

Item 4.**Development Application: 698-704 George Street, Haymarket****File No.:** D/2017/1787**Summary**

Date of Submission:	21 December 2017 Amended plans received 20 August 2018
Applicant:	Northpoint Construction Group Pty Ltd
Architect:	Architectus
Developer:	Northpoint Construction Group Pty Ltd
Owners:	Goulburn Property Pty Ltd - 51-57 Goulburn Street (Golden Dragon Pub) Haymarket House Pty Ltd - 698-704 George Street (Kiss's Building) Peter and Helen Kafataris - 43-49 Goulburn Street (Scruffy Murphy's Pub)
Cost of Works:	\$139,969,399
Proposal Summary:	<p>The application seeks concept approval for the following:</p> <ul style="list-style-type: none">• Demolition of No. 51-57 Goulburn Street, the potential demolition and/or retention of No. 43-49 Goulburn Street and the restoration of the Kiss's building, a local heritage item, at No. 698-704 George Street• Construction of a 40-storey tower with a podium ranging in height from 3-13 storeys and a single level basement• A mix of retail, hotel and residential apartments <p>The application seeks Integrated Development consent requiring approval under the Water Management Act 2000 for dewatering. General terms of approval have been granted by Water NSW.</p>

During assessment the proposal has been amended such that:

- Basement car parking has been deleted from the proposal
- The setbacks to the east and south elevations have been amended
- The separation between the top of the Kiss's building and the tower above have been increased

The building envelope complies with the Belmore Park sun access plane and the maximum 60 metre height limit that applies to the southeast corner of the site in accordance with Clause 4.3 of the Sydney Local Environmental Plan 2012.

The proof of concept plan purports to demonstrate that the tower is able to achieve the maximum permitted floor space ratio for the site pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012. The application indicates that, following a competitive design process, the subsequent detailed design application would seek bonus floor space up to 10% as provided under Clause 6.21(7) of the Sydney Local Environmental Plan 2012. The proof of concept scheme however demonstrates that the building envelope is at most only able to achieve an additional 1.8% bonus floor space.

The proposed development would overshadow apartments within the Inmark building to the south of the site, contrary to the provisions of Section 4.2.3.1 of the Sydney Development Control Plan 2012 and Objective 3B-2 of the Apartment Design Guide. The effect on amenity for occupants of these apartments would be detrimental and is not supported.

While Council's planning controls do not require minimum lot sizes and do not require lot consolidation, the isolation of Nos. 694-696 and 704A-708 George Street will result in an undesirable urban design outcome and inhibit their redevelopment in accordance with the desired future character for the area. The development is therefore inconsistent with objective (c) of Section 1.3 of the Environmental Planning and Assessment Act 1979, in that the development does not promote the orderly and economic use and development of land.

The application is unclear as to whether the building at No. 43-49 Goulburn Street will be demolished, creating uncertainty as to the urban design outcome of the proposal. Furthermore, the podium height adjacent to No. 694-696 George Street is incompatible with the desired street wall established by the Kiss's building, and is not supported.

The concept application fails to demonstrate that the development can comply with provisions regarding vehicle access, loading and servicing, drop off and pick up facilities and coach parking in accordance with Section 3.11 of the Sydney Development Control Plan 2012. Furthermore, concern is raised with the concept location of the driveway adjacent to the signalised intersection with World Square.

The application as amended proposes locating the driveway entrance on Goulburn Street adjacent to the signalised intersection to World Square. A raised median would be required to deter right turns into and out of the property and as such would require the approval of the Central Sydney Traffic and Transport Committee (CSTTC).

The application was exhibited for 30 days from 12 January to 10 February 2018 and received 36 submissions (one submission representing 29 owners/occupiers and 24 form letters), raising the following concerns:

- Overdevelopment
- Overshadowing
- View loss
- Heritage
- Site isolation
- Traffic
- Visual privacy
- Public art
- Flooding
- Inadequate information
- Construction Impacts
- Property values

The proposed development does not achieve design excellence as the building envelope results in adverse impacts to the amenity of apartments within the Inmark building, poor urban design outcomes through the isolation of adjoining sites and incompatible podium height and uncertainty with regard to the retention or demolition of the building at No. 43-49 Goulburn Street. As such, the application cannot be supported in this form and is recommended for refusal.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) State Environmental Planning Policy No. 55 - Remediation of land
- (ii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- (iii) State Environmental Planning Policy (Infrastructure) 2007
- (iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (v) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed SEPP)
- (vi) Sydney Local Environmental Plan 2012
- (vii) Apartment Design Guide 2015
- (viii) Sydney Development Control Plan 2012

Attachments:

- A. Selected drawings
- B. Solar access reports
- C. View impact analysis
- D. Submissions (Confidential)

Recommendation

It is resolved that consent be refused for Development Application No. D/2017/1787 for the following reasons:

- (A) The proposed building envelope will overshadow apartments within the Inmark building located at 718 George Street to the detriment of their amenity. Insufficient information has been provided to quantify the exact number of apartments affected and is not justified with regard to relevant planning provisions. The site is therefore not considered suitable for the development as proposed. As such the application is inconsistent with the following planning controls:
 - (i) Environmental Planning and Assessment Act 1979
 - (a) Section 4.15(1)(c)
 - (ii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
 - (a) Clause 28(2)(b) and (c)
 - (b) Schedule 1, Principle 6
 - (iii) Apartment Design Guide 2015
 - (a) Objective 3B-2 - Orientation
 - (iv) Sydney Local Environmental Plan 2012
 - (a) Clause 1.2(2)(h) - Aims of the Plan
 - (b) Clause 6.21(4)(d)(iv) and (vii) - Design excellence
 - (v) Sydney Development Control Plan 2012
 - (a) Section 1.1 - Introduction
 - (b) Section 4.2.3.1 - Solar access
- (B) The development will isolate Nos. 694-696 and 704A-708 George Street, inhibiting their future development potential and resulting in a poor urban design outcome. The site is therefore not suitable for the proposed development and is inconsistent with the following provisions of the Environmental Planning and Assessment Act 1979:
 - (i) Section 1.3(c)
 - (ii) Section 4.15(1)(c)

- (C) The application has failed to adequately consider the demand for coach parking, drop off and pick up, loading and servicing for the uses and intensity of development proposed. Furthermore, concern is raised that the development will have an adverse impact on the operation of the surrounding road network due to the proximity of the site to a signalised intersection and is therefore inconsistent with the following planning controls:
- (i) Sydney Local Environmental Plan 2012
 - (a) Clause 1.2(2)(g) - Aims of the Plan
 - (ii) Sydney Development Control Plan 2012
 - (a) Section 3.11.1 - Managing transport demand
 - (b) Section 3.11.8 - Bus parking
 - (c) Section 3.11.10 - Vehicle access for developments greater than 1000sqm GFA
- (D) The proposed street wall height adjacent to No. 694-696 George Street does not relate positively to the desired street wall established by the Kiss's Building at No. 698-704 George Street. Furthermore, the application is uncertain as to whether the building at No. 43-49 Goulburn Street will be demolished as part of any future detailed design application. The application is therefore inconsistent with the following planning controls:
- (i) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
 - (a) Clause 28(2)(b) and (c)
 - (b) Schedule 1, Principles 1 and 2
 - (ii) Apartment Design Guide 2015
 - (a) Objective 2C - Building height
 - (iii) Sydney Local Environmental Plan 2012
 - (a) Clause 1.2(2)(j) - Aims of the Plan
 - (b) Clause 6.21(4)(d)(xi) - Design excellence
 - (iv) Sydney Development Control Plan 2012
 - (a) Section 4.2.1.1 - Building height
- (E) For the reasons listed above, the development is not in the public interest.

Background

The Site and Surrounding Development

1. A site visit was carried out on 30 April 2018.
2. The site is comprised of three lots being No. 698-704 George Street and Nos. 43-49 and 51-57 Goulburn Street, located adjacent to the southeast corner of the George Street and Goulburn Street intersection. The site has a combined area of 1,237.8sqm and slopes generally from Goulburn Street to the south. Note: the site does not include No. 694-696 George Street which completes the corner of the block.
3. A mixed use terrace and local heritage item known as the Kiss's Building occupies No. 698-704 George Street, while the Scruffy Murphy's and Golden Dragon public hotels and small retail tenancies occupy Nos. 43-49 and 51-57 Goulburn Street. The buildings range in height from two to four storeys.
4. The site is located to the south of the Sydney CBD, with World Square to the north and a collection of residential and commercial towers, historic pubs and low scale commercial buildings within the immediate surrounds. 59 Goulburn Street to the east contains a commercial tower and to the south is the Inmark apartment building at 718 George Street. The CBD and Southeast Light Rail line is currently under construction on George Street.

