

Item 5.

Development Application: 37-49 Pitt Street, 49A-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street, Sydney - D/2021/665

File No.: D/2021/665

Summary

Date of Submission: 16 June 2021

Amended plans and additional documentation were received on 10 December 2021, 16 December 2021, 17 December 2021, 28 January 2022, 4 February 2022 and 10 February 2022

Applicant: Mirvac Commercial Sub SPV Pty Limited

Architect/Designer: Woods Bagot and SHoP Architects

Developer: Mirvac

Owner: Mirvac Commercial Sub SPV Pty Limited

City of Sydney Council

Alpha Distribution Ministerial Holding Corporation

Telstra Corporation Ltd

Sydney Metro

Planning Consultant: Ethos Urban

Heritage Consultant: GML Heritage

DAP: 16 September 2021

Cost of Works: \$602,195,713

Zoning: The site is located in the B8 Metropolitan Centre zone. The proposed commercial development is permissible with consent in the zone.

Proposal Summary: The application proposes the excavation of part of the site for new basement parking, loading and services and the

construction of a new 55-storey commercial tower to RL 240.8m with a podium at RL 46.1m.

The proposed tower building will contain ground floor retail uses fronting Pitt Street, Underwood Street and Queens Court while commercial office uses will occupy the floors above.

The application also proposes the widening of a public laneway known as Queens Court to the north to Underwood Street and the widening of the lane to create a through-site link, improvements to the existing Telstra and Ausgrid buildings, the provision of public art throughout the development site and other public domain upgrades.

The application is being referred to the CSPC as the development has an estimated cost of over \$50 million.

The proposal is an Integrated application requiring approval from Water NSW under the Water Management Act 2000.

The subject site is located within the B8 Metropolitan Centre zone. The proposed commercial premises and public domain works are permitted with consent in the zone.

The site is located within a city block commonly known as the Alfred, Pitt, Dalley and George Street (APDG) block. Site specific provision apply to the block within the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. The development proposes to utilise these provisions that allow for increased building height and floor space where activated recreation areas, lanes and roads are provided. The proposal is consistent with the planning agreement registered on the site that requires the provision of specific public benefits including but not limited to the provision of a new through-site link, improvements to existing public utility buildings and the provision of public art throughout the development site.

A competitive design process was held for the development with a scheme prepared by SHoP Architects and Woods Bagot selected as the winning scheme. This development application has been prepared in response to the recommendations made by the design competition jury.

A request has been submitted pursuant to Clause 4.6 of Sydney Local Environmental Plan 2012 to vary the applicable building height standard. An architectural roof feature is proposed above the tower building height limit. The roof feature complies with the criteria within Clause

5.6 of SLEP 2012 and the variation is supported in this instance.

A preliminary assessment of the application identified concerns relating to the City's Design Advisory Panel (DAP) advice on the proposal, the podium design and use of masonry, flooding impacts, general design of Queens Court through site link, solar shading to the tower, street awnings, public art, materials and finishes, transport and access, general public domain matters and waste management.

These issues have been largely addressed through the resubmission of amended plans and additional information.

The application was advertised and notified for a period of 28 days. No submissions were received. The amended plans were not required to be renotified as no new environmental impacts resulted from the amendments.

Subject to conditions, the amended 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.

The application is considered to achieve the objectives for the APDG block controls and will contribute to the creation of a new through site link within the city block.

As a result of the design modifications made to the scheme, the amended proposal is of 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) Heritage Act 1977
- (iv) Water Management Act 2000

- (v) Sydney Water Act 1994 and Sydney Water Regulation 2017
- (vi) Airports Act 1996 (Cth) and Civil Aviation (Building Control) Regulation 1988
- (vii) State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)
- (viii) State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy No 55 - Remediation of Land) and the Managing Land Contamination Planning Guidelines (SEPP 55 Guidelines)
- (ix) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously Sydney Regional Environmental Plan (Sydney Harbour Catchment) 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 Developments Except for Single Dwellings 2012
- (xiii) City of Sydney Interim Floodplain Management Policy 2012
- (xiv) City of Sydney Guidelines for Waste Management in New Developments
- (xv) City of Sydney Public Art Policy 2011
- (xvi) City of Sydney Public Art Strategy 2011
- (xvii) City of Sydney Interim Guidelines for Public Art in Private Developments 2006
- (xviii) Central Sydney Development Contributions Plan 2013
- (xix) City of Sydney Community Participation Plan 2020

Attachments:

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

Recommendation

It is resolved that:

- (A) the variation requested to 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 No. D/2021/665 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 212 and the Sydney Development Control Plan 2012, particularly the site-specific provisions for the development site within the APDG block.
- (C) 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 Part 6 Division 4 of the Sydney Local Environmental Plan 2012.
- (D) 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.
- (E) 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 Central Sydney locality.
- (F) Subject to the recommended condition of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (G) The proposal is consistent with the terms of the Planning Agreement that is registered on the site.
- (H) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 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.

Background

The Site and Surrounding Development

1. The site has a legal description of Lots 2-3 DP 1092, Lot 6 DP 75338, Lot 7 DP 110046, Lot 4 DP 524306, Lots 1-2 DP 1112308, Lot 1 DP 513109, Lot 501 DP 714847, Lot A and B DP 104160, Lot 121 DP 1231659 and part of a public roadway, known as 6-8 Underwood Street, 37-49 Pitt Street, 49A-57 Pitt Street, 6 Dalley Street, 8-14 Dalley Street and Queens Court Sydney.
2. The site is also informally known as 55 Pitt Street, Sydney and is also known as block 5 in the APDG block.
3. The development site occupies an entire city block, bounded by Pitt Street to the east, Underwood Street to the north and west and Dalley Street to the south. It is irregular in shape with area of approximately 4,294.6sqm. It has a street frontage of 67m to Pitt Street, 80m to Underwood Street north, 56m to Underwood Street west and 64m to Dalley Street. The site is located close to the intersection of Pitt Street and Bridge Street.
4. The site contains three commercial buildings ranging in height between 10-13 storeys in height, two utility buildings owned by Ausgrid and Telstra, respectively, a public laneway and basement level parking (including a public car park). 6-8 Underwood Street is a 10-storey commercial office building, 37-49 Pitt Street is a 12-storey commercial office building and contains vehicle access to basement parking and 49A-57 Pitt Street is a 13-storey commercial office building. All three commercial buildings have been approved for demolition under a separate consent (D/2021/428).
5. The Ausgrid utility building at 8-14 Dalley Street is seven storeys in height and is currently used for electrical distribution. The Telstra Exchange building located at 6 Dalley Street is approximately nine storeys in height and currently used for telecommunications services. A public laneway known as Queens Court is located to the west of 49A-57 Pitt Street and provides vehicle access to the commercial buildings, the Ausgrid building and basement parking.
6. The site currently sits above a Sydney Metro rail tunnel running east-west beneath the existing structures.
7. The site is also located adjacent to the State Heritage listed Tank Stream, located beneath Pitt Street and several heritage items located directly opposite the site to the east.
8. An aerial image of the site and breakdown of site ownership are provided in Figures 1 and 2 below. Photos of the site are provided below in Figures 3 to 11.

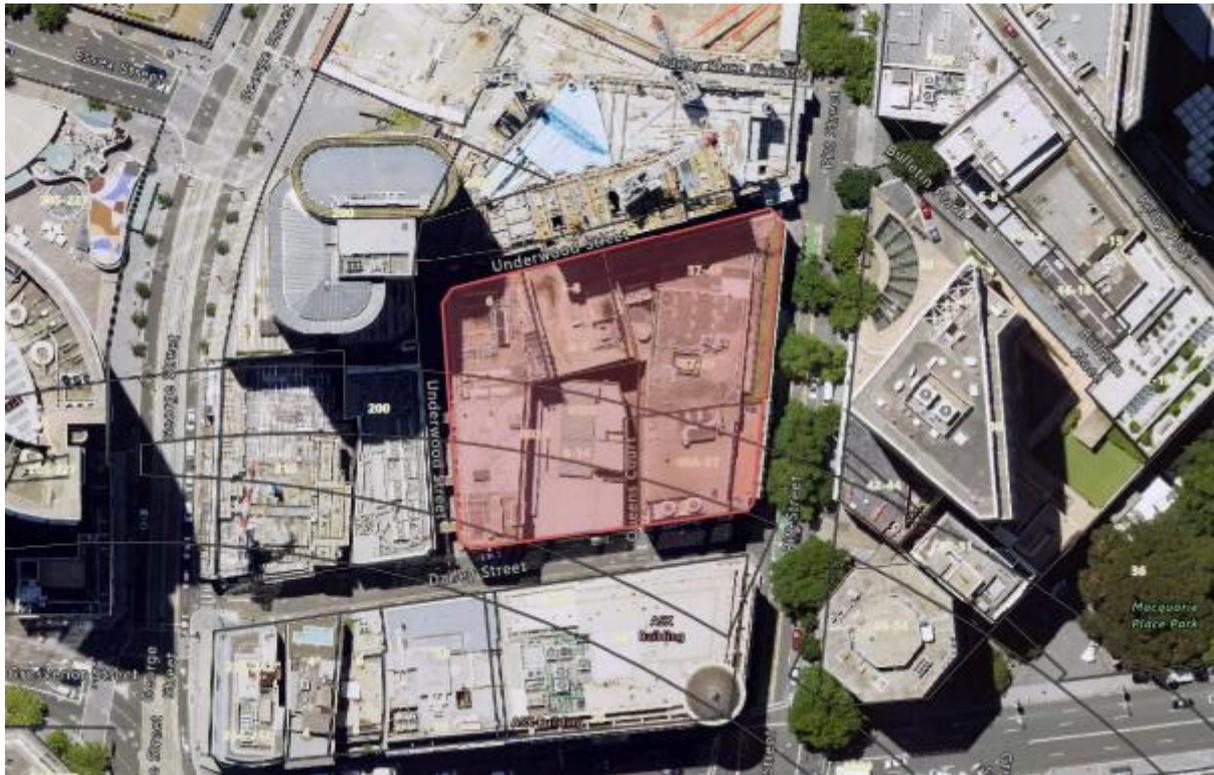


Figure 1: Aerial view of site and surrounds

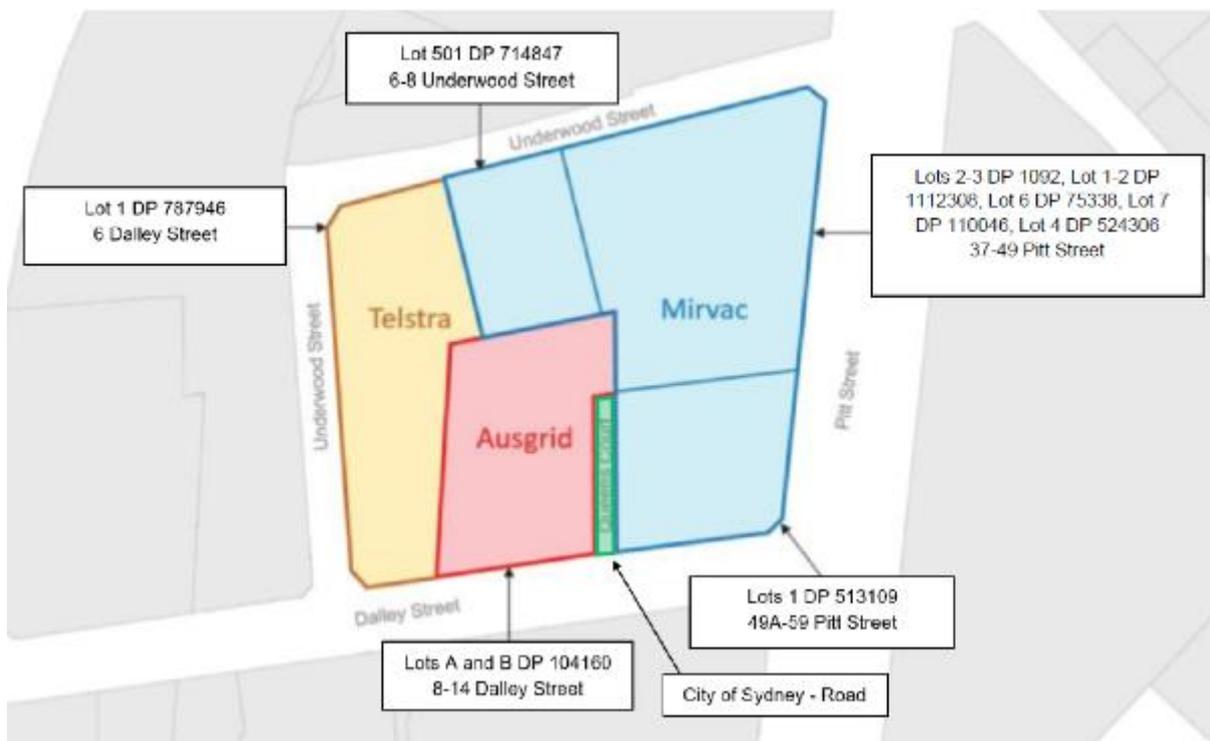


Figure 2: Ownership breakdown of the development site



Figure 3: 37-49 Pitt Street viewed from Pitt Street



Figure 4: 37-49 Pitt Street and 6-8 Underwood Street viewed from the intersection of Bulletin Place and Pitt Street



Figure 5: 49A-57 Pitt Street viewed from Pitt Street



Figure 6: 49A-57 Pitt Street and adjacent Telstra and Ausgrid buildings viewed from Dalley Street



Figure 7: Queens Court as viewed from Dalley Street



Figure 8: Telstra Exchange building as viewed along Underwood Street (west)

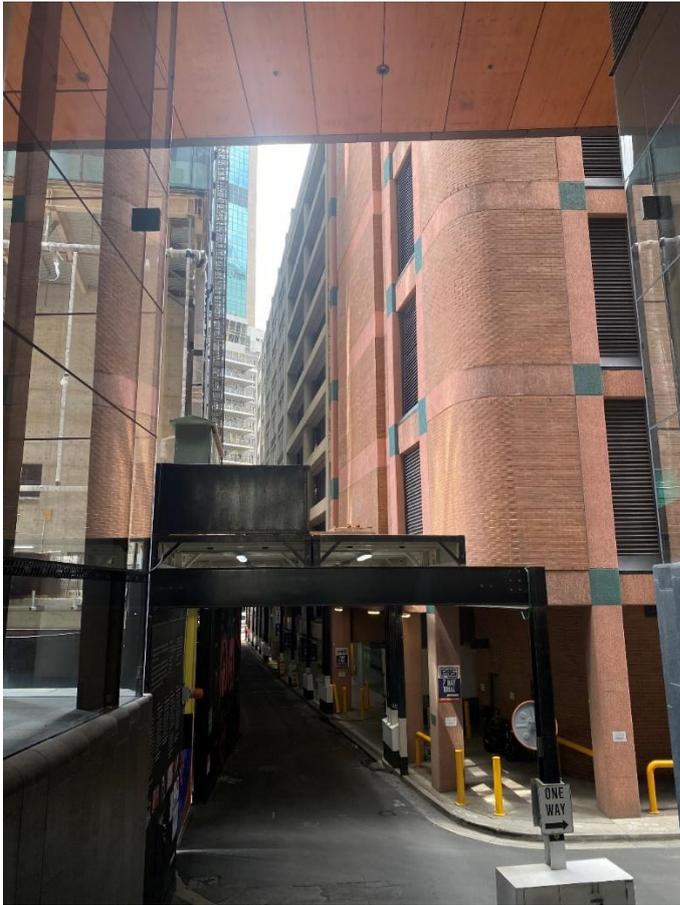


Figure 9: 37-49 Pitt Street, 6-8 Underwood Street and adjacent Telstra building viewed from Underwood Street

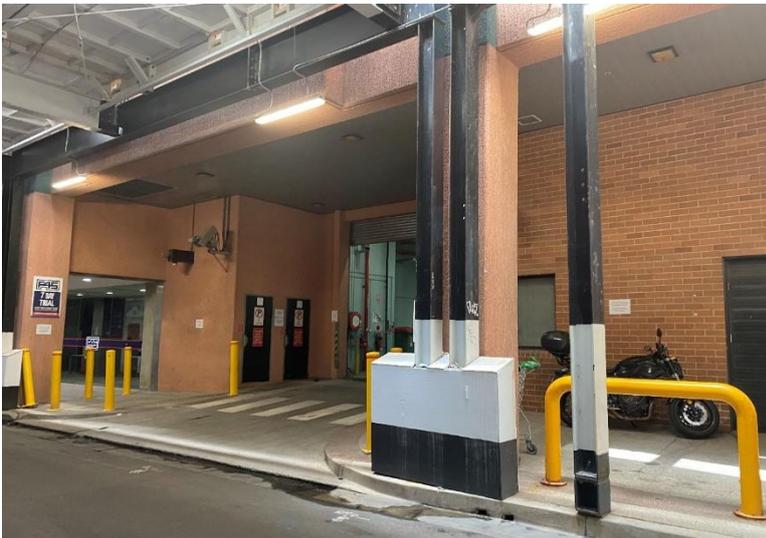


Figure 10: Existing vehicle entry to the Telstra building along Underwood Street (north)



Figure 11: 37-49 Pitt Street and 6-8 Underwood Street viewed from Underwood Street (north)

The Locality

9. The surrounding area is characterised by a mixture of land uses, primarily being commercial office, retail, food and drink uses and tourist and visitor accommodation.
10. Directly to the north of the site at 33-35 Pitt Street, a 55-storey commercial tower development is currently under construction. Further north of the site, a new hotel and residential development are currently being constructed.
11. To the east of the site across Pitt Street, is a mix of commercial and retail developments of various sizes. This includes the Marriot Hotel, which is adjoined to the south by a 16-storey commercial building on the corner of Pitt Street and Bridge Street and 'Gateway Sydney' to the north, on the corner of Pitt Street and Alfred Street.
12. To the south of the site, across Dalley Street is the Australian Stock Exchange (ASX), a mid-rise building of up to 13 storeys with frontages to both Dalley Street and Pitt Street.
13. To the immediate west is 4 Dalley Street, a low scale functioning utility/infrastructure building associated with the commercial tower at 200 George Street. Further to the west is the EY Centre at 200 George Street and a new 110-metre commercial building at 210-220 George Street which is currently under construction.
14. Figures 12 to 16 below provide photos of existing developments surrounding the site.



