

Item 4.**Development Application: 355-357 Sussex Street, Sydney - D/2022/417**

File No.: D/2022/417

Summary

Date of Submission:	11 May 2022
Amended plans and additional information	26 May 2023; 1 and 18 June 2023; 8, 15 and 22 August 2023.
Applicant/ Developer:	Mulpha Sussex Development Pty Ltd
Architect/ Designer:	Cottee Parker
Owner:	The Owners - Strata Plan No. 20780 and Honeycomb Investments Pty Ltd (355 Sussex Street) DFKP Pty Ltd (357 Sussex Street)
Planning Consultant:	Urbis
DAP:	28 July 2022
Cost of Works:	\$78,342,982
Zoning:	SP5 Metropolitan Centre Zone. The proposed development comprises hotel and motel accommodation with ancillary retail (food and drink premises) uses which are permissible with consent in the zone.
Proposal Summary:	<p>Demolition of the building at 355 Sussex Street, partial demolition of the existing warehouse building at 357 Sussex Street, excavation, and construction of a hotel development with a maximum height of 54.9m (RL 63.92) with ancillary retail uses on the ground floor and a total of 272 hotel rooms in a 17-storey building.</p> <p>The proposal seeks to vary the 'Height of Buildings' development standard (Clause 4.3) pursuant to Clause 4.6 of Sydney Local Environmental Plan 2012.</p> <p>The proposal presents a maximum 4.9m departure to the maximum permissible height of 50m stipulated under</p>

Clause 4.3 of Sydney LEP 2012, equating to an exceedance of 9.8%.

The proposal was amended on 26 May 2023 and 8 August 2023 to address concerns raised by the City's Design Advisory Panel and Council staff. These concerns related to the facadism approach to 357 Sussex Street, non-compliant building height and floor space ratio, non-complaint setbacks, internal planning of the podium, potential visual and privacy impacts, architectural expression, materiality, and awning design. These concerns have been resolved in the revised scheme.

The original proposal was notified for a 28-day period between 27 May and 25 June 2022. One submission in objection was received. The submission raised issues relating to the redevelopment potential of the Regal Apartments (359-361 Sussex Street) and traffic management impacts.

The amended proposal was re-notified for a 28-day period between 1 June and 30 June 2023. A submission was received from the same submitter reiterating concerns on potential traffic management impacts.

As a result of the design modifications made during the assessment of this application, the amended proposal presents an improved outcome and comprises a satisfactory response to the site conditions and locality. It is generally acceptable with regard to the relevant planning controls, and results in a form and scale that achieves the desired future character of the area.

The application is being referred to the Central Sydney Planning Committee (CSPC) as the cost of development exceeds \$50 million.

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
- (iii) Water Management Act 2000
- (iv) State Environmental Planning Policy (Resilience and Hazards) 2021
- (v) State Environmental Planning Policy (Transport and Infrastructure) 2021

- (vi) State Environmental Planning Policy (Biodiversity and Conservation) 2021
- (vii) Sydney Local Environmental Plan 2012
- (viii) Sydney Development Control Plan 2012
- (ix) Central Sydney Development Contributions Plan 2020
- (x) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request
- D. Solar Analysis Study

Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of Buildings' development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported; and
- (B) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, nor 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.
- (C) development consent be granted to Development Application No. D/2022/417 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (C) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney LEP 2012, that compliance with the 'Height of Buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney LEP 2012;
 - (ii) that the variation in the 'Height of Buildings' development standard is supported given the partial retention of 357 Sussex Street including existing floor levels; and
 - (iii) the proposal is in the public interest because it is consistent with the objectives of the SP5 Metropolitan zone and the 'Height of Buildings' development standard.
- (D) The articulation, materiality and sustainability measures of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The proposed development has a height, scale and form suitable for the site and its context, and satisfactorily addresses the heights and setbacks of neighbouring

developments, is appropriate in the streetscape context and setting of the broader locality.

- (F) The development does not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain, and the broader locality, subject to the recommended conditions.
- (G) 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 officers, the City's Design Advisory Panel, and the community, subject to the imposition of recommended conditions included in Attachment A.

Background

The Site and Surrounding Development

1. The site has a legal description of Lots 1-7 SP 20780 and Lot 1 DP 405848, known as 355-357 Sussex Street, Sydney. It is rectangular in shape with total area of 718 square metres. It has a street frontage of 24.45 metres to Sussex Street to the east and has a depth of 28.09 metres.
2. The site is located within the Haymarket/ Chinatown Special Character locality within in the south-western region of the Sydney Central Business District (CBD). It is situated on the western side of Sussex Street within the street block bounded by Liverpool Street to the north, Goulburn Street to the south and Dixon Street to the east. There is a fall of approximately 0.26 metres along Sussex Street measured from the south-east (RL10.23) to the north-east corner of the site (RL9.97). The Sussex Street level is approximately 3.5 metres higher than Dixon Street.
3. The site is currently occupied by two former warehouse buildings. The building at 355 Sussex Street is four-storeys with a basement level and 357 Sussex Street is five-storeys with a basement. 355 Sussex Street has an existing street wall height of 17.6 metres. 357 Sussex Street has an existing street wall height ranging between 19.73 metres and 21.3 metres. The existing buildings occupy the entirety of the lots with nil setbacks to all boundaries.
4. The site is burdened by several easements on title for support over walls along common boundaries. These easements include restrictions for support limited in height and width along the south and western boundaries of 357 Sussex Street and the adjoining properties at 2-8 Dixon Street, 359-361 and 363 Sussex Street.
5. In addition, the site is also subject to constraints below ground, directly above the Interim CBD Rail Link and CBD Metro Rail Corridor (Zone B - Tunnel) which runs in a north south direction beneath the site along Sussex Street.
6. The existing buildings on site are not identified as heritage items, nor located within a heritage conservation area. The former warehouse buildings were constructed for the Foley Brothers Pty Ltd who owned and occupied the warehouses until 1958. The warehouses operated as commercial factories, constructed of brick with steel posts and girders, concrete and hard wood floors. 355 Sussex Street (approximately c.1910-1914) was constructed before 357 Sussex Street (c.1916). In 1959, a fire destroyed the upper two floors of 357 Sussex Street which led to later alterations and the introduction of new materials such as metal sheeting. The facade of 357 Sussex Street of brick construction is generally intact while significant alterations have occurred to 355 Sussex Street. The interior of 357 Sussex Street includes original fabric comprising hardwood timber beams and posts in substantial sizes.
7. There is no existing vehicular access to 355 Sussex Street. The existing loading and servicing arrangements for 357 Sussex Street is provided via the driveway located at the southern-most bay. There is one young Green Ash (*Fraxinus pennsylvanica*) street tree located within the public domain in front 355 Sussex Street.
8. The site is located within the SP5 Metropolitan Centre zone under the Sydney LEP 2012. The site is not located within a Tower Cluster area but borders a Tower Cluster site across Sussex Street to the east. This Tower Cluster site comprises multiple street blocks bound by Goulburn Street to the south, Sussex Street to the west, Western Distributor to the north, and George to Elizabeth Streets to the east.

9. The site and western side of Sussex Street is identified as being subject to flooding (low hazard flooding in both the one per cent Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) event). It is located within the Darling Harbour catchment and drains to the north and west of the site discharging via Liverpool, Dixon and Day Streets towards Darling Harbour.
10. The site is highly accessible and located within walking distance to multiple public transport options including existing heavy rail train services (Town Hall and Central Stations) and light rail (along George Street) and future Sydney Metro (Pitt Street and Central Metro Stations).
11. Site inspections were undertaken on 12 July 2022 and 27 July 2023. The site is identified on the aerial photograph in Figure 1. Figures 1 to 7 show the existing development on the site.

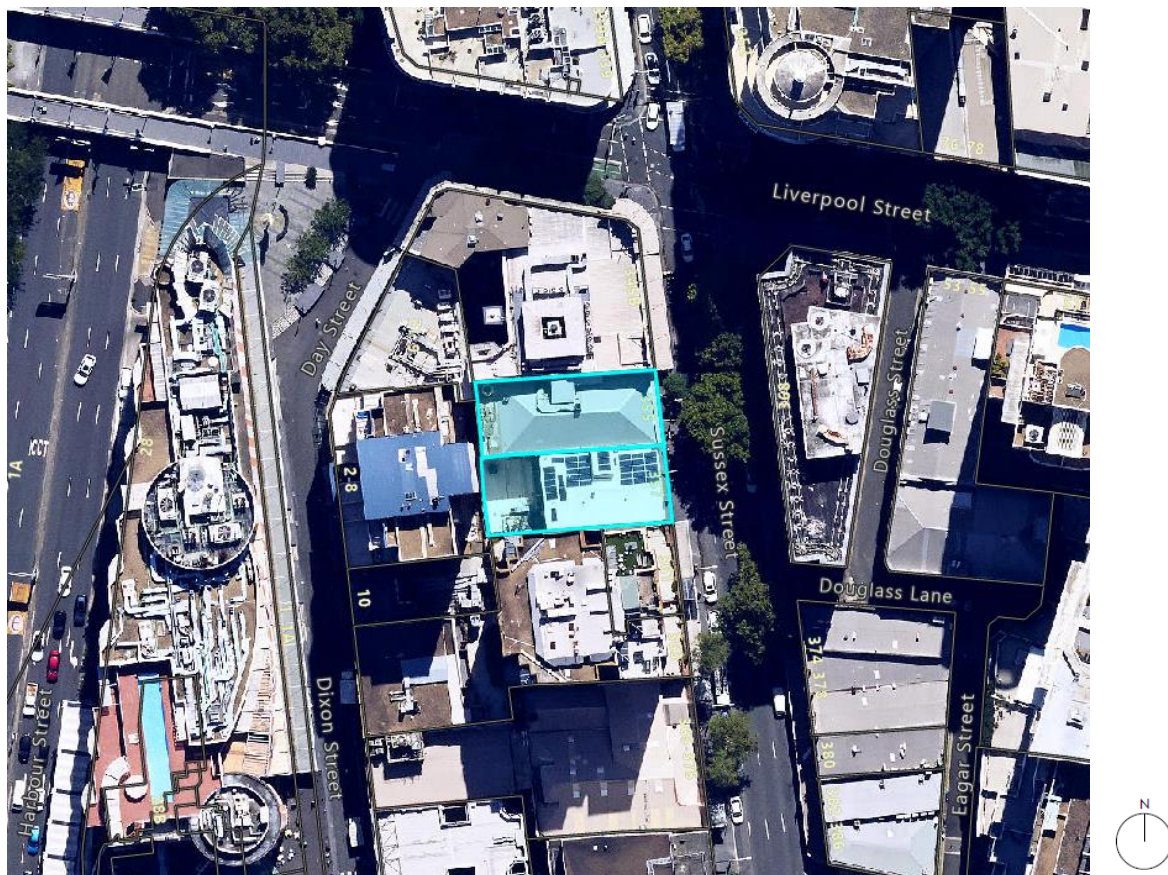


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Sussex Street facing west



Figure 3: Site viewed from Sussex Street facing west



Figure 4: Existing rear elevation of 357 Sussex Street facing east



Figure 5: Existing rooftop of 357 Sussex Street facing east



Figure 6: Site viewed from Liverpool Street facing south



Figure 7: View to the rear of the site (behind the Harbour City Cinema) from Day Street facing east

The Locality

12. The surrounding area is characterised by a mixture of commercial, residential, retail, and tourist and visitor accommodation land uses, with a wide range of built forms of varied architectural style and scale.
13. Immediately to the north of the site is the local heritage item, the 'Former "Commerce Building" including interiors and grounds, cartway, courtyard and hoists' at 345B Sussex Street (Local Item No. I1966). The Former Commerce Building is 5-6 storeys in height, comprising retail food and drink uses on ground floor with commercial offices above. Further north of the site are multi-storey serviced apartments, known as the Emporio Apartments (14-storey building) at 339 Sussex Street and the Rydges Darling Square Apartment Hotel (23-storey building) at 72 Liverpool Street.
14. Directly to the south of the site is a 17-storey development identified as the Regal Apartments at 359-363 Sussex Street. Further south are heritage items of local and State significance known as the 'Former "Commerce House" including interiors and courtyard' at 365-375 Sussex Street (Local Item No. I1967) and the 'Former "Sydney Trades Hall" including interiors' at 4-10 Goulburn Street (SHR 00322, Local Item No. I1802).
15. The APX Darling Harbour Apartments at 2-8 Dixon Street adjoins the rear of the site to the west. The APX Darling Harbour Apartments is 16-storeys in height, comprising serviced apartments at lower levels (Levels 2-6) and residential apartments above (Levels 7-15). Further west of the site is the 15-storey Seasons Darling Harbour Hotel at 38 Harbour Street, Number One Dixon Shopping Centre comprising retail, residential and serviced apartments at 28 Harbour Street, Tumbalong Park, Chinese Garden of Friendship (SHR 02017) and greater Darling Harbour Precinct.
16. To the east across Sussex Street are local heritage items 'Douglass Lane' (Local Item No. I1732) and the 'Former "Foley Bros" warehouse group including interiors' at 372-386 Sussex Street (Local Item No. I1968). The buildings located within the street block bound by Sussex, Liverpool, Goulburn and George Streets are within a Tower Cluster site. Adjoining the north of Douglass Lane at 368 Sussex Street is a 10-storey building known as the Pacific Trade Centre, which accommodates retail tenancies at the ground floor with commercial offices above. Further east of the site is a mixed-use development at 591 George Street (Suntower), which comprises a two-storey commercial and retail podium with units above.
17. Figures 8 to 14 shows the existing development in the vicinity.

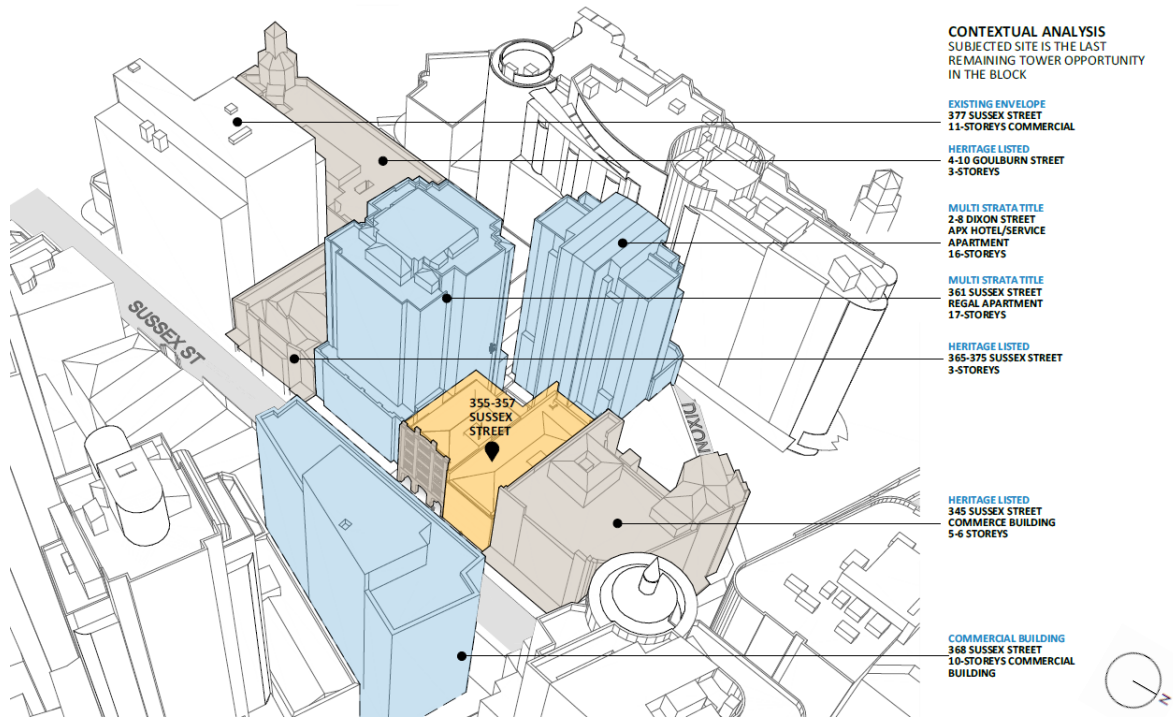


Figure 8: Site context

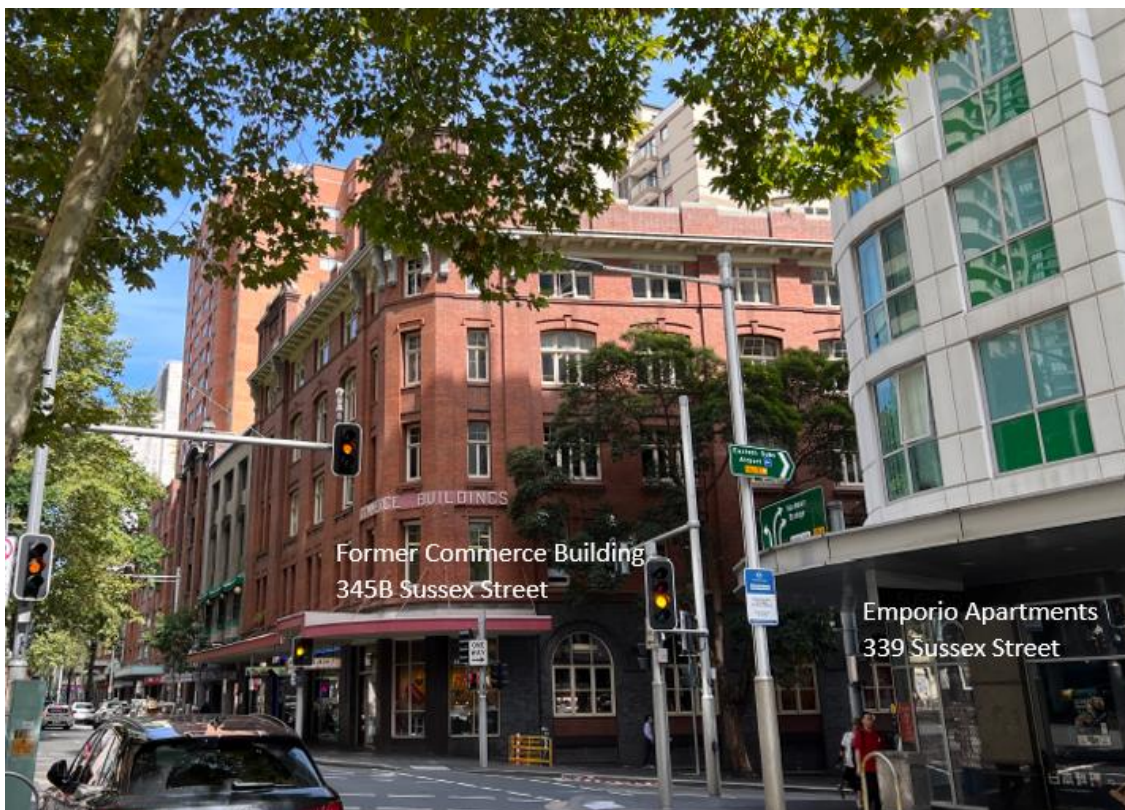


Figure 9: View to the site and adjacent development to the north on Sussex Street facing south



Figure 10: View of the site and southern adjoining developments on Sussex Street facing south

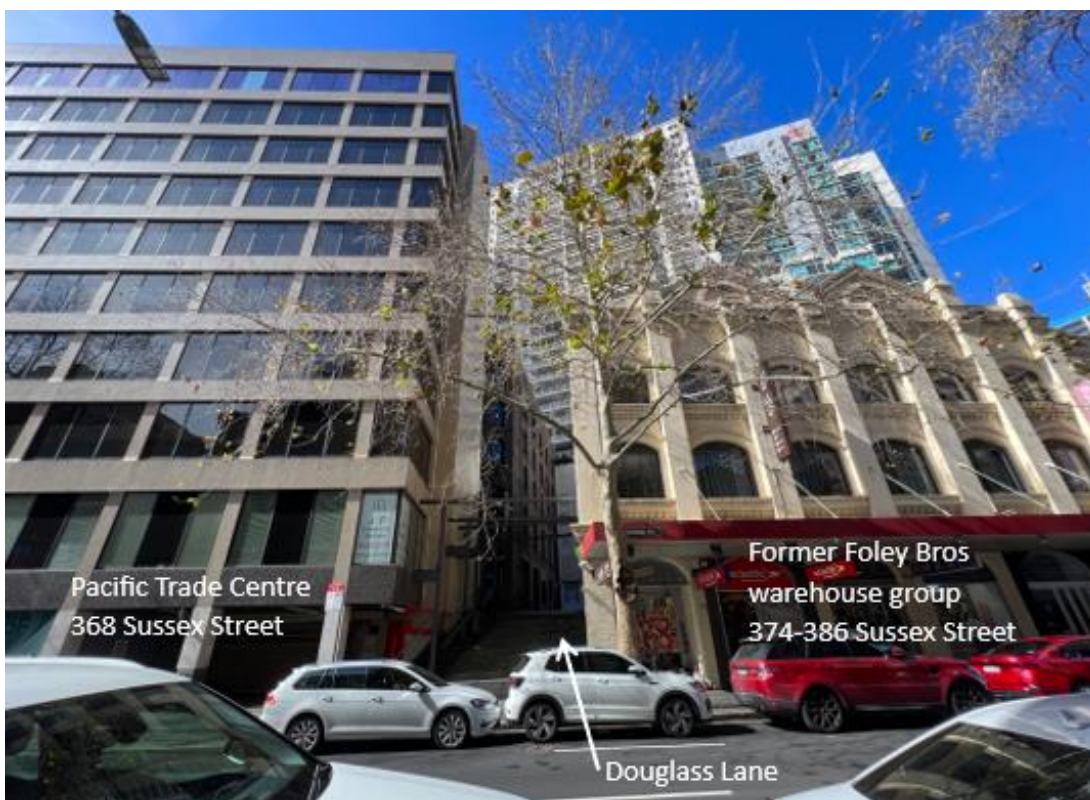


Figure 11: View of surrounding developments across Sussex Street facing east

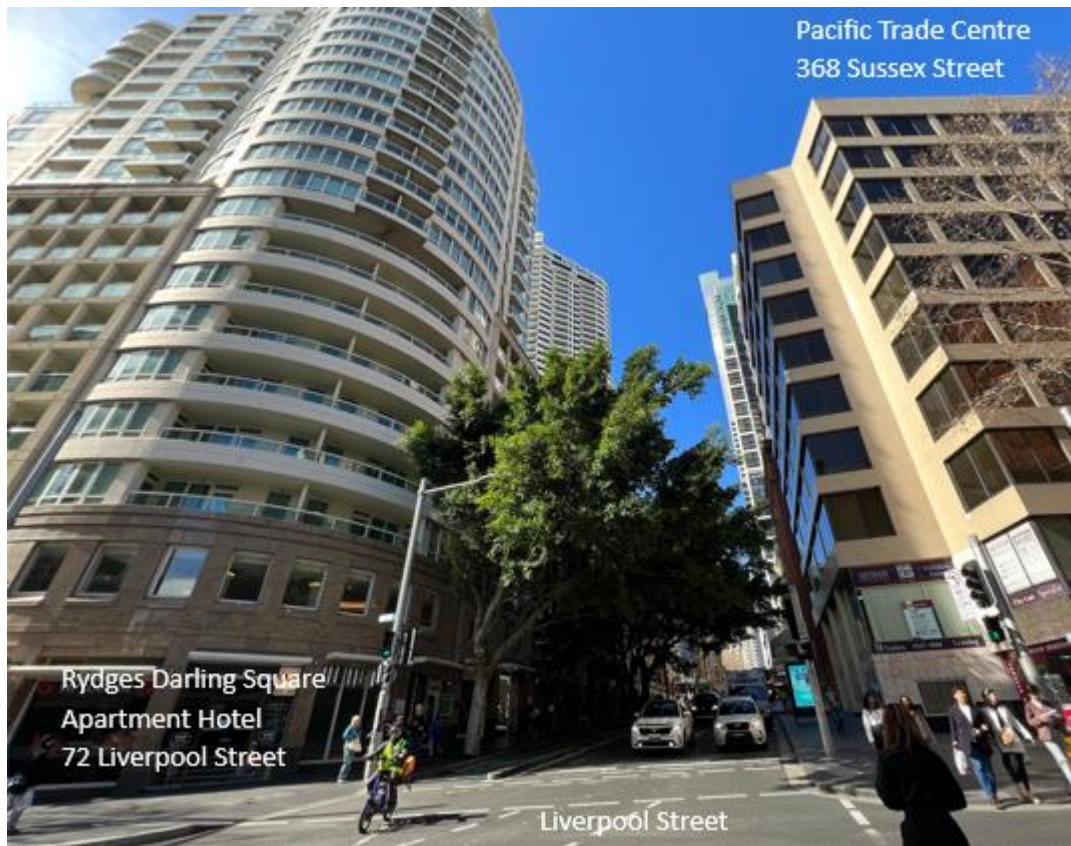


Figure 12: View of surrounding developments from Liverpool Street facing east

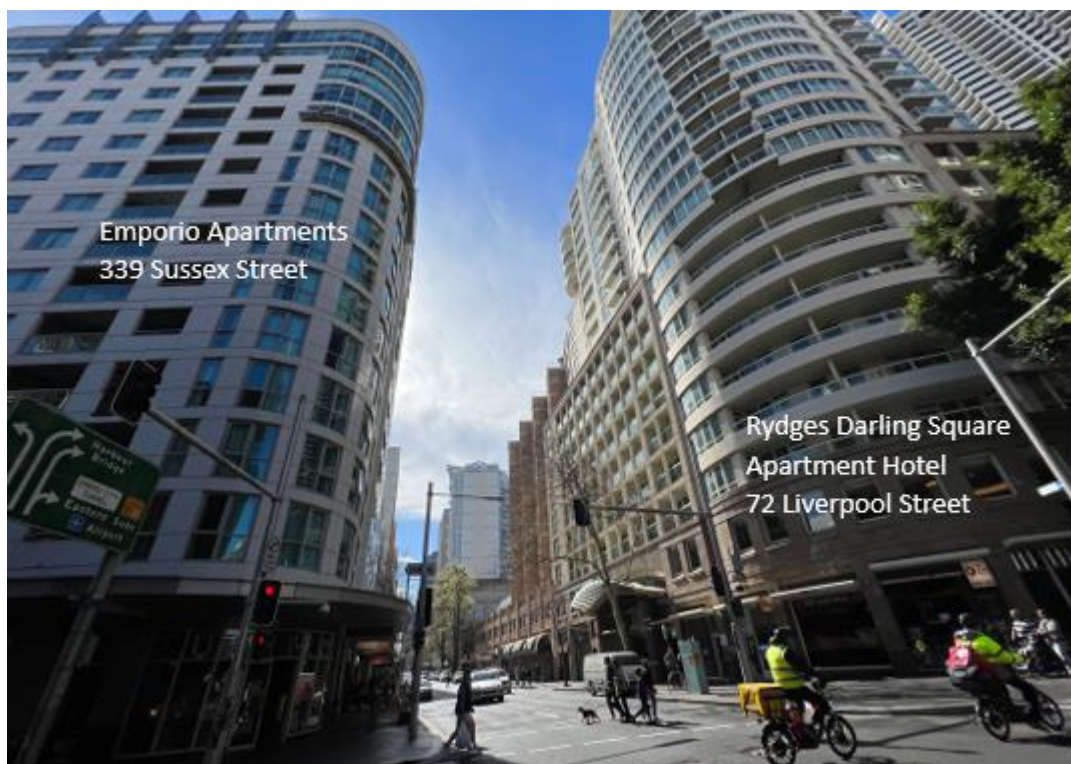


Figure 13: View of the surrounding developments from Liverpool Street facing north



Figure 14: View of the developments adjoining the rear (west) of the site on Dixon Street facing east

History Relevant to the Development Application

Development Applications and Complying Development Certificates

18. The site has been subject of numerous development applications and complying development certificates, the most recent consents are summarised below:
 - (a) 355 Sussex Street
 - Development consent D/2003/789 was granted on 21 August 2003 for alterations to the existing real estate office at the ground floor for use as a restaurant in conjunction with the existing restaurant and to erect a new canopy above the existing door.
 - Development consent D/2004/298 was granted on 17 May 2004 for extension of trading hours of the restaurant on the ground and lower ground floors from 12.00 midnight to 2am, Mondays to Sundays inclusive. A subsequent Section 4.55(2) modification application D/2004/298/A was approved on 29 August 2006 to permit continued operation of the restaurant between 12.00 midnight to 2am.

- The site has also been subject to multiple complying development certificates approved from 2014 to 2018 by private certifiers. The complying development certificates (P/2014/381, P/2017/344, P/2017/2907 and P/2018/1373) relate to the internal fit-out and alterations to the tenancy shopfront and are not relevant to the subject application.
- (b) 357 Sussex Street
- Development consent D/2001/837 was granted on 10 December 2001 for alterations to the ground and mezzanine floors including fit out for use as a tea café. Condition 2 restricted hours of operation to between 10am and 11pm Mondays to Sundays inclusive.
 - Development consent D/2014/1419 was granted on 12 November 2014 for the continuation of use of Levels 1-4 of the building as a licenced sex services premise known as the Sydney City Steam operating between 10am and 6am (the following day), Mondays to Fridays inclusive, and 24-hour operation on Saturdays and Sundays inclusive. Subsequent Section 4.55(2) modification applications D/2014/1419/A, D/2014/1419/B and D/2014/1419/C were granted on 24 October 2019, 26 November 2019 and 15 December 2022 respectively. An error in the approved development description (amended from a sex services premises to a sex on premises venue) was corrected under modification application D/2014/1419/A. Amendments were made to Condition 2 to permit continued trading and amend trial hours of operation under modification applications D/2014/1419/A, D/2014/1419/B and D/2014/1419/C.

Pre-Development Application Advice

19. A pre-development application (Pre-DA) request for the subject proposal was received by Council officers on 7 September 2021, PDA/2021/253. Following advice from Council staff, a subsequent request for advice on a revised scheme was submitted on 21 December 2021.
20. The first Pre-DA scheme sought demolition of the existing buildings, retention of the facade of 357 Sussex Street, construction of a basement and new 17-storey hotel with a height of approximately 55 metres. The proposal comprised a total of 270 rooms (approximately 17-19 rooms per floor). The proposed hotel rooms were orientated to face east and west with the building core located to the rear of the site. The design included blank walls to the north and southern elevations. A perspective of the first Pre-DA scheme is provided at Figure 15.



Figure 15: Pre-DA Scheme 1, Perspective

21. The first Pre-DA meeting was held on 21 September 2021. The following matters were raised at the meeting:

(a) Building height

Clause 4.3 of Sydney LEP 2012 stipulates a maximum building height of 50 metres applies to the site. Notwithstanding the proposed variation to the height control pursuant to Clause 4.6, the overall building height must not exceed a maximum height of 55 metres in accordance with Clause 6.16(4) of Sydney LEP 2012 as the area of the site is less than 1,000 square metres.

(b) Heritage significance

The existing buildings are over 50 years old, constructed in c.1907- 1916 and are located within the Haymarket/ Chinatown Special Character Area. Although they are not listed as heritage items, the buildings are considered to have heritage significance given their age and condition. The proposed facadism approach to 357 Sussex Street is not supported. Opportunities to facilitate retention and adaptive reuse of the buildings is to be explored.

(c) Street setback

A minimum street setback of 8 metres applies to the site within the Haymarket/ Chinatown Special Character Area pursuant to Section 5.1.1.2 of Sydney DCP 2012. It was acknowledged by Council officers at the time of the first Pre-DA that a slightly reduced street setback may be more suitable subject to further design analysis and testing, given the existing setback of the southern adjacent building of approximately 4 metres.

