

Item 7.**Development Application: 372-382A Pitt Street, Sydney - D/2024/36****File Number: D/2024/36****Summary**

Date of Submission:	17 January 2024 Amended plans submitted on 6 March 2024
Applicant:	WELL SMART INVESTMENT HOLDING (BRIS) PTY LTD
Architect/Designer:	Kerry Hill Architects (KHA)
Owner:	WELL SMART INVESTMENT HOLDING (BRIS) PTY LTD
Planning Consultant:	URBIS
Heritage Consultant:	URBIS
DAP:	12 September 2024
Cost of Works:	\$4,840,000 (Amending Concept DA) \$162,916,000 (Concept DA approval)
Zoning:	The site is zoned SP5 - Metropolitan Centre under the Sydney Local Environmental Plan (SLEP) 2012. The proposed indicative land uses for hotel and retail are permissible with consent in this zone.
Proposal Summary:	This 'amending' concept Development Application seeks to modify the concept development consent D/2021/1504, approved for in-principle partial demolition of existing buildings, excavation of 3 basement levels to enable a new building envelope with a maximum height of RL 206 for hotel and residential land uses and retail premises at ground floor and vehicular access and loading access from Carruthers Place.

Specifically, this Development Application seeks to amend the consent, proposing the removal of the in-principle residential land use, retain the provision of hotel and retail land uses only, with changes to the building envelope to allow for a "landscape vessel" structure at level 4 and other consequential modifications. These modifications align with the winning design competition scheme and the delegated detailed State Significant Development Application D/2024/446 that is being presented to the Central Sydney Planning Committee (CSPC) concurrently for approval.

The proposal is otherwise consistent with the approved building envelope of D/2021/1506 in terms of height and setbacks and complies with the maximum height determined by the Belmore Park Sun Access Plane pursuant to Clause 6.17 of the SLEP 2012.

Both the concept Development Application and detailed design State Significant Development Application are referred to the CSPC as D/2024/446 has a cost of works of more than \$50 million.

The application was notified for a period of 28 days between 30 January 2024 and 28 February 2024. The amended plans that were received on 6 March were not re-notified as the proposed changes were minor in nature and resulted in no additional impact compared to the original application. Twenty-one (21) submissions were received for the concept development application. The submissions raised concerns about construction impacts, the use of Carruthers Place (as a public laneway, for vehicular access and fire egress), pedestrian safety, bulk and scale (including podium height), loss of light to the adjacent building and the public domain and amenity impacts to neighbouring development. These concerns are addressed within this report.

This concept Development Application is seeking to modify concept consent D/2021/1506 to delete the residential use, extend the hotel use and incorporate the landscape vessel structure. Approval is recommended, subject to conditions, including that the concept consent to be modified to be consistent with this Development Application.

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

Development Controls:

- (i) SEPP (Resilience and Hazards) 2021
- (ii) SEPP (Transport and Infrastructure) 2021
- (iii) SEPP (Biodiversity and Conservation) 2021
- (iv) SEPP (Sustainable Buildings) 2022
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012

Attachments:

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

Recommendation

It is resolved that consent be granted to Development Application Number D/2024/36 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

This 'amending' application is recommended for approval for the following reasons:

- (A) The modified proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposed modifications ensure that the detailed design State Significant Development Application is consistent with the concept approvals to satisfy Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (C) The proposal generally satisfies the objectives and provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the objectives of the SP5 - Metropolitan Centre zone in accordance with the Sydney Local Environmental Plan 2012.
- (E) The building envelope complies with the maximum height of buildings development standard in Clause 4.3 and 6.17 of the Sydney Local Environmental Plan 2012. The building envelope complies with the Belmore Park sun access plane.
- (F) The indicative reference design accompanying the application demonstrates that the envelope can accommodate a building which complies with the maximum floor space ratio development standard in Clause 4.4, including additional floor space pursuant to Clause 6.4 of the Sydney Local Environmental Plan 2012. The building envelope provides capacity for an additional 10% of floor space available under Clause 6.21D of the Sydney Local Environmental Plan 2012 for any subsequent detailed building design resulting from a design competition process and demonstrating design excellence.
- (G) The proposed modified development has a height and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the height, separation, and setbacks of neighbouring developments, is appropriate in the streetscape context and broader locality.
- (H) The proposed modified development will provide a building envelope capable of accommodating a future building which can achieve acceptable amenity for future hotel occupants.

- (I) The proposed modified building envelope can accommodate the proposed uses and does not result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain and the broader Sydney Central Business District, as also demonstrated by the detailed design State Significant Development Application D/2024/446.
- (J) The proposed modified building envelopes are capable of accommodating a future building design which is capable of exhibiting design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012.

Background

The Site and Surrounding Development

1. The subject site comprises seven separate lots known as 372-382A Pitt Street, Sydney. It has a legal description of Lot 3702 of DP 1124741 known as 372B Pitt Street (or Carruthers Place); Lot A and Lot B of DP 439550, known as 372-374 Pitt Street; Lot K of DP 107021 known as 376 Pitt Street; Lot J of DP 107021 known as 378 Pitt Street; Lot G of DP 107010 known as 380 Pitt Street; Lot E of DP 44348 known as 382 Pitt Street; and Lot 1 of DP 341987 known as 382A Pitt Street, Sydney.
2. The site is located in the Sydney Central Business District, directly to the east of World Square and west of the Sydney Masonic Centre. It is located on the eastern side of Pitt Street, near the intersection of Pitt Street and Goulburn Street. It is within a street block bounded by Castlereagh Street located to the east, Goulburn Street to the south and Liverpool Street to the north.
3. The site is irregular in shape with an area of 1,139.9sqm, a primary street frontage of 38.2m to Pitt Street and a depth ranging approximately 30-33m. There is a fall of approximately 2.1m from the rear to the front of the site.
4. The site is currently occupied by five, 3-storey commercial terraces. The existing buildings are a rare surviving Federation era (Edwardian Free Classical) commercial terrace group within the Sydney CBD. The terraces at 372-374 Pitt Street were constructed in 1910 by architects Eaton and Bates (George Thomas Eaton and Albert Edmund Bates) and the remaining buildings at 376-382A Pitt Street were constructed c. 1910-1912. The existing buildings provide a consistent street frontage height of approximately 13.4m across six of the seven lots fronting Pitt Street.
5. Carruthers Place (372B Pitt Street) is a privately owned laneway which has a width of 2.425m to Pitt Street. Carruthers Place runs partially to the rear (at the north of the site) behind 372-374 Pitt Street. There are no rights of access easements burdening Carruthers Place.
6. There are a number of easements and rights of access affecting and benefitting the subject site. These include a right of footway and carriageway easement for support of bridge (now gone) and rights in respect to sewer pipes at 372-374 Pitt Street, and a shared vehicular right of way limited in height to 3.2m which provides restricted access from Goulburn Street.
7. In addition, the site is also subject to numerous easements and constraints below ground including existing easements for railway transit, and a Sydney Metro tunnel corridor. A Sydney Water wastewater trunk main pipe measuring 914mm x 1,371mm also dissects the site, running diagonally from the eastern side (378-380 Pitt Street) to the north-west corner of the site (372B Pitt Street).
8. The site is located within the Central Sydney locality but not within a Special Character Area. Part of the site is located within a Tower Cluster area as defined by the Sydney LEP 2012 (372B, 372- 382 Pitt Street).
9. The existing buildings on site are not identified as heritage items, nor located within a heritage conservation area. The site is however adjacent to heritage items of local significance including, the 'Sydney Masonic Centre building podium' at 279-283 Castlereagh Street (I2283) immediately to the east, 'Former "American Tobacco Co" warehouse facade' at 267-277 Castlereagh Street (I1706) to the east, and the 'Civic Hotel including interior' at 386-388 Pitt Street (I1945) to the south.

10. The western side of Pitt Street is identified as being subject to flooding, however the subject site is not directly affected.
11. Photos of the site are provided below.



Figure 1: Aerial view of site and surrounds

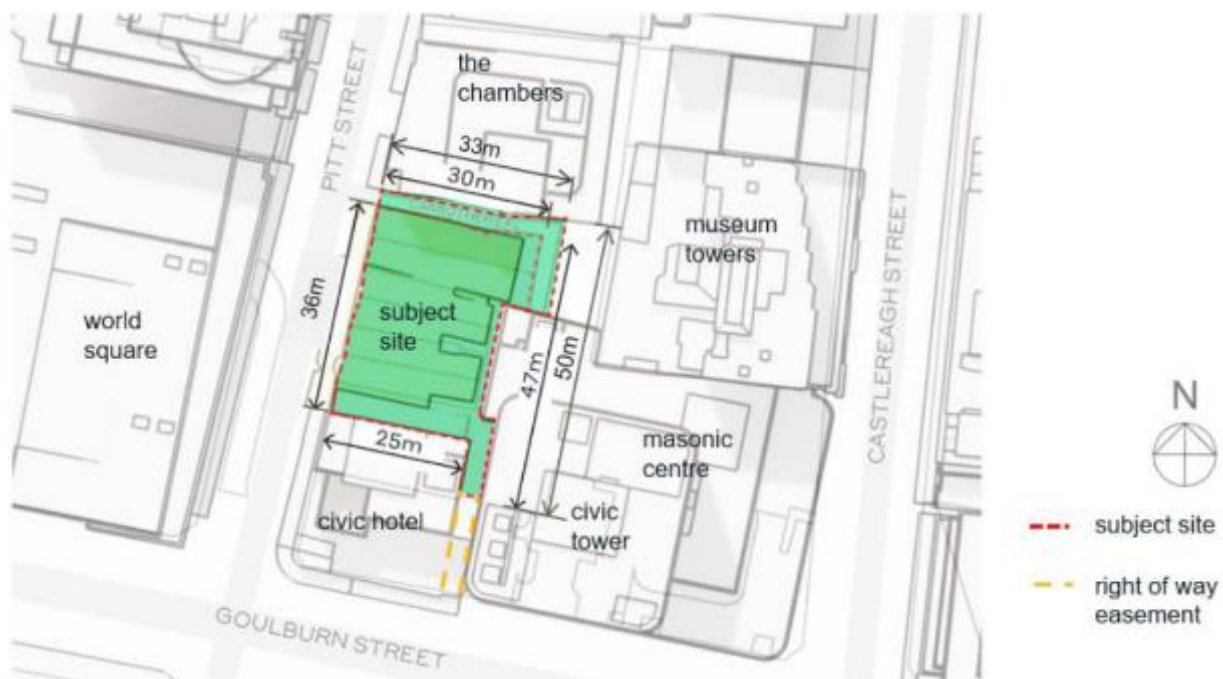


Figure 2: Locality map showing subject site and immediately surrounding developments



