

Item 4.**Development Application: 327- 329 George Street, Sydney - D/2019/1277****File No.: D/2019/1277****Summary**

Date of submission:	12 November 2019 Amended application received 25 May 2020
Applicant:	Mr Giovanni Cirillo, Planning Lab
Architect:	Melocco & Moore
Developer:	Ledorli Holdings Pty Ltd
Owner:	Ledorli Holdings Pty Ltd
Cost of works:	\$13,470,472
Zoning:	The site is zoned B8 - Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposed use is defined as a 'mixed use development', comprising both 'office premises' and 'retail premises', all of which are permissible with development consent in the zone.
Proposal summary:	<p>The development application seeks consent for the demolition of the existing building and construction of a 15 storey building with a maximum height of 56.58 metres, comprising retail premises at the ground level and level 1, office premises and outdoor terrace on the levels above, a loading dock accessed from Wynyard Lane and basement levels containing bicycle parking, end of trip facilities and building services.</p> <p>Clause 6.16 'Erection of tall buildings in Central Sydney' of the Sydney Local Environmental Plan 2012 (SLEP 2012) applies to the development as the proposed building is above 55 metres in height and is located on a site less than 800 square metres in area. This clause requires a freestanding tower to be erected with each face able to be seen from a public place.</p>

Only three out of four faces/elevations of the building will be seen from a public place due to the physical constraints of the site and the height of an existing adjoining building.

The applicant has submitted a Clause 4.6 written request to vary the development standard under Clause 6.16(3)(a) of the SLEP 2012. The proposed variation has merit and is supported in this instance. The proposed variation request to the subject development standard is a numerical variation of 25% and accordingly, the application is referred to the Local Planning Panel for determination.

In addition to Clause 6.16 of the SLEP 2012, as the proposed building is over 55 metres in height and is located within Central Sydney, the proposal triggers the requirement for the preparation of a site-specific development control plan (DCP) and the undertaking of a competitive design process under the provisions of Clauses 7.20(2)(a) and 6.21(5)(a)(i) of the SLEP 2012, respectively. The applicant seeks a 'waiver' to both of these requirements. The applicant's request that these requirements are unreasonable and unnecessary in the circumstances of this application has merit in this particular case and is supported.

The application was notified and advertised from 5 December 2019 to 16 January 2020 in accordance with the City of Sydney Community Participation Plan 2019.

One submission was received which raised concerns relating to the waiver of a competitive design process, the adequacy of the Clause 4.6 variation request, construction traffic management and impacts to the adjoining properties. The issues raised in the submission are addressed in the body of this report, and conditions of consent are recommended to resolve these matters, where appropriate.

The proposal has been amended during the course of the assessment in order to address issues raised by Council staff and the Design Advisory Panel, including modifications to the design of the George Street facade and fenestration detail, materiality and awning height. The amended proposal has addressed most of the issues raised. While there are some issues remaining, conditions of consent are recommended to resolve these matters.

Transport for NSW (TfNSW) has granted concurrence, subject to conditions, under Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP), as the site is located within 25 metres of the Sydney Light Rail corridor and includes excavation deeper than 2 metres. These conditions are included within the recommended conditions of consent provided at Attachment A to this assessment report.

Subject to conditions, the proposal is generally consistent with the objectives and applicable planning provisions in the SLEP 2012 and Sydney Development Control Plan 2012 (SDCP 2012). While there are non-compliances, these are assessed as having merit in this particular case and are addressed in the body of this report.

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

Development controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy (Infrastructure) 2007
- (iii) Sydney Harbour Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012
- (vi) Central Sydney Development Contributions Plan 2013

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request

Recommendation

It is resolved that:

- (A) the written variation requested to Clause 6.16(3)(a) 'Erection of tall buildings in Central Sydney' of the Sydney Local Environmental Plan 2012 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 is considered satisfactory and is upheld;
- (B) the requirement for the preparation of a site-specific development control plan and the undertaking of a competitive design process in accordance with Clause 7.20 'Development requiring or authorising preparation of a development control plan' and Clause 6.21 'Design excellence' of the Sydney Local Environmental Plan 2012, are waived in the specific and particular circumstances of the site and the proposed development; and
- (C) consent be granted to Development Application No. D/2019/1277 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (B) The proposal is consistent with the objectives of the B8 Metropolitan Centre zone.
- (C) The proposal complies with the maximum floor space ratio applicable to the site under the Sydney Local Environmental Plan 2012.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel 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 Local Environmental Plan 2012, that compliance with the development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 6.16(3)(a) of the 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 'Erection of tall buildings in Central Sydney' development standard.
- (E) The proposal exhibits design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012.

- (F) The proposal has a height and form suitable for the site, satisfactorily addresses the heights and setbacks of neighbouring developments, and is appropriate in the streetscape context and broader locality.
- (G) The new building can satisfactorily accommodate the proposed land uses and does not result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain and the broader Sydney Central Business District, subject to the recommended conditions.
- (H) The requirement for the preparation of a site-specific development control plan and the undertaking of a competitive design process is unreasonable and unnecessary in the specific and particular circumstances of the site and proposed development, pursuant to Clauses 7.20(3) and 6.21(6) of the Sydney Local Environmental Plan 2012.
- (I) The proposal has been granted concurrence by Transport for New South Wales under Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007, subject to conditions which have been adopted in the recommended conditions.
- (J) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to the recommended conditions relating to facade and awning design details, transport and servicing.

Background

The site and surrounding development

1. A site visit was carried out by staff on 14 January 2020.
2. The site is legally described as Lots 1 and 2 in Deposited Plan 448986 and is commonly known as 327-329 George Street, Sydney.
3. The site is rectangular in shape, with an area of approximately 274.5 square metres. It has a primary street frontage to George Street to the east and a secondary frontage to Wynyard Lane to the west.
4. The site has a depth of approximately 27.9 metres and both frontages are approximately 9.8 metres in length. The site falls from Wynyard Lane to George Street by approximately 1.9 metres. The frontages are relatively flat, with only a slight fall from south to north by up to 230 millimetres.
5. The site is occupied by a 3 to 4 storey building, which is built to all site boundaries. The building contains a retail tenancy on the ground floor, offices premises on levels one and two, with a part fourth storey plant room located to the rear of the site. The building was constructed in 1955 with an additional storey added in 1962. The George Street facade of the building was refurbished in the late 1990s and early 2000s.
6. The site is located 40 metres north of the intersection of Wynyard Street and Wynyard Lane, approximately 50 metres east of Wynyard Park and 100 metres north-west of Martin Place. A light rail stop serving the CBD and South East Light Rail corridor is located directly in front of the site on George Street.
7. Surrounding land uses comprise predominantly multi-storey buildings in a range of architectural styles, generally containing ground floor retail premises and food and drink premises, with office premises located on the levels above.
8. Directly adjoining the site to the south, at 331-339 George Street (commonly referred to as '333 George Street'), is a 19 storey commercial building, constructed on the corner of George Street and Regimental Square. The building contains ground floor retail with office premises above. The majority of the building's northern facade is glazed and directly abuts the subject site.
9. Directly adjoining the site to the north, at 323-325 George Street, is a two-storey commercial building. Development consent was recently granted for the construction a 17 storey hotel development on this site. Further to the north at 319-321 George Street is a three-storey building, identified in Schedule 5 of the SLEP 2012 as a locally significant heritage item.
10. Other heritage items in close proximity to the site include the buildings at 350 George Street and 354-360 George Street, Angel Place and Martin Place, which are all located to the south-east of the site. Heritage items located to the south of the site include the buildings at 341 George Street and 343 George Street, and Regimental Square.
11. To the west of the site, on the opposite side of Wynyard Lane, is the rear of two 13 storey buildings known as 50 and 54-62 Carrington Street. These buildings have no setbacks to the rear lane and contain windows along their rear elevations. Wynyard Lane is predominantly used as a service lane.
12. Photos of the site and surrounding area are provided in Figures 1 to 16 below.



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

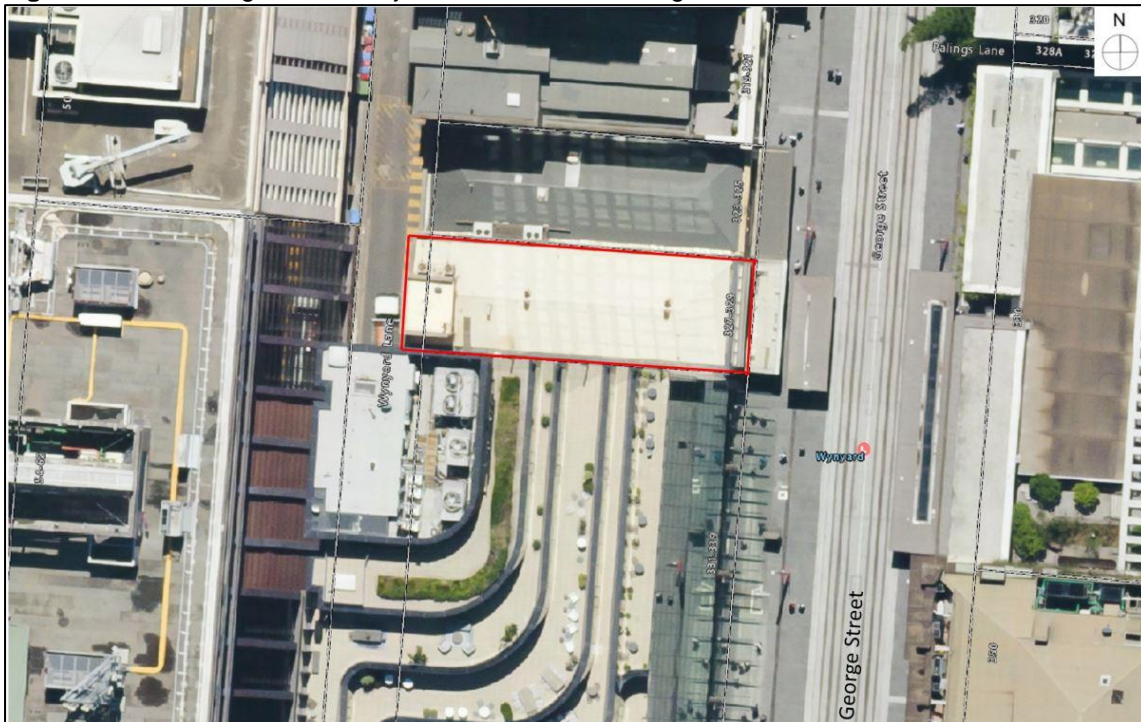


Figure 2: Closer aerial view of the subject site



Figure 3: Site viewed from George Street, facing west

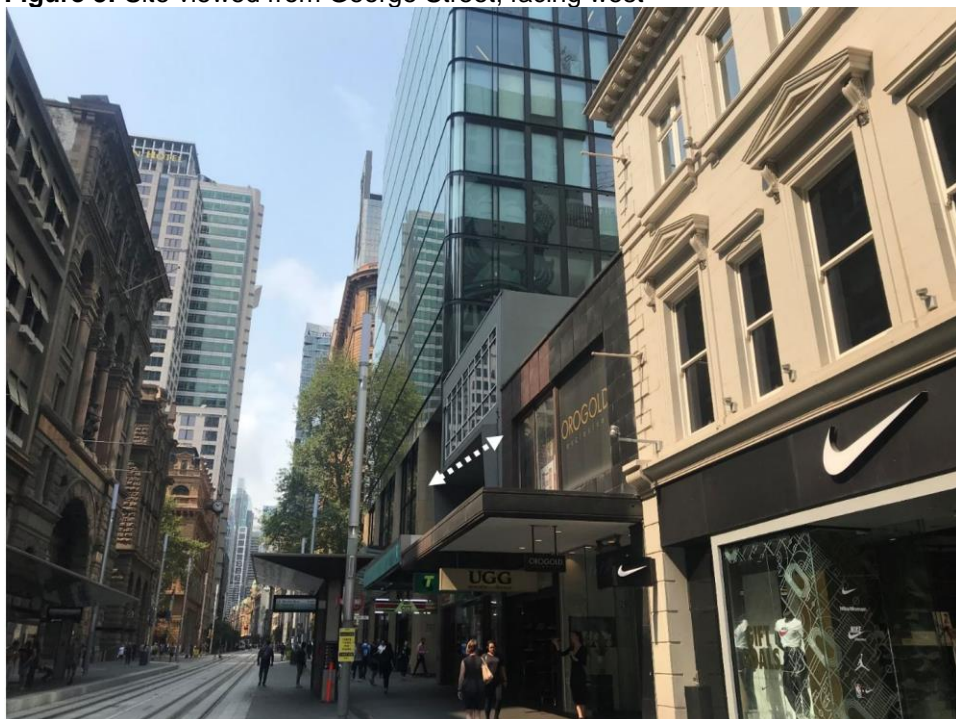


Figure 4: Site viewed from George Street, facing south



Figure 5: Site viewed from George Street, facing south-west



Figure 6: Site viewed from George Street, facing south

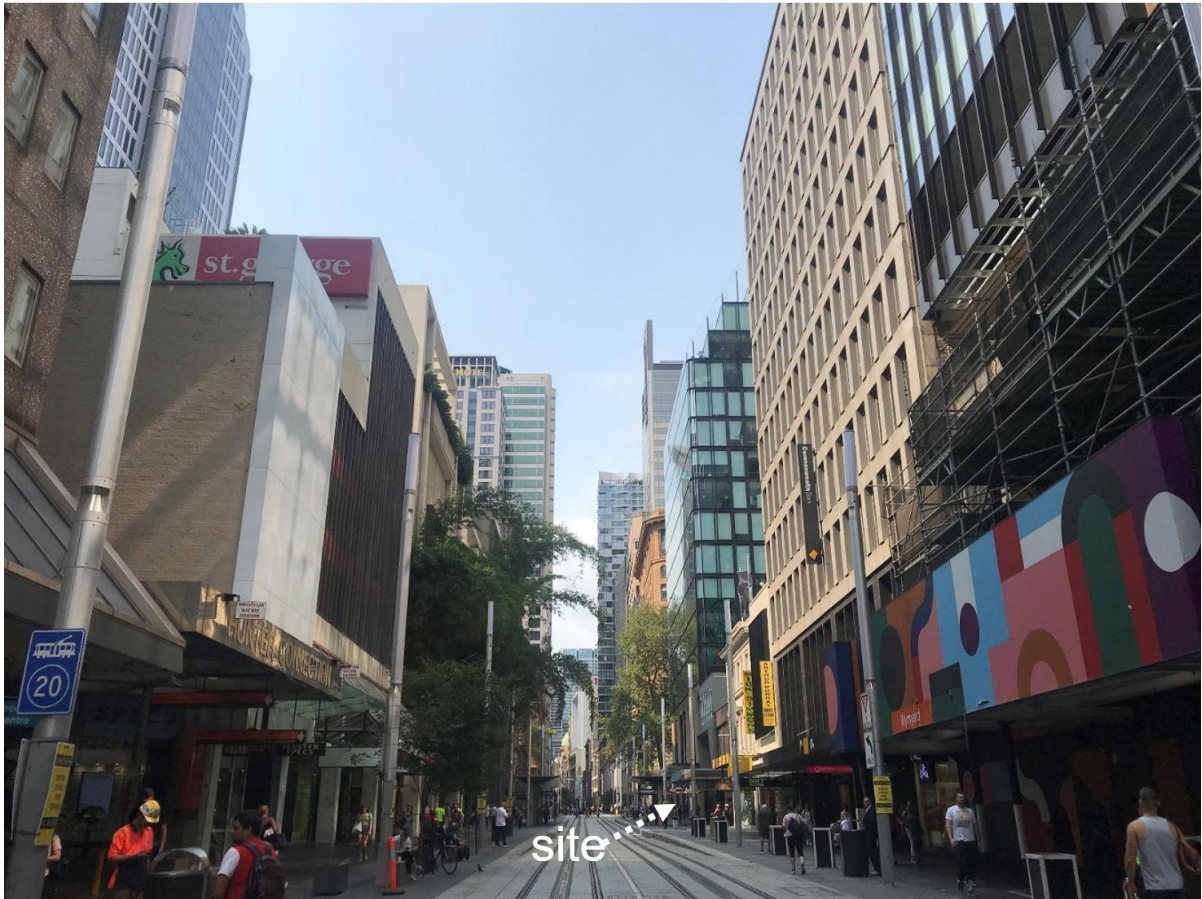


Figure 7: Site viewed from George Street, facing south



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



Figure 9: Site viewed from George Street, facing north



Figure 10: View of 333 George Street and the subject site from George street, facing west