Figure 12: 55-storey commercial tower currently under construction to the north of the site at 33-35 Pitt Street



Figure 13: Australian Stock Exchange building located to the south of the site viewed from the intersection of Pitt Street and Bridge Street



Figure 14: Existing commercial buildings located to the east of the site along Pitt Street



Figure 15: Utility building associated with 200 George Street located on the opposite/west side of Underwood Street



Figure 16: New commercial tower currently under construction located to the west of the site viewed from George Street

History Relevant to the Development Application

Development Applications

15. On 22 October 2021, amendments to Sydney LEP 2012 (Clause 6.25) and Sydney DCP 2012 (Section 6.1.4) under planning proposal PP_2020_SYDNEY_003 were gazetted to include amended provisions for the development site. The amended planning controls will facilitate the renewal of block 5 in the APDG block, consisting of the following key components:
 - (a) a 72,568 square metre commercial office tower up to 232m in height, with a 45m high podium
 - (b) creation of a through-site link widening and connecting Queens Court to Underwood Street
 - (c) a retail activated pedestrian colonnade along Underwood Street to improve pedestrian connections; and
 - (d) upgrades to facades and roof of the adjoining Ausgrid substation building and facade upgrade and new retail spaces to the Telstra exchange building.
16. The amendments to the development standards will facilitate the redevelopment of 55 Pitt Street (37-49 Pitt, 49A-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street), the remaining parcels of land in the APDG block, to allow for a new commercial office tower while retaining essential utility buildings and delivering public domain improvements such as connections to the wider pedestrian laneway network envisaged under the original APDG controls. Council and the Central Sydney Planning Committee approved the planning proposal for public exhibition and Gateway request in May 2020.
17. Accompanying the Planning Proposal was a draft Development Control Plan that provides further guidance for development of the site consistent with the approved amendments to the LEP. The DCP provisions include:
 - (a) building form and external appearance
 - (b) tower location
 - (c) setbacks
 - (d) street frontage heights
 - (e) environmental impacts
 - (f) vehicular access
 - (g) design excellence; and
 - (h) environmentally sustainable development targets.
18. A voluntary planning agreement was prepared and exhibited concurrently with the planning proposal and draft DCP. The public benefits that will be delivered are:
 - (a) monetary contribution to community infrastructure in Central Sydney;

- (b) monetary contribution to affordable housing in the local government area;
 - (c) provision of public art on the site;
 - (d) dedication of land for footpath widening on Underwood Street;
 - (e) construction of the Underwood Street footpath widening; the through-site link incorporating Queens Court; improvements to the colonnade of the Telstra building and public art to the through-site link (if required);
 - (f) creation of public access easements for the Telstra colonnade and the through-site link; and
 - (g) ecologically sustainable development targets:
 - (i) minimum 6 star Office Green Star v1.3 Design and Construct rating;
 - (ii) minimum 5.5 star rating on operation under the NABERS energy scheme; and
 - (iii) minimum 4-star rating in operation under the NABERS water scheme.
19. In late 2020 and early 2021, the proponent invited six architectural firms to respond to a design brief as part of an International Architectural Design Excellence Competition. The purpose of this design competition was to select the scheme that exhibited the highest quality architectural, landscape and urban design solution of the site in response to the competition brief. On 16 February 2021, the Woods Bagot and SHoP Architects scheme was recommended by the Design Competition Jury as the winning scheme to develop the detailed proposal.
20. On 27 October 2021, development consent was granted under development application D/2021/428 for the demolition of the existing commercial buildings at 37-49 Pitt Street, 49A-57 Pitt Street and 6-8 Underwood Street and site establishment works.

Amendments

21. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 11 October 2021.
22. The request raised the following matters:
- (a) Podium design and use of masonry
 - (b) Window operability
 - (c) Wind impacts on water feature
 - (d) Design of Queens Court and public access arrangements
 - (e) Width of access bridge over Queens Court
 - (f) Sun shading to the tower
 - (g) Street awning design

- (h) Materials and finishes
 - (i) Provision of public art along Queens Court and throughout the Telstra and Ausgrid sites
 - (j) Driveway design, basement parking, access arrangements, bicycle parking and loading dock management
 - (k) Stormwater mitigation, flood gate design and public domain levels
 - (l) Waste management
23. The applicant responded to the request on 10 December 2021, and submitted amended plans and additional documentation that responded to matters raised by Council. In regard to notable design modifications, the amended application included the following:
- (a) Increased the use of masonry in the podium
 - (b) Reduced the width of the lift core access bridge over Queens Court from 9m to 5.5-6.7m to better respond to the DCP requirements and character and scale of the laneway below
 - (c) Simplified the design of Queens Court to enhance pedestrian and patron amenity
 - (d) Clarified the design of the Pitt Street shopfronts and awnings
 - (e) Modified the design of the tower sun shading elements to increase sun protection and simplify design
24. The amended design package also included several amendments resulting from further design development. Additional proposed amendments include the following:
- (a) Structural reconfiguration of the northern core and adjustments to services and amenities locations on each tower level
 - (b) Minor podium facade adjustments to Underwood Street and Dalley Street
 - (c) Minor relocation of structure of the western core and surrounding services
 - (d) Reduction of commercial office space on Level 4 and conversion to end of journey and visitor bicycle parking spaces and a wellness centre
 - (e) Provision of additional commercial floor space on Level 54 with additional stair and lift access to commercial space and roof terrace areas on Level 55
 - (f) Reorientation of tower sunshade fins
 - (g) Reduction of window louvres on northern facade and replacement with insulated glazing
 - (h) Slight reduction of operable windows on 'softcore' (**glass as opposed to concrete exterior**) tower facades
 - (i) Reconfiguration of parking and loading areas in the basement

25. Subsequent requests were sent to the applicant on 20 January 2022, 24 January 2022, 25 January 2022 and 8 February 2022 requesting further clarification on matters relating to flooding and flood gates, public art, tree protection and traffic impacts respectively.
26. The applicant responded to each item and provided further information for Council's consideration.

Proposed Development

27. The application seeks consent for the following:
 - (a) excavation for new basement parking, loading and services
 - (b) construction of new 55-storey commercial tower to RL 240.8 with podium at RL 46.1
 - (c) extension of Queens Court to north Underwood Street and widening of through-site link and other public domain upgrades
 - (d) improvements to Telstra and Ausgrid building facades; and
 - (e) provision of public art.
28. Specifics of the proposal are as follows.
29. Demolition works, excavation, ground floor:
 - (a) demolition of existing basement walls, site preparation and remediation works
 - (b) removal of existing driveway access points along Underwood Street (north)
 - (c) bulk excavation to create three levels of basement to accommodate:
 - (i) 52 car parking spaces (43 in the basement levels, 7 within the Telstra building), 19 service vehicle spaces (12 in the basement levels, 7 within the Telstra building) and 10 motorbike parking spaces
 - (ii) Loading dock facilities; and
 - (iii) Service rooms such as waste room, fire pump room, fire control room, water meter and bin washing bay; and
 - (d) new vehicular access to the basement levels from Dalley Street.
30. Staged construction and new use of a commercial building containing up to 70,747sqm of commercial and retail GFA, and comprising an 8-storey podium and a 45-storey tower above with the following key features:
 - (a) a ground level entry 'Cove' lobby in the north eastern corner of the site providing pedestrian access from Underwood Street and Pitt Street containing landscaping elements and a 20m tall water feature
 - (b) 4 retail tenancies fronting Pitt Street

- (c) 3 retail tenancies fronting Underwood Street (contained within the main tower building)
 - (d) 3 retail tenancies fronting Queens Court
 - (e) street awnings along the Pitt Street and part Underwood Street (north) frontages
 - (f) an elevated double height lobby accessed from the 'Cove'
 - (g) access to mid-rise, high-rise and sky-rise lifts via a pedestrian bridge over Queens Court
 - (h) 44 commercial office levels
 - (i) a 'softcore' facade system surrounding the mid-, high- and sky-rise lift cores providing a highly transparent glazed facade with operable windows providing naturally ventilated spaces from Levels 30-55
 - (j) 650 bicycle spaces, end-of-trip facilities and a wellness centre located on Levels 3 and 4 of the podium
 - (k) three plant levels
 - (l) a rooftop garden terrace accessible to tenants and tenant visitors; and
 - (m) an architectural roof feature.
31. Landscaping and public domain improvements, including:
- (a) extension and widening of Queens Court to provide an active through-site link between Dalley Street and Underwood Street providing direct access to the entry 'Cove' lobby and end of journey levels
 - (b) construction of a 14m high glazed awning over Queens Court addressing weather and wind conditions
 - (c) widening of the Underwood Street footpath and upgrades to the existing colonnade
 - (d) general public domain upgrades including new paving to Pitt Street, Underwood Street, Dalley Street and Queens Court
 - (e) the provisions of street trees on Pitt Street and landscaped planters throughout Queens Court; and
 - (f) 8 bicycles spaces for visitor use.
32. Improvements to the existing Ausgrid and Telstra buildings, including the relocation of the vehicle entry point from Underwood Street (north) to Underwood Street (west), the provision on a new laneway retail tenancy on the ground floor of the Telstra building fronting Underwood Street (north), treatments to both building facades and roofscapes.
33. Provision of public art in various locations of the public domain, Queens Court and internally within the tower building.

34. The proposal seeks to draw on the masonry character of the surrounding locality and utilise sandstone and sandstone appearance cladding throughout the podium. The materiality of the podium facade incorporates two main facade types as follows:
- (a) Retail ground level: The materials at the ground level along the retail tenancy frontages are sandstone clad with bronze coloured metal framed shop windows.
 - (b) Entry space veil: The 'Cove' will be enclosed with a transparent 'veil' of ultra-clear glazing and a stainless-steel net structure. Bronze coloured metal finishes on the curtain wall frame, hardware and fascia frame the windows from both the exterior and interior.
 - (c) Podium (General): The majority of the podium facade comprises cladding with sandstone appearance and bronze coloured metal which frames ultra-clear glazing. Operable windows will be provided in select locations and will open outwards to provide opportunities for natural ventilation.
35. The tower facades incorporates three main components as follows:
- (a) Main tower facade: Fixed terracotta sunshades or a material of similar durability and appearance, are to be provided that frame the clear glazed units over two storeys. The shading hoods provide vertical profiles to the main tower and are twisted to respond to views and sunlight, maximising their sun shading qualities.
 - (b) Soft-core cladding: Cladding of sandstone appearance is proposed to extend from the ground plane up the western core.
 - (c) Soft-core operable glazing: Clear glazing with bronze coloured metal framing is proposed to the remainder of the soft core, with part of the facade incorporating operable windows.
36. A selection of plans, elevations and photomontages of the proposed development are provided below in Figures 17 to 44.

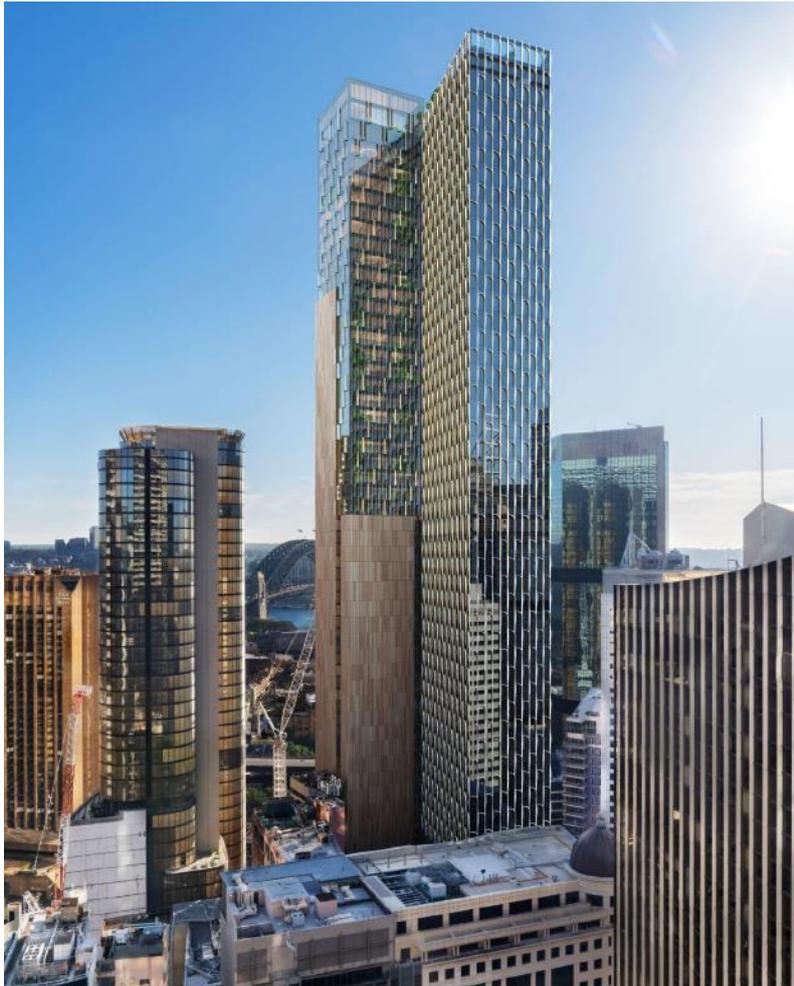


Figure 17: Photomontage of proposed tower development - viewed from the south

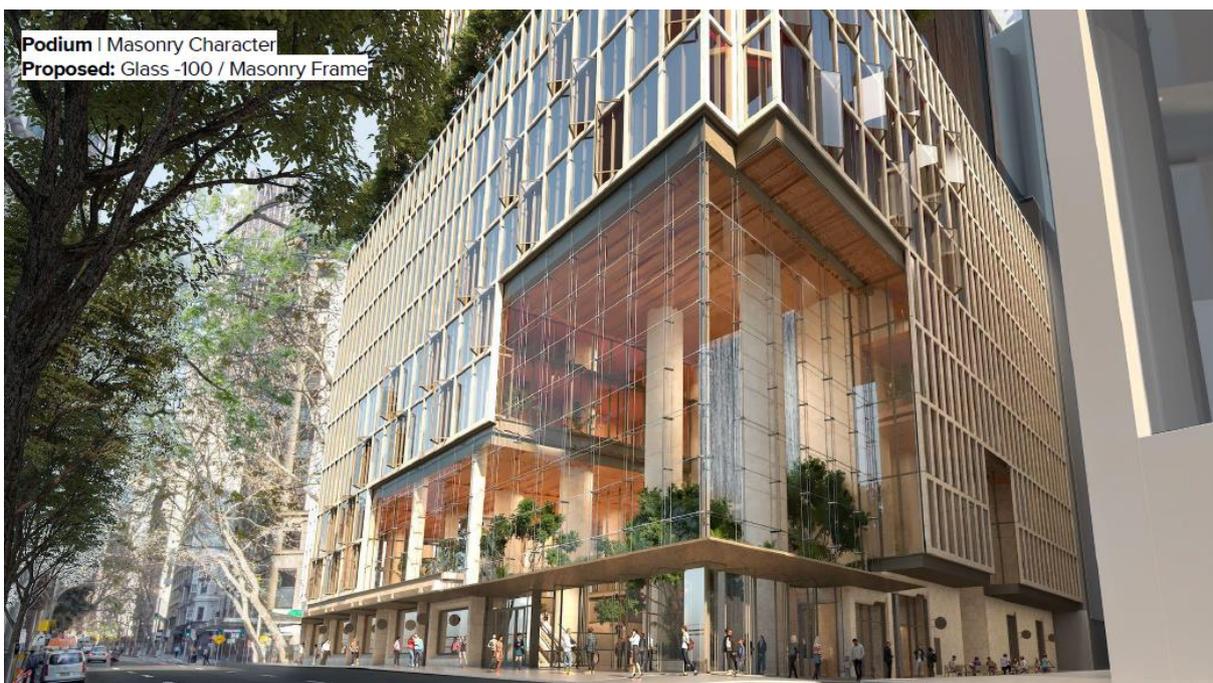


Figure 18: Photomontage of proposed podium - corner of Pitt Street and Underwood Street

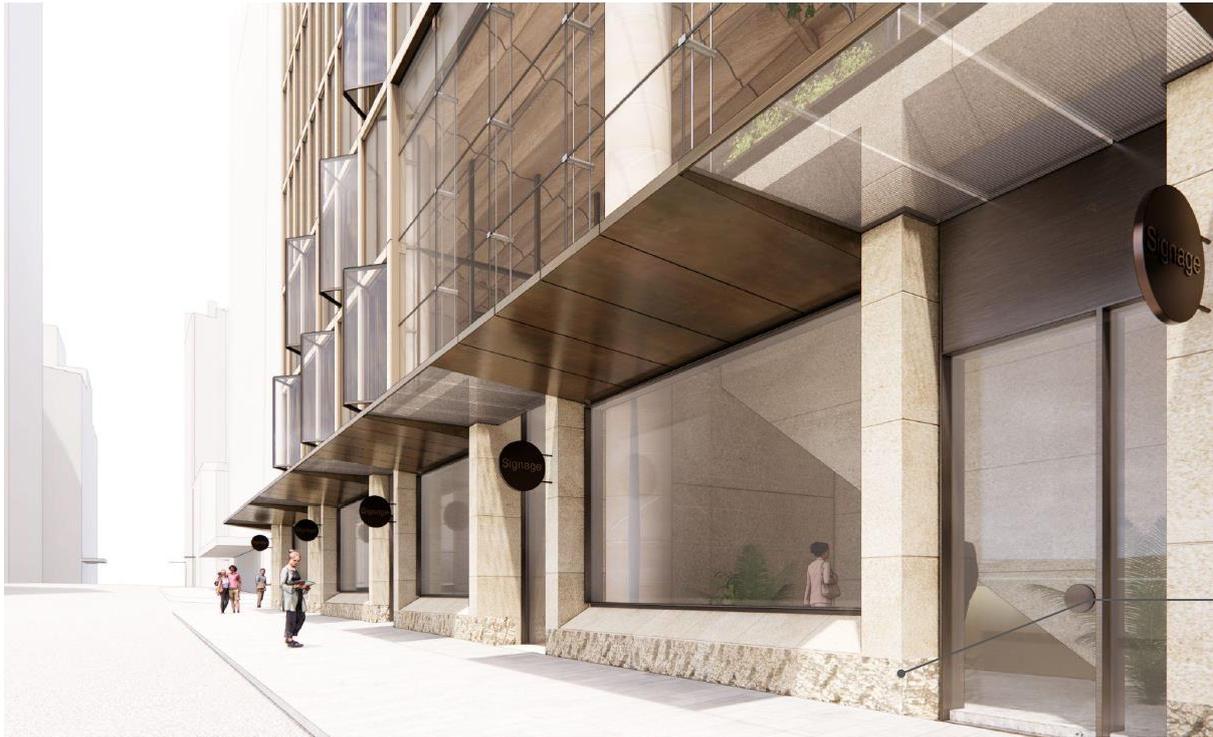


Figure 19: Perspective of proposed fine grain retail tenancies fronting Pitt Street

