

**ITEM 4. DEVELOPMENT APPLICATION: 148-160 KING STREET SYDNEY****FILE NO: D/2015/750****DEVELOPMENT APPLICATION NO: D/2015/750****SUMMARY****Date of Submission:** 3 June 2015**Applicant:** Galileo Phillip Street JV Pty. Ltd.**Architect:** Kann Finch & Urban Possible**Developer:** Galileo Phillip Street JV Pty. Ltd.**Owner:** Galileo Phillip Street JV Pty. Ltd.**Cost of Works:** \$71,500,000

**Proposal Summary:** The proposal is a Stage 1 Development Application for a conceptual building envelope to a height datum of RL 120.70 (approximately 92.8m or 27 storeys). The uppermost points of the envelope are defined by the Hyde Park North (2A) sun access plane. The proposal includes:

- In-principle demolition of the existing 12-storey building;
- Indicative future uses of residential accommodation and retail / office premises;
- Indicative car parking, loading docks, service areas and a substation on the basement levels; and
- Vehicular access from Elizabeth Street.

The building envelope has been tested to accommodate a gross floor area of 12,050.5 sqm or a floor space ratio of 13.54:1, which is inclusive of a 8.3% potential design excellence uplift in floor space.

The application was advertised and notified from 11 June to 10 July 2015. Five (5) submissions were received raising the following issues:

**Proposal Summary:  
(continued)**

- Non-compliant setbacks above the street frontage height;
- Inadequate solar access for the proposed apartments;
- Overshadowing of Hyde Park and heritage items to the south;
- Loss of privacy for the nearby office buildings;
- Inadequate site and context analysis;
- Absence of a design excellence strategy;
- Incompatibility with the commercial and business character of the locality;
- Increase in traffic volume and congestion;
- Safety of the entry and egress point of the basement car park;
- No analysis of equitable (disabled) access requirements; and
- Construction related noise, traffic, air pollution and structural impacts.

The proposed building envelope is considered to be contextually appropriate to the CBD location. The overall height is fully compliant with the applicable sun access plane control in Sydney LEP 2012. The street frontage height is generally consistent with the provisions of Sydney DCP 2012.

The proposed setbacks for the tower do not strictly meet the DCP requirements on all street frontages. As proposed, the alignment of the tower envelope on Phillip Street and Elizabeth Street will maximise solar access into the floor plates.

The variations from the setback controls would result in minor additional shadows being cast on the northern portion of Hyde Park, when compared with a DCP-compliant envelope. Notwithstanding this, the degree of the additional impact is small and would predominantly fall on dense canopy trees within the park.

The exact quantum and distribution of land uses are not approved as part the Stage 1 application. This is to allow the competitive design process and the Stage 2 detailed design to achieve compliance with the Apartment Design Guide.

The future building within the proposed envelope is capable of complying with the relevant planning controls.

As such, the development application 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 and Regulation 2000
  - (ii) State Environmental Planning Policy No. 32 Urban Consolidation (Redevelopment of Urban Land)
  - (iii) State Environmental Planning Policy No. 55 Remediation of Land
  - (iv) State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development
  - (v) State Environmental Planning Policy (Infrastructure) 2007
  - (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - (vii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed SEPP)
  - (viii) Sydney Local Environmental Plan 2012 (gazetted 14 December 2012, as amended)
  - (ix) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
- Attachments:**
- A - Selected drawings
  - B - Sun access plane diagram
  - C - Shadow diagrams – proposed development
  - D - Shadow diagrams – existing development
  - E - Solar access diagrams
  - F - Design Excellence Strategy

**RECOMMENDATION**

It is resolved that:

- (A) the Design Excellence Strategy, prepared by Urbis, dated November 2015, as shown at Attachment F to the subject report, be endorsed pursuant to Section 3.3.1 of Sydney Development Control Plan 2012; and
- (B) pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979, consent be granted to Development Application No. D/2015/750, 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/2015/750, dated 3 June 2015 (as amended), and the following drawings:

<b>Drawing Number / Title</b>	<b>Architect</b>	<b>Date</b>
A02_1001_DA (Revision 01) Basement 02-06 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015
A02_1002_DA (Revision 01) Basement 01 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015
A02_1003_DA (Revision 01) Ground Level + Level 01 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015
A02_1004_DA (Revision 01) Typical Lower Level - Levels 02-13 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015
A02_1005_DA (Revision 02) Typical Upper Level - Levels 14-18 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015
A02_1006_DA (Revision 02) Typical Upper Level – Levels 19-22 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015

Drawing Number / Title	Architect	Date
A02_1007_DA (Revision 03) Level 23 Proposed Envelope	Kann Finch & Urban Possible	16.09.2015
A02_1008_DA (Revision 03) Level 24 Proposed Envelope	Kann Finch & Urban Possible	16.09.2015
A02_1009_DA (Revision 02) Level 25 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015
A02_1010_DA (Revision 02) Level 26 Proposed Envelope	Kann Finch & Urban Possible	01.09.2015
A03_1001_DA (Revision 02) Proposed East Elevation Phillip Street	Kann Finch & Urban Possible	01.09.2015
A03_1002_DA (Revision 01) Proposed South Elevation King Street	Kann Finch & Urban Possible	01.09.2015
A03_1003_DA (Revision 02) Proposed West Elevation Elizabeth Street	Kann Finch & Urban Possible	01.09.2015

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 IN STAGE 1 DEVELOPMENT CONSENT**

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

- (a) any works, including demolition, excavation and construction;
- (b) the quantum, ratio and distribution of residential, retail / commercial floor space;
- (c) the layout, number and mix of residential apartments;
- (d) the number, configuration and layout of the basement level/s;
- (e) the number and configuration of car spaces, bicycle spaces and loading spaces / zones;
- (f) the precise quantum of total floor space; and
- (g) any additional design excellence uplift up to 10% of the gross floor area (GFA) of the building under Clause 6.21 of the Sydney Local Environmental Plan 2012.

**(4) STAGE 2 DESIGN TO BE CONTAINED WITHIN APPROVED ENVELOPE**

Subject to other conditions of this consent, the building envelope is only approved on the basis that the Stage 2 building design, including services and balconies, are contained wholly within the approved building footprint and envelope, and comply with relevant planning controls.

**(5) DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS**

- (a) A competitive design process in accordance with the provisions of Sydney Local Environmental Plan 2012, Sydney Development Control Plan 2012 and the 'Design Excellence Strategy' for 148-160 King Street, Sydney, dated November 2015, prepared by Urbis, shall be undertaken prior to the lodgement of a Stage 2 Development Application.
- (b) The detailed design of the development must exhibit design excellence in accordance with the provisions of Clause 6.21 of Sydney Local Environmental Plan 2012.

**(6) BUILDING HEIGHT**

The maximum height of any future building on the site must not exceed RL 120.70 (AHD).

**(7) FLOOR SPACE RATIO – CENTRAL SYDNEY**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the proposal must not exceed the maximum 12.5:1, calculated in accordance with the provisions of Clauses 4.4, 4.5 and 6.4 of the Sydney Local Environmental Plan 2012 (as amended).
- (b) Notwithstanding clause (a) above, the proposal may be eligible for up to 10% design excellence additional floor space pursuant to the provisions of Clause 6.21(7) of the 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.

**(8) 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 Apartment Development, the provisions of the Apartment Design Guide (ADG), and the provisions of Section 4.2 of the Sydney Development Control Plan 2012.

- (b) 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.

**(9) Detailed design of building**

The Design Brief for the competitive design process for the Stage 2 Development Application shall incorporate the following requirements:

- (a) The design of the podium levels of the building is to enhance the setting of heritage items in the broader vicinity by:
  - (i) The use of sandstone [*Note: Brickwork is not considered desirable as contemporary brick manufacturing cannot replicate the appearance of the convict built bricks of the Greenway designed buildings opposite the site.*];
  - (ii) The design is to incorporate a high degree of architectural modelling and articulation so as to enhance the building's relationship with the heritage items in the vicinity;
  - (iii) The design of the framing to the ground floor glazing is to provide a high degree of visual interest and is to incorporate high quality materials; and
  - (iv) The design is to enhance views to and from the St. James Church precinct and the Law Courts, by providing an appropriate level of transparency at the intersections between King Street and Elizabeth Street and between King Street and Phillip Street.
- (b) The detailed design is to investigate and provide an alternative use/s (other than residential accommodation) to part or all of the podium levels, in order to ensure that the proposed apartments will comply with the solar access and natural ventilation provisions of the Apartment Design Guide.
- (c) The modelling of the tower component, in particular the uppermost 5 levels of the building, must endeavour to minimise additional overshadowing of Hyde Park.
- (d) The modelling of the built form must seek to achieve an appropriate visual scale and proportion between the tower and podium elements.
- (e) Provision of an aesthetically and visually interesting treatment to the side elevation of the building adjacent to the northern boundary of the site.
- (f) The scale of the ground floor level is to relate to the Commonwealth / State Law Courts building to the east on the opposite side of Phillip Street as well as the heritage buildings to the south.
- (g) Provision of a high degree of activation to the Phillip Street, King Street and Elizabeth Street frontages.
- (h) Provision of separate waste storage facilities for the residential and non-residential uses.

- (i) Provision of on-site waste storage, handling and collection facilities in accordance with the relevant provisions of Sydney DCP 2012.

**(10) HERITAGE INTERPRETATION STRATEGY**

- (a) The Design Excellence Brief is to incorporate information on the historical development of the site, in order to facilitate an understanding of the site and the opportunities for an interpretive approach to design.
- (b) The Stage 2 Development Application is to incorporate an interpretation strategy that details how information on the history of the site will be provided for the public. Interpretation by design should form an integral aspect of the strategy, in addition to other devices such as display and public art.
- (c) The strategy is to provide preliminary recommendations as to the type, location and spatial requirements of the interpretation. As part of this strategy, the foundation plaque for the University of Sydney Law School relocation and the University Chambers plaque are to be incorporated into the building.

**(11) 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 with the future Stage 2 Development Application.
- (b) The requirement to accommodate public art as part of the redevelopment of the site must form a component of the competitive design process brief and the nominated location should be included in any future Stage 2 Development Application.

**(12) 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, 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.

**(13) LOT CONSOLIDATION**

Any Stage 2 Development Application is to provide for all land titles within the site to be consolidated into one lot.

**(14) 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 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.

**(15) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

A construction traffic management plan must be prepared and submitted with the Stage 2 Development Application.

**(16) RESIDENTIAL ACOUSTIC AMENITY- ACOUSTIC REPORT**

The Stage 2 development application is to be accompanied by an acoustic report prepared by a suitably qualified acoustic consultant\* which demonstrates that the development will be capable of achieving adequate levels of acoustic amenity for future occupants.

**(17) TRANSPORT IMPACT ASSESSMENT**

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

**(18) 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-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities.

**(19) 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 Parking facilities Part 6: Off-street parking for people with disabilities.

**(20) 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 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.

**(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 must 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) CAR SHARE SPACES**

The Stage 2 development application is to make provision for car share spaces as follows:

- (a) Car share parking spaces are to be provided in accordance with Sydney Development Control Plan 2012. 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 Stage 2 basement plans must show where these spaces are to be located.
- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be publicly accessible at all times.
- (f) The car share spaces are to be available at the same time that the car park commences operation.

*[Note: It is recommended that the applicant discuss the proposed location of car share parking spaces with car share operators to ensure the commercial requirements of the operator can be accommodated.]*

**(23) VEHICLE ACCESS**

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

**(24) 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.

**(25) 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.

**(26) LOADING DOCK MANAGEMENT PLAN**

A management plan demonstrating how the loading and unloading requirements of the residential and non-residential land uses can be catered for by the loading docks must be submitted with the Stage 2 Development Application.

**(27) TRAFFIC WORKS**

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

**(28) 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*.

**(29) WASTE FACILITIES**

Any Stage 2 Development Application is to provide details of the location, construction and servicing of the waste collection facilities for the proposed building. The Stage 2 Development Application must demonstrate:

- (a) The design of the facilities complies with Council's "Policy for Waste Minimisation in New Developments."
- (b) That adequate provision has been made for the separate storage of commercial and residential waste.

**(30) NOTIFICATION – NEW CONTAMINATION EVIDENCE**

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the City's Area Planning Manager and the Principal Certifying Authority immediately.