Figure 11: Site viewed from George Street, facing west



Figure 12: Looking north along Wynyard Lane



Figure 13: Site viewed from Wynyard Lane, facing north

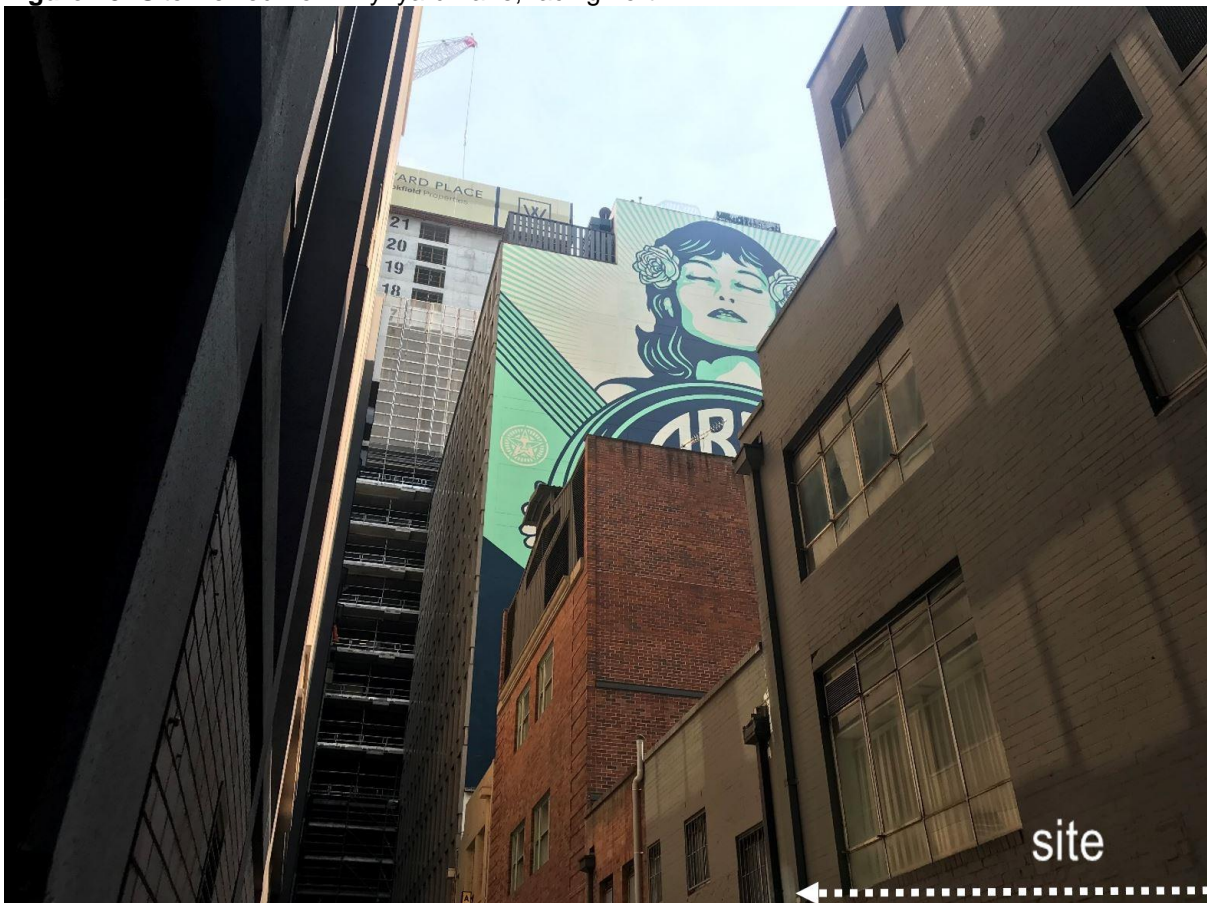


Figure 14: Site viewed from Wynyard Lane, facing north



Figure 15: Looking south along Wynyard Lane



Figure 16: Looking south along Wynyard Lane

Proposal

13. The application seeks development consent for the demolition of the existing building and construction of a 15 storey commercial building, including the following:
- (a) Basement Level 1 and part Level 2**
 - (i) End of trip facilities including 32 spaces for bike parking;
 - (ii) Waste storage room; and
 - (iii) Water tank, plant and services.
 - (b) Ground Floor**
 - (i) Retail tenancy fronting George Street;
 - (ii) Entry foyer to upper levels via two lifts; and
 - (iii) Loading dock accessible from Wynyard Lane.
 - (c) Level 1**
 - (i) Tenancy for office or retail use with option for stairs to connect to ground floor tenancy to operate as a single tenancy; and
 - (ii) Toilet facilities.
 - (d) Levels 2 - 14**
 - (i) Office premises on each floor;
 - (ii) Toilet facilities on each floor; and
 - (iii) Outdoor terrace 31.5 square metres in size located on level 14 fronting George Street.
 - (e) Roof Level**
 - (i) Photovoltaic solar panels;
 - (ii) A/C and services plant concealed by parapet;
 - (iii) Lift overrun (up to a height of RL 70.40); and
 - (iv) Fire stairs (up to a height of RL 72.24).
14. The proposed hours of operation for the building are 7.00am to 10.00pm, Monday to Sunday. The individual fit out of each tenancy will be subject to separate applications.
15. Selected drawings of the proposed development are provided in Figures 17 to 31. A full set of architectural drawings is provided at Attachment B to this assessment report.

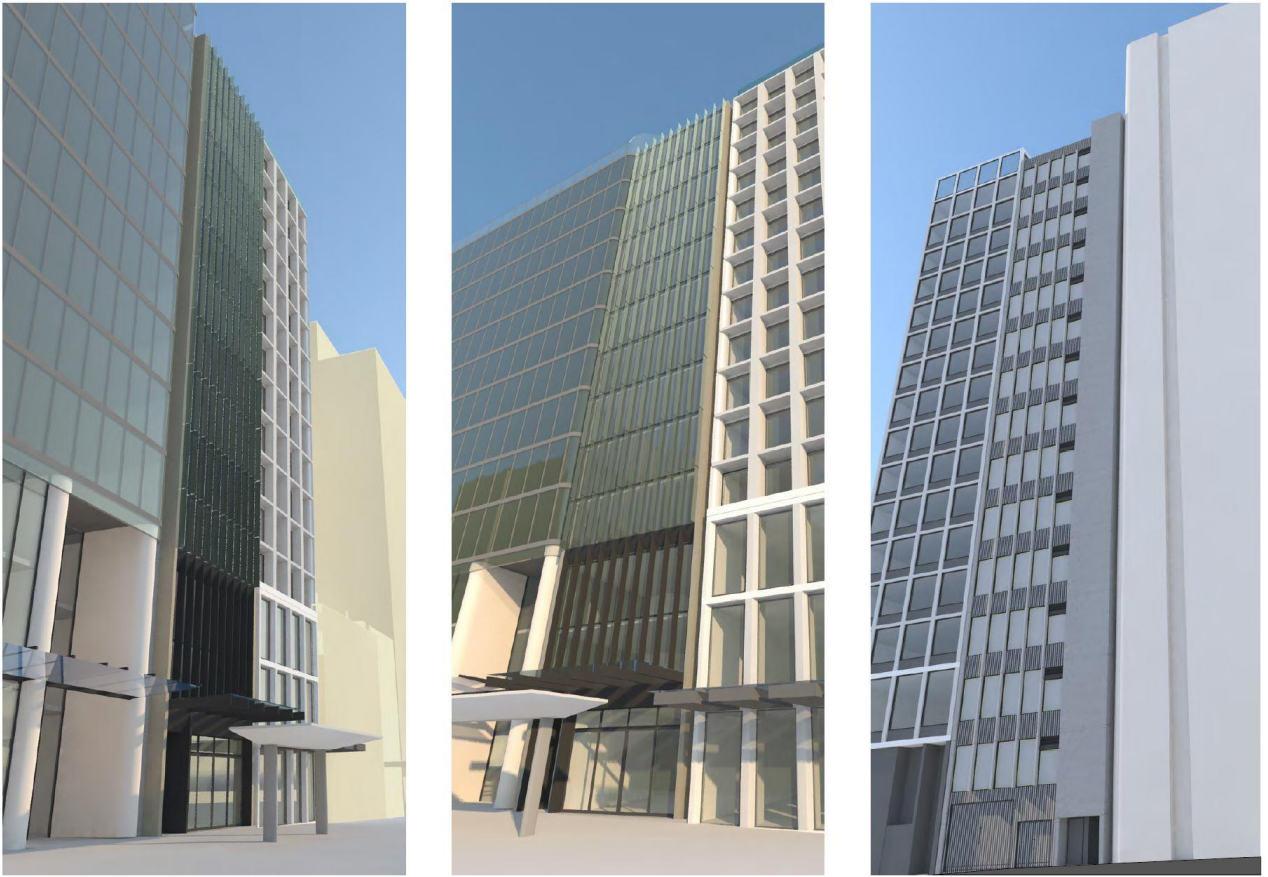


Figure 17: Renders (left to right): view from George Street looking north-east, view from George looking south-west and view from Wynyard Lane looking east, showing 333 George Street (left), subject site (centre) and 323-325 George Street (right, as approved)

