

**Item 5.****Development Application: 525-529 George Street, Sydney - D/2019/758****File No.:** D/2019/758**Summary**

**Date of Submission:** The development application (DA) was lodged with Council on 16 July 2019. Amended drawings and additional information were submitted throughout the assessment period. The latest set of amended drawings and documentation were received on 15 March 2020.

**Applicant:** Mr Giovanni Cirillo, Planning Lab

**Architect/Designer:** Candalepas Associates

**Developer:** Event Hospitality and Entertainment

**Owner:** The Greater Union Organisation

**Cost of Works:** \$222,178,000

**Zoning:** The site is zoned B8 - Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposed indicative uses comprise commercial premises, residential accommodation and hotel or motel accommodation, all of which are permissible with consent.

**Proposal Summary:** The application is a Concept DA seeking consent for in-principle demolition of the existing building and construction of a 150m tall (approximately 43 storeys) mixed-use building containing a three to four storey podium with indicative commercial uses with a tower above containing hotel accommodation and residential apartments. The proposal includes a basement and a shared vehicular access from Kent Street.

The application is referred to the Central Sydney Planning Committee (CSPC) for determination as the proposal is 'major development' for the purposes of the City of Sydney Act 1988.

The proposed height of the building envelope complies with the maximum permitted height control of 150m under SLEP 2012. A maximum Floor Space Ratio (FSR) of 14.75:1 is permitted under Clauses 4.4 and 6.4 of SLEP 2012 based on the proposed mix of indicative uses. The application has been accompanied with a 'reference design' which demonstrates that the proposed FSR inclusive of an additional design excellence ten per cent FSR can be accommodated within the building envelope and achieve appropriate internal amenity and an acceptable high level built form outcome including appropriate bulk, scale and massing, setbacks, building separation, views and solar access.

Following determination of the Concept DA and prior to the lodgement of a subsequent detailed design DA, a competitive design process is proposed to be held in accordance with Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy.

On 9 August 2019, a detailed design DA (D/2019/857) was lodged for the adjoining site to the north, 505-523 George Street, which seeks consent for the construction of a mixed use building 270 metres in height. When both applications were originally lodged separate, parallel and adjacent driveways were proposed on Kent Street. This was considered to result in a poor streetscape outcome and impacts on pedestrians and cyclists using the separated cycleway directly in front of the sites particularly for ascending exiting traffic. Following concerns raised by Council officers, Transport for NSW and the RMS, both applications have been amended to provide shared driveway arrangements. The applications have been assessed together and are both reported to the CSPC on 14 May 2020. Due to the proposed shared driveway, the CSPC are requested to consider both reports and consider determination of the two applications concurrently.

The key issue with the proposal was the separated driveway which has been resolved. Other issues identified during the preliminary assessment including the ESD targets, lack of a concept Landscaping Plan, contamination and a treatment of the northern facade. These issues have been addressed through submission of additional documentation and through the recommended conditions of consent.

The application was originally notified for a period of 28 days from 26 July 2019 - 24 August 2019 and eight submissions were received. The redesign of the proposal to accommodate the amended shared driveway resulted in the tower shifting south - closer to the site's southern boundary. Accordingly, the amended application was re-notified for a period of 28 days between 18 March 2020 and 16 April 2020 and three submissions were received.

The submissions have raised issues with building separation, building setbacks, bulk, scale and mass, traffic, parking, noise, overshadowing, privacy, visual impact, view loss, impact on Albion Place, heritage impacts and construction impacts. The issues raised in the submissions have been addressed in the report, and conditions of consent are recommended to address these issues where appropriate.

The proposed building envelope and indicative land uses results in a use, built form and scale that achieves the future desired character of the area. Subject to conditions, the proposal is largely compliant with the relevant planning provisions including State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, SLEP 2012 and Sydney Development Control Plan 2012. Where there are non-compliances these have been assessed as having merit in this particular case and are addressed in the report.

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

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979
  - (ii) City of Sydney Act 1988
  - (iii) Airports Act 1996
  - (iv) State Environmental Planning Policy No. 55 - Remediation of Land
  - (v) State Environmental Planning Policy (Infrastructure) 2007
  - (vi) State Environmental Planning Policy (Building Sustainability Index BASIX) 2004
  - (vii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
  - (viii) NSW Apartment Design Guide 2015
  - (ix) Sydney Harbour Regional Environmental Plan (Sydney Harbour Catchment) 2005
  - (x) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
  - (xi) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

- Attachments:**
- A. Recommended Conditions of Consent
  - B. Building Envelope Drawings
  - C. Reference Scheme Drawings
  - D. Visual Impact Assessment
  - E. Design Excellence Strategy

## Recommendation

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, nor might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD;
- (B) the Design Excellence Strategy for 525-527 George Street, Sydney prepared by Planning Lab and dated 3 April 2020 (Attachment E), be endorsed in accordance with Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the City of Sydney Competitive Design Policy; and
- (C) pursuant to s.4.22 of the Environmental Planning and Assessment Act 1979, consent is granted to Concept Development Application No. D/2019/758 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) Consent is granted on the basis that the development application is a concept development application under s.4.22 of the Environmental Planning and Assessment Act 1979.
- (B) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site and does not result in unreasonable environmental impacts for the reasons outlined in the report to the Central Sydney Planning Committee.
- (C) The development, subject to conditions, is generally consistent with the applicable State Environmental Planning Policies, Sydney Local Environmental Plan 2012 (SLEP 2012), Sydney Development Control Plan 2012 and the Apartment Design Guide.
- (D) The concept development complies with the maximum permitted height under the SLEP 2012, and the subsequent detailed development application is capable of complying within the maximum permitted floor space ratio within the parameters of the building envelope under SLEP 2012. The detailed DA is also capable of achieving up to an additional 10% floor space within the parameters of the building envelope, subject to compliance with Clause 6.21 of SLEP 2012 and the recommended conditions of consent.
- (E) The proposal, subject to conditions, satisfies the relevant provisions contained in Clause 6.21(4) of SLEP 2012 as the proposed land use is suitable for the site, the proposal sets out ecological sustainable development key targets for the development, the building envelope does not detrimentally impact of view corridors in the context of the CBD or result in unacceptable overshadowing, and the massing and setbacks of the building envelope are compatible with the existing and desired future character of the area.

- (F) The proposal is consistent with the objectives of the B8 Metropolitan Zone of SLEP 2012.
- (G) The proposal will improve the quality of the public domain through activation of George Street and Albion Place.
- (H) For the reasons above and as outlined in the body of the report to the CSPC, the proposed development is in the public interest subject to conditions.

## Background

### The Site and Surrounding Development

1. A site visit was carried out by Council staff on 10 September 2019 and 18 March 2020.
2. The site is legally described as Lot 1 in Deposited Plan 224683 and is commonly known as 525-529 George Street, Sydney.
3. The site is irregular in shape and comprises an area of approximately 1,856.1sqm. The site has three street frontages: George Street to the east, Kent Street to the west and Albion Place to the south. The site has a maximum depth of 82m, and street frontage lengths to George Street and Kent Street of 23m and 27m, respectively. The site falls by approximately 2.98 - 3.7m from George Street to Kent Street. The George Street frontage falls gently from north to south by approximately 850mm and the Kent Street frontage is relatively level.
4. The site is located approximately in the middle of the block between Bathurst Street to the north and Liverpool Street to the south. The site is located approximately 150m south of Town Hall and the Light Rail is located in front of the George Street frontage. The area, particularly along George Street, is highly pedestrianised during the day and at night and is characterised by a diverse range of retail, entertainment, food and drink premises.
5. A separated two-way cycle way is located along the site's Kent Street frontage. Kent Street is a one-way street with vehicles travelling in a south to north direction. There are two vehicular lanes on Kent Street plus on-street parking along the eastern side of Kent Street. Vehicular access to the site is currently via a single entry point at the northern end of the Kent Street frontage.
6. The site is occupied by a four to five storey building including a single level basement and is commonly known as 'Event Cinemas'. The building is constructed over two separate land titles in separate ownership, being the subject site and the adjoining site to the north 505-523 George Street. Although the two properties are in separate ownership the building is operated as a single building which straddles the shared site boundary. The building is built to all site boundaries and is currently used as cinemas and retail premises. 505-523 George Street is subject to a detailed design DA which has been assessed concurrently with the subject application and is discussed later in this report.
7. The site is surrounded by a mix of buildings including office towers, retail premises, residential towers, serviced apartments and lower scale heritage items. Notable tall buildings in the immediate surrounding area include Lumiere (105-107 Bathurst), Fraser Suites (484-488 Kent Street), Century Tower (343 Pitt Street), Meriton Serviced Apartments (528 Kent Street), the Greenland Centre currently under construction (115 Bathurst Street) and World Square (644 George Street).

8. Directly south of 525-529 George Street is Albion Place which is a public laneway (approximately 3m wide) providing a pedestrian connection between George Street and Kent Street. Albion Place is a heritage listed item under SLEP 2012 (Item No.1658). Adjoining Albion Place to the south are three separate properties:
  - (a) 537-551 George Street: Meriton Suites containing a 40 storey tower containing serviced apartments, a two to three storey commercial podium with ground floor retail premises and a through site link providing access between George Street, Kent Street and Albion Place. Located on this site with direct frontage to Albion Place is a three storey local heritage listed building (I1659) containing retail tenancies and is commonly known as 1-7 Albion Place.
  - (b) 531-535 George Street: Albion Place Hotel which is a four storey local heritage item (I1795) used as a pub with a primary street address to George Street and associated outdoor dining in Albion Place.
  - (c) 518 Kent Street: A three storey brick building located on the corner of Kent Street and Albion Place and currently used as a restaurant.
9. To west of the site and on the opposite side of Kent Street is a single-storey heritage item (I1835) known as Judges House (531 Kent Street). Also opposite the site on Kent Street (533-539 Kent Street is a heritage listed commercial building (I836). A 16 storey residential building known as 'Windsor Place' is located directly behind this heritage item (226-346 Sussex Street).
10. To the north of the site (adjoining 505 George Street) is the 42 storey Fraser Suites building which contains serviced apartments. Also further to the north of the site and adjoining 505 George Street, is the 47 storey Lumiere building and which contains a commercial podium (known as 'Regents Place') with residential apartments above. A through-site link is located on this site connecting George, Kent and Bathurst Streets.
11. Directly opposite the site on George Street is the Metro Theatre. Located to the north-east of the site on the opposite side of George Street is the former HSBC Centre which is a 33 storey office tower (580 George St).
12. The site is not a heritage item and is not located in a heritage conservation area or Special Character Area. However, as outlined above, there are a number of heritage items in close proximity to the site. The site is located in between the 'Sydney Square/Town Hall/ St Andrews' and the 'Haymarket/Chinatown' Special Character Areas located 85m to the north and 88m to the south, respectively.
13. Photos of the site and surrounds are provided below at Figures 1 to18:

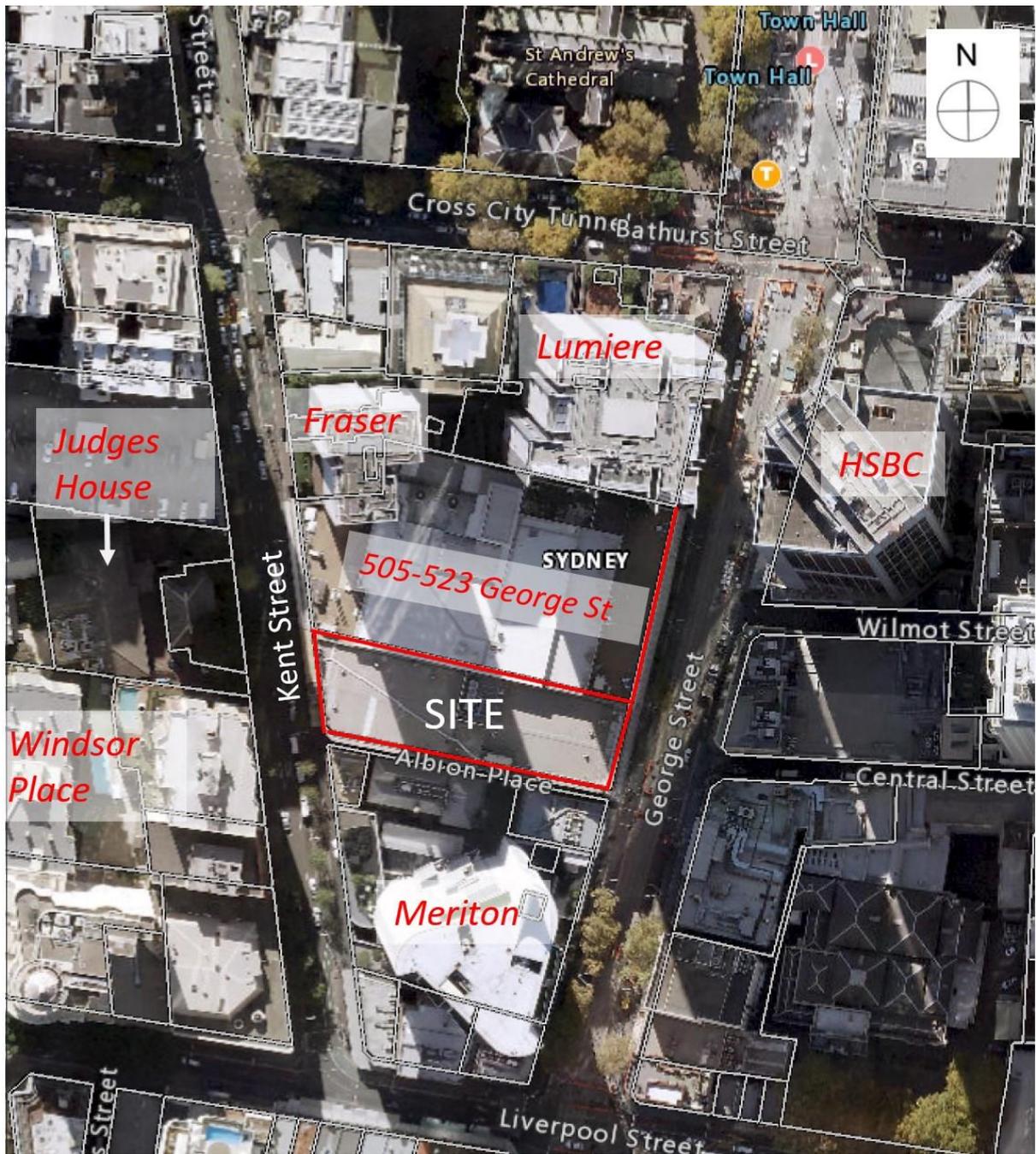


Figure 1: Aerial image of subject site and surrounding area

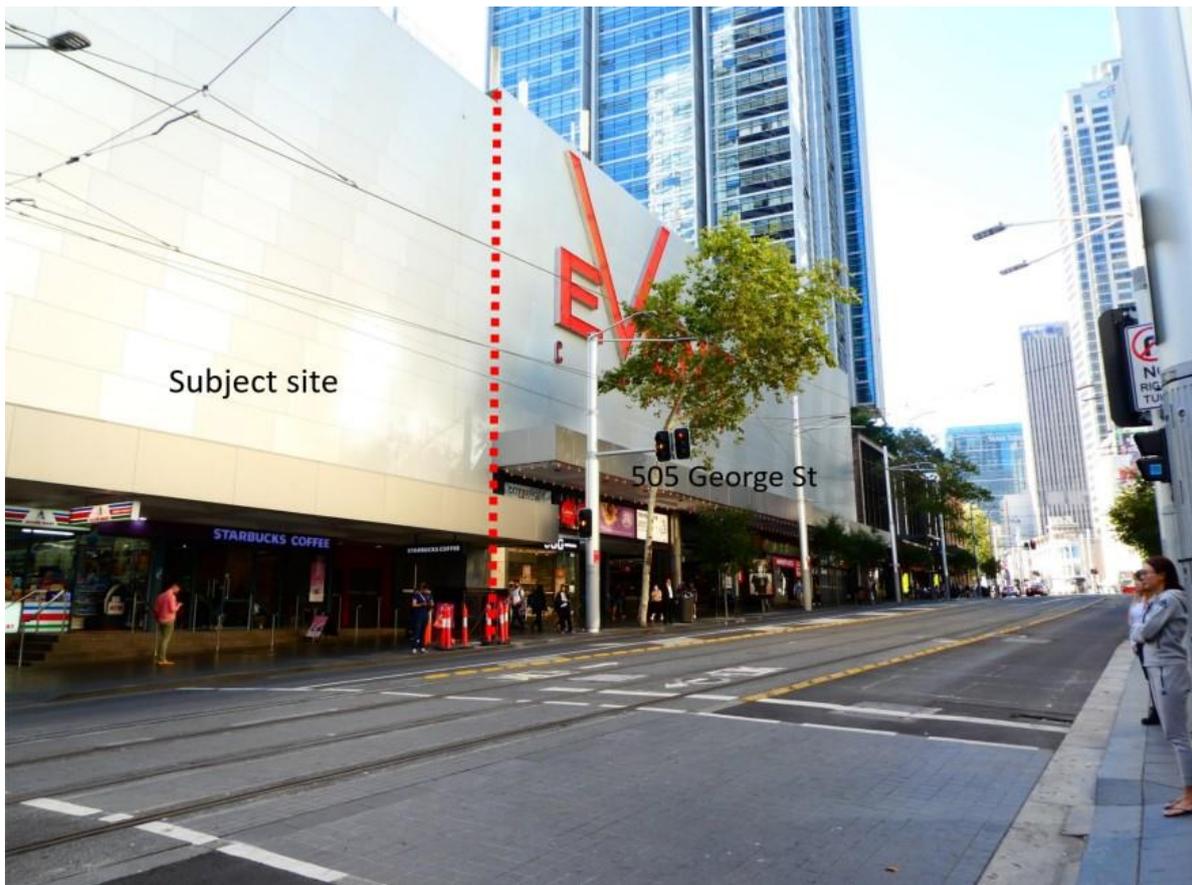
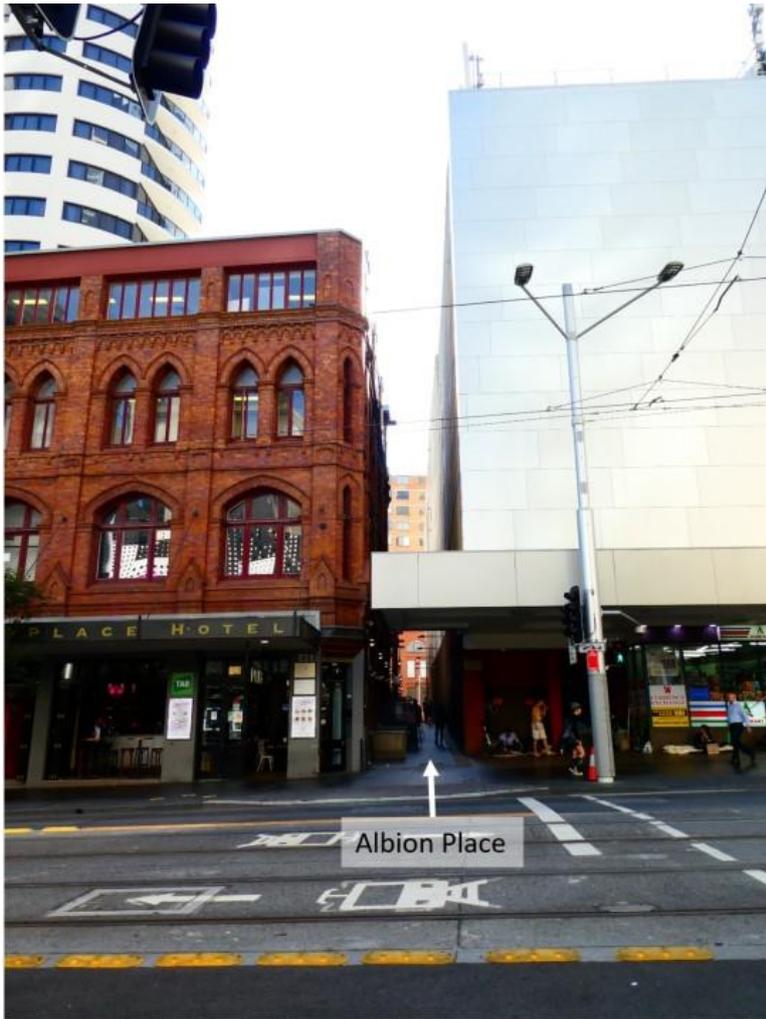


