

**Item 8.****Development Application: 133-141 Liverpool Street Sydney - D/2018/1144****File No.:** D/2018/1144**Summary**

<b>Date of Submission:</b>	21 August 201. Amended plans were received on 19 April 2019 and 23 November 2019
<b>Applicant:</b>	The Trustees of the Roman Catholic Church for the Archdiocese of Sydney
<b>Architect:</b>	Candalepas Associates
<b>Developer:</b>	The Trustees of the Roman Catholic Church for the Archdiocese of Sydney
<b>Owner:</b>	The Trustees of the Roman Catholic Church for the Archdiocese of Sydney
<b>Cost of Works:</b>	\$161,592,926
<b>Zoning:</b>	The site is zoned B8 - Metropolitan Centre, with the indicative uses of commercial and residential permitted with consent.
<b>Proposal Summary:</b>	<p>The application is a concept proposal for in-principle approval for demolition of the existing commercial buildings on-site and a building envelope to a height of approximately 234m.</p> <p>The indicative future land uses consist of retail and commercial within the podium and residential apartments within the tower.</p> <p>The indicative scheme submitted with the application demonstrates that the envelope is capable of accommodating up to 24,083 square metres of gross floor area and 227 apartments.</p> <p>The proposed envelope complies with the 235m height limit and Sun Access Plane for the site under the Sydney LEP 2012.</p>

The proposal generally complies with the controls of the LEP and DCP with the exception of the tower setback to Liverpool Street. It is recommended that this setback be increased to a weighted average of 8m via a condition of consent.

One submission was received during the public notification period the submission raised issues with the perceived loss of publicly accessible space on the ground level of the site.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy No.55 – Remediation of Land
- (iii) State Environmental Planning Policy (Infrastructure) 2007
- (iv) Sydney Harbour Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (v) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (vi) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
- (vii) Section 61 of the City of Sydney Act 1988 and the Central Sydney Development Contributions Plan 2013

**Attachments:**

- A. Recommended Conditions
- B. Envelope Drawings
- C. Indicative Scheme Drawings
- D. Design Excellence Strategy and ESD Strategy

## Recommendation

It is resolved that:

- (A) consent be granted to Development Application No. D/2018/1144 subject to the conditions set out in Attachment A to the subject report; and
- (B) the 'Design Excellence Strategy for 133-141 Liverpool Street, Sydney dated 7 November 2019, prepared by City Plan on behalf of Catholic Archdiocese of Sydney, as shown in Attachment D to the subject report, be endorsed pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed envelope is generally consistent with the relevant planning controls and responds appropriately to the surrounding urban context.
- (B) The proposed envelope (as recommended for approval) does not result in significant environmental or amenity impacts on the surrounding properties or the public domain.
- (C) The proposed envelope (as recommended for approval) is capable of accommodating a development which can achieve design excellence.

## Background

### The Site and Surrounding Development

1. A site visit was carried out by staff on 17 October 2018.
2. The subject site is occupied by an approximately 113m tall commercial tower. The site is generally rectangular in shape and has an area of 1,593sqm. The site has street frontages to Liverpool Street and Castlereagh Street. A separated cycleway runs along the Castlereagh Street frontage of the site. The existing vehicle driveway is located along the Castlereagh frontage of the site also.
3. To the north of the site, on the opposite corner of Liverpool Street and Castlereagh Street is a four storey commercial building occupied by a bank. Diagonally across the intersection is a three storey commercial building.
4. Opposite the site on Castlereagh Street is the Downing Centre court complex. To the south of the site is a 13-storey commercial building. This commercial building includes a vertical row of windows facing onto the site, close to the Castlereagh Street frontage. No easement or covenant exists protecting these windows, the potential covering of these windows is unlikely to result in significant impacts as the windows are secondary windows with the primary windows facing directly onto Castlereagh Street. Further to the south is a substantial, multi-storey residential apartment building.
5. To the west of the site is the heritage listed Snow's Emporium which is a 6 storey mixed use commercial building.

6. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Liverpool Street



Figure 3: Existing ground level and podium



Figure 4: Downing Centre to the east opposite the site



Figure 5: Looking south along Castlereagh Street

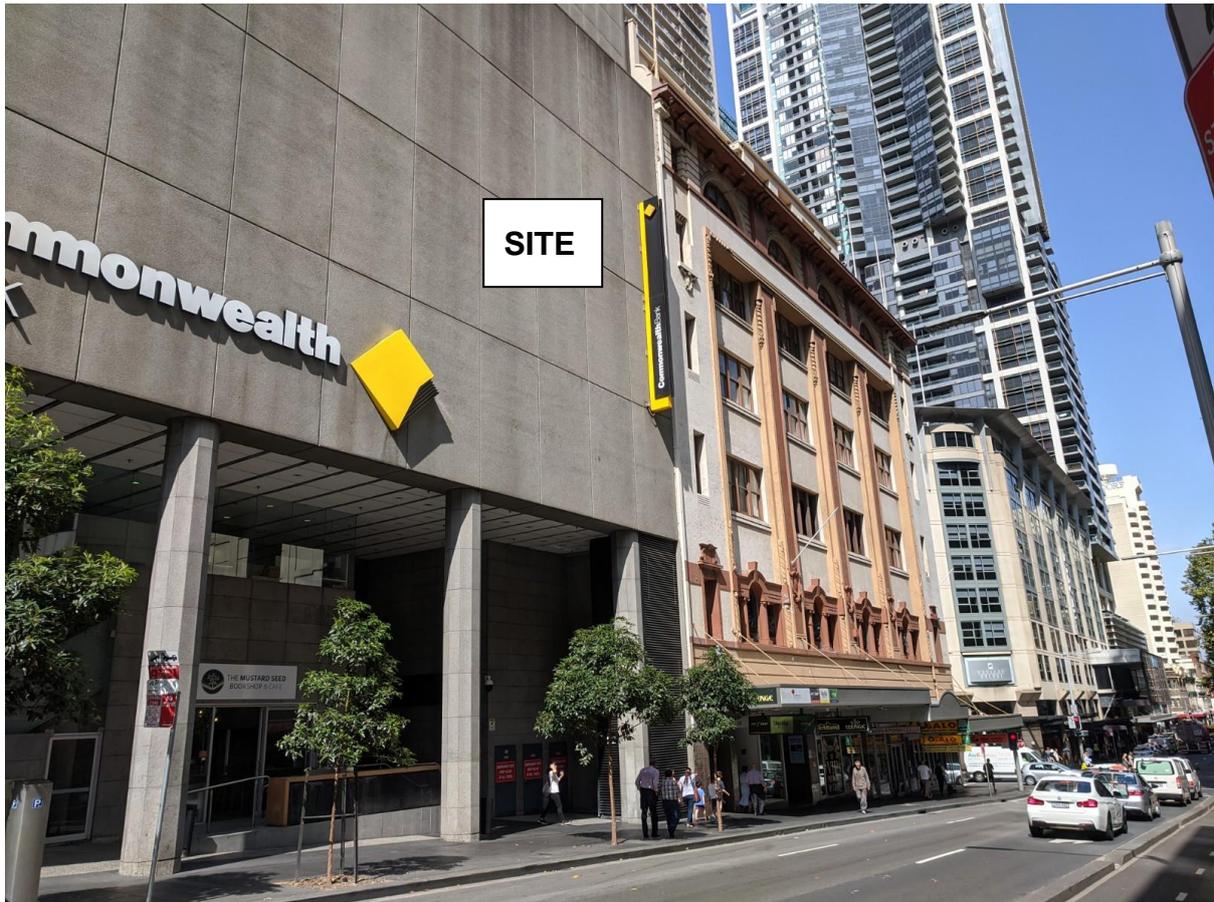


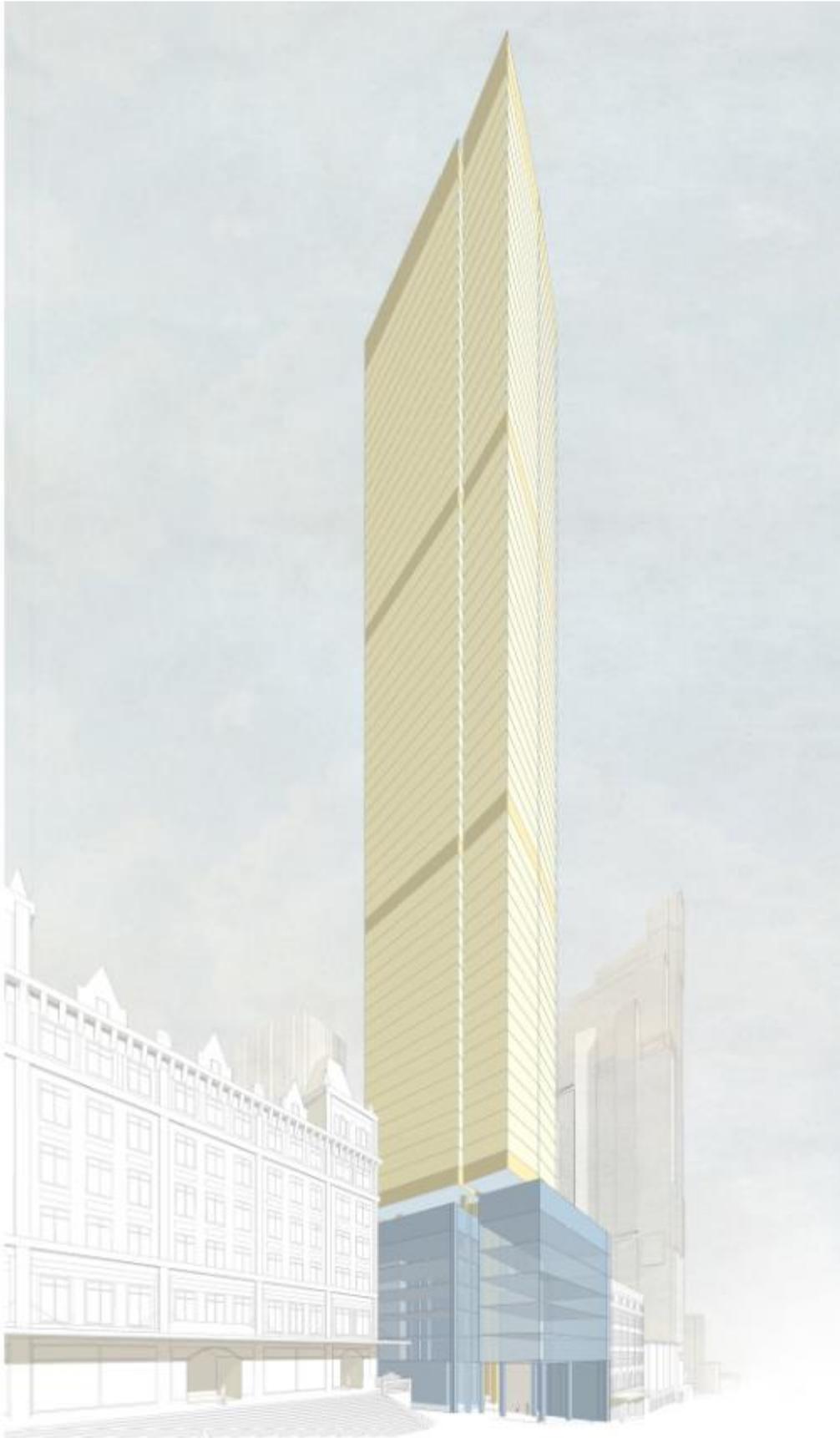
Figure 6: Adjacent heritage item to the west



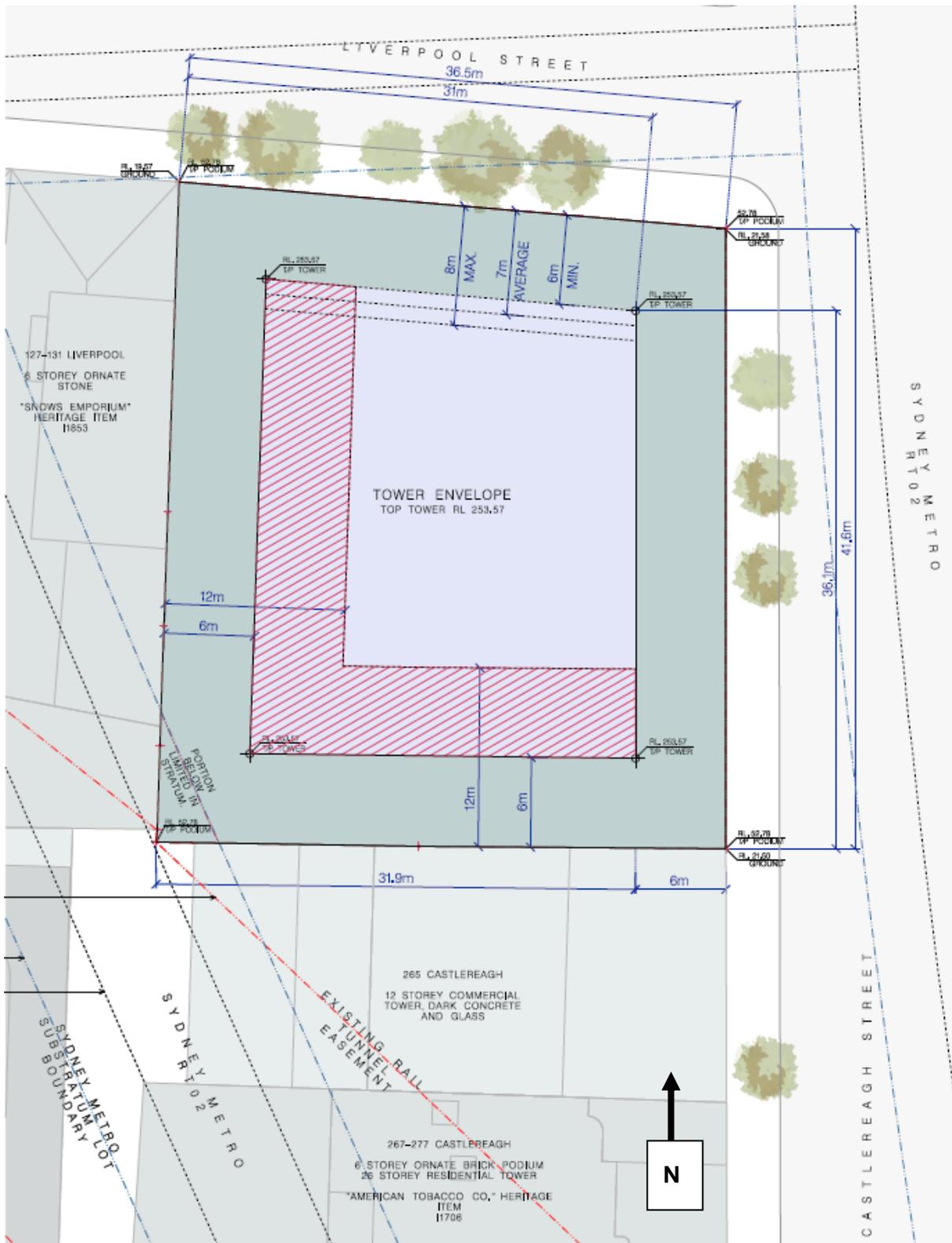
**Figure 7:** Commercial development to the north, majority of which forms part of the 'Hans' redevelopment site.