(d) Proposed interface with the southern development (Regal Apartments)

The lightwell of southern adjoining building at 359-363 Sussex Street provides amenity to habitable rooms. The proposal is to provide a sufficient setback respond to the constraints of the site and interface with the southern property. The proposal must not result in any adverse privacy and overshadowing impacts.

(e) Amenity

The rooms facing Sussex Street on levels 2-5 are connected by bridge to the lift core. The nine rooms per floor (total of 36 rooms) which are centrally located within the podium rely on the atrium for light and ventilation. The spatial qualities and internal planning of the development does not allow for natural ventilation of the atrium.

22. On 22 March 2022, a second Pre-DA meeting was held to discuss the revised scheme. The revised proposal sought demolition of 355 Sussex Street, partial demolition of 357 Sussex Street, and construction of a new 17-storey hotel plus plant level. The amended scheme included a total of 293 rooms (approximately 19 rooms per floor) and building height of approximately 55 metres. A comparison between the floorplate of the first and second Pre-DA schemes is provided at Figures 16 and 17 below.
23. The amended Pre-DA proposal included the following key changes:
- Re-orientation of hotel rooms to face east, north and south articulated within a 'T' shaped floorplate.
 - A reduced street setback of 3 metres to Sussex Street and 4 metres at the southern end of the development to match the setback of the Regal apartments (excluding facade encroachments).
 - Varied rear setbacks of nil to approximately 2 metres (separation ranging between 0.7 and 5.3 metres to the APX Darling Harbour Apartments at 2-8 Dixon Street).
 - Relocated building core shifted to the south of the building to face the Regal Apartments.

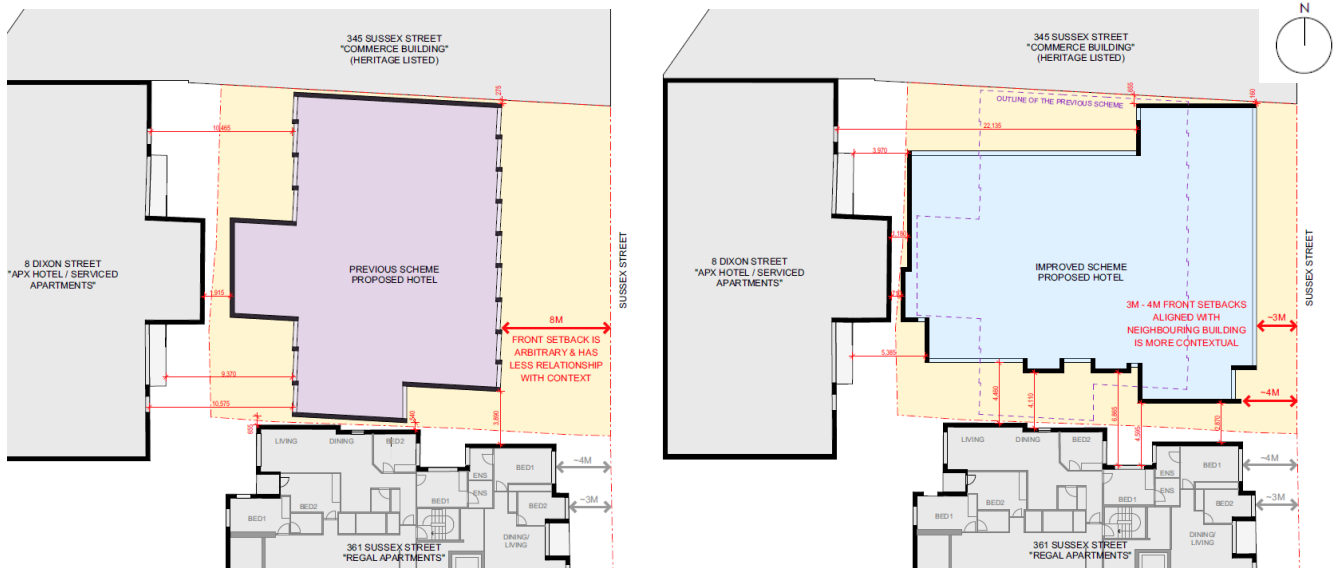


Figure 16: Setback comparison between Pre-DA Scheme 1 (left) and revised Pre-DA Scheme 2 (right)

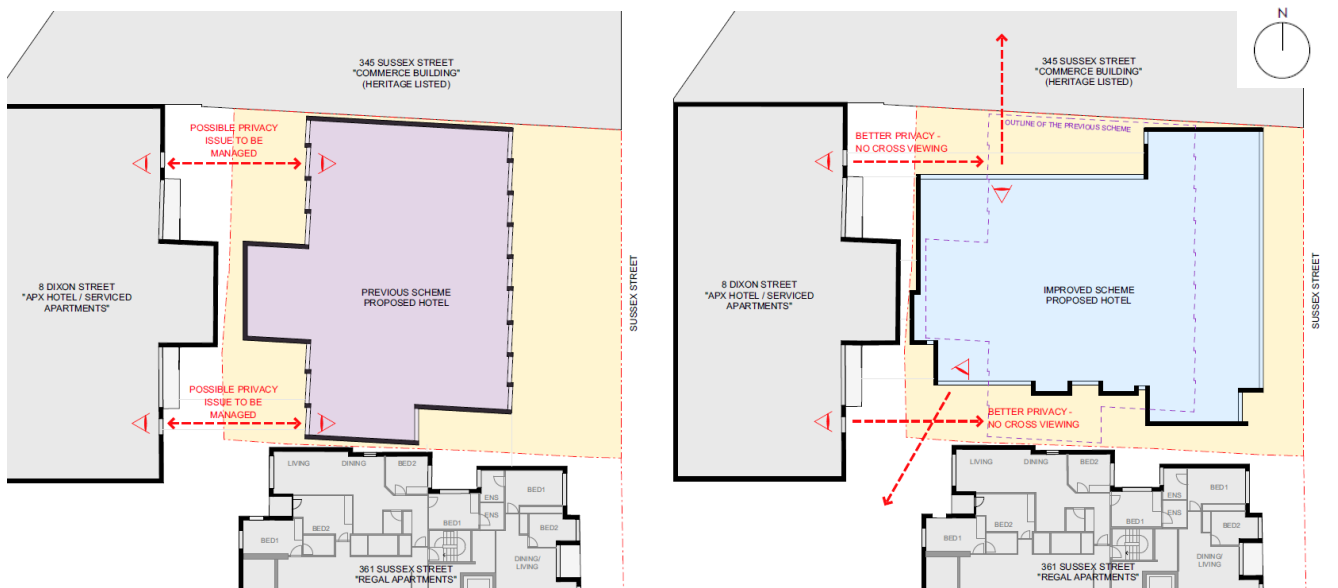


Figure 17: Privacy impacts comparison between Pre-DA Scheme 1 (left) and revised Pre-DA Scheme 2 (right)

24. The following advice was provided at the second Pre-DA meeting:

(a) Building height

The proposed development seeks a 10 per cent variation to the maximum building height of 50 metres (proposed 55 metres) to accommodate an additional hotel floor and rooftop plant. The proposal is a floor and a half above all immediately surrounding developments. The proposal must demonstrate that an appropriate height transition will be achieved between the new/ existing surrounding developments, heritage items and Haymarket/ Chinatown Special Character Area. Council officers advised the development would benefit from a

design competition and the applicant was encouraged to undertake this process should the additional height of 5 metres be pursued.

(b) Heritage significance

The amended proposal comprises retention of the facade of 357 Sussex Street but still involves substantial demolition of the existing buildings. The facade, internal timber structure, roof trusses and overall layout appear to be intact. Further investigation for meaningful retention and adaptive reuse is to be undertaken. It is recommended that at least two bays of 357 Sussex Street are retained, with the existing floor levels of the building to be incorporated into the development.

(c) Ground floor plane

It is recommended that vehicular access be relocated to the north of the site via the new infill at 355 Sussex Street instead of utilising the tight existing entry and driveway at 357 Sussex Street to allow servicing by a SRV size vehicle. It was acknowledged that this would also require the relocation of the existing street tree.

(d) Built form and street setback

The first Pre-DA scheme was considered to provide a better outcome than the revised scheme in terms of street setbacks and alignment with the southern development (Regal Apartments). The street setback of 3 - 4 metres (2.3 metres clear setback measured to the outer face of facade elements) seeks a significant variation to Section 5.1.1.2 of Sydney DCP 2012 and is not supported. Council officers suggested a variation of 2 metres (a reduced street setback of 6 metres) may be acceptable on planning merits, factoring the constraints of the site, appropriate setback to the south, and in lieu of achieving additional separation to the rear (APX Apartments).

The street wall height of 355 Sussex Street should align with the retained existing parapet of 357 Sussex Street (notwithstanding the numerical non-compliance with Section 5.1.1.2 of Sydney DCP 2012 which stipulates a maximum street wall height of 15 metres).

(e) Southern interface

The proposal must provide a sufficient setback to the southern development which would allow facade maintenance of both buildings along the southern boundary, as well as amenity to the existing lightwell of the Regal Apartments.

(f) Northern interface

The blank wall to the north has been designed perpendicular to the street rather than parallel to the boundary. It is recommended that the wall is adjusted to be parallel to the northern boundary in permit maintenance should there be a future addition to the northern building (Former Commerce building).

The blank northern wall is highly visible from the public domain. A visual treatment is to be applied to the wall to provide visual interest and articulation.

25. A perspective of the second Pre-DA scheme is provided at Figure 18.

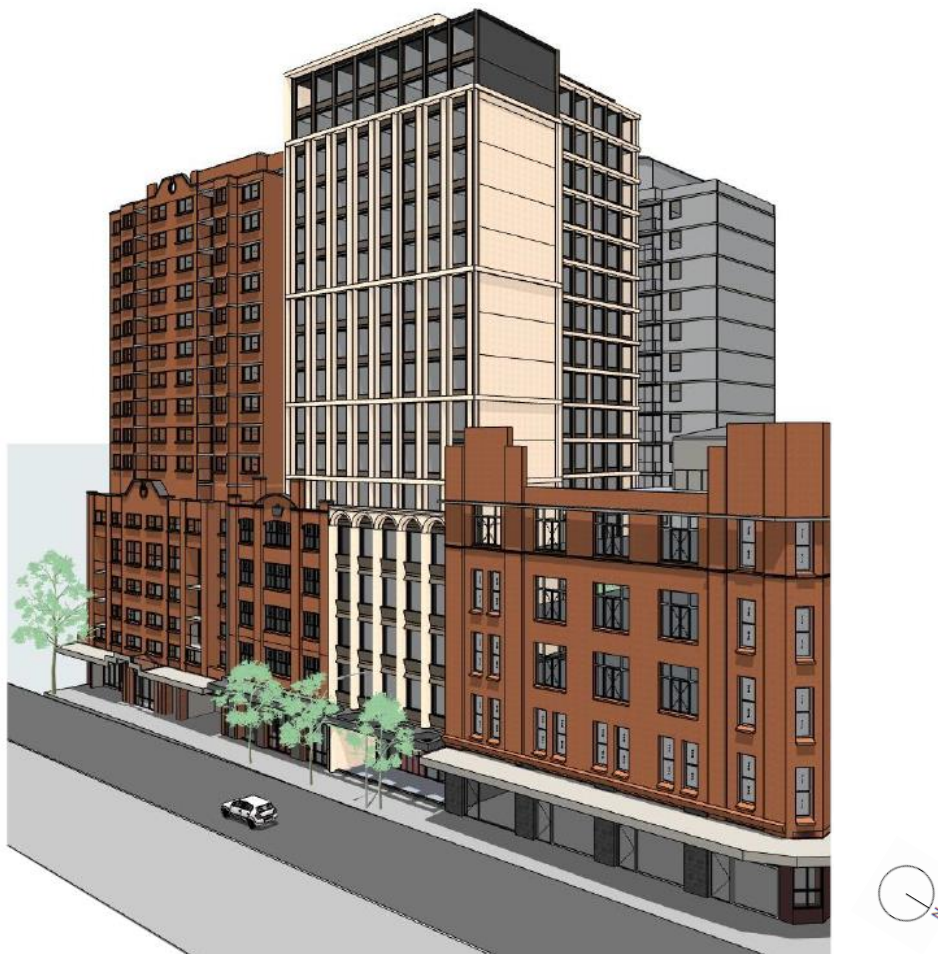


Figure 18: Pre-DA Scheme 2, Perspective

26. In addition to the above, numerous further design iterations have been explored by the applicant through the course of assessment of this DA to achieve an acceptable building envelope, scale and design outcome. Refer to details under heading 'History of the Subject Development Application' below which shows revisions made to the proposal to address the built form, building height, setbacks, heritage significance and amenity. The aforementioned key issues that were raised at the time of the Pre-DA have since been addressed.

Compliance Action

27. The site is not subject to any current compliance action or investigations.

History of the Subject Development Application

28. The subject application was lodged with the City on 11 May 2022. Selected plans of the original scheme are shown at Figures 19 to 25 below.



Figure 19: Original Scheme (11 May 2022), Photomontage

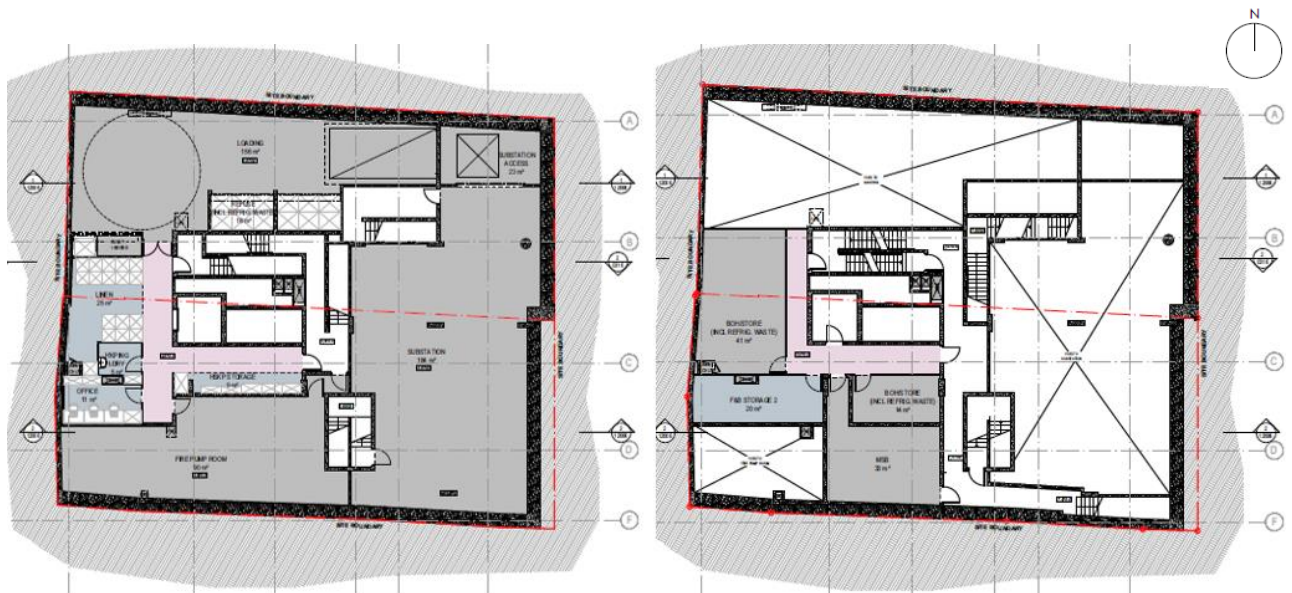


Figure 20: Original Scheme (11 May 2022), Proposed Basement Plan (left) and Basement Mezzanine Plan (right)

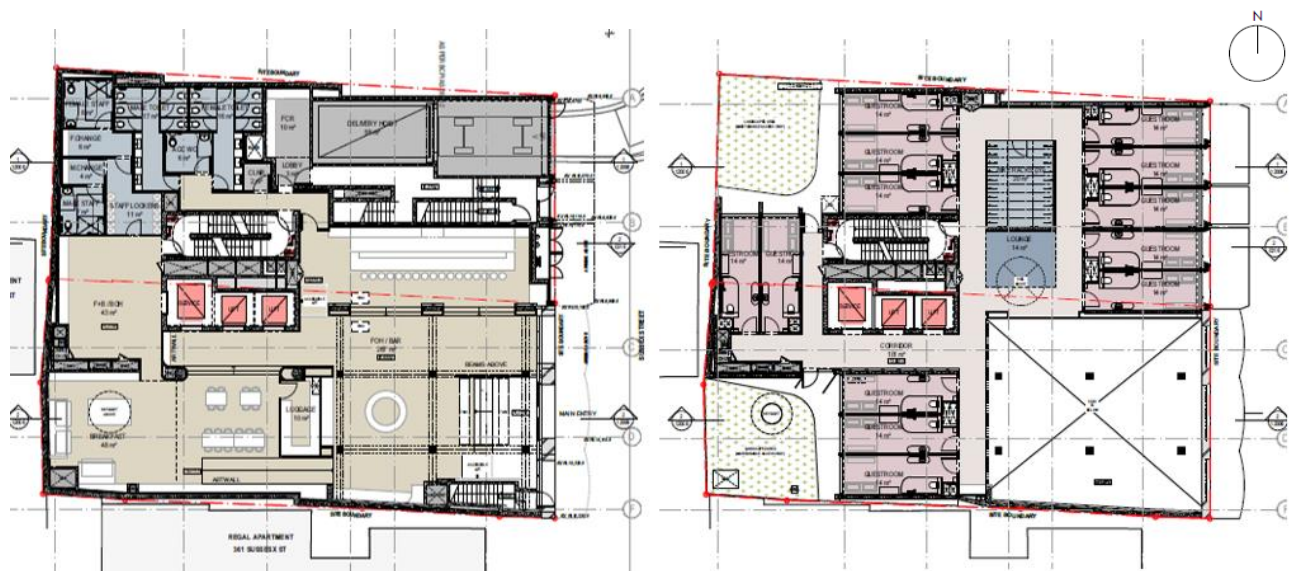


Figure 21: Original Scheme (11 May 2022), Proposed Ground Floor Plan (left) and First Floor Plan (right)

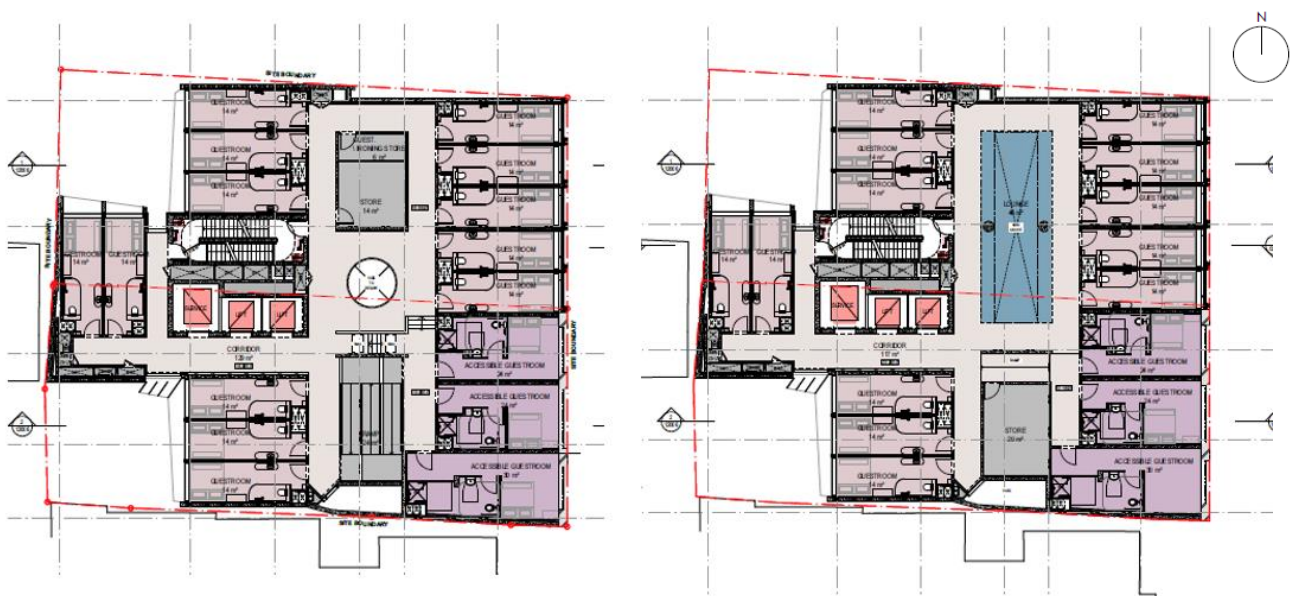


Figure 22: Original Scheme (11 May 2022), Proposed Level 2 Plan (left) and Level 4 Plan (right)

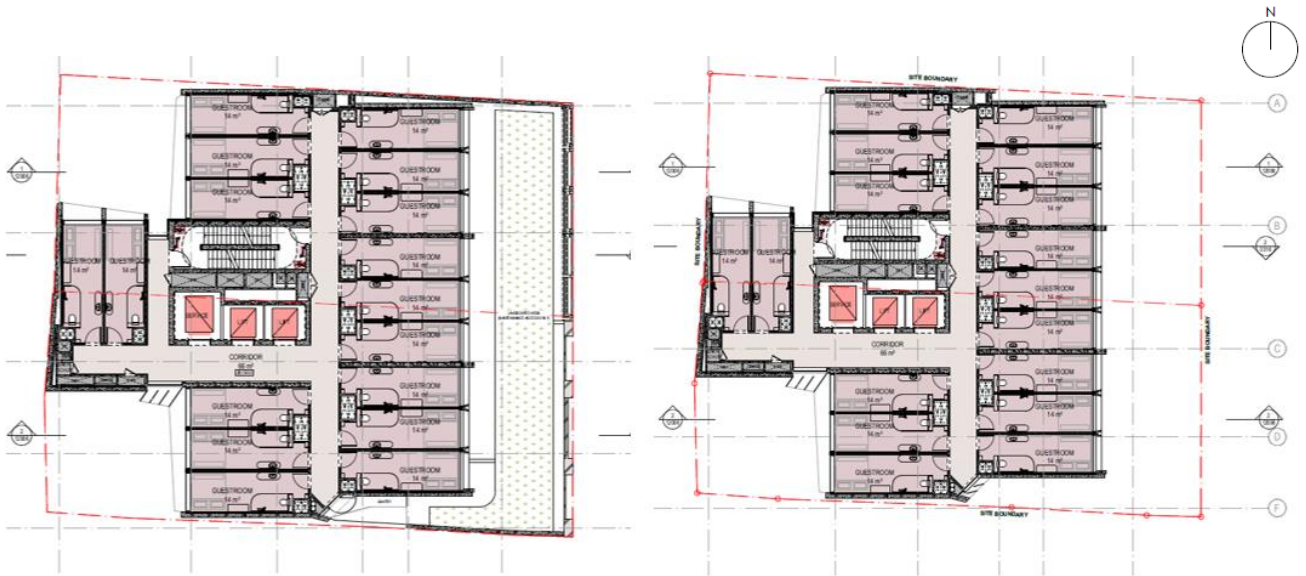


Figure 23: Original Scheme (11 May 2022), Proposed Level 6 Plan (left) and Typical Tower Plan (right)

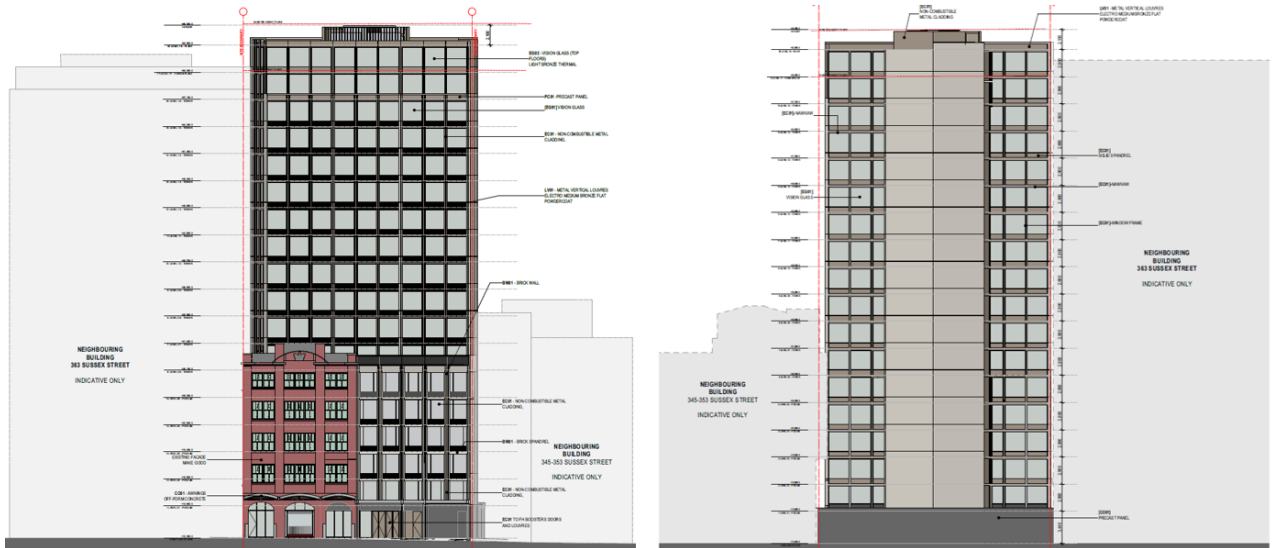


Figure 24: Original Scheme (11 May 2022), Proposed East Elevation (left) and West Elevation (right)

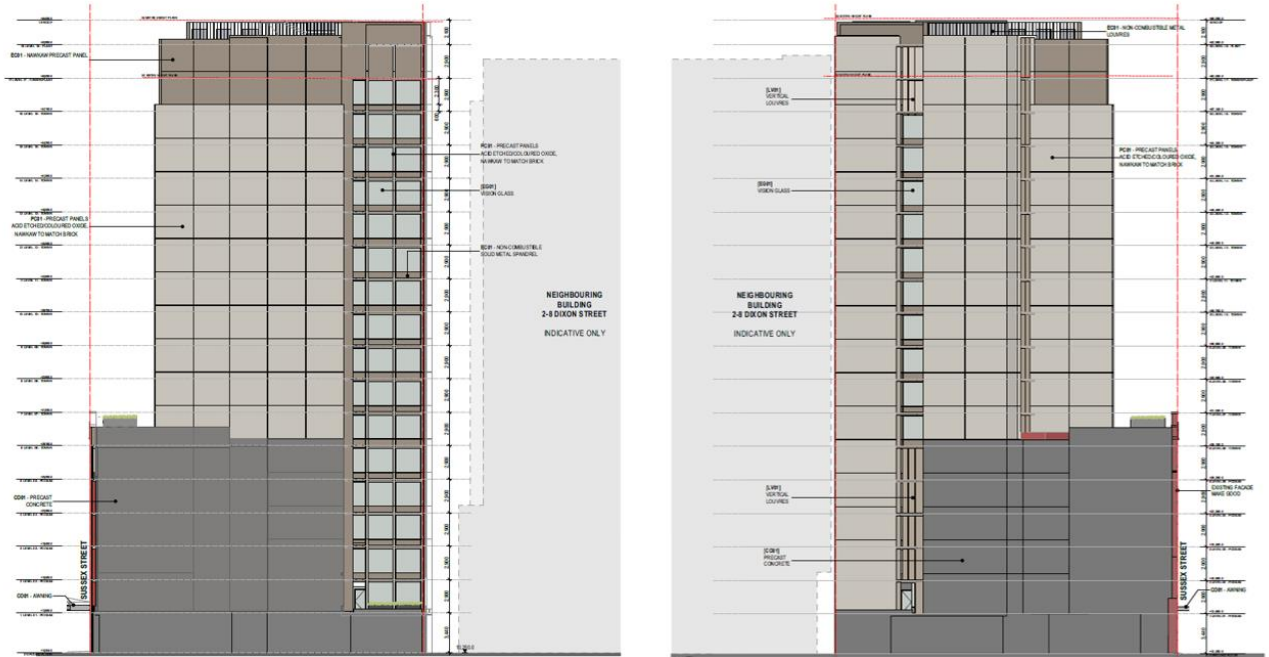


Figure 25: Original Scheme (11 May 2022), Proposed North Elevation (left) and South Elevation (right)

29. On 24 May 2022, a preliminary request for additional information was issued to the applicant to seek an Environmental Performance Report. The applicant submitted the Environmental Performance Report later that day.
30. A further preliminary request for additional information was issued on 30 May 2022 to seek an updated site survey and an updated electronic model. The applicant addressed this request on 9 June 2022.
31. On 7 and 26 July 2022, the following additional information and clarification was sought from the applicant:
 - (a) Building height - The proposed non-compliance with the 55 metre height limit, given the prohibitive nature of Clause 6.16(4) of Sydney LEP 2012, the application must be amended so that the maximum height at all points of the building is below 55 metres.
 - (b) Integrated Development - Confirmation on whether the proposed development is integrated development requiring approval from Water NSW pursuant the Water Management Act 2000.
 - (c) Additional information to respond to Transport for New South Wales (TfNSW) 'Stop the Clock' letter.
 - (d) Facade - Composition of proposed materials and finishes including if full brick construction is proposed and whether the proposed louvres to windows are operable.
 - (e) Awning - Awning junctions, fixing and drainage details.
 - (f) Hotel Restaurant/ Café - Confirmation if the back of house areas of the ancillary hotel restaurant and cafe includes a kitchen.

- (g) Additional Sections - Provision of additional north-south and east-west sections.
32. The applicant responded to above items on 22 August 2022. The applicant confirmed that the back of house areas for the restaurant/ café included storage areas and a kitchen.
33. The application was presented to the City's Design Advisory Panel (DAP) on 28 July 2022. At this time, the proposed scheme was not supported by the DAP and concerns were raised in relation to:
- (a) Facadism approach to 357 Sussex Street
 - (b) Non-compliant building height and floor space ratio
 - (c) Varied street setbacks, noting non-compliances with respect to other aspects of the proposed built form
 - (d) Internal planning of the podium
 - (e) Visual and privacy impacts
 - (f) Architectural expression, material selection and awning design
34. On 30 September 2022, a detailed request for additional information and amendments was made to the applicant to seek:
- (a) Design modifications - An amended design to address previous concerns raised at the time of the first and second Pre-DA meetings, the Design Advisory Panel (DAP) and Council officers comments.
 - (b) Substation and building services - Further design development of the basement level and building services, including consultation with Ausgrid to provide a more appropriately sized substation as well as relocation of service hatches to be within the site boundary.
 - (c) Retention of 357 Sussex Street - Retention of at least two structural bays, timber beams and posts, and existing floor levels behind the facade of 357 Sussex Street. The basement, ground and levels 1-3 are largely intact, despite later internal fit-out and additions. The hardwood timber beams and posts are robust and in substantial sizes. The intact fabric and hardwood timber have considerable heritage significance and are to be incorporated into the development.
 - (d) Podium redesign - A redesigned podium with consistent and continuous levels across the retained 357 Sussex Street and infill at 355 Sussex Street (instead of a part 5, part 6 split level podium as proposed). The levels of the infill development are to match the existing levels of 357 Sussex Street.
 - (e) Internal planning - Revised internal planning of the podium, removal of convoluted travel paths at ground floor, unnecessary ramps to accommodate multiple level changes. Further development to be undertaken for the layout of spaces, communal functions of the hotel, guest services and practicality of the lobby areas.

