

Item 5.**Development Application: 65-77 Market Street, Sydney - D/2019/263****File No.:** D/2019/263**Summary**

Date of Submission: The application was lodged with Council on 19 March 2019. Amended plans and documentation were submitted throughout the assessment of the application, with the latest set of plans and documentation received on 11 March 2020.

Applicant: Urbis Pty Ltd

Architect: FJMT Studio

Developer: Scentre Group and Cbus Property

Owner: David Jones Properties Pty Ltd

Cost of Works: \$295,900,000

Zoning: The site is zoned B8 - Metropolitan Centre under the Sydney Local Environmental Plan 2012. The proposed uses comprise residential accommodation, retail and commercial, which are permissible with consent in the B8 zone.

Proposal Summary: The application seeks consent for a Stage 2 development application, for a 32-storey mixed use building comprising retail, commercial and residential land uses, as follows:

- Partial internal demolition of the existing building elements, including lift core, internal walls, stairways and sections of the existing floor plates to create an atrium through the centre of the existing building from R-03 (Ground Level) to Level 12.
- Structural upgrade works and minor excavation to strengthen the existing footings and building columns to support the proposed construction of the tower above.

- Repurposing existing vehicular access and basement levels to accommodate a maximum of 101 stacked car parking spaces, 9 service vehicle spaces, 213 bicycle parking spaces, as well as associated end of trip (EOT) facilities, a basement level bar, loading, storage, plant and services.
- Conservation, refurbishment and fit out of the existing 10-storey heritage building for retail and commercial office uses.
- Construction of a 22-storey tower above the heritage item, comprising 103 residential apartments, communal facilities and building plant at podium (level 13) and roof level (level 35).
- Alterations and additions to the ground and first floor level frontages including construction of a new flagship retail entry on the corner of Market Street and Castlereagh Street, 2 additional entries on Market Street and 3 additional entries on Castlereagh St.
- Stratum subdivision of the site into 3 lots and creation of a series of easements.
- Incorporation of 27 signage zones at ground floor along Market Street and Castlereagh Street including building and business identification signage zones.

This detailed design development application is in accordance with concept development application D/2017/167/A which is presented to the Central Sydney Planning Committee (CSPC) concurrently with the subject application). D/2017/167/A proposes to amend the existing concept approval by altering the tower setbacks and heights. Subject to approval of D/2017/167/A, the subject application will be consistent with the concept development consent.

The development has been the subject of a competitive design process, with the FJMT Studio design selected as the winning scheme. The proposal is generally consistent with the winning scheme and has adequately addressed the recommendations of the design competition jury panel. The proposal seeks to utilise the design excellence provisions pursuant to Clause 6.21 of the Sydney Local Environmental Plan 2012, where up to a further 10% of floor space is possible.

During the assessment the scheme was amended and additional information was submitted, to address the concerns of the City's Design Advisory Panel and Council officers. These concerns primarily related to:

- Natural ventilation
- Solar access
- Traffic and transport
- Landscaping
- Noise
- Tower setback
- Awning alteration
- New ground floor openings and corner entry
- Privacy
- Public Art Strategy

These issues have generally been addressed and/or justified by the applicant in the amended plans and documentation. Subject to the adoption of the recommended conditions of consent, the proposal is considered to achieve an acceptable degree of compliance with the relevant planning controls and provides an adequate level of residential amenity.

The application was notified and advertised for 28 days between 27 March 2019 and 25 April 2019 in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000. One submission was received raising concerns regarding heritage. These concerns are addressed within the report.

The amended application was not required to be renotified, as it was considered that the amended proposal was not a significant change to the original proposal and did not result in any further potential impacts.

Concurrence has been received from Sydney Trains in accordance with Clause 86 of State Environmental Planning Policy (Infrastructure) 2007.

Overall, the proposal responds satisfactorily to its context, and achieves a high standard architectural design that is considered to demonstrate design excellence.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iii) State Environmental Planning Policy No. 55 - Remediation of Land
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- (vi) Apartment Design Guide 2015
- (vii) Sydney Harbour Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (viii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (ix) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
- (x) Central Sydney Development Contributions Plan 2013

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings (B1, B2, B3, B4, B5)
- C. Architectural Design Competition Report

Recommendation

It is resolved that consent be granted to Development Application No. D/2019/263 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development for a mix of land uses comprising residential accommodation, retail and commercial is permissible in the B8 - Metropolitan Centre zone and is consistent with the objectives of the zone given that it provides for a diversity of land uses that serve the needs of the workforce, visitors and wider community, and promotes active street frontages on the main streets of the City centre.
- (B) The development subject to conditions, is considered to exhibit design excellence through its positive contribution to the streetscape and public domain. The development is generally consistent with the winning scheme of a competitive design process and achieves a high standard of architectural design, materials and detailing. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
- (C) The proposal has been assessed against the aims and objectives of the relevant planning controls including State Environmental Planning Policy No. 65, the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.
- (D) The proposed development is consistent with the concept approval and modified building envelope under D/2017/167/A.
- (E) For the reasons above, the development is in the public interest.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 in DP 538917, has a street address of 65-77 Market Street, Sydney, and is commonly known as the David Jones Market Street store.
2. The site is irregular in shape and has an area of 2,533sqm. It has a 63.66m frontage to Market Street and a 56.73m frontage to Castlereagh Street. There is a fall of 2.36m from the south-eastern corner to the north-western corner of the site.
3. The site contains a 10-storey commercial building. This building has accommodated the Davis Jones department store from around 1938 to the present and is identified as a local heritage item ('I1888'). There is an existing vehicle entrance and crossover at the southern end of the Castlereagh Street frontage.
4. Adjacent to the site on the opposite northern side of Market Street is the Westfield shopping centre and Sydney Tower. The subject site is connected to the Westfield building by a pedestrian bridge over Market Street and a tunnel beneath Market Street.
5. Adjacent to the site to the north-west are several commercial buildings fronting Market Street. These include 192-192A Pitt Street which a local heritage item known as the former Fay's chambers ('I1926'), and 61-63 Market Street. These buildings are 7 and 12-storeys in height, respectively.
6. Immediately adjacent to the west and fronting Pitt Street is the City Tattersalls Club, which comprises several buildings ranging from 4 to 8-storeys in height. These are identified as local heritage items known as the former Symonds Building at 194 Pitt Street ('I1927') and the City Tattersalls Club at 196-204 Pitt Street ('I1928' and 'I1929'). It is noted that a Stage 1 Concept DA was approved by the CSPC on 14 November 2019 for the redevelopment of this site, which comprises a podium and tower up to 50-storeys in height, containing indicative residential, retail, hotel and club land uses.
7. Immediately adjacent to the south at 133-145 Castlereagh Street is the Stockland Piccadilly complex comprising a 2-level shopping centre, a 13-storey commercial office tower fronting Pitt Street known as Piccadilly Court, and a 31-storey commercial office tower fronting Castlereagh Street. The Stockland Piccadilly complex shopping centre is directly accessible from the subject site via an internal ground level opening. The Stockland Piccadilly site has frontages to both Castlereagh and Pitt Streets.
8. On the opposite north-eastern corner of the intersection of Market and Castlereagh Streets is the David Jones Elizabeth Street store at 84-110 Castlereagh Street, which is also identified as a local heritage item ('I1697'). The subject site is connected to the David Jones Elizabeth Street store via pedestrian links through the Westfield site and an underground vehicular service tunnel. Further to the north-west is Pitt Street Mall.
9. On the opposite eastern side of Castlereagh Street are commercial buildings ranging from 7 to 23-storeys in height. Further to the east is St James train station and Hyde Park.

10. Photos of the site and surrounds are shown in **Figures 1 to 10** below.

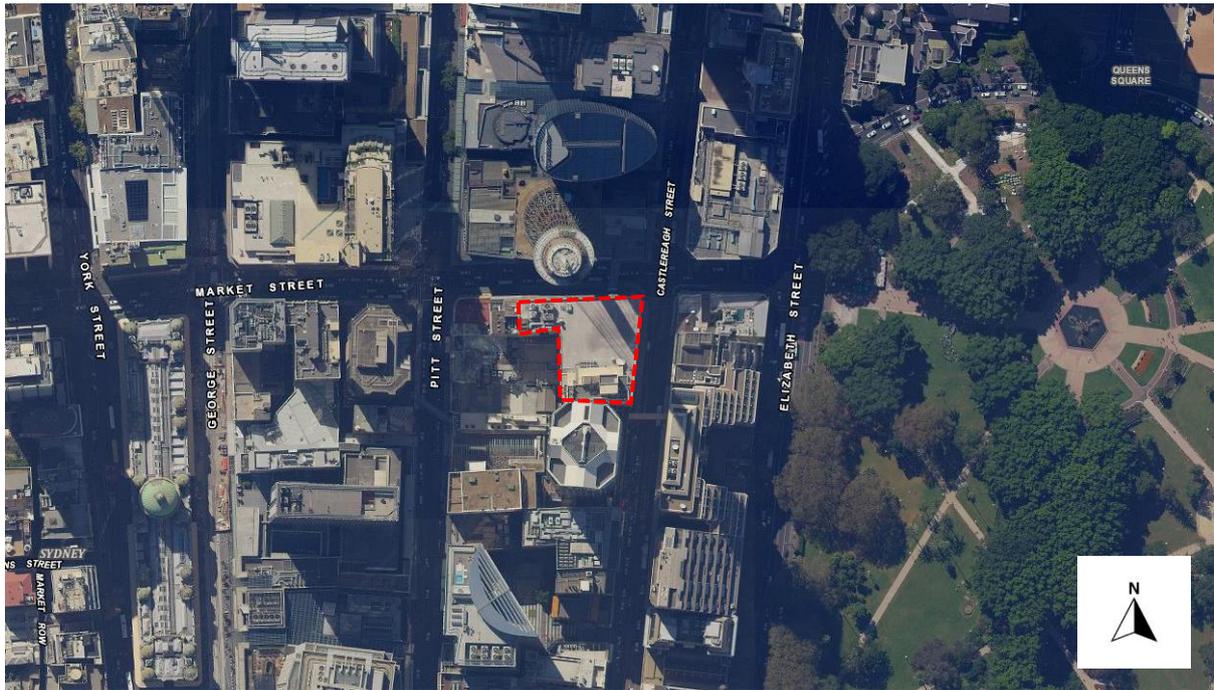


Figure 1: Location map. Site outlined in red.

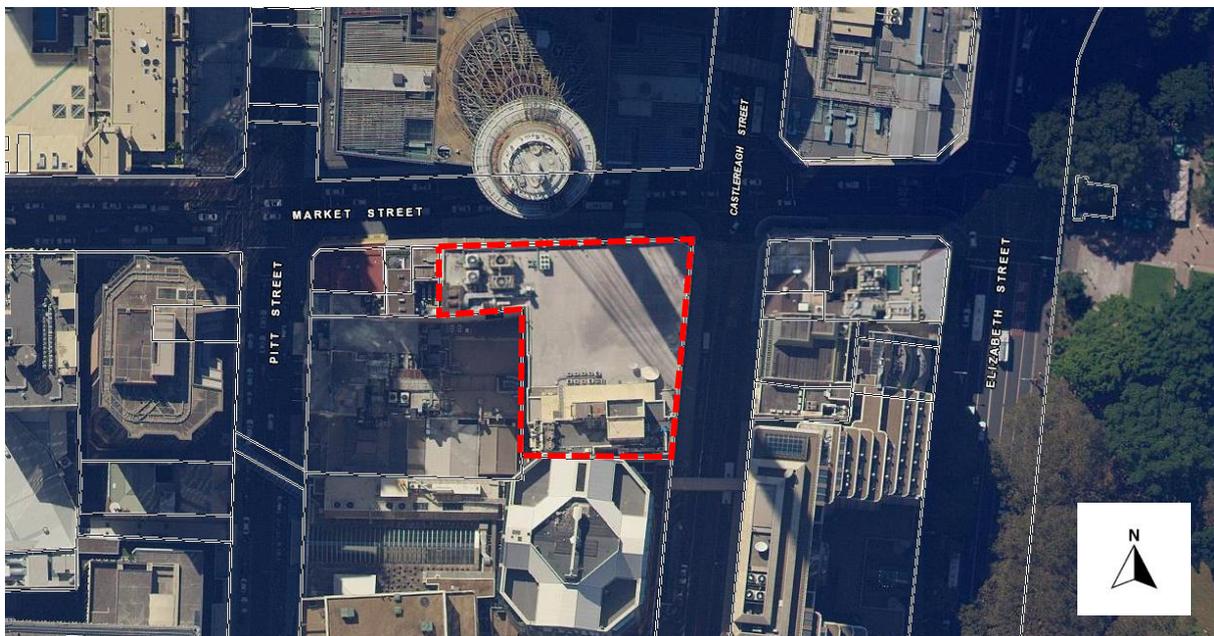


Figure 2: Aerial image of subject site and surrounding area. Site outlined in red.



Figure 3: Subject site, view facing south-west.



Figure 4: Westfields tower, looking south-west along Castlereagh Street.



Figure 5: Elizabeth St David Jones building, opposite the site.



Figure 6: Buildings across Castlereagh to the east of the site.



Figure 7: Market St, facing east.



Figure 8: Castlereagh St, facing south.



Figure 9: Buildings to the west and south-west of the site, including City Tatts.

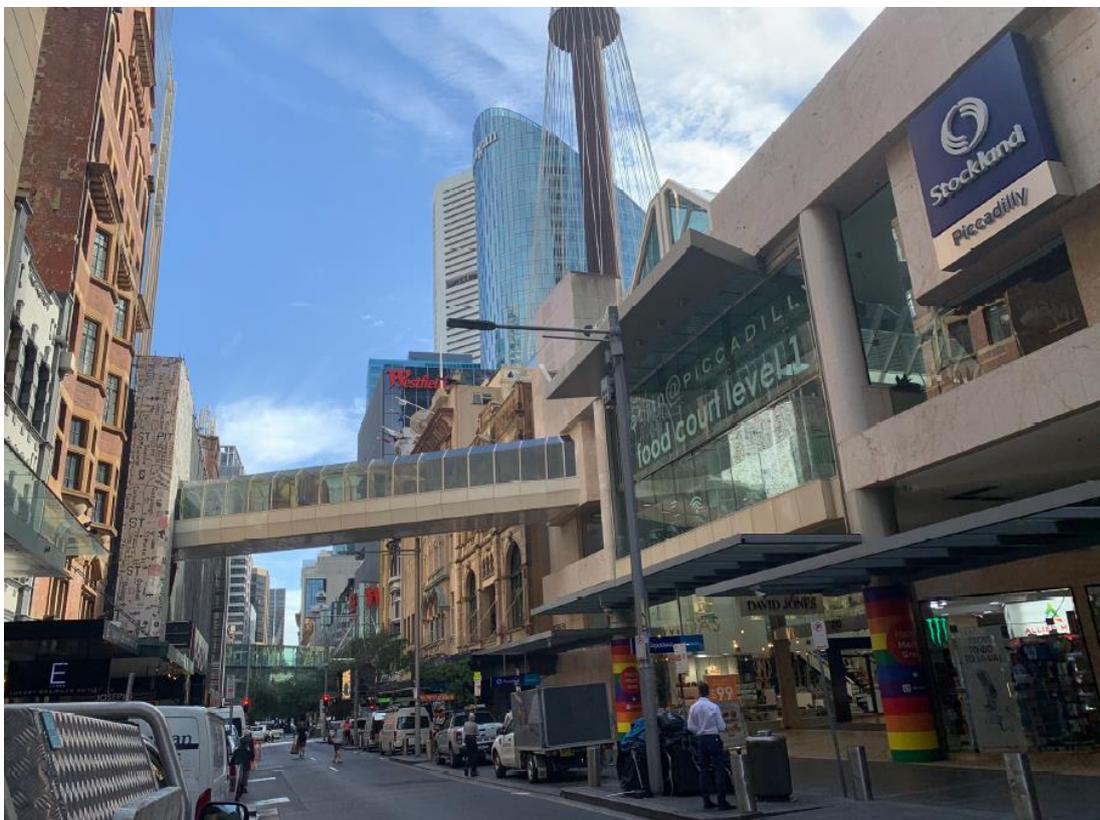


Figure 10: Buildings along Pitt St including the Stockland Piccadilly complex, City Tatts and Westfields Tower. View facing north.

History Relevant to the Development Application

History of the Site

11. The original David Jones building was designed by architects Crawford Mackellar and Bruce Partridge in 1937. The building was constructed over several phases from 1938-1969. The first 6-storeys were constructed by May 1938, with 2 more storeys constructed in 1940 and a further 2 storeys in 1952. Upon purchase of the property at 65 Market Street, an addition was completed.
12. On 9 August 2000, the Central Sydney Planning Committee (CSPC) granted development consent for a Stage 1 application for the refurbishment and conservation works to David Jones' Elizabeth Street and Market Street stores and for the staged award of heritage floor space (HFS) under D/2000/00377. The latest modification to that consent is D/2000/00377/L. The following is noted with regard to the award of HFS under the referenced consent:
 - Several Stage 2 applications were approved for the various phases of refurbishment and conservation works between 2003 and 2007. All of these approved works were completed by December 2007. Despite the award of heritage floor space approved by these consents, a restriction was not registered on title for the subject site which would prevent the proposed redevelopment of the site.
 - For the Elizabeth Street store, Condition 4 of D/2000/00377 allows a total HFS amount of 14,132sqm to be awarded over 10 stages (subsequently reduced to 8 stages). The combined total of the HFS awarded for Stages 1 to 7 is 10,111sqm. The final Stage allows an award of 4,021sqm - a Deed for this final amount is currently being finalised. Condition 4 also requires the registration of a covenant on title. It is assumed that this has already been registered against the Elizabeth St store for Stages 1 to 7.
 - For the Market St store, Condition 60 of D/2000/00377 allows a total HFS award of 10,112sqm over 10 stages. The condition also requires the registration of a covenant on title. It appears that it has not been sought for the HFS to be awarded for the Market St store.
 - As such, it is recommended that a condition be imposed on the consent of the subject Stage 2 DA, which requires that modification to D/2000/377/L is required, to ensure the removal of the HFS award for the Market Street store (i.e. delete Condition 60).
13. In 2014, the South African company Woolworth's Holdings purchased the David Jones company. In mid-2016, Woolworth's Holdings announced that it would be relocating the head office of David Jones from Sydney to Melbourne. Soon after, and after operating under the ownership of David Jones for over 70 years, the site was sold to the current owners Scentre Group and Cbus Property. A lease agreement ensured David Jones' occupancy on the site until late 2019, after which time the entire store's operations will be consolidated within the Elizabeth Street store.

Stage 1 Approval

14. On 30 November 2017, the CSPC granted development consent for a Stage 1 Development Application for a building envelope up to a height of 124.16m / RL of 144.33 (32 storeys) for a mixed-use building under D/2017/167.

15. In-principle approval was granted for the conservation and refurbishment of the David Jones building, retention of the existing basement structures, alterations to the layout basement car parking, and widening of the existing Castlereagh Street vehicular access.
16. An indicative development scheme accompanied the application which included parking, storage and services on the basement levels, retail uses on the ground floor to Level 3, commercial uses on Levels 4 to 9, plant and equipment on Level 10 and Level 32, and 108 residential units on Levels 10 to 31. For the tower form, a 10m setback from both Market Street and Castlereagh Street, a 12m setback from the western boundary and a 6m setback from the southern boundary was provided. Level 10 had no setbacks to these boundaries.

Competitive Design Process

17. Following the Stage 1 consent, an architectural design competition process (CMP/2017/5) was held for the site. Eight architectural firms, 2 of which were partnered to comprise 6 competitors, submitted a design proposal.
18. The competition resulted in the FJMT Studio design being selected as the winning scheme on 5 September 2018, following 2 rounds of presentations and jury deliberations. The Jury of the design competition resolved that the FJMT scheme best demonstrated the ability to achieve design excellence as per Clause 6.21 of the Sydney LEP 2012 and the architectural design competition Brief requirements.
19. The Jury identified the following key elements that contributed to the success of the FJMT scheme and which were identified to be retained as part of the detailed design:
 - The overall design vision and integrity including the distinctive form of the tower.
 - The character and expression of the facade including the intent of the proposed materiality, the design of the fins that extend around the building and are integrated into the design.
 - Maintaining the view corridor along Market Street by respecting the setbacks controls but noting flexibility on Castlereagh Street setback should be considered, as the Stockland building (known as 133-145 Castlereagh Street) to the south significantly encroaches on this setback.
 - Location of the lift core generally within the same location as the existing core.
 - Retention of the lift lobbies within the contractual boundaries at ground level.
20. The Jury also noted a number of matters that required further resolution prior to lodgement of a detailed design development application, as follows:
 - Amend the current design of the vehicular lifts and the basement servicing as it is not supported in its current form and must comply with Council's standards.
 - Revisit the retail planning to achieve closer compliance with the retail strategy contained in the Brief.
 - Reconsider the office floor plate to improve connectivity to either side of the lift core.

