Item 4.

Development Application: 189-197 Kent Street Sydney – D/2018/1014

File No.: D/2018/1014

Summary

Date of Submission: 30 August 2018

Applicant: Barana Properties (No. 1) Pty Ltd

Architect/Designer: FJMT

Developer: Barana Properties (No. 1) Pty Ltd

Owner: Barana Properties (No. 1) Pty Ltd

Cost of Works: $68,848,151

Zoning: B8 Metropolitan Centre Zone

Proposal Summary:

Approval is sought for a concept development application comprising an 80 metre building envelope with 4 levels of basement car parking. The proposal has a podium height of 48 metres (RL 72.2) fronting Kent Street and 19 metres (RL 31.7) fronting Jenkins Street.

The proposal will contain a mixed use development including retail/commercial uses of the ground floor and Level 1 (fronting Kent Street) and residential uses on the ground floor and Level 1 (fronting Jenkins Street), and from Levels 2 to 22 inclusive.

The proposal seeks to comprise a Floor Space Ratio of 12.1:1, subject to an additional 10% uplift in floor space to be sought through undertaking a competitive design process and a Stage 2 Development Application demonstrating the proposal exhibits design excellence.

The site already benefits from a Stage 1 consent for the same proposal, which is due to lapse 10 September 2020, along with a recently completed competitive design process. This application will allow the owner to have an extension of time to lodge a Stage 2 development application.
Proposal Summary: (continued) The proposal was notified and advertised for 28 days between 10 September and 9 October 2018 in accordance with Schedule 1 of the Sydney Development Control Plan 2012. Five submissions were received raising concerns regarding:

- Insufficient building separation;
- Visual and acoustic privacy;
- View loss;
- Traffic impacts;
- Structural impacts of demolition and construction works;
- Consideration of issues raised in previous Development Application for a Stage 1 building envelope;
- Impact on development potential of adjacent property;
- Enhance design quality of ground floor plane.

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

The proposed building envelope and indicative land uses respond appropriately to the constraints of the site and applicable planning controls, subject to conditions.

A condition of consent is recommended to restrict windows or openings to the northern and southern boundaries of the building to ensure that the development has an acceptable impact on the privacy and amenity of adjoining occupants.
Development Controls:

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

Attachments:

A. Recommended Conditions of Consent
B. Selected Drawings
Recommendation

It is resolved that:

(A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not 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;

(B) consent be granted to Development Application No. D/2018/1014, subject to the conditions set out in Attachment A to the subject report; and

(C) the Design Excellence Strategy prepared by Ethos Urban dated 23 August 2018 be endorsed.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) The proposed building envelope complies with the maximum height and floor space ratio development standards pursuant to Clauses 4.3 and 4.4 of the Sydney Local Environmental Plan 2012.

(B) The indicative floor plans demonstrate that the building envelope is able to accommodate residential apartments in accordance with the provisions of the State Environmental Planning Policy No. 65 and the Apartment Design Guide.

(C) The proposed building envelope does not result in any adverse environmental or amenity impacts on surrounding properties.

(D) Subject to compliance with the design excellence strategy and undertaking a competitive design process, the development is able to achieve design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.

(E) Subject to conditions requiring additional information to accompany the detailed design application, the development can accommodate the proposed uses without any adverse impacts on traffic and parking, and residential amenity.

(F) For the reasons above, the development is in the public interest.
Background

The Site and Surrounding Development

1. Site visits were carried out by staff on 31 January 2019.

2. The site is L-shaped with an area of approximately 1,195sqm. It has a primary street frontage of 42.37 metres to Kent Street and a secondary frontage of 20.18 metres to Jenkins Street.

3. The site is located on the western side of Kent Street with a fall of 12 metres from east (Kent Street) to west (Jenkins Street), and a fall of 2 metres from north to south.

4. The site currently contains an 18 storey commercial building with 2 levels of retail and 4 levels of car parking in the basement accessed via Kent Street.

5. The site is not a heritage item and is not located in a heritage conservation area. A heritage item listed on the State Heritage Register known as the former ‘Grafton Bond Store’ (SHR No. 01431), is located to the west of the site at 201-217 Kent Street. The Grafton Bond Store has a primary frontage to Hickson Road.

6. Jenkins Street is identified as a local heritage item (No. 1890) under the Sydney Local Environmental Plan 2012.

7. Along the south and south-western boundaries of the site is an easement for light and air that benefits the north-eastern portion of 201-217 Kent Street (also known as the AON Tower). The easement is approximately 4.5 metres wide and is L-shaped extending from Kent Street to the western boundary of the subject site.

8. Surrounding land uses comprise of residential and commercial developments.

9. To the north of the site at 183-187 Kent Street, is a 28 storey residential apartment building also known as the ‘Stamford on Kent’.

10. To the south of the site at 201-217 Kent Street is the Maritime Trade Towers which contains a 24 storey commercial building known as Symantec House, a 35 storey commercial building known as AON Tower, the former ‘Grafton Bond Store’ and a 5 storey northern wing to the AON Tower. The northern wing of the AON Tower is situated adjacent to the south-western portion of the subject site.

11. Further to the west of the site, on the western side of Hickson Road, is the Barangaroo development.

12. Photos of the site and surrounds are provided below:
Figure 1: Aerial image of subject site and surrounding area

Figure 2: Survey plan showing location of easement along the south and south-west boundaries of subject site
Figure 3: View of site from Kent Street

Figure 4: View of easement from Kent Street
Figure 5: View of easement looking north from AON Tower
Figure 6: View of site from east (Western Distributor)
Figure 7: View of site from Jenkins Street

Figure 8: Subject site viewed from rear of Maritime Trades Tower
Figure 9: Existing mixed use development on the western side of Jenkins Street (38 Hickson Road, Millers Point)

Figure 10: View of site from Barangaroo
Proposal

13. Consent is sought for a Stage 1 building envelope for an 80 metre mixed use development with 4 levels of basement car parking. Vehicular access is proposed via Jenkins Street.

14. The proposal also seeks consent for demolition of existing structures.

15. Indicative floor plans demonstrate the building envelope can accommodate approximately 14,460 square metres of floor space comprising 442.6 square metres of retail/commercial space on the ground and first floors fronting Kent Street, residential use fronting Jenkins Street and residential use from level 2 to 22 inclusive.