**(31) 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.

**SCHEDULE 2****PRESCRIBED CONDITIONS**

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply to the development.

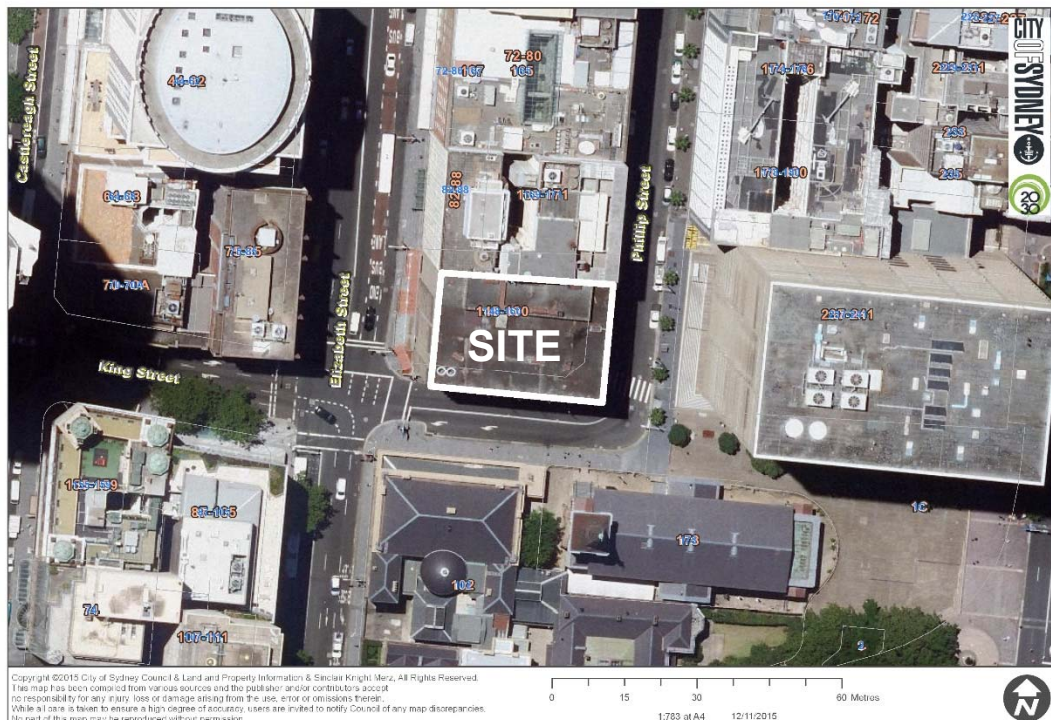
- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>.

## BACKGROUND

### The Site

1. The subject site consists of two land parcels, being Lot 2 in DP 547423 and Lot 1 in DP 524978.
2. The site is located on the southern end of the city block bounded by Hunter Street to the north, Phillip Street to the east, King Street to the south and Elizabeth Street to the west. The site has three street frontages. Lot 2 in DP 547423 forms the main part of the site. This allotment contains a triangular splay of 6.7 sqm in area at the corner of King and Phillip Streets. The splay is a public road approximately 2m below and 5m above the footpath level.
3. At the corner of King and Elizabeth Streets is a similar triangular splay of 6.7 sqm in area forming Lot 1 in DP 524978. It is a public road approximately 2.4m below and 7m above the footpath.
4. The site has a total land area of 889.8m<sup>2</sup> (inclusive of the two splayed corners).
5. The site is occupied by a 12-storey building with 3 basement levels and rooftop plant rooms, and was constructed in 1969. The building was previously used as the law faculty of the University of Sydney and has been recently vacated.
6. Photographs of the subject site are provided in **Figures 1 to 3**.



**Figure 1** Aerial view of the subject site (in white border) and surrounding environment.



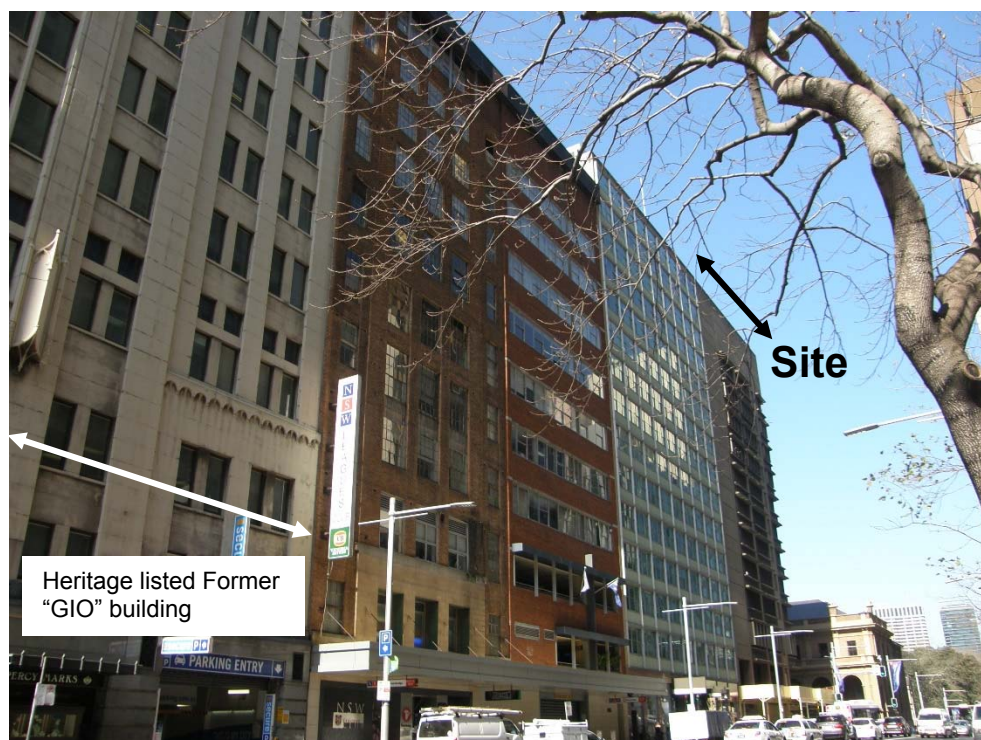
**Figure 2** Existing building on the site, as viewed from the intersection of Elizabeth and King Streets.



**Figure 3** Existing building as viewed from the pedestrian plaza areas of King Street.

### Surrounding development

7. Immediately to the north of the site are two 15-storey commercial buildings at No. 82-88 Elizabeth Street and No. 169-171 Phillip Street. The heritage listed Former “GIO” building (State significance) and Former Australian Provincial Assurance building (State significance) are situated on the northern end of the city block. The adjoining developments are of a similar height and scale.
8. To the east, on the opposite side of Phillip Street, is a 20-storey building occupied by the Commonwealth / State Law Courts.
9. A number of heritage items are located on the eastern side of Macquarie Street, including the Former Royal Mint Building (State significance), the Former Hyde Park Barracks (World significance) and The Domain (State significance).
10. To the south, on the opposite side of King Street, are a number of heritage items, including St. James Church (State significance) and the Supreme Court and old Registry Office building group (State significance). Queen’s Square (Local significance) is located to the south-east of the site adjacent to Macquarie Street. Hyde Park (local significance) is located further to the south.
11. The western side of Elizabeth Street contains a variety of multi-storey commercial developments.
12. Photographs of the surrounding developments are provided in **Figures 4 to 7**.



**Figure 4** Elizabeth Street frontage of the subject city block. The heritage listed Former “GIO” building is seen on the left hand side of the photograph.



**Figure 5** St. James Church and the Supreme Court building group, as viewed from Elizabeth and King Streets.



**Figure 6** Queen's Square, as viewed from the southern side of the multi-storey Commonwealth/State Law Courts building.



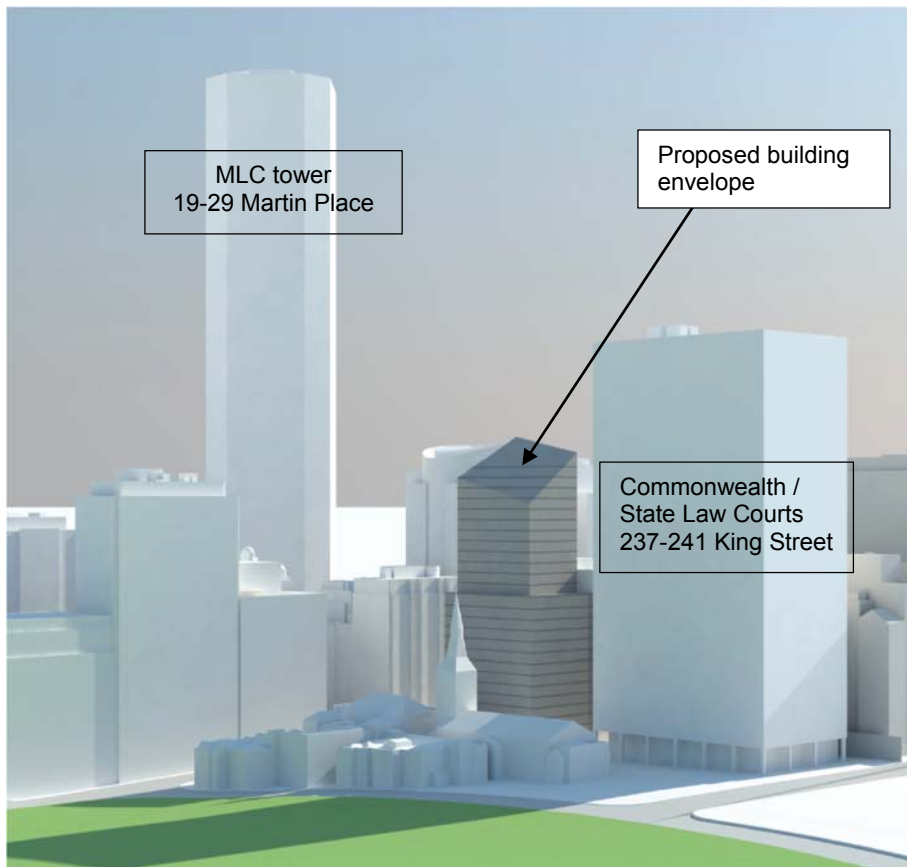


**Figure 7** The subject site, Commonwealth / State Law Courts building and the heritage listed Supreme Court and old Registry Office building group, as viewed from the intersection of Elizabeth Street and St. James Road.

## PROPOSAL

13. The proposal is a Stage 1 development application seeking consent for a conceptual building envelope for a mixed-use development to a height of approximately 92.8m (RL 120.70). The uppermost points of the envelope are defined by the Hyde Park North (2A) sun access plane under the Sydney LEP 2012. The proposed envelope indicatively contains 27 storeys.
14. The envelope has been tested to accommodate a gross floor area (GFA) of 12,050.5 sqm or 13.54:1 floor space ratio (FSR), which is inclusive of an 8.3% potential design excellence uplift in floor space. The proposal includes in-principle demolition of the existing building on the site.
15. The proposal seeks consent for the following indicative land uses:
  - (a) Retail / commercial on ground floor level;
  - (b) Residential amenities on level 1;
  - (c) Residential apartments on levels 2 to 25;
  - (d) Plant rooms on level 26;
  - (e) Loading docks, waste storage, sub-station and parking on the basement levels (indicatively 6 basement levels in total); and
  - (f) Vehicular access to the site will be provided on the Elizabeth Street frontage.

16. **Figures 8 to 11** below show the models of the proposed envelope and elevations. A full set of building envelope drawings and indicative floor plans are provided in Attachment A.