Figure 3: Site viewed from Pitt Street facing north towards Liverpool Street



Figure 4: Site viewed from Pitt Street facing south-east showing existing vehicular entry to Carruthers Place



Figure 5: Site viewed from Pitt Street footpath facing south towards Goulburn Street



Figure 6: Carruthers Place showing interface between The Chambers building at 362-370 Pitt Street - looking east (left) and west (right)



Figure 7: Carruthers Place rear facing east



Figure 8: Carruthers Place behind 372-374 Pitt Street, including part of 362-370 Pitt Street



Figure 9: Site rear interface behind 382-382A Pitt Street, view to Masonic Centre and Civic tower (left) and Ibis Hotel (right)



Figure 10: Rear site interface, viewed from behind 382-382A Pitt Street looking to restricted vehicular right of way to Goulburn Street



Figure 11: View of restricted vehicular right of way from Goulburn Street, through Civic hotel facing north (looking back towards the rear of subject site)

The Locality

12. The surrounding area is characterised by a mixture of commercial, residential, retail, food and drink premises and tourist and visitor accommodation uses.
13. Immediately north of the site is a 17 storey commercial building known as 'The Chambers' at 362-370 Pitt Street. It contains individual strata commercial office suites across 15 levels and two levels of strata retail spaces at the ground and upper ground levels. The Chambers site also includes an area of unbuilt on land between the rear of the subject site and 267-277 Castlereagh Street, which is used for casual car parking. There are no window boundary covenants or right of way easements burdening the subject site benefitting 362-370 Pitt Street.
14. Further to north are local heritage items known as the 'Former "Snow's Emporium" including interiors' at 127-131 Liverpool Street (I1853) and 350-360 Pitt Street (I1943).
15. Immediately south of the site is the 18 storey Ibis Sydney World Square hotel at 386 Pitt Street. The northern elevation of the Ibis hotel presents a blank wall at nil setback to the site, north facing hotel room windows are setback 3m from the boundary. There are no window boundary covenants burdening the subject site benefitting 386 Pitt Street. Further south is the local heritage listed 3-storey Civic Hotel at 388 Pitt Street, Sydney.

16. Immediately east of the site is a 35-storey mixed use building known as the 'Museum Towers' at 267-277 Castlereagh Street, Sydney. The Museum Towers predominately comprises residential uses. The Museum Towers is identified as a local heritage item (I1706) known as the 'Former "American Tobacco Co" warehouse facade'.
17. South-east of the site is the local heritage listed Sydney Masonic Centre (I2283) which comprises a 6-storey podium at 66 Goulburn Street and 24-storey Civic tower addition at 279-283 Castlereagh. Further east of the site, across Castlereagh Street is the Downing Centre Courts and John Maddison tower.
18. To the west of the site is the World Square complex, which is bound by George, Pitt and Goulburn and Liverpool Streets. There is a vehicular basement entry located on Pitt Street for the World Square complex in front of the site. To the south of World Square, across Goulburn Street is the local heritage listed 'CB Hotel including ground level shops, 1930 addition on Goulburn Street and interior' known as the Maloney's Hotel (I857).
19. Detailed design approval was granted for a 55-storey mixed use tower to a height of RL 230 AHD / 235m on 17 August 2023 (D/2022/495) with 168 apartments. The site is currently under construction.
20. Other residential developments within close proximity to the site include the 38-storey Miramar Apartments at 398 Pitt Street, 42-storey Aspect Tower at 2-4 Cunningham Street, and the 55-storey Hordern Towers at 393 Pitt Street.



Figure 12: Subject site viewed from Pitt Street facing east. Museum tower and Civic tower located to the rear of the site (east), Ibis hotel to the right (south) and The Chambers to the left (north)



Figure 13: The Chambers building (362-370 Pitt Street)



Figure 14: Subject site, Ibis hotel, Civic hotel and view to Goulburn Street, looking south-east



Figure 15: View to World Square complex and Hordern Towers (393 Pitt Street), opposite the site, facing north



Figure 16: View to the Miramar apartments at 398 Pitt Street (left) and Aspect Tower apartments at 2-4 Cunningham Street (right), facing south on Goulburn Street



Figure 17: Civic Hotel and Goulburn Street restricted vehicular right of way marked by white arrow



Figure 18: View of intersection of Goulburn and Castlereagh Streets, showing surrounding heritage items that are located to the rear of the subject site, Sydney Masonic Centre (I2283) and Museum Towers (I1706)



Figure 19: Goulburn Street south-east streetscape

History Relevant to the Development Application

Concept Approval - D/2021/1504

21. On 15 September 2022, a deferred commencement approval was granted for a concept building envelope with a maximum height of RL206.1 (approximately 59 storeys), with in-principle partial demolition of existing buildings, excavation of 3 basement levels, hotel and residential land uses and retail premises at ground floor with vehicular and loading access from Carruthers Place.
22. The deferred commencement approval required the submission of a detailed survey (based upon a boundary survey showing redefined boundaries). The survey was submitted to Council and the consent became operational on 13 October 2022.
23. Plans of the approved concept development are provided below.



Figure 20: Approved envelope plans D/2021/1504 - basement 01 (left) and basements 02-03 (right)



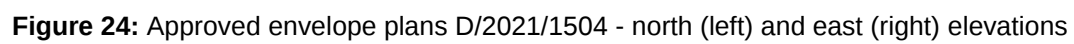
Figure 21: Approved envelope plans D/2021/1504 - podium



Figure 22: Approved envelope plans D/2021/1504 - tower



Figure 23: Approved envelope plans D/2021/1504 - roof



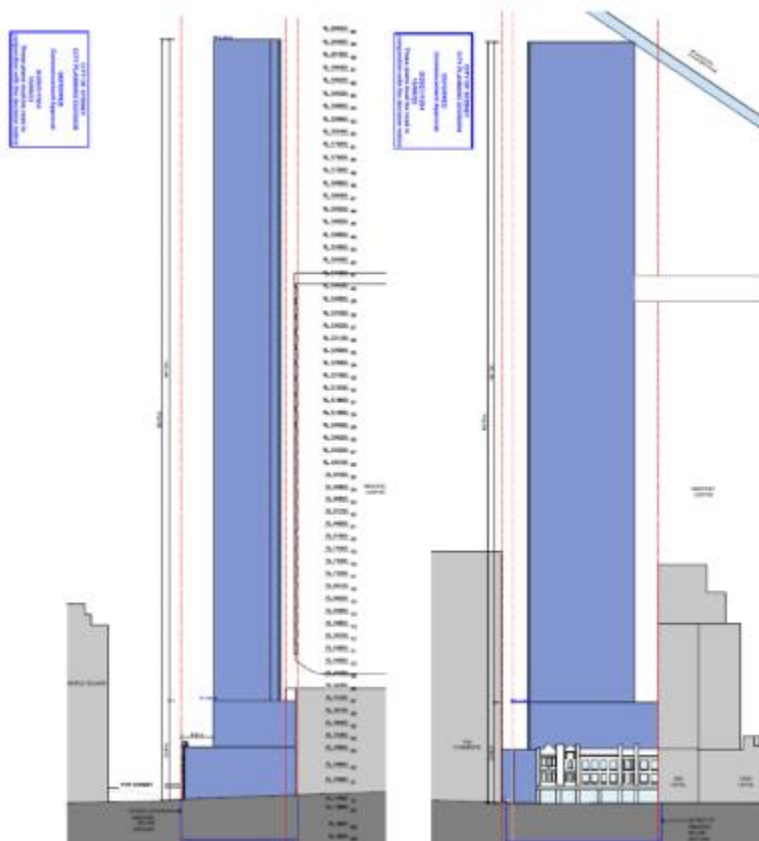


Figure 25: Approved concept envelope plans D/2021/1504 - south (left) and west (right) elevations

Competitive Design Process

24. A competitive design process, based on the in-principle approved hotel, retail and residential uses, was undertaken over November 2022 - February 2023 in accordance with the provisions of Clause 6.21D of the SLEP 2012 and the City of Sydney Competitive Design Policy.
25. The developer sought additional floor space ratio (FSR) as part of the competitive design process.
26. Kerry Hill Architects + Crone was selected as the winning entrant by the six-member selection panel, proposing a landscape 'vessel' design above the retail podium, outside of the approved building envelope. The panel considered the winner to demonstrate the potential for design excellence and recommended a number of fundamental aspects of the proposal to be retained within the detailed design application. This is discussed further as part of the detailed design State Significant Development Application assessment D/2024/446.
27. Following the sale of the site, the new landowner undertook a design review process in October 2023. The design review process sought the jury's support for a change of use to hotel as well as minor design changes. A summary of the process was provided by the Applicant as part of the detailed design State Significant Development Application.



