

**Item 6.****Development Application: 164-172 and 174-194 William Street, Woolloomooloo - D/2022/139**

File No.: D/2022/139

**Summary**

<b>Date of Submission:</b>	The application was lodged on 28 February 2022.  Additional information and amended drawings were provided to the City on 29 April 2022, 24 March 2023 and 11 October 2023.
<b>Applicant:</b>	William Street Nominee Pty Ltd
<b>Architect:</b>	FJC Studio, formerly FJMT
<b>Developer:</b>	William Street Nominee Pty Ltd
<b>Owner:</b>	Gwynvill Trading Pty Ltd and Kenmure Holdings Pty Ltd
<b>Planning Consultant:</b>	Urbis
<b>Heritage Consultant:</b>	Urbis Heritage
<b>Design Advisory Panel and Design Advisory Panel Residential Subcommittee:</b>	The application was presented to DAP on 16 June 2022. The application was presented to DAPRS on 4 July 2023.
<b>Cost of Works:</b>	\$161,700,000
<b>Zoning:</b>	The site is located in the MU1 Mixed Use zone. The proposed concept mixed-use development comprising indicative 'commercial premises' and 'residential accommodation' land uses is permissible with consent in the zone.
<b>Proposal Summary:</b>	Development consent is sought for a concept building envelope up to a maximum height of RL 57.9 (33.4 metres) for a future mixed-use development including: <ul style="list-style-type: none"><li>in-principle demolition of existing structures and excavation for 3 basement levels;</li></ul>

- indicative construction of three new buildings of 5, 6 and 10 storeys in height respectively, separated by through-site links and vehicle access from Forbes Street; and
- indicative land uses including basement car parking, storage and services, ground floor retail, commercial and residential uses on upper floors.

During the assessment of the application, the proposal has been amended to reduce the bulk, scale, and height of the envelopes, increase envelope separation, provide increased permeability through the site, increase deep soil zones, address the requirements of the Apartment Design Guide, and respond to view loss concerns from surrounding residential developments.

Additional information has been submitted in relation to view impact assessment, remediation, flooding, public art, design excellence strategy and an amended public benefit offer.

The application was notified for a period of 28 days on two occasions:

- The application was initially placed on public exhibition between 12 March 2022 and 9 April 2022. In response, eighty-five (85) submissions were received raising concerns for view loss, reduced property value, height, bulk and scale, loss of amenity including solar access and ventilation, traffic congestion and impacts to the local area, construction noise and traffic impacts, and anti-social behaviour; and
- Following on from a resubmission of design amendments and additional information of a new scheme, the proposal was placed again on public exhibition between 1 April 2023 and 29 April 2023. In response, sixty-one (61) submissions were received, generally raising the same concerns for view loss, reduced property value, height, bulk and scale, loss of amenity including solar access and ventilation, traffic congestion impacts to the local area, construction noise and traffic impacts, and anti-social behaviour.

Later, further design amendments to the building envelope and view impact studies were submitted to Council on 11 October 2023. These further changes were not required to be notified or advertised under the City of Sydney Community Engagement Strategy and Participation Plan 2023, given the amendments do not result in significant additional environmental impacts, rather reduced them.

As a result of the design modifications made to the concept design and subject to conditions, the amended proposal presents a much improved outcome to that originally submitted and comprises a satisfactory response to the site conditions and locality. It is generally acceptable with regards to the relevant planning controls.

Collectively, the amended proposal and submitted design excellence strategy establish an envelope and suitable parameters for a future competitive design process. Subject to the recommended conditions, the envelope can accommodate a detailed building design of appropriate height, bulk and scale that responds to the character of the area, and that can exhibit design excellence.

The owner of the site has submitted a public benefit offer to enter into a Voluntary Planning Agreement (VPA) with the City. The VPA will provide the dedication of 355 square metres of land for a new pedestrian laneway as well as developer's works to construct the laneway. The future laneway is identified in the Sydney Development Control Plan 2012 as a site-specific requirement.

The draft VPA will be consistent with the terms of the public benefit offer and will be publicly exhibited for a period of 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

The proposed development has an estimated cost of works of more than \$50 million and is therefore required to be determined by the Central Sydney Planning Committee (CSPC).

**Summary Recommendation:** It is recommended that authority be delegated to the Chief Executive Officer to determine the application, following from the drafting and exhibition of the Voluntary Planning Agreement, and considering any public submissions in response.

It is recommended that consideration be given to granting deferred commencement consent requiring the Voluntary Planning Agreement to be executed prior to the consent becoming operative and subject to the recommended conditions contained in this report.

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) Environmental Planning and Assessment Regulation 2021
- (iii) Roads Act 1993 and Roads Regulation 2018
- (iv) State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP Resilience and Hazards 2021)
- (v) State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)
- (vi) State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure 2021)
- (vii) State Environmental Planning Policy (Sustainable Buildings) 2022 (SEPP Sustainable Buildings 2022)
- (viii) Sydney Local Environmental Plan 2012 (SLEP 2012)
- (ix) Sydney Development Control Plan 2012 (SDCP 2012)
- (x) Sydney Landscape Code Volume 2: All Developments Except for Single Dwellings 2012
- (xi) City of Sydney Interim Floodplain Management Policy 2023
- (xii) City of Sydney Guidelines for Waste Management in New Developments
- (xiii) City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011
- (xiv) City of Sydney Community Engagement Strategy and Participation Plan 2023

- Attachments:**
- A. Recommended Conditions of Consent
  - B. Building Envelope Drawings
  - C. Indicative Reference Design Drawings
  - D. Visual Impact Assessment
  - E. Visual Impact Assessment Appendix
  - F. Design Excellence Strategy
  - G. Public Benefit Offer

## Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application Number D/2022/139, following the drafting and conclusion of the public exhibition of the draft Voluntary Planning Agreement and considering any public submissions received in response;
- (B) authority be delegated to the Chief Executive Officer to determine whether the Design Excellence Strategy for 164-172 and 174-94 William Street Woolloomooloo, prepared by Urbis on behalf of William Street Nominee and dated 21 November 2023, as shown at Attachment F to the subject report, ought to be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (C) if the Chief Executive Officer determines to approve the application, consideration be given, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, to granting deferred commencement consent to Development Application Number D/2022/139 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 appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal is consistent with the objectives of the MU1 Mixed Use zone.
- (D) The building envelope complies with the maximum height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012 and provides capacity for an additional 10 per cent of additional floor space available under Clause 6.21D(3)(b) of the Sydney Local Environmental Plan 2012 for any subsequent detailed building design resulting from a design competition process and demonstrating design excellence.
- (E) The indicative reference design accompanying the application demonstrates that the envelope can accommodate a building which complies with the maximum floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (F) Subject to compliance with the design excellence strategy, the undertaking of a competitive design process and the recommended conditions of consent, the proposed development will provide a building envelope capable of accommodating a future building which can exhibit design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012.

## Background

### The Site and Surrounding Development

1. The site comprises two (2) allotments being:
  - (a) 164-172 William Street, Woolloomooloo, which has a legal description of Lot 52 in Deposited Plan 1049805; and
  - (b) 174-194 William Street, Woolloomooloo, which has a legal description of Lot 1 in Deposited Plan 816050.
2. The site is irregular in shape with area of approximately 6,398 square metres. It has a primary street frontage of 88.50 metres to William Street to the south. The site has secondary street frontages of 66.475 metres to Dowling Street to the east, 63.465 metres to Forbes Street to the west and 36.22 metres to Judge Lane to the north. Levels on the site fall by approximately 11 metres from the south-east to the north-west.
3. Aerial photographs of the site in its context are provided in Figures 1 to 3 below.

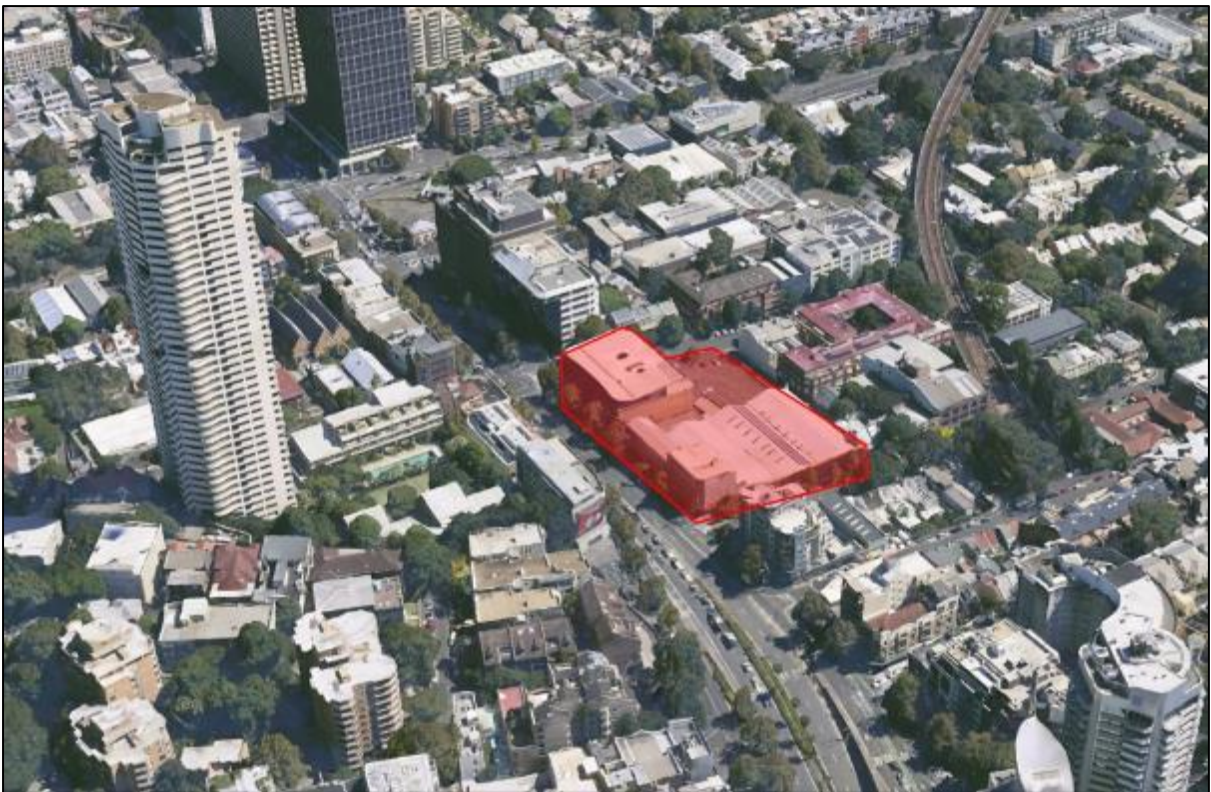


**Figure 1:** Aerial view of the subject site (shown outlined and shaded in red) and surroundings





**Figure 2:** Oblique aerial of the subject site (shown outlined and shaded in red) looking north-east



**Figure 3:** Oblique aerial of the subject site (shown outlined and shaded in red) looking north-west



4. The site currently accommodates a 5-storey commercial building and the Bayswater Car Rental building, which comprises a part 2 and 3 storey showroom and private car park.
5. The site is not a heritage item or located in a heritage conservation area. The site is however located on the edge of the Woolloomooloo Heritage Conservation Area, and within its visual curtilage. The site is also within proximity to heritage items of local significance, being the 'Terrace Group including interiors' (SLEP 2012 Item Number I2179) at 168-172 Forbes Street, the 'Former commercial building "Bryson House" including facade and main stairs (SLEP 2012 Item Number I2178) at 150-166 Forbes Street and 'Terrace group and interiors' (SLEP 2012 Item Number I2167) at 167-169 Dowling Street.
6. The site has a height control of 35m facing William Street. The next significant sites facing William Street on the north side have height controls of 40m to the west and 35m to the east.
7. All street frontages, including William Street, Forbes Street, Dowling Street and Judge Lane, are subject to flooding during the 1 per cent Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) events.
8. Photographs of the existing development on the site are provided in Figures 4 to 12 below.



**Figure 4:** The site viewed from William Street at the intersection of Forbes Street, looking north-east



**Figure 5:** The site viewed from William Street at the intersection of Dowling Street, looking north-west



**Figure 6:** The site viewed from Forbes Street, looking east





**Figure 7:** The site viewed from Forbes Street, looking east



**Figure 8:** The site viewed from the corner of Forbes Street and Judge Lane, looking south-east



Figure 9: The site viewed from Judge Lane, looking east



Figure 10: The site viewed from the end of Judge Lane, looking east





**Figure 11:** The site viewed from Dowling Street, looking south-west



**Figure 12:** The site viewed from Dowling Street and interface with 173 and 171 Dowling Street, looking west



**Locality**

9. The surrounding area is characterised by a mixture of land uses, including commercial, retail, food and drink, tourist and visitor accommodation and residential land uses:
  - (a) Judge Lane directly adjoins to the site to the north as well as the residential terraces at 171-173 Dowling Street, Woolloomooloo. Further north on the opposite side of Judge Lane are three-storey terraces forming a row that is of local heritage significance at 168-172 Forbes Street.
  - (b) To the east of the site are residential terraces from 238-250 Dowling Street. These terraces and the mixed-use building at 196-200 William Street, Woolloomooloo is separated by Brougham Lane. This mixed-use building is commonly known as the Avis building and contains business premises on the ground floor and residential accommodation above.
  - (c) Directly to the south of the site on the opposite side of William Street is the Ibis Budget Sydney East Hotel at 191-201 William Street, Darlinghurst. 187-189 and 171-175 William Street contain commercial and retail uses. 177-185 William Street is a mixed-use building containing retail on the ground floor and residential accommodation on the upper floors.
  - (d) To the east at 150-162 William Street, Woolloomooloo is an 8-storey commercial building. William Lane separates this building with the backpacker tourist and visitor accommodation uses located at the terraces at 152 and 155 Forbes Street. The terraces at 149 and 151 Forbes Street are used for residential purposes.
10. Photographs of surrounding developments are provided in Figures 13 to 18 below.



**Figure 13:** Heritage listed terraces at 168-172 Forbes Street to the north of the site, looking east



**Figure 14:** Rear of commercial building at 150-162 William Street and 149-155 Forbes Street to the west of the site



**Figure 15:** Commercial building at 150-162 William Street looking north





**Figure 16:** Neighbouring developments to the south of the site on William Street



**Figure 17:** Neighbouring developments to the east of the site on Dowling Street



**Figure 18:** Brougham Lane and the Avis building to the east of the site on Dowling Street

## History Relevant to the Development Application

### Pre-Development Application Meeting - 15 July 2020

11. A preliminary meeting was held on 15 July 2020 with the City and the applicant to discuss a generally compliant shop-top housing DA scheme. This was to understand the City's position regarding the redevelopment, and key issues to be addressed as part of any future development application.
12. No written advice was provided in relation to this scheme.

### Pre-Planning Application Concept - 3 June 2021

13. A preliminary meeting was held to discuss a planning proposal for an "Urban Village" scheme seeking a height of 110.95 metres AHD (RL 88.39) consisting of 22,830 sqm of residential, 3,795 sqm retail, 318 sqm community, 2,452 key worker housing, 4,607 sqm hotel, 3,940 sqm creative commercial totalling 37,942 sqm at 6:1 FSR.
14. The applicant was advised that City staff were very unlikely to support such a scheme in this location, and a view impact analysis should be conducted before developing the site or consider going above the 35m/22m the existing height controls.

### Pre-Development Application Meeting - 8 November 2021

15. A further meeting with the City and applicant was held on 8 November 2021 regarding building envelope options for a concept development application. The envelope options presented by the applicant involved an alternative to the site-specific provisions contained under Section 6.2.9 of the Sydney DCP 2012.



16. The applicant raised the following matters in relation to the site-specific DCP provisions:
  - (a) There has been a change in the Apartment Design Guide (ADG) controls since the site-specific controls were drafted. The site-specific DCP controls were written 2014 before the ADG was updated.
  - (b) The designated open space area receives minimal solar access and does not comply with ADG.
  - (c) Design excellence bonus floor space would be sought due to the solar constraints of the site.
  - (d) The envelope massing will overshadow neighbours across William Street.
  - (e) The proposed site-specific building envelopes cannot achieve the site's FSR.
  - (f) The site-specific DCP envelopes breach the maximum LEP height plane.
17. The general feedback from the City was any future concept proposal should comply with the maximum 8 and 6 height in storeys control in the Sydney DCP 2012.
18. It was also recommended that a site inspection be undertaken to assess the heritage significance of buildings to determine if demolition is acceptable.
19. A site inspection was subsequently carried out following from the pre-DA meeting on 18 November 2021. The City recommended that a Heritage Impact Statement (HIS) be prepared to examine the extant buildings, prior to providing any planning, design or other technical officer advise on the proposal.
20. On 11 February 2022, the HIS prepared by Urbis Heritage, was provided to the City. It was assessed that the buildings on the site do not meet the threshold for heritage listing due to lack of meaningful historical and aesthetic value. The existing buildings were considered to be typically in poor and derelict condition, owing to the successive changes over time, a lack of maintenance, and prolonged lack of use over several decades.

#### **Preliminary Request for Additional Information**

21. The application was lodged on 28 February 2022.
22. Preliminary requests for additional information were sought on two occasions:
  - (a) On 21 March 2022, a preliminary request for additional information was sought, requesting for the following information:
    - (i) Requirement to provide a public benefit offer letter and enter into a Voluntary Planning Agreement (VPA) with the City for the proposed laneway as it was indicated as a new road to be delivered under the site-specific provisions in the Sydney DCP 2012.
    - (ii) Address flooding on the site to confirm compliance of the development's flood planning levels (FPLs) against the City of Sydney Interim Floodplain Management Policy.



- (iii) Consideration to a shared zone for the entire laneway or footpath widening of Judge Lane, which can be further discussed in VPA process.
  - (iv) Explore footpath widening of Forbes Street through the proposed removal of the southern driveway.
  - (v) Address universal access and path of accessibility.
- (b) On 5 April 2022, a request for information, as advised by Water NSW and Transport for NSW (TfNSW) was sent to the applicant as follows:

Water NSW

- (i) Confirmation that the structures below the predicted highest groundwater table are waterproof (tanked basement) and the dewatering management program is designed considering the minimum requirements for building site groundwater investigations and reporting.
- (ii) Details of the volume of water to be extracted annually.
- (iii) Duration of the water take for dewatering.
- (iv) Method of measuring the water take and recording.
- (v) Provide documents updated with the above information.
- (vi) Additional modelled data to support a hydro-geological review and assessment of the alternative drained basement design.

TfNSW

- (vii) Provide a copy of the electronic SIDRA files for review and verification to ensure that the development's traffic does not impact the safety and efficiency of the classified road (William Street).
- (viii) Provide a preliminary geotechnical assessment prepared in accordance with Technical Direction GTD2020-001.

23. The applicant provided additional information in response to the preliminary request on 29 April 2022 and was distributed to the relevant Council officers for assessment.

24. The applicant responded to the external agency's request on 28 April 2022 with the following:

Water NSW request

- (a) The request from Water NSW seeks detailed information about the basement design. It is noted that the basement design is only indicative at this concept DA stage. This detail will be included in the detailed DA.
- (b) The detailed DA will be referred to Water NSW as integrated development, and it is considered that this is a more appropriate time for the information to be requested, which is when the basement design will be in a finalised form.

TfNSW request

- (c) The Transport Impact Assessment, prepared by Stantec, and submitted with the concept application did not complete any intersection surveys or analysis (SIDRA) as it was not warranted based on the net change in traffic volumes on weekdays.
  - (d) The Preliminary Geotechnical Assessment, prepared by Douglas Partners, was submitted with the application, which addresses the development's interface with the Cross City Tunnel (CCT).
25. The responses and information were provided to the relevant external authorities for consideration.

## Amendments

### *Design Advisory Panel (DAP)*

26. The proposed development, as originally lodged, represented an envelope with a form reminiscent of 'three fingers'. A photomontage of the original indicative reference design is provided in Figure 19 below.



**Figure 19:** Indicative aerial photomontage of the originally submitted scheme

27. During assessment the application was presented to the Design Advisory Panel on 16 June 2022.

28. The Design Advisory Panel (DAP) provided the following advice:
- (a) Any proposal on the site needs to comply with DCP and ADG requirements and ensure the development does not result in any adverse conditions on both neighbouring buildings and units within the development;
  - (b) DCP building envelope and number of storey controls should be adhered to;
  - (c) Adhering to deep soil requirements on the site is essential;
  - (d) If the proponent pursues mixed-use, given the context of the site, larger commercial floorplates with active frontages would be more appropriate given the orientation to and acoustic conditions on William Street;
  - (e) The proposal, in exceeding the existing DCP building envelope, appears to obstruct the views of some neighbouring residences towards the harbour; and
  - (f) Given the width of the site, considerable architectural articulation on William Street will be required to reflect the scale and rhythm of the locality.