**Figure 8** The proposed envelope as viewed from an elevated position within Hyde Park.

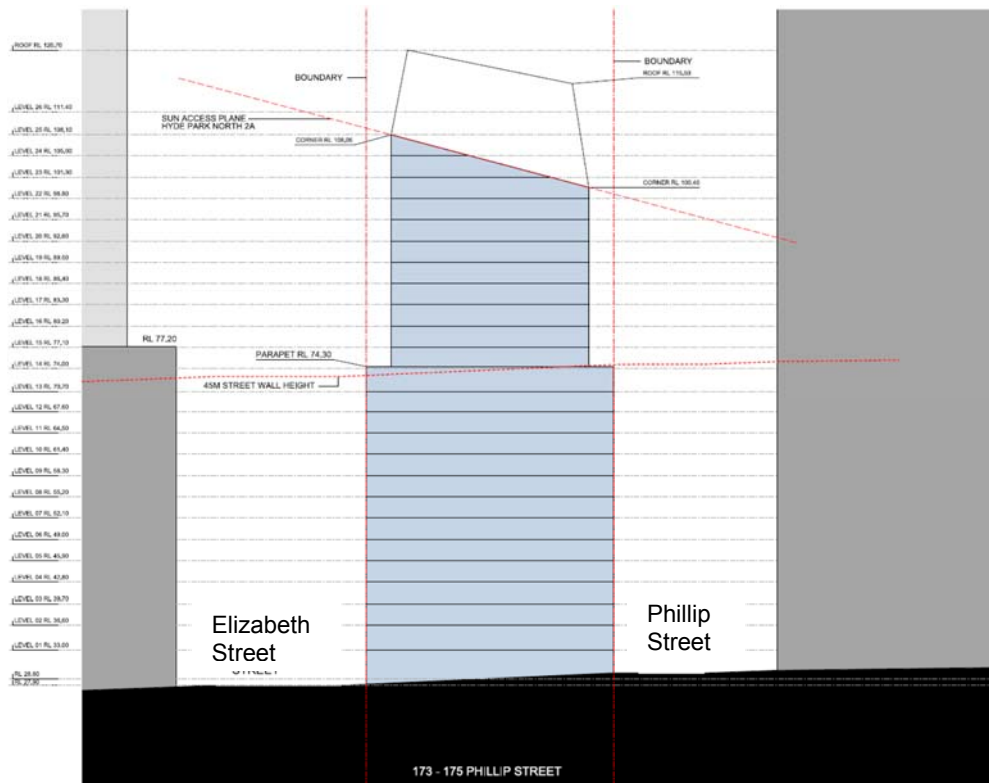


Figure 9 Southern (King Street) elevation of the proposed envelope.

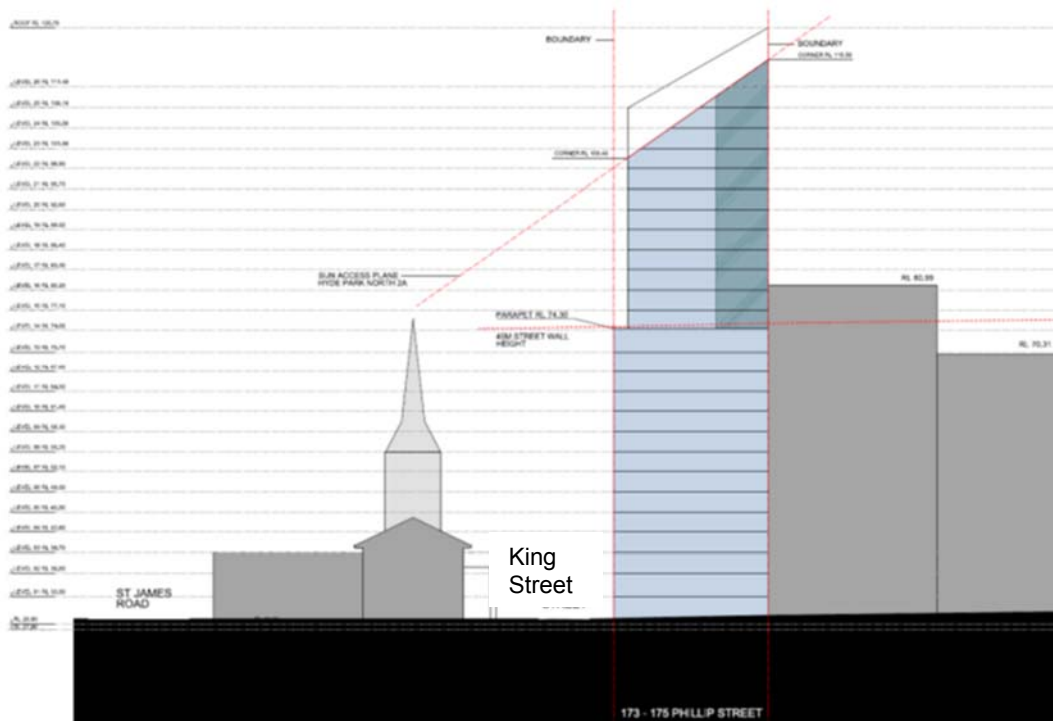


Figure 10 Eastern (Phillip Street) elevation of the proposed envelope.

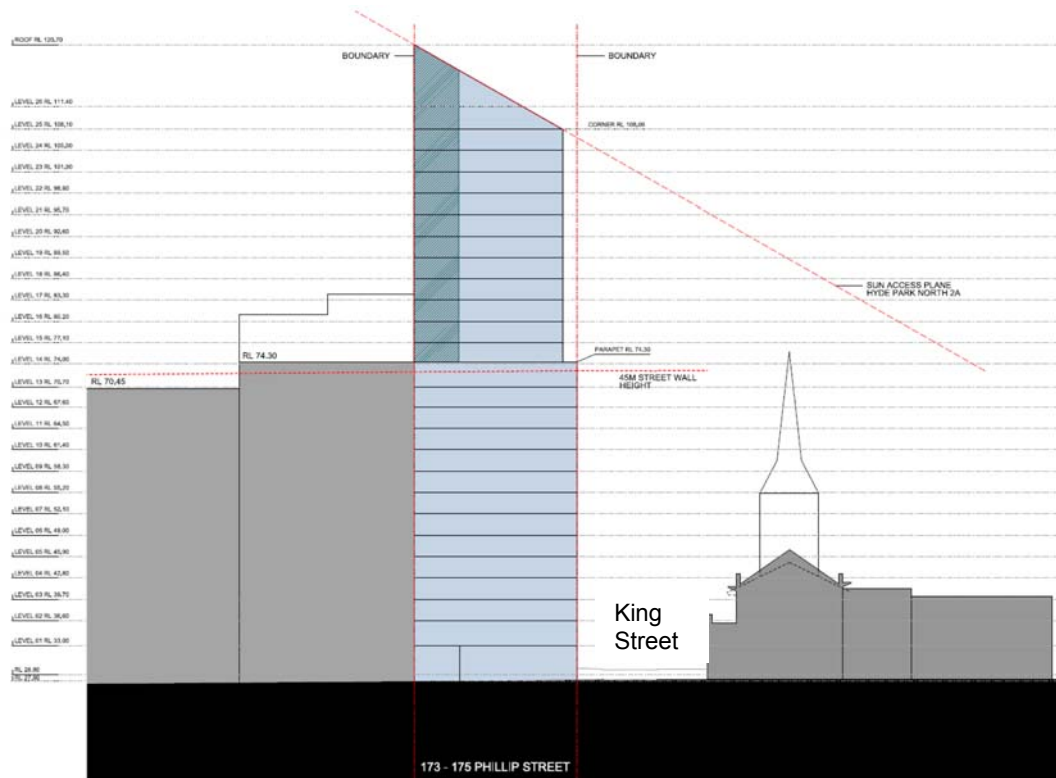


Figure 11 Western (Elizabeth Street) elevation of the proposed envelope.

## HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

17. On 24 June 2015, a request was made to the applicant for the submission of a preliminary environmental site investigation report to identify any past or present potentially contaminating activities that have occurred on the site. A stage 1 preliminary investigation report was submitted on 23 July 2015.
18. On 29 June 2015, a request was made for the submission of amended drawings to demonstrate how the envelope can accommodate the design excellence floor space. Revised drawings highlighting the location of the bonus floor space were submitted on 8 July 2015.
19. On 27 August 2015, a request was made for the submission of revised drawings and additional information to address the following:
  - (a) Correction of errors on the lodged drawings;
  - (b) Provision of information to indicate those apartments that would receive solar access in mid-winter;
  - (c) In relation to the shadow diagrams, clarification was sought as to the assumptions behind the shadow impacts created by the “DCP compliant envelope”;
  - (d) Submission of additional shadow diagrams for 14 April; and
  - (e) Confirmation that the future building can accommodate on site collection of waste.
20. Revised plans were received on 9 September 2015.

21. On 4 November 2015, a request was made for the submission of a detailed Design Excellence Strategy addressing the provisions of Section 3.3.2 of the DCP. A Design Excellence Strategy was submitted on 10 November 2015.

#### **CITY OF SYDNEY ACT 1988**

22. 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 to 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."*
23. Having liaised with the City's Access Unit, in this instance, the proposal is not considered to have a significant impact on traffic and transport in the CBD, and consultation with the CSTTC is not necessary.

#### **ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

24. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

##### **Environmental Planning Instruments and DCPs**

##### **State Environmental Planning Policy No. 55 - Remediation of Land**

25. The aim of SEPP 55 is to ensure that a change of land use will not increase the risks to health, particularly in circumstances where a more sensitive land use is proposed.

26. A stage 1 preliminary environmental site investigation was submitted to Council. Council's Environmental Health Unit has advised that the historic uses of the site present a low risk of contamination and no detailed site investigation report is required for the Stage 2 development application. The site is considered to be suitable for the intended uses.
27. A condition is recommended to require notification to Council and relevant authorities, should additional information that may alter previous conclusions about site contamination be obtained during the demolition and construction phase.

### **State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development**

28. SEPP 65 applies to residential flat building, shop top housing and mixed use development with a residential accommodation component, which have three or more floors and contain four or more apartments.
29. The proposal seeks approval for a conceptual building envelope only and does not involve any physical works. In the event that the application is approved, the detailed design of the development will be the subject of both a competitive design process and a Stage 2 Development Application.
30. Clause 70B of the Environmental Planning and Assessment Regulation 2000 provides that design verification required under Clause 50(1A) does not apply to Stage 1 development applications, unless the application sets out detailed proposals for a residential apartment development or part of that development. No physical works are proposed as part of the subject application.
31. The subject Stage 1 Development Application was lodged on 3 June 2015. Amendment No. 3 to SEPP No. 65, which includes the introduction of the Apartment Design Guide (ADG) to supersede the Residential Flat Design Code (RFDC), was gazetted on 17 July 2015. Pursuant to Clause 31(2) of the SEPP, the application is to be determined as if the amendment had not commenced. The following consideration relates to the ability of the conceptual building envelope and indicative floor plans in achieving the design principles of SEPP 65, and has taken into account the provisions of the RFDC and ADG. A further, more detailed assessment against these principles and the ADG would occur with any Stage 2 Development Application.

- (a) **Principle 1:** Context and neighbourhood character and  
**Principle 2:** Built form and scale

The proposed tower and podium form of development is considered to be contextually appropriate to the CBD location. The street frontage height is compatible with the adjoining buildings to the north and relates to the height of the existing building on site and the steeple of St. James Church. The inclined form of the upper portion of the tower envelope is a response to the sun access plane control, which is designed to protect solar access to Hyde Park.

The setbacks above the street frontage height do not meet the requirements of the Sydney DCP 2012. Notwithstanding, the proposed setbacks for the tower are considered to be a reasonable design solution to the constraints of the site and will improve solar access to the future building. The setback arrangement would result in a future building with appropriate proportions and functional floor plates.

Refer to the “Issues” section for further details.

(b) **Principle 3: Density**

The proposed envelope will result in a development density that is envisaged in the planning controls. The proposed density is considered to be appropriate to the CBD context of the site, particularly given its proximity to public open space, retail and commercial services, community facilities, recreational venues and public transport.

(c) **Principle 4: Sustainability**

The sustainability aspect of the development will be assessed in detail as part of the future Stage 2 development application. An appropriate condition is recommended to require the Stage 2 Development Application to comply with SEPP: BASIX and SEPP 65.

(d) **Principle 5: Landscape**

Given the constrained site area, development pattern in the subject urban block and CBD context of the site, the provision of communal open space and deep soil planting at ground level would not be feasible. However, there is potential for landscape planting on the podium and possibly on the rooftop levels.

The location and design of communal and private open space and landscaping within the development would be assessed in detail as part of a future Stage 2 Development Application.

(e) **Principle 6: Amenity**

The subject application is a Stage 1 concept proposal only. A more rigorous assessment of the residential amenity will occur as part of the Stage 2 development application.

