

**Item 7.****Development Application: 189-197 Kent Street, Sydney - D/2020/399****File No.:** D/2020/399**Summary****Date of Submission:** 4 May 2020, amended 11 September 2020 and 14 November 2020**Applicant:** Barana Properties (No.1) Pty. Ltd.**Architect:** Francis-Jones Morehen Thorp Pty. Ltd.**Developer:** Barana Group**Owner:** Barana Properties (No.1) Pty. Ltd.**Cost of Works:** \$89,849,438**Zoning:** Zone B8 Metropolitan Centre**Proposal Summary:** Approval is sought for the demolition of the existing commercial building and construction of a new mixed use development, with a maximum height of 94.05 metres (RL 106.15 AHD), 24 storeys, 125 apartments, 4 basement levels, 91 parking spaces and commercial, food and drink premises and residential land uses.

The application is referred to the Central Sydney Planning Committee for determination as the proposal is "major development" for the purposes of the City of Sydney Act, 1988.

The subject development application requires amendment of the approved concept building envelopes. A Section 4.55(2) modification application (D/2018/1014/A) has been lodged separately and has been assessed concurrently with the subject application.

This modification application is also being reported to CSPC this cycle and is recommended for approval. Subject to approval for D/2018/1014/A, the subject development application will be consistent with the concept development consent in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.

A competitive design alternatives process was held with FJMT selected as producing the winning scheme. Subject to conditions, the proposal exhibits design excellence and is eligible for 10% additional Floor Space Ratio pursuant to Clause 6.21 of the Sydney LEP 2012.

A preliminary assessment of the application identified concerns relating to wind effects and wind mitigation, overshadowing and solar access, balcony design, intermingling of uses, natural ventilation and acoustic privacy, natural cross-ventilation, materials and finishes, accessibility, sustainability, stormwater, waste and transport considerations.

These issues have been largely addressed through the resubmission of amended plans and additional information. The amended proposal is now consistent with the winning scheme and the recommendations of the competition selection panel.

The proposed development exceeds the maximum 80 metre height of buildings development standard by 14.05 metres (18%). This is largely a consequence of the proposed architectural roof features and the steeply sloping site topography.

A request to vary the Clause 4.3 height of buildings development standard has been submitted in accordance with Clause 4.6 of the Sydney LEP 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standards and the proposed departure to building height is supported in this instance.

The application was notified and advertised for 28 days between 6 May 2020 and 4 June 2020, with 12 submissions received in response. Following submission of amended drawings on 11 September, the application was re-notified for a period of 14 days between 14 September and 29 September 2020, with 5 submissions received in response.

Concerns raised include view loss, loss of solar access and ambient light, loss of property value, loss of ventilation, exacerbated wind impacts, privacy impacts, bulk and scale impacts, inadequate parking provision, traffic generation impacts, reflectivity impacts, constraints on future maintenance, demolition, excavation construction impacts including damage to adjoining buildings, air pollution, structural, vibration and noise impacts, and traffic congestion. These issues are addressed within the report.

Subject to conditions, the proposal is generally consistent with the applicable planning provisions, including those within the Sydney LEP 2012, Sydney DCP 2012, SEPP 65 and the ADG.

Proposed non-compliances have been assessed as having merit in the specific circumstances of the proposal and are addressed in the report.

As a result of the design modifications made to the design, the amended proposal has a high standard of architectural design, materials and detailing. It presents an improved outcome, comprises an appropriate response to the site conditions and locality and will result in a form and scale that achieves the desired future character of the area.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act, 1979 and Environmental Planning and Assessment Regulation, 2000
- (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
- (iii) Roads Act 1993 and Roads Regulation 2018
- (iv) Sydney Water Act 1994 and Sydney Water Regulation 2017
- (v) State Environmental Planning Policy No.55—Remediation of Land (SEPP 55) and the Managing Land Contamination Planning Guidelines (SEPP 55 Guidelines)
- (vi) State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG)
- (vii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)
- (viii) State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- (ix) Sydney Harbour Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)
- (x) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)

- (xi) Sydney Development Control Plan 2012 (Sydney DCP 2012)
- (xii) Sydney Landscape Code Volume 2: All Development Except for Single Dwellings
- (xiii) City of Sydney Interim Floodplain Management Policy
- (xiv) City of Sydney Guidelines for Waste Management in New Developments (Waste Guidelines)
- (xv) City of Sydney Public Art Policy
- (xvi) City of Sydney Public Art Strategy
- (xvii) City of Sydney Guidelines for Public Art in Private Development
- (xviii) Central Sydney Archaeological Zoning Plan 1992
- (xix) Central Sydney Development Contributions Plan 2013
- (xx) Planning Proposal: Central Sydney 2020

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request
- D. Photomontages
- E. Facade Types
- F. Landscape Drawings

## Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2020/399 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 satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, the State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (C) 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 Local Environmental Plan 2012, that compliance with the 'Height of buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 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 'Height of buildings' development standard.
- (D) The proposal complies with the maximum floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (E) The articulation, materiality and architectural contribution of the proposal combine to exhibit 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 proposed development is consistent with the design intent of the winning scheme of a competitive design process, held in accordance with the City of Sydney Competitive Design Policy.

- (G) The proposed development is consistent with the amended concept approval for the site, being D/2018/1014/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (H) The proposed development has a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.
- (I) Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (J) The proposed mix of compatible land uses will support the vitality of the area and do not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain and the broader Sydney Central Business District, subject to the recommended conditions.
- (K) 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 recommended conditions imposed relating to the appropriate management of potential environmental impacts associated with the development.

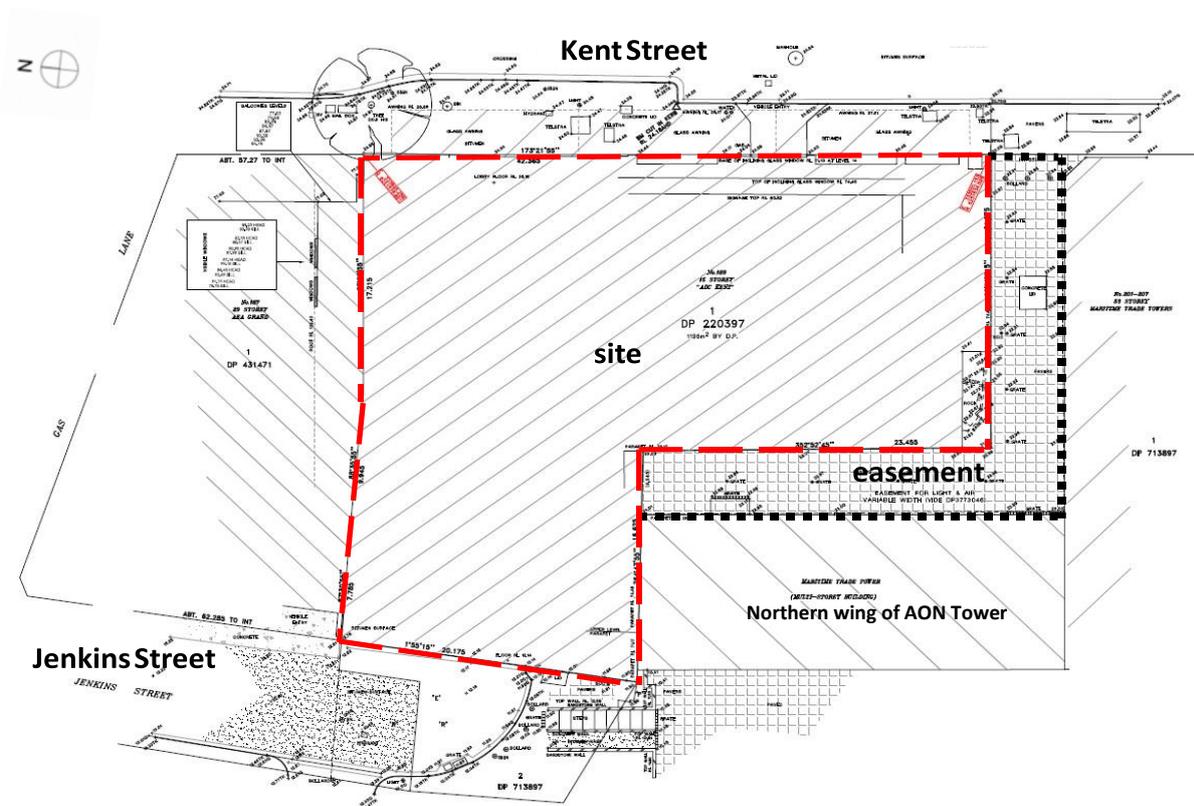
## Background

### The Site

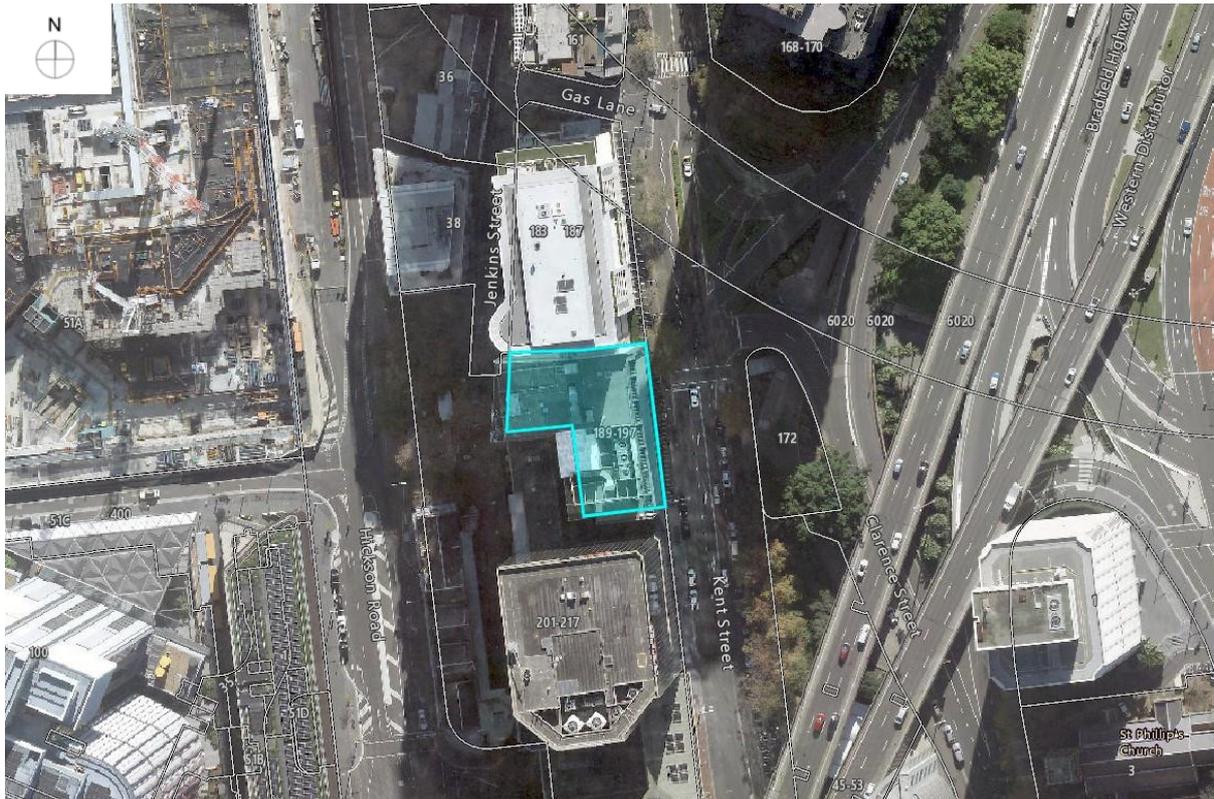
1. The site has a legal description of Lot 1 in DP 220397, and is commonly known as 189-197 Kent Street, Sydney. It is located in the north-western part of the Sydney Central Business District, directly east of Barangaroo, within the broader City of Sydney Local Government Area.
2. The site is L-shaped, with an area of approximately 1,195 square metres. It has a primary street frontage of 42.365 metres to the western side of Kent Street and a secondary street frontage of 20.175 metres to Jenkins Street.
3. The adjacent section of Jenkins Street comprises several stratum lots, with the road surface at its southern end forming part of the adjoining property at 201-217 Kent Street, Sydney, with the remainder to the north in public ownership at ground level, and with the allotments below ground in private ownership.
4. The site is located close to the intersections of Kent Street with the Bradfield Highway, Western Distributor, Clarence Street and Gas Lane. Levels on the site fall across the site from east to west by approximately 12 metres, with a fall of approximately 2 metres from north to south.
5. Along the south and south-western boundaries of the site is an easement for light and air over the north-eastern portion of 201-217 Kent Street, Sydney (also known as the AON Tower) which benefits the subject site. The easement is approximately 4.5 metres wide and is L-shaped, extending from Kent Street to the western boundary of the subject site. Additional easements for light, air, water supply, sewerage and rights of carriageway over Jenkins Street also benefit the site.
6. The site is not identified as a heritage item or as being located in a heritage conservation area or special character area in the Sydney LEP 2012.
7. The site is identified on the plan images in Figures 1 and 2, and aerial photographs in Figures 3, 4 and 5 below, showing its location and context.



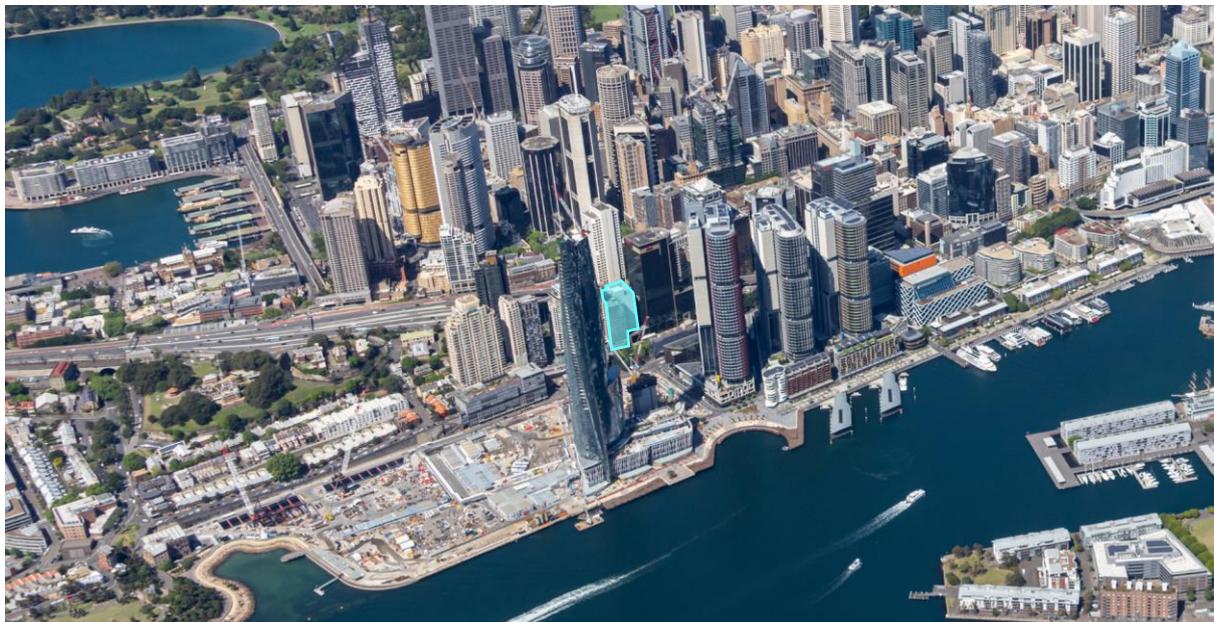
**Figure 1:** Plan image of subject site in blue and surrounding area (subterranean Sydney Metro corridor shown hatched)



**Figure 2:** Survey plan extract showing location of easement along the south and south-west boundaries of the subject site



**Figure 3:** Aerial photograph of the subject site in blue and surrounding area



**Figure 4:** Oblique aerial photograph of the site in blue and surrounding area looking south-east



**Figure 5:** Extract from the 'Development Application: Architectural Design Statement' (FJMT), with an oblique aerial photograph of the site in red and surrounding area looking west

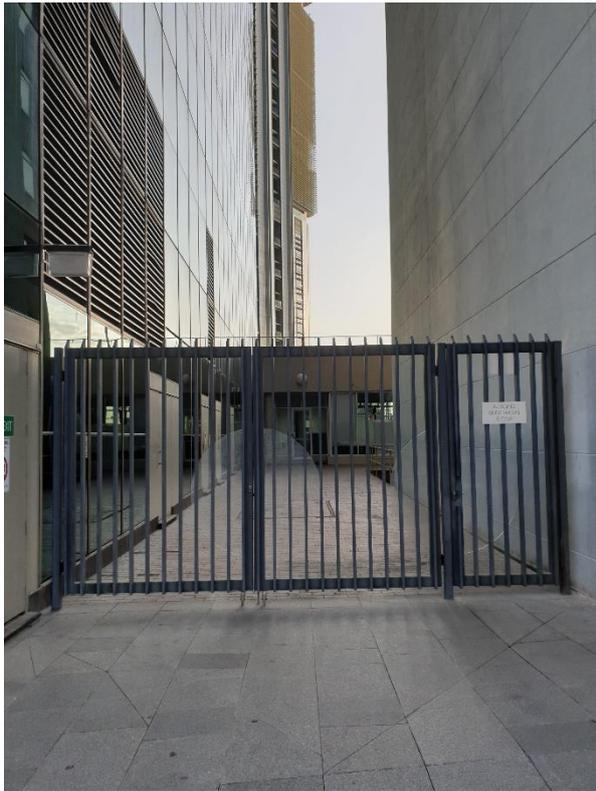
8. The site currently contains an 18-storey commercial office building, built to the boundaries without a podium.
9. The existing building includes 2 retail levels and a commercial car park contained within 4 basement car parking levels, accessed from Kent Street, with private tenant parking, loading and servicing access from Jenkins Street.
10. The primary pedestrian access is from Kent Street, with pedestrian fire egress only to Jenkins Street.
11. Photographs provided in Figures 6 to 12 below depict the existing development.



**Figures 6 and 7:** Eastern elevation, viewed from the Bradfield Hwy on-ramp (left) and western elevation, viewed from Hickson Rd (right)



**Figure 8:** Ground level retail, commercial car park vehicle access point and awning to Kent St



**Figures 9 and 10:** View of southern easement from Kent St (left) and view of easement looking north (right)



**Figures 11 and 12:** View of lower levels of the site from Jenkins St, including rear loading access (left) and view of upper levels of the site from Jenkins St (right)

**The Locality**

12. The surrounding area is characterised by a mixture of land uses, primarily comprising residential and commercial developments.
13. A heritage item listed on the State Heritage Register known as the former 'Grafton Bond Store' (State Heritage Register Number 01431), is located to the west at 201-217 Kent Street, Sydney, which has a primary frontage to Hickson Road. Jenkins Street is identified as a local heritage item (Item Number I890) under the Sydney LEP 2012.
14. Further to the west, on the western side of Hickson Road, are the commercial towers and associated buildings within the Barangaroo South precinct, and the Barangaroo Central development project site, which is currently under construction. To the east, on the eastern side of Kent Street, is the Kent Street cycleway, the Western Distributor overpass and the on ramps to the Bradfield Highway.
15. To the north at 183 and 187 Kent Street, Millers Point, is a 28 storey residential apartment building known as the 'Stamford on Kent', with ground floor food and drink premises and residential apartments in the levels above.
16. Further to the north, north-east and north-west are several other residential towers and buildings, including the 'Observatory Tower' at 168-170 Kent Street, Millers Point, the 'Stamford Marque' at 161 Kent Street, Millers Point, 'The Georgia' at 155-157 Kent Street, Millers Point, the 'Highgate Apartments' building at 127-153 Kent Street, Millers Point, and 'The Bond' at 38 Hickson Road, Millers Point.
17. To the south at 201-217 Kent Street, Sydney, is the Maritime Trade Towers site, which contains a 24 storey commercial building known as Symantec House, a 35 storey commercial building known as AON Tower, a publicly accessible through site link known as 'Grafton Lane', the former 'Grafton Bond Store' and a 5 storey northern wing to the AON Tower. The northern wing of the AON Tower is situated adjacent to the south-western portion of the subject site.
18. Photographs provided in Figures 13 to 22 below depict the existing development in the vicinity of the site.



- |  |  |
|--|--|
| <span style="border: 1px solid red; padding: 2px;"> </span> The Site | <span style="display: inline-block; width: 15px; height: 10px; background-color: #f4a460; border: 1px solid black;"></span> Residential        |
| ① Maritime Trade Towers  | <span style="display: inline-block; width: 15px; height: 10px; background-color: #4dc0c5; border: 1px solid black;"></span> Commercial         |
| ② Stamfordmarque   | <span style="display: inline-block; width: 15px; height: 10px; background-color: #90d270; border: 1px solid black;"></span> Open Space         |
| ③ Grafton Bond Store   | <span style="display: inline-block; width: 15px; height: 10px; background-color: #f4a460; border: 1px solid black;"></span> Heritage           |
| ④ Barangaroo South   | <span style="display: inline-block; width: 15px; height: 10px; background-color: #0056b3; border: 1px solid black;"></span> Barangaroo Central |
| ⑤ Kent Street cycleway   | <span style="display: inline-block; width: 15px; height: 10px; background-color: #f4c000; border: 1px solid black;"></span> Transport          |
| ⑥ Crown Hotel Resort   | <span style="border: 1px dashed yellow; padding: 2px;"> </span> Transport  |
| ⑦ Barangaroo Central   |  |
| ⑧ Barangaroo Wharf   |  |
| ⑨ 168-170 Kent Street  |  |
| ⑩ Observatory Hill   |  |
| ⑪ City Park  |  |
| ⑫ 1 York Street  |  |
| ⑬ Wynyard Park & Station   |  |
| ⑭ Stamford on Kent   |  |
| ⑮ Hickson Park   |  |
| ⑯ Residential buildings (R4A, R4B and R5)                            |  |
| ⑰ George Street Light Rail   |  |

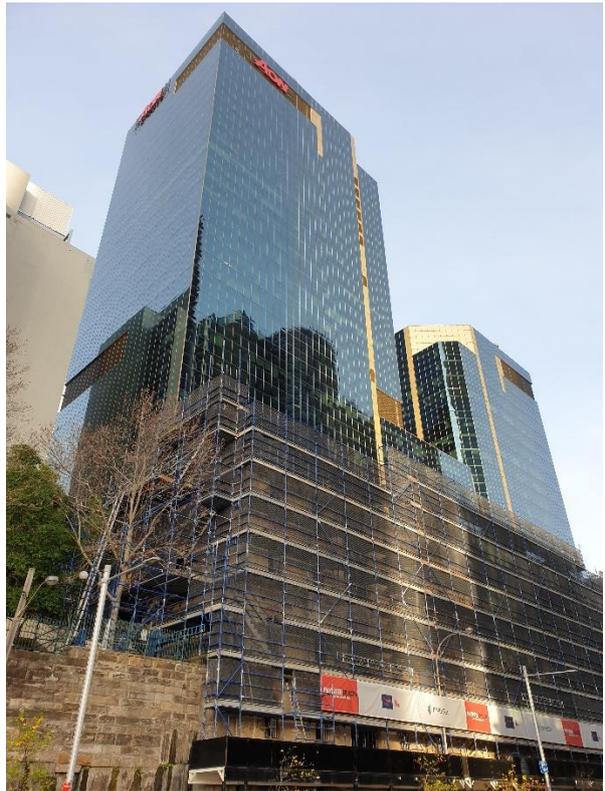
**Figure 13:** Extract from the ‘Statement of Environmental Effects’ (Ethos Urban), with an aerial photograph and annotations illustrating the site context



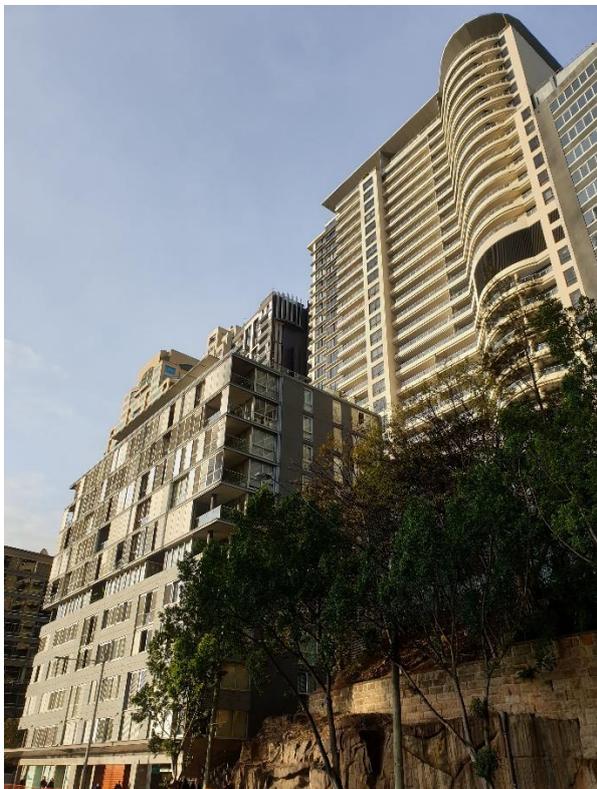
**Figure 14:** Extract from the 'Statement of Environmental Effects' (Ethos Urban), with a photograph depicting the streetscape along the western site of Kent St outlined in red



**Figures 15 and 16:** The 'Stamford on Kent', viewed from the Bradfield Hwy on-ramp (left) and, from left to right, the 'Stamford Marque', 'The Georgia' the 'Highgate Apartments' and the 'Observatory Tower' (right)



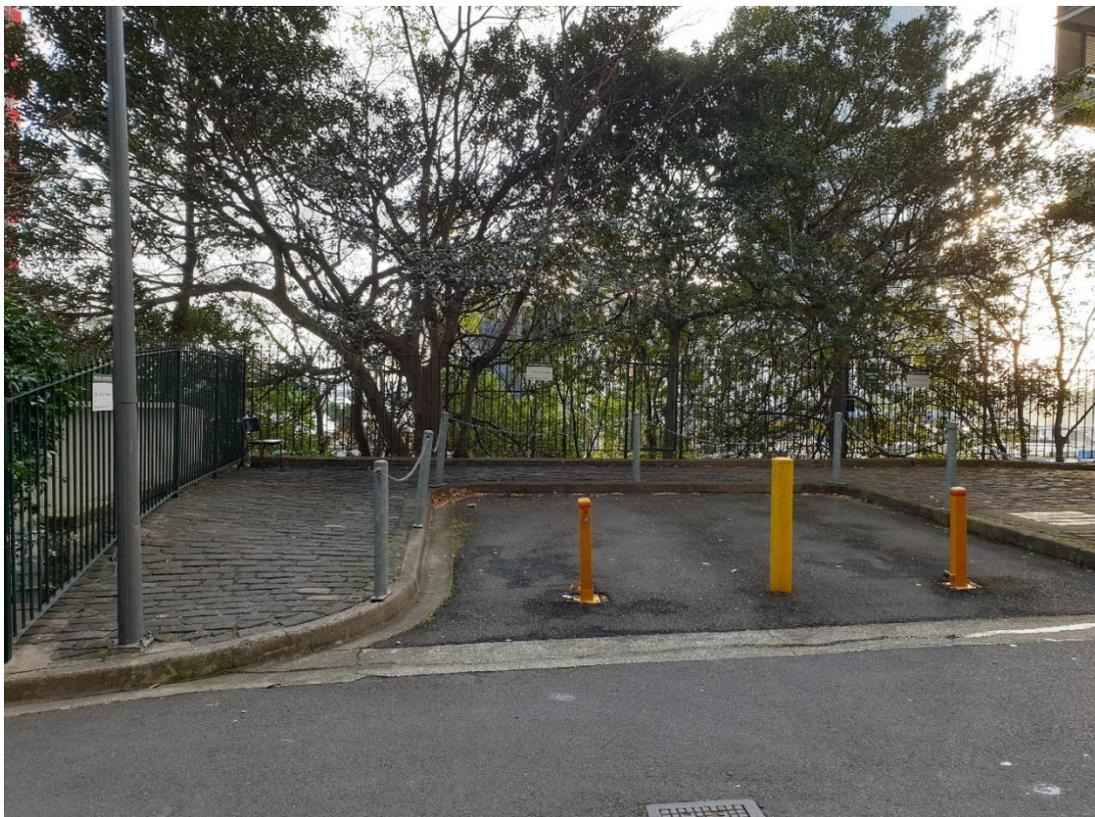
**Figures 17 and 18:** View of the Maritime Trade Towers from Kent St (left) and the Grafton Bond Store behind scaffolding from Hickson Rd (right)



**Figures 19 and 20:** View of the 'Bond Apartments' and 'Stamford on Kent' from Hickson Road (left) and the 'Bond Apartments' from Jenkins St (right)



**Figure 21:** View of Grafton Lane to the south-west from Jenkins St, with the Grafton Bond Store visible on the right



**Figure 22:** View of parking bay opposite the site to the west on Jenkins St

## Proposal

19. The application, as amended on 11 September 2020 and 14 November 2020, seeks consent for the:
  - (a) demolition of the existing commercial building;
  - (b) excavation for a basement level to a depth of approximately RL 6.5 AHD; and
  - (c) construction of a new 24 storey mixed use development, comprising two connected towers between levels 4 and 12, with:
    - (i) a maximum height of 94.05 metres (RL 106.15 AHD), including architectural roof features;
    - (ii) a gross floor area of 14,411 square metres;
    - (iii) 125 residential apartments;
    - (iv) two food and drink premises tenancies, at basement level 3 to Jenkins Street, and at the ground floor level to Kent Street, comprising a total of 50 square metres of gross floor area, with hours of operation between 6.00am and 2.00am, Monday to Sunday inclusive;
    - (v) seven commercial suites at the ground and first floor levels, comprising 452 square metres of gross floor area;
    - (vi) communal facilities, including a gymnasium, sauna and internal and external communal areas at level 12;
    - (vii) a 4 level basement with vehicular access from Jenkins Street, including:
      - i. 91 car parking spaces within an automatic car stacker installation;
      - ii. 161 bicycle parking spaces and associated end of journey facilities;
      - iii. 1 car share parking space; and
      - iv. a loading dock and 3 service vehicle parking spaces; and
    - (viii) landscaping and a publicly accessible through site link stair, public art installation, and pedestrian lift between Kent Street and Jenkins Street.
20. The proposed commercial suites are intended to be used by residential tenants of the building only, as a live-work arrangement, with no external third party tenants permitted to lease the spaces.
21. At the request of the applicant, a condition is recommended in Attachment A to require a restriction on the title of the land to this effect.
22. In specific terms, the development comprises the following components, listed floor by floor:

(a) **Basement Level 4**

- (i) automatic car stacker installation;
- (ii) car stacker storage and retrieval unit; and
- (iii) southern tower fire stair.

