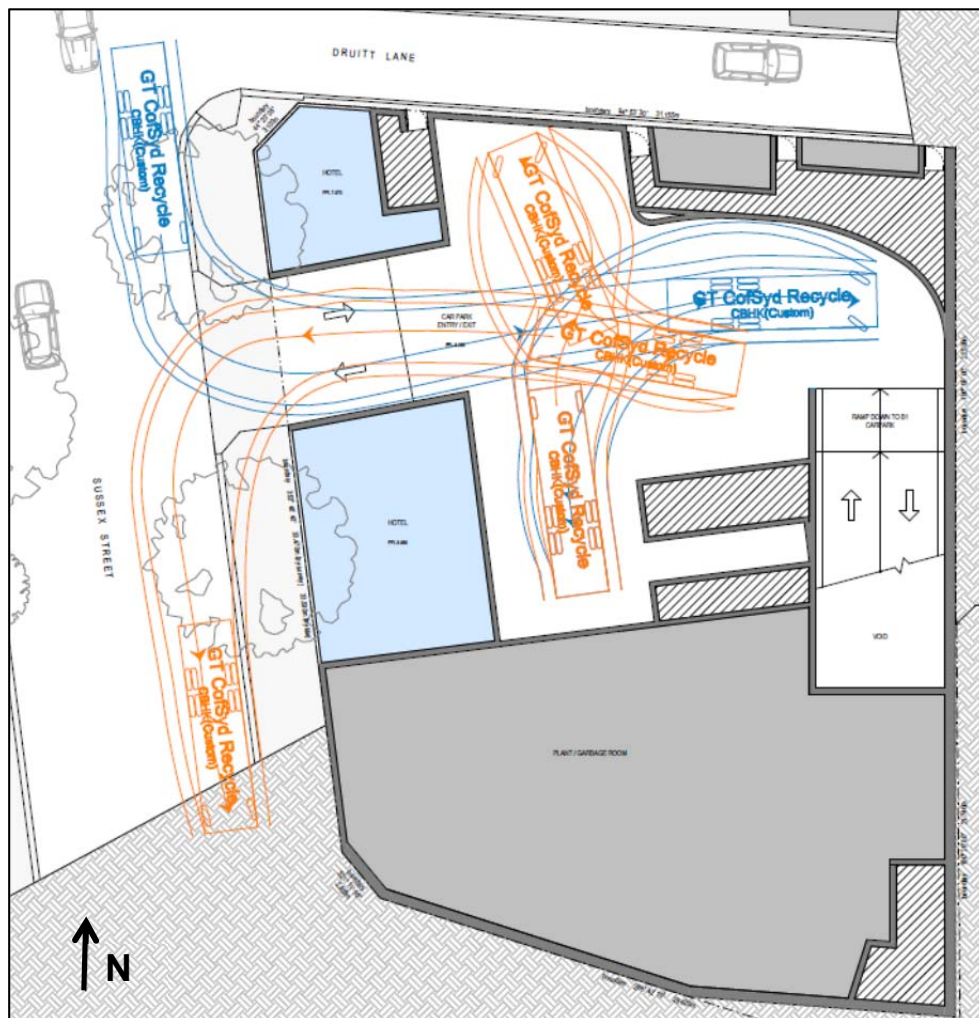


Figure 23: The proposed vehicular access location off Sussex Street

64. Following a preliminary assessment of the application, the Applicant was advised that the City's preference from an urban design, pedestrian safety and traffic point of view, was that vehicular access location for the future building should be relocated to the Druitt Lane frontage of the site. It was advised that consideration may be given to the Sussex Street driveway in the event that sufficient justification was able to be provided to demonstrate that service and waste collection vehicles would be unable to access and service the site via the lane.
65. The amended scheme submitted to Council on 6 January 2015 included a further statement and associated swept path analysis from the applicant's Traffic Engineer. The conclusion of this statement and analysis was that Druitt Lane is not wide enough to accommodate a standard sized waste collection vehicle.
66. This additional information has been reviewed by the City's Transport Planner, who has advised that the amended scheme has not adequately explored genuine vehicular access options from Druitt Lane. It has also been noted that the City's garbage trucks already travel along Druitt Lane to service other properties in the vicinity of the site.
67. Based on the information presented by the Applicant at this time, the City's Traffic Engineers are not convinced that access to the site via Druitt Lane is unviable on this site.
68. Therefore, in accordance with the provisions of Section 3.11 of SDCP 2012 which states that where and when available, access to car parks is to be via a rear lane, it is recommended that the final location of any driveway to the site shall be resolved as part of the Stage 2 Development Application. It is recommended that conditions be imposed to advise that:
 - (a) no consent is given to the vehicular access location via Sussex Street as illustrated on the architectural plans; and
 - (b) the design brief for the competitive design process encourage competitors to design a scheme which includes vehicular access via Druitt Lane. This can also allow competitors to give consideration to hotel drop-off and the laneway facade treatment/activation.