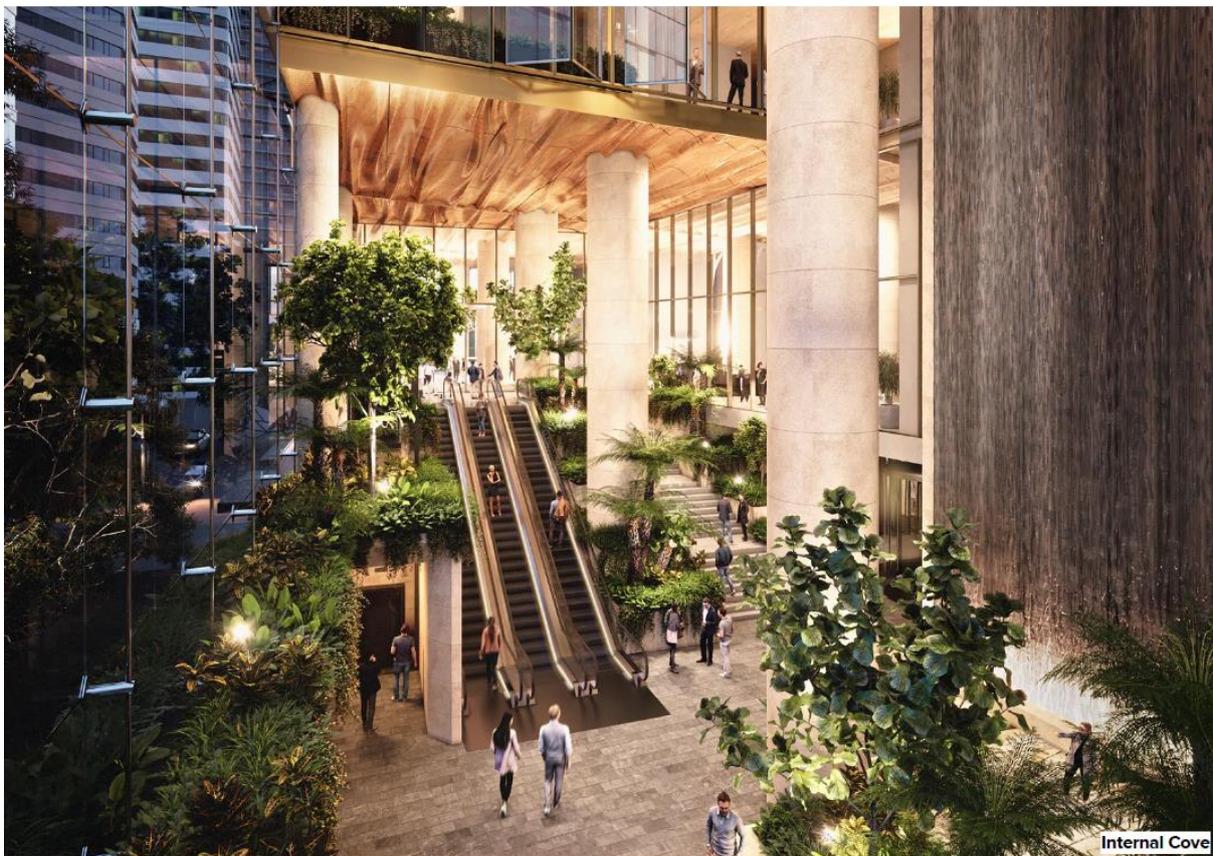


Figure 20: Photomontage of proposed 'Cove' entry lobby

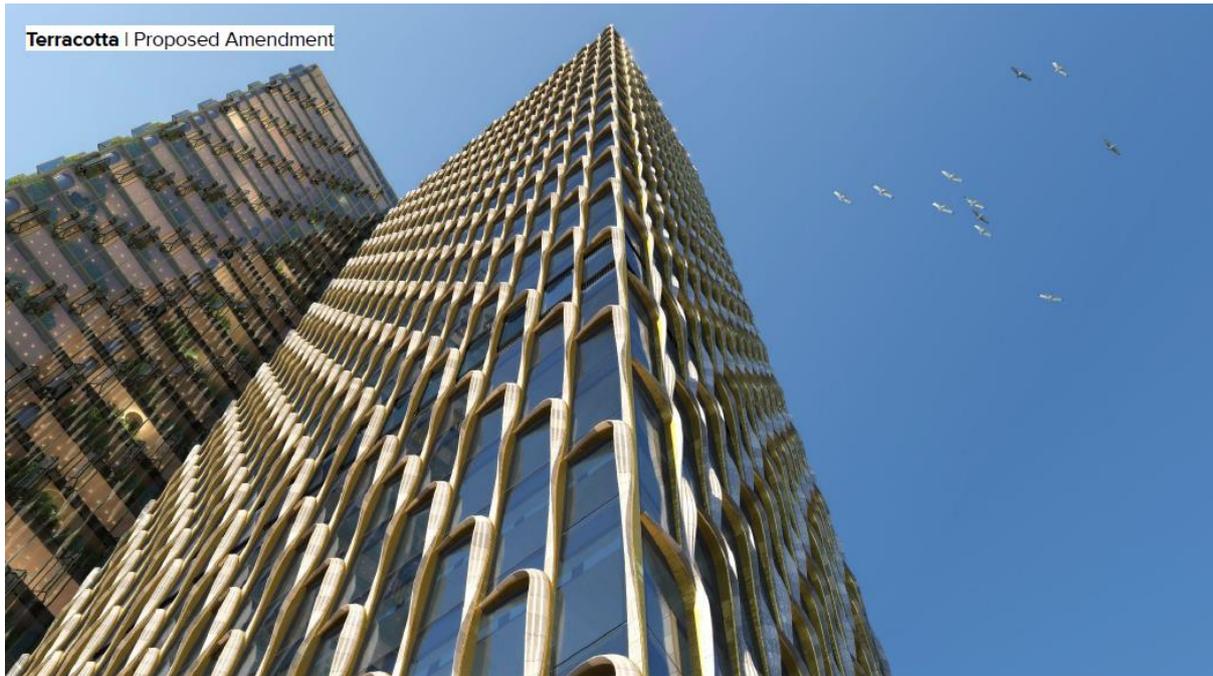


Figure 21: Photomontage of proposed tower facade including sun shading fins (right) and operable 'softcore' facade (left)



Figure 22: Perspective drawing of Queens Court from Underwood Street - looking south



View from Dalley Street

Figure 23: Perspective drawing of Queens Court from Dalley Street - looking north



Figure 24: Proposed Ground Level



Figure 25: Proposed Level 1



Figure 26: Proposed Level 3 (tenant end of journey and bicycle storage)



Figure 27: Proposed Level 4 (visitor bicycle parking and wellness centre)



Figure 28: Proposed Level 4 - typical podium low-rise commercial office floorplate



Figure 29: Proposed Level 13-17 - typical tower low-rise commercial office floorplate

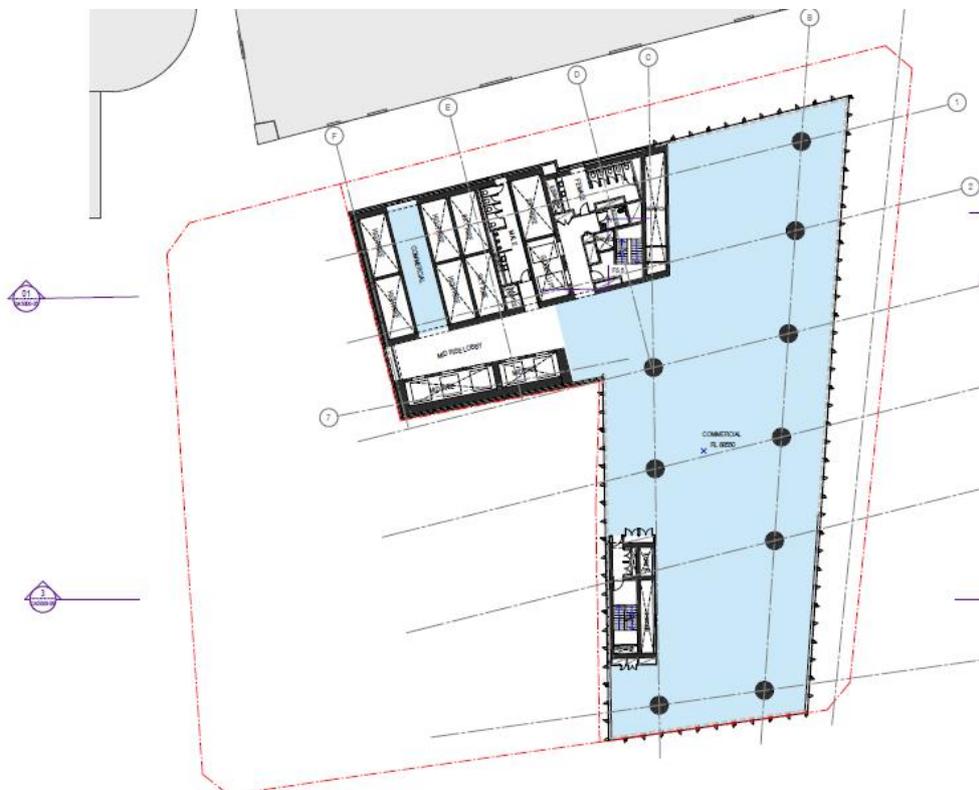


Figure 30: Proposed Level 20-27 - typical mid-rise commercial office floorplate

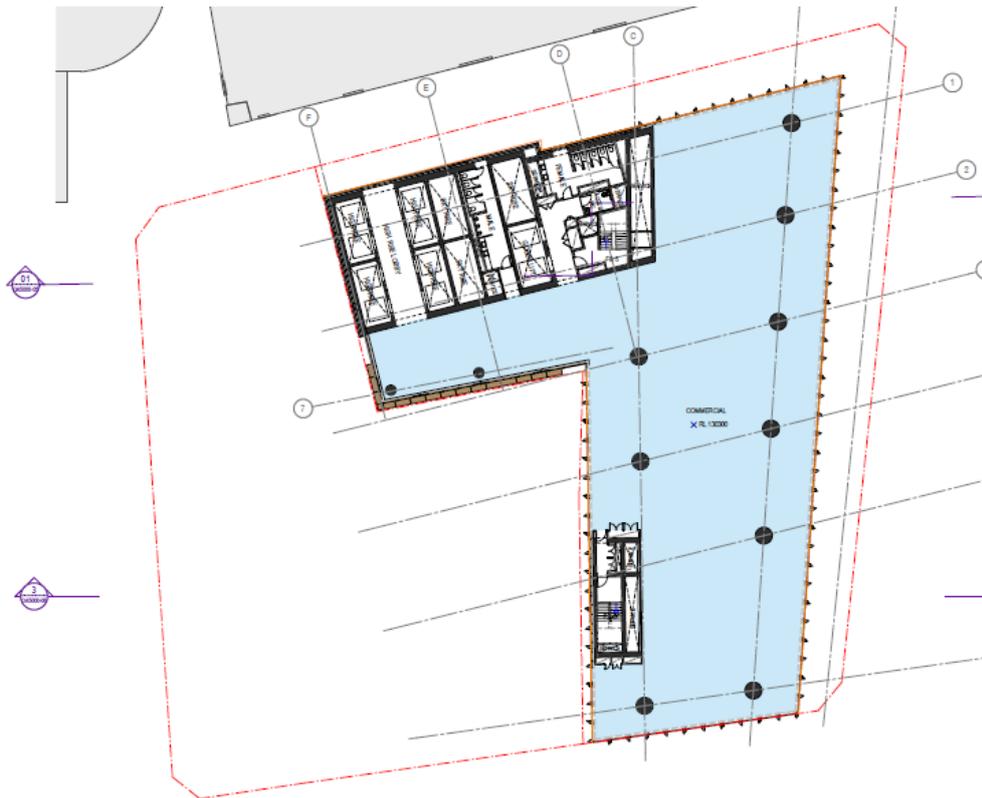


Figure 31: Proposed Level 30-42 - typical high-rise commercial office floorplate

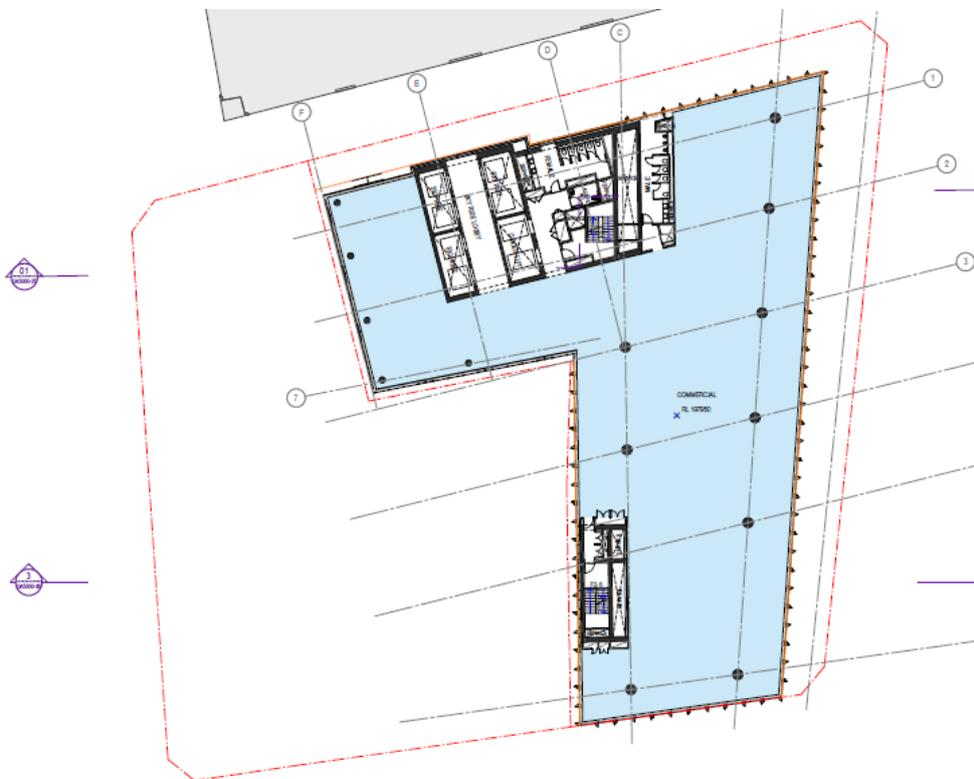


Figure 32: Proposed Levels 42-53 - typical sky-rise commercial office floor plate



Figure 33: Proposed Level 54



Figure 34: Proposed Level 55 and rooftop terrace



Figure 35: Proposed south elevations - hard/softcore (left) and Dalley Street (right)



Figure 36: Proposed west elevation - Queens Court and tower (left) and hard/softcore (right)

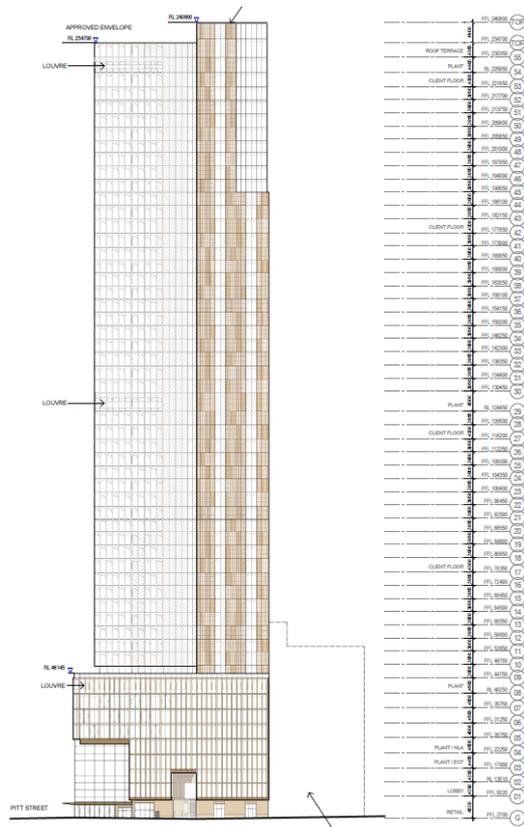


Figure 37: Proposed north elevation

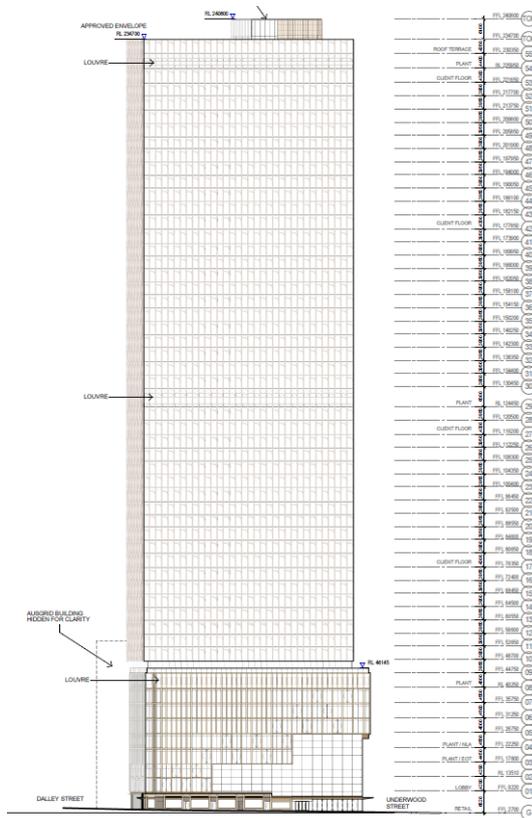


Figure 38: Proposed east elevation

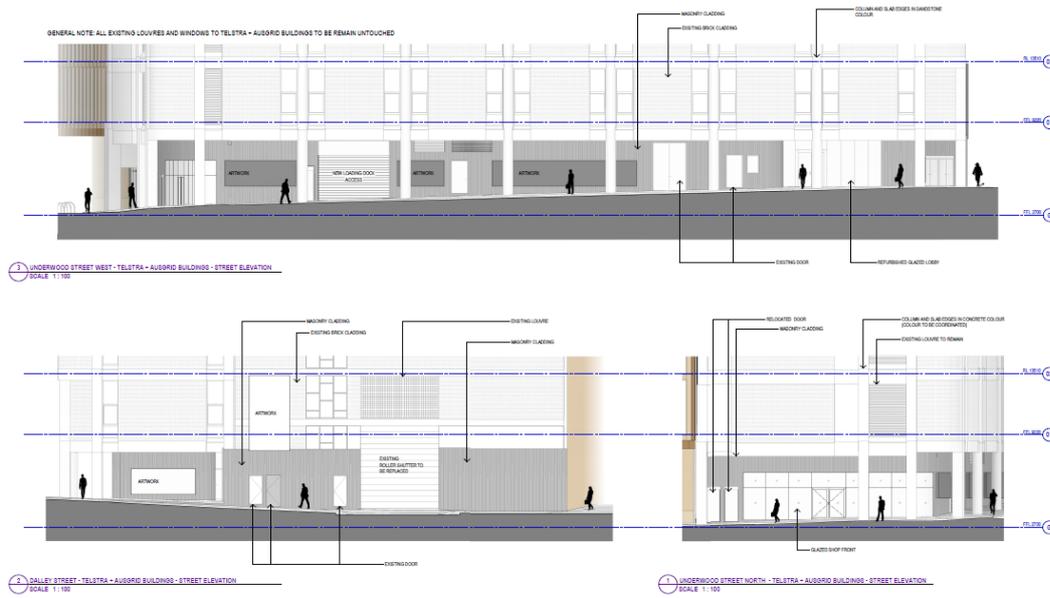


Figure 39: Proposed works to Telstra and Ausgrid buildings

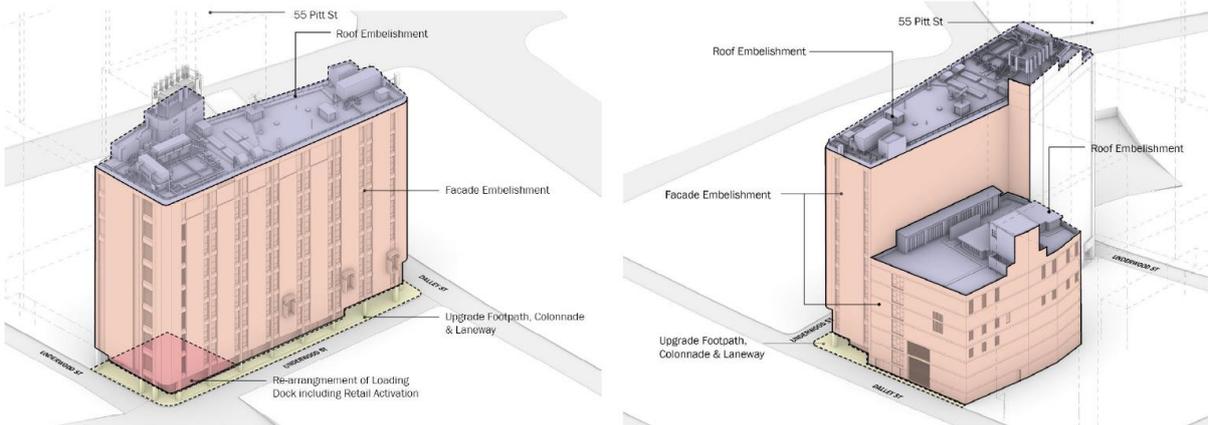


Figure 40: Proposed scope of works to existing Telstra and Ausgrid utility buildings