(b) **Basement Level 3 (Jenkins Street level)**

- (i) through site link pedestrian stair and lift to Jenkins Street;
- (ii) food and drink premises tenancy to Jenkins Street;
- (iii) automatic car stacker installation and lift access;
- (iv) loading dock and turntable;
- (v) parking spaces including:
  - i. 1 car share parking space;
  - ii. 3 service vehicle parking spaces;
  - iii. 5 motorbike parking spaces;
  - iv. 49 residential bicycle parking spaces;
  - v. 5 retail bicycle parking spaces;
- (vi) end of journey facilities, including shower and change room;
- (vii) northern and southern residential garbage rooms;
- (viii) residential bulky waste room;
- (ix) retail and commercial garbage and bulky waste rooms;
- (x) main switchboard room;
- (xi) hydrant room;
- (xii) grease arrestor room;
- (xiii) northern and southern tower lift lobbies; and
- (xiv) northern and southern tower fire stairs.

(c) **Basement Level 2**

- (i) through site link pedestrian stair and lift, public art installation and landscaping;
- (ii) lower levels of 1 double storey, two-bedroom apartment and 1 double storey, three-bedroom apartment to the western side of the northern tower;

- (iii) automatic car stacker installation;
- (iv) car stacker storage and retrieval unit;
- (v) 83 residential bicycle parking spaces;
- (vi) main communications room;
- (vii) fire storage tank and fire pump rooms;
- (viii) storage room;
- (ix) northern and southern tower lift lobbies and waste chute rooms; and
- (x) northern and southern tower fire stairs.

(d) **Basement Level 1**

- (i) through site link pedestrian stair and lift, public art installation and landscaping;
- (ii) upper levels of 1 double storey, two-bedroom apartment and 1 double storey, three-bedroom apartment to the western side of the northern tower;
- (iii) automatic car stacker installation;
- (iv) car stacker storage and retrieval unit;
- (v) 24 residential bicycle parking spaces;
- (vi) substation;
- (vii) storage rooms;
- (viii) northern and southern tower lift lobbies and waste chute rooms; and
- (ix) northern and southern tower fire stairs.

(e) **Ground Level**

- (i) through site link pedestrian stair and lift to Kent Street, public art installation and landscaping;
- (ii) 1 two-bedroom apartment to the western side of the northern tower;
- (iii) food and drink premises tenancy to Kent Street;
- (iv) three commercial suites and shared commercial WC to the southern tower;
- (v) fire hydrant and booster assemblies;
- (vi) northern and southern tower entry and lift lobbies and waste chute rooms; and
- (vii) northern and southern tower fire stairs.

- (f) **Level 1**
  - (i) 1 two-bedroom apartment to the western side of the northern tower;
  - (ii) commercial suite and WC to the northern tower and three commercial suites and shared commercial WC to the southern tower;
  - (iii) northern and southern tower awnings to Kent Street;
  - (iv) northern and southern tower lift lobbies and waste chute rooms; and
  - (v) northern and southern tower fire stairs.
- (g) **Levels 2 and 3**
  - (i) 3 one-bedroom apartments and 1 two-bedroom apartment within the northern tower;
  - (ii) 3 two-bedroom apartments within the southern tower;
  - (iii) northern and southern tower lift lobbies and waste chute rooms; and
  - (iv) northern and southern tower fire stairs.
- (h) **Levels 4 to 11**
  - (i) 2 one-bedroom apartments, 4 two-bedroom apartments and 1 three-bedroom apartment;
  - (ii) northern and southern tower lift lobbies and waste chute rooms; and
  - (iii) northern and southern tower fire stairs.
- (i) **Level 12**
  - (i) 1 two-bedroom apartment and 1 three-bedroom apartment within the northern tower;
  - (ii) internal communal areas in the northern and southern towers;
  - (iii) external communal terrace and landscaping;
  - (iv) communal gymnasium and sauna within the southern tower;
  - (v) northern and southern tower lift lobbies and waste chute rooms; and
  - (vi) northern and southern tower fire stairs.
- (j) **Levels 13 to 19**
  - (i) 1 one-bedroom apartment, 1 two-bedroom apartment and 1 three-bedroom apartment within the northern tower;
  - (ii) 2 three-bedroom apartments within the southern tower;
  - (iii) northern and southern tower lift lobbies and waste chute rooms; and

- (iv) northern and southern tower fire stairs.
- (k) **Level 20**
- (i) northern tower architectural roof feature frame;
  - (ii) 2 three-bedroom apartments within the northern tower, including the lower level of a double storey apartment on its western side;
  - (iii) 2 three-bedroom apartments within the southern tower;
  - (iv) northern and southern tower lift lobbies and waste chute rooms; and
  - (v) northern and southern tower fire stairs.
- (l) **Level 22**
- (i) northern tower architectural roof feature frame;
  - (ii) 1 three-bedroom apartment within the northern tower, and the upper level of a double storey apartment on its western side;
  - (iii) 2 three-bedroom apartments within the southern tower;
  - (iv) northern and southern tower lift lobbies and waste chute rooms; and
  - (v) northern and southern tower fire stairs.
- (m) **Level 22**
- (i) northern tower architectural roof feature frame;
  - (ii) 1 two-bedroom apartment and 1 three-bedroom apartment within the northern tower;
  - (iii) 2 three-bedroom apartments within the southern tower;
  - (iv) northern and southern tower lift lobbies and waste chute rooms; and
  - (v) northern and southern tower fire stairs.
- (n) **Level 23**
- (i) northern tower architectural roof feature frame;
  - (ii) 1 three-bedroom apartment within the northern tower;
  - (iii) 2 three-bedroom apartments within the southern tower;
  - (iv) northern and southern tower lift lobbies and waste chute rooms; and
  - (v) northern and southern tower fire stairs.

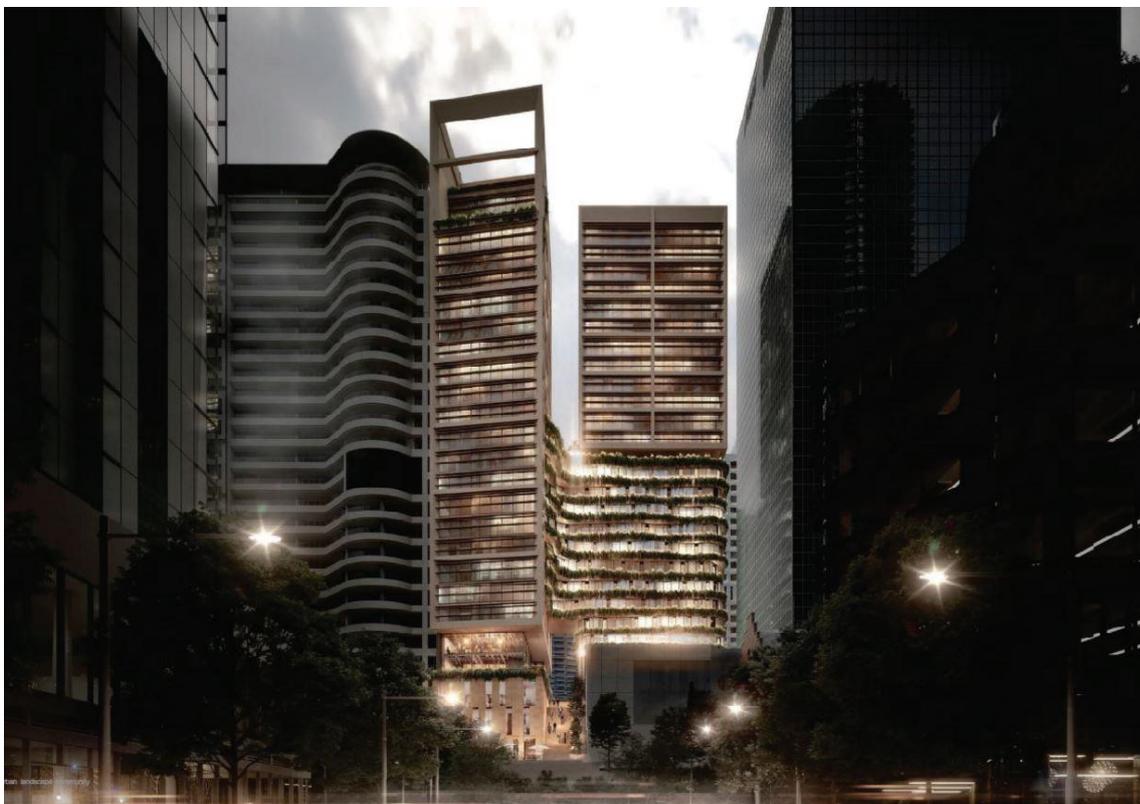
- (o) **Roof**
    - (i) northern and southern tower architectural roof feature frames;
    - (ii) rooftop plant and equipment;
    - (iii) northern and southern tower lift overruns; and
    - (iv) southern tower fire stairs.
23. Photomontages of the proposed development, and elevation, section and plan drawings are provided in Figures 23 to 51 below.
24. These are included with the architectural drawings, photomontages, facade type and landscape drawings in Attachments B, D, E and F.



**Figure 23:** Photomontage of the Kent Street frontage of the proposal, looking south-west from the Western Distributor



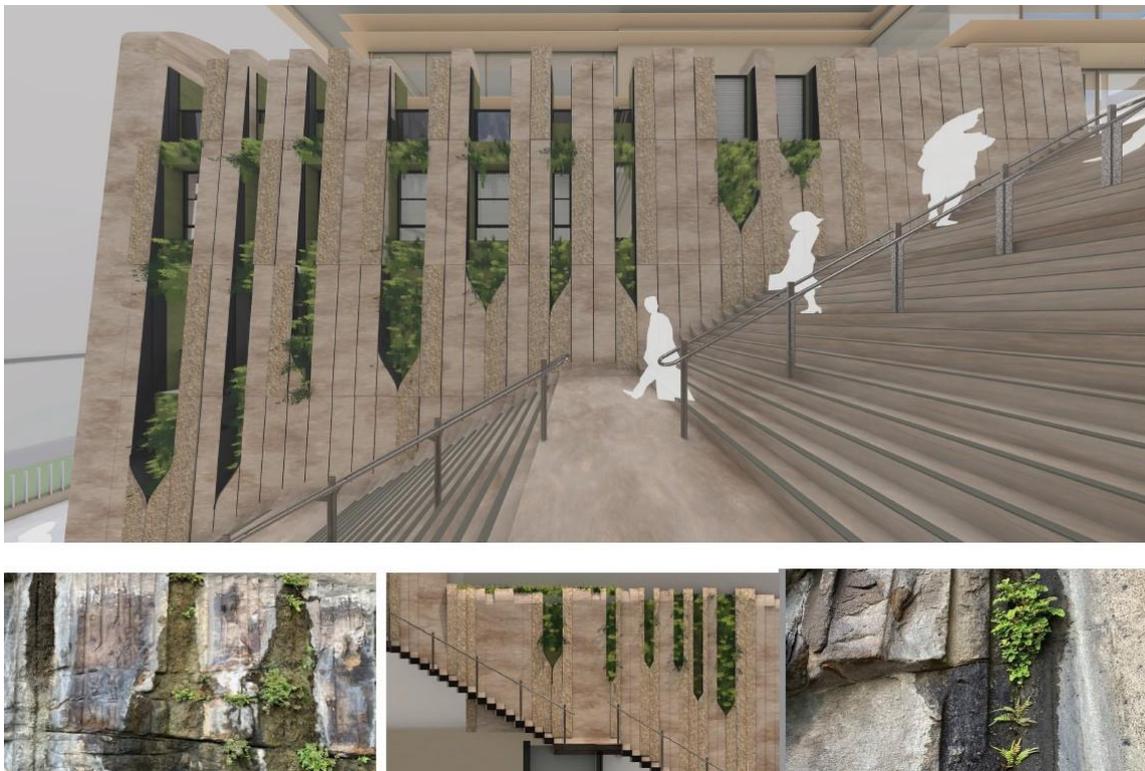
**Figure 24:** Photomontage of the Kent Street frontage of the proposal, looking south-west from the Bradfield Hwy onramp



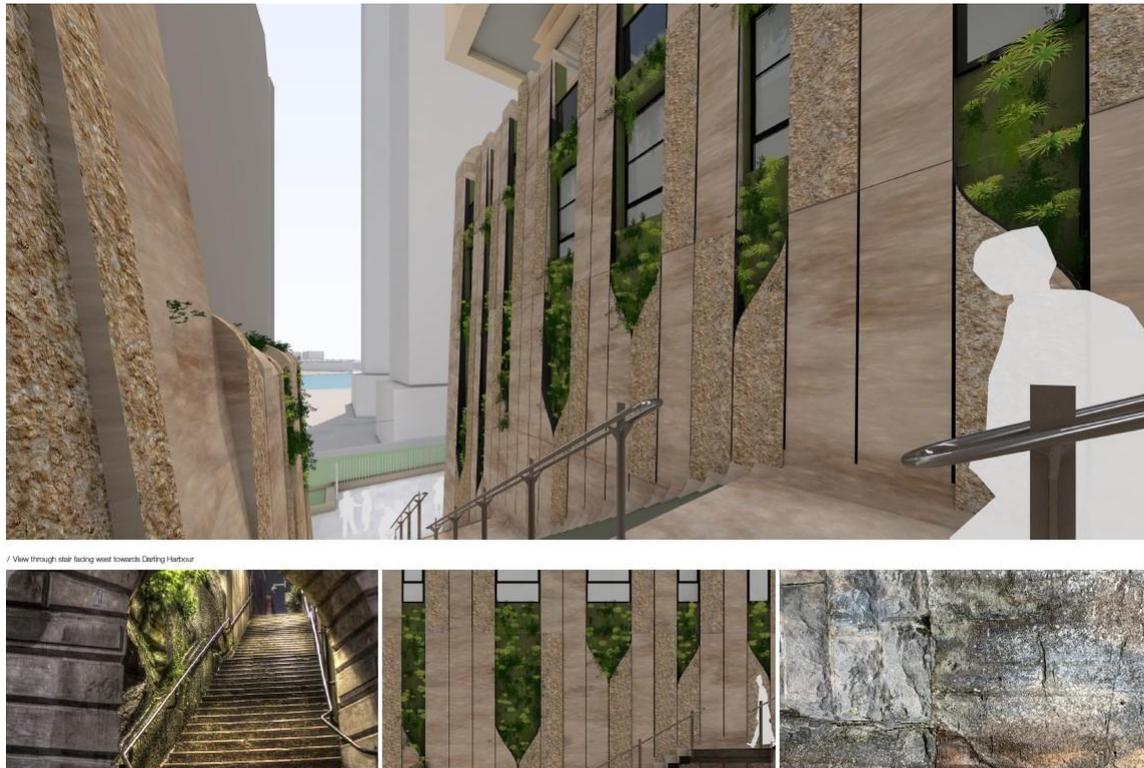
**Figure 25:** Photomontage of the proposal, looking east from Watermans Quay



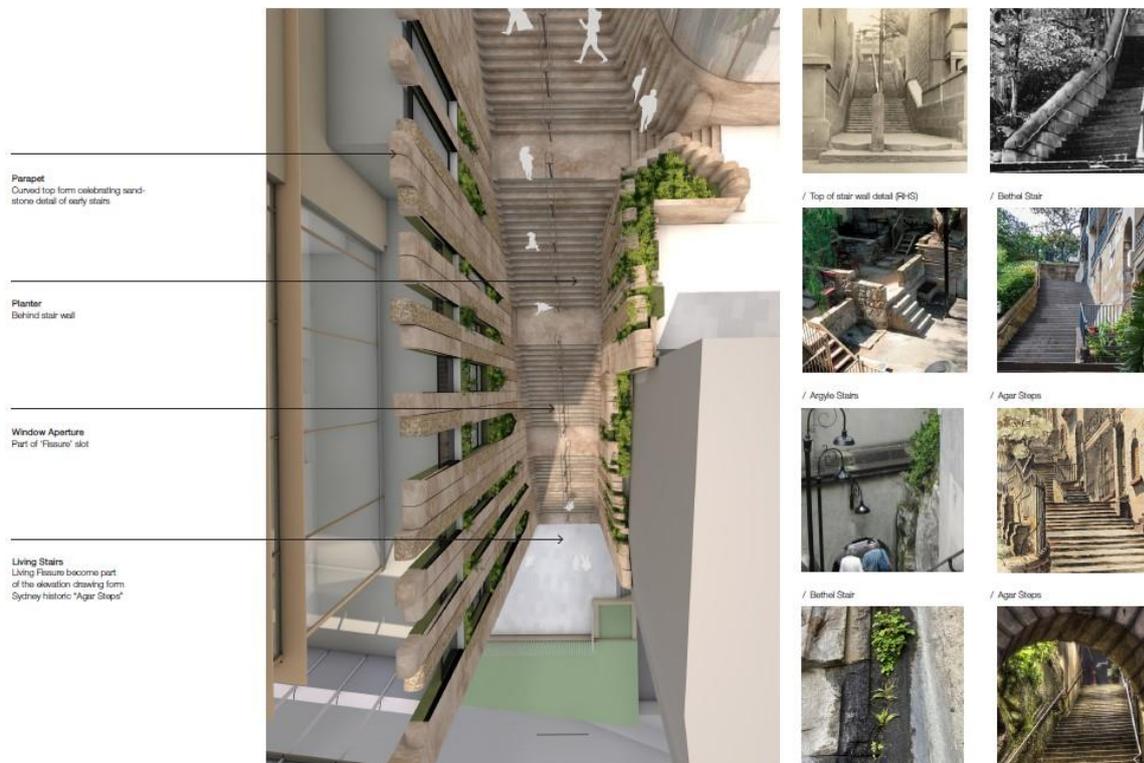
**Figure 26:** Photomontage of the proposal, looking east from Hickson Rd



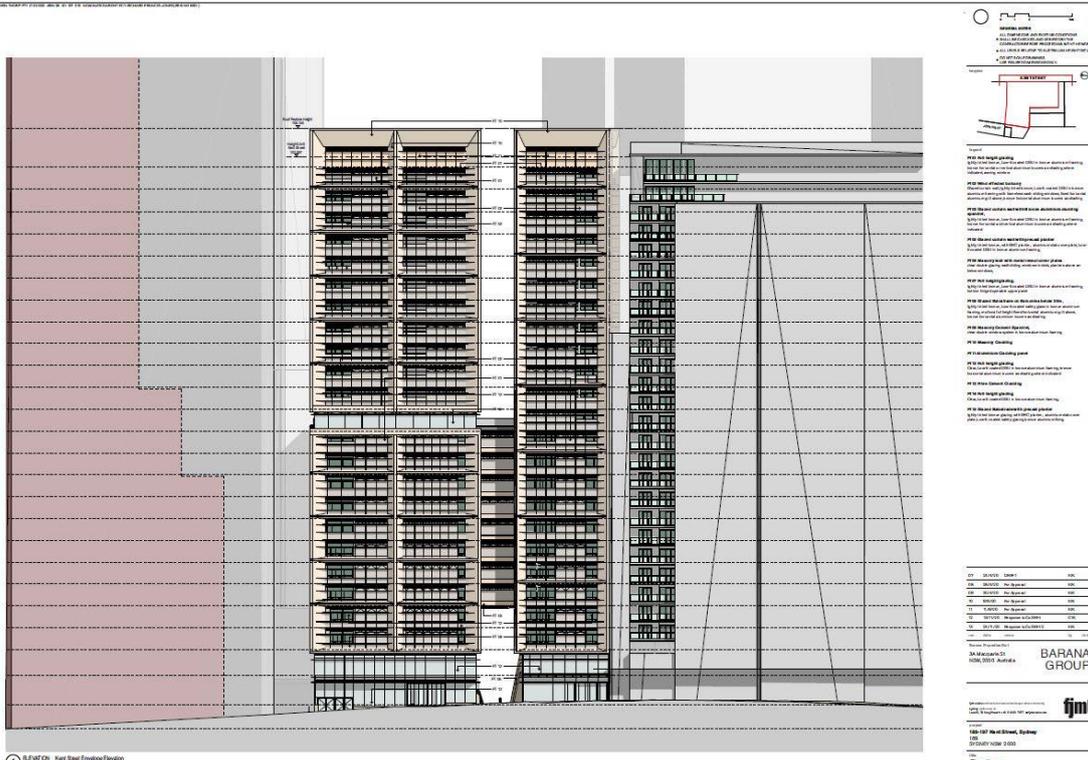
**Figure 27:** Indicative perspective views and reference images for proposed public art and landscape elements in through site link stair



**Figure 28:** Indicative perspective views and reference images for proposed public art and landscape elements in through site link stair



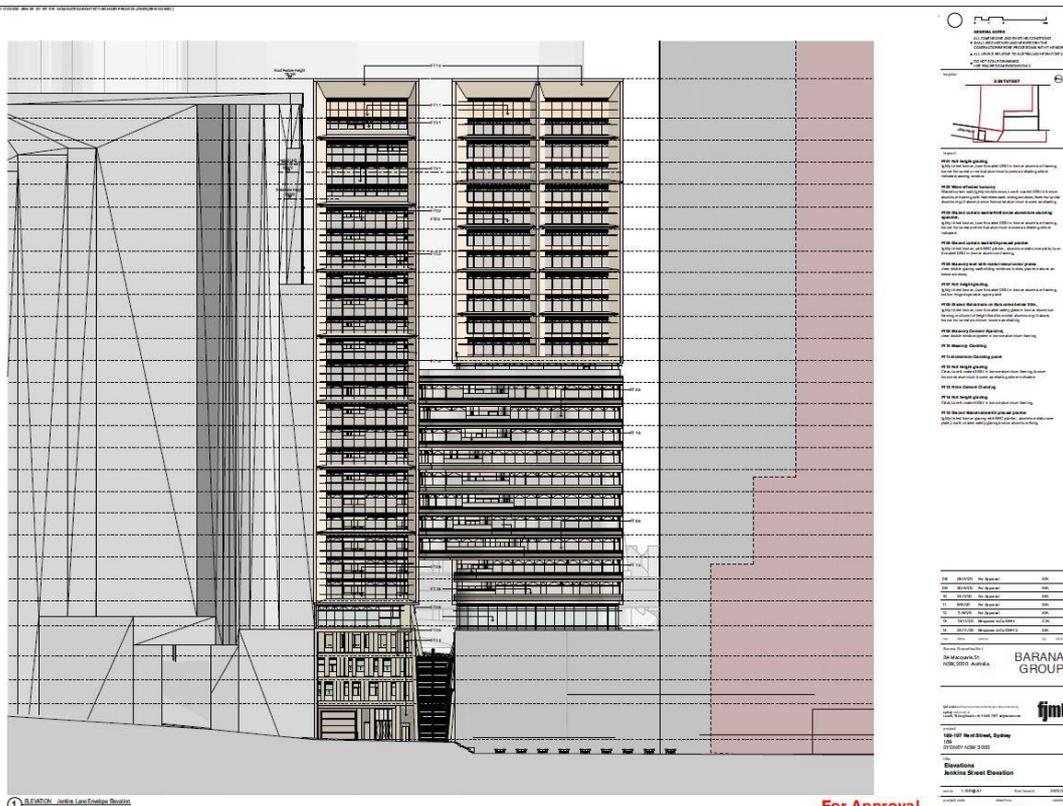
**Figure 29:** Aerial perspective view and reference images for proposed public art and landscape elements in through site link stair