***Detailed Request for Design Modifications and Additional Information***

29. A detailed request for design amendments and additional information was sent to the applicant on 26 July 2022. The development, as initially submitted, was an overdevelopment and was not supported. Given that the proposed concept application sought to replace the site-specific DCP envelope with an alternative, it was highlighted that the overall outcome should be an equal or better than that envisioned by the DCP.
30. Specifically, the following matters were raised:
- (a) Provide amendments to the draft public benefit offer that describes the public benefit and the land and development to which it applies. The draft offer is to be signed on behalf of the landowner.
  - (b) Reiteration of DAP advice regarding the excessive bulk and scale inconsistent with the scale and form of the Woolloomooloo locality. The height non-compliance with the 6 and 8 storey height in storeys DCP control contributed to the perceived excessive bulk and mass.
  - (c) The alternative envelope does not promote view sharing. In exceeding the site-specific DCP and height in storeys controls, the proposal obstructs the views to the harbour, city skyline and iconic structures from surrounding residential developments.
  - (d) A revised View Impact Assessment is to be submitted that considers view impacts from the public domain and private residential properties who raised concern during the public exhibition.
  - (e) The indicative reference scheme demonstrated several non-compliances with the following ADG and DCP controls:
    - (i) Common open space
    - (ii) Deep soil
    - (iii) Solar access

- (iv) Common circulation areas and spaces
  - (v) Residential uses on the ground floor
  - (vi) Building separation
  - (vii) Natural ventilation
- (f) Reduce the FSR to provide an appropriate density to the surrounding context as well as define the FSR from the additional 10 per cent design excellence bonus FSR.
- (g) Landscaping and deep soil zones were deficient.
- (h) Provide landscape design principles.
- (i) Provide design principles and requirements for the new laneway to be dedicated to Council.
- (j) Increase urban canopy to the minimum 15 per cent DCP requirement.
- (k) Consider wind mitigation.
- (l) Provide a Remediation Action Plan (RAP) that is peer reviewed by a NSW EPA Accredited Site Auditor with a Section B Site Audit Statement or letter of interim advice.
- (m) Revised Traffic Impact Assessment to provide further detail on routes and roads affected by the development.
- (n) Provide details on the number of car parking, bicycle parking and servicing spaces in accordance with Section 3.11 of the Sydney DCP 2012.
- (o) Amend the Design Excellence and Public Art Strategies.
- (p) Recommendation to exceed the minimum BASIX legislated energy and water benchmarks.
31. The applicant responded to the detailed request and provided a new scheme and additional information on 28 March 2023. This was distributed to Council staff and external authorities for consideration.

***Design Advisory Panel Residential Subcommittee (DAPRS)***

32. The amendments to the building envelope submitted in March 2023 demonstrated a substantially different scheme to that originally submitted. The amendments comprised of three separate envelopes separated by through-site links. A photomontage of the amended indicative reference scheme is provided in Figure 20 below.



**Figure 20:** Indicative aerial photomontage of the amended 'three-massing' scheme

33. Following from a detailed assessment of the amended proposal, the application was presented to the Design Advisory Panel Residential Subcommittee (DAPRS) on 4 July 2023. The following advice was provided:
- (a) Generally, the proposed reference scheme is an overdevelopment of the site in a number of key areas given that the site has significant heritage and contextual constraints, and therefore is not supported in its current form.
  - (b) The floor space ratio being sought appears more relevant to commercial and large format retail development and is unsuitable for residential development. This is evident in the number of ADG controls not met.
  - (c) The Panel would support a greater extent of commercial use within the scheme along William Street - potentially replacing deep residential uses and particularly at Ground level, Level 1, and Level 2.
  - (d) The proposed building separations, apartment depths, living rooms deeper than 9 metres, bedrooms facing into 'slots', and percentage of units with no sun create significant inconsistencies with the ADG. A thinner u-shaped residential building along William Street and returning along Forbes Street and Dowling Street should be investigated and is more likely to achieve the support of the Panel.
  - (e) The Panel is concerned the William Street building envelope - which the reference design anticipates will accommodate larger, deeper, luxury apartments - may be changed in future design stages to yield more south-facing single-aspect units achieving too little amenity.



- (f) Notwithstanding the above comments the direction of this proposal is considered more appropriate than the initial 'three finger' envelope proposal.
- (g) The increased setback to Judge Lane is commended however this new space needs to be discussed with Council to determine levels, allocation of deep soil, design, and possible dedication.
- (h) The proposed semi-public, east-west through site link for retail should be clearly enshrined in the building envelope to define and preserve the public benefit of this link in future stages of the development, rather than existing as an aspiration in the reference design. Being open to the sky, DDA compliant access, comfortable stair grades, clear connection with the surrounding urban fabric, good sight lines and CPTED requirements for the public lift will need careful consideration.
- (i) The through-site link positively aligns with William Lane – creating good sight lines and a logical extension of the laneway network. The offset from Brougham Lane on the east may be able to be better addressed and resolved to link more directly.
- (j) The intersecting north-south semi-public link should also be captured in the building envelope. The height and width of the opening should be nominated and suited to its public nature and appear more generous (vertically) and public in its character.
- (k) Amenity issues posed by the through-site link such as light spill and noise will also need to be addressed for residential uses above. The Retail and Ground Plane Strategy notes that glass awnings may be considered. The Panel is concerned this has the potential to enclose the lane and reduce the publicness. The desire for a comfortable outdoor environment will need to be balanced with the requirements of a public lane and openness to the sky.
- (l) The pedestrian interfaces to lanes and streets need more resolution. The status of the new open space to Judge Lane should be discussed with Council including dedication and deep soil (unencumbered by pavement or basements) and the relationship to the levels of Judge Lane. The interface of the substation enclosure and car park wall with the ground level deep soil spaces should be reviewed for opportunities to instead contribute to the quality of the public realm.
- (m) The proposed cruciform block structure, as the fundamental organising idea, is considered an appropriate/better response to the site and context and has more potential to meet ADG requirements than the current site-specific DCP.
- (n) The Panel recommends that the overall heights in the site-specific DCP should not be exceeded, however consider that the proposed building street frontage heights are acceptable on the north adjacent to the low-scale residential buildings in Dowling and Forbes Streets due to the proposed greater building separation and landscaped buffer along Judge Lane.
- (o) The proposed driveway entry on Forbes Street is within a nominated 'active street frontage' which excludes driveway entries if there are other alternatives. Alternative driveway positions and their merits, or otherwise, should be discussed with Council.

- (p) The general architectural articulation of the William Street building in the reference scheme is much improved, but the Panel is concerned the envelope remains too deep north-south to deliver consistently acceptable residential amenity. One solution may be to increase the proportion of FSR dedicated to non-residential uses by incorporating a greater proportion of commercial use at Ground floor and Level 1 (and potentially Level 2) in the William Street block and reducing the depth of the residential levels above. This may also assist in reducing potential acoustic impacts of the retail lane on the residential apartments above.
- (q) The shared commercial/residential lobbies in the Reference Scheme and the long, unrelieved corridors are not considered a good outcome.
- (r) The 10 per cent unencumbered deep soil and 15 per cent tree canopy areas are supported and need to be maintained within any detailed design solution.
- (s) Well-designed communal open space on roof tops is supported. The through-site link should not be included in the calculation for the residential communal open space.

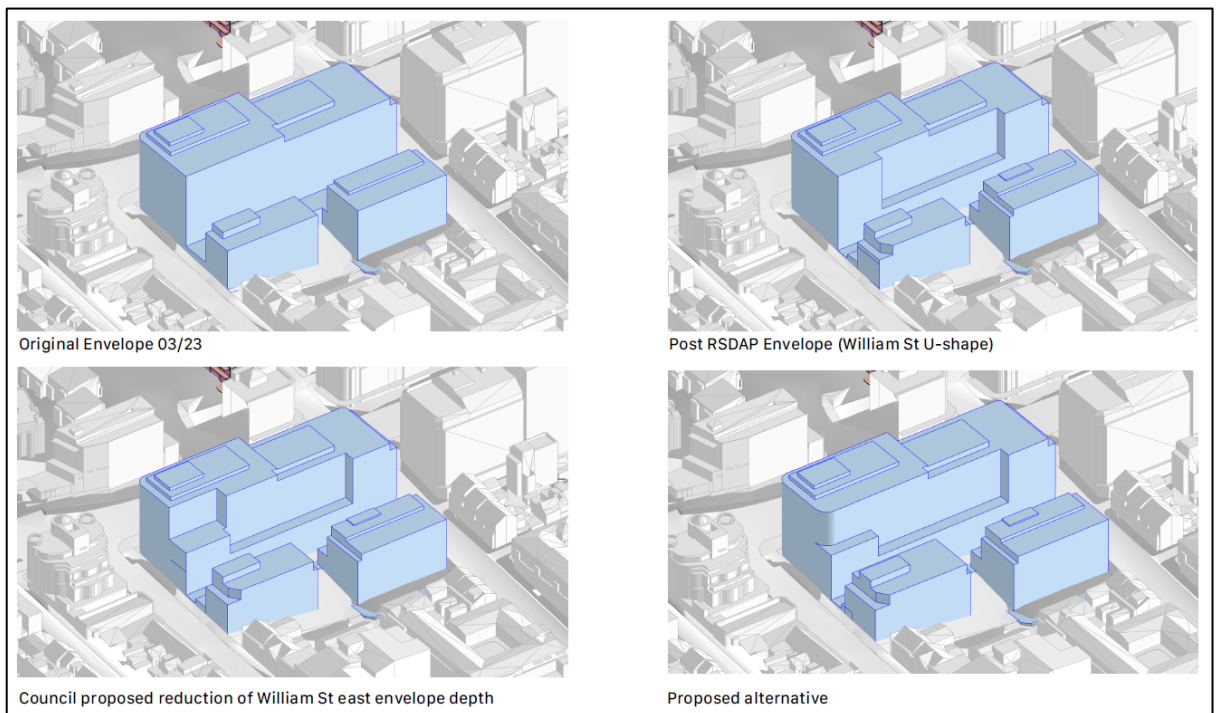
### ***Further Design Modifications***

34. On 18 August 2023, a further request for design modifications was sent to the applicant, requesting for the following:
- (a) Reiteration of the DAPRS advice and recommendations in relation to the building envelope and compliance with the ADG.
  - (b) Specifically, modifications to the envelope were sought to address envelope depth and separation:
    - (i) The envelopes must be reduced to meet the minimum 18 metre separation. In turn, the centrally located deep soil zones must be increased.
    - (ii) The William Street envelope must be reduced to have a maximum building depth of 24 metres. This figure contemplates an indicative reference scheme that meets the maximum 18 metre building and apartment depth, in addition to the provision of private open spaces areas and building articulation in a future detailed design proposal.
    - (iii) The reduction in the depth of the William Street envelope would also address the DAPRS's recommendation of the new retail laneway aligning with Brougham Lane on the east to enhance sightlines and reinforce the extension of the laneway network.
    - (iv) The reduction of the building depth of the William Street envelope would also promote view sharing with neighbouring properties.
  - (c) Having regard the recommendations envelope amendments, the Visual Impact Assessment must be revised to provide a view analysis of the impacts of the amended envelope.
  - (d) The indicative reference scheme must address non-compliance with Sydney DCP 2012 and the ADG:

- (i) Common open space.
  - (ii) The new retail laneways must be excluded from the calculations of landscaped areas.
  - (iii) Common circulation areas and spaces.
  - (iv) Deficient corridor widths.
  - (v) Sharing of lifts and lobbies between retail, commercial and residential uses.
  - (vi) Provide a community room.
- (e) Provide amended architectural plans, including envelope and reference scheme drawings that address:
- (i) The principles of the development must be enshrined in the envelope drawings with dimensions and annotation, such as:
    - (i) Through-site links
    - (ii) Deep soil zones
    - (iii) Extent of the basement
    - (iv) Access location
    - (v) Land dedication
    - (vi) Dimensions of any setbacks
    - (vii) Raised levels (RLs)
  - (ii) The indicative reference scheme drawings must demonstrate it is wholly contained within the envelope.
  - (iii) Demonstrate that all indicative structures, including lift overruns, sun shading structures and plant, are capable of being provided within the proposed envelope.
35. On 7 September 2023, the applicant's design team presented their responses to the request for design modifications in a meeting with Council. These included:
- (a) Updated visual impact assessment, that carried out studies to 196-200 William Street, Woolloomooloo.
  - (b) Alignment with Brougham Lane was considered unreasonable as it provides no link, sightlines and is bookended by a power pole and substation.
  - (c) A portion of the Dowling Street massing envelope was deleted to enable view sharing from 196-200 William Street, Woolloomooloo.
  - (d) The William Street massing envelope was adjusted to include an indent that resulted in a building depth of 27 metres. This would provide reduced building and apartment depth to address the non-compliances with the ADG.

- (e) Increased building separation between the envelopes.
  - (f) Provision of additional common open space areas in the reference scheme.
  - (g) Provision of separate lobbies and lift access between commercial and residential uses in the reference scheme.
36. Following from the meeting, Council officers raised further concerns for the William Street massing envelope and recommended that the building depth at the southern portion along Dowling Street be reduced to align with the site-specific DCP envelope. This would reduce bulk at this location and enable view sharing with neighbouring residential properties.
37. In response, the applicant proposed to regularise, pull back and chamfer the upper levels of the south-eastern corner of the William Street massing envelope from 31 to 27 metres, to enable a greater degree of view sharing. The depth of the Dowling Street massing envelope was also increased by approximately 4 metres.
38. On 11 October 2023, amended plans and additional information was submitted to Council and was distributed to Council staff for further assessment. The information was not required to be notified or advertised as the amendments do not result in significant additional environmental impacts as per the City of Sydney Community Engagement Strategy and Participation Plan 2023.
39. Specifically, the final amendments to the concept envelopes are as follows:
- (a) Dowling Street massing:
    - (i) 3-metre street wall set back at upper floors and corner chamfered on north-east to accommodate view sharing across the site.
    - (ii) 4-metre street wall set back at the south and corner chamfered on north-east to accommodate view sharing across the site and reduce perceived bulk and scale.
  - (b) William Street massing:
    - (i) Northern façade is set back by 4-metres to reduce overall envelope depth and reduce bulk and scale.
    - (ii) Upper volume adjusted by 0.55 metres to allow to roof access.
    - (iii) Southern extent of envelope shifted 4-metres to the south to accommodate view sharing envelope adjustments.
    - (iv) Stepping of envelope to enforce ADG separation at the north-west and north-east areas.

40. An extract of the modifications made to the envelopes as it relates to the revised 3-massing scheme is provided in the figure below.



**Figure 21:** Evolution of the 3-massing envelope scheme

### Proposed Development

41. The latest amended proposal seeks consent for a concept development application pursuant to Section 4.22 of the Environmental Planning and Assessment Act 1979 for the redevelopment of 164-172 and 174-194 William Street, Woolloomooloo.
42. The subject application seeks an alternative to the current site-specific provisions prescribed in Section 6.2.9 of the Sydney DCP 2012.
43. Specifically, the application seeks, in-principle approval for the following:
- (a) Demolition of existing structures;
  - (b) Excavation for 3 basement levels;
  - (c) Building envelopes for a mixed-use development with:
    - (i) 1 x 5-storey building on Forbes Street with a maximum height at RL 37.45;
    - (ii) 1 x 6-storey building on Dowling Street with a maximum height at RL 40.00
    - (iii) 1 x part 9 and 10 storey building on William Street with a maximum height at RL57.9 and street wall height of RL 49.3 and RL 55.00 to William Street;
  - (d) Consolidated vehicle access from Forbes Street;
  - (e) Through-site links;



- (f) Deep soil zones;
  - (g) Capacity for 25,414 square metres of gross floor area (GFA), including
    - (i) 20,545 square metres of residential GFA;
    - (ii) 1,267 square metres of commercial GFA; and
    - (iii) 3,602 square metres of retail GFA.
44. The submitted design excellence strategy sets out a competitive design process for the site and specifies that up to 10 per cent additional floor space is sought in accordance with the design excellence provisions contained in clause 6.21D of the LEP.
45. Subject to the achievement of design excellence through competitive design processes and in a subsequent DA for the detailed design of the building, the proposed development may be able to achieve up to 10 per cent additional floor space.
46. The site owner has made a written offer to the City to enter into a Voluntary Planning Agreement (VPA) that is consistent with the site-specific requirements in the Sydney DCP 2012 for a new laneway.
47. The draft VPA that has been prepared in association with the subject development application provides for the following public benefits:
- (a) Dedication and transfer of 355 square metres of land for a new pedestrian laneway; and
  - (b) Developer's works to construct the laneway.
48. Drawings of an indicative reference scheme have been lodged with the application to demonstrate how a detailed building design may be able to be configured within the proposed concept envelopes. These reference scheme drawings are not approved as part of any consent granted and are for assessment purposes only.
49. No demolition or physical works are proposed as part of the subject application.
50. Photomontages, plans and elevations of the proposed development are provided in the figures below.



