

Item 9.**Development Application: 93-97 Macquarie Street, Sydney - D/2024/324****File Number:** D/2024/324**Summary**

Date of Submission:	7 May 2024
Amended and additional information:	4 September 2024, 17 December 2024, 31 March 2025, 2 May 2025 and 2 June 2025.
Applicant:	The Planning Studio
Architect/Designer:	BVN
Developer:	Census Advisory
Owner:	Macquarie Street Development Pty Ltd
Planning Consultant:	The Planning Studio
Heritage Consultant:	Weir Phillips
DAP:	24 October 2024
Cost of Works:	\$183,035,738.56
Zoning:	The site is zoned SP5 Metropolitan Centre under the Sydney Local Environmental Plan 2012. The proposed use is defined as a 'mixed use development', comprising 'residential accommodation', 'commercial premises' and 'food and drink premises', all of which are permissible with consent.
Proposal Summary:	Development consent is sought for the detailed design of the redevelopment of the existing 'Stamford Hotel' building and adaptive reuse of the existing State Heritage item known as the former Health Department building. The development comprises: • demolition of the existing Stamford Hotel • partial demolition of the basement

- removal of 1980's additions, partial removal of walls for openings and lift and strip out works to the existing Health Building.
- construction of a 17-storey mixed use building accommodating 68 residential apartments, 59 car parking spaces and 3 retail tenancies on the lower ground and ground floor levels to be used as food and drink premises
- alterations and additions and conservation works to the State Heritage listed former Health Department Building, including its adaptive reuse to accommodate tenancies to be used as commercial premises and food and drink premises; and
- associated landscaping, public art and public domain works.

The subject DA is referred to the Central Sydney Planning Committee (CSPC) for determination as the proposed development is defined as a "major development" for the purposes of the City of Sydney Act 1988.

The proposed development requires amendment to the approved concept envelope. A Section 4.55 modification application (D/2017/1609/A) is reported concurrently to the CSPC for determination. Subject to the approval of modification application, the subject DA will be consistent with the concept consent in accordance with Section 4.24 of the Environmental Planning and Assessment Act 1979.

The site has been the subject of an 'architectural design competition' on 21 March 2023. The design by BVN was selected scheme.

The application is an Integrated Development Application, requiring concurrent approval from Heritage NSW under the Heritage Act, 1977. As an Integrated Development Application, the application was notified and advertised for a period of 28 days between 14 May 2024 and 12 June 2024. A total of six (6) submissions were received. The submissions raised the following concerns:

- view impacts
- bulky canopy/awning designs
- degrading pavement
- traffic/pedestrian impacts
- no consideration to adjoining approved function centre uses/addition to Transport House

- structural/geotechnical concerns
- inconsistencies with the Concept Envelope
- impacts on right of way (connecting Albert Street through the basement to the adjacent property)
- street frontage height
- construction noise
- revenue loss

The issues raised in the submission are addressed in the report, and where appropriate, the application has been amended and/or conditions of consent are recommended to address these issues.

The application has been amended to address issues identified during the assessment. The key issues relate to:

- additional information on remediation of the site and waste management
- provision of communal open space and design/areas of apartment wintergardens
- heritage and conservation works
- further view impact analysis
- amendments to the to the written request under clause 4.6.

The Section 4.55 modification report being considered and determined by the CSPC has assessed the variations to setbacks, street frontage height and building height. The variations have resulted from the winning design competition scheme and design refinement. The proposed detailed design is accommodated within this modified Concept building envelope.

Whilst the development is within the modified Concept building envelope, the overall height of the development at 57.54 metres, exceeds the 55-metre height of building development standard. The applicant has submitted a written request to vary this development standard under Clause 4.6 of the Sydney Local Environmental Plan 2012. The applicant's written request explains that there are sufficient planning grounds to justify contravening the 'height of buildings' development standard. The planning grounds relating to no adverse overshadowing, acceptable view loss impact and the design coordination for flood levels and mechanical plant. The request has been reviewed in the report and adequately shows that strict compliance with Clause 4.3 - Height of Buildings of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary.