For Approval

B-199 FMT-401 13

Figure 30: Kent Street (east) elevation



For Approval

B-199 FMT-401 14

Figure 31: Jenkins Street (west) elevation

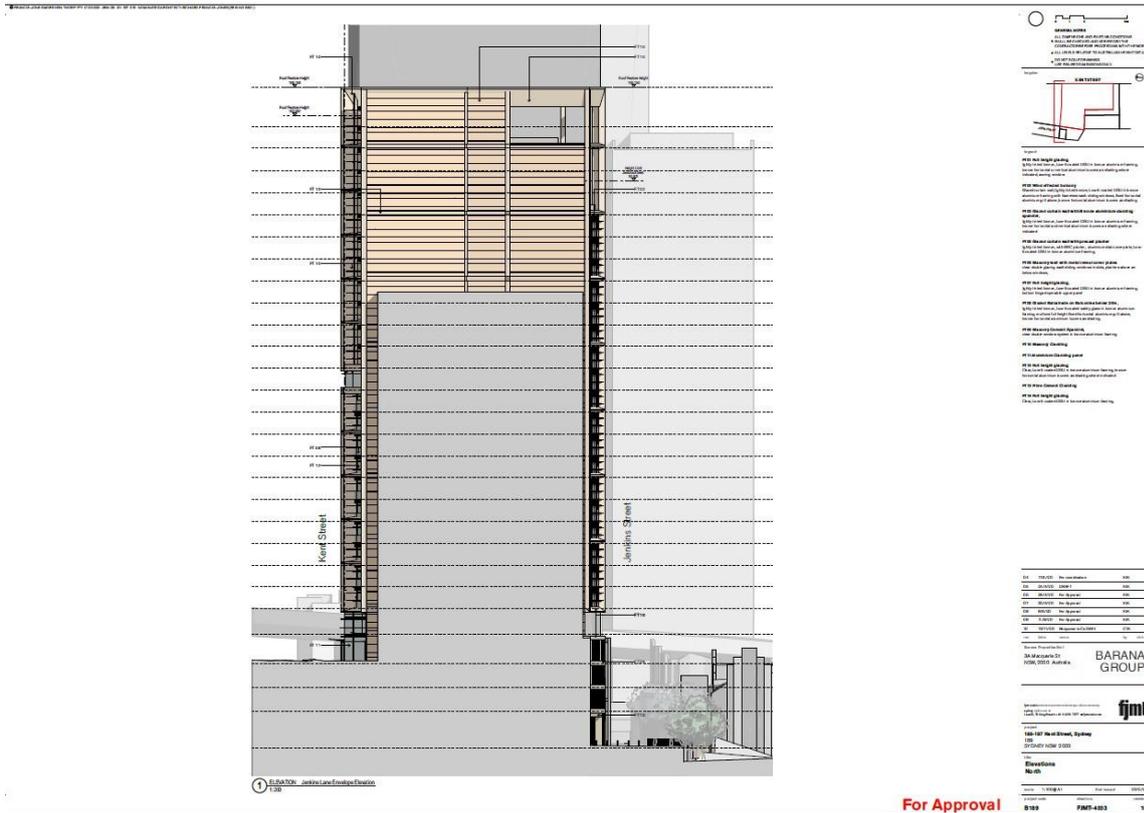


Figure 32: North elevation

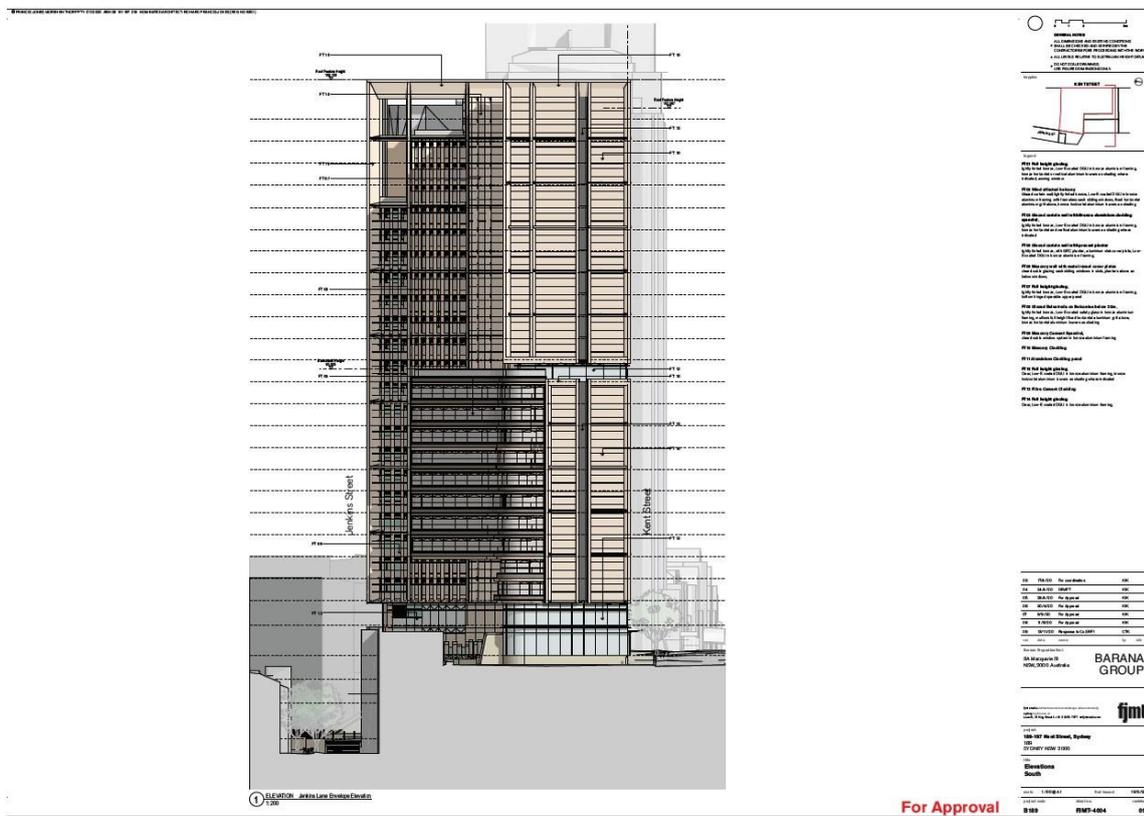


Figure 33: South elevation





Figure 36: Section CC

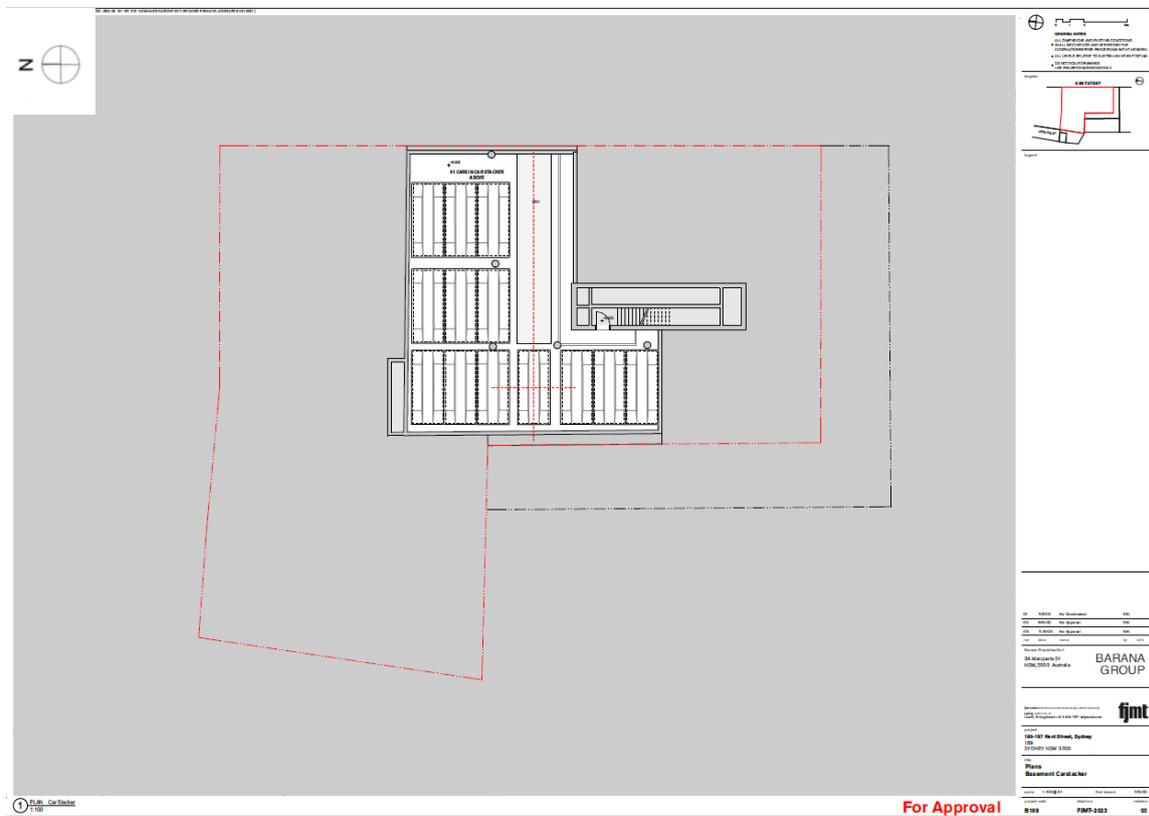


Figure 37: Basement level 4 plan

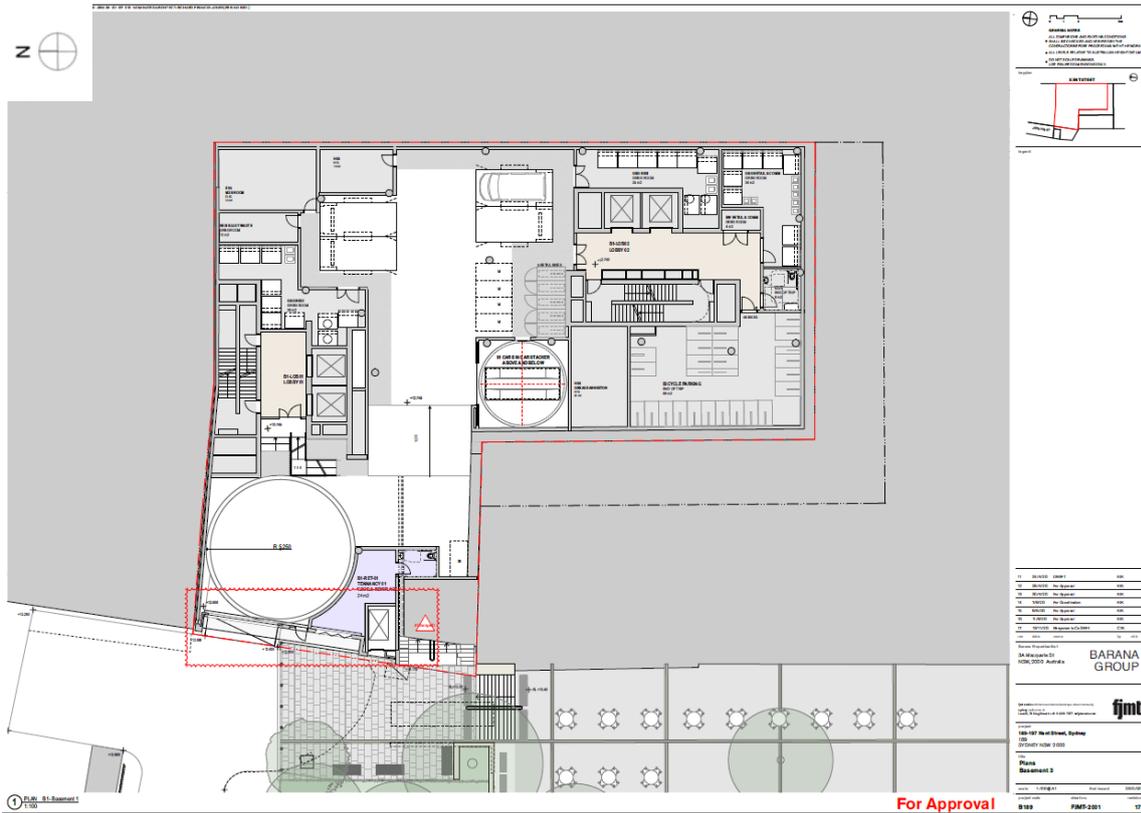


Figure 38: Basement level 3 plan (Jenkins Street level)



Figure 39: Basement level 2 plan



Figure 40: Basement level 1 plan

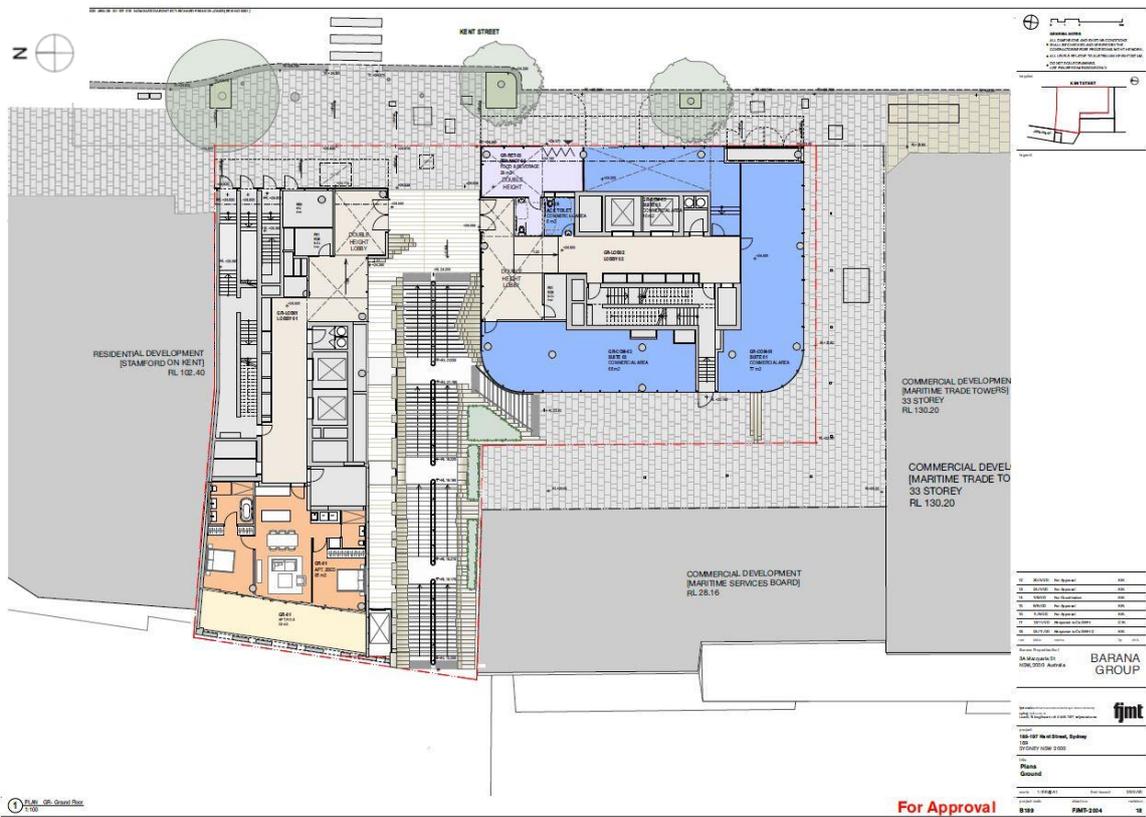


Figure 41: Ground level plan (Kent Street level). Note that the site boundary is identified by the red dashed line, and the "L" shaped easement that benefits the site is identified by the black dashed line.

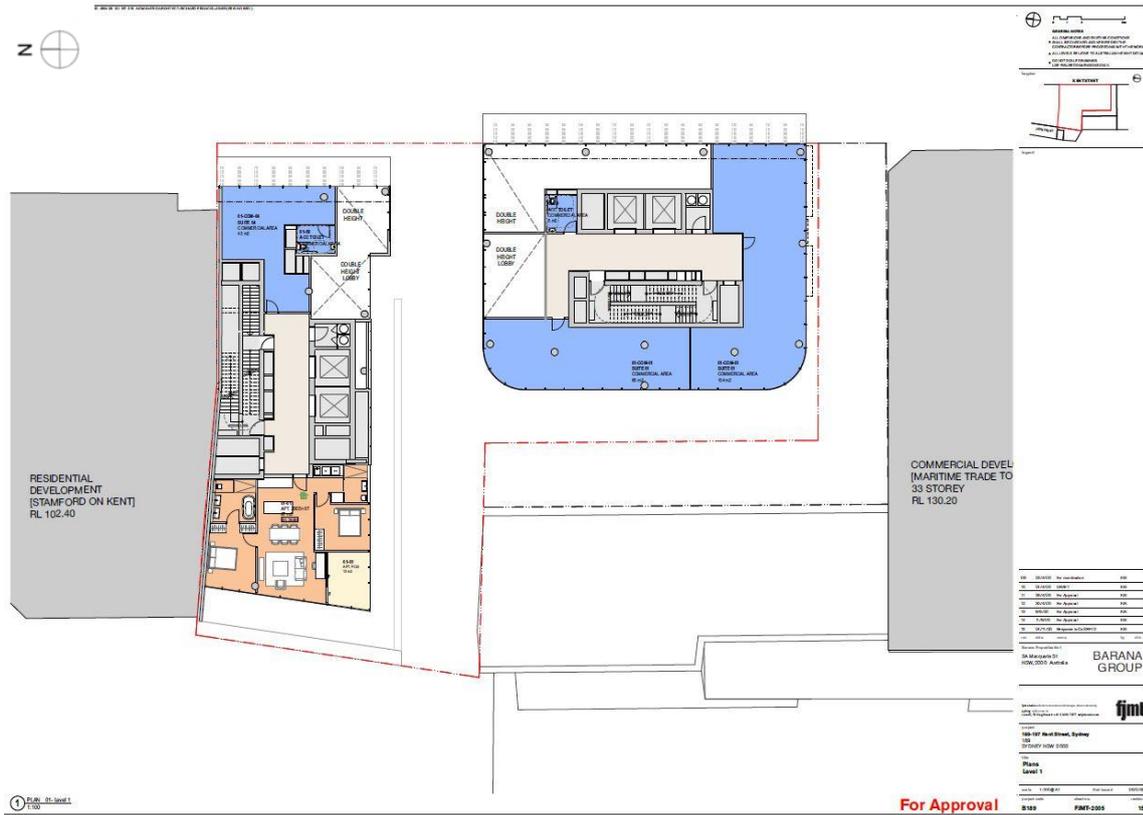


Figure 42: Level 1 plan

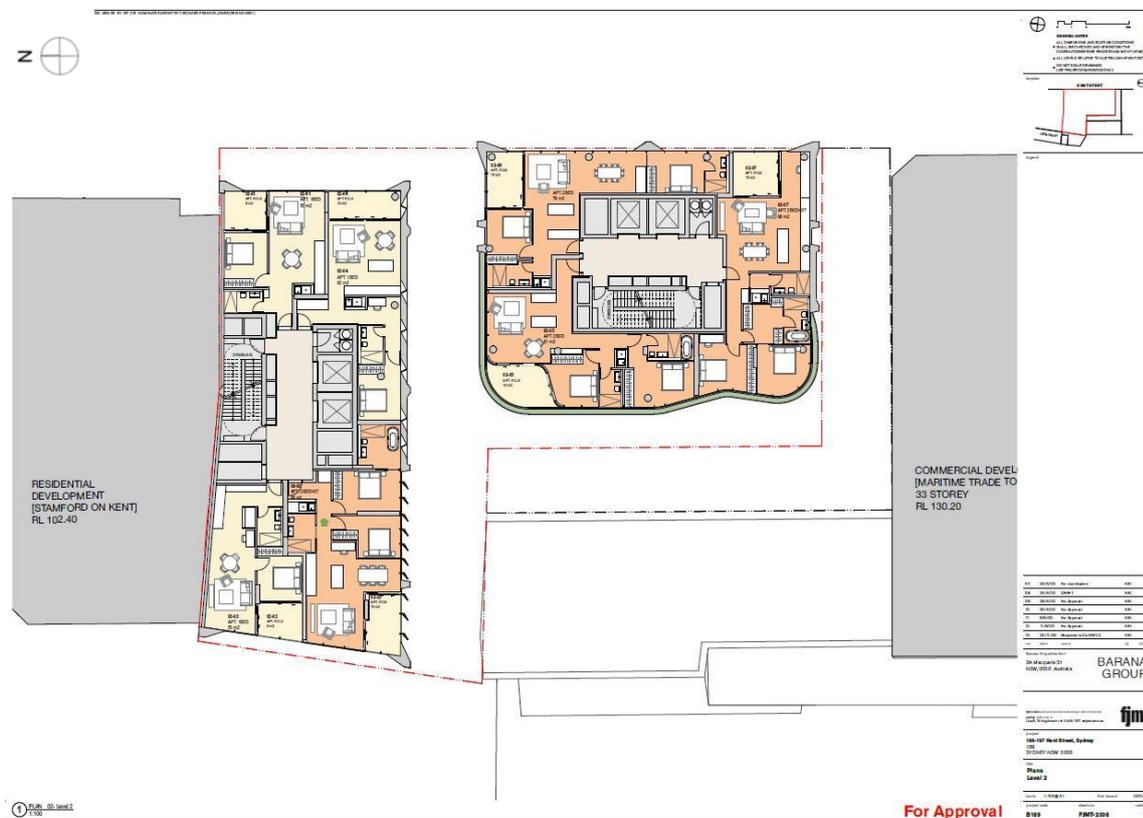


Figure 43: Typical low rise level plan (level 2 shown)

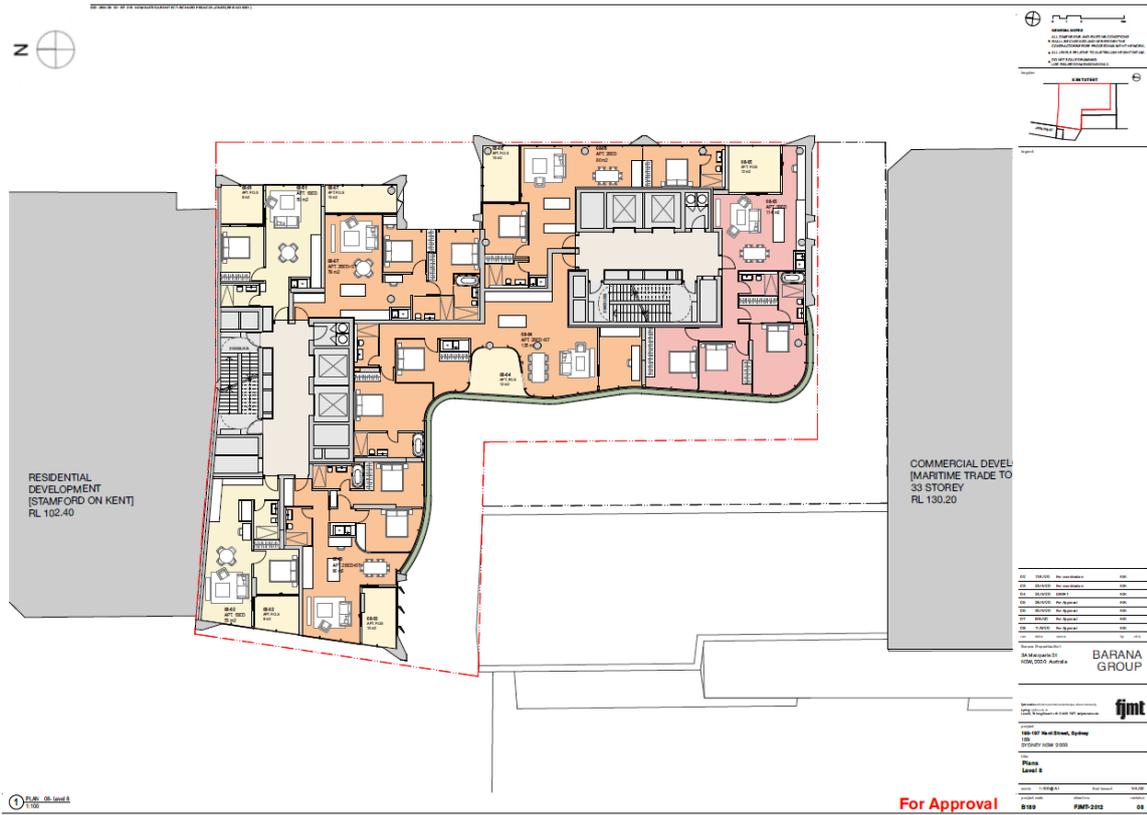




Figure 46: Typical high rise level plan (level 13-19 shown)



Figure 47: Level 20 plan



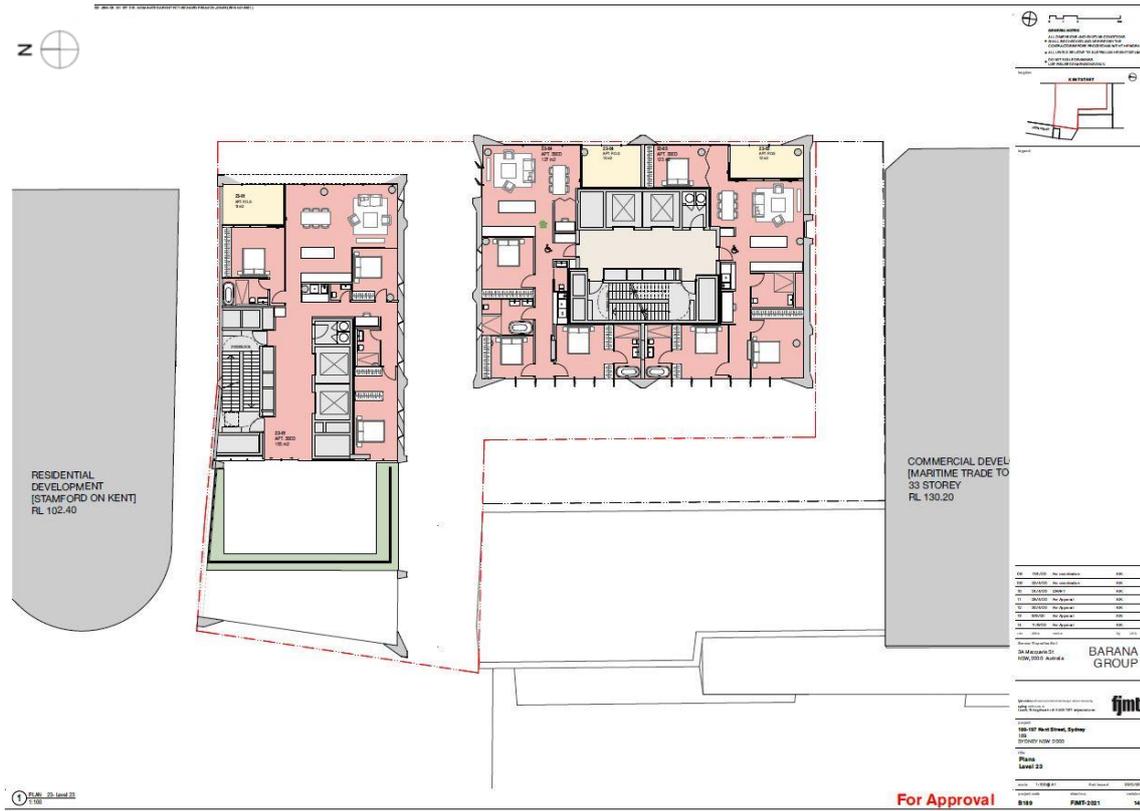


Figure 50: Level 23 plan

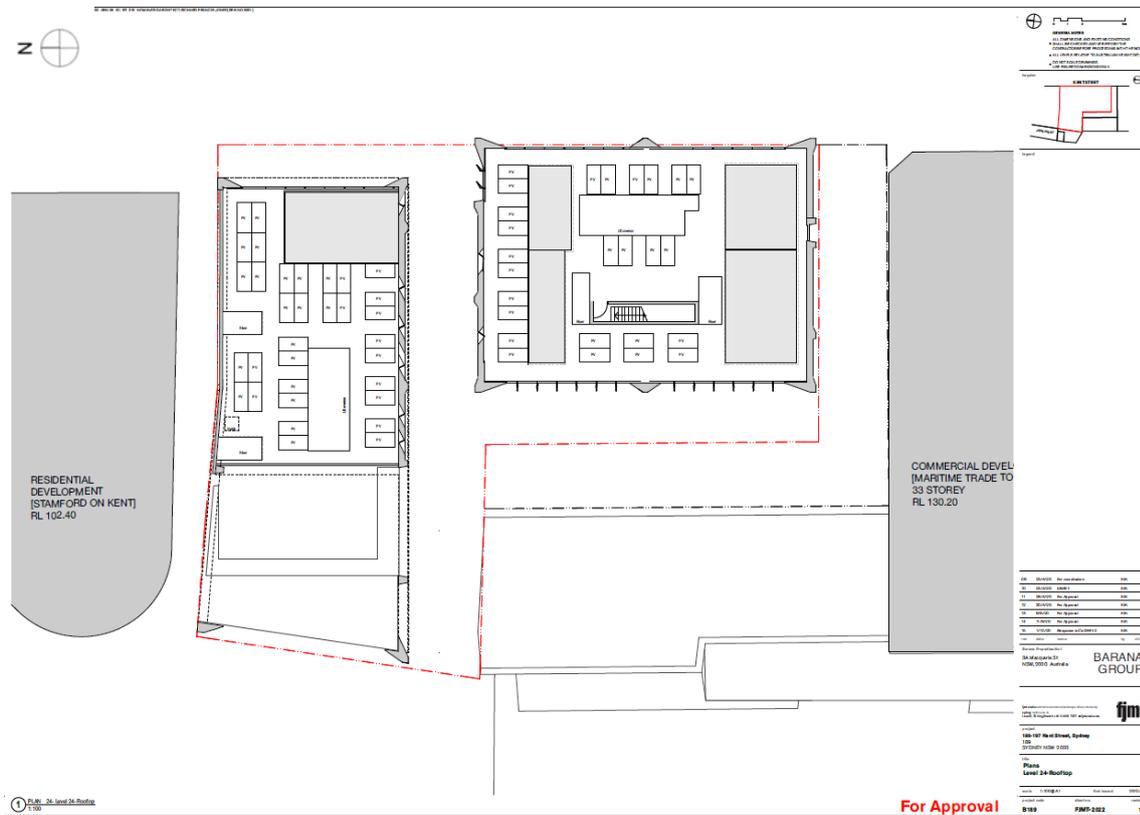


Figure 51: Roof plan

## History Relevant to the Development Application

### First concept development consent

25. On 26 June 2006, development consent D/2005/1123 was granted by the CSPC for a concept development application to convert the existing commercial building to a mixed use development comprising residential and commercial uses including an additional 6 storeys and a basement carpark.
26. This development consent lapsed on 26 June 2011.

### Second concept development consent

27. On 10 September 2015, development consent D/2014/1900 was granted by the CSPC for a concept development application for an 80 metre building envelope for a mixed use development comprising retail and residential uses.
28. Development consent D/2014/1900 was subsequently amended by a Section 4.55 modification application (Amendment A) on 1 June 2018 to permit residential land uses on part of the ground floor and level 1 of the building, and to incorporate a Design Excellence Strategy within the consent.
29. This development consent lapsed on 10 September 2020.

### Competitive design alternatives process

30. In 2018, the applicant undertook a competitive design alternatives process, in accordance with the design excellence provisions in the Sydney LEP 2012 and Sydney DCP 2012. This competitive process was based on the second concept development consent D/2014/1900.
31. Four architectural firms participated, with the winning scheme for the competitive design alternatives process awarded to FJMT on 25 October 2018.
32. The selection panel identified that further design development and investigations were required to resolve matters including setbacks and height, natural cross ventilation, appropriate landscaping, basement arrangements and access, wind impacts, and Ecologically Sustainable Development (ESD) initiatives.

### Third concept development consent

33. On 20 June 2019, development consent D/2018/1014 was granted by the CSPC for an 80 metre concept building envelope for an indicative mixed use development including retail and residential land uses and a pedestrian through site link between Kent Street and Jenkins Street.
34. This development consent generally matches the building envelope and land use mix approved under the second concept development consent D/2014/1900, as approved under Amendment A, but allowing additional time of the submission of a detailed design development application, as the consent will not lapse until 20 June 2024.

### Concurrent concept modification application

35. A Section 4.55(2) modification application D/2018/1014/A was lodged with the City on 8 May 2020, amended on 11 September 2020 and assessed concurrently with the subject detailed design development application.

36. The Section 4.55(2) modification application D/2018/1014/A proposes to amend the approved building envelopes.
37. Specifically, the modifications include the addition of fenestration articulation and architectural roof feature zones, reduce the northern setback between levels 16-23 from 3 metres to nil, and modify conditions 29 and 39 to defer the requirement for submission of a detailed Public Domain Plan.
38. This concurrent concept modification application is subject to a separate report for the CSPC's consideration.

#### **Subject detailed design development application**

39. Following lodgement of the application and commencement of preliminary assessment, a request for additional information relating to public art, acid sulfate soils and land contamination was made to the applicant on 18 June 2020. A further request for a solar access spreadsheet was made to the applicant on 10 July 2020.
40. This information was submitted to the City on 22 July 2020 and 24 July 2020 respectively. A public art plan was submitted to the City on 27 July 2020.
41. After finalisation of a preliminary assessment of the proposed development by Council staff, the application and the Section 4.55(2) modification application D/2018/1014/A were presented to the City's Design Advisory Panel (DAP) on 30 July 2020.
42. The DAP provided the following advice in relation to the applications:
  - (a) The Panel was concerned that many of the recommendations and issues raised by the design competition jury had not been addressed.
  - (b) It was recommended that the designers address the elements that require further design development identified by the jury.
  - (c) The Panel agreed with all issues and concerns raised by the City's planning staff and commended the comprehensive assessment, including the following:
    - (i) Northern upper level setback: The removal of the 3 metre setback is desirable for architectural integrity, but only acceptable if there are no significant adverse impacts on the amenity of adjoining apartments, including analysis of wind impacts to southern terraces of adjoining apartments;
    - (ii) Height / roof feature: This is desirable for architectural integrity. The additional overshadowing needs to be quantified;
    - (iii) Amenity: Solar access, natural ventilation, privacy, communal open space, and noise issues with apartments need to be reviewed to be compliant with the Apartment Design Guide;
    - (iv) Wind impacts: The wind impacts for the public domain and open spaces should be tested to be adequate for sitting and staying;
    - (v) Intermingled uses: The intermingled uses and lack of separation of servicing functions will affect the amenity of the residential and commercial uses;

- (vi) Awning: The awning should be reviewed to provide meaningful weather protection for pedestrians; and
  - (vii) Materiality and façade design: The design refinement should include materials and finishes sample board and details on the facade system to include how the planters will work and be maintained.
  - (d) The Panel noted that the lower ground podium facing Jenkins Street is a good location for live-work apartments and some level of flexibility to allow for the testing of different viable typologies is supported.
  - (e) Whilst the through site link is supported, it is noted that the stairs should be tested for usability and comfort.
43. Written correspondence was subsequently sent to the applicant on 19 August 2020, including requests for:
- (a) additional comparative wind tunnel testing to quantify impacts to the southern terraces at level 19 of the 'Stamford on Kent' building at 183 and 187 Kent Street, Sydney;
  - (b) additional comparative modelled views from the apartments and terraces of the 'Stamford on Kent' building at 183 and 187 Kent Street, Sydney;
  - (c) additional overshadowing analysis and suns eye views of overshadowing arising from the architectural roof features;
  - (d) amendments to wintergardens proposed below 30 metres in height to include them in the calculation of gross floor area;
  - (e) amendments to resolve intermingling of retail, commercial and residential uses within the proposed development;
  - (f) additional information relating to the proposed natural ventilation plenum system, including certification by a qualified acoustic consultant;
  - (g) corrections to the calculation of the number of apartments provided with natural cross ventilation, including modifications to achieve compliance with the minimum cross ventilation requirements set out in the ADG;
  - (h) additional details on the proposed facade types, including a materials and finishes board, glass types and glazing systems;
  - (i) additional wind effects information, including further details of mitigation measures;
  - (j) an accessibility report confirming through site link stair compliance, in terms of its landings, handrails, grade and amendment to provide direct lift access between Kent Street and Jenkins Street;
  - (k) amended BASIX and NatHERS modelling documentation;
  - (l) minor amendments to the proposed retail premises tenancies, awning design and entry floor levels;
  - (m) a stormwater quality assessment report;

- (n) an amended waste management plan; and
  - (o) an amended transport impact statement report to address:
    - (i) bicycle parking and end of journey facilities;
    - (ii) car parking, loading, servicing and queuing management; and
    - (iii) confirmation of sufficient room for disabled access to the car stacker.
44. The applicant responded to the request on 11 September 2020, submitting an amended application and additional information to address all of the concerns raised by Council staff.
45. Following notification and completion of the preliminary assessment of the amended application, Council staff met with the applicant and the applicant's consultant team on 27 October 2020 to discuss additional concerns relating to:
- (a) design amendments to the lower ground facade to Jenkins Street;
  - (b) wind impacts to the southern terraces of the adjoining development to the north, to the proposed level 12 communal terrace and to the ground plane/through site link;
  - (c) noise and ventilation discrepancies between the ventilation and acoustic statements and submitted drawings; and
  - (d) through site link stair details.
46. The applicant submitted a further wind effects report, including the results of wind tunnel testing, to the City on 9 November 2020, and a revised view study on 13 November 2020. Amended drawings, additional documents and information were submitted to the City on 14 November 2020 to address the above concerns.
47. Amended drawings with BASIX related amendments were submitted to the City on 25 November 2020, with amended BASIX certification submitted on 2 December 2020.
48. The assessment provided in this report is based on the amended application and additional information outlined above.