Solar Access

69. During the preliminary assessment of the application, it was noted that the proposed building envelope cast new shadow across the northern and western elevations of the existing residential buildings located on the southern side of Bathurst Street (being 158-166 Day Street and 298-304 Sussex Street).
70. The Applicant was advised that the provisions of Section 4.2.3.1(2) and (3) of SDCP 2012 require that any new development not reduce the level of solar access to surrounding existing dwellings below 2 hours between 9.00am and 3.00pm on the winter solstice (21 June).
71. At the time of lodgement the proposed envelope was non-compliant with the front setback provisions above street frontage height, and as such, the building envelope was located closer to the street and closer to the adjacent residential apartment buildings to the south. The Applicant was advised following the preliminary assessment that a non-complying built form would not be supported where additional shadow was being cast across the adjacent apartment buildings.

72. The proposed envelope was amended to comply with the setback controls and additional shadowing analysis has been undertaken (refer to shadow diagrams and analysis at **Attachment C**).
73. It is noted that the residential towers located on the southern side of Bathurst Street were both approved in the late 1990s and pre-date the more stringent solar access requirements of SEPP 65, the RFDC and SDCP 2012. Since their construction these towers have benefited from the fact that the sites to their north (on the opposite side of Bathurst Street) have not been redeveloped, and as such, benefited from additional borrowed temporary amenity.
74. The proposed building envelope has been amended during the assessment to comply with the built form controls that apply to the site (i.e. FSR, height, podium form and setbacks), and as such, any shadowing being cast is being cast by a complying building form.
75. Whilst it is acknowledged that this complying envelope will cast new shadow across the abovementioned residential buildings, the analysis undertaken has concluded that:
- (a) approximately 66% of apartments within 298-304 Sussex Street and 63% of apartments within 158-166 Day Street will retain 2 or more hours of solar access on the winter solstice; and
 - (b) as winter solstice is the worst case scenario, and considering the density of the existing built form, consideration has been given to the shadowing impacts on the Equinox. On the March Equinox, 99.6% of apartments in 298-304 Sussex Street and 82% of apartments in 158-166 Day Street will receive 2 or more hours of solar access.
76. Given the circumstances of this site and the complying nature of the proposal, the degree of new shadowing cast by the development is considered to be acceptable in this instance.

Floor Space

77. Documentation has been submitted as part of this application to demonstrate that the subject building envelope is able to accommodate a total of 15,098sqm of gross floor area. This equates to a FSR of 12.03:1, which includes a 10% bonus FSR for design excellence under the provisions of Clause 6.21(7)(b) of SLEP 2012.
78. As part of the development application documentation, the Applicant has prepared a design excellence strategy indicating their intent that following any approval of the subject Stage 1 Development Application, a competitive design process will be undertaken. As part of this process, a competition brief will outline the intention that additional 10% FSR available under the provisions of Clause 6.21 of SLEP 2012 be sought.
79. At this time, it would be premature to award any floor space as part of a concept plan, as:
- (a) the maximum permissible floor space is calculated proportionally on land uses, which are not locked in as part of the Stage 1 application; and

- (b) the 10% bonus floor space for design excellence will be based on the final architectural design being assessed by both the competition design jury and Council as satisfying the design excellence provisions of SLEP 2012.
80. As such, it is recommended that no FSR be approved as part of the subject application, but rather, a condition be imposed to advise that any future Stage 2 Development Application must be compliant with FSR development standard of SLEP 2012 (excluding a 10% uplift).

Other Impacts of the Development

81. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

82. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

INTERNAL REFERRALS

83. The application was referred to Council's Design Advisory Panel, Urban Designer; Heritage Specialist, Public Domain Unit; Health Unit; Waste Services and Access and Transport Unit. All appropriate conditions recommended for imposition from the referrals have been included in the recommendation section of this report.

