

**Item 6.****Development Application: 136 Hay Street, Haymarket - D/2023/887****File No.: D/2023/887****Summary****Date of Submission:** 29 September 2023**Applicant:** Terri Slater**Architect/Designer:** BVN**Developer:** The Trustee for Platinum Unit Trust**Owner:** Platinum Hotel Holding Pty Ltd**Planning Consultant:** Architectus**Cost of Works:** \$104,334,709.00**Zoning:** SP5 - Metropolitan Centre

**Proposal Summary:** Approval is sought for the construction of a 16 storey mixed use building over 4 basement levels, comprising retail uses, tourist and visitor accommodation, and a supermarket.

The application is being reported to the Central Sydney Planning Committee for determination as the cost of the development exceeds \$50 million.

The application comprises Integrated Development as the works require approval under the Water Management Act 2000. The NSW Office of Water issued General Terms of Approval on 22 February 2024.

Concurrence was provided by Sydney Trains on 19 December 2023 in accordance with Clause 2.99 of State Environmental Planning Policy (Transport & Infrastructure) 2021.

A Concept DA consent was granted by the Central Sydney Planning Committee on 11 August 2016 for an indicative building envelope for the subject development, which was subsequently modified on 8 August 2017. A Stage 2 (detailed) deferred commencement consent was granted by the Central Sydney Planning Committee on 30 November 2015.

This consent has not been activated and has since lapsed. Consent for early works (site preparation and excavation) was granted on 19 March 2019. As the works approved under the Early Works consent have been completed, the Stage 1 consent is considered to have been activated and has not lapsed. The proposal is generally consistent with the building envelope approved in the Stage 1 approval.

Following a preliminary review of the application, the applicant was requested to provide additional details and clarification to address flooding, additional landscaping details, clarification over works to street trees, amend the proposal to further setback the level 7 glass line and reconfigure the ground floor and basement levels to comply with Council's Waste Management Policy.

Additional information was submitted on 20 February 2024 in relation to public domain works, flood levels, landscaping and street trees. Further additional information was submitted on 6 March 2024, which included revised architectural plans with minor amendments, amended waste management plan, and amended flood report.

The application was initially notified for a period of 28 days from 10 October 2023 to 7 November 2023, and re-notified with an updated description of the proposal for 28 days from 24 October 2023 to 21 November 2023. The amended plans submitted on 6 March 2024 were not re-notified, as the amendments to the design were relatively minor and did not intensify or create any new amenity impacts.

Four submissions were received (including one submission of support). Issues raised in the submissions include potential amenity impacts (outlook, solar access and views) to neighbouring properties, proposed building height, and construction impacts. The public submissions have been addressed within this report.

The proposal is generally consistent with the relevant objectives and provisions of the Sydney LEP 2012, as well as the Concept Approval. Subject to the recommended conditions at Attachment A, the development application is recommended for approval.

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

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Industry and Employment) 2021
- (v) SEPP (Transport and Infrastructure) 2021
- (vi) SEPP (Biodiversity and Conservation) 2021
- (vii) SEPP (Planning Systems) 2021

**Attachments:**

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

**Recommendation**

It is resolved that:

- (A) the requirement under Clause 6.21 of the Sydney Local Environmental Plan 2012 requiring a competitive design process is unreasonable or unnecessary in the circumstances; and
- (B) consent be granted to Development Application Number D/2023/887 subject to the conditions set out in Attachment A to the subject report:

**Reasons for Recommendation**

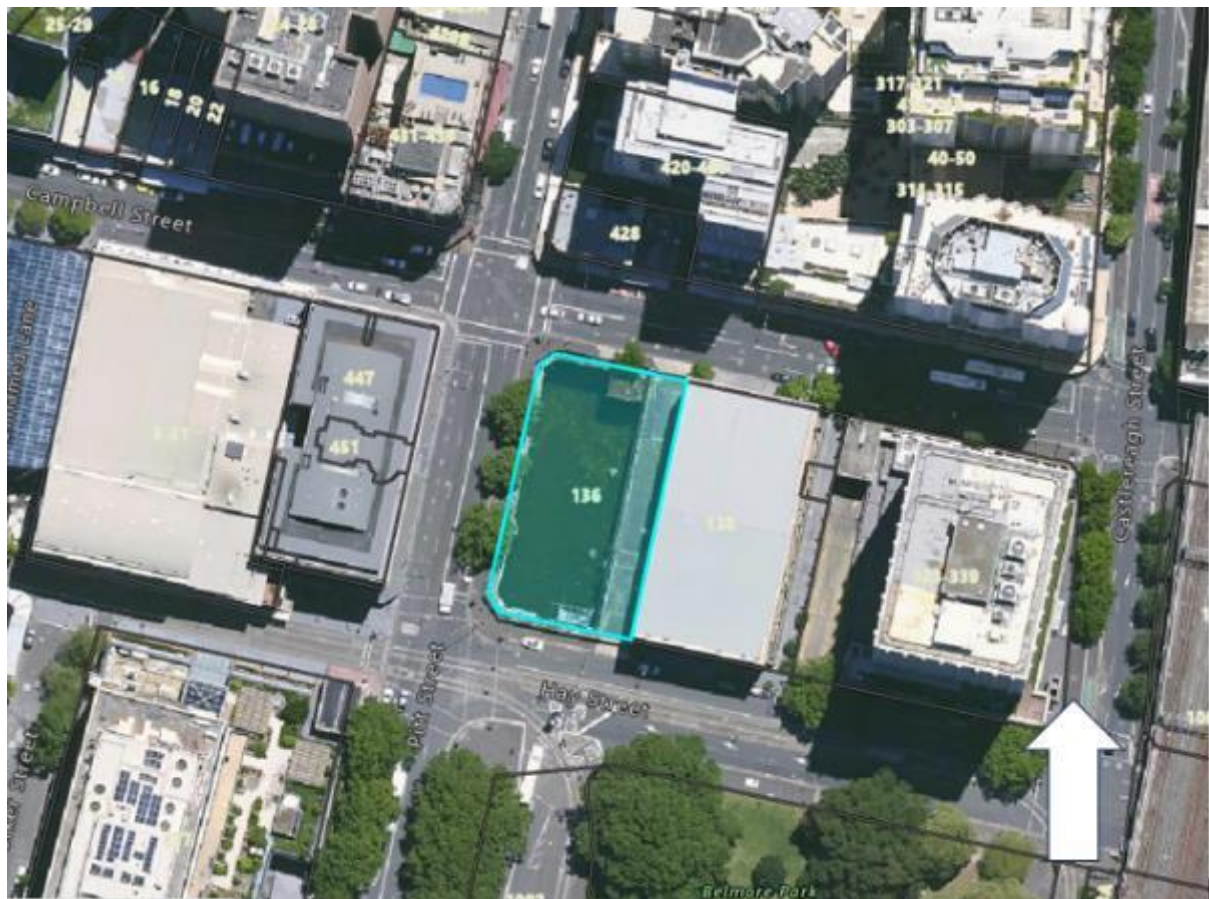
The application is recommended for Choose an item. for the following reasons:

- (A) The proposed development is consistent with the objectives of the SP5 Metropolitan Centre zone.
- (B) The proposed development satisfies the relevant objectives and provisions of the Sydney Development Control Plan 2012.
- (C) Having considered the matters in Clause 6.21 of the Sydney LEP 2012, the building displays design excellence.
- (D) The proposed development is consistent with the Concept Approval under D/2015/1490/A.
- (E) The proposal provides for uses that are compatible with the surrounding area. The proposal is in keeping with the future desired character of the area and is considered to be in the public interest.

## Background

### The Site and Surrounding Development

1. The site consists of Lot 20 DP 1189291 at 136 Hay Street, Haymarket and has a total site area of 1,619.5 sqm. The site is rectangular in shape, with splayed corners to the north-west and south-western corners of the site.
2. The site was previously in use as an at-grade car park; however, the site is currently vacant, and previously approved excavation works for the subject development have been completed. There are a number of mature street trees that surround the site.
3. There are a number of easements and covenants affecting the site, including:
  - (a) The Eastern Suburbs railway tunnel (south-west corner) of the site;
  - (b) Easement for light and air at the eastern portion of the site, with the proposed development to be setback 7.7m from the eastern site boundary;
  - (c) Easements for services to provide separation between the subject site and the Belmore Park Zone substation;
  - (d) Various easements relating to Ausgrid including right of access, noise, vibration and electrolysis, as well as electro-magnetic fields; and
  - (e) Covenants in relation to solar access protection for Belmore Park which restricts the height of the building.
4. The surrounding area is characterised by a mixture of land uses. The site is bound by Pitt Street to the west, Campbell Street to the north and Hay Street to the south. Immediately abutting the eastern boundary of the site is the large Belmore Park Zone Substation, approximately 22m in height, which also extends into a portion of the site below ground. This substation has resulted in an easement affecting the land, approximately 417 sqm, which is unable to be built on.
5. Directly across Hay Street to the south of the site is Belmore Park, across Pitt Street to the west is the heritage listed seven-storey Manning Building (Capitol Theatre) and across Campbell Street to the north is the four-storey heritage listed Chamberlain Hotel.
6. The site is not a heritage item, nor is it located within a heritage conservation area.
7. The site is located within the Railway Square and Central Station locality and is identified as being subject to flooding.
8. A site visit was carried out on 11 October 2023. Photos of the site and surrounds are provided below.



**Figure 1:** Aerial view of site and surrounds



**Figure 2:** Site viewed from Hay Street, with the neighbouring Belmore Park Zone Substation to the right





**Figure 3:** Site viewed from Campbell Street, with the neighbouring Belmore Park Zone Substation to the left



**Figure 4:** Site viewed from Pitt Street, with the Belmore Park Zone Substation in the background



**Figure 5:** Site viewed from the corner of Hay Street and Pitt Street (generally looking in a north east direction)





**Figure 6:** View looking into the subject site (from submitted Statement of Environmental Effects)

## History Relevant to the Development Application

### Development Applications

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

- **D/2015/1490** (Concept DA) – On 11 August 2016, development commencement consent was granted for a Stage 1 development for a mixed-use building envelope.
- **D/2017/727** (Stage 2 DA) – On 30 November 2017, deferred commencement consent was granted for a Stage 2 development involving the construction of a 16 storey mixed use building above 3 basement levels, comprising retail uses and visitor/tourist accommodation.

**Note:** this consent has since lapsed and was never activated.

- **D/2015/1490/A** (Modification to Concept DA)– On 8 August 2017, approval was granted to modify the Concept Approval to amend the concept building envelope.
- **D/2017/872** (Early Works DA) – On 8 December 2017, approval was granted for early works including demolition of the at-grade carpark, bulk excavation, construction of below ground shoring walls and site remediation, consistent with the concept approval under D/2015/1490 as modified. The consent became operational on 19 March 2019.
- **D/2017/872/A** (Modification to Early Works DA) – On 30 November 2018, approval was granted to modify the early works Development Consent. The changes involved increasing the depth of excavation (concurrent with the additional basement level that was proposed under D/2017/727/A) and amending the cost of works.
- **D/2017/727/A** (Modification to Stage 2 DA) – On 17 December 2018, approval was granted to modify the Stage 2 Development Consent. Changes included the addition of one basement level; expansion and reconfiguration of the supermarket tenancy; expansion and reconfiguration to include an additional mezzanine level within the hotel function room; deletion of the pool from Level 7; and reconfiguration of the ground floor layout in response to the amended supermarket entrance.
- **D/2017/727/B** (Modification to Stage 2 DA) – On 12 July 2019, approval was granted to modify the Stage 2 Development Consent. Changes included deletion of one basement level, and reconfiguration of the basement; reduction in the number of hotel rooms from 307 to 301, minor internal reconfiguration of rooms and services, minor external changes; and an updated cost of works.
- **D/2017/872/B** (Modification to Early Works DA) – On 12 July 2019, approval was granted to modify the early works Development Consent. The changes involved reducing the depth for bulk excavation and associated pits (concurrent with the deletion of a basement level that was proposed under D/2017/727/B) and amending the cost of works.
- **D/2017/727/1** (Extension of Stage 2 DA) – On 28 October 2019, approval was granted to extend the deferred commencement period in accordance with the provisions of Section 4.54 of the Environmental Planning and Assessment Act 1979 (EP&A Act). The new lapse date was 30 November 2020. Subsequent to this, amendments to Section 4.53 of the EP&A Act made by the COVID-19 Legislation (Emergency Measures – Miscellaneous) Act 2020 (COVID Act), allowed a two-year extension of deferred commencement consents that have not lapsed at the start of the prescribed period. Under Section 4.53(8) of the Act, the prescribed period is between 25 March 2020 and 25 March 2022. Consequently, the new lapse date of the consent is on 30 November 2022.

**Note:** The deferred commencement conditions were never fully satisfied prior to the new lapse date, and the consent was never activated.

- **D/2017/872/C** (Modification to Early Works DA) – On 14 February 2020, approval was granted to modify the early works Development Consent. The changes included reverting the basement depth to that approved under Modification A and amending the cost of works.

- **D/2017/727/C** (Modification of Stage 2 DA) – On 27 April 2021, approval was granted to modify the Stage 2 development consent. The changes include the provision of 18 additional hotel rooms, internal alterations, infilling of a void, and minor alterations to the west facade.
- **D/2017/872/D** (Modification to Early Works DA) – On 10 June 2021, approval was granted to modify the early works development consent. The changes involve reducing the basement depth to four levels.

**Note:** The excavation works under D/2017/872 (as modified) have since been completed.

- **PDA/2023/128** – Pre-lodgement advice was provided on 13 July 2023, regarding the re-lodgement of the previously approved Stage 2 scheme under D/2017/727 (as modified) which has since lapsed. The following comments were provided by Council:
  - Concept Approval D/2015/1490/A can be relied upon, given the early works consent under D/2017/872/D has been activated.
  - The new development application for the hotel, to replace the lapsed consent D/2017/727/C, will not be considered State Significant Development (SSD), and the commercial component (i.e. non-hotel components) can be excluded from the Capital Investment Value (CIV) as per Part 13 (2) of Schedule 1 'State Significant Development – general' of State Environmental Planning Policy (Planning Systems) 2021.
  - Council agrees to waive the requirement for a competitive design process, on the basis that such a process would be unnecessary, subject to the application being substantially the same as lapsed consent D/2017/727/C.

### Compliance Action

10. The site has not been subject to any previous compliance action which are directly relevant to the subject application.

### Amendments

11. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 19 December 2023. The following additional information and amendments were requested:
  - Increase the setback of the level 7 glass line and address urban design conditions on the previous lapsed Stage 2 consent relating to the provision of additional passive shading devices to the northern and western glazed facades, and details of the materiality of the fire booster doors and recessed wall from level 7 to 8 on the western elevation.
  - A written commitment to a 4 Star NABERS energy rating for hotels, as referenced in the submitted energy efficiency report.
  - Design detailed of the proposed flood facade, and demonstrating compliance with Council's Floodplain Management Policy, regarding the underground car park.

- A Public Domain Levels and Gradients Plan.
  - Clarification over which street trees are to be retained and removed, as well as an amended arborist report to address the impacts of the proposed public domain works on the street trees.
  - Additional landscaping details to demonstrate the viability of the facade landscaping.
  - Additional details and amendments to demonstrate compliance with the City's current "Guidelines for Waste Management in New Developments", particularly in regard to the proposed supermarket.
  - Provide internal direct back of house access to all the ground floor retail tenancies.
  - Total floor area (TFA) plans to assist in calculating any applicable affordable housing contributions.
  - A current more detailed survey plan, a copy of the latest certificate of title search, current base deposited plan, and any relevant s88b instrument.
12. The applicant responded to the request on 20 February 2024, and submitted revised landscaping plans, public domain plan, updated survey information, an updated arborist report, and facade shading analysis.
13. Further additional information was provided on 6 March 2024, which include amended architectural plans with minor internal amendments, amended waste management plan and amended flooding report.

### Proposed Development

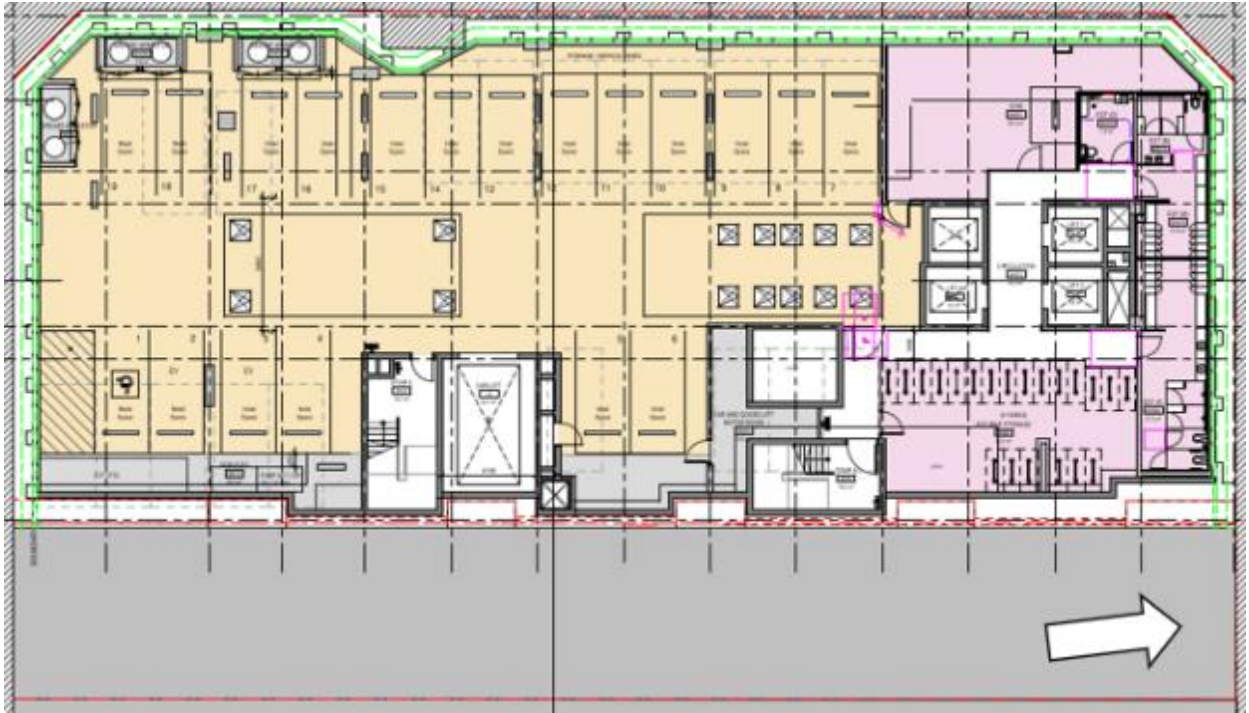
14. The application seeks consent for the construction of a 16 storey (plus four basement levels) mixed use development comprising a tapered tower form with a private service lane extending along the eastern portion of the site. It is noted that the proposed development is largely identical to the previously approved Stage 2 scheme under D/2017/727/C (with the exception of minor level adjustments) which the consent has since lapsed. The proposed development consists of:

- **Basement Level 3**
  - Parking for 19 cars (15 allocated to hotel use and 4 allocated to retail use).
  - End of trip (EOT) facilities, including 41 bicycle parking spaces.
  - Gymnasium for hotel guests.