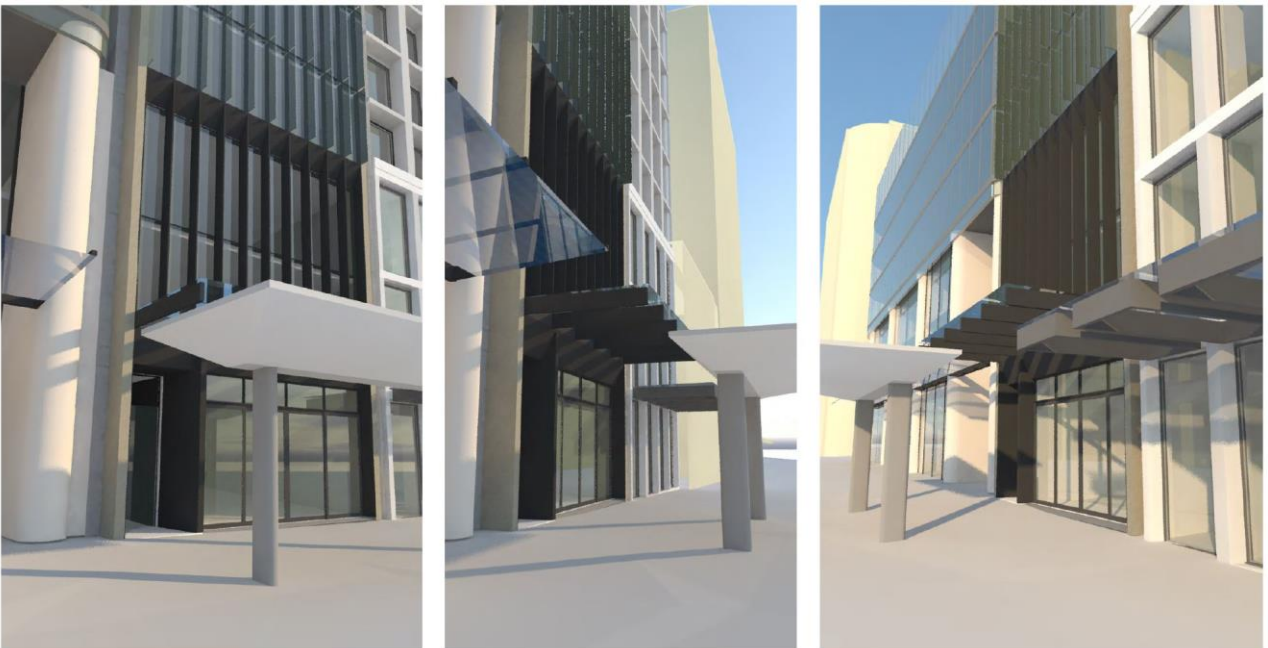


Figure 18: Renders of street level view from George Street

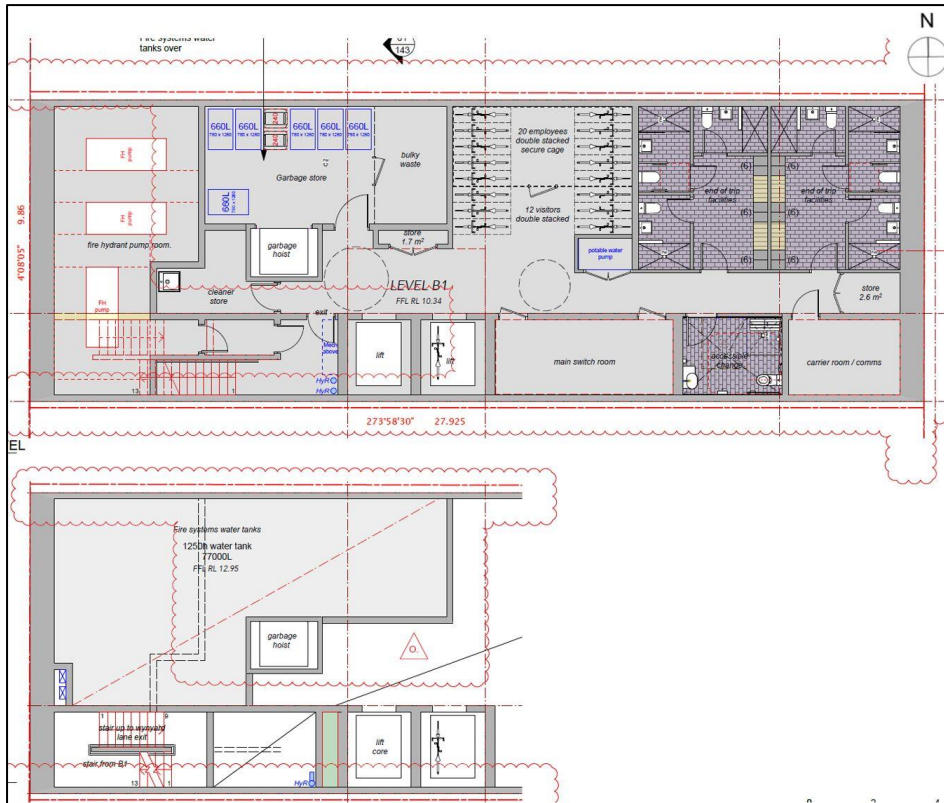


Figure 19: Basement levels

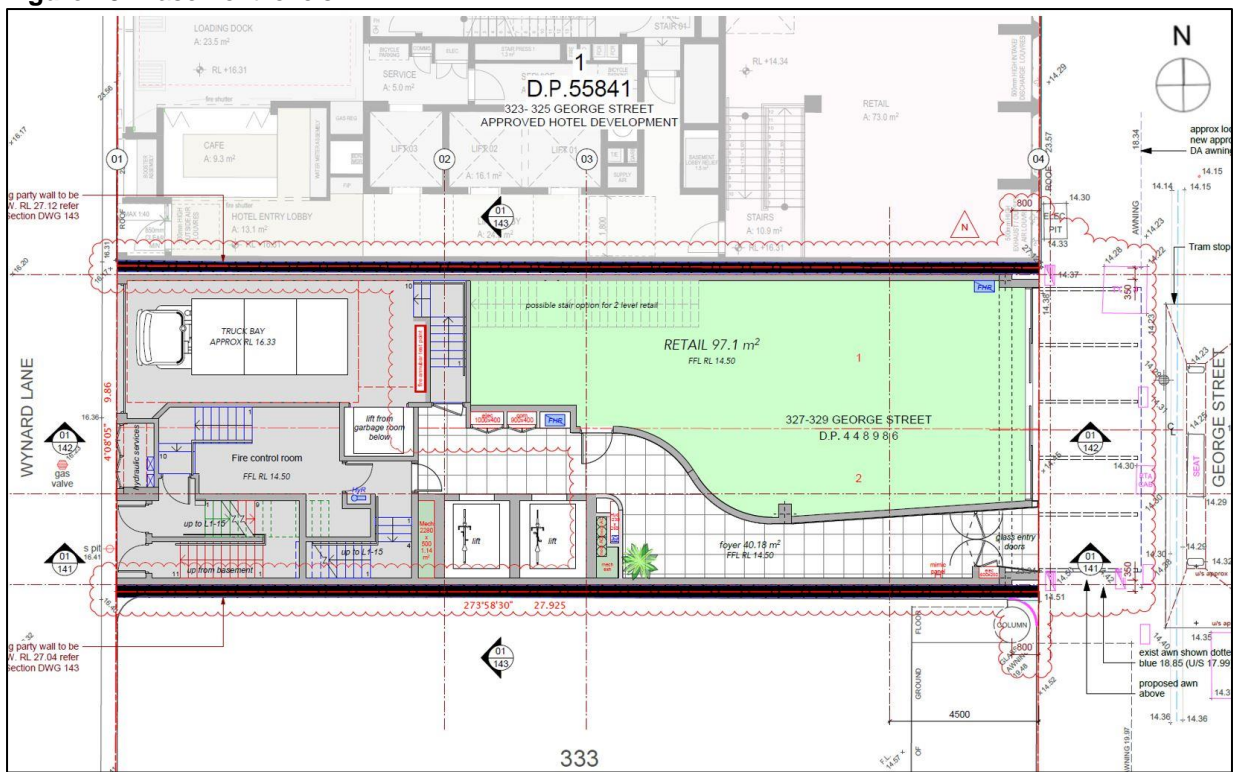


Figure 20: Ground floor plan

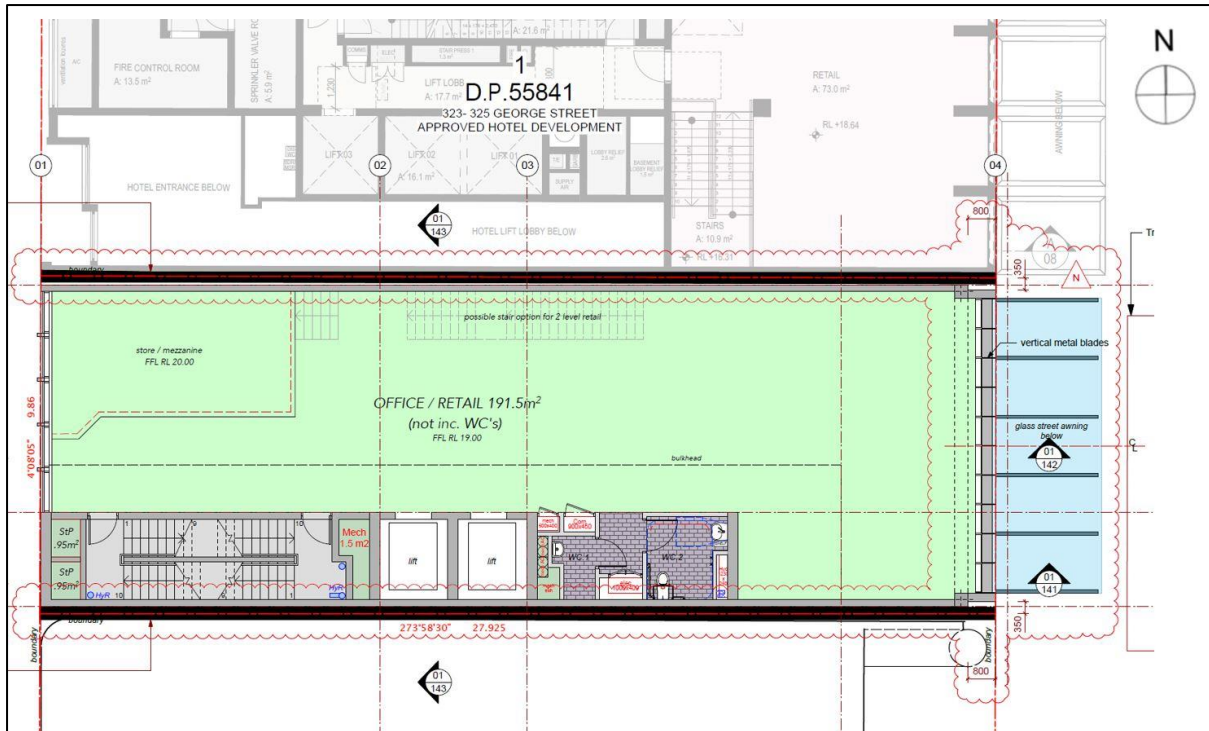


Figure 21: Level 1 floor plan

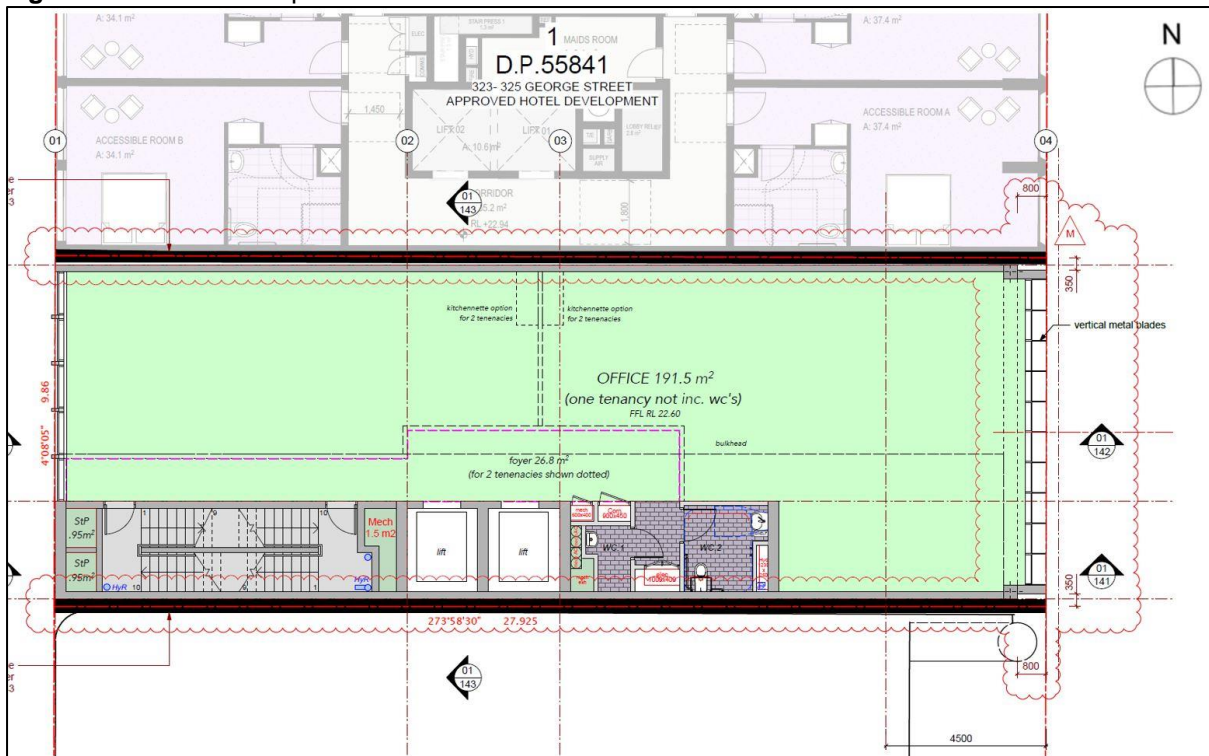


Figure 22: Level 2 floor plan

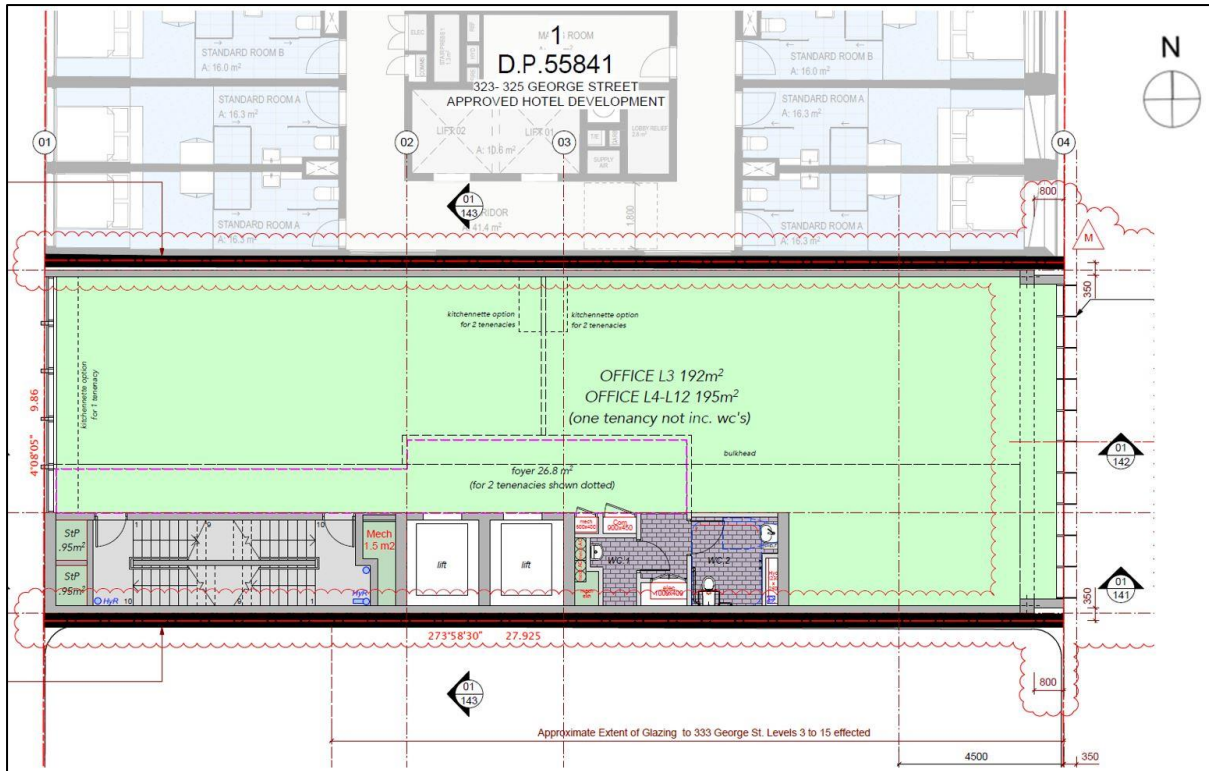


Figure 23: Levels 3-12 typical floor plan

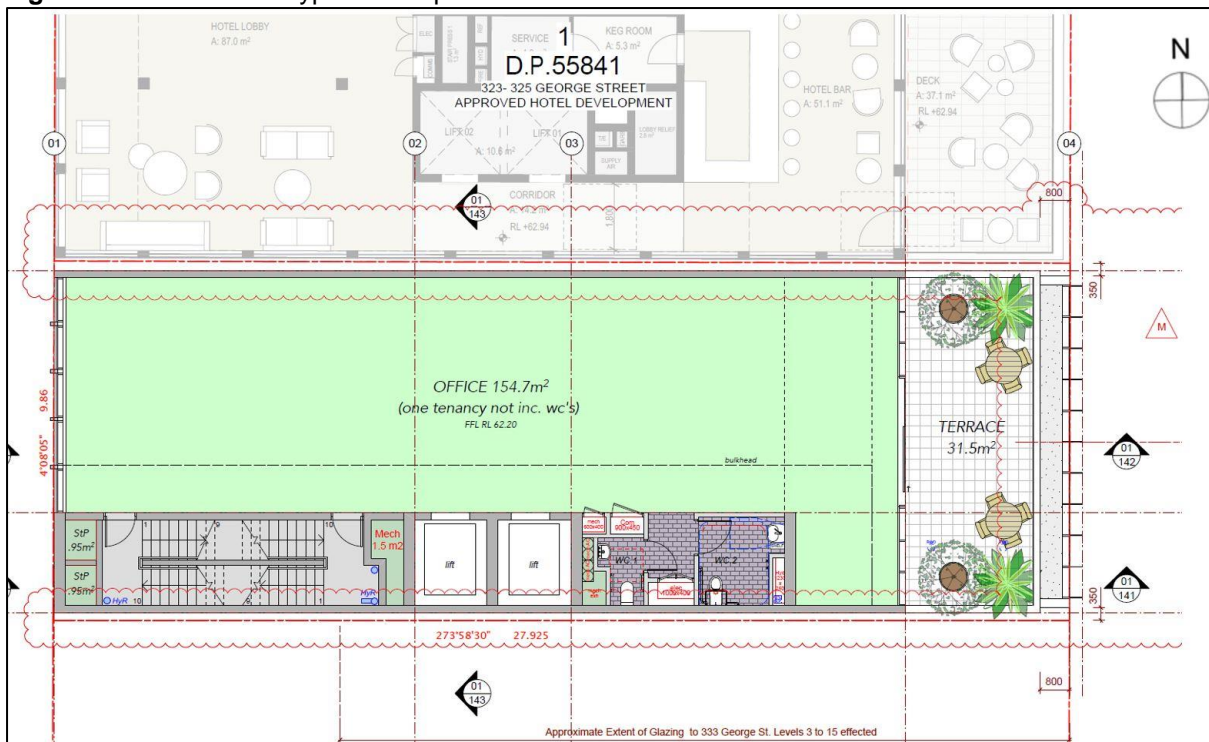


Figure 24: Level 13 floor plan