Figure 41: Perspective of proposed ground floor works to existing Telstra utility building along Underwood Street

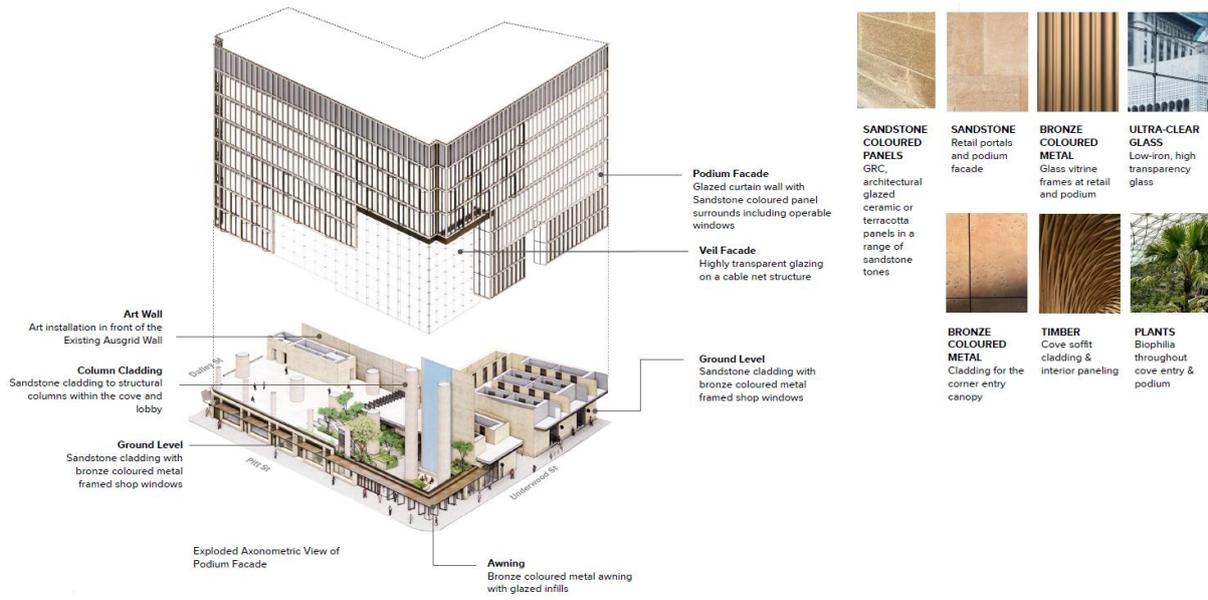


Figure 42: Proposed axonometric view of podium and proposed materials palette

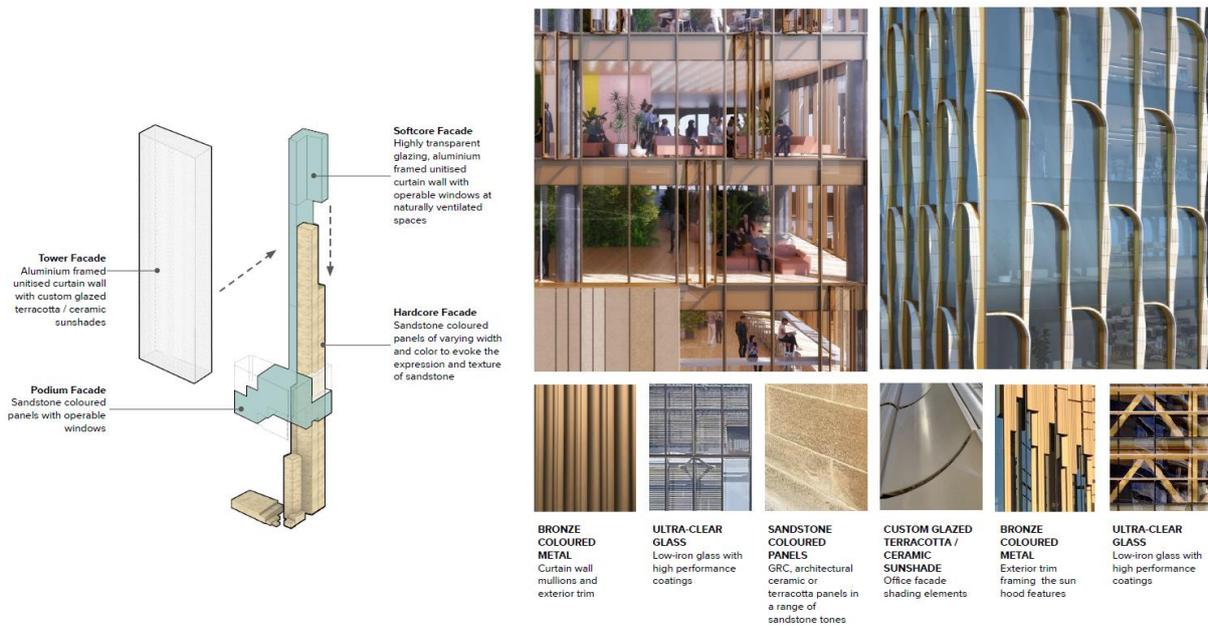


Figure 43: Proposed facade types and proposed materials palette

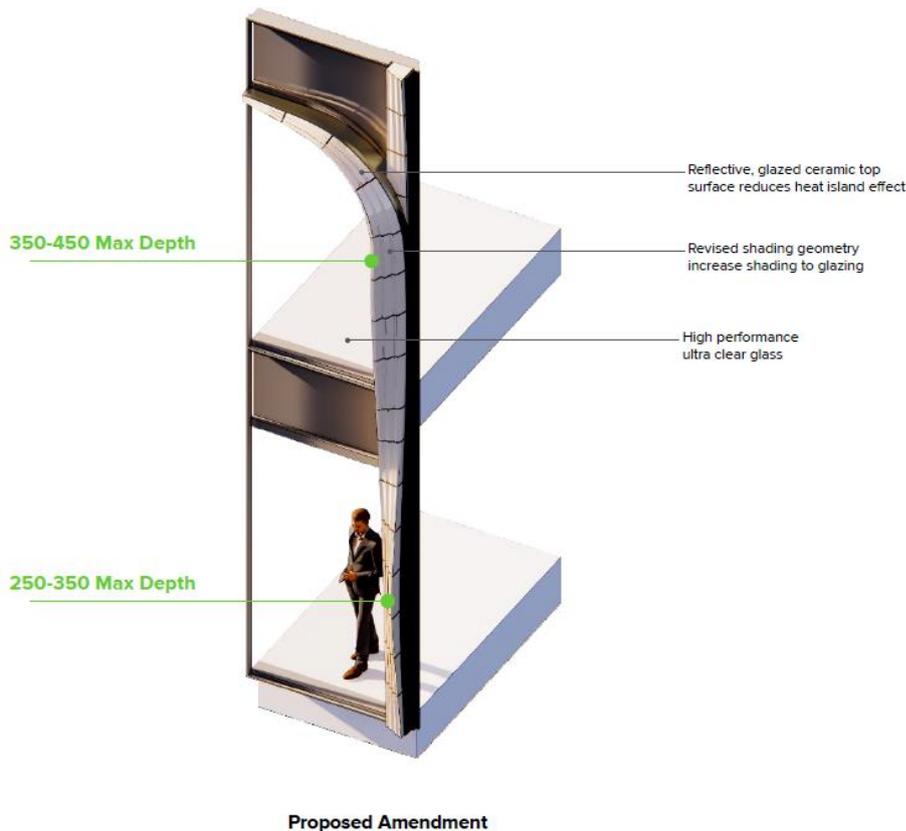


Figure 44: Proposed terracotta sun shading surrounds (fins)

Assessment

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

Water Management Act 2000

38. The application has been identified as Integrated Development requiring an approval under the Water Management Act 2000.
39. The proposal was referred to Water NSW who have determined that the proposal will encounter groundwater during the works and will require an approval for dewatering. General Terms of Approval issued by Water NSW are included in the recommended conditions of consent in Attachment A.

City of Sydney Act 1988

40. Section 51N requires the Central Sydney Planning Committee (the 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.

41. 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."

42. Transport for New South Wales (TfNSW), as the delegate of the CSTTC, was consulted.
43. Submissions received from TfNSW have been considered in the assessment of the application and the recommended conditions included in Attachment A.

Sydney Water Act 1994

44. Section 78 of the Sydney Water Act 1994 sets out various requirements for the determination of development applications which would:
- (a) increase the demand for water supplied by the Corporation; or
 - (b) increase the amount of waste water that is to be removed by the Corporation; or
 - (c) damage or interfere with the Corporation's works; or
 - (d) adversely affect the Corporation's operation.
45. Subclauses (2) and (4) of Section 78 of the Sydney Water Act 1994 allow for a consent authority to approve an application at any time, subject to a condition requiring that a developer obtain a compliance certificate from the Sydney Water Corporation.
46. Several conditions have been recommended in Attachment A requiring various Sydney Water approvals and certification, including a condition requiring that the developer obtain a Section 73 Compliance Certificate from the Sydney Water Corporation.

Heritage Act 1977

47. The subject site does not contain any items listed on the State Heritage Register under the Heritage Act 1977, however, is located within close proximity to the state heritage listed 'Tank Stream including tanks and tunnels', running parallel to the site boundary near Pitt Street.
48. The application was referred to Heritage NSW who provided comments on 19 August 2021 noting that the submitted heritage impact statement and archaeological report indicates that the works are likely to impact historical archaeological information of both State and local significance relating to the early colonial settlement, Tank Stream, James Underwood, maritime, domestic and commercial development from the 1820s to the twentieth century.
49. Advice provided by Heritage NSW raised concern that the project does not provide any alternatives to the wholesale removal of the site's archaeological resources. Conservation in-situ of State significant archaeology is a preferred option which appears to have not been considered or possible. Additionally, the proposed mitigation does not contain recommendations for future interpretation specific to the archaeological information proposed (either on-site, digitally, open days or other options) to be removed from the site. Instead, interpretation of the built elements of the site is recommended and a question regarding interpretation is included in the site-specific research questions. This is not an acceptable recommendation for a site with predicted State significant archaeology proposed to be removed. Both these issues need to be revisited.
50. Heritage NSW recommended conditions which require the Applicant to reassess the impact on significant archaeology and consider options for avoidance and protection of State significant archaeology. This may include the need to complete a test excavation prior to the finalisation of project detailed design. Recommended conditions from Heritage NSW are included in Attachment A.

State Environmental Planning Policies

51. Commencing on 1 March, the 45 existing State Environmental Planning Policies (SEPPs) have been consolidated into 11 policies to make the system simpler. The new SEPPs are based on focus 9 areas and are listed below:
 - (a) Housing
 - (b) Transport and Infrastructure
 - (c) Primary Production
 - (d) Biodiversity and Conservation
 - (e) Resilience and Hazards
 - (f) Design and Place
 - (g) Industry and Employment
 - (h) Resources and Energy

(i) Planning Systems

52. While the existing SEPPs have been consolidated, no policy changes have been made. The SEPP consolidation does not change the legal effect of the SEPPs being repealed and section 30A of the Interpretation Act 1987 applied to the transferred provisions.
53. The consolidation of the SEPPs has not changed the provisions that apply to the proposed development. The assessment against relevant SEPPs as below will refer to the relevant SEPP sections as updated in their consolidated form however will reference the relevant SEPPs in their previous form.

State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy No 55 - Remediation of Land)

Chapter 4 Remediation of land

54. The aim of Chapter 4 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
55. A detailed site investigation report, prepared in accordance with the SEPP and the SEPP 55 Guidelines, has been submitted with the application. The report has been reviewed by City staff during the assessment of the proposal.
56. 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 4.6 of the SEPP and the SEPP 55 Guidelines. The recommended conditions are included in Attachment A.

State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)

Chapter 2 Infrastructure

57. The provisions of SEPP (Transport and Infrastructure) 2021 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 2.48 Determination of development applications – other development

58. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
59. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

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

Clause 2.98 – Excavation in, above, below or adjacent to rail corridors

60. The application is adjacent to the City and Southwest and Metro North West rail corridor and was subsequently referred to Sydney Metro as delegate of Transport for

NSW (TfNSW) for comment. Sydney Metro have recommended conditions which are included in Attachment A.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.121 – Traffic generating development

61. The application is subject to Clause 2.121 of the SEPP as the proposed development is a commercial premises with a gross floor area of over 10,000sqm.
62. The application was referred to TfNSW who raised no objection to the proposal subject to conditions requiring the preparation of a Car Parking, Loading and Servicing Management Plan and a Construction Pedestrian and Traffic Management Plan. Recommended conditions of consent from TfNSW are included in Attachment A.

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005)

63. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
64. 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 SEPP are not applicable to the proposed development. The development is consistent with the controls contained within the SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

65. 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 a mixed use development comprising commercial office and retail uses with associated public domain works 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	No	<p>A maximum height of 110m is permitted.</p> <p>Additional height is permitted pursuant to the site specific APDG controls under Clause 6.25, up to a height of 232m.</p> <p>A height of 238.1m (RL240.8) is proposed for the commercial tower building, inclusive of a 15m tall architectural roof feature.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio 6.3 Additional floor space in Central Sydney 6.4 Accommodation floor space 6.6 End of journey floor space 6.8 Lanes development floor space 6.21D Competitive design process (design excellence) 6.25 APDG block	Yes	<p>A maximum floor space ratio of 8:1 is permitted under Clause 4.4 of the Sydney LEP 2012.</p> <p>In accordance with clause 6.25(4) the site is also subject to the following floor space bonuses:</p> <ul style="list-style-type: none"> • 2.52:1 additional floor space for block 5 in the APDG block • 4.5:1 accommodation floor space bonus for office and retail uses • 0.3:1 end of journey floor space • Lanes development floor space equal to the floor space occupied by the lanes development use • Additional 10% the sum of maximum permissible floor space, addition 2.52:1 and accommodation floor space if the building exhibits design excellence <p>Overall, the site is subject to a maximum floor space ratio of 16.52:1.</p> <p>A floor space ratio of 16.52:1 or 70,568sqm is proposed.</p>

Provision	Compliance	Comment
		The proposed development complies with the maximum floor space ratio development standard.
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3 Height of buildings. A variation request under Clause 4.6 of SLEP 2012 has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.6 Architectural roof features	Yes	<p>The proposed architectural roof feature will extend to a height of RL240.8, comprising a 6.1m extension above the maximum height prescribed under section 6.25 of the Sydney LEP 2012 .</p> <p>The feature is acceptable as it is decorative and fully integrated with the design of the building.</p>
5.10 Heritage conservation	Yes	<p>The existing buildings contained within the site are not heritage listed and the site is not located within a Heritage Conservation Area.</p> <p>The site is within proximity of several heritage items of local and state significance. Of note is the collection of heritage items to the east across Pitt Street and the State Heritage Listed Tank Stream is located east of the site beneath the alignment of Pitt Street.</p> <p>A Historical Archaeological Assessment and Archaeological Research Design Report was submitted with the application and concludes that the proposal is acceptable from a heritage perspective. The proposal is not considered to have an adverse impact on surrounding heritage fabric.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
<p>Subdivision 3 Heritage floor space</p> <p>6.11 Utilisation of certain additional floor space requires the allocation of heritage floor space (HFS)</p>	Yes	<p>The proposal includes 12,390sqm of accommodation floor space, which is the total GFA above 8:1 FSR, less the proposed 1,286sqm of end of journey floor space and 335sqm of lanes development floor space.</p> <p>Clause 6.11(1)(a) of the Sydney LEP 2012 requires that HFS is allocated to the site equal to 50% of the accommodation floor space.</p> <p>Clause 6.11(2)(a) allows this amount to be reduced by up to 50%, or 1,000sqm, whichever is the lesser, if the proposed development is the winner of an architectural design competition carried out in accordance with the City of Sydney Competitive Design Policy.</p> <p>The proposal is the winning scheme of an 'invited' architectural design competition conducted in line with the City's Competitive Design Policy and is eligible for a 1,000sqm HFS reduction.</p> <p>As such, a total of 5,695sqm of HFS is required to be allocated to the site. A condition is recommended in Attachment A to require this HFS to be purchased and allocated to the development.</p>
Division 3 Height of buildings and overshadowing		
6.18 Overshadowing of certain public places	Yes	<p>The proposal will not cause any additional overshadowing to Macquarie Place or Australia Square from 14 April to 31 August between 10.00am and 2.00pm.</p> <p>The proposed tower falls within the shadows of the new tower development to the north at 33-35 Pitt Street and will cause no additional overshadowing to protected public places.</p>

Provision	Compliance	Comment
		Solar access and overshadowing is discussed in further detail below under the heading Discussion.
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposal exhibits design excellence as required by Clause 6.21C(2) and is recommended to be awarded an additional 10% floor space in accordance with Clause 6.21D(3), given it is the winner of an 'invited' architectural design competition and has retained the key elements of the winning scheme.</p> <p>The amended scheme adequately addresses recommendations made by the competition jury 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. The built form is compatible with the character of the locality and providing an appropriate relationship with the retained heritage buildings on the site and with the adjacent development.</p> <p>The proposal achieves the principles of ecologically sustainable development (ESD) 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 provision of street awnings, retention</p>

Provision	Compliance	Comment
		and protection of street trees and provision of an active frontage. Overall, the proposal satisfies the considerations in Clause 6.21C(2) of the Sydney LEP 2012 and the development is considered to exhibit design excellence.
Division 5 Site specific provisions		
6.25 APDG block	Yes	This application is for Block 5 under the provisions of this clause. The clause relates to additional permitted building heights, the provision of recreation areas, lanes and roads, businesses and retail premises fronting these areas, distribution of built form, and the calculation of floor space ratio. The proposed development is generally consistent with the requirements of this clause and is discussed in further detail below under the Discussion heading.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.6 Office premises and business premises	Yes	A maximum of 86 car parking spaces are permitted. The proposed development includes 52 car parking spaces and complies with the relevant development standards.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with Class 2 and Class 5 Acid Sulfate Soils. The amended application was accompanied by an Acid Sulfate Soils Management Plan, which was reviewed by Council's Environmental Health Unit and was found to be satisfactory. The plan is a contingency action should Acid Sulfate

Provision	Compliance	Comment
		Soils be found during excavation of the basement and footings.
7.15 Flood planning	No	<p>The site is identified as being subject to flooding.</p> <p>The application proposes development at or below the flood planning level. In accordance with the City's Interim Floodplain Management Policy a finished floor level of 0.3m above the surrounding ground is required. The proposed development does not comply with this requirement. This issue is discussed further below under the heading Discussion.</p>
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received subject to conditions of consent.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>The site is contained within the APDG block and is subject to site specific controls for the built form and character or the redevelopment precinct.</p> <p>Further, as a result of the Planning Proposal as discussed under the heading History Relevant to the Development Application above, additional site specific provisions were incorporated into the existing controls for Block 5 of the APDG site in Section 6.1.4 of the Sydney DCP 2012.</p> <p>The updated site specific controls for Block 5, in addition to the general considerations for development in Central Sydney as per Section 5.1 of the Sydney DCP 2012, satisfactorily address the matters for consideration in clause 7.20(4).</p>

Provision	Compliance	Comment
7.26 Public art	Yes	<p>The proposal includes public art which will be integrated with the detailed design of the development.</p> <p>The preliminary public art plan submitted with the application has been reviewed by the City's Public Art Unit.</p> <p>It is considered acceptable, subject to a condition included in Attachment A, which requires final details to be provided prior to the issue of a construction certificate.</p> <p>The preliminary plan provides sufficient details, however, to satisfy the tests in Clause 7.26(2) as follows, in relation to the proposed artworks throughout the development:</p> <ul style="list-style-type: none"> • They will not involve the display of any advertisements; • They will not increase the GFA of the buildings within the development; • They will not have any impacts to any nearby heritage items; and • They will not have any significantly adverse impacts on the amenity of the public domain, including by overshadowing, wind or noise impacts.

