

**Item 5.****Development Application: 525-529 George Street, Sydney - D/2022/481**

File No.: D/2022/481

**Summary**

<b>Date of Submission:</b>	31 May 2022, amended 16 August 2022, 8 November 2022, 6 February 2023, 31 March 2023
<b>Applicant:</b>	Mr Giovanni Cirillo, Planning Lab
<b>Architect/Designer:</b>	Candalepas Associates
<b>Developer:</b>	Event Hospitality and Entertainment Limited
<b>Owner:</b>	The Greater Union Organisation Pty Ltd
<b>Planning Consultant:</b>	Planning Lab
<b>Heritage Consultant:</b>	Urbis
<b>DAP:</b>	1 September 2022
<b>Cost of Works:</b>	\$224,856,779.00
<b>Zoning:</b>	SP5 Metropolitan Centre. The proposed mixed-use development comprises the following land uses - residential accommodation, hotel accommodation, an event venue, an entertainment facility and retail premises uses, all of which are permissible with consent in the zone.
<b>Proposal Summary:</b>	<p>Approval is sought for the demolition of the existing building and construction of a new mixed-use development with a maximum height of 155.39m (RL 172.51 AHD) with hotel, residential, event venue, retail and entertainment facility land uses in a 43 storey podium and tower.</p> <p>The proposal includes retail tenancies, a cinema, a venue for events and functions, 292 hotel rooms, 115 apartments, excavation for seven levels of basement and a common driveway from Kent Street providing vehicular access to the subject site and 505 George Street via a connection at Basement Level 1.</p>

The application is referred to the Central Sydney Planning Committee (CSPC) for determination as the proposal is “major development” for the purposes of the City of Sydney Act, 1988.

The subject development application requires an amendment of the approved concept building envelope. A Section 4.55(2) modification application (D/2019/758/A) has been lodged separately and has been assessed concurrently. The modification application is also being reported to CSPC and is recommended for approval. Subject to the approval of D/2019/758/A, the subject development application will be consistent with the concept development consent in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.

A competitive design alternatives process was held with Candalepas Associates selected as the winning scheme. Subject to conditions, the proposal exhibits design excellence and is eligible for up to 10 per cent additional Floor Space Ratio pursuant to Clause 6.21D of the Sydney Local Environmental Plan 2012 (SLEP 2012).

A preliminary assessment of the application identified concerns relating to the design of the roof and the awnings to Kent and George Streets and Albion Place, noise and ventilation, contamination, solar access, acid sulfate soils, vehicular parking, site loading and servicing, integration with the adjoining public domain, waste and public art.

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

The proposed development marginally exceeds the maximum 150m height of buildings development standard by 5.39m (3.6 per cent). This is due to the roof design which contains lift overruns, fire stairs and mechanical plant and equipment.

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

The proposed development also marginally exceeds the maximum floor space ratio development standard by 0.7 per cent. The non-compliance is the result of locating bicycle parking for the hotel, cinema and retail premises uses (approximately 205sqm) above ground where it is counted as gross floor area (GFA), rather than in a basement where it would be excluded. The provision of bicycle parking at grade enables cyclists to access the bicycle parking area without crossing any tenancies or relying on any lifts which is considered beneficial.

A request to vary the Clause 4.4 floor space ratio (FSR) development standard has been submitted in accordance with Clause 4.6 of the SLEP 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 FSR development standards and the proposed departure to the FSR is supported in this instance.

The application was notified for 28 days between 2 June 2022 and 1 July 2022, with two submissions received. Following submission of amended plans on 8 November 2022, the application was re-notified for 14 days between 9 November 2022 and 24 November 2022, with two further submissions being received.

Concerns raised in the submissions include concerns relating to the height exceedance, the location of the waste and goods loading dock, privacy impacts, amenity impacts to 505-523 George Street, management of the hotel pool, view loss and construction impacts. These issues are addressed within the report.

Subject to conditions, the proposal is generally consistent with the applicable planning provisions including those within the SLEP 2012, Sydney Development Control Plan 2012 (SDCP 2012), SEPP 65 and the Apartment Design Guide (ADG).

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

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

- Summary Recommendation:** The development application is recommended for approval, subject to conditions.
- Development Controls:**
- Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
  - City of Sydney Act 1988 and City of Sydney Regulation 2016
  - Sydney Water Act 1994 and Sydney Water Regulation 2017
  - Roads Act 1993 and Roads Regulation 2018
  - Airports Act 1996 (Cth) and Civil Aviation (Building Control) Regulation 1988
  - SEPP (Resilience and Hazards) 2021
  - SEPP (Building Sustainability Index: BASIX) 2004
  - SEPP (Transport and Infrastructure) 2021
  - SEPP (Biodiversity and Conservation) 2021
  - SEPP No. 65 - Design Quality of Residential Apartment Development
  - Apartment Design Guide 2015
  - Sydney Local Environmental Plan 2012
  - Sydney Development Control Plan 2012
  - City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011
  - City of Sydney Interim Guidelines for Public Art in Private Developments 2006
  - City of Sydney Guidelines for Waste Management in New Developments 2018
  - Central Sydney Development Contributions Plan 2020
  - City of Sydney Community Participation Plan 2020
  - Community Engagement Strategy and Participation Plan 2022

**Attachments:**

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

## Recommendation

It is resolved that:

- (A) the variation requested to the Height of Buildings development standard, in accordance with clause 4.6 exceptions to development standards of the Sydney Local Environmental Plan 2012 (SLEP 2012) be upheld;
- (B) the variation requested to the Floor Space Ratio development standard, in accordance with clause 4.6 exceptions to development standards of the SLEP 2012 be upheld; and
- (C) development consent be granted to Development Application No. D/2022/481 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 site's planning controls for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the SLEP 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 SLEP 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the SP5 Metropolitan Centre zone and the Height of Buildings development standard.
- (C) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the SLEP 2012, that compliance with the Floor Space Ratio (FSR) development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.4 of the SLEP 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the SP5 Metropolitan Centre zone and the FSR development standard.

- (D) The proposal is consistent with the objectives of the SP5 Metropolitan Zone of SLEP 2012.
- (E) The development, subject to conditions, is generally consistent with the applicable State Environmental Planning Policies, the Apartment Design Guide (ADG), the SLEP 2012 and the Sydney Development Control Plan 2012 (SDCP 2012).
- (F) The built form is of a high quality and consistent with the future desired character of the area. Subject to conditions, the proposed development is considered to exhibit design excellence and will make a positive contribution to the public domain and the Sydney skyline and streetscape.
- (G) The proposed development is consistent with the design intent of the winning scheme of a competitive design process, held in accordance with the City of Sydney Competitive Design Policy.
- (H) The proposed development is consistent with the amended concept approval for the site, being D/2019/758/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (I) The proposed development has a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.
- (J) Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (K) The proposed mix of compatible land uses will support the vitality of the area and do not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain and the broader Sydney Central Business District, subject to the recommended conditions.
- (L) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to the appropriate management of potential environmental impacts associated with the development.
- (M) For the reasons above and as detailed in the assessment report to the Central Sydney Planning Committee, the proposed development is in the public interest subject to conditions.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 in DP 224683, known as 525-529 George Street, Sydney. It is irregular in shape with area of approximately 1,856.1sqm. It has three street frontages: George Street to the east, Kent Street to the west and Albion Place to the south. The site has a maximum depth of 82m, and street frontage lengths to George Street and Kent Street of 23m and 27m, respectively. The site falls by approximately 2.98 - 3.7m from George Street to Kent Street. The George Street frontage falls gently from north to south by approximately 850mm and the Kent Street frontage is relatively level.
2. The site is occupied by a four to five storey building including a single level basement and is commonly known as 'Event Cinemas'. The building is constructed over two separate land titles in separate ownership, being the subject site and the adjoining site to the north at 505-523 George Street. Although the two properties are in separate ownership the existing building is operated as a single building which straddles the shared site boundary.
3. The site is located approximately in the middle of the block between Bathurst Street to the north and Liverpool Street to the south. The site is located approximately 150m south of Town Hall and the Light Rail is located in front of its George Street frontage. The area, particularly along George Street, is highly pedestrianised during the day and at night and is characterised by a diverse range of retail, entertainment, food and drink premises.
4. A separated two-way cycle way is located along the site's Kent Street frontage. Kent Street is a one-way street with vehicles travelling in a south to north direction. There are two vehicular lanes on Kent Street plus on-street parking along the eastern side of Kent Street. Vehicular access to the site is currently via a single entry point at the northern end of the Kent Street frontage.
5. The site is surrounded by a mix of buildings including office towers, retail premises, residential towers, serviced apartments and lower scale heritage items. Notable tall buildings in the immediate surrounding area include Lumiere (105-107 Bathurst Street), Fraser Suites (484-488 Kent Street), Century Tower (343 Pitt Street), Meriton Serviced Apartments (528 Kent Street), the Greenland Centre (115 Bathurst Street) and World Square (644 George Street).



6. Directly south of the site is Albion Place which is a public laneway (approximately 3m wide) providing a pedestrian connection between George Street and Kent Street. Albion Place is a heritage listed item under the SLEP 2012 (Item No.1658). Adjoining Albion Place to the south are three separate properties:
  - (a) 537-551 George Street: Meriton Suites containing a 40 storey tower containing serviced apartments, a two to three storey commercial podium with ground floor retail premises and a through site link providing access between George Street, Kent Street and Albion Place. Located on this site with direct frontage to Albion Place is a three storey local heritage listed building (I1659) containing retail tenancies and is commonly known as 1-7 Albion Place.
  - (b) 531-535 George Street: Albion Place Hotel which is a four storey local heritage item (I1795) used as a pub with a primary street address to George Street and associated outdoor dining in Albion Place.
  - (c) 518 Kent Street: A three storey brick building located on the corner of Kent Street and Albion Place currently used as a restaurant.
7. To west of the site and on the opposite side of Kent Street is a single-storey heritage item (I1835) known as Judges House (531 Kent Street). Also opposite the site on Kent Street (533-539 Kent Street) is a heritage listed commercial building (I836). A 16 storey residential building known as 'Windsor Place' is located directly behind this heritage item (226-346 Sussex Street).
8. To the north of the site (adjoining 505-523 George Street) is the 42 storey Fraser Suites building which contains serviced apartments. Further to the north of the site and adjoining 505-523 George Street, is the 47 storey Lumiere building which contains a commercial podium (known as 'Regents Place') with residential apartments above. A through-site link is located on this site connecting George, Kent and Bathurst Streets.
9. Directly opposite the site on George Street is the Metro Theatre. Located to the northeast of the site on the opposite side of George Street is the former HSBC Centre, which is a 33 storey office tower (580 George Street).
10. The site is not a heritage item and is not located in a heritage conservation area or Special Character Area. However, as outlined above, there are a number of heritage items in close proximity to the site. The site is located in between the 'Sydney Square/Town Hall/ St Andrews' and the 'Haymarket/Chinatown' Special Character Areas located 85m to the north and 88m to the south, respectively.
11. The site is not identified as being subject to flooding.
12. A site visit was carried out on 27 June 2022. Photos of the site and surrounds are provided below:
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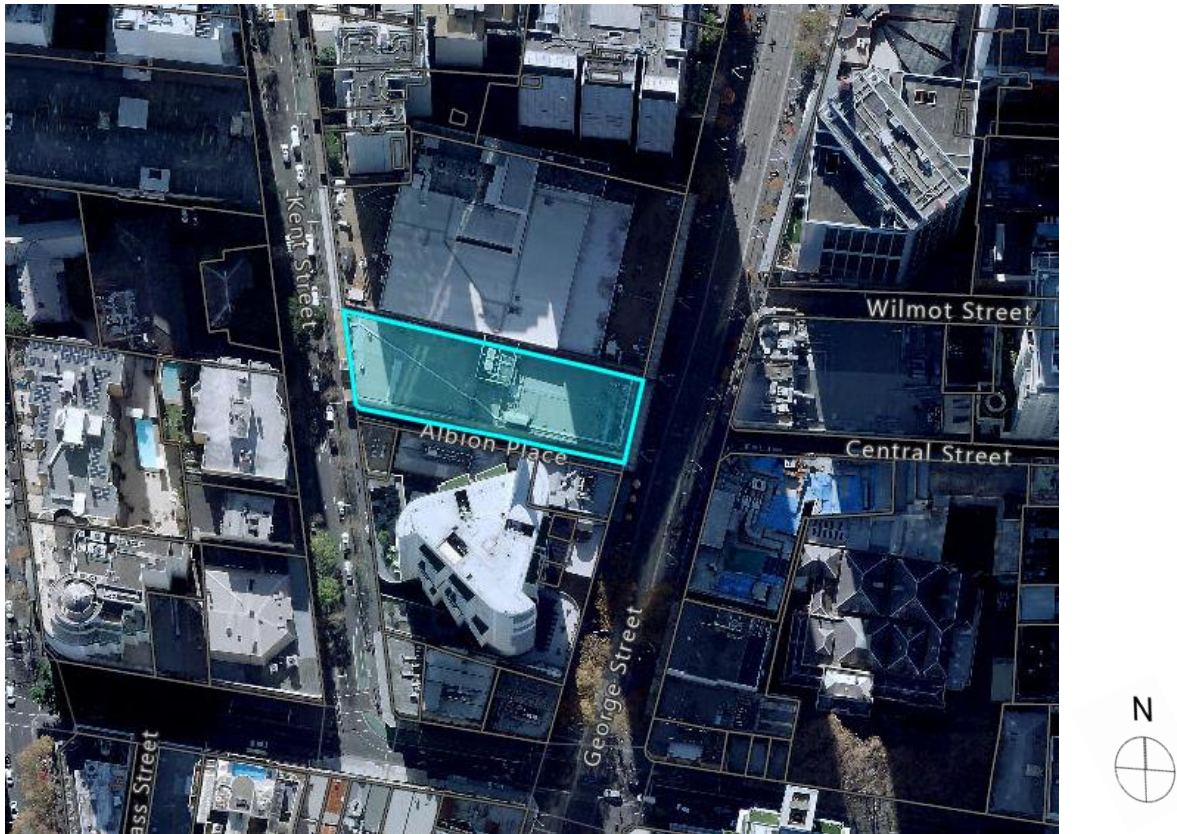


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from George Street



Figure 3: View looking west down Albion Place from George Street



Figure 4: Site looking southwest along George Street



**Figure 5:** View looking south down George Street showing site's relationship to Albion Place and the heritage listed building at 531-535 George Street



**Figure 6:** View of site looking east from Kent Street



Figure 7: View of site looking northeast from Kent Street



Figure 8: View looking west to Kent Street from Albion Place



Figure 9: View looking east to George Street from Albion Place

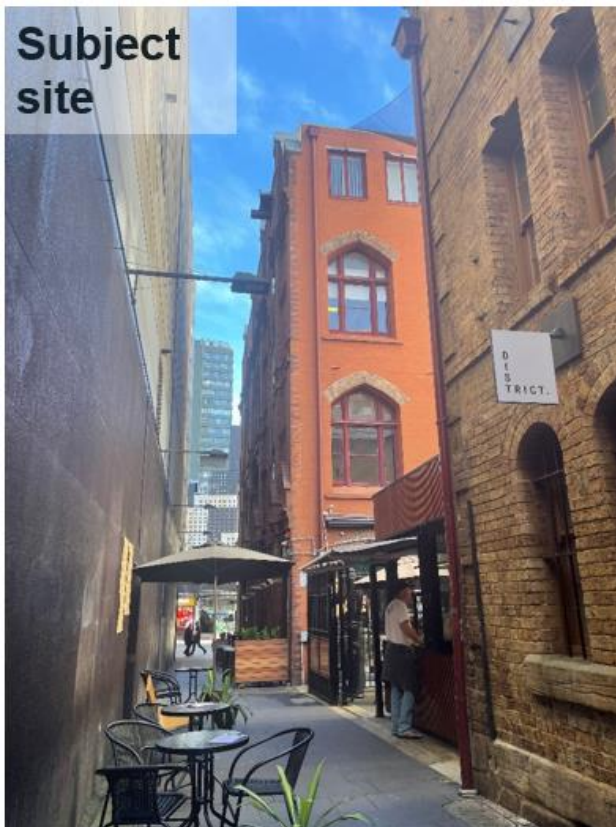


Figure 10: View from the central part of Albion Lane looking east to George Street

## History Relevant to the Development Application

### Development Applications

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

- **D/2019/758** – Development consent was granted on 25 May 2020 by the CSPC for a Concept (Stage 1) development application on the subject site for a building envelope 150m in height containing indicative residential and hotel uses in the tower and commercial uses in the podium.

Condition 7 of D/2019/758 requires unimpeded vehicular access and egress via the shared driveway to be made available to 505-523 George Street at all times for vehicles associated with the operation of the building.

- **D/2019/758/A** - A Section 4.55(2) modification application to the Concept development application was lodged with the City on 31 May 2022 and has been assessed concurrently with the subject detailed design development application.

The Section 4.55(2) modification application proposes to amend the approved building envelopes.

Specifically, the modifications include:

- (i) amendments to the tower envelope to accommodate tower structure, public art and lift overruns, rooftop plant and access to the communal rooftop
- (ii) amendments to the podium envelope to align with the adjacent approved development at 505-523 George Street
- (iii) amendments to the podium envelope to accommodate a relocated pool terrace and accommodate awnings and balustrades to the level four external terraces.

This concurrent modification application is subject to a separate report for the CSPC's consideration.

15. The following applications are relevant to the adjoining site at 505-523 George Street:

- **D/2019/857** – Development consent was granted on 25 May 2020 by the CSPC for demolition of existing structures on site, excavation and construction of a mixed-use building comprising:
  - (i) a tower containing 507 residential apartments and facilities (including temporary use of the apartments as serviced apartments for a time-limited period up to 20 years) and a restaurant and bar on level 80;
  - (ii) a podium containing a City of Sydney childcare centre and meeting room, publicly accessible toilets, retail premises including a cinema and facilities ancillary to the serviced apartments,
  - (iii) public artwork and a through-site link; and
  - (iv) eight basement levels containing car parking, end of trip facilities, storage, plant rooms and ancillary use areas.

16. Photomontages of the development are provided in the figures below.



**Figure 11:** Photomontage of the approved development at 505-523 George Street - view from the International Convention Centre





**Figure 12:** Photomontage from George Street of the approved development at 505-523 George Street, the subject DA relates to the site immediately to the south (left-hand side)



**Figure 13:** Photomontage from Kent Street of the approved development on 505-523 George Street, the subject DA relates to the site immediately to the south (right-hand side)

### Competitive Design Process

17. A competitive design process was undertaken for the development site in accordance with the provisions of Clause 6.21D of the SLEP 2012 and the City of Sydney Competitive Design Policy. As a result of this competitive design process the applicant is seeking up to 10 per cent additional floor space pursuant to Clause 6.21D of the SLEP 2012.
18. The Competitive Design Alternatives Process was carried out between 23 October 2020 and 8 December 2020. The architectural firms who participated in the Design Competition included Candalepas Associates, Andrew Burges Architects and John Wardle Architects.
19. Candalepas Associates was selected as the winning scheme by the four member selection panel. The selection panel described the winning scheme as a slim and elegant tower form built around a grid of regularly spaced columns. The selection panel was impressed with the general arrangement and layout of the apartments. The scheme had the ambition to create a sense of 'repose' which the selection panel found to have been achieved in the design. This was considered a positive attribute of the tower, however, in the podium, it was found to produce a sensibility more akin to a civic building rather than to the applicant's ambition to generate a theatrical and convivial sense of social engagement in the podium.
20. To Albion Place, the rigour of the gridded facades and colonnade were considered to be highly refined but were found to contrast with their context. The panel found that the provision of any awning to Albion Place (which was a competition requirement) appeared awkward. It was noted that the colonnade was well integrated into the podium's design and could potentially provide suitable pedestrian amenity and protection.
21. The selection panel found the tower component of this scheme to be the best resolved of the entries and to be the greatest strength of the scheme.

22. A photomontage of the winning scheme is provided in the figure below:



**Figure 14:** Photomontage of the winning Candalepas Associates scheme

23. The selection panel identified key elements that contributed to the success of the winning scheme which are required to be retained as part of the detailed design as well as a list of items to be addressed in order to satisfy the design excellence provisions of Clause 6.21C of the SLEP 2012. This is discussed further in the 'Issues' section of this report.

#### **Pre-DA Meeting**

24. Following completion of the competitive design process, the applicant met with City staff on 10 March 2022 to discuss the following issues:

- the widening of Albion Place from 2.9m to 4.9m;
- the provision of a high-level awning projecting over Albion Place;

- modifications to the approved Concept (Stage 1) building envelope including:
    - raising part of the podium from RL44 to RL44.75 to allow for the incorporation of a pool terrace on the podium;
    - extending the north facade of the tower by 300mm to provide structure for the proposed public artwork; and
    - increasing the height of the highest point of the tower envelope by approximately 5.3m to provide equitable access to communal open space at roof level;
  - provision of supplementary indoor communal rooms on levels 23 and 24; and
  - provision of on-site coach parking.
25. Pre-DA advice given by City staff has largely been addressed in the subject application and as amended during the assessment.

### **Assessment History of the Subject Application**

26. On 31 May 2022, the subject DA was lodged with Council.

#### *Preliminary Information Requests*

27. Following a review of the application documents, Council officers issued a stop the clock letter and requested the following information:
- (a) documentation requested by Sydney Trains relating to the proximity of the development to rail tunnels; and
  - (b) a title of Lot 1 in DP 224683 plus copies of any dealings and 88B instruments on title.
28. The application responded on 7 September 2023 with the requested title and dealings information.
29. Amended architectural plans were received on 16 August 2022 detailing alternative awning designs to Kent and George Streets and Albion Place.

#### *Design Advisory Panel (DAP)*

30. On 1 September 2022 the subject proposal and concurrent modification application to the Concept (Stage 1) development application (D/2019/758/A) was presented to the City's DAP. The DAP made the following recommendations:
- (a) The Panel generally supports the amendments to the proposed scheme except for the 'architectural roof feature'. The amendments are acceptable due to the tightness of the site and design excellence specifically achieved by this project.
  - (b) The 'architectural roof feature' was not supported on the basis that it is not an integral part of the building's design, appears to include floor space not permitted as part of a roof feature, and while it is not visible from the ground plane, impacts the amenity of neighbouring buildings without providing any design benefit.
  - (c) Public art provision could be appropriate if executed well.