The proposal is consistent with the modified Concept envelope, which has been assessed as acceptable in the concurrent report. Subject to the acceptance of the Clause 4.6 to building height and subject to the imposition of conditions, the proposal is generally consistent with the relevant planning provisions contained in the State Environmental Planning Policy (Housing) 2021, Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Any inconsistencies have been assessed as having merit in the context of the site and are addressed in this report.

The amended proposal is considered to exhibit a high standard of architectural design, materials and detailing. It presents a high-quality outcome, comprises an appropriate response to the site conditions and locality and will result in a form and scale that achieves the desired future character of the area and exhibits design excellence.

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

Development Controls:

Environmental Planning and Assessment Act 1979 and
Environmental Planning and Assessment Regulation 2021

City of Sydney Act 1988 and City of Sydney Regulation
2016

Heritage Act 1977

Water Management Act 2000

SEPP (Resilience and Hazards) 2021

SEPP (Industry and Employment) 2021

SEPP (Transport and Infrastructure) 2021

SEPP (Biodiversity and Conservation) 2021

SEPP (Housing) 2021

Sydney Local Environmental Plan 2012

Sydney Development Control Plan 2012

Central Sydney Development Contributions Plan 2020

Community Engagement Strategy and Participation Plan
2022

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Building
- D. Architectural Design Competition Report
- E. Submissions

Recommendation

It is resolved that consent be granted to Development Application Number D/2024/324 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development 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) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of building development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012.
- (C) The proposed development is consistent with the amended concept approval for the site, being D/2017/1609/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act 1979.
- (D) The proposed development is consistent with the design intent of the winning scheme of a competitive design process, held in accordance with the City of Sydney Competitive Design Policy.
- (E) The proposed development generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (F) The proposal complies with the maximum floor space ratio development standard in Clauses 4.4 and 6.4 of the Sydney Local Environmental Plan 2012.
- (G) The proposed development complies with the Sun Access Plane requirements for the Royal Botanic Gardens in accordance with Clause 6.17 of the Sydney Local Environmental Plan 2012.
- (H) The proposed development will conserve the heritage significance of the "Former Department of Health building including interiors" in accordance with Clause 5.10 of the Sydney Local Environmental Plan 2012.
- (I) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (J) The proposed development has a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily respond to the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.

- (K) Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (L) The proposed mix of compatible land uses will support the vitality of the area and, subject to the recommended conditions, not result in any significant adverse environmental or amenity impacts on neighboring properties, the public domain, and the broader Sydney Central Business District.
- (M) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to the appropriate management of associated potential environmental impacts

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 12 DP 1197140 and is commonly known as 93-97 Macquarie Street, Sydney.
2. The site is located on the western side of Macquarie Street, between Albert and Bridge Streets. The site is irregular in shape and has a frontage to Macquarie Street (to the east) of 45.95 metres and a frontage to Albert Street (to the north) of 34.495 metres.
3. The topography of the site falls from the south-eastern corner of the site on Macquarie Street towards the north-western corner on Albert Street, with a change of level of approximately 6.8 metres. The site has an area of 1,611 square metres.
4. The site currently contains 2 interconnected buildings ranging in height from 4 to 10 storeys. The buildings currently accommodate the Sir Stamford Hotel which contains roughly 105 guest rooms, a public bar and dining room, function rooms, health and exercise facilities and a basement containing 99 car parking spaces.
5. The 4-storey building located at the corner of Macquarie Street and Albert Street is known as the former Health Department Building, which is currently listed as an item of State heritage significance and is listed on the State Heritage Register (SHR 01912). The building is also listed as a heritage item on Schedule 5 of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) (Item I1869 - former Department of Health building including interiors, local significance). The lower ground floor within this building can be accessed directly from Albert Street.
6. Vehicular access to the existing hotel on site is via a driveway from Albert Street. The car park is currently operating as a hotel and commercial car park. Vehicular access is also provided from this driveway through the site to the InterContinental Hotel to the south of the development.

7. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds

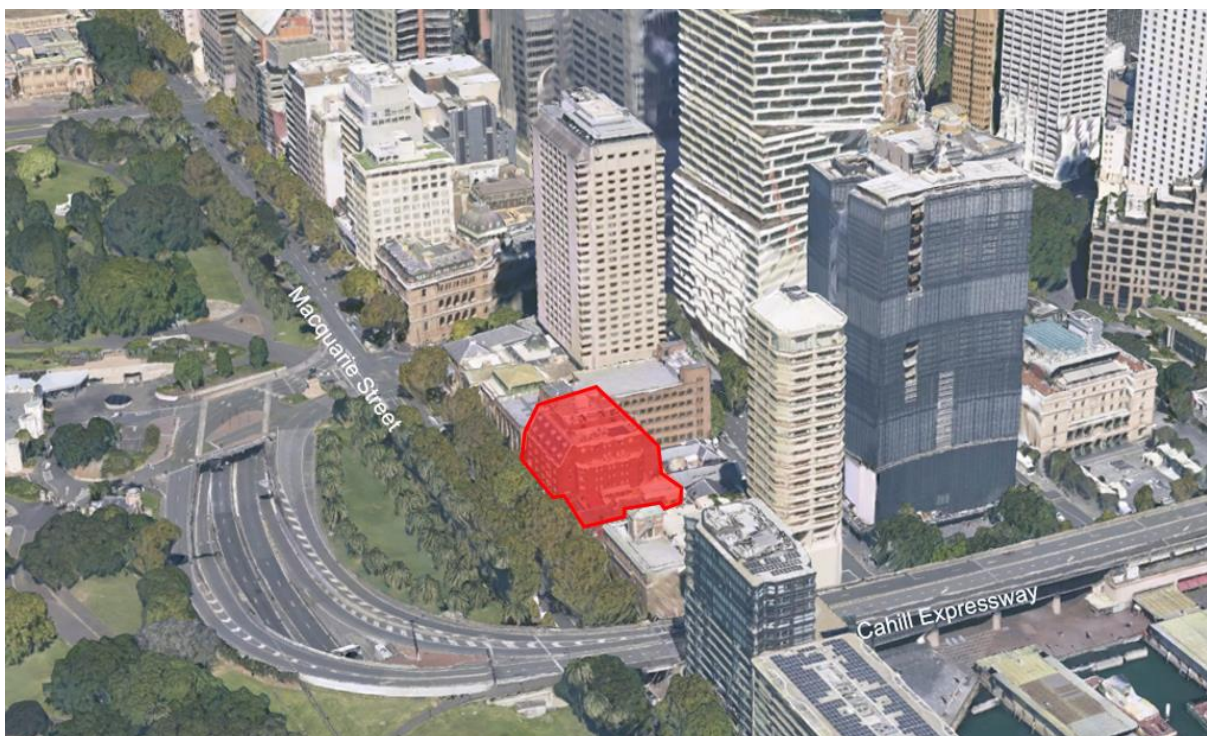


Figure 2: 3D digital model of site and surrounds



Figure 3: Site viewed from Macquarie Street



Figure 4: Site viewed from Albert Street

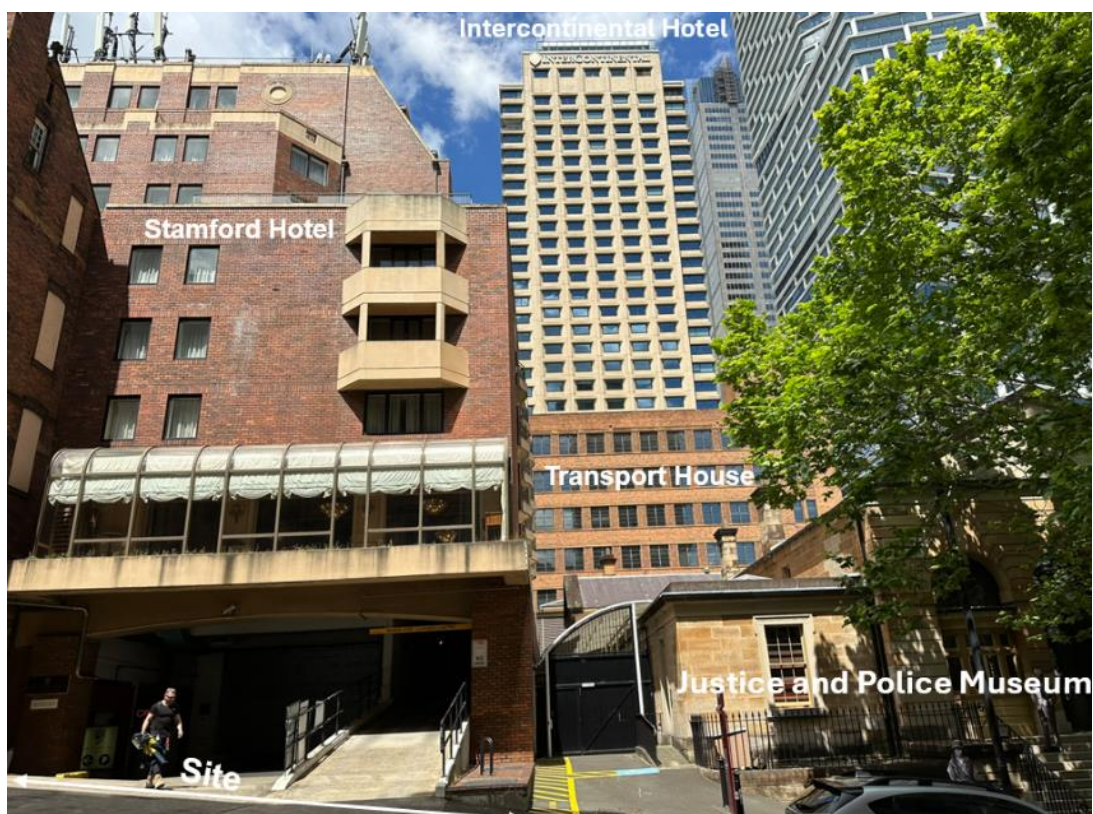


Figure 5: Site viewed from Albert Street showing neighbouring buildings



Figure 6: Site viewed from Phillip Street

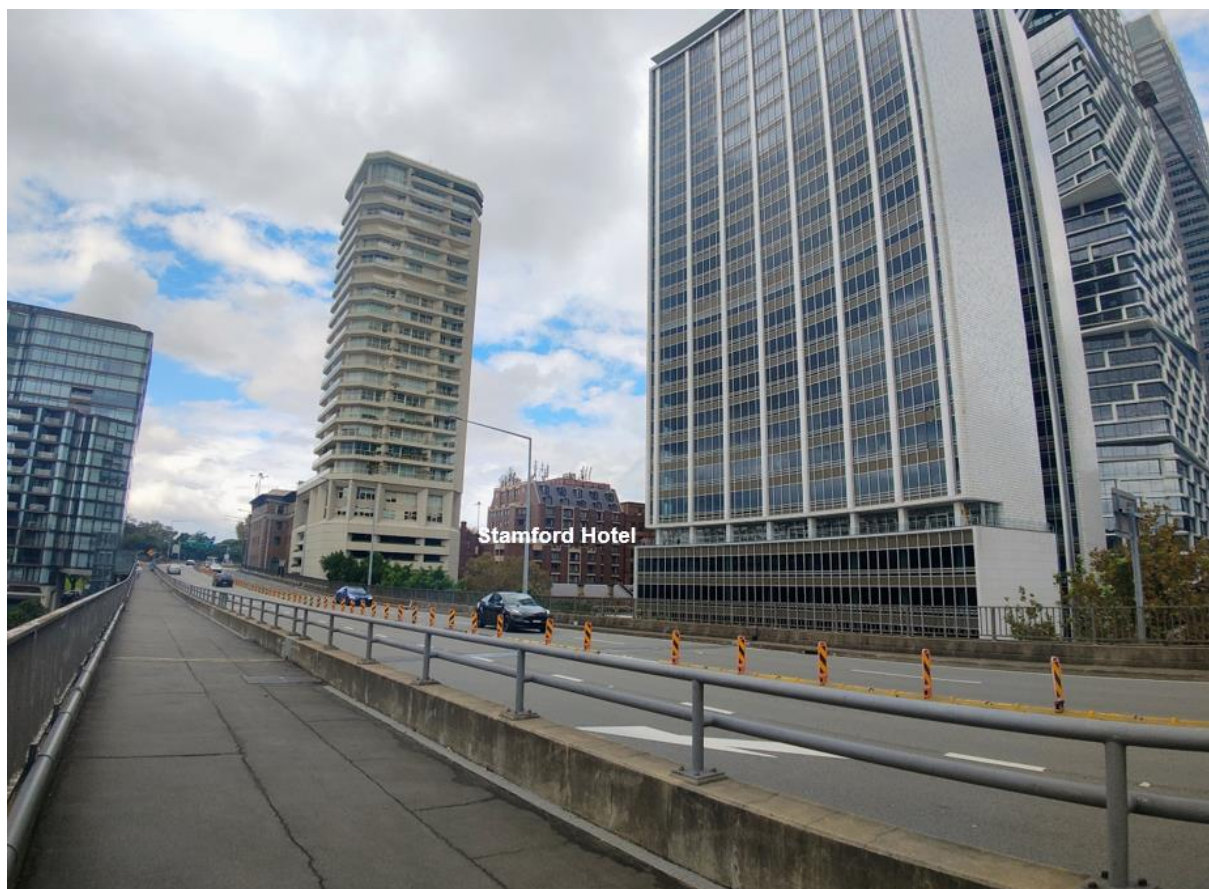


Figure 7: Site viewed from Cahill Expressway facing south east



Figure 8: Site viewed from Circular Quay facing towards the CBD

Locality

8. The site is identified within Section 2.1.6 of the Sydney DCP 2012 as being located within the Macquarie Street Special Character Area, which includes a collection of highly significant buildings that date from the early 19th century. In addition to the former Health Department Building, the site adjoins or is located within close proximity to a number of buildings and sites that are listed on the NSW State Heritage Register. These include:
- Justice and Police Museum (4-8 Phillip Street)
 - the Royal Automobile Club (89-91 Macquarie Street)
 - the former Treasury Building/InterContinental Hotel (117-119 Macquarie Street)
 - the Royal Botanic Gardens and The Domain.



