

**Item 3.****Development Application: 589-591 Elizabeth Street, Redfern - D/2018/774****File No.: D/2018/774****Summary****Date of Submission:** 10 July 2018

Amended drawings and additional information received on 28 November 2018, 15 October 2019 and 13 November 2019

**Applicant:** The Trustee For Zhengde Unit Trust**Architect:** Turner**Developer:** Not stated**Owner:** Zhengde Real Estate Pty Ltd**Cost of Works:** \$10,052,420**Zoning:** The subject site is zoned B4 Mixed Use under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposed development is defined as 'hotel or motel accommodation' and is permissible with consent.**Proposal Summary:** The development application seeks consent for the demolition of all structures on site, earthworks, site remediation and construction of a four (4) storey building for use as hotel accommodation (56 rooms), basement car park accessed from the rear lane via a car lift and an ancillary licensed cafe. The proposal also seeks consent for use of Elizabeth Street for valet car parking utilising Elizabeth Street for drop off/pick up. The proposed licensed cafe hours are 7.00am - 9.00pm, 7 days a week.

The application is referred to the Local Planning Panel for determination as the proposed development seeks a variation to SLEP 2012 height of building development standard by more than 10% and more than 25 unique submissions objecting to the application have been received.

The application proposes a maximum building height of 14.97m, resulting in an exceedance of the SLEP 2012 maximum permitted height standard by 2.97m or 24.75%. The elements of the building which exceed the height standard are the upper portions of level 3, the lift overrun and plant. A written request has been submitted under Clause 4.6 of SLEP 2012 to vary the height development standard. The proposed siting of the additional height is considered to result in a better planning outcome and reduces the impact on the streetscape and surrounding properties. The proposal is consistent with the objectives of the land use zone and height of building development standard. The proposed variation has merit and is supported in this instance.

The application was advertised for a period of 21 days between 20 July 2018 and 11 August 2018. The amended application was readvertised twice for a period of 21 days between 26 March 2019 - 17 April 2019 and 24 October 2019 - 15 November 2019. A total of 119 submissions have been received throughout all three notification periods. Three of the 119 submissions are in support of the proposal, with the remaining submissions objecting to the proposal.

The submissions raised a number of concerns regarding tree removal, the car lift and queueing on Elizabeth Lane, amenity impacts, noise, garbage collection, visual privacy, heritage, contamination, building height, building design, character of the area, building reflectivity, floor space ratio, construction impacts, land use of the site, safety and security and inadequate DA documentation.

The proposal has been amended during the course of the assessment to address issues raised by Council staff and the Design Advisory Panel including increased building setbacks, retention of street trees, deletion of the rooftop terrace, gym and balconies on the west elevation, and associated reduction in the number of hotel rooms and car parking spaces. Additional information has been provided to address concerns regarding contamination.

The key outstanding issue relates to the proposed valet car parking service which relies on use of Elizabeth Street for guests to drop off their car. The guest's cars would then be valet parked by staff via the Elizabeth Lane basement entrance. Following determination of the DA, the developer plans to seek approval from the City's Local Pedestrian, Cycling and Traffic Calming Committee ('Traffic Committee') for 3 x 15 minute parking spaces on Elizabeth Street for guest car drop-off and pick-up. Discussions with the City's Traffic Operation Unit indicate the Traffic Committee may not support the proposed drop-off spaces on Elizabeth Street. The proposed valet service is not supported as part of the subject application.

Given a car lift is proposed, a robust Parking Plan of Management is required to ensure the use of car lift by service vehicles and staff does not result in unacceptable traffic impacts. A deferred commencement condition of consent is recommended to address this issue. Other minor outstanding issues can be addressed through standard conditions of consent.

**Summary Recommendation:** The development application is recommended for deferred commencement approval.

**Development Controls:**

- (i) Environmental Planning and Assessment Act, 1979
- (ii) Environmental Planning and Assessment Regulation 2000
- (iii) State Environmental Planning Policy No. 55 - Remediation of Land
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- (vi) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (vii) Sydney Development Control Plan 2012 (in force on 12 December 2012, as amended)
- (viii) City of Sydney Development Contributions Plan 2015

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected architectural drawings
- C. Original submitted architectural drawings (superseded)
- D. Clause 4.6 Variation Request

## Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 height of building development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld in this instance; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2018/774 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for a deferred commencement approval as:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site and does not result in unreasonable environmental impacts for the reasons outlined in the report to the Local Planning Panel.
- (B) The requested variation to the height development standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of SLEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Building and the B4 Mixed Use zone.
- (C) The development, subject to conditions, is generally consistent with the objectives and provisions of State Environmental Planning Policy (SEPP) No 55 - Remediation of Land, SEPP (Infrastructure) 2007, SEPP (Vegetation in Non-Rural Areas) 2017, SLEP 2012 and Sydney Development Control Plan 2012 (SDCP 2012).
- (D) The proposal is consistent with the objectives of the B4 Mixed Use zone in that the hotel will contribute to providing a mixture of uses in the area supporting the vitality of the area. The proposed development is consistent with the SDCP 2012 'Prince Alfred Park South' locality statement which encourages a mix of building types to reflect diversity of form and mass, and specifically encourages boutique accommodation on Elizabeth Street.
- (E) Subject to the recommended conditions of consent and in the context of a mixed use zone, the proposed development is unlikely to result in unreasonable impacts on the surrounding properties by way of visual and acoustic privacy, solar access, traffic, odour, vibration and reflectivity.

- (F) The proposed siting, bulk, scale, massing, setbacks and materiality of the building is considered to be consistent with the character of the area and respects the heritage significance of the conservation area and adjoining heritage item.
- (G) For the reasons above and as outlined in the report to the Local Planning Panel, the proposed development is in the public interest subject to conditions.

## Background

### The Site and Surrounding Development

1. Site visits were carried out by staff on 27 August 2018, 12 June 2019 and 8 January 2020.
2. The site is legally described as Lots 22 to 26 Section B in Deposited Plan 1199 and is commonly known as 589-591 Elizabeth Street, Redfern.
3. The site is rectangular in shape, with an area of approximately 828.8sqm. It has a primary street frontage to Elizabeth Street and a secondary street frontage to Elizabeth Lane. The site has a depth of approximately 30.21m and both street frontages are approximately 27.43m in length.
4. The site is located approximately 105m south of the intersection of Cleveland Street and Elizabeth Street. Elizabeth Street, is a major collector route between the CBD and Zetland and is an RMS Classified Road. It is approximately 20m wide and contains two lanes of one way traffic in a south direction. On street parking is available on both sides of the road. Elizabeth Lane is a narrow service lane and is approximately 4.3m wide.
5. The site falls by approximately 1.5m from Elizabeth Street in a western direction to Elizabeth Lane. The site slopes gently from north to south by approximately 300mm. A vacant single storey commercial building occupies the site and was most recently used as a vehicle repair station. The site has complete hard stand coverage in the form of a level concrete slab at Elizabeth Street which results in a wall height of approximately 1.5m along the Elizabeth Lane frontage.
6. There are five mature healthy trees located within close proximity to the site. This includes one street tree on the Elizabeth Street frontage, three street trees on the Elizabeth Lane frontage and one tree within the neighbouring property to the south at 593-601 Elizabeth Street.
7. The site is not a heritage item but is located within the Redfern Estate Conservation Area (C56).
8. The site is located in a mixed use area comprising a range of commercial and residential uses. The western side of Elizabeth Street contains a mixture of various commercial uses and a residential flat building ranging in height from one to three storeys in height and of various architectural styles. Some of these buildings step up higher to the rear, resulting in a 3-4 storey character along the eastern side of Elizabeth Lane.
9. On the opposite side of Elizabeth Street to the east are a row of two storey Victorian residential terraces. A landscaped setback of approximately 5m separates these terraces from the street.
10. Directly adjoining the site to the north at 587 Elizabeth Street is a local heritage listed item currently used by the Sydney Maori Anglican Church of Te Wairua Tapu. Directly adjoining the site to the south at 593 - 601 Elizabeth Street is a three storey residential flat building, containing 12 apartments, with vehicular access to a sub-basement car park from Elizabeth Lane.

11. Opposite the site to the rear, along the western side of Elizabeth Lane, are a row of two storey residential terraces which have a primary street address to Great Buckingham Street. The majority of these terraces have vehicular access from Elizabeth Lane. This western side of Elizabeth Lane, within the visual catchment of the site, is predominantly characterised by brick fences with roller garage doors with the exception of four properties containing single storey, with habitable attic space, studio buildings.
12. Photos of the site and surrounds are provided at figures 1-19 below:



**Figure 1:** Aerial image of subject site and surrounding area





Figure 2: Site viewed from Elizabeth Street, facing west



Figure 3: Looking south-west from Elizabeth Street





Figure 4: Looking north-west from Elizabeth Street



Figure 5: Looking south along Elizabeth Street





Figure 6: Looking south along Elizabeth Street



Figure 7: View in front of site on Elizabeth Street looking north





**Figure 8:** View of adjoining residential flat building at 593-601 Elizabeth Street



**Figure 9:** View from Elizabeth St of site and adjoining residential flat building at 593-601 Elizabeth St





Figure 10: Looking south along Elizabeth Street (Nos. 589 - 611)



Figure 11: View of site from Elizabeth Lane, looking north





Figure 12: View of site and adjoining heritage item from Elizabeth Lane, looking north



Figure 13: Looking north along Elizabeth Lane





**Figure 14:** View of adjoining residential flat building from Elizabeth Lane



**Figure 15:** View of residential properties along the western side of Elizabeth Lane. These terrace houses have street frontage to Great Buckingham Street.





Figure 16: View of street trees on Elizabeth Lane which overhang the subject site



Figure 17: Looking south along Elizabeth Lane





**Figure 18:** Looking north along Elizabeth Lane (taken from approximately 90m south of the site)



**Figure 19:** Built form along Elizabeth Lane (taken approximately 50m north of the site)

## Proposal

13. The development application seeks consent for the demolition of all structures on site, earthworks, site remediation and construction of a part 3, part 4 storey hotel containing 56 rooms, ancillary licensed cafe and a basement car park accessed from the rear lane via a car lift.
14. Specifically the proposed building comprises of:
  - (a) Basement Level:**
    - (i) car lift up to Elizabeth Lane;
    - (ii) parking for 12 cars;
    - (iii) 2 motorcycle spaces;
    - (iv) Staff bicycle racks;
    - (v) Plant rooms and on site water detention tank;
    - (vi) Staff WC; and
    - (vii) Two lifts connecting basement to upper levels.
  - (b) Ground Floor:**
    - (i) Hotel lobby, office and luggage storage;
    - (ii) 13 hotel rooms;
    - (iii) Licensed cafe including central open dining area;
    - (iv) Deep soil landscape area of approximately 25.8sqm in area;
    - (v) Chamber substation on the Elizabeth Street frontage; and
    - (vi) Vehicular entrance to the basement from Elizabeth Lane via a car lift.
  - (c) Levels 1 - 3**
    - (i) Level 1 - 20 hotel rooms;
    - (ii) Level 2 - 17 hotel rooms; and
    - (iii) Level 3 - 6 hotel rooms set back approximately 8.7m from Elizabeth Street and 6.25m from Elizabeth Lane.
  - (d) Rooftop**
    - (i) Lift overrun (up to a height of RL 54.5); and
    - (ii) Air conditioning plant (up to a height of RL55.00).
15. The proposal also seeks consent for use of Elizabeth Street for guests to drop-off their vehicle to be valet parked.



16. The ground floor licensed cafe proposed hours are 7.00am - 9.00pm, 7 days a week.
17. A photomontage and selected drawings of the proposed development are provided at Figures 20 to 34 below. A full set of drawings is provided at Attachment B.



