

Item 4.**Development Application: 505-523 George Street, Sydney - D/2019/857**

File No.: D/2019/857

Summary

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| Date of Submission: | The application was lodged with Council on 9 August 2019. Amended drawings and additional documentation were submitted throughout the assessment period. The latest set of amended drawings and documentation were received on 25 March 2020. |
| Applicant: | Mirvac Residential (NSW) Development Pty Ltd |
| Architect: | Ingenhoven and Architectus |
| Developer: | Coombes Property Group |
| Owner: | Michael Coombes |
| Cost of Works: | \$692,184,900.00 |
| Zoning: | The site is zoned B8 - Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposed uses comprise commercial premises, residential accommodation, serviced apartments, community facility and centre-based child care facility, all of which are permissible with consent. |
| Proposal Summary: | <p>The application seeks consent for the demolition of all existing structures on site, excavation, site remediation and construction and use of a building 270 metres in height comprising:</p> <p><i>Tower</i></p> <ul style="list-style-type: none">• 507 residential apartments, parts or all of which are proposed to be used as serviced apartments for a time-limited period of up to 20 years;• Communal residential amenities and facilities;• Communal residential amenities and facilities for the time-limited serviced apartment use; |

- Publicly accessible restaurant and bar on level 80 (*being the uppermost habitable floor*); and
- A 10m tall architectural roof feature including plant and servicing equipment integrated into its design.

Podium

- A childcare facility for up to 130 children to be owned and operated by the City of Sydney ('the City');
- A small meeting room on the same level as the childcare facility to be owned and operated by the City;
- Publicly accessible toilet facilities;
- Public through-site connection linking George Street and Kent Street;
- Retail premises including a boutique cinemas;
- Food and beverage and meeting facilities ancillary to the time-limited serviced apartment use;
- Residential lobby from Kent Street; and
- At-grade shared vehicular access with the adjoining site, 525-529 George Street, from Kent Street.

Basement

- Off-street porte-cochere drop off and lobby for the serviced apartments;
- Loading dock and waste management facilities;
- Shared driveway with 525-529 George Street, Sydney
- 347 car parking spaces;
- 690 bicycle parking spaces and end of trip facilities;
- Back of house and staff areas; and
- Residential storage areas.

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.

A written request has been submitted under Clause 4.6 of SLEP 2012 to vary the height and FSR development standards. The proposed development is 270m in height exceeding the maximum permitted height by 10m or 3.7% under the SLEP 2012. Parts of the building which depart from the height control are limited to lift overruns, plant equipment and an architectural roof feature. While the tower is used for serviced apartments there will be a technical non-compliance with the maximum permitted FSR development standard. This is directly related to the wind affected balconies being permitted to be excluded from the gross floor area calculation for residential flat buildings but not for serviced apartments under SLEP 2012. The proposal is consistent with the objectives of the land use zone, height and FSR development standards. The proposed variations have merit and are supported in the particular case.

The site has been subject to a comprehensive Planning Proposal and associated site-specific Development Control Plan. There is a Planning Agreement in place to secure public benefits including the childcare centre and meeting room.

An Architectural Design Competition has taken place with a partnering team Ingenhoven and Architectus selected as the preferred scheme with the subject proposal based on the winning scheme. Subject to conditions, the proposal is considered to exhibit design excellence and is eligible for 10% additional floor space pursuant to Clause 6.21 of SLEP 2012.

On 16 July 2019, a Concept DA (D/2019/758) was lodged for the adjoining site to the south, 525-529 George Street, which seeks consent for in-principle demolition of the existing building and construction of a 150m tall mixed-use building containing a 3-4 storey podium with indicative commercial uses and a tower above containing hotel accommodation and residential apartments. When both applications were originally lodged separate and adjacent driveways were proposed on Kent Street. For traffic exiting the sites across footpaths and cycleway into a one way street, this was considered a poor and unsafe streetscape outcome and impacts on pedestrians and cyclists.

Following these concerns raised by the City, Transport for NSW and the RMS, both applications have since been amended to provide the majority of entering vehicles and critically all exiting vehicles using a shared driveway. 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.

A preliminary assessment of the application identified the driveway and design of the through-site link to be the key concerns which have since been resolved. Other issues raised during the assessment included acoustic privacy for future occupants, natural ventilation, design of the childcare centre and contamination. These issues have been addressed through submission of revised plans, additional information and through recommended conditions of consent.

In accordance with the City's Community Participation Plan 2019, the application was advertised for a period of 28 days from 23 August to 21 September 2019 and 17 submissions were received. Issues raised include inconsistency with the Planning Proposal, non-compliance with State Environmental Planning Policy 65 - Design Quality of Residential Flat Development, height, bulk and scale, visual impact, views, overshadowing, car parking and transport impacts, construction impacts, visual and acoustic privacy and removal of the existing cinema and associated social and cultural impacts. Of the 17 submissions received, 10 of these were generally supportive of the proposal with the exception of the removal of the cinema. Some of these issues have been addressed through conditions of consent where necessary with remaining issues raised assessed as acceptable.

Subject to conditions, the proposal is largely consistent with the applicable planning provisions including Sydney Local Environmental Plan 2012 and Sydney Development 2012. Where there are non-compliances these have been assessed as having merit in this particular case and are addressed in the report. The proposal results in a built form that is consistent with the future desired character of the area, is considered to exhibit design excellence and will provide a positive contribution to the Sydney skyline.

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

- 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 (Educational Establishments and Child Care Facilities) 2017
 - (viii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
 - (ix) NSW Apartment Design Guide 2015
 - (x) Sydney Harbour Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - (xi) State Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
 - (xii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
 - (xiii) Central Sydney Development Contributions Plan 2013

- Attachments:**
- A. Recommended Conditions of Consent
 - B. Selected Drawings
 - C. Clause 4.6 Variation Requests
 - D. Architectural Design Competition Report
 - E. ESD Report
 - F. Traffic Report

Recommendation

It is resolved that:

- (A) The requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD; and
- (B) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the floor space ratio and height of building development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clauses 4.4 and 6.32 of Sydney Local Environmental Plan 2012, and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan Centre zone and the objectives of Clause 4.4 and 6.32 of Sydney Local Environmental Plan 2012.

Accordingly, the variation requested to the height of building and floor space ratio in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and

- (C) It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2019/857 subject to the conditions set out in **Attachment A** to the subject report.

Reasons for Recommendation

The application is recommended for deferred commencement approval for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site and does not result in unreasonable environmental impacts for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The requested variation to the FSR and height of building development standards is upheld because the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of Sydney Local Environmental Plan 2012 (SLEP 2012) and the proposed development would be in the public interest because it is consistent with the objective of Clauses 4.4 and 6.32 and the B8 Metropolitan Centre zone of SLEP 2012.

- (C) The proposal is consistent with the objectives of the B8 Metropolitan Zone of SLEP 2012.
- (D) The development, subject to conditions, is generally consistent with the applicable State Environmental Planning Policies, the Apartment Design Guide, SLEP 2012, Sydney Development Control Plan 2012 and the site specific DCP.
- (E) The built form is of a high quality and consistent with the future desired character of the area. Subject to conditions, the proposed development is considered to exhibit design excellence and will make a positive contribution to the public domain and the Sydney skyline and streetscape. The single slender form and materiality of the tower provides an appropriate background to the civic character of the Sydney Square/Town Hall/ St Andrews Special Character Area.
- (F) The proposed development is based on the winning scheme of an Architectural Design Competition held in relation to the site in accordance with Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy. The proposed development has been sufficiently resolved to address matters recommended by the Design Competition Jury and has retained the design integrity of the winning scheme. The proposed development exhibits design excellence in accordance with SLEP 2012, subject to conditions.
- (G) The proposal is consistent with the Planning Agreement and will deliver community facilities and public benefits.
- (H) The proposal delivers a range of sustainability measures and will provide a sustainability benchmark for high rise residential development in the City.
- (I) Subject to the recommended conditions of consent and in the context of Central Sydney and desired future character of the area, the proposed development is unlikely to result in unreasonable impacts on surrounding properties by way of visual and acoustic privacy, solar access, traffic, visual impact and views.
- (J) For the reasons above and as detailed in the assessment report to the Central Sydney Planning Committee, 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 573250, has two street frontages, and is commonly known as 505-523 George Street, Sydney.
3. The site is irregular in shape and comprises an area of approximately 4,208sqm. The site has street frontages to George Street to the east and Kent Street to the west. The site has a maximum depth of 95m, and street frontage lengths to George Street and Kent Street of 51m and 33m, respectively. The site falls by approximately 3.8m - 4.5m from George Street to Kent Street. The George Street frontage falls from north to south by approximately 1.5m and the Kent Street frontage is relatively level.
4. The site is located almost in the middle of the block between Bathurst Street to the North and Liverpool Street to the south. The site is located approximately 115m south of Town Hall and the Light Rail is located directly in front of the George Street frontage. The area, particularly along George Street, is highly pedestrianised during the day and at night 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 and provides a north-south cycling route on the western side of the CBD. 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 known as 'Event Cinemas'. The building is built to all site boundaries and is currently used as cinemas, retail premises and a commercial college. The existing cinema is operated as a single complex however straddles two separate land titles in separate ownership, being the subject site and the adjoining site to the south 525-529 George Street. 525-529 George Street is subject to a Concept DA which has been assessed concurrently with the subject application and 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. Immediately north-east of the site is the 47-storey Lumiere building 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.

9. Immediately north-west of the site is the 42 storey Fraser Suites building which contains serviced apartments. The building is constructed approximately 1m from the shared southern boundary with no windows located on this elevation. While the Frasers Suites building is currently used as serviced apartments, on 25 June 2010 development consent was granted (D/2009/1412) to change the entire use of the building to residential apartments and associated minor building works. There is no specified period in the consent for when the change of use must occur. According to Council's records a Construction Certificate and Interim Occupation Certificate was issued for the minor building works under the consent meaning the consent will not lapse and the building may still be changed to residential apartments.
10. Situated between the Lumiere building and the Fraser Suites is a 21 storey office building known as the Sovereign Centre.
11. Directly south of 525-529 George Street is Albion Place which is a pedestrian laneway (approximately 3m wide) providing a connection between George Street and Kent Street. Albion Place is heritage listed item under SLEP 2012 (Item No.1658). Adjoining Albion Place to the south is the 48 storey Meriton serviced apartment building which has a primary street address to Kent Street. Also adjoining Albion Place with a primary street address to George Street is a local heritage item (I1795) which is currently used as a pub (532-535 George St).
12. Located to the 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). Also located on the opposite side of George Street to the east, at 600 George Street, is the Metro Theatre.
13. 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). Located at 521-527 Kent Street and further north-west of the site is a commercial car park.
14. The subject 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 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 45m to the north and 120m to the south, respectively.

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

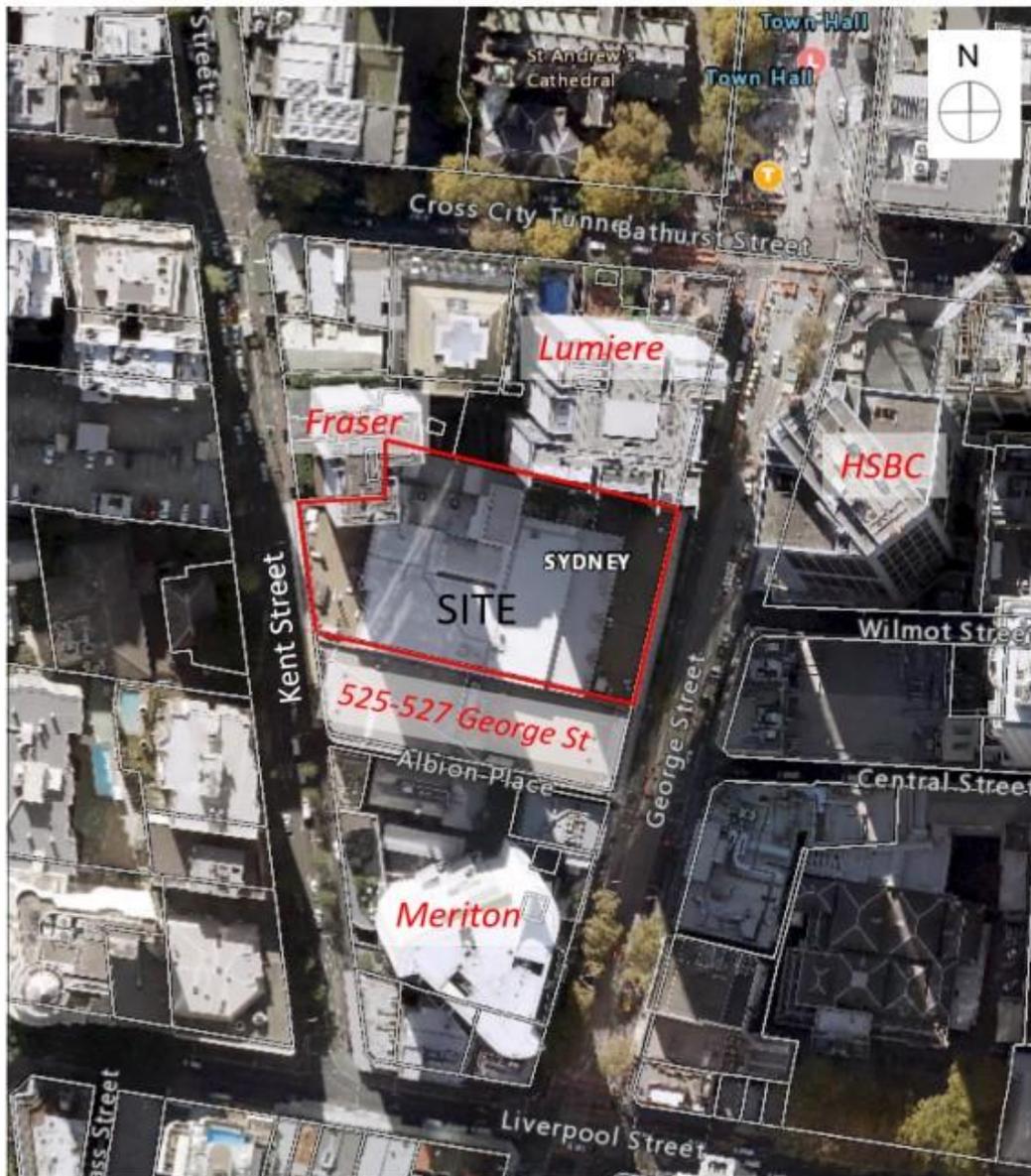


Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from George Street with site boundaries indicated in red



Figure 3: Site viewed from Kent Street with site boundaries indicated in red

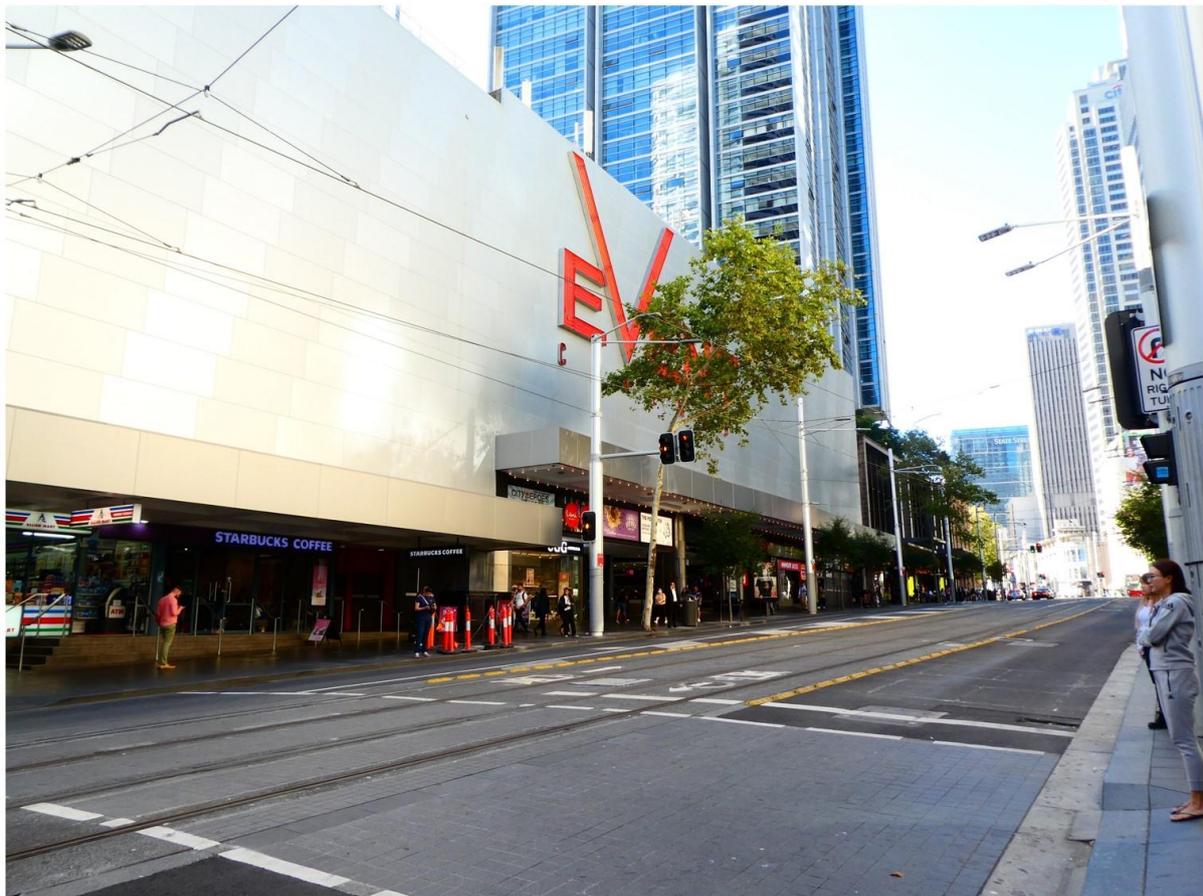


Figure 4: Site viewed from George Street, looking north



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: View from the corner of George Street and Bathurst Street



Figure 9: View from Town Hall square facing south

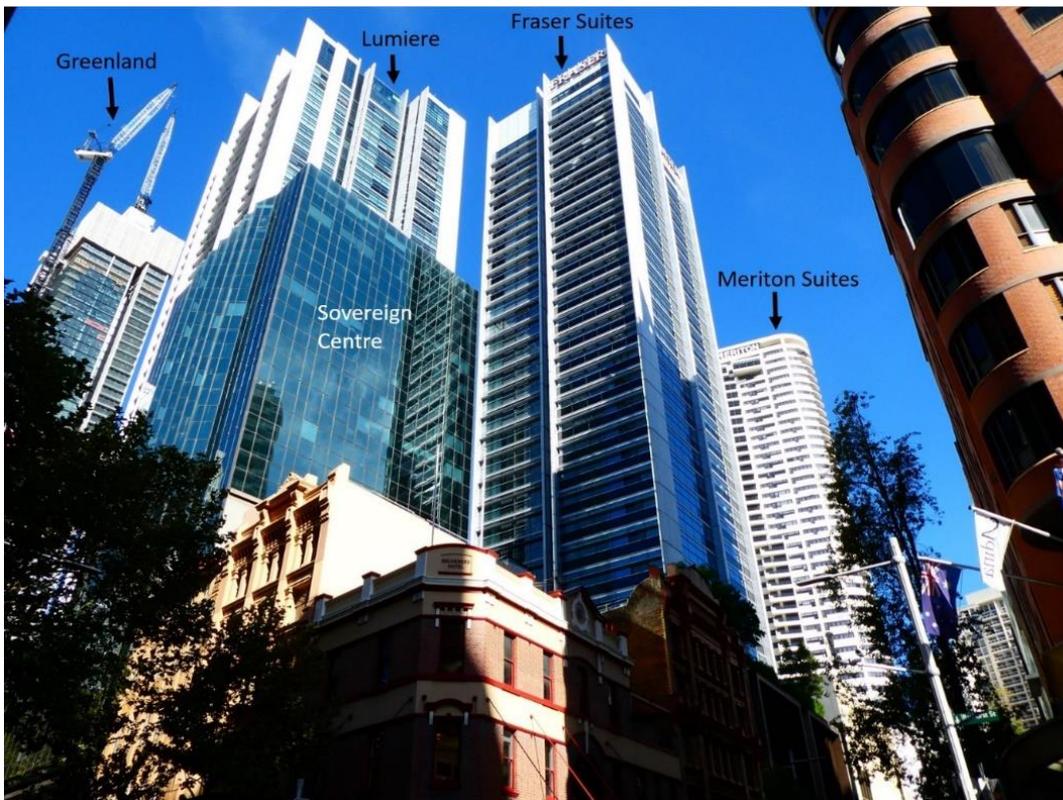


Figure 10: View from corner of Kent Street and Bathurst Street, facing south-east



Figure 11: Looking south along Kent Street

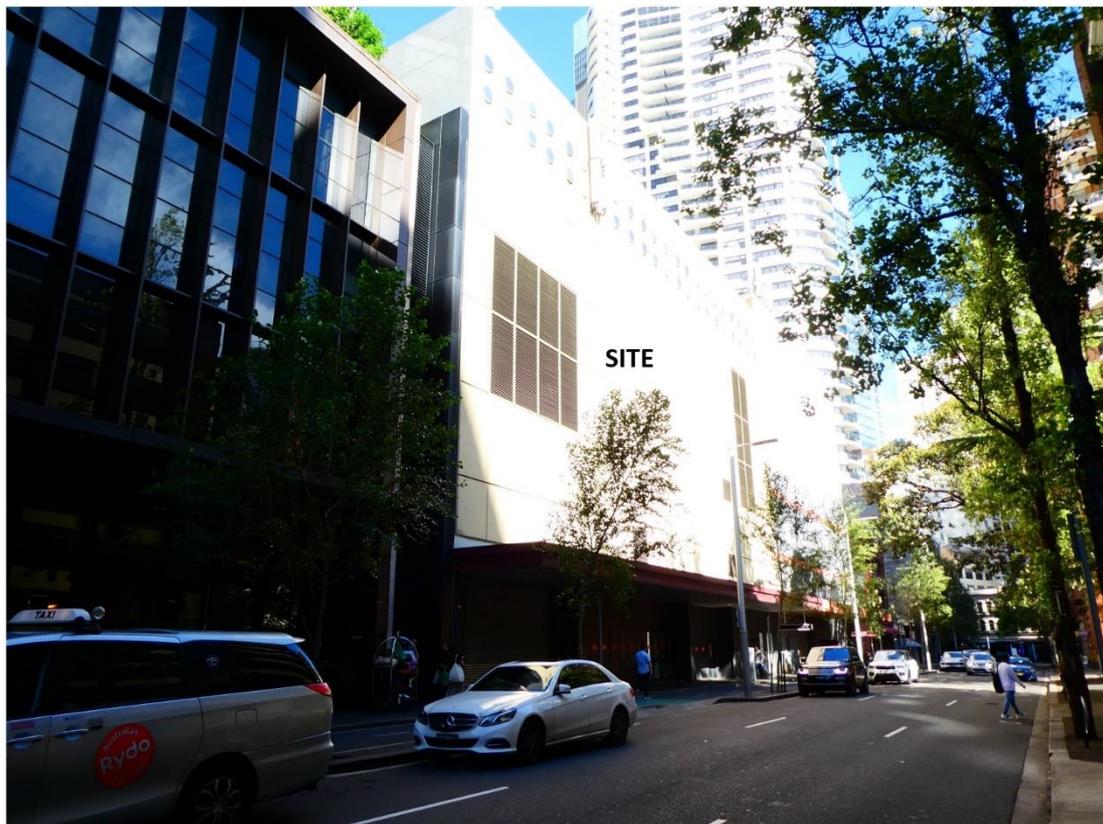


Figure 12: Site viewed from Kent Street, facing south



Figure 13: Site viewed from Kent Street, facing north

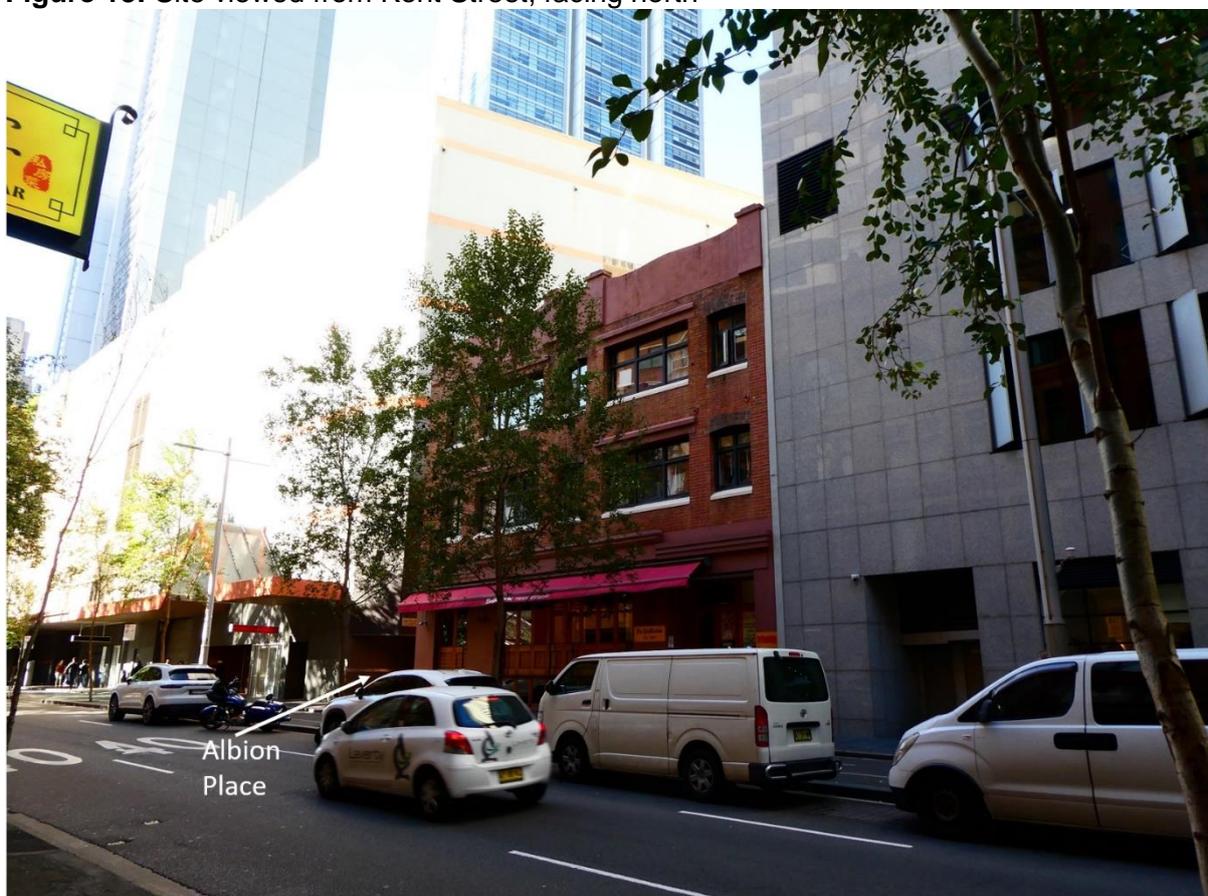


Figure 14: Site viewed from Kent Street with Albion Place indicated



Figure 15: Looking north along Kent Street

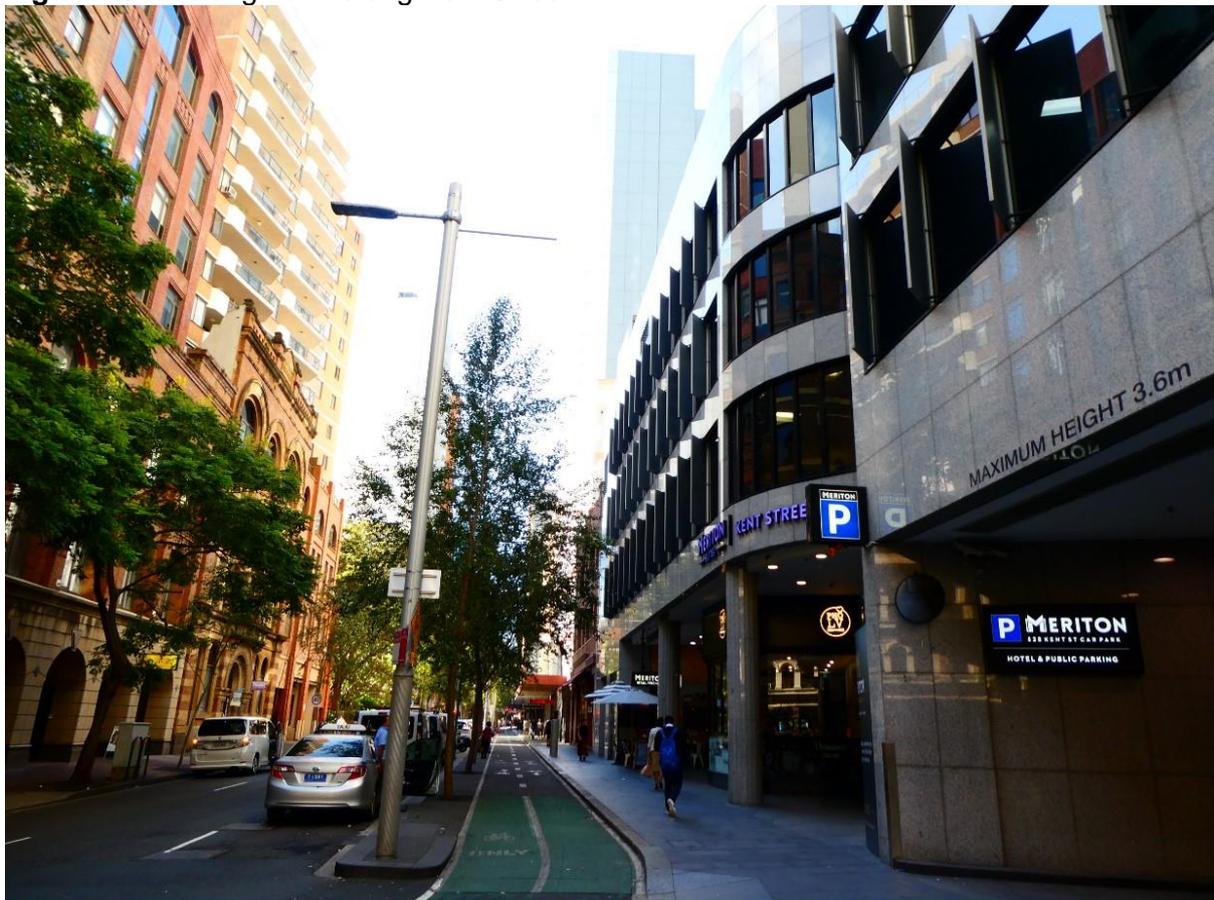


Figure 16: Looking north along Kent Street in front of the Meriton Suites building

