

Item 3.**Section 4.55(2) Application: 410 Pitt Street, Haymarket - D/2020/1387/C****File Number:** D/2020/1387/C**Summary**

Date of Submission:	The application was lodged on 24 April 2025. The application has been modified by way of amended drawings during assessment.
Applicant:	IDC Property Management Pty Ltd.
Architect:	Durbach Block Jagers
Developer:	Tricon Management Group Pty Ltd.
Owner:	Australian Village No 13 - Pitt St Pty Ltd.
Planning Consultant:	The Planning Studio
Cost of Works:	\$23,517,007.50
Zoning:	The site is located within the SP5 Metropolitan Centre zone. Tourist and visitor accommodation (hotel and cafe) is permissible with consent within the zone.
Proposal Summary:	<p>The Section 4.55(2) application seeks consent for modifications to an approved 'Stage 2' detailed development involving the construction of a new hotel.</p> <p>The applicant seeks consent to increase the height of an approved lift overrun and associated sloshing damper, increasing the approved height of the building by 1.99m. The applicant also seeks consent for other design changes shown on architectural drawings.</p> <p>The application has been amended during assessment, in response to issues raised by Council's staff. The amended drawings show the deletion of an acoustic screen, originally proposed on the northern boundary at the roof level.</p> <p>It should be noted there are two separate and related modification applications being reported concurrently to the Local Planning Panel.</p>

The 'subject' Section 4.55(2) application (D/2020/1387/C) seeks consent to amend the development consent relating to the 'Stage 2' detailed design.

Also being report to the LPP is a separate Section 4.56 application (D/2015/661/D), which seeks consent to modify the existing 'Stage 1' Concept development consent, also increasing the approved height of the building by 1.99m.

The subject modification application (D/2020/1387/C) was notified for 14 days, between 29 April 2025 and 14 May 2025. A total of 1,930 owners and occupiers were notified and 80 submissions by way of objection were received.

The objections raised the following concerns:

- the proposal not being 'substantially the same', with significant adverse cumulative impacts for neighbouring residential dwellings;
- excessive view loss and overshadowing for neighbouring apartments, reduction in daylight, air flow and increased noise from lift motor;
- proposed works appear to be staging mechanism for future public rooftop use, potentially a rooftop bar, lounge or function space;
- recent works resulting in structural damage to neighbouring buildings and unacceptable builder conduct;
- lack of structural design documents such as dilapidation reports, structural and geotechnical reports; and
- traffic and amenity impacts from approved uses and impacts on property values.

As more than 25 unique submissions were received by way of objection in relation to the subject Section 4.55(2) application (80 submissions) the application is defined as 'contentious development' in accordance with Schedule 3 of the Local Planning Panels Direction and is required to be reported to the Local Planning Panel for determination.

The proposal has been amended during assessment and responds appropriately to surrounding residential development.

Given the amended drawings show a reduction in the scope and have reduced impacts, they were not re-notified to neighbouring properties.

Notwithstanding this, conditions are recommended to maintain the intention and integrity of the original design, which resulted from a competitive design competition process.

Subject to recommended conditions, the development, achieves a architectural design that exhibits design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and associated Regulation 2021;
- (ii) Environmental Planning and Assessment Act 1979 (as amended);
- (iii) Environmental Planning and Assessment Regulation 2021;
- (iv) Sydney Local Environmental Plan 2012 ('SLEP2012');
- (v) Sydney Development Control Plan 2012 ('SDCP2012'); and
- (vi) Community Engagement Strategy and Community Participation Plan 2025–2029

Attachments:

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

Recommendation

It is resolved that consent be granted to Section 4.55(2) Application Number D/2020/1387/C subject to the amendment of the following conditions (with modifications shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions) as follows:

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. ~~D/2020/993~~ ***D/2020/1387*** dated 21 December 2020 and the following drawings prepared by Durbach Block Jagers:

Drawing Number	Drawing Name	Date
A-DA-110-001 Rev 1 2	GA Plans Basement 1	24.04.23 <i>8.04.25</i>
A-DA-110-002 Rev 1 2	GA Plans Ground Level	24.04.23 <i>8.04.25</i>
A-DA-110-003 Rev 1 3	GA Plans Level 1	24.04.23 <i>8.04.25</i>
A-DA-110-004 Rev 1 2	GA Plans Level 2	24.04.23 <i>8.04.25</i>
A-DA-110-005 Rev 2 4	GA Plans Typical Levels 3-4	29.08.23 <i>11.07.25</i>
A-DA-110-006 Rev 2 4	GA Plans Typical Levels 5	29.08.23 <i>11.07.25</i>
A-DA-110-007 Rev 2 3	GA Plans Level 6	29.08.23 <i>11.04.25</i>
A-DA-110-008 Rev 2 4	GA Plans Typical Levels 7-29	29.08.23 <i>11.07.25</i>

A-DA-110-009 Rev 2 4	GA Plans Level 16	29.08.23 11.07.25
A-DA-110-010 Rev 2 4	GA Plans Level 30	29.08.23 11.07.25
A-DA-110-011 Rev 2 3	GA Plans Level 31	29.08.23 8.04.25
A-DA-110-012 Rev 2 3	GA Plans 32	29.08.23 8.04.25
A-DA-110-013 Rev 2 4	GA Plans Roof Plan	29.08.23 11.07.25
A-DA-210-001 Rev 3 5	GA Elevation North Elevation	29.08.23 11.07.25
A-DA-210-002 Rev 1 2	GA Elevation East Elevation	24.04.23 8.04.25
A-DA-210-003 Rev 2 4	GA Elevation South Elevation	29.08.23 11.07.25
A-DA-210-004 Rev 1 3	GA Elevation West Elevation	24.04.23 11.07.25
A-DA-310- 003 002 Rev 1 3	GA Sections Section CC	24.04.23 11.07.25
A-DA-310-004 Rev 1 3	GA Sections Section DD	24.04.23 11.07.25
A-DA-730-001 Rev 1 2	Diagrams Materials & Finishes Schedule	24.04.23 8.04.25

A-DA-730-002 Rev 1	Detail Section Suite Glazing	11.07.25
---------------------------	---	-----------------

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

(3A) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) *The note describing 'acoustic wall' on the north elevation numbered A-SA-210-001 must be deleted noting there is no approval for any acoustic walling.*
- (b) *All exhaust louvres added to the northern side boundary wall marked as change "30" on the north elevation numbered A-DA-210-001 must be deleted.*
- (c) *Operable windows are to be provided to the east elevation consistent with the previously approved plans for D/2020/1387/A. These are to be noted on amended plan and elevation drawings.*
- (d) *Details of privacy treatments to the east facing rooms are to be provided. These are to be noted on amended plan and elevation drawings.*
- (e) *Material RFS:01 Concrete roof with waterproof membrane is not approved on the Materials & Finishes Schedule A-DA-730-001. RFS:01 is to be amended to be a Zinc Roof consistent with the previously approved Materials and Finishes Schedule for D/2020/1387/A. This amendment is to be captured in an amended Materials & Finishes Schedule, in plan and elevations.*
- (f) *Material GL:02 Obscure Glass is to be provided to all corridor windows facing north and level 31 T-05 Duplex north facing window. These are to be noted in both plan and elevation.*

Amended architectural drawings must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate for above ground works.

(5) BUILDING HEIGHT

- (a) The height of the building must not exceed RL ~~121.110~~ **123.100** (AHD) to the top of the building lift overrun and RL 115.46 (AHD) to the parapet of the building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

(6) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed ~~12.73:1~~ **12.5:1** calculated in accordance with the Sydney Local Environmental Plan 2012. For the purpose of the calculation of FSR, the Gross Floor Area of the approved development is ~~4,392~~ **4,313** sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifier.
- (c) Prior to a Construction Certificate being issued, Council's written verification must be obtained, confirming that 403sqm of heritage floor space was allocated (purchased and transferred) to the development.
- (d) The developer may enter into a planning agreement with Council to purchase heritage floor space in accordance with Council's 'Alternative Heritage Floor Space Allocation Scheme' policy in the event that the requirement in (c) is not able to be satisfied.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The development to which the proposed modification relates is substantially the same as that originally granted, and as amended with consent by subsequent modification applications.
- (C) The development, as proposed to be amended, satisfies the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (D) The development, as proposed to be amended, exhibits design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The proposed development has a bulk, form and massing that is suitable for the site and its context within Central Sydney. The intended future use of the site for tourist and visitor accommodation is consistent with the objectives of the SP5 - Metropolitan Centre zone.
- (F) The amended modification application has addressed matters raised by Council staff. Subject to the recommended conditions of consent, the proposed development achieves good amenity for the existing and future occupants of the subject and adjoining sites.
- (G) For the reasons above the proposed development is in the public interest.

Background

The Site and Surrounding Development

1. The site is identified as Lot 1 in DP 69787 and is known as 410 Pitt Street, Haymarket. The site is located on the eastern side of Pitt Street between Goulburn Street to the north and Campbell Street to the south.
2. The site has an area of approximately 345sqm with a western frontage to Pitt Street of 6.4m. The site is a construction site, however prior to approved demolition works, contained a six storey building with a ground floor commercial use. Council's archives contain a lengthy history of inspections (since the 1940s), of a former boarding house known as the 'Cosy Hotel (Figure 2 below).
3. The site is not heritage listed, nor is it located within a heritage conservation area.
4. The site is located within Central Sydney in an area characterised by a mix of commercial and residential buildings and land uses. The scale of surrounding development ranges from 2 storeys to 38 storey tower buildings.
5. To the north of the site at 398-408 Pitt Street is the 'Miramar' apartment building, which is listed in Schedule 5 of Sydney LEP as a local heritage item, described as the "Former Sydney Tourist Hotel facade". The heritage facade is 5 storeys and functions as a podium to the residential tower above.
6. To the south of the site is located 412 Pitt Street, containing a 14 storey hotel building, built circa 1930, in the Inter War Palazzo style.
7. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site (red outlined) and surrounds



Figure 2: Left: Site viewed from Pitt Street, facing west (31 July 2025). Right: site prior to demolition (Source: planning report D/2015/661/C).