Figure 2: Site viewed from George Street, looking north



Figure 3: Site viewed from George Street, looking north-west



**Figure 4:** Albion Place viewed from George Street, looking west



**Figure 5:** Looking north along George Street



Figure 6: Site viewed from George Street, looking south-west



Figure 7: Site viewed from George Street, looking south-west



Figure 8: Site viewed from the corner of George Street and Bathurst Street



Figure 9: View from Town Hall Square facing south



Figure 10: View from corner of Kent Street and Bathurst Street, facing south-east

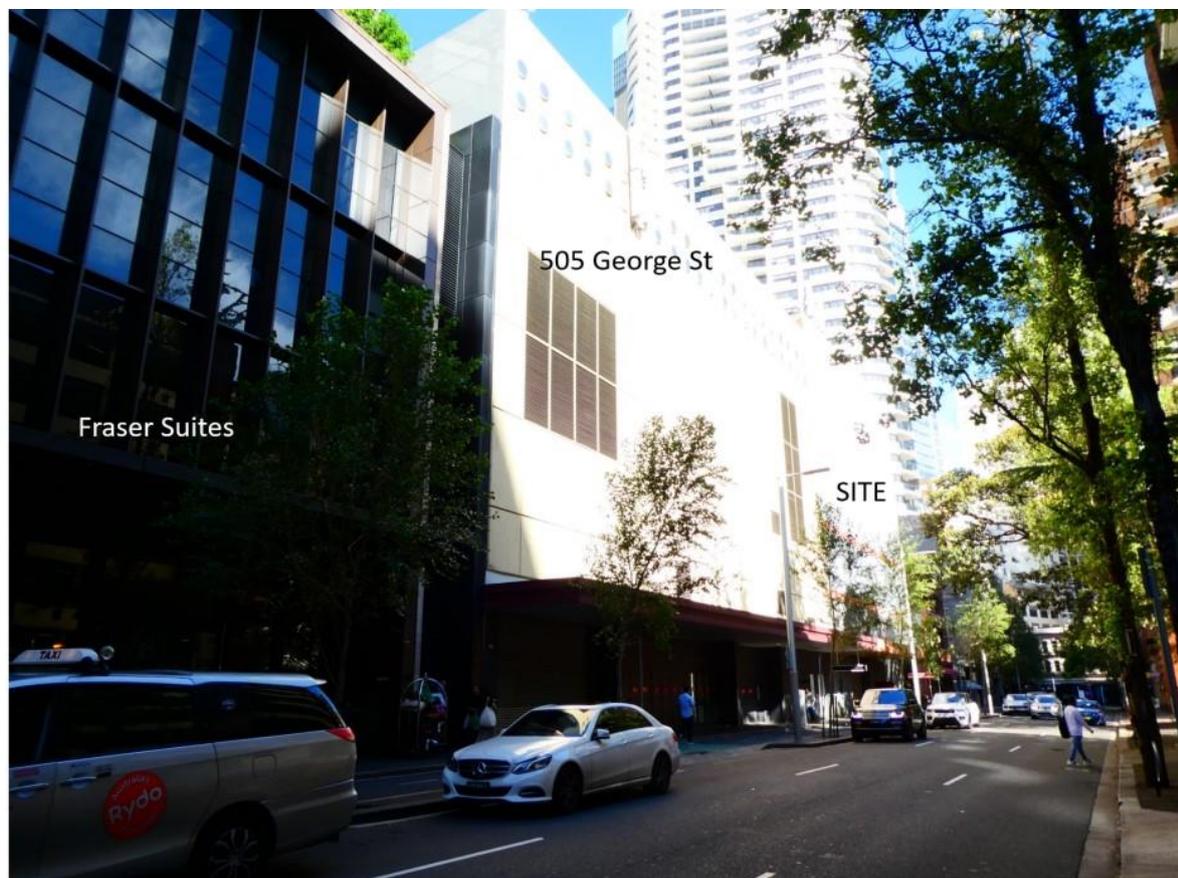


Figure 11: Looking south along Kent Street



Figure 12: Site viewed from Kent Street, facing north

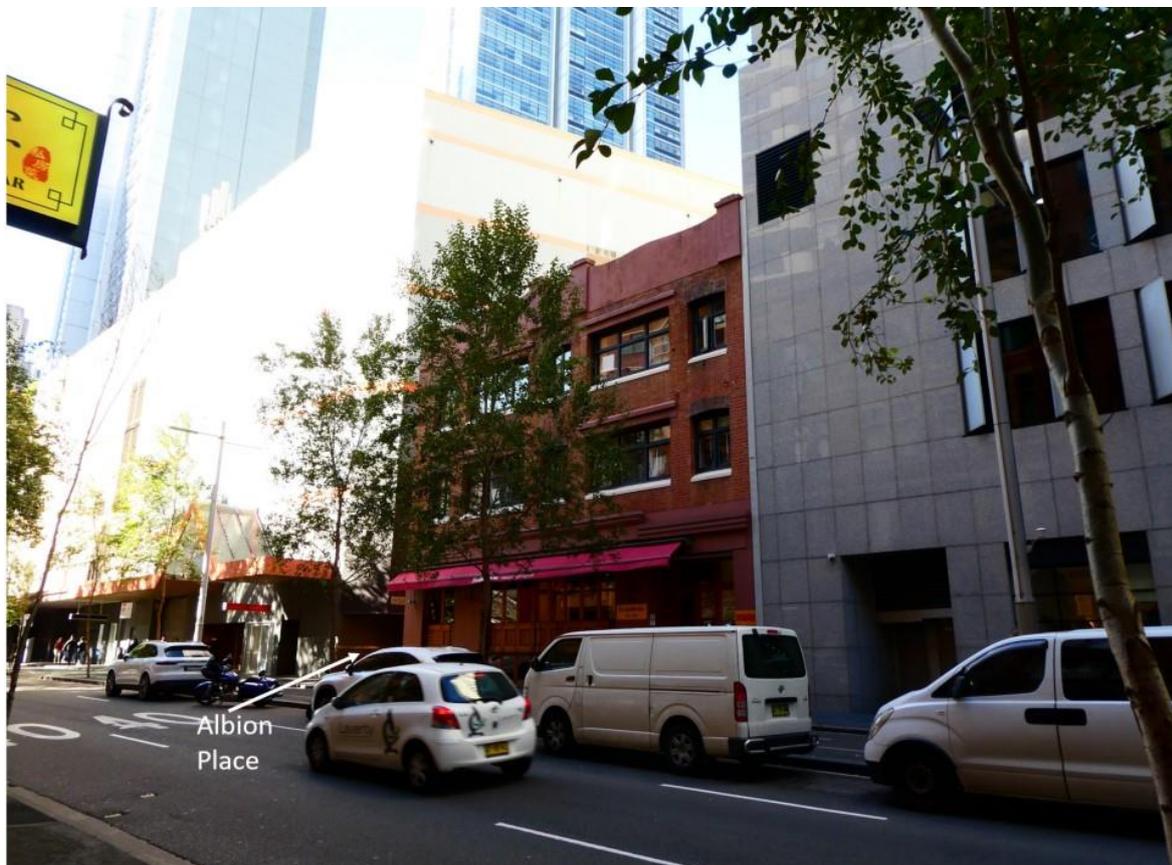


Figure 13: Site viewed from Kent Street, with Albion Place indicated

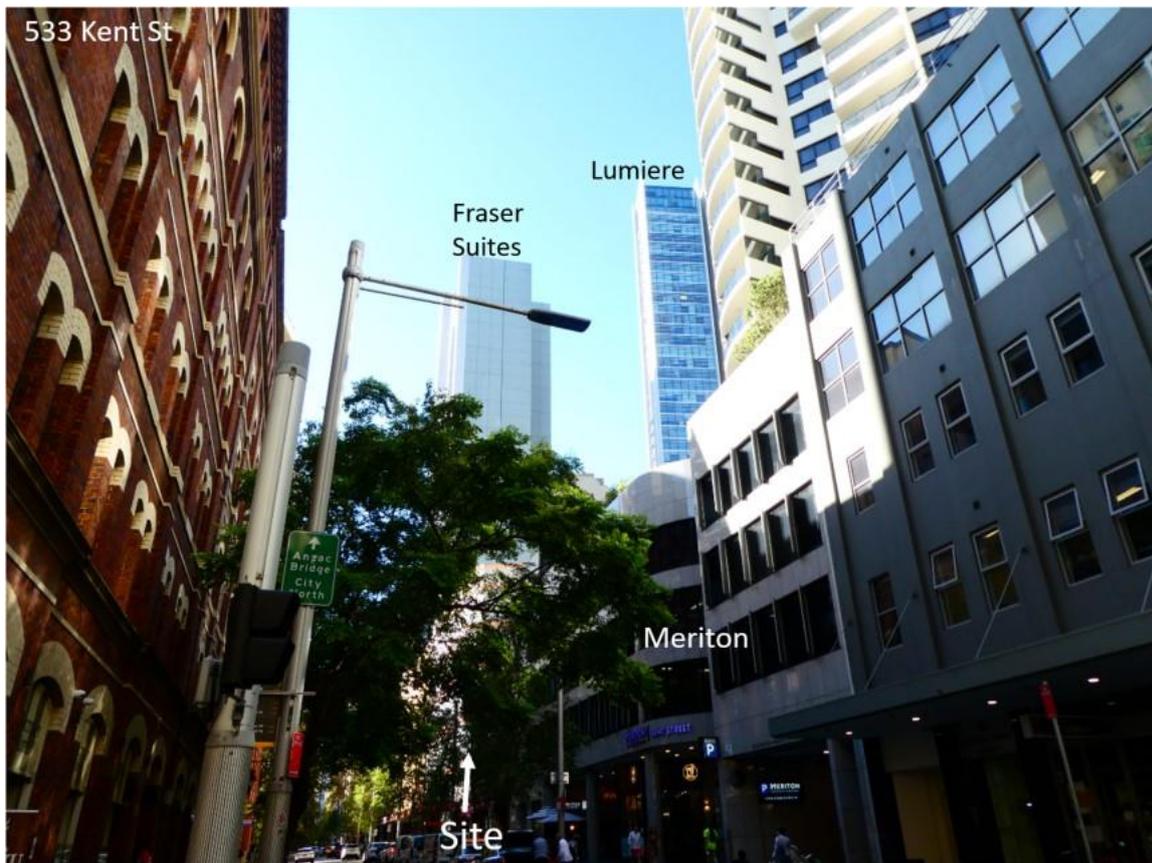


Figure 14: View from the corner of Kent Street and Liverpool Street

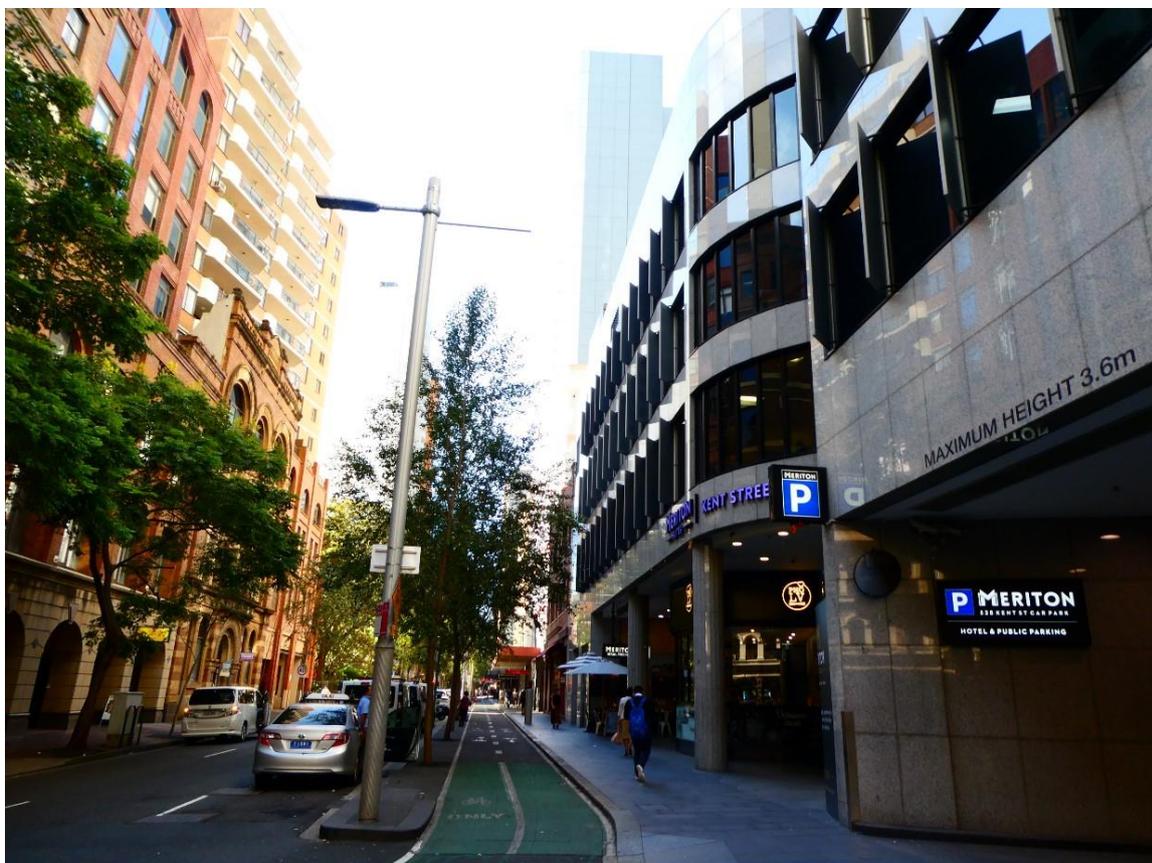


Figure 15: Looking north along Kent Street in front of the Meriton Suites building

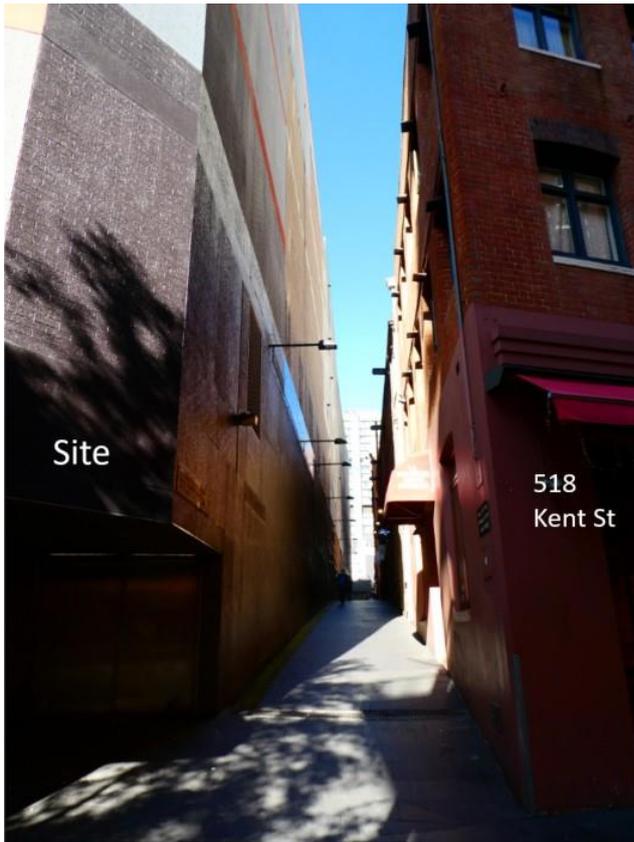


Figure 16: Albion Place viewed from Kent Street, looking east



Figure 17: View further along Albion Place, looking east



**Figure 18:** View of the Meriton Suites from Albion Place, looking south

## History Relevant to the Development Application

### ***Concurrent assessment with 505-523 George Street - Detail Design DA***

14. On 9 August 2019, a detailed design DA (D/2019/857) was lodged on the adjoining site to the north, 505-523 George Street. D/2019/857 seeks consent for the demolition of the existing building, excavation and the construction of a mixed use building 270m in height and comprising serviced apartments (time limited up to 20 years), residential apartments, commercial premises, childcare centre and community facility. Photomontages of the proposal are provided at Figures 19 and 20:

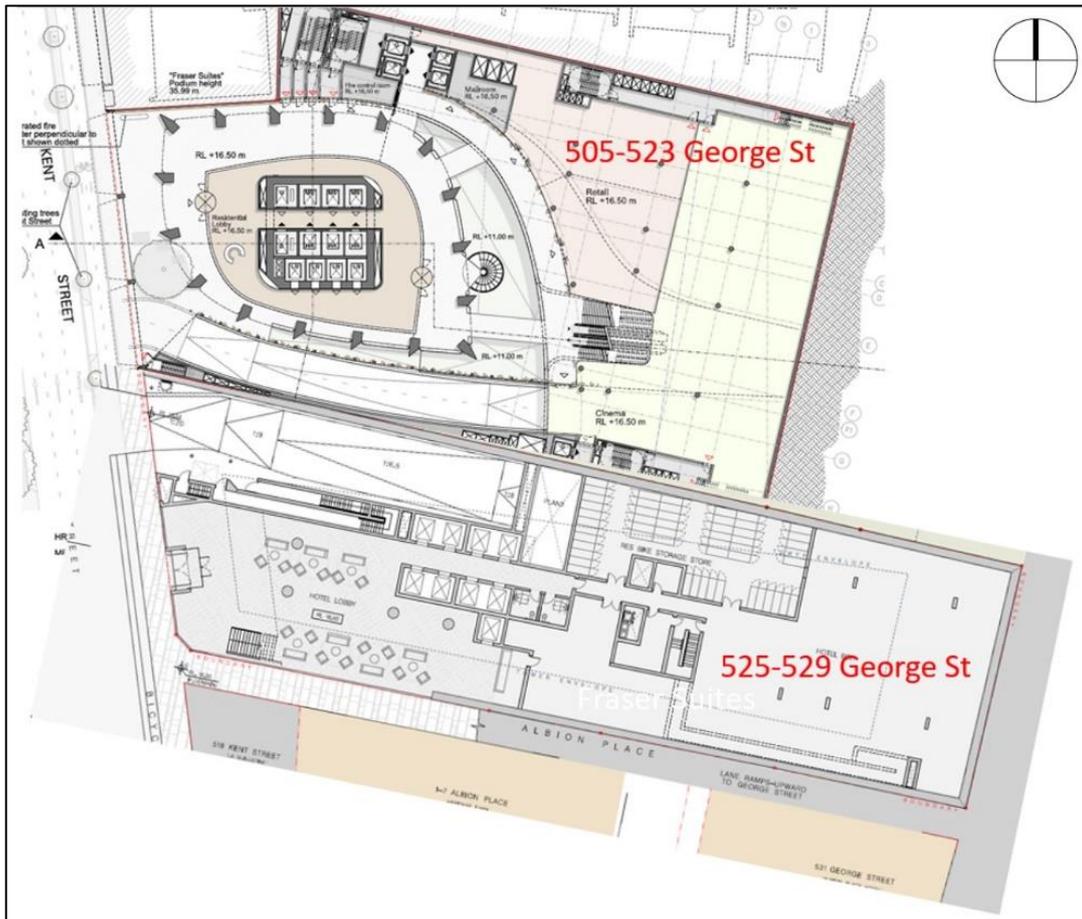


Figure 19: 505 George Street photomontage - George Street



Figure 20: 505 George Street photomontage - Kent Street

15. When both DAs were originally lodged, the proposed driveways were adjacent to each other on Kent Street, as shown in Figure 21:



**Figure 21:** Original proposed driveways

16. Concern was raised by Council officers with both applicants regarding the separate and adjacent driveways. Having two continuous driveways (both allowing in and out traffic) would result in a poor streetscape outcome and result in a lack of activation of Kent Street. The proposals in this form were not considered to achieve design excellence.
17. Furthermore, safety concerns were raised with pedestrian and cyclist safety given that there is a dual lane separated cycleway in front of the sites. On 28 August 2019, the Central Sydney Traffic and Transport Committee (CSTTC) Working Group comprising officers from Transport for NSW, the RMS and the City's Transport and Access and Planning Assessments Units, met to discuss both applications. The separate driveways were not supported by the CSTTC Working Group who recommended that the designs be amended to provide a shared driveway to reduce impacts to pedestrians and cyclists particularly for ascending exiting traffic.
18. Following numerous meetings with Council officers and both applicants, both applications have been amended to provide a shared driveway and for the provision of a breakthrough panel to facilitate access between the two basements. At the time of writing this report, it is understood that both adjoining landowners were in the final stages of completing a private binding agreement to enable the shared driveway arrangement.

19. Detailed discussion on the proposed shared driveway is provided in the 'Issues' section of this report.
20. The subject DA and D/2019/857 have been assessed concurrently, particularly in regards to the new shared driveway, building separation, solar access, overshadowing, views and wind. As the proposals share a new vehicular entrance from Kent Street, it is necessary that both DAs are considered and determined at the same time by the CSPC.

### ***Assessment history of the subject application***

21. The subject DA was lodged on 16 July 2019.
22. The application was presented to the City's Design Advisory Panel (DAP) on 17 October 2019. The Panel noted and recommended the following:
  - (a) The Panel highly recommended a consolidated driveway entry with the adjacent site (No. 505-523 George Street) if possible to minimise impacts on pedestrian and cycle amenity.
  - (b) The building separation is considered acceptable if the proposal complies with Apartment Design Guide (ADG) requirements for solar access and natural cross ventilation.
  - (c) The Panel recommended that the northern blank wall be animated with a high quality wall treatment.
23. In addition to the issues raised by DAP and CSTTC working group, the preliminary assessment of the application identified minor issues with the Design Excellence Strategy including the ESF targets and lack of landscape concept plan.
24. In response to the issues raised above, the applicant has provided additional information throughout the assessment to Council's satisfaction. A final revised set of architectural drawings was provided to Council on 15 March 2020 and is the subject of this assessment as described below.

### **Proposal**

25. The application seeks concept development consent pursuant to Section 4.22 of the Environmental Planning and Assessment Act 1979 for in-principle approval of:
  - (a) Demolition of the existing building;
  - (b) Basement excavation to provide five basement levels including:
    - (i) a shared vehicular access from Kent Street providing access for the adjoining site to the north (505 George Street) with a break through panel; and
    - (ii) car parking, bike parking, servicing, loading and waste storage, substation and building services.

- (c) A building envelope for a mixed use building with:
- (i) A tower with a maximum height of RL 169.12 (AHD), approximately 150m above ground level;
  - (ii) A maximum podium height of RL 39.00 (AHD);
  - (iii) A basement with the lower floor level being RL -3.50;
  - (iv) Capacity for approximately 27,375sqm of Gross Floor Area (GFA) with indicative land use mix as follows:
    - 1,200sqm of retail GFA (4%)
    - 2,407sqm of cinema GFA 2,407sqm (9%)
    - 16,714sqm of hotel GFA (61%)
    - 7,052sqm of residential accommodation GFA (26%)
26. The application is accompanied by two indicative reference design schemes ('reference schemes') illustrating potential schemes which can be accommodated within the building envelope. One of the reference schemes includes the potential of up to 10 per cent additional floor space under Clause 6.21 (design excellence) of SLEP 2012 and the other scheme without the 10 per cent additional floor space.
27. The reference scheme which includes the 10 per cent design excellence floor space is described below and is the subject scheme referred to throughout this assessment report:
- (a) **Basement Levels 1-5 inclusive:**
- (i) Vehicular access from Kent Street to be shared with 505 George Street and a break through panel provided on basement level 1
  - (ii) parking for 159 cars, 10 motorbike parking space, loading dock and servicing
- (b) **Lower ground level:**
- (i) At grade hotel lobby from Kent Street which also addresses Albion Place
  - (ii) Residential bike storage and hotel back of house
- (c) **Ground level**
- (i) Five retail tenancies with frontage to George Street and Albion Place
  - (ii) Cinema entrance, lobby and ticketing
  - (iii) Cinema and retail bike storage

**(d) Level 1 mezzanine level & level 2**

- (i) Four separate cinema rooms accommodating approximately 524 seats
- (ii) Cinema bar
- (iii) Back of house and amenities associated with the cinemas

**(e) Level 3 - hotel**

- (i) Conference room, kitchen and gym
- (ii) Outdoor pool and terrace

**(f) Levels 4 - 24**

- (i) 456 Hotel rooms accommodating one bed per room

**(g) Levels 29 - 40**

- (i) 72 residential apartments

**(h) Levels 41**

- (i) Residential communal open space
- (ii) Plant areas

28. Selected axonometric, building envelope and reference scheme drawings are provided at Figures 22-39 below. A full set of architectural drawings is provided at Attachment B.

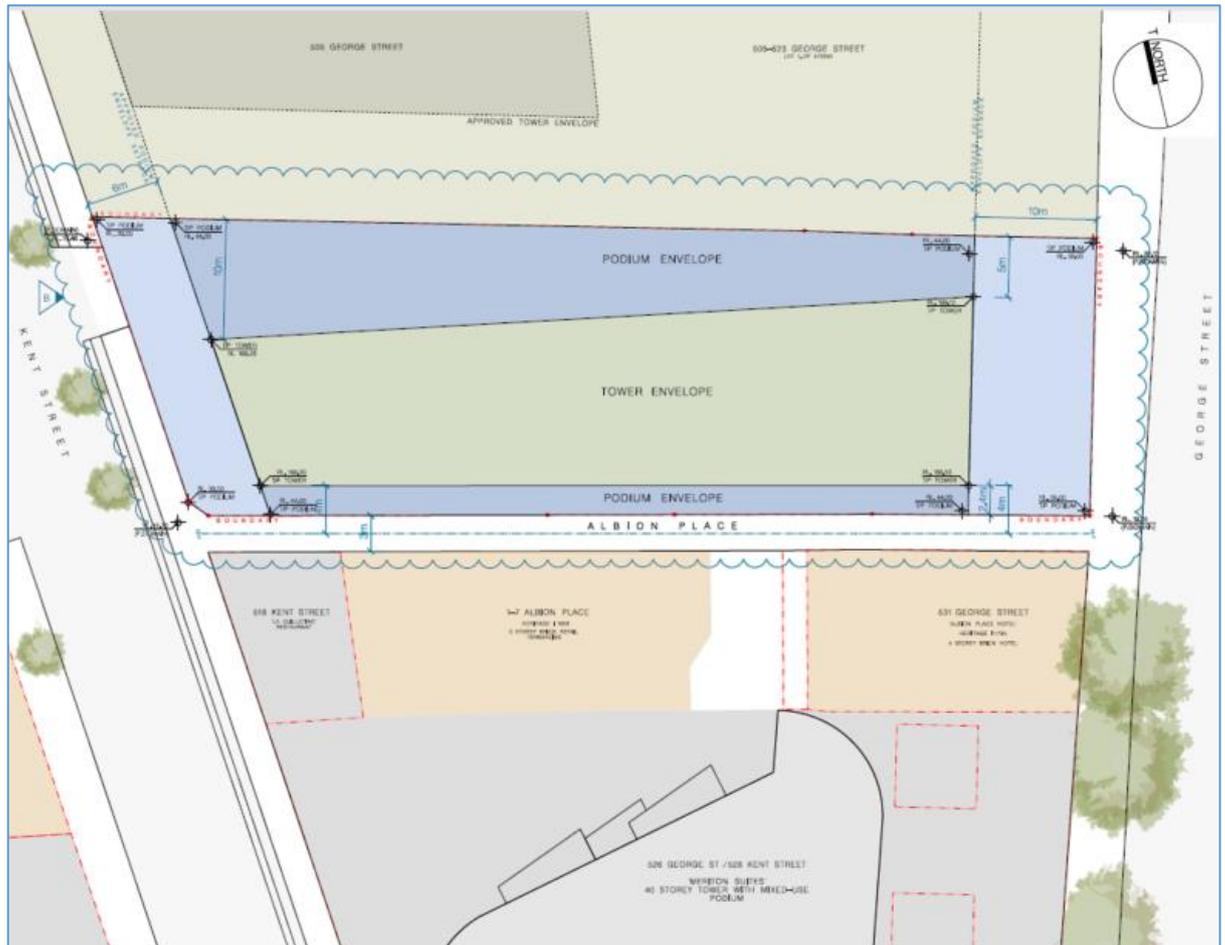
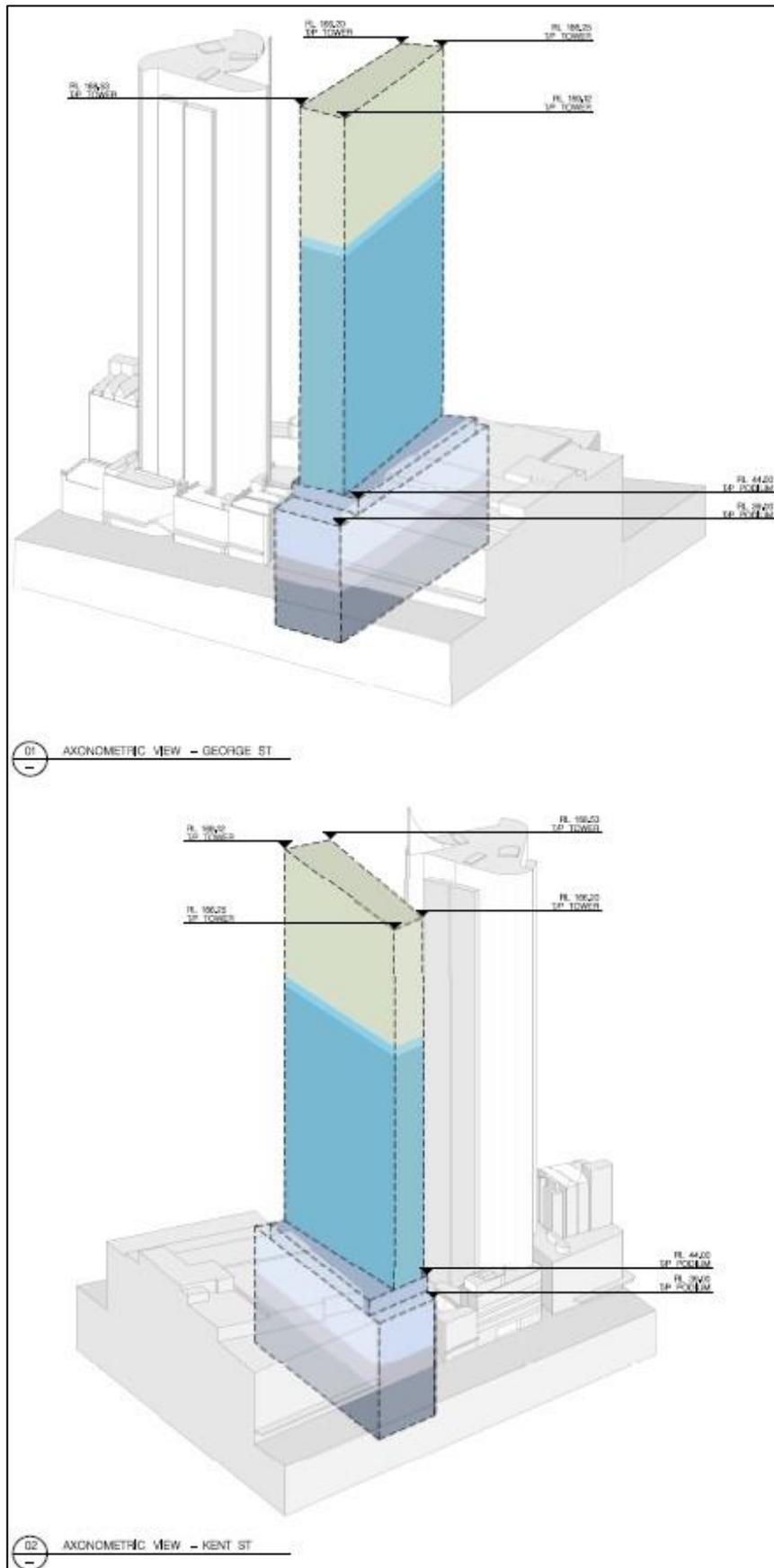


Figure 21: Building envelope - plan



**Figure 22:** Building envelope axonometric views - the blue and green shading in the tower represents the proposed hotel and residential accommodation respectively (George Street view top and Kent Street view bottom)