The indicative floor plans demonstrate that 90 of the 140 apartments proposed could potentially be naturally cross ventilated. This equates to approximately 64% of all apartments. In accordance with the Apartment Design Guide (ADG), apartments on Levels 10 and above are deemed to comply with the natural cross ventilation provisions. As such, when the indicative floor plans on Levels 2 to 9 are considered, approximately 30 of the 51 apartments would comply. This equates to 59%, which is generally compliant with the ADG. As detailed throughout this report, the exact location and quantum of land uses are not approved as part of this application. Appropriate conditions have been recommended to require the design competition and Stage 2 detailed design application to comply with the ADG.

Based on the indicative floor plans and development pattern of the surrounding sites, approximately 50.7% (71 out of 140) of the proposed apartments would receive 2 hours of sunlight between 9am and 3pm in mid-winter. As currently designed, the proposal does not comply with the requirements of the RFDC and ADG, which stipulates a minimum of 70% of apartments within a development attaining 2 hours of sunlight between 9am and 3pm in mid-winter.

Refer to discussion in the “Issues” section of this report.

(f) **Principle 7: Safety**

The proposal is for a conceptual building envelope only, with the detailed design forming the subject of a competitive design process prior to the lodgement of a Stage 2 Development Application. It is considered that the proposal is capable of providing activation to Phillip, King and Elizabeth Streets, and achieving the principles of crime prevention through environmental design.

(g) **Principle 8: Housing diversity and social interaction**

The indicative scheme provides the following dwelling mix within the building envelope:

Dwelling type	SDCP 2012 provision (Section 4.2.3.12)	Proposed mix
Studio	5-10%	4 (3%)
1-bedroom	10-30%	50 (36%)
2-bedroom	40-75%	69 (49%)
3+bedroom	10-100%	17 (12%)
		<b>Total 140</b>

The proposal will be subject to a competitive design process and the dwelling mix and adaptable and flexible housing provision will be confirmed and addressed as part of the Stage 2 application. A condition requiring compliance with the adaptable and flexible housing and dwelling mix requirements of Sydney DCP 2012 is recommended for imposition in the consent.

(h) **Principle 9: Aesthetics**

The proposal is for a conceptual building envelope only. The detailed design and aesthetics of the development will form the subject of a competitive design process prior to the lodgement of a Stage 2 Development Application.

**State Environmental Planning Policy (Infrastructure) 2007**

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

**Clause 45 – Electricity transmission or distribution network**

33. The proposal includes an indicative substation in the basement. In accordance with Clause 45 of Subdivision 2 – *Development likely to affect an electricity transmission or distribution network*, the application was referred to Ausgrid for comments on 11 June 2015. No submission has been received to date. The period since the authority was notified has well passed the 21 days required under Clause 45(2)(b).
34. It is recommended that a condition be imposed to require the applicant to liaise with Ausgrid prior to the lodgement of a Stage 2 Development Application, and that any required electricity infrastructure be included in the detailed design scheme.



**Clause 101 – Development with frontage to classified road**

35. The site is located adjacent to those sections of Elizabeth Street (south of King Street) and King Street (west of Elizabeth Street) which are Classified Regional Roads. The proposal does not involve vehicular access to the site directly from a classified road. Potential traffic noise impacts on the future land uses will be addressed as part of the Stage 2 Development Application. The application has been referred to the Roads and Maritime Services and no comments have been provided. It should be noted that there is no concurrence requirement under this clause of the SEPP, and there is no impediment to the determination of the application.

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

36. The site is within the designated Sydney Harbour Catchment under the SREP. It is identified as being within the hydrological catchment of Sydney Harbour and is subject to the provisions of the Plan.
37. Notwithstanding, the site does not fall within a Foreshores and Waterways Area or strategic foreshore site. The proposed development is considered to be consistent with the aims and planning principles of the SREP.

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

38. The subject Stage 1 application seeks consent for a conceptual building envelope only. Compliance with SEPP: BASIX would be addressed as part of the Stage 2 Development Application.

**State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land)**

39. SEPP 32 aims to increase 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 is consistent with the aims and objectives of the SEPP.

**Sydney Local Environmental Plan 2012**

41. The site is zoned B8 Metropolitan Centre under the Sydney LEP 2012. The proposed uses are defined as 'residential accommodation' and 'commercial premises', and are both permissible land uses in the zone.
42. The relevant matters of the LEP to be considered are outlined below:

Compliance Table		
Development Control	Compliance	Comment
<p>4.3 Height of buildings</p> <p>6.17 Sun access planes</p> <p>6.18 Exceptions to sun access planes</p>	Yes	<p>The site is within Area 3 and the proposed development must not project higher than any part of a sun access plane that is taken to extend over the land pursuant to Clause 6.17 of the Sydney LEP 2012.</p> <p>There are two sun access planes that extend over the subject site, these being Hyde Park North 2A and Hyde Park North 2B. The 2A sun access plane is positioned higher and above the 2B plane.</p> <p>Clause 6.18(1) of the LEP provides that where there are two sun access planes extending over a site, consent may be granted to a development which will result in a building that does not project above the higher of those two planes.</p> <p>The proposed envelope projects above the Hyde Park North 2B sun access plane, however is lower than the Hyde Park North 2A sun access plane. Therefore, the proposal satisfies the aforementioned provisions.</p>
<p>4.4 Floor space ratio</p> <p>6.4 Accommodation floor space</p>	Able to comply	<p>A maximum base FSR of 8:1 is permitted under Clause 4.4 of the LEP.</p> <p>As the site is within Area 1, an accommodation floor space of 4.5:1 (for the purposes of <i>office premises, business premises, retail premises, residential accommodation or serviced apartments</i>) is applicable to the site pursuant to Clause 6.4(1) of the LEP.</p> <p>The indicative land uses include <i>residential accommodation</i> and <i>retail premises / office premises</i>. The collective maximum FSR potentially available to the site amounts to 12.5:1.</p> <p>The proposed envelope has demonstrated that it has the potential to accommodate a GFA of 12,050.5sqm, which equates to an FSR of 13.54:1. This is inclusive of an 8.3% uplift in floor space above 12.5:1, seeking to utilise the design excellence provisions of Clause 6.21 of the LEP.</p>

Compliance Table		
Development Control	Compliance	Comment
		<p>The scale and massing of the proposed envelope are considered to be contextually appropriate in this CBD location.</p> <p>A condition is recommended for imposition to advise that any FSR above 12.5:1 is not awarded as part of a Stage 1 development application. The award of any design excellence FSR would follow a competitive design process and would form part of the assessment of a Stage 2 Development Application.</p>
5.10 Heritage conservation	Able to comply	<p>The subject site is not listed as a heritage item or within a heritage conservation area. The site is located in the vicinity to a number of heritage items of World, State and Local significance. Refer to discussion in the "Issues" section.</p>
6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	Able to comply	<p>Any FSR in excess of 8:1 allowable under Clause 4.4 of the LEP shall be subject to a requirement for allocation of heritage floor space (HFS) in accordance with the provisions of Clause 6.11.</p> <p>An assessment and appropriate condition could be imposed on any Stage 2 Development Application.</p>

Compliance Table		
Development Control	Compliance	Comment
6.16 Erection of tall buildings in Central Sydney	Able to comply	<p>Clause 6.16 applies as the site is within Central Sydney and the proposed building envelope has a height of more than 55m.</p> <p>As the site area is less than 800 sqm, the proposal is required to comply with the provisions of Clause 6.13(3)(a) to (c).</p> <ul style="list-style-type: none"> <li>• Sub-clause (a) requires that the future building will have a freestanding tower each face of which will be able to be seen from a public place. The site has three frontages and the majority of the tower component will have all four elevations visible from the public domain. The proposed envelope does not provide any setback from the northern common boundary. This is considered to be acceptable as the indicative design does not rely on the northern elevation for direct sunlight, and a potential light well may be accommodated for natural ventilation;</li> <li>• Sub-clause (b) requires that the development and neighbouring buildings will have adequate amenity and privacy. The indicative apartment layouts are oriented towards the streets and there is adequate separation from the surrounding office buildings. Refer to further discussion on residential amenity in the "Issues" section;</li> <li>• Sub-clause (c) requires the ground floor of the building facing the street to be used for <i>business premises</i> or <i>retail premises</i>. The indicative floor plans show that this requirement can be complied with. This matter will be addressed in detail as part of the Stage 2 Development Application.</li> </ul>

Compliance Table		
Development Control	Compliance	Comment
6.21 Design excellence	Able to comply	<p>In accordance with Clause 6.21(7) of the LEP, an additional 10% FSR may be approved if a competitive design process has been undertaken, and the consent authority is satisfied that the development scheme exhibits design excellence.</p> <p>As the current proposal is a Stage 1 application, no details on the architectural design have been given. A competitive design process will need to be undertaken prior to the lodgement of any Stage 2 Development Application.</p>
Division 1 Car parking ancillary to other development	Able to comply	<p>Based on the indicative land uses, a maximum of 83 car parking spaces would be permitted. The schematic floor plans indicate the provision of car parking to the maximum allowable under the LEP.</p> <p>A condition is recommended to advise that no consent is granted to the number of car parking spaces and basement levels as part of this Stage 1 application.</p>
7.14 Acid Sulphate Soils	Able to comply	The site is identified as containing Acid Sulphate Soils Class 5. The proposal does not involve any excavation. This matter will be addressed in detail as part of the Stage 2 Development Application.
7.15 Flood planning	Able to comply	Council's Engineer has reviewed the proposal and does not raise any significant flooding issues for the site. This matter will be addressed in detail as part of the Stage 2 Development Application.
7.16 Airspace operations	N/A	The proposed building envelope does not penetrate the prescribed air space for Sydney Airport.

Compliance Table		
Development Control	Compliance	Comment
7.20 Development requiring preparation of a development control plan	Yes	<p>As the height of the proposed envelope exceeds 55m, the provisions of Clause 7.20 apply and a site specific DCP is required.</p> <p>Notwithstanding, Section 83C(2) of the Environmental Planning and Assessment Act 1979 permits the making of a staged development application in lieu of preparing a site specific DCP. The lodgement of the subject Stage 1 application is considered to have satisfied the above requirement.</p>

### Sydney Development Control Plan 2012

43. The relevant provisions of Sydney Development Control Plan 2012 are addressed below:

3. General Provisions		
Development Control	Compliance	Comment
3.1.5 Public art	Able to comply	<p>A Public Art Strategy is required to be developed for the site in accordance with the DCP and the Public Art Policy.</p> <p>The requirement to accommodate public art within the future development will form part of the competitive design process brief.</p> <p>A condition is recommended to require the inclusion of a Public Art Strategy as part of the documentation lodged with the Stage 2 Development Application.</p>
3.2.1 Improving the public domain	Yes	<p>The proposal will result in additional overshadowing of Hyde Park when compared to the existing condition. However, the degree of impact is envisaged in the planning controls and is not considered to be unreasonable. Refer to the "Issues" section for details.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.2.2 Addressing the street and public domain	Able to comply	The proposal indicatively includes retail or commercial premises on the ground floor level facing Phillip Street, King Street and Elizabeth Street. Activation and casual surveillance of the streets could potentially be achieved. The detailed floor layout and facade design would form part of the Stage 2 Development Application.
3.2.6 Wind effects	Able to comply	A condition is recommended to require the submission of a wind effects report as part of the Stage 2 Development Application.
3.3 Design excellence and competitive design processes	Able to comply	Under Clause 3.3.1(3) of the Sydney DCP 2012, a Design Excellence Strategy is to be approved by Council as part of a Stage 1 development application. A Design Excellence Strategy has been submitted and is considered to be satisfactory.  A competitive design process will be undertaken prior to the submission of a Stage 2 Development Application.
3.6 Ecologically sustainable development	Able to comply	Compliance with the requirements of SEPP: BASIX will be assessed as part of the Stage 2 Development Application.
3.7 Water and flood management	Able to comply	This matter will be addressed in detail as part of a Stage 2 Development Application.
3.9 Heritage	Able to comply	Refer to the "Issues" section for details.
3.11 Transport and parking 3.11.1 <i>Managing transport demand</i>	Able to comply	A condition is recommended to require the preparation of a transport impact study as part of the Stage 2 Development Application.  The study will be required to address the provisions of Schedule 7.4 of the DCP, including an assessment of the likely impacts on the surrounding street network and appropriate means of mitigating any adverse effects of the development.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
<i>3.11.2 Car share scheme parking spaces</i>	Able to comply	A condition is recommended to require the provision of appropriate car share facilities consistent with the requirements of the DCP in the Stage 2 Development Application.
<i>3.11.3 Bicycle parking and associated facilities</i>	Able to comply	The indicative floor plans show bicycle parking spaces within the basement. A condition is recommended to require compliance with the bicycle parking and end-of-trip facilities requirements of the DCP in the Stage 2 Development Application.
<i>3.11.6 Service vehicle parking</i>	Able to comply	<p>The indicative floor plans show the provision of loading dock and turntable facilities within basement level 01.</p> <p>Loading and parking facilities are not approved under a Stage 1 development application, and would form part of the detailed design for a Stage 2 proposal when the exact land uses are known.</p> <p>An appropriate condition is recommended to advise that parking and loading facilities are not approved as part of the subject application, and to outline matters that must be addressed in the Stage 2 development proposal.</p>
<i>3.11.13 Vehicle access and footpaths</i>	Able to comply	<p>The indicative floor plans show the provision of a two-way vehicular access point on the Elizabeth Street frontage. A condition is recommended to ensure the Stage 2 detailed design ensure activation of all street frontages.</p> <p>Appropriate conditions are recommended to advise that the configuration and number of basement levels do not form part of the Stage 1 consent, and to outline matters that must be addressed in the competitive design brief and Stage 2 Development Application.</p>