### **City of Sydney Act 1988**

49. Section 51N requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines a development application 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 Central Business District. 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. The Director City Planning Development and Transport is the delegate of the Planning Committee and formed the view that the project may have impacts on traffic in the Sydney Central Business District and required consultation with the CSTTC. Transport for New South Wales, as the delegate of the CSTTC, was consulted.
51. Submissions received by the City from Transport for New South Wales are considered in the assessment of the application and the recommended conditions in Attachment A.

**Economic, Social and Environmental Impacts**

52. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979, including consideration of the following matters:

**Environmental Planning Instruments and Development Control Plans****State Environmental Planning Policy No 55—Remediation of Land (SEPP 55)**

53. 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.
54. A preliminary site investigation report and detailed site investigation report, prepared in accordance with SEPP 55 and the SEPP 55 Guidelines, have been submitted with the application. The reports were reviewed by City staff during the assessment of the proposal.

55. The City's Health and Building Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed mix of land uses, in accordance with Clause 7 of SEPP 55 and the SEPP 55 Guidelines. The recommended conditions are included in Attachment A.

**State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (SEPP 65)**

56. SEPP 65 provides that in determining an application for a residential flat development of 3 or more floors and containing 4 or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles.
57. A design verification statement prepared by Richard Francis-Jones of Francis-Jones Morehen Thorp, who is registered as an architect under the Architects Act, 2003 (Registration Number 5301), accompanies the application to address the design quality principles and objectives of the Apartment Design Guide (ADG). The statement satisfies Clause 50(1A) of the Environmental Planning and Assessment Regulation, 2000.
58. The 9 design quality principles under Schedule 1 of SEPP 65 and the relevant objectives of the Apartment Design Guide are discussed below.
- (a) **Principle 1: Context and Neighbourhood Character**
- (i) The site is centrally located on the north-western edge of Sydney's Central Business District, amongst buildings of similar height and scale to that proposed. The new mixed use development will contribute to the vitality of the immediate locality and the broader City of Sydney Local Government Area.
  - (ii) 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.
- (b) **Principle 2: Built Form and Scale**
- (i) The proposed buildings are consistent with the approved concept envelope, subject to the approval of the concurrent Section 4.55(2) modification application D/2018/1014/A.
  - (ii) The development is acceptable with regard to the relevant height development standard in the Sydney LEP 2012, given the proposed variation in the control relates largely to the proposed architectural roof features, as discussed elsewhere in this report.
  - (iii) The proposal is compliant with the maximum floor space ratio control for the site contained in the Sydney Local Environmental Plan 2012.
  - (iv) The form and scale of the proposed new buildings are consistent with the existing built form and scale of the streetscape at both street frontages of the site.

(c) **Principle 3: Density**

- (i) As stated above, the proposal complies with the maximum floor space ratio control. The proposed overall density of development is consistent with that envisaged under the relevant planning controls and is appropriate given the context.
- (ii) The new buildings accommodate 125 apartments, which is an appropriate level of residential density for the site, given its proximity to established and forthcoming infrastructure, public transport, and community and recreation facilities.
- (iii) The proposed density of the new buildings does not result in unacceptable levels of amenity impact for neighbouring properties or future residents of the development.

(d) **Principle 4: Sustainability**

- (i) The proposed development maximises cross ventilation and solar access penetration into residential apartments to reduce artificial lighting, heating and cooling, reducing future energy consumption.
- (ii) The proposal is compliant with the requirements of BASIX in terms of thermal comfort, and water and energy targets.
- (iii) Conditions are recommended in Attachment A to ensure that the development complies with the commitments contained in the BASIX documentation.

(e) **Principle 5: Landscape**

- (i) The opportunity to provide deep soil zones on the site is constrained as the existing and approved building footprint occupies the whole site, which is considered acceptable in the context of Central Sydney.
- (ii) The proposal incorporates landscape elements within the through site link, precast planters within the midrise facades between levels 4 to 12 and landscape elements within the external communal open space at level 12, including tree plantings.
- (iii) Additional details are required to ensure that the proposed landscape component of the scheme is a success. Information is to be submitted relating to detailed landscape conditions which are recommended in Attachment A.

(f) **Principle 6: Amenity**

- (i) The proposal, by adopting design measures that are generally responsive to the constraints and sensitivities of adjacent and nearby residential properties, provides a reasonable level of amenity for the residential occupants of the development and neighbouring properties.

- (ii) It achieves the following in relation to the requirements of the ADG:
    - i. minimum apartment size requirements;
    - ii. direct solar access to 70% (87 of 125) of the proposed apartments living areas;
    - iii. direct solar access to 68% (85 of 125) of the proposed apartments private open space;
    - iv. natural cross ventilation to 59.4% (19 of 32) of the apartments in the first 9 storeys of the development;
    - v. minimum floor to ceiling heights to improve solar access and ventilation of apartments;
    - vi. adequate private open space and communal spaces;
    - vii. adequate storage; and
    - viii. adequate building separation and privacy.
  - (iii) Further detailed analysis of compliance with the relevant amenity controls in the ADG are detailed in the table provided below.
- (g) **Principle 7: Safety**
- (i) 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.
  - (ii) When the building, or designated components of the building, will be used as a residential flat building, there are secure entrances available for the use of permanent residents and the proposed commercial tenancies.
  - (iii) The proposed development has generally been designed in accordance with the relevant principles of Crime Prevention through Environmental Design (CPTED).
- (h) **Principle 8: Housing Diversity and Social Interaction**
- (i) The proposed development provides an adequate mix of residential apartment types to encourage housing diversity, including adaptable apartments and accessible communal facilities for both passive and active recreation.
  - (ii) A range of communal facilities are proposed to encourage social interaction amongst residents. The proposal responds well to the social context of its location in the Sydney Central Business District, which is in close proximity to established infrastructure, public transport, community and recreational facilities.



2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12 metres between habitable rooms / balconies</li> <li>• 9 metres between habitable and non-habitable rooms</li> <li>• 6 metres between non-habitable rooms</li> </ul> <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18 metres between habitable rooms / balconies</li> <li>• 12 metres between habitable and non-habitable rooms</li> <li>• 9 metres between non-habitable rooms</li> </ul> <p>Nine storeys and above (over 25 metres):</p> <ul style="list-style-type: none"> <li>• 24 metres between habitable rooms / balconies</li> <li>• 18 metres between habitable and non-habitable rooms</li> <li>• 12 metres between non-habitable rooms</li> </ul>	<p>Acceptable</p> <p>Consistent with approved concept building envelopes</p>	<p>The proposal does not achieve the minimum ADG separation requirements but does provide an appropriate response to the context of the locality, an acceptable built form and urban design outcome.</p> <p>The proposed development has been generally designed in accordance with the concept building envelopes which do not achieve the ADG setback and separation provisions.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>

3B Orientation	Compliance	Comment
<p>Overshadowing of neighbouring properties is minimised during mid-winter</p>	<p>Yes</p>	<p>Suns eye view diagrams submitted with the application indicate that the proposed building forms and orientation are designed to minimise overshadowing to neighbouring properties.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Acceptable	<p>239 square metres of communal open space is required.</p> <p>The proposal does not meet this minimum requirement with approximately 8% (105 square metres) of the site area as usable external communal open space. Despite this, the proposal meets the design guidance for where minimum communal open space requirements cannot be met, as follows:</p> <ul style="list-style-type: none"> <li>• a total of 32% (377 square metres) of communal space is provided in the form of a landscaped roof top terrace and internal common rooms, gymnasium and sauna;</li> <li>• all apartments have compliant private open space areas; and</li> <li>• the site is in proximity to the Barangaroo Reserve and the Observatory Hill Park and the future Hickson Park within Barangaroo South, which are public open space areas.</li> </ul>
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Acceptable	<p>The proposed communal open space at level 12 does not achieve 50% direct sunlight to the principal usable part of the communal space for at least 2 hours during midwinter.</p> <p>This is acceptable, given that:</p> <ul style="list-style-type: none"> <li>• the internal communal spaces referred to above are provided with more than 2 hours direct sunlight at midwinter;</li> <li>• a high level of amenity provided within the communal areas, with a range of available services for residents; and</li> </ul>

3D Communal and Public Open Space	Compliance	Comment
		<ul style="list-style-type: none"> <li>the physical constraints posed by the approved building envelopes and competition winning building design limit opportunities for the provision of communal open space which receives compliant solar access.</li> </ul>

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 6 metres</p>		<p>The provision of deep soil zones is constrained as the existing, approved concept and proposed detailed design of the building footprint occupies the whole site.</p> <p>The design guidance in the ADG states that achieving deep soil zones may not be possible on some sites including where:</p> <ul style="list-style-type: none"> <li>the location and building typology have limited or no space for deep soil at ground level (e.g. central business districts, constrained sites, high density areas);</li> <li>there is 100% site coverage or the development comprises non-residential uses at ground level.</li> </ul> <p>The site is located in the Sydney Central Business District which is a highly urbanised environment, where a lack of deep soil zones is a consistent characteristic of development.</p> <p>The proposal provides landscape facade elements and external communal areas with tree plantings, and incorporates appropriate stormwater management initiatives to offset the lack of deep soil zones within the site.</p>

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>• 6 metres between habitable rooms / balconies</li> <li>• 3 metres between non-habitable rooms</li> </ul> <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9 metres between habitable rooms / balconies</li> <li>• 4.5 metres between non-habitable rooms</li> </ul> <p>Nine storeys and above (over 25 metres):</p> <ul style="list-style-type: none"> <li>• 12 metres between habitable rooms / balconies</li> <li>• 6 metres between non-habitable rooms</li> </ul>	<p>Acceptable</p> <p>Consistent with approved concept building envelopes</p>	<p>The proposal does not achieve the minimum ADG separation requirements but does provide generally acceptable visual privacy outcomes.</p> <p>The proposal has been generally designed in accordance with the concept building envelopes which do not achieve the ADG setback and separation provisions for visual privacy.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>

3F Visual Privacy	Compliance	Comment
<p>Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.</p>	<p>Yes</p>	<p>Apartment layouts are designed to locate sensitive rooms and spaces away from internal communal corridors and spaces.</p>

3G Pedestrian Access and Entries	Compliance	Comment
<p>Building entries and pedestrian access connects to and addresses the public domain.</p>	<p>Yes</p>	<p>Each of the lift cores are provided lobbies with direct access from the street frontages. The entries are legible and accessible.</p>
<p>Access, entries and pathways are accessible and easy to identify.</p>		<p>A condition is recommended in Attachment A to require a signage and wayfinding strategy to be submitted for approval.</p>

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Acceptable	<p>A total of 70% (87 of 125) of apartments receive 2 hours or more of direct sunlight to living rooms at midwinter.</p> <p>A total of 64% (80 of 125) of apartments receive 2 hours or more of direct sunlight to private open spaces, with 68% (85 of 125) receiving 2 hours or more of direct sunlight to private open spaces cumulatively at midwinter.</p>
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	A total of 10 of 125 (8%) apartments receive no direct sunlight at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	<p>All habitable rooms throughout the development are naturally ventilated.</p> <p>Plenum systems, as indicated in the facade type drawings in Attachment E, are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity.</p>
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	Acceptable	Natural cross ventilation is provided to 59% (19 of 32) of the apartments in the first 9 storeys of the building.
Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.	Yes	No cross through apartments exceed a depth of 18 metres.

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7 metres	Yes	Floor to floor heights of at least 3.1 metres are provided which achieve 2.7 metre floor to ceiling heights.
Non-habitable rooms: 2.4 metres	Yes	Floor to floor heights of at least 3.1 metres are provided which can achieve 2.4 metre floor to ceiling heights.
Two-storey apartments: 2.7 metres for main living area floor, 2.4 metres for the second floor, where it does not exceed 50% of the apartment area.	Yes	All apartments are provided with floor to floor heights of at least 3.1 metres, which can achieve 2.4 to 2.7 metre floor to ceiling heights.
If located in mixed use areas – 3.3 metres for ground and first floor to promote future flexibility of use.	Yes	4.2 metre and 3.6 metre floor to floor heights are proposed to the ground and first floor, which have compliant floor to ceiling heights.

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35 square metres</li> <li>• 1 bed: 50 square metres</li> <li>• 2 bed: 70 square metres</li> <li>• 3 bed: 90 square metres</li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5 square metres each.</p>	Yes	All apartments achieve the design criteria for minimum apartment size.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms throughout the development are naturally ventilated.

4D Apartment Size and Layout	Compliance	Comment
		Plenum systems, as indicated in the facade type drawings in Attachment E, are provided so natural ventilation is maintained to habitable rooms, alongside internal acoustic amenity.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	No habitable rooms exceed a depth to ceiling height ratio of 2.5, except for open plan layouts, which have a depth to ceiling height ratio of 3 in accordance with 4D.3 of the ADG.
8 metre maximum depth for open plan layouts from a window.	Yes	The maximum depth of open plan layouts does not exceed 8 metres from a window.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10 square metres</li> <li>• all other bedrooms: 9 square metres</li> </ul> <p>Minimum dimension of any bedroom is 3 metres (excluding wardrobes).</p>	Yes	All apartments achieve the minimum areas and dimensions prescribed for bedrooms.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6 metres</li> <li>• Two-bedroom or more: 4 metres</li> </ul>	Yes	The development results in all dwellings having a living area with a minimum width consistent with the provisions of the ADG.
4 metres minimum width for cross over and cross through apartments.	Yes	

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Studio apartments are to have a minimum balcony area of 4 square metres with a minimum depth of 1 metre.</p> <p>One-bedroom apartments are to have a minimum balcony area of 8 square metres with a minimum depth of 2 metres.</p> <p>Two-bedroom apartments are to have a minimum balcony area of 10 square metres with a minimum depth of 2 metres.</p> <p>Three-bedroom apartments are to have a minimum balcony area of 12 square metres with a minimum depth of 2.4 metres.</p>	Yes	The proposed balconies meet the minimum size and dimension requirements specified for the number of bedrooms per apartment.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is 8.	Yes	The maximum number of apartments within the residential part of the proposal served by a single lift core on a single level is 4.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	Each tower is provided with 2 lifts, serving 73 apartments within the northern tower, and 52 apartments within the southern tower.
<p>Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed.</p> <p>Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.</p>	Yes	<p>No living room or bedroom windows open directly onto circulation spaces, with the exception of a bedroom window at level 12.</p> <p>A condition is recommended in Attachment A to angle this window away from the communal open space at level 12.</p>
Daylight and natural ventilation are provided to all common circulation spaces.	Acceptable	Lift lobbies generally have no daylight or natural ventilation access.

4F Common Circulation and Spaces	Compliance	Comment
		This is acceptable however given the small number of apartments served by each lobby and the physical constraints posed by approved building envelopes and competition winning building design.

4G Storage	Compliance	Comment
Minimum storage provision: <ul style="list-style-type: none"> <li>• Studio: 4 cubic metres</li> <li>• One bedroom: 6 cubic metres</li> <li>• Two bedroom: 8 cubic metres</li> <li>• Three bed: 10 cubic metres</li> </ul> (Minimum 50% storage area located within unit)	Yes	The application was accompanied by a storage schedule which indicates that each dwelling is provided with sufficient storage, with 50% or more provided within each dwelling.

4H Acoustic Privacy	Compliance	Comment
Noise impacts are mitigated within apartments through layout and acoustic treatments	Yes	<p>The design groups similar uses and services together to ensure the acoustic privacy of the dwellings are maintained. This includes locating waste facilities within the lowest basement level and providing winter gardens to the apartments facing the Western Distributor and the Bradfield Highway.</p> <p>The original application was also accompanied by an Environmental Noise Impact Assessment and the amended application was accompanied by an Acoustic Review of Natural Ventilation Options.</p>

4H Acoustic Privacy	Compliance	Comment
		<p>These reports state that the proposal will achieve acceptable residential amenity within each dwelling.</p> <p>Plenum systems, as indicated in the facade type drawings in Attachment E, are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity.</p> <p>The application is considered acceptable subject to conditions requiring the adoption of the recommendations contained in the assessment for appropriate acoustic mitigation.</p> <p>Additional conditions are recommended to require further acoustic attenuation measures where apartments are proposed with ventilation openings in proximity to communal spaces and waste disposal chutes.</p>

4J Noise and Pollution	Compliance	Comment
<p>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p>	<p>Yes</p>	<p>The proposal has sought to minimise the impact of noise and air emissions from vehicle traffic on the Western Distributor and Bradfield Highway in accordance with the ADG requirements.</p> <p>It includes the use of winter gardens, natural ventilation plenum systems and facade design to mitigate impacts and act as a buffer between the road and the sensitive residential uses within the building.</p>
<p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>	<p>Yes</p>	<p>The acoustic report submitted with the application provides recommendations requiring thick glazing to mitigate noise transmission.</p>

4J Noise and Pollution	Compliance	Comment
		A condition is recommended to require these measures to be incorporated into the design.

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

61. The relevant provisions of the Infrastructure SEPP have been considered in the assessment of the development application.

#### Clause 45

62. The application is subject to Clause 45 of the Infrastructure SEPP as the development may affect existing electricity infrastructure within and adjoining to the site.
63. In accordance with the requirements of the Clause, the application was referred to Ausgrid. At the time of the preparation of this assessment report, no response from Ausgrid had been received by the City.
64. It is noted that Clause 45 of the Infrastructure SEPP requires consideration of any response received within 21 days after the notice is given.

#### Clause 104

65. The proposal is subject to Clause 104 of the Infrastructure SEPP as the development is defined as traffic generating development under Schedule 3 of the SEPP.
66. The application was referred to Roads and Maritime Services (RMS), now part of Transport for New South Wales (TfNSW).
67. No objections were raised with the proposal, subject to the recommended conditions in Attachment A.

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

68. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the SREP 2005.
69. 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.
70. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour.

71. The site is not located in the Foreshores Waterways Area or adjacent to a waterway however and, with the exception of the objective of improved water quality, the objectives of the SREP 2005 are not applicable to the proposed development.
72. The proposal is consistent with the controls contained within the SREP 2005.

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

73. A BASIX Certificate has been submitted with the development application.
74. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal.
75. Conditions are recommended in Attachment A to ensure that the measures detailed in the BASIX certificate are implemented.

**Sydney Local Environmental Plan 2012 (Sydney LEP 2012)**

76. The site is located within the B8 Metropolitan Centre zone. The proposed use is defined as "mixed use development", comprising "commercial premises", "food and drink premises" and "residential flat building" land uses, all of which are permissible with development consent in the zone.
77. The relevant matters to be considered under the Sydney LEP 2012 for the proposed development are outlined and addressed in the table below.

Development Control	Compliance	Comment
4.3 Height of Buildings	No	<p>A maximum height of 80 metres is permitted.</p> <p>A height of 94.05 metres is proposed.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>
<p>4.4 Floor Space Ratio (FSR)</p> <p>6.4 Accommodation floor space</p> <p>6.21(7)(b) Design excellence</p>	Yes	<p>A maximum FSR of 8:1 is permitted under Clause 4.4 of the Sydney LEP 2012.</p> <p>The site is identified as being located within "Area 3" on Sheet FSR_014 of the <i>Floor Space Ratio Map</i>, and 3:1 "accommodation floor space" is available for residential development under Clause 6.4 of the Sydney LEP 2012.</p> <p>Where commercial development is proposed, 2:1 "accommodation floor space" is available under Clause 6.4 of the Sydney LEP 2012.</p>

Development Control	Compliance	Comment
		<p>Up to 10% additional floor space is also available under Clause 6.21(7)(b) of the Sydney LEP 2012, where a proposal is the winning scheme of a competitive design process and the proposed development demonstrates design excellence.</p> <p>The amended development comprises a "building demonstrating design excellence" and is recommended to be awarded an additional 10% floor space.</p> <p>Overall, a total of 12.06:1, is permitted, based upon the proportions of the proposed mix of land uses.</p> <p>A compliant FSR of 12.06:1 is proposed.</p>
4.5A Balconies on certain residential flat buildings	Yes	<p>The proposal includes partially enclosed winter garden balconies within the upper levels of the buildings.</p> <p>The Gross Floor Area (GFA) of these balconies has been excluded from the calculation of total floor space, as the design of the balconies meets the provisions of the clause, being:</p> <ul style="list-style-type: none"> <li>• The excluded balcony GFA does not exceed 15% of the GFA of the attached apartments;</li> <li>• The winter garden balconies are designed to be used as external open space;</li> <li>• The balconies have access to sufficient natural ventilation; and</li> <li>• The enclosure of the winter garden balconies does not significantly increase the bulk or massing of the development.</li> </ul>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the maximum 80 metre "Height of buildings" development standard prescribed under Clause 4.3 of the Sydney LEP 2012.</p>

Development Control	Compliance	Comment
		<p>A written request for the variation of the standard, made in accordance with Clause 4.6 of the Sydney LEP 2012, has accompanied the application.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>
5.6 Architectural roof features	Yes	<p>The maximum "Height of buildings" development standard is exceeded by architectural roof features. These comprise masonry clad frames on the western side of the development facing Jenkins Street.</p> <p>The features are acceptable as they are decorative and integrated with the design of the buildings.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>
5.10 Heritage conservation	Yes	<p>The site is not identified as a heritage item or being located within a heritage conservation area or a Special Character Area under the Sydney LEP 2012. The site is located within the vicinity of several heritage items, as discussed under The Locality heading above.</p> <p>The City's Heritage Specialist has advised that the proposal will not have any detrimental impact on the heritage significance of the nearby heritage items.</p>

Part 6 Local Provisions	Compliance	Comment
6.11 Allocation of Heritage Floor Space (HFS)	Yes	<p>The proposal includes 4,854 square metres of accommodation floor space.</p> <p>In accordance with the requirements of Clause 6.11 of the Sydney LEP 2012, 2,427 square metres (being 50% of the accommodation floor space) of HFS is to be allocated to the site.</p>

Part 6 Local Provisions	Compliance	Comment
		<p>A condition is recommended in Attachment A to require this HFS to be purchased and allocated to the development.</p>
6.21 Design excellence	Yes	<p>The proposal exhibits design excellence as required by Clause 6.21(4) and is recommended to be awarded an additional 10% floor space in accordance with Clause 6.21(7).</p> <p>It is the winner of a competitive design alternatives process and has retained the key elements of the winning scheme.</p> <p>The amended scheme adequately addresses recommendations made by the selection panel for improvements. These recommendations are addressed in detail below under the Discussion heading.</p> <p>The proposal responds appropriately to the concept approval conditions and planning controls where required, and the built form is compatible with the character of the locality, and providing an appropriate transition in scale to the adjacent development.</p> <p>The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The proposal will have a positive contribution to the public domain through the protection of street trees and provision of active frontages.</p>

Part 7 Local Provisions	Compliance	Comment
<p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.6 Office premises and business premises</p> <p>7.7 Retail premises</p>	Yes	<p>A maximum of 91 car parking spaces are permitted based upon the number of residential apartments and gross floor area of the proposed commercial and retail tenancies.</p> <p>91 car parking spaces are proposed.</p>
7.14 Acid Sulphate Soils (ASS)	Yes	<p>The site is located within an area containing Class 5 ASS and is within 50 metres from a Class 1 ASS Zone.</p> <p>Preliminary and detailed site investigation reports were submitted with the original and amended applications, both of which identify that the site is not located within an area with significant ASS risk.</p> <p>The report concludes that all former soils have been previously excavated and removed from the site and the existing building is constructed on sandstone bedrock.</p> <p>Accordingly, an ASS Management Plan is not required, and the development satisfies this provision.</p>
7.15 Flood planning	Yes	<p>The site is not identified as being flood prone.</p> <p>The City's Public Domain and Water Assets Units have reviewed the proposal and have advised that the proposal is acceptable with regard to stormwater management considerations, subject to the conditions recommended in Attachment A.</p>
7.16 Airspace operations	Yes	<p>The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.</p>

Part 7 Local Provisions	Compliance	Comment
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>While the proposal includes demolition of the existing building, it 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>
7.20 Development requiring preparation of a development control plan (DCP)	Yes	<p>The proposed building is located in Central Sydney and exceeds 55 metres in height. A site specific DCP is therefore required for the proposed development.</p> <p>This is a detailed design application submitted in accordance with concept approval D/2018/1014, as proposed to be modified by the concurrent Section 4.55(2) modification application D/2018/1014/A.</p> <p>Pursuant to Section 4.23 of the Environmental Planning and Assessment Act, 1979, the concept development application D/2018/1014 was submitted in lieu of a site-specific DCP to satisfy the control.</p> <p>Subject to approval of the concurrent Section 4.55(2) modification application D/2018/1014/A, the development is consistent with the concept approval and therefore satisfies the provisions of the control.</p>

### Sydney Development Control Plan 2012 (Sydney DCP 2012)

78. The relevant matters to be considered under the Sydney DCP 2012 for the proposed development are outlined below.

#### 2. Locality Statements

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

3. General Provisions	Compliance	Comment
<p>3.1 Public Domain Elements</p> <p><i>3.1.1 Streets, lanes and footpaths</i></p>	Yes	<p>The proposed development will make a significantly positive contribution to the public domain by delivering a pedestrian through site link from Kent Street to Jenkins Street.</p> <p>The proposed public domain elements are generally consistent with the City's requirements for stormwater management, solar access and accessibility.</p> <p>A condition requiring an easement for public access over the pedestrian links is recommended in Attachment A.</p>
<p><i>3.1.2.2 Through site links</i></p>	Yes	<p>The proposed through site link will make a positive contribution to the public domain and is supported, but does not achieve compliance with all of the applicable DCP controls, particularly in terms of its width.</p> <p>This is due largely to the proposed public art and wind mitigation devices. The minor numerical variation of the control is supported in this instance, given that these elements provide publicly accessible art work and pedestrian comfort, respectively.</p>
<p><i>3.1.5 Public Art</i></p>	Yes	<p>A public art plan has been submitted which details the provision of a collaborative art work by Jamie North and Benjamin Jay Shand within the through site link and building foyers.</p> <p>The strategy has been reviewed by the City's Public Art Unit and is acceptable, subject to a condition recommended in Attachment A requiring final details of the public art work to be submitted for approval prior to any works on the site.</p>
<p>3.2 Defining the Public Domain</p> <p><i>3.2.1 Improving the public domain</i></p>	Yes	<p>The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and does not impede public views from the public domain.</p>

3. General Provisions	Compliance	Comment
3.2.2 <i>Addressing the street and public domain</i>	Yes	<p>The proposal positively addresses each street frontage of the site, providing residential entries and retail premises to Kent Street and Jenkins Street.</p> <p>It incorporates high quality materials and finishes and public art in publicly accessible locations.</p> <p>The alignment of the ground floor level to Kent Street is generally consistent with the adjoining development at its northern end, being set back from the front boundary by approximately 3 metres, with the southern component of the development built to the street edge.</p> <p>This is considered to be acceptable as the additional setback area will be publicly accessible, is directly fronted and activated by the main entry residential lobby to the northern tower within the development.</p> <p>Subject to conditions recommended by the City's Public Domain Unit, the proposal will be designed to interface and integrate with the public domain to Kent Street and Jenkins Street.</p>
3.2.3 <i>Active frontages</i>	Yes	<p>The site is not identified as having to provide an active frontage to either Kent Street or Jenkins Street.</p> <p>The design of Kent Street frontage of the development provides activation to the street, including residential and retail entries, as well as incorporating public art within foyers and lighting within the through site link.</p> <p>A retail premises is also proposed to the Jenkins Street frontage of the site, which will serve to activate the western side.</p>
3.2.4 <i>Footpath awnings</i>	Yes	<p>The site is not identified as being required to provide footpath awnings to either the Kent Street or Jenkins Street frontages of the site.</p>

3. General Provisions	Compliance	Comment
		<p>Footpath awnings are provided to Kent Street which provide adequate weather protection and pedestrian amenity to the street frontage of the site.</p> <p>The height of the awning complies with minimum and maximum heights of 3.2 to 4.2 metres for awnings.</p>
3.2.6 <i>Wind effects</i>	Yes	<p>Wind reports were submitted with the original and amended applications.</p> <p>The reports recommend a variety of mitigation treatments to mitigate wind impacts within the site.</p> <p>These include impermeable baffle screens at ground level and within the through site link and screen planting within the communal open space at level 12.</p> <p>Conditions are recommended in Attachment A to require additional detailed wind tunnel testing and assessment to confirm the efficacy and final design of these wind effects mitigation treatments.</p>
3.2.7 <i>Reflectivity</i>	Yes	<p>A condition is recommended in Attachment A to ensure that light reflectivity from the building materials used on the facades of the proposed development must not exceed 20%.</p>
3.2.8 <i>External lighting</i>	Yes	<p>External lighting is proposed within the through site link.</p> <p>Conditions are recommended in Attachment A to require the preparation of external lighting details for the development.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>As noted above under the History Relevant to the Development Application heading, the proposed development has been subject to an independent competitive design alternatives process and is consistent with the winning scheme by FJMT.</p>

3. General Provisions	Compliance	Comment
		<p>The proposal has satisfactorily addressed the recommendations made by the competition selection panel.</p> <p>As a consequence of the competitive design alternatives process, the amended development is considered to be a "building demonstrating design excellence". As such, it is recommended to be awarded up to an additional 10% floor space.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology.</p> <p>Appropriate conditions relating to the protection of adjacent street trees are recommended by the City's Tree Management Officer and included in Attachment A.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposed development will meet the sustainability requirements of BASIX relating to the residential component of the development, and Section J of the Building Code of Australia, which is applicable to the commercial and retail uses.</p> <p>Additional initiatives are included in BASIX documentation in order to achieve the requirement for BASIX energy and water scores 5 points above the minimum requirement, in accordance with the concept development consent D/2018/1014.</p>
3.7 Water and Flood Management	Yes	<p>Appropriate conditions relating to stormwater drainage are recommended by the City's hydraulic engineers and included in Attachment A.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>No subdivision is proposed.</p>