- (f) Southern Interface - Rearticulation of the proposed openings which result in visual privacy impacts between the subject development and southern neighbour.
- (g) Facade and materiality - Revised facade proportions, materiality and enhance the architectural expression of the building to respond to its context within the Haymarket/ Chinatown Special Character Area, which is characterised by warehouse buildings of brick construction. The key aspects of the locality include wide vertical piers, and facades that are more masonry than void with openings punctuated into the brick facade.
- (h) Awning - An amended awning design to meet the requirements of Section 3.2.4 of Sydney DCP 2012.
- (i) Easements - Written consent from the Owner's Corporations of SP 68567, SP 50844 and SP 50845 to ensure their agreement to the release of the easements for support in respect of the walls on the common boundary of the sites should the subject development be approved.
- (j) Loading and Servicing - A draft loading and servicing management plan to demonstrate all servicing including delivery, maintenance and waste collection can be facilitated on the site via the single provided car parking space.
- (k) Waste Management - Revised waste management plan and architectural plans to ensure the provision of on-site waste collection by a commercial contractor given the constraints of the site, as well as increase the size of the waste storage area.
- (l) Landscape details - Additional landscape plans for levels 1 and 6 including details on maintenance, drainage, and irrigation allowance, as well as structural capacity of the level 6 podium for the landscaped terrace.
- (m) Street tree - Replacement street trees in lieu of the proposed removal of the existing Green Ash (*Fraxinus pennsylvanica*) street tree to contribute towards increasing canopy cover on the site.
- (n) Driveway Crossover - Amended ground floor plan to show the location of the existing light pole and proposed new driveway crossover.
- (o) Public Domain Encroachments - Amended floor plans to remove all encroachments to the public domain and pedestrian footway.
- (p) Land Contamination - A Detailed Environmental Site Investigation (DESI) and Remediation Action Plan (RAP).
- (q) Noise - Amended Acoustic Report and Noise Management Plan including an assessment of construction noise and operational noise of the proposed ancillary café/ restaurant and bar.
- (r) Integrated Development - An update to the Council's previous request dated 7 July 2022 on whether integrated development is sought pursuant the Water Management Act 2000.
- (s) TfNSW requirements - An update on the status of outstanding information requested by TfNSW dated 7 July 2022.

- (t) Flooding - A Site-specific Flood Report to demonstrate compliance with Section 3.7 of Sydney DCP 2012 and the City's Interim Floodplain Management Policy. The proposed floodgates at the entry to the basement delivery hoist are to be removed with alternative flood protection measures to be provided.
 - (u) Stormwater - Stormwater redesign including approval from Sydney Water to ensure acceptance of the proposed connection.
 - (v) Architectural Plans - Revised set of architectural plans to address the requested design modifications, including gridlines, dimensions, existing RLs on demolition and existing floor plans, windows of the adjacent buildings, and detailed floor plans of the ancillary café/ restaurant and bar areas.
 - (w) Hotel Restaurant/ Café and Bar - Clarification of the type of foods which will be cooked at the premises, including details of the food preparation areas, mechanical ventilation, exhaust discharge locations, waste storage areas and locations of facilities within the kitchen and bar.
 - (x) Plan of Management - Revised Plan of Management (PoM).
 - (y) Environmental Sustainability - Updated plans showing the location of the proposed PV system and battery storage details on plant levels of the building.
 - (z) Public Art - Amended Preliminary Public Art Plan to address comments raised by Council's Public Art team including clarification of the public art budget and aspiration commitments.
35. On 8 November 2022, a meeting was held between the applicant's consultant team and Council staff to discuss the above requested amendments. The draft design included key amendments summarised below:
- (a) Removal of a habitable floor to reduce the overall maximum building height from 56.825 metres (RL 65.09) to 52.73 metres (RL 62.99) and subsequent reduction in gross floor area.
 - (b) Retention of two structural bays of 357 Sussex Street.
 - (c) Increased street setback from 5.5 metres to 6 metres.
 - (d) Increased side setbacks to the southern development from 7.6 metres to 7.8 metres with improved interface with the lightwell of the Regal Apartments.
 - (e) Reduced side setback to the north (Former Commerce Building) from 7.9 metres to 7.3 metres.
 - (f) Rearticulated podium including retention of the existing levels of 357 Sussex Street with continuous levels across to the new infill at 355 Sussex Street. The part 5 part 6 level split was redesigned along the east -west axis of the building instead of north-south across the frontage of the site.
 - (g) Improvements to the internal planning and configuration of spaces, including simplification of travel paths along the ground floor plane, removal of ramps and stairs.

- (h) Revised building expression and materiality to deliver a brick infill podium at 355 Sussex Street and respond to the Haymarket/ Chinatown Special Character Area.

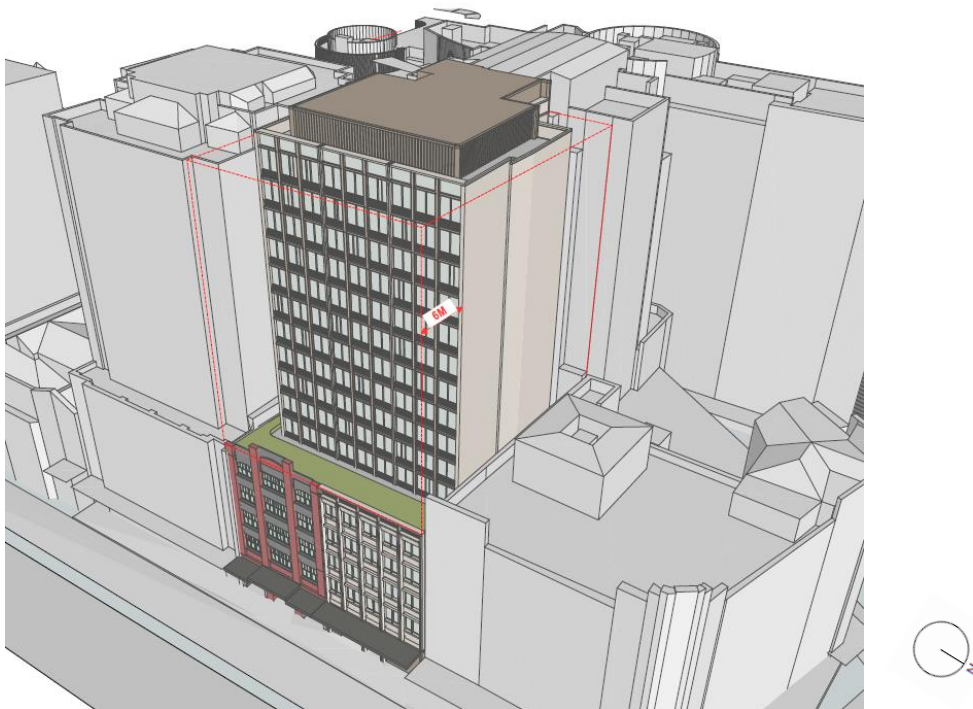


Figure 26: Draft Scheme (7 November 2022), Perspective showing eastern elevation (Sussex Street)

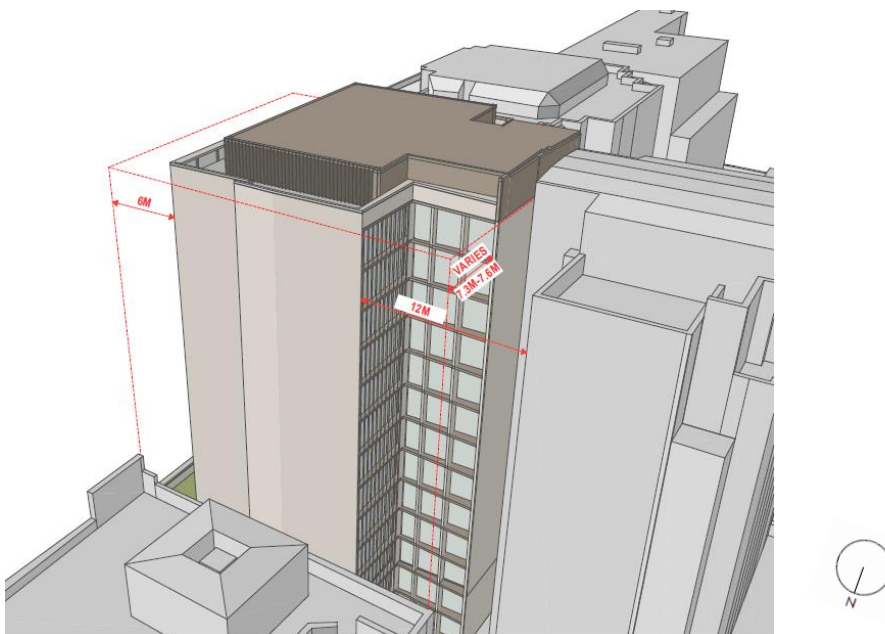


Figure 27: Draft Scheme (7 November 2022), Perspective showing northern elevation, side and rear setbacks

36. At the meeting, Council officers advised the applicant that the proposal is improving. The applicant was recommended to refine the draft design and undertake further investigation to the basement level, substation, structure and retention of two bays of 357 Sussex Street, materiality, architectural language and expression of the podium and tower.
37. On 8 February 2023, the applicant submitted additional information to respond to Council's preliminary comments on the draft scheme and requested an additional extension of time to formally respond to Council's detailed RFI until 27 April 2023.
38. On 26 May 2023, the applicant submitted a revised package including additional supplementary information to address Council's detailed RFI letters (dated 29 September 2022 and 22 March 2023).
39. The amended scheme presents an improved design outcome which largely addressed Council and the DAP comments. The revised proposal included the following summarised key additional amendments:
 - (a) Deletion of the substation and replacement with a 400A Direct Distributor - Following consultation with Ausgrid, it was confirmed that the conditions at the site would not allow for a compliant substation capable of meeting Ausgrid's standards. Ausgrid advised that a 400A Direct Distributor could service the site without triggering the requirement for a chamber type substation. A 400A Direct Distributor in combination with Solar Photovoltaic Panels, Battery Energy Storage System (BESS), Peak Demand Diesel generator set and purpose-built Load Management (LMS) is proposed to manage the electrical demand of the proposed development.
 - (b) Excavation - Additional excavation to a revised depth of RL -0.15 (from RL 2.17) to the underside of the lift pit and building core. The applicant confirmed that the amended proposal is Integrated Development requiring approval from Water NSW pursuant to the Water Management Act 2000.
 - (c) Partial retention of 357 Sussex Street - The amended proposal seeks to retain the facade, two structural bays, timber posts, beams, floor joists and side walls at basement, ground and levels 1 to 4. The retained elements will remain exposed when viewed from below (concrete poured over existing floors to meet structural requirements), with minimal cladding over selected areas to maximise legibility of the internal structure of the former warehouse building.
 - (d) Podium levels - Alignment of the new infill levels (355 Sussex Street) with the existing levels (357 Sussex Street), window openings on the frontage and parapet.
 - (e) Southern interface - The window at the southern end of the corridor has been rearticulated to be parallel to Sussex Street to direct outlook away from the habitable spaces serviced by the adjacent lightwell (Regal Apartments).
 - (f) Architectural expression and materiality - Increased solid to void ratios in the composition of the facade. The amended infill podium (355 Sussex Street) comprises brick construction with emphasis on the vertical columns and structural loads on the facade. The revised facade seeks to complement the established brick masonry character of the Haymarket/ Chinatown Special Character Area and express the structural loads with emphasis on vertical elements.

40. The updated application was re-notified for a period of 28 days between 1 June 2023 and 30 June 2023.
41. On 1 June 2023, an updated Cost Summary Report, electronic and physical model was requested to reflect the revised scheme. An updated Cost Summary Report was received on 3 June 2023.
42. On 18 July 2023, following a comprehensive review of the amended package, additional information and amendments was requested (summarised below).
 - (a) Land Contamination - A revised RAP was requested to include a Section B Site Audit Statement or letter of interim advice prepared by a NSW EPA Accredited Site Auditor to certify that the RAP is practical and confirm the site will be suitable after remediation for the proposed use.
 - (b) Model - Updated electronic and physical models to reflect the amended scheme.
 - (c) Updated Preliminary Public Art Strategy - To include further details on the staging and installation of the artwork.
43. A revised RAP and revised Preliminary Public Art Strategy was received on 21 July 2023. The applicant submitted an updated electronic model on 25 July 2023.
44. Following a review of the updated model, the applicant was advised that the proposal still included minor penetrations of 0.032- 0.18 metres (plant and lift overrun) to the 55 metre height plane on 1 August 2023. Accordingly, further amendments and a revised set of plans were requested.
45. A revised model and updated plans were submitted on 8 August 2023.
46. On 10 August 2023, the applicant was advised that there was outstanding information in relation to Air Quality Assessment and an Acid Sulfate Soils Management Plan. This information was submitted on 15 and 22 August 2023.
47. On 11 August 2023, a meeting was held between the applicant's representatives and TfNSW to discuss the outstanding matters of TfNSW's RFI letter dated 27 June 2023. Council's planner was also in attendance. It was understood that the Acoustic and Electrolysis issues had generally been resolved. The applicant advised that the additional requested Geotechnical information would be provided by 16 August 2023 for TfNSW review.
48. The applicant submitted the remaining reports (Shoring Wall Analysis and Risk Assessment Report) to TfNSW on 29 August 2023.
49. The amended application was re-referred to external stakeholders, including Ausgrid, Sydney Metro, Sydney Trains, TransGrid, Sydney Water Corporation for comments, and TfNSW and Water NSW for concurrence.
50. The assessment as follows is based on the amended drawings and documents, formally submitted to the City on 26 May, 1 June, 18 June, 8, 15 and 22 August 2023.

Proposed Development

51. The subject development application, as amended, seeks consent for the redevelopment of 355 and 357 Sussex Street to facilitate a new 17-storey building accommodating 272 hotel rooms with a maximum height of 54.9 metres (RL 63.92) for use as a hotel with an ancillary restaurant/ café and bar at the ground floor.
52. Specifically, the proposal seeks consent for:
 - (a) Demolition of 355 Sussex Street and partial demolition of 357 Sussex Street. The facade and two bays of structure, part of the northern party wall and southern boundary wall of 357 Sussex Street are proposed to be retained.
 - (b) Site amalgamation of the two separate allotments.
 - (c) Excavation up to a depth of RL -0.15 to accommodate 2 basement levels including:
 - (i) Vehicular access for a 6.4 metres Small Rigid Vehicle (SRV) from the new driveway at 355 Sussex Street to the upper basement level
 - (ii) Truck hoist, turn table and one SRV space
 - (iii) Staff sanitary facilities and bicycle parking spaces (5 spaces)
 - (iv) Battery Energy Storage System (BESS)
 - (v) Waste and recycling storage room
 - (vi) Hotel back of house storage areas including restaurant/ bar storage areas, laundry, linen, services and utilities.
 - (vii) Fire control room, plant and building services.
 - (d) A 17-storey tower with a maximum height of 54.9 metres (RL 63.92) comprising:
 - (i) Ground: hotel lobby, restaurant/ café area, luggage store, guest amenities and vehicular servicing
 - (ii) First floor: hotel rooms (six rooms), storage, guest bicycle parking spaces (14 spaces), in accessible landscaped areas at the south-west and south-east corners of the development.
 - (iii) Level 2: hotel rooms (17 rooms of which three are accessible) and internal courtyard.
 - (iv) Levels 3 - 5: hotel rooms (17 rooms including three accessible rooms per floor, total 51 rooms), hotel amenities, void above the internal courtyard.
 - (v) Level 6: hotel rooms (18 rooms) and rooftop garden within the street setback.
 - (vi) Levels 7- 16: hotel rooms (18 rooms per floor, total 180 rooms)
 - (vii) Level 17: rooftop plant

(viii) Rooftop: Solar Photovoltaic Panels

53. Operational management of hotel, ground floor hotel restaurant/ café and bar:
- (a) Proposed 24-hour operation, seven days per week.
 - (b) The maximum capacity of the ancillary restaurant/ café and bar is 120 patrons (standing and/ or seating at any one time).
 - (c) The food and meals provided as part of the hotel operation will be prepared off site and delivered to the hotel in a portion-controlled state. These meals will largely be pre-packaged and will require little preparation on site. The proposal does not include the provision of any commercial kitchen facilities or mechanical ventilation as no cooking is proposed on site.
 - (d) The sale of liquor within the ground floor restaurant/ café and bar will only be sold/ supplied in accordance with any hours specified within a future liquor license issued from NSW Liquor and Gaming.
 - (e) A total of 10 to 30 full time hotel staff is proposed. The hotel will be monitored by hotel reception 24-hours a day.
 - (f) Deliveries and collection of linen/ laundry is proposed to occur between 7am and 10pm, six days per week. Delivery vehicles will service the site via the truck hoist within the single SRV space. To ensure overlapping of delivery vehicles does not occur, hotel management will coordinate and allocate delivery windows for service providers.
 - (g) Waste collection will be undertaken by a private contractor.
 - (h) Landscaped areas at levels 1 and 6 are not accessible to hotel guests. Access to these areas will be permitted for maintenance only.
54. The fit-out of the hotel restaurant/ café and bar is not sought and will be subject of a separate application.
55. No signage associated with the hotel or ancillary restaurant/ café or bar is sought under this application.
56. Selected plans and elevations of the proposed development are provided in Figures 28 to 51. A full set is included in Attachments B.