**Figure 22:** Indicative proposed photomontage, viewed from the corner of Willam and Forbes Streets



**Figure 23:** Indicative proposed photomontage, viewed from the corner of Judge Lane and Forbes Street



Figure 24: Proposed basement envelope plan

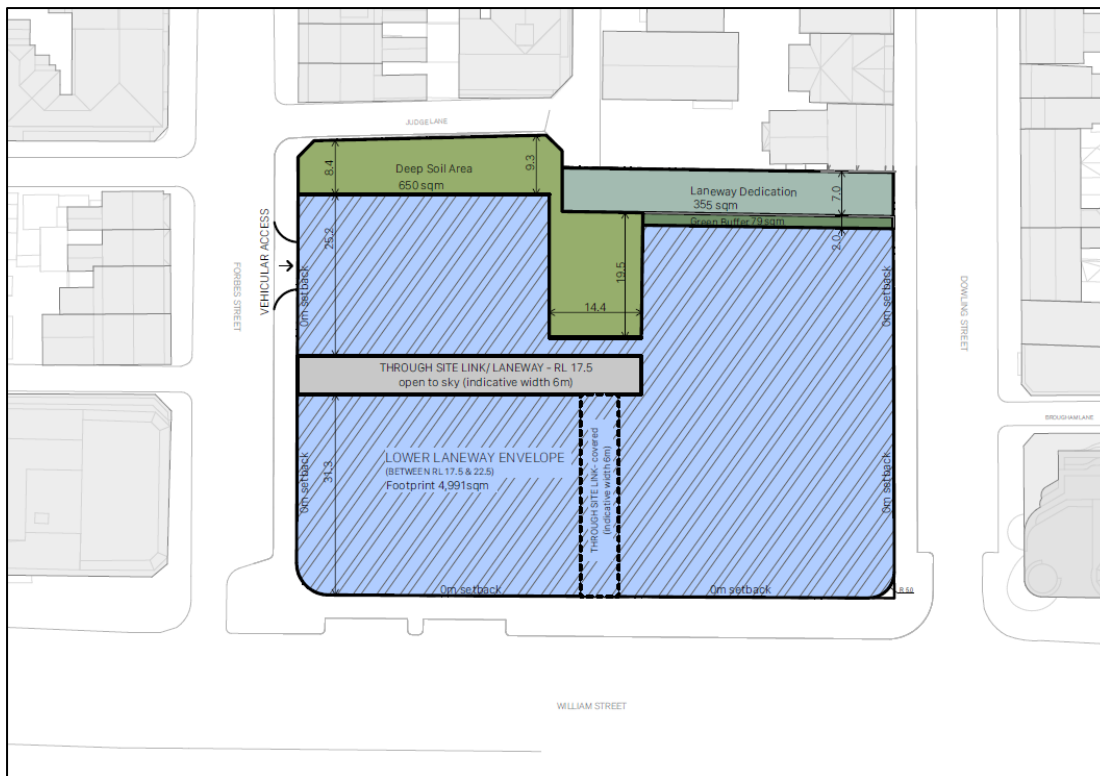


Figure 25: Proposed laneway envelope plan

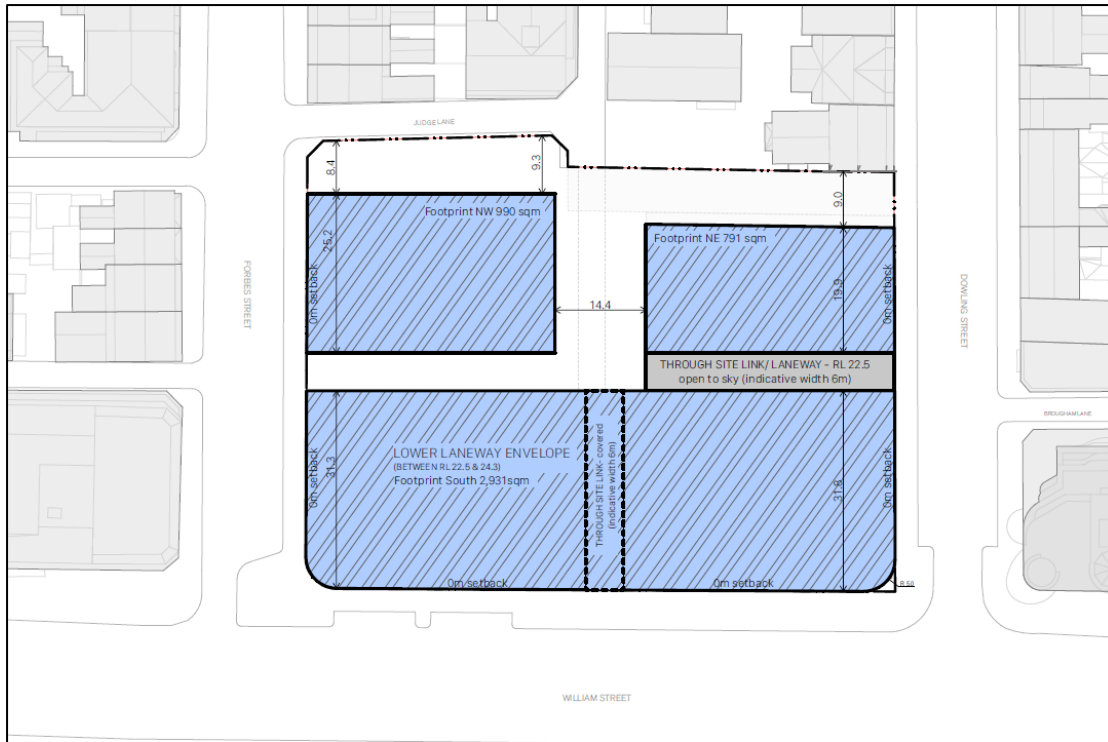


Figure 26: Proposed upper laneway envelope plan

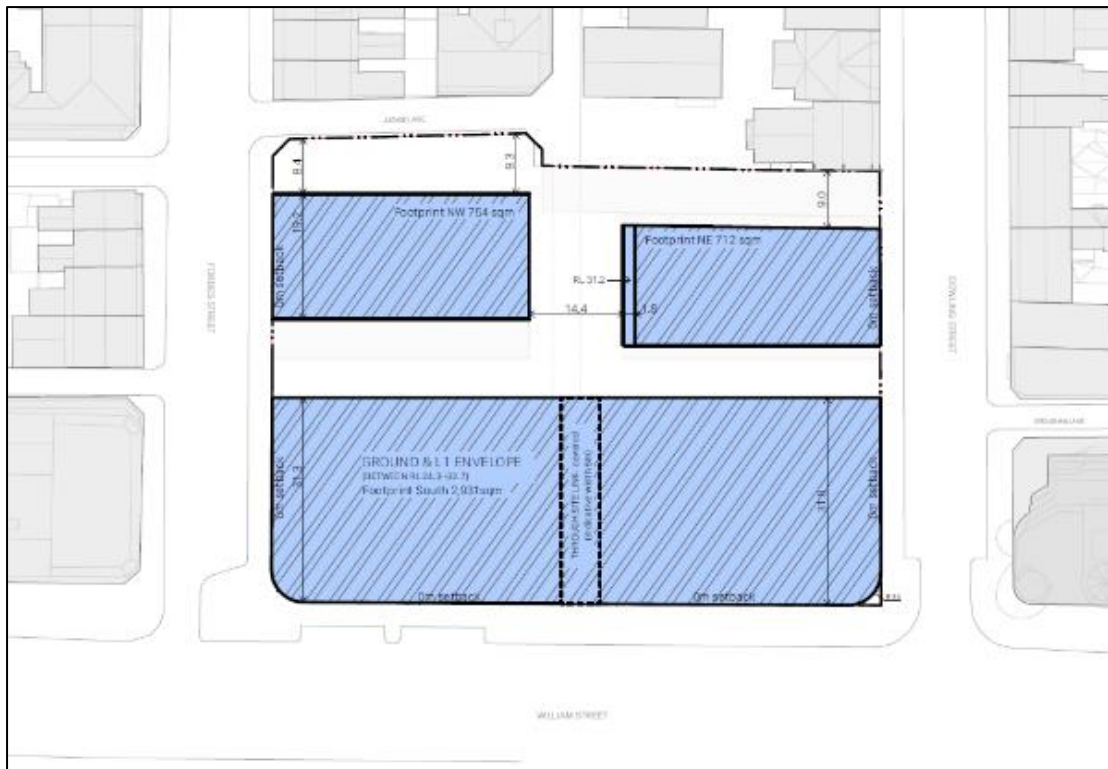


Figure 27: Proposed ground and level 1 envelope plan



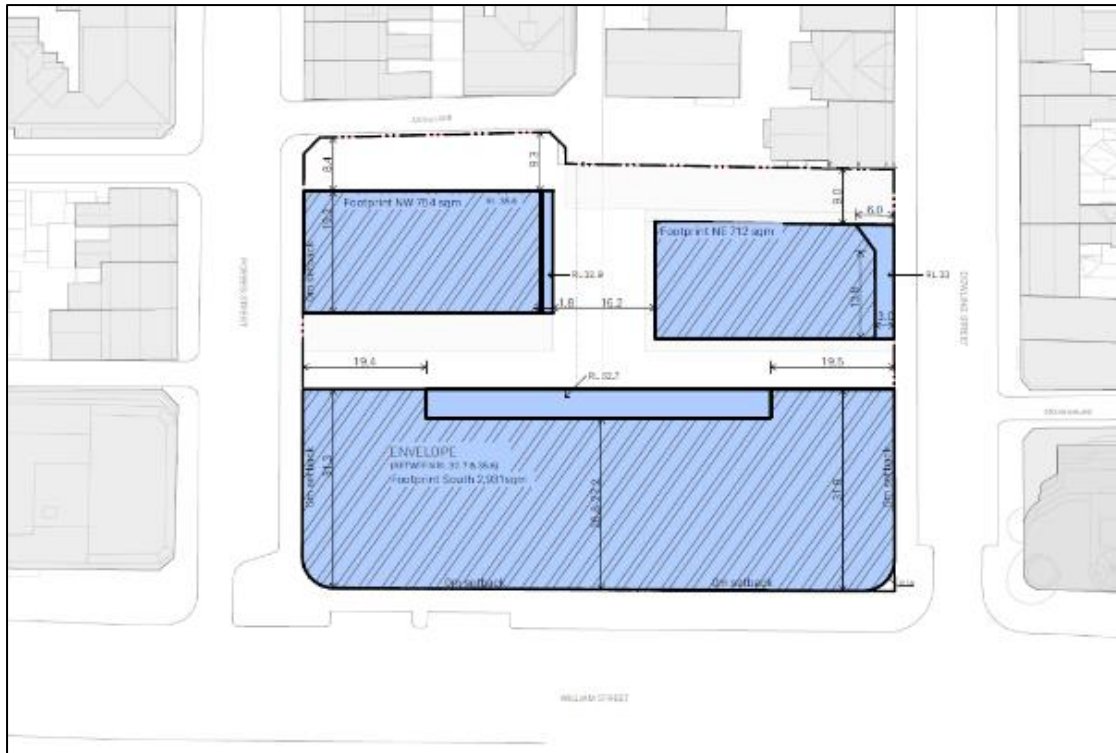


Figure 28: Proposed lower-level envelope plan

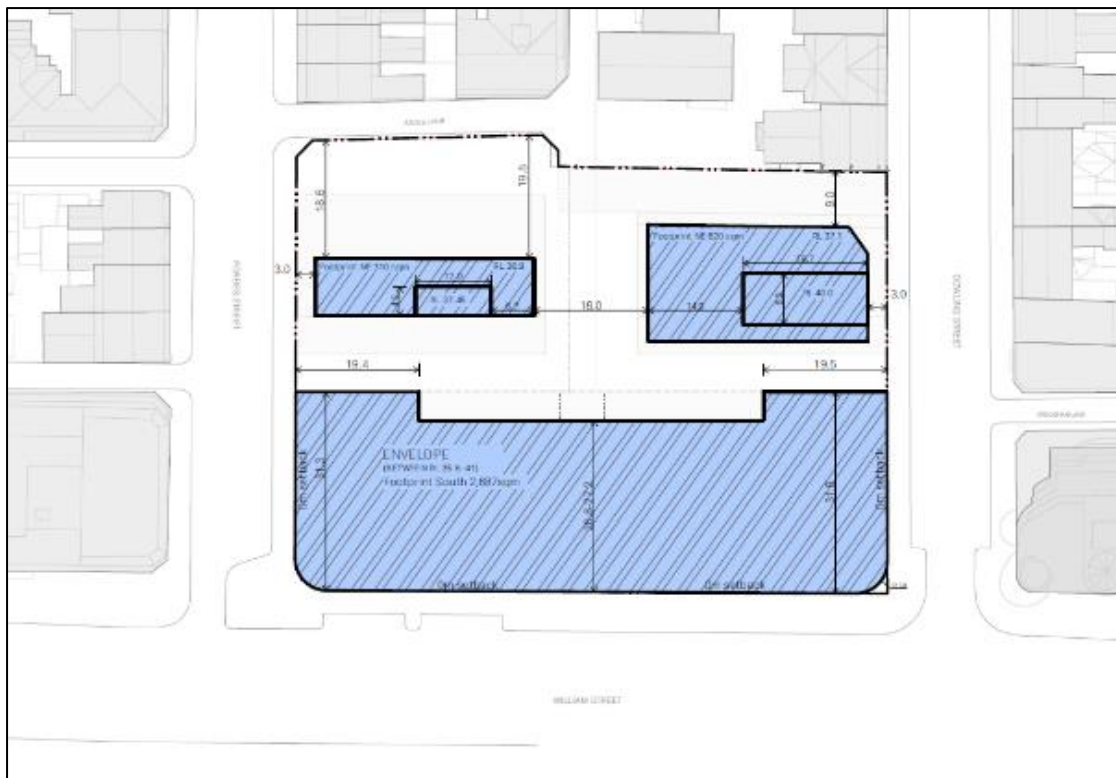


Figure 29: Proposed mid-level envelope plan

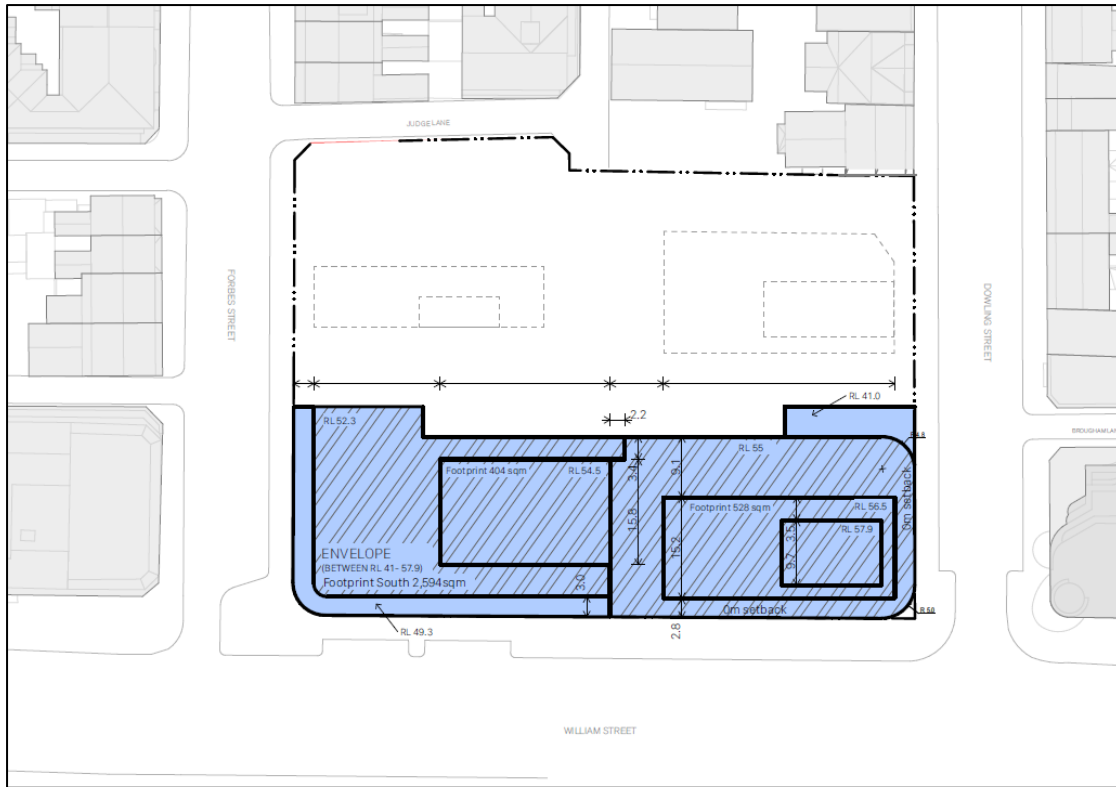


Figure 30: Proposed high-level envelope plan

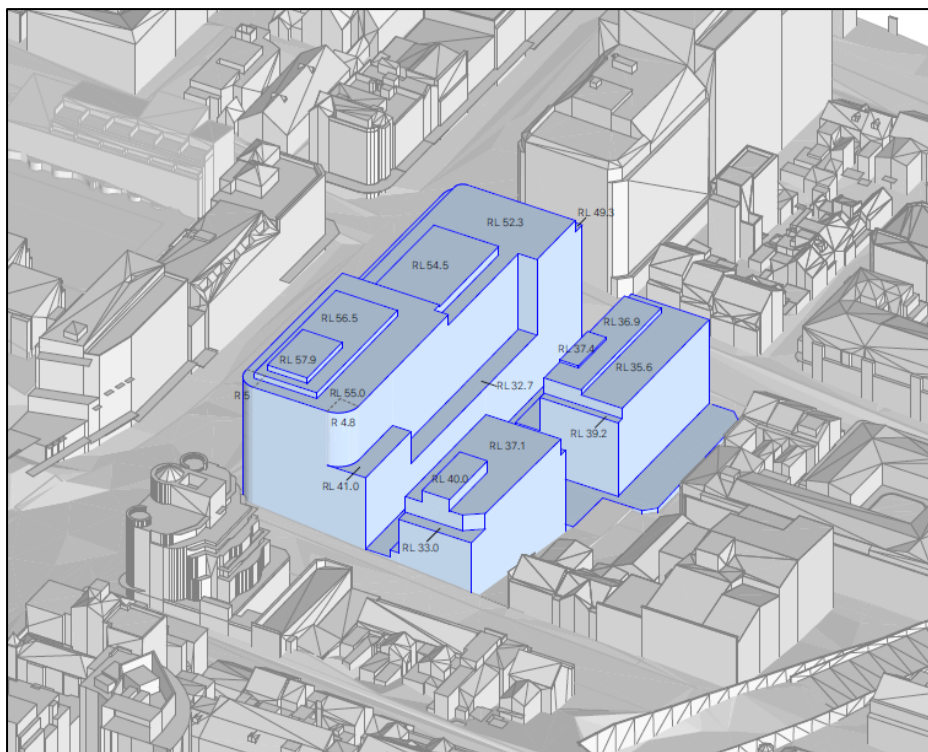


Figure 31: Proposed envelope axonometric view from the north-east

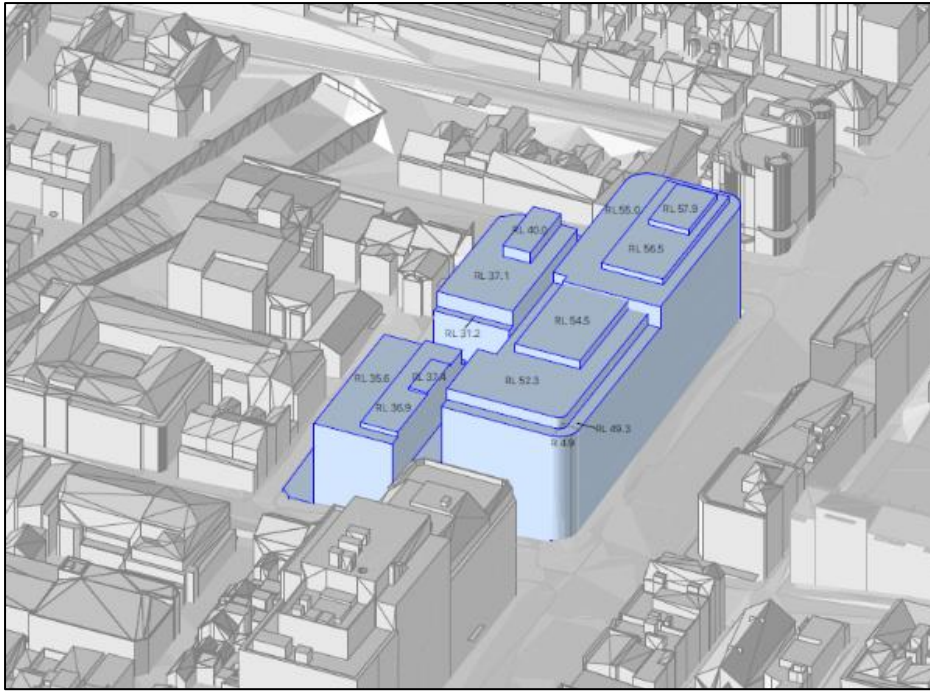


Figure 32: Proposed envelope axonometric view from the south-west

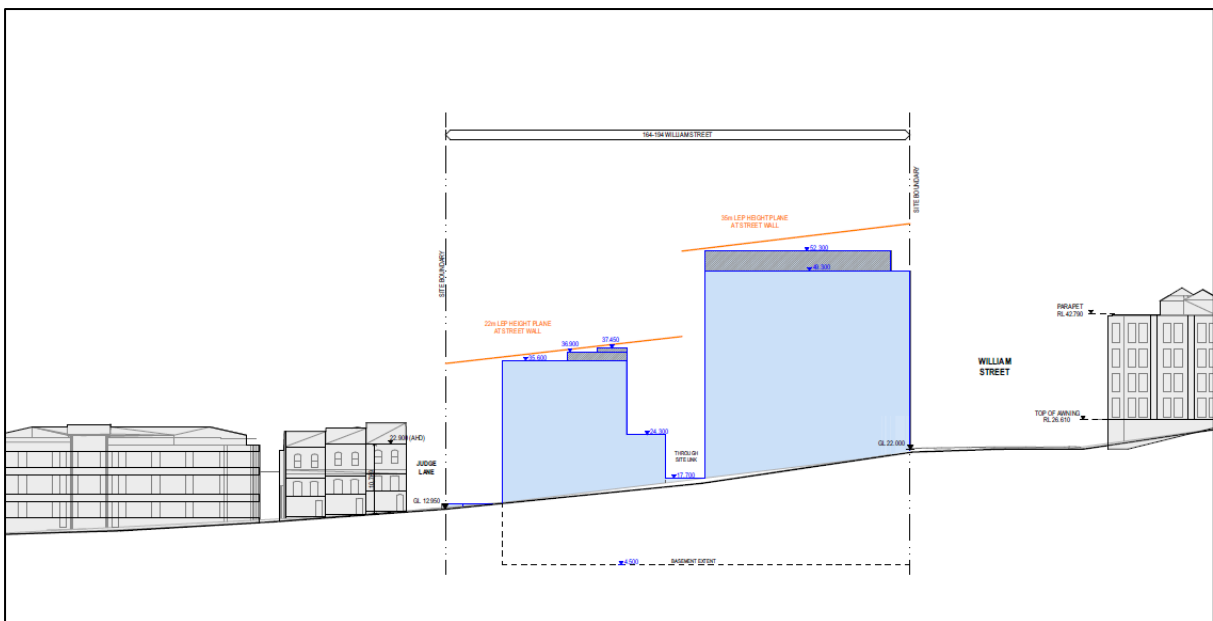


Figure 33: Proposed Forbes Street envelope elevation

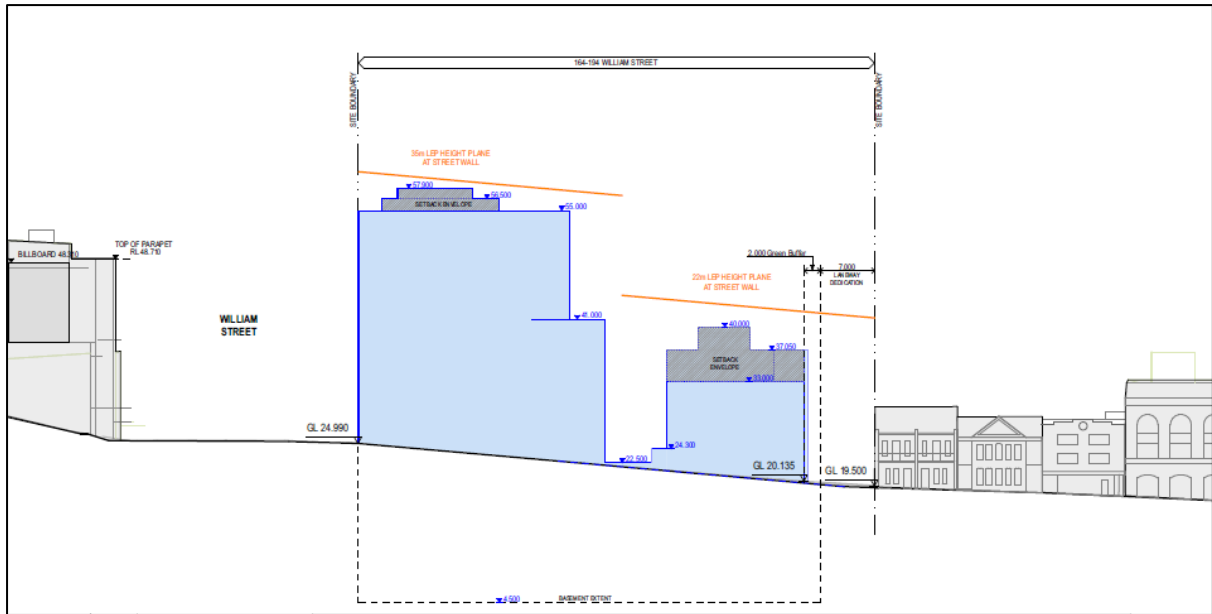


Figure 34: Proposed Dowling Street envelope elevation

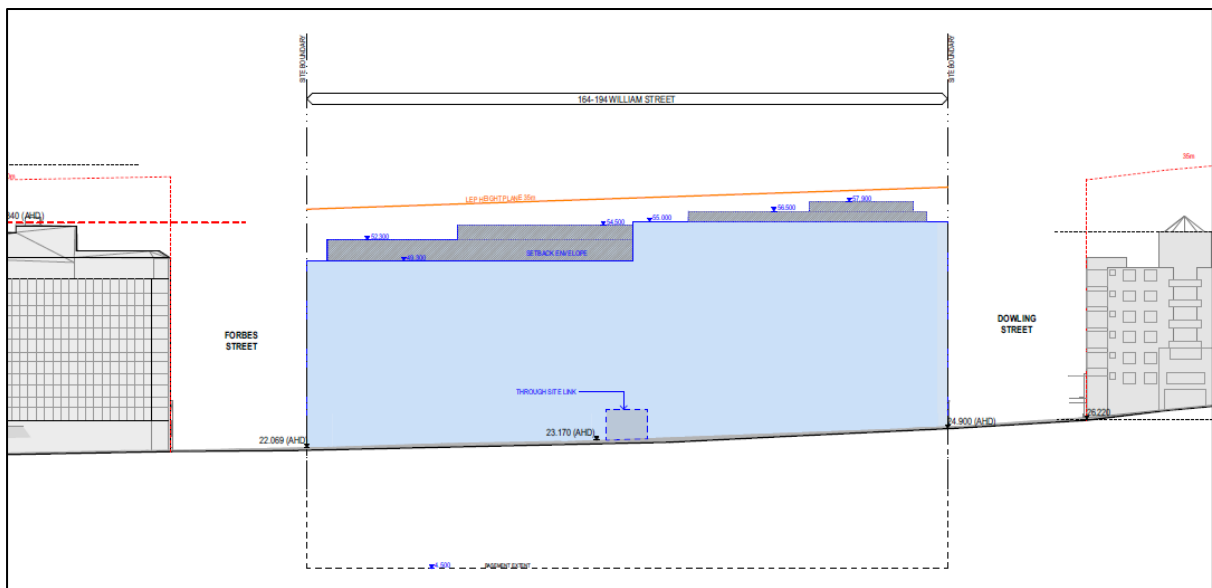


Figure 35: Proposed William Street envelope elevation





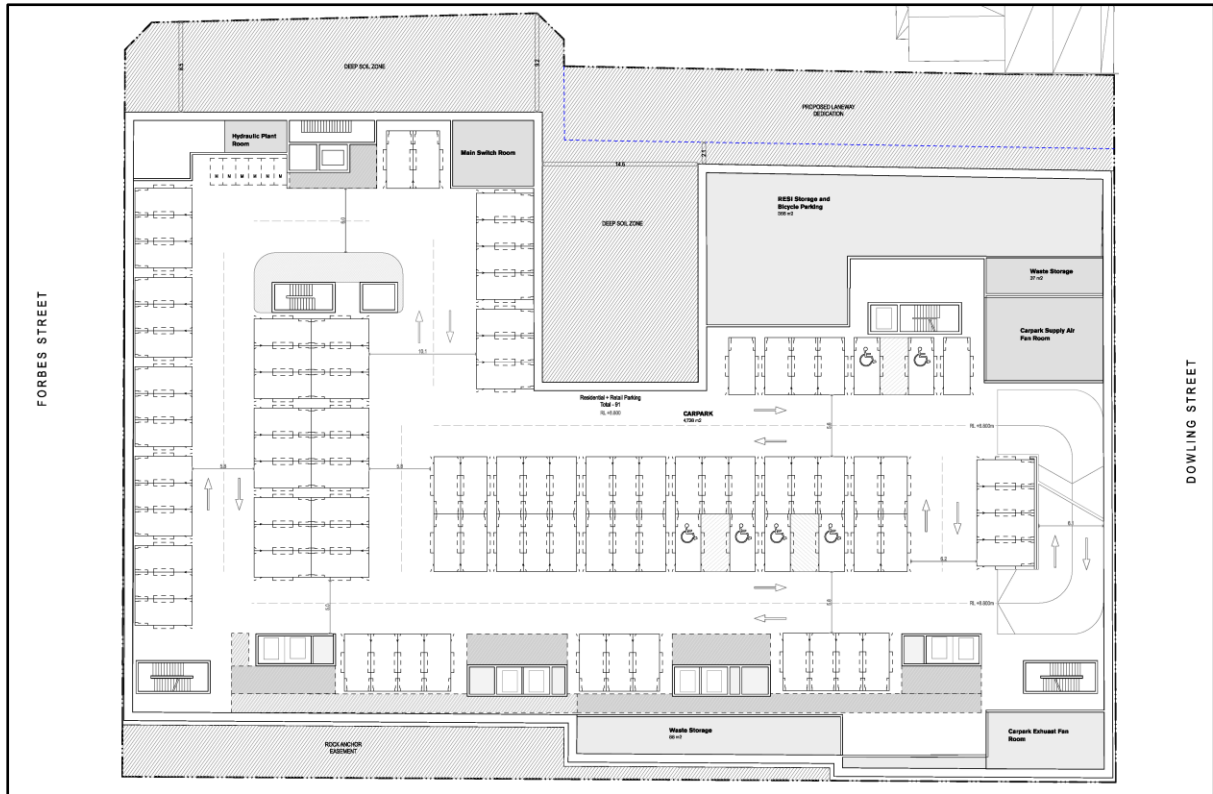


