

Item 4.**Development Application: 189-197 Kent Street, Sydney - D/2021/696**

File No.: D/2021/696

Summary

Date of Submission:	25 June 2021
Applicant:	Barana Properties (No. 1) Pty. Ltd.
Architect:	Francis-Jones Morehen Thorp Pty. Ltd.
Developer:	Barana Group
Owner:	Barana Properties (No. 1) Pty. Ltd.
Planning Consultant:	Ethos Urban Pty. Ltd.
Design Advisory Panel:	28 October 2021
Cost of Works:	\$9,143,079 (amended total concept cost of \$77,991,230)
Zoning:	Zone B8 Metropolitan Centre
Proposal Summary:	<p>Approval is sought for the amendment of concept building envelopes for a mixed use development approved under development consent D/2018/1014 (as modified). These amendments include the deletion of a connecting link between tower envelopes, an increased height of the southern tower to 110 metres and an increase in the width of the through-site link.</p> <p>The application is referred to the Central Sydney Planning Committee for determination as the proposal is an amendment of a “major development” for the purposes of the City of Sydney Act, 1988.</p> <p>A separate development application (D/2021/690) for the amendment of the detailed design of the approved development is also being reported and presented to the CSPC concurrently for consideration.</p>

It is recommended that authority be delegated to the Chief Executive Officer to determine D/2021/690, subject to conditions, following the submission to the City of Sydney of a duly signed notice of modification to development consent D/2018/1014 in accordance with the recommended conditions of the subject application.

The proposed method for the amendment of the subject concept development consent will deliver consistency between staged development applications, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979.

The proposed development exceeds the maximum 80 metre height of buildings development standard by 30 metres (37.5%). This is primarily due to the operation of the savings provisions in Clause 1.8A(5) of the Sydney LEP 2012, which prevents the 110 metre height control applicable to the site under the Sydney Local Environmental Plan 2012 (Amendment No 64) made on 26 November 2021, from applying to the subject development application.

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

The application was notified between 28 June 2021 and 27 July 2021 in accordance with the City of Sydney Community Participation Plan 2020.

As a result of the notification of the application, one submission in objection to the application was received. The submission raised concerns about construction impacts, including air pollution, vibration and noise impacts, and traffic congestion. These concerns and further issues are addressed within the report.

The proposed amendments of the concept building envelopes are considered to result in a development that is contextually appropriate. The changes are not likely to significantly impact the overall use of the subject site, nor the amenity of surrounding sites.

The amendments to the detailed design of the development will be considered concurrently by the CSPC under development application D/2021/690, which demonstrates that a generally compliant scheme can be

provided within the amended building envelopes. The proposal is recommended for approval.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000
- (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
- (iii) Roads Act 1993 and Roads Regulation 2018
- (iv) State Environmental Planning Policy No.65—Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG)
- (v) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)
- (vi) State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)
- (vii) State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)
- (viii) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)
- (ix) Sydney Development Control Plan 2012 (Sydney DCP 2012)

Attachments:

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

Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2021/696 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 ensures that the detailed design of the development is consistent with the concept approval, in order to satisfy Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (C) The proposal satisfies the objectives of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 for the reasons set out in the report.
- (D) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (a) The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the 'Height of buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney Local Environmental Plan 2012; and
 - (b) 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.
- (E) The concept building envelopes can accommodate a building design which is capable of exhibiting design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (F) The increased height and altered massing and bulk of the building envelopes are in keeping with the desired future character of the area. These variations are reasonable and justified with regard to the concurrent amendments to the detailed design of the development, which are proposed under the concurrent development application D/2021/690.

- (G) The proposed changes to the approved building envelopes are appropriate and are not likely to significantly impact the overall use of the building or the amenity of surrounding sites or locality.
- (H) The proposed amendments to the approved concept development is in the public interest.

Background

The Site and Surrounding Development

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

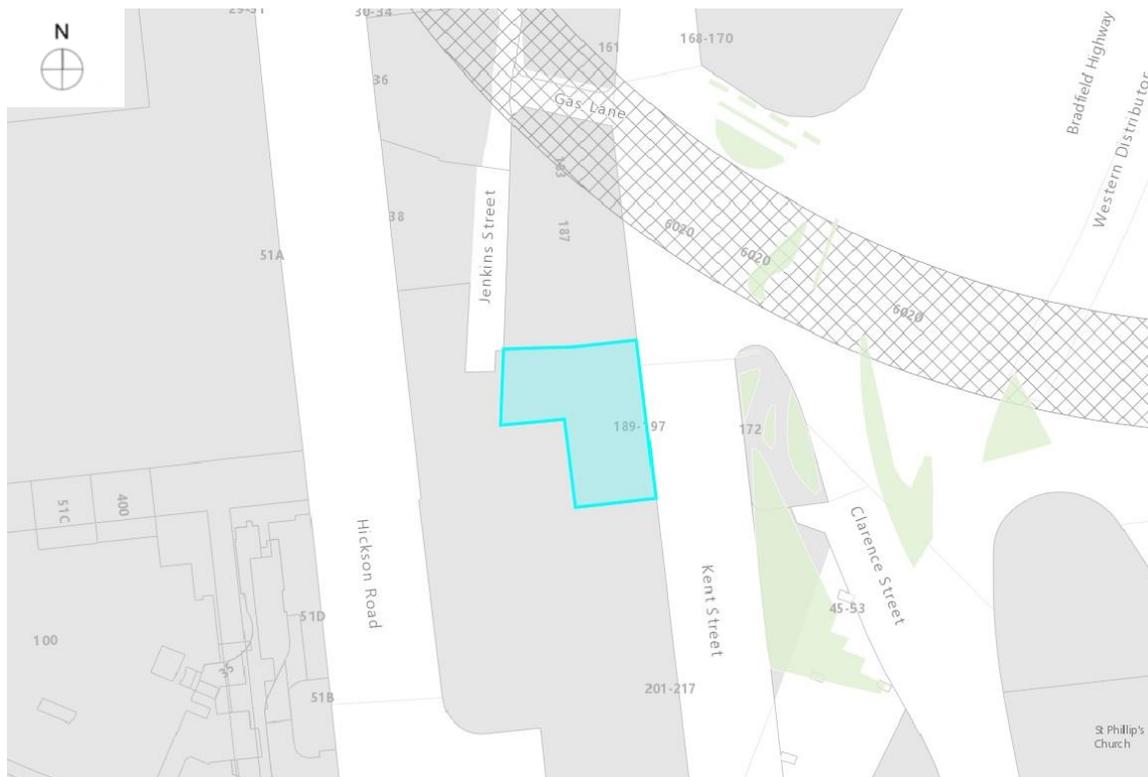


Figure 1: Plan image extract of the subject site (shaded in blue) and the surrounding area (shaded in grey and green), with the subterranean Sydney Metro corridor shown hatched

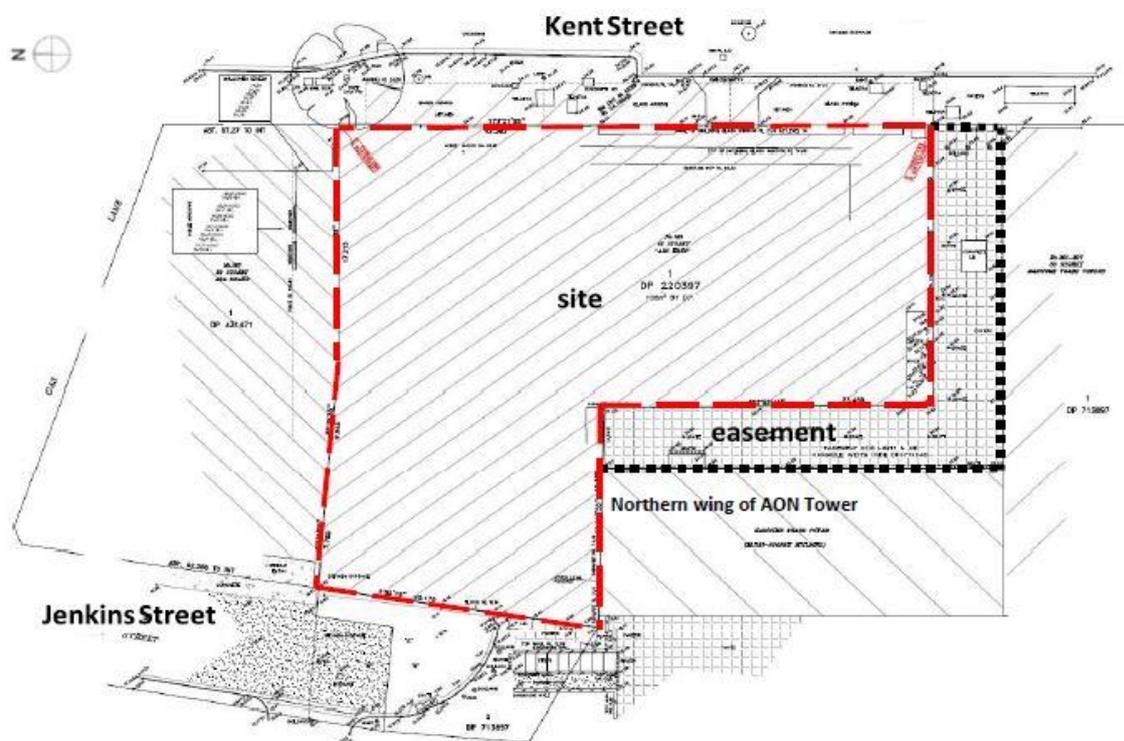


Figure 2: Survey plan extract, showing the site within a red dashed line, and the location of easement along the south and south-west site boundaries within a black dashed line

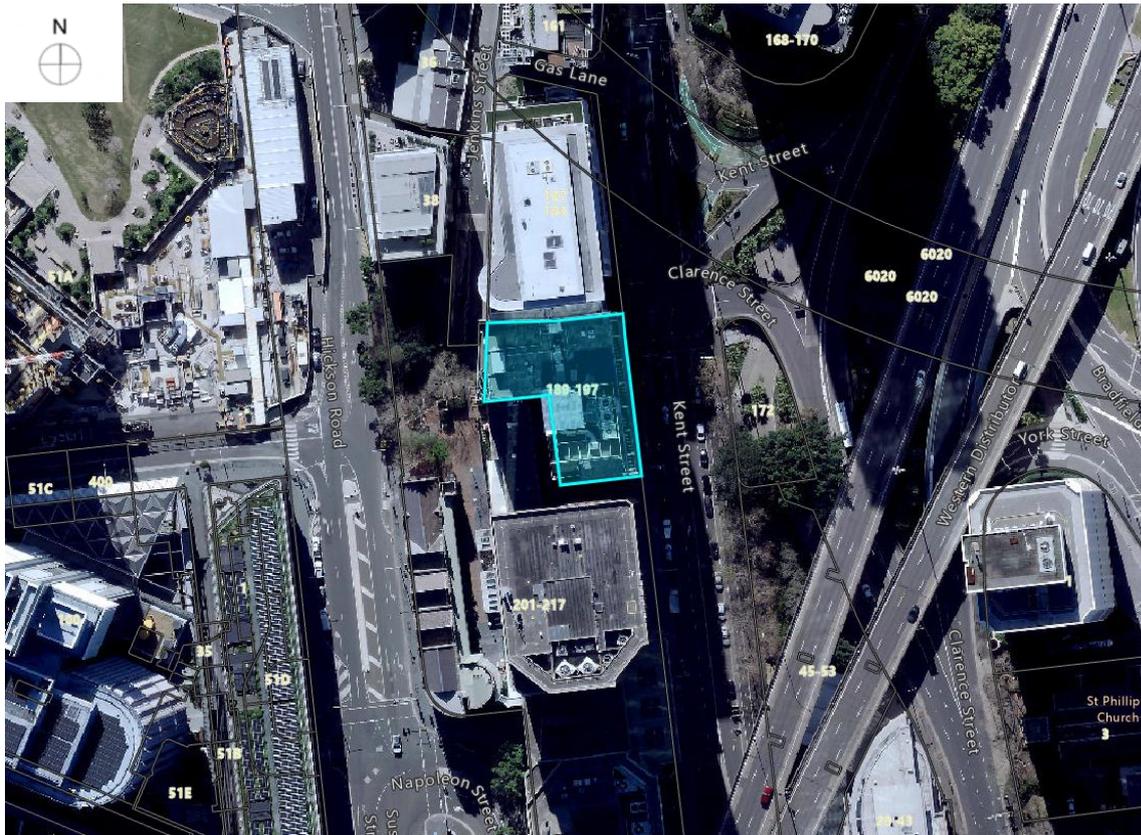


Figure 3: Aerial photograph of the subject site (shaded in blue) and the surrounding area