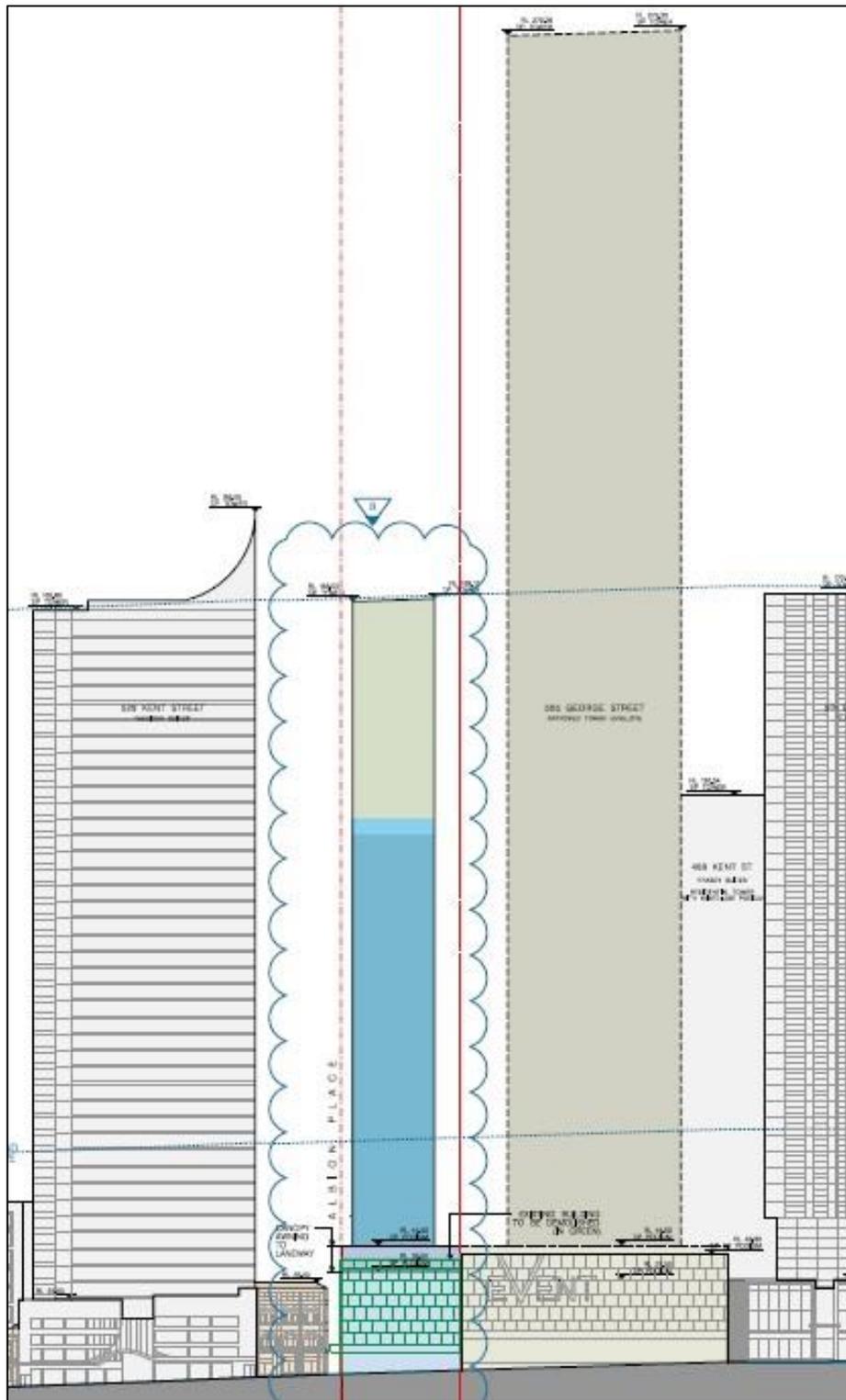


Figure 23: Building envelope - East (George Street) elevation

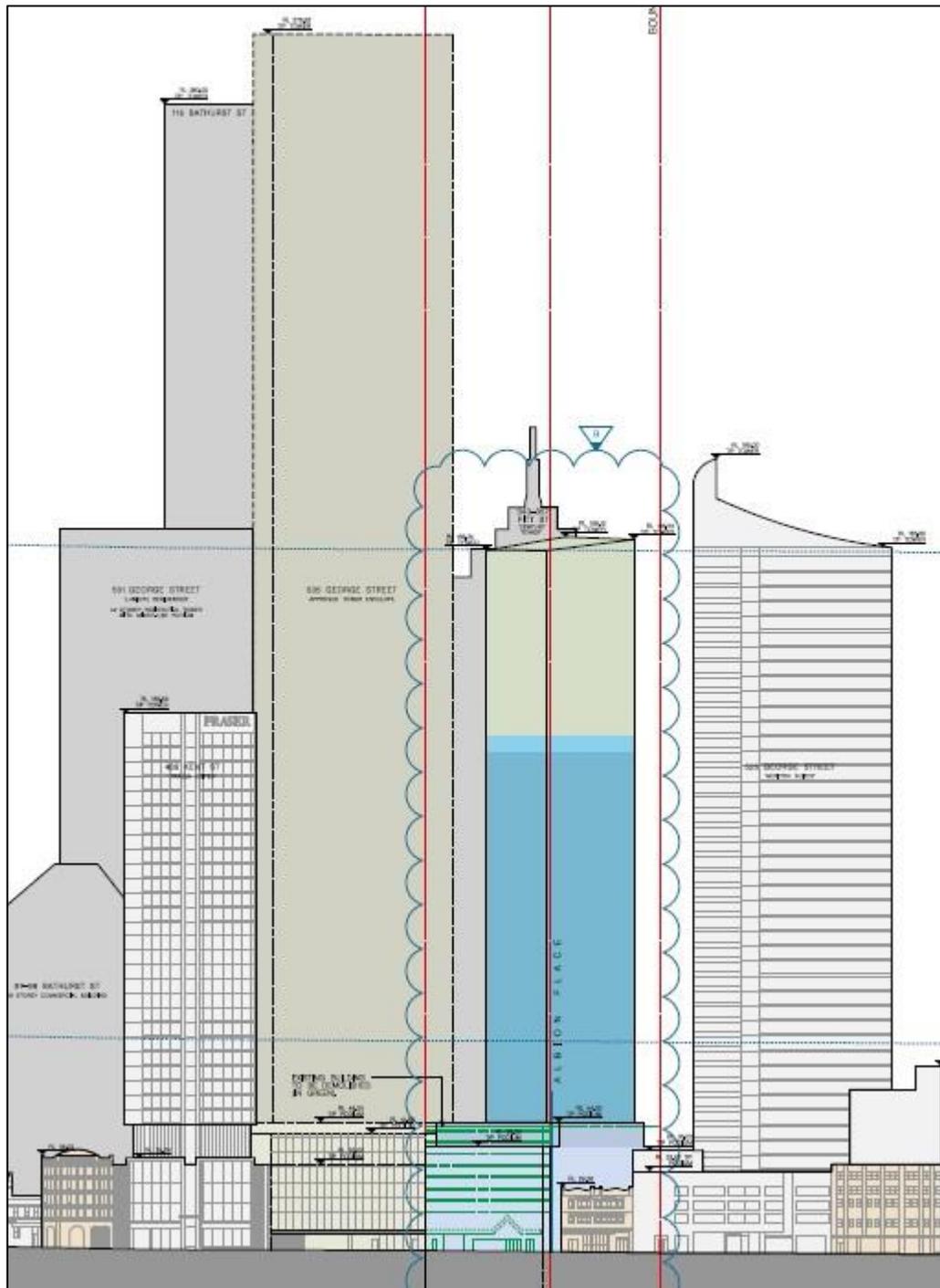


Figure 24: Building envelope - West (Kent Street) elevation



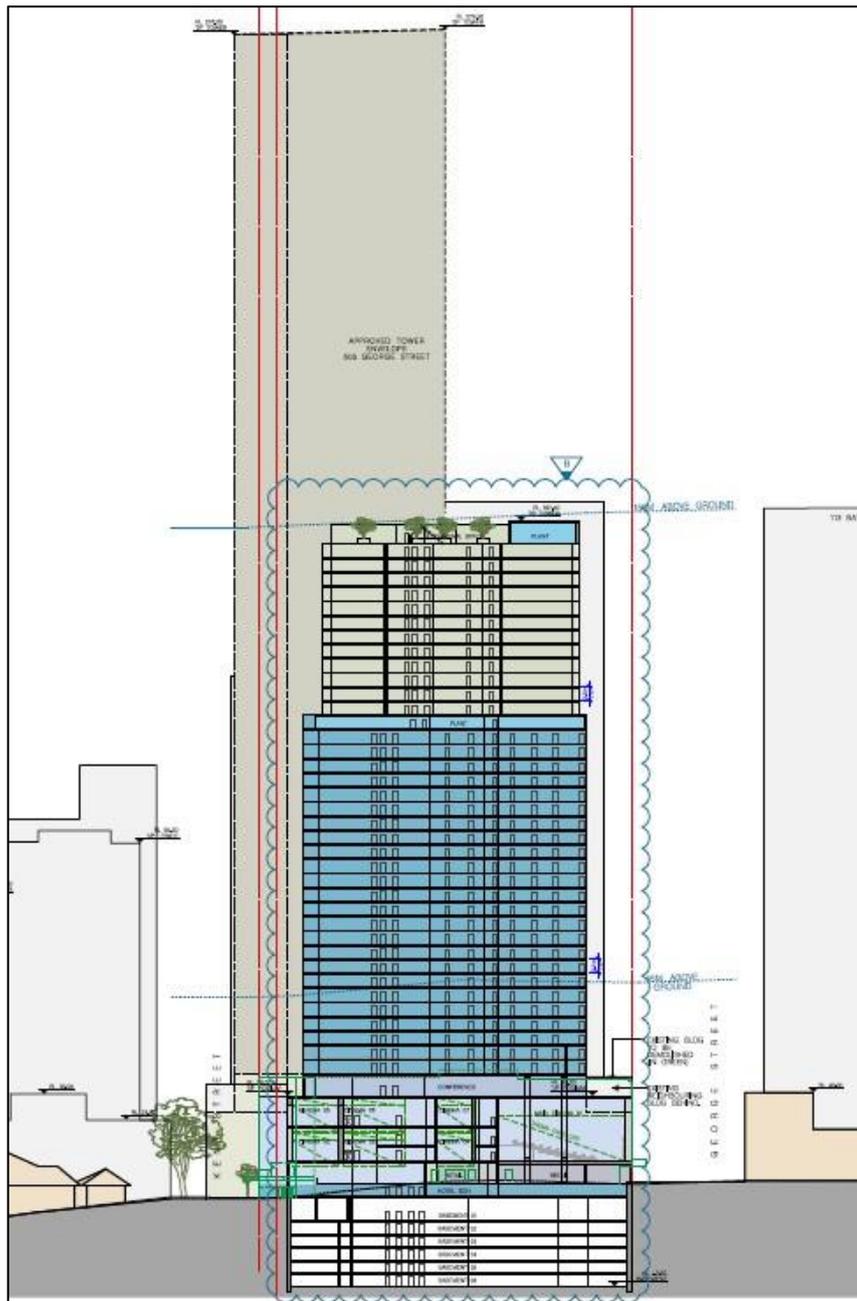


Figure 27: Reference scheme - Section east/west (looking north)

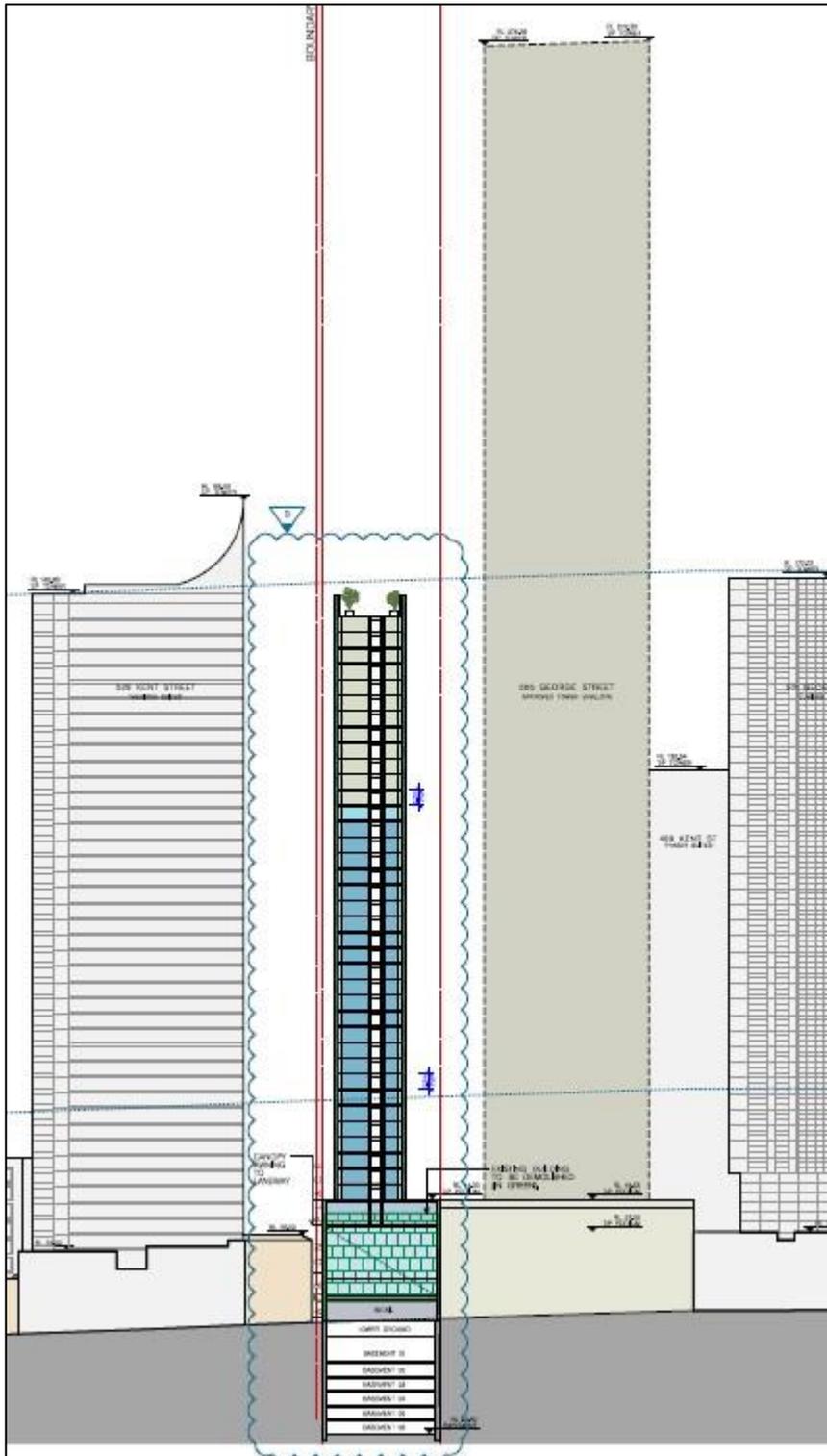
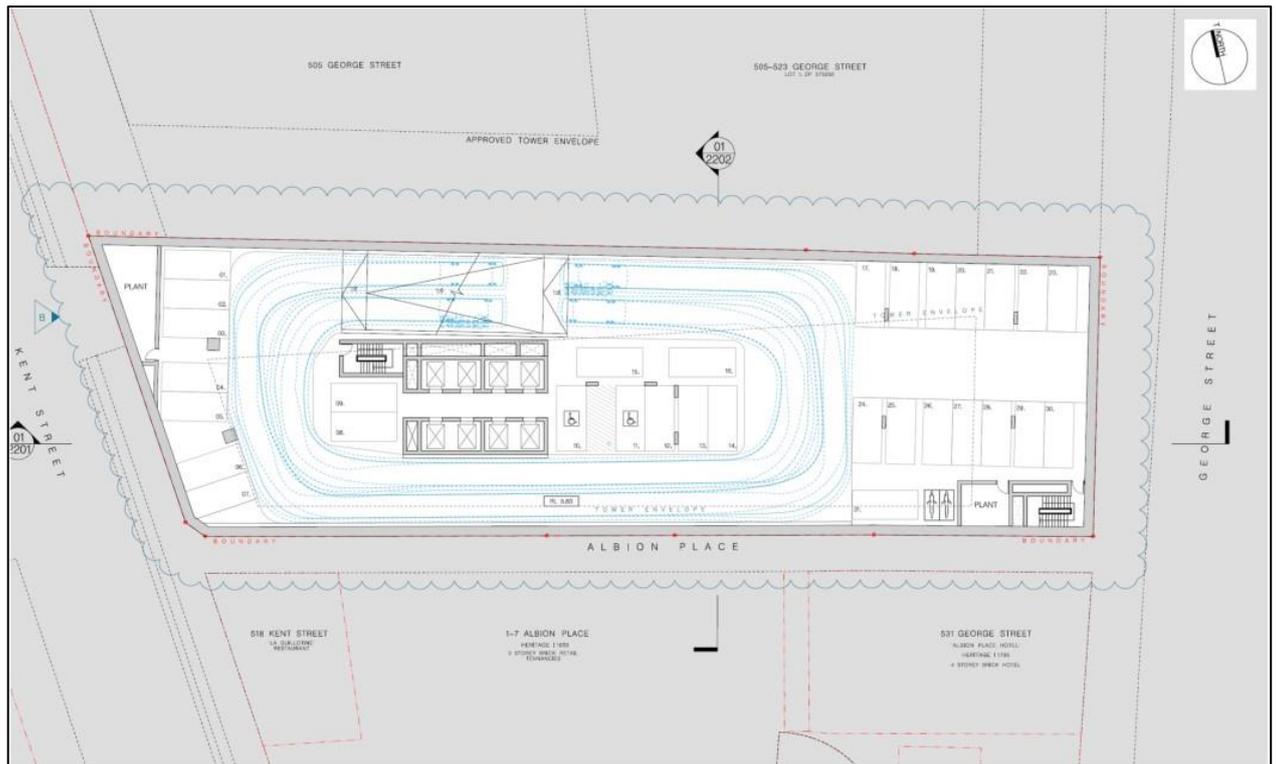
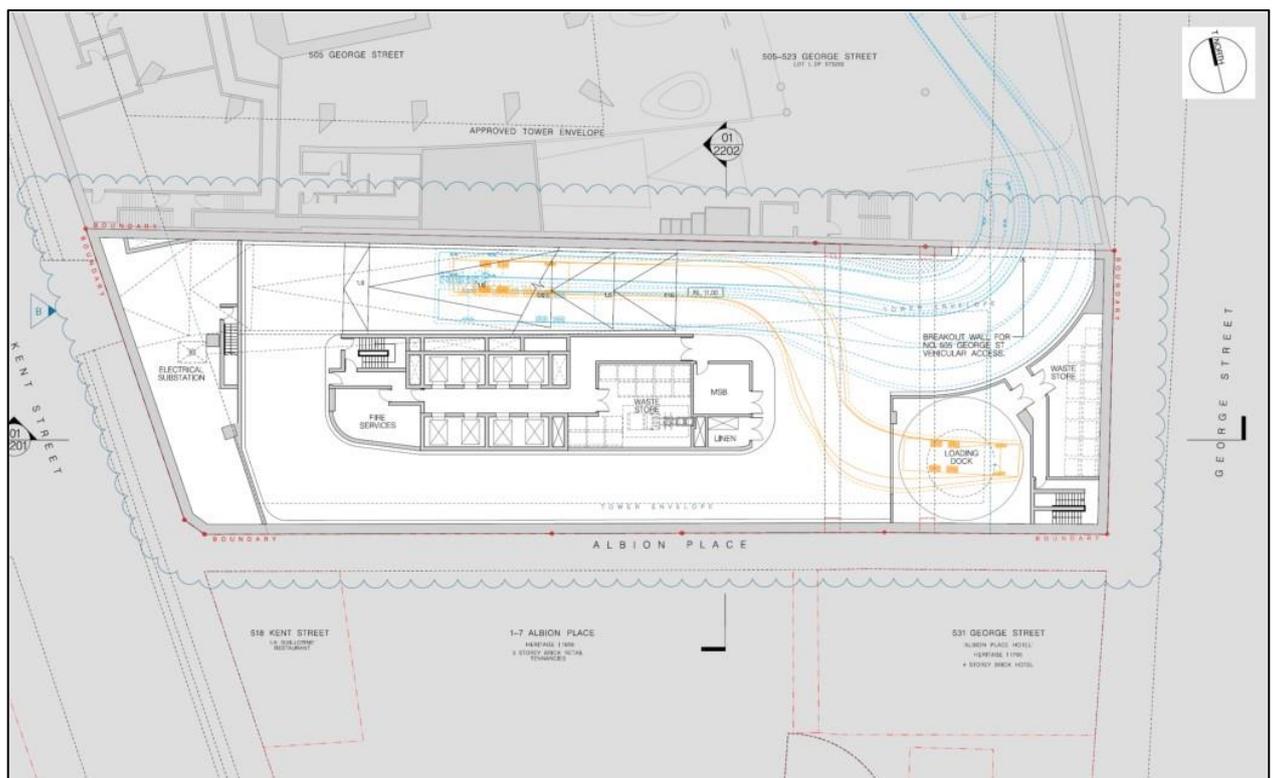


Figure 28: Reference scheme - Section north/south (looking west)