Development Control Plans

Sydney Development Control Plan 2012

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

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed lanes and public space are generally consistent with the APDG specific controls and will be required to

Provision	Compliance	Comment
		<p>be constructed in accordance with the City's specifications and design code.</p> <p>Details of the trees to be located within plaza areas are to be updated as part of further detailed public domain approvals.</p> <p>A public art contribution is documented as part of the VPA. This VPA public art component is in addition to that required by this DA alone. A public art strategy is being developed for the site in consultation with the Public Art Advisory Panel and as part of any approval, would require the DA component and VPA component to be included in the strategy.</p>
<p>3.2. Defining the Public Domain</p> <p>3.2.1 Improving the public domain</p> <p>3.2.2 Addressing the street and public domain</p>	Yes	<p>The proposal satisfactorily addresses the public domain, given that it:</p> <ul style="list-style-type: none"> • Minimises the overshadowing effects of the new building on protected public places; • Will not result in adverse wind impacts within the public domain or within the proposed through-site link and publicly accessible lobby area; • Does not impede on any significant views from the public domain to any public places, park, heritage buildings or monuments; • Incorporates high quality materials and finishes and public art in publicly accessible locations; • Provides multiple pedestrian points of entry into the development along Pitt Street, Queens Court and Underwood Street; and • Subject to conditions recommended by the City's Public Domain Unit, the proposed development will integrate with the public domain whilst achieving and acceptable flooding outcome.

Provision	Compliance	Comment
3.2.3 Active frontages	Yes	<p>The site is identified as having to provide active frontages to Pitt Street, Underwood Street, Dalley Street and Queens Court.</p> <p>The design intent of the proposed shopfronts maximises entries, shopfront display windows, minimises blank portions of the ground level facade and provides for a high standard of finish and architectural detail.</p> <p>The proposed development prioritises retail uses on the ground floor by reducing the area of the entry lobby and relocating the majority of the commercial office lobby functions to Level 1.</p> <p>The proposal also provides consistent weather protection along Pitt Street, Underwood Street and Queens Court with the addition of continuous street awnings, canopies and colonnades.</p>
3.2.4 Footpath awnings	Yes	<p>Awning(s) are required along Pitt Street as identified on the Footpath awnings and colonnades map.</p> <p>The proposal includes a continuous street awning along Pitt Street, wrapping around the building to Underwood Street to the north and Dalley Street to the south.</p> <p>The height, depth and form of the new awnings are generally acceptable and are consistent with the requirements of this provision.</p>
3.2.5 Colonnades	Yes	<p>The proposal also continues the existing colonnade cover over the remainder of Underwood Street (north) to provide continuous weather protection to pedestrians and is considered acceptable in this instance.</p>
3.2.6 Wind effects	Yes	<p>The application was accompanied by a wind report confirming that the proposed development will not have an adverse</p>

Provision	Compliance	Comment
		<p>impact on public safety and comfort at ground level in regard to wind.</p> <p>Accompanying documentation with the application confirms comfort criteria of sitting, standing and walking can be achieved in publicly accessible areas including Queens Court, Pitt Street, Underwood Street and the entry 'Cove' lobby.</p>
3.2.7 Reflectivity	Yes	A condition in Attachment A is to ensure that light reflectivity from the building facades in the proposed development does not exceed 20%.
3.2.8 External lighting	Yes	<p>No external lighting is detailed as part of the proposed development beyond generalised references in the application documentation.</p> <p>A condition is recommended in Attachment A to require the lodgement of a separate application for external illumination of the building and/or site landscaping.</p>
<p>3.3 Design Excellence and competitive design processes</p> <p>3.3.1 Competitive design process</p>	Yes	<p>As noted above under the History Relevant to the Development Application heading, the proposed development has been subject to an 'invited' architectural design competition and is consistent with the winning scheme by SHoP Architects and Woods Bagot.</p> <p>The competition was carried out prior to the lodgement of the subject application, in accordance with the City of Sydney Competitive Design Policy and a Design Excellence Strategy.</p>
<p>3.3.3 Award for design excellence</p> <p>3.3.5 Awarding additional floor space</p>	Yes	<p>In accordance with Clause 6.21D of the Sydney LEP 2012, the proposal seeks an additional 10% floor space on the basis that design excellence has been achieved through a competitive design process.</p> <p>The proposal has addressed the recommendations made by the competition jury and, as a consequence</p>

Provision	Compliance	Comment
		<p>of the 'invited' architectural design competition, the amended development is considered to be a "building demonstrating design excellence".</p> <p>As such, it is recommended to be awarded up to an additional 10% floor space.</p> <p>The additional floor space is pro-rated by the area covered by the competitive design process, as a proportion of the total developable site area.</p> <p>The competitive design process applies to the entire site and therefore the 10% floor space is calculated across the entire site.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse 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>In accordance with the Planning Agreement registered on the site and associated with the proposal, the development must achieve a:</p> <ul style="list-style-type: none"> • minimum 6 star Office Green Star v1.3 Design and Construct rating; • minimum 5.5 star rating on operation under the NABERS energy scheme; and • minimum 4-star rating in operation under the NABERS water scheme. <p>Appropriate conditions are recommended in Attachment A requiring the development to meet the energy commitments as above.</p>

Provision	Compliance	Comment
3.7 Water and Flood Management	No	<p>A site-specific flood study has been submitted to address flooding in the locality as the site is subject to flooding.</p> <p>The proposed flooding solution includes the use of flood barriers which under Council's interim flood management policy is a last resort measure.</p> <p>A detailed discussion is provided below under the heading Discussion.</p>
3.9 Heritage 3.9.1 Heritage impact statements	Yes	A Heritage Impact Statement has been prepared and submitted with the application considering the potential impacts of the proposed development on surrounding heritage fabric.
3.9.3 Archaeological assessments	Yes	<p>Two archaeological reports submitted with the application concluded that the site has low Aboriginal archaeology potential and no further study regarding Aboriginal remains on the site are needed.</p> <p>The site, however, is assessed to have historical archaeological potential and it is recommended that approval under Section 140 of the Heritage Act 1977 (excavation permit) be obtained. Similar advice was received by Heritage NSW and is discussed above under the heading Heritage Act 1977.</p>
3.9.5 Heritage items	Yes	<p>Although the site does not contain any heritage items, it is located within close proximity of several heritage items of local and state significance.</p> <p>The proposed development is not considered to have an adverse visual impact on surrounding heritage items and is generally in keeping with the historic built character of the locality.</p>
3.9.13 Excavation in the vicinity of heritage items and in heritage conservation areas	Yes	The proposed development is within the vicinity of heritage items and in the Sydney LEP 2012 including the Tank Stream. The proposal involves the excavation of the site to provide three

Provision	Compliance	Comment
		<p>levels of basement parking and service space. A Geotechnical Report submitted with the application concludes that the proposed development is suitable from a geotechnical perspective.</p> <p>Upon request of Council officers, the applicant further investigated the potential for sandstone quarrying during excavation. Additional advice provided concluded that high-quality sandstone is unlikely to be encountered in relatively large quantities.</p>
<p>3.11 Transport and Parking</p> <p>3.11.1 Managing transport demand</p>	Yes	<p>The proposal comprises a mixed-use development including a non-residential development exceeding 1,000 square metres of GFA. As such, it generates a requirement for a Transport Impact Study, Green Travel Plan and Transport Access Guide under the relevant provisions of Section 3.11.1 of the Sydney DCP 2012.</p> <p>A Transport Impact Assessment report has been submitted with the application in accordance with these requirements, which has been reviewed by Transport for New South Wales and the City's Access and Transport Unit.</p> <p>The latter has advised that it is acceptable with regard to the controls in Section 3.11.1 of the Sydney DCP 2012.</p> <p>Conditions are recommended in Attachment A to ensure the development of a Green Travel Plan and Transport Access Guide for the development.</p>
3.11.2 Car share scheme parking spaces	Yes	The proposal includes the provision of 2 car share vehicle spaces located within basement level 2 and is consistent with the requirements of this provision, subject to conditions.
3.11.3 Bike parking and associated facilities	Yes	The DCP requires a minimum total of 658 bicycle parking spaces for the site.

Provision	Compliance	Comment
		<p>The proposed development provides the following facilities:</p> <ul style="list-style-type: none"> • 474 staff bicycle spaces • 177 visitor bicycle spaces (additional 8 spaces provided at ground level) • 49 showers • 735 lockers <p>Bicycle parking and end of journey facilities are located on Levels 3 and 4 of the podium. The bike parking area is accessible via shuttle lifts in the basement and from Queens Court and satisfactorily meets the requirements of this provision.</p> <p>A condition is recommended in Attachment A to ensure compliance with the minimum requirements set out above.</p>
3.11.6 Service vehicle parking	Yes	<p>The provision at Section 3.11.6(1) of the Sydney DCP 2012 requires service vehicle parking to be provided in accordance with the requirements set out in Schedule 7.</p> <p>Schedule 7.8.1(1) of the Sydney DCP 2012 requires the provision of at least 21 service vehicle spaces.</p> <p>The proposed development provides 19 service spaces as a mix of Medium Rigid Vehicle (MRV) parking spaces and Small Rigid Vehicle (SRV) parking spaces within basement level B1 and within the loading area of the Telstra building. The application was amended to increase the number of service spaces on site and is considered acceptable.</p> <p>Further, there is a 57 overall space reduction compared to the existing development resulting in a large net reduction of vehicles entering the site.</p>

Provision	Compliance	Comment
		Subject to the conditions recommended in Attachment A requiring the submission of plans to confirm the location of parking spaces within the site and the further development of a freight, loading and servicing management plan, the proposed service vehicle parking provision is acceptable.
3.11.7 Motorbike parking	Yes	The application proposes 10 motorbike parking spaces within the basement levels. Associated end of journey facilities are provided on Levels 3 and 4 as discussed above.
3.11.9 Accessible parking	Yes	An accessible parking space is provided within a basement level of the proposed development.
3.11.10 Vehicle access for developments greater than 1000sqm GFA	No, but acceptable	<p>Vehicle access to the site is provided via a ramp on Dalley Street located approximately 11m from the intersection of Dalley Street and Pitt Street.</p> <p>The direction of travel along Dalley Street, however, requires vehicles to travel in an easterly direction, meaning only vehicles departing the site will be approaching the close intersection.</p> <p>Council's Transport Planner reviewed the proposal who supports the application subject to the submission of a car park management plan that addresses the implementation of a carpark signal systems and how vehicles entering the site are prioritised over vehicles exiting the site.</p>
3.11.11 Vehicle access and footpaths	Yes	<p>Conditions are recommended in Attachment A requiring the preparation of a detailed loading dock and car parking management plan that will outline time limits to the use of the driveway by service vehicles to times of low pedestrian activity and arrangements for access for service vehicles and private cars.</p> <p>Additional conditions require:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • Vehicles entering or leaving the site to do so in a forward direction; • Installation of signs at Dalley Street to compel drivers to give way to pedestrians; and • The preparation of car parking, loading and servicing management plan and transport access guides.
3.11.12 Tandem, stacked and mechanical parking areas	Yes	<p>The proposed development includes a turntable within the basement.</p> <p>Mechanical parking installations are acceptable, given the physical constraints posed by the site footprint, the subterranean Sydney Metro rail corridor beneath the site, and 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 turntable to be reviewed for suitability for implementation and compliance with Australian Standard AS 2890.1.</p> <p>The application also proposes tandem parking for commercial tenants. The tandem parking spaces comply with the relevant requirements of this provision.</p>
3.11.13 Design and location of waste collection points and loading areas	Yes	<p>Proposed waste storage and collection points are appropriately located close to the loading area on basement level 1.</p> <p>Suitable access is provided for collection vehicles and the proposal is suitable, subject to compliance with an approved Operational Waste Management Plan.</p>
3.11.14 Parking area design	Yes	<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 parking, loading and servicing management plan to be developed.</p>

Provision	Compliance	Comment
3.12 Accessible Design	Yes	<p>The building has been designed to provide accessible entry into retail premises at the ground floor, along the through-site link at Queens Court and throughout the commercial lobby and tower areas.</p> <p>The proposed development meets the requirements of this provision.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>A condition is to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.16 Signage and Advertising	Yes	<p>A condition is recommended in Attachment A that requires the submission of a separate development application for any future signage strategy and installation of business and building identification signs.</p>
3.17 Contamination	Yes	<p>A Detailed Site Investigation has been prepared and submitted with the application that concludes that the Site may comprise contaminated soils.</p> <p>Further, the application was accompanied by a Remediation Action Plan (RAP), describing appropriate remediation works needing to be carried out during excavation.</p> <p>Interim Audit Advice has also been provided with the application and confirms that the processes described in the RAP should be followed to ensure that the Site will be made suitable for the proposed use.</p> <p>Council's Environmental Health Unit have reviewed the submitted documentation and note that the recommendations are suitable and have</p>

Provision	Compliance	Comment
		recommended conditions provided in Attachment A requiring compliance with such recommendations.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposal includes floor to floor heights of 6.52m to retail premises fronting Pitt Street and laneways, a 20m lobby and equal or greater than 3.95m to commercial floors.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposal is not considered to cause an unacceptable overshadowing impact on surrounding developments or the public domain. See further discussion on solar access and the overshadowing to protected public spaces under the heading Discussion below.
4.2.3.5 Landscaping	Yes	Indicative landscape details have been provided and are considered acceptable. The proposed landscaping throughout the site is supported and conditions are recommended requiring detailed landscape plans to be submitted for further consideration.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The objectives and provisions of achieving a fine grain outcome and architectural diversity have been achieved through the design of the ground plans which incorporates a range and variety of retail tenancies. The activation of the ground level will ensure that a fine grain is achieved, while built form, landscaping and opportunities for leisure across the site

Provision	Compliance	Comment
		will ensure an inviting, scaled and highly articulated proposal is achieved.
4.2.6 Waste and recycling Management	Yes	<p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>Conditions are also recommended ensuring the development complies with an approved demolition, excavation and operational waste management plan.</p>

Section 5 – Specific Areas

Provision	Compliance	Comment
5.1 Central Sydney		
5.1.1 Built form controls 5.1.1.1 Street frontage heights and street setbacks	Yes	<p>The proposed development incorporates a podium height of 45m and is consistent with the requirements of this provision.</p> <p>The building setback provisions for the APDG block are contained within Section 6 of the DCP and are discussed in the table below.</p>
5.1.1.3 Side and rear setbacks and building form separations	Yes	Building form controls including side and rear setbacks are contained within the site specific controls for the site in Section 6.1.4 of the DCP and are discussed further in the table below.
5.1.1.4 Built form massing, tapering and maximum dimensions	Yes	<p>The proposed development meets the objectives of this provision.</p> <p>Specific building form and tower controls are contained within the site specific controls for the site in Section 6.1.4 of the DCP and are discussed further in the table below.</p>
5.1.2 Development outlook and demonstrating amenity compliance	Yes	The proposed tower development is designed to reduce the impact of additional overshadowing on surrounding public domain areas.

