

Item 5.**Development Application: 499-501 Kent Street, Sydney - D/2020/1224****File No.:** D/2020/1224**Summary**

Date of Submission:	The application was lodged on 17 November 2020. Amended plans and documentation were submitted on 21 December 2020, 2 February 2021 and 16 February 2021.
Applicant/Owner:	Element Property Sydney Pty Ltd
Architect:	PTW Architects
Planning Consultant	Ethos Urban
Heritage Consultant	NBS Architecture Heritage
Cost of Works:	\$57,485,385.00
Zoning:	Zone B8 Metropolitan Centre.
Proposal Summary:	<p>Approval is sought for a concept building envelope up to a height of 80 metres for a future development including:</p> <ul style="list-style-type: none">• Conservation and restoration of the original facade to Kent Street and Druitt Lane of the existing heritage listed building; and• Indicative construction of a 23-storey building, with a mix of hotel accommodation and retail/commercial uses. <p>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.</p> <p>A preliminary assessment of the application identified concerns relating to contamination, height, car parking, servicing, access, environmental performance, landscaping and the Design Excellence Strategy.</p> <p>These issues have been largely addressed through the resubmission of amended plans and additional information.</p>

The amended application was presented to the City's Design Advisory Panel, who supported the proposal subject to some recommendations as detailed in this report.

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

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 modifications made to the concept design and subject to conditions, the amended proposal presents an improved outcome and comprises a satisfactory response to the site conditions and locality. It is generally acceptable with regard to the relevant planning controls, and results in a form and scale that is consistent with 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
- (ii) Environmental Planning and Assessment Regulation 2000
- (iii) City of Sydney Act 1988
- (iv) State Environmental Planning Policy No.55 - Remediation of Land (SEPP 55)
- (v) State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- (vi) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed SEPP)
- (vii) Sydney Local Environmental Plan 2012
- (viii) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Building Envelope Drawings
- C. Indicative Reference Design Drawings

Recommendation

It is resolved that consent be granted to Development Application No. D/2020/1224 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 appropriate 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 Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal is consistent with the objectives of the B8 Metropolitan Centre zone.
- (D) The proposal will provide a building envelope that is capable of accommodating a future building which, subject to compliance with the design excellence strategy, the undertaking of a competitive design process and the recommended conditions of consent, can exhibit design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (E) The indicative reference design accompanying the application demonstrates that the future proposed development is capable of being consistent with the provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (F) The proposed development has a height and form suitable for the site and its context and, subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments and is appropriate in the streetscape context and broader locality.
- (G) The proposed building envelope can accommodate the proposed uses and does not result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain and the broader Sydney Central Business District, subject to conditions on a subsequent detailed design development application.
- (H) 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 design excellence, heritage, height, setbacks, contamination and traffic.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 100 DP 1247505, and has a street address of 499-501 Kent Street, Sydney. The site is irregular in shape and has an area of 811.4sqm. It has a 11.5m frontage to Kent Street and a 43m frontage to Druitt Lane. There is a fall of 5.47m from the eastern (Kent Street) boundary to the western rear boundary. The site contains a 3 storey L-shaped commercial building with a lower level basement, and vehicular access provided from Druitt Lane. The western part of the site contains an existing hard stand area.
2. The building is identified as a local heritage item (item no. 'I1834'), known as the former "Universal Film Manufacturing Co" warehouse as well as 'RCA House'. Constructed in 1936, it is designed in the Inter-War Stripped Classical Style, and comprises a steel framed, brick building with four bays of windows to both facades. There is a brick extension on the west which dates from 1966 and has no decorative features. The building is aesthetically significant as an example of a relatively intact original commercial exterior of high-quality design. Internally, the building has been remodelled and no evidence of original finishes exist.
3. The character of the area is predominantly commercial in nature, with surrounding development comprising office, retail, hotel and residential uses. The surrounding context is as follows:
 - Immediately to the site's west is 60 Bathurst Street (formerly known as 286-296 Sussex Street), which was recently developed as a 26-storey mixed use building comprising hotel uses within the podium, a residential tower above and basement parking.
 - Immediately to the site's south is a 13-storey commercial building at 503-505 Kent Street. Further to the south, on the corner of Kent Street and Bathurst Street, is 507-509 Kent Street which is a 26-storey serviced apartment building.
 - Immediately to the north of the site is Druitt Lane, which is approximately 3.7m in width. It is a one-way lane in an easterly direction.
 - To the site's north across Druitt Lane is 493-497 Kent Street, is a 4-storey mixed use building with ground floor retail and commercial uses above. Further to the north is a 10-storey commercial building at 483-491 Kent Street.
 - To the site's east across Kent Street is St Andrews Cathedral School, St Andrews Cathedral, Town Hall and Town Hall House. Sydney Square is a major public open space framed by these buildings.

4. Photos of the site and surrounds are provided below.

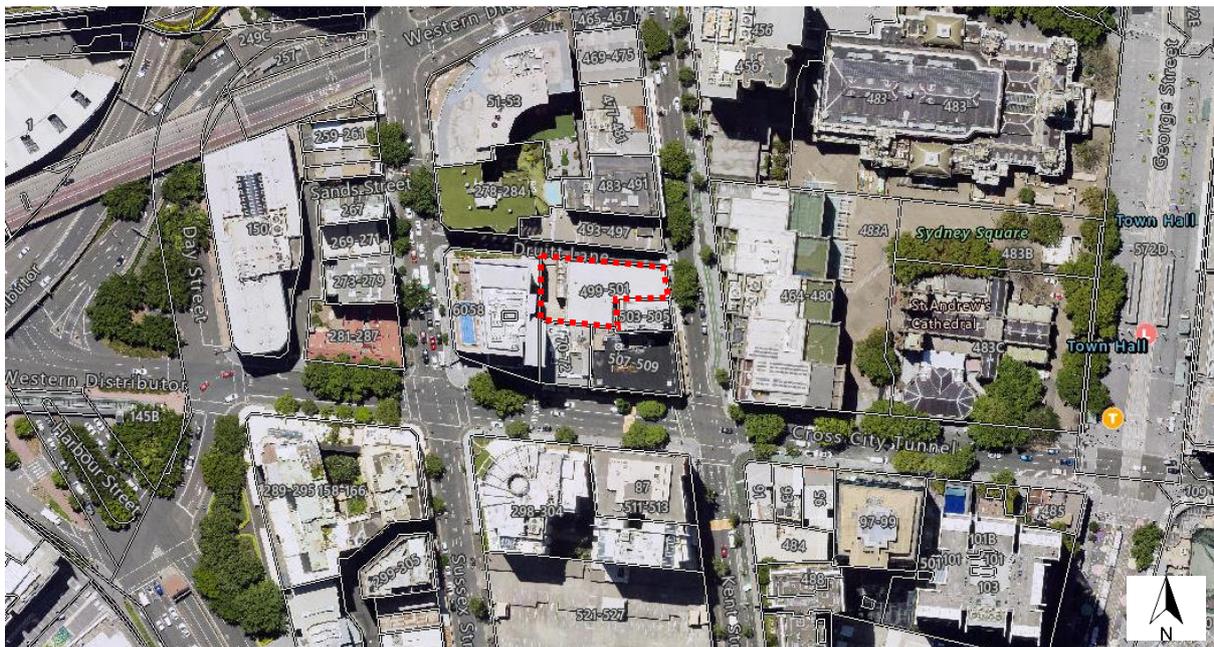


Figure 1: Aerial view of site (outlined in red) and surrounds

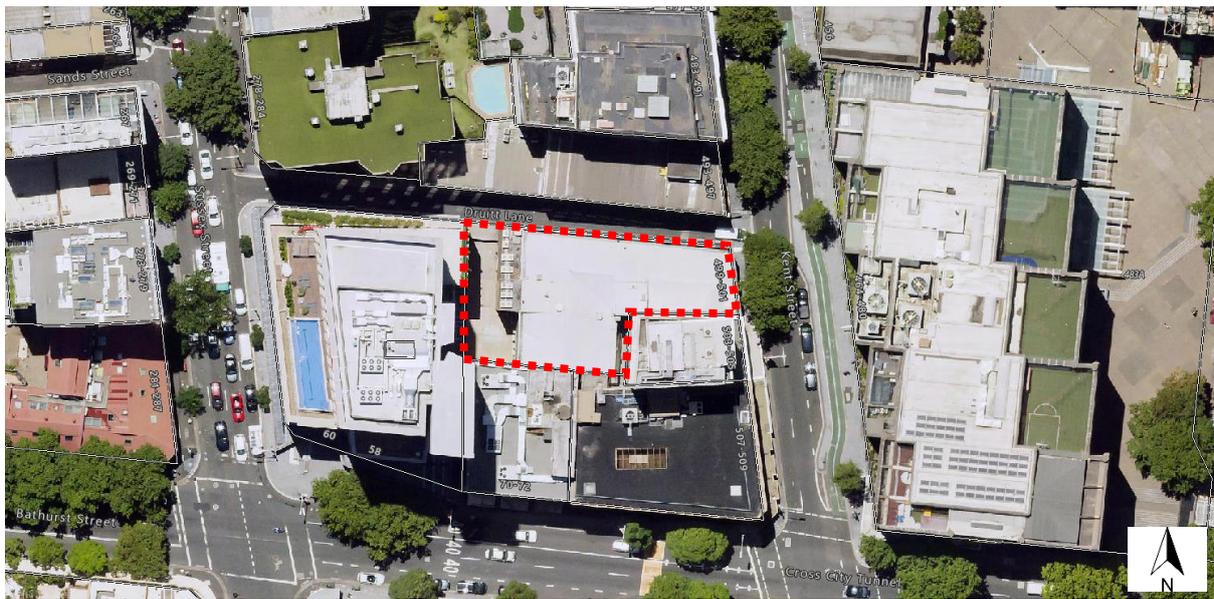


Figure 2: Aerial view of site (outlined in red) and immediate surrounds



Figure 3: Existing Kent Street and DrUITT Lane frontages of the site



Figure 4: DrUITT Lane looking west. The site is to the left on the laneway.



Figure 5: Druitt Lane looking east. The site is to the right on the laneway.



Figure 6: Druitt Lane looking east. Site on right.



Figure 7: View of Druitt Lane from Sussex Street



Figure 8: Kent Street streetscape



Figure 9: Properties to site's north including 493-497 Kent Street and 483-491 Kent Street

Proposed Development

5. The application seeks concept approval for a building envelope and design parameters including the following:
 - (a) retention of the existing heritage building's facade, part of the existing floors and some of the internal columns; and
 - (b) a building envelope for a mixed-use development with:
 - (i) a 20-storey tower (80m in height, RL 95.600);
 - (ii) a 4-storey podium (approximately 14.9m in height, RL 31.700), being the parts of the retained heritage building as described above;
 - (iii) vehicle access from Druitt Lane; and
 - (iv) a gross floor area capacity of 8,924.3sqm.
6. The application is accompanied by indicative reference design drawings and documentation. This shows the development in the proposed building envelope which provide the following indicative uses:
 - (i) basement levels 1 to 4: substation, loading dock (3 loading bays), plant and services;
 - (ii) lower ground: retail/restaurant, bicycle parking and end-of-trip facilities;
 - (iii) ground: lobby, reception, café, lounge, dining and back-of-house;
 - (iv) levels 1 to 3: hotel rooms in podium and outdoor terraces;
 - (v) levels 4 to 20: hotel rooms in tower;
 - (vi) level 21: gym and plant; and
 - (vii) level 22: plant.
7. No physical demolition or other development works are proposed as part of the amended concept plan.
8. Selected renders and plans of the indicative reference design, elevations, and plan drawings of the proposed building envelope are provided in Figures 10 to 27 below. These are included within Attachments B and C.