- Review the residential floor plates to achieve a residential yield that meets the Brief requirements.
- Further resolve awning, shopfront and shop entry design to achieve the required retail planning objectives.
- Address the fire engineering requirements throughout the building including the design of the fire isolated stairways serving the retail and commercial levels to ensure they have discharge points to the street.
- Reconsider the proposed building servicing strategy given to ensure critical building services have been accommodated,

21. A response to these recommendations is provided in the Issues Section.

Pre-Lodgement

22. Prior to the lodgement of the subject application, pre-lodgement discussions were undertaken with the Applicant and Council Staff on 23 November 2018, 11 December 2018, and 22 February 2019. Matters discussed comprised traffic issues including queuing space and basement and access design, as well as heritage issues relating to the structural columns, the visibility of the lift core, and awning and shopfront design.
23. It is also understood that engagement with state government authorities, including Transport for NSW and the Sydney Coordination Office with Transport for NSW, was undertaken by the applicant prior to the lodgement of the subject application.

D/2017/167/A

24. A Modification Application to the Stage 1 approval, D/2017/167/A, was lodged on 19 March 2019 to amend the approved building envelope of the Concept DA approval to accommodate the additional floor space permitted under the design excellence scheme within reduced tower setbacks. That application is being presented as a separate report for the CSPC's consideration.

Proposal

25. The application seeks consent for a 32-storey mixed use building comprising retail, commercial and residential land uses, as follows:
- Partial internal demolition of the existing building elements, including lift core, internal walls, stairways and sections of the existing floor plates to create an atrium through the centre of the existing building from R-03 (Ground Level) to Level 12.
 - Structural upgrade works and minor excavation to strengthen the existing footings and building columns to support the proposed construction of the tower above.

- Repurposing existing vehicular access and basement levels to accommodate a maximum of 101 stacked car parking spaces, 9 service vehicle spaces, 213 bicycle parking spaces, as well as associated end of trip (EOT) facilities, a basement level bar, loading, storage, plant and services. The basement loading dock and car parking stack are accessed from 2 shared vehicle lifts.
 - Conservation, refurbishment and fit out of the existing 10-storey heritage building for retail and commercial office uses.
 - Construction of a 22-storey tower above the heritage item, comprising 103 residential apartments, communal facilities and building plant at podium (level 13) and roof level (level 35).
 - Alterations and additions to the ground and first floor level frontages including construction of a new flagship entry on the corner of Market Street and Castlereagh Street, 2 additional entries on Market Street and 3 additional entries on Castlereagh St.
 - Stratum subdivision of the site into 3 lots and creation of a series of easements.
 - Incorporation of 27 signage zones at ground floor along Market Street and Castlereagh Street including building and business identification signage zones.
26. A breakdown of the development is provided as follows:
- (a) Basement 2 (lowest level):
 - (i) Car parking stackers, motorcycle parking, and end of trip facilities including bicycle storage, lockers and amenities
 - (ii) Residential storage cages
 - (iii) Plant
 - (b) Basement 1:
 - (i) Car parking stackers
 - (ii) Servicing and loading area
 - (iii) Combined waste room
 - (iv) Plant and services
 - (c) Basement / Retail Level 2:
 - (i) Retail tenancies
 - (ii) Retail amenities
 - (iii) Substation
 - (iv) Plant
 - (v) Access to existing tunnel to adjoining retail

- (d) Ground / Retail Level 3:
 - (i) Retail tenancies and storage
 - (ii) Residential lobby
 - (iii) Commercial office lobby
 - (iv) Vehicle entry point via Castlereagh Street including vehicle lift
- (e) Ground Mezzanine / Retail Level 3 Mezzanine:
 - (i) Mezzanine level of retail tenancy and retail storage
- (f) Retail Levels 4-6
 - (i) Retail tenancies and associated facilities
- (g) Levels 7-12:
 - (i) Commercial/office space and associated facilities
- (h) Level 13:
 - (i) Communal open space area and communal uses including pool, gym, terrace, function/multi-purpose room, amenities etc.
 - (ii) Plant
- (i) Level 14:
 - (i) Additional communal open space area and landscaping
- (j) Levels 14-34:
 - (i) 103 residential units, comprising 13 x 1-bedroom, 56 x 2-bedroom, 29 x 3-bedroom, and 5 x 4-bedroom.
- (k) Level 35:
 - (i) Plant

27. Plans of the proposed development are provided below.

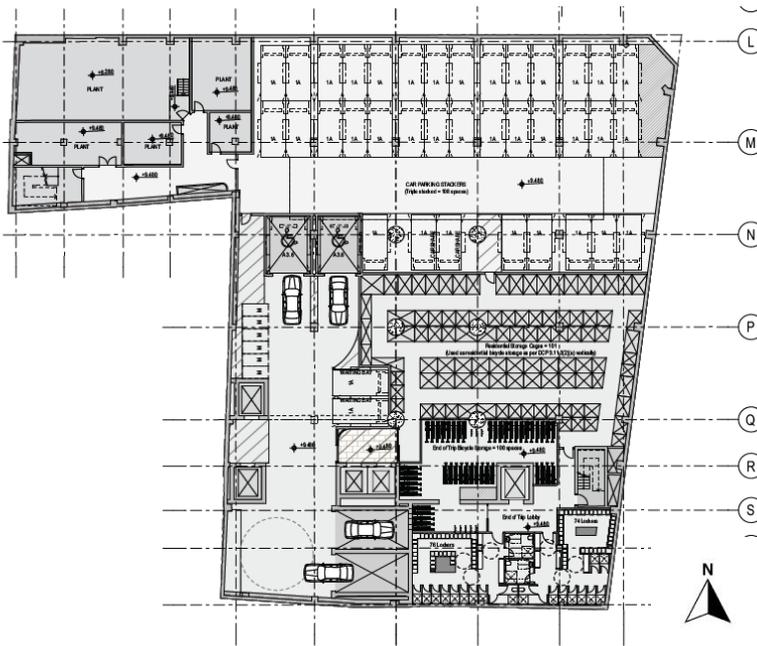


Figure 11: Basement 2

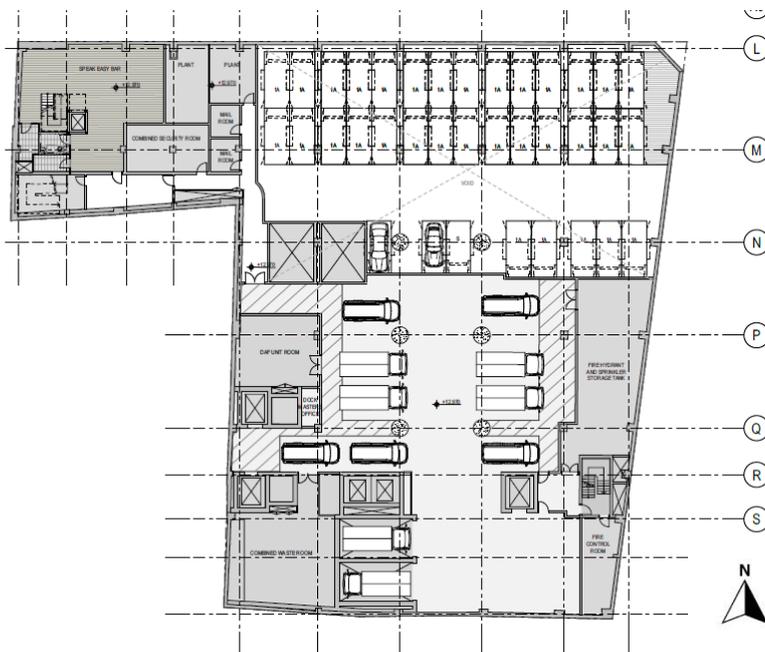


Figure 12: Basement 1

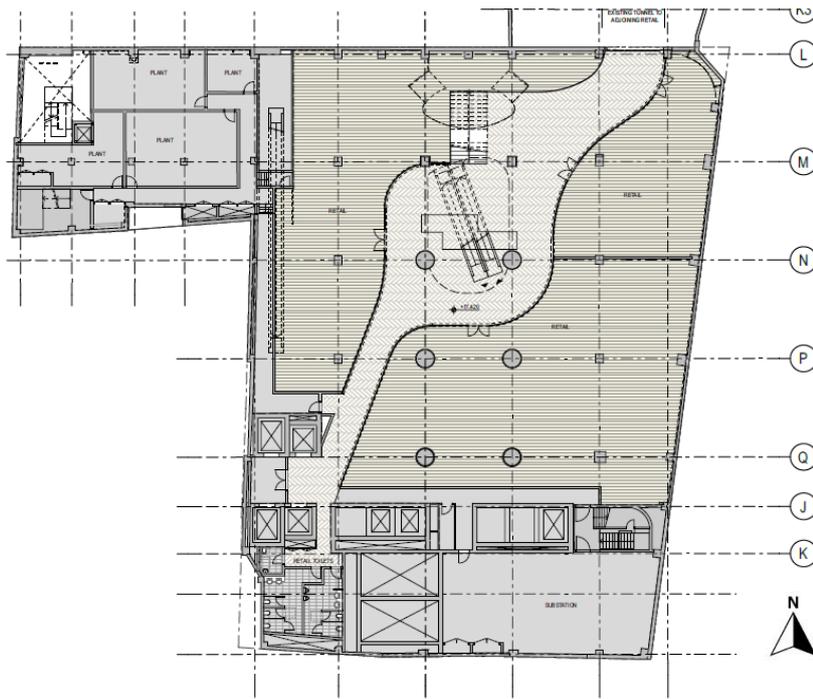


Figure 13: Retail Level 2 (Lower Ground)

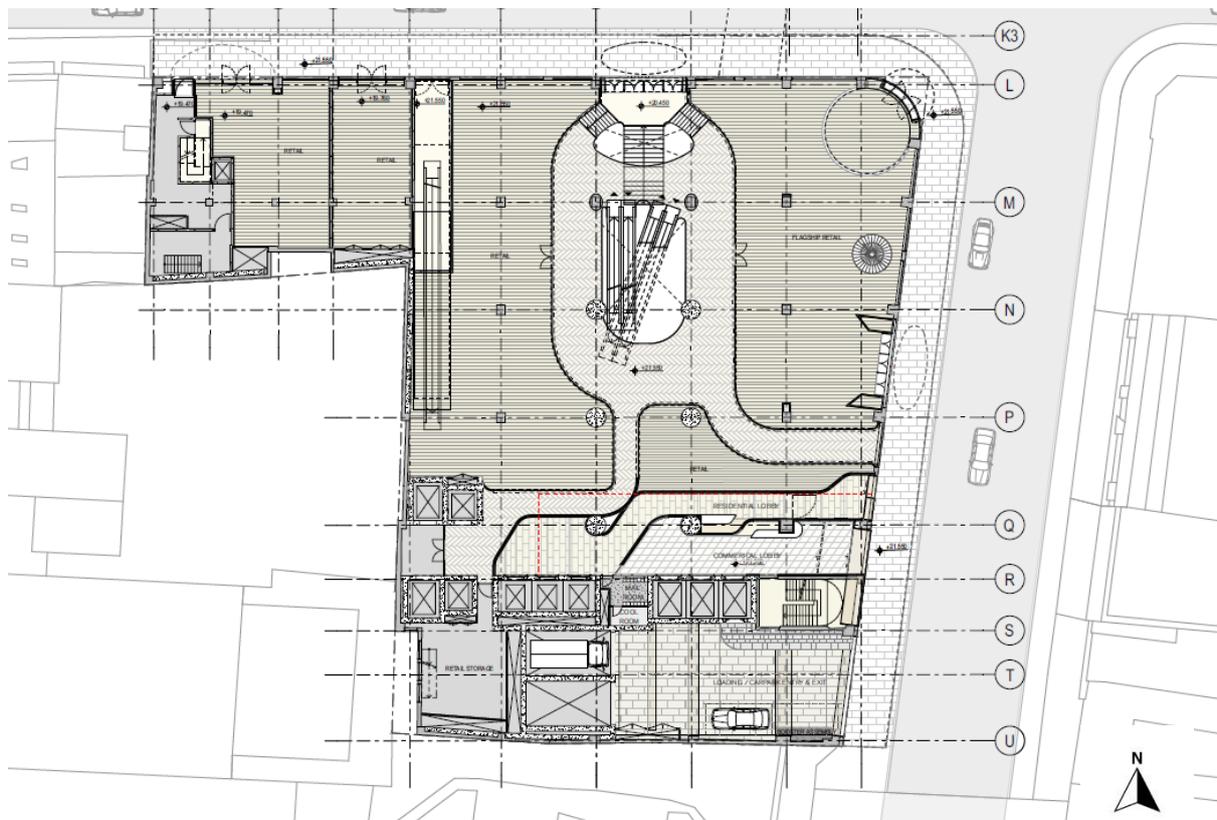


Figure 14: Retail Level 3 (Ground Floor)

