

Item 5.**Development Application: 169-183 Liverpool Street, Sydney - D/2022/614**

File No.: D/2022/614

Summary**Date of Submission:** 27 June 2022**Amended Plans and Additional Information** 17 March 2023, 27 July 2023, and 11 September 2023**Applicant:** Sicard Pty Ltd**Developer:** Sicard Pty Ltd**Owner:** Sicard Pty Ltd**Architect:** Bates Smart**Planning Consultant:** Ethos Urban**Design Advisory Panel:** 1 September 2022**Cost of Works:** \$380,053,738.00**Zoning:** SP5 - Metropolitan Centre. The proposed uses, as defined as retail premises, commercial premises, and residential accommodation, are permissible with consent in the SP5 zone.**Proposal Summary:** Approval is sought for a new mixed-use development with a maximum height of 117.1m (RL 146 AHD) with commercial, retail and residential land uses.

The proposal includes the demolition of the existing building, retention of the existing basement perimeter walls and further excavation to provide for 6 levels of basement, a 7-storey podium comprising retail and commercial uses, a 30-storey tower and a 28-storey tower containing a total of 259 residential units, the provision of a through-site link, and the retention of an existing publicly accessible pocket park at the rear of the site.

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

The subject development application requires an amendment of the approved concept building envelope. A Section 4.55(2) modification application (D/2019/992/A) has been lodged separately and has been assessed concurrently. The modification application is also being reported to CSPC and is recommended for approval. Subject to the approval of D/2019/992/A, the subject development application will be consistent with the concept development consent in accordance with Section 4.24(2) of the Environmental Planning and Assessment Act 1979.

A competitive design process was held with Bates Smart selected as the winning scheme. The proposal exhibits design excellence. Therefore, it is eligible for a building height that exceeds the maximum height shown for land on the Height of Buildings Map by up to 10 per cent pursuant to Clause 6.21D(3) of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012).

During assessment, concerns were identified relating to the amendments to the concept envelope, contamination, building expression, floor to floor heights, wintergardens, communal open space, solar access, ventilation, trees, landscaping, public domain works, on-street changes, parking, loading and servicing, waste management and noise impacts.

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

The application was notified for a period of 28 days between 4 July 2022 and 2 August 2022, with 6 submissions received (4 objections and 2 comments). Concerns raised in submissions include height, privacy impacts, wind impacts, on-site and on-street car parking, and construction-related impacts. These issues are addressed within the report.

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

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

As a result of the design modifications made to the design, the amended proposal has a high standard of architectural design, materials and detailing. It presents an improved outcome, comprises an appropriate response to the site conditions, as well as a respectful backdrop to the Anzac War Memorial and Hyde Park setting.

Summary Recommendation: The development application is recommended for deferred commencement approval.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
- (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
- (iii) Sydney Airport Referral Act 1996
- (iv) State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development and the Apartment Design Guide
- (v) State Environmental Planning Policy (Transport and Infrastructure) 2021
- (vi) State Environmental Planning Policy (Resilience and Hazards) 2021
- (vii) State Environmental Planning Policy (Biodiversity and Conservation) 2021
- (viii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (ix) Sydney Local Environmental Plan 2012
- (x) Sydney Development Control Plan 2023
- (xi) Central Sydney Development Contributions Plan
- (xii) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings

Recommendation

It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application Number D/2022/614 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (C) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (D) The proposed development is consistent with the design intent of the winning scheme of a competitive design process, held in accordance with the City of Sydney Competitive Design Policy.
- (E) The proposed development has a height, scale and form suitable for the site and its context, and satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the Central Sydney locality and is a respectful backdrop to the Anzac War Memorial and Hyde Park.
- (F) The proposed development is consistent with the amended concept approval for the site, being D/2019/992/A, in accordance with Section 4.24(2) of the Environmental Planning and Assessment Act, 1979.
- (G) Subject to the recommended conditions of consent, the proposed development achieves good amenity for the existing and future occupants of the subject and adjoining sites.
- (H) The proposed mix of compatible land uses will support the vitality of the area and do not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain and the broader Central Sydney locality, subject to the recommended conditions.
- (I) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to the appropriate management of potential environmental impacts associated with the development.

- (J) For the reasons above and as detailed in the assessment report to the Central Sydney Planning Committee, the proposed development is in the public interest subject to conditions.

Background

The Site

1. The site has a legal description of Lot 1 in DP 1253429, known as 169-183 Liverpool Street, Sydney.
2. The site is located in the Sydney Central Business District (CBD) directly to the south of Hyde Park and the ANZAC War Memorial, to the south-east of Museum Station and to the south-west of the intersection of Liverpool Street, Oxford Street, College Street and Wentworth Avenue.
3. It is irregular in shape with area of approximately 3,737sqm. It has a primary street frontage to Liverpool Street which is located to the north of the site, and secondary street frontages to Commonwealth Street located to the east, Nithsdale Street located to the west, Nithsdale Lane to the south, Alberta Street to the south-east, and Clarke Street bisecting the site at street level.
4. This latter section of Clarke Street is a stratum lot, with the road surface in public ownership at ground level, and the allotment below ground in private ownership.
5. The site contains a 33-storey commercial office building, formerly known as the Remington Centre, designed by Hoffer Reid and Associates, and completed in 1981 by Stockland Constructions, with:
 - (a) a height of approximately 117 metres;
 - (b) ground level retail uses with a colonnade to Liverpool Street;
 - (c) lower ground loading and servicing to facilities to Clarke Street;
 - (d) four basement levels containing a commercial car park with vehicle access from Nithsdale Street and approximately 200 car parking spaces;
 - (e) 30 commercial office levels; and
 - (f) three plant levels.
6. A pocket park is located on the southern portion of the site, bounded by Nithsdale Street, Nithsdale Lane, Alberta Street and Clarke Street, and comprises landscaped areas, significant mature tree plantings and ventilation stacks serving the basement car park.
7. The northern portion of the site is located within the College Street/Hyde Park special Character Area. The site is not a heritage item nor is it in a heritage conservation area. The site is not identified as being subject to flooding.
8. Photos of the site are provided in Figures 1 to 10.



Figure 1: Aerial view of site in red and surrounding area

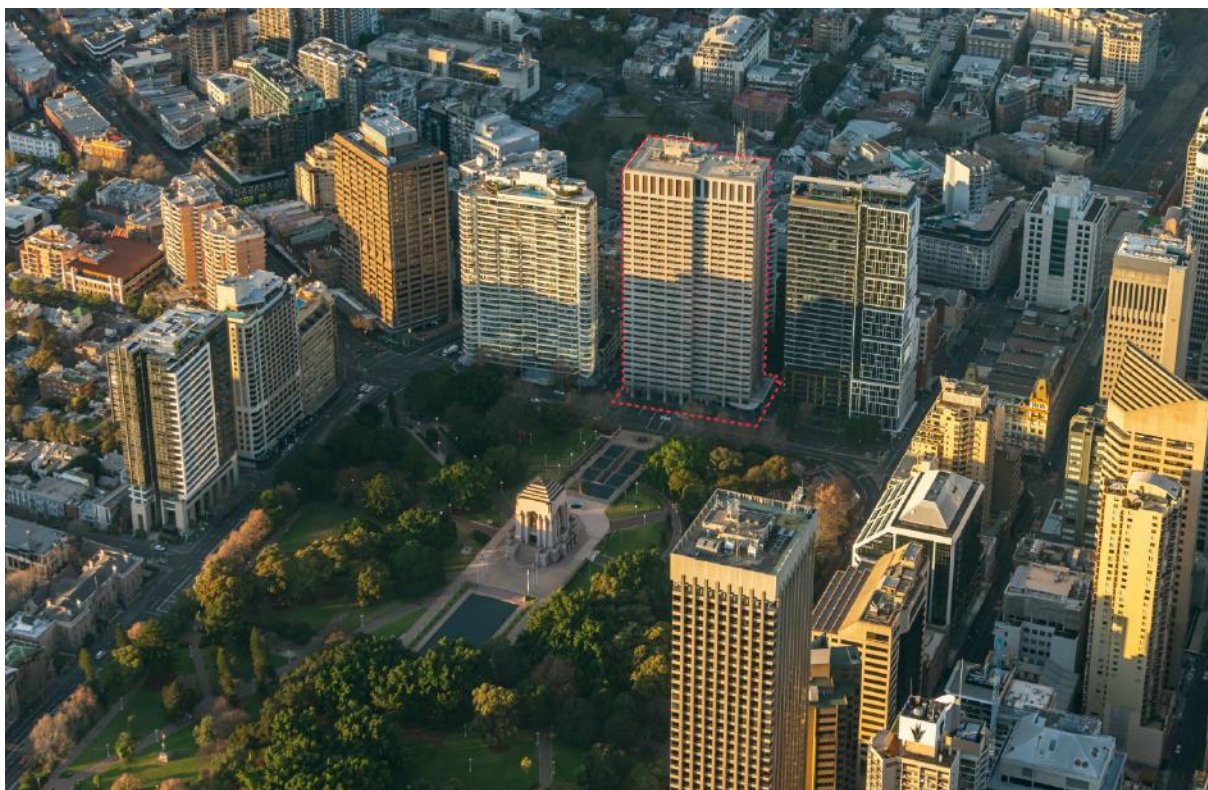


Figure 2: Oblique aerial photograph of subject site in red and surrounding area, looking south-east



Figure 3: Site and neighbouring buildings on Liverpool Street, viewed from Anzac War Memorial



Figure 4: Site's frontage to Commonwealth Street



Figure 5: Site's frontage to Nithsdale Street (site on left)



Figure 6: Site's frontage to Clarke Street (existing tower to left, pocket park to right)



Figure 7: Alberta Street, view facing north showing the existing tower



Figure 8: Alberta Street, view facing north-west showing the existing pocket park and tower



Figure 9: Existing pocket park, view facing south-east

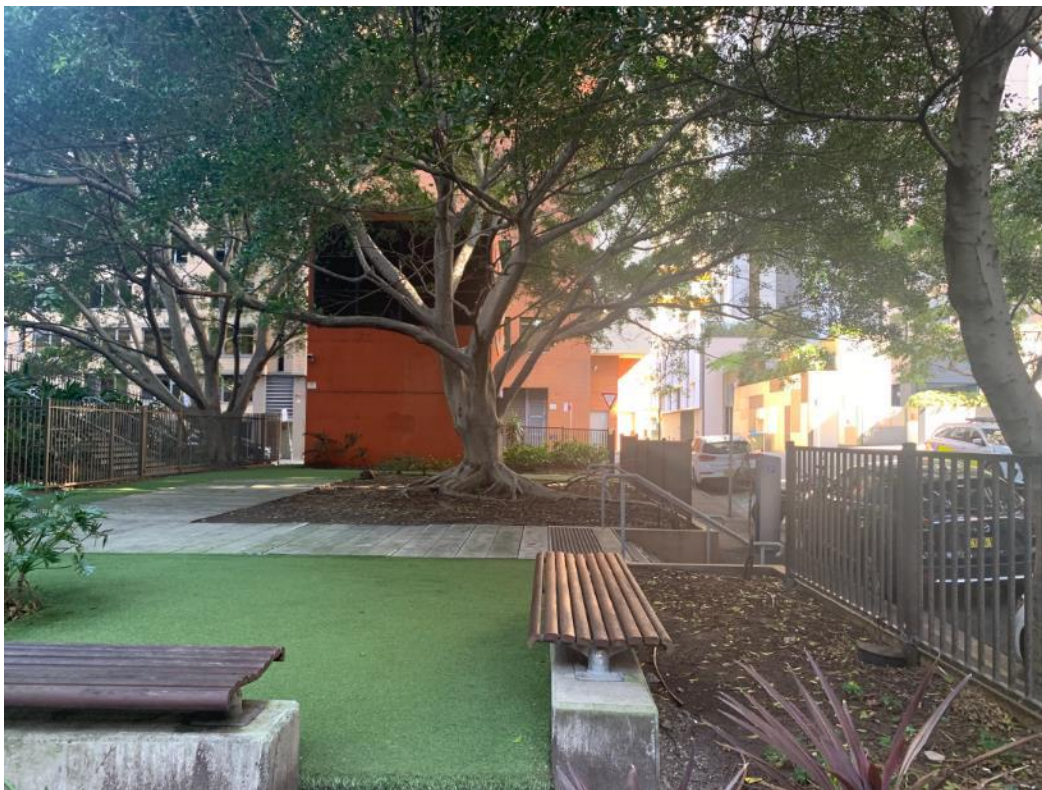


Figure 10: Existing pocket park, view facing west

Surrounding Development

9. The surrounding area is characterised by a mixture of commercial, residential, retail, food and drink premises and tourist and visitor accommodation uses, with a wide range of built forms of varied architectural style and scale.
10. To the north is Hyde Park South and located within the park is the ANZAC War Memorial. Both sites are listed as items of heritage significance on the State Heritage Register (SHR Item Number 01871 and 01822 respectively) and in Schedule 5 of the Sydney LEP 2012 (Item Number I1654 and I1742 respectively).
11. To the north-west within Hyde Park South is Museum Railway Station, which is also listed as a heritage item on the State Heritage Register (SHR Item Number 01207) and in Schedule 5 of the Sydney LEP 2012 (Item Number I1743).
12. To the west at 157-167 Liverpool Street, Sydney, is a 34-storey mixed use residential apartment development known as the Hyde, designed by WOHA Architects and completed in 2010 by Grocon. Further to the west at 130 Elizabeth Street, Sydney, is a 38-storey mixed use residential apartment development known as One30 Hyde Park, designed by Bates Smart and completed in 2019 by Built Holdings.
13. To the east at 185-211 Liverpool Street, Sydney, is a 30-storey mixed use residential apartment development known as the Connaught, which comprises one of Sydney's first high-rise strata buildings, completed in 1984 by Civil and Civic.
14. To the south-east on the eastern side of Commonwealth Street at 13-15 Wentworth Avenue, Sydney, is a part 3 and part 4 storey commercial building. A part 3 and part 4 storey commercial building is located at 9-25 Commonwealth Street, Sydney, to the south. This property was granted development consent (which has since lapsed) for a 33-storey mixed use development comprising retail, hotel accommodation and residential apartment uses, known as the Edition Residences, designed by FJMT.
15. Located to the south at 11 Alberta Street, Sydney, is a 22-storey mixed use residential apartment development known as Aspire Apartments, designed by Marchese Partners and completed in 2015 by Hindmarsh. To the south of the pocket park at 26 Nithsdale Street, Sydney, is a 3-storey commercial terrace.
16. To the south-west at 136-140 Elizabeth Street, Sydney, is an 11-storey commercial building, containing office premises and a place of public worship known as the Salvation Army Sydney Congress Hall. Further to the south-west at 148 Elizabeth Street, Sydney, is a 32-storey mixed use residential apartment development known as Hyde Park Towers, completed in 1995 by Walter Construction Group. This site contains a heritage item of local significance listed in Schedule 5 of the Sydney LEP 2012 known as the former "Mark Foys Parking Station" including facades, internal structure and building elements (Item Number I1744).
17. Figures 11 to 22 show the existing development in the vicinity.



Figure 11: Hyde Park and Anzac War Memorial, with existing tower directly behind



Figure 12: Museum Station



Figure 13: The Hyde



Figure 14: Street level view of The Hyde and the subject site



Figure 15: Rear view of The Hyde



Figure 16: The Connaught



Figure 17: Street level view of The Connaught and the subject site



Figure 18: View of buildings along Commonwealth Street, facing south



Figure 19: View of 9-25 Commonwealth Street (to be redeveloped)



Figure 20: 11 Alberta Street



Figure 21: 26 Nithsdale Street (right) and entrance to the site's existing car park (right)



Figure 22: View of buildings along Nithsdale Street, facing south

History Relevant to the Development Application

Development Applications

18. The following applications are of particular relevance to the current proposal:

- **D/2019/992** – Development consent was granted on 22 October 2020 by the CSPC for a concept development application on the subject site for a building envelope and in-principle demolition of the existing commercial tower, retention of the existing basement, refurbishment and renewal of the existing pocket park, indicative construction of two new buildings separated by a through site link, with podium elements containing retail and commercial uses, and residential uses in towers above.
- **D/2019/992/A** – A Section 4.55(2) modification application to the concept development application was lodged with the City on 28 July 2022 and has been assessed concurrently with the subject detailed design development application. The Section 4.55(2) modification application proposes to amend the approved building envelopes and consent conditions.

Specifically, the modifications include:

- amendment to the width of the through-site link at ground level from 10m to 18m in the 'Urban Room' and 6m at the southern extent,
- inclusion of articulation zones on facades,
- inclusion a ground floor and level 1 colonnade zone, and
- changes to the north-western corner of Tower A.

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

19. The site has previously been the subject of numerous development applications and consents. The applications relevant to the subject applications are detailed below:

- **D/1975/151** – Development consent was granted on 17 June 1975 for a new commercial building.
- **D/1975/493** – Development consent was granted on 23 February 1976 for use of the basement levels as a public parking station.
- **D/2012/1931** – Development consent was approved on 16 August 2013 for alterations to the existing building including conversion of plant rooms to office space, provision of new plant rooms, landscape works to the pocket park, signage to the northern elevation and inclusion of a commercial car wash within the basement car park. It is noted that the approval is generally the same as the approval under D/2009/1771 (except for works which had already been carried out on Levels 1 to 9 inclusive).

Condition 4 of D/2012/1931 required that an easement be registered on the title of the land benefitting the City of Sydney Council prior to the issue of any Occupation Certificate which provides for unrestricted public access to the pocket park. This required easement has not been registered on title, and as a result, compliance action is underway to ensure this (as detailed in the 'Compliance Action' section below).

Competitive Design Process

20. A competitive design process was undertaken for the development site in accordance with the provisions of Clause 6.21D of the Sydney LEP 2012 and the City of Sydney Competitive Design Policy.
21. As a result of this competitive design process the applicant is seeking up to 10 per cent additional height pursuant to Clause 6.21D(3) of the Sydney LEP 2012.
22. The architectural firms who participated in the 'invited' architectural design competition were Bates Smart, Crone + Andrew Burns, Fender Katsalidis + Wong Tung International, PTW + Furtado Sullivan, and SJB.
23. The competitive design process was carried out between 11 October 2021 and 16 February 2022.
24. At the conclusion of the Jury panel's initial deliberations and before a decision could be made, the Jury recommended that further refinements be made to the Bates Smart and PTW + Furtado Sullivan schemes.
25. Following the second-round deliberations, the Jury selected the Bates Smart scheme as the winning scheme. A photomontage of the winning scheme is provided in the figure below:



Figure 23: Photomontage of the winning Bates Smart scheme.

26. The Jury considered that the refined, subtle character of the Bates Smart scheme, and its response to the Anzac Memorial were defining elements which differentiated the two schemes.
27. The scheme was commended for its response to the ground plane, providing a successful through-site link and 'Urban Room' that responded to the wind issues on the site, and provided a useable space. The Jury also commended the more solid facade response, with the widened masonry frame providing additional depth in the facade, reducing the tendency for the project to appear as a dark, glazed box and improving its passive solar control. The Jury was satisfied that the scheme was flexible enough to successfully respond to any issues that arise during detailed design.
28. Elements of the scheme which were identified by the Jury to be maintained include:
 - (a) Public Realm, Entry and Through-Site Link:
 - (i) The Liverpool Street ground plane, through-site link and pocket park to the south of the building have all been successfully designed to promote pedestrian movement at the ground plane.
 - (ii) The through-site link, an important element in continuing the historic Hyde Park axis, is considered successful in linking the CBD to Surry Hills.
 - (iii) The Urban Room element of the through-site link is highly successful and is considered to be a very useable space.

- (b) Podium:
 - (i) The masonry frame is successfully extended to the ground plane, creating a pedestrian colonnade on Liverpool Street.
 - (c) Tower:
 - (i) The northern facade of the scheme is successful in responding to the heritage context of the Anzac Memorial. The solidity and depth created by the masonry frame is responsive and respectful of the important axis that this development sits on.
29. Areas of the scheme that were noted by the panel for further refinement are as follows:
- (a) Structure:
 - (i) The structural design of the building needs to be further resolved. This includes the consistent vertical alignment of the cores across the building, and the optimisation of columns and supporting structure.
 - (ii) The use of the masonry frame as a structural component of the tower should be explored.
 - (b) Services and Loading Dock:
 - (i) The plant rooms throughout the building need to be reviewed and confirmed for correct sizes.
 - (ii) The size and operation of the loading dock needs to be resolved in conjunction with a qualified traffic consultant. The provision of loading spaces must be in line with the City of Sydney's requirements.
 - (c) Ground Plane:
 - (i) The design of the lobbies should be considered and rationalised where possible.
 - (ii) The activation of the ground plane, particularly on the southern side of the building, should be reviewed. The Jury felt some of the activation of this ground plane was lost between Round 1 and Round 2.
 - (iii) The residential street address of the towers should be considered and emphasised to reflect the high quality residential apartments commensurate to the site location that this project seeks to create.
 - (d) Tower:
 - (i) The current open design of the roof feature is not supported and should be further considered through design development and resolved potentially without an open 'brise soleil' character.
 - (ii) The design of the podium element located within the north-west notch of the western tower should be further resolved. The stepped and terraced form and colonnade treatment are not cohesively integrated into the overall formal composition. The apartment layouts within this section of the building should be further considered.

- (iii) The wintergardens located on the north-west corner of the western tower are to be further refined, the jury is concerned to ensure they do not read differently to the remainder of the northern facade of the two towers.
 - (iv) The detailed design of the scheme should consider the wind impacts and safety of the wintergardens generally.
 - (v) The facade detailing for cross ventilation and sound attenuations should be further developed.
 - (vi) The relationship and detailed junctions of the Liverpool Street facade grid and the east and west facades requires further resolution.
- (e) Interiors and Planning:
- (i) The planning of the apartments throughout the building should be further refined to reflect and respond to the unique setting, character and desired high quality residential apartments commensurate to the site location.
 - (ii) A consistent curtain strategy should be provided across the building to ensure that the facade appears cohesive when viewed from Hyde Park. No blinds are to be used.
30. Further discussion regarding how the proposal has addressed these recommendations is provided in the 'Discussion' section of this report.

Compliance Action

31. The site is subject to compliance action relating to Condition 4 of D/2012/1931 not being satisfied, with there being no easement registered on title for unrestricted access to the pocket park. The compliance action is still ongoing.
32. A deferred commencement condition is recommended at Attachment A requiring that an easement is registered on title in accordance with Condition 4 of D/2012/1931 prior to the activation of this consent, ensuring that unrestricted public access to the pocket park be maintained with the future development on site.

