

**Item 5.****Development Application: 133-141 Liverpool Street, Sydney - D/2022/495**

File No.: D/2022/495

**Summary**

<b>Date of Submission:</b>	30 May 2022  Amended plans and reports received on 14 December 2022, 30 March 2023, 13 June 2023, 11 July 2023 and 25 July 2023
<b>Applicant:</b>	Deicorp Projects (Liverpool St) Pty Ltd
<b>Architect/Designer:</b>	Candalepas Associates
<b>Developer:</b>	Deicorp Projects (Liverpool St) Pty Ltd
<b>Owner:</b>	The Trustees of the Roman Catholic Church for the Archdiocese of Sydney
<b>Planning Consultant:</b>	Planning Lab
<b>Heritage Consultant:</b>	Urbis
<b>Cost of Works:</b>	\$216,500,000
<b>Zoning:</b>	SP5 Metropolitan Centre. The proposed mixed-use development comprising residential accommodation, a retail premises and commercial uses are permissible with consent in the zone.
<b>Proposal Summary:</b>	<p>Approval is sought for the demolition of all underground structures, site excavation and the construction of a mixed-use development comprising a 55-storey tower with podium (maximum height of RL 230.00 AHD) with vehicle access from Castlereagh Street.</p> <p>The proposal includes 8 basement levels, commercial and retail use at the podium (ground to level 4), communal indoor and outdoor spaces above the podium at level 6 for residential uses and residential apartments located within the tower above.</p>

The proposal accommodates up to 24,129 square metres of gross floor area and 168 apartments.

The proposal also seeks consent for lot consolidation and stratum subdivision of the site into 3 lots and the creation of a series of easements.

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 proposed development is an Integrated application requiring approval from WaterNSW under the Water Management Act 2000. The proposal also requires concurrence from Sydney Trains and Sydney Metro in accordance with the State Environmental Planning Policy (Transport and Infrastructure) 2021.

The subject development application requires an amendment of the approved concept building envelope. A Section 4.55(2) modification application (D/2018/1144/A) has been lodged concurrently. The modification application is also being reported to the CSPC and is recommended for approval. Subject to the approval of D/2018/1144/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 process was held with a scheme presented by Candalepas Associates being selected as the winning scheme. Subject to conditions, the proposed development will continue to exhibit Design Excellence and is eligible for up to 10 per cent additional Floor Space Ratio (FSR) pursuant to Clause 6.21D of the Sydney Local Environmental Plan 2012 (SLEP 2012).

During the assessment of the application, the scheme was amended, and additional information was submitted to address the concerns of Council officers and other public authorities. These concerns principally related to:

- Details regarding proximity to existing and future rail networks
- Castlereagh Street and Liverpool Street ground floor facade design and arrangements
- Waste management and loading areas
- Drafting matters on architectural drawings
- Environmental performance

- Residential amenity relating to cross ventilation, natural light and acoustic amenity
- Wintergarden design and arrangements
- GFA calculation errors

These issues were largely addressed by the applicant in amended plans and the submission of additional supporting documentation. Subject to the adoption of the recommended conditions of consent, the proposal is now considered to achieve an acceptable degree of compliance with the relevant planning controls and provides an acceptable level of residential amenity.

The application was notified for 29 days between 7 June 2022 and 6 July 2022, with one submission received. Following the submission of amended plans on 14 December 2022, the application was renotified for 29 days between 6 February 2023 and 7 March 2023, with one further submission being received.

Concerns raised in the submissions include concerns relating to the following:

- impacts of excavation on foundations of surrounding buildings; and
- noise, vibration, and traffic impacts caused by demolition, excavation and construction.

The issues raised above are addressed and discussed within the report.

Subject to conditions, the proposal is generally consistent with the applicable planning provisions including those within the SLEP 2012, the Sydney Development Control Plan 2012 (SDCP 2012), the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG).

Proposed non-compliances have been addressed 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 application, the amended proposal has a high standard of architectural design, materials and detailing. It presents an improved outcome, comprises an appropriate response to the site conditions and locality and will result in a form and scale that achieves the desired future character of the area.

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

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
  - (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
  - (iii) Sydney Water Act 1994 and Sydney Water Regulation 2017
  - (iv) Roads Act 1993 and Roads Regulation 2018
  - (v) Water Management Act 2000 and Water Management (General) Regulation 2018
  - (vi) Airports Act 1996 (Commonwealth) and Civil Aviation (Building Control) Regulation 1988
  - (vii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG)
  - (viii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)
  - (ix) State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure)
  - (x) State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP Resilience and Hazards)
  - (xi) State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021 (SEPP Eastern Harbour City)
  - (xii) State Environmental Planning Policy (Housing) 2021 (SEPP Housing)
  - (xiii) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP Biodiversity and Conservation)
  - (xiv) Sydney Local Environmental Plan 2012 (SLEP 2012)
  - (xv) Sydney Development Control Plan 2012 (SDCP 2012)

- (xvi) Sydney Landscape Code Volume 2: All Developments Except for Single Dwellings 2012
- (xvii) City of Sydney Guidelines for Waste Management in New Developments
- (xviii) City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011
- (xix) City of Sydney Interim Guidelines for Public Art in Private Developments 2006
- (xx) Central Sydney Development Contributions Plan 2020
- (xxi) City of Sydney Community Participation Plan 2020
- (xxii) Community Engagement Strategy and Participation Plan 2022

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Selected Stratum Subdivision Drawings

## Recommendation

It is resolved that consent be granted to Development Application No. D/2022/495 subject to the conditions set out in Attachment A to the subject report.

### Reasons for Recommendation

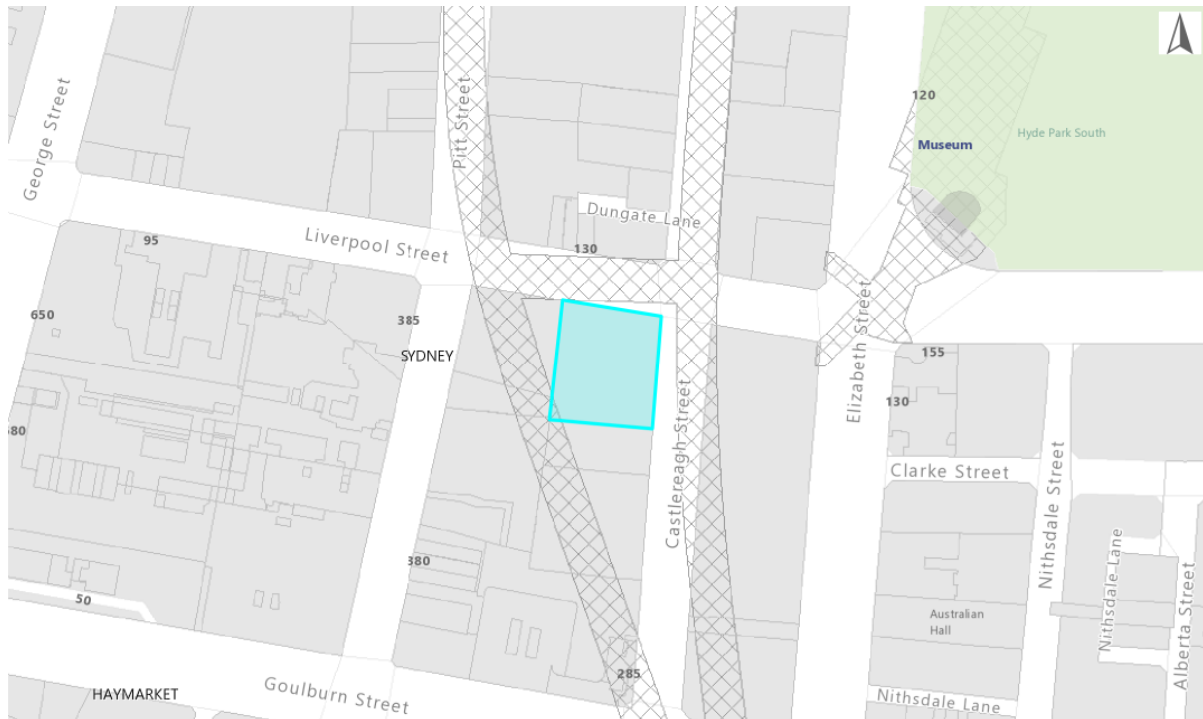
The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (C) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (D) The proposed development is consistent with the design intent of the winning scheme of a competitive design process, held in accordance with the City of Sydney Competitive Design Policy.
- (E) The proposed development has a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the Central Sydney locality.
- (F) The proposed development is consistent with the amended concept approval for the site, being D/2018/1144/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (G) Subject to the recommended condition of consent, the proposed development achieves good amenity for the existing and future occupants of the subject and adjoining sites.
- (H) 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 Central Sydney locality, subject to the recommended conditions.
- (I) 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.
- (J) 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.

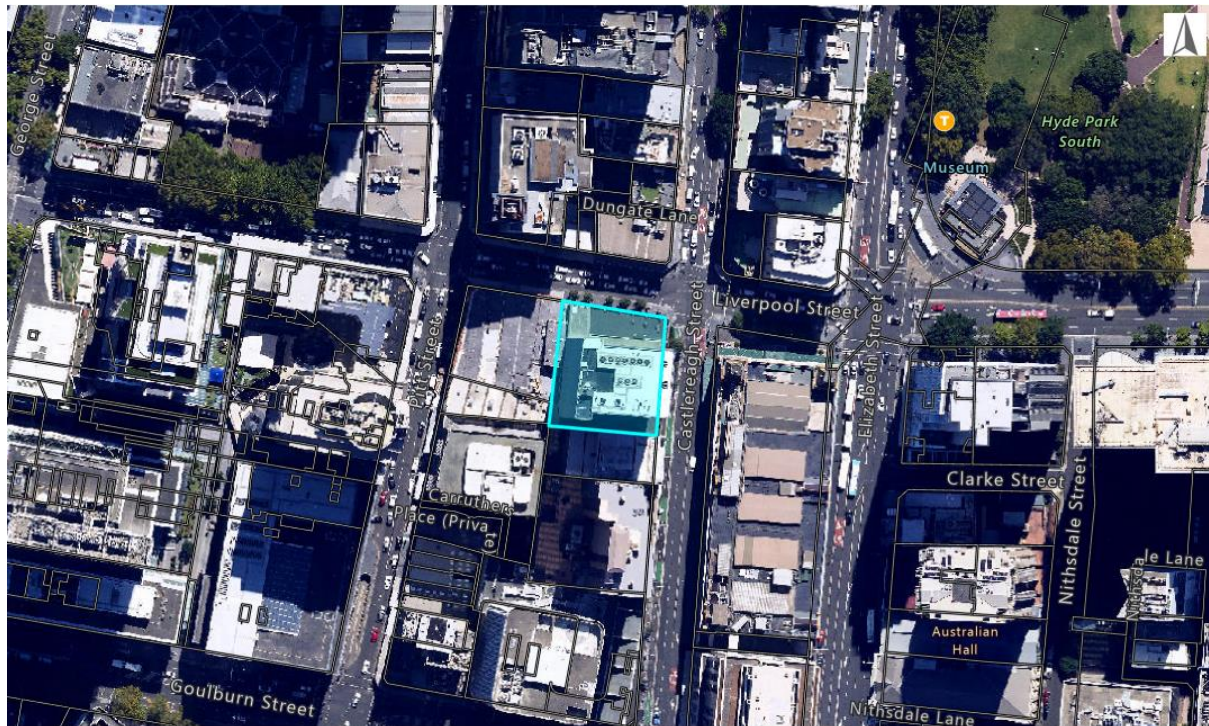
## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 780001, Lot 2 DP 780001 and Lot 3 DP 780001 and is commonly known as 133-141 Liverpool Street, Sydney.
2. The site is located in Central Sydney, just west of Museum train station. The site is located on the south-western corner of Castlereagh Street and Liverpool Street. It is rectangular in shape with an area of approximately 1,593 square metres. It has an eastern street frontage with of 42 metres to Castlereagh Street and a northern street frontage width of 36 metres to Liverpool Street. The site adjoins private properties to the west and south.
3. The site is located in close proximity to the underground City Circle railway line, running just south-west of the site. The site also sits above the City and Southwest metro rail line, currently under construction.
4. The site is identified on the plan in Figure 1 and an aerial photograph in Figure 2 below, showing the location of the site and its context.



**Figure 1:** Map view of the site and surrounds



**Figure 2:** Aerial view of the site and surrounds

5. The subject site contains a 113 metre tall commercial tower (refer to Figures 3 and 4 below) and is currently used for commercial office and retail uses. The building is known as the Polding Centre.
6. The site currently has vehicular access at the southern corner of the site from Castlereagh Street. A separated cycleway also runs along the Castlereagh Street frontage of the site.
7. The gradient of the Liverpool Street frontage falls away towards the west, resulting in a change of level of approximately 2.1 metres between the northeast and northwest corners of the site. The Castlereagh Street frontage gradually slopes down to the south.
8. The site is identified as being subject to flooding in the north eastern and north western corners.





Figure 3: Site viewed looking west along Liverpool Street



Figure 4: Castlereagh Street frontage and adjacent cycle lanes



Figure 5: Site viewed from the ANZAC Memorial

### The Locality

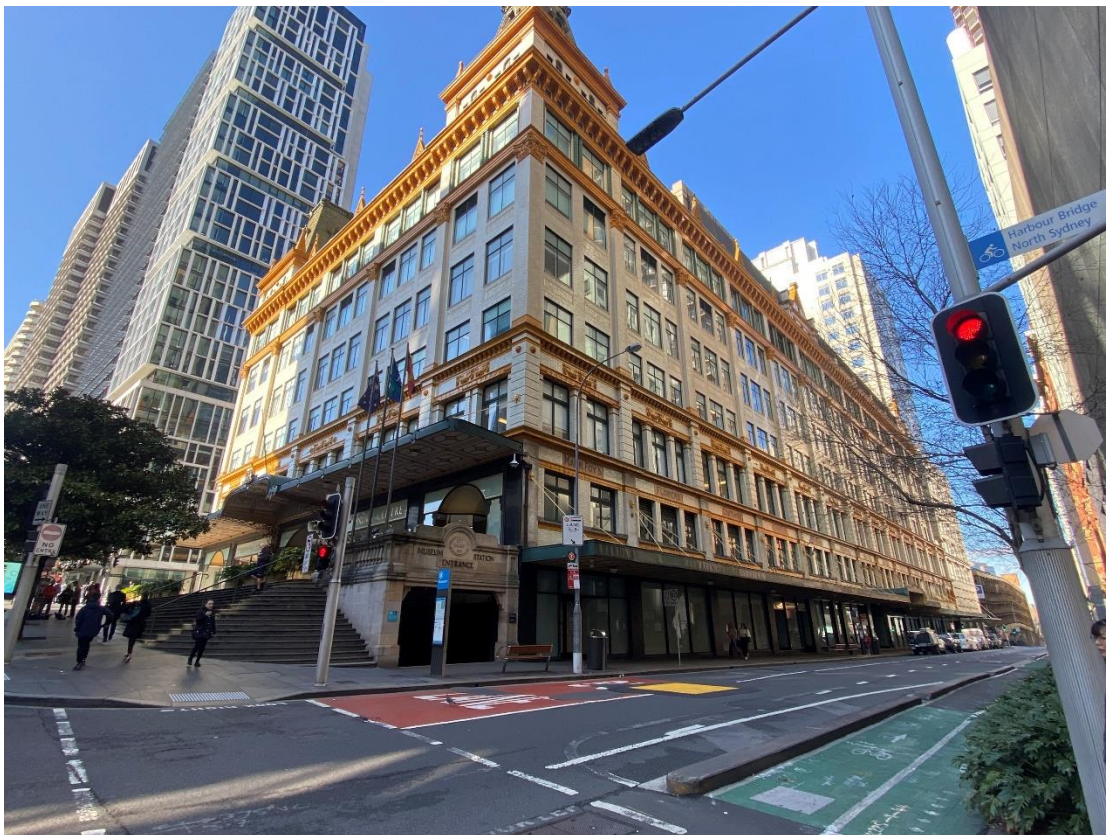
9. The surrounding area is characterised by a mix of commercial, residential and civic uses.
10. To the north of the site, on the opposite corner of Liverpool Street and Castlereagh Street is a four storey commercial building occupied by a bank. Diagonally across the intersection is a three storey commercial building.
11. Opposite the site on Castlereagh Street is the Downing Centre court complex.
12. To the south of the site is a 13-storey commercial building. This commercial building includes a vertical row of windows facing onto the site, close to the Castlereagh Street frontage. No easement or covenant exists protecting these windows, the potential covering of these windows is unlikely to result in significant impacts as the windows are secondary windows with the primary windows facing directly onto Castlereagh Street.
13. Further to the south is a substantial, multi-storey residential apartment building containing a local heritage item known as the Former "American Tabacco Co" warehouse façade (Item No. I1706) and the commercial officer and function space building known as the Sydney Masonic Centre (local heritage Item No. I2283).
14. To the west of the site is the heritage listed Snow's Emporium which is a 6-storey mixed use commercial building.
15. Figures 6 to 10 below show the existing development located within close proximity of the subject site.



**Figure 6:** Existing development located to the north of the subject site



**Figure 7:** Existing development located diagonally opposite the subject site at the intersection of Liverpool Street and Castlereagh Street



**Figure 8:** Downing Centre court complex located directly east of the subject site



**Figure 9:** Existing commercial and residential development located to the south of the subject site



**Figure 10:** Mixed use commercial building adjoining the site to the west. The subject site is located in the background

## History Relevant to the Development Application

### Development Applications

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

- **D/2018/1144** – Development consent was granted on 13 February 2020 for the concept development application for this site. The approval granted in principle demolition of the existing building, a maximum building height of approximately 234m reaching up to a RL of 253.57 (AHD), a basement envelope with a depth of approximately 20m having a maximum depth of RL00.00 (AHD). A podium with a maximum height of approximately 33m and a RL 52.78 (AHD).
- **D/2018/1144/A** - A Section 4.55(2) modification application to the Concept development application was lodged with the City on 26 May 2022 and has been assessed concurrently with the subject detailed design development application.

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

Specifically, the modification seeks a slight reduction in setback at the north-eastern corner of the site to allow for further building articulation resulting from the detailed design of the winning scheme following the design competition.

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

- Development application **D/2022/488** is being concurrently assessed for the demolition of the existing 24-storey commercial building (Polding Centre) on site to the ground slab level and proposed site establishment works.

### Competitive Design Process

17. A competitive design process was undertaken for the development site in accordance with the provisions of Clause 6.21D and 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 Process was carried out between 17 January 2022 and 9 March 2022. The architectural firms who participated in the 'invited' Architectural Design Competition were EMBECE, BVN, Candalepas Associates, Turner and Aileen Sage and Architectus.
19. Candalepas Associates was selected as the winning scheme by the six member selection panel. The selection panel described the winning scheme as considered, engaging, pragmatic and rooted in concept, materiality and making. The selection panel noted the influence of elements in the ANZAC Memorial in its design including the sandstone materiality and staggered arched elements. The panel further noted the design correctly identifies the intent of achieving a high amenity building that addresses the residential and important commercial needs in a balanced manner. The building is calm, quiet, reposed and responds well to its context, including the war memorial. The public area on the podium is particularly well planned and executed.

20. The panel then described the key principles of the design to be maintained and developed and areas in which further resolution and refinement through design development must be undertaken in order to satisfy the design excellence provisions of Clause 6.21C of the SLEP 2012.
21. Areas of the design that are fundamental and should be maintained are as follows:
- (a) The simple, elegant form and the carefully selected and crafted materiality.
  - (b) The facade composition, especially the characteristics of a simple, classical base, expressed mid-rise glazing, recessed high-rise glazing, and the vertical lines that form a stepping, crowning element.
  - (c) Use of high-quality coloured and textured precast concrete to increase the articulation, colour and shading of the facade.
  - (d) Use of painted deep reveals and general 'made' quality of the building, which is unique for a high-rise tower.
  - (e) The very minor non-conforming element that protrudes outside of the envelope at the north-eastern corner of the building. The Panel considers that there will be no negative impacts caused by this non-conformance.
  - (f) The general intent of the public area on top of the podium, which provides a variety of smaller spaces around the podium, allowing for multiple groups to use the space concurrently.
  - (g) The light voids and artwork to the residential foyers.
  - (h) High quality environmental performance beyond the relevant controls.
22. Areas of the design that were noted by the panel for further refinement are as follows:
- Ground plane
- (a) Foyer entries need to be design developed. Their treatment of the street interface should seek to incorporate some of the depth and interest created on the Liverpool St retail facades.
  - (b) Lift lobbies require further design development to improve natural light – further design development of the proposed light shafts is recommended.
- Podium
- (c) Improved access to natural light to the commercial floorplates. The amount of deep-plan windowless area is not supported.
- Residential Amenity
- (d) Planning of apartments requires further resolution including the two-bedroom apartments on south and west to improve the extent of glazing to bedrooms and resolve restricted entries.
  - (e) Increase the number of cross ventilated apartments.
  - (f) Widen foyer entries.

- (g) Provide technical and compliance confirmation that appropriate cross ventilation is achieved with the plenums.
- (h) Provide technical confirmation that heat pumps every 5th storey will not impact neighbours.
- (i) Provide quality natural light and ventilation to the residential lift lobbies.
- (j) Provide confirmation of the viability of the landscape planting on the south west corner of levels 36 to 51.

#### Tower

- (k) The north-west and south-east facades need significant development to ensure high quality finish and appearance as part of the cityscape (additional to any public art proposal). There is a high likelihood that these facades will remain visible in the long term.
- (l) The roof elements; landscaping, enclosed pool and stair access need resolution with regard to environmental comfort and consider further the ease of access for the occupants of Level 50.