- (d) The recent amendments to the Kent Street and George Street awnings and heights are supported provided weather protection is achieved.
- (e) The higher awning over Albion Place is supported.
- (f) The provision of vertical plenums is satisfactory, subject to further coordination with all other utilities and the architecture in later design development stages.

#### *Issues Letters*

31. Upon receipt of the DAP advice and completion of a full assessment of the application, Council officers issued the Applicant with a letter requesting design amendments and additional information to address the following:
- (a) the design of the roof not considered to meet the requirements of Clause 5.6 of the SLEP 2012 relating to architectural roof features. The design of the roof is to be amended and height is to be reduced. A Clause 4.6 variation request to vary the 150m height control must be submitted;
  - (b) clarification that the amended awning design to Kent and George Streets is preferred and should be retained;
  - (c) height of the Albion Place not supported and inconsistent with Condition 10(h) of the Concept DA - D/2019/758. Additional details and design amendments required due to the proximity of the heritage items to the south of Albion Place;
  - (d) additional drawings to demonstrate the impacts of the podium changes;
  - (e) co-ordination of the acoustic report, ventilation report and architectural plans and additional information relating to plenum design, plenum maintenance, noise impacts;
  - (f) acoustic report to be updated to address: impacts from the operation of the gym, Harbour Street and the Western Distributor, include information about the proposed glazing specifications and clarification of the raw data used to formulate the acoustic criteria within the acoustic report;
  - (g) sun eye's views to be provided;
  - (h) clarification whether wintergardens are proposed and additional details;
  - (i) deletion of the box windows at levels three and four which project beyond the site boundary and encroach Albion Place;
  - (j) provision of a Detailed Environmental Site Investigation (DESI) and if required, a Remediation Action Plan (RAP);
  - (k) provision of an Acid Sulfate Soils Management Plan;
  - (l) provision of stormwater drainage water quality details and a MUSIC report;
  - (m) clarification that ground floor and driveway levels comply with the required flood planning levels including freeboard of 1% + 0.5m;
  - (n) additional plans to illustrate the design details of Albion Place;

- (o) amendments to the bicycle parking orientation and clarifications regarding residential storage sizing;
  - (p) consultation with Transport for NSW (TfNSW) required and provision of a draft Coach Parking and Passenger Pick Up and Set Down Management Plan;
  - (q) additional vehicular spaces required for loading and servicing;
  - (r) all wind mitigation devices identified in the wind report shown on the architectural plans;
  - (s) clarification whether street tree located on the Kent Street north-western corner boundary is to be retained;
  - (t) amendments to the Public Art Strategy; and
  - (u) amendments to the Waste Management Plan.
32. Updated information was issued by the Applicant on 7 November 2022 responding to the requested amendments and additional information.
33. A second request for additional information and amendments was issued to the Applicant on 16 January 2023. The request identified the following information and amendments:
- (a) additional information relating to noise and ventilation;
  - (b) resolution of the inconsistencies between the landscape and architectural plans;
  - (c) additional service vehicle parking to be provided;
  - (d) swept path analysis for the City's waste vehicle and coaches;
  - (e) clarification of management measures for traffic movements to and from the loading dock and circulation ramp;
  - (f) additional details and plans of the design details of Albion Place;
  - (g) deletion of flood gates;
  - (h) provision of a DESI; and
  - (i) clarifications regarding the waste facilities at basement level.
34. A meeting with the Applicant and Council officers was undertaken on 24 January 2023 to discuss the matters raised in the further request.
35. The applicant provided a formal response on 6 February 2023 and 17 February 2023 responding to the second request for additional information and amendments.
36. Between 27 March 2023 and 31 March 2023 the applicant provided updated architectural plans detailing an amendment to the Albion Place elevation, an updated Plan of Management, an updated BCA Report and Fire Safety Statement and a Clause 4.6 variation request for the exceedance to the floor space ratio development standard.

## Proposed Development

37. The application seeks consent for the following:

- demolition of the existing building;
- basement excavation to provide seven basement levels, including:
  - common driveway from Kent Street providing vehicular access to the basement levels and to the adjoining property at 505-523 George Street via a connection at Basement Level One;
  - residential storage (115 cages);
  - residential car parking spaces (81 spaces);
  - residential bicycle storerooms;
  - hotel car parking spaces (30 spaces) and two pick up drop off spaces for hotel guests;
  - goods loading and waste storage; and
  - plant rooms, services and substation;
- six storey podium comprising:
  - Lower Ground Floor - Vehicular driveway on Kent Street, café and hotel lobby accessed from Kent Street, restaurant and back of house facilities associated with the hotel and conference uses;
  - Upper Ground Floor - Cinema entry from Albion Place, retail tenancies fronting George Street and Albion Place, public bicycle parking (113 spaces);
  - Levels One to Three - Cinema comprising five cinema screens, café / bar and back of house facilities;
  - Level Four - Conference/Function Centre facilities including conference room and restaurant; and
  - Roof of podium - Pool and gym for hotel use and plant; and
- thirty-eight (38) storey tower comprising:
  - seventeen (17) storeys of hotel comprising 292 hotel rooms;
  - twenty-two (22) storeys of residential apartments containing a total of 115 apartments;
  - communal rooms (internal) on Levels 23 and 24 for residential apartments; and

- roof of tower - Communal open space for residents, private terrace and mechanical plant areas.

38. Selected drawings and photomontages of the proposed development are provided below.

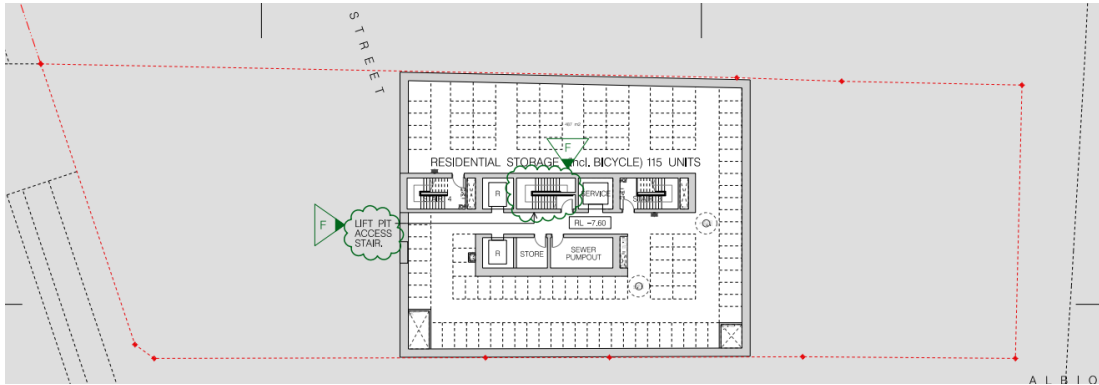


Figure 15: Basement Level Seven

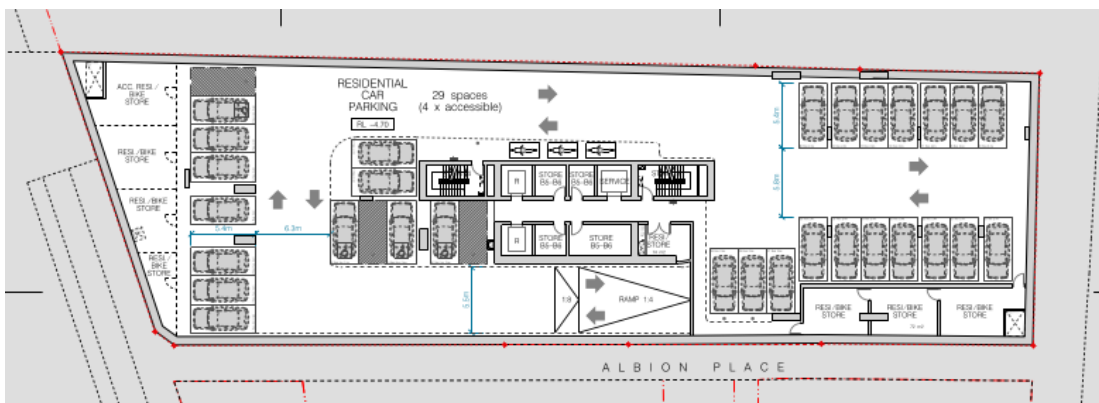


Figure 16: Basement Level Six

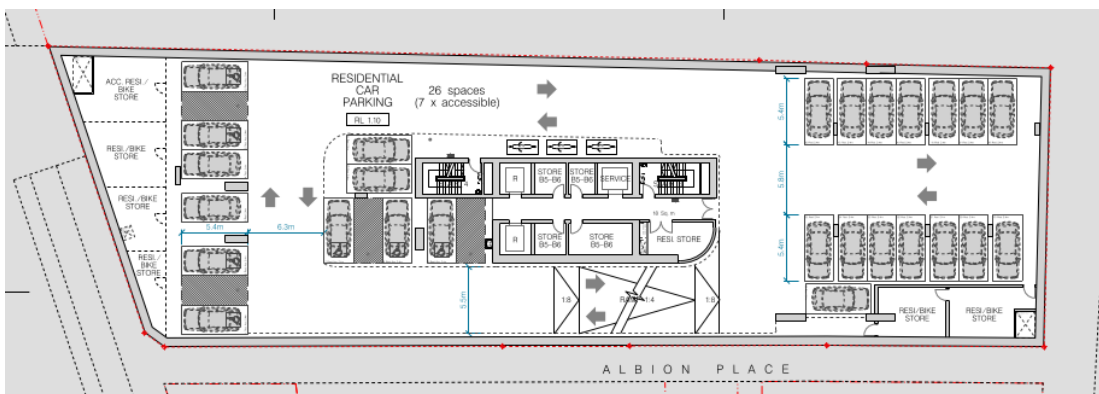


Figure 17: Basement Levels Four and Five





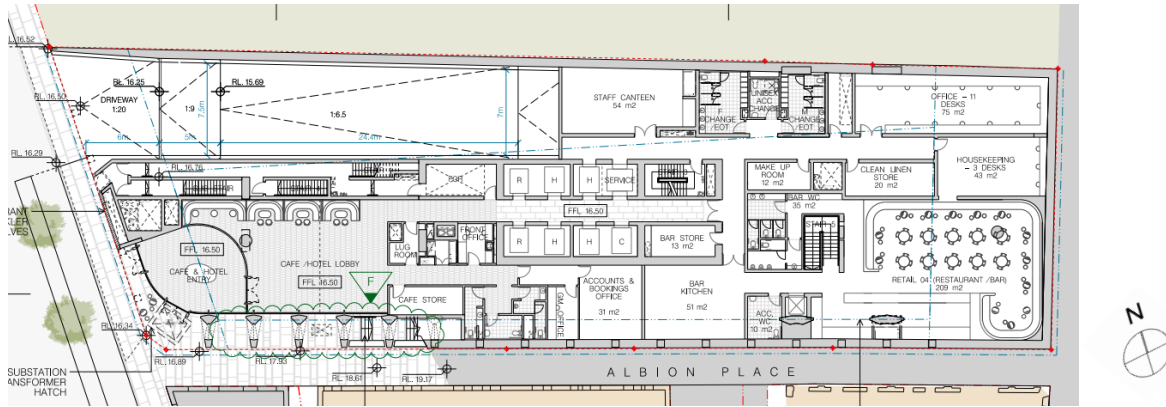


Figure 21: Lower Ground Floor

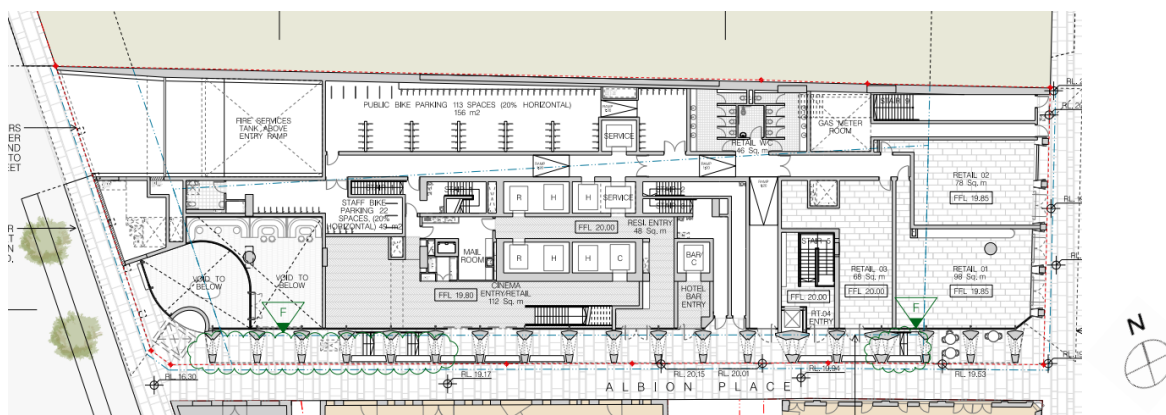


Figure 22: Upper Ground Floor

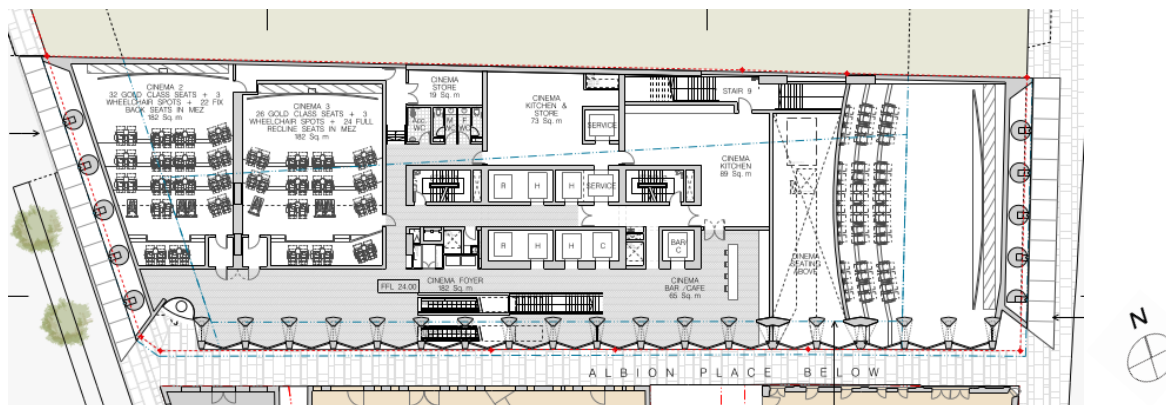


Figure 23: Level One

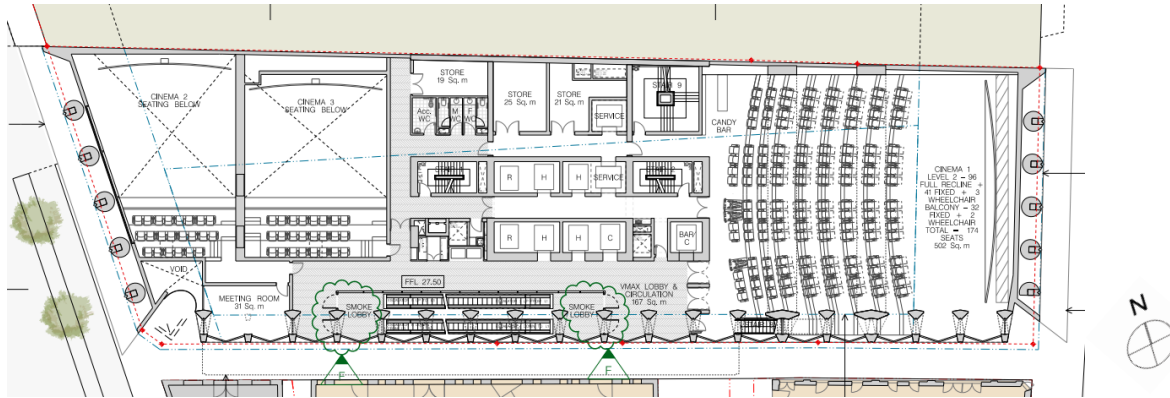


Figure 24: Level Two

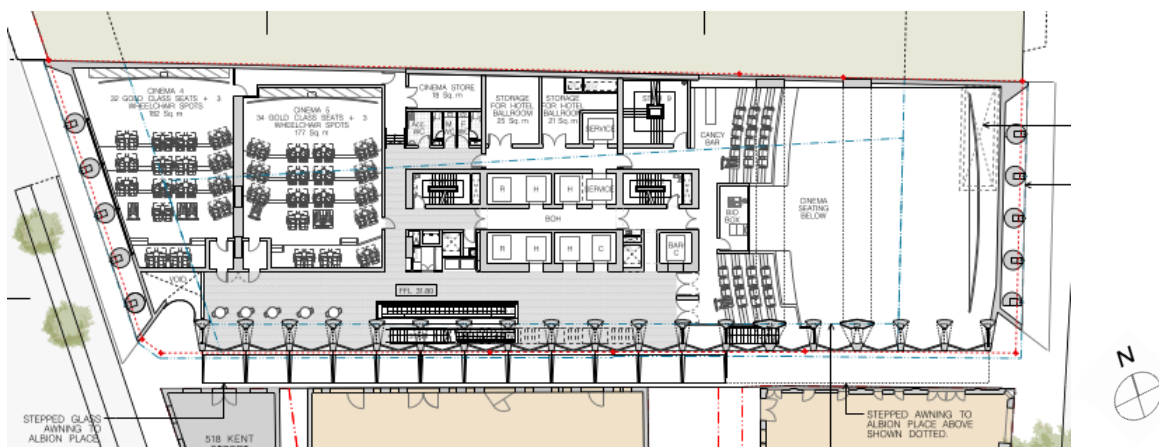


Figure 25: Level Three

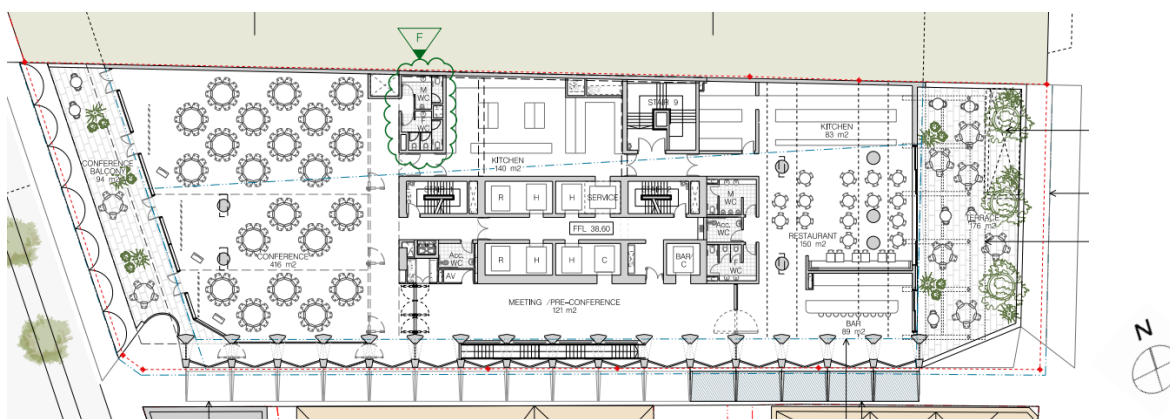


Figure 26: Level Four

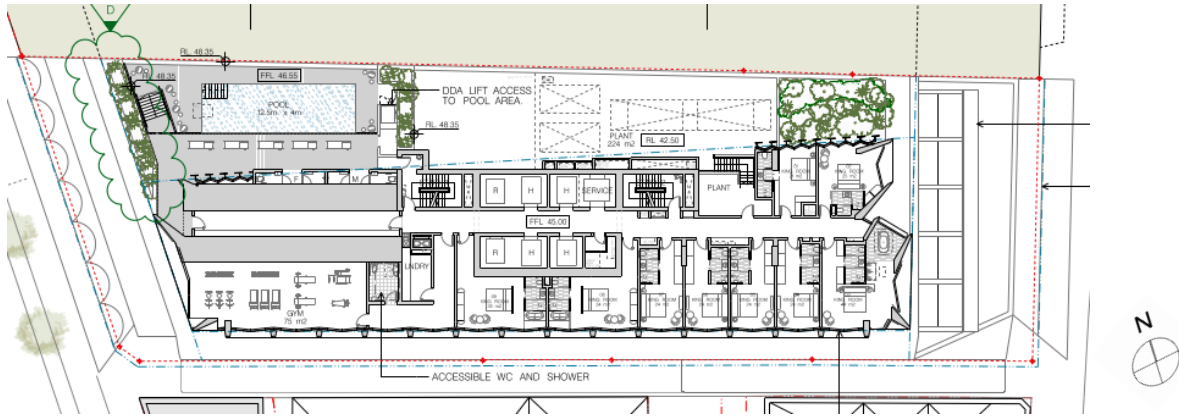


Figure 27: Level Five

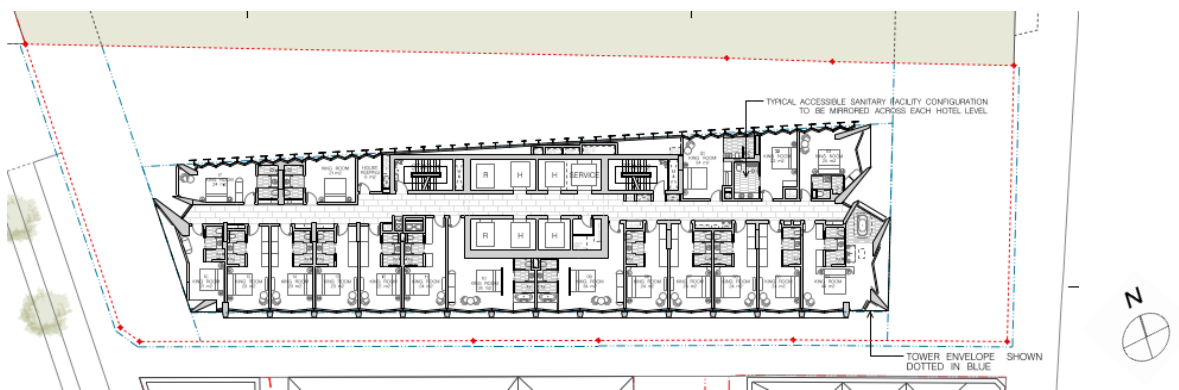


Figure 28: Levels 6-19 (Typical Hotel)