16. Plans of the proposed development are provided below.
Figure 12: Proposed eastern elevation (Kent Street)

Figure 13: Proposed western elevation (Jenkins Street)
Figure 14: Proposed sections

Figure 15: Proposed Basement 1 to 4 plans
Figure 16: Proposed Ground floor plan

Figure 17: Proposed Level 1 plan
Figure 18: Proposed Level 2 plan

Figure 19: Proposed Levels 3 - 14
Figure 20: Proposed Level 15-21

Figure 21: Proposed Level 22
History Relevant to the Development Application

17. On 26 June 2006, Development Application D/2005/1123 was approved by the CSPC for a concept development application to convert the existing commercial building to a mixed use development comprising residential and commercial uses including an additional 6 storeys and a basement carpark. Development Consent D/2005/1123 lapsed on 26 June 2011.

18. On 10 September 2015, Development Application D/2014/1900 was approved by the CSPC for a concept development application for an 80 metre building envelope for a mixed use development comprising retail and residential uses. This consent will expire on 10 September 2020.

19. Development Consent D/2014/1900 was subsequently modified by a Section 4.55 application (Amendment A) on 1 June 2018 to permit residential land use on part of the ground floor and Level 1 of the building, and to incorporate a Design Excellence Strategy within the consent. The subject application seeks approval for the same building envelope and land use mix as approved by Amendment A.

20. On 23 August 2018, the owner of the site undertook a competitive design process in accordance with design excellence provisions in the Sydney Local Environmental Plan (SLEP) 2012 and Sydney Development Control Plan (SDCP) 2012. Four architectural firms participated in the competition. The winning scheme for the design competition was awarded to FJMT. The selection panel identified that further design development and investigations were required to resolve matters including setbacks and height, natural cross ventilation, appropriate landscaping, basement arrangements and access, wind impacts, and Ecologically Sustainable Development (ESD) initiatives.
City of Sydney Act 1988

21. 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."

22. 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

23. 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

24. 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.

25. A Preliminary Site Investigation Report was submitted with the development applicant. The City’s Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

26. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles, being:

(a) **Principle 1**: Context and Neighbourhood Character

(b) **Principle 2**: Built Form and Scale

(c) **Principle 3**: Density

(d) **Principle 4**: Sustainability

(e) **Principle 5**: Landscape

(f) **Principle 6**: Amenity

(g) **Principle 7**: Safety

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

(i) **Principle 9**: Aesthetics

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

Apartment Design Guide

<table>
<thead>
<tr>
<th>2E Building Depth</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-18m (glass to glass)</td>
<td>Partial compliance</td>
<td>Building depth to the northern portion of the site is approximately 24m and 8.5m to the south. Indicative plans demonstrate apartment depths are able to comply with the maximum apartment depths (glass to glass). Indicative plans demonstrate the northern portion of the site can accommodate access and services, and provide apartments that are able to comply.</td>
</tr>
<tr>
<td>2F Building Separation</td>
<td>Compliance</td>
<td>Comment</td>
</tr>
<tr>
<td>------------------------</td>
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</tr>
<tr>
<td>Up to four storeys (approximately 12 metres):</td>
<td>Yes</td>
<td>The proposed building envelope from Ground Floor to Level 3 is built to the boundaries along the northern, eastern and southern boundaries. Given the context of adjoining built form, the setbacks are an appropriate urban design outcome. A setback varying between 1.5m and 4.5m to the south-western boundary adjacent to the easement for the northern wing of the AON Tower will provide building separation between 6m and 9m and is able to comply. From Level 2 to Level 22, a 6m setback measured from the centreline of Jenkins Street is provided. This setback aligns with adjoining built form and is appropriate within the streetscape.</td>
</tr>
<tr>
<td>- 12m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 9m between habitable and non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 6m between non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Five to eight storeys (approximately 25 metres):</td>
<td>Yes</td>
<td>No setback is provided to Kent Street, the northern and southern boundaries. This is acceptable given the streetwall height provisions, the blank wall of the Stamford on Kent and the commercial use at 201-217 Kent Street (Maritime Trade Towers, AON Towers). The proposal provides a 6 metre setback to Jenkins Street measured to the centreline of the street. This is considered consistent with established setbacks of adjoining properties fronting Jenkins Street and is acceptable. See discussion under the heading Issues.</td>
</tr>
<tr>
<td>- 18m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 12m between habitable and non-habitable rooms</td>
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<tr>
<td>- 9m between non-habitable rooms</td>
<td></td>
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</tbody>
</table>
## 2F Building Separation

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>The building separation provided from nine storeys and above does not comply with the requirements. However, the proposed setback are an appropriate response to the urban context. See discussion under the heading Issues.</td>
</tr>
</tbody>
</table>

- Nine storeys and above (over 25m):
  - 24m between habitable rooms / balconies
  - 18m between habitable and non-habitable rooms
  - 12m between non-habitable rooms

## 3D Communal and Public Open Space

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>Allocation of communal open space has not been demonstrated in the indicative floor plans. The concept Development Application does not approve the location and design of communal open space. However, the building envelope is capable of providing communal open space for residential development on the upper floor levels. The configuration of communal open space will be required to satisfy ADG provisions as part of a Stage 2 Development Application.</td>
</tr>
</tbody>
</table>

Communal open space has a minimum area equal to 25% of the site.

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).

## 3E Deep Soil Zones

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>The opportunity to provide deep soil zones on the site are constrained as the existing and proposed building footprint occupies the whole site. However, landscaping opportunities can be investigated and details will be considered as part of a Stage 2 Development Application.</td>
</tr>
</tbody>
</table>

Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m.
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.