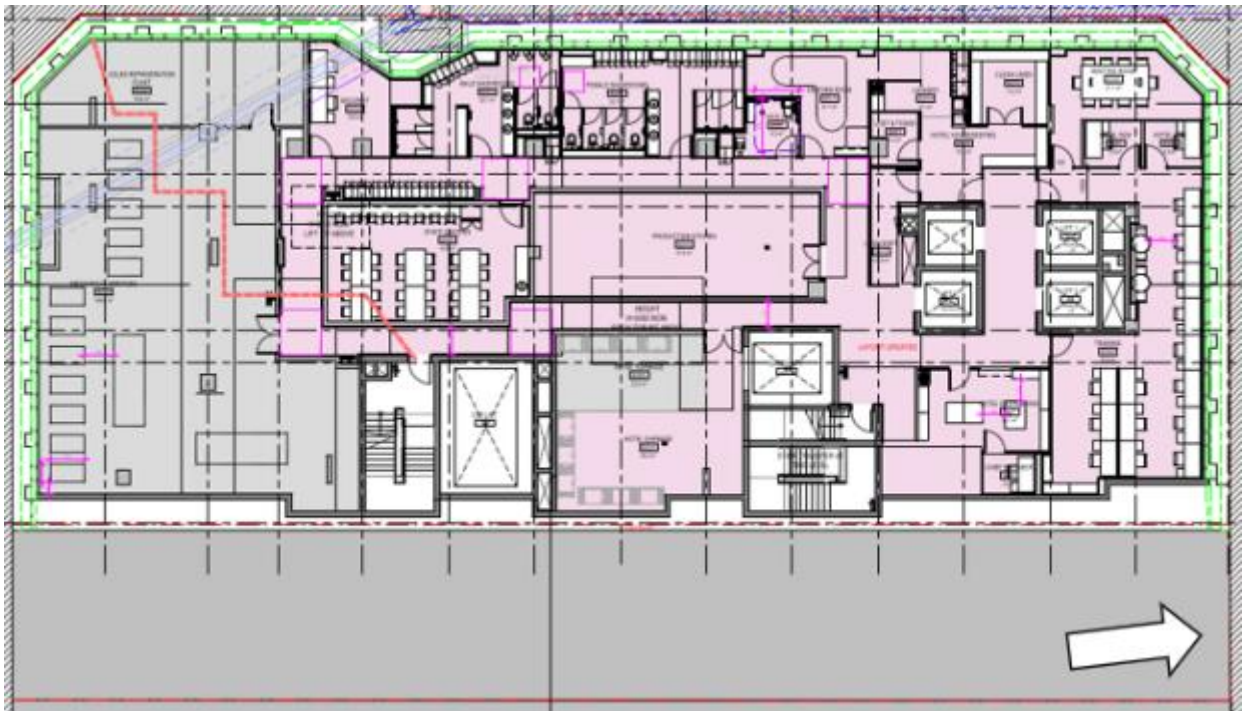
- **Basement Level 2**
  - Hotel back of house areas comprising offices, staff amenities, kitchen
  - Hotel and retail waste areas
  - Plant and services
- **Basement Level 1**
  - Retail (supermarket)
  - Plant and storage.
- **Lower Ground Floor**
  - Retail (supermarket)
  - Substation.
- **Ground Floor**
  - Six retail tenancies with frontage to Hay, Pitt and Campbell Streets
  - Hotel lobby with frontage to Campbell Street
  - Supermarket entrance from Hay Street
  - Waste room, plant and services
  - 7.6m wide private service lane accommodating all loading, deliveries, guest pick-up and drop-off and vehicular entry to the basement car park utilising a car lift, accessed from Hay Street and
  - 16 visitor bicycle parking spaces located at the southern end of the service lane.
- **Levels 1-15**
  - 318 room hotel
  - Restaurant, function room and terrace bar located on Level 7 terrace.
- **Levels 16-17**
  - Rooftop mechanical plant.

15. Plans and elevations of the proposed development are provided below.

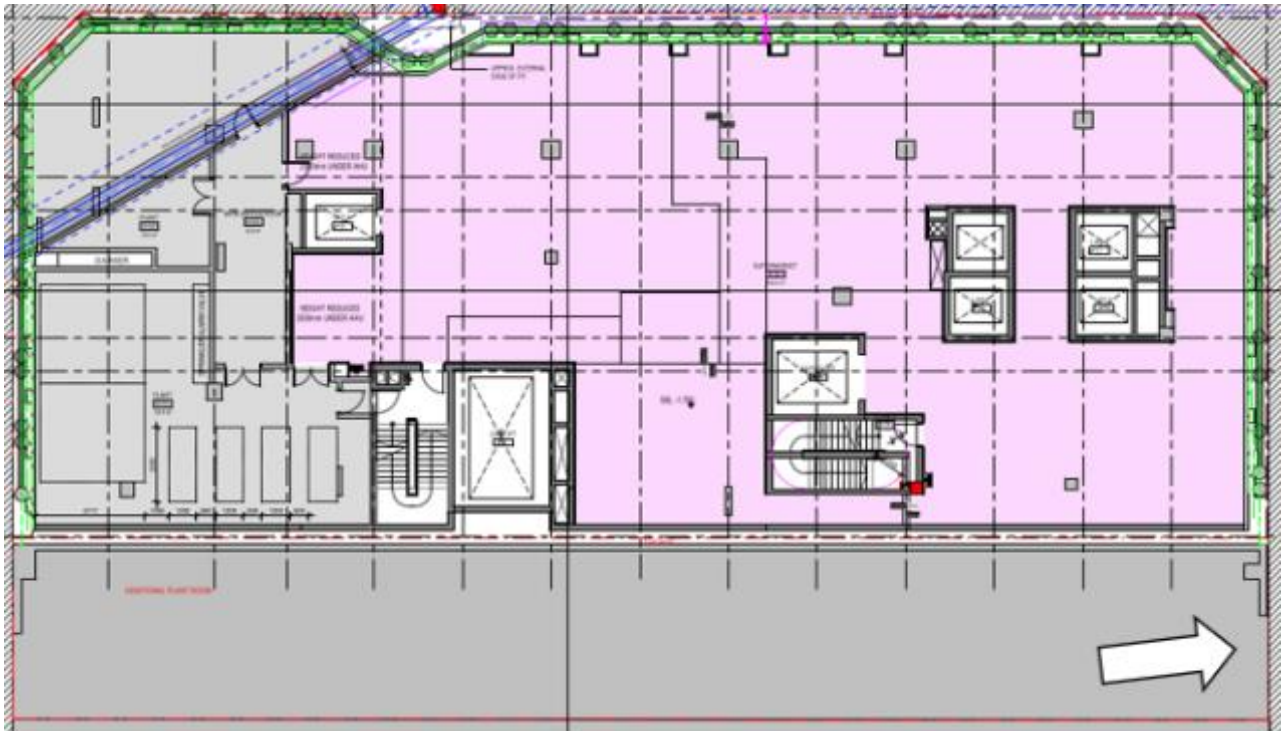




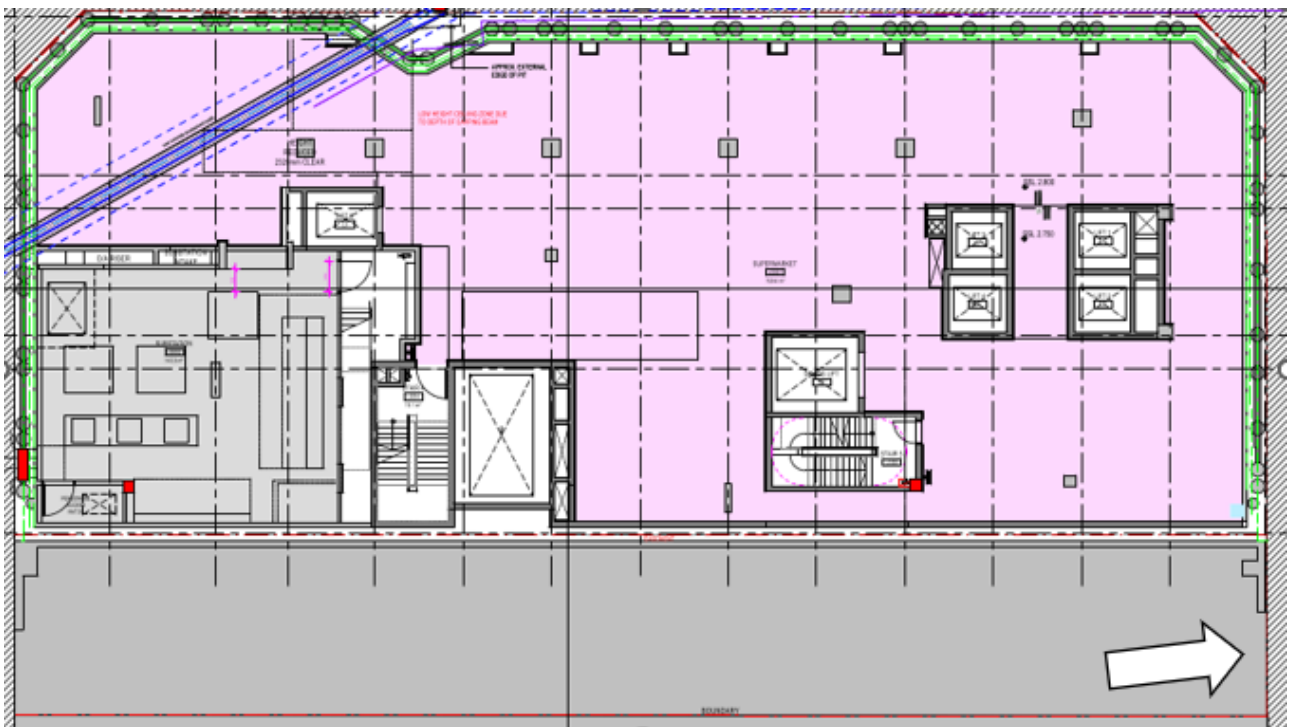
**Figure 7:** Proposed basement level 3 floorplan



**Figure 8:** Proposed basement level 2 floorplan

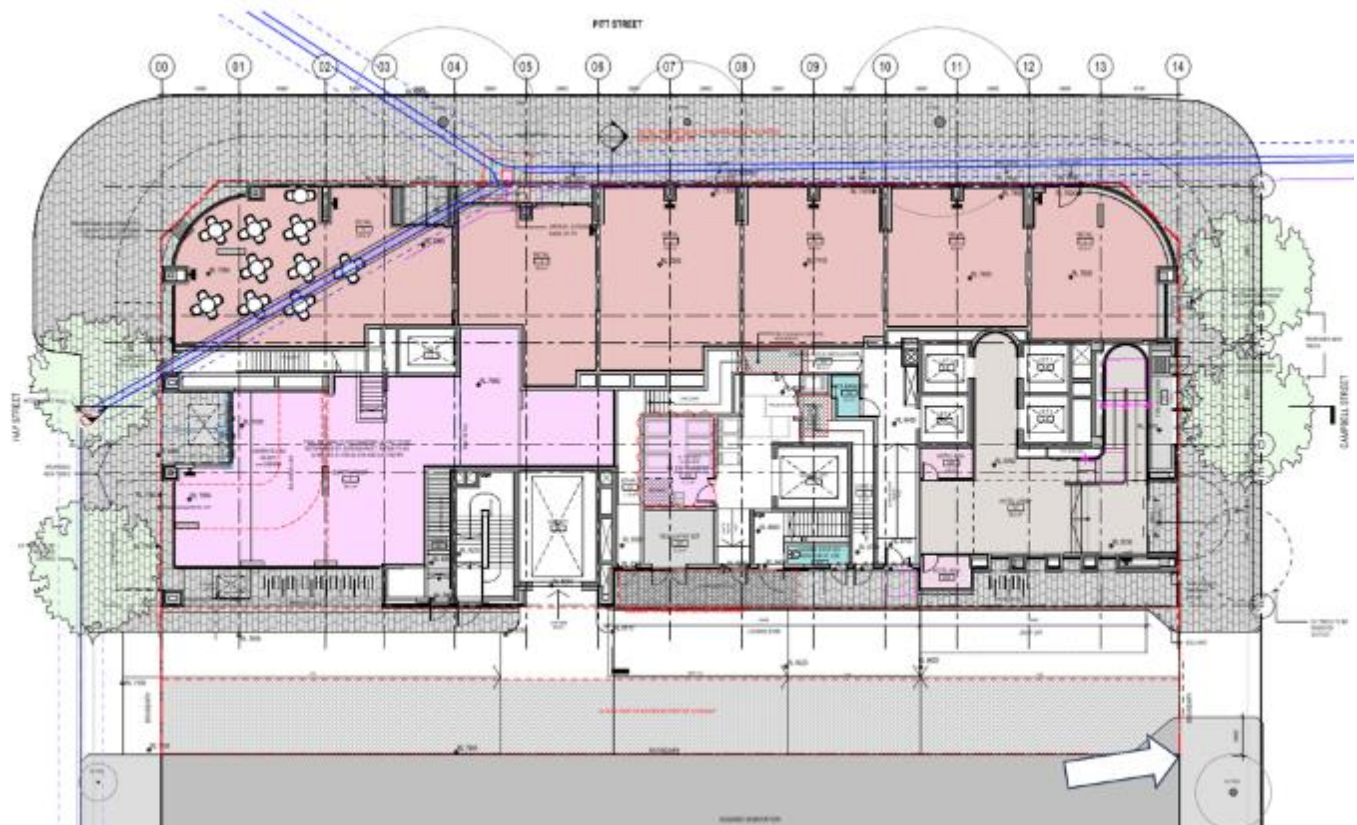


**Figure 9:** Proposed basement level 1 floorplan



**Figure 10:** Proposed lower ground floorplan

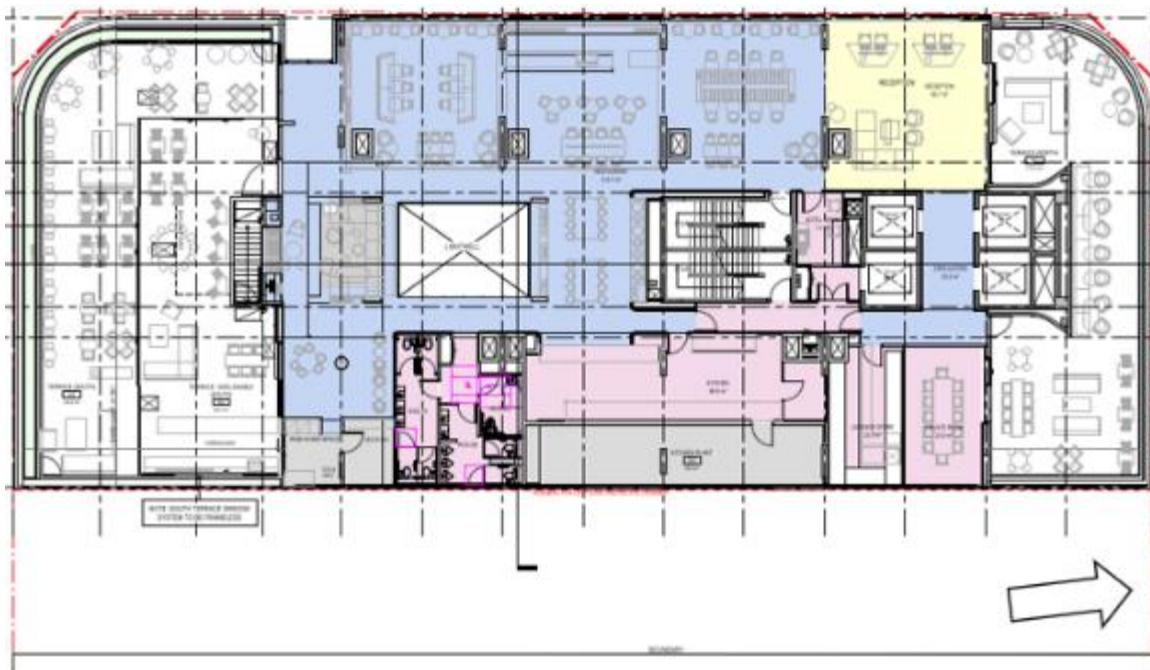




**Figure 11:** Proposed ground floorplan



**Figure 12:** Typical level 1-6 floorplan



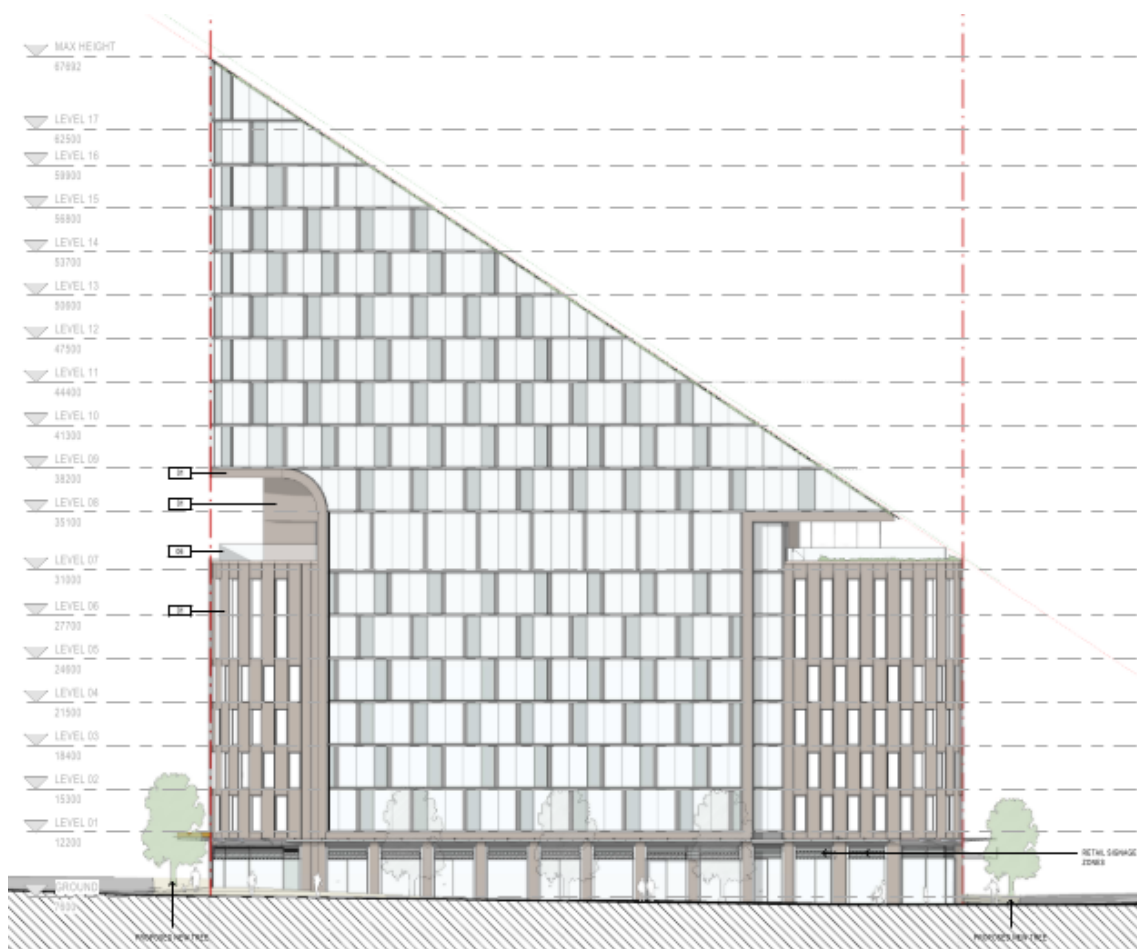
**Figure 13:** Proposed level 7 floorplan