Figure 38: Indicative basement 01 plan

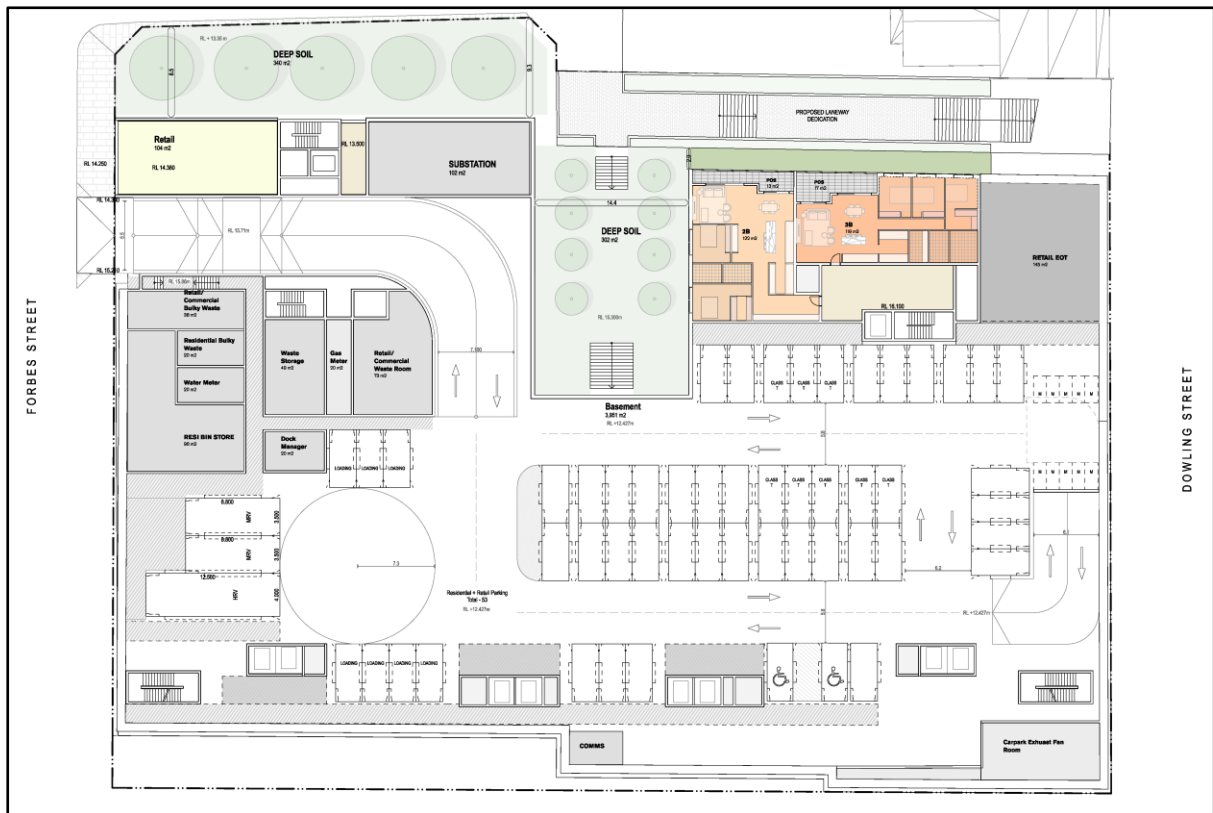


Figure 39: Indicative ground floor Judge Lane plan





Figure 42: Indicative level 01 plan



Figure 43: Indicative level 02 plan





Figure 44: Indicative level 03 plan



Figure 45: Indicative level 04 plan



Figure 46: Indicative level 05 plan



Figure 47: Indicative level 06 plan

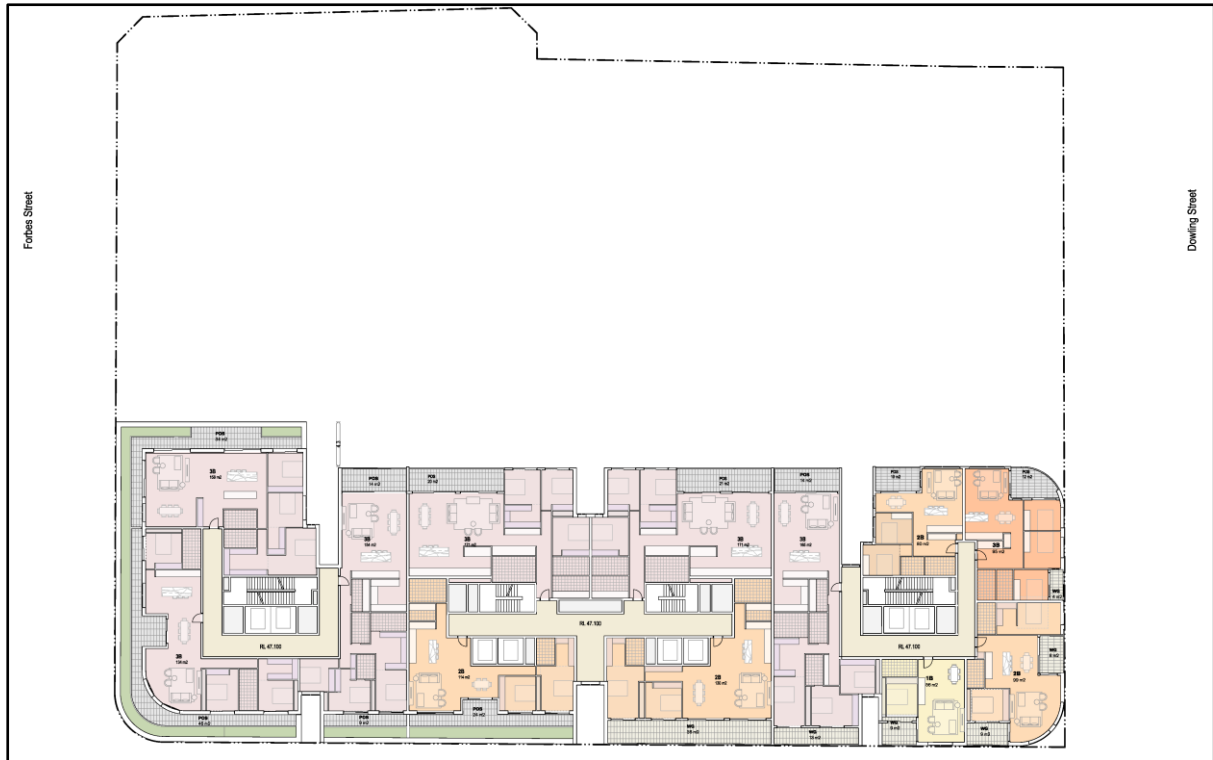


Figure 48: Indicative level 07 plan

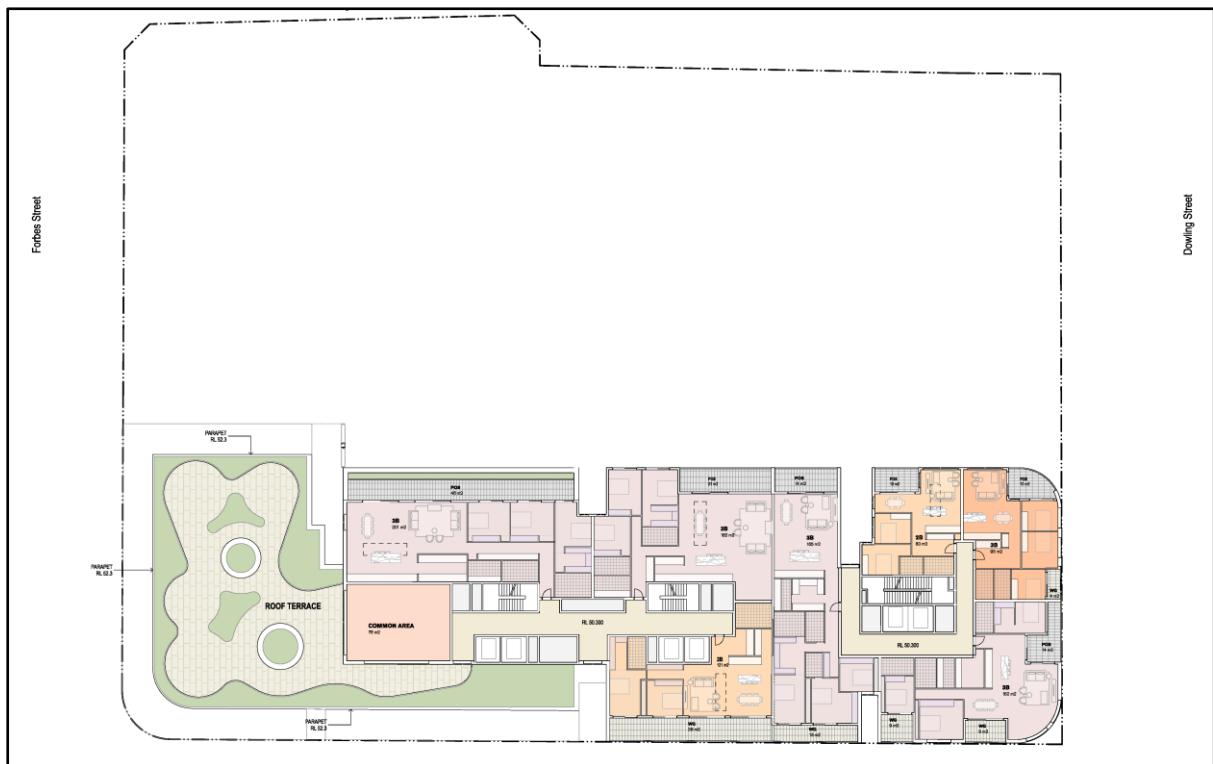
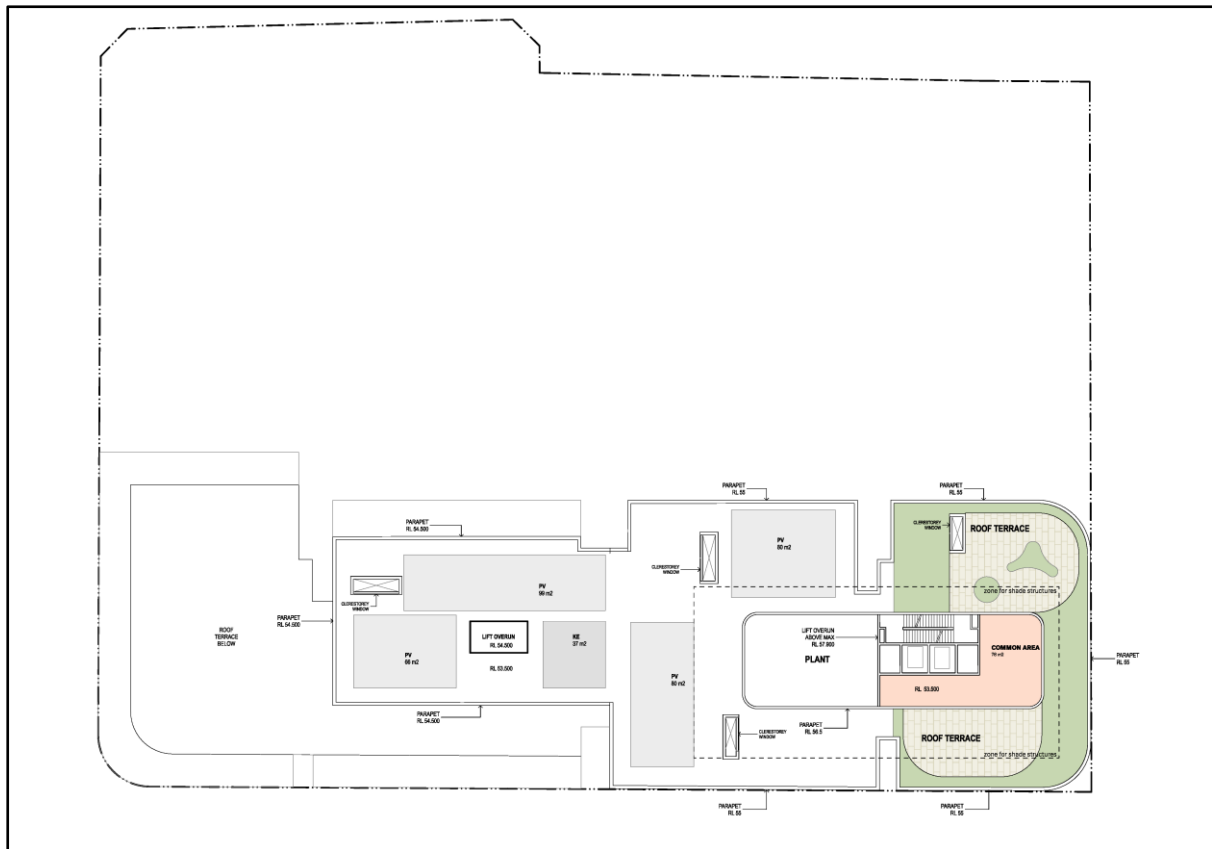


Figure 49: Indicative level 08 plan



**Figure 50:** Indicative roof plan

## Assessment

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

## State Environmental Planning Policies

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

32. The aim of Chapter 4 of the SEPP Resilience and Hazards 2021 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. A Detailed Site Investigation (DSI), prepared by Douglas Partners, was submitted with the application. The site investigations have identified the following contaminants:
- The fill on the site is likely to be impacted by common contaminants such as PAH, lead, and other hydrocarbons.
  - Some upper layers of natural soils may be impacted by the overlying fill, and there may also be some hydrocarbons impacts in the vicinity of the USTs.