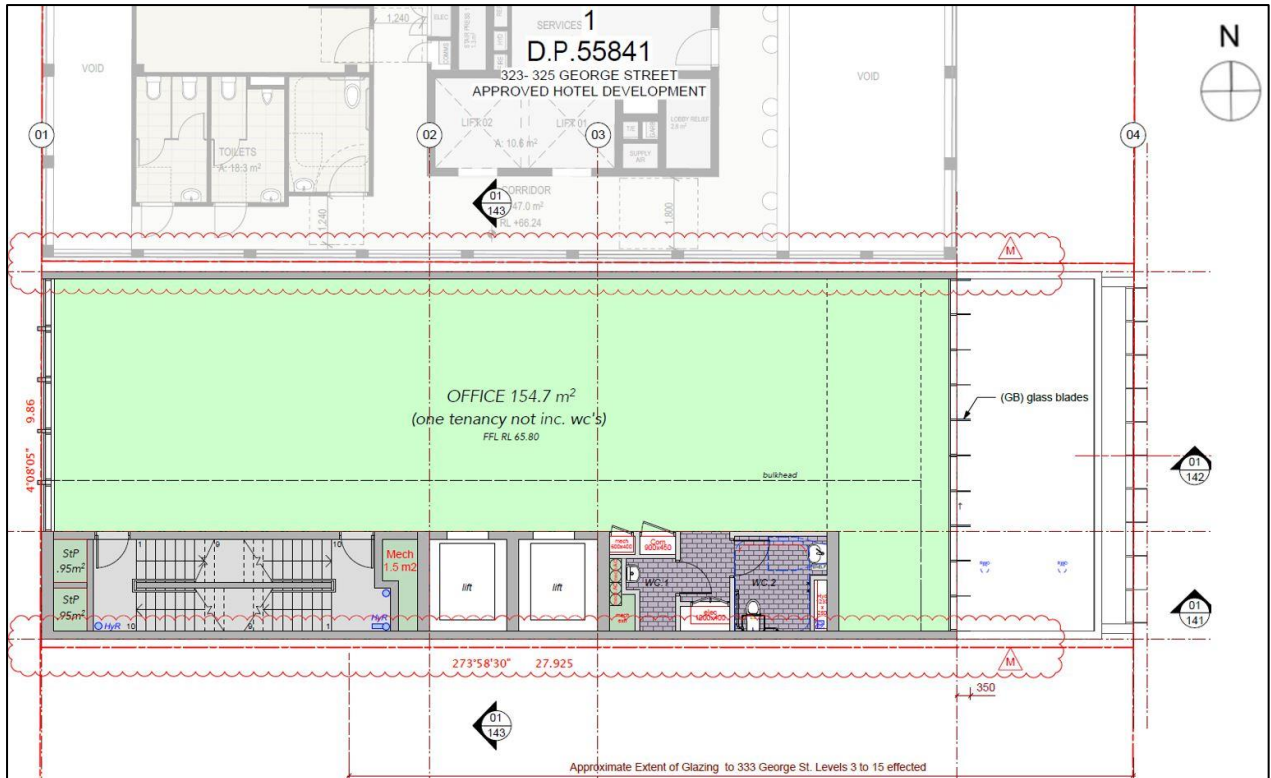


Figure 25: Level 14 floor plan

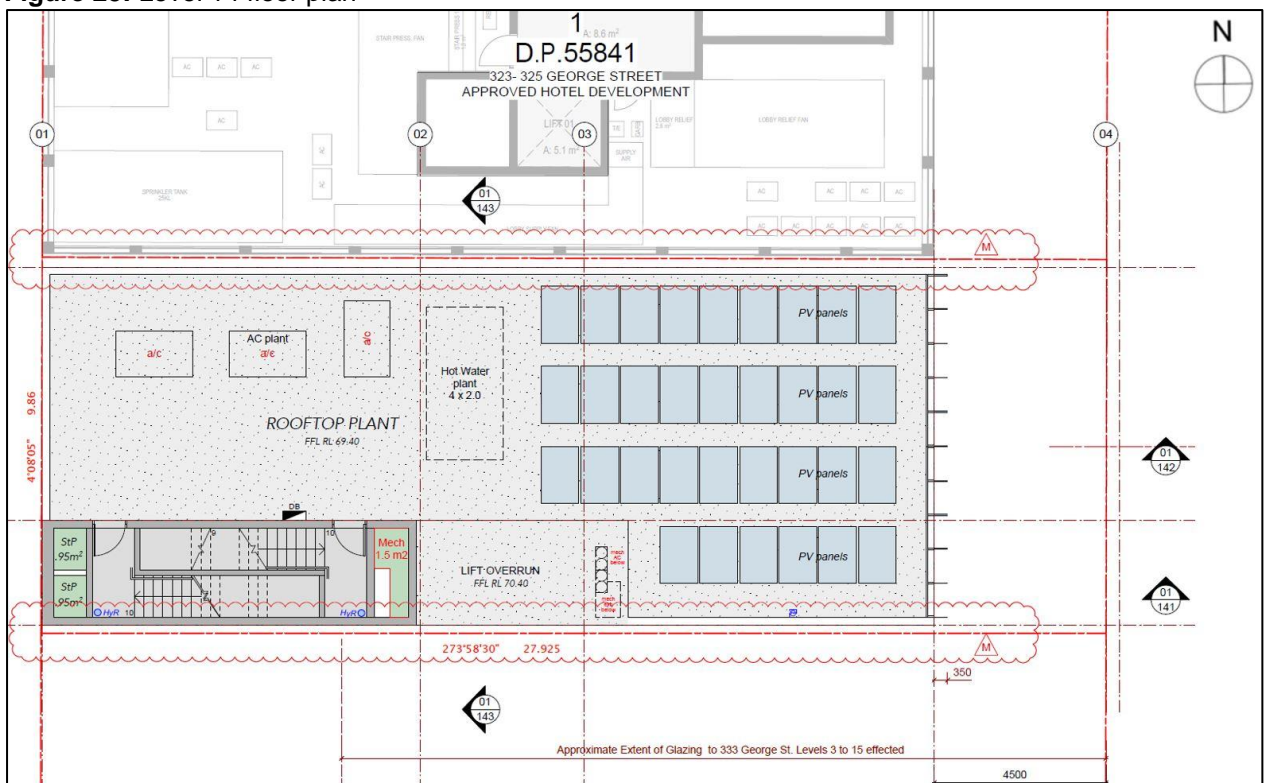


Figure 26: Level 15 roof and plant

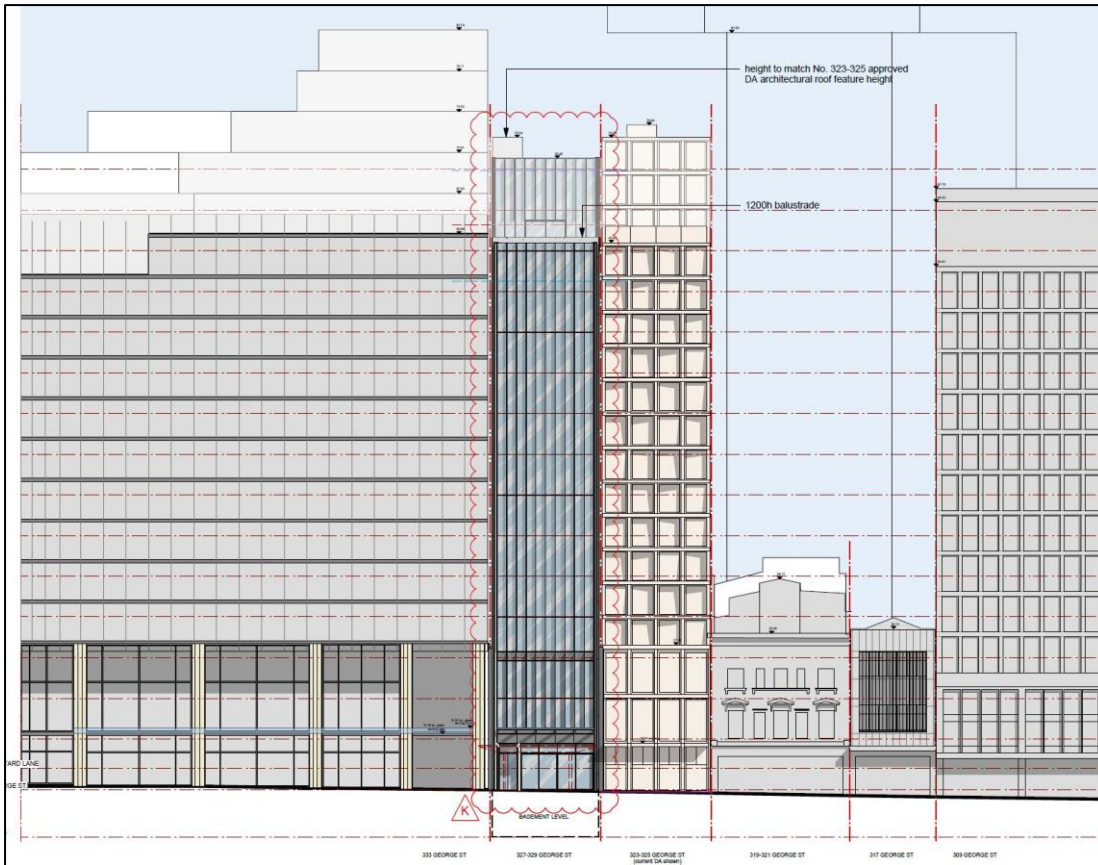


Figure 27: East (George Street) elevation

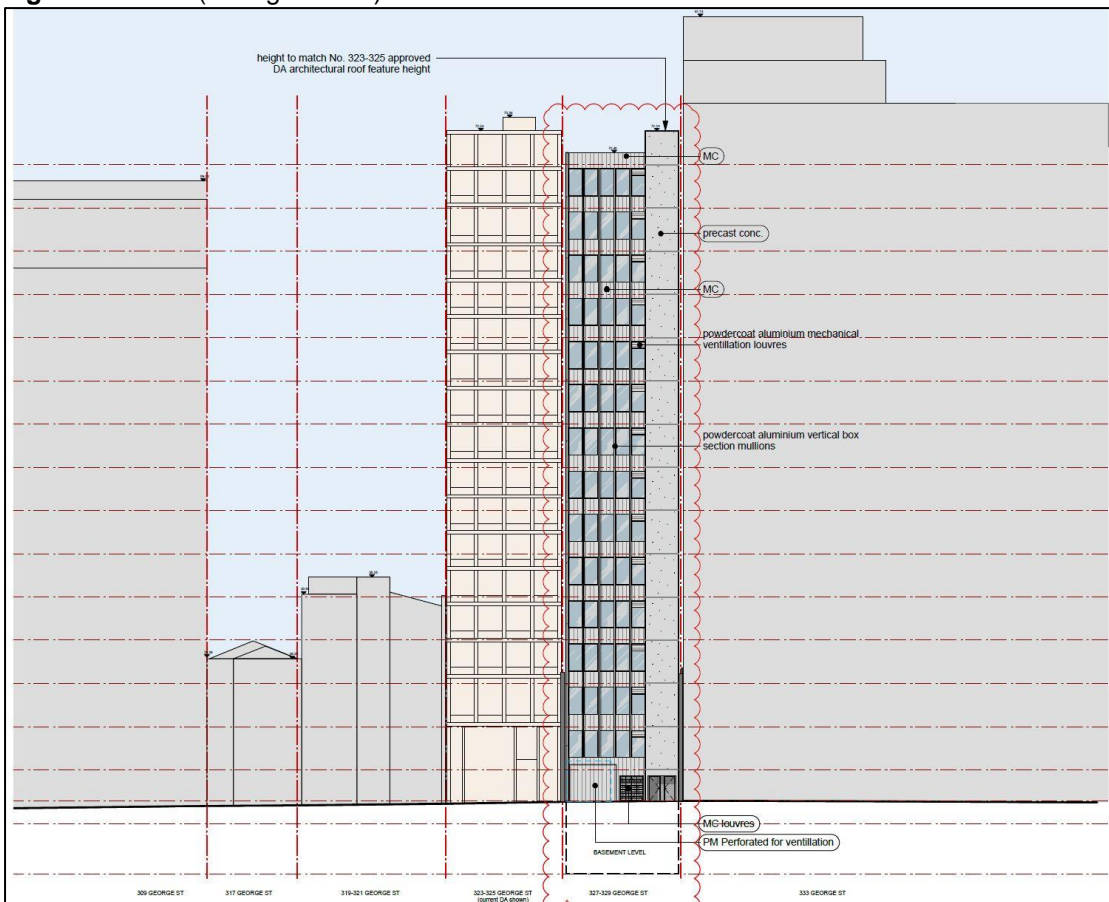


Figure 28: West (Wynyard Lane) elevation

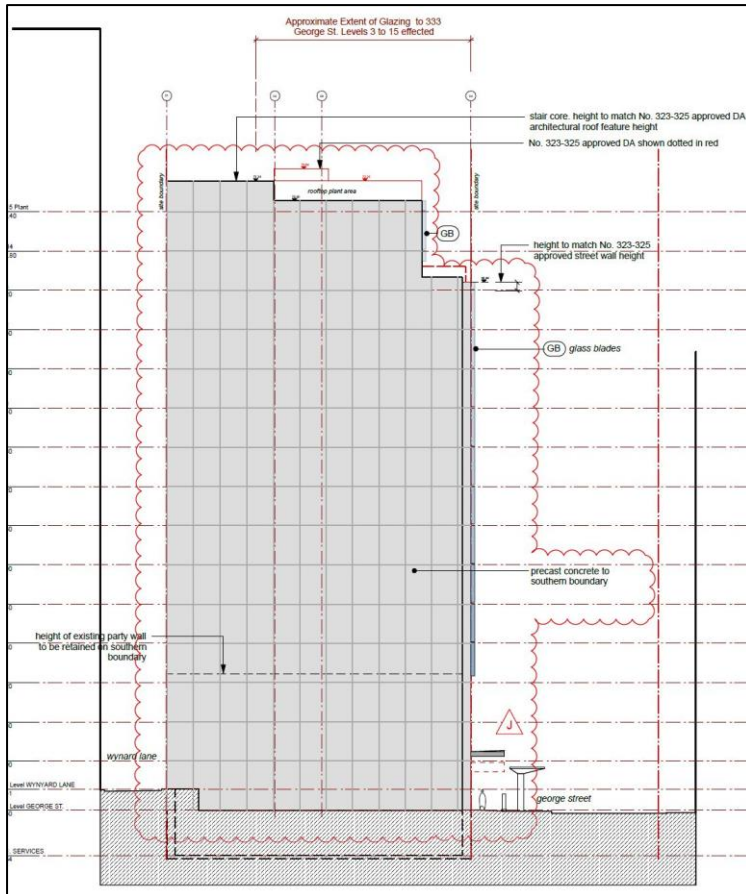


Figure 29: South elevation

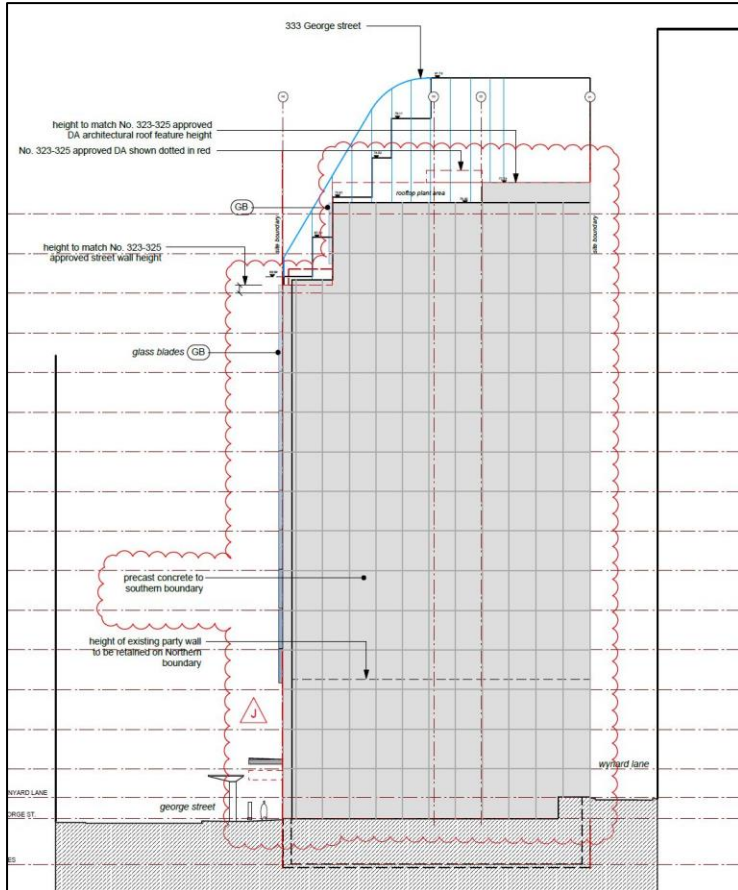


Figure 30: North elevation

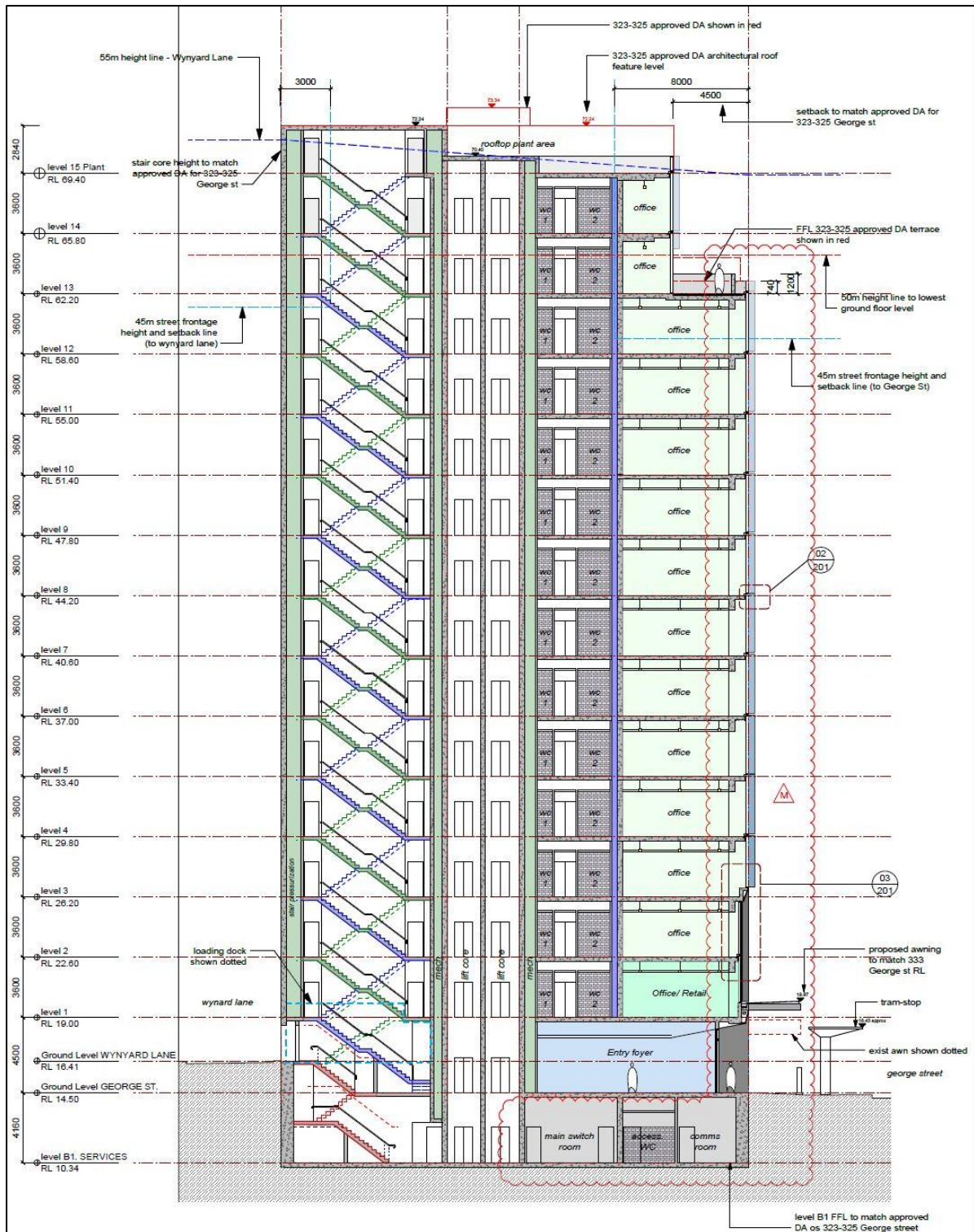


Figure 31: Long section (west-east)