Figure 10: Indicative renders - view from Kent Street north on left and Kent Street south on right



Figure 11: Indicative renders - aerial view from north east and north view from DrUIT Lane

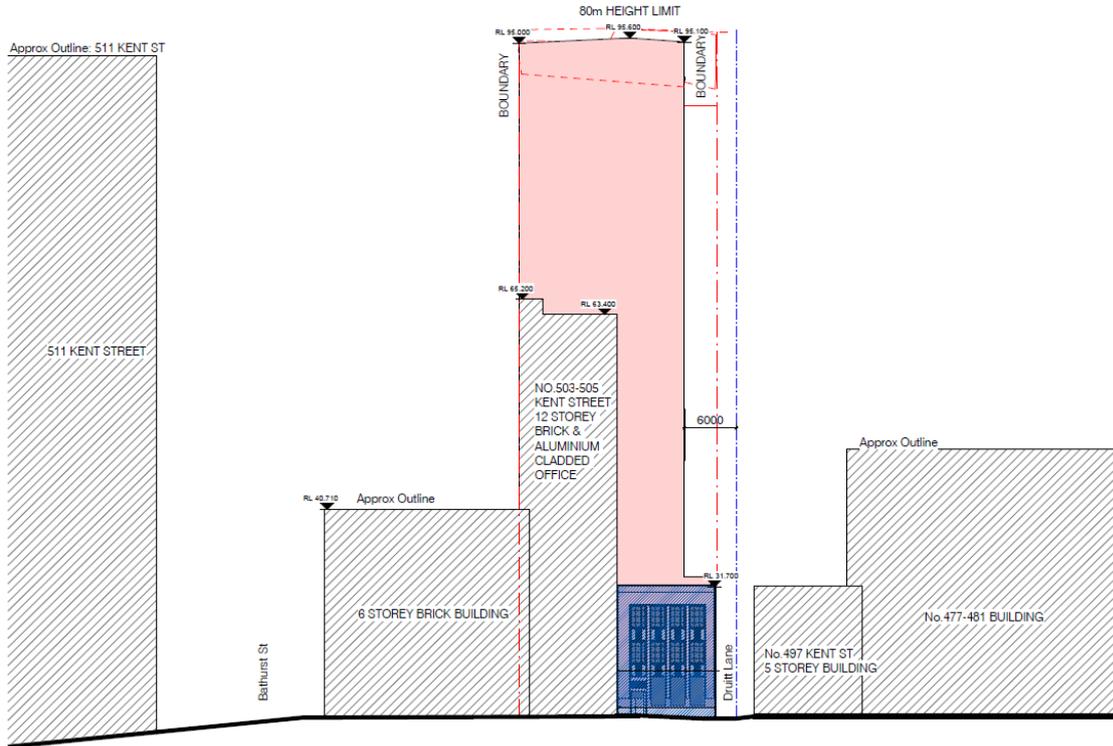


Figure 12: East (Kent Street) elevation envelope plan

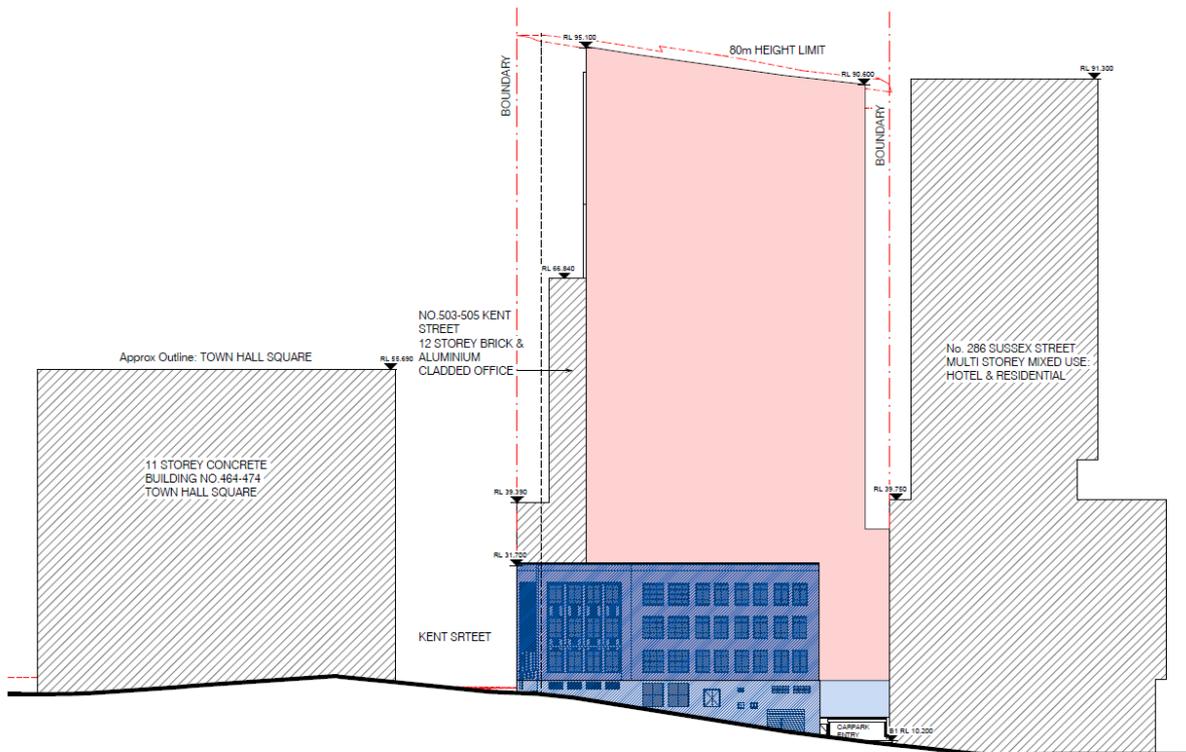


Figure 13: North (Druitt Lane) elevation envelope plan

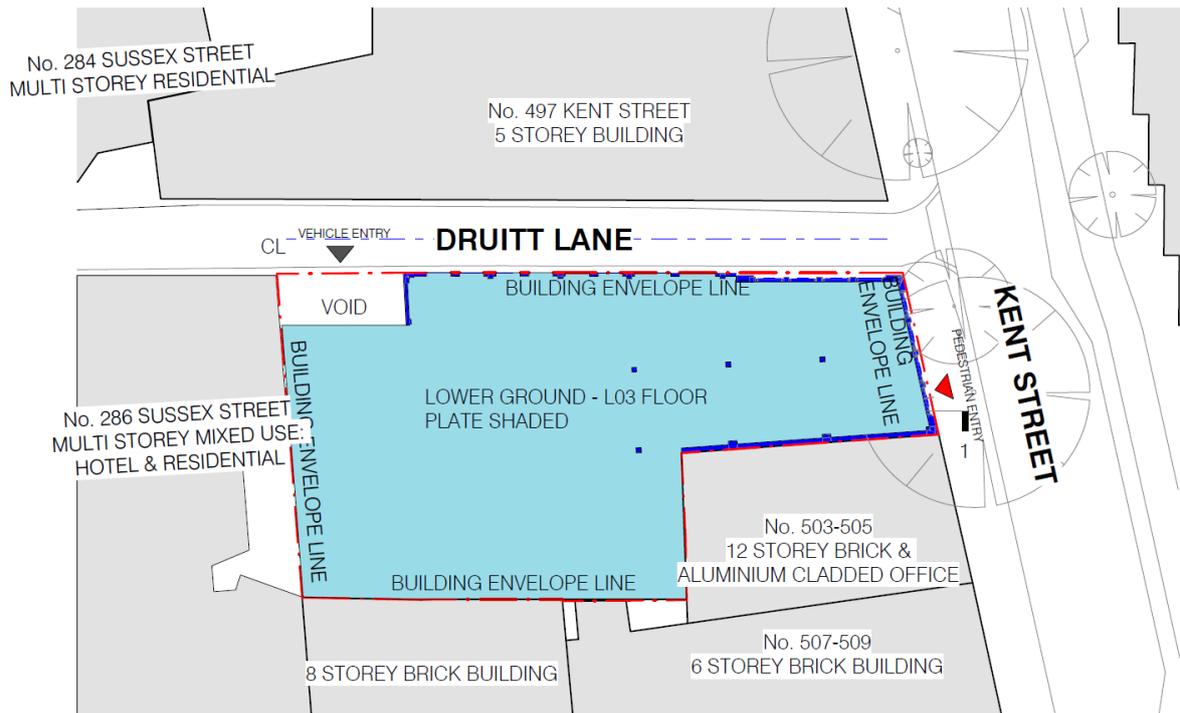


Figure 14: Lower ground - Level 3 envelope plan

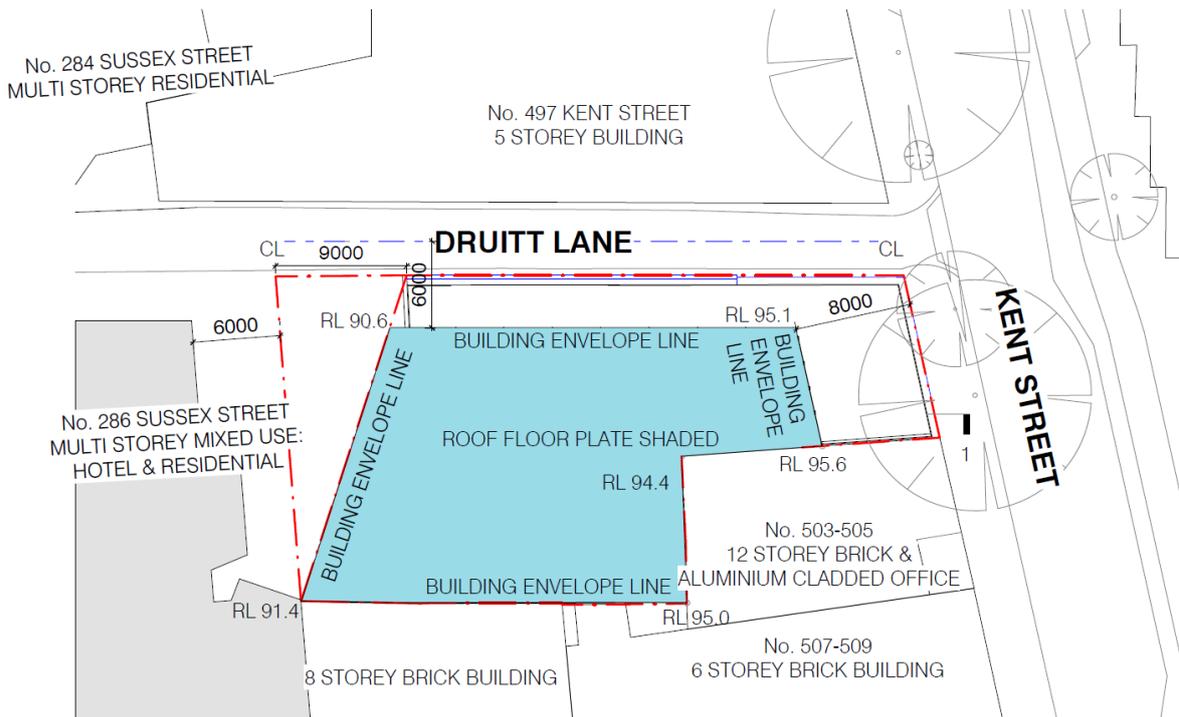


Figure 15: Level 4 - roof envelope plan

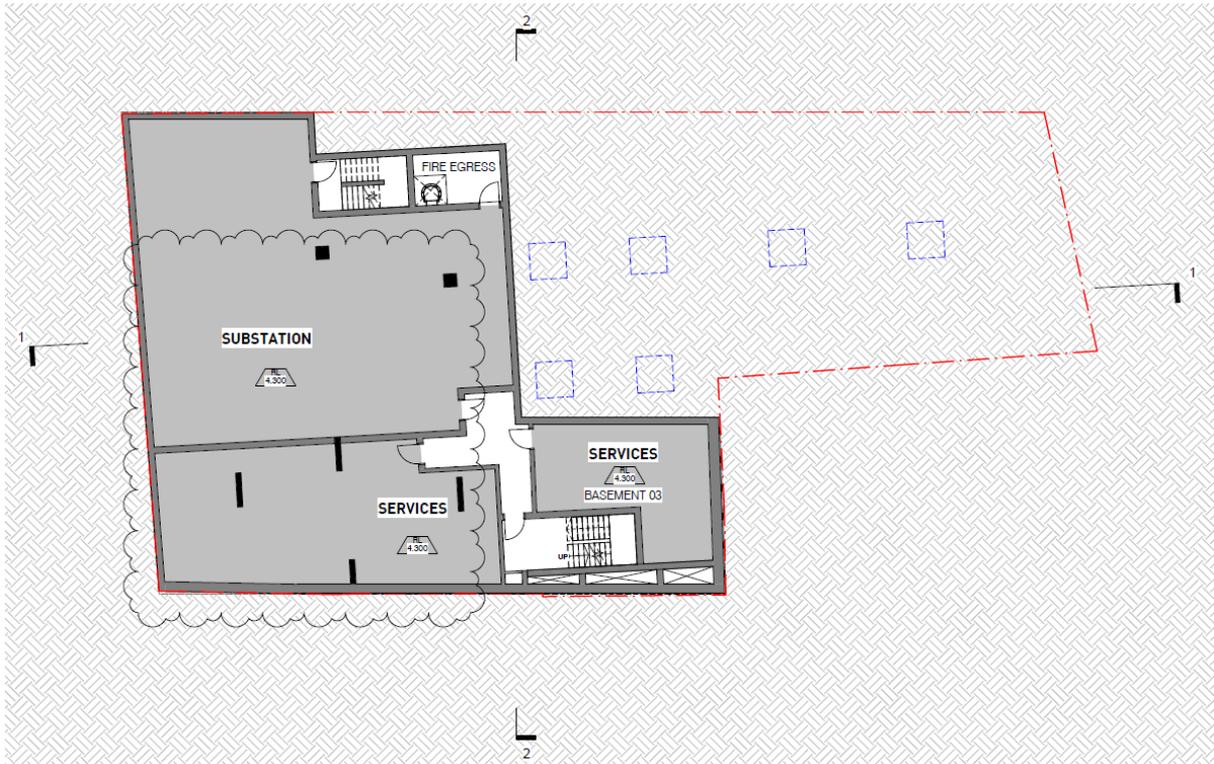


Figure 16: Indicative basement level 3 plan

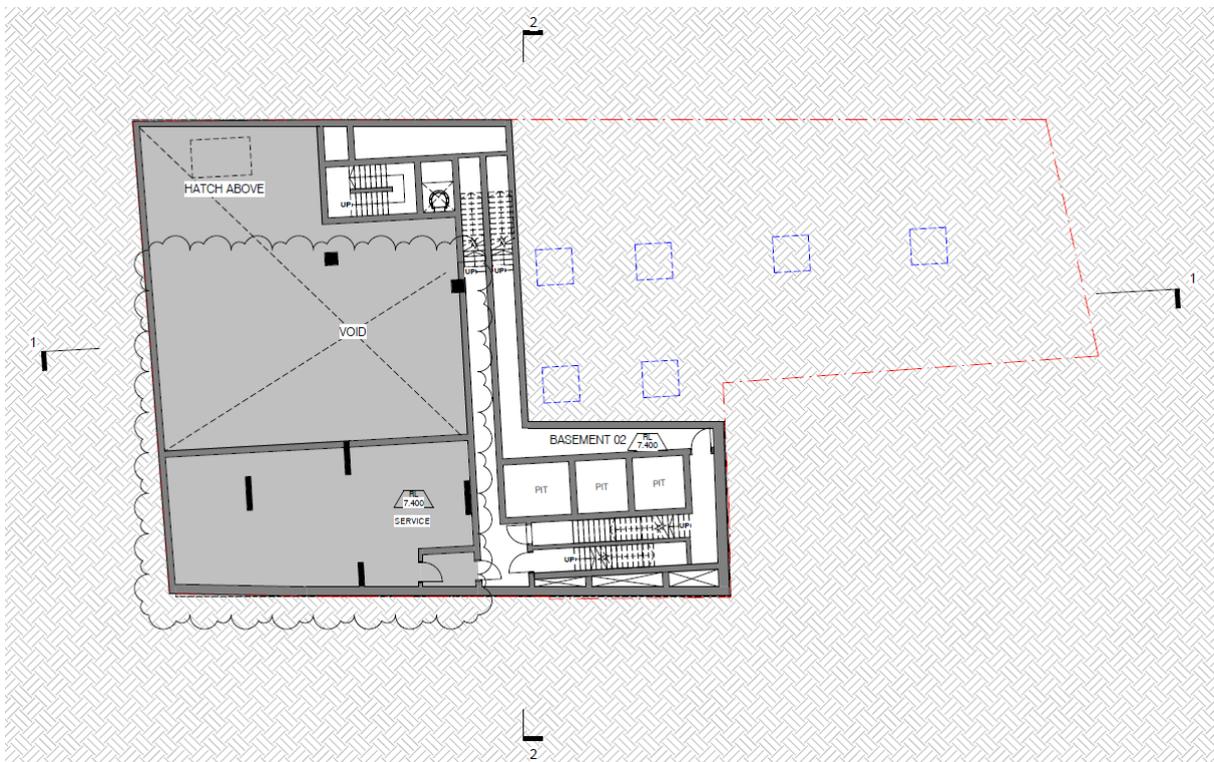


Figure 17: Indicative basement level 2 plan

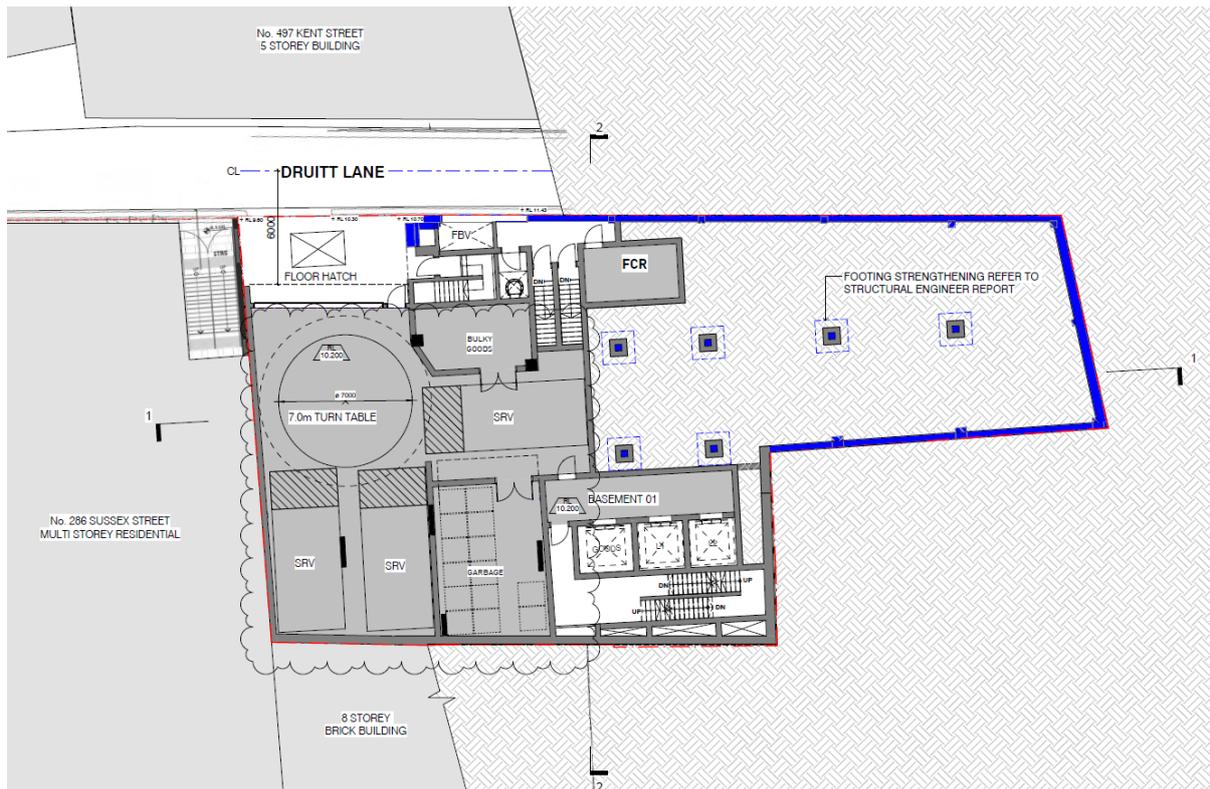


Figure 18: Indicative basement level 1 plan

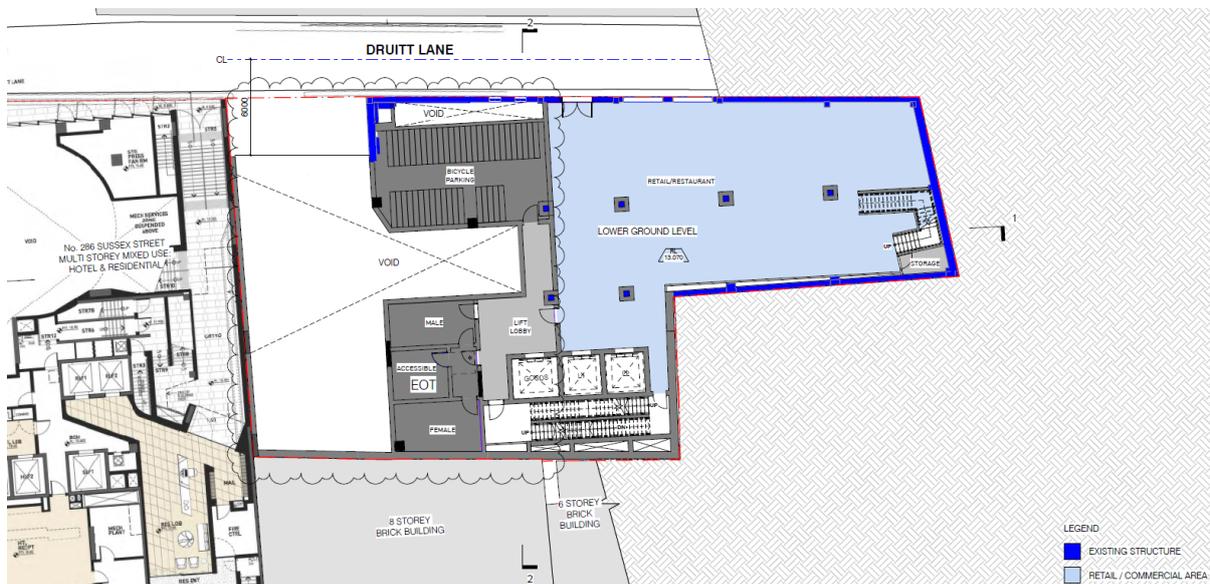


Figure 19: Indicative lower ground plan

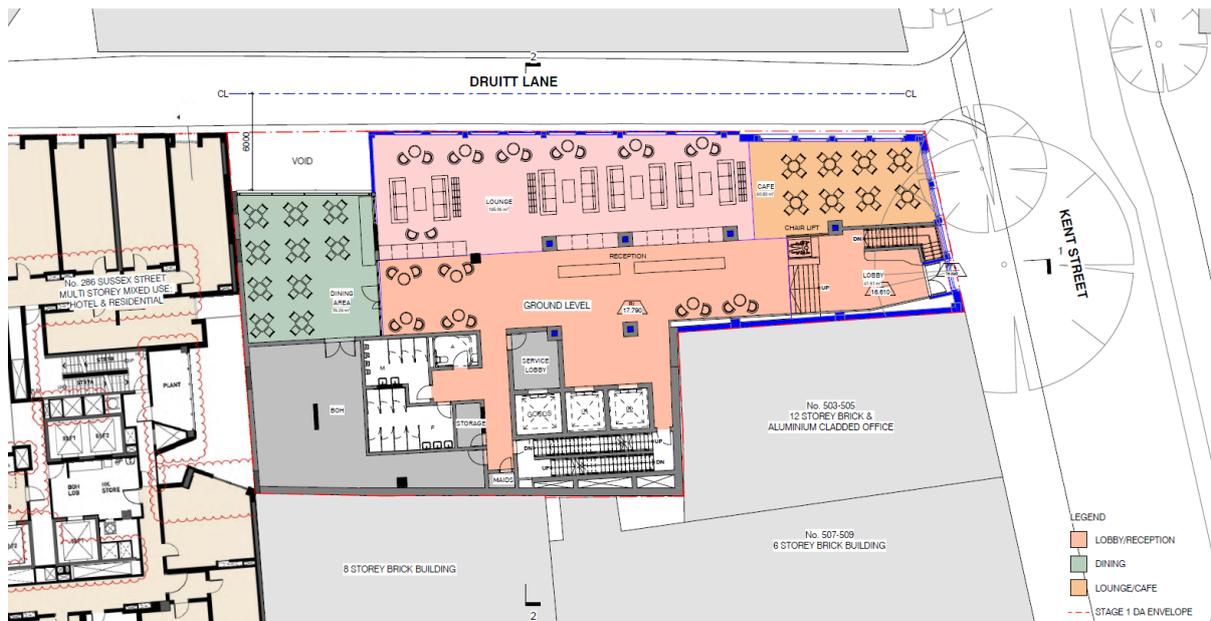


Figure 20: Indicative ground floor plan

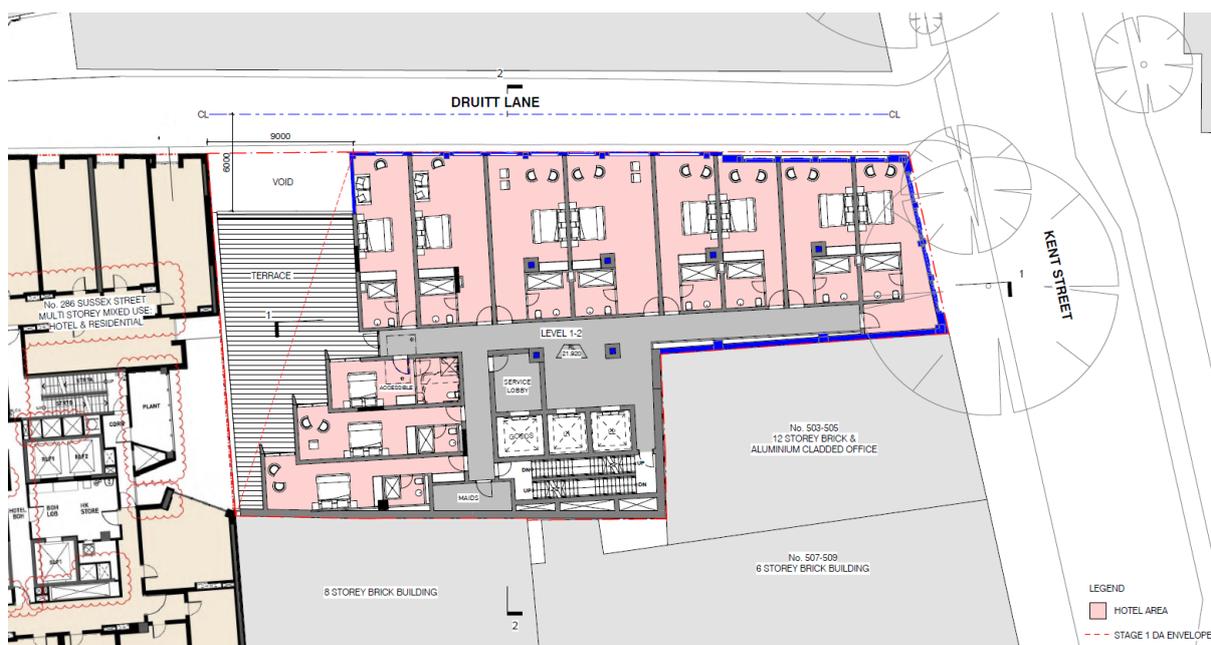


Figure 21: Indicative Levels 1-2 plan

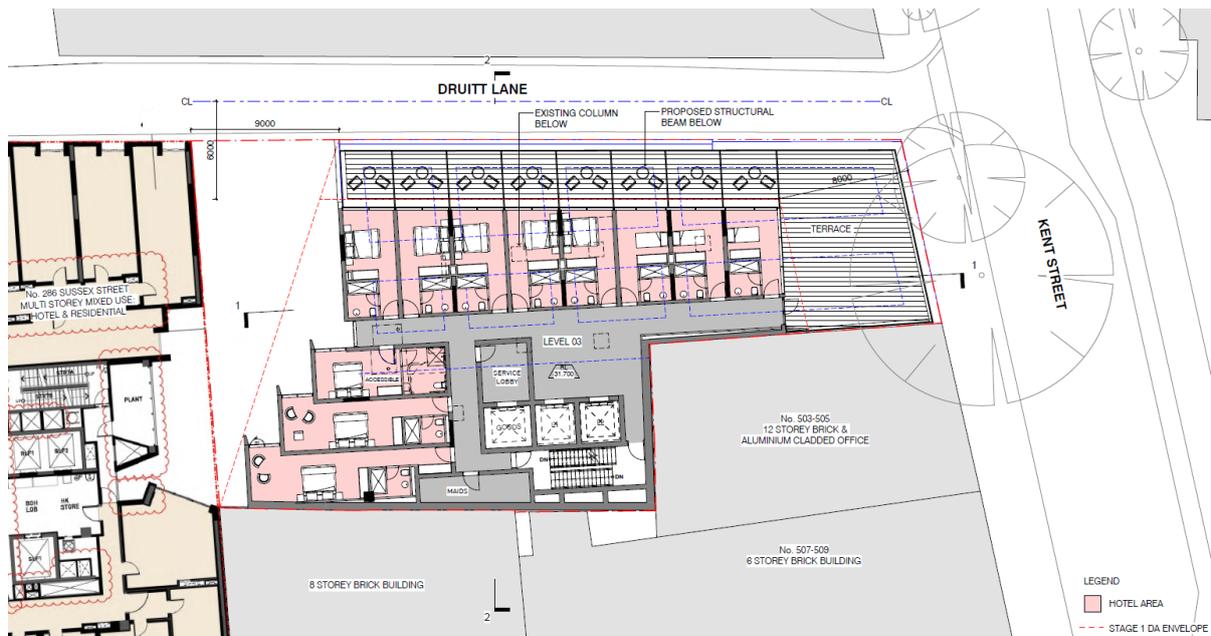


Figure 22: Indicative Level 3 plan



Figure 23: Indicative Levels 4-20 plan

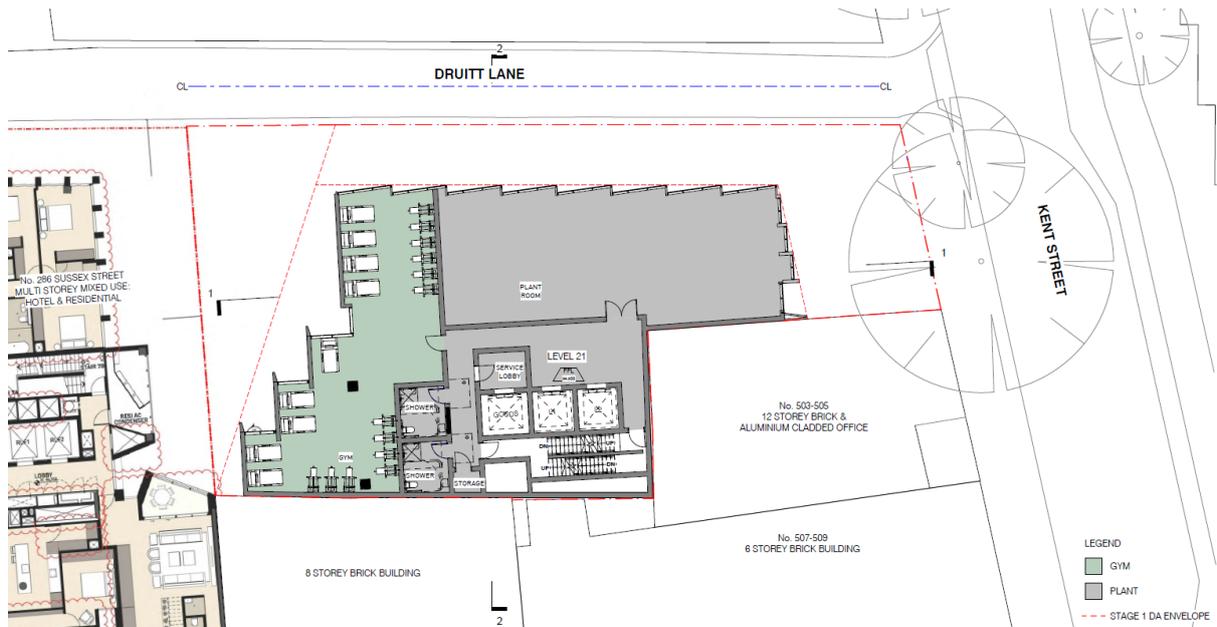


Figure 24: Indicative Level 21 plan

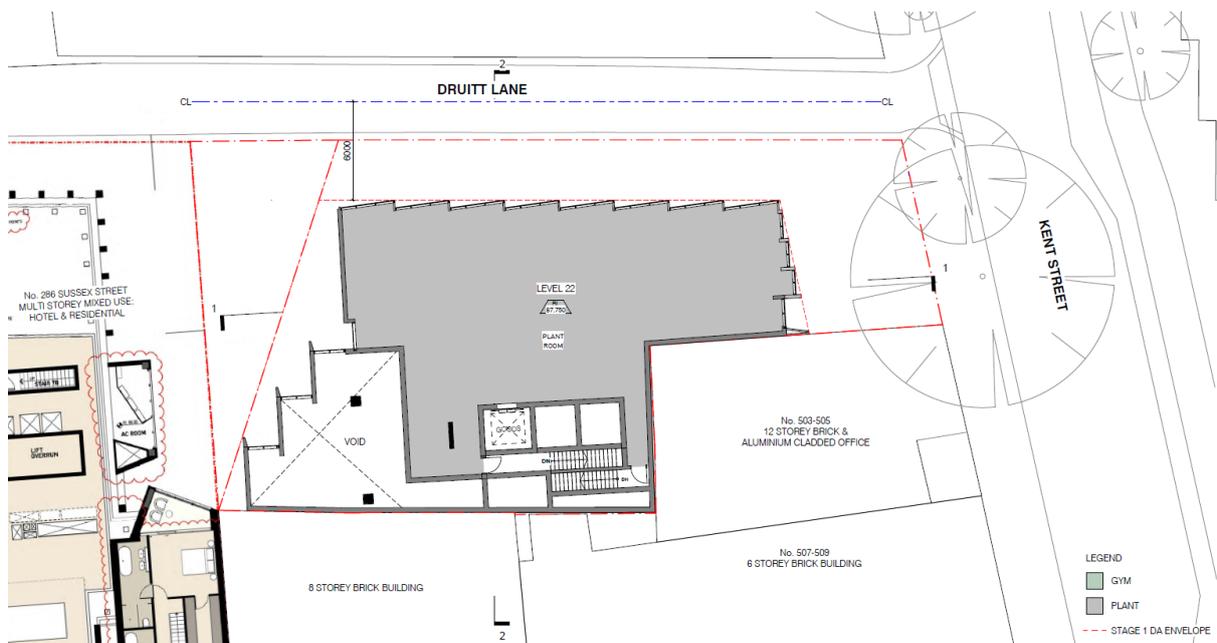


Figure 25: Indicative Level 22 plan

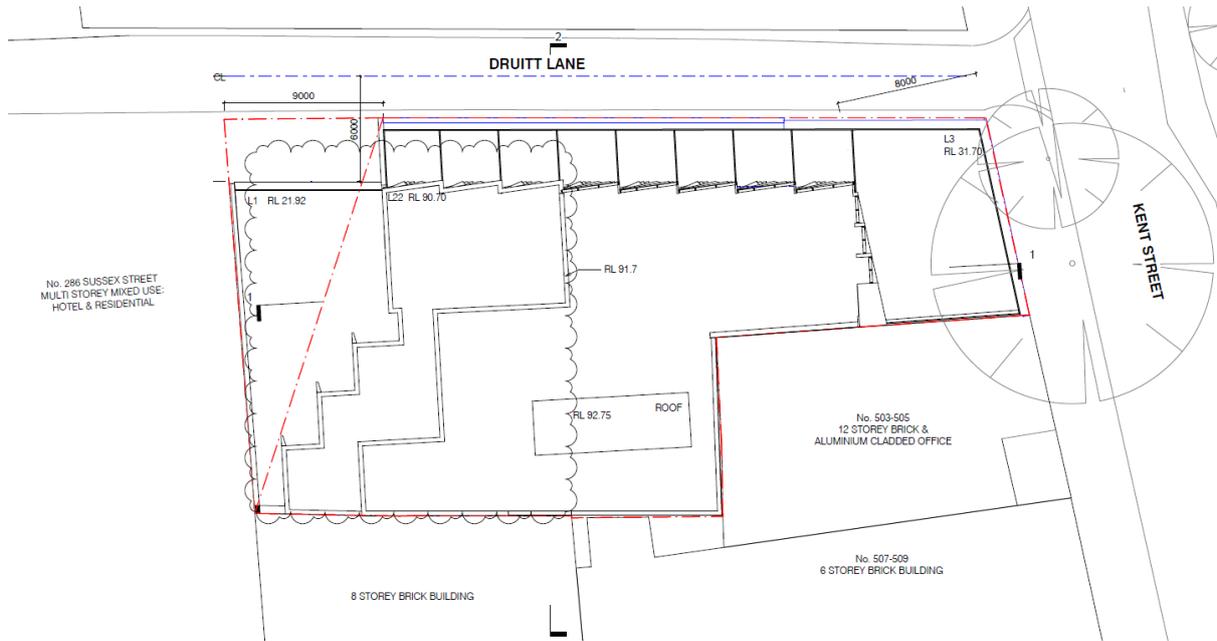
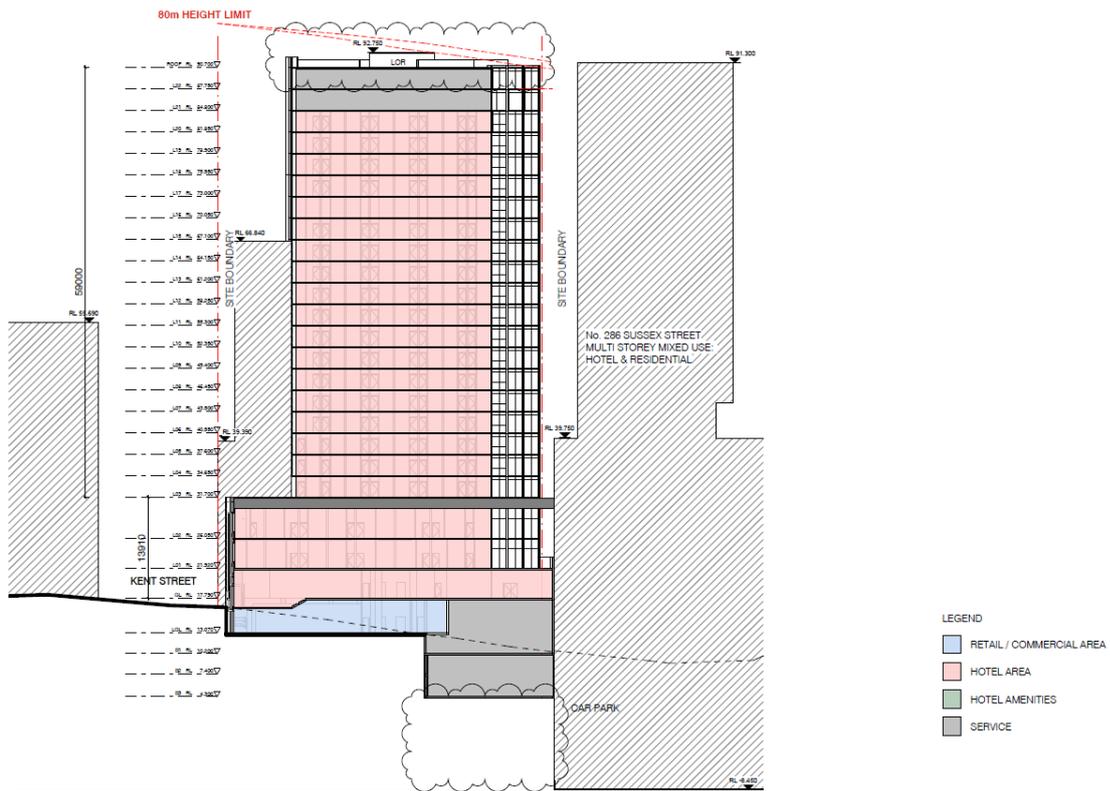


Figure 26: Indicative roof plan



History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal:

- **PDA/2018/130** – Pre-DA advice was provided on 13 August 2018 and 3 April 2019, relating to the development of the site for the construction of a tower addition above the heritage building for serviced apartments and residential apartments.

In both correspondences, it was advised that the value and significance of the heritage item should be prioritised, and it was Council's preference that the award of Heritage Floor Space (HFS) as per Clause 6.10 of the Sydney LEP 2012 be explored instead of a tower addition.

It was advised that if a tower addition option was to proceed, the Stage 1 Concept application was to demonstrate full compliance with the relevant planning controls. It was also advised that the range of land uses were to be reconsidered and that the option of providing a commercial use within the tower was explored.

- **D/2019/969** – On 30 August 2019, a concept development application was lodged for a mixed-use development on site. Specifically, the application sought to retain the existing heritage building's facade and construction of a 20-storey tower with a 4-storey podium (being the parts of the retained heritage building) and 8 basement levels of parking, for indicative residential, retail and commercial uses.

The original proposal was presented to the Design Advisory Panel Residential Subcommittee on 10 December 2019. The Panel advised that the relationship between the indicative reference scheme and the proposed building envelope showed that it was a tight-fit building envelope, and that the scheme did not meet all relevant Apartment Design Guide (ADG) requirements which may create an unfortunate precedent at the competition and detailed DA stages. Particular concern was raised with the 6m upper level setback from the western boundary, with issues relating to insufficient separation, inadequate amenity and outlook for western apartments, and impacts on the apartments of the adjoining residential flat building to the west (60 Bathurst Street).