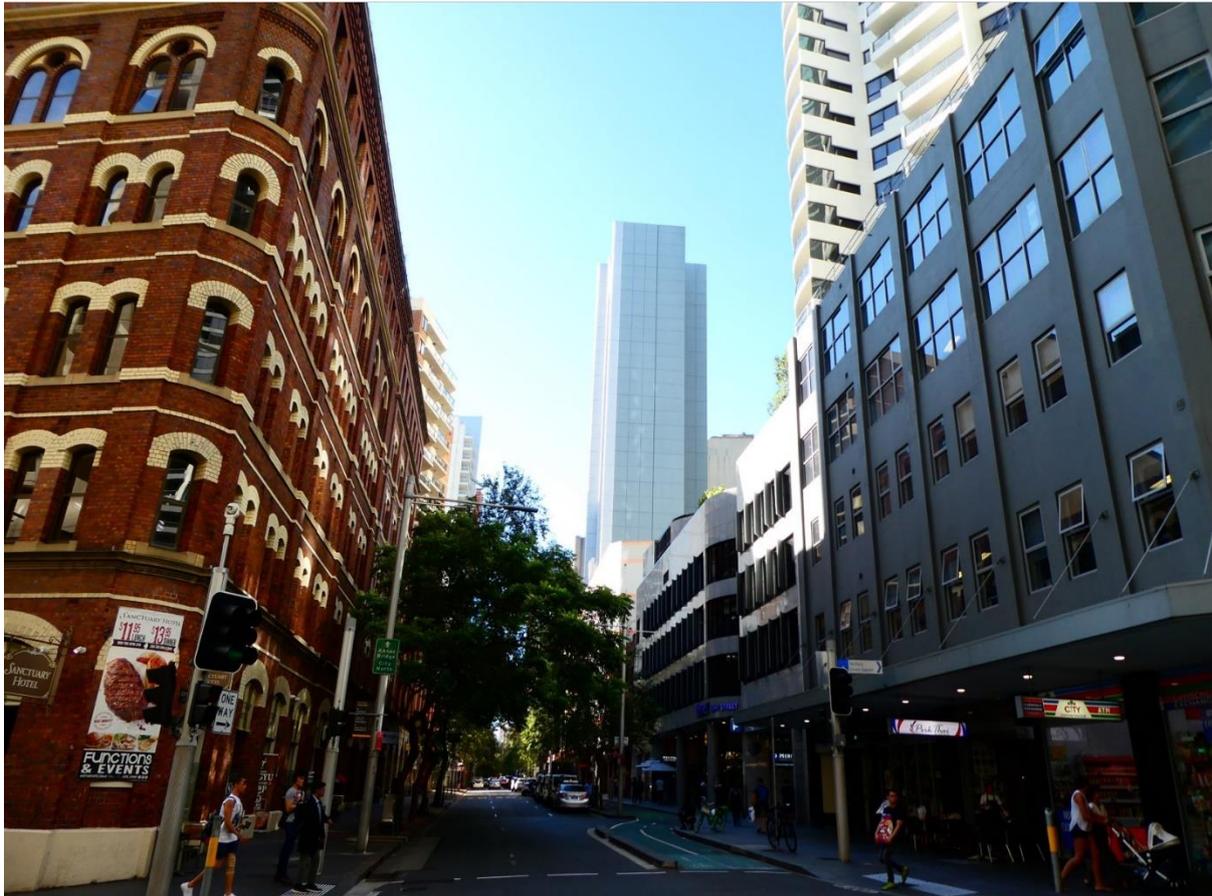


Figure 17: View from the corner of Kent Street and Liverpool Street

History Relevant to the Development Application

Planning Proposal, Site Specific DCP and Planning Agreement

16. In 2014, a planning proposal was submitted by Coombes Property Group seeking to amend the provisions of SLEP 2012 to increase the maximum permitted height on the subject site from 150m to 260m allowing for one single tall tower rather than 2 smaller towers of equal floor space. The strategic planning justification of the planning proposal was that by redistributing the massing into a single tower form potential impacts to the surrounding buildings and public domain relating to views and aspect, solar access, tower crowding could be improved compared to a twin tower scheme on the site.
17. On 2 December 2014, the planning proposal was approved by the CSPC and it was noted that the planning proposal would provide a broad range of short and long term benefits to the City including:
 - the provision of housing and employment and floor space;
 - the delivery of childcare and other community facilities responding to the City's needs; and
 - a range of urban design benefits arising from a high-quality building design appropriate to its context.

18. The CSPC also noted that the future development presented an opportunity to provide valuable information to the City as a case study for sustainability in 'super tall' residential buildings.
19. As part of the planning proposal, a public benefit offer was submitted by the developer and has been formalised in to a Planning Agreement between the developer and the City. The Planning Agreement requires the subject development to include:
 - a childcare centre to be dedicated to the City comprising a minimum of 2,600sqm of internal and external space;
 - a meeting room to be dedicated to the City and comprising a minimum area of 250sqm on the same floor as the child care centre;
 - publicly accessible toilet facilities within the podium to be owned and maintained by the developer and to be kept open to the general public during core retail hours; and
 - exceed the minimum BASIX targets and achieve best practice sustainability for a development of this scale and of residential use.
20. On 6 May 2016, the site specific SLEP 2012 amendments were gazetted and are contained in Clause 6.32. As part of the site specific SLEP 2012 amendment, a site specific DCP was prepared for the site (Section 6.3.7) and sets objectives and provisions to enable a high quality built form and amenity outcome for the site. An extract from the site specific DCP is provided at Figure 18.

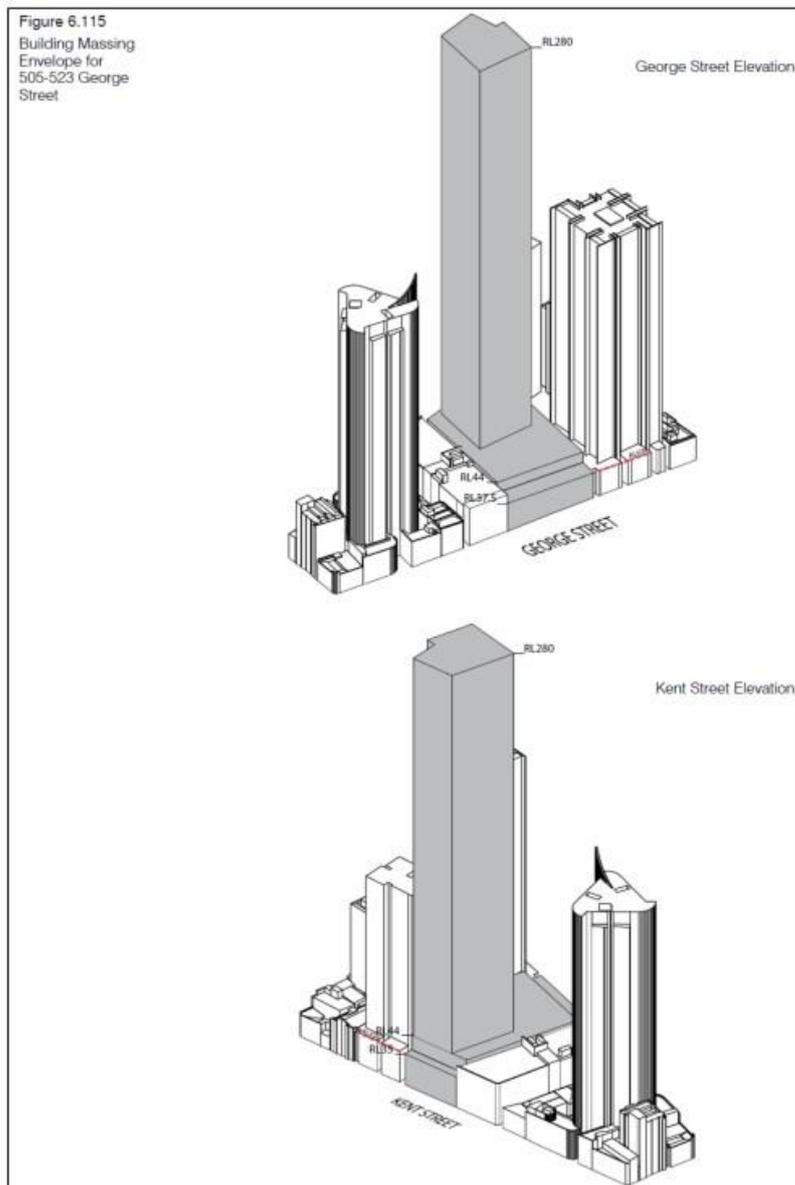


Figure 18: Building Envelope (Section 6.3.7 Sydney DCP 2012)

Competitive Design Process

21. A competitive design process was undertaken for the development site in accordance with the provisions of Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy. As a result of this competitive design process, the developer is seeking 10 per cent additional floor space pursuant to Clause 6.21 of SLEP 2012
22. An 'Invited Architectural Design Competition' was carried out between 14 March 2018 and 12 July 2018. The architectural firms and teams who participated in the Design Competition included Bates Smart; Foster + Partners; FJMT; Ingenhoven with Architectus; Skidmore, Owings and Merrill with Crone; and WilkinsonEyre.

23. The partnering team, Ingenhoven and Architectus, was selected as the winning scheme by the six member Jury. The Jury described the winning scheme as 'compelling in its clarity and elegance as a timeless and poetic new addition to the Sydney skyline and as an urban response at ground level. The tower is deceptively simple. It presents as a single form but, through a curved facade articulated by an expressive layering of vertical faceted columns and secondary horizontal shading elements, reads as a slender, refined and dramatic contribution to the city. The use of a light-coloured concrete and texture created by the expressed structure and shading element responds to a recognisable Sydney tower language in contemporary form.'
24. A photomontage of the winning scheme is provided at Figure 19 below:



Figure 19: Photomontage of the winning Ingenhoven + Architectus scheme

25. The Jury identified key elements that contributed to the success of the winning scheme which are required to be retained as part of the detailed design as well as a list of items to be addressed in order to satisfy the design excellence provisions of Clause 6.21 SLEP 2012. This is discussed further in the 'Issues' section of this report.

26. A complete summary of the Design Competition is contained in the Architectural Design Competition Report provided at Attachment D.

Design Development and Pre-DA meetings

27. Following completion of the Design Competition, the developer has consulted with Council officers to resolve key issues and design development matters. The developer and/or the developer's consultants have met with Council planning officers on approximately 22 occasions between 15 August 2018 and 24 July 2019 to resolve the complex scheme.
28. Consultation has occurred with Council officers from various Units including Planning, Urban Design, Transport and Access, Public Art, Planning Agreements and Sustainability. In addition, the proposal was presented to the Design Advisory Panel prior to lodgement.
29. Key matters discussed included (but not limited to):
- Addressing the Jury's recommendations from the Design Competition Report;
 - Proposed time-limited serviced apartment use;
 - Design development of the public benefit components;
 - Proposed amendments to the building envelope;
 - ESD strategy and initiatives including relevant Planning Agreement deliverables;
 - Public Art Strategy;
 - Parking and vehicular access during construction and operation;
 - Compliance with the Apartment Design Guide;
 - Assessment of overshadowing to surrounding buildings;
 - Through-site connection legibility, linking George Street and Kent Street; and
 - Nature of the architectural roof feature.
30. Pre-DA advice given by Council officers has largely been addressed in the subject DA and as amended during the assessment.

Concurrent assessment with 525-529 George Street Concept DA

31. On 16 July 2019, a Concept DA (D/2019/758) was lodged on the adjoining site to the south at 525-529 George Street. D/2019/758 seeks consent for in-principle demolition of the existing building and construction of a 150m tall (approximately 43 storey) mixed use building containing residential and hotel uses in the tower and retail and hotel uses in the podium. The proposed building envelope is shown in Figure 20:

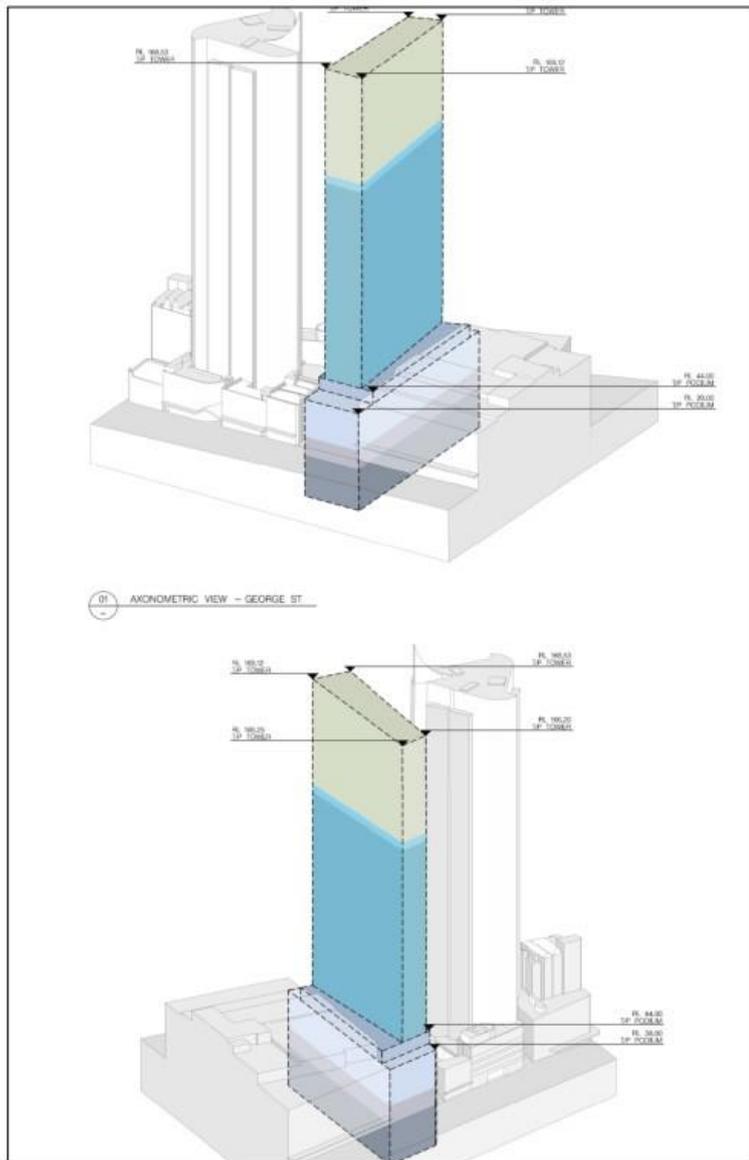


Figure 20: Building envelope for 525-527 George Street

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

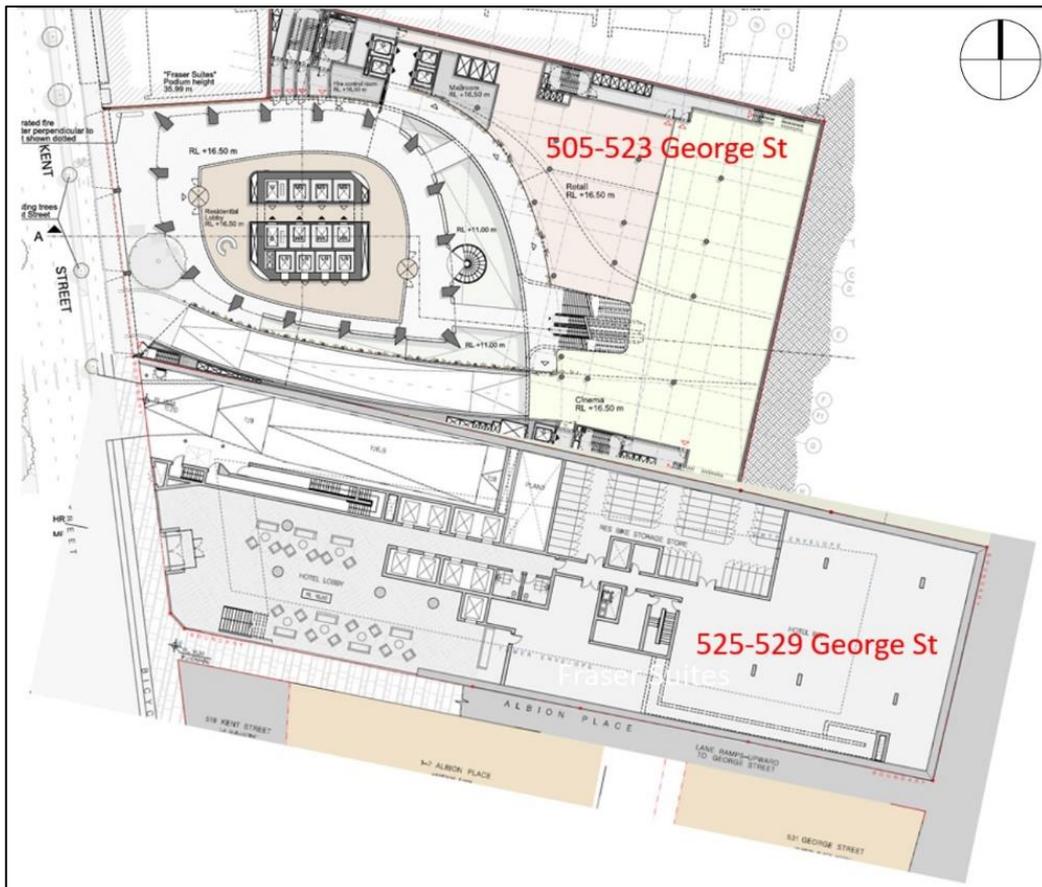


Figure 21: Original proposed driveways

33. Concern was raised by Council officers with both applicants regarding the separate and adjacent driveways, particularly for exiting traffic. Having two adjacent driveways (for both 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.
34. 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 were amended to provide a shared driveway if possible to reduce impacts to pedestrians and cyclists particularly from ascending exiting traffic.
35. Following numerous meetings with Council officers and both applicants, agreement was reached between the two land owners and both applications have now been amended to provide a shared driveway for all exiting traffic and all entering service vehicles. Detailed discussion on the proposed shared driveway is provided in the 'Issues' section of this report.
36. The subject DA and D/2019/758 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

37. The subject DA was lodged on 9 August 2019.
38. The application was presented to the City's Design Advisory Panel (DAP) on 17 October 2019. The Panel noted and recommended the following:
 - A daytime street view of the podium façade screen showing its materiality should be requested and reviewed. The finish and detailing of the street is critical to achieving design excellence.
 - The amenity of the apartments should be reviewed to be ADG compliant, in particular with respect to cross ventilation and solar access. The proposed building separation is acceptable.
 - The Panel supported a consolidated driveway entry with the adjacent site is possible to minimise impacts on pedestrian and cycle amenity.
 - The Panel noted that the current through site access was not direct and legible. The Panel suggested investigations into mirror reversing the retail at ground level to enable a more direct and legible route on the southern side of the site.
 - The provision of a new side connecting through-site link to Regent Place was recommended.
 - The Panel also recommended investigations into retail activation on Kent Street.
39. On 29 October 2019, the application was presented to the Public Art Advisory Panel who made recommendations to improve the public art offering to the site. The applicant has taken these recommendations on board and submitted a revised Public Art Strategy.
40. In addition to the issues raised by DAP and CSTTC working group, the preliminary assessment of the application identified a number of issues and lack of information on the following matters:
 - Insufficient Detailed Environmental Site Investigation;
 - Insufficient Noise Impact Assessment, specifically regarding the childcare centre, noise and vibration from the underground rail corridor, residential amenity and construction noise and vibration;
 - Insufficient Waste Management Plan;
 - Insufficient detail on the landscaping;
 - Lack of Electromagnetic Frequency Assessment report for the childcare centre;
 - Issues with the design of the childcare centre including wind impacts on the outdoor play area, safety concerns with falling objects from tower, insufficient shading of outdoor area, and minor internal layout changes required; and

- Proposed basement details for when the development is operating as serviced apartments including information on temporary arrangements to 'block-off' excess car parking spaces not permitted under the SLEP 2012 while the building is used for serviced apartments.
41. In response to the issues raised above, the applicant has provided revised reports and additional information throughout the assessment to Council's satisfaction.
42. A final revised set of architectural drawings was provided to Council on 25 March 2020 and is the subject of this assessment as described below.

Proposal

43. The application seeks consent for the demolition of all existing structures on site, excavation, site remediation and construction and use of a building 270 metres in height. The building contains a five storey podium with a 74 storey tower above and eight basement levels, as detailed below:

Tower

- (i) 507 residential apartments, parts or all of which can be used as serviced apartments for a time-limited period of up to 20 years, and separated in to three separate rises being 'low-rise' (247 apartments), 'mid-rise' (146 apartments) and 'high-rise' (114 apartments);
- (ii) Communal amenities and facilities including a gym, swimming pool, sauna, lounge areas, multipurpose room, private dining room and acoustically isolated music room;
- (iii) A publically accessible restaurant(s);
- (iv) 'Sky gardens' accessible only for maintenance;
- (v) A 10m high architectural roof feature including plant and servicing equipment integrated into its design;
- (vi) The use of each tower level specifically is:
 - Level 7: plant and amenities
 - Levels 8-35: Low-rise apartments
 - Level 36: Plant
 - Level 37: Amenities
 - Levels 38-58: Mid-rise apartments
 - Level 59: Plant and amenities
 - Level 60: Amenities
 - Levels 61-79: High-rise apartments

- Level 80: Publicly accessible restaurant
 - Roof feature with integrated plant and lift overruns
- (vii) The tower is serviced by a total of 15 lift cars in 12 lift shafts as follows:
- Four low-rise lift cars in four lift shafts
 - Three mid-rise lift cars in three lift shafts
 - Six high-rise lift cars (configured as double decker) in three lift shafts
 - Three high-rise residential lift cars
 - Two high-rise restaurant lifts
 - One goods/back of house lift car; and
 - Two goods lift cars in two lift shafts servicing the whole tower.

Podium:

- (i) At-grade Kent Street shared vehicular access with 525-529 George Street;
- (i) Through-site connection linking George Street and Kent Street;
- (ii) Residential lobby at grade from Kent Street;
- (iii) 3 levels of retail premises including a boutique cinema;
- (iv) Food and beverage and meeting facilities ancillary to the serviced apartments on level 3;
- (v) centre-based childcare facility for up to 130 children to be owned and operated by the City including a landscaped outdoor space on the rooftop of the podium (level 4);
- (vi) A meeting room to be owned and operated by the City (level 4);
- (vii) Publicly accessible toilets the George Street ground level (level 1);
- (viii) Public artwork; and
- (ix) Breakthrough panel for potential future north-south grade connection to Regents Place.

Basement

- (i) Porte-cochere drop off and lobby for the serviced apartment use;
- (ii) Break through panel to connect to the basement of 525-529 George Street (basement level 1);
- (iii) Loading dock and waste management facilities;

- (iv) 347 car parking spaces (including 17 service vehicle spaces and 6 car share spaces);
 - (v) 690 bicycle parking spaces and end of trip facilities;
 - (vi) Back of house and staff areas;
 - (vii) Residential storage areas; and
 - (viii) Plant rooms.
44. Photomontages, selected drawings and a numerical summary table of the proposed development is provided at Figures 22 to 48 below. A full set of architectural drawings is provided at Attachment B.