3. General Provisions		
Development Control	Compliance	Comment
3.12 Accessible design	Able to comply	A condition is recommended to ensure the Stage 2 proposal provides appropriate access and facilities for people with disabilities in accordance with the provisions of the BCA.
3.13 Social and environmental responsibilities	Able to comply	<p>The indicative floor plans show that casual surveillance and activation could potentially be provided to Phillip, King and Elizabeth Streets.</p> <p>The safety and security aspect of the proposal would be assessed in detail as part of the Stage 2 Development Application.</p>
3.14 Waste	Able to comply	A condition is recommended to ensure the Stage 2 design complies with the requirements of the DCP and Council's waste management code.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height 4.2.1.2 Floor to ceiling heights and floor to floor heights	Able to comply	<p><i>First basement:</i> The first basement level has an indicative floor to floor height of 3.3m, which does not meet the 3.6m ceiling height requirement of the DCP.</p> <p><i>Ground level:</i> The drawings indicatively show that the floor to floor height for the ground storey is 4.2m, and is capable of meeting the 3.6m ceiling height requirement of the DCP.</p> <p><i>First floor residential:</i> The first storey (proposed to be used for residential amenities) has an indicative floor to floor height of 3.6m, and is able to meet the 3.3m ceiling height requirement of the DCP.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
		<p><i>Habitable rooms in typical residential floors:</i></p> <p>The DCP requires a minimum floor to ceiling height of 2.7m for habitable rooms. This will require a minimum floor to floor height of 3.1m.</p> <p>The drawings show an indicative floor to floor height of 3.1m (typical storeys) to 3.3m (below plant room and podium roof) for the residential levels, which meets the requirements of the DCP.</p> <p>It is recommended that a condition be imposed to require the detailed Stage 2 design to fully comply with the ceiling height provisions of the DCP.</p>
4.2.3.1 Solar access	Able to comply	Refer to the "Issues" section of this report for details.
4.2.3.1 Solar access <i>Overshadowing</i>	Yes	The proposed envelope will not result in overshadowing on any surrounding residential properties.
4.2.3.2 Lightwells	Able to comply	<p>The indicative floor plans show the provision of an 8.4m to 12m wide light well in the northern portion of the site.</p> <p>The light well is shown to be open to the sky. The light well is intended to enable natural cross ventilation and would not be the sole source of natural lighting.</p> <p>Refer to the "Issues" section for detailed discussions on the visual and acoustic privacy aspect of the proposed apartments.</p>
4.2.3.7 Private open space and balconies	Able to comply	This matter will be addressed in detail as part of the Stage 2 Development Application.

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.2.3.8 Common open space	Able to comply	A condition is recommended to require the competitive design process brief and the Stage 2 Development Application to provide appropriate communal open space in compliance with the requirements of the ADG.
4.2.3.9 Ventilation	Able to comply	<p>The indicative floor plans show a variety of corner apartments and cross-through units via the provision of a light well. The indicative layout suggests that approximately 90 out of 140 apartments (64%) would be able to achieve natural cross ventilation.</p> <p>The subject Stage 1 development application only seeks approval for a conceptual envelope. A condition is recommended for imposition to advise that the floor layout does not form part of the approval.</p> <p>A further condition is recommended to require the Stage 2 detailed design to comply with the natural ventilation requirements of SEPP 65 and ADG.</p>
4.2.3.11 Acoustic privacy	Able to comply	This matter will be addressed in detail under the Stage 2 Development Application when the exact land uses and location and layout of the apartments are confirmed.

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.1 Street frontage heights	No, but acceptable	<p>The proposed street frontage height is RL 74.30, which is equivalent to approximately 44.79m (Phillip Street), 46.31m (King Street) and 46.43m (Elizabeth Street).</p> <p>The proposal marginally exceeds the 45m maximum street frontage height control of the DCP by approximately 1.3m to 1.4m on the King and Elizabeth Street elevations.</p> <p>The variation is attributed to the slope of the site and the adjoining streets and is minor in nature. The podium height relates to the topmost point of the steeple of St. James Church, and is contextually appropriate having regard to the height and scale of the adjoining buildings to the north. Refer to <b>Figures 9 to 11</b> above.</p> <p>Therefore, the variation from the DCP is considered to be satisfactory.</p>
5.1.2.1 Front setbacks	No, but acceptable	<p>The DCP stipulates the following setbacks above podium for sites with three street frontages:</p> <ul style="list-style-type: none"> <li>• Elizabeth Street (north-south major street): 8m weighted average, minimum 6m</li> <li>• Phillip Street (north-south street): 8m weighted average, minimum 6m</li> <li>• King Street (secondary street): minimum 6m</li> </ul> <p>The proposal provides the following setbacks for the tower component:</p> <ul style="list-style-type: none"> <li>• Elizabeth Street: 3m to 6m</li> <li>• Phillip Street: 3m to 6m</li> <li>• King Street: 2.4m</li> </ul> <p>The proposed envelope does not comply with the DCP controls. Refer to the “Issues” section for details.</p>

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1.2.2 Side and rear setbacks	No, but acceptable	<p>The DCP stipulates a minimum side setback of 6m for principal windows or balconies of residential buildings up to a height of 45m. The indicative floor plans do not provide any windows or balconies facing the northern side boundary. All indicative apartments are oriented towards the street. In this instance, the provision of nil side setback for the podium component is considered to be reasonable.</p> <p>The DCP stipulates a side setback of 12m for residential buildings above a height of 45m. The proposed envelope for the tower does not provide any setback from the northern common boundary. Refer to the “Issues” section for details.</p>
5.1.5 Building bulk	Yes	<p>The size of the floor plate above the street frontage height is approximately 398m<sup>2</sup> (under 1000 sqm) and is progressively reduced in the topmost portion of the tower. The maximum horizontal dimension is approximately 30m (under 40m).</p>
5.1.6 Building exteriors	Able to comply	<p>The subject proposal seeks consent for the conceptual building envelope only. The articulations, materiality and detailing will form part of a competitive design process and a Stage 2 Development Application.</p>
5.1.6 Building exteriors <i>Top levels setback</i>	Yes	<p>The DCP requires that where the top levels of a building are stepped, the stepping must have a minimum height of 2 storeys.</p> <p>The topmost portion of the tower component (levels 22 to 26) features an inclined plane with the floor plates progressively stepped in from the south-eastern corner. The modelling of the envelope is to comply with the Hyde Park North sun access plane 2A.</p> <p>The proposal satisfies the provision of the DCP in this regard.</p>

**ISSUES****Setbacks**

44. The requirements for setbacks above street frontage height under Section 5.1.2.1 of the Sydney DCP and the proposed setback arrangement are summarised below:

<b>Street</b>	<b>Classification</b>	<b>Requirement</b>	<b>Proposed podium setback</b>
Elizabeth Street	Major north-south street	Weighted average 8m, minimum 6m	3.0m – 6.0m
Phillip Street	North-south street	Weighted average 8m, minimum 6m	3.0m – 6.0m
King Street	Minor street	Minimum 6m	2.4m

45. As detailed in the above table, the proposed envelope does not comply with the DCP requirements. In this instance, the extent of variation is supported as:
- (a) The proposed envelope is considered to be contextually appropriate to the CBD location. The proposed setbacks would enable a future built form that addresses all street frontages and the visually prominent intersection between Elizabeth and King Streets;