In response to comments from the Design Advisory Panel Residential Subcommittee and Council's requested changes in a Request for Information (RFI) letter, an amended proposal was submitted, which included a variable west setback, an increased east setback at level 3 only to create an undercroft area, use of the undercroft area for increased communal space area consolidated at level 3, increase in residential apartments from 72 to 75 and consolidation of all commercial/retail floor space within the existing heritage building.

This amended proposal was presented to the Design Advisory Panel on 11 June 2020. The Panel noted that the site may not be suitable for a residential development and that many of the issues facing a residential redevelopment of the site would not be as significant if it was a commercial or mixed-use proposal. It was advised that if the applicant was to proceed with a residential scheme, then full compliance with all planning controls and the ADG would be necessary and not only limited to building setback, communal open space and floor to floor height controls.

On 3 July 2020, a withdrawal request letter was issued to the applicant, advising that the proposal in its current form was not supported as it would result in a building envelope that could not achieve satisfactory building separation and internal residential amenity required under the Sydney DCP 2012, SEPP 65 and ADG, and subsequently did not satisfy design excellence provisions in Clause 6.21(4) of the Sydney LEP 2012. It was also specified that insufficient information had been submitted in order to complete the assessment.

The application was not withdrawn and subsequently development consent was refused by the Central Sydney Planning Committee on 22 October 2020.

- **PDA/2020/223** – Pre-DA advice was provided on 7 October 2020 for an amended concept scheme on the site for a hotel development being 23-storeys in height, with a lower ground floor retail use, and 8 levels of basement parking.

Council officers advised that overall the amended proposal for a hotel use was an improved outcome for the site and its surrounding context, in comparison to the residential development proposed in D/2019/969.

It was recommended that prior to lodgement several matters were addressed, including FSR calculation, floor to floor heights, blank wall to the east, privacy measures to the north, car and bicycle parking, waste collection and contamination. These issues have been largely addressed within the subject application, as detailed throughout this assessment report.

History of the subject development application

10. Following the lodgement of the application, a request for a Detailed Environmental Site Investigation (DESI) was made to the application on 7 December 2020. A response was provided on 21 December 2021, which is discussed in Assessment Section below.