Figure 22: Sydney skyline contextual view of proposed tower

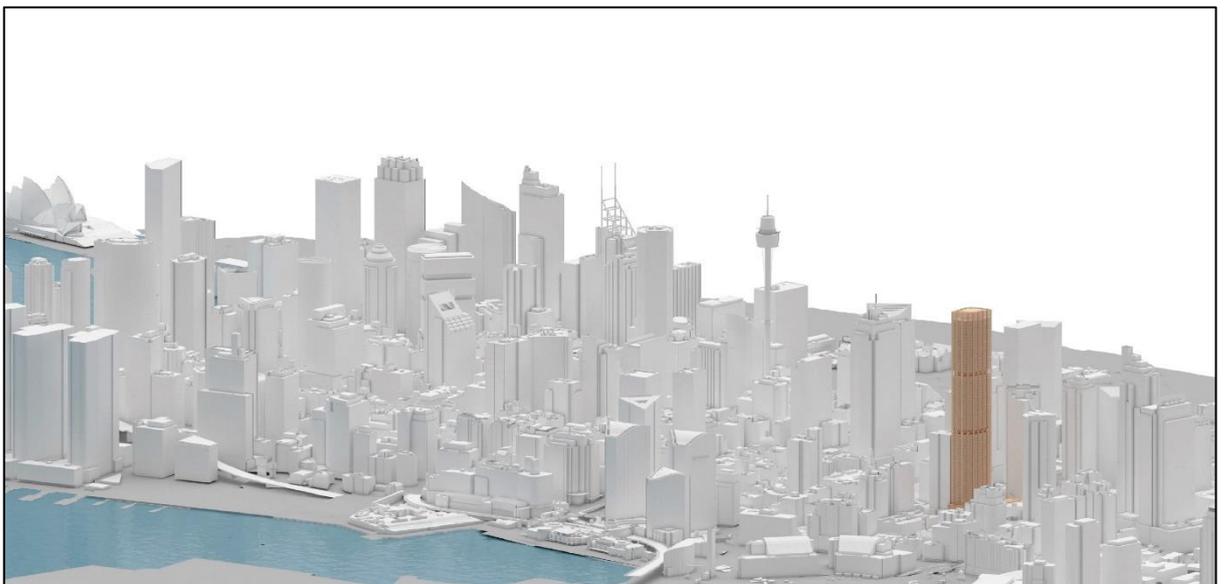


Figure 23: Sydney skyline contextual view of proposed tower



Figure 24: Photomontage - view from the International Convention Centre



Figure 25: Photomontage - George Street



Figure 26: Photomontage - Kent Street

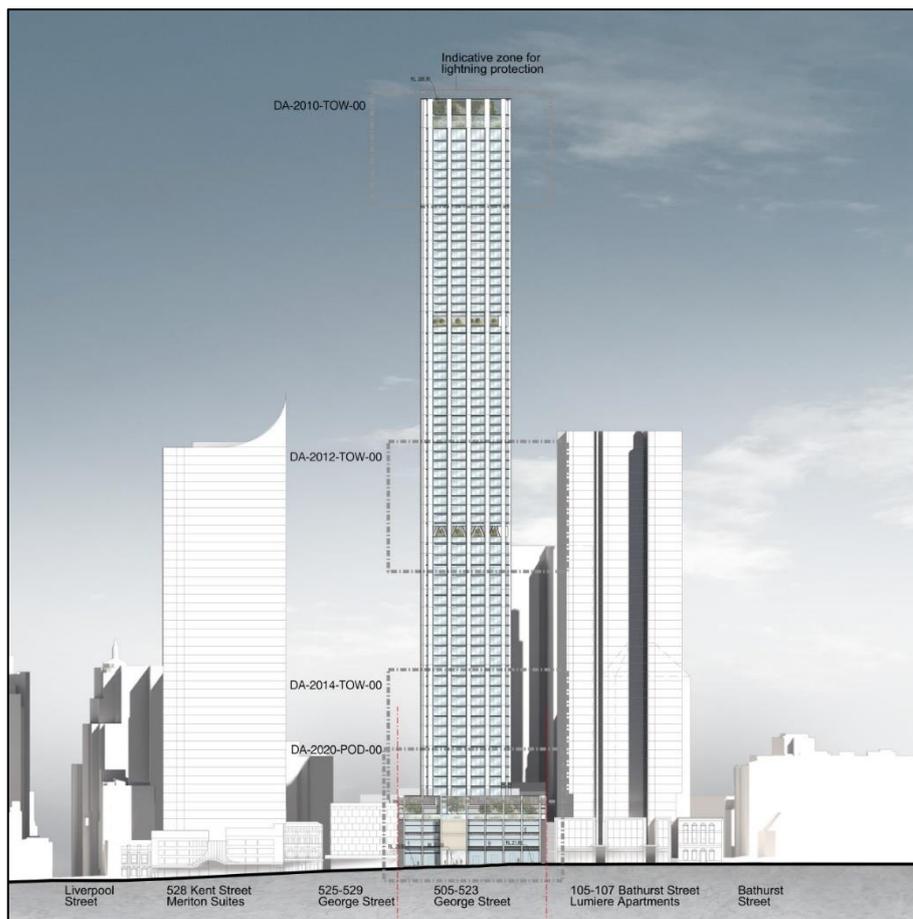


Figure 27: George Street (east) elevation



Figure 28: Kent Street (west) elevation

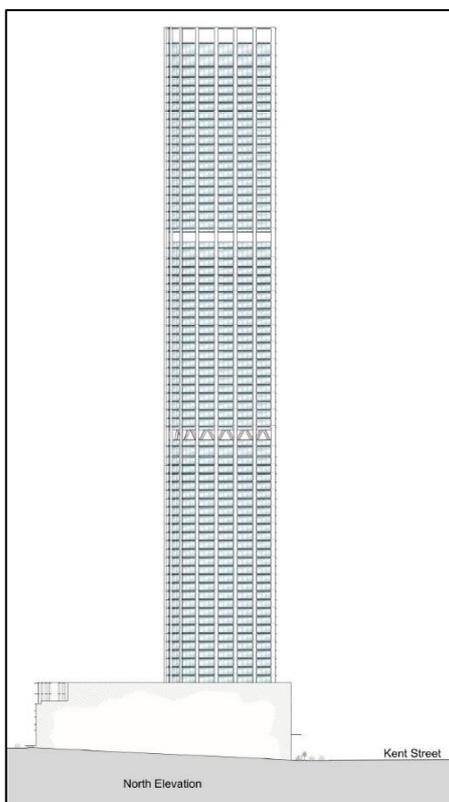


Figure 29: North elevation

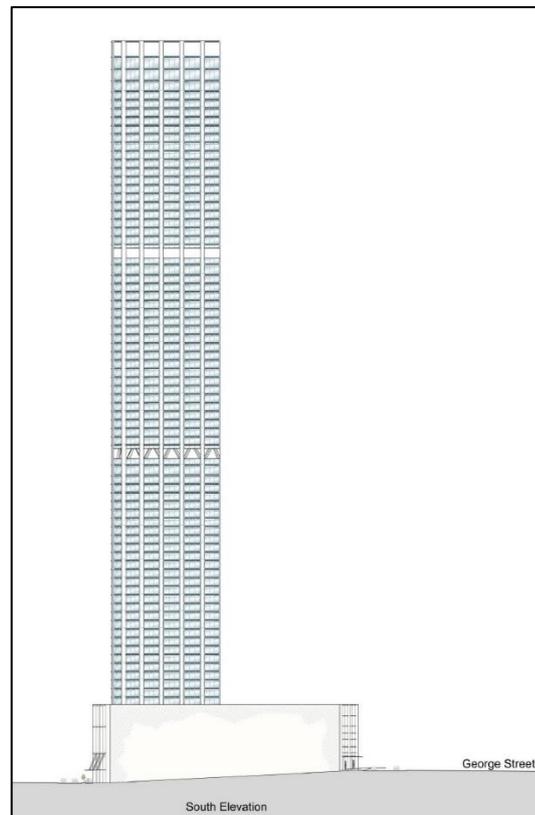


Figure 30: South elevation



Figure 31: George Street podium elevation

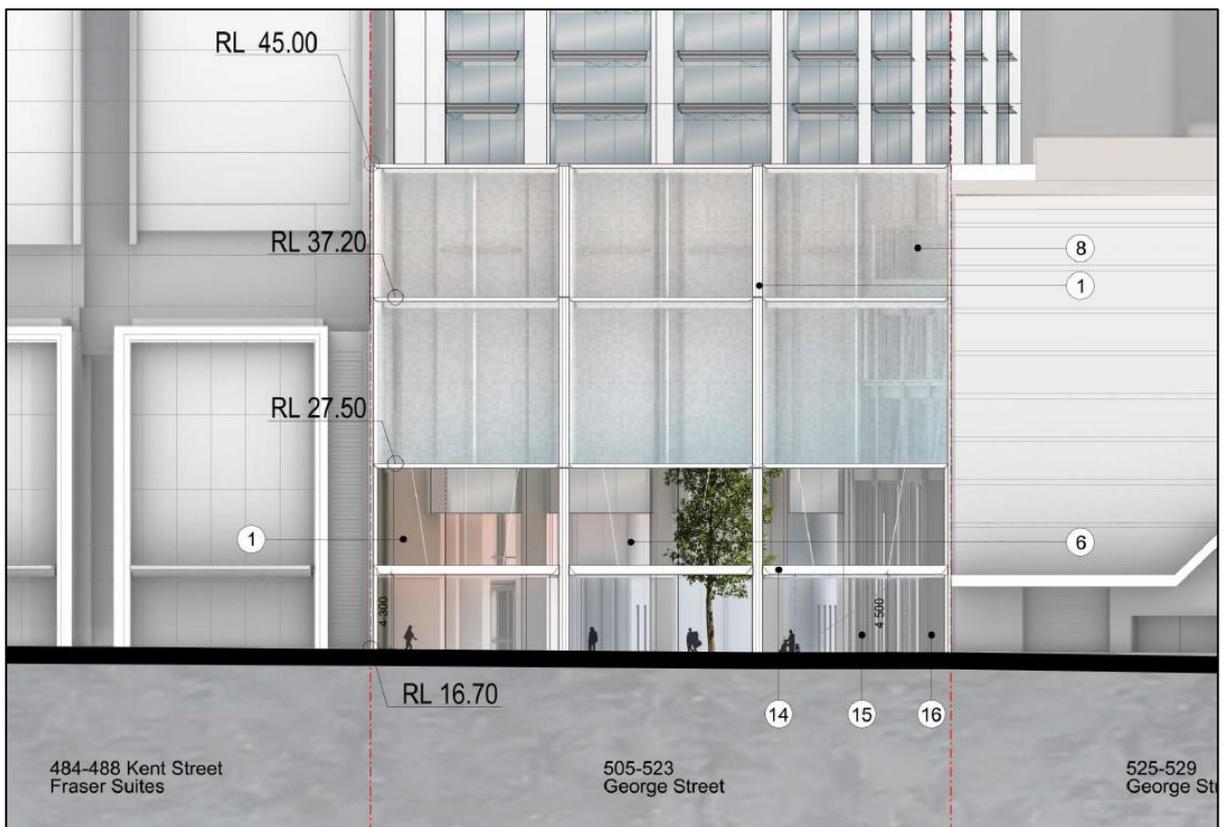


Figure 32: Kent Street podium elevation

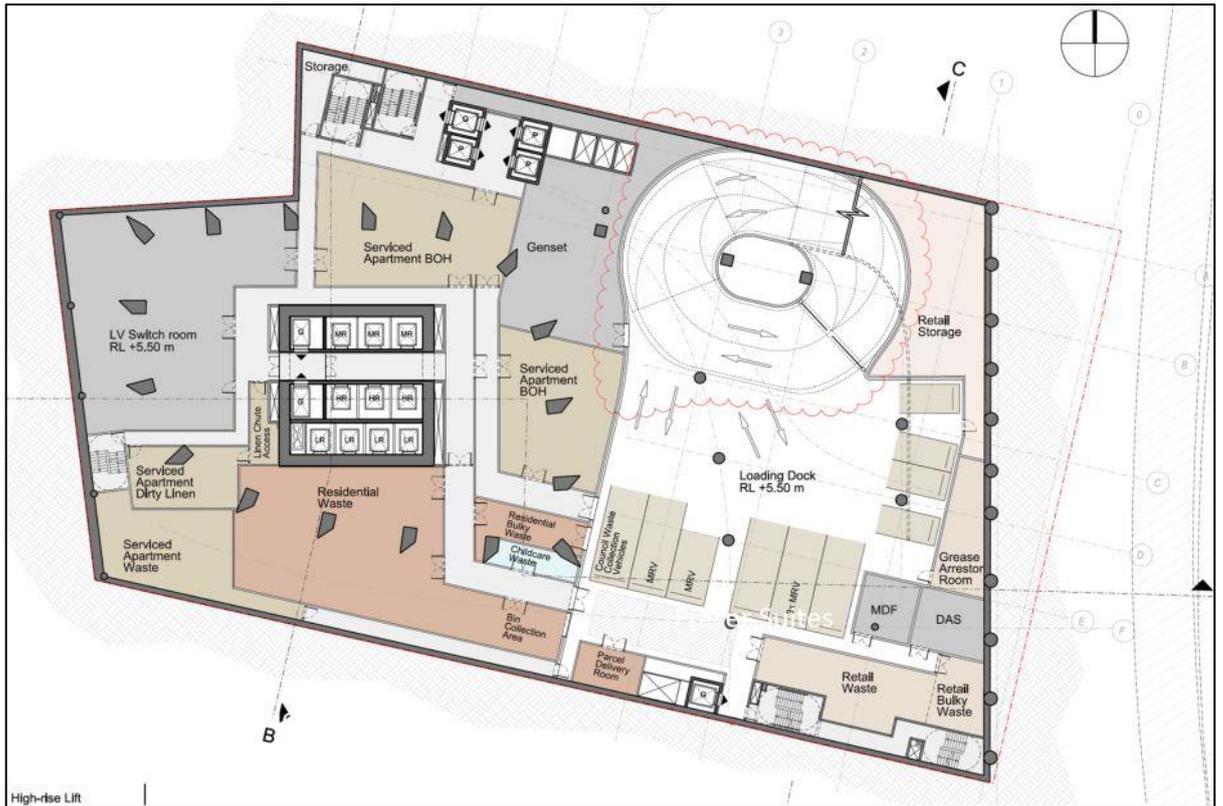


Figure 33: Basement level 2

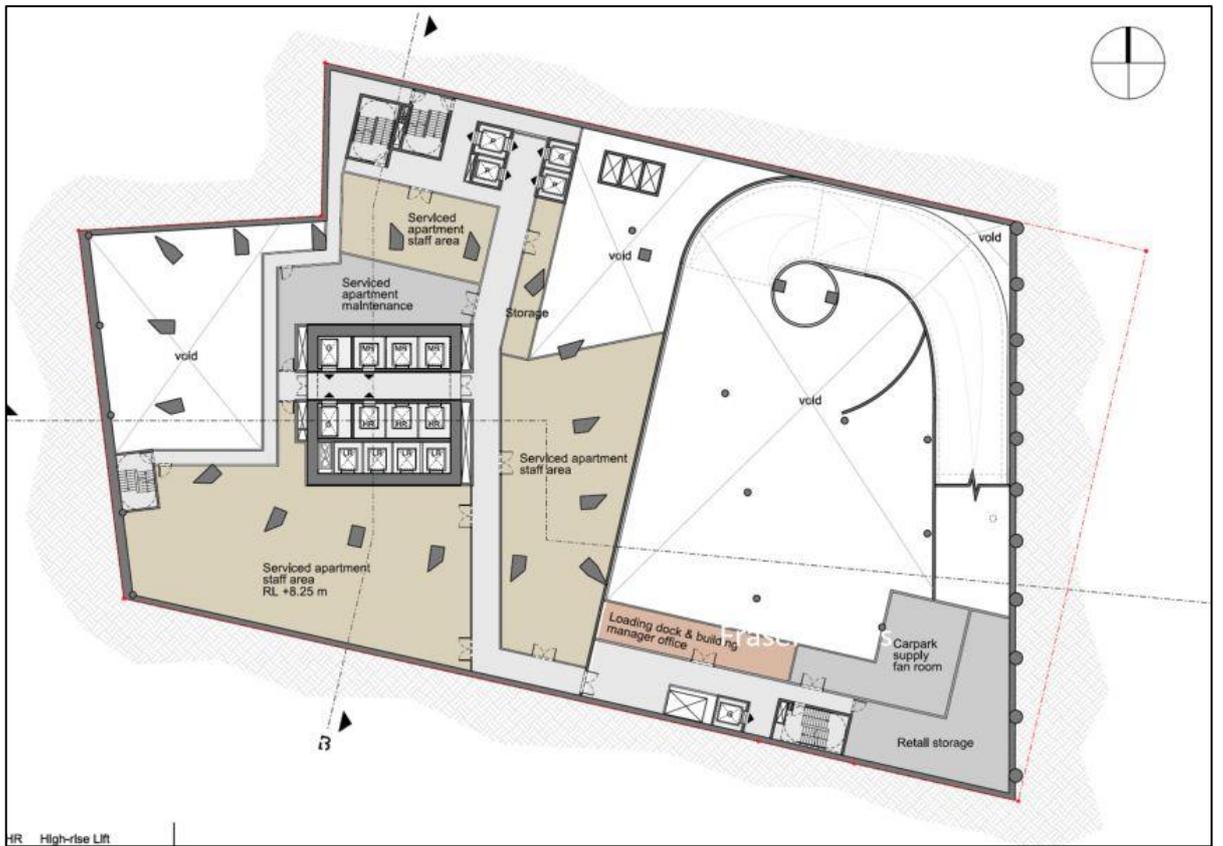


Figure 34: Basement level 2 (mezzanine)

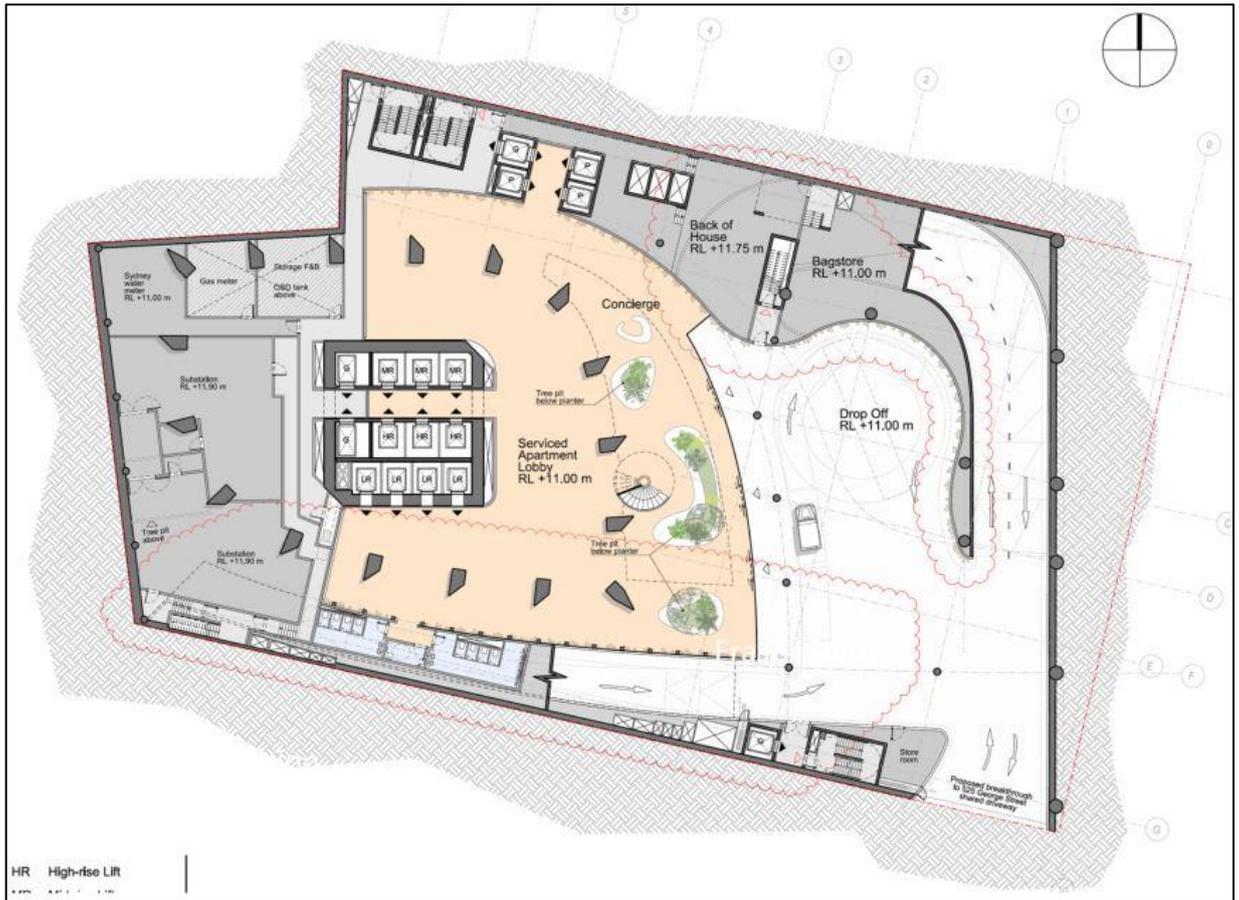


Figure 35: Basement level 1 - serviced apartment lobby and porte-cochere

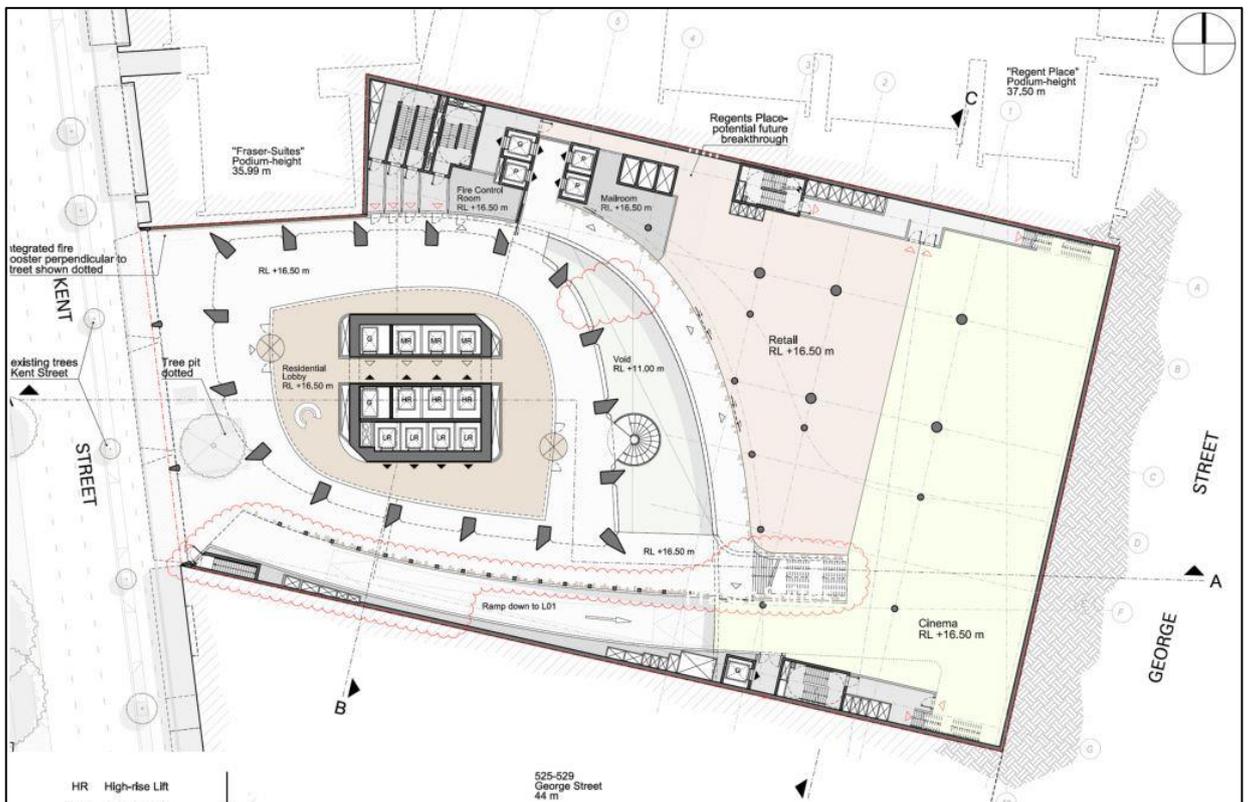


Figure 36: Kent Street ground level podium floor plan - residential lobby

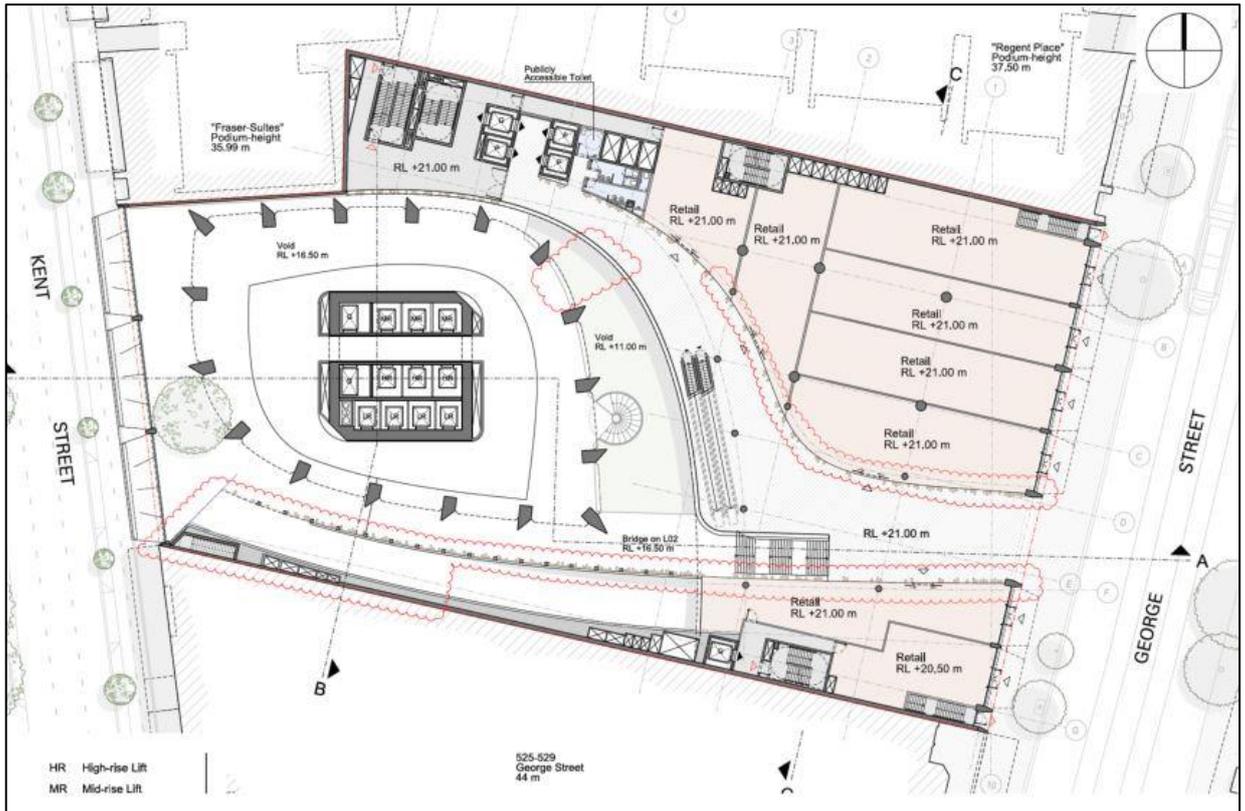


Figure 37: George Street ground level podium floor plan - retail and publically accessible toilets (referred to as level 1)