Pre-lodgement Meeting

33. On 12 May 2022 and 31 May 2022, pre-lodgement meetings were held with Council officers and the applicant and project team. Verbal feedback was provided, as follows:
- (a) a modification to the concept approval was required for any changes to the building envelopes;
 - (b) concern regarding building elements over the boundary on Commonwealth Street;
 - (c) concern regarding the proposed fountain in the 'Urban Room' and the potential for it to overpower the adjacent Reflecting Pool at the Anzac Memorial;
 - (d) questions regarding the design of Clarke Street, i.e. if a zebra crossing or shared zone was proposed;
 - (e) questions in relation to the pocket park and its extension, i.e. ownership and management, if a public benefit offer will be sought, the stormwater strategy etc.;

- (f) any shading elements projecting into the public domain needs to ensure it can protect and accommodate street trees on the surrounding streets;
- (g) Liverpool Street and Oxford Street are regional cycling corridors and therefore, the proposal needs to ensure that sufficient bicycle parking is provided at the Ground Level; and
- (h) for shared access for servicing and loading, a loading dock management plan would be required to ensure that everything operates as required.

Assessment History of the Subject Application

34. On 27 June 2022, the subject application was lodged with Council.

Preliminary Information Request

- 35. Following a preliminary assessment of the proposed development by Council Officers, an updated model was requested on 6 July 2022 to address identified discrepancies with the submitted plans.
- 36. An updated model was submitted on 22 July 2022.

Design Advisory Panel

- 37. The subject proposal was presented to the City's Design Advisory Panel (DAP) on 1 September 2022. The DAP made the following recommendations:
 - (a) The Panel does not support encroachment of the facade over the Commonwealth Street boundary. It will create additional overshadowing of the public domain. Also, it does not support any further reductions to the 17m tower separation. The separation must be maintained.
 - (b) The colonnade, awning and urban room, and address to Liverpool Street are all supported as positive proposals.
 - (c) Communal open space provisions are unacceptable. The scheme should revert to provisions shown in the competition scheme, including locating communal open space back to the north, overlooking Hyde Park.
 - (d) The Panel supports extension of the pocket park and footpath in principle. However, ownership and boundary issues will need to be resolved.
 - (e) The Panel supports the City's request for more information on noise insulation and ventilation provisions. The Panel noted that when designing ventilation, any reduction in the width and depth of columns expressed on the facade must be resisted.
 - (f) Solar access to apartments needs to be improved. The number of apartments receiving more than two hours of sunlight needs to increase above the 49 per cent as assessed by the City. Given the tower separation provision and surrounding built form, the Panel suggested that the design could achieve around 65 per cent of apartments receiving two hours of solar access in midwinter.

Public Art Panel

38. A Preliminary Public Art Plan for the development was presented to the Public Art Advisory Panel (PAAP) on 13 September 2022. The PAAP made the following comments and recommendations:
- (a) support the artist and proposed approach;
 - (b) the budget has been increased to \$3.8m (1 per cent cost of development);
 - (c) the proposed water feature has been deleted given the proximity to the ANZAC Memorial and environmental impacts of water features;
 - (d) existing artwork in pocket park to be addressed in terms of deaccession or relocation; and
 - (e) further detailed consideration be given to greening the development and the experience of the wind between the towers.

Request for Amendments

39. Upon receipt of the DAP and PAAP advice and completion of a full assessment of the application, Council officers issued the applicant with a letter on 18 October 2022 requesting design amendments and additional information to address the following matters relating to both the subject detailed design application as well as the concurrent modification application:
- (a) Draft Public Benefit Offer: Further information required to consider the proposed public benefit offer to embellish, widen and dedicate the pocket park to the City, as well as a widened portion of surrounding footpaths. It is noted that the Applicant was seeking to offset contributions applicable to the proposed development, with the Public Benefit Offer. It should be noted that this draft public benefit offer no longer forms part of the proposal; refer to further discussion below.
 - (b) Amendments to the concept envelope: Any elements that contribute to additional overshadowing to Harmony Park are to be removed. Concerns regarding the decrease in the through site link between the towers, overhang of the eastern facade into Commonwealth Street, and inconsistencies on the southern facade.
 - (c) Contamination: A Preliminary Environmental Suite Investigation (PESI) is required.
 - (d) Building expression: Amendments and further detail required for the 'Urban Room' design, sun protection fins on facades, proposed materials and the building maintenance unit (BMU).
 - (e) Wintergardens and private open space: The wintergardens are to be designed to be consistent with Clause 4.5A Balconies on certain residential buildings of the Sydney LEP 2012, and Section 4.2.3.13 Wind affected balconies of the Sydney DCP 2012.
 - (f) Solar access: Greater solar amenity or compliance could potentially be achieved by changing the apartment mix.

- (g) Ventilation: More information is required regarding noise insulation and ventilation provisions. Natural ventilation has not been clearly demonstrated, with no opening shown on the elevations.
 - (h) Communal open space: The amount of communal open space is to be increased and provided within the towers. If 25 per cent of the site area cannot be met externally, additional common internal spaces should be explored, that are commensurate with the scale of development and provide functions that enhance residential amenity.
 - (i) Trees: Further information required to justify the removal of street trees on Liverpool and Clarke Streets.
 - (j) Landscaping: Amendments and further detail required regarding landscaping elements in the 'Urban Room', podium level and upper terraces.
 - (k) Wind impacts: Clarifications required regarding the submitted Environmental Wind Assessment Report at ground levels, in the through site link, podium and upper terraces.
 - (l) Public domain works: The floor levels off Clarke Street do not appear to comply with the Interim Floodplain Management Policy. Public Domain Levels and Gradients and a Public Domain Works Diagram is to be submitted.
 - (m) On-street changes: Any parking changes and new traffic treatments need to be consulted and submitted to the Local Pedestrian, Cycling and Traffic Calming Committee (LPCTCC) for endorsement. Council and TfNSW do not support the two vehicle drop off zones located on Nithsdale and Commonwealth Streets.
 - (n) Parking: The proposed amount of car parking spaces is to comply with the maximum number allowed as per the Sydney LEP 2012. The staff and visitor bicycle parking and end of trip facilities are to be provided at street level in a convenient location.
 - (o) Loading and servicing: The number of loading/service vehicle spaces be increased to demonstrate compliance with the City's controls.
 - (p) Waste management: The submitted Waste Management Plan (WMP) proposes infrastructure that is inconsistent with the proposed space allocation on the architectural drawings. Amended plans and a revised WMP is to be submitted with improved details of the waste management operations of the development.
 - (q) Noise impacts: Amended Noise Management Plan and Noise and Vibration Assessment to be submitted to provide further detail regarding potential construction and operational noise impacts.
40. Updated information was issued by the Applicant on 17 March 2023 responding to the requested amendments and additional information.
41. As indicated in the 'Compliance Action' section above, on 13 June 2023 a Notice of Intention to Give and Order was issued by Council's Health and Building Unit to the site owner outlining that Condition 4 of Development Consent No. D/2012/1931 has not been complied with, which requires the registration of an easement on title for unrestricted public access to the open space on site (the pocket park).

42. A second request for additional information and amendments was issued to the applicant on 23 June 2023. The request identified the following information and amendments for both applications:
- (a) Amendment to the concept envelope: Updated models are to be provided. The City maintains their concerns regarding the reduction in the through site link between towers, and overhang of the Commonwealth Street facade.
 - (b) Contamination: The submitted Detailed Environmental Site Investigation (DESI) is to be peer reviewed by a NSW EPA Accredited Site Auditor and include either a Section A Site Audit Statement.
 - (c) Floor to floor heights: A detail is required demonstrating that set downs, waterproofing and services can be accommodated within the proposed 3100mm floor to floor height.
 - (d) Wintergardens and private open space: Further detail required.
 - (e) Ventilation: Further information required to demonstrate compliance with the relevant noise criteria, noting plenums may still be required.
 - (f) Communal open space: Although the scheme has been amended to include communal open space areas at podium levels, it is to be further increased to provide a similar amount and amenity of communal open space that was achieved with the indicative design of the concept approval.
 - (g) Trees: The removal of street trees on Clarke Street are not supported.
 - (h) Landscaping: Amended landscape plans are incomplete and require further detail.
 - (i) Wind impacts: Increased balustrades provided to mitigate wind impacts however not consistently shown in the plans.
 - (j) On-street changes: Two drop off zones are still not supported.
 - (k) Parking: Separate entry required for bicycle parking.
 - (l) Waste management: Concerns remain regarding adequate waste storage space and collection.
 - (m) Sustainability: Regarding removal of solar PV to the northern facade as required by Condition 17 of the concept approval, if this commitment is no longer being maintained, it is required that electrification of the building outside of emergency power generation be provided.
43. Updated information was issued by the Applicant on 27 July 2023 responding to the requested amendments and additional information.
44. On 1 September 2023, Council officers advised the Applicant that the City has investigated the draft public benefit offer but is unable to accept the dedication of the pocket park as well as the pocket park extension for the reasons outlined below:
- (a) The pocket park is not an area of open space identified as a future City owned asset in the relevant strategies and plans.

- (b) The offer for the City's ownership of the pocket park sought an offset from the contributions payable from the development. The pocket park is not identified in the Section 7.12 contributions plan, and the City prefers to utilise the monetary contributions from the development towards the items identified in the plan.
 - (c) The pocket park has always intended to be publicly accessible and there is no additional benefit in it being a City owned asset.
 - (d) There is, potentially, uncertain ongoing liability with an underlying basement below a City asset.
45. It should be noted that there is no requirement in the planning controls requiring a public benefit offer in relation to this development or site.
46. Amended plans showing the pocket park in its existing state, with the removal of any extensions of the park and surrounding footpaths, were submitted on 11 September 2023. It is noted that the two drop off zones on Nithsdale Street and Commonwealth Street were deleted.

Proposed Development

47. The application seeks consent for a mixed use development comprising two towers on site with basement levels, retail and commercial uses in the podium, and residential uses in the towers; retention of the existing publicly accessible southern pocket park; and provision of a through site link.
48. A more detailed description of the development is provided below:
- Demolition of the existing building;
 - Retention of the existing basement perimeter walls and further excavation to provide for six (6) levels of a basement including:
 - One (1) basement commercial tenancy
 - Service vehicle spaces (14 spaces)
 - Car share spaces (5 spaces)
 - Residential car parking spaces (214 spaces including 39 accessible)
 - Commercial and retail car parking spaces (16 spaces including 2 accessible)
 - Motorcycle parking spaces (18 spaces)
 - Retail, commercial and visitor bicycle parking spaces
 - End of trip facilities
 - Residential storage
 - Plant rooms and services

- Seven (7) storey podium comprising:
 - Lower ground floor:
 - Vehicular entrance to the basement levels off Clarke Street
 - Four (4) retail tenancies fronting Clarke Street
 - One (1) lower ground commercial tenancy
 - Substation
 - Commercial/retail and residential waste storage areas
 - Loading area
 - Southern portion of the through-site link accessible from Clarke Street
 - Pocket park (the detailed design of the pocket park is subject to future approval, required as a recommended deferred commencement condition at Attachment A).
 - Upper ground floor:
 - Three (3) retail tenancies fronting Liverpool Street
 - Two (2) commercial lobbies accessed from Liverpool Street
 - Two (2) residential lobbies accessed from the through site link and Nithsdale Street for Tower A and Commonwealth Street for Tower B
 - The 'Urban Room' located at the site's entrance off Liverpool Street, which forms the northern part of the through site link. It is covered on the northern vertical frontage and its top with large glass panels.
 - Levels 1-5: Commercial uses
 - Level 6: Communal open spaces, internal communal spaces, and residential uses
 - Two towers comprising a total of 259 residential units:
 - Tower A: Thirty (30) storeys in height, containing 140 residential units
 - Tower B: Twenty-eight (28) storeys in height, containing 119 residential units
49. Proposed photomontages, plans and elevations of the proposed development are provided below.



Figure 24: Photomontage, view looking south from Hyde Park



Figure 25: Photomontage, view looking south-east from Liverpool Street



Figure 26: Photomontage, view looking north from pocket park (Note: detailed design subject to future approval, and an extension of the pocket park is no longer sought)



Figure 27: Photomontage, view looking south from the Hall of Memory within Anzac War Memorial

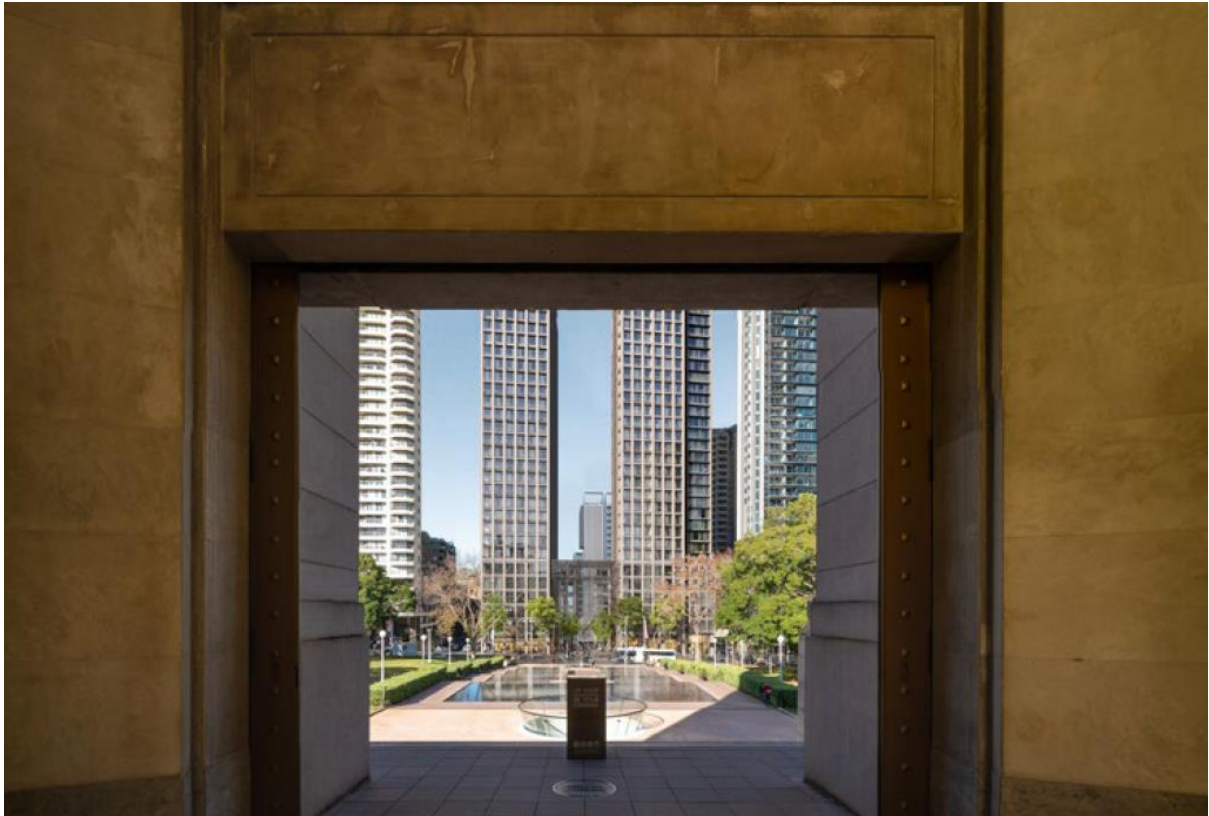


Figure 28: Photomontage, view looking south from the Hall of Service within Anzac War Memorial



Figure 29: Photomontage, view from the eastern side of Hyde Park South looking south-west