EXTERNAL REFERRALS

Notification, Advertising and Delegation

84. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such, the application was notified and advertised for a period of 28 days between 4 June 2014 and 3 July 2014. As a result of this notification, there were 11 submissions received. The content of these submissions is summarised below:

- (a) Proposed height is out of scale and context with immediate neighbours.

Comment: The proposal complies with the permissible 80 metre building height development standard of the SLEP 2012.

- (b) Loss of privacy to residential apartments across Druitt Lane (the 'Newhaven' apartment building).

Comment: The application has been amended since the original submissions were received and has seen a change of land use in the podium of the building, from residential apartments to hotel. The residential apartments on Levels 9 and above have also been setback further from the Newhaven building to increase separation and improve the amenity for both buildings. Refer to further discussion in the Issues section of this report.

- (c) Number of additional car parking spaces and increased traffic generation.

Comment: As the subject application is conceptual only, any approval would not lock in number of car parking spaces and/or number of basement levels. The Stage 2 detailed design development application will assess the appropriateness of car parking numbers based on the final land uses, the permissible number of spaces under the City's planning controls and will give consideration to the local street network and intersection performances.

- (d) Vehicular access to Druitt Lane should not be affected by the proposal as this is where the car park entry is for the Newhaven building and where garbage is collected.

Comment: The subject application does not give any consent for any building works. As part of the detailed design development application, a Construction Management Plan will be required to be developed and submitted to ensure the local street network remains accessible throughout the construction process.

- (e) Overshadowing and loss of light from increased height.

Comment: The building envelope has been reduced from that originally notified. Refer to discussion in the Issues section of this report regarding shadowing impacts to properties to the south on the opposite side of Bathurst Street.

A number of submissions were received from residents of the Newhaven building objecting to additional shadowing. As this building is to the north of the subject site, the proposal will not cast any additional shadowing to that property. However, it is understood that perhaps objection was instead related to a loss of light. It is considered that as amended, there is adequate separation between the two buildings to allow adequate light and ventilation to be maintained to both properties.

- (f) Possible structural damage to adjacent properties from excavation and construction.

Comment: No physical building works are proposed, or approved as part of the subject application. The Stage 2 Development Application will need to be accompanied by geotechnical advice on the excavation works proposed. In the event that consent is granted for the further Stage 2 application, detailed conditions would be imposed to protect adjacent properties.

- (g) Proposal is almost 100% residential and does not bring any diversity to the area.

Comment: The application has been amended since the notification of the original application and now contains a hotel use in the podium, with residential apartments from Level 9 upwards.

- (h) Impact on ground water/water table from excavation.

Comment: Additional information will be required as part of the Stage 2 detailed design development application to indicate whether the proposed excavation works or basement excavation will temporarily or permanently penetrate the water table.

- (i) Noise impacts to adjacent residents from garbage collection.

Comment: The subject application is still conceptual and no consent has been granted as part of the subject application to a vehicular access driveway or waste collection location. Further assessment of the appropriateness of the garbage collection location with regard to the amenity of adjacent properties will form part of the Stage 2 Development Application.

- (j) Creation of wind tunnel effect along Druitt Lane

Comment: Further wind assessment and any amelioration works in the design will form part of the Stage 2 development application.

- (k) Non-compliances with DCP setback controls from Bathurst and Sussex Streets and Druitt Lane, including non-compliances with the separation requirements of the RFDC across Druitt Lane.

Comment: Refer to discussion in the Issues section of this report. The proposal was amended to provide a compliant tower setback from both Sussex and Bathurst Streets.

- (l) Lack of side setback to eastern side boundary with adjacent commercial building at 70-72 Bathurst Street.

Comment: Refer to discussion in the Issues section of this report.

- (m) Non-compliant tower width with the DCP provisions.

Comment: As amended, the proposed tower floor plate has maximum width to Bathurst Street of 40 metres, which complies with Section 5.1.4.2 of SDCP 2012. The length of the floor plate to Sussex Street is 59 metres. Whilst this may be greater than the 40 metres recommended by the DCP, this frontage length is considered to be acceptable as the resultant overall size of the floor plate is 475sqm, which is well below the maximum 1,000sqm permitted by the DCP. Furthermore, the tower envelope is setback in compliance with the SDCP 2012 setback controls from both its southern and northern boundaries of the site (i.e. being from Bathurst Street and Druitt Lane).