<table>
<thead>
<tr>
<th>3F Visual Privacy</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to four storeys (12 metres):</td>
<td>Yes</td>
<td>The proposed building envelope provides setbacks between 6m and 9m to the northern wing of the AON Tower. Indicative plans demonstrate that visual privacy can be adequately achieved.</td>
</tr>
<tr>
<td>• 6m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• 3m between non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Five to eight storeys (25 metres):</td>
<td>Yes</td>
<td>The proposed building envelope provides appropriate setbacks to the west (9m) and south-west (6m), and will not have any adverse impact on surrounding residential or commercial properties.</td>
</tr>
<tr>
<td>• 9m between habitable rooms / balconies</td>
<td></td>
<td>The proposed 6m setback from the centreline of Jenkins Street is acceptable as the proposal will align with adjoining buildings and will not have any adverse visual privacy impacts on surrounding properties.</td>
</tr>
<tr>
<td>• 4.5m between non-habitable rooms</td>
<td></td>
<td>See discussion under the heading Issues.</td>
</tr>
<tr>
<td>Nine storeys and above (over 25m):</td>
<td>Yes</td>
<td>The setback to the western boundary across the easement to the northern wing building of the AON Tower is capable of achieving satisfactory visual privacy, subject to detailed design with a Stage 2 Development Application.</td>
</tr>
<tr>
<td>• 12m between habitable rooms / balconies</td>
<td></td>
<td>The 3m setback to the northern boundary adjacent to 183 Kent Street (Stamford on Kent) is considered acceptable as a total separation distance of 6m is provided to existing window openings and balconies at 183 Kent Street.</td>
</tr>
<tr>
<td>• 6m between non-habitable rooms</td>
<td></td>
<td>The setback to Jenkin Street is an acceptable response to the existing streetscape.</td>
</tr>
</tbody>
</table>
### 3F Visual Privacy

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>It is proposed that the northern elevation will comprise of a blank wall and will not have any adverse impacts on visual privacy. See discussion under the heading Issues.</td>
<td></td>
</tr>
</tbody>
</table>

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 | Indicative floor plans demonstrate that habitable rooms can be separated from circulation areas of the building. |

### 4A Solar and Daylight Access

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Indicative floor plans demonstrate the proposed building envelope is capable of achieving solar access to 88% of apartments.</td>
</tr>
</tbody>
</table>

70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.

| Yes | Indicative floor plans demonstrate that the proposal is capable of providing direct solar access to all apartments within the building envelope. |

Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.

| Yes | Indicative floor plans demonstrate that the proposal is capable of providing direct solar access to all apartments within the building envelope. |

### 4B Natural Ventilation

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Indicative floor plans submitted demonstrate that the proposed building envelope is capable of providing naturally ventilated habitable rooms.</td>
</tr>
</tbody>
</table>

All habitable rooms are naturally ventilated.

| Yes | Indicative floor plans submitted demonstrate that the proposed building envelope is capable of providing naturally ventilated habitable rooms. |

Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.

| Yes | Indicative plans demonstrate that the proposed building envelope is capable of achieving the minimum requirement for natural ventilation to apartments on the first 9 storeys. |
### 4B Natural Ventilation

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>The internal layout of apartments are not approved as part of a concept Development Application. Any proposal for cross-over or cross-through apartments will be considered as part of a detailed design Development Application.</td>
</tr>
</tbody>
</table>

Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.

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

### 4C Ceiling Heights

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Indicative plans demonstrate floor to floor heights of 3.1m within the proposed building envelope. The proposal is able to achieve floor to ceiling heights of 2.7m.</td>
</tr>
</tbody>
</table>

**Habitable rooms: 2.7m**

| Partial compliance | Indicative plans provide a floor to floor height of 4.2m on the ground floor and 3.1m on the first floor. The first floor does not achieve the minimum floor to floor height to provide flexibility of future uses. As floor to floor heights are not approved as part of a concept Development Application, this matter can reasonably be resolved as part of the detailed design. |

**Non-habitable rooms: 2.4m** |

**If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.**
<table>
<thead>
<tr>
<th>4D Apartment Size and Layout</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum unit sizes:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Studio: 35m²</td>
<td>Able to comply</td>
<td>Indicative floor plans demonstrate that minimum apartment sizes can be accommodated within the building envelope.</td>
</tr>
<tr>
<td>• 1 bed: 50m²</td>
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<tr>
<td>• 2 bed: 70m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• 3 bed: 90m²</td>
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</tr>
<tr>
<td>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</td>
<td></td>
<td>A condition has been included in the recommendation requiring the detailed design of apartments at Stage 2 Development Application to satisfy the provisions of the ADG.</td>
</tr>
<tr>
<td>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</td>
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</tr>
<tr>
<td>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.</td>
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<tr>
<td>Habitable room depths are to be no more than 2.5 x the ceiling height.</td>
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<tr>
<td>8m maximum depth for open plan layouts.</td>
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<tr>
<td>Minimum area for bedrooms (excluding wardrobes):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• master bedroom: 10m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• all other bedrooms: 9m²</td>
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<tr>
<td>Minimum dimension of any bedroom is 3m (excluding wardrobes).</td>
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</table>
## 4D Apartment Size and Layout

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
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</table>

**Living and living/dining rooms minimum widths:**

- Studio and one-bedroom: 3.6m
- Two-bedroom or more: 4m

4m minimum width for cross over and cross through apartments.

## 4E Private Open Space and Balconies

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>Indicative plans demonstrate that appropriately dimensioned balconies/private open spaces can be provided within the proposed building envelope. A condition has been included in the recommendation requiring compliance with ADG requirements at Stage 2 Development Application.</td>
</tr>
</tbody>
</table>

**Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.**

One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.

Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.

Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.

Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m² and a minimum depth of 3m.
### 4F Common Circulation and Spaces

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>Indicative plans demonstrate that no more than 8 apartments per level can be provide per circulation core.</td>
</tr>
</tbody>
</table>

The maximum number of apartments off a circulation core on a single level is eight (8).

For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

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.

Daylight and natural ventilation are provided to all common circulation spaces.

### 4G Storage

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>Indicative plans demonstrate adequate storage facilities are capable of being provided within the building envelope. Details are required to be provided and considered as part of a future Stage 2 Development Application.</td>
</tr>
</tbody>
</table>

Minimum storage provision facilities:

- Studio: 4m³
- 1 bed: 6m³
- 2 bed: 8m³
- 3 bed: 10m³

(Minimum 50% storage area located within unit)
<table>
<thead>
<tr>
<th>4J Noise and Pollution</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?</td>
<td>Able to comply</td>
<td>The site is located in proximity to the Western Distributor which is identified as a road carrying more than 40,000 annual average daily traffic (AADT). As such, an assessment of noise impacts is required to be submitted at Stage 2 Development Application.</td>
</tr>
</tbody>
</table>

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

29. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development involves the penetration of ground within 2m of an underground electricity power line.

30. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

Clause 101

31. The application is subject to Clause 101 of the SEPP as the site has frontage to the Bradfield Highway (Western Distributor) which is a classified road. The application is considered to satisfy Clause 101 of the Infrastructure SEPP subject to conditions of consent, as it does not provide access to the site from the classified road and acoustic conditions have been included within the recommended Conditions of Consent.

Clause 102

32. The application is subject to Clause 102 of the SEPP as the average daily traffic volume of the Western Distributor is more than 40,000 vehicles. In accordance with the requirements of the SEPP and the Development Near Rail Corridors and Busy Main Roads - Interim Guideline December 2008, an acoustic assessment is required to be carried out with recommendations for acoustic mitigation to ensure internal day time and night time noise levels for residential development are not exceeded. The proposal is considered acceptable in this instance subject to conditions requiring the preparation of an acoustic assessment as part of the Stage 2 Development Application.

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

33. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

34. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
(a) consider cumulative impacts of development within the catchment;

(b) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;

(c) protect and rehabilitate riparian corridors and remnant vegetation.

35. 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.

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

36. Any future Stage 2 Development Application will be required to satisfy BASIX requirements. A condition is recommended requiring any future residential scheme to comply with the SEPP.

Sydney LEP 2012

37. The site is located within the B8 Metropolitan Centre zone. The proposed use is defined as a mixed use development and is permissible.

38. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

<table>
<thead>
<tr>
<th>Development Control</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.3 Height of Buildings</td>
<td>Yes</td>
<td>A maximum height of 80m is permitted. The proposal has a maximum building height of 80m. Due to the topography of the site, the building envelope has a varying height of approximately 72.63m (RL 98.30) at Kent Street and 78.8m (RL 93.90 at Jenkins Street.</td>
</tr>
<tr>
<td>4.4 Floor Space Ratio</td>
<td>Able to comply</td>
<td>A base FSR of 8:1 is permitted. In accordance with Clause 6.4 of the SLEP 2012, the application seeks additional accommodation floor space of 3:1. This equates to a maximum proposed FSR of 11.1 and complies with the development standard. The applicant submits that the proposed building envelope is capable of accommodating an FSR of 12.1:1.</td>
</tr>
</tbody>
</table>
### Development Control

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>In order to achieve an FSR of 12.1:1, the applicant must undertake a competitive design process in accordance with Clause 6.21 of the SLEP 2012 and demonstrate design excellence in a Stage 2 Development Application. A scheme which demonstrates design excellence may be awarded an amount of additional floor space of up to 10%. See discussion under the heading 'Issues'.</td>
</tr>
</tbody>
</table>

### Part 6 Local Provisions - Height and Floor Space

<table>
<thead>
<tr>
<th>Section</th>
<th>Compliant</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division 1 Additional floor space in Central Sydney</td>
<td>Yes</td>
<td>The site is located in Area 3 of Central Sydney and is eligible for additional accommodation floor space of up to 3:1 of the site area for residential accommodation. Indicative plans demonstrate that additional accommodation floor space can be accommodated within the building envelope. The additional accommodation floor space has been included in the reference for permissible floor space in this report.</td>
</tr>
<tr>
<td>6.11 Allocation of heritage floor space (HFS)</td>
<td>Able to comply</td>
<td>Utilisation of any accommodation floor space and competition bonus floor space will be subject to a condition in a Stage 2 Development Application requiring allocation of heritage floor space.</td>
</tr>
<tr>
<td>6.16 Erection of tall buildings in Central Sydney</td>
<td>Yes</td>
<td>The proposed building envelope has a height in excess of 55 metres. The proposal is consistent with the objectives of this clause. See discussion under heading Issues.</td>
</tr>
</tbody>
</table>
### Part 6 Local Provisions - Height and Floor Space

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>In accordance with Clause 6.21 of SLEP 2012, additional FSR or building height of up to 10% may be permissible for a development that is subject of a competitive design process. The concept plan comprises a mix of uses that is suitable for the site and locality, and a built form that will not have any adverse impacts on the environment or amenity of surrounding properties. The concept plan is considered to exhibit design excellence.</td>
</tr>
</tbody>
</table>

### Part 7 Local Provisions - General

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>The proposal seeks to retain 4 levels of basement car parking. Car parking numbers and configuration is not approved as part of this concept development application. However, indicative plans demonstrate that car parking provisions can be satisfied subject to consideration with a Stage 2 Development Application. Car parking will be assessed as part of the Stage 2 development application subject to land use and residential apartment mix.</td>
</tr>
<tr>
<td>Yes</td>
<td>The site is identified as containing Class 5 Acid Sulphate Soil and is within 50m of Class 1 Acid Sulphate Soil. Although no excavation is proposed, Council's Health Unit have advised that any disturbance to the ground or soil would require further investigation by the applicant, given proximity of the site to a Class 1 Acid Sulphate Soil. A condition has been recommended to address Acid Sulphate Soils.</td>
</tr>
<tr>
<td>Yes</td>
<td>The site is not identified as flood prone and is not subject flooding risk.</td>
</tr>
<tr>
<td>Part 7 Local Provisions - General</td>
<td>Compliance</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>7.20 Development requiring preparation of a development control plan</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Sydney DCP 2012**