Figure 30: Photomontage, view from Elizabeth Street south-east

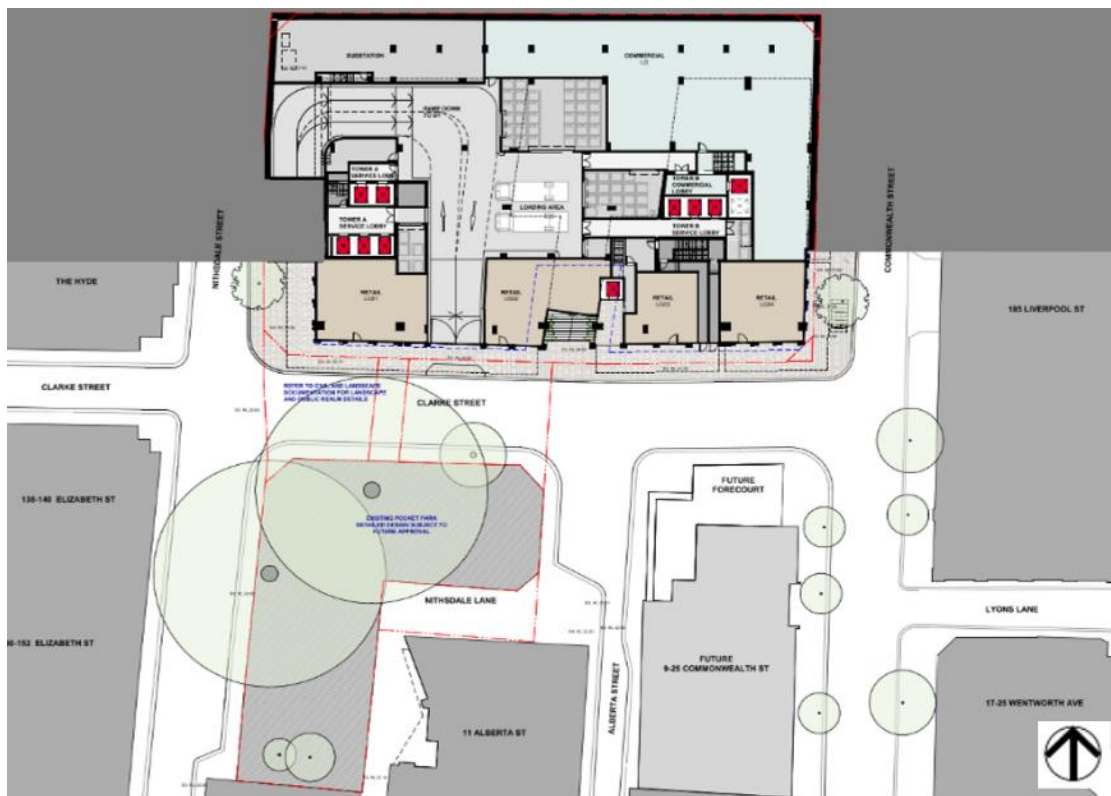


Figure 31: Lower ground precinct plan



Figure 32: Upper ground precinct plan

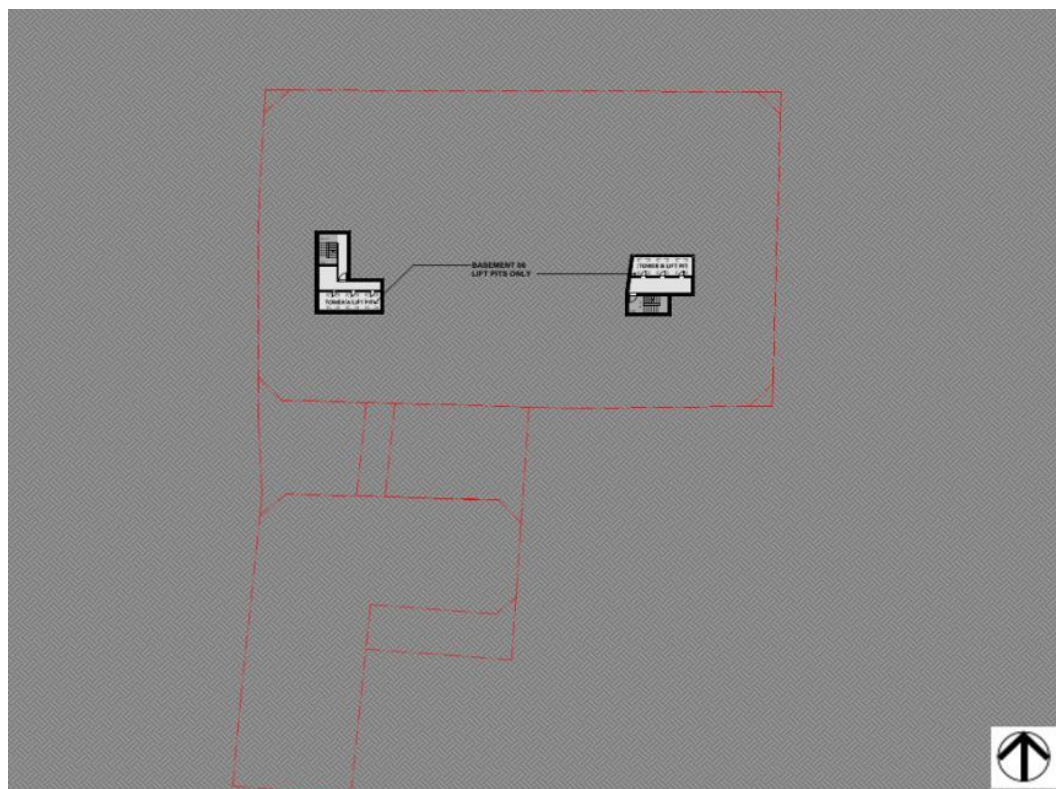


Figure 33: Basement 6 plan

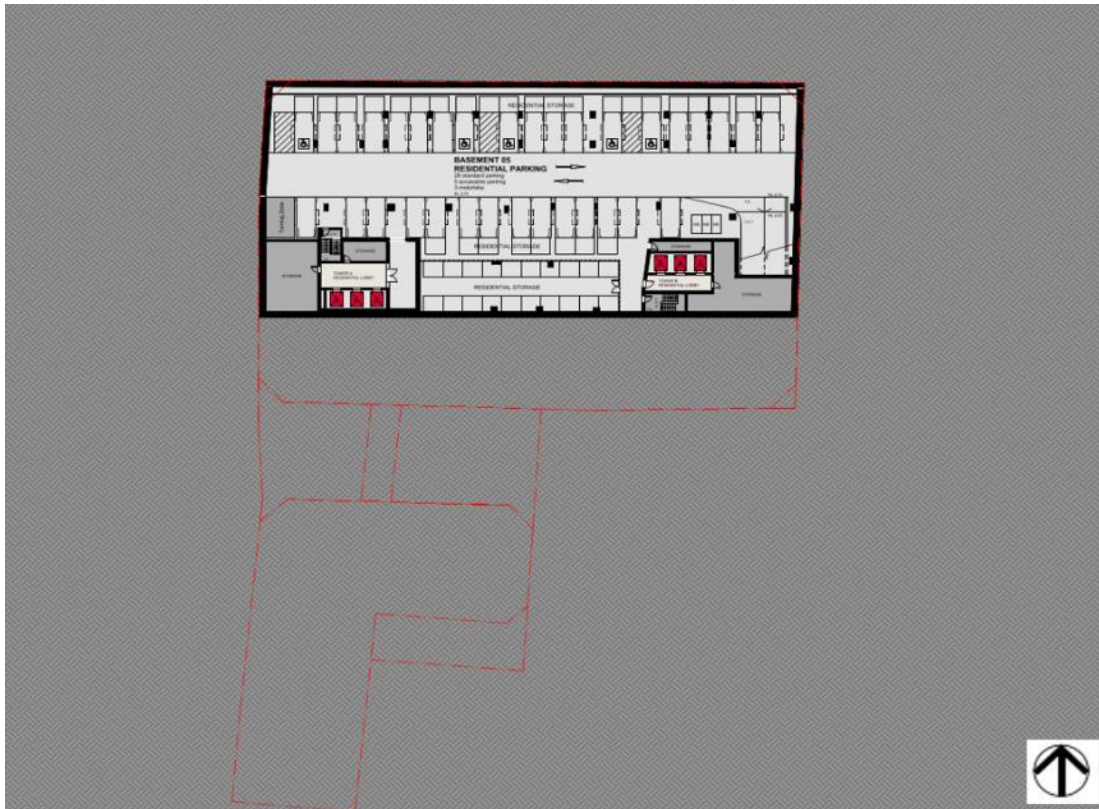


Figure 34: Basement 5 plan

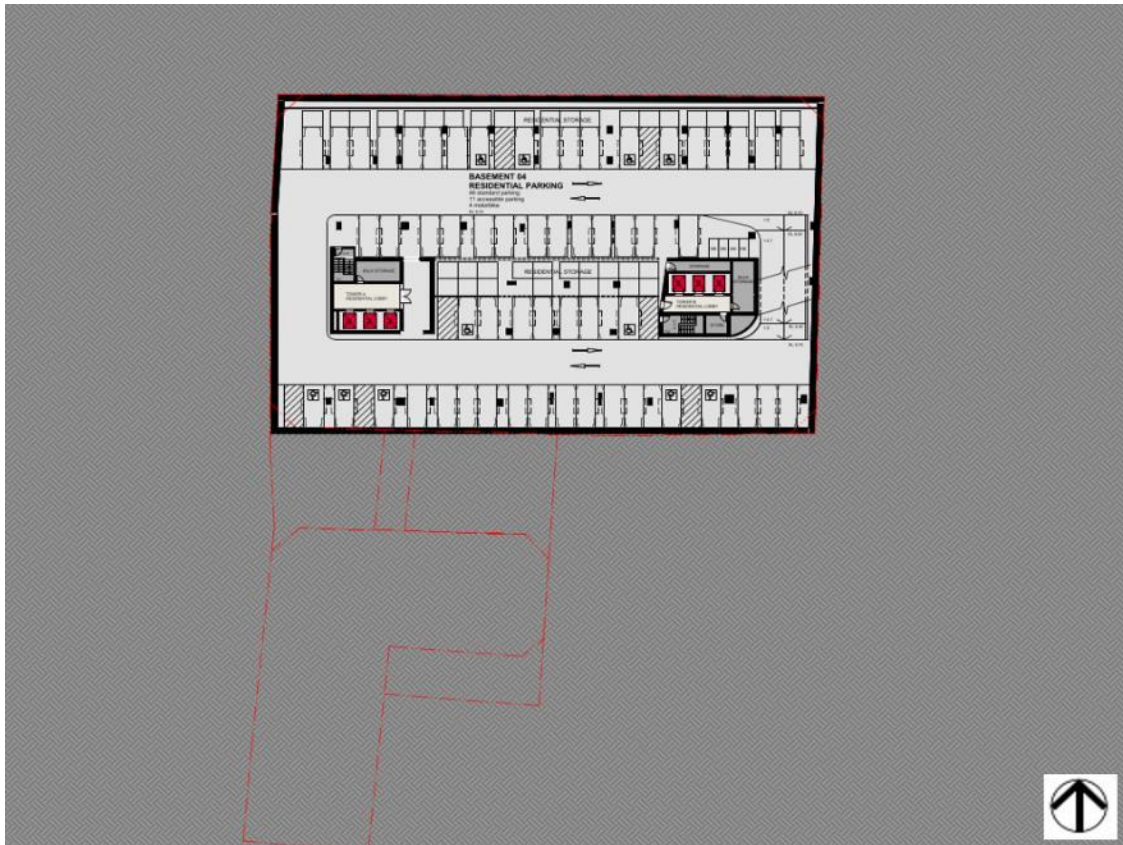


Figure 35: Basement 4 plan

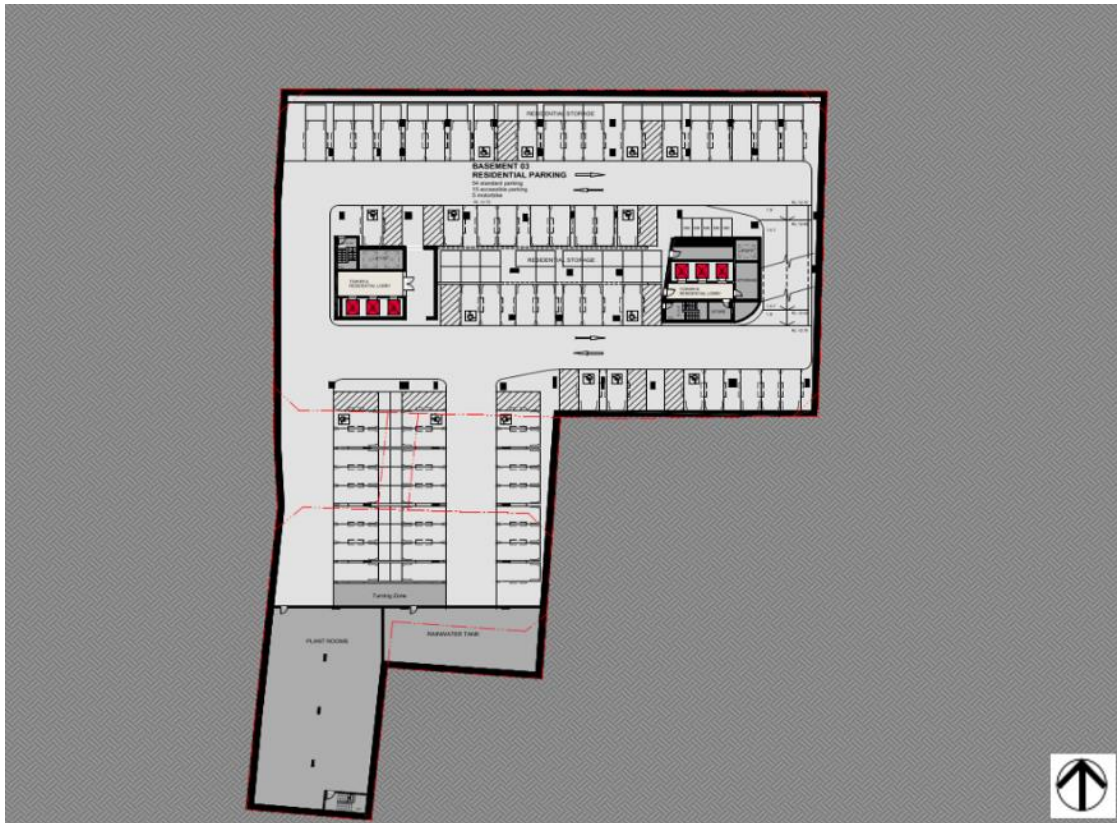


Figure 36: Basement 3 plan



Figure 37: Basement 2 plan

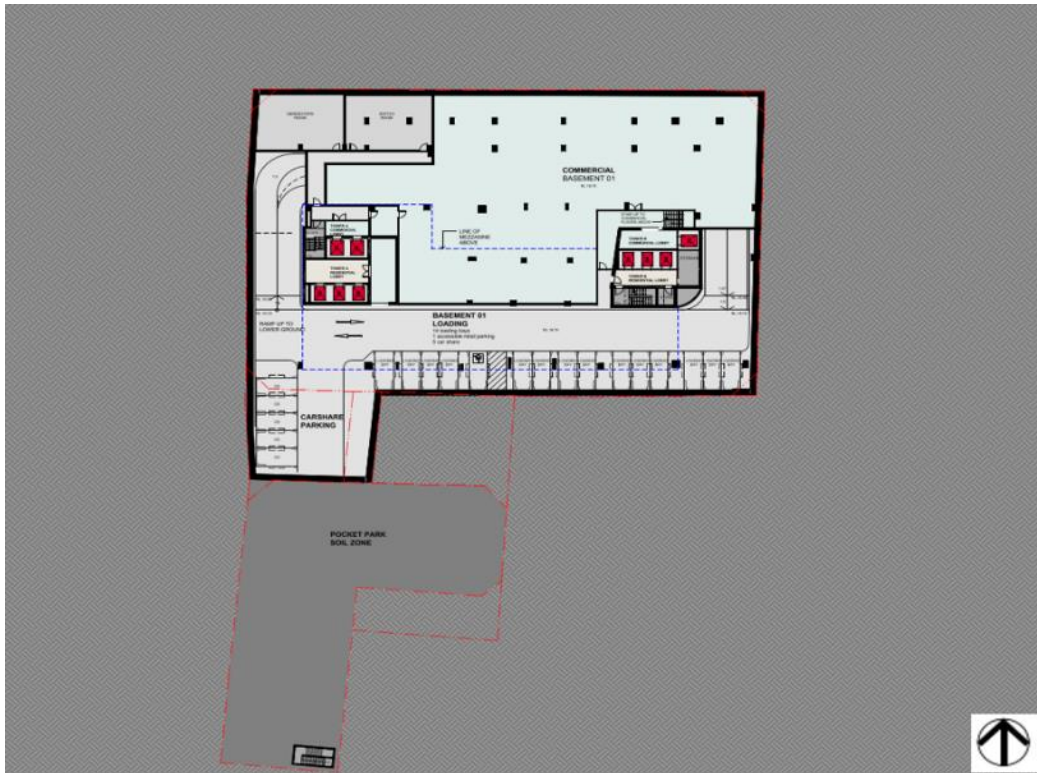


Figure 38: Basement 1 plan

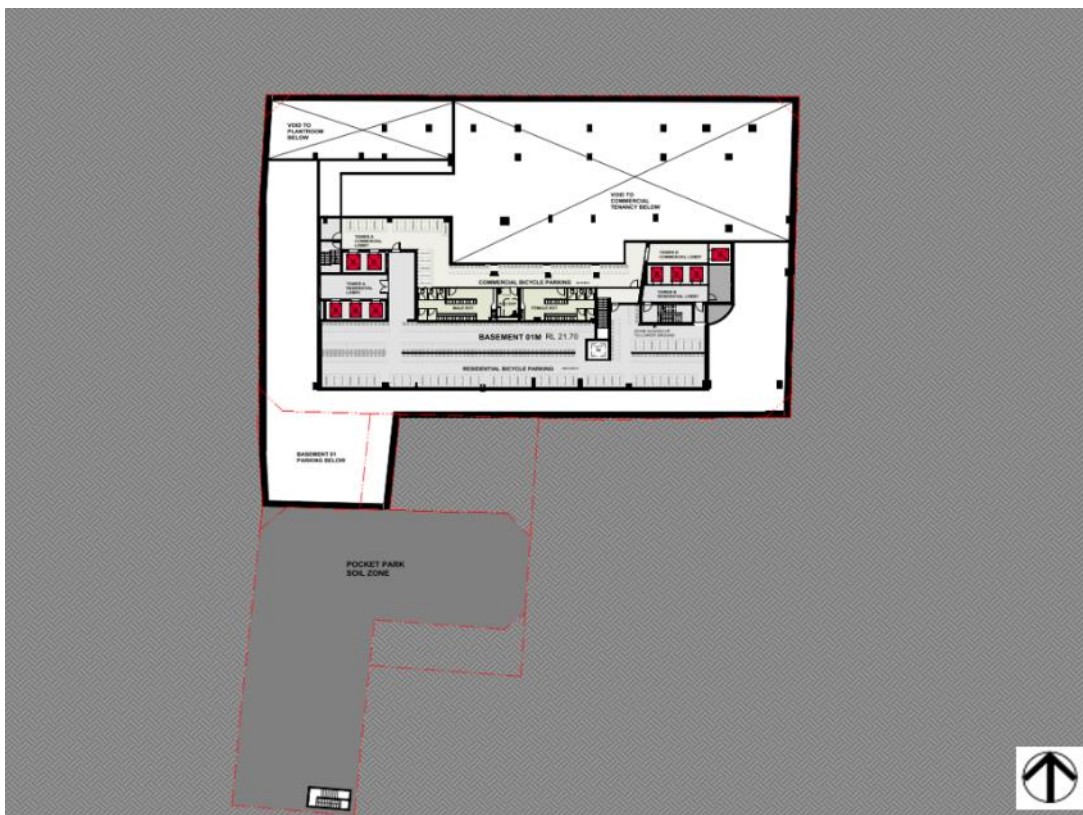


Figure 39: Basement 1 mezzanine plan

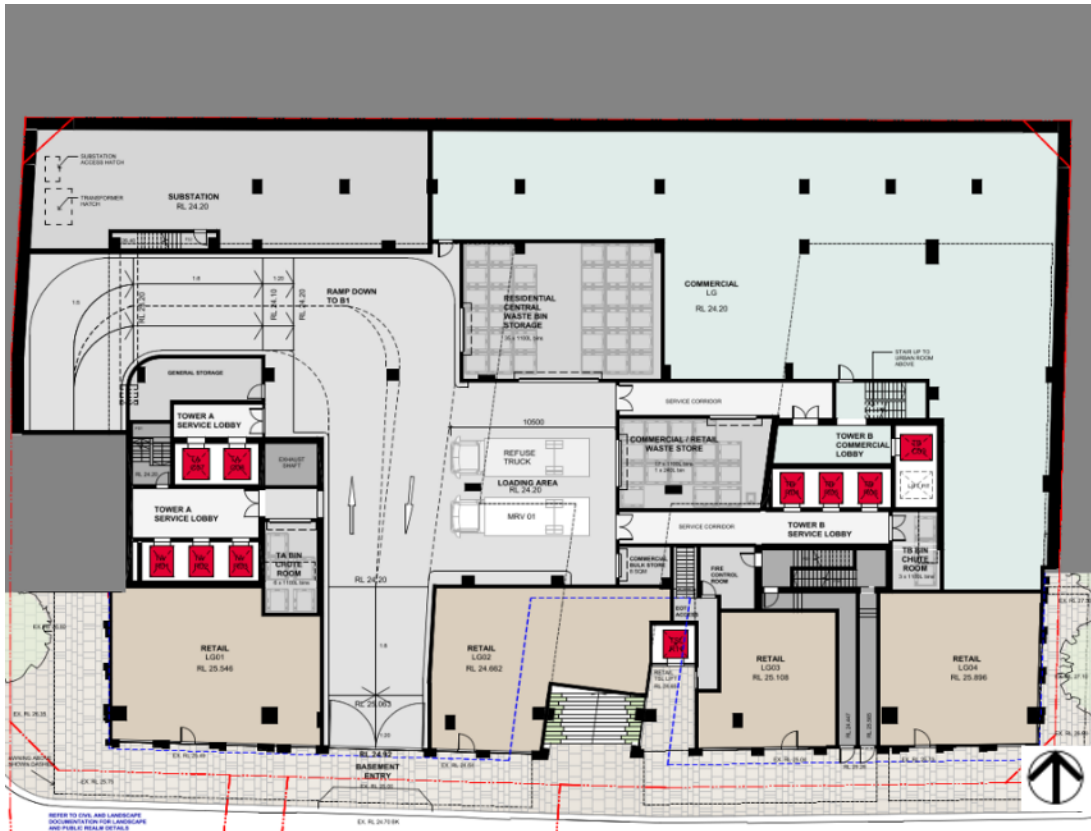


Figure 40: Lower ground plan

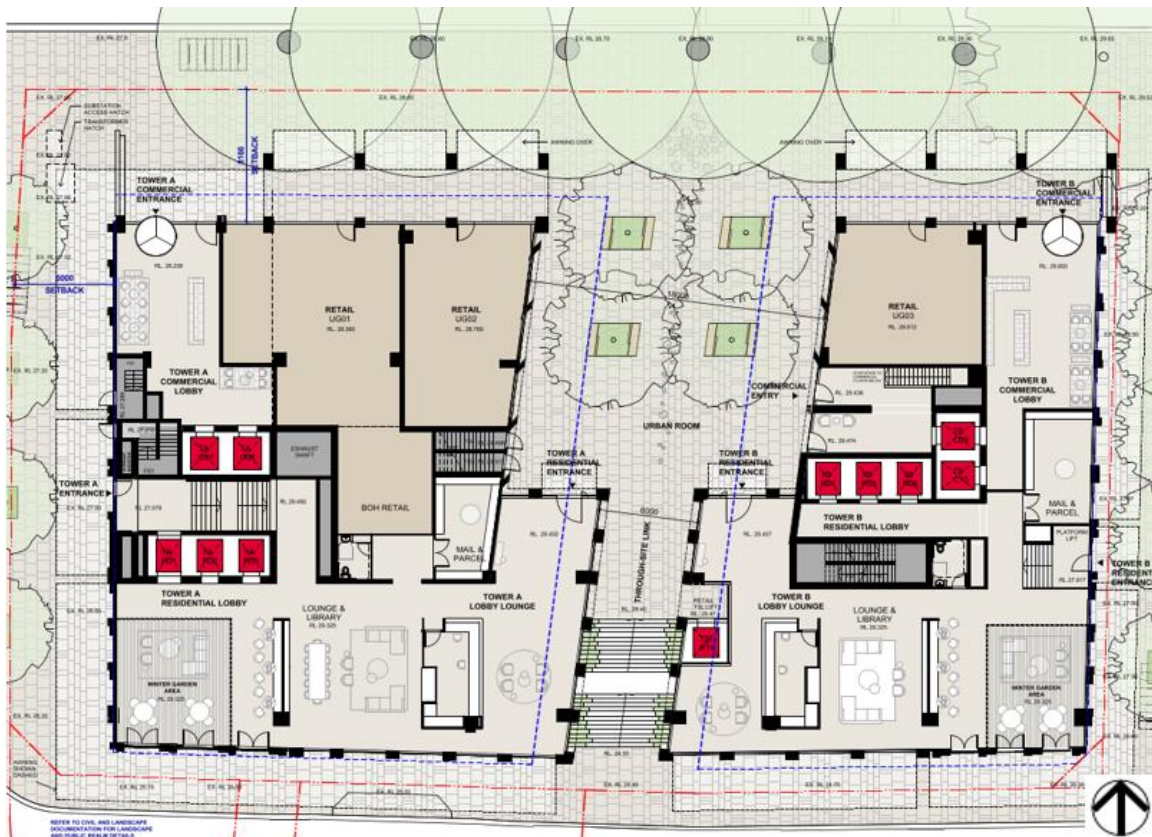


Figure 41: Upper ground plan

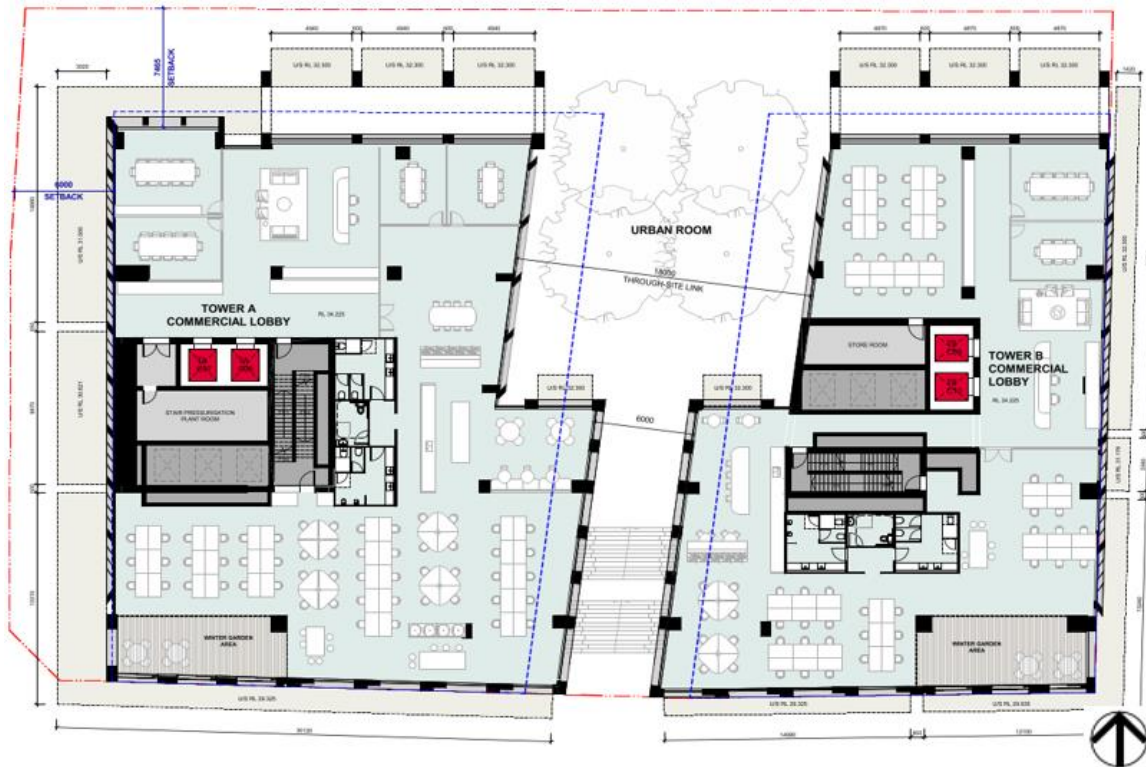


Figure 42: Level 1 plan

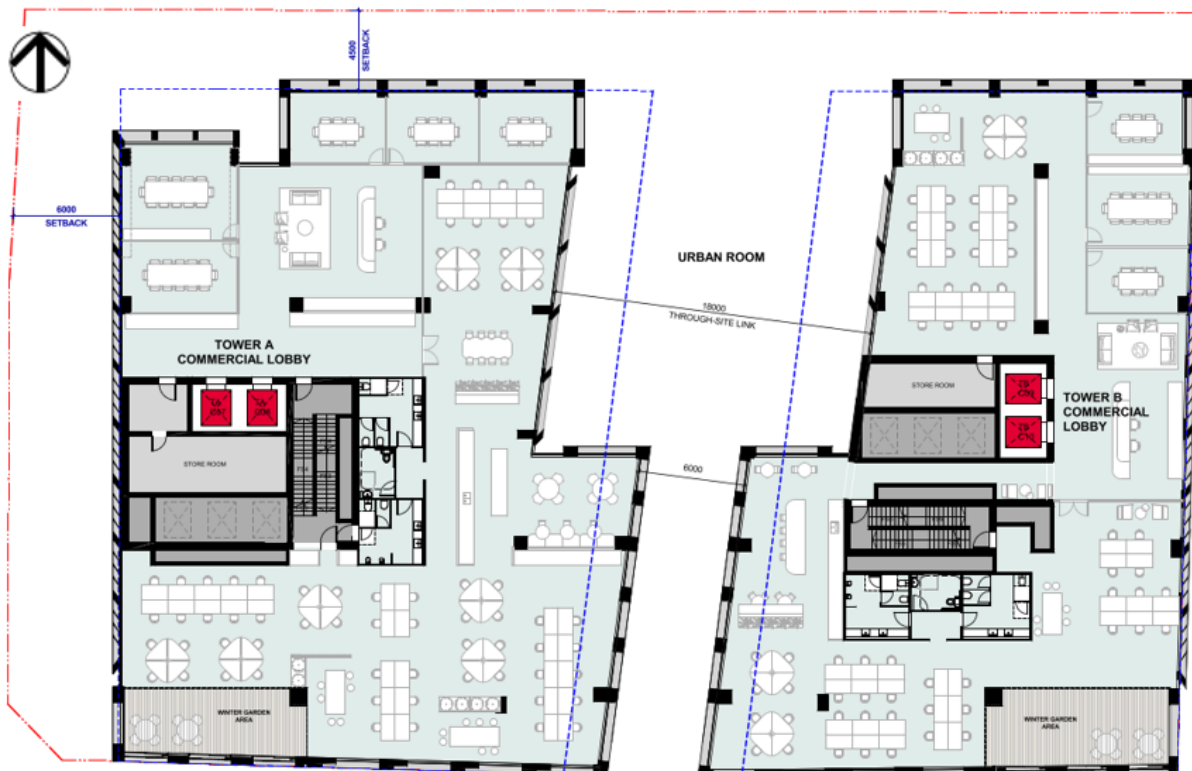


Figure 43: Level 2-5 plan

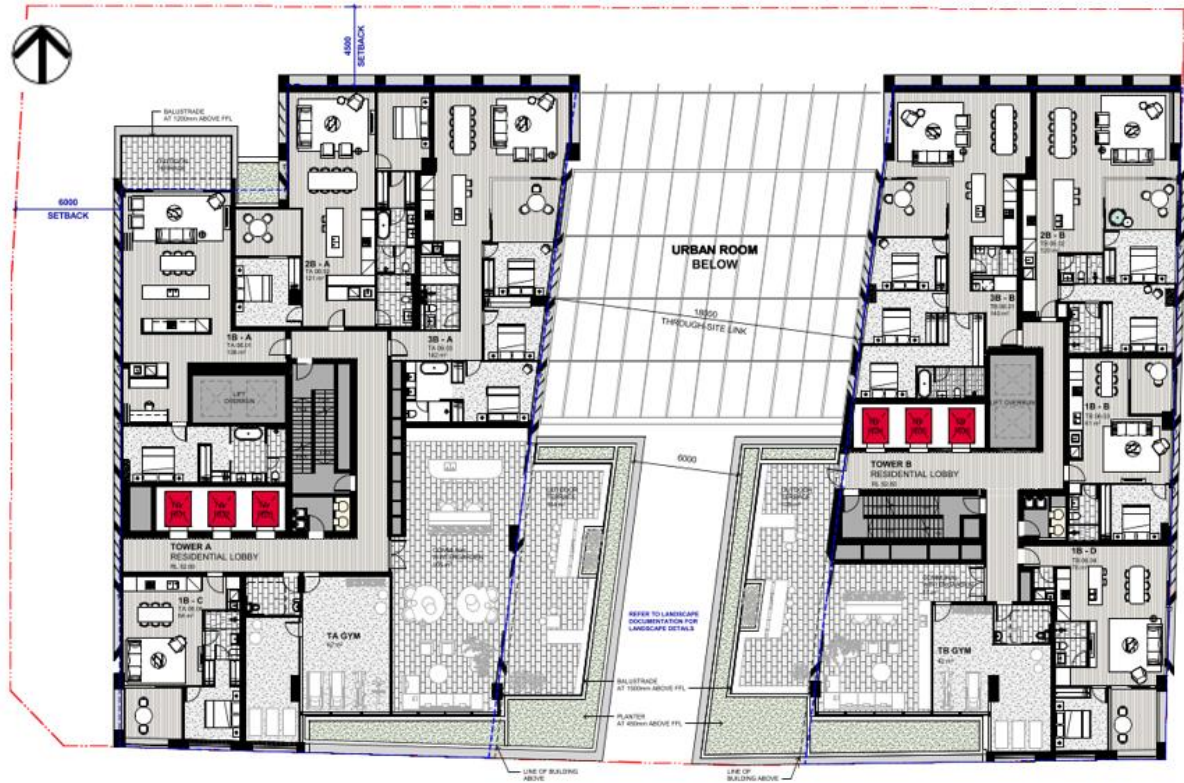


Figure 44: Level 6 plan

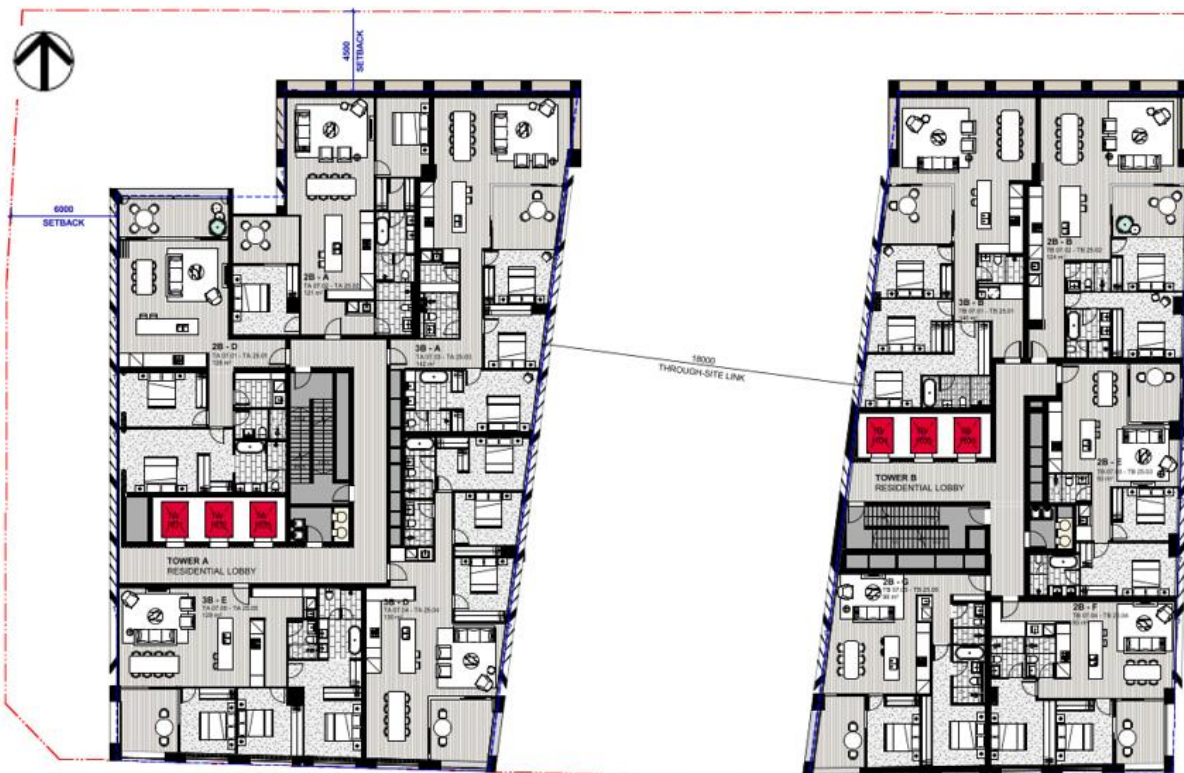


Figure 45: Level 7-25 plan

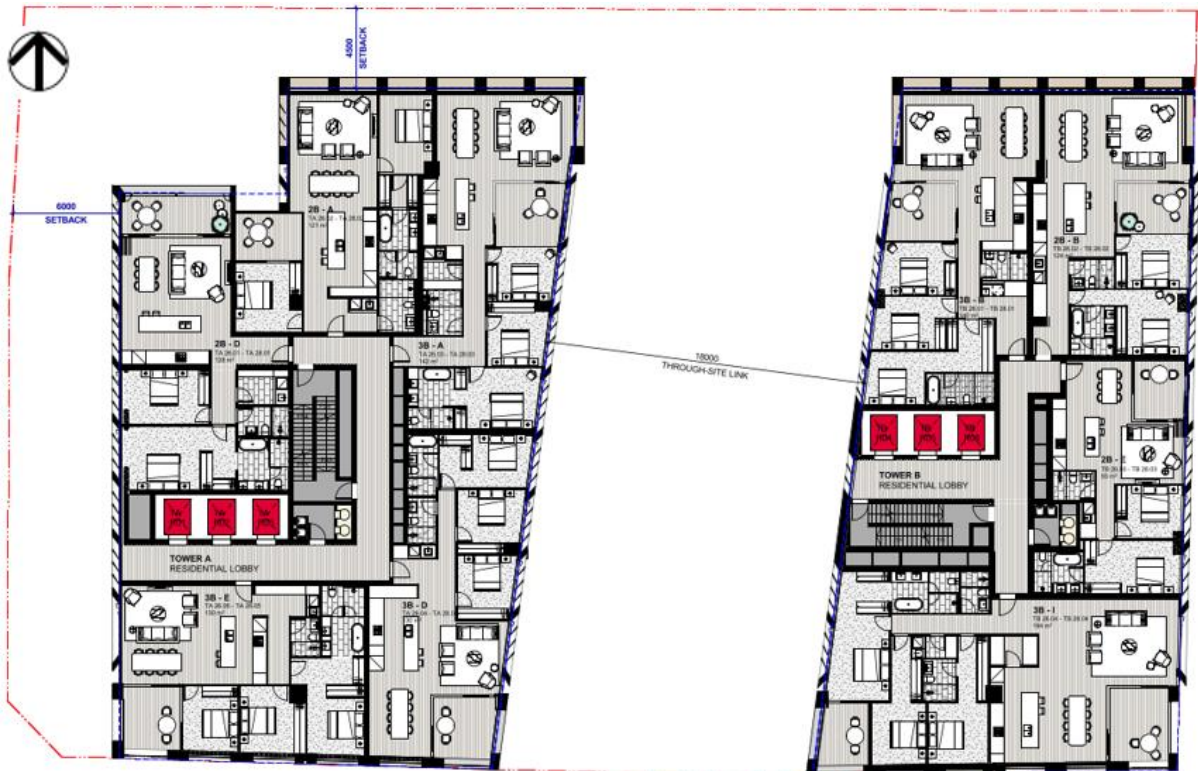


Figure 46: Level 26-28 plan



Figure 47: Level 29 plan

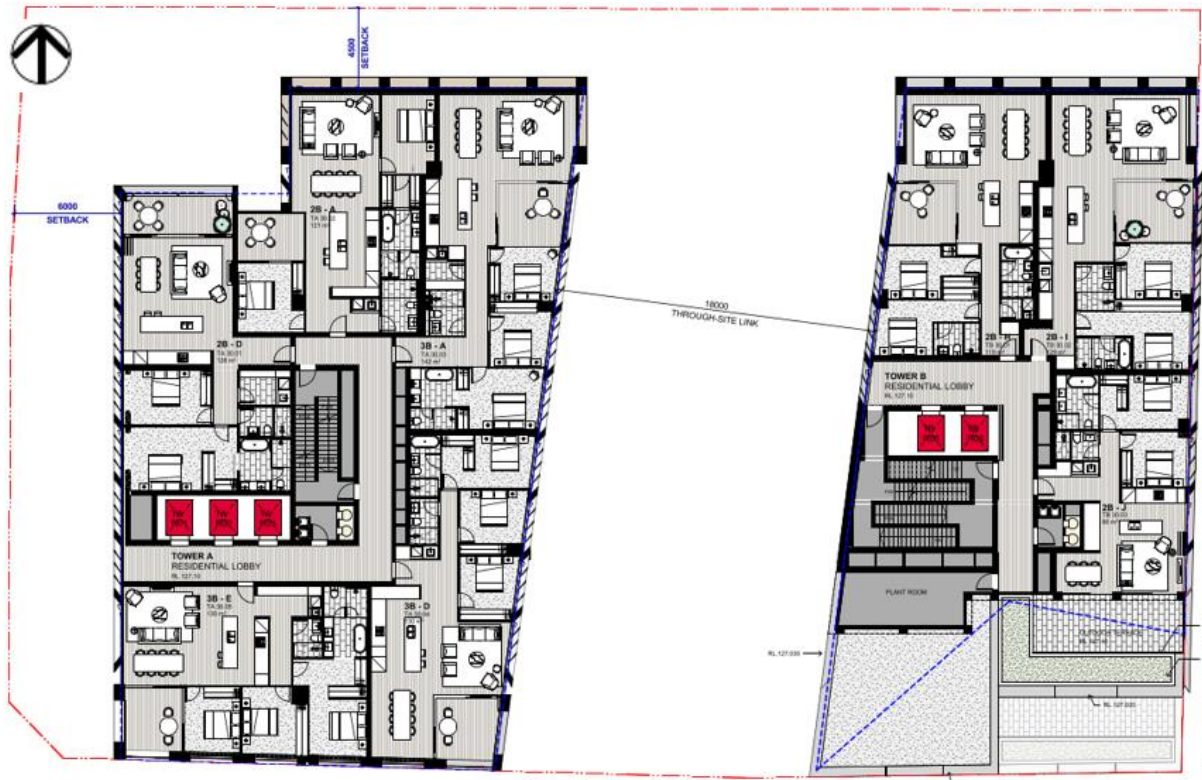


Figure 48: Level 30 plan

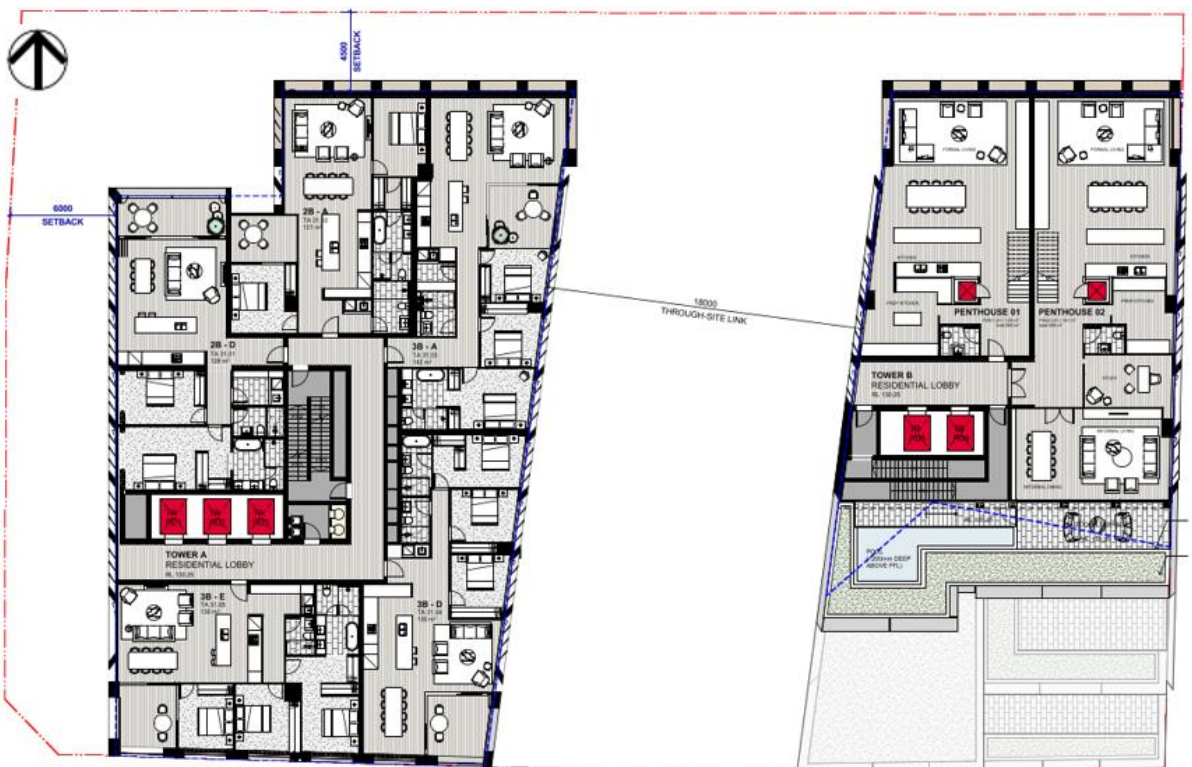


Figure 49: Level 31 plan

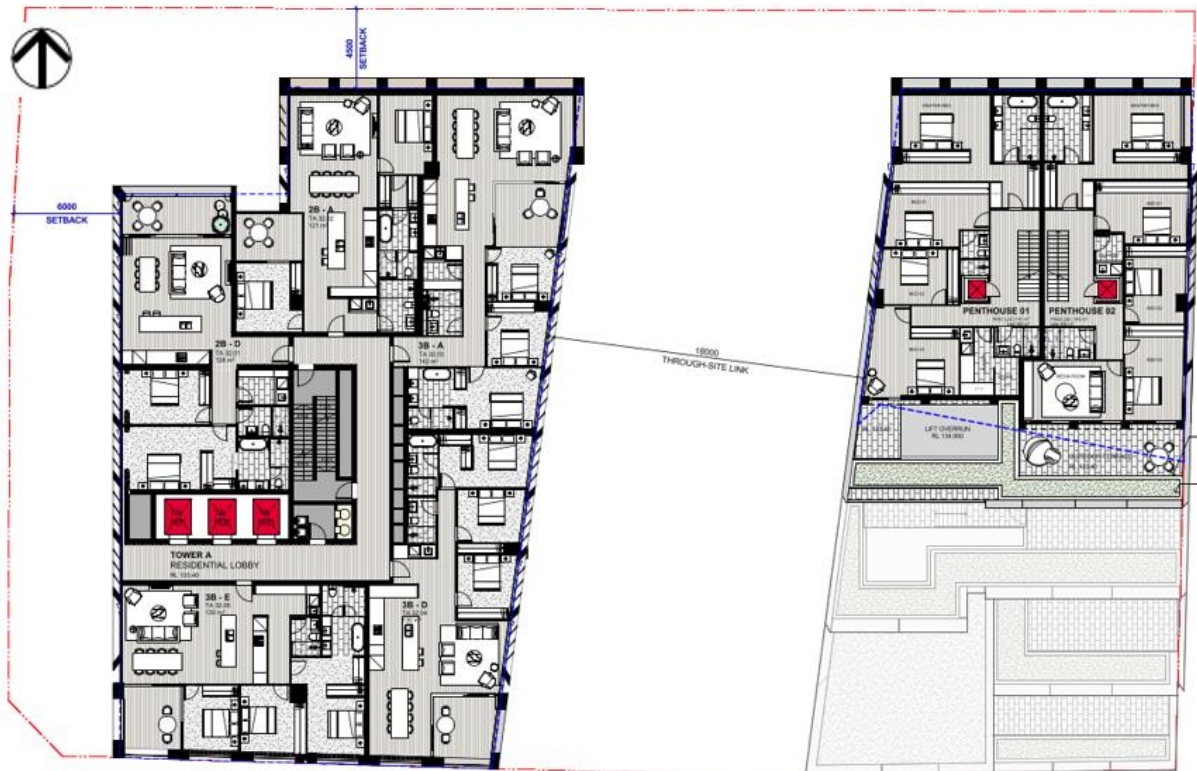


Figure 50: Level 32 plan



Figure 51: Level 33 plan

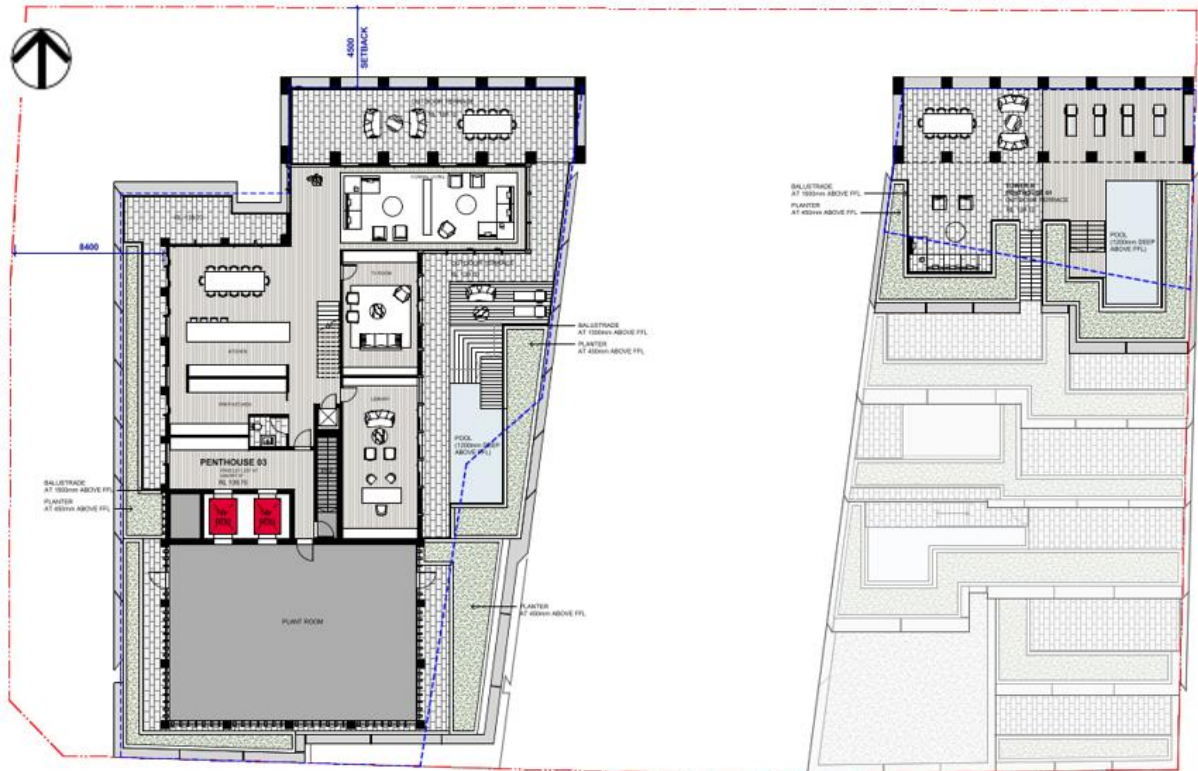


Figure 52: Level 34 plan

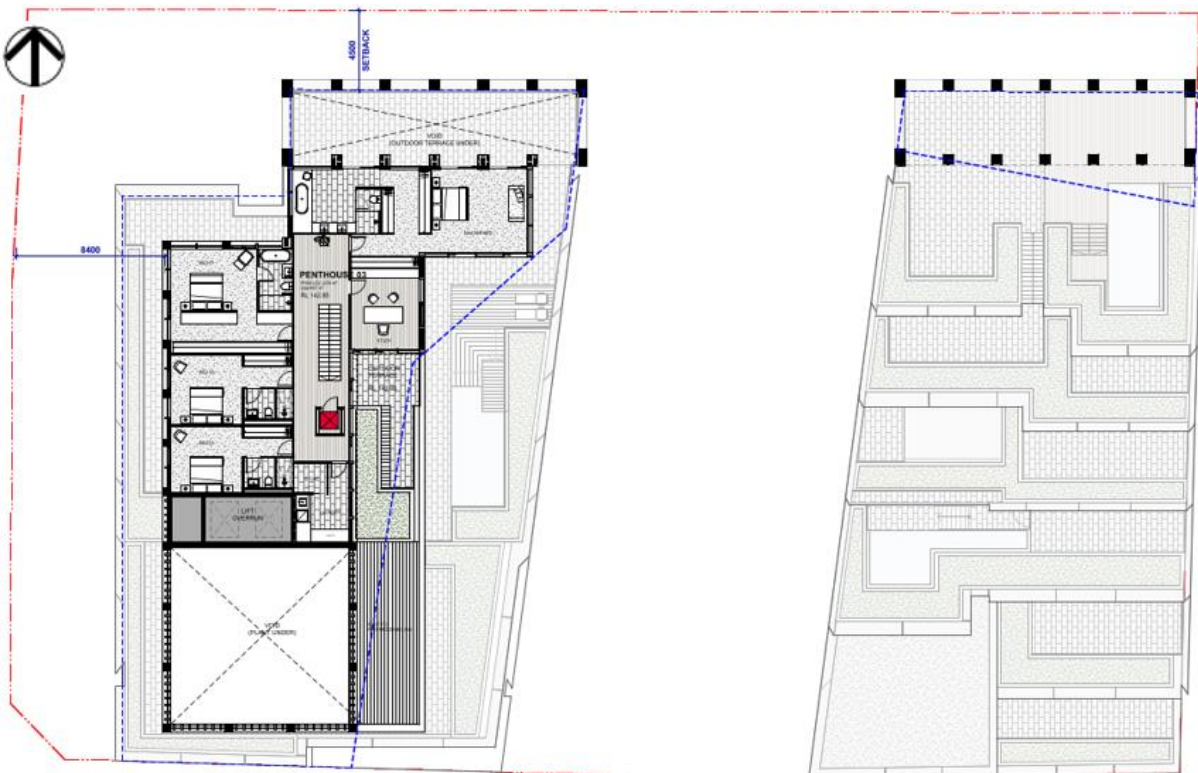


Figure 53: Level 35 plan

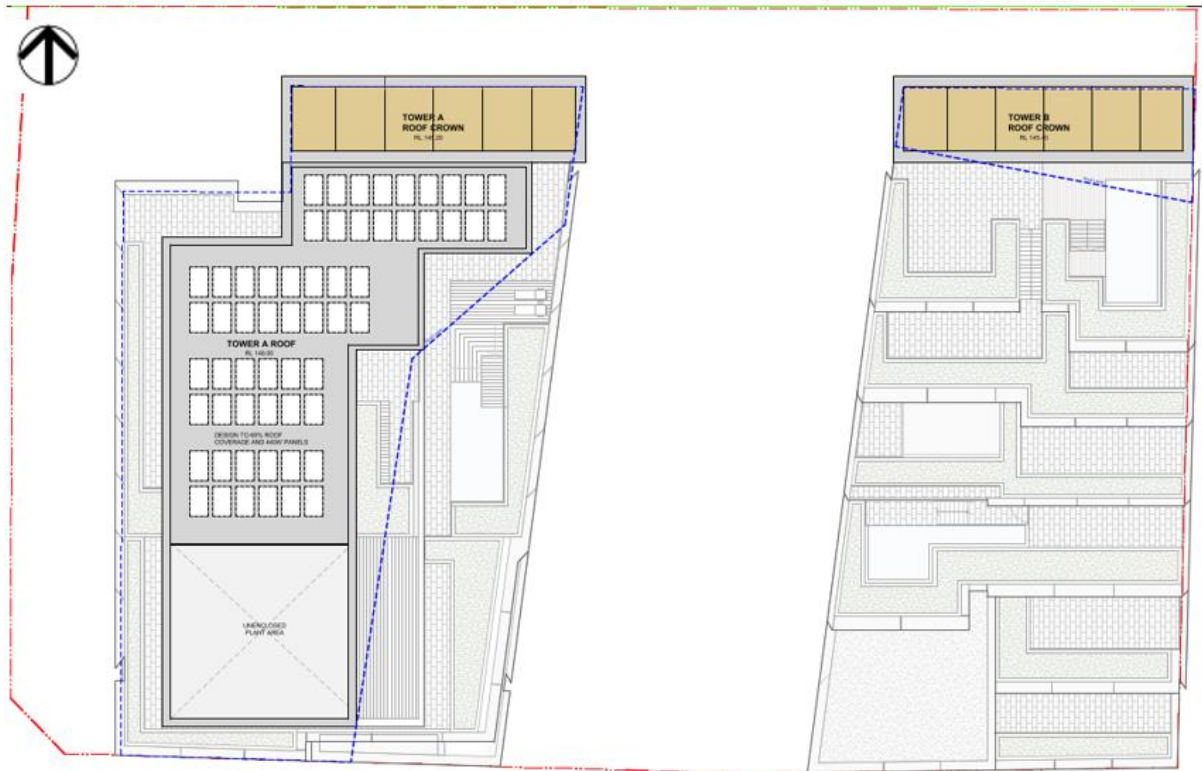


Figure 54: Roof plan

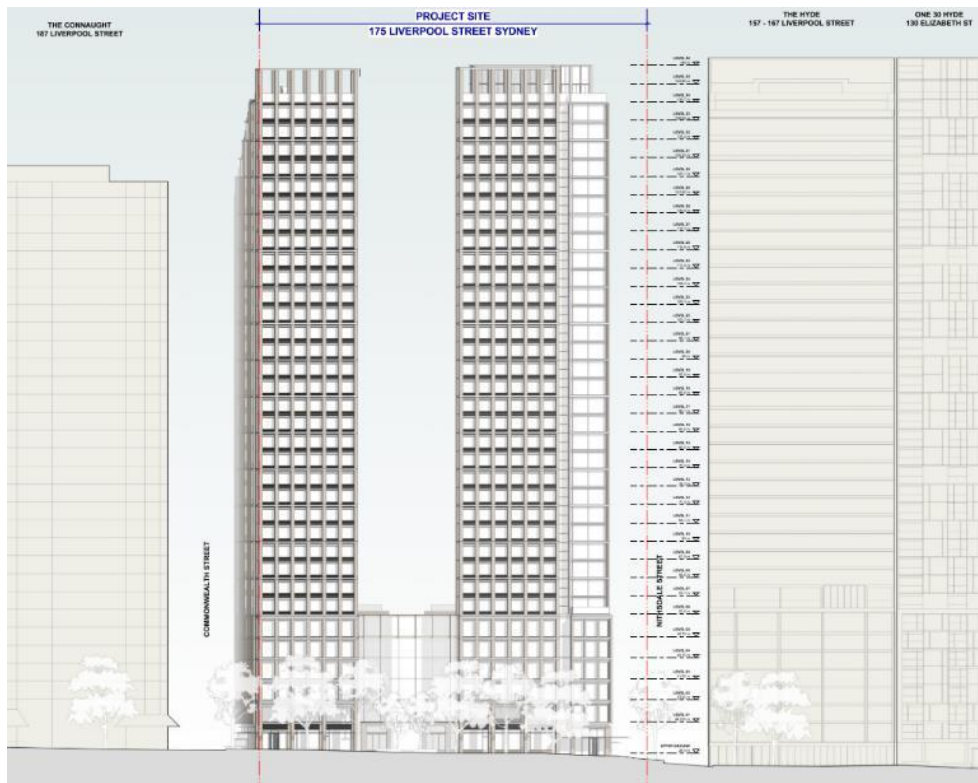


Figure 55: Liverpool Street (north) elevation - Anzac Memorial axis

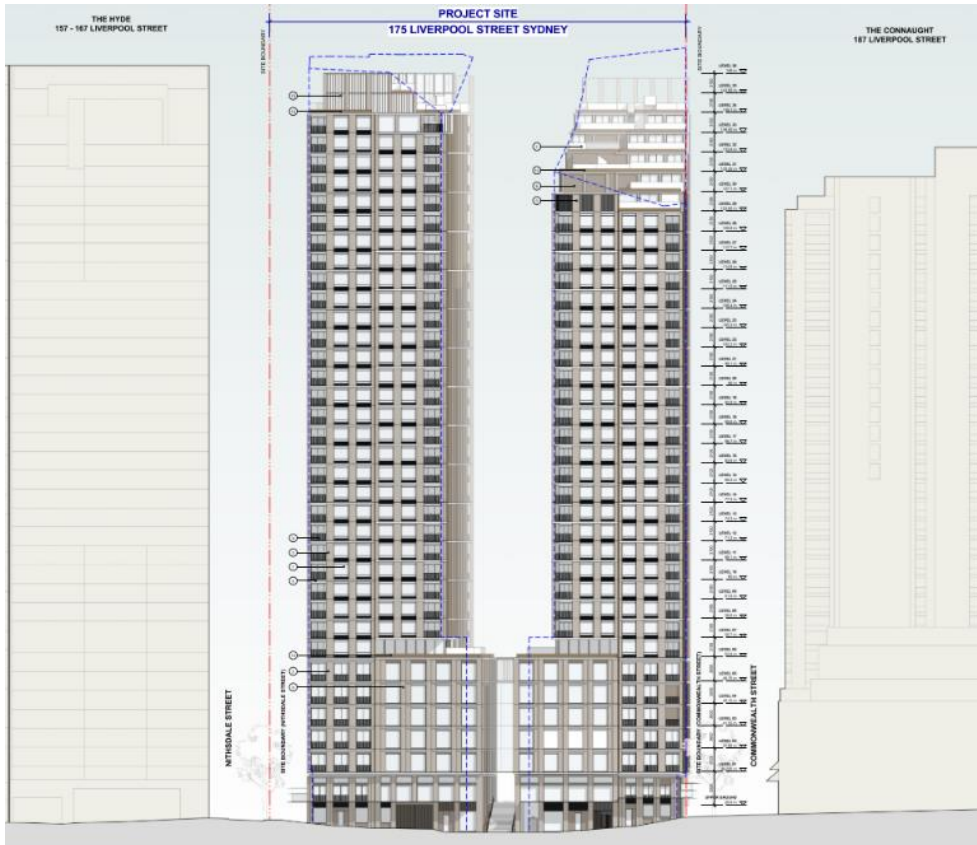


Figure 56: Clarke Street (south) elevation

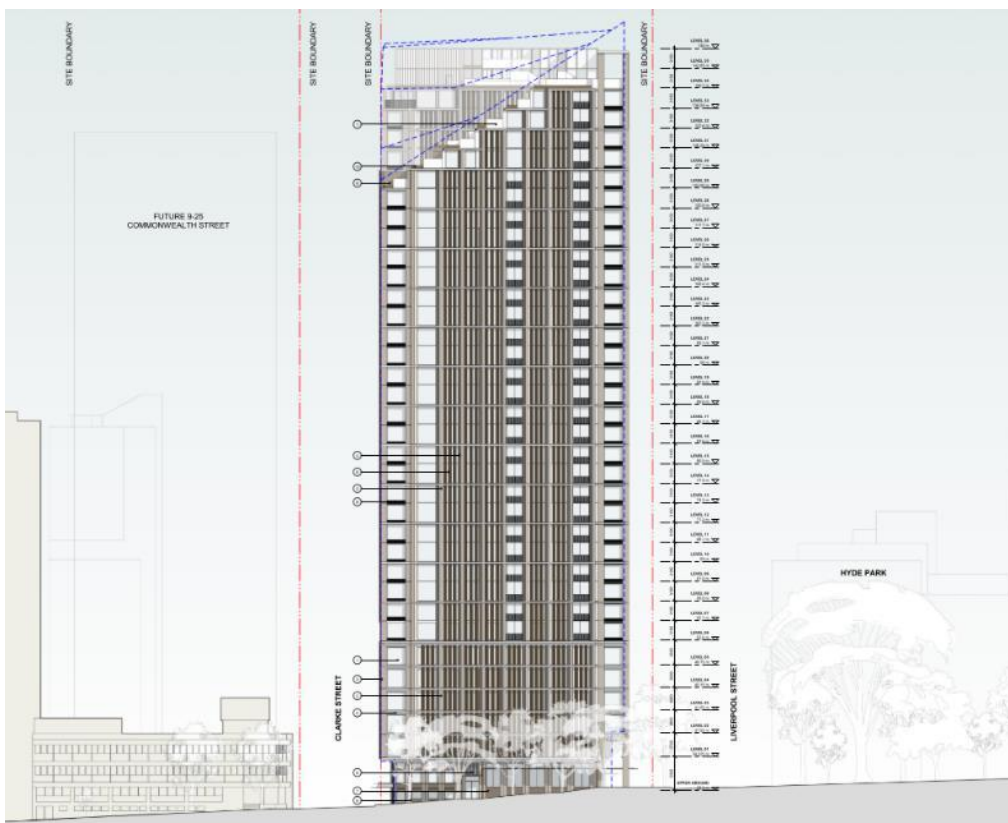


Figure 57: Commonwealth Street (east) elevation

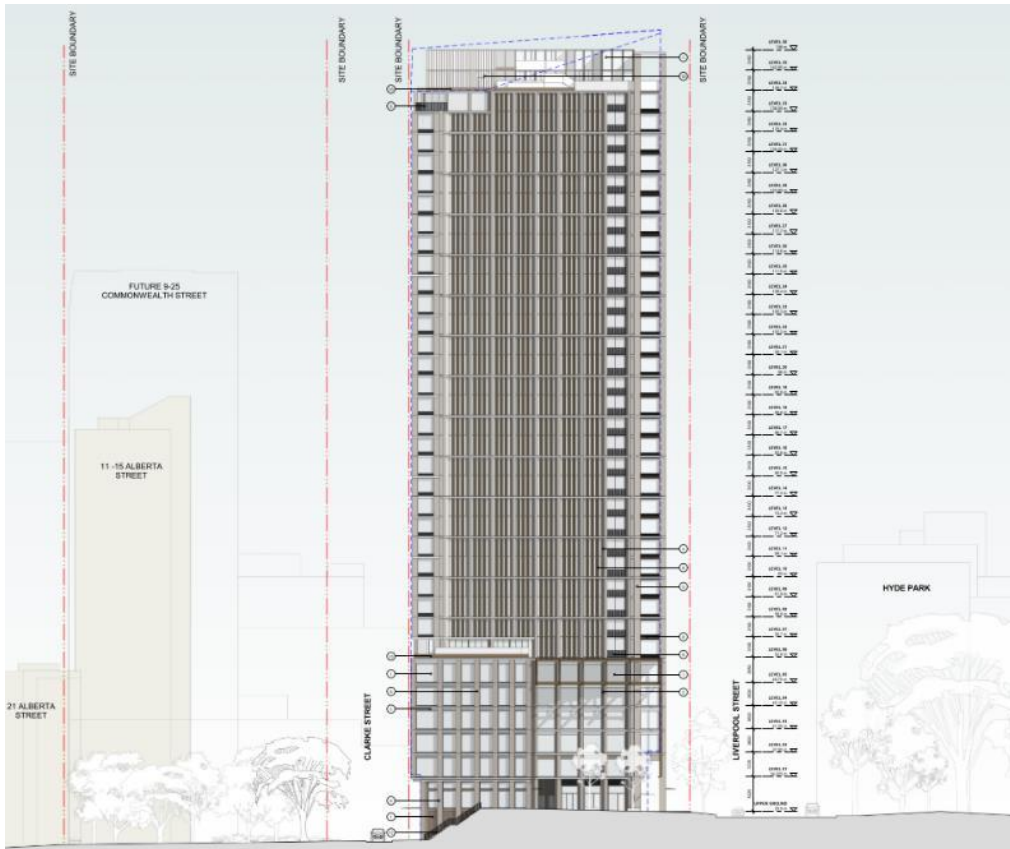


Figure 58: Through site link elevation

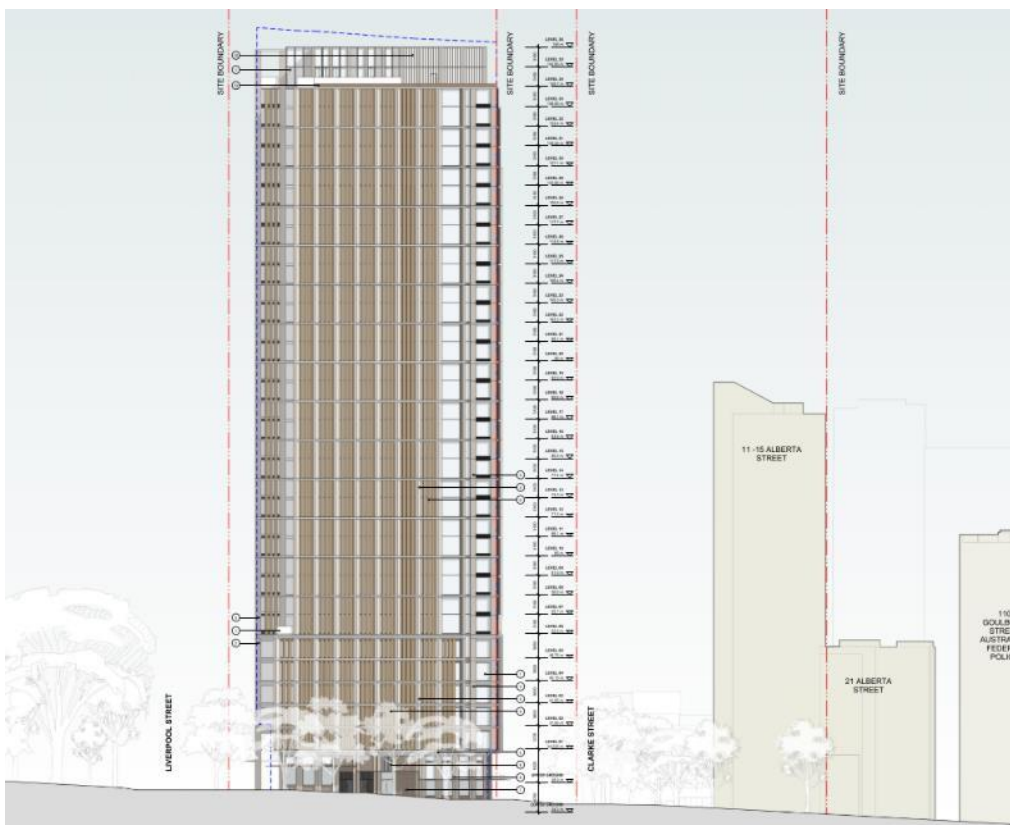


Figure 59: Nithsdale Street (west) elevation

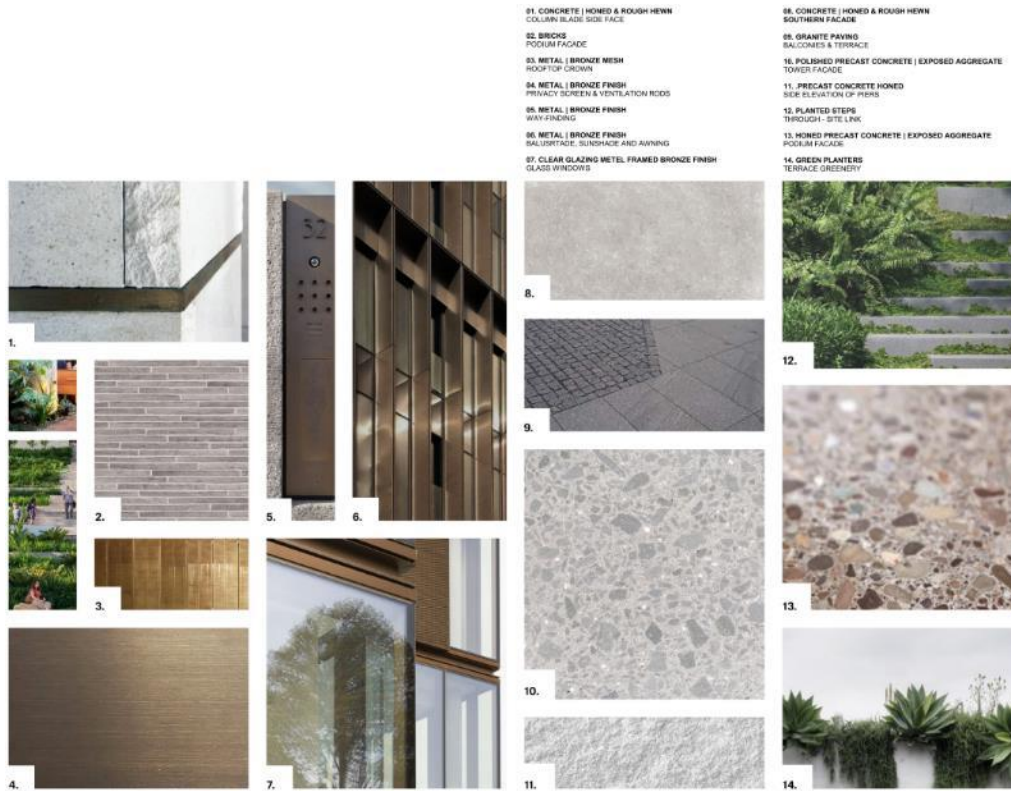


Figure 60: Materials schedule

Assessment

50. 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