History relevant to the subject development application

16. The development application was lodged on 12 November 2019.
17. The original proposal was presented to the City's Design Advisory Panel (DAP) on 20 February 2020. The key issues discussed by the Design Advisory Panel included:
 - (a) The building's relationship with the adjoining buildings to the north and south including the design of the George Street fenestrations and how the building responds to the curved corner of 333 George Street;
 - (b) The height of the awning should match the footpath awning of 333 George Street;
 - (c) The quality of space on the ground floor was poor;
 - (d) Further information required on the proposed materiality of facade;
 - (e) The glazed facade was acceptable, given the narrow width of the building; and
 - (f) The request to 'waive' the requirement to undertake a competitive design process was supported if all design issues are resolved.
18. The preliminary assessment of the application raised additional matters of concern as follows:
 - (a) Incorrect interpretation of Clause 6.16 'Erection of tall buildings in Central Sydney' in the SLEP 2012 and the associated Clause 4.6 variation request;
 - (b) Demolition of existing party walls on the northern and southern boundaries without the consent of the adjoining owner's consent;
 - (c) Insufficient waste storage area and Waste Management Plan; and
 - (d) Lack of information relating to the management of vehicle access and egress.
19. On 19 March 2020, Council officers requested additional information and amended drawings, in order to address the issues raised above.
20. On 25 May 2020, the applicant submitted additional information and amended drawings which are the subject of this assessment.
21. The amended application does not address all of the matters raised above, however the assessment provided in this report finds that the balance of outstanding issues can be satisfactorily addressed by the recommended conditions in Attachment A.

History of development applications and consents on adjoining properties

323-325 George Street, Sydney

22. Development consent D/2018/922 was granted on 15 April 2019 for the demolition of existing building and construction of a 17 storey mixed use building, including two levels of retail premises to George Street, 13 storeys of hotel use with 99 rooms, and an additional 2 levels for an ancillary hotel bar, including the hotel lobby/reception in addition to a ground floor cafe. Construction has not commenced.

331-339 George Street, Sydney

23. Development consent D/2012/696 was granted a deferred commencement consent on 6 December 2012 for the demolition of existing buildings and construction of a 19 storey commercial building comprising ground level retail, basement parking and building name signage. Construction of the building was completed in 2017.

Economic, social and environmental impacts

24. 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 Development Control Plans

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

25. The provisions of the Infrastructure SEPP have been considered in the assessment of the development application.
26. The application is subject to Clause 86 of the Infrastructure SEPP, as the site is located within 25 metres of the Sydney Light Rail corridor and includes excavation deeper than 2 metres. Accordingly, the application was referred to Transport for NSW (TfNSW) for concurrence.
27. TfNSW granted concurrence, subject to conditions. These conditions are included within the recommended conditions of consent provided at Attachment A to this assessment report.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)

28. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the SREP 2005.
29. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles seek to:
 - (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.
30. 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 2005 are not applicable to the proposed development.
31. The proposal is consistent with the controls contained within the SREP 2005.

Sydney Local Environmental Plan 2012 (SLEP 2012)

32. The site is located within the B8 Metropolitan zone. The proposed use is defined as a 'mixed use development', comprising 'office premises' and 'retail premises', all of which are permissible with development consent in the zone.
33. The relevant matters to be considered under the SLEP 2012 for the proposed development are outlined in the table provided below.

Development Control	Compliance	Comment
<p>4.3 Height of buildings</p> <p>6.17 Sun access plane</p>	Yes	<p>The site is located in Area 3 of the Height of Building Map. The height limit is determined by the Martin Place Sun Access Plane under Clause 6.17 of SLEP 2012, which is approximately 130 metres.</p> <p>A height of 56.58 metres is proposed.</p>
<p>4.4 Floor space ratio (FSR)</p> <p>6.4 Accommodation floor space</p> <p>6.6 End of journey floor space</p>	Yes	<p>An FSR of 8:1 is permitted under Clause 4.4 of the SLEP 2012.</p> <p>The site is located within 'Area 1' and an additional 4.5:1 'accommodation floor space' is permitted under Clause 6.4 of the SLEP 2012 for the proposed uses.</p> <p>The proposal also includes showers, change rooms, lockers and bicycle storage within the one area of the commercial building. These end of journey facilities are 65 square metres in area and, in accordance with Clause 6.6 of the SLEP 2012, the site is also eligible for an additional 0.23:1 'end of journey floor space'.</p> <p>Combining the floor space under the above clauses, a total FSR of 12.73:1 is permitted.</p> <p>The proposed FSR is 10.97:1, equating to 3,011 square metres of gross floor area (GFA). The proposal therefore complies with the maximum permitted FSR.</p>

Development Control	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 6.16(3)(a) 'Erection of tall buildings in Central Sydney' of the SLEP 2012.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p>
5.10 Heritage conservation	Yes	<p>The subject site is not a heritage item and is not located within a heritage conservation area. The site is located in close proximity to the following heritage items:</p> <ul style="list-style-type: none"> • 319-321 George Street (I1767) • 341 George Street, Bank of NSW former head office (I1769) • 350 George Street, Former Equitable Life Assurance building (I1771) • 354-360 George Street, Former Bank of Australasia (I1772) • Angel Place (I1663) • Martin Place (I1889) • Regimental Square (I1768) <p>The proposal is for a contemporary infill commercial building.</p> <p>The proposed bulk, scale, form and materiality of the new building is compatible with the site setting and will not detract from the significance of these nearby heritage items.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
<p>6.11 Utilisation of certain additional floor space requires allocation of heritage floor space</p> <p>6.11A Temporary alternative arrangements in relation to allocation of heritage floor space</p>	Yes, subject to condition	<p>The proposal includes 751.8 square metres of accommodation floor space.</p> <p>In accordance Clause 6.11(1)(a), 375.9 square metres of heritage floor space is to be allocated to the site.</p> <p>A condition of consent is recommended to address this matter.</p>
6.16 Erection of tall buildings in Central Sydney	Partial compliance	Refer to the further discussion and assessment provided under the 'Issues' heading below.
6.19 Overshadowing of certain place	Yes	The proposed development does not result in any additional overshadowing to the specified public spaces under this provision, including Martin Place.
6.21 Design excellence	Yes	<p>Subject to conditions, the proposed development demonstrates a high standard of architectural design, materials and detailing appropriate to the building type and location.</p> <p>In terms of bulk and scale, the proposal responds positively to both the public domain and surrounding land uses. The proposal satisfies the design excellence criteria contained in Clause 6.21(4) of the SLEP 2012</p> <p>Clause 6.21(5) of the SLEP 2012 stipulates that a competitive design process is required to be undertaken for development which is over 55 metres in height, and which is located in Central Sydney.</p> <p>A competitive design process has not been carried out for the proposal.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p>

Part 7 Local Provisions - General	Compliance	Comment
<p>Car parking ancillary to other development</p> <p>7.6 Office premises</p> <p>7.7 Retail premises</p>	Yes	<p>A maximum of 6 car parking spaces are permitted.</p> <p>No car parking spaces are proposed.</p> <p>The proposal includes one loading dock for service vehicles only.</p>
7.14 Acid sulfate soils (ASS)	Yes	<p>The site is identified as containing class 5 ASS and is located within 500 metres of land identified as containing Class 1 and 2 ASS.</p> <p>The geotechnical report submitted with the application concludes that the development is unlikely to lower the water table.</p> <p>Accordingly an ASS Management Plan is not required, and the development satisfies this provision.</p>
7.15 Flood planning	Yes, subject to condition	<p>The floor level of the building fronting Wynyard Lane does not comply with the required minimum flood planning level.</p> <p>A condition is recommended to address this issue.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>While the proposal includes demolition of the existing building, the proposal also includes construction of a new building under the same application.</p> <p>Council planning staff are therefore satisfied that the site will be comprehensively redeveloped under the consent.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.20 Development requiring the preparation of a development control plan	No, but assessed as acceptable	<p>Clause 7.20(2) of the SLEP 2012 requires the preparation of a site specific DCP (or concept development consent) for development which is over 55 metres in height and located in Central Sydney. The site and proposed development is not subject to a site specific DCP or concept development consent.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p>

Sydney Development Control Plan 2012 (SDCP 2012)

34. The relevant matters to be considered under the SDCP 2012 for the proposed development are outlined in the table provided below.

2. Locality Statements
The subject site is not located within an area subject to a Locality Statement under Section 2 of the SDCP 2012.

3. General Provisions	Compliance	Comment
<p>3.1 Public domain elements</p> <p>3.1.1.3 Lanes</p>	Yes	<p>The proposal improves the useability of Wynyard Lane by allowing all servicing and waste collection to occur within the subject site, given that deliveries and waste collection currently occur from the kerb.</p> <p>Management of service vehicles to avoid any conflict with pedestrians is discussed under the Transport and parking heading below.</p>

3. General Provisions	Compliance	Comment
3.1.5 Public art	Yes	<p>A Public Art Strategy has been submitted in accordance with the City of Sydney Guidelines for Public Art in Private Development.</p> <p>Indicative locations for the public artwork include:</p> <ul style="list-style-type: none"> • The glass fins on the George Street facade; • The blank fire stairs concrete wall fronting Wynyard Lane; and • The sandstone pillar and internal foyer wall facing George Street. <p>A condition of consent is recommended which requires the provision of a detailed public art plan to be submitted and approved by the City, which will determine the final location and type of artwork</p>
3.2 Defining the public domain 3.2.1 Improving the public domain	Yes	The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and considering public views.
3.2.3 Active frontages	Yes	<p>The proposed development provides an active frontage to George Street.</p> <p>The ground floor frontage to George Street contains a retail tenancy with clear glazing to provide an unobstructed views to a minimum of at least 6 metres within the building.</p> <p>Wynyard Lane is not designated to provide an 'active frontage' under Section 3.2.3 of the SDCP 2012.</p>
3.2.4 Footpath awnings	Partial compliance	The SDCP 2012 specifies that the height of an awning may vary between 3.2 metres and 4.2 metres above the footpath, must ensure continuity in appearance with adjacent awnings and that fully glazed awnings are generally not acceptable.

3. General Provisions	Compliance	Comment
		<p>A metal light rail shelter is located directly in front of the site, which is approximately 4 metres in height and 3.3 metres wide.</p> <p>The existing glazed awning at 333 George Street is approximately 4.9 metres in height above the footpath.</p> <p>A suitable height of the proposed awning was discussed with DAP and an awning to match the height of the awning at 333 George Street is recommended to provide continuity.</p> <p>In addition, by siting the awning 900 millimetres above the light rail shelter rather than at the same height (which would result in essentially a 7 metre deep awning), it provides visual relief and additional natural light to pedestrians and within the ground floor retail tenancy.</p> <p>The glazed awning was supported by the DAP, which is consistent with 333 George Street and not out of character with the area which contains a mixture of solid and glass awnings, particularly to the north of the site.</p> <p>The non-compliances have merit in this particular case and are supported.</p> <p>The proposed awning is approximately 3.4 metres wide which complies with SDCP 2012.</p>
3.3.1 Competitive design process	No, but assessed as acceptable	<p>The proposal seeks to 'waive' the requirement to undertake a competitive design process.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p>

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development (ESD)	Yes	<p>The application has been accompanied by an ESD report which identifies a range of sustainability measures to be incorporated in the development, including a minimum NABERS Energy Rating of 5.5 stars, water reduction through WELS 4-6 star fixtures and a photovoltaic solar panel array on the roof of the new building.</p> <p>A number of conditions are recommended to ensure these measures are implemented.</p>
3.7 Water and flood management	Yes, subject to condition	<p>The site is identified as being on flood prone land.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p>
3.9 Heritage	Yes	Refer to the discussion and assessment provided above in the SLEP 2012 compliance table.
<p>3.11 Transport and parking</p> <p>3.11.3 Bike parking and associated facilities</p>	Yes	<p>The proposal does not include any car parking.</p> <p>The proposal includes 32 bike parking spaces, consisting of 20 class 1 spaces for employees, and 12 class 3 racks for visitors.</p> <p>End of trip facilities, including 7 cubicles containing showers, toilets, basins, change areas and 36 lockers, are also provided.</p> <p>The bike parking and end of trip facilities are all located together in the one area of the basement and can be accessed via lifts and identified by wayfinding signage.</p> <p>The proposed bike parking and end of trip facility therefore comply with the minimum requirements of Section 3.11.3 of the SDCP 2012.</p>

3. General Provisions	Compliance	Comment
<p>3.11.6 Service vehicle parking</p> <p>3.11.13 Design and location of waste collection points and loading areas</p>	<p>Partial compliance</p>	<p>The proposal includes one loading dock / service vehicle space accessed from Wynyard Lane, which is a one-way southbound service laneway, predominantly used by service / delivery vehicles with minimal pedestrian activity.</p> <p>The SDCP 2012 requires one service vehicle space per 3,300 square metres of commercial GFA. The proposed GFA is 3,011 square metres and one service vehicle space is proposed, which complies.</p> <p>The loading dock is also proposed to be used by waste collection vehicles. While the SDCP 2012 requires waste collection vehicles to enter and exit the site in a forward location, this is not possible for the subject site as it is only 9.8 metres wide.</p> <p>A Traffic Report was submitted with the application which includes a swept path assessment for the largest anticipated vehicle requiring access to the site, being a Small Rigid Vehicle (SRV).</p> <p>The assessment indicates that the vehicle is restricted to a reverse in manoeuvre.</p> <p>Due to physical constraints the following measures are proposed to minimise potential conflicts between service vehicles and pedestrians using Wynyard Lane:</p> <ul style="list-style-type: none"> • Safety measures including convex mirrors on either side of the proposed driveway and flashing lights and audible warning system which will activate when vehicles are reversing in; • Implementation of a booking system for all delivery and service vehicles to prevent potential queuing or circulation of service vehicles on the road network prior to accessing the loading dock; and

3. General Provisions	Compliance	Comment
		<ul style="list-style-type: none"> The building management to adopt a group procurement solution to reduce the likelihood of multiple suppliers providing identical products or services via numerous orders. <p>The application and proposed management of the loading dock has been reviewed by the City's Transport and Access Unit who support the proposal, subject to the recommended conditions in Attachment A.</p> <p>These conditions include requirements for the submission and approval of a Loading Dock Management Plan and appropriate management of the loading dock during its operation.</p>
3.12 Accessible design	Yes	<p>An Accessibility Report, which details the design is capable of complying with accessibility requirements under the Building Code of Australia, the Disability Discrimination Act and Section 3.12 of the SDCP 2012.</p> <p>A condition is recommended to ensure that this matter is further resolved at the Construction Certificate stage.</p>
3.13 Social and environmental responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with Crime Prevention Through Environmental Design (CPTED) principles. The development will improve passive surveillance of Wynyard Lane from the site via the provision of windows on level 1 and above.</p>
3.14 Waste	Yes, subject to condition	<p>The proposal includes areas for waste storage in accordance with the provisions of the City of Sydney Guidelines for Waste Management in New Development. The submitted Operational Waste Management Plan (WMP) has been reviewed by the City's Waste Management Team and is acceptable.</p>

3. General Provisions	Compliance	Comment
		<p>The submitted demolition and construction waste management is insufficient and the construction and demolition waste calculations do not add up to 80% diversion for each waste type, as required by the relevant provisions in Section 3.14.2 of SDCP 2012. The Demolition and Construction WMP must therefore be revised to accurately reflect a minimum of 80% diversion on each type of waste material that will be generated during construction and demolition.</p> <p>A condition of consent is recommended requiring the provision of a revised Demolition and Construction WMP to be submitted to address the issues raised above.</p>
<p>3.16 Signage and Advertising</p> <p>3.16.1 Signage strategy</p>	Yes	<p>No signage is proposed.</p> <p>Conditions are recommended to require a signage strategy to be submitted for approval and any future signage to be the subject of a separate application.</p>

4. Development Types	Compliance	Comment
<p>4.2 Residential flat, commercial and mixed use developments</p> <p>4.2.1.2 Floor to ceiling heights and floor to floor heights</p>	Partial compliance	<p>The SDCP 2012 requires a minimum floor to floor height of 4.5 metres on the first basement floor to enable conversion to future retail uses.</p> <p>The proposed basement floor to floor height is approximately 4.1 metres. The floor space of the proposed basement is completely occupied by the required bike parking, end of trip facilities and the building's essential services including switch room, fire hydrant pump room.</p>

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		<p>It is therefore unlikely/undesirable that the basement be converted to retail use in the future. The minor numerical non-compliance to the required 4.5 metres floor to floor level control is acceptable in this particular instance.</p> <p>The proposed development contains a floor to floor level of 4.5 metres for the first floor level and 3.5 metres for the levels above, in accordance with the SDCP 2012.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposed building is approximately 9.8 metres wide and complies with this provision.
4.2.6 Waste and Recycling Management	Yes, subject to condition	Refer to the discussion and assessment provided in relation to waste management and Section 3.14 of the SDCP 2012 in the table above.
4.2.7 Heating and Cooling Infrastructure	Yes	The proposed heating and cooling infrastructure is consolidated and located in centralised locations throughout the development, in order to ensure energy efficiency is achieved and to accommodate future environmental technologies.