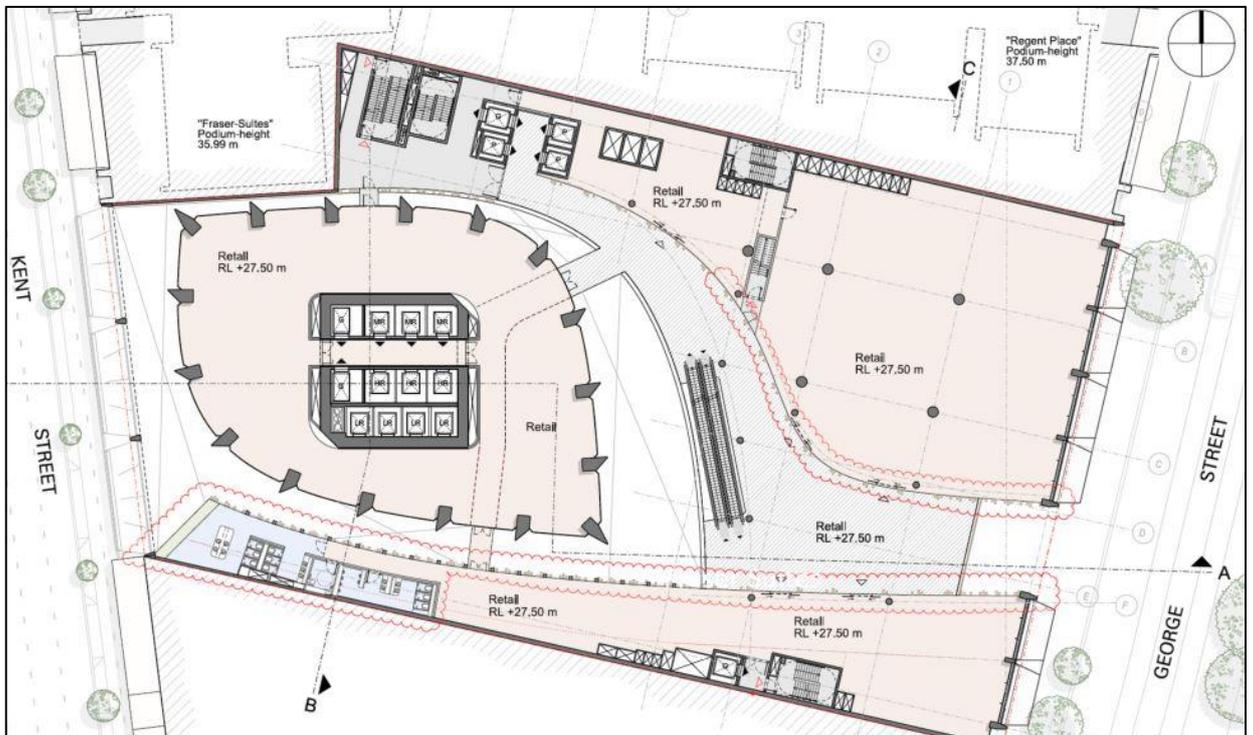


Figure 38: Podium level 2 - retail tenancies

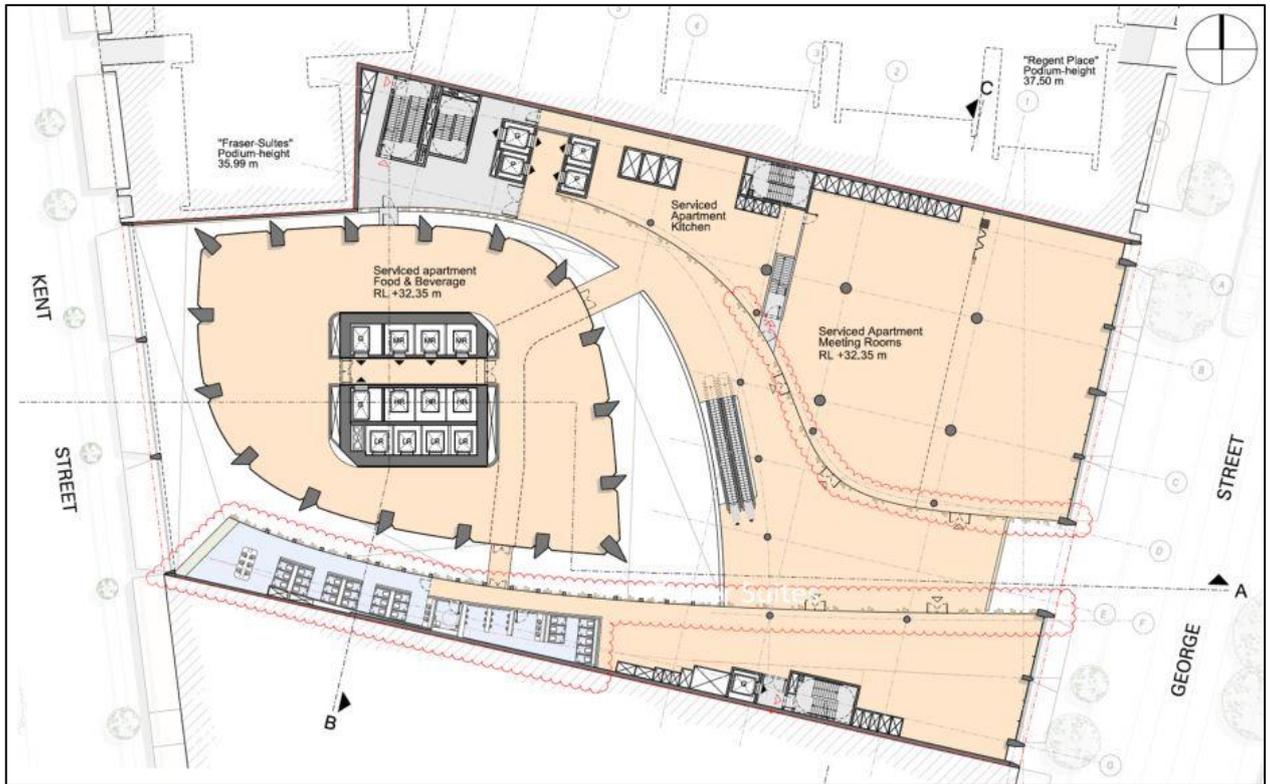


Figure 39: Podium level 3 - serviced apartment facilities

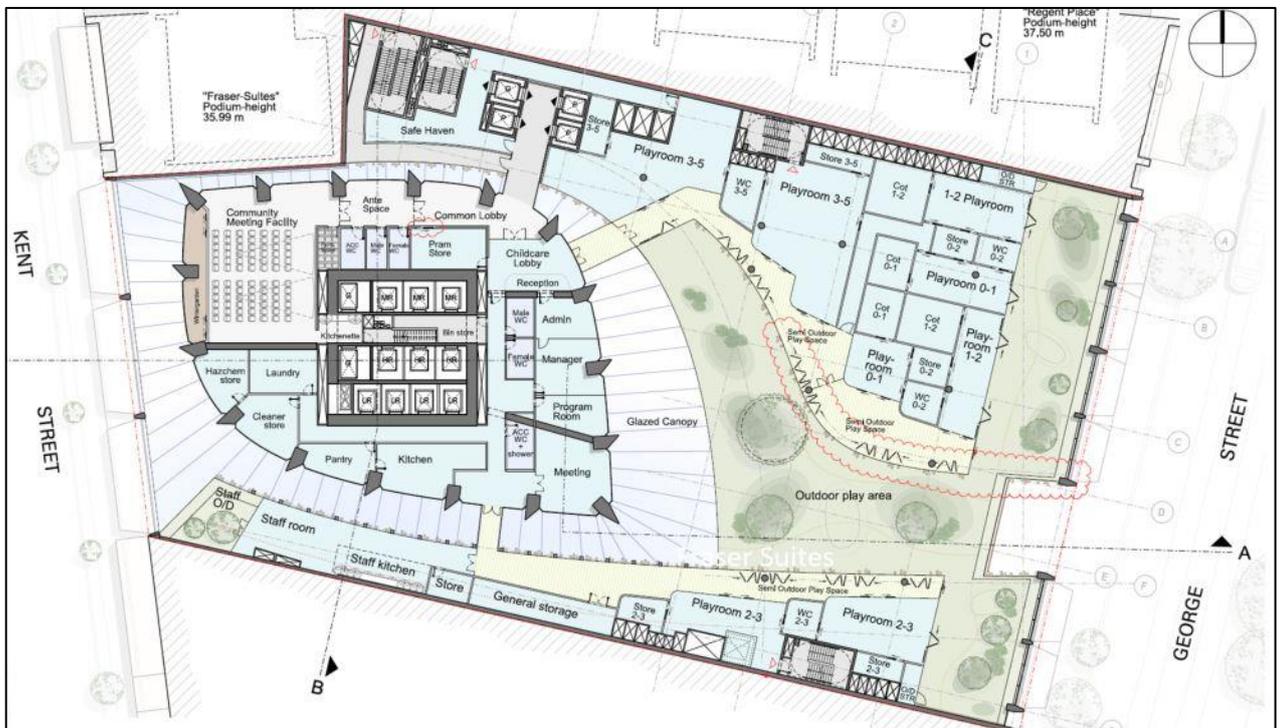


Figure 40: Podium level 4 - the City's childcare centre and meeting room

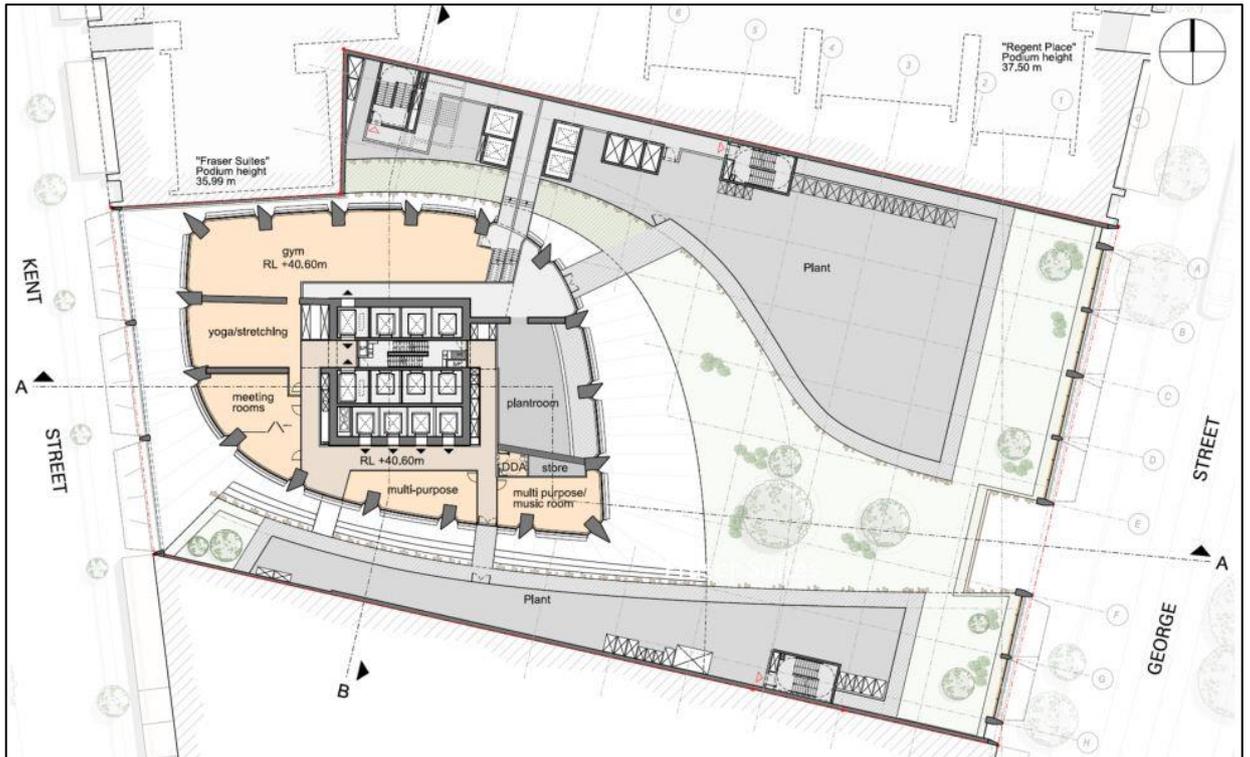


Figure 41: Podium level 5 - serviced apartment / residential facilities and plant rooms

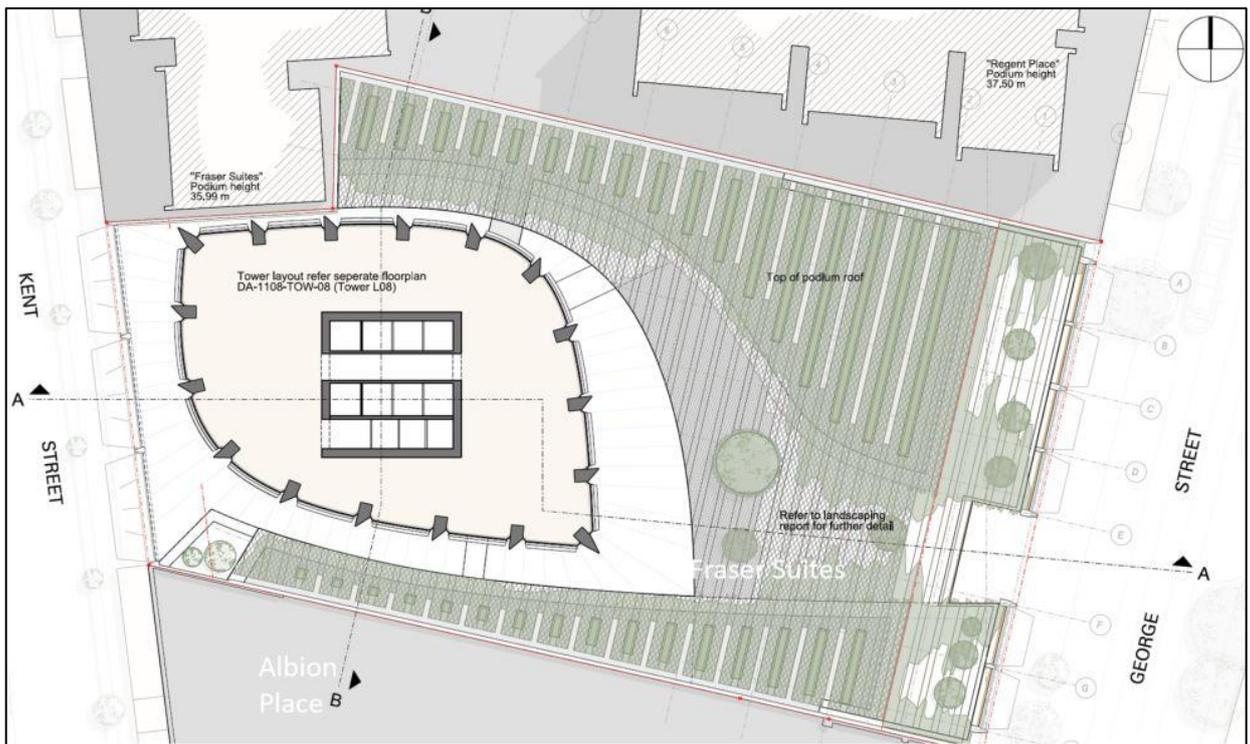


Figure 42: Podium roof level

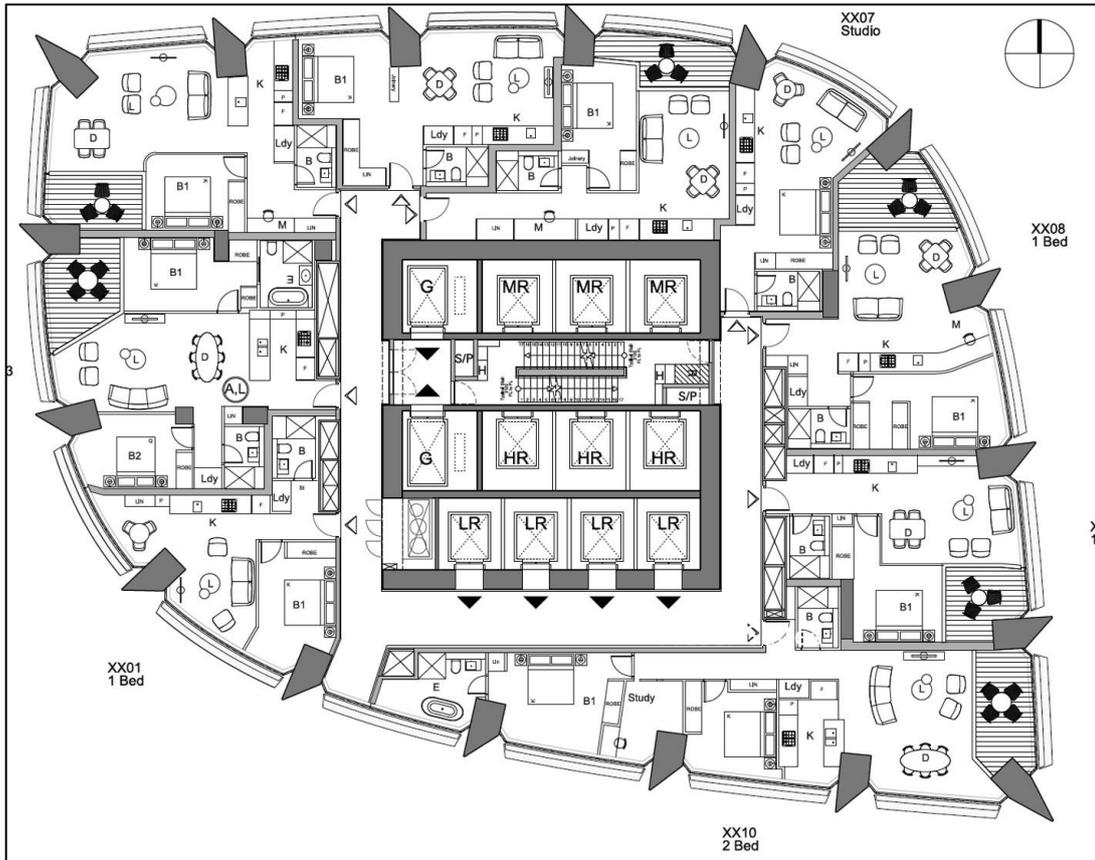


Figure 43: Level 10-33 typical floor plan

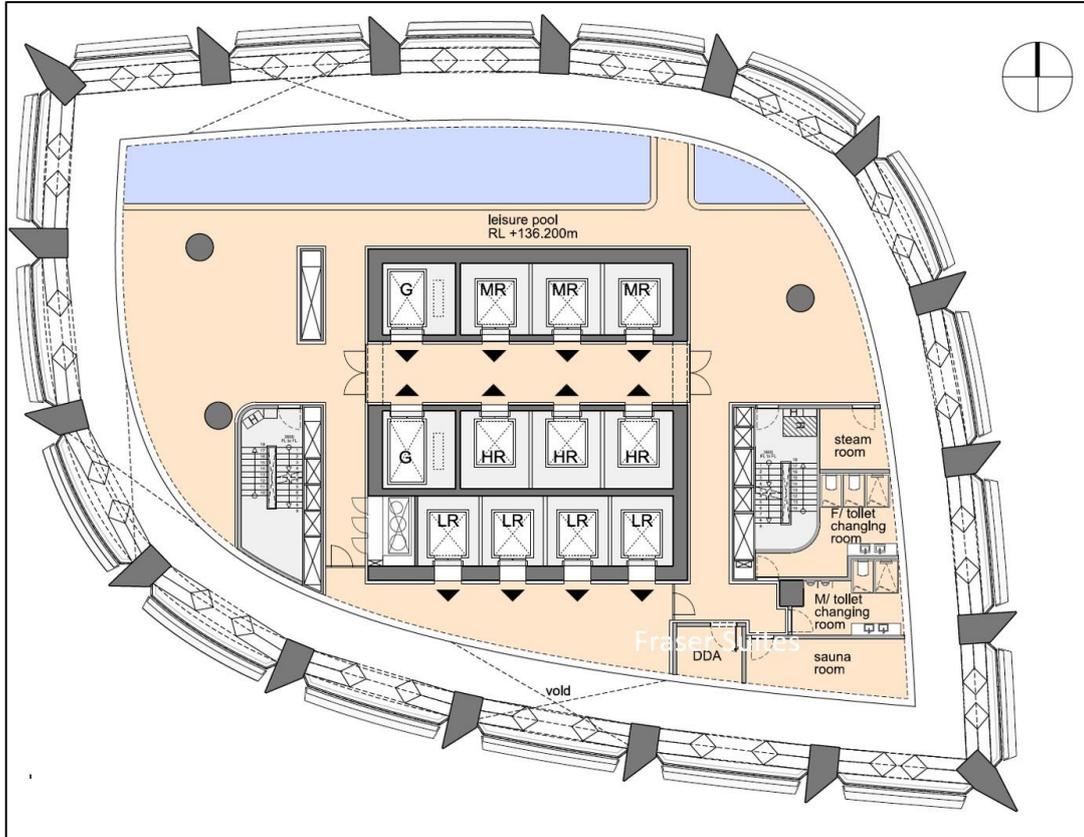


Figure 44: Level 37 communal facilities (additional facilities also located on level 60)

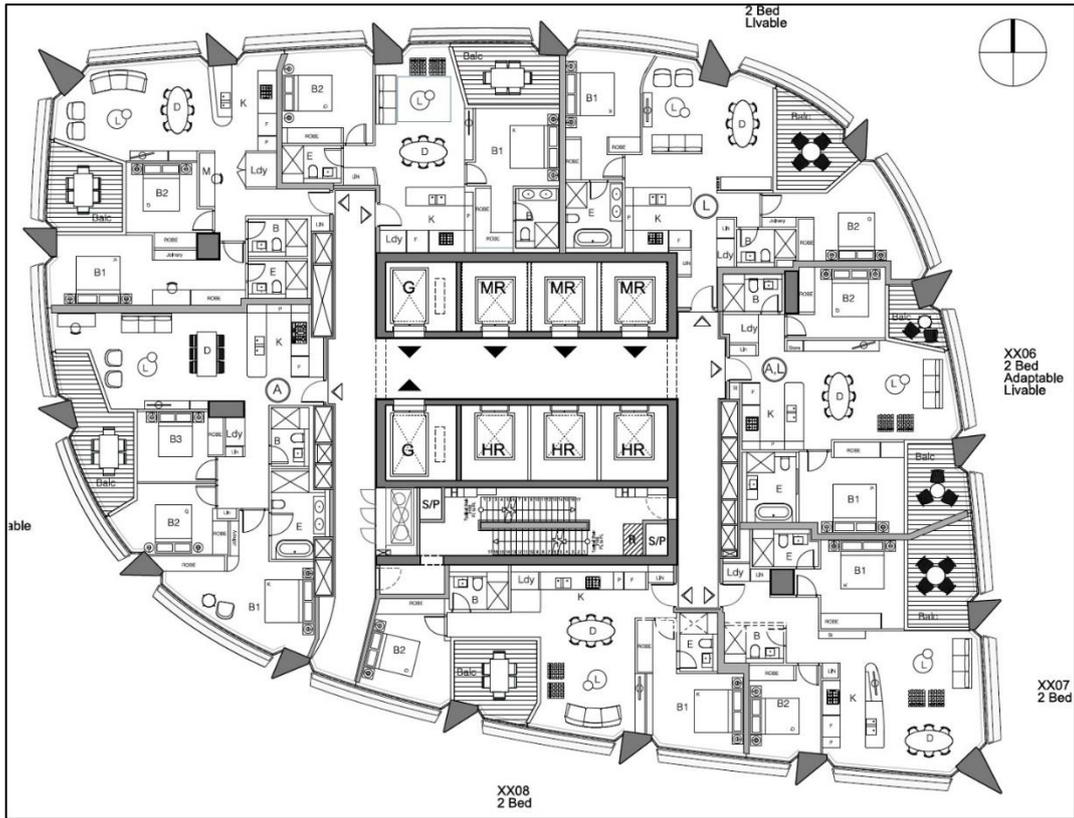


Figure 45: Level 45-56 typical floor plan

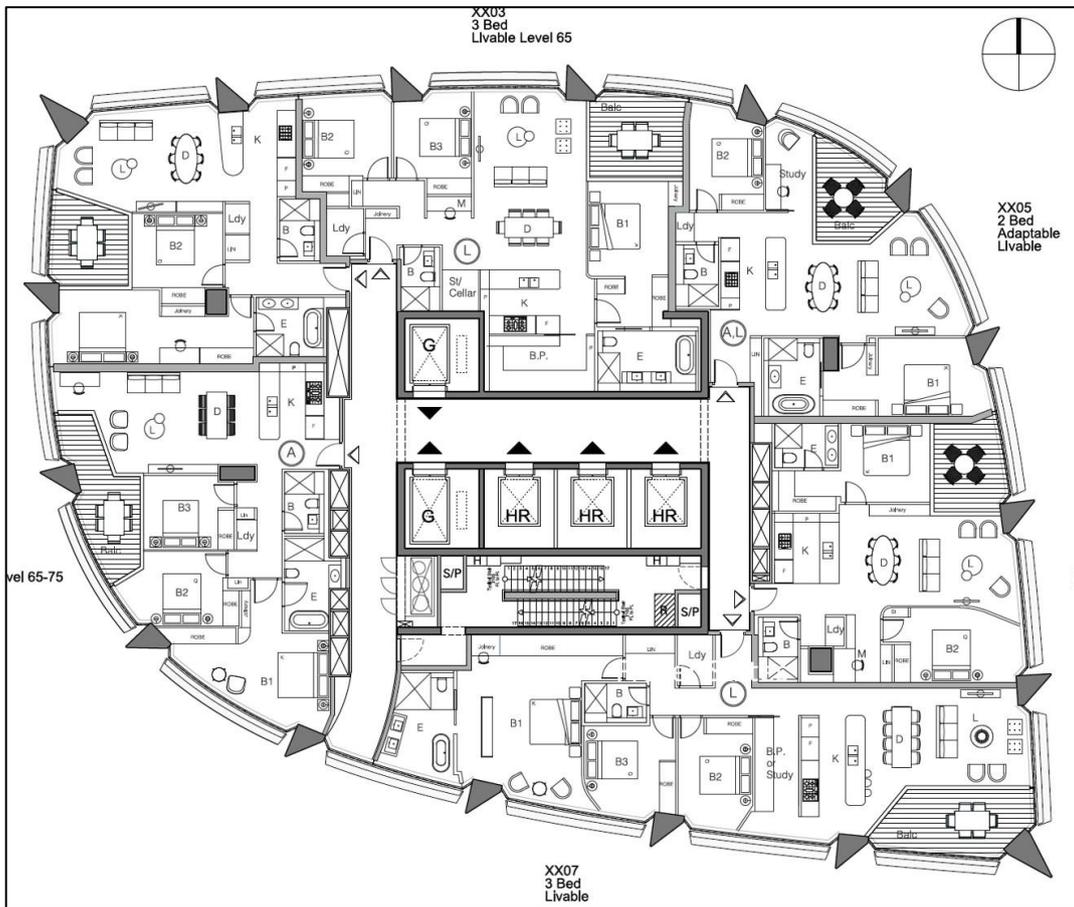


Figure 46: Level 65-79 typical floor plan

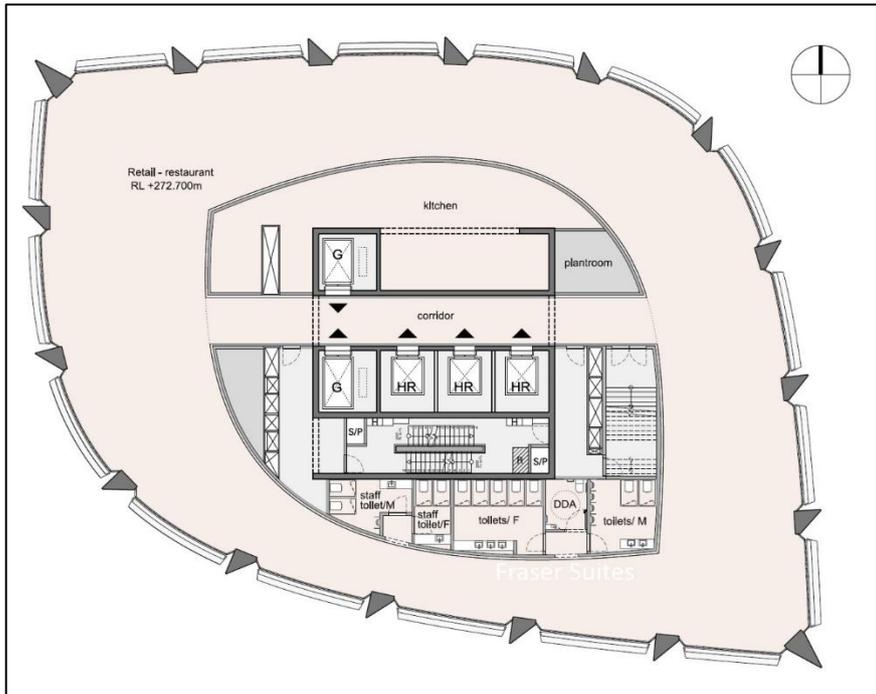


Figure 47: Level 80 restaurant

| Key Feature | Proposal |
|--|--|
| Site Area | <ul style="list-style-type: none"> • 4,308m² |
| Gross Floor Area*: | |
| <ul style="list-style-type: none"> • Residential/Serviced Apartments • Retail • Serviced Apartment Ancillary Facilities • Entertainment • Childcare • Community facility • Total | <ul style="list-style-type: none"> • 51,862m² (excludes wind-affected balconies) • 6,743m² • 6,233m² • 1,021m² • 1,485m² (excludes outdoor areas) • 259m² • 67,603m² (not considering additional floor space provisions for the calculation of FSR) |
| Apartment Mix | |
| <ul style="list-style-type: none"> • Studio • 1 bedroom • 2 bedroom • 3 bedroom • Total | <ul style="list-style-type: none"> • 55 (11%) • 144 (28%) • 224 (44%) • 84 (17%) • 507 |
| Building Height | |
| <ul style="list-style-type: none"> • Top of architectural roof feature • Top of roof slab | <ul style="list-style-type: none"> • 270m (286.90AHD) • 260m (276.90AHD) |
| Public Benefits | |
| <ul style="list-style-type: none"> • Childcare • Community meeting facility • Publicly accessible toilets | <ul style="list-style-type: none"> • 2,658m² (indoor and outdoor) • 259m² • 30m² |
| Communal Areas | |
| <ul style="list-style-type: none"> • Level 07 • Level 37 • Level 59 • Level 60 • Total | <ul style="list-style-type: none"> • 523m² • 415m² • 237m² • 527m² • 1,702m² |
| Car Parking* | |
| <ul style="list-style-type: none"> • Retail • Cinema • Residential • Car Share • Service Vehicles • Total | <ul style="list-style-type: none"> • 0 • 34 • 290 (including 76 accessible) • 6 • 17 • 347 |

Figure 48: Development summary of the proposal in full residential use

Time limited Use

45. The application seeks consent for residential accommodation with a time-limited alternate use for serviced apartments over all or parts of the tower for up to 20 years from issue of the first occupation certificate for the tower.
46. The applicant states that the time-limited serviced apartment use is sought to enable the development to meet short to mid-term demand for tourist and visitor accommodation in central Sydney. The proposed time limited use will allow for other short-term accommodation projects to be delivered in central Sydney during the time-limited use period.
47. The time-limited use will allow any number of “rises” (i.e. low-rise, mid-rise and high-rise) in the tower to be used as serviced apartments. Tower rises are generally interpreted according to the following and as shown in Figure 49:
 - Low-rise means Levels 8-35;
 - Mid-rise means Levels 38-58; and
 - High-rise means Levels 61-79.