**Figure 29:** Reference scheme - Basement level 2



**Figure 30:** Reference scheme - Basement level 1 (note the breakthrough vehicular connection to 505-523 George Street)

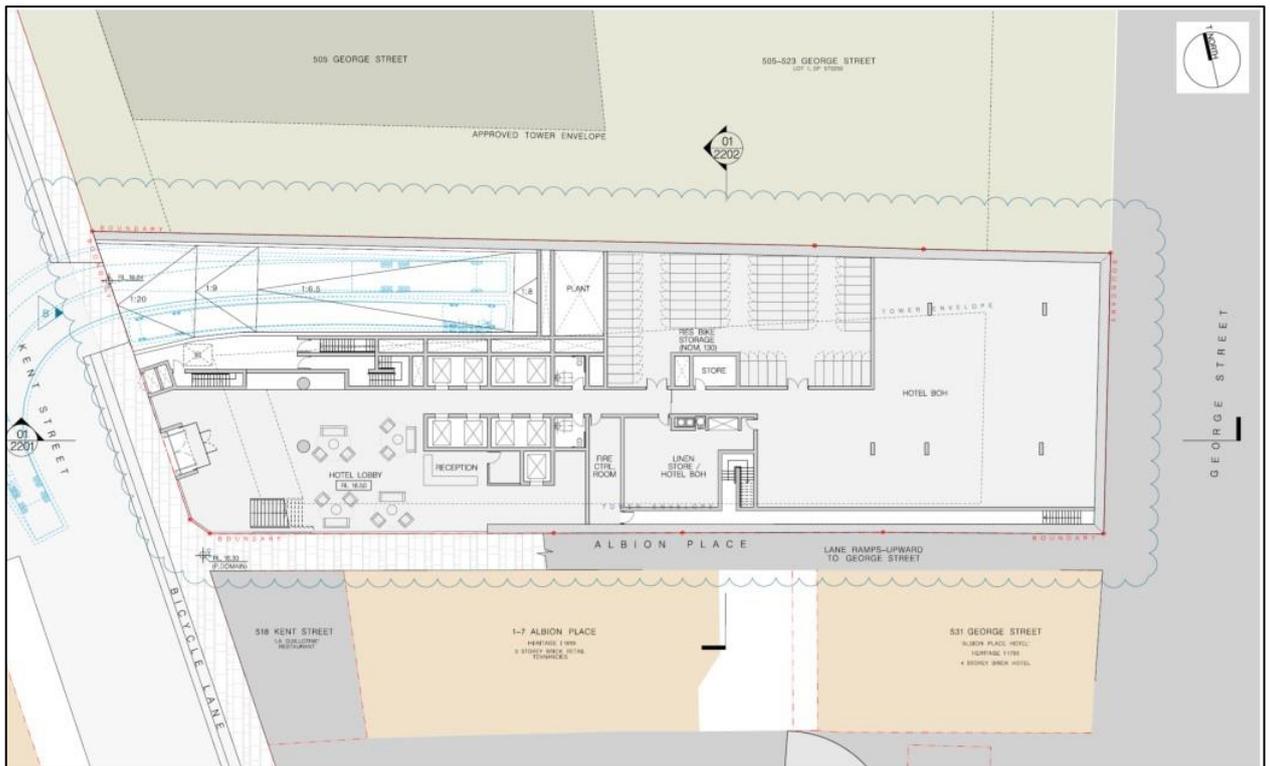


Figure 31: Reference Scheme - Kent Street lower ground level

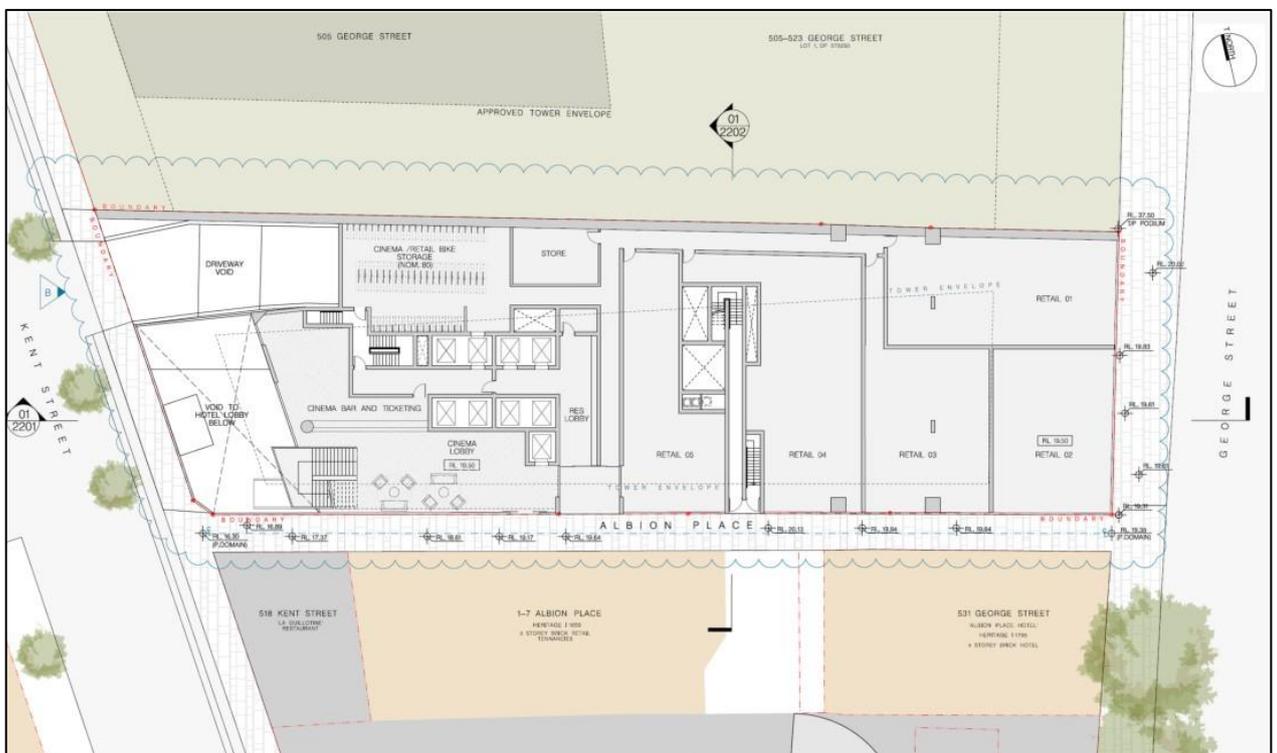


Figure 32: Reference Scheme - George Street ground level

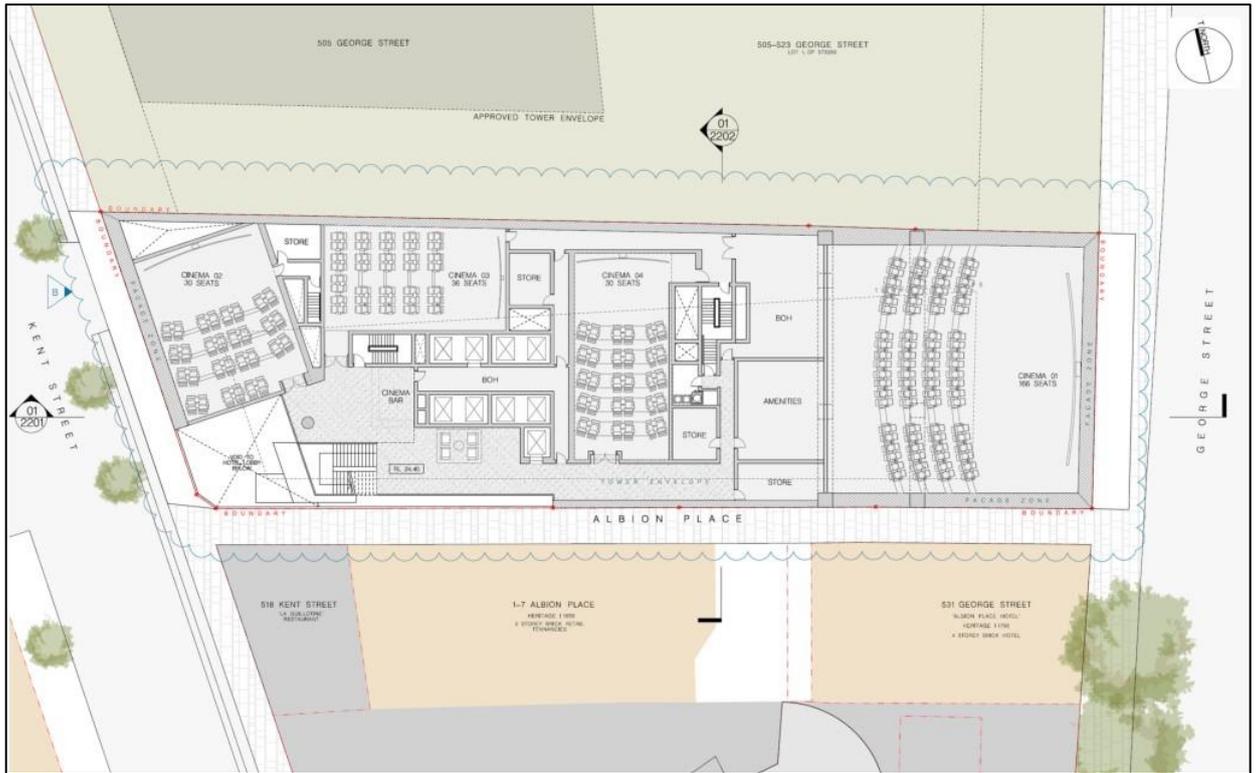


Figure 33: Reference Scheme - Level 1

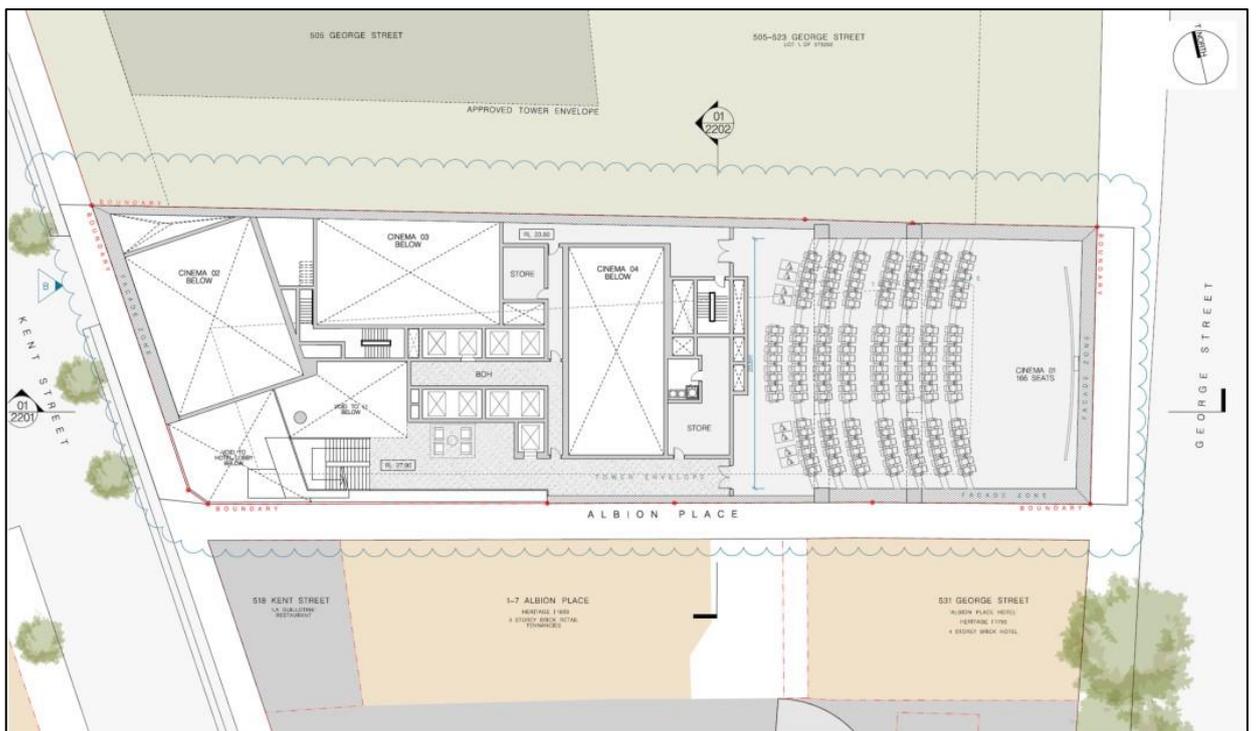


Figure 34: Reference Scheme - Level 1 mezzanine

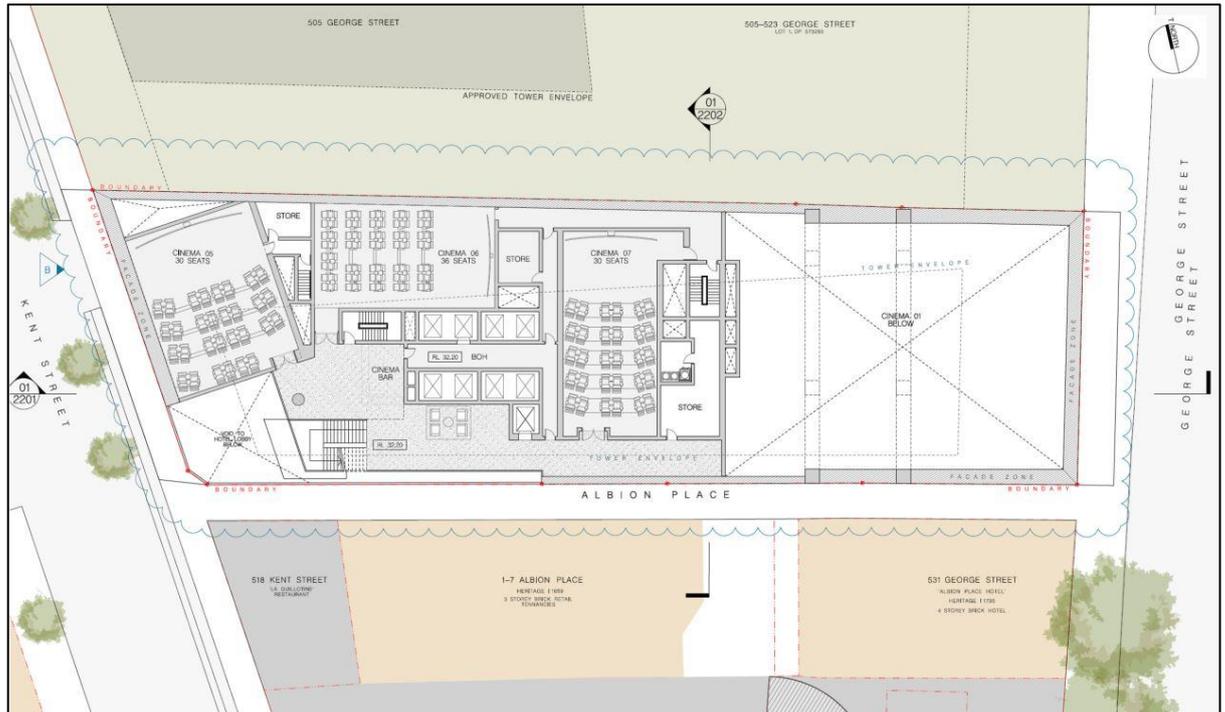


Figure 35: Reference Scheme - Level 2

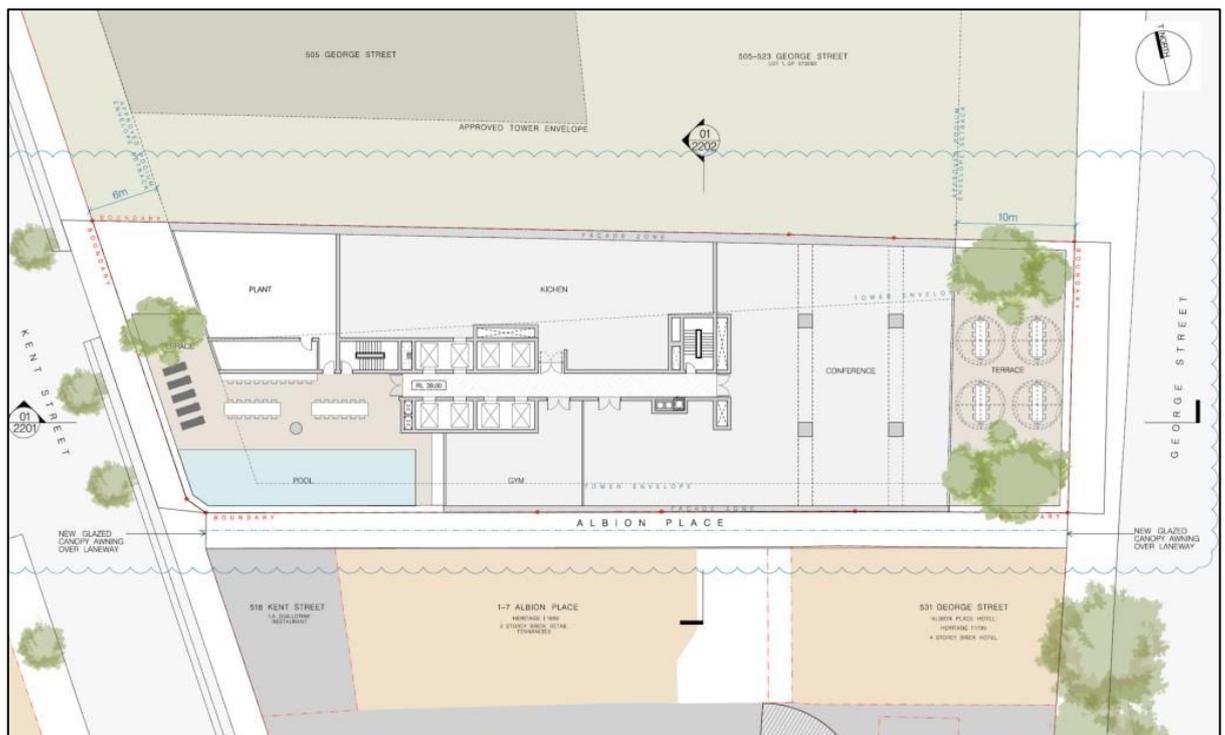


Figure 36: Reference Scheme - Level 3 hotel facilities

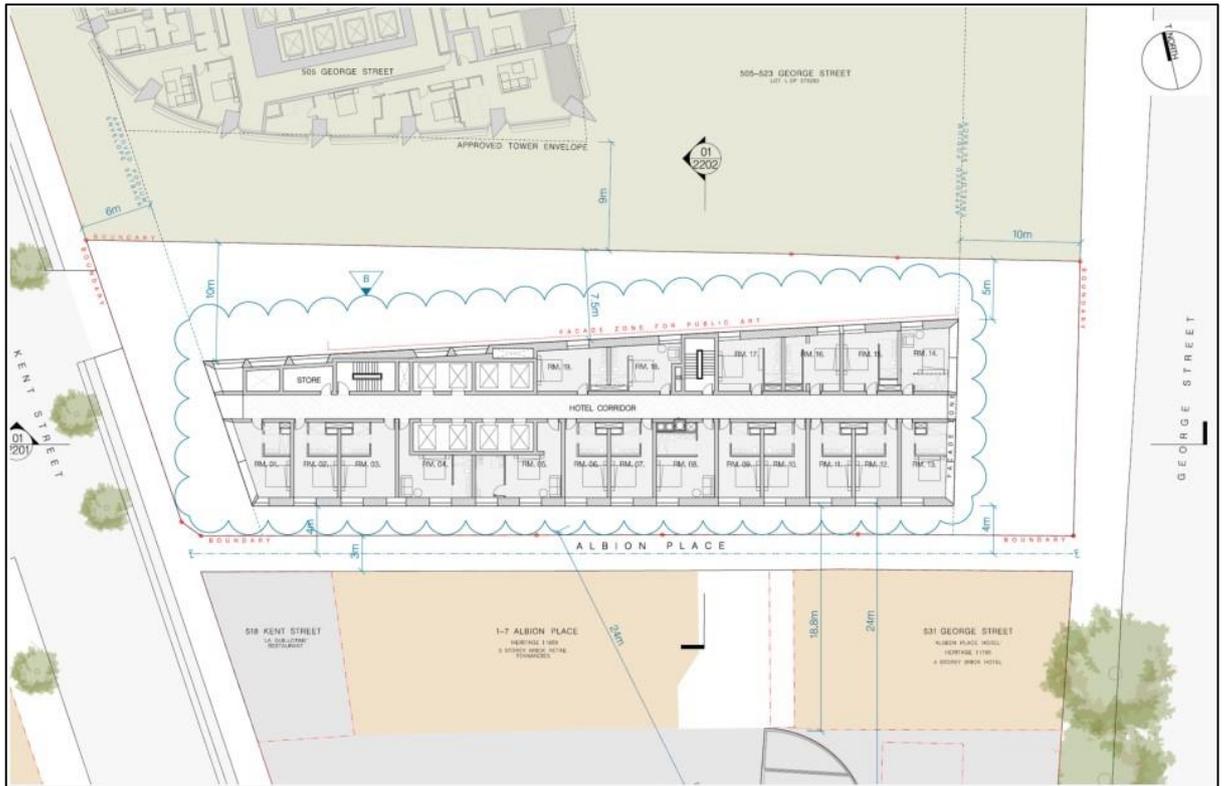


Figure 37: Reference Scheme - Hotel typical levels 4 -27

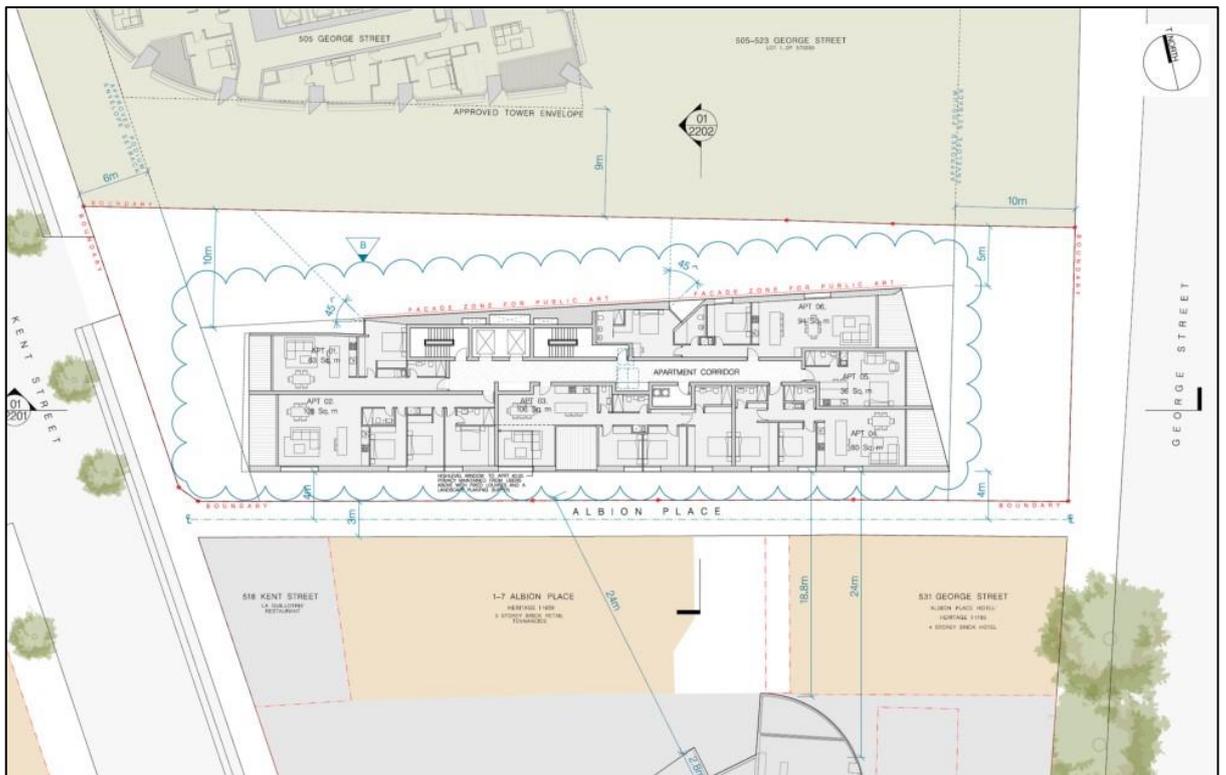


Figure 38: Reference Scheme - Residential apartments typical levels 29 - 40



**Figure 39:** Reference Scheme - Roof top residential communal open space

**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. Having liaised with the City's Access Unit and the CSTTC Working Group and resolving the driveway issue (as discussed above), in this instance, the delegate of the CSPPC, being the Director City Planning Development and Transport, advises that the proposal is not considered to have a significant impact on traffic and transport in the CBD. Further consultation with the CSTTC is not considered necessary.

### **Airports Act 1996**

31. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity. The proposed development penetrates the prescribed airspace for Sydney Airport.
32. On 29 October 2019, the Director, Airport Safeguarding Aviation and Airports Division provided approval for the controlled activity for the intrusion of the subject building into the prescribed airspace to a maximum height of 167.4m (AHD), subject to conditions.

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

33. 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**

34. 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.
35. A preliminary Environmental Site Investigation was submitted with the application. While the site was occupied by a hotel and various retail stores in the late 1800s before being used a cinema / theatre in the early 1900s, there have been highly contaminating land uses in close proximity to the site. A condition of consent is recommended requiring the submission of a Detailed Environmental Site Investigation (DESI) upon lodgement of the subsequent detailed design DA. If the DESI concludes that the site requires remediation, then a Remediation Action Plan (RAP) is also required to be submitted the detailed design DA.

36. It is noted a DESI was submitted with DA for 505 George Street (D/2019/857) which concluded that 505 George Street could be made suitable for the proposed use without the requirement for a RAP. Given the two sites are adjoining Council officers are satisfied the site is capable of being made suitable for the proposed indicative land uses subject to conditions.

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

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

#### Clause 45

38. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network). In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days. No response was received within the designated time period and therefore it is assumed that no objections are raised.

#### Clause 86

39. A referral is required to Transport for NSW (TfNSW) as the site includes land in "Zone B" of the CBD Rail Link on the Interim Rail Corridors Map. The application was referred to TfNSW pursuant to Clause 86 and no objections were raised subject to conditions.

#### Clause 101

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

#### Clause 102

41. The application is considered to satisfy Clause 102 of the Infrastructure SEPP subject to conditions of consent and compliance with the submitted Environmental Noise Impact Assessment. The report demonstrates compliance with Development Near Rail Corridors and Busy Roads – Interim Guideline.

#### Clause 104

42. The proposal is required to be referred to the RMS (now part of TfNSW) pursuant to Clause 104 as the development is defined as traffic generating development under Schedule 3 of the infrastructure SEPP. The application was referred to TfNSW and no objections were raised with the proposal subject to conditions.

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

43. Any subsequent detailed design DA will be required to be accompanied by a valid BASIX certificate in accordance with the provisions of the BASIX SEPP and Environmental Planning and Assessment Regulation 2000.

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

44. 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. The proposed building envelope is generally acceptable when assessed against these provisions, as detailed below:

### **Principle 1: Context and Neighbourhood Character**

The site is located within Central Sydney and will contribute to the vitality of the immediate locality and the broader City of Sydney Local Government Area (LGA). The site is located in the B8 Metropolitan Centre zone and the proposal is generally in accordance with the objectives of the SLEP 2012 and the SDCP 2012, subject to the recommended conditions. The proposal is also consistent with the existing and desired future character of the locality.

### **Principle 2: Built Form and Scale**

The immediate locality along George Street and Kent Street has a diverse built form and scale, architectural building styles and land uses. The form and scale of development anticipated in the area and is consistent with the height and typology of the proposal.

The proposed building envelope complies with the maximum permitted height permitted under SLEP 2012. The proposal responds satisfactorily to the surrounding urban renewal context, while achieving a suitable form and scale, subject to the recommended conditions.

### **Principle 3: Density**

The proposed density of development in the reference scheme drawings demonstrates that the envelope accommodates a building which complies with the total maximum FSR permitted under Clauses 4.4, 6.4 and potential 10% design excellence additional floor space subject to compliance with Clause 6.21 of SLEP 2012. It is consistent with the desired future character envisaged in the locality of the Central Sydney and the broader City of Sydney Local Government Area.

### **Principle 4: Sustainability**

The proposal is accompanied by a reference design scheme showing compliance with the minimum solar access and natural cross ventilation requirements of SEPP 65 and the ADG.

The submitted Design Excellence Strategy outlines ESD targets proposed for the development which are required to be carried through to the subsequent detailed design DA. Any subsequent detailed design development application must also be accompanied by a BASIX Certificate.

**Principle 5: Landscape**

The proposed podium footprint is constructed to the site boundaries and accordingly, there is no at grade landscaped area. This is acceptable in the context of the Sydney CBD. Refer to the SDCP 2012 compliance table for further discussion on landscaping.

**Principle 6: Amenity**

The reference design submitted with the application demonstrates that a residential apartment building within the proposed tower form is capable of achieving an acceptable level of amenity. The reference design generally provides compliant levels of solar access, natural cross ventilation and apartment sizes.

**Principle 7: Safety**

This is a matter for a future detailed design development application. A condition is recommended for a Security Management Plan prepared in accordance with the 'Crime Prevention Through Environmental Design' (CPTED) principles.

**Principle 8: Housing Diversity and Social Interaction**

The building envelope is capable of providing a mix of apartment types and an adequate amount of space for a range of communal facilities to encourage housing diversity. The site is suitable for the proposed indicative residential uses.

**Principle 9: Aesthetics**

This is a matter for the subsequent detailed design DA. The detailed design will be required to provide a building that provides suitable architectural diversity, expression and character in order to achieve consistency with this design quality principle.

**Apartment Design Guide**

45. Clause 28 of SEPP 65 requires consideration of the ADG, which provides additional detail and guidance for applying design quality principles for residential apartment developments. Compliance with the guidelines in the ADG, where relevant to the assessment of the subject Concept DA, is addressed in the table below.
46. It is noted that not all ADG design objectives are expected to be fully resolved at Concept DA stage, however Council officers need to be satisfied that the subsequent detailed design is capable of complying with the ADG and providing an acceptable amenity, particularly regarding natural ventilation, solar and privacy, within the parameters of the building envelope.

<b>2E Building Depth</b>	<b>Compliance</b>	<b>Comment</b>
12-18m (glass to glass)	Able to comply	The proposed building envelope has a maximum north-south depth of approximately 15.8m.

2F Building Separation	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms / balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul>	No - assessed as acceptable	Refer to discussion provided in the 'Issues' section.

3B Orientation	Compliance	Comment
Overshadowing of neighbouring properties is minimised during midwinter	Able to comply	<p>The sun's eye view diagrams and shadow study submitted with the DA and included at Attachment B demonstrate that the building envelope has been designed to minimise overshadowing to neighbouring properties in accordance with the design guidance under Objective 3B-2 of the ADG.</p> <p>It is noted that the assessment of overshadowing has included the proposed development for 505 George Street (D/2019/857).</p>