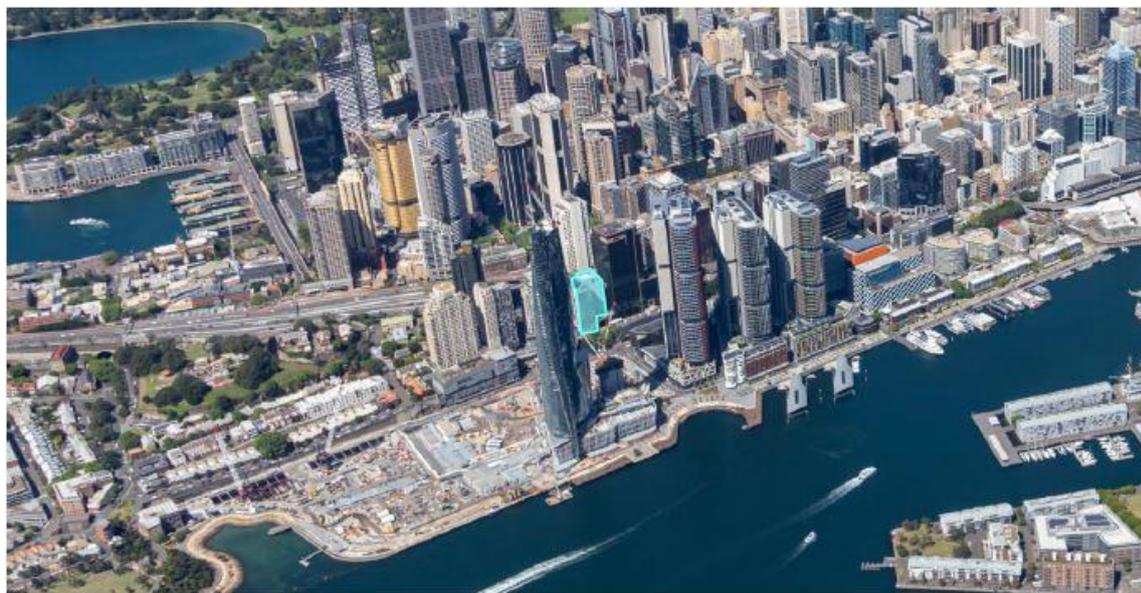


Figure 4: Oblique aerial photograph of the site (shaded in blue) and surrounding area looking south-east

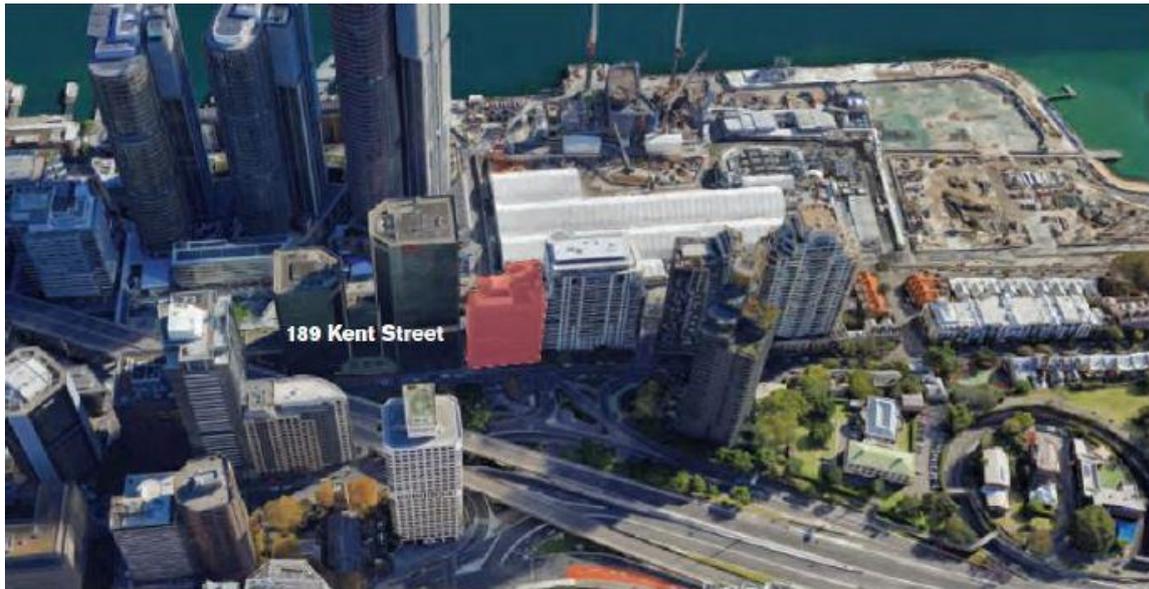
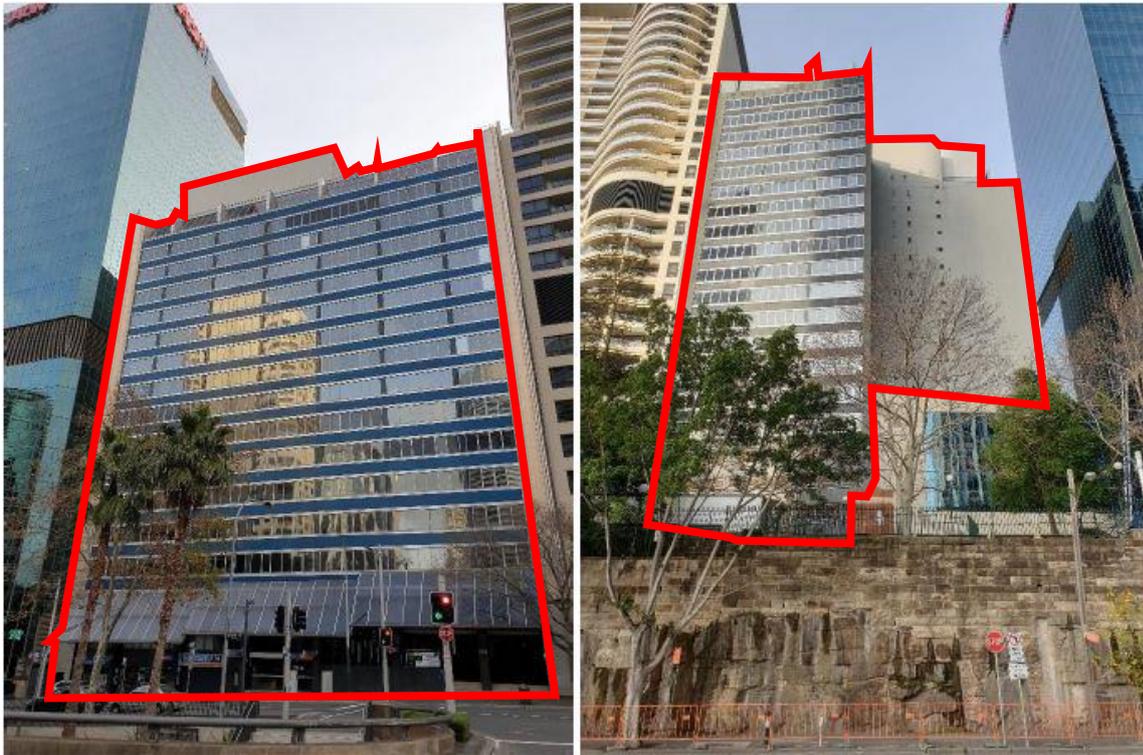


Figure 5: Extract from the 'Development Application: Stage 1 Architectural Design Statement' (FJMT), with an oblique aerial photograph of the site (shaded in red) and surrounding area looking west

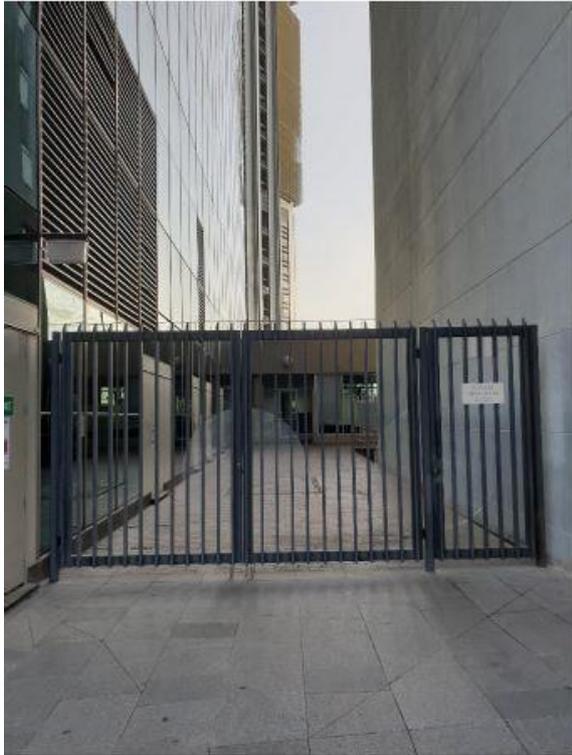
8. The site currently contains an 18 storey commercial office building, built to the allotment boundaries without a podium.
9. The existing building includes 2 retail levels and a commercial car park within 4 basement car parking levels, accessed from Kent Street, with private tenant parking, loading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



Figures 6 and 7: Eastern elevation viewed from the Bradfield Highway on-ramp (left) and western elevation viewed from Hickson Road (right), with the subject site outlined in red



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



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



Figures 11 and 12: View of lower levels from Jenkins Street, including rear loading access (left) and view of upper levels from Jenkins Street (right), with the subject site outlined red

The Locality

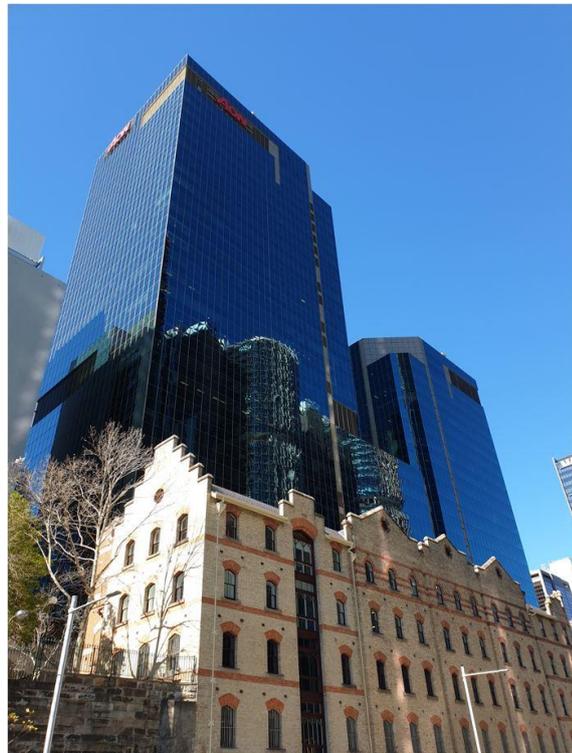
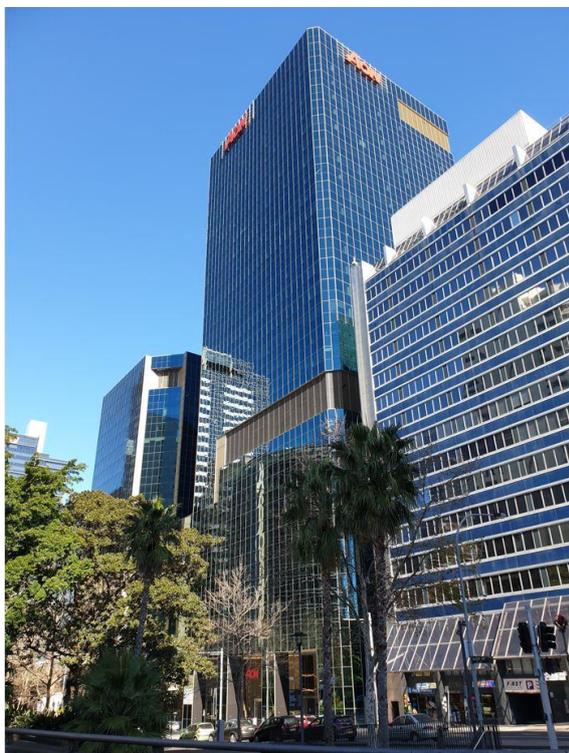
12. The surrounding area is characterised by a mixture of land uses, primarily comprising residential and commercial developments.
13. A heritage item listed on the State Heritage Register known as the former 'Grafton Bond Store' (State Heritage Register Number 01431), is located to the west at 201-217 Kent Street, Sydney, which has a primary frontage to Hickson Road. Jenkins Street is identified as a local heritage item (Item Number I890) under the Sydney LEP 2012.
14. Further to the west of the site, on the western side of Hickson Road, are the commercial towers and associated buildings within the Barangaroo South precinct, and the Barangaroo Central development project site, which is currently under construction. To the east of the site, on the eastern side of Kent Street, is the Kent Street cycleway, the Western Distributor overpass and the on ramps to the Bradfield Highway.
15. To the north at 183 and 187 Kent Street, Millers Point, is a 28 storey residential apartment building known as the 'Stamford on Kent', with ground floor food and drink premises and residential apartments in the levels above.
16. Further to the north, north-east and north-west are several other residential towers and buildings, including the 'Observatory Tower' at 168-170 Kent Street, Millers Point, the 'Stamford Marque' at 161 Kent Street, Millers Point, 'The Georgia' at 155-157 Kent Street, Millers Point, the 'Highgate Apartments' building at 127-153 Kent Street, Millers Point, and 'The Bond' at 38 Hickson Road, Millers Point.
17. To the south at 201-217 Kent Street, Sydney, is the Maritime Trade Towers site, which contains a 24 storey commercial building known as Symantec House, a 35 storey commercial building known as AON Tower, a publicly accessible through-site link known as 'Grafton Lane', the former 'Grafton Bond Store' and a 5 storey northern wing to the AON Tower. The northern wing of the AON Tower is situated adjacent to the south-western portion of the subject site.
18. Photographs provided in Figures 13 to 21 below show the existing surrounding development.