5. Specific Areas - Central Sydney	Compliance	Comment
5.1.1 Street frontage heights 5.1.2 Building setbacks	Partial compliance	Refer to the further discussion and assessment provided under the 'Issues' heading below.
5.1.5 Building bulk 5.1.5.1 Commercial buildings		The maximum horizontal dimension of the building facade does not exceed 65 metres in accordance with this provision.

5. Specific Areas - Central Sydney	Compliance	Comment
5.1.6 Building exteriors	Yes	<p>The first three levels of the George Street facade contain metal clad fascia and vertical metal blades.</p> <p>This facade treatment provides solidity to the lower levels of the building and is appropriate in the context of being an infill building between the existing contemporary building at 333 George Street and the approved building at 323-325 George Street.</p> <p>The proposed materiality of the building is appropriate for the character of the area and respects the predominant masonry character of Central Sydney.</p>

Issues

Street frontage height, front and rear setbacks

35. Section 5.1.1 of the SDCP 2012 requires the street frontage height of a new building to be between 20 metres and 45 metres above ground level with the specific height set with regard to:
- (a) The predominant street frontage height of adjacent buildings and buildings in the vicinity;
 - (b) The location of the site in the street block, for example, corner sites can include special design emphasis such as increased street frontage height of one or two storeys; and
 - (c) The size of the site, for example small sites, less than 1,000 square metres in size, may attain a street a street frontage height of 45 metres regardless of the above criteria.
36. Section 5.1.2.1 of the SDCP 2012 requires buildings to be setback a minimum weighted average of 8 metres above the required the street frontage height.
37. Section 5.1.2.2 of the SDCP 2012 requires the building to be set back 3 metres above a height of 45 metres from Wynyard Lane.
38. The proposed development has a street frontage height of approximately 48 metres and from this street frontage height the building is setback 4.5 metres from George Street. No setback is proposed from Wynyard Lane.
39. Accordingly, the proposed development does not comply with the street frontage height, front and rear setback numerical requirements.

- 40. The proposed street frontage height, front and rear setbacks of the building do however respond to that of the existing adjoining building to the south at 331-339 George Street and to the recently approved development on the adjoining site to the north at 323-325 George Street.
- 41. The images provided in Figures 32 to 35 below depict the proposed building's relationship to the street frontage height and setbacks of the adjoining buildings.

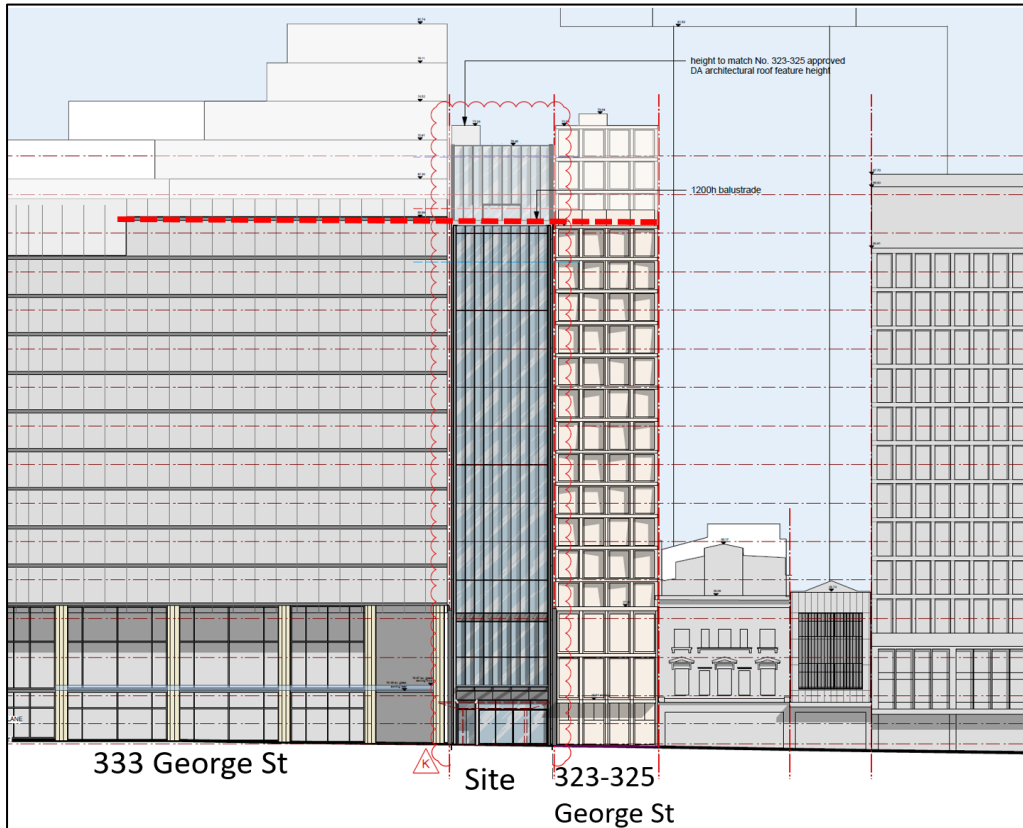


Figure 32: George Street elevation with dotted red line indicating approximate street frontage height

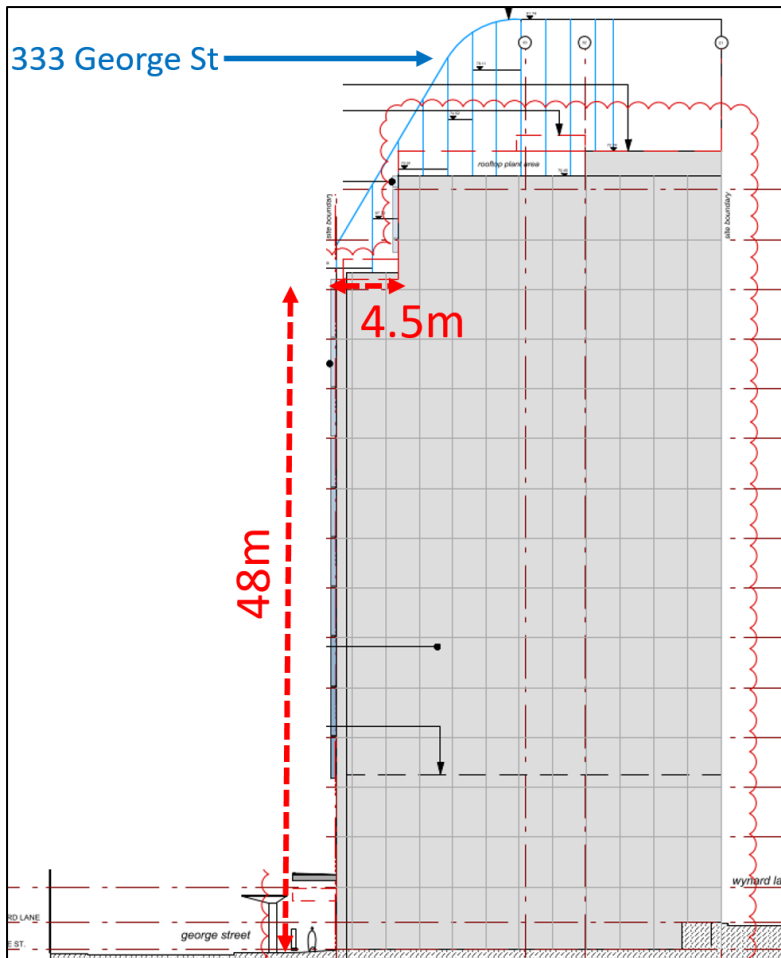


Figure 33: Proposed north (side) elevation with the street frontage height and setback indicated in red. The street frontage height and curved/tapered front setback of 333 George Street in shown in blue.

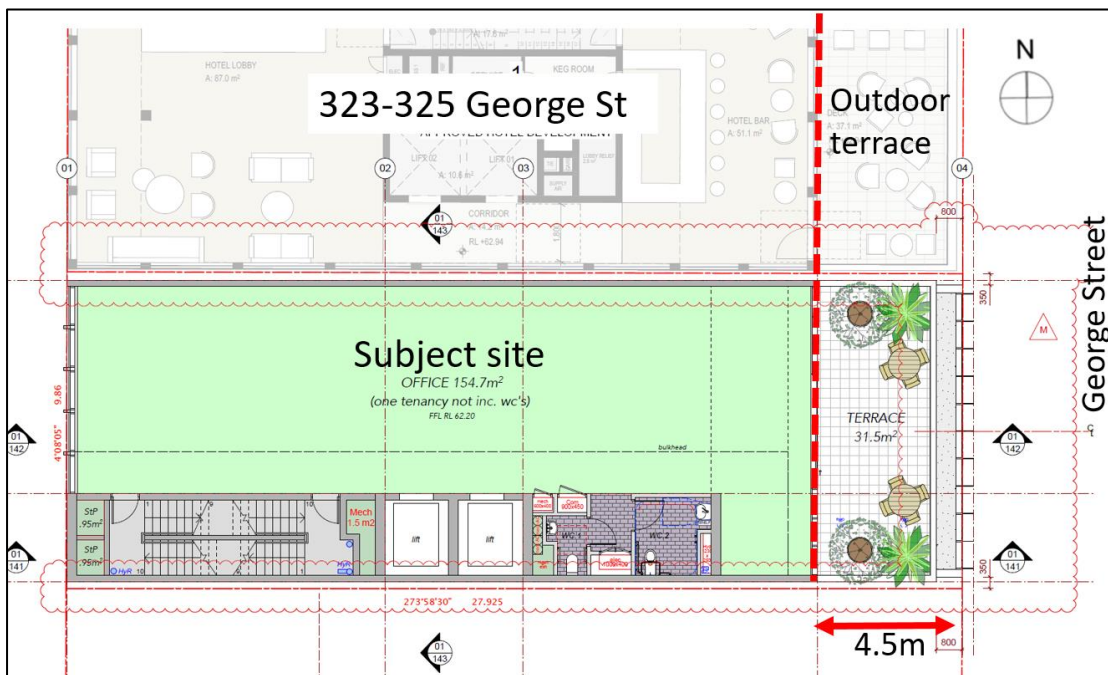


Figure 34: Level 13 floor plan of the proposed development and the approved hotel development of

323-325 George Street. This level is where the front street setback of 4.5 metres commences for both developments as indicated in red.



Figure 35: Renders of the proposal highlighting how the development is a contextual fit with the setbacks of the adjoining developments

42. As shown in the images provided above, the proposed street frontage height and front and rear setbacks are generally consistent with the adjoining developments.
43. The proposal will not have a negative impact on solar access to the public domain, particularly with regard to Martin Place, where no additional overshadowing will occur from the proposed development.

44. The proposal will not have significantly adverse impacts in regards to views from the public domain, wind and pedestrian amenity. Adequate daylight amenity to the public domain will be retained as the proposal is approximately 73 metres below the maximum height control for the site.
45. The buildings directly on the opposite side of Wynyard Lane are commercial buildings and are unlikely to be adversely impacted by the proposed nil setback from the Lane.
46. Given the points outlined above, the proposal demonstrates consistency with the relevant objectives of Sections 5.1.1 and 5.1.2 of the SDCP 2012 relating to street frontage heights and building setbacks, including:
 - *Achieve comfortable street environments for pedestrians with adequate daylight, scale, sense of enclosure and wind mitigation.*
 - *Encourage flexibility in building design and reinforce the character of Central Sydney and ensure built form is compatible with heritage items and the desired streetscape character.*
 - *Enhance amenity in terms of daylight, outlook, view sharing, ventilation, wind mitigation and privacy in residential and serviced apartments.*
 - *Enhance the quality of the public domain in terms of wind mitigation and daylight access.*
47. Overall the proposed non-compliances are supported in this particular case, as the proposal achieves the objectives of the SDCP 2012, does not result in any significantly adverse impacts to the public domain or surrounding properties, and presents a better contextual fit with the streetscape, compared to a strictly numerically compliant scheme.

Side setbacks / side windows on adjoining developments

48. The proposed development does not contain any windows on the north and south side elevations and no side setbacks are proposed. This complies with the relevant provisions in Section 5.1.2.2 of SDCP 2012.
49. The adjoining building to the south at 331-339 George Street is built to the shared side boundary and has extensive glazing along the building's northern facade, as depicted in the image provided in Figure 36 below.



Figure 36: View of the glazed northern side wall of 333 George Street as viewed from George Street

50. A condition is included in development consent D/2012/696 for 331-339 George Street required a covenant in Council's favour to be placed on the title of that land. It informs any future owner or lessee of any area adjoining the northern wall or windows of the subject building of the possibility that a new building could at any time be erected on the land adjoining to the north, diminishing views and available light. It also requires an external wall-wetting system to achieve compliance with the fire safety provisions of the Building Code of Australia.
51. Having regard to the visibility of the development's proposed southern boundary wall through the northern glazed wall of 333 George Street, the applicant proposes a pre-cast concrete panel cladding system spanning between the cast in site columns with a high quality natural finish. This is an appropriate material and finish to abut the glazed wall of the building at 331-339 George Street.
52. The approved development to the north at 323-325 George Street (not yet constructed) also has windows on the side boundary. These are however secondary windows and a similar condition is included in development consent D/2018/922, which requires a covenant in Council's favour, to require that these windows to be sealed, bricked up or otherwise enclosed prior to the construction of the proposed development.
53. In light of these points, the proposed nil side setbacks of the building are acceptable.

Relationship with curved corner of 333 George Street

54. The form of the building known as 333 George Street is characterised by rounded edges/corners, including at the corner of George Street and the subject site's southern side boundary.

55. The originally submitted proposal had a blade wall along the full length of the southern boundary up to level 12, which obscured the rounded corner of 333 George Street. This issue was raised as a concern during the preliminary assessment.
56. In response to this issue, the applicant amended the proposal by providing a 350 millimetre side setback at the George Street frontage for a depth of 800 millimetres (as measured from the front boundary).
57. This is to allow the curved corner of 333 George Street to remain partially exposed and legible. While this is supported, the drawings indicate that the existing party wall protrudes to the front property boundary, as shown in the image depicted in Figure 37 below.