- 51. Prior to Amendment No 48 of the City of Sydney Act 1988, Section 51N required the CSPC 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.
- 52. During the assessment of the application, the City's Transport and Access Unit reviewed the application and considered that the proposed development did not require consultation with the CSTTC.
- 53. Amendment No 48 of the City of Sydney Act 1988 specifies that the CSTTC is now dissolved.

Airports Act 1996

54. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.

55. Clause 6(1) of the Civil Aviation (Building Control) Regulations 1988 identifies that 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport'.
56. The Outer Horizontal Surface of the OLS above the subject site is at a height of 156 metres above the Australian Height Datum (AHD) and the prescribed airspace above the site commences at RL 156 AHD.
57. On 5 July 2022, correspondence was received from Sydney Airport advising that there was no objection to the erection of the proposed development and concurrence is not required, given the maximum height (RL 146) is below the height of the prescribed airspace at this location.

State Environmental Planning Policies

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

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. PESI and DESI reports were submitted as part of the subject application. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice prepared by an NSW Accredited Site Auditor has also been submitted with the development application.
34. The RAP concludes that the site can be made suitable for the proposed use, and the interim advice concurs with the RAP's conclusions. The interim advice letter also supports the submitted contamination report's recommendation for further sampling.
35. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
36. Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.
37. It is noted that there is also an above ground service tank that will require decommissioning removal. A condition of consent requiring this is recommended at Attachment A.

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

38. The aim of SEPP 65 is to improve the design quality of residential apartment development in New South Wales.

39. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.