Figure 28: Proposed photomontage



Figure 29: Proposed Demolition Plan Lower Ground

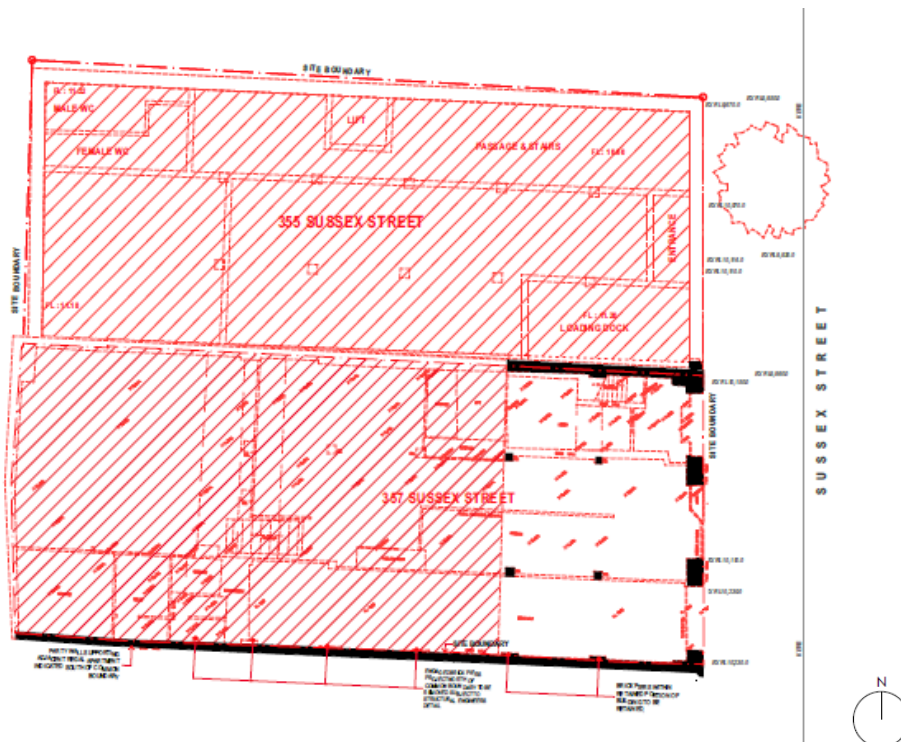


Figure 30: Proposed Demolition Plan Ground

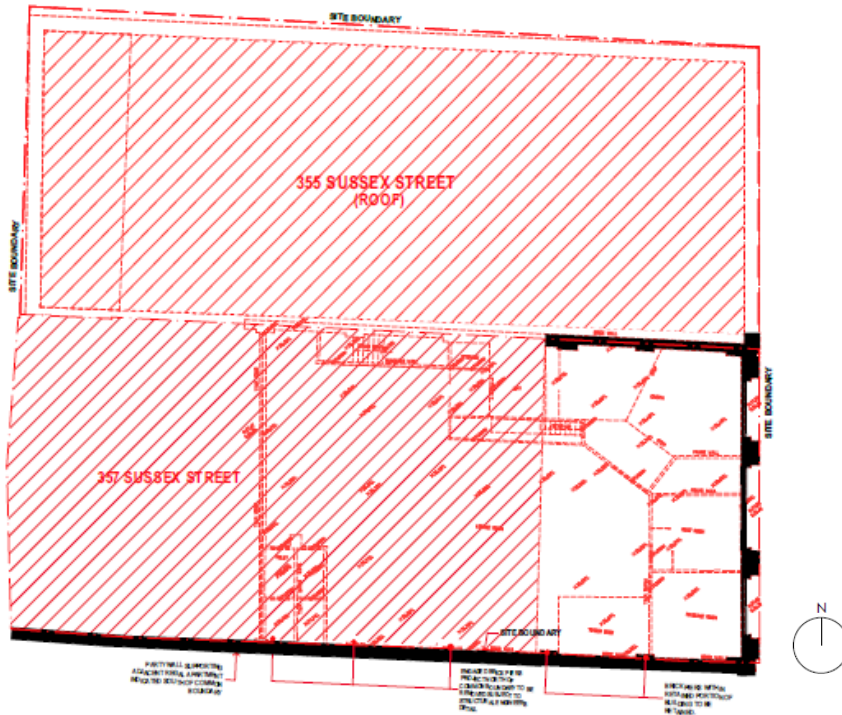


Figure 31: Proposed Demolition Level 4 Plan

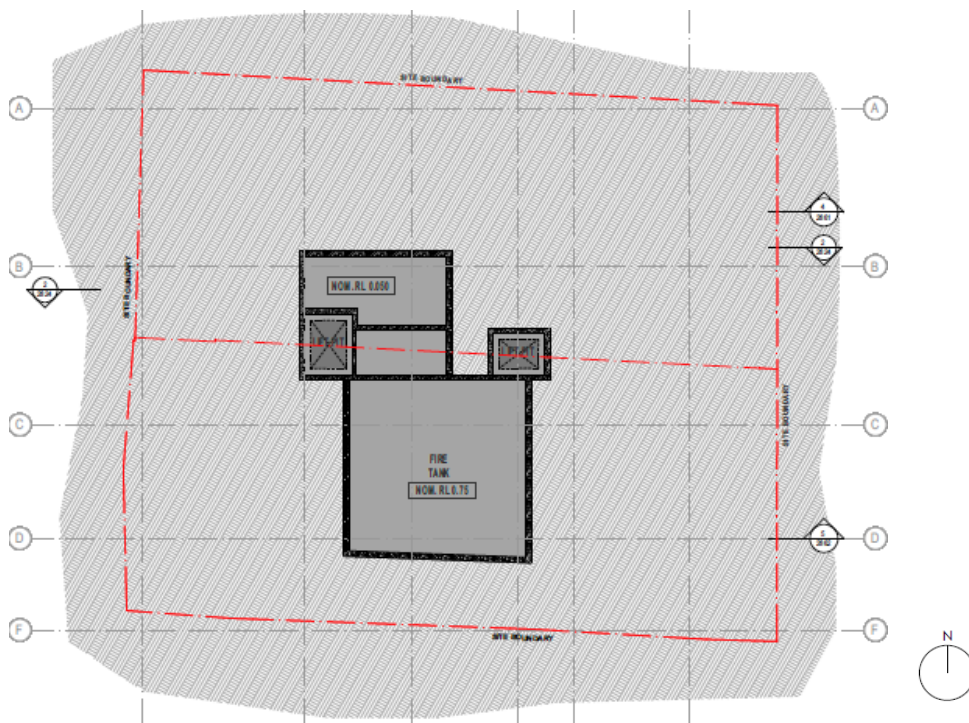


Figure 32: Proposed Excavation Floor Plan

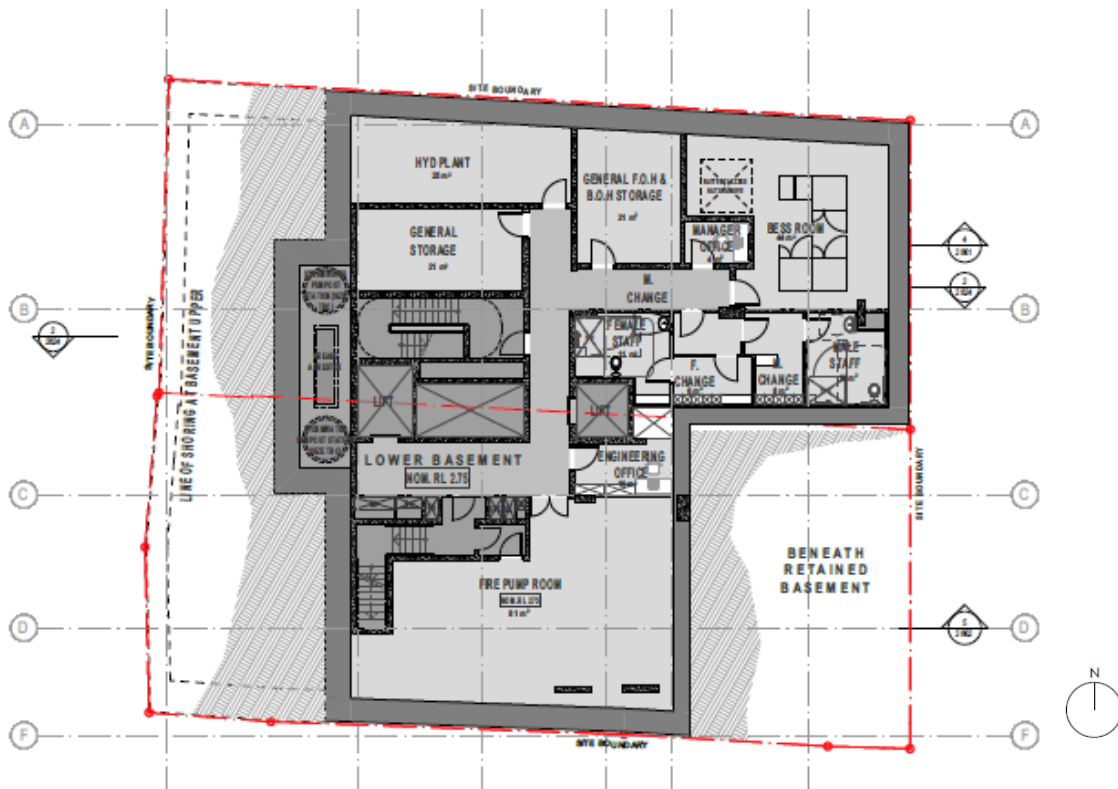


Figure 33: Proposed Lower Basement Floor Plan

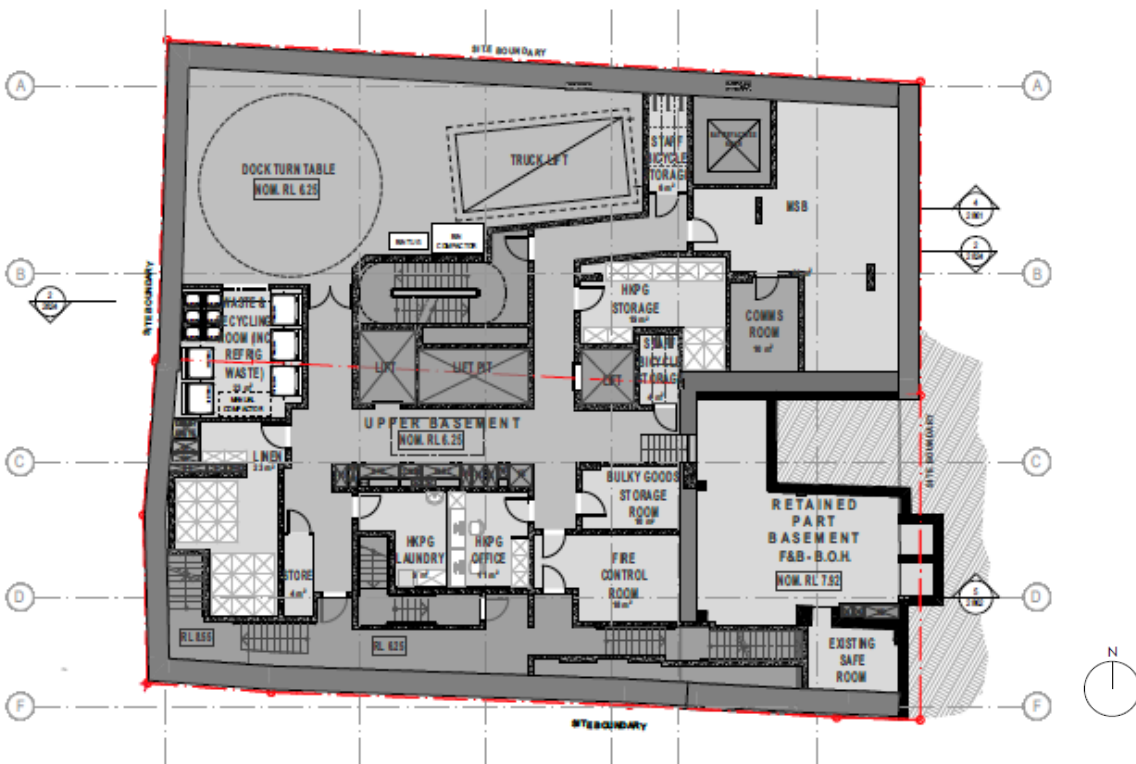


Figure 34: Proposed Upper Basement Plan

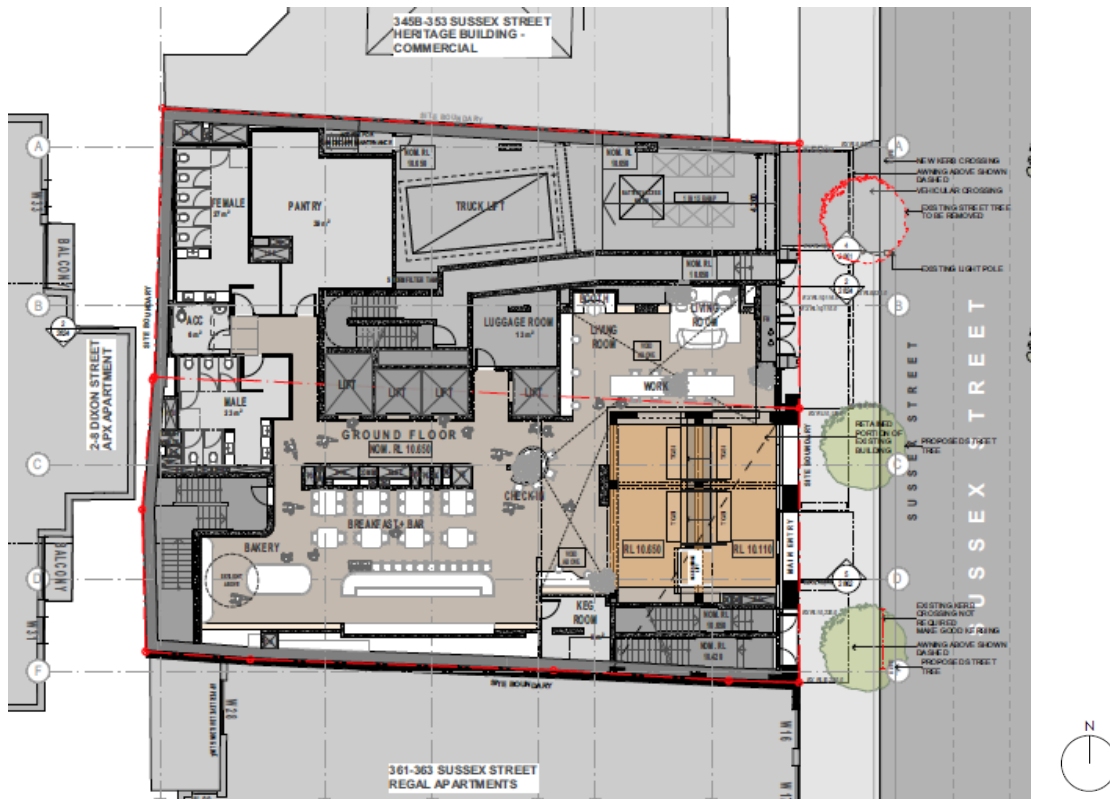


Figure 35: Proposed Ground Floor Plan

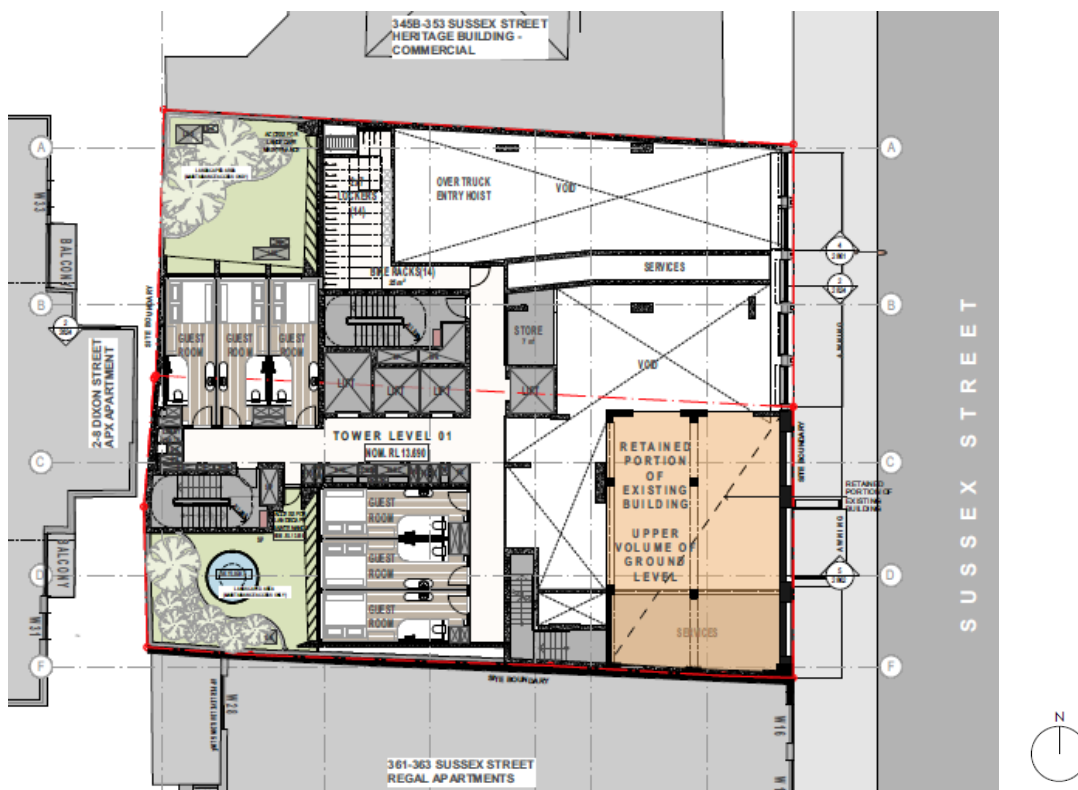


Figure 36: Proposed Level 1 Floor Plan

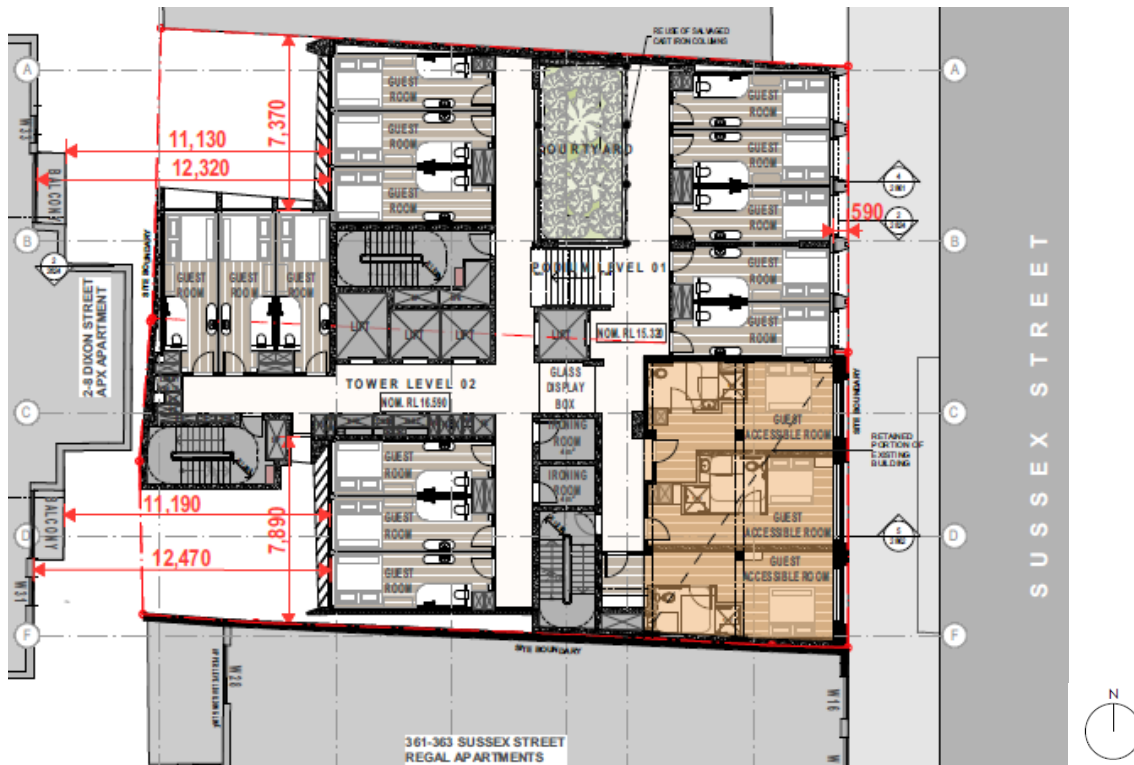


Figure 37: Proposed Level 2 Floor Plan

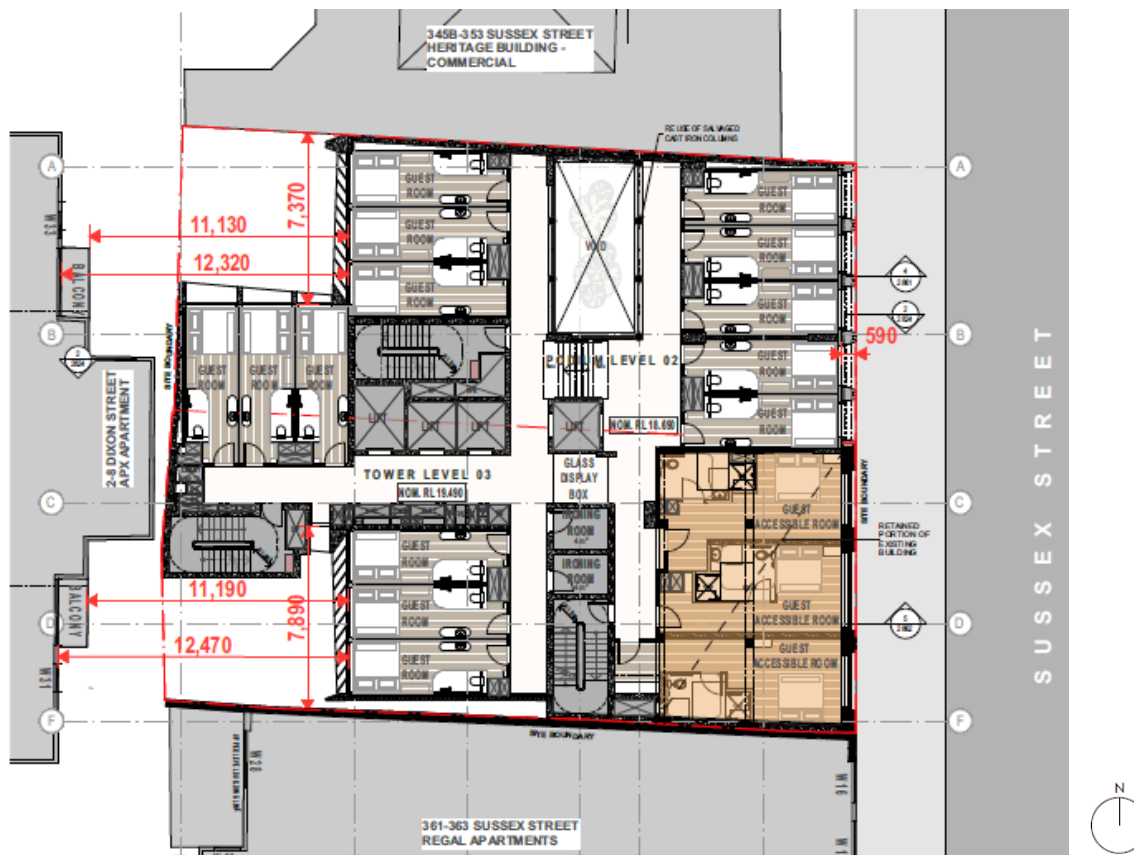


Figure 38: Proposed Level 3 Floor Plan

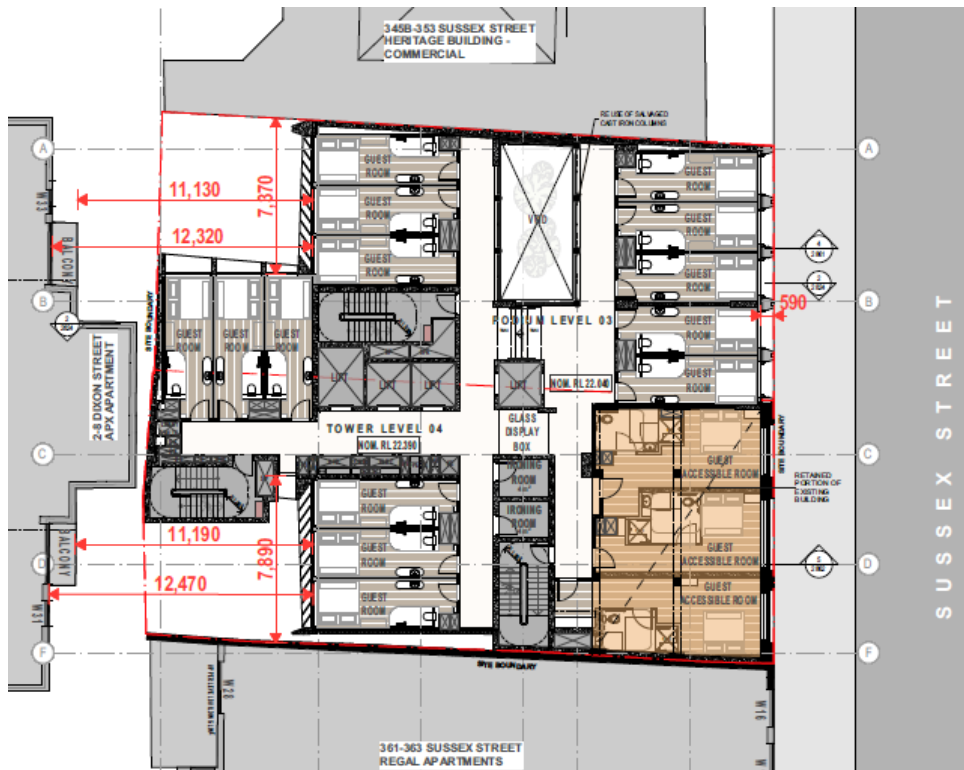


Figure 39: Proposed Level 4 Floor Plan

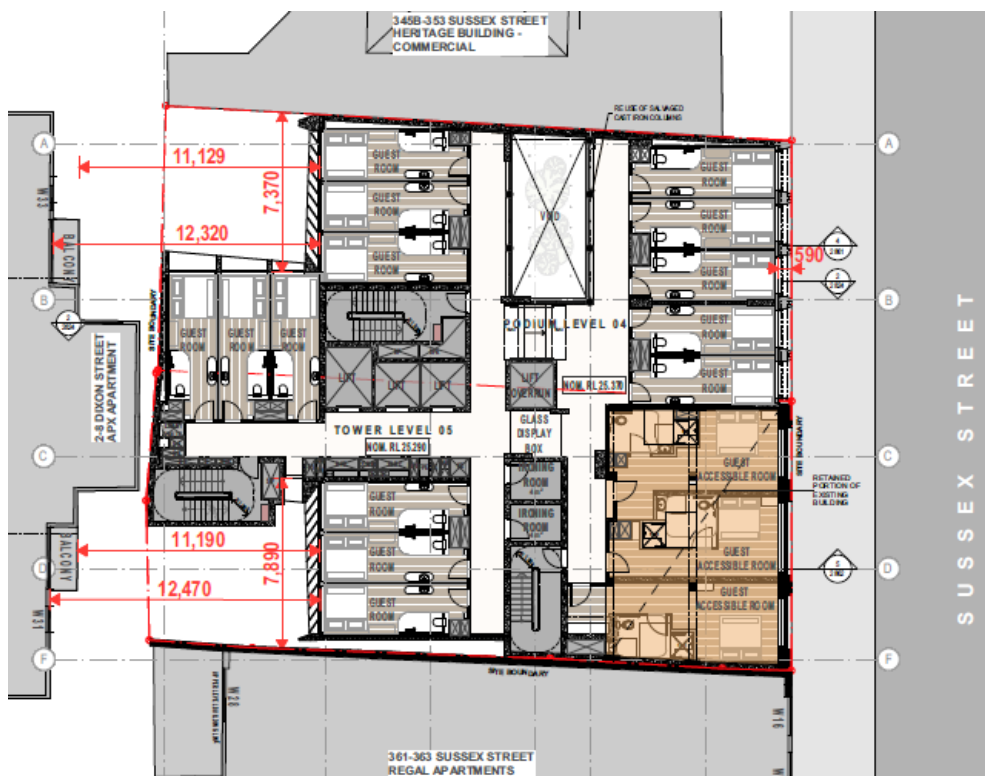


Figure 40: Proposed Level 5 Floor Plan

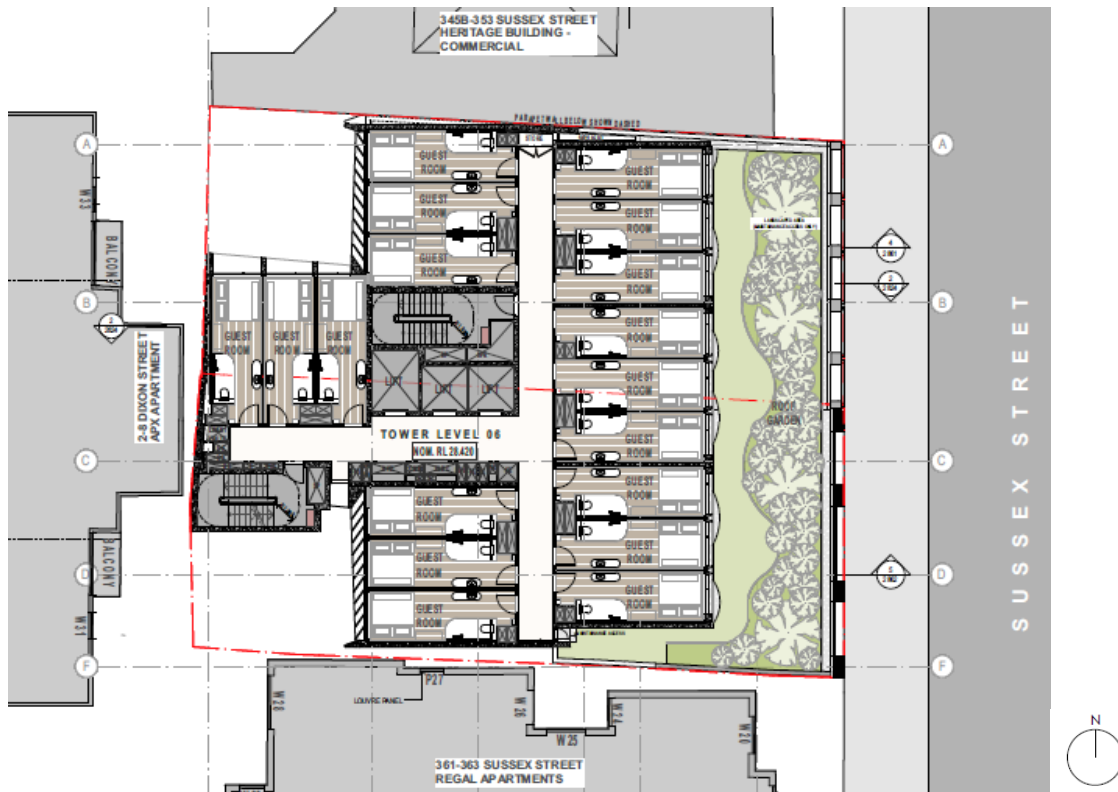


Figure 41: Proposed Level 6 Floor Plan

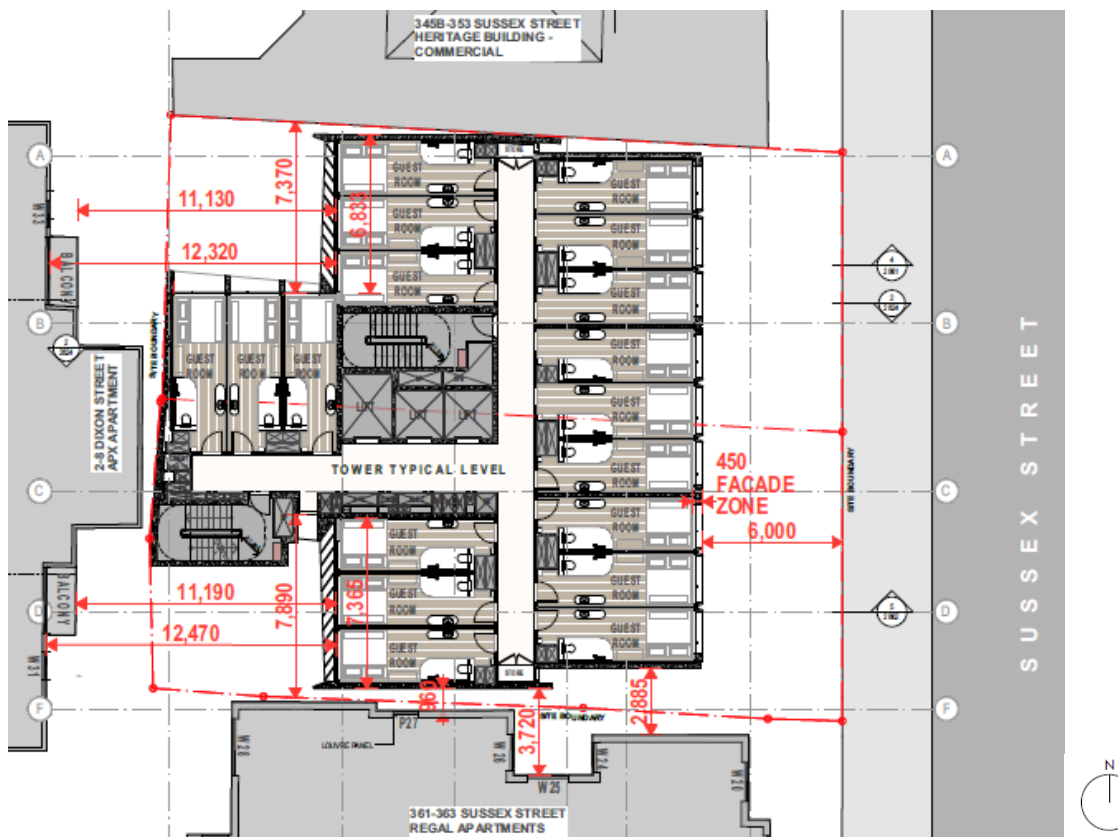


Figure 42: Proposed Typical Tower Floor Plan (Levels 7 - 16)

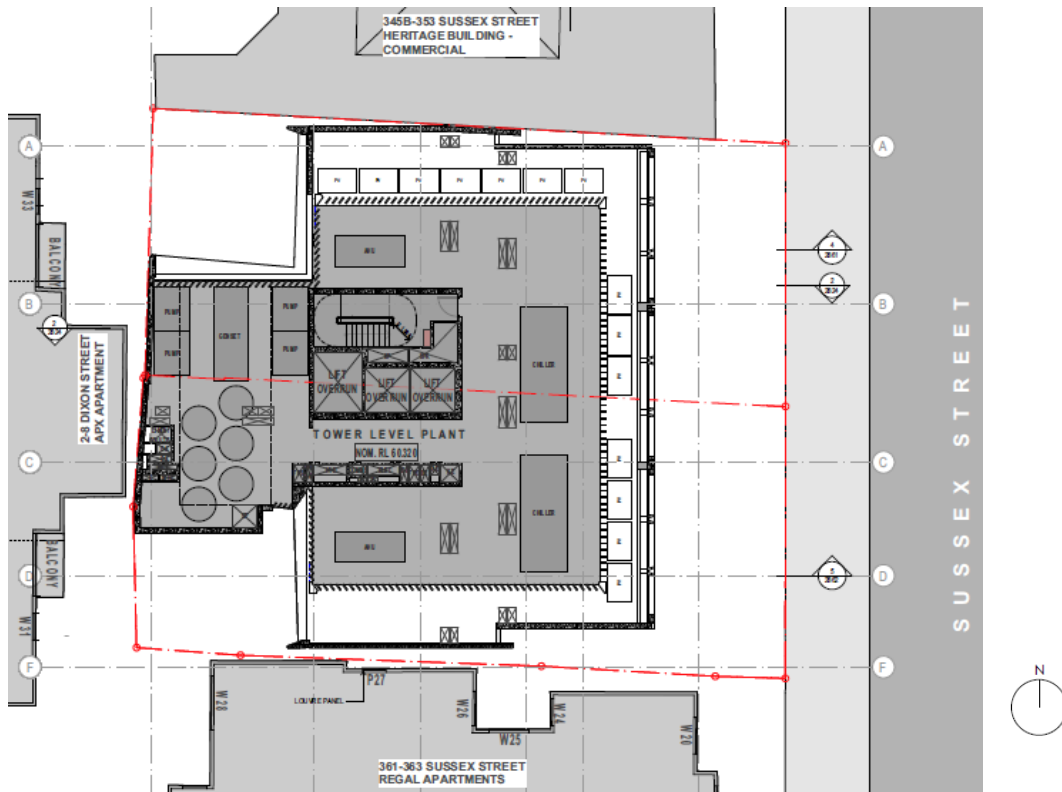


Figure 43: Proposed Plant Level 17

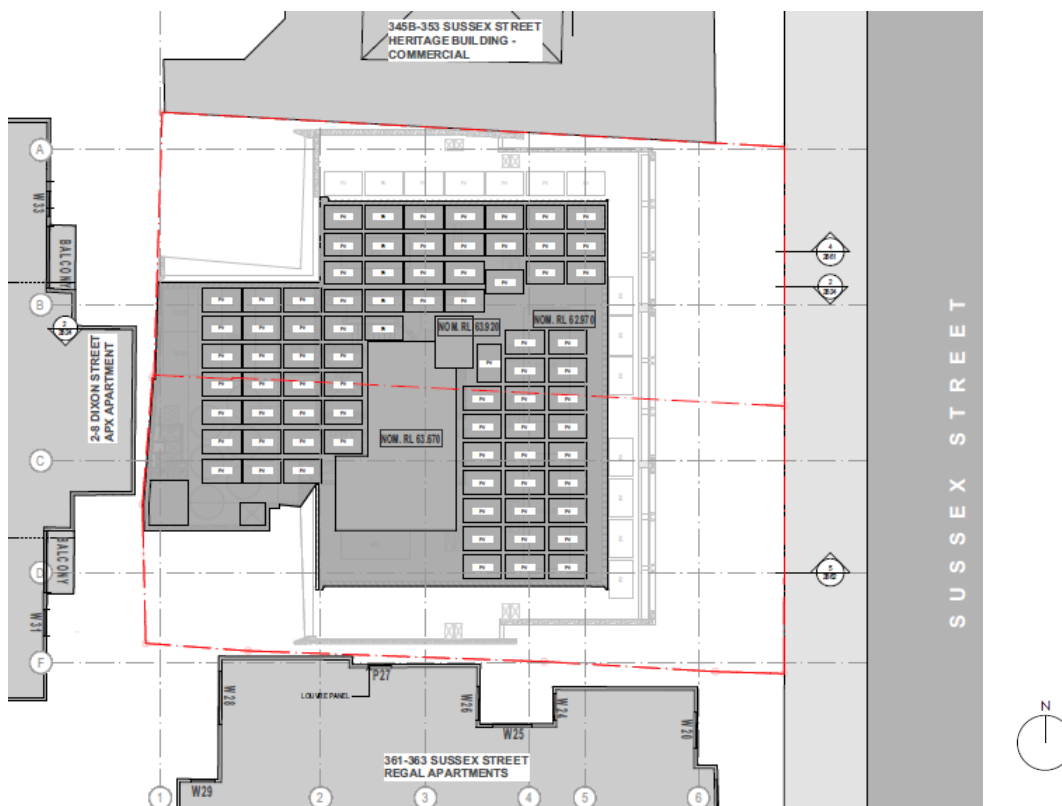


Figure 44: Proposed Roof Plan

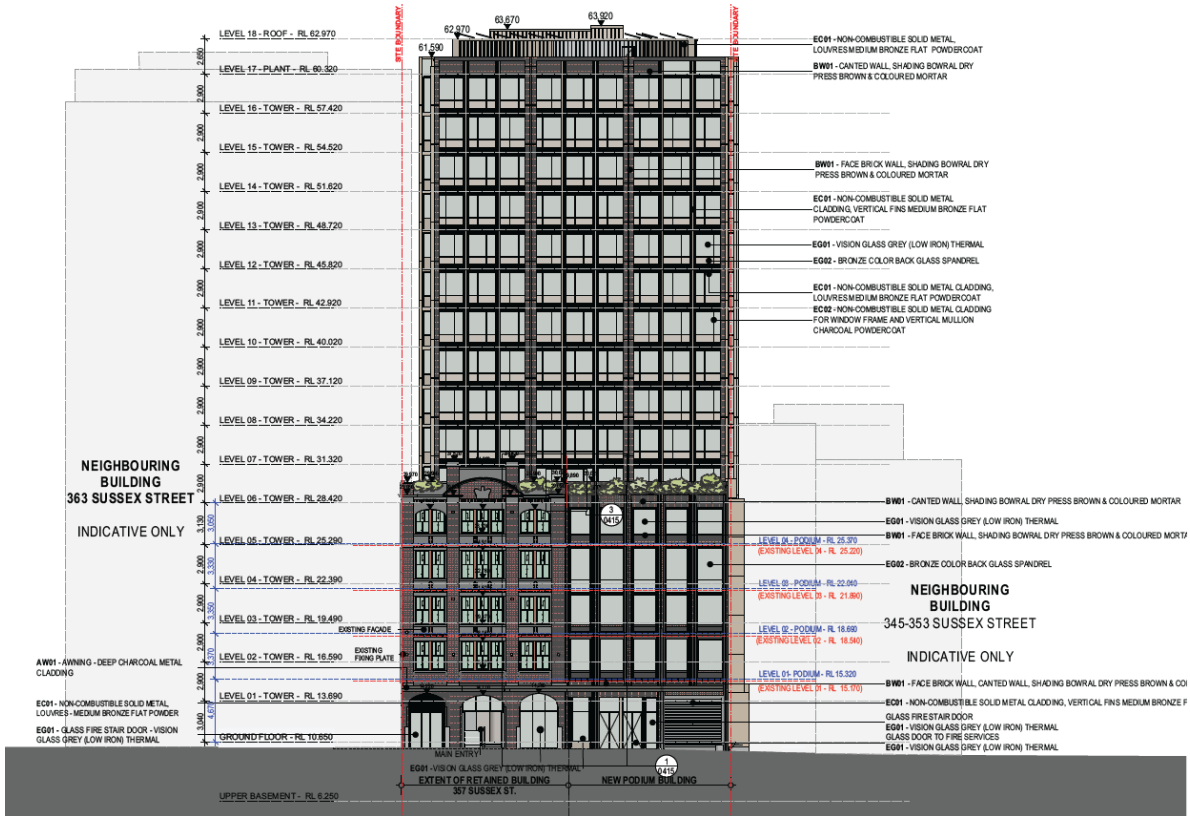


Figure 45: Proposed East Elevation (Sussex Street)