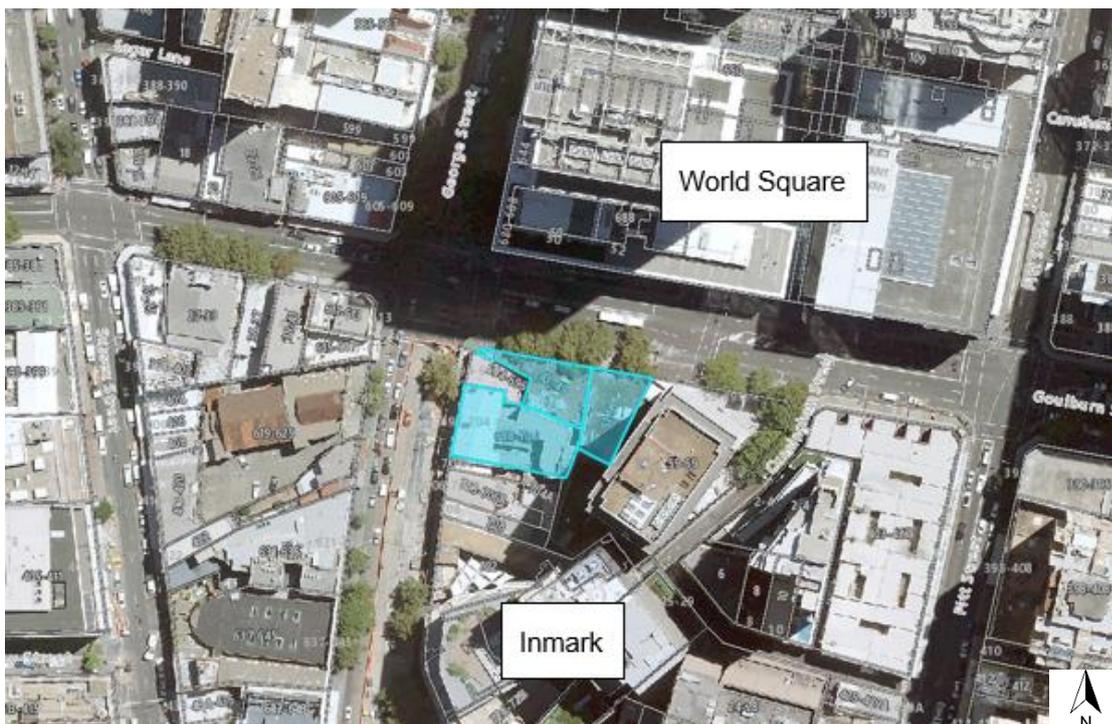


Figure 1: Aerial image of subject site and surrounding area

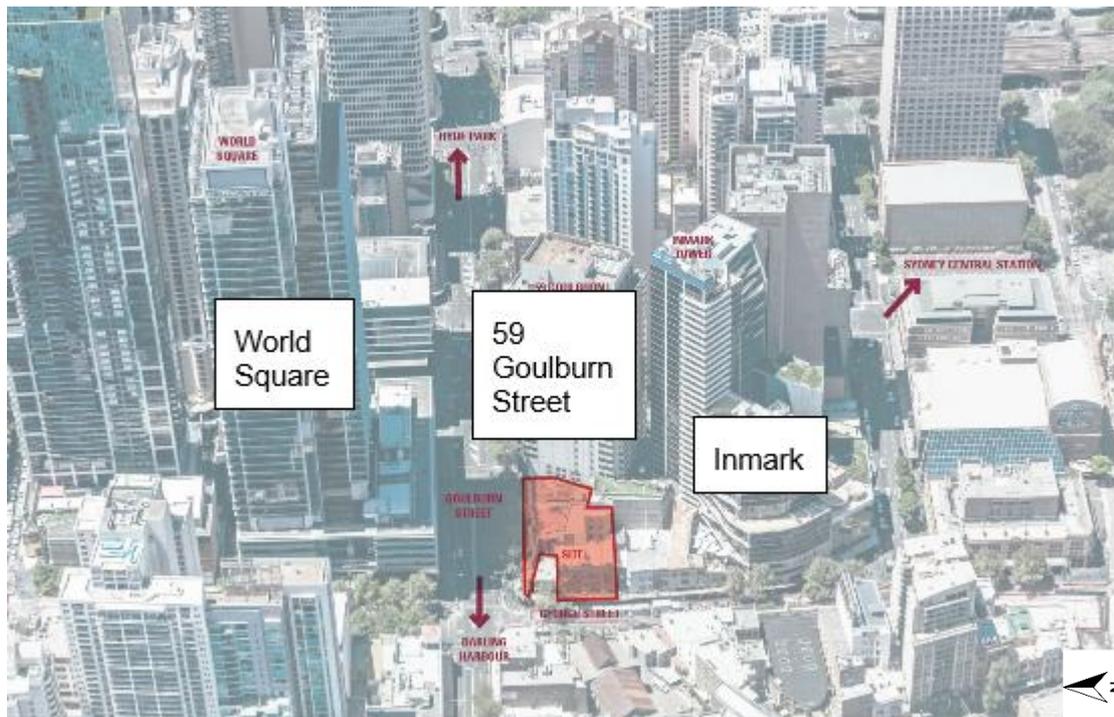


Figure 2: Aerial image of subject site and surrounding area provided by the applicant



Figure 3: The site viewed from the intersection of George and Goulburn Streets looking southeast. No. 694-696 George Street, outlined in red, does not form part of the site



Figure 4: The Kiss's Building at No. 698-704 George Street



Figure 5: The Golden Dragon and Scruffy Murphy's Hotels at Nos. 43-49 and 51-57 Goulburn Street



Figure 6: Properties located to the west of the site opposite on George Street

Proposal

5. The application seeks concept approval for a building envelope and design parameters including the following:
 - (a) The potential demolition of the Scruffy Murphy's pub at 43-49 and 51-57 Goulburn Street.
 - (b) Retention of the Kiss's heritage building at 698-704 George Street.
 - (c) Construction of a 40 storey tower with a podium ranging in height from 3 to 13 storeys and basement retail space.
 - (d) Retail, hotel and residential uses.
6. The maximum building height conforms to the Belmore Park sun access plane. The maximum permitted gross floor area of the development is 17,180.25sqm (excluding any future design excellence bonus).
7. Amended plans were received on 20 August 2018 making the following modifications in response to concerns raised by Council officers and the Design Advisory Panel:
 - (a) Reducing the setback to the eastern boundary up to 45 metres (nil setback) and increasing the setback above 45 metres (6 metres).

- (b) Removing the "balcony zone" from within the minimum setback areas to George Street and Goulburn Street.
 - (c) Increasing the height of the cantilever above the Kiss's Building by two floors.
 - (d) Deleting the basement car parking.
 - (e) Changes to flood planning levels.
 - (f) Providing indicative internal residential layouts.
8. Plans of the proposed development as amended are provided below.

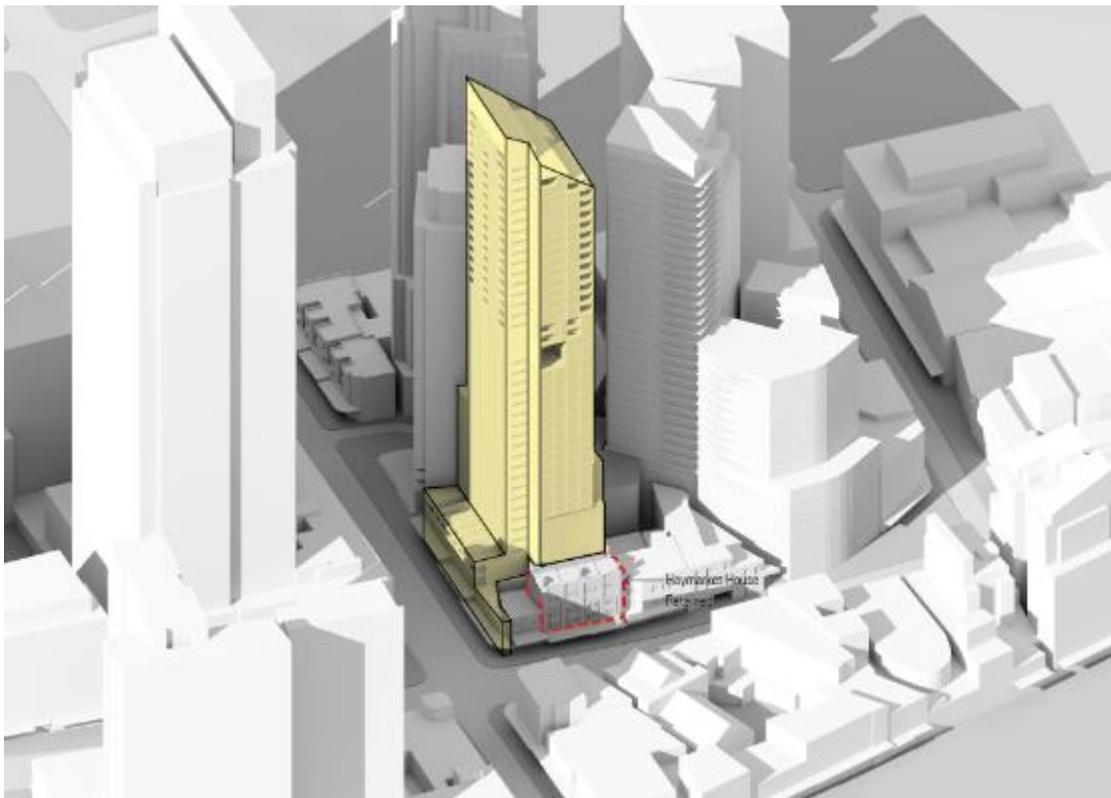


Figure 7: The proposed concept envelope



Figure 8: Building height diagram

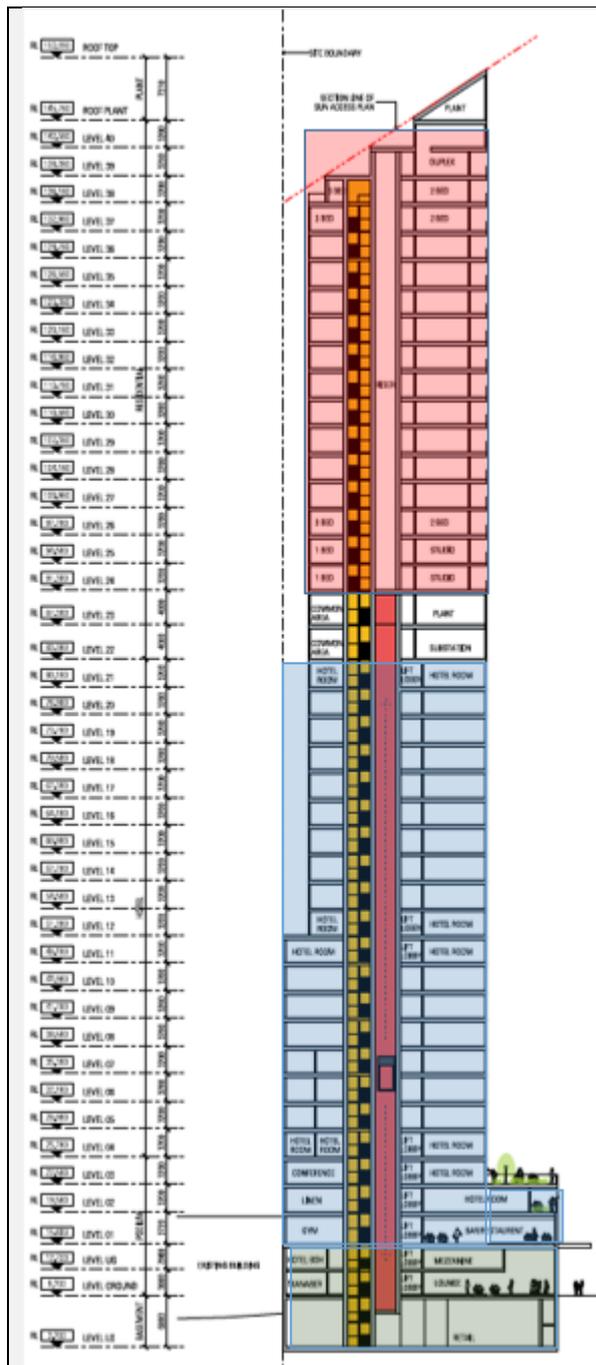


Figure 9: Indicative north-south section (residential in red, hotel in blue, retail in green)

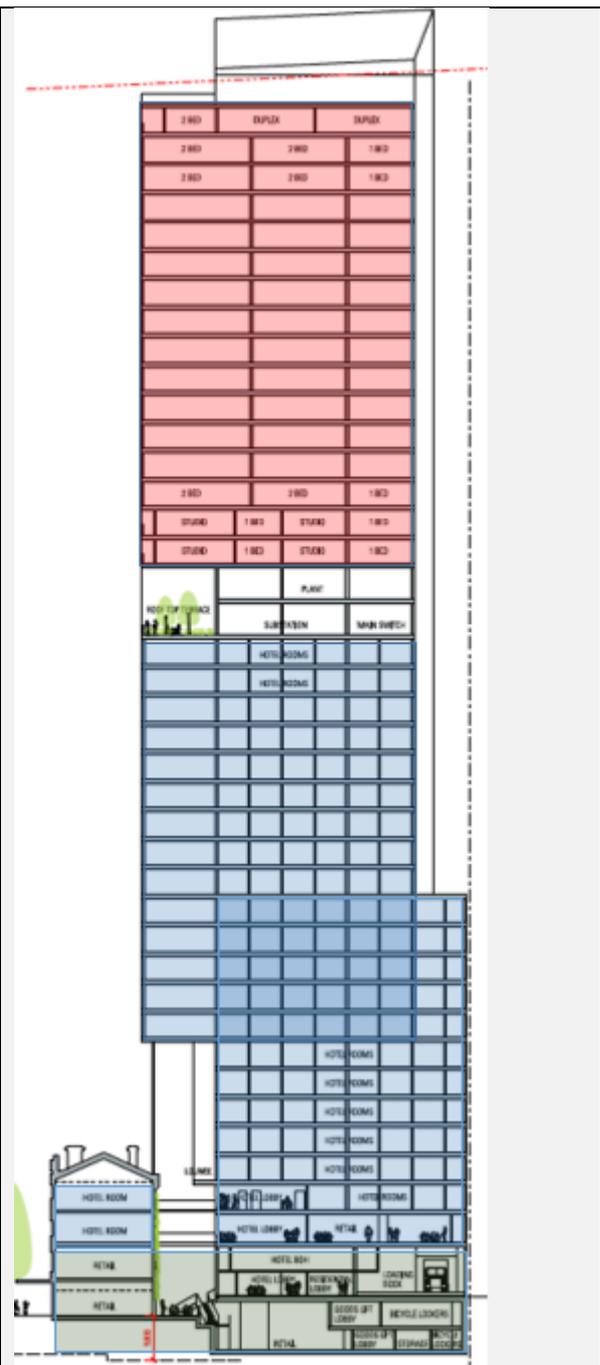


Figure 10: Indicative east-west section (residential in red, hotel in blue, retail in green)