**Figure 14:** Typical level 8-15 floorplan

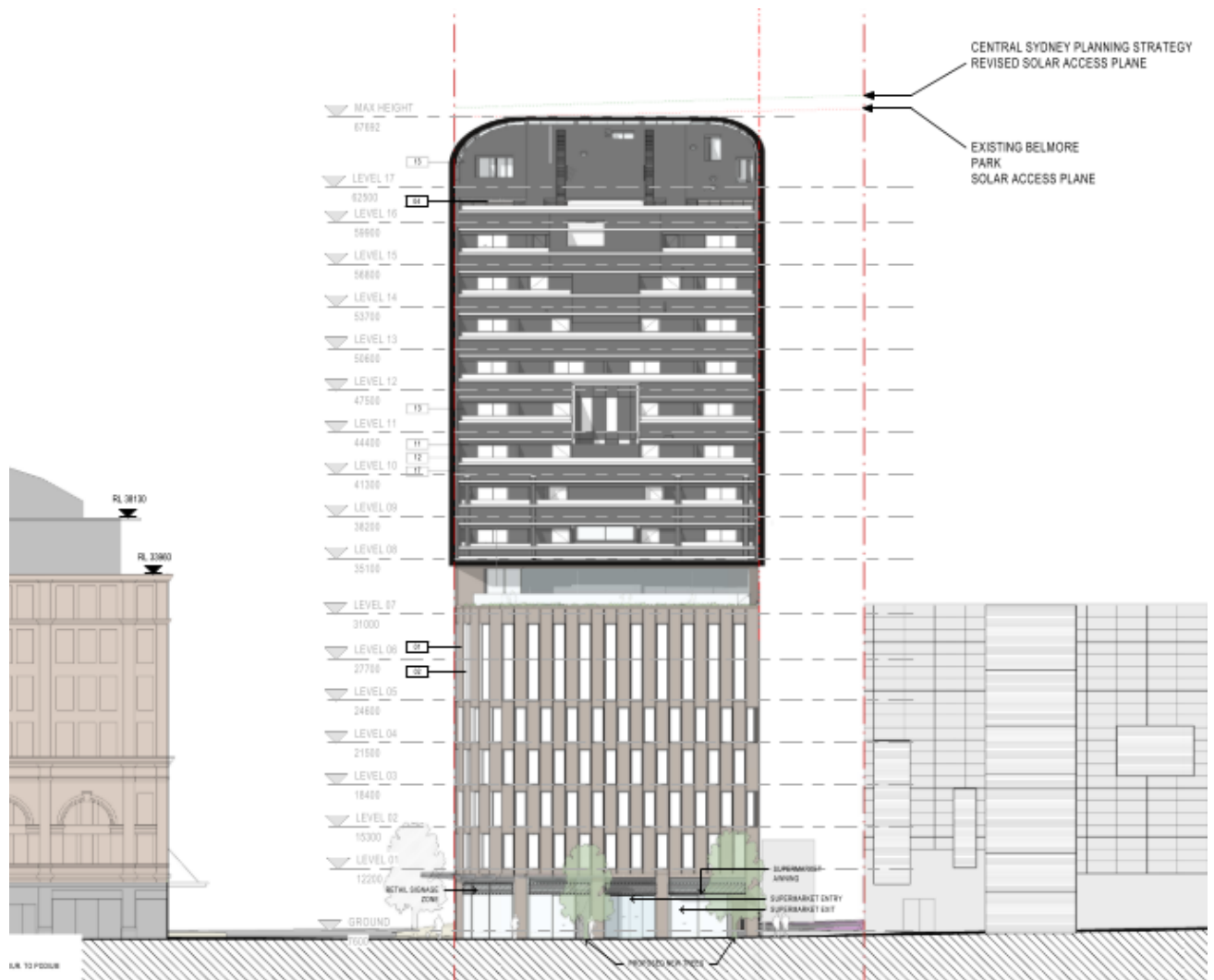


**Figure 15:** Roof plan

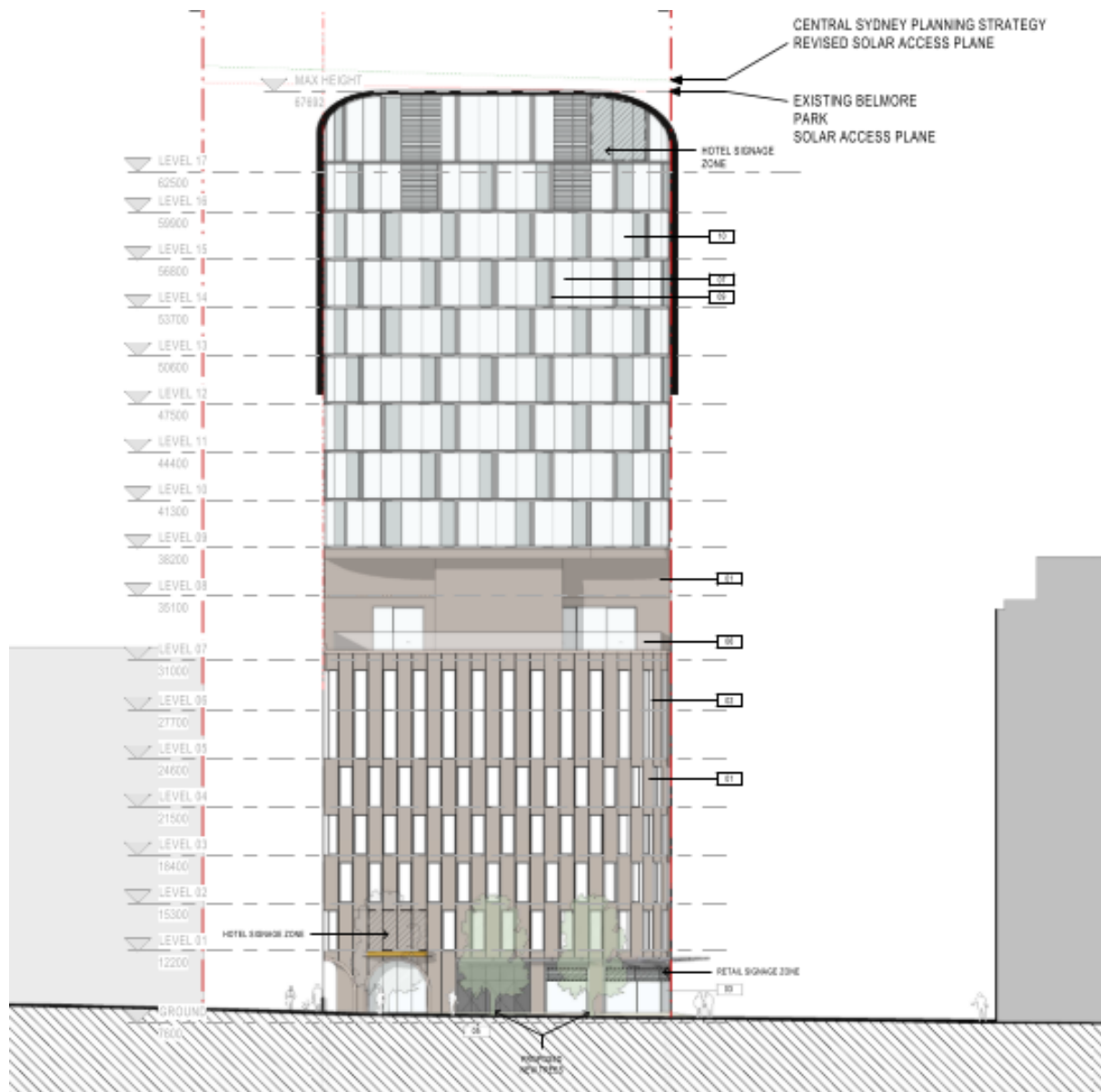


**Figure 16:** Proposed western (Pitt Street) elevation

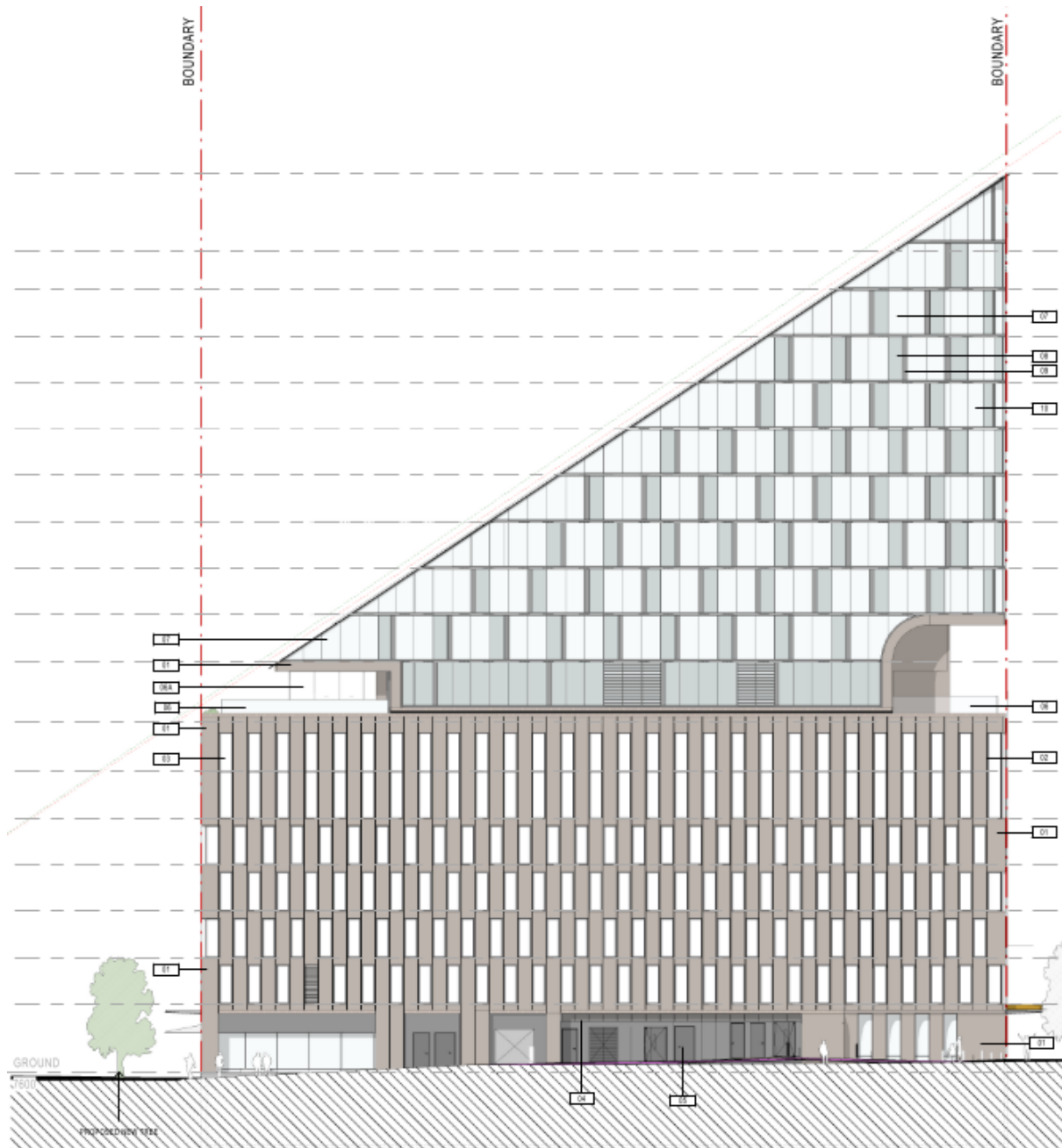




**Figure 17:** Proposed southern (Hay Street) elevation



**Figure 18:** Proposed north (Campbell Street) elevation



**Figure 19:** Proposed east (Service Lane) elevation



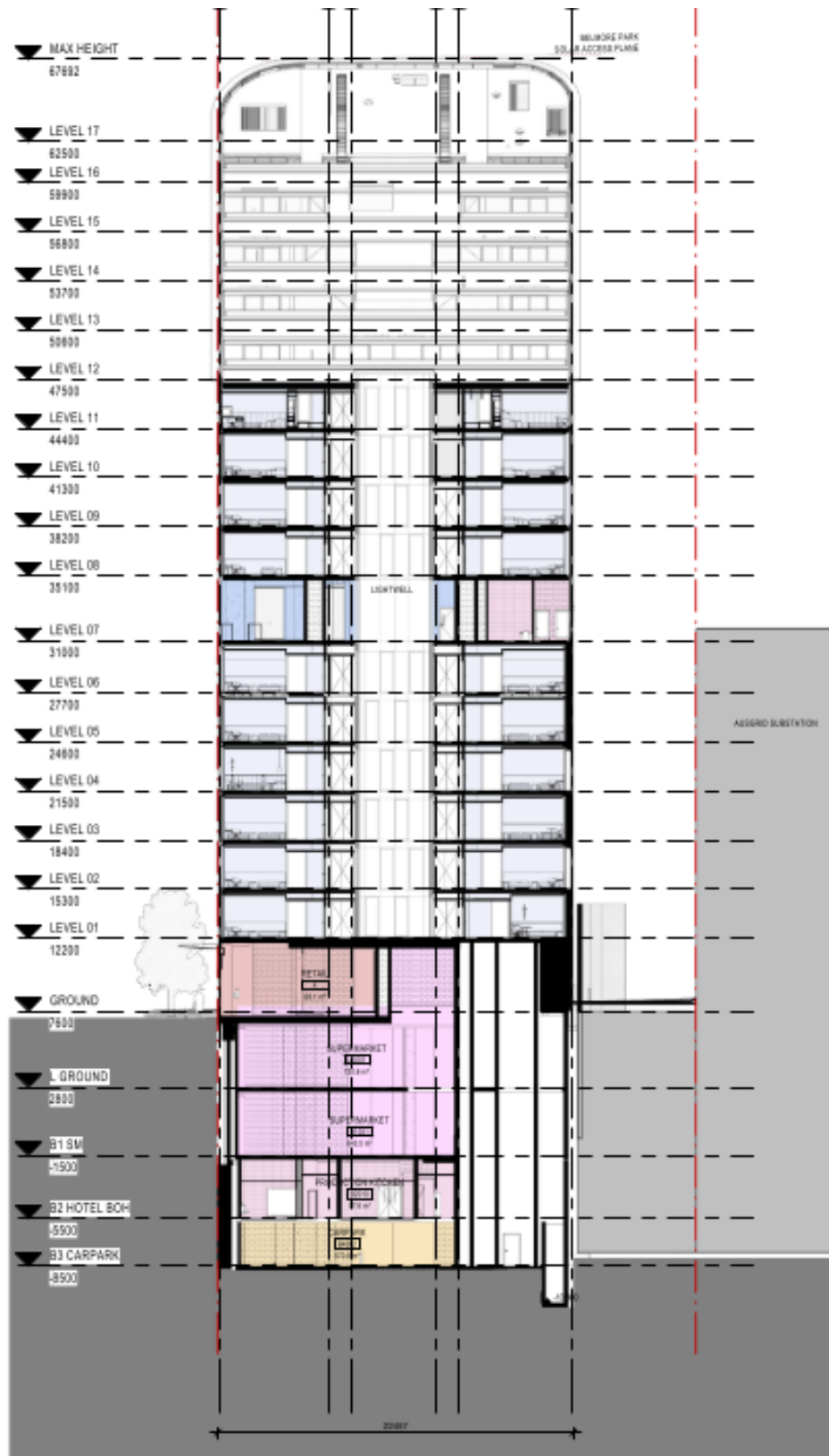
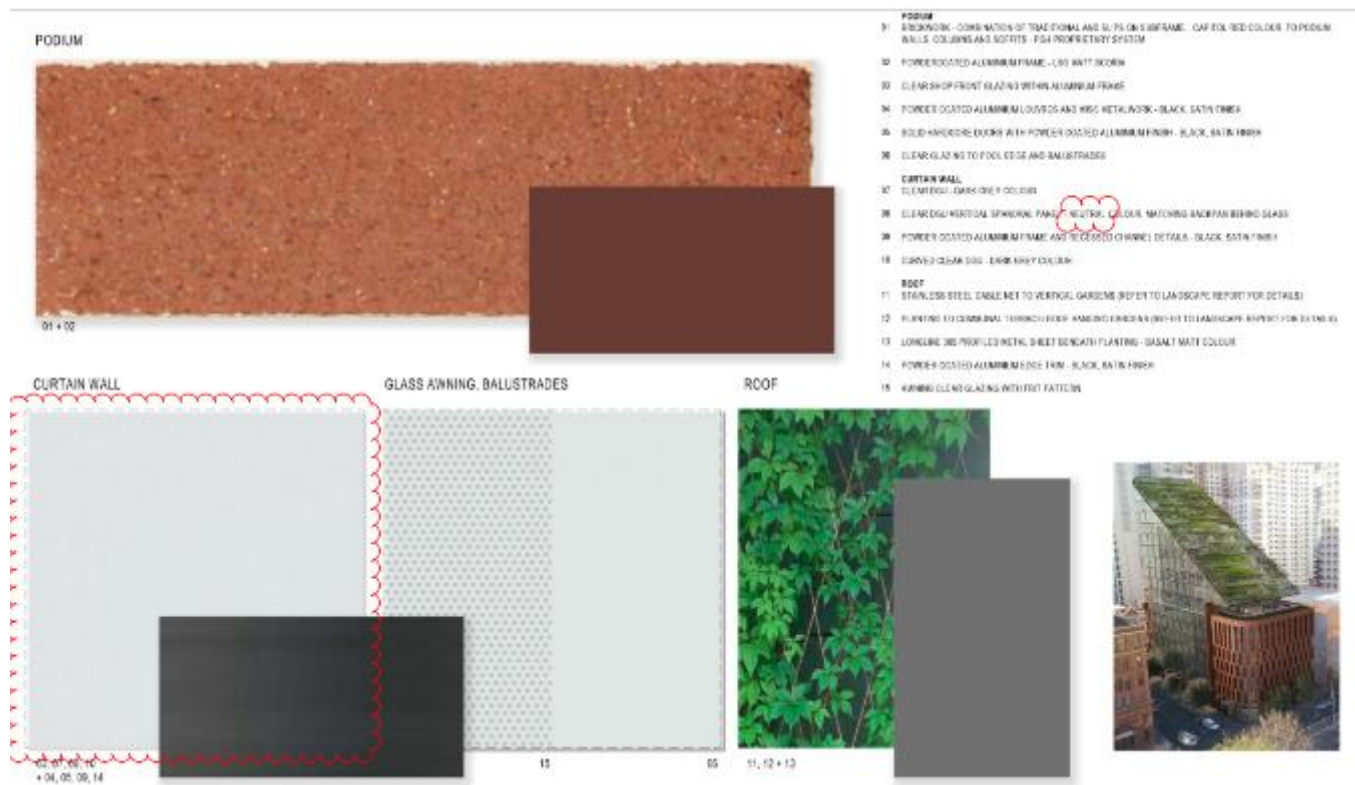