## Proposal

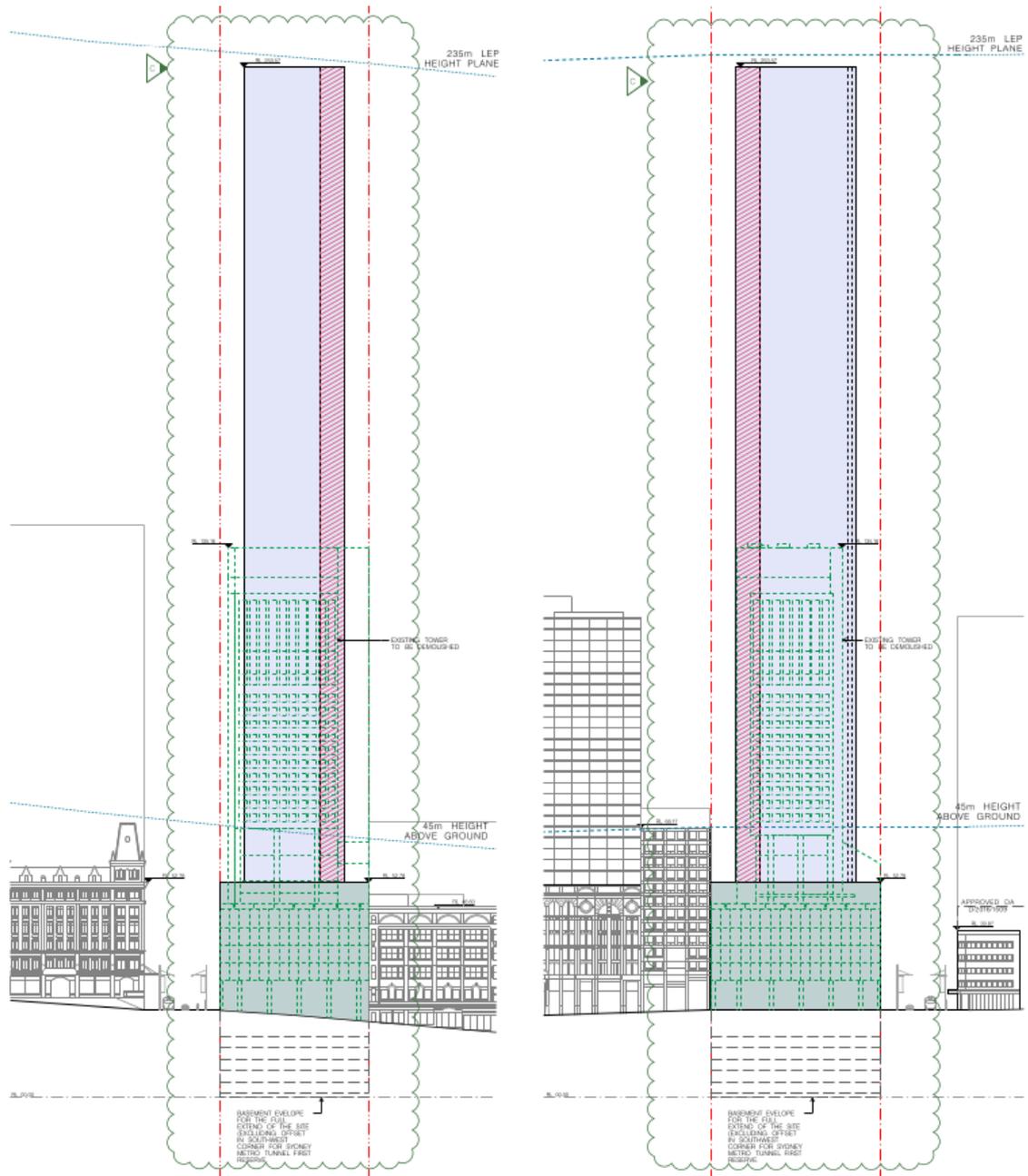
7. The application is a concept proposal for in-principle approval for demolition of the existing commercial building on-site and an envelope to a height of approximately 234m.
8. The indicative future land uses consist of retail and commercial within the podium and residential apartments within the tower.
9. The indicative scheme is 66 storeys in height and provides:
  - (a) 24,083 square metres of gross floor area.
  - (b) 6 levels of basement for vehicle/bicycle parking and storage.
  - (c) Retail and building entry at ground level.
  - (d) 7 levels of commercial within the podium.
  - (e) 227 residential apartments, communal open space and plant across the 58 levels of the tower.
10. Plans of the proposed development are provided below.