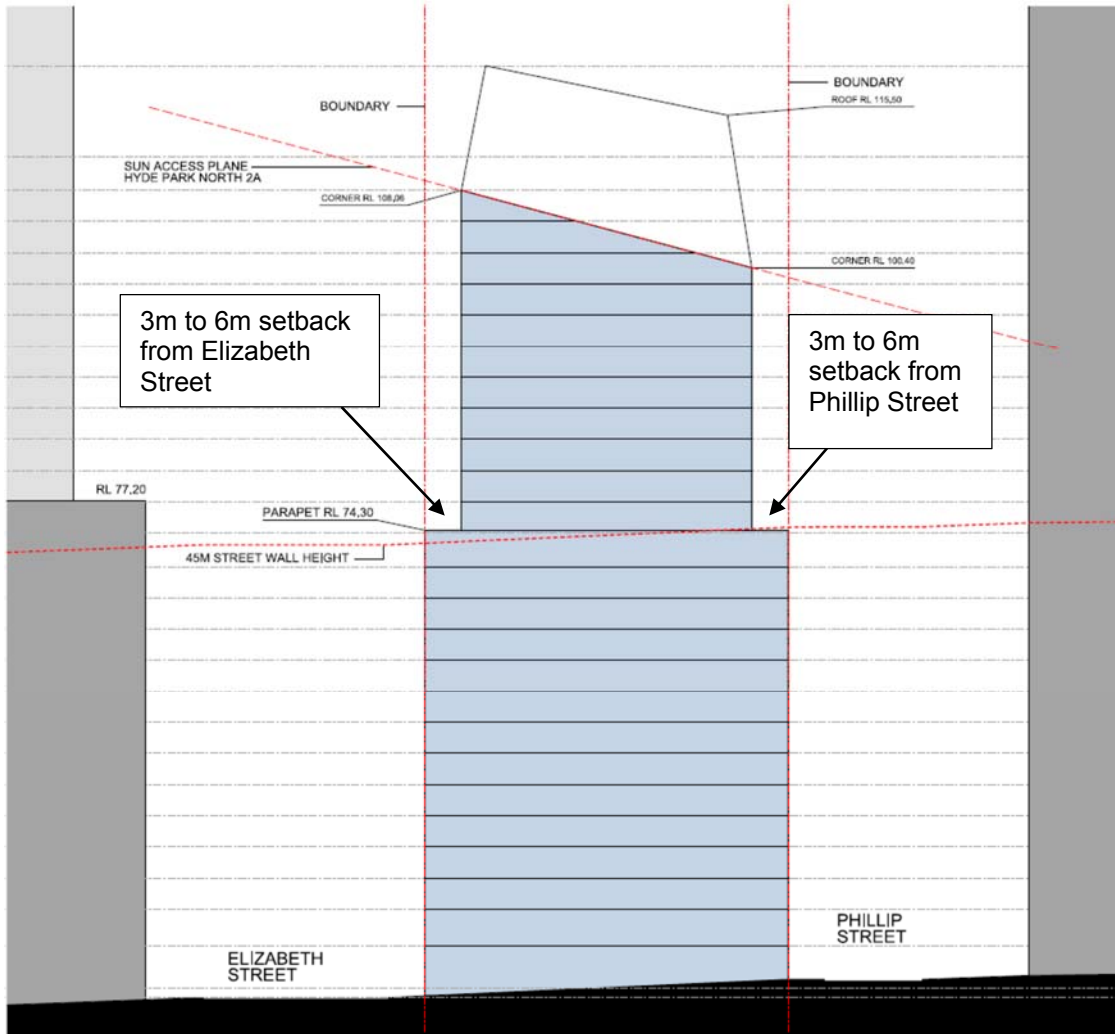
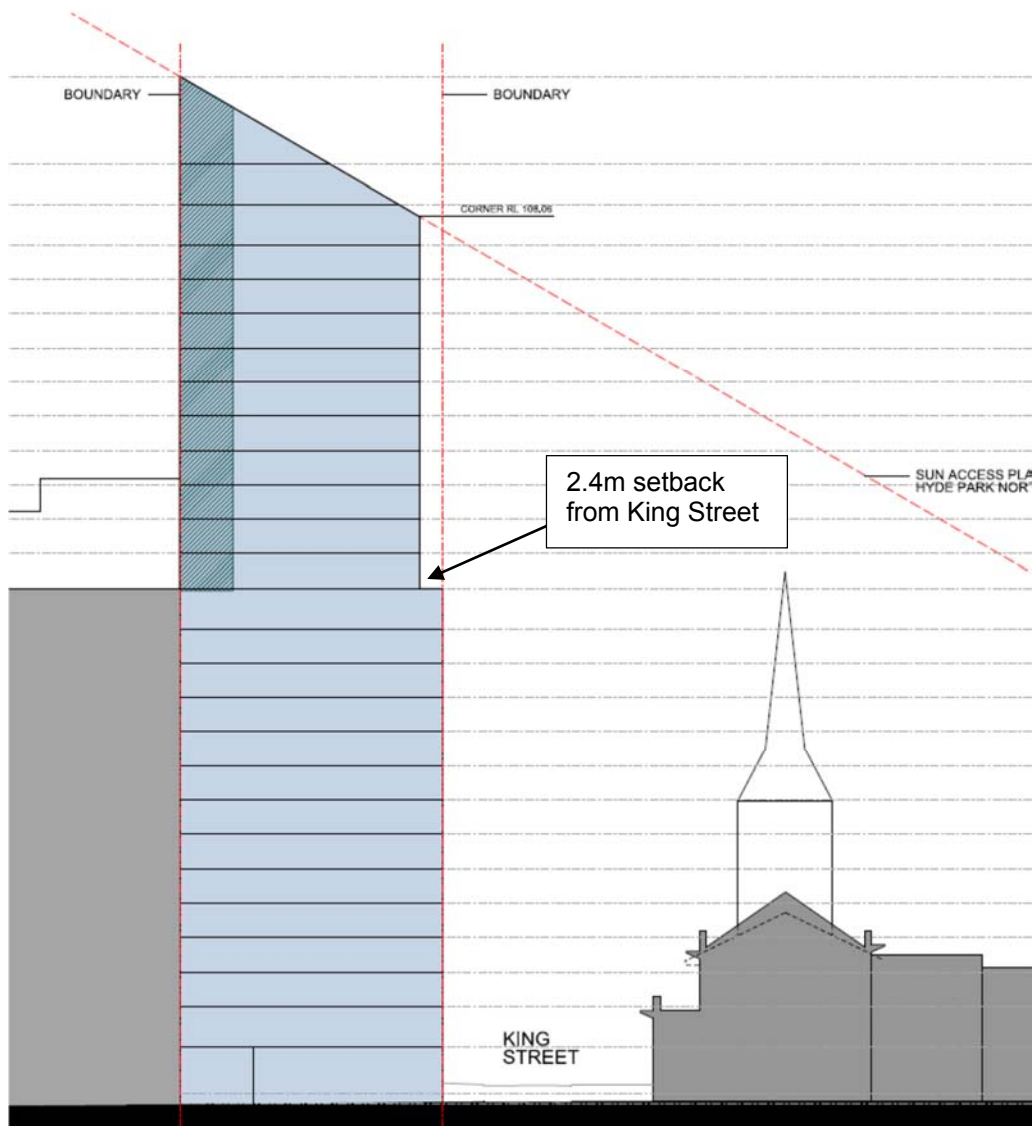


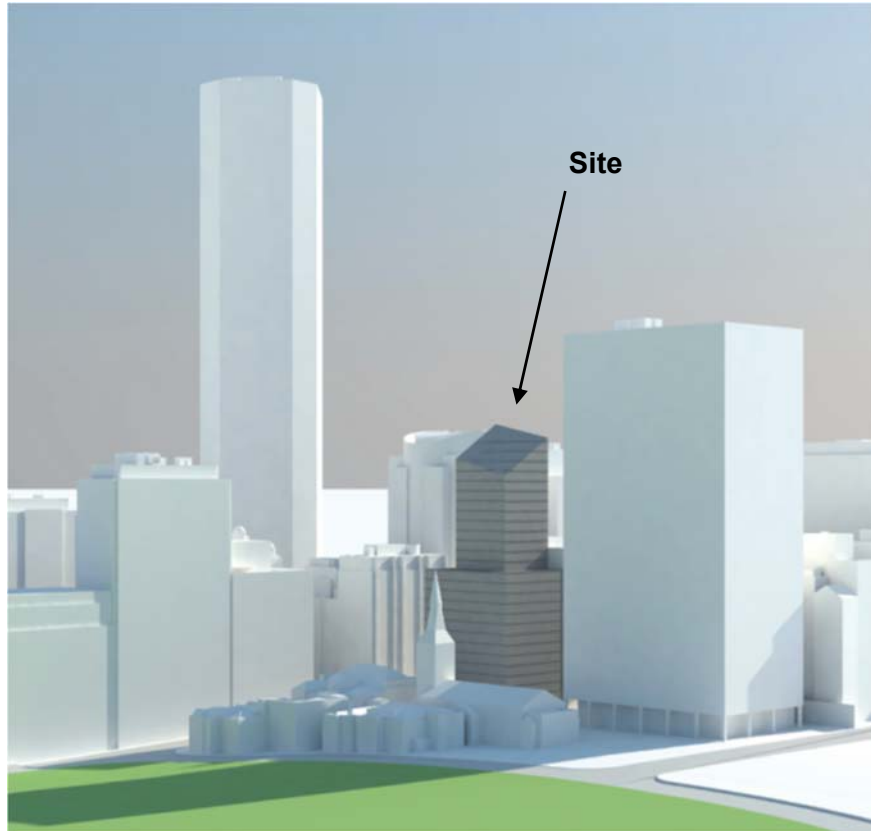
Figure 12 Southern (King Street) elevation of proposed envelope.



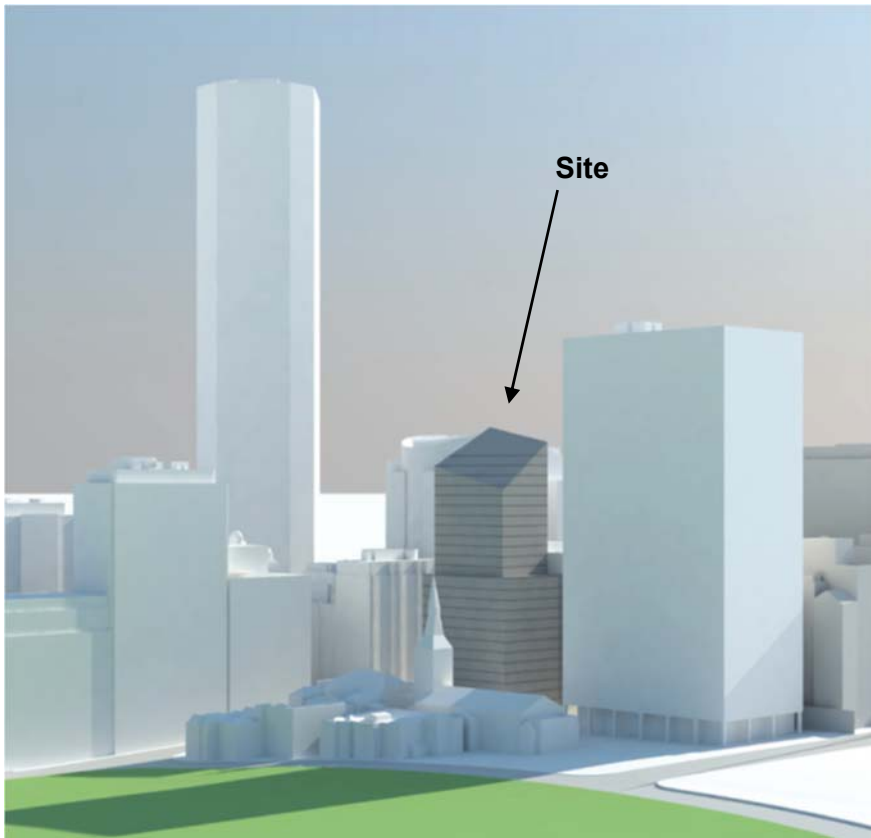
**Figure 13** Western (Elizabeth Street) elevation of proposed envelope.

- (b) The proposed varied setbacks from the Phillip Street and Elizabeth Street frontages have been developed to maximise solar access to the eastern and western elevations of the tower. Specifically, the angled alignment would extend the length of time which direct solar access would reach the eastern and western elevations. This would increase the proportion of floor space / apartments that has the opportunity to receive direct solar access when compared to a DCP compliant scheme. The proposed envelope would contribute to the amenity and energy efficiency of the future building;
- (c) The reduced setbacks will not result in an unacceptable building mass as viewed from the public domain (refer to Figures 14 and 15 below). The bulk and scale of the building would be further addressed through articulation of the building envelope at the detailed design stage;



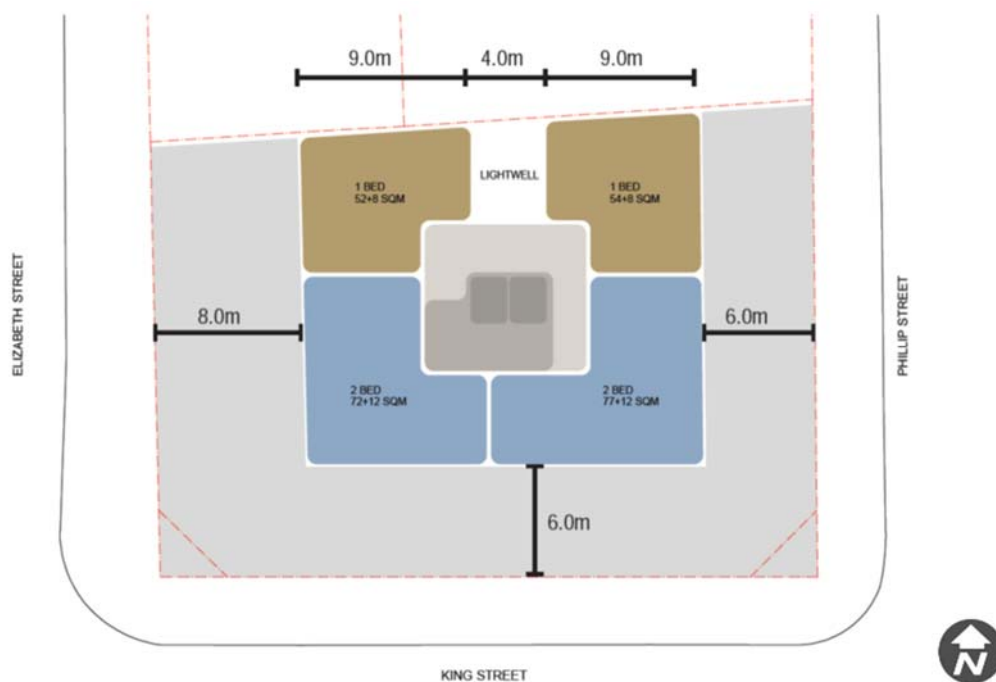


**Figure 14** Building envelope with 8m setback from Elizabeth Street and 6m setback from Phillip and King Streets, as viewed from Hyde Park.