History Relevant to the Development Application

Development Applications

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

'Stage 2' Detailed approval (D/2020/1387, as modified)

- (a) D/2020/1387: on 11 August 2021, the City's Local Planning Panel granted consent for a 'Stage 2 New hotel';
- (b) D/2020/1387/A: On 27 September 2023, a Section 4.55(2) modification was approved to amend rooftop plant, for internal and external design changes and for amendments to materials and finishes; and
- (c) D/2020/1387/B: On 17 January 2024, consent was granted for a Section 4.55(1A) modification, approving deletion of Condition 20 (Existing Resident Relocation Plan) and modification of Condition 21 (Demolition/Site Rectification).

'Stage 1' (Concept) development consent (D/2015/661 as modified)

- (a) D/2015/661: On 19 May 2016, the Land and Environment Court granted consent for a 'Stage 1' Concept approval for a building envelope, containing a 31 storey accommodation hotel;
- (b) D/2015/661/A: On 19 September 2019, consent was granted for a Section 4.55(1) modification, approving a change to Condition 5 relating to the submission of a design excellence strategy;

- (c) D/2015/661/B: On 29 July 2021, Section 4.56 modification was approved to amend the approved Stage 1 building envelope to accommodate the building form within D/2020/1387 including a lift and stair overrun;
- (d) D/2015/661/C: On 26 September 2023, a Section 4.55 modification was approved to amend the approved Stage 1 building envelope to increase the height of the lift overrun, widen the access stair to meet BCA and NCC requirements and increase a portion of the northern elevation from Level 7 to the roof level by 220mm; and
- (e) D/2015/661/D: A Section 4.56 modification application is being reported concurrently to the LPP, involving increasing the approved height of the building envelope by 1.99m.

Compliance Action

- 9. Council's records show complaints received in February and April 2025 relating to damage in neighbouring buildings. The damage was reported following commencement of approved demolition works for the subject site. Council's compliance officers contacted the accredited certifier, then provided complainants with the contact details of the accredited certifier. The matter relating to alleged damage within a neighbouring property is a civil matter between the relevant parties. The matter has since been closed.
- 10. A complaint was received regarding construction noise in March 2025. Council's compliance officers provided the complainant with the details in relation to the construction noise management plan and the complainant advised they would liaise directly with the site builder. The matter is now closed.
- 11. Complaints were received during March and April 2024 in relation to dust from construction activities. These matters were discussed with complainants and the matter has since been closed.

Amendments

- 12. The applicant amended the proposal during assessment, in response to issues raised by Council's officers. The amendments reduce the scale and impacts of the proposal as compared to lodgement and were not re-notified to neighbouring properties.
- 13. Amendments provided during assessment address the following issues:
 - (a) Building height and impacts on views across the site:
 - (i) a proposed acoustic screen has been deleted, maintaining views across the site from neighbouring residential apartments (Figures 3 and 4 below);
 - (b) Ventilation grills on the boundary:
 - a statement has been provided justifying the location of louvres. Notwithstanding this, the louvres are not supported. See Discussion section below.
 - (c) Operable windows:

- (i) operable windows are shown on the western elevation but not the eastern elevation as originally approved. A condition is recommended to address this issue. See Discussion section below; and
- (d) Street awning:
 - (i) drawings have been amended to show the street awning having two supports at the west elevation, in line with previously approved documents including the public art plan.

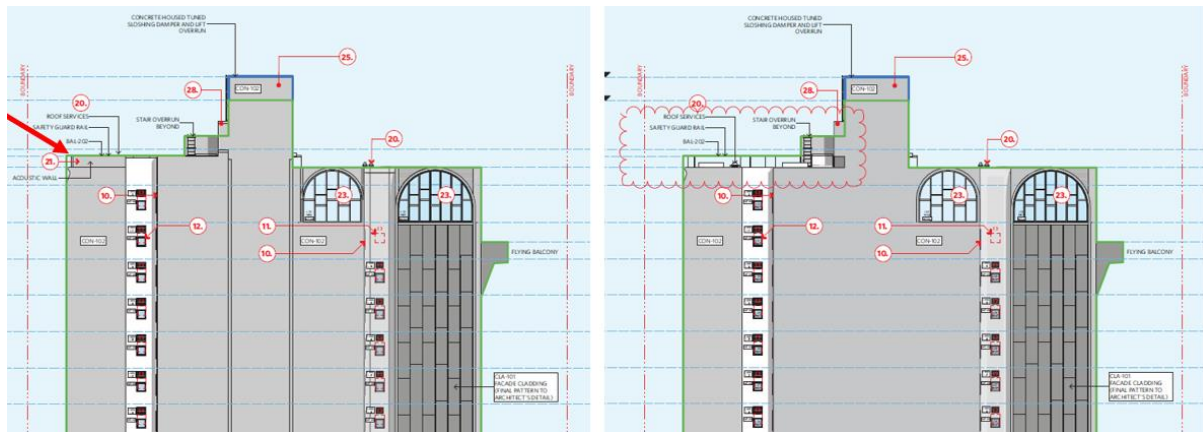


Figure 3: Left: north elevation plan extract, as lodged with the subject application Right: as amended during assessment. A proposed acoustic screen has been deleted (red arrow).

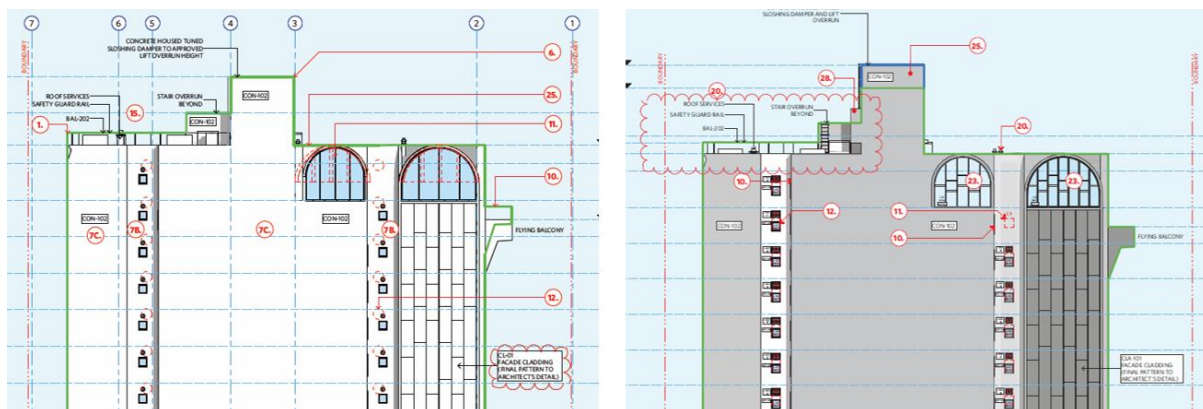


Figure 4: Left: north elevation plan extract, as approved by 'Modification A' (D/2020/1387/A). Right: proposed north elevation plan (amended during assessment), showing reduced plant height.

Proposed Development

14. The amended application seeks consent for a total of 33 changes to the approved building. A full list of proposed changes is provided on Page 1 of the Selected Drawings (Attachment B to this report). The applicant states the changes are as a result of further architectural design development.
15. There are a number of key changes proposed under the subject application. These include:

- (a) an increase to the height of the lift overrun and sloshing damper to provide access to the roof level for servicing of plant zones;
 - (b) hotel Suites have been deleted from Level 2 and additional hotel amenities introduced to Levels 1 and 2, including a breakfast room and a small gym;
 - (c) there has been further design development of suite interiors resulting in minor internal amendments and modification to suite types; and
 - (d) the proposed public artwork has been further developed and integrated with architectural details.
16. The applicant justifies the changes by noting the proposed changes result in development that:
- (a) continues to comply with the maximum permissible floor space ratio for the site;
 - (b) continues to comply with the building height standard, established by the sun-access plane for Belmore Park; and
 - (c) is consistent with the approved 'Stage 1' concept building envelope that is also being amended (per D//2015/661/D).
17. Plans and elevations of the proposed development are provided below.