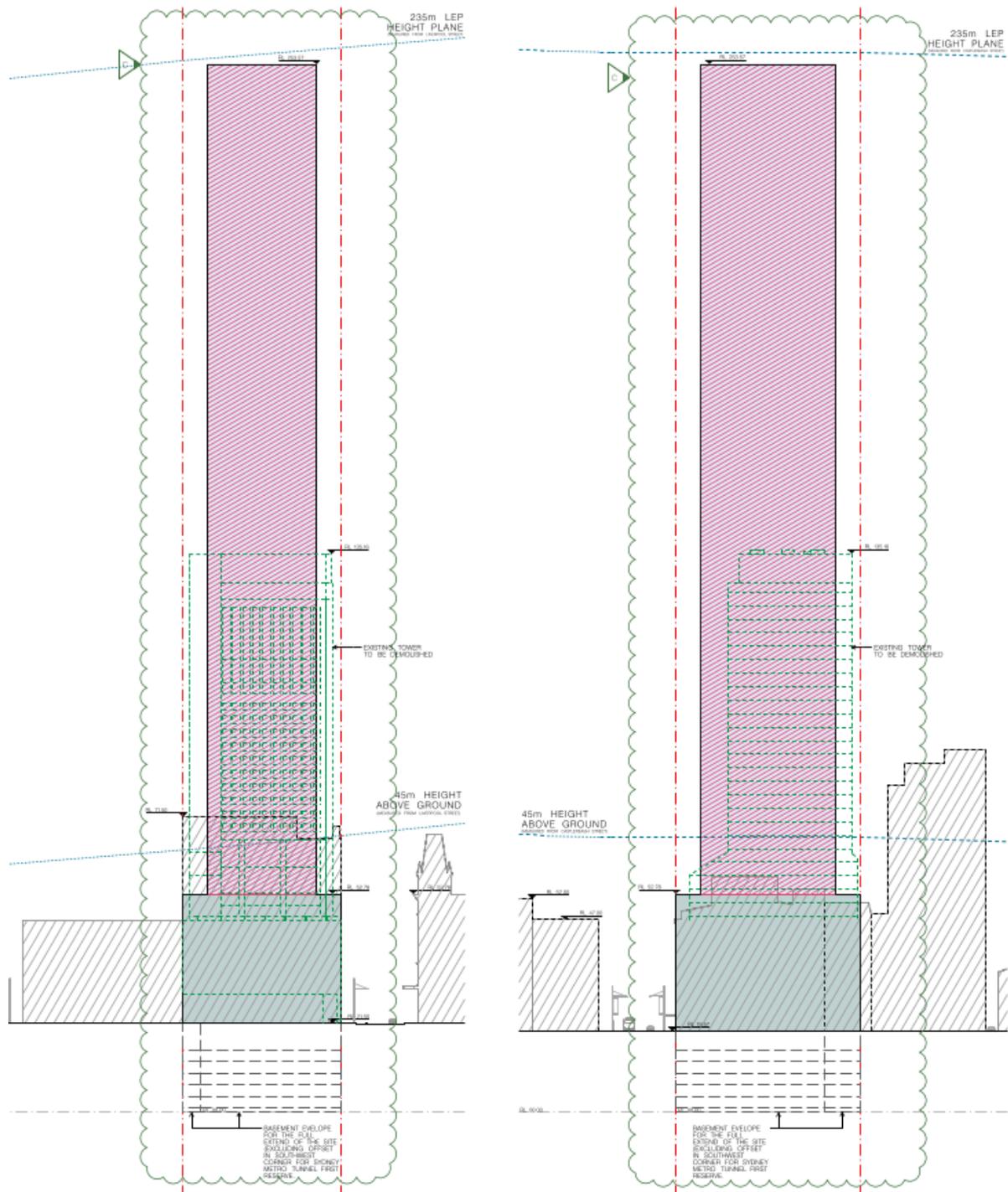
**Figure 4:** 3D render of proposed envelope, generally looking south west from along Liverpool Street



**Figure 8:** Floor plan of proposed tower form, hatched area indicates potential for reduced setback (with no windows facing onto reduced setbacks)



**Figure 9:** Elevation of proposed envelope - North/Liverpool St (left) and East/Castlereagh St (right)



**Figure 10:** Elevation of proposed envelope - South (left) and West (right)



Figure 11: Typical residential tower floor plan of indicative scheme

## History Relevant to the Development Application

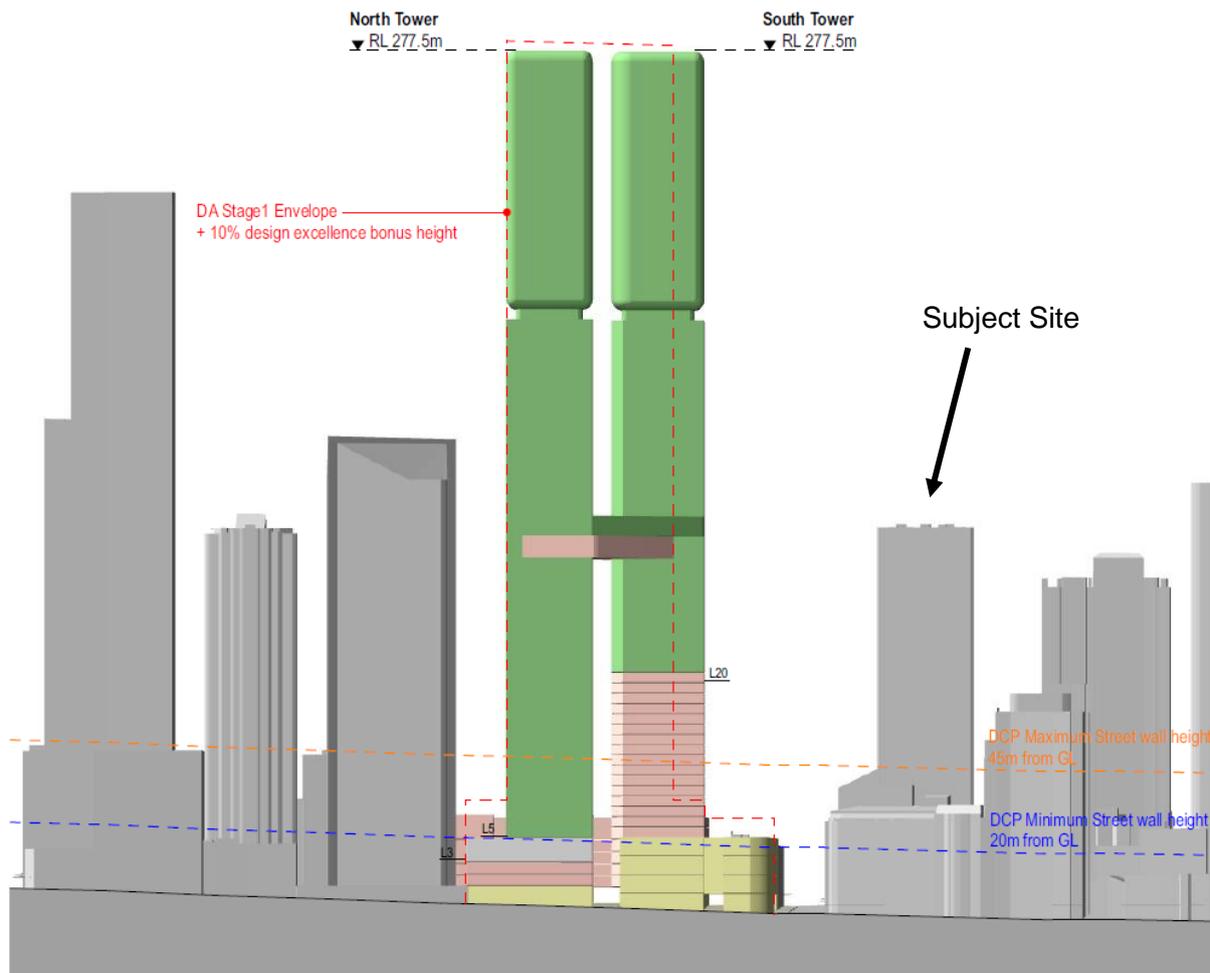
### Subject Application

11. The application was amended in April 2019 and November 2019. These amendments were in response to Design Advisory Panel feedback.