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).</p>	Able to comply	<p>Based on the subject site area, approximately 464sqm of communal open space is required to be provided. The reference scheme includes a roof top communal open area for residential use comprising an area of approximately 450sqm. While this is slightly below the numerical requirement, there may be opportunity to increase the space during the subsequent competitive design process and detailed design DA. This will be subject to further assessment at the detailed design DA stage. Conditions of consent area recommended ensuring that future communal open space is provided for the exclusive use by residents which is not co-located or co-mingled with other uses such as the hotel.</p>

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 - assessed as acceptable	<p>No deep soil zones are provided. The design guidance in the ADG states that achieving deep soil zones may not be possible on some sites including where:</p> <ul style="list-style-type: none"> <li>• The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)</li> <li>• There is 100% site coverage or non-residential uses at ground level.</li> </ul>

3E Deep Soil Zones	Compliance	Comment
		<p>The proposal includes a commercial podium with 100% site coverage. The site is located in a highly urbanised area of high rise development. In this regard, the provision of the recommended deep soil would be unreasonable in this case.</p> <p>Matters relating to stormwater management and landscape opportunities can be investigated and addressed in the subsequent detailed design DA.</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"> <li>• 12m between habitable rooms / balconies</li> <li>• 6m between non-habitable rooms</li> </ul>	No - assessed as acceptable	Refer to discussion provided in the 'Issues' section.

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.	Able to comply	The sun's eye views submitted with the application show that 83% of the apartments in the reference scheme receive compliant solar access.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Able to comply	The sun's eye views submitted with the application show that 15% receive no direct sunlight between 9am and 3pm on the midwinter solstice.

4B Natural Ventilation	Compliance	Comment
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Able to comply	<p>All of the indicative residential uses will be above 9 storeys in height.</p> <p>Conditions of consent are recommended to ensure that the future detailed design of the development is capable of providing natural ventilation while providing acceptable noise levels within the apartments.</p>

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 Non-habitable rooms: 2.4m	Able to comply	The proposed building envelope assumes a minimum 3.2m floor to floor height for indicative residential floors. This is sufficient to provide a minimum floor to ceiling height of 2.7m

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

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Studio apartments are to have a minimum balcony area of 4m<sup>2</sup> with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>	Able to comply	The reference scheme demonstrate that the compliant size and dimension for balconies can be achieved within the proposed envelope.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	Able to comply	The reference scheme includes two lifts servicing all residential floors. The typical residential floor plan shows 6 apartments per floor with a total of 72 apartments indicatively proposed. The subsequent detailed DA is capable of complying with this design objective.

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

47. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
48. 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.

49. 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.

**Sydney Local Environmental Plan 2012**

50. The site is located within the B8 - Metropolitan Centre zone under SLEP 2012. The proposed indicative uses comprise commercial premises, entertainment facility, residential accommodation and hotel or motel accommodation, all of which are permissible with consent.
51. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	A maximum height of 150m is permitted.  A height of 150m is proposed.
4.4 Floor Space Ratio  6.4 Accommodation floor space	Able to comply	A maximum Floor Space Ratio (FSR) of 13.36:1 is permitted under Clauses 4.4 and 6.4 of SLEP 2012 based on the proportions of the proposed mix of indicative uses. In addition, subject to compliance with Clause 6.21 of SLEP 2012, the subsequent detailed design DA may be eligible for up to an additional 10% floor space, resulting in a potential FSR based on the proposed land use mix of 14.75.  The reference scheme demonstrate that the proposal can achieve compliance with the maximum FSR for the subject site within the building envelope while still meeting ADG compliance with allowance in the building envelope to appropriately articulate the building.

Development Control	Compliance	Comment
5.10 Heritage conservation	Able to comply	<p>As described in the 'Background' section above, the site is located in close proximity to a number of heritage items including:</p> <ul style="list-style-type: none"> <li>• Albion Place (I1658);</li> <li>• 1-7 Albion Place (I1659) former warehouse group;</li> <li>• 531-535 George Street (I1795) former 'Vine House';</li> <li>• 531 Kent Street (I1835 State item) 'Judges House' and</li> <li>• 533-539 Kent Street (I1836) former warehouse façade.</li> </ul> <p>The proposed podium height and setback of the tower is considered to appropriately respond to the heritage items and other planning considerations as detailed in the 'Issues' section.</p> <p>The use of materials in the subsequent detailed design development will need to be sympathetic to the above heritage items. The existing building is considered to detract from the heritage significance of the surrounding heritage items particularly along Albion Place. The proposed detailed design of the ground level and awning along Albion Place will be particularly important to respect the heritage significance of Albion Place. Conditions of consent are recommended to address this.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.17 Sun access planes	Not applicable	The site not subject to the sun access planes.
6.19 Overshadowing of certain places	Yes	The proposed building envelope does not overshadow any of the specified public spaces under this provision.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The proposal is for a building envelope which is considered capable of accommodating future buildings which can exhibit design excellence in accordance with the matters for consideration in contained in Clause 6.21.</p> <p>Relevant matters to be assessed under Clause 6.21(4) as they relate to the concept DA are provided below:</p> <ul style="list-style-type: none"> <li>• The proposed building envelope does not show that view corridors will detrimentally impacted.</li> <li>• The indicative land uses are suitable for the site.</li> <li>• The height, massing and setbacks of the envelope are compatible with the existing and desired character of the locality.</li> <li>• The proposal sets key ecologically sustainable development targets.</li> <li>• The building envelope shows the maximum extent of overshadowing and is assessed as acceptable.</li> </ul> <p>In accordance with Clause 6.21(7) of SLEP 2012, up to an additional 10% FSR or height may be awarded if a competitive design process has been undertaken, and the detailed design is considered by the consent authority to exhibit design excellence.</p> <p>The applicant has submitted a Design Excellence Strategy as part of this application which nominates that the 10% additional FSR will be sought through the competitive process.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Able to comply	The maximum number of car parking spaces permissible will be dependent on the number of apartments and hotels rooms and quantum of commercial floor space provided in the subsequent detailed design DA.
7.14 Acid Sulphate Soils	Able to comply	<p>The site is identified as containing class 5 Acid Sulphate Soil and is located within 500m of Class 2 Acid Sulphate Soil.</p> <p>It will be determined at the detailed design development application stage if the ASS provisions of the Sydney LEP 2012 are triggered by any proposed excavation works.</p>
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface (OLS) (156m AHD) as shown on the OLS Map for the Sydney Airport.</p> <p>As discussed above under the Airports Act 1996 heading, approval has been provided by the Director, Airport Safeguarding Aviation and Airports Division.</p>
7.20 Development requiring preparation of a development control plan	Yes	<p>As the height of the proposed building envelope exceeds 55m and the site area is greater than 1,500sqm, the preparation of site specific DCP is required pursuant to Clause 7.20(b) of SLEP 2012.</p> <p>However, in accordance with Section 4.23(3) of the Environmental Planning and Assessment Act 1979, the lodgement of a concept DA may be considered by the consent authority as satisfying the obligation to prepare a DCP.</p>

Part 7 Local Provisions - General	Compliance	Comment
		The proposal satisfactorily sets expectations for the use, form, massing, scale, environmental impacts, ESD outcomes, access outcomes, interface with ground level and landscaping outcomes of the development.
7.24 Development near Cross City Tunnel ventilation stack	Able to comply	The site is located in close proximity to the Cross City Tunnel and is mapped in the SLEP 2012 as land being affected by the Cross City Tunnel Ventilation Stack. An Air Quality Impact Assessment was submitted with the application and concludes that the proposed future development under the subsequent detailed design DA is capable of complying with this provision.