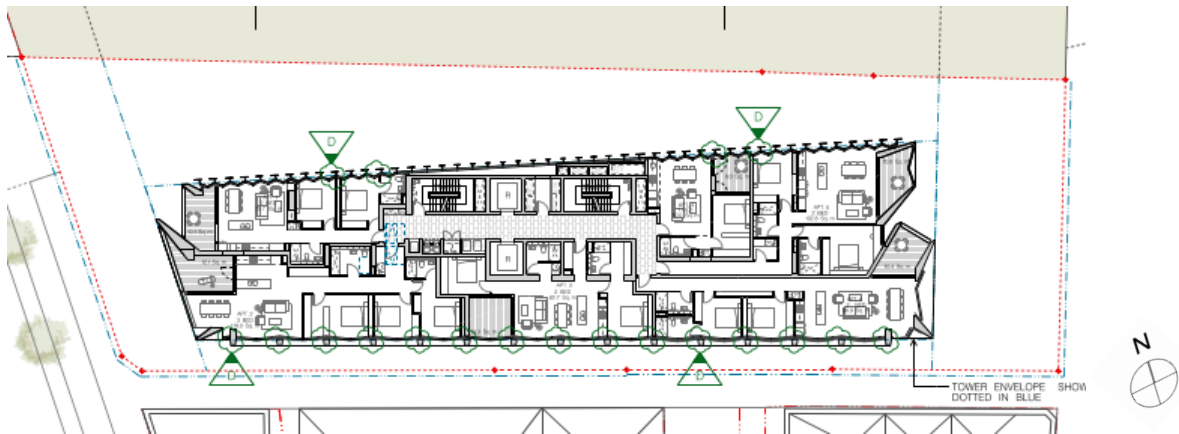


Figure 29: Levels 25 - 40 (Typical Residential)

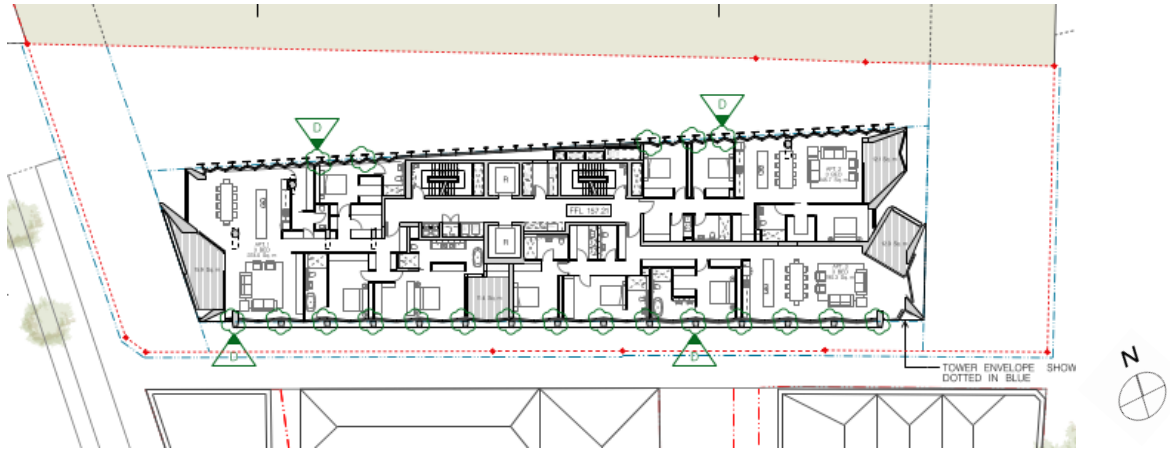


Figure 30: Level 41

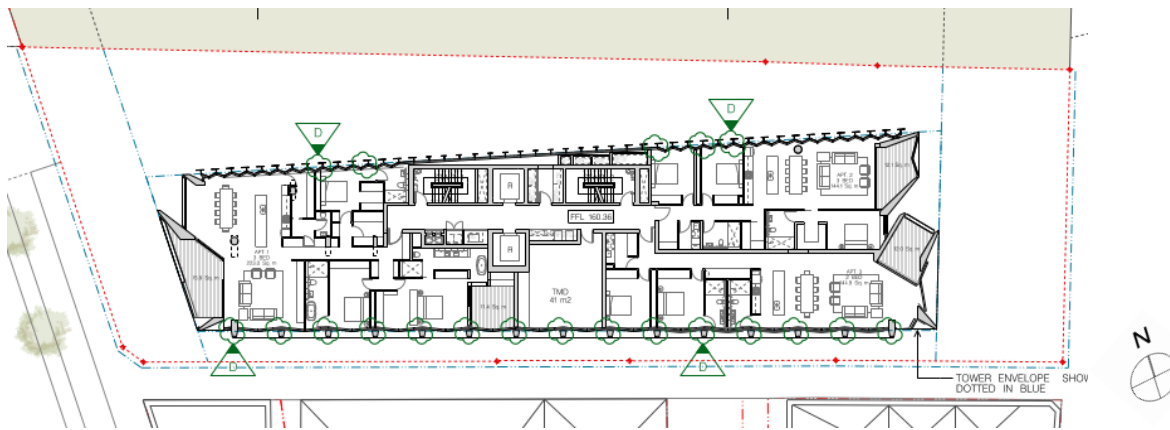


Figure 31: Level 42

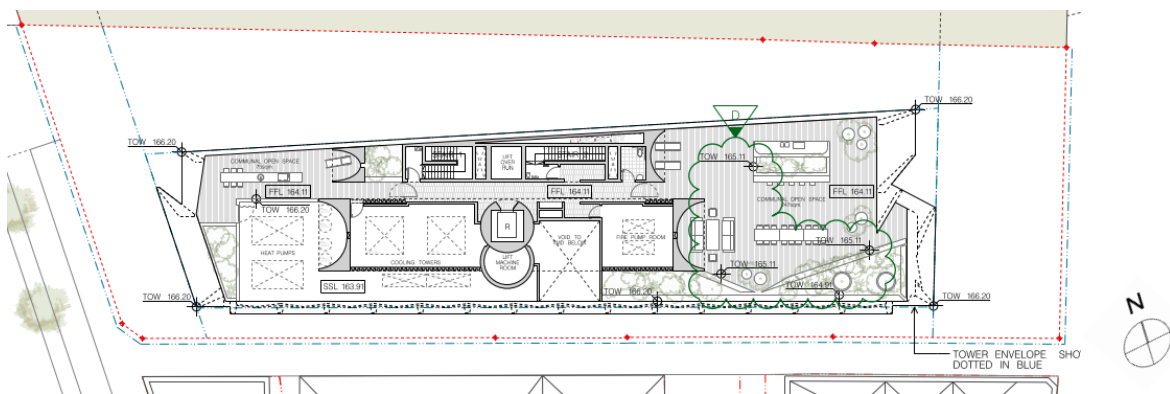


Figure 32: Level 43 (Roof Terrace)

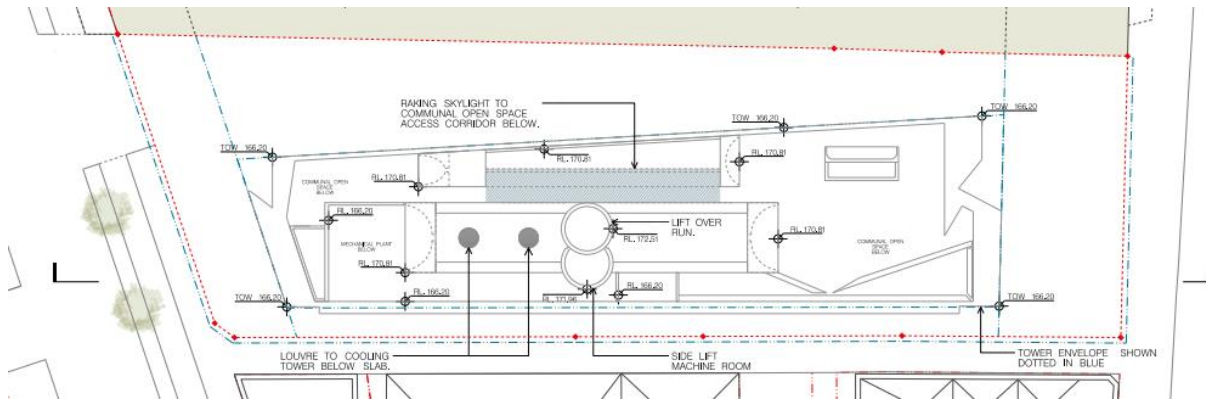


Figure 33: Roof Plan

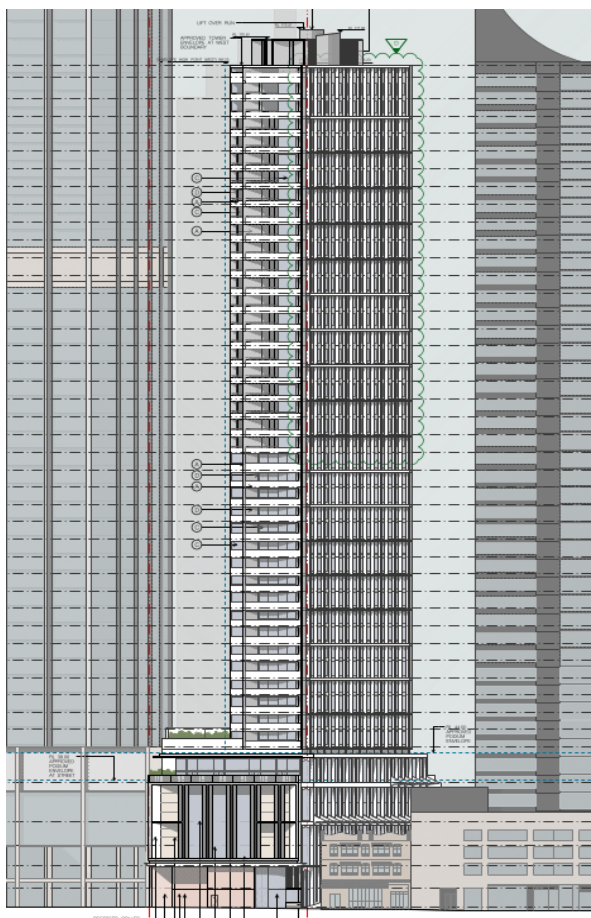


Figure 35: West Elevation (Kent Street)

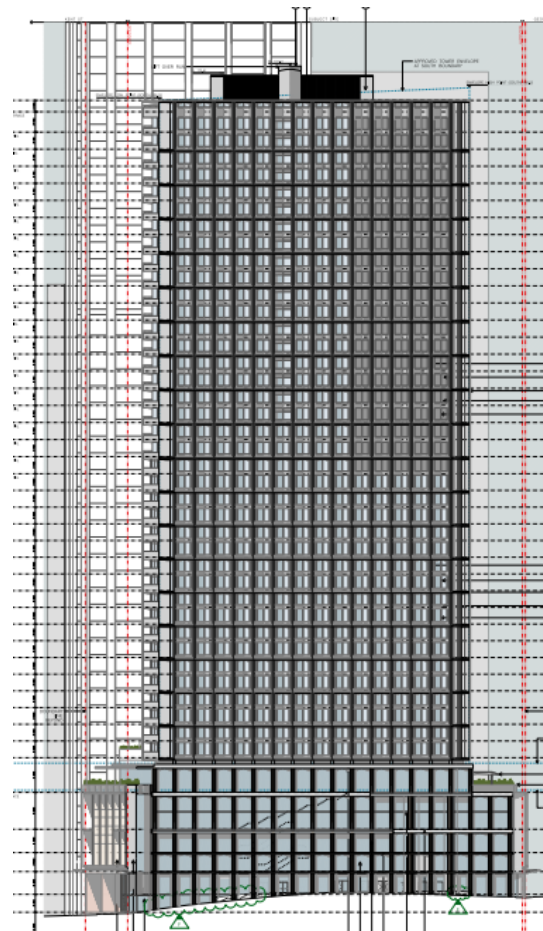


Figure 34: South Elevation (Albion Place)

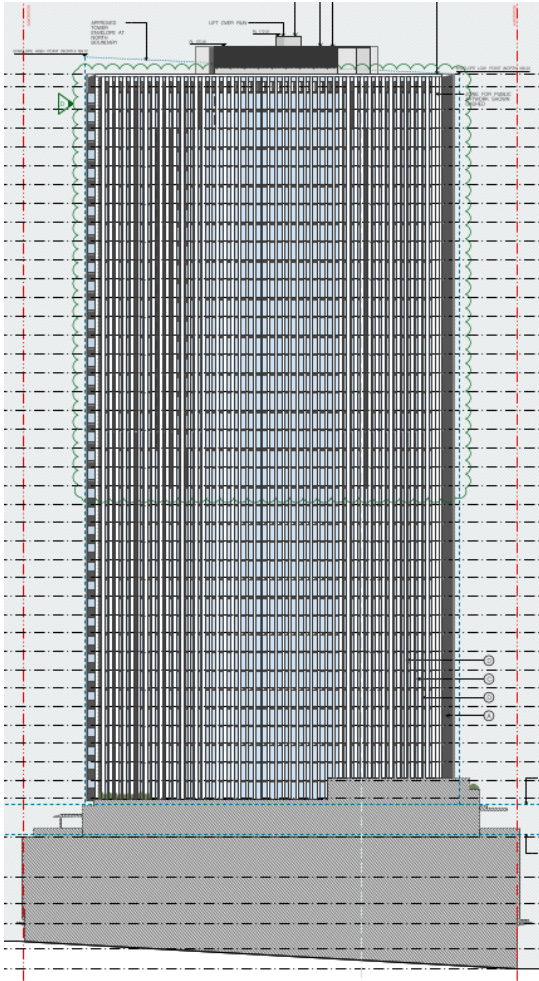


Figure 36: North Elevation

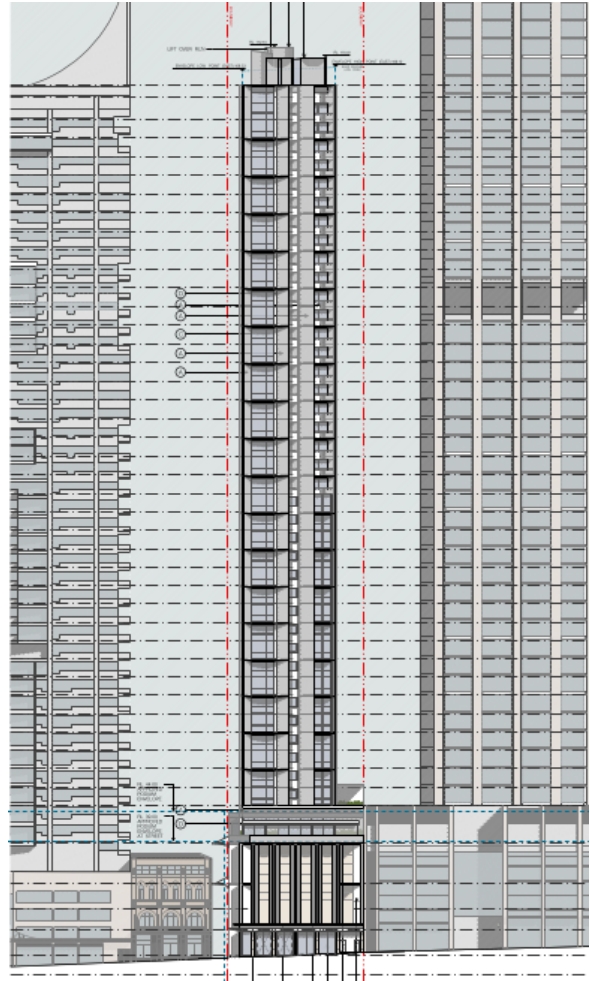


Figure 37: East Elevation (George Street)



Figure 38: South elevation of podium showing relationship to Albion Place



**Figure 39:** Albion Place south elevation showing alignment of the proposed awning in relation to adjoining buildings on opposite side of Albion Place



**Figure 40:** Photomontage viewed from George Street





Figure 41: Photomontage viewed from Kent Street



**Figure 42:** Photomontage looking west towards the site's George Street frontage

### **Assessment**

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

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

40. Section 51N requires the CSPC to consult with the 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 CBD.
41. During the assessment of this application the City's Transport and Access Unit advised that consultation with the CSTTC was unnecessary due to consultation previously undertaken with the Concept development application (D/2019/758) regarding the shared driveway arrangement with the adjacent site at 505-523 George Street. It is noted that this development application proposes a shared driveway consistent with the advice previously provided by CSTTC. Further consultation with the CSTTC is not considered necessary.

### **Airports Act 1996**

42. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity. The proposed development penetrates the prescribed airspace for Sydney Airport.
43. On 21 October 2022, a decision from the Secretary's Delegate under the Airports (Protection of Airspace) Regulations 1996 was received granting approval under the Regulations for the intrusion of the proposed building into the prescribed airspace for Sydney Airport, subject to conditions.

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land**

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
33. Site investigations identified that all contaminant concentrations were below the contaminant thresholds, with the exception of one borehole which included concentrations of benzo(a)pyrene.
34. The site investigation concludes that there are no identified unacceptable human health risks for the proposed land use and the site can be made suitable for the proposed development subject to recommendations which include:
  - completion of a hazardous material survey following demolition; and
  - management of the Underground Storage Tank through decommissioning and validating as per NSW EPA guidelines and associated standards.

35. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
36. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

### **State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development**

37. The aim of SEPP 65 is to improve the design quality of residential apartment development in New South Wales.
38. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.
39. The applicant has submitted a design verification statement and SEPP 65 design report prepared by Angelo Candalepas of Candalepas Associates (Reg No. 5773) with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the ADG. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
40. An assessment of the proposal against the design quality is provided as follows:

(a) **Principle 1: Context and Neighbourhood Character**

The site is located within Central Sydney and will contribute to the vitality of the immediate locality and the broader City of Sydney Local Government Area (LGA). The site is located in the SP5 Metropolitan Centre zone and the proposal is generally in accordance with the objectives of the SLEP 2012 and the SDCP 2012, subject to the recommended conditions. The proposal is also consistent with the existing and desired future character of the locality.

(b) **Principle 2: Built Form and Scale**

The height of the building is consistent and contextually appropriate with other buildings within the immediate locality and the wider CBD. There is a minor non-compliance (5.39m) to the maximum height permitted under the SLEP 2012. Notwithstanding, the proposal will deliver a positive contribution to the Sydney skyline. The six storey podium is consistent with the built form and scale of the streetscape on the site's George Street and Kent Street frontages.

(c) **Principle 3: Density**

There is a minor non-compliance with the maximum permissible FSR for the site equating to 0.7 per cent resulting from the public bicycle parking spaces being provided outside of the basement levels, and as such, being classified as gross floor area. Notwithstanding, the proposal is consistent with the desired future character envisaged in the locality of the Sydney CBD and the broader City of Sydney LGA.

(d) **Principle 4: Sustainability**

The proposal is compliant with the minimum energy BASIX requirement and exceeds the minimum water score. The proposal incorporates a range of benchmark sustainability measures for a high-rise residential building, as detailed further in this report.

(e) **Principle 5: Landscape**

Due to the podium covering the entire site and basement underneath, there is no deep soil proposed on the site which is considered acceptable in the context of Central Sydney. The proposal includes rooftop communal open space above the tower.

(f) **Principle 6: Amenity**

Compliance with amenity is assessed further under the ADG section below. Overall, the proposal provides an acceptable level of residential amenity for future occupants taking into consideration the scale of development and site constraints.

(g) **Principle 7: Safety**

The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments. There are secure and separate entrances available for the sole use of permanent residents. The proposal has generally been designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED).

(h) **Principle 8: Housing Diversity and Social Interaction**

The proposal provides a mix of apartment types to encourage housing diversity. There are a range of indoor and outdoor communal facilities to encourage social interaction amongst residents.

(i) **Principle 9: Aesthetics**

The proposed materiality is of a high standard and consistent with the existing and future desired character of the area. The aesthetics of the building are discussed further throughout this report.

41. The development is acceptable when assessed against the SEPP including the above stated principles and the associated ADG. These controls are generally replicated within the apartment design controls under the SDCP 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

<b>2E Building Depth</b>	<b>Compliance</b>	<b>Comment</b>
12-18m (glass to glass)	Yes	The proposed building envelope has a maximum north-south depth of 15.1m.

2F Building Separation and 3F Visual Privacy	Compliance	Comment
<p><b>2F Building Separation</b></p> <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms / balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul> <p><b>3F Visual Privacy</b></p> <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 6m between non-habitable rooms</li> </ul>	<p>Acceptable</p>	<p>The proposed development has been designed in accordance with the concept building envelope, as proposed to be modified by D/2019/758/A.</p> <p>The concurrent modification application seeks minor variations to the approved envelopes however, the variations do not result in any additional habitable floorspace located outside of the approved envelope and do not result in the relocation of any windows, balconies or habitable floorspace towards the site's boundaries. As such, there is no reduction in building separation when compared to the approved concept envelope.</p> <p>The approved concept envelope allows for non-compliant separation distances between the northern elevation and 505-523 George Street and part of the southern elevation and the Meriton Suites Tower located at 537-551 George Street.</p> <p>Between the subject site and 505-523 George Street, separation of between 18.4m - 22.7m is provided. To maintain visual privacy the openings on the northern side of the tower are orientated to the northeast, away from 505-523 George Street. Further, the northern elevation includes public art and privacy blades to direct outlook away from 505-523 George Street while allowing for views and solar access into these apartments.</p> <p>Between the subject site and 537-551 George Street, a minimum of 23m of building separation is provided. To ameliorate issues of overlooking an inbuilt louvred privacy screen is provided to the south-eastern windows to direct views away from the adjoining tower.</p>

2F Building Separation and 3F Visual Privacy	Compliance	Comment
		While the proposal does not achieve ADG separation requirements, the proposal is consistent with the Concept (Stage 1) building envelope and provides generally acceptable visual privacy outcomes consistent with Objective 3F of the ADG.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	<p>Two types of communal space (indoor and outdoor) are proposed with a combined area of 25.96% of the site area (482sqm). Communal open space is located on the tower rooftop (322sqm in size) and two indoor community rooms are provided (one each on Level 23 and Level 24) with a combined area of 159.9sqm.</p> <p>The variety of communal spaces is supported and will accommodate a variety of uses and users, including during inclement weather.</p>
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The rooftop communal open space achieves at least 50% direct sunlight for at least two hours between 9am and 3pm on 21 June.