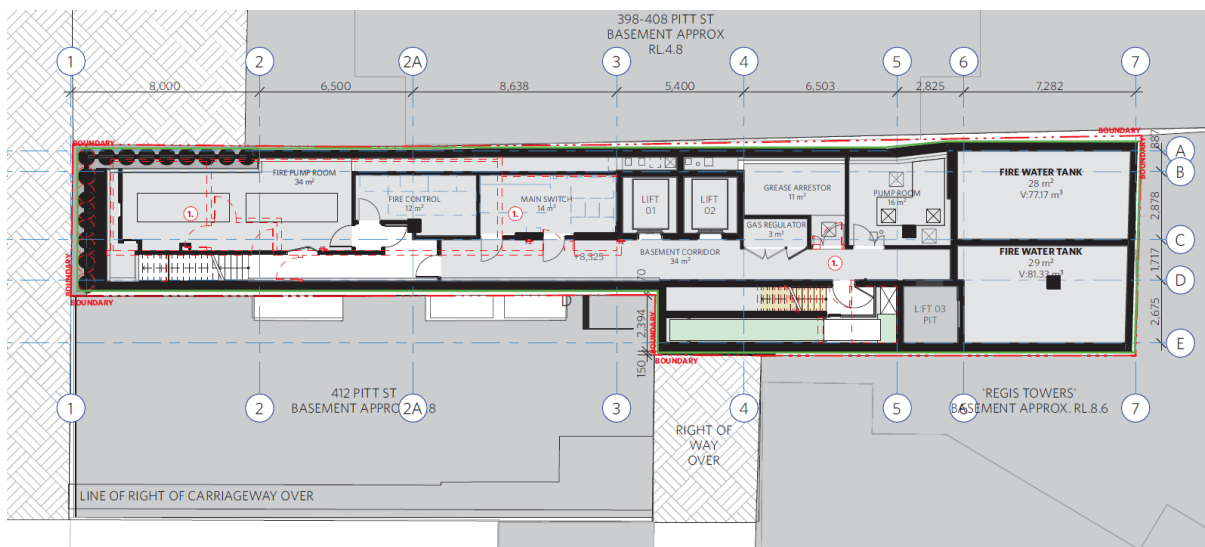


Figure 5: Basement 1 plan

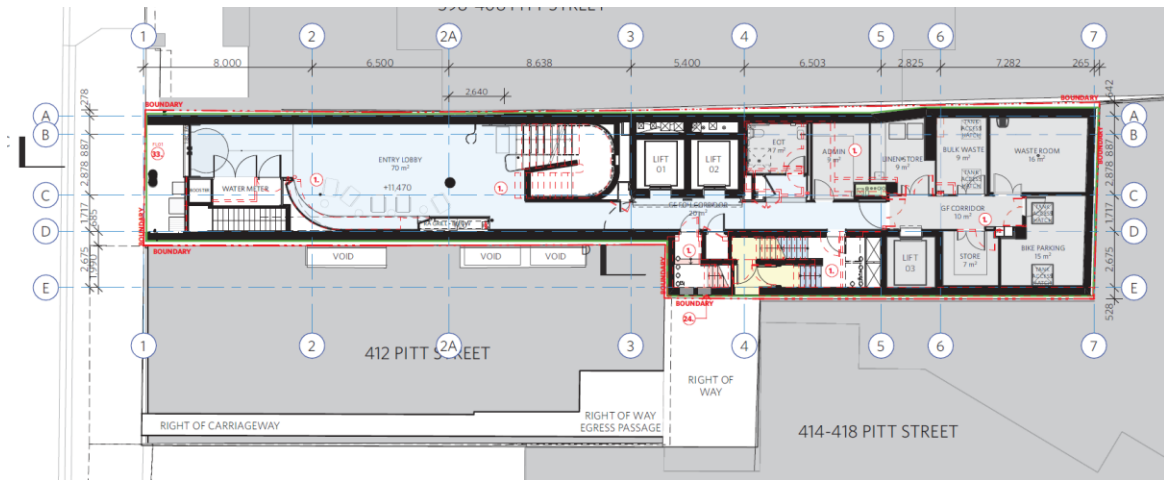


Figure 6: Ground level plan

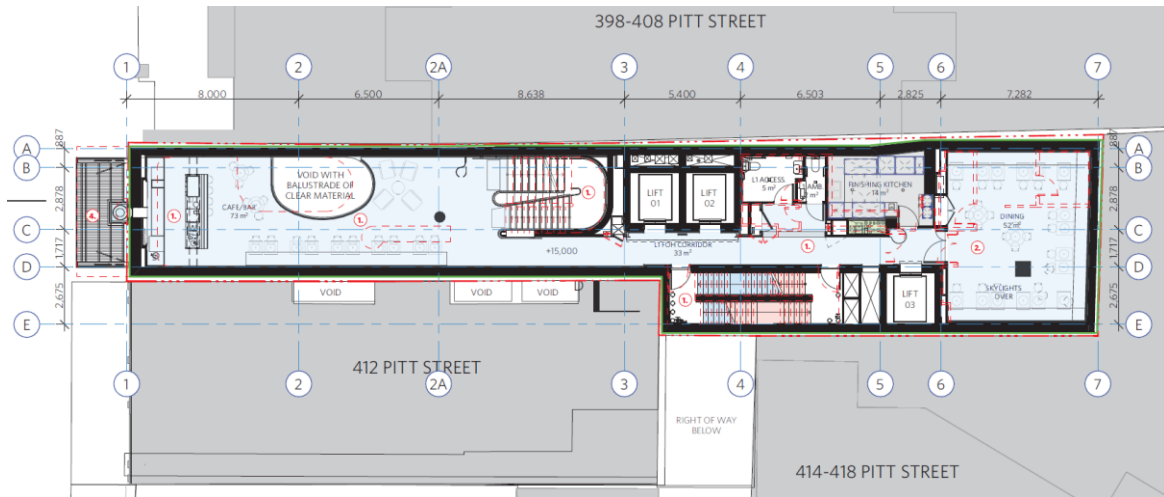


Figure 7: Level 1 plan

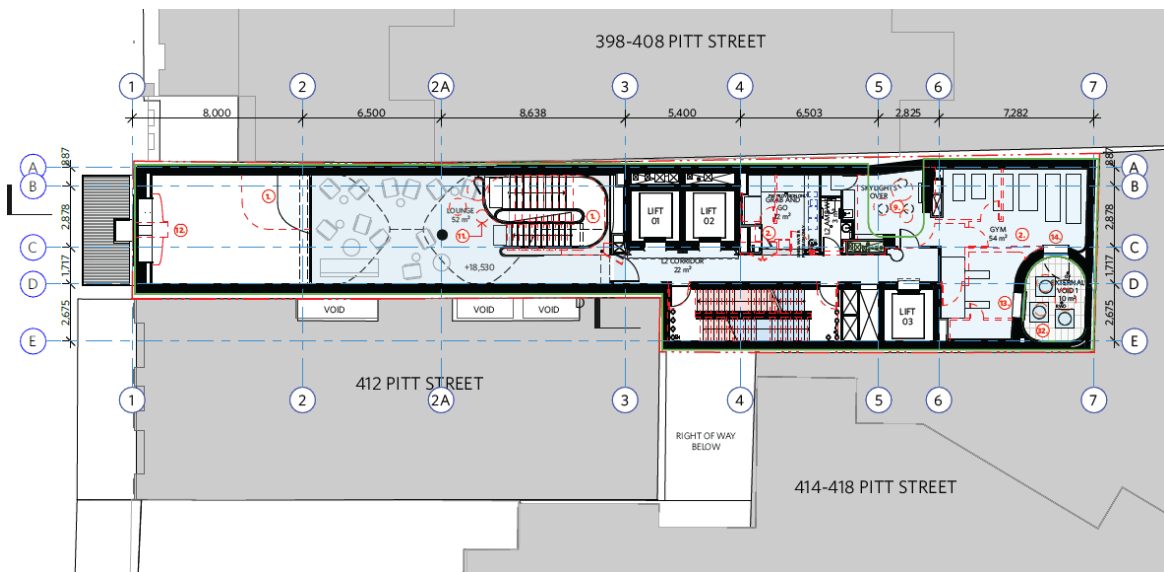


Figure 8: Level 2 plan

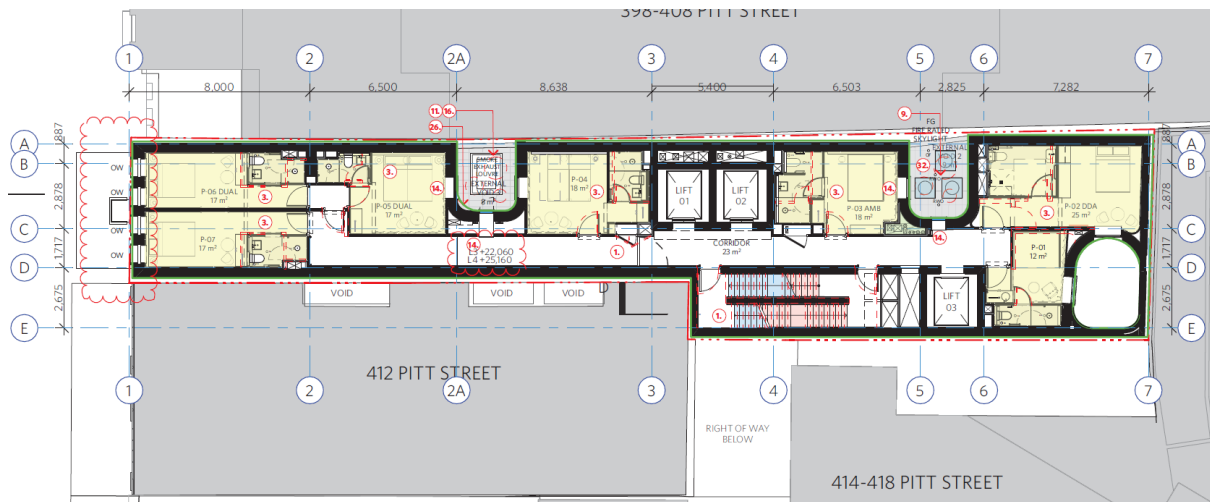


Figure 9: Level 3-4 plan

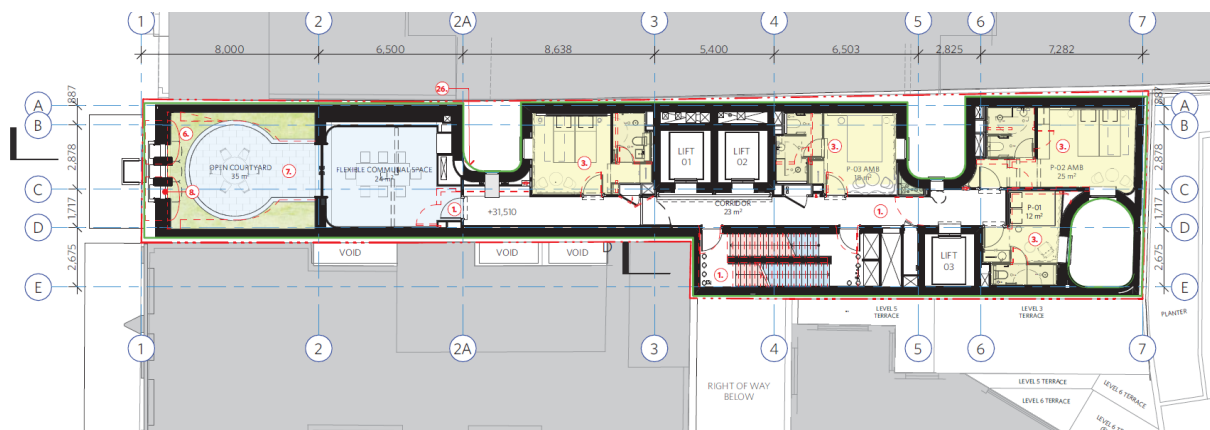