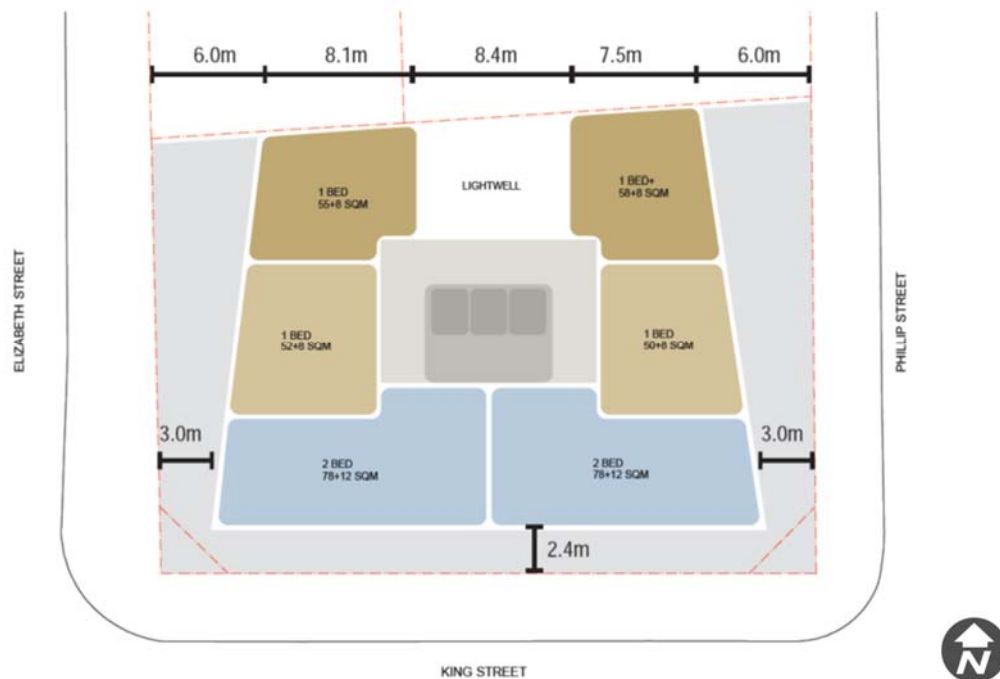


**Figure 15** Proposed building envelope, as viewed from Hyde Park.

- (d) The tower envelope is separated approximately 31.3m from the office building on the western side of Elizabeth Street and approximately 27.2m from the Commonwealth / State Law Courts building to the east (refer to Figure 18 below). The separation distance exceeds the 24m requirement of the Apartment Design Guide. It should also be noted that the heritage items to the south of the site are low-rise buildings and are unlikely to change in the foreseeable future. Based on the above, it is considered that a reasonable level of daylight and views to the sky would be retained for the surrounding streets;
- (e) A condition is recommended to require a wind assessment report to be submitted with the Stage 2 Development Application. This will ensure that the detailed design of the building will maintain suitable wind conditions at ground level for public safety and comfort;
- (f) Strict compliance with the DCP setback requirements would result in highly constrained floor plates that restrict the number and type of potential apartments. A DCP-compliant setback would potentially provide up to 4 apartments per typical storey in the tower (except for levels 23 to 25, which are affected by the sun access plane). Whereas the proposed envelope would provide approximately up to 6 apartments per typical floor within the tower. Refer to Figures 16 and 17 below; and



**Figure 16** Conceptual floor layout with DCP compliant setbacks above podium (approximately 394 sqm floor plate area).



**Figure 17** Conceptual floor layout with proposed varied setbacks above podium (approximately 549 sqm floor plate area).

- (g) The adjoining allotments to the north within the same city block have similar lengths to the subject site. These are in the order of approximately 36m to 39m, as measured from east to west. The 6m setbacks from Phillip and Elizabeth Streets at the northern common boundary would set a benchmark for any future development on the adjoining properties. The proposed setback arrangement is considered to allow any future adjoining developments to achieve a feasible and practical floor plates above the street frontage height.
46. Section 5.1.2.2 of the DCP stipulates a minimum setback of 12m from the side or rear boundary for residential buildings above 45m to ensure visual privacy is achieved between dwellings. The proposed envelope does not provide any setback from the northern side boundary. The schematic floor layout demonstrates that the future apartments would have their primary frontages towards the streets. An indicative light well is provided in the northern portion of the site to allow natural ventilation and function as a secondary light source. Despite the provision of nil side setback, the proposal would not result in detrimental visual privacy impacts on the future apartments. Therefore, the proposal is considered to be satisfactory in this regard.

#### Overshadowing on Hyde Park

47. Based on the shadow diagrams, the proposed envelope will not overshadow any part of Hyde Park between 9am and 3pm on 14 April.
48. On 21 June, the proposal will cast shadows on the north-western edge of Hyde Park at 11am. The shadows will gradually move across the northern portion of Hyde Park up to 3pm and beyond. Refer to shadow diagrams in **Attachment C**.

49. This overshadowing impact is considered to be acceptable in this instance as:
- (a) The extent of shadow impacts is generally compliant with the applicable planning controls. The maximum height for the site is determined by the sun access plane provisions under the Sydney LEP 2012. The proposed envelope fully complies with the 2A sun access plane applicable to the site. The proposal is generally consistent with the 45m maximum street frontage height control of the DCP with minor variation of approximately 1.3m to 1.4m, which is attributed to the slope of the site. Based on the above, the overall height and street frontage (podium) height of the envelope and associated shadows are considered to be satisfactory;
  - (b) The shadow diagrams submitted with the application provide a comparison with shadows that would be cast by a DCP-compliant envelope. The south-western corner of the tower envelope will cast an additional strip of shadow that is approximately 5m wide between 1pm and 3pm on 21 June. The additional shadow strip occurs along the western edge of the DCP-compliant shadows. The additional impact represents approximately 8 minutes of extra shadow transit time at any one spot on the ground. The degree of the additional impact is considered to be fast-moving and is narrow in spatial extent;
  - (c) Approximately 50% or more of the projected additional shadows (beyond the DCP-compliant shadows) will fall upon dense canopy trees at 11am, 12 noon, 2pm and 3pm on 21 June. It should also be noted that the proposed envelope will not cast any shadows on the iconic Archibald Fountain throughout the day on 21 June;
  - (d) The majority of the additional shadows (beyond the DCP compliant shadows) are attributed to the south-western corner of the tower element. As previously discussed, the proposed tower setbacks from Elizabeth Street and King Street are satisfactory. The proposed setbacks would result in a built form that appropriately addresses the prominent intersection between King and Elizabeth Streets; and
  - (e) An appropriate condition is recommended to require the competitive design process and the Stage 2 Development Application to investigate and incorporate measures that will further reduce the extent of overshadowing.

### **Overshadowing on Queen's Square**

50. The proposal will not cast any additional shadows on Queen's Square beyond the existing situation in the afternoon period on 21 June. Queen's Square is currently already shadowed by the existing law faculty building and the Commonwealth / State Law Courts in the afternoon period on 21 June.
51. On 14 April, the proposed envelope will cast additional shadows on the southern portion of Queen's Square at 2pm and 3pm. Refer to shadow diagrams in **Attachment C**.
52. The additional impacts on Queen's Square on 14 April are considered acceptable in this instance as:
- (a) The additional shadows are created by that part of the envelope which is fully compliant with the height and setback controls of the LEP and DCP, respectively; and

- (b) The shadows created by the proposed envelope are limited to 2pm (at the end of lunch hours) and 3pm. The impact from the proposal at 2pm only covers a triangular portion of the plaza adjacent to St. James Church. The overshadowed condition of Queen's Square on 14 April is predominantly attributed to its location immediately to the south of the 20-storey Commonwealth / State Law Courts building.
53. Based on the above, it is considered that the proposal would not result in significant additional impacts on the usability of Queen's Square during lunch hours between 14 April and 21 June.

### Solar access

54. The Apartment Design Guide stipulates that "*living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area*" (Design Criterion 1 of 4A-1). The ADG further provides that "*a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid winter*" (Design Criterion 3 of 4A-1). The Residential Flat Design Code has a similar provision relating to solar access.
55. The solar access conditions of the indicative apartments between 9am and 3pm in mid-winter are summarised in the following table. The solar access diagrams are included in **Attachment E**.

Solar access condition of proposed envelope (based on indicative floor plans)	
Minimum 2 hours of sunlight	71 apartments (50.7%)
Between 1.5 and 2 hours of sunlight	2 apartments (1.4%)
Between 1 and 1.5 hours of sunlight	14 apartments (10.0%)
Less than 1 hour of sunlight	53 apartments (37.9%)
Total	140 apartments

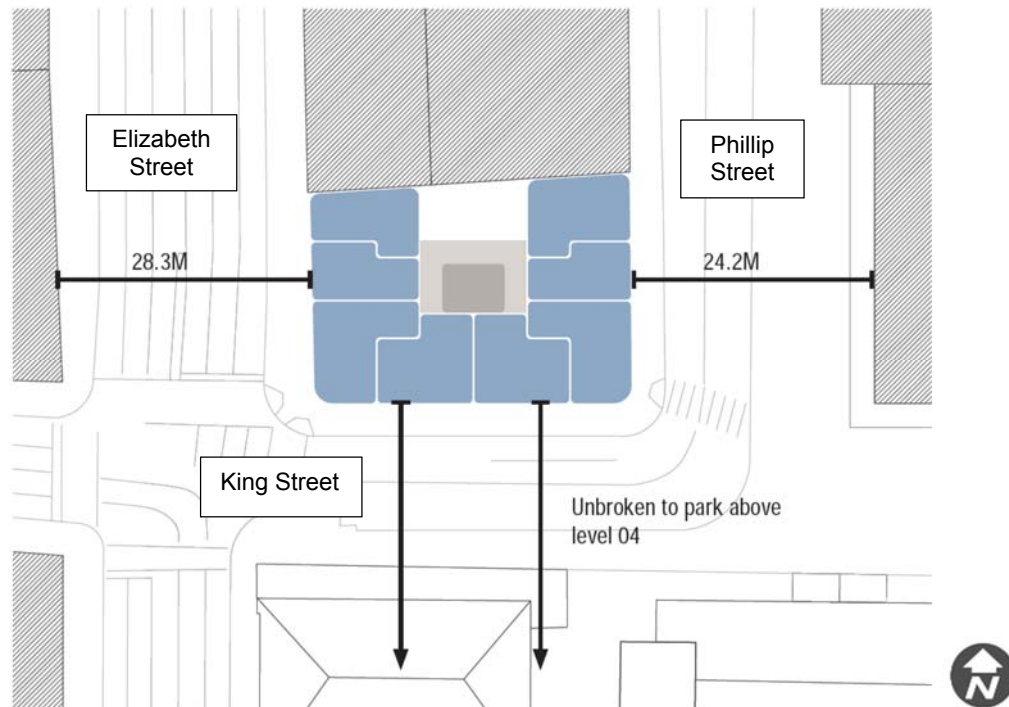
56. The indicative floor plans show that 71 out of 140 apartments (50.7%) would be able to achieve a minimum of 2 hours of direct sunlight within the prescribed timeframe in mid-winter. This represents a variation from the ADG control of 19.3% or 27 indicative apartments.
57. The degree of non-compliance with the control is attributed to the southern orientation of the site and the existing shadows cast by the surrounding buildings, which in turn have resulted in highly constrained solar access to the majority of the podium levels of the envelope.
58. A summary of the solar access condition to the podium component is provided in the table below. A compliant level of direct solar access (minimum 2 hours between 9am and 3pm, 21 June) would only occur from level 11 to level 13. All indicative apartments on the storeys below level 11 would not meet the ADG solar access requirement.

Solar access condition of indicative apartments within the proposed podium (levels 2 to 13)	
Minimum 2 hours of sunlight	9 apartments (11.7%)
Between 1.5 and 2 hours of sunlight	2 apartments (2.6%)
Between 1 and 1.5 hours of sunlight	14 apartments (18.2%)
Less than 1 hour of sunlight	52 apartments (67.5%)
Total	77 apartments

59. The tower component would receive excellent solar access on the eastern and western elevations. With the exception of one indicative apartment on level 14, all dwellings above the podium would receive a minimum of 2 hours of sunlight between 9am and 3pm on 21 June. This equates to 62 out of 63 indicative apartments (98.4%) within the podium.
60. The proposal is a complete redevelopment of the site and does not involve retention of any existing building fabric. The type and distribution of land use are not subject to any pre-existing constraints imposed by the law faculty building, which is proposed to be demolished. Therefore, it is considered that residential accommodation should only be located on those storeys where access to direct sunlight is adequate to the extent that the requirements of the ADG are complied with.
61. Compliance with the solar access requirements of the ADG would depend on the ultimate dwelling numbers, mix and distribution within the building. To allow flexibility in the detailed design, a condition is recommended to advise that the quantum and distribution of residential and non-residential floor space are not approved under this Stage 1 development application. A further condition is recommended to require compliance with the solar access provisions of the ADG. This will ensure that the solar access performance of the future building will satisfy the ADG without prescribing the exact location of residential uses under the Stage 1 consent. This will allow the design competition and Stage 2 Development Application to consider an appropriate mix of land uses and floor plate layouts to achieve compliance.