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m</p>	<p>Acceptable</p>	<p>No deep soil zones are provided. The design guidance in the ADG states that achieving deep soil zones may not be possible on some site including where:</p> <ul style="list-style-type: none"> <li>• The location and building typology have limited or no space for deep soil at ground level (e.g., central business district, constrained sites, high density areas, or in centres)</li> <li>• There is 100% site coverage or non-residential uses at ground level.</li> </ul> <p>The proposal includes a commercial podium with 100% site coverage. The site is located in a highly urbanised area of the CBD with a number of high rise developments nearby. In this regard, the provision of the recommended deep soil would be unreasonable in this case.</p> <p>The proposal includes landscaped areas on the tower rooftop to assist with offsetting the lack of deep soil.</p>

3G Pedestrian Access and Entries	Compliance	Comment
<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	<p>Yes</p>	<p>The residential lifts are provided with direct access from the Albion Place lobby. The entry is legible and accessible.</p> <p>A condition is recommended requiring the approval of a Signage Strategy including wayfinding signage to assist with easy identification of the residential lobby.</p>



4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	70.4% or 81 apartments (out of a total of 115 apartments) receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	13.9% or 16 apartments (out of a total of 115 apartments) achieve no direct sunlight between 9am and 3pm at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	<p>All habitable rooms are naturally ventilated.</p> <p>The submitted acoustic report identifies the bedrooms in all the residential apartments as being noise affected and requiring an alternative strategy for natural ventilation. A combination of solutions has been adopted for the apartments which include:</p> <ul style="list-style-type: none"> <li>• Vertical plenums or trickle ventilators to supply and exhaust air in the apartments</li> <li>• The use of internal ventilators to allow for ventilation between living spaces</li> </ul> <p>Following a request by Council officers, additional detailed information and drawings have been provided demonstrating that the total area of the plenum and purge ventilation area is greater than 5% of the floor area served which is consistent with the guidance provided in the ADG.</p>
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	All apartments are deemed to be naturally cross ventilated. The balconies cannot be fully enclosed and allow for adequate ventilation.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
Apartments 10 storeys or greater are deemed to be naturally cross ventilated only if balconies allow for adequate ventilation and cannot be fully enclosed.		

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7m	Yes	All residential floor to floor heights are 3.150m and are capable of providing 2.7m floor to ceiling heights to habitable rooms.
Non-habitable rooms: 2.4m	Yes	All residential floor to floor heights at 3.150m and are capable of providing 2.4m floor to ceiling heights to non-habitable rooms.

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

4D Apartment Size and Layout	Compliance	Comment
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	No habitable rooms exceed a depth to ceiling height ratio of 2.5, except for open plan layouts.
8m maximum depth for open plan layouts.	Yes	The maximum depth of open plan layouts does not exceed 8 metres from a window.
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All apartments achieve the minimum areas and dimensions prescribed for bedrooms.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Yes	The development results in all dwellings having a living area with a minimum width consistent with the provisions of the ADG.

4E Private Open Space and Balconies	Compliance	Comment
One bed apartments are to have a minimum balcony area of 8m <sup>2</sup> with a minimum depth of 2m.  Two bed apartments are to have a minimum balcony area of 10m <sup>2</sup> with a minimum depth of 2m.  Three bed apartments are to have a minimum balcony area of 12m <sup>2</sup> with a minimum depth of 2.4m.	Yes	All apartments provide adequately sized private open space in accordance with the ADG.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	Each lobby services a maximum of six apartments.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	No, but considered acceptable	<p>115 apartments are proposed to be serviced by two lifts equating to approximately 58 apartments per lift.</p> <p>The applicant has advised that the development will utilise high speed, smart lifts to serve the apartments which provide rated speeds of 5.0m/s. This type of lift is able to provide an improved level of service thereby offsetting the increase in apartments serviced.</p>
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Primary living areas and bedrooms do not open directly on to corridors.
Daylight and natural ventilation are provided to all common circulation spaces.	Acceptable	<p>The lift lobbies have no daylight or natural ventilation access.</p> <p>This is acceptable given the relatively small number of apartments (three to six apartments) served by each lobby and the physical constraints posed by the approved building envelopes and building design.</p>

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	<p>The apartments appear to be able to accommodate the minimum 50% requirement for storage. Additional storage is provided within Basement Level Seven.</p> <p>A condition of consent is recommended requiring storage space to be provided in accordance with the minimum ADG requirements.</p>

4J Noise and Pollution	Compliance	Comment
<p>Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?</p>	Yes	<p>The proposed development has sought to minimise the impact of noise and air emissions from vehicle traffic on Harbour Street and the Western Distributor in accordance with the ADG requirements.</p> <p>The design includes the use of natural ventilation plenum systems and facade design in order to mitigate impacts and act as a buffer between the road and the sensitive residential uses within the building.</p>

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

42. A BASIX Certificate has been submitted with the development application (1299530M\_03).
43. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

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

44. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

**Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network****Clause 2.48 Determination of development applications – other development**

45. The application is subject to Clause 2.48 of the SEPP (Development likely to affect an electricity transmission or distribution network). As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

**Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors****Clause 2.98 – Development adjacent to rail corridors**

46. The application is likely to have an adverse effect on rail safety and was referred to Sydney Trains (as the delegated rail authority for the heavy rail corridor) for concurrence.
47. Sydney Trains have recommended conditions which are included in the Notice of Determination.

**Clause 2.99 – Excavation in, above, below or adjacent to rail corridors**

48. The site is located within 25m of the Sydney Light Rail corridor and includes ground penetration deeper than 2m and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

**Clause 2.100 – Impact of rail noise or vibration on non-rail development**

49. The application is considered to satisfy this clause subject to conditions of consent and compliance with the submitted Acoustic Report. The report demonstrates compliance with Development Near Rail Corridors and Busy Roads – Interim Guideline.

**Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations****Clause 2.122 – Traffic-generating development**

50. The application is identified as traffic-generating development in accordance with Schedule 3 (traffic-generating development to be referred to TfNSW) as the site has frontage to George Street, a classified road. The application was referred to TfNSW for comment. TfNSW advised the proposal is unlikely to have a significant traffic impact on the classified road network and raised no objection to the proposal.

**Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment**

51. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.
52. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

**Local Environmental Plans****Sydney Local Environmental Plan 2012**

53. An assessment of the proposed development against the relevant provisions of the SLEP 2012 is provided in the following sections.

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

Provision	Compliance	Comment
		These provisions relate to the amendments to the LEP to facilitate the Central Sydney Planning Strategy. The controls do not apply given this development application relies on a Concept development application (D/2019/758, as amended) that was approved before the commencement of those amendments.

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the SP5 Metropolitan Centre zone. The proposed development comprises residential accommodation, hotel accommodation, a function centre, an entertainment facility and retail premises uses, all of which are permissible with consent in the zone. The proposal generally meets the objectives of the zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 150m is permitted.</p> <p>A height of 155.39m is proposed equating to a variation of 3.6%.</p> <p>The proposed development does not comply with the maximum 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. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio	No	A maximum base floor space ratio of 8:1 is permitted.



Provision	Compliance	Comment
<p>6.4 Accommodation floor space</p> <p>6.21D Competitive design process</p>		<p>The site is identified as being located within "Area 2" and pursuant to clause 6.4 the following additional floorspace is permissible based on the proposed uses:</p> <p>Entertainment facilities, function centre, retail premises - 4.5:1</p> <p>Hotel accommodation - 6:1</p> <p>Residential accommodation - 6:1</p> <p>Where a proposal is the winning scheme of a competitive design process and the proposed development demonstrates design excellence, up to 10% additional floor space is also available under clause 6.21D(3) of the SLEP 2012.</p> <p>Based upon the proportion and mix of land uses and the design excellence bonus, the maximum permissible floor space ratio is 15.13:1.</p> <p>An FSR of 15.24:1 or 28,283sqm is proposed.</p> <p>The proposed development does not comply with the maximum floor space ratio development standard. The exceedance relates to approximately 203sqm or 0.11:1 which equates to 0.7%.</p> <p>A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
<p>4.5A Balconies on certain residential flat buildings</p>	<p>Yes</p>	<p>The proposal includes wind-affected balconies which have been designed as wintergardens. These wind-affected balconies are identified as apartment numbers 3 and 4 on levels 25-40 and apartment number 3 on level 24.</p> <p>The GFA of the proposed wind-affected balconies have been excluded from the calculation of the total floor space for the</p>

Provision	Compliance	Comment
		<p>purposes of applying a floor space ratio on the following basis:</p> <ul style="list-style-type: none"> <li>the excluded balconies' gross floor area do not exceed 15% of the gross floor area of the apartment to which each balcony is attached,</li> <li>all wind-affected balconies have been designed as external open spaces,</li> <li>all wind-affected balconies have sufficient natural ventilation,</li> <li>the partial enclosure of the wind-affected balconies does not increase the apparent bulk of the building.</li> </ul>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standards prescribed under Clauses 4.3 and 4.4. Two separate Clause 4.6 variation requests have been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not identified as a local heritage item and is not located within a heritage conservation area.</p> <p>The site is within the vicinity of a number of local heritage items which front Albion Place and Kent Street.</p> <p>The City's Heritage Specialist has reviewed the proposal and raises no objection to the proposal, subject to recommended conditions of consent.</p>

Provision	Compliance	Comment
		This includes a condition of consent requiring the submission of a heritage interpretation plan, a photographic archival recording of the existing building and conditions requiring that nearby heritage buildings are suitably protected during the demolition, excavation and construction process.
5.21 Flood Planning	Yes	The site is accompanied by a site-specific flood report which identifies that the site is not flood affected.

### Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
<p>Subdivision 3 Heritage floor space</p> <p>6.11 Utilisation of certain additional floor space requires allocation of heritage floor space</p>	Yes	<p>The site is located in Area 2 on land in Central Sydney. Given that the proposal seeks to utilise accommodation floor space with a height that will exceed 55m, an amount of heritage floor space is required to be allocated to the site in accordance with Clause 6.11 of the SLEP 2012.</p> <p>Pursuant to Clause 6.11(1)(a), the amount of heritage floor space to be allocated is equivalent to 50% of the accommodation floor space to be utilised. The proposal utilises 5.7532:1 (10,679sqm) accommodation space floor and therefore an amount of 5,340sqm of heritage floor space is to be allocated to the site.</p> <p>Pursuant to Clause 6.11(1)(d), the amount of heritage floor space to be allocated is equivalent to 50% of the additional floorspace granted under Clause 6.21D (Competitive design process). The proposal utilises 10% additional floorspace equating to an FSR of 1.3753:1 (2,553sqm) and therefore an amount of 1,277sqm of heritage floor space is to be allocated to the site.</p>

Provision	Compliance	Comment
		<p>Pursuant to Clause 6.11(e), additional floorspace permitted under Clause 4.6 is to be allocated as heritage floorspace. The proposal seeks an additional 203sqm to be granted under Clause 4.6 and this amount is to be allocated to the site.</p> <p>The total quantum of heritage floorspace allocated to the site is 6,820sqm.</p>
Division 3 Height of buildings and overshadowing		
6.16 Erection of tall buildings in Central Sydney	Yes	<p>The proposed development is consistent with the objectives of this clause in the following manner:</p> <ul style="list-style-type: none"> <li>• It provides for an acceptable level of amenity for the occupants of the tower and neighbouring buildings, as detailed in the assessment provided above under the SEPP 65 heading.</li> <li>• It does not result in any significantly adverse impacts to the amenity of public places in proximity to the site, as demonstrated in the wind assessment report and the shadow diagrams submitted with the application.</li> <li>• It is compatible with its context in terms of setbacks, height and built form.</li> <li>• The design provides for an acceptable level of sunlight to the northern, eastern and western facade of the tower, as demonstrated in the suns eye view diagrams submitted with the application.</li> <li>• The design provides for an acceptable level of ventilation within and around the development.</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>The proposal provides for active street frontages to Kent Street, George Street and Albion Place.</li> </ul>
6.17 Sun access planes	Yes	The site is not subject to the sun access planes.
6.18 Overshadowing of certain public places	Yes	The proposal does not overshadow any of the specified public spaces under this provision.
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>The proposed development satisfies the requirements of this provision subject to conditions.</p> <p>Refer to the 'Issues' section for detailed discussion.</p>

#### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing  7.9 Other land uses	Yes	<p>A maximum of 144 car parking spaces are permitted (81 spaces for the residential apartments and 63 spaces for the hotel).</p> <p>The proposed development includes 114 spaces (81 spaces for the residential apartments and 33 spaces for the hotel) and complies with the relevant development standards.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	<p>The site is located in Central Sydney and is subject to the requirements of clause 7.13.</p> <p>Refer to the discussion provided below under the Financial Contributions heading.</p>

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>Approval of the controlled activity for the intrusion of the proposed building into the prescribed airspace for Sydney Airport has been granted by the Secretary's Delegate under the Airports (Protection of Airspace) Regulations 1996.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	While the proposal includes demolition of the existing building, the proposal also includes construction of a new building under the same application. Council officers are therefore satisfied that the site will be comprehensively redeveloped under the consent.
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>The proposed development is located in Central Sydney and will result in the construction of a building which has a height of greater than 55m.</p> <p>A site specific DCP is required in accordance with this clause. Alternatively, a concept development application can be prepared pursuant to Section 4.23 of the EP&amp;A Act.</p> <p>The subject application is considered to be consistent with the concept development consent (D/2019/758).</p>

Provision	Compliance	Comment
		Subject to approval of the concurrent Section 4.55(2) modification application D/2019/758/A, the development is consistent with the concept approval and therefore satisfies the provisions of the control.
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>The application is accompanied by a Qualitative Air Quality Report addressing the potential impacts of the Cross City Tunnel ventilation stack.</p> <p>The report concludes that the proposed development will not adversely affect the dispersal of emissions from the ventilation stack and occupants of the building will not be unduly affected by emissions. Accordingly, the proposal complies with this provision.</p>
7.26 Public Art	Yes	<p>The application is accompanied by a Public Art Strategy which has been reviewed by the City's Public Art Unit and is supported, subject to recommended conditions.</p> <p>The submitted details provide sufficient certainty to satisfy the tests in Clause 7.26(2) of the SLEP 2012 as follows:</p> <ul style="list-style-type: none"> <li>• It will not involve the display of an advertisement.</li> <li>• It will not increase the GFA of the building.</li> <li>• It will not have a significant adverse impact on the nearby heritage items.</li> <li>• It will not have any significantly adverse impacts on the amenity of the public domain, including by overshadowing, wind or noise impacts.</li> </ul>

## Development Control Plans

### Sydney Development Control Plan 2012

54. An assessment of the proposed development against the relevant provisions within the SDCP 2012 is provided in the following sections.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.1.3 Lanes	Yes	<p>The site fronts Albion Place to the south, an identified lane. The proposed development positively addresses Albion Place with the provision of a colonnade which acts as extension of the existing public domain to enhance pedestrian amenity and access. To enhance activity within Albion Place, two retail tenancies and the entries to the cinema, residential lobby and hotel bar are provided from this lane.</p> <p>An awning is provided above the lane which is located above the height of the adjoining heritage buildings' parapets. The high awning and its glass roof will enable pedestrians to appreciate the adjoining heritage items. The roof will allow natural light to be maintained to the lane.</p>
3.1.5 Public Art	Yes	<p>A Preliminary Public Art Plan has been submitted with this application and has been reviewed by the City's Public Art Unit.</p> <p>The proposal includes public art which will be integrated with the detailed design of the development. The public art is to be integrated on the northern facade of the tower, which is to be applied to a screen and fixed to the building's facade. The northern elevation of the tower will provide a canvas for creativity and present an opportunity to enhance visual interest.</p> <p>A condition is recommended requiring the provision of a detailed public art plan with final details of the public artwork to be submitted prior to issue of any Construction Certificate for above ground works.</p>



Provision	Compliance	Comment
<p>3.2. Defining the Public Domain</p> <p>3.2.1 Improving the public domain</p>	Yes	The proposed development does not overshadow any publicly accessible open spaces and does not impede public views from the public domain.
3.2.2. Addressing the street and public domain	Yes	<p>The proposed development positively addresses each of the three street frontages with the provision of retail tenancies to George Street, retail tenancies and the entries to the residential apartments, cinema and hotel bar to Albion Place and the hotel entry to Kent Street.</p> <p>The vehicular entrance on Kent Street integrates with the overall podium design and is considered to be visually recessive.</p> <p>The development incorporates high quality materials and finishes and visibility of the public art in publicly accessible locations.</p> <p>The alignment of all frontages are provided at the same level as the adjacent footpath to ensure all entries to the site are accessible.</p>
3.2.3 Active frontages	Yes	<p>The site's George Street frontage is nominated as a Category 1 active frontage. In accordance with the control, over 80% of the frontage is provided as an active frontage.</p> <p>The site's frontages to Albion Place and Kent Street are nominated as a Category 2 active frontage. In accordance with the control, over 70% of the Albion Place frontage is provided as an active frontage.</p>

Provision	Compliance	Comment
		<p>The Kent Street frontage is considered the site's tertiary frontage and with the exception of the café and hotel entry located on the site's corner to Albion Place, activation is limited due to the provision of site servicing, plant and the vehicular access driveway located along this frontage. This is considered acceptable.</p>
3.2.4 Footpath awnings	Yes	<p><b>George Street</b></p> <p>The site is required to have a continuous awning to George Street.</p> <p>The proposed development incorporates an awning along the site's extent to George Street to maximise weather protection.</p> <p>Awnings are required to be between 3.2m and 4.2m in height above the footpath and must be between 2m and 3.6m in width with consideration given to adjoining awnings.</p> <p>The maximum height of the awning is 5m on the site's southern end and 4.13m on the site's northern end. The proposed height of the awning responds to the awning at the adjoining site at 505-523 George Street which has an awning height of approximately 4.8m.</p> <p>The width of the awning is approximately 2.8m measured from the site boundary which is compliant with this provision of the DCP.</p> <p><b>Kent Street</b></p> <p>There is no requirement for a footpath awning to Kent Street, however a high-level awning is proposed along the site's extent to Kent Street. The awning has a maximum height of 9.97m which responds to the two storey height of the hotel lobby. There is no established awning height condition along this frontage and therefore the proposed height is considered acceptable.</p>

Provision	Compliance	Comment
		<p>The width of the awning is 2.24m which will provide adequate weather protection.</p> <p><b>Albion Place</b></p> <p>A high-level glazed awning is provided to Albion Place which steps to respond to the heights of the adjoining heritage items which front the lane. The height of the awning is consistent with Condition 10(h) of the concept consent (D/2019/758) to allow the full height of the heritage facades to be visible while mitigating downdrafts from the tower. The awning is setback 300mm from the southern boundary of Albion Place to enable access to the heritage buildings' facades.</p>
3.2.5 Colonnades	Yes	<p>A colonnade is provided along the site's Albion Place frontage, a component which has been retained from the winning design of the competitive design process.</p> <p>The colonnade is continuous along the length of Albion Place and is located within the site's boundary. The colonnade is approximately 1.95m wide and will increase the width of Albion Place and enhance its useability.</p> <p>Where possible the extent of steps and handrails to Albion Place has been minimised. To ensure provision of an accessible path of travel from George Street to the cinema entry, the colonnade levels have been slightly modified to provide compliant crossfalls for accessible entry into the cinema.</p> <p>The design of the colonnade includes finely proportioned and evenly spaced columns to allow for ease of access to the shopfronts and lobbies.</p> <p>It is anticipated that the colonnade will also be used for outdoor seating where it will not block entrances which will assist in enlivening and activating Albion Place.</p>

Provision	Compliance	Comment
3.2.6 Wind effects	Yes	<p>A pedestrian level wind assessment report accompanies the application. The assessment details the wind tunnel testing that has been undertaken for the site and demonstrates that the proposal will not adversely affect wind conditions at the street level.</p> <p>To minimise the impact of wind within the development, particularly on the rooftop of the tower, a 2m high perimeter screen is proposed and is detailed on the architectural plans.</p>
3.2.7 Reflectivity	Yes	<p>A reflectivity report has been provided which concludes the light reflectivity from the proposed building materials will not exceed 20%. A condition has been recommended to this effect.</p>
3.2.8 External lighting	Yes	<p>External lighting will be subject to a separate application.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposed development has been the subject of a competitive design process. The proposal has satisfactorily addressed the recommendations made by the Selection Panel.</p> <p>Refer to the 'Issues' section for discussion.</p>
3.5 Urban Ecology	Yes	<p>The proposed development includes the removal of a southern hackberry tree located on the Kent Street frontage to enable access to the driveway. The removal of this tree is supported. A condition is recommended requiring provision of a replacement tree along Kent Street, in accordance with the City's Street Tree Master Plan.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal will meet the sustainability requirement of BASIX relating to the residential component of the development, and Section J of the BCA, which is applicable to the proposed non-residential uses.</p>

Provision	Compliance	Comment
		<p>Additional initiatives are included in the documentation in order to achieve the requirement for the residential apartments to achieve a BASIX energy score of at least 30 points and the hotel component to achieve a NABERS Energy rating of 4.5 stars and a NABERS Water rating of 4 stars. This is consistent with the conditions of the concept development consent D/2019/758.</p> <p>A condition has been recommended to require compliance with the submitted 'Design for Environmental Performance' report submitted with the application to ensure that all ESD commitments are carried through to the certification and construction phases.</p>
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land.
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	No subdivision is proposed by the subject application.
3.9 Heritage	Yes	The proposed development is not considered to detract from the heritage significance of nearby heritage items. This has been discussed further in the SLEP 2012 compliance table.
3.11 Transport and Parking	Yes	<p><b>Shared driveway with 505-523 George Street</b></p> <p>The shared driveway provides for vehicular ingress and egress to both 505-523 George Street and the subject site. The design includes the provision of a breakthrough panel to the basement of 505-523 George Street with the RL of Basement Level 1 aligned with the adjoining property to facilitate shared access between the two sites.</p> <p>The shared access driveway and breakthrough panel has been designed to accommodate a Council waste vehicle and a 12.5m long vehicle.</p>

Provision	Compliance	Comment
		<p>A condition has been recommended for the provision of a Right of Carriageway and Easement over the shared driveway.</p> <p><b>Vehicular &amp; Bicycle Parking and End of Trip Facilities</b></p> <p>The following is provided generally in accordance with the SDCP 2012 minimum requirements:</p> <ul style="list-style-type: none"> <li>• 81 residential parking spaces</li> <li>• 33 hotel parking spaces, including two (2) pick up drop off spaces</li> <li>• Six (6) motorcycle spaces</li> <li>• Two dedicated (2) service vehicle parking spaces, with the ability to utilise the loading bay at level one for an additional four (4) spaces</li> <li>• Bicycle parking for: <ul style="list-style-type: none"> <li>• 115 residents</li> <li>• 113 visitors</li> <li>• 22 staff</li> </ul> </li> <li>• End of trip facilities comprising four showers with change area and 25 personal lockers</li> </ul> <p>The proposal is generally compliant with the relevant objectives and provisions set out in Section 3.11 of the SDCP 2012 relating to transport and parking.</p> <p>The configuration of the basement parking and waste management facilities has been reviewed by the City's Access and Transport and Cleansing and Waste Units and is considered satisfactory.</p>

Provision	Compliance	Comment
		<p><b>Coach Parking</b></p> <p>The concept development consent (D/2019/758) requires the applicant to consult with TfNSW to investigate on-site parking for coaches and to prepare a draft Coach Parking and Passenger Pick-Up and Set-Down Management Plan.</p> <p>The applicant has provided evidence of consultation with TfNSW who have endorsed the applicant's Coach Parking Management Plan.</p> <p>It is noted that on-site coach parking is unable to be accommodated on site given there is insufficient area for coaches to manoeuvre within the basement. It is proposed for coach and bus drop-off and pick-up to occur on-street.</p>
3.12 Accessible Design	Yes	<p>The application is accompanied with an Accessibility Report confirming the design is capable of complying with accessibility requirements under the BCA, DDA standards and the Sydney DCP 2012.</p> <p>The proposal provides 15% (17 of 115) of apartments as adaptable dwellings.</p> <p>The proposal also provides 20% (23 of 115) of apartments as liveable dwellings.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p> <p>The application is supported by a CPTED Report that concludes the proposal is designed in accordance with the CPTED principles subject to recommendations which are addressed in the recommended conditions.</p>
3.13.2 Air quality for development near the Cross City Tunnel	Yes	Refer to the SLEP 2012 compliance table for discussion on air quality.