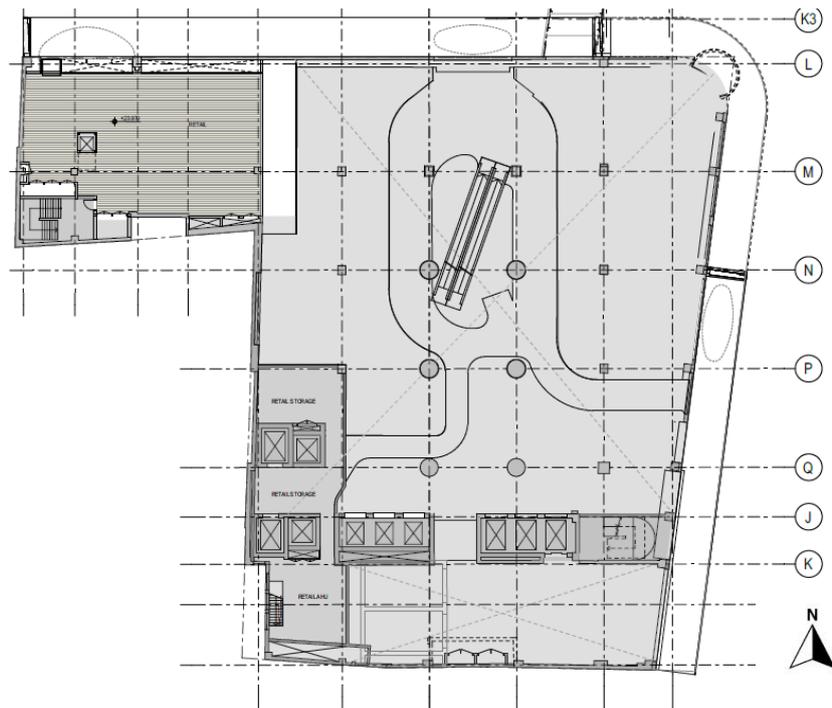


Figure 15: Retail Level 3 Mezzanine

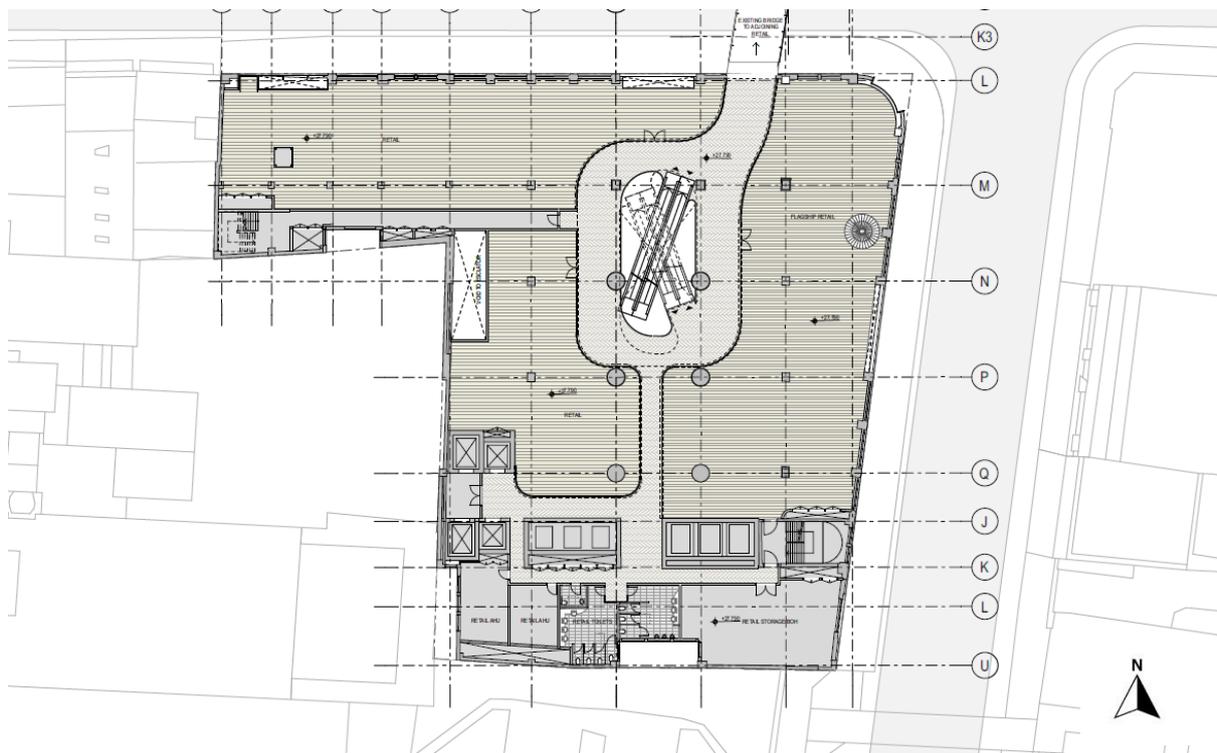


Figure 16: Retail Level 4

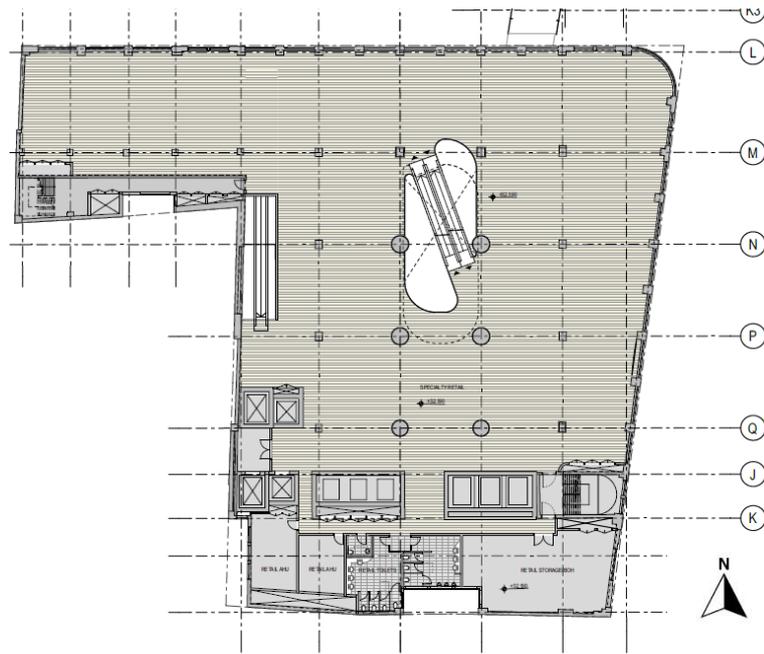


Figure 17: Retail Level 5

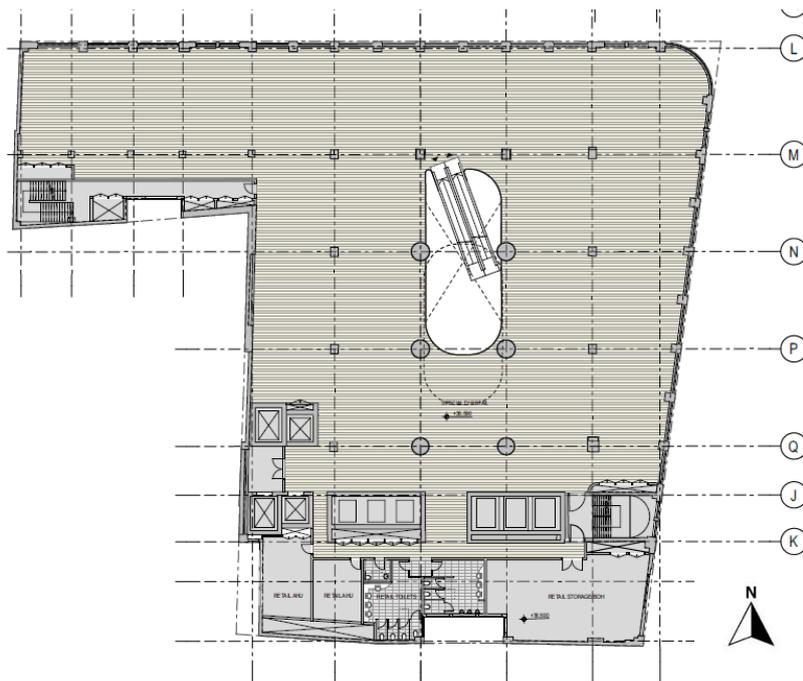


Figure 18: Retail Level 6

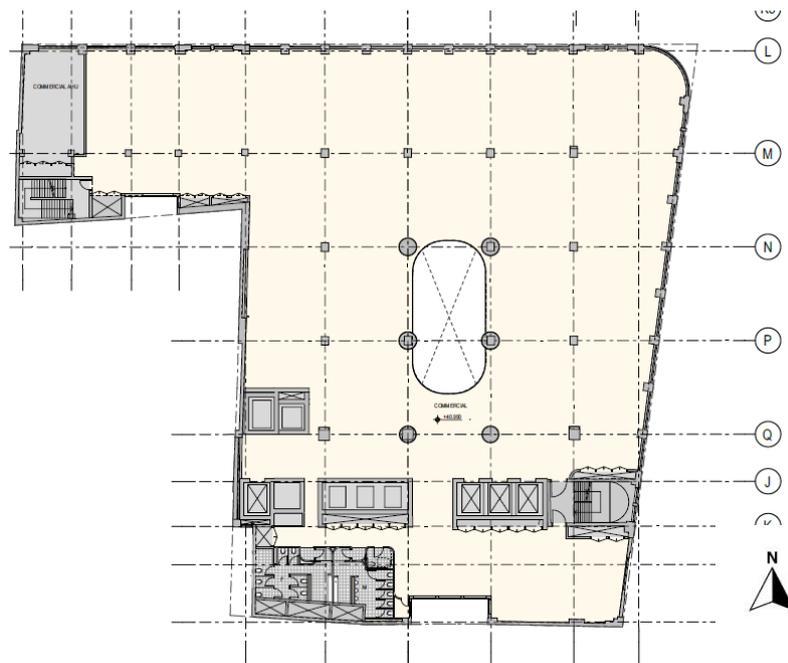


Figure 19: Level 7

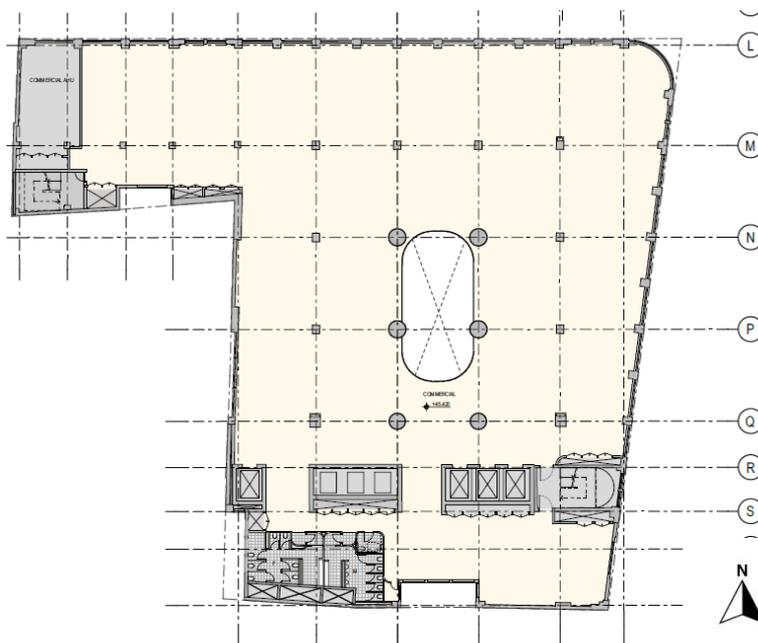


Figure 20: Level 8

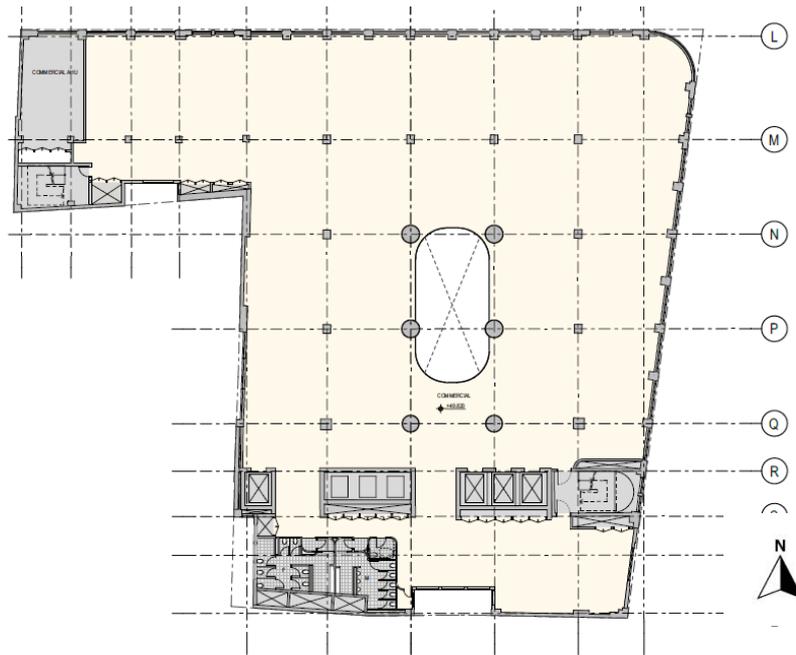


Figure 21: Level 9

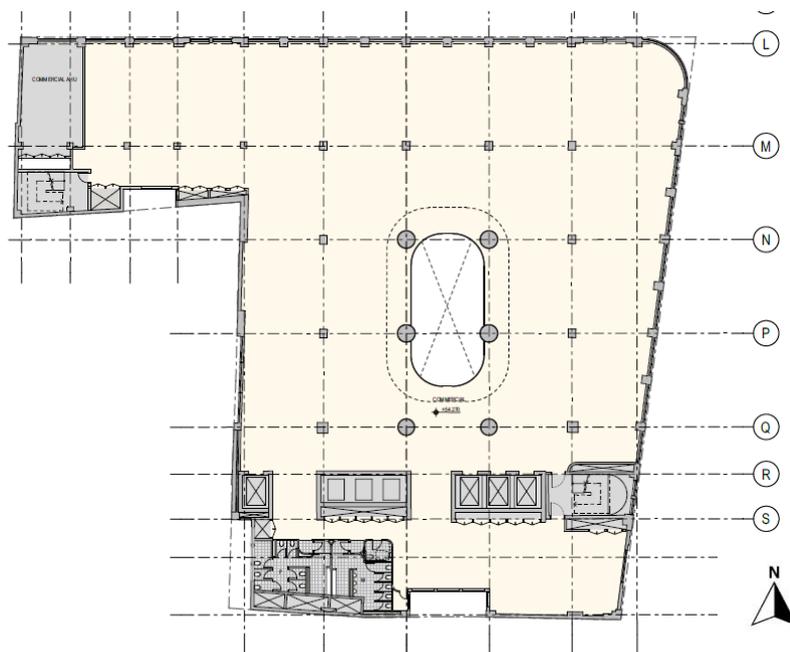


Figure 22: Level 10

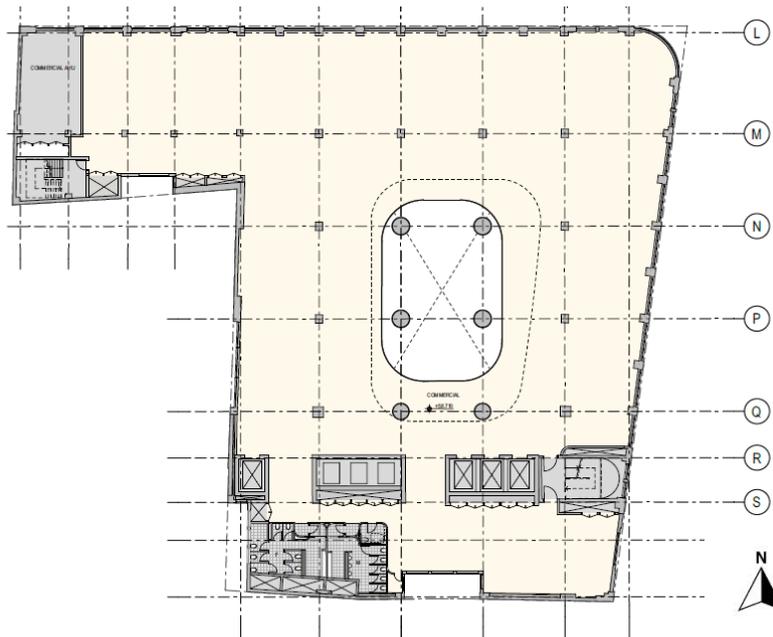


Figure 23: Level 11

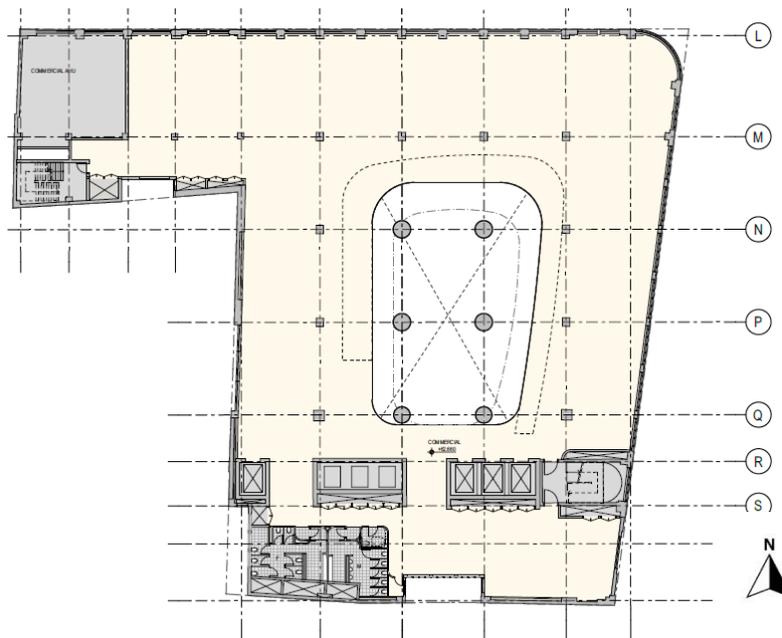


Figure 24: Level 12

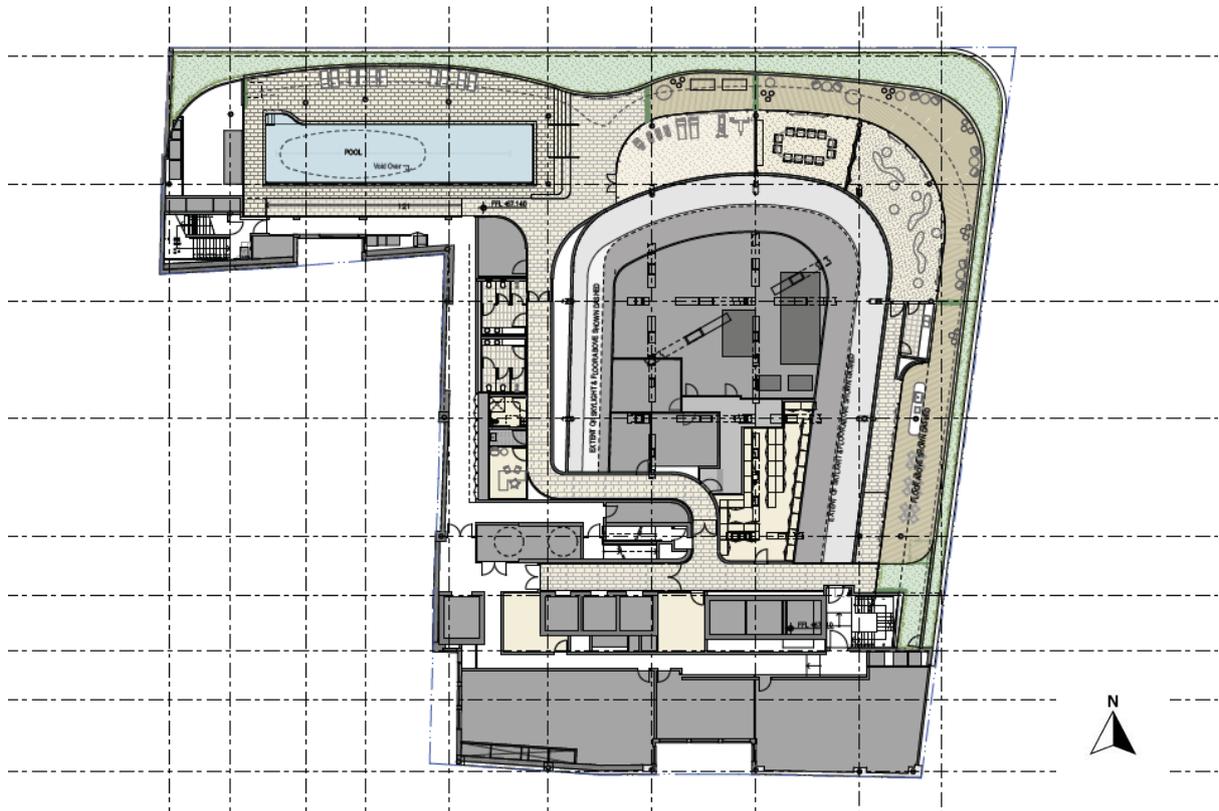


Figure 25: Level 13

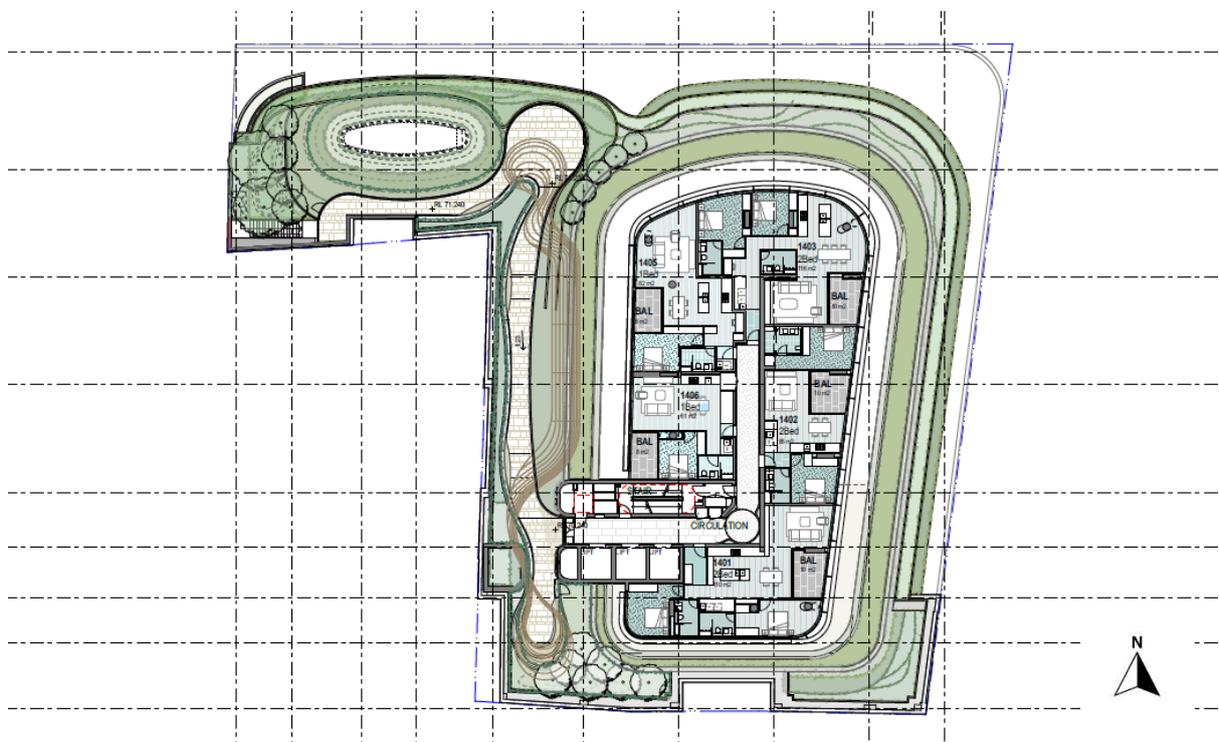


Figure 26: Level 14

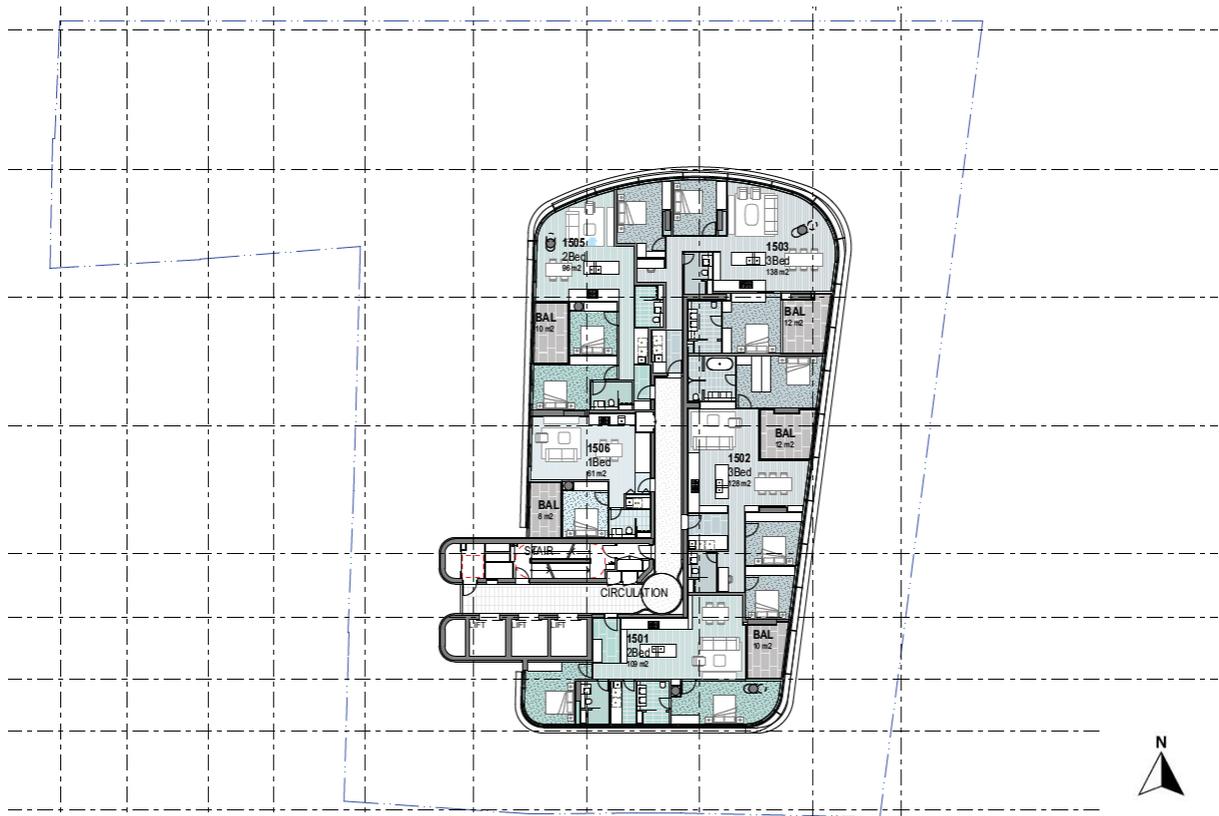


Figure 27: Level 15

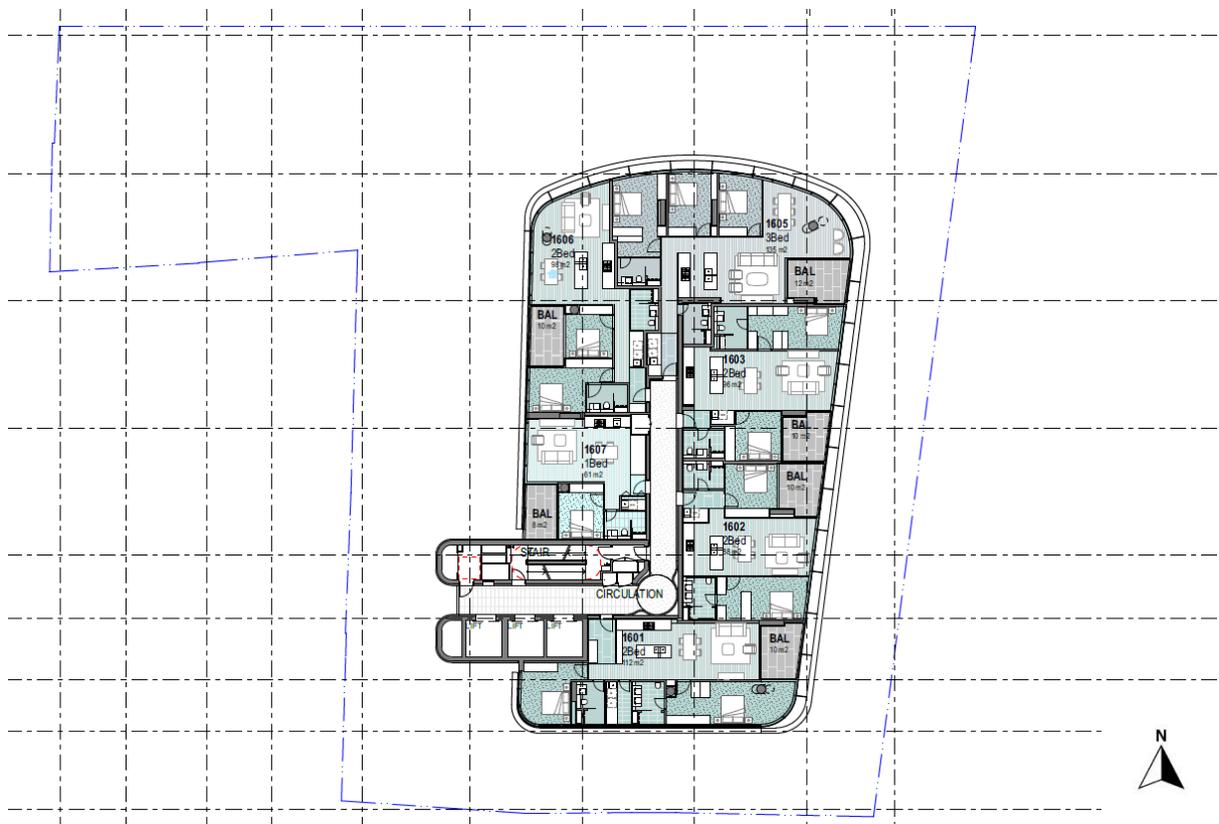


Figure 28: Level 16

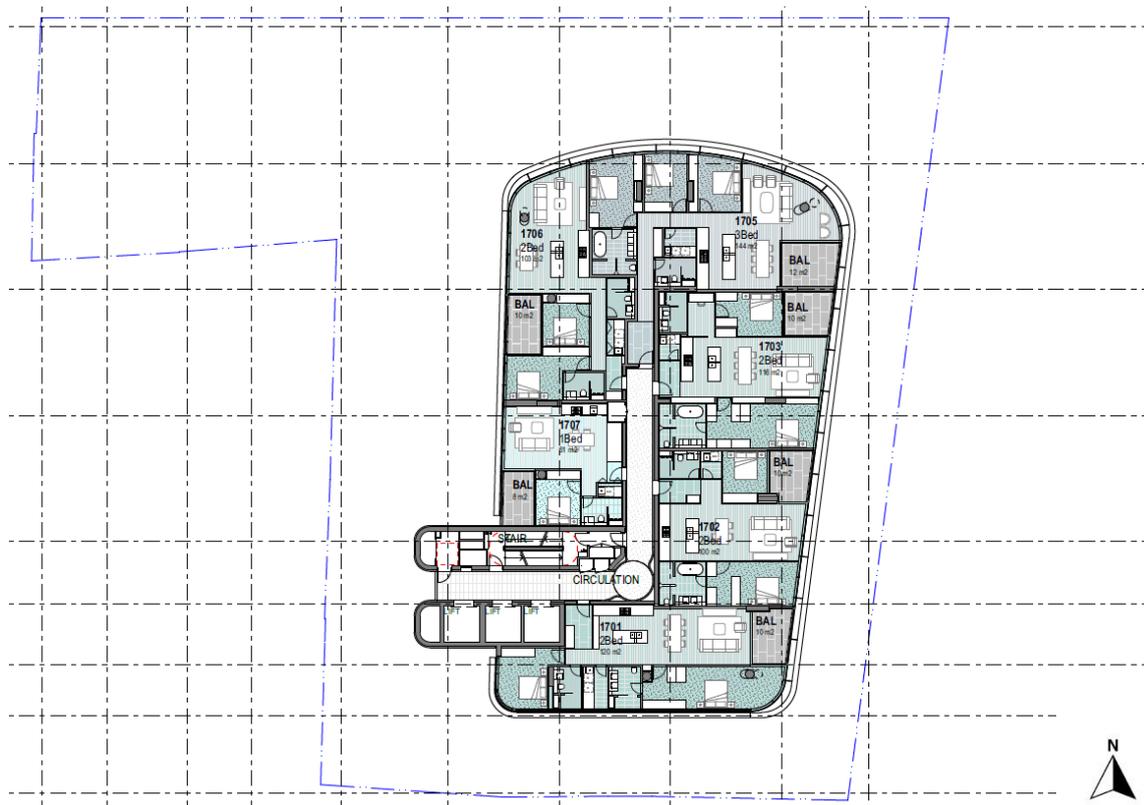


Figure 29: Level 17

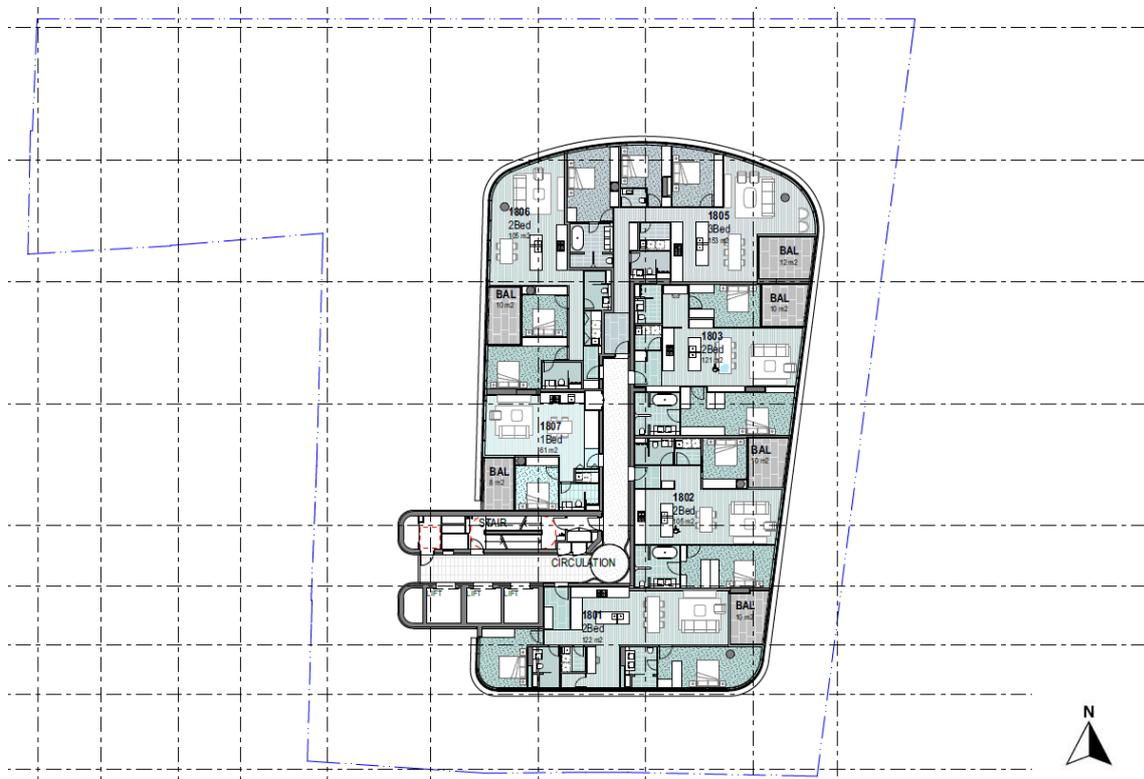


Figure 30: Levels 18-25

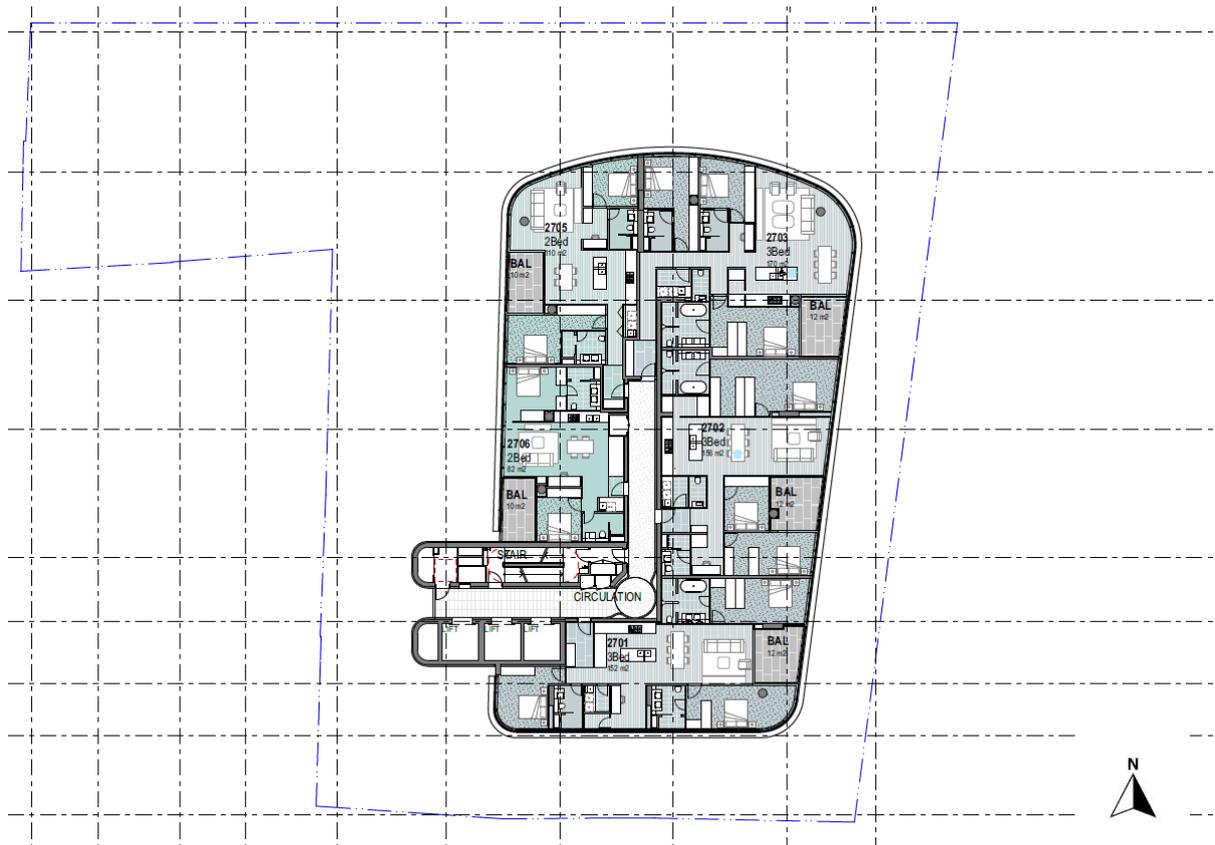


Figure 31: Levels 26-28

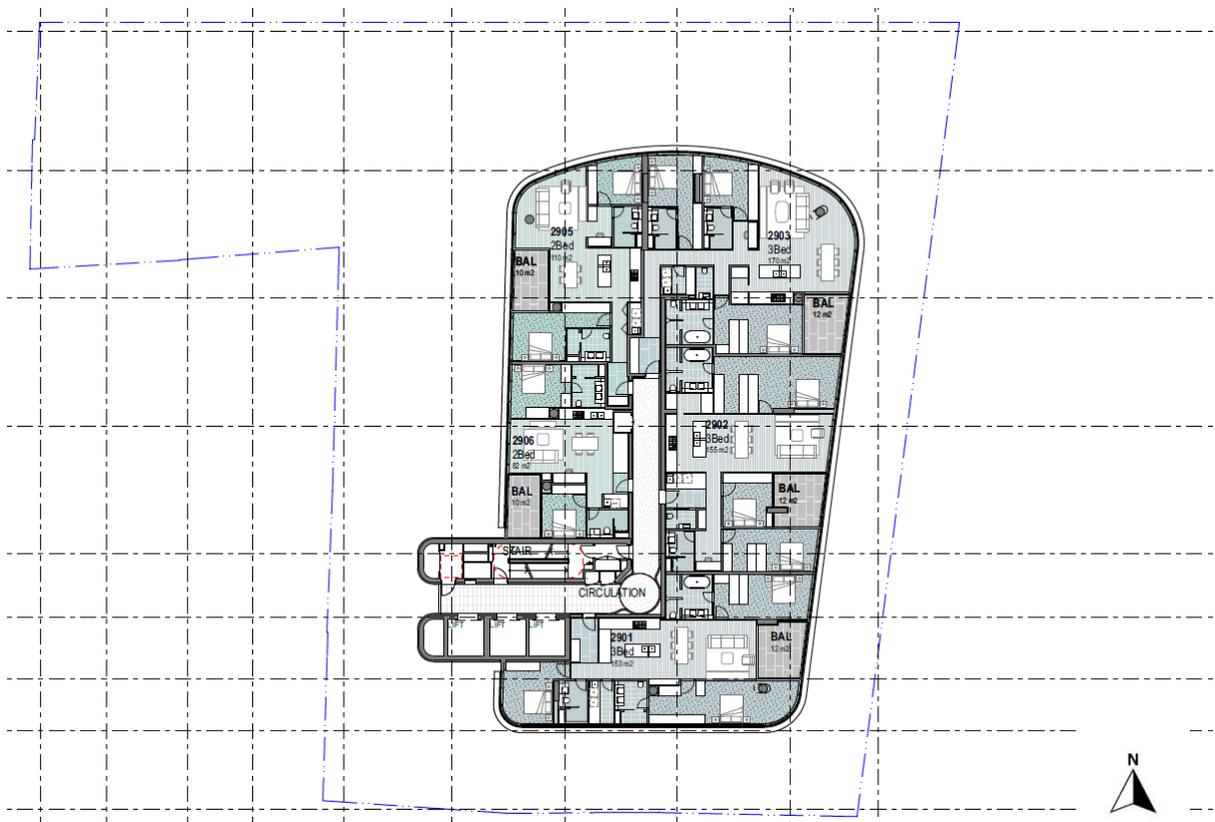


Figure 32: Level 29

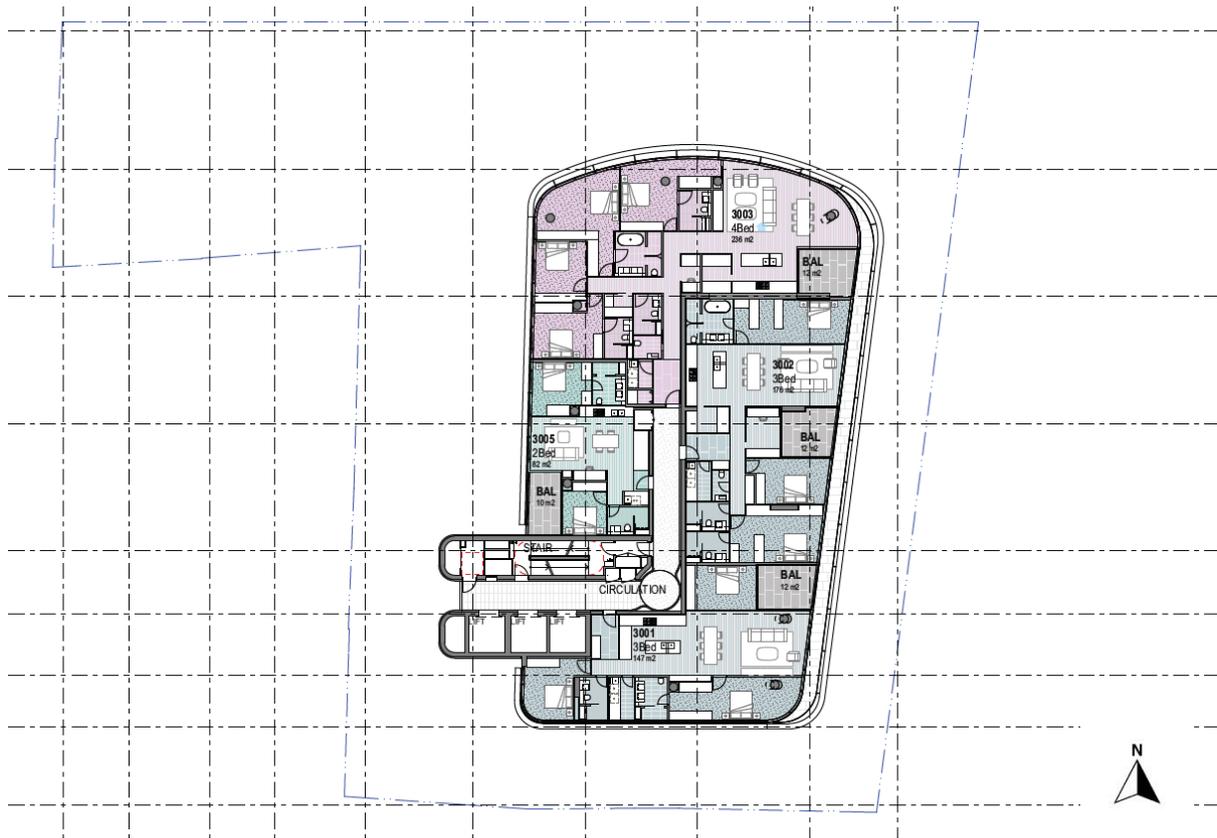


Figure 33: Level 30

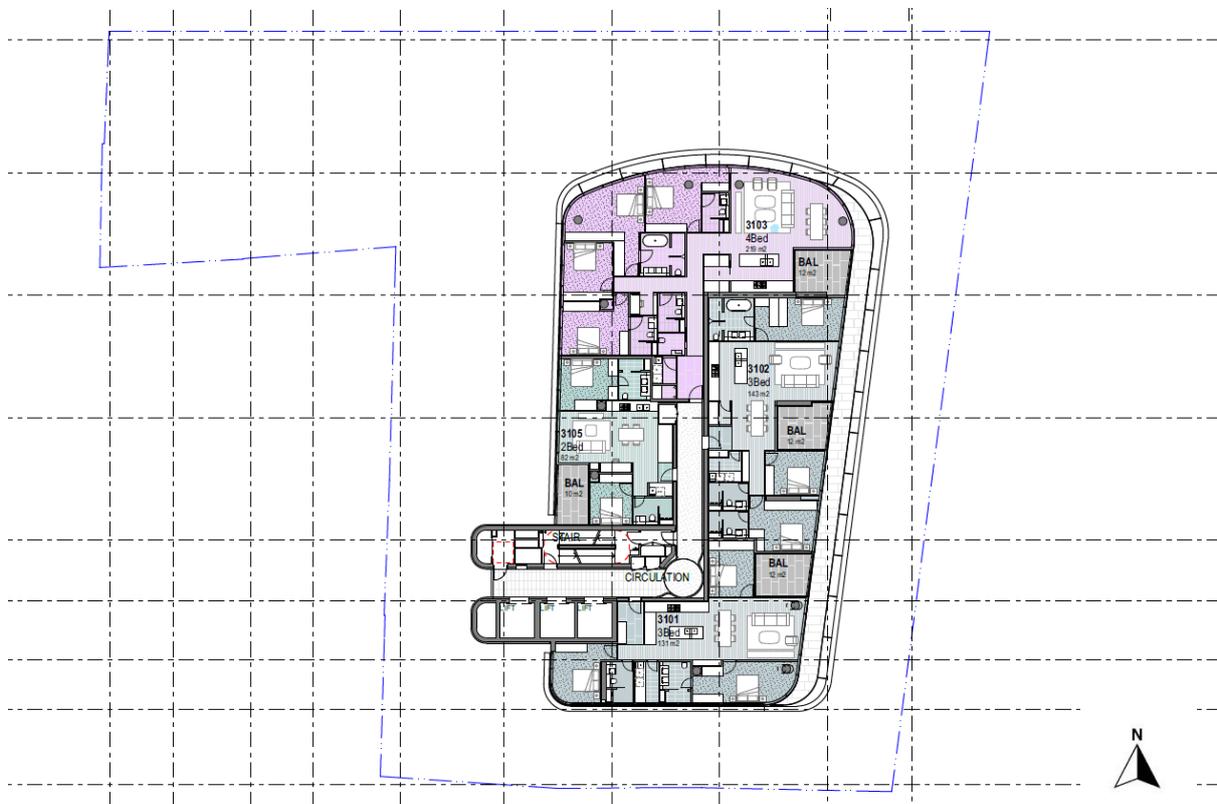


Figure 34: Level 31

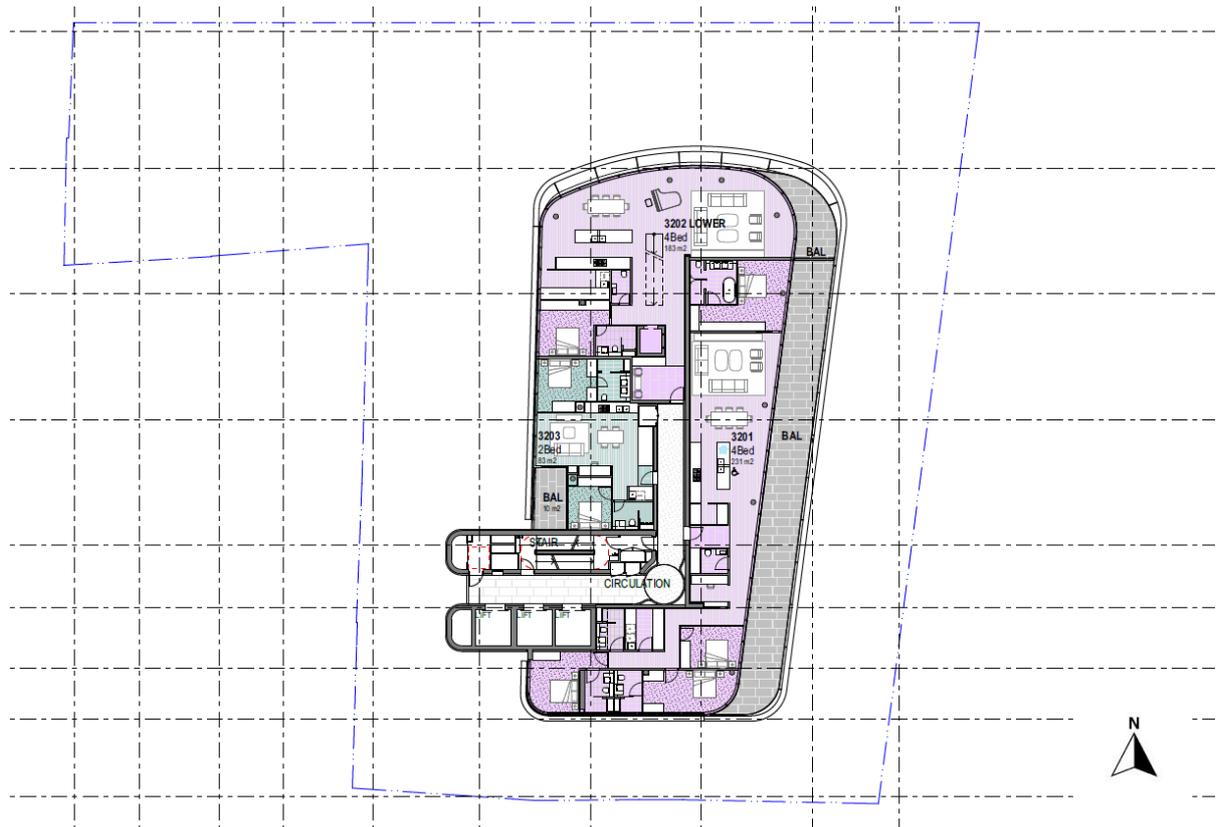


Figure 35: Level 32

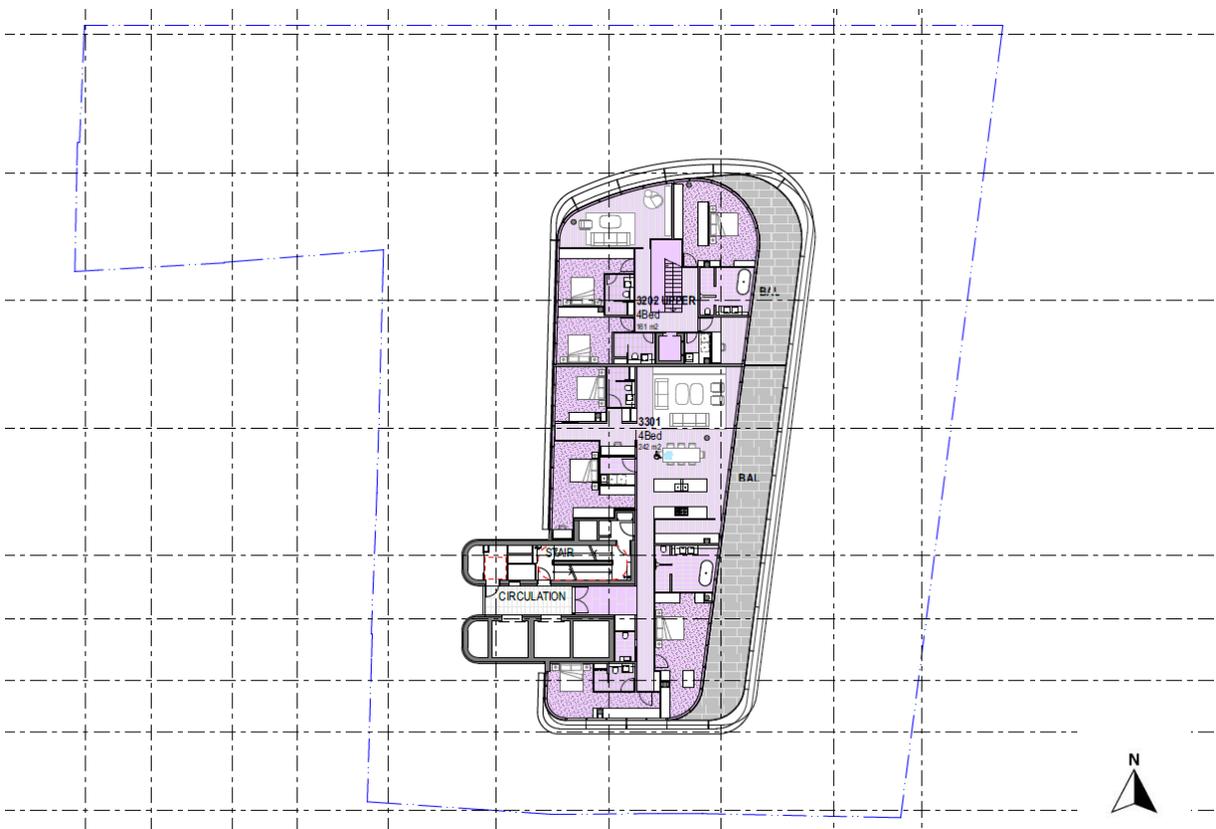


Figure 36: Level 33

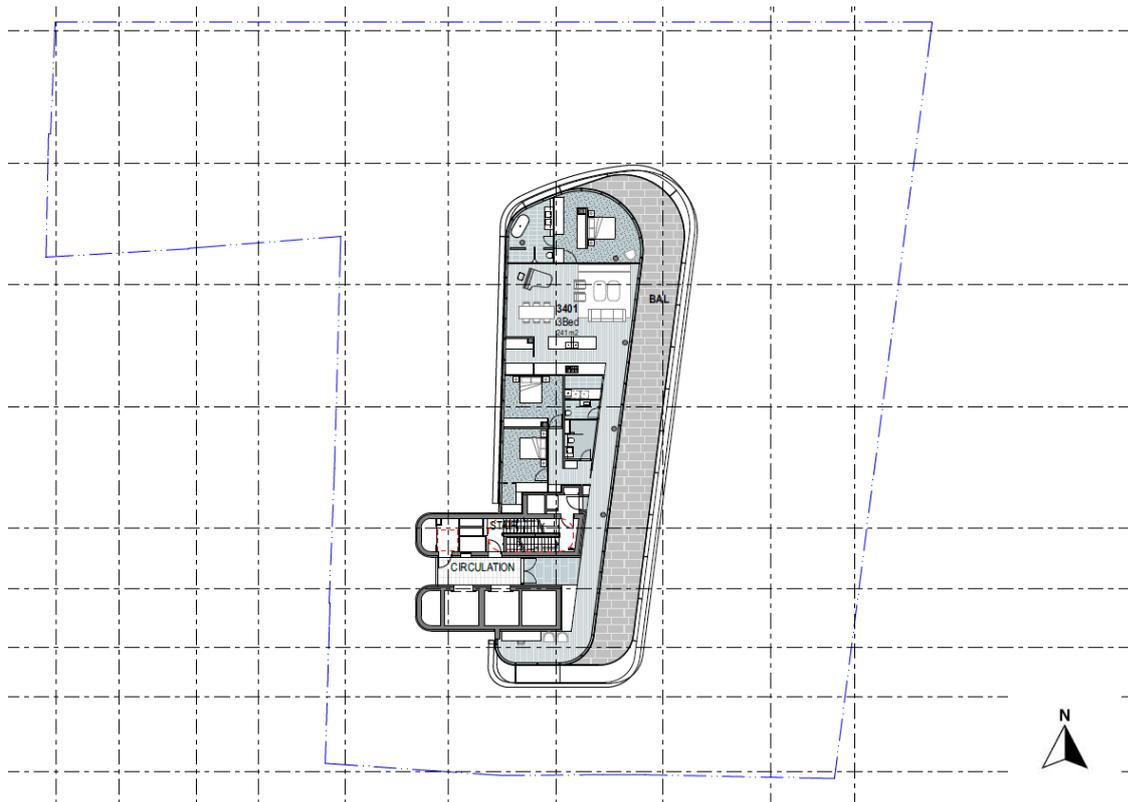


Figure 37: Level 34

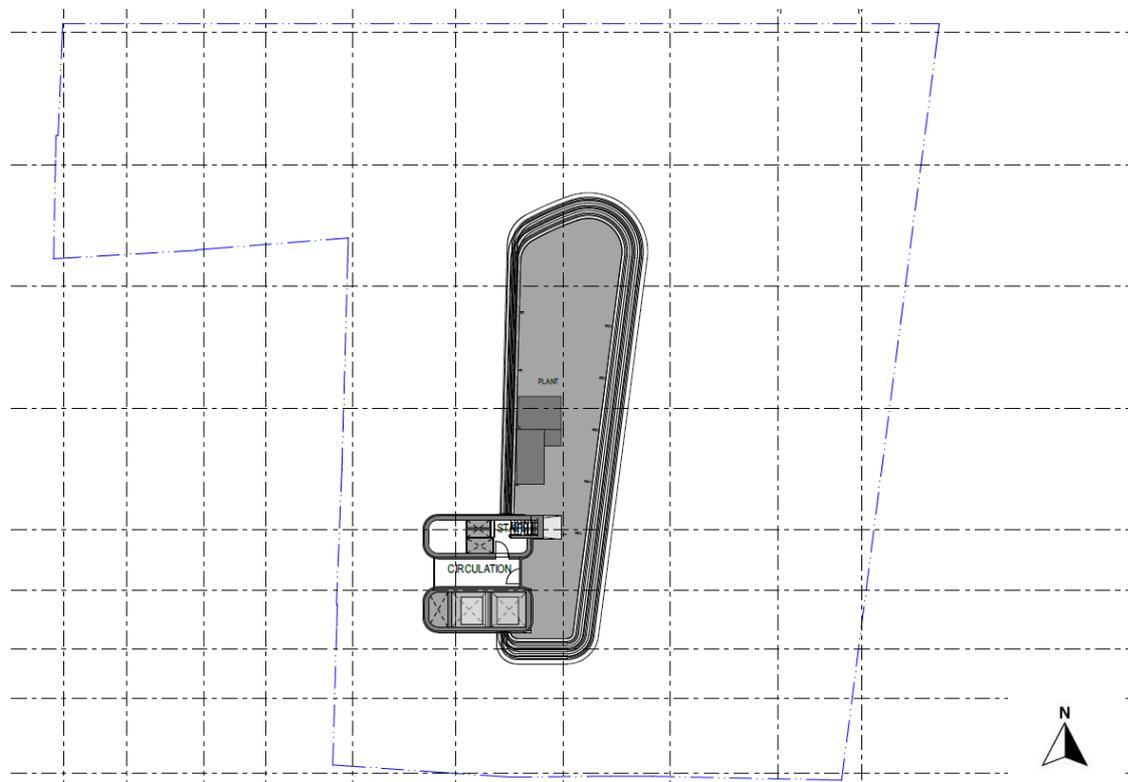


Figure 38: Level 35

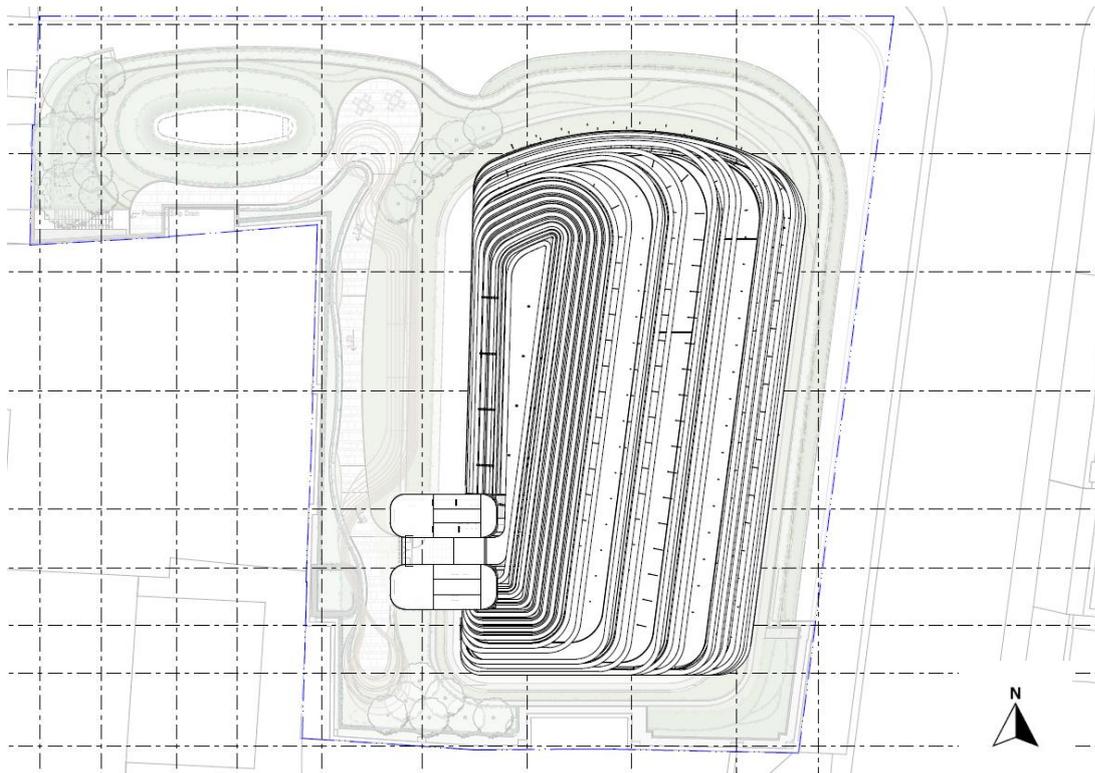


Figure 39: Roof

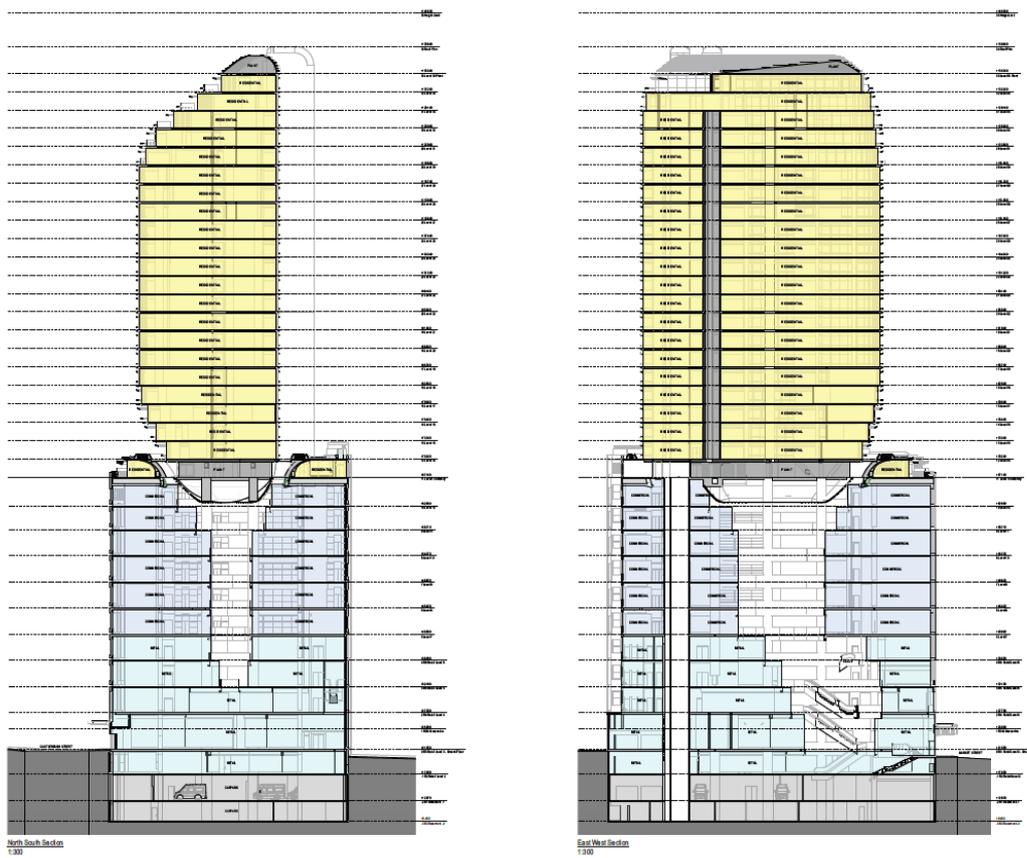


Figure 40: Sections

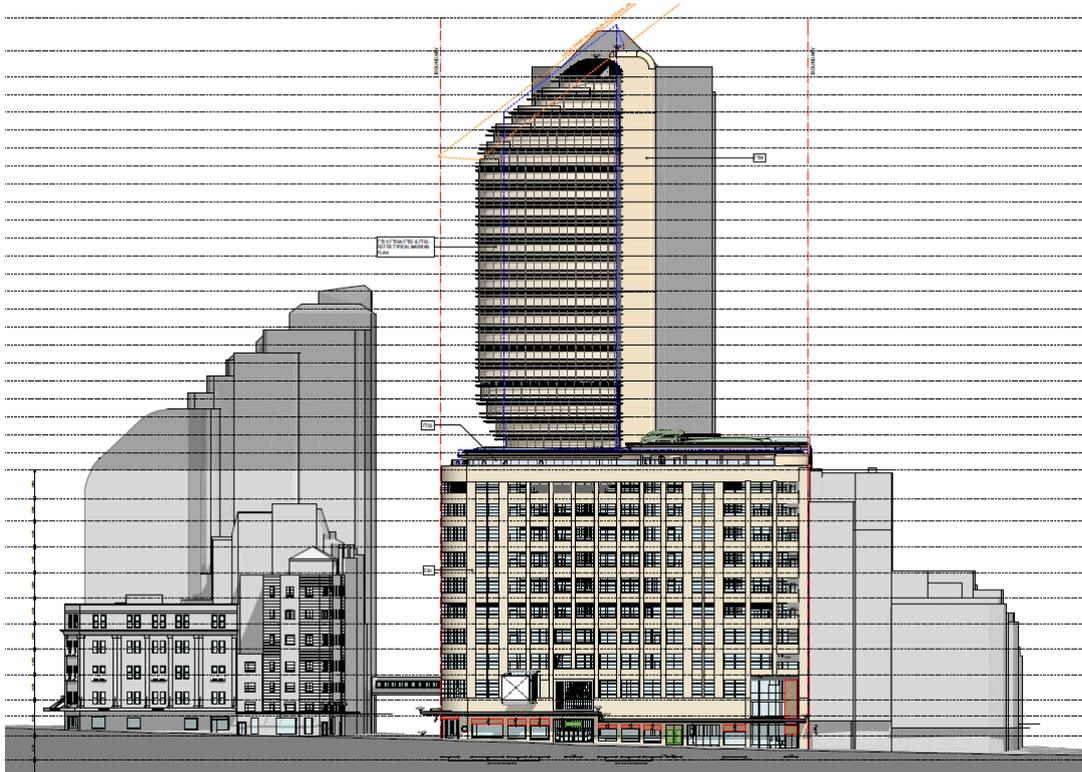


Figure 41: North (Market Street) elevation

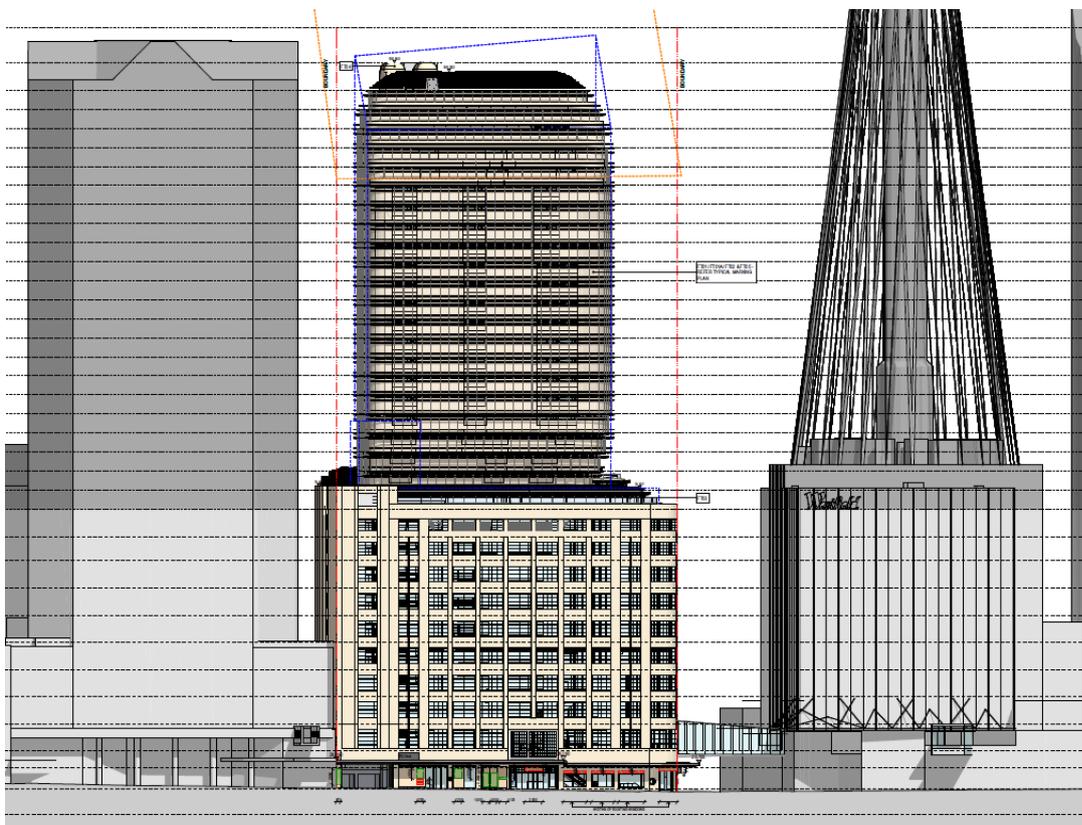


Figure 42: East (Castlereagh Street) elevation

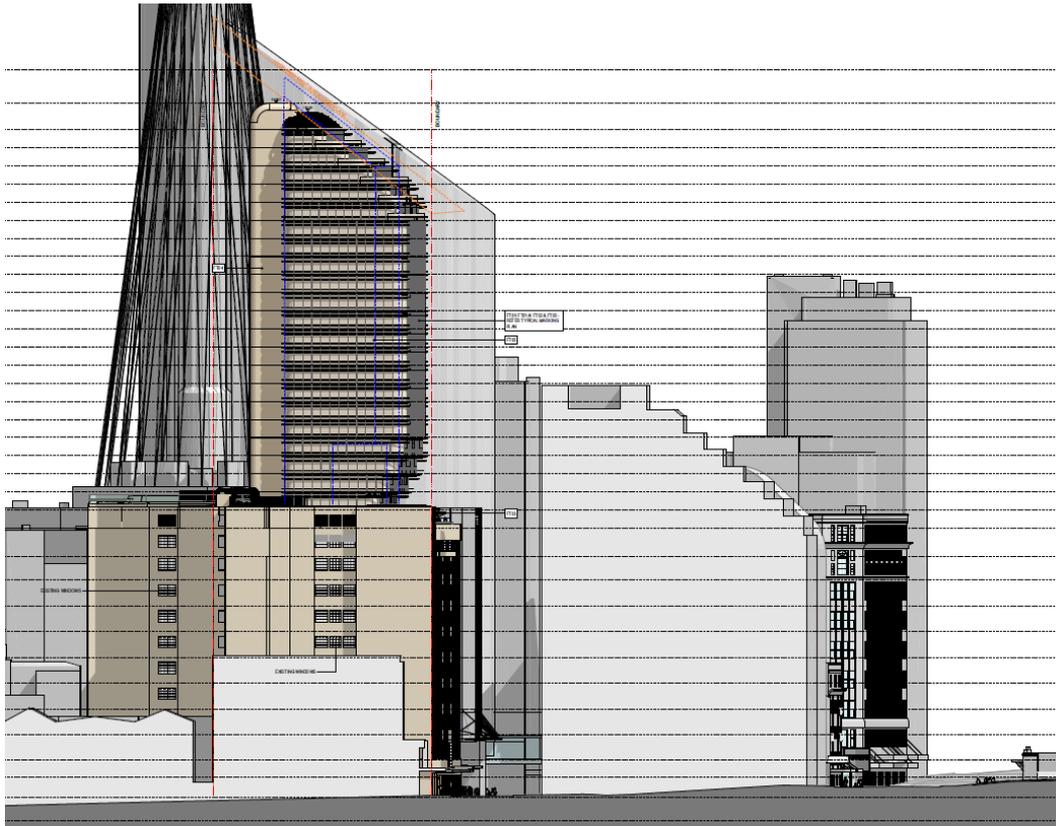


Figure 43: South elevation

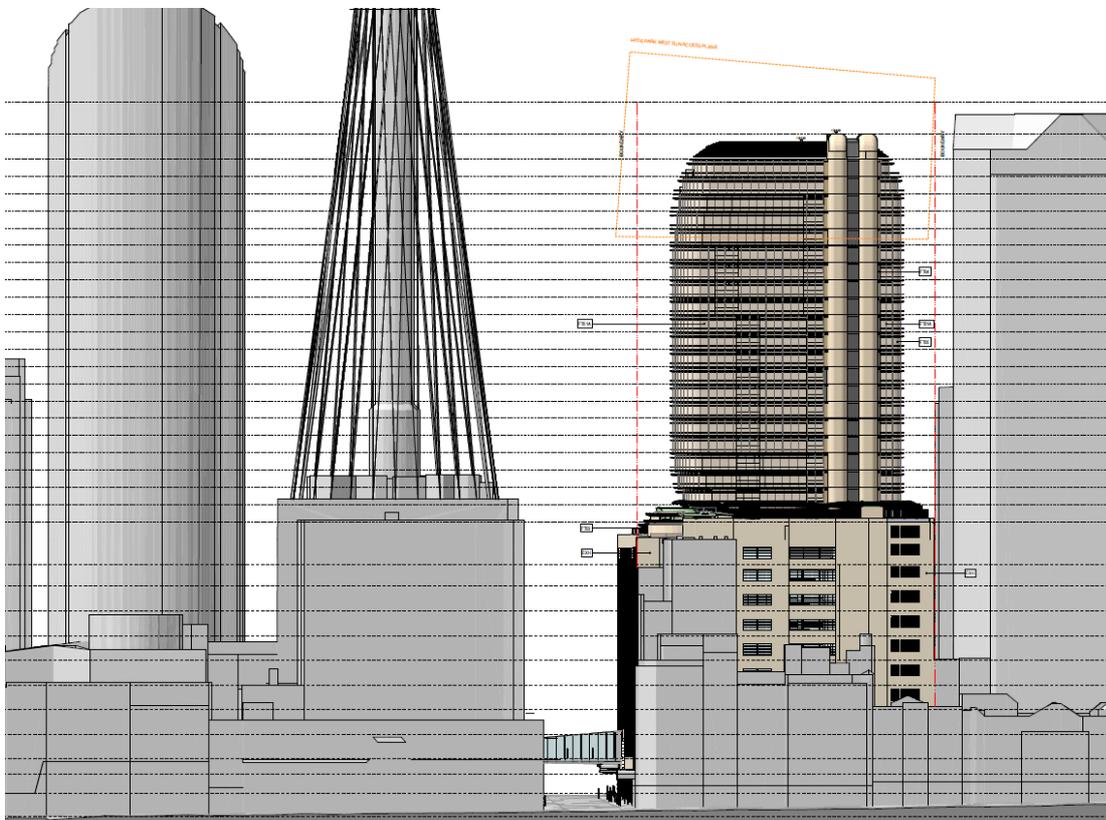


Figure 44: West elevation



Figure 45: Photomontage of proposed development, as viewed from St. James Station.

History of the application

28. During the assessment the application was amended, and additional information was submitted to address the concerns of the City's Design Advisory Panel and Council officers. A summary of the history of the application is as follows:
- (a) Shortly after the application was lodged, a preliminary letter was sent to the applicant regarding issues with the submitted Architectural Design Statement and BASIX and NaTHERS Certificate on 26 March 2019.
 - (b) In response, on 1 April 2019 the applicant submitted an amended Architectural Design Report, Statement of Environmental Effects (SEE), BASIX Certificate, and NaTHERS stamped plans and certificates.
 - (c) The application was presented to the Design Advisory Panel (DAP) at a meeting held on 16 May 2019. Matters raised by DAP regarded tower setbacks, separation, the proposed awning and entry treatment, and refinement of the top of the atrium and internal interface between the existing building and proposed tower.
 - (d) After a preliminary assessment of the application, an issues letter was sent to the applicant on 24 May 2019. Matters advised to addressed related to natural ventilation, solar access, inconsistency and lack of detail in plans, traffic and transport issues, landscaping, rail noise and vibration, noise generally, construction noise, and the requirement for a Design Verification Statement and Stormwater Quality Assessment.
 - (e) In response, on 12 July 2019, the applicant submitted a response to Council's issue letter with accompanying additional documentation.

- (f) On 26 July 2019, following the DAP meeting held on 16 May 2019, a further issues letter was provided to the applicant. Matters of concern related to the Market Street tower setback, awning alteration, new ground floor openings and corner entry, privacy and additional matters arising from the applicant's 12 July submission.
- (g) The application was again presented to the Design Advisory Panel at a meeting held on 12 September 2019. Matters raised regarded changes to the Market Street tower setback and reiteration of previous comments made about the atrium.
- (h) On 14 October 2019 the applicant submitted a response to Council's 26 July 2019 issues letter and the matters raised by the Design Advisory Panel on 12 September 2019. Additional documentation was submitted, and the proposal was amended and included an increase the Market Street tower setback, an increase the number of apartments to 103 and changes to the apartment mix, and the incorporation of 27 signage zones at ground level.
- (i) Following the October submission, a further issues letter was sent to the applicant on 29 January and an email on 4 March 2020 regarding landscaping and ESD issues. Email correspondence was also sent to the applicant regarding ventilation issues.
- (j) Final amended architectural plans and landscaping documentation was submitted to Council on 11 March 2020.

City of Sydney Act 1988

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

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

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

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

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