Figure 9: Context of neighbouring heritage sites in comparison to the subject site in red

9. Development in the vicinity of the site is mixed-use in nature, being generally characterised by commercial, residential, tourist and Government land uses, as well as recreational areas.
10. To the east of the site, on the opposite side of Macquarie Street, is the Cahill Expressway and the Royal Botanic Gardens. The Sydney Conservatorium of Music and Government House are located within the Royal Botanic Gardens and are characterised as low-scale development being no more than 3 storeys in height. Other development on the eastern side of Macquarie Street further south of the Royal Botanic Gardens includes a number of public and Government uses including the State Library of NSW, NSW Parliament House, Sydney Hospital, The Mint and Hyde Park Barracks.
11. The built characteristics of the existing development fronting Macquarie Street to the west differs greatly to that of the development to the east. These include larger scale mixed-use developments containing mostly commercial offices with some residential, retail and food and drink uses occupying buildings. The existing built form along the western side of Macquarie Street ranges between low-scale commercial buildings of 3 storeys in height to towers over 20 storeys in height.

Easements

12. The site is also subject to a number of easements in which other sites benefit from, or the subject site benefits over other parcels of land. These easements include the following:
- (a) Easement for "Existing Elements with variable widths" which includes an encroachment of an existing hotel balcony over the western boundary of the subject site;
 - (b) Easement for "Use of Facilities (limited in Stratum)" which is shown on the submitted survey plan as relating to toilets, storage rooms, kitchen facilities and bin areas on the subject site;
 - (c) Easement for "Light and Air 3m wide and variable" which burdens part of the subject site directly adjoining the southern boundary;
 - (d) Easement for "Right of Carriageway" which relates to a portion of the side adjoining the southern boundary;
 - (e) Easement for "Light and Air" burdening the site directly adjoining the southern boundary;
 - (f) Easement for "Light and Air 6m wide and variable" which benefits the site over land directly adjoining the western site boundary (burdening the site of the Justice and Police Museum at 4 Phillip Street); and
 - (g) Easement for "Right of Carriageway with variable width" burdening the subject site over land that contains the existing driveway access to the InterContinental Hotel carpark to the south.