3. General Provisions	Compliance	Comment
		Conditions recommended by the City's Specialist Surveyor to require various restrictions on the land and an easement for public access over the through site link are included in Attachment A.
3.9 Heritage	Yes	Refer to the discussion and assessment provided in relation to heritage conservation and Clause 5.10 of the Sydney LEP 2012 provided above.
<p>3.11 Transport and Parking</p> <p><i>3.11.1 Managing transport demand</i></p>	Yes	<p>The proposed development comprises a mixed-use development including more than 25 dwellings.</p> <p>As such, it generates a requirement for a Transport Impact Study and Transport Access Guide under the relevant provisions of Section 3.11.1 of the Sydney DCP 2012.</p> <p>Transport Impact Study reports were submitted with the original and amended applications in accordance with these requirements, which have been reviewed by the City's Transport Planning Unit, and who have advised that they are acceptable with regard to the controls in Section 3.11.1 of the Sydney DCP 2012.</p> <p>A condition is recommended in Attachment A to ensure the development of a Transport Access Guide.</p>
<p><i>3.11.2 Car share scheme parking spaces</i></p>	Yes	<p>A minimum of 1 car share parking scheme space is required to be provided within the development.</p> <p>The proposal provides for 1 car share parking scheme space within basement level 3.</p>
<p><i>3.11.3 Bike parking and associated facilities</i></p>	Yes	<p>A minimum of 125 residential bicycle parking spaces, 1 retail bicycle parking space, 3 commercial bicycle parking spaces and 17 visitor bicycle parking spaces are required to be provided within the development.</p>

3. General Provisions	Compliance	Comment
		<p>The proposal provides 156 bicycle parking spaces and 5 retail bicycle parking spaces within the basement levels.</p> <p>A condition is recommended in Attachment A to ensure the provision of a compliant number of visitor bicycle parking spaces.</p>
3.11.4 <i>Vehicle parking</i>	Yes	<p>Conditions are recommended in Attachment A to ensure that car parking spaces are allocated to dwellings and commercial uses in accordance with the parking rates in Part 7 of the Sydney LEP 2012.</p>
3.11.6 <i>Service vehicle parking</i>	Yes	<p>A minimum of 4 service vehicle parking spaces are required to be provided within the development, as a result of the proposed mix of commercial, retail and residential land uses.</p> <p>The proposal provides 3 service vehicle spaces and a loading dock within basement level 3.</p>
3.11.7 <i>Motorbike parking</i>	Acceptable	<p>A minimum of 8 motorbike parking spaces are required to be provided within the development.</p> <p>The proposal provides 5 motorbike parking spaces within basement level 3.</p> <p>The variation of the control is acceptable given the physical constraints posed by the configuration and necessary space given over to other critical uses within the basement.</p>
3.11.9 <i>Accessible parking</i>	Yes	<p>The car stacker lift has been proposed to provide 3.1 metre clear headroom.</p> <p>A condition is recommended in Attachment A to ensure that the car stacker lift and parking space within the car stacker itself achieves compliance with Australian Standards AS2890.6 and AS1428.1.</p>

3. General Provisions	Compliance	Comment
		This is both in terms of access for wheelchairs to be unloaded or loaded into vehicles within the lift area and accommodating the size of typical wheelchair capable vehicles.
<p>3.11.10 Vehicle access for developments greater than 1000sqm GFA</p> <p>3.11.11 Vehicle access and footpaths</p>	Yes	<p>The location of vehicle access to the site on Jenkins Street is not likely to compromise the safety of the local road network. Conditions are recommended in Attachment A requiring:</p> <ul style="list-style-type: none"> <li>• vehicles entering or leaving the site to do so in a forward direction;</li> <li>• installation of signs at Jenkins Street to compel drivers to give way to pedestrians; and</li> <li>• the preparation of car parking, loading and servicing management plan and transport access guides.</li> </ul>
3.11.12 Tandem, stacked and mechanical parking areas	Yes	<p>The proposed development includes a car stacker and turntable within the basement levels.</p> <p>These mechanical parking installations are acceptable, given the physical constraints posed by the configuration and necessary space given over to other critical uses within the basement.</p> <p>A condition is recommended in Attachment A requiring the car stacker vehicle lift and turntable to be reviewed for suitability for implementation and compliance with Australian Standard AS 2890.1</p>
<p>3.11.13 Design and location of waste collection points and loading areas</p> <p>3.11.14 Parking area design</p>	Yes	Section 3.11.13 of the Sydney DCP 2012 requires waste collection and loading by Council vehicles to be accommodated within the basement levels of new development.

3. General Provisions	Compliance	Comment
		<p>Waste collection and loading is proposed to be wholly accommodated within basement level 3 of the proposed development by Council waste collection vehicles.</p> <p>This will be accessed from Jenkins Street, with a turntable capable of accommodating a Council waste collection vehicle.</p> <p>Conditions are recommended in Attachment A to require all loading to be carried out on site, parking design in accordance with Australian Standard AS 2890.1, and a car parking, loading and servicing management plan to be developed.</p>
3.12 Accessible Design	Yes	<p>The proposed development meets the requirements of Section 3.12 of the Sydney DCP 2012, as it includes the provision of 18% (22 of 125) of apartments as adaptable dwellings, across a mix of two-bedroom and three-bedroom apartments.</p> <p>The proposal also provides 20% (25 of 125) of apartments as liveable dwellings, including one-bedroom, two-bedroom and three-bedroom apartments.</p> <p>Conditions are recommended in Attachment A to ensure that the proposal provides appropriate access and facilities for persons with disabilities, in accordance with the Sydney DCP 2012 and the Building Code of Australia.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The safety and security of the public domain and the site is enhanced by the proposed increase in activity within the site and casual surveillance of the surrounding streets from the residential apartments.</p> <p>The proposal provides separate and secure entrances to the different building uses, adequate passive surveillance and a range of other security measures.</p>

3. General Provisions	Compliance	Comment
		It is generally designed in accordance with Crime Prevention Through Environmental Design (CPTED) principles.
3.14 Waste	Yes	<p>The development includes waste chutes serving each floor and bulky storage areas within the basement level.</p> <p>The proposal also includes the provision for on-site waste collection by Council waste vehicles.</p> <p>A range of waste management conditions are recommended in Attachment A to ensure waste is managed on the site in accordance with Section 3.14 of the Sydney DCP 2012.</p>
3.15 Late Night Trading Management	Yes	<p>The food and drink premises to the Kent Street and Jenkins Street frontages of the site are proposed to operate between 6am and 2am, Mondays to Sundays inclusive.</p> <p>The site is identified as being located within a late night trading management area and the food and drink premises comprise Category B premises, in accordance with the relevant provisions of Section 3.15 of the Sydney DCP 2012.</p> <p>The proposed hours of operation of the food and drink premises are consistent with the base hours of operation for Category B premises and no trial period is required or recommended to be imposed as a result.</p>
3.16 Signage and Advertising 3.16.1 Signage strategy	Yes, subject to conditions	<p>No signage is proposed.</p> <p>Conditions are recommended to:</p> <ul style="list-style-type: none"> <li>• require a signage and wayfinding strategy to be submitted for approval; and</li> <li>• any future signage to be the subject of a separate application.</li> </ul>

3. General Provisions	Compliance	Comment
3.17 Contamination	Yes, subject to conditions	<p>As discussed above in relation to SEPP 55, the City's Health and Building Unit has reviewed the preliminary site investigation report and detailed site investigation report submitted to satisfy both SEPP 55 and Section 3.17 of the Sydney DCP 2012.</p> <p>The advice received advises that, subject to recommended conditions relating to contamination in Attachment A, the site can be made suitable for the proposed development.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height  4.2.1.2 <i>Floor to ceiling heights and floor to floor heights</i>	Acceptable	<p>The development provides compliant floor to floor heights of 3.1 metres to all residential apartments, which can achieve 2.7 metre floor to ceiling heights.</p> <p>A compliant 3.6 metre floor to floor height is also proposed to the first floor level of the development.</p> <p>3.4 and 4.2 metre floor to floor heights are proposed to the first basement level, ground floor levels which do not achieve compliance with the required 4.5 metre floor to floor height control.</p> <p>These heights are acceptable however, as:</p> <ul style="list-style-type: none"> <li>• the Sydney Central Business District is dominated by existing retail premises and the inability to convert the basement to a retail premises will not result in any shortage of available retail space within the locality;</li> </ul>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<ul style="list-style-type: none"> <li>• the design of the ground floor levels promotes acceptable daylight access into the interior of the retail and commercial tenancies, particularly with respect to the proposed double height residential entry lobbies; and</li> <li>• the internal floor to floor height will contribute adequately to the flexible use of the tenancies.</li> </ul>
4.2.3 Amenity	Yes	<p>The proposal is generally acceptable with regard to residential apartment amenity considerations, subject to the conditions recommended in Attachment A.</p> <p>Further discussion regarding compliance is provided below.</p>
4.2.3.4 <i>Design features to manage solar access</i>	Yes	The design of shading design features throughout the development is generally acceptable.
4.2.3.5 <i>Landscaping</i>	Yes	The landscaping design is acceptable, subject to the landscape conditions recommended in Attachment A.
4.2.3.10 <i>Outlook</i>	Yes	<p>All apartments are provided with adequate outlook and views and outlook from the surrounding development has been considered in the site planning and massing of the development.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>
4.2.3.11 <i>Acoustic privacy</i>	Yes	An Environmental Noise Impact Assessment and Acoustic Review - Ventilation Options accompanied the original and amended applications.

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>Both reports have been reviewed by the City's Health and Building Unit. Advice received is that the recommendations of the reports are acceptable.</p> <p>Conditions are recommended in Attachment A to require acoustic control and noise management measures are implemented in relation to the proposed plenum systems and the commercial and residential uses.</p>
4.2.3.12 <i>Flexible housing and dwelling mix</i>	Acceptable	<p>Section 4.2.3.12 of the Sydney DCP 2012 requires the following dwelling mix:</p> <ul style="list-style-type: none"> <li>• Studio: 5-10%</li> <li>• One-bedroom: 10-30%</li> <li>• Two-bedroom: 40-75%</li> <li>• Three+ bedroom: 10-100%</li> </ul> <p>The proposal provides the following dwelling mix:</p> <ul style="list-style-type: none"> <li>• 23% (29) one-bedroom apartments;</li> <li>• 41% (51) two-bedroom apartments; and</li> <li>• 36% (45) three-bedroom apartments.</li> </ul> <p>The proposed dwelling mix is generally in accordance with the required dwelling mix, with the exception of the requirement for studio apartments.</p> <p>The variation is acceptable, given that the proposal provides an adequate range of dwellings, including adaptable and liveable units, and a flexible building design, which is readily capable of accommodating future changes in use and internal configuration.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
<i>4.2.3.13 Wind affected balconies</i>	Yes	<p>The enclosed balconies in the upper levels of the development are designed in accordance with the provisions set out in Section 4.2.3.13 of the Sydney DCP 2012.</p> <p>The proposed wind screens are well designed and integrate with the building facades. The fixed screens comprise clear glazing and contain a 500mm permanent opening in accordance with the required minimum dimensions for wind affected balconies.</p>
<i>4.2.3.14 Apartments with setback bedrooms</i>	Yes	The proposed development does not include any apartments with setback bedrooms.
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposed development provides an acceptable built form with fine grain architectural character, with its scale, modulation and facade articulation designed to respond appropriately to its context on Kent Street and Jenkins Street.</p> <p>The proposed breaks in the building separate the massing of the towers, distinguish between the low and high rise components of the buildings and allow visual and physical connectivity through the site.</p>
4.2.6 Waste and Recycling Management	Yes	Refer to the discussion and assessment provided in relation to waste management and Section 3.14 of the Sydney DCP 2012 in the table above.
4.2.7 Heating and cooling infrastructure	Yes	The proposed heating and cooling infrastructure is consolidated in centralised locations throughout the development, in order to ensure energy efficiency is achieved and to allow for the accommodation of future environmental technologies.

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.8 Letterboxes	Yes	Secure mail facilities, located at street level and accessible from the residential entry lobby, can be provided within the development.

5. Specific Areas  5.1 Central Sydney	Compliance	Comment
5.1.1 Street frontage heights	Acceptable  Consistent with approved concept building envelopes	<p>The proposed development does not set back above podium height to the Kent Street frontage.</p> <p>A break in the building has been provided at approximately 39 metres above ground level, in order to distinguish between the low rise and high-rise components of the southern tower.</p> <p>This is acceptable as it is generally consistent with the requisite 20 to 45 metre street frontage height provisions in Section 5.1.1 of the Sydney DCP 2012.</p>
5.1.2 Building setbacks	Acceptable	<p>The proposed development does not provide front, side or rear setbacks, or separation between buildings on the same site in accordance with Section 5.1.2 of the Sydney DCP 2012.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>
5.1.5 Building bulk	Yes	<p>The proposed towers have compliant floor plates of less than 1,000 square metres in area.</p> <p>The horizontal dimensions of the building towers parallel to both Kent Street and Jenkins Street is less than 40 metres.</p>

5. Specific Areas 5.1 Central Sydney	Compliance	Comment
5.1.6 Building exteriors	Yes	<p>The proposed development will contribute positively to the streetscape with high quality architecture, meeting the objectives in Section 5.1.6 of the Sydney DCP 2012.</p> <p>The materiality and design of the development are distinctive and are the result of a competitive design alternatives process.</p> <p>A masonry facade system, with glazing, profiled sandstone and glass reinforced concrete cladding is proposed at the lower podium level. A curved western facade with a glazed curtain wall and precast planters are provided in the midrise component.</p> <p>Above this, the twin tower concept responds to the context of the site by matching the alignment of the surrounding buildings and providing a building breaks permitting visual and physical connectivity through the site. The tower facades will primarily comprise bronze-coloured framing elements and fixed full height glazing.</p> <p>A condition is recommended in Attachment A to require an amended materials and samples board in order to ensure that the design quality intent of the proposed building exteriors is carried through to the certification and construction phases.</p>
5.1.9 Award and allocation of heritage floor space  <i>5.1.9.5 Calculating the heritage floor space to be allocated</i>	Yes	<p>Appropriate conditions of consent are recommended in Attachment A to ensure the correct allocation is apportioned to the development.</p>

## Discussion

### Clause 4.6 request to vary a development standard

79. The site is subject to a maximum "Height of buildings" development standard of 80 metres. The proposed development has a height of 94.05 metres, resulting in an exceedance of the maximum permitted height by 14.05 metres, or 18%.
80. The areas of the building subject to the breach of the control include lift overruns, fire stairs, plant, roof area, building parapets and an architectural roof feature which conceals the aforementioned building elements.
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 Attachment C.

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

83. The applicant seeks to justify the contravention of the "Height of buildings" development standard on the basis that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the objectives of the standard are achieved, notwithstanding non-compliance with the standard.
84. The relevant objectives of the development standard are:
  - (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; and
  - (c) to promote the sharing of views.
85. The applicant's request states that the objective (a) of the standard is achieved in the following manner:
  - (a) The exceedance of the 80 metre height plane largely arises from the proposed architectural roof features and the steeply sloping site topography, varying from approximately 1.6 metres to 14 metres from east to west, as indicated in Figure 52 and Figure 53 below.

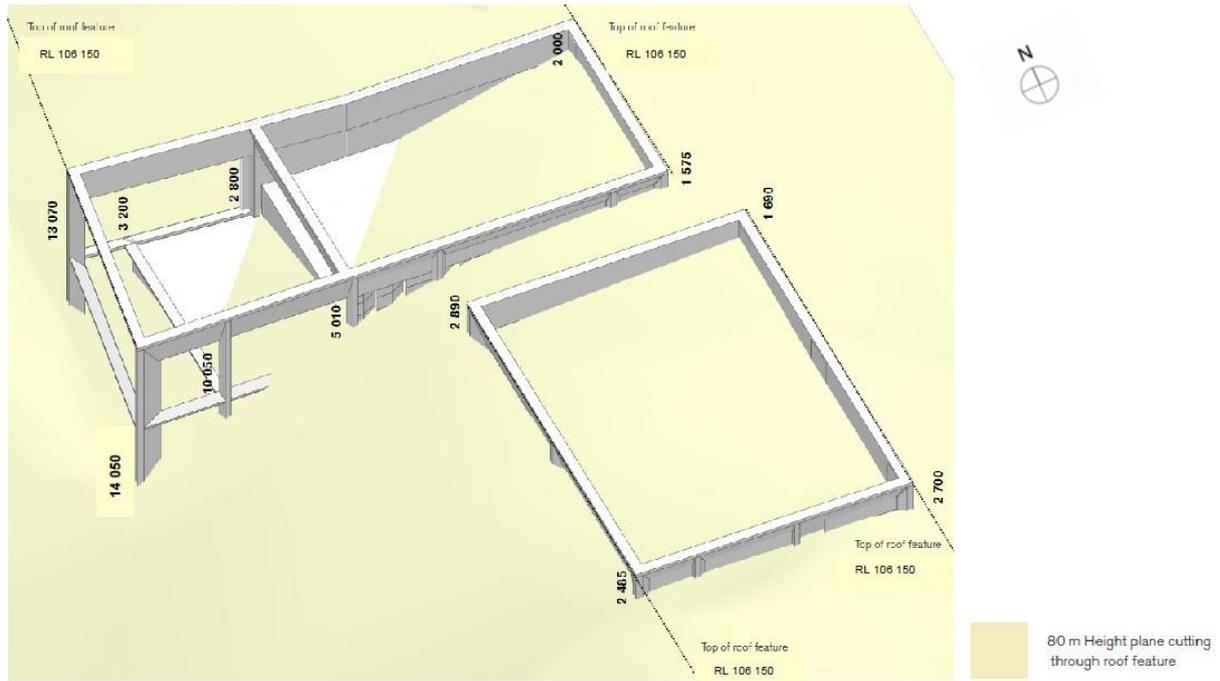


Figure 52: Axonometric diagram indicating the proposed height exceedances

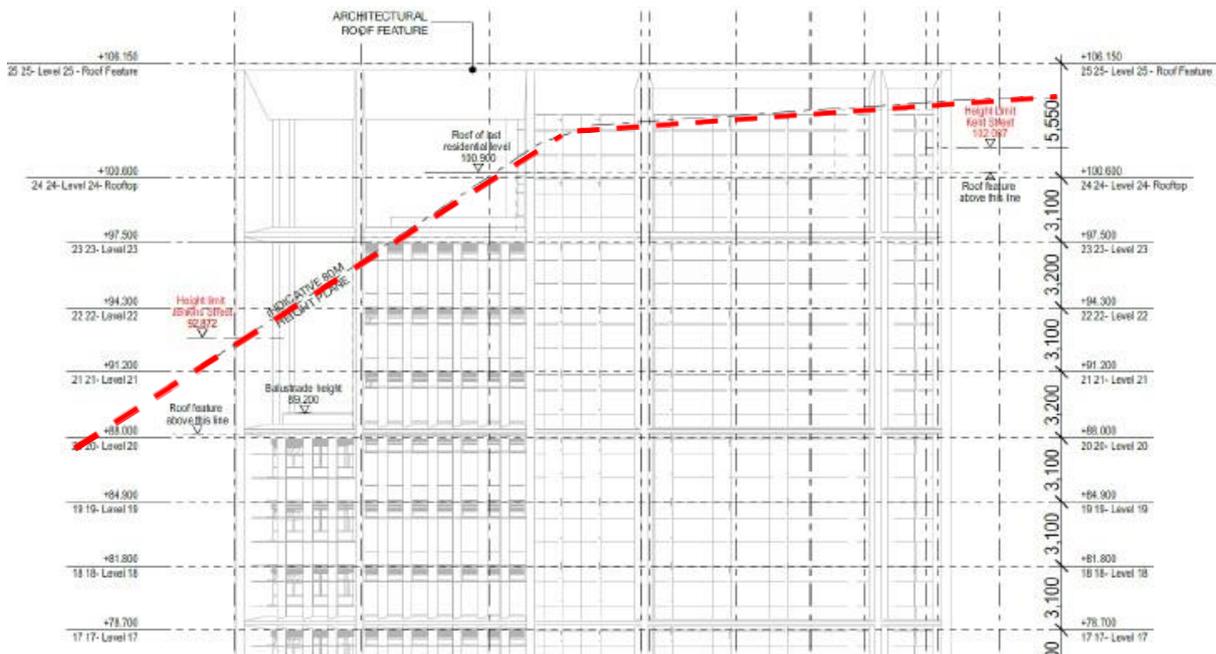
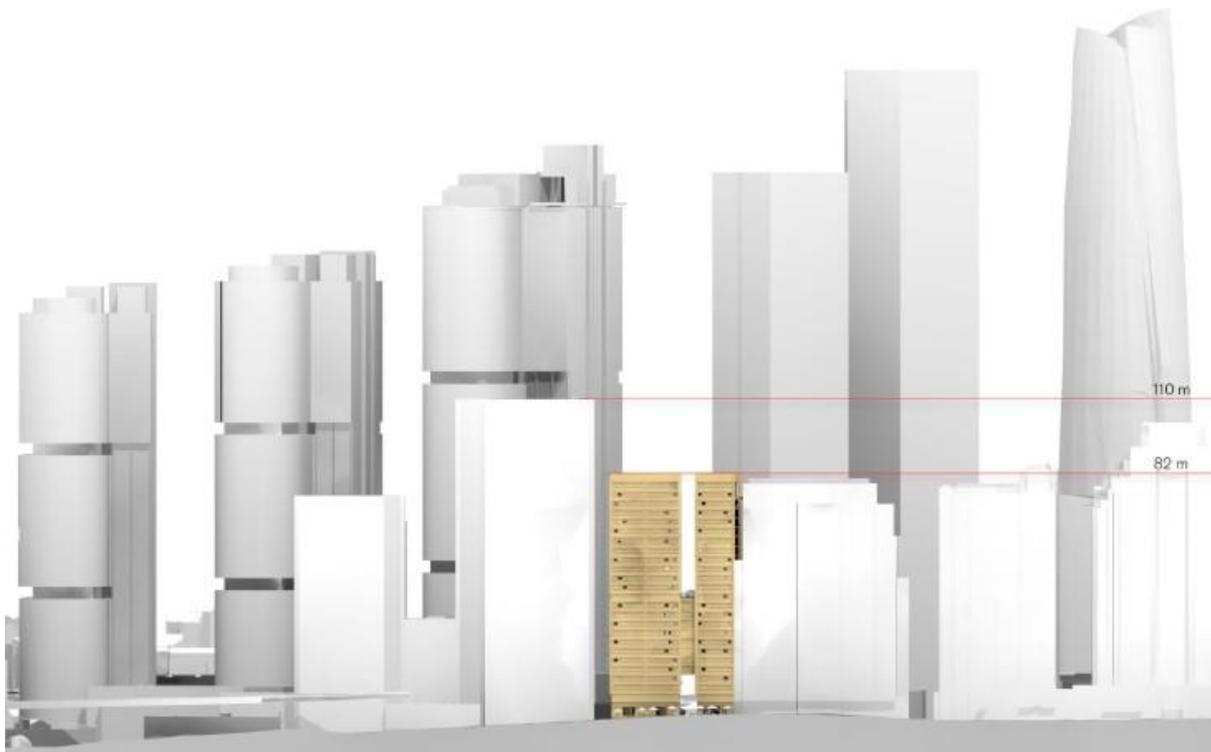


Figure 53: Section extract diagram illustrating the proposed height exceedances

- (b) Clause 5.6(2) of SLEP 2012 provides that "Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by this Plan may be carried out, but only with development consent".
- (c) 189 Kent Street, Sydney, is located in the Sydney Central Business District, one of the highest density centres in Australia.

- (d) The site also sits within a cluster of height that has primarily been driven by the development of Barangaroo, as indicated by the development context depicted in Figure 54 below.



**Figure 54:** Perspective diagram (looking west) depicting the height context of the site

- (e) The development is relatively diminutive when compared with the surrounding development.
- (f) In the immediate context, it is approximately equivalent in height to the Stamford on Kent building to the north and around 28 metres lower than the Maritime Trade Towers to the south.
- (g) In the broader context, it is less than half the height of International Tower One, the approved Barangaroo residential towers and the Crown Resort.
- (h) The building is also west of the Central Business District core, which contains numerous towers that are significantly taller than the proposed development.
- (i) The proposed architectural roof features complement the scale and form of the adjacent Stamford on Kent building.
- (j) The architectural roof feature serves to frame and complete the sculptural form of the development while ensuring that any gross floor area remains below the 80 metre height limit, as depicted in the photomontage extract in Figure 55 below.
- (k) The Central Sydney Planning Proposal (CSPP), which has been placed on statutory exhibition, proposes to increase the height limit for the site to 110 metres.

- (l) As such, there is an acknowledgement by Council that increased height is appropriate and desirable in the context.
- (m) Given the CSPP has been the subject of public consultation it is therefore a matter for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979.

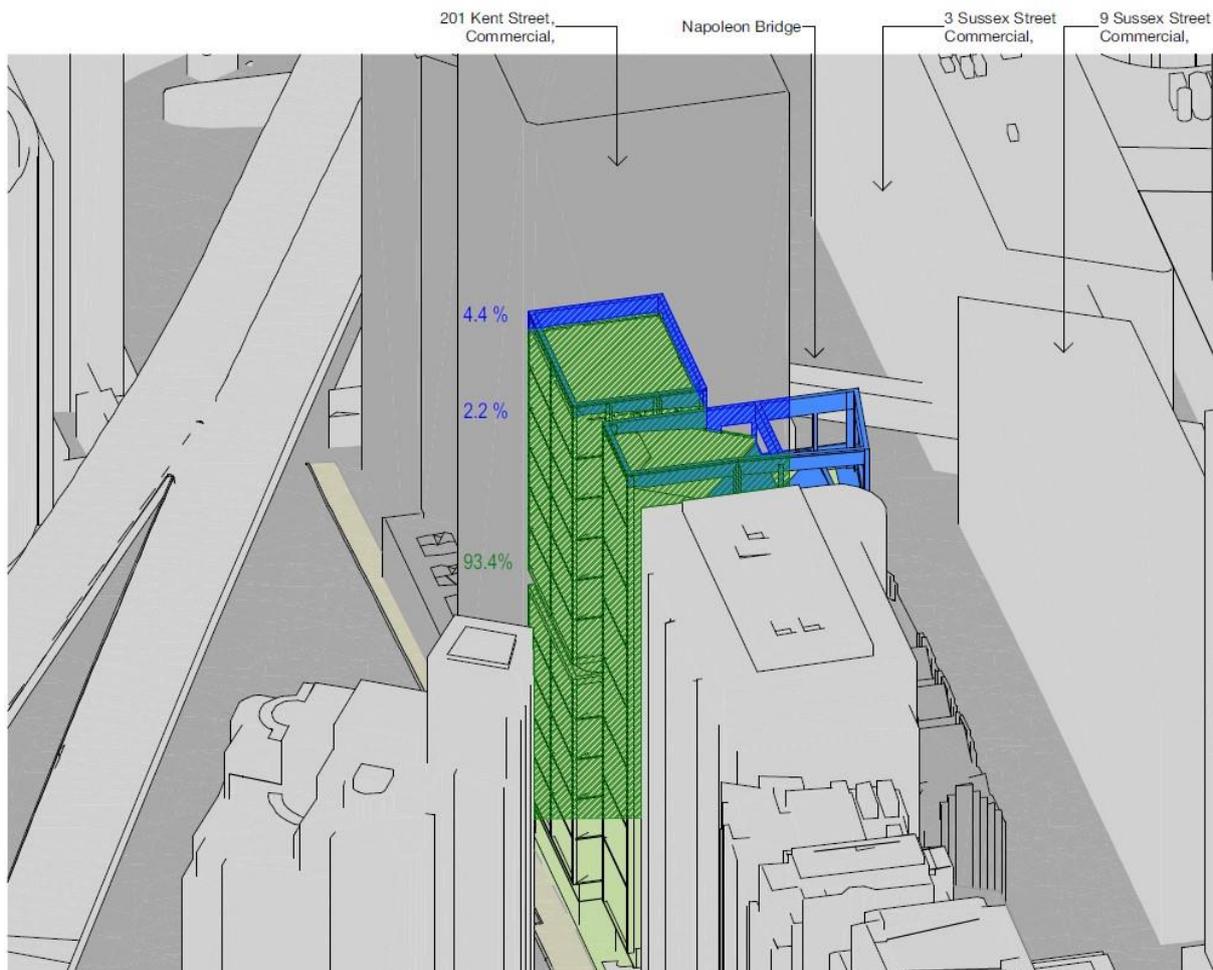


**Figure 55:** Photomontage extract of the proposed development as viewed from Watermans Quay to the west, including the architectural roof form and adjoining development at 183 and 187 Kent St, Millers Point

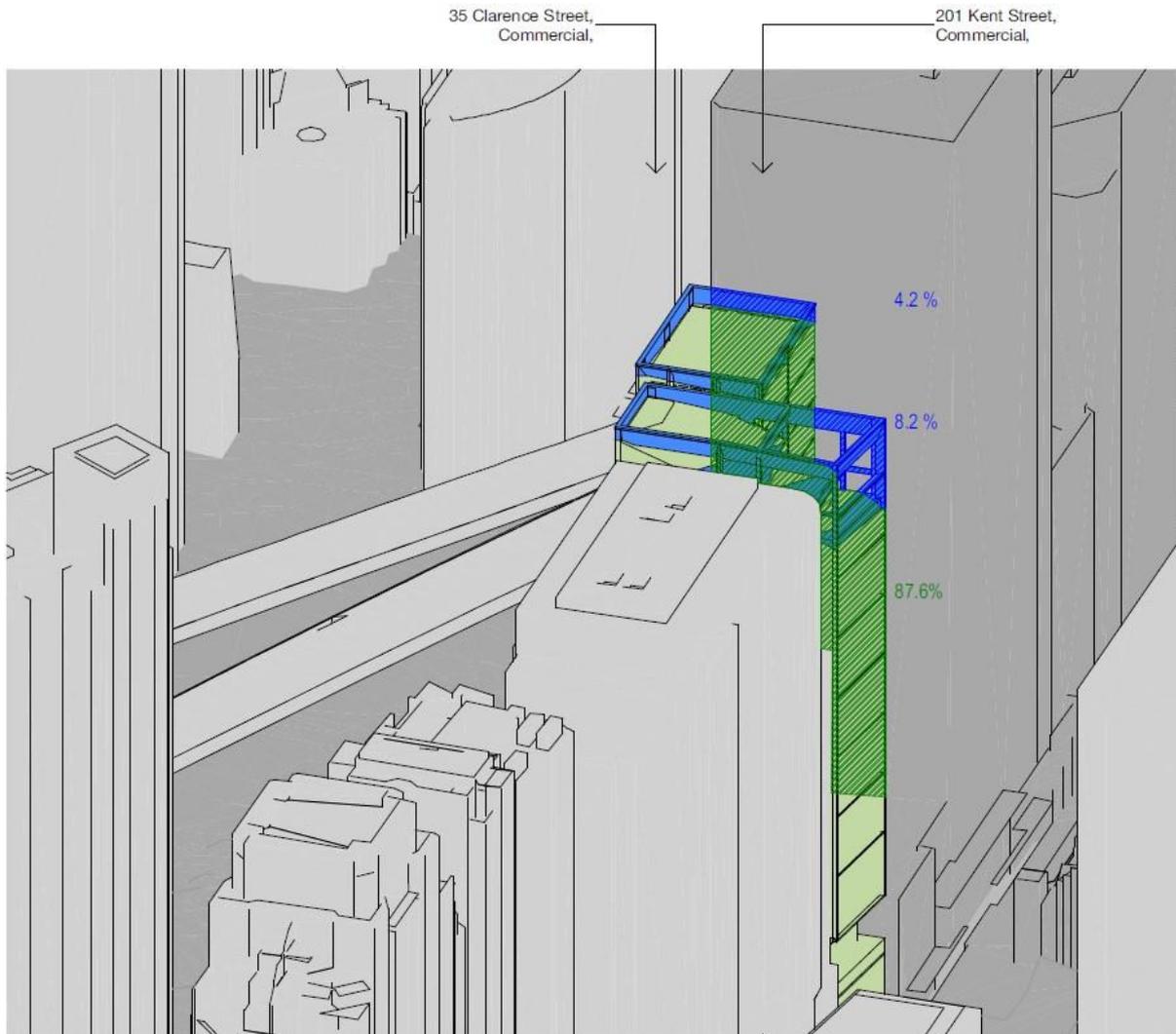
86. The applicant's request states that the objective (b) of the standard is achieved in the following manner:
- (a) There are several heritage items in the vicinity of the site, including the Grafton Bond Building and adjoining sandstone wall to the west of the site and Jenkins Street to the west and north-west of the site. There is an existing commercial building on the site with a relatively dated and inactive facade facing west.
  - (b) The proposed development significantly improves on this heritage interface by creating a new public through-site link, as well as by improving activation and materiality along the western facade of the building.