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

30. The City's Transport and Access Unit considers that as a result of the proposed number of parking spaces, service vehicle parking and limited on-site waiting bays that are all associated with mechanical systems (vehicle lifts, vehicle turn-table, and vehicle stacker system), there is likely to be significant queuing issues with the development as a result of the combined servicing and private parking components. As such, the project is likely to have significant impact on traffic in the CBD and required consultation with the CSTTC. The application was presented to the CSTTC on 18 March 2020, who supported and agreed with Council's concerns. Relevant conditions have been recommended, as per Attachment A of this report.

Economic/Social/Environmental Impacts

31. 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

32. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. A Preliminary Site Investigation was submitted with the development application. The report concludes that the *"potential for contamination at the site is considered to be low. It is recommended that an unexpected finds protocol be prepared so that it can be implemented in the case that (unexpected) signs of contamination are observed during localised excavation works. If the above-ground diesel tanks are removed as part of the redevelopment, some validation soil sampling at the location of the tanks should be undertaken following their removal. Based on the findings and recommendations, it is considered that the site is suitable for the proposed redevelopment"*.
34. The City's Health Unit agrees with the report's conclusion, and is satisfied that subject to conditions, the site can be made suitable for the proposed use.

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

35. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles at Schedule 1.
36. A design verification statement prepared by FJMT accompanies the application to address the design quality principles and the objectives of Parts 3 and 4 of the Apartment Design Guide (ADG). The statement therefore satisfies Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.

37. The 9 design quality principles under Schedule 1 and the relevant objectives of the Apartment Design Guide are discussed below.

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

The site is centrally located within Sydney's CBD, and amongst buildings of similar height and scale. The proposed development contributes to the vitality of the City centre.

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

The proposed tower is consistent with the approved concept envelope, and relevant height and floor space ratio controls contained in the Sydney Local Environmental Plan 2012. The proposal maintains the existing street wall height of the building on site.

(c) **Principle 3: Density**

As stated above, the proposal complies with the floor space ratio control for the site. The building accommodates 103 apartments which is appropriate for the site given its proximity to established infrastructure, public transport, and community and recreation facilities. The proposed density does not result in unacceptable levels of amenity impact for neighbouring properties or future residents.

(d) **Principle 4: Sustainability**

The proposal is compliant with the requirements of BASIX in terms of thermal comfort, and water and energy targets. A condition is recommended to ensure that the development complies with the commitments contained in the BASIX documentation.

(e) **Principle 5: Landscape**

The proposal seeks to provide generous landscaping on the podium levels of the building, to offset the lack of deep soil on site. The proposed landscape component of the scheme is extensive and is supported in principle. However, additional information is required to resolve the design and issues relating to wind mitigation measures and coordination issues. Detailed landscape conditions have therefore been recommended for imposition.

(f) **Principle 6: Amenity**

Compliance with amenity controls is detailed with regard to the relevant provisions of the ADG in the table below. In summary, the proposal presents an acceptable level of residential amenity for future occupants. Further discussion is provided in the Issues Section where the development does not comply with the design criteria of relevant objectives.

(g) **Principle 7: Safety**

The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments. The proposal provides for separate and secure entrances to the different building uses. The proposal is considered to be designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED) and is consistent with this design quality principle.

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

The proposal has the following unit mix:

- (i) 13 x 1-bedroom,
- (ii) 56 x 2-bedroom,
- (iii) 29 x 3-bedroom, and
- (iv) 5 x 4-bedroom.

This unit mix is consistent with that envisaged by the Sydney Development Control Plan 2012 and is acceptable.

(i) **Principle 9: Aesthetics**