11. After finalisation of a preliminary assessment of the application, a request for an amended application and additional information was sent to the applicant on 18 December 2020. The request included the following matters:
 - (a) Further detail on the envelope drawings showing existing ground level and applicable Reduced Levels for the ground plane and height plane.
 - (b) Deletion of basement parking areas, as car parking numbers are not approved for a concept application and a need to minimise car parking on this site given the highly accessible location and the constraints of the site.
 - (c) Increase of loading and servicing bays in accordance with the Sydney Development Control Plan 2012 provisions.

- (d) Address concerns relating to access arrangements and the proposed vehicle lifts.
 - (e) Submission of an Acid Sulfate Soils Management Plan.
 - (f) Completion of Design for Environmental Performance Template to confirm a clear commitment to environmental performance.
 - (g) An amended Landscape Statement with design intent changes.
 - (h) Minor amendments to the Design Excellence Strategy.
12. The applicant responded to the request on 2 February 2021. The issues raised by Council have been largely addressed through the resubmission, by amending the application to delete all proposed car parking and improve access and servicing arrangements, and providing the additional information requested.
13. The application was presented to the Design Advisory Panel (DAP) at its meeting held on 11 February 2020. DAP provided the following advice:
- (a) The Panel supports the proposal and agrees with the City's analysis of the scheme.
 - (b) The Panel's only reservation related to facade's environmental performance and suggested more natural ventilation to the ground floor lobby.
14. The recommendations will be considered during the assessment of the Stage 2 DA.

Assessment

15. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

City of Sydney Act 1988

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

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

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

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

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

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

17. The original proposal was considered to potentially have significant impact on traffic in the Central Business District and required consultation with the CSTTC.
18. The application and its associated traffic and transport issues was discussed with the CSTTC on 26 November 2020. It was actioned for Transport for NSW (TfNSW) to provide comment.
19. Submissions received by the City from TfNSW are considered in the assessment of the application and the recommended conditions are included in Attachment A.

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land

20. The aim of State Environmental Planning Policy (SEPP) No 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.
21. A Preliminary Site Investigation (PSI) for contamination was submitted with the application. The PSI recommends that a Detailed Environmental Site Investigation (DESI) is to be carried out to confirm that the site is suitable (or will be suitable after mediation) for the proposed use.