Provision	Compliance	Comment
3.14 Waste	Yes	<p>Waste management facilities including sufficient areas for onsite waste collections have been accommodated within the development and account for all proposed uses on the site including the ability for a Council waste collection vehicle to service the site.</p> <p>A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.15 Late Night Trading Management	Yes	<p><b>Hotel Use</b></p> <p>The proposal includes a hotel use with hours of operation 24 hours per day, 7 days per week, to allow appropriate check in and check-out services.</p> <p>The hotel accommodation use is a category C premises under Section 3.15 of the Sydney DCP 2012 and the site is identified as being located in a Late Night Management Area.</p> <p>The proposed trading hours fall within the base hours for late night management areas and do not require the implementation of a trial period.</p> <p>Conditions are recommended in Attachment A to ensure that the use will operate with minimal impacts on the surrounding development within the locality. This includes conditions requiring compliance with a Plan of Management, hours of operation of the pool between 7am and 10pm and no music or speakers to be located within the pool area.</p>



Provision	Compliance	Comment
		<p><b>Cinema, Restaurant / Bar (Lower ground floor), Café (lower ground floor) and Function Centre (Level four)</b></p> <p>The application is not accompanied by a detailed noise emission assessment for the proposed cinema, function centre, cafe and restaurant and bar uses to determine appropriate trading hours, patron capacity and operational and management procedures for these uses. As such, a condition is recommended requiring a development application/s to be lodged for the fit out and operational use of the cinema, function centre and lower ground floor restaurant / bar.</p>
3.16 Signage and Advertising	Able to comply	No signage is proposed under this application. A condition is recommended requiring a separate DA to be submitted for the approval of a comprehensive signage strategy, including wayfinding signage, prior to the erection of any signage on the site.

## Section 4 – Development Types

### 4.2 Residential Flat, Commercial and Mixed-Use Developments

55. Clause 6A of SEPP 65 states that any DCP provisions pertaining to visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage are of no effect, as they cannot be inconsistent with the design criteria and guidance provided by the ADG. The remaining provisions are addressed in the following table:

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>The proposed floor to floor heights are compliant with the DCP, specifically:</p> <ul style="list-style-type: none"> <li>Basement level one is 5.5m</li> <li>The Kent Street ground level lobby is two storeys in height, with a floor to floor height of 7.5m.</li> <li>The George Street and Albion Place ground level is 4.2m.</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>On the upper floors of the commercial podium a compliant height between 3.5m, 4.3m and 6.8m is achieved.</li> </ul>
4.2.2 Building setbacks	Yes	The proposed development has been designed in accordance with the concept building envelope, as proposed to be modified by D/2019/758/A, which has established the appropriate building setbacks.
4.2.3 Amenity	Yes	<p>The proposal is generally acceptable with regard to residential apartment amenity considerations, subject to the conditions recommended in Attachment A.</p> <p>Further discussion regarding compliance is provided throughout the table section below.</p>
4.2.3.4 Design features to manage solar access	Yes	The design includes vertical and horizontal shading devices integrated into the facade design to ensure that glare and sunlight are controllable during the warmer months, but sunlight is not restricted in mid-winter. The proposed design meets BASIX requirements for thermal comfort.
4.2.3.5 Landscaping	Yes	The proposed landscape design has been reviewed by the City's Landscape Assessment Officer, who has provided advice that the design is acceptable, subject to the landscape conditions in Attachment A.
4.2.3.10 Outlook	Yes	All apartments provide adequate outlook and views, and outlook from the surrounding development has been considered in the site planning and massing of the development.

Provision	Compliance	Comment
4.2.3.11 Acoustic privacy	Yes	<p>An Acoustic Report has been submitted with the application. The report has been reviewed by the City's Health and Building Unit. The advice received is that the recommendations of the report are acceptable.</p> <p>Conditions are recommended in Attachment A to require acoustic control and noise management measures are implemented in relation to the proposed plenum systems and the proposed mix of land uses.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>Section 4.2.3.12 of the Sydney DCP 2012 requires the following dwelling mix:</p> <ul style="list-style-type: none"> <li>• Studio: 5-10%</li> <li>• One-bedroom: 10-30%</li> <li>• Two-bedroom: 40-75%.</li> <li>• Three+ bedroom: 10-100%</li> </ul> <p>The proposed dwelling mix is compliant with the DCP and provides the following mix:</p> <ul style="list-style-type: none"> <li>• 15% (17) one-bedroom apartments</li> <li>• 62% (72) two-bedroom apartments</li> <li>• 23% (26) three-bedroom apartments</li> </ul>
4.2.3.13 Wind affected balconies	Yes	<p>The proposed balconies are designed in accordance with these provisions. The balconies are inset into the facade of the tower and do not allow for any significant crossflow over the balcony spaces.</p>

Provision	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposal provides an acceptable built form with fine grain architectural character. The tower form is well setback from the street frontages allowing the podium to connect directly to the public domain. The podium portion includes a number of active frontages including a hotel lobby on Kent Street, retail spaces on George Street and Albion Place and the cinema entry and a residential entry lobby to Albion Place.</p> <p>The expression of the facade reflects the functions within the building. The podium reveals activated spaces within the views to the street. The tower expresses the hotel and residential uses through openings and private open spaces while maintaining privacy for occupants.</p>
4.2.6 Waste and recycling Management	Yes	Refer to discussion under section 3.14 of the Sydney DCP 2012 compliance table.
4.2.7 Heating and cooling infrastructure	Yes	The proposed heating and cooling infrastructure is consolidated in centralised locations throughout the development in order to ensure energy efficiency is achieved and to allow for the accommodation of future environmental technologies.
4.2.8 Letterboxes	Yes	The proposed design does not nominate where the residential letterboxes will be located. However, there is sufficient area within the residential lobby off Albion Place for the letterboxes. The letterboxes should be integrated into the design, easily accessible while being secure to prevent mail left. A condition of consent is recommended to address this.

#### 4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	<p>A Plan of Management (PoM) and Acoustic Assessment were submitted with the application relating to the hotel use and operation.</p> <p>The PoM outlines that the hotel will operate 24/7 with on-site personnel and all hotel entries, common areas, lobby and loading dock monitored by CCTV.</p> <p>The hotel rooms do not include triple-tier bunks or cooking facilities, and toilet and shower facilities are partitioned off within each room.</p>
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	<p>A minimum room size of 18sqm is provided, consistent with the minimum DCP requirement.</p> <p>The PoM identifies that the maximum permitted length of stay is three months. Where accommodation is provided for more than 28 consecutive days, no more than two adults and one child is permitted.</p> <p>The rooms are capable of accommodating two persons staying a maximum of three months.</p>

#### Section 5 – Specific Areas

56. The Concept (Stage 1) development consent (D/2019/758) was approved prior to the adoption of the current objectives and provisions in Section 5.1 of the SDCP 2012.
57. Unlike the savings provisions set out in Clause 1.8A(5) of the SLEP 2012, no such savings or transitional provisions have been provided within the SDCP 2012 for development applications which rely upon a concept development application approved before the commencement of the amendments of Section 5.1 of the SDCP 2012.
58. It is noted that Section 4.24 of the Environmental Planning and Assessment Act 1979 requires that any subsequent Stage 2 development determination cannot be inconsistent with the Concept (Stage 1) consent.
59. 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.

60. 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 SDCP 2012, which govern development proposed within Central Sydney.

Provision	Compliance	Comment
<b>Section 5.1 Central Sydney</b>		
5.1.1.1 Street frontage height and street setbacks	Assessed as acceptable	<p>The SDCP 2012 requires a street frontage height of between 20-25m is provided to all streets, with a minimum street setback of 8m above the street frontage height.</p> <p><b>George Street</b></p> <p>The street frontage height to George Street varies between 18.42m and 19.3m. A compliant 10.01m street setback from the tower is provided. The minor variation below the 20m street frontage height control is considered acceptable for the following reasons:</p> <ul style="list-style-type: none"> <li>• The street frontage height is consistent with the Concept envelope approved under D/2019/758.</li> <li>• The street frontage height is considered acceptable in the context of the streetscape and the approved street frontage height for 505-525 George Street (D/2019/157).</li> </ul> <p><b>Kent Street</b></p> <p>The street frontage height to Kent Street varies between 23.55m and 23.75m and is compliant. A minimum street setback to the tower of 6.35m is provided. The variation to the street setback control is considered acceptable for the following reasons:</p> <ul style="list-style-type: none"> <li>• The street setback is consistent with the Concept envelope approved under D/2019/758.</li> <li>• The 6.35m street setback aligns with the approved setback of 505-523 George Street (D/2019/157).</li> </ul>

Provision	Compliance	Comment
		<p><b>Albion Place</b></p> <p>The street frontage height to Albion Place varies between 24.34m and 27.37m. A minimum street setback to the tower of 1.95m is provided. The extent of variation with the street frontage height and street setback controls are considered acceptable for the following reasons:</p> <ul style="list-style-type: none"> <li>• The non-compliance with the street frontage height control has arisen due to the topography of Albion Place which varies by 3m between George Street and Kent Street. The non-compliance is limited to the Kent Street extent of Albion Place which is the lowest point of Albion Place.</li> <li>• The street frontage height is consistent with the Concept envelope approved under D/2019/758.</li> <li>• Similarly, the street setback is generally consistent with the Concept envelope, with a minor reduction in the setback of 0.55m from the approved concept envelope. It is noted that this reduced setback does not relate to additional GFA, but allows for structural elements, embellishments and privacy screening.</li> <li>• The additional 0.55m projection of the tower towards Albion Place will be indiscernible when viewed from the public domain below.</li> <li>• A wind report has been submitted with the application which demonstrates that the proposal will have an acceptable impact on wind conditions surrounding the building.</li> </ul>

Provision	Compliance	Comment
5.1.1 Side and rear setbacks and building form separations	Yes	The SDCP 2012 requires a side setback of 5m above the applicable street frontage height. To the site's northern boundary, a varying setback between 5m and 9.8m setback is provided to the proposed tower which is compliant with the DCP.
5.1.1.4 Built form massing, tapering and maximum dimensions	Assessed as acceptable	<p>The DCP requires the maximum horizontal dimension for residential accommodation development to be 50m. The horizontal dimension of the building is 58m.</p> <p>The proposal complies with the floor plate and Building Envelope Area controls stipulated for a site of this size.</p> <p>The non-compliance with the horizontal dimension criteria of the DCP is acceptable given the site is narrow and deep which has resulted in a building envelope which has a long east/west horizontal dimension. It is noted the proposal, specifically the building depth along the east/west extent, is consistent with the building envelope approved under the Concept DAD/2019/758.</p> <p>Notwithstanding the non-compliance, the tower form appears slender and does not appear overwhelming in scale and impact on the amenity of the public domain. Public art is proposed along the tower's northern elevation to minimise its visual impact and provide articulation and architectural detailing.</p> <p>Further, the proposed building is located between other taller towers to the south and north which will partially obscure the building's width.</p>
5.1.2 Development outlook and demonstrating amenity compliance	Yes	The residential component of the tower begins from Level 22. All windows and balconies provide a high level of unobstructed outlook and exceed the DCP control of 12m.



Provision	Compliance	Comment
5.1.3.2 Development adjacent to heritage items	Yes	Refer to discussion in response to clause 5.10 of the SLEP 2012 in relation to heritage conservation.
5.1.4 Building exteriors	Yes	<p>The proposal will contribute positively to the streetscape with high quality architecture, meeting the objectives in Section 5.1.4 of the SDCP 2012.</p> <p>The materiality and design of the development are distinctive and have been based on the winning scheme of a competitive design process.</p> <p>The design, materials and detailing are considered to be of a high standard and suitable for the site.</p>
5.1.6 Heritage floor space	Yes	Refer to the discussion and assessment provided in relation to the allocation of heritage floor space (HFS) and Clause 6.11 of the SLEP 2012 in the table section above.
5.1.7 Sun protection of public parks and places	Yes	<p>The Belmore Park Sun Access Plane extends to the subject site and the controls require solar access to the park between 10am and 2pm all year round. The DCP identifies a maximum height of RL 360m for the site in order to maintain the required solar access.</p> <p>The site has a maximum height of RL172.51 which is below the maximum height. Further, the accompanying shadow diagrams demonstrate there is no additional overshadowing to the park.</p>
5.1.8 Views from public places	Yes	The proposed development will not impact on any of the key views from within Central Sydney, from parks and other well-used Public Places as identified within the DCP.

Provision	Compliance	Comment
5.1.9 Managing wind impacts	Yes	A wind environment report, including the results of wind tunnel testing, has been submitted with the application. 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.

**Discussion**

**Clause 4.6 Request to Vary a Development Standard - Height of Buildings**

61. The site is subject to a maximum height of buildings control of 150m. The proposed development has a maximum building height of 155.39m which equates to a variation of 3.6 per cent. The elements that breach the height control include lift overruns, fire stairs, mechanical plant and equipment, a sheltered walkway to the communal open space and a bathroom. The below figures identify the areas of height exceedance.



**Figure 43:** Section A - Area of height indicated in red

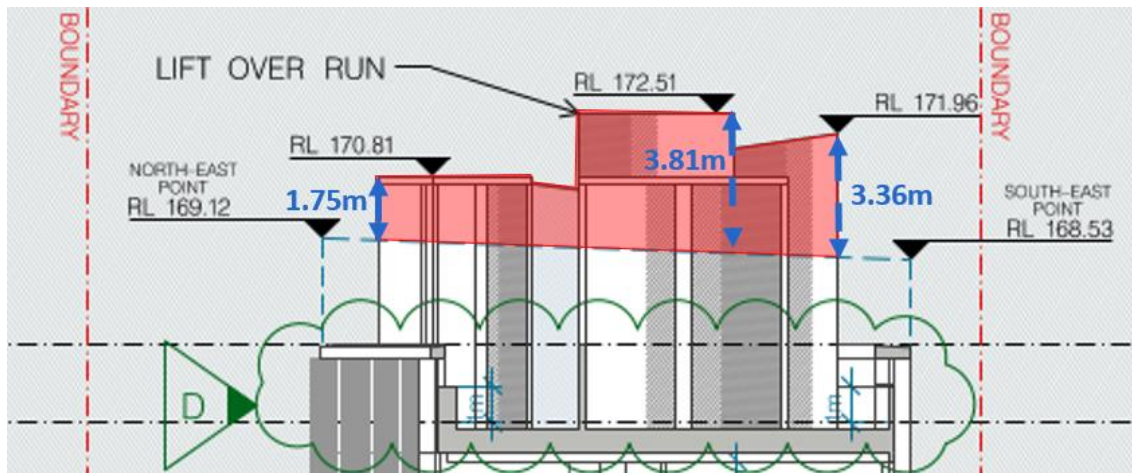


Figure 44: Section B - Area of height exceedance indicated in red

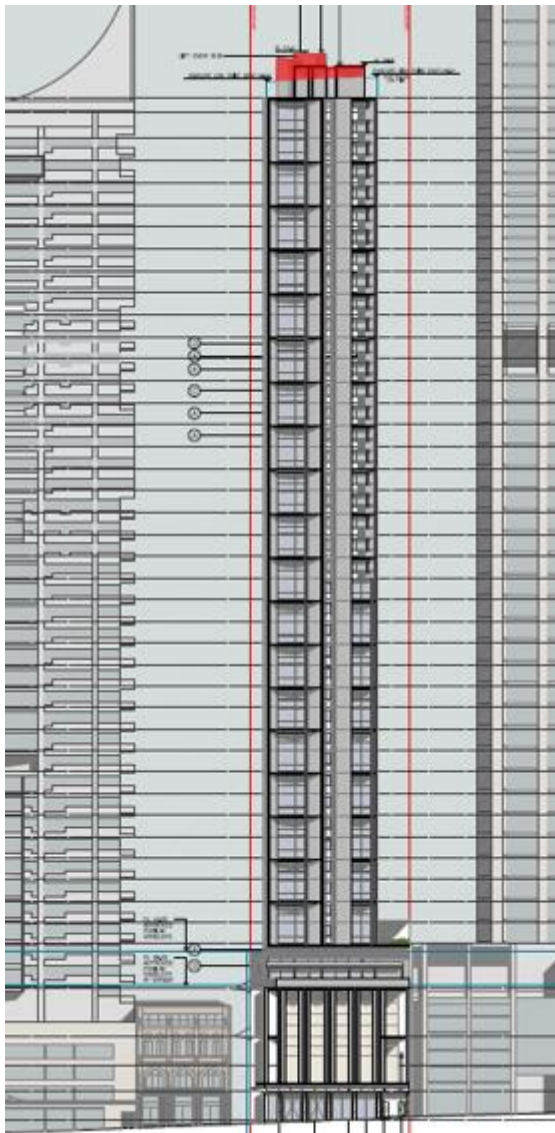


Figure 45: East elevation - Area of height exceedance highlighted in red

62. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the SLEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- a. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - b. That there are sufficient environmental planning grounds to justify contravening the standard;
  - c. The proposed development will be consistent with the objectives of the zone; and
  - d. The proposed development will be consistent with the objectives of the standard.

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

63. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) The applicant's statement refers to the first of the five tests established in *Wehbe v Pittwater Council* (2007) NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard. The applicant's justification against the objectives of the height of buildings development standard is provided in (d) below.
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
    - (i) In relation to overshadowing the accompanying sun's eye diagrams demonstrate that the proposed rooftop elements will have a minor additional overshadowing impact on the north-facing portion of the uppermost levels of the Meriton Suites building. This impact is limited in midwinter to between 9:30am and 11:45am and 1:30pm and 2:45pm. During the midday period, the subject site will be within the shadow cast by 505-523 George Street.

The extent of overshadowing to the Meriton Suites tower has been studied in detail in elevational shadow diagrams attached as an appendix to the Clause 4.6 variation request.

The analysis identifies that the overshadowing impact is limited to level 53, 54, 55 and 56 and limited to the north facing serviced apartments on those floors. All the impacted serviced apartments will continue to receive between three to four hours of solar access to their primary living rooms in mid-winter, substantially more than the ADG guideline of two hours. One serviced apartment (No. 5504) experiences a loss of 30 minutes of solar access to its balcony but receives four hours of solar access to its living room in mid-winter.

The applicant has noted that the Meriton Suites building has been in used as serviced apartments since its construction and does not contain permanent residential apartments. The ADG does not apply to the building and as such, the ADG is not to be used in assessing overshadowing impact upon serviced apartments.

The minor overshadowing is considered acceptable within the CBD context and does not result in non-compliance with any applicable environmental planning instrument.

- (ii) In relation to privacy and overlooking, the areas of the exceedance to the height control accommodate building services and lift overruns. It does not provide any potential for adverse privacy impacts on neighbouring developments.
- (iii) In relation to view loss, the proposal has the potential to impact views from the neighbouring Meriton Suites tower and the approved building at 505-523 George Street.

In regard to the Meriton Suites tower, the height exceedance is not anticipated to have any impact on views from the tower due to the height of the tower being below the height of the proposed building. As a result, there is no negative impact on views from the Meriton Suites.

In regard to 505-523 George Street, there is anticipated to be some view loss from south-facing serviced apartments.