The proposed materiality comprises the use of pale bronze materials for the tower facade and retention of the existing travertine and sandstone for the heritage building. The warm, broadly textured and articulated tower distinguishes from, but is also complementary to, the existing sandstone heritage building. The proposed materials are acceptable, and it is anticipated that the overall design will positively contribute to the aesthetic qualities of the streetscape. The amended design is considered to maintain the integrity of the competition winning scheme, which was considered by the selection panel to be the scheme most capable of demonstrating design excellence.

38. The development is considered generally acceptable when assessed against the SEPP including the above stated principles and the associated ADG. These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own DCP. A detailed assessment of the proposal against the ADG is provided below.

Apartment Design Guide

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Yes	The concept envelope approved a tower depth in excess of this requirement. As considered at part of the Stage 1 DA, given the good solar access provided by the site's orientation and elevated position of dwellings providing good ventilation, the minor non-compliance in building depth for the detailed design is appropriate.

2F Building Separation	Compliance	Comment
Up to four storeys (approximately 12 metres): <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	Yes	The existing 10-storey building on the site is to be retained which is built to the boundaries on all sides.
Five to eight storeys (approximately 25 metres): <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	Yes	As above.
Nine storeys and above (over 25m): <ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms 	No	The approved concept envelope allows for a 6m separation, if the proposal has solid walls or non-principle windows to the southern elevation. The application has been amended to maximise visual privacy on the boundary.

2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> 12m between non-habitable rooms 		

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site area.</p>	No	<p>The ADG requires 633sqm of communal open space on the site. The proposal does not meet this minimum requirement with approximately 592sqm / 23% provided. Despite this, the proposed development also meets the design guidance provided for where developments are unable to meet the minimum requirement, as follows:</p> <ul style="list-style-type: none"> It provides for significant external communal areas on the rooftop podium, as well as communal internal rooms on Levels 13 and 14, for exclusive use by residents. All residential units have compliant private open areas, with the upper level apartments having balconies in excess of the requirements. The site is in close proximity to Hyde Park, a large public open space area.

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m.</p>	No	<p>The proposal retains the existing building which covers the entirety of the site, and subsequently no deep soil planting areas are proposed. The site is a highly urbanised environment where a lack of deep soil planting areas is characteristic of development in the locality. The proposal provides generous landscaped communal areas and stormwater management initiatives are also integrated into the landscape design to offset the lack of deep soil.</p>

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

3F Visual Privacy	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6m between non-habitable rooms 	Partial compliance	<p>Apartments are generally separated in accordance with minimum separation distances, excluding the proposed south-facing apartments (with a 6m minimum of separation provided). This non-compliance is considered acceptable in this circumstance as the treatment of this facade with a combination of solid, obstructed and glazed panelling, limiting visual access from surrounding properties into the residential apartments whilst permitting solar access and natural daylight. Further, the proposal has also been amended so that the south-facing apartment typology comprises a 2-bedroom apartment (previously 3- bedroom) with windows facing east and west, orientated away from the southern boundary.</p>
<p>Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.</p>	Yes	<p>Apartment layouts are designed to locate sensitive rooms and spaces away from internal communal corridors and spaces.</p>

3G Pedestrian Access and Entries	Compliance	Comment
Building entries and pedestrian access connects to and addresses the public domain.	Yes	Each of the lift cores are provided lobbies with direct access from the street frontages. The entries are legible and accessible.
Access, entries and pathways are accessible and easy to identify.		

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	72% of apartments achieve the minimum 2 hours solar access to living rooms and private open space in midwinter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	None of the apartments receive no sunlight in midwinter.
Design incorporates shading and glare control, particularly for warmer months.	Yes	The tower's shape, height above ground, and external shading strategies including fixed bronzed glazing and aluminium louvres, help reduce the potential for glare.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	<p>All habitable rooms are to be naturally ventilated, with the area of unobstructed window openings required to be equal to at least 5% of the floor area served.</p> <p>Throughout the assessment of the application, concern has been raised if the proposed development can achieve the 5% requirement, and additional information has been provided to demonstrate this.</p>