History Relevant to the Development Application

9. On 8 December 2016, development consent D/2016/195 was granted by the Central Sydney Planning Committee for a concept approval for a mixed use building envelope containing retail, hotel and residential uses at 59-69 Goulburn Street, immediately adjoining the subject site to the east. The consent was subject to deferred commencement conditions requiring the following:
 - (a) The upper levels above RL 97.96 to be setback a minimum 8 metres from George Street to maintain views from No. 2 Cunningham Street.
 - (b) Setbacks to the podium to Cunningham Street.
 - (c) Restricting residential uses within the building such they were not adjacent to the southern boundary and below RL 74.4.
 - (d) Restricting infill at the rear of the building adjacent to the southern and western boundaries between RL 24.39 and RL 27.70.
10. The deferred commencement conditions have not been satisfied and as at 8 December 2017 the consent lapsed.

City of Sydney Act 1988

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

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

(1) The Planning Committee must consult the CSTTC before it exercises a function under Part 4 that will result in the making of a decision that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.

(2) The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.

(3) The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.

(4) The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee."

12. Consultation with the CSTTC would be required if the application were to be supported due to the proximity of the driveway location to the signalised intersection with World Square and the raised median recommended by the Roads and Maritime Services.

Economic/Social/Environmental Impacts

13. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

14. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
15. A Preliminary Environmental Site Investigation (PESI) for contamination accompanies the application. Overall, the potential for contamination from previous site uses is considered to be low. As prescribed by Section 59 (2) of the Contaminated Lands Management Act, the site is not declared to be significantly contaminated.
16. Localised sources of contamination (such as old small underground oil tanks) may be present in areas of the site that could not be observed or accessed at the time of the site walkover (for example due to current floor materials). Any contamination from previous and current grease traps/sumps at the site (associated with former and current restaurants) and the old apparent pump and adjoining pit at no. 51-57 Goulburn Street is likely to be localised. Similarly, possible contamination from the application of pesticides beneath ground slabs and possible contamination from hazardous building materials is expected to be limited to near surface soils.
17. There would be an opportunity to remove near surface contaminated filling during excavation.
18. Intrusive investigations of soil and groundwater should be undertaken to determine the contamination status of the site from the above-mentioned potential sources prior to submitting a detailed design application. Restrictions to soil testing due to existing structures is not reasonable justification at the detailed design stage.
19. In the event that the application were to be approved, Council's Environmental Health officer is satisfied that the site could be made suitable for the development and satisfies the relevant provisions of SEPP No. 55.

State Environmental Planning Policy (Infrastructure) 2009

20. The development is located above the existing City Circle rail corridor and, as such, is subject to Clauses 86 and 87 of this SEPP.
21. The application was referred to Sydney Trains for concurrence. No objection was raised to the proposal subject to the general terms of approval issued.
22. Sydney Trains was notified of amended plans received on 20 August 2018; however, no response had been provided at the time of writing this report.

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

23. SEPP 65 provides that in determining an application for a residential flat development of three or more storeys and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including the nine design quality principles at Schedule 1.
24. In accordance with Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000, a design verification statement is required to accompany an application that relates to residential development. The design verification statement is to be prepared by a qualified designer (a registered architect):
- (a) verifying that he or she designed or directed the design of the development;
 - (b) provide an explanation that verifies how the development:
 - (i) addresses how the design quality principles are achieved; and
 - (ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.
25. While the application is accompanied by a statement addressing the design quality principles, it has not been prepared by a qualified designer and does not address Parts 3 and 4 of the Apartment Design Guide. As such, the application is not accompanied by a design verification statement in accordance with the Regulations and cannot be supported.
26. Notwithstanding, an assessment against the nine design quality principles is provided below. This concept application as amended proposes a building envelope, with an accompanying proof of concept scheme to demonstrate how the building could comply with the SEPP No. 65 and the Apartment Design Guide.
- (a) **Principle 1: Context and Neighbourhood Character**
 - (b) **Principle 2: Built Form and Scale**

The isolation of adjoining sites, particularly No. 694-696 George Street, and the impacts on the adjoining Inmark building will result in a poor urban design outcome and is not supported. Furthermore, the application is unclear as to whether the building at No. 43-49 Goulburn Street (Scruffy Murphy's hotel) will be retained, and the podium height adjacent to No. 694-696 George Street does not relate positively to the street wall height of the Kiss's Building.

The development proposes the retention and restoration of the Kiss's building, a local heritage item, and has been amended to provide acceptable visual separation between the building and tower above.
 - (c) **Principle 3: Density**

The proof of concept scheme demonstrates that the building envelope can accommodate the maximum floor space permitted on site and is compatible with the density of the surrounding area. It is noted that the envelope has been tested and cannot accommodate the maximum 10% floor space ratio bonus permitted under Clause 6.21(7) of the Sydney Local Environmental Plan 2012 where the detailed design demonstrates design excellence.

(d) **Principle 4: Sustainability**

The development has been amended and the applicant has confirmed that the detailed design would exceed minimum targets for ecologically sustainable development, in particular:

BASIX Energy 30+

BASIX Water 45+

NABERS Hotel 4 Star

The detailed design application would be required to demonstrate how the proposal meets these requirements.

(e) **Principle 5: Landscape**

The site does not provide deep soil on site, consistent with the dense urban context of central Sydney. The proof of concept application identifies areas for landscaping on the podium and within the tower which would be subject to refinement prior to the submission of a detailed design application.

Street tree protection and public domain upgrades would form part of the detailed design application.

(f) **Principle 6: Amenity**

As discussed with regard to the provisions of the Apartment Design Guide, the proof of concept plans demonstrate that the building is able to provide satisfactory amenity for residents, in particular with regard to solar access, open space, sufficient floor area and outlook.

However the development will adversely overshadow apartments located within the Inmark tower to the south, contrary to the provisions of Objective 3B-2 of the Apartment Design Guide. The impacts are detrimental to the amenity of these apartments and as such the application is not supported. Further discussion is provided under the Issues heading.

(g) **Principle 7: Safety**

The development would be required to address the provisions of CPTED as part of a detailed design application.

(h) **Principle 8: Housing Diversity and Social Interaction**

The proof of concept scheme demonstrates that a variety of housing types, including apartment sizes and for persons with disability, can be accommodated within the building envelope.

(i) **Principle 9: Aesthetics**

The development would be subject to a design competition and detailed design application.

27. As the development will adversely overshadow the Inmark building, having a detrimental impact on the amenity of affected apartments, and will isolate adjoining sites, the development is not considered to comply with the design quality principles. Further discussion is provided below with regard to the Apartment Design Guide below and under the Issues heading.

Apartment Design Guide

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Yes	The proof of concept application demonstrates that the development is able to comply.

2F Building Separation	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24 metres between habitable rooms / balconies • 18 metres between habitable and non-habitable rooms • 12 metres between non-habitable rooms 	Yes	The proof of concept application demonstrates that the development is able to provide compliant building separation to the commercial building to the east and the Inmark building to the south.

3B Orientation	Compliance	Comment
<p>Overshadowing of neighbouring properties is minimised during midwinter</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%</p>	No	The development will overshadow neighbouring apartments within the Inmark building, having an unacceptable detrimental impact on their amenity. Further discussion is provided under the Issues heading.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The indicative floor plans provide approximately communal open spaces with a cumulative area equal to approximately 25% of the site area. These spaces would receive more than two hours solar access to more than 50% of the overall area.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Partial compliance	<p>The design guidance states that the provision of deep soil, in accordance with the design criteria, may not be suitable in the central business district.</p> <p>In this instance, stormwater management and planting on structures could be provided.</p>

Separation between windows and balconies is required to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.

3F Visual Privacy	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6 metres between habitable room windows 	Yes	With the exception of windows to the south east corner of the tower, the indicative floor plans demonstrate that the building envelope can maintain visual privacy within the development and to neighbouring properties. The apartments can be designed to locate habitable rooms away from circulation spaces.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	An amended proof of concept scheme has been submitted with the application which indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements. However this causes amenity impacts on surrounding properties as discussed in the Issues section.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	An amended proof of concept scheme has been submitted with the application which indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	A proof of concept scheme has been submitted with the application which indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements.
Non-habitable rooms: 2.4m	Yes	
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The indicative floor plans provide floor to floor heights at basement (50%), ground and first floor of 4.5 metres exceeding the design criteria and in compliance with Section 4.2.1.2 of the Sydney DCP 2012.

4D Apartment Size and Layout	Compliance	Comment
Minimum unit sizes: <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² 	Yes	The amended proof of concept scheme indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements. Sufficient floor area, floor to ceiling heights and apartment depth are achievable.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	
8m maximum depth for open plan layouts.	Yes	
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	
4m minimum width for cross over and cross through apartments.	Yes	

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	Yes	<p>The amended proof of concept scheme indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements.</p> <p>Wintergardens are proposed to apartments to address wind effects.</p>

4F Common Circulation and Spaces	Compliance	Comment
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p>	Yes	<p>The indicative floor plans identify a maximum of six apartments off the core. The amended proof of concept scheme indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements.</p>
<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	Yes	<p>Two passenger lifts and a goods lift are proposed to service 67 apartments. The amended proof of concept scheme indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements.</p>
<p>Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.</p>	Yes	<p>The amended proof of concept scheme indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements. Sufficient floor area, floor to ceiling heights and apartment depth are achievable.</p>

4F Common Circulation and Spaces	Compliance	Comment
Daylight and natural ventilation are provided to all common circulation spaces.	No	While not shown on the amended proof concept scheme, the building envelope is able to ensure compliance.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	An amended proof of concept scheme has been submitted with the application which indicates that the proposed building envelope is capable of achieving compliance with the minimum requirements.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	An acoustic report and air quality report would be a requirement of any subsequent detailed design application.

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

28. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
29. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
- (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;
 - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
 - (d) protect and rehabilitate riparian corridors and remnant vegetation.

30. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

Sydney LEP 2012

31. The site is located within the B8 - Metropolitan Centre zone. The proposed development is permissible with consent.
32. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.4 Height of buildings	Yes	The development is permitted a maximum height under the Belmore Park sun access plane, with the exception of the southeast corner of the site which is permitted a maximum height of 60 metres. The envelope complies with the maximum height provisions.
6.17 Sun access planes	Yes	
4.4 Floor Space Ratio	Yes	A maximum floor space ratio of 13.88:1 is permitted or a gross floor area of 17,180.25sqm. This includes the additional floor space permitted for providing residential, hotel and commercial floor space, and is proportioned accordingly. The proof of concept plans demonstrate that the building envelope is able to accommodate the maximum permitted floor space ratio. Further discussion regarding bonus floor space under Clause 6.21 of the Sydney LEP 2012 is provided below.
6.4 Accommodation Floor Space		

Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	<p>Number 698-704 George Street, known as the "Kiss's Building" is a local heritage item (item 836). A Heritage Impact Statement accompanies the application.</p> <p>While the application is uncertain as to the demolition or retention of the building at No. 43-49 Goulburn Street, the building is not a heritage item and as such no objection would be raised to its demolition subject to the replacement building achieving design excellence. However, the proposed podium height adjacent to No. 694-696 George Street is incompatible with the desired street wall established by the Kiss's building and is not supported.</p> <p>Further discussion is provided with regard to Section 3.9 of the Sydney DCP 2012.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.11 Heritage floor space	Yes	<p>The development is located in Central Sydney, exceeds 55 metres in height and utilises additional floor space under Clause 6.4 of the Sydney LEP 2012.</p> <p>The subsequent detailed design application would be required to demonstrate compliance.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	No	<p>The development is located in Central Sydney and exceeds 55 metres in height. As such, a design competition would be required to be held prior to the submission of a detailed design application.</p> <p>The application indicates that, following the undertaking of a design competition, the detailed design application would seek bonus floor space up to 10%, equal to 1,718sqm. The proof of concept scheme demonstrates that the building envelope is able to accommodate an additional 308.15sqm or a bonus floor space of 1.8%.</p> <p>The development adversely overshadows apartments within the Inmark tower to the south of the site, resulting in detrimental impacts on amenity and contrary to Clause 6.21(4)(d)(iv) and (vii) of the Sydney Local Environmental Plan 2012. The location of the tower therefore has an unacceptable relationship with other towers and is not considered to achieve design excellence.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Partial compliance	<p>Acid sulphate soils have not been considered as part of the Preliminary Environmental Site Investigation, but it is noted that the site is located in a Class 5 acid sulphate area and is 160 metres from a Class 2 acid sulphate soil area.</p> <p>As the site is within 500 metres of adjacent Class 2 land a condition of consent would be required to confirm if excavation is likely to lower the water table below 1 metre AHD on the adjacent Class 2 site as part of any detailed design application.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.15 Flood planning	Yes	The proof of concept plans as amended demonstrate that compliance with flood planning levels can be achieved.
7.19 Demolition must not result in long term adverse visual impact	Yes	Clause 7.19 prohibits the demolition of a building unless a development consent is in place to comprehensively redevelop the site. Demolition of the existing structures would therefore have been the subject of a future application.
7.20 Development requiring preparation of a development control plan	Yes	<p>The development is located in Central Sydney and exceeds 55 metres in height. As such a site specific development control plan is required.</p> <p>Pursuant to Section 4.23 of the EP&A Act, this concept application has been lodged in lieu of a site specific development control plan to satisfy the control. The revised design excellence strategy is discussed with regard to Section 3.3 of the Sydney Development Control Plan 2012.</p>
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>A part of the site, but excluding the tower, encroaches within the specified radius from the Cross City Tunnel ventilation stack.</p> <p>A condition of consent would have been recommended requiring further information to be submitted with a detailed design application demonstrating that the proposed development would not adversely affect the dispersal of emissions from the Cross City Tunnel ventilation stack and that persons occupying the proposed development will not be unduly affected by those emissions.</p>

Sydney DCP 2012

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

2.1.3 Haymarket/Chinatown Special Character Area

The subject site is located in the Haymarket/Chinatown Special Character Area.

The proposed land uses are consistent with the locality statement and accompanying principles. While the podium and tower are generally consistent with the desired future character, objection is raised to the podium height adjacent to No. 694-696 George Street as it does not relate positively to the street wall of the Kiss's building.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The concept application is consistent with relevant controls. In particular, a public art strategy has been submitted to the satisfaction of Council officers, with the exception of the potential location of the northern elevation of the Kiss's building as this elevation could be obscured by future development at No. 694-696 George Street. In the event the application were to be supported, a condition of consent would be recommended deleting this location from any future detailed public art plan.</p>
3.2 Defining the Public Domain	Yes	<p>The concept application demonstrates that a detailed design can contribute positively to the public domain:</p> <ul style="list-style-type: none"> • The development does not penetrate the Belmore Park sun access. • The active frontage to George Street would be maintained. • The hotel and residential lobbies can adequately address the public domain. • Footpath awnings can be provided. • A wind report accompanies the application providing measures to minimise wind impacts on the public domain. <p>However, objection is raised to the proposed podium height adjacent to No. 694-696 George Street and the uncertainty regarding the retention or demolition of No. 43-49 Goulburn Street.</p>

3. General Provisions	Compliance	Comment
3.3 Design Excellence and Competitive Design Processes	Yes	A revised Design Excellence Strategy was received during the assessment of the application and would be generally acceptable subject to minor modifications.
3.5 Urban Ecology	Yes	Landscape plans and an arborist report would be required to be submitted with any subsequent detailed design application.
3.6 Ecologically Sustainable Development	Yes	Conditions of consent would require the residential component to achieve BASIX Energy 30+ and BASIX Water 45+, the hotel component to enter into a NABERS Hotel Energy Commitment Agreement targeting 4 star or better and the retail component meeting the requirements of Section J of the NCC.
3.7 Water and Flood Management	Yes	<p>A flood report accompanied the amended proof of concept plans and demonstrates that the development can comply with the City's flood planning levels.</p> <p>The development would have required to regard stormwater management at detailed design stage.</p>

3. General Provisions	Compliance	Comment
3.9 Heritage	Yes	<p>Number. 698-704 George Street, known as the "Kiss's Building" is a local heritage item (item 836). A Heritage Impact Statement accompanies the application.</p> <p>The development proposes repair and restoration of the heritage item as part of the detailed design application. The upper floors would be converted to hotel rooms and the building upgraded to meet the provisions of the National Construction Code. A Conservation Management Plan would have been required to be submitted with the detailed design application.</p> <p>Amended plans have been provided improving the visual separation between the heritage item and the cantilever of the tower above. Sufficient setback is provided between the rear of the heritage item and the tower, creating an internal courtyard.</p> <p>The two storey height of the podium adjacent to No. 694-696 George Street is inconsistent with the prevailing street height established by the Kiss's Building and 403-427 Pitt Street and is not supported. Further discussion is provided with regard to Section 5.2 of the Sydney DCP 2012.</p>
3.11 Transport and Parking	No	<p>The concept application does not make sufficient provision for onsite loading, servicing, coach parking, drop off and pick up. Furthermore the location of the driveway would conflict with the signalised intersection with World Square.</p>
3.12 Accessible Design	Yes	<p>Conditions of consent are recommended requiring the detailed design application to provide appropriate access and facilities for persons with disabilities in accordance with the National Construction Code.</p>

3. General Provisions	Compliance	Comment
3.14 Waste	No	The concept application indicates that the development can accommodate two service vehicle spaces, whereas a minimum of four service parking spaces is required in accordance with Schedule 7.

4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3 Amenity	No	<p>The envelope and accompanying proof of concept plans demonstrate that the development can provide good amenity for the residential component of the development.</p> <p>However, the development will adversely overshadow apartments within the Inmark building to the south resulting in unacceptable impacts on residential amenity, and as such the proposal is not supported. Further discussion is provided under the Issues heading.</p>
4.4.8 Visitor accommodation	Compliance	Comment
4.4.8.1 General	Yes	The envelope and accompanying proof of concept plans demonstrate that the development can comply with the relevant provisions for hotels.
4.4.8.3 Additional provisions for hotels	Yes	

5. Specific Areas	Compliance	Comment
5.1.2 Building setbacks	Yes	The development as amended proposes a two storey street wall height adjacent to No. 694-696 George Street and is not supported as it is incompatible with the desired street wall of the adjoining Kiss's building. Furthermore, objection is raised to the uncertainty as to whether the building at No. 43-49 Goulburn Street will be retained and what impact this will have on the streetscape.
5.1.3 Street frontage heights and setbacks for Special Character Areas	Yes	<p>The proposed building envelope has been amended to provide a minimum 10 metre setback to George Street and an 8 metre setback to Goulburn Street, consistent with the provisions for the Special Character Area.</p> <p>The envelope provides:</p> <ul style="list-style-type: none"> • a nil setback up to 45 metres to the eastern and southern (side) boundaries • a 6 metre setback above 45 metres to the eastern boundary • a 3 metre setback above 45 metres to the southern boundary <p>The development has been amended such that, subject to the orientation of hotel and habitable room windows and balconies to the north and west to be determined at the detailed design stage, the development would comply with the setback controls.</p>
5.1.5.2 Residential buildings and serviced apartments	Yes	<p>The size of the hotel and residential floor plates above 45 metres is less than 25% of the site area and 1,000sqm gross floor area respectively.</p> <p>The maximum horizontal dimension of the tower is less than 40 metres.</p>

5. Specific Areas	Compliance	Comment
5.1.9 Award and allocation of heritage floor space	Yes	The proposal is not supported, however if approval were to be granted, the development would be subject to the provisions of Section 5.1.9 at the detailed design stage.

Issues

Solar access

34. The development is subject to the provisions of Section 4.2.3.1 of the Sydney Development Control Plan 2012 and Objective 3B-2 of the Apartment Design Guide with regard to overshadowing of neighbouring properties.
35. Section 4.2.3.1 of the Sydney Development Control Plan 2012 requires that development not adversely overshadow neighbouring dwellings, such that neighbouring development retains a minimum two hours solar access 1sqm of living room windows and 50% of the minimum required private open space from 9am to 3pm midwinter.
36. Objective 3B-2 of the Apartment Design Guide states "overshadowing of neighbouring properties is [to be] minimised during midwinter." To achieve this objective, the design guidance states "where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%". That is, where a neighbouring dwelling does not currently receive the required solar access under objective 4A-1 of the Apartment Design Guide, solar access is not to be reduced by more than 20% of the existing solar access as measured in time. The design criteria of Objective 4A-1 requires residential flat buildings to achieve two hours of solar access to living rooms and private open spaces from 9am to 3pm during midwinter to 70% of apartments. No more than 15% of apartments within a residential flat building are permitted to receive no direct solar access during midwinter.
37. A solar access study has been undertaken with regard to existing and approved apartment buildings in the surrounding area. The sites included within this study are listed below and identified in the accompanying map:
 - (a) 718 George Street (Inmark)
 - (b) 2-4 Cunningham Street
 - (c) 420-426 Pitt Street
 - (d) 653-659 George Street
 - (e) 651 George Street
 - (f) 2 Quay Street
 - (g) 743-755 George Street
 - (h) 398-408 Pitt Street