22. As such, in Council's request for additional letter dated 7 December 2020, it was requested that a DESI be prepared.
23. The applicant provided a response on 15 December 2020, stating that there are site constraints in preparing a DESI due to the intrusive sampling requiring significant access and likely requiring the ground and basement levels to be vacant (which are currently tenanted).

24. Council's Environmental Health Unit have reviewed the information submitted. Based on the information available from the site history and site visit, the subject site appears to have remained as mixed commercial / industrial land use since the 1940s. The surrounding land appears to have a similar history with progressive changes to higher density residential and commercial uses. The results of the preliminary intrusive soil investigation indicated some contamination in the fill material on site. The current use on site is also commercial, and therefore there is not an increase in sensitivity to the proposed commercial uses.
25. As such, Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use subject to a DESI incorporating the recommendations of the PSI being prepared and submitted to Council prior to the Stage 2 development consent.

State Environmental Planning Policy (Infrastructure) 2007

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

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 45 Determination of development applications – other development

27. The application is subject to Clause 45 of the Infrastructure SEPP, given that it comprises development likely to affect an electricity transmission or distribution network.
28. As such, the application was referred to Ausgrid for a period of 21 days. Ausgrid provided a response on 14 December 2020 and no objection was raised.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 88 – Development within or adjacent to interim rail corridor

29. The application is adjacent to the CBD Rail Link (CBDRL) (Zone B) and was subsequently referred to Transport for NSW (TfNSW) for comment.
30. TfNSW provided a response on 8 December 2020, recommending conditions which are included in the Notice of Determination.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

31. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The SREP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

32. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

33. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B8 Metropolitan Centre zone. The proposed development is defined as hotel accommodation and associated retail / commercial uses and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 80m is permitted. A height of 80m is proposed. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio 6.4 Accommodation floor space	Yes	Clause 4.4 of the Sydney LEP 2012 stipulates a base FSR of 8:1. In accordance with Clause 6.4 of the Sydney LEP 2012, the application can seek additional floor space of 3:1 for hotel and motel accommodation. This equates to a maximum FSR of 11:1. The indicative reference design drawings demonstrate that the proposal can achieve compliance with the maximum FSR, with a GFA of 8,924.3sqm (11:1).