Figure 13: Extract from the 'Statement of Environmental Effects' (Ethos Urban), with a photograph depicting the streetscape along the western site of Kent Street outlined in red



Figures 14 and 15: The ‘Stamford on Kent’, viewed from the Bradfield Highway on-ramp (left) and the ‘Observatory Tower’ (right)



Figures 16 and 17: View of the Maritime Trade Towers from Kent St (left) and the Grafton Bond Store from Hickson Road (right)



Figures 18 and 19: View of the 'Bond Apartments' and 'Stamford on Kent' from Hickson Road (left) and the 'Bond Apartments' from Jenkins Street (right)

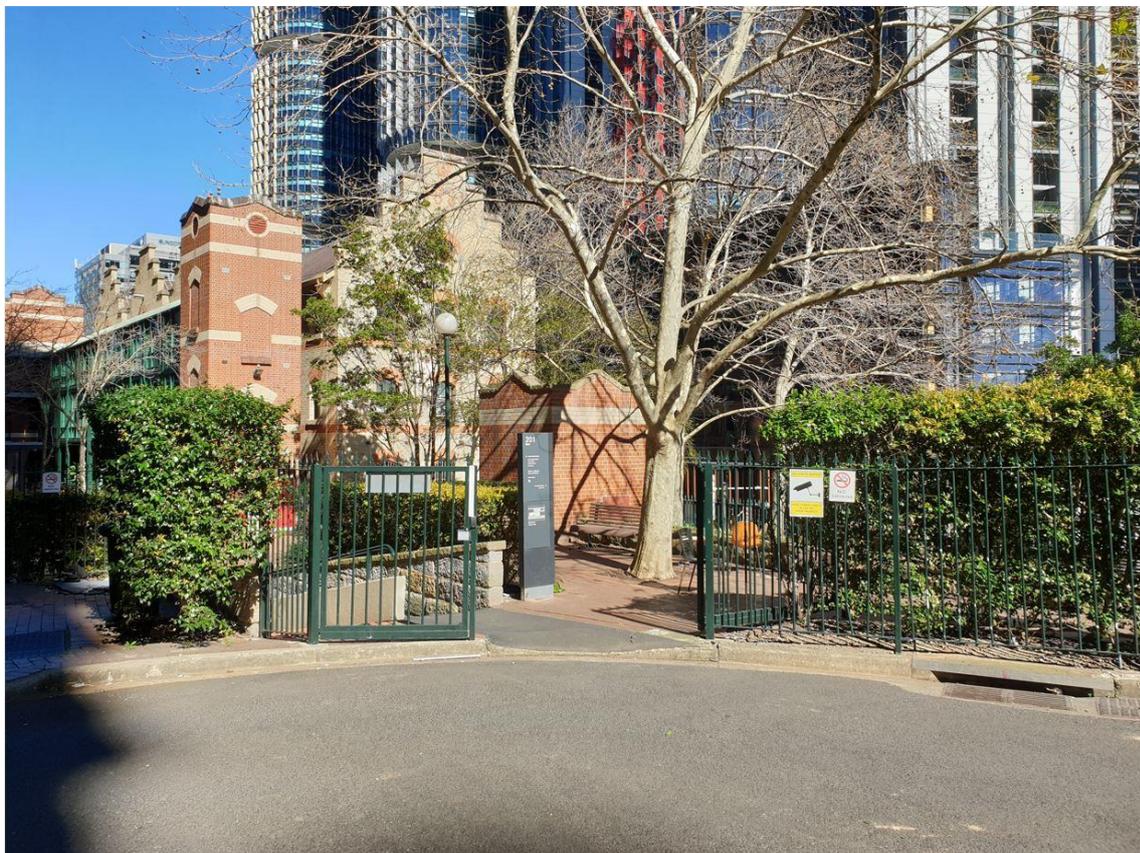


Figure 20: View of Grafton Lane to the south-west from Jenkins Street, with the Grafton Bond Store visible on the right



Figure 21: View of parking bay opposite the site to the west on Jenkins Street

History Relevant to the Development Application

Relevant Applications and Processes

19. The following applications and processes are relevant to the current proposal:

- (a) **D/2005/1123** – Development consent was granted by the CSPC on 26 June 2006 for a concept development application to convert the existing commercial building to a mixed-use development, comprising residential and commercial uses, including an additional 6 storeys and a basement car park.

This development consent lapsed on 26 June 2011.

- (b) **D/2014/1900** – Development consent was granted by the CSPC on 10 September 2015 for a concept development application for an 80-metre building envelope, containing a mixed use development comprising retail and residential uses.

Development consent D/2014/1900 was subsequently amended by a Section 4.55 modification application (Amendment A) on 1 June 2018 to permit residential land uses on part of the ground floor and level 1 of the concept envelope, and to incorporate a Design Excellence Strategy within the consent.

This development consent lapsed on 10 September 2020.

- (c) **Competitive Design Alternatives Process** – In 2018, the applicant undertook a Competitive Design Alternatives Process, in accordance with the design excellence provisions in the Sydney LEP 2012 and the Sydney DCP 2012. This competitive process was based on the concept development consent D/2014/1900.

Four architectural firms participated, with the winning scheme for the competitive design alternatives process awarded to FJMT on 25 October 2018.

The selection panel identified that further design development and investigations were required to resolve matters including setbacks and height, natural cross ventilation, appropriate landscaping, basement arrangements and access, wind impacts, and Ecologically Sustainable Development (ESD) initiatives.

- (d) **D/2018/1014** – Development consent was granted by the CSPC on 20 June 2019 for an 80 metre concept building envelope for an indicative mixed use development including retail and residential land uses and a pedestrian through-site link between Kent Street and Jenkins Street.

This development consent generally matched the building envelope and land use mix approved under the second concept development consent D/2014/1900, as modified under Amendment A, but allowing additional time for the submission of a detailed design development application, as the consent lapse date is 20 June 2024.

Development consent D/2018/1014 was subsequently amended by a Section 4.55 modification application (Amendment A) on 10 December 2020 to include the addition of fenestration articulation and architectural roof feature zones, delete the northern side boundary setback between levels 16-23, and modify conditions to defer the submission of a detailed Public Domain Plan.

It is this development consent that the subject application is seeking to modify.

- (e) **D/2020/399** – Development consent was granted by the CSPC on 10 December 2020 for the demolition of the existing commercial building and construction of a new mixed use development, with a maximum height of 94.05 metres (RL 106.15 AHD), 24 storeys, 125 apartments, 4 basement levels, 91 parking spaces and commercial, food and drink premises and residential land uses.

Development consent D/2020/399 was subsequently amended by a Section 4.55 modification application (Amendment A) on 13 January 2021 to insert Ausgrid concurrence conditions which had been omitted in error.

- (f) **Design Integrity Assessment Process** – In 2021, following the endorsement of the Central Sydney Planning Strategy by Council in December 2020, the applicant undertook a Design Integrity Assessment Process in accordance with the City of Sydney Competitive Design Policy, seeking to realise the additional height available under draft amendments to the Sydney LEP 2012.

The amended proposal included deletion of the connecting link between towers, an increased height of southern tower to 110 metres, increased ground level setbacks and through-site link width, additional landscape areas and trees, reconfigured and relocated residential apartments, communal open spaces and commercial tenancies.

The selection panel for the Competitive Design Alternatives Process was reconvened on 1 April 2021 for a presentation of the amended scheme and deliberations on whether it was equivalent to, an improvement on, or required further work, as compared to the original winning scheme.

The selection panel were supportive of a range of aspects of the amended proposal, but also identified a number of issues for further design development and resolution. These included street activation, building expression, communal space, landscape integration, building structure and environmental performance.

- (g) **D/2021/690** – A development application was lodged with the City on 24 June 2021, amended on 20 July 2021, 23 November 2021 and 1 February 2022, and has been assessed concurrently with the subject development application.

Development application D/2021/690, as amended, proposes the amendment of the detailed design of the mixed use development approved under development consent D/2020/399, including deletion of connecting link between towers, an increased height of southern tower to 110 metres, increased ground level setbacks and through-site link width, additional landscape areas and trees, reconfigured and relocated residential apartments, communal open spaces and commercial tenancies.

Authority to determine the application is recommended to be delegated to the Chief Executive Officer of the City of Sydney for approval, subject to the submission of a duly signed notice of modification of development consent D/2018/1014 in accordance with the conditions recommended in Attachment A to this report. Refer to the CSPC assessment report for development application D/2021/690 for further details.

Subject Application

20. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments in relation to both the subject development application and the concurrent development application D/2021/690, was sent to the applicant on 21 September 2021. The letter requested information and amendments mainly in relation to the amendments to the detailed design of the development proposed under D/2021/690.
21. This included clarification of the calculation of Gross Floor Area (GFA), wind effects and sky view factor, activation of Kent Street, building expression of the Jenkins Street podium facade, structure and apartment planning, passive sun shading, materiality, ventilation and noise, waste management and collection, car share, landscape design, public art and Ecologically Sustainable Development (ESD).
22. Both the subject and concurrent development application were presented to the City's Design Advisory Panel (DAP) on 28 October 2021. The DAP provided the following advice, largely in relation to the proposed amendments to the detailed design of the approved development:
 - (a) The Panel agreed with the issues highlighted by Council officers and support their ongoing prosecution of the issues (raised in the letter sent to the applicant on 21 September 2021).
 - (b) The Panel reinforced the ventilation consultant advice on improvements to the environmental performance of the building.

- (c) A more robust and authentic material was considered to be required for the public domain.
 - (d) The pebble shaped openings were not supported, as they were not considered to be consistent with the design of the rest of the building, as the fenestration should relate to the rest of the building.
 - (e) The Panel raised concerns about the conditions at the ground floor, noting that wind is an issue in the area, and that a thorough wind analysis is required. It was noted that there should be adequate wind protection for the footpath and the retail / cafe at the ground floor. The Panel suggested that instead of the double height awning, a balcony / mezzanine could be introduced and help provide wind protection.
 - (f) The Jenkin Street podium as approved was considered to be more appropriate than the proposed podium. The use of masonry and facade treatment was recommended to be brought down to the ground and it should not form an extension of the artwork (to the through-site link).
23. The advice provided by the DAP was sent to the applicant following the meeting.
24. The applicant responded to the request for information and amendments on 23 November 2021 and submitted amended drawings and additional information seeking to address the concerns raised by Council staff and by the DAP.
25. A request for an amended Clause 4.6 variation document was made to the applicant on 14 March 2022. The applicant provided a revised Clause 4.6 variation request on 16 March 2022.
26. All of the matters raised by the DAP relate largely to the amendments to the detailed design of the development proposed under the concurrent development application D/2021/690.
27. Refer to the further assessment and discussion provided in the CSPC assessment report for this application.

Proposed Development

28. The subject development application seeks to amend the concept development consent D/2018/1014 (as modified by Section 4.55 application D/2018/1014/A) to facilitate the amended detailed design. The amended design is subject of the concurrent development application D/2021/690 which seeks to change the detailed design approved under development consent D/2020/399 (as modified by Section 4.55 application D/2020/399/A).
29. The application proposes that the amendments are made by way of the imposition of a condition requiring a notice of modification to D/2018/1014, pursuant to Section 4.17(1)(b) of the Environmental Planning and Assessment Act, 1979 and Clause 97 of the Environmental Planning and Assessment Regulation, 2000.
30. It should be noted that the Environmental Planning and Assessment Regulation 2021 does not apply to the assessment of the subject application. Refer to the discussion provided under the Environmental Planning and Assessment Regulation 2021 heading below.

31. The application seeks consent to amend the approved concept building envelopes to:
 - (a) Remove the interconnected massing between the two tower envelopes, resulting in the expression of two separate towers.
 - (b) Redistribute the envelope area from the deleted interconnecting mass to the top of the southern tower envelope, resulting in an increased height of the southern tower envelope by 30 metres, from 80 metres to 110 metres.
 - (c) Increase the width of the through-site link and opening the through-site link to the sky.

32. Plan, elevation and axonometric drawing extracts of the proposed development are reproduced in Figures 22 to 26 below.