### Visual and acoustic privacy

62. The site has three street frontages. **Figure 18**, below, illustrates the separation from the surrounding multi-storey buildings. The podium is approximately 24.2m from the Commonwealth / State Law Courts building to the east, and approximately 28.3m from the office building at No. 75-85 Elizabeth Street to the west. These building separation distances meet the visual privacy requirements of the ADG, being 24m between habitable rooms / balconies.



**Figure 18** Separation distance between proposed envelope and nearby buildings.

63. The podium and tower are separated from the street boundary of the Supreme Court and old Registry Office building complex by approximately 19m and 21.4m, respectively. This is a shortfall from the 24m separation requirement of the ADG. Notwithstanding this, the indicative floor plans show that apartments would be located above the first two levels of the building. Due to the heritage listing of the Supreme Court and old Registry Office building group and St. James Church, the likelihood of having multi-storey buildings on these sites are very low, and as such, would not cause any significant privacy impacts on the proposed residential use.
64. The schematic floor layout incorporates a light well of approximately 8.4m to 12.0m in width in the northern portion of the site, which extends throughout the height of the building. The ADG does not prescribe minimum dimensions for light wells, or specific separation distances across light wells within a building. In the scenario where habitable rooms of different units open directly into the light well, they may suffer from cross viewing and noise intrusion. Therefore, a condition is recommended to advise that the indicative floor layout does not form part of the Stage 1 consent. A further condition is recommended to require the visual and acoustic privacy of the proposed apartments to be addressed in the competitive design process and the Stage 2 development application.

### Heritage

65. The subject site is located in the vicinity of a number of important heritage items of World, State and Local significance. In particular, it is located directly to the north of St. James Church and the Supreme Court and old Registry Office complex.

66. The proposal has been reviewed by Council's Heritage Specialist. There is no objection to the demolition of the existing brutalist style law school building on the site. It has been advised that the future building should provide a sympathetic relationship with St. James Church and the Supreme Court, which were both designed by Francis Greenway. It is noted that both items are within the curtilage of the UNESCO listed former Hyde Park Barracks to the east of Queen's Square.
67. The future building presents an opportunity to utilise Sydney sandstone to reflect the materials incorporated into the aforementioned heritage items. Brickwork is not considered to be desirable as contemporary brick manufacturing cannot replicate the appearance of the convict built bricks of the Greenway designed buildings opposite the site.
68. The design of the podium component should endeavour to enhance view corridors to and from the adjacent heritage buildings by providing an appropriate level of transparency at the intersections of King Street with Elizabeth Street and with Phillip Street.
69. It is considered that the above matters are able to be addressed by the design excellence process and Stage 2 detailed design. Appropriate conditions are recommended for imposition.

#### **Other Impacts of the Development**

70. The proposed development is capable of complying with the BCA.
71. It is considered that the proposal will not result in detrimental environmental, social or economic impacts on the locality, subject to the imposition of appropriate conditions of consent.

#### **Suitability of the Site for the Development**

72. The conceptual building envelope and indicative land uses are considered to be contextually appropriate to the CBD location, subject to the recommended conditions. The proposed development is capable of providing activation to the surrounding public domain and would maintain the character of the locality. Therefore, the site is considered to be suitable for the development.

#### **INTERNAL REFERRALS**

73. Council's internal service units including Environmental Health, Heritage and Urban Design, Public Domain (City Infrastructure), Surveying, Traffic and Waste Management; Quantity Surveying consultant and Design Advisory Panel have reviewed the application and raised no objections, subject to conditions.

#### **Notification, Advertising and Delegation**

74. In accordance with Schedule 1 of Sydney DCP 2012, the proposal was advertised and notified from 11 June to 10 July 2015. A total of five (5) submissions were received at the conclusion of the public consultation process.
75. The issues raised in the submissions are addressed as follows:



- (a) The setbacks above the street frontage height do not comply with the requirements of the DCP.

**Response** – The proposed setbacks above the street frontage height are considered to be contextually appropriate and would not result in unacceptable impacts upon the surrounding properties and public open space.

- (b) The non-compliant setbacks above the podium will result in mutual loss of privacy between the office building at No. 44-62 Castlereagh Street and the proposed development.

**Response** – The subject site is approximately 31m from the nearest corner of the office building at No. 44-62 Castlereagh Street. The proposed development and the office building in question are separated by Elizabeth Street, which is a 6-lane main road. The degree of separation exceeds the provisions of the Apartment Design Guide (ADG), which stipulates a distance of 24m between habitable rooms / balconies for buildings over 25m in height. Based on the above, the proposal is not considered to result in any significant loss of mutual privacy.

- (c) The proposed apartments do not receive adequate solar access. Only 50.7% of the apartments would meet the solar access standard in the Apartment Design Guide. A greater proportion of non-residential uses should be provided in the development.

**Response** – Noted. Refer to the detailed assessment in this report. No consent is to be given to land uses or internal layouts as part of this consent.

- (d) The application does not provide a satisfactory design excellence strategy. The proposal does not indicate where the additional FSR will be accommodated on the site.

**Response** – The revised drawings have shown the location and distribution of the additional design excellence floor space. A Design Excellence Strategy has been submitted and is considered to be satisfactory.

- (e) The application seeks consent for a building envelope that contains a 10% FSR bonus as part of a Stage 1 development application and should not be supported. The drawings should be amended to remove the bonus FSR volume.

**Response** – The application proposes an indicative GFA of 10,955 sqm, which equates to an FSR of 12.3:1. The collective maximum FSR (base FSR plus accommodation floor space) applicable to the site is 12.5:1.

The indicative FSR is not approved as part of this Stage 1 application. However, the application is required to demonstrate that the conceptual envelope would not result in unreasonable adverse impacts.

The drawings demonstrate a building envelope which is tested to contain a GFA of 12,050.5sqm. This equates to an FSR of 13.54:1. The envelope is considered to be contextually appropriate and would not result in any unacceptable impacts on the surrounding properties and public domain.

- (f) The application does not contain a site and context analysis that documents three different and realistic development options as required under Section 3.3.8 of the DCP.

**Response** – A series of discussions about site planning and setback options between the applicant and Council officers have occurred prior to the lodgement of the subject application. The proposed building envelope is considered to be contextually appropriate to the CBD location. Given the constrained size of the site, it is considered that preparation of three different alternative development options is not necessary in this instance.

- (g) The proposed development will result in overshadowing of Hyde Park.

**Response** – The additional overshadowing of Hyde Park by the proposed development is considered to be acceptable and would not detrimentally affect the amenity and useability of the public open space. Refer to assessment details within the body of this report.

- (h) The proposed development will overshadow the heritage items to the south of the site.

**Response** – In relation to the heritage items to the south (Supreme Court and old Registry Office building group and St. James Church), the proposed envelope will cast additional shadows over the roofs of these buildings from 11am to 3pm on 21 June.

However, there will be no additional overshadowing over the King Street (north) elevation of the old Registry Office and St. James Church between 9am and 3pm on 21 June, as the height of the proposed podium coincide with the parapet level of the existing law faculty building. The east elevation of St. James Church and the west elevation of the old Registry buildings will not be affected by the proposal.

The shadows will not affect the perception of the heritage items from the public domain and the proposal is considered to be acceptable in this regard.

- (i) The non-compliant setbacks will reduce daylight access to the surrounding areas.

**Response** – The proposed envelope will not result in unreasonable overshadowing of Hyde Park and the heritage items located to the south of the site. The proposed development will not cast shadows on any residential properties.

- (j) The proposed development will adversely affect the nearby heritage items and their setting.

**Response** – Appropriate conditions have been recommended to require the competitive design process brief and the Stage 2 Development Application to incorporate appropriate materials and facade articulations to complement the character of St. James Church and the Supreme Court building group, as well as to maximise sightlines to these heritage items. Subject to these conditions, the proposal is not considered to result in detrimental impacts on the significance of the nearby heritage items.

- (k) The application does not contain any information relating to disabled access.

**Response** – The subject Stage 1 application only seeks consent for a conceptual building envelope. Equitable access issues would be addressed as part of the Stage 2 Development Application.

- (l) The proposed residential use will change the commercial and business character of the locality, and will increase pressure on local facilities.

**Response** – Residential accommodation is a permissible use within the B8 Metropolitan Centre zone under the Sydney LEP 2012. The indicative floor plans show the inclusion of a commercial / retail premise on the ground floor level addressing all three street frontages, which would offer local retail or business services and provide activation to the public domain. The detailed distribution of land uses will be addressed as part of the Stage 2 Development Application.

- (m) The proposed residential use will result in loss of medical and other services that rely on low cost office space.

**Response** – The existing building has been occupied by the law faculty of the University of Sydney as a tertiary educational facility. The proposal would not result in any net loss in commercial office floor space.

- (n) The proposal will increase traffic volume and congestion in the surrounding streets.

**Response** – The subject Stage 1 application only seeks consent for a conceptual building envelope. The exact quantum and distribution of land uses within the building are not confirmed at this stage. An appropriate condition is recommended to require the preparation of a traffic impact study as part of the Stage 2 Development Application. A further condition is recommended to advise that the number and configuration of basement levels are not approved as part of the Stage 1 application.

- (o) The entry and egress point of the car park is inadequate as Elizabeth Street has high volume of pedestrian and vehicular traffic, and would create a safety hazard.

**Response** – A condition is recommended to require the preparation of a traffic impact study as part of the Stage 2 Development Application. A further condition is recommended to require the competitive design brief and the Stage 2 detailed design to address the safety and amenity of Elizabeth Street.

- (p) The site should be consolidated with the adjoining properties in order to resolve the constraints to the development.

**Response** – The applicable planning controls do not prescribe mandatory site consolidation requirements.

- (q) The construction process will generate noise, traffic impacts, parking disruption and air pollution to the surrounding areas.

**Response** – The subject Stage 1 development application seeks consent for a conceptual building envelope only and no physical demolition or construction works are proposed. Construction related impacts would be addressed as part of the Stage 2 Development Application. Appropriate conditions have been recommended to require the submission of a construction noise management plan and a construction traffic management plan with the Stage 2 Development Application.

- (r) The construction process may cause damage to the adjoining building at No. 82-88 Elizabeth Street.

**Response** – Construction related impacts would be addressed as part of the Stage 2 development application.

- (s) There are regular maintenance works to the buildings at No. 174-180 Phillip Street and No. 233 Macquarie Street during November to January each year. The proposed construction works may interrupt these maintenance activities. Council should temporarily remove residents' parking permit and decline filming applications in Phillip Street during this period to alleviate traffic disruptions in the area.

**Response** – No construction works are proposed or approved as part of this application.

## **PUBLIC INTEREST**

76. It is considered that the proposal will have no detrimental effect on the public interest, subject to the imposition of the recommended conditions.

## **FINANCIAL IMPLICATIONS / S61 CONTRIBUTIONS**

### **Section 61 Contributions**

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

## **RELEVANT LEGISLATION**

78. Environmental Planning and Assessment Act 1979 and Heritage Act 1977.

## **CONCLUSION**

79. The proposal seeks consent for a Stage 1 concept plan for a building envelope with a height of up to RL 120.70, which is approximately 92.8m above existing ground level.
80. It is considered that, subject to the imposition of the recommended conditions, the proposed building envelope and indicative land uses would appropriately respond to the constraints of the site and applicable planning controls. In those instances where numerical variation is sought to the planning controls, such as setbacks, they are considered to be justifiable on planning grounds and are supported.

81. As such, the development application is recommended for approval, subject to the recommended conditions.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Simon Ip, Senior Planner)