40. The applicant has submitted a design verification statement and SEPP 65 design report prepared by Guy Lake of Bates Smart (Reg No. 7119) with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
41. An assessment of the proposal against the design quality is provided as follows:
- (a) **Principle 1: Context and Neighbourhood Character**
- (i) The site is located at the south-eastern end of the Sydney CBD, adjacent to buildings of similar height and scale and in proximity to existing public transport infrastructure, including heavy and metro rail stations, multiple bus routes and bicycle lanes. The proposal will contribute to the vitality of the locality and broader City of Sydney LGA.
 - (ii) The site is located in the SP5 Metropolitan Centre zone, and the proposal is generally in accordance with the objectives of the Sydney LEP 2012 and the Sydney DCP 2012, subject to the recommended conditions. The proposal is also consistent with the existing and desired future character of the locality.
- (b) **Principle 2: Built Form and Scale**
- (i) The immediate locality along Liverpool Street, Nithsdale Street, Commonwealth Street, Clarke Street and Alberta Street has a diverse range of built forms and scale, with a variety of different architectural building styles and land uses.
 - (ii) The proposed form, scale and massing form of the proposed development is contextually appropriate to the site location, and consideration has been given to the surrounding built form, particularly the strong street wall presence of development on the southern side of Liverpool Street, and potential impacts to residential development located to the south.
 - (iii) The proposed development adheres to the provisions of the Sydney LEP 2012, including the maximum height prescribed by the Harmony Park sun access plane. The proposal responds satisfactorily to the surrounding urban context, while achieving a suitable form and scale, subject to the recommended conditions.
 - (iv) The design of the development provides for a complimentary and respectful backdrop to the adjacent State heritage items, Hyde Park and the Anzac War Memorial. The detailed design maintains the Memorial axis with the separation of the towers and provision of a through site link.