### Neighbouring Development

12. A number of properties opposite the site to the north have previously been approved for redevelopment through a concept approval (D/2016/1509). This development is commonly known as the Hans site. This approved envelope is for a height of up to 235m.

13. At the time of preparing this report, the Planning Secretary's Environmental Assessment Requirements had been issued for a future State Significant Development (SSD 10362) based on the concept approval. It is understood that this SSD will propose a hotel, residential, commercial and retail uses within a two tower form, and will seek an addition of 10% in height for a total height of approximately 257m - refer figure below. The Planning Minister and the Planning Secretary have delegated their respective consent authority and assessment functions to the City of Sydney for this SSD.



**Figure 11:** Western (Pitt Street) elevation of proposed SSD opposite the site

**City of Sydney Act 1988**

14. 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."

15. Having liaised with the City's Access and Transport 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**

16. 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**

17. 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.
18. A contamination 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**

19. 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**

The site is centrally located within the CBD and amongst buildings of similar height and scale.

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

The proposed building envelope is consistent with the maximum height and FSR controls in the Sydney LEP 2012. The proposed street wall height responds appropriately to the character of the surrounding area is considered appropriate in context. A small increase in the setback to Liverpool Street is recommended and is discussed in further detail in the Issues section of this report.

(c) **Principle 3: Density**

The proposed building envelope complies with the height and FSR controls for the site.

(d) **Principle 4: Sustainability**

Principles relating to energy efficiency will be assessed during the future detailed DA which will also be subject to BASIX targets.

(e) **Principle 5: Landscape**

The existing building footprint is constructed to the site boundaries. Accordingly, there is no at grade landscaped area. This is considered acceptable in this CBD context. Opportunities for landscaping and open space may be considered during the Stage 2 process.

(f) **Principle 6: Amenity**

The submitted indicative scheme demonstrates that a residential flat building within the proposed tower form is capable of achieving a high level of amenity. The indicative scheme provides compliant levels of solar access, natural cross ventilation and apartment sizes. It is noted that the compliant levels of solar access includes consideration of the shadows cast by the Concept DA consent for the Hans site (D/2016/1509).

(g) **Principle 7: Safety**

The indicative scheme demonstrates that separate and secure entrances are able to be provided to the different building uses. Details will need to be considered as part of the future Stage 2 DA.

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

The indicative scheme demonstrates that the building envelope is capable of accommodating a range of housing options.

(i) **Principle 9:** Aesthetics

A comprehensive design process will need to occur prior to the future Stage 2 DA. Nothing in the current application would prevent a suitable composition of materials and detailing being achieved as part of a future detailed development application.

20. 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

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Able to comply	The proposed envelope has a maximum depth of 30m. However, the indicative scheme demonstrates that a compliant building depth can be accommodated within the proposed envelope. Compliance with this provision can be resolved as part of the future Stage 2 application.

2F Building Separation	Compliance	Comment
Up to four storeys (approximately 12 metres):	Yes	The podium of the indicative scheme is eight storeys in height and is arranged with no setback to the four boundaries. As the podium is indicatively occupied by retail/commercial uses, this arrangement is acceptable as blank walls could be provided to the side and rear boundaries. No setback is required for blank walls.
<ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>		
Five to eight storeys (approximately 25 metres):		
<ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> </ul>		

2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>		
<p>Nine storeys and above (over 25m):</p> <p>24m between habitable rooms / balconies</p> <p>18m between habitable and non-habitable rooms</p> <p>12m between non-habitable rooms</p>	Able to comply	<p>The proposal provides a 6m setback from the proposed tower and the western and southern boundaries which does not comply with the numeric standard.</p> <p>To address this non-compliance the submitted plans identify a reduced setback zone where the openings must comply with the provisions of the SEPP and the ADG. This approach is considered acceptable.</p> <p>See further discussion in the Issues section of this report.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The ADG would require 399sq.m of communal open space on the site. The indicative proposal provides approximately 512sq.m of communal open space on the roof of the podium.
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).	No	The submitted sun access diagrams appear to show that the communal open space receives marginally less than 2 hours direct sunlight. It is expected that compliance can be achieved as part of the future Stage 2 application.

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m</p>	<p>No but acceptable</p>	<p>No deep soil planting areas are proposed.</p> <p>The site is in a highly urbanised CBD environment where a lack of deep soil planting areas is characteristic of development in the locality.</p> <p>No objection to the lack of deep soil area is raised and matters such as stormwater management can be adequately addressed as part of the future Stage 2 application.</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>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>	<p>Yes</p>	<p>The podium of the indicative scheme is eight storeys in height and is arranged with no setback to the four boundaries. As the podium is indicatively occupied by retail/commercial uses this arrangement is acceptable as blank walls could be provided to the side and rear boundaries. No setback is required for blank walls.</p>
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>		
<p>Nine storeys and above (over 25m):</p> <p>12m between habitable rooms / balconies</p> <p>6m between non-habitable rooms</p>	<p>Able to comply</p>	<p>The proposal provides a 6m setback from the proposed tower and the western and southern boundaries which does not comply with the numeric standard.</p>

<b>3F Visual Privacy</b>	<b>Compliance</b>	<b>Comment</b>
		To address this non-compliance the submitted plans identify a reduced setback zone where the openings must comply with the provisions of the SEPP and the ADG. This approach is considered acceptable.  See further discussion in the Issues section of this report.
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	The indicative scheme demonstrates compliance with this provision is achievable

<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	81% of apartments with the indicative scheme receive a minimum of 2 hours direct sunlight. It is noted that the compliant levels of sunlight includes consideration of the shadows cast by the Concept DA consent for the Hans site (D/2016/1509)
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	All of the apartments in the indicative scheme receive at least some sunlight in midwinter.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes	The indicative scheme demonstrates that natural ventilation can be provided to all of the habitable rooms.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	The lowest apartment in the indicative scheme is on the 10th floor meaning that all of the apartments are considered to be cross ventilated.

4B Natural Ventilation	Compliance	Comment
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Able to comply	The proposed envelope has a maximum depth of 30m. However, the indicative scheme demonstrates that a compliant building depth can be accommodated within the proposed envelope. Compliance with this provision can be resolved as part of the future Stage 2 application.

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	The proposed envelope does not prevent compliant floor to ceiling heights being provided in the future Stage 2 application.
Non-habitable rooms: 2.4m		
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.		
Attic spaces – 1.8m at edge of room with a 30 degree minimum ceiling slope		
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.		

4D Apartment Size and Layout	Compliance	Comment
Minimum unit sizes: <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul>	Yes	The submitted indicative scheme demonstrates that compliant apartment sizes and configurations can be achieved within the proposed envelope.