**Figure 20:** Photomontage - Elizabeth Street



**Figure 21:** Photomontage - Elizabeth Lane (looking south-east)

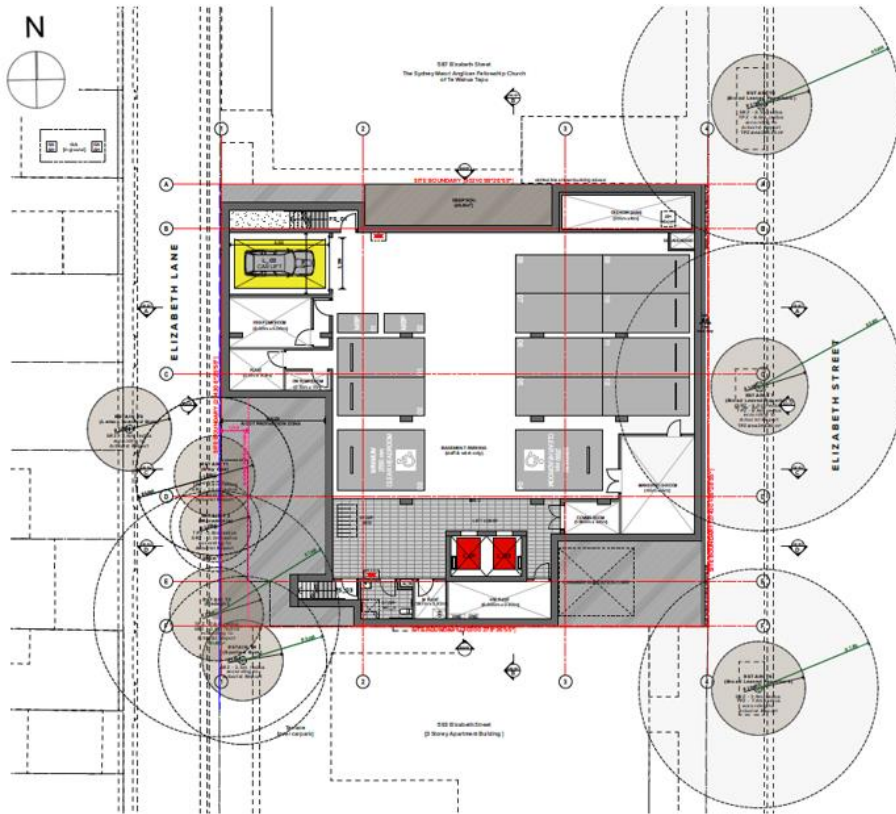


Figure 22: Basement level



Figure 23: Ground level



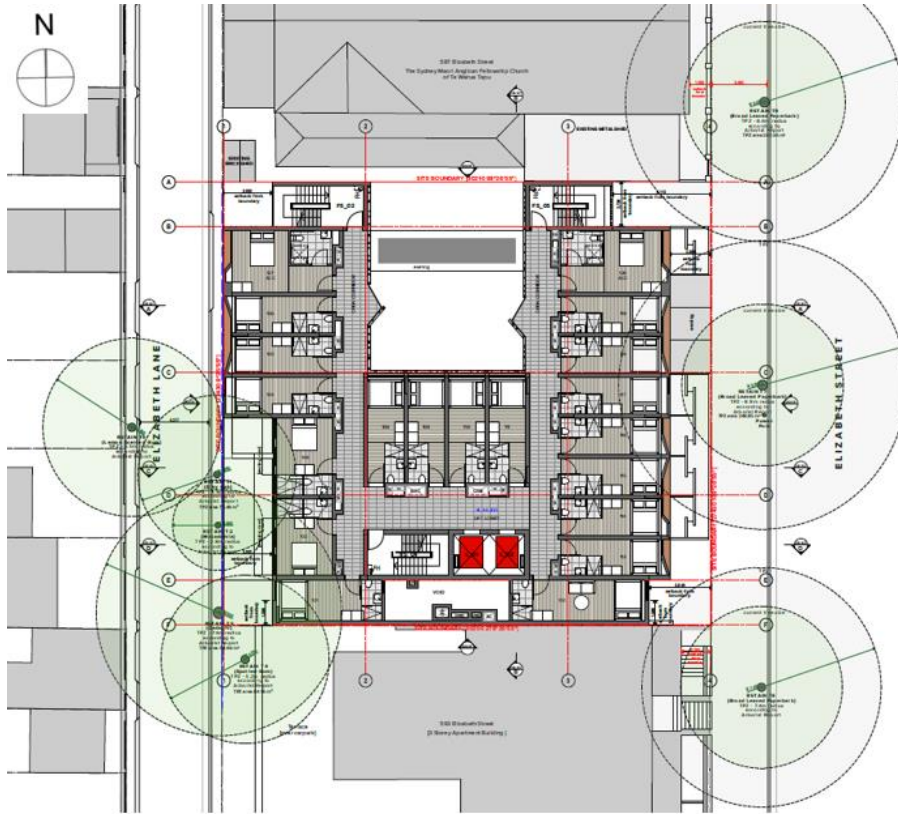


Figure 24: Level 1

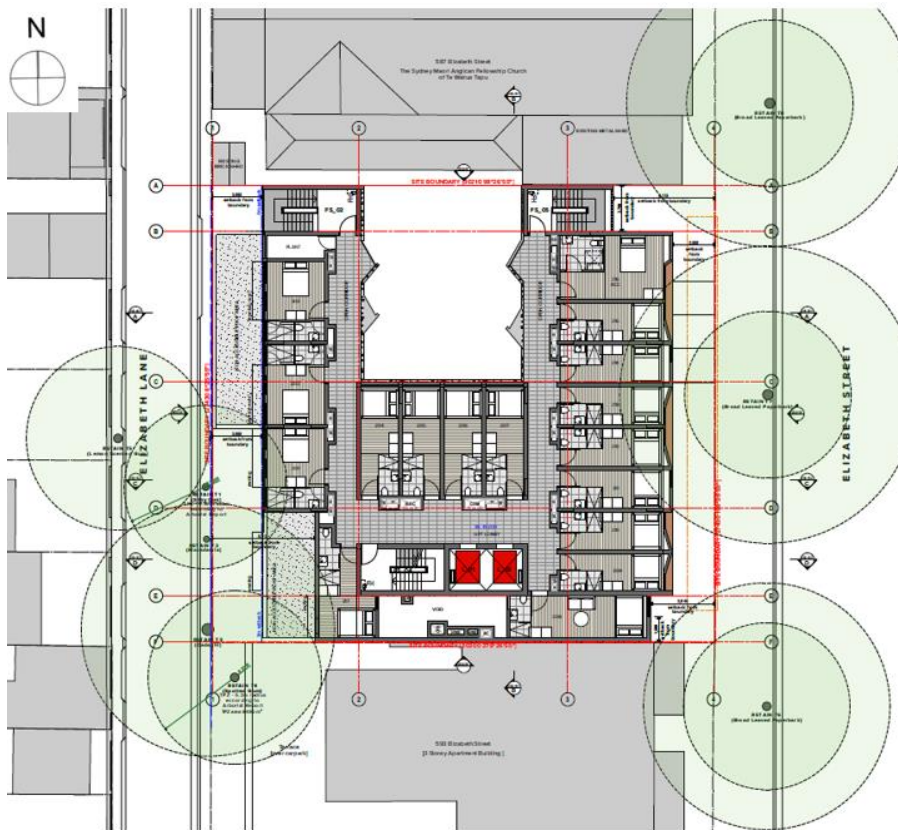


Figure 25: Level 2

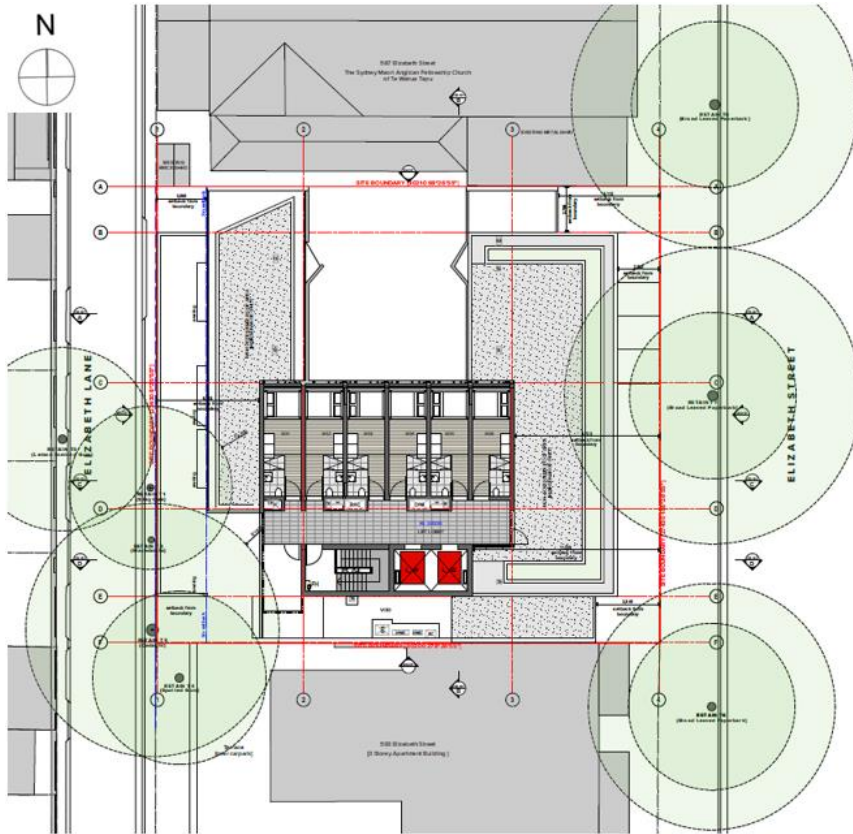


Figure 26: Level 3

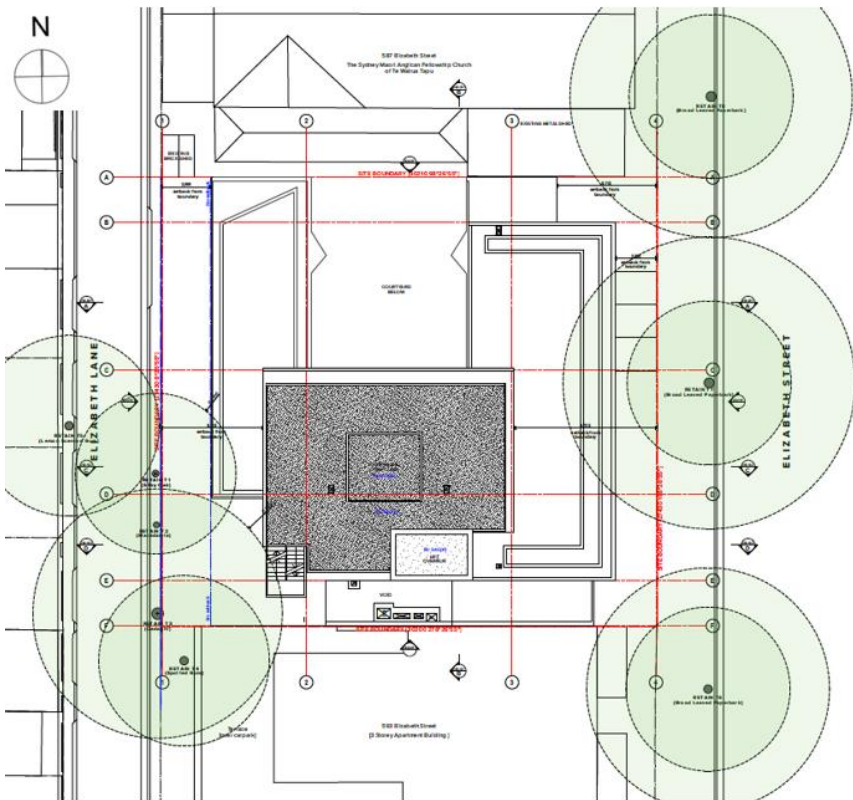


Figure 27: Roof level



Figure 28: East (Elizabeth Street) elevation



Figure 29: West (Elizabeth Lane) elevation





Figure 30: North elevation

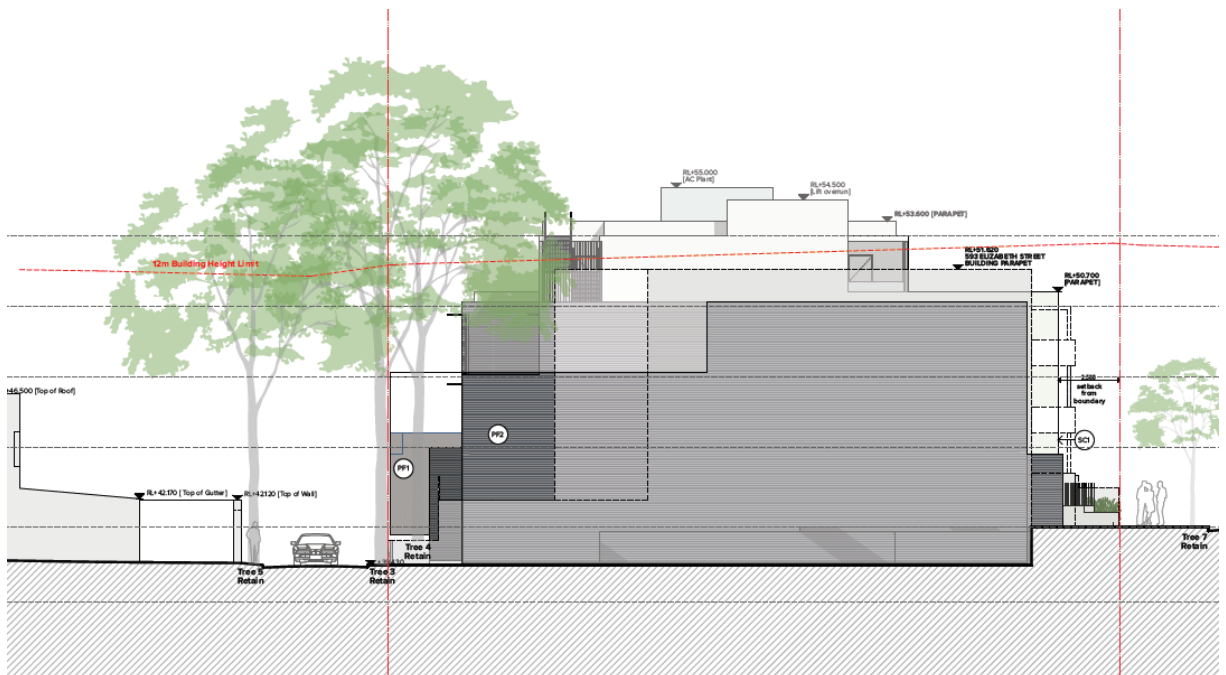


Figure 31: South elevation

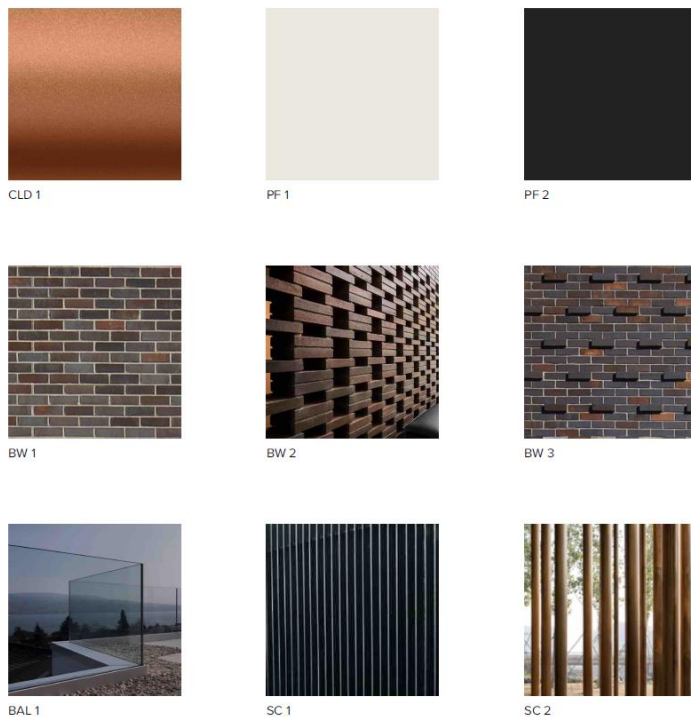




Figure 32: East-West Section



Figure 33: North - South section



**Figure 34:** Proposed materials and finishes

## History Relevant to the Development Application

### Previous Development Applications:

18. The site was previously used a petrol station and vehicle service centre from the early 1960s. On 3 October 1973, development consent (DA/363/73) was granted to change the use of the premises from a service station to car repair station with no petrol sales approved.

### Pre-DA:

19. The applicant submitted preliminary plans for a hotel to Council officers in June 2017 and October 2017.
20. Pre-DA advice was given by Council officers and raised issues/matters to be addressed in the subsequent DA. These matters included increased setbacks from the heritage item; reduction in building height to 4 storeys; waste collection to occur at ground level from the lane; stepping up of the development away from the heritage item; proposed drop-off zone on Elizabeth Street requiring approval from the Traffic Committee; and privacy impacts to terrace houses on the opposite side of Elizabeth Lane.

### Current Development Application:

21. The DA was lodged on 10 July 2018.
22. The original submitted proposal included 63 hotel rooms, outdoor terrace and gym on level 3 fronting Elizabeth Lane, balconies from the hotel rooms on level 2 facing Elizabeth Lane and removal of three street trees along Elizabeth Lane. A copy of the original submitted drawings are provided at Attachment C for background.

23. The preliminary assessment of the application raised a number of concerns with the proposed development including:
- (a) Contamination of the site and inadequate Remedial Action Plan (RAP);
  - (b) Removal of three healthy mature street trees along Elizabeth Lane;
  - (c) Impact on the tree roots and extent of pruning of a street tree located on Elizabeth Street and on the adjoining property to the south;
  - (d) Incorrect calculation of the development's gross floor area and associated exceedance of the maximum permitted floor space ratio;
  - (e) Front and rear buildings setbacks obstructing key views of the adjoining heritage item to the north; and
  - (f) Impact on visual and acoustic privacy of residents to the rear, particularly from the level 3 outdoor terrace.
24. The proposal was presented to the City's Design Advisory Panel (DAP) on 6 September 2018. The key issues discussed by DAP included the height, bulk and massing; amenity of the ground floor; removal of street trees; potential vehicle queuing in the lane; and visual and acoustic impacts from the outdoor terrace and gym.
25. In response to the issues raised by Council officers, which incorporated advice given by DAP, the proposal was amended and additional information provided on 28 November 2018, 15 October 2019 and 13 November 2019. The amendments and additional information provided include:
- (a) Reduction in the number of hotel rooms from 63 to 56;
  - (b) Reduction in car parking spaces from 15 to 12;
  - (c) Setback of a portion of the basement approximately 6.5m from the western boundary and outside the structural root zone of the trees along Elizabeth Lane;
  - (d) Setback of the south-west portion of the building from the Elizabeth Street tree canopies to allow for retention of the trees.
  - (e) Deletion of balconies on level 2 and level 3 outdoor terrace and gym facing Elizabeth Lane;
  - (f) Setback of the building approximately 2.56m from the Elizabeth Street western boundary to maintain views of the heritage item;
  - (g) Submission of a revised Remediation Action Plan (RAP) and Letter of Interim Audit Advice issued by a NSW Environment Protection Authority (EPA) accredited Site Auditor;
  - (h) Revised Clause 4.6 variation written request;
  - (i) Revised Arborist Report, Tree Root Investigation report and scaffolding methodology plan for around the street trees;
  - (j) Revised Traffic Report; and

- (k) Revised Heritage Impact Statement.
26. The final amended DA package was received on 15 October 2019 and is the subject of this assessment, with the exception of the revised RAP which was submitted on 13 November 2019.

### **Economic/Social/Environmental Impacts**

27. 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**

28. The aim of State Environmental Planning Policy No 55 - Remediation of Land ('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.
29. A RAP, prepared by Envirotech, was submitted with the DA at time of lodgement.
30. On 3 August 2018, Council officers requested that a Section B Site Audit Statement or letter of Interim advice be obtained from a NSW EPA Accredited Site Auditor confirming that the RAP is practical and the site will be suitable after being remediated in accordance with the requirements of the submitted RAP.
31. On 27 August 2018, a letter prepared by EPA Accredited Auditor (Peter J Ramsay, Accreditation No. 9814) was submitted to Council by the applicant. In his letter, the Auditor identified a number of omissions and data gaps in the detailed site investigation and RAP, including absent groundwater and soil vapour assessments.
32. Accordingly, Council officers could not be satisfied that the submitted RAP would render the site suitable for the proposed use in accordance with SEPP 55. On 19 October 2018, Council officers requested a revised RAP which addressed the matters identified in the Auditor's letter.
33. A revised RAP and supplementary detailed site investigation prepared by Epic Environmental was received by Council on 12 November 2019. The revised RAP was reviewed by the Auditor and supported by an Interim Letter of Advice certified by the Auditor. The Site Auditor has confirmed that the RAP is practical, and that the site will be suitable for the proposed use after remediation.
34. The City's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use in accordance with SEPP 55.
35. Conditions of consent are recommended requiring the development to be carried out in accordance with the RAP prepared by Epic Environmental and dated 11 November 2019.

### **State Environmental Planning Policy No 64—Advertising and Signage**

36. No signage is proposed as part of this application. A condition of consent is recommended requiring the lodgement of a separate application for any proposed future signage to the site.

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

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

## Clause 45

38. 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:

- (a) involves the penetration of ground within 2m of an electricity distribution pole; and
- (b) will be carried out within 5m of an exposed overhead electricity power line.

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