Figure 10: Level 6 plan

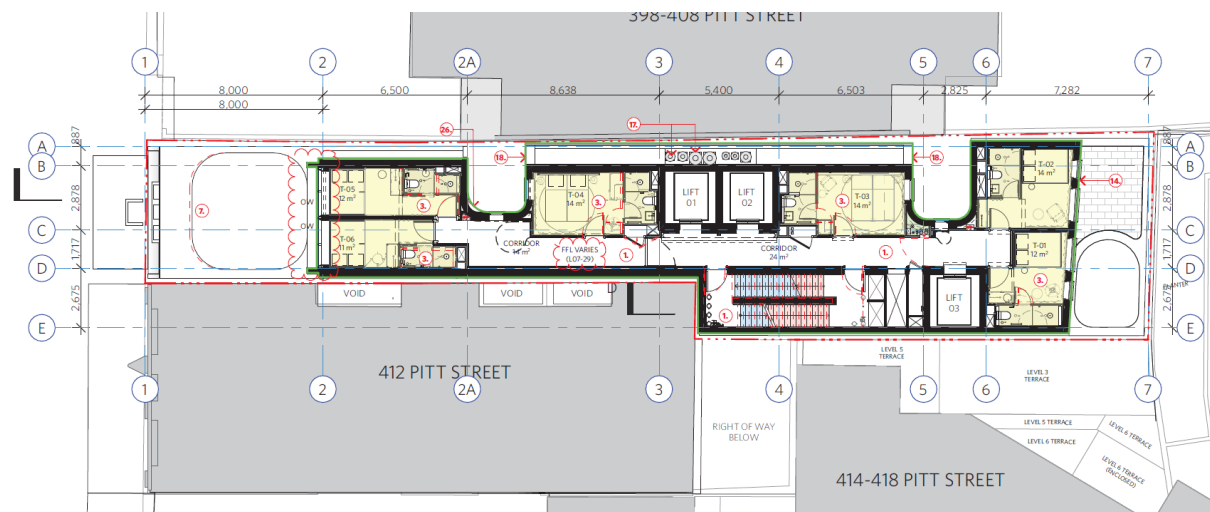


Figure 11: Level 7-29 plan

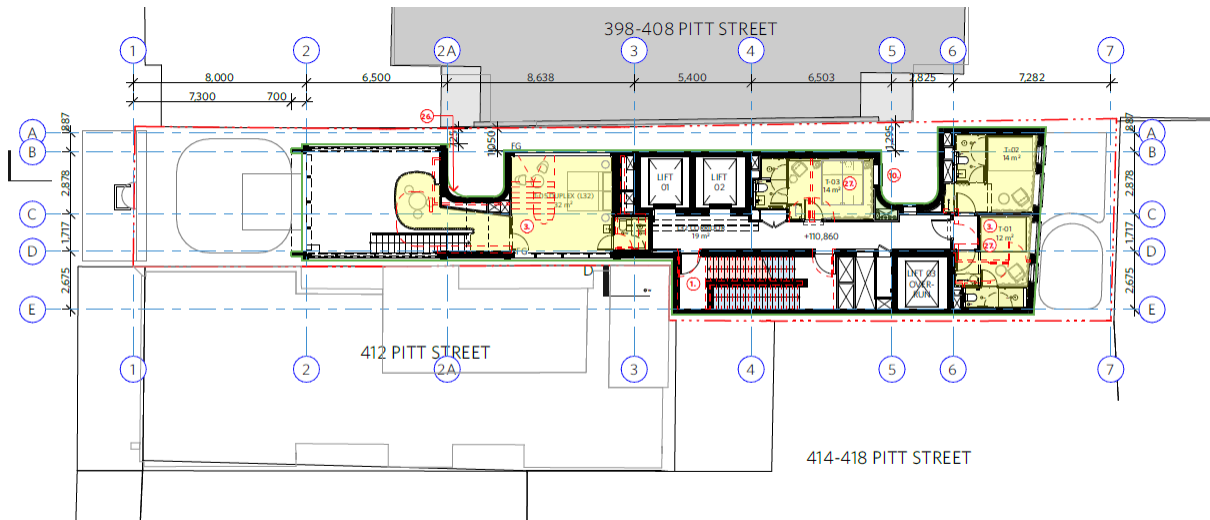


Figure 12: Level 32 plan

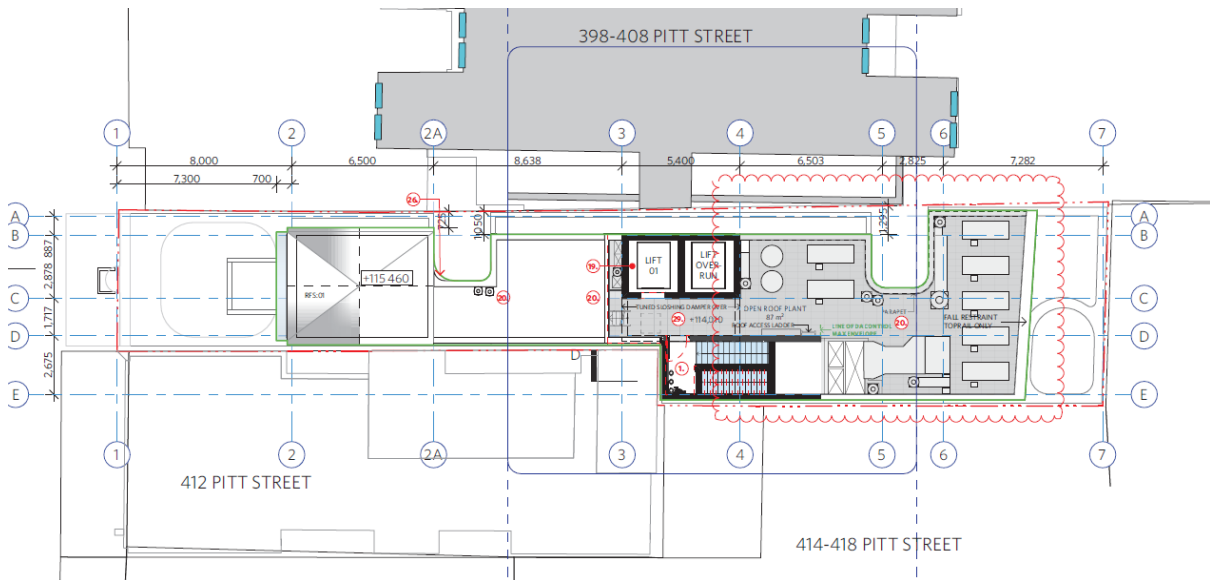


Figure 13: Roof plan - main

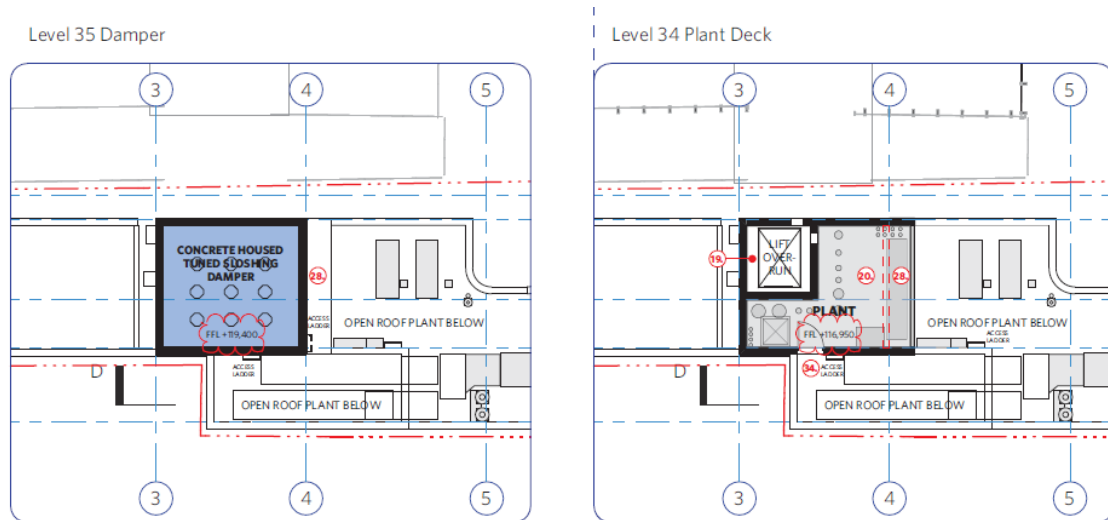
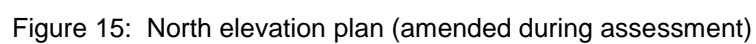
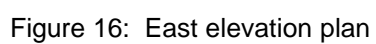