4D Apartment Size and Layout	Compliance	Comment
<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>		
<p>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.</p>		
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p>		
<p>8m maximum depth for open plan layouts.</p>		
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>		
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>		
<p>4m minimum width for cross over and cross through apartments.</p>		

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Studio apartments are to have a minimum balcony area of 4m<sup>2</sup> with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>	Yes	The submitted indicative scheme demonstrates that compliant private open space areas can be achieved within the proposed envelope.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The indicative scheme demonstrates compliance with this provision is achievable
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	The indicative scheme demonstrates compliance with this provision is achievable
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.	Yes	The indicative scheme demonstrates compliance with this provision is achievable
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	The indicative scheme demonstrates compliance with this provision is achievable

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4m3</li> <li>• 1 bed: 6m3</li> <li>• 2 bed: 8m3</li> <li>• 3 bed: 10m3</li> </ul> (Minimum 50% storage area located within unit)	Yes	The submitted indicative scheme demonstrates that compliant storage facilities can be achieved within the proposed envelope.

<b>4J Noise and Pollution</b>	<b>Compliance</b>	<b>Comment</b>
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	Noise and pollution impacts are capable of being adequately resolved as part of the future Stage 2 application.

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

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

#### Clause 45

22. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days and no objection was raised.

#### Clause 86

23. The site is adjacent to both Sydney Train and Sydney Metro tunnels and is therefore subject to Clause 86 (Excavation in, above, below or adjacent to rail corridors). In accordance with the Clause the application was referred to be Sydney Trains and the Metro Authority.
24. Concurrence has been received from both Sydney Trains and the Metro Authority with the requested conditions being included in the recommended conditions found at Attachment A.

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

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

26. 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;
  - (d) protect and rehabilitate riparian corridors and remnant vegetation.
27. 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 within the deemed SEPP.

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

28. A BASIX Certificate has been submitted with the development application.
29. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

**Sydney LEP 2012**

30. The site is located within the B8 - Metropolitan Centre zone. The indicative uses of the proposed envelope are residential, commercial and retail which are all permitted with consent within the zone.
31. 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
4.3 Height of Buildings	Yes	A maximum height of 235m is permitted.  A height of 234m is proposed.  The southern portion of the site is subject to the Belmore Park Sun Access Plane under CI 6.17. The building envelope complies with the sun access plane.

Development Control	Compliance	Comment
<p>4.4 Floor Space Ratio</p> <p>Division 1 Additional floor space in Central Sydney</p>	Yes	<p>No FSR figure is to be approved as part of the concept approval.</p> <p>However to demonstrate what is possible on the site a calculation of the FSR is provided below based on the indicative scheme.</p> <p>A maximum base FSR of 8:1 is permitted.</p> <p>Additional accommodation floor space of up to 5.71:1 is permissible based on the indicative scheme.</p> <p>A further 10% of FSR is available if the future detailed DA were to be the result of a competitive design process and demonstrates design excellence.</p> <p>In total an FSR of 15.08:1 is permissible on the site based on the indicative scheme.</p> <p>The indicative scheme results in an FSR of 15.08:1</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.17 Sun Access Planes	Yes	<p>The southern portion of the site is subject to the Belmore Park (1A) Sun Access Plane. The proposal does not exceed the sun access plane.</p>
Division 4 Design excellence	Yes	<p>Design excellence will be required to be demonstrated when the Stage 2 application is lodged.</p> <p>A competitive design process will be required prior to lodgement of the Stage 2 application.</p> <p>The applicant has advised that an addition 10% of floor space will be sought as a result of the competitive design process.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Able to Comply	<p>The mix of land uses within the indicative scheme would allow for up to 144 spaces.</p> <p>The subject application is not determining a set number of parking spaces on the site. A compliant number of spaces can be provided as part of a future, detailed Stage 2 application.</p>
7.14 Acid Sulphate Soils	Able to Comply	The site is identified as containing class 5 Acid Sulphate Soil. Whether or not an acid sulphate management plan will be required will be determined by the form of the future detailed development application.
7.15 Flood planning	Yes	The site is identified by Council as potentially being impacted by flooding. The applicant has submitted a detailed flood assessment which demonstrates that the redevelopment of the site is not unreasonably restricted by potential flooding impacts.
7.16 Aerospace Operations	Yes	<p>The proposal penetrates the Limitation or Operations Surface for Kingsford-Smith Airport.</p> <p>The application was referred to the Commonwealth Department of Infrastructure, Regional Development and Cities. Approval has been received subject to conditions.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	No demolition is to be approved as part of the determination associated with the subject application.
7.20 Development requiring preparation of a development control plan	Yes	<p>The height of the proposed development would trigger the requirement for a site-specific DCP.</p> <p>The Environmental Planning and Assessment Act allows a concept approval to be lodged in lieu of preparing a DCP.</p>

Part 7 Local Provisions - General	Compliance	Comment
		<p>The matters requiring consideration under Clause 7.20 (4) are satisfied by the submitted documentation and the recommended conditions.</p> <p>The proposal sets expectations for the form, massing, scale, environmental impacts, ESD outcomes, access outcomes, interface with ground level and landscaping outcomes of the development.</p>

### Sydney DCP 2012

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

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes	The proposed envelope makes provision for ground floor retail activity and activation of the public domain. The proposed development is capable of making a positive contribution to the public domain.
3.3 Design Excellence and Competitive Design Processes	Yes	The Stage 2 application will be subject to a competitive design process. A condition to this effect is recommended.
3.6 Ecologically Sustainable Development	Yes	A BASIX report will be required to be provided with the Stage 2 application.
3.7 Water and Flood Management	Yes	The site is identified by Council as potentially being impacted by flooding. The applicant has submitted a detailed flood assessment which demonstrates that the redevelopment of the site is not unreasonably restricted by potential flooding impacts.

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.11 Transport and Parking	Able to Comply	The subject application is not determining a set number of vehicle parking spaces or the configuration of vehicle access to the site. A compliant number of spaces and appropriate configuration can be resolved as part of a future, detailed Stage 2 application.
3.12 Accessible Design	Yes	Access and facilities for persons with disabilities in accordance with the DCP and the BCA should be incorporated in the Stage 2 application.
3.13 Social and Environmental Responsibilities	Yes	The Stage 2 development will need to satisfy the applicable provisions in respect of passive surveillance and CPTED principles.
3.14 Waste	Yes	The Stage 2 application will need to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.

<b>4. Development Types</b>	<b>Compliance</b>	<b>Comment</b>
<b>4.2 Residential flat, commercial and mixed use developments</b>		
4.2.1 Building height	Yes	The envelope complies with the LEP height control.
4.2.3 Amenity	Yes	The indicative drawings demonstrate that an acceptable level of residential amenity is achievable.
4.2.6 Waste minimisation	Able to comply	The Stage 2 application will need to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005. The proposed envelope provides sufficient space for compliance to be achieved.