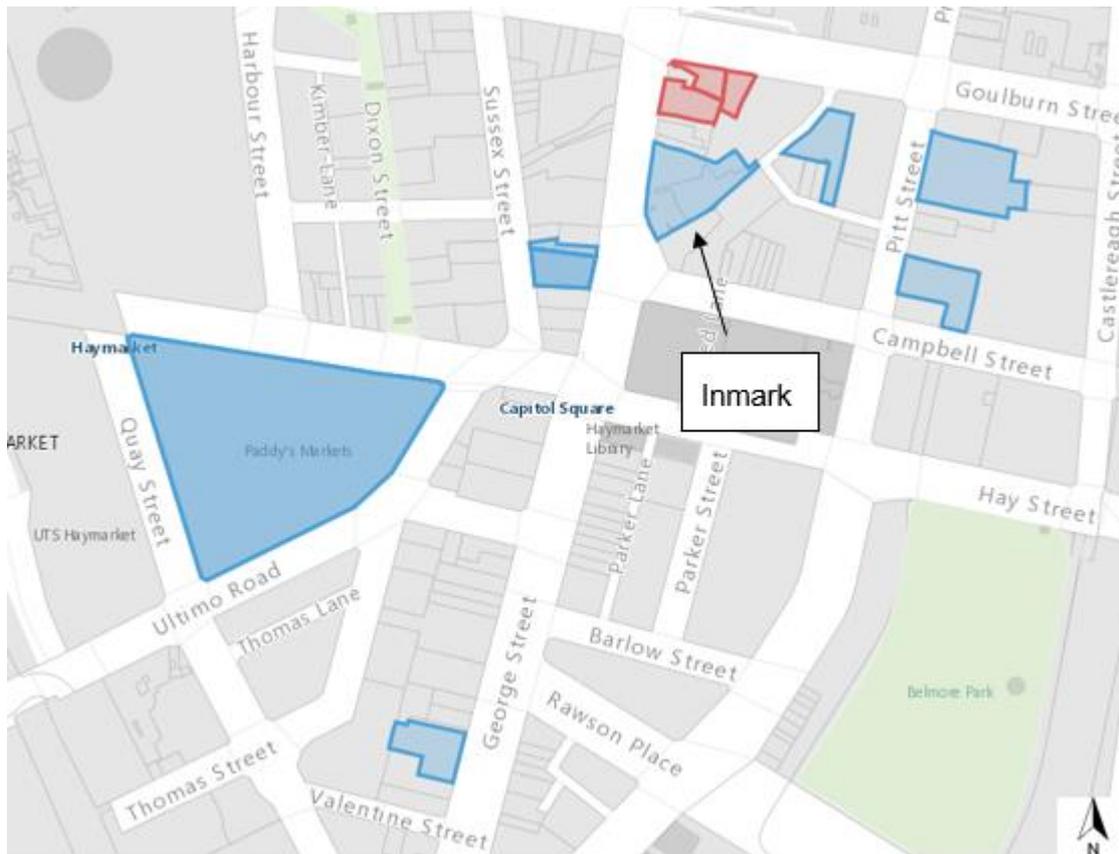


Figure 11: The site (in red) and the neighbouring residential apartment buildings (in blue) included within the applicant's solar access study

38. The proposed building envelope, as amended, will not adversely overshadow the apartment buildings located at sites (b) to (h) listed above. However, the building envelope will adversely overshadow apartments located within the Inmark building at 718 George Street.
39. The study undertaken by the applicant states that 84.2% of Inmark apartments (192 out of 228) currently receive at least two hours solar access to living room windows. The development as amended will result in 55.3% of apartments (126 out of 228) continuing to receive at least two hours solar access to living room windows. The development will therefore reduce solar access to the living rooms of 66 apartments within Inmark such that they will receive fewer than two hours of solar access during midwinter. Furthermore, the proposed envelope will increase the number of apartments within the Inmark not receiving any direct solar access to living areas during midwinter from 36 to 67 (16% to 29%).



Figure 12: The living rooms (orange and surrounded in red) that currently receive more than two hours solar access during midwinter, and will be entirely overshadowed by the proposed envelope

40. The development therefore does not comply with the overshadowing provisions of Section 4.2.3.1 of the Sydney Development Control Plan 2012 and the design guidance of Objective 3B-1 within the Apartment Design Guide.

Note: The study was based on the reference scheme and not the proposed envelope as amended, does not account for balconies and does not specify the extent of solar access with regard to the design guidance of Objective 4A-1 (that is, that at least 1sqm of solar access measured at 1 metre above floor level, is achieved for a minimum 15 minutes). Furthermore the study does not discuss the increased number of apartments that will receive no direct solar access to living areas, which is assessed to exceed the maximum 15% permitted under Apartment Design Guide.

41. The study attempts to justify this non-compliance by demonstrating that 76.3% of Inmark apartments (174 out of 228) will receive two hours solar access from 9am to 3.30pm, and 87.3% (199 out of 228) if taken to sunset at midwinter (approximately 4.50pm). Increasing the time of day in which direct solar access may be considered is not reflected in the Apartment Design Guide and is not accepted as a reason to support the proposal.
42. The development is required to demonstrate compliance with the objectives of the Apartment Design Guide, to which the design criteria and design guidance provide methods in which to achieve these objectives.
43. Section 1.1 of the Sydney Development Control Plan 2012 provides guidance for when a variation to a control within the Plan may be permitted. In short the development must result in a better outcome and meet all objectives of the DCP, as well as demonstrate that the variation will not adversely impact on local amenity.

44. Officers requested modelling to demonstrate the impact to the building envelope if solar access was maintained to 70% of Inmark apartment living rooms and balconies from 9am to 3pm. This was requested as the design guidance regarding Objective 3B-2 also states that, where "the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in Section 3F - Visual Privacy". The figures below illustrate the significant setbacks to the western elevation required in order to maintain the minimum solar access to 70% of apartments in the Inmark building, and the impacts this has to the form and yield of the tower. Note that the western elevation is the prevailing area overshadowing the Inmark building rather than building separation or the overall height of the building.

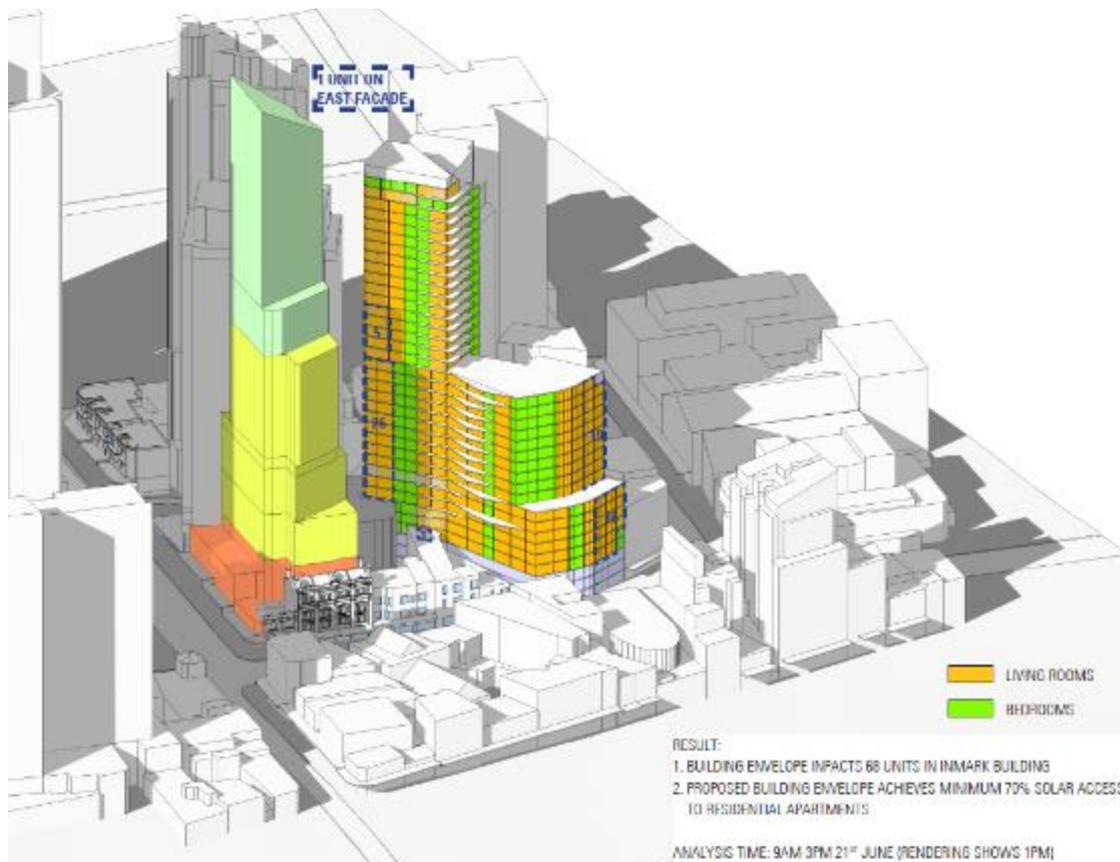


Figure 13: The amended tower envelope required to retain solar access to 70% of apartments within the Inmark

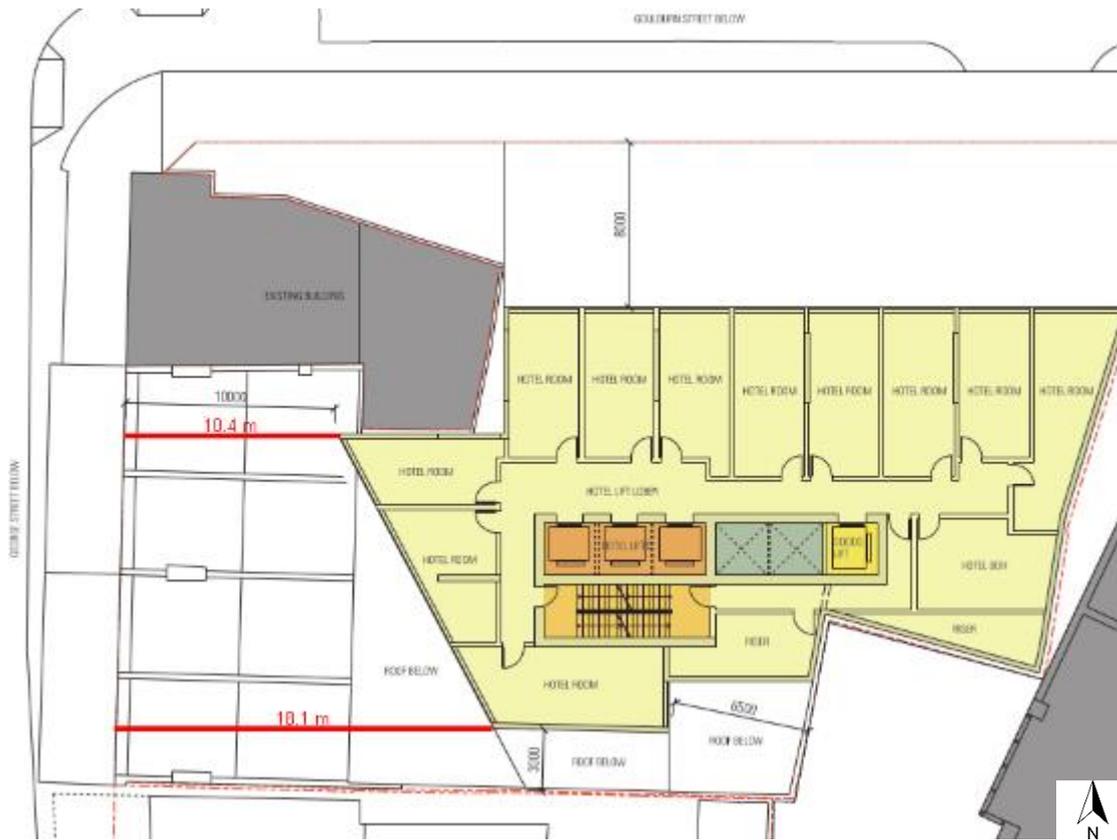


Figure 14: The increased setback on the western elevation begins to reduce the floor plate from level 8, with the setback between 10.4 metres and 18.1 metres to the George Street frontage