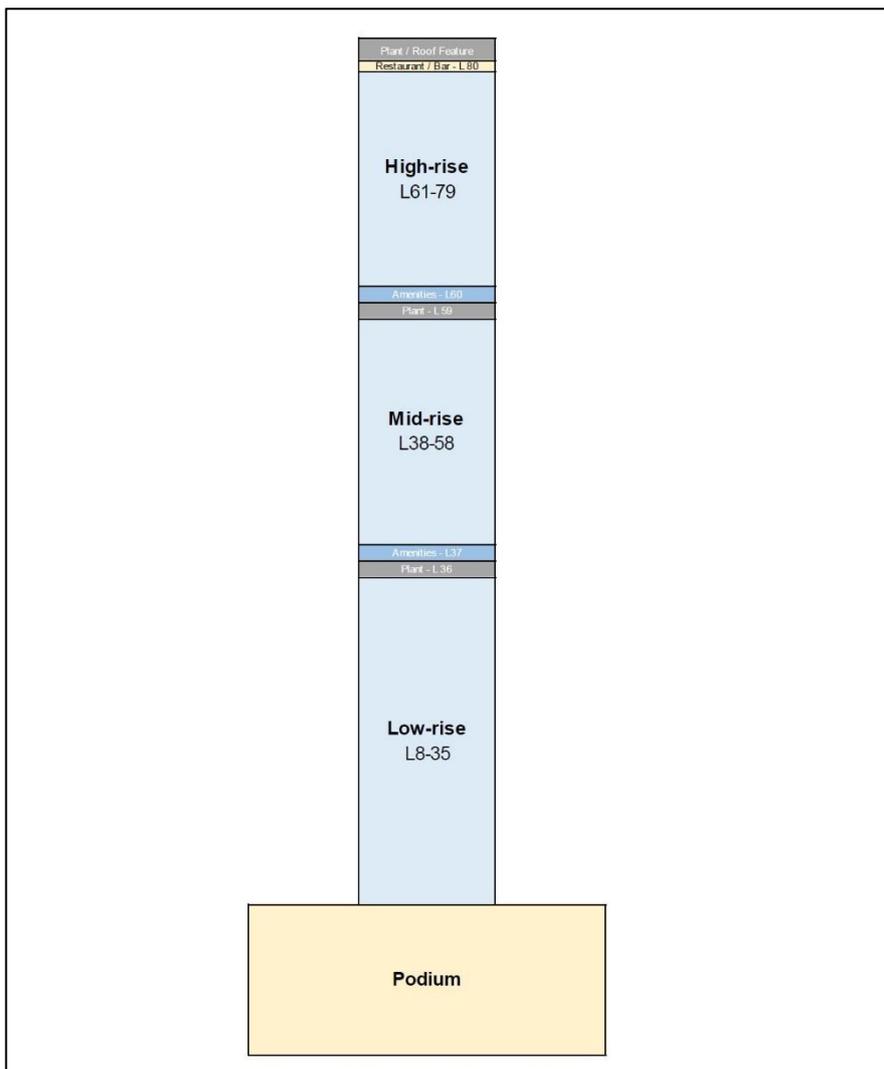


Figure 49: Description of tower rises

48. Further description of how the time limited use and future change to residential apartments will practically occur is provided under the 'Issues' section. An assessment has been made for both the time-limited serviced apartment use and future residential use.

City of Sydney Act 1988

49. Section 51N requires the Central Sydney Planning Committee (the Planning Committee) to consult with the 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."

50. Having liaised with the City's Transport and Access Unit and the CSTTC Working Group and after resolving the driveway issue, in this instance, the CSPC's delegate (subsection 3) being the Director of City Planning Development and Transport, considers it not to have a significant impact on traffic and transport in the CBD. Further consultation with the CSTTC is not considered necessary.

Airports Act 1996

51. 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.

52. On 3 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 289.9AHD, subject to conditions.

Economic/Social/Environmental Impacts

53. 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

54. 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.
55. A Detailed Environmental Site Investigation and accompanying Site Audit Report and Section B Site Audit Statement has been submitted with the development application. The Site Auditor confirms that the site can be made suitable for the proposed use. The City's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

57. 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

58. The proposal involves excavation deeper than 2m in depth on land within 25m of the existing City Circle and Eastern Suburbs Rail Tunnels (beneath George Street) and the Light Rail Corridor (along George Street). Sydney Trains granted concurrence on 9 March 2020 subject to deferred commencement conditions.

Clause 86

59. 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

60. 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

- 61. 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

- 62. The proposal is required to be referred to the RMS (now forms 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

- 63. A BASIX Certificate has been submitted with the development application.
- 64. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal including achieving a minimum score of 25 for energy and 40 for water. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.
- 65. Sustainability measures incorporated in to the design are discussed further in the 'Issue' section of this report.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2007

- 66. The proposed centre-based child care facility is subject to the provisions of the above SEPP. Clause 23 of the SEPP requires all applications for development to take into consideration any applicable provisions of the NSW Child Care Planning Guideline.
- 67. The relevant matters to be considered under Section 3 of the Guideline for the proposed development are outlined below.

| 3. Matters for Consideration | | |
|--|-------------------|---|
| Consideration | Compliance | Comment |
| 3.1 Site selection and location | Yes | The site's Central Sydney location will provide a childcare centre needed to meet the demand for childcare arising from the resident and workforce population forecasted growth. The location of the childcare centre within the overall development is considered suitable and appropriately designed in response to aspect, safety, security and acoustic considerations. |
| 3.2 Local character, streetscape and the public domain interface | | |
| 3.3 Building orientation, envelope and design | | |

| 3. Matters for Consideration | | |
|------------------------------|-----------------------------|--|
| | | <p>The childcare centre is located on level 6 of the podium. The design and location of the childcare centre is equitable for all users with access available directly from Kent or George Streets. The childcare centre is in a safe and secure location with entry to the centre propose to be managed through secure access control.</p> <p>The administration functions of the centre are within the tower footprint, with the play areas located across the top of the podium, facing a green play area in the centre with an eastern aspect.</p> <p>The outdoor play area is protected by the proposed pergola structure from summer sun, downdrafts, falling objects and views from above. The pergola incorporates wire mesh which will allow landscaping to grow and provide protection from sun, views and wind.</p> |
| 3.4 Landscaping | Yes - subject to conditions | <p>The outdoor play area is proposed to be extensively landscaped. The pergola planting will consist of vine species which provide suitable coverage and are low maintenance. Some openings in the pergola will allow trees to penetrate through. The outdoor play area will include a variety of child friendly plants, mounds, synthetic turfed areas, soft fall areas, cubby houses, bridges and slides.</p> <p>The proposal for landscaping and the design of the outdoor play area is supported in principle, however a detailed landscape and maintenance plan is required to be submitted prior to issue of a construction certificate for the childcare centre.</p> |

| 3. Matters for Consideration | | |
|-------------------------------------|-----|---|
| 3.5 Visual and acoustic privacy | Yes | The location and design of the childcare centre including the green pergola will provide appropriate privacy for the children, occupants of the subject tower and occupants of adjoining buildings. The application has been accompanied by an Acoustic Report prepared by a suitably qualified professional. The report concludes the proposed childcare centre is capable of complying with the maximum permitted noise levels. Council's Environmental Health Officer has raised no objection in relation to acoustic privacy. The proposed childcare centre will not unreasonably impact on the acoustic privacy of future occupants of the subject building and occupants of adjoining buildings, subject to conditions. |
| 3.6 Noise and air pollution | Yes | The design of sleeping areas have been located away from noise sources. The outdoor play areas are orientated towards George Street which is now a quieter street and subject to less air pollution since the light rail became operational. The extensive landscaping will also act as a filter for any air pollution as recommended under the Guidelines. |
| 3.7 Hours of operation | Yes | While the proposed hours of operation will be subject to a separate DA, the submitted Acoustic Report and Council officer's assessment of acoustic privacy have been based on the hours of 7.00am - 7.00pm and found to be acceptable. This is consistent with the hours of operation recommended under the Guidelines. |

| 3. Matters for Consideration | | |
|---|-----|---|
| 3.8 Traffic, parking and pedestrian circulation | Yes | The site is well serviced by a variety of public transport options and cycleways. Due to the site's central location, it is expected that children drop-off and pick-ups will not be via private vehicles and accordingly no car parking is provided for the childcare use. This is consistent with the requirements of the Planning Agreement. There are bicycle parking facilities and end of trip facilities for childcare centre staff, and visitor racks for parents/caregivers. |

68. In addition to the matters of consideration under Section 3 of the Guidelines, Section 4 of the Guidelines requires developments to be considered against the provisions of the Education and Care Services National Regulation. These considerations are outlined below.

| 4. Applying the National Regulations | | |
|--|-------------------|--|
| Regulation | Compliance | Comment |
| 104 Fencing or barrier that encloses outdoor space | Yes | The outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children of preschool age or under cannot go through, over or under it. |
| 106 Laundry and hygiene facilities | Yes | The proposed development includes laundry facilities. Laundry/hygienic facilities are located where they do not pose a risk to children. |
| 107 Unencumbered indoor space | Yes | The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child. |
| 108 Unencumbered outdoor space | Yes | The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child. |

| 4. Applying the National Regulations | | |
|---|-----|--|
| 109 Toilet and hygiene facilities | Yes | <p>The proposed development includes adequate, developmentally and age-appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.</p> <p>The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.</p> |
| 110 Ventilation and natural light | Yes | <p>The proposed development includes indoor spaces to be used by children that will be well ventilated; will have adequate natural light; and can be maintained at a temperature that ensures the safety and well-being of children.</p> |
| 111 Administrative space | Yes | <p>The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.</p> |
| 112 Nappy change facilities | Yes | <p>The proposed development includes an adequate area for appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</p> <p>The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.</p> |
| 113 Outdoor space – natural environment | Yes | <p>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</p> |

| 4. Applying the National Regulations | | |
|---|-----|---|
| 114 Outdoor space – shade | Yes | The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun. |
| 115 Premises designed to facilitate supervision | Yes | The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children. |

69. Overall, the proposed childcare centre is considered acceptable when assessed against the above stated provisions and the SEPP generally, which are replicated in large part within Council's planning controls.
70. As detailed above, an assessment has been made on the fundamental location, design and assessment of noise based on up 130 children to ensure the childcare centre is easily capable of complying with the Education and Care Services National Regulation. While a Plan of Management has been submitted by the applicant to support this assessment, it recommends that a separate DA is lodged once the construction of the childcare centre is nearing commencement and an operator has been chosen or appointed. This will allow the operator to have a consent specific to the childcare centre including approval of a Plan of Management and hours of operation which meet the operator's requirements rather than being included in a complex consent for the entire development.
71. In summary, approval is recommended for the use of the childcare centre including its construction, with hours of operation and a Plan of Management to be approved under a separate DA.

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

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

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

While the proposed tower will be the tallest in the area, it is largely consistent with the site specific DCP envelope and maximum height permitted under SLEP 2012 and will deliver a positive contribution to the Sydney skyline. The proposed podium is consistent with the built form and scale of the streetscape at both street frontages.

Principle 3: Density

The proposal complies with the maximum permitted FSR permitted for the site when used for residential accommodation. It is consistent with the desired future character envisaged in the locality of the Sydney CBD and the broader City of Sydney LGA.

Principle 4: Sustainability

The proposal is compliant with the minimum energy BASIX requirement and exceeds the minimum water score. The proposal incorporates a range of benchmark sustainability measures for a high rise residential building, as detailed further in this report.

Principle 5: Landscape

Due to the podium covering the entire site and basement underneath, there is no deep soil proposed on the site which is considered acceptable in the context of Central Sydney. The proposal includes generous landscaped areas, referred to as 'sky gardens' on the drawings, to offset the lack of deep soil. The sky gardens are located on the perimeter of the tower floorplate on levels 36, 59 and 81.

Principle 6: Amenity

Compliance with amenity is assessed further under the ADG section below. Overall, the proposal provides an acceptable level of residential amenity for future occupants taking into consideration the scale of development and site constraints.

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. When the building, or designated components of the building, will be used as a residential flat building, there are secure and separate entrances available for the sole use of permanent residents. The proposal has generally been designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED).

Principle 8: Housing Diversity and Social Interaction

The proposal provides a mix of apartment types to encourage housing diversity. There are a range of communal facilities to encourage social interaction amongst residents.

Principle 9: Aesthetics

The proposed materiality is of a high standard and consistent with the existing and future desired character of the area. The aesthetics of the building are discussed further throughout this report.

Apartment Design Guide

| 2E Building Depth | Compliance | Comment |
|-------------------------|------------------------|---|
| 12-18m (glass to glass) | Assessed as acceptable | <p>The maximum depth of the tower floorplate, as measured from the glass lines, is approximately 29m (north - south) and 38m (east - west)</p> <p>The project architect explains that the height of the tower and its requirements for a large core create a scenario where the depth of the building is more than 18m in some areas. To meet the objectives of the ADG, the tower floor plates have been designed to optimise apartment planning by providing an optimal 9 metre band of apartments to the north /north east and west to capture the best outlooks and maximise solar access. Despite the irregular shaped floors, the apartments have been laid out to comply with the ADG's guidance for room depth and ceiling height. The glazed facade of the tower provides ample daylight deep into the apartments. The proposed non-compliance is considered to have merit in this particular case in the context of a high rise apartment building.</p> |

| 2F Building Separation | Compliance | Comment |
|--|------------------------|--|
| <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms | Assessed as acceptable | It is noted that the tower has been designed in accordance with the site specific DCP which does not achieve the ADG setbacks to boundaries for habitable rooms. This is discussed under the 'Issues' section. |
| 3D Communal and Public Open Space | Compliance | Comment |
| Communal open space has a minimum area equal to 25% of the site. | Assessed as acceptable | The possible locations for outdoor space would typically include the top of the podium or top of the tower. Given the outdoor space on the podium is designated for the childcare centre and wind conditions on top of the tower would not allow practical use of the space, no proposed communal open space is included in the building. The proposal provides ample variety of indoor communal areas. The site is located in close proximity to outdoor open space including Hyde Park, Town Hall Square and Darling Quarter. The non-compliance is considered acceptable in this case and Central Sydney context. |

| 3E Deep Soil Zones | Compliance | Comment |
|---|-------------------------------|---|
| <p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m</p> | <p>Assessed as acceptable</p> | <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"> • 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) • There is 100% site coverage or non-residential uses at ground level. <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>The proposal includes generous landscaped areas, referred to as 'sky gardens' on the drawings, to offset the lack of deep soil. The sky gardens are located on the perimeter of the tower floorplate on levels 36, 59 and 81.</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>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms <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 | Refer to the 'Issues' section for discussion. |
| Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas. | Yes | Apartment layouts are designed with sensitive rooms and spaces away from internal communal corridors and spaces. |

| 3G Pedestrian Access and Entries | Compliance | Comment |
|---|------------|---|
| <p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p> | Yes | <p>The residential lifts are provided with direct access from the Kent Street lobby. The entry is legible and accessible.</p> <p>A condition of consent is recommended requiring the approval of a Signage Strategy including wayfinding signage to assist with easy identification of residential lobbies.</p> |

| 4A Solar and Daylight Access | Compliance | Comment |
|---|-------------------------------|---|
| <p>70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.</p> <p>Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.</p> | <p>Assessed as acceptable</p> | <p>The proposal results in 341 out of 507 apartments (67%) receiving a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter.</p> <p>93 out of 507 apartments (18%) receive no direct sunlight between 9am - 3pm at midwinter.</p> <p>The minor departure from the relevant objectives is predominantly due to the lower 6 floors in the low-rise. Discounting the subject 6 levels from ADG solar calculations, the proposal achieves approximately 76% for the required minimum 2 hours of solar access and 15% for apartments receiving no direct sunlight between 9am and 3pm at midwinter. However it is not practical, or considered reasonable, to excise the lower 6 floors from the remaining 29 levels from the low-rise due to the lobbies and lifts being designed specifically for entire rises to operate independently and prevent co-mingling of serviced apartments and residents.</p> <p>The proposed non-compliance is supported for the following reasons:</p> <ul style="list-style-type: none"> • Apartments receiving limited or no solar access have large floor to ceiling glazing, a curved frontage maximising dual aspect frontages, and shallow apartment layouts to those facing south; • Several constraints restrict the placement of large apartments in the low-rise portion of the tower, including the interface with Frasers Suites; |

| 4A Solar and Daylight Access | Compliance | Comment |
|--|------------|--|
| | | <ul style="list-style-type: none"> • The shape of the tower floor plate has undergone minor adjustments since the design competition to increase solar compliance whilst still retaining the design intent of the winning scheme; • The variety and amenity of apartments has improved significantly since the competition winning scheme; • Revised apartment planning has innovatively maximised living and balcony areas to achieve solar compliance; and • The key architectural expression of the external columns creates self-shading to apartments but is critical to the design intent of the competition winning scheme. |
| Design incorporates shading and glare control, particularly for warmer months. | Yes | The tower contains external sun shading which will assist in reducing glare. |

| 4B Natural Ventilation | Compliance | Comment |
|---|------------|---|
| All habitable rooms are naturally ventilated. | Yes | <p>All habitable rooms are naturally ventilated.</p> <p>Following a request by Council officers, additional detailed information and drawings were provided which demonstrate that the area of unobstructed window openings will be at least 5% of the area served.</p> |

| 4B Natural Ventilation | Compliance | Comment |
|---|------------|--|
| | | <p>Each facade bay between the external columns has two ventilator panels which provide an integrated and concealed way of allowing the user to control the natural ventilation of their apartments. To supplement the ventilator panels, high level openable awning windows are provided.</p> <p>Within the balconies a permanently opened slot is provided to ensure consistency with the City's draft alternative natural ventilation of apartments in noisy environments performance pathway guideline.</p> <p>The high-level windows and slots in the facade mean it minimises the risk for falling objects out of the tower.</p> |
| <p>Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.</p> <p>Apartments 10 storeys or greater are deemed to be naturally cross ventilated only if balconies allow for adequate ventilation and cannot be fully enclosed.</p> | Yes | All apartments are deemed to be naturally cross ventilated. The balconies cannot be fully enclosed and allow for adequate ventilation. |

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 | All habitable rooms have a minimum finished ceiling height of 2.7m. |
| Non-habitable rooms: 2.4m | Yes | All habitable rooms have a minimum finished ceiling height of 2.4m. |

| 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 | All apartment sizes are above the minimum specified size requirements. |
| <p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p> | Yes | All habitable rooms have access to an external window as required. |
| <p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p> | Yes | <p>The apartment layouts generally comply with the specified size and dimensions for apartment planning.</p> <p>There are some exceedances of the 8m depth requirement in some of the open plan living layouts. However these apartments have adequate amenity as the living areas are dual aspect and will receive ample natural light.</p> |
| <p>8m maximum depth for open plan layouts.</p> | | |
| <p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p> | | |
| <p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m | | |

| 4E Private Open Space and Balconies | Compliance | Comment |
|--|---------------------------|--|
| <p>Studio apartments are to have a minimum area of 4sqm.</p> <p>One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m</p> | <p>Partial compliance</p> | <p>The proposed balconies meet the minimum size and dimension requirements specified for the number of bedrooms per apartment.</p> <p>The ADG requires all apartments to have private open space. There are 33 apartments which are in the low-rise section which do not have balcony private open space. The location of the subject apartments without balconies are located in the low rise and do not benefit from a high level of sun light, acoustic privacy and/or desirable outlook which would typically contribute to the usability and enjoyment of the balcony by occupants (other than drying rack). In this regard, it is not considered that the provision of balconies to these apartments would add significant amenity and/or an added space which is likely to be used often by the occupants. Rather these apartments are provided additional amenity through the provision of above minimum sized apartments and substantial glazing to maximise natural light. The non-compliance is considered to have merit and is supported in this particular circumstance given the overall facilities.</p> |

| 4F Common Circulation and Spaces | Compliance | Comment |
|---|--------------------|---|
| The maximum number of apartments off a circulation core on a single level is eight (8). | Partial compliance | <p>Given the proposal is for a slender tower, there is one circulation core provided. The maximum number of apartments off a circulation core on a single level is 9 throughout the building. This exceeds the numeric design guide by 1 however the average number of apartments per floor within the tower is 7. Four lifts will service the low-rise, a separate three lifts for the mid-rise and an additional three separate lifts for the high-rise.</p> <p>Natural daylight and ventilation is introduced to the common circulation spaces with the exception of level 38 due to a fire stair transfer.</p> <p>Primary living areas and bedrooms do not open directly on to corridors.</p> <p>Overall the proposed design of the lift, number of lifts and servicing strategy is considered to meet the ADG design guidance.</p> |
| For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40. | | |
| Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled. | | |
| Daylight and natural ventilation are provided to all common circulation spaces. | | |

| 4G Storage | Compliance | Comment |
|---|------------|--|
| <p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p> | Yes | <p>The apartments appear to be able to accommodate the minimum 50% requirement for storage. Additional storage is also provided within the basement within storage spaces. A condition of consent is recommended requiring storage space to be provided in accordance with the minimum ADG requirements.</p> |

| 4J Noise and Pollution | Compliance | Comment |
|---|------------|--|
| Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings? | Yes | The proposal minimises the impacts of external noise and pollution through introduction of acoustic measures as detailed in the submitted acoustic report. The proposal mitigates noise transmission through the careful design of apartment walls, balcony placement and treatments to the facade to mitigate noise pollution. All apartment are capable of achieving natural ventilation while also meeting an acceptable level of acoustic privacy. |

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

73. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP (deemed SEPP).
74. 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.
75. 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

76. The site is located within the B8 - Metropolitan Centre zone under SLEP 2012. The proposed uses comprise of commercial premises, residential accommodation, serviced apartments, community facility and centre-based child care facility, all of which are permissible with consent.
77. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.