Figure 14: Roof plan - main, plant and sloshing damper





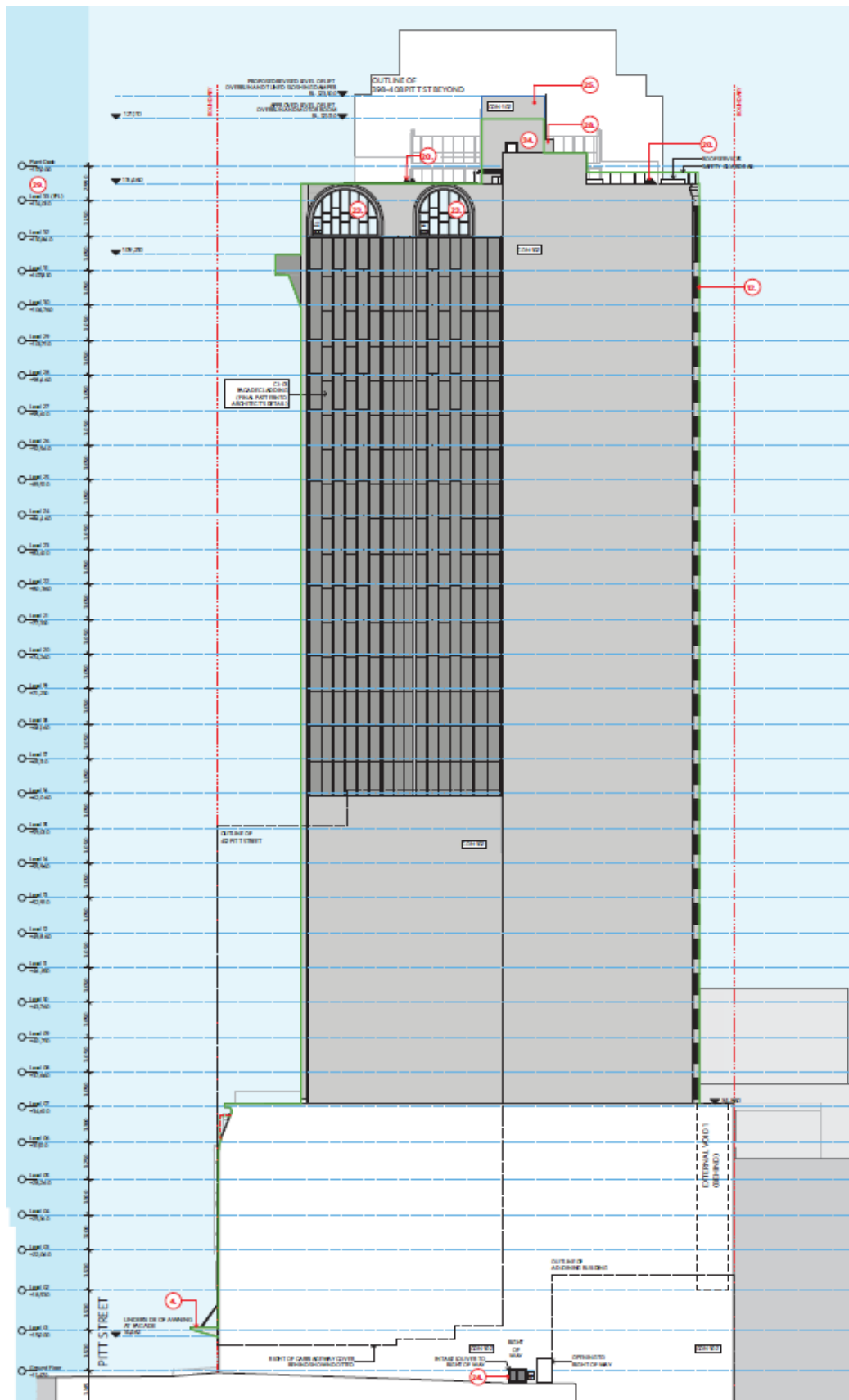


Figure 17: South elevation plan

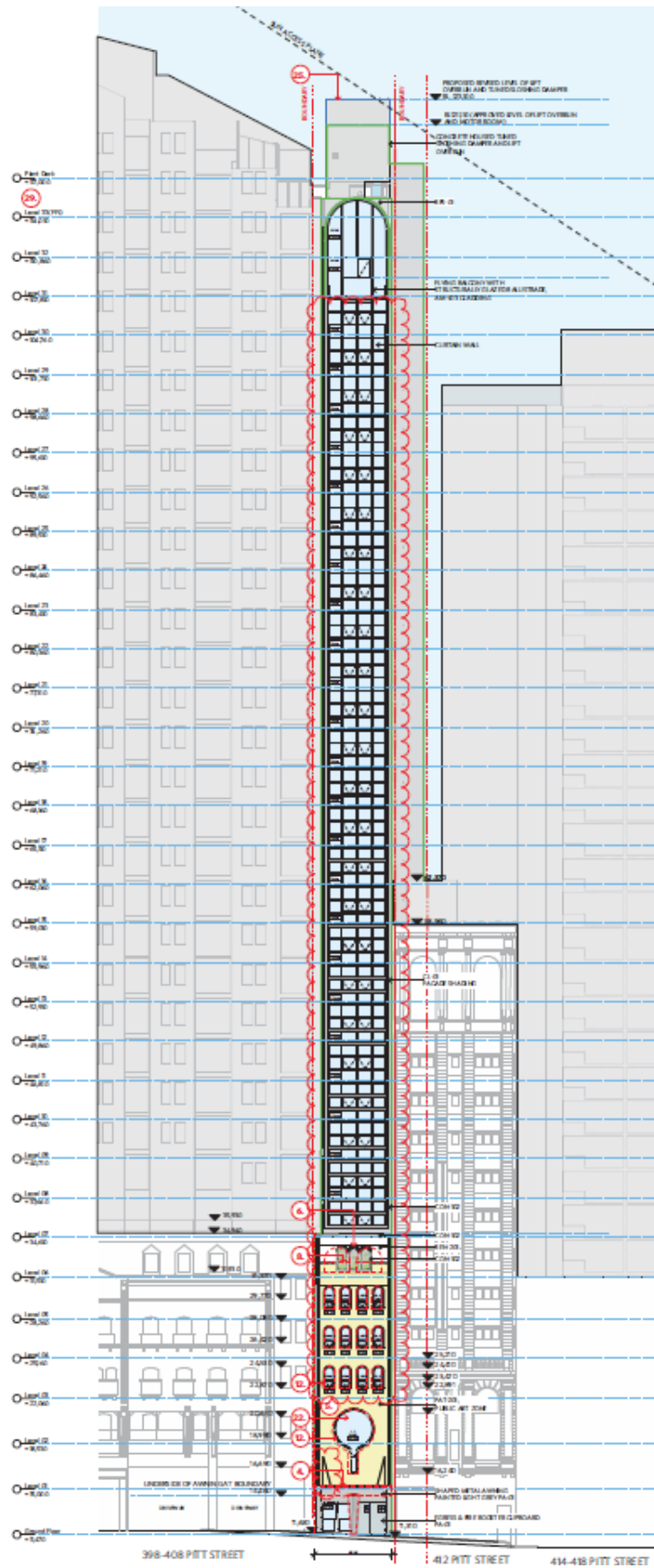


Figure 18: West elevation plan (Pitt Street)