23. Further discussion regarding how the proposal has addressed these recommendations is provided in the 'Discussion' section of this report.

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

24. On 30 May 2022, the subject DA was lodged with Council.

#### Preliminary Information Requests

25. Following a preliminary review of the application documents and the consideration of the application by Sydney Metro, a request was sent to the applicant on 19 August 2022 requesting the following information:
- (a) Detailed survey plan.
  - (b) Cross section drawings showing the rail corridor and proximity of proposed basements.
  - (c) Geotechnical and structural reports/drawings that meet the Standards and requirements of Sydney Metro.
  - (d) Structural design documentation for the development.
  - (e) An updated Vibration Impact Assessment.
  - (f) An Electrolysis report.
26. The request also sought additional information to assist Council with their assessment including:
- (a) Details regarding the minimisation of overshadowing of neighbouring apartments.
  - (b) A NATHERS summary certificate.



- (c) Details to address the wind affected balconies requirements of the SDCP 2012.
  - (d) An amended acoustic report addressing the acoustic privacy created by the ventilation plenums with acoustic treatments.
  - (e) Cross ventilation diagrams for levels 8 and 9.
27. The applicant responded on 31 August 2022 providing additional information in response to the request.

#### Design Advisory Panel

28. The subject proposal was presented to the City's Design Advisory Panel (DAP) on 27 October 2022. The DAP made the following recommendations:
- (a) A reduction in floor area should be explored to comply with the FSR control applicable to the site.
  - (b) Further consideration of the colonnade along Castlereagh Street should ensure appropriate pedestrian amenity is provided while providing an active frontage.
  - (c) Alternatives to allowing natural light and ventilation into the residential lobby should be explored.
  - (d) Clarification should be provided regarding the amount of amenity provided to south-facing bedrooms in the tower and whether windows are operable.
  - (e) Reconsideration of the colour scheme should be undertaken.

#### Issues Letters

29. Upon receipt of the DAP advice and completion of a full assessment of the application, Council officers issued the applicant with a letter on 15 November 2022 requesting design amendments and additional information to address the following:
- (a) The calculation of FSR has discounted various wintergardens from the total gross floor area (GFA) calculations which not in accordance with Clause 4.5A of the SLEP 2012. The non-compliance is not supported, and design modifications are required to reduce the overall GFA of the building.
  - (b) Amendments at the ground floor are required to improve pedestrian safety and amenity including removing steps into retail tenancies, providing a splayed corner at the intersection of Liverpool and Castlereagh Street and street awning amendments.
  - (c) The application must reconsider the proposed colours and materials and should reflect the colour scheme of closer heritage items including the Mark Foys building and the Snows Emporium building.
  - (d) A materials and samples board should be submitted and include glass specifications to ensure clear glass is provided to the ground level and apartments.

- (e) Improvements to residential amenity must be explored including providing clarification on operable windows to bedroom in western and southern apartments, the provision of improved natural light in the residential lobby, the improvement of cross ventilation in various apartments and the provision of storage for residential apartments that is compliance with the ADG.
  - (f) Amendments and additional information are to be provided to ensure the communal outdoor space is usable and will be constructed to support appropriate levels of landscaping.
  - (g) Revised drawings are to also provide a detailed east-west section drawings, updated FSR calculations, TFA calculations and a detailed land survey.
  - (h) Site contamination and remediation must be further addressed with the submission of a Section B Siter Audit Statement or letter of interim advice and the submission of further information relating to the management of Acid Sulfate Soils.
  - (i) Amended plans and amended flood report must demonstrate the proposed development is in accordance with the City's flood policy, particularly in areas of the retail tenancy, lifts and stairs to basement levels.
  - (j) Sustainability targets need to be further explored with the submission of a Design for Environmental Performance report to the City's standards, BASIX commitments marked on all plan sets, the indication of PV panels on drawings, clarification on NATHERS exposure types and a schedule of insulation and glazing performance.
  - (k) A revised traffic impact analysis is to be submitted based on all matters listed in Condition 18 of the Concept approval at the intersection analysis based on the number of car spaces proposed on site. Vehicle, bicycle, motorbike and service vehicle parking spaces are also to be amended to be consistent with the requirements of the SDCP 2012.
  - (l) A revised Waste Management Plan (WMP) is to be submitted to appropriately address waste storage and pick-up procedures in accordance with relevant Council Policy. Currently, the proposed arrangement does not allow for suitable pick-up for residential uses including the frequency of pick-up and temporary storage areas and travel distances.
30. Updated information was issued by the applicant on 14 December 2022 responding to the requested amendments and additional information. Particular design amendments to note was the removal of the colonnade on Castlereagh Street.
31. Following further discussions with the applicant, a revised set of drawings was submitted for further consideration on 30 March 2023. Amended drawings included the reintroduction of a single-height colonnade on Castlereagh Street and other amendments to loading areas and residential apartment and wintergarden configurations.

32. A third request for additional information and amendments was issued to the applicant on 16 May 2023. The request sought clarification, design amendments and further information as follows:
- (a) GFA and FSR calculations are required to be recalculated. Some wintergardens are still being excluded from GFA when they do not comply with Clause 4.5A of the SLEP 2012.
  - (b) The single height colonnade must be refined to improve pedestrian amenity and access around and into the site.
  - (c) Clarification must be provided in relation to natural ventilation diagrams to ensure compliance with the SDCP 2012, details on a new screen provided on the façade must be included and the internal planning of apartments must be reviewed to ensure bedrooms have access to operable windows.
  - (d) Acoustic information must be provided to demonstrate the development complies with the SDCP 2012 and the NSW Planning Development Near Rail Corridors and Busy Roads – Interim Guidelines for both daytime and night time noise levels. To comply with the ADG, only natural ventilation methods are acceptable.
  - (e) Further resolution on waste management and transport is required. Waste storage and pick-up arrangements are still not consistent with Council requirements and amendments are required to allow adequate temporary storage areas on pick-up dates, including the design of the loading dock to assist Council waste truck manoeuvrability.
  - (f) The environmental performance of the proposed development must be further clarified with an amended Design for Environmental Performance report to be submitted addressing the amended design, amendments to PV panel aspirations and amendments to architectural drawing documentation to read that the Solar Heat Gain Coefficient is within +/-5% of the modelled value.
  - (g) The amended documentation package must be submitted with an amended SEPP 65 design verification statement and an updated assessment against the ADG which addresses any remaining non-compliances.
33. The applicant responded to the request with updated plans and additional documentation on 13 June 2023.
34. A final request was sent to the applicant on 5 July 2023 requesting amendments to the waste storage areas at the ground floor to ensure appropriate temporary storage was provided on waste pick-up days. Amended plans were submitted for final review on 11 July 2023.
35. Amended stratum subdivision plans were submitted for final review on 25 July 2023.

## Proposed Development

36. The application seeks consent for the following:

- Demolition of the existing 2 level basement on the site. Note substantive demolition of the existing building down to ground floor slab is sought under a separate early works/demolition development application being assessed concurrently (D/2022/488)
- Excavation to provide eight basement levels including:
  - Residential storage (173 cages)
  - Residential car parking spaces (123 spaces)
  - Commercial and retail car parking spaces (6 spaces)
  - Retail, commercial and visitor bicycle parking spaces (60 spaces)
  - Commercial, retail and residential waste storage areas
  - Plant rooms, services and substation
- Six storey podium comprising:
  - Ground floor - vehicular driveway on Castlereagh Street, waste storage areas, loading dock, one retail tenancy and residential and commercial lobbies
  - Levels one to four - commercial office spaces
  - Level five - plant
  - Level six - residential communal indoor and outdoor spaces including barbeque areas, gym and wellness facilities, an outdoor pool and music room
- Forty-seven (47) storey tower comprising 168 new residential apartments
- Lot consolidation and Stratum subdivision