The extent of potential, future view loss upon the approved serviced apartments and residential apartments at 505-523 George Street has been studied in three-dimensional view loss studies provided as an appendix to the Clause 4.6 report.

In summary, the view loss impact is considered to be minor, noting the affected serviced apartments are provided with primary views to the east which are not impacted. The extent of the view impact on these serviced apartments is minor as the separation between the towers is sufficient to allow substantial views from all affected windows around the proposed area of height exceedance. All affected serviced apartments will continue to achieve suitable outlook and will retain district views from other angles.

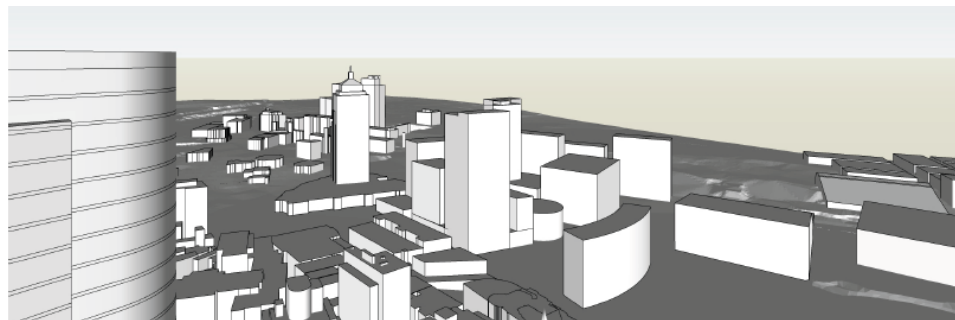
Detailed view loss analysis has been undertaken from the south-facing apartments within 505-523 George Street on levels 46 and 47 (considered to be the most affected units in terms of view loss by the proposed variation). A summary of the view impacts is provided below.

**Views E.1 and E.2**

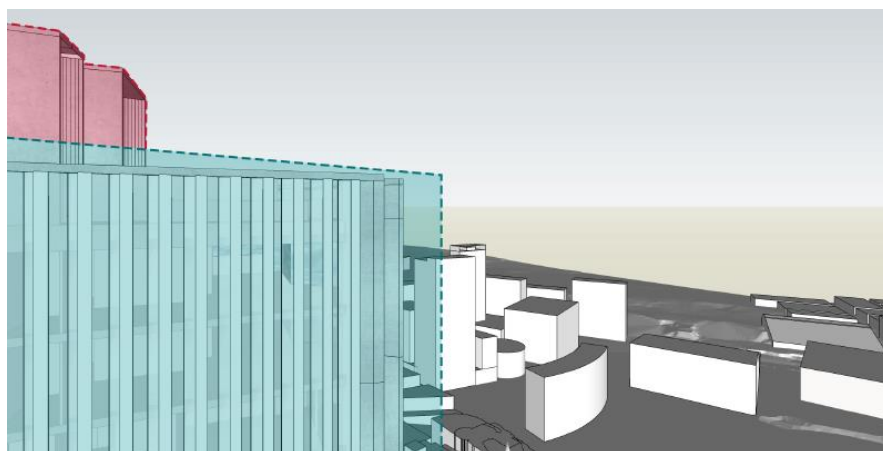
Views E.1 and E.2 have been taken from the central south-facing apartment on Level 46 and 47. A plan showing the location of the apartment within the tower and the impacted field of view is provided below.



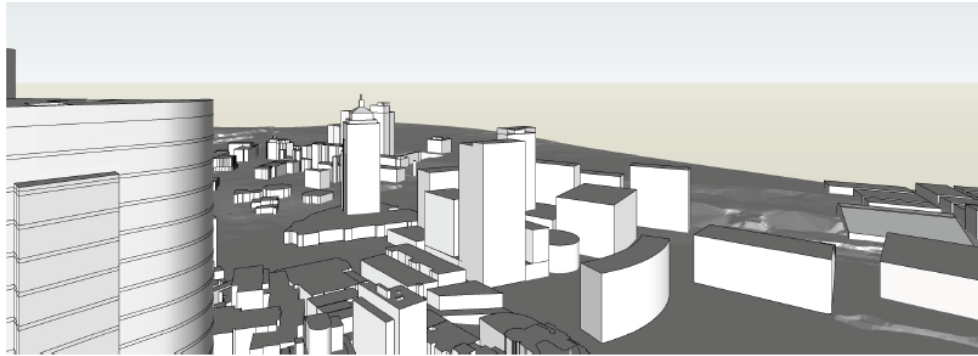
**Figure 46:** View Plan - View Cone shown at Unit 4608, Living Room on Level 46 (noting this floorplan is replicated on Level 47 above)



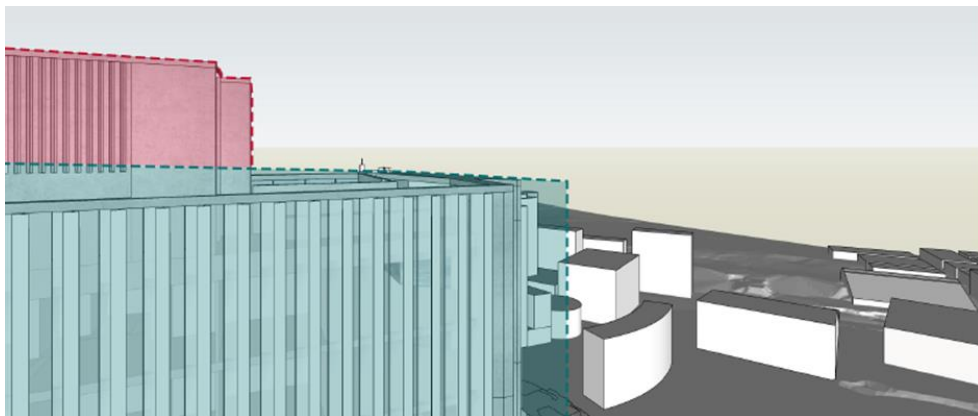
**Figure 47:** View E.1 - Existing condition from apartment at Level 46



**Figure 48:** View E.1 - View Perspective from apartment at Level 46, approved building envelope identified in blue, area of height exceedance outlined in red



**Figure 49:** View E.2 - Existing condition from apartment at Level 47



**Figure 50:** View E.2 - View Perspective from apartment at Level 47, approved building envelope identified in blue, area of height exceedance outlined in red

The view looks to the southwest across the proposed development site at 525-529 George Street, as well as more open vistas across Darling Harbour and the Pyrmont Peninsular. Given the height of the viewpoint, views from this location includes both district views across to neighbouring buildings as well as more distant views to the west, including to Sydney's western suburbs.

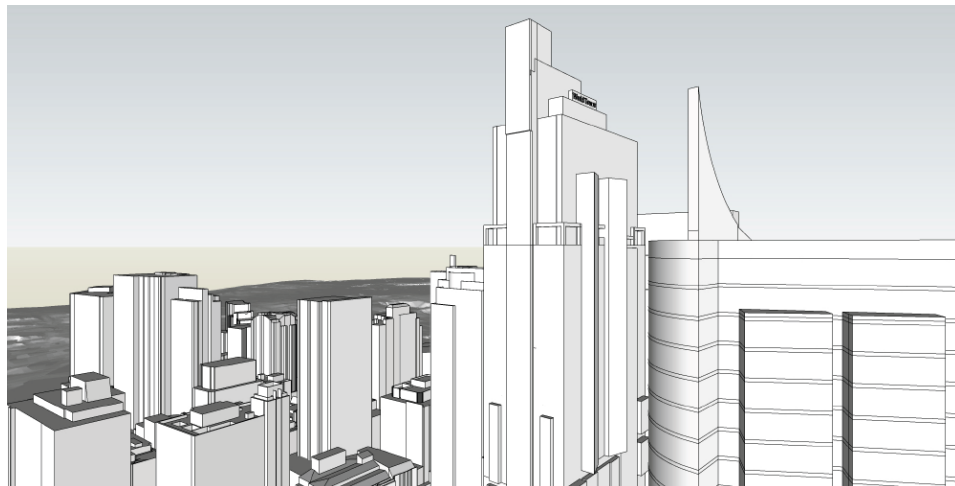
The applicant has identified that Views E.1 and E.2 will be impacted by the proposed development by reducing views to the southwest. Views to the south would also be affected by the existing Meriton Suites tower. The view impact is not considered unacceptable given that the viewpoint will still enjoy district and distant views.

### **Views F.1 and F.2**

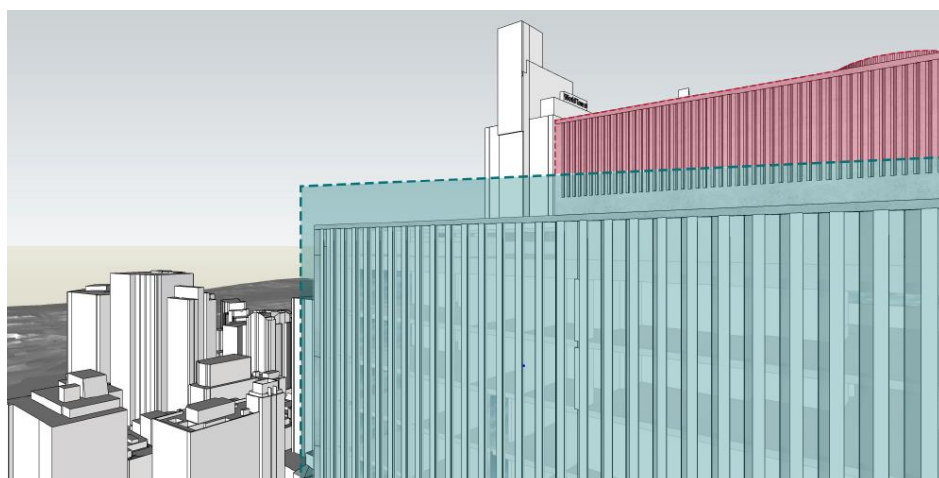
Views F.1 and F.2 have been taken from the south-eastern facing apartment on Level 46 and 47. A plan showing the location of the apartment within the tower and the impacted field of view is provided below.



**Figure 51:** View Plan - View Cone shown at Unit 4607, Living Room (noting this floorplan is replicated on Level 47 above)

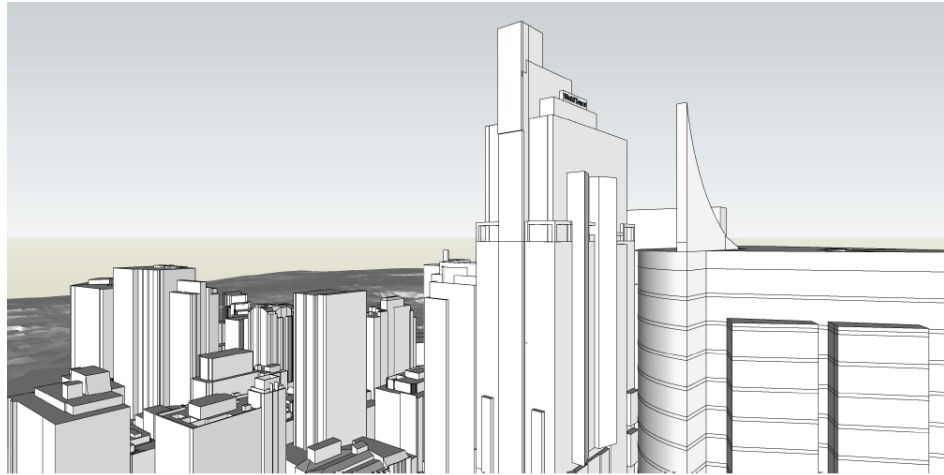


**Figure 52:** View F.1 - Existing condition from apartment at Level 46

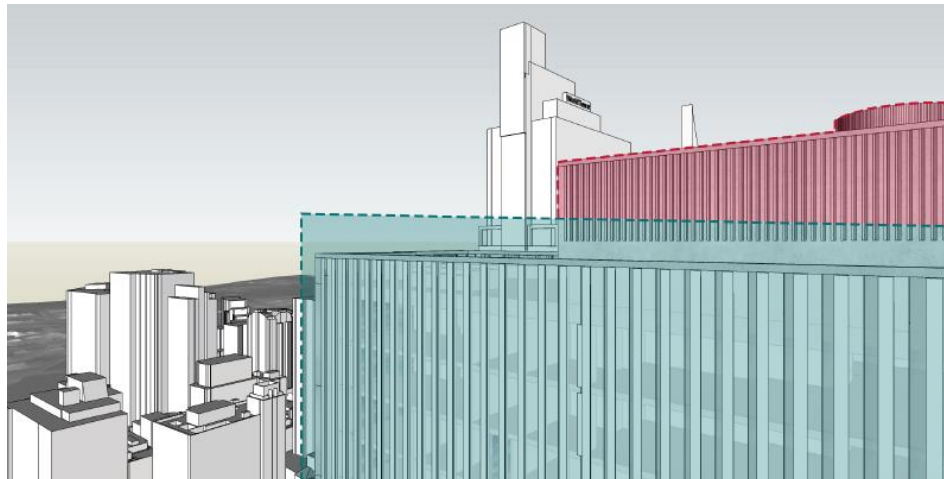


**Figure 53:** View F.1 - View perspective from apartment at Level 46, approved building envelope identified in blue, area of height exceedance outlined in red





**Figure 54:** View F.2 - Existing condition from apartment at Level 47



**Figure 55:** View F.2 - View perspective from apartment at Level 47, approved building envelope identified in blue, area of height exceedance outlined in red

This view looks southeast across the site at 525-529 George Street, the Meriton Suites tower behind and buildings behind on Liverpool Street. Due to the height of the viewpoint, views from this location comprise mostly district views across to neighbouring buildings including residential and commercial towers.

The proposed development will affect the views from this location by reducing views to the south and southeast. It is noted that views to the south would be largely affected by the existing Meriton Suites tower behind. The view is not considered unacceptable given that the viewpoint will still enjoy district views.

In justifying the view loss impacts in the Clause 4.6 report the applicant has identified the extent of the view loss that is caused by areas of the proposed building above the height limit is minor and will not significantly reduce the extent of quality views enjoyed by the relevant serviced apartment.

The Clause 4.6 identifies that the approved building (not yet constructed) at 505-523 George Street is approved for serviced apartments for a period not exceeding 20 years (from the date of the first Occupation Certificate being issued for the first use of any part of the whole tower). After this time, the building will revert to residential apartments.

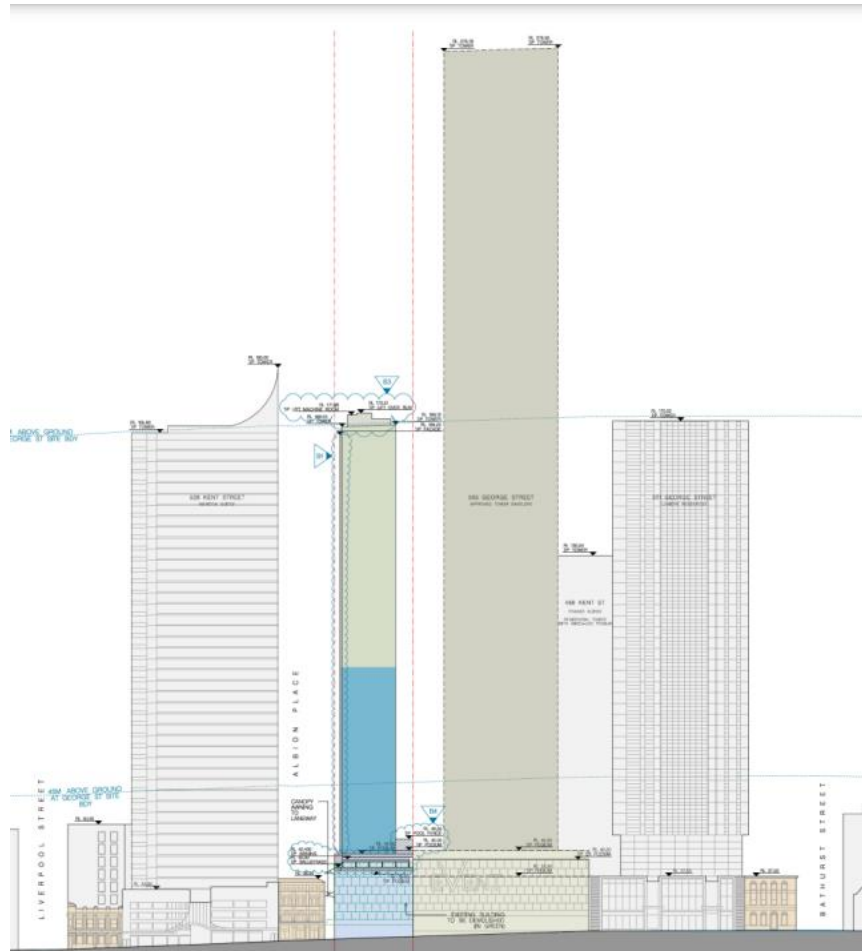
In justifying the view loss impacts, the applicant has advised that within the Council report to the CSPC on 4 December 2014 assessing the redevelopment of 505-523 George Street, the report explicitly states that "apartments should not have a single aspect to the south". The statement was specifically in reference to visual impacts to and from a proposed redevelopment of 525-529 George Street.

The applicant has noted that the 505-523 building is yet to be built and will be over 100m taller than the proposed development. The applicant has requested that the weight applies to the minor view impacts on 505-523 George Street should be substantially less than might be applied to a shorter residential building that is occupied.

- (iv) In relation to visual impact, the height of the building responds to the existing heights of the neighbouring buildings and development application approved developments which are of similar or greater scale. From the public domain the height exceedance will not be visible.
  - (v) The proposed contravention will allow the development to integrate lift overruns and mechanical plant and equipment within a decorative building element that is consistent with the surrounding built context. The height exceedance will also provide sheltered access to the communal open space allowing for their use by occupants as well as providing a bathroom adjacent to the space. The height exceedance results in a substantially better outcome for the development by improving the amenity of the communal open space and by facilitating the building's plant, equipment and overruns.
- (c) The proposed development will be consistent with the objectives of the zone;
- (i) The applicant has provided justification in their written statement that the proposed development will be consistent with the objectives of the SP5 Metropolitan Centre zone:
    - (i) Reinforces the pre-eminent role of business, retail, entertainment and tourist uses and the site's contribution to and participation in the global economy.
    - (ii) Provides an appropriate and compliant intensity of land uses commensurate with Sydney's global status.
    - (iii) Incorporates a diversity of compatible and permissible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.
    - (iv) Encourages the use of alternatives to private motor vehicles, such as public transport, walking and cycling by offering bicycle parking and being accessible by public transport.

- (v) Promotes uses with active street frontages on George Street and Albion Place for the purposes of retail premises, and a hotel lobby on Kent Street.
  - (vi) Maximises the permissible height and FSR, thereby representing efficient and orderly development of land.
  - (vii) Promotes a range of diverse commercial opportunities.
  - (viii) Provides residential apartments that will not negatively impact the other employment generating uses being proposed.
- (d) The proposed development will be consistent with the objectives of the standard
- (i) With regard to objective 4.3(1)(a) to ensure the height of development is appropriate to the condition of the site and its context:
    - (i) The site is located within the mid-town area of the Sydney CBD. This area contains numerous tower developments over 150m. The bulk of the proposed building height is located within the maximum height limit. The variation relates to the rooftop element where building services are located. The rooftop element is designed as a functional and sculptural form which will complement the development by utilising the same material palette and by concealing plant and equipment.
    - (ii) The use of rooftop structures to contain and conceal lift overruns and rooftop plant and equipment is common within the Sydney CBD, often utilising clause 5.6 of the SLEP 2012 which relates to architectural roof features (ARF).

The proposed rooftop element contains many of the aspects of an ARF except that it contains an area of GFA where sheltered access is provided to the communal open space and in a bathroom. Notably, the GFA is located below the maximum height limit of the site. But for the co-location of this GFA within the lower levels of the roof feature and within the height limit, it would be consistent with the provision of Clause 5.6 of the SLEP 2012 which permits architectural roof features to exceed the height limit. The inclusion of a sheltered access way and bathroom is necessary to support the amenity of occupants while they access the communal open space.
    - (iii) The proposed tower is located between the Meriton Suites building to the south, an approved tower at 505-523 George Street to the north and an existing tower at 501 George Street. It is a comparable height to Meriton Suites and 501 George Street but is substantially smaller than the approved building at 505-523 George Street (refer figure below). The tower is of an appropriate size and location in relation to neighbouring towers.



**Figure 56:** Eastern streetscape elevation, 505-523 George Street identified in beige to the right of the subject site

- (iv) The existing Meriton Suites building reaches RL 165.80 at the ceiling of the top habitable floor which is similar to the height of the subject development at RL 166.20. The Meriton Suite's roof feature reaches a maximum height of RL 185.00 which is 12.49m taller than the maximum RL proposed on the subject site of RL 172.51. The approved development at 505-523 George Street will reach a maximum height of RL 276.62. This is 104.11m taller than the maximum RL proposed on the subject site.
- (v) The proposed tower's footprint is comparably slender when viewed in the context of its neighbouring towers. The design will sit in between larger towers which will form its immediate context in the skyline. The proposed roof element is suitable to the site's context given the larger size of its neighbours. The 3.6 per cent variation that is proposed is inconsequential and imperceptible in relation to the size of 505-523 George Street which is more than 100m taller. The proposed design also results in a decorative rooftop element that is 12.49m lower than that of the Meriton Suites building. Its relatively lower height ensures that the height exceedance of the proposed development will not dominate its neighbours.

- (vi) Viewed from the east or west, the design's employment of strong vertical articulation on the eastern and western facades will serve to emphasise its slender appearance. Its shape, position and alignment will positively contribute to a coherent urban form. The tower's proportion and setbacks, including its street-facing facades, provide a complementary addition to the streetscape.
  - (vii) The employment of a rooftop structure to contain mechanical services above the height limit is common in the Sydney CBD. It has been employed by neighbouring developments which are taller than the subject proposal. The height of the proposed development is increased by up to 5.39m by the variation but remains shorter than adjacent developments which determine the site's context. The proposed building height is appropriate to the site's condition and context.
- (ii) With regard to objective 4.3(1)(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas:
- (i) The subject site is not of heritage significance nor is it within a heritage conservation area. The site is adjacent to Albion Place which is a heritage item along with several surrounding heritage listed buildings.  
  