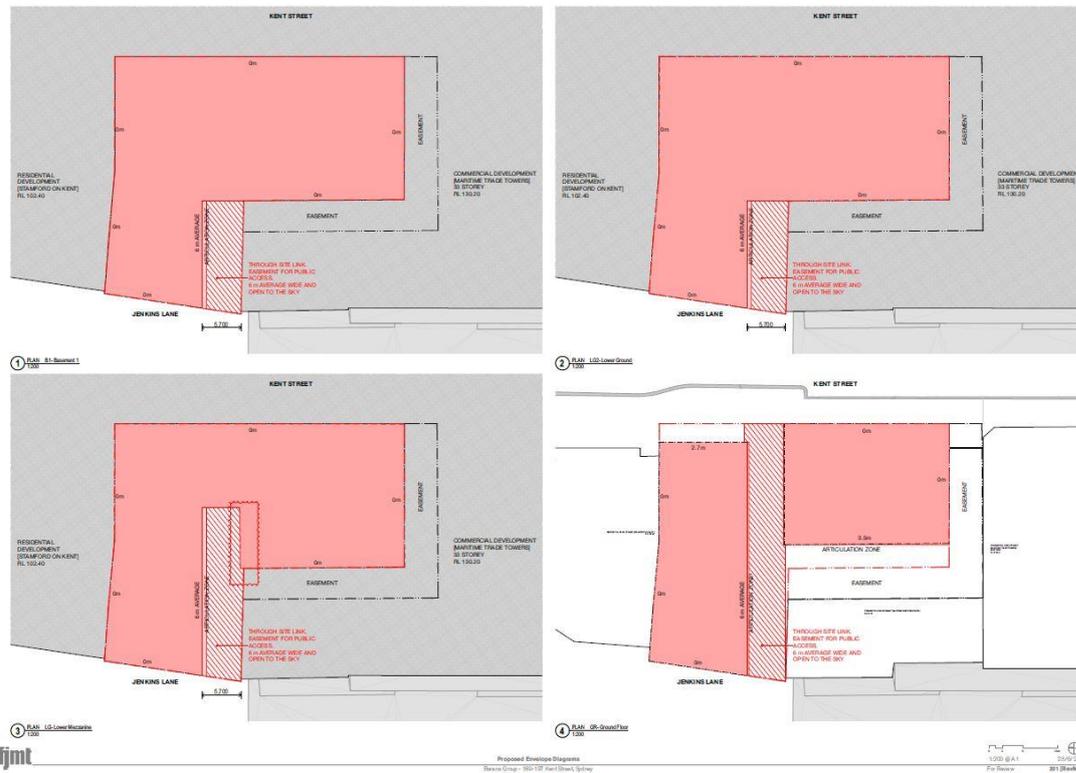
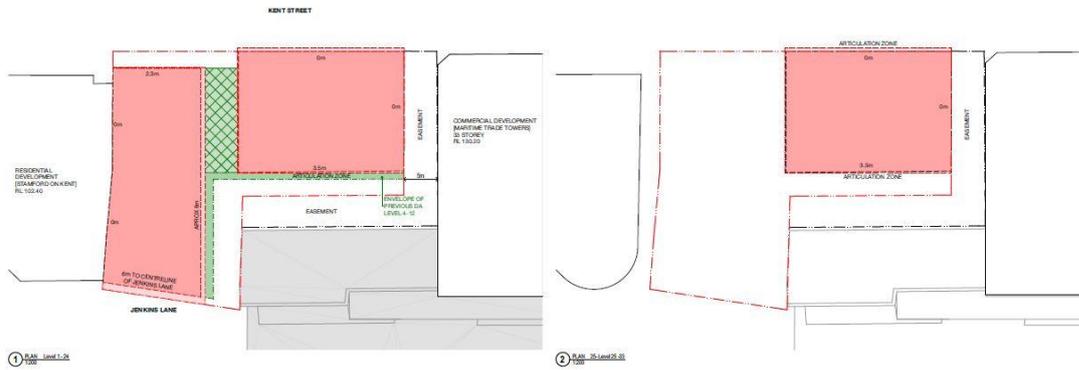


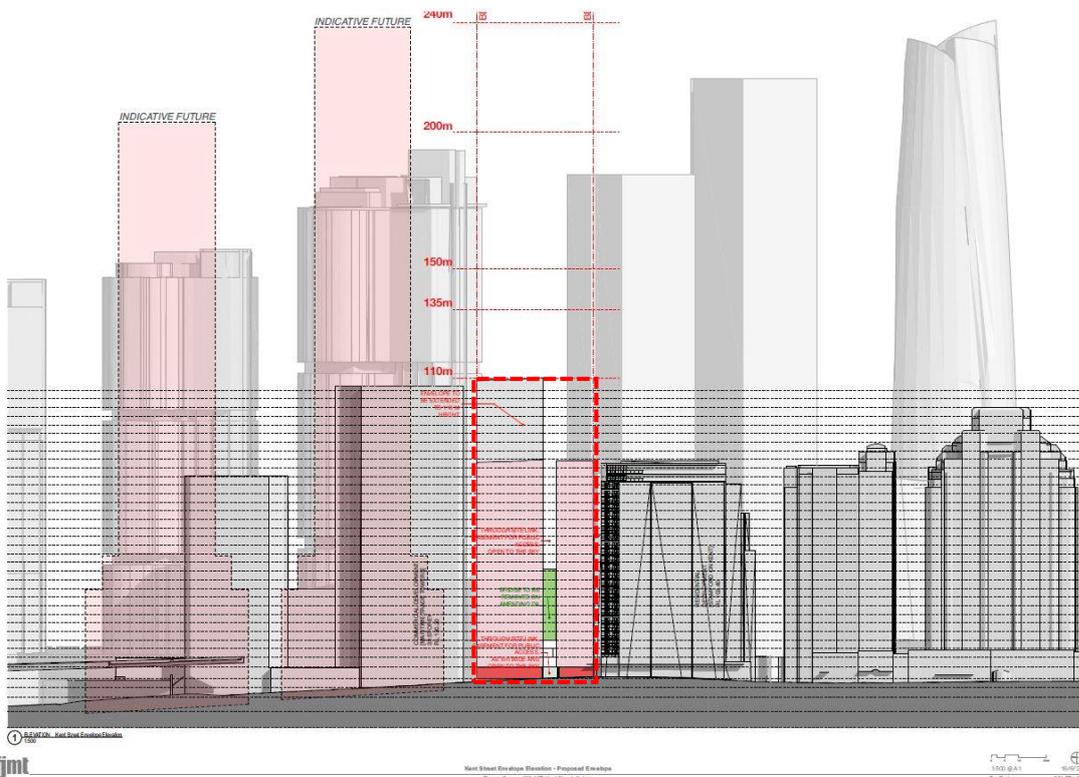
Figure 22: Proposed envelope plan diagrams, depicting the basement, lower ground, lower mezzanine and ground floor levels (shaded pink) and the through-site link (hatched in pink)



Proposed Envelope Diagram
Beacons Group - 500-100 Kent Street, Sydney



Figure 23: Proposed envelope plan diagrams, depicting levels 1-24 and levels 25-33 (shaded pink) and the envelope area to be deleted (shaded and hatched in green)



Kent Street Envelope Elevation - Proposed Envelope
Beacons Group - 500-100 Kent Street, Sydney



Figure 24: Proposed east (Kent Street) envelope elevation, depicting the subject site boxed in a dashed red line, the approved envelope (shaded pink and red), the proposed envelope addition (shaded grey) and the envelope area to be deleted (shaded green)

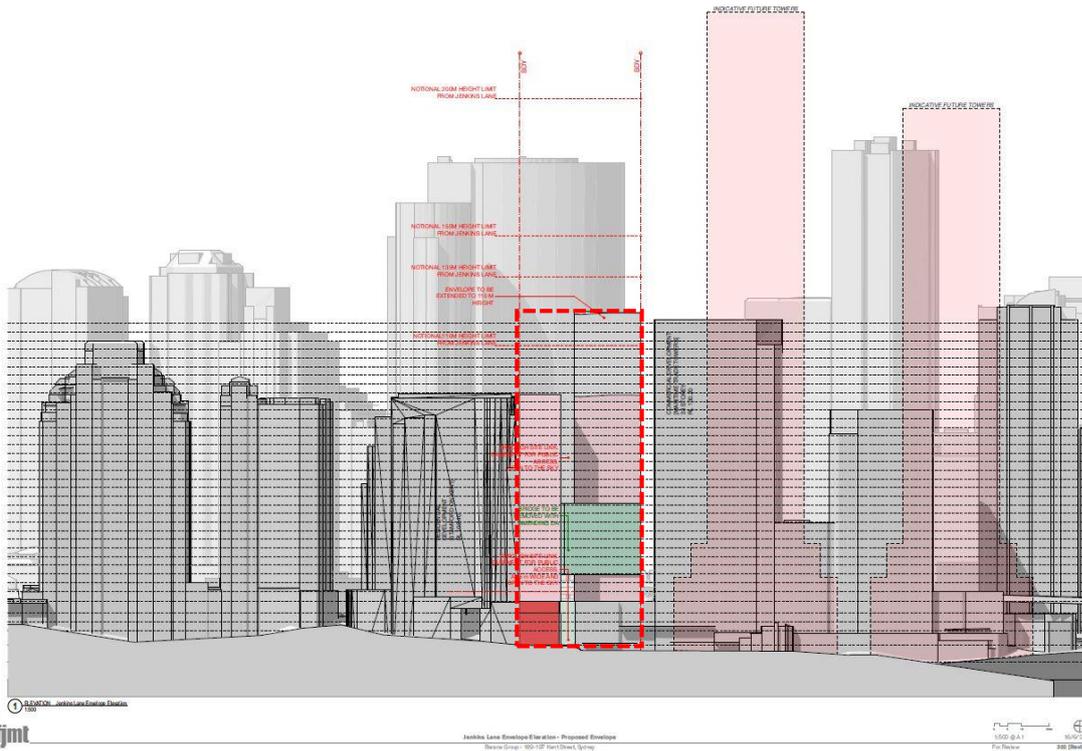


Figure 25: Proposed west (Jenkins Street) envelope elevation, depicting the subject site boxed in a dashed red line, the approved envelope (shaded pink and red), the proposed envelope addition (shaded grey) and the envelope area to be deleted (shaded green)

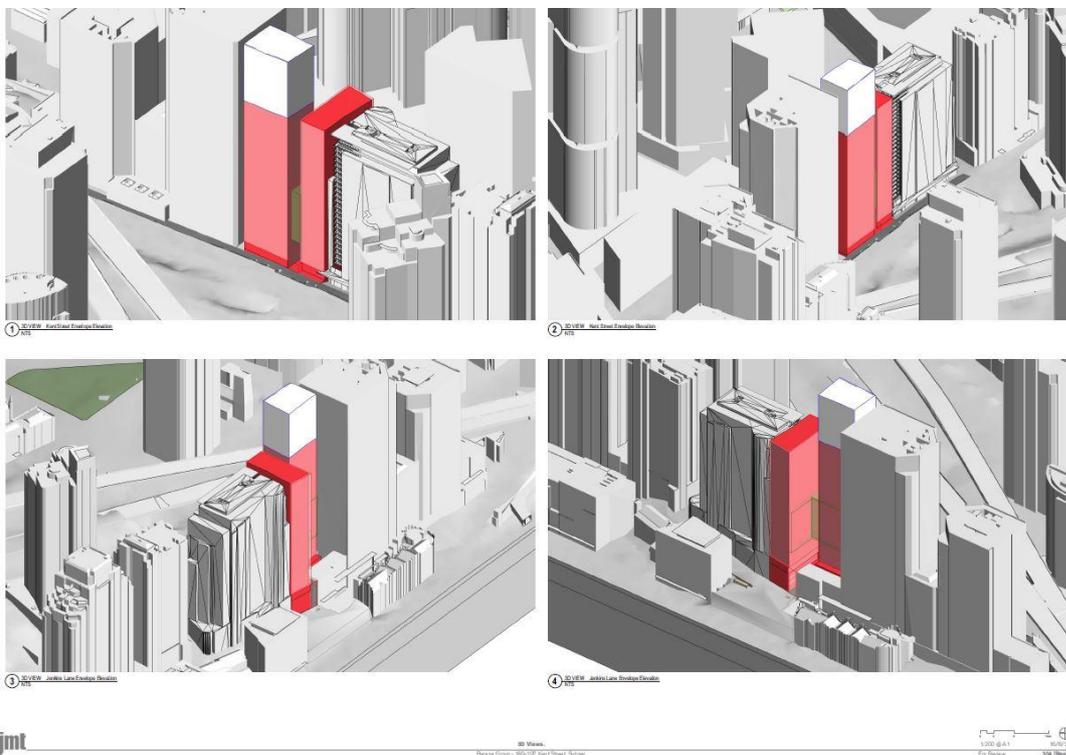


Figure 26: Axonometric envelope views, depicting the approved envelope (shaded pink and red), the proposed envelope addition (shaded white) and the envelope area to be deleted (shaded green)

City of Sydney Act 1988

33. Section 51N of the City of Sydney Act, 1988 requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines a development application that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works likely to have a significant impact on traffic and transport in the Sydney Central Business District.
34. 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."
35. The Director City Planning Development and Transport is the delegate of the Planning Committee and formed the view that the development may have impacts on traffic in the Sydney Central Business District and required consultation with the CSTTC.
 36. Transport for New South Wales, as the delegate of the CSTTC, was consulted.
 37. A submission received by the City from Transport for New South Wales has been considered in the assessment of the application and the recommended condition amendments included in Attachment A.

Sydney Water Act 1994

38. Section 78 of the Sydney Water Act, 1994 sets out various requirements for the notification of development applications to the Sydney Water Corporation (SWC).
39. The application was referred to the SWC in accordance with the Act.
40. A response was received from the SWC, raising no objections to the proposal, subject to the recommended conditions in Attachment A.

Assessment

41. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

Environmental Planning and Assessment Regulation 2021

42. Schedule 6, Part 1(3) of the Environmental Planning and Assessment Regulation, 2021 states that

The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.

43. The subject development application was made prior to 1 March 2022 and the Environmental Planning and Assessment Regulation, 2000 applies to the proposal as a result.