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

<table>
<thead>
<tr>
<th>3. General Provisions</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.5 Public Art</td>
<td>Able to comply</td>
<td>A Public Art Strategy is required to be developed for the site in accordance with the SDCP 2012 and the Public Art Policy. The Strategy is required to be prepared and submitted as part of a Stage 2 Development Application.</td>
</tr>
<tr>
<td>3.3 Design Excellence and Competitive Design Processes</td>
<td>Yes</td>
<td>A Design Excellence Strategy associated with the proposed building envelope has been submitted. The Strategy was previously approved as part of the Development Consent for D/2014/1900 (Amendment A) for the same building envelope. The Design Excellence Strategy has been reviewed by Council's Design Excellence Co-ordinator and is acceptable. A competitive design process was undertaken by the applicant in August 2018 under D/2014/1900 and a winning scheme was selected. Although the competitive design process occurred prior to the subject application, the approved building envelope and provisions guiding the competition are the same as the subject application.</td>
</tr>
<tr>
<td>3. General Provisions</td>
<td>Compliance</td>
<td>Comment</td>
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<tr>
<td>-------------------------------------------</td>
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<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>For the winning scheme to progress it will need to be consistent with this concept development application and the subject of a detailed Stage 2 development application.</td>
</tr>
<tr>
<td>3.6 Ecologically Sustainable Development</td>
<td>Able to Comply</td>
<td>The proposal has satisfactorily addressed ecologically sustainable development as part of the Design Excellence Strategy. Further details will be required to be submitted and considered as part of a Stage 2 Development Application.</td>
</tr>
<tr>
<td>3.7 Water and Flood Management</td>
<td>Yes</td>
<td>The site is not identified as being flood prone.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal will be required to satisfy BASIX and environmental requirements as part of a Stage 2 Development Application.</td>
</tr>
<tr>
<td>3.11 Transport and Parking</td>
<td>Able to comply</td>
<td>The proposal will retain 4 basement levels for car parking with vehicular access relocated from Kent Street to Jenkins Street.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Based on the indicative plans, Council's City Access and Transport Unit is satisfied that the proposal is unlikely to have significant traffic impacts and is acceptable subject to conditions to be addressed at the Stage 2 Development Application.</td>
</tr>
<tr>
<td>3.12 Accessible Design</td>
<td>Able to comply</td>
<td>Indicative plans demonstrate accessibility can be provided for the development.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A condition has been recommended to require appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA as part of the Stage 2 Development Application.</td>
</tr>
</tbody>
</table>
### 3. General Provisions

| 3.13 Social and Environmental Responsibilities | Able to comply | A crime prevention through environmental design report will be required with a Stage 2 Development Application. |

### 4. Development Types

#### 4.2 Residential flat, commercial and mixed use developments

<table>
<thead>
<tr>
<th>4.2.1 Building height</th>
<th>Yes</th>
<th>The proposed building height of 80 metres satisfies the objective for building height under the DCP.</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2.2 Building setbacks</td>
<td>Yes</td>
<td>The proposed building envelope provides setbacks that are generally consistent with the alignment of adjoining properties and will not encroach on the curtilage of the former Grafton Bonds Store located to the west of the site. See discussion under the heading Issues.</td>
</tr>
<tr>
<td>4.2.3 Amenity</td>
<td>Able to comply</td>
<td>Indicative floor plans demonstrate that the proposed building envelope can provide satisfactory amenity for future residents and adjoining properties. Assessment of residential amenity will be considered as part of a future Stage 2 Development Application.</td>
</tr>
<tr>
<td>4.2.6 Waste minimisation</td>
<td>Able to comply</td>
<td>Indicative floor plans demonstrate that waste storage and collection in accordance with the requirements of the SDCP 2012 can be provided.</td>
</tr>
<tr>
<td>4.2.7 Heating and Cooling Infrastructure</td>
<td>Able to comply</td>
<td>Indicative floor plans have provided areas within the building envelope to accommodate plant and services.</td>
</tr>
</tbody>
</table>
### 4. Development Types

#### 4.2 Residential flat, commercial and mixed use developments

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Able to comply</td>
<td>Indicative plans demonstrate that letterboxes can be adequately provided within the site.</td>
</tr>
</tbody>
</table>

### 5. Specific Areas - Central Sydney

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
</table>
| No | The proposal has a street frontage height of approximately 47.8 metres to Kent Street and 19.7 metres to Jenkins Street.  

The proposal does not comply with the street frontage height of between 20 metres to 45 metres in Central Sydney. However, the street wall height responds appropriately to the street wall height of adjoining buildings and provides an appropriate transition between the Maritime Trades Tower and Stamford on Kent.  

See discussion under the heading Issues. |
| No | The proposal provides an average weighted front setback (above the street wall height) of 8 metres and is consistent with the requirements. However, the Jenkins Street setback of 1 metre above the Jenkins Street street wall height does not comply.  

The proposed side and rear setbacks do not comply with minimum setbacks between 6-12 metres under the SDCP and the range of building separation of between 12m and 24m for habitable window openings and balconies under the ADG. |
### Issues

#### Demolition

40. The proposal for demolition of existing structures does not satisfy the considerations under Clause 7.19 of the SLEP 2012, as the nature of the application for a concept building envelope does not facilitate the comprehensive redevelopment of the site. In the absence of a detailed development application for a replacement building, the proposal does not satisfactorily demonstrate that demolition of existing structures will not have any adverse visual impact on the streetscape and is not supported.

#### Floor space ratio

41. The proposed building envelope and indicative floor plans demonstrate that the envelope is capable of accommodating up to 14,460 square metres of gross floor area, equating to a FSR of 12.1:1. The proposed FSR includes up to an additional 10% FSR for design excellence under the provisions of Clause 6.21 of the SLEP 2012.

42. As the quantum of floor space and gross floor area are not approved as part of a concept plan, it is not considered appropriate to award additional floor space as part of this application. Any additional floor space sought must comply with the provisions of the SLEP 2012 and SDCP 2012 and demonstrate the proposal exhibits design excellence. It is recommended that a condition be imposed requiring compliance with the maximum permitted FSR under the SLEP 2012, excluding the award of additional floor space.

### Table

<table>
<thead>
<tr>
<th>Section</th>
<th>Rating</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1.5 Building bulk</td>
<td>Yes</td>
<td>Indicative floor plans demonstrate the residential floor plates of approximately 929 square metres comply with the maximum floor plate of 1000 square metres. The proposed building envelope will not have any adverse amenity impacts on the public domain and is acceptable.</td>
</tr>
<tr>
<td>5.1.6 Building exteriors</td>
<td>Able to comply</td>
<td>The proposal is a concept envelope. The architecture and materiality will be determined as part of a competitive design process and a Stage 2 Development Application.</td>
</tr>
<tr>
<td>5.1.9 Award and allocation of heritage floor space</td>
<td>Able to comply</td>
<td>Proposal of any accommodation floor space and competition floor space will be subject to the allocation of heritage floor space at a Stage 2 Development Application.</td>
</tr>
</tbody>
</table>
Setbacks

Setbacks to Kent Street and Jenkins Street (front and rear)

43. The building envelope provides a setback of between 6 metres and 11 metres above the Kent Street street wall height at RL 72.20. The proposal provides a setback of 1 metre above the street frontage height fronting Jenkins Street.