37. Proposed photomontages, plans and elevations of the proposed development are provided below.



**Figure 11:** Photomontage view northeast of Hyde Park



**Figure 12:** Photomontage at the intersection of Liverpool Street and Castlereagh Street



**Figure 13:** Photomontages of northern elevation (left) and western elevation (right)



Figure 14: Basement level 8

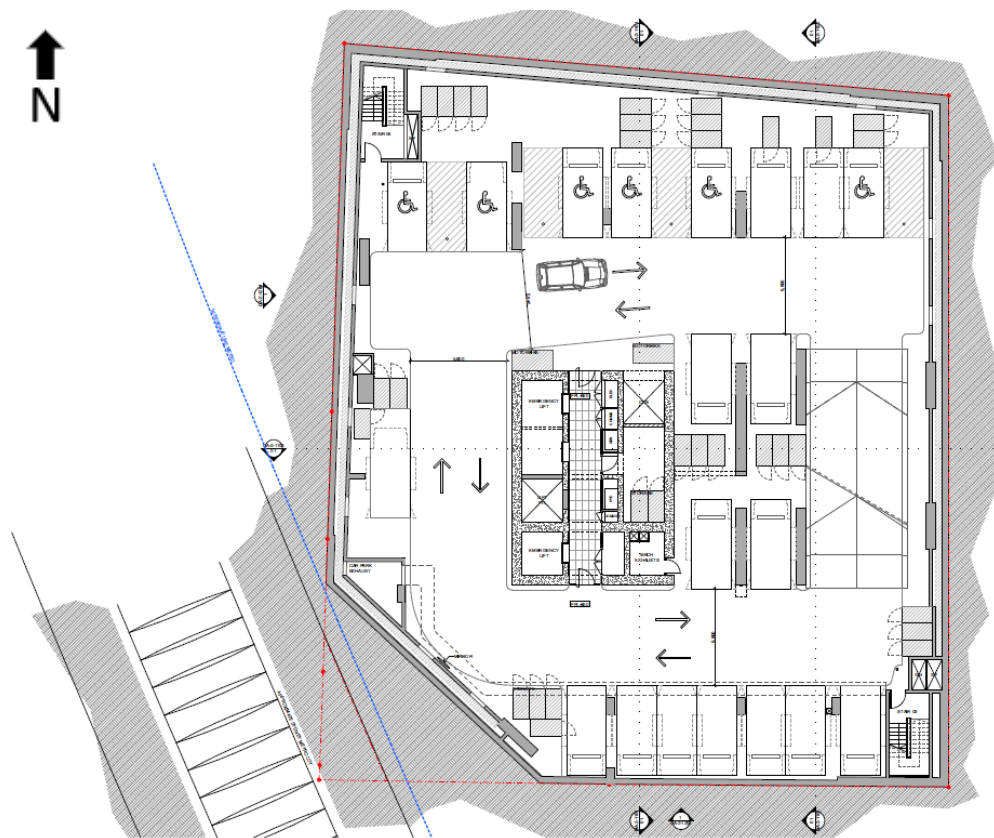


Figure 15: Basement level 7

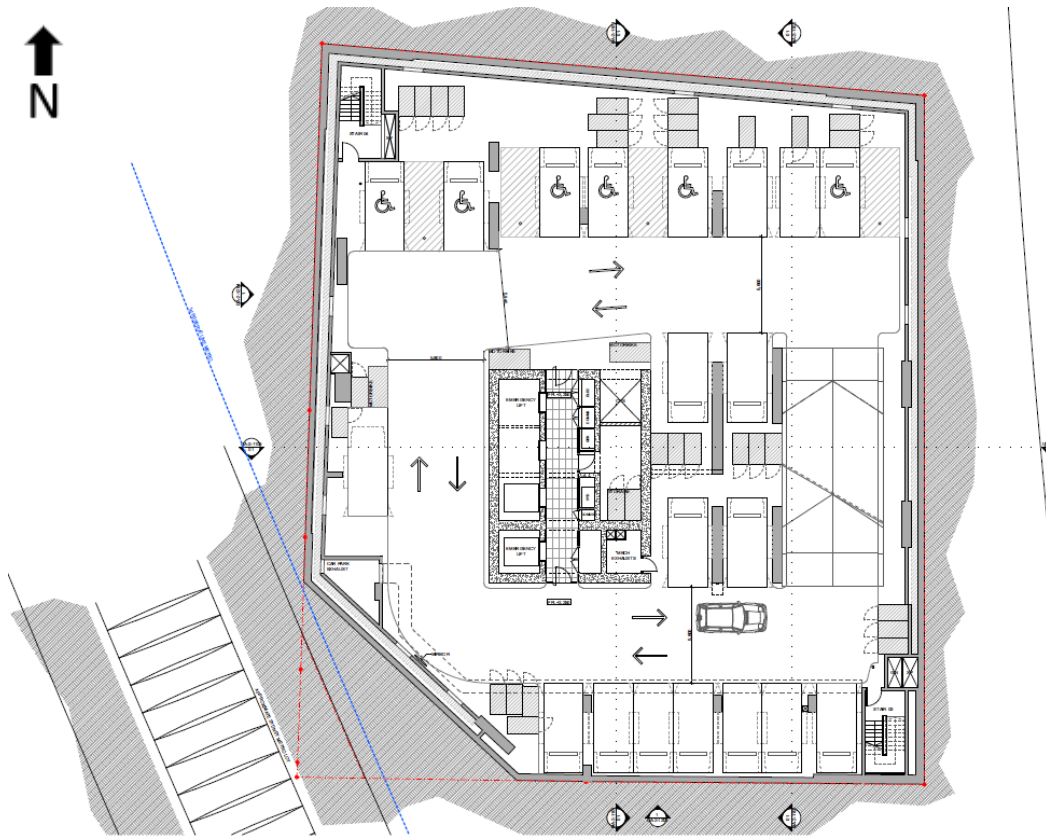


Figure 16: Basement level 6

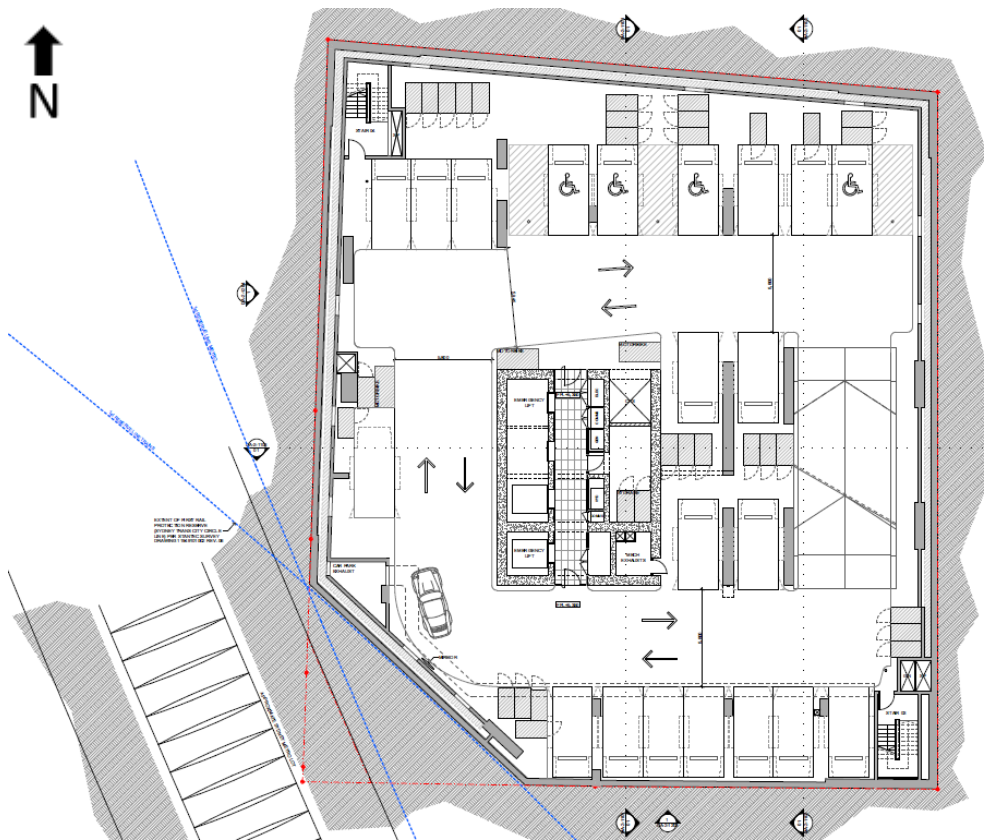


Figure 17: Basement level 5



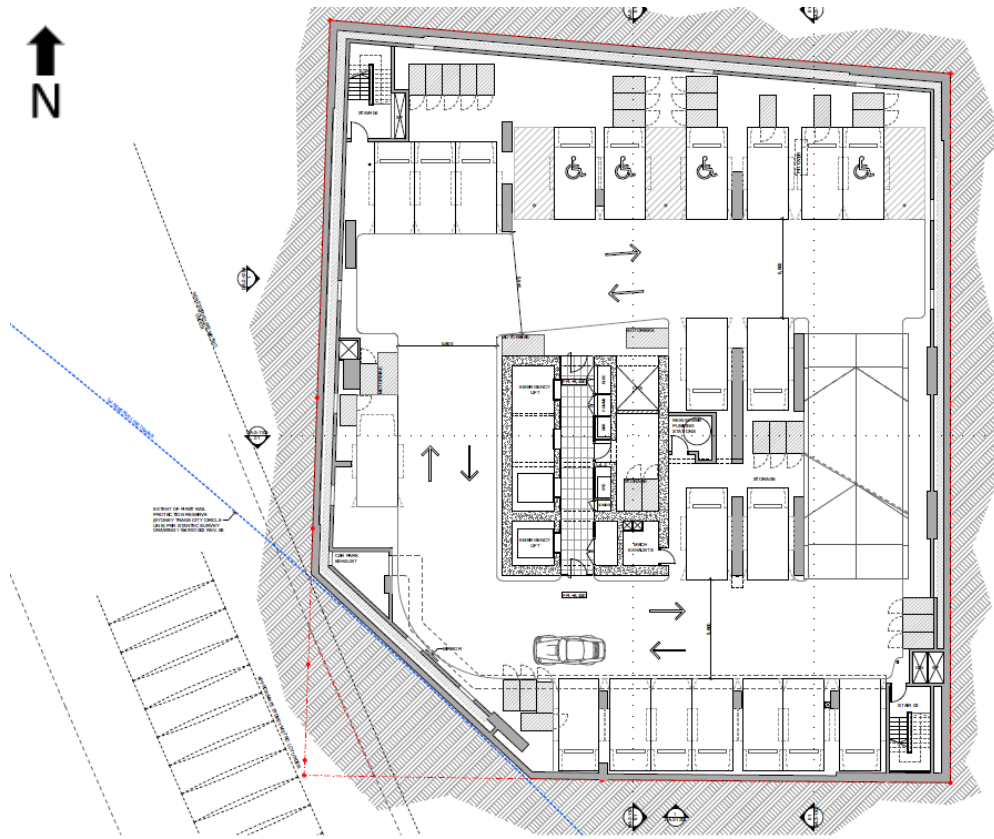


Figure 18: Basement level 4

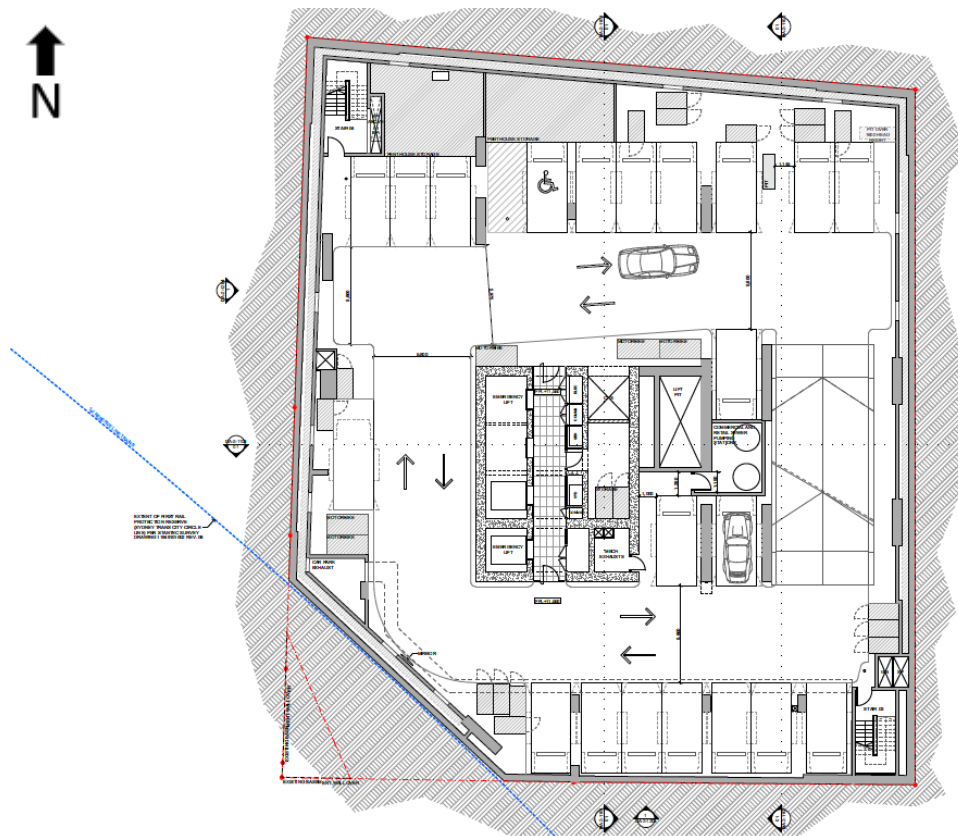


Figure 19: Basement level 3

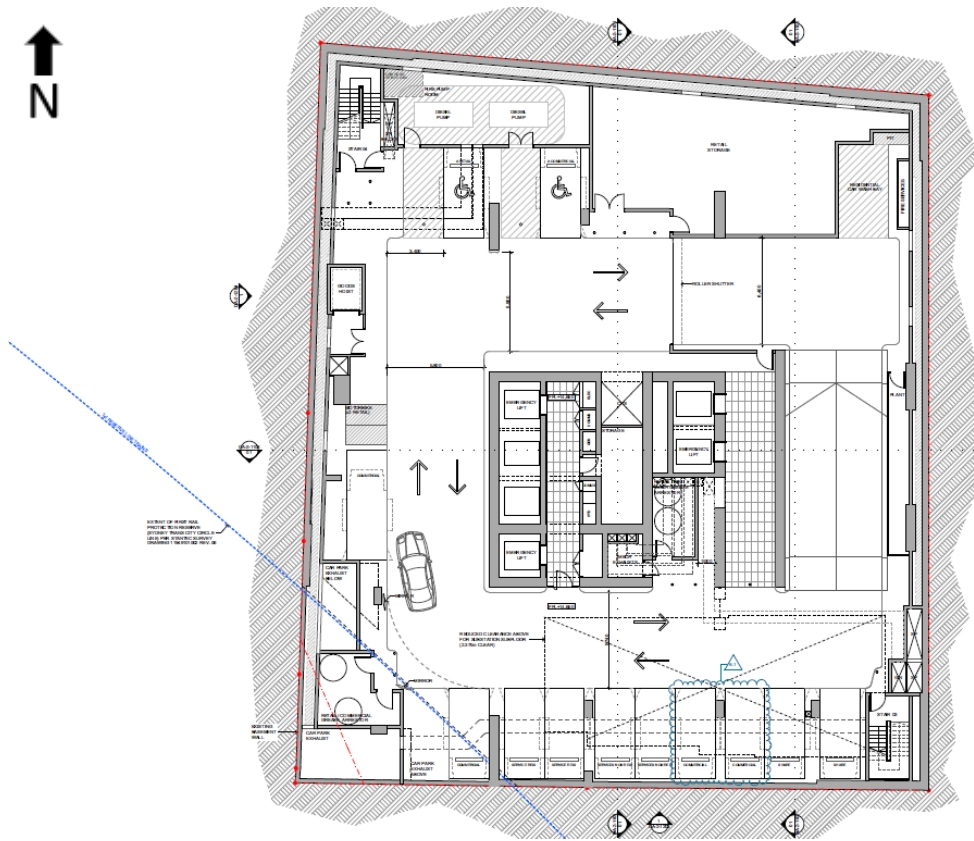


Figure 20: Basement level 2



Figure 21: Basement level 1

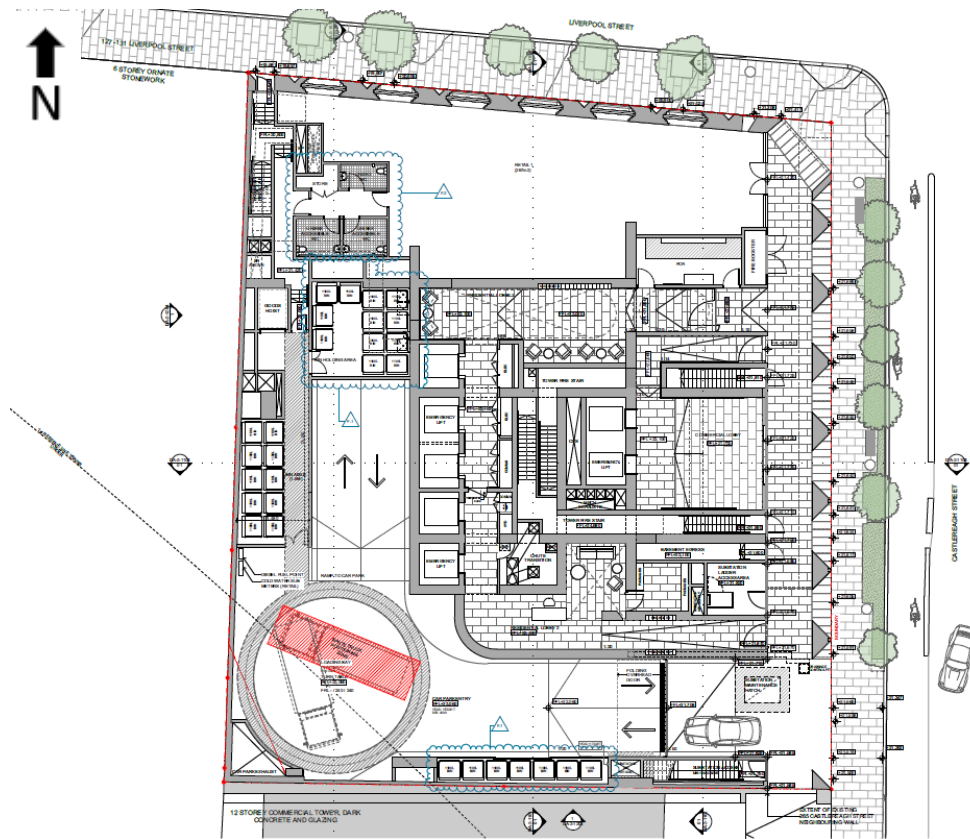


Figure 22: Ground floor

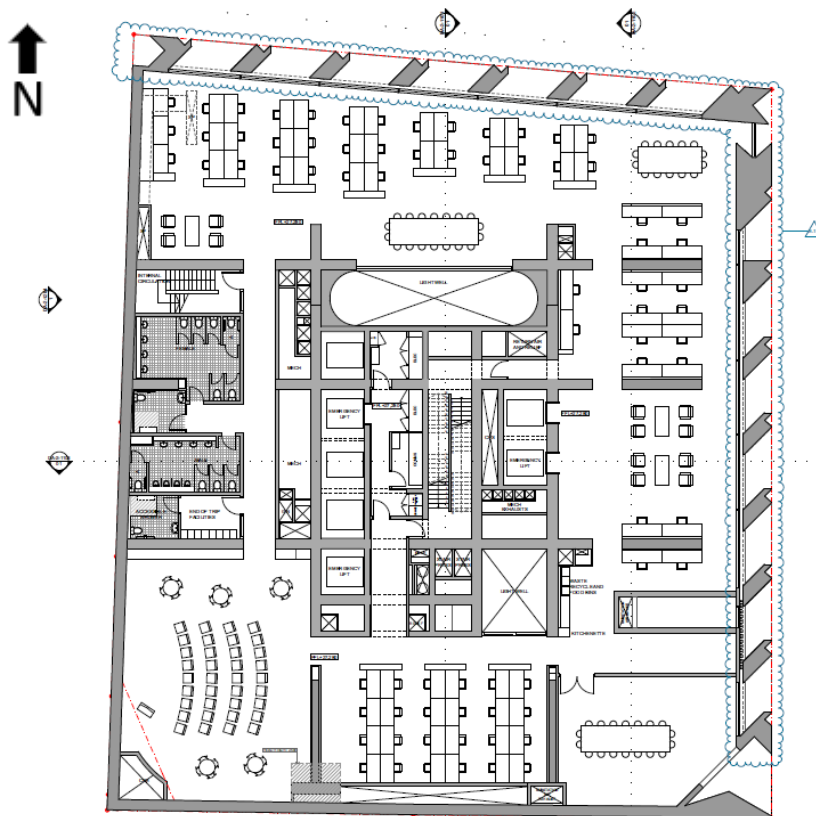


Figure 23: Commercial level 1

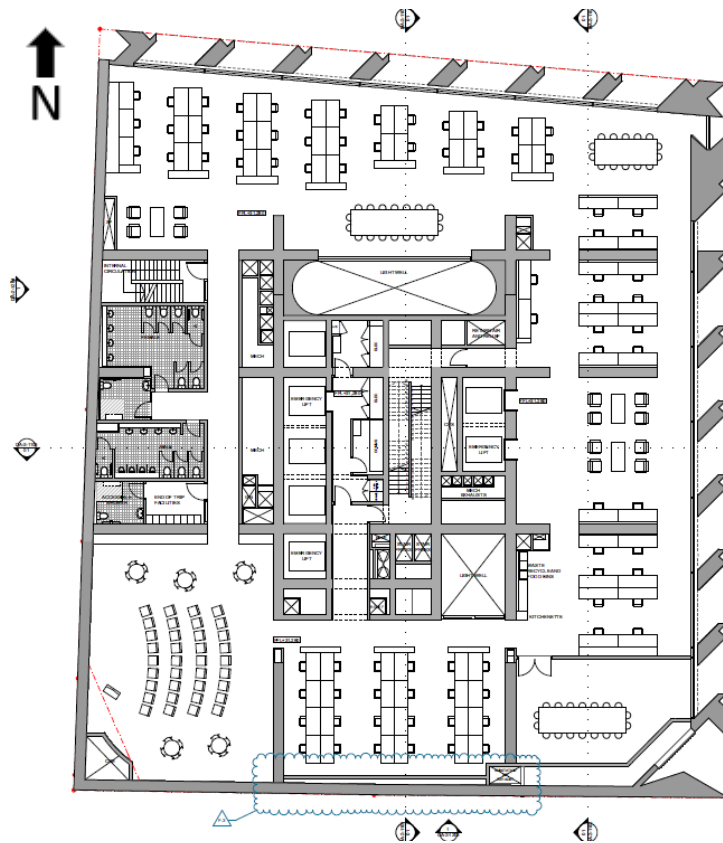


Figure 24: Commercial level 2

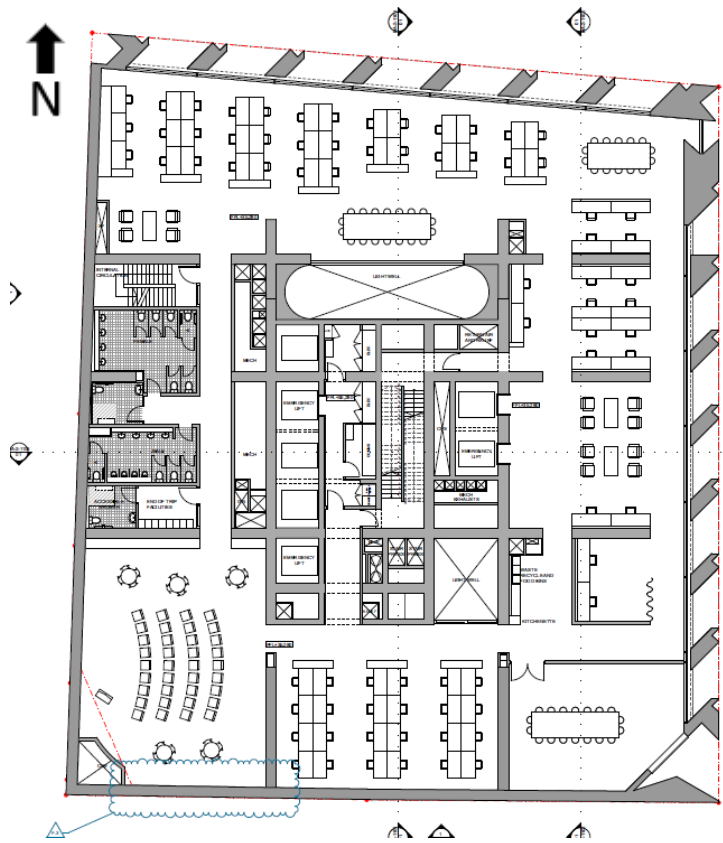


Figure 25: Commercial level 3

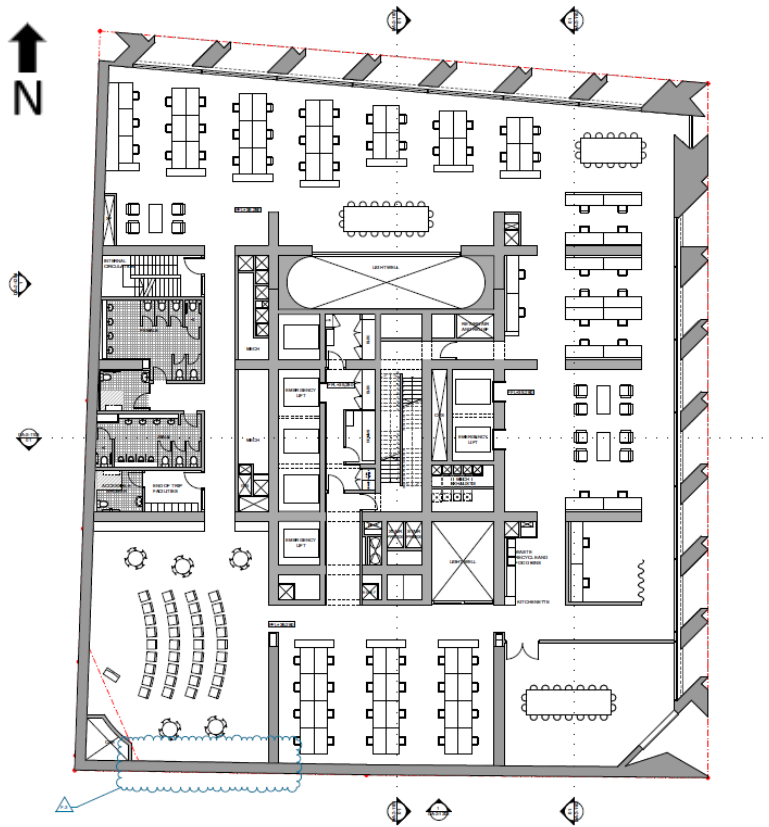


Figure 26: Commercial level 4

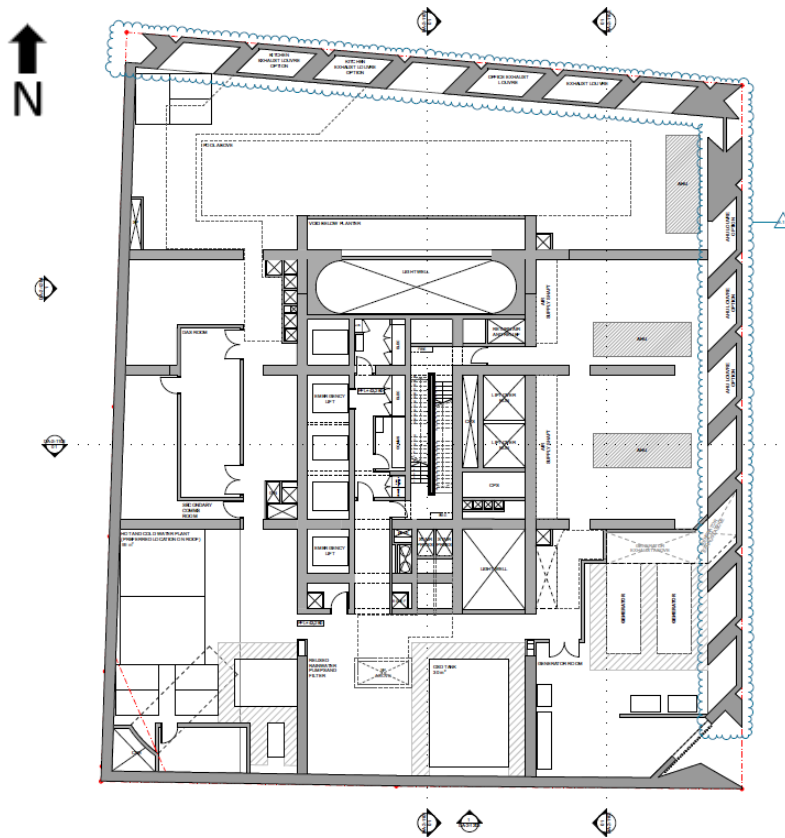


Figure 27: Level 5 plant

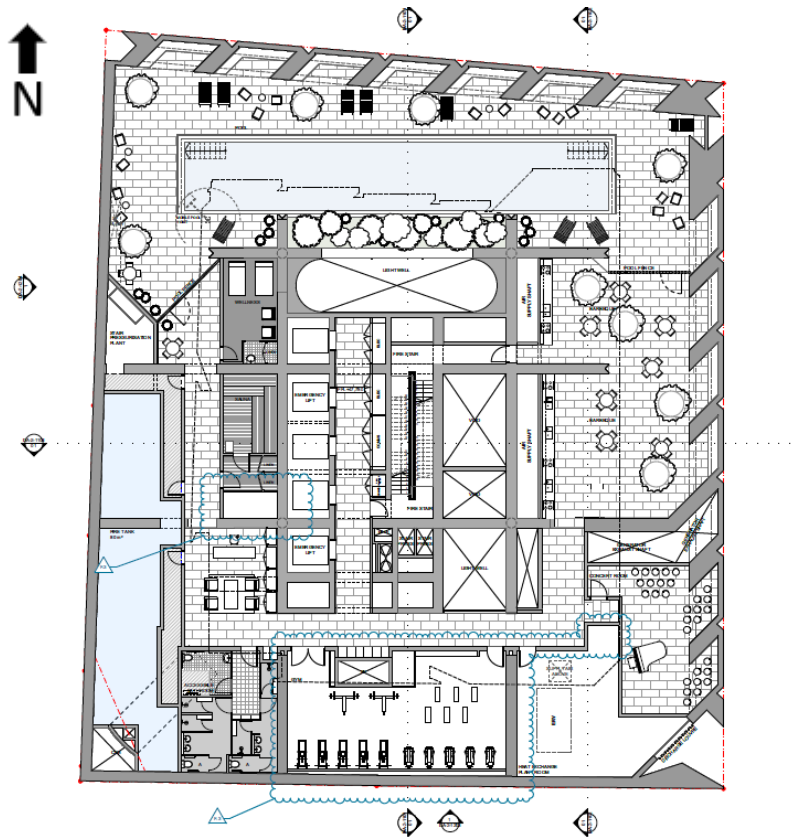


Figure 28: Level 6 residential communal space

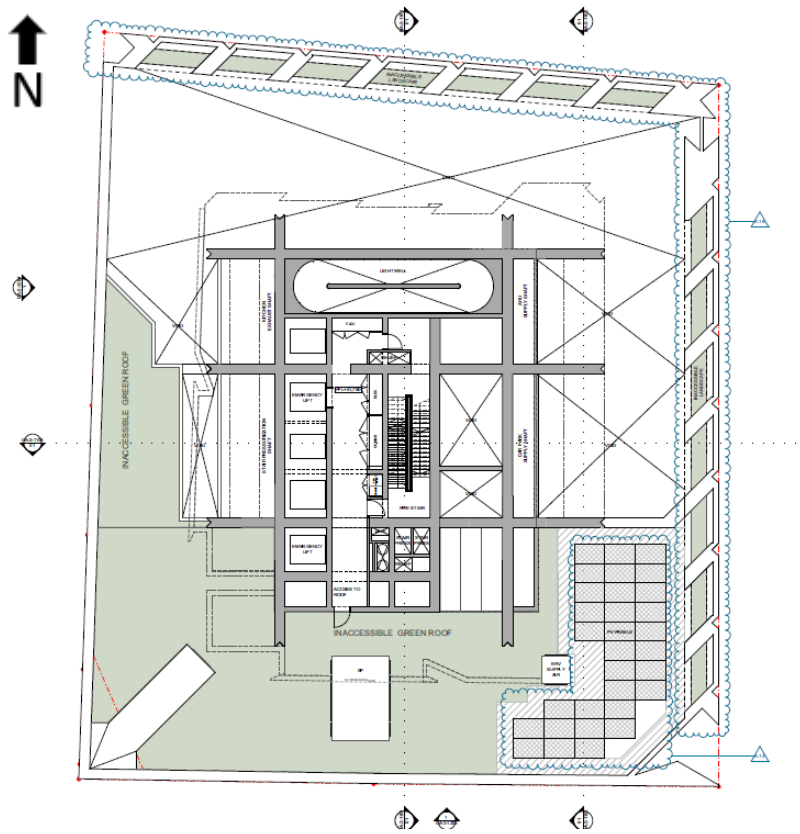


Figure 29: Level 7 podium roof

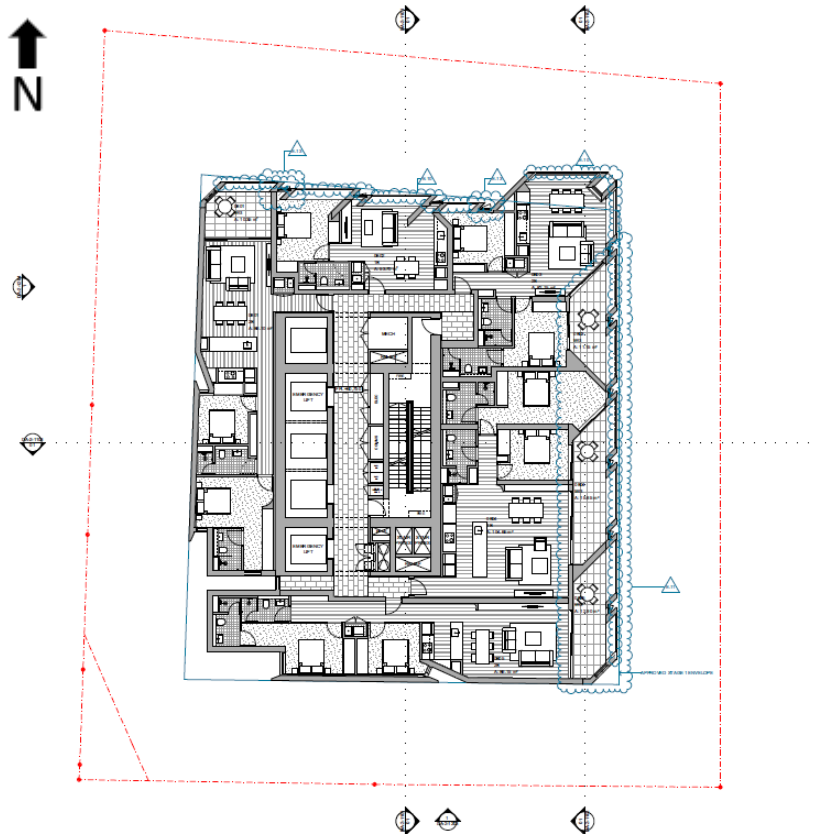


Figure 30: Level 8-9 residential

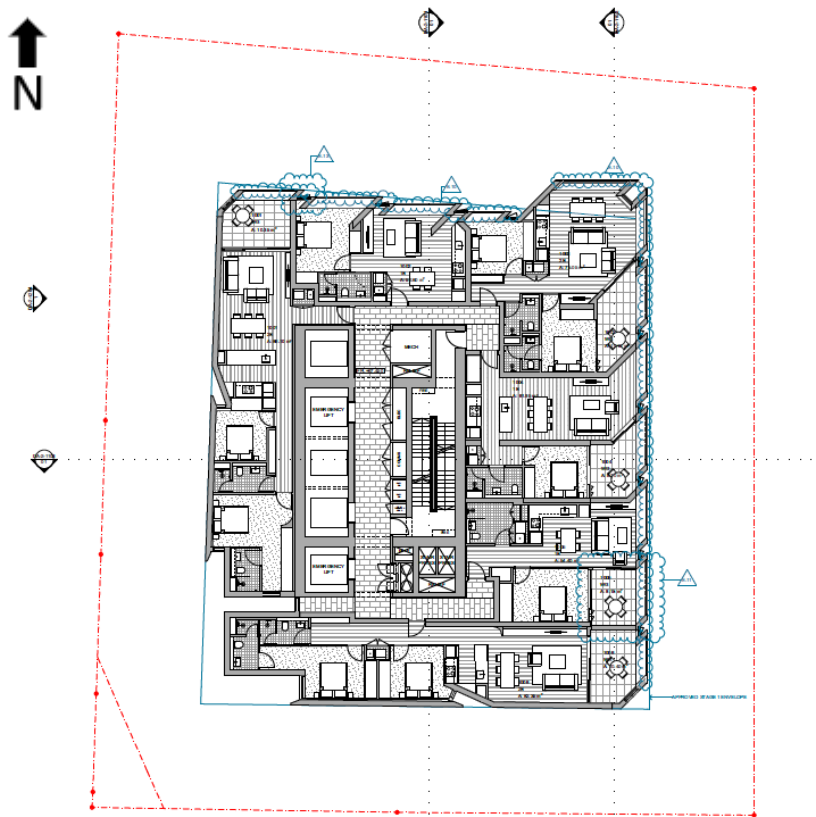


Figure 31: Level 10-15 residential

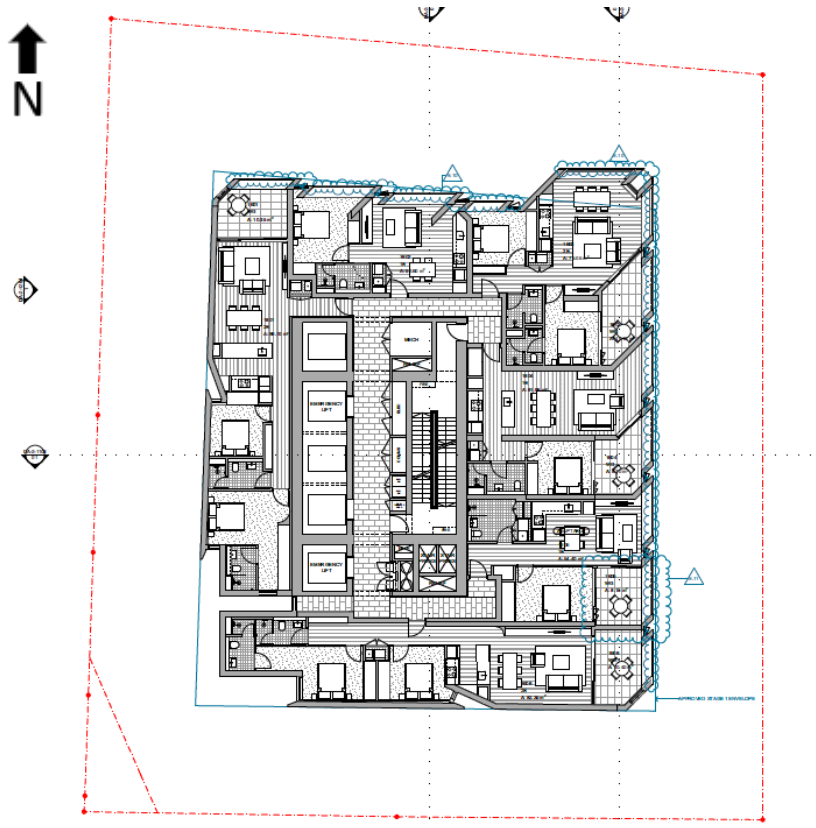


Figure 32: Level 16-20 residential

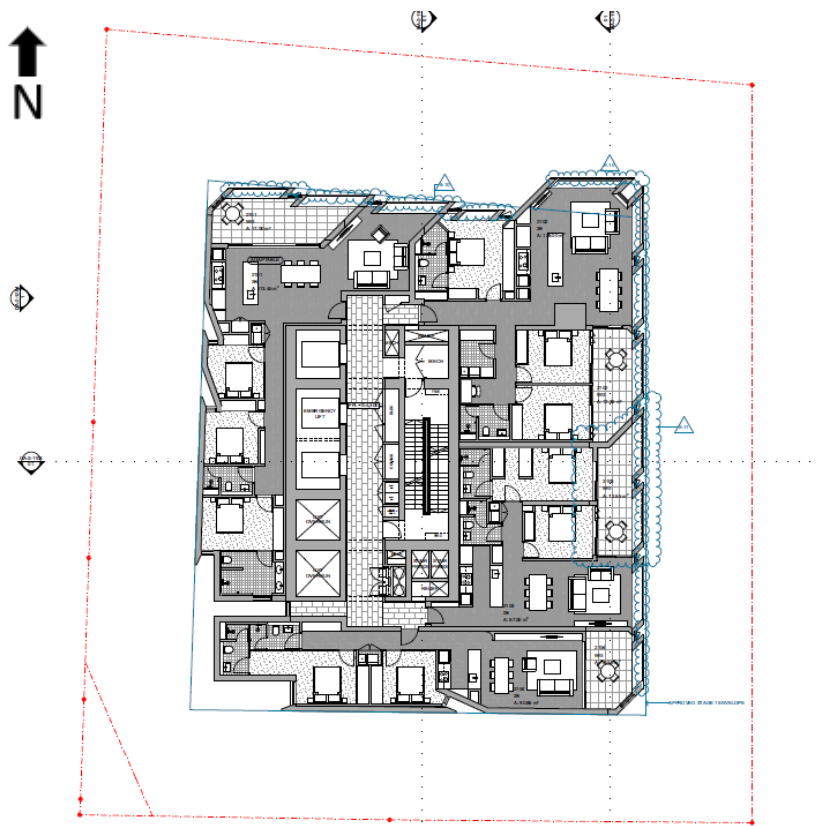


Figure 33: Level 21 residential



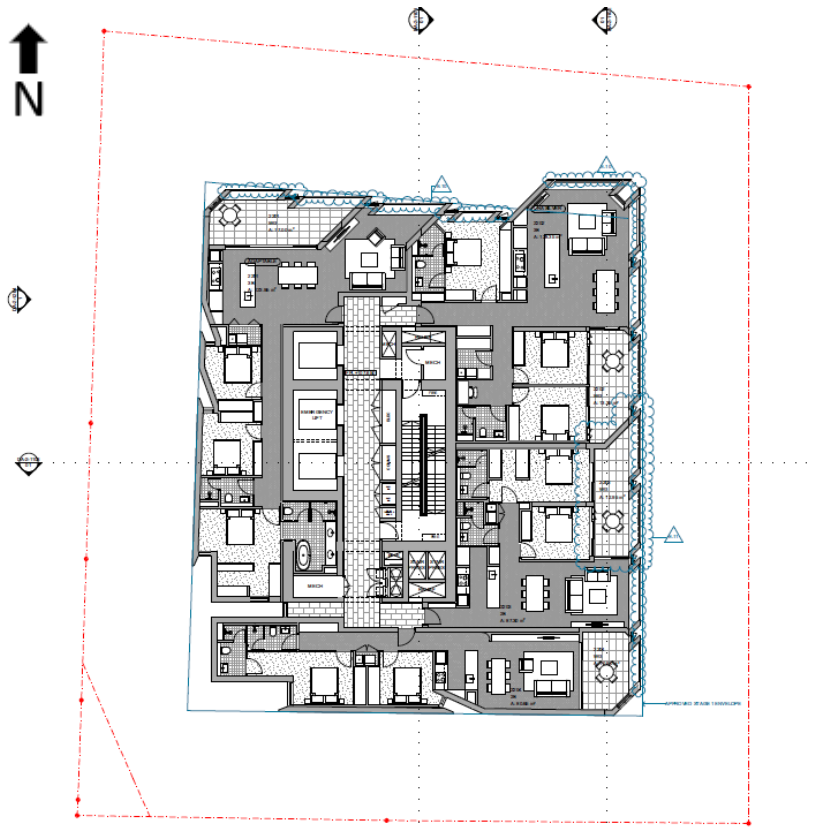


Figure 34: Level 22 residential

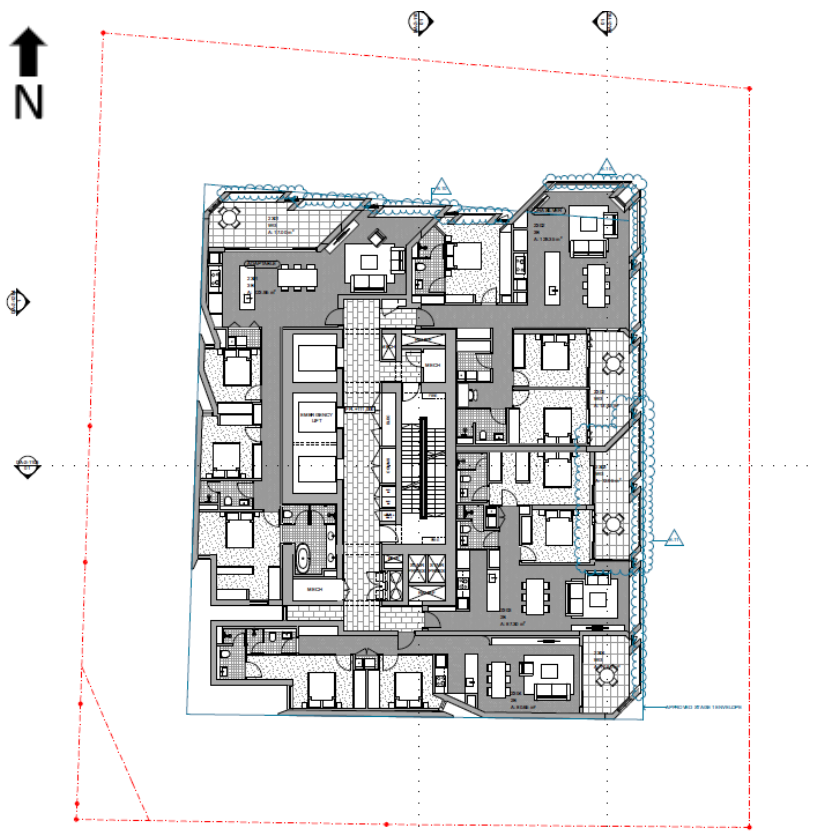


Figure 35: Level 23-27 residential

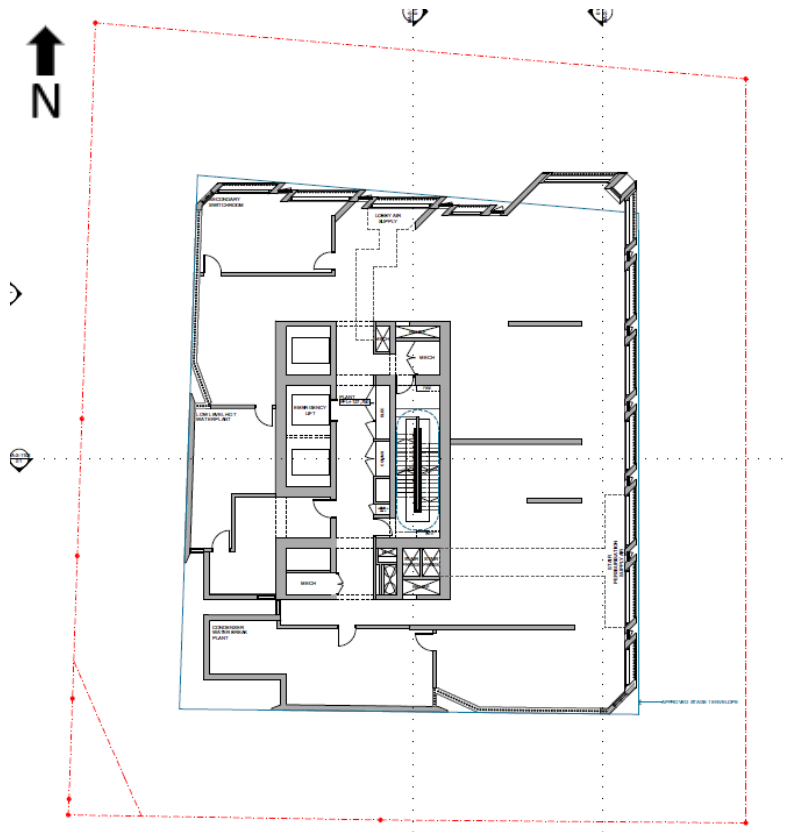


Figure 36: Level 28 plant

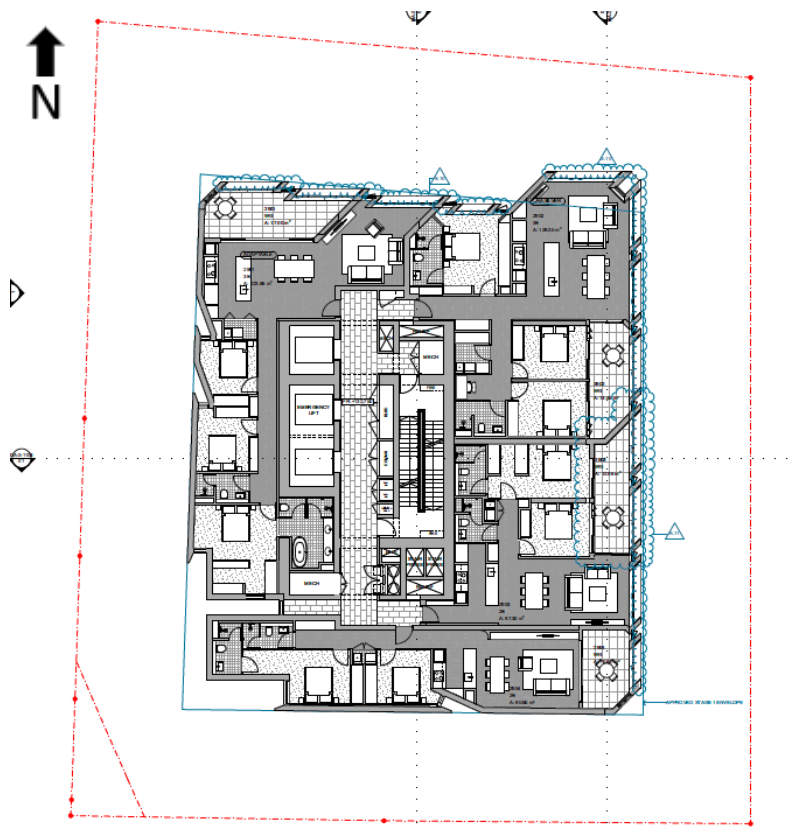


Figure 37: Level 29-35 residential

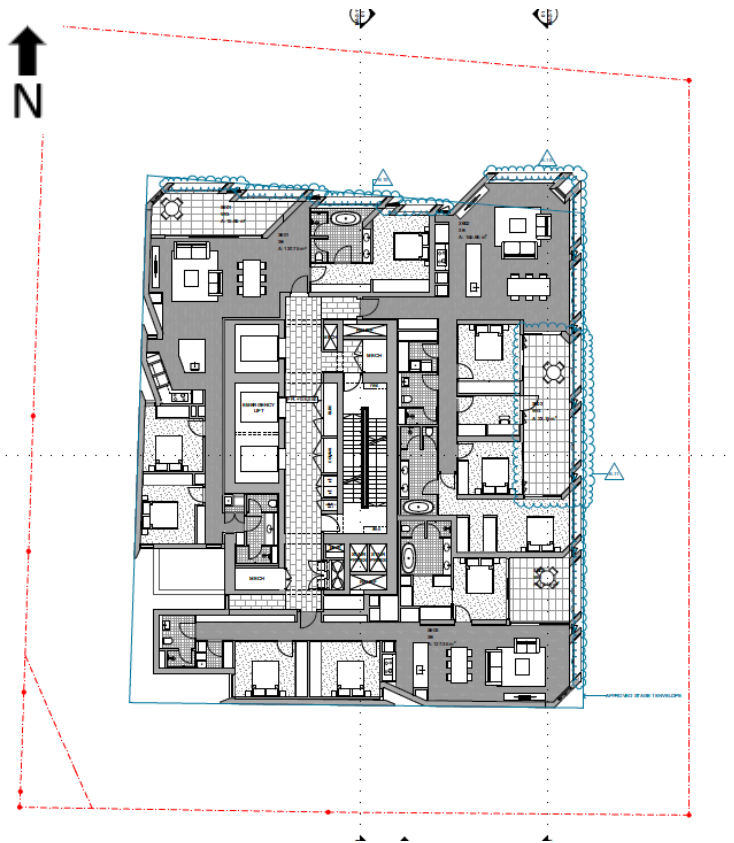


Figure 38: Level 36-39 residential

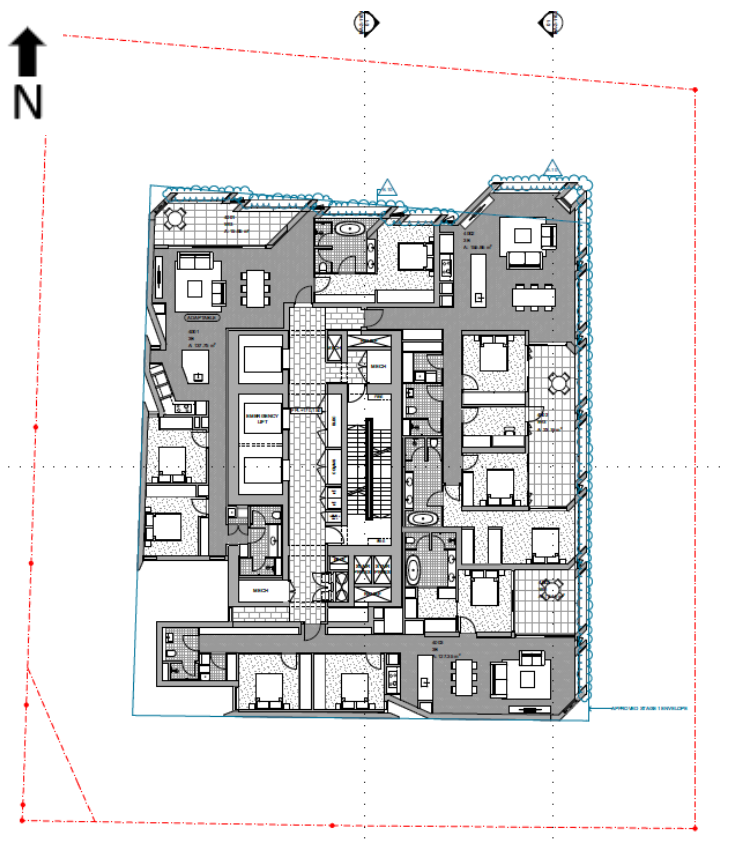


Figure 39: Level 40-45 residential

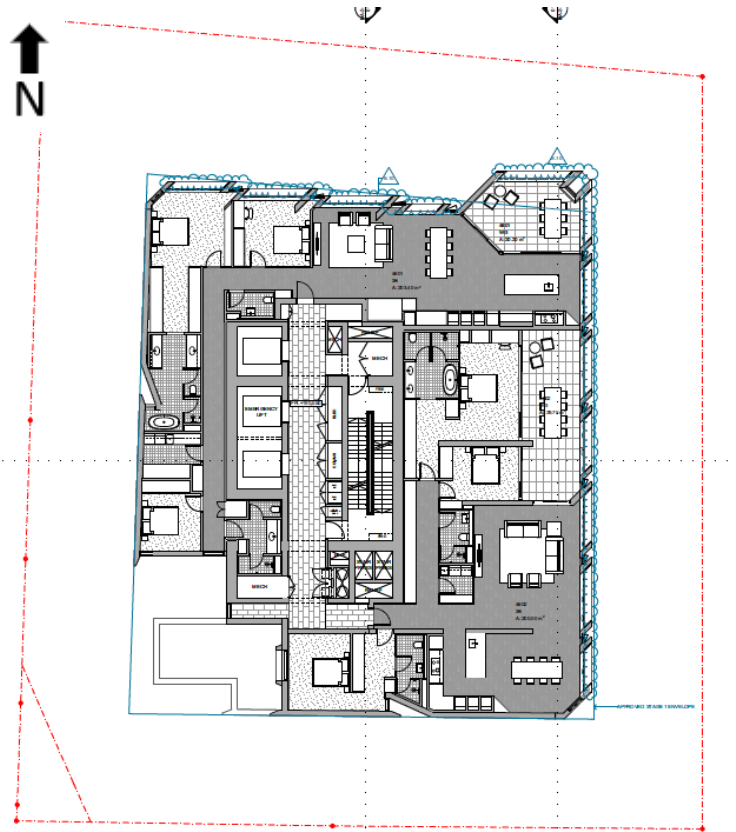


Figure 40: Level 46-47 residential

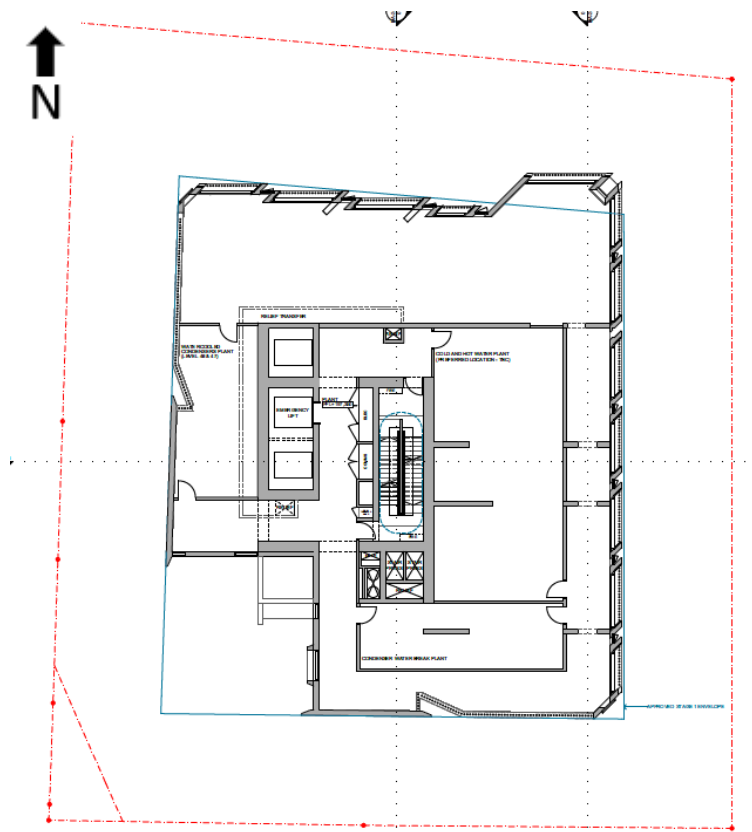


Figure 41: Level 48 plant

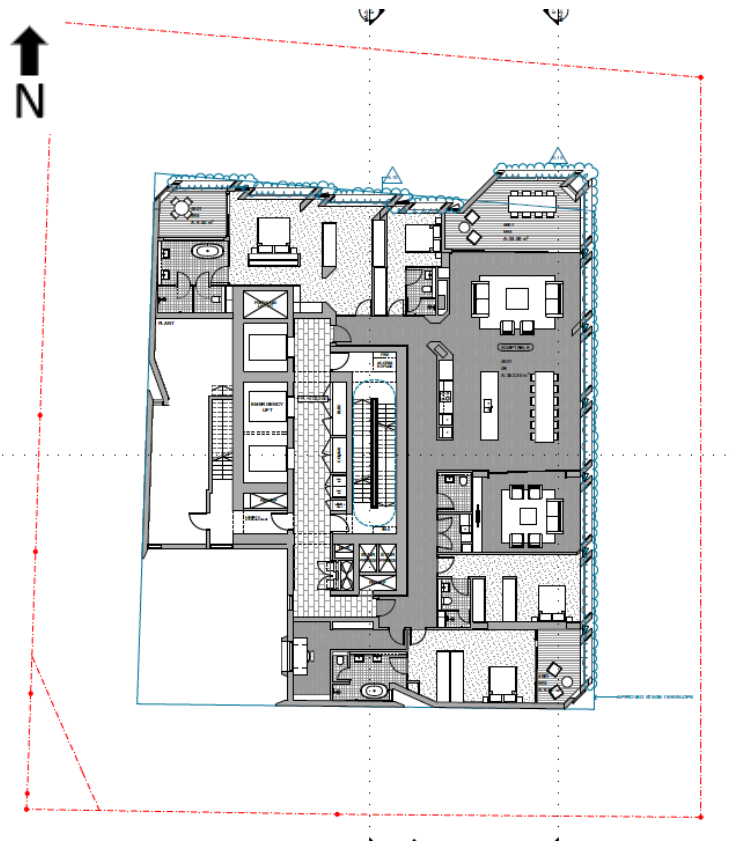


Figure 42: Level 49 residential

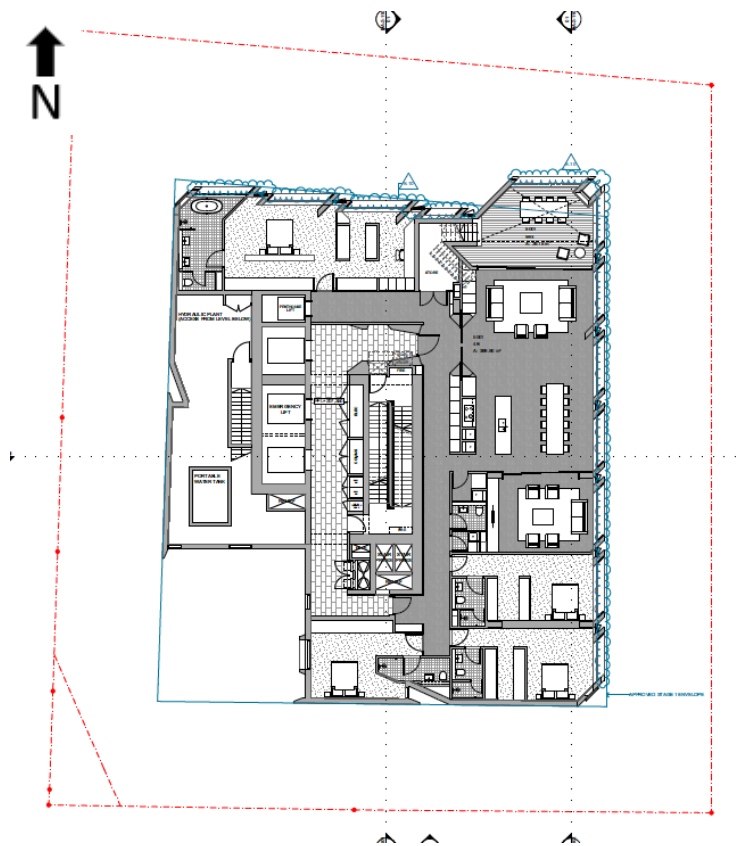


Figure 43: Level 50 residential

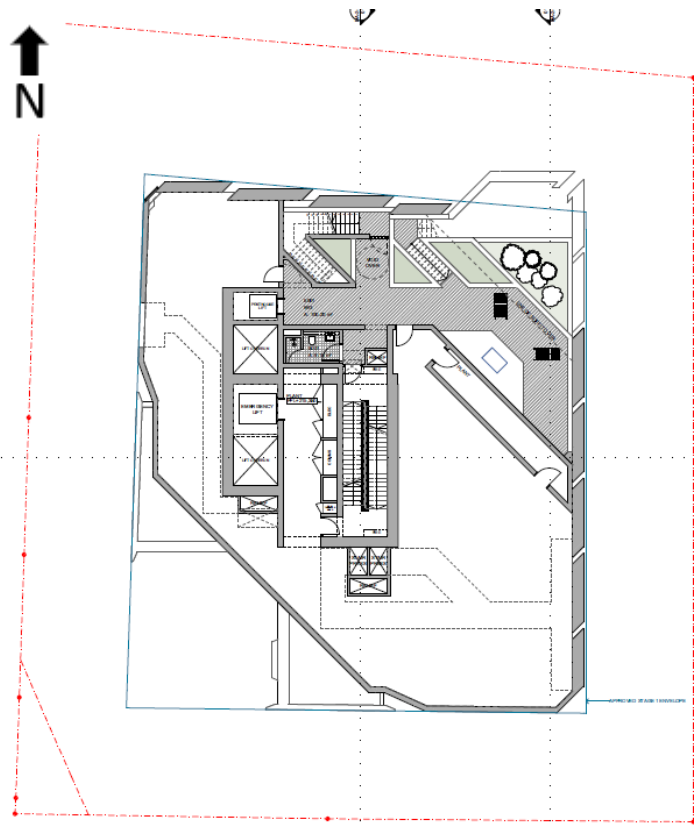


Figure 44: Level 51 residential/plant

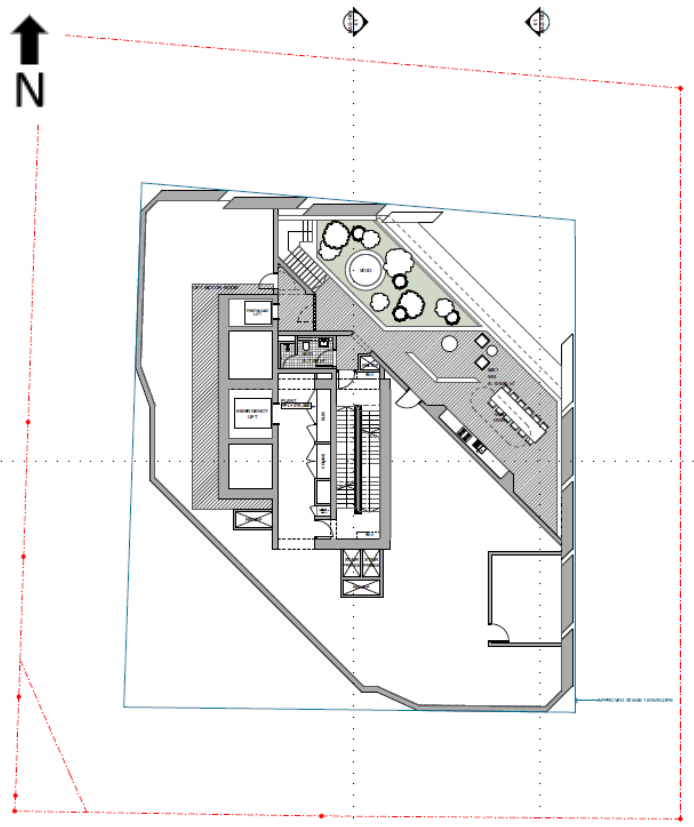


Figure 45: Level 52 residential/plant

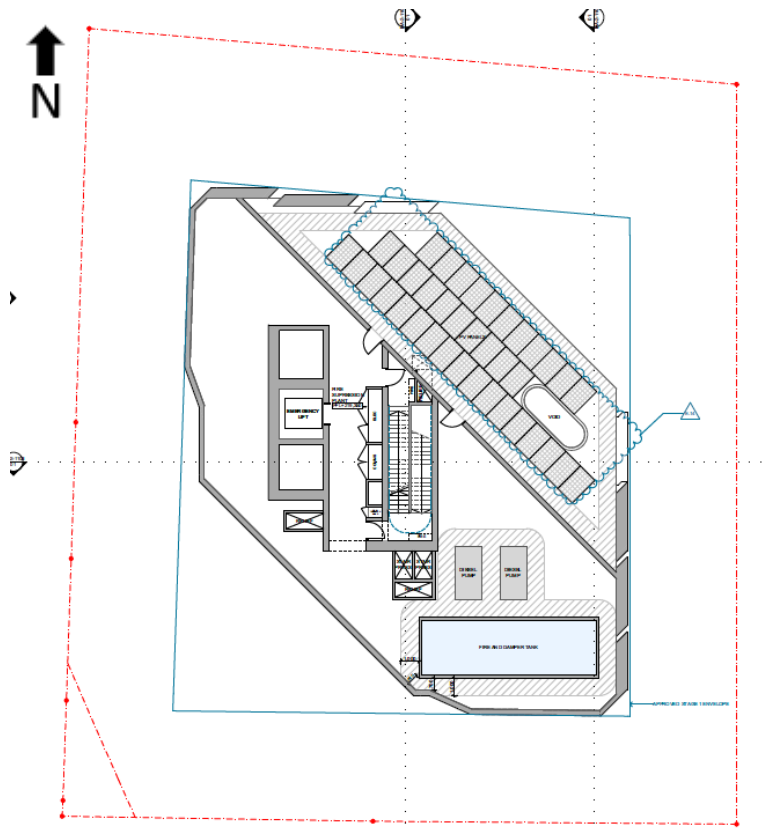


Figure 46: Level 53 plant

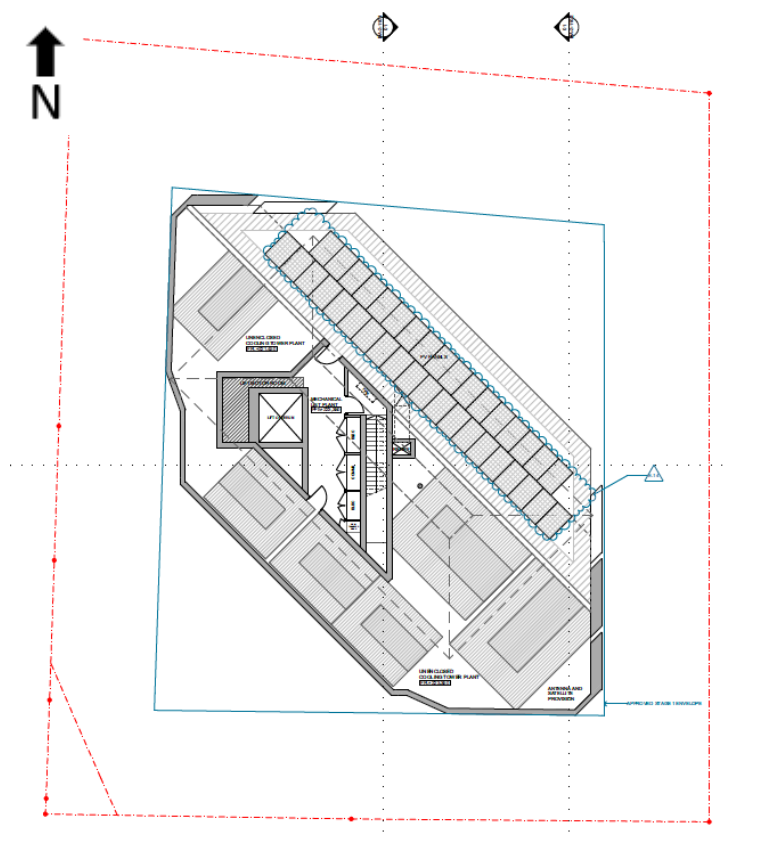


Figure 47: Level 54 plant

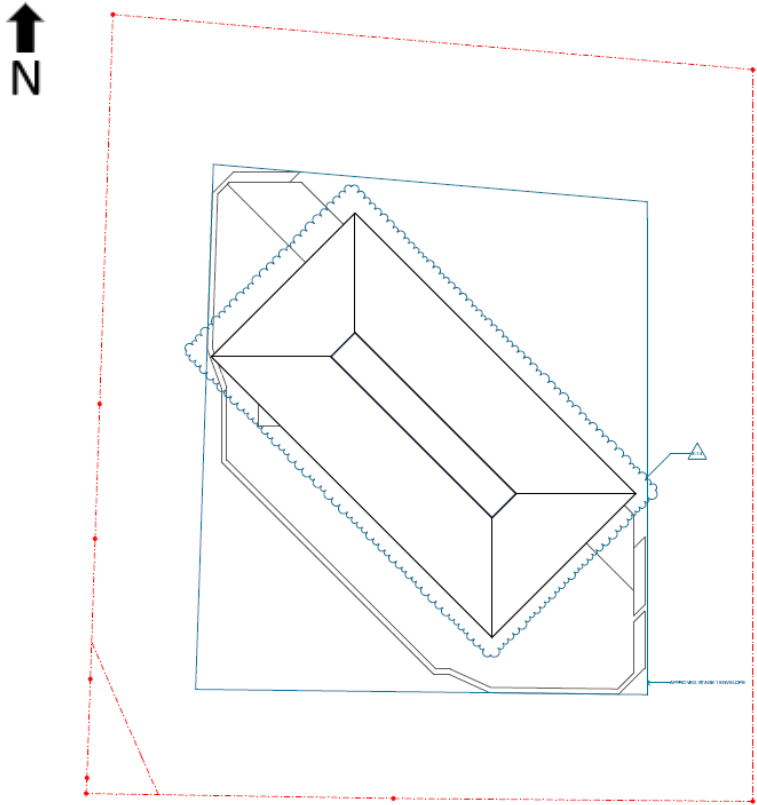


Figure 48: Roof



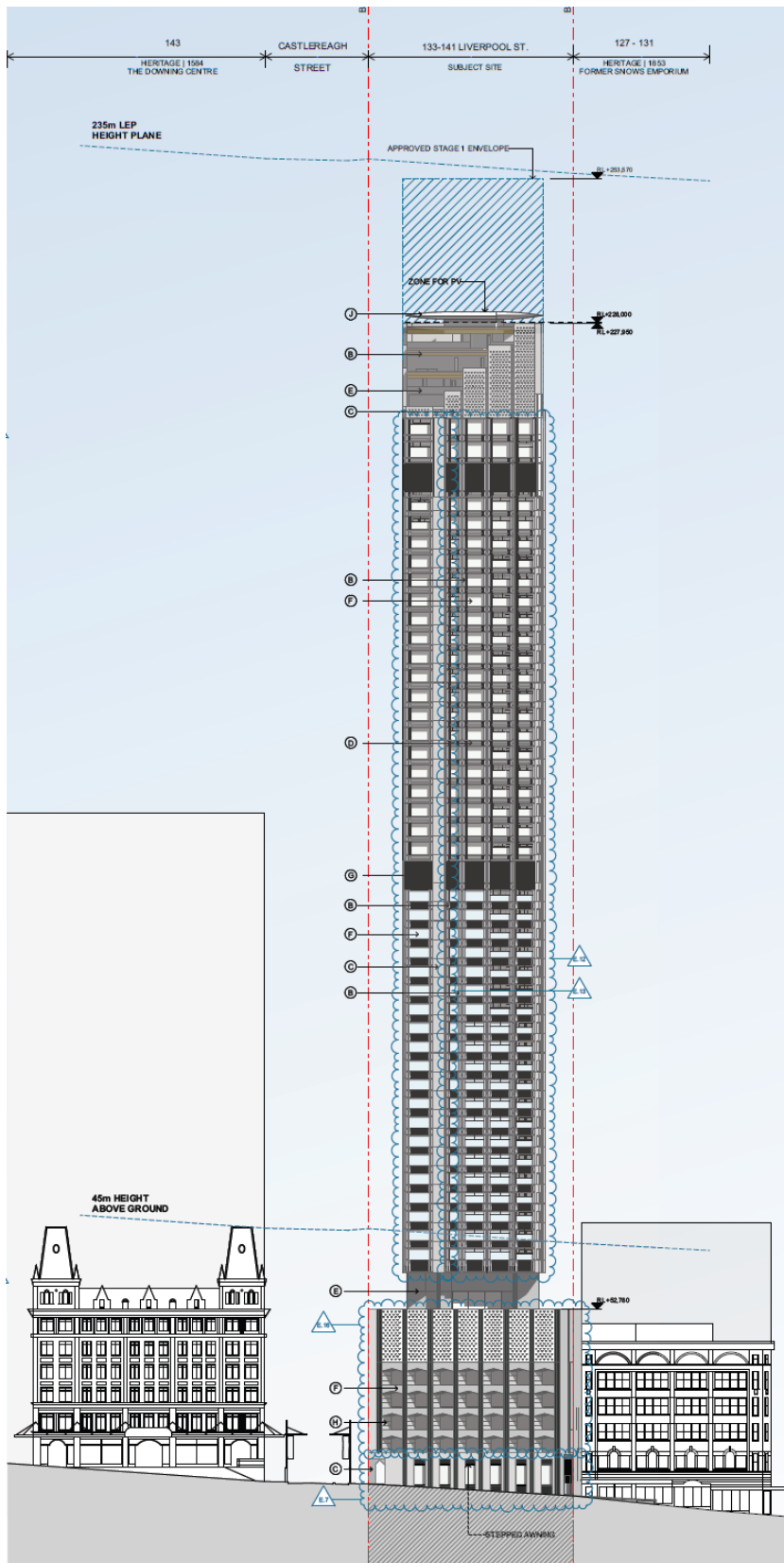


Figure 49: Proposed Liverpool Street elevation

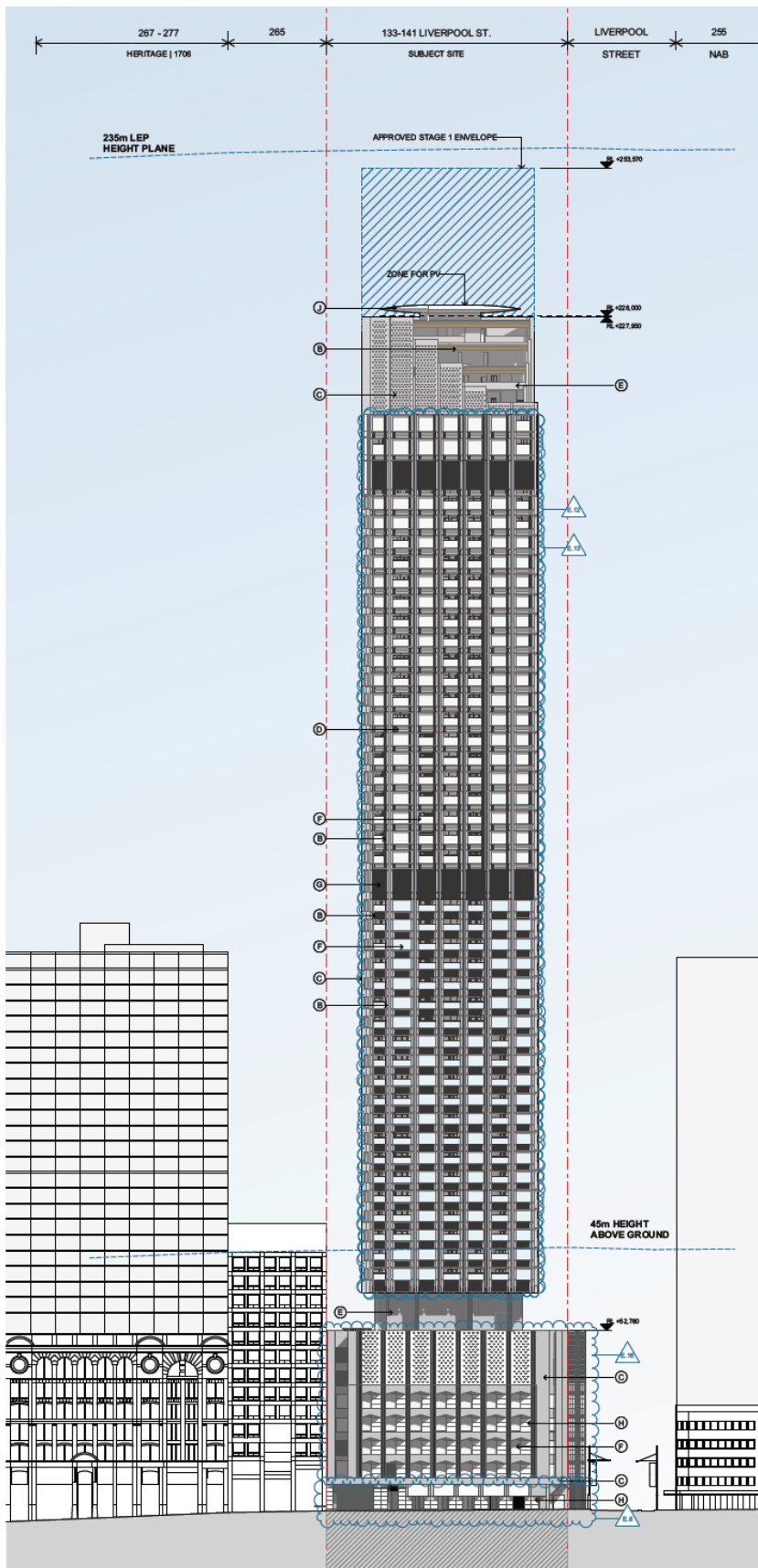


Figure 50: Proposed Castlereagh Street elevation

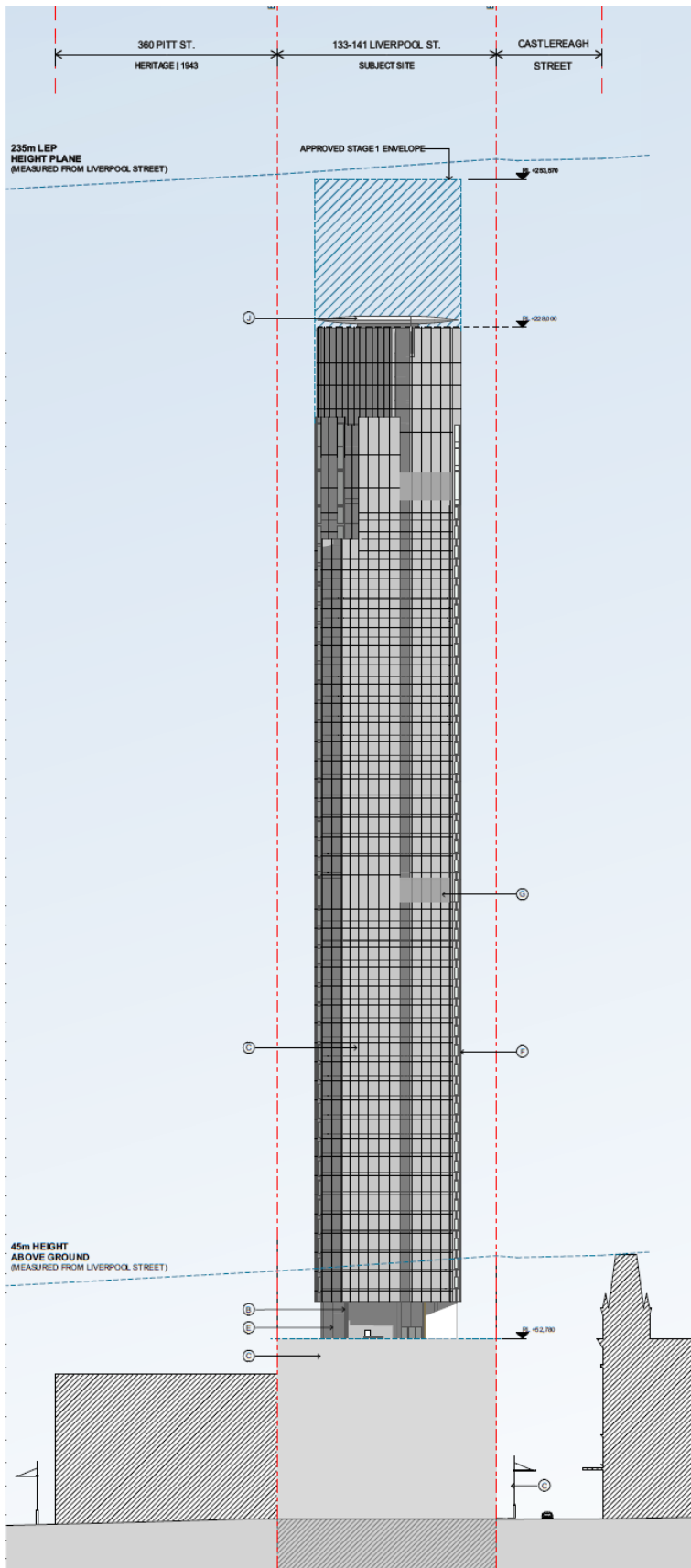


Figure 51: Proposed southern elevation

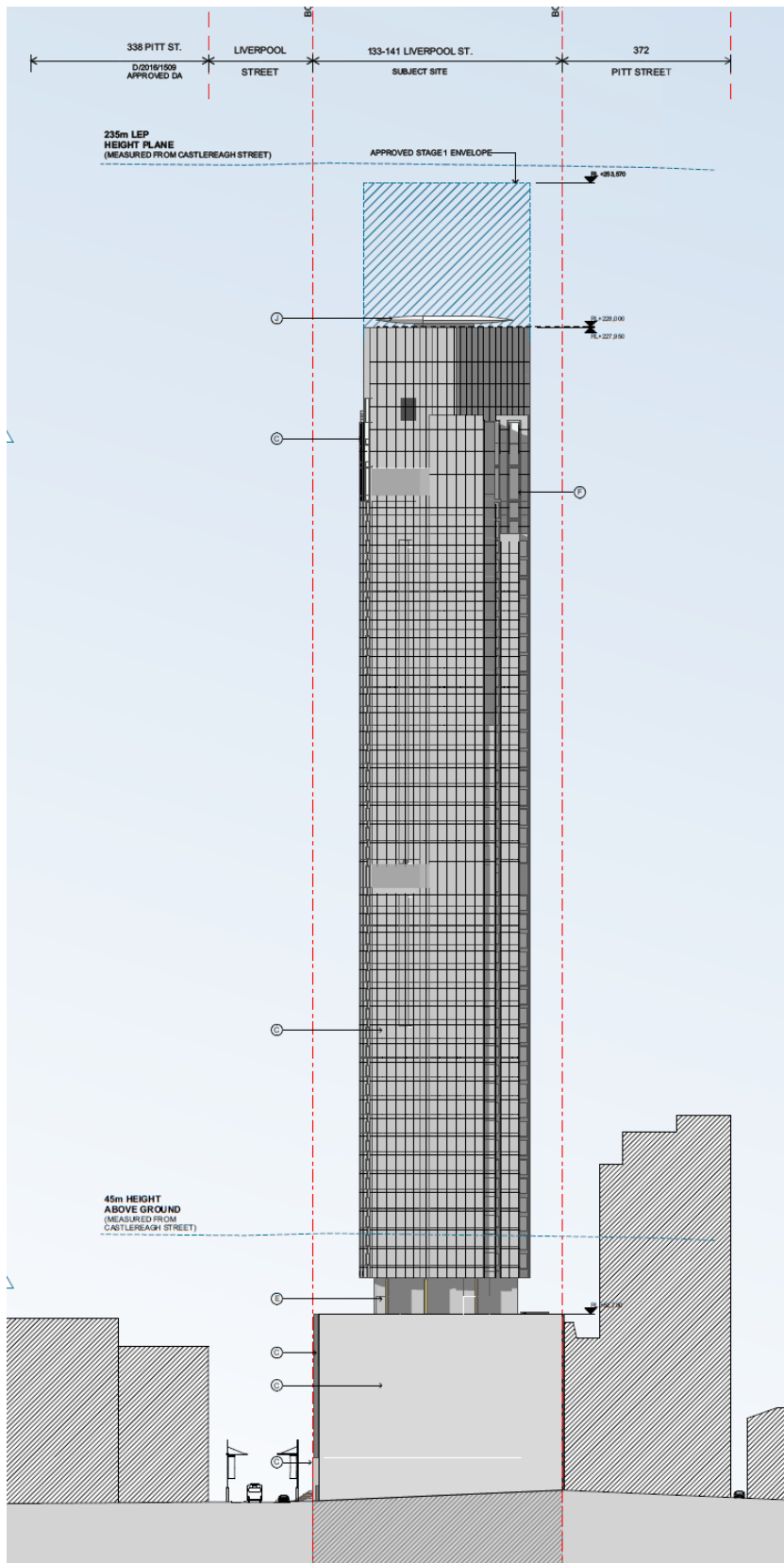


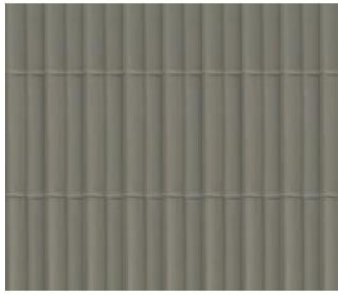
Figure 52: Proposed western elevation



A - PRECAST CONCRETE  
CANDALEPAS ASSOCIATES - QT HOTEL PERTH



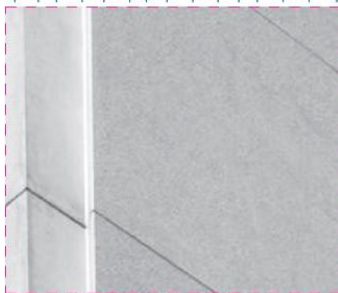
F - ALUMINIUM DOUBLE GLAZED WINDOW FRAMING  
CANDALEPAS ASSOCIATES - PORTER HOUSE HOTEL



B - CERAMIC TILE  
CANDALEPAS ASSOCIATES - PERRY PARK



G - ANODIZED ALUMINIUM TUBE LOUVRES  
CANDALEPAS ASSOCIATES - PUNCHBOWL MOSQUE



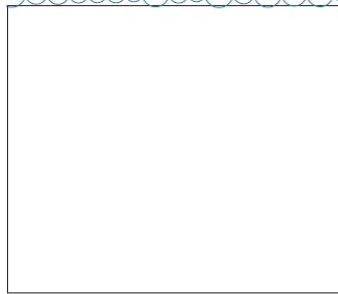
C - PRECAST & INSITU CONCRETE  
CANDALEPAS ASSOCIATES - QT HOTEL MELBOURNE



H - GRANITE  
CHARLES BRUCE DELLIT - ANZAC MEMORIAL



D - FLUTED GLASS  
NERI AND HU - RACHELS BURGER



I - NOT USED



E - OFF-FORM CONCRETE  
CANDALEPAS ASSOCIATES - PERRY PARK



J - WHITE PAINTED CONCRETE  
CANDALEPAS ASSOCIATES - BOTANY ROAD

Figure 53: Proposed materials and colour finishes

## Assessment

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

### Water Management Act 2000

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

### City of Sydney Act 1988

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

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

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

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

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

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

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

**Sydney Water Act 1994**

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

**Airports Act 1996**

48. 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.
49. On 29 June 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. The site has previous industrial and commercial use and contains two underground diesel tanks and filled materials that contain elevated levels of metals.
34. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice has been submitted with the development application.
35. The Council's Health Unit has reviewed the submitted RAP and letter of interim advice 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 State Environmental Planning Policy (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 Apartment Design Guide. 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**
    - (i) 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).
    - (ii) 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**
    - (i) The built form of the proposed development responds appropriately to the site context and is consistent with the existing and planned future built forms of the locality.
    - (ii) The proposal generally complies with the maximum height controls prescribed by the SLEP 2012 and responds satisfactorily to the surrounding emerging dense urban context.
  - (c) **Principle 3: Density**
    - (i) The proposal is compliant with the maximum floor space ratio control for the site contained within the SLEP 2012.
    - (ii) The proposed overall density of the development is consistent with that envisaged for the Central Sydney locality under the relevant planning controls and is appropriate given the emerging dense urban context of the site.



- (iii) The proposal will provide for up to 168 residential apartments, which is an appropriate level of residential density for the site, given its proximity to established and forthcoming infrastructure, public transport and community and recreation facilities.
  - (iv) The proposed density of the development does not result in unacceptable levels of amenity impact for neighbouring properties or future residents of the development.
- (d) **Principle 4: Sustainability**
  - (i) The proposed development maximises cross ventilation and solar access penetration into residential apartments to reduce artificial lighting, heating and cooling, reducing future energy consumption.
  - (ii) The proposal also incorporates passive shading devices to reduce heat gain and improve the energy performance, amenity, and longevity of the development.
  - (iii) The proposal is compliant with the requirements of BASIX, and a condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.
- (e) **Principle 5: Landscape**
  - (i) 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.
  - (ii) Landscape solutions are provided throughout the proposed development, however, with hard and soft landscaped areas located at the Level 7 podium roof and penthouse rooftop terraces.
- (f) **Principle 6: Amenity**
  - (i) The proposed development, by adopting design measures that are generally responsive to the constraints and sensitivities of surrounding developments, provides a reasonable level of amenity for the residential occupants of the development.
  - (ii) Compliance with amenity controls is detailed in the below ADG assessment table.
- (g) **Principle 7: Safety**
  - (i) The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments. There are secure and separate entrances available for the sole use of permanent residents.
  - (ii) 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**
  - (i) The proposed development provides an acceptable mix of residential apartment types to encourage housing diversity, including adaptable apartments and accessible communal facilities for both passive and active recreation.
  - (ii) There are a range of indoor and outdoor communal facilities to encourage social interaction amongst residents and the proposed development responds well to the social context of its location in Central Sydney, which is in close proximity to established infrastructure, public transport, community and recreational facilities.
- (i) **Principle 9: Aesthetics**
  - (i) The proposed development provides for a contemporary, well-modulated and articulated mixed use development, which is compatible with the existing and desired future character of the locality.
  - (ii) The detailed design of the development was the result of a competitive design process, which was awarded as the winning scheme and was considered by the selection panel to be capable of exhibiting design excellence.
  - (iii) The proposed built form, expression and composition of the new building will make a positive contribution to the visual quality of the area.

41. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (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.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Acceptable	<p>The concept envelope approved a tower depth in excess of this requirement.</p> <p>As considered at part of the concept DA stage, given the good solar access provided by the site's orientation and elevated position of dwellings providing good ventilation, the minor non-compliance in building depth for the detailed design is considered acceptable.</p>

2F Building Separation and 3F Visual Privacy	Compliance	Comment