#### Sydney Development Control Plan 2012

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

3. General Provisions	Compliance	Comment
<p>3.1 Public Domain Elements</p> <p>3.15 Public Art</p>	Able to comply	<p>A public art strategy has been submitted with the application. The proposed budget for public art is 1% of the of the development cost which is considered to be commensurate with the scale of development. This strategy is recommended to form a part of the competitive process design brief to inform any future design competition</p> <p>A facade zone on the northern elevation of the tower is nominated which is supported. The provision of public art will be required to be considered during the competitive design process and should be carefully integrated in to the overall architecture. DAP has also recommended that this wall contain public art to provide visual interest. A condition of consent is recommended to address this.</p> <p>A detailed public art plan is required to be submitted with the subsequent detailed design DA in accordance the preliminary strategy, City's Public Art Policy and Section 3.1.5 of the Sydney DCP 2012.</p>
<p>3.2 Defining the Public Domain</p> <p>3.2.1 Improving the public domain</p> <p>3.2.2 Addressing the street and public domain</p> <p>3.2.3 Active frontages</p> <p>3.2.4 Footpath awnings</p> <p>3.2.6 Wind effects</p>	Able to comply	<p>The proposed building envelope ensures adequate sun access to publicly accessible spaces is maintained and does not unreasonably impede public views. Refer to the 'Issues' section for further comments on view impact.</p> <p>The reference scheme has demonstrated that activation on all three street frontages can be achieved as it includes:</p> <ul style="list-style-type: none"> <li>• 2 retail tenancies on the George Street frontage;</li> <li>• 4 retail tenancies and cinema entry lobby, bar and ticketing area along the Albion Place frontage; and</li> <li>• Hotel lobby on the Kent Street frontage.</li> </ul>

3. General Provisions	Compliance	Comment
		<p>It is considered that the proposed development provides a good opportunity to facilitate further activation and pedestrian use of Albion Place including potential outdoor dining. Given Albion Place is relatively narrow (3m wide), a strategic and coordinated approach will be required by Council in assessing future applications for outdoor dining to ensure a clear and accessible path of travel through Albion Place. In this regard, if a footway application is lodged to renew the outdoor dining area associated with the Albion Place Hotel (531 George Street), Council may need to consider an alternative dining layout to facilitate the desired future character and increased pedestrian use of Albion Place.</p> <p>To mitigate wind impacts along Albion Place and also provide protection from rain for activating food and beverage businesses in the lane, it is recommended that a projecting awning is provided to the subject building. The reference scheme has addressed this and includes a conceptual awning design along Albion Place. This will be required to be considered further during the competitive design process and detailed design DA to establish an appropriate height and material. A condition has been recommended to address this.</p>

3. General Provisions	Compliance	Comment
<p>3.3 Design Excellence and Competitive Design Processes</p> <p>3.3.1 Competitive design process</p> <p>3.3.2 Design excellence strategy</p> <p>3.3.8 Site specific development control plans and Stage 1 (Concept) development applications</p>	Yes	<p>Prior to the lodgement of a detailed design DA, a competitive process is required to be undertaken.</p> <p>A Design Excellence Strategy has been submitted in accordance with Section 3.3 of SDCP 2012. The Design Excellence Strategy sets out that the proponent will seek to undertake an invited competitive design alternatives process with three competitors to be involved. The strategy nominates that the 10% additional floor space will be sought under the provisions of Clause 6.21 of the SLEP 2012 rather than additional height.</p> <p>The Design Excellence Strategy is recommended to be endorsed as part of this consent, in accordance with Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy.</p> <p>A concept landscape statement was submitted with the application, setting high level design principles that refer to the potential within the envelope for opportunities for landscaping of the open space areas. Conditions are recommended requiring any future detailed design development application involving the development of a residential flat or mixed use building to provide areas of communal open space and to be accompanied by a detailed landscape plan in accordance with the concept landscape statement.</p> <p>Other documents which will be required to be addressed in the subsequent competitive design process and subsequent detailed DA include ESD benchmark commitments and public art. This is discussed in further detail within this compliance table above and below.</p>

3. General Provisions	Compliance	Comment
		In addition to the Design Excellence Strategy, landscape concept plan and Public Art Strategy, all other relevant documentation has been submitted for the Concept DA as required by this section of the DA including site context analysis, built form massing envelopes, distribution of uses, overshadowing analysis, traffic management and servicing strategy, and Heritage Impact Statement.
3.6 Ecologically Sustainable Development	Able to comply	<p>The Design Excellence Strategy sets out the following ESD targets for the subsequent detailed design development:</p> <ul style="list-style-type: none"> <li>• Hotel - NABERS Energy Commitment Agreement of 4.5 stars;</li> <li>• Hotel - NABERS Water 4 star rating; and</li> <li>• Residential apartments - BASIX energy rating of 30 or higher</li> </ul> <p>Conditions of consent are recommended to ensure that the relevant ESD commitments in the Design Excellence Strategy will be carried through the competitive design process to the detailed design DA.</p>
3.9 Heritage	Yes	Refer to the 'Issues' section for discussion.
3.11 Transport and Parking	Able to comply	Appropriate conditions of consent are recommended to ensure that adequate bicycle parking facilities are provided as part of any future detailed design development application. The reference scheme drawings include bicycle parking and end of trip facilities demonstrating compliance with SDCP 2012 can be achieved.

3. General Provisions	Compliance	Comment
		Refer to the 'Issues' section for further discussion on the proposed shared driveway with 505-523 George Street, access and loading.
3.12 Accessible Design	Able to comply	An appropriate condition is recommended requiring an Access Report to be submitted with any future detailed design development application to ensure that the future buildings on the site incorporate accessible design.
3.13 Social and Environmental Responsibilities	Able to comply	A condition of consent is recommended requiring a Security Management Plan, prepared in accordance with the CPTED principles, to be submitted with any future detailed design development application.
3.14 Waste	Able to comply	<p>The proposed waste collection facilities and management will need to meet the provisions of Section 3.11.3 of SDCP 2012 and the City's Guidelines for Waste Management in New Developments.</p> <p>The reference scheme includes waste storage areas and has been designed to allow for a waste collection vehicle to enter and exit the site in a forward direction.</p> <p>A Waste Management Plan will need to be submitted as part of the subsequent detailed design DA.</p>

4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height 4.2.1.2 Floor to ceiling heights and floor to floor heights	Able to comply	The reference scheme drawings demonstrate that the proposed envelopes can accommodate compliant floor to ceiling and floor to floor heights.
4.2.2 Building setbacks	Assessed as acceptable	Refer to the 'Issues' section for discussion.
4.2.3 Amenity	Able to comply	The reference scheme drawings demonstrate that a building can be constructed within the proposed envelope with acceptable levels of residential amenity. This is discussed in further detail in the ADG compliance table above.
4.2.4 Fine grain, architectural diversity and articulation	Able to comply	The form and scale of the podium and tower envelopes above provide adequate capacity to ensure appropriate facade modulation and articulation to a future building proposed in any subsequent detailed design DA.
4.2.6 Waste and Recycling Management	Able to comply	<p>The reference scheme drawings have provided areas within the building envelope to accommodate waste storage and collection facilities.</p> <p>A condition is recommended to ensure these are provided in any subsequent detailed design DA.</p>
4.2.7 Heating and Cooling Infrastructure	Able to comply	The reference scheme drawings have provided areas within the building envelope to accommodate plant and services, including consolidated heating and cooling infrastructure.

4.4.8 Visitor Accommodation	Compliance	Comment
4.4.8.1 General	Able to comply	Further assessment to be made at detail DA stage, however the proposal is considered capable of complying with these provisions.

5.1 Central Sydney	Compliance	Comment
5.1.1 Street frontage heights	Yes	Street frontage heights in Central Sydney are required between 20 to 45m. The top of the podium is RL39 which forms the proposed street frontage height to George Street and Kent Street of approximately 19.8m and 23m respectively. The proposed street frontage heights comply and are considered acceptable in the context of the streetscape including the proposed street frontage heights for 505 George Street (D/2019/157).
5.1.2.1 Front setbacks	Partial compliance	<p>Buildings must be setback a weighted average of 8m, with a minimum of 6m above the street frontage height.</p> <p>The weighted average setback may be reduced on a secondary or minor pedestrian streets provided that an average weighted setback of at least 8m is maintained on north-south streets and major pedestrian streets.</p> <p>The proposed front setback of the tower from George Street is 10m, which complies.</p> <p>The proposed front setback of the tower from Kent Street is 6m which does not comply. However the proposed 6m setback aligns with proposed setback of the 505 George Street tower (D/2019/857) from Kent Street. The proposed setback will not be out of character in this regard and is considered acceptable.</p>

5.1 Central Sydney	Compliance	Comment
		The setback from Albion Place is approximately 2.5m and is discussed further in the 'Issues' section.
5.1.2.2 Side and rear setbacks	Assessed as acceptable	A varying side setback from the northern side boundary of 5m - 10m is proposed.  Refer to the 'Issues' discussion.
5.1.2.3 Setbacks for buildings adjoining or fronting lanes	Assessed as acceptable	Where new development fronts a lane or right of way, it is to be built to the street alignment up to the required street frontage height. Residential buildings, serviced apartments or hotels above the street frontage height are to have a minimum setback of 6m from the centre line of the lane or more if required.  A 4m setback from the centreline of Albion Place is proposed. Refer to the 'Issues' section for discussion.
5.1.5 Building bulk	Partial compliance	Above a height of 45m, tower floor plates are restricted to a maximum of 1000sqm with a maximum dimension of 40m.  The proposal provides a maximum floor plate of approximately 840sqm. The proposed north-south floor plate dimension is 15.7m which complies. However the proposed east-west floor plate is approximately 62m which does not comply. The site has relative narrow width with street frontage lengths to George Street and Kent Street of 23m and 27m. The site is also considered to be relatively constrained due to the setback of the tower proposed for 505 George Street and the narrow width of Albion Place and existing setbacks of the buildings to the south.

5.1 Central Sydney	Compliance	Comment
		<p>The northern and southern elevations of the future detailed design development will require careful consideration to break up the perceived bulk and mass of the tower. This can be achieved through a number of design measures such as building articulation, sun shading devices and/or public art. A condition of consent is recommended to address this.</p> <p>The proposed non-compliance is considered acceptable in this particular case subject to the subsequent detailed DA addressing the above.</p>
5.1.6 Building exteriors	Able to comply	The proposal is for a concept building envelope and the architecture and materiality of the development will be determined as part of any future competitive design process and detailed design development application.
5.1.9 Award and allocation of heritage floor space	Able to comply	Accommodation floor space will be subject to the allocation of heritage floor space in any subsequent detailed design DA.

## Issues

### Tower side setbacks / building separation

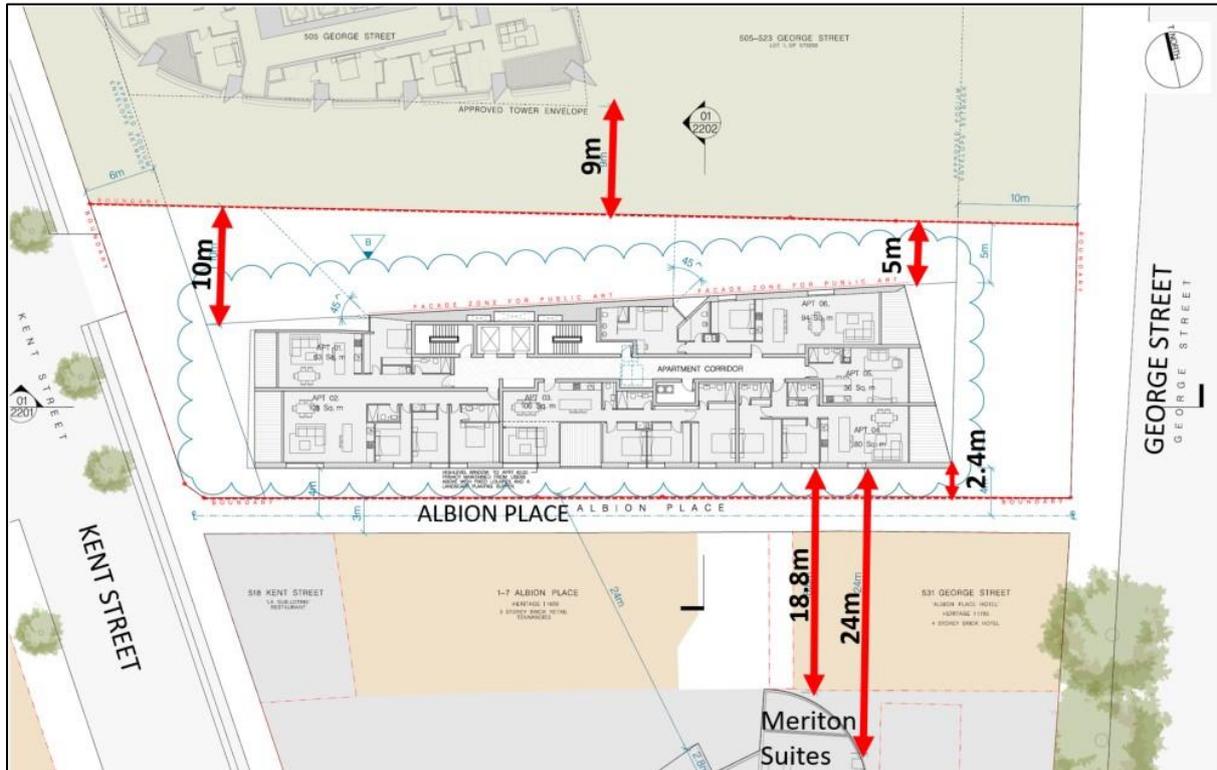
The proposed setbacks of the tower do not fully comply with setbacks specified in ADG Objectives 2F (building separation) and 3F (visual privacy) and Sections 5.1.2.1-5.1.2.3 (front, side and laneway setbacks) of SDCP 2012. The proposed setbacks are as follows:

#### *Northern side setback*

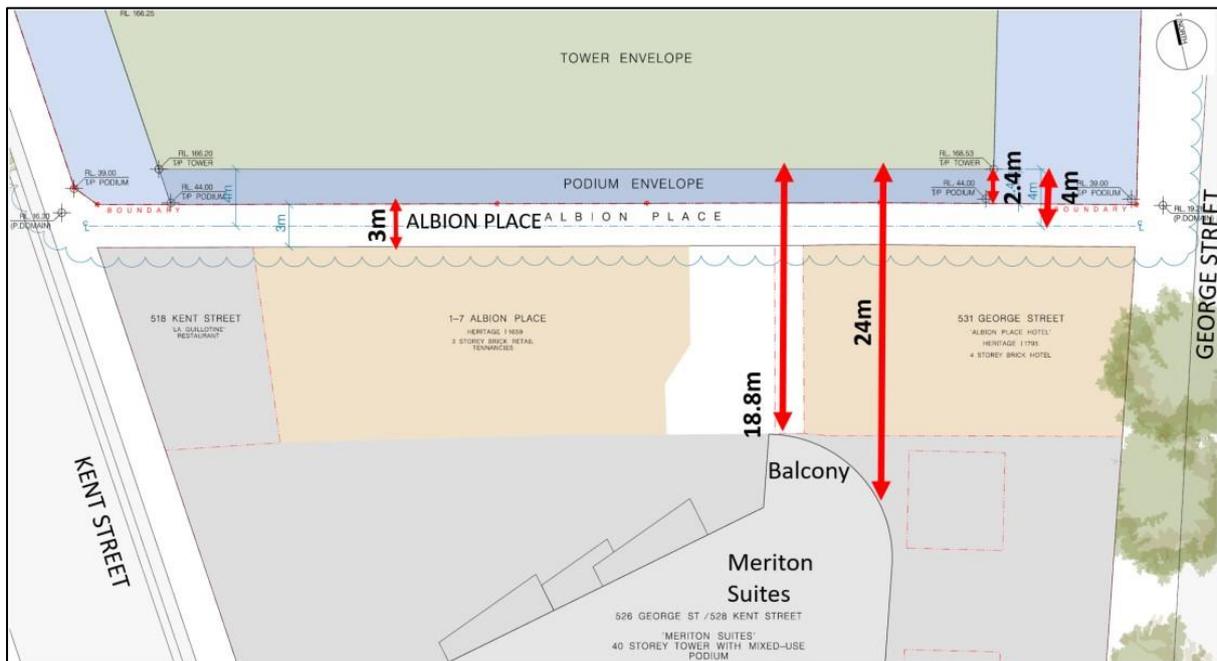
- (a) 5m from the side boundary at the eastern most corner of the tower
- (b) 10m from the side boundary at the western most corner of the tower
- (c) Approximately 18m from the 505 George Street tower at the closest point. The ADG requires 24m between the habitable faces of two towers.

*Southern side setback*

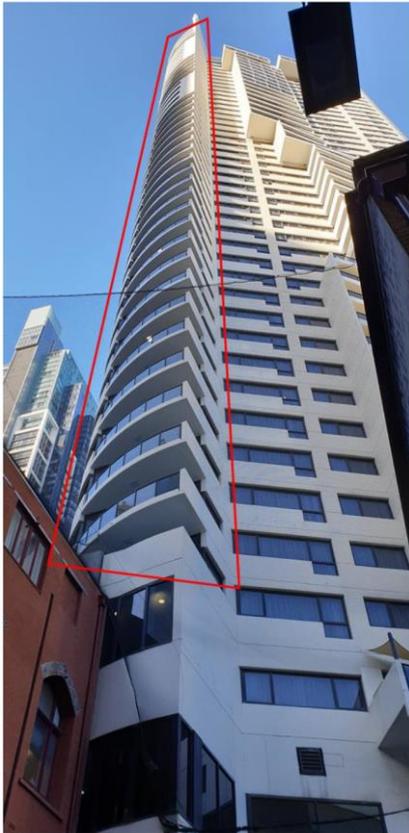
- (d) Approximately 4m from the centre line of Albion Place. The SDCP 2012 requires a setback of 6m from the centre line of Albion Place.
- (e) Approximately 18.8m at the closest point to the Meriton Suites serviced apartments to the south (balcony face). The ADG requires a building separation distance of 24m between residential buildings.