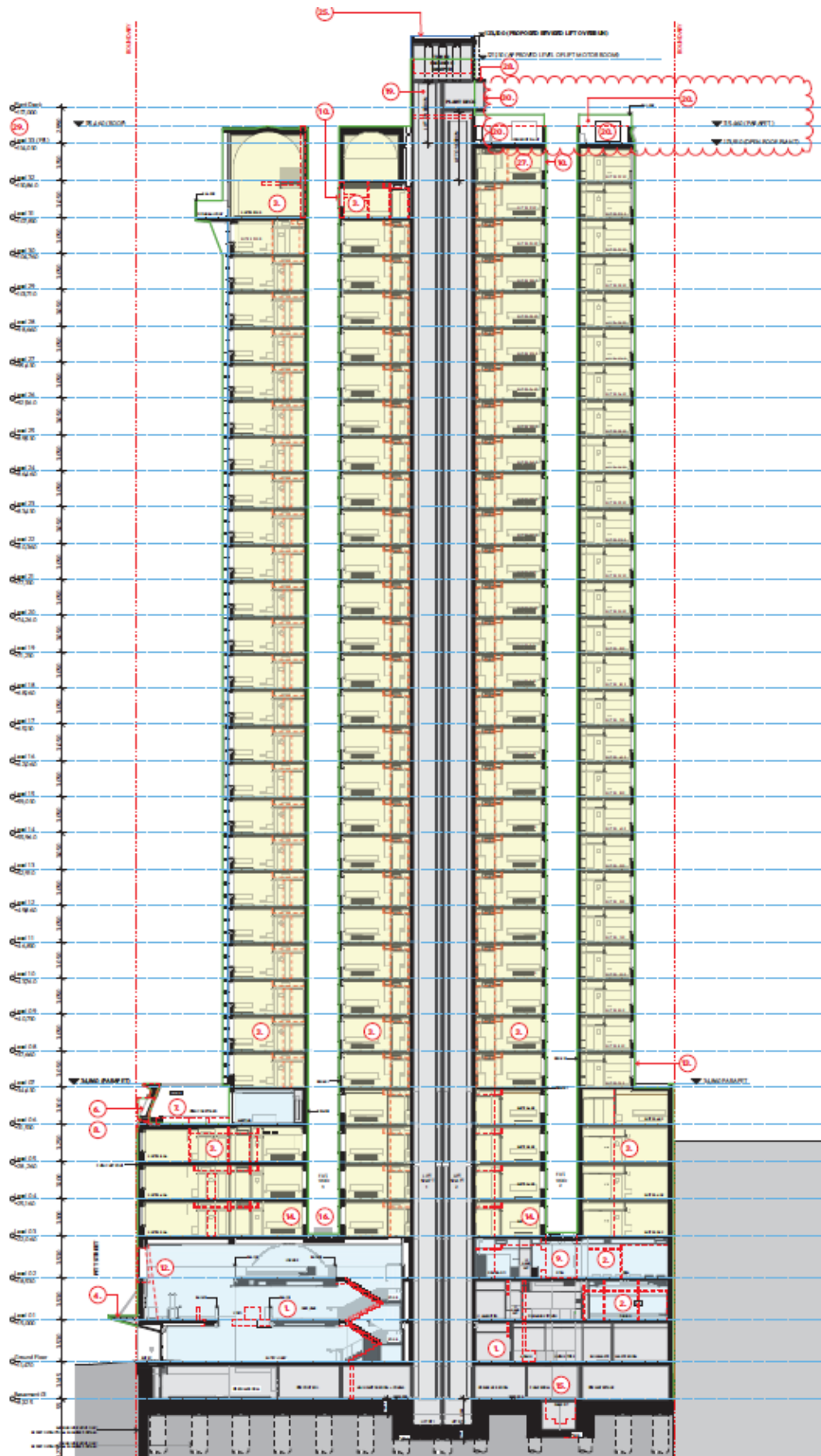


Figure 19: Section plan



Figure 20: Section plan

Materials & Finishes Schedule

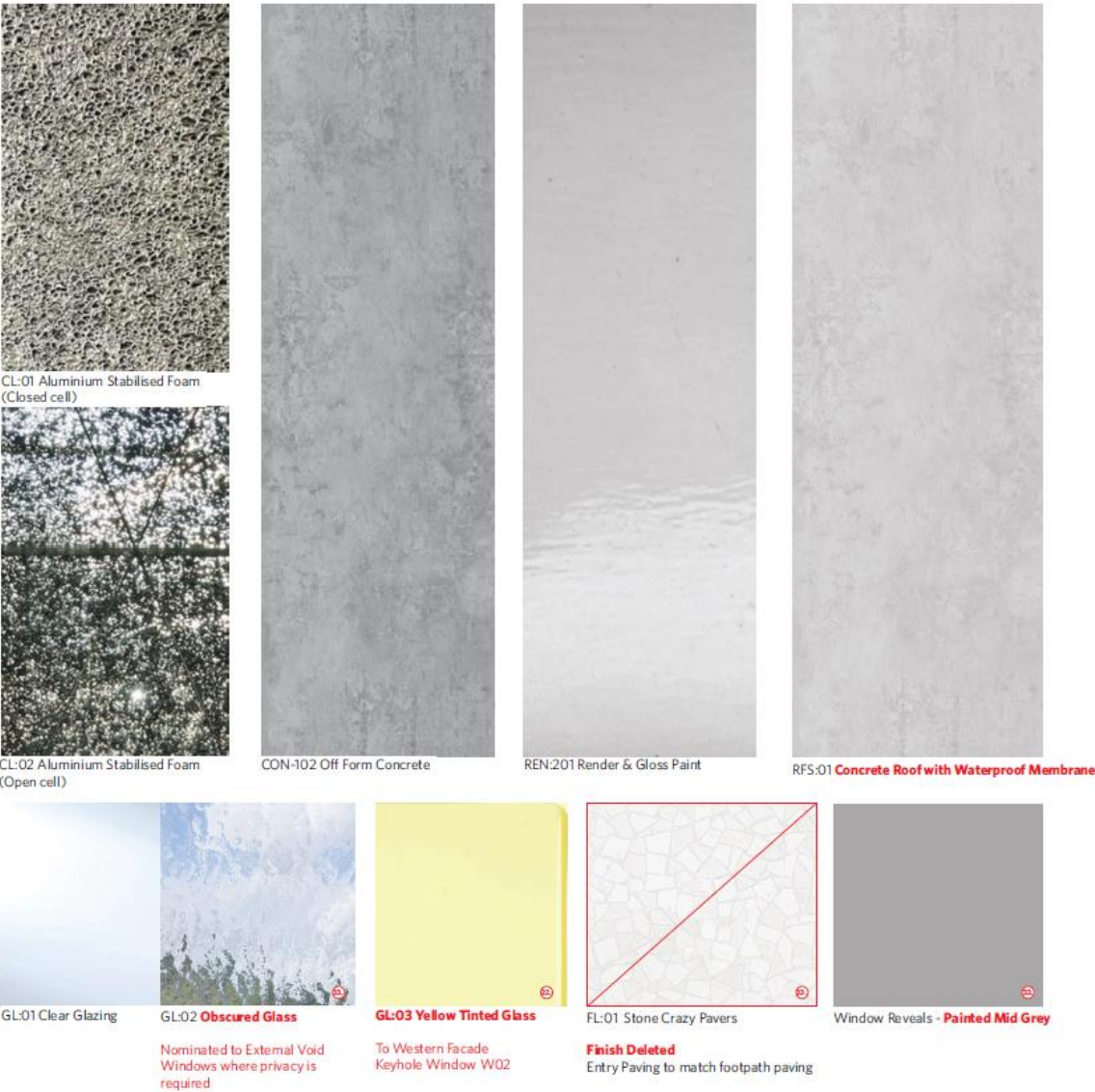


Figure 21: Materials and Finishes Schedule



Figure 22: Photomontage - podium (Pitt Street)

Assessment

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

Section 4.55 Assessment

19. The development to which the proposed modification relates is substantially the same as that originally granted, and as amended with consent by subsequent modification applications.
20. In accordance with section 4.55(2) of the EP&A Act 1979 the application has been notified to neighbouring properties, per the City's Community Engagement Strategy and Community Participation Plan 2025–2029.

Local Environmental Plans

Sydney Local Environmental Plan 2012

21. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.
22. The site is located in the SP5 Metropolitan Centre Zone. The approved development (tourist and visitor accommodation with ancillary café) is permissible with consent within the zone.
23. The approved development (hotel with associated cafe) is consistent with the objectives of the SP5 Metropolitan Centre Zone in that it provides for the pre-eminent role of business, office, retail, entertainment and tourist premises, promotes the efficient and orderly development of land in a compact urban centre.

Height of buildings

24. With regard for the provisions of section 4.3 and 6.17 of SLEP 2012 (Building Height and Sun Access Planes), the maximum building height permitted on the site is restricted by the Belmore Park sun access plane area.
25. The proposed increase to the lift overrun and sloshing damper structure will not breach the development standard for maximum building heights, which is determined by the sun access planes for Belmore Park (see Discussion section below).

Floor Space Ratio

26. With regard for the provisions of section 4.4 of SLEP 2012 (Floor Space Ratio), the 'parent' consent (D/2020/1387) approved a floor space ratio (FSR) for the development of 14.3:1, being consistent with the maximum FSR for the site of 15.5:1 (5,344sqm). The maximum FSR was calculated as the 'base' FSR of 8:1 and Accommodation floor space of 6:1, End of journey floor space of 0.09:1 and Design Excellence of 1.4:1.
27. The proposed development will result in a decreased FSR for the site as compared to the previous approval and continues to comply with the maximum applicable. A floor space ratio of 15.4:1 (5,313sqm) is proposed, not exceeding the permissible maximum FSR of 15.5:1 (5,344sqm).

Design excellence

28. The development, as proposed to be amended and as per recommended conditions, meets the criteria for Section 6.21C of SLEP 2012, which is that the consent authority is to be satisfied proposed development exhibits design excellence. The LPP should be satisfied that in relation to the following matters at Section 6.21C(2) of SLEP 2012 (see Discussion section below):
- (a) the additional building bulk caused by the height increase to the lift overrun and sloshing damper will not be visible from Pitt, Campbell and Castlereagh Streets surrounding the site, and will not have any significant impacts on the quality and amenity of the public domain (6.21C(2)(b)). The additional bulk, massing and building modulation is acceptable (6.21C(2)(d)(v));
 - (b) as per amended drawings, the proposed additional height will not detrimentally impact any existing view corridors (6.21C(2)(c)); and
 - (c) the additional bulk will not have any significant environmental impacts for neighbouring buildings, such as overshadowing, solar access and visual privacy. Changes relating to the increased height of the lift overrun will not have any additional acoustic privacy and noise impacts for neighbouring residential buildings as compared to the previously approved development, which is subject to compliance with an approved acoustic report (6.21C(2)(d)(vii)).