<p>2F Building Separation</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>3F Visual Privacy</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>Residential apartments are located from Levels 9 above. Communal indoor and outdoor spaces are located within Level 6. The podium is built to the boundary however, amenity and outlook are provided on the northern and eastern elevations. No openings are provided on property boundaries.</p> <p>The proposed development has been designed in accordance with the concept building envelope.</p> <p>The approved concept envelope allows for non-compliance separation distances between the western and southern elevations of approximately 6m to the boundary.</p> <p>The windows of habitable space detailed in the proposal however, meet the objective of this control. The primary openings of the residential tower are oriented towards the east and north which are more than 12m from adjacent buildings.</p> <p>To the west and south smaller secondary openings have been recessed into the building form, such that they are set back 12m from the boundary and protected from the perpendicular boundary by building protections. While recessed, these openings will still receive sufficient amounts of light and air due to the cleft form of the building with limited mass adjacent to this area.</p> <p>While the proposal does not achieve ADG separation requirements, the proposal is consistent with the concept building envelope and provides generally acceptable visual privacy outcomes consistent with Objective 3F of the ADG.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	<p>The proposal provides a combines indoor and outdoor communal open space area at Level 6 of the building.</p> <p>Communal open space dedicated for residential use represents approximately 34% of the site area.</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).	Acceptable	<p>At mid-winter, approximately 25% of the communal open space receives an hour of direct sunlight between 9am and 3pm.</p> <p>Despite this, the proposed development meets the design guidance provided for where developments are unable to meet the minimum requirement, as follows:</p> <ul style="list-style-type: none"> <li>• It provides significant communal areas, exceeding the minimum requirement, for exclusive use by residents.</li> <li>• The majority of residential units (except 13 one-bedroom apartments) have compliant private open space areas, with upper-level apartments having balconies in excess of the requirements.</li> <li>• The site is in close proximity to Hyde Park, a large public open space area.</li> </ul>

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Acceptable	<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 site, or in centred)</li> </ul>

3E Deep Soil Zones	Compliance	Comment
		<ul style="list-style-type: none"> <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 podium rooftop and penthouse terrace areas to assist with offsetting the lack of deep soil.</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	A total of 74.4% (125 of 168) of apartments receive 2 hours or more of direct sunlight to living rooms and private open space at mid-winter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	All apartments receive direct sunlight between 9am and 3pm at mid-winter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	<p>All habitable rooms are naturally ventilated.</p> <p>Plenum systems are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity.</p>

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	75% of the 8 apartments on levels 8 & 9 are naturally cross-ventilated. Above level 10, all apartments are assumed to be naturally cross ventilated through wintergardens and horizontal plenums.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The proposal contains several cross-through apartments. Of the cross-through apartments that do exceed 18m in depth, openings are provided on a second aspect before 18m.

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7m	Yes	All residential floor to floor heights are at least 3.3m in height 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 are at least 3.3m in height 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 apartments meet or exceed the minimum internal areas required by the ADG.

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.		
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 windows in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.
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 living areas with a minimum width dimension consistent with the provisions of the ADG.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