4B Natural Ventilation	Compliance	Comment
		Upon review, Council consider that this requirement is capable of being achieved, however further documentation is required (via conditions) to ensure that the 5% is met across the development. Refer to the Issues Section for discussion.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	The residential component of the development is located in the tower, above the first 9 storey of the development.

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

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	The proposal provides for a ceiling height of 2.7m for all habitable rooms.
Non-habitable rooms: 2.4m	Yes	The proposal provides for a ceiling height of 2.4m for all non-habitable rooms.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p>	Yes	<p>The proposed development proposes the following apartment sizes:</p> <ul style="list-style-type: none"> • 1-bedroom: 60sqm • 2-bedroom: 83-125sqm • 3-bedroom: 125-240sqm • 4-bedroom: 220-350sqm <p>The above room sizes are all in excess of the minimum requirements.</p>

4D Apartment Size and Layout	Compliance	Comment
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.		
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have access to an external window as required by the ADG.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The development provides compliant sizes.
8m maximum depth for open plan layouts.	Yes	
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	

4E Private Open Space and Balconies	Compliance	Comment
Studio apartments are to have a minimum balcony area of 4m ² with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8m ² with a minimum depth of 2m.	Yes	The proposal provides for partially enclosed balcony areas that comply with the minimum requirements, and large balconies exceeding these requirements for apartments on level 32 and above.

4E Private Open Space and Balconies	Compliance	Comment
<p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>		

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	A maximum of 6 apartments is provided per level off a circulation core.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	The proposal comprises 3 lifts to service the proposed residential levels.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Trellises are incorporated into the landscape design of the communal open area on Level 14 to ensure sufficient visual and acoustic privacy is provided to living rooms and bedrooms on this level.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All internal circulation spaces are provided external windows.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	Adequate storage is provided for each apartment in accordance with ADG requirements.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Partial compliance	All apartments are capable of natural ventilation, and subject to conditions will provide for an acceptable level of acoustic amenity. Refer to the Issues Section for discussion.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

40. 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 will require a substation.

41. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days during the original notification period.

42. No response was received, so it is assumed that there are no issues with the substation proposed.

Clause 85

43. The application is subject to Clause 85 of the SEPP, given the location of the site in proximity to the rail corridor, and was required to be referred to Transport for NSW (TfNSW) for comment.

44. On 8 May 2019, TfNSW provided a response to the proposal, with recommended conditions to be included in the consent.

45. These conditions are recommended to be included in the consent and include the requirement for a Construction Pedestrian and Traffic Management Plan (CPTMP) to be submitted in consultation with the Sydney Coordination Office (SCO) within TfNSW prior to the issue of a Construction Certificate or commencement of any works.

Clause 86

46. The application is subject to Clause 86 (Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors) of the SEPP due to the proposal's proximity to the Sydney Metro City and Southwest corridor.
47. In accordance with the Clause, the application was referred to Sydney Metro for a period of 21 days.
48. On 12 June 2019, Sydney Metro advised that further documentation was required to be prepared, including an Impact Assessment Report as outlined in Section 6.2 of the Sydney Metro Underground Corridor Protection Guidelines, as well as a numeric modelling analysis to assess and quantify the impact on the Sydney Metro tunnels.
49. On 11 September and 13 November 2019, the applicant submitted the additional information requested. However, on 3 December 2019, Sydney Metro requested that further information be provided in the submitted Risk Assessment and numerical analysis. In response, the applicant submitted final documentation on 8 January 2020.
50. On 17 February 2020, Sydney Metro granted concurrence for the proposal, subject to the imposition of recommended conditions. The conditions have been included in the conditions of consent at Attachment A.