- (c) The inclusion of the architectural roof feature does not significantly change the interface of the building with surrounding heritage items. It is unlikely that the roof feature will be immediately read as a backdrop to the items when viewed up close, and from a longer distance, the roof feature will improve the overall form and compatibility of the building with its surrounds.
  - (d) The roof feature will result in little to no additional overshadowing of the heritage items, given its location, scale and the transparency of the frame.
87. The applicant's request states that the objective (c) of the standard is achieved in the following manner:
- (a) The proposed variation will not result in any significant impacts to views from surrounding buildings or public places.
  - (b) The CSPP envisages a building with a height 30 metres taller than the current height limit.
  - (c) Any potential view sharing should be considered in the context that the site will be capable of achieving a significantly taller development within the near future.
88. The written request addresses the criteria in Clause 5.6(3) of the Sydney LEP 2012 for architectural roof features, which require that 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;
    - (ii) is not an advertising structure;
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area;
    - (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.
89. These criteria are addressed as follows:
- (a) The architectural roof feature is a decorative element and is designed to give the proposed development a strong profile against the sky and a better relationship with Stamford on Kent building.
  - (b) The proposed architectural roof feature is not an advertising structure and is not proposed to be used as such at any time in the future.
  - (c) The proposed architectural roof feature does not include any floor space.
  - (d) Two minor areas of roof structure protrude beyond the 80 metre height plane, however no accessible slabs protrude beyond the height plane.
  - (e) The proposed architectural roof feature itself is simply a frame that could not be reasonably modified to include floor space.

- (f) The proposed architectural roof feature will not add any significant overshadowing, particularly given it is a frame that will allow sun to permeate between the structural members that comprise the feature.
- (g) Sun eye diagrams have been submitted with the application which demonstrate that the impact will be minimal, as indicated in Figure 56 and Figure 57 below.
- (h) The architectural roof feature does not contain any visible plant or equipment, nor does it contain any signage.
- (i) The feature appears as a sculptural, integrated form that is purely designed to enhance the appearance of the development.



**Figure 56:** Sun eye view extract, illustrating the extent of overshadowing from architectural roof feature elements at 11.30am at the midwinter solstice (21 June)



**Figure 57:** Sun's eye view extract, illustrating the extent of overshadowing from architectural roof feature elements at 1.30pm at the midwinter solstice (21 June)

90. The written request also addresses the objectives of Clause 5.6 of the Sydney LEP 2012, which 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 premises; and
  - (c) to ensure that architectural roof features are considered in the design of a building and form an integral part of a building's design.
91. These objectives are addressed as follows:
- (a) The height exceedance is primarily the result of a minor and lightweight architectural roof feature, consistent with the scale and built form of the site's surrounds.

- (b) The architectural roof feature is a critical part of the design language of the building and is considered to significantly improve the visual appearance of the proposed development.
  - (c) The architectural roof feature does not significantly overshadow or otherwise affect the amenity of any neighbouring premises, nor does it result in any substantive visual impacts.
  - (d) The architectural roof feature has been an integral part of the building design from its inception in a competitive design alternatives process.
  - (e) The design was the winning entry, and the architectural roof feature was a key part of the winning scheme.
92. The applicant's request sets out that there are sufficient environmental planning grounds to justify contravening the standard as follows:
- (a) The site has a sloping topography, with Jenkins Street sitting some 12 metres below the level of Kent Street.
  - (b) This has resulted in some minor protrusions, notwithstanding the architectural roof feature, which exceeds the height limit by virtue of Clause 5.6 of the Sydney LEP 2012.
  - (c) The development has been carefully designed to step down with the slope of the site however the topography has necessitated two protrusions on the northern side of the site.
  - (d) These protrusions are minor in nature (less than a floor in height) and are consistent with the height of the adjacent Stamford on Kent building.
  - (e) The protrusions do not result in any significant additional overshadowing or any other impacts to the amenity of the surrounding buildings or public domain.
  - (f) The proposed development complies with the maximum FSR for the site of 12.06:1.
  - (g) The height variation has not been driven by an overdevelopment of the site, but by the spatial constraints of the site and the massing of the buildings.
  - (h) This includes the provision of a significant through-site link and building separation between the two towers.
  - (i) The CSPP proposes to amend the height limit of the site from 80 metres to 110 metres.
  - (j) The proposed development is entirely consistent with Council's future desired character for the area.
  - (k) The site is also identified as being within a tower cluster, which are sites designated as potentially being capable of achieving significant additional height beyond the mandated height limit.
  - (l) The proposed variation is considered minor in the context of the current and potential future character of the site.

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

93. 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)?*

94. The applicant's written request has adequately addressed Clause 4.6(3)(a) in that they demonstrate the objectives of the development standard are achieved notwithstanding non-compliance with the standard, hence the standard is unreasonable or unnecessary.
95. 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)?*

96. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify varying the development standard.
97. Council planning staff 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 significantly adverse environmental planning impacts. There are sufficient environmental planning grounds to vary the development standard.

*Is the development in the public interest?*

98. 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.
99. 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.
100. 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 commercial uses.
  - (b) The proposed development is consistent with the objective to recognise and provide for the pre-eminent role of commercial premises in Australia's participation in the global economy.
  - (c) The proposed development will provide a mix of land uses including retail, commercial and residential accommodation. These land uses, combined with the high-quality design of the development, is commensurate with Sydney's global status.
  - (d) The proposed development is consistent with the objective to provide opportunities for an intensity of land uses commensurate with Sydney's global status.
  - (e) The proposed land uses, as described above, are compatible and are characteristic of Sydney's global status, while also serving the wider community.
  - (f) The mix of land uses will serve visitors and residents of the tower, as well as the wider community.
  - (g) Delivery of public benefit through the provision of a through site link will serve the community, while the proposed accommodation, retail and commercial uses will generate employment, attract visitors and contribute to Sydney's global status.
  - (h) 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.
  - (i) The proposed development is well located to promote the use of public transport. It is within walking distance of the future Barangaroo Metro Station, Barangaroo Ferry Wharf, Wynyard Railway Station, various bus stops and the Central Business District and South East Light Rail.
  - (j) The proposal will contribute to the activation of both the Kent Street and Jenkins Street frontages of the site and provide a pedestrian connection from east to west through the site, encouraging walking within the locality.
  - (k) 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.
  - (l) The proposal contributes substantially to the activation of Kent Street and Jenkins Street, with active uses and a through-site link.

- (m) Along Kent Street, the residential lobby entries and pedestrian access to the retail and commercial tenancies provides activation.
- (n) 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 for the purposes of retail premises.

101. Clause 4.6(4)(b) sets out that the concurrence of the Planning Secretary must be obtained. In their letter to the City dated 1 September 2020, the Planning Secretary has provided Council with assumed concurrence for Clause 4.6 variation requests on an ongoing basis.

#### *Conclusion*

102. For the reasons provided above, the requested variation to the maximum 80 metre "Height of buildings" development standard set out under Clause 4.3 of the Sydney LEP 2012 is supported.
103. The applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local LEP 2012.
104. The proposed development would be in the public interest because it is consistent with the objectives of the "Height of buildings" development standard in Clause 4.3 of the Sydney LEP 2012 and the B8 Metropolitan Centre zone.

#### **Consistency with Concept Development Consent**

105. On 20 June 2019, development consent D/2018/1014 was granted by the CSPC for an 80 metre concept building envelope, for an indicative mixed use development, including retail and residential land uses and a pedestrian through site link between Kent Street and Jenkins Street.
106. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, any subsequent detailed design development determination cannot be inconsistent with the concept development consent.
107. Subject to the approval of the modifications concurrently sought under D/2018/1014/A, the proposed detailed design sought under the subject application is consistent with the concept consent. The concept approval includes a number of conditions of consent.
108. An assessment of compliance with these conditions, which specifically required details to be addressed as part of the detailed design application are provided below.

<b>Condition No</b>	<b>Condition</b>	<b>Assessment</b>
4	Location of Residential Land Uses	No residential uses are proposed in the detailed design of the development, either at basement level 3 (RL 12 AHD), or at ground level or level 1, with the exception of the western portion of ground level and level 1 fronting Jenkins Street, in accordance with the condition.

Condition No	Condition	Assessment
5	Building Envelopes	<p>The new buildings are consistent with the building envelopes, as proposed to be amended under the concurrent Section 4.55(2) modification application D/2018/1014/A.</p> <p>The concurrent assessment report to the CSPC for the determination of D/2018/1014/A recommends that the modifications to the building envelopes, including the addition of architectural roof feature and fenestration articulation zones, and deletion of the upper level north-eastern setback area, be approved.</p>
6	Window Openings on the Northern and Southern Facades	<p>No window openings are proposed along the boundary walls to the northern and southern facades of the development.</p>
7	Design Excellence	<p>A competitive design alternatives process has been undertaken, as detailed under the History Relevant to the Development Application heading above.</p> <p>The detailed design of the development exhibits design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.</p>
8	Ecologically Sustainable Development	<p>A BASIX certificate and NatHERS documentation were submitted with both the original and amended applications.</p> <p>They demonstrate that BASIX energy and water scores at least 5 points higher than the minimum requirement are achieved.</p>
9	Building Height	<p>The proposed building exceeds the maximum height limit of 80 metres and a written Clause 4.6 variation request has been submitted with the application, as discussed above.</p> <p>Further, the concurrent Section 4.55(2) modification application D/2018/1014/A proposes to incorporate architectural roof feature zones which accommodate the additional height.</p>

Condition No	Condition	Assessment
		The Clause 4.6 variation request is supported and the architectural roof feature zones are recommended for approval in the concurrent assessment report to the CSPC for the determination of D/2018/1014/A.
10	Floor Space - Central Sydney	<p>The proposed floor space remains consistent with the following provisions of the Sydney LEP 2012:</p> <ul style="list-style-type: none"> <li>• the maximum permissible FSR prescribed under Clause 4.4;</li> <li>• the additional accommodation floor space available under Clause 6.4; and</li> <li>• the 10% design excellence floorspace available under Clause 6.21.</li> </ul>
11	Residential Land Use	<p>The residential component of the development is generally consistent with the relevant provisions of SEPP 65, the ADG, the Sydney DCP 2012 as detailed in the assessment tables provided above.</p> <p>BASIX certificates have been submitted with the original and amended applications.</p>
12	Public Art	<p>A public art plan was submitted with the application, detailing the provision of proposed public art within the through site link and entry foyers.</p> <p>A condition is recommended in Attachment A to ensure that a detailed Public Art Plan is prepared and submitted for approval prior to the commencement of any work.</p>
13	Wind Assessment	<p>Wind tunnel testing has been undertaken and wind assessment reports have been submitted with the original and amended applications.</p> <p>A condition is recommended in Attachment A to require additional wind tunnel testing of the proposed wind mitigation devices.</p>

Condition No	Condition	Assessment
		This is in order to verify their efficacy and ensure the final design details are carried through to the certification and construction phases.
14	Acoustic Report	<p>An Environmental Noise Impact Assessment was submitted with the original application to address acoustic and vibration impacts associated with the proposal.</p> <p>Conditions are recommended in Attachment A to ensure that the relevant recommendations of this document are carried through to the certification and construction phases.</p>
15	Ausgrid	<p>The applicant has provided evidence of consultation undertaken with Ausgrid to ensure that the technical and statutory requirements for safe and reliable operation and maintenance has been met.</p> <p>A condition is recommended in Attachment A to ensure that adequate space has been provided within the development for a substation.</p>
17	Acid Sulfate Soils - Preliminary Site Assessment	<p>An Acid Sulfate Soils (ASS) Assessment was incorporated in the Geotech Report submitted with the original application. A detailed site investigation report was also submitted with the amended application.</p> <p>Both reports indicate that there is no ASS affectation.</p>
18	Residential Acoustic Amenity	<p>An Environmental Noise Impact Assessment was submitted with the original application and an Acoustic Statement was submitted with the amended application to address residential acoustic amenity.</p> <p>Conditions are recommended in Attachment A to ensure that the relevant recommendations of these documents are carried through to the certification and construction.</p>

Condition No	Condition	Assessment
19	Parking Design	The parking design is compliant with the minimum requirements of Australia Standard AS/NZS 2890.1, 2890.2, and 2890.6.
20	On Site Loading Areas and Operation	Service vehicle, goods and loading areas are all confined within the site boundaries within basement level 3 and accessed via Jenkins Street.
21	Vehicle Access	<p>The proposal includes a mechanical turntable installation, which permits all vehicles accessing and egressing the site to do so in a forward direction.</p> <p>A condition is recommended in Attachment A requiring the turntable to be reviewed for suitability for implementation and compliance with Australian Standard AS 2890.1</p>
22	Service Vehicle Access	<p>A swept path analysis shows adequate space has been provided for service vehicles within basement level 3. This analysis is included in the Traffic and Transport Assessment submitted with the original application.</p> <p>Conditions are recommended in Attachment A to the design of service vehicle access to and egress is carried through to certification and construction.</p>
23	Service Vehicle Size Limit	<p>A swept path analysis has been undertaken and is included in the Traffic and Transport Assessment submitted with the original application, demonstrating that Council waste collection vehicles can access and egress the site.</p> <p>Conditions are recommended in Attachment A to the design of service vehicle access to and egress is carried through to certification and construction.</p>

Condition No	Condition	Assessment
24	Car Share Spaces	<p>A car share space is provided within basement level 3.</p> <p>A condition is recommended in Attachment A to ensure that this is provided carried through to certification and construction.</p>
25	Bicycle Parking and End of Trip Facilities	<p>The proposed development includes bicycle parking and end of trip facilities that will comply with the relevant standards.</p> <p>Conditions are recommended in Attachment A to ensure compliance with the above-mentioned standards is carried through to certification and construction.</p>
27	Demolition, Excavation and Construction Noise and Vibration Management Plan	<p>A Construction Noise and Vibration Management Plan was submitted with the original application.</p> <p>A condition is recommended by the City's Health and Building Unit and included in Attachment A to require the preparation and submission of a revised plan prior to the commencement of any work.</p>
29	Public Domain Plan	<p>This condition is proposed to be amended under the concurrent Section 4.55(2) modification application D/2018/1014/A to permit a detailed Public Domain Plan to be submitted prior to the commencement of any works on the site.</p> <p>The concurrent assessment report to the CSPC for the determination of D/2018/1014/A recommends that this condition is amended.</p> <p>A similar condition requiring the submission of a public domain plan prior to work commencing is recommended in Attachment A.</p>

Condition No	Condition	Assessment
30	Car Parking Spaces and Dimensions	<p>The proposed car parking spaces and dimensions within the development are designed to achieve compliance with the requirements of the relevant Australian Standards AS/NZS 2890.1, 2890.2, and 2890.6.</p> <p>Conditions are recommended in Attachment A to ensure compliance with the abovementioned standards is carried through to certification and construction.</p>
31	Bicycle Parking and End of Trip Facilities	<p>Bicycle parking and end of journey facilities are proposed within the basement levels.</p> <p>Conditions are recommended in Attachment A to ensure the provision of a compliant number of visitor bicycle parking spaces in certification and construction.</p>
33	Transport Access Guide	<p>A draft Transport Access Guide was included in the Traffic and Transport Assessment submitted with the original application.</p> <p>A condition is recommended in Attachment A to require a detailed Transport Access Guide to be developed prior to any occupation.</p>
34	Vehicle Lift	<p>Details of the proposed car stacker vehicle lift were included in the Traffic and Transport Assessment submitted with the original application.</p> <p>A condition is recommended in Attachment A to ensure that details of the car stacker lift are submitted for approval prior to any work commencing.</p>
35	Central Sydney Traffic and Transport Committee (CSTTC)	<p>The assessment criteria of the Central Sydney Traffic and Transport Committee are address in detail in the Traffic and Transport Assessment report and Transport Impact Statement submitted with the original and amended applications respectively.</p>

Condition No	Condition	Assessment
36	Transport Impact Statement	A Traffic and Transport Assessment report and a Transport Impact Statement were submitted with the original and amended applications respectively.
37	Car, Freight and Service Vehicle Parking Management	<p>Details of the proposed car, freight and service vehicle parking management were included in the Traffic and Transport Assessment report submitted with the original application.</p> <p>Additional information was included in the Traffic Impact Statement submitted with the amended application, along with a draft Car Park and Loading Dock Management Plan.</p> <p>A condition is recommended in Attachment A to require a detailed car parking, loading and servicing management plan to be developed prior to commencement.</p>
38	Construction Pedestrian and Traffic Management	<p>Details of the future management of pedestrian and traffic during construction were included in the Traffic and Transport Assessment report submitted with the original application.</p> <p>A condition is recommended in Attachment A to require the preparation and submission of a detailed construction pedestrian and traffic management plan to Transport for New South Wales prior to commencement.</p>
39	Public Domain Plan	<p>This condition is a duplication of condition 29 of development consent D/2018/1014.</p> <p>It is recommended to be deleted in the concurrent assessment report to the CSPC for the determination of Section 4.55(2) modification application D/2018/1014/A.</p>
40	Existing Easements	Details of the existing easements on the site and adjoining properties were noted on the detailed site survey plan and the Statement of Environmental Effects submitted with the original application.

Condition No	Condition	Assessment
41	Waste Facilities	<p>Detailed Construction and Operational Waste Management Plans were submitted with the original and amended applications.</p> <p>Conditions are recommended in Attachment A to ensure that Council's requirements for waste facilities for residential development in Council's Guidelines for Waste Management in New Developments 2018 are carried through to certification and construction.</p>
42	Stormwater and Drainage	<p>A stormwater and drainage letter and a stormwater quality assessment report were submitted with the original and amended applications, respectively.</p> <p>Conditions are recommended in Attachment A to ensure the proposed stormwater management initiatives are carried through to certification and construction.</p>
43	Waste Collection	<p>Waste Management Plans were submitted with the original and amended applications.</p> <p>Conditions are recommended in Attachment A to ensure that Council's requirements for waste collection for residential development in Council's Guidelines for Waste Management in New Developments 2018 are carried through to certification and construction.</p>
44	Access and Facilities for Persons with Disabilities	<p>Access and BCA Assessment reports were submitted with the original and amended applications.</p> <p>Conditions are recommended in Attachment A to ensure the proposed access and facilities are carried through to certification and construction.</p>

### Competitive Design Alternatives Process Selection Panel Recommendations

109. A competitive design alternatives process (CMP/2018/6) was held, with 4 competitors submitting design proposals.

110. The competitive process resulted in the FJMT design being selected as the winning scheme on 18 October 2018.
111. The selection panel for the competitive process resolved that the FJMT scheme best demonstrated the ability to achieve design excellence as per Clause 6.21 of the Sydney LEP 2012 and the requirements of the competition brief.
112. The selection panel also noted a number of matters that required further resolution prior to lodgement of a detailed design development application.
113. The table provided below provides a response to these recommendations:

Selection Panel Recommendation	Response
<p>The basement arrangement is to be refined so that service vehicles can enter and exit in a forward direction and avoid potential conflict with residential vehicles.</p>	<p>The basement design includes a mechanical turntable installation that will allow larger vehicles to enter and exit in a forward direction.</p>
<p>Wind impacts within the through-site link are to be addressed while retaining its clarity, legibility and design intent.</p> <p>Wind impacts to the public domain as a result of nil tower setbacks are to be further tested.</p>	<p>The proposed development has been subject to wind tunnel testing and both the original and amended applications were accompanied by wind assessment reports, which recommend a range of mitigation measures.</p> <p>A condition is recommended in Attachment A to require additional wind tunnel testing of the proposed wind mitigation devices. This is in order to verify their efficacy and final design details are carried through to certification and construction.</p>
<p>Further justification is to be provided for exceeding the height limit and building envelope on the western elevation, with particular regard to the architectural roof feature.</p>	<p>The application has been accompanied by a written Clause 4.6 variation request, as discussed above.</p> <p>The exceedance of the maximum building height development standard is supported for the reasons set above and in the specific circumstances of the proposed development.</p>
<p>Consider how Gross Floor Area may be redistributed without compromising the design's key qualities should compliance with the 3 metre setback from the northern boundary be required.</p>	<p>The 3 metre setback area to the north-western boundary with the adjoining 'Stamford on Kent' building is proposed to be deleted under the concurrent Section 4.55(2) modification application D/2018/1014/A.</p>

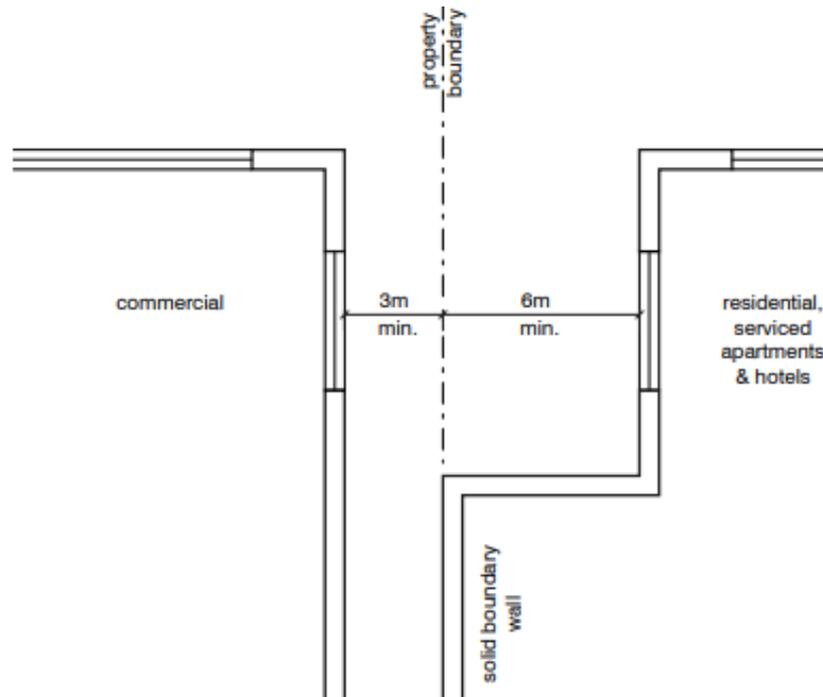
Selection Panel Recommendation	Response
	As discussed in the concurrent assessment report to the CSPC for the determination of D/2018/1014/A, the deletion of the setback area is supported, as the associated impacts of the nil setback are acceptable, as discussed under the Building Setbacks and Separation heading below.
Ensure that sufficient spatial allowance is incorporated for services and equipment (including substation), without compromising the overall design intent.	Sufficient spatial allowance for services has been provided in the detailed design of the proposed development.
Further resolve how the ESD initiatives outlined in the Brief can be achieved.	<p>A BASIX certificate and NatHERS documentation were submitted with both the original and amended applications.</p> <p>They demonstrate that BASIX energy and water scores at least 5 points higher than the minimum requirement are achieved by the development.</p>
The current design solution addressing visual privacy between the two towers is to be further developed.	The proposal incorporates facade types between the tower forms with a high solid to void ratio, with angled slot windows design to eliminate overlooking between apartments.
Ensure that landscaping within the central building form is viable. Consider potential maintenance access and management arrangements (such as access from the BMU, body corporate management).	<p>Maintenance of the proposed planters to the western elevation can be facilitated from the communal deck on level 12, with abseilers accessing the entire length of all 7 levels of planters. The future strata body will manage the maintenance of planters and will ensure a consistent appearance of the facade, while providing all apartments with a connection with landscape elements.</p> <p>This element of the landscaping design is acceptable, subject to the landscape conditions recommended in Attachment A.</p>

Selection Panel Recommendation	Response
<p>Consider solar loads during summer, in particular the potential for further sun-shading elements at the upper levels of the western aspect.</p> <p>Develop the detailing of both the eastern and western façades, considering both thermal and acoustic performance. In doing so, consider the opportunity to refine the grain of facade articulation.</p>	<p>The typical residential façade types are designed with vertical aluminium louvres and operable awning windows to minimise heat gain during summer and allow occupant control over thermal comfort.</p>
<p>Further develop and test the natural cross-ventilation strategy for the building.</p>	<p>The design utilises a combination of corner and cross-through apartments to achieve adequate cross-ventilation throughout the buildings.</p>
<p>Explore ways of achieving natural ventilation while also achieving internal acoustic amenity.</p>	<p>A mix of operable and non-operable facades are incorporated along with a preliminary plenum design to mitigate acoustic impacts while maintaining natural ventilation.</p> <p>A condition is recommended in Attachment A to ensure that the detailed plenum design provides acoustic privacy and natural ventilation amenity and is carried through to certification and construction.</p>
<p>Improve legibility of the publicly accessible vertical lift from Jenkins Street.</p>	<p>A publicly accessible lift has been provided from ground level to Jenkins Street.</p> <p>A condition is recommended in Attachment A to ensure that appropriate wayfinding signage is provided in order to maintain legibility of access through the site.</p>
<p>Investigate ways of providing access to natural light to the residential lift lobbies.</p>	<p>Due to spatial constraints within the towers, access to natural light has not been provided to the majority of the residential lift lobbies.</p> <p>This is acceptable however, given that each lobby serves a maximum of four apartments and, in some cases, fewer), without reliance on long access corridors and circulation space.</p>

**Building Setbacks and Separation**

114. The proposed development provides the following setbacks:
- (a) To Kent Street, the northern tower is set back 3 metres for the full height of the building, with the southern tower is proposed to be built to the southern boundary.
  - (b) To Jenkins Street, the northern tower is set back 1 metre from the boundary for the full height of the building, which is equivalent to a 6 metre setback from the centreline of Jenkins Street. The exception to this is at level 1, where the setback is increased to 3.5 metres from the boundary to create a break in the building form.
  - (c) The southern tower is typically set back 4.2 metres from the western boundary to the Maritime Towers site, although for the mid-rise portion of the building from levels 4 to 12, the setback varies due to the undulating nature of the facade.
  - (d) To the south, the southern tower is proposed to be built to the boundary for the full height of the tower.
  - (e) To the north, the northern tower is proposed to be built to the boundary for the full height of the tower.
115. Section 5.1.2.1 of the Sydney DCP 2012 requires a weighted average setback of 8 metres above the street wall height. This setback may be reduced by 2 metres provided that the weighted average is maintained as 8 metres. The DCP also states that no part of the building is to be setback less than 6 metres.
116. The proposed development does not provide any setback above the street wall height to Kent Street, which was a key component of the winning scheme of the competitive design alternatives process. This is consistent with the approved concept building envelope and the existing pattern of development along the western side of Kent Street, which does not generally provide setbacks above street frontage height.
117. The design strategy instead splits the buildings vertically, providing a visual connection from the eastern part of the Sydney Central Business District through to Barangaroo and providing a pedestrian through-site link.
118. Section 5.1.2.3 of the SDCP 2012 requires a setback of 6 metres from the centreline of the laneway above the street wall height. A setback of 6 metres is proposed to the centreline of Jenkins Street, which is consistent with the approved building envelope and generally aligns with the 'Stamford on Kent' adjoining to the north.
119. The controls in Section 5.1.2.2 of the Sydney DCP 2012 relate to side and rear setbacks and provide that principal windows and balconies of residential buildings must be setback from side property boundaries by between 6 metres below 45 metres in height, and by 12 metres for buildings above 45 metres in height to ensure visual privacy is achieved between dwellings.
120. The DCP defines principal window or balcony as being the main window or balcony of a living room and main bedroom of a dwelling unit. Notably, Figure 5.9 of the Sydney DCP 2012 indicates that where solid boundary walls are proposed without windows or balconies, residential buildings can be built to the boundary, as indicated in Figure 58 below.