Studio apartments are to have a minimum balcony area of 4m <sup>2</sup> with a minimum depth of 1m.	Acceptable	Winter gardens have been proposed in lieu of balconies to increase the utility of these spaces in the Central Sydney context, and to address the associated wind, discomfort and safety concerns posed by a traditional balcony in this setting.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>		<p>13 of the 168 apartments do not have a wintergarden (8%). These are 1 bed units with a high degree of amenity owing to their 9.1m of north facing facade access. The lack of wintergardens is offset by the provision of two 4.2m wide bay windows, generous ventilation, access to generous communal outdoor space, and close proximity to significant public open space. This is considered acceptable.</p> <p>The remainder of apartments have wintergardens that comply with the minimum area requirements.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p>	Yes	<p>The circulation core services a maximum of 6 apartments per level.</p>
<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	Yes	<p>168 apartments are proposed to be serviced by 5 lifts. 3 lifts serve levels 21-50 (92 apartments) and 2 lifts serve levels 8-20 (76 apartments). As such, no lift services more than 40 apartments.</p>
<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.</p>	Yes	<p>No living room or bedroom windows open directly onto circulation spaces.</p>
<p>Daylight and natural ventilation are provided to all common circulation spaces.</p>	Yes	<p>All internal circulation spaces are provided with external windows.</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>	<p>Yes</p>	<p>Each apartment accommodates a minimum of 50% of the required storage inside the apartment, with additional storage located in the basement levels.</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>	<p>Yes</p>	<p>The design groups similar uses and services together to ensure the acoustic privacy of the dwellings are maintained. This includes various facade treatments and acoustic plenums.</p> <p>The proposed plenum systems are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity.</p> <p>All apartments are capable of natural ventilation, and subject to conditions will provide for an acceptable level of acoustic amenity.</p>

**State Environmental Planning Policy (Housing) 2021**

42. The aim of SEPP Housing 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.
43. Section 7.32 of the EP&A Act and states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
44. The application of Section 7.32(1) of the EP&A Act is relevant to the subject development as:
  - (a) The SEPP Housing identifies that there is the need for affordable housing in all areas of the State; and

- (b) The proposed development is allowed only because of the initial zoning of the site, permitting commercial and residential land uses within the SP5 Metropolitan Centre zone.
45. Section 15 of the Housing SEPP states before imposing a condition under Section 7.32 of the EP&A Act, the consent authority must consider the following:
- (a) affordable housing must aim to create mixed and balanced communities,
  - (b) affordable housing must be created and managed so that a socially diverse residential population, representative of all income groups, is developed and maintained in a locality,
  - (c) affordable housing must be made available to very low, low and moderate income households, or a combination of the households,
  - (d) affordable housing must be rented to appropriately qualified tenants and at an appropriate rate of gross household income,
  - (e) land provided for affordable housing must be used for the purposes of the provision of affordable housing,
  - (f) buildings provided for affordable housing must be managed to maintain their continued use for affordable housing,
  - (g) affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the area.
46. In consideration of the above, the application of the City of Sydney Affordable Housing Program allows the payment of a monetary contribution towards the delivery of affordable housing in lieu of floor space. The Program outlines the distribution and management of monetary contributions for the purpose of the delivery of affordable housing in accordance with the criteria above.
47. The imposition of a condition requiring the payment of an affordable housing monetary contribution is consistent with the requirements of Section 7.32(3) of the EP&A Act for reasons as follows:
- (a) The condition requiring the payment of a monetary contribution is consistent with the relevant requirements of the Housing SEPP;
  - (b) Section 7.13 of the SLEP 2012 authorises the imposition of a condition requiring a contribution to affordable housing by way of floor space dedication or a monetary contribution in lieu of floor space; and
  - (c) The contribution has been imposed in accordance with the City of Sydney Affordable Housing Program which has determined the value of a monetary contribution in consideration of the extent of the need in the area for affordable housing, the scale of the proposed development and other dedications or contributions to be made for affordable housing or under Section 7.11 of the EP&A Act.
48. This matter is discussed in further detail under the heading Financial Contributions below.