## Clause 101

40. The application is subject to Clause 101 of the SEPP as the site has frontage to Elizabeth Street, which is a classified road. The application is considered to satisfy Clause 101 of the Infrastructure SEPP, subject to conditions of consent. The proposal is acceptable as it does not provide new vehicular access in to the site from the classified road (Elizabeth Street) and acoustic conditions have been included within the recommended Conditions of Consent.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

41. The provisions of SEPP (Vegetation in Non-Rural Areas) 2017 have been considered in the assessment of the development application. The SEPP states that Council must not grant consent for the removal of vegetation within heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
42. No trees are proposed to be removed under the application. Conditions of consent are recommended to ensure protection of the trees in close proximity to the site including:
- (a) Compliance with the Arborist's report;
  - (b) Installation of tree protection measures;
  - (c) Site supervision by a qualified Arborist at various stages of the development within the tree protection zone such as excavation; and
  - (d) Use of non-destructing methods (such as an Airspade) for excavation around tree roots to ensure no damage occurs.
43. Subject to the recommended tree protection conditions, the proposal is considered to preserve the amenity that the existing trees provide and will not adversely impact the heritage significance of the conversation area. The proposal is generally consistent with the aims and objectives of this SEPP and the proposal will not adversely impact on the local urban ecology.

**Sydney Local Environmental Plan 2012**

44. The site is located within the B4 Mixed Use zone. The proposed use is defined as 'hotel or motel accommodation' and is permissible with consent.

45. 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	No	<p>A maximum height of 12m is permitted.</p> <p>A maximum height of 14.97m is proposed resulting in an exceedance of the maximum permitted height by 2.97m or 24.75%.</p> <p>The applicant has submitted a written request seeking an exception to the development standard in accordance with Clause 4.6(3) of SLEP 2012.</p> <p>Refer to the discussion provided in the 'Issues' section of this report.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 1.5:1 is permitted.</p> <p>A FSR of 1.5:1 is proposed.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the height of building development standard prescribed under Clause 4.3 of SLEP 2012.</p> <p>See discussion under the heading 'Issues'.</p>
5.10 Heritage conservation	Yes	<p>The site is not a heritage item, however is located within the Redfern Estate Conservation Area (C56). Directly adjoining the site to the north at 587 Elizabeth Street is a local heritage item identified as Church "The Where Kakakel" (I1313).</p> <p>Refer to the 'Issues' section of this report for further discussion.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes - subject to conditions	<p>The development will result in a high standard of architectural design and will improve the quality and amenity of the public domain, subject to conditions.</p> <p>The bulk, massing and modulation of the building is appropriate in the context of adjoining and surrounding development. Specifically, the building respects the low scale development at the rear and maintains views of the adjoining heritage item enabled by the buildings setbacks and street wall heights. The careful siting of the development also maintains adequate solar access to surrounding residential properties.</p> <p>The proposed development does not detrimentally impact on view corridors.</p> <p>The application has been accompanied by a Section J report demonstrating the proposal can comply the minimum mandatory requirements for energy consumption. However, there is further opportunity for the development to improve on achieving the principles of ecological sustainable design. This is discussed further in the SDCP 2012 compliance table.</p> <p>The development provides pockets of deep soil planting. However it is considered that there are further opportunities to improve landscaping to the site. This is discussed further in the SDCP 2012 compliance table.</p> <p>The proposal is suitably sited and designed so as to reduce visual and acoustic privacy impacts on surrounding development.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		<p>The materiality of the facade is of a high standard and respects the heritage significance and character of the area. The proposed external materials include off white pre-cast concrete, 'Bowral Blue' brick, brushed copper panels, clear glass, and dark satin powder coated metal work. A physical materials board has been submitted and Council officers are satisfied that the materials are of a high quality.</p> <p>Subject to remediation in accordance with the RAP, the land is suitable for the proposed hotel use.</p> <p>Overall subject to conditions, the proposed development is considered to meet the objectives and provisions for design excellence in accordance with Clause 6.21 of SLEP 2012.</p>

Part 7 Local Provisions - General	Compliance	Comment
<p>Division 1 Car parking ancillary to other development</p> <p>7.9 Other land uses</p>	Yes	<p>Under Clause 7.9, 1 car space for every 4 bedrooms is permitted for hotel accommodation, resulting in a maximum of 14 car parking spaces permitted for the proposed development.</p> <p>12 car parking spaces are proposed which complies with SLEP 2012.</p> <p>While the proposed number of car parking spaces complies with the maximum rate prescribed in SLEP 2012, there are issues with approved the proposed valet service with this DA. Refer to the 'Issues' section for further discussion.</p>
7.14 Acid Sulphate Soils	Yes	<p>The site is mapped as being within a Class 5 Acid Sulphate Soils (ASS) zone. The site is not located within 500m of Class 1 - 4 (ASS) and does not involve works likely to lower the water table. The proposal complies with this provision.</p>



<b>Part 7 Local Provisions - General</b>	<b>Compliance</b>	<b>Comment</b>
7.15 Flood planning	Yes	The site is not identified by Council as being affected during a 1% AEP flood event. The proposed development is consistent with the City's Interim Management Policy and the flood planning level requirements. Council's flood engineer has advised that the proposed development is acceptable subject to conditions.
7.19 Demolition must not result in long term adverse visual impact	Yes	While the proposal includes demolition of the existing building, the proposal also includes construction of a new building. Council officers are therefore satisfied that the site will comprehensively redeveloped under the consent.

### Sydney Development Control Plan 2012

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

#### 2. Locality Statements – Prince Alfred Park South

The subject site is located in the Prince Alfred Park South locality. The locality statement encourages a mix of building types to reflect the diversity of form and mass. Specifically, commercial or boutique hotel uses on Elizabeth Street with active frontages and landscaping within front setbacks are encouraged. The proposed development is therefore considered to be in keeping with the unique character of the area and design principles for the locality.