State Environmental Planning Policies

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

44. SEPP 65 applies to the subject development application as the concurrent development application D/2021/690 includes a residential flat building of more than 3 floors and containing more than 4 apartments.
45. Clause 70B of the Environmental Planning and Assessment Regulation, 2000, provides that design verification required under Clause 50(1A) of the Regulation is not required for concept applications unless the application contains detailed proposals for a residential flat building.
46. Detailed development works are not sought in the subject development application and, as a result, no design verification statement was submitted with the application.
47. The aim of SEPP 65 is to improve the design quality of residential apartment development in New South Wales. It requires the consent authority to take into consideration a number of matters relating to design quality.
48. These include whether the proposed amendments to the building envelopes have the ability to achieve the 9 design quality principles set out in Schedule 1 of SEPP 65.
49. These principles are summarised and addressed with regard to the proposed changes to the concept building envelopes as follows:
 - (a) **Principle 1: Context and Neighbourhood Character**
 - (i) The amended building envelopes permit the detailed design of the development to be contextually appropriate and consistent with the existing and desired future character of the area.

- (b) **Principle 2: Built Form and Scale**
 - (i) The amended building envelopes are capable of providing a built form that has appropriate massing and scale and which harmonises with the detailed design of the development, has been subject to a Design Integrity Assessment Process, and is generally consistent with the built form controls applicable to the site.
- (c) **Principle 3: Density**
 - (i) The amended building envelopes allow for a development that can deliver an appropriate density for the subject site, in accordance with the objectives of Clause 4.4 of the Sydney LEP 2012 relating to Floor Space Ratio (FSR).
- (d) **Principle 4: Sustainability**
 - (i) The associated detailed design of the development is required to comply with BASIX and associated Ecologically Sustainable Development (ESD) requirements. The concurrent development application D/2021/690 has demonstrated that sustainability targets can be met by the amended building envelopes.
- (e) **Principle 5: Landscape**
 - (i) The opportunity to provide deep soil zones on the site is constrained as the existing and approved building footprint occupies the majority of the site.
 - (ii) The amended building envelopes allow opportunities for landscaping to be provided within and around the ground floor plane, including the through-site link.
- (f) **Principle 6: Amenity**
 - (i) The amended building envelopes can accommodate a development with a reasonable level of amenity for the future occupants of the development, as well as adjoining properties.
- (g) **Principle 7: Safety**
 - (i) The amended building envelopes allow for a detailed design of the development that can achieve the principles of Crime Prevention Through Environmental Design (CPTED).
- (h) **Principle 8: Housing Diversity and Social Interaction**
 - (i) The amended building envelopes allow for a detailed design for the development that can provide a suitable mix of dwelling types.
- (i) **Principle 9: Aesthetics**
 - (i) The aesthetics of the proposed development is a relevant matter for the concurrent development application D/2021/690, which seeks to amend the detailed design development application, rather than the subject application.

- (ii) The proposed changes to the approved concept building envelopes have been proposed to accommodate these detailed changes.
 - (iii) The amendments to the approved concept building envelopes have been subject to a Design Integrity Assessment Process undertaken by the reconvened selection panel for the design alternatives process winning scheme, which concluded that they continue to have the capacity for the demonstration of design excellence.
50. The proposed changes to the approved development are acceptable when assessed against the above stated principles, the provisions of SEPP 65 more broadly and the associated Apartment Design Guide (ADG).
51. These controls are generally replicated within the apartment design provisions under the Sydney DCP 2012 and compliance with SEPP 65 generally implies compliance with Council's planning controls.
52. An assessment of the proposed amendments to the concept approval against the relevant objectives of the ADG is provided below.

2E Building Depth	Compliance	Comment
12-18 metres (glass to glass)	Acceptable	<p>The proposed amendments to the building envelopes maintain the approved building depth to the northern tower of approximately 31-33 metres, as measured from east to west.</p> <p>The deletion of the connecting link between towers and widening of the through-site link serves to reduce the northern tower envelope width from approximately 16 metres to between 13 to 14 metres.</p> <p>The depth of the southern tower envelope is proposed to be reduced from approximately 19 metres to a compliant depth of approximately 18 metres, with the approved envelope width maintained at approximately 24 metres.</p> <p>The concurrent development application D/2020/690 demonstrates that residential apartments with generally compliant depths, as measured from glass line to glass line, can be accommodated within the amended tower envelopes.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> • 12 metres between habitable rooms / balconies • 9 metres between habitable and non-habitable rooms • 6 metres between non-habitable rooms <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18 metres between habitable rooms / balconies • 12 metres between habitable and non-habitable rooms • 9 metres between non-habitable rooms <p>Nine storeys and above (over 25 metres):</p> <ul style="list-style-type: none"> • 24 metres between habitable rooms / balconies • 18 metres between habitable and non-habitable rooms • 12 metres between non-habitable rooms 	<p>Acceptable</p>	<p>The proposed changes to the building envelopes generally maintain the approved separation to the adjoining development to the north, east and south, which is an acceptable and appropriate urban design outcome, given the context of the existing adjoining built form, commercial land uses to the south, minimal setbacks and blank wall conditions.</p> <p>The amended tower envelopes increase the varied separation to the south-western boundary adjacent to the easement for the northern wing of the AON Tower by approximately 1 metre, improving the previously approved building separation of between 6 metres and 9 metres.</p> <p>The approved separation across Jenkins Street is retained, including an appropriate alignment with the existing adjoining built form within the streetscape.</p> <p>The deletion of the connecting envelope massing between towers does not provide compliant separation between the tower envelopes, however this is acceptable given that:</p> <ul style="list-style-type: none"> • It is generally consistent with the separation between towers approved under the base concept development consent D/2018/1014 (as modified). • The envelope provides for deep articulation zones which can accommodate a detailed design which provides acceptable privacy and outlook amenity.

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> • 6 metres between habitable rooms / balconies • 3 metres between non-habitable rooms <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> • 9 metres between habitable rooms / balconies • 4.5 metres between non-habitable rooms <p>Nine storeys and above (over 25 metres):</p> <ul style="list-style-type: none"> • 12 metres between habitable rooms / balconies • 6 metres between non-habitable rooms 	Acceptable	<p>The proposed building envelope amendments generally maintain the approved setbacks to the north, east and south allotment boundaries, which is an acceptable and appropriate urban design outcome, given the context of the existing adjoining built form, commercial land uses to the south, minimal setbacks and blank wall conditions.</p> <p>The amended building envelopes maintain or improve the previously approved 6 to 9 metre south-western allotment boundary setbacks to the northern wing of the AON Tower.</p> <p>The retained 6 metre setback from the centreline of Jenkins Street continues to align with adjoining buildings and does not have any adverse visual privacy impacts on surrounding properties.</p> <p>The deletion of the connecting envelope massing between towers does not provide compliant separation between the tower envelopes, however this is acceptable given that:</p> <ul style="list-style-type: none"> • It is generally consistent with the separation between towers approved under the base concept development D/2018/1014 (as modified). • The envelope provides for deep articulation zones which can accommodate a detailed design which provides acceptable privacy amenity. • The concurrent development application D/2021/690 demonstrates that acceptable visual privacy can be achieved.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021
(Biodiversity and Conservation SEPP)**

53. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 10 of the Biodiversity and Conservation SEPP.

54. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
55. The key relevant principles seek to:
 - (a) Protect and improve hydrological, ecological and geomorphologic processes.
 - (b) Consider cumulative impacts of development within the catchment.
 - (c) Improve water quality of urban runoff and reduce quantity and frequency of urban run-off.
 - (d) Protect and rehabilitate riparian corridors and remnant vegetation.
56. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour.
57. The site is not located in the Foreshores Waterways Area or adjacent to a waterway however and, with the exception of the objective of improved water quality, the objectives of Chapter 10 of the Biodiversity and Conservation SEPP are not applicable to the proposed amendments to the approved development. The proposal is therefore consistent with the controls contained within the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)

58. The relevant aims of Chapter 4 of the Resilience and Hazards SEPP 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.
59. The suitability of the site for the approved development was established through the granting of development consent to the detailed development application D/2020/399 by the CSPC. The proposed amendments to the concept building envelopes do not result in any significant changes to the development or the indicative mix of land uses which it would render them unsuitable for the site in accordance with the requirements of the SEPP.
60. Subject to the retention of the relevant conditions relating to remediation and contamination in development consent D/2020/399 for the detailed design of the approved development, the proposed amendments to the concept development consent continue to permit the site to be capable of being made suitable for approved uses.

State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)

61. The relevant provisions of the Transport and Infrastructure SEPP have been considered in the assessment of the development application as set out under the subheadings below.

Section 2.48 – Determination of development applications – other development

62. The application is subject to Section 2.48 of the Transport and Infrastructure SEPP as the development may affect existing electricity infrastructure within and adjoining to the site.

63. In accordance with the requirements of the Section, the application was referred to Ausgrid.
64. A response was received from Ausgrid, raising no objections to the proposal, subject to the recommended conditions in Attachment A.

Section 2.100 – Development within or adjacent to interim rail corridor

65. The application is subject to Section 2.100 of the Transport and Infrastructure SEPP as the site is in proximity to the Sydney Metro City and Southwest rail corridor.
66. In accordance with the requirements of the Section, the application was referred to Transport for NSW (TfNSW) for comment.
67. A response was received from TfNSW, raising no objection to the proposal, subject to the recommended condition amendments in Attachment A.

Local Environmental Plans

Sydney Local Environmental Plan 2012 (Sydney LEP 2012)

68. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided in the following table sections.

Part 1 Preliminary

Provision	Compliance	Comment
1.8A Savings provisions relating to development applications	Yes	The amendments made to the Sydney LEP 2012 by the Sydney Local Environmental Plan 2012 (Amendment No 64) made on 26 November 2021 do not apply to the subject development application, in accordance with subclause (5)(a) of Clause 1.8A of the Sydney LEP 2012

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 amendments are to concept building envelopes containing an indicative “mixed use development”, comprising “commercial premises” and “residential flat building” land uses, all of which are permissible with development consent in the zone.

Provision	Compliance	Comment
		The proposed changes to the concept approval generally meet the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 80 metres is permitted.</p> <p>A maximum height of 110 metres permitted under the amendments made to the Sydney LEP 2012 by the Sydney Local Environmental Plan 2012 (Amendment No 64) made on 26 November 2021, does not apply to the subject development application.</p> <p>A height of 110 metres is proposed to the southern tower envelope.</p> <p>The proposed development does not comply with the applicable height of buildings development standard.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted.</p> <p>Refer to the further assessment provided below under the Discussion heading.</p>
4.4 Floor space ratio (FSR)	Not applicable	<p>The proposed development is for amendments to concept building envelopes and no Gross Floor Area (GFA) or FSR is recommended to be approved as part of the subject application.</p> <p>The proposed relocation of the concept building envelope connective massing between the two towers to the top of the southern tower envelope is intended to allow for a generally GFA neutral amendment to the detailed design of the approved development, and to remain generally consistent with the approved FSR under development consent D/2020/399.</p>

Provision	Compliance	Comment
		An amendment to the Condition 10 'Floor Space Ratio - Central Sydney' is recommended so that the CSPC can give due consideration to the written Clause 4.6 FSR variation request submitted with the concurrent development application D/2021/690 for the amendment of the detailed design of the development.
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the maximum 80 metre "Height of buildings" development standard prescribed under Clause 4.3 of the Sydney LEP 2012.</p> <p>A written request for the variation of the standard, made in accordance with Clause 4.6 of the Sydney LEP 2012, has accompanied the application.</p> <p>Refer to the further discussion and assessment provided below under the Discussion heading.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not a heritage item and is not located within a heritage conservation area. The site is within the vicinity of several heritage items, as discussed under the Locality heading above.</p> <p>The City's Heritage Specialist has advised that the proposed changes to the approved development will not have any detrimental impacts on the heritage significance of the nearby heritage items.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
6.16 Erection of tall buildings in Central Sydney	Yes	The proposal involves amendments to an approved development with a height greater than 55 metres above the existing ground level in Central Sydney.

Provision	Compliance	Comment
		<p>The proposal is consistent with the objectives relating to tower development in Central Sydney in the following manner:</p> <ul style="list-style-type: none"> • The amended concept building envelopes can accommodate a detailed tower design which provides an acceptable level of amenity for the occupants of the mix of uses in the subject tower and neighbouring buildings, as demonstrated in the CSPC assessment report for the concurrent development application D/2021/690, which seeks consent for the amendment of the detailed design of the approved development. • The amended envelopes do not result in any significantly adverse impacts to the amenity of public places in proximity to the site, as demonstrated in the wind environment report and shadow diagrams submitted with the application. • The amended envelopes are compatible with the site context, in terms of setbacks, height and built form and provide for an acceptable level of sunlight to reach the front and rear facades of the towers, as demonstrated in the suns eye view diagrams submitted with the application. • The amended envelopes provide for an acceptable level of ventilation within and around the development and allow for provision of active street frontages.
6.17 Sun access planes	Yes	The City's Model Team have reviewed the proposed development and have advised that the additional height proposed to the southern tower envelope complies with the Wynyard Park sun access plane.