Figure 21: Proposed short section

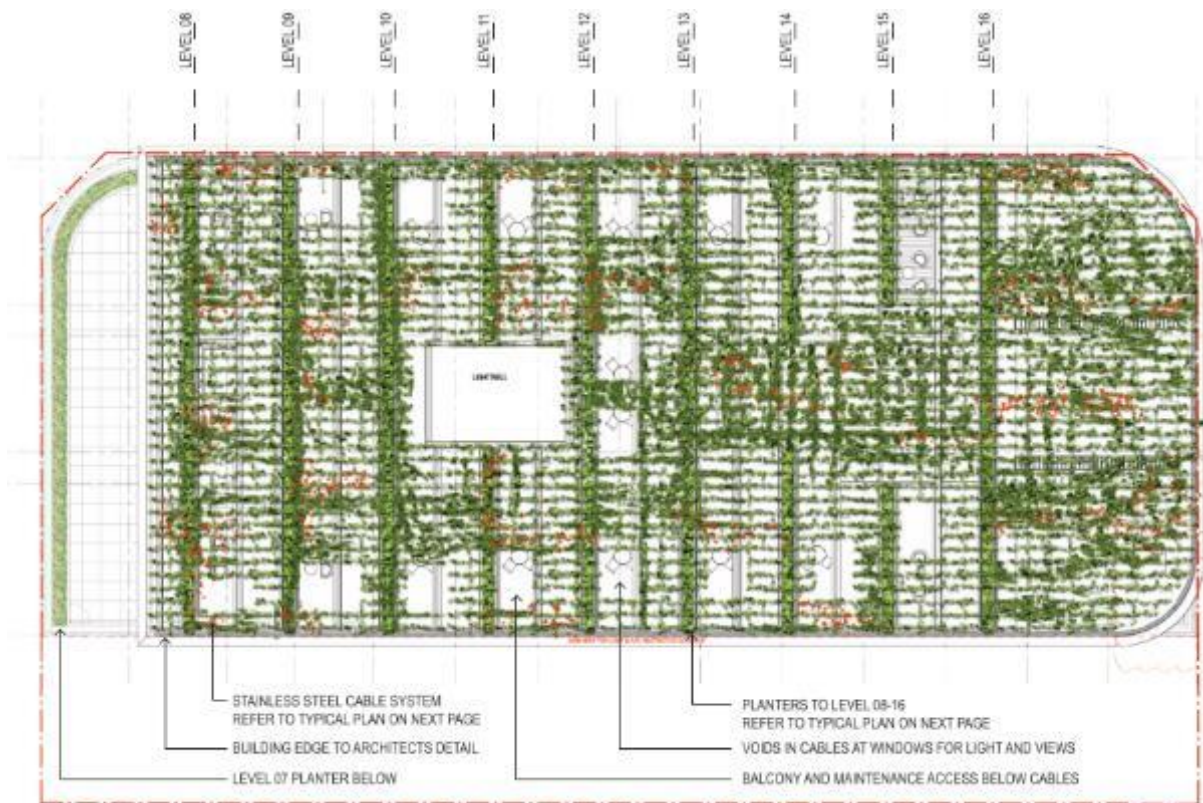




**Figure 22:** External materials & samples schedule



**Figure 23:** Detailed section of the upper level facade planting



**Figure 24:** Roof plan of the proposed planters



**Figure 25:** Axonometric view of the south-west corner (Pitt St & Hay St) of the proposal





**Figure 26:** Perspective view of the south-west corner (Pitt St & Hay St) of the proposal



**Figure 27:** Perspective view of the proposal looking east along Campbell St





**Figure 28:** Perspective view of the proposal looking west along Campbell St



**Figure 29:** Perspective view of the proposal looking north along Hay St



**Figure 30:** Perspective view of the proposal looking south along Pitt St

## Assessment

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

## Water Management Act 2000

17. The previous Stage 2 application (D/2017/872) was referred to WaterNSW and general terms of approval were issued requiring a separate Water Supply Work Approval from WaterNSW, and potential Water Access License.
18. The current application was referred to WaterNSW as Integrated Development, to seek advice as to whether the previous general terms of approval should be re-applied to the current application.

19. New General Terms of Approval were issued by WaterNSW requiring a Water Supply work approval, and to reflect a drained basement design, and have been included in the schedules within the recommended conditions of consent. WaterNSW have advised that there is insufficient information to support a drained basement design, and that should a drained basement (rather than tanked) be pursued, a S4.55 modification application will be required to provide all the required information to WaterNSW and the Department of Climate Change, Energy, the Environment and Water (DCCEEW) in order to assess a drained basement design.

## **State Environmental Planning Policies**

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

#### **Remediation of Land**

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. A Stage 2 Detailed Environmental Site Investigation (DESI) and Remediation Action Plan (RAP) have been previously submitted in relation to the previous Stage 2 application (D/2017/727 as amended) and early works application (D/2017/872 as amended). All previously approved excavation works have been completed, and no further excavation is proposed as part of the subject application.
34. The site has been remediated and validated and a Section A1 Site Audit Statement has been issued, stating that the site is suitable for the proposed use. The application has been referred to Council's Health & Building team, who have reviewed the submitted documentation, and advised that no further information is required in respect to land contamination.

### **State Environmental Planning Policy (Sustainable Buildings) 2022**

35. The provisions of the SEPP came in to force on 1 October 2023. As the subject application was lodged on 29 September 2023, it is subject to savings provisions, and the provisions of the SEPP do not apply. Refer to Section 3.6 of the DCP compliance table below regarding sustainability.

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

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

## **Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**

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

37. The application is subject to Clause 2.48 of the SEPP as the development immediately adjoins an easement for electricity purposes and is directly adjacent to an electricity substation.

38. The application was referred to Ausgrid for a period of 21 days. Ausgrid confirmed that no objections are raised to the proposed development, subject to the imposition of recommended conditions of consent, particularly regarding protection of Ausgrid assets and easements. These conditions of consent have been included in the recommended conditions of consent (refer to Attachment A).

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

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

39. The application is within 25m of the Sydney Light Rail corridor and was subsequently referred to Transport for NSW (TfNSW) and Sydney Trains for concurrence. TfNSW and Sydney Trains have recommended conditions to ensure that construction and building works do not adversely impact on the operation of the rail corridor, which are included in the Notice of Determination (refer to Attachment A).

**Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017**

40. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
41. There are a total of six existing street trees along the frontages of the site, comprising;
- (a) A Crows Ash along Hay St
  - (b) Three London Plane trees along Pitt St
  - (c) A Box Elder Maple and Brush Box along Campbell St.
42. The Box Elder Maple along Campbell St is proposed to be removed, while the other remaining five street trees are to be retained.
43. An amended arborist report prepared by Lex Atkins, dated 31 January 2024, has been submitted in support of the proposed tree removal, and has been peer reviewed by Council's Tree Management Officer. The removal of the Box Elder Maple is supported by Council's Tree Management team, given that a review of the previous Stage 2 consent for the site indicates that approval was previously granted for the removal of this tree as part of D/2017/727, which was not activated. In addition, the proposal includes the provision of two replacement Brush Box street trees along Campbell St, and two new Leopard Trees along Hay St in accordance with The City's Street Tree Master Plan 2023.
44. While the proposal is generally supported by Council's Tree Management team subject to standard tree protection conditions of consent, concern is raised that the proposed awnings along the Pitt St frontage of the building may require excessive pruning and potential impacts to the retained three street trees along Pitt St. Therefore, a condition of consent is recommended for tree pruning specifications to be submitted and approved by Council prior to issue of a construction certificate. Council's Public Domain team have also recommended a standard condition of consent requiring a detailed Public Domain Plans be submitted and approved by Council prior to issue of a construction certificate, which would include any works to the public domain, including the proposed awnings, which could potentially impact the retained street trees.



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

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

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

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

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the SP5 Metropolitan Centre zone. The proposed development is defined as "tourist and visitor accommodation" and "commercial premises" 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 maximum permissible height permitted is determined by the Belmore Park Sun Access Plane.  A maximum height of 60m is proposed.  The proposed development complies with the sun access plane under CI 6.17.
4.4 Floor space ratio	Yes	A maximum floor space ratio (FSR) of 8:1 is permitted. Under CI 6.4, the site is eligible for additional FSR of 4.5:1 for retail premise, and 6:1 for hotel accommodation.



Provision	Compliance	Comment
		<p>Based on the proposed distribution of land uses being 86% hotel and 14% retail the maximum FSR available to the site is 13.79:1.</p> <p>A floor space ratio of 8.69:1 or 14,075 sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

**Part 5 Miscellaneous provisions**

Provision	Compliance	Comment
5.6 Architectural roof features	Yes	<p>The height limit for the site is set by the Belmore Park Sun Access Plane.</p> <p>Although the proposal complies with the Belmore Park Sun Access Plane, it includes a roof feature which incorporates part of the mechanical plant area on level 17 (mezzanine) with the green roof.</p> <p>The mechanical plant area on level 17 is only accessible via ladders and has a floor to ceiling of 1.4m at its lowest point, and is not considered to be reasonably able to be converted into floor space, and does not result in any unreasonable overshadowing impacts, or contain any advertising structures.</p> <p>The roof feature therefore meets the intent of the control.</p>
5.10 Heritage conservation	Yes	<p>The subject site is not located in a heritage conservation area but is in close proximity to a number of local heritage items, including:</p> <ul style="list-style-type: none"> <li>• Belmore Park (1825) and Central Station (1824) to the south,</li> <li>• Manning Building at 447-451 Pitt Street (1859),</li> <li>• Capitol Theatre at 3-21 Campbell Street (1826); and</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>Chamberlain Hotel at 420-428 Pitt Street (I858).</li> </ul> <p>The proposal has been designed to read as two interconnecting solids comprising a masonry base intersected by a glazed connection. The masonry base and the composition of the solid to void ratio responds to the materiality and fenestration of nearby heritage items, particularly the Manning Building directly opposite the site on the western side of Pitt Street.</p> <p>The proposed development will not impact on significant views of surrounding heritage items.</p> <p>The proposal is not considered likely to result in detrimental impacts on the significance of surrounding heritage items given that all excavation works for the site have previously been undertaken under the early works approval (D/2017/872 as amended).</p>
5.21 Flood planning	Yes	<p>The site is identified as being subject to 1% Annual Exceedance Probability (AEP) flooding.</p> <p>While a flood report prepared by NORTHROP has been submitted, the report notes that the levels of the underground carpark do not strictly comply with the City's Interim Floodplain Management Policy, and a performance-based assessment is required.</p> <p>Concerns were initially raised by Council's Flood Engineer regarding potential overland flows from Campbell St travelling down the private lane and reaching the basement carpark and service areas, including the goods lift.</p> <p>Council recommended that the driveway crest to the private lane be raised by approximately 300mm to mitigate potential overland flows.</p> <p>An amended flood report was subsequently submitted, with additional</p>

Provision	Compliance	Comment
		<p>details and justification to retain the proposed flood levels and driveway crest. Council's Flood Engineer has reviewed the amended flood report, and supports the proposal based on the following:</p> <ul style="list-style-type: none"> <li>The driveway crest (RL 8.62) is higher than the PMF (Probable Maximum Flood) level of 8.52.</li> <li>The submitted flood report is based on flood modelling from 2015, which is considered conservative compared to current flood modelling.</li> </ul>

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

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
<p>Subdivision 2 Types of additional floor space</p> <p>6.4 Accommodation floor space</p> <p>6.6 End of journey floor space</p>	Yes	<p>Additional hotel accommodation floor space of up to 6:1 and additional retail floor space of up to 4.5:1 apply to the site.</p> <p>Based on the proposed distribution of land uses being 86% hotel and 14% retail the maximum FSR available to the site is 13.79:1.</p> <p>A FSR of 8.89:1 or 14,075 sqm is proposed, comprising:</p> <p>Retail gross floor area of 1,998 sqm; and</p> <p>Hotel gross floor area of 12,077 sqm.</p> <p>Although the proposed development provides end of journey facilities (showers, change rooms, lockers and bike storage) in basement level 3, and is eligible for up to 0.3:1 additional FSR, the proposal does not rely on any end of journey floor space to comply with the maximum permitted FSR.</p>

Provision	Compliance	Comment
<p>Subdivision 3 Heritage floor space</p> <p>6.11 Utilization of certain additional floor space requires allocation of heritage floor space</p>	Yes	<p>The proposal seeks to utilise 1,121.4 sqm of accommodation floor space in Area 2 for a building that will exceed 55m in height.</p> <p>A condition of consent is recommended to require the allocation of 560.7 sqm (50% of the accommodation floor space utilised) of Heritage Floor Space (HFS).</p>
Division 3 Height of buildings and overshadowing		
6.16 Erection of tall buildings in Central Sydney	Yes	<p>The proposal involves the erection of a new building which exceeds 55m in height.</p> <p>The site area is greater than 1,000 sqm (1,619.2 sqm), and the proposed development is not considered to adversely impact on any key views from public places, wind conditions, the curtilage of nearby heritage items, or the setting of the Railway Square/ Central Station special character area. The proposal also provides for high levels of sun and daylight access to public places, outlook for the development, and appropriate height transitions.</p>
6.17 Sun access planes	Yes	<p>The maximum building height permitted on the site is restricted by the Belmore Park sun access plane.</p> <p>The proposed development complies with the sun access plane development standard, as confirmed by the City's Model team's assessment of the submitted 3D CAD model.</p>
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>Under this clause a competitive design process is technically required as the proposal exceeds 55m in height and is located within Central Sydney. The applicant has requested that the consent authority waive the requirement for a competitive design process on the grounds that this would be unreasonable or unnecessary in the circumstances.</p>

Provision	Compliance	Comment
		<p>Under the particular circumstances, this request is supported. Refer to the discussion under the heading Issues.</p> <p>Subject to conditions, the proposed development is of a high standard and uses materials and detailing appropriate to the building type and location.</p> <p>Council's Urban Designer has recommended that the glass line of the enclosed southern terrace on Level 7 be setback an additional 1m from the southern and eastern boundaries in order to diminish the bulk of the enclosed terrace and improve the reading of the articulated rebate facing Belmore Park.</p> <p>The proposal has been designed in response to solar access requirements for Belmore Park and is considered to positively respond to the public domain by providing appropriate ground level interfaces which activate the public domain. The proposed development achieves a high standard of ecologically sustainable design. The development therefore achieves design excellence.</p>

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.7 Retail premises 7.9 Other land uses	Yes	<p>A maximum of 75 car parking spaces are permitted (69 for the hotel use and 5 for the retail use).</p> <p>The proposed development includes 19 car parking spaces and complies with the relevant development standards.</p>
Division 3 Affordable housing		

Provision	Compliance	Comment
7.13 Contribution for purpose of affordable housing	Yes	As the site is located within Central Sydney, and the development involves the creation of more than 100 sqm of gross floor area, it is subject to affordable housing contributions.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. As a Contamination Investigation has previously been undertaken for the site and no additional excavation works are proposed, an Acid Sulfate Soils Management Plan is not required.
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the proposal would result in a building over 55m in height and the site area exceeds 1,500 sqm the preparation of a site-specific Development Control Plan is required.</p> <p>This requirement has been met as a Stage 1 development consent (D/2015/1490 as amended) has been granted for the proposed development, and is still active, as was acted upon by the previous Early Works approval.</p> <p>Refer to "discussion" section of this report.</p>
7.26 Public art	Yes	Refer to Section 3.1 of the SDCP compliance table below.

## Development Control Plans

### Sydney Development Control Plan 2012

48. 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

49. The site is located within the Railway Square and Central Station locality. The proposed development is in keeping with the unique character and the design principles of the Railway Square and Central Station locality. The proposal will provide a new mixed-use building of high architectural standard, and consistent with the Belmore Park solar access plane, that will provide visual interest and activate the street.

## Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>As the estimated cost of works exceeds \$10 million, public art is required to be provided in accordance with the <i>City of Sydney Guidelines for Public Art in Private Development and the Public Art Policy</i>.</p> <p>A Preliminary Public Art Plan prepared by UAP has been submitted and identifies opportunities for public art on the Level 7 north terrace soffit, and the ground level colonnades to the Campbell Street frontage.</p> <p>The Preliminary Public Art Plan is supported by Council's Public Art team, noting that the identified public art opportunities near Campbell St will support the activation of the precinct in line with City's Haymarket and Chinatown Revitalisation plans.</p> <p>A condition of consent is recommended requiring a detailed public art plan be submitted to and approved by Council prior to issue of a construction certificate.</p>
3.2. Defining the Public Domain	Yes	<p>The proposed development will provide a service lane along the eastern portion of the site, which will remain privately owned land and is intended to accommodate servicing and hotel pickup and drop-off requirements. The service lane is not intended to function as a through-site link or a public road noting</p>

Provision	Compliance	Comment
		<p>that as the Hay St frontage does not exceed 45m in length, a through site link is not required under the DCP provisions.</p> <p>A continuous glazed awning above the footpath integrated into the architectural features of the building is proposed to the Hay St (south), Pitt St (west) and Campbell St (north) frontages in accordance with the DCP provisions. Active uses are provided to all street frontages in accordance with the controls, and comprise separate retail tenancies provided to the Pitt St frontage, with the main supermarket entrance to Hay St, and the hotel lobby to Campbell St.</p> <p>A Reflectivity Report was submitted with the application, which found that the proposal is expected to result in acceptable levels as the reflectivity coefficient for the developments glazing is less than 20%. It is noted that while large areas of glazed facade are proposed, the facade treatments also incorporate masonry elements and low reflectivity materials and facades are comprised of vertical and horizontal protrusions.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>Under clause 6.21D of the SLEP a competitive design process is technically required as the proposal exceeds 55m in height and is located within Central Sydney. The applicant has requested that Council waive the requirement for a competitive design process on the grounds that this would be unreasonable or unnecessary in the circumstances.</p> <p>This request is supported on the basis that the proposal's tip of the building exceeds 55m in height, it exhibits design excellence, is consistent with the Stage 1 approval, and the development is constrained by easements and a sun access plane.</p>
3.5 Urban Ecology	Yes	The proposed development involves the removal of one street tree along

Provision	Compliance	Comment
		<p>Campbell St, and the provision of four new street tree plantings (two trees along Hay St, and two trees along Campbell St).</p> <p>Refer to the discussion under "<i>Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017</i>", above.</p>
3.6 Ecologically Sustainable Development	Yes	<p>A Design for Environmental Performance report and Section J report have been submitted as part of the application.</p> <p>The report also identifies energy and water efficient appliances and building materials to be utilised which will reduce reliance on air conditioning, such as high-performance tinted glazing, operable windows to hotel rooms, internal shading devices, and a green roof.</p> <p>While a NABERS 4 Star Hotel energy target is proposed, the applicant has not agreed to a formal NABERS commitment upon Council's request, noting that the application was lodged prior to the <i>SEPP (Sustainable Buildings)</i> came into force.</p> <p>As a NABERS commitment has not been agreed to, a condition of consent is recommended to require energy efficient lighting throughout the development.</p>
3.7 Water and Flood Management	Yes	<p>The site is identified as being on flood prone land.</p> <p>Refer to CI 5.21 of the SLEP compliance table above.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The submitted title search and deposited plan for the site highlight a number of significant easements, covenants and restrictions for the subject site.</p> <p>The application was referred to Council's Specialist Surveyor, who advised that not all identified easements, covenants and restrictions have been depicted on the submitted survey. A condition of</p>

Provision	Compliance	Comment
		consent is therefore recommended for a boundary survey depicting the location of all relevant easements, covenants & restrictions to be prepared, and certification be provided by the project architect to the Private Certifying Authority prior to issue of a construction certificate, to confirm full compliance with all easements, covenants and restrictions.
3.9 Heritage	Yes	<p>The site is not identified as a heritage item or within a heritage conservation area.</p> <p>The site is in the vicinity of a number of local heritage items. The proposed development is not considered to detrimentally impact on the significance of surrounding heritage items or their settings.</p> <p>Refer to CI 5.10 of the SLEP compliance table above.</p>
3.11 Transport and Parking	Yes	<p>The DCP controls require a minimum of 50 bike spaces (21 for the hotel use and 29 for the retail uses) to be provided.</p> <p>The proposed development provides a total of 64 bike spaces comprising 42 bike spaces in the basement level 3 along with end of trip facilities, and 22 bike racks at ground level along the private lane (eastern) frontage.</p> <p>The proposal provides car spaces on basement level 3, accessed from the service lane via a car lift. Hotel parking spaces are to be accessed using a valet service.</p> <p>A dedicated drop-off/ pick-up zone for hotel guests has been provided adjacent to the hotel lobby within the service lane.</p> <p>Servicing and loading for all proposed uses within the development will be accommodated within the proposed service lane. A Loading Dock Management Plan has been submitted which restricts the maximum size vehicles permitted to enter the service</p>

Provision	Compliance	Comment
		<p>lane to 8.8m (medium rigid vehicle). Coaches will not be permitted to enter the service lane and will utilise dedicated on street coach parking bays in the vicinity of the site. Appropriate conditions of consent have been recommended regarding the loading dock and coach parking management.</p> <p>The proposed service lane and basement parking is considered sufficient to cater for the estimated traffic generation associated with the proposal.</p> <p>Council's Transport &amp; Access team have reviewed the proposal and consider it to be acceptable, subject to the imposition of recommended conditions of consent.</p>
3.12 Accessible Design	Yes	<p>An Access Report prepared by Jenson Hughes has been submitted to demonstrate that the proposal is capable of complying with the accessibility requirements of the Federal Disability Discrimination Act 1992 (DDA), National Construction Code, and Australian Standards.</p> <p>Appropriate accessible facilities are provided within the development.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposal provides active retail uses along all three of the site's street frontages and incorporates clear unobstructed glazing to the shopfronts to ensure passive surveillance to the street. A condition of consent is recommended to ensure the shopfront glazing of the retail tenancies remain clear and unobstructed by future fitouts.</p> <p>While the middle section of the private lane frontage features a recessed area with blind corners, this section of the building is subject to an easement for light and air that requires a setback and provides access to service and back of house areas that are not publicly accessible.</p> <p>The proposed development provides adequate passive surveillance and is</p>



Provision	Compliance	Comment
		generally designed in accordance with the CPTED principles.
3.14 Waste	No	<p>The proposed development does not comply with the City of Sydney Guidelines for Waste Management in New Development regarding the waste storage areas for the proposed supermarket, and a lack of direct back of house access for the ground floor retail tenancies.</p> <p>Refer to "discussion" section below.</p>
3.15 Late Night Trading Management	Yes	<p>The site is located in a Late Night Management Area and the hotel use is defined as a category A premises (a hotel within the meaning of the Liquor Act 2007).</p> <p>The DCP permits the following trading hours:</p> <ul style="list-style-type: none"> <li>• Base indoor trading hours between 6am to 12am (midnight), with extended 24 hour trading permitted on a temporary trial basis, and</li> <li>• External base trading hours between 10am to 10pm, and extended trial hours between 9am to 1am the following day.</li> </ul> <p>The proposed trading hours for the level 7 hotel restaurant, bar and associated terrace are between 6am to 11pm Monday to Sunday (for both internal and external areas).</p> <p>While the proposed trading hours for the hotel restaurant and bar are within the DCP permitted base indoor hours, trading between 9am to 10am, and 10pm and 11pm is only permitted subject to 1 year trial basis for the outdoor (unenclosed) portion of the level 7 terraces.</p> <p>It is noted that Council's Health &amp; Building team recommend that the level</p>

Provision	Compliance	Comment
		<p>7 outdoor terraces be closed from 11pm to 10am the following day, to mitigate potential noise impacts to nearby residential properties.</p> <p>As identified in the submitted acoustic report prepared by Acoustic Logic, the nearest residential receivers are hotel buildings at 428 and 431-439 Pitt St, and an apartment building at 420-426 Pitt St, all directly north to north-east of the subject site. Neighbouring properties to the west and south-west are mainly commercial buildings, with Belmore Park directly south, and a substation directly east.</p> <p>Given that the site is located in the CBD, and the indoor dining area and primary outdoor terrace associated with the hotel restaurant &amp; bar is located in the southern portion of the development, with the secondary smaller outdoor terrace located in the northern portion of the building, the use of the outdoor terraces from 11pm to 12pm midnight and 6am to 10am is not considered to result in unreasonable noise impacts to surrounding residential uses.</p> <p>It is also noted that the previous approval (D/2017/727/C) permitted operating hours between 7am to 12am (midnight) for the outdoor terrace areas.</p> <p>No proposed trading hours have been provided for the ground floor retail tenancies. The trading hours for the retail tenancies will be subject to a future development application or complying development certificate for the fitout and use of these tenancies.</p> <p>The proposed supermarket is defined as a Category C premise and is permitted to operate 24 hours a day under the DCP controls.</p> <p>A plan of management (PoM) has been submitted for hotel use (including the restaurant &amp; bar) and generally addresses all required operational matters under Schedule 3 of the DCP,</p>

Provision	Compliance	Comment
		including measures and management practices to mitigate amenity impacts to the surrounding neighbourhood, responsible service of alcohol (RSA), and measures for addressing and registering complaints.
3.16 Signage and Advertising	No	<p>Signage has not been proposed as part of this application. Although the submitted architectural plans reference indicative signage zones on the facade, the information submitted is not sufficiently detailed to constitute a signage strategy and enable an assessment against the provisions of the DCP.</p> <p>An appropriate condition of consent has been recommended to require a separate application for a signage strategy.</p>

## Section 4 – Development Types

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

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>The proposal meets the minimum floor to floor height for the ground floor of 4.5m.</p> <p>The DCP controls require the first floor and all floors above for commercial buildings to have a minimum floor to floor height of 3.6m. The proposal achieves a 3.1m floor to floor height for level 1 and above, except for level 7 (which contains the hotel restaurant) which achieves a compliant 4.1m floor to floor height.</p> <p>The lesser floor to floor heights of the upper levels is considered acceptable within the context of the subject site for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposal comprises a purpose built hotel and retail development which achieves an acceptable level of amenity;</li> <li>• Level 7, which is intended to be the primary level of activity within the building, comprising the hotel's restaurant and public interface areas exceeds the minimum requirement;</li> <li>• The nature of the built form, constrained by the sun access plane, makes Level 7 ideal for a larger floor to floor height, given the outlook over Belmore Park; and</li> <li>• The proposed floor to floor heights are consistent with the previously approved scheme (D/2017/727/C). The non-compliances were noted and considered acceptable based on the above reasons, in relation to the previous scheme.</li> </ul>

Provision	Compliance	Comment
4.2.3 Amenity		
4.2.3.2 Lightwells	Yes	The proposal includes a central lightwell that is open to the sky. Although the lightwell provides the only source of light and natural ventilation to 16 out of 318 (5%) hotel rooms, this is considered acceptable as hotel rooms are not classified as habitable rooms under the BCA/NCC and the lightwell is not considered to generate unacceptable noise or visual privacy impacts.
4.2.3.3 Internal common areas	Yes	Corridors and lift lobbies have access to natural daylight. The proposal achieves the minimum 2m requirement for corridor widths in front of lifts.
4.2.3.4 Design features to manage solar access	No	<p>The proposal does not provide external shading devices but relies on a combination of high-performance tinted glazing and internal blinds.</p> <p>Refer to discussion under the heading Issues.</p>
4.2.3.5 Landscaping	Yes	<p>The proposed development incorporates planting in the upper level facade. The landscape component consists of a large system of climbing plants and trellises that stretches up the sloping plane of the southern elevation from level 8 to 16, with a single edge planter to level 7.</p> <p>The landscaping elements of the design are generally supported by Council's Landscape Officer with the exception of the maintenance strategy for the green facade elements. Standard green roof and green wall conditions are recommended requiring additional details be provided by a qualified landscape architect (including a detailed maintenance strategy with confirmation from a specialist maintenance company) to confirm the viability of the design.</p>



Provision	Compliance	Comment
4.2.3.6 Deep Soil	No	<p>As the site has an area greater than 1,000 sqm (1,619.2 sqm), 10% of the site (161.92 sqm) is required to be dedicated deep soil area consolidated with a minimum dimension of 10m, under the DCP controls.</p> <p>The proposal does not retain any deep soil area on the site, as the definition of deep soil under the City's Landscape Code does not include landscaping on structures.</p> <p>The non-compliance with the minimum required deep soil provisions is considered acceptable within the context of the site, as the proposal provides extensive landscaping in the form of landscaped green roofs and provides sufficient tree canopy coverage through the retention and replacement of street trees surrounding the site. The proposal is also consistent with the approved Stage 1 building envelope (D/2015/1490/A).</p>
4.2.3.9 Ventilation	Yes	The DCP controls do not require hotel rooms to be naturally ventilated.
4.2.3.10 Outlook	Yes	The proposal is consistent with the approved Stage 1 building envelope (D/2015/1490/A) and the Belmore Park Sun Access Plane and does not unreasonably impact the outlook from surrounding residential development.
4.2.3.11 Acoustic privacy	Yes	An Acoustic Assessment was submitted with the application to assess potential noise and vibration emissions associated with the proposal and the impact of noise and train vibration on the development. The assessment concludes that subject to recommendations relating to construction materials and methodology, the proposal will achieve an acceptable level of amenity, and will not result in unacceptable noise or vibration impacts on surrounding development.

Provision	Compliance	Comment
		The acoustic report has been peer reviewed by Council's Health and Building team, and appropriate conditions of consent have been recommended to ensure compliance with recommendations of the acoustic report, as well as for the operation of the premises to comply with Council's Noise Policy.
4.2.4 Fine grain, architectural diversity and articulation	No	<p>The Pitt Street frontage has a length of approximately 47.7m, which exceeds the maximum frontage for a single building of 40m on streets with a width of less than 18m. The proposal is however considered to achieve the objectives of this clause as the massing, fenestration and use of materials provides appropriate articulation to reduce the overall bulk and scale of the building, in particular, the contrast between the contemporary glazed elements interlocking with the masonry "podium" accentuated by the recess at the 7th floor and curved corner treatments.</p> <p>The proposal is also consistent with the approved stage 1 building envelope (D/2015/1490/A), as well as the previously approved design under D/2017/727/C.</p>
4.2.6 Waste and recycling Management	No	<p>The proposed development does not comply with the City of Sydney Guidelines for Waste Management in New Development regarding the waste storage areas for the proposed supermarket, and lack of direct back of house access for the ground floor retail tenancies.</p> <p>Refer to "discussion" section below.</p>
4.2.7 Heating and cooling infrastructure	Yes	<p>The mechanical plant and services are generally located within consolidated areas in the basement levels, with some additional plant equipment on the level 16 and 17 roof area.</p> <p>Standard conditions are recommended for the operation of the mechanical plant</p>

Provision	Compliance	Comment
		equipment to comply with the City's Noise Policy.

#### 4.4 Other Development Types and Uses

##### 4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	<p>The hotel does not share common access ways with adjoining properties.</p> <p>A Hotel Plan of Management has been submitted which includes provision for an on-site manager 24 hours per day, 7 days per week.</p>
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	<p>The proposal provides average room sizes to accommodate up to three adults of 23 sqm which exceeds the minimum requirement of 3.25 sqm per person.</p> <p>Rooms are adequately sized to permit guests to store baggage and travel items within rooms.</p> <p>No kitchenettes are proposed.</p>

#### Section 5 – Specific Areas

Provision	Compliance	Comment
5.1 Central Sydney		
5.1.1 Built form controls	No	<p>The site is located within the Railway Square/ Central Station special character area.</p> <p>The site is not subject to a minimum street frontage height.</p> <p>A maximum 15m street frontage height applies to the site, with a minimum 8m setback above the street frontage height along the Hay St, Campbell St and Pitt St frontages.</p> <p>The proposed development provides a street wall height that gradually increases from 21 metres at the southern end of the site to 60 metres at the northern end. The only setbacks</p>

Provision	Compliance	Comment
		<p>occur at Level 7, comprising inset terraces approximately 4 metres from the northern boundary and 12.5 metres from the southern boundary.</p> <p>While the proposal does not strictly comply with the setback controls, the scale of the building has been minimised through massing and material treatment. In addition to the tapered height, the building is articulated as a masonry base intersected by a glazed volume, with a vertical slot extending from the ground floor to Level 8 at the southern end of the western facade (Pitt Street), and horizontal insets at Level 7. As such the massing is modulated in a way that minimises the building's bulk by breaking it up into discreet components.</p> <p>The proposal meets the objectives of the controls in that the development presents as a slender building and is slimmest at its peak and becomes less bulky at the upper levels.</p> <p>A condition of consent is recommended for an increased setback on the level 7 southern terrace of 1m of the glass line of the southern and eastern edges facing Belmore Park to reduce the bulk which diminishes the reading of the articulated rebate.</p> <p>The building design is also consistent with previously approved Stage 1 building envelope (D/2015/490/A).</p>
5.1.2 Development outlook and demonstrating amenity compliance	Yes	<p>The proposed development does not include residential or serviced apartments.</p> <p>A minimum outlook field depth of 6m for windows or balconies up to 45m above ground is required by the DCP controls.</p> <p>Hotel windows facing north, west and south are to the public domain, and do not borrow amenity from other development sites. Windows facing east are setback from the eastern boundary of the site by 7.7m due to the existing Ausgrid easement, as well as an easement for light and air. Hotel</p>

Provision	Compliance	Comment
		<p>windows on opposite sides of the lightwell are separated by 6m and comply with the control.</p> <p>The proposal is considered to provide acceptable amenity and outlook in the context of the proposed hotel rooms.</p>
5.1.3 Heritage items, warehouses and special character areas	Yes	<p>The site is not located within a Heritage Conservation Area but is in close proximity to a number of local heritage items.</p> <p>The proposal has been designed to read as two interconnecting solids comprising a masonry base intersected by a glazed volume. The masonry base and the composition of the brick to void ratio responds to the materiality and fenestration of nearby heritage items, particularly the Manning Building directly opposite the site on the western side of Pitt Street.</p> <p>The proposed development is considered to display a high quality of architectural design and materials and is not considered to materially affect the heritage significance of surrounding heritage items.</p>
5.1.4 Building exteriors	Yes	<p>The tapered form of the building responds to the sun access plane for Belmore Park, and provides a visually distinctive and interesting design, complemented by a vertical garden.</p> <p>The massing and materials complement the masonry character of the surrounding streetscape, including heritage items.</p> <p>The proposal conceals plant in the upper levels of the building by integrating this with the roof and vertical garden design.</p> <p>The proposal is considered to display a high quality of architectural design and detailing and provides a visually distinctive building.</p>



Provision	Compliance	Comment
5.1.6 Heritage floor space	Yes	Heritage Floor Space (HFS) is required to be allocated as the proposal seeks to utilise the accommodation floor space provisions and is located within Area 2.  An appropriate condition of consent has been recommended.
5.1.7 Sun protection of public parks and places	Yes	The proposed development complies with the Belmore Park Sun Access Plane, as confirmed by the City's Model team assessment of the submitted 3d CAD model.
5.1.8 Views from public places	Yes	The proposed development does not diminish any significant views to and from Railway Square or the Central Sydney Clock Tower, noting that the proposed building will occupy a currently vacant site, and is designed to taper above 21m in height to limit the bulk and massing of the upper levels.
5.1.9 Managing wind impacts	Yes	<p>A Wind Tunnel Test report was submitted with the application. The report found that the wind environment affecting the development comprised:</p> <ul style="list-style-type: none"> <li>• Strong southerly winds impacting the southeast corner of the development.</li> <li>• South-westerly winds accelerating around the northwest corner and then being drawn through the laneway.</li> <li>• Easterly, southerly and westerly winds being induced through the Level 7 terrace (south).</li> <li>• Easterly and south-westerly winds accelerating around the northwest corner of the development.</li> </ul> <p>Measures to mitigate wind impacts have been incorporated into the design of the proposed building, including an enclosable glass wall to the southern terrace at Level 7, vertical wind shields to the northern and eastern perimeter of</p>

Provision	Compliance	Comment
		<p>the Level 7 terraces, landscaping, and limiting each ground floor retail tenancy to openings on one facade only.</p> <p>It is noted that the wind report includes recommendations to restrict access to the level 7 terraces in windy conditions.</p>

## Discussion

### Requirement for a Development Control Plan or Competitive Design Process

50. The proposed development exceeds 55m in height by 5m and is located on a site with an area greater than 1,500 sqm (1,619.5 sqm). The proposal therefore triggers the requirement under Clause 7.20 of SLEP 2012 for the preparation of a Development Control Plan. This requirement may be satisfied by the making of a staged development application in accordance with Clause 4.23 of the EP&A Act 1979.
51. Under Clause 6.21D of SLEP 2012, a competitive design process is required to be undertaken for development in respect of which a development control plan is required to be prepared under clause 7.20, and for buildings in Central Sydney exceeding 55m.