- (v) The inclusion of the 'Urban Room' at the northern extent of the through site link provides for a large covered publicly accessible space that extends the civic scale of the Memorial axis across Liverpool Street and into the site. The southern extent of through site link then transitions into a narrow laneway with steps down to Clarke Street, referencing the fine-grain scale of Surry Hills.
- (c) **Principle 3: Density**
 - (i) The proposal complies with the maximum permissible FSR development standard in Clause 4.4 and accommodation floor space available under Clause 6.4 of the Sydney LEP 2012.
 - (ii) It is consistent with the desired future character envisaged in the locality of the Sydney CBD and the broader City of Sydney LGA.
- (d) **Principle 4: Sustainability**
 - (i) The proposed development meets the minimum requirements for solar access and cross ventilation for apartments, reducing the reliance on artificial lighting, heating and cooling and future energy consumption.
 - (ii) The proposal incorporates passive shading devices to reduce heat gain and improve energy performance, amenity and longevity of the development.
 - (iii) The proposal has also committed to the electrification of the development and the removal of onsite fossil fuel consumption (outside of emergency systems), with its implementation ensured via a recommended condition at Attachment A.
 - (iv) The proposal is compliant with the requirements of BASIX, and a condition is recommended at Attachment A to ensure that the development complies with the commitments contained on its BASIX certificate.
- (e) **Principle 5: Landscape**
 - (i) For the northern portion of the site, due to the building covering the entire site and basement underneath, there is no deep soil proposed which is considered acceptable in the context of Central Sydney.
 - (ii) Landscape solutions are provided throughout the proposed development however, with landscaped areas provided at ground and podium levels, as well as greening of the tower with landscaped areas on the upper level terraces.
 - (iii) For the southern portion of the site, the detailed design for the embellishment of the existing pocket park will be subject to future approval via a deferred commencement condition which is recommended at Attachment A.
- (f) **Principle 6: Amenity**
 - (i) Compliance with amenity is assessed further under the ADG section below.

- (ii) Overall, the proposal provides an acceptable level of residential amenity for future occupants taking into consideration the scale of the development and the site constraints.
 - (g) **Principle 7: Safety**
 - (i) The safety and security of the public domain and the site itself including the pocket park is enhanced by increased activity within the site and casual surveillance of the surrounding streets from residential apartments.
 - (ii) There are secure and separate entrances available for the sole use of residents.
 - (iii) The proposal has generally been designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED).
 - (h) **Principle 8: Housing Diversity and Social Interaction**
 - (i) The proposal provides a mix of apartment types to encourage housing diversity, including adaptable apartments and accessible communal facilities for both passive and active recreation.
 - (ii) There are a range of indoor and outdoor communal facilities to encourage social interaction amongst residents and the proposed development responds well to the social context of its location in Central Sydney, which is in close proximity to established infrastructure, public transport, community and recreational facilities.
 - (i) **Principle 9: Aesthetics**
 - (i) The proposed development provides for a contemporary, well-modulated and articulated mixed use development, which is compatible with the existing and desired future character of the locality.
 - (ii) The detailed design of the development was the result of a competitive design process, which was awarded as the winning scheme and was considered by the selection panel to be capable of exhibiting design excellence.
 - (iii) The proposed built form, expression and composition of the new building will make a positive contribution to the visual quality of the area.
42. The development is acceptable when assessed against the SEPP including the above stated principles and the associated ADG. These controls are generally replicated within the apartment design controls under the Sydney DCP 2012. Consequently compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

43.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Acceptable	<p>Several apartments exceed the 18m apartment depth, however, in these apartments they both exceed the minimum area requirements and are dual aspect to maximise their amenity.</p> <p>The proposal meets the objectives in that the bulk of the development is consistent with the scale of the existing and desired future context of the locality, and the building depths support apartment layouts that provide for amenity (as detailed in the sections below) for future residents.</p> <p>The proposed bulk is also consistent with the concept building envelope, as proposed to be modified by D/2019/992A.</p>

2F Building Separation and 3F Visual Privacy	Compliance	Comment
<p>2F Building Separation</p> <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	Acceptable	<p>The proposed development has been designed in accordance with the concept building envelope, as proposed to be modified by D/2019/992A.</p> <p>The approved concept envelope allows for non-compliant separation distances between the existing adjoining development to the east (the Connaught) and to the west (the Hyde), and also to the approved development to the south-east (the Edition Residences).</p>
<p>2F Building Separation</p> <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms 		

2F Building Separation and 3F Visual Privacy	Compliance	Comment
<ul style="list-style-type: none"> 12m between non-habitable rooms 		<p>consistent with the approved concept envelope.</p>
<p>3F Visual Privacy</p> <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> 9m between habitable rooms / balconies 4.5m between non-habitable rooms 		<p>Most apartment units on a typical apartment floor are designed to have primary views directed to the north and south to minimise visual privacy concerns and cross-viewing between these neighbouring developments. The primary living areas are oriented to the north and south, whilst the bedrooms located on the east and west elevations are designed with privacy screens/fins to direct outlook away from the neighbouring sites.</p>
<p>3F Visual Privacy</p> <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> 12m between habitable rooms / balconies 6m between non-habitable rooms 		<p>It is noted that the south-western and south-eastern units do not have privacy screens, to ensure that the units receive adequate solar access. These units do not directly face towards the neighbouring buildings and are at a distance greater than 18m.</p> <p>While the proposal does not achieve ADG separation requirements, the proposal is consistent with the concept building envelope and provides generally acceptable visual privacy outcomes consistent with Objective 3F of the ADG.</p>

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site.</p>	<p>Acceptable</p>	<p>The proposal does not provide a minimum of 25% of the site area as communal open space.</p> <p>Notwithstanding this, the design has responded to the constraints of the CBD site and provided future occupants with a variety of outdoor communal spaces on Level 6 as well as internal communal spaces on ground floor and Level 6. These spaces equate to an area of 890sqm, representing 23.8% of the total site area.</p>

3D Communal and Public Open Space	Compliance	Comment
		<p>These outdoor and indoor communal areas are considered to adequately provide for passive recreation as well as opportunities for social interaction of residents and is considered to contribute to residential amenity in a reasonable manner given its dense CBD context.</p> <p>Further, the proposed development includes increased private open space for apartments, and the publicly accessible pocket park within the site provides for an extension of open space for residents to access and use.</p>
<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).</p>	<p>Yes</p>	<p>The communal open spaces provided on Level 6 receive direct sunlight between 9.30am and 11.30am for Tower A, and 11.00am and 1.15pm for Tower B.</p>

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site</p>	<p>Acceptable</p>	<p>The site is located in the highly urbanised environment of the Sydney CBD, where a lack of deep soil zones is characteristic of development in the locality.</p> <p>No deep soil zones are proposed, given that opportunities to provide them on the site are constrained, as the existing and proposed building footprint and basement areas occupy the entirety of the site area.</p> <p>No objection to the lack of deep soil zones is raised by Council officers. The proposal includes landscaped areas at ground, on the podium and upper level terraces to assist with offsetting the lack of deep soil.</p> <p>The detailed design for the embellishment of the pocket park (subject to a deferred commencement condition recommended at Attachment A) will further provide for improved</p>

3E Deep Soil Zones	Compliance	Comment
		landscaping and greening opportunities on site.

3G Pedestrian Access and Entries	Compliance	Comment
<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	Yes	<p>The residential lifts are provided with direct access from the Tower A lobby on Nithsdale Street and the Tower B lobby on Commonwealth Street, as well as within the 'Urban Room'. These entries are legible and accessible.</p> <p>A condition is recommended at Attachment A requiring the approval of a Signage Strategy including wayfinding signage to assist with easy identification of the residential lobbies.</p>

4A Solar and Daylight Access	Compliance	Comment
<p>70% of units to receive a minimum of two hours of direct sunlight in midwinter to living rooms and private open spaces.</p>	Acceptable	<p>65% or 168 out of 259 apartments achieve a minimum of two hours of direct sunlight in midwinter to living rooms and private open spaces. This is consistent with the recommendation made by the DAP members.</p> <p>Despite the numeric departure, it is considered that the development meets the objective of part 4A in that it optimises the number of apartments that receive sunlight to habitable rooms, primary windows and primary open space areas.</p> <p>The apartments that do not receive the two hour minimum requirement relate to the southern apartments across levels 6-28, which still receive large amounts of sunlight at midwinter. It is also noted that zero apartments receive no solar access.</p> <p>The solar access is considered acceptable and is recommended to be supported.</p>

4A Solar and Daylight Access	Compliance	Comment
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	Zero apartments achieve no direct sunlight between 9am and 3pm at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes, subject to conditions	All habitable rooms are naturally ventilated. Trickle ventilation systems are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity. Refer to the assessment against Objective 4J below for further detail.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	81% or 30 out of 38 apartments in the first nine storeys are naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The proposal contains several cross-through apartments. Of the cross-through apartments that do exceed 18m in depth, openings are provided on a second aspect before 18m.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	All residential floor to floor heights of 3.1m are capable of providing 2.7m floor to ceiling heights to habitable rooms.
Non-habitable rooms: 2.4m	Yes	All residential floor to floor heights of 3.1m are capable of providing 2.4m floor to ceiling heights to habitable rooms.
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	All apartments, including two storey apartments, are provided with floor to floor heights of 3.1m, which can achieve 2.7 metre floor to ceiling heights.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Yes	All apartment sizes are above the minimum specified size requirements.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have access to an external window as required.
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p> <p>8m maximum depth for open plan layouts.</p>	Acceptable	<p>Some apartments are significantly larger in area that the minimum internal areas required. As such, habitable room depths are greater than 2.5m x the ceiling height.</p> <p>Due to the generous apartment sizes and their dual aspects of these units, the intent of the Objective of 4D is met, in that the environmental performance of apartments is maximised.</p>
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	All apartments achieve the minimum areas and dimensions prescribed for bedrooms.

4D Apartment Size and Layout	Compliance	Comment
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	The development results in all dwellings having a living area with a minimum width consistent with the provisions of the ADG.

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	Yes	All apartments provide adequately sized private open space in accordance with the ADG.
<p>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m² and a minimum depth of 3m.</p>	Acceptable	<p>It is noted that some of the private open space areas for apartments at the podium level do not meet the minimum area requirements specified under this section.</p> <p>Despite this, these areas are considered to provide for adequate residential amenity and are supplemented by the large communal wintergardens and outdoor terraces also provided at this level.</p>

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	Each lobby services a maximum of five apartments.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Acceptable	259 apartments are proposed to be serviced by six lifts across the two towers equating to approximately 43 apartments per lift. The development may utilise high speed, smart lifts to serve the apartments, which are able to provide an improved level of service thereby offsetting the increase in apartments serviced.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Primary living areas and bedrooms do not open directly on to corridors.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Each common circulation space has access to daylight and natural ventilation.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	The apartments appear to be able to accommodate the minimum 50% requirement for storage. Additional storage is provided within the basement levels.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes, subject to conditions	<p>The proposed development has sought to minimise the impact of noise and air emissions from vehicle traffic on Liverpool Street in accordance with the ADG requirements.</p> <p>The design includes the use of a trickle ventilation system and facade design in order to mitigate impacts and act as a buffer between the road and the sensitive residential uses within the building.</p> <p>Conditions of consent are recommended at Attachment A for further detail to fully demonstrate how the windows open and windows closed criteria within the Transport and Infrastructure SEPP will be met for all habitable rooms, as well as the provision of a physical prototype of the trickle ventilation system proposed, prior to Construction Certificate.</p>

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

44. A BASIX Certificate has been submitted with the development application.
45. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended at Attachment A requiring that the BASIX certificate be amended to ensure that gas is removed as an energy source for appliances and systems, and all the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Transport and Infrastructure) 2021

46. 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

47. The application is subject to Clause 2.48 of the SEPP given that it comprises development likely to affect an electricity transmission or distribution network.
48. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised, subject to the inclusion of recommended conditions provided at Attachment A.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations**Clause 2.120 – Impact of road noise or vibration on non-road development**

49. The acoustic criteria within Clause 2.120 of the SEPP applies given that the site's location with a frontage to Liverpool Street, which is identified as a road carrying an annual average daily traffic volume of more than 20,000 vehicles.
50. A condition of consent is recommended at Attachment A to ensure that details are provided prior to Construction Certificate for all facade treatments, to fully demonstrate how the windows open and windows closed criteria within the SEPP will be met for all habitable rooms. A condition is also recommended requiring a physical prototype of the trickle ventilation system proposed.

Clause 2.122 – Traffic-generating development

51. The application is identified as traffic-generating development in accordance with Schedule 3. As such, the application was referred to TfNSW for a period of 21 days.
52. TfNSW raised concerns with the on-site vehicle drop-off zones on Nithsdale Street and Commonwealth Street, which have now been deleted from the proposed development.
53. TfNSW also recommended conditions including the preparation of a Loading and Servicing Management Plan and Construction Pedestrian and Traffic Management Plan in consultation with TfNSW. These requirements are included within the recommended conditions of consent at Attachment A.

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

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

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

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

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
1.8A Savings provisions relating to development applications	Yes	<p>The amendments made to the Sydney LEP 2012 by the Sydney LEP 2012 (Amendment No 64) made on 26 November 2021 do not apply to the subject development application, in accordance with subclause (5)(b)(ii) of Clause 1.8A of the Sydney LEP 2012.</p> <p>These provisions relate to the amendments to the Sydney LEP 2012 to facilitate the Central Sydney Planning Strategy. The controls do not apply given this development application relies on a concept application (D/2019/992, as amended) that was approved before the commencement of those amendments.</p>
2.3 Zone objectives and Land Use Table	Yes	<p>The site is located in the SP5 Metropolitan Centre zone. The proposed development comprises residential accommodation and retail/commercial uses, all of which are permissible with consent in the zone. The proposal generally meets the objectives of the zone.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
<p>4.3 Height of buildings</p> <p>6.21D Competitive design process</p> <p>6.17 Sun access planes</p>	Yes	<p>A maximum building height of 110m is permitted.</p> <p>Where a proposal is the winning scheme of a competitive design process and the proposed development demonstrates design excellence, up to 10% additional height (11 metres) is also available under Clause 6.21D(3)(a) of the Sydney LEP 2012.</p> <p>A height of 117.1m is proposed, which complies with the maximum height permitted.</p> <p>The proposed development also complies with the Harmony Park sun access plane.</p>

Provision	Compliance	Comment
4.4 Floor space ratio 6.4 Accommodation floor space	Yes	<p>A maximum base floor space ratio of 8:1 is permitted.</p> <p>The site is identified as being located within "Area 2" and pursuant to Clause 6.4 (and the application being lodged before 30 June 2022), the following additional floorspace is permissible based on the proposed uses:</p> <ul style="list-style-type: none"> Residential accommodation - 6:1 Commercial/retail premises - 4.5:1 <p>Based upon the proportion and mix of land uses, the maximum permissible floor space ratio is 13.652:1.</p> <p>An FSR of 13.36:1 or 49,945sqm is proposed, which complies.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is located in the vicinity of a number of heritage items of State and local significance, including the Anzac War Memorial and Hyde Park. The site is also located within the College Street/Hyde Park Special Character Area.</p> <p>Overall, it is considered that the proposed development provides for an appropriate and sensitive response to the backdrop of this significant heritage setting.</p> <p>The amended proposal maintains the separation distances of the two towers, which responds to the axis of the Memorial and the north-south boulevard set by Hyde Park.</p> <p>The facades and materiality of the towers with precast, honed and rough-hewn concrete subtly respond to the solidity of the Memorial, and the use of bronze metallic finishes for the window frames, privacy screens and balustrades respond to the detailing of surrounding</p>

Provision	Compliance	Comment
		<p>older buildings including Museum Station and the Downing Centre.</p> <p>Council's Heritage Specialist raises no objection to the proposed development, advising that the impact on the setting of the War Memorial and Hyde Park was duly considered by the design competition scheme, and has been carried through to the detailed design application.</p> <p>Consultation with the Trustees of the ANZAC Memorial Building was also undertaken during the assessment of the application. The Trustees raised no objections to the amended proposal.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
<p>Subdivision 3 Heritage floor space</p> <p>6.11 Allocation of heritage floor space (HFS)</p>	Yes	<p>The site is located in 'Area 2' on land in Central Sydney. Given that the proposal seeks to utilise accommodation floor space with a height that will exceed 55m, an amount of heritage floor space is required to be allocated to the site in accordance with Clause 6.11 of the Sydney LEP 2012.</p> <p>Pursuant to Clause 6.11(1)(a), the amount of heritage floor space to be allocated is equivalent to 50% of the accommodation floor space to be used. The proposal utilises 5.36:1 (20,049sqm) accommodation floor space. This equates to 10,024.5sqm of heritage floor space.</p> <p>Pursuant to Clause 6.11(2)(a) and (b), the amount of heritage floor space may be reduced by up to 50% or 1,000sqm (whichever is the lesser) if the proposed development is the winner of an architectural design competition.</p>

Provision	Compliance	Comment
		As a result, an amount of 9,024.5sqm of heritage floor space is to be allocated to the site.
Division 3 Height of buildings and overshadowing		
6.16 Erection of tall buildings in Central Sydney		<p>The proposed development is consistent with the requirements of this clause as:</p> <ul style="list-style-type: none"> • It provides for an acceptable level of amenity for the occupants of the towers and neighbouring buildings, as detailed in the assessment provided above under the SEPP 65 section. • It does not result in any adverse impacts to the amenity of public places in proximity to the site including Harmony Park, as demonstrated in the submitted shadow diagrams and wind assessment report. • It is compatible with its context in terms of setbacks, height and built form. Its height is consistent with adjacent buildings, and its built form of two towers provides for an appropriate backdrop the Anzac Memorial and Hyde Park. • The design provides for an acceptable level of outlook and sunlight to the residential units, as demonstrated in the suns eye view diagrams submitted with the application. • The design provides for an acceptable level of ventilation within and around the development, subject to conditions. • The proposal provides for active street frontages to Liverpool Street, Clarke Street, Nithsdale Street and Commonwealth Street.

Provision	Compliance	Comment
Division 4 Design excellence		
<p>6.21C Design excellence</p> <p>6.21D Competitive design process</p>	<p>Yes</p>	<p>The proposal exhibits design excellence as required by Clause 6.21C(2) and is recommended to be awarded an additional 10% height in accordance with Clause 6.21D(3), given it is the winner of an 'invited' architectural design competition and has contained the key elements of the winning scheme.</p> <p>The amended scheme adequately addresses recommendations made by the competition Jury for improvements. These recommendations are addressed in detail below under the 'Discussion' heading.</p> <p>The proposal responds appropriately to the concept approval conditions and planning controls where required. The built form is compatible with the character of the locality and providing an appropriate relationship with the Anzac Memorial and Hyde Park, and the adjacent buildings.</p> <p>The proposal presents a high standard of architectural design, and the overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The proposal will have a positive contribution to the public domain through the provision of publicly accessible through site link, the maintenance of a publicly accessible pocket park, the retention and protection of street trees and the provision of active frontages.</p> <p>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>

Provision	Compliance	Comment
		Overall, the proposal satisfies the considerations in Clause 6.21C(2) of the Sydney LEP 2012 and the development is considered to exhibit design excellence.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing 7.7 Retail premises	Yes	The proposed development includes 230 spaces (214 for the residential component of the development and 16 for the retail/commercial uses) which complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	A contribution for the purpose of affordable housing applies to the development (under clause 7.13(1)(d)(ii)), as the proposal involves the demolition of the existing floor area and the subsequent creation of more than 100sqm of GFA. A condition of consent is recommended at Attachment A to reflect this.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land identified as Class 5 Acid Sulfate Soils and within 480m from land identified as Class 2. The contamination information submitted concludes that the site that Acid Sulfate Soils are unlikely to be encountered during the proposed works and an Acid Sulfate Soils Management Plan is not required.
7.15 Flood planning	N/A	The site is not flood affected.

Provision	Compliance	Comment
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation 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	Yes	<p>The proposed development is located in Central Sydney and will result in the construction of a building which has a height of greater than 55m. A site specific DCP is required in accordance with this clause. Alternatively, a concept development application can be prepared pursuant to Section 4.23 of the EP&A Act.</p> <p>Subject to approval of the concurrent Section 4.55(2) modification application D/2019/992/A, the development is consistent with the concept approval and therefore satisfies the provisions of the control.</p>

Development Control Plans

Sydney Development Control Plan 2012

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

Section 2 – Locality Statements

58. The site is located within the College Street/Hyde Park Special Character Area. The proposed development is in keeping with the unique character and the design principles in that:
- (a) The proposed development maintains the scale of adjacent buildings along Liverpool Street and will further contribute to the existing street wall, which provides a sense of enclosure to Hyde Park.
 - (b) The proposed development does not impact view lines along key streets into the City.

- (c) The proposal comprises setbacks that are generally consistent with neighbouring developments.
- (d) Due to the location of the site to the south of Hyde Park, the proposed development will not impact on mid-winter lunchtime sun access to Hyde Park.