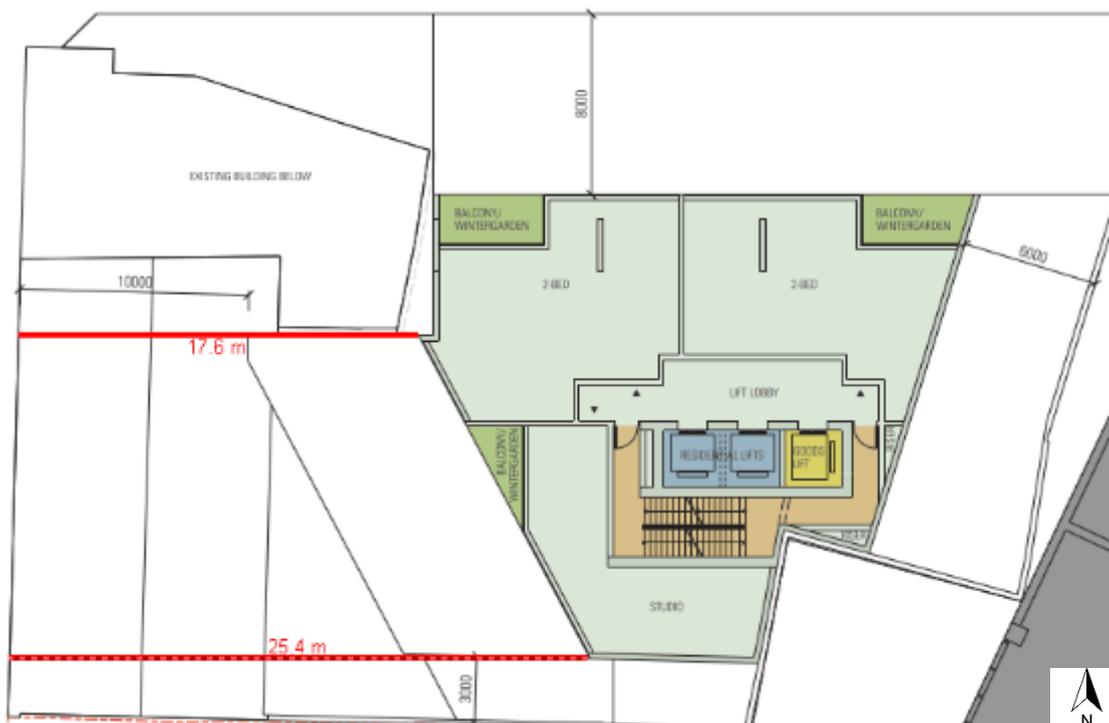


Figure 15: At levels 22-25, the tower is required to be setback between 17.6 metres and 25.4 metres from the George Street frontage

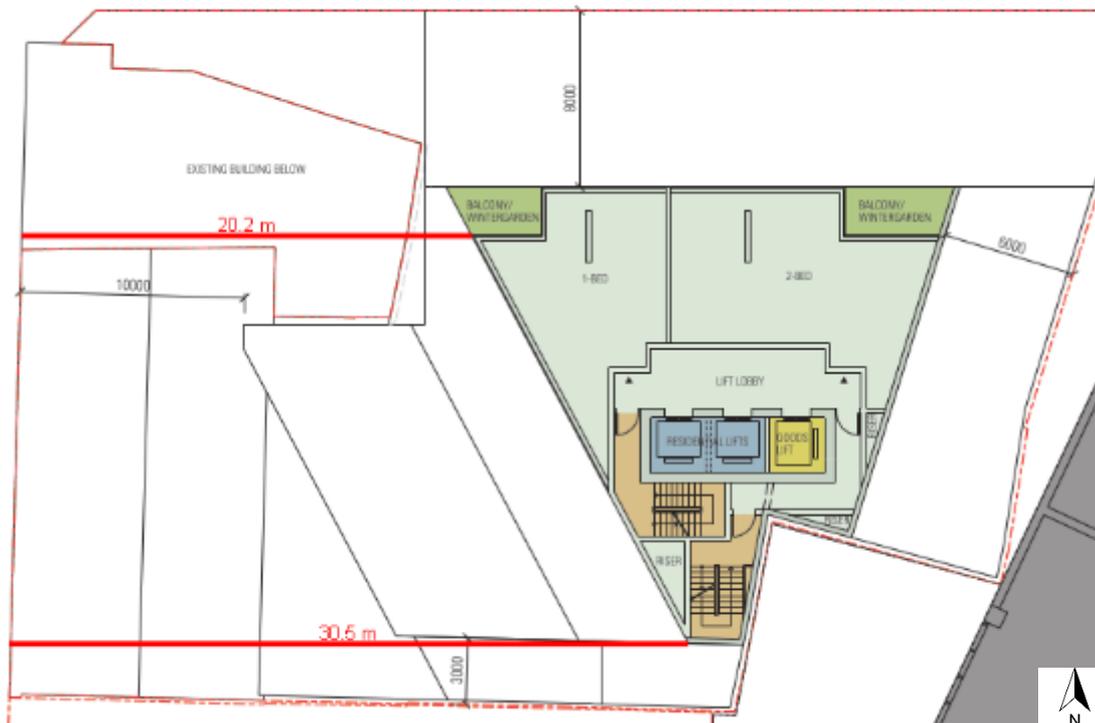


Figure 16: At levels 26-40, the tower is required to be setback between 20.2 metres and 30.5 metres from the George Street frontage

45. It is noted that in order to meet the minimum required solar access to the Inmark building, the indicative gross floor area of the amended building would be reduced from 17,488.4sqm to 13,934.1sqm (-21%), the resulting form limits the flexibility of the hotel and residential floor plates. Furthermore, the applicant did not provide any additional information regarding the extent to which the amended building envelope overshadows neighbouring apartments such that they receive no solar access in midwinter.
46. The applicant asserts that the form and orientation of the Inmark would not be supported with regard to planning policies in force today. The Inmark is designed such that it relies on solar access from the north over adjoining sites, including the subject site and does not comply with the building separation and setback provisions of the Apartment Design Guide and the Sydney Development Control Plan 2012. Maintaining a compliant level of solar access to the Inmark substantially restricts development of the application site, as shown in the indicative plans at figures 13-16 above. Whether or not this is the case, the public benefit from the redevelopment of this site does not outweigh the detrimental impacts caused to the amenity of these apartments.
47. The applicant refers to Planning Circular PS 17-001 which states "the Apartment Design Guide is not intended to be and should not be applied as a set of strict development standards". Furthermore, the applicant argues that the controls are unreasonable in the dense urban context of central Sydney.

48. Solar access is an important source of amenity for apartments and consequently protected within applicable planning instruments. While officers acknowledge a degree of flexibility in the controls may be reasonable in some circumstances, the degree of overshadowing of apartments in the Inmark building, both with regard to the reduction in solar access to the affected apartments and the number of apartments affected, is significant, unreasonable and not adequately justified with regard to the aforementioned planning policies.
49. The applicant has failed to provide sufficient information to adequately assess and justify overshadowing caused by the proposed building envelope with regard to the relevant provisions of the Apartment Design Guide and the Sydney Development Control Plan 2012. However, it is clear from the information provided that a substantial number of apartments in the Inmark building would receive no direct solar access during midwinter, having a detrimental impact on their amenity. While the configuration and orientation of the affected Inmark apartments may inhibit development of the subject site, the degree of impact is so substantial as to warrant refusal of the application. It is noted that the site containing the Kiss's building could benefit from the award of Heritage Floor Space pursuant to the provisions of Part 6 Subdivision 3 of the Sydney Local Environmental Plan 2012. The site is therefore not considered suitable for the proposed development.

View sharing

50. The applicant has undertaken a view impact analysis from the Inmark apartments with regard to the planning principle established by the Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 as well as relevant planning policies. It is noted that the proposed building envelope will not exceed the parameters of the building envelope approved at No. 59 Goulburn Street under D/2016/195 and as such impacts on impacts on views from No. 2 Cunningham Street would be the same as that approved under that application (notwithstanding that consent has lapsed).
51. The proposed building envelope will not adversely impact view corridors thereby satisfying relevant provisions under Clauses 6.21 and 7.20 of the Sydney Local Environmental Plan 2012 and Section 2.1.3 of the Sydney Development Control Plan 2012. Section 4.2.3.10 of the Sydney Development Control Plan 2102 requires development to consider views in site planning and massing. Objective 3F-2 states "site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space."
52. Relevant planning provisions do not provide a mechanism in which to assess the impact of views. As such, the principles of view sharing have been established by the Land and Environment Court in *Tenacity Consulting v Waringah* [2004] NSWLEC 140. The Court established a four part test to determine what is and is not reasonable in the sharing of views. It is noted that the sharing of views invariably results in a partial loss of views for those that currently enjoy them.
53. The applicant's view impact analysis undertook north and northwest view assessments from nine apartments within the Inmark building, the details of which are provided at attachment C to this report. Importantly, the view assessment was based on both site inspections and models where access could not be obtained and are from apartments at various levels and with different views, all potentially affected by the proposal.

54. The first step of the four part test in Tenacity is the assessment of the views to be affected. Water views are more valued than land views, and iconic views are more valued than those without. The second step is to consider from where the views are enjoyed. The third step is to assess the extent of the impact. Finally, the fourth step is to assess the reasonableness of the proposal that is causing the impact.
55. As shown in the figures below, the development would impact on outlook to the north with the loss of the lower central Sydney skyline. However, all apartments included within the assessment and representing a good sample of apartments within the building would maintain district and in some instances water views to the west, including views of the iconic ANZAC bridge. With regard to the first part of the test, the loss of outlook is considered moderate, with the important views to the west maintained.