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.1 Public Domain Elements	Yes	The proposed development will make a positive contribution to the public domain.
3.2 Defining the Public Domain 3.2.2 Addressing the street and public domain 3.2.3 Active frontages 3.2.7 Reflectivity	Yes	While the site is not nominated in the SDCP 2012 as requiring the provision of an active frontage, the proposed development provides an active frontage which is considered to be a positive contribution to the public domain.

3. General Provisions	Compliance	Comment
		<p>Section 3.2.7 generally requires light reflectively from building materials used on facades to not exceed 20%. The building façade comprises off-white precast concrete, brushed copper panels and clear glass. A physical samples board has been submitted and Council officers are satisfied that the building will not result in unacceptable glare to motorists, pedestrians and residents.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology, subject to tree protection conditions.</p> <p>Provision (2) of this section of SDCP 2012, requires provision of at least 15% canopy coverage to a site within 10 years from the completion of development. While the development provides a deep soil pocket to the north of the outdoor courtyard, the dimensions and basement layout do not allow a substantial tree to be planted. In order for the development increased canopy coverage to the site, a condition of consent is recommended to lower the basement in order to provide sufficient soil depth for a substantial tree to grow in this location.</p> <p>In addition, it is considered that there is opportunity to provide a non-trafficable green roof to the development. Suitable conditions are recommended to address the provision of a substantial tree planting and green roof.</p> <p>Subject to conditions, it is considered that the proposed development meets the objectives and provisions of Section 3.5 of SDCP 2012 and Clause 6.21(4) (viii) and (xiii) of SLEP 2012.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The application was accompanied by a Section J Energy Assessment which outlines that the proposed development can achieve minimum mandatory requirements for energy use.</p>

3. General Provisions	Compliance	Comment
		<p>Conditions of consent are recommended requiring the installation of water efficient taps and dual flush toilets to reduce water consumption of the development and to comply with Section 3.6.2 of SDCP 2012.</p> <p>There is additional underutilised roof space which is capable of supporting photovoltaic panels. To further improve the environmental performance of the development, a condition of consent is recommended to install photovoltaic panels to the roof of the development.</p> <p>Subject to conditions, it considered that the proposed development meets the objectives and provisions of Section 3.6 of SDCP 2012 and Clause 6.21(4) (vii) and (viii) SLEP 2012.</p>
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land.
3.9 Heritage	Yes	<p>The site is located within the Redfern Estate Conservation Area (C56). Directly adjoining the site to the north at 587 Elizabeth Street is a local heritage item identified as Church "The Where Kakakel" (I1313).</p> <p>The existing subject building is identified as a 'detracting building' and accordingly its demolition is permitted.</p> <p>Refer the 'Issues' section of this report for further discussion.</p>
<p>3.11 Transport and Parking</p> <p>3.11.3 Bike parking</p> <p>3.11.6 Service Vehicle parking</p> <p>3.11.7 Motorbike parking</p> <p>3.11.8 Bus parking</p> <p>3.11.11 Vehicle access and footpaths</p>	Partial compliance	<p><i>Bike parking and associated facilities</i></p> <p>Based on the minimum rates specified SDCP 2012 and the estimated staff numbers, the development is required to provide:</p> <ul style="list-style-type: none"> <li>• 3 x staff bike parking spaces (Class 2 facilities);</li> <li>• 3 x visitor bike racks (Class 3 facilities);</li> <li>• 6 x personal lockers; and</li> <li>• 1 x shower with change area.</li> </ul>

3. General Provisions	Compliance	Comment
3.11.13 Design and location of waste collection points and loading areas		<p>The proposed development includes visitor bike racks within the central courtyard which can accommodate 3 bikes. 4 bike spaces are provided in the basement for staff use. It is not clear from the drawings whether these spaces are Class 2 or 3 facilities. Nevertheless, a condition of consent is recommended requiring the staff spaces to be Class 2 facilities in accordance with SDCP 2012.</p> <p>A shower and change area is provided in the basement for staff. No detail has been provided for personal lockers, however this can be addressed through a condition of consent.</p> <p><i>Service Vehicle Parking</i></p> <p>SDCP 2012 requires a minimum of one (1) service vehicle space to be provided on site. The proposed basement layout does not accommodate a service vehicle space. A condition of consent is recommended requiring the basement car park layout to be amended to accommodate a minimum of one service vehicle space, although the provision of more than one service vehicle space is encouraged. The service vehicle space/s cannot be a tandem vehicle space in accordance with Section 3.11.12 of SDCP 2012.</p> <p><i>Motorcycle</i></p> <p>One (1) motorcycle space for every 12 car parking spaces is required. The proposal includes 2 motorcycle spaces which complies.</p> <p><i>Bus parking</i></p> <p>Due to the small scale nature of the hotel, the proposed hotel will not accommodate coach bus visitation. In accordance with Section 3.11.8 'Bus parking' of the SDCP 2012, Council's transport planner has deemed that bus parking is not required for this hotel. Furthermore, Section 7.8.3 of SDCP 2012 specifies that a bus parking space is only required for hotels with 100 rooms or more.</p>

3. General Provisions	Compliance	Comment
		<p><i>Waste collection</i></p> <p>Waste collection is proposed to occur from Elizabeth Lane. A waste holding room is located at ground level within the building which is also accessible directly from Elizabeth Lane. The submitted Waste Management Plan outlines that bins will be wheeled out directly to the waste collection vehicle and then returned immediately to the holding room so no bins are left on the kerb. The Waste Management Plan estimates that the proposed development will require waste to be collected twice per week.</p> <p>Due to extent of the street tree's structural root zone within the site, the footprint of the basement is relatively constrained. If on-site waste collection was required, much of the basement would be required for a ramp and a larger turning circle. Given the above, in accordance with Section 3.11.13, it is considered that waste collection from the basement is unreasonable in this particular case and the proposed collection from Elizabeth Lane is supported.</p> <p>To ensure waste collection does not result in unacceptable noise impacts to sensitive noise receivers, conditions of consent are recommended restricting the collection of waste between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm, Saturday and Sunday.</p> <p>Refer to the 'Issues' section of this report for further discussion on the proposed valet service and car lift.</p>
3.12 Accessible Design	Yes	<p>The proposal includes three accessible hotel rooms. A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>

3. General Provisions	Compliance	Comment
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles. The application was referred to the NSW Police who raised no objections. A condition of consent is recommended requiring a sensor light to be installed to the alcove areas adjacent to the northern side boundary on Elizabeth Street and Elizabeth Lane.
3.14 Waste	Partial compliance	Refer to discussion in compliance table above.
3.15 Late Night Trading Management	Yes	<p>This section of the SDCP 2012 does not apply to the primary hotel use, however does apply to the licensed cafe of the proposal.</p> <p>The proposed cafe is categorised as a Category B 'low impact premises' under the SDCP 2012. The site is not located in a designated late night trading area and accordingly the permitted base hours are 7.00am to 10.00pm. The proposed hours for the licensed café are 7.00am - 9.00pm, 7 days a week and accordingly the proposed hours are permitted under Section 3.15 of SDCP 2012.</p> <p>The cafe can seat 40 patrons and access to the cafe is from Elizabeth Street only. Due to the low impact nature of the licensed cafe and proposed hours which are less than the maximum hours permitted, it is considered that the licensed cafe is unlikely to result in unacceptable amenity impacts on the surrounding area, subject to compliance with conditions of consent and a Plan of Management.</p>
3.16 Signage and Advertising	Yes	No signage has been proposed as part of this application. Due to the proposed use and signage usually associated with hotels, a condition of consent is recommended requiring the submission of a signage strategy.
3.17 Contamination	Yes	This has been discussed above under the SEPP 55 - Remediation of Land section.

4. Development Types	Compliance	Comment
4.2.1 Building height	No, assessed as acceptable	<p>The DCP specifies a three (3) storey height.</p> <p>The proposed development contains a fourth storey. Refer to the 'Issues' section of this report for further discussion on height.</p>
4.2.2 Building Setbacks	Yes	<p>A street frontage height is not prescribed for this site under the DCP.</p> <p>The proposed building setbacks are supported and discussed further in the 'Issues' section of this report.</p>
4.2.3.1 Solar Access	Yes	<p>The proposed development results in some overshadowing to the adjoining residential flat building to the south (No. 593-601 Elizabeth Street). Notwithstanding, the level of overshadowing caused does not result in the subject residential flat building receiving less than the minimum amount of solar access prescribed under the Apartment Design Guide. Shadow diagrams are included at Attachment B.</p>
4.2.3.4 Design features to manage solar access	Yes	<p>The facade comprises deep recessed windows which provide depth to the facade resulting in shading of the windows. The proposal does not rely on high performance tinted glazing.</p>
4.2.3.5 Landscaping	Yes - subject to condition	<p>The DA has been accompanied by a 'Landscape Masterplan'. The proposal includes landscaping within the front building setback and within the internal open courtyard including deep soil zones. As discussed above, conditions are recommended to require the planting of a substantial tree and the installation of a green roof.</p>

4. Development Types	Compliance	Comment
		Amended drawings and a detailed Landscape Plan are required to be submitted to Council for approval to ensure selected species are appropriate to the climate conditions and soil depths. Appropriate conditions of consent are recommended.
4.2.4 Fine grain, architectural diversity and articulation		<p>The building has a street frontage length of approximately 27m. For buildings with frontages to streets which have a width of 40m or less, the SDCP 2012 permits the building to have a single architectural character provided the façade elements establish a 'fine grain' articulation.</p> <p>The building design incorporates an articulated facade and a mixture of quality materials which promotes fine grain character and responds to the surrounding context.</p>
4.2.9 Non-residential development in the B4 Mixed Uses zone	Yes - subject to conditions	<p>Subject to conditions, the proposal will not have unacceptable amenity impacts on surrounding residential properties in the context of a mixed use zone.</p> <p>Matters for consideration include noise impacts; operating hours; privacy; vehicular and pedestrian traffic; vibration; reflectively; and overshadowing.</p> <p>These matters are addressed in detail in the 'Issues' section and within other sections of this SDCP 2012 compliance table.</p>
4.4.8 Visitor Accommodation 4.4.8.1 General	Yes	<p>The proposed hotel is self-contained with no common access ways with adjoining properties.</p> <p>A site manager will be on site as detailed in the Plan of Management.</p>



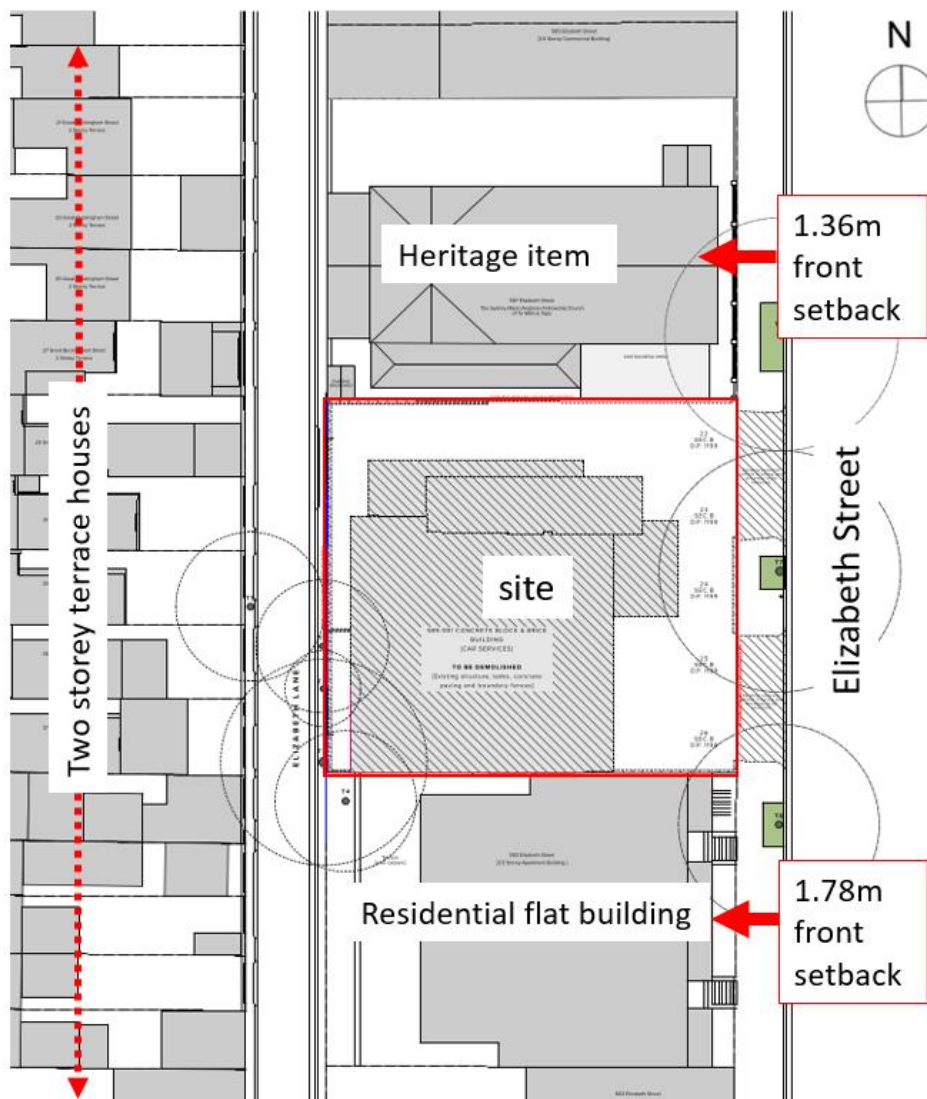
4. Development Types	Compliance	Comment
		<p>The hotel rooms do not include triple-tier bunk beds and do not include cooking facilities.</p> <p>All rooms contain only one bed and therefore internal partitions to separate sleeping areas from other parts of the room is not necessary.</p> <p>All toilet and shower facilities are adequately screened for privacy.</p> <p>A Plan of Management and Acoustic Report has been submitted with the DA and are acceptable.</p>
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	<p>All hotel rooms are studio style and contain double size beds. The sizes of hotel rooms vary with the minimum size being approximately 13.6sqm and largest room size is approximately 23.5sqm.</p> <p>A condition of consent is recommended restricting the number of occupants per room to two. In accordance with this section of SDCP 2012, conditions of consent are also recommended restricting the maximum length of stay to 3 months and requiring 1.2 cubic metres of lockable storage facilities to be provided in each of the rooms.</p>