Development Control Plans**Sydney Development Control Plan 2012**

29. Additional building bulk will not have any significantly increased impacts in relation to the overshadowing of the public domain and neighbouring buildings, noting the lift overrun overshadows the roof of the neighbouring building to the south. The modified development satisfies the provisions of sections 3.2.2, 4.2.3.1 and 5.1.7 of SDCP 2012 (Addressing the street and public domain, Solar Access and Sun protection of public parks and places).
30. The amended proposal has been considered against the relevant SDCP 2012 planning controls for Hotels at section 4.4.8.3, which specify interior amenity requirements. The proposal will provide high amenity for future guests noting proposal includes the provision of a breakfast room and gym.
31. The proposed modifications to the approved development are consistent with the Built Form provisions for Central Sydney at Section 5.1.1 of SDCP 2012, which are specifically designed to minimise the impact of tall buildings on the amenity in the public domain. This is noting the subject application does not propose to alter the approved street frontage heights, setbacks and building form separation and that the amended proposal will not breach the Belmore Park sun access planes.

Discussion

Height and View Sharing

32. The application has been amended during assessment to delete a proposed acoustic screen from the northern elevation of the roof level (see Figures 3 and 4 and the 'Amendments' section above). Notwithstanding this, the proposal involves increasing the height of the approved lift overrun and sloshing damper by an additional 1.99m.
33. Submissions objecting to the proposed modification application raise issues in relation to view impacts across the site (see Submissions section below).
34. View loss has been a consideration since the approval of the original development by the Land and Environment Court. The Commissioner's comments in relation to view loss are summarised as follows:
 - (a) the upper levels of the Miramar Apartments at 398-408 Pitt Street are affected by view loss (levels 33 to 36 and part of level 37), with south-facing windows vulnerable to potential development within the subject site;
 - (b) south-facing windows within the Miramar Apartments are located close to the southern boundary, and have relied since their construction on amenity 'borrowed' from the undeveloped subject site; and that
 - (c) the loss of existing outlooks from the Miramar Apartments is not a reason for refusal.
35. The applicant has provided view loss studies with the subject application, comparing the development (as proposed to be amended) to previously approved iterations (Figures 23-27 below). Noting the acoustic screen has been deleted, only the height increase related to the lift overrun and sloshing damper must be considered.
36. The proposal is satisfactory when compared to the four-step assessment provided by the planning principle pertaining to views (Tenacity Consulting v Warringah Council [2004] NSW LEC):
 - (a) Step 1 requires an assessment of the views that are to be affected. The proposed building height increase will affect existing 'views of the sky', which are already affected by the previously approved development.
 - (b) Step 2 requires consideration of from what part of the property the views are obtained. Existing views are observed from internal and external living areas of neighbouring apartments within the Miramar Apartments, including from wintergardens and balconies.
 - (c) Step 3 requires the extent of the impacts to be considered. The increased impacts are acceptable with regard for the Principle, noting the proposed amendments will not affect existing views across the site, which are more highly valued. Further, existing 'views of the sky' are already affected by the previously approved development.
 - (d) Step 4 requires consideration as to the reasonableness of the proposal. The proposed amendments result in a development that complies with the relevant maximum height of buildings standard for the site (sun access plane), will not have significant additional impacts for the public domain and that will not

significantly further affect existing views across the site from neighbouring buildings.

37. The view studies lodged with the application demonstrate the proposed increases to the approved height of the lift overrun and sloshing damper will not have any significant additional view loss impacts for residential apartments located within the neighbouring building at 398-408 Pitt Street. The proposal is satisfactory when compared to the four-step assessment recommended by Senior Commissioner Roseth in the planning principle pertaining to views.



Figure 23: Level 37, Unit 262 - Left: application as lodged, with view loss impacts. Right: Following deletion of acoustic screen, no significant additional view impacts resulting from height increase of lift overrun and sloshing damper, other than 'view of the sky' views that are not protected by the Planning Principle.

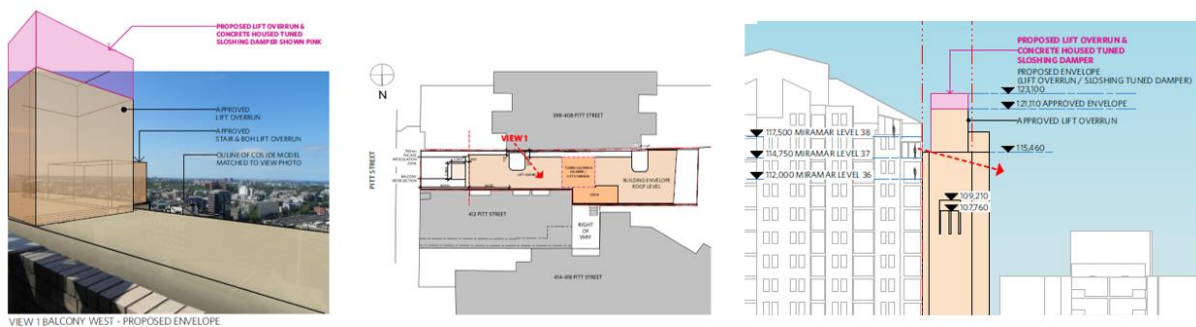


Figure 24: Level 37, Uni 263 (View 1) - additional view impacts are limited to 'views of the sky' that are already affected by previously approved development on the site

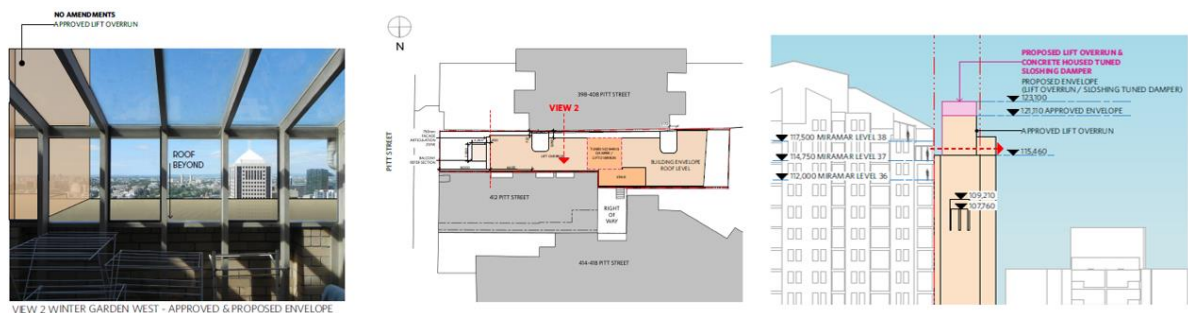


Figure 25: Level 37, Uni 263 (View 2) - No additional view impacts resulting from height increase

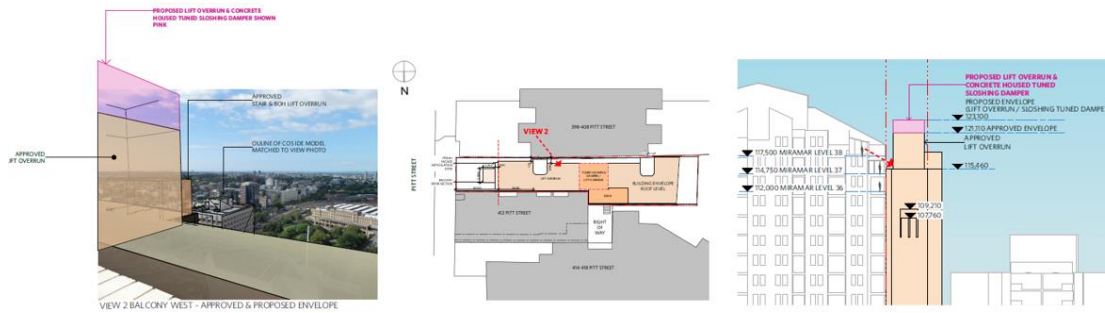


Figure 26: Level 38, Uni 267 (View 2) - additional view impacts are limited to 'views of the sky' that are already affected by previously approved development on the site.

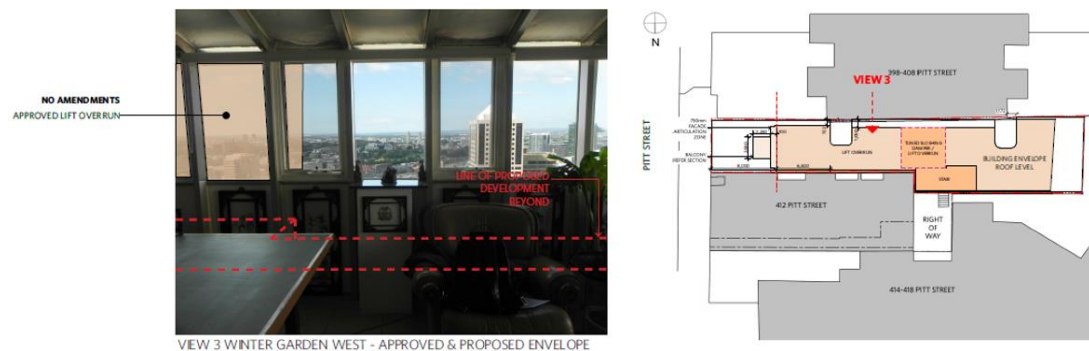


Figure 27: Level 38, Uni 267 (View 3) - No additional view impacts resulting from height increase

Sun Access Planes to Belmore Park

38. The applicant has provided details in relation to the proposed increase to the existing building, confirming it will comply with the relevant height standards, established by the sun access planes for Belmore Park.
39. The application was referred to the City's Modellers, who confirmed the proposed modifications comply with the recently updated sun access planes for Belmore Park (as well as the superceded sun access planes).