Clause 104

51. The application is subject to Clause 104 of the SEPP as the site involves traffic generating development.
52. In a response dated 10 April 2019, Roads and Maritime Services (RMS) advised that they had no objection to the application and recommended a number of conditions to be imposed.
53. These conditions are recommended to be included in the consent, and similar to TfNSW's request, include the requirement for a CPTMP to be submitted in consultation with the TfNSW SCO, RMS, and City of Sydney (with details on construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control), prior to the issues of Construction Certification.

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

54. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
55. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
 - (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;

- (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
- (d) protect and rehabilitate riparian corridors and remnant vegetation.
56. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.
57. The development is consistent with the controls contained with the deemed SEPP.

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

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

Sydney Local Environmental Plan 2012

60. The site is located within the B8 Metropolitan Centre zone. The proposed mix of uses (residential, commercial and retail) are permissible.
61. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	The site is identified as being within Area 3 of the LEP height map. No maximum height limit is applied to Area 3. The maximum height for building on this land is determined by sun access planes prescribed under Clause 6.17.
4.4 Floor Space Ratio	Yes	A maximum FSR of 12.424:1 (36,545sqm) is permitted for the site, which comprises the base FSR under the LEP (8:1) and the following additional floor space, which the applicant is seeking: <ul style="list-style-type: none"> • Accommodation floor space (office/retail) - Up to 4.5:1 • Accommodation floor space (residential) - Up to 6:1

Development Control	Compliance	Comment
		<ul style="list-style-type: none"> Design Excellence - Up to 10% <p>Based on the above, a FSR of 12.41:1 (36,514.8sqm) is proposed. The proposal complies.</p>
5.10 Heritage conservation	Yes	<p>The subject site is identified as a heritage item of local significance. The application proposes the conservation, refurbishment and fit out of the existing heritage building for retail and commercial office uses, with shopfront and internal alterations. While the proposal will result in extensive works to the heritage building, the impacts on the item are considered to be generally acceptable.</p> <p>The proposed addition of a tower above the heritage item is also considered acceptable, given that the existing steel structure is able to support the addition through the strengthening of existing footings and columns as well as the addition of a transfer structure above the heritage item. Although this will affect some original fabric of high significance of the heritage building, particularly the lift shaft, Council's Urban Design and Heritage Manager has advised that this is acceptable.</p> <p>The existing basement is also considered to be of high heritage significance. The existing connecting vehicular tunnel to the DJ's Elizabeth Street store is a rare feature and is being retained but sealed off, to ensure that any future strategic linkages between the existing buildings to improve retail logistics or optimise delivery traffic remains possible. Site investigation has revealed that the basement ramps are not of exceptional significance and may be demolished.</p> <p>Overall, the proposed development is considered to have an acceptable level of heritage impact and is supported, subject to conditions.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.4 Accommodation Floor Space	Yes	<p>The proposed development is within 'Area 2' and is therefore eligible for additional accommodation floor space, as follows:</p> <ul style="list-style-type: none"> • <i>Retail/office - up to 4.5%:</i> Proportionate to the land use proposed - $4.5:1 \times 59.14\% = 2.66:1 / 6,742.78\text{sqm}$ • <i>Residential - up to 6%:</i> Proportionate to the land use proposed - $6:1 \times 40.86\% = 2.45:1 / 6,211.23\text{sqm}$ <p>The applicant is seeking to avail of this additional floor space.</p>
6.11 Allocation of Heritage Floor Space	Yes	<p>The proposal provides 12,954sqm of accommodation floor space. In accordance with the control, 6,477sqm (being 50% of the accommodation floor space) of heritage floor space is to be allocated to the site.</p> <p>The proposal was subject to a design competition and is eligible to 3,322.28sqm of additional floor space under Clause 6.21(7) (b) where design excellence is demonstrated. In accordance with the control, 1,661.14sqm (being 50% of the design excellence floor space) of heritage floor space is to be allocated to the site. However, the control provides for a further reduction where the development was subject to a design competition that was carried out in accordance with the City of Sydney Competitive Design Policy and allows the total amount of heritage floor space to be reduced by up to 50% or 1,000sq.m, whichever is the lesser.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		Consequently, 7,138.14sqm of heritage floor space is to be allocated to the site. A condition of consent is recommended to reflect this.
6.17 Sun Access Planes	Yes	<p>The subject site is subject to the Hyde Park West Sun Access Plane.</p> <p>The sun access plane results in a maximum height of approximately 124.16 metres above ground level, which the proposal, with a maximum height of RL 139.86 (118.21m) complies with.</p>
6.21 Design Excellence	Yes	<p>Clause 6.21 (5) of the Sydney LEP 2012 requires a competitive design process to be carried out for the site as the proposed development has a height greater than 55 metres and has a capital investment value of more than \$100,000,000.</p> <p>As detailed in the relevant history section of the report, an architectural design competition was held in 2018. The proposal prepared by FJMT was the winning scheme.</p> <p>Pursuant to the provisions of Clause 6.21(7)(a) of the Sydney LEP 2012, where the proposal is the winning entry of a competitive design process and is considered to exhibit design excellence, up to a further 10% of floor space may be awarded across the site.</p> <p>The Jury in the Architectural Design Competition Report dated January 2019, concluded that the scheme was able to demonstrate design excellence.</p> <p>The proposal has retained the important features of the competition winning scheme, whilst responding appropriately to the planning controls where required.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		<p>The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The overall materiality and distinctive architectural contribution of the development to the City centre is considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.</p> <p>The development therefore satisfies the requirements of this provision.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.1-7.9 Car parking ancillary to other development	Yes	<p>The development comprises a mix of land uses, with maximum parking rate specific to each use.</p> <p>Maximum parking rates are specified as follows:</p> <ul style="list-style-type: none"> • Residential - 77 spaces • Office - 16 spaces • Retail - 13 spaces <p>The proposal provides for 101 parking spaces within the basement, which complies with the maximum car parking rates.</p> <p>Despite this, the Central Sydney Traffic and Transport Committee and Council's Transport Unit have raised concern regarding the queuing impacts as a result of the proposed parking and further information is required. Refer to the Issues Section for discussion.</p>
7.14 Acid Sulphate Soils	Yes	<p>The site is identified as containing Class 5 acid sulphate zone and is within 500 from a Class 2 and 3 acid sulphate zones.</p>

Part 7 Local Provisions - General	Compliance	Comment
		Given that excavations for the proposed development will be relatively small and localised and associated dewatering activities would be very minor, it is considered that the water table at Class 1, 2, 3 or 4 land will not be lowered below 1 m AHD for construction of the proposed redevelopment. Therefore, no further information is required in relation to acid sulphate soils.
7.15 Flood planning	Yes	<p>The northern and eastern boundaries of the site are identified as being flood prone.</p> <p>A Flood Assessment Report prepared by Aecom was submitted with the application. The proposal has been reviewed by Council's Flooding Engineers and has been found acceptable, subject to a condition requiring that the development be constructed to comply with the recommended flood planning levels and recommendations within the report.</p>
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface (145m AHD) as shown on the Obstacle Limitation Surface Map for Sydney Airport.
7.20 Development requiring preparation of a development control plan	Yes	As the proposed development is within Central Sydney and exceeds a height greater than 55m, a site-specific DCP is required to be prepared. However, in accordance with Section 4.23 of the Environmental Planning and Assessment Act, a concept development application (D/2017/167) was approved by the CPSC in November 2017.

Sydney Development Control Plan 2012

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

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>Existing frontages to Market Street and Castlereagh Street are maintained by the proposal. Active uses are provided throughout the lower levels of the podium and encourages increased pedestrian activity.</p> <p>An amended Public Art Strategy was approved prior to the competitive design process and was lodged with this detailed design application. However, it is noted that a revised Public Art Strategy is required as discussed further below in the Issues Section. An appropriate condition is recommended addressing the outstanding information prior to the development of the artwork.</p>
<p>3.2.1 Improving the Public Domain</p> <p>3.2.1.1 Sunlight to Publicly Accessible Spaces</p>	Yes	<p>Hyde Park is located to the east of the site and shadow diagrams have been submitted to show any impact on solar access between 9am and 3pm for the Winter Solstice (June 21), Summer Solstice (December 21) and Equinox (March 21) periods. The shadow diagrams indicate that the proposed development is consistent with shadows cast from the approved concept DA. However, due to the changes to the setback and height rearrangement changes to the tower, this shadow cast is slightly less than what was anticipated under the Concept DA.</p>
3.2.2 Addressing the Street and Public Domain	Yes	<p>The proposal includes a new corner entry on the corner of Castlereagh and Market Streets, new entrance to commercial and residential lobbies on Castlereagh Street, and new window and entrance changes on Market Street.</p> <p>The ground retail tenancies provide active uses with entries that are clearly legible. The residential and commercial lobbies have their separate entries off Castlereagh Street.</p>

3. General Provisions	Compliance	Comment
3.2.3 Active Frontages	Yes	The development is required to provide active frontages to Market and Castlereagh Streets, as identified on the active frontages control map. The application proposes retail tenancies, residential and commercial lobbies on the ground floor of these frontages, in accordance with the control. The proposal maintains the existing vehicle entry on Castlereagh Street.
3.2.4 Footpath Awning	Yes	<p>Awnings are required to both street frontages, replicating the active frontages control. The application proposes to conserve the existing awnings in their current location.</p> <p>It is sought to include oculus openings in these existing awnings. Council's Urban Design and Heritage Manager have reviewed this component and consider the changes acceptable.</p>
3.2.6 Wind Effects	Partial compliance	<p>An amended Wind Report has been submitted with the application. To mitigate adverse wind issues, the report recommends 11 mitigation treatments that include impermeable screens and strategic landscaping with extensive tree and hedge planting.</p> <p>Generally, the amended landscape plans have adopted these recommendations, however there remains issues in 2 locations and the extent of the trellis coverage.</p> <p>Conditions of consent are recommended to ensure that the proposal comprehensively incorporates all wind mitigation measures specified in the report.</p>
3.2.7 Reflectivity	Yes	The proposal is accompanied by a Reflectivity Report analysing glare from the proposed development and its effect on pedestrians, occupant of other buildings or motorists.

3. General Provisions	Compliance	Comment
		<p>The report advises that the proposed building materials used on the facade will have reflectivity values of less than 20%, which is within the acceptable glare limits in accordance with this control.</p> <p>A condition of consent is recommended requiring compliance with the report.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	As discussed under LEP Clause 6.21, an Architectural Design Competition was undertaken in accordance with the City of Sydney Competitive Design Policy and the Design Excellence Strategy, which was endorsed by the City.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	<p>The proposal will meet the sustainability requirements of BASIX relating to the residential component of the development, and Section J of the BCA which is applicable to commercial and retail areas.</p> <p>Additional initiatives are included in order to meet the targeted 5-star Green Star rating, 5-star NABERS Energy rating and 5-star NABERS, including high efficiency lighting, water and air conditioning systems with thermal zoning to minimise cooling or overheating of zones, rainwater capture and storage system and selection of sustainable building materials.</p>
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. As identified earlier in this report, Council's Flooding Engineers are satisfied with the proposal subject to a condition requiring that the development be constructed to comply with the recommended flood planning levels and recommendations within the flood assessment report.

3. General Provisions	Compliance	Comment
		<p>A stormwater management plan was submitted with the application, which identifies that on-site detention (OSD) will be required for the residential component of the development.</p> <p>The requirements and approval for the OSD and any proposed connection to the Sydney Water assets shall be approved by Sydney Water. A stormwater and drainage condition is recommended.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The proposal includes stratum subdivision of the site into 3 lots and creation of a series of easements. Standard conditions relating to this have been recommended to be imposed.
3.9 Heritage	Yes	The site is identified as being a heritage item. As advised earlier in this report, the proposed development is considered to have an acceptable impact on the heritage significance of the building.
3.11 Transport and Parking	Partial compliance	<p>Two basement levels are proposed to be used for car parking and a loading dock. The car parking is to be accommodated within an automated triple layer car stacker system. The basements are proposed with access provided from 2 vehicle lifts located on ground level. Vehicular access is from the existing driveway entrance via Castlereagh Street, which is proposed to be widened by 3.5m to provide a combined access for loading and parking. At ground level, 2 waiting bays are provided. A turntable is also provided on the lower-basement level (B2) with the car stacking system.</p> <p>In total, 101 stacked car parking spaces (77 for residential, and 24 for commercial/retail), 2 car share spaces, 9 service vehicle spaces, 6 motorcycle spaces and 213 bicycle spaces as well as end of trip lockers are provided.</p>

3. General Provisions	Compliance	Comment
		<p>Although the proposed 101 parking spaces within the basement are within the maximum car parking rates, the Central Sydney Traffic and Transport Unit and Council's Transport Unit have raised concerns regarding the queuing impacts associated with the quantum of car parking provided. As such, the proposed amount of car parking spaces is not supported. Refer to the Issues Section for discussion.</p> <p>The proposed 9 service vehicle spaces does not comply with the DCP minimum requirement of 16 spaces. This undersupply is not supported. A condition of consent is recommended to ensure that the development provides the minimum amount required to ensure that the proposed uses are adequately serviced.</p> <p>The waste collection will occur in Basement Level 1 (B1), by a private contractor for both residential and commercial uses. Council's Waste Management Unit and Traffic and Transport Unit have not raised an objection to this arrangement.</p>
3.12 Accessible Design	Yes	<p>16 (15.5%) of the total number of apartments are capable of being made adaptable, and 21 (20%) apartments comply with the Liveable Housing Guidelines.</p> <p>The amended proposal has been assessed by Access Australia against the relevant accessibility provisions of the Access to Premises Standard 2010, Building Code of Australia access requirements and the Disability Discrimination Act 1992. The results of this assessment demonstrate the amended proposal will provide a complying equitable and accessible environment, without significant impact on the setting and fabric of the heritage item.</p>

3. General Provisions	Compliance	Comment
		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.
3.13 Social and Environmental Responsibilities	Yes	The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments. The proposal provides for separate and secure entrances to the different building uses. The proposal is considered to be designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED) and is consistent with this design quality principle.
3.14 Waste	Yes	A condition has been recommended for the proposed development to comply with Council's Guidelines for Waste Management in New Developments 2018.
3.16 Signage and Advertising	Yes	<p>The future signage zones are identified on the submitted plans, above individual shop windows to allow branding of the different retail tenancies. Council's Urban Design and Heritage Manager has advised that in order to minimise damage to heritage fabric, this is to retain the existing travertine cladding and use pin mounted lettering.</p> <p>A condition of consent is recommended requiring a detailed signage strategy to be submitted and approved prior to issue of the final construction certificate for the building. Any future signage DA should consider the heritage matter raised above.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.1 Solar Access	Yes	As noted, 72% of apartments within the proposed development achieve direct sunlight for a minimum 2 hours between 9am and 3pm in mid-winter.
4.2.3.12 Flexible Housing and Dwelling Mix	Yes	<p>The DCP requires the following percentage mix for dwellings:</p> <ul style="list-style-type: none"> • Studio: 5-10% • 1-bedroom: 10-30% • 2-bedroom: 40-75% • 3+ bedrooms: 10-100% <p>The proposal complies with the following dwelling mix:</p> <ul style="list-style-type: none"> • 1-bedroom: 13 (13%) • 2-bedroom: 56 (54%) • 3-4 bedroom: 34 (33%)
4.2.6 Waste and Recycling Management	Partial compliance	An amended Waste Management Plan has been provided during the assessment of the application. Council's Waste Unit are not satisfied that the submitted documentation satisfies the relevant conditions, and as such, conditions are recommended so that a revised Waste Management Plan be submitted for Council's approval.

5. Specific Areas - Central Sydney	Compliance	Comment
5.1.1 Street Frontage Heights	Yes	<p>A maximum street frontage height of between 20 to 45m applies to the site. However, the Stage 1 DA envelope was approved with a street frontage height of 49.29m (the height of the retained facade). As considered in the Stage 1 DA approval, the frontage height is the height of the existing item on the site and the non-compliance is acceptable.</p>
5.1.2. Building Setbacks	Yes	<p>A minimum 10m setback is required for additions over a heritage item. As advised above, changes are sought to the approved building envelopes under D/2017/167/A. A 9m minimum setback is proposed to Market Street and a 5m minimum setback is proposed to Castlereagh Street. As outlined in the assessment report for D/2017/167/A, these non-compliances are considered acceptable for the following reasons:</p> <ul style="list-style-type: none"> • The proposed structural design indicates that the 9m setback to Market Street setback will better align with the existing column grid of the building and would necessitate less structural intervention than a complying setback. • The amended Castlereagh Street setback reflects the established scale and setbacks of the surrounding buildings, particularly the Stockland building to the south of the site.
5.1.4 Building Bulk	Yes	<p>Above a height of 45m, the control restricts floor plates to a maximum of 1000sqm with a maximum horizontal dimension of 40m. The proposal provides for a maximum floor plate of 760.5sqm and maximum horizontal dimension of approximately 40m, which complies.</p>

5. Specific Areas - Central Sydney	Compliance	Comment
5.1.6 Building Exteriors	Yes	<p>The proposed materiality comprises the use of pale bronze materials for the tower facade and retention of the existing travertine and sandstone for the heritage building. The warm, broadly textured and articulated tower distinguishes from, but is also complementary to, the existing sandstone heritage building. The proposed materials are acceptable, and it is anticipated that the overall design will positively contribute to the aesthetic qualities of the streetscape.</p> <p>The design of the tower has a curvilinear shape and horizontality that complements the retained heritage item. The recessing of the tower of the tower form immediately above the heritage item accentuates the delineation between old and new.</p>
5.1.9 Award and Allocation of Heritage Floor Space	Yes	Discussed above under Clause 6.11 of Sydney LEP. Appropriate conditions of consent are imposed to ensure the correct allocation is apportioned to the development.

Issues

Consistency Stage 1 Concept Approval

63. On 30 November 2017, a Stage 1 development consent was approved by the Central Sydney Planning Committee for the building envelope up to a height of 124.16m (32 storeys) for a mixed-use building comprising retail, commercial and residential land uses.
64. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, any subsequent Stage 2 development determination cannot be inconsistent with the Stage 1 consent.
65. Subject to the approval of the modification concurrently sought under D/2017/167/A, the proposed detailed design sought under the subject Stage 2 DA, is consistent with the Stage 1 consent.
66. The Stage 1 DA included a number of conditions of consent. An assessment of compliance with these conditions, which specifically required details to be addressed as part of the Stage 2 application are provided below.

No.	Condition	Assessment
3	Building Height	Complies. The height of the proposed development does not exceed the height access plane for Hyde Park West established by Clause 6.17 of the Sydney LEP 2012.
4	Compliance with Concept Envelope	<p>Able to comply. The amended model submitted indicate that the Stage 2 development slightly exceeds the amended Stage 1 envelope by minor protrusions. A condition of consent is recommended to ensure that the Stage 2 development fits entirely within the Stage 1 envelope.</p> <p>It is noted a modification has been sought to amend the setbacks established by the Stage 1 Consent, which is recommended for approval.</p>
5	Competitive Design Process	Complies. The proposal has been subject to a Competitive Design Process, which was carried out prior to lodgement of the Stage 2 DA, and in accordance with the City of Sydney Competitive Design Policy and the Design Excellence Strategy, which was endorsed by the City.
6	Compliance with relevant planning controls	Complies. As set out in the compliance tables above, the proposed development generally complies with the requirements of SEPP 65, the ADG, and provisions within the Sydney LEP 2012 and Sydney DCP 2012. Where there is a non-compliance justification has been provided by the applicant and relevant conditions are recommended to address matters.
7	Acoustic Report	Partially complies. An acoustic report has been submitted with the application, however further assessment is required, as detailed further below in the Issues Section.

No.	Condition	Assessment
8	Public Art	Complies. An amended Public Art Strategy was approved prior to the competitive design process and was lodged with this detailed design application. However, it is noted that a revised Public Art Strategy is required as discussed further below in the Issues Section.
9	Design Report items not approved	Complies. This condition outlines that more detailed design components included in the concept approval were not included as part of the Stage 1 consent and are to be modified or resolved prior to lodgement of the Stage 2. Ongoing design development has occurred during the Competitive Excellence Process and the Detailed DA preparation. This subsequent DA seeks approval for alterations and additions to the ground floor plane including shop fronts, and additional entries.
12	Conservation of Pavement Lights	A condition of consent is recommended to ensure that a conservation plan detailing the conservation, upgrade and ongoing maintenance of the footpath lights and vaults below is provided.
14	Cyclical Maintenance Plan	A condition of consent is recommended to ensure that a cyclical maintenance plan specifying frequency and methodologies to conduct building inspections and maintenance works to building elements and services is provided.
15	Disposal of Surplus Salvaged Materials	A condition of consent is recommended to ensure that documentation of the salvage methodology for traditional building materials is provided.