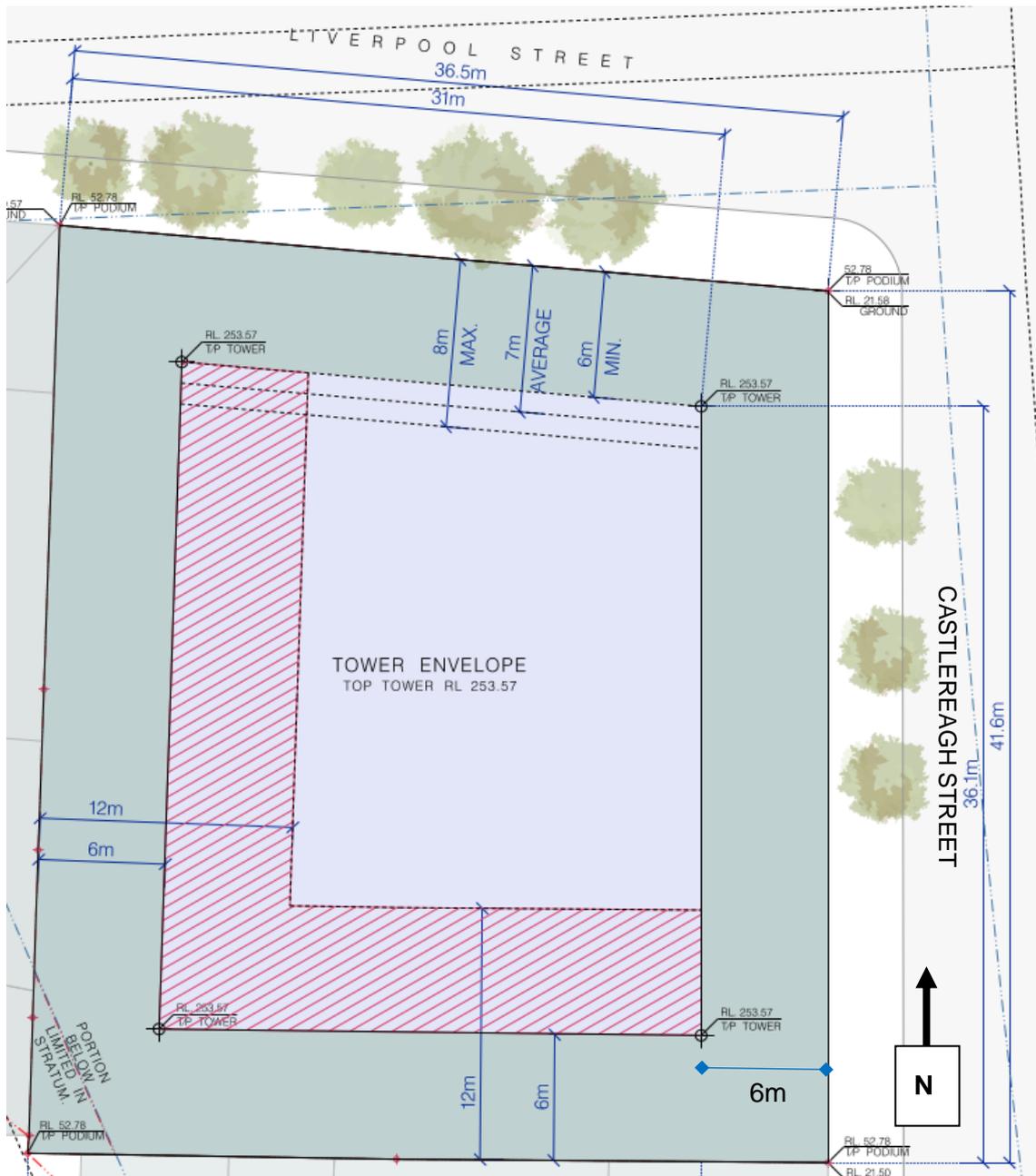
4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
4.2.7 Heating and Cooling Infrastructure	Able to comply	Heating and Cooling infrastructure can be adequately accommodated within a future detailed development application.
4.2.8 Letterboxes	Able to comply	The proposed envelope provides sufficient space for letterboxes to be appropriately located within a future detailed development application.
5. Specific Areas – Central Sydney	Compliance	Comment
5.1.1 Street frontage heights	Yes	<p>The DCP requires a street frontage height of between 20 to 45m.</p> <p>With a maximum street frontage height of 34.1m the proposed envelope street frontage height complies.</p> <p>The street frontage height of the envelope is consistent with the pattern of development along Liverpool Street and Castlereagh Street.</p>
5.1.2 Building setbacks	No	<p>The DCP requires that buildings must be set back a minimum weighted average of 8m above the required street frontage height.</p> <p>This setback may be reduced in part by up to 2m provided that the weighted average setback from the street frontage alignment is 8m. No part of the building is to be setback less than 6m.</p> <p>The weighted average setback may be reduced on secondary or minor pedestrian streets, provided that an average weighted setback of at least 8m is maintained on north-south streets and/or major pedestrian streets.</p>

		<p>A 6-8m (averaging 7m) tower setback from the Liverpool Street boundary is proposed. A 6m setback along the Castlereagh Street frontage is proposed.</p> <p>A reduction in setback along Liverpool Street is not supported.</p> <p>See further discussion in the Issues section of this report.</p>
5.1.4 Building bulk	Yes	<p>Above a height of 45m, the control restricts floor plates to a maximum of 1000sq.m with a maximum horizontal dimension of 40m.</p> <p>At 795sq.m and 30.5m the floor plate will be compliant.</p>

## Issues

### Building Separation

33. To achieve the building separation requirements of SEPP 65/ADG, the proposed tower envelope would need to provide a setback of 12m from the southern and western boundaries of the site to provide a 24m separation between habitable rooms of the subject site and the neighbouring properties.
34. The proposal provides a 6m setback from the proposed tower and the western and southern boundaries. While not determinative it is worth noting that the immediately adjoining neighbouring buildings to the south and west do not have primary residential windows or balconies facing towards the site. The property immediately to the south of the site is a commercial building with a row of secondary facing north adjacent to the property boundary.
35. The submitted drawings (Attachment B) identify the area of the envelope within 12m of the southern and western boundaries as being a "Reduced setback zone" with 'openings to meet SEPP 65/ADG requirements'. The submitted envelope is shown below.



**Figure 12:** Envelope floorplan with reduced setback zone hatched

36. The effect of this notation is to ensure that SEPP 65/ADG compliant separation can be achieved through the orientation of windows and balconies in a future Stage 2 development application.
37. The submitted indicative scheme (below) demonstrates that SEPP 65/ADG compliance can be achieved through the orientation of windows and balconies away from the southern and western boundaries of the site. Given that the most desirable outlook from the site is to the north east towards Hyde Park the proposed arrangement and massing of the indicative scheme is a reasonably expected outcome