Compliance Tables

| Development Control | Compliance | Comment |
|---|--|---|
| <p>Height of Buildings</p> <p><i>Clauses 4.3 and 6.32</i></p> | <p>No - Clause 4.6 variation submitted</p> | <p>Despite Clause 4.3, development consent may be granted to the erection of a building with a maximum height of 260m on the subject site pursuant to Clause 6.32 of SLEP 2012.</p> <p>The height to the top of the roof slab of the building is 260m. The lift overruns, fire stairs and plant protrude above 260m and reach a maximum height of 270m. An architectural roof feature is proposed up to a height of 270m and conceals the lift overruns, fire stairs and plant.</p> <p>Nevertheless, a Clause 4.6 variation request has been provided seeking to vary the maximum permitted height. Refer to the 'Issues' section for discussion.</p> |
| <p>Floor Space Ratio</p> <p><i>Clauses 4.4, 4.5A, 6.32, 6.4, 6.7, 6.21 & 6.32</i></p> | <p>Partial compliance</p> | <p>The site has two separate maximum permitted FSR's depending on whether the tower is used as serviced apartments or residential apartments.</p> <p>The proposal complies with the maximum permitted FSR available under the applicable SLEP 2012 provisions when in full residential mode.</p> <p>However when the tower is operated as serviced apartments in the short term, there will be a non-compliance as a result of the wind affected balconies not being permitted to be excluded from the calculation of gross floor area (GFA). A Clause 4.6 variation request has been submitted in this regard. Refer to the 'Issues' section for discussion.</p> |
| <p>4.6 Exceptions to development standards</p> | <p>Yes</p> | <p>As discussed above, the proposal seeks to vary the maximum permitted FSR and maximum permitted height.</p> <p>See discussion under the heading 'Issues'.</p> |

| Development Control | Compliance | Comment |
|---------------------------------|----------------------------|---|
| 5.6 Architectural roof features | Yes | <p>An architectural roof feature is located 10m above the maximum permitted height.</p> <p>See discussion under the heading 'Issues'.</p> |
| 5.10 Heritage conservation | Yes | <p>The site is not a heritage item and is not located in a heritage conservation area, however is located in close proximity to a single-storey heritage item (I1835) known as Judges House located across the road at 531 Kent Street. The podium provides an appropriate transition in the scale between the tower form and the lower-scale heritage item. It is not considered the development will adversely impact on the heritage significance of Judges House.</p> <p>In addition, the tower is within the visual catchment of Town Hall and St Andrews Cathedral. The materials selected are considered to be neutral and acceptable from a heritage perspective. It is considered that the tower will provide an appropriate backdrop to the civic character of the Sydney Square/Town Hall/St Andrews Special Character Area.</p> |
| 6.11A Heritage floor space | Yes - subject to condition | <p>The proposal provides 28,234sqm of accommodation floor space. In accordance with provision (1), 14,117sqm of heritage floor space is to be allocated to the site.</p> <p>However provision (2) of clause 6.11A states that where a development has undertaken an Architectural Design Competition in accordance with the City of Sydney Competitive Design Policy, the amount of heritage floor space may be reduced by up to 50% or 1000sqm, whichever is the lesser.</p> <p>Accordingly, 13,117sqm of heritage floor space is to be allocated to the site. A condition of consent is recommended to reflect this.</p> |

| Development Control | Compliance | Comment |
|---|-----------------------------|--|
| 6.17 Sun access planes | Yes | The site is not subject to the sun access planes. |
| 6.19 Overshadowing of certain places | Yes | The proposal does not overshadow any of the specified public spaces under this provision. |
| 6.21 Design excellence | Yes - subject to conditions | <p>The proposed development satisfies the requirements of this provision subject to conditions.</p> <p>Refer to the 'Issues' section for detailed discussion.</p> |
| 6.32 505-523 George Street - building height and floor space | Yes | The proposal includes a centre-based child care facility, publicly accessible toilets and a meeting room. No residential accommodation is provided within the podium. The proposal satisfies the site specific provisions under Clause 6.32. |
| <p>Car parking ancillary to other development</p> <p>7.5 Residential flat buildings</p> <p>7.7 Retail premises</p> <p>7.9 Other land uses</p> | Yes - subject to conditions | <p>The proposed number of car parking spaces is 324 which complies with the maximum permitted rate when the entire tower is used for residential. However when the tower is used for serviced apartments, there will be a surplus of 95 car parking spaces above that permitted under provisions 7.7 and 7.9 of SLEP 2012.</p> <p>Accordingly, it is proposed to place a restriction on the basement areas in surplus of the permitted car parking rate by way of a secured roller shutter. The location of the roller shutter, the extent of storage, car, motorbike and bicycle parking spaces will be subject to change depending on the distribution of serviced apartment and residential apartment uses throughout the tower. Conditions of consent are recommended to address this issue and strictly prohibit use of surplus car spaces for car parking. The use of these surplus spaces for additional storage would be acceptable.</p> |

| Development Control | Compliance | Comment |
|--|------------|--|
| 7.14 Acid Sulphate Soils | Yes | The site is identified as containing class 5 Acid Sulphate Soil and is located within 500m of Class 2 Acid Sulphate Soil. However the submitted Geotechnical Report submitted with the DA concludes that the development is unlikely to lower the water table. Accordingly an Acid Sulphate Soil Management Plan is not required and the development satisfies this provision. |
| 7.16 Airspace operations | Yes | The proposed development will penetrate the Obstacle Limitation Surface (156m AHD) as shown on the Obstacle Limitation Surface Map for the Sydney Airport. As discussed under the Airports Act 1996 heading above, approval has been provided by the Director, Airport Safeguarding Aviation and Airports Division for the controlled activity. |
| 7.19 Demolition must not result in long term adverse visual impact | Yes | While the proposal includes demolition of the existing building, the proposal also includes construction of a new building under the same application. Council officers are therefore satisfied that the site will be comprehensively redeveloped under the consent. |
| 7.20 Development requiring preparation of a development control plan | Yes | A site specific DCP has been prepared for the site and satisfies this requirement. |
| 7.24 Development near Cross City Tunnel ventilation stack | Yes | The DA was accompanied by a Qualitative Air Quality Report addressing the potential impacts of the Cross City Tunnel ventilation stack. The report concludes that the proposed development will not adversely affect the dispersal of emissions from the ventilation stack and occupants of the building will not be unduly affected by emissions. Accordingly, the proposal complies with this provision. |

| Development Control | Compliance | Comment |
|--------------------------|----------------|--|
| 7.28 Serviced apartments | Not applicable | <p>Provision (3) of Clause 1.8A of SLEP 2012 states: <i>The amendments made to this plan by Sydney Local Environmental Plan Amendment (Serviced Apartments) 2019 do not apply to a development application made but not finally determined before the commencement of those amendments.</i></p> <p>The subject LEP amendment was gazetted on 20 December 2019, after the subject DA was lodged and accordingly Clause 7.28 of SLEP 2012 does not apply to this DA.</p> <p>Notwithstanding, the proposed serviced apartments have been assessed as having acceptable amenity for the proposed conversion to residential apartments.</p> |

Sydney Development Control Plan 2012

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

| 3. General Provisions | Compliance | Comment |
|--|------------|---|
| 3.1 Public Domain Elements 3.1.2.2 Through-site links 3.1.5 Public Art | Yes | <p>The site is not mapped in the SDCP 2012 as requiring a through-site link. Notwithstanding a through-site link is provided from George Street to Kent Street, with provision for an additional through-site link from north to the south, which improves permeability of a highly pedestrianised part of the City.</p> <p>A Public Art Strategy has been submitted. Indicative locations for the public artwork include the Kent Street entrance, internal tower core walls, podium void, and/or the through-site link.</p> |

| 3. General Provisions | Compliance | Comment |
|---|--------------------|--|
| | | The public artwork is proposed to be integrated in to the architecture and may take form in a number of mediums such as sculpture, lighting, painting or etching. The proposed budget for the public artwork is \$2.5million which is considered generally commensurate for a development of this size. A condition of consent is recommended requiring the provision of a detailed public art plan to be submitted. |
| 3.2 Defining the Public Domain 3.2.1 Improving the public domain | Yes | The proposed development will enhance the public domain and ensures adequate sun access to publicly accessible spaces and does not unreasonably impede public views. |
| 3.2.2 Addressing the street and public domain | Yes | The development is designed to positively address both street frontages. Entries to the site are legible, accessible and have entries as the same level of the adjacent footpaths. The proposed vehicular entrance on Kent Street integrates well with the overall podium design and is considered to be visually recessive. |
| 3.2.3 Active frontages | Partial compliance | The George Street frontage is approximately 51m in length and is nominated as an 'active frontage' under the SDCP 2012. The proposed ground floor frontage to George Street includes six fine-grain retail shopfronts containing enclosed clear glazing. The shopfronts have an average length of approximately 5.8m and the depths of the tenancies range from 14.5m - 22m, easily providing unobstructed views to a minimum of at least 6m within the building. Approximately 90% of the George Street frontage is designed as an active frontage and complies with this section of the SDCP 2012. |

| 3. General Provisions | Compliance | Comment |
|------------------------|-----------------------------|---|
| | | <p>For sites in Central Sydney which are not nominated on the 'Active Frontages Map', the SDCP 2012 requires 70% of the public domain frontage to provide an active frontage in the form of 'entries or display windows to shops and/or food and drink premises of other uses customer service areas and activities which provide pedestrian interest and interaction'. The proposed Kent Street ground floor frontage has not been designed strictly in accordance with this requirement. The Kent Street frontage is the residential address to the building. A visually porous architectural screen is proposed along the Kent Street boundary with the tower and podium set back from the street. The absence of a traditional podium form aligned to Kent Street allows the visual expression of the tower structure connecting the ground plane to be seen from the street. It is considered that this along with potential public art and wayfinding signage for the through site link will provide sufficient visual interest to pedestrians and satisfies the objectives of SDCP 2012. In addition, there is potential for future installation of pop-up retail stores or mobile coffee carts within the setback area.</p> |
| 3.2.4 Footpath awnings | Yes - subject to conditions | <p>The SDCP 2012 nominates the George Street frontage as requiring a continuous awning. The proposed awning on George Street is located above the retail shops however does not extend across the main building entrance which is approximately 9m in length. The awning therefore fails to deliver the objective for continuous awnings to enhance pedestrian amenity and provide weather protection. It is recommended that a centre entry awning is provided above the main building entrance. It is considered that the awning may be located higher than the height of the proposed awning in order to respond appropriately to the height of the architectural podium screen behind. A condition is recommended to this effect.</p> |

| 3. General Provisions | Compliance | Comment |
|-------------------------|----------------|--|
| | | <p>Awnings are required to be between 3.2m and 4.2m in height above the footpath and must be between 2m and 3.6m in width with consideration given to adjoining awnings. The height of the awning varies due to the slope of the George Street footpath from north to south. The height of the awning is approximately 4.5m at the sites northern end and 4.8m at the southern end. The proposed height of the awning responds to the awning at the adjoining site to the north (Lumiere Building) which has an awning height of approximately 5m. The non-compliance is considered acceptable in this regard.</p> <p>The width of the awning is approximately 1.9m as measured from the site boundary which does not comply with SDCP 2012. It is recommended that the depth of the awning is increased to at least 2m to comply with the minimum requirement of the SDCP 2012.</p> |
| 3.2.6 Wind effects | Yes | The wind conditions at the ground plane within and around the site are suitable for their intended uses. Wind conditions immediately around the site and along footpaths further away are not negatively affected and are anticipated to remain similar to the existing conditions. |
| 3.2.7 Reflectivity | Yes | A reflectivity report has been provided which concludes the proposal has a minor impact on a small area of Kent Street for approximately 0.62% of daylight hours (28 hours per year) and on some neighbouring buildings for an average of less than 0.5% of daylight hours (22 hours per year). The minor non-compliance is unlikely to be perceptible and cause unacceptable amenity impacts. |
| 3.2.8 External Lighting | Able to comply | External lighting will be subject to a separate application. |

| 3. General Provisions | Compliance | Comment |
|--|-----------------------------|--|
| 3.3 Design Excellence and Competitive Design Processes | Yes - subject to conditions | The proposed development has been the subject to an Architectural Design Competition. Refer to the 'Issues' section for discussion. |
| 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 | The proposal satisfies BASIX and environmental requirements. The proposed sustainability targets is discussed further in the 'Issues' section. |
| 3.7 Water and Flood Management 3.7.5 Water re-use, recycling and harvesting | Yes | The site is not identified as being on flood prone land. The proposal includes the collection and reuse of rainwater and condensate from selected building areas. The proposal also makes provision to connect to the City's future recycled water infrastructure in George Street. |
| 3.9 Heritage | Yes | The proposed development is not considered to detract from the heritage significance of nearby heritage items. This has been discussed further in the SLEP 2012 compliance table. |

| 3. General Provisions | Compliance | Comment |
|----------------------------|-----------------------------|---|
| 3.11 Transport and Parking | Yes - subject to conditions | <p>A copy of the Traffic Report submitted with the DA is provided at Attachment F. The proposed development is anticipated to generate 96 vehicles per hour (vph) and 76 vph in the morning and afternoon peaks respectively. Intersection modelling has been undertaken indicating that the development would have a negligible impact to the current road network conditions. The application was referred to Transport for NSW, Roads and Maritime Services and the City's Transport and Access Unit who have not raised objections to the proposal as amended, subject to conditions. Overall the traffic and parking impacts of the proposed development is considered satisfactory.</p> <p>The following is provided generally in accordance with SDCP 2012 minimum requirements:</p> <ul style="list-style-type: none"> • 6 x car share spaces; • 17 x service vehicle spaces; • 28 x motorcycle spaces; • 690 x bicycle spaces comprising of: <ul style="list-style-type: none"> • 507 x Class 1 (residential), • 38 x Class 2 (employees), • 50 x Class 2 (serviced apartments), and • 95 x Class 3 visitor; and • End of Trip facilities. <p>The design and location of waste collection points and loading areas is satisfactory.</p> <p>No tandem or stacked parking is proposed.</p> |

| 3. General Provisions | Compliance | Comment |
|--|-----------------------------|---|
| | | The proposal accommodates bus drop-off which is detailed further in the 'Issues' section. |
| 3.12 Accessible Design | Yes | <p>The application has been supported with an Accessibility Report which details the design is capable of complying with accessibility requirements under the BCA, DDA standards and Council's DCP. This will be further resolved at Construction Certificate stage.</p> <p>A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p> |
| <p>3.13 Social and Environmental Responsibilities</p> <p>3.13.1 Crime prevention through environmental design</p> <p>3.13.2 Air quality for development near the Cross City Tunnel</p> | Yes | <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the Crime Prevention Through Environmental Design (CPTED) principles. The application has been supported by a CPTED Report that concludes the proposal is designed in accordance with CPTED principles subject to recommendations which are addressed in the recommended conditions of consent.</p> <p>Refer to the SLEP 2012 compliance table for discussion on air quality.</p> |
| 3.14 Waste | Yes - subject to conditions | Waste management facilities including sufficient areas for onsite waste collection have been accommodated within the development and account for all proposed uses on the site including the ability for a Council waste collection vehicle to service the site. |

| 3. General Provisions | Compliance | Comment |
|-------------------------|----------------|--|
| | | <p>The submitted Waste Management Plan (WMP) for the operational phase of the development is generally acceptable, however Council's Waste Management Unit raised concerns with the design of the proposed waste chute discharge point which is likely to cause blockages. A revised WMP is required to be submitted for the operational phase of the development to address this issue.</p> <p>In addition, a WMP is required to be submitted for the construction phase of the development in accordance with the City of Sydney Guidelines for Waste Management in New Development.</p> |
| 3.16.1 Signage Strategy | Able to comply | No signage is proposed under this application. A condition is recommended requiring a separate DA to be submitted for the approval of a comprehensive signage strategy, including wayfinding signage, prior to the erection of any signage on the site. |

| 4. Development Types 4.2 Residential flat, commercial and mixed use developments | Compliance | Comment |
|--|--------------------|---|
| 4.2.1 Building height 4.2.2 Building setbacks 4.2.3 Amenity | Yes | These matters are addressed under the site specific DCP and ADG. |
| 4.2.4.12 Flexible housing and dwelling mix <ul style="list-style-type: none"> • Studio: 5-10% • 1-bedroom: 10-30% • 2-bedroom: 40-75% • 3+ bedroom: 10-100% | Partial compliance | <p>The proposal in its current form provides the following dwelling mix:</p> <ul style="list-style-type: none"> • Studio: 11% • 1-bedroom: 28% • 2-bedroom: 44% • 3+ bedroom: 17% |

| 4. Development Types 4.2 Residential flat, commercial and mixed use developments | Compliance | Comment |
|---|------------|--|
| | | The proposed dwelling mix is generally in accordance with the required dwelling mix with the exception of the minor exceedance in studios. The applicant states that the proposed number of studio and 1 bedroom apartments is due to serviced apartment operators who generally require a larger proportion of studios and one bedroom apartments. |
| 4.2.3.13 Wind affected balconies | Yes | <p>The proposed balconies are designed in accordance with these provisions. The proposed wind screens are well designed and integrate with the building facade. The fixed screens consist of clear glazing and contain a 500mm permanent opening in accordance with the required minimum dimensions under the SDCP 2012.</p> <p>The floor area of the wind protected balconies are included in the calculation of floor area in assessing the area of unobstructed window opening for naturally ventilated apartments as per the ADG. Council officers are satisfied that unobstructed window openings are a minimum of 5% of the floor area served.</p> |
| 4.2.3.14 Apartments with setback bedrooms | Yes | No setback bedrooms are proposed. There a couple of examples in apartments where the bed is located further from the window than other typical bedrooms due to the large exposed tower columns, however the size of the bedroom windows are large enough to provide sufficient natural light and ventilation throughout the subject bedrooms. |
| 4.2.4 Fine grain, architectural diversity and articulation | Yes | The maximum permitted street frontage length of the individual building is 65m on the George Street frontage and 40m on the Kent street frontage. |

| 4. Development Types 4.2 Residential flat, commercial and mixed use developments | Compliance | Comment |
|---|-----------------------------|--|
| | | The proposed podium has a maximum length of approximately 51.5m and 33m on the George Street and Kent Street frontages respectively which complies. Notwithstanding, a through site link is proposed which visually breaks up the mass of the podium on George Street. The proposed development is considered to provide appropriate articulation and will contribute to architectural diversity in the streetscape. |
| 4.2.6 Waste and Recycling Management | Yes - subject to conditions | Refer to discussed under section 3.14 of the SDCP 2012 compliance table. |
| 4.2.7 Heating and Cooling Infrastructure | Yes | The heating and cooling infrastructure is consolidated and located in centralised locations throughout the development to ensure energy efficiency is achieved and to accommodate future environmental technologies. The design of the heating and cooling infrastructure forms part of the overall sustainability strategy. |
| 4.2.8 Letterboxes | Yes - subject to condition | The proposed design does not nominate where the residential letterboxes will be located. However there is sufficient area within the residential lobby off Kent street for the letterboxes. The letterboxes should be integrated into the design, easily accessible while being secure to prevent mail left. A condition of consent is recommended to address this. |

| 4.4.4 Child care centres | Compliance | Comment |
|--------------------------|----------------|---|
| | Able to comply | As discussed previously, further assessment will be made when a separate DA is lodged for the operational matters for the childcare centre. However the design of the childcare centre enables it capable of complying with the SDCP 2012 childcare provisions. |

| 4.4.8 Visitor accommodation | Compliance | Comment |
|--|--------------------|--|
| 4.4.8.1 General | Yes | <p>A site manager is proposed.</p> <p>The apartments do not contain triple-tier bunks and kitchens are not located in sleeping areas.</p> <p>Internal partitions are not required as the design of the apartments provide separate bedrooms.</p> <p>All toilet and shower facilities, including the communal facilities are appropriately screened for privacy.</p> <p>A Plan of Management including management of noise, safety and security, has been submitted with the development application and is generally acceptable.</p> |
| 4.4.8.5 Additional provisions or serviced apartments | Partial compliance | <p>Conditions of consent are recommended addressing the maximum number of occupants permitted under this provision.</p> <p>It is not proposed to permit serviced apartments and residential apartments co-existing on the same floor, or sharing foyers, lift access, facilities and circulation.</p> <p>Each apartment provides appropriate laundry facilities and waste storage areas.</p> <p>The design of the apartments have been assessed in accordance with the ADG as detailed in the ADG compliance table.</p> |

| 5. Specific Areas | Compliance | Comment |
|--------------------|------------|---|
| 5.1 Central Sydney | Yes | These provisions are largely addressed or overridden by the provisions contained in Section 6.3.7 of SDCP 2012 (the site specific DCP). |

| 6. Specific Sites 6.3.7 505-523 George Street, Sydney | Compliance | |
|---|--------------------|--|
| 6.3.7.1 Building Envelope 6.3.7.2 Podium Design 6.3.7.3 Ground Floor Design (driveway location) | Partial compliance | Refer to the 'Issues' section for discussion. |
| 6.3.7.4 Wind | Yes | The wind conditions at the ground plane within and around the site are suitable for their intended uses. Wind conditions immediately around the site and along footpaths further away are not negatively affected and are anticipated to remain similar to the existing condition. |
| 6.3.7.4 Sydney Square/ Town Hall/ St Andrews Special Character Area | Yes | The slender tower will be detailed with a neutral palette and is considered to provide an appropriate backdrop to the civic character of the Sydney Square/ Town Hall/ St Andrew Special Character Area. |
| 6.3.7.5 Design Excellence | Yes | A competitive design process has been undertaken in accordance with Clause 6.21 of SLEP and is discussed further below. |

Issues

Clause 4.6 request to vary a development standard - Height

- 79. The site is subject to a maximum height control of 260m pursuant to Clause 6.32 of SLEP 2012. The proposed development has a maximum height of 270m, resulting in an exceedance of the maximum permitted height by 10m or 3.7%.
- 80. The areas of the building subject to the breach include lift overruns, fire stairs, plant and an architectural roof feature which conceals the aforementioned building elements, as shown in Figures 50 and 51:

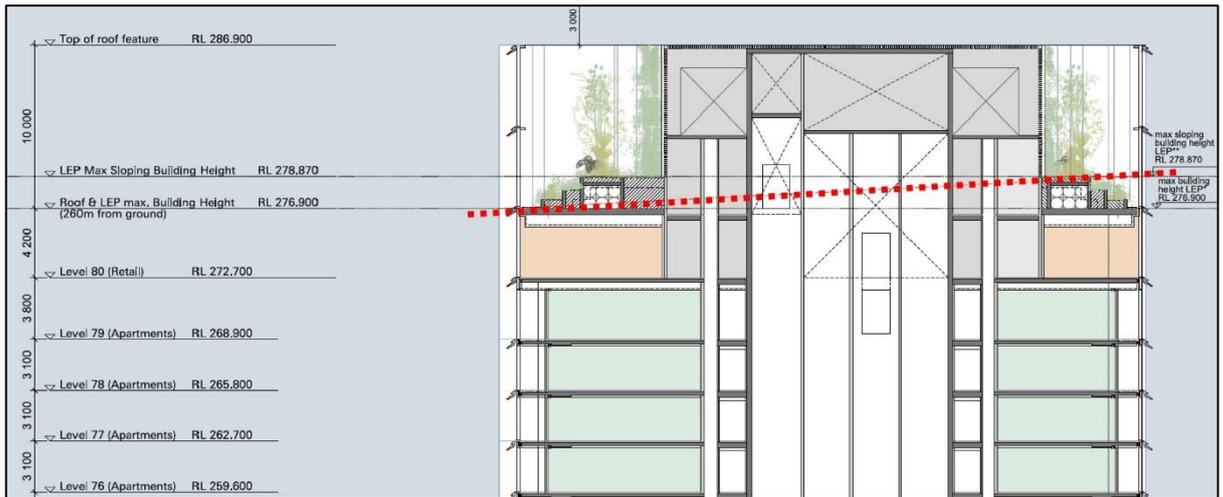


Figure 50: Section indicating top of the building and the 260m height control (represented by the red dashed line)

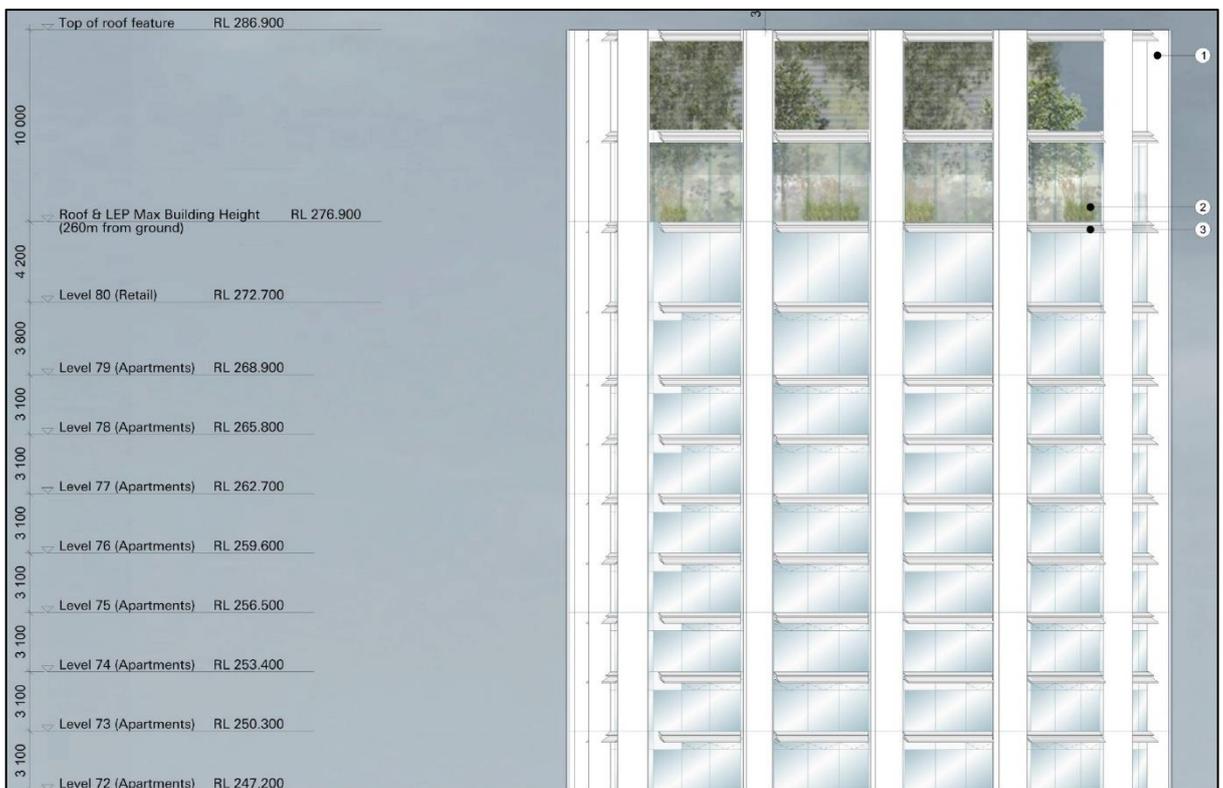


Figure 51: East (George Street) elevation showing levels 72 to the top of the building / architectural roof feature

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

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

83. The applicant seeks to justify the contravention of the height development standard on the following basis:

(a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the objectives of the development standard are achieved notwithstanding non-compliance with the standard in the following manner (as summarised):*

- (i) The objective of the development standard contained in Clause 6.32 of SLEP 2012 is:

(1) The objective of this clause is to provide for additional building height on a site if the development provides for the following:

- (a) centre-based child care facilities,*
- (b) publically accessible toilets,*
- (c) community meeting room.*

The objective of Clause 6.32 is achieved as the development provides a centre-based childcare facility, publically accessible toilets and community meeting room.

- (ii) The applicant states that this objective should not be considered in isolation and needs to be considered in light of the objectives of Clause 4.3 (height of buildings) and the objectives of clause (5.6) of SLEP 2012.

The objectives of Clause 4.3 Height of buildings are as follows:

(a) to ensure the height of development is appropriate to the condition of the site and its context,

(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,

(c) to promote sharing of views,

(d) to ensure appropriate height transitions from Central Sydney and Green Square to adjoining areas.

- (iii) The proposal achieves the objectives of Clause 4.3 in the following manner:
- Through robust environmental analysis at the planning proposal stage, the site was determined appropriate for a building of up to 260m in height, as reflected in Clause 6.32 of SLEP 2012. The current proposal seeks to include a minor architectural roof feature as envisaged by clause 5.6 above the 260m height limit and is therefore consistent with the height deemed appropriate for the site at the planning proposal stage.
 - The site itself is not a heritage item, nor is it located in a heritage conservation area or special character area. Through appropriate siting of the tower and a podium massing that responds to the existing streetscape, appropriate height transitions are achieved to other surrounding items of heritage significance. The Architectural Design Competition Jury noted that in relation to the Formers Judge's House, located opposite the site at 531 Kent Street, 'the set back at ground level on Kent Street balances activation and animation with deference to the Judge's House and its significance as a heritage item'. These transitions are not impacted by the additional height associated with the architectural roof feature.
 - Prior to the gazettal of Clause 6.32 of SLEP 2012, the maximum building height at the site was 150m, with potential for two towers to be developed to that height. Clause 6.32 permits a single tower of up to 260m, by redistributing the massing of a potential eastern tower to the top of the western tower. This redistribution has several advantages, in particular the shading of views with the site, for the Lumiere building directly to the north and redevelopment of 535 George Street. The height of the proposed tower in the context of other buildings in Sydney, means that the minor roof feature does not unreasonably impact upon views and surrounding buildings. The proposed development is consistent with the massing envisaged by Clause 6.32, and it promotes the sharing of views, which are unaffected by the architectural roof feature.
 - The site is located within Central Sydney and is surrounded by many of Sydney's tallest buildings. Situated at the southern end of the CBD, the tower marks the termination of the core CBD and transition to the lower southern part of the city comprising retail, residential and cultural uses. The tower will be an important connector between the convention uses at Darling Harbour and the financial heart of the CBD further north down George Street, and will be a new landmark in the city. The additional height resulting from the architectural roof feature is minor in relation to the overall building height and does not impact the proposal's contribution to height transitions from Central Sydney to surrounding areas. Furthermore, the site is located within an area identified as a potential tower cluster in the draft Central Sydney Planning Strategy.
- (iv) The objectives of Clause 5.6 Architectural roof features are as follows:
- (a) to allow minor architectural roof features to exceed height limits,*
 - (b) to ensure that any architectural roof feature does not cause an adverse visual impact or adversely affect the amenity of neighbouring,*
 - (c) to ensure that architectural roof features are considered in the design of a building and form and integral part of a building's design.*

Further, Clause 5.6 contains the following provisions:

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:

(i) comprises a decorative element on the uppermost portion of a building, and

(ii) is not an advertising structure, and

(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and

(iv) will cause minimal overshadowing, and

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

(v) The applicant states that the proposal meets the objectives and provisions of Clause 5.6 in the following manner:

- The proposed architectural roof feature is 10m in height. This is minor when compared to the total building height of 270m, with the architectural roof feature comprising 3.7% of the total building height.
- The architectural roof feature is located well above the height of immediately neighbouring premises and as a result, the amenity of neighbouring premises will not be adversely affected by the architectural roof feature. The architectural roof feature is appropriately landscaped to ensure that sight lines from neighbouring building to lift overrun and servicing equipment are minimised.
- A detailed solar access analysis of surrounding residential buildings confirms that the architectural roof feature will not adversely affect the amenity of any neighbouring premises compared to the approved envelope. The roof feature does result in a very minor amount of additional overshadowing to Harmony Park (from 2.55pm onwards on 21 June) compared to a height compliant building. However the shadow mostly falls within the existing shadow caused by surrounding buildings and on the road. Therefore the architectural roof feature causes minimal overshadowing.
- The proposed architectural roof feature is a central element of the building design which was also included in the Design Competition winning scheme. The Design Competition Jury referred to the design as a 'compelling, enduring and beautiful tower element within the heart of Sydney'. Further, the Jury supported the integration of landscaping at key levels throughout the tower including the roof top. The architectural roof feature has been retained and its design developed to fulfil the comments of the Jury. The architectural roof feature is a central element in the expression of the tower as a single form and includes landscaping to create a sense of visual dynamism.