No.	Condition	Assessment
16	Heritage Items - Works to be consistent with CMP or HIS	A condition of consent is recommended to ensure that a conservation work schedule, detailing methodologies for implementation of the recommendations of the amended CMP is provided.
18	Heritage Conservation Works	A condition of consent is recommended to ensure that a schedule of conservation works is provided.
19	Heritage Interpretation Plan	A condition of consent is recommended to ensure an interpretation plan is provided.
20	Sites in the Vicinity of a Heritage Item - Major Development	A condition of consent is recommended to ensure that a protection strategy for the duration of construction works is provided.
21	Structural Integrity of Retained Building Elements	The development retains the existing structure of the heritage building, with additional structural elements to support the new tower. A Structural Report was submitted with the application.
22	Use of Heritage Consultant - Major Development	The applicant has advised that Weir Phillips has been elected as the designated conservation architect for the site development and will continue to be involved in all stages of the design development, contractual documentation and construction phases.
23	Demolition, Excavation and Construction Noise and Vibration Management Plan	Able to comply. A site-specific noise management plan was submitted with the application. Despite this, Council's Environmental Health Unit is not satisfied with the submitted documentation, and a revised plan is required, via a condition of consent.

No.	Condition	Assessment
24	Noise - General	Subject to recommended noise conditions, the proposed development will meet the requirements of this condition.
25	Land Contamination	Complies. A preliminary Site Investigation was submitted with the development application which demonstrates that the requirements of SEPP 55 have been addressed.
26	Parking Design	A plan of the basement parking has been submitted as part of the application to which Council raises concerns. Refer to the Issues section below for discussion.
28	Security Gates	The location of the security gate at the vehicular entrance on Castlereagh Street is in accordance with this condition.
29	On-site Loading Areas and Operation	Able to comply. Subject to conditions, all loading and unloading is able to be carried out within the basement levels of the site.
30	Vehicle Access Direction	Complies. The documentation submitted with the Stage 2 DA demonstrates that all vehicle enters and leaves the site in a forward direction.
31	Car Park Design Modifications	Partially complies. The documentation submitted with the Stage 2 application sought to address matters raised in the condition, however concern remains regarding queuing. Refer to the Issues Section below for discussion.

No.	Condition	Assessment
32	Car Share Spaces	Complies. The development includes the provision of 2 car parking space for the exclusive use of car share vehicles. These are located within the car stacker system to which Council raises concern. Refer to the Issues Section below for discussion
33	Construction Pedestrian and Traffic Management Plan	A condition of consent is recommended to ensure that a Construction Pedestrian and Traffic Management Plan is submitted prior to the issue of any Construction Certificate.
34	Access and Internal Circulation	Council's Transport Unit is not satisfied that the car lift and mechanical car stacking system will not result in queuing onto Castlereagh Street. Refer to the Issues Section for discussion.
35	Castlereagh Street Cycleway	Concern is raised regarding queuing as a result of the proposed parking and access arrangement, and the future use of Castlereagh Street as a separated cycleway. Conditions of consent are recommended to ensure that there are no adverse impacts on this cycleway.
36	Sydney Trains Conditions	Complies. The application has been referred to Transport for NSW who raises no objection to the proposal, subject to conditions.
37	Sydney Metro Conditions	Complies. Concurrence has been received from Sydney Metro for the subject Stage 2 application.
38	Method of Electricity Connection	The electricity connection for the site will be in line with Ausgrid requirements.

No.	Condition	Assessment
39	Supply of Electricity	An Ausgrid chamber located in the basement of the building will provide electricity for the building. The building will also be provided with a main switch room for each of the allocated stratum.
40	Conduit Installation	The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information. This will be coordinated post DA consent.
41	Vegetation	No vegetation is proposed underneath overhead power lines and above underground cables. Refer to landscaping details within Landscape Plan in Appendix I.
42	Proximity to Existing Network Assets - Underground Cables	The proposed development will be serviced by a substation located in the basement of the building.

Architectural Design Competition Jury Recommendations

67. An architectural design competition (CMP/2017/5) was held for the site, whereby 6 competitors submitted a design proposal.
68. The competition resulted in the FJMT Studio design being selected as the winning scheme on 5 September 2018.
69. The Jury of the design competition resolved that the FJMT scheme best demonstrated the ability to achieve design excellence as per Clause 6.21 of the Sydney LEP 2012 and the architectural design competition Brief requirements.
70. However, the Jury also noted a number of matters that required further resolution prior to lodgement of a detailed design development application.

71. The table below provides a response to these recommendations:

Jury Recommendations	Response
<p>Amend the current design of the vehicular lifts and the basement servicing as it is not supported in its current form and must comply with Council's standards.</p>	<p>The proposed vehicular access and basement design has been modified in an attempt to address Council's standards.</p> <p>Despite this, there are major concerns regarding the potential queuing arising from the development as a result of parking and access arrangements, and relevant conditions of consent are recommended to address these matters. Refer to the Issues section for discussion.</p>
<p>Revisit the retail planning to achieve closer compliance with the retail strategy contained in the Brief.</p>	<p>The applicant has advised that the planning of the retail levels has been refined and further developed in consultation with the developer of the retail component of the development.</p>
<p>Reconsider the office floor plate to improve connectivity to either side of the lift core.</p>	<p>The design of the lift core has been modified to improve connectivity of the office floor plate.</p> <p>Council's Urban Design and Heritage Manager has reviewed these changes and raises no objections.</p>
<p>Review the residential floor plates to achieve a residential yield that meets the Brief requirements.</p>	<p>The applicant has advised that the planning of the residential levels has been refined and further developed in consultation with the developer of the residential component of the development.</p>
<p>Further resolve awning, shopfront and shop entry design to achieve the required retail planning objectives</p>	<p>Further resolutions of the ground plane including the awning, shopfronts and entries has been undertaken.</p> <p>Council's Urban Design and Heritage Manager has reviewed the changes to these elements and considers them acceptable, subject to conditions.</p>

Jury Recommendations	Response
Address the fire engineering requirements throughout the building including the design of the fire isolated stairways serving the retail and commercial levels to ensure they have discharge points to the street.	A Fire Engineering Statement has been submitted with the application.
Reconsider the proposed building servicing strategy given to ensure critical building services have been accommodated	The proposed design accommodates the plant and services required for the development.

72. As outlined above, the proposal has generally addressed the recommendations put forth by the Jury. Further, the proposal has retained the important features of the competition winning scheme, whilst responding appropriately to the planning controls where required.

Design Advisory Panel

73. The proposal was considered by the Design Advisory Panel (DAP) on 16 May 2019. The Panel made the following comments regarding the proposal:
- (a) The setback on Market Street should be 10m to comply with the Sydney DCP 2012 and maintain the view corridor, as per the comments of the design competition jury.
 - (b) The proposed setback on Castlereagh Street is acceptable taking into account the adjacent conditions.
 - (c) The building separation of 6m is acceptable if privacy issues are addressed as per the approved Stage 1 DA condition for 'non-principle windows or solid wall to southern elevation'. This will require replanning of the impacted apartments and possible modelling of the building envelope.
 - (d) The proposed raised awning is not supported, the Panel also recommended that the heritage windows and travertine cladding be retained as much as possible.
 - (e) The Panel questioned the entry treatment on the corner of Market and Castlereagh Street noting that the substantial impact on the heritage fabric did not appear to be warranted given that it was not the main entrance of the complex.
 - (f) The Panel also recommended the refinement of the top of the 'atrium' and internal interface between the existing building and new tower to allow maximum penetration of daylight into the central void.

74. The proposal was amended and considered again by the Design Advisory Panel on 12 September 2019. The Applicant presented 2 options to DAP at this meeting, showing a 10m tower setback as well as a 9m setback to Market Street. It was outlined that the 10m setback required 9 structural columns within the existing heritage listed building to be strengthened internally to support the building envelope, as opposed to the 9m setback requiring localised strengthening of 6 existing columns. The Applicant also provided more detail for the proposed shopfronts, and proposed changes including the retention of the existing awning and the opening above the awning at the corner entrance.
75. The Panel made the following comments regarding the modified proposal:
- (a) The tower envelope in Option 2 with the 9m setback to Market Street is supported by the Panel.
 - (b) The Panel reiterates its previous recommendation to maximise the opening into the building atrium between tower and podium, to allow maximum daylight into the podium.
 - (c) The Panel recommends no change to original window fenestration on ground floor facades.
 - (d) The Panel recommends no change to existing building awnings.
76. Regarding the above, the proposed setback to Market Street was amended accordingly. Regarding the other matters raised, the following is advised:
- (a) The proposal maintains an internal atrium space where the tower meets the existing building. Sufficient solar penetration is provided to the development via a skylight interface.
 - (b) Changes to the exterior of the heritage building have been restricted to areas where new openings are unavoidable due to the change of program and access arising from the proposed tower. Where the windows remain as retail windows, the existing fabric is conserved. Figures 46 and 47 show the proposed changes on the Market Street and Castlereagh Street frontages. Council's Urban Design and Heritage Manager considered the new openings acceptable.
 - (c) The awnings are proposed to be retained in terms of location, height and proportions. The proposed oculus openings within these existing awnings (as shown in Figures 46 and 47) has been reviewed by Council's Urban Design and Heritage Manager, who considers the changes acceptable.



Figure 46: Perspective showing changes to the exterior of the building on Market Street.



Figure 47: Perspective showing changes to the exterior of the building on Castlereagh Street.

Transport & Parking

77. As advised above, there are significant concerns regarding the quantum and technology of vehicle access in this location.
78. There are insufficient on-site vehicular waiting bays to support the proposed arrangements. In particular, the following are noted:
79. The development needs to be designed to accommodate 98% of the vehicle queues generated from the development within the site, in accordance with Section 3.5 – Access to Mechanical Parking Installation AS/NZS 2890.1:2004;

80. An additional 101 car parking spaces within an automated triple layer stacker system, and 6 motorcycle spaces are proposed in Basement 2. Of the 101 parking spaces, a maximum of 77 can be allocated to residents, with the balance to be for the office/commercial use. Two car park waiting bays are proposed within Basement 2;
81. 9 service vehicle spaces are proposed in Basement 1. As no turntable is shown, service vehicles will need to reverse into the vehicle lifts.
82. The DCP requires a minimum of 20 service vehicle parking spaces to be provided. Provision of a compliant number of on-site service vehicle spaces is particularly important in the City centre where on-street parking and loading arrangements are increasing been changed to prioritise and facilitate walking, cycling and the use of public transport;
83. Both basement levels are accessed from 2 shared vehicle lifts;
84. The vehicle lifts are accessed from Castlereagh Street, a one-way southbound major transport corridor with a dedicated Bus Lane and a future separated cycleway;
85. Only 2 waiting bays are proposed at ground level in front of the vehicle lifts;
86. The applicant's queuing analysis is limited and relies on assumptions that are not supported by Council's Transport Planners. For example:
87. An assumed 1m/second vehicle lift speed has been adopted, however there is no manufacturer's confirmation that this speed is achievable. Staff are not aware of other vehicle lifts within the City with this performance.
88. The assumed trip generation does not include the office/commercial parking spaces, nor the additional service vehicle spaces required.
89. The analysis has considered 2 separate capacity calculations for Basement 2 - either all vehicles are entering OR all vehicles are exiting. It has not considered vehicles entering and exiting simultaneously. Accordingly, there is insufficient space to safely manoeuvre and 'wait'.
90. It is unclear whether vehicles will need to do at least one reverse movement as it enters or exits the car stacker system.
91. The lift strategy is intended to prioritise moving the lifts to street level, meaning that as soon as a vehicle gets out of the lift in Basement 2, it will return to street level, thus creating additional queuing in front of the lift.
92. At ground level, the analysis has only considered vehicles entering and going to the basement. It has not considered the lift carrying vehicles from the basement in return.
93. The combination of the 101 car parking spaces, service vehicle parking (numbers and queuing) and limited on-site waiting bays that are all associated with the mechanical systems (vehicle lifts, vehicle turn-table, and vehicle stacker system) raise significant concerns that the site may not be able to accommodate the proposed car parking spaces, and the required servicing spaces.

94. Accordingly, based on the information provided, it is recommended that no approval be granted for the 101 car parking spaces (the construction of the basement is recommended to be approved however, but not the stacker or occupancy), and that the number of on-site service vehicle spaces be increased to a minimum of 20.
95. Should the applicant be able to demonstrate (as part of a separate Section 4.55 Modification Application) that the development can successfully sustain some car parking spaces, then consideration may be given to a change to this recommended arrangement. However, based on the analysis undertaken by Council's Traffic Unit, it is likely that no or low numbers may only be supported.
96. The Central Sydney Traffic and Transport Committee shares these concerns, as discussed previously.

Natural Ventilation

97. Objective 4B-1 of the ADG requires that all habitable rooms are to be naturally ventilated, with the area of unobstructed window openings required to be equal to at least 5% of the floor area served. This is measured by the ADG's definition of 'effective openable area', which is *"the minimum area of clear opening of a window that can take part in providing natural ventilation. The effective openable area of a sliding or hung sash window can be measured in elevation. Hinged windows such as casement, awning and hopper windows may measure the diagonal plane from the sash to the jamb and add the triangles at either end up to a total area of the window opening in the wall. Obstructions within 2m of a window reduce the effective openable area as measured in elevation. Fly screens and security screens will reduce the effective openable area by half."*
98. Throughout the assessment of the application, concern has been raised if the proposed development can achieve the 5% requirement, and additional information has been requested to demonstrate this.
99. Concern remains regarding that the proposed awnings windows used throughout the residential tower will not be sufficiently openable, as well as that some living rooms rely on a sliding door for ventilation. It is considered that insufficient information has been provided to satisfy Council that all habitable rooms will be naturally ventilated.
100. Upon review, Council consider that this requirement is capable of being achieved, however further documentation is required (via conditions) to ensure that the 5% is met across the development.

101. There are 9 different plan types based on the DA plans:

Different Plan Type	Levels
A	14
B	15
C	16
D	17-25
E	26-29
F	30-31
G	32
H	33
I	34

102. Despite their being 9 different plan types, only plan type 'D' has been documented showing window types. The other 8 plan types are required to be demonstrated.

103. As a result, a condition is recommended to be include on the consent to ensure that it is able to be demonstrated that the development achieves adequate natural ventilation for all habitable rooms, prior to the issue of any Construction Certificate.

Noise

104. Throughout the assessment of the application, achieving acoustic amenity has been an area of concern for Council.

105. The latest acoustic documentation received, comprising a supplementary letter responding to the requested additional information in relation to the Apartment Design Guide (ADG) and acoustic amenity requirements.

106. The suggested application of the *NSW Development near Rail Corridors and Busy Roads – Interim Guidelines* within the letter, is not supported. Section 4J of the ADG only calls up the requirements of the Interim Guidelines where the site is located on a major road or rail corridor (as defined by the SEPP (Infrastructure) 2007).

107. The subject development is not subject to Clause 101 of the SEPP (Road Noise). The subject development is therefore subject to the noise criteria within the Sydney DCP 2012 Section 4.2.3.11, excluding Provision 8 (which permits the sole use mechanical ventilation).

108. Conditions of consent are recommended to ensure that the proposed development meets the relevant noise requirements, to achieve an acceptable level of acoustic amenity for future occupants and surrounding properties.

Public Art Strategy

109. A Public Art Strategy prepared by Barbara Flynn was submitted with the application, which identified that the artwork will be conceived and delivered by a single artist, the 'master artist', on three major facades of the building. The submitted Design Report prepared by FJMT identified options for the art work across multiple locations.
110. During the assessment of the application Council's Public Art team reviewed the proposal and advised that in principle it was supported, however the nominated locations of the artwork within the submitted Design Report included a range of large and small-scale options for public art locations, not related to the three major facades identified in the Public Art Strategy. As such, it was requested that the Public Art Strategy be updated to indicate which of the options nominated in the Design Report prepared by FJMT will be included in the Artist Brief so that there is consistency between the Public Art Strategy and the FJMT documentation.
111. In response, the applicant submitted an addendum to the Public Art Strategy submitted as part of an amended Design Report. Within this, it was advised that the approach had been updated to reflect a more appropriate scale for the building, whilst still fitting within the concepts and parameters of the Public Art Strategy. It nominated 4 locations and opportunities for public art, with a 'master curator' proposed to be appointed to work with the various artists to design, develop and implement. The curator would manage the process, with a selection of artists being considered for each work.
112. Council's Public Art team consider that this idea of a 'master curator' is not consistent with the 'master artist' as identified within the submitted Public Art Strategy. As such, it is required that the Public Art Strategy be updated to indicate that the FJMT response is reflected in the Strategy.

Construction Stages

113. The applicant is proposing to stage construction works into the following 6 stages:

- (a) *Stage 1 Construction Certificates - Works within the existing podium:*
 - (i) Stage 1A CC - Demolition and New Structure
 - i. Demolition works (including structural demolition)
 - ii. All temporary works
 - iii. All in ground services, drainage and substation
 - iv. New structure
 - (ii) Stage 1B CC - Facade Works
 - (iii) Stage 1C CC - Retail - Services and Finishes (including services on Levels 13 & 14)
 - (iv) Stage 1D CC - Commercial - Service and Finishes

(ii) *Stage 2 Construction Certificates - Residential Tower (New Structure):*

- (i) Stage 2A CC - Structure (Level 14 above)
- (ii) Stage 2B CC - Services
- (iii) Stage 2C CC - Facade works
- (iv) Stage 2D CC - Finishes
- (v) Stage 2E CC = Landscape and Public Art

114. It is considered acceptable for a development of this size, construction stages are established so that certain works can continue on site without being held up by administrative requirements of the consent.
115. The applicant seeks for all prior to CC conditions to be drafted to read as 'prior to the relevant CC' to enable timely satisfaction of the condition and accordingly construction of the development. However, Council consider that recommended conditions of consent that require matters to be addressed prior to a construction certificate being issued should be worded so that it is made more clear at which particular stage of construction specific requirements are to be addressed.
116. For example, Council's Public Art Unit have advised that submission of a revised public art strategy will be required prior to any construction certificate, as a Detailed Public Art Plan will require a certain amount of time following approval of the revised public art strategy and to ensure there is capacity for the artwork to be integrated into the building at street level.

Other Impacts of the Development

117. The proposed development is capable of complying with the BCA. It is Class 2 (Residential), Class 5 (Commercial Office), Class 5 (Retail) and Class 7a (Carpark).
118. 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

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

Internal Referrals

120. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.
121. The application was referred to, or discussed with the following referral officers and bodies for review:
- (a) Design Advisory Panel;
 - (b) Design Excellence Unit;
 - (c) City Model Unit;
 - (d) Urban Design and Heritage Manager;

- (e) Urban Design Specialist;
- (f) Building Services Unit;
- (g) Environmental Health Unit;
- (h) Public Domain Unit;
- (i) Specialist Surveyor;
- (j) Transport and Access Unit;
- (k) Landscaping Officers;
- (l) Sustainability Team; and
- (m) Waste Management Unit.

122. The above consider that the proposed development, as amended, generally addresses matters throughout the assessment, and is acceptable subject to conditions.

External Referrals

Notification, Advertising and Delegation

123. In accordance the Community Participation Plan 2019 the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 27 March 2019 and 25 April 2019. As a result of this notification a total of 347 properties were notified and there was 1 submission received. Issues raised are below.

- (a) Suggestion that the two original lift cars, doors and fixtures within the building are retained and use as customer lifts for the residential component of the development.

Response - Council's Urban Design and Heritage Manager has reviewed the proposal and considers that the demolition, reconstruction and reconfiguration of the existing lift core structure, is acceptable subject to conditions. Interpretation of the lifts are required as a condition of consent.

- (b) Suggestion that the original toilets on the mezzanine levels be retained.

Response - Council's Urban Design and Heritage Manager has reviewed the proposal and raises no particular objection to the removal of the toilets.

Public Interest

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

S61 Contribution

125. The cost of the development is in excess of \$200,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2013. A condition relating to this levy has been included in the recommended conditions of consent. The levy is to be paid prior to the issue of a Construction Certificate.

Relevant Legislation

126. Environmental Planning and Assessment Act 1979.
127. City of Sydney Act 1988.

Conclusion

128. The proposed development is for a Stage 2 development application, for a 32-storey mixed use building comprising retail, commercial and residential land uses.
129. The development has been the subject of a competitive design process with the winning scheme being FJMT Studio. The proposal is generally consistent with the winning scheme.
130. Concurrence has been received from Sydney Trains in accordance with Clause 86 of State Environmental Planning Policy (Infrastructure) 2007.
131. The development achieves a high standard of architectural design, materials and detailing, with the provision of generous landscaping that will contribute positively to the appearance of the site and the public domain. The development is generally consistent with the design quality principles of the State Environmental Planning Policy No. 65 and the objectives of Parts 3 and 4 of the Apartment Design Guide. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the case, or can be resolved by the recommended conditions of consent. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to amenity of the surrounding area and future occupants.
132. Overall, the proposal responds satisfactorily to surrounding development and its context, achieving a standard of architectural design that is considered to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
133. Subject to conditions, the development is in the public interest and is recommended for approval.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Mia Music, Planner