Provision	Compliance	Comment
6.21 Design excellence	Acceptable	<p>The proposed development is for amendments to the approved concept building envelopes. The envelope changes can accommodate a development which exhibits design excellence in accordance with the matters for consideration in Clause 6.21(4) of the Sydney LEP 2012.</p> <p>Clause 6.21(5) of the Sydney LEP 2012 requires that a competitive design process be held in relation to certain development.</p> <p>This includes that development in respect of a building which will have, a height above ground level (existing) greater than 55 metres on land in Central Sydney and to which a development control plan is required to be prepared under Clause 7.20 of the Sydney LEP 2012.</p> <p>The proposed development will result in a building with a height exceeding 55 metres, the subject site is located on land in Central Sydney and Clause 7.20 of the Sydney LEP 2012 applies to the proposal.</p> <p>The conditions of the existing base concept development consent D/2018/1014 require a competitive design process to be carried out.</p> <p>A competitive design process was held in relation to the original concept proposal (D/2014/1900) as discussed above under the Relevant Applications heading.</p> <p>A design integrity process carried out in accordance with Section 5.2 of the City of Sydney Competitive Design Policy, has been undertaken in relation to the amendments proposed under both the subject application and concurrent development application.</p>

Provision	Compliance	Comment
		Refer to the further discussion and assessment provided below under the Discussion heading.

Part 7 Local provisions – general

Provision	Compliance	Comment
7.13 Contribution for purpose of affordable housing	Not applicable	<p>The proposed amendments to the approved concept building envelopes does not seek consent for a development which would result in the creation of any GFA.</p> <p>No affordable housing levy contribution is required to be imposed as a result.</p>
7.16 Airspace operations	Not applicable	<p>The proposed amendments to the approved concept building envelopes will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.</p>
7.20 Development requiring or authorising preparation of a development control plan (DCP)	Yes	<p>Clause 7.20(2)(a) of the Sydney LEP 2012 requires that a development control plan be prepared in relation to development in respect of a building which will have, a height above ground level (existing) greater than 55 metres on land in Central Sydney.</p> <p>The proposed development is located in Central Sydney and will result in a building with a height exceeding 55 metres.</p> <p>This triggers the requirement for the preparation of a site-specific DCP.</p> <p>Section 4.23 of the Environmental Planning and Assessment Act, 1979 allows a concept development application to be lodged in lieu of preparing a DCP. The matters under Clause 7.20(4) of the Sydney LEP 2012 are satisfied by the documentation submitted with the application and the amended conditions in Attachment A.</p>

Provision	Compliance	Comment
		The amended building envelopes and the conditions of the concept development consent D/2018/1014 satisfactorily set out expectations for the height, form, massing, scale, environmental impacts, ESD outcomes, access outcomes, interface with ground level and landscaping outcomes of the development.

Development Control Plans

Sydney Development Control Plan 2012 (Sydney DCP 2012)

69. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided in the following table sections.

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

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements <i>3.1.2 Pedestrian and bike network</i> <i>3.1.2.2 Through-site links</i>	Yes	The proposed amendments to the approved concept building envelopes maintain the east-west through-site link, increasing its width, allowing it to be open to the sky by removing the connecting mass between towers and improving its legibility to the public. These changes serve to improve the accessibility and amenity of the publicly accessible space, allowing direct access from Kent Street through to Barangaroo.
3.2. Defining the Public Domain <i>3.2.1 Improving the public domain</i> <i>3.2.6 Wind effects</i>	Yes	The proposed amendments to the approved concept building envelopes will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and does not impede public views from the public domain.

Provision	Compliance	Comment
		<p>A wind environment report, including the results of wind tunnel testing, has been submitted with the application.</p> <p>The report concludes that the proposed amendments to the concept envelopes will result in wind conditions which are either better than, or equivalent to the existing and approved wind conditions, subject to recommendations made in relation to the detailed design of the development in the concurrent development application D/2021/690.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>As noted above under the History Relevant to the Development Application heading, the proposed development has been subject to an independent Design Integrity Assessment (DIA) Process, held in accordance with the City's Competitive Design Policy.</p> <p>The conclusion of the DIA Process is that the development is generally consistent with the original Competitive Design Alternatives Process winning scheme by FJMT.</p> <p>Refer to the further assessment provided below under the Discussion heading.</p>
3.5 Urban Ecology	Yes	<p>The proposed amendments to the concept building envelopes will not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p>
3.9 Heritage	Yes	<p>Refer to the discussion and assessment provided in relation to heritage conservation and Clause 5.10 of the Sydney LEP 2012 in the table section above.</p>

Section 5 – Specific Areas

Section 5.1 – Central Sydney

70. The subject application was submitted prior to the adoption of the current objectives and provisions in Section 5.1 of the Sydney DCP 2012.

71. Unlike the savings provisions set out in Clause 1.8A(5) of the Sydney LEP 2012, no such savings or transitional provisions have been provided within the Sydney DCP 2012 for development applications lodged prior to the recent amendment of Section 5.1 of the Sydney DCP 2012.
72. The proposed development has therefore been assessed on the basis of the current controls, however a degree of flexibility has been applied in the consideration of the proposal in accordance with Section 4.15(3A)(b) of the Environmental Planning and Assessment Act, 1979, with regard to the specific and individual circumstances of the site, and the interaction between the subject proposal and the approved development.
73. This flexibility has been applied because the proposal has been assessed as generally achieving consistency with the objectives of the relevant provisions set out in Section 5.1 of the Sydney DCP 2012, which serve to govern development proposed within Central Sydney.

Provision	Compliance	Comment
<p>5.1.1 Built form controls</p> <p><i>5.1.1.1 Street frontage height and street setbacks</i></p>	Acceptable	<p>The proposal does not provide a podium with a street wall height of between 20 to 35 metres to Kent Street, or between 20 to 45 metres to Jenkins Street, and it does not provide an 8 metre setback above the required street wall height to the Kent Street frontage, or a 2 metre setback above the required street wall height to the Jenkins Street frontage.</p> <p>A 'base case model' has been submitted to address 'Procedure B' in Schedule 12.2 of the Sydney DCP 2012 to demonstrate that the non-compliances result in an equivalent or improved wind comfort and wind safety and daylight levels in the surrounding public domain.</p> <p>As the subject site is located within a 'tower cluster' area, the base case has been modelled with a chamfered height of 213 metres (the height of the Lang Park sun access plane), chamfered corners and tower tapering, the through-site link, a sloping podium with an 8 metre setback to Kent Street, and side and rear setbacks which rely on the easement width on the adjoining site.</p> <p>Although not modelled in accordance with 'Procedure B', the proposal is acceptable with regard to the control objectives in the specific circumstances of the proposal and site, given:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • Both the approved concept and detailed development consents granted for the development on the site do not provide a podium or any street wall setbacks. • The locality is characterised by existing commercial and residential tower developments which do not provide podiums with street wall setbacks. • As such, the additional height proposed to the southern tower is compatible with the predominant streetscape character and locality. • The subject section of Kent Street is not typical of streets in Sydney's Central Business District, given that there is significant separation from the built forms to the east and north-east (in excess of 80 metres), as a result of its location opposite the Kent Street underpass pocket parks and the Bradfield Highway and Western Distributor ramps further to the east. As such, there is no significant canyoning effect to the east and north-east, with ample access to views of the sky. • To the west and north-west of the site, there is also a significant degree of sky view access, due to level change across the site and Jenkins Street down to Barangaroo, and the relatively low scale height of the former 'Grafton Bond Store' heritage item to the south west. • The wind environment report, including wind tunnel testing on the base case model, concludes that the proposed changes to the envelopes will result in wind conditions for the which are either better than, or equivalent to the base case wind conditions.

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • The sky view factor testing carried out by the applicant in relation to the model indicates that the proposed development provides marginally greater (0.2%) visible sky than the submitted base case model. • As a result, it is considered that the proposal achieves a comfortable pedestrian street environment, with acceptable levels of daylight access and wind conditions.
<p><i>5.1.1.3 Side and rear setbacks and building form separations</i></p>	<p>Acceptable</p>	<p>As discussed above under the SEPP 65 heading, the proposal does not fundamentally alter the approved side and setbacks of the concept building envelopes and serves to improve separation between tower forms on the site and to the northern wing of the adjoining commercial tower to the south-west.</p> <p>As such, the proposal does not provide compliant 4 metre north and south side setbacks in accordance with Table 5.4 of the Sydney DCP 2012, or 8 metre separation between the building forms on the site.</p> <p>The non-compliance is considered acceptable in the specific circumstances of the proposal and site however, with regard to the objectives of the relevant provision, given that:</p> <ul style="list-style-type: none"> • The approved development presents nil and minimal side setbacks, and does not provide for a building podium, nor is the locality characterised by development with building podiums. • The locality is characterised by existing developments built to the boundary with blank walls, including that already approved on the subject site.

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • The quality of the surrounding public domain is maintained as approved, or enhanced in terms of wind mitigation, ventilation and daylight access, as demonstrated in the sky view factor analysis, wind environment report and shadow diagrams submitted with the application. • The deletion of the connecting envelope massing and variation in height between the two tower forms serves to reduce the appearance of the development as a contiguous wall of towers. • The amended envelopes are capable of accommodating a detailed design which creates a layered visual effect when viewed from a distance.
<p><i>5.1.1.4 Built form massing, tapering and maximum dimensions</i></p>	<p>Acceptable</p>	<p>The maximum horizontal dimension of the amended concept building envelopes does not exceed 50 metres.</p> <p>The size of the floor plates of the amended tower envelopes does not exceed 1,000 square metres.</p> <p>The area occupied by the amended concept building envelopes exceeds the total Building Envelope Area available to the development.</p> <p>The non-compliance is considered acceptable in the specific circumstances of the proposal and site however, with regard to the objectives of the relevant provision, given that:</p> <ul style="list-style-type: none"> • The size and dimensions of the two tower envelopes has been reduced from that approved, with their proposed location generally consistent with the approved under the base concept development consent D/2018/1014 (as modified).

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • The amended concept building envelopes appear as slender tower forms, and do not appear as walls, or as having an overwhelming scale. • The proposed development is compatible with the context of the locality in terms of its height, massing, setbacks and form. • The impacts on the amenity of the public domain associated with the amended envelopes are acceptable, as demonstrated in the wind environment report and shadow diagrams submitted with the application.
<p>5.1.3 Heritage items, warehouses and special character areas</p> <p><i>5.1.3.2 Development adjacent to heritage items</i></p>	Yes	Refer to the discussion and assessment provided in relation to heritage conservation and Clause 5.10 of the Sydney LEP 2012 in the table section above.
5.1.7 Sun protection of public parks and places	Yes	Refer to the discussion and assessment provided in relation to the Wynyard Park sun access plane and Clause 6.17 of the Sydney LEP 2012 in the table section above.
5.1.8 Views from public places	Yes	The proposal establishes a westerly view to Barangaroo and Sydney Harbour from the east of the site, in accordance with the requirement in the Public Views Protection Map 2 in Figure 5.48 of Section 5.1.8 of the Sydney DCP 2012.
5.1.9 Managing wind impacts	Yes	<p>A wind environment report, including the results of wind tunnel testing, has been submitted with the application.</p> <p>The recommendations of the report satisfy the objectives and provisions set out in Section 5.1.9 of the Sydney DCP 2012 relating to the management of wind impacts.</p>

Discussion

Amendment of development consent D/2018/1014 (as modified)

74. As discussed above under the Proposed Development heading, the subject proposal relies on the development approved under the base development consent D/2018/1014 (as modified by D/2018/1014/A).
75. The proposal would have the effect of amending parts of the development approved by this consent, both in terms of the height, form and massing of the concept building envelopes, and the conditions of development consent.
76. It is therefore necessary to ensure consistency between the two development consents, particularly with regard to matters relating to height, FSR and other relevant matters, pursuant to Section 4.17(1)(b) of the Environmental Planning and Assessment Act, 1979.
77. Recognition of the proposed amendment to the height of the envelopes and the variation of the maximum Floor Space Ratio development standard proposed under the concurrent development application D/2021/690 necessitates changes to two of the conditions of development consent D/2018/1014, as follows (changes in ***bold italics*** for emphasis):

(9) BUILDING HEIGHT

The maximum height of the building, as defined in the Sydney Local Environmental Plan 2012, must not exceed ***110 80*** metres (RL ~~***133.4 102.087***~~ on the Kent Street frontage and RL 92.872 on the Jenkins Street frontage).

(10) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permissible, ***except where varied under Clause 4.6 of the Sydney Local Environmental Plan 2012*** and shall be calculated in accordance with the Sydney Local Environmental Plan 2012.
 - (b) Notwithstanding above (a), the proposal may be eligible for a 10% design excellence uplift in floor space ratio pursuant to the provisions of Clause 6.21(7) of the Sydney Local Environmental Plan 2012.
 - (c) Precise details of the distribution of floor space shall be provided with the future Stage 2 Development Application.
 - (d) Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.11 of the Sydney Local Environmental Plan 2012.
78. Several other conditions are recommended in Attachment A in order to ensure consistency is achieved between the two base development consents.

Clause 4.6 request to vary a development standard - height of buildings

79. The site is subject to a maximum 'Height of buildings' development standard of 80 metres under Clause 4.3 of the Sydney LEP 2012, given that the savings provisions in Clause 1.8A(5) of the Sydney LEP 2012 operate to prevent 110 metre maximum height under the Sydney Local Environmental Plan 2012 (Amendment No 64) from applying to the proposed development.
80. The proposed development has a height of 110 metres, resulting in an exceedance of the maximum permitted height by 30 metres, or 37.5%.
81. The area of the amended concept building envelopes subject to the breach of the control is the additional volume proposed atop the southern tower envelope, as shown in Figure 27 below.