44. In accordance with Section 5.1.2.1 of the SDCP 2012 front setbacks above the street frontage height must be a minimum weighted average of 8 metres with no part of the setback less than 6 metres. The setback to Kent Street provides the required 8 metre weighted setback, however the rear setback of 1 metre from the western boundary (the secondary frontage for the site) is inconsistent with the 6 metre setback requirement.

45. Notwithstanding this, consideration is given to the predominant building setback of adjacent buildings and the character of the Jenkins Street streetscape. The proposed building envelope is consistent with the alignment of existing built form fronting Jenkins Street having regard to the approximately 6 metre setback of the Stamford on Kent building as measured from the centreline of Jenkins Street. The proposed setback above the street frontage is 6 metres measured from the centreline of Jenkins Street to provide a consistent approach to built form within the streetscape.

46. Whilst the western setback is inconsistent with the rear setback controls under the SDCP 2012, the proposal provides the same building envelope and setbacks as the approved concept plan in Development Consent D/2014/1900, which is valid until 10 September 2020.

Rear setback (adjacent to easement along northern wing of AON Tower)

47. The western boundary along the south-western portion of the site is adjacent to a L-shaped easement for light and air that benefits the northern portion of the AON Tower (including the northern wing building) at 201-217 Kent Street. The easement has a width of approximately 4.5m.

48. The proposed building envelope is setback 1.5 metres on the Ground Floor and Level 1 from the western boundary adjacent to the easement, and provides a total setback of 6 metres from the northern wing building of the AON Tower (inclusive of the 4.5m wide easement). Between Levels 2 and 22, a setback of 4.5 metres is provided from the boundary, which provides a total separation distance of approximately 9 metres between the proposed building envelope and the adjacent commercial building.

49. In accordance with Section 5.1.2.2 of the SDCP 2012, residential buildings are required to have a setback of 6 metres from the rear boundary up to a height of 45 metres and a setback of 12 metres above 45 metres. A minimum separation of 9 metres is required between openings of residential apartments to an adjacent commercial building.

50. Building separation provisions in the ADG require minimum building separation of 9 metres between habitable rooms/balconies and non-habitable rooms up to 4 storeys. Between the height of 5 and 8 storeys, a minimum separation of 12 metres is required. For buildings with 9 or more storeys, the building separation required between habitable rooms/balconies non-habitable rooms is 18 metres.
51. The setback of the western boundary (adjacent to the easement) does not achieve the required building separation in the ADG of between 9 metres to 12 metres up to 4 storeys. However, given the existing northern wing is 1 storey in height at the floor level of the easement and the constraints for future development of the tower buildings at 201-217 Kent Street, maintaining a 6 metre building separation is acceptable as the indicative plans proposed residential floor levels (Level 2 and above) and will not have direct sightlines to the northern wing building of the AON Tower.

52. Visual privacy impacts between the apartments in the southern portion of the building envelope can be addressed at detailed design stage and can satisfy amenity provisions of the ADG and SDCP 2012.

53. The area of land to the west of the northern wing of the AON Tower is also part of 201-217 Kent Street. Currently the area is a landscaped open space. Whilst the owners of 201-217 Kent Street are investigating development potential of the site, the constraints of the site, including but not limited to the heritage significance of the former Grafton Bond Store and site area, is unlikely to result in the erection of a building that will contain residential uses that will require compliance with SEPP 65 and provisions of the ADG.

54. The proposed setback to Jenkins Street is acceptable as it will maintain an appropriate built form response to the character of Jenkins Street and is consistent with the building envelope approved under Development Consent D/2014/1900 which is valid until 10 September 2020. The proposal is able to provide adequate separation to future development to mitigate amenity impacts the west through detailed design.

Side setbacks

55. The proposal seeks a nil setback from the southern boundary, immediately adjacent to the easement for light and air to AON Tower. Having regard to the easement, the proposed building envelope will be setback approximately 4.5m from the external facade of AON Tower.

56. As demonstrated in the indicative plans, single aspect apartments to the western boundary will not likely impact on the development potential of AON Tower and its northern wing. Given the scale of the existing AON Tower and relevant planning controls such as building height and floor space ratio, development potential of the site immediately adjacent to the easement for light and air is constrained. However, any future development of the AON Tower will likely be of a commercial nature and is unlikely to have any adverse impacts on the amenity of the subject site, subject to resolution of design details at Stage 2 Development Application to address visual and acoustic privacy for apartment buildings.

57. Above Level 2, the proposal provides a building separation of approximately 34 metres between the south-western building envelope to the northern facade of AON Tower. This setback sufficiently minimises any amenity impacts between the sites.

58. The proposal provides nil setback to the northern boundary to a height of approximately 47.8 metres (RL 72.20). This is acceptable as the adjacent building at 183 Kent Street is built to the boundary and has no window openings up to RL 72.20.
59. A setback of 3 metres to the northern boundary is proposed above RL 74.60 to provide building separation of approximately 6 metres to existing south facing windows and balconies at 183 Kent Street. As shown on the indicative plans, a blank wall is proposed along the northern setback to provide visual and acoustic privacy to occupants at 183 Kent Street. In this instance, the proposed setback does not strictly comply with separation requirements under the ADG however, having regard to the existing setback of windows and balconies at 183 Kent Street to the boundary, the proposed setback of 3 metres satisfies the objective of 3F-1 of the ADG, in that adequate building separation is shared between the subject site and the adjacent property and reasonable privacy can be achieved, subject to detailed design as part of a Stage 2 Development Application.

**Street frontage heights**

60. The proposed building envelope has a street frontage height of approximately 47.8m (RL 72.20) to Kent Street and 19.7m (RL 31.70) to Jenkins Street.

61. In accordance with street frontage height provisions in Section 5.1.1 of the SDCP 2012, a street frontage height measuring between 20m and 45m is required for a new building located in Central Sydney. The proposed street wall heights of 47.8m and 19.7m represents departure from the provision.