- The architectural roof feature is a decorative element and is not an advertising structure.
 - The architectural roof feature does not include any floor space area and is not reasonably capable of modification to include floor space area.
 - Servicing equipment including plant, lift motor rooms and fire stairs are contained within the architectural roof feature. The building servicing elements are set back from the edge of the building, concealed by planting and reflect the curvilinear form of the tower facade and roof feature by using curved outer walls.
- (vi) The applicant states that given the proposal meets the objectives of Clause 6.32, Clause 4.3 and Clause 5.6, the proposal therefore satisfies the first method set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and subsequently demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

(b) That there are sufficient environmental planning grounds to justify contravening the standard for the following reasons (as summarised):

- (i) The building will be significantly higher than the other tall building in the immediate vicinity (i.e. Lumiere, Frasers Suites, Meriton Serviced Apartments). The proposed exceedance will not be visible from the buildings immediately surrounding the site and the proposed exceedance will not be visible from the buildings immediately surrounding the site. The proposed exceedance will have minimal impact on the views or daylight access to the surrounding buildings.
- (ii) The portion of the building height which exceeds the maximum permitted height does not result in adverse additional overshadowing impacts to surrounding residential properties or public open space.
- (iii) The architectural roof feature satisfies the objectives and provisions of Clause 5.6 of SLEP 2012 (as described above).
- (iv) No gross floor area is located above the maximum permitted height control.
- (v) The architectural roof feature contributes to the overall design of the building and is critical to the tower's expression as an elegant form through the continuation of the perimeter columns.

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

84. Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

85. The applicant's written request has adequately addressed Clause 4.6(3)(a) in that they demonstrate the objectives of the development standard and zone are achieved notwithstanding non-compliance with the standard, hence the standard is unreasonable or unnecessary.
86. The written request has therefore satisfied methods for establishing a development standard is unreasonable or unnecessary in the circumstances of the case as set out in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

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

87. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify varying the development standard.
88. Council officers agree with the justification provided in the written request, as described in detail above, and are satisfied that the components of the building which breach the maximum permitted height will not result in adverse environmental planning impacts. It is considered that there are sufficient environmental planning grounds to vary the development standard.

Is the development in the public interest?

89. The proposed development is considered to be in the public interest as it is consistent with the objectives of the development standard as demonstrated above.
90. The proposed development is also consistent with the objectives of the B8 Metropolitan Centre zone which are:
 - (a) *To recognise and provide for pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.*
 - (b) *To provide opportunities for an intensity of land uses commensurate with Sydney's global status.*
 - (c) *To permit a diversity of compatible land uses characteristics of Sydney's global status and that serve the workforce, visitors and wider community.*
 - (d) *To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.*
 - (e) *To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purpose of retail premises.*
91. The proposed development is considered to be consistent with the objectives of the B8 Metropolitan Centre zone for the following reasons:
 - (a) The proposed development contributes substantially to Australia's participation in the global economy by delivering a mixed-use development that will exhibit design excellence and provide retail and entertainment uses. The proposed development is consistent with the objective to recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.

- (b) The proposed development will provide a mix of land uses including retail, entertainment, tourist accommodation, residential accommodation, a childcare facility and a community meeting room. This intensity of land uses, combined with the high-quality design of the podium and tower, is commensurate with Sydney's global status. Therefore, the proposed development is consistent with the objective to provide opportunities for an intensity of land uses commensurate with Sydney's global status.
 - (c) The proposed land uses, as described above, are compatible and are characteristic of Sydney's global status, while also serving the wider community. The mix of land uses contained throughout the podium will serve visitors and residents of the tower, as well as the wider community. Delivery of the public benefits through the planning agreement will serve the workforce and community, while the proposed accommodation, retail and entertainment uses will attract visitors and contribute to Sydney's global status. The proposed development is consistent with the objective to permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.
 - (d) The proposed development is well located to promote the use of public transport. It is within walking distance of Town Hall railway station, various bus stops and the Light Rail. Further, the proposal will contribute to the activation of the highly pedestrianised George Street and Kent Street frontages, encouraging walking. The proposed development is consistent with the objective to encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.
 - (e) The proposal contributes substantially to the activation of George Street and Kent Street. The vast majority of the George Street frontage comprises active uses, including five retail tenancies and a through-site link. Along Kent Street, the lobby and pedestrian access to the podium retail offerings provides activation. The proposed development is consistent with the objective to promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.
92. Clause 4.6(4)(b) sets out that the concurrence of the Planning Secretary must be obtained. In their letter dated 6 July 2019, the Planning Secretary has provided Council with assumed concurrency for Clause 4.6 variations until 6 July 2020.

Conclusion

93. For the reasons provided above, the requested variation to the height standard under Clause 6.32 of SLEP 2012 is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the SLEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 6.32, 4.3, 5.6 and the B8 Metropolitan Centre zone of SLEP 2012.
94. It is noted that while the written request has sufficiently addressed the matters required under Clause 4.6 (as demonstrated above) and the variation is supported for the breach of height from the lift overrun and architectural roof feature, there is one aspect of the applicant's written request regarding the interpretation of Clause 5.6 (architectural roof features) which Council officers do not concur with. Specifically the interpretation of part 3(b) which states:

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that -

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the room feature.

95. The applicant's interpretation, as contained in the Clause 4.6 written request, is that this clause permits plant, lift motor rooms, fire stairs and the like to breach the maximum permitted height control. It is considered that this interpretation is not correct and the clause merely requires any such equipment to be fully integrated into the roof.
96. It is clear that the subject architectural roof feature serves two purposes, to provide an integral feature to the tower as well as concealing the lift overrun and plant. Without the architectural roof feature the tower would have exceeded the height of building development standard in any case. In this regard it is noted that Council officer's recommendation to support the Clause 4.6 variation should not be implied as Council agreeing with this particular interpretation of Clause 5.6(3)(b).

Clause 4.6 request to vary a development standard - Floor Space Ratio

97. The DA seeks consent for residential apartments in the tower above a mixed-use podium and is referred to as 'the base proposal'. The DA also seeks consent for the temporary use of the apartments for serviced apartments for up to a period of 20 years and this is referred to as the 'time-limited proposal'.
98. The maximum permitted FSR for the site is 15.1:1. The FSR is calculated in accordance with the following SLEP 2012 provisions for the base proposal:
- Clause 4.4 'Floor space ratio';
 - Clause 4.5A 'Balconies on certain residential buildings' - results in the exclusion of the wind affected balconies / wintergardens from the calculation of gross floor area (GFA);
 - Clause 6.21 'Design excellence'.
 - Clause 6.32 '505-523 George Street building height and floor space';
 - Clause 6.4 'Accommodation floor space'; and
 - Clause 6.7 'Entertainment and club floor space'.
99. The maximum permissible FSR equates to a total GFA of 65,030sqm. The proposed GFA of the base proposal (when the whole tower is residential) is 63,533sqm which complies with the maximum permissible FSR.
100. The proposed FSR for the time-limited proposal (when the entire tower is used for serviced apartments) is 16.2:1 which equates to 69,772sqm of GFA which does not comply with the maximum permitted FSR of 15.1:1.
101. The difference between the calculation of GFA and differing FSR between the base proposal and time-limited proposal arises from Clause 4.5A of SLEP 2012 which states (emphasis added):

(1) The consent authority may exclude the gross floor area of any existing or proposed wind-affected balcony from the calculation of the total floor space for the purposes of applying a floor space ratio if the consent authority is satisfied of the following—

(a) the excluded balcony gross floor area does not exceed 15% of the gross floor area of the apartment to which the balcony is attached,

(b) the wind-affected balcony is used, or designed to be used, as external open space,

(c) the wind-affected balcony has sufficient natural ventilation,

(d) the partial enclosure of the wind-affected balcony does not increase the apparent bulk of the building.

(2) For the purposes of this clause, wind-affected balcony means a balcony that is—

*(a) part of a **residential flat building** that is over 30 metres high, and*

(b) above the level of any podium that is, or is required to be, part of the construction of the residential flat building, and

(c) partially enclosed.

102. The proposed balconies are designed in accordance with the provisions of Clause 4.5A. Accordingly, under the base proposal the partially enclosed balconies can be excluded from the calculation of GFA pursuant to Clause 4.5A. However under the time-limited proposal, the partially enclosed balconies cannot be excluded from GFA as the Clause only applies to a part of a residential flat building. Consequently, when the building is in time-limited serviced apartment mode there is a technical non-compliance with the FSR of 1.1:1 or a variation of 6.4%.

103. Accordingly, a written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the FSR development standard by demonstrating:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

(b) That there are sufficient environmental planning grounds to justify contravening the standard.

104. A copy of the applicant's written request is provided at Attachment C.

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

105. The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) ***That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the objectives of the development standard are achieved notwithstanding non-compliance with the standard in the following manner (as summarised):***

Objective (a): to provide sufficient floor space to meet anticipated development needs for the foreseeable future

- (a) The proposed development is the outcome of a significant and considered planning process for the redevelopment the site. The base proposal complies with the maximum FSR for the site and will ultimately deliver approximately 507 apartments above a high-quality mixed use podium in a central Sydney location. The podium will provide a range of child care, conference, retail, food and drink, and entertainment uses that will contribute to economic and social activity within the Sydney CBD.

Objective (b): to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic

Density of development:

- (a) The density of the development within the City of Sydney is regulated by the FSR controls within the SLEP 2012. The base proposal can achieve a maximum FSR of 15.1:1 under the current provisions of the SLEP 2012. This includes the full utilisation of the 10% floor space bonus awarded for design excellence where a competitive design process has been held in accordance with the City of Sydney Competitive Design Policy. The base proposal complies with maximum FSR.
- (b) The non-compliance with the time-limited proposal is the result of the serviced apartment use not being able to utilise clause 4.5A of SLEP 2012, otherwise it would comply with the maximum FSR.
- (c) The proposed variation to the maximum FSR for the time-limited use does not alter the base proposal's compliance and the Council's expectations for density on the site as set out in the SLEP 2012 which will be met.

Built form:

- (d) The built form for the site is regulated by the site-specific building envelope within the SDCP 2012. The built form envelope for the base proposal and the time-limited proposal is identical. The proposed development achieves the objectives of the site-specific DCP in that the built form is generally consistent with the site-specific building envelope within the SDCP 2012.

Land use intensity:

- (e) The land use intensity is regulated by the maximum amount of gross floor area that can be accommodated on the site. The base proposal accommodates 63,383sqm which complies with maximum GFA permissible under the FSR. The base proposal is therefore consistent with the City's expectations for land use intensity on the site.
- (f) The time-limited proposal will increase the permissible gross floor area by 6.4%, which is a direct consequence of including wind-affected balconies in the calculation of total floor area. Due to the nature of their use, the wind-affected balconies will not intensify the land uses on site above the level achievable under the maximum permissible FSR or GFA.

Control generation of vehicle and pedestrian traffic:

- (g) The additional gross floor area resulting from the wind-affected balconies will not give rise to any additional impacts from vehicle traffic as the floor area will not increase the maximum number of car parking spaces permissible under Part 7 Division 1 of the SLEP 2012.
- (h) The provision of a publicly accessible through-site link in the podium will improve the CBD pedestrian network by providing a safe pedestrian path between George Street and Kent Street.

Objective (c): to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure

- (i) The proposed 6.4% increase in the maximum FSR permissible relates entirely to apartment balconies. Therefore it will not create an intensity of development above an intensity that is commensurate with a complying proposal.

Objective (d): to ensure new development reflects the desired character of the locality in which it is located and minimise adverse impacts on the amenity of that locality

- (j) The proposed development is of a high standard and is consistent with the desired character of the area. The bulk and scale of the development is generally consistent with the site specific DCP envelope and minimises adverse amenity impacts on the area.
- (i) The applicant states that given the proposal meets the objectives of Clause 4.4, the proposal therefore satisfies the first method set out in *Wehbe v Pittwater Council [2007] NSWLEC 827* and subsequently demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

(b) That there are sufficient environmental planning grounds to justify contravening the standard for the following reasons (as summarised):

- (i) The technical non-compliance is temporary and based on the serviced apartment land use. The non-compliance does not result in any changes to the actual building, in terms of bulk and scale, and accordingly has no material impacts.

- (ii) As described above the proposal meets the objectives of the FSR development standard. The non-compliance does not give rise to additional intensity, density, increased traffic, pedestrian movements and implications on planned infrastructure above what has been strategically planned for. The non-compliance is the direct result of the partial enclosure of the wind affected balconies and does not increase the internal habitable space hence will not increase the expected number of visitors and employees anticipated on the site through the prescribed FSR.
- (iii) The proposed balconies are on a very tall building with the balconies reaching a maximum height of 253m. Balconies at this height without any form of weather protection would be unable to be comfortably used. Partially enclosing the balconies provides the serviced apartments with the same level of comfort afforded to the residential apartment occupants. This is consistent with the objective (a) of Clause 7.28 (Serviced apartments) which states that the objectives of this clause are:
 - (a) to ensure that development for the purpose of serviced apartments provides the same level of amenity as that provided by development for the purpose of residential flat buildings,*
 - (b) to prevent substandard residential accommodation occurring through the conversion of serviced apartments to residential flat buildings.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

107. The applicant's written request has adequately addressed Clause 4.6(3)(a) in that they demonstrate the objectives of the development standard and zone are achieved notwithstanding non-compliance with the standard, hence the standard is unreasonable or unnecessary.
108. The written request has therefore satisfied methods for establishing a development standard is unreasonable or unnecessary in the circumstances of the case as set out in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

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

109. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify varying the development standard.

110. Council officers agree with the justification provided in the written request, as described in detail above, and are satisfied that there are sufficient environmental planning grounds to vary the development standard.

Is the development in the public interest?

111. The proposed development is considered to be in the public interest as it is consistent with the objectives of the development standard as demonstrated above. The proposed development is also consistent with the objectives of the B8 Metropolitan Centre zone as outlined in the Clause 4.6 variation for height discussed at paragraphs 90 and 91.
112. Clause 4.6(4)(b) sets out that the concurrence of the Planning Secretary must be obtained. In their letter dated 6 July 2019, the Planning Secretary has provided Council with assumed concurrence for Clause 4.6 variations until 6 July 2020.

Conclusion

113. For the reasons provided above the requested variation to the FSR standard under Clause 4.4 of SLEP 2012 is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the SLEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.4 and the B8 Metropolitan Centre zone of SLEP 2012.

Architectural Design Competition Jury Recommendations

114. The Jury identified a range of matters that needed to be resolved during the design development phase in order to achieve design excellence while maintaining the original design intent. The table below provides a response to these recommendations:

| Jury Recommendation | Response |
|---|---|
| <p>Further work to be undertaken to enhance consistency with the Apartment Design Guide. The design does not currently achieve the solar and daylight access design criteria under ADG Objective 4A-1. Further work should maintain the design intent and architectural integrity of the tower.</p> | <p>As discussed in the ADG compliance table, the scheme has been revised since the competition and improvements have been maintained towards achieving ADG consistency. It is considered that the scheme has adequately been resolved further towards achieving the best ADG outcome, while balancing the considerations of the site constraints, maintaining the architectural integrity of the tower and commercial objectives.</p> |

| Jury Recommendation | Response |
|---|---|
| <p>The Jury questions the viability of the vegetation proposed on the mid-levels and the roof. These areas should be reviewed to ensure the overall floor space provision is not restricted, and that any landscaping be carefully resolved to ensure appropriate species mix is supported by adequate soil depths, micro climate, irrigation, drainage and on-going maintenance.</p> | <p>The landscape concept has since been developed further and does not restrict the overall floor space provisions. In the architect's Design Report submitted with the DA, the landscaping is described as a garden in the sky which has raised planters for large mature trees. The principle of the roof design is based around promoting sustainability and it is a physical and visual representation of the sustainable and ecological approach which has been adopted within the building. The key principles of the landscaping include, robust vegetation hardy to extreme exposure; visible greening of the skyline; and low maintenance.</p> <p>Based on the submitted landscape plans, Council officers consider the landscaping of these areas is generally acceptable, however further detailed landscape plans are required, particularly in regards to maintenance. A condition is recommended to address this.</p> |
| <p>The wintergarden design is further developed to ensure consistency with DCP 2012 clause 4.2.3.13 Wind Affected Balconies.</p> | <p>As discussed in the SDCP 2012 compliance table, the proposed wintergardens are compliant.</p> |
| <p>The Jury considers that the podium planning, in its current form, does not fully achieve the design and commercial objectives set out in the Competition Brief. Further work must maintain the design intent and architectural integrity of the concept for the podium.</p> | <p>The podium design has been further developed to meet the design requirements and commercial objectives of the Proponent and the City's requirements for the childcare centre and community facilities. The design of the podium has been discussed further below under the heading 'Building Separation & Site Specific DCP'.</p> |
| <p>The Competition Winner should seek to achieve the ESD strategies in the context of Section 4.3 of the Competition Brief.</p> | <p>The proposal achieves the ESD commitments required in the Competition Brief, the SLEP 2012, SDCP 2012 and the Planning Agreement which is discussed further below.</p> |

| Jury Recommendation | Response |
|---|---|
| The Jury requests further work is undertaken to refine and enhance the pick-up / drop-off methodology for the hotel and residential apartments. | The proposed pick-up/drop-off is discussed further below under the heading 'Shared Driveway'. |
| The Jury requests that the design, including ESD initiatives, be further developed to align with the design objective to create a timeless and elegant building form with a facade that minimises unnecessary lifecycle maintenance; and the target construction budget of approximately \$500 million (AUD). Materials proposed should be consistent with the Commercial Objectives outlined in Section 4.3 of the Competition Brief, while maintaining the design intent. Cost saving measures are to be identified and investigated in the further development of the design without impacting on the fundamental design integrity of the competition winning design proposal. | <p>The proposed external materials include:</p> <ul style="list-style-type: none"> • High quality fair faced off-white concrete with a natural appearance; • Glazing with neutral tone (visible light transmittance of approximately 60%); • Flat aluminium, powder coated with white gold/ champagne tint; • Stainless steel mesh, tinted colour spectrum from white to gold; • Expanded aluminium power coated, silver grey champagne tint; • Solid hardwood timber. <p>The proposed materiality is considered to be durable and is considered to result in a high quality facade maintaining the scheme's timeless and elegant building form.</p> <p>A condition of consent is recommended for a comprehensive materials samples board/schedule to be submitted.</p> |

115. Overall it is considered that the design responds to the key recommendations made by the Jury and retains the design integrity and key aspects of the winning scheme. It is considered the proposal satisfies the provisions of Clause 6.21 of SLEP 2012 and accordingly is eligible for 10 per cent additional FSR pursuant to subclause 7(b).

Building Separation & Site Specific DCP Envelope

116. With the exception of minor protrusions from the perimeter columns and sunshades, the proposed tower is consistent with the site specific setback requirements as follows:

- 9m setback to the north;
- 9m setback to the south;
- 6m setback to the west to Kent Street; and
- 1m setback to the north closest to Fraser Suites.

117. Appropriate building separation was given due consideration in establishing the building envelope in the provisions of the site specific DCP. At the time the site specific DCP was prepared the Residential Flat Design Code (RFDC) was in force. An extract from the report to the CSPC on 4 December 2014 is provided below:

Privacy and Building Separation

The permissible building envelope in the draft DCP controls provides a 9m setback to the primary northern boundary, which is a departure from the minimum 12m setback suggested in the RFDC. It is noted that the Lumiere development is setback only 6.8m from its southern boundary, thereby creating a combined separation distance of 15.8m.

While this is less than that recommended by the RFDC, the proposal is considered acceptable due to the fact that the two towers will be offset from one another, thereby avoiding direct overlooking. It would also be unreasonable to require any increase in this setback, given that the deficiency is caused by the non-compliant setback provided by Lumiere.

A 9 metre setback is provided to the southern boundary. While not complying with the minimum separation distance recommended by the RFDC, the proposal can achieve an acceptable level of privacy for the following reasons:

(a) the layout of a future tower can be designed such that the apartments are primarily orientated to the east, north and west to take advantage of the solar access, and apartments should not have a single aspect to the south;

(b) if 525 George Street were to be redeveloped, a tower component would most likely be positioned closer towards George Street where it would achieve better solar access and be better positioned within the context of the surrounding towers; and

(c) a setback of 1m is proposed to the common boundary with Frasers Suites. This is proposed as it is equal to the setback of the Frasers Suites Building. No privacy issues arise from the proposed setback, as the building has a blank facade to the side boundary.

118. While the proposed building separation does not comply with the recommended distances under Objective 2F of the ADG, given the above assessment made at the planning proposal stage, the proposed separation distances are considered generally acceptable. The apartment planning and careful placement/angling of the large external columns are designed to maximise visual privacy.
119. The proposal is designed so that the bulk and tower form is predominantly consistent with the building massing envelope contained in Section 6.3.7 of SDCP 2012. However there are encroachments to the podium building envelope proposed to accommodate the winning competition scheme and as it has evolved through the detailed design process.
120. The building massing envelope and proposed podium is provided at Figures 52 - 55 below:

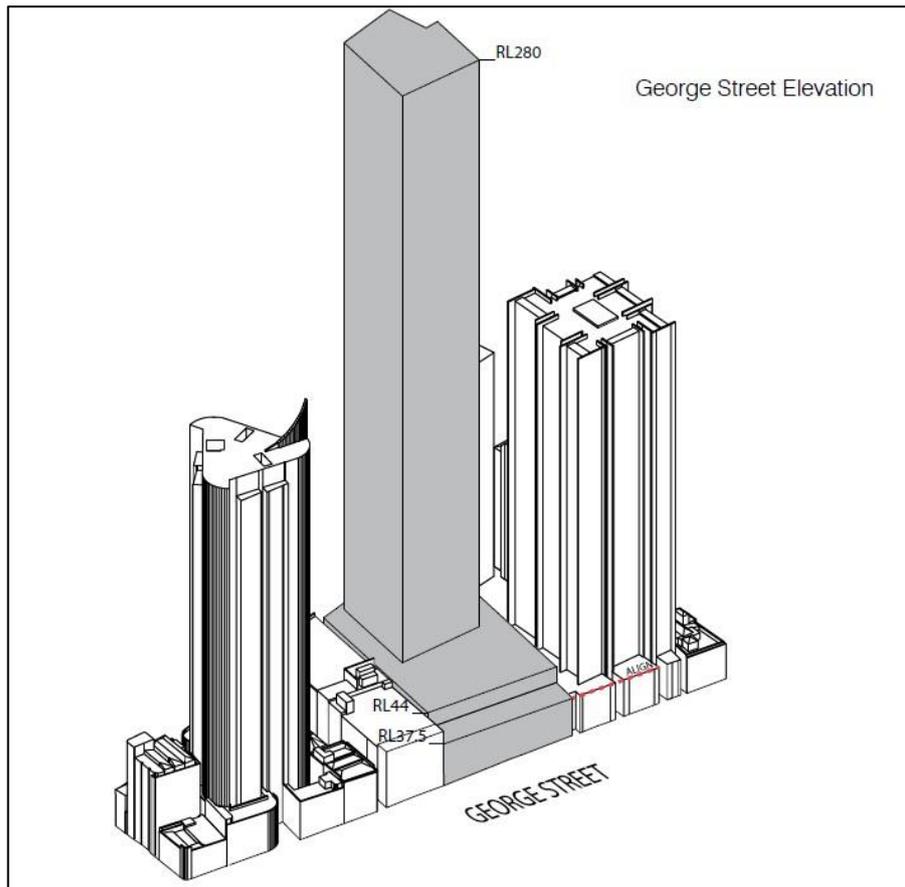


Figure 52: DCP massing envelope - George Street view



Figure 53: Proposed George Street podium elevation

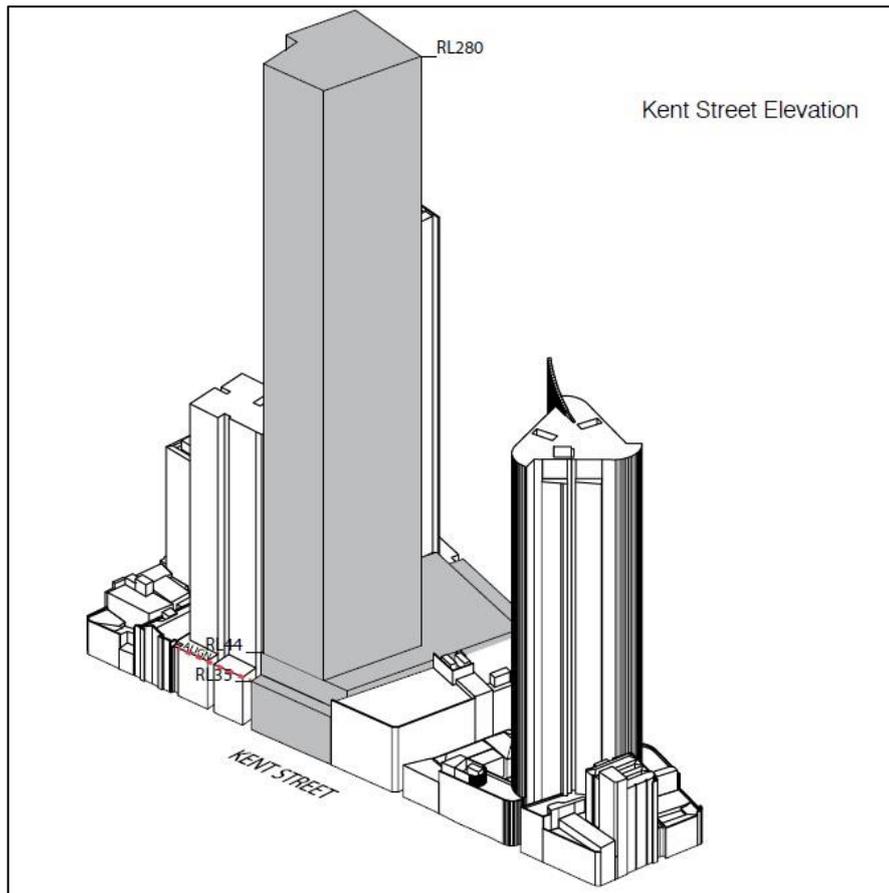


Figure 54: DCP massing envelope - Kent Street view



Figure 55: Proposed Kent Street podium elevation

121. A summary of the proposed non-compliances with the DCP envelope and provisions is provided below:

(a) Overall podium height

DCP control: RL 44

Proposed: RL 45

The proposed maximum podium height exceeds the requirement by 1m. This podium height is proposed to enable appropriate floor to floor heights including for the community facilities. It is not considered the exceedance will have material impact on the proposal's built form contribution to the streetscape or result in unacceptable amenity impacts.