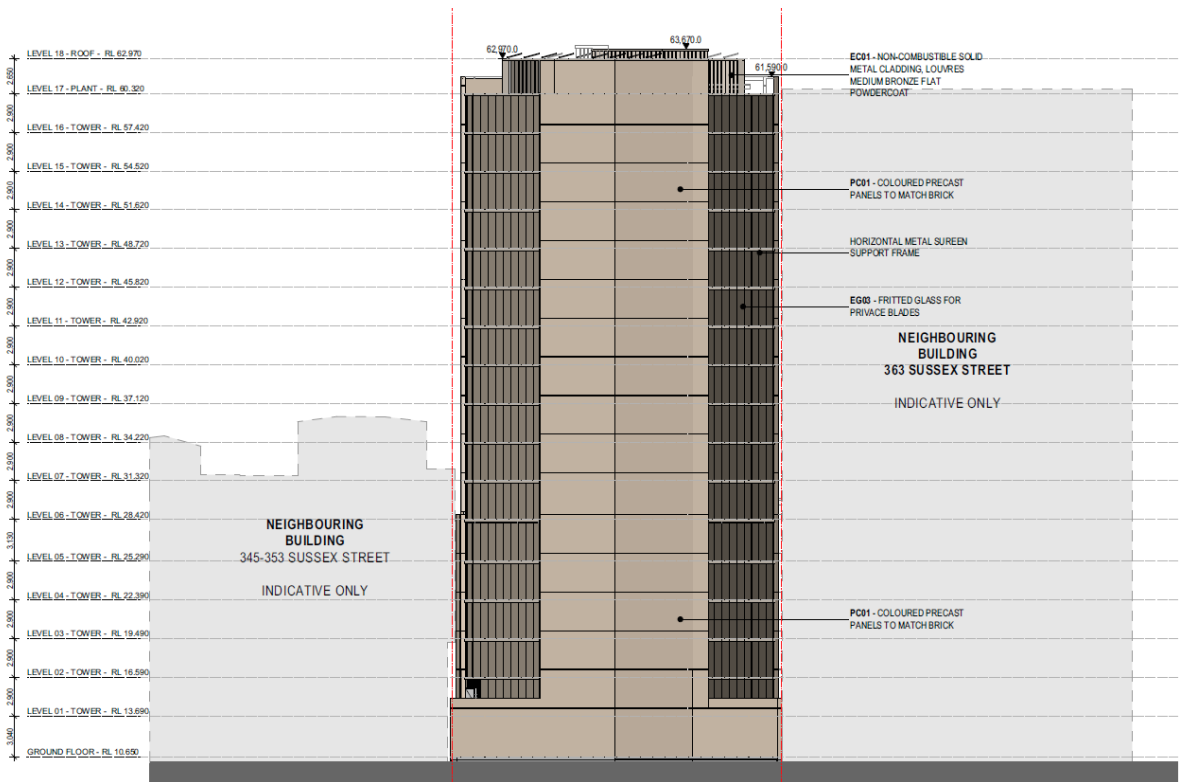


Figure 46: Proposed West Elevation

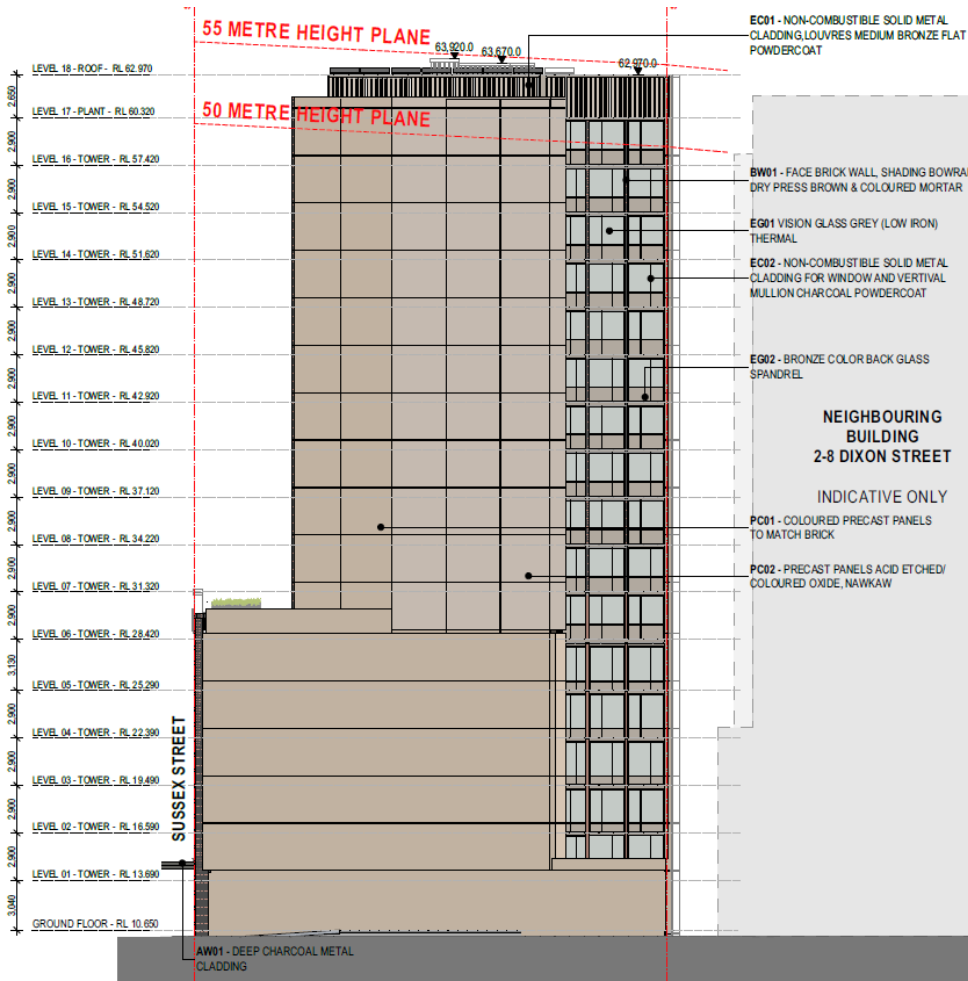


Figure 47: Proposed North Elevation

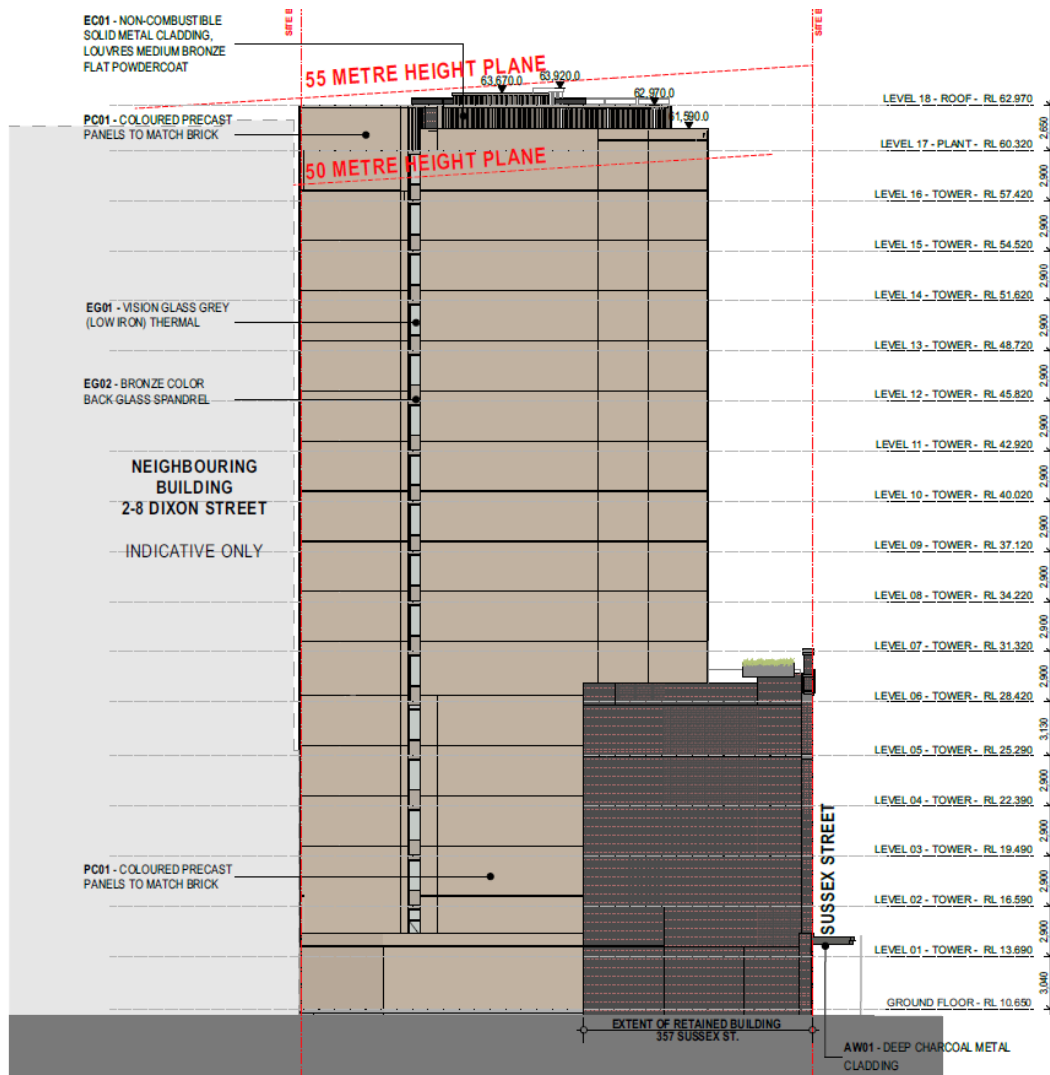


Figure 48: Proposed South Elevation

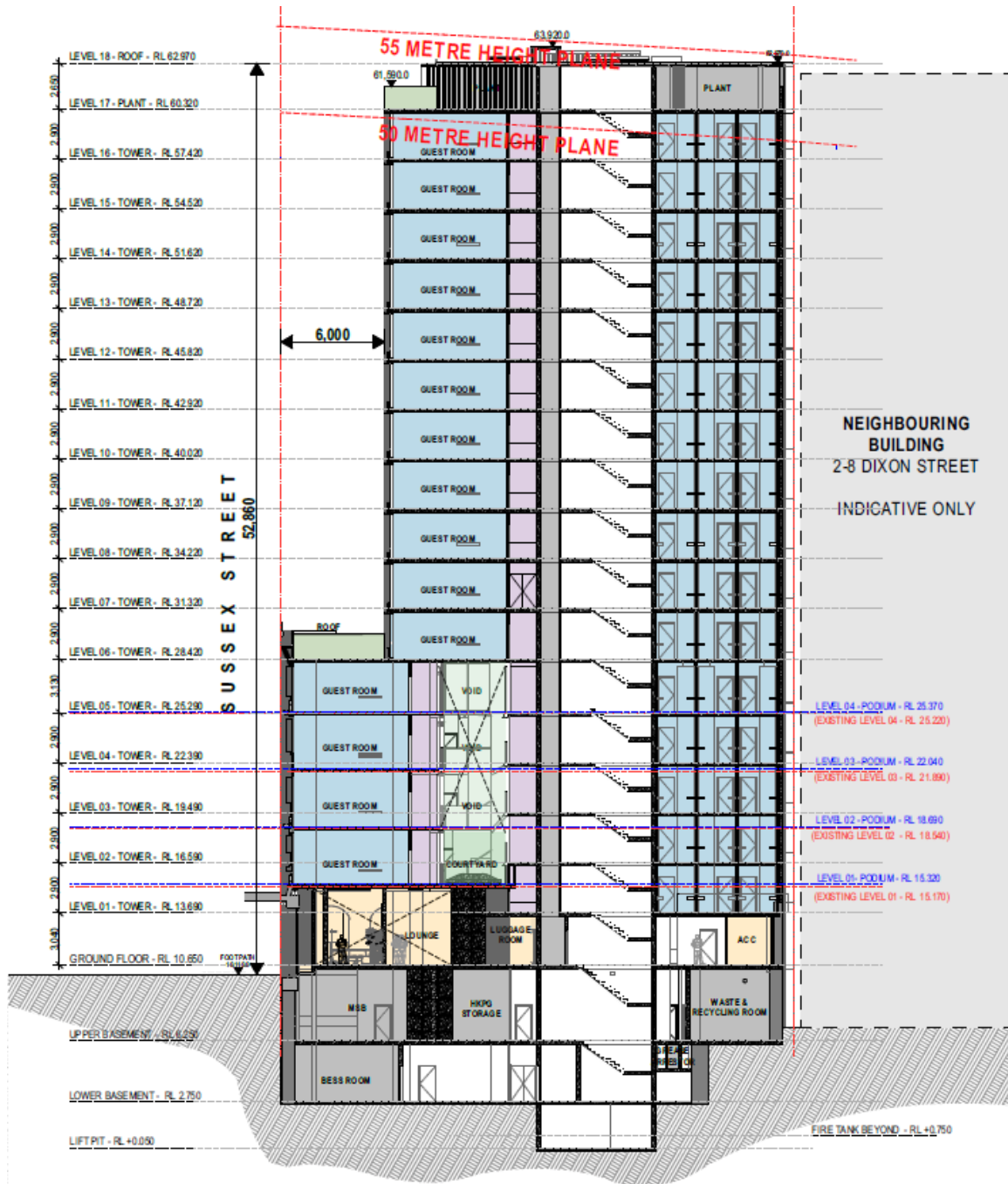


Figure 49: Proposed East-West Section

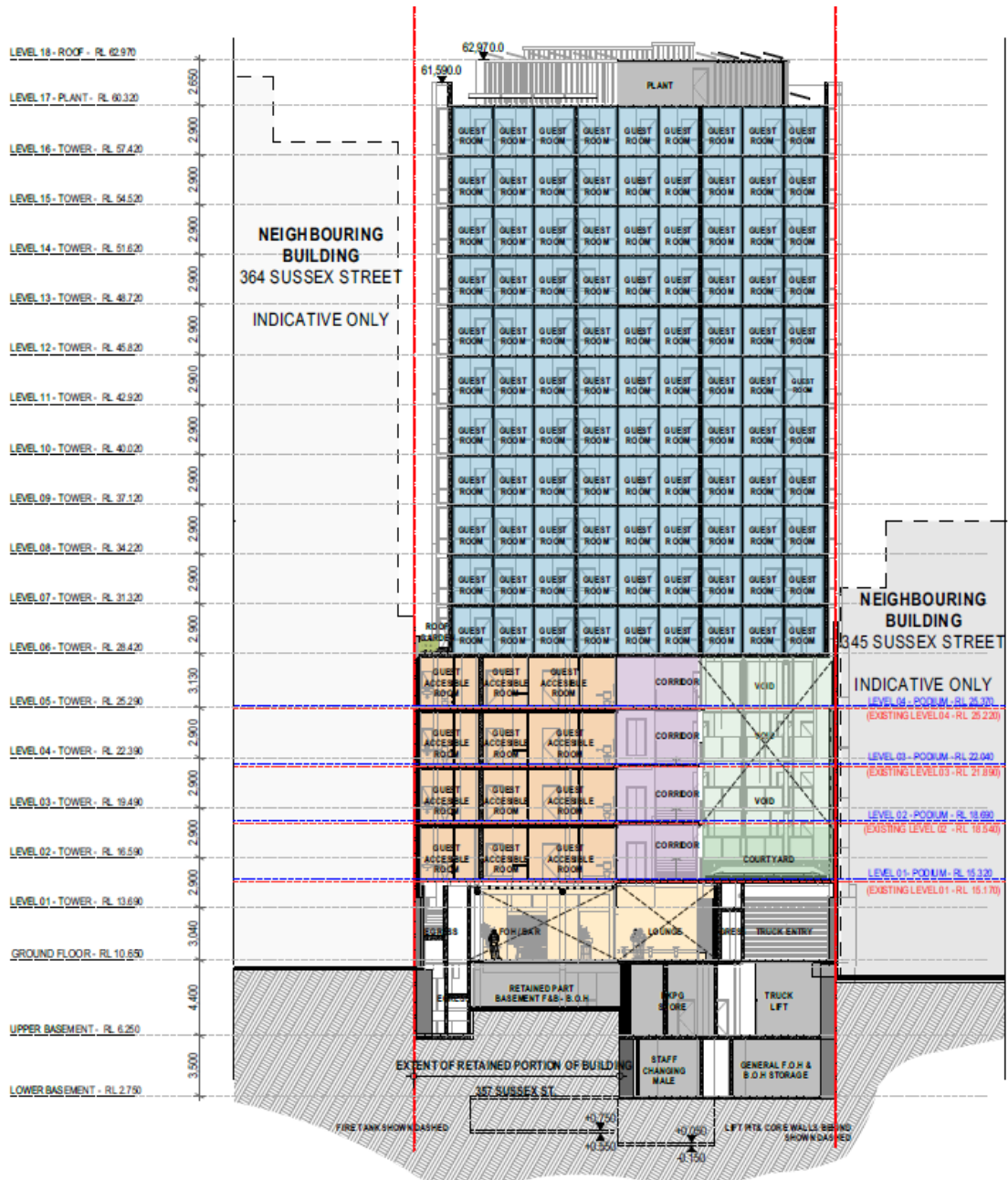


Figure 50: Proposed North-South Section

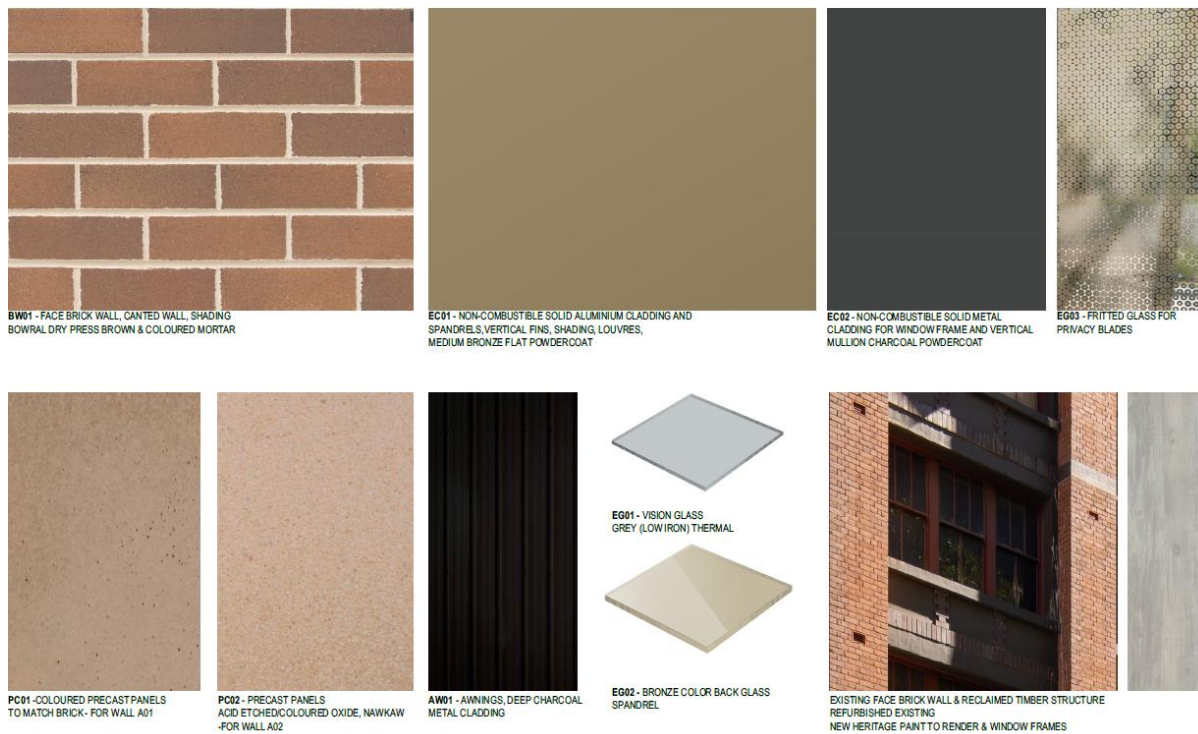


Figure 51: Proposed materials and finishes

Assessment

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

City of Sydney Act 1988

- Section 51N of the City of Sydney Act 1988 requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines a development application that will require, or 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.
- On advice from the City's Transport and Access Unit, the Director City Planning Development & Transport as delegate has reviewed the application and considers that the proposed development does not require consultation with the CSTTC.

Water Management Act 2000

- In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development, as the proposed basement levels will have an impact on groundwater levels as groundwater is expected to be encountered with the depth of excavation (RL- 0.15).

61. Water NSW provided General Terms of Approval on 28 July 2023, which have been included at Attachment A of this report.

State Environmental Planning Policies

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

62. 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.
63. Section 4.6 of the SEPP stipulates that the consent authority must not consent to the carrying out of any development if the land is contaminated, unless it is satisfied the land is suitable in its contaminated state (or will be suitable, after remediation). Pursuant to Section 4.6(3), the consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
64. A Preliminary Site Investigation (PSI) was prepared by Douglas Partners Pty Ltd which indicates low to moderate potential for contamination. The PSI concluded that the site would generally be considered compatible (from a site contamination perspective) with a proposed hotel development, subject to the results of further intrusive contamination investigations to assess the site's contamination status.
65. Given the findings of the PSI, a Hazardous Buildings Materials Report, Detailed Environmental Site Investigation (DESI) and Remediation Action Plan (RAP) prepared by Douglas Partners Pty Ltd was submitted. The site investigations identified the following potential contaminants (hazardous building materials) as present on the site given the age of the structures, historical commercial and manufacturing use:
- Asbestos, lead and metals
 - Synthetic mineral fibres
 - Polychlorinated biphenyls and Phenols
66. The RAP is accompanied by a letter of Interim Advice obtained from a NSW EPA Accredited Site Auditor (Envirocene) which confirms that the site can be made suitable for the proposed use through successful implementation of the RAP, and subject to additional conditions requiring additional investigation to the rear of 357 Sussex Street and front of 355 Sussex Street.
67. Council's Health Unit has reviewed the information provided and is satisfied that, subject to conditions, that the site can be made suitable for the proposed use. Appropriate conditions have been recommended to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.

State Environmental Planning Policy (Transport and Infrastructure) 2021

68. 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**

69. The application is subject to Clause 2.48 of the SEPP as the development involves the penetration of ground within 2m of an underground electricity power line.
70. In accordance with the requirements of the Clause, the application was referred to Ausgrid and Sydney Trains for a period of 21 days. On 13 and 14 June 2023, the amended proposal was re-referred to Ausgrid and Sydney Trains.
71. Ausgrid raised no objection to the proposal, as amended, subject to recommended conditions included in the schedules of Attachment A.
72. Sydney Trains, via Instrument of Delegation from Transport Asset Holding Entity (TAHE), has been delegated functions to act as the electricity supply authority to review applications that is in proximity to rail electricity infrastructure or an electrical easement. Sydney Trains raised no objections and advised they have no comments on proposal.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors**Clause 2.101 – Development within or adjacent to interim rail corridor**

73. The application is located within the Interim CBD Rail Link (Zone B - Tunnel) rail corridor and was subsequently referred to TfNSW for concurrence.
74. Concurrence was granted by TfNSW on 8 September 2023 and conditions of consent have been included in the schedules of Attachment A.

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

75. The application is subject to Clause 2.122 of the SEPP as the proposal is a traffic generating development.
76. In accordance with the requirements of the Clause, the application was referred to TfNSW (Roads and Maritime Services (RMS)) for comment. The amended proposal was re-referred to TfNSW on 13 June 2023 for a period of 21 days. No response from TfNSW was received, which is taken to be no objection.

State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non-Rural Areas)

77. The aim of SEPP (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non-Rural Areas) 2017 seeks to preserve the amenity of non-rural areas and protect the biodiversity values of trees and other vegetation in non-rural areas of the State.

- 78. The proposal includes the removal of one existing street tree and replacement with two new street trees and vegetation in a non-rural area. The provisions of the SEPP have been considered in the assessment of this development application.
- 79. Refer to further discussion and assessment of impacts upon the existing street tree under Section 3.5 of Sydney DCP 2012 below.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6
Water Catchments**

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

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the SP5 Metropolitan Centre zone. The proposed development is defined as hotel and motel accommodation, with ancillary retail (food and drink) premises to the hotel. The proposed uses are all permitted with consent and meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings 6.16 Erection of tall buildings in Central Sydney	No	A maximum building height of 50m is permitted. A maximum building height of 54.9m (RL 63.92) is proposed. The proposed development does not comply with the maximum height of buildings

Provision	Compliance	Comment
		<p>development standard pursuant to Clause 4.3.</p> <p>The site has an area of 718sqm. Clause 6.16(4) stipulates that development consent must not be granted to a development with a height greater than 55m unless the site area is at least 1,000sqm. Accordingly, the proposal must not exceed a maximum height of 55m.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. Refer to further assessment under the heading 'Discussion' and subheading 'Clause 4.6 Request to Vary a Development Standard' below.</p>
<p>4.4 Floor space ratio</p> <p>6.4 Accommodation floor space</p>	Yes	<p>A maximum FSR of 7.5:1 is permitted for the site pursuant to Clause 4.4. The site is located within 'Area 4' and is permitted to utilise the provisions of Clause 6.4.</p> <p>Clause 6.4 provides an opportunity for additional accommodation floor space up to 1.5:1 on a pro-rata basis for hotel accommodation and retail premises.</p> <p>The proposal comprises a new hotel and ground floor ancillary retail (food and drink) uses. The proposal is permitted a maximum FSR of 9:1 which equates to a maximum GFA of 6,462sqm.</p> <p>A FSR of 8.8:1 and GFA of 6,315sqm is proposed. The proposed development complies with the maximum floor space ratio development standard.</p>
<p>4.6 Exceptions to development standards</p>	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3 (Height of buildings). A Clause 4.6 variation request has been submitted with the application.</p> <p>Refer to further assessment under the heading 'Discussion' and subheading 'Clause 4.6 Request to Vary a Development Standard' below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes, subject to conditions	<p>The site is not a heritage item, nor is it located within a heritage conservation area.</p> <p>The site consists of two former warehouse buildings, constructed approximately in c.1910-1914 and 1916 by the Foley Brothers Pty Ltd. Although both buildings retain a degree of original fabric, the warehouses do not demonstrate high integrity to meet the threshold for listing as local heritage items.</p> <p>Of the two buildings, 357 Sussex Street is the least modified and is one of several early-20th Century industrial warehouses constructed by the Foley Brothers Pty. It maintains a generally intact facade, masonry walls, timber post and beam structure at basement, ground and levels 1 to 3. 355 Sussex Street has been subject to numerous intrusive external and internal modifications, which has diminished the legibility of the building and reduced any remnant or original fabric. The remaining cast-iron structural columns in a grid are considered to be of high significance as this was not widely used as structural fabric at the time.</p> <p>The proposal, as amended, seeks to respect the structural integrity of the 357 Sussex Street by incorporating the retained facade, existing floor levels and two structural bays into the redevelopment. The proposal also seeks to salvage and reuse the remnant cast iron columns as decorative elements within the new infill building at 355 Sussex Street. It is considered that the proposal, as revised, demonstrates meaningful retention and adaptive reuse of the former warehouse building, in keeping with heritage conservation</p>

Provision	Compliance	Comment
		<p>objectives of Clause 5.10 of Sydney LEP 2012.</p> <p>The site is also surrounded by a number of heritage items to the north, east and south, including the Former Commence Building at 345B Sussex Street (Local Item No. I1966), Former Commerce House at 365-375 Sussex Street (Local Item No. I1967), Former Sydney Trades Hall at 4-10 Goulburn Street (SHR 00322, Local Item No. I1802), Douglass Lane (Local item No. I1732), and Former Foley Bros warehouse group at 372-386 Sussex Street (Local Item No. I1968).</p> <p>Subject to conditions, the proposed development will not have any detrimental impact on the heritage significance of the surrounding heritage items.</p> <p>Refer to the further discussion under Section 3.9 and 3.10 of Sydney DCP 2012 and assessment provided under the heading 'Discussion', subheading 'Interface between 355 and 357 Sussex Street' below.</p>
5.21 Flood planning	Yes	<p>The site and western side of Sussex Street is affected by flooding and is within the Darling Harbour catchment.</p> <p>A site-specific flood study prepared by GRC Hydro has been assessed against the requirements of the City's Interim Floodplain Management policy and satisfies the provisions of the standard. Council's Public Domain Unit has reviewed the proposal and advised the recommendations and flood planning levels (FPLs) are acceptable.</p> <p>The proposal, as amended, complies with the required FPLs and satisfies the provision of Clause 5.21 of Sydney LEP 2012.</p>

Provision	Compliance	Comment
		A condition of consent is recommended to ensure the development is constructed in accordance with the FPLs outlined within the Site-specific flood study.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
Subdivision 2 Types of additional floor space 6.4 Accommodation floor space	Yes	Refer to FSR assessment under Clause 4.4 of Sydney LEP 2012 above.
Subdivision 3 Heritage floor space 6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	Not applicable	Clause 6.11 of Sydney LEP 2012 does not apply to the development as the proposal does not exceed a building height of 55m.
Division 3 Height of buildings and overshadowing		
6.17 Sun access planes	Yes	<p>The maximum building height permitted on the site is restricted by the Belmore Park Sun Access Plane (SAP), resulting in a maximum building height of between RL 250m and RL 260m over the site.</p> <p>The proposed development complies with the SAP development standard.</p> <p>The building has a maximum height of 54.9m above the existing ground level and complies with Clause 6.16(4) of Sydney LEP 2012. As discussed above, the proposal seeks to vary the development standard prescribed under Clause 4.3, pursuant to Clause 4.6. The submitted shadow diagrams illustrate that the proposal will not result in overshadowing of Belmore Park.</p>

Provision	Compliance	Comment
6.18 Overshadowing of certain public places	Yes	The proposal complies with Clause 6.18 of Sydney LEP 2012 and does not result in any additional overshadowing to places shown on the Sun Access Protection Map.
Division 4 Design excellence		
6.21 Design excellence 6.21B Application of Division 6.21C Design excellence	Yes	<p>The proposed development is considered to meet the provisions of design excellence pursuant to Clause 6.21, 6.21B and 6.21C of Sydney LEP 2012.</p> <p>As outlined under the heading 'History Relevant to the Development Application' above, the proposed development has been subject to numerous amendments to address the comments made by the DAP and Council with respect to design, articulation, built form, scale, setbacks, heritage significance and amenity.</p> <p>The proposal, as amended, is of a high standard and uses materials and detailing appropriate to the building type and location along Sussex Street. Notwithstanding the variations proposed in relation to the built form, (building height, street setback and street wall height assessed elsewhere in this report), the revised design of the building respects the heritage significance of the site, surrounding heritage items, and positively contributes to the neighbouring sites as well as desired future character of the Haymarket/ Chinatown Special Character Area.</p> <p>The revised design of the proposed building achieves an acceptable relationship and interface with the adjoining existing developments in terms of separation, setbacks, and amenity. The development will enhance the</p>

Provision	Compliance	Comment
		<p>ground level interface, result in an improved presentation to the public domain, and include integration of landscape design.</p> <p>Furthermore, the development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>Overall, the proposal satisfies the objectives and matters for consideration under Clause 6.21, 6.21B and 6.21C, and therefore achieves design excellence.</p>
6.21D Competitive design process	Not applicable	A competitive design process under Clause 6.21D is not required to be undertaken as the development does not exceed 55m, does not have a capital value of more than \$100,000,000, and a development control plan is not required to be prepared under Clause 7.20 (as the site area is less than 1,500sqm).