Figure 26: Photomontage of design competition winning scheme facing east (left) and north east (right)

Detailed Design State Significant Development Application - D/2024/446

28. The State Significant Development Application D/2024/446 has been lodged and is being assessed concurrently with this concept Development Application.
29. D/2024/446 seeks approval for the construction of a 60 storey hotel and ancillary retail development with 1x basement level, vehicular and loading access from Carruthers Place.
30. The Capital Investment Value of the hotel exceeds \$100 million and, in accordance with Section 13 of Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021 at the time, is State Significant Development. This CIV requirement no longer applies to the City of Sydney.
31. On 2 May 2024, the Secretary of the Department of Planning, Housing and Infrastructure delegated responsibility for the assessment (and related functions) to the City of Sydney. On 5 May 2024, the Minister for Planning and Public Spaces delegated consent authority functions to the City of Sydney.
32. The application is being reported to the CSPC and is recommended for approval. Refer to the detailed design State Significant Development Application D/2024/446 CSPC report.



Figure 27: Proposed photomontage of State Significant Development Application D/2024/446

Amendments

33. Following a preliminary assessment of the proposed development by Council officers, a request for additional information and amendments was sent to the applicant on 13 February 2024. The request sought a set of building envelope drawings reflecting the changes proposed as part of the subject application, including:
 - (a) the removal of two basement levels and associated removal of car parking spaces (and the provision of one basement level comprising a reduced basement footprint, and a setback of 6m from the western boundary) and
 - (b) allowing for the lower-level podium to exceed the maximum height of the approved podium envelope to accommodate the proposed landscape 'vessel', balustrade and awning.
34. The applicant responded to the request on 6 March 2024, providing building envelope plans.

Proposed Development

35. The proposal seeks to amend the approved concept consent D/2021/1504 (base consent). The subject Development Application has been lodged as an 'amending' Development Application to the base consent. The proposed amendments are listed below.
- removal of the approved residential land use, and provision of a mixed-use development comprising hotel and retail land uses only
 - removal of two basement levels, and provision of one basement level with a reduced footprint
 - changes to the height of the podium to allow for a 'landscaped vessel' (RL 32.68), balustrade above the landscaped vessel (RL 33.88) and an awning above the landscaped vessel (RL 36.48)
 - change to the ground floor RL, with RL 16.191 proposed (compared to RL 16.400 in D/2021/1504)
 - allow for partial retention and removal of some existing wall footings, joinery, whole masonry walls and party walls (including any whole engaged piers of each party wall) of the existing buildings to align with the proposed 'urban room' within the podium of the detailed design State Significant Development Application D/2024/446
 - relocation of indicative lift core
 - reduction in floor-to-floor heights from 3.10m to 3.05m to allow for a 60 storey development within the approved envelope
 - removal of references to residential uses or requirements in the conditions of consent for D/2021/1504
36. With the exception of the landscape vessel above the retail podium and reduction in basement levels, there are no other changes to the approved building envelope, side and rear setbacks, or the overall height of the tower form, which has a height of 189.7m (RL 206.1).

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



Figure 28: Proposed basement (left) and historic podium (right) envelope plans



Figure 29: Proposed tower podium (left) and tower (right) envelope plans

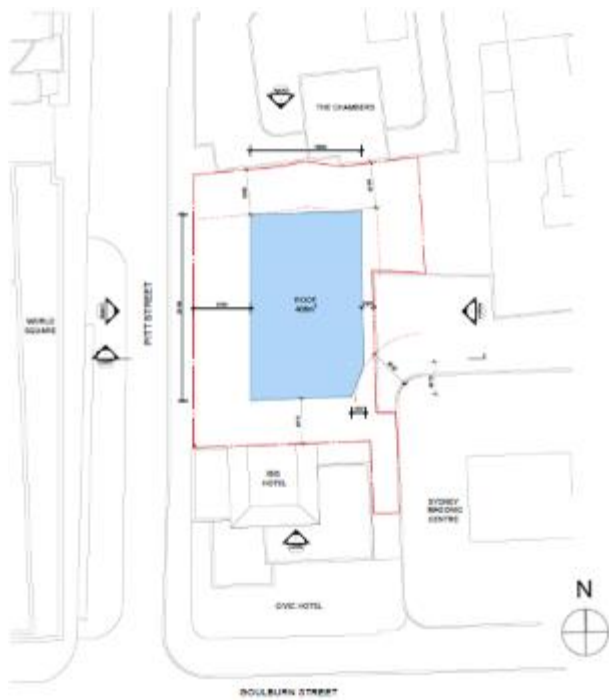


Figure 30: Proposed roof envelope plan

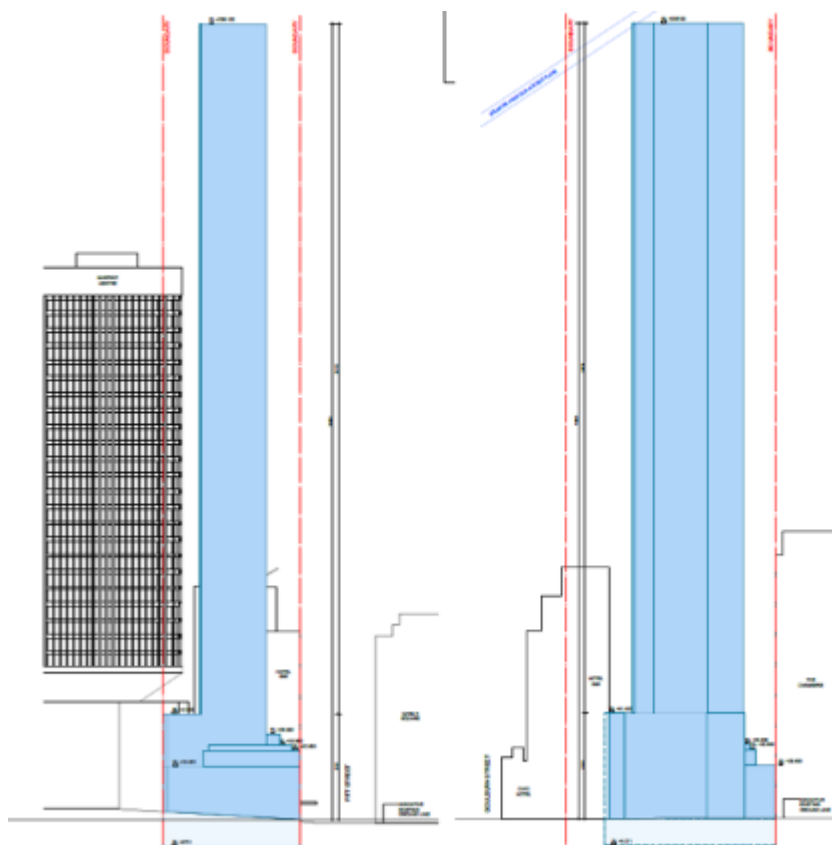


Figure 31: Proposed envelope plans - north (left) and east (right) elevations

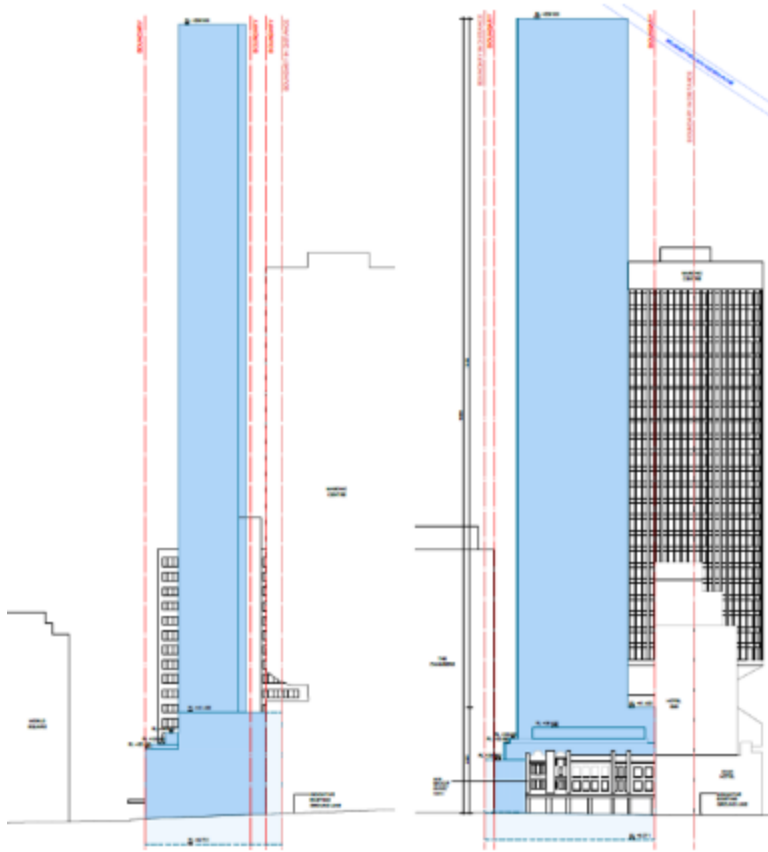


Figure 32: Proposed envelope plans - south (left) and west (right) elevations

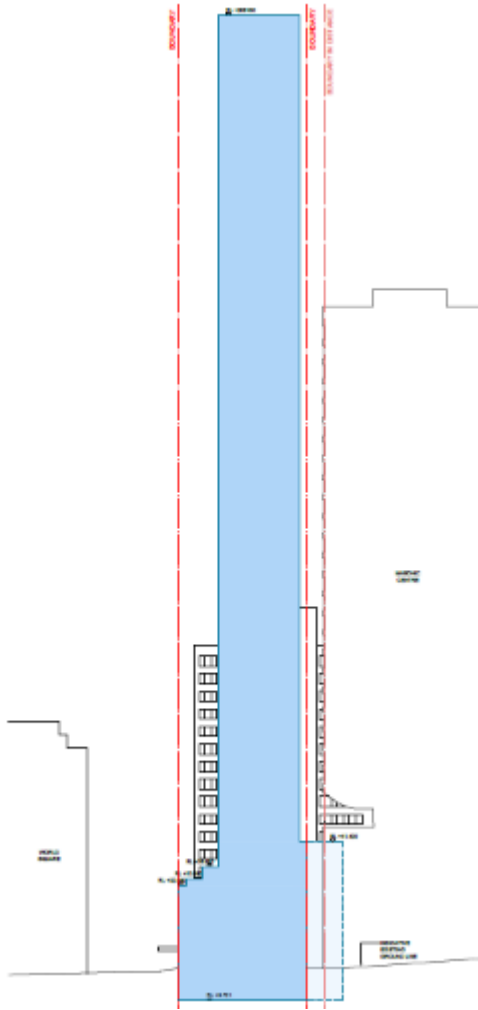


Figure 33: Proposed envelope plans - east-west section

Assessment

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

Amending Development Application

39. The proposed application seeks to amend the approved concept building envelope under the development consent D/2021/1504 (base consent).
40. The recommendation includes a condition to make it clear that it relies on the base consent D/2021/1504 and is subject to compliance with the conditions under D/2021/1504 unless the conditions are being replaced or deleted by the subject application. The conditions of the base consent are provided in Attachment A.
41. As the base consent is being amended by the proposed application, the recommendation includes conditions to delete and replace conditions of the base consent pursuant to Section 4.17(b) and (c) of the Environmental Planning and Assessment Act 1979.