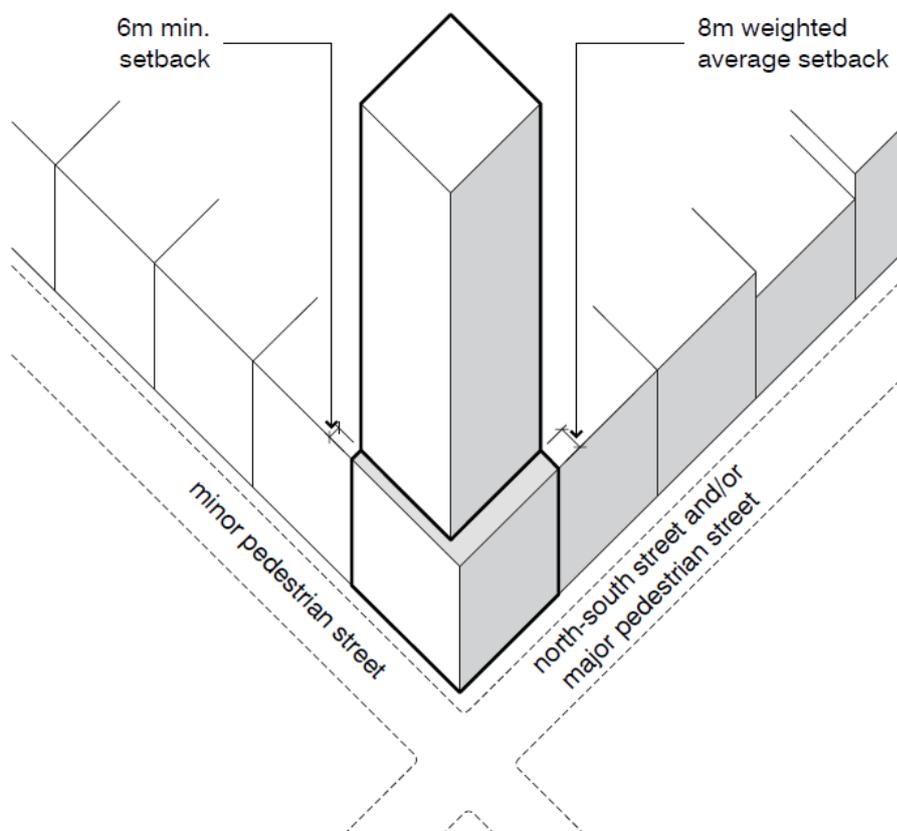


**Figure 13:** Indicative floorplan

38. By providing blank walls to the southern and western boundaries the indicative scheme complies with the requirements of SEPP 65/ADG as a blank wall does not result in adverse privacy impacts. As noted in 3F of the ADG, no separation is required between blank walls.
39. The proposed tower setbacks to the southern and western boundaries are acceptable. The future detailed development application will have regard to the reduced setback zones identified in the submitted drawings to ensure adequate separation is achieved between balconies and habitable spaces.

### Tower Setback

40. Part 5 of the DCP requires that buildings must be set back a minimum weighted average of 8m above the required street frontage height. This setback may be reduced in part by up to 2m provided that the weighted average setback from the street frontage alignment is 8m. The DCP states that no part of the building is to be setback less than 6m.
41. The DCP does allow for the setback to be reduced on secondary or minor pedestrian streets, provided that an average weighted setback of at least 8m is maintained on north-south streets and/or major pedestrian streets. Liverpool Street is the major pedestrian street within the locality with Castlereagh Street clearly the secondary frontage to the site.
42. These controls are summarised in the figure below.



**Figure 14:** Figure 5.5 of Sydney DCP 2012, summarising the tower setback controls

43. The proposed building envelope has a minimum 6m set back from Liverpool Street with annotations indicating a 6-8m (averaging 7m) tower setback from Liverpool Street boundary. A 6m setback along the Castlereagh Street frontage is proposed, see Figure 12 above.
44. The reference scheme shows a set back from Liverpool Street of 7-8m and a set back from Castlereagh Street of 6m.
45. The existing tower has a setback of approximately a set back from Liverpool Street of approximately 11-14m and a setback from Castlereagh Street of approximately 5m.

46. The proposed 6m setback to Castlereagh Street is not significantly different to the existing tower setback on the site. In close proximity to the site (at 267-277 Castlereagh Street) an approximately 100m tall residential tower is setback 6-6.5m from Castlereagh Street. This tower is shown in the figure below.



**Figure 15:** Indicative floorplans, originally submitted (left) and revised (right)

47. Given the reduced setback of the existing tower on the site and the reduced setback of the nearby residential tower along Castlereagh Street, in addition to a lack of amenity impacts arising from a reduction in setback to Castlereagh Street it recommended that the 6m setback to Castlereagh Street be supported.
48. A reduction in setback along Liverpool Street is not supported. The immediately adjacent properties to the east (Downing Centre) and the west (Snow's Emporium) are both heritage items which would require a minimum 10m setbacks under the DCP provisions. Additionally, the Hans site concept application opposite the site across Liverpool Street was approved with an 8m setback to Liverpool Street.

49. It is recommended that the proposal be amend via condition to provide a DCP compliant setback to Liverpool Street of a weighted average of 8m. A complaint setback to Liverpool Street would in turn result in the 6m setback to Castlereagh Street being compliant with the provisions of the DCP.

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

50. 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**

51. 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**

52. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.
53. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Licenced Premises; Public Domain; Surveyors; Transport and Access; Tree Management; Waste Management; who advised that the proposal is acceptable subject to conditions.
54. The originally submitted application was reviewed by the City's Design Advisory Panel who provided the following commentary:
- (a) Non-compliance in regards to setbacks from boundary to provide adequate separation for residential uses was not supported. The full setback requirement of 12m from side boundaries should be provided for a building envelope for a residential use. It was noted that the site is unlikely to be able to support a viable commercial floorplate above the podium.

*Response: The applicant has proposed the previously discussed reduced setback zones which would not allow for windows/balconies within 12m of the side boundaries. The approach is considered to be an appropriate response to the context of the site and would achieve compliance with the Apartment Design Guide.*

- (b) The attempt to twist the floor plan to improve conditions is not considered successful and is therefore not supported. This approach is too simplistic and doesn't achieve any significant ADG compliance advantages. It will cause negative impacts to the streetscape.

*Response: This issue relates to the originally submitted indicative scheme plans. Indicative scheme plans do not form part of the determined drawings. However, the applicant has submitted a revised indicative scheme to demonstrate that the revised proposal (with the reduced setback zones) is capable of accommodating an appropriate development on the site. For comparison the originally submitted and revised indicative tower floorplans are provided below.*



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

59. 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 3 October 2018 and 1 November 2018. As a result of this notification there was one submission received.

- (a) The proposal will reduce the area of publicly accessible space at the ground level.

Response - The proposal is for a concept envelope only. The area of publicly accessible space and the quality of that space is a matter to be determined in a future detail application.

60. The amended application was not required to be notified as the modifications did not result in additional impacts in comparison to the original proposal. While the indicative scheme would potentially result in increased impacts on some properties these drawings are indicative only and do not form part of any approval under the concept application.

**Public Interest**

61. It is considered that the proposal (as recommended for approval) will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

**Conclusion**

62. The proposed envelope is considered to be generally appropriate for the site and the surrounding locality with the exception of a 1m increase to the tower setback to Liverpool Street to achieve DCP compliance.

63. The submitted indicative scheme demonstrates that an acceptable level of amenity could be achieved for dwellings within the proposed tower form.

**ANDREW THOMAS**

Acting Director City Planning, Development and Transport

Patrick Quinn, Area Coordinator