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.1 Objectives and application of Division 7.9 Other land uses	Yes	<p>A maximum of 59 car parking spaces is permitted under Clause 7.9 of Sydney LEP 2012.</p> <p>Given the highly accessible location of the site, the proposal includes no car parking for visitors. The proposal meets the objectives and provisions of Clause 7.1 and 7.9 which seeks to stipulate the maximum number of car parking spaces in order to minimise the amount of vehicular traffic generated by the proposed development.</p>
Division 3 Affordable housing		

Provision	Compliance	Comment
7.13 Contribution for purposes of affordable housing	Yes	<p>A contribution for the purpose of affordable housing applies to the development under Clause 7.13(1)(d)(ii) of Sydney LEP 2012, as the site is located on land in Central Sydney and will result in the demolition of existing floor area and the subsequent creation of more than 100 square metres of GFA.</p> <p>In accordance with Clause 7.13(2C)(a)(ii) an affordable housing contribution levy of 0.5% of the total floor area of the development applies. A condition of consent is recommended to reflect this.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes, subject to conditions	<p>The site is located on land identified as Class 5 Acid Sulfate Soils and is located within 500m of land identified as containing Class 2 Acid Sulfate Soils.</p> <p>The submitted Preliminary Site Investigation prepared by Douglas Partners confirms that the site is located within an area where there is no known occurrence of Acid Sulfate Soils.</p> <p>Notwithstanding, an ASSMP is required given the proposed excavation works and sites proximity to the Class 2 Acid Sulfate Soils mapped land, located approximately 10m west of the site.</p> <p>As such an Acid Sulfate Soils Management Plan (ASSMP) was prepared by Douglas Partners. Council's Environmental Health Unit has reviewed the ASSMP and advised the recommendations and management procedures are acceptable. Appropriate conditions are recommended in Attachment A to require compliance with the ASSMP.</p>
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation

Provision	Compliance	Comment
		Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.
7.19 Demolition must not result in long term adverse visual impact	Yes	While the proposal includes demolition of the existing building, the proposal also includes construction of a new building under the same application. Council officers are therefore satisfied that the site will be comprehensively redeveloped under the consent.
7.20 Development requiring or authorising preparation of a development control plan	Not applicable	A development control plan is not required for the site as the site area is less than 1,500sqm and the development does not exceed 55m in height.
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>The development is located approximately 385m south- east of the Cross City Tunnel Ventilation stack.</p> <p>An Air Quality Statement prepared by RWDI accompanies the proposal. The development will not adversely affect the dispersal of emissions from the Cross City Tunnel Ventilation stack and likewise, it is not considered that the persons occupying the developments will be unduly affected by those emissions.</p>
7.26 Public art	Yes	<p>The submitted revised Preliminary Public Art Strategy prepared by Cultural Capital identifies the opportunity for a large-scale public artwork on the northern facade. The Preliminary Public Art Plan has been reviewed and is supported by Council's Public Art Unit.</p> <p>A condition of consent is recommended to ensure public art will be implemented in accordance with the Preliminary Public Art Plan.</p>

Development Control Plans

Sydney Development Control Plan 2012

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

Section 2 – Locality Statements

84. The site is located within the Haymarket/ Chinatown Special Character Area. The proposed development is in keeping with the unique character and the design principles of the locality pursuant to Section 2.1.3 of Sydney DCP 2012, as it:
- (a) Retains and enhances the urban character and scale of the area, built to the street alignment of Sussex Street, and achieves a street frontage height consistent with the prevailing forms of surrounding heritage items.
 - (b) Maintains and reinforces permeability within the area and intricacy of the urban fabric.
 - (c) Conserves and enhances the character of the area through retention and adaptive reuse of the early twentieth century commercial warehouse building (357 Sussex Street).
 - (d) Provides improved public domain features including public artworks to open spaces.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.5 Public Art	Yes	<p>A revised Preliminary Public Art Plan prepared by Cultural Capital was submitted during the assessment of the application and is considered acceptable by the City's Public Art Unit.</p> <p>The Preliminary Public Art Plan confirms the northern facade wall of the development as a potential public art opportunity. The nominated location for the proposed large-scale public artwork is highly visible from the public domain (viewed from Sussex and Liverpool Streets facing south). The opportunity provides a basis for meaningful collaboration between artist(s) and architect teams. The proposal meets the objectives of Section 3.1.5 of Sydney DCP 2012 which seeks to improve the quality, cohesion, and integration of public artworks in private developments.</p> <p>Appropriate conditions are recommended to ensure public art will</p>

Provision	Compliance	Comment
		be implemented in accordance with the Preliminary Public Art Plan.
<p>3.2. Defining the Public Domain</p> <p>3.2.1 Improving the Public Domain</p> <p>3.2.2 Addressing the Street</p>	Yes	<p>The proposed will make a positive contribution to Sussex Street and the public domain, as it:</p> <ul style="list-style-type: none"> • Contributes to the activity, safety and amenity of Sussex Street through provision of an active frontage comprising a 24-hour hotel lobby at ground floor with ancillary retail uses and hotel activity • Maintains adequate sun access to publicly accessible open space • Will not result in adverse wind impacts within the public domain along Sussex Street • Does not impede on any significant views from the public domain to any public places, Sydney Harbour, heritage buildings, significant monuments parks and the like • Provides an opportunity for a highly visible public artwork on the northern facade • Enhances pedestrian amenity and the public domain with acceptable integration, interface and provision of a new continuous awning • Includes meaningful retention and adaptive reuse of the former warehouse building to conserve and appropriately respond to the Haymarket/ Chinatown Special Character Area.
3.2.3 Active Frontages	Yes	<p>The must provide an active frontage to Sussex Street (nominated as Category 2 active frontage).</p> <p>The proposal includes a new infill at 355 Sussex Street and retains the facade of the existing warehouse at 357 Sussex Street. The retained facade adopts a</p>

Provision	Compliance	Comment
		<p>sympathetic response to the setting of surrounding heritage items and the context of the site.</p> <p>The proposal positively addresses Sussex Street and includes an attractive building entry via the retained facade, active ground floor uses in the form of a hotel lobby and ancillary hotel food and drink premises. The fit-out of the ancillary food and drink premises are subject to a separate application.</p>
3.2.4 Footpath Awning	Partial compliance	<p>An awning is required along Sussex Street as identified on the Footpath Awnings and Colonnade Map.</p> <p>As discussed under the heading 'History of the Subject Development Application' above, the proposed awning has been subject to a number of design amendments.</p> <p>The awning, as amended, has a light-weight form and appearance. The revised metal awning is generally in keeping with the Section 3.2.4 of Sydney DCP 2012, as it:</p> <ul style="list-style-type: none"> • Provides a continuous along the extent of the site to Sussex Street and maximises weather protection. • Has a maximum height of 4.68m above the pedestrian footpath. While the proposal does not comply with the maximum awning height of 4.3m (seeking a minor variation of 0.38m) the proposed height is acceptable as it aligns with the first floor datum of the retained facade at 357 Sussex Street. • Provides a varied width of 2.1-2.4m which complies. The awning is sufficiently setback from the existing light pole and new proposed street trees. • The submitted accompanying awning detail drawings confirm that gutters and downpipes will be concealed within the ground floor

Provision	Compliance	Comment
		<p>frontage of the building and will not be visible from the public domain.</p> <ul style="list-style-type: none"> • Council's Heritage and Urban Design Specialists advised the revised awning design is acceptable, subject to recommended conditions. • Appropriate conditions are recommended to ensure the provision of under awning lighting in accordance with relevant Australian Standards.
3.2.6 Wind Effects	Yes	<p>The application is accompanied by a Pedestrian Wind Assessment and Addendum Wind Statement prepared by Windtech.</p> <p>The Wind Assessment and Addendum confirms that the:</p> <ul style="list-style-type: none"> • Wind conditions at the ground floor entrances are predicted to be comfortable for their intended uses throughout the year; and • Wind conditions resulting from the proposal achieve an improved or equivalent outcome to the existing site conditions. <p>The proposal meets Section 3.2.6 of Sydney DCP 2012.</p>
3.2.7 Reflectivity	Yes	<p>The application is accompanied by a Reflectivity Report prepared by Surface Design. The Reflectivity Report concludes that the risk of rogue reflections causing disability glare is limited and acceptable where the normal specular reflectivity of facade materials is limited to 20% for all facade aspects.</p> <p>A condition of consent is recommended requiring that the light reflectivity from the proposed materials will not exceed 20% as to ensure the development will not cause undesirable glare for pedestrians, motorists, and other buildings.</p>

Provision	Compliance	Comment
3.2.8 External lighting	Not applicable	A condition of consent is recommended to require any external lighting to be subject to a separate application.
3.5 Urban Ecology	Yes, subject to conditions	<p>The proposed development seeks to:</p> <ul style="list-style-type: none"> • Remove and replace the existing street tree with two new street trees of the same species (Green Ash, <i>Fraxinus pennsylvanica</i>). Council's Urban Forest Management Team supports the removal and replacement of the street tree. • Include landscaping to the north-west and south-west corners of the site at level 1. • Proposed new void/ internal courtyard to the north at level 2. The courtyard includes hanging planters suspended from the ceiling. • Landscaped podium roof at level 6 including new tree planters. <p>A landscape plan prepared by Place Design Group accompanies the application. The proposed landscape areas will comprise a mix of plant species including shrubs, ground covers and trees that have been selected to having regard to the conditions of the site.</p> <p>The proposal contributes towards green cover within the Sydney CBD and will improve the local urban ecology and diversity of locally indigenous flora and fauna species in accordance with Section 3.5 of Sydney DCP 2012.</p> <p>Council's Tree Management Unit and Landscape Specialist advised the proposal is acceptable subject to recommended conditions. These conditions include design modifications to the internal courtyard at level 2 and inaccessible green roof above the podium at level 6 to provide 600-700mm high planters with a maximum of 200mm</p>

Provision	Compliance	Comment
		mounding at installation to support planting.
3.6 Ecologically Sustainable Development	Yes	<p>The application is accompanied by an Environmental Performance Report prepared by Surface Design, City's 'Design for Environmental Performance' Template, and Utilities Statement prepared by IGS.</p> <p>The submitted Environmental Performance Report provides the following ESD targets:</p> <ul style="list-style-type: none"> • Demonstrate energy efficiency by targeting a 4 Star NABERS Energy for Hotels with a Commitment Agreement certification. • 4 Star NABERS Water for Hotels Performance, to demonstrate WSUD principals are met. <p>The Utilities Report confirms the above commitments, and details how power supply will be met through mains power, solar and battery and on-site diesel generators, as a result of heritage constraints which restricts the installation of a substation.</p> <p>The location of the new photovoltaic solar panels proposed to the roof of the development will not be visible from immediately surrounding developments (by virtue of its position above the height of neighbouring buildings) and will not be visible from the public domain.</p> <p>The proposed ESD targets have been reviewed by the City's Environmental Projects and Sustainability Unit. The proposed targets are acceptable and comply with the requirements of Section 3.6 of Sydney DCP 2012.</p> <p>Appropriate conditions of consent are recommended to ensure that all ESD commitments are carried through to the certification and construction phases of the development.</p>

Provision	Compliance	Comment
3.7 Water and Flood Management	Yes	<p>The site and western side of Sussex Street is affected by flooding.</p> <p>Refer to discussion under Section 5.21 of Sydney LEP 2012 above.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposed development involves consolidation of the two separate allotments.</p> <p>The site is also burdened by several easements on title for support over walls along common boundaries. These easements include restrictions for support limited in height and width along the south and western boundaries of 357 Sussex Street and the adjoining properties at 2-8 Dixon Street, 359-361 and 363 Sussex Street.</p> <p>On 29 September 2022, the applicant was requested to seek written consent from the owner's corporations of the relevant adjoining strata schemes to seek necessary steps to release the easements in respect to the walls on the common boundaries of the site.</p> <p>The applicant responded to the above with through submission of the following:</p> <ul style="list-style-type: none"> • Confirmation that of the three easements, only one easement is required along the western boundary is to be released (benefitting APX Apartments at 2-8 Dixon Street). • Justification that no action is required to release the existing easements along the southern boundary. Any works that may need to be carried out to the party wall will be in accordance with the terms of the easements. • Partial Identification Plan prepared by Beveridge Williams Registered Surveyors showing the western easement for support between the subject site and APX Apartments at 2-8 Dixon Street. • Structural letter prepared by TTW confirming that partial demolition of

Provision	Compliance	Comment
		<p>357 Sussex Street will not impact the structural integrity of the APX Apartments.</p> <p>The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to several recommended conditions included in Attachment A.</p>
3.9 Heritage	Yes, subject to conditions	<p>The existing warehouse buildings are not identified as local heritage items, nor within a heritage conservation area. 355 Sussex Street was constructed in approximately c.1910-1914 and 357 Sussex Street in c.1916 by the Foley Brothers Pty Ltd.</p> <p>The proposal, as amended, has been revised to address the DAP and Council's comments. The development retains the most significant fabric of the existing warehouse at 357 Sussex Street. This provides a positive contribution to the Haymarket/ Chinatown Special Character Area. The new infill building at 355 Sussex Street provides a sympathetic and complementary response to the retained facade and adjacent local heritage item (Former Commerce Building at 345B Sussex Street, Local Item No. I1966). The new floor levels within the proposed infill building at 355 Sussex Street are designed to align with the retained levels of the existing floors at 357 Sussex Street, to provide internal and external cohesion between the development.</p> <p>The site is identified to have archaeological potential under the 1992 Central Sydney Archaeological Zoning Plan. The accompanying Historical Archaeological Assessment (HAA) prepared by Urbis which states that the site has low-moderate potential to contain locally significant relics, however moderate-high potential for relics of local significance may occur at the western (rear) portion of 357 Sussex Street. The HAA concludes that the proposal is likely to result in an impact to identified potential archaeological resources of</p>

Provision	Compliance	Comment
		<p>local significance by virtue of the full site coverage of the basement.</p> <p>Council's Heritage Specialist supports the recommendations of the HAA, to require preparation of an Archaeological Research Design and a Section 140 Permit application be made to Heritage NSW. Conditions are recommended to this effect.</p> <p>Overall, the revised proposal is assessed to have an acceptable heritage impact, does not detract from or result in any significant adverse impacts the existing surrounding local heritage items, subject to conditions.</p> <p>Refer to assessment under Clause 5.10 of Sydney LEP 2012 above and under the heading 'Discussion', sub-heading 'Interface between 355 and 357 Sussex Street' below.</p>
3.9.13 Excavation in the vicinity of heritage items and in heritage conservation areas	Yes, subject to conditions	<p>A Structural and Rail Corridor Impact Assessment Report prepared by Van Der Meer and Geotechnical Engineering report prepared by Douglas Partners accompanies the application.</p> <p>The proposal seeks to retain the existing basement level of 357 Sussex Street and undertake bulk excavation beyond to reach RL 2.75. Below RL 2.75, the proposed building will be supported on in-situ concrete pads and strip footings founded on high strength sandstone. Basement walls to boundaries will be in-situ reinforced concrete soldier piles and shotcrete in between piles to meet recommendations of the Geotechnical report. Detailed excavation is proposed to a maximum depth of RL -0.15 for the proposed building services including lift pit. The building is proposed to be reinforced and post tensioned concrete structure.</p> <p>The proposed extent of excavation is not uncommon in the Central Sydney Area. Council's Heritage Specialist is satisfied that the potential risk of excavation</p>

Provision	Compliance	Comment
		<p>under 355 Sussex Street adjacent to 345B Sussex Street can be mitigated through proper retention design and construction management. The proposed excavation works will not occur forward of the retained facade, under common walls, footings of common walls or freestanding boundary walls of the adjacent developments.</p> <p>Conditions are recommended in Attachment A to require compliance with the construction methodologies of the Geotechnical and Structural reports. A condition is also recommended to require preparation of a Dilapidation Report in relation to the immediately adjoining developments and public domain.</p>
3.10 Significant Architectural Building Types	Yes, subject to conditions.	<p>The site contains two early 20th century commercial warehouse buildings constructed in approximately c.1910-1914 and 1916. Subject to conditions, the proposal meets the objective of Section 3.10 of Sydney DCP 2012 as it seeks to conserve the intact features and adaptively re-use a meaningful portion of 357 Sussex Street.</p> <p>The Structural and Rail Corridor Impact Report prepared by Van Der Meer and Geotechnical Report prepared by Douglas Partners note that the footings of the existing facade will be investigated prior to proceeding with any bulk excavation.</p> <p>Refer to further assessment under the heading 'Discussion' and sub-heading 'Interface between 355 and 357 Sussex Street' below.</p>
3.11 Transport and Parking 3.11.1 Managing transport demand	Yes	<p>The proposal comprises non-residential development exceeding 1,000sqm of GFA. As such, it generates a requirement for a Transport Impact Study, Green Travel Plan and Transport Access Guide pursuant to the relevant provisions of Section 3.11.1 of Sydney DCP 2012.</p>

Provision	Compliance	Comment
		<p>The development does not include any car parking for hotel staff or guests.</p> <p>A Traffic Impact Statement (TIS) and Preliminary Loading and Servicing Management Plan (LSMP) prepared by Traffix accompanies the application which has been reviewed by TfNSW and the City's Transport and Access Unit.</p> <p>Council's Transport and Access Unit advised the proposed design of the loading dock and swept path analysis is acceptable and will provide adequate vehicular access for a 6.4m Small Rigid Vehicle (SRV).</p> <p>Appropriate traffic related conditions are recommended in Attachment A including provision of a Transport Access Guide to promote sustainable transport options and manage point to point transport, loading space parking design, and management of the loading dock.</p>
3.11.3 Bike parking and associated facilities	Yes	<p>Section 3.11.3 of Sydney DCP 2012 requires a minimum of 19 parking spaces for hotel guests and employees.</p> <p>The proposal complies and includes a total of 19 bicycle spaces is proposed comprising:</p> <ul style="list-style-type: none"> • 14 bicycle spaces for hotel guests at Level 1 • 5 bicycle spaces for hotel staff on the Upper Basement level • Staff sanitary facilities including a locker per bicycle space at Lower Basement level <p>Appropriate conditions of consent are recommended at Attachment A to ensure compliance with the minimum requirements as set out above.</p>
3.11.6 Service vehicle parking	No but assessed as acceptable	<p>Section 3.11.6 and Schedule 7.8.1 of Sydney DCP 2012 requires a minimum of 5 SRV spaces to be provided based on the proposed 272 hotel rooms, reception, ancillary restaurant/ café and bar areas.</p>

Provision	Compliance	Comment
		Refer to discussion under the heading 'Vehicular servicing, passenger pick up and set down rates' below.
3.11.8 Bus Parking	No but accessed as acceptable	<p>The proposal seeks a hotel accommodation use and provides a total of 272 hotel rooms, which generates a requirement for 2 car spaces and 3 bus/coach spaces pursuant to Section 3.11.8 and Schedule 7.8.3 of Sydney DCP 2012.</p> <p>Refer to discussion under the heading 'Vehicular servicing, passenger pick up and set down rates' below.</p>
3.11.11 Vehicle access and footpaths	Yes	<p>The proposal seeks to relocate the existing vehicular cross over adjacent to the southern boundary of the site (357 Sussex Street) to the northern boundary (355 Sussex Street) for access via a truck lift to the on-site loading dock.</p> <p>The relocation of the driveway will require removal of a single street tree. Two replacement trees are proposed which is supported by Council's Urban Forest Management Team and Tree Management Unit.</p> <p>Council's Transport and Access Unit advised the new vehicular crossover is acceptable subject to recommended conditions to ensure relevant approvals for traffic and parking works are obtained and designed in accordance with Council's requirements.</p> <p>The proposal generally meets the requirements of Section 3.11.11 of Sydney DCP 2012.</p>
3.11.13 Design and location of waste collection points and loading areas	Yes	<p>The proposed waste storage area and collection points are appropriately located, adjacent to the loading area on the Upper Basement level.</p> <p>Suitable access is provided for the SRV collection vehicles. Refer to further</p>

Provision	Compliance	Comment
		assessment under Section 3.14 of Sydney DCP 2012 below.
3.12 Accessible Design	Yes	<p>The application is accompanied with an Access Report and Addendum Access Statement prepared by Design Confidence.</p> <p>The Access report and Addendum confirms the proposal is capable of complying with accessibility requirements through deemed-to-satisfy provisions or performance-based solutions to meet the relevant provisions of the BCA and DDA standards.</p>
3.13 Social and Environmental responsibilities	Yes	<p>Section 3.13 of Sydney DCP 2012 seeks to ensure a safe environment and minimise opportunities for criminal and anti-social behaviour associated with developments.</p> <p>A Crime Prevention Through Environmental Design (CPTED) assessment prepared by Urbis accompanies the application.</p> <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles. The development is expected to increase activity on the site both during the day and evening, providing new ancillary food and drink uses at ground floor and hotel accommodation. Safety measures to reduce crime risk will be incorporated in the development including swipe cards, intercom systems to restrict unauthorised public access to the hotel rooms, back of house and basement areas, as well as traffic measures to avoid any potential pedestrian-vehicle conflicts.</p>
3.13.2 Air quality for development near the Cross City Tunnel	Yes	<p>The proposal is located approximately 385m from the Cross City Tunnel Ventilation Stack and seeks a maximum building height of 54.9m.</p> <p>Table 3.6 of Section 3.13.2 of Sydney DCP 2012 stipulates a maximum building height of 90m for developments</p>

Provision	Compliance	Comment
		<p>within 300-400m of the Cross City Tunnel Ventilation Stack.</p> <p>The proposal is lower than the nominated height relative to the distance from the Cross City Tunnel Ventilation stack.</p> <p>As discussed under Clause 7.24 of Sydney LEP 2012 above, the proposal is accompanied by an Air Quality Statement prepared by RDWI. The proposed development is not expected to adversely affect the dispersal of emissions from the Cross City Tunnel ventilation stack. Similarly, the assessment concluded that the effects of emissions from the ventilation stack on persons occupying the development are unlikely to occur.</p>
3.14 Waste	Yes	<p>A Construction and Operational Waste Management Plan (WMP) prepared by Elephants Foot Company and a letter from a Commercial Waste Collection Contractor (Waste Clear) accompanies the application.</p> <p>The proposed waste storage room at Upper Basement level, as amended, has been refined to provide sufficient space for the storage of waste generated by the hotel.</p> <p>Collection of waste will be undertaken by a private commercial waste contractor. The supporting letter prepared by Waste Clear confirms that the site can be serviced via the loading hoist/ truck lift by a commercial contractor.</p> <p>Council's Waste Management Unit has reviewed the amended proposal and advised the development is acceptable subject to recommended waste management conditions at Attachment A.</p>
3.15 Late Night Trading Management	Yes, subject to conditions	<p>The hotel will operate 24 hours, 7 days a week. The ancillary hotel food and drink premises (subject to a separate application).</p> <p>The proposal is accompanied by an Acoustic Report prepared by PWNA and</p>

Provision	Compliance	Comment
		<p>Operational Plan of Management (POM) prepared by Mulpha which has been reviewed by the City's Licensed Premises and Environmental Health Units.</p> <p>The premises is located in a Late Night Management Area and is considered as a Category B premise pursuant to Section 3.15 of Sydney DCP 2012. The trading hours of the hotel restaurant/café and bar is proposed to operate the same hours as the hotel accommodating a maximum capacity of 120 patrons.</p> <p>In accordance with Section 3.15.4, the permissible hours of operation for Category B premises are:</p> <p>Base indoor hours between 6.00am to 2.00am (the following day); and</p> <p>Extended indoor hours up to 24-hours, subject to a trial period</p> <p>No cooking is proposed to be undertaken on site. Food and meals associated with the restaurant/ café and bar will be prepared off site, pre-packaged and delivered to the hotel in a portion-controlled state. The associated fit-out of the food and drink premises will be subject to collaboration with future operators.</p> <p>The proposal was also referred to the NSW Police on 27 May 2022. No response was received, which is taken to be no objection.</p> <p>Appropriate conditions are recommended at Attachment A to:</p> <p>Restrict the trading hours of the hotel restaurant/ café and bar to the permissible base hours only, between 6.00am to 2.00am (the following day), as the operator is yet to be confirmed.</p> <p>Permit a maximum of 120 patrons within the premises at any one time.</p>

Provision	Compliance	Comment
		<p>Require compliance with the recommendations of the Acoustic Report prepared by PWNA and POM prepared by Mulpha. The POM is to be amended to incorporate all operational recommendations of the Acoustic Report.</p> <p>Ensure food served at the premises is supplied and delivered to the site. No cooking is undertaken on site at any time.</p> <p>Require the fit-out of the premises to be subject to a separate application due to the lack of information included in the application with respect to kitchen details, washing facilities and equipment to reheat food.</p>
3.16 Signage and Advertising	Yes, subject to conditions	<p>As discussed above, no signage associated with the hotel or ancillary restaurant/ café or bar is sought under this application.</p> <p>Conditions are recommended to require the preparation of a signage strategy for the site and require any new signage to be subject to a separate development application and consistent with any approved signage strategy.</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 given the age of the structures, historical commercial and manufacturing use.</p> <p>The application is also accompanied by a Remediation Action Plan (RAP), describing appropriate remediation works needing to be carried out during excavation.</p> <p>A letter of Interim Advice has also been provided with the application which 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>

Provision	Compliance	Comment
		Council's Environmental Health Unit have reviewed the submitted documentation and note that the recommendations are suitable. Recommended conditions of consent are included Attachment A to require compliance with the remediation measures of these documents and for Council to be notified should there be any changes to the strategy for remediation.

Section 4 – Development Types

4.4 Other Development Types and Uses

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	The proposed development comprises a total of 272 hotel rooms. As discussed above, the proposal is accompanied by a POM prepared by Mulpha which includes the operational and noise management procedures for the hotel.
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	The proposed development complies with the minimum size requirements and maximum permitted length of stay requirements of Section 4.4.8.3 of Sydney DCP 2012.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.1.1 Built form controls 5.1.1.2 Street frontage heights and street setbacks in Special Character Areas	Acceptable	The proposal exceeds the permitted street frontage height of 15m and does not comply with the minimum street setback of 8m (no variation) for the site in the Haymarket/ Chinatown Special Character Area. The proposal retains the existing facade of 357 Sussex Street which has a street wall height of 19.73m. The proposed development is consistent with the street frontage heights of surrounding buildings on the western side of Sussex Street,

Provision	Compliance	Comment
		<p>which have street frontage heights ranging from 19.3m to 24.8m. The proposed street setback of 6m above the podium is also considered appropriate within the surrounding streetscape context.</p> <p>Refer to assessment under the heading 'Street wall height and street setback' in the Discussion section below.</p>
5.1.1.3 Side and Rear Setbacks and Building Form Separations	Yes	<p>Section 5.1.1.3 of Sydney DCP 2012 permits a nil side and rear setback above the street frontage height for developments up to a building height of 55m.</p> <p>The proposal complies with this requirement and provides the following varied side and rear setbacks above the podium:</p> <ul style="list-style-type: none"> • 0.4 - 2.1m to the south • Nil - 0.5m to the north • Nil - 7.4m to the rear (west) <p>The proposal has been designed to ensure acceptable amenity outcomes for the rear and southern residential and serviced apartments.</p> <p>The side setback of 0.4 - 2.1m achieves a separation of 3.7m to the Regal Apartments lightwell, maintaining amenity to bedroom and ensuite windows. The rear setback of up to 7.4m achieves a separation of approximately 11 -12.4m, maintaining amenity to the east facing studios (balconies and living areas) of the APX Apartments.</p>
5.1.1.4 Built Form Massing, Tapering and Maximum Dimensions	Yes	<p>The proposed development has a horizontal dimension of less than 50m above the street frontage height, which complies with Section 5.1.1.4 of Sydney DCP 2012.</p> <p>The proposed development has been articulated to reduce bulk and does not</p>

Provision	Compliance	Comment
		<p>appear as overall massive from any direction.</p> <p>Tapering of the tower form is not required as the building is less than 120m.</p>
<p>5.1.2 Development Outlook and Demonstrating Amenity Compliance</p>	<p>Acceptable</p>	<p>Section 5.1.2 of Sydney DCP 2012 requires all developments to provide for adequate setbacks within their development sites so as to guarantee their own minimum outlook, and not unreasonably borrow amenity from neighbouring sites including access to views and sunlight.</p> <p>Provision (1) requires a minimum outlook depth of:</p> <ul style="list-style-type: none"> • 6m (to all windows and balconies for other forms of accommodation) at a height up to 45m; and • 9m (to all windows and balconies for other forms of accommodation) at a height above 45m. <p>The proposal provides an outlook depth of:</p> <ul style="list-style-type: none"> • 7.4m to the rear (APX Apartments) measured within the boundary of the site • 7.3m to the north (Former Commerce building) <p>The proposal provides partial compliance with Section 5.1.2(1) for hotel windows to a height of 45m facing north and west. The proposal seeks a minor variation 1.6 -1.7m for north and west facing hotel windows at Level 16 (above 45m).</p> <p>The minor non-compliance is considered acceptable in this instance as:</p> <ul style="list-style-type: none"> • Adequate separation is achieved between the APX apartments and the subject development (approximately 12.3 -12.4m to eastern elevation windows of the

Provision	Compliance	Comment
		<p>APX apartments, 11.4m to east facing balconies).</p> <ul style="list-style-type: none"> • A development outlook of 7.3m is proposed for north facing hotel room windows. The northern property (Former Commerce Building) is encumbered by a heritage listing and is considered unlikely to be re-developed. Notwithstanding, the proposal would not unreasonably restrict development on the heritage listed site. • Louvres are proposed to all windows on the western elevation to protect residential amenity of the neighbouring sites, directing outlook towards the north-east and south-west corners of the site. • The degree of non-compliance relates only to a single floor. • Given the above, the proposal does not unreasonably borrow amenity from the neighbouring sites.
<p>5.1.3 Heritage items, warehouses and special character areas</p> <p>5.1.3.2 Development adjacent to heritage items</p>	<p>Yes, subject to conditions</p>	<p>As discussed above, the site is adjacent to the Former Commerce Building to the north (345B Sussex Street, Item No. I1966). The Former Commerce House (365-375 Sussex Street, Item No. I1967) and Douglass Lane and Former 'Foley Bros' warehouse group (Item No. I1732 and 372-386 Sussex Street, Item No. I1968) are also located within proximity to the site.</p> <p>Section 5.1.3.2(1) stipulates that new development adjacent to a heritage item should respect and reinforce the historic scale, form, modulation, proportions, street alignment, materials and finishes that contribute to the heritage significance of the adjacent heritage item.</p> <p>Provision (2) requires consideration to be given to the impact of adjacent</p>

Provision	Compliance	Comment
		<p>development on the significance, setting, curtilage, values and ability to view and appreciate the heritage item from Public Places.</p> <p>The proposed development, as amended, retains two structural bays, existing floor levels and the facade of 357 Sussex Street which contributes towards the setting and local character of the neighbouring heritage items.</p> <p>The form of the tower, street setback, articulation and materiality of the proposal has been adjusted through the course of assessment (refer to discussion under the heading 'History of the Subject Development Application' above). The proposal, as amended, provides an appropriate response to Sussex Street and the Haymarket/ Chinatown Special Character Area.</p> <p>Subject to conditions, the proposed development will not have detrimental impact on the heritage significance of the surrounding heritage items.</p>
5.1.4 Building Exteriors	Yes, subject to conditions	<p>The proposal, as amended, will contribute positively to the streetscape with high quality architecture, meeting the objectives of Section 5.1.4 of Sydney DCP 2012.</p> <p>The materiality and exterior of the building have been redesigned to respond to the DAP and Council's comments (refer to discussion under the heading 'History of the Subject Development Application' above).</p> <p>Subject to conditions, the materials and detailing of the proposal, positively responds to its context within the Haymarket/ Chinatown Special Character Area.</p> <p>Refer to further discussion under the heading 'Tower Parapet' below.</p>
5.1.7 Sun Protection of Public Parks and Places	Yes	The site does not exceed the height limit of the Belmore Park SAP and therefore

Provision	Compliance	Comment
		will not result in overshadowing to Belmore Park.
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 Section 5.1.8 of Sydney DCP 2012.
5.1.9 Managing Wind Impacts	Yes	As assessed under Section 3.2.6 of Sydney DCP 2012, the wind conditions will be at a comfortable level for pedestrians at ground level and will not result in adverse impacts on public safety.

Discussion

Clause 4.6 Request to Vary a Development Standard

85. The site is permitted a maximum height of 50m under Clause 4.3 (Height of Buildings) of Sydney LEP 2012.
86. The proposed development has a maximum building height of 54.9 metres, which represents a 4.9 metre or 9.8 per cent variation to the height control. The exceedance results from part of level 16 and the roof of the development containing a plant room and lift overrun, with variations ranging from 2.085 metres (measured to the tower parapet) to 4.905 metres (measured to the plant/ lift overrun).