42. The subject application deletes and amends conditions on the base consent that no longer apply as those conditions relate to the residential use that is being changed to hotel accommodation. The base consent conditions that are to be replaced with conditions under this application include the approved drawing set, references to residential floor space, location, configuration, design detail and amenity of residential apartments, and compliance with residential apartment planning controls.

State Environmental Planning Policies

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

Remediation of Land

43. 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.
44. A Preliminary Site Investigation (PSI) for contamination was submitted with the concept Development Application D/2021/1504. The PSI identified there was potential for contaminants to be present as historical dry cleaners, motor garages and service stations were in place for a long period in the vicinity of the site.
45. The PSI recommended a Detailed Environmental Site Investigation be carried out due to the history of past uses at the site and surrounds, to confirm that the site is suitable (or will be suitable after remediation) for the proposed uses.
46. Due to the concept development applications D/2021/1504 and now D/2024/36 not being for physical works, it is considered that the above requirements can be addressed as part of the detailed design (Stage 2) proposal. This is discussed in further detail and assessed as acceptable as part of the State Significant Development Application D/2024/446. The detailed design proposal is accompanied by a PSI, Detailed Environmental Site Investigation, Remediation Action Plan and Interim Advice.
47. The City's Health and Building Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use on the basis that the proposed development is for concept approval only.
48. The proposal is consistent with the requirements of the Chapter 4 of SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 Standards for non-residential development

49. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:
 - (a) The erection of a new building with a capital investment value of \$10million, or
 - (b) Alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10million or more.
50. The proposal is for a concept building envelope only and is not subject to the provisions of the SEPP. A detailed assessment is provided as part of D/2024/446.

State Environmental Planning Policy (Transport and Infrastructure) 2021

51. 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**

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

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**

54. The application is adjacent to both the Sydney Train and Sydney Metro tunnels and is subject to Clause 2.99 of the SEPP.
55. In accordance with the requirements of the clause, the application was referred to Sydney Metro and Transport for NSW (TfNSW) for comment. The referral was rejected by Sydney Metro as it was not applicable, and TfNSW have recommended conditions which are included in Attachment A. It is noted, however, that conditions recommended by TfNSW and other external authorities as part of D/2021/1504 still apply and will not be modified by this amending Concept Development Application.

Clause 2.101 – Development within or adjacent to interim rail corridor

56. The application is adjacent to the future CBD Metro rail corridor as well as the CBD Rail Link corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in Attachment A.

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

57. Although the proposed development seeks in-principle approval for a new building envelope (no physical works), the application is subject to Clause 2.122 of the SEPP as the proposal is a traffic generating development.
58. TfNSW have recommended conditions which are included in Attachment A.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water catchments

59. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.

60. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the SP5 - Metropolitan Centre zone. The proposed development is defined as hotel accommodation with ancillary retail uses to the hotel and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	The site is in 'Area 3' pursuant to the Sydney LEP 2012, therefore no maximum height is shown for this land and instead, the maximum height is determined by the sun access planes that are taken to extend over the land by Clause 6.17. A maximum height of 192.9m / RL 206.1 is proposed, which is within the sun access plane. This is consistent with concept approval D/2021/1504, which also has a height of RL 206.1. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio Division 1 Additional floor space in Central Sydney	Able to comply	A base maximum FSR of 8:1 is permitted for the site pursuant to Clause 4.4 of the Sydney LEP 2012. The site is located within 'Area 2' and is permitted to utilise the provisions of Clause 6.4.

Provision	Compliance	Comment
6.4 Accommodation floor space		Based on the indicative land uses sought at this concept stage for hotel and ancillary retail uses, Clause 6.4 provides an opportunity for additional accommodation floor space of up to 6:1 on a pro-rata basis for hotel accommodation, and up to 4.5:1 for retail uses. Based on the proportion of indicative uses, this equates to a floor space ratio (FSR) of 13.86:1. A further 10% of FSR (1.38:1) is available if the future detailed design (Stage 2) proposal demonstrates design excellence as a result of a design competition process. A total FSR of 15.24:1 is permissible on the site based on the indicative scheme, subject to a competitive design process. The proposed building envelope is capable of accommodating a building which achieves compliance with the maximum FSR. A condition has been placed on D/2021/1504 to ensure any subsequent Stage 2 detailed design Development Application complies and requires the provision of precise calculations and details of the distribution of GFA and FSR with any such future application. This condition will not be modified by the subject concept Development Application and will remain on the base consent.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is not a heritage item, nor is it located within a heritage conservation area. The site contains five, 3-storey commercial terraces, constructed c.1910-1912. The existing buildings are a rare surviving Federation era commercial terrace group, of which the

Provision	Compliance	Comment
		most historically significant terraces are 372-374 Pitt Street. Concept approval has been granted under D/2021/1504 for the retention of the retail facades, and in-principle removal of the northern-most terrace at 372 Pitt Street to facilitate vehicular access. Condition 11 (a) and (c) of D/2021/1507 requires the existing front facades (including wall footings and joinery and whole masonry walls) to be retained; and for at least one bay deep of party walls (including a whole engaged pier of each party wall) to be retained in the subsequent detailed design development application. The subject application seeks to modify Condition 11(a) and (c), removing "must be retained" with "be retained where possible". The proposal also introduces an additional area in the concept envelope above the retail terraces to accommodate a landscape vessel. Both aspects of the proposal are addressed in the Discussion section.
5.21 Flood planning	Yes	The site is not identified as flood prone land however, the western side of Pitt Street is identified as being subject to flooding (low hazard). A Preliminary Flood Impact Assessment, Services and Utilities Report was submitted with D/2021/1504 and determined to be acceptable by the City's Public Domain Unit with respect to flooding and stormwater considerations. Appropriate conditions were imposed as part of D/2021/1504, which still apply and will not be modified by this amending Development Application.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
Subdivision 2 Types of additional floor space 6.4 Accommodation floor space	Able to comply	The site is located in 'Area 2' and is eligible for accommodation floor space based on the proposed indicative land uses on a pro-rata basis. Based on the proportion of hotel and retail uses proposed, the proposal is eligible for an additional accommodation floor space ratio of up to: 4.5:1 for retail uses; and 6:1 for hotel accommodation. The reference scheme provides an indicative area of: Approximately 1,492sqm of retail (0.41:1); and Approximately 14.688sqm of hotel accommodation (5.44:1). Both figures are inclusive of the 10% design excellence bonus. As outlined above, no FSR is recommended to be approved as part of this application.
Subdivision 3 Heritage floor space 6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	Able to comply	A condition has been imposed on concept development consent D/2021/1504 to ensure that any FSR proposed in excess of 8:1 in any future Stage 2 detailed design development application, will be subject to a requirement to purchase HFS, in accordance with Clause 6.11 of Sydney LEP 2012. This condition continues to apply to the base consent and will not be modified by the amending Development Application.

Provision	Compliance	Comment
Division 3 Height of buildings and overshadowing		
6.16 Erection of tall buildings in Central Sydney	Yes	The proposed building envelope exceeds 55m in height and has an FSR greater than the maximum base FSR under Clause 4.4 of the Sydney LEP 2012. The site also has a site area of more than 1,000sqm. The proposal does not result in any additional overshadowing impacts to public places and is consistent with the proposed wind conditions at ground level of concept approval D/2021/1504 which was considered acceptable. The tower form will not adversely impact on key views from public places and is located as such so that it will retain and complement the curtilage, setting and character of nearby heritage items.
6.17 Sun access planes	Yes	The maximum building height of the site is restricted by the Belmore Park (1A) Sun Access Plane (SAP). The proposed development seeks maximum height of RL 206.1m and does not exceed the Belmore Park SAP.
6.18 Overshadowing of certain public spaces	Yes	The proposal does not result in any additional overshadowing to places shown on the Sun Access Protection Map.
Division 4 Design excellence		
6.21 Design excellence	Yes	The amended building envelope satisfactorily sets expectations for the form, massing, scale, environmental impacts, ESD outcomes, access outcomes, interface with ground level and landscaping outcomes of the development. A competitive design process has been undertaken as per Clause 6.21D of the Sydney LEP 2012, and the proposal is seeking up to an additional 10% of floor space as part of the detailed design

Provision	Compliance	Comment
		State Significant Development Application. Demonstration of design excellence is required as part of the State Significant Development Application before any award of additional floor space.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.1 Objectives and application of Division 7.3 Car parking spaces not to exceed maximum set out in this Division.	Yes	The maximum number of car parking spaces permissible will be dependent on the number of hotel rooms and quantum of ancillary retail proposed in any future Stage 2 detailed design Development Application.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with Class 5 Acid Sulfate Soils (ASS) and is not within 500mm of adjacent Class 1, 2, 3 or 4 ASS land. Notwithstanding, the ASS provisions of the Sydney LEP 2012 have been assessed as part of the Stage 2 detailed design State Significant Development Application as this proposal relates to the concept building envelope only.
7.16 Airspace operations	Yes	The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport. The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received as part of D/2021/1504. As part of this concept Development Application, Sydney Airport Corporation advised that approval to operate construction

Provision	Compliance	Comment
		equipment (i.e. cranes) is to be obtained prior to any commitment to construct.
7.19 Demolition must not result in long term adverse visual impact	Yes	No demolition is approved as part of this concept Development Application.
7.20 Development requiring or authorising preparation of a development control plan	Yes	The proposed modifications to the approved building envelope will result in the construction of buildings greater than 55 metres above the existing ground level. This triggers the requirement for the preparation of a site-specific DCP under Clause 7.20(2)(a). Section 4.23 of the Environmental Planning and Assessment Act, 1979 allows a concept development application to be lodged in lieu of preparing a DCP. The matters under Clause 7.20(4) of the Sydney LEP 2012 are satisfied by the documentation submitted with the application, the conditions in Attachment A, and the base concept consent that is still in force, being D/2021/1504.
7.33 Sustainability requirements for certain large commercial development	Able to comply	The development is for a concept building envelope only and is capable of satisfying the sustainability requirements for large commercial development as part of the detailed design.