Figure 17: The view from the living room of unit 1809 on level 18



Figure 17 North west view current
24mm lens - Camera Height RL 62.930
Source: Virtual Ideas

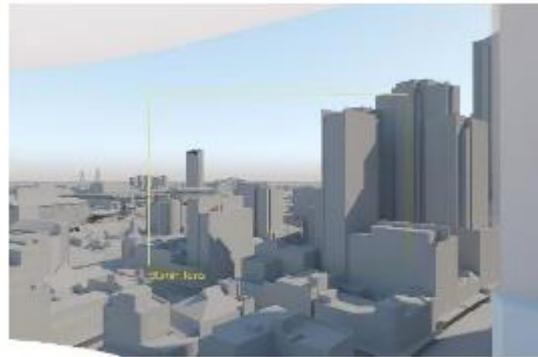


Figure 19 North west view proposed
24mm lens - Camera Height RL 62.930
Source: Virtual Ideas

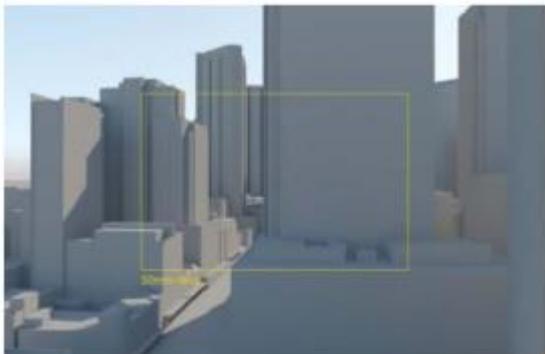


Figure 18 North view current
24mm lens – Camera Height RL 62.930
Source: Virtual Ideas

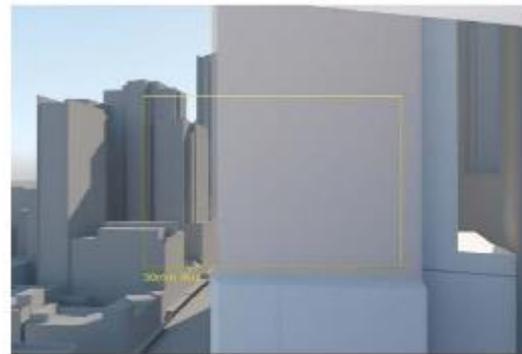


Figure 20 North view proposed
24mm lens – Camera Height RL 62.930
Source: Virtual Ideas

Figure 18: The existing and proposed views from Unit 1809. The development maintains views to the ANZAC bridge and Blackwattle Bay to the west



Figure 19: The view from the living room of unit 2603 on level 23



Figure 27 North west view current
24mm lens - Camera Height RL 87.00
Source: Virtual Ideas

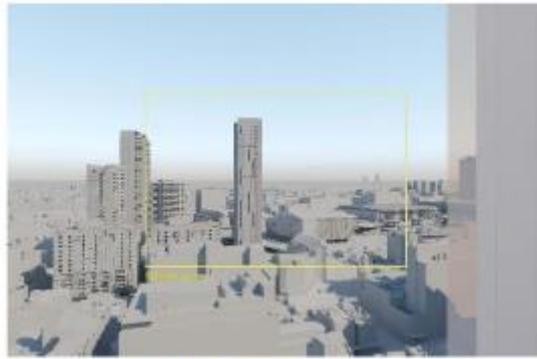


Figure 29 North west view proposed
24mm lens - Camera Height RL 87.00
Source: Virtual Ideas



Figure 28 North view current
24mm lens - Camera Height RL 87.00
Source: Virtual Ideas

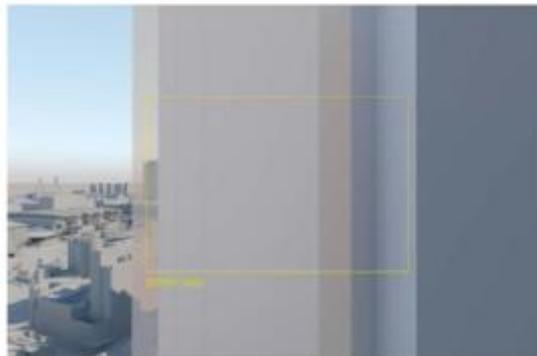


Figure 30 North view proposed
24mm lens - Camera Height RL 87.00
Source: Virtual Ideas

Figure 20: The existing and proposed views from Unit 2603. The proposed building is closer, but only obstructs views of nearby towers. The development maintains views to the ANZAC bridge and Blackwattle Bay to the west

56. The views are enjoyed from living rooms, bedrooms and in some cases balconies. With regard to the second test, the views are enjoyed from important rooms within the apartment and therefore provide a high level of amenity.
57. The extent of the impact is assessed on a qualitative, rather than quantitative, scale. The impacts on views and outlook is considered low to moderate depending on where the view is measured from within the apartment and the orientation of the view.
58. Finally, the development complies with the maximum permitted height and minimum setbacks applicable to the site and development, and is therefore reasonable with regard to view sharing (notwithstanding the overshadowing impacts caused by the scale of the tower).
59. The view impact analysis provided during the assessment of the application is acceptable and demonstrates that the development would have an acceptable impact with regard to views as established in Tenacity.

Isolation of nos. 694-696 George Street and 704A-708 George Street

60. The application site excludes Nos. 694-696 and 704A-708 George Street which, due to the small site areas and with respect to relevant planning controls, inhibits their development potential. Concern is raised that the isolation of these sites is contrary to objective (c) of the Environmental Planning and Assessment Act 1979, which seeks "to promote the orderly and economic use and development of land".



Figure 21: The isolated sites, in blue, and the application site, in red



Figure 22: No. 694-696 George Street



Figure 23: Nos. 704A-708 George Street

61. Council's planning policies do not require minimum lot sizes or the amalgamation of land where redevelopment is proposed. However, it is unlikely that these sites could be developed in accordance with the desired future character of the area and without adversely impacting the amenity of neighbouring properties. For example, Clause 6.16 of the Sydney Local Environmental Plan 2012 requires towers more than 55 metres to and on sites less than 800sqm to ensure that:
- (a) the building will have a freestanding tower each face of which will be able to be seen from a public place, and
 - (b) the development will provide adequate amenity and privacy for occupants of the building and will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings, and
 - (c) the ground floor of all sides of the building facing the street will be used for the purposes of business premises or retail premises.
62. The applicant has unsuccessfully sought to purchase No. 694-696 George Street, evidence of which has been submitted during the assessment of the application. Council received a submission from the owner of the site stating that the offer was considered insufficient.
63. Failing to consolidate these sites within the proposal would represent a missed opportunity to improve the streetscape and Haymarket/Chinatown Special Character Area. It also reduces the flexibility of the building envelope with regard to minimising blank or inactive elevations. For example, the reference scheme includes either blank walls or fixed windows to the elevations adjoining the boundary with No. 694-696 George Street (there is an inconsistency between the elevations and floor plans), which would have an undesirable urban design outcome on this prominent site.
64. Furthermore, the retention or demolition of the Scruffy Murphy's hotel at No. 43-49 Goulburn Street and the podium height adjacent to No. 694-696 George Street provides uncertainty with regard to the desired streetscape and relationship adjoining heritage items and the Haymarket/Chinatown Special Character Area.
65. In addition to the concerns raised throughout the report, the isolation of these sites and the adverse urban design outcomes this will cause demonstrates that the site is not suitable for the proposed development.

Other Impacts of the Development

66. The proposed development is capable of complying with the NCC.

Suitability of the site for the Development

67. The development adversely overshadows apartments within the Inmark building to the south and, due to the isolation of sites at 694-696 and 704A-708 George Street, will result in a poor urban design outcome. As such, the site is not considered suitable for the development.

Internal Referrals

Design Advisory Panel

68. The application as originally submitted was presented to the Design Advisory Panel who provided the following comments:

- (a) The proposed tower envelope (and indicative reference scheme) is too close to neighbouring towers. The application is to be amended such that a 10 metre minimum separation is provided between the existing neighbouring commercial tower at no. 59 Goulburn Street and the proposed envelope.

Response - The envelope has been amended to provide a 6 metre setback from the boundary with no. 59 Goulburn Street above 45 metres. A nil setback is provided between ground level and 45 metres. The figures below illustrate the setbacks from the boundary and the commercial tower.

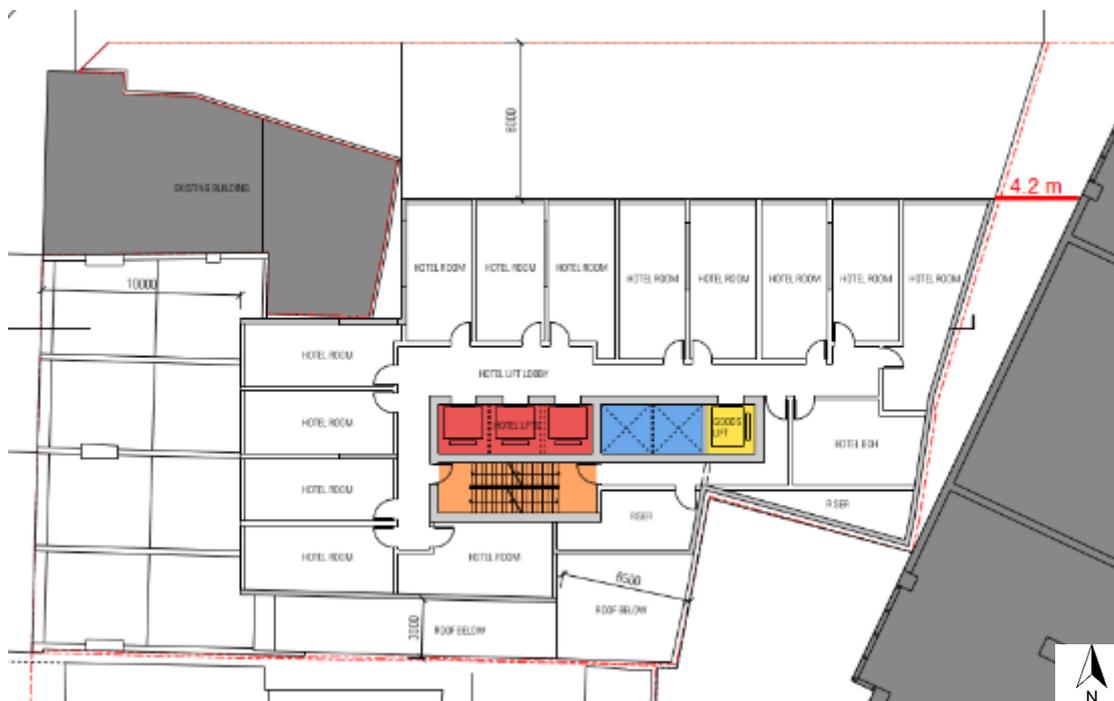


Figure 24: A 4.2 metre setback is provided between the eastern elevation and the commercial tower from ground level to the commercial tower, closest to Goulburn Street, and a nearly nil setback towards the rear



Figure 25: A 10.3 metre setback is provided between the eastern elevation and the commercial tower from ground level to the commercial tower, closest to Goulburn Street, and a 7 metre setback towards the rear

- (b) The envelope should be amended to provide a thinner tower envelope with enough street setback for facade modulation. A regular or pure tower form might provide a better fit for the site, noting curvilinear tower forms help improve downdraught conditions where two tall buildings are next to each other.

Response - The tower form has been reduced in size through increasing the eastern setback from three metres to six metres. However, the irregular form particularly at the junction with No. 694-696 George Street at the rear have been retained.

- (c) The retention of the Kiss's building is supported subject to increasing the separation above to the cantilevered section.

Response - Two floors were deleted from the underside of the cantilever and above the Kiss's building, improving visual separation.

- (d) Overshadowing of the neighbouring Inmark building contrary to relevant planning provisions is not supported.

Response - The building envelope as amended continues to overshadow apartments within the Inmark building, contrary to relevant planning provisions and detrimentally impacting on residential amenity.

- (e) The Panel supports the maximisation of street activation.

Response - The matter could be resolved at the detailed design stage were this application to be approved.