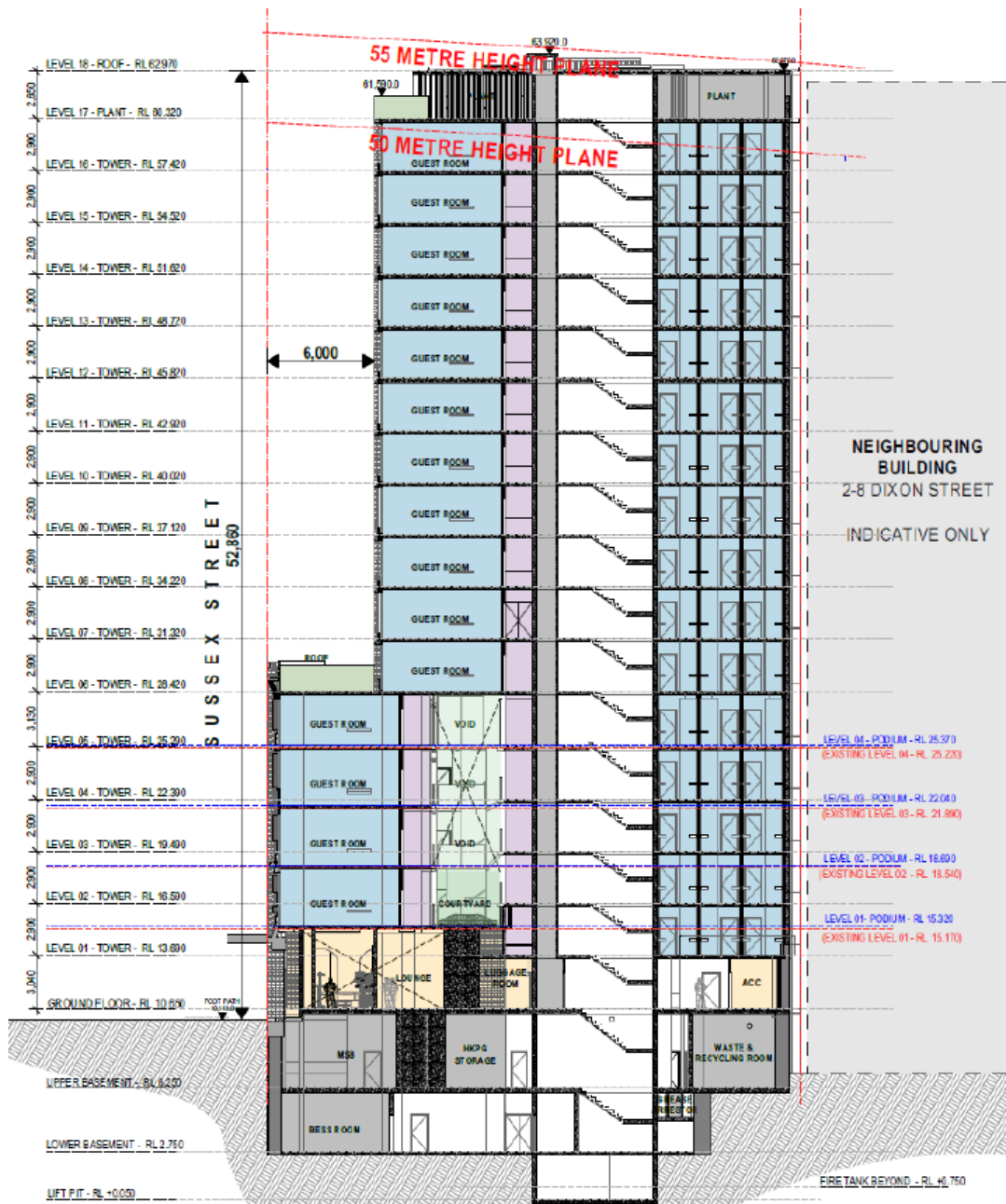


Figure 52: Section showing extent of non-compliance

87. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
88. A copy of the applicant's written request is provided at Attachment C.

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

89. The applicant seeks to justify the contravention of the 'height of buildings' development standard (Clause 4.3 of Sydney LEP 2012) on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) The objectives of the development standard are achieved notwithstanding the numerical non-compliance. The proposed height of the development is appropriate to the condition of the site and its context, having regard to the topography of the site, transitional built form of the area and heritage characteristics.

The height of the buildings in the surrounding area varies significantly, ranging in tower forms of up to 23-storeys situated above a varied street wall height of approximately 20 metres. The height variation results in the addition of part of a habitable floor and rooftop plant.

While the existing warehouse buildings are not listed as local or State heritage items, the proposal conserves the elements of the building which makes the most significant contribution to its character and presentation as a remnant building of its type and period.

Noting the topography of the site, the exceedance in height will not result in any additional visual bulk compared to a scheme that strictly complies with the 50-metre development standard. In addition to the 6-metre street setback proposed, the rooftop plant including services are further setback from the perimeter of the tower which reduces the visual impact of the development when viewed from the public domain. The proposal is consistent with the nature, scale and character of the existing tower developments to the east, south and west including the APX apartments and Regal Apartments.

(ii) The proposal provides an appropriate height transition between new development and heritage items and buildings in heritage conservation areas or special character areas.

The proposal would have no adverse or unreasonable impacts on adjacent or nearby heritage items (including their fabric, settings or views). In particular, the setting and contribution of the adjacent heritage listed 'Former Commerce Building' at 345B Sussex Street.

(iii) The proposal promotes the sharing of views.

The proposed height results in a scale and density of development that is acceptable and appropriate for the site's CBD location. The proposal does not present as being out-of-character for the street, is consistent with the scale and density of neighbouring buildings. The proposed height variation will not result in any significant or unacceptable impacts on amenity or visual privacy to the adjacent properties to the west and south, compared to a scheme which strictly complies with the 50 metre height control.

(iv) The proposal ensures appropriate height transitions from Central Sydney to adjoining areas.

The Central Sydney Planning Strategy (CSPS) envisages growth opportunities and further development of the surrounding area. Although the site is not identified for height uplift under the CSPS, the eastern side of Sussex Street is identified as a Tower Cluster Area - an area capable of accommodating increased height and density to promote increased growth opportunities for employment floor space. This has the potential to impact the site's immediate built form context in the medium to long-term whilst maintaining the stepped transition in building heights to the west towards Darling Harbour.

The proposal is consistent with the existing and future pattern of development in the City, is visually compatible with neighbouring properties, whilst maintaining the existing established street wall height of the locality (refer to Figure 53 below).

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposed development seeks to retain and conserve those elements of the former warehouse building at 357 Sussex Street which makes the most significant contribution to its character and presentation as a remnant building of its architectural type and period.
 - (ii) The retention of two bays of the existing building structures at 357 Sussex Street at Levels 1-4 and retention of existing floors behind (including timber posts, beams, floor joists, and side walls at Basement, Ground and Levels 1-4) respects the structural integrity of the existing building. This introduces significant structural complexities and spatial challenges for the proposal. These additional structural complexities impact on the planning and configuration of both the podium and tower, significantly influencing the internal layout of the hotel. The proposal provides a comparable quantum of floor space compared to the outcome that would otherwise be achieved if the former warehouse building were proposed to be demolished.
 - (iii) The site topography comprises a significant level change of approximately 3.5 metres between Sussex Street and Dixon Street. The highest point of ground level (existing) is at the south-eastern corner of the site boundary (RL 10.23) and the lowest point is at the north-eastern corner (RL 9.97). This significant level change means the exceedance above the 50m height plane predominately occurs on parts of the building which are located at the low point of the site (towards the west).
 - (iv) The proposed tower form has been setback 6m above the street frontage height which exceeds the street setback of the adjoining southern development, Regal Apartments. This creates an improved relationship to the streetscape, minimising any perceived visual dominance of the tower when viewed from the public domain.
 - (v) The architectural expression and vertical articulation further mitigate overall bulk and scale. The rooftop plant, services and lift overrun are also setback from the tower parapet from the east, north and south. This reduces the visual impact of the portion of the building above the 50-metre height plane when viewed from the public domain. The roof top plant, services and lift overrun would not be clearly visible from Sussex Street (refer to Figure 54). The extent of additional visual impacts caused by the portion of the

building which exceeds the 50-metre height limit is negligible when viewed from the public domain.

- (vi) The extent of view loss due to the variation above the 50-metre height plane is minor and would have a negligible impact on visual privacy and amenity to nearby properties compared to a scheme that strictly complies with the height development standard. Sufficient setbacks and separation have been provided to mitigate the potential for any unacceptable impacts to the south and western adjoining properties. The proposal does not result in unacceptable view loss from the surrounding residential properties or the public domain. The changes to the current visual outlook resulting from the proposed height variation is acceptable given the built form context of the site.
- (vii) Notwithstanding the variation, the proposal seeks to ensure that overshadowing to the public domain and adjacent residential properties to the south and west is minimised at mid-winter. The solar analysis undertaken presents that the additional overshadowing at mid-winter has a negligible effect on overall overshadowing and amenity to the nearby properties compared to a scheme that strictly complies with the height control.
- (viii) The parts of the building that exceed the maximum building height predominately comprise mechanical plant, services and lift overrun. The proposed development complies with the Floor Space Ratio development standard, and the minor variation to the height development standard (in conjunction with a compliant FSR) will ensure that the overall built form comprises a scale and massing which is appropriate for the site and consistent with the character of the development within the surrounding area.
- (ix) The above specific circumstances of the proposal and the site constitute sufficient environmental planning grounds which justify the proposed variation to the height development standard.

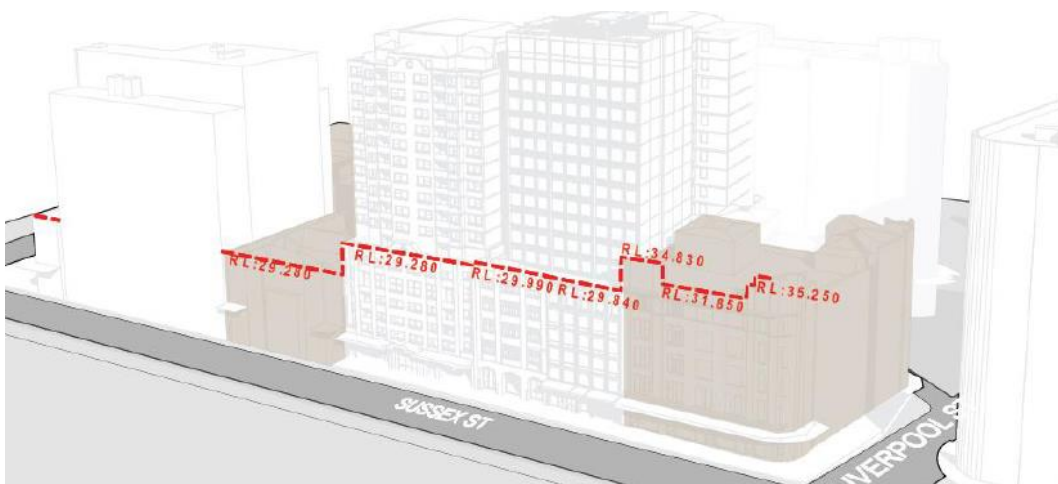


Figure 53: Prevailing Street wall height along Sussex Street, local heritage items at 345B Sussex Street (Former Commerce Building, 1966) and 365-375 Sussex Street (Former Commerce House, 1967) shown hatched in brown



Figure 54 Comparison of existing and proposed views from Sussex Street, facing south-west

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

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

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

91. The applicant's written request has adequately demonstrated that compliance with the height of buildings development standard is unreasonable and unnecessary in the circumstances of the case as the proposed development satisfies the objectives for the standard, notwithstanding the numerical non-compliance.
92. The proposal satisfies the relevant objectives of Clause 4.3 as follows:

"To ensure the height of development is appropriate to the condition of the site and its context.

To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.

To promote the sharing of views.

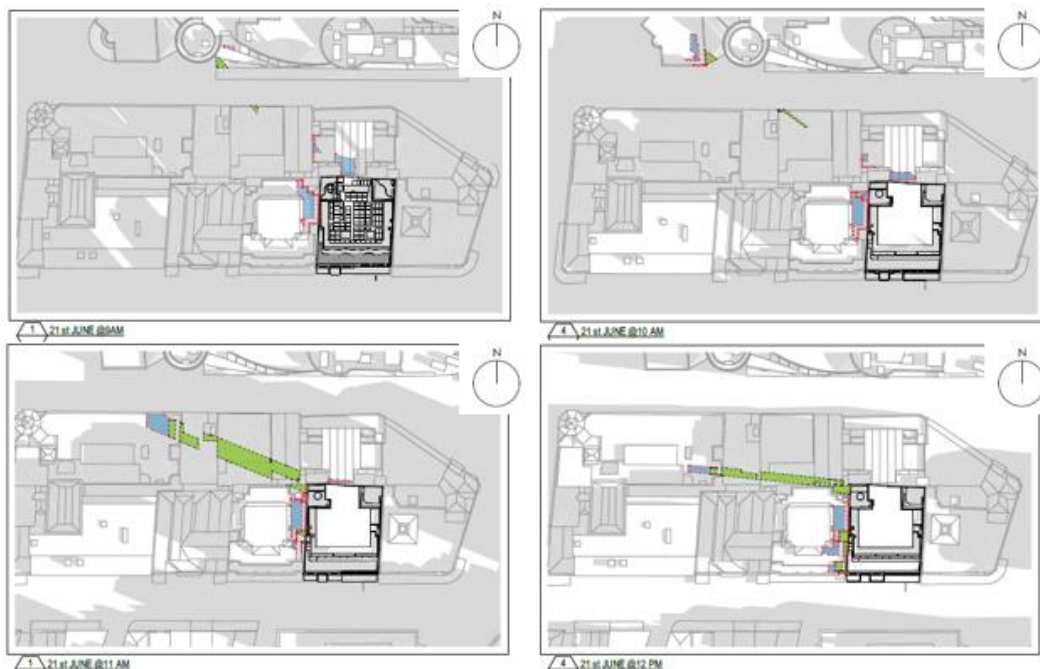
To ensure appropriate height transitions from Central Sydney to adjoining areas."

93. The proposal appropriately responds to the existing and anticipated context of the area and presents a transitional building height with surrounding developments from Central Sydney to the east, stepped down in height to Darling Harbour to the west.
94. The written request outlines that the proposal also appropriately responds to the site-specific conditions with regards to topography, heritage character and east-west orientation of the site. The proposal demonstrates consistency with the street frontage height and masonry podium character of neighbouring buildings, contributing to the Haymarket/ Chinatown Special Character Area. In retaining part of the existing warehouse building at 357 Sussex Street and maintaining the existing floor levels for the podium, the proposal demonstrates compatibility with the neighbouring heritage items, reinforces the urban scale, prevailing street frontage height and heritage characteristics of the area.
95. The proposal is consistent with the objectives of the SP5 Metropolitan Centre zone and height development standard under Sydney LEP 2012 and is in the public interest. The area of non-compliance largely results from the parapet, roof and services of the development. The extent of exceedance from Sussex Street is predominately confined to the parapet/ plant and is negligible when viewed from the public domain. The proposal would facilitate the objectives of the zone that would not result in unacceptable environmental impacts to neighbouring properties.
96. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is considered unreasonable and unnecessary in the circumstances of the subject application.

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

97. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravention of the development standard. The variation results from the desire to retain elements of the former warehouse building at 357 Sussex Street which makes the most significant contribution to its character and presentation.
98. The area breaching the 'height of buildings' development standard are predominately confined to non-habitable structures that allow the building to function effectively and efficiently. The exceedance in height does not constitute a full habitable floor.
99. The proposed roof plant is setback from the tower parapet to the north, south and east elevations. The proposal provides an additional setback of 2.1 metres beyond the 6-metre street setback to Sussex Street (total setback of 8.1 metres). The additional setback to the plant and building services reduces the visual impact of the bulk of the building above the maximum permissible 50-metre height plane.
100. The retention of the warehouse building creates additional structural complexities on the site. The extent of retention includes two structural bays behind the existing facade and existing floor levels, providing greater floor to ceiling heights within the podium of 3.2 metres. As such, the proposed number of storeys could otherwise be achieved in a compliant building height if the former warehouse building were proposed to be demolished. Additionally, the proposal complies with the maximum permissible FSR pursuant to Clause 4.4 of Sydney LEP 2012.

101. The proposal has been designed to minimise unacceptable environmental impacts including visual privacy and overshadowing to neighbouring properties in particular adjoining developments to the south and west. The proposal provides adequate separation and setbacks from side and rear boundaries (as discussed in Section 5.1.3 of Sydney DCP 2012) and maintains amenity to the APX Apartments (2-8 Dixon Street) and Regal Apartments (359-363 Sussex Street). In addition to the rear setback, fixed vertical louvres are proposed to the western elevation to orientate views to the north-west and south-west, away from the APX Apartments.
102. The applicant's written justification provides extracts of an hourly overshadowing analysis showing the additional overshadowing impacts to APX Apartments and Regal Apartments resulting from a compliant building height of 50 metres and the proposed height of 54.9 metres. The shadow hourly shadow analysis illustrates:
- (a) A minimal increase in shadows to the rooftop of surrounding developments including apartments the Suntower building at Number One Dixon Shopping Centre at 28 Harbour Street between 9 and 10am and 591 George Street between 2 and 3pm.
 - (b) Overshadowing of the northern lightwell of the Regal Apartments that services bedrooms and an ensuite. The proposal will not impact primary living areas or private open space of the Regal Apartments which are orientated east or west, away from the subject site.
 - (c) Overshadowing of the south-eastern APX Apartments between 9am and 12pm. The east facing studios (living rooms and balconies) located at the south-eastern portion of 2-8 Dixon Street are already subject to overshadowing due to the existing lift core of the APX Apartments. The increased overshadowing resulting from the proposed development relates to ensuite windows at 9am.



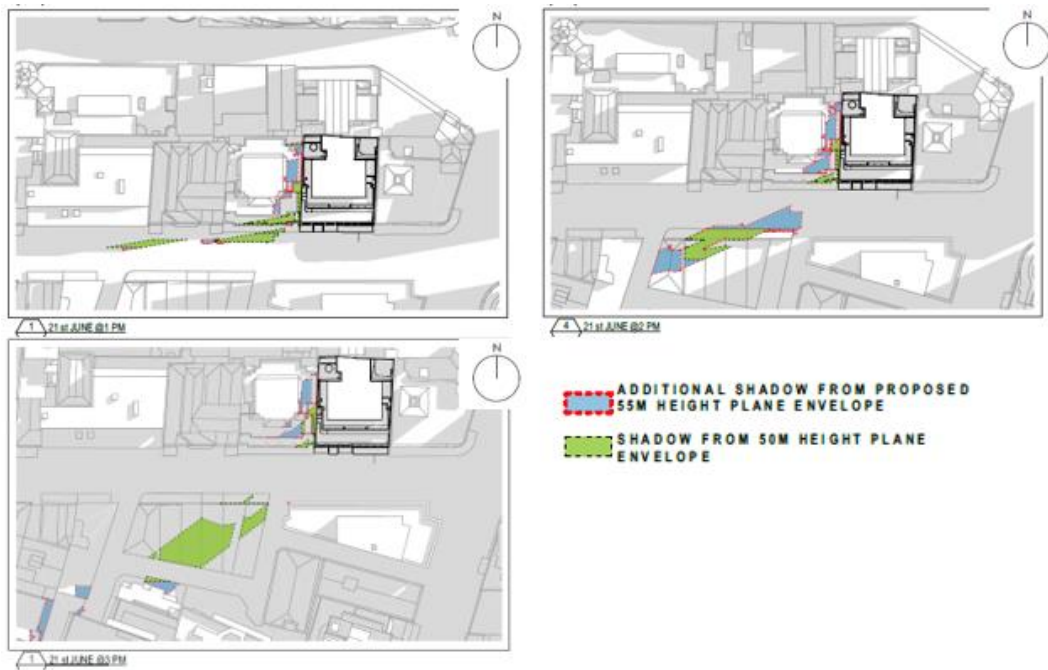


Figure 55: Hourly overshadowing analysis of the proposal at mid-winter (21 June). Overshadowing impacts resulting from a compliant building height (50m) shown in green, additional overshadowing impact resulting from the additional height (54.9m) shown in blue.

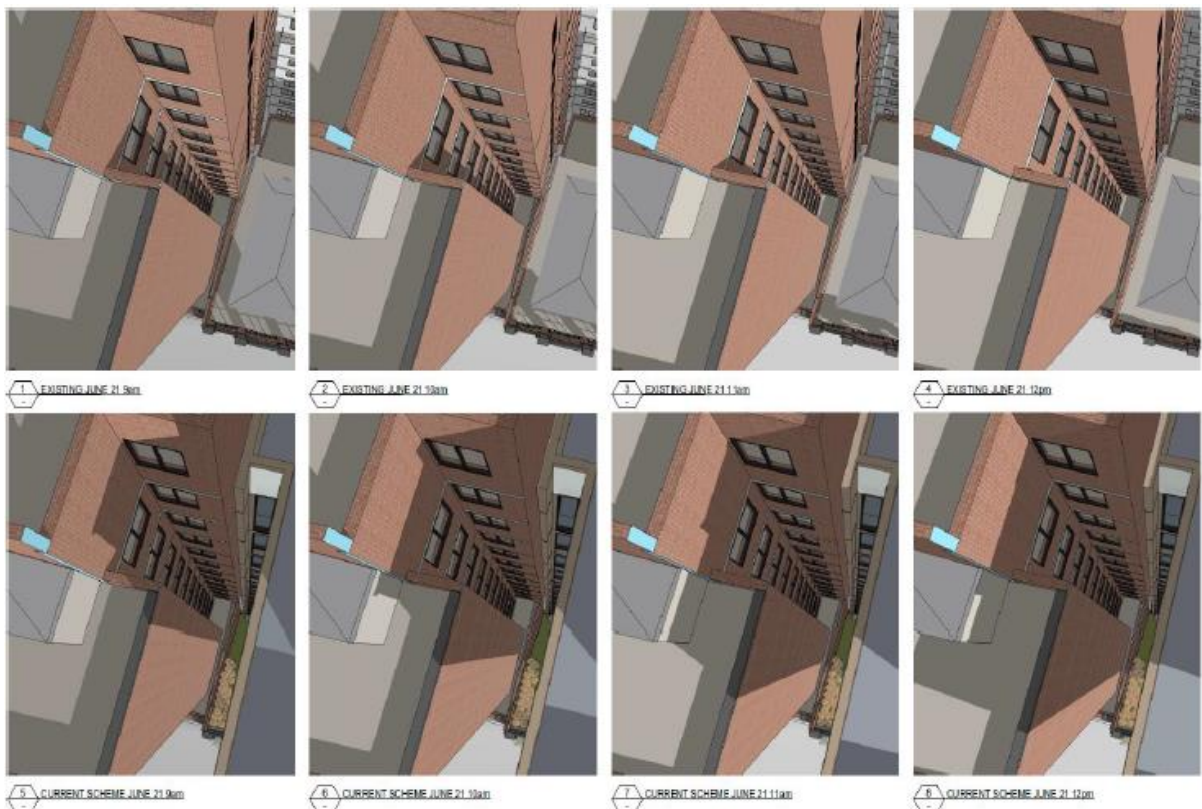


Figure 56: Overshadowing analysis to the northern lightwell of the Regal Apartments at mid-winter (21 June) showing a comparison between existing shadows and proposed shadows (54.9m building height)



Figure 57: Existing northern lightwell (bedroom windows) of the Regal Apartments viewed from the subject site facing south

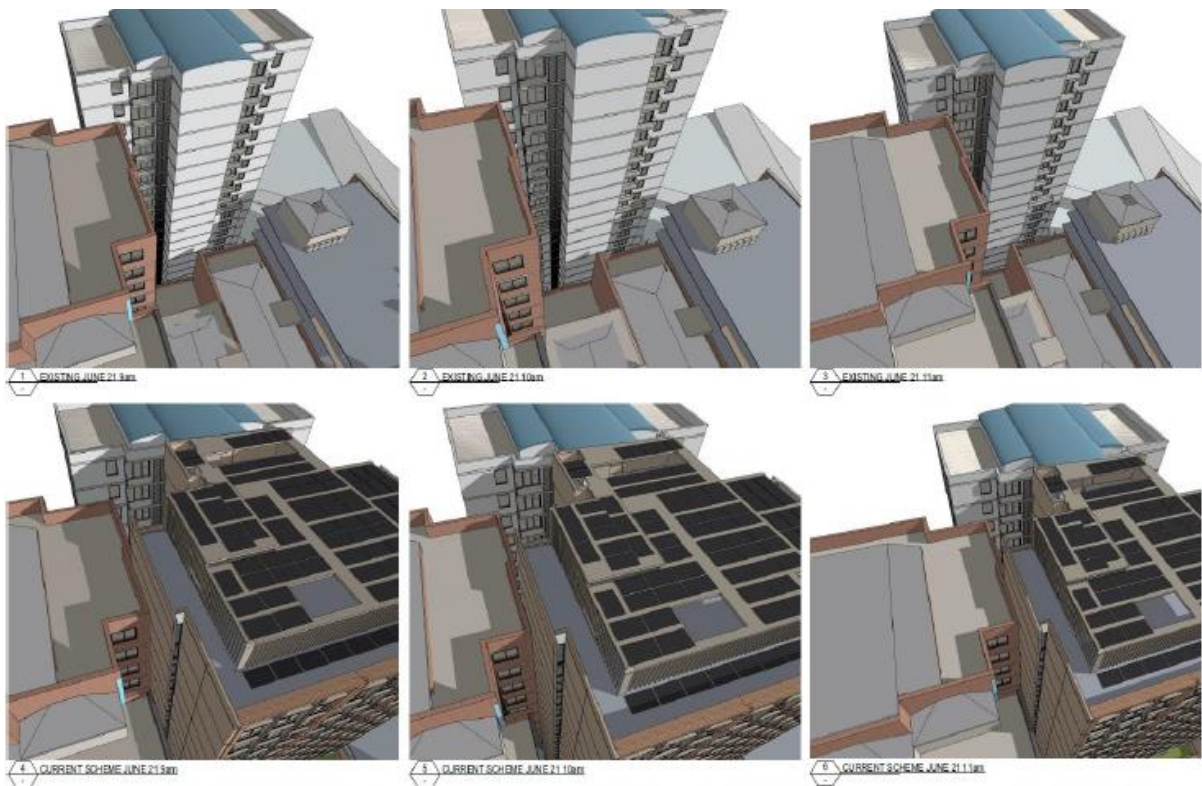


Figure 58: Overshadowing analysis to the APX Apartments at mid-winter (21 June) showing a comparison between existing shadows and proposed shadows (54.9m building height)

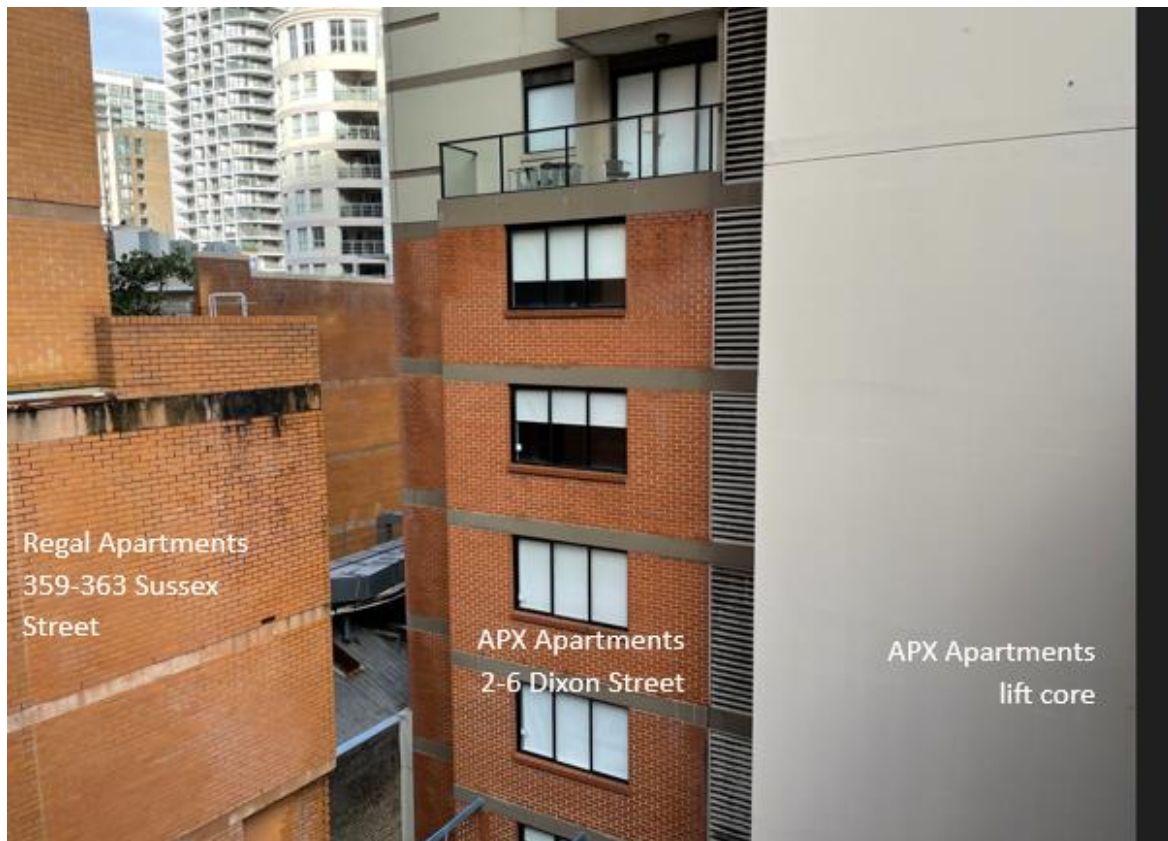


Figure 59: Existing rear interface with the APX Apartments viewed from the subject site facing south-west

103. It is considered that the minor increase in overshadowing impacts to the Regal Apartments and APX Apartments is acceptable in this instance having regard the dense urban context and transitioning built form in the area and sufficient separation being achieved. The slight increase in overshadowing resulting from the proposal primarily affects direct sunlight received to bedrooms/ensuites of the adjacent units. Sufficient building separation of approximately 12 metres has been provided to ensure daylight access to the east facing APX Apartments is preserved. The proposal will maintain the existing level of amenity of primary living areas and private open space areas of the adjacent apartments.
104. Furthermore, notwithstanding the non-compliance to the height development standard, the proposal does not result in unacceptable view loss from the surrounding residential properties or the public domain. The area of non-compliance would not be discernible from surrounding pedestrian vantage points including Sussex Street, Liverpool Street, nor Dixon Street.
105. In light of the above, the proposal demonstrates that there are sufficient environmental planning grounds to justify contravention to the height development standard.

Is the development in the public interest?

106. The proposed development is considered to be in the public interest as it is consistent with both the objectives of the height of buildings development standard (as assessed above) and the objectives of the SP5 Metropolitan Centre Zone:

Objectives of SP5 Zone	Response
To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.	The proposed variation will facilitate the delivery of a new, high-quality hotel which will provide employment opportunities and service the needs of visitors.
To provide opportunities for an intensity of land uses commensurate with Sydney's global status.	The proposed variation is minor in nature, and for the reasons discussed above, is considered to provide an intensity of land use that is suitable for the site and within the CBD context. The proposal will enhance employment opportunities within the site, promote growth and supply of tourist accommodation within a highly accessible location.
To permit a diversity of compatible land uses that are characteristic of Sydney's global status and that serve the workforce, visitors and wider community.	The proposal will activate the immediate Haymarket/ Chinatown locality and support the economic vibrancy of the Sydney CBD. The proposal contributes to the diversity of uses, is compatible and a permissible land use, that serves the workforce, visitors and wider community.
To encourage the use of alternatives to private motor vehicles, including public transport, walking and cycling.	<p>The site is located within close proximity to various public transport options including heavy rail (Town Hall Station and Central Station), future Sydney Metro (Pitt Street and Central Metro Stations), light rail (along George Street), as well as bus services.</p> <p>The proposal does not seek the provision of any private parking spaces and will encourage the use of alternative modes of transport, including public transport, walking and cycling.</p>
To promote land uses with active street frontages within podiums that contribute to the character of the street.	The proposal provides a 24-hour lobby, and ancillary retail uses at ground floor. The proposal will activate the street Sussex Street frontage, improve the presentation of the site to the public domain and contribute to the Haymarket/ Chinatown Special Character Area.