Provision	Compliance	Comment
		<p>It should be noted that no GFA or FSR is recommended to be approved as part of the subject application.</p> <p>A condition is recommended ensuring any subsequent detailed design development application complies and requires the provision of precise calculations and details of the distribution of GFA and FSR with any such future application.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The subject site includes a local heritage item.</p> <p>Council's Heritage Specialist has reviewed the proposal and advises the following:</p> <ul style="list-style-type: none"> The extent of demolition is extensive. However, excluding the original walls and floor structure, there are little original fabric and finishes remaining within the building. The interior of the building has been significantly modified. The proposal includes the restoration of the steel framed windows and front elevation. <p>Therefore, while the proposal will result in extensive works, the impacts on the heritage item is generally acceptable. Refer to the Issues section for further discussion.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
6.11 Allocation of heritage floor space (HFS)	Yes	A condition is recommended to ensure that any FSR proposed in excess of 8:1 in any future detailed design development application shall be subject to a requirement to purchase HFS, in accordance with Section 6.11 of the Sydney LEP 2012.
6.19 Overshadowing of certain spaces	Yes	The proposal will not cause additional overshadowing to Sydney Town Hall Steps and Sydney Square to the times specified in Clause 6.19 of the Sydney LEP 2012.
6.21 Design excellence	Yes	<p>The proposal is for a concept building envelope which is capable of accommodating a future building which can exhibit design excellence in accordance with the objective and matters for consideration in Clause 6.21 of the Sydney LEP 2012.</p> <p>A competitive design process is proposed, prior to the lodgement of a subsequent detailed design development application which will seek up to an additional 10% exceedance of the maximum FSR control.</p> <p>Demonstration of design excellence is required before the award of any additional floor space.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	Car parking numbers and configuration is not approved as part of a concept application; however it is noted that no car parking is sought within the amended application.

Provision	Compliance	Comment
7.14 Acid Sulfate Soils	Yes	<p>The site is identified as containing Class 5 Acid Sulphate Soil (ASS).</p> <p>Council's Environmental Health officer has reviewed the application and information submitted and considers that there is a very low risk of ASS at the site. As such, an ASS Management Plan is not considered necessary for the proposed development at this concept stage. If the results of the detailed site investigations (as a recommendation of the PSI report) undertaken prior to the Stage 2 detailed Development Application indicate the presence of ASS or potential ASS (PASS), an ASSMP will be recommended at that stage.</p>
7.15 Flood planning	Yes	<p>The subject site is located in the Darling Harbour catchment and is identified to have some affectation in the Probable Maximum Flood (PMF).</p> <p>Flood Assessment Reports were submitted with the application and prepared using the City's flood model, indicate that the existing floor levels are compliant with the City's Interim Floodplain Management Policy.</p>
7.16 Airspace operations	Yes	<p>The proposed building envelope will not penetrate the Obstacle Limitation Surface (156m AHD) as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>The development is located in Central Sydney and exceeds 55 metres in height. As such a site-specific development control plan is required.</p>

Provision	Compliance	Comment
		Pursuant to Section 4.23 of the EP&A Act, this concept application has been lodged in lieu of a site-specific development control plan to satisfy the control. The design excellence strategy is discussed with regard to Section 3.3 of the Sydney DCP 2012.
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>The site is located within 'Land affected by Cross City Tunnel Ventilation Stack' identified in Sydney LEP 2012.</p> <p>A Ventilation Stack Air Quality Assessment was submitted with the application. The assessment concludes that the proposed development would not affect the dispersion of emissions from the Cross City Tunnel ventilation stack and persons occupying the proposed development will not be unduly affected by those emissions.</p>

Development Control Plans

Sydney Development Control Plan 2012

34. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

35. The site is located within the Sydney Square/Town Hall/St Andrews Special Character Area. The proposed development is in keeping with the unique character and the design principles of the Special Character Area in that:
- the proposed building envelope maintains lunchtime sun access to Sydney Square;
 - the existing heritage building is to be retained and remains at the street alignment, and the proposed street frontage heights and setbacks are consistent with the prevailing form of buildings in this Special Character Area; and
 - the future building will provide an appropriate backdrop to the civic character of the area and will not dominate the significant civic buildings.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1.5 Public Art	Yes	<p>A preliminary Public Art Strategy was submitted with the application. The strategy was reviewed by Council staff and is acceptable with regard to the provisions of Section 3.1.5 of the Sydney DCP 2012.</p> <p>This strategy is recommended to form a part of the competitive process design brief to inform any future design competition.</p> <p>A detailed Public Art Strategy is required to be developed for the site in accordance the preliminary strategy and the City's Public Art Policy and Section 3.1.5 of the Sydney DCP 2012.</p> <p>Appropriate conditions are recommended ensuring that this strategy is required to be prepared and submitted as part of any future detailed design development application.</p>
3.2. Defining the Public Domain	Yes	The proposal was referred to the City's Public Domain Unit, who recommend appropriate conditions.
3.3 Design Excellence and Competitive Design Processes	Yes	Any future detailed design development application associated with the proposed development will be the subject of a competitive design process. An appropriate condition to this effect is recommended and included in Attachment A.
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees. It will not result in any significant adverse impacts upon the local urban ecology.</p> <p>Appropriate conditions are recommended to require adjacent street trees are retained and protected and that the design of future buildings take into account existing and future street tree canopies in any subsequent detailed design development application.</p>

Provision	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	Conditions are recommended and included in Attachment A to ensure that the proposed ESD commitments will be carried through the competitive design process to the detailed design development application.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion above under Clause 7.15 of the Sydney LEP 2012.
3.9 Heritage	Yes	Discussed in the Sydney LEP 2012 compliance table.
3.11 Transport and Parking 3.11.1 Managing transport demand 3.11.11 Vehicle access and footpaths	Yes	The proposal seeks to maintain vehicular access to the site for loading and servicing via its Druitt Lane frontage, and seeks no on-site car parking spaces. This is supported by the City's Transport and Access Unit, subject to conditions.
3.11.3 Bike parking and associated facilities	Yes	The indicative reference design submitted with the application demonstrates that 45 bicycle parking spaces can be provided within the building envelope. Appropriate conditions of consent are recommended in Attachment A to ensure that compliant bicycle parking facilities are provided as part of any future detailed design development application.
3.11.4 Vehicle parking	Yes	No car parking spaces are sought with the amended application.
3.11.6 Service vehicle parking 3.11.13 Design and location of waste collection points and loading areas	Able to comply	The indicative reference design submitted with the application demonstrates that 3 service vehicle parking spaces can be accommodated within the building, including a turntable which can accommodate a Council waste collection vehicle.

Provision	Compliance	Comment
		An appropriate condition is recommended in Attachment A to ensure that compliance is achieved in any future detailed design development application.
3.12 Accessible Design	Yes	An appropriate condition is recommended in Attachment A to require an Access Report to be submitted with any future detailed design development application to ensure that future buildings incorporate accessible design.
3.13 Social and Environmental Responsibilities	Yes	Details will need to be submitted with the future Stage 2 DA to demonstrate compliance with the CPTED principles.
3.14 Waste	Yes	<p>The indicative reference design provides floor plans to demonstrate that on-site waste collection is able to occur.</p> <p>A condition is recommended in Attachment A to require that a Waste Management Plan is submitted with any subsequent detailed design development application, in accordance with the controls in Section 3.14 of the Sydney DCP 2012.</p>
3.16 Signage and Advertising	Yes	A condition is recommended in Attachment A to require a signage strategy to be submitted with any subsequent detailed design application, in accordance with the requirements of Section 3.16.1 of the Sydney DCP 2012.
3.17 Contamination	Yes	<p>As discussed above with reference to SEPP 55, the application was accompanied by a Preliminary Site Investigation report.</p> <p>An appropriate condition is recommended in Attachment A to ensure that additional reports are prepared and submitted with any future detailed design development application.</p>

Section 4 – Development Types

4. 4.2 Residential Flat, Commercial and Mixed-Use Developments

Provision	Compliance	Comment
4.2.3 Amenity	Yes	The indicative reference design drawings demonstrate that a building can be constructed within the proposed envelope with acceptable levels of amenity for the adjoining residential development to the west.

4.4 Other Development Types and Uses

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	Consent is sought for indicative/in-principle approval only for the hotel development. Further detailed internal fit-out/design and operational matters will be subject to the detail design at the Stage 2 Development Application. A condition is recommended for imposition to advise that further information is to be submitted with the Stage 2 DA to demonstrate compliance of the hotel with the provisions of Section 4.4.8 of SDCP 2012.
4.4.8.3 Additional provisions for hotels, private hotels and motels		

Section 5 – Specific Areas – Central Sydney

Provision	Compliance	Comment
5.1.1 Street frontage height	No	New development is to incorporate a street frontage height or podium between 20 to 45 metres in height, dependant on the street context and/or characteristic built form. The proposed development seeks to maintain the existing heritage item on site which has a maximum height of 14.9m. As such, the proposed street frontage height does not comply with the 20-45m requirement however is considered appropriate in the context of the site.

Provision	Compliance	Comment
5.1.2 Building setbacks 5.1.2.1 Front setbacks 5.1.2.2 Side and rear setbacks	Partial compliance	<p>The proposed building envelope is setback as a whole from the street alignment and incorporates podium-like elements to the Kent Street and Druiitt Lane frontages.</p> <p>The tower form above has the following setbacks:</p> <ul style="list-style-type: none"> • Front / east - 8m (does not comply) • Sides / north - 6m from laneway centreline (complies) • Sides / south - nil (complies) • Rear / west - tapered setback from 1.9-9m (does not comply) <p>As indicated above, some of these setbacks do not achieve compliance with the provisions in Sections 5.1.2.1 and 5.1.2.2 of the Sydney DCP 2012.</p> <p>Refer to the further discussion and assessment provided below under the Issues heading.</p>
5.1.3 Special Character Areas	Yes	<p>Provision (2) of this section specifies that for development within a Special Character Area where the setback is not illustrated in Figures 5.12 to 5.19 (subject site not identified in Figure 5.18), setbacks above the street frontage height are to be a minimum of 8m.</p> <p>The proposed 8m front setback is consistent with the minimum requirement.</p>
5.1.5 Building bulk	Yes	<p>Above a height of 45, the maximum horizontal dimension of a commercial building facade is 65m.</p> <p>The proposed envelope complies with the horizontal dimension of the tower facade to both street frontages less than 65m.</p>

Provision	Compliance	Comment
5.1.6 Building exteriors		The proposal is for a concept building envelope and the architecture and materiality of the development will be determined as part of any future competitive design process and detailed design development application.
5.1.9 Award and allocation of heritage floor space		Accommodation floor space will be subject to the allocation of heritage floor space in any future detailed design development application.

Discussion

Heritage

36. The site is a heritage item and is therefore subject to the heritage provisions of the Sydney DCP 2012. The exterior of the building is significant, however the building has been remodelled internally and no significant interior fabric remains. While the proposal will result in extensive works on the site, the impacts on the item are considered to be generally acceptable.
37. The impact of the individual elements identified in the envelope drawings and DA documentation are addressed below:
- (b) Scope of demolition:
- Around 50% of the volume of the original building is to be demolished. Whilst the extent of demolition is extensive, the interior of the building has been significantly modified and little original fabric and finishes remain with only the original walls and floor structure still intact.
 - The Conservation Management Plan (CMP) provides a detailed investigation of the modifications at each level and assesses that no significant fabric or features of the existing building are removed by the proposed extent of demolition.
 - Council's Heritage Specialist considers that, given the proposal proposes to carry out a restoration of the steel framed windows and front elevation, the extent of demolition is acceptable.
- (c) Retained heritage item:
- The proposal seeks to retain the existing heritage building's facades on the Kent Street and Druitt Lane frontages, part of the existing floors and some of the internal columns, which is supported.

- Commercial and retail uses are proposed for the existing building (including the portion to be rebuilt within existing heritage item). The uses are a continuation of the current and historical uses and will have no adverse impact on the retained facades.
- (d) New tower addition:
- The new building envelope will have no major impact on nearby heritage items. No other heritage items adjoin the site, and Town Hall House and Sydney Square Plaza are located on the eastern side of Kent Street. Given the separation by Kent Street and the proposed setbacks of the new tower element, the proposal does not impose adverse visual impacts on the modern building located on the opposite side of the street. From distant views along Kent Street, the Town Hall House building's visual prominence will not be compromised by the proposed tower. Due to the distance and separation by adjacent buildings, the proposal has no adverse impact on other heritage items in the vicinity.
 - The DCP generally requires additions above heritage items to be set back 10m from the street frontage. The proposed development has an 8m setback from Kent Street. This reduced front setback for the tower addition will not have an adverse visual impact on the retained heritage building. This is due to the existing immediate and surrounding urban context, with existing high buildings above street wall heights present smaller setbacks from Kent Street. Also, due to its location and narrow frontage, the range of views on Kent Street towards the proposed tower is constrained. Therefore, the 8m setback is able to provide an acceptable visual relationship with the retained heritage building and nearby heritage buildings.