- (n) Proposal does not achieve SEPP 65 compliance with solar access requirements

Comment: The application has been amended since the original notification, and the amended scheme has been able to demonstrate an indicative residential floor plan within the proposed building envelope that receives the requisite amount of solar access in accordance with SEPP 65/RFDC.

- (o) Loss of views of Darling Harbour and Harbourside Shopping Centre from commercial office building at 503-505 Kent Street.

Comment: The commercial office and its outlook was inspected as part of the assessment process. It is noted that since the original notification, the application has been amended to provide compliant setbacks with SDCP 2012.

Inspection of the commercial office noted that a number of floors currently enjoy district and cityscape outlooks (of Darling Harbour and western suburbs) from their western elevation windows, however, there are no iconic views obscured from these windows. The outlook from these windows is across a side/rear boundary over a number of properties to the west, and it is noted that this outlook is currently enjoyed as a result of properties to its west not being developed to their full potential.

In this instance, as the proposal is a complying building envelope, as the views are across a number of shared side boundaries, are from a commercial office (rather than a residential property) and are not iconic views, no objection is raised to the proposal with regard to loss of views.

- (p) Impacts on residential amenity from construction noise and disruption to commercial businesses from construction.

Comment: No physical building works or construction works are proposed or approved as part of the subject application. These issues will form part of the assessment of any future Stage 2 Development Application.

85. As a result of a scope of amendments proposed, the amended scheme was re-notified for a 28-day period in accordance with Schedule 1 of SDCP 2012. The amended scheme was notified and advertised for a 28-day period between 13 January 2015 and 11 February 2015. As a result of this notification there were 4 submissions received. The content of these submissions is summarised below:

- (a) Lack of side setback to eastern side boundary with adjacent commercial building at 70-72 Bathurst Street.

Comment: Refer to discussion in the Issues section of this report.

- (b) The above street frontage height setback of the tower from Bathurst Street should be 8 metres not 6 metres, as this is a major pedestrian street linking the city centre with Darling Harbour.

Comment: Refer to discussion in the DCP compliance table. The proposed 6 metre setback complies with the provisions of Section 5.1.2.1 of SDCP 2012.

- (c) Overshadowing to properties on the southern side of Bathurst Street.

Comment: Refer to discussion in the Issues section of this report regarding shadowing impacts to properties to the south on the opposite side of Bathurst Street.

- (d) Setbacks of the envelope to adjoining heritage item to the east at 499-501 Kent Street.

Comment: Refer to discussion in the Issues section of this report.

- (e) Impact of building envelope on heritage item to east (499-501 Kent Street)

Comment: It is considered that the podium of the proposed development generally replicates the existing built form on site and replicates the existing bulk and scale and separation between the subject development and the adjacent heritage item at 499-501 Kent Street. It is considered that the tower form has been appropriately setback and modulated to not adversely impact on the heritage significance of the adjacent property to the east.

- (f) Additional height will obstruct the existing outlook from balcony in the Newhaven building, and request that height be limited to the height of the existing commercial building on the site.

Comment: The proposal complies with the permissible 80 metre building height development standard of the SLEP 2012.

PUBLIC INTEREST

86. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

FINANCIAL IMPLICATIONS/S61 CONTRIBUTION

Section 61 Contributions

87. Section 61 contributions will form part of the Stage 2 Development Application.

RELEVANT LEGISLATION

88. The Environmental Planning and Assessment Act 1979.

CONCLUSION

89. The proposal seeks consent for a Stage 1 concept plan for a 80 metre building envelope on the site at 286-296 Sussex Street, Sydney.
90. Following a preliminary assessment of the application, notification to surrounding land owners and occupants and consideration of the matter by the City's Design Advisory Panel, the applicant was advised that the proposal required amendment to address a number of issues, including:
- (a) building form;
 - (b) tower setbacks and separation to adjacent development;
 - (c) residential amenity;
 - (d) appropriateness of the location of land uses;
 - (e) overshadowing; and
 - (f) driveway location.
91. Amended plans were received on 6 January 2015 to address the above matters, and considering the extent of modifications made, the application was re-notified for a further 28-day period.

92. It is considered that as amended, and subject to the imposition of the recommended conditions, that the proposed building envelope and indicative land uses generally respond to the constraints of the site and applicable planning controls. In those instances where numeric variation is sought to the planning controls, such as setbacks, there is considered to be justifiable context and planning grounds to support the extent of variation.
93. As such, Development Application D/2014/755 is recommended for approval, subject to the recommended conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)