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

49. A BASIX Certificate has been submitted with the development application 1305518M\_02.
50. 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**

51. 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

52. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
53. As such, the application was referred to Ausgrid for a period of 21 days and comments were received.

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

Clause 2.98 – Development adjacent to rail corridors

54. The application requires excavation adjacent to the Metro rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

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

55. The application is adjacent to the City Circle train and City and Southwest Metro rail corridor and was subsequently referred to Sydney Trains and Sydney Metro for concurrence.
56. Both authorities reviewed the application and provided concurrence, subject to conditions which are included in Attachment A.

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

57. 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 2.120 – Impact of road noise or vibration on non-road development***

58. The application was referred to TfNSW in accordance with this clause. No objection was raised, subject to conditions.

## Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

### Chapter 6 Water Catchments

59. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
60. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

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

#### Part 1 Preliminary

Provision	Compliance	Comment
1.8A Savings provisions relating to development applications	Yes	<p>The amendments made to the SLEP by the SLEP 2012 (Amendments 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.</p> <p>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/2018/1144, as amended) that was approved before the commencement of those amendments.</p>

**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, commercial premises and retail premises land 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 6.17 Sun access planes	Yes	<p>A maximum building height of 235 metres is permitted. The southern portion of the site is also designated on the height of buildings map as 'Area 3' and the maximum height for buildings on this part of the land is determined by the Belmore Park sun access plane defined in Clause 6.17 of the SLEP 2012.</p> <p>The sun access plane sets out the coordinates and horizontal bearings to ensure that sunlight access is maximised to this public park.</p> <p>The proposed development complies with the height of buildings development standard.</p>
4.4 Floor space ratio 6.3 Additional floor space in Central Sydney 6.4 Accommodation floor space 6.21D Competitive design process (design excellence)	Yes	<p>A maximum FSR of 8:1 is permitted under Clause 4.4 of the Sydney LEP 2012.</p> <p>In accordance with clauses 6.4 and 6.21D, the site is also subject to the following floor space bonuses:</p> <ul style="list-style-type: none"> <li>• 6:1 accommodation floor space bonus for residential use</li> <li>• 4.5:1 accommodation floor space bonus for office and retail uses</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>• Additional 10% the sum of the maximum permissible floor space if the building exhibits design excellence</li> </ul> <p>Accommodation floor space bonuses applicable to residential and commercial uses are apportioned to the site based on the proportion of different uses located within the building.</p> <p>Overall, the site is subject to a maximum FSR of 15.11:1.</p> <p>This enables a maximum GFA of 24,129 square metres across the site.</p> <p>An FSR of 15.11:1 or 24,129 square metres is proposed.</p> <p>The proposed development complies with the maximum FSR development standard.</p>
4.5A Balconies on certain residential flat buildings	Yes	<p>The proposal includes wind-affected balconies which have been designed as wintergardens. Wind affected balconies are identified in all proposed apartments.</p> <p>The GFA of the proposed wind-affected balconies have been excluded from the calculation of the total floor space for the purposes of applying FSR on the following basis:</p> <ul style="list-style-type: none"> <li>• the excluded balconies' GFA do not exceed 15% of the GFS 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>

**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 proximity of several heritage items of local and state significance. Of note is the Downing Centre located to the east of the site, Snow's Emporium located to the west of the site and several local heritage items located further south to the site.</p> <p>The City's Heritage Specialist has reviewed the proposal and raises no objection to the proposal, noting the proposal is not considered to have an adverse impact on surrounding heritage fabric, subject to recommended conditions of consent.</p>
5.21 Flood planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>The application proposes development at or below the flood planning level. A flood report accompanies the application demonstrating that the development is able to comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p>

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

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
<p>Subdivision 3 Heritage floor space</p> <p>6.11 Utilisation of certain additional floor space requires the allocation of heritage floor space (HFS)</p>	Yes	<p>The proposal includes 11,395 square metres of accommodation floor space and design excellence floor space, which is the total GFA above the base 8:1 FSR control.</p> <p>Clause 6.11(1)(a) and (d) of the SLEP 2012 requires that HFS is allocated to the site equal to 50% of the accommodation floor space and design excellence floor space.</p>

Provision	Compliance	Comment
		<p>Clause 6.11(2)(a) allows this amount to be reduced by up to 50%, or 1,000 square metres, whichever is lesser, if the proposed development is the winner of an architectural design competition carried out in accordance with the City of Sydney Competitive Design Policy.</p> <p>The proposal is the winning scheme of an 'invited' architectural design competition conducted in line with the City's Competitive Design Policy and is eligible for a 1,000 square metre HFS reduction.</p> <p>As such, a total of 4,693 square metres of HFS if required to be allocated to the site. A condition is recommended in Attachment A to require this HFS to be purchased and allocated to the development.</p>
Division 3 Height of buildings and overshadowing		
6.16 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> </ul>



Provision	Compliance	Comment
		<ul style="list-style-type: none"> <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>
6.18 Overshadowing of certain places	Yes	The proposal does not overshadow any of the specified public spaces under this provision.
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposal exhibits design excellence as required by Clause 6.21C(2) and is recommended to be awarded an additional 10% floor space in accordance with Clause 6.21D(3), given it is the winner of an 'invited' architectural design competition and has retained the key elements of the winning scheme.</p> <p>The amended scheme adequately addresses recommendations made by the competition jury for improvements. These recommendations are addressed in detail below under the Discussion heading.</p> <p>The proposal responds appropriately to the concept approval conditions and planning controls where required. The built form is compatible with the character of the locality and providing an appropriate relationship with the retained heritage buildings on the site and with the adjacent development.</p> <p>The proposal achieves the principles of ecologically sustainable development (ESD) and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p>

Provision	Compliance	Comment
		<p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The proposal will have a positive contribution to the public domain through the provision of a colonnade along Castlereagh Street, the retention and protection of street trees and the provision of an active frontage.</p> <p>Overall, the proposal satisfies the considerations in Clause 6.21C(2) of the SLEP 2012 and the development is considered to exhibit design excellence.</p>

#### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
<p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.6 Office premises and business premises</p> <p>7.7 Retail premises</p>	Yes	<p>A maximum of 129 car parking spaces are permitted (123 residential, 6 commercial and 1 retail space). This maximum is exclusive of any parking space to be used for car share or servicing of the site.</p> <p>The proposed development includes 129 car parking spaces and complies with the relevant allocation for each proposed use.</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 below under the Financial Contributions heading.</p>

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on class 5 land. An Acid Sulfate Soils assessment report was submitted with the amended application and found the following:</p> <ul style="list-style-type: none"> <li>• The site is situated within an elevated (&gt;10m AHD) landscape, perched on Hawkesbury Sandstone;</li> <li>• The typical soil profile is a layer of gravel filling (to depths of up to 0.6m below ground level)</li> <li>• The site demonstrated none of the field indicators of AASS and/or PASS listed in the ASSMAC (1998) Acid Sulfate Soils manual;</li> <li>• According to the corresponding Acid Sulfate Soils risk and class maps, the subject site lies within an area having "no known occurrence" and is Class;</li> <li>• The site displaying none of the geomorphic features characteristic of Acid Sulfate Soils; and</li> <li>• The water table is unlikely to be lowered below 1m AHD on nearby Class 1, 2, 3 or 4 land.</li> </ul> <p>The report concluded that the potential for Acid Sulfate Soils to be present on the site was low and no further assessment or the preparation of management plans was considered unwarranted.</p> <p>The assessment report was reviewed by Council's Health and Building team who supported the findings of the assessment.</p>

Provision	Compliance	Comment
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received subject to conditions of consent.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>While the proposal includes demolition of the existing building, the proposal also includes construction of a new building under the same application.</p> <p>Council officers are therefore satisfied that the site will be comprehensively redeveloped under the consent.</p> <p>Further, development application D/2022/488 has been lodged for the demolition of the existing building. This application will not be determined until the determination of the detailed design development application to satisfy the requirements of the SLEP 2012.</p>
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/2018/1144 as amended).</p>
7.26 Public art	Yes	<p>The proposal includes public art which will be integrated with the detailed design of the development.</p>

Provision	Compliance	Comment
		A Public Art Strategy was approved with the concept development consent and a condition of consent requiring the submission of a detailed public art plan is recommended.

## Development Control Plans

### Sydney Development Control Plan 2012

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

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed public domain works makes a positive contribution to the public domain and maintains pedestrian and cyclists' safety to and around the site.
3.1.5 Public Art	Yes	<p>Public art is also proposed to be incorporated in the detailed design of the building.</p> <p>The approved public art strategy forming part of the concept approval indicated a series of potential locations and artwork forms to be located throughout the site including under publicly accessible soffits, integrated into glass facades and curated video programs.</p> <p>A condition of consent is recommended requiring the submission of a detailed public art plan prepared in accordance with the City of Sydney Guidelines for Public Art in Private Development and the Public Art Policy for approval prior to the commencement of works.</p>

Provision	Compliance	Comment
3.2. Defining the Public Domain		
<p>3.2.1 Improving the public domain</p> <p>3.2.2 Addressing the street and public domain</p>	Yes	<p>The proposal satisfactorily addresses the public domain, given that it:</p> <ul style="list-style-type: none"> <li>• Minimises the overshadowing effects of the new building on public places;</li> <li>• Will not result in unacceptable adverse wind impacts within the public domain;</li> <li>• Does not impede on any significant views from the public domain to any public place, parks, heritage buildings or monuments;</li> <li>• Incorporates high quality materials and finishes in publicly accessible locations; and</li> <li>• Provides multiple pedestrian points of entry into the development and points of visual interest along Liverpool Street and Castlereagh Street.</li> </ul> <p>Subject to conditions recommended by the City's Public Domain Unit, the proposed development will be designed to appropriately interface and integrate with the public domain.</p>
3.2.3 Active frontages	Yes	<p>The site's Liverpool 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 frontage to Castlereagh Street is nominated as a Category 2 active frontage. In accordance with the control, over 70% of the frontage is provided as an active frontage and locates entries to residential and commercial lobbies and retail tenancies at suitable locations.</p> <p>The proposal also provides appropriate weather protection along Castlereagh Street with the retention of a colonnade.</p>

Provision	Compliance	Comment
3.2.5 Colonnades	Yes	<p>The SDCP 2012 requires the provision of colonnades along the Liverpool Street and Castlereagh Street frontages of the site.</p> <p>A colonnade has been provided along the Castlereagh Street frontage and is considered appropriate. It continues the existing colonnade along the majority of the Castlereagh Street block and provides a high level of visual and physical access to building entries and shopfronts.</p> <p>The provision of a colonnade along the Liverpool Street frontage however, is not considered appropriate as it does not provide a continued colonnade along the street and ends at the heritage item adjacent to the site to the west.</p> <p>Extending the building line to the property boundary is acceptable in this instance as it increases activity along the street whilst maintaining an appropriate level of pedestrian amenity.</p> <p>The existing footpath widths are suitable for the level of pedestrian traffic experienced along the street and the existing street trees provide a suitable level of shading and cover.</p>
3.2.6 Wind effects	Yes	<p>The application was accompanied by a wind report confirming that the proposed development will not have an adverse impact on public safety and comfort at ground level in regard to wind.</p> <p>The proposal satisfies the requirements of this provision.</p>
3.2.7 Reflectivity	Yes	<p>A condition in Attachment A is to ensure that light reflectivity from the building facades in the proposed development does not exceed 20%.</p>

Provision	Compliance	Comment
3.2.8 External lighting	Yes	<p>No external lighting is detailed as part of the proposed development beyond generalised references in the application documentation.</p> <p>A condition is recommended in Attachment A to require the lodgement of a separate application for external illumination of the building and/or site landscaping.</p>
3.3 Design Excellence and Competitive Design Processes		
3.3.1 Competitive design process	Yes	<p>As noted above under the History Relevant to the Development Application heading, the proposed development has been subject to an architectural design competition and is consistent with the winning scheme by Candalepas Architects.</p> <p>The competition was carried out prior to the lodgement of the subject application, in accordance with the City of Sydney Competitive Design Policy and a Design Excellence Strategy.</p>
<p>3.3.3 Award for design excellence</p> <p>3.3.5 Awarding additional floor space</p>	Yes	<p>In accordance with Clause 6.21D of the Sydney LEP 2012, the proposal seeks an additional 10% floor space on the basis that design excellence has been achieved through a competitive design process.</p> <p>The proposal has addressed the recommendations made by the competition jury and, as a consequence of the architectural design competition, the amended development is considered to be a "building demonstrating design excellence".</p> <p>As such, it is recommended to be awarded up to an additional 10% floor space.</p>



Provision	Compliance	Comment
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p> <p>Appropriate conditions relating to the protection of adjacent street trees are recommended by the City's Tree Management Officer and included in Attachment A.</p>
3.6 Ecologically Sustainable Development	Yes	<p>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> <p>The development also seeks to achieve a minimum 5.5 star rating on operation under the NABERS energy scheme for commercial office uses.</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 ESH commitments are carried through to the certification and construction phases.</p>
3.7 Water and Flood Management	Yes	<p>The site is identified as being on flood prone land.</p> <p>A flood assessment report was submitted with the amended application and was reviewed by Council's Public Domain Unit. The report advises the proposed development was assessed against the flood model obtained from the City and floor levels have been set in accordance with the City's Interim Flood Management Policy and are consistent with the requirements of this provision.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposed development involves subdivision of the site into three stratum lots.</p>

Provision	Compliance	Comment
		The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to condition of consent.
3.9 Heritage	Yes	<p>Although the site does not contain any heritage items, it is located within close proximity of several heritage items of local and state significance.</p> <p>The proposed development is not considered to have an adverse visual impact on surrounding heritage items and is generally in keeping with the historic built character of the locality.</p> <p>The proposed development is within the vicinity of heritage items of both local and state significance as listed in the SLEP 2012. The proposal involves the excavation of the site to provide eight levels of basement parking and service space. A Geotechnical Report submitted with the application concludes that the proposed development is suitable from a geotechnical perspective.</p>
3.11 Transport and Parking		
3.11.1 Managing transport demand	Yes	<p>The proposal comprises a mixed-use development including a non-residential development exceeding 1,000 square metres of GFA and includes more than 25 dwellings. As such, it generates a requirement for a Transport Impact Study, Green Travel Plan and Transport Access Guide under the relevant provisions of Section 3.11.1 of the Sydney DCP 2012.</p> <p>A Transport Impact Assessment report has been submitted with the application in accordance with these requirements, which has been reviewed by Transport for New South Wales and the City's Access and Transport Unit.</p>

Provision	Compliance	Comment
		<p>The latter has advised that it is acceptable with regard to the controls in Section 3.11.1 of the Sydney DCP 2012.</p> <p>Conditions are recommended in Attachment A to ensure the development of a Transport Access Guide for the development.</p>
3.11.2 Car share scheme parking spaces	Yes	The proposal includes the provision of 2 car share vehicle spaces located within basement level 2 and is consistent with the requirements of this provision, subject to conditions.
3.11.3 Bike parking and associated facilities	Yes	<p>The SDCP 2012 requires a minimum total of 227 bicycle parking spaces including 185 for residents and residential visitors and 42 for commercial and retail staff and visitors.</p> <p>The proposed development provides the following facilities:</p> <ul style="list-style-type: none"> <li>• 185 residential bicycle spaces located within individual storage cases throughout basement levels</li> <li>• 28 commercial office and retail staff bicycle parking spaces located at basement level 1</li> <li>• 32 visitor bicycle parking spaces for residential, commercial and retail visitors located at basement level 1</li> <li>• 5 showers</li> <li>• 36 personal lockers</li> </ul> <p>Commercial office end of journey facilities are located on 1 to 4 within the commercial floors and satisfactorily meets the requirements of this provision.</p> <p>A condition is recommended in Attachment A to ensure compliance with the minimum requirements as set out above.</p>

Provision	Compliance	Comment
3.11.6 Service vehicle parking	No	<p>The provision at Section 3.11.6(1) of the SDCP 2012 requires service vehicle parking to be provided in accordance with the requirements set out in Schedule 7.</p> <p>Schedule 7.8.1(1) of the SDCP 2012 requires the provision of at least 6 service vehicle spaces for the residential, retail and commercial offices uses within the site.</p> <p>The application seeks consent for 4 service vehicle spaces and is not consistent with the requirements of this provision.</p> <p>Providing adequate service vehicle parking spaces on site allows reduces the reliance on on-street parking which is not available within close proximity of the site.</p> <p>The application was accompanied by a traffic impact statement which was found acceptable by Council's City Access and Transport Unit. A reduced amount of service vehicle spaces is considered acceptable and consistent with the objectives of this section of the SDCP 2012 subject to the preparation of a loading and servicing management plan, including details regarding how service vehicle spaces will be managed and scheduling systems.</p> <p>Subject to the conditions recommended in Attachment A requiring the submission of plans to confirm the location of parking spaces within the site and the further development of a loading and servicing management plan, the proposed service vehicle parking provision is acceptable.</p>
3.11.7 Motorbike parking	Yes	The application proposes 20 motorbike parking spaces for resident and commercial use.

Provision	Compliance	Comment
3.11.9 Accessible parking	Yes	26 car spaces are allocated as accessible spaces and is consistent with the requirements of this provision.
3.11.10 Vehicle access for development greater than 1000sqm GFA	Yes	Vehicle access to the site is provided at the south-eastern corner of the site from Castlereagh Street and satisfies the requirements of this provision.
3.11.11 Vehicle access and footpaths	Yes	<p>The proposed driveway location along Castlereagh Street is designed to minimise impacts on pedestrian movements and amenity.</p> <p>Conditions are recommended in Attachment A requiring the preparation of a detailed loading and servicing management plan that will outline access arrangements for delivery vehicles, garbage collection, resident/tenant move in/move out arrangements to prevent disruption to public streets and pedestrian movements.</p>
3.11.13 Design and location of waste collection points and loading areas	Yes	<p>Proposed waste storage and collection points are appropriately located close to the loading area at the ground level.</p> <p>Suitable access is provided for collection vehicles and the proposal is suitable, subject to compliance with an approved Operational Waste Management Plan.</p>
3.11.14 Parking area design	Yes	Conditions are recommended in Attachment A to require all loading to be carried out on site, parking design in accordance with Australian Standard AS 2890.1, and a parking, loading and servicing management plan to be developed.
3.12 Accessible Design	Yes	The building has been designed to provide accessible entry into retail uses at the ground floor, to residential lobbies and throughout the commercial lobby and office areas.

Provision	Compliance	Comment
		<p>The proposal also includes 26 adaptable apartments (which equates to 15% of the total number of apartments).</p> <p>The proposed development meets the requirements of this provision.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The safety and security of the public domain is enhanced by the proposed increase in activity within the site and casual surveillance of the surrounding streets from the development.</p> <p>The proposal provides separate and secure entrances to the different building uses, adequate passive surveillance and a range of other security measures.</p>
3.14 Waste	Partial compliance	<p>The development includes waste chutes serving each floor and waste rooms and bulky storage areas within the basement. The proposal also includes the provision for on-site waste collection by Council waste vehicles.</p> <p>A range of waste management conditions are recommended in Attachment A to ensure waste is managed on the site in accordance with Section 3.14 of the Sydney DCP 2012. Conditions also require the submission of an amended Waste Management Plan and Loading Dock Management Plan to ensure waste collection is appropriately managed by on-site building staff.</p>
3.16 Signage and Advertising	Yes	<p>No signage is proposed.</p> <p>A signage strategy condition is recommended to manage future signage locations.</p>
3.17 Contamination	Yes	<p>A Detailed Site Investigation has been prepared and submitted with the application that concludes that the Site may comprise contaminated soils.</p>

Provision	Compliance	Comment
		<p>Further, the application was accompanied by a Remediation Action Plan (RAP), describing appropriate remediation works needing to be carried out during excavation.</p> <p>Interim Audit Advice has also been provided with the application and confirms that the processes described in the RAP should be followed to ensure that the Site will be made suitable for the proposed use.</p> <p>Council's Environmental Health Unit have reviewed the submitted documentation and note that the recommendations are suitable and have recommended conditions provided in Attachment A requiring compliance with such recommendations.</p>

## Section 4 – Development Types

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

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>The proposed development achieves the minimum floor to floor height of 4.9m at ground level and 4m on commercial levels 1 to 4.</p> <p>A 4.5m floor to floor height is provided within the basement however, no active uses are contained on this level. Basement uses are restricted to plant, services, waste storage and bicycle parking.</p>
4.2.2 Building setbacks	Yes	<p>The proposed development has been designed in accordance with the concept building envelope, as proposed to be modified by D/2018/1144 (as amended), which has established the appropriate building setbacks.</p>

Provision	Compliance	Comment
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposal is not considered to cause an unacceptable overshadowing impact on surrounding developments or the public domain.
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.
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>The SDCP requires the following dwelling mix:</p> <ul style="list-style-type: none"> <li>• Studio: 5-10%</li> <li>• One-bedroom: 10-30%</li> </ul>



Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>• Two-bedroom: 40-75%</li> <li>• Three+ bedroom: 10-100%</li> </ul> <p>The proposed dwelling mix is compliant with the SDCP 2012 and provides the following mix:</p> <ul style="list-style-type: none"> <li>• 21% (35) one-bedroom apartments</li> <li>• 41% (69) two-bedroom apartments</li> <li>• 38% (64) three and four-bedroom apartments</li> </ul>
4.2.3.13 Wind affected balconies	Yes	The proposed wintergardens are designed in accordance with these provisions. The balconies are inset into the façade of the tower and do not allow for significant crossflow over the balcony spaces.
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 retail, commercial office and residential lobby entries along Castlereagh Street and a retail shopfront along Liverpool Street.</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 residential uses through openings and private open spaces while maintaining privacy for occupants.</p>
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Provision	Compliance	Comment
		Conditions are also recommended ensuring the development complies with an approved demolition, excavation and operational waste management plan.
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 letterboxes are provided within the lobby of the building and a condition has been recommended to ensure that they are installed with non-master key locks for security.