## Issues

### Heritage, Height, Bulk and Scale

47. The site is located within the Redfern Estate Conservation Area (C56). Directly adjoining the site to the north at 587 Elizabeth Street is a local heritage item identified as Church "The Where Kakakel" (I1313). The church is constructed in brick and contains a steep gabled slate roof. To the west of the site, along Elizabeth Lane, are a row of two storey Victorian terraces which are identified as 'contributing buildings' under SDCP 2012.
48. The subject building is identified as a 'detracting building' and accordingly demolition of the building is permitted under Section 3.9 'Heritage' of SDCP 2012. The adjoining residential flat building to the south is also identified as a 'detracting building' under SDCP 2012.

49. Section 4.1.2 'Building setbacks' of SDCP 2012 requires front building setbacks to be consistent with the predominant setting in the street. Within conservation areas, new development is to relate to the established development pattern. A greater, front, side or rear setback may be required for development within the vicinity of a heritage item in order to maintain the visual setting of the heritage item and this is determined on a site a by site basis.
50. The adjoining heritage item to the north and the adjoining residential flat building to the south have approximate building setbacks from Elizabeth Street of 1.36m and 1.78m, respectively. Besides these two buildings, the buildings along the western side of Elizabeth Street and within the visual catchment of the subject site have nil setbacks from Elizabeth Street.
51. Along the eastern side Elizabeth Lane, buildings are predominantly built to the lane. The western side of the lane comprises single storey structures with the terrace houses built approximately 8-9m from the lane.
52. Figure 35 shows the existing surrounding built form and setback pattern.



**Figure 35:** Existing setbacks of surrounding built form

53. The proposal provides increased setbacks from Elizabeth Street, from the northern side boundary and from the laneway. The setbacks vary for different parts of the site and have been derived in response to respecting the setting of the adjoining heritage item; providing visual relief to the lower scale development at the rear on Elizabeth Lane; compatibility with the front setback of the adjoining residential flat building to the south; and preserving the tree canopy of the street trees.
54. Figures 36-37 below show the proposed building setbacks.

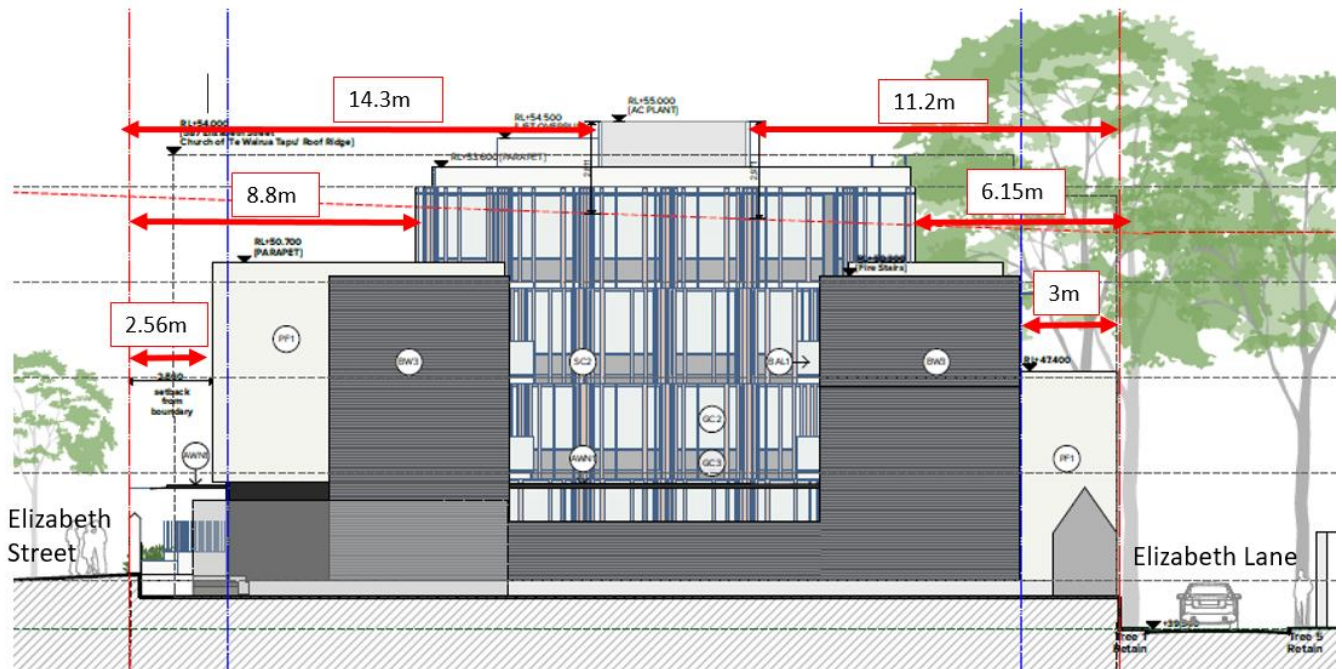
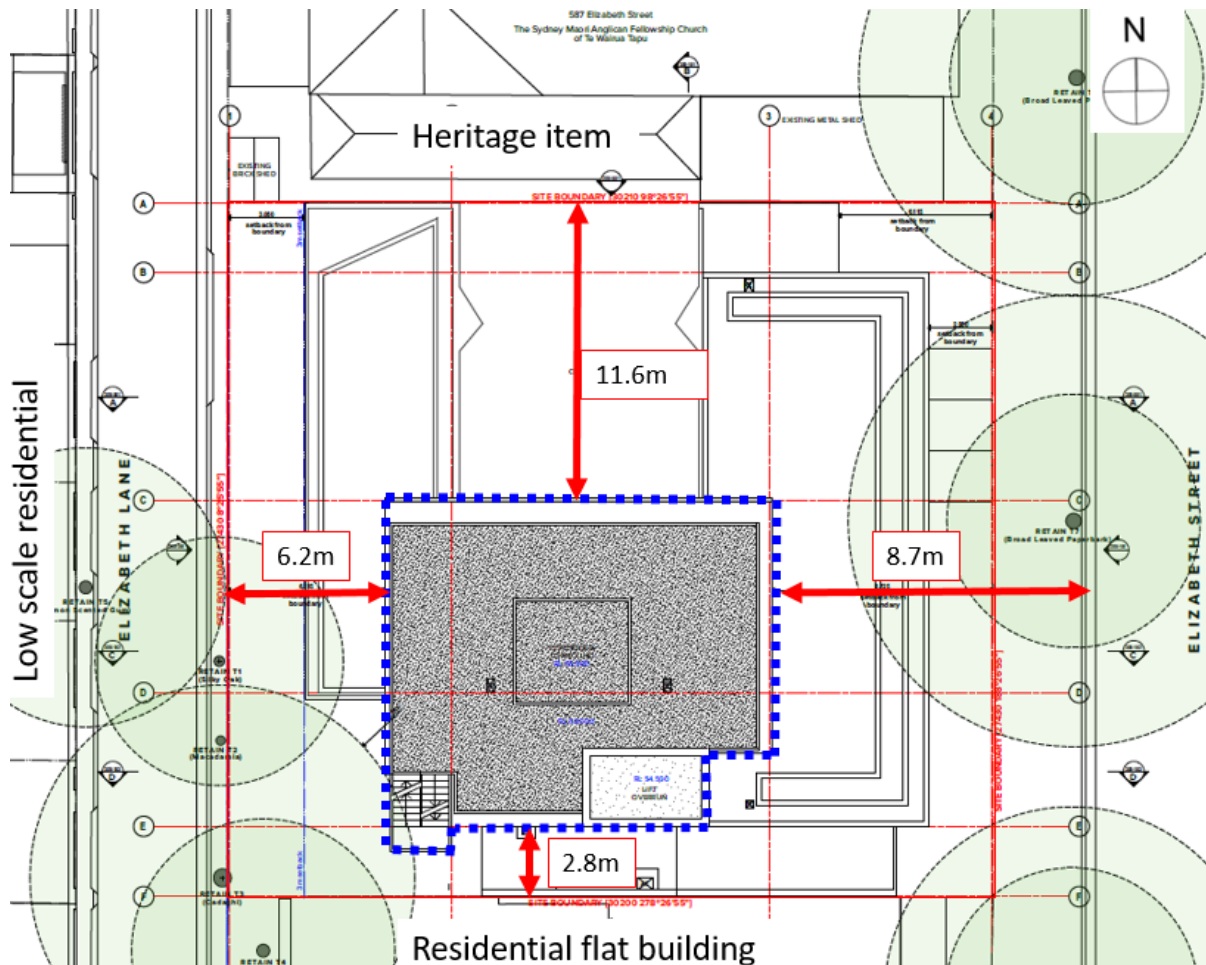


Figure 36: North elevation showing the approximate building setbacks



**Figure 37:** Roof plan showing the approximate building setbacks of Level 3

55. The proposed setbacks provide appropriate separation from the lower scale residential development at the rear and adequately maintain views of the adjoining heritage item from Elizabeth Street and Elizabeth Lane, as shown in Figures 38 to 40. The complete set of view point diagrams are provided at Attachment B. The front building setback also responds to the setback of the adjoining residential building to the south.
56. It is noted that the architect and applicant worked cooperatively with Council's Heritage Specialist and Urban Designer to amend the proposal (as originally submitted) to arrive at the proposed building setbacks.





**VIEW EST1 - ELIZABETH STREET TOWARDS CHURCH - 2.56M SETBACK FROM BOUNDARY**  
[14m from northern boundary, 1m from eastern boundary]

**Figure 38:** View from Elizabeth Street facing north



**VIEW EST3 - ELIZABETH STREET OPPOSITE TOWARDS CHURCH - 2.56M SETBACK FROM BOUNDARY**  
[27m from northern boundary, 17m from eastern boundary]

**Figure 39:** View from the opposite side of Elizabeth Street facing north-west



**VIEW ELN1 - ELIZABETH LANE TOWARDS CHURCH**  
[14m from northern boundary, 3.5m from western boundary]

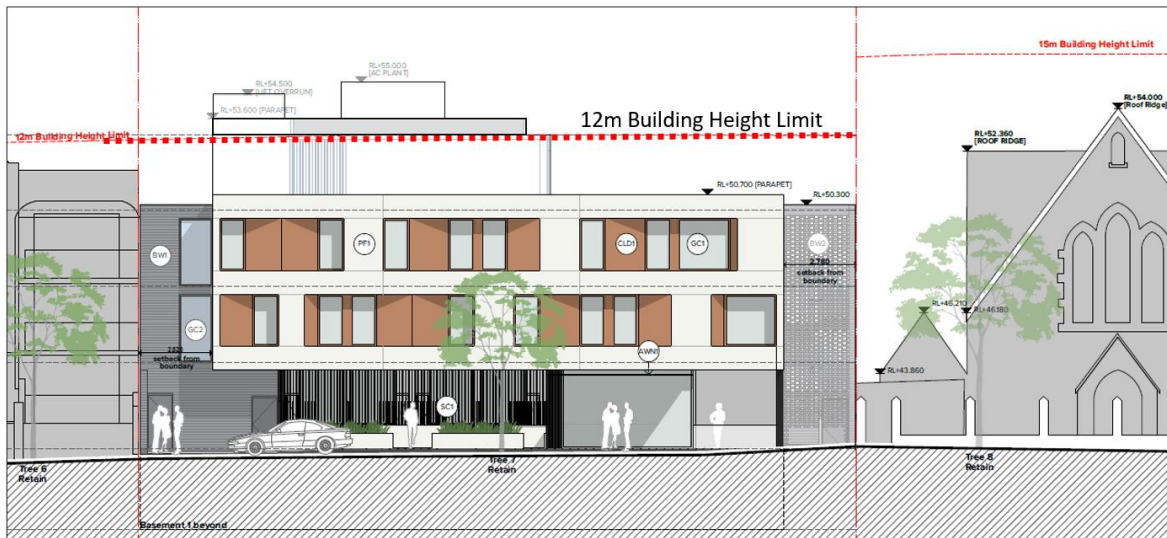
**Figure 40:** View from Elizabeth Street facing north