- (c) Fill containing elevated lead and PAH concentrations has been encountered in some of the borehole locations.
  - (d) These and similarly contaminated fill will require remediation and / or specific waste classification prior to removal from the site and if within an area of proposed bulk excavation.
  - (e) There is likely to be some legacy hydrocarbon contamination in the tank pits of the decommissioned USTs, and possibly the associated infrastructure.
  - (f) There is a possibility that additional tanks remain on site.
34. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice has been submitted with the development application.
35. The RAP proposes:
- (a) To demarcate the deep soil zone and laneway as shown on Drawing 1 in Appendix A following demolition.
  - (b) Install and sample groundwater wells around the site perimeter.
  - (c) Depending on the groundwater levels and water quality monitoring results, prepare a dewatering management plan (DWMP).
  - (d) Undertake supplementary data gap assessment (DGA) testing as outlined in the deep soil zone, laneway and the remainder of the site preferably using test pits, with sufficient sampling density to allow statistical analysis of results for fill and waste classification or validation.
  - (e) Determine whether further tanks are present and remove tanks according to the provisions of UPSS and relevant Australian Standards.
  - (f) Classify remaining fill to site boundaries for off-site disposal using test pits by either in situ testing or stockpile testing methods.
  - (g) Excavate fill across the site as part of bulk earthworks.
  - (h) Where necessary, segregate and handle waste of different classification accordingly to minimise cross-contamination of waste streams.
  - (i) Validate remaining side walls and floor in natural soil or rock.
36. The RAP also outlined the following reports are to be prepared prior to remediation:
- (a) Groundwater Data Gap Investigation Report;
  - (b) Data Gap Assessment Report; and
  - (c) In-situ Waste Classification.
37. The interim advice prepared by an NSW EPA Accredited Auditor has been submitted as part of the application. The Site Auditor's advice confirms that the site can be made suitable for the proposed uses, subject to the implementation of the RAP.

38. The Council's Health Unit has reviewed the information provided. Given that the proposed development is for a concept proposal, the supplementary reports required prior to remediation can be considered and sought in the detailed development application for physical works.
39. Overall, the Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

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

40. The aim of SEPP 65 is to improve the design quality of residential apartment development in New South Wales. SEPP 65 applies to the proposal as any subsequent detailed development application will comprise a residential flat building of three or more floors and containing four or more apartments.
41. 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.
42. The applicant has submitted a design verification statement and SEPP 65 design report prepared by Richard Francis-Jones (NSW registration number ARBNSW 5301) and Elizabeth Carpenter (NSW registration number ARBNSW 6141) 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(2) of the Environmental Planning and Assessment Regulation 2021.
43. An assessment of the proposal against the design quality is provided as follows:
  - (a) Principle 1: Context and Neighbourhood Character
    - (i) Detailed testing of the envelope has been undertaken to demonstrate siting, bulk, scale, and orientation to minimise overshadowing of residential apartments on neighbouring properties in accordance with the design guidance and criteria to Apartment Design Guide (ADG) objectives 3B-2 and 4A-1.
    - (ii) The subject proposal establishes envelopes to accommodate development of an appropriate bulk and scale that is capable of providing a sympathetic detailed design response to the key natural and built features of the area.
  - (b) Principle 2: Built Form and Scale
    - (i) The reference scheme demonstrates that the proposed envelopes are capable of accommodating development of a built form and scale envisaged under the relevant planning controls.
  - (c) Principle 3: Density
    - (i) The indicative reference scheme demonstrates that the proposed envelopes are capable of accommodating development of a density envisaged under the relevant planning controls.

- (d) Principle 4: Sustainability
  - (i) The energy efficiency and sustainability of the design will form part of the subsequent DA for the detailed of the building.
  - (ii) ESD target benchmarks have been incorporated into the Design Excellence Strategy that is recommended for approval.
- (e) Principle 5: Landscape
  - (i) A concept landscape design was submitted with the application, setting high level design principles that refer to the potential for deep soil zones and landscaping along Judge Lane and within the envelope.
  - (ii) The proposal seeks consent for a concept building envelope only, and it will be necessary for a more detailed analysis and assessment of any scheme against the landscape principles as part of any future detailed design development application.
  - (iii) It should also be noted that prior to any such development application, a competitive design process will be required. The provision and location of communal and private areas open space will form part of the overall architectural design.
- (f) Principle 6: Amenity
  - (i) The subject concept proposal is for an envelope and indicative land uses only, with the amenity for future residents to be assessed upon lodgement of a subsequent DA for the detailed design of the building.
  - (ii) The concept proposal includes a reference scheme to demonstrate that the proposed envelope can accommodate a building that complies with the SEPP design quality principles and objectives.
  - (iii) An assessment of the reference scheme, sometimes referred to as the 'proof of concept,' concludes that the site can provide an adequate level of amenity in keeping with ADG objectives pertaining to residential floor to ceiling heights, solar access, and natural ventilation (as outlined in the ADG compliance table below).
  - (iv) Amenity objectives, such as those pertaining to minimum sizes of apartments, private open space, common circulation, and storage will be assessed in detail upon lodgement of a subsequent DA for the detailed design of the building.
- (g) Principle 7: Safety
  - (i) The subject proposal is for an envelope and indicative land uses only, with the detailed design of the building to be the subject of a competitive design process and a subsequent DA.
  - (ii) It is considered that the buildings can be designed to address safety and the relevant Crime Prevention Through Environmental Design (CPTED) considerations.

- (h) Principle 8: Housing Diversity and Social Interaction
    - (i) The indicative reference design demonstrates that there will be a suitable mix of dwellings provided in the proposed building envelopes on the site and that a future building can be provided with adequate areas of communal open space. This will require demonstration in any future detailed design development application.
  - (i) Principle 9: Aesthetics
    - (i) This is a matter for a subsequent detailed design development application. A condition is recommended to ensure that the future building provides suitable architectural diversity, expression, and character in order to achieve consistency with this design quality principle.
44. 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 Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council’s own controls.
45. An assessment of the proposed indicative reference scheme against the Apartment Design Guide (ADG) is provided below.

2E Building Depth	Compliance	Comment
12-18 metres (glass to glass)	Able to comply	<p>The William Street massing envelope provides building depths of 28.6 to 31.8 metres.</p> <p>The deepest apartments in the reference scheme have a depth up to 23 metres, which exceeds the recommended maximum building depth requirements.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

2F Building Separation	Compliance	Comment
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18 metres between habitable rooms / balconies</li> <li>• 12 metres between habitable and non-habitable rooms</li> </ul>	Able to comply	<p>The Forbes and Dowling Street massing envelopes are generally 5 and 6 storeys in height. The separation between the massing in the reference scheme is 14.4 metres between balconies and non-habitable rooms, which complies with the control.</p> <p>The William Street massing envelope is approximately 10 storeys in height and provides a varied separation to the</p>



2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> <li>9 metres between non-habitable rooms</li> </ul>		<p>Forbes and Dowling Street massing envelopes to the north at the lower levels. This massing provides a minimum 9 metre building separation between non-habitable rooms and a minimum 12 metre separation between balconies and non-habitable rooms to the other envelopes.</p> <p>The reference scheme provides building separation of 13.4 and 16.4 metres between balconies and habitable rooms however, which is inconsistent with the design guidance to this objective.</p> <p>Notwithstanding this, the reference scheme generally demonstrates that a detailed design can achieve the ADG building separation design criteria at a height of five to eight storeys.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
<p>Nine storeys and above (over 25 metres):</p> <ul style="list-style-type: none"> <li>24 metres between habitable rooms / balconies</li> <li>18 metres between habitable and non-habitable rooms</li> <li>12 metres between non-habitable rooms</li> </ul>	<p>Yes</p>	<p>The upper levels above 6 storeys on the William Street massing envelope would achieve the minimum building separation distances.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</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>Able to comply</p>	<p>The reference scheme provides common open space areas on the roof top levels of each building envelope measuring approximately 325 square metres (Forbes Street massing), 313 square metres (Dowling Street massing) and 722 square metres (William Street).</p>

3D Communal and Public Open Space	Compliance	Comment
		<p>Collectively, this equates to 1360 square metres of common open space which is below the required 1560 square metres.</p> <p>Notwithstanding it is considered that the development is able to comply with the requirement. Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the development.</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 indicative rooftop common open space areas are the principal areas for the development and will receive sunlight throughout all times of the day. The areas are directly accessed from common circulation areas, entries, and lobbies.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6 metres.</p>	<p>Yes</p>	<p>A minimum of 448 square metres of deep soil zones is required to be provided in the development.</p> <p>The reference scheme demonstrates approximately 650 square metres of deep soil zones can be provided in a consolidated area with a minimum dimension of 8.4 square metres.</p>

3F Visual Privacy	Compliance	Comment
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9 metres between habitable rooms / balconies</li> <li>• 4.5 metres between non-habitable rooms</li> </ul>	<p>Able to comply</p>	<p>The reference scheme demonstrates adequate setbacks are provided between the proposed development and neighbouring sites to achieve reasonable levels of external and internal visual privacy. Given that the development occupies an entire block, the streets abutting the site, namely Forbes Street, Dowling Street and Judge</p>

3F Visual Privacy	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 12 metres between habitable rooms / balconies</li> <li>• 6 metres between non-habitable rooms</li> </ul>		<p>Lane provide increased separation to neighbouring developments.</p> <p>Additionally, the reference scheme demonstrates visual privacy can be achieved between the indicative massing on the site.</p> <p>Refer to discussion provided above in relation to ADG objective 2F Building Separation.</p>
<p>Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.</p>	Yes	<p>The reference scheme illustrates bedrooms, living spaces and other habitable rooms can be separated from gallery access.</p>

4A Solar and Daylight Access	Compliance	Comment
<p>70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.</p>	Able to comply	<p>The reference scheme demonstrates that 63% of apartments (95 of 152) are able to receive direct sun between 9am and 3pm at midwinter to living rooms and private open space.</p> <p>Notwithstanding it is considered that the development is able to comply with the requirement. Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
<p>Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.</p>	Able to comply	<p>The reference scheme demonstrates that 16% of apartments (25 of 152) will not receive direct sunlight between 9am and 3pm at midwinter.</p> <p>Notwithstanding it is considered that the development is able to comply with the requirement. Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Able to comply	<p>William Street is a classified road. Apartments fronting William Street will be subject to high traffic noise.</p> <p>An Acoustic Report and Natural Ventilation Report was submitted with the application. Several treatments are proposed to provide necessary acoustic, natural ventilation, and natural cross-ventilation outcomes for the development. These measures include attenuated plenums and acoustically treated balconies and windows.</p> <p>The reference scheme demonstrates that apartments have spatial allowances to accommodate any acoustic and natural ventilation measures while achieving the minimum room dimensions and areas required under the ADG.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Able to comply	<p>The reference scheme demonstrates that 60.5% (92 of 152) apartments are naturally cross ventilated.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.	Able to comply	<p>The deepest apartments in the reference scheme have depths of 23 metres, which exceed the maximum requirement.</p> <p>Notwithstanding it is considered that the development is able to comply with the requirement. Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>



4C Ceiling Heights	Compliance	Comment
<p>Habitable rooms: 2.7 metres</p> <p>Non-habitable rooms: 2.4 metres</p> <p>Two-storey apartments: 2.7 metres for main living area floor, 2.4 metres for second floor, where it does not exceed 50% of the apartment area.</p>	Yes	<p>The reference scheme indicates that 3.2 metre floor to floor heights are provided within residential levels, which would allow for sufficient tolerance at construction to provide 2.4 and 2.7 metre floor to ceiling heights.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
<p>If located in mixed use areas – 3.3 metres for ground and first floor to promote future flexibility of use.</p>	yes	<p>The reference scheme demonstrates a floor-to-floor height of 3.9 metres between the ground and first floor.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35 square metres</li> <li>• 1 bed: 50 square metres</li> <li>• 2 bed: 70 square metres</li> <li>• 3 bed: 90 square metres</li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5 square metres each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 square metres each.</p>	Yes	<p>The reference scheme provides a mixture of 1-bedroom, 2-bedroom and 3-bedroom apartments, which comply with the minimum apartment size requirements.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Studio apartments are to have a minimum balcony area of 4 square metres with a minimum depth of 1 metre.</p> <p>One bed apartments are to have a minimum balcony area of 8 square metres with a minimum depth of 2 metres.</p> <p>Two bed apartments are to have a minimum balcony area of 10 square metres with a minimum depth of 2 metres.</p> <p>Three bed apartments are to have a minimum balcony area of 12 square metres with a minimum depth of 2.4 metres.</p>	Yes	<p>The reference scheme includes balconies to each apartment, which comply with the minimum apartment size requirements.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
<p>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15 square metres and a minimum depth of 3 metres.</p>	Able to comply	<p>Ground floor apartments are deficient in the minimum 15 square metre requirement. However, the apartment sizes are generous and able to achieve increased open space areas.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p>	Yes	<p>The reference scheme demonstrates compliance with this requirement.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
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	The reference scheme demonstrates compliance with this requirement.  Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	The reference scheme demonstrates compliance with this requirement.  Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4 cubic metres</li> <li>• 1 bed: 6 cubic metres</li> <li>• 2 bed: 8 cubic metres</li> <li>• 3 bed: 10 cubic metres</li> </ul> (Minimum 50% storage area located within unit)	Able to comply	The detailed design including the number and type of apartments and basement levels will be determined as part of any subsequent detailed DA. Compliance with this objective will be assessed at this stage.

<b>4J Noise and Pollution</b>	<b>Compliance</b>	<b>Comment</b>
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Able to comply	Refer to the assessment in relation to Section 4.2.3.11 of the Sydney DCP 2012 provided in the compliance table below.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and State Environmental Planning Policy (Sustainable Buildings) 2022**

46. Any future development application for the detailed design of the building will be required to satisfy BASIX requirements.

47. A condition is recommended to advise that any future residential scheme must comply with SEPP Sustainable Buildings 2022, and that a BASIX certificate must be submitted with any future development application for the detailed design of the building.

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

48. The provisions of the 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 2.47 Excavation – corridors and transmission circuits**

49. The application is subject to Clause 2.47 as the development involves the penetration of ground to a depth of at least 3 metres below ground level (existing) on land that is within 10 metres (measured radially) of the centreline of an electricity supply corridor.
50. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised subject to conditions in Attachment A.

##### **Clause 2.48 Determination of development applications – other development**

51. The application is subject to Clause 2.48 of the SEPP as the development involves the penetration of ground within 2 metres of an underground electricity power line.
52. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised subject to conditions in Attachment A.

#### **Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations**

##### **Clause 2.119 – Development with frontage to classified road and Clause 2.122 - Traffic Generating Development**

53. The application is subject to Clause 2.119 and 2.122 of the SEPP as the site has frontage to William Street, which is a classified road. The proposed development is also a development specified in Schedule 3 in the SEPP requiring a referral to Transport for NSW (TfNSW) as traffic generating development.
54. The application was referred to TfNSW who raise no objection to the proposed development, subject to conditions which are contained in Attachment A.
55. It should be noted that TfNSW included concurrence under Section 138 of the Roads Act 1993.

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

56. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the SEPP Biodiversity and Conservation 2021. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.



57. 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. Any future DA for the detailed design of the development will be required to comply with the relevant water quality objective.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

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

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 Mixed Use zone. The proposed concept mixed used development includes indicative land uses defined as 'commercial premises' and 'residential accommodation' and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	The site prescribes a maximum building height of 22 metres to the northern portion of the site and 35 metres to the southern portion.  A maximum height of 22 metres and 33.4 metres and is proposed. Neighbouring sites along William St on either side have height controls of 40m and 35m.  The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio (FSR) 6.12 Additional Floor Space outside Central Sydney 6.21D Competitive Design Process	Able to comply	The site prescribes an FSR of 4:1 on 164-172 William Street and 3.5:1 on 174-194 William Street. Collectively, the combined maximum FSR for the site is 3.61:1 or 23,102 square metres of gross floor area (GFA).

Provision	Compliance	Comment
		<p>In accordance with Clause 6.21D(3)(b), up to 10% additional floor space (0.361:1) may be approved, subject to a competitive design process being carried out, a winning scheme being selected and that winning scheme exhibiting design excellence in a detailed DA.</p> <p>Having regard to the above, the maximum permitted FSR for the development is 3.97:1.</p> <p>The reference scheme has an FSR of 3.97:1 (25,414 square metres of GFA) and complies with the permissible FSR for the site.</p> <p>No works or FSR are approved as part of any concept approval. A condition is recommended in Attachment A that requires the subsequent detailed DA must not exceed the maximum permissible FSR for the site.</p> <p>The subject concept proposal has been assessed against the relevant requirements of Clause 6.21C(2) including site suitability, proposed uses, bulk and massing, street frontage heights and other environmental impacts.</p> <p>The concept proposal demonstrates subject to the recommended conditions, a suitable detailed building design can be achieved for the site. LEP clause 6.21D(3)(b), which allows for a potential 10% FSR increase will be considered in the assessment of any subsequent DA for the detailed building design.</p>

## Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is a not a heritage item or located in a heritage conservation area. However, the site is within close proximity to local heritage items including Former commercial building 'Bryson House' (I2178) and heritage listed Terrace Group (I2179. The site is located on the curtilage of the Woolloomooloo heritage conservation area.</p> <p>The application was referred to Council's Heritage Specialist who generally supports the proposal. The height transition of the proposed envelopes from William Street to the edge of the heritage conservation area is considered appropriate.</p> <p>The setback of 9 and 14.6 metres approximately from the proposed envelope to the northern terraces is provided and is considered acceptable to provide an adequate visual buffer from the conservation area and minimise impacts on its setting.</p> <p>The proposal includes a north-south through site link which generally aligns with Judge Lane. The new southern east-west through site link replicates Judge Lane and is consistent with the streetscape character of the HCA. The link adjacent to the terraces on Dowling Street provides opportunity to appreciate the terraces in the whole as well as provide visual separation from the development and that is a positive.</p> <p>Having three visually distinct built forms helps provide a finer grain pattern of development which is also consistent with the HCA.</p>

Provision	Compliance	Comment
		Conditions of consent are recommended in Attachment A requiring any detailed DA to be prepared in conjunction with heritage advice and demonstrate a sympathetic approach for how the site interfaces with the Woolloomooloo heritage conservation area.
5.21 Flood Planning	Able to comply	<p>All street frontages including William Street, Forbes Street, Dowling Street and Judge Lane are subject to flooding during the 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) events.</p> <p>A site-specific flood study has been submitted with the application and recommends flood planning levels (FPLs) for the development.</p> <p>Council's Public Domain Unit has reviewed the proposal. The recommendations of the site-specific flood study are supported, and conditions recommended for the endorsed FPLs to be incorporated into any detailed building design submitted as part of any future DA for the site.</p>

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

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	Able to comply	<p>The proposal is for concept building envelopes which are capable of accommodating future buildings which can exhibit design excellence in accordance with the objective and matters for consideration in Clause 6.21C of the Sydney LEP 2012.</p> <p>A competitive design process is proposed, prior to the lodgement of a subsequent detailed design development application which will seek up to an additional 10% additional floor space.</p>



Provision	Compliance	Comment
		Demonstration of design excellence is required before the award of any additional building floor space.

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development	Able to comply	<p>The reference scheme indicates car parking could be provided within 3 levels of basement.</p> <p>Car parking numbers for commercial, retail, and residential uses can only be assessed as part of a subsequent development application for the detailed design of the building.</p> <p>The permissible number of car parking spaces are determined by the amount of commercial floor space and the residential dwelling mix, and which is only indicative at this concept stage.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Able to comply	Any subsequent DA for the detailed design of the building will be subject to an assessment against the requirements of the City's Affordable Housing Program.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Able to comply	<p>The site is located on land identified as Class 5 Acid Sulfate Soils that is within 500 metres of land identified as Class 2.</p> <p>It will be determined in the detailed design development application if the provisions of this clause are triggered by any proposed excavation works.</p>
7.19 Demolition must not result in long term adverse visual impact	Not applicable	No demolition is proposed under the subject application.