Development Control Plans

Sydney Development Control Plan 2012

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

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.5 Public Art	Yes	A preliminary Public Art Strategy has been approved as part of D/2021/1504 and has been incorporated into the

Provision	Compliance	Comment
		detailed design State Significant Development Application.
3.2. Defining the Public Domain	Yes	The proposal continues to make a positive contribution to Pitt Street and the public domain as per D/2021/1504. The proposed tower form is generally consistent with the approved concept envelope. It maintains adequate sun access to publicly accessible open space and does not impede on significant views from the public domain to any public places, parks, heritage building or monuments. The introduction of the landscape vessel will not result in adverse wind impacts within the public domain along Pitt Street in comparison to the approval.
3.2.6 Wind effects	Yes	The detailed design State Significant Development Application is accompanied by a Pedestrian Wind Assessment based on the introduction of the landscape vessel above the retail podium. The Wind Assessment confirms that there is no significant change in wind conditions compared to the concept approval D/2021/1504, given that the landscape vessel is setback 1m from the boundary. Wind conditions at ground floor entrances are predicted to be comfortable for their intended uses throughout the year, and wind speeds on and around the development are predicted to be within the acceptable threshold for pedestrian safety for the proposed configuration. The proposal satisfies the requirements of this provision.
3.3 Design Excellence and Competitive Design Processes	Yes	As noted under the History Relevant to the Development Application heading, an architectural design competition has been undertaken. The winning scheme by Kerry Hill Architects contains a landscape vessel above the retail podium which is outside

Provision	Compliance	Comment
		of the approved concept envelope of D/2021/1504. The subject application seeks to include the footprint of the landscape vessel as part of this "amending" concept proposal, and a change of use to hotel in order to align with the detailed design State Significant Development application (D/2024/446). An assessment of the consistency between the detailed design proposal and the design competition is covered in the assessment report for D/2024/446 being reported to CSPC concurrently with this application.
3.5 Urban Ecology	Yes	There are no existing trees or street trees located within site vicinity. The proposal will not have an adverse impact on the local urban ecology as it does not involve the removal of any trees.
3.6 Ecologically Sustainable Development	Yes	Conditions are contained in D/2021/1504, ensuring that the approved ESD commitments in the Design Excellence Strategy are carried through to the detailed design proposal. This is discussed in further detail as part of the State Significant Development Application D/2024/446 being assessed concurrently.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	As outlined under the heading 'The Site and Surrounding Developments', there are a number of easements and rights of access affecting and benefiting the subject site. Appropriate conditions are to remain on D/2021/1504 relating to the need for a consolidation plan, accurate documentation of the location of the sewer main, and the provision of an easement for fire egress for The Chambers building (362-370 Pitt Street) along the northern boundary. These conditions are addressed as part of the assessment of the detailed design

Provision	Compliance	Comment
		State Significant Development Application.
3.9 Heritage	Yes	The existing terraces on the site are not identified as local heritage items nor within a heritage conservation area. The site is adjacent to numerous local heritage items including, Museum Towers at 267-277 Castlereagh Street to the east (I1706), Sydney Masonic Centre at 66 Goulburn Street (I2283) to the south-east, Civic Hotel at 388 Pitt Street (I1945) to the south. The proposed tower form is consistent with the concept approval D/2021/1504, providing acceptable separation to adjoining sites. The proposed landscape vessel above the retail podium, and retention of heritage fabric are addressed in the 'Discussion' section of this report.
3.11 Transport and Parking	Yes	The proposal seeks to retain vehicular access to the site via Carruthers Place along the Pitt Street frontage, and a reduced basement footprint has been provided. The reference plans depict the removal of all parking at basement, and provision of loading at ground floor. The scheme confirms that an SRV and a B99 service vehicle can be accommodated within the building footprint, as well as the loading bay/holding area. The proposed envelope is capable of providing adequate vehicular access, loading and servicing arrangements to service a development of the proposed scale.
3.12 Accessible Design	Yes	Conditions are to remain on D/2021/1507 to ensure that the future building on site achieves a satisfactory accessible design. This is discussed in

Provision	Compliance	Comment
		further detail as part of the State Significant Development Application.
3.13 Social and Environmental Responsibilities	Yes	The proposed concept envelope facilitates adequate passive surveillance with the location of retail uses at ground floor and is generally designed in accordance with the CPTED principles. CPTED principles are addressed in further detail as part of the State Significant Development Application D/2024/446.
3.14 Waste	Yes	The indicative scheme demonstrates that waste collection is able to occur on-site within the proposed building envelope.

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	Able to comply	The indicative scheme demonstrates that the proposed envelope can accommodate the following floor to floor heights: 3.27m at basement; 4.76m at ground floor; 3.69m at first floor; 4.2m at second floor; and 3.05m at upper levels. The reduced basement floor to floor height has been designed in response to the close proximity of the Sydney Metro tunnel beneath the site. This is considered acceptable, noting that the reference design does not depict vehicular access to the basement.

Provision	Compliance	Comment
4.2.3.1 Solar access	Yes	The proposal will not result in any increased overshadowing impacts to surrounding development, compared to the approved concept envelope D/2021/1504.
4.2.3.5 Landscaping	Yes	The amending concept building envelope provides for a landscape vessel structure at level 4, above the retail podium.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The existing facade of the retail terraces will be retained and incorporated into the detailed design. This ensures the building will present a diverse architectural character with an individual building identity in accordance with the control.
4.2.7 Heating and cooling infrastructure	Yes	The indicative reference scheme provides areas within the building envelope to accommodate plant and services, including consolidated heating and cooling infrastructure.

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General 4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	The reference scheme submitted with the proposal demonstrates that it is capable of accommodating approximately 517 hotel rooms. Compliance with these provisions is addressed as part of the State Significant Development Application D/2024/446.

Section 5 – Specific Areas - Central Sydney

Provision	Compliance	Comment
5.1.1 Built form controls 5.1.1.1 Street frontage height and street setbacks	Consistent with concept approval	Section 5.1.1.1(1) of the DCP requires street frontage height to comply with Table 5.1, which, in this instance stipulates a minimum height of 20-25m

Provision	Compliance	Comment
		for non-heritage items outside Special Character Areas. The proposal retains the existing 3 storey commercial terraces which are 13.4m in height. This is to be known as the "lower (historic) podium". A height of 20.2m is proposed for the level 4 landscape vessel. A height of 25m is maintained for the upper podium that aligns to the western face of the tower (setback 8m). A compliant street setback of 8m from the Pitt Street boundary is provided above the podium. The proposed street frontage heights, including the retention of the commercial terrace facades, reinforces the character of Central Sydney, and are compatible with surrounding heritage items and the desired streetscape character. See discussion section regarding Landscape 'vessel'.
5.1.1.3 Side and rear tower setbacks and building form separations	Consistent with concept approval	Section 5.1.1.3 of the DCP requires the following minimum side and rear setbacks: • 4m up to 120m; • 3.33% of the total height of the building (between 120m up to 240m). Additionally, facades containing windows must be setback from side and rear boundaries by a minimum of 2m to allow maintenance of the façade fully within the site boundary. The proposal maintains the approved setbacks of Concept Development Consent D/2021/1504 as follows: • 6.29m to the north (3.32%) of the building height of 192.9m • 6.31m to the south (3.32%) of the building height of 192.9m

Provision	Compliance	Comment
		1.5m to the rear (east). The proposal seeks minor variations of 0.13m, 0.11m to the 3.33% control and 0.5m to the rear setback. The variations are mainly due to the change in ground floor level. Noting the setbacks have been approved under Concept Development Consent D/2021/1504, the minor numerical non-compliances with setbacks are acceptable as: - The proposed envelope avoids the appearance of a contiguous 'wall of towers' and achieves sufficient separation between surrounding buildings. - The building envelope demonstrates acceptable wind safety and wind comfort and daylight levels with regard to the amenity of the public domain, can be achieved through the submission of a wind assessment report and detailed shadow analysis diagrams. These impacts are consistent with that approved under D/2021/1504. - The proposed envelope has been subject to detailed urban design options analysis which demonstrates that the proposed massing is compatible with the context. - A high-quality urban design outcome can be achieved within the proposed building envelope which incorporates the existing terraces, presenting reasonable architectural integrity and intactness. - The variations of 0.13m, 0.11m and 0.5m with regard to the side and rear setbacks will not be perceivable given the small tower floor plate (26m x 15.6m).