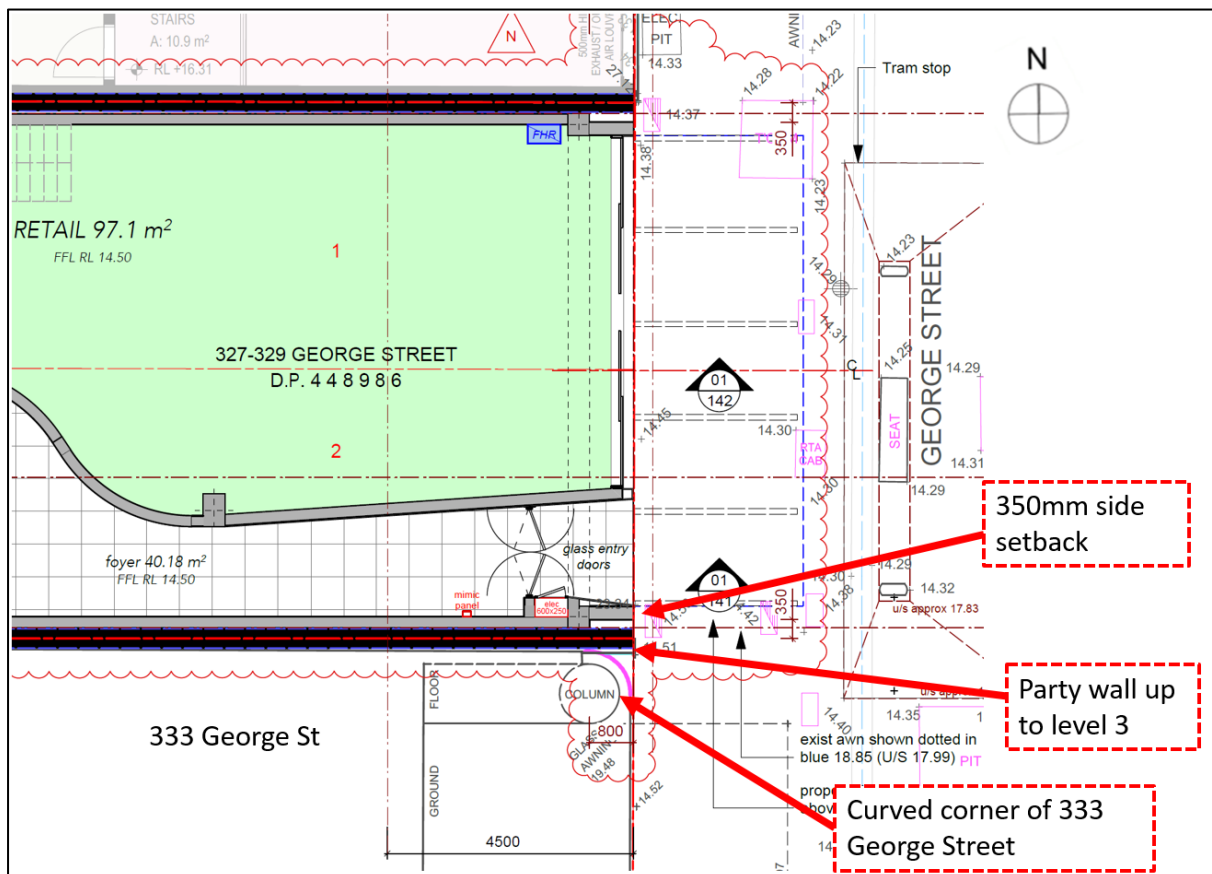


Figure 37: Proposed ground floor plan

58. As seen above, the extent of the party wall (as drawn on the plans) defeats the purpose of providing a 350 millimetre setback in order to see the curved corner.
59. A site inspection revealed however that the existing party wall, or the part of the party wall located at 331-339 George Street, is setback from George Street alignment, as shown in the images depicted in Figures 38 and 39 below.

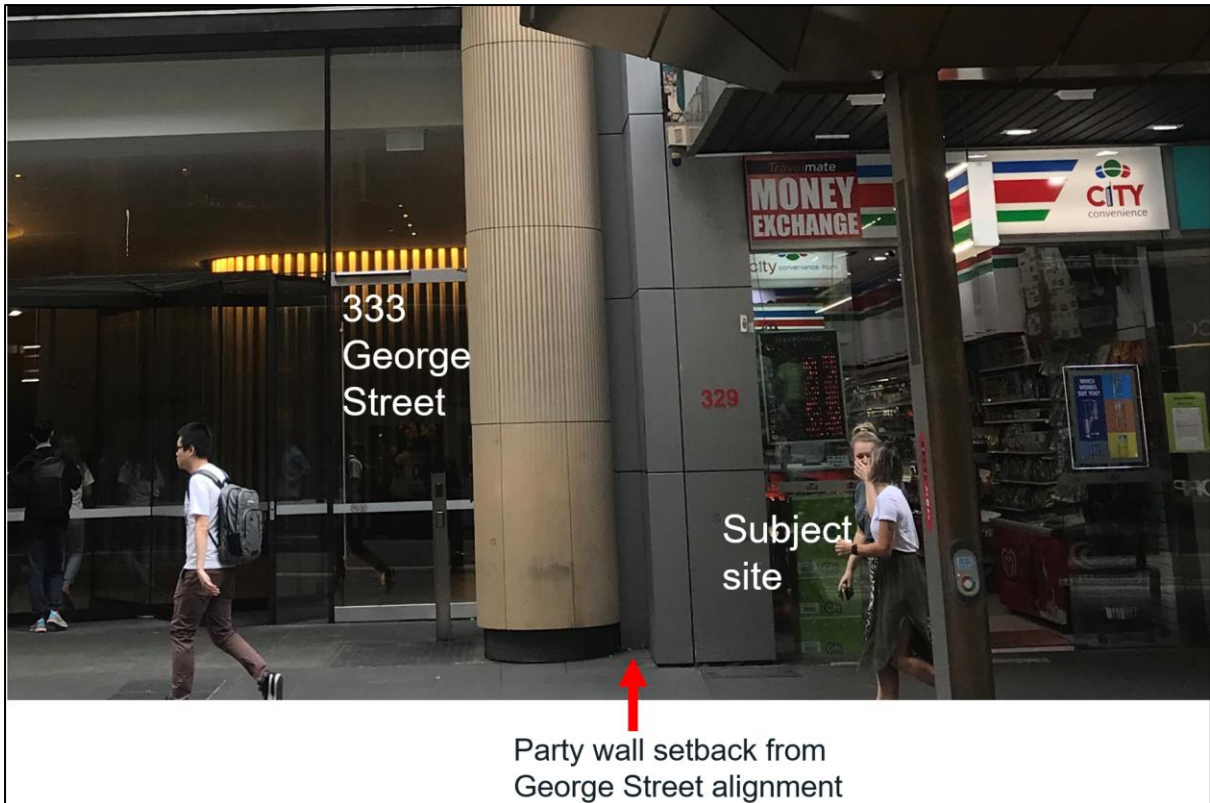


Figure 38: View of existing party wall from George Street



Figure 39: View of existing party wall from George Street, with top of party wall indicated

60. A condition of consent is recommended requiring the drawings to be amended to show the existing party wall setback from the George Street boundary. Subject to this condition, the proposal will allow the curved corner to remain partially exposed and visible from the public domain and is therefore acceptable.
61. It is noted that during the assessment it was recommended to the applicant that owner's consent be obtained from the adjoining landowners to demolish the entire party wall. According to the applicant, the adjoining landowner has decided not to grant such consent at this time.
62. The existing building at 331-339 George Street and the proposed building on the subject site do not rely on the existing party wall for structural support. Essentially the party wall will remain in situ and redundant.
63. Should the adjoining landowner decide to grant consent to demolition of the party wall in the future, the proposal could be amended through a future Section 4.55 modification application.

Site specific development control plan and competitive design process

64. The proposed development has a maximum height of 56.58 metres. As the proposed building is over 55 metres in height and is located within Central Sydney, the proposal triggers requirements for a site specific development control plan and competitive design process, under the provisions of Clauses 7.20(2)(a) and 6.21(5) (a) and (c) of the SLEP 2012, respectively.
65. Clause 7.20(4) of SLEP 2012 sets out matters must be addressed in a site specific development control plan. The proposal satisfies the criteria in Clause 7.20(4) as detailed below:

- (a) *requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain*

The proposed form and external appearance of the new building will provide a positive contribution to the public domain. It is appropriate to its context and is compatible with the existing development to the south and the approved development to the north. The proposal will also improve activation of George Street and provide adequate weather protection for pedestrians.

- (b) *requirements to minimise the detrimental impact of proposed development on view corridors*

The proposed development is located approximately 73 metres below the potential maximum height control and the siting, massing and setbacks of this building are contained within the extent of the bulk of the adjoining building to the south at 331-339 George Street, and the approved development to the north at 323-325 George Street. Overall the proposal will not result in any significantly detrimental impacts on view corridors.

- (c) *how proposed development addresses the following matters—*

- (i) *the suitability of the land for development,*
- (ii) *the existing and proposed uses and use mix,*
- (iii) *any heritage issues and streetscape constraints,*

- (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
- (v) *the bulk, massing and modulation of buildings,*
- (vi) *street frontage heights,*
- (vii) *environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,*
- (viii) *the achievement of the principles of ecologically sustainable development,*
- (ix) *the impact on, and any proposed improvements to, the public domain,*
- (x) *the impact on any special character area,*
- (xi) *achieving appropriate interface at ground level between the building and the public domain,*
- (xii) *the excellence and integration of landscape design,*
- (xiii) *the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.*

The proposal addresses the above matters in the following manner:

- It comprises retail and office premises is permissible within the B8 Metropolitan Centre. The proposed use will replace an existing retail and office premises with a higher density mixed use development, which is consistent with the objectives of the land use zone by providing employment generating uses;
- The proposed bulk, scale and massing, including street frontage heights responds to the adjoining developments and is consistent with the character of the streetscape;
- Subject to conditions, it will not have adverse environmental impacts by way of overshadowing, visual and acoustic privacy, noise, wind and reflectively;
- It is accompanied by an ESD report which identifies a range of sustainability measures to be incorporated in the development including a minimum NABERS Energy Rating of 5.5 stars, water reduction through WELS 4-6 star fixtures and photovoltaic solar panels;
- The proposed bulk, mass, scale and materiality is sympathetic to nearby heritage items and the Martin Place Special Character Area located to the south and within the site's visual catchment;
- It will provide a positive contribution to the public domain and will provide an active frontage to George Street;

- On-site loading will improve amenity to Wynyard Lane, as servicing of the existing building currently occurs from the Lane. In addition, it will provide passive surveillance of the lane through the provision of windows on the west (rear) elevation;
 - Due to the small size of the site, there are limited opportunities for landscaping. Notwithstanding this, the outdoor terrace located on level 13 is proposed to be provided with some plantings; and
 - The Public Art Strategy submitted with the application indicates locations for the public artwork including the glass fins on the George Street facade, the blank concrete wall fronting Wynyard Lane, and the sandstone pillar and internal foyer wall facing George Street. A condition of consent is recommended requiring the provision of a detailed public art plan to be submitted to determine the final location and type of artwork.
66. Clause 6.21(4) of SLEP 2012 sets out the matters which are required to be addressed for a development to be considered to exhibit design excellence, which are consistent with the matters set out in Clause 7.20(4) of SLEP 2012.
67. The proposed development satisfies the design excellence criteria as detailed above and in the SLEP 2012 compliance table, subject to the recommended condition requiring the party wall to be depicted in accordance with the existing conditions..
68. The proposal complies with the applicable height and FSR development standards, and does not seek the award of the up to 10% additional height or FSR available under the City's design excellence provisions.
69. The part of the building which is located above 55 metres is limited to the fire stairs and parapet as shown in Figure 40 below. As depicted, the extent of the exceedance is very minor and does not comprise any gross floor area.

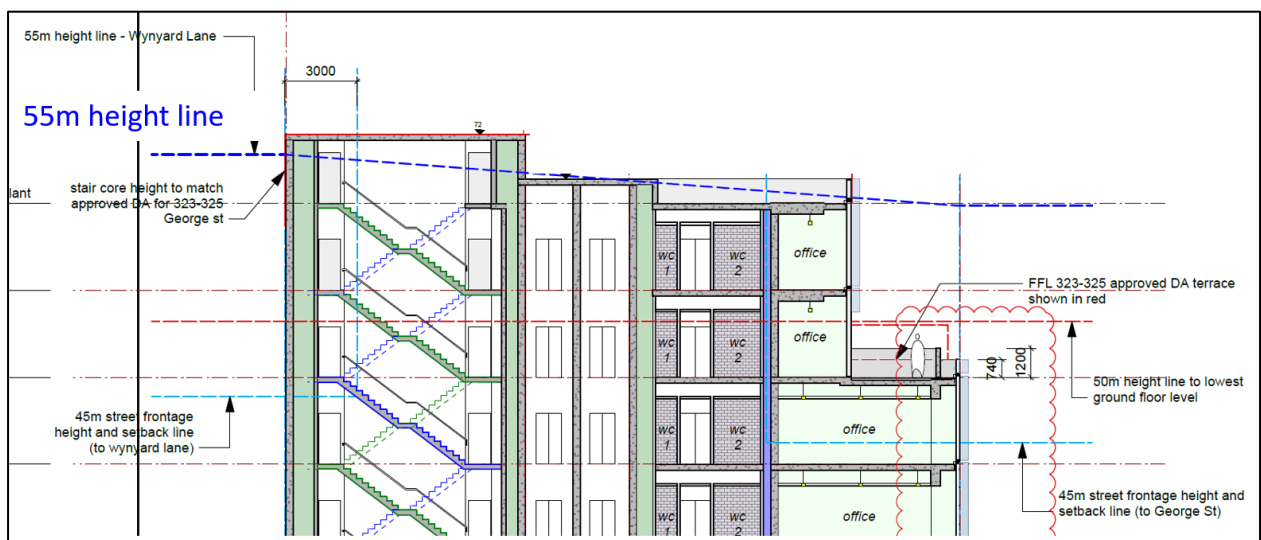


Figure 40: Long section (west - east) of upper levels showing portions of the building above 55 metres (dashed blue line)

70. Due to the small size of the site and adjoining built form, there are limited opportunities to explore alternative designs for the site, with the exception of materiality and some fenestration detailing.

71. The floor plates are largely bound by the site dimensions. The proposed street frontage height, front and rear setbacks have been driven by the adjoining developments, in order to provide an appropriate contextual fit for the infill building.
72. On this basis, and given the proposal demonstrates an appropriate response to the matters for consideration under Clause 7.20 and 6.21 of SLEP 2012 as detailed above, it is unlikely that a better design outcome would be achieved through imposing the requirements for site specific development control plan and a competitive design competition in this case.
73. In light of the above, there are sufficient reasons as to why a site specific development control plan and a competitive design process would be unreasonable or unnecessary in the circumstances of this case. Pursuant to Clauses 7.20(3) and 6.21(6) of SLEP 2012, it is recommended that these requirements are waived in this instance.

Clause 4.6 request to vary a development standard

74. The subject site has an area of less than 800 square metres and the proposed building exceeds 55 metres in height.
75. Accordingly, Clause 6.16 'Erection of tall buildings in Central Sydney' of SLEP 2012 applies to the development. This clause is reproduced below.

6.16 Erection of tall buildings in Central Sydney

(1) The objectives of this clause are to ensure that tower development on land in Central Sydney—

- (a) provides amenity for the occupants of the tower and neighbouring buildings, and*
- (b) does not adversely affect the amenity of public places, and*
- (c) is compatible with its context, and*
- (d) provides for sunlight to reach the sides and rear of the tower, and*
- (e) promotes the ventilation of Central Sydney by allowing the free movement of air around towers, and*
- (f) encourages uses with active street frontages.*

(2) This clause applies to development involving the erection of a building with a height greater than 55 metres above ground level (existing) on land in Central Sydney.