62. Notwithstanding the above, the proposed street wall heights fronting Kent Street and Jenkins Street responds to the built form of adjacent properties and is consistent with the objectives for street frontage heights in Section 5.1.1 of the SDCP 2012. In particular, the adjacent buildings to the north and south of the site and fronting Kent Street do not contain 45 metre street walls or podiums. The proposal responds to the predominant built form within the streetscape and provides an opportunity to enhance the amenity of the public domain, subject to detailed design at a Stage 2 Development Application.

63. The proposed street wall height to Jenkins Street is less than the minimum requirement of 20 metres under Section 5.1.1 of the SDCP 2012, however, the proposal provides an appropriate transition between the existing built form of adjacent buildings fronting Jenkin Street and the development control. In this regard, the street walls of the Stamford on Kent and the northern wing of the AON Tower are less than 20 metres in height on Jenkins Street.

64. In this instance, the non-compliance with street wall heights fronting Kent Street and Jenkins Street will result in a better urban design outcome and is acceptable. The proposal is also consistent with the building envelope approved under Development Consent D/2014/1900 which is valid until 10 September 2020.
Figure 23: Proposed Kent Street frontage height and surrounding developments

Figure 24: Proposed Jenkins Street frontage height and surrounding developments
Residential amenity

Visual and acoustic privacy

65. As discussed above, the building separation proposed to the northern, southern and western boundaries do not comply with minimum separation between residential apartments and openings of habitable rooms of adjacent properties.

66. In this instance, the proposal has demonstrated that the use of blank walls to the northern and southern boundaries and design resolution of privacy treatments to minimise direct sightlines between future residential apartments and adjacent commercial uses can adequately mitigate loss of visual and acoustic privacy for occupants.

67. Given the constraints of the site, in a high density urban environmental, the proposal has satisfactorily demonstrated that visual and acoustic privacy can be achieved, subject to design details to be considered as part of a Stage 2 Development Application.

68. A condition has been included in the recommendation to ensure that detailed design of the development at Stage 2 Development Application must satisfy the provisions for visual and acoustic privacy under the ADG and the SDCP 2012.

View loss

69. The existing commercial building currently occupying the subject site does not achieve the development potential of the site in regard to building height or FSR. The proposal seeks a building envelope that complies with the maximum development standards for height and FSR.

70. As demonstrated in the indicative plans, the proposed building envelope will impact existing views of southern openings and balconies of apartments on the upper levels of 183 Kent Street. The existing views afforded to the south facing window openings and balconies towards Darling Harbour and Pyrmont is a result of the under development of the subject site.

71. Given that the site has a maximum permitted height control of 80 metres, any proposal for a development that satisfies the height control under the SLEP 2012 will result in a building envelope that obscures current views from the south facing windows of apartments at 183 Kent Street. In this instance, the building envelope, particularly building height, satisfies the planning controls under the SLEP 2012 and is acceptable. The proposal is also consistent with the approved building height for the building envelope approved under Development Consent D/2014/1900 which is valid until 10 September 2020.

Access

72. It is recommended that disabled access be provided as part of a future Stage 2 Development Application in accordance with the provisions of the DCP. An appropriate condition is recommended.

Other Impacts of the Development

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

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

Internal Referrals

75. The application was discussed with the Urban Design Specialist; Design Excellence Co-ordinator; Environmental Health; Public Domain; Surveyors; Transport and Access; Tree Management and Landscape officer. The proposal is acceptable, subject to conditions included in the recommendation.

External Referrals

Transport for NSW

76. The proposal was referred to Transport for NSW in accordance with Clause 104 of the SEPP Infrastructure 2007 as the proposal is identified as traffic generating development. Transport for NSW raised no objection to the proposal subject to conditions addressing servicing of the site and preparation of a construction pedestrian and traffic management plan to be prepared prior to commencement of any work on the site.

Roads and Maritime Services

77. The proposal was referred to the Roads and Maritime Services (RMS) in accordance with Clause 104 of the SEPP Infrastructure 2007. RMS has advised that no objection is raised to the proposal.

Ausgrid

78. The proposal was referred to Ausgrid in accordance with Clauses 44 and 45 of the SEPP Infrastructure 2007. No submission has been received from Ausgrid raising concerns regarding the proposal. As such, it is considered that Ausgrid has no objection to the proposal.

Office of Environment and Heritage

79. The proposal was referred to the Heritage Council as the site is in the vicinity of a heritage item listed (former Grafton Bond Store) on the State Heritage Register. No submission was received from the Heritage Council and therefore is it considered that the Heritage Council raises no objection to the proposal.

Notification, Advertising and Delegation (Submission(s) Received)

80. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 10 September 2018 and 9 October 2018. As a result of this notification, there were five submission(s) received.
(a) The proposal will exacerbate traffic impacts.

Response - The proposed mix use comprising retail and residential use is consistent with the objectives of the zone and is appropriate. The site will comprise 4 levels of basement car parking and indicative plans have demonstrated that car parking requirements under the Sydney Local Environmental Plan 2012 can be satisfied, subject to details of apartment mix and commercial uses at a Stage 2 Development Application.

(b) The area comprises of numerous vacant apartments with limited facilities for residents. The proposal will further detract from the village atmosphere of Kent Street.

Response - The proposal for a mixed use building is permissible and satisfies the objectives for the B8 - Metropolitan Centre zone under the SLEP 2012. Having regard to the mixed use character of the surrounding area, the proposal, subject to further detailed design with a Stage 2 Development Application, is likely to contribute to street activation and amenity.

(c) Proximity of the building envelope to adjacent residential apartments at the Stamford on Kent may result in structural damage during demolition and construction phases of the development.

Response - No demolition or construction works are approved as part of this application. This issue will be addressed as part of a Stage 2 Development Application.

(d) Given the proximity of the site to residents at 183 Kent Street, construction stages are likely to have noise and dust impacts. Construction noise needs to be restricted to maintain residential amenity.

Response - No construction works is proposed or approved as part of this application. Construction noise impacts will be considered as part of a Stage 2 Development Application.

(e) Construction hoardings and the like, must be appropriately separated from the private open spaces at 183 Kent Street to allow residents to safely use these spaces.

Response - No construction is proposed or approved as part of this Stage 1 Development Application. The erection of construction hoardings is not relevant to the assessment of the subject application.

(f) The indicative scheme shows service areas in proximity to the southern walls of the adjacent building and is likely to have noise and vibration impacts.