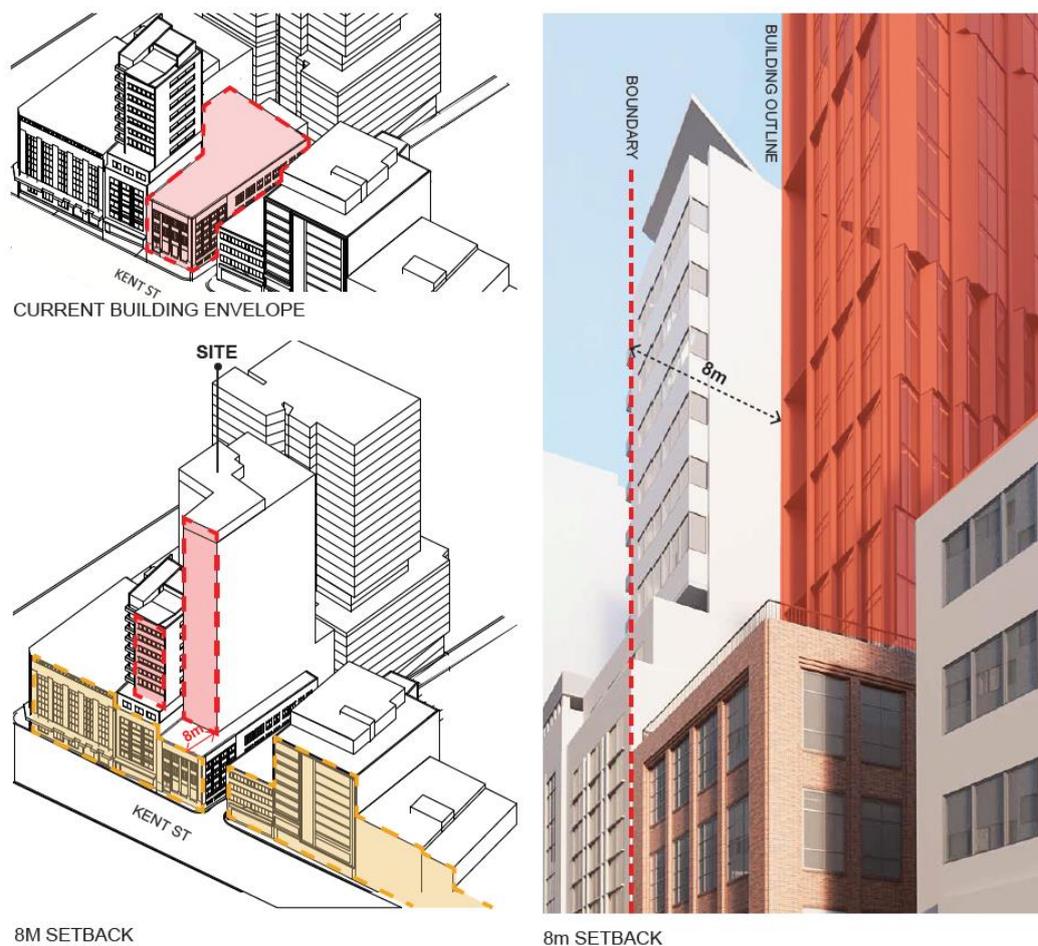


Figure 28: 3D views and renders showing the relationship of the proposed tower and front setback with adjoining buildings

- In addition to the new floor space added above the heritage item, the new building will impact on the retained structure, which needs to be updated to provide support to the new floors. The main work to the existing structure comprises strengthening the 6 retained steel columns by new concrete encasements around the steel and enlarging their pad footings. As the existing steel columns and beams are encased in concrete, the strengthening will not change their existing form but will add to their bulks.
38. It is noted that the option of grant heritage floor space and no additions to the existing building has been considered by the applicant, as recommended with the previous DA on site D/2019/969 and pre-DA discussions. Council's Heritage Specialist has reviewed the documentation submitted and considers that the heritage floor space scheme will make little benefit and effect on the interior of the building, given that the heritage benefit of this option is largely confined to the external form of the building with the feasibility of a reinstatement of internal features such as the theatrette and film vaults is low.

Setbacks

Front (east) setback

39. Section 5.1.2.1 of the Sydney DCP 2012 requires that new buildings or additions above a heritage item must have a setback of at least 10m from the street frontage height. The proposal does not comply with this control, with a front (eastern setback) of 8m provided.
40. Despite the non-compliance, Council considers the front setback non-compliance acceptable for the following reasons:
 - As discussed above, Council's Heritage Specialist raises no objections, given that existing tall buildings above street walls present smaller setbacks from Kent Street, and due to its location and narrow frontage, the range of views on Kent Street towards the proposed tower is constrained.
 - The 8m setback is able to provide an acceptable visual relationship with the retained heritage building and nearby heritage buildings.
 - Section 5.1.3 of the DCP allows for 8m setbacks.
41. A zero setback is provided to the eastern and southern boundary to 503-505 Kent Street, which will result in blank walls. While located mostly behind the existing building at 503-505 Kent Street, it is noted that there will be 10 storeys (approximately 32m) of blank walls visible above this neighbouring building.

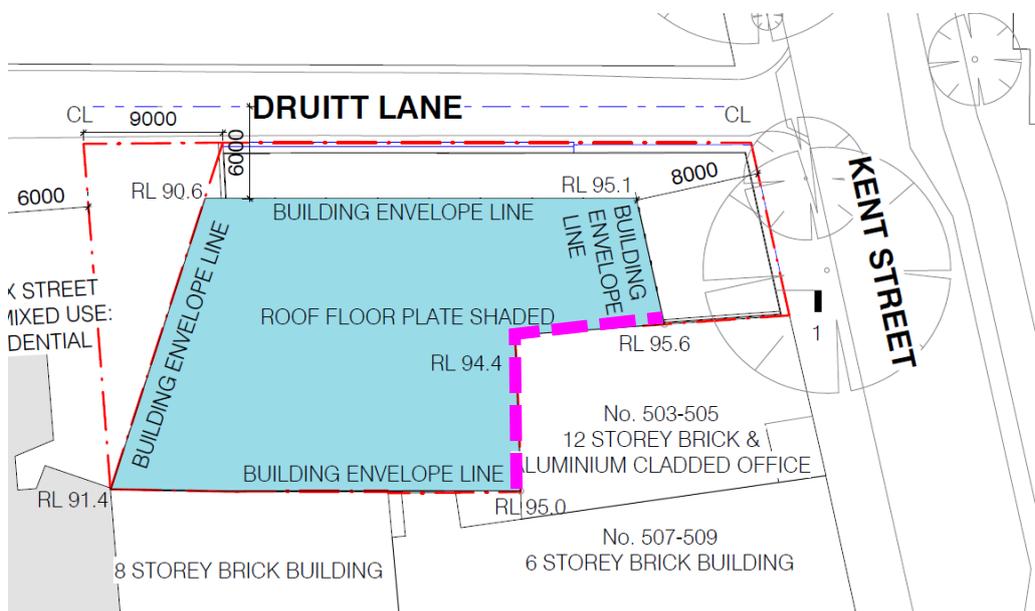


Figure 29: Concept envelope floor plan. Eastern and southern boundaries adjoining 503-505 Kent St marked in pink.

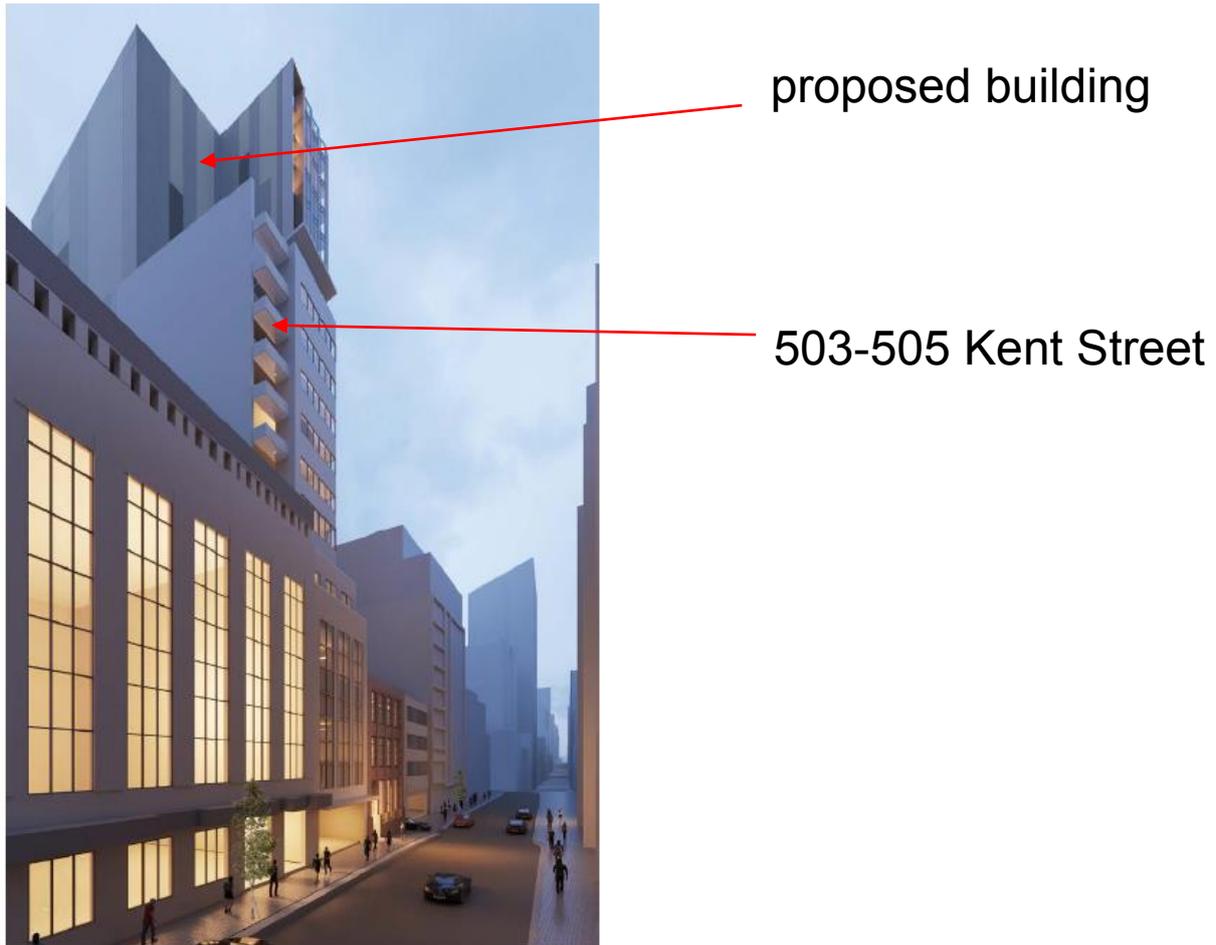


Figure 30: Render - view from Kent Street south

42. As such, it is recommended that a condition be imposed requiring that the treatment and material of these walls will need to be interesting and of high quality, as detailed within the detailed design development application.

Rear (west) setback

43. Section 5.1.2.2 of the Sydney DCP 2012 stipulates that a 6m setback from the side property boundary is required for hotel adjacent to residential buildings, to ensure visual privacy is achieved. The proposal comprises a tapered setback of 1.9m-9m from the western boundary for the tower, which does not comply.
44. Despite the non-compliance, Council considers the rear setback non-compliance acceptable as the proposed hotel rooms that encroach on the side/rear setback requirement have been oriented to the north, to ensure there will be no adverse visual privacy and outlook impacts for the adjoining western apartments at 60 Bathurst Street.

45. This is demonstrated in Figures 31 and 32 below.



Figure 29: Typical Level 4-20 plan. Arrows indicating hotel room orientation.