**Figure 5.9**  
Plan of the setbacks required for commercial buildings to residential, serviced apartments and hotel buildings above 45m on side and rear boundaries with windows



**Figure 58:** Extract of Figure 5.9 from the Sydney DCP 2012, indicating a nil side boundary setback to a residential building constructed with a solid boundary wall

121. There are no principal windows proposed along the southernmost elevation, and the proposed nil setback is acceptable with regard to the above controls. Notwithstanding this, the site benefits from an easement for light and air which burdens the Maritime Trade Towers site to the south, and a separation distance of 4.5m will be retained between the subject site and the adjoining building. This distance exceeds the minimum 3 metre setback required for a commercial building (with windows) from a side boundary.
122. The south elevation of the northern tower is proposed to be setback 6 metres from the side boundary. This separation distance also accords with the requirements of the controls above, noting that the principal orientation of these apartments is to the west and not south.
123. To the west, the subject site also benefits from an easement for light and air which burdens the Maritime Trade Towers site. Given that principal windows and balconies are proposed along this elevation, a side boundary setback of 4.5 metres is proposed. This distance when combined with the 4.5 metre easement for light and air on the Maritime Trade Towers site provides for a compliant separation distance of over 9 metres.
124. To the north, the proposed development provides a blank wall with a nil setback for the full height and breadth of the new building, which departs from the approved building envelope, which provided a 3 metre setback for a depth of approximately 10 metres along the northern boundary above level 16.

125. The assessment report for development application D/2018/1014 stated that:
- A setback of 3 metres to the northern boundary is proposed above RL 74.60 to provide building separation of approximately 6 metres to existing south facing windows and balconies at 183 Kent Street. As shown on the indicative plans, a blank wall is proposed along the northern setback to provide visual and acoustic privacy to occupants at 183 Kent Street. In this instance, the proposed setback does not strictly comply with separation requirements under the ADG however, having regard to the existing setback of windows and balconies at 183 Kent Street to the boundary, the proposed setback of 3 metres satisfies the objective of 3F-1 of the ADG, in that adequate building separation is shared between the subject site and the adjacent property and reasonable privacy can be achieved, subject to detailed design as part of a Stage 2 Development Application.
126. It should also be noted that the Competitive Design Alternatives Process selection panel report stated the following in relation to the upper level setback:
- The variation to the Kent Street upper level setback exhibits merit when considered alongside the existing development context of Kent Street, the vertical break in massing, and the 'push and pull' of the two tower forms.
- Consider how GFA may be redistributed without compromising the design's key qualities should compliance with the 3m setback from the northern boundary be required.
127. The applicable planning controls relating to building setbacks are in Section 5.1.2.2 of the Sydney DCP 2012 as describe above, and in Parts 2F, 2H and 3F of the ADG.
128. Part 2F of the ADG relates to building separation between building envelopes and buildings and prescribes minimum distances for such separation based upon building heights. Among the considerations in setting building separation controls, it states that no building separation is necessary where building types incorporate blank party walls.
129. Part 2H of the ADG relates to side and rear setbacks, governing the distance of a building from side and rear boundaries of a site, also relating to the height of the building. Among the considerations in setting side and rear setback controls, it states that zero side setbacks should be considered where the desired character is for a continuous street wall, such as in dense urban areas.
130. Part 3F of the ADG relates to visual privacy, which includes design criteria requiring separation between windows and balconies to ensure privacy is achieved. The separation distances required relate to the height of the building and particular uses served by the windows and balconies.
131. The application proposes a blank wall along the length of the northern boundary of the site, with no windows or balconies.
132. Contextually, the form of the buildings are consistent with that of the development in the locality, comprising a dense urban environment, with existing commercial and residential developments within the streetscape presenting minimal setbacks to side boundaries, as illustrated in Figure 59 and 60 below. This satisfies the objectives in 2F and 2H of the ADG relating to the compatibility of building envelopes in terms of the context of surrounding development.

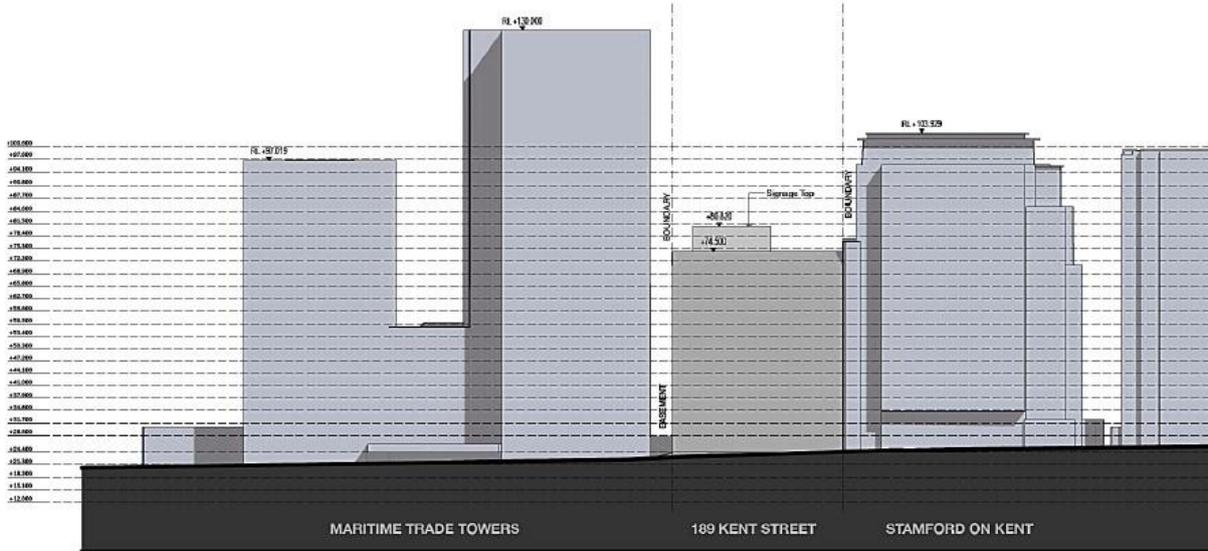


Figure 59: Extract of existing streetscape elevation to the western side of Kent St

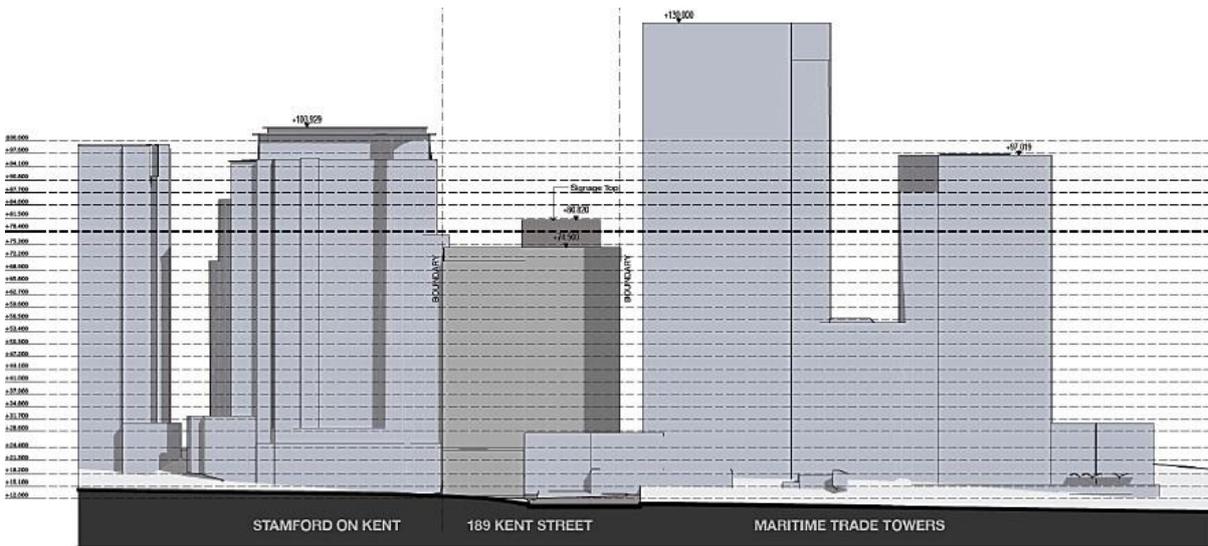


Figure 60: Extract of existing streetscape elevation to the eastern side of Jenkins St

133. The proposed blank wall will not result in any visual privacy impacts to the apartments within the south-eastern and south-western portions of the adjoining 'Stamford on Kent' building at 183 and 187 Kent Street, Millers Point, satisfying the objectives in 3F of the ADG.
134. Given that the terraces at level 19 of the adjoining development to the north, and the windows between levels 19 to 27 inclusive are south-facing, the nil setback will not result in any impacts to the receipt of direct solar access to these apartments, satisfying further considerations in 2F and 2H of the ADG and the objectives for building setbacks in Section 5.1.2 of the Sydney DCP 2012.

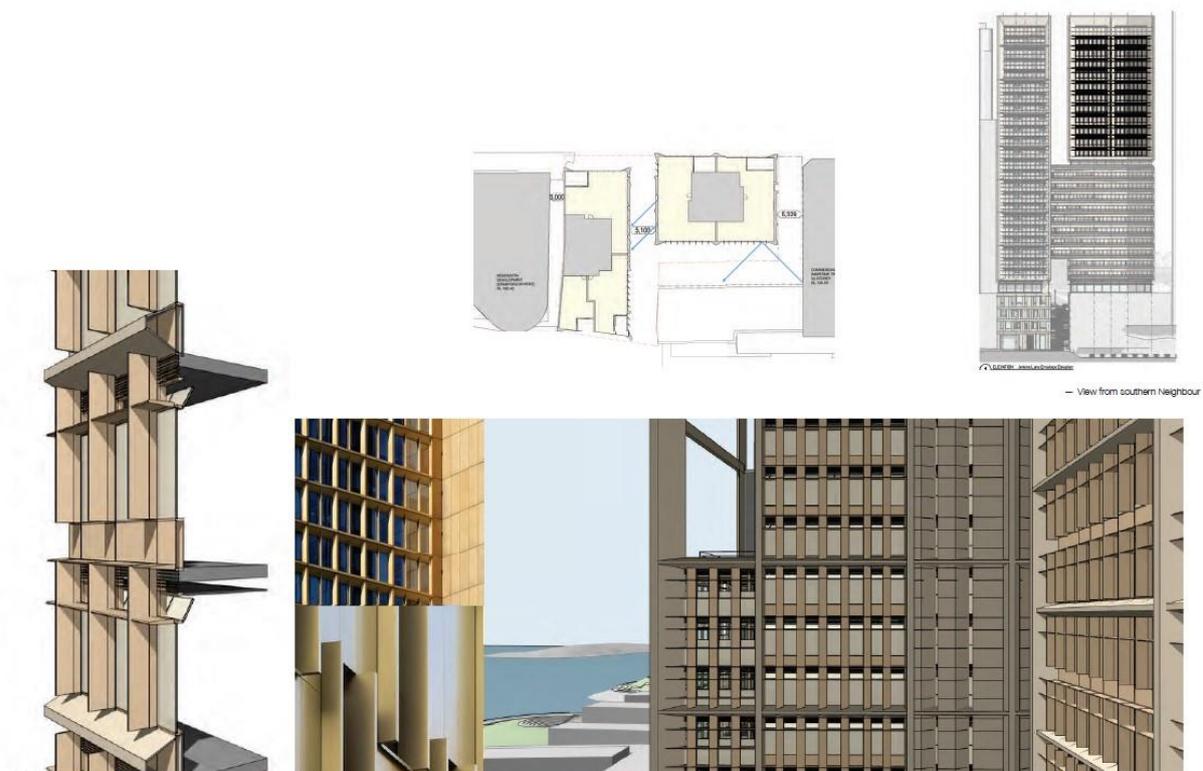
- 135. With regard to other potential amenity impacts, the wind impacts report submitted to the City on 9 November 2020 contains the results of comparative wind tunnel testing, which demonstrates that the proposed nil setback will result in wind conditions for the adjoining residential development to the north which are either better than, or equivalent to the existing and approved wind conditions. This achieves compliance with the relevant wind effects provisions and objective in Section 3.2.6 of the Sydney DCP 2012.
- 136. Although the proximity of the amended building envelope will result in reduced outlook and views from, and ambient light received by the south-facing terraces at level 19, and the south-facing windows between levels 19 and 27 of the ‘Stamford on Kent’ building, these impacts are considered reasonable.
- 137. This is because substantive outlook, views, direct solar access and daylight amenity is maintained to these apartments from the primary apartment balconies and window openings facing east and west across Kent Street and Jenkins Street respectively, as indicated in Figure 61 below.



**Figure 61:** Extract of floor plans of apartments within the ‘Stamford on Kent’ building at 183 and 187 Kent St, Millers Point

- 138. It is also noted that the existing amenity enjoyed by the occupants of these apartments is derived from across a side boundary, due to the under-developed nature of the subject site, with no easements burdening the subject site providing legal rights of access to light and air.

139. Overall, the proposed nil northern setback is acceptable, as:
- enforcing compliance with the approved 3 metre building envelope setback would compromise the architectural outcome of the competitive design alternatives process winning twin tower scheme;
  - no windows or balconies are proposed within the blank wall of the northern facade of the development, with no additional privacy impacts as a result;
  - the affected terraces and windows to the adjoining development are south-facing, and would not be impacted in terms of solar access, or by additional wind impacts; and
  - impacts on access to ambient light, outlook and views across the side boundary are acceptable, especially given that the primary aspect and amenity for apartments within the adjoining development is maintained.
140. Separation between the buildings on the site, while not numerically compliant with the controls in Section 5.1.2.4 of the Sydney DCP 2012 which require a distance of 12 metres below 45 metres and 24 metres above, is also consistent with the approved concept building envelopes.
141. To mitigate the potential for privacy impacts arising as a result of reduced building separation between the two towers on site, the design of the facade has been composed to shield the habitable space in the south tower from sight lines from perpendicular louvers, diverting views to Barangaroo and Sydney Harbour. This is illustrated in Figure 62 below.



**Figure 62:** Extract from the 'Development Application: Architectural Design Statement' (FJMT), illustrating tower facade design

142. Within the through site link, solid sections of masonry cladding are proposed, with angled slot windows providing outlook, ventilation and appropriate privacy, as indicated in Figure 63 below, with the full range of proposed facade types included in Attachment E.
143. These facade design features satisfactorily address the objectives of the setback controls in Section 5.1.2 of the Sydney DCP 2012, as they will effectively manage outlook, privacy and sharing of views within the development.



**Figure 63:** Extract from the 'Development Application: Architectural Design Statement' (FJMT), illustrating slot window and through site link facade design

## View Sharing and View Loss

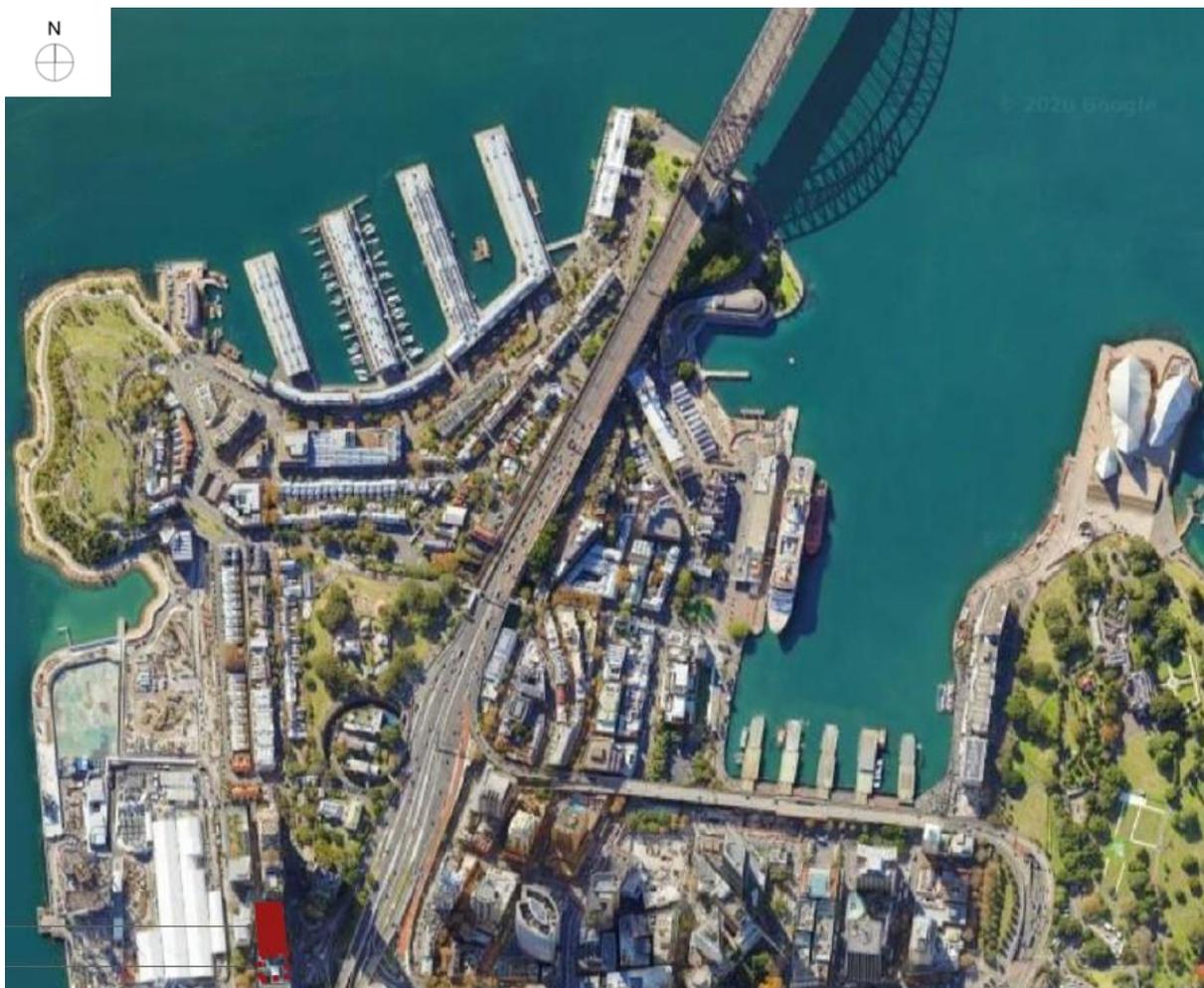
### *Public Views*

144. The proposed development does not result in significant impacts on views from public places to other public places.
145. The proposed through site link will allow east-west views through the site from Kent Street, Jenkins Street, Hickson Road and Watermans Quay.
146. View corridors running north-south along Kent Street also remain largely unaffected as the new buildings remains consistent with the character of the existing development along its western side.
147. From more distant vantage points, particularly from Barangaroo and from the Sydney Central Business District to the east of the site, the development does not result in any significant adverse impacts to views to public places or icons.

148. The proposal is considered to be an acceptable addition to the north-western edge of development within the Sydney Central Business District and the impact on public domain views is considered to be negligible.

#### *Private Views*

149. A number of submissions received by the City have raised concerns regarding the loss of private views from apartments within the south-eastern and south-western portions of the adjoining 'Stamford on Kent' building at 183 and 187 Kent Street, Millers Point, as a result of the proposed development.
150. The views are across the side boundary with the subject site, primarily toward the south-east Sydney Central Business District skyline, but also to the south-west toward the commercial towers within the Barangaroo South precinct.
151. It is noted that the existing commercial building currently occupying the subject site at 189-197 Kent Street, Sydney, does not achieve the full development potential of the site in regard to either building height or FSR permissible under the Sydney LEP 2012.
152. The aerial photograph in Figure 64 below shows the location of the 'Stamford on Kent' building and its proximity to the site.



**Figure 64:** Aerial photograph of the site (dotted in red), the adjoining 'Stamford on Kent' building at 183 and 187 Kent St (solid red) and surrounding area

153. While the concerns raised by neighbouring residents are acknowledged, the assessment to determine the degree and reasonableness of view impacts must be made against the relevant planning controls and the extent to which the development complies. The relevant planning controls in the Sydney LEP 2012, Sydney DCP 2012, SEPP 65 and ADG make no specific provisions for the preservation of private views.
154. Compliance with the principal development standards applicable to the site and their relevance to view loss is discussed below, demonstrating that the proposal is acceptable with regard to view loss and view sharing considerations, as follows.

*Sydney LEP 2012*

- (a) A maximum height of 80 metres is applicable to the site under Clause 4.3 of the Sydney LEP 2012. With the exception of the architectural rooftop feature discussed above, which would not interfere with any views from the adjoining development to the north, the height of the development is appropriate for its dense Central Sydney context, providing for an acceptable relationship with the neighbouring buildings.
- (b) The development is eligible for an FSR of 12.07:1, including accommodation floor space available under Clause 6.4 of the Sydney LEP 2012, and design excellence floor space available under Clause 6.21 of the Sydney LEP 2012.
- (c) The building design demonstrates compliance with the maximum FSR available to the development. Overall, the proposal will have a form and density that is appropriate for its context. The new buildings do not present as being out of character for the street and locality.
- (d) Having regard to the principal development standards, the proposal also satisfies the objectives of the B8 Metropolitan zone. The mix of commercial and retail land uses are commensurate with the zone objectives in reinforcing the pre-eminent role of Sydney's global status in providing business, office, retail premises that contribute to the economy.

*Sydney DCP 2012*

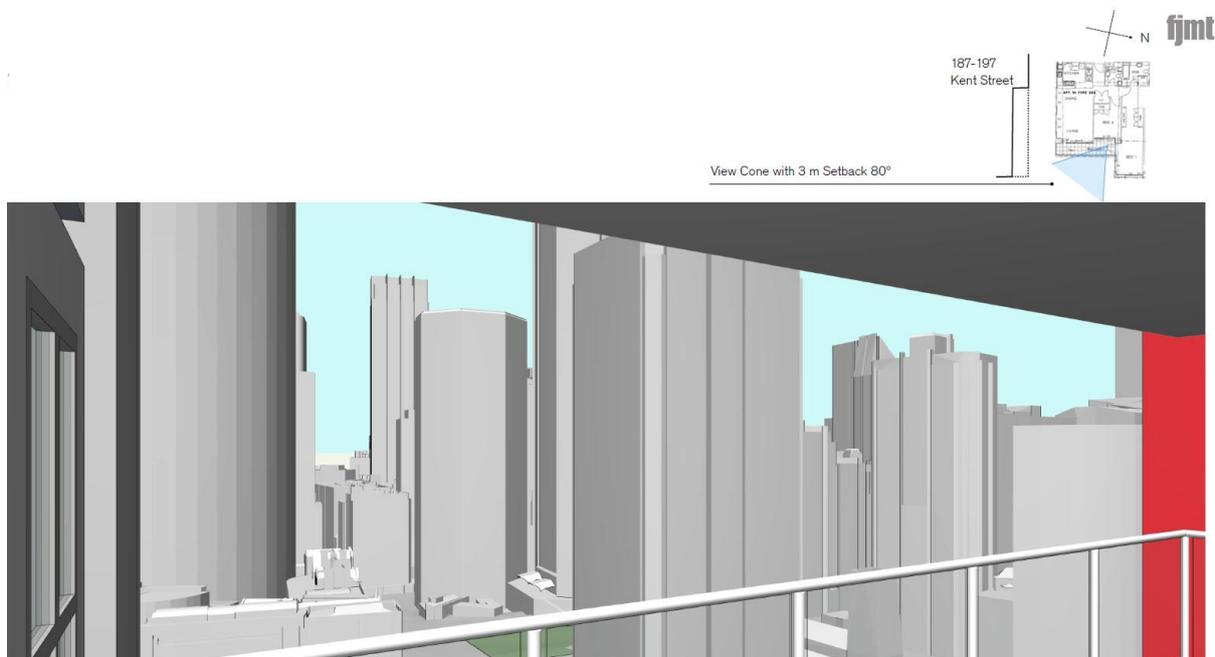
- (a) As discussed under the Building Setbacks and Separation heading above, the nil setback proposed to the northern boundary is consistent with the provisions of Section 5.1.2.2 of the Sydney DCP 2012 and satisfactory with regard to the setback objectives in Section 5.1.2 of the Sydney DCP 2012.
- (b) The provisions in Section 4.2.3.10 of the Sydney DCP 2012 provide additional guidance in relation to outlook and views from existing residential development, requiring the consideration of such matters in the site planning and massing of new development.
- (c) As discussed above, the primary view aspects from the affected apartments to the east and west is largely unaffected by the proposal, with views to Sydney Harbour, the Rocks and Opera House maintained.
- (d) Detailed analysis of views and outlook from the adjoining residential apartments has been carried out, which demonstrates that the site planning and massing of the development is generally acceptable.

*SEPP 65 and ADG*

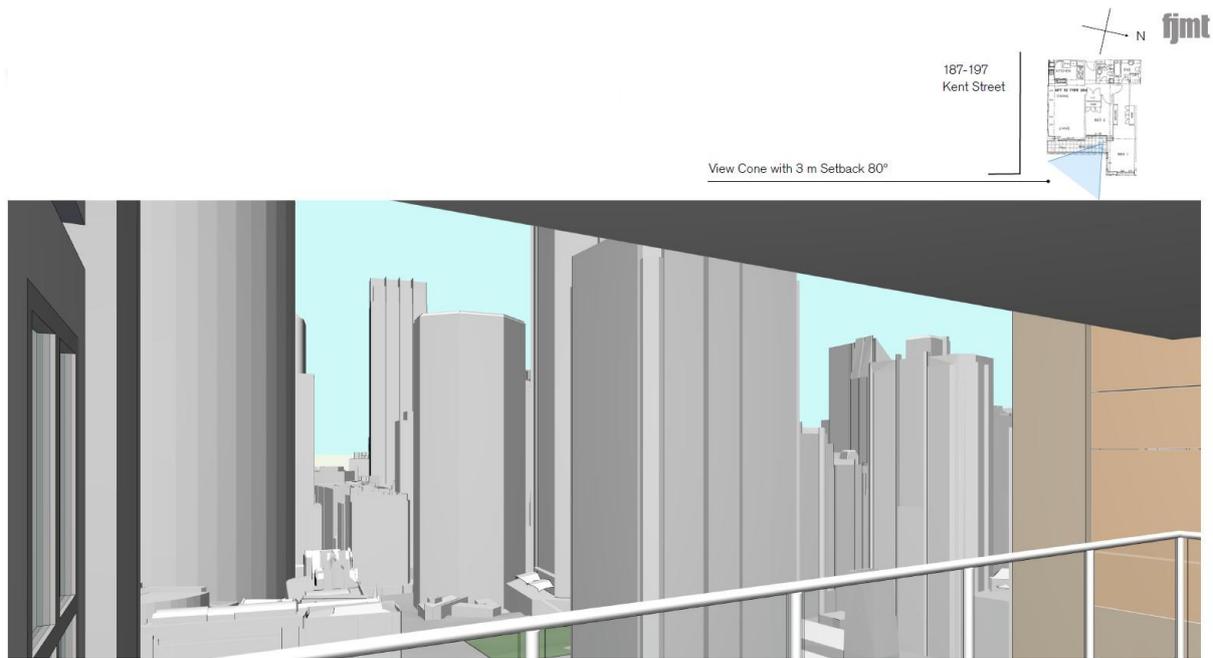
- (a) As discussed under the Building Setbacks and Separation heading above, the nil setback proposed to the northern boundary satisfies the building separation and setback considerations in Parts 2F and 2H of the ADG and presents no significant visual privacy concerns in relation to the design criteria and guidance in Part 3

*View Impact Study*

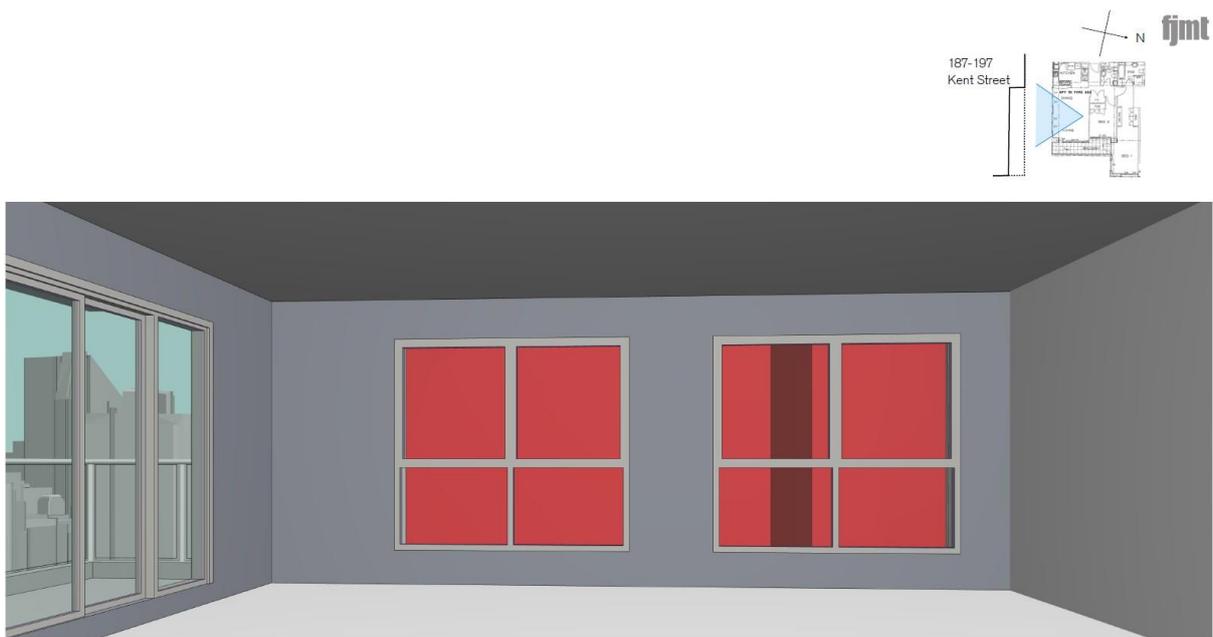
- (a) The application was accompanied by a view impact analysis study comprising 3D digital modelling and perspectives of existing and proposed views from indicative locations within apartments in the adjoining development.
- (b) Although the view loss analysis did not provide specific heights, levels or camera angles, the view images have been reviewed by Council staff and are a generally acceptable depiction of views from the 'Stamford on Kent' building at various heights, as illustrated below in Figures 65, 66, 67, 68, 69 and 70.