The adjacent heritage buildings are all below the height of the proposed building podium. Accordingly, the tower is substantially taller than any surrounding heritage buildings and a height variance contained within its roof plane will have no impact on the visual curtilage of any heritage buildings. The proposed variance does not result in an inappropriate height transition between the proposed development and any heritage items.
- (iii) With regard to objective 4.3(1)(c) to promote the sharing of views outside Central Sydney:
- (i) Not applicable.
- (iv) With regard to objective 4.3(1)(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas:
- (i) The subject site is located within the centre of the Sydney CBD where it is immediately adjacent to larger built and approved developments. The site does not form part of a transitional height area and this objective is not applicable to the proposal.
- (v) With regard to objective 4.3(1)(e) in respect of Green Square:
- (i) Not applicable.

64. The applicant has included a section of the relevance of Clause 7.28 (Serviced Apartments) of the Sydney LEP 2012. This clause seeks to ensure that development for the purpose of serviced apartments provides the same level of amenity as that provided by development for the purpose of residential flat buildings. It also seeks to prevent substandard residential accommodation occurring through the conversion of serviced apartments to residential flat buildings.
65. The applicant has stated that the purpose of the clause is to prevent the circumvention of SEPP 65 and the ADG in converting buildings from serviced apartments to residential apartments. The clause was neither intended nor does it operate to prevent development occurring near serviced apartments. The clause only operates when consent is sought for “development for the purpose of serviced apartments or a change of use of a building from serviced apartments to a residential flat building”. Neither of these two prerequisites apply in this case and so the clause has no relevance to the application at hand.

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

66. Development consent must not be granted unless the consent authority is satisfied that:
  - (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

67. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.
68. The applicant has identified that the additional height relates to elements contained at roof level only. The proposed height of the building is of an appropriate size and location in relation to its Central Sydney CBD context, noting the adjoining tower form to the south, the Meriton Suites tower, is approximately 12.49m taller than the proposed development and the approved tower at 505-523 George Street is approximately 104.11m taller than the proposed development. The height of the development will sit in between a number of larger tower forms which will form its immediate context in the skyline.
69. The design of the rooftop, including those elements that breach the height of buildings control, has been designed as a functional element which will complement the tower form below and will utilise the same materials pallet. The design of the rooftop is supported. It is acknowledged that the areas of non-compliance will not be readily discernible from the public domain.

70. In justifying the variation, the applicant has asserted the rooftop element is largely consistent with the definition of an architectural roof feature however, due to the location of gross floor area within the roof feature, it does not meet the definition set out in Clause 5.6 (Architectural roof features) of the SLEP 2012. City staff do not concur with this argument. The design of the rooftop is not considered to meet the definition of an architectural roof feature and this view has been similarly shared by the City's DAP.
71. In forming this view, City staff are of the opinion that the rooftop does not form an integral part of the building's design and the design does not comprise a decorative element on the uppermost portion of the building. As such, the consent authority cannot be satisfied of the requirements set out in Clause 5.6(3) of the SLEP 2012.
72. Notwithstanding the applicant's assertion, City staff consider the Clause 4.6 variation request provides sufficient alternative justification to warrant the variation to the height of building's development standard.

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

73. The statement provides environmental planning grounds specific to the circumstances to justify the extent of non-compliance with the building height development standard. Specific reference is made to the Initial Action Pty Ltd v Woollahra Municipal Council case to justify contravening the standard as the development achieves a better outcome by allowing flexibility in particular circumstances.
74. In relation to overshadowing, it is important to distinguish that the affected apartments within the Meriton Suites tower are serviced apartments and not residential dwellings. As demonstrated in the accompanying overshadowing analysis, the impacts are reasonable, and all affected serviced apartments will continue to receive between three to four hours of solar access to the primary living rooms at mid-winter.
75. In relation to view loss, the extent of view loss caused by the areas of non-compliance is minor and will not significantly reduce the quality of views. As demonstrated in the view loss analysis appended to the Clause 4.6 request, there is some view loss impact from the area of height non-compliance which affect the south and south-eastern facing apartments within the approved tower at 505-523 George Street. However, it has been demonstrated that the view loss does not impact any iconic views and the impacted views primarily comprise sky views and views of the tops of nearby buildings. The affected apartments will benefit from good outlook to the east and west and will maintain district views. The view loss impact is considered acceptable.
76. In addition to these impacts, the written request identifies that the development does not result in an undue or adverse environmental impact in terms of privacy and overlooking and visual domination. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.
77. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of variation proposed.

Is the development in the public interest?

78. The objectives of the height of buildings development standard relevant to the proposal include:
- (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 ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,
79. The proposal is consistent with the relevant objectives of the height of buildings development standard as follows:
- (a) The site is located within the Sydney CBD, with a number of towers (existing and proposed) located within close proximity of the site. The proposed height of the development is comparable to the immediately adjoining tower to the south, known as the Meriton Suites building, albeit that building is 12.49m taller than the proposed building. The approved, but not yet built tower located to the immediate north, known as 505-523 George Street, is considerably taller than the proposed building by approximately 104.11m. The proposed development is considered suitable to its context given the larger scale of adjoining developments and these towers will form its immediate context in the skyline.
  - (b) While the site is not an identified heritage item or located within a heritage conservation area, the site adjoins three heritage items to the south, fronting Albion Place, and is within close proximity to a number of other items. The adjacent heritage items are below the height of the proposed podium. The tower form, including the area of non-compliance at roof-top level, will have no impact on the visual curtilage of any heritage buildings. The proposal does not result in an inappropriate height transition between the proposed development and any heritage items.
  - (c) The site is located within the Sydney CBD and is located adjacent to a number of larger built and approved developments. The site does not form part of a transitional height area.

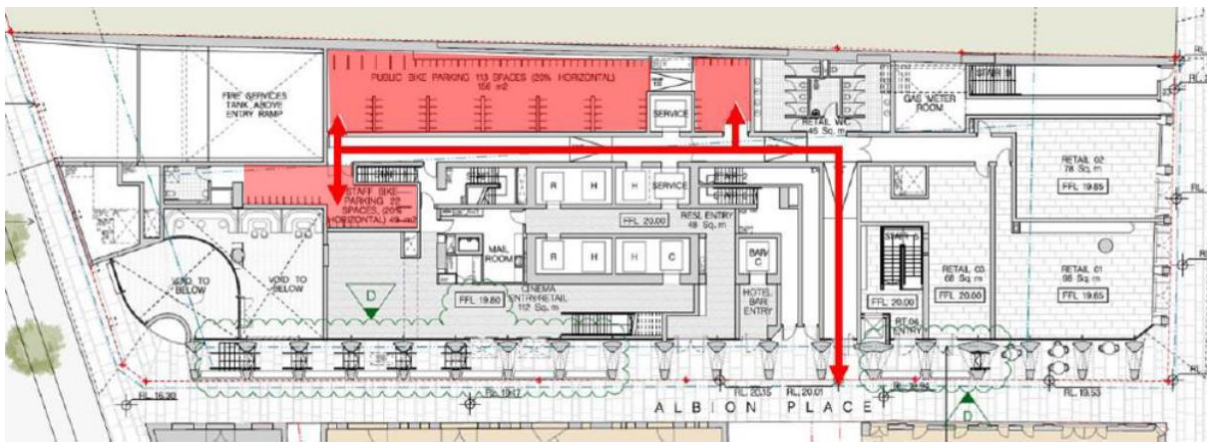
#### Conclusion

80. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the SLEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the SP5 Metropolitan Centre zone.



**Clause 4.6 Request to Vary a Development Standard - Floor Space Ratio (FSR)**

81. Based on the mix of proposed land uses, the site is subject to a maximum permissible FSR of 15.13:1 or 28,080sqm. The proposed development has a maximum FSR of 15.24:1 or 28,283sqm equating to a variation of 0.7 per cent or 203sqm of GFA.
82. The applicant has identified the non-compliance is the result of locating bicycle parking for the proposed retail, cinema and hotel uses (approximately 205sqm or 135 spaces) above ground where it is counted as GFA. The applicant has stated that the bicycle parking has been purposively provided on the upper ground level so it is accessible at grade from Albion Place which negates visitors and staff from using the lift or entering via the hotel lobby.
83. A plan of the upper ground level identifying the location of the bicycle parking is provided underneath.



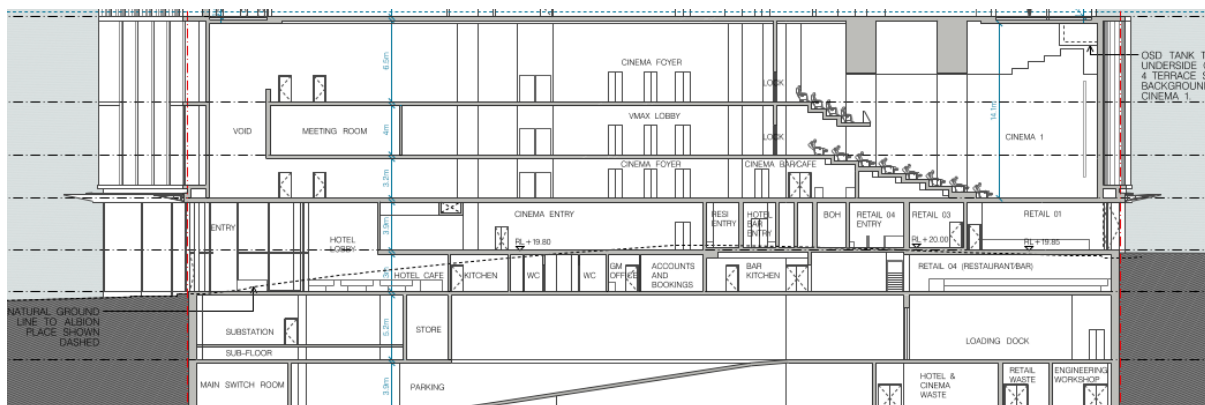
**Figure 57:** Lower ground level plan showing the location of the bicycle parking (shaded red) and access through the building from Albion Place is identified in red

84. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the SLEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - That there are sufficient environmental planning grounds to justify contravening the standard;
  - The proposed development will be consistent with the objectives of the zone; and
  - The proposed development will be consistent with the objectives of the standard.

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

85. The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The applicant's statement refers to the first of the five tests established in *Wehbe v Pittwater Council* (2007) NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard. The applicant's justification against the objectives of the FSR development standard is provided in (d) below.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The proposed design locates bicycle parking on the Upper Ground Level while other uses such as a food and drink premises and back of house offices for the hotel are located on the Lower Ground Level. Rearranging these uses would achieve numerical compliance with the FSR standard but would cause an inferior design outcome for the bicycle parking.
  - (ii) The design has located 205sqm of commercial staff and visitor bicycle parking (135 spaces) on the Upper Ground Level where it is accessible at grade from the approximate centre of Albion Place. The entry point and bicycle parking are centrally located within the development between the various commercial uses to encourage maximum use. The location on the Upper Ground Level ensures that visitors and staff do not have to use a lift to access the bicycle parking making them more likely to utilise the facilities. The proposed design encourages the activation of Albion Place and the use of active and public transport methods. It also complies with the City's preferred access arrangements for bicycle parking. Refer to the section plan below identifying the level change across the site.



**Figure 58:** Section plan through Albion Place showing level change from George Street (right-hand side) to Kent Street (left-hand side)

- (iii) The proposed FSR non-compliant design is superior to one in which numerical compliance is achieved with the FSR standard but in which bicycle parking is located on the Lower Ground Level. Such an arrangement would require access either through the hotel lobby or via a lift. Either alternative has the potential to discourage the use of visitor bicycle parking.
  - (iv) The non-compliance promotes good design and amenity in the built environment through its positive contribution to the building's bicycle parking arrangements and its lack of external negative environmental impacts.
- (c) The proposed development will be consistent with the objectives of the zone:
- (i) The applicant has provided justification in their written statement that the proposed development will be consistent with the objectives of the SP5 Metropolitan Centre zone:
    - (i) Reinforces the pre-eminent role of business, retail, entertainment and tourist uses and the site's contribution to and participation in the global economy.
    - (ii) Provides an appropriate and compliant intensity of land uses commensurate with Sydney's global status.
    - (iii) Incorporates a diversity of compatible and permissible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.
    - (iv) Encourages the use of alternatives to private motor vehicles, such as public transport, walking and cycling by offering bicycle parking at grade from Albion Place and being accessible by public transport.
    - (v) Promotes uses with active street frontages on George Street and Albion Place for the purposes of retail premises, and a hotel lobby on Kent Street.
    - (vi) Maximises the permissible height and FSR, thereby representing efficient and orderly development of land.
    - (vii) Promotes a range of diverse commercial opportunities.
    - (viii) Provides residential apartments that will not negatively impact the other employment generating uses being proposed.
- (d) The proposed development will be consistent with the objectives of the standard:
- (i) With regard to objective 4.4(1)(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future:
    - (i) The extent of the proposed variation is 0.7 per cent. The proposal provides sufficient floor space to meet the anticipated development needs of the future.

- (ii) With regard to objective 4.4(1)(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic:
  - (i) The layout of the Lower Ground and Upper Ground levels could be reconfigured, while retaining the existing uses, to achieve numerical compliance with the development standard. However, doing so would result in an inferior design for non-residential bicycle parking. The 'density', 'built form' and 'land use intensity' of the proposed building would be the same as if numerical compliance were achieved.
  - (ii) The proposed arrangement of the bicycle parking on Upper Ground Level does not impact upon the approved concept envelope. The proposal is consistent with the density, built form and land use intensity envisioned for the site under the applicable planning controls despite the small 0.7 per cent variation and is consistent with the first half of objective (b).
  - (i) By providing easily accessible bicycle parking for staff and visitors, the development is discouraging the use of private motor vehicles and encouraging active and public transport use. This is consistent with the second half of objective (b).
- (iii) With regard to objective 4.4(1)(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure:
  - (i) The minor variation of 203sqm of GFA that is being proposed represents a negligible impact on infrastructure within the Sydney CBD. Additionally, numerical compliance with the FSR standard could be achieved while providing the same intensity of uses. This indicates that the intensity of the development is not inappropriate or inconsistent with the available infrastructure.
- (iv) With regard to objective 4.4(1)(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality:
  - (i) The provision of bicycle parking on the Upper Ground Level does not impact upon the approved concept envelope under D/2019/758. The development of a 44-storey tower is compatible with the character of the Sydney CBD.
  - (ii) The additional 203sqm of GFA does not give rise to any identifiable negative environmental impacts.

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

86. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

## Does the written request adequately address those issues at Clause 4.6(3)(a)?

87. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.4, notwithstanding non-compliance with the numerical standard.
88. The applicant has identified that the numerical non-compliance is the result of locating bicycle parking (203 sqm) above ground where it is counted as GFA. It is acknowledged that the design could be reconfigured to achieve numerical compliance with the development standard, however this would result in an inferior design for non-residential bicycle parking.
89. By providing easily accessible bicycle parking for staff and visitors, the development is discouraging the use of private motor vehicles and encouraging active and public transport use.
90. The density, built form, and land use intensity of the proposed building would be the same as if numerical compliance were achieved.

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

91. The statement provides environmental planning grounds specific to the circumstances to justify the extent of non-compliance with the building height development standard. Specific reference is made to the *Initial Action Pty Ltd v Woollahra Municipal Council* case to justify contravening the standard as the development achieves a better outcome by allowing flexibility in particular circumstances.
92. The provision of bicycle parking on the Upper Ground Level means it is accessible at grade from the approximate centre of Albion Place. The entry point and bicycle parking are centrally located within the development between the various commercial uses to encourage maximum use. The location on the Upper Ground Level ensures that visitors and staff do not have to use a lift to access the bicycle parking making them more likely to utilise the facilities.
93. The written requests identifies that there are sufficient environmental planning grounds to justify the contravention of the FSR development standard as the proposed contravention promotes good design and amenity in the built environment through its positive contribution to the building's bicycle parking arrangements and its lack of external negative environmental impacts.

94. The applicant has demonstrated that there are sufficient environmental planning grounds to support the extent of variation proposed.

Is the development in the public interest?

95. The objectives of the FSR development standard relevant to the proposal include:
- (a) To provide sufficient floor space to meet anticipated development needs for the foreseeable future,
  - (b) To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,
  - (c) To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,
  - (d) To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.
96. The proposal is consistent with the relevant objectives of the FSR development standard as follows:
- (a) The proposal provides sufficient floorspace to meet the anticipated development needs for the foreseeable future.
  - (b) The proposal is consistent with the density, built form and land use intensity intended for the site, notwithstanding the non-compliance of 0.7 per cent.
  - (c) The proposal facilitates easily accessible bicycle parking for staff and visitors which will assist to discourage the use of private motor vehicles and encourage active and public transport use.
  - (d) Numerical non-compliance could be achieved while providing the same intensity of uses. The intensity of the development is commensurate with the capacity of existing and planned infrastructure.
  - (e) The additional GFA does not give rise to any identifiable negative environmental impacts.

#### **Consistency with Concept (Stage 1) Concept Approval**

97. On 14 May 2020, the Concept (Stage 1) development consent (D/2019/758) was granted by the CSPC for a building envelope 150m in height containing indicative residential and hotel uses in the tower and commercial uses in the podium.
98. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, any subsequent Stage 2 development determination cannot be inconsistent with the Concept 1 consent.
99. To facilitate the amended building envelopes, concept development consent D/2019/758 must be amended, prior to the determination of this development application. Subject to the approval of the modification concurrently sought under D/2019/758/A, the proposed detailed design sought under this application is consistent with the Concept (Stage 1) consent.

100. The Concept development consent included a number of conditions. An assessment of compliance with these conditions, which specifically required details to be addressed as part of the Stage 2 application is provided in the table below.

No.	Condition	Assessment
3	Matters Not Approved	Complies. The subject detailed design application seeks consent for the identified items that were not approved with the concept application.
4 & 5	Envelope Heights and Setbacks	<p>The proposed building exceeds the maximum height limit of 150m and a written Clause 4.6 variation request has been submitted with the application. This variation request is supported by Council staff, as discussed within this report.</p> <p>The proposed amendments to the approved development are consistent with the building envelopes, as proposed to be amended under D/2019/758/A.</p> <p>The concurrent assessment report to the CSPC for the determination of D/2019/758/A recommends that the amendments to the concept building envelopes be approved.</p>
6	Floor Space Ratio	<p>The proposal exceeds the maximum FSR of 15.13:1 and a written Clause 4.6 variation request has been submitted with the application.</p> <p>This variation request is supported by Council staff, as discussed within this report.</p>
7	Shared Driveway / Integrated Basement and Breakthrough Panel	<p>Complies. The proposed development provides unimpeded vehicular access and egress to the adjoining site to the north (505-523 George Street) via a shared driveway.</p> <p>The application is accompanied by swept path analysis which demonstrates that a Council waste vehicle can access both the subject site and 505-523 George Street.</p>
8	Shared Northern Side Boundary Wall	Complies. A condition to this effect is similarly recommended for this application relating to the requirement for the provision of a temporary northern side boundary wall, subject to the timing of demolition works on the subject site and 505-523 George Street.
9	Competitive Design Process	Complies. The proposal has been subject to a competitive design alternatives process which was carried out prior to lodgement of this application and in accordance with the City of Sydney Competitive Design Policy and the Design Excellence Strategy, which was endorsed by the City.

No.	Condition	Assessment
10	Detailed Design	<p><b>a &amp; d.</b> The detailed design includes public art along the proposed tower's full length on its northern elevation.</p> <p><b>b &amp; c.</b> A shared vehicular access for ingress and servicing for the subject site and 505-523 George Street is proposed and has been reviewed by the City's Transport and Access and Waste Management Units. The design of the basement is able to accommodate a Council waste collection vehicle which can access both the subject site and 505-523 George Street.</p> <p>A breakthrough panel is proposed to the basement of 505-523 George Street to facilitate access between the two sites.</p> <p><b>e.</b> Non-compliant ADG separation distances are provided between the subject site and the approved development at 505-523 George Street to the north and the subject site and the existing Meriton Suites building (537-551 George Street) to the south.</p> <p>To mitigate visual privacy impacts apartments on the south-western elevation have been designed with an inbuilt louvred privacy screen which directs views away from the Meriton Suites building. Along the northern side of the tower openings are orientated to the northeast, away from 505-523 George Street. The northern elevation includes public art and privacy blades to limit overlooking between the subject site and 505-523 George Street.</p> <p><b>f.</b> No residential accommodation or hotel rooms are located within the podium.</p> <p><b>g.</b> Active frontages are provided to George Street, Kent Street and Albion Place in accordance with Section 3.2.3 of the SDCP 2012.</p> <p><b>h.</b> A cantilevered high level awning projecting over Albion Place is proposed and is consistent with the detailed design requirements stipulated in this condition.</p> <p><b>i.</b> A continuous awning to George Street is provided in accordance with Section 3.2.4 of the SDCP 2012 which matches the level of the approved footpath awning at 505-523 George Street.</p> <p><b>j.</b> The design of the building sympathetically responds to the heritage significance of the adjoining heritage items.</p>



No.	Condition	Assessment
		<p>k. The proposed communal rooftop open space and communal internal rooms are provided exclusively for apartment residents.</p> <p>l. At roof level, plant and lift over-runs have been incorporated into the form of the building and are provided with screening so these elements are not visible from the public domain or adjoining tower envelopes.</p> <p>At level five (podium rooftop), plant equipment is located adjacent to 505-523 George Street, however the plans do not detail screening to the plant area. A condition is recommended requiring amended plans to be provided to the City for approval prior to the issue of a construction certificate which detail parapet screening.</p>
11	Parking Management Plan	The submitted Traffic Impact Assessment addresses the requirements of this condition.
12	Residential Land Use	An assessment of the proposal against the ADG is provided under the SEPP 65 section of this report.
13	Residential Acoustic Amenity	Complies. The application is accompanied by a Noise Impact Assessment. The Assessment has been reviewed by the City's Environmental Health Unit who have advised the report is satisfactory.
14	Ecologically Sustainable Development	Complies. As discussed above, an ESD report has been submitted which outlines that the proposed development is capable of achieving a BASIX energy score of at least 30 points and a NABERS Energy rating of 4.5 stars and a NABERS Water rating of 4 stars, which was required in the Design Excellence Strategy.
15	Public Art	Complies. A Public Art Plan has been prepared and submitted with this application which is supported by the City's Public Art Unit.
16	Landscaping	Satisfied. Prior to the endorsement of the Competitive Design Process brief an amended Landscape Concept Statement was approved by Council staff.
17	Signage Strategy	N/A. This application does not seek consent for any signage and a condition is recommended for imposition requiring that a signage strategy is the subject of a separate DA.