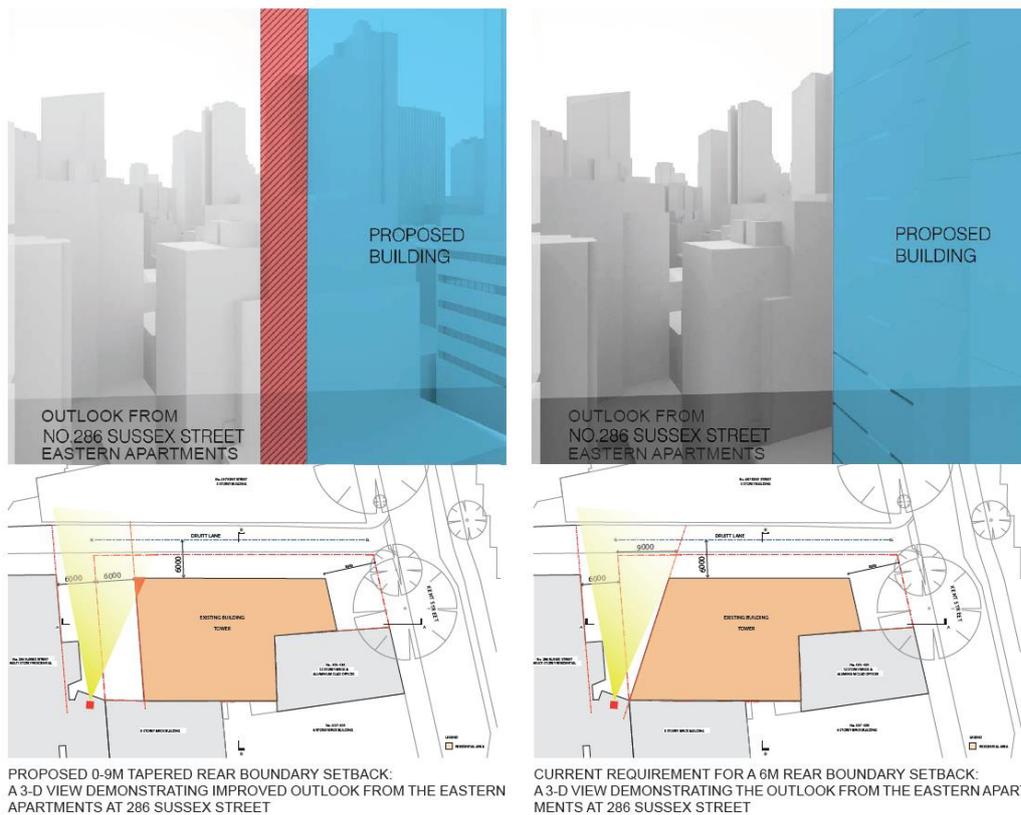


Figure 30: Comparison of proposed tapered setback vs. 6m requirement in terms of outlook

Side setbacks

46. The proposed side setbacks comply with the Sydney DCP 2012, as follows:
- Section 5.1.2.3 stipulates that hotels above the street frontage height are to have a minimum setback of 6m from the centre line of the lane. The proposed northern side setback complies, with a 6m setback from the centre line of Druiitt Lane provided for the tower.
 - Section 5.1.2.2 of the DCP allows for a nil setback for walls without windows. The indicative scheme provides for no windows on the south and east elevations that adjoin 503-505 Kent Street and 507-509 Kent Street, and therefore nil setbacks are appropriate.

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

47. The Planning Proposal: Central Sydney 2020 progresses key aims and objectives of the City of Sydney's Draft Central Sydney Planning Strategy. This will be achieved by a range of amendments to the Sydney LEP 2012.
48. The amendments include the introduction of new 'tower clusters', which is a new planning pathway for heights and densities above the established maximum limits to create growth opportunities for employment floor space, promote the efficient use of land, and encourage innovative design. These are focused in areas of Central Sydney that are less constrained by sun access planes.
49. The subject site is located outside of one of the tower clusters (which is south of the site), and is otherwise consistent with the draft controls.

Amendments to Sydney Development Control Plan 2012 - Central Sydney Planning Strategy Amendment

50. The Planning Proposal: Central Sydney 2020 also incorporates proposed amendments to the Sydney DCP 2012. The amendments relevant to the proposed development include:
- (a) Changes to Special Character Area locality statements and controls including those relating to Sydney Square/Town Hall/St Andrews Special Character Area; and
 - (b) The built form and related controls for Central Sydney, including those relating to:
 - (i) street frontage heights;
 - (ii) street, side and rear setbacks;
 - (iii) massing and tapering;
 - (iv) outlook and amenity;
 - (v) sun protection of public parks and places; and

- (vi) managing wind impacts.
- (c) With regard to the draft locality statement and principles for Sydney Square/Town Hall/St Andrews Special Character Area, the proposal remains consistent with the principles, with the amended provisions primarily relating to St Andrews Cathedral.
- (d) With regard to the amended built form and related controls for Central Sydney:
 - (i) A street frontage height of 20m is required for the Sydney Square/Town Hall/St Andrews Special Character Area. As discussed elsewhere in this report, the proposal seeks to maintain the existing height of the heritage item on site as the street frontage height for the development. This is considered appropriate and is consistent with the proposed objectives, in that it provides for an appropriate height transition between the heritage item and proposed tower and is compatible with adjoining development.
 - (ii) A side and rear setback of 4m above street frontage height for buildings greater than 55m up to 120m is permitted, which is a reduction from the current 6m requirement. The proposal partially complies with a tapered 1.9-9m rear setback provided.
 - (iii) Section 5.1.3.1 relates to additions to heritage items, specifying that no additions to or development above heritage items will be permitted unless the consent authority is in the opinion that the addition is appropriate. Council officers consider the proposed tower addition to be appropriate, as follows:
 - (i) A Heritage Conservation Management Plan (CMP) prepared by NBRIS was submitted with the application.
 - (ii) The management policy of the heritage item in the heritage inventory states that the interiors have been extensively remodelled and there is little of significance remaining inside the building, and that further alterations could be carried out, provided any future internal work does not compromise further facades of the building. Given that the proposal seeks to carry out the restoration of the steel framed windows and front and side elevations with a future detailed design DA, the proposal is acceptable subject to the new building having no major adverse impact.
 - (iii) Council's Heritage Specialist considers that the concept building envelope has no major visual impact on the heritage building and adjacent heritage items. Given the separation by Kent Street and the proposed 8m setback of the new tower element, the proposal does not impose unacceptable visual impact on the existing building, modern buildings on the opposite of the street, and from the distant views along Kent Street the Town Hall House building's visual prominence will not be compromised by the proposed new tower.

- (iv) A heritage committee is required to appointed for sites that will substantially demolition a heritage building or increase the item's building footprint within the air space above the item. Council's Heritage Specialist considers this not necessary, given that the local heritage item is not State heritage listed nor does it contain multiple heritage items - as per Section 3.9.4 of the current DCP.
- (v) A Wind Report was submitted with the application, which concludes that the proposed building envelope will not cause adverse safety and comfort wind impacts.

Consultation

Internal Referrals

51. The application was referred to, or discussed with the following referral officers and bodies for review:

- (c) Central Sydney Traffic and Transport Committee;
- (d) Design Advisory Panel;
- (e) Design Excellence Unit;
- (f) Building Approvals Unit;
- (g) City Model Unit;
- (h) Waste Management Unit;
- (i) Environmental Projects Unit;
- (j) Health and Building Unit;
- (k) Heritage Specialist;
- (l) Landscape Assessment Officer;
- (m) Public Art Unit;
- (n) Public Domain Unit;
- (o) Urban Design Specialist;
- (p) Safe City Unit;
- (q) Specialist Surveyor;
- (r) Transport and Access Unit; and
- (s) Tree Management Officer.

52. The above referral officers and bodies advised that the amended concept proposal addresses the issues raised initially and is acceptable, subject to the recommended condition of consent included Attachment A.

External Referrals

53. The application was referred to the following external referral bodies for review:
- (a) Ausgrid;
 - (b) TransGrid;
 - (c) WaterNSW;
 - (d) Sydney Trains; and
 - (e) Transport for NSW.
54. Comments from all the relevant external requirements are addressed or included in the recommended conditions of consent.

Advertising and Notification

55. In accordance with the City of Sydney Community Participation Plan 2020, the proposed development was notified and advertised for a period of 28 days between 18 November 2020 and 17 December 2020. A total of 2245 properties were notified and 5 submissions were received. It is noted that the amended application was not required to be renotified as it was considered that the amended proposal was not a significant change to the original proposal and did not result in any further potential impacts.
56. The submissions raised the following issues:
- (a) **Issue:** Inadequate consideration of the draft Central Sydney Planning Strategy (CSPS).
Response: Section 5.2.1 of the submitted Statement of Environmental Effects includes consideration of the draft Central Sydney Planning Strategy. This assessment report also considers the draft Strategy, as discussed in the Issues section above.
 - (b) **Issue:** Contamination - insufficient information to confirm that the site can be made suitable for the proposed development.
Response: As discussed in the SEPP 55 section, Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use subject to a DESI incorporating the recommendations of the PSI being prepared and submitted to Council prior to the Stage 2 development consent.

- (c) **Issue:** Proposal does not exhibit design excellence.

Response: As described in the Sydney LEP 2012 compliance table above, it is considered that the proposal for a concept building envelope is capable of accommodating a future building which can exhibit design excellence in accordance with the objective and matters for consideration in Clause 6.21 of the Sydney LEP 2012.

- (d) **Issue:** Insufficient calculation of the building height.

Response: During the assessment, the application was amended to clearly show existing ground level, as well as the applicable Reduced Levels for existing ground level and the height plane.

- (e) **Issue:** Loss of heritage fabric.

Response: Council's Heritage Specialist considers the proposed envelope and indicative scheme do not adversely impact upon the heritage item and surrounding heritage context. In addition, while the extent of demolition is extensive, there are little original significant fabric and finishes remaining within the building with the interior of the building has been significantly modified. The proposal includes the retention of the existing heritage building's facade.

- (f) **Issue:** Proposed western setback and potential visual and amenity impacts to residents at 60 Bathurst Street.

Response: As discussed in the Issues section above, the rear (western) setback non-compliance is acceptable as the proposed hotel rooms that encroach on the side/rear setback requirement have been oriented to the north, to ensure there will be no adverse visual privacy and outlook impacts for the adjoining western apartments at 60 Bathurst Street. The proposed building envelope also will not cause adverse shadow impacts to the western neighbour.

- (g) **Issue:** Proposed excavation and basement will cause structural damage to adjoining properties.

Response: The subject application is for a building envelope only, with no excavation proposed or recommended for approval as part of the subject application. Any future detail design application would be required to consider and address any potential structural impacts on adjoining properties.

- (h) **Issue:** Increased traffic to Druitt Lane.

Response: The proposed is for a concept building envelope only, with parking facilities and servicing generally considered in detail under the competitive design process and any future detailed design development application. It is noted during the assessment of the application, the proposal was amended to delete all proposed car parking and improve access and servicing arrangements.

- (i) **Issue:** Noise, vibration and traffic during construction.

Response: The subject application is for a concept building envelope only, with no demolition proposed or recommended for approval as part of the subject application. Appropriate conditions are included in Attachment A to require the developer to prepare more detailed information in relation to demolition and construction management as part of any future detailed design development application.

Financial Contributions

Levy under Section 61 of the City of Sydney Act 1988

57. The development is exempt from the provisions of Central Sydney (Section 61) Contributions Plan 2013 as the proposal is for a concept building envelope. Section 61 contributions will be applicable to any future detailed development application.

Relevant Legislation

58. Environmental Planning and Assessment Act 1979.
59. City of Sydney Act 1988.

Conclusion

60. The proposed concept development is appropriate in its setting and is generally compliant with the relevant planning controls in the Sydney LEP 2012 and the Sydney DCP 2012. Proposed variations to the controls in the Sydney DCP 2012 are satisfactory and identified in the report.
61. The proposal was amended to address Council's concerns relating to contamination, height, car parking, servicing, access, environmental performance, landscaping and the Design Excellence Strategy. The amended proposal is satisfactory, subject to the conditions recommended in Attachment A.
62. The proposed building envelope is compliant with the applicable height and FSR controls. The envelope does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding the site.
63. The indicative reference design submitted with the application adequately demonstrates that an acceptable level of amenity could be maintained for adjoining development sites.
64. Where the assessment of the subject proposal has identified potential issues for a future detailed design development application, these matters are identified in the recommended conditions of consent as requiring further consideration.

65. The proposal will provide for new hotel accommodation and retail/commercial uses in the Sydney Central Business District, on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
66. Subject to the recommendation of this report, and the imposition of the conditions included in Attachment A, the proposal can accommodate a future detailed design that responds appropriately to the site constraints and contributes to the existing and desired future character of the locality.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Mia Music, Planner