Provision	Compliance	Comment
		Further the proposed tower does not rely on neighbouring properties for access to views and light and is consistent with the requirements of this provision.
5.1.4 Building exteriors	Yes	<p>The predominant masonry character and articulation of Central Sydney north of Park Street is required to be reinforced, particularly at the lower levels of buildings. Masonry finishes, being natural sandstone to the ground floor and sandstone finish large format GRC panels to upper levels are proposed.</p> <p>The tower design uses curved terracotta surrounds (fins) thorough the majority of the tower facades to avoid extensive expanses of blank glass while the solid wall areas covering the western core employs texture and colour differences that contribute successfully to the city skyline.</p> <p>While there are minor projections for operable window elements within the podium and sun shading fins to the southern facade of the tower, these are within the maximum projection of 450mm.</p>
5.1.6 Heritage floor space	Yes	As discussed in Section 6.11 of the LEP table above, a condition is recommended requiring the allocation of heritage floor space.
5.1.7 Sun protection of public parks and places	Yes	The site is not affected by sun access plan provisions, however, as discussed above, the proposed tower will not result in any additional overshadowing to protected public places, specifically Macquarie Place to the east and Australia Square to the south.
5.1.8 Views from public places	Yes	The proposal will not affect views to any significant spaces from the public domain and is consistent with the requirements of this provision.
5.1.9 Managing wind impacts	Yes	The application was accompanied by a wind report confirming that the proposed

Provision	Compliance	Comment
		<p>development will not have an adverse impact on public safety and comfort at ground level in regard to wind.</p> <p>Accompanying documentation with the application confirms comfort criteria of sitting, standing and walking can be achieved in publicly accessible areas including Queens Court, Pitt Street, Underwood Street and the entry 'Cove' lobby.</p>

Section 6 – Specific Sites

Provision	Compliance	Comment
6.1.4 The APDG site (bounded by Alfred, Pitt, Dalley and George Streets)		
<p>6.1.4.1 Local Infrastructure and Public Domain</p> <p>General</p>	Partial compliance	<p>The proposal will include the widening and expansion of Queens Court to create a through-site link connecting Dalley Street and Underwood Street (east-west). The through-site link will have a width of between 4m and 6m.</p> <p>The proposed public domain will create a permeable and integrated pedestrian network that aligns with the through-site link of the adjoining development and provides opportunities for relaxing, eating, meeting and greeting.</p>
Streets, lanes and through-site links	Partial compliance	<p>The proposed Queens Court through-site link has been designed in accordance with Figure 6.9A public domain principles plan.</p> <p>The vehicular and service entry has been provided along Dalley Street.</p> <p>The footpath on the southern side of Underwood Street has been widened to 3m to provide adequate pedestrian amenity.</p> <p>The proposed bridge link at level 1 connecting the commercial lobby to the lift cores is wider than the recommended 3m width as per the DCP. The application has been amended to reduce the bridge width from 9m wide to 5.5-</p>

Provision	Compliance	Comment
		6.7m that works with the lift core geometry. Although the width of the bridge is not consistent with the recommended 3m, the reduced width of the amended proposal will allow better light penetration from Underwood Street into Queens Court and will not overwhelm the scale of the laneway.
Active frontages	Yes	In accordance with Figure 6.12A of the DCP, the proposal provides active frontages on Pitt Street, Underwood Street (east-west and north-south) and Queens Court through fine grain retail, glazed shopfronts and the integration of public art along the ground plane facades.
Awnings	Yes	The proposal provides an awning along Pitt Street in accordance with the footpath awnings and colonnades map.
6.1.4.2 Built Form and Design Building Height	Partial compliance	The proposal has a maximum building height of 232m, with the exception of an architectural roof feature which is permitted under clause 5.6 of the Sydney LEP 2012 and is discussed in further detail under the heading Discussion.
Street Frontage Height and setbacks	Yes	<p>The proposed development includes street frontage heights and setbacks consistent with the requirements of the DCP.</p> <p>Street frontage heights and setbacks are discussed in further detail below.</p>
Building design and bulk	Yes	<p>The proposed building envelope is generally consistent with Figure 6.10A of the DCP with the exception of the proposed architectural roof feature extending over the maximum height control.</p> <p>The proposal also includes an allowance for facade articulation equivalent to 1.65% of the building envelope and is generally consistent with this control.</p>

Provision	Compliance	Comment
		<p>Ground floor retail will be provided with amenities, storage and back-of-house spaces to support uses, as well as spaces generous in height with highly glazed frontages, allowing visual connectivity to the public realm.</p> <p>Office spaces throughout the podium will be open plan supporting visual connectivity and interest to Queens Court.</p> <p>The proposal is located adjacent to the Lendlease Salesforce Tower. Accordingly, privacy measures have been implemented along the northern facade to ensure visual privacy is maintained. The tower is setback 3-4m along the northern facade to provide adequate separation distance. The southern portion of the northern facade is the soft-core and will present a solid wall along the lift core. The northern facade of the main tower will include the following privacy measures:</p> <ul style="list-style-type: none"> • Terracotta sun shading surrounds • Louvers • Obscure glazing • Internal blinds
Design Excellence Strategy for Development Block 5	Yes	<p>As discussed above under the heading History Relevant to the Development Application, the proposal is a result of a competitive design process in which an 'invited' architectural design competition occurred.</p> <p>In accordance with the DCP, the additional floorspace pursued for demonstrating design excellence is provided within the building envelope and no additional height which includes floor space has been proposed as a result of the competition.</p>
6.1.4.3 Parking and Vehicular access	Yes	The proposed vehicular access point is provided on the eastern section of

Provision	Compliance	Comment
		<p>Dalley Street which is consistent with Figure 6.15A of the DCP.</p> <p>The basement car park provides shared services across the Site. The loading dock facilities are provided within Basement Level 1, and no above ground parking is proposed.</p>
6.1.4.4 Floodplain Management for Development Block 5	Yes	<p>A Flood Impact Assessment has been prepared and submitted with the proposed development.</p> <p>The Flood Impact Assessment has identified flood mitigation measures to ensure the impacts of potential flooding are managed, while maintaining an accessible, connected and inviting public domain.</p> <p>The vehicle access ramp on Dalley Street will be passively flood protected above the 5% AEP via a threshold crest set at RL 4.15m.</p> <p>Council's Public Domain Unit have reviewed the submitted flooding information and the matter is discussed further under the heading Discussion below.</p>
6.1.4.5 Sustainability for Development Block 5	Yes	<p>The application was submitted with an ESD report confirming the proposed development can achieve the following:</p> <ul style="list-style-type: none"> • New commercial buildings should be designed to meet a 6 star Greenstar rating. • New commercial buildings should be designed to meet a 5.5 star NABERS Energy rating for base building of the commercial component, evidenced by the provision of a NABERS Energy Commitment Agreement prior to the issuing of relevant Construction Certificate. • New commercial buildings should be designed to meet a 4 star

Provision	Compliance	Comment
		<p>NABERS Water score for the commercial component.</p> <ul style="list-style-type: none"> • New commercial development should achieve net-zero carbon, zero waste and water efficient outcomes. <p>Conditions are recommended that requires the development to achieve such commitments.</p>

Discussion

APDG site provisions

67. The site is subject to site specific provisions relating to tower height, podium height, setbacks, through site links and general built form and design.
68. The application seeks to utilise the provisions in Clause 6.25 of SLEP 2012 for the 'APDG block'. The controls provide that on block 5, being the land the subject of this application, a building may be erected with a height of up to 232 metres to a maximum of 44% of the block area.
69. In order for the increased height provisions under Clause 6.25 to apply, the consent authority must be satisfied that the development application:
- (a) includes recreation areas and lanes and roads through the site
 - (b) includes business premises and retail premises that have frontages at ground level to those recreation areas, lanes and roads
 - (c) provides a satisfactory distribution of built form and floor space development; and
 - (d) the development relates to the whole block (and except as otherwise provided) no other land.
70. A building on block 5, must also not be used for the purpose of residential accommodation or serviced apartments.
71. The application has provided recreation areas with the provision of the Queens Court through site link in accordance with the public domain plan as detailed in Part 6.1.5 of SDCP 2012.
72. The proposal includes premises with frontages at ground level to the recreation areas, lanes and roads. The ground level uses are predominantly independent to the commercial tower and are designed to activate the plazas and laneways. The fitout of the premises would be the subject of separate applications.

- 73. The development provides a satisfactory distribution of form and floor space within the block. The proposed building form aligns with the relevant height and FSR controls and is distributed in accordance with relevant site specific controls contained in SLEP 2012 and SDCP 2012. The proposed building to a height of 232 metres occupies 44% of the block area.
- 74. The development relates to the whole of block 5 as defined in Clause 6.25 and no development is proposed for the purpose of residential accommodation or serviced apartments.
- 75. The proposal is therefore able to be considered for approval under the provisions of Clause 6.25 of SLEP 2012.
- 76. Additionally, the site has a series of height and setback controls prescribed in section 6.1.4.2 and is shown in Figure 45 below. Figure 46 then provides a comparison to the DCP height and setback controls to the proposed development, demonstrating compliance with the numeric controls, excluding the height of the architectural roof feature.

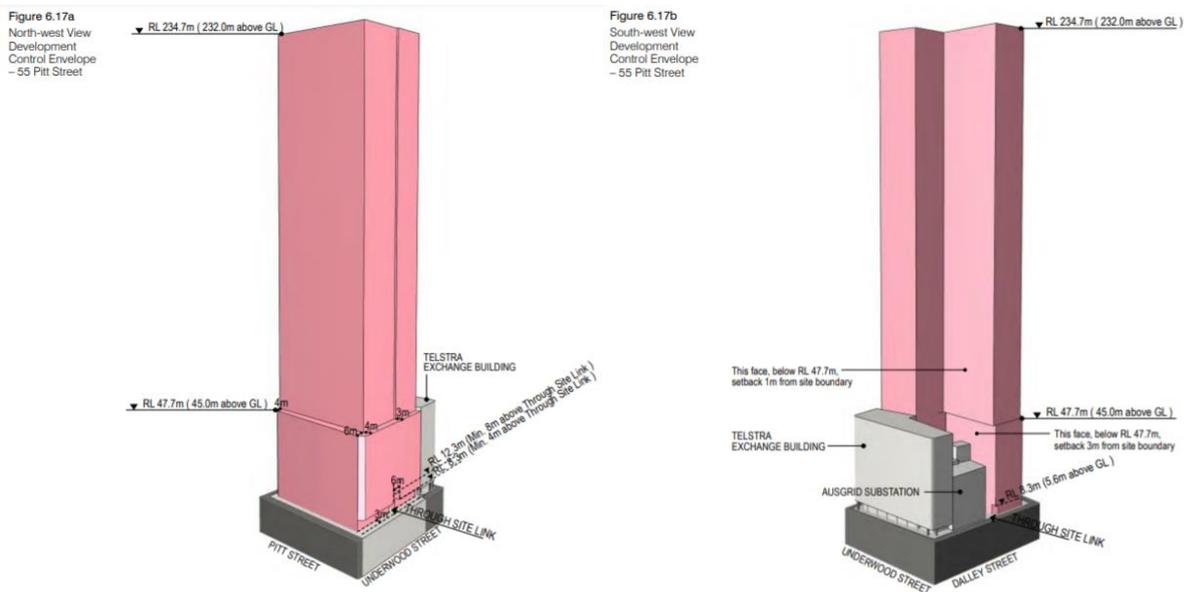


Figure 45: Sydney DCP 2012 Envelope controls including tower height, street frontage heights, setbacks and through site link dimensions

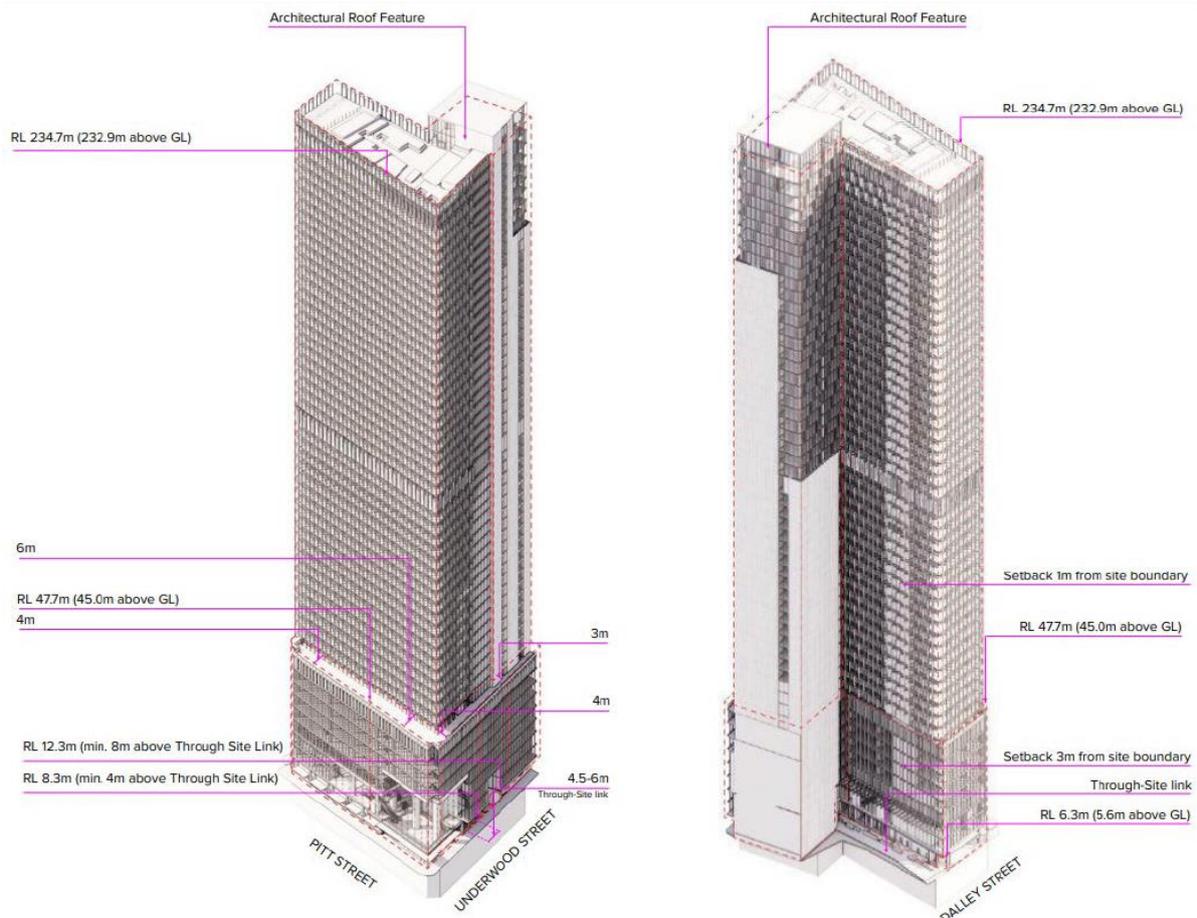


Figure 46: Proposed building tower height, podium height, setbacks and through site link dimensions

77. Although the proposed development is generally consistent with the majority of the numeric controls prescribed for the site, some aspects of the development do not comply with the DCP and are discussed in further detail below.

Queens Court

78. The design of the Queens Court and through-site link is strongly supported, however, requires some further design refinement.
79. The City's Public Domain Unit has reviewed the application and notes that the design of the Queens Court public through-site link, as agreed in Planning Agreement, must include an open, inviting entrance to Queens Court from Dalley Street with all internal planters, seats, walls, stairs and handrails to be within the private property boundaries, a clear accessible thoroughfare through City's land on Queens Court and all doors adjacent must open wholly within building lines (to prevent pedestrian obstruction and hazards). The concept design must provide the public with passive areas to meet and dwell (including items such as fixed furniture for sitting and dining) and must not favour commercial interests over public interests.
80. The design of Queens Court provides ramp access to part of the laneway whilst the remaining part is access from Dalley Street via stairs to address flood levels as shown in Figure 47 below. The use of the portion of Queens Court by vehicles servicing the Ausgrid substation building and the Ausgrid chamber below needs to be clarified as this will potentially require a clearance to the existing Queens Court road reserve.

- 81. It is recommended that this ramped area be maximised in width and may require a slight relocation of planters to be located wholly within the privately owned portion of the through-site link. A condition is recommended requiring the submission of detailed plans of Queens Court showing widths to allow for vehicle access and for all public domain elements to be located within privately owned land to ensure that all the publicly accessible spaces surrounding the site correlate and work successfully.



Figure 47: Perspective drawing of Queens Court from Dalley Street. Ramped vehicle access must be provided to service the Ausgrid site to the left of the image.

- 82. Further, the proposal will include a glazed awning over Queens Court to a height of 14m above finished ground level, exceeding the minimum required height of 10m. The proposed bridge above Queens Court will have a minimum clearance of 5.4m to the underside of the bridge and is consistent with the site specific requirements of the DCP as per Figure 6.17c of the DCP and as provided below in Figure 48.

Figure 6.17c
Development Control Envelope – 55 Pitt Street

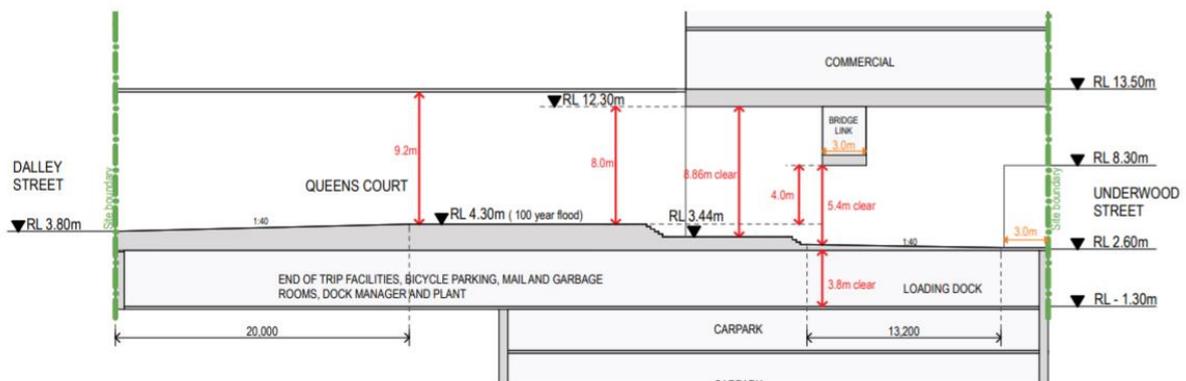


Figure 48: DCP controls for Queens Court dimensions

83. The proposal, however, includes an amended alternative bridge width from the recommended 3m to a width of 5.5m - 6.7m, it was reduced from nine metres which is a substantial variation from the maximum DCP control of 3m. Whilst the proposed width exceeds the recommended 3m, the wider proposal is not considered to adversely impact pedestrian amenity along Queens Court and is considered to meet the objectives of the DCP. See Figure 49 below for a comparison between the original proposed 9m wide bridge with the amended width.
84. The proposed bridge is considered to maintain a sense of openness and space within Queens Court, ensuring that the bridge is a lightweight addition and the civic qualities of Queens Court are maintained. The following specific design strategies have been adopted for the bridge design:
- An increased height of the entryway into Queens Court from Underwood Street from 9.5m to 14m, increasing the perceived scale of the space.
 - The proposed canopy treatment over Queens Court will be extended along the whole length of Queens Court and will be raised from the compliant 10m to 14m, improving the public realm experience through creating a more generous scale and sense of openness.
 - Reduction of the bridge to a single height feature, in turn emphasising the bridge as a link between two separate volumes and allowing a void between the Queens Court canopy and the bridge which enhances visual permeability through the lane.
 - The Queens Court bridge will have fully glazed façades and operable windows to allow visual permeability and natural light penetration through the bridge, and continuation of sightlines through the lane.



Figure 49: Original (captioned as Current) and reduced width (captioned as Proposed) bridge link over Queens Court as viewed from Underwood Street

Fire Stair, Commercial and Retail Egress Doors

85. The DA plans show numerous doors, from fire exits, retail and commercial spaces, opening into the public domain and pedestrian paths of travel, which is not safe. Such obstructions can hinder movement and become a hazard and health risk to patrons and pedestrians.

- 86. The application was discussed with the City's Public Domain unit who recommend that all doorway designs and configurations must be amended to show all doors opening wholly within the building line, without causing obstructions or impediments. A condition of consent is recommended that requires amended plans to be submitted for review.

Solar Access and Overshadowing to Protected Public Places

- 87. Clause 6.18 of the Sydney LEP 2012 and Sections 4.2.3.1 and 5.1.7.2 of the Sydney DCP 2012 require developments to address solar access to surrounding uses and within Central Sydney, to protected public places.
- 88. Although uses surrounding the site are predominantly commercial and tourist and visitor accommodation, residential apartment uses are noted at 4 Bridge Street, 44 Bridge Street, 8 Loftus Street, 18 Loftus Street and 15 young Street. Submitted shadow diagrams, as provided in Figures 50 and 51 below, confirm that the proposed development will have no additional overshadowing impact on surrounding residential uses.