Provision	Compliance	Comment
5.1.1.4 Built form massing, tapering and maximum dimensions	Consistent with concept approval	The maximum horizontal dimension of the building measured in any direction is not to exceed 100m for non-residential developments, with a floor plate area of 1,000sqm. Additionally, the controls state that the envelope of the tower may taper to occupy 90% of the floor plate above 120m up to 240m. The floor plate of the upper podium is a maximum of 635sqm. Above the upper podium, the proposal provides a compliant maximum tower floor plate of 406sqm. Section 5.1.1.4 of Sydney DCP 2012 requires the proposed tower to be tapered to 90% of the total tower floor plate above 120m above ground. This equates to a maximum floor plate of 365.4sqm above 120m. The proposed envelope does not comply with the tapering controls, as a 406sqm floor plate is proposed, requiring an overall reduction of approximately 893.2sqm across 22 floors. Noting that the proposed tower envelope is consistent with that approved under D/2021/1504 and was determined to be appropriate, the non-compliance with the controls is acceptable in the specific circumstances of the proposal and site as: The proposal presents a slender tower form and will not appear as inelegant or massive in any direction; The tower does not appear as having an overwhelming scale in relation to surrounding developments; The proposed development is compatible with the context of the locality in terms of its height, massing, street wall height, street and side setbacks and form; and

Provision	Compliance	Comment
		The impacts on the amenity of the public domain associated with the proposed building envelope (which is largely consistent with the approved building envelope) demonstrates acceptable resulting wind and shadow impacts. The proposal is compliant with height and FSR controls.
5.1.2 Development outlook and demonstrating amenity compliance	Consistent with concept approval	Developments are to provide adequate setbacks within the site so as to guarantee their own minimum outlook, and not unreasonably borrow amenity from neighbouring sites including access to views and sunlight. The proposal seeks variation for indicative hotel windows over a height of 45m, which are required to have a minimum outlook depth of 9m (to all windows and balconies for other forms of accommodation) as per Section 5.1.2(1). An outlook depth of 6.29m for hotel windows is provided to The Chambers building to the north; and 6.31m for hotel windows to the Ibis Hotel to the south. The proposed building envelope is consistent with the concept approval D/2021/1504, which determined that The Chambers Building at 362-370 Pitt Street was the only surrounding site that had the potential to be redeveloped to a greater height. The 3m non-compliance for hotel accommodation was assessed as satisfactory, and these reasons still apply as part of the Amending DA, namely: Adequate development outlook amenity is achieved to the west and east with sufficient setbacks of 35.05m to the Museum towers and 8m to Pitt Street; and The site benefits from the fact that the development directly to the east and south-east are heritage items of a lower scale (being Museum Towers and

Provision	Compliance	Comment
		Sydney Masonic Centre including Civic Tower with a maximum height RL 144.97. As a result of land use and heritage listing of these buildings, there is limited redevelopment potential for these sites. Consequently, privacy and overlooking are not considered to be determinative factors as the proposal will be separated by over 30m from the residential apartments (Museum Towers) and is capable of being designed to provide 6m between non-habitable rooms and the Civic Tower. The State Significant DA proposes hotel room windows to the northern and southern side elevations, with three windows at each level over 45m (one of which being a window to the hotel corridor). These windows are secondary and therefore unlikely to have any significant privacy impact to developments to the north and south.
5.1.3 Heritage items, warehouses and special character areas 5.1.3.2 Development adjacent to heritage items	Yes	The site is adjacent to locally listed heritage items: the Sydney Masonic Centre (I2283) to the south-east and Museum Towers (I1706) to the east. The Civic Hotel is also located within proximity to the site. The proposal is consistent with Concept Approval D/2021/1504, in that it retains the existing commercial terraces which contribute towards the setting and local character of the neighbouring heritage items. The tower provides a separation of 6m to the Civic Tower, maintaining the ability to view and appreciate the heritage item from surrounding Public Places and allows it to be appreciated 'in the round'. The proposal generally achieves the objectives of 5.1.1.3 and Section 5.1.1 of the Sydney DCP 2012 providing sufficient separation to ensure the development does not result in a contiguous 'wall of towers' where groups of tall buildings appear as one unbroken mass.

Provision	Compliance	Comment
		In light of the above, the proposed development will not have detrimental impact on the heritage significance of surrounding heritage items.
5.1.4 Building exteriors	Yes	The proposal is for a concept building envelope only. The architecture and materiality of the development forms part of the assessment of the detailed design State Significant Development Application D/2024/446 that is being reported concurrently.
5.1.6 Heritage floor space	Yes	Accommodation floor space will be subject to the allocation of heritage floor space as part of the detailed design State Significant Development Application.
5.1.7 Sun protection of public parks and places	Yes	The height of the proposed building envelope complies with the maximum height of the Belmore Park SAP. The proposed envelope does not result in any additional overshadowing of certain public places. Refer to assessment under Clauses 6.17 and 6.18 of Sydney LEP 2012 above.
5.1.8 Views from public places	Yes	The proposed development does not encroach within any of the views nominated on the Public Views Protection maps contained in the DCP, or any significant views (not mapped) identified in the Special Character Area locality statement.
5.1.9 Managing wind impacts	Consistent with concept approval	The application is accompanied by a Pedestrian Wind Assessment. The report confirms that the proposed envelope is able to accommodate a future building which achieves comfortable wind conditions, with no additional impact compared to concept approval D/2021/1504.

Discussion

Changes to building envelope

63. The application proposes changes to the approved building envelope of D/2021/1504 (the base consent) as result of the winning design competition scheme and further detailed design refinement.
64. The winning design competition scheme proposed a landscape vessel at level 4 that was outside of the approved concept envelope, and an 'urban room' within the podium that required the removal of some existing wall footings, as well as further demolition of some masonry and party walls that are to be retained under D/2021/1504. As part of the further detailed design refinement, residential accommodation is no longer part of the proposal.
65. The proposed amendments are listed below.
 - (a) Removal of the approved residential land use, and provision of a mixed-use development comprising hotel and retail land uses only;
 - (b) Removal of two basement levels, and provision of one basement level with a reduced footprint;
 - (c) Changes to the height of the podium to allow for a 'landscaped vessel' (RL 32.68), balustrade above the landscaped vessel (RL 33.88) and an awning above the landscaped vessel (RL 36.48);
 - (d) Change to the ground floor RL, with RL 16.191 proposed (compared to RL 16.400 in D/2021/1504);
 - (e) Allow for partial retention and removal of some existing wall footings, joinery, whole masonry walls and party walls (including any whole engaged piers of each party wall) of the existing buildings to align with the proposed 'urban room' within the podium of the detailed design State Significant Development Application D/2024/446; and
 - (f) Relocation of indicative lift core.
66. The change of use to hotel accommodation and retail premises is considered acceptable, as the proposed reference scheme demonstrates that both uses can be provided comfortably within the development with minimal amenity impacts to future occupants of the site and surrounding development.
67. The design changes will not alter the approved height and scale of the buildings with the footprint, setbacks and overall external design (with the exception of the landscape vessel and basement) being maintained as approved under the base consent D/2021/1504. The resulting changes arising from the hotel accommodation and retail use are discussed in greater detail in the assessment of D/2024/446, or covered elsewhere in this report.
68. As such, the key issues relate to the extent of historic fabric to be retained and associated heritage condition to be modified, excavation, and the landscape vessel above the retail terrace parapet.

Extent of historic fabric to be retained within podium

69. The site is not a heritage item, nor is it located within a heritage conservation area. The site contains five, 3-storey commercial terraces, constructed c.1910-1912. The existing buildings are a rare surviving Federation era commercial terrace group.
70. The terraces have been altered at street level and retain no original significant fabric at ground level. The existing awnings have been significantly modified with re-cladded soffits and fascias, and the terraces have also been substantially altered internally. The façade above the awning of the terrace group is substantially intact and presents reasonable architectural integrity. The terrace group also retains their original built form, including their rear wings. However, the rear of 380-382A Pitt St has been modified with later additions over the rear wings. Balconies have been added to the wings of 376-378 Pitt Street.
71. It was determined during the assessment of D/2021/1504 that 372 Pitt Street could be removed to facilitate adequate on-site loading and servicing for the indicative uses within the approved concept envelope. The existing facades of Nos. 374-382A Pitt Street and a minimum depth of 6m (approximately one bay) of the internal party walls were to be retained. Removal of the awnings associated with the terraces was also supported.
72. To facilitate the detailed design of the competition-winning scheme by KHA + Crone, some additional demolition of the existing historic terraces (and part of the structure behind) is required beyond what was previously contemplated at the Concept DA approval. Specifically, the proposal seeks to allow for the partial retention (and partial removal) of some existing wall footings, joinery, whole masonry walls and party walls (including any whole engaged piers of each party wall) to accommodate the proposed 'urban room' within the podium.
73. Excerpts of the proposed "urban room" of the design competition winning scheme, a section of State Significant DA D/2024/446 and demolition plans within the retail terrace podium are provided below for context:



Figure 34: Proposed "urban room" depicted in design competition winning scheme

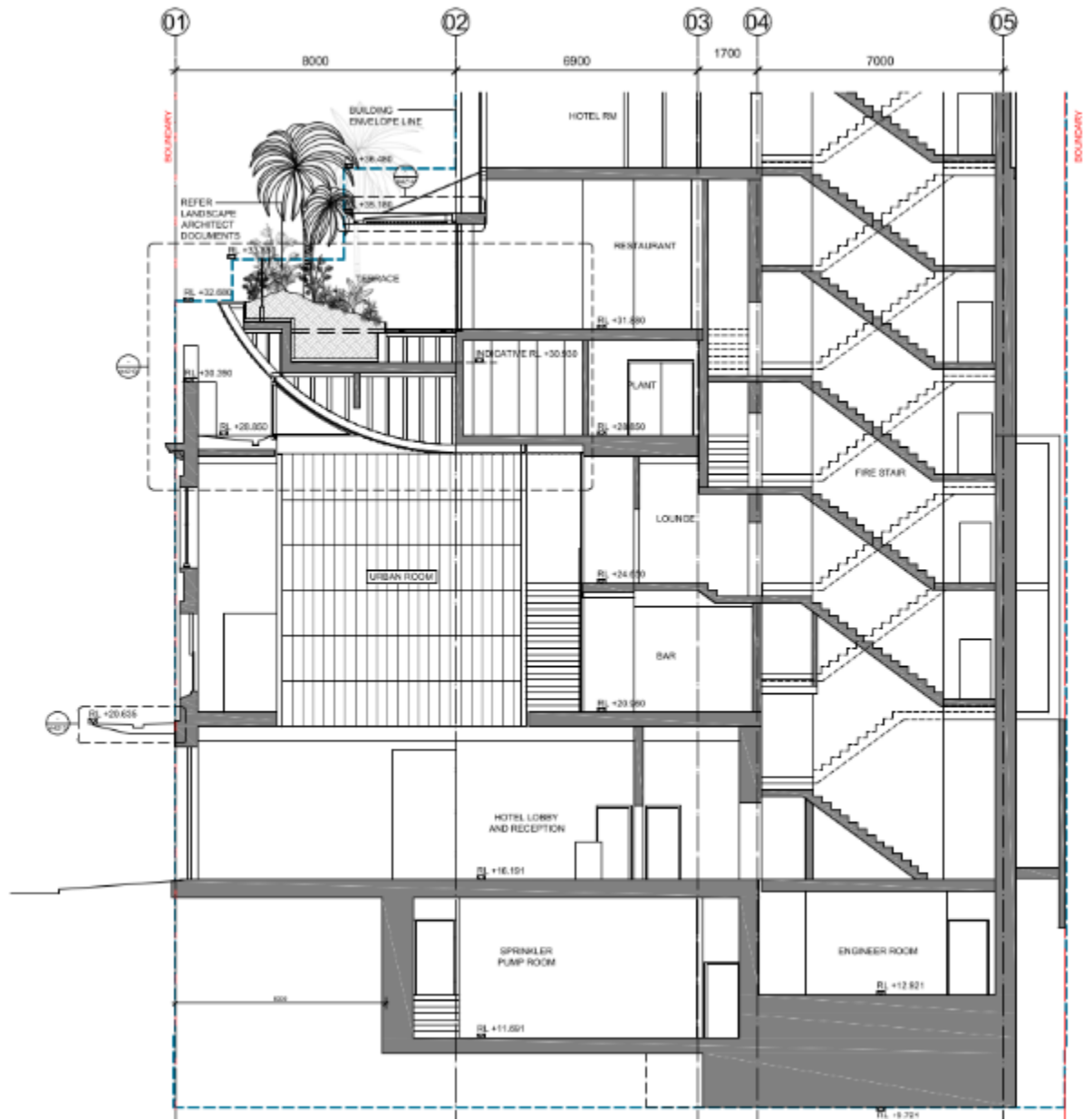


Figure 35: Proposed "urban room" depicted in section for D/2024/446



Figure 36: Indicative demolition plans at ground (left) and level 1 (right)

74. To accommodate the competition-winning scheme design changes, Condition 11(a) and (c) - Detailed design of building are proposed to be modified as follows:

*(a) The existing front facades of Nos. 374-382A Pitt Street, including wall footings and joinery and whole masonry walls, ~~must~~ **should** be retained where reasonably possible.*

...

*(c) At least one bay deep of party walls (including a whole engaged pier of each party wall) ~~should are to be retained,~~ **should** be retained, where reasonably possible.*

75. The proposed changes to Condition 11(a) and (c) are not appropriate, as the wording is open to interpretation, and may result in more heritage fabric being removed than necessary.
76. The Design Competition winning scheme, and the detailed design address the condition as approved by retaining all significant façade walls and most party walls at least one bay deep. The extent of demolition proposed has been reviewed by the City's Heritage Specialist and is considered acceptable.
77. Given that the design competition winning scheme, indicative design and detailed design do not contradict Condition (a) and (c) as currently worded, the amendments are not required.

Basement excavation

78. The proposed concept plans depict one basement level, instead of three, with a nil setback to all site boundaries. The nil setback was approved as part of the concept consent D/2021/1504.

79. Conditions were imposed as part of D/2021/1504 to require as part of any detailed design development application:
- (a) a structural strategy to be prepared
 - (b) a detailed Geotechnical Report based on field investigations and borehole sampling be prepared
 - (c) an Archaeological Assessment be prepared
 - (d) confirmation that excavation of the basement level does not undermine the footings of the retained façade/walls, with an offset from existing wall footings to reduce risk of structural damage
80. The State Significant Development Application D/2024/446 is accompanied by the above documentation, and a setback of 6m is provided from the Pitt Street boundary. The extent of excavation, and the structural strategy in particular, are assessed as part of D/2024/446 as being appropriate. The reduction in excavation and provision of one basement level rather than three are considered to be of less impact compared to the original approval. The changes are supported.

Landscape 'vessel'

81. The application is accompanied by concept plans depicting a change in the envelope to accommodate a landscape 'vessel' with associated awning and other structures above the historic podium facade.
82. The competition winning scheme proposed an elevated landscape vessel at level 4 above the podium, which has been carried through to the detailed design that is currently under assessment. The vessel is sited so that it appears to hover over the historic terrace façade and parapet to be retained and is a key element of the design competition winning scheme.



Figure 37: Proposed photomontage of D/2024/446 depicting landscape vessel above the historic podium

83. The original concept approval D/2021/1504 allowed for a two-part podium as follows:
- a lower podium to align with the height of the existing terraces (approximately 13.4m, RL 28.25) including the infill at 372 Pitt Street) and
 - upper podium up to a maximum height of 25m (RL41.4), setback 8m from the street frontage aligned with the street setback of the tower.
84. Both podiums are to be retained, however, the landscape vessel has been introduced above the lower podium and below the upper podium, with a height of RL 32.68 for the landscape vessel itself, RL 33.88 for the balustrade above the landscape vessel and RL 36.84 for the awning and associated supporting structures above the proposed landscape vessel. The vessel is to be located at level 4.



Figure 38: Approved concept envelope (north elevation) depicting lower and upper podium to Pitt Street

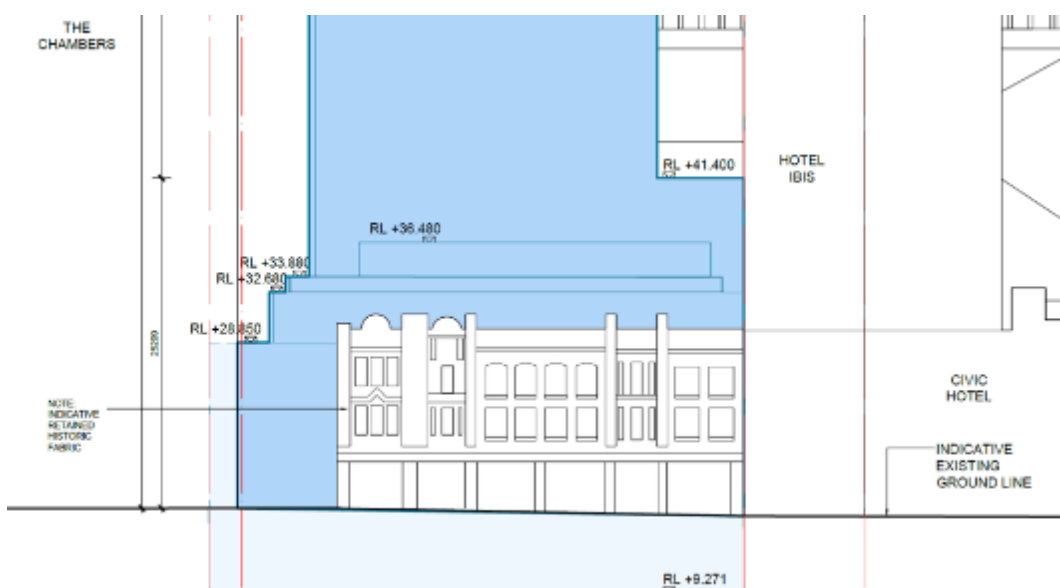


Figure 39: Proposed concept envelope (north elevation) introducing the landscape vessel between the approved lower and upper podium to Pitt Street

85. Section 5.1.1.1 'Street frontage height and street setbacks' of the Sydney DCP 2012 permits a street frontage height at a minimum 20-25m for non-heritage items outside Special Character Areas (as per Table 5.1 'Permissible range of Street Frontage Heights').
86. The proposal does not comply with the permitted street frontage heights in Table 5.1 as the façade (and bays) of the existing 3-storey commercial terraces are being retained, providing a street frontage height of approximately 13.4m for the lower podium. However, this was approved as part of the original concept development consent D/2021/1504.
87. The introduction of the landscape vessel, which is setback 1-6m behind the historic façade, will encroach into the 8m setback approved above the historic podium. This encroachment is considered acceptable in this instance as it achieves the relevant objectives of Section 5.1.1 of the Sydney DCP 2012, in that it:
- (a) Continues to achieve comfortable street environments for pedestrians, maintains views to the sky and creates a sense of openness to Pitt Street;
 - (b) Encourages flexibility in building design, allowing for the provision of a landscape vessel that will create visual interest, whilst reinforcing the character of Central Sydney through retaining the existing terraces. This ensures the built form is compatible with surrounding heritage items and the desired streetscape character;
 - (c) Recognises the variety and patterns of street all heights throughout Central Sydney;
 - (d) Maintains wind performance that is consistent with the concept approval D/2021/1504, and maintains daylight access to the public domain and Public Places; and
 - (e) Provides a compliant street setback of 8m above the podium height, which is consistent with the minimum street setback required under Table 5.2 'Minimum Street Setbacks' of the Sydney DCP 2012 (Section 5.1.1.1).

Amending development application

88. The application has been lodged as an 'amending' application to D/2021/1504, which approved the concept building envelope with a maximum height of RL 206.1, for hotel and residential land uses and retail premises at ground floor, and vehicular and loading access from Carruthers Place. The current Development Application seeks to replace the residential uses with hotel accommodation, as well as minor design changes to align with the detailed design State Significant Development Application that is currently under assessment and is being reported to CSPC.
89. The changes, as discussed in this report, are acceptable.
90. The proposal relies on the concept building envelope approved under D/2021/1504, which is currently active. The subject application has the effect of modifying development consent D/2021/1504.