(3) Development consent must not be granted to development to which this clause applies if the building is on land having a site area of less than 800 square metres unless the consent authority is satisfied that—

- (a) the building will have a freestanding tower each face of which will be able to be seen from a public place, and*
- (b) the development will provide adequate amenity and privacy for occupants of the building and will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings, and*

- (c) *the ground floor of all sides of the building facing the street will be used for the purposes of business premises or retail premises.*
76. The proposal satisfies part (3)(b) of Clause 6.16, as the proposed development will provide an adequate level of amenity for future occupants of the new building and will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings.
77. As detailed in the discussion above under the 'Side setbacks / side windows on adjoining developments' heading, it is acknowledged that the building will block windows located on the site boundary of the developments to the north and south.
78. These owners/occupiers of these properties have been made aware that there is no legal right to any light and ventilation provided to these windows, given these two developments essentially borrow amenity from the subject site.
79. In relation to part (3)(c) of Clause 6.16, the development includes ground floor retail premises directly fronting George Street. Wynyard Lane is not considered to be a 'street' for the purposes of applying this provision.
80. As the proposed building directly abuts the building at 333 George Street which is taller than the proposed building, the face of the building's southern facade will not be visible from a public place.
81. The proposal does not therefore comply with sub-clause (3)(a) of Clause 6.16 of the SLEP 2012. This provision is a numerical development standard and a request to vary these development standards can be considered pursuant to Clause 4.6 of the SLEP 2012.
82. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the SLEP 2012 seeking to justify the contravention of the subject 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.
83. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

84. The applicant seeks to justify the contravention of the development standard on the following basis:
- (a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) As it would result in a failure to achieve the street wall effect that the City has been working towards and that has been anticipated in the relevant objectives and provisions of the Sydney Development Control Plan 2012;
 - (ii) As it would result in a reduction in commercial floor space that would otherwise benefit the community and assist in achieving important planning goals;

- (iii) As it would result in the likely sterilisation, or partial sterilisation, of the subject site for redevelopment;
- (iv) Given there are no significant adverse impacts arising from the proposed contravention as follows:
 - (i) The proposal completes the street wall and is designed to respond to the height datums established by the neighbouring sites;
 - (ii) Infilling the street wall is an appropriate urban design response which will have a positive impact on the streetscape of George Street;
 - (iii) The specific areas of the building proposed to exceed 55 metres do not consist of habitable floor space and are for the purposes of building services and maintenance;
 - (iv) With the exception of a glass balustrade, which will be difficult to perceive due to its materiality, these building elements are located behind the parapet and will not be visible from the public domain and have no shadow impact upon it, neighbouring developments or Martin Place; and
 - (v) No other significant adverse impacts arise from the height of the lift overrun and other roof features.
- (v) Because, in terms of the minor exceedance of the 55 metre height threshold:
 - (i) The extent of the exceedance is minor being a maximum of 2.6 metres which is a variance of 4.73%;
 - (ii) The exceedance relates to elements necessary for access to roof top equipment and for the lift overrun;
 - (iii) The point of greatest height is setback within the centre of the roof which is in turn setback 4.5 metres from the street wall;
 - (iv) The visual impact of the exceedance will be minimal or non-existent from the public domain. When viewed from surrounding tall buildings the elements exceeding the threshold will appear as integrated components within the buildings design;
 - (v) The overall scale and built form will contribute positively to the surrounding area by responding to the scale of existing developments in the vicinity;
 - (vi) The development otherwise achieves a high-quality design outcome without any significant, adverse impact arising from the exceedance;
 - (vii) The outcome is a building that fits within its surroundings and achieves the objectives of the zone while staying generally within the built form outcome and scale anticipated for the area;

- (viii) In substance, the development remains compliant with the principles and general parameters of the built form controls and expectations within the planning framework; and
 - (ix) If approved, the built form outcome of the proposal will be in keeping with and not detrimental to the amenity of its surroundings.
- (vi) If the variation is not approved, then key objectives in the development standard will be thwarted or undermined as follows:
- (i) The maximum possible width of a free-standing tower of which each face could be seen from the public domain is 3.797 metres, assuming a minimum side setback of 3 metres to each side boundary;
 - (ii) The floor plate of such a tower would be too narrow to provide an adequate level of amenity for occupants;
 - (iii) A free-standing tower form would severely reduce the amenity for occupants in comparison to the proposed design which infills the street wall;
 - (iv) The sides of such a building would not be able to be appreciated in any meaningful sense from within any neighbouring building;
 - (v) A free-standing tower on the subject site would fail to complete the street wall that the building at 331-339 George Street and approved development at 323-325 George Street establish;
 - (vi) This would be highly incompatible with the existing pattern of development along that section of George Street;
 - (vii) It would also be inconsistent with the expectation Council established in the approval of the developments at 331-339 George Street and 323-325 George Street that a single street wall would be established; and
 - (viii) Failure to create a continuous street wall between 331-339 George Street and 323-325 George Street would diminish the streetscape quality of George Street, in turn reducing the amenity of the public domain.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard, including the following:
- (i) There is an absence of environmental harm arising from the contravention of the standard;

- (ii) Additionally, there are planning benefits, in particular, a proposal for a freestanding tower on the subject site alone would result in a worse environmental planning outcome relative to the proposed building design because:
 - (i) A freestanding tower providing minimum setbacks of 3 metres to each side boundary would have a maximum floor plate width of 3.797 metres which would be impractical to construct and would have unacceptable amenity outcomes for occupants;
 - (ii) A freestanding tower would fail to provide a level of land use intensity commensurate to the site's maximum FSR limit under Clause 4.4 of the SLEP 2012 and which is appropriate to its location in the Sydney CBD; and
 - (iii) A freestanding tower would create undesirable gaps in the street wall established by neighbouring sites which would be an unacceptable urban design outcome.
- (iii) A proposal for a building with a maximum height of less than 55 metres would result in a worse planning outcome relative to the proposed building design because it would necessitate that either the floor to floor heights within the building be reduced or that one storey be removed from the development, as follows:
 - (i) Section 4.2.1.2(1)(c) of the SDCP 2012 requires that commercial floors have a minimum floor to floor height of 3.6 metres;
 - (ii) The proposal complies with this by providing floor to floor heights of 3.6 metres above the ground floor;
 - (iii) A reduction in the floor to floor heights would cause a non-compliance with Section 4.2.1.2(1)(c) of the SDCP 2012 and would reduce the amenity for occupants creating an unacceptable planning outcome;
 - (iv) The alternative is to remove a storey from the building to reduce the total height below 55 metres;
 - (v) The subject site has a base FSR 8:1 under Clause 4.4 of the SLEP 2012 and is eligible for a bonus of 4.5:1 under Clause 6.4 providing a total maximum permissible FSR of 12.5:1;
 - (vi) If Level 14 were removed from the development, the building's GFA and FSR would be reduced well below the maximum FSR limit; and
 - (vii) This is a land use intensity which falls well below that which was envisioned in the FSR controls applicable to the subject site under the SLEP 2012 and which is inappropriate to its location in the Sydney CBD.

- (iv) The City of Sydney's Central Sydney Planning Strategy has recommended changes to the planning controls in order to protect and enhance the employment floor space in the Sydney CBD and the proposal is consistent with this strategic direction by providing additional office space, which is well located in relation to public transport;
- (v) Any loss of commercial floor space that can be delivered without significant adverse impacts is the loss of an environmental planning benefit;
- (vi) The proposed exceedance of the height threshold will not result in significantly adverse over shadowing effect to neighbouring developments as a result of the exceedance and there is no significant overshadowing to the public domain;
- (vii) Visual domination is usually associated with the perceptions from the public domain and from multi-storey buildings. In this case, the building responds to existing heights of the neighbouring built and approved developments which are of similar or greater scale;
- (viii) From the public domain, the height exceedance will not be readily visible. The building has been designed to be sympathetic to both neighbouring buildings and to contribute to the infill of the street wall of George Street;
- (ix) In determining the 'aesthetic character of the area', it is reasonable to review the type and form of development in the site vicinity as well as the future character of the area;
- (x) The existing form is a mix of heritage buildings of between 5 to 6 storeys, small sites to the north that are underdeveloped and multiple buildings larger contemporary buildings up to and exceeding 55 metres;
- (xi) The proposal will form a suitable part of the ongoing intensification of development along George Street; and
- (i) The proposed mix of uses as a commercial office building with lower level retail is consistent with the surrounding land uses and the objectives of the B8 Metropolitan Centre Zone.

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

85. 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)?

86. The applicant's written request adequately demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, as the development satisfies the objectives of the control, notwithstanding the non-compliance.
87. The non-compliance relates to the number of sides of the development which will be visible from the public domain.
88. The non-compliance is acceptable, given the desire for a continuous street wall and the portion of the proposal which triggers the requirement does not significantly add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.
89. The proposal responds well to the adjoining development, in terms of the proposed street wall height when viewed from George Street, with significant areas of the building remaining under the 55 metre height trigger for the standard.

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

90. The applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the standard.
91. The new building is appropriate to the site's context and its location within the streetscape and Sydney Central Business District.
92. The proposal will not create unacceptable impacts on the amenity of surrounding properties with regard to views, solar access and visual privacy.

Is the development in the public interest?

93. The relevant objectives of the 'Erection of tall buildings in Central Sydney' are to ensure tower development on land in Central Sydney:
 - (a) Provides amenity for the occupants of the tower and neighbouring buildings;
 - (b) Does not adversely affect the amenity of public places;
 - (c) Is compatible with its context;
 - (d) Provides for sunlight to reach the sides and rear of the tower;
 - (e) Promotes the ventilation of Central Sydney by allowing the free movement of air around towers; and
 - (f) Encourages uses with active street frontages.
94. The amenity of neighbouring sites is not diminished by the development of a consistent street wall along the subject section of George Street, which could not be achieved by a compliant development.
95. Further, the proposal does not result in any unacceptable shadow impacts on the public domain and is within the height permissible under the sun access plane protecting Martin Place.

96. The new building is compatible with its context, including fenestration and design details to correspond with the existing pattern of development along George Street and Wynyard Lane, noting that the proposal and adjoining development do not present as free-standing tower forms.
97. The proposed development also provides an active frontage to George Street, in accordance with the requirements of the SLEP 2012 and Section 3.2.3 of the SDCP 2012.
98. The objectives of the B8 Metropolitan Centre zone are:
 - (a) 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) To provide opportunities for an intensity of land uses commensurate with Sydney's global status;
 - (c) To permit a diversity of compatible land uses characteristic 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; and
 - (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 purposes of retail premises.
99. The proposal will service the needs of residents, workers and visitors to the Sydney Central Business District by providing new employment generating land uses, which are easily accessible and located in close proximity to a wide range of public transport infrastructure.
100. The proposed development would be in the public interest because it is consistent with the objectives of 'Erection of tall buildings in Central Sydney' development standard and the B8 Metropolitan Centre zone.

Conclusion

101. For the reasons provided above, the requested variation to the 'Erection of tall buildings in Central Sydney' development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the SLEP 2012.

Other impacts of the development

102. The proposed development can comply with the Building Code of Australia.
103. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to the recommended conditions at Attachment A to this report.

Suitability of the site for the development

104. The proposal is of a nature in keeping with the overall function of the site.

105. The premises are within the predominantly commercial surrounding of the Sydney Central Business District and amongst similar uses to that proposed.

Internal referrals

106. The application was referred to, or discussed with the City's:

- (a) Heritage and Urban Design Specialists;
- (b) Building Approvals Unit;
- (c) Environmental Health Unit; Public Domain Unit;
- (d) Specialist Surveyor;
- (e) Transport and Access Unit; and
- (f) Waste Management Unit

107. These Council officers raised no objections to the proposal subject to conditions.

108. Where appropriate, the conditions recommended by other sections of Council are included in the recommended conditions at Attachment A to this report.

External referrals

109. The application was referred to the following external organisations:

- (a) Ausgrid;
- (b) The New South Wales Police Force;
- (c) Transgrid;
- (d) Transport for New South Wales (TfNSW);

110. No response was received from Ausgrid, the New South Wales Police Force or Transgrid.

111. Transport for New South Wales granted concurrence, subject to conditions. These conditions are included within the recommended conditions of consent provided at Attachment A to this assessment report.

Notification, advertising and delegation

112. In accordance the Community Participation Plan 2019 the proposed development is required to be notified and advertised.

113. As such, the original application was notified and advertised for a period between 5 December 2019 and 16 January 2020. As a result of this process, a total of 177 owners and occupiers of adjoining and nearby properties were notified.

114. The amended application made to the City on 25 May 2020 was not required to be re-notified and re-advertised, given the amendments are not considered to result in significant additional environmental impacts.
115. One submission was received in response to the public exhibition of the original proposal, which is summarised and addressed below.

- (a) While the application seeks an exemption from a competitive design process under Clause 6.21(5), the proposal fails to systematically respond to the Design Excellence requirements under Clause 6.21(3) and (4) of the SLEP 2012.

Response - This matter was raised in correspondence to the applicant on 19 March 2020.

The amended application made to Council on 25 May 2020 has adequately addressed the matters for consideration under Clause 6.21 of the SLEP 2012 and the requested waiver is now supported, as detailed above under the 'Issues' heading.

- (b) The Clause 4.6 variation request submitted with the application does not adequately respond to the required matters of assessment and grounds of exemption, including how the proposal will result in a better planning outcome for the site.
- (c) The application has failed to explain how the site, despite its small size, being only 34% of the required 800 square metres under Clause 6.16(3) of the SLEP 2012, should be considered suitable for a building height of 56.58 metres.

Response - These matters were raised in correspondence to the applicant on 19 March 2020.

The amended application made to Council on 25 May 2020 included a revised Clause 4.6 variation request which is now supported, as detailed above under the 'Issues' heading.

- (d) Impacts to the construction stage accessibility of Wynyard Lane have not been adequately dealt with, particularly given the fact that the George Street light rail would inhibit construction access from the street.
- (e) Cumulative adverse impacts of construction traffic relating to the development of the subject site and the site adjoining at 323-325 George Street on existing loading, servicing and pedestrian traffic activity in the locality.

Response - Transport for New South Wales and the City's Transport and Access Unit have reviewed the proposal, including matters relating to construction traffic management.

As discussed elsewhere in this report, the advice provided indicates that these matters are acceptable, subject to a range of concurrence conditions relating to the CBD and South-East Light rail corridor and the implementation of appropriate construction traffic management measures.

- (f) The development application history and Section 88B applying to 331-333 George Street do not excuse the need for adequate assessment of potential impacts to 331-339 George Street.

Response - An assessment of the proposed development, as amended on 25 May 2020, has been provided in this report. The potential for impacts to the adjoining properties is acceptable, subject to the recommended conditions included at Attachment A to this report.

- (g) The proposed non-compliances against the SDCP 2012, when read together with the SLEP 2012 height non-compliance and Design Excellence Dispensation Request, indicate that the site may not be best suited to the proposed development.

Response - As discussed elsewhere in this report, the site is suitable for the proposed development, subject to the recommended conditions included at Attachment A to this report.

- (h) The Design Excellence Dispensation Request has not adequately dealt with the matters that the Government Architect of New South Wales is currently requiring from applicants seeking exemptions from competitive design processes.

Response - The requested waiver of the requirement for a competitive design process has been reviewed in relation to the relevant provisions of Clause 6.21(6) of the SLEP 2012 and is acceptable, as discussed above under the 'Issues' heading.

Public interest

116. It is considered that the proposal will have no significant detrimental effect on the public interest, subject to the recommended conditions at Attachment A to this report.

Section 61 contributions

117. 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.
118. A condition relating to this levy is included in the recommended conditions in Attachment A. The levy is to be paid prior to the issue of a Construction Certificate.

Conclusion

119. The subject application seeks consent for the demolition of the existing building and construction of a 15 storey building comprising retail premises at the ground level and level 1, office premises and outdoor terrace on the levels above, a loading dock accessed from Wynyard Lane, and 2 basement levels containing bicycle parking, end of trip facilities and building services.
120. The proposal has been amended to address Council's concerns relating to design details, awning height, existing party walls and transport and servicing. The amended proposal is satisfactory, subject to the recommended conditions of consent included in Attachment A.
121. The applicant has submitted a request to vary the 'Erection of tall buildings in Central Sydney' standard under Clause 4.6 of Sydney LEP 2012 and waive the requirements for the preparation of a site specific development control plan and a competitive design process. These requests are supported. Proposed variations to controls in the SDCP 2012 are also generally acceptable and are identified in this assessment report.
122. The proposed development, as amended and subject to conditions, is appropriate in its setting and is generally compliant with the relevant planning controls in the SLEP 2012 and the SDCP 2012.
123. The new building does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding the site. The proposal will improve the interface between the private and public domain and exhibits design excellence in accordance with Clause 6.21 of the SLEP 2012.
124. The proposal will provide for new retail premises and office premises land uses within the Sydney Central Business District, on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
125. Subject to the recommendations in this report, and the imposition of conditions, the proposal provides a design that responds to the constraints of the site and contributes positively to the existing and desired future character of the locality.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

David Reynolds, Senior Planner