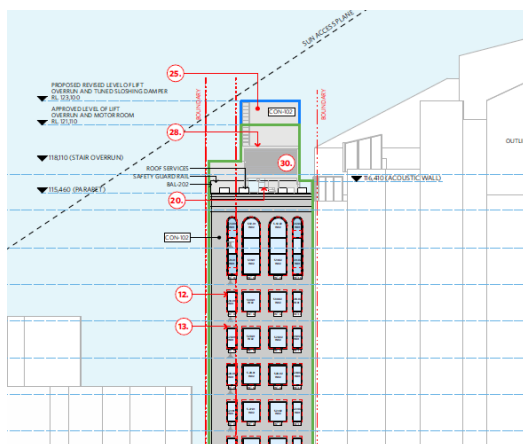


Figure 28: east elevation plan extract, showing all works increasing the height of the building to be below the Belmore Park sun access plane

Review of amended drawings - Conditions recommended

40. Council's staff have reviewed the amended drawings provided during assessment and raise a number of issues regarding maintaining the amenity for neighbouring buildings and in relation to decreased quality of materials at the exterior of the building.
41. A new condition numbered (3A) is recommended, requiring drawings to be updated, prior to the issue of a construction certificate for above ground works. The condition is recommended to address the following issues:
- (a) although the acoustic screen has been deleted from drawings, it is necessary to remove a note on the north elevation plan, describing an 'acoustic wall';
 - (b) no approval is granted for new exhaust louvres, proposed on the northern elevation of the building. This is on the basis they are within 0.5m of adjoining property and cannot be easily accessed for maintenance. Given the development is a new build, it is preferable for the exhaust louvres to be located within more accessible locations at the exterior of the building;
 - (c) operable windows are to be provided to the east elevation, consistent with the previously approved plans for 'Modification A' (D/2020/1387/A);
 - (d) details of privacy treatments to the east-facing hotel rooms are to be provided, noting these rooms are located approximately 17m from west-facing windows of an existing residential apartment building located within 414-418 Pitt Street;
 - (e) with regard for maintaining high quality materials and to ensure visual privacy is addressed:
 - (i) Material 'RFS:01': the proposal to change the previously approved zinc roof to a concrete roof is not approved; and
 - (ii) Material 'GL:02': Obscure Glass is to be provided to all corridor windows facing north and level 31 T-05 Duplex north facing window. These are to be noted in both plan and elevation.
42. An error has been detected in Condition (1) APPROVED DEVELOPMENT, carried through from the original notice of determination. It is recommended Condition (1) be corrected to refer to D/2020/1387 (not D/2020/993, which relates to a different site).

Request to delete condition (25)

43. The applicant has requested to delete condition number (25) PUBLIC ART on the basis a preliminary public art plan has been lodged with the application.
44. It is recommended condition (25) be retained. This is noting the condition has already been satisfied by way of a letter dated 22 February 2023. Council's public art specialists have advised the plan is satisfactory. The applicant is therefore able to obtain a construction certificate.

Sustainable Buildings

45. The approved development comprises a large hotel, however the 'parent' consent was granted prior to the implementation of the sustainable buildings provisions of SEPP (Sustainable Buildings) 2022.

46. An existing condition of consent numbered (24) - Ecologically Sustainable Development specifies that all sustainability measures required by an approved Section J report must be included in the Construction Certificate plans and documentation.

Consultation

Internal Referrals

47. The application was discussed with Council's Urban Designer and Public Art specialists.
48. Council's urban designer has recommended conditions of consent requiring drawings to be amended, prior to the issue of an updated construction certificate. See details in the Discussion section above.
49. Council's public art specialists have advised that in relation to changes to the facades of the building, a Preliminary Public Art Plan has already been approved. The proposed changes to the facades of the building are generally in accordance with the direction established by the Plan.

Advertising and Notification

50. In accordance with the City's Community Engagement Strategy and Community Participation Plan 2025–2029 the proposed modification application was notified for 14 days, between 29 April 2025 and 14 May 2025. A total of 1,930 owners and occupiers were notified and 80 submissions by way of objection were received.
51. The submissions by way of objection raised the following issues:
 - (a) The proposal is not 'substantially the same', results in the incremental overdevelopment of the site and will have unreasonable, significant and adverse cumulative impacts for neighbouring residential dwellings.
 - (b) The proposal to further increase the approved height of the building is contrary to a statement in Commissioner O'Neill's original judgement, which is that 'the applicant has given an undertaking that no additional height or floor space will be sought .. for any future Stage 2 development application'.

Response

- (i) The proposal involves increasing the height of a lift overrun and sloshing damper structure and will be constructed of the same materials as the already approved development. As such, the proposal provides for a development project that is substantially the same as the development to which consent has been granted.
- (ii) Approval has previously been granted to increase the height of the building under previous modification applications. Notwithstanding this, the proposal does not involve increasing the number of storeys for the approved hotel building.

- (iii) The structure is centrally located to the building and results in a building that continues to comply with the maximum building height established by the sun access planes for Belmore Park.
- (c) The proposal results in excessive view loss for neighbouring apartments in the Miramar Building, as well as substantial reduction in daylight and ambient light.
- (d) The proposal results in excessive overshadowing of neighbouring residences.

Response

- (i) As outlined in this report, the proposed increase to the height of the building will not have any significant additional impacts for the amenity of neighbouring residential dwellings as compared to the development approved by the Land and Environment Court, and as subsequently modified.
- (ii) The proposal will impede 'views of the sky' which are already affected, maintaining access to daylight and ambient light for apartments at the upper levels of the Miramar Apartments.
- (iii) Given the proximity of the building to the south, the proposed increased height for the approved lift overrun structure will result in minor additional overshadowing to the roof level, which is already affected by previously approved development.
- (e) Concern is raised that the proposed works may be a staging mechanism for future public rooftop use, potentially a rooftop bar, lounge or function space. This would have the capacity for unacceptable ongoing amenity impacts, including noise and disturbance, light spill during evening hours and loss of privacy from rooftop overlooking.
- (f) The new lift motor location will have significant impacts for neighbouring buildings.

Response

- (i) The application does not involve accessing the roof level for anything other than maintaining plant areas that are approved at the roof level of the building.
- (ii) The increase to the level of the lift motor will not have any significant impacts for neighbouring apartments. The consent issued for the associated Stage 2 Detailed development application requires the development to comply with approved acoustic reports.
- (g) Works have resulted in structural damage to neighbouring buildings and unacceptable builder conduct. A lack of transparency and professional oversight has eroded community trust and confidence in the regulatory process.
- (h) Documents lodged with the s4.55 and s4.56 applications do not include structural design documents such as dilapidation reports, structural and geotechnical reports that should be available. Independent structural assessment should be undertaken to determine the impact of additional load, excavation, and operational activity on adjacent buildings.

Response

- (i) Complaints in relation to recent demolition works are addressed in the Compliance actions section of this report.
- (ii) Various documents must be prepared, to the satisfaction of the accredited certifier, prior to the substantial commencement of works. These will ensure the building works meet all necessary engineering, fire safety, health, and environmental standards. These documents will be accessible by neighbours during the construction stages, via the accredited certifier and by way of 'GIPAA' Access to information requests of Council records.

Financial Contributions

Levy under Section 61 of the City of Sydney Act 1988

52. The proposed amendments do not affect the Section 61 Contributions levied under the cover of original 'parent' consent (D/2020/1387).

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

53. The original consent was not subject to Section 7.13 contribution.

Housing and Productivity Contribution

54. The development is not subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.

Relevant Legislation

55. Environmental Planning and Assessment Act 1979.

Conclusion

56. The subject Section 4.55(2) application seeks to modify the existing 'Stage 2' Detailed development consent for the for the demolition of the existing building and the construction of a new 33 storey hotel.
57. The modification application was notified between 29 April 2025 and 14 May 2025. A total of 80 submissions by way of objection were received. Issues raised in submissions include objections to additional height, view loss, amenity, solar impacts, traffic impacts, noise impacts, and loss of property value.
58. Amended plans were submitted during assessment that address view loss from the most affected apartment. Additional building height resulting from a 1.99m increase to the lift overrun and sloshing damper is assessed as not having any additional impacts in relation to view loss as compared to the previously approved development.
59. The proposed height increase to the lift overrun and sloshing damper structure will facilitate convenient and safe access to the roof level for the servicing and maintenance of plant areas.

60. Conditions of consent are recommended to address the materiality and functionality of the proposed development, as it is proposed to be amended.
61. The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 in relation to tower developments in Central Sydney.
62. The development, as proposed to be amended, will not have any significantly increased impacts for neighbouring buildings or the public domain as compared to the previously approved development. As such, it is suitable for the site and in the public interest.
63. The application is recommended to the Local Planning Panel for approval.

ANDREW THOMAS

Executive Manager Planning and Development

Adrian McKeown, Senior Planner