### Section 5 – Specific Areas

63. The Concept (Stage 1) development consent (D/2018/1144) was approved prior to the adoption of the current objectives and provisions in Section 5.1 of the SDCP 2012.
64. 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.
65. 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.
66. 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.
67. 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
5.1 Central Sydney		
<p>5.1.1 Built form controls</p> <p>5.1.1.1 Street frontage height and street setbacks</p>	Assessed as acceptable	<p>The proposed podium is contained wholly within the building envelope as approved in the concept consent D/2018/1144 (as amended).</p> <p>The SDCP 2012 requires a street frontage height of between 20-25m provided to all street, with a minimum street setback of 8m above the street frontage height.</p> <p>The proposal includes a podium height ranging from 31 metres to 33 metres, consistent with the approved concept envelope.</p> <p>The proposed podium design satisfies section 5.1.1.1(2) of the SDCP 2012 in that the floors of the podium between the recommended street frontage heights and 45m are used for commercial premises, the building contains more than 40% of residential uses and the scale and height of the podium are compatible with the context.</p> <p>The approved concept application proposed setbacks for the Liverpool Street elevation of the tower component of the building which were consistent with the minimum weighted average of 8m above the required street frontage height specified in the previous iteration of the SDCP 2012. On Castlereagh Street, the concept design provided a 6m setback to the street alignment.</p> <p>A varied setback to the Liverpool Street site alignment of the tower is now proposed with most of the elevation being setback at least 8m and a small element (i.e. 6.9m wide or 28% of overall length of the facade) at the north-eastern corner protruding by a maximum of 2.3m beyond the required setback.</p>

Provision	Compliance	Comment
		<p>This proposed minor variation has been assessed under the updated DCP provisions and considered to be justified given it relates to a small portion of the elevation which will have negligible visual impact on any views of the subject building from the surrounding public domain and result in no negative environmental effects.</p> <p>On Castlereagh Street the current proposal provides an increased tower setback of 6.15m which does not meet the new numerical DCP setback requirement but represent an improvement from the one approved under the concept.</p>
5.1.1.3 Side and rear setbacks and building form separations	Assessed as acceptable	<p>The SDCP 2012 requires 7m side and rear setbacks to the tower above the podium.</p> <p>The existing concept approval provides 6m side and rear setbacks and the proposed detailed design maintains this 6m setback.</p> <p>Considering this departure from the requirement, the impact of the proposal on wind conditions in the public domain has been considered.</p> <p>The application was accompanied by a wind report confirming the proposed built form will have a negligible impact on wind conditions around the site and will not significantly impact pedestrian comfort.</p> <p>As such, the 1m departure is considered acceptable.</p>
5.1.1.4 Built form massing, tapering and maximum dimensions	Assessed as acceptable	<p>The proposed tower meets the requirements of this provision in relation to horizontal dimension (&lt;50 metres).</p> <p>The tower form, however, does not meet the building envelope area requirement for the tower form over 120 metres.</p>

Provision	Compliance	Comment
		<p>The proposed design is generally consistent with the building envelope as approved under the concept consent. Further, 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 and is considered acceptable.</p>
5.1.2 Development outlook and demonstrating amenity compliance	Yes	<p>The proposed tower development is designed to reduce the impact of additional overshadowing on surrounding public domain areas.</p> <p>Further, the proposed tower does not rely on neighbouring properties for access to view and light and is consistent with the requirements of this provision.</p> <p>All residential windows and balconies are provided with a high level of unobstructed outlook.</p>
5.1.3 Heritage items, warehouses and special character areas	Yes	<p>Refer to discussion in response to clause 5.10 of the SLEP 2012 in relation to heritage conservation.</p>
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	<p>As discussion in Section 6.11 of the SLEP 2012 table above, a condition is recommended requiring the allocation of heritage floor space.</p>

Provision	Compliance	Comment
5.1.7 Sun protection of public parks and places	Yes	<p>The Belmore Park Sun Access Plane extends to the southern portion of 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 250m - 280m for the site in order to maintain the required solar access.</p> <p>The site has a maximum height of RL 228m 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 proposal will not affect views to any significant spaces from the public domain and is consistent with the requirements of this provision.
5.1.9 Managing wind impacts	Yes	The application was accompanied by a wind report confirming that the proposed development will not have an adverse impact on public safety and comfort at ground level in regard to wind.

## Discussion

### Consistency with Concept (Stage 1) Approval

68. On 13 February 2020, the concept (Stage 1) development consent (D/2018/1144) was granted by the CSPC for a building envelope 234m in height containing indicative residential uses in the tower and commercial uses in the podium.
69. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, any subsequent Stage 2 (detailed design) development determination cannot be inconsistent with the Stage 1 consent.
70. To facilitate the amended building envelopes, the concept development consent D/2018/1144 must be amended, prior to the determination of this development application. Subject to the approval of the modification concurrently sought under D/2018/1144/A, the proposed detailed design sought under the subject application is consistent with the concept consent.
71. The concept development consent included a number of conditions. An assessment of compliance with these conditions, which specifically required detailed to be addressed as part of the stage 2 application is provided in the table below.

No	Condition	Assessment
2	Design modifications	<p>The design modification condition required the envelope to be amended to include a tower setback from Liverpool Street to have a weighted average setback of 8m.</p> <p>The modification sought under D/2018/1144/A seeks to amend the setback as a result from design development in the winning scheme from the design competition. The condition is recommended to be removed in the concurrent modification application to reflect amended building envelope drawings, thus confirming compliance of the detailed design with the approved envelope.</p>
3	Matters not approved at stage 1	Complies. The subject detailed design application seeks consent for the identified items that were not approved with the concept application.
4	Building height	Complies. The detailed design application does not exceed the sun access plan for Belmore Park 1A established by Clause 6.17 of the SLEP 2012.
6	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.
7	Stage 2 Development application to comply with relevant planning controls	The detailed design application has been assessed against the relevant planning controls applicable to the site. As detailed in this report, the proposal is found to be generally compliant with the objectives and provisions of the relevant controls. Where non-compliances have occurred, appropriate justification is provided or strict compliance has been deemed unnecessary.
8	Sydney Metro authority condition	Complies. The application has been referred to Sydney Metro. Concurrence was granted, subject to conditions.
9	Sydney Trains condition	Complies. The application has been referred to Sydney Trains. Concurrence was granted, subject to conditions.
10	Airports (Protection of Airspace) Regulations 1996 condition	Complies. The application has been referred to Sydney Airport who raise no objection to the development, subject to conditions.

No	Condition	Assessment
11 and 12	Detailed Environmental Site Investigation and Remedial Action Plan	The detailed design application was accompanied by the relevant documentation to ensure remediation of the site will be made suitable for the proposed uses. The submitted DESI and RAP have been found to be acceptable by Council's Environmental Health Unit, subject to conditions.
13	Hazardous Materials Survey required	Complies. The detailed design application was accompanied by a Hazardous Materials Report.
14 and 15	Service vehicle access and service vehicle size limit	A swept path analysis was submitted with the detailed design application. The proposed loading area design has been deemed appropriate for access for service vehicles by Council's Transport and Access Unit.
16	Car share spaces	Complies. The application proposes car share spaces to be located within the basement levels. The proposal is consistent with the concept, subject to conditions relating to use and management.
17	Bicycle parking and end of trip 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.
18	Transport Impact Study	Complies. The application was accompanied by an amended Transport Impact Study and was deemed acceptable by Council's Transport and Access Unit.

### Competitive Design Process Panel Recommendations

72. As discussed in the 'History Relevant to the Development Application' section above, 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.
73. 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
<p>Ground Plane</p> <ul style="list-style-type: none"> <li>• Foyer entries need to be design developed. Their treatment of the street interface should seek to incorporate some of the depth and interest created on the Liverpool St retail facades.</li> <li>• Lift lobbies require further design development to improve natural light – further design development of the proposed light shafts is recommended.</li> </ul>	<p>The ground floor arrangement has been designed to maximise activation and pedestrian amenity.</p> <p>The retail glazing line has been extended to the property boundary to Liverpool Street to increase visual interest while commercial and residential lobbies have been relocated and concentrated to the secondary frontage of Castlereagh Street. Both lobbies are provided with appropriate natural light.</p>
<p>Podium</p> <ul style="list-style-type: none"> <li>• Improved access to natural light to the commercial floorplates. The amount of deep-plan windowless area is not supported.</li> </ul>	<p>Commercial floors are provided with appropriate levels of natural light and comply with the maximum floor plate sizes as required by the SDCP 2012.</p>
<p>Residential Amenity</p> <ul style="list-style-type: none"> <li>• Planning of apartments requires further resolution including the two-bedroom apartments on south and west to improve the extent of glazing to bedrooms and resolve restricted entries.</li> <li>• Increase the number of cross ventilated apartments.</li> <li>• Widen foyer entries.</li> <li>• Provide technical and compliance confirmation that appropriate cross ventilation is achieved with the plenums.</li> <li>• Provide technical confirmation that heat pumps every 5th storey will not impact neighbours.</li> <li>• Provide quality natural light and ventilation to the residential lift lobbies.</li> </ul>	<p>The residential apartment design has been assessed against SEPP 65 and the requirements of the ADG and SDCP 2012.</p> <p>The detailed design of the proposed residential apartments is considered to provide acceptable amenity in regard to cross-ventilation and access to light and air.</p> <p>All residential lift lobbies have been designed to be provided with natural light.</p> <p>Technical documents provided with the detailed design application in regard to light and ventilation are deemed acceptable, subject to further detail and confirmation of plenum design and acoustic compliance recommended as conditions of consent.</p>

Selection panel recommendation	Response
<ul style="list-style-type: none"> <li>Provide confirmation of the viability of the landscape planting on the south west corner of levels 36 to 51.</li> </ul>	
<p>Tower</p> <ul style="list-style-type: none"> <li>The north-west and south-east facades need significant development to ensure high quality finish and appearance as part of the cityscape (additional to any public art proposal). There is a high likelihood that these facades will remain visible in the long term.</li> <li>The roof elements; landscaping, enclosed pool and stair access need resolution with regard to environmental comfort and consider further the ease of access for the occupants of Level 50.</li> </ul>	<p>The detailed design of the north-west and south-east boundaries are considered to be of a high-quality design and finish. The elevations provide depth and interest with recessed windows and high-quality materials.</p> <p>The design of the rooftop terraces for the level 50 residence is provided with appropriate protection from sun and wind. The proposed pool has been removed, instead being replaced with landscaping and covered seating and dining areas. Environmental comfort is considered to be achieved with this arrangement.</p>

74. Overall, it is considered that the detailed design responds to the key recommendations made by the selection panel and retains to the design integrity and key aspects of the winning scheme. The proposal is considered to satisfy 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

75. The proposal was considered by the City's Design Advisory Panel (DAP) on 27 October 2022.
76. The table below provides a response to the comments made by the Panel regarding the proposal.

Panel recommendation	Response
<p>The Panel noted that the proposal does not comply with FSR controls. The Panel recommended advising the proponent to be GFA compliant.</p>	<p>During the assessment of the application, GFA was recalculated with savings found on commercial levels and apartment re-planning and alteration to the size of the wintergardens. The amended scheme is FSR compliant.</p>

Panel recommendation	Response
<p>The Panel recommends that the City ensure there has been appropriate responses to the competition jury comments, and in particular the extent of windowless deep plan space in the podium, and compliance with minimum bedroom sizes.</p>	<p>See comments above regarding the design response to competition jury recommendations.</p>
<p>The Panel does not support the creation of a colonnade to Castlereagh St, concluding the colonnade would not make a positive contribution to the street. It did recognise the need however of a splayed (or indented) corner at the intersection of Liverpool and Castlereagh streets for cyclist visibility.</p>	<p>This advice is not concurred with by City staff, and the amended design includes a colonnade on Castlereagh Street. The intent of the colonnade is to increase pedestrian safety and amenity.</p> <p>The depth of the colonnade provides suitable activation of the Castlereagh Street frontage while allowing an extended footpath width to support the level of pedestrian traffic and maintain safety for pedestrians, cyclists and vehicles.</p>
<p>The Panel acknowledged that the north-east tower corner popping out provided some built form articulation and interest.</p>	<p>Noted. The concept approval seeks consent to modify the building envelope to facilitate the architectural design feature.</p>
<p>Reduction in GFA should be found elsewhere.</p>	<p>As detailed above, the GFA has been recalculated as a result of design amendments and in its amended form, the proposal complies with the permitted FSR.</p>
<p>The slot providing light amenity to the tower lobby is not fit for purpose. While it technically meets ADG requirements, it does not meet the design intent of getting light and natural ventilation into lobbies. Given that the lobby is only 2m wide, a 2m window at the southern end of the lobby would provide improved amenity and make the lobby feel more generous.</p>	<p>Noted. Due to the planning of the residential apartments to maximise residential amenity through sunlight access and cross-ventilation, the increase in natural light and ventilation in lift lobbies is not deemed necessary.</p> <p>The proposed lobby design is consistent with the objectives of the ADG and is supported, noting that natural light is provided to the common lobbies via a window on the western elevation of each residential floor.</p>

Panel recommendation	Response
<p>The Panel did not support the proposed pink colour or the gold paint. Greater respect should be afforded to the Mark Foys building. The designers should look to the Mark Foys building for inspiration for material colours and textures.</p>	<p>Further design development confirms the proposed colour finish seeks to reference the finish of the ANZAC memorial in Hyde Park. This reference and design direction is supported, subject to further resolution and the submission of physical samples post consent via conditions.</p> <p>Further, the proposed colour finish is not considered to compete or detract from surrounding heritage items.</p>
<p>The Panel was concerned with amenity to south facing bedroom tower windows. Clarification is required as to whether those windows are openable or not.</p>	<p>Confirmation has been provided that windows in habitable rooms are operable.</p> <p>A condition of consent is recommended requiring the submission of a window schedule confirming the operability of windows in habitable rooms.</p>
<p>The Castlereagh St footpath is tight. The panel recommended removal of the low level planting strip but retention of street trees.</p>	<p>The application was discussed with Council's Road Safety Officer who noted the planting along Castlereagh Street is in place for pedestrian and cyclist safety. The busy intersection was previously accident prone and the introduction of the low level planting strip has reduced the frequency of collisions.</p> <p>Whilst the amended design has not altered the width of the Castlereagh Street footpath, the proposal has been amended to incorporate the colonnade which improves the spatial quality and pedestrian experience.</p>
<p>It would be good to have a model of retail at ground to better understand street interface conditions with the proposed angled columns.</p>	<p>An acceptable level of detail has been provided. The shopfront design is considered to provide an acceptable level of activation and visual interest.</p>

## Consultation

### Internal Referrals

77. The application was discussed with Council's;
- (a) Design Advisory Panel (DAP);
  - (b) City Access and Transport Unit;

- (c) Cleansing and Waste Unit;
  - (d) Environmental Project Team;
  - (e) Health and Building Unit;
  - (f) Heritage and Urban Design Team;
  - (g) Landscape Assessment Officer;
  - (h) Model Team;
  - (i) Public Art Team;
  - (j) Public Domain Team;
  - (k) Specialist Surveyor; and
  - (l) Urban Forest Team
78. These panels, units and teams' officers generally advised that the proposal is acceptable, subject to conditions.
79. Where appropriate, these conditions have been included in Attachment A. Comments provided by the DAP have been addressed elsewhere in this report.
80. Where concerns were raised with the proposed development, these matters are either addressed in the table sections provided throughout the body of this assessment report or outlined in detail under the Discussion heading above.

## **External Referrals**

### **Ausgrid**

81. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
82. A response was received on 1 July 2022 raising no objections to the proposed development subject to recommended conditions.

### **Sydney Airport**

83. 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.
84. 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 above existing ground level.
85. 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).

86. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, responded on 29 June 2022 and notified the referral of the controlled activity to the Secretary of the Department of Infrastructure Transport, Cities and Regional Development under Regulation 11(2) of the Airports (Protection of Airspace) Regulations 1996.
87. The Secretary's Delegate of the Department provided approval for the controlled activity on 26 July 2022 subject to conditions.
88. One condition of consent granted limits the height of the building to RL 228.00m AHD. Amended plans submitted for consideration has increased the overall height of the building to RL 230.00m AHD. This height is compliant with the relevant development standard for building height in the SLEP 2012 and the approved height of the concept envelope, is not consistent with the concurrence conditions of consent granted by the Department of Infrastructure Transport, Cities and Regional Development. In order to ensure consistency, a condition of consent is recommended requiring the maximum height of the building to not exceed RL 228.00m AHD and any structures above this height be removed and reflected in amended plans to be submitted and approved prior to the issue of a Construction Certificate. It should be noted that this does not impact on the habitable floors and is limited to the height of the roof top plant equipment.

### **Transport for NSW**

89. Pursuant to Section 2.120 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
90. Comments were received on 29 June 2022. Conditions of consent were recommended which are included in the Notice of Determination.

### **Water NSW**

91. Pursuant to Section 90(2) of the Water Management Act 2000, the application was referred to Water NSW for concurrence.
92. Copies of public submissions made to the City of Sydney during the notification period were forwarded to Water NSW on 20 March 2023.
93. General Terms of Approval were issued by Water NSW on 13 March 2023 and have been included in the schedules within the recommended conditions of consent.

### **Sydney Trains**

94. Pursuant to Section 2.98(4) of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.
95. Concurrence was received on 31 March 2023. Conditions of consent were recommended which are included in the Notice of Determination.

### **Sydney Metro**

96. Pursuant to Section 2.100(4) of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.
97. Concurrence was received on 11 July 2023. Conditions of consent were recommended which are included in the Notice of Determination.

## Advertising and Notification

98. In accordance with the City of Sydney Community engagement strategy and participation plan 2022, the proposed development was notified for a period of 29 days between 7 June 2022 and 6 July 2022, with one submission received. Following the submission of amended plans on 14 December 2022, the application was renotified for 29 days between 6 February 2023 and 7 March 2023, with one further submission being received. A total of 1247 properties were notified.

99. The submissions raised the following issues:

- (a) **Issue:** The extent of excavation is likely to cause foundational damage to surrounding buildings

**Response:** The application was accompanied by a geotechnical report that confirms the extent of excavation is unlikely to have an adverse impact on surrounding developments. The application was also reviewed by Sydney Trains and Sydney Metro who confirmed, subject to conditions, the extent of excavation works are unlikely to impact on existing and planned rail networks.

Conditions of consent are recommended to ensure surrounding developments are protected during demolition, excavation and construction works, including the preparation of detailed dilapidation reports.

- (b) **Issue:** The amenity of neighbouring developments will be impacted by noise, vibration and traffic impacts during demolition, excavation and construction.

**Response:** The mitigation of construction impacts are managed by several conditions of consent. These conditions include, but are not limited to, the preparation of and compliance with the following:

- (i) Construction Environmental Management Plan
- (ii) Demolition, Excavation and Construction Noise and Vibration Management Plan
- (iii) Construction Pedestrian Traffic Management Plan
- (iv) Excavation and Demolition Work Method Statement consistent with relevant SafeWork NSW requirements
- (v) Erosion and Sediment Control Plan

In addition, conditions of consent are recommended to protect the amenity of surrounding uses. The development is required to construct hoardings in accordance with Council standards to mitigate visual impacts and are required to comply with standard hours of work and noise. These hours are in place to ensure appropriate respite periods are enforced and are to manage noise impacts to existing workers and residents within the vicinity of the site.

## Financial Contributions

### Levy under Section 7.12 of the Environmental Planning and Assessment Act, 1979

100. The cost of the development is in excess of \$250,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2020.
101. A condition relating to this levy has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a Construction Certificate.

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

102. As discussed in the section above titled 'State Environmental Planning Policy (Housing) 2021', the application meets the requirements of Section 7.32(1) and (3) allowing the imposition of a condition requiring the delivery of affordable housing by way of land dedication or monetary contribution.
103. The site is located within Central Sydney affordable housing contribution area. As the proposed development includes additional floor space, a contribution of 0.5 per cent is required for the non-residential component totalling \$341,532 (6,437sqm of total floor area) and a contribution of 1.5 per cent is required for the residential component totalling \$5,770,019 (36,250sqm of total floor area) in lieu of the dedication of any floor space. 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

104. Environmental Planning and Assessment Act 1979.
105. Water Management Act 2000.
106. City of Sydney Act 1988.
107. Sydney Water Act 1994.
108. Airports Act 1996 (Cth)

## Conclusion

109. The application seeks consent for the detailed design of 133-141 Liverpool Street comprising the construction of a new mixed-use development with a maximum height of 213 metres (RL 230.00 ADH) with retail, commercial office and residential land uses in a 55 storey podium and tower.
110. The proposal will be consistent with the Concept development consent, as proposed to be amended by D/2018/1144/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
111. 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.



112. The proposed development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding site. The proposed development will improve the interface between the private and public domain and exhibits design excellence in accordance with Clause 6.21C of the SLEP 2012.
113. The proposal will provide new commercial office, retail and residential land uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
114. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of Central Sydney.
115. The proposed detailed design of the development is therefore in the public interest and is recommended for approval by the CSPC.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Marie Burge. Senior Planner