52. The Applicant has requested that the requirement for a competitive design process be waived on the following grounds:
- (a) The developable area of the site on which a building can be situated is reduced by an easement of 417 sqm along the eastern portion of the site. This results in a developable area of only 1,202 sqm which is less than the 1,500 sqm threshold under Clause 7.20.
  - (b) The only portion of the development that exceeds 55 metres in height comprises tip of the building where mechanical plant is accommodated in the sloping roof form. The height is capped by the sun access plane to Belmore Park therefore cannot be exceeded.
  - (c) Due to the site's spatial and height constraints, there is no opportunity to utilise additional height and floor space which would otherwise be afforded to the development through the competitive design process.
  - (d) The proposed development is subject to a Stage 1 approval.
  - (e) The proposed development is largely identical to the previous Stage 2 Approval under D/2017/727/C, in which the requirement for a competitive design process was waived for the above grounds (except for (c) and (d)).
53. As noted elsewhere in this report, the proposed development is considered to demonstrate design excellence in accordance with the requirements of SLEP 2012. As such, the proposal exhibits a high standard of architectural design and detailing and is not considered to result in significant adverse impacts on adjoining development or the public domain.
54. On this basis, and the grounds noted above (other than (c) and (d) above), it is considered unreasonable or unnecessary in the circumstances to require a Competitive Design Process, in accordance with Clause 6.21D(2) of SLEP 2012.

#### **Compliance with the approved Stage 1 building envelope - D/2015/1490**

55. On 11 August 2016 development consent was granted by the Central Sydney Planning Committee for a Stage 1 application for a mixed-use building envelope with indicative land uses comprising retail, commercial and hotel accommodation. This consent was subsequently modified on 8 August 2017 to allow for minor variations to the approved building envelope resulting from detailed design development. As an associated Early Works DA was subsequently approved and acted upon, the Concept Approval is considered to still be active.
56. The subject Stage 2 application is not inconsistent with the approved Stage 1 building envelope. The requirements of relevant conditions of consent relating to the Stage 1 application have been addressed separately below:

Condition	Compliance
(5) Heritage Conservation Works  Heritage Impact Statement and an Archaeological Assessment report required to be submitted.	A Statement of Heritage Impact and Archaeological report have been submitted as part of the subject application.

Condition	Compliance
<p>(6) Sun Access Modelling</p> <p>Sun access modelling confirming that the development will not impact on the Belmore Park sun access plane to be submitted</p>	<p>3D CAD models have been submitted which confirms that the proposed development complies with the Belmore Park Sun Access Plane.</p>
<p>(7) Building Height</p> <p>The maximum height of the buildings as defined in the Sydney Local Environmental Plan 2012 may not exceed 55m with the exception of an architectural roof feature.</p>	<p>The maximum height of the proposed development is 60m which includes an architectural roof feature which integrates a plant room at Level 17 into the vertical garden and roof design, that accounts for the exceedance of the 55m height limit. The architectural roof feature is consistent with the requirements under Clause 5.6 of the LEP.</p>
<p>(8) Floor Space Ratio</p> <p>The Floor Space Ratio of the proposal must not exceed the maximum permitted floor space as calculated in accordance with the Sydney Local Environmental Plan 2012. Precise details of the distribution of floor space shall be provided with the future Stage 2 development applications. Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.10 of the Sydney Local Environmental Plan 2012.</p>	<p>The proposal results in a total FSR of 8.69:1 which complies with the maximum permissible FSR of 13.79:1. This includes accommodation and retail floor space in accordance with Clause 6.4 of SLEP 2012.</p> <p>A condition of consent has been recommended for the purchase of the required Heritage Floor Space in accordance with Clause 6.11 of SLEP 2012.</p>
<p>(9) Hotel Use</p> <p>Documentation shall be submitted with the Stage 2 Development Application for the hotel use and its operation in accordance with the requirements of Section 4.4.8 of the Sydney Development Control Plan 2012.</p>	<p>A Hotel Plan of Management has been submitted in accordance with the DCP controls.</p>
<p>(10) Residential/ Serviced Apartment Use and Strata Subdivision Not Permitted</p>	<p>The application does not include residential or serviced apartment uses and does not include strata subdivision.</p>
<p>(11) Flood Levels</p>	<p>A Flood Report has been submitted and contains performance criteria against the</p>

Condition	Compliance
Appropriate flood planning levels to be submitted and floor level entries including any opening to basement and lift wells, lobby must comply with the City's Interim Floodplain Management Policy for setting floor levels.	City's Interim Floodplain Management Policy.  Refer to "discussion" section below for details.
(12) Trees  All street trees surrounding the site must be accurately surveyed and the plan submitted with the Stage 2 Development Application.	The submitted Public Domain Survey depicts all existing street trees.
(13) Landscaping  A detailed landscape plan is to be submitted with the Stage 2 Development Application.	A Landscape Plan and green roof details have been submitted with the application.
(14) Floor to Ceiling Heights  The detailed design of the Stage 2 Development Application shall meet the floor to ceiling height controls in accordance with the Sydney Development Control Plan 2012.	The application generally complies with the minimum floor to ceiling heights under Sydney DCP 2012 and is consistent with the floor to floor heights envisioned under the approved Stage 1 building envelope.
(15) Public Art  A Public Art Strategy is to be submitted and the nominated location of public art is to be included in any future Stage 2 DA.	A Preliminary Public Art Strategy has been submitted, which identifies public art opportunities on the southern facade of the building.
(16) Wind  The detailed design shall be subject to wind tunnel testing to ascertain the impacts of the development on the wind environment and conditions within the publicly accessible pedestrian space, the surrounding streets, neighbouring buildings, and communal external areas within the subject development.  Any recommendations of this wind tunnel testing and wind assessment report shall be incorporated into the final detailed design lodged as a Stage 2. The	A Wind Tunnel Test report has been submitted with the application. The report identified that the site is affected by strong winds at the south eastern and north western corners, at the Level 7 terrace and through the service laneway.  Recommendations have been provided to ameliorate wind impacts, including the use of landscaping, wind shields, limiting entries to the ground floor retail



Condition	Compliance
use of awnings along frontages is to be incorporated into any future design to ameliorate against any wind impacts.	tenancies, and limiting the use of the level 7 terraces during strong winds.
<p>(17) Construction Noise Management Plan</p> <p>A Construction Noise Management Plan must be prepared and submitted with the Stage 2 Development Application.</p>	<p>Construction noise has been addressed as part of the submitted acoustic report.</p> <p>A condition of consent has been recommended to require the preparation of Demolition, Excavation and Construction Noise and Vibration Management Plan that addresses specific requirements in accordance with advice provided by the City's Health and Building team.</p>
<p>(18) Construction Traffic Management Plan</p> <p>A construction traffic management plan must be prepared and submitted with the Stage 2 Development Application.</p>	A Construction Traffic Management Plan has been provided.
<p>(19) Transport Impact Statement</p> <p>A detailed Transport Impact Study must be submitted with the Stage 2 Development Application.</p>	A Traffic Impact Statement has been submitted.
<p>(20) Waste Collection</p> <p>The future Stage 2 Development Application shall demonstrate compliance with Council's requirements for waste collection for Waste Minimisation in New Development 2005.</p>	Whilst the current proposal complies with the City's 2005 Waste Policy, it is noted that the City's current Waste Policy came into force in 2018 (City of Sydney Guidelines for Waste Management in New Development 2018). Refer to the discussion below.
<p>(21) Ausgrid</p> <p>Details consultation with Ausgrid are to be provided with the Stage 2 Development Application.</p>	Evidence of consultation with Ausgrid has been provided. Ausgrid have confirmed that they do not object to the proposed development and have provided recommended conditions of consent.
<p>(22) Demolition, Excavation and Construction Noise and Vibration Management Plan</p>	<p>The Acoustic Report includes measures to address construction noise and vibration.</p> <p>A condition of consent is recommended to require the submission of a separate</p>

Condition	Compliance
A site-specific noise management plan shall be submitted with the Stage 2 Development Application.	Construction Noise and Vibration Management Plan that addresses specific requirements identified by Council's Health and Building Unit.
<p>(23) Access and Facilities for Persons with Disabilities</p> <p>An Access Report shall be submitted with the Stage 2 Development Application to demonstrate that the building has been designed and is capable of being constructed to provide access and facilities for people with a disability in accordance with the Building Code of Australia.</p>	An Access Report and BCA/NCC Report have been submitted.
<p>(24) Central Sydney Traffic and Transport Committee (CSTTC)</p> <p>The Stage 2 Development Application is to include a brief assessment in line with the CSTTC assessment criteria.</p>	The requirement for the Central Sydney Planning Committee to consult with the CSTTC for "planning proposals that have a significant impact on traffic and transport in the Sydney CBD" under Section 51N of the <i>City of Sydney Act 1988</i> , has since been repealed and the CSTTC dissolved. It is noted that the subject DA is fundamentally the same as the recently lapsed detailed DA for this site. This lapsed DA was considered by the CSTTC with no additional requirements identified at the time beyond those already provided in submissions from TfNSW and RMS.
<p>(25) On Site Loading Areas and Operation</p> <p>All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times, and must not obstruct other properties/units or the public way.</p> <p>At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.</p>	<p>The proposal provides all loading and unloading operations associated with servicing the site within the proposed service lane, which is wholly within the site boundaries.</p> <p>A Loading Dock Management Plan has been provided and appropriate conditions of consent have been recommended.</p>

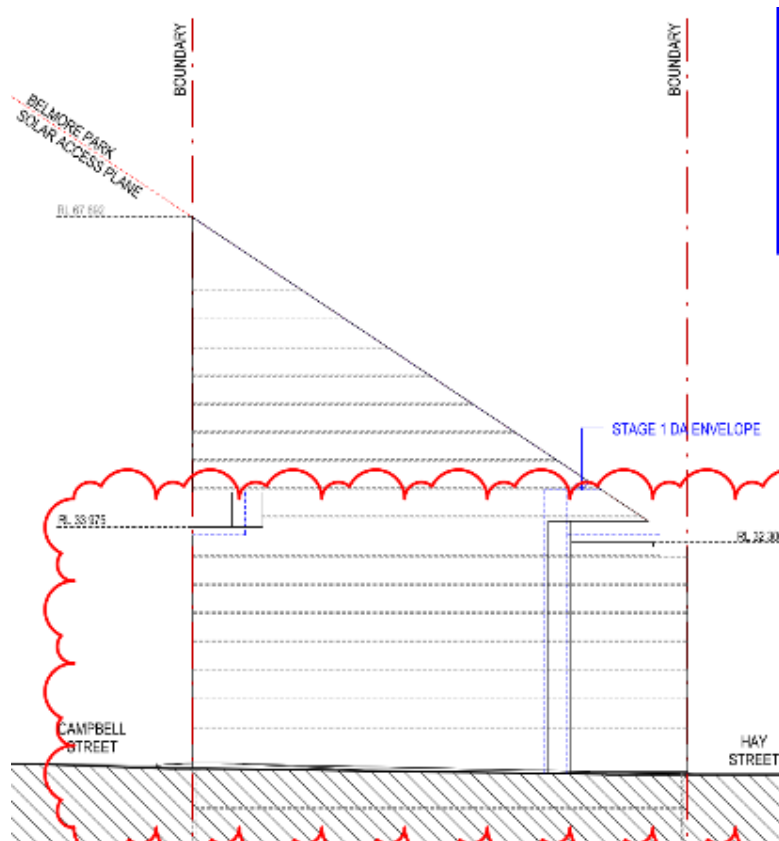
Condition	Compliance
<p>(28) Service Vehicle Size Limit</p> <p>The Stage 2 Development Application must include a swept path assessment for the largest vehicle to access the proposed servicing area.</p>	<p>Swept path assessments have been provided.</p>
<p>(29) Service Vehicles</p> <p>Courier spaces and loading docks must be located close to the service entrance and away from other parking areas.</p> <p>Adequate space must be provided to allow manoeuvring and turning of different sized vehicles within the designated loading area</p>	<p>The proposal is capable of providing all servicing and within the proposed service lane. A Loading Dock Plan of Management has been submitted. Appropriate conditions of consent have been recommended.</p>
<p>(30) Vehicle Access</p> <p>The site must be configured to allow all vehicles to be driven onto and off the site in a forward direction.</p>	<p>The proposed service lane has been designed to ensure that all vehicles enter and exit the site in a forward direction.</p>
<p>(31) Vehicle Lift</p> <p>The Stage 2 Development Application must include details of the proposed vehicle lift system, including an assessment of vehicle queuing and consequential impacts on the road network, if any.</p>	<p>Details of the proposed vehicle lift system have been provided and impacts of the proposal on the road network have been addressed.</p> <p>Council's Transport and Access team have reviewed the submitted documentation and have no objections to the proposal.</p>
<p>(32) Bicycle Parking</p> <p>Details of the location, number and class of bicycle parking must be included in the Stage 2 Development Application.</p> <p>All visitor bicycle parking is to be provided at ground floor level in an easily accessible and visible location.</p> <p>Staff bicycle parking is to be provided at ground floor level or basement level 1 and is to be in close proximity to end-of trip facilities.</p>	<p>Visitor bicycle parking is provided at ground level adjacent to the service lane.</p> <p>While the staff bicycle parking spaces and end of trip facilities are located on Basement level 3, this arrangement is supported by Council's Transport and Access team and is the same bike parking arrangement as the previously approved Stage 2 design.</p>

Condition	Compliance
<p>(33) Coach Parking</p> <p>A coach parking management plan for the hotel use is to be submitted with the Stage 2 Development Application.</p>	<p>The width of the service lane restricts coaches from entering the site.</p> <p>The submitted Traffic Impact Statement identifies nearby coach parking zones in close proximity to the site.</p>
<p>(35) NSW Transport Roads &amp; Maritime Services</p> <p>Information and requirements of NSW Transport Roads &amp; Maritime Services must be fully addressed and detailed in the Stage 2 Development Application</p>	<p>Transport for NSW has provided concurrence and their requirements are reflected in the recommended conditions of consent.</p>
<p>(36) Sydney Trains</p> <p>Information and requirements of Sydney Trains must be fully addressed and detailed in the Stage 2 Development Application</p>	<p>Sydney Trains has provided concurrence and their requirements are reflected in the recommended conditions of consent.</p>
<p>(37) Electricity Substation</p> <p>The owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Ausgrid with any future Stage 2 Development Application.</p>	<p>A substation is proposed on the lower ground floor level.</p> <p>Ausgrid has provided concurrence raising no objections to the proposed substation.</p>
<p>(38) Public Domain Plan</p> <p>A detailed Public Domain Plan must be lodged with the relevant Stage 2 Development Application.</p>	<p>A Public Domain Plan has been submitted.</p>
<p>(39) Stormwater and Drainage</p> <p>Any Stage 2 Development Application is to provide details of the drainage system for the development which is to be designed and constructed in accordance with Council's standard requirements.</p>	<p>A Stormwater Management Strategy has been submitted.</p>

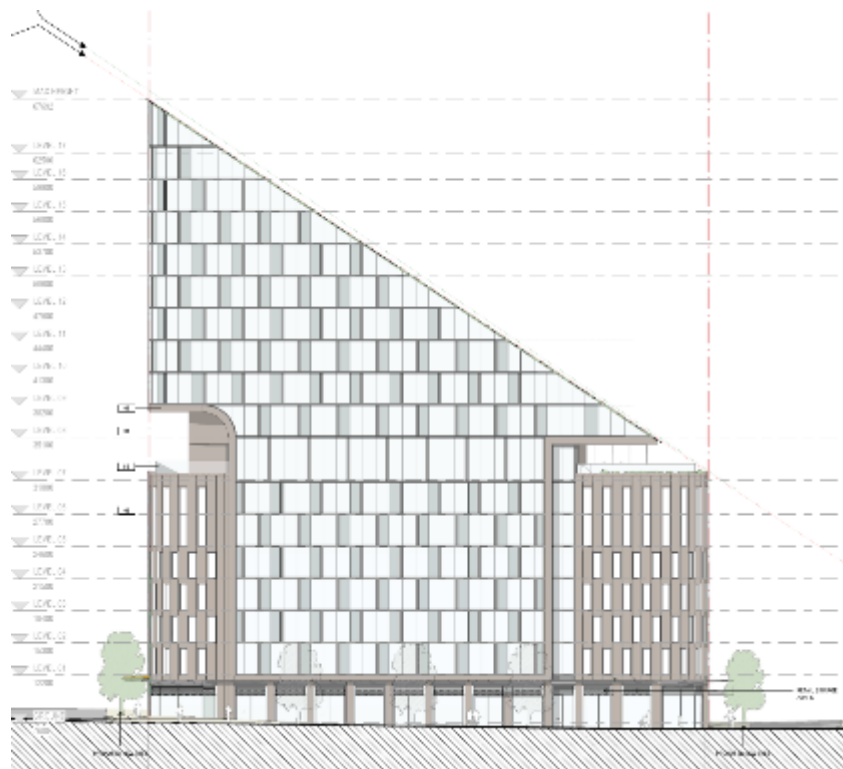
Condition	Compliance
<p>(40) Land Contamination</p> <p>The Stage 2 application must include documentation that demonstrates the requirements of State Environmental Planning Policy No 55 (now superseded) are addressed.</p>	<p>A Remediation Action Plan has been previously submitted, and all required excavation works have been completed under the Early Works approval (D/2017/872/D).</p> <p>All relevant requirements of SEPP (Resilience and Hazards) 2021 has been met.</p>
<p>(41) Acid Sulfate Soils</p> <p>A preliminary acid sulfate soil assessment is required to be prepared.</p> <p>Where the preliminary site assessment confirms that the site is subject to acid sulfate soils which may affect the integrity development then an Acid Sulfate Soils Management Plan must also be prepared.</p>	<p>A Contamination Investigation has previously been undertaken for the site which concludes that the subject site has no risk of occurrence for Acid sulphate soils. As such an Acid Sulfate Soils Management Plan is not required.</p>

57. In addition to complying with the conditions of the Stage 1 consent, the City's modelling team has confirmed that the submitted 3D digital model is generally consistent with the approved building envelope, with the exception of minor facade elements (awnings, architectural detailing), and the glass enclosed portion of the level 7 terrace.





**Figure 31:** Approved Stage 1 building envelope - D/2015/1490/A



**Figure 32:** Proposed Stage 2 detailed design

58. As demonstrated above, the proposed development is in accordance with CI 4.24(2) of the Environmental Planning and Assessment Act 1979, in that it is not *"inconsistent with the consent for the concept proposals for the development of the site"*.

### Design Advisory Panel

59. The City's Design Advisory Panel (DAP) provided advice for the previous application (D/2017/727) on 12 October 2017. Given that the proposed scheme is largely identical to the previously scheme, the original DAP recommendations are considered relevant to the current proposal.
60. The DAP was supportive of the previous scheme, particularly the vertical garden and proposed materiality, and made the following recommendations:

- (a) *Increasing the proportion of masonry to glass on the Pitt Street facade should be investigated.*

**Response:** The current proposal is based on the latest approved design, which was amended during the assessment to strengthen the masonry base at the south-western corner of the site by introducing a curved masonry treatment between the ground floor and Level 6. This was considered to respond to the masonry character of surrounding heritage items. A facade study was previously undertaken to investigate different massing and facade treatments, including the introduction of passive shading devices to the glazing on the northern and western facades. The composition of masonry and glazed elements has not been further amended in order to maintain the architectural design intent. A facade shading analysis was also previously undertaken to demonstrate that the reduction of glazing to the western facade by 10% will provide an energy saving equal to that provided by additional shading devices. The extent of glazing to the Pitt Street facade is therefore considered acceptable.