Heritage

69. Council's Heritage officer has reviewed the amended plans and supports the increased visual separation to the Kiss's building. Concern has been raised with the indicative scheme proposing blade walls connecting the Kiss's building to the cantilever of the tower above, however this would have been a matter for consideration with a future detailed design application.
70. A Conservation Management Plan for the Kiss's building would have been required as part of any subsequent detailed design application.

Urban Design

71. Council's Urban Design officer has raised the following concerns with the amended plans:
 - (a) Streetscape impacts with the isolation of No. 694-696 George Street and potential blank or inactive walls to the southern elevation.
 - (b) The height of the podium adjacent to No. 694-696 George Street, being less than that of the parapet of the Kiss's building.
 - (c) Separation distances from indicative habitable room windows on the southeast elevation and the commercial building at No. 59 Goulburn Street.
 - (d) That insufficient information has been provided to adequately quantify overshadowing of Inmark apartments.
 - (e) The concentration of services, loading area and fire escapes to the Goulburn Street frontage will result in limited street activation.

Transport, Traffic and Waste

72. Council's Transport and Traffic officer and Waste officer have reviewed the proposal and provided the following comments:
 - (a) The deletion of the basement car parking and car lift is supported.
 - (b) The revised indicative location of the waste to the ground floor and adjacent to the loading area is supported.
 - (c) Further information is required regarding the relationship between the proposed driveway location and the signalised intersection on Goulburn Street.
 - (d) Further information is required regarding non-compliance with coach parking provisions, drop off and pick up areas.
 - (e) Residential bike parking spaces are to be class 2, rather than class 1, spaces.
 - (f) Any subsequent detailed design application would be required to comply with the City's Policy for Waste Minimisation in New Developments.

Sustainability

73. Council's Sustainability officer recommended that the applicant commit to the following sustainability targets to satisfy the design excellence provisions:
- (a) BASIX Energy 30+
 - (b) BASIX Water 45+
 - (c) Enter into a NABERS Hotel Energy Commitment Agreement targeting 4 star or better
74. The applicant confirmed that conditions of consent to that effect would be supported.
75. Council's Public Domain, Environmental Health, Surveyor and Public Art officers raised no objections to the proposal subject to conditions.

External Referrals**Sydney Trains**

76. Sydney Trains were consulted in accordance with Clause 86 of the SEPP (Infrastructure) 2007 as the development proposes excavation above the City Circle rail corridor. General terms of approval were issued.
77. Sydney Trains were notified of amended plans received on 20 August 2018. No response was received at the time of writing this report. However the proposal as amended reduced the extent of basement excavation and as such is anticipated to result in fewer impacts than the original proposal.

Transport for NSW

78. Transport for NSW has made the following recommendations with regard to the amended proposal:
- (a) The proposed location of the driveway requires further consideration with regard to restricting right turn in and right turn out movements.
 - (b) Hotel pick up, set down and coach parking is required to be undertaken within the site.
 - (c) A loading dock management plan would be required with any detailed design application.
 - (d) Further information regarding protection of TfNSW infrastructure and operations during construction and following occupations would be required with the detailed design application.

Roads and Maritime Services

79. Roads and Maritime Services did not respond to a request for comment at the time of writing this report regarding the amended plans and documentation. However, their feedback on the application as originally submitted is summarised below:

- (a) Hotel drop off, pick up and coach parking are to occur within the site.
- (b) Insufficient information has been provided regarding the interaction between the proposed driveway and signalised intersection with World Square.
- (c) The reliance on the car lift (since deleted) may impact on traffic flows on Goulburn Street, particularly where the lifts are out of service.
- (d) Driveway construction must not result in the lowering of the adjacent footpath.
- (e) It is unclear how deliveries will be made to the existing hotel and commercial premises fronting George Street.
- (f) Further information regarding protection of TfNSW infrastructure and operations during construction and following occupations would be required with the detailed design application.

Ausgrid

80. Ausgrid recommended standard conditions. It is noted that the indicative plans located the substation on level 22, which is unlikely to be supported, however this was not raised as an issue by Ausgrid.

Water NSW

81. The application was lodged as Integrated Development requiring a Water Supply Work Approval under the Water Management Act 2000. General terms of approval were provided by NSW Water.
82. NSW Water were referred the amended plans on 20 August. No response was received at the time of writing this report.

Sydney Water

83. Sydney Water advised that their existing water and wastewater systems had sufficient capacity to accommodate the proposal.

Notification, Advertising and Delegation

84. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 12 January 2018 and 10 February 2018 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification, 36 submissions (one submission represented 29 owners/occupiers and 24 form letters) were received raising the following concerns.

- (a) The development does not respect the scale and character of the surrounding area.

Response - The development complies with the maximum height, floor space and setback requirements of relevant planning provisions. However, as the development will adversely overshadow Inmark apartments and results in the isolation of Nos. 694-696 and 704A-708 George Street, the development is not supported.

- (b) The development contributes to an overdevelopment of the block bounded by Goulburn, George, Campbell and Pitt/Cunningham Street.

Response - The development adversely overshadows the Inmark building and is not supported.

- (c) Insufficient setbacks are provided to the south elevation to incorporate articulation and visual interest.

Response - The development would have been subject to a competitive design process to ensure the building achieves design excellence.

- (d) The development does not adequately address No. 694-696 George Street.

Response - Insufficient information has been provided to demonstrate that the isolation of this site will result in a positive urban design outcome.

- (e) Conditions of consent must be imposed to protect visual privacy, outlook and views, building separation and solar access to the commercial building at No. 59 Goulburn Street for the purposes of any future detailed design application.

Response: The setbacks to the east elevation are consistent with the relevant provisions of the Sydney Development Control Plan 2012 and the Apartment Design Guide. In the event that the application was to be supported, the detailed development application would be required to comply with the relevant provisions.

- (f) The development will obstruct views to the west from the Inmark building.

Response - As discussed under the Issues heading, a view impact analysis has been undertaken demonstrating that the proposal would not have unacceptable impacts on views from the Inmark apartments.

- (g) The development will obstruct views to the west from No. 2 Cunningham Street.

Response - The development is of a similar height and scale to that approved at No. 59 Goulburn Street and as such would not result in any greater view loss than was originally acceptable.

- (h) The development will adversely overshadow apartments within the Inmark.

Response - The extent of overshadowing proposed by the proposal is detrimental to the amenity of residents within the Inmark building and as such is not supported.

- (i) The development will obstruct sunlight to No. 2 Cunningham Street.

Response - The development will not adversely overshadow apartments at No. 2 Cunningham Street, as the property is located directly to the west.

- (j) The development will reduce the privacy of apartments within the Inmark due to the proximity of the building.

Response - The separation distances between the proposal and the Inmark comply with Objective 3F - Visual Privacy within the Apartment Design Guide. Visual privacy could have been mitigated at the detailed design stage.

- (k) The location of a public art zone on the northern face of the Kiss's building will unreasonably restrict redevelopment of No. 694-696 George Street.

Response - The final location of public art would have been confirmed at detailed development application stage.

- (l) The development should not adversely impact the surrounding area with regard to flooding.

Response - Council's Public Domain team reviewed the amended plans and are satisfied that the proposal can comply with Council's Interim Floodplain Management policy.

- (m) The development has not adequately resolved potential traffic impacts.

Response - The concept application has been amended to delete the proposed basement parking which is supported. However, the concept application fails to demonstrate that the development can comply with provisions regarding vehicle access, drop off and pick up facilities and coach parking in accordance with Section 3.11 of the Sydney Development Control Plan 2012. Furthermore, concern is raised with the concept location of the driveway adjacent to the signalised intersection with World Square.

- (n) The demolition of the Scruffy Murphy's pub will have an adverse heritage impact on the locality.

Response - The property is not identified as a heritage item and the development, if it were to be supported, would not be contingent on its retention. The applicant had proposed potentially retaining the building within the project.

- (o) The loss of Scruffy Murphy's contributes to the decline of nightlife in the City.

Response - Applicable planning provisions cannot protect existing land uses from being lawfully changed.

- (p) Drafting errors within the survey.

Response - The survey was corrected and resubmitted during the assessment of the application. No concerns are raised with the revised survey.

- (q) Noise and pollution impacts from construction

Response - Section 4.22(5) of the Environmental Planning and Assessment Act 1979 defers the assessment of construction impacts to subsequent detailed design applications.

- (r) Loss of property values.

Response - This is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

Public Interest

85. As the proposal will adversely impact the amenity of neighbouring residential properties and result in substandard urban design outcomes, the proposal is not in the public interest.

S61 Contribution

86. The cost of the development exceeds \$200,000 and as such would have been subject to a contribution subject to Section 61 of the City of Sydney Act if approval were granted.

Relevant Legislation

87. The Environmental Planning and Assessment Act 1979.

Conclusion

88. This application, as amended, is seeking concept approval for the following:
- (a) Demolition of No. 51-57 Goulburn Street, the demolition and/or retention of No. 43-49 Goulburn Street and the restoration of the Kiss's building, a local heritage item, at No. 698-704 George Street.
 - (b) Construction of a 40-storey tower with a podium ranging in height from 3-13 storeys and a single level basement.
 - (c) A mix of retail, hotel and residential apartments.
89. The application seeks Integrated Development consent requiring approval under the Water Management Act 2000 for dewatering. General terms of approval have been granted by Water NSW.
90. The development has been amended such that:
- (a) Basement car parking has been deleted from the proposal.
 - (b) The setbacks to the east and south elevations have been amended.
 - (c) The separation between the top of the Kiss's building and the tower above have been increased.
91. The concept development complies with the Sydney Local Environmental Plan 2012 with regard to the maximum height of buildings standard under Clauses 4.3 and 6.13, the maximum floor space ratio under Clause 4.4 and is made in lieu of a development control plan as required under Clause 7.20.
92. The application was exhibited for 30 days and received 36 objections. The concerns raised within the objections are addressed within the body of the report.

93. A design verification statement was not submitted with the application as required by Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000. As such, the concept application has not been verified by a qualified designer with regard to the design quality principles of the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and Parts 3 and 4 of the Apartment Design Guide.
94. The development will adversely overshadow apartments within the Inmark building to the south contrary to the provisions of Section 4.2.3.1 of the Sydney Development Control Plan 2012 and Objective 3B-2 of the Apartment Design Guide. Furthermore the development results in the isolation of Nos. 694-696 and 704A-708 George Street, resulting in a poor urban design outcome. The concept application therefore fails to achieve design excellence with regard to the relevant provisions of Clause 6.21(4) of the Sydney Local Environmental Plan 2012.
95. The concept application fails to demonstrate that the development can comply with provisions regarding vehicle access, loading and servicing, drop off and pick up facilities and coach parking in accordance with Section 3.11 of the Sydney Development Control Plan 2012. Furthermore, concern is raised with the concept location of the driveway adjacent to the signalised intersection with World Square.
96. The development is uncertain as to the demolition or retention of the building at No. 43-49 Goulburn Street (Scruffy Murphy's hotel). In conjunction with the podium height adjacent to No. 694-696 George Street being incompatible with the parapet height of the Kiss's building, the proposal does not have an acceptable urban design outcome.
97. As the development is not supported by a design verification statement, overshadows neighbouring apartments to the detriment of their amenity and results in a poor urban design outcome through the isolation of adjoining sites, the concept application does not achieve design excellence, is not in the public interest and is recommended for refusal.

GRAHAM JAHN, AM

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