**Figure 40:** Proposed typical apartment floor plan with proposed setbacks indicated



**Figure 41:** Proposed podium and tower setbacks from Albion Place and Meriton building



**Figure 42:** Meriton Suites building viewed from Albion Place. The balconies with less than 24m separation from the proposed tower building envelope are indicated in red.

53. The proposed non-compliances are supported in this case for the following reasons:
- The reference scheme demonstrates that sufficient visual privacy can be achieved through careful apartment planning such as angling windows away from the 505 George Street tower and orientating the majority of balconies to George and Kent Streets (see Figure 40).
  - The proposed setbacks of the tower are carefully considered to achieve an appropriate balance between the 505 George Street tower (which has a non-complaint side setback) and the Meriton Suites to the south. The siting of the tower is considered the best outcome to manage building separation between these two adjoining buildings as well as providing a tower which is capable of supporting residential apartments with a high level of amenity on the subject site.
  - The reduced separation from the Meriton Suites building arises from the south-east corner of the proposed tower and the northern most Meriton serviced apartment balcony (see Figure 42). A 24m building separation distance is achieved from the Meriton Suites at all points of the building. The non-compliance is only likely to affect one apartment per floor of the proposed tower and it is considered that visual privacy impacts can be mitigated through design measures such as screening. Conditions of consent are recommended to address this.
  - The siting of the building envelope, particularly how it narrows at the Kent Street frontage, is considered to reduce 'tower crowding' and associated visual impacts.

- The proposed 2.4m setback from the southern side boundary and 4m from the approximate centre line of Albion Place (width varies from 2.9m - 3.2m) is considered acceptable when all of the above matters are taken in to consideration and the mediation of the tower position amongst its neighbours. The 2.4m setback is considered to provide some visual relief and adequate daylight compared to a nil setback. An awning over Albion Place is supported to address wind issues as detailed further in the SDCP 2012 compliance table.

### **Shared driveway**

54. As outlined in the 'Background' section of this report, following consultation with Council and the two adjoining landowners (505 and 525 George Street) the proposal was amended to provide:
  - A two-way shared driveway at 525-529 George Street which is suitable for vehicles up to a 14.5m bus; and
  - A one-way entry-only ramp for light vehicles only into 505-523 George Street.
55. At the time of writing this report, it is understood that both adjoining landowners were in the final stages of completing a private binding agreement to enable the two-way shared driveway at 525-529 Kent Street.
56. The proposed two-way driveway at 525 George Street is to provide access for vehicles at 505 George Street and 525 George Street, including all service vehicles, buses/coaches and waste vehicles.
57. The applicant for 505 George Street seeks approval for the one-way ramp directly to the porte-cochere for the purpose of providing a 'front of house' experience for arriving serviced apartment/hotel guests. Cars from the porte-cochere would then exit the site via the two-way shared driveway at 525 George Street. Priority access for 505 George Street is between the two-way driveway from 525 and the ramp into the basement level 1 loading dock at 505 George Street with appropriate 'give-way' signage to be installed.
58. Diagrams of the proposed access arrangements are provided at Figures 44 and 45:

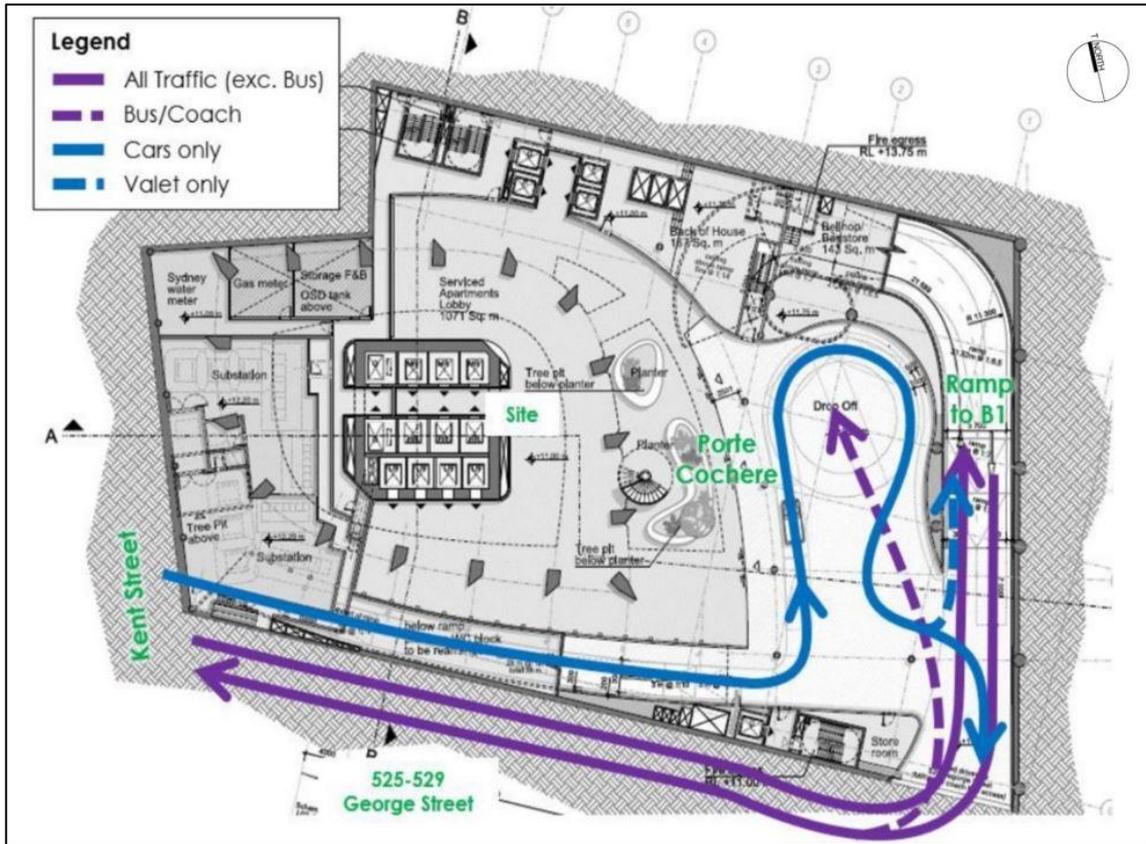


Figure 44: Access arrangements - basement level 1

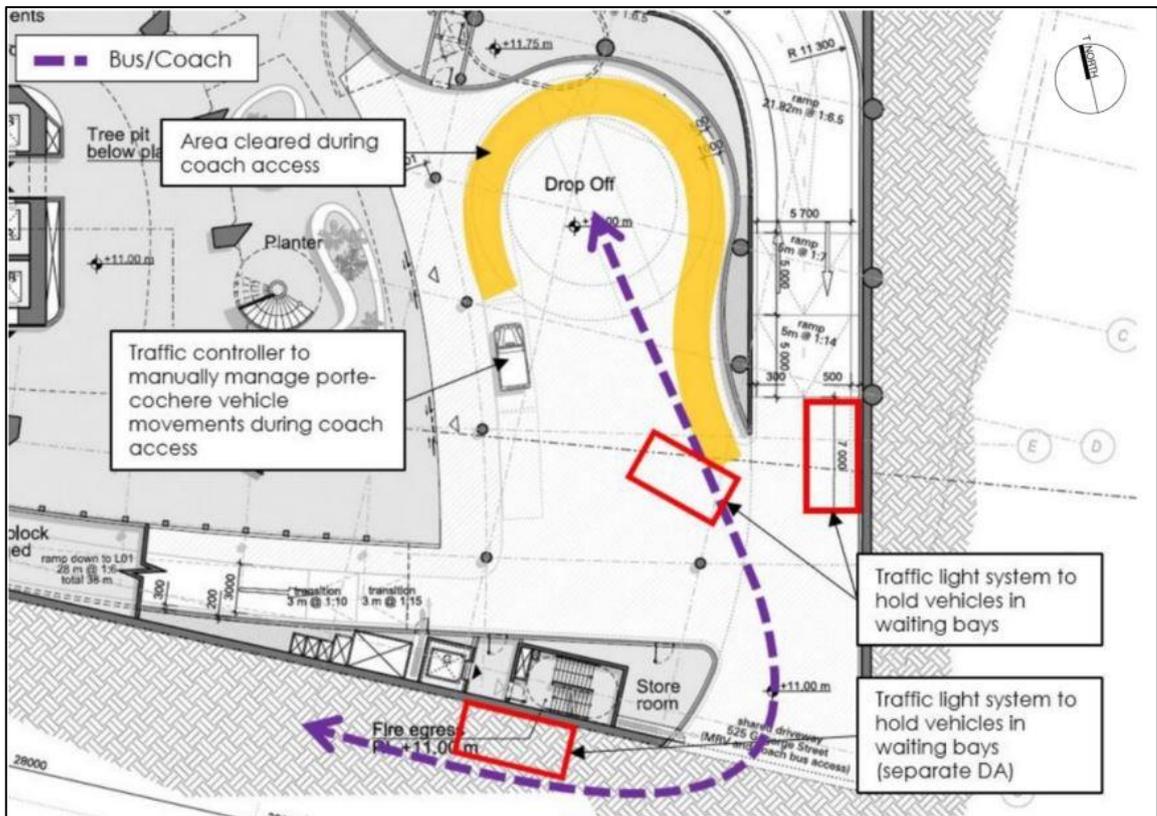


Figure 45: Coach access arrangements - basement level 1

59. While the subject proposal is a Concept DA and generally driveway locations and detailed levels within basements are only indicative in Concept DAs, given the detailed design DA for 505 George Street relies on the location of the driveway and basement levels to be fixed, conditions of consent are recommended requiring the driveway location to be fixed and for relevant basement levels to align with the 505 George for the purpose of access. These conditions will be required to be addressed in the future Competitive Design Process Brief and carried through to the subsequent detailed design (Stage 2) DA. In addition, a condition of consent is recommended for both consents to require a break through panel at basement level one to facilitate the agreed access between the two sites.
60. The shared driveway arrangement results in three vehicle lanes rather than four across a relatively high pedestrianised footpath and separated cycleway. Importantly a reduction in one lane of ascending vehicular movement exiting the site significantly improves safety. The shared driveway has also resulted in the relocation of the originally proposed 525 George Street from being directly adjacent to Albion Place. Therefore this relocation of the driveway will now allow for further activation of Albion Place. Overall the proposed shared driveway results in an improved streetscape and safety outcome.
61. The shared driveway arrangement has been reviewed by the City's Transport and Access Unit who support the proposal subject to conditions.
62. While it is acknowledged that the two properties are in separate ownership and subject to separate DAs, given the existing building on the site straddles the two properties and operates as a single cinema complex, there are inherent challenges with demolishing part of the building and 'making good' part of the remaining building. It is anticipated and makes logical sense that both owners/developers will work closely together at demolition stage, and potentially other key construction stages, for efficiency and other considerations. Council officers are satisfied with the level of certainty these site conditions and circumstances provide for the shared driveway to be realised. A similar arrangement was been achieved at 71 Macquarie Street to reduce driveways in the vicinity of Circular Quay.

### Views

63. The application has been accompanied by a Visual Impact Assessment, included at Attachment D.
64. Based on the proposed height, setbacks and massing of the building envelope the subsequent detailed design DA is not considered to disrupt any iconic or significant views and vistas from the public domain. The proposed height of the building complies with maximum permitted height under SLEP 2012 and will not be out of context within the immediate surrounding area where there are a number of tall towers.
65. In relation to private view loss, the proposed building is unlikely to result in unreasonable and significant view loss of iconic or district views. While it is inevitable that private views will be impacted to some extent in the context of Central Sydney, and specifically in an area where taller buildings are planned for, given the proposal complies with the maximum permitted height control, visual and view impacts of the proposed development are considered generally acceptable.

**Other Impacts of the Development**

66. 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**

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

**Internal Referrals**

68. The application was referred to the following internal specialists and panels for review:
- (a) Design Advisory Panel;
  - (b) Public Art Advisory Panel;
  - (c) Central Sydney Traffic and Transport Committee Working Group;
  - (d) Transport and Access Unit;
  - (e) Heritage Specialists;
  - (f) Urban Designers;
  - (g) Environmental Health Unit;
  - (h) Waste Management;
  - (i) Public Domain;
  - (j) Landscape Officers;
  - (k) Specialist Surveyor;
  - (l) Sustainability Officer; and
  - (m) City Modeller.
69. The above consider that the proposed development, as amended, generally addressed matters raised throughout the assessment, and is acceptable subject to conditions.

## External Referrals

The application was referred to the following external referral bodies for review:

- (a) Transport for New South Wales;
- (b) Roads and Maritime Services;
- (c) Sydney Airport;
- (d) Sydney Metro;
- (e) Sydney Trains;
- (f) Transgrid; and
- (g) Ausgrid.

70. Comments from all the relevant external referral requirements are addressed or included in the recommended conditions of consent in Attachment A where relevant.

## Notification, Advertising and Delegation

71. In accordance the Community Participation Plan 2019 the proposed development is required to be notified and advertised. As such the original submitted application was notified and advertised for a period of 28 days between 26 July 2019 and 24 August 2019.
72. As a result of this notification there were eight submissions received. The redesign of the proposal to accommodate the amended shared driveway resulted in the tower shifting closer to the site's southern boundary. Accordingly, the amended application was re-notified and advertised for a period of 28 days between 18 March 2020 and 16 April 2020 and three submissions were received.
73. The submissions raised the following concerns:
- (a) ***Generation of traffic including exacerbation of 'bottleneck' that occurs at the intersection of Liverpool and Kent Streets; issues with taxis/ride share drop off and pick up; and construction traffic***

**Response** - The number of car parking spaces is not recommended to be approved under this consent and will be subject to further assessment under the subsequent detailed design DA. Notwithstanding, the proposed shared driveway arranged (discussed in the 'Issues' section) will mitigate some potential drop-off/pick-up issues and may allow additional on street parking spaces along Kent Street to be retained. The subsequent detailed design development is required to provide bicycle parking, end of trip facilities and car share spaces in accordance with SDCP 2012 to encourage alternative modes of transport from private car use.

**(b) Oversupply of hotel and serviced apartments**

**Response** - Visitor accommodation is a permissible land use within the B8 - Metropolitan Centre zone under SLEP 2012 and is consistent with the City of Sydney Visitor Accommodation Plan.

**(c) Impacts from construction such as noise, dust, vibration and traffic**

**Response** - While no building works will be approved under this consent, any impacts from the proposed building will be assessed under the subsequent DA and include construction amenity impacts are considered and addressed through conditions of consent.

**(d) Overshadowing**

**Response** - Overshadowing is discussed in detail in the Apartment Design Guideline and SDCP 2012 compliance tables above.

**(e) Overshadowing of Meriton Suites to the south, specifically that the existing serviced apartments may be converted to residential accommodation in the future**

**Response** - While overshadowing of the serviced apartments is acknowledged, Council can only assess the impact of overshadowing based on the existing use of the building (serviced apartments) and current planning controls. In this regard, the proposal is consistent with Apartment Design Guideline and SDCP 2012 with regards to overshadowing.

**(f) Visual privacy**

**Response** - This is discussed in detail in the 'Issues' section above, under the heading *Tower side setbacks / building separation*.

**(g) Concerns with building standards and potential for tower 'cracking' as experienced in Mascot and Olympic Park**

**Response** - These concerns are acknowledged and are the subject of the NSW government's review of and reforms to the construction industry.

**(h) Setbacks of the tower including its bulk, scale and mass**

**Response** - This is discussed in the detail in the 'Issues' section above under the heading *Tower side setbacks / building separation* and within Section 5.1 'Central Sydney' of the SDCP 2012 compliance table.

(i) ***Impacts of the development on the heritage significance and physical impacts on nearby heritage items including Albion Place***

**Response** - The proposed setbacks, bulk and scale of the building envelope is considered acceptable as detailed in the SLEP 2012 and no objections have been raised by Council's Heritage Specialist. Conditions of consent are recommended to ensure the subsequent detailed design DA is accompanied with a protection strategy for the duration of the construction works to ensure that Albion Place, 1-7 Albion Place and 531-535 George Street are not damaged and are protected from vibration, structural disturbance, dust, same, water runoff and construction waste. A dilapidation report will be required to be prepared prior to any building works occurring on the subject site under any future detailed design DA.

(j) ***Lack of stakeholder engagement prior to lodgement of the DA***

**Response** - While relevant stakeholder / community consultation is carried out is suggested, it is not a requirement under the planning provisions. The DA has been notified and advertised twice in accordance with the City's Community Participation Plan 2019.

(k) ***Impact on property values***

**Response** - Impacts on property prices is not a planning matter consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

(l) ***Concerns with removal of the only major cinemas in the CBD and associated social and cultural implications. Concerns that the size of the new cinema is not sufficient.***

**Response** - These concerns are acknowledged, however there are no applicable planning provisions requiring retention of the existing cinema or provision of new cinema of the same size. Smaller cinemas are proposed in the podium. This is a commercial decision/ consideration by the landowner.

## **Public Interest**

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

## **S61 Contribution**

75. The development is exempt from the provisions of Central Sydney Development Contributions Plan 2013 as the proposal is for concept building envelope. Section 61 contributions are applicable to any future detailed design DA.

## Relevant Legislation

76. Environmental Planning and Assessment Act 1979.
77. City of Sydney Act 1988
78. Airports Act 1996

## Conclusion

79. The proposed concept development is appropriate in its setting and is generally compliant with the relevant planning controls in the Sydney LEP 2012, the Sydney DCP 2012, SEPP 65 and the ADG. Where there are proposed variations to planning controls, primarily relating to building setbacks and building separation, these are assessed as having merit in this particular case subject to the recommended conditions.
80. The proposed building envelope is compliant with the maximum permitted height control and does not pose any significant or unreasonable amenity impact on surrounding properties by way of view loss, visual impact, overshadowing and privacy.
81. The indicative concept design scheme submitted with the application adequately demonstrates that an acceptable level of amenity could be achieved for dwellings within the proposed tower.
82. The proposal will provide an exemplar mixed-use building containing retail, cinemas, residential and hotel building on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities. The proposed development will facilitate further activation and pedestrian use of Albion Place. In this regard, the proposed development is consistent with the B8 - Metropolitan Centre zone under SLEP 2012.
83. Subject to the recommended conditions, the proposal is capable of accommodating a future detailed design that responds to the constraints of the site and contributes to the existing and desired future character of the locality and is capable of achieving design excellence.
84. The proposal is recommended for approval subject to conditions.

## GRAHAM JAHN, AM

Director City Planning, Development and Transport

Tahlia Alexander, Specialist Planner