- (b) *The safety of pedestrians accessing the service lane should be considered, including maximising windows overlooking the lane.*

**Response:** The proposed service lane is not intended to function as a through-site link and pedestrian access is not encouraged, excluding the hotel pick-up/drop-off zone located within the service lane, adjacent to the hotel lobby. Appropriate lighting, demarcation and signposting will assist wayfinding and improve amenity and safety for pedestrians. It is also noted that there is no DCP requirement for a pedestrian through site link in this location.

The current application includes a Loading Dock Plan of Management to ensure the safe management of vehicles accessing the service lane, including a Loading Dock Manager overseeing operations. The Loading Dock Management Plan is supported in principle. It is noted that the service lane is overlooked by hotel room windows.

- (c) *The extent of basement workspaces without access to natural daylight should be reconsidered.*

**Response:** The current proposal limits the use of workspaces within the basement levels to the supermarket and hotel staff meeting rooms and is capable of achieving compliance with the requirements of the Building Code of Australia/ National Construction Code with regards to light and ventilation.

### Previous Deferred Commencement Conditions of Consent

61. Approval was previously granted by the Central Sydney Planning Committee on 30 November 2017 for a Stage 2 development subject to deferred commencement conditions of consent. These conditions related to the following matters:
  - (a) additional information submitted to, and approvals required from Sydney Trains;
  - (b) incorporating additional external passive shading devices into the northern and western glazed facades; and
  - (c) varying an existing covenant affecting the site, to be consistent with the sun access plane and approved building envelope.
62. The consent required all of the deferred commencement conditions to be satisfied within 24 months of the date of determination (30 November 2019) in order for the consent to be activated. Subsequently, not all conditions were satisfied, and the consent was never activated and lapsed.

### **Sydney Trains**

63. The previous Stage 2 application was referred to Sydney Trains for concurrence under Clauses 85 and 86 of the State Environmental Planning Policy (Infrastructure) 2007. Sydney Trains subsequently provided concurrence subject to deferred commencement conditions requiring further detailed information regarding the methodology of excavation and construction design.
64. The subject application was referred to Sydney Trains for concurrence under Clause 2.99 of the State Environmental Planning Policy (Transport & Infrastructure) 2021. Sydney Trains has provided concurrence, subject to similar conditions of consent from the previous concurrence conditions, including requiring the following information to be submitted prior to issue of a construction certificate:
  - (a) A Geotechnical Report that evaluates the impact of the development on the rail tunnel below the subject site
  - (b) Cross Sectional Drawings showing the rail corridor, sub soil profile, proposed basement excavation and/or structural design of sub ground support adjacent to the rail corridor, easements, and tunnel reserves
  - (c) Construction Methodology with construction details pertaining to structural support during excavation
  - (d) Detailed Survey Plan locating the proposed development with respect to the rail boundary and rail infrastructure, including easements and tunnel reserves and
  - (e) An FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

65. It is noted that as excavation works have previously been completed under an Early Works approval (D/2017/872/D), there is unlikely to be any additional significant impacts of the proposed development on the existing rail tunnel underneath the subject site. As Sydney Trains have not explicitly stated that their concurrence be subject to a deferred commencement consent, a deferred commencement condition is not deemed necessary, and the recommended conditions from Sydney Trains will be included as part of any consent.

### ***Passive Shading Devices***

66. A facade study was submitted with the previous Stage 2 application, which identified three different options for external shading devices to the western and northern facades, with vertical shading devices as the preferred option, subject to further detailed analysis to determine precise placement of fins to achieve maximum effectiveness.
67. Given the extent of glazing proposed to the western and northern elevations of the previous proposal, and the exposure of the upper levels of these facades to summer sun, a deferred commencement condition was imposed to require that external passive shading devices be provided in order to achieve design excellence under Clause 6.21 of the SLEP.
68. The condition of consent also allowed for equivalent design solutions to be "demonstrated on the basis of annual space cooling requirements for each effected facade, verified in a detailed report prepared by a suitably qualified and experienced engineer".
69. Post determination, the applicant submitted additional information to amend the west facade to decrease the glazed area by 10% to provide an energy saving equal to the energy saving provided by additional shading fins, in accordance with the condition. A Shading Report, prepared by a Sustainable Building Consultant was submitted in accordance with the condition. The applicant's justification to the proposed alternative solution asserted the following:
- (a) As the Building use is a hotel it is considered that the theoretical energy savings of the external fins will vary considerably with hotel guests occupation and use of the room
  - (b) The DA approved Building already incorporates energy saving features beyond minimum BCA compliance with the brick podium and green roof
  - (c) The modelling shows that the introduction of fins to the North and West glazed facades only provides marginal energy savings likely due to the location and overshadowing by neighboring buildings and
  - (d) Due to the facade design of the building with large podium areas of brick, the cooling benefit that the external fins provide is proportionally reduced.
70. On 4 January 2019, Council advised the applicant via email correspondence that the submitted information satisfied the condition in principle.
71. It is noted that the accepted reduction in glazing to the west elevation is incorporated into the submitted "Facade Section - Curtain Wall Parapet" (AR-C3-XX-061) in the architectural plan set.

72. Council has reviewed the previously submitted facade studies and do not have any recommendations for additional shading devices to be incorporated into the facade. Therefore, as the intent of the previous deferred commencement condition has been satisfactorily addressed by the current proposal, it is not recommended to replicate the previous deferred commencement condition, noting that the current application was lodged prior the Sustainable Buildings SEPP 2023 coming into force, and generally meets all the sustainability requirements under Council's controls, noting that a Design for Environmental Performance template has been submitted with the subject application and proposes a NABERS 4 Star Hotel target.

### ***Land Restriction and Covenant***

73. During the assessment of the previous Stage 2 proposal, it was noted that the subject site was affected by two registered covenants benefitting the City of Sydney, which restricted the height of the development to maintain solar access to Belmore Park. As a result of a minor discrepancy between the height restriction under the covenants and the sun access plane prescribed under Clause 6.17 of SLEP 2012 (due to the covenant being based on historical solar access planes), the previous development, while complying with the sun access plane, exceeded the height prescribed under the covenants.
74. As a result, a deferred commencement condition was imposed on the previous Stage 2 consent requiring the covenants be varied or extinguished with the consent of the City of Sydney in accordance with section 88E(7) of the Conveyancing Act 1919.
75. The current Stage 2 application was referred to Council's Specialist Surveyor who requested a copy of the current registered copy of the relevant dealings associated with the variations to the covenant.
76. A copy of the relevant dealings has subsequently been submitted to confirm that the existing building height covenant has been varied to be consistent with the Belmore Park Sun Access Plane. Therefore, it is unnecessary to replicate the previous deferred commencement condition of consent.

### **Previous Design Modification Conditions of Consent**

77. In addition to the above-mentioned deferred commencement conditions, a separate condition of consent was imposed on the previous Stage 2 Approval (D/2017/727/C) requiring the following amendments to the design:
- (a) The width of the driveway to Hay Street is to be reduced and amended swept path analysis is to be provided to show how 8.8m vehicles can enter and exit the site in a forward motion.
  - (b) The northern elevation is to be amended to include details of materials and finishes of the fire booster doors, and a physical sample is to be submitted.
  - (c) The western elevation is to be amended to include materials and finishes to the recessed wall extending from Level 7 and 8, to match the materials and finishes as shown on the southern elevation at Level 7.

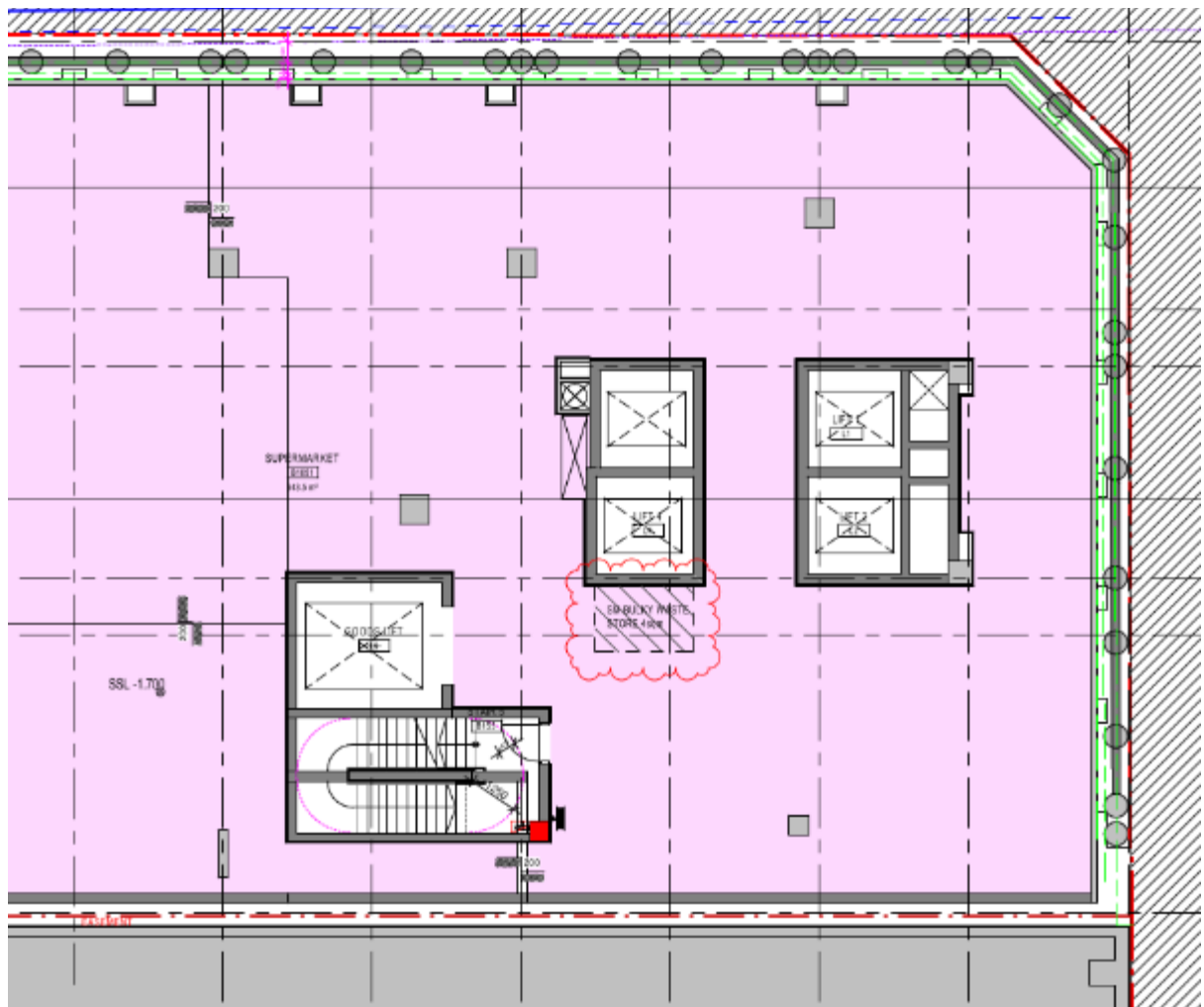
78. During the assessment of the previous concept application, Council's Transport and Access team advised that the 6.5m driveway width on Hay Street could be reduced to improve pedestrian and streetscape amenity, and that the extent to which the driveway width could be reduced would be determined by swept path analysis. While the current proposal has not reduced the width of the Hay St driveway, Council's Transport and Access team has not raised this as a concern. It is noted that the submitted Traffic Report includes swept path diagrams demonstrating that medium rigid service vehicles can enter the site via Hay St and exit the site via Campbell St in a forward direction travelling one way along the private laneway. A standard condition has been recommended to ensure service vehicles enter and exit the site in a forward dimension.
79. The amended architectural plans submitted on 6 March 2024 include an amended materials & samples schedule which specifies the materiality of the fire booster doors being "solid hardcore doors with powder coated aluminium finish". Council raise no objection to the materiality of the fire booster doors, and a physical sample is not considered necessary.
80. The amended materials & samples schedule also identifies the materiality of the western recessed wall extending from Level 7 and 8 to match the materiality of the southern elevation on Level 7 in accordance with the original design modification condition.
81. Therefore, it is considered that the current proposal satisfies the previously imposed design modification condition, and the requirements of the condition are not recommended to be replicated for the current consent.

### **Waste Management**

82. The waste storage areas and internal layout of the proposed building are essentially identical to the previous Stage 2 consent under D/2017/727/C, which was assessed against and generally complied with Council's previous waste management policy, "City of Sydney Code for Waste Minimization in New Developments 2005".
83. An operational Waste Management Plan, prepared by Foresight Environmental, has been submitted in support of the proposal.
84. The current proposal has been reviewed by Council's Cleansing & Waste team, who raised concerns that the proposal does not comply with the City's current "Guidelines for Waste Management in New Development", which was introduced in August 2018. Of particular concern is that space is only provided for 4 recycling bins for the supermarket use based on 1579 sqm of GFA, whilst the City's waste calculator requires 15 bins based on a three times a week pick up. In addition, there is no direct access to the back of house areas from the ground floor retail tenancies. It is noted that the submitted Statement of Environmental Effects identifies Coles as the intended supermarket operator.
85. The applicant was requested to amend the proposal to provide additional dedicated waste storage areas for the supermarket in accordance with Council's current Waste Management Policy, provide direct back of house access for the retail tenancies, and clearly depict waste storage areas and bins on the architectural plans. Additionally, confirmation was requested to be provided from Coles regarding general waste management practices from Coles.

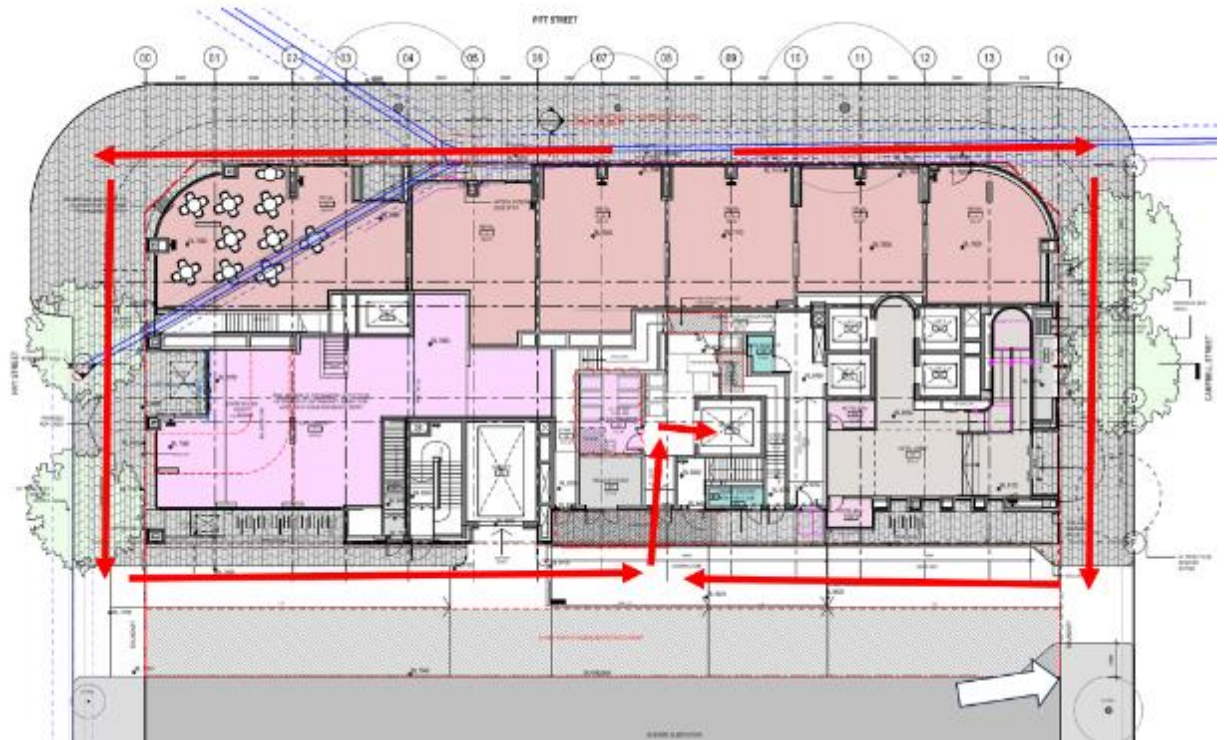


86. Amended architectural plans were subsequently submitted which depict waste storage areas and bins on the plans, as well as an amended waste management plan, to provide additional justification for the proposal not meeting the requirements of Council's current waste management policy. It is noted that information was not provided directly from Coles to confirm the standard waste management practices of Coles supermarkets.
87. The waste generation estimates in the amended waste management plan have been revised to closer align with the City's recommendations and estimates. A greater frequency of waste collection is proposed to accommodate the shortfall in waste bins and storage areas. While the City's Waste & Cleansing team generally accept the revised spatial allocation of waste storage areas and collection frequency, the unenclosed nominated bulky waste storage area for the supermarket (4 sqm) on basement level 1 (shown below) is not considered sufficient. Council's Waste Management Officer recommends that an enclosed (or caged) area be provided for the supermarket bulky waste that is large enough to store two days generation of waste.



**Figure 33:** Proposed unenclosed nominated bulky waste area for the supermarket

88. In addition, Council's Waste Management Officer also note that the hotel and retail waste storage area on Basement Level 2 (39 sqm and 22 sqm) have engaged the use of a cardboard baler to reduce the waste storage space needed, and concern is raised regarding the practicality of transporting the baled cardboard to Ground Floor Level for collection given that a forklift is generally required to transport baled cardboard.
89. The applicant justification for the waste arrangements for the retail tenancies is that it was previously approved under D/2017/727, this arrangement is common in other developments within the City, and that providing a BOH (back of house) corridor for the retail tenancies would result in a significant reduction in the floor area of the retail tenancies, such that they would become unviable.
90. The proposed waste arrangement for the retail tenancies is not supported by Council's Waste & Cleansing team, noting that bins for the retail tenancies will need to be transported between 70-100m around the outside of the building to reach the waste storage area and goods lift, as demonstrated in the below figure.



**Figure 34:** Proposed ground floor plan showing the path of travel in red for the waste bins to reach the goods lift from the retail tenancies

91. The ground floor plan indicates that providing BOH access to the retail tenancies could potentially be achieved with minimal reconfiguration of the ground floor layout by providing internal openings at the rear of the two middle retail tenancies, and extending the proposed service corridor to access the remaining retail tenancies as demonstrated in the below figure.