Provision	Compliance	Comment
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the site area is greater than 5,000 square metres in size, preparation of a site specific DCP is required.</p> <p>Pursuant to the provisions of Section 4.23(2) of the Environmental Planning and Assessment Act 1979, the lodgement of a concept DA may be considered by the consent authority as satisfying this obligation.</p> <p>As detailed elsewhere in this report, subject to the recommended conditions the concept DA adequately addresses the matters for consideration specified under this clause including, height, bulk, massing, streetscape, and environmental impacts.</p>

## Development Control Plans

### Sydney Development Control Plan 2012

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

#### Section 2 – Locality Statements

60. The site is located within the William Street and Woolloomooloo localities.
- (a) The southern portion of the site fronting William Street is located in the William Street locality. The proposal is in keeping with the unique character and the design principles of the area in that it maintains the asymmetrical built form of taller buildings along the north side and lower buildings along the south side. The reference scheme illustrates retail uses are provided on William Street to reinforce the commercial spine and active frontages to the ground floor. The envelopes create an appropriate height transition with lower buildings to the rear of William Street. The provision of through-site links and dedicated laneway would encourage pedestrian activity that would improve the ground floor activity on Forbes and Dowling Streets.
  - (b) The northern portion of the site is located in the Woolloomooloo locality. The respective Forbes and Dowling Street massing envelopes are 5 and 6 storeys in height and provide an appropriate transition to the low scale residential uses and respond to the sloping topography in the area.

## Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Able to comply	<p>The site-specific controls in Section 6.2.9 of the Sydney DCP 2012 requires introduction of a new lane with a minimum width of 7 metres to connect Dowling and Forbes Street and to enhance east-west permeability of the area.</p> <p>A new pedestrian laneway connecting Dowling Street and Judge Lane is proposed to be constructed and dedicated to Council under the draft VPA for the development. The VPA outlines the works will be in accordance with Council requirements and specifications, as required in this Section of the DCP for new laneways.</p> <p>Overall, the proposal is capable of satisfying the provisions of this section. The new laneway will prioritise pedestrians that is well integrated with existing road networks in the locality and provides a necessary cross-site connection between Dowling Street and Judge Lane and indicatively addresses the slope of site.</p>
3.1.2.2 Through-site links	Able to comply	<p>The site is not identified on the Through-site links map as being required to provide a through-site link. However, the proposed laneway is required in the site-specific provisions of the DCP.</p> <p>The envelope drawings and reference scheme depict a north-south and east-west through site link within the site. It is generally designed in accordance with this Section in that it has a width of approximately 6 metres, provides a clear line of sight, is open to the sky and is capable of being accessible to all.</p>
3.1.5 Public Art	Able to comply	<p>A preliminary Public Art Strategy was submitted with the application.</p> <p>The strategy was reviewed by Council staff and is acceptable with regard to the provisions of Section 3.1.5 of the Sydney DCP 2012.</p>

Provision	Compliance	Comment
		<p>The strategy is recommended to form part of the competitive design process design brief to inform any future design competition. Conditions of consent are recommended to this effect in Attachment A.</p>
3.1.6 Sites greater than 5,000 square metres	Able to comply	<p>The concept proposal provides a fine grain to the urban structure of the locality by providing three envelopes that appropriately responds to the surrounding context. The envelopes are separated by through-site links, which provide breaks between buildings.</p> <p>The reference scheme demonstrates a range of complementary uses comprising retail, commercial and residential can be accommodated in a future detailed design DA.</p> <p>A preliminary public art strategy was submitted with the application and described public art for the development.</p>
3.2. Defining the Public Domain	Able to comply	<p>The proposal maintains and improves the existing active street frontage with the provision of indicative retail uses fronting William Street.</p> <p>The proposal was referred to the City's Public Domain Unit, who recommend appropriate conditions.</p> <p>Primarily, these conditions will require a concept public domain plan which addresses the development's public domain interface and scope of works, as part of any future detailed design development application.</p>
3.2.3 Active Frontages	Able to comply	<p>The William and Forbes Street frontages are nominated on the Active Frontages map.</p> <p>The reference scheme demonstrates that the provision of retail along these frontages would encourage active frontages as required in this section.</p>

Provision	Compliance	Comment
3.2.4 Footpath Awnings	Able to comply	<p>William Street and a portion of the Forbes Street frontage is nominated on the Footpath Awning and Colonnades map.</p> <p>The reference scheme includes an awning along the entire length of William Street that wraps around to Forbes Street.</p>
3.2.6 Wind Effects	Able to comply	<p>A Wind Impact Assessment Report was submitted with the application to assess the impacts of the proposed envelope on the public domain/pedestrian environment. Consideration was also given to the indicative configuration of the proposed development.</p> <p>The report includes recommendations and necessary treatments that will need to be incorporated into the final design to mitigate wind conditions, including provision of awnings, provision of louvres/screens to balconies and retention of vegetation within the public domain.</p> <p>An appropriate condition is recommended requiring further wind testing to be undertaken prior to the final detailed design and incorporated into the scheme lodged with any future detail design development application.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>Any future detailed design development application associated with the proposed development will be the subject of a competitive design process.</p> <p>An appropriate condition is recommended in Attachment A.</p>
3.5 Urban Ecology	Able to comply	<p>The proposed development does not involve the removal of any trees.</p> <p>It will not result in any significant adverse impacts upon the local urban ecology.</p> <p>Appropriate conditions are recommended to require adjacent street</p>



Provision	Compliance	Comment
		trees are retained and protected and that the design of future buildings take into account existing and future street tree canopies in any subsequent detailed design development application.
3.6 Ecologically Sustainable Development	Able to comply	<p>Conditions are recommended to ensure that the proposed ESD commitments will be carried through the competitive design process to the detailed design development application.</p> <p>Furthermore, a condition is recommended to require a valid BASIX Certificate to be submitted with any such application, in accordance with the provisions of the SEPP Sustainable Buildings 2022 and Environmental Planning and Assessment Regulation 2021.</p>
3.7 Water and Flood Management	Able to comply	Refer to the assessment against Clause 5.21 of the SLEP 2012 in the LEP compliance table above.
3.8 Subdivision, Strata Subdivision and Consolidation	Able to comply	Consideration to subdivision, strata subdivision associated with residential lots and lot consolidation will be considered in any future detailed application for the site.
3.9 Heritage 3.10.1 Warehouse and industrial buildings older than 50 years	Yes	<p>The site contains some buildings that are over 50 years old.</p> <p>Any proposal to demolish buildings requires Council to fully consider the significance of the buildings through a Heritage Impact Statement (HIS) as required under Section 3.9.1(2).</p> <p>Additionally, any proposal to develop this site should also consider how the development interfaces with the neighbouring heritage items and the adjacent Woolloomooloo heritage conservation area.</p>

Provision	Compliance	Comment
		<p>A HIS, prepared by Urbis, as well as a peer review statement of the HIS by CGA was submitted with the application and reviewed by Council's Heritage Specialist who concurs with the conclusions in the HIS.</p> <p>The HIS concludes that the overall condition and relative lack of significance of the buildings found demolition of the buildings to be acceptable and generates no unreasonable or adverse impacts from a heritage perspective.</p> <p>The HIS also concludes that the proposed envelope and massing demonstrates a considered response to the Woolloomooloo HCA, which directly adjoins the site to the north. Namely as a result of the transition in building heights stepping down from 10 storeys at William Street to 3-4 storeys adjoining the HCA, the modulation of the envelope, which enables sufficient open space within the site and subsequently reduces its perceived bulk as viewed from the HCA and the sufficient setbacks provided at the northern boundary of the site between the HCA and the rear of the new built form (including the break created by Judge Lane at the site's north-west).</p>
3.11 Transport and Parking	Able to comply	<p>The reference scheme demonstrates that car parking, servicing, bicycle parking and end of trip facilities can be accommodated within the basement and ground level of the development.</p> <p>It is noted that parking numbers or rates are not approved as part of a concept proposal and would form part of a future detailed design when the exact land uses and residential apartment mix numbers are known.</p> <p>A Traffic Impact Assessment was submitted with the application and was reviewed by Council's Transport Planner.</p>

Provision	Compliance	Comment
		<p>Given the site has a frontage to William Street, which is a classified road, and the development is identified as traffic-generating development, the application was referred to TfNSW for comment in accordance with SEPP Infrastructure and Transport 2021.</p> <p>Vehicle access is provided in a single location from Forbes Street. The proposed removal of existing accesses is considered acceptable and is supported. Subject to conditions of consent, the proposed development will not have an unacceptable impact on the surrounding road network. Detailed consideration to this matter will form part of any future detailed development application.</p>
3.12 Accessible Design	Able to comply	An appropriate condition is recommended to require an Access Report to be submitted with any future detailed design development application to ensure that the future buildings on the site incorporate accessible design.
3.13 Social and Environmental Responsibilities	Able to comply	A condition is recommended to require a Security Management Plan, prepared in accordance with the 'Crime Prevention Through Environmental Design' principles, to be submitted with any future detailed design development application.
3.14 Waste	Able to comply	<p>The indicative reference design provides floor plans to demonstrate that on-site waste collection is able to occur.</p> <p>A condition is recommended to require that a Waste Management Plan be submitted with any subsequent detailed design development application, in accordance with the controls in Section 3.14 of the Sydney DCP 2012.</p>

Provision	Compliance	Comment
3.16 Signage and Advertising	Able to comply	A condition is recommended to require a signage strategy to be submitted with any subsequent detailed design application, in accordance with the requirements of Section 3.16.1 of the Sydney DCP 2012.
3.17 Contamination	Able to comply	The application includes suitable information for its assessment against the provisions of the SEPP Resilience and Hazards 2021.

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

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Partial compliance	<p>The site is permitted a maximum building height of 8 storeys on William Street and 6 storeys to the northern portion of the site.</p> <p>It should be noted that the site-specific controls in Section 6.2.9 of the DCP also prescribes a height of RL 55 and RL 56.5 on William Street, which equates to approximately 9 storeys. To the north of the site, a height of RL 37 on Dowling Street and RL 41 on Forbes Street is prescribed with 3-storey street wall heights.</p> <p>The number of storeys is not approved as part of this concept application. However, the reference scheme comprises three envelopes with an indicative height of 6 storeys on Forbes Street, 5 storeys on Dowling Street and part 9 and 10 storeys on William Street.</p> <p>The building height in storeys control is a matter to be considered through the competitive design process and ultimately upon determination of the subsequent DA for the detailed design of the building.</p>

Provision	Compliance	Comment
4.2.1.2 Floor to ceiling heights and floor to floor heights	Able to comply	The indicative reference design drawings demonstrate that the proposed envelopes can accommodate compliant floor to ceiling heights of 2.7 metres and floor to floor heights of 3.1 metres for residential components.
4.2.3 Amenity	Able to comply	The indicative reference design scheme drawings demonstrate that a building can be constructed within the proposed envelope with acceptable levels of residential amenity.
4.2.3.5 Landscaping	Able to comply	<p>This provision specifies the matters to be addressed by a landscape plan submitted as part of a DA for the detailed design of a building.</p> <p>A condition is recommended requiring a sufficiently detailed landscape plan to be submitted with any subsequent DA for the detailed design of the building.</p>
4.2.3.6 Deep Soil	Able to comply	<p>A minimum of 10% of the site area (639.8 square metres) is to be provided as consolidated deep soil areas with a minimum dimension of 10 metres.</p> <p>The reference scheme demonstrates approximately 650 square metres of deep soil zones can be provided in a consolidated area with a minimum dimension of 8.4 square metres.</p>
4.2.3.7 Private open space and balconies	Able to comply	Refer to ADG discussion above.
4.2.3.8 Common open space	Able to comply	Refer to ADG discussion above.
4.2.3.9 Ventilation	Able to comply	Refer to ADG discussion above.
4.2.3.10 Outlook	Able to comply	The reference scheme demonstrates that a pleasant outlook from all apartments can be achieved.



Provision	Compliance	Comment
		<p>Views and outlook from existing residential development would not be negatively impacted by the proposed development.</p> <p>Consideration to this matter will be made at the competitive design process and ultimately upon determination of the subsequent DA for the detailed design of the building.</p>
4.2.3.11 Acoustic privacy	Able to comply	<p>The submitted acoustic report identifies that the reference scheme apartments facing William Street cannot achieve the relevant internal noise criteria.</p> <p>The acoustic report offers a range of noise mitigation measures including plenums to reduce noise while allowing for natural ventilation of apartments in accordance with ADG objectives.</p> <p>The reference scheme demonstrates that the recommended noise mitigation measures can be accommodated within apartments, while maintaining compliance with the minimum apartment size and areas.</p> <p>This matter is to be considered through the competitive design process and ultimately upon determination of the subsequent DA for the detailed design of the building.</p>
4.2.3.12 Flexible housing and dwelling mix	Able to comply	<p>The number and mix of apartments are not approved as part of any concept DA consent granted.</p> <p>Any subsequent DA for the detailed design of the building will be assessed against the requirements of this control.</p>
4.2.4 Fine grain, architectural diversity and articulation	Able to comply	<p>This provision allows for non-compliance with the maximum frontage lengths subject to design measures to modulate the scale, grain, articulation, materiality, and architectural character of such long frontages.</p>

Provision	Compliance	Comment
		A condition is recommended for these design requirements to be incorporated into the future competitive design process brief.
<p>4.2.5 Types of development</p> <p>4.2.5.3 Development on busy roads and active frontages</p>	Able to comply	<p>William Street is a classified road and has over 20,000 average daily traffic movements.</p> <p>Subsequently, the concept envelope fronting William Street is subject to this provision which requires non-residential uses to be provided at ground level.</p> <p>In accordance with the requirements of this provision the concept proposal locates retail premises at the ground floor level fronting William Street. The reference scheme demonstrates residential uses fronting William Street on upper floors are capable of employing noise mitigation measures that simultaneously achieve natural ventilation as per the ADG.</p>
4.2.6 Waste and recycling Management	Able to comply	Refer to Section 3.14 DCP discussion above.
4.2.7 Heating and cooling infrastructure	Able to comply	The indicative reference design scheme drawings have provided areas within the building envelope to accommodate plant and services, including consolidated heating and cooling infrastructure.
4.2.8 Letterboxes	Able to comply	The location of letterboxes can be addressed as part of any future detailed design development application.

## Section 6 – Specific Sites

Provision	Compliance	Comment
6.2.9 164-172 and 174-194 William Street, Bayswater Car Rental, Woolloomooloo	Yes	<p>The site is subject to site-specific controls and building envelope under this Section.</p> <p>The subject application seeks an alternative envelope and must demonstrate it is equivalent or an improved outcome to that envisioned in the site-specific controls.</p> <p>The proposed alternative is an acceptable outcome for the site and generally achieves the objectives and provisions of this Section for the following reasons:</p> <ul style="list-style-type: none"> <li>• The redevelopment of the site, being an entire block on the city fringe, will help transform the locality. Its prominence on William Street will reinforce the boulevard vision and redefine the street edge as envisaged in the site-specific controls and character statement for the William Street locality.</li> <li>• The proposal will improve the northern side of William Street by continuing the street wall and providing opportunities for more active uses on the ground floor, particularly on William Street, and within the development.</li> <li>• The proposal prioritises pedestrians to the William Street active frontage by locating vehicle site entry from a secondary street at Forbes Street.</li> <li>• The alternative 3-massing scheme respects the local context and adjoining low scale residential development and heritage conservation area.</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li data-bbox="852 271 1390 501">• The envelopes step down in height away from William Street to provide an appropriate height transition between commercial buildings on William Street and 3-storey scale residential buildings in Woolloomooloo.</li> <li data-bbox="852 539 1390 808">• The maximum height of the envelopes strikes a balance in complying with the maximum building height control of the Sydney LEP 2012, while accommodating uplift on the site within a height that responds to the surrounding context.</li> <li data-bbox="852 846 1390 1115">• The height of the envelopes does not result in unacceptable environmental impacts with regard to overshadowing or wind and enables view sharing from neighbouring residential developments as much as possible.</li> <li data-bbox="852 1153 1390 1310">• The proposal maintains the requirement to provide a new laneway to connect Dowling and Forbes Street via Judge Lane through a VPA.</li> <li data-bbox="852 1348 1390 1579">• The new laneway will provide a necessary east-west connection and will enhance permeability of the area. The new laneway is also separated by a landscape setback to delineate any new development on Dowling Street.</li> <li data-bbox="852 1617 1390 1848">• The new laneway and proposed deep soil zone along the Judge Lane frontage provide a suitable buffer to residential developments to the north of the site, which reduces any perceived bulk of the envelope massing.</li> <li data-bbox="852 1886 1390 2020">• Permeability and creation of connections to the surrounding street and lane network is achieved through the provision of</li> </ul>

Provision	Compliance	Comment
		<p>a new north-south and east-west through-site link in the site. The additional through-site links break up the built form and create a fine grain character to the site.</p> <p>Overall, the proposed concept proposal adequately establishes the maximum parameters and flexibility for the competitive design process to guide competitors in the future detailed design of the proposal.</p>

## Discussion

### View sharing

61. One hundred and one (101) individual submissions were received during the two public exhibition periods. These submissions raised concerns over obstruction and loss of views from residential properties in close proximity to the site as a result of the proposal. These views include views to the Sydney Harbour Bridge, Sydney Opera House, The Domain, St Mary's Cathedral, the city skyline, and general harbour and water views.
62. The respective properties that raised concern over view loss are listed below. Figure 51 below shows the location of these residential properties and their proximity to the subject site.
  - (a) 196-200 William Street, Woolloomooloo;
  - (b) 191-205 William Street, Darlinghurst;
  - (c) 184 Forbes Street, Darlinghurst;
  - (d) 2-4 Farrell Avenue, Darlinghurst;
  - (e) 3 Farrell Avenue, Darlinghurst;
  - (f) 6-8 Farrell Avenue, Darlinghurst;
  - (g) 1-5 Rosebank Street, Darlinghurst;
  - (h) 5-15 Farrell Avenue, Darlinghurst;
  - (i) 26 Kirketon Road, Darlinghurst;
  - (j) 12-20 Rosebank Street, Darlinghurst;
  - (k) 227 Victoria Street, Darlinghurst; and
  - (l) 16 Royston Street, Darlinghurst.





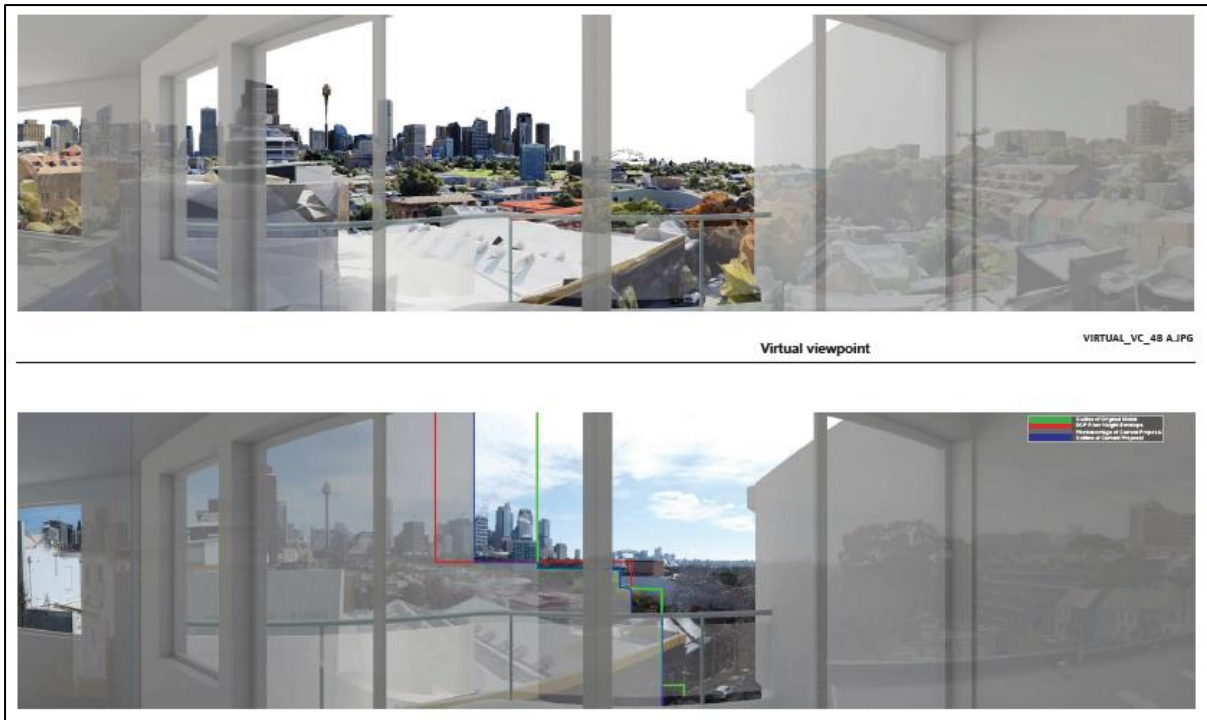
**Figure 51:** Aerial photograph of the subject site and surrounding properties raising view loss concern

63. The amended application comprising the 3-massing scheme was accompanied by a view impact analysis study prepared by Urbaine Design Group. The study included 3D digital modelling and photomontages of existing and proposed views from indicative low-rise, mid-rise, and high-rise locations within surrounding developments including the properties specified above. However, the study did not include a detailed analysis on a few properties.
64. Having regard to the substantial number of submissions raising view loss concerns, the following approach was employed by Council officers in the view impact assessment of the proposal:
- (a) Each submitter was contacted and was requested to confirm if concerns for view loss remained. Of the 101 submitters who raised concerns during the exhibition period, 48 submitters residing in the properties below responded:
- (i) 196-200 William Street, Woolloomooloo;
  - (ii) 191-205 William Street, Darlinghurst;
  - (iii) 184 Forbes Street, Darlinghurst;
  - (iv) 2-4 Farrell Avenue, Darlinghurst;
  - (v) 3 Farrell Avenue, Darlinghurst;
  - (vi) 1-5 Rosebank Street, Darlinghurst;
  - (vii) 5-15 Farrell Avenue, Darlinghurst;
  - (viii) 26 Kirketon Road, Darlinghurst;

- (ix) 12-20 Rosebank Avenue, Darlinghurst; and
  - (x) 227 Victoria Street, Darlinghurst.
- (b) Council officers carried out an independent view loss analysis through physical site inspections of these properties on 1, 4, 8 and 15 September 2023.
- (c) The site inspections confirmed that the view images in the Urbaine Design Group study to be generally an accurate representation of views from each respective building at various heights.
65. Figures 52 to 59 below provide a sample of the submitted view loss renders from low to midrise locations on surrounding buildings prepared by Urbaine Design Group. A copy of the complete view impact analysis study is found in Attachment D and E.