Section 3 – General Provisions

Provision	Compliance	Comment
<p>3.1 Public Domain Elements 3.1.2.2 Through-site links</p>	<p>Yes</p>	<p>The site is not identified on the DCP's through site links map as being required to provide a through-site link.</p> <p>However, the proposed development provides for a through site link situated on the Hyde Park / ANZAC War Memorial axis running through the centre of the site. An indicative through site link was approved as part of the concept application.</p> <p>The proposed through-site link is consistent with the dimensions of the through-site link included as part of the design competition winning scheme and has been designed generally in accordance with the relevant provisions in Section 3.1.2.2 of the Sydney DCP 2012.</p> <p>A condition is recommended at Attachment A requiring right of public access for the through-site link, as well as maintenance, lighting and adequate public liability insurance of the through-site link, via an easement and covenant.</p>
<p>3.1.5 Public Art</p>	<p>Yes</p>	<p>A Preliminary Public Art Plan has been submitted with this application and has been reviewed by the City's Public Art Unit, who supports the direction of the plan, the selected artist (Yhonnie Scarce), and the process it proposes to achieve public art on site.</p> <p>The plan identifies two locations for public art within the site, being the 'Urban Room' and the publicly accessible pocket park to the south.</p> <p>A condition is recommended at Attachment A requiring the provision of a Detailed Public Art Plan with final details</p>

Provision	Compliance	Comment
		of the public artwork to be submitted prior to issue of a Construction Certificate for above ground works.
<p>3.2. Defining the Public Domain</p> <p>3.2.1 Improving the public domain</p> <p>3.2.2 Addressing the street and public domain</p>	Yes	<p>The proposed development satisfactorily addresses the public domain, given that it:</p> <ul style="list-style-type: none"> • minimises the overshadowing effects of the development on public spaces, including Harmony Park; • will not result in unacceptable adverse wind impacts within the public domain; • does not impede on any significant views from the public domain to any public place, parks, heritage buildings or monuments; • incorporates high quality materials and finishes in publicly accessible locations; and • provides multiple pedestrian points of entry into the development and points of visual interest along all street frontages. <p>Subject to conditions in Attachment A recommended by the City's Public Domain Unit, the proposed development will be designed to appropriately interface and integrate with the public domain.</p>
3.2.3 Active frontages	Yes	<p>The site's Liverpool Street frontage is nominated as Category 1 active frontage. In accordance with this control, over 80% of the frontage is provided as an active frontage with the proposed retail uses, commercial lobbies and access to the sites through site link.</p> <p>The site's frontages to Nithsdale Street and Commonwealth Street, as well as the pocket park side boundaries are nominated as Category 2 active frontage. In accordance with this control, 70% of these frontages are provided as active frontages, with glazing and visual</p>

Provision	Compliance	Comment
		<p>access to retail tenancies and commercial / residential lobbies, and the maintenance of the publicly accessible park.</p> <p>The site also provides for an active frontage to Clarke Street, with the inclusion of several retail tenancies along this frontage, as well as access to the through-site link.</p> <p>The proposal provides appropriate weather protection along all street frontages.</p>
3.2.5 Footpath awnings	Yes	<p>The Liverpool Street frontage of the site is required to have awnings.</p> <p>The proposal includes awnings along the Liverpool Street frontage, which wrap the corners to continue for the length of Nithsdale Street and Commonwealth Street, and then to Clarke Street.</p> <p>The awnings are designed generally in accordance with the provisions of this section.</p> <p>A condition of consent is recommended at Attachment A so that the awnings along Clarke Street are redesigned / reduced in depth to ensure that the street trees along this frontage are retained.</p>
3.2.5 Colonnades	Yes	<p>The proposed development includes the provision of a colonnade on the Liverpool Street frontage of the site, although it not being a requirement under the Sydney DCP 2012.</p> <p>This colonnade is proposed as a result of the Jury's comments during the first round of the competitive design process where it was recommended that further solidity in the facade be explored and that the masonry framework from the tower continue down to Liverpool Street.</p> <p>Amendments to the concept envelope at ground and level 1 to accommodate this colonnade are sought under the concurrent modification application.</p> <p>Council Officers consider the inclusion of the colonnade on Liverpool Street to be</p>

Provision	Compliance	Comment
		<p>acceptable as it will provide for improved pedestrian amenity with all-weather pedestrian access and will also address wind conditions.</p> <p>Further, the proposed colonnade is consistent with the requirements of this section in that it is provided for an entire street block, is designed with finely proportioned vertical elements, and will maintain a high level of visual and physical access to shopfronts.</p>
3.2.6 Wind effects	Yes	<p>An Environmental Wind Assessment Report and an accompanying letter were prepared by Arup and submitted with the application.</p> <p>The assessment details the wind tunnel testing that has been undertaken for the site and demonstrates that the proposal will not adversely affect wind conditions at the street level and within the tower.</p> <p>A condition of consent is recommended at Attachment A to ensure that the proposed development incorporates the recommendations of the report.</p>
3.2.7 Reflectivity	Yes	<p>A Reflectivity Report has been submitted which concludes the light reflectivity from the proposed building materials will not exceed 20%. A condition has been recommended to this effect at Attachment A.</p>
3.2.8 External lighting	Yes	<p>External lighting will be subject to a separate application.</p>
<p>3.3 Design Excellence and Competitive Design Processes</p> <p>3.3.1 Competitive design process</p> <p>3.3.3 Award for design excellence</p> <p>3.3.4 Award additional height</p>	Yes	<p>As noted above under the History Relevant to the Development Application heading, the proposed development has been subject to an architectural design competition and is consistent with the winning scheme by Bates Smart.</p> <p>The competition was carried out prior to the lodgement of the subject application, in accordance with the City of Sydney Competitive Design Policy and a Design Excellence Strategy.</p>

Provision	Compliance	Comment
		<p>In accordance with Clause 6.21D of the Sydney LEP 2012, the proposal seeks an additional 10% height on the basis that design excellence has been achieved through a competitive design process.</p> <p>The proposal has addressed the recommendations made by the competition Jury (as detailed in the 'Discussion' section below) and, as a consequence of the architectural design competition, the amended development is considered to be a "building demonstrating design excellence".</p> <p>As such, it is recommended to be awarded up to an additional 10% height.</p>
3.5 Urban Ecology	Yes	<p>The proposed development seeks the removal of street trees on Commonwealth Street and Clarke Street.</p> <p>The City's Tree Management Unit support the removal of the street trees on Commonwealth Street, subject to the provision of new street trees along this frontage.</p> <p>However, the City does not support the removal of the street trees on Clarke Street to accommodate new awnings, given the healthy condition of these trees. A condition is recommended at Attachment A for the retention of these trees, and for the awnings along Clarke Street to be redesigned to coexist with these existing street trees.</p> <p>The existing trees within the pocket park are also recommended to be retained, until the detailed design of the pocket park is approved.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal will meet the sustainability requirement of BASIX relating to the residential component of the development, and Section J of the BCA which is applicable to the proposed non-residential uses.</p>

Provision	Compliance	Comment
		A condition has been recommended at Attachment A to require compliance with the submitted 'Design for Environmental Performance' report submitted with the application to ensure that all ESD commitments are carried through to the certification and construction phases.
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	No subdivision is proposed by the subject application.
3.9 Heritage	Yes	The proposed development is not considered to detract from the heritage significance of nearby heritage items. This has been discussed further in the Sydney LEP 2012 compliance table above.
3.11 Transport and Parking 3.11.1 Managing transport demand	Yes	<p>The proposal comprises a mixed use development including a non-residential development exceeding 1,000sqm of GFA and includes more than 25 dwellings. As such, it generates a requirement for a Transport Impact Study, Green Travel Plan and Transport Access Guide under the relevant provisions of Section 3.11.1 of the Sydney DCP 2012.</p> <p>A Transport Impact Assessment Report and Green Travel Plan have been submitted with the application in accordance with these requirements, which has been reviewed by the City's Access and Transport Unit who has advised that it is acceptable with regard to the controls in Section 3.11.1 of the Sydney DCP 2012.</p> <p>A condition is recommended in Attachment A to ensure the development of a Transport Access Guide for the development.</p>
3.11.2 Car share scheme parking spaces	Yes	The proposal includes the provision of five car share vehicle spaces located within basement 1 and is consistent with the requirements of this provision.

Provision	Compliance	Comment
3.11.3 Bike parking and associated facilities	Yes, subject to conditions	<p>The Sydney DCP 2012 requires a minimum total of 390 bicycle parking spaces including 285 for residents and residential visitors and 105 for commercial and retail staff and visitors.</p> <p>The amended proposal states that there are a total of 454 bicycle parking spaces provided, however the submitted plans do not reflect this amount.</p> <p>A condition of consent is recommended at Attachment A which requires the Sydney DCP 2012 minimum rate of 390 bicycle parking spaces is provided within the development.</p> <p>It is noted that the amended proposal has provided a dedicated bike access point, which is a stairway with bicycle ramp rails on both sides to support the two-way access, with end of trip lift access on the left side of the basement entry. This has been designed to remove any interface with vehicles in and minimise conflict with vehicular movements, being situated away from the main loading dock area. This arrangement is supported.</p>
3.11.6 Service vehicle parking	Yes	<p>Section 3.11.6(1) requires service vehicle parking for the residential, retail and commercial offices uses within the site is to be provided in accordance with the requirements set out in Schedule 7.8.1 of the Sydney DCP 2012.</p> <p>The application seeks consent for 14 service vehicle spaces and is consistent with the requirements of this provision.</p>
3.11.7 Motorcycle parking	Yes	<p>The application proposes 20 motorcycle parking spaces and is consistent with the requirements of this provision.</p>
3.11.9 Accessible parking	Yes	<p>41 car parking spaces are allocated as accessible spaces and is consistent with the requirements of this provision.</p>
3.11.10 Vehicle access for development greater than 1000sqm GFA	Yes	<p>Vehicle access to the site is provided at the south-western corner of the tower block from Clarke Street and satisfies the requirements of this provision.</p>

Provision	Compliance	Comment
3.11.11 Vehicle access and footpaths	Yes	<p>The proposed driveway location along Clarke Street is designed to minimise impacts on pedestrian movements and amenity.</p> <p>Conditions are recommended in Attachment A requiring the preparation of a Detailed Loading and Servicing Management Plan that will outline access arrangements for delivery vehicles, garbage collection, resident/tenant move in/move out arrangements to prevent disruption to public streets and pedestrian movements.</p>
3.11.13 Design and location of waste collection points and loading areas	Yes	<p>Proposed waste storage and collection points are appropriately located close to the loading area at the lower ground level.</p> <p>Suitable access is provided for collection vehicles and the proposal is suitable, subject to compliance with an approved Operational Waste Management Plan.</p>
3.11.14 Parking area design	Yes	<p>Conditions are recommended in Attachment A to require all loading to be carried out on site, parking design in accordance with Australian Standard AS 2890.1.</p>
3.12 Accessible Design	Yes	<p>The application is accompanied by an Access Report which confirms that the design is capable of complying with accessibility requirements under the BCA, DDA standards and the Sydney DCP 2012.</p> <p>The building has been designed to provide accessible entry into retail uses at ground floor levels, to residential and commercial lobbies, and throughout the commercial / office areas.</p> <p>The proposal includes 68 adaptable apartments (which equates to more than 15% of the total number of apartments). The proposal will also ensure 20% of apartments (52 units) as liveable dwellings at Construction Certificate stage.</p>

Provision	Compliance	Comment
3.13 Social and Environmental Responsibilities	Yes	<p>The safety and security of the public domain is enhanced by the proposed increase in activity within the site and casual surveillance of the surrounding streets from the development.</p> <p>The proposal provides separate and secure entrances to the different building uses, adequate passive surveillance and a range of other security measures.</p> <p>Overall, the proposed development is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>Subject to conditions, waste management facilities including sufficient areas for onsite waste collections have been accommodated within the development and account for all proposed uses on the site including the ability for a Council waste collection vehicle to service the site.</p> <p>A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.16 Signage and Advertising	Yes	<p>No signage is proposed under this application. A condition is recommended at Attachment A requiring a separate development application to be submitted for the approval of a comprehensive signage strategy, including wayfinding signage, prior to the erection of any signage on the site</p>

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

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

Provision	Compliance	Comment
4.2.1 Building height 4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposed floor to floor heights are compliant with the Sydney DCP 2012, specifically: <ul style="list-style-type: none"> • The basement 1 level and lower ground level floor to floor heights for the commercial tenancies are in excess of 4.5m • The retail tenancies on the upper ground and lower ground levels have floor to floor heights in excess of 4.5m • The floor to floor heights for the commercial uses from level 1 and above are in excess of 3.6m.
4.2.2 Building setbacks	Yes	The proposed development has been designed in accordance with the concept building envelope, as proposed to be modified by D/2019/1992/A, which has established the appropriate building setbacks.
4.2.3 Amenity	Yes	The proposal is generally acceptable with regard to residential apartment amenity considerations, subject to the conditions recommended in Attachment A. Further discussion regarding compliance is provided throughout the table section below as well as the ADG compliance table above.
4.2.3.3 Internal common areas	Yes	The internal common areas, corridors and lift lobbies have access to daylight and an outlook.
4.2.3.4 Design features to manage solar access	Yes	The design includes vertical and horizontal shading devices integrated into the facade design to ensure that glare and sunlight are controllable during the warmer months, but sunlight is not restricted in mid-winter. The proposed

Provision	Compliance	Comment
		design meets BASIX requirements for thermal comfort.
4.2.3.5 Landscaping	Yes	<p>The proposed landscape design has been reviewed by the City's Landscape Assessment Officer, who has provided advice that the design is acceptable, subject to conditions in Attachment A.</p> <p>It is noted that the detailed design of the pocket park is recommended as a deferred commencement condition, to allow for further design resolution.</p>
4.2.3.10 Outlook	Yes	All apartments provide adequate outlook and views, and outlook from the surrounding development has been considered in the site planning and massing of the development.
4.2.3.11 Acoustic privacy	Yes, subject to conditions	<p>As advised above, the proposed development has sought to minimise the impact of noise and air emissions from vehicle traffic on Liverpool Street in accordance with the ADG requirements.</p> <p>The design includes the use of a trickle ventilation system and facade design in order to mitigate impacts and act as a buffer between the road and the sensitive residential uses within the building. Conditions of consent are recommended at Attachment A for further detail.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>The proposed dwelling mix is generally compliant with the requirements of this section, providing the following mix:</p> <ul style="list-style-type: none"> • 2% (4) one-bedroom apartments • 54% (141) two-bedroom apartments • 44% (114) three+ bedroom apartments

Provision	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposal provides an acceptable built form with fine grain architectural character.</p> <p>The expression of the facade reflects the functions within the building. The podium reveals activated spaces within the views to the street. The tower expresses the residential uses through openings and wintergardens while maintaining privacy for occupants.</p>
4.2.6 Waste and recycling Management	Yes	Refer to discussion under Section 3.14 of the Sydney DCP 2012 compliance table.
4.2.7 Heating and cooling infrastructure	Yes	The proposed heating and cooling infrastructure is consolidated in centralised locations throughout the development in order to ensure energy efficiency is achieved and to allow for the accommodation of future environmental technologies.
4.2.8 Letterboxes	Yes	The plans show a mail and parcel room for each tower building at upper ground level, accessed from each lobby. The room is integrated into the design, easily accessible, while being secure to prevent mail left.

Section 5 – Specific Areas

60. The concept development application (D/2019/992) was approved prior to the adoption of the current objectives and provisions in Section 5.1 of the Sydney DCP 2012.
61. Unlike the savings provisions set out in Clause 1.8A(5) of the Sydney LEP 2012, no such savings or transitional provisions have been provided within the Sydney DCP 2012 for development applications which rely upon a concept development application approved before the commencement of the amendments of Section 5.1 of the Sydney DCP 2012.
62. It is noted that Section 4.24 of the Environmental Planning and Assessment Act 1979 requires that any subsequent Stage 2 development determination cannot be inconsistent with the concept approval.

- 63. The proposed development has therefore been assessed on the basis of the current controls, however a degree of flexibility has been applied in the consideration of the proposal in accordance with Section 4.15(3A)(b) of the Environmental Planning and Assessment Act 1979, with regard to the specific and individual circumstances of the site, and the interaction between the subject proposal and the approved development.
- 64. This flexibility has been applied because the proposal has been assessed as generally achieving consistency with the objectives of the relevant provisions set out in Section 5.1 of the Sydney DCP 2012, which govern the development proposed within Central Sydney.

Provision	Compliance	Comment
Section 5.1 Central Sydney		
5.1.1.2 Street frontage height and street setbacks in Special Character Areas	Assessed as acceptable	<p>The Sydney DCP 2012 requires a street frontage height of 50m to Liverpool Street and 45m secondary frontages, with a minimum street setback of 6m to Liverpool Street and 8m above the street frontage height for secondary frontages.</p> <p>The proposal, which is generally consistent with the approved concept envelope, is setback as a whole from the street alignment on Liverpool Street to align with adjacent developments, and includes a podium form that is approximately 25 metres above the height of ground level, referencing the height of the datum set by the heritage significant Downing Centre to the west on Elizabeth Street.</p> <p>This design satisfies the objectives of Section 5.1.1.2 in that appropriate height transitions are provided that enhance the heritage significance of items and their settings.</p> <p>A setback of 6m to Nithsdale Street and a nil setback to Clarke and Commonwealth Streets are also provided, which are consistent with the approved concept envelope.</p>
5.1.1.3 Side and rear setbacks and building form separations	Assessed as acceptable	<p>The Sydney DCP 2012 requires an 8m side and rear setback above street frontage height, as well as an 8m separation for building forms on the same site.</p> <p>The existing concept approval provides a 6m side setback to Nithsdale Street and nil setbacks to Commonwealth and</p>

Provision	Compliance	Comment
		<p>Clarke Streets. The proposed detailed design maintains these setbacks.</p> <p>Considering these departures from the requirements, the impact of the proposal on wind conditions in the public domain has been considered. The application was accompanied by a Wind Assessment Report and accompanying letters confirming the proposed built form will have a negligible impact on wind conditions around the site and will not significantly impact pedestrian comfort.</p> <p>As such, the setback departures are accepted.</p>
5.1.1.4 Built form massing, tapering and maximum dimensions	Yes	Each tower meets the requirements of this provision in relation to horizontal dimension (<50 metres), as well as building envelope area requirement for the tower form less than 120 metres.
5.1.2 Development outlook and demonstrating compliance	Yes	<p>The proposed development is designed to reduce the impact of additional overshadowing on surrounding public domain areas.</p> <p>The proposed development is generally consistent with the approved concept envelope and approved separations to neighbouring developments, providing residential windows and balconies with a high level of outlook.</p>
5.1.4 Building exteriors	Yes	<p>The proposal will contribute positively to the streetscape with high quality architecture, meeting the objectives in Section 5.1.4 of the Sydney DCP 2012.</p> <p>The materiality and design of the development are distinctive and have been based on the winning scheme of a competitive design process.</p> <p>The design, materials and detailing are considered to be of a high standard and suitable for the site.</p>
5.1.6 Heritage floor space	Yes	Refer to the discussion and assessment provided in relation to the allocation of

Provision	Compliance	Comment
		heritage floor space (HFS) and Clause 6.11 of the Sydney LEP 2012 in the table section above.
5.1.7 Sun protection of public parks and places	Yes	<p>The Harmony Park sun access plane extends to the subject site and the controls require solar access to the park between 10-2pm all year round.</p> <p>The proposed development also complies with the maximum height allowable for the Harmony Park sun access plane.</p> <p>Further, the accompanying shadow diagrams demonstrate there is not additional overshadowing to the park.</p>
5.1.8 Views from public places	Yes	The proposed development will not impact on any of the key views from within Central Sydney including to the Anzac War Memorial from the south-east.
5.1.9 Managing wind impacts	Yes	A Wind Environment Report including the results of wind tunnel testing, as been submitted with the application. The recommendations of the report and accompanying letters satisfy the objectives and provisions set out in Section 5.1.9 of the Sydney DCP 2012 relating to the management of wind impacts.

Discussion

Consistency with Concept Approval

65. On 22 October 2020, the concept development application (D/2019/992) was granted by the CSPC for a building envelope containing indicative residential uses in the towers and commercial uses in the podium.
66. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, any subsequent detailed design development determination cannot be inconsistent with the Stage 1 concept DA consent.

67. To facilitate the amended building envelopes, the concept development consent D/2019/992 must be amended, prior to the determination of this development application. Subject to the approval of the modification concurrently sought under D/2019/992/A, the proposed detailed design sought under the subject application is consistent with the concept consent.
68. The concept development consent included a number of conditions. An assessment of compliance with these conditions, which specifically required detailed to be addressed as part of the detailed design application is provided in the table below.

Condition number	Condition title	Assessment
3	Building envelope modifications	The modified building envelope, as required by the condition, was approved as a condition satisfied matter on 9 December 2020 with stamped plans. The proposed modification to the concept approval and the detailed design sought under this application are consistent with the requirements of the condition.
4	Matters not approved in the concept proposal development consent	Complies. The subject detailed design application seeks consent for the identified items that were not approved with the concept application.
5	Building height	Complies. As detailed in the Sydney LEP 2012 compliance table above, a maximum building height of 121m is permitted, which includes up to 10% additional height (11 metres) in accordance with Clause 6.21D(3)(a) of the Sydney LEP 2012. A height of 117.1m is proposed, which complies with the maximum height of buildings development standard. The detailed design application also complies with the sun access plane for Harmony Park established by Clause 6.17 of the SLEP 2012.
6	Floor space ratio	Complies. The detailed design application does not exceed the FSR development standard permitted for the site.
7	Compliance with concept envelope heights and setbacks	Complies. The proposed amendments to the approved development are consistent with the concept envelope, as proposed to be amended under D/2019/992/A. The concurrent assessment report to the CSPC for the determination of D/2019/992/A recommends that the amendments to the concept building envelopes be approved.