**Figure 35:** Proposed ground floor plan showing the potential extension of the service corridor to provide internal back of house access to all the retail tenancies

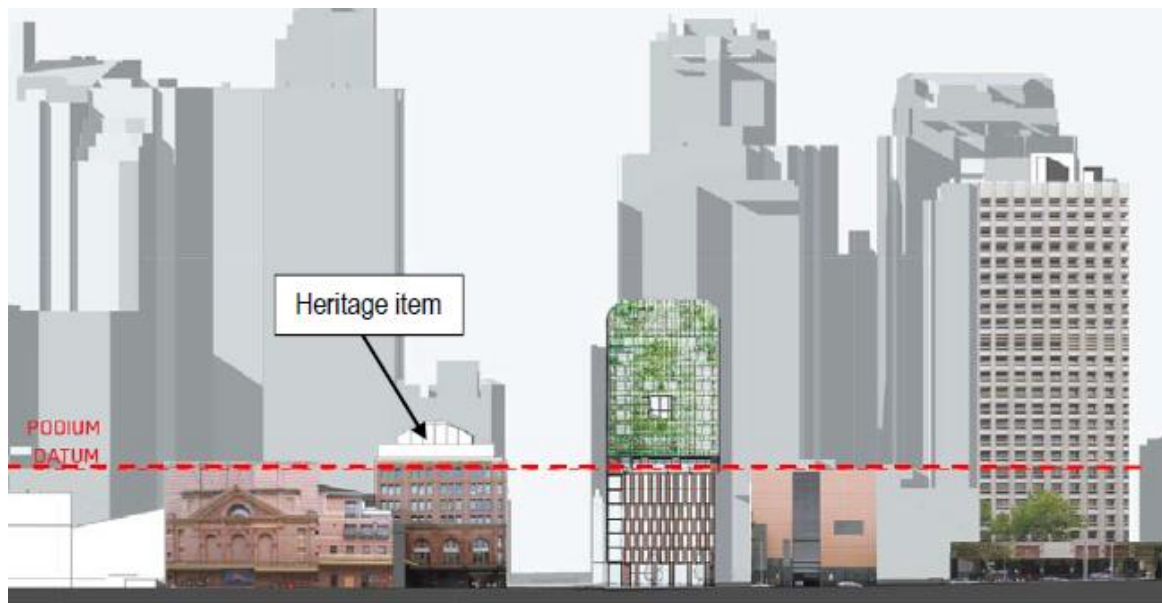
92. Given that the previous approval was assessed against a now superseded Waste Management Policy, and that the proposal is for an entirely new building and is not constrained by the retention of existing built form, it is not considered unreasonable to reconfigure the ground floor layout to comply with the City's current Waste Management Policy. Therefore, a condition of consent is recommended for the ground floor layout to be amended to provide internal and more direct BOH access to the retail tenancies, and for a separate bulky waste storage area to be provided for the supermarket in accordance with the City's current Waste Management Policy. Additionally, a condition of consent is recommended for an amended Waste Management Plan to be submitted, which includes details to demonstrate that baled cardboard from the retail and hotel waste storage areas on Basement Level 2 can be transported to the ground level collection point.

### Street Frontage Heights and Setbacks

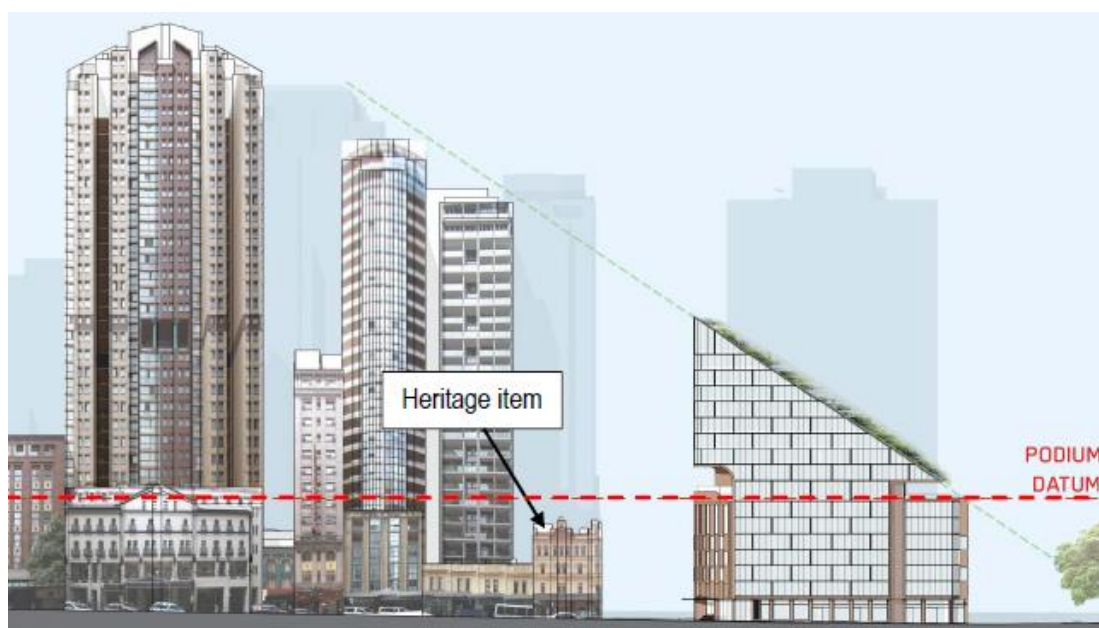
93. Section 5.1.1 of SDCP 2012 requires a street frontage height for new buildings located within the Railway Square/ Central Station Special Character Area of no greater than 15 metres above ground level. The minimum setback required above the 15 metres street frontage height is 8 metres to Hay St, Campbell St and Pitt St.
94. The proposed development provides a street wall height that gradually increases from 21 metres at the southern end of the site to 60 metres at the northern end. The only setbacks occur at Level 7, comprising outdoor terraces with external walls/ glass line setback approximately 4 metres from the northern boundary and 6 metres from the southern boundary.



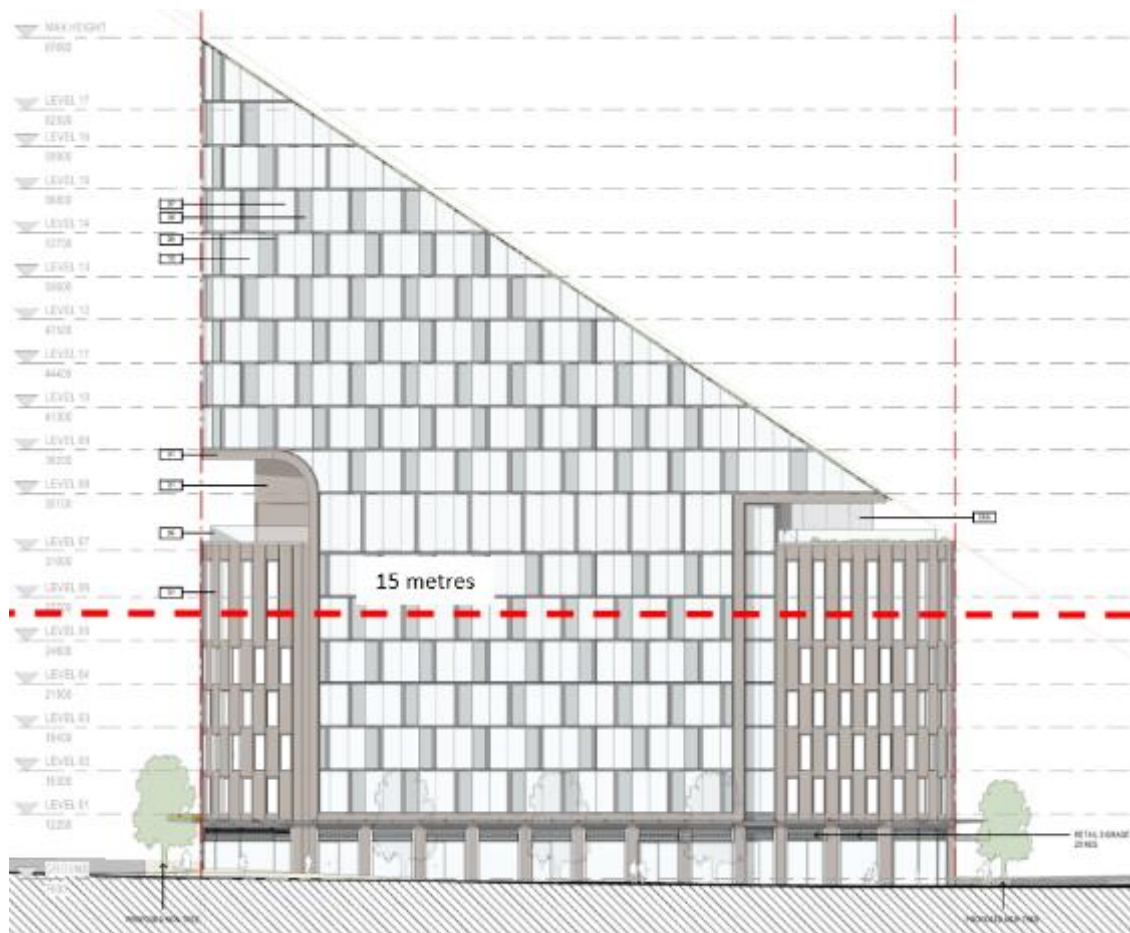
95. The non-compliance with the street frontage height and setback requirements under DCP 2012 are considered acceptable as the scale of the building has been minimised through massing and material treatment. In addition to the tapered height, the building is articulated as a masonry base intersected by a glazed volume, with a vertical slot extending from the ground floor to Level 8 at the southern end of the western façade (Pitt Street), and horizontal insets at Level 7. As such the massing is modulated in a way that minimises the building's bulk by breaking it up into discreet components.
96. The masonry base is consistent with and complements the street frontage heights of surrounding heritage items and is proportionately consistent with the brickwork to window opening ratio, of the Manning Building at 451 Pitt Street. Refer to below figures.



**Figure 36:** Podium datum (north elevation) in relation to surrounding development along Hay Street

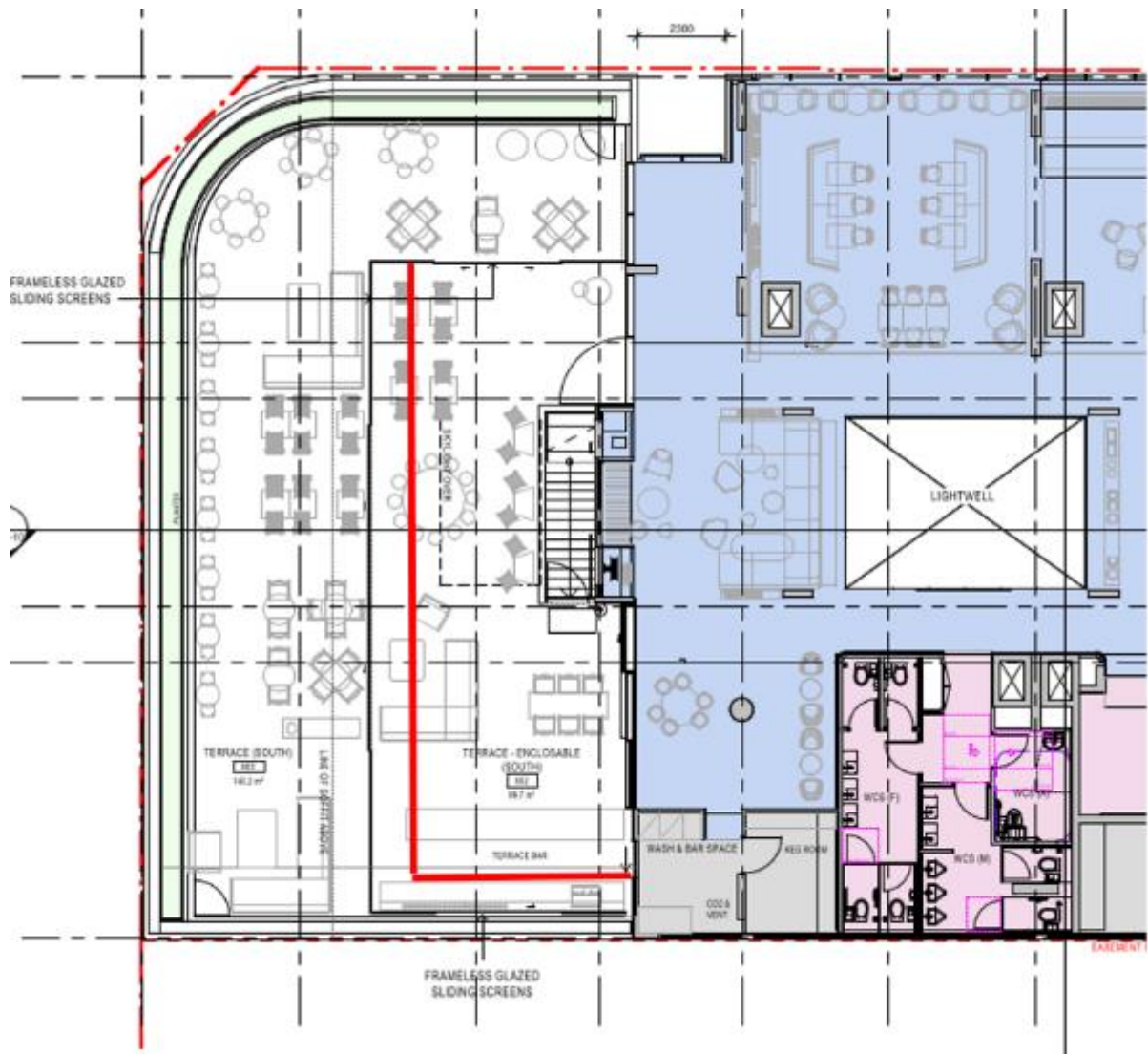


**Figure 37:** Podium datum (west elevation) in relation to surrounding development along Pitt St



**Figure 38:** West elevation showing 15m street frontage height by broken line

97. As discussed elsewhere in this report, the proposed detailed design is consistent with the approved Stage 1 Concept building envelope, and additionally the form of the proposal is constrained by the various easements and covenants on the subject site, as well as the Belmore Park Sun Access plane. Therefore, the non-compliance with the DCP street frontage height and setback controls is considered acceptable within the context of the subject site.
98. An increased setback of 1m of the glazing line of the level 7 (podium level) southern enclosed terrace from the southern and eastern boundaries is recommended to reduce the bulk which diminishes the reading of the articulated rebate, as shown in the below figure.



**Figure 39:** Level 7 southern terrace with recommended setback of glass line in red

99. A condition of consent is recommended to increase the southern and eastern setbacks to the glass line of the level 7 southern enclosed terrace.

## Consultation

### Internal Referrals

100. The application was discussed with Council's:

- (a) Building Services
- (b) Environmental Health
- (c) Licenced Premises
- (d) Heritage and Urban Design
- (e) Public Domain

- (f) Safe City
- (g) Surveyors
- (h) Transport and Access
- (i) Environmental Projects
- (j) Landscaping
- (k) Tree Management and
- (l) Waste Management.

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

### **External Referrals**

#### **Ausgrid**

102. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
103. A response was received raising no objections to the proposed development and recommending safework conditions regarding underground and overhead power cables, as well requiring the development to comply with relevant Ausgrid easements.

#### **NSW Police**

104. The application was referred to NSW Police for comment.
105. No response was received.

#### **Transport for NSW and Sydney Trains**

106. Pursuant to Section 2.99 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) and Sydney Trains for concurrence.
107. Concurrence was received from TfNSW on 30 October 2023, and from Sydney Trains on 19 December 2023. Conditions of consent were recommended which are included in the Notice of Determination.

#### **Water NSW**

108. In accordance with the Water Management Act 2000, the application was referred to Water NSW for concurrence.
109. General Terms of Approval were issued by Water NSW on 22 February 2024 and have been included in the schedules within the recommended conditions of consent.



## Advertising and Notification

110. In accordance with the City of Sydney Community Participation Plan 2023 the proposed development was notified for a period of 28 days between 10 October 2023 and 7 November 2023, and re-notified as integrated development for a further 28 days between 24 October 2023 and 21 November 2023. The amended plans were not re-notified as the amendments to the design are relatively minor and are not considered to intensify or create any additional amenity impacts to neighbouring properties. A total of 885 properties were notified and 4 submissions were received (including one letter of support).

111. The submissions raised the following issues:

- (a) **Issue:** The architectural roof feature is unnecessary, exceeds 55m in height and impedes on the amenity and views of surrounding residents.

**Response:** The overall height of the proposed development (60m), including the architectural roof feature, complies with the Belmore Park Sun Access Plane, and approved Stage 1 building envelope. It is also noted that the maximum height of the proposal (RL 67.692) is consistent with the previous Stage 2 approval (D/2017/727/C).

The roof feature is required for additional mechanical plant services and is not considered to result in any unreasonable amenity impacts to neighbouring residential properties.

- (b) **Issue:** Potential impacts from construction noise on the amenity of surrounding residential properties.

**Response:** Standard conditions of consent are recommended, which restrict construction hours in accordance with the City's policies, as well as a condition requiring a Construction, Noise and Vibration Management Plan to be submitted to Council prior to issue of a construction certificate.

## Financial Contributions

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

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

113. The site is located within the Central Sydney affordable housing contribution area. As the proposed development includes the creation of more than 100 sqm of floor space, a contribution is required.

114. For the purpose of calculating affordable housing contributions, Total Floor Area (TFA) plans have been submitted by the applicant. It is noted that the submitted TFA plans exclude the enclosed area of the southern terrace on Level 7 from TFA calculations. The applicants submits that as the area is enclosed by a lightweight glass installation (frameless folding screens) that will only be closed under adverse wind conditions, this area should not be included as TFA. TFA is defined under CL 7.13(6) as " the total of the areas of each floor of a building within the outer face of the external enclosing

walls" (with certain exclusions). However, as the enclosable portion of the terrace is roofed by the level above and can be fully enclosed by full height glazing, it therefore should be included as TFA, noting that this area is also included in the submitted GFA calculations. As a condition of consent is recommended to further setback the glass line by 1m from the southern and eastern boundaries (as discussed elsewhere in this report) only the area not amended by the recommended condition is included as TFA (being approximately 77 sqm).

115. A Total Floor Area (TFA) of 16,535.00 sqm has been calculated for the development based on the definition of TFA contained in Clause 7.13 of the SLEP 2012.
116. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

### **Housing and Productivity Contribution**

117. The development is not subject of a Housing and Productivity Contribution under the provisions of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023, as it was lodged prior to 1 October 2023.

### **Relevant Legislation**

118. Environmental Planning and Assessment Act 1979.

### **Conclusion**

119. The proposal complies with the sun access plane to Belmore Park and with the maximum Floor Space Ratio permitted under SLEP 2012. Amendments have been made to respond to waste management and design excellence.
120. The proposal is consistent with the Stage 1 approval granted under D/2015/1490.
121. The site area exceeds 1,500 sqm and the proposed building exceeds 55 metres in height, triggering the requirement for a design competition under SLEP 2012. The applicant has requested that this requirement be waived on the basis that the proposal exhibits design excellence, the proposal is consistent with the Stage 1 approval granted, and the development is constrained by easements and a sun access plane. The request is supported.
122. The proposal is considered to display design excellence.
123. Concurrence has been granted by WaterNSW, subject to recommended conditions of consent.
124. For these reasons the proposal is recommended for consent to be granted.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Nicholas Reid - Specialist Planner