Objectives of SP5 Zone	Response
To promote the efficient and orderly development of land in a compact urban centre.	<p>The proposal promotes the efficient and orderly development of the constrained site and compact urban character. The proposal provides an appropriate design response to the heritage items.</p> <p>Notwithstanding the numerical non-compliance with Clause 4.3 of Sydney LEP 2012, the proposed development presents a compatible built form and scale that responds to the existing and desired character of the area.</p>
To promote a diversity of commercial opportunities varying in size, type and function, including new cultural, social and community facilities.	The proposal includes an opportunity to provide public art on the northern elevation to celebrate the sites social and cultural diversity of Chinatown.
To recognise the important role that Central Sydney's public spaces, streets and amenity play in a global city.	<p>The proposal recognises the important role of streets and public places within Central Sydney.</p> <p>The proposal seeks to enhance the Sussex Street frontage through the provision of active uses. As noted above, an opportunity for public art is proposed to the northern elevation to celebrate the diverse multicultural communities and contribute to the cultural diversity of Chinatown.</p>
To promote the primary role of the zone as a centre for employment and permit residential accommodation and serviced apartments where the accommodation complements employment-generating land uses.	The proposed development is for an employment generating use and does not include any residential uses.

Conclusion

107. For the reasons provided above the requested variation to the 'height of buildings' development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 of Sydney LEP 2012 and the SP5 Metropolitan Centre zone.

Street wall height and street setback

108. The proposal does not comply with the permitted street frontage height or street setback in the Haymarket/ Chinatown Special Character Area pursuant to Section

5.1.1.2 of Sydney DCP 2012, which requires a maximum street frontage height of 15 metres and street setback of 8 metres (no variation) for the site.

109. The proposal retains the existing warehouse at 357 Sussex Street which has a street frontage height of 19.73 metres at RL 29.7 (21.55m, RL 31.52 measured to the top of the central parapet). The new infill at 355 Sussex Street has a street wall height of 19.73 metres to match and align with the retained facade of 357 Sussex Street.
110. The tower component has a setback of 6 metres above the podium.
111. As discussed under the heading 'History of the Subject Application' above, the proposal has been subject to numerous iterations (design options) to address comments raised by the DAP and Council in relation to retention of historic fabric, built form and achieving an appropriate interface with the immediately adjoining developments. These design options included exploration of a compliant 8m street setback.
112. In addition, the applicant has undertaken a street wall analysis (Figure 53) to assess the existing and proposed context of buildings along the western side of Sussex Street at this location. The analysis shows a prevailing street wall height ranging between 19.3 metres to 24.8metres.
113. Despite the non-compliance, the proposed street frontage height and street setback is considered to meet the relevant objectives of Section 5.1.1.2 of Sydney DCP 2012:
 - Reinforces the character of the Haymarket/ Chinatown locality through partial retention of the existing warehouse and provision of a sympathetic infill that aligns to the retained parapet. The proposed street wall height is compatible with surrounding heritage items, desired streetscape character and positively responds to the adjacent heritage item to the north (Former Commerce building at 345B Sussex Street, Local Item No. I1966);
 - Enhances the distinctive attributes and qualities of the built form along Sussex Street, and the setting of adjacent heritage items;
 - Maintains an acceptable level of sunlight and daylight access to the surrounding streets and public domain spaces;
 - Provides an appropriate design outcome that has regard to the fabric and qualities of nearby heritage items in respect of scale, form, modulation, articulation, proportion, street alignment, materials and finishes; and
 - Does not result in any adverse impacts on existing public views, public vistas to heritage items, places of historic or aesthetic significance.
114. In light of the above, the proposed non-compliances are considered acceptable given the streetscape context and that the proposal delivers the objectives of the built form controls.

Interface between 355 and 357 Sussex Street

115. The site contains two former warehouse buildings. The building at 355 Sussex Street maintains a generally intact facade and comprises four-storeys with a basement level, and 357 Sussex Street has been significantly modified comprising five-storeys with a basement. The warehouses were built in c1910-1914 (355 Sussex Street) c1916 (357 Sussex Street) by the Foley Brothers Pty Ltd.

116. Section 3.10 of Sydney DCP 2012 seeks to conserve warehouse buildings older than 50 years.
117. The building at 357 Sussex Street comprises brick masonry construction and a timber post-beam structure. The facade is symmetrical and features intact cornices, four brick pilasters running through upper levels and three large arches at ground level (refer to Figure 60 below). Although 357 Sussex Street does not demonstrate high integrity to meet the threshold for listing as local heritage items, the intact facade has considerable aesthetic significance which contributes towards the character of the Haymarket/ Chinatown Special Character area.



Figure 60: View of 357 Sussex Street in 1979 (left) sourced from the City of Sydney Archives and present view (right)

118. The site survey prepared by Beveridge Williams and historical plans suggests that the northern side wall of 357 Sussex Street is a party wall that is shared with 355 Sussex Street. It is considered that the rendered facade of 355 Sussex Street overlaps the facade of 357 Sussex Street which is slightly setback from the boundary.

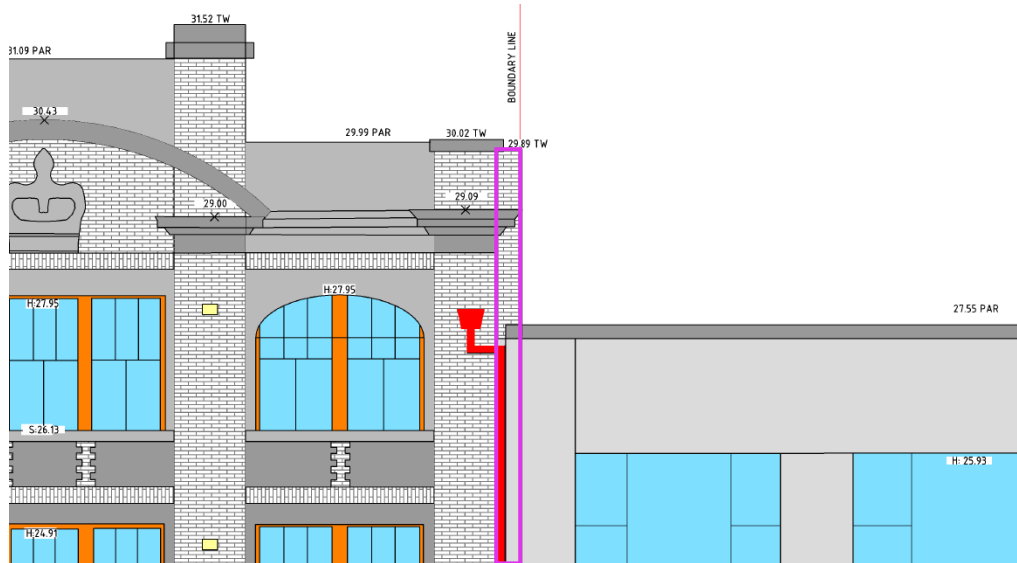


Figure 61: Survey elevation prepared by Beveridge Williams showing the shared party wall outlined in pink

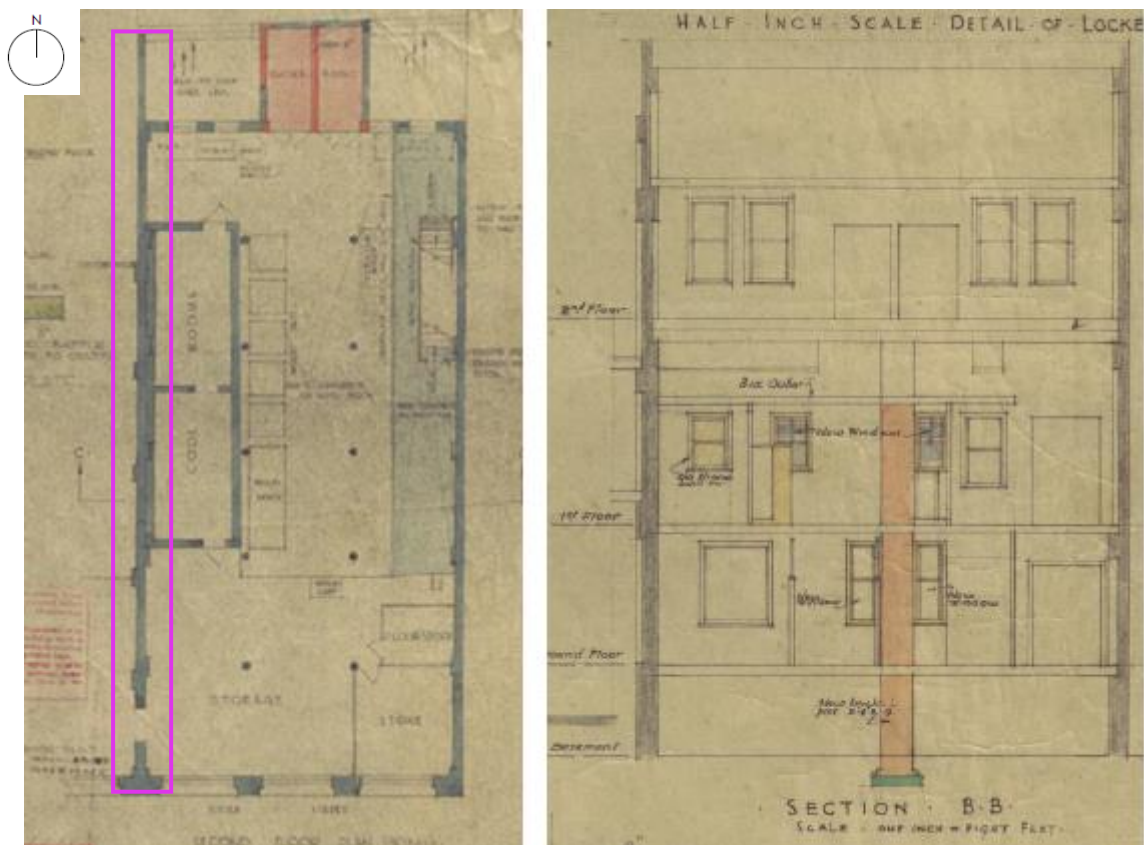


Figure 62: 1942 alteration/repairs historical second floor plan (left) and cross section (right) of 355 Sussex Street (Source: Heritage Impact Statement prepared by Urbis, City of Sydney Archives DA/470/42). Northern party wall of 357 Sussex Street shown outlined in pink.

119. In keeping with Section 3.9 and 3.10 of Sydney DCP 2012, the proposal (as amended) seeks to retain part of the northern party wall including two structural bays and floor levels of 357 Sussex Street with a new infill at 355 Sussex Street.

120. As discussed under the heading 'History of the Subject Application' above, the applicant was requested to provide detailed plans and sections on 22 March 2023 to illustrate how the existing structure will be connected to the new structure in plan, alignment with the site boundary and junction between the existing northern top cornice of 357 Sussex Street and the new infill facade. Although additional details were submitted, these details did not satisfactorily address Council's request.
121. It is noted that there are slight discrepancies between the proposed demolition plan, proposed plans and elevations. The demolition plans show partial retention of the northern party wall (depth of two bays) including architectural decoration and cornices. While the proposed plans and east elevation shows the overlapping portion of wall as partly removed. The width of the existing cornice appears to be of a lesser dimension in elevation than surveyed (refer to Figures 63 and 64). The architectural plans show a new structural column/ blade wall abutting the retained facade which appears slightly out of alignment when compared to the structural drawings (as shown in Figure 65).



Figure 63: Proposed Demolition Level 4 Plan

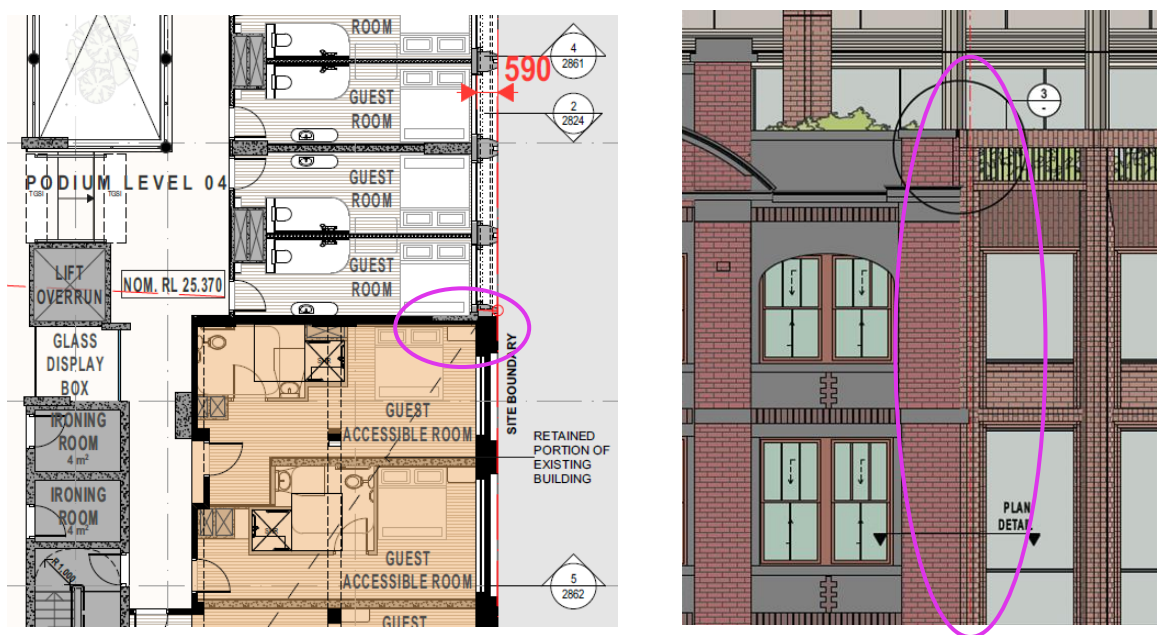


Figure 64: Proposed Level 4 Floor Plan (left) and East Elevation (right)



Figure 65: Proposed Level 1 Floor Plan (left) and extract of the Level 1 Floor Plan from the Structural Report prepared by Van Der Meer (right)

122. Conditions are therefore recommended to:

- (a) require further investigation to be undertaken at the interface between the buildings. This investigation is to include partial removal of the overlapping facade wall at 355 Sussex Street to analyse the existing condition of 357 Sussex Street.
- (b) require the submission and approval of a revised coordinated set of proposed floor plans and elevations to rectify the above discrepancies, showing retention of the northern party wall behind 355 Sussex Street, including cornices and parapet of the facade (to achieve a similar treatment as the southern party wall of 357 Sussex Street).
- (c) submit 1:20 details to illustrate the junction between the new and retained facade prior to the issue of any Construction Certificate.

Retained elements of 357 Sussex Street

123. The proposal, as amended, comprises the retention of the existing floor levels of 357 Sussex Street. However, the submitted structural plans shows piling close to the foundations of the existing columns (possibly under the footings of the existing columns) as shown the following Figure 66.
124. Similarly, the proposed demolition plan shows removal of existing engaged piers under the southern party wall (as shown in Figures 29 and 30).
125. Conditions are recommended to ensure any proposed piling and structure does not interfere with the existing structure of the two retained bays including the zone of influence of its footings, and the existing engaged piers situated along the southern boundary are not to be removed without structural verification.

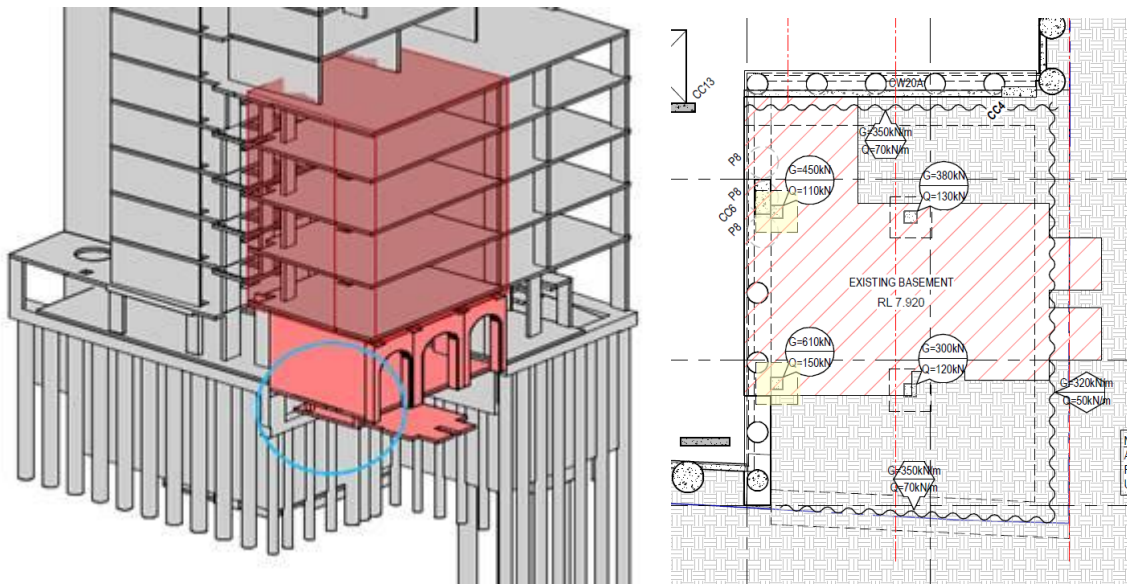


Figure 66: Extract of an Axonometric Diagram and Basement Floor Plan from the Structural Report prepared by Van Der Meer

Tower parapet

126. The objectives of Section 5.1.4 of Sydney DCP 2012 seek to ensure that buildings positively contribute to the streetscape with high quality materials and appropriate detailing. Provision 5.1.4(2) requires building exteriors to have a predominately masonry character and articulation. Provision 5.1.4(6) stipulates the top levels of the building are to be designed to integrate with the design of the building and conceal plant and equipment to promote a visually distinctive and interesting Central Sydney skyline.

127. The proposed tower parapet on the eastern elevation fronting Sussex Street comprises a brick canted wall, with the exception of the northern two bays which are proposed to be glazed (Figure 67). The parapet conceals building services and the level 17 plant.

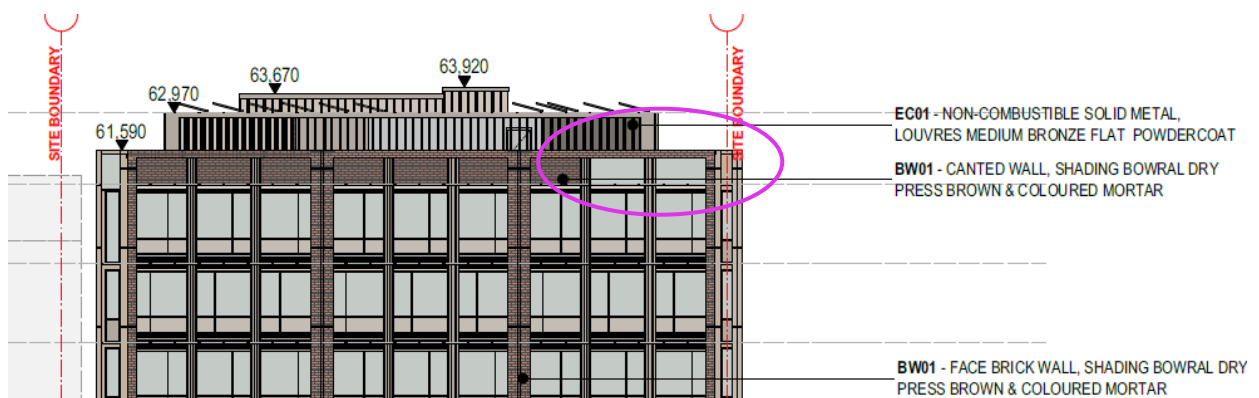


Figure 67: Proposed eastern elevation tower parapet

128. The proposed change in materiality from brick to glazing is considered contrary to Section 5.1.4(6) of Sydney DCP 2012 and as such is not supported. A consistent brick parapet is appropriate given the site context, as it will contribute towards the masonry character of the building, conceal plant/ building services, and proportionately provide a 'finish' to the top of the building.
129. There are also insufficient details on how the proposed canted wall will be constructed (refer to Figure 68). The proposed construction of the parapet is to reduce opportunities for stormwater run-off that can stain the building facade.



Figure 68: Proposed tower parapet detail showing canted wall

130. Accordingly, conditions are recommended to:
- (a) Amend the glazed panels of the northern two bays to provide a consistent masonry presentation and material finish to the parapet.
 - (b) Submit 1:20 scaled section details of the parapet showing the interface with the metal fins and the brick pier. The detailed section is to include any overflow drainage within the parapet.

Vehicular servicing, passenger pick up and set down areas

131. Section 3.11.6 and Schedule 7.8.1 of Sydney DCP 2012 stipulates a minimum of five service bays to be provided based on the proposed 272 hotel rooms, reception, ancillary restaurant/ café and bar areas. The proposal provides a single loading space for a 6.4 metre Small Rigid Vehicle (SRV) within the loading dock on the turntable at the upper basement floor.
132. The proposal also does not include any passenger pick up/ set down areas nor bus/ coach parking to meet the minimum rates under Section 3.11.8 and Schedule 7.8.3 of Sydney DCP 2012, which requires a minimum of two car spaces plus three bus/ coach spaces.
133. The site is considerably constrained in relation to vehicular servicing and parking, given its:
- (a) location within the CBD, close to the intersection of Liverpool and Sussex Street;

- (b) physical underground constraints of the site within the Interim CBD Rail Link (Zone B- Tunnel) rail corridor;
 - (c) existing commercial warehouse building at 357 Sussex Street which present reasonable architectural integrity and intactness; and
 - (d) proximity to adjacent local heritage items.
134. The application is accompanied by a Preliminary Loading Dock Management Plan (LDMP) and Operational Plan of Management (PoM) which has been reviewed by Council's Waste Management, and Transport and Access Units. The Preliminary LDMP and PoM satisfactorily demonstrates how the vehicular lift and turntable will be managed, all delivery and servicing activities and frequency of vehicles accessing the loading dock.
135. Despite the numerical non-compliance with SRV and passenger pick up/ drop down rates, the proposal generally satisfies Section 3.11.6 where the service space is located completely within the boundary of the site, clearly designated for service vehicles only (not used for any other purposes such as storage of goods/ equipment).
136. The accompanying Traffic Impact Statement prepared by Traffix indicates that while guests are not expected to arrive by coach or bus, the surrounding loading zones may be utilised to facilitate bus or coach guest pick up/ drop off.
137. The utilisation of the surrounding loading zones to facilitate passenger pick up/ drop off is not supported given the competitive nature of kerbside parking/ loading and servicing within the CBD, and kerbside parking/ loading zones may be removed in the future.
138. Having regard to the highly accessible location of the site and above constraints, the proposed vehicular servicing and passenger pick up and set down arrangements are acceptable, subject to the following recommended conditions:
- (a) To require a Travel Access Guide detailing sustainable transport options to access the site, as well as a Coach Parking and Passenger Pick-up and Drop-off Management Plan are to be submitted to and approved by Council.
 - (b) To require further development of the Preliminary Loading and Servicing Management Plan. A final Loading and Servicing Management Plan is to be submitted to and approved by Council.
139. The above conditions will safeguard the amenity of the public domain, ensure appropriate management of on-site servicing of the development, and promote sustainable transport options to manage point to point transport.

Consultation

Internal Referrals

140. The application was discussed with the following referral officers and bodies for review:
- (a) Design Advisory Panel (DAP)

- (b) Construction and Building Unit
- (c) City Modellers
- (d) Heritage and Urban Design
- (e) Landscape and Tree Management;
- (f) Environmental Health
- (g) Licenced Premises
- (h) Safe City
- (i) Transport and Access Unit
- (j) Cleansing and Waste Management
- (k) Environmental Projects
- (l) Specialist Surveyor
- (m) Public Domain

141. The above panels, units and officers generally advised that the amended proposal is acceptable subject to the recommended conditions of consent included in Attachment A of this report.
142. Comments provided by the DAP have been addressed elsewhere in this report.
143. Where concerns were raised with the proposed development, these matters are addressed in the assessment tables of Sydney LEP 2012, Sydney DCP 2012, and/or outlined in detail under the 'Discussion' heading above.

External Referrals

144. The application was discussed with the following external referral bodies for review:
- (a) Ausgrid;
 - (b) TransGrid;
 - (c) Sydney Trains;
 - (d) Sydney Metro;
 - (e) Transport for New South Wales (TfNSW);
 - (f) Water NSW;
 - (g) Sydney Water Corporation; and
 - (h) NSW Police

Ausgrid

145. Pursuant to Clause 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
146. Ausgrid raised no objection to the proposal, as amended, subject to recommended conditions included in the schedules of Attachment A.

TransGrid

147. Pursuant to Clause 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to TransGrid for comment.
148. TransGrid advised that a referral was not required for the application.

Sydney Trains

149. Pursuant to Clause 2.48 and 2.98 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Sydney Trains for comment.
150. As noted above, Sydney Trains, via Instrument of Delegation from Transport Asset Holding Entity (TAHE), has been delegated functions to act as the electricity supply authority to review applications that is in proximity to rail electricity infrastructure or an electrical easement.
151. Sydney Trains raised no objections and no comments on the amended proposal.

Sydney Metro

152. Pursuant to Section 2.100 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Sydney Metro for comments.
153. Sydney Metro advised that a referral was not required for the application.

Transport for NSW

154. Pursuant to Section 2.101 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.
155. As discussed under the heading 'History of the Subject Development Application' above, Council staff attended a meeting that was held between the applicant's representatives and TfNSW on 11 August 2023. The meeting involved discussions on the remaining outstanding documentation to enable TfNSW to grant concurrence. It was understood from the meeting that the outstanding Acoustic and Electrolysis matters had generally been resolved, subject to minor amendments. The applicant advised TfNSW that the additional requested Geotechnical information would be provided by 16 August 2023.
156. Following the meeting, a revised Electrolysis Report and Acoustic Report to reflect TfNSW's comments was submitted. A Numerical Analysis was submitted to TfNSW on 21 August 2023. The two remaining reports (Shoring Wall Analysis and Risk Assessment Report) were submitted to TfNSW on 29 August 2023.
157. Concurrence was granted by Transport for NSW on 8 September 2023 and conditions of consent are included in Attachment A.

Water NSW

158. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was referred to Water NSW as Integrated Development. The proposed basement levels will have an impact on groundwater levels as groundwater is expected to be encountered at the depth of proposed excavation.
159. Copies of public submissions made to the City of Sydney during the notification period were forwarded to Water NSW during the assessment process.
160. General Terms of Approval were issued by Water NSW on 28 July 2023 and have been included in the schedules within the recommended conditions of consent. It is noted that the amended proposal (dated 7 August 2023) was re-referred to Water NSW on 14 August 2023. On 18 August 2023, Water NSW raised no further comments on the revised proposal.

Sydney Water Corporation

161. Pursuant to Section 78 of the Sydney Water Act 1994, the application was referred to the Sydney Water Corporation for comment.
162. The Sydney Water Corporation raised no objection to the proposal, as amended, subject to recommended conditions included in the schedules of Attachment A.

NSW Police

163. The application was referred to NSW Police for comment. No response was received, which is taken to be no objection.

Advertising and Notifications

164. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 28 days between 27 May and 25 June 2022. A total of 2,458 properties were notified and one submission was received.
165. The submission raised the following issues:
 - (a) **Issue:** Redevelopment potential of Regal Apartments
 - (i) The development is not concerned about the impact on the neighbouring site in terms of its possible redevelopment.
 - (ii) The developer should stick to good design principles and give recognition to neighbour rights.

Response: The proposal has been subject to numerous design amendments since the original notification of the set of plans that this submission relates. These amendments ensure the proposal does not unreasonably borrow amenity nor restrict the future development potential of neighbouring sites including the Regal Apartments at 359-363 Sussex Street. Refer to further details under the heading 'History Relevant to the Development Application' and assessment under Section 5.1.1.3 of Sydney DCP 2012 above.

- (b) **Issue:** Traffic management

- (i) Dependency on public transport
- (ii) Use of public assets including loading, no parking and coach bay

Response: Subject to appropriate conditions, the proposal will not result in unacceptable adverse impacts to on the use of public assets. Refer to assessment under the heading 'Discussion' subheading 'Vehicular servicing, passenger pick up and set down' areas above.

166. The amended proposal was re-notified for a period of 28 days between 1 June and 30 June 2023. The same properties were notified including the previous submitter. One submission was received in the re-notification period from the same submitter. The matters raised reiterated concerns relating to managing traffic.

(a) **Issue:** Managing traffic from tourist arrives and departures

- (i) Use of public assets including loading, no parking and coach bay
- (ii) Minimisation of the on-site vehicular servicing space

Response: As discussed above, reference is made to the assessment under the heading 'Discussion' subheading 'Vehicular servicing, passenger pick up and set down' areas.

Public Interest

167. Having regards to all of the above matters, the proposal will not result in any adverse impacts on both the natural and built environment and the locality, is suitable for the site, and is in the public interest, subject to the recommended conditions of consent included in Attachment A.

Financial Contributions

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

168. 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.

169. 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

170. The site is located within the Central Sydney affordable housing contribution area. As the proposed development includes the demolition of existing floor area and subsequent creation of more than 100sqm of gross floor area, a contribution is required at a rate of 0.5 per cent of the non-residential total floor area of the development totalling \$335,059.05 (31.57 square metres of total floor area).

171. In accordance with Clause 7.13(2C) of Sydney LEP 2012 the contribution amount has been halved as the development application was lodged prior to 1 July 2022.
172. 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

Relevant Legislation

173. Environmental Planning and Assessment Act 1979.
174. City of Sydney Act 1988.
175. Water Management Act 2000.
176. Sydney Water Act 1994.

Conclusion

177. The proposal seeks consent for demolition of warehouse building 355 Sussex Street, partial demolition of the existing warehouse building at 357 Sussex Street, excavation, and construction of a hotel development with a maximum height of 54.9 metres (RL 63.92) with ancillary retail uses on the ground floor and a total of 272 hotel rooms in a 17-storey building.
178. The proposal is appropriate in its setting and is generally compliant with the objectives, standards and guidelines of the relevant planning controls in the SEPP, Sydney LEP 2012, and Sydney DCP 2012, the with the exception of the height development standard. Proposed variations to controls in the Sydney DCP 2012 have been assessed as acceptable and identified in the report.
179. A written request to justify the contravention to the height development standard pursuant to Clause 4.6 of Sydney LEP 2012 has been submitted and adequately justifies that compliance with the development standard is unreasonable or unnecessary in this circumstance and that there are sufficient environmental planning grounds to justify contravening the development standard, including the partial retention of 357 Sussex Street and existing floor levels. The proposal satisfies the objectives of the 'Height of Buildings' development standard prescribed in Clause 4.3 as well as the objectives of the SP5 Metropolitan Centre Zone in the Sydney LEP 2012.

180. The proposal has been amended to address the Design Advisory Panel and Council officers' concerns. Previous issues relating to the retention of 357 Sussex Street, non-compliant building height and floor space ratio, non-compliant street setbacks, internal planning of the podium, visual and privacy impacts and architectural expression have been addressed in the amended proposal. The amended proposal is satisfactory, subject to the conditions recommended and included in Attachment A.
181. The proposal does not result in adverse environmental impacts to the existing or likely future development surrounding the site. The proposed development appropriately responds to the characteristics of the site and improves the interface between the private and public domain within the Haymarket/ Chinatown Special Character Area.
182. The proposal will provide for new hotel accommodation with ancillary retail uses in the Sydney CBD, on a site which is highly accessible to existing and planned employment, services, and public transport infrastructure.
183. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future users of the site.
184. The application is Integrated Development, requiring approval of Water NSW under the Water Management Act 2000. General Terms of Approval have been issued by Water NSW and form part of the recommended conditions in Attachment A.
185. Concurrence has been granted by Transport for NSW pursuant to the Section 2.101 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Concurrence conditions of consent form part of the recommended conditions in Attachment A.
186. All matters raised by internal and external referrals have been adequately addressed, as discussed within this report.
187. Accordingly, the proposal is in the public interest and is recommended for approval, subject to recommended conditions in Attachment A.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Jessica Joseph, Specialist Planner