**Figure 52:** Existing (top) and proposed building envelope (bottom) as viewed facing north-west from Level 1 at 196-200 William Street, Woolloomooloo



**Figure 53:** Existing (top) and proposed building envelope (bottom) as viewed facing north-west from Level 4 at 191-205 William Street, Woolloomooloo

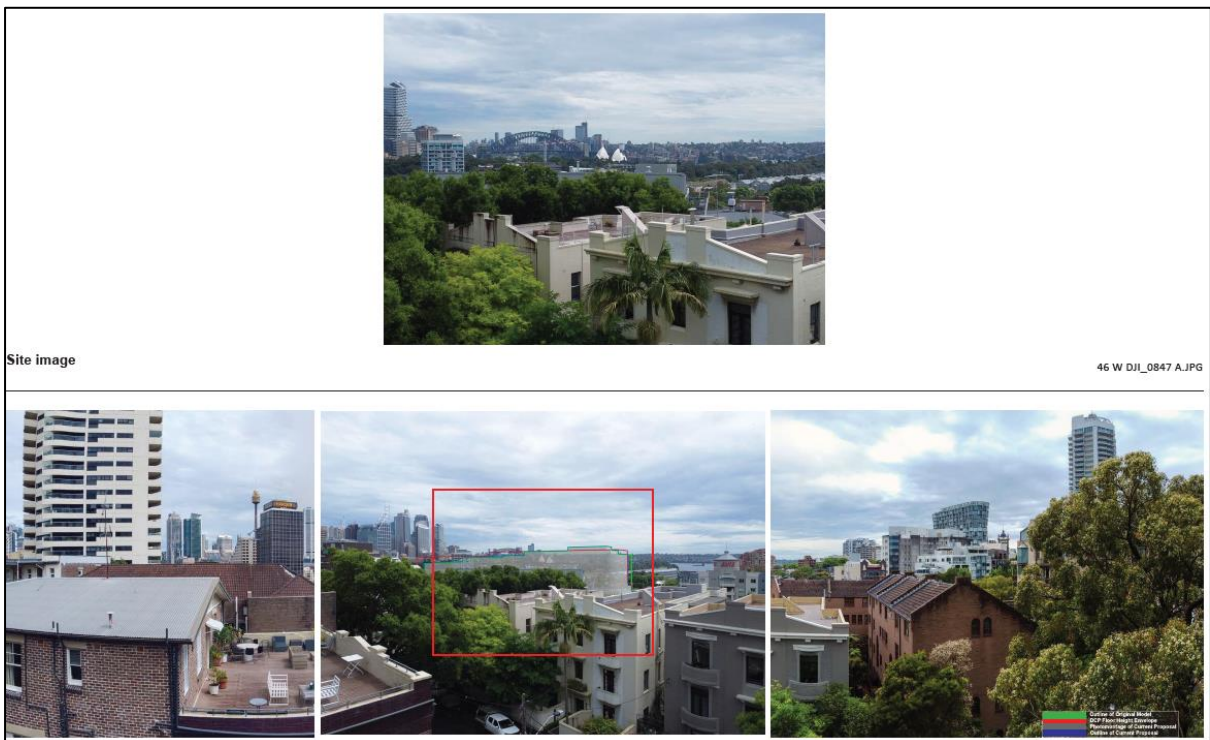


**Figure 54:** Existing (top) and proposed building envelope (bottom) as viewed facing north from Level 8 at 191-205 William Street, Darlinghurst





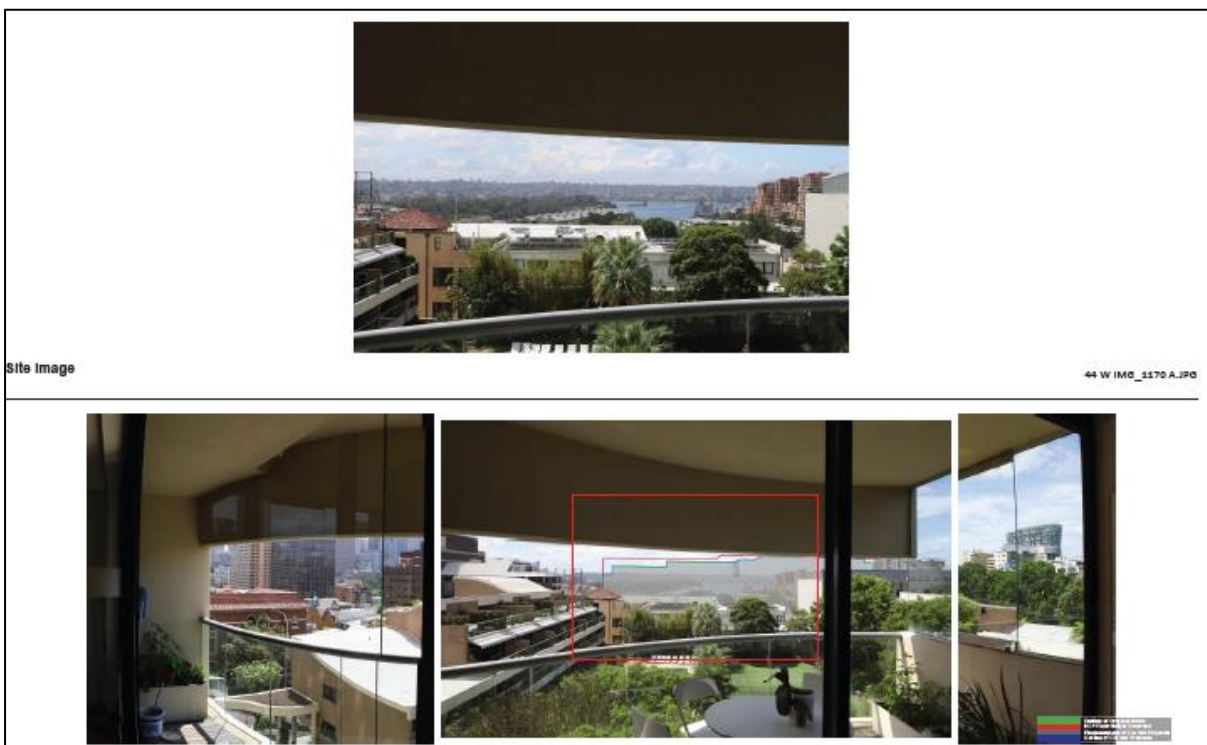
**Figure 55:** Existing (top) and proposed building envelope (bottom) as viewed facing north from Level 2 at 1-5 Rosebank Street, Darlinghurst



**Figure 56:** Existing (top) and proposed building envelope (bottom) as viewed facing north from Level 3 at 5-15 Farrell Avenue, Darlinghurst

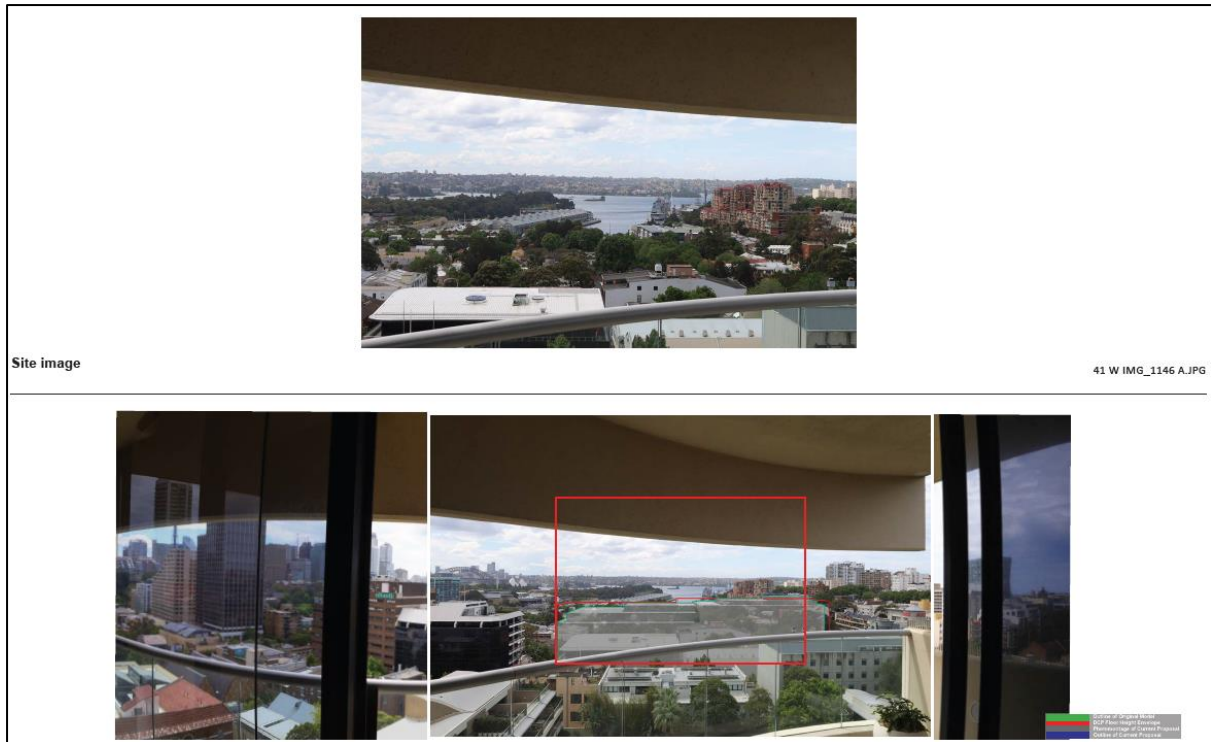


**Figure 57:** Existing (top) and proposed building envelope (bottom) as viewed facing north from rooftop common open space at 3 Farrell Avenue, Darlinghurst



**Figure 58:** Existing (top) and proposed building envelope (bottom) as viewed facing north from Level 4 at 184 Forbes Street, Darlinghurst





**Figure 59:** Existing (top) and proposed building envelope (bottom) as viewed facing north from Level 9 at 184 Forbes Street, Darlinghurst

66. Although the subject application relates to a concept proposal for building envelopes, a view impact assessment is carried out with consideration to the properties above, which has regard to key planning controls in the Sydney LEP 2012, Sydney DCP 2012 and ADG as well the planning principles established by Senior Commissioner Roseth in the Land and Environment Court decision *Tenacity Consulting v Warringah* [2004] NSW LEC 140 in relation to view sharing.

### Consideration against the Planning Controls

67. Protection of views are a consideration but not a planning control. Generally, the view loss concerns relate to the loss of private views enjoyed by certain residential dwellings. The assessment to determine the degree and reasonableness of the impact must be made against the relevant planning controls and the extent to which the development complies.
68. Although the planning controls make no provision for the preservation of private views specifically, the principal development standards and its relevance with view loss is reiterated below and overall demonstrates that the proposed envelopes achieve general compliance with the relevant planning controls as follows:

#### Sydney LEP 2012

- (a) The site prescribes a maximum height of 35 metres and 22 metres under the Sydney LEP 2012 which is consistent with adjoining properties. The proposal presents a maximum height of 33.4 metres which complies with the development standard. The height of the development responds to the surrounding context in providing envelopes with a height transition towards the low-scale residential development in Woolloomooloo.

- (b) The site is permitted a maximum FSR of 3.97:1. The submitted reference design scheme demonstrates that the proposal complies with the maximum FSR and bonus FSR available to the development.

Overall, the proposed building envelope ensures a built form and density that is appropriate for its context. The proposal does not present as being out of character in the street and locality, particularly on William Street that contains larger buildings on the north side of William Street.

- (c) Having regard to the proposal's compliance with the principal development standards, the proposal satisfies the objectives of the MU1 Mixed Use zone. The indicative retail, commercial, and residential uses are commensurate with the zone objectives in supporting the viability of the local area and integrating these uses in accessible locations that maximise public and active transport.

#### Sydney DCP and Apartment Design Guide

- (d) The site-specific controls in Section 6.2.9 of the Sydney DCP 2012 contemplates the redevelopment of the site.

The proposed envelope adopts some of the key provisions in the site-specific controls such as the street wall height to William Street. The proposed street wall height of the massing is lower than that prescribed in the site-specific DCP. Upper levels above the street wall are set back from the street and relate to the lift overrun in the south-east portion of the site.

- (e) The proposed William Street massing envelope does exceed the depth of the site-specific envelope along Dowling Street. Consequently, this results in a building depth over the maximum building depth requirement under the ADG. This is discussed in detail later in this report.

#### Consideration against the Planning Principle

69. The view sharing planning principles established under *Tenacity Consulting v Warringah* specifies that the notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment which may, in some circumstances, be reasonable.
70. In accordance with this principle, the following matters must be taken into consideration when determining whether a view impact is reasonable:
- (a) the type of view to be impacted;
  - (b) the location from which a view is available
  - (c) the extent to which the development affecting the view complies with the relevant planning controls;
  - (d) whether impacts could be mitigated by a more skilful design.

**Assessment of the type of views to be affected:**

71. The majority of affected properties are located to the south on the other side of William Street. Views with the potential to be affected consist of views in a north and north-western direction to the Sydney Harbour Bridge, Sydney Opera House, The Domain, St Mary's Cathedral, and the Sydney Central Business District (CBD) skyline. Harbour and water views to the north-east also have the potential to be affected.
72. 196-200 William Street is located to the east of the site on the other side of Dowling Street. Views with the potential to be affected consist of views in a north-west direction to the Sydney Harbour Bridge, Sydney Opera House, The Domain, St Mary's Cathedral, and the Sydney CBD skyline.
73. The Sydney Harbour Bridge and Sydney Opera House are considered "iconic" views. The Domain, St Mary's Cathedral, the Sydney CBD skyline, and general harbour views are considered desirable land and water views.
74. Views to icons and desirable land and water views from the affected properties are across adjoining boundaries and include existing development in the foreground. Specifically, the views to be affected are:
  - (a) 196-200 William Street, Woolloomooloo;  
  
Apartments on upper levels have panoramic views of icons as well as desirable land and water views. Lower levels have partial iconic and desirable land views.
  - (b) 191-205 William Street, Darlinghurst;  
  
The penthouse above the Ibis Sydney East Hotel enjoys uninterrupted panoramic views of icons and desirable land and water views.
  - (c) 184 Forbes Street, Darlinghurst;  
  
Apartments enjoy partial views to icons as well as desirable water views.
  - (d) 2-4 Farrell Avenue, Darlinghurst;  
  
Some apartments enjoy partial water views.
  - (e) 3 Farrell Avenue, Darlinghurst;  
  
The rooftop common open space enjoys partial water views.
  - (f) 1-5 Rosebank Street, Darlinghurst;  
  
Apartments at the mid and upper levels enjoy views of icons and obstructed desirable land views.
  - (g) 5-15 Farrell Avenue, Darlinghurst;  
  
Apartments on upper levels enjoy panoramic views of icons as well as desirable land and water views. Lower levels have partial iconic and desirable land views.

- (h) 26 Kirketon Road, Darlinghurst;  
Apartments on upper levels enjoy partial views of icons as well as desirable water views.
- (i) 12-20 Rosebank Avenue, Darlinghurst; and  
Apartments on upper levels enjoy panoramic views of icons as well as desirable land and water views.
- (j) 227 Victoria Street, Darlinghurst.  
Apartments at the mid and upper levels enjoy views of icons.

***Consideration from what part of the property the views are obtained:***

75. The parts of the property the views are obtained from are as follows:

- (a) 196-200 William Street, Woolloomooloo;  
Affected apartments are located on the north-western corner of the building. Generally, the views from this property are obtained from living rooms and balconies in the north-west and western direction. These areas are located to the side (east) and rear (north) boundaries of the property and can be enjoyed in both sitting and standing positions.
- (b) 191-205 William Street, Darlinghurst;  
The views from this property are obtained from a standing position in the living room and balcony, which is located at the front boundary or northern direction of the property. The panoramic iconic and water views are obstructed in a sitting position.
- (c) 184 Forbes Street, Darlinghurst;  
The Horizon is a building in the round, and as such, apartments obtain different views in different areas of the apartment in a north-west and northern direction. Primarily, partial iconic views and desirable water views are obtained from living rooms and balconies in a standing position to the east. The views are slightly obscured when sitting.
- (d) 2-4 Farrell Avenue, Darlinghurst;  
Partial water views are obtained from the balcony and bedrooms at both sitting and standing positions. The view is from the rear of the property, which faces north.
- (e) 3 Farrell Avenue, Darlinghurst;  
Partial water views are obtained from a standing position. The views are obscured when sitting. The view is from the front boundary of the property, which faces north.

- (f) 1-5 Rosebank Street, Darlinghurst;

The view from this property is obtained from living rooms and balconies. These areas are located on the side boundary of the property and can be enjoyed in both sitting and standing positions.

- (g) 5-15 Farrell Avenue, Darlinghurst;

The views from this property are obtained primarily from living rooms and balconies. These areas are located on the front boundary of the property and can be enjoyed in standing positions. Views become obscured when sitting.

- (h) 26 Kirketon Road, Darlinghurst;

The views from this property are obtained primarily from living rooms and balconies. These areas are located on the front boundary of the property and can be enjoyed in standing positions. Views become obscured when sitting.

- (i) 12-20 Rosebank Avenue, Darlinghurst; and

The views from this property are obtained from both standing and sitting positions in the living room and balcony, which is located at the side boundary of the property. The panoramic iconic and water views are obstructed in a sitting position.

- (j) 227 Victoria Street, Darlinghurst.

The view from this property is obtained from balconies and bedrooms in a standing position. The views are obstructed when sitting. These areas are located at the rear of the property.

***Assessment of the extent of impact:***

76. The extent of impact is assessed in consideration of the whole property and not just the view that is affected.

77. An assessment of the extent of impact is detailed below:

- (a) 196-200 William Street, Woolloomooloo

(i) The building is approximately 7-storeys. Residential apartments are located between Level 1 and 6. The greatest affectations would be to apartments located on the north-west of the building. The general planning of apartments within the building provides windows along the western elevation from kitchens and bedrooms. Balconies are located to the rear of the building along the northern and eastern elevation and are accessed from living rooms or bedrooms.

(ii) Views from living rooms windows (in apartments with living rooms located in the north-west corner of the building) face towards the west and provide views to the Sydney CBD skyline, The Domain, and St Mary's Cathedral. Views from the northern-western balconies provide views to the north and north-west including partial and complete views of the Sydney Harbour Bridge and Opera House.