Figure 50: Overshadowing caused by proposed development at 9am and 12pm on winter solstice identified in red. Subject tower site outlined in green. Residential uses identified in blue.



Figure 51: Overshadowing caused by proposed development at 2pm on winter solstice identified in red. Subject tower site outlined in green. Residential uses identified in blue.

- 89. When considering the overshadowing impact of the proposed development to public places, the greatest impact occurs at 9am on 14 April (see figures 52 and 53 below) where the shadows fall upon the forecourt of 243-259 George Street. Although the forecourt to this site is publicly accessible, it is not a protected public place as identified in Clause 6.18 of the Sydney LEP 2012 and Section 5.1.7.2 of the Sydney DCP 2012.
- 90. The proposed tower will not result in any additional overshadowing to protected public places, specifically Macquarie Place to the east and Australia Square Plaza to the south. Figures 52 and 53 provide shadow diagrams of the proposed tower on 14 April and surrounding protected public places that must not be impacted by additional overshadowing as required in the Sydney DCP 2012.

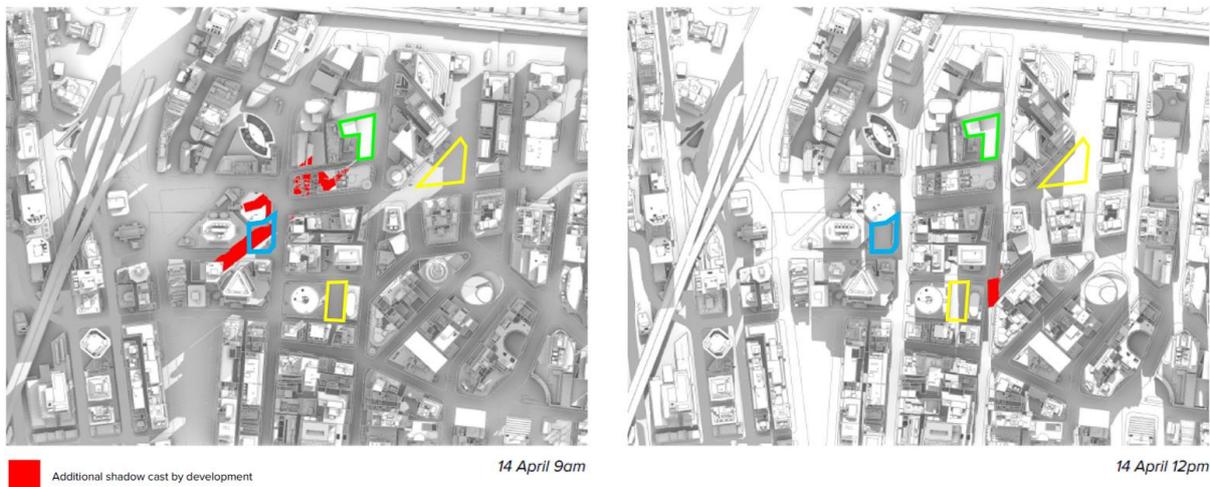


Figure 52: Overshadowing caused by proposed development at 9am and 12pm on 14 April. Subject tower site outlined in green. 243-257 George Street identified in blue. Protected public places identified in yellow.

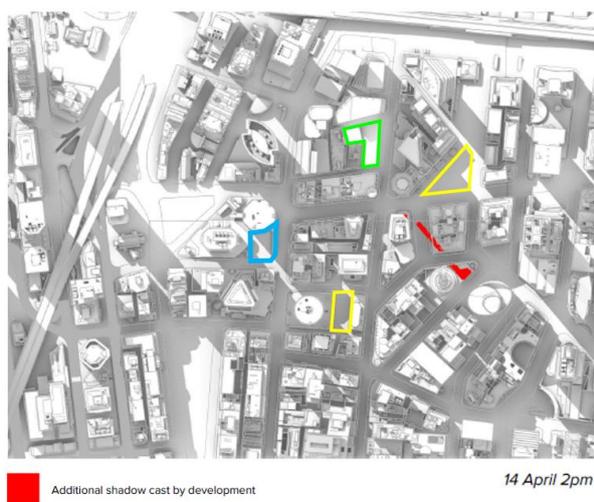


Figure 53: Overshadowing caused by proposed development at 2pm on 14 April. Subject tower site outlined in green. 243-257 George Street identified in blue. Protected public places identified in yellow.

91. Figures 54 and 55 below provide excerpts of Figures 5.39 and 5.42 of the Sydney DCP 2012 identifying the indicative maximum heights of buildings so as to not cause any additional overshadowing over protected public places. Figure 54 confirms the subject site falls outside areas that would cause overshadowing to Macquarie Place whilst Figure 55 notes the western edge of the development site having a potential impact on Australia Square Plaza. The proposed development does not propose any additional height to the existing Telstra utility building and as such, will not impact solar access to the plaza.



Figure 54: Macquarie Place No Additional Overshadowing. Subject site outlined in red.



Figure 55: Australia Square Plaza No Additional Overshadowing. Subject site outlined in red.

Invited Architectural Design Competitions Jury Recommendations

- 92. As discussed above under the heading History Relevant to the Development Application, the proposal has been subject to an international invited architectural design competition in which the SHoP Architects and Woods Bagot scheme was selected as the winning scheme given the proposal presented a distinctive character, and the strongest identity and commercial presence noting the objectives of the Competition Brief.
- 93. The Jury identified a number of matters to be refined during the design development phase of the project to ensure the design adequately responds to the Competition Brief and exhibits design excellence while maintaining the original design intent and are discussed in further detail below.

Jury Recommendation	Response
<p>Public realm, Entry and Laneways: The public realm, entry and laneways require further resolution to reconcile the simplicity and unity of the podium with need for integration and activation of the street. This will require further technical review of the ground plane and its interaction with the public domain. Specifically, resolution of the following is required:</p>	
<p>A more resolved and coherent architectural language along Pitt Street is required. Consideration of the awnings, retail entries, lobby entry and relationship of these</p>	<p>The architectural language along Pitt Street has been resolved to have a more legible, contextual and unified presentation to the public domain. The veil enclosing the entry</p>

Jury Recommendation	Response
<p>elements to the podium is needed to enable a stronger and more unified presentation to the public realm</p>	<p>way solidifies the relationship of the Pitt Street frontage with the urban block and will include a bronze metal awning to give emphasis to the main entry on the north eastern corner of the site. The southern section of the Pitt Street frontage utilises sandstone treatment that is consistent with the materiality of the podium and presents a common condition of the built form in Sydney.</p>
<p>Finer resolution of the entries, door portals, ramps, stairs and landscaped platforms – in particular generous dimensions to enable seamless pedestrian movement throughout the ground plane, at the same time - accommodating equitable access and achieving appropriate wind conditions.</p>	<p>The entries, door portals, ramps and stairs have been coordinated with a pedestrian modeller and informed by access consultants, wind consultants and civil (flood) engineers. Level street access has been provided to all retail tenancies as there is a strong desire to create and facilitate equitable access and activation along the street frontages and avoid DDA restrictive steps and intrusive ramps. Equitable access has also been achieved through the provision of a DDA lift and generous circulation distances within the entry area.</p>
<p>Resolution and simplification of Queens Court, including review of the landscape elements which create a structured separation between seating and circulation and navigation of levels to achieve a simpler and more urban laneway quality.</p>	<p>Landscape elements in Queens Court have been simplified to create a narrower and more streamlined planter along the centre of the through-site link providing separation between retail seating to the east and circulation to the west.</p>
<p>A technical review of all relative levels is required to ensure seamless connections, achievement of the required flood planning levels and equitable access.</p>	<p>Levels throughout the public realm have been coordinated with the landscape architect, civil (flood) engineer and access consultant to achieve the required flood planning levels and equitable access.</p> <p>Equitable access is achieved through appropriate ramping throughout the ground plane and the location of the DDA lift adjacent to the escalators at the ground floor main entry.</p>
<p>Podium</p>	
<p>The detailed relationship of the facade and slab edge is to be integrated with tenant requirements regarding flexibility and</p>	<p>The relationship of the facade and slab edge has been resolved through providing an architectural hierarchy of the vitrine</p>

Jury Recommendation	Response
<p>security, whilst maintaining the concept of a fine facade, structural and landscaped edge.</p>	<p>facade which clearly defines the mid-door zones with operable windows from the typical office floor zones. This results in a finely detailed outcome. The provision of landscaping has been retained in the base-building design, ensuring the concept is retained and celebrated.</p>



Figure 56: Perspective drawing extracts of the podium design from Pitt Street in the competition design (left) and in the amended design (right)

Tower

<p>The terracotta sunshades on the tower facade require further resolution to optimise their sun-shading efficacy. This is to contribute to an improved ESD performance through consideration of varied depth and differing requirements of the four orientations.</p>	<p>Significant design development has occurred on the sunshades ensuring the function of solar shading and heat glare reduction is optimised.</p> <p>Further design development as a result of design amendments during the assessment of the application have also optimised the finds performance. Shading effectiveness studies were carried out and conclude that the proposed terracotta fins reduce the solar load on the glazing on the east and west facades by approximately 20% annually, and by 14% during the summer months, compared to no shading.</p>
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<p>The ability of the 'soft core' to manage wind loads and the operability of the facade needs to be further resolved. The management of heat loads and glare from the strong western sun need to also be</p>	<p>The operation and effectiveness of the soft-core façade has been studied in depth with Cundall to ensure that both the comfort conditions of the space is achieved and transparency maintained.</p>
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Jury Recommendation	Response
resolved while retaining the clarity, lightness and transparency of the facade.	
As with the podium, the detailed relationship of the facade and slab edge, and the presence of voids across the floor plate to deliver interconnectivity, are to be integrated with tenant requirements regarding flexibility and security.	The proposal does not currently include interconnected floorplates in the current design, but it is anticipated that these will be delivered in the detail tenant fit outs. The proposed scheme provides a high level of tenant flexibility through the arrangement of the tower floorplates. The core has been consolidated to the north western section of the building which maximises the opportunity to create contiguous floorplates. The layout of the floorplate also provides the ability to efficiently maximise tenant subdivisions or changing workplace layouts whilst ensuring equal access to the services in the core, daylight, and ventilation.
Further investigation and technical review, particularly from a wind perspective and need for services allocation, is required to ensure the usability and comfort of the roof terrace while maintaining the balance of open and enclosed spaces.	The roof level has been coordinated with the landscape architects, wind consultant and services engineers, and has been designed to provide both usability and conform to the tenants and visitors. Wind conditions have been mitigated through the incorporation of both open and closed spaces, landscaping and high-level balustrades all contained within the maximum height limit.
The proposed structural solution which incorporates a hybrid timber approach is noted, however it is acknowledged that a detailed technical, buildability and costing review, as well as authority approval, is required to align this solution with the project objectives, and aspirations.	A review of the buildability and costing of the project has been undertaken, and it has been determined that a timber hybrid approach is not suitable for the project. Accordingly, the structural solution of the building is proposed to be more conventional and will be subject to further design development.
ESD	
The investigation of water reuse and renewables should be undertaken to enhance and contribute to the suite of ESD initiatives to be delivered as part of the VPA.	A number of water reuse techniques and renewables have been incorporated into the proposed sustainability strategy.
Interiors and Planning	

Jury Recommendation	Response
<p>The core configuration, including the arrangement of lifts and incorporation of adequate service risers, should be further resolved with technical input.</p>	<p>The core configuration has undergone design development, informed by structural and service engineers and a vertical transport consultant to create both efficient and practical vertical travel. The core configuration will be subject to ongoing coordination through the design development phase.</p>

Building Height - Architectural Roof Feature - Clause 4.6 Request to Vary a Development Standard

- 94. The site is subject to a maximum height of buildings control of 232m over 44% of the block. The proposed development has a height of 232m covering 44% of the block with an architectural roof feature 6.1m above, with a resulting total height of 238.1m.
- 95. The application has included a request to vary the height of buildings development standard pursuant to Clause 4.6 of the Sydney LEP 2012.

Architectural Roof Feature

- 96. Clause 5.6 of the Sydney LEP 2012 allows architectural roof features to exceed height limits provided the feature does not cause an adverse visual impact and is integrated with the building design. Figures 57 and 58 below provide photomontage and perspectives drawings of the proposed architectural roof feature and the relationship of the feature with the main tower structure and maximum height limits.

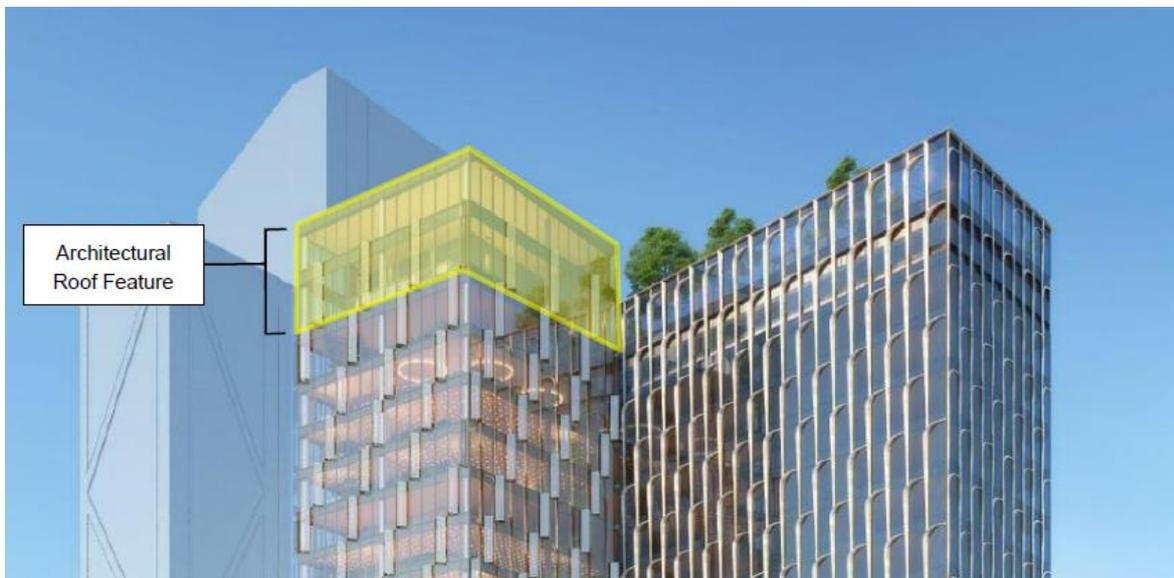


Figure 57: Photomontage of proposed architectural roof feature



Figure 58: Perspective drawing of proposed architectural roof feature form exceeding the maximum height limit

97. Clause 5.6(3) requires the consent authority to be satisfied that the architectural roof feature:
- is a decorative element on the uppermost portion of the building
 - is not an advertising structure
 - does not include floor space area and is not reasonably capable of modification to include floor space area
 - will cause minimal overshadowing; and
 - that any building identification signage or servicing is fully integrated into the design of the roof feature.
98. The proposed roof feature is located on the uppermost portion of the building and satisfies the requirements of this provision in that it:
- Is designed in a way to emphasise the verticality of the building form, acting as an extension of the strong linear facades and appropriately concealing the building services. It is a decorative element at the top of the tower that contains no floorspace or signage
 - Will not result in any significant overshadowing, particularly given it is a small component of the overall built form
 - Does not include any floor space and only contains elevator machine rooms, plant and void space for GFA which is located below the maximum height limit
 - Does not cause significant additional environmental impact which would render it incompatible with its surrounding land uses and ensures the proposal is appropriate for the context of the Site
99. The proposed roof feature is considered to reasonably comply with the provisions and be able to be considered an architectural roof feature in accordance with Clause 5.6 of Sydney LEP 2012.

Clause 4.6 Request to Vary a Development Standard

100. 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
 - b. That there are sufficient environmental planning grounds to justify contravening the standard
 - c. The proposed development will be consistent with the objectives of the zone; and
 - d. The proposed development will be consistent with the objectives of the standard.

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

101. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant has referred to *Wehbe v Pittwater Council*, whereby Preston CJ establishes the test for determining whether compliance with a development standard is unreasonable or unnecessary. A summary of the applicant's request is provided below
 - (ii) The development is consistent with the objectives relating to building height and design excellence considerations as provided in the Sydney LEP 2012
 - (iii) The proposal is consistent with the objectives of the specific architectural roof features controls
 - (iv) The roof feature has been designed as an integrated building element as part of the overall building design
 - (v) The extent of non-compliance is minor
 - (vi) There are no significant adverse environmental planning impacts associated with the non-compliance
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The applicant has referred to *Initial Action Pty Ltd v Woollahra Municipal Council* and focuses on the aspect or element of the development that contravenes the development standard, not on the development as a whole; and why that contravention is justified on environmental planning grounds. A summary of the applicant's discussion is provided below.

- (ii) There is an absence of environmental harm arising from the contravention, for reasons set out in the discussion under (a) above.
- (iii) The height variation is considered to be in the public interest given its ability to:
 - (i) Be designed consistent with the provisions for architectural roof features in Section 5.6 of the Sydney LEP
 - (ii) Not cause significant additional adverse natural and built form impacts; and
 - (iii) Provide site specific environmental planning grounds demonstrating that strict compliance is unreasonable or unnecessary in the circumstances.
- (iv) The proposed development will be consistent with the objectives of clause 1.3 of the Environmental Planning and Assessment Act 1979:
 - (i) The proposed height variation will promote the social and economic welfare of the community by enabling a higher performing building with enhanced amenity catering to tenants seeking to position themselves in the Sydney CBD.
 - (ii) The proposed variation allows for building services to be located above the maximum height limit. It will facilitate the usability of the rooftop terrace by future tenants and visitors, providing a highly sustainable development outcome. Furthermore, the height variation will have no negative impact on environmental and social considerations and will support the economic health of the Sydney CBD.
 - (iii) The proposal is a balanced and orderly design outcome that responds to the unique characteristics of the site and does not represent the over intensification of land as it does not comprise habitable commercial office floor space above the height limit.
 - (iv) The proposal will promote good design and amenity of the built environment by exhibiting a high quality and sculptured design which adds to the architectural diversity of the Sydney CBD skyline.
- (c) The proposed development will be consistent with the objectives of the zone;
 - (i) Provides for a development that is of an intensity consistent and commensurate with the site's location in the Sydney CBD
 - (ii) Provides for a diversity of land uses complementary to Sydney's global status and will contribute to the strength of Sydney's status as a world city
 - (iii) Facilitates significant public benefit in the form of a public lane in the extended Queens Court, a new activated ground plane, and the upgrade of two utility buildings which contribute to the APDG precinct
 - (iv) Will provide commercial workspace which is well connected to major transport infrastructure such as heavy rail, bus and ferry services as well as the future Martin Place Metro Station
- (d) The proposed development will be consistent with the objectives of the standard;

- (i) The site is located in the Sydney CBD and sits within the APDG Block which forms an important part of the financial, professional and business services core of Central Sydney. Importantly, directly north of the site, an architectural roof feature was approved on the site at 182 George Street and 33-35 Pitt Street (referred to as the Lendlease CQ Tower), which included a 15 metre variation to the development standard. The height proposed and subject to this clause 4.6 variation request aligns with the approved architectural roof feature of the Lendlease CQ Tower to the north. Notwithstanding the non-compliance with the height of buildings standard, the proposal meets the aims of objective 4.3(1)(a).
- (ii) There are several heritage items in the vicinity of the site. The location of the proposed architectural roof feature on the north western corner of the site at the uppermost levels of the tower will ensure no surrounding heritage items are impacted. Overall, the proposed variation continues to maintain appropriate height transitions between new development and the surrounding heritage items.
- (iii) The proposed variation will not result in any significant additional impacts to views from surrounding buildings or public places. As previously mentioned, the Lendlease CQ Tower which is under construction, includes an architectural roof feature with a height that aligns with the top of the roof feature proposed as part of this clause 4.6 variation. The CQ Tower rooftop feature includes a useable landscaped rooftop. View impacts from the CQ Tower rooftop terrace to the proposed roof feature are considered negligible given primary and more highly valued views are to the north and the significant setback as a result of the BMU which wraps the perimeter of the western rooftop feature on CQ Tower. The outlook from the commercial office levels below the roof feature of the CQ Tower will be improved by way of appropriate screening proposed as part of the proposed roof feature.