57. The proposed development is considered to respect the heritage significance of the adjoining heritage item and character of the conservation area through the careful siting and layout of the building and distribution of building bulk away from the heritage item and the lower scale development at the rear.
58. The setback of the part-fourth storey away from both street frontages enables the development to be viewed as a three storey building, maintaining the three storey character of the street. Overall, the bulk and scale of the development is appropriate for the site having regard to the adjoining heritage item, lower scale development at the rear and predominant three storey character of Elizabeth Street
59. The proposed materials are considered to be compatible with the character of the area, particularly the proposed brick work and detailing of the northern component of the building closest to the heritage item. The solidity of the building is supported as it is compatible with the character of the area, particularly the contributing brick warehouse buildings along Elizabeth Street. While the architecture of the proposed development is modern, the proposed materials, bulk, scale and siting of the building respects the built form character of the conservation area. This allows for the building to be easily discerned as a contemporary infill building which is encouraged under Section 3.9.8 (Neutral and appropriate infill building) of SDCP 2012.
60. While a non-compliance is proposed with the maximum permitted number of storeys under Section 4.2.1 'Building height' of SDCP 2012, the non-compliance has merit in this particular case. As described in detail above, through the careful siting and provision of appropriate setbacks, the proposed development respects the significance of the adjoining heritage item and provides an appropriate transition to the lower scale development at the rear. The proposed additional storey is setback from the street and will appear visually recessive, thereby maintaining the predominant three storey street wall height character of the street. Therefore, the proposal is considered to meet the objectives of section 4.2.1 of SDCP 2012 and the proposed non-compliance is supported in this particular case.

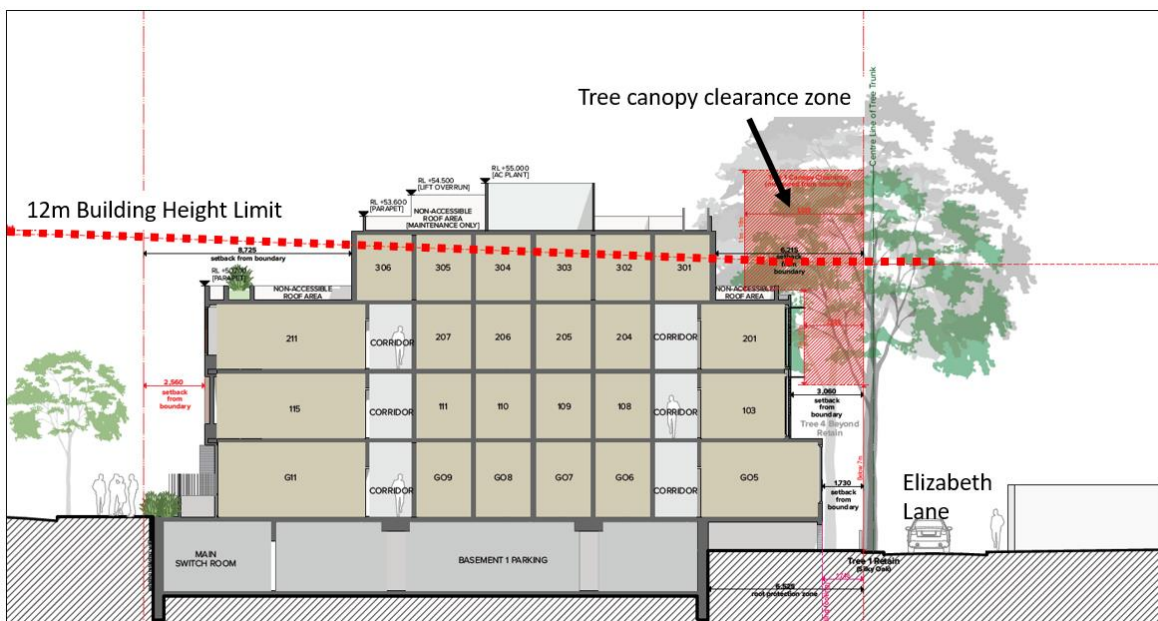
- 61. Overall, the proposal complies with the heritage provisions contained in Clause 5.10 of SLEP 2012. The proposed development is considered to meet the objectives and controls of Sections 3.9 'Heritage' and 4.2.2 'Building setbacks' of SDCP 2012.

**Clause 4.6 request to vary a development standard**

- 62. The site is subject to a maximum height of building control of 12m pursuant to Clause 4.3 of SLEP 2012. The proposed development has a maximum height of approximately 14.97m, resulting in an exceedance of the maximum permitted height by 2.97m or 24.75%.
- 63. The areas of the building subject to the breach include the upper portions of level 3, lift overrun and plant, as shown in Figures 41-43.

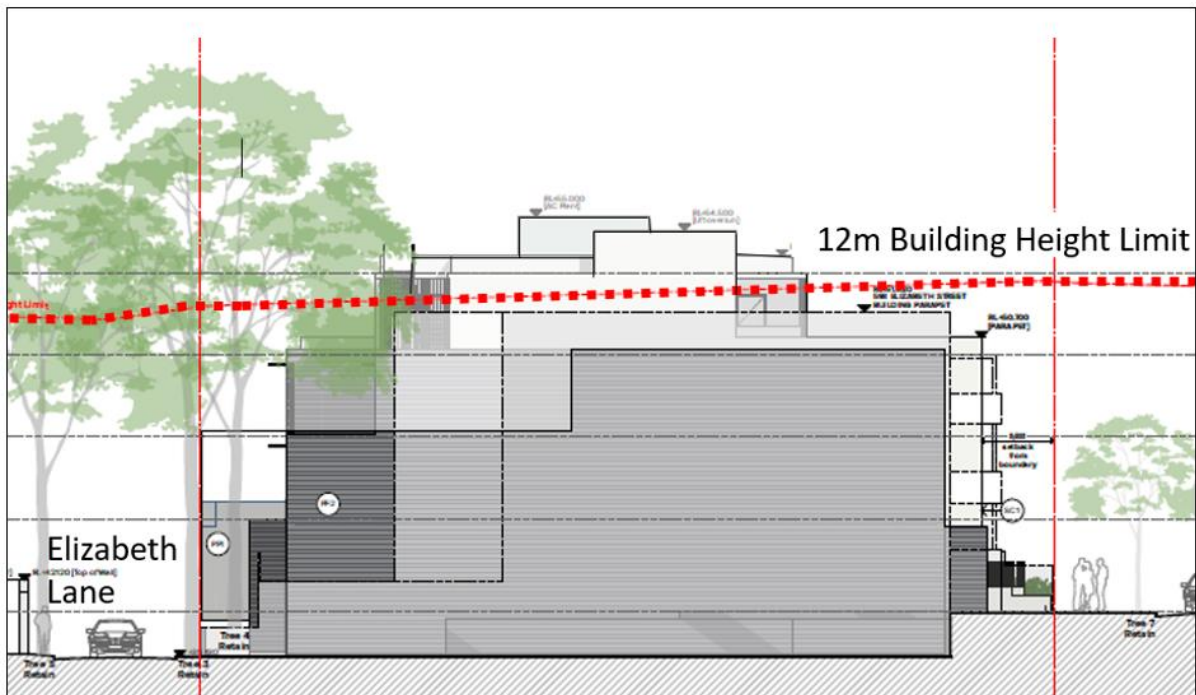


**Figure 41:** Proposed east elevation (Elizabeth Street) highlighting 12m height limit



**Figure 42:** Proposed Section (east to west) highlighting 12m height limit





**Figure 43:** Proposed south elevation highlighting 12m height limit

64. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the SLEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
65. A copy of the applicant's written request is provided at Attachment D.

***Applicants Written Request - Clause 4.6(3)(a) and (b)***

66. The applicant seeks to justify the contravention of the height of building development standard on the following basis (as summarised):
- (a) **That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the objectives of the development standard are achieved notwithstanding non-compliance with the standard:**
    - (a) *To ensure the height of development is appropriate to the condition of the site and its context*



- (i) The proposed building successfully mitigates environmental impacts such as overshadowing, privacy and view loss consistent with this objective. The height variation largely arises from the slope of the site (approximately 1.5m) from east to west. The architectural response provides appropriate setbacks, articulation and stepping having regard to the adjoining heritage item, existing vegetation and the built form character of the locality. It is noted that the building is SLEP 2012 height compliant at both street walls, with generous setbacks provided on both elevations:
- Front elevation: 3 storey street wall with 8.7m setback to top (fourth) level.
  - Rear elevation: 2.5 storey street wall with 3m setback to third storey of building.
- (ii) By providing these street wall heights, the proposal achieves the objectives of the height of building development standard and the component of the building subject to the breach is visually recessive. This setback arrangement also results in a better overshadowing outcome compared with a potentially compliant built form that has 12m street walls on both elevations.
- (iii) The perception of building height on ground level has also been mitigated by providing a ground level setback on Elizabeth Street of 3m. This assists in opening eye-level views of the adjoining heritage listed church, particularly the roof and eastern-most 'bay'. All street trees are proposed for retention, which provide visual relief on Elizabeth Lane.
- (iv) The height does not result in any privacy impacts (subject to conditions) and all street trees are proposed to be retained providing visual screening/privacy at the western interface.
- (v) There are various other tall buildings in close proximity of the site. The non-uniform nature of building heights in the area is reflected in the Prince Alfred Park South SDCP 2012 locality statement which encourages 'a mix of building types to reflect the diversity of form and mass'. In this respect, the building height is considered appropriate for its context.
- (vi) From a heritage perspective, the proposal will make a positive contribution to the streetscape and improve the current site condition. The Heritage Impact Statement prepared as part of this DA concludes that the proposal replaces 'detracting development with contemporary infill, while responding to significant proximate heritage items'.
- (b) *To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas*

The architectural solution has carefully considered the adjoining heritage listed church at 587 Elizabeth Street in the following ways:

- At the interface with the heritage item, the proposal is 3 storeys and substantially below the SLEP 2012 height limit.

- The building envelope is setback 3m from Elizabeth Street, aligning with setbacks of adjoining buildings, which allows for greater appreciation of the church from the public domain.
- The applicant has devised a performance-based fire engineering solution to enable the fire stairs to be setback 6.1m from the eastern boundary.
- The top level of the building is recessed by 8.7m from Elizabeth Street to allow the building facade to read as three storeys. This also has the benefit of reducing shadow impacts to neighbouring properties.
- The Elizabeth Lane street wall is 2.5 storeys to attenuate built form mass, both in respect of the church and the lower scale residential properties to the west and within the heritage conservation area.
- In summary, the specific area of the building which contravenes the height standards is located centrally on the site, is visually recessive when viewed from the public domain and has no impact on appreciation of the heritage listed church.

(c) *To promote the sharing of views*

The proposal will not impact the sharing of views from the public domain.

(d) *To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas*

The site is not located near Central Sydney or Green Square Town Centre.

67. The applicant states that given the proposal meets the objectives of the height of building development standard, the proposal therefore satisfies the first method set out in *Wehbe v Pittwater Council [2007] NSWLEC 827* and subsequently demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

**(b) That there are sufficient environmental planning grounds to justify contravening the development standard:**

- (i) The proposal, notwithstanding the height non-compliance, is consistent with the objectives of the development standard as described above.
- (ii) The proposal is compliant with the maximum permitted FSR that applies to the site. Therefore, the height variation does not seek to provide any additional density or gross floor area than that permitted under Clause 4.4 of SLEP 2012.
- (iii) The elements of the building above the permitted height plane are located centrally and reduce perceivable adverse visual impacts.

- (iv) When considering overshadowing, the elements of the building above the 12m height standard have an acceptable impact on the surrounding properties:
- Only one rear yard to the west has additional shadow impacts (for less than 1 hour) between 9am and 3pm. This impact is less than if the proposal contained a 12m street wall height.
  - Some additional overshadowing is cast of the roof of 593 Elizabeth Street to the south, between 9am and 3pm at midwinter as a result of the building height contravention, however this rooftop does not comprise any communal facilities, communal or private open space.
  - The existing level of solar access is retained to the majority of the habitable windows, balconies and outdoor terrace of 593 Elizabeth Street. While the proposal causes some additional impacts, the net impact is significantly less compared with a potentially compliant scheme with 12m street wall heights.
- (v) Having regard to the built form in the locality, the proposal represents an appropriate addition to the streetscape and will enhance what is currently a 'detracting' building in the Redfern Estate conservation area.
- (vi) The proposal meets the objectives of the B4 Mixed Use zone by providing a hotel and therefore contributing to a mix of compatible uses in the area and supporting the viability and vitality of the locality.
- (vii) In summary, given the high level of compliance with other key development standards, the alignment with the desired future character of the area in (both in terms of built form and land use) and the appropriate mitigation of environmental impacts, the variation to the development standard is supportable on environmental planning grounds.

***Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)***

68. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

***Does the written request adequately address those issues at Clause 4.6(3)(a)?***

69. The applicant's written request has adequately addressed Clause 4.6(3)(a) in that they demonstrate the objectives of the development standard and zone are achieved notwithstanding non-compliance with the standard, hence the standard is unreasonable or unnecessary.

70. The written request has therefore satisfied methods for establishing a development standard is unreasonable or unnecessary in the circumstances of the case as set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

***Does the written request adequately address those issues at clause 4.6(3)(b)?***

71. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify varying contravening the development standard.
72. Council officers agree with the justification provided in the written request which explains that the siting of the additional height towards the centre of the site and away from the heritage item results in a better planning outcome in comparison to a building which 'fills out' the potential building envelope up to 12m on all parts of the site.
73. Council officers agree with the justification that the components of the building subject to the non-compliance do not result in unreasonable adverse environmental impacts by way of overshadowing, urban design, heritage impacts or view loss.
74. Given the above and subject to conditions, Council officers are satisfied that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to vary the development standard.

***Is the development in the public interest?***

75. The proposed development is considered to be in the public interest as it is consistent with the objectives of the height of building development standard and objectives of the B4 Mixed Use zone.
76. The objectives of the Clause 4.3 of SLEP 2012 are:
- (a) *To ensure the height of the development is appropriate to the condition of the site and its context.*
  - (b) *To ensure appropriate height transitions between new development and heritage items and buildings in Heritage Conservation Areas or special character areas.*
  - (c) *To promote the sharing of views.*
  - (d) *To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas*
77. The proposed development is considered to be consistent with the objectives of the Clause 4.3 of SLEP 2012 for the following reasons:
- (a) The proposed development is considered to be of appropriate height, bulk and scale in the context of the surrounding area. The proposed components of the building subject to the height standard breach do not detract from the overall massing of the building. The building is considered to achieve a high standard of architecture and urban design.

- (b) The proposed setbacks and stepping up of the development towards the centre of the site, results in greater separation and visual relief between the low scale terrace houses to the rear and the adjacent heritage item. The proposed development maintains the setting of the adjacent heritage item through maintaining key view points of the church from Elizabeth Street and Elizabeth Lane. Therefore it is considered that the proposed development provides an appropriate height transition between the different scales of surrounding built form.
  - (c) The proposed parts of the building subject to the breach will not result in loss of any significant views.
  - (d) The site is not located close to Central Sydney or Green Square Town Centre.
78. The objectives of the B4 Mixed Use zone are:
- (a) *To provide a mixture of compatible land uses.*
  - (b) *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
  - (c) *To ensure uses support the viability of centres.*
79. The proposed development is considered to be consistent with the objectives of the B4 Mixed Use zone for the following reasons:
- (a) The proposed hotel will contribute to providing a mixture of compatible land uses. Subject to conditions, the proposed development is not anticipated to result in unreasonable amenity impacts on the surrounding area in the context of a mixed use area.
  - (b) The proposed development is in close proximity to Redfern train station, bus stops, the future Metro station, shared paths and bicycle routes. Accordingly, the proposed development will encourage the use of public transport, walking and cycling.
  - (c) There are no other hotels located in close proximity to the site. Therefore the proposed hotel will contribute to providing a range of different uses which will support the viability and vitality of the centre.
80. It is considered that the shifting of the building bulk away from the street frontages and the heritage item, through increased setbacks and stepping of the development, allows for a better planning outcome for the site.
81. The components of the building subject to the non-compliance do not result adverse environmental planning impacts by way of urban design, streetscape impacts, view loss or overshadowing of surrounding properties.
82. In light of the above, the proposed development is considered to be in the public interest.

**Conclusion**

83. For the reasons provided above, the requested variation to the height of building development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the SLEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the B4 Mixed Use zone.

**Transport and Parking**

84. The proposal includes a valet service for guest car parking. It is proposed for guests to drop off their car on Elizabeth Street and the car will be parked by a hotel employee. The applicant seeks proposed changes to kerbside parking arrangements on Elizabeth Street including 3 x 15 minute parking spaces for guests to drop off their cars. Initial discussions with the City's Traffic Operation Team indicate that the proposed spaces for a valet service on Elizabeth Street may not be supported by the Traffic Committee. However, this would be subject to a separate assessment and approval process.
85. Given there is no certainty that the kerbside parking restrictions would be changed to facilitate the proposed valet service, the proposed valet service cannot be supported at this time. Therefore, the proposed valet service cannot be used until it has been approved by the City's Traffic Committee. It is recommended that approval is only granted for use of the car lift and basement by service vehicles and staff.
86. It is noted that approval of the subject DA does not fetter the separate approval process to change kerbside parking through the City's Traffic Committee and there is no guarantee that the Committee will support such a proposal.
87. Given that access to the car park is via a car lift, a robust Parking Management Plan is required to demonstrate how the use of the car lift will be appropriately managed to prevent queuing along the lane. A deferred commencement condition is recommended requiring the approval of a Parking Management Plan prior to the consent becoming operative.
88. The Parking Management Plan will be required to address the following matters (but not limited to):
- (a) User instructions / guide for using the car lift;
  - (b) Access codes and remote controls for gate to car lift;
  - (c) Staff emergency contact number;
  - (d) Training manual for staff; and
  - (e) Contingency plan in the event the car lift fails.
89. The City's Transport Planner has not raised concerns with the estimated number of vehicle trips generated from the development, vehicle queuing, lift wait time or impact on the local road network. The proposed lift will be programmed to automatically return to street level to prioritise cars entering the site. If in the circumstance a car is required to temporarily wait for the car lift on Elizabeth Street, the lane is wide enough for another car to pass. Given there are only 12 car parking spaces proposed and the site is well serviced by public transport, it is not expected the development will result in unreasonable impacts on Elizabeth Lane.

90. Subject to the approval of a Parking Management Plan, it is not considered the proposed development, including use of the car lift, will not result in unacceptable traffic impacts.

### **Amenity Impacts on Surrounding Residential Properties**

91. Section 4.2.9 of SDCP 2012 stipulates that in granting development consent for non-residential development on sites within proximity to residential uses within the B4 Mixed Use zone, the consent authority will have regard to the potential impacts on the amenity of existing residential uses. The following matters to be considered and addressed include: noise impacts; operating hours; privacy; vehicular and pedestrian traffic; vibration; reflectivity; overlooking; and overshadowing. An assessment of each of the matters for consideration is provided below:

#### ***Noise impacts, vibration and operating hours***

92. The proposed hotel accommodation will operate 24 hours. The proposed staffing hours are as follows:
- Manager: 9am - 6pm
  - Reception and security: 24 hours
  - Cleaner: 9am - 6pm
93. The proposed ancillary licensed cafe is proposed to operate 7.00am - 9.00pm, Monday to Sunday. Guests and patrons will enter and exit the premises from Elizabeth Street with no access permitted to and from Elizabeth Street.
94. Under Section 3.15 (Late Night Trading Management) of SDCP 2012, the proposed licensed cafe is categorised as a 'Category B' premises. The site is not located in a designated late night trading area and accordingly the permitted 'base' hours are 7.00am - 10.00pm. The proposed cafe hours of operation comply with Section 3.15 of SDCP 2012. The application was referred to the City's Environmental Health Unit, Licensed Premises Unit and the NSW Police and no objections were raised.
95. The application has been accompanied by a Plan of Management (POM) generally prepared in accordance with the provisions of Section 4.4.8 (Visitor accommodation) and the late night trading guidelines in Schedule 3 of SDCP 2012. The POM details operational measures to mitigate amenity impacts on the surrounding area. While the submitted POM is generally acceptable in terms of patron management, a condition of consent is recommended requiring an updated POM to be submitted to Council for approval as some of the other recommended conditions will necessitate the POM to be updated (e.g. waste collection times and deliveries).
96. In terms of noise and vibration generated from the development's air conditioning condensers, plant and car lift, the application has been supported by an Acoustic Report. It is noted that the assumptions made in the report include use of the car lift at all times of the day and night. The report has been reviewed by the City's Environmental Health unit who are satisfied that the proposed mechanical plant and equipment is capable of complying with the NSW EPA Noise Policy for Industry 2017 and the City's standard noise criteria.

97. Conditions of consent are recommended requiring compliance with the relevant maximum noise levels. In addition, a condition of consent is recommended requiring the final construction drawings and construction methodology to be assessed in accordance with the noise conditions of consent by a Suitably Qualified Acoustic Consultant. All physical aspects of the building's structure will be required to be installed in order to meet performance parameters and maintained at all times.
98. To further mitigate potential noise impacts to the sensitive noise receivers, conditions of consent are recommended restricting the collection of waste and deliveries to the site between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm, Saturday - Sunday. It is noted that these recommended times are consistent with the development consent (D/2008/1896/A) for the commercial premises at No. 585 Elizabeth Street, Redfern which also has vehicular access from Elizabeth Lane.
99. Overall, subject to compliance with an amended POM and noise related conditions of consent, it is not considered the proposed development will cause unreasonable noise and vibration impacts on nearby sensitive noise receivers.

#### ***Privacy and overlooking***

100. The proposed windows and glass sliding doors on the western elevation on ground level, levels 1 and 2, are likely to result in overlooking of the rear yards and habitable windows of the residential properties on the opposite side of Elizabeth Street.
101. Accordingly, to ensure a reasonable level of visual privacy is maintained to the residential properties to the rear, a condition of consent is recommended requiring glazing on the western elevation to contain fixed privacy screens or obscured glazing to a minimum height of 1.6m above finished floor level.

#### ***Vehicular and pedestrian traffic***

102. Pedestrian access to the hotel and cafe will be from Elizabeth Street and therefore will not result in patrons loitering in the lane.
103. Subject to the recommended conditions, it is considered that the proposed development will not have unacceptable traffic impacts in the context of the mixed use zone.
104. Refer to the 'Traffic and Transport' section above for discussion on vehicular traffic.

#### ***Reflectivity***

105. The proposed external materials include off white pre-cast concrete, 'Bowral Blue' brick, brushed copper panels, clear glass, and dark satin powder coated metal work.
106. Section 3.2.7 (Reflectivity) of SDCP 2012 stipulates that a Reflectivity Report that analyses potential solar glare from the proposed building design may be required for tall buildings and that generally light reflectivity from building materials used on facades must not exceed 20%. The SDCP 2012 defines a 'tall building' as a building greater than 35m in height. Given the development is not a tall building and has a greater solid to glass façade ratio, Council officers deemed a Reflectivity Report not required for this particular development.



107. A physical materials board has been submitted and Council officers are satisfied that the materials will not cause unacceptable glare for pedestrians, occupants of surrounding buildings or motorists. In addition, a condition of consent is recommended that stipulating that the visible light reflectivity from building materials used on the facade do not exceed 20%.

### ***Overshadowing***

108. Due to the east to west orientation of the site, overshadowing from the development primarily falls to the south on to the adjoining residential flat building at No. 593 - 601 Elizabeth Street. The shadow diagrams are included at Attachment B.
109. The three storey residential flat building contains 12 x 2 bedroom apartments with (4 apartments per level). All of the subject apartments have private balconies on the eastern elevation with the primary living area located directly off the balcony. The building does not contain any windows on the northern elevation adjoining the subject development site. A landscaped open area is located at the rear of building.
110. The NSW Apartment Design Guide (ADG) sets out the requirements for solar and daylight access to residential flat buildings. Objective 4A-1 requires living rooms and private open spaces of at least 70% of apartments in a building to receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June.
111. Due to the easterly aspect of the apartment's balconies and living room windows, the proposed development does not result in overshadowing of these areas between 9am and 11am on 21 June. Overshadowing of these areas starts to occur from approximately 12pm, primarily to the three apartments on levels 1, 2 and 3 located closest to the common southern boundary. Notwithstanding, these apartments maintain in excess of the minimum solar and daylight access requirements specified in the ADG. The residential flat building's rear landscaped open area maintains direct solar access to the majority of this space between 12pm - 3pm on 21 June.
112. The proposal results in minor additional overshadowing of the rear yard of No.39 Great Buckingham Street. However the proposal does not result in non-compliance with Section 4.1.3.2 of SDCP 2012 which sets out that the minimum requirements for solar access to single dwellings.
113. In summary, while it is acknowledged that there will be some minor additional impacts to the surrounding residential properties, such as additional vehicle movements, it is not considered unreasonable in the context of a mixed use area and where redevelopment of the redundant service station is to be expected. Having regard to the broad range of permitted uses within the B4 Mixed Use (e.g. boarding houses, child care centres, function centres), the proposed hotel is considered to be suitable for the site and is consistent with the objectives of the zone under the SLEP2012.
114. Subject to the recommended conditions, the proposed development is not considered to result in unacceptable amenity impacts on surrounding residential properties.