**Figure 65:** Extract of view study image from level 19 with the approved 3m envelope setback



**Figure 66:** Extract of view study image from level 19 with the proposed nil setback



**Figure 67:** Extract of view study image from level 23 with the approved 3m envelope setback

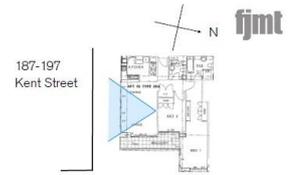


Figure 68: Extract of view study image from level 23 with the proposed nil setback

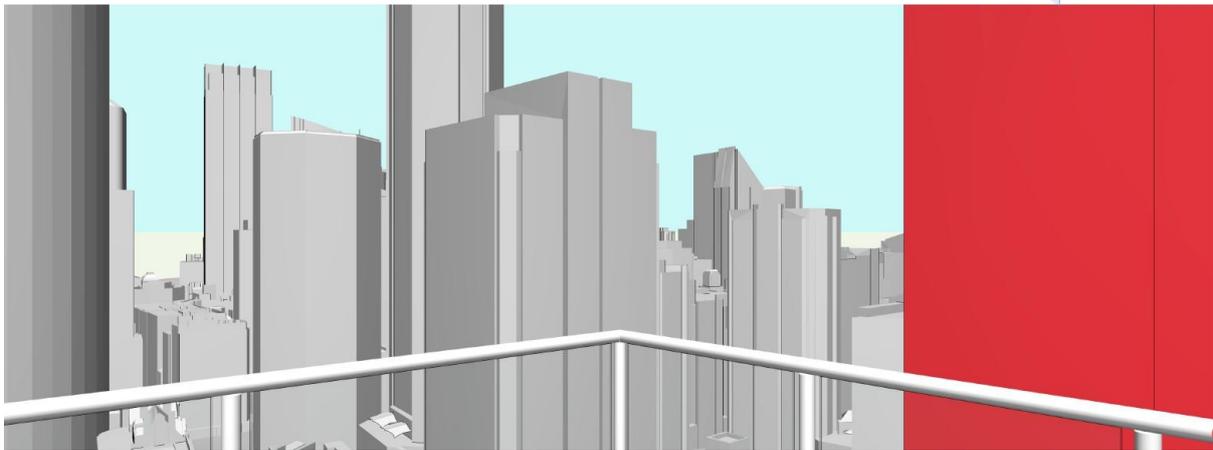
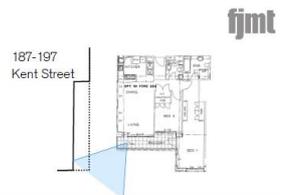
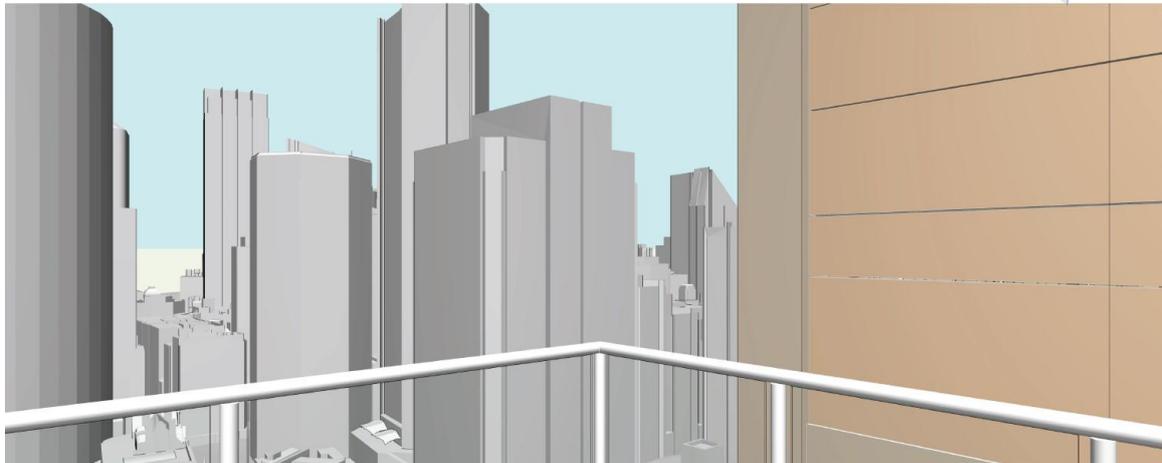


Figure 69: Extract of view study image from level 26 with the approved 3m envelope setback

View 2 from Level 25 with proposed Setback



**Figure 70:** Extract of view study image from level 26 with the proposed nil setback

#### *Planning Principle*

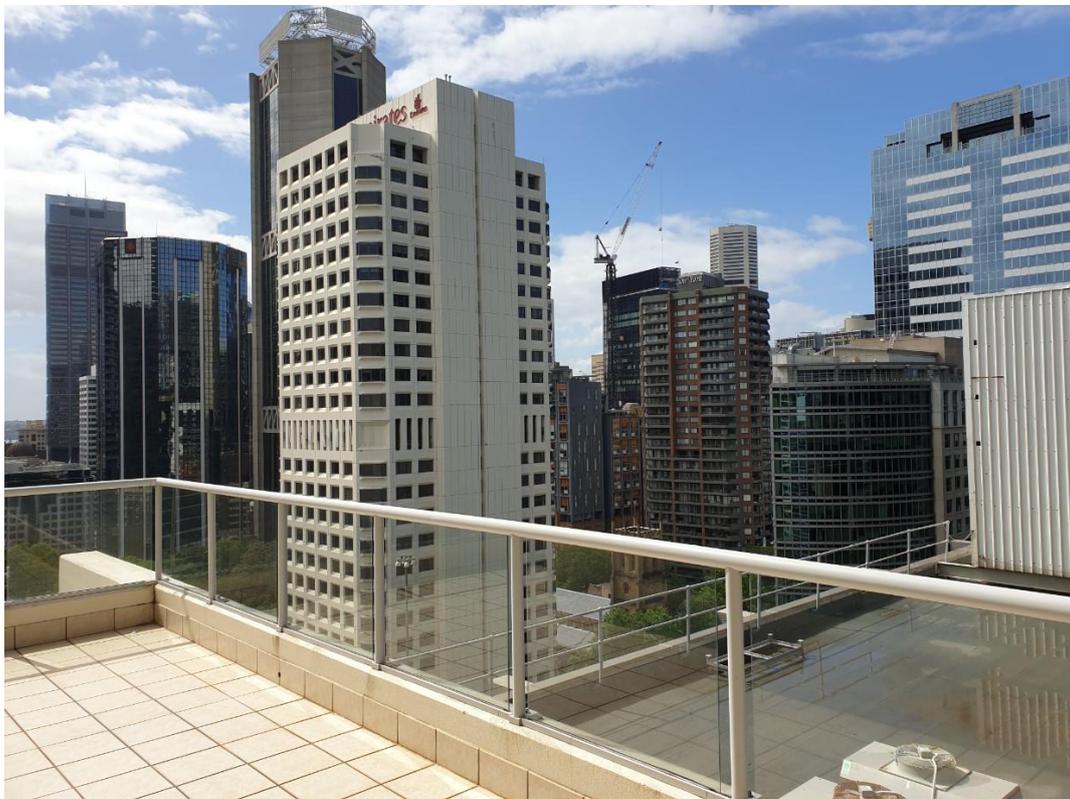
155. In order to assess the impact of the proposed development on existing views, an assessment has been made against the planning principle established by Senior Commissioner Roseth in the Land and Environment Court decision *Tenacity Consulting v Warringah* [2004] NSWLEC 140 in relation to view sharing.
156. The principle specifies that the notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment which may, in some circumstances, be reasonable. The below four step assessment is adopted to determine whether view sharing is reasonable in the case of the proposal.

#### *Assessment of views to be affected*

- (a) Views with the potential to be affected consist of views of the built environment and skyline of the Sydney Central Business District and Barangaroo South in a south-eastern and south-western direction respectively.
- (b) These views are enjoyed from windows, balconies and terraces of residential apartments in the south-eastern and south-western portions of the 'Stamford on Kent' building at 183 and 187 Kent Street, Millers Point, as indicated in Figures 71, 72, 73, 74, 75 and 76 below. The apartments also enjoy views to the east, north-east, north-west and west of the site.



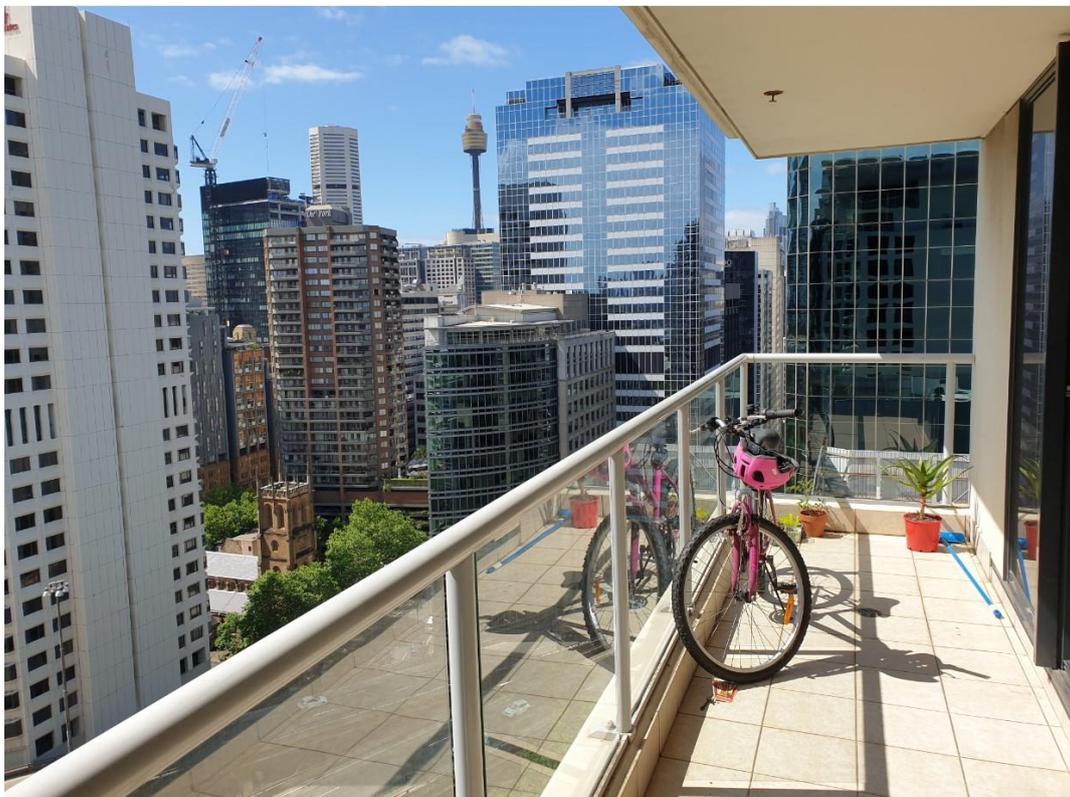
**Figure 71:** South views from level 19 'Stamford on Kent' living room windows



**Figure 72:** South-east views from level 19 'Stamford on Kent' terrace



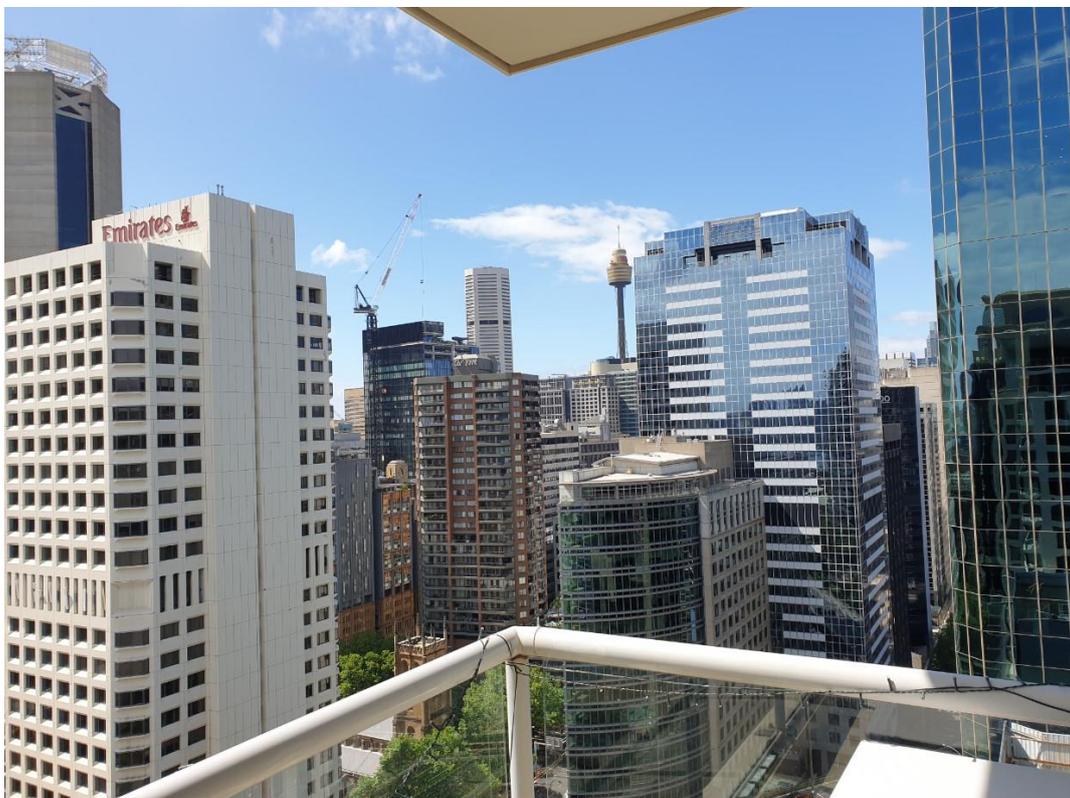
**Figure 73:** South views from level 23 'Stamford on Kent' living room windows



**Figure 74:** South views from level 23 'Stamford on Kent' balcony



**Figure 75:** South-east views from level 26 'Stamford on Kent' southern elevation living room window



**Figure 76:** South-east views from level 26 'Stamford on Kent' balcony

*Consider from what part of the property the views are obtained*

- (a) The views under assessment are available from the living rooms, kitchens and balconies of the above-mentioned apartments, and from the external southern terraces at level 19.
- (b) The principle holds that the loss of views from living room windows from a standing position is considered to be of greater impact than the loss of views from bedrooms, bathrooms, or other service areas, or from a sitting position. It further states that it is unrealistic to expect that existing views across side boundaries can be protected.

*Extent of the impact in relation to views available*

- (a) The principle provides that the extent of impact should be assessed for the whole of the property, rather than just for the affected view.
- (b) The proposed development will have an additional impact to the south-eastern apartments from Levels 19 to 27 of the neighbouring building beyond that approved under development consent D/2018/1014, with a minor additional impact to the external terrace of the south-western apartment at Level 19.
- (c) This impact is considered to be negligible in scope however, given that the primary aspect and view amenity for apartments within the adjoining development is maintained to the east and west of the site, with views of the Sydney Central Business District skyline to the east, and views to Sydney Harbour and partial views of the Opera House unaffected by the proposal, as indicated in Figure 77, 78 and 79 below.



**Figure 77:** East views of Sydney Harbour and the Opera House from level 19 'Stamford on Kent' balcony doors



**Figure 78:** East views of Sydney Harbour and the Opera House from level 23 'Stamford on Kent' apartment living room



**Figure 79:** North-east views of Sydney Harbour and the Opera House from level 26 'Stamford on Kent' apartment balcony

*Reasonableness*

- (a) The degree to which an impact is considered to be reasonable depends on the extent to which the development complies with the relevant planning controls, and whether impacts could be mitigated by a more skilful design.
- (b) In the case of the proposed development, the view impact above that approved under the concept development consent D/2018/1014 results from the deletion of the 3 metre setback area to the north-eastern portion of the northern-most envelope. The stated intent of this amendment is to ensure that the envelope can accommodate the winning scheme of a competitive design alternatives process.
- (c) Overall, the loss of views occurs over the southern side property boundary. As mentioned above, it is unreasonable to expect that existing views across side boundaries can be protected.
- (d) The loss of views from the adjoining residential apartments resulting from the proposed development is not considered to be significant. This is because the cumulative impact on views is negligible, given existing panoramic views to Sydney Harbour, its interface with harbourside land, and icons such as the Opera House are unaffected by the proposal.

*Conclusion*

- 157. Having regard to the dense urban context of Central Sydney, it is inevitable that new development will affect views and outlook to existing neighbouring development.
- 158. An assessment of whether the proposed development adversely impacts views from other developments has been undertaken above and the new building has an acceptable impact.
- 159. The proposal does not significantly or unreasonably reduce the view amenity enjoyed by surrounding residential land uses. It provides for adequate view sharing and is acceptable as a result.

**Draft Planning Controls****Planning Proposal: Central Sydney 2020**

- 160. The Planning Proposal: Central Sydney 2020 progresses key aims and objectives of the City of Sydney's Draft Central Sydney Planning Strategy, which is currently under consideration by the New South Wales Department of Planning, Industry and the Environment. This will be achieved by a range of amendments to the Sydney LEP 2012.
- 161. These include the updating of the objectives B8 Metropolitan Centre zone, including the addition of following:

*To promote uses with active street frontages within podiums that contribute to the vitality, life and existing character of the street.*

*To promote the efficient and orderly development of land in a compact urban centre.*

*To promote a diversity of commercial opportunities varying in size, type and function, including new cultural, social and community facilities.*

*To recognise and reinforce the important role that Central Sydney's public spaces, streets and their amenity play in a global city.*

*Promote the primary role of the zone as a centre for employment and permit residential and serviced apartment accommodation where they complement employment generating uses.*

162. The proposed development is consistent with these new objectives, as it will provide an appropriate level of activation to Kent Street and Jenkins Street, in addition to providing for a range of commercial, cultural and social opportunities and employment generating uses on the site.
163. The proposal will not result in any significant detrimental impacts to the surrounding public domain within the Sydney Central Business District, subject to the conditions recommended in Attachment A.
164. The planning proposal also amends objective (1)(c) of the height of buildings development standard in Clause 4.3 of the Sydney LEP 2012 relating to view sharing to clarify that view sharing and protection of private views will only be promoted outside of Central Sydney where this can be reasonably achieved.
165. Further, the proposal revises the maximum permissible height of buildings development on the site from 80 metres to 110 metres, as discussed under the Clause 4.6 heading above, and nominates the site as being located in a tower cluster area.
166. While the tower cluster provisions of the planning proposal are not applicable to the subject site, due to the site area being less than 2,000 square metres, the increase in height will capitalise on the changing form and character of the area and the additional Metro rail infrastructure committed to by the State government.
167. The Planning Proposal was recently exhibited between 1 May 2020 and 10 July 2020, and must be given weight in the assessment of the proposed development as there is now greater certainty and imminence in relation to its future gazettal.

#### **Amendments to Sydney Development Control Plan 2012 – Central Sydney Planning Strategy Amendment**

168. The Planning Proposal: Central Sydney 2020 also incorporates proposed amendments to the Sydney DCP 2012. The amendments relevant to the proposed development include:
  - (a) The built form and related controls for Central Sydney, including those relating to:
    - (i) street frontage heights;
    - (ii) street, side and rear setbacks;
    - (iii) building form separations;
    - (iv) built form massing, tapering and maximum dimensions;
    - (v) development outlook and amenity;
    - (vi) building exteriors;

- (vii) sun protection of public parks and places; and
- (viii) managing wind impacts.

169. With regard to the amended built form and related controls for Central Sydney, the proposed development:

- (a) does not fully comply with the street frontage height, setback and separation provisions but remains acceptable for the reasons outlined under the Discussion heading above;
- (b) generally satisfies the built form massing, tapering and maximum dimensions controls;
- (c) provides acceptable outlook and amenity from the proposed use;
- (d) provides a high quality architectural design, including its articulation, materials and finishes;
- (e) does not result in any overshadowing of Wynyard Park to the south-east; and
- (f) does not result in any significantly adverse wind effects on the surrounding public domain or within the development, subject to conditions recommended in Attachment A to require additional detailed wind tunnel testing and assessment to confirm the efficacy and final design of proposed wind mitigation treatments.

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

170. The proposed development can comply with the Building Code of Australia.

171. 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 in Attachment A.

#### **Suitability of the Site for the Development**

172. The proposal is in keeping with the desired future character for the site and locality.

173. The site is situated in the Sydney Central Business District, located amongst similar uses to that proposed and is suitable for the proposed development.

#### **Internal Referrals**

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

- (a) Design Advisory Panel;
- (b) Building Approvals Unit;
- (c) City Model Unit;
- (d) Cleansing and Waste Unit;
- (e) Environmental Projects Unit;

- (f) Health and Building Unit;
- (g) Heritage Specialist;
- (h) Landscape Assessment Officer;
- (i) Public Art Unit;
- (j) Public Domain Unit;
- (k) Urban Design Specialist;
- (l) Safe City Unit;
- (m) Specialist Surveyor;
- (n) Transport and Access Unit; and
- (o) Tree Management Officer.

175. The advice of these panels and Council officers raised no objections to the proposal subject to conditions, except as discussed elsewhere in this report.
176. Where appropriate, the conditions recommended by other sections of Council are included in Attachment A.

### **External Referrals**

177. The application was referred to the following external organisations:
- (a) Ausgrid;
  - (b) New South Wales Police Force;
  - (c) Roads and Maritime Services;
  - (d) Sydney Water; and
  - (e) Transport for New South Wales.
178. Comments and conditions received from all the relevant external referral requirements are addressed elsewhere in this report or are included in Attachment A where relevant.

### **Advertising and Notification**

179. In accordance the Community Participation Plan 2019 the proposed development is required to be exhibited.
180. The original application was notified and advertised for a period of 28 days between 6 May 2020 and 4 June 2020, with the amended application notified for a period of 14 days between 14 September 2020 and 29 September 2020.

181. The amendments to the proposal submitted on 14 November 2020 were not required to be notified or advertised under the City of Sydney Community Participation Plan, given the amendments do not result in significant additional environmental impacts.
182. As a result of this notification a total of 1,318 properties were notified during each exhibition period. 12 submissions were received during the first exhibition period and 5 submissions were received during the second exhibition period.
183. The concerns raised in each of the submissions objecting to the proposal are summarised and addressed below.

- (a) **Issue:** Loss of views and outlook from apartments within the 'Stamford on Kent' building

**Response:** As discussed above under the View Sharing and View Loss heading above, the proposed development has been assessed against the relevant planning controls and the planning principle established by Senior Commissioner Roseth in the Land and Environment Court decision *Tenacity Consulting v Warringah* [2004] NSWLEC 140 in relation to view sharing and view loss.

Overall, the proposal would have a negligible impact on view loss and outlook from neighbouring residential development and is acceptable.

- (b) **Issue:** Loss of solar access to apartments within the 'Stamford on Kent' building

**Response:** The proposed development will have no impact on direct mid-winter solar access to the apartments in the 'Stamford on Kent' building at 183 and 187 Kent Street, Millers Point, as the subject site is to the south of that property and the new building cannot physically cast shadows to the north.

- (c) **Issue:** Loss of ambient light to apartments within the 'Stamford on Kent' building

**Response:** As discussed under the Building Setbacks and Separation heading above, the proposed development will have some impact on ambient light received through the south-facing living room windows of apartments between levels 19 and 27 in the 'Stamford on Kent' building at 183 and 187 Kent Street, Millers Point.

This impact is considered acceptable however, given that the primary easterly aspect from, and direct solar access to these apartments will be unaffected by the development.

- (d) **Issue:** Loss of property value to apartments within the 'Stamford on Kent' building

**Response:** Matters relating to loss of property value are not considerations that can be given significant weight in an assessment of an application made under the Environmental Planning and Assessment Act, 1979.

- (e) **Issue:** Loss of ventilation to apartments within the 'Stamford on Kent' building

**Response:** The proposed development will not serve to significantly reduce ventilation to apartments within the existing adjoining development to the north, given that the primary aspect of these apartments to the east and west is unaffected by the new building.

- (f) **Issue:** Exacerbated wind impacts to apartments within the 'Stamford on Kent' building

**Response:** As discussed under the Building Setbacks and Separation heading above, the wind impacts report submitted to the City on 9 November 2020 contains the results of wind tunnel testing, which demonstrates that the proposed nil setback of the development will result in wind conditions for the adjoining residential development to the north which are either better than, or equivalent to the existing and approved wind conditions.

- (g) **Issue:** Visual and acoustic privacy impacts to apartments within the 'Stamford on Kent' building

**Response:** As discussed under the Building Setbacks and Separation heading above, the proposed blank side wall will not result in any significant visual privacy impacts to the adjoining development to the north.

An Environmental Noise Impact Assessment was submitted with the original application and has been reviewed by the City's Health and Building Unit, who have advised that its recommendations are acceptable in relation to mitigation of potential acoustic privacy impacts to adjoining development.

Subject to the recommended conditions included in Attachment A requiring these recommendations to be carried through to certification and construction, the proposal is acceptable with regard to acoustic privacy considerations.

- (h) **Issue:** Bulk and scale impacts to apartments within the 'Stamford on Kent' building, proposal incompatible and detracts from surrounding development

**Response:** The bulk and scale of the proposed development is considered to be contextually appropriate in the context of the existing development along the western side of Kent Street and eastern side of Jenkins Street, including as viewed from the adjoining properties, as discussed under the Building Setbacks and Separation heading above.

The locality is characterised by large format commercial and office towers which do not have podium forms, with buildings rising to their full height from the street frontages with little relief in built form.

The proposed development provides an east-west ground plane through site link, connecting link between the tower components and building breaks to distinguish between low and high rise components, all of which serve to mitigate the bulk, scale and massing of the development.

- (i) **Issue:** Inadequate onsite parking provision and traffic generation impacts within the locality

**Response:** Traffic generation and the transport related impacts of the development have been considered by City staff and by Transport for New South Wales, including review of the Traffic and Transport Assessment report, Transport Impact Statement and draft Car Park and Loading Dock Management Plan by the City's Transport and Access Unit.

A range of conditions relating to traffic and transport management are recommended in Attachment A to address these issues, along with conditions recommended by Transport for New South Wales to manage traffic impacts. The proposed development is acceptable in this regard, subject to these conditions.

- (j) **Issue:** Reflectivity impacts to apartments within the 'Stamford on Kent' building

**Response:** Reflectivity from the proposed materials to the development has been considered by City staff, including a review of the materials and samples board and facade type drawings submitted with the amended application by the City's Urban Design Specialist.

It is noted that the northern facade of the building is proposed to be constructed of masonry cladding and that there are no glazed elements to this elevation which would cause impacts to the apartments in the adjoining 'Stamford on Kent' building.

A condition is recommended in Attachment A to ensure that reflectivity associated with the development does not exceed a specular reflectance of 20%. The proposal is acceptable in this regard, subject to this condition.

- (k) **Issue:** Constraints on construction and future maintenance of boundary walls

**Response:** Any construction and future maintenance of boundary walls with nil setbacks must be carried out from within the subject site, or with the consent of adjoining property owners. This type of arrangement is common within the context of the Sydney Central Business District, given the density of the urban environment in Central Sydney.

- (l) **Issue:** Demolition, excavation and construction impacts including hours of work, damage to adjoining buildings, dust and air pollution, structural, vibration and noise impacts, and traffic congestion

**Response:** The proposed demolition and construction impacts of the development have been considered by City staff and by Transport for New South Wales, including review of the noise impact assessment and construction management documentation submitted with the application by the City's Health and Building Unit.

A range of the City's standard conditions relating to demolition, excavation and construction management are recommended in Attachment A to address these issues, along with conditions recommended by Transport for New South Wales to manage construction traffic impacts. The proposed development is acceptable in this regard, subject to these conditions.

- (m) **Issue:** Inaccurate photomontages

**Response:** The photomontages have been reviewed by City staff and are considered to be acceptable for assessment purposes.

It should be noted that the photomontages submitted with the application are indicative only and are not recommended to be approved as part of any development consent to be granted by the CSPC.

### **Sydney Airport Referral Act 1996**

184. 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.
185. Clause 6(1) of the Civil Aviation (Building Control) Regulations 1988 identify that 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport'.
186. The Outer Horizontal Surface of the OLS above the subject site is at a height of 156 metres above the Australian Height Datum (AHD) and the prescribed airspace above the site commences at RL156 AHD.
187. At a maximum proposed height of RL 106.15 AHD, the building does not penetrate the OLS and does not constitute a 'controlled activity'.

### **Public Interest**

188. The proposal will have no significant detrimental effect on the public interest, subject to the recommended conditions in Attachment A.

### **Section 61 Contribution**

189. 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.
190. A condition relating to this levy is included in the recommended conditions of consent. The levy is to be paid prior to the issue of a Construction Certificate.

### **Relevant Legislation**

191. Environmental Planning and Assessment Act 1979.
192. City of Sydney Act, 1988.
193. Roads Act, 1993.
194. Sydney Water Act, 1994.

### **Conclusion**

195. The application seeks consent for the demolition of the existing commercial building and construction of a new mixed use development, with a maximum height of 94.05 metres (RL 106.15 AHD), 24 storeys, 125 apartments, 4 basement levels, 91 parking spaces and commercial, food and drink premises and residential land uses.

196. The proposal is consistent with the amended concept development consent, being D/2018/1014/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
197. The development exceeds the maximum 80 metre height of buildings development standard by 14.05 metres (18%), largely as a result of the proposed architectural roof features and sloping topography of the site.
198. A request to vary Clause 4.3 'Height of Buildings' development standard has been submitted in accordance with Clause 4.6 of the Sydney LEP 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard.
199. The proposal is consistent with the objectives of the land use zone and height of buildings development standards and the proposed departure to building height is supported in the particular circumstances of the site and proposed development.
200. The proposed building is compliant with the applicable floor space ratio controls. The development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding the site.
201. The proposal is generally consistent with other applicable planning provisions including SEPP 65, the ADG, the Sydney LEP 2012 and the Sydney DCP 2012. Proposed variations to controls have been assessed as having merit in this case and are addressed in the report. Conditions are recommended to address non-compliances where appropriate.
202. The new development does not pose any other 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 by providing a publicly accessible through site link and exhibits design excellence in accordance with Clause 6.21 of the SLEP 2012.
203. The proposal will provide for new residential, commercial and retail uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
204. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of the locality.

**ANDREW THOMAS**

Acting Director City Planning, Development and Transport

David Reynolds, Senior Planner