- (iii) Due to the orientation of living rooms facing west and balconies facing north-west, the potential view loss of desirable land views and partial iconic views of apartments from Levels 1-4 by the proposal would be moderate to severe.
- (b) 191-205 William Street, Darlinghurst
- (i) The building is approximately 8-storeys. The affected apartment is the penthouse above the Ibis Sydney East Hotel. The general planning of the apartment includes an expansive balcony that is located to the north or front of the boundary, which is accessed from living rooms and bedrooms.
  - (ii) Views from the penthouse balcony are towards iconic views and desirable water views facing north. The view loss impact would be severe due to the subject site's location directly opposite the site on the southern side of William Street. Northern views from hotel rooms are already affected by the existing development on the site.
- (c) 184 Forbes Street, Darlinghurst
- (i) The building is a 41-storey residential tower. It is a building in the round. The affected apartments are located on the northern elevation and on the lower and mid-levels up to approximately Level 9. The general planning of apartments includes 2 balconies, one to the north and a side balcony. Living and dining rooms are connected directly to these balconies.
  - (ii) Views from living rooms are to the north and north-west and provide partial iconic views and desirable water views.
  - (iii) The extent of impact of the proposed development would be moderate to apartments on lower levels. The degree of impact improves at the higher levels. The proposed development would become a prevailing element in the view.
- (d) 2-4 Farrell Avenue, Darlinghurst
- (i) The building is a 3-storey building. The affected apartments are located on the northern elevation, which is at the rear of the site. The general planning of apartments includes small balconies with living rooms and bedrooms connected directly to these balconies.
  - (ii) The extent of impact to the partial water views as a result of the proposed development would be minor to these apartments.
- (e) 3 Farrell Avenue, Darlinghurst
- (i) The building is a 3-storey building. The view to be affected is desirable partial water views from the rooftop common open space.
  - (ii) The extent of impact to the partial water views as a result of the proposed development would be minor.



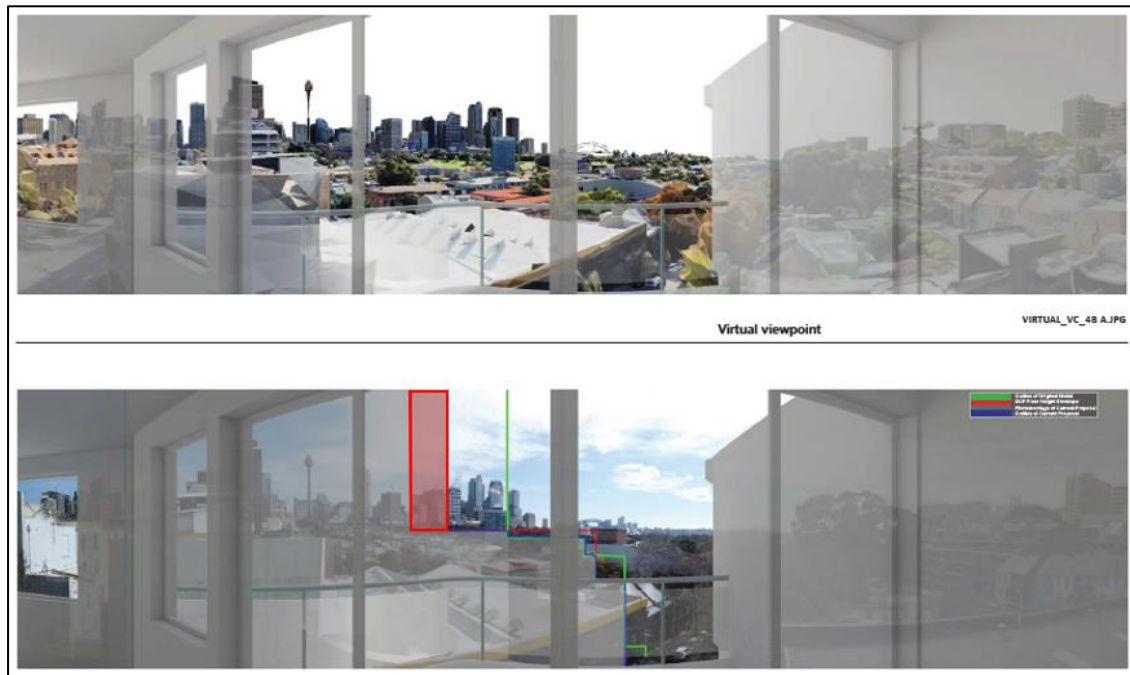
- (f) 1-5 Rosebank Street, Darlinghurst
  - (i) The building is approximately 4-storeys. The affected apartments are located on a side boundary. The general planning of the apartment includes a balcony that is located to the northern boundary, which is accessed from living rooms and bedrooms.
  - (ii) Views from the balcony and living room are to iconic views and desirable water views. The view loss impact would be severe due to the subject site's location directly opposite the site on the southern side of William Street and the height of the affected building.
- (g) 5-15 Farrell Avenue, Darlinghurst
  - (i) The building is approximately 10-storeys. The affected apartments are located on the front northern boundary. The general planning of the apartment includes a balcony that is located to the northern boundary, which is accessed from living rooms and bedrooms.
  - (ii) Views towards the north and north-west are to iconic and desirable land and water views and are enjoyed from balcony areas. Generally, some views are enjoyed from living rooms.
  - (iii) The extent of impact of the proposed development would be moderate to severe to apartments on lower levels. The degree of impact improves at the higher levels. The proposed development would become a prevailing element in the view.
- (h) 26 Kirketon Road, Darlinghurst
  - (i) The building is approximately 10-storeys and is located on the site allotment and towards the rear of 5-15 Farrell Avenue. The affected apartments are located on the front northern boundary. The general planning of the apartment includes a balcony that is located to the northern boundary, which is accessed from living rooms and bedrooms.
  - (ii) Views towards the north and north-west are to iconic and desirable land and water views and are enjoyed from the balcony areas. Generally, some views are enjoyed from living rooms.
  - (iii) The extent of impact of the proposed development would be moderate to apartments on lower levels. The degree of impact improves at the higher levels. The proposed development would become a prevailing element in the view.
- (i) 12-20 Rosebank Avenue, Darlinghurst
  - (i) The building is approximately 7-storeys. The affected apartments are located on the side western boundary. The general planning of the apartment includes a balcony that is located to the western boundary, which is accessed from living rooms and bedrooms.
  - (ii) Views towards the north and north-west are to iconic and desirable land and water views and are enjoyed from balcony areas. Generally, some views are enjoyed from living rooms.

- (iii) The extent of impact of the proposed development would be moderate to apartments on lower levels. The degree of impact improves at the higher levels to become minor. The proposed development would become a prevailing element in the view.
- (j) 227 Victoria Street, Darlinghurst
  - (i) The building is approximately 15-storeys. The affected apartments are located on a rear boundary. The general planning of the apartment includes a balcony that is located to the western boundary, which is accessed from living rooms and bedrooms.
  - (ii) Views from the balcony are to partial iconic views. The view loss impact would be minor. Partial iconic views would still be maintained.

***Assessment of the reasonableness of the proposal that is causing the impact:***

- 78. The degree to which an impact is considered to be reasonable depends on the extent to which the development complies with the relevant planning controls, and whether impacts could be mitigated by a more skilful design.
- 79. In the case of the proposed building envelope, a degree of view loss would be inevitable. The view impacts are predominantly as a result of a compliant building height, notably the William Street envelope massing. This massing particularly affects the properties on the south of William Street where the loss of views to icons and desirable water views generally occurs over the front boundary.
- 80. The site is envisaged to be redeveloped up to a height of RL 56.5, or approximately 9 storeys on William Street, in accordance with the site-specific controls in the Sydney DCP 2012. The street frontage height of the William Street massing is under the prescribed height of the DCP and moreover, is contained within the maximum permissible height of 35 metres under the Sydney LEP 2012.
- 81. Some neighbouring developments will have a devastating view impact where their current views to icons and desirable water views will be completely obstructed by the proposed development. It is considered that a more skilful design could not have mitigated the degree of impact due to the location of the properties to the south and due to the height of the existing neighbouring buildings that are approximately 4 to 8 storeys.
- 82. Additionally, some properties with low and mid-rise apartments will have moderate to severe view impacts where their current views to icons and desirable water and land views would be obstructed by the proposed development. Similarly, a more skilful design could not have mitigated the degree of impact due to their location to the south as well as the topography of Darlinghurst that steps up towards the south. Buildings are sitting higher above the subject site and would benefit from expansive vistas out to iconic and desirable views.
- 83. High-rise apartments will have minor view impacts as iconic and desirable water views would be maintained due to the height of the neighbouring building and location of these apartments on upper floors. The proposed development becomes a prevailing element in the foreground.

84. With regard to the depth of the William Street massing, it has the potential to obstruct desirable land views. While it was requested that the alignment of the massing be consistent with the site-specific DCP envelope, the submitted view impact assessment from Urbaine Design Group illustrates the extent of views to be gained of the Sydney CBD skyline by being consistent with the site-specific envelope is minor and considered acceptable in this regard. An extract of this view is provided in Figure 60 below.



**Figure 60:** Extract of VIA from Level 4 at 196-200 William Street. The red outline denotes the difference of views lost between the site-specific DCP envelope and the proposed envelope.

85. The Dowling Street massing also has the potential to partially obstruct views. The envelope is within the maximum height of 22 metres under the Sydney LEP 2012, as well as the maximum 6-storey height in buildings of the Sydney DCP 2012. A skilful design has been employed in the form of cut-outs and chamfering of the envelope to enable views to the iconic views as much as possible.
86. Overall, being located in an urban context within the city fringe, it is inevitable that any development will affect the views and outlook to several residential and commercial developments to some extent. Preserving full views would require a substantial reduction in the form of the development.
87. An assessment of whether or not the proposed development adversely impacts views from other developments has been undertaken and the proposed envelope has an acceptable impact. Having regard to the above discussion, the proposed building envelope does not unreasonably reduce the amenity enjoyed by surrounding residential.
88. The proposed envelope provides adequate view sharing as much as possible to surrounding icons and desirable views from surrounding developments and is acceptable.

**Design Excellence**

89. The provisions of Clause 6.21C – Design Excellence of the Sydney LEP 2012 have been considered in the assessment of the application. Generally, the proposal satisfies the matters for consideration in this clause in that the form and the bulk of the building adequately responds to the existing streetscape and heritage significance of the adjoining heritage conservation area.
90. Additionally, the indicative reference scheme exemplifies that the proposal for a future mixed-use building is suitable for the land and would not result in adverse environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise and wind. Moreover, the proposal would enable view sharing from neighbouring residential developments as much as possible.
91. Under Clause 6.21D(1) and given that the proposal involves a development with a height above 25m outside of Central Sydney, a competitive design process is required to be undertaken in relation to the proposed development that would inform any detailed design prior to the lodgement of any detailed development application for the design of the building.
92. There are three (3) types of competitive design processes, which include the following:
  - (a) an 'open' architectural design competition;
  - (b) an 'invited' architectural design competition; or
  - (c) an 'invited' competitive design alternatives process.
93. A Design Excellence Strategy (Attachment F), prepared by Urbis, was submitted with the application. The Strategy satisfactorily sets out the framework for the competitive design process in accordance with the requirements of Section 3.3.2 – Design Excellence Strategy of the Sydney DCP 2012.
94. Specifically, the process would involve an invited competitive design alternatives process comprising of four (4) or six (6) participants. The selection panel would consist of half of the members nominated by the applicant and half nominated by Council.
95. The Strategy incorporates ESD targets to drive the competition and nomination of an allocation of up to 10 per cent additional floor space through the competitive design process. The targets included in the Design Excellence Strategy reflect the BASIX scores outlined in the recently gazetted SEPP Sustainable Buildings 2022.
96. The Strategy was referred to Council's Design Excellence team who considers the competitive process detailed in the Strategy would facilitate an enhanced urban outcome with a building of a high design quality.
97. Therefore, the Design Excellence Strategy is supported and recommended for approval as part of this concept development application.

**Voluntary Planning Agreement**

98. The subject application is accompanied by a public benefit offer to Council to enter into a Voluntary Planning Agreement (VPA) for land dedication and developer's works. The public benefit offer has been accepted by the Chief Executive Officer (CEO).

99. The VPA is being negotiated and drafted in association with the subject development application and provides for the following public benefits:
- (a) Excise approximately 355 square metres of land from 174-194 William Street, Woolloomooloo and dedicate to City of Sydney Council for the purposes of a pedestrian through site link.
  - (b) The dedication of the finished laneway to Council as a public reserve.
  - (c) Necessary remediation of the land for a through site link in accordance with the recommendations of the Remediation Action Plan prepared by Douglas Partners dated January 2022.
  - (d) The pedestrian through site link will be constructed to Council's requirements and technical standards, with the design of the laneway to be determined during the detailed DA.
  - (e) Provision of necessary services within the boundaries of the land dedication area.
  - (f) Provision of DDA access including construction of a lift.
100. The draft VPA will be placed on public exhibition for 28 days in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979.
101. Having regard to the above, it is recommended that authority be delegated to the CEO to determine the application, following the drafting and conclusion of the public exhibition of the draft VPA, and considering any public submissions received in response.
102. It is also recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

## Consultation

### Internal Referrals

103. The application was discussed with the following Council staff and independent design panels:
- (a) Design Advisory Panel;
  - (b) Design Advisory Panel Residential Subcommittee;
  - (c) Urban Design and Heritage Specialists;
  - (d) Design Excellence;
  - (e) Environmental Advisor;
  - (f) Public Art;
  - (g) Landscape Officer;

- (h) Tree Management Officer
- (i) Public Domain;
- (j) Specialist Surveyor;
- (k) Safe City;
- (l) Access and Transport; and
- (m) Planning Agreements.

104. The advice received is that the proposal is acceptable, subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

### **External Referrals**

#### **Ausgrid**

105. Pursuant to Section 2.47 of the SEPP Transport and Infrastructure 2021, the application was referred to Ausgrid for comment.
106. A response was received raising no objections to the proposed development, subject to conditions of consent contained in Attachment A.

#### **Transport for NSW**

107. Pursuant to Section 2.119 and 2.122 of the SEPP Transport and Infrastructure 2021 as well as Section 138 of the Roads Act 1993, the application was referred to Transport for NSW (TfNSW) for comment and concurrence.
108. Concurrence was received on 23 June 2023. Conditions of consent were recommended which are included in the Notice of Determination.

#### **Water NSW**

109. Pursuant to Section 91 of the Water Management Act 2000, the application was initially referred to Water NSW as Integrated Development.
110. As detailed in the History section of this report, the information requested by Water NSW involved the detailed design and technical information associated with excavation and basement of the proposed development.
111. Given that the application is for a concept proposal and no detailed basement design is known at this stage, Water NSW advised consideration to the application can be made in any future development application for a detailed design on 5 May 2023.

### **Advertising and Notification**

112. In accordance with the City of Sydney Community Engagement and Participation Plan 2023, the proposed development was initially notified and advertised for a period of 28 days between 12 March 2022 and 9 April 2022. In response, eight-five (85) submissions were received.



113. Following the submission of design amendments and additional information to support a new scheme, the amended proposal was placed on public exhibition between 1 April 2023 and 29 April 2023. In response, sixty-one (61) submissions were received.

114. The submissions raised the following issues:

- (a) The proposed development will result in an obstruction and loss of views.

**Response:** An assessment against the view sharing principles set out in *Tenacity Consulting v Warringah* [2004] NSWLEC140 has been undertaken as detailed in the Issues section above. When referring to the requirement regarding whether a more skilful design could provide the applicant with the same development potential but reduce the view loss impact on neighbours, this will be a consideration in a design competition and detailed design application. This concept application is to set out a maximum building envelope and the design of the building is subject to a separate application. The envelope has also been reduced in size to reduce impacts on outlook from surrounding developments. The submitted view loss analysis is accurate in its analysis and is corroborated by independent site inspections by Council staff.

- (b) The development will decrease values of surrounding residential apartments.

**Response:** The proposal is considered to be generally in accordance with the relevant planning controls and is consistent with the objectives of the MU1 Mixed Use zone in that it has the potential to support the local area and provide compatible land uses that are within proximity to public transport. The commercial value of surrounding developments is not specifically a matter for consideration under the Environmental Planning and Assessment Act 1979.

- (c) The development will have increased noise and traffic impacts.

**Response:** This application is for a concept building envelope and does not propose the demolition or construction of a building. Any traffic and noise impacts resulting of any future development within the site will be assessed as part of a detailed design application.

The application was referred to TfNSW as the future redevelopment of site will be traffic generating development under Schedule 3 of the SEPP Transport and Infrastructure 2021. TfNSW raised no objection to the proposed development, subject to conditions which are contained in Attachment A.

- (d) The development will remove public car parking spaces reducing the availability of parking for local residents and visitors.

**Response:** The loss of public car parking is not a matter for consideration in this assessment. A concept application does not approve any physical works, or the removal of existing car spaces and any future development must be consistent with parking rates as prescribed by the Sydney LEP 2012 and DCP 2012. Planning controls do not require developments to provide public car spaces on private land.

- (e) The development will result in increased overshadowing on surrounding developments.

**Response:** The submitted shadow diagrams indicate the envelopes would not have an unacceptable overshadowing on surrounding developments. Detailed consideration of overshadowing impacts will be assessed in any detailed development application.

- (f) The development would result in anti-social behaviour and impact on the local area.

**Response:** The application was referred to the City's Safe City Unit who does not raise significant issues with the proposal. Detailed consideration of any anti-social behaviour impacts will be considered in any detailed development application.

- (g) The proposed bulk and scale and out of character.

**Response:** The assessment provided in this report concludes that the bulk and scale of the proposed building envelopes is generally acceptable with compatible with the surrounding area.

- (h) The proposal does not comply with the DCP height in storeys control.

**Response:** The maximum height of buildings is stipulated by Sydney LEP 2012, which prescribes a maximum height 35 metres to William Street and 22 metres to the north of the site. The proposed development complies with the height in metres development standard.

The number of storeys is not approved as part of this concept application. However, the reference scheme comprises three envelopes with an indicative height of 6 storeys on Forbes Street, 5 storeys on Dowling Street and part 9 and 10 storeys on William Street.

The building height in storeys control is a matter to be considered through the competitive design process and ultimately upon determination of the subsequent DA for the detailed design of the building.

- (i) The proposal would result in a wind tunnel affect and impact on the amenity of neighbouring properties.

**Response:** As discussed in the DCP assessment of this report, a wind impact assessment was submitted with the application. While some wind impacts were indicated at this preliminary stage, treatment strategies were provided in the report that demonstrate that a future detailed development application for the detailed building design is capable of implementing strategies to mitigate wind impact to the subject building and to neighbouring properties. A condition of consent is recommended for the detailed development application to consider the detailed design to resolve any potential wind impacts.

- (j) Concern is raised regarding construction impacts including noise, vibration, and traffic generation.

**Response:** The proposal relates to a concept development application and does not involve demolition or construction works. Notwithstanding this, detailed investigations are required to be carried out to establish potential construction impacts prior to the lodgement of the detailed development application. Specifically, these include geotechnical investigations and modelling, noise and vibration impacts, environmental management, construction management and construction traffic management.

It should be noted that the application was referred to relevant state government agencies including Transport for NSW, who support the proposal at this preliminary stage, subject to conditions of consent. Overall, it is considered that the proposal is capable of addressing construction impacts associated with the future building at detailed development application.

Further design amendments to the building envelope and view impact studies were submitted to Council on 11 October 2023. The amended proposal was not required to be notified or advertised under the City of Sydney Community Engagement Strategy and Participation Plan 2023, given the amendments do not result in significant additional environmental impacts.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

115. A Section 7.11 contribution will be applicable for any subsequent DA for the detailed design of the building.

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

116. A Section 7.13 contribution will be applicable for any subsequent DA for the detailed design of the building.

## Relevant Legislation

117. Environmental Planning and Assessment Act 1979.  
118. Roads Act 1993.

## Conclusion

119. The subject development application seeks consent for a concept building envelope for a mixed-use development.
120. The Public Benefit Offer sets the terms of the draft VPA associated with the application, which will undergo a 28-day public exhibition period in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979. A deferred commencement condition is recommended to enable the draft VPA to be executed and registered on title prior to this consent becoming operative.

121. The concept proposal and Design Excellence Strategy establish a concept building envelope and suitable parameters for a competitive design process. Subject to the recommended conditions, the proposed envelope is generally able to accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area, and which is capable of achieving design excellence.
122. For these reasons it is recommended that authority be delegated to the CEO to determine the application, following the drafting and conclusion of the public exhibition of the draft VPA, and considering any public submissions received in response. It is recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

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