(b) George Street podium height

DCP control: RL37.5 (street wall), RL44 (10m setback zone)

Proposed: RL37.5 (street wall), RL45 (open landscaped trellis)

The site-specific DCP sets the maximum street wall height fronting George Street at RL37.5, with a podium height of RL44 setback 10m from the frontage. The proposed development has a floor slab height of RL37.5m fronting George Street with a vertical landscaped open trellis extending to a height of RL45.

This structure provides an appropriate transition in street wall height between Lumiere to the north and 525 George Street to the south. It is considered that as the structure is porous and green it will not read as a solid element from ground level and will not contribute to the street wall being interpreted as RL45 from the public domain.

The vertical orientation of the structure references the concrete fin columns of the podium street walls and tower perimeter columns. The proposed frame structure above RL37.5 was commended by the competition jury for being 'at a height appropriately related to its neighbours' while also 'animating and illuminating the development at its urban interface, and inviting engagement.'

(c) Kent Street podium height

DCP control: RL35 (street wall), RL44 (6m setback zone)

Proposed: RL45 (street wall)

The proposal provides a street facing metal canopy with no podium massing or floor space. A permeable screen facing Kent Street is proposed enabling tower legibility.

Each street wall to Kent Street and George street were commended by the competition jury, who stated 'the podium street wall screen above ground level, at a height appropriately related to its neighbours, presents a powerful and engaging contribution at both George and Kent Streets – providing consistency and coherence with the streetscape context, while also animating and illuminating the development at its urban interface, and inviting engagement'.

(d) Tower floor plate size

DCP control: 1000sqm to ensure appropriate articulation of the tower form

Proposed: RL45 (street wall)

The proposed tower footprint is approximately 1,023.78sqm to maximise the apartment amenity, with specific consideration made to apartment layouts and solar compliance, whilst maintaining the curvature of the competition winning scheme's tower form. This minor exceedance is approximately 2.38% above the limit set by the Site Specific DCP control.

These encroachments are predominantly confined to the structural perimeter columns and sun shading elements and do not impact the bulk, scale or visual appearance of the tower. The exceedance is deemed minor and still maintain the design intent and architectural integrity of the tower.

122. The proposed departures from the DCP massing envelope are generally consistent with the winning scheme and were supported by the Competition Jury. It is noted that the Design Competition involved 6 separate schemes each testing the DCP envelope in different ways with some schemes strictly complying while others, such as the subject scheme, proposed minor non-compliances. Despite the non-compliances with the DCP envelope, the subject scheme was selected as the superior design outcome and responded best to the site constraints and streetscape despite the non-compliance with the DCP massing envelope.
123. The design has since been further resolved and is considered to meet the objectives of the site specific DCP in that it delivers a high quality slender tower, minimises amenity impacts on surrounding properties and provides a high quality urban outcome by:
 - Improving streetscape activation of George Street and Kent Street;
 - Providing a legible and direct through-site link; and
 - Appropriately responding to the existing streetscapes on both street frontages including the Judges House heritage item.
124. The proposal has been reviewed by DAP prior to lodgement and post lodgement. DAP advised that they were supportive of the proposed minor departures.
125. In summary, the proposed bulk, massing and setbacks of the overall development is considered to positively contribute to the streetscape and does not give rise to unacceptable amenity impacts. The proposed non-compliance are considered to have merit and are supported.

Overshadowing

126. An analysis of the proposal's overshadowing on surrounding residential buildings is provided in Attachment A. The analysis has been undertaken with consideration given to the requirements of Objective 4A-1 of the ADG, Section 4.2.3.1 of the SDCP 2012, and Council's Draft Minimising Overshadowing of Neighbouring Apartments Guide. The analysis provides a comparison between the SDCP 2012 building envelope and the proposed development.

127. The proposed development does not result in any reduction in solar access below the 2 hours required under the ADG and SDCP 2012 when compared to the DCP building envelope. In comparison to the planning proposal, it generally provides improved solar access to 569 George Street (Summit Apartments) and 91-95 Liverpool Street (World Tower), due to the slender building form and increased setback from the north-eastern corner of the building envelope.
128. Shadow diagrams demonstrating the overshadowing impact of the proposed development on surrounding public open spaces for each month between 9am and 3pm have been assessed. The following public spaces have been analysed in detail:
- Harmony Park: Protected by a sun access plane in the Draft Central Sydney Planning Strategy;
 - Belmore Park: Protected by a sun access plane in the Draft Central Sydney Planning Strategy; and
 - Chinese Garden of Friendship: Not a 'public space' but a key area of open space.
129. The proposed development has no overshadowing impact on Belmore Park year-round. At 3pm on 21 June, the shadow approaches Harmony Park creating shadow at 2:55pm on a small area of the Park which largely falls within existing shading by surrounding built form and trees.
130. As identified in the planning proposal, the approved envelope causes minor overshadowing to the Chinese Garden of Friendship between 9am and 10am during the equinox. The current tower form provides a slightly longer shadow due to the roof feature, however the reduction in width minimises the duration and there are considered to be no additional adverse overshadowing impacts when compared to the DCP envelope.
131. Given the above, the proposed development is generally consistent with provision 3.2.1.1 of the SDCP 2012 on the basis that key publicly accessible open spaces are not overshadowed between 9am and 3pm on 21 June. Further, the proposed development is also generally consistent with the sun access planes to Harmony Park and Belmore Park in the Draft Central Sydney Planning Strategy.

View Corridors and View Impacts

132. The application has been supported by an analysis of the view impacts of the proposed development from locations in the public and private domain and is included at Attachment A. The analysis compares the proposed development against the SDCP 2012 building envelope.
133. The assessment of the building height and DCP envelope at the planning proposal stage concluded that in regards to impacts to view corridors:
- The building will generally sit comfortably within the skyline of the southern CBD and will be read in the context of the existing towers, including World Square, and the soon to be built residential tower at 115 Bathurst Street.*
134. In regards to private views, the planning proposal concluded that:

The additional proposed height will not result in any additional view loss compared to a complying 150 metre twin tower scheme, nor does it obscure any important views. The view analysis shows that the positioning and width of the tower is more important.

Compared to an envelope that may be achieved under the existing height control, the proposed scheme results in a significantly better outcome in terms of view impacts for the south facing residents of Lumiere, and a minor improvement for the occupants of Century Tower.

135. The site specific SLEP 2012 and SDCP 2012 amendments have been the subject of community consultation and detailed assessment on the proposed height and tower massing on the subject site. While it is inevitable that private views will be impacted, in the context of Central Sydney, and specifically in an area where taller buildings are planned for, given the proposal is generally consistent with the form of the SDCP 2012 building envelope, the proposed visual and view impacts of the proposed development are considered acceptable.

Shared Driveway

136. 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 into 505-523 George Street for light vehicles only.
137. At the time of writing this report, it is understood that both adjoining landowners were in the final stages of completing a binding agreement to enable the two-way shared driveway at 525-529 Kent Street.
138. The proposed two-way driveway at 525 George Street is to provide access for vehicles at 505 George Street and 525 George Street, including service vehicles, delivery vehicles and waste vehicles. The applicant proposes the one-way ramp for the purpose of cars to efficiently drop-off serviced apartment guests directly to the below ground porte-cochere at 505 George Street and obtain a 'front of house' experience for guests arriving. This one-way ramp will not be used by any resident or service vehicles. 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.

139. Diagrams of the proposed access arrangements are provided at Figures 56 and 57:

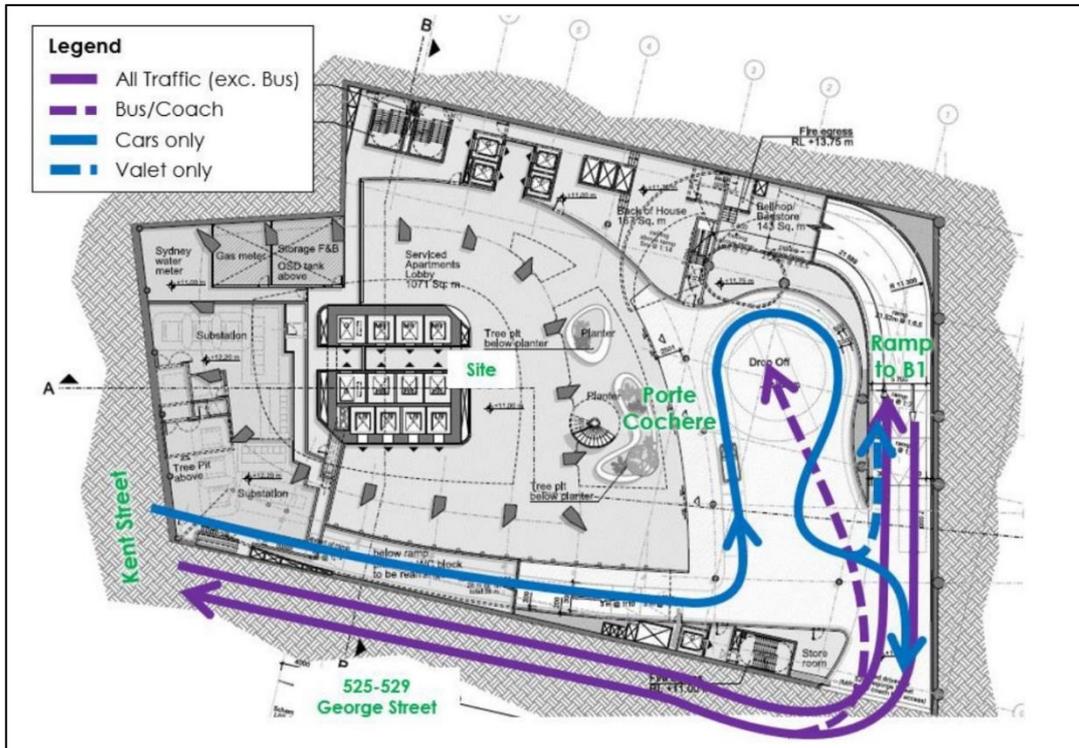


Figure 56: Access arrangements - basement level 1

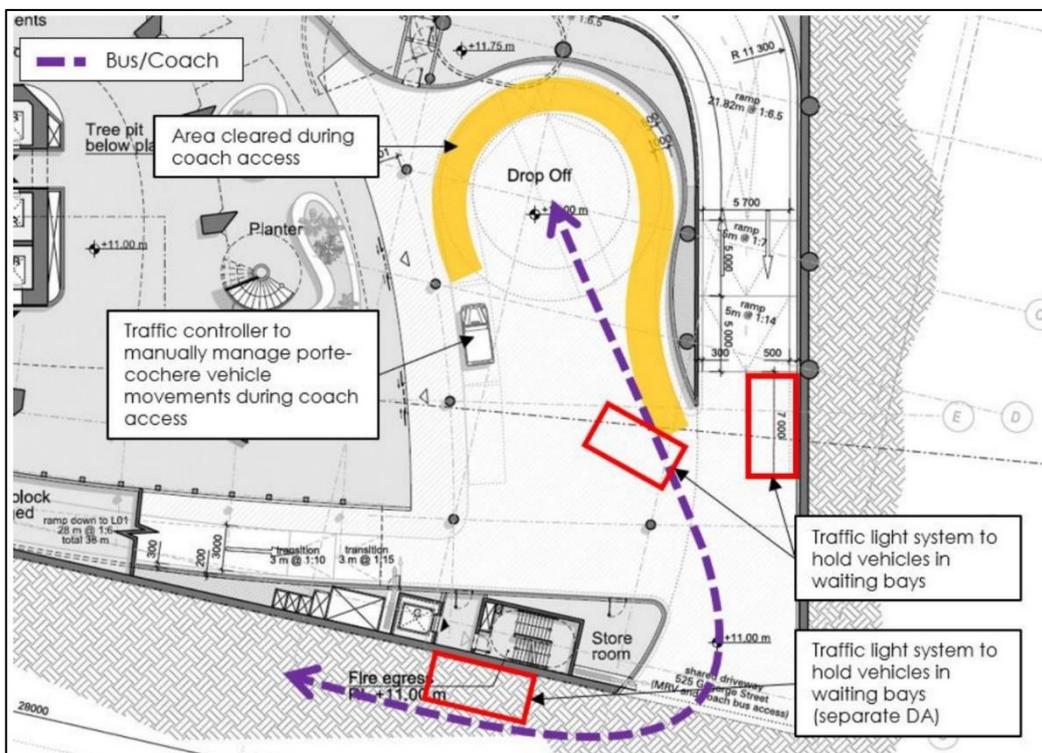


Figure 57: Coach access arrangements - basement level 1

140. It is noted that the proposal for 525 George Street is a Concept DA and generally driveway locations and detailed levels within basements are only indicative in Concept DAs. However, given the subject DA relies on the location of the driveway and basement levels to be fixed, conditions of consent are recommended for the 525 George Street Concept DA (D/2019/758) to require 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 access between the two sites.
141. The shared driveway arrangement results in 3 vehicle lanes rather than 4 across a relatively high pedestrianised footpath and separated cycleway. Importantly a reduction in one vehicular movement exiting the site(s) improves safety for pedestrians and cyclists. 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, safety outcome and far more legible internal through-site link.
142. The proposed driveway on the subject site is curved, or shaped to follow the curve of the tower. There are no lines shown in the architectural drawings showing how this meets the driveway crossing on the other side of the footpath and bike lane. Minor design amendments and/or additional detail shown on the drawings is required to provide clear differentiation between areas used for cars, bikes and pedestrians to prevent conflicts. In addition, given the proposed driveway on the subject site will no longer be required once the entire tower is changed from serviced apartments to residential accommodation, it is recommended that the driveway is removed and the footpath reinstated. Condition are recommended to address these matters.
143. It is noted that the site specific DCP nominates the preferred driveway location at the northern end of the Kent Street frontage, however for the reasons outlined above, the proposed shared driveway is considered a far superior outcome.
144. The shared driveway arrangement has been reviewed by the City's Transport and Access Unit who support the proposal subject to conditions.

Planning Agreement

145. Prior and post lodgement of the DA, the applicant has worked closely with the City's Planning Agreements team, City Projects and Property Unit to arrive at the design of the community spaces to ensure they meet the requirements of the Planning Agreement, are high quality and functional spaces and meet the City's standards. While there are a few minor design details to be resolved such as the window internal treatment (curtains, blinds etc.) these can be resolved during the construction certificate stage.

146. Council's Planning Agreement officer has advised the proposal satisfies the requirements of the Planning Agreement in that it delivers:
- A childcare facility with internal and external fitted out space of at least 2,600sqm;
 - A meeting room with fitted out space of at least 250sqm;
 - Publicly accessible toilets within the retail podium that are accessible to the general public during the retail trading hours; and
 - A commitment to optimising building environmental performance that will exceed minimum BASIX requirements.

Sustainability

147. In accordance with the Planning Agreement, the proposed development will exceed minimum BASIX targets, optimises building performance and provides a benchmarking study against comparable local and international buildings.
148. The developer and their ESD consultants liaised regularly with Council's Sustainability Officer prior to lodgement of the DA.
149. The proposal includes the following sustainability measures and initiatives:
- 5-star Green Star Design and As-Built;
 - Exceedance of BASIX 25 for energy and BASIX 40 for water;
 - No natural gas supplied to any apartments (induction cooktops instead of gas), heat pumps for domestic hot water generation (with gas only as a backup boost) and a strategy to phase out the use of fossil fuels in central plant for the apartments;
 - A high performing facade with vertical columns, horizontal shades and double glazed low-emissivity glazing with high visible light transmission;
 - Innovative vertical ventilation slots to provide safe and controlled natural ventilation to apartments;
 - An average 7-Star NatHERS ratings for the apartments;
 - Provision of energy efficient appliances (fridges, washing machines, condensing clothes dryers and dishwashers) to all apartments;
 - Occupancy sensors for air-conditioning in apartments (in serviced apartment mode) to reduce heating and cooling of unoccupied spaces;
 - Regenerative lifts with best-in-class energy efficiency performance;
 - Roof gardens, sky gardens and green wall to reduce urban heat island effect, increase habitat and provide connectivity to nature for residents, workers, customers and visitors;

- Rainwater and condensate water from selected building areas for collection and reuse;
- Provision for connection to the City of Sydney's future recycled water infrastructure in George Street;
- Targeting electric vehicle charging for five per cent of car spaces on practical completion, with provision to increase over time to reflect car fleets of the future;
- A strategy to reduce peak electrical demand in the building with infrastructure provided to allow key loads to be managed (which may include chillers, heat pumps, apartment air-conditioning units and electric car charging), and space allocated for the future installation of batteries (should these eventually become a commercially viable approach in high density CBD buildings);
- A research and development trial of shower heat recovery in end-of-trip facilities;
- Waste recycling facilities to minimise waste to landfill; and
- Energy and water metering and benchmarking.

150. The DA has been reviewed by Council's Sustainability Officer who supports the proposed sustainability initiatives. In light of the above, the proposal is considered to meet the sustainability requirements detailed in the Planning Agreement, SLEP 2012 and SDCP 2012, subject to conditions.

Time-Limited Use, Construction Staging & Conditions

151. Rises used as serviced apartments are proposed to have their use converted to residential accommodation at any time within the 20 year period. Only entire rises will have their use converted to residential accommodation at a point in time.
152. There are eight possible combinations of residential and serviced apartment uses within the tower, as shown in the table below:

| Scenario | High-Rise | Mid-Rise | Low-Rise |
|----------|---------------------|---------------------|---------------------|
| 1 | Residential | Residential | Residential |
| 2 | Residential | Residential | Serviced Apartments |
| 3 | Residential | Serviced Apartments | Serviced Apartments |
| 4 | Serviced Apartments | Serviced Apartments | Serviced Apartments |
| 5 | Serviced Apartments | Residential | Residential |
| 6 | Serviced Apartments | Serviced Apartments | Residential |
| 7 | Residential | Serviced Apartments | Residential |
| 8 | Serviced Apartments | Residential | Serviced Apartments |

153. The building is designed in such a way that each use, either residential apartments or serviced apartments, can operate independently from one another under any mix of uses within the tower as shown in the table above. For example, if the low and mid-rises are used as serviced apartments and the high-rise is used for residential apartments (Scenario 3), the design allows the flexibility for each use to have its own separate functions and access (i.e. lobbies and amenities).

154. The proposal has considered amenity and use segregation objectives relating to both residential apartments and serviced apartments, particularly items within Section 4.4.8.5 of the SDCP 2012 'Additional provisions for serviced apartments'.
155. The proposed maximum period of the time-limited use of the tower for serviced apartments is 20 years from the grant of the first occupation certificate for any part of the tower. The applicant states that this time period has been nominated to provide viable tenure opportunity for a serviced apartment operator. A shorter time period would result in difficulty securing an operator.
156. The number of rises and timing of conversion to residential accommodation is proposed to be flexible to align with future market conditions and in accordance with a separate agreement between developer and the future serviced apartment operator.
157. Areas in the podium and basement, including the Level 05 food and beverages area and meeting facilities, Level 01 lobby and pick up drop off together with the basement back-of-house, are ancillary to the serviced apartment use. When the time-limited use of the tower as serviced apartments ends, these areas will no longer be required as ancillary uses. As such, these will be subject to a separate future development application to change to a new permissible use.
158. It is noted that once a rise is occupied as residential apartments, a rise is not proposed to be capable of being converted back to a serviced apartment use under this application. Any potential future conversion from residential back to serviced apartments will be subject to a separate application. A condition is recommended to address this matter.

159. The applicant has proposed the following construction certificate (CC) staging:

| Segment | Construction Certificate Reference | Works |
|--|------------------------------------|--|
| Basement (B) | | |
| 1 – Basement excavation | B1 | Excavation, site preparation (including any site remediation) and shoring |
| 2 – Basement structure | B2 | Structure, services to and including Level 3 (George Street) Slab |
| Podium (P) | | |
| 1 – Structure | P1 | Level 3 (George Street) to Level 7 podium and tower levels (excluding VPA Public Benefits) |
| 2 – Services, façade, base fitout | P2 | Level 3 (George Street) to Level 7 podium and tower levels (excluding VPA Public Benefits) |
| Tower (T) | | |
| 1 – Residential Apartment Tower Low Rise | T1 | Structure, services, façade (Level 8 – Level 37) |
| 2 – Residential Apartment Tower Mid Rise | T2 | Structure, services, façade (Level 38 – Level 60) |
| 3 – Residential Apartment Tower High Rise | T3 | Structure, services, façade (Level 61 – top of architectural roof feature) |
| 4 – Serviced Apartment Tower Low Rise | T4 | Structure, services, façade (Level 8 – Level 37) |
| 5 – Serviced Apartment Tower Mid Rise | T5 | Structure, services, façade (Level 38 – Level 60) |
| 6 – Serviced Apartment Tower High Rise | T6 | Structure, services, façade (Level 61 – top of architectural roof feature) |
| Public Benefits (PB) | | |
| 1 – Services, fitout and finishes | PB1 | George Street public toilet facility, Level 6 Community Meeting facility and childcare facility deliverables |
| 2 – Public domain finishes and landscaping | PB2 | Through-site link, Kent Street, George Street |

160. The applicant's proposed CC strategy is to provide clarity and certainty in regard to when certain conditions must be satisfied and to allow construction to proceed efficiently. The future construction may not occur strictly in the sequence identified in the above schedule and therefore the proposed term 'segments' rather than 'stages' is sought to remove any ambiguity that the construction must occur in sequential order. The applicant's proposed CC 'segments' is considered logical and reasonable and accordingly has been adopted in the recommended conditions of consent.

161. Given the unique nature of the proposal with the time-limited use coupled with the shared driveway, the applicant has provided Council officers with suggested non-standard conditions of consent. These conditions have been taken into consideration in the preparation of the recommended conditions of consent. Where a condition suggested by the applicant has not been adopted within the recommended conditions (Attachment A), this is to be deemed as Council officers not agreeing with the condition due to undesirable outcomes.

Other Impacts of the Development

162. The proposed development is capable of complying with the BCA. The applicant states that multiple class CC's for each BCA classification for the residential apartments (class 2) and serviced apartments (class 3) are proposed to be sought for the tower prior to commencement of construction of the relevant segment to which the CCs apply.
163. 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

164. 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

165. 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 Specialist;
 - (f) Urban Designers;
 - (g) Environmental Health Unit;
 - (h) Waste Management;
 - (i) Public Domain;
 - (j) Landscape Officers;
 - (k) Child care Unit;
 - (l) Building Services Unit;
 - (m) Specialist Surveyor;
 - (n) Sustainability Officers;
 - (o) Planning Agreement Officers;
 - (p) City Projects;
 - (q) Properties Unit;

- (r) City Modeller; and
- (s) Safe City officer.

166. 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) Sydney Water;
- (g) New South Wales Police Force;
- (h) Transgrid; and
- (i) Ausgrid.

167. 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

168. 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 23 August and 21 September 2019. As a result of this notification a total of 17 submissions were received. 10 of these were generally supportive of the proposal with the exception of the removal of the cinema.

169. A summary of the issues raised in the submissions and response is provided below:

- (a) Concerns with removal of the only major cinema 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. This is a commercial decision/ consideration by the landowner.

- (b) The two land uses give rise to potential consideration of the impacts uncertain.

Response - The proposal has been assessed based on the applicable planning provisions for both serviced apartments and residential apartments and is deemed to be acceptable. The strategy for conversion to the residential apartments is addressed in the 'Issues' section and will be managed appropriately through conditions of consent.

- (c) The architectural roof feature does not meet the necessary criteria under the SLEP 2012.

Response - Refer to the detailed discussion provided in the 'Issues' section of this report under the heading *Clause 4.6 request to vary a development standard - Height*.

- (d) SEPP 65 matters are misquoted as complying

Response - Council staff have undertaken an independent assessment of SEPP 65 matters and not relied entirely upon statements made in the supporting documentation submitted with the DA. Refer to the ADG compliance table for further discussion.

- (e) Inconsistency between the Design Competition Scheme and the proposal

Response - While winning design competition schemes can appear sophisticated and resolved, they are largely conceptual and require much more detailed design work in order to meet the recommendations of the Jury and to comply with relevant planning provisions. The winning scheme has evolved and changed, however it has retained the design integrity and key reason for which it was selected as the winner. The proposal is considered to exhibit design excellence and satisfies the provisions contained in Clause 6.21 of SLEP 2012. Refer to the 'Issues' section under the heading *Architectural Design Competition Jury Recommendations* for further discussion.

- (f) Excessive height, bulk, scale and inconsistency with the site specific DCP massing envelope.

Response - Refer to the 'Issues' section under the headings *Clause 4.6 request to vary a development standard - Height* and *Building Separation & Site Specific DCP* for detailed discussion.

- (g) Traffic, Transport and Parking impacts

Response - The proposal complies with the maximum permitted car parking rate set out in SLEP 2012 and provides the required bike parking and end of trip facilities to encourage alternative transport modes. The application was referred to Transport for NSW, Roads and Maritime Services and the City's Transport and Access Unit who have not raised any objections to the proposal. The proposal is not anticipated to result in unacceptable traffic congestion. Refer to the SLEP 2012 and SDCP 2012 compliance tables for further discussion.

- (h) Overshadowing

Response - Refer to the 'Issues' section under the heading *overshadowing* for discussion.

- (i) Building separation and associated acoustic and visual privacy impacts on adjoining properties

Response - The proposal is not considered to have unreasonable acoustic and visual privacy, especially in the context of a high density area. The proposed design is well designed to respond to the site constraints including the setbacks of the existing buildings to the north which do not comply with ADG recommended setbacks. Further discussion is provided in the Issues section under the heading *Building Separation & Site Specific DCP*.

- (j) Impact on private views

Response - Refer to the 'Issues' section under the heading *View Corridors and View Impacts* for discussion.

- (k) Construction impacts on amenity including noise, vibration, traffic, parking, dust and odour

Response - Appropriate construction management conditions are recommended to manage noise, waste, dust and traffic.

Public Interest

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

S61 Contribution

171. 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 any Construction Certificate.

Relevant Legislation

172. Environmental Planning and Assessment Act 1979.
173. City of Sydney Act 1988.

Conclusion

174. The proposed development is considered to exhibit design excellence and will make a positive contribution to the public domain, subject to conditions. The proposed development will provide a timeless and elegant addition to the Sydney skyline.
175. The single slender tower form provides a high level of amenity for future occupants and minimises impacts on the surrounding area by way of views, overshadowing and visual impact.
176. The proposed development will deliver public benefits including a child care centre and a community meeting room to be dedicated to the City and publically accessible toilet facilities.
177. The proposal delivers a range of sustainability measures and will provide a sustainability benchmark for high rise residential in the City.
178. The proposal is largely compliant with relevant planning provisions. While there are non-compliance with some planning provisions as outlined within this report, these have been assessed as having merit having regard to the site's constraints and other planning considerations.
179. Overall for a development of this scale, the proposal is considered to have minimal environmental planning impacts and will not result in unreasonable impacts on the surrounding area, subject to conditions.
180. The proposal is recommended for deferred commencement approval.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Tahlia Alexander, Specialist Planner