Condition number	Condition title	Assessment
8	Detailed design to be contained within approved envelope	Complies. The proposed detailed design is contained within the modified concept envelope that is recommended for approval under the concurrent application D/2019/992/A.
9	Competitive design process	Complies. The proposal has been subject to a competitive design process which was carried out prior to lodgement of this application and in accordance with the City of Sydney Competitive Design Policy and the Design Excellence Strategy, which was endorsed by the City.
10	Submission of electronic CAD models prior to competitive design process	Satisfied. Prior to the commencement of the competitive design process an electronic CAD model was submitted and approved by the City's Model officers.
11	Detailed design of buildings	<p>Part a):</p> <p>The two towers are designed to have the appearance of similar proportion, achieved through the continuous tower separation. To support the symmetrical appearance, the western portion of Tower A is designed to be recessive, achieved through adopting a single level façade module, a proportion that is similar to the buildings along Liverpool Street.</p> <p>Part b):</p> <p>The setback to the north-western corner of Tower A is designed to be a recessive element, with a recess between the western portion of the tower and the north frame separating this element from the primary massing of the tower. The western portion is visually calmer than the primary volume expressed in a simple 'ladder' frame of horizontals and verticals. The apartment in this western location has been designed to have a north facing wintergarden, whose operability will create very subtle movement.</p> <p>Parts c) and d):</p> <p>The northern façade is designed to be a calm and recessive backdrop the Anzac War Memorial. The articulation of the northern facades are designed to be in similar proportions to adjacent buildings as well as the Memorial, with the proportions of the</p>

Condition number	Condition title	Assessment
		<p>two storey columns in the tower referencing the pilasters framing the main openings to the Memorial, as well as the lower commercial levels having single storey columns and along with the two-storey colonnade defining a base to the building with the same scale and proportions of the Memorial as a whole.</p> <p>Part e):</p> <p>The proposed colour scheme and materiality gives consideration to the heritage context of the site, through a recessive palette of polished and honed precast concrete with bronze metallic detailing.</p> <p>The material finishes adjust to the contrasting urban conditions with:</p> <ul style="list-style-type: none"> • The commercial podium consisting of honed precast concrete columns with a concrete mix contains an exposed granite aggregate that uses the same stone as the Memorial. • The residential tower has lighter precast concrete columns with expressed stone aggregate and a polished finish, and bronze aluminium in window frames and sun shading. • The secondary street frontages brickwork facades reference the historic context of Surry Hills. <p>Part f):</p> <p>The corners of the towers are designed to respond to the Liverpool Street axis, as well as the through-site link alignment to the Memorial axis. The cranked setback corner gives the northern elevation two tower symmetry definition.</p> <p>Part g):</p> <p>The facade articulation between the tower forms within and adjoining the site have been designed to mitigate wind effects as well as privacy impacts, with vertical metal fins.</p> <p>Parts h) and i):</p> <p>Detailed visual analysis of the development from multiple street and park views as well as</p>

Condition number	Condition title	Assessment
		<p>surrounding development was submitted with the application. Some CGI views are included within the 'Proposed Development' section above.</p> <p>Part j):</p> <p>The approved concept building envelope had a through site link with a consistent width of 10m.</p> <p>Established during the design competition and carried through to the detailed development application, is a through-site link design which includes an 18m wide 'Urban Room' derived from the consistent tower separation from top to bottom to respond to the Anzac Memorial axis. The 'Urban Room' is designed to be at a civic scale to continue the Memorial axis and presents a long-distance view standing from 175 Liverpool Street, similar to the one from the Pool of Reflection standing from the north side.</p> <p>The through site link then scales down in dimension towards the southern end to respond to the Surry Hills neighbourhood character, at a more human scale of 6m intended to be in line with the fine-grain retail character on lower ground.</p> <p>Part k):</p> <p>Where possible the development is designed to maximise accessibility. The height difference between the upper ground level fronting Liverpool Street and the lower ground level along Clarke Street is addressed through a generous through-site link stairs connection, as well as a dedicated public lift beside it to ensure accessible access is provided.</p> <p>Part l):</p> <p>A high level of amenity is provided for pedestrians with wide footpaths along all street frontages, and the inclusion of awnings above. Where street trees are recommended for approval, they will be replaced with plantings. Conditions are recommended at Attachment A to ensure the street trees on Clarke Street are retained, with proposed awnings on this elevation to be redesigned.</p>

Condition number	Condition title	Assessment
		<p>Part m:</p> <p>Vehicular access points have been minimised for the development. Previously there were two vehicular access points off Clarke Street, one into a loading zone and another into the basement, as well as an extra one off Nithsdale Street on the south to access the commercial parking below.</p> <p>The proposed design is to have one centralised access off Clarke Street and limit it to a two-way lane width to allow for more active frontages at lower ground level.</p> <p>Part n):</p> <p>The proposed development does not exceed the Harmony Park sun access plane and does not result in adverse overshadowing impacts to surrounding developments. The proposed tower design steps and cascades towards the south.</p> <p>Part o):</p> <p>The plant and lift overruns are incorporated within the roof form, within the stepped geometry of the tower. No plant or lift overruns are readily visible from the public domain and adjoining tower developments.</p> <p>Part p):</p> <p>No signage is proposed under the subject application. A condition of consent is recommended at Attachment A requiring a signage strategy for the site under a separate application, which specifies that there is to be no signage on the northern façade.</p> <p>Part q):</p> <p>No spires, towers or flag poles are proposed at the top of the tower.</p> <p>Part r):</p> <p>The proposed material palette consists of various finishes of concrete of various finishes, as well as bricks to the podium and rear.</p>

Condition number	Condition title	Assessment
		<p>Part s):</p> <p>There are no proposed open balconies to the western face of Tower A.</p>
12	Through site link design	Complies. The proposed through-site link has been designed in accordance with the winning competition scheme and is consistent with the requirements of Section 3.1.2.2 excluding the requirement being open to the sky for the 'Urban Room' component.
13	Structural integrity of retained building elements	Complies. A Structural Design Report prepared by Arup was submitted with the application which provides a structural analysis of the retained building elements and new tower.
14	Residential land use	An assessment of the proposal against the ADG is provided under the SEPP 65 section of this report.
15	Residential acoustic amenity	Complies. The application is accompanied by a Noise Impact Assessment. The Assessment has been reviewed by the City's Environmental Health Unit who have advised the report is satisfactory, subject to conditions.
16	Sun access modelling	Complies. Detailed design drawings and diagrams are to be submitted providing precise sun access modelling of overshadowing of the public domain, adjoining residential development and public open spaces adjacent to and in proximity to the site.
17	Ecologically sustainable development	<p>Complies, subject to conditions. As discussed above, an ESD Report has been submitted which outlines that the proposed development is capable of achieving the minimum target set out in this condition.</p> <p>It is noted that the concurrent modification application seeks to remove the requirement for the implementation of building integrated photovoltaics to the northern facades of the development.</p> <p>Council's Environmental Projects Officer raises no objection to this change given the commitment to the electrification of the development and the removal of onsite fossil fuel consumption (outside of emergency systems). This will be ensured via a</p>

Condition number	Condition title	Assessment
		recommended condition of consent at Attachment A.
18	Public art	Complies. A Public Art Plan has been prepared and submitted with this application which is supported by the City's Public Art Unit.
19	Landscaping	Landscape plans have been submitted with the application. Conditions of consent are recommended to ensure that additional detailing is provided regarding the proposed landscaping scheme on site, including the detailed design of the pocket park.
20	Signage strategy	N/A. This application does not seek consent for any signage and a condition is recommended at Attachment A requiring that a signage strategy be the subject of a separate development application.
21	Heritage Impact Statement	Complies. A Heritage Impact Statement was prepared by Weir Phillips and submitted with the application.
22	Wind assessment	Complies. A Wind Environment Report including the results of wind tunnel testing has been submitted with the application.
23	Reflectivity	Complies. The application is accompanied by a Reflectivity Report which confirms that the visible light reflectivity from building materials used on the facade of any building does not exceed 20%.
24	External lighting	A condition of consent is recommended to ensure a separate development application is lodged for any external lighting.
25 and 26	Demolition, excavation and construction noise and vibration management plan	A condition of consent is recommended to ensure a Demolition, Excavation and Construction Noise and Vibration Management Plan is submitted and approved prior to issue of any Construction Certificate.
27	Acid sulfate soils	Complies. The application is accompanied by a PESI which includes a Preliminary Acid Sulfate Soil Assessment. The report concludes that the presence of acid sulfate soils is unlikely.

Condition number	Condition title	Assessment
28	Land contamination	Complies. The application is accompanied by a DESI and RAP.
29	Access and facilities for persons with disabilities	Complies. The application is accompanied by an Accessibility Report demonstrating that the building has been designed and is capable of being constructed to provide access and facilities for people with a disability in accordance with the Building Code of Australia.
30	Crime prevention through environmental design	Complies. The application is accompanied by a CPTED Report, and the recommendations of the report have been included in the detailed design of the proposal.
31	Street trees	<p>The proposed development seeks the removal of street trees on Commonwealth Street and Clarke Street.</p> <p>The City's Tree Management Unit support the removal of the street trees on Commonwealth Street, subject to the provision of new street trees along this frontage.</p> <p>However, the City does not support the removal of the street trees on Clarke Street to accommodate new awnings, given their healthy condition. A condition is recommended at Attachment A for the retention of these trees, and for the awnings along Clarke Street to be redesigned to coexist with these existing street trees.</p> <p>The existing trees within the pocket park are also recommended to be retained, until the detailed design of the pocket park is approved.</p> <p>Changes to this condition are recommended with the concurrent modification to be consistent with the above.</p>
32	Bicycle parking and end of journey facilities	Conditions of consent are recommended to ensure quantum of bicycle parking is compliant with Section 3.11.3 of the Sydney DCP 2012.
33	Car share spaces	Complies. The application proposes car share spaces to be located within the basement levels.

Condition number	Condition title	Assessment
34	Construction traffic management plan	A condition of consent is recommended for the preparation of the plan in consultation with TfNSW.
35	Loading dock design	Complies. The proposal includes a loading area at the lower ground level, which has been reviewed by the City's Transport and Access Unit and is supported.
36	On site loading areas and operation	Complies. The proposed development includes the provision of 14 service vehicle spaces which is consistent with the requirements of Section 3.11.6 and Schedule 7.8.1 of the Sydney DCP 2012.
38	Servicing and loading dock management plan	Conditions are recommended requiring the preparation of a Detailed Loading and Servicing Management Plan that will outline access arrangements for delivery vehicles, garbage collection, resident/tenant move in/move out arrangements to prevent disruption to public streets and pedestrian movements.
39	Transport impact study	Complies. The application was accompanied by a Transport Impact Study and was deemed acceptable by Council's Transport and Access Unit.
40	Vehicle access and egress	Complies. The design of vehicle access and egress allows for all vehicles to be driven onto and off the site in a forward direction.
41	Vehicle access design and location	Complies. Vehicle access to the site is provided at the south-western corner of the tower block from Clarke Street and satisfies the requirements of the Sydney DCP 2012.
42	Vehicle parking provision and design	Complies. The proposed amount of car parking is consistent with the maximum rates under the Sydney LEP 2012.
43	Public domain concept plan	The plan is to be prepared via a recommended condition at Attachment A.
45	Waste management plan and waste facilities	Complies. Adequate information has been provided on waste in accordance with the requirements of this condition. The City's Waste Management Unit have reviewed the proposal and

Condition number	Condition title	Assessment
		are satisfied with the proposed on-site management of waste, subject to conditions.
46	Ausgrid	Complies. The application was referred to Ausgrid, who raised no objections subject to requirements which are included in the recommended conditions of consent.
47	Sydney Water	Complies. A Civil Engineering Report was submitted with the application which details advice provided by Sydney Water outlining that on-site detention is not required.
48	Roads and Maritime Services condition	Complies. The application has been referred to TfNSW who raise no objection to the development, subject to conditions.
49, 50 and 51	Transport for NSW conditions	

Competitive Design Process Panel Recommendations

- 69. As discussed in the 'History Relevant to the Development Application' section above, a competitive design process was undertaken which resulted in Bates Smart being selected as the winning scheme. The selection panel resolved that the Bates Smart scheme best demonstrated the ability to achieve Design Excellence as per clause 6.21C of the Sydney LEP 2012 and the competition brief requirements.
- 70. The Jury panel identified a range of matters that needed to be resolved during the design development phase in order to achieve design excellence while maintaining the original design intent. The table below provides a response to these recommendations.

Jury panel recommendation	Response
<p>Structure:</p> <ul style="list-style-type: none"> • The structural design of the building needs to be further resolved. This includes the consistent vertical alignment of the cores across the building, and the optimisation of columns and supporting structure. • The use of the masonry frame as a structural component of the tower should be explored. 	<p>The structure has been carefully integrated with the apartment layouts and overall building planning. Column locations have been optimised and there is consistent vertical alignment of the structure across the building. Along the northern façade the structure has been integrated into the masonry frame so that living spaces are free of internal columns.</p>

Jury panel recommendation	Response
	<p>The masonry frame of the building has been incorporated into the overall structural design of the building. This includes extending the frame to Liverpool Street to create a colonnade, allowing the structure to be integrated into the facade design.</p>
<p>Services and loading dock:</p> <ul style="list-style-type: none"> • The plant rooms throughout the building need to be reviewed and confirmed for correct sizes. • The size and operation of the loading dock needs to be resolved in conjunction with a qualified traffic consultant. The provision of loading spaces must be in line with the City of Sydney’s requirements. 	<p>A Utility Services Report was prepared by Arup and submitted with the application. The plant requirements have been incorporated into the proposed design.</p> <p>The loading dock is sufficient for the proposed uses and is consistent with the requirements of the Sydney SCP 2012.</p>
<p>Ground plane:</p> <ul style="list-style-type: none"> • The design of the lobbies should be considered and rationalised where possible. • The activation of the ground plane, particularly on the southern side of the building, should be reviewed. The Jury felt some of the activation of this ground plane was lost between Round 1 and Round 2. • The residential street address of the towers should be considered and emphasised to reflect the high quality residential apartments commensurate to the site location that this project seeks to create. 	<p>The ground floor includes commercial and residential lobbies alongside retail tenancies, as well as an active through site link. The ground plane is designed to have high passive surveillance on both the upper ground floor and lower ground floor. The lobbies and the relevant access points are clearly identified across the ground plane.</p> <p>The fine grain elements of the southern façade have been reincorporated in the detailed design. Four retail tenancies are proposed along Clarke Street, with their floor levels varying to align with the adjoining footpath. A larger commercial tenancy is located to the northeast with access via a stair and lift located within the 'Urban Room' at the upper ground level.</p> <p>Residential lobby entries are provided from the 'Urban Room' located on either side of the through site link which forms a ceremonial entry to the residential apartments, as well as secondary entries side streets on Nithsdale Street and Commonwealth Street.</p>

Jury panel recommendation	Response
	Residents enter into generously scaled lobbies with concierge facilities and a resident’s lounge and dining that overlooks the pocket park to the south.
<p>Tower:</p> <ul style="list-style-type: none"> • The current open design of the roof feature is not supported and should be further considered through design development and resolved potentially without an open ‘brise soleil’ character. • The design of the podium element located within the north-west notch of the western tower should be further resolved. The stepped and terraced form and colonnade treatment are not cohesively integrated into the overall formal composition. The apartment layouts within this section of the building should be further considered. • The wintergardens located on the north-west corner of the western tower are to be further refined, the jury is concerned to ensure they do not read differently to the remainder of the northern façade of the two towers. • The detailed design of the scheme should consider the wind impacts and safety of the wintergardens generally. • The façade detailing for cross ventilation and sound attenuations should be further developed. 	<p>The roof feature has been retained to provide a defined completion to the towers, however, is no longer “an open ‘brise soleil’ character.” The concrete frame rises two storeys above the top of the building to define the crown. The column and lintel structure creates an open-air loggia on the skyline.</p> <p>The setback portion of the western tower forms has single height expression that defines a simple ‘ladder’ frame that does not compete with the primary frame. The western apartment in Tower A has been redesigned to create a more consistent façade. This allows for the foreground portion of the Tower A to read consistently east to west, with the design language of the setback portion reading separately.</p> <p>A Wind Environmental Assessment was submitted with the application which addresses how the wintergardens are designed with operable glazing to mitigate the effects of wind.</p> <p>81% or 30 out of 38 apartments in the first nine storeys are naturally cross ventilated. Above level 10, all apartments are to be naturally cross ventilated through wintergardens and trickle ventilation systems.</p>
<p>Interiors and planning:</p> <ul style="list-style-type: none"> • The planning of the apartments throughout the building should be further refined to reflect and respond to the unique setting, character and desired high quality 	The proposed layouts have been designed to respond to the separation and visual privacy requirements between the towers on the site and the adjoining residential buildings, as well as solar access and view maximisation.

Jury panel recommendation	Response
<p>residential apartments commensurate to the site location.</p> <ul style="list-style-type: none"> • A consistent curtain strategy should be provided across the building to ensure that the façade appears cohesive when viewed from Hyde Park. No blinds are to be used. 	<p>A consistent curtain strategy is to be implemented across the northern facade via a recommended condition at Attachment A.</p>

71. Overall, it is considered that the detailed design responds to the key recommendations made by the jury panel and retains to the design integrity and key aspects of the winning scheme. The proposal is considered to satisfy the provisions of clause 6.21D of the Sydney LEP 2012 and accordingly is eligible for 10 per cent additional height pursuant to subclause 3(a).

Design Advisory Panel

72. The proposal was considered by the City's Design Advisory Panel (DAP) on 1 September 2022.
73. The table below provides a response to the comments by the DAP regarding the proposal.

Panel recommendation	Response
<p>The Panel does not support encroachment of the facade over the Commonwealth Street boundary. It will create additional overshadowing of the public domain. Also, it does not support any further reductions to the 17m tower separation. The separation must be maintained.</p>	<p>As discussed in detail in the concurrent modification application, the projections into Commonwealth Street are considered to be generally consistent with the allowances for projectons under Schedule 4 of the Sydney DCP 2012 as well Section 5.1.4(5) of the DCP 2012, and are acceptable as:</p> <ul style="list-style-type: none"> • They relate to sun shading devices / privacy fins and bay windows than are only 350mm in depth, which is less than the 450mm maximum projection permitted. • These elements are included from level 1 of the development, which is above the minimum 3-3.2m heights specified. • They are not within 800mm from the face of the kerb.

Panel recommendation	Response
	<ul style="list-style-type: none"> • The shading devices / privacy fins comprise a bronze finish metal, which is non-combustible material. • Although the projections comprise more than 50% of the road frontage, it does not extend the full length of the building elevation, with the northern most extent of the façade closer to Liverpool Street being contained within the site boundary. • The shading devices / privacy fins will ensure that amenity to the adjacent property to the east is maintained, and do not derogate from the existing daylight levels in Commonwealth Street. • The projections do not contain GFA. • The projections are more than 10m away from the Liverpool Street intersection, and although less than 10m has been provided for the Clarke Street intersection, this is considered acceptable given there being less traffic using this side street. <p>The projections within the through-site link are also acceptable as:</p> <ul style="list-style-type: none"> • The amended proposal maintains the 18m separation between the towers when measured from glass line to glass line. • The privacy and shading fins and horizontal elements included within the articulation zones have been reduced from 450mm to 350mm to address the DAP's concerns.

Panel recommendation	Response
	<ul style="list-style-type: none"> The Trustees of the Anzac War Memorial raise no concern regarding any impact of these articulation zones within the amended proposal on the Hyde Park / ANZAC War Memorial axis.
The colonnade, awning and urban room, and address to Liverpool Street are all supported as positive proposals.	These components are retained.
Communal open space provisions are unacceptable. The scheme should revert to provisions shown in the competition scheme, including locating communal open space back to the north, overlooking Hyde Park.	The amended proposal provides for increased communal open space areas at level 6 / the podium rooftop, which overlook Hyde Park and the pocket park.
The Panel supports extension of the pocket park and footpath in principle. However, ownership and boundary issues will need to be resolved.	The pocket park is to remain in private ownership, however, will be publicly accessible (as is the current situation).
The Panel supports the City's request for more information on noise insulation and ventilation provisions. The Panel noted that when designing ventilation, any reduction in the width and depth of columns expressed on the façade must be resisted.	Further information has been submitted during the assessment of the application to demonstrate that the proposed development is capable of complying. Conditions of consent are recommended at Attachment A for the final detailed design of the proposed trickle ventilation system to be submitted, prior to Construction Certificate
Solar access to apartments needs to be improved. Given the tower separation provision, the Panel suggested that amendments be made to achieve around the 65% mark.	Solar access has been improved with amended proposal's change in dwelling mix, resulting in 65% of apartments achieving solar access for a minimum of two hours in midwinter.

Consultation

Internal Referrals

74. The application was discussed with Council's:

- (a) Building Services
- (b) Environmental Health

- (c) Heritage and Urban Design
- (d) Public Domain
- (e) Safe City
- (f) Surveyors
- (g) Public Art
- (h) Public Art
- (i) Transport and Access Unit
- (j) Tree Management
- (k) Landscape Officers
- (l) Waste Management
- (m) Environmental Project Officers
- (n) Planning Agreements Officers.

75. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

76. The application was referred to the following external referral bodies for review:

- (a) Ausgrid
- (b) The Trustees of the ANZAC War Memorial
- (c) Transport for NSW
- (d) Sydney Airport
- (e) Sydney Metro
- (f) Sydney Trains
- (g) Ausgrid.

77. Comments received from external referral requirements are addressed in this report and are included in the recommended conditions in Attachment A, where relevant.

Advertising and Notification

78. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 4 July 2022 and 2 August 2022. A total of 1580 properties were notified and 6 submissions were received (four objections and two comments).

79. The submissions raised the following issues:

- (a) **Issue:** Privacy concerns for surrounding buildings, particularly from the apartments facing the western and southern elevations of the proposed development.

Response: The separation of the development from adjacent developments has been assessed as acceptable and approved under the concept DA. The proposed development maintains these separation distances. The majority of apartments on a typical apartment floor are designed to have primary views directed to the north and south which minimises visual privacy concerns and cross-viewing between these neighbouring developments. Any openings located on the east and west elevations are designed with privacy screens/fins to direct outlook away from the neighbouring sites.

- (b) **Issue:** Increased height compared to the existing building and potential shadowing and encroachment impacts.

Response: The detailed design is consistent with the height of the envelope approved under the concept application. It is noted that this height is also generally consistent with existing building on site, being 117m. The proposed development does not result in adverse shadow impacts to surrounding properties or Harmony Park.

- (c) **Issue:** Potential wind impacts on surrounding streets.

Response: An Environmental Wind Assessment Report and accompanying letters were prepared by Arup and submitted with the application, which details the wind tunnel testing that has been undertaken for the site and demonstrates that the proposal will not adversely affect wind conditions at the street level.

- (d) **Issue:** Query as to why the existing building is not being refurbished instead of demolished.

Response: The detailed design application is consistent with the approved concept application, which granted consent for in-principle demolition of the existing commercial tower.

- (e) **Issue:** Amount of residential car parking spaces not commensurate with number of residential units.

Response: The amended application proposes a total of 214 residential car parking spaces including 39 accessible spaces, which complies with the Sydney LEP 2012 car parking rates.

- (f) **Issue:** Concerns regarding the removal of the loading bays on Alberta Street with the extension of the pocket park.

Response: The amended application no longer seeks consent for the extension of the pocket park and associated removal of the loading bays on Alberta Street.

- (g) **Issue:** Concerns regarding the on-street parking changes to Clarke Street.

Response: Any parking changes and new traffic treatments need to be consulted and submitted to the Local Pedestrian, Cycling and Traffic Calming Committee (LPCTCC) for endorsement, and are not approved under this development application.

- (h) **Issue:** Concerns regarding any obstruction of vehicular access to 11 Alberta via Nithsdale Lane with proposed tree plantings.

Response: Any tree replacement will not obstruct vehicular access to adjoining properties.

- (i) **Issue:** Construction-related impacts (noise, traffic vibration).

Response: Conditions of consent are recommended at Attachment A to ensure that any impacts on surrounding sites are appropriately managed during construction.

Financial Contributions

Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2021

80. 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.
81. A condition relating to this levy has been included in the recommended conditions of consent at Attachment A. 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

82. The site is located within the Central Sydney affordable housing contribution area. As the proposed development includes additional floor space, a contribution of 0.5 per cent is required for the non-residential component totalling \$797,986.97 (15,040sqm of total floor area), and a contribution of 1.5 per cent is required for the residential component totalling \$7,085,583.13 (44,515sqm of total floor area).
83. In accordance with Clause 7.13(2B) of the Sydney LEP 2012 the contribution amount has been halved as the development application was lodged prior to 1 July 2022.
84. A condition relating to this levy has been included in the recommended conditions of consent at Attachment A. The condition requires the contribution to be paid prior to the issue of a Construction Certificate.

Relevant Legislation

85. Environmental Planning and Assessment Act 1979.
86. City of Sydney Act 1988.
87. Airports Act 1998.

Conclusion

88. The application seeks consent for the detailed design of 133-141 Liverpool Street comprising the construction of a new mixed use development with a maximum height of 117.1m (RL 146.00) with retail, commercial office and residential land uses.
89. The proposal will be consistent with the concept development consent, as proposed to be amended by D/2019/992/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
90. The proposal is largely compliant with relevant planning provisions including SEPP 65, the ADG, the Sydney LEP 2012 and the Sydney DCP 2012. Conditions are recommended to address non-compliances where appropriate.
91. The proposed development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding site. The proposed development will improve the interface between the private and public domain and exhibits design excellence in accordance with Clause 6.21C of the Sydney LEP 2012.
92. The proposal will provide new commercial office, retail and residential land uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
93. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of Central Sydney.
94. The proposed detailed design of the development is therefore in the public interest and is recommended for approval by the CSPC.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Mia Music, Senior Planner