91. The subject Development Application has been made in order to facilitate the removal of the residential land use and replacement with a wholly hotel accommodation scheme with ancillary retail at ground floor, given that such an application could not be made under section 4.55 of the Environmental Planning and Assessment Act, 1979 as it would not meet the requisite criterion that the development would be substantially the same as that approved.
92. For the avoidance of doubt, it is recommended that a condition be imposed on the subject application to make it clear that the Development Application relates to the base consent D/2021/1504 and should be read in conjunction with the base consent.
93. Under Section 4.17(1) (b) of the Environmental Planning and Assessment Act, 1979, it is lawful to impose a condition of development consent on an application which requires the modification of a consent previously granted. In this instance, the base consent will require modification to remove all relevant residential references from the approved plans and conditions. This would consist of the following conditions:

Condition	Proposed changes
Development description	Modify "3 basement levels" to "1 basement level" and remove reference to "and residential land uses".
(1) Approved Development	Update the plans, sections and elevations to match (1) Approved Development of D/2024/36, removing residential land uses.
(3) Matters not approved in Concept Proposal Development Consent	Remove reference to (c) "and residential", (e) "residential apartments".
(11)(g) Detailed Design of Building	Remove reference to "Any residential accommodation must be limited to the upper third portion of the tower, with the first residential floor being no lower than RL 140.85 (being the top window head height of the Civic tower)."
(13) Stage 2 Development Application to Comply with Relevant Planning Controls	Remove reference to (a) ""State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development" (as amended), the Apartment Design Guide (ADG), and", (i) "The building separation distances specified within the ADG relating to visual privacy." (ii) "ADG", (iii) "Apartment sizes and room dimensions, and private open space sizes and

Condition	Proposed changes
	dimensions within the ADG and Sydney DCP 2012.", (iv) "The apartment and room depths specified within the ADG to ensure adequate natural ventilation, natural cross ventilation, solar and daylight access.", (v) "The ADG specification for at least 70% of apartments within a development to receive a minimum of 2 hours of direct solar access between 9am and 3pm on 21 June.", (vi) "The ADG specification for at least 60% of apartments within a development to be naturally cross ventilated.", (vii) "The requirements of the ADG and Sydney DCP 2012 regarding the on-site provision of an area/s of communal open space.", (viii) "The ADG specifications relating to residential storage size volumes and characteristics.", (x) "The dwelling mix requirements of Section 4.2.3.12 of Sydney DCP 2012."
(16) Residential Acoustic Amenity	Entire condition to be removed.
(19) Ecologically Sustainable Development	(a) Add "with the exception of the requirement to exceed BASIX requirements for Residential components of the development (including BASIX Energy target of 30%)" after the reference to the ESD report to be used to inform the subsequent detailed design development application. (b)(i) remove reference to "Exceeds BASIX Requirements for Residential components of the development (including a BASIX Energy target of 30%)".

Condition	Proposed changes
(25) Parking Design	Remove reference to "AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking" "and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities" as on-site parking is no longer being accommodated within the development.
(30) Service Vehicle Parking and Access	Remove reference to "1 MRV" and "9.25m Council", and replace with "6.4m Garbage Collection vehicle" with a minimum vertical clearance of 3.5m.
(33) Traffic Impact Assessment	Remove reference to "resident tenant move in move out".

94. To ensure D/2021/1504 is modified and to prevent conflicting approvals from being active concurrently, it is recommended that a notice of modification be submitted and determined by Council prior to any works commencing as part of D/2024/446.

Consultation

Internal Referrals

95. The application was discussed with the following teams:

- (a) Environmental Health
- (b) Heritage and Urban Design
- (c) Public Domain
- (d) Surveyors
- (e) Transport and Access
- (f) Tree Management
- (g) Waste Management

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

External Referrals

97. External referrals have been carried out, with responses received as discussed elsewhere in this report.

Advertising and Notification

98. In accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2024, the proposed development was notified and advertised for a period of 28 days between 30 January 2024 and 28 February 2024. A total of 2,772 properties were notified and 21 submissions were received. The majority of submissions received

99. The submissions raised the following issues:

(a) **Issue:** Carruthers Place

- The SEE accompanying the application is misleading as it does not recognise part of the site being used for vehicular and pedestrian access via Carruthers Place.
- Carruthers Place should be retained so it can be viewed and used as a laneway and maintain the fine urban grain and appearance of Pitt Street.
- Carruthers Place is meant to be a public laneway and constructing within this laneway is a breach of previous approvals granted by Council for the construction of 370 Pitt Street.
- This space is earmarked as a private loading dock instead of remaining a public laneway.
- Carruthers Place provides access, air, light and ventilation to the adjacent building and there will be a substantial loss of amenity as a result of this proposal.
- Council has not advised neighbours of changes to ownership of Carruthers Lane or proposals which would impact on its use for safety purposes.
- Council has sold the laneway, despite services requiring access from Carruthers Place.
- The proposal has the capacity to impede egress from fire doors, fire control room and boosters of the neighbouring property to the north at 370 Pitt Street – during construction and occupation of the building. The car park located behind the subject site currently uses Carruthers Place for vehicular access and will be landlocked as a result of the development. Easements/DA approvals for 370 Pitt Street have not been taken into account.
- **Response:** Carruthers Place is a privately owned laneway with no easements registered on title benefitting 370 Pitt Street for vehicular access or fire egress. It has never been in Council ownership. A search of Council's records also shows there are no consents for vehicular parking at this location, behind the subject site.

D/2021/1507 contains a condition that requires an easement for access to the fire escape (and other necessary building services) of the neighbouring property at 362-370 Pitt Street, within Carruthers Place, exiting onto Pitt Street. This amending Concept DA does not seek to modify this requirement. The State Significant DA D/2024/446 provides access in accordance with the concept approval and this is discussed in further detail in the accompanying assessment report.

(b) **Issue:** Pedestrian safety

- Carruthers Place is used by pedestrians (for the existing the fire stair of 370 Pitt Street or walking along Pitt Street), which will be in conflict with service vehicles.

Response: The development has been designed so that it does not restrict pedestrian access to Carruthers Place. Vehicular access within Carruthers Place / Pitt Street was identified as acceptable in concept approval D/2021/1504 and this amending Concept DA does not change this arrangement.

(c) **Issue:** Construction Impacts

- Demolition and construction period (noise, vibration and dust) will have an impact on the operation of surrounding businesses
- Risk of ground displacement / undermining of support to foundations of surrounding buildings.

Response: The expected impacts on the operation on nearby businesses are noted. The anticipated impacts of the proposed demolition, excavation and construction of the development are to be addressed as part of the detailed design (Stage 2) State Significant Development Application.

(d) **Issue:** Bulk and scale

- The proposed development is of a significant scale, with minimal setbacks and encroachment onto what is a public laneway.
- The proposal will cast a significant and unreasonable shadow over buildings to the north. It will block all natural light to the south side of 370 Pitt Street, with minimal to no privacy for occupants.
- The increase to the podium height will adversely affect the amenity of adjoining buildings, the quality of space between the buildings, and visual and acoustic privacy. Will result in adverse impacts to the public domain and should be reduced in size.

Response: The podium and tower envelope was approved under D/2021/1504, which assessed the proposed massing, particularly in relation to the interface of Carruthers Place and 370 Pitt Street as acceptable. A setback of 6.29m was provided above the podium to the northern side boundary of the subject site under D/2021/1504, and this setback is maintained as part of the current proposal.

With the exception of the landscape vessel at level 4, the proposed development is consistent with the approved building envelope of D/2021/1504, following established height, bulk, scale and setbacks.

The changes to the approved building envelope to vary the podium height and accommodate the proposed landscape vessel have been assessed as acceptable in this report. The proposed changes do not result in any significantly adverse amenity impacts to the public domain, nor the streetscape and character of the area.

The subject site is to the south of 370 Pitt Street and as such, will not overshadow The Chambers building.

Financial Contributions

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

100. The application is not subject to any levies under Section 7.12 of the EP&A Act 1979, as it is for a concept building envelope and includes a theoretical concept development cost.
101. Appropriate contributions have been levied as part of the detailed design State Significant Development Application D/2024/446.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

102. The site is located within the Central Sydney affordable housing contribution area. As the proposal relates to a concept building envelope only, the development is not subject to an affordable housing contribution under Section 7.13 of the SLEP 2012. Appropriate contributions have been levied as part of the detailed design State Significant Development Application D/2024/446.

Housing and Productivity Contribution

103. The development relates to a concept building envelope only and is not subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
104. Appropriate contributions have been levied as part of the detailed design State Significant Development Application D/2024/446.

Relevant Legislation

105. Environmental Planning and Assessment Act 1979.

Conclusion

106. The application proposes to amend the approved concept building envelope under the development consent D/2021/1504, in order to change the use of the development to hotel accommodation and ancillary retail premises; and modify the building envelope to include a landscape vessel at level 4 to align with the detailed design State Significant Development Application D/2024/446. Both applications are being presented to the CSPC concurrently for approval.
107. The proposed modifications to the approved building envelope will deliver consistency between staged development applications for the site, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979.
108. The modifications to the envelope are supported as they do not result in unacceptable amenity impacts and deliver envelopes that are capable of achieving an acceptable level of amenity for future occupants and adjoining properties.
109. The proposed building envelope is capable of accommodating a future building that exhibits design excellence in accordance with Clause 6.21C of the Sydney LEP 2012. The detailed design State Significant Development Application D/2024/446 being considered concurrently by the CSPC demonstrates that a generally compliant scheme can be provided within the amended envelope that delivers design excellence in accordance with Clause 6.21C of the Sydney LEP 2012.
110. The proposed modifications are therefore in the public interest and recommended for approval, subject to conditions.

GRAHAM JAHN, AM

Chief Planner / Executive Director City Planning, Development and Transport

Jessica Symons, Senior Planner