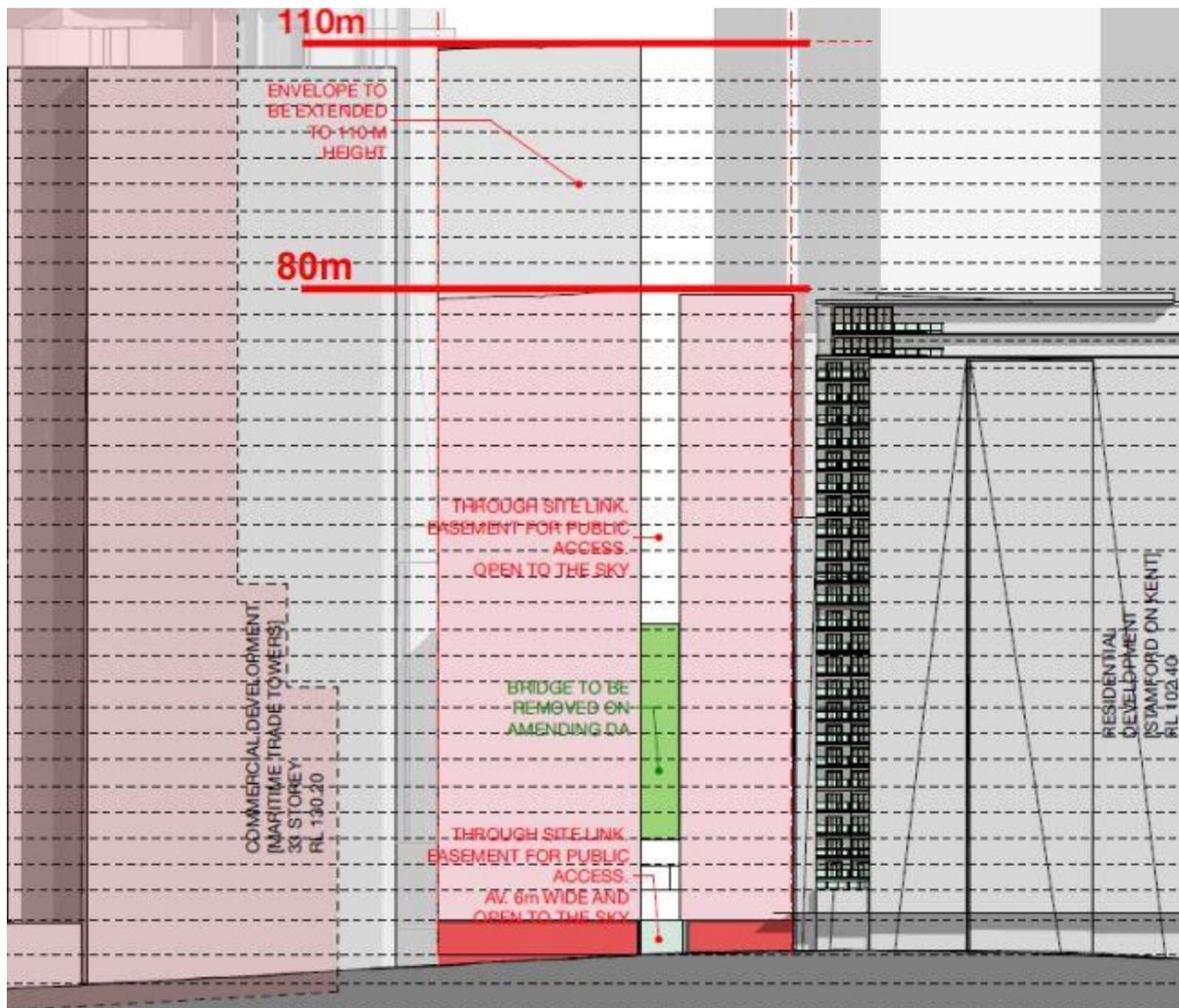


Figure 27: Extract from the 'Clause 4.6 Variation' (Ethos Urban) showing the showing the 80 metre and 110 metre height planes in relation to the proposed southern tower

82. 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.
83. A copy of the applicant's written request is provided at Attachment C.

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

84. The applicant seeks to justify the contravention of the 'Height of buildings' development standard on the basis that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the objectives of the standard are achieved, notwithstanding non-compliance with the standard.
85. The relevant objectives of the development standard are:
- (a) To ensure the height of development is appropriate to the condition of the site and its context.
 - (b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.
 - (c) To promote the sharing of views.
86. The applicant's request states that objective (a) of the standard is achieved in the following manner:
- (a) 189 Kent Street is located in the Sydney CBD, one of the highest density centres in Australia. The site also sits within a cluster of height that has primarily been driven by the recent development of Barangaroo. The image depicted below in Figure 28 shows the context of the site, particularly within the context of potential future tower cluster heights gazetted under the Sydney Local Environmental Plan 2012 (Amendment No 64).

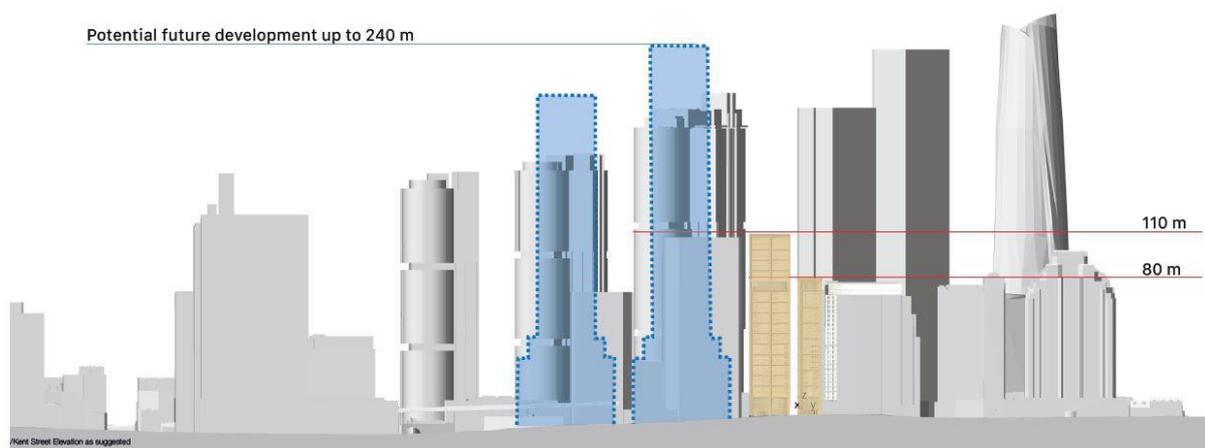


Figure 28: Extract from the 'Architectural Design Report' (FJMT) showing the height context of the site and development

- (b) As shown, the development is of a relatively low height when compared with the surrounding development and potential future development. In the immediate context, the proposed development is approximately equivalent in height to the Maritime Trade Towers building to the south, while the northern tower steps down to match the height of Stamford on Kent to the north.
- (c) In the broader context, the proposed development is less than half the height of International Tower One, the approved Barangaroo residential towers and the Crown Resort. The building is also less than half the height of the future tower cluster maximum height of 240 metres, endorsed within the Central Sydney Planning Strategy and shown in Figure 28 above. The building is also west of the CBD core, which contains numerous towers that are significantly taller than the proposed development.
- (d) The image depicted in Figure 29 below shows the proposed development from the west. As shown, the proposed height of the southern tower complements the scale and form of the adjacent Maritime Trade Towers.



Figure 29: Photomontage extract from the 'Architectural Design Report' (FJMT) showing the amended form of the detailed design of the approved development viewed from the west, as proposed under the concurrent development application D/2021/690

- (e) The Sydney Local Environmental Plan 2012 (Amendment No 64) gazetted on 26 November 2021, increased the height limit for the site to 110 metres. As such, there is an acknowledgement by Council that increased height is appropriate and desirable in the context.

- (f) It is further noted that the site is identified as being located within a tower cluster, due to its location within the western edge of the CBD, and therefore, the site is identified as being capable of accommodating up to 240 metres (pending compliance with other environmental controls, such as solar access planes). While the base height of 110 metres will apply to the entire site, only a portion of the site (i.e. the southern tower) will be of this height.
 - (g) In conclusion, the proposed development:
 - (i) Matches the height of the adjoining Stamford on Kent building to the north (northern tower).
 - (ii) Matches the height of the Maritime Trade Tower building to the south (southern tower).
 - (iii) Is significantly lower in height than the Barangaroo and Crown Resort developments to the west.
 - (iv) Sits within a broader context of taller buildings.
 - (v) Is significantly lower than the future tower cluster context within which the site is located.
 - (vi) Reflects the newly mapped height limit for the site of 110 metres, under the Sydney Local Environmental Plan 2012 (Amendment No 64), which is the maximum height of the building proposed.
 - (h) For these reasons, the height of the proposed development is considered to be appropriate to the condition of the site and its context.
87. The applicant's request states that objective (b) of the standard is achieved in the following manner:
- (a) There are several heritage items in the vicinity of the site, including the Grafton Bond Building and adjoining sandstone wall to the west of the site and Jenkins Street to the west and north-west of the site.
 - (b) It is first noted that there is an existing commercial building on the site. This building has a relatively dated and inactive facade facing west.
 - (c) The proposed development significantly improves on this heritage interface by widening the approved public through-site link, as well as by providing the capacity for improved activation and materiality along the western elevation of the building envelope.
 - (d) Finally, it is noted that the inclusion of the additional height on the southern tower does not significantly change the interface of the building with surrounding heritage items. It is unlikely that this height will be immediately read as a backdrop to the heritage items when viewed up close, and from a longer distance, the towers will improve the overall form and compatibility of the building with its surrounds.
 - (e) It is noted that the additional height will result in no significant additional overshadowing of the heritage items, given its location, scale and context within Central Sydney.

- (f) Overall, it is considered that that the proposed variation continues to maintain appropriate height transitions between new development and the surrounding heritage items.
88. The applicant's request states that objective (c) of the standard is achieved in the following manner:
- (a) The proposed variation will not result in any significant impacts to views from surrounding buildings or public places. The redistribution of the massing from between the two towers to the top of the southern tower allows for improved views between the two towers. Further, the additional height on the southern tower does not result in significant view impacts for the neighbouring building to the south.
- (b) It is noted that under the Sydney Local Environmental Plan 2012 (Amendment No 64), for a building with a height 30 metres taller than the current height limit, any potential view sharing should be considered in the context that the site will be capable of achieving a significantly taller development within the near future.
- (c) It is also noted that the Sydney Local Environmental Plan 2012 (Amendment No 64) amended this objective, to read as follows (emphasis added):
- To promote the sharing of views (**outside of Central Sydney**).
- (d) In line with this amended objective, the additional height sought under this application will not restrict access to views outside of Central Sydney.
89. In summary, the applicant's request concludes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the proposed development:
- (a) Is consistent with its context in terms of height.
- (b) Responds appropriately to surrounding development and heritage.
- (c) Complies with the new mapped height limit for the site.
- (d) Provides an amended building envelope which can accommodate a detailed design of high architectural quality and which exhibits design excellence, as per the Design Integrity Assessment Process.
90. The applicant's request sets out that there are sufficient environmental planning grounds to justify contravening the standard as follows:
- (a) Ground 1: The height limit of the site has been increased as part of a Council-led LEP amendment.

The Sydney Local Environmental Plan 2012 (Amendment No 64) increased the height limit of the site from 80 metres to 110 metres. While the savings provisions under Clause 1.8A(5) of the Sydney LEP 2012 mean the new height limit does not technically apply to the site, the proposed development is consistent with Council's future desired character for the area and the envisaged capacity for the site.

The site is also identified as being within a tower cluster, which are sites designated as potentially being capable of achieving significant additional height beyond the mandated height limit, up to 240 metres (pending compliance with other controls such as solar access planes). As such, the proposed variation is considered minor in the context of the current and potential future character of the site.

- (b) Ground 2: The proposal does not seek to materially increase the density of the development

The proposed development seeks to redistribute a portion of the building envelope massing from the connecting portion between the two towers, to the top of the southern tower. Key in the approach is the 'redistribution' of mass, as indicated in the images depicted in Figure 30 below, which does not envisage additional capacity or density of development potential at the site. As such, the height variation has not been driven by an intensification or overdevelopment of the site, but by the spatial constraints of the site and the massing of the buildings (including the provision of a significant through-site link and building separation between the two towers). The additional height is considered to provide a more appropriate volumetric response to the site while not significantly increasing the capacity or density of the development.