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

115. The proposed development is capable of complying with the BCA. It is Class 3.
116. 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**

117. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial and residential surrounding and the proposed development is considered suitable for the site, as discussed in detail above.

**Internal Referrals**

118. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Licenced Premises; Public Domain; Surveyors; Transport and Access; and Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.
119. The conditions of other sections of Council have been included in the proposed conditions.

**External Referrals**

120. The application was referred to NSW Police, Ausgrid and Transgrid. No objections were received from these agencies.

**Notification and Advertising**

121. In accordance with the City's Community Participation Plan, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 21 days between 20 July 2018 - 11 August 2018. During the original notification period 50 submissions were received. 49 of these submissions objected to the proposal with one submission in support of the proposal.
122. The amended application was readvertised for a period of 21 days between 26 March 2019 - 17 April 2019 and 40 submissions were received. 39 of these submissions objected to the proposal with one submission in support of the proposal.
123. A further amended application was readvertised from 24 October 2019 - 15 November 2019 and 29 submissions were received. 28 of these submissions objected to the proposal with one submission in support of the proposal.
124. A total of 119 submissions have been received throughout all three notification periods.

125. A summary of the issues raised in all submissions including a response is provided in the table below.

Issue	Response
<p><i>Traffic</i></p> <ul style="list-style-type: none"> <li>• Insufficient Traffic Report including lack of information on net increases in traffic based on RMS data, impact on street network, vehicle manoeuvring, potential for multiple guests to arrive and depart at the same time during peak times and compliance with Australian Standards</li> <li>• Queueing on lane from car lift</li> <li>• Obstruction of lane and access to residential properties</li> <li>• Elizabeth Lane is narrow and already experiences high volumes of traffic and obstructions from waste collection and deliveries</li> <li>• Safety concerns with vehicles entering and exiting the basement car park</li> <li>• Footpath is not wide enough to accommodate a wheel chair, prams or children's bicycle</li> <li>• Vehicle access should be provided on Elizabeth Street not from Elizabeth Lane</li> <li>• Waste collection and deliveries should occur from Elizabeth Street</li> <li>• Safety concerns with waste collection from Elizabeth Lane which is similar to Bourke Lane where a person was run over by a waste collection vehicle and died in May 2018</li> <li>•</li> </ul>	<p>Refer to the detailed discussion provided in the SDCP 2012 compliance table and under the heading '<i>Transport and Parking</i>' in the Issues section.</p> <p>The applicant's Traffic Report has not been relied upon to form Council officer's assessment of the traffic and parking impacts of the site.</p> <p>Regarding concerns raised that the site should utilise Elizabeth Street rather than the Elizabeth Lane, Elizabeth Street is a Classified Road and accordingly the proposed development is subject to the provisions of Clause 101 of State Environmental Planning Policy (Infrastructure) 2009. Clause 101 of the Infrastructure SEPP sets out that the development should not provide access to the site from the classified road where there is alternate access available.</p> <p>It is acknowledged that residents have raised concerns and outlined extensive history of unlawful parking in the lane. However it is considered that the unlawful use of the lane by other users should not prejudice the applicant's ability to access the subject property from Elizabeth Lane nor should it be assumed that the future operators of the hotel will not act lawfully in complying with parking restrictions.</p> <p>Waste collection vehicles currently service Elizabeth Lane. No safety concerns have been raised by Council's Transport Unit or Waste Management unit regarding kerbside collection from the lane.</p>

Issue	Response
<p><i>Visual privacy</i></p>	<p>The proposal originally included a rooftop terrace and balconies to the rear facing Elizabeth Lane. The rooftop terrace and balconies have been deleted from the proposal.</p> <p>The visual privacy impacts of the window on the west elevation (fronting the lane) is discussed in the 'Issues' section. A condition of consent is recommended requiring obscure glazing or fixed screening to these windows to prevent direct overlooking of the residential dwellings located at the rear of the site.</p>
<p><i>Acoustic privacy</i></p> <ul style="list-style-type: none"> <li>• Acoustic report not sufficient</li> <li>• Noise from plant and air conditioning running 24 hours</li> <li>• Noise from car lift</li> </ul>	<p>Council's Health and Building Unit reviewed the proposal and are satisfied with the Acoustic Report including the amended location of plant and equipment. Council officers are satisfied the proposal can achieve compliance with the maximum noise criteria to ensure the proposal will not unreasonably impact the amenity of surrounding properties.</p> <p>Further discussion on acoustic privacy has been provided under the 'Issues' section of this report.</p>
<p><i>Trees</i></p> <ul style="list-style-type: none"> <li>• Loss of healthy trees which contribute to the amenity of the lane</li> </ul>	<p>The proposal originally included removal of street trees. The proposal has been amended to allow retention of the trees. Tree protection conditions of consent are recommended to ensure the trees are protected during the construction of the building.</p>
<p><i>Contamination</i></p> <ul style="list-style-type: none"> <li>• Insufficient RAP</li> <li>• Insufficient location of wells and monitoring of groundwater</li> <li>• Human risks from contaminants</li> </ul>	<p>Refer to the discussion provided under the heading '<i>SEPP 55 - Remediation of Land</i>'. Council officers are satisfied that the site can be made suitable for the proposed use, subject to remediation conditions.</p>
<p><i>Height</i></p> <ul style="list-style-type: none"> <li>• Development breaches 12m SLEP 2012 height control</li> </ul>	<p>Refer to the detailed discussion provided in the Issues section under the headings '<i>Heritage, Height, Bulk &amp; Scale</i>' and '<i>Clause 4.6 request to vary a development standard</i>'.</p>

Issue	Response
<ul style="list-style-type: none"> <li>The development is overbearing on the residential properties along the lane</li> </ul>	
<p><i>Impact on character of area and heritage</i></p> <ul style="list-style-type: none"> <li>The development is not in keeping with the character of the area</li> <li>Impact on the heritage significance of the adjoining church</li> <li>Inappropriate scale and design</li> </ul>	<p>Refer to the detailed discussion provided in the Issues section under the heading '<i>Heritage, Height, Bulk &amp; Scale</i>' and the SLEP 2012 compliance table under '<i>Design Excellence</i>'.</p>
<p><i>Construction impacts</i></p> <ul style="list-style-type: none"> <li>The submitted preliminary construction plan is insufficient</li> <li>Obstruction of lane</li> <li>Health impacts from dust, construction noise and asbestos</li> <li>Structural damage to adjoining heritage item</li> <li>Council rangers should undertake daily patrols of Elizabeth Lane during construction to deter illegal parking</li> <li>Residents should be given parking permits during construction in case they cannot access their garages</li> </ul>	<p>Appropriate construction management conditions are recommended to manage noise, waste, dust and traffic.</p> <p>A condition of consent is recommended requiring dilapidation reports will be required to be prepared for the properties directly immediately surrounding the subject site. It is recommended that the relevant property owners permit access to the site by the applicant's consultant to enable preparation of the dilapidation reports.</p> <p>If any unlawful parking or non-compliance with the conditions of consent, residents are advised to contact Council and/or the Accredited Certifier for the development.</p>
<p><i>Reflectivity</i></p> <ul style="list-style-type: none"> <li>Concern with reflectivity of building</li> </ul>	<p>A condition is recommended stipulating that the visible light reflectivity from building materials used on the facade do not exceed 20%.</p>

Issue	Response
<ul style="list-style-type: none"> <li>Lack of reflectivity report</li> </ul>	<p>Council officers have deemed a Reflectivity Report is not required for this development.</p> <p>For further discussion, refer to the Issues section under the heading '<i>Amenity Impacts on Surrounding Residential Properties</i>'.</p>
<p><i>Damage to Heritage item</i></p> <ul style="list-style-type: none"> <li>Risk of damage to heritage item during construction, especially excavation of the basement</li> <li>The development will obstruct daylight and exacerbate existing problems with rising damp</li> <li>The developer did not consult with the adjoining church</li> </ul>	<p>As discussed above, appropriate construction management conditions are recommended including the requirement for the applicant to document the existing condition of the heritage item in a Dilapidation Report.</p> <p>The proposal complies with the day light and solar access controls contained in SDCP 2012.</p> <p>Any existing issues with rising damp with the heritage item is not considered relevant to the subject proposal.</p> <p>While desirable, applicants/ developers are not required to consult with adjoining property owners under the current planning instruments. The application has been notified in accordance with the City's Community Participation Plan.</p>
<p><i>Floor Space Ratio</i></p> <ul style="list-style-type: none"> <li>Issue raised with the calculation of gross floor area (GFA) and areas of exclusion for the open corridors.</li> </ul>	<p>The proposal complies with the maximum permitted floor space ratio permitted on the site under SLEP 2012.</p> <p>Council officer's calculation of the GFA is considered to be consistent with the definition set out in SLEP 2012.</p> <p>The calculation of the external corridors is consistent with the NSW Land and Environmental Court case <i>GGD Danks Street P/L and CR Danks Street P/L v Council of the City of Sydney [2015]</i> NSWLEC 1521.</p>
<p><i>Impact of property values</i></p>	<p>Impacts on property prices are not a planning matter consideration under Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
<p><i>Amenity impacts</i></p> <ul style="list-style-type: none"> <li>odour impacts from waste storage, cooking fumes,</li> </ul>	<p>Detailed discussion is provided in the Issues section under the heading '<i>Amenity Impacts on Surrounding Residential Properties</i>'.</p>

Issue	Response
<ul style="list-style-type: none"> <li>• Loss of access to sunlight</li> <li>• Safety and security impacts</li> </ul>	
<p><i>Inadequate documentation</i></p> <ul style="list-style-type: none"> <li>• Documentation submitted with the DA is insufficient including the Acoustic Report, Heritage Impact Statement, Remediation Action Plan</li> <li>• Acoustic Report Insufficient</li> <li>• Heritage Impact Statement insufficient</li> <li>• The reports should be prepared by independent consultants</li> </ul>	<p>Schedule 1 of Environmental Planning and Assessment Regulation 2000 contains the statutory minimum requirements for documentation to be submitted with a DA.</p> <p>Various additional information has been submitted by the applicant during the course of the assessment. Council officers are satisfied that the documents provided have enabled a thorough assessment to occur.</p> <p>However it is important to note that Council officers do not wholly rely on such reports to assess environment impacts of a proposal under Section 4.15 of Environmental Planning and Assessment Act 1979. In assessing this application, the assessment made has been informed by the advice of various internal specialists and government agencies.</p>
<p><i>Hotel use, licensed premises and antisocial behaviour</i></p> <ul style="list-style-type: none"> <li>• Concerns that the hotel will attract types of guests likely to participate in antisocial behaviour, prostitution and drug dealing</li> <li>• Concerns with another licensed premises in the Redfern area due to entrenched problems with alcohol abuse in the area</li> </ul>	<p>The proposed use as a hotel is a permitted land use within the B4 Mixed Use zone under SLEP 2012. Council officers cannot recommend refusal of the application based on an assumption on the type of guests the hotel will accommodate.</p> <p>The proposed licensed cafe is categorised as a Category B 'Low Impact Premises' under the SDCP 2012. The application was referred to the NSW Police Redfern Local Area Command and Council's Licensed Premises unit and no issues have been raised.</p> <p>Conditions of consent are recommended to ensure the hotel use and licensed premises managed appropriately to mitigate amenity impacts on the surrounding area.</p>

### Public Interest

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

### S7.11 Contribution

127. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in worker and visitor populations.
128. The most recent past use on the site was a vehicle repair station containing approximately 360sqm of GFA. The use is best defined as 'general industrial' under the City of Sydney Contributions Plan 2015. Accordingly, a credit of 360sqm of 'general industrial' floor space has been applied.
129. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$498,714.97
(b) Community Facilities	\$20,372.08
(c) Traffic and Transport	\$18,345.33
(d) Stormwater Drainage	\$0.00
Total	\$537,432.37

### Relevant Legislation

130. Environmental Planning and Assessment Act 1979.

### Conclusion

131. The development application seeks consent for the demolition of all structures on site, earthworks, site remediation and construction of a four (4) storey building for use as hotel accommodation (56 rooms), basement car park accessed from the rear lane via a car lift and an ancillary licensed café.
132. The proposal has been substantially amended from the original design and additional information supplied to address a range of issues raised with the original proposal. Remaining outstanding issues are addressed through the recommended deferred commencement and operational conditions of consent.
133. A written request has been submitted under Clause 4.6 of SLEP 2012 to vary the height of building development standard by 2.97m or 24.75%. The written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of building development standard. The proposed variation to the development standard has merit and is supported in this instance.



134. A deferred commencement consent is recommended requiring privacy measures to glazing on the western elevation, provision of a green roof and photovoltaics panels, submission of a Parking Management Plan to manage use of the proposed car lift and deletion of the valet service until separate approval is granted by the Traffic Committee.
135. Overall, the amended proposal is generally consistent with the relevant planning controls contained in SEPP 55, SEPP (Vegetation in Non-Rural Areas) 2017, SLEP 2012 and SDCP 2012. Subject to the recommended conditions of consent, the proposal is not considered to have unreasonable environmental planning impacts on the surrounding area.

**GRAHAM JAHN, AM**

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