No.	Condition	Assessment
18	Wind Assessment	Complies. The application is accompanied by a wind assessment which includes wind tunnel testing. The recommendations of the wind tunnel testing and wind assessment have been incorporated into the detailed design and are shown on the architectural plans.
19	Reflectivity	Complies. The application is accompanied by a Reflectivity Report which confirms that the visible light reflectivity from building materials used on the facade of any building does not exceed 20 per cent. A condition to this effect is also recommended for this development application.
20	Sandstone Recycling	Complies. The application is accompanied by a Geotechnical Report which satisfies the requirements of this condition.
21	Sites in the Vicinity of Heritage Items	Complies. The application is accompanied by a Preliminary Construction Management Plan which details how the proposed works will ensure the nearby heritage items will be suitably protected and stabilised during the construction process. This document satisfies the requirements of this condition.
22	Archaeological Assessment	Complies. The application is accompanied by an Archaeological Assessment which satisfies the requirements of this condition.
23 & 24	Demolition, Excavation and Construction Noise and Vibration Management Plan & Use of Intrusive Appliances	Complies. The application is accompanied by a Noise Impact Assessment which includes a specific Construction Noise and Vibration Management Plan which satisfies the requirements of this condition.
25	Acid Sulfate Soils - Preliminary Site Assessment	Complies. The application is accompanied by a Preliminary Site Investigation which includes a Preliminary Acid Sulfate Soil Assessment. The report concludes that the presence of acid sulfate soils is unlikely.
26	Land Contamination	Complies. The application is accompanied by a Detailed Environmental Site Investigation.

No.	Condition	Assessment
27	Access and Facilities for Persons with Disabilities	Complies. The application is accompanied by an Accessibility Report demonstrating that the building has been designed and is capable of being constructed to provide access and facilities for people with a disability in accordance with the Building Code of Australia.
28	Crime Prevention Through Environmental Design	Complies. The application is accompanied by a CPTED statement, and the recommendations of the report have been included in the detailed design of the proposal. Where appropriate, additional conditions are recommended relating to CCTV, access control and compliance with the submitted PoM.
29	Bicycle Parking and End of Journey Facilities	Complies. The architectural plans include the details of the location and quantity of bicycle parking. The quantum of bicycle parking is compliant with Section 3.11.3 of the SDCP 2012.
30	Loading Dock Design	Complies. The design of the loading dock has been reviewed by the City's Transport and Access Unit and is supported.
31	Waste Management Plan and Waste Facilities	Complies. Adequate information has been provided on waste in accordance with the requirements of this condition. The City's Waste Management Unit have reviewed the proposal and are satisfied with the proposed on-site management of waste.
32	Submission of Electronic CAD Models prior to Competitive Design Process	Satisfied. Prior to the commencement of the competitive design process an electronic CAD model was submitted and approved by the City's Model officers.
33	Sydney Airport Conditions	Complies. The application has been referred to Sydney Airport who raise no objection to the increase in height of the development, subject to conditions.
34	NSW Roads and Maritime Services Conditions	Complies. The application has been referred to TfNSW who raise no objection to the development, subject to conditions.

No.	Condition	Assessment
35-41	TfNSW Conditions	Complies. The application has been referred to TfNSW who raise no objection to the development, subject to conditions.

**Competitive Design Alternatives Process Selection Panel Recommendations**

- 101. As discussed earlier, a competitive design process was undertaken which resulted in Candalepas Associates being selected as the winning scheme. The Selection Panel resolved that the Candalepas Associates scheme best demonstrated the ability to achieve design excellence as per Clause 6.21C of the SLEP 2012 and the competition brief requirements.
- 102. The Selection Panel identified a range of matters that needed to be resolved during the design development phase in order to achieve design excellence while maintaining the original design intent. The table below provides a response to these recommendations:

Selection Panel Recommendation	Response
The entries to the residential and cinema uses from Albion Place should provide greater generosity in terms of their dimensions and spatial sequences.	<p>The detailed design has separated the hotel and cinema entries. The cinema entrance is located towards the centre of Albion Place where an Upper Ground foyer is provided.</p> <p>The residential foyer is provided with a wider frontage to Albion Place and is separated from the cinema entrance.</p>
The cinema support spaces in the competition design encourage dispersed, linear patterns of movement and seating rather than gathering. The floor area currently dedicated to excess cinema seats should be repurposed to facilitate more generous dimensions and proportions in the cinema support spaces.	<p>The detailed design includes a cinema with a total of 356 theatre seats.</p> <p>The space afforded to gathering within the cinema includes a 76sqm entry at Upper Ground level, a 190sqm foyer and 65sqm cinema bar/café at Level 1 and a 142sqm foyer at Level 2.</p> <p>In total, 473sqm of circulation space is afforded within the cinema which is considered an appropriate quantum of support space.</p>

Selection Panel Recommendation	Response
<p>The competition design creates conflicts between the back-of-house and front-of-house areas on the hotel dining and conference level. The relationships between these uses should be clarified so that servicing does not need to cross public corridors to reach dining spaces.</p>	<p>The conference facilities level has been redesigned to contain the conference room on the western side of the floorplate. The kitchen is located adjacent to this area, with direct access into this space to avoid any conflicts between service staff and guests.</p>
<p>The interface to the western pool terrace should be further developed to prioritise communal areas by relocating service areas.</p>	<p>The plant adjacent to the pool area has been rationalised and reduced. The pool has been relocated to Level 5 where it forms part of the hotel services.</p>
<p>The Concept DA requires the provision of an awning to Albion Place. The inclusion of an awning over Albion Place may potentially be awkward in appearance. Consideration should be given to investigating an alternative resolution of wind shear, weather protection and pedestrian comfort and whether the colonnade and podium articulation or other alternative design element integrated into the podium's form could deliver equal pedestrian amenity outcomes. It is noted that Condition 10(h) of the Stage 1 DA consent includes specific requirements for an awning over Albion Place that would need to be addressed in any alternative proposal.</p>	<p>The detailed design includes a colonnade to Albion Place which is located within the site's boundary. A high-level stepped awning is located to Albion Place which has been further developed and refined during the assessment of this application in response to feedback provided by the DAP and City staff.</p>
<p>The design of the podium should be developed to address the Proponent's ambition to generate a 'vibrant' cinema frontage that 'reinvigorates and activates' George Street and Albion Place. This could consider opportunities for visual engagement with the surrounding buildings and streets from public areas within the podium interior, and for the activity within the podium to be perceptible from, or more engaged with, the surrounding public realm.</p>	<p>To Albion Place, the design of the podium has been refined to provide a wider cinema entrance to Albion Place. The design creates the opportunity for outdoor seating within the colonnade which will help activate the lane.</p> <p>To George Street, the detailed design provides for two retail tenancies which have expansive glazed facades to help activate this frontage.</p>

Selection Panel Recommendation	Response
<p>The selection panel encourages the development of a more responsive material and scale treatment of the podium fabric to respond more particularly to the character of its distinct street conditions – particularly the walled, masonry language and fabric of Albion Place and Kent Street.</p>	<p>The podium design has been refined to incorporate greater vertical articulation. It is proposed to utilise a mix of off-form concrete, red concrete, red metal screening and ceramic tiles.</p>

103. Overall, it is considered that the design responds to the key recommendations made by the Selection Panel and retains the design integrity and key aspects of the winning scheme. It is considered the proposal satisfies the provisions of Clause 6.21D of the SLEP 2012 and accordingly is eligible for 10 per cent additional floor space ratio pursuant to subclause 3(b).

**Design Advisory Panel**

104. The proposal was considered by the DAP on 1 September 2022.
105. The table below provides a response to the comments made by the Panel regarding the proposal:

Panel Recommendations	Response
<p>The Panel generally supports the amendments to the proposed scheme except for the architectural roof feature. The amendments are acceptable due to the tightness of the site and design excellence specifically achieved by this project.</p>	<p>During the assessment of the application the design of the roof was amended to respond to the DAP comments and concerns from City officers regarding the excessive height and scale of the roof and the lift overrun.</p> <p>The applicant was also advised that the roof design did not comprise an architectural roof feature in accordance with Clause 5.6 of the SLEP 2012.</p>
<p>The architectural roof feature is not supported on the basis that it is not an integral part of the building’s design, appears to include floor space not usually permitted as part of a roof feature, and while isn’t visible from the ground plane, impacts the amenity of neighbouring buildings without providing any design benefit.</p>	<p>The roof design has been amended to provide a rationalised roof design which removes unnecessary bulk and has resulted in a reduction to the overall building height from RL175.64 (as lodged) to RL172.51 (as amended).</p>
<p>Public art provision could be appropriate if executed well.</p>	<p>Noted.</p>

Panel Recommendations	Response
The recent amendments to the Kent Street and George Street awnings and heights are supported provided weather protection is achieved.	The Kent Street and George Street awnings and heights have been retained in the final plan set. The widths of the awnings will enable adequate weather protection to be provided.
The higher awning over Albion Place is supported.	The higher awning to Albion Place has been retained.
The provision of vertical plenums is ok, subject to further coordination with all other utilities and the architecture in later design development stages.	During the assessment of the application City staff requested updated documentation in the form of an amended ventilation report, amended acoustic report and updated architectural drawings to ensure consistency across the documentation regarding the proposed vertical plenums. The proposed plenum design is supported.

## Consultation

### Internal Referrals

106. The application was discussed with Council's:

- (a) Building Services Unit;
- (b) Environmental Health Unit;
- (c) Licenced Premises Unit;
- (d) Heritage and Urban Design Unit;
- (e) Public Domain Unit;
- (f) Public Art Unit;
- (g) Safe City Unit;
- (h) Surveyors;
- (i) Transport and Access Unit;
- (j) Tree Management Unit; and
- (k) Waste Management Unit.

107. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent.

## External Referrals

### Ausgrid

108. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
109. A response was received raising no objections to the proposed development.

### Sydney Airport

110. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
111. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify that the site is subject to a prohibition of the construction of buildings more than 156 AHD above existing ground level.
112. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
113. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 21 October 2022.

### Transport for NSW

114. Pursuant to Section 2.99 (Excavation in, above, below or adjacent to rail corridors) and Section 2.112 (Traffic-generating development) of the SEPP (Transport and Infrastructure) 2021, the application was referred to TfNSW for comment.
115. Comments were received on 23 June 2022 and 22 July 2022. Conditions of consent were recommended which are included in the Notice of Determination.

### Sydney Trains

116. Pursuant to Section 2.98 (Development adjacent to rail corridors) of the SEPP (Transport and Infrastructure) 2021, the application was referred to Sydney Trains for concurrence.
117. Concurrence was granted on 6 April 2023 and conditions of consent are included in the Notice of Determination.

## Advertising and Notification

118. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 2 June 2022 and 1 July 2022. A total of 2497 properties were notified and two submissions were received.
119. Following the receipt of amended plans the amended application was re-notified for a period of 14 days between 9 November 2022 and 24 November 2022. Two further submissions were received.



120. The submissions raised the following issues:

- (a) **Issue:** The roof should be deleted and plant and equipment should be wholly contained within the existing Concept (Stage 1) Concept approval to ameliorate issues of view loss and outlook from 505-523 George Street.

**Response:** Since the lodgement of the original application the roof design has been rationalised and reduced in scale. The elements that protrude the Concept approval and breach the height of buildings development standard are limited to a small extent of the roof and include the centralised lift overrun, fire stairs, mechanical plant and equipment, a sheltered walkway to the communal open space and a bathroom.

A Clause 4.6 variation request has been prepared in relation to the height exceedance and as discussed in this report, is considered to meet the tests required to be addressed by Clause 4.6 of the SLEP 2012 and is in the public interest.

With regards to outlook and view loss, the extent of view loss caused by the areas of non-compliance is minor and will not significantly reduce the quality of views. As demonstrated in the view loss analysis appended to the Clause 4.6 request, there is some view loss impact from the area of height non-compliance which affect the south and south-eastern facing apartments within the approved tower at 505-523 George Street. However, it has been demonstrated that the view loss does not impact any iconic views and the impacted views primarily comprise sky views and views of the tops of nearby buildings. The affected apartments will benefit from good outlook to the east and west and will maintain district views. The view loss impact is considered acceptable.

- (b) **Issue:** Provision of an opening to the waste and goods loading dock on basement level 1 is not supported. The opening is directly facing the common driveways towards the connection of 505-523 George Street. The opening should be moved to an alternative location where it will not visually interfere with existing guests and residents.

**Response:** The waste and goods loading dock is appropriately positioned on the level 1 basement. This level has a significantly higher floor to floor height (5.5 metres) than the other basement levels to provide sufficient clearance for larger vehicles accessing the site and 505-523 George Street. Relocating the loading dock to a lower basement level due to visual concerns is not considered appropriate.

- (c) **Issue:** The public art located on the site's northern elevation should not include lighting, projections or reflective materials as they will have an unacceptable impact on the amenity of occupants of 505-523 George Street.

**Response:** The public art is affixed to the northern elevation of the tower which includes residential apartments and hotel rooms. The provision of any external lighting and reflectivity of materials will need to be reviewed with the submission of the Detailed Public Art Plan by the City's Public Art Plan. Concerns regarding light spill and reflectivity will need to be carefully considered by City staff when approving the plan to ensure impacts to occupants of both the subject site and the adjoining tower at 505-523 George Street are ameliorated.

A condition has been recommended requiring that a separation development application is lodged for any external floodlighting or illumination of the building.

- (d) **Issue:** The final public art installation should be reviewed by Coombes Property Group (owners of 505-523 George Street) prior to its installation.

**Response:** It is not the City's process to notify adjoining property owners when a Detailed Public Art Plan has been submitted. Notwithstanding, the City's Public Art Team are aware of the concerns raised in the submission.

- (e) **Issue:** The apartment layouts and screening to the northern elevation should maintain privacy between habitable rooms in 525-529 George Street and 505-523 George Street.

**Response:** Between the subject site and 505-523 George Street, separation of between 18.4m - 22.7m is provided. To maintain visual privacy the openings on the northern side of the tower are orientated to the northeast, away from 505-523 George Street. Further, the northern elevation includes public art and privacy blades to direct outlook away from 505-523 George Street while allowing for views and solar access into these apartments.

- (f) **Issue:** Potential for noise emissions, fumes and odours to impact amenity of 505-523 George Street from the pool deck and plant equipment.

**Response:** Appropriate conditions of consent have been recommended in relation to noise emissions from pool equipment and plant equipment to maintain acoustic privacy for nearby noise sensitive receivers.

- (g) **Issue:** Appropriate management procedures to be in place for the management of the pool.

**Response:** A condition of consent has been recommended requiring the use of the pool to be restricted to hotel guests only and to be restricted between the hours of 7am and 10pm, seven days a week.

- (h) **Issue:** Appropriate aesthetic screening and acoustic treatment of the plant equipment on Level 5 to be provided.

**Response:** The proposed plant is located at RL42.50 and is enclosed and separated from 505-523 George Street by a wall located along the northern boundary at a height of RL45.00. The adjoining podium at 505-523 George Street provides an extensive plant area at RL40.60 with a maximum height of RL45.00 adjacent to the subject site. The plant area is not incongruous with the surrounding context and will only be visible when looking down from the adjoining tower at 505-523 George Street. A condition has been recommended requiring that the plant area is appropriately screened and amended drawings detailing this are required to be submitted to the City for approval.

A condition has been recommended requiring that noise from the plant must not exceed the criteria stipulated in the NSW EPA Noise Policy for Industry 2017 (NPfI).

- (i) **Issue:** Swept path analysis to be provided to demonstrate 14.5m length vehicles entering the site and turning into 505-523 George Street from the basement can be accommodated.

**Response:** The applicant has provided correspondence between themselves and the owners of 505-523 George Street agreeing to restricting vehicles entering the site to a maximum length of 12.5m.

- (j) **Issue:** Northern end of podium exceeds the approved maximum building envelope approved by the Concept approval which is not supported due to the potential for objects to be dropped from the pool deck into 505-523 George Street and potential for overlooking. An aesthetic treatment and management strategies to minimise these impacts should be considered.

**Response:** Opportunities for overlooking from the pool deck are minimised due to the provision of a 1.8m high fence located between the pool deck and 505-523 George Street. It is not anticipated that objects will be thrown from the pool deck over the boundary wall with 505-523 George Street. A condition has been recommended requiring the installation of CCTV and the hotel use will be managed in accordance with an approved Plan of Management to ensure patron behaviour is appropriately managed.

- (k) **Issue:** Updated wind modelling to be provided to include study points at the adjoining 505-523 George Street site.

**Response:** The accompanying wind assessment includes an assessment of the pedestrian level wind environment around the development, including three locations immediately outside the approved development at 505-523 George Street within the public domain. The assessment concludes that these three locations are suitable for standing under the City of Sydney comfort criteria.

- (l) **Issue:** Future engineering rail assessment is to consider the timing of the approved basement excavation at 505-523 George Street which could be before, concurrent with, or after the 525-529 excavation.

**Response:** The development application was referred to Sydney Trains for concurrence in accordance with Section (Development adjacent to rail corridors) of the SEPP (Transport and infrastructure) 2021. Sydney Trains have granted concurrence to the application, subject to the imposition of conditions of consent which have been included at Attachment A.

Recommended conditions of consent include requiring consultation with Sydney Trains to confirm the timing of each construction certificate and associated documentation and activities prior to preparation of requested documentation, the preparation of geotechnical and structural reports that meet Sydney Trains' requirements and an Excavation Works Management Plan.

- (m) **Issue:** Addition of another high-rise building within the CBD will block views from the public domain below and natural light to surrounding residential apartments within the vicinity of the site.

**Response:** The proposed development will not impact on any of the key views from within Central Sydney, from parks and other well-used Public Places. The tower provided appropriate separation, as established by the Concept (Stage 1) development consent, to ensure natural light will be maintained to existing and future residential apartments adjoining the site.

- (n) **Issue:** Creation of dust and air pollution during construction works.

**Response:** Appropriate conditions of consent have been recommended relating to construction management to minimise dust and air pollution.

- (o) **Issue:** Noise pollution before, during and after construction.

**Response:** A condition has been recommended restricting construction hours to the City's standard hours.

- (p) **Issue:** Concerns regarding the stability of nearby buildings, including older buildings, during excavation works.

**Response:** It is anticipated that future construction works will maintain the stability of nearby buildings. Notwithstanding, a condition of consent has been recommended requiring dilapidation reports of nearby properties to be undertaken by a qualified structural engineer. The condition requires that any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

- (q) **Issue:** Demolition of the existing facilities including the pool hall, cinema and small business restaurants and the replacement with a cinema of "Gold Class" style facilities will drive away visitors to the City and reduce the diversity and appeal of the area.

**Response:** The demolition of the existing building and redevelopment of the site is supported, noting the planning controls anticipate the redevelopment of the site. The proposed uses are permissible within the SP5 Metropolitan Centre and it is anticipated that the diversity of offerings will enhance this part of George Street and the wider Central Sydney locality.

## Financial Contributions

### Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

123. The site is located within Central Sydney. As the proposed development includes additional floor space, a contribution of 0.5 per cent is required for the non-residential component totalling \$1,231,786.28 (23,216sqm of total floor area) and a contribution of 1.5 per cent is required for the residential component totalling \$2,977,807.24 (18,708sqm of total floor area). In accordance with Clause 7.13(2B) of the Sydney LEP 2012 the contribution amount has been halved as the development application was lodged prior to 1 July 2022.

## Relevant Legislation

124. Environmental Planning and Assessment Act 1979.

## Conclusion

125. The application seeks consent for the detailed design of 525-529 George Street comprising the construction of a new mixed-use development with a maximum height of 155.39m (RL 172.51 AHD) with hotel, residential, event and function venue, retail and entertainment facility land uses in a 43 storey podium and tower.
126. This will include retail tenancies, a cinema, a conference facility, 292 hotel rooms, 115 apartments, excavation for seven levels of basement and a common driveway from Kent Street providing vehicular access to the subject site and 505-523 George Street via a connection at Basement Level 1.
127. The proposal will be consistent with the Concept development consent, as proposed to be amended by D/2019/758/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
128. The proposal is largely compliant with relevant planning provisions including SEPP 65, the ADG, the SLEP 2012 and the SDCP 2012. Conditions are recommended to address non-compliances where appropriate.
129. The proposed development exceeds the maximum 150m height of buildings development standard by 5.39m (3.6 per cent). This is due to the roof design which contains lift overruns, fire stairs and mechanical plant and equipment.
130. A request to vary the Clause 4.3 height of buildings development standard has been submitted in accordance with Clause 4.6 of the SLEP 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standards and the proposed departure to building height is supported in this instance.

131. The proposed development exceeds the maximum floor space ratio development standard by 0.7%. The non-compliance is the result of locating bicycle parking for the hotel, retail and cinema uses (approximately 205sqm) above ground where it is counted as GFA, rather than in a basement where it would be excluded. The provision of bicycle parking at grade enables cyclists to access the bicycle parking area without crossing any tenancies or relying on any lifts which is considered a benefit.
132. A request to vary the Clause 4.4 floor space ratio development standard has been submitted in accordance with Clause 4.6 of the SLEP 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 floor space ratio development standards and the proposed departure to the floor space ratio is supported in this instance.
133. The development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding the site. The proposal will improve the interface between the private and public domain and exhibits design excellence in accordance with Clause 6.21C of the SLEP 2012.
134. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of the locality.
135. The proposed detailed design of the development is therefore in the public interest and is recommended for approval by the CSPC.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Lotti Wilkinson, Senior Planner