In addition, the component of the development which exceeds the height of buildings development standard, being the proposed architectural roof feature, does not significantly impact existing public or private views as:

- (i) The site is not positioned in any significant view corridors.
- (ii) The existing development on the site already inhibits views across the site, and the new building will be to a much greater height which is largely above surrounding building heights.
- (iii) The additional height associated with the architectural roof feature will not block any significant views for surrounding residences.
- (iv) The additional height (given its location and height relative to the ground plane) will not be discernible.

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

102. 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)?

103. The application is considered to address the requirements in Clause 4.6(3). The architectural roof feature meets the requirements of Clause 5.6(3) of SLEP 2012, and pursuant to Clause 5.6(2), the roof feature may exceed the nominated height limit. The additional height was considered as part of the architectural design competition and is an integrated element of the building. The additional height does not result in any adverse environmental impacts in the locality.

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

104. The applicant has successfully demonstrated that strict compliance with the height of buildings development standard would result in a poorer outcome for the site, as discussed in Preston CJ in Initial Action Pty Ltd v Woollahra Municipal Council. In particular, strict compliance with the standard would not improve the amenity of the surrounding area noting that the development is compatible with the emerging and desired future character of the area.
105. The applicant has referenced the site constraints, the desired built form and the minimal environmental impacts caused by the extent of the noncompliance to demonstrate that there are sufficient environmental planning grounds to justify contravening the height of buildings development standard. The applicant has also provided an acceptable discussion to confirm the amended proposal will exhibit design excellence and is consistent with Part 6 Division 4 of the Sydney LEP 2012.
106. To summarise the applicant's submission, the extent of the variation is limited to the area occupied by an architectural roof feature which is consistent with the relevant matters for consideration is Section 6.25 of the Sydney LEP and as discussed throughout this report.
107. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of variation proposed.

Is the development in the public interest?

108. The proposed development is considered to be in the public interest as it is consistent with the objectives of the height of buildings development standard and objectives of the B8 Metropolitan Centre zone.
109. The objectives of Clause 6.25 APDG block are:
- (1) The objective of this clause is to provide for additional building height on parts of certain sites (within the area bounded by Alfred Street, Pitt Street, Dalley Street and George Street (known as the "APDG block")) if the development of the site provides for publicly accessible open space, lanes and other links through the site.
110. The proposed development is consistent with the objectives of the APDG block as the proposal provides publicly accessible open space and a through site link. The proposed architectural roof feature will not adversely impact the public amenity

provided to these proposed publicly accessible spaces or surrounding existing or proposed publicly accessible places within the greater APDG block.

111. The objectives of the height of buildings 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
 - (c) to promote the sharing of views outside Central Sydney
 - (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas
 - (e) in respect of Green Square—
 - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.
112. The proposed architectural roof feature has been designed considering the existing and future built character of the area and is sympathetic in design to the APDG precinct. The proposal will not adversely impact the sharing of views and is considered to meet the objectives of the height of buildings standard.
113. The objectives of the B8 Metropolitan Centre Zone are:
- (a) To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy
 - (b) To provide opportunities for an intensity of land uses commensurate with Sydney's global status
 - (c) To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community
 - (d) To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling. To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises
114. The proposal is consistent with the objectives of the APDG controls, height standards and the objectives of the zone. The proposed commercial tower is appropriate to the context of the site, and its design has been considered as part of a design competition and design excellence review as part of the assessment of this application.

Conclusion

115. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately

addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the B8 Metropolitan Centre zone.

Flooding

116. The site is located within the City Area Catchment and is subject to flooding as shown in the applicant's submitted flood study. The subject site has been identified as impacted by all flood events up to and including the PMF. The subject site is impacted by flood water flowing north along Pitt Street towards Circular Quay as well as along Dalley Street and Underwood Street (north and south) and provided in figures 59 and 60 below.

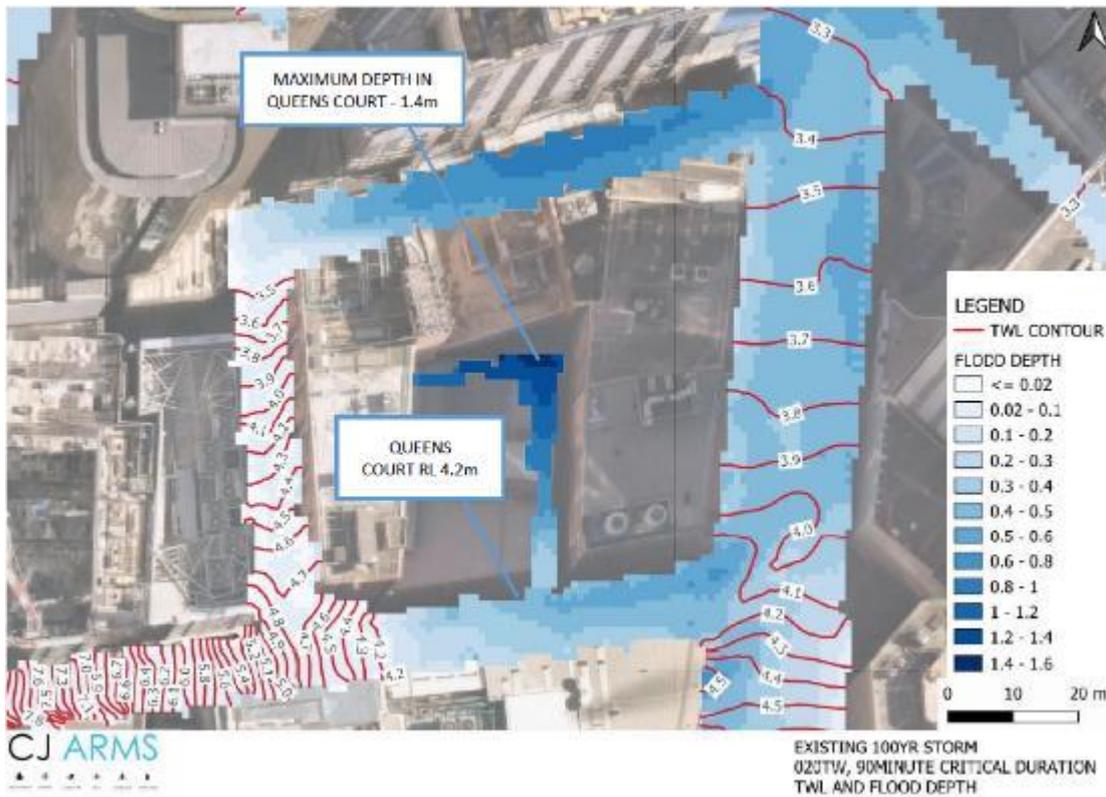


Figure 59: Existing Condition 1% AEP Peak Flood Level and Depth Map

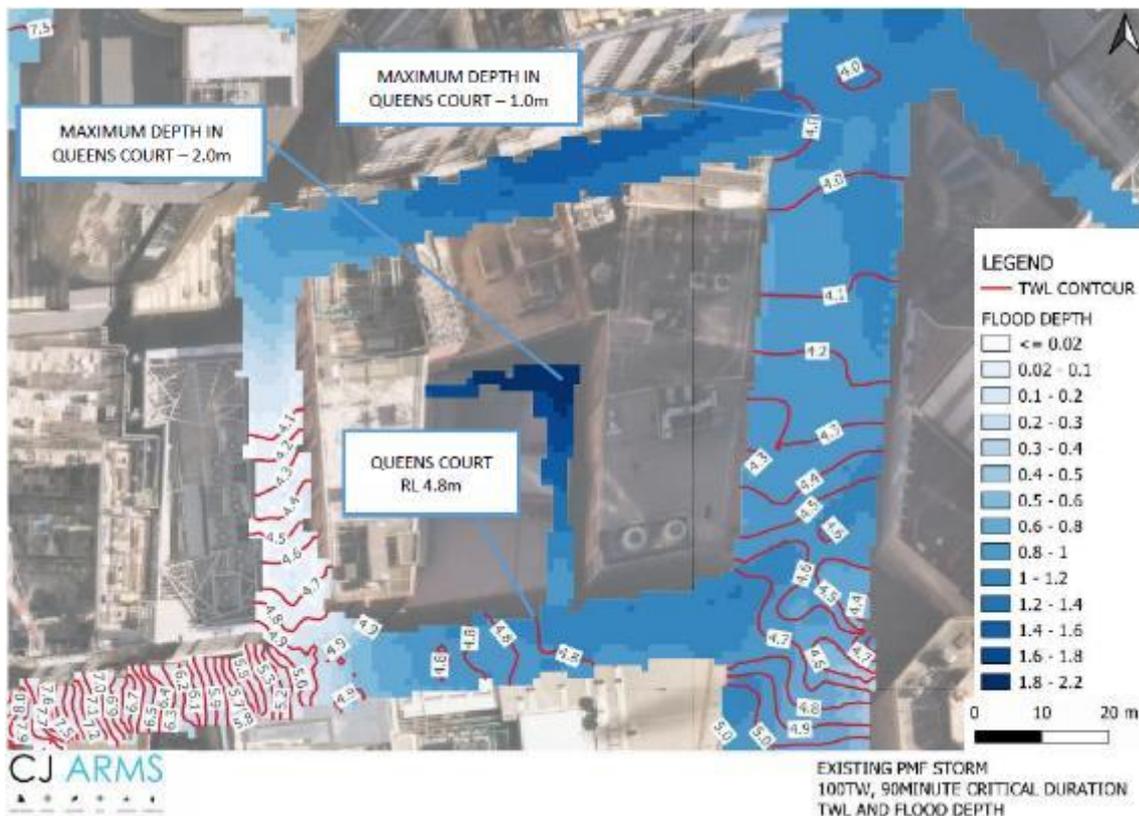


Figure 60: Existing Condition PMF Peak Flood Level and Depth map

117. Flood modelling has been undertaken by the applicant and conclude that the finished floor levels of retail tenancies fronting Queens Court meet Council's flood planning levels however remaining retail tenancies fronting Pitt Street, Underwood Street, fire stairs, ground floor entry lobby, and vehicular basement entry areas along Underwood Street and Dalley Street will be designed to a nominated threshold level and incorporate self-raising flood barriers to achieve their respected Flood Planning Levels.
118. The proposed flooding solution includes the use of floodgates to various retail entry points, vehicular access entries and areas within the commercial lobby. Self-raising flood barriers recommended for the Cove and basement ingress points will be automatically triggered and engineered into the building structure. This will ensure full load transfer into the building structure with maximum water tightness. Flood gates are a considered a last resort measure with reference to Council's interim flood management policy.
119. Council's Public Domain Unit have reviewed the proposal and advise that they generally do not support the use of floodgates in developments where alternative design solutions can be explored that provide permanent flood mitigation measures rather than relying on barriers that may fail.
120. However, the use of flood gates is considered to be acceptable in this instance noting that the issue of flooding and flood barriers was considered as part of the planning proposal that introduced the site specific APDG planning controls that require active uses in the laneways and the competition brief. The use of floodgates in this instance will enable the active uses to the laneway level, rather than requiring a raised level that would difficult to include accessible entries to these premises. The modelled flooding

that occurs along Dalley, Underwood and Pitt Street will not impact the new through-site link along Queens Court, where a permanent stair and ramp design solution has addressed flooding and is considered acceptable. The flooding extent within this area is largely maintaining the existing situation and not impacting adversely on adjoining properties.

121. The proposed public domain outcome has taken into account the principles of the APDG precinct, and the feedback provided by the competition jury, in particularly noting the need for an accessible, enjoyable and attractive public domain which encourages retail activation and facilitates movement through the precinct. While the proposed flood mitigation measures are not strictly compliant with the Policy, they propose a balanced outcome which achieves the objectives and intentions of the APDG precinct.
122. All retail tenancies will be constructed with flood compatible materials, capable of withstanding floodwater ingress up to the 1% AEP storm event. Furthermore, all flood depths in retail tenancies do not exceed 500mm, ensuring an acceptable level of safety as per the Australian Disaster Resilience (ADR) flood hazard vulnerability curves.
123. All basement ingress points of the building will be provided with flood mitigation measures at the greater of the 1 in 100-year flood level plus the nominated 500 mm freeboard or the PMF level.
124. Furthermore, the new vehicle access on Underwood Street (west) into the existing Telstra building will be provided with automatic self-raising barriers up to the PMF event.
125. Measures are included in the recommended conditions to mitigate against potential flooding impacts, including ongoing maintenance of flood barriers, the inclusion of a warning light system and emergency response plans to be implemented within the development. The issues raised are not considered to warrant refusal of the application in its current form.
126. Further, conditions are recommended that will require the submission of a pumping option, in addition to identifying the location of pumps in the event of mechanical failures of the flood barriers. The pumps must be designed to pump out the full range of flood volumes within 6 hours after floodwaters have receded. Details of the operation and maintenance of the pumps are to be included in the Flood Emergency Response Plan for the site.

Staged Construction

127. The application proposes staging the construction through various construction certificates. This is supported. Where necessary, the recommended conditions reflect the proposed staging.

Consultation

Internal Referrals

128. The application was referred to, or discussed with the following panel, Council units and City officers:
 - (a) Design Advisory Panel (DAP)

- (b) City Access and Transport Unit
 - (c) Cleansing and Waste Unit
 - (d) Construction and Building Services Unit
 - (e) Environmental Projects Unit
 - (f) Health and Building Unit
 - (g) Heritage and Urban Design Unit
 - (h) Landscape Assessment Officer
 - (i) Model Unit
 - (j) Planning Agreement Unit
 - (k) Public Art Unit and Public Art Advisory Panel
 - (l) Public Domain Unit
 - (m) Specialist Surveyor
 - (n) Tree Management Unit
129. These panels, units and officers generally advised that the proposal is acceptable, subject to conditions.
130. Where appropriate, these conditions have been included in Attachment A. Comments provided by the DAP have been addressed elsewhere in this report.
131. Where concerns were raised with the proposed development, these matters are either addressed in the table sections provided throughout the body of this assessment report or outlined in detail under the Discussion heading above.

External Referrals

Ausgrid

132. Pursuant to Section 45 of the SEPP (Infrastructure) 2007, the application was referred to Ausgrid for comment.
133. A response was received raising no objections to the proposed development, subject to conditions.

NSW Heritage Council

134. The application was referred to NSW Heritage Council for comment due to the proximity of the site to a state heritage item.
135. Comments were received from Heritage NSW and are discussed above under the heading Heritage Act 1977. Recommendations provided by Heritage NSW are included as conditions in Attachment A.

Sydney Airport

136. 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.
137. 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'.
138. 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. At a maximum proposed height of RL 240.8 AHD, the building will penetrate the OLS by 84.8 metres and any construction of a building to this height constitutes a 'controlled activity'.
139. Section 183 of the Airports Act, 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted.
140. Clause 14 of the Civil Aviation (Building Control) Regulations 1988 provides that a proposal to carry out a controlled activity must be approved unless carrying out the controlled activity interferes with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Clause 14(1)(b) provides that an approval may be granted subject to conditions.
141. Under the Regulations, the Secretary of the Department is empowered to make decisions in relation to the approval of controlled activities and impose conditions on the approval. The Director, Demand Management and Protection of Airspace, Aviation and Airports, as the delegate of the Secretary for the purposes of the Regulations, provided approval for the controlled activity.

Transport for NSW

142. Pursuant to Section 104 of the SEPP (Infrastructure) 2007, the application was referred to Transport for NSW (TfNSW) for comment.
143. Conditions of consent were recommended which are included in Attachment A.

Water NSW

144. Pursuant to Section 90(2) of the Water Management Act 2000, the application was referred to Water NSW for concurrence.
145. General Terms of Approval were issued by Water NSW on 23 February 2022 and have been included in the schedules within the recommended conditions of consent.

Advertising and Notification

146. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 30 June 2021 and 29 July 2021. A total of 3,245 properties were notified and no submissions were received.

Financial Contributions

Levy under Section 61 of the City of Sydney Act 1988

147. 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.
148. A condition relating to this levy has been included in the recommended conditions of consent. The condition requires the contributions to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

149. The site is located on land within Central Sydney and involves:
- (a) The creation of more than 100 square metres of gross floor area; and
 - (b) The demolition of existing floor area and the subsequent creation, whether for the same or a different purpose, of more than 100 square metres of gross floor area.
150. Section 7.13 of the Sydney LEP 2012 applies to the proposed development.
151. Subclause (4)(b) requires the contribution to be calculated in accordance with the City of Sydney Affordable Housing Program. The program requires contributions to be calculated only for development applications lodged after 1 July 2021. Although the subject application, which was lodged prior to this date on 16 June 2021, is therefore not formally subject to a Section 7.13 contribution, a component of the Voluntary Planning Agreement for the development requires the payment of an affordable housing contribution.
152. A condition of consent is recommended requiring payment of the affordable housing contribution in accordance with the terms of the VPA prior to the issue of a construction certificate.

Relevant Legislation

153. Environmental Planning and Assessment Act 1979.
154. Roads Act 1993.
155. Heritage Act 1977.
156. Sydney Water Act 1994.
157. Airports Act 1996 (Cth).
158. Water Management Act 2000.

Conclusion

159. The application for the construction of a 53 level commercial tower and podium building with a 3 level basement, new laneway through-site link and upgrades to public utility buildings has been assessed in accordance with the relevant planning controls.
160. Site specific control apply to the APDG block under the SLEP 2012 and SCDP 2012. The proposal provides activated public spaces as required by the controls and utilises the additional height controls for the design of the commercial tower building.
161. The applicant's request to vary the height of buildings standard pursuant to Clause 4.5 of the SLEP 2012 has been considered and is supported in this instance. An architectural rooftop feature is located above the permitted height control.
162. The proposed development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding site. The proposal will improve the interface between the private and public domain and exhibits design excellence in accordance with Part 6 Division 4 of the SLEP 2012.
163. The proposal will provide new commercial office and retail land uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
164. 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 Central Sydney.
165. The proposed detailed design of the development is therefore in the public interest and is recommended for approval by the CSPC.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Marie Burge, Senior Planner