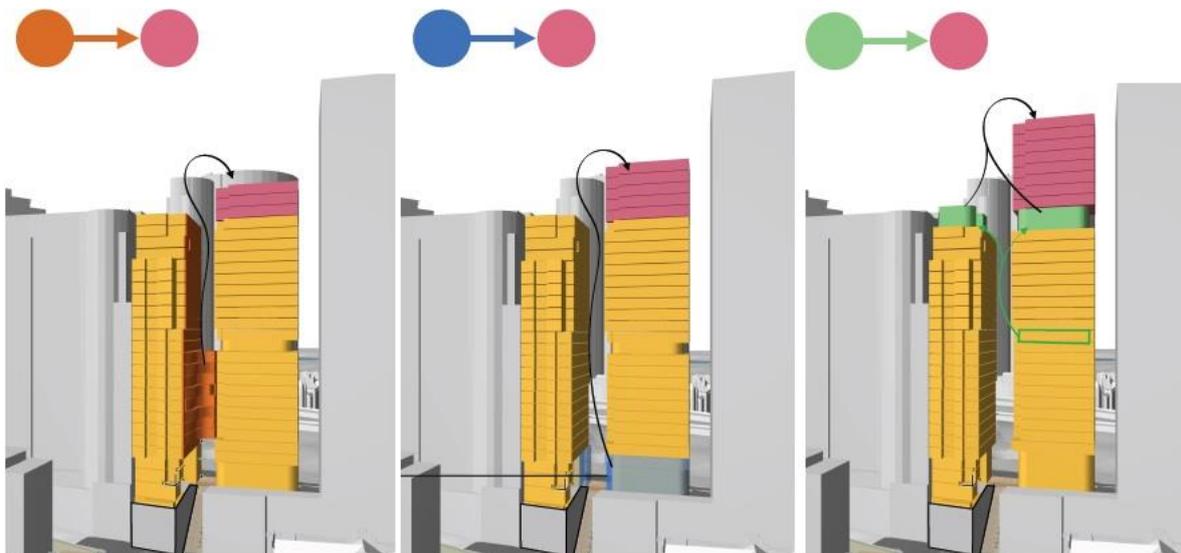


Figure 30: Extract from the 'Architectural Design Report' (FJMT) showing the redistribution of massing from the connecting link between the towers, the ground plane and relocation of communal spaces

- (c) Ground 3: Redistribution of massing resulting in increased height improves public benefit

The redistribution of the central massing from between the two towers to the top of the southern tower envelope, and subsequent variation to the height limit, as depicted in Figure 30 above, results in the improvement of the width of the through-site link, and therefore improved public benefit. The removal of this massing above the through-site link allows for the link to be open to the sky, improving the legibility and walkability of the link for the public.

Therefore, the redistribution of this massing, resulting in an increased building height, improves the public benefit of the project overall. The additional height contravening the maximum height limit is therefore justified on this ground.

91. In summary, the applicant's request concludes that there are sufficient environmental planning grounds to justify contravening the development standard, as:
- (a) The mapped height limit applying to the site has been increased under the Sydney Local Environmental Plan 2012 (Amendment No 64).
 - (b) The building does not represent an overdevelopment of the site or significant increase in development potential for the site. It seeks to redistribute massing of the building envelope, not significantly increase the capacity of the site.

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

92. 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.
 - (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)?

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

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

95. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify varying the development standard.
96. Council planning staff agree with the justification provided in the written request, as described in detail above, and are satisfied that the components of the amended building envelopes which breach the maximum permitted height will not result in significantly adverse environmental planning impacts. There are sufficient environmental planning grounds to vary the development standard.

Is the development in the public interest?

97. The proposed development is in the public interest as it is consistent with the objectives of the development standard as demonstrated above and for the following reasons:
- (a) Subject to the recommended conditions of development consent, the proposed development represents an innovative and responsive approach to the street environment and the overall streetscape.
 - (b) It seeks to replace an ageing commercial building that contributes little in terms of public domain with a development that adds significant public benefit in the form of a publicly accessible through-site link from Kent Street to Jenkins Street.
 - (c) The through-site link has been significantly improved through the design changes made under the subject application, including providing a view through the site, widening the link and opening it to the sky in accordance with the relevant provisions in the Sydney DCP 2012.
 - (d) Further, the proposed development improves the built form outcome on the site by establishing an envelope that responds to its surrounding context and the heights set by the adjoining Stamford on Kent and Maritime Trade Towers developments.
98. The proposed development is also consistent with the objectives of the B8 Metropolitan Centre zone which are:
- (a) To recognise and provide for pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.
 - (b) To provide opportunities for an intensity of land uses commensurate with Sydney's global status.
 - (c) To permit a diversity of compatible land uses characteristics of Sydney's global status and that serve the workforce, visitors and wider community.
 - (d) To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.
 - (e) To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purpose of retail premises.
99. The proposed development is consistent with the objectives of the B8 Metropolitan Centre zone for the following reasons:
- (a) It provides for a development that is of an intensity consistent with the site's location in the Sydney CBD.
 - (b) It provides for a diversity of land uses complementary to Sydney's global status.
 - (c) It facilitates significant public benefit in the form of a public through-site link that will serve the workforce, visitors and wider community.

- (d) It encourages walking through the provision of a through-site link that increase connectivity between Barangaroo and Central Sydney. The amended proposal improves the legibility of the through-site link through the removal of the central massing between the two towers, opening the through-site link to the sky and therefore further encouraging walkability.
- (e) The amended proposal improves the legibility of the through-site link and permits the improvement of the design of the interface with the surrounding public domain.
- (f) It provides the capacity for maximising active frontages and pedestrian traffic in and around the building envelopes.

Conclusion

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

Design Integrity Assessment (DIA) Process

- 103. The reconvened Competitive Design Alternatives Process Selection Panel took into consideration the reasons for selection of the original winning scheme and that the amended controls gazetted under the Sydney Local Environmental Plan 2012 (Amendment No 64) were not in force at the time during the DIA Process held by the applicant during March and April 2021
- 104. The selection panel were supportive of the following features of the amended scheme:
 - (a) Additional height to the southern tower, resulting in a better volumetric response for the site considering its location and surrounding streetscape.
 - (b) Opening of the through-site link to the sky.
 - (c) Increased width of the through-site link.
 - (d) Complete visual separation between the two towers and the improved visual connection it provides between the Sydney Central Business District and Barangaroo. The panel considered this visual connection through the site to be a key reason for selection of the winning scheme.
 - (e) The integration of landscaping, public art and gentler stair grade within the through-site link, resulting in better realisation of the concept of 'the Cut' (which is the term used by the applicant to describe the public art and landscape treatment to the through-site link).
 - (f) Marginally improved wind conditions, particularly at ground Level within the through-site link and along Kent Street.

- (g) The increase in the quantum of communal open space, provided equitable access to quality communal open space was provided for each tower, and particularly for the north tower.
- (h) The principle of the landscape proposal (i.e. removal of facade planting and increasing planting at ground level/in the cut), provided the landscaping proposal was bolstered along Kent Street and the Jenkins Street Podium facade.

105. The panel identified the following items for further design development:

- (a) Increased activation of Kent Street, particularly to the southern tower. The additional public realm created by setting back the building should be activated. In improving the activation of Kent Street, the following should be considered:
 - (i) Potential for outdoor seating, considering wind impacts and mitigation measures (such as possible vertical localised screens to be deployed by tenants during high winds).
 - (ii) The presentation of awnings and how they relate to the ground level tenancies/activated spaces.
 - (iii) Possible combined retail/lobby spaces.
- (b) The western elevation of the Jenkins Street podium should have a stronger expression and more integration of landscape. Consideration should be given to wrapping the public art/landscape from the Cut more strongly around the western facade.
- (c) Ensure both towers have adequate access to quality communal space, particularly the northern tower, since communal space is no longer common between towers. Further consider the detailed layout of the communal spaces.
- (d) While the panel was supportive in principle of the landscape proposition (i.e. removal of facade planting and increasing planting at ground level/in the Cut), the following areas were identified for improvement:
 - (i) Strengthen the landscaping integration along the Jenkins Street podium elevation – potentially bringing the public art/landscaping within the Cut onto the western facade more strongly.
 - (ii) Consider additional tree planting along Kent Street or at the entry throat to the through-site link from Kent St and protection of existing trees during construction.
- (e) Further develop the tower slot windows located within the Cut where the towers face each other. Thoroughly consider views and outlook from bedrooms that have a single slot window in order to improve amenity. A more tailored response may provide a better outcome in terms of internal amenity than a consistent window slot up the tower.
- (f) Ensure the building structure and column locations is developed in co-ordination with apartment planning so that there is minimal interference with apartment layouts and accessible access to apartments, particularly on the southern tower upper levels and the Jenkins Street facing low-rise apartments.

- (g) Ensure an appropriate maintenance and access strategy to the public art/landscaping within the Cut is developed and implemented.
 - (h) Ensure the roof feature framing on top of the towers has a strong presentation.
 - (i) Consider provision of an internal north-east facing communal space for the northern tower's communal open space level, providing greater diversity of internal and external spaces and opportunities for different views to be experienced.
 - (j) Further develop the environmental performance of western facade to ensure appropriate openings and sun shading.
106. All of the above items relate to the amendments to the detailed design of the development proposed under the concurrent development application D/2021/690, rather than the changes proposed to the approved concept building envelopes under the subject application.
107. Refer to further assessment and discussion provided in the CSPC assessment report for this application.

Consultation

Internal Referrals

108. The application was referred to, or discussed with the City's:
- (a) Central Sydney Traffic and Transport Committee (CSTTC) subcommittee.
 - (b) Design Advisory Panel (DAP).
 - (c) Heritage Specialist.
 - (d) Model Unit.
 - (e) Public Domain Unit.
 - (f) Specialist Surveyor.
 - (g) Strategic Planning and Urban Design Unit.
 - (h) Urban Design Specialist.
109. The advice of the DAP, CSTTC subcommittee and Council officers listed above raised no objections to the proposed amendments to the concept building envelopes, subject to conditions, except as discussed elsewhere in this report.
110. Where considered appropriate, the conditions recommended by other sections of Council are included in Attachment A.

External Referrals

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

- (a) Ausgrid.
 - (b) Sydney Water.
 - (c) Transport for New South Wales.
112. Responses were received, raising no objections to the proposal, subject to conditions.
113. The referral comments and conditions received from the external referral organisations are addressed elsewhere in this report or are included in Attachment A where relevant.

Advertising and Notification

114. The application was placed on public exhibition for a period between 28 June 2021 and 27 July 2021 in accordance with the City of Sydney Community Participation Plan 2020.
115. A total of 1,003 properties were notified, in addition to all submitters who had made objections to the City in relation to development application D/2018/1014 and modification application D/2018/1014/A.
116. One submission was received by the City during the exhibition period in response to the notification of the application.
117. The submission raised the following issues:
- (a) **Issue:** Demolition, excavation and construction impacts including hours of work, damage to adjoining buildings, dust and air pollution, structural, vibration and noise impacts, and traffic congestion
- Response:** No construction is proposed or approved as part of the amendments to the concept development consent and building envelopes. These matters are addressed under the concurrent development application D/2021/690 which seeks to amend the detailed design of the development.

Financial Contributions

Levy under Section 61 of the City of Sydney Act 1988

118. The application is not subject to any levies under Section 61 of the City of Sydney Act, 1988, as it is for amendments to a concept building envelope and development consent only.
119. Appropriate contributions are recommended to be levied as part of any development consent granted to the concurrent development application D/2021/690 which seeks to amend the detailed design of the development.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

120. The site is located within the Central Sydney affordable housing contribution area.

121. The proposed development does not result in the creation of any GFA and an affordable housing contribution is not required in relation to the proposed development.

Relevant Legislation

122. Environmental Planning and Assessment Act 1979.
123. City of Sydney Act, 1988.
124. Roads Act, 1993.
125. Sydney Water Act, 1994.

Conclusion

126. This development application proposes to alter the approved building envelopes to be consistent with the concurrent development application which seeks to alter the detailed design of the approved development (D/2021/690). The detailed design development application is presented to the CSPC concurrently for consideration.
127. The proposed amendments to the approved concept building envelopes will ensure consistency between staged development applications, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979.
128. The application is presented to the CSPC to ensure consistency with the ultimate determination of the development application to amend the detailed design of the development.
129. The changes to the overall form of the building envelopes seek to take up the additional height available to the site under the recent changes to the Sydney LEP 2012, and are not inconsistent with the underlying intent of the approved concept development.
130. As per the originally approved concept application, the proposed building envelope amendments will deliver mixed use building envelopes, including retail, commercial and residential land uses, fronting to Kent Street and Jenkins Street.
131. The proposed changes to the concept envelopes primarily relate to the deletion of the connecting link between towers, an increased height of the southern tower to 110 metres and an increased through-site link width.
132. The deletion of the link between the two envelopes provides a view through the site to Sydney Harbour and allows the through-site link to be clear to the sky, in accordance with the relevant provisions of the Sydney DCP 2012.
133. The additional height proposed to the southern tower envelope sits within the maximum height permissible under the current control for the site in the Sydney LEP 2012.
134. The increased through-site link width delivers a better outcome for the public domain in the detailed design of the development.

135. The changes to the envelopes are supported as they do not result in any significant amenity impacts and deliver building envelopes that result in an improved public domain outcome and are capable of achieving an acceptable level of amenity for future occupants and adjoining properties.
136. The proposed building envelopes are capable of accommodating a future building which exhibits design excellence in accordance with Clause 6.21 of the Sydney LEP 2012. Development application D/2021/690 being considered concurrently by CSPC demonstrates that a generally compliant scheme can be provided within the amended envelopes that delivers design excellence in accordance with Clause 6.21 of Sydney LEP 2012.
137. The proposed amendments to the concept development consent are therefore in the public interest and are recommended for approval.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

David Reynolds, Area Coordinator