Response - Indicative floor plans are not approved as part of a Stage 1 Development Application. The location and treatment of future service areas and required mitigation measures to protect residential amenity will be considered as part of a Stage 2 Development Application.
(g) The proposed ventilation shafts are likely to involve use of high capacity fans which will have noise impacts on adjacent residents. These shafts should not be located to the northern side of the subject site.

**Response** - Concept Development Applications do not approve details such as ventilation shafts. Consideration of detailed design and layout of the building, including ventilation systems and noise impacts on surrounding properties, will be subject to a Stage 2 Development Application.

(h) A Residential Acoustic Amenity Report has not been provided to identify or address impacts on residential amenity.

**Response** - A condition has been included in the recommendation requiring the preparation of an Acoustic Assessment Report as part of a Stage 2 Development Application to mitigate any noise impacts.

(i) It is unclear if submissions made to the previous Development Application D/2014/1900 were considered as part of the assessment process.

**Response** - Submissions made for the Development Application D/2014/1900 were considered and addressed as part of the assessment for that application. Where appropriate, conditions were imposed on the development consent for D/2014/1900 to address issues raised in submissions.

The subject application has been assessed having regard to current planning controls. Issues raised in submissions received during the exhibition period for the subject application has been addressed in this report.

(j) A modification to D/2014/1900 was not notified to residents at No. 183 Kent Street.

**Response** - The Section 4.55(1A) application to D/2014/1900 (Amendment No. A) was not required to be notified under Schedule 1 of SDCP 2012 as the amendment sought was considered to have minimal environmental impacts and unlikely to result in any adverse impact for adjacent properties.

(k) No northern elevation has been submitted to demonstrate visual and amenity impacts on residents at 183 Kent Street. In particular, noise and fumes from plant and services will directly impact private terraces.

**Response** - Detailed elevations are not required as such details are not considered or approved as part of a concept Development Application. The submitted drawings indicate the setbacks proposed for the northern elevation and that no openings are envisaged to minimise acoustic and visual impacts for adjacent properties. The proposed location of services and plant areas, and the treatment of any external facades are not approved as part of a Stage 1 Development Application and will be subject to a Stage 2 Development Application, with its own public consultation process.
(l) Floor plans show bedrooms at the northwest corner with no window openings to the north. Windows must be shown to illustrate privacy impacts on adjacent residents.

Response - Indicative floor plans are submitted to demonstrate the capacity a proposed building envelope to accommodate future uses. The plans are not approved as part of a concept Development Application. Detailed design and any amenity impacts will be considered as part of a Stage 2 Development Application.

(m) Balconies above Level 15 of the proposal must demonstrate no direct sightlines to the private open space of adjacent properties.

Response - The submitted floor plans are indicative only and are not approved as part of this application. Detailed design of the proposal and consideration of privacy impacts on adjoining properties will be assessed with a Stage 2 Development Application.

(n) Demolition and construction works could damage the southern facade of 183 Kent Street. A dilapidation report should be required but concern is raised that the accuracy of measurements may be impacted by tunnelling works associated with Sydney Metro.

Response - Demolition and construction works are not approved as part of this application. Appropriate conditions will be considered as part of a Stage 2 Development Application.

(o) Demolition and construction works may contaminate air filtration systems at 183 Kent Street.

Response - Demolition and construction works are not approved as part of this application. Measures to minimise environmental impacts on surrounding properties during demolition and construction stages will be considered as part of a Stage 2 Development Application.

(q) View loss for south facing apartments at 183 Kent Street.

Response - The views and outlook from south facing window openings and balconies of upper level apartments at 183 Kent Street rely on the air space above the existing commercial building occupying the subject site. The proposal for a building envelope that satisfies the development standards under the SLEP 2012 is acceptable.

(r) The setbacks to the west are based on the assumption that 201 Kent Street will not be developed. The owners of 201 Kent Street have demonstrated that there is development potential at the vacant site immediately to the west of the proposal. The proposal must provide setbacks that do not compromise the development potential of 201 Kent Street.

Response - The proposed setbacks to the western boundary, particularly fronting Jenkins Street is appropriate having regard to the maintaining a setback that aligns with existing adjoining buildings. The proposed setback to the western boundary will contribute to the character of the streetscape and is acceptable.
Whilst the owner of 201 Kent Street has demonstrated that investigations have been undertaken to determine development potential for a hotel use, no development application has been submitted. Nonetheless, the proposed setback of 6m from the centreline of Jenkins Street will provide appropriate separation from any future developments to the west, having regard to site constraints.

(s) The easement for light and air along the southern boundary of the site provides an opportunity for the applicant and the adjacent property owner to collaborate and improve the amenity of the space. The proposal in its current form does not achieve a better outcome.

Response - The proposal is for a building envelope with detailed design addressing building articulation and amenity to be investigated and resolved at the Stage 2 Development Application phase.

(t) Detailed design must explore opportunities to enhance the ground plane through design excellence.

Response - A Competitive Design Process demonstrating design excellence in the detailed design schemes is required to be undertaken prior to the lodgement of a Stage 2 Development Application for the site.

Public Interest

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

S61 Contribution

82. Section 61 Contributions will form part of a future Stage 2 Development Application.

Relevant Legislation

83. The Environmental Planning and Assessment Act 1979.


Conclusion

85. The proposal complies with the height and floor space ratio development standards of the Sydney Local Environmental Plan 2012. The indicative layout demonstrates the building envelope can accommodate residential apartments that achieve the objectives of the Apartment Design Guide.

86. The applicant has already undertaken a competitive design process. Subject to a detailed design Stage 2 application, the development may be able to demonstrate design excellence and seek up to an additional 10% of floor space.
87. Non-compliance with minimum side and rear setback to the south and west, adjacent to the easement for light and air at 201 Kent Street have an acceptable urban design outcome and will not have any adverse environmental or amenity impacts on adjoining properties or the public domain.

88. The proposed building envelope is the same as the building envelope approved under Development Consent D/2014/1900 which is valid until 10 September 2020.

89. For the reasons provided above, the development is in the public interest and is recommended for approval, subject to conditions.

GRAHAM JAHN, AM
Director City Planning, Development and Transport

Peggy Wong, Specialist Planner