History Relevant to the Development Application**Former Health Department Building**

13. The former Health Department Building was constructed between 1896 and 1898 and was designed by Walter Liberty Vernon, the NSW Government Architect at the time. The use of the building for health treatments or administration purposes remained on site until the late 1980s, when all NSW Public Health services were relocated. Following the relocation of health services from the site, approximately 30% of the building was demolished and a 10 storey building was constructed as a new hotel wing. The 1990s addition to the hotel contains the majority of the guest rooms subject to demolition in this application.

Subject Site - Concept Approval - D/2017/1609

14. On 12 March 2020, concept consent (D/2017/1609) was granted by the Central Sydney Planning Committee (CSPC). It provides a concept envelope for a building with:
- (a) with a maximum height of RL 70.030 (AHD), approximately 53.23 metres from the ground level at Macquarie Street, with a separation distance from the perimeter of the former Health Department building of at least 3 metres.

- (b) a podium height of RL 36.00 along Macquarie Street and RL 36.00 along Albert Street with building massing set back 5 metres at the ground level of Albert Street.
 - (c) the retention of existing vehicular access from Albert Street for access to basement parking within the subject site and to the InterContinental Hotel.
15. The subject DA for the detailed design proposal requires concurrent modification to the concept building envelope. A Section 4.55 modification application (D/2017/1609/A) has been assessed concurrently with the subject DA. The key modification to the concept envelope are:
- (a) amend the overall building height to increase the envelope to a maximum height of RL70.05 (approximately 57.54 metres)
 - (b) amend the podium/street wall frontage height to Macquarie Street and Albert Street to a maximum height of RL38.35
 - (c) a reduction in the setbacks of the podium from the Albert Street frontage from 8 metres to 7 metres
 - (d) a reduction in the setback of tower to the northern (Albert Street frontage) from 13 metres to 12.2 metres, a reduction in the setback of the tower from the western boundary from 6 metres to a minimum of 4.3 metres, a reduction in the setback of residential tower to the Health Building from 6 metres to 3.3 metres
 - (e) an increase in setbacks on ground level and level 1 from 5.8m to 13m to provide a large publicly accessible courtyard space
 - (f) Increase basement excavation by a further depth of approximately 2m
 - (g) inclusion of articulation zones along the façades to respond to the design competition winning scheme which incorporates horizontal façade elements
 - (h) amend Condition (7) (Detailed Design of Buildings) to delete references to glazing treatment that is inconsistent with the supported competition scheme
 - (i) amend Condition (9) (Residential Land Use) to delete references on dwelling mix.
16. This modification application has been assessed and reported concurrently with the subject DA to the CSPC for determination. The modification application is recommended for approval.

Subject Site – Architectural Design Competition - CMP/2017/14

17. Following the issue of the concept consent, the applicant commissioned an Architectural Design Competition process for the site, which was held between 6 February 2023 and 20 April 2023.
18. Five architectural firms were invited to submit a design proposal. The five architectural firms were:
- (a) CHROFI
 - (b) WilkinsonEyre (international)

- (c) BVN
 - (d) Fjc Studio
 - (e) Bates Smart
19. The five design proposals were presented to the competition jury on 21-22 March 2023. The competition jury unanimously concluded that the proposal presented by BVN was the preferred scheme and was capable of achieving design excellence.
20. This Panel recommended a number of design refinements that are discussed later in this report. The Jury acknowledged that the BVN scheme did vary from the approved Concept DA Envelope in a number of areas; however, considered the variances to be more capable of achieving design excellence.
21. The BVN scheme forms the basis of the subject DA. Images of BVN's competition scheme, as presented to the competition jury, are provided below at Figure 10 to 13.



Figure 10: BVN competition scheme viewed from Macquarie Street and Albert Street



Figure 11: BVN competition scheme viewed from Macquarie Street



Figure 12: BVN competition scheme visual representation towards Sydney Harbour



Figure 13: BVN competition scheme

Adjoining Site – 99-119 Macquarie Street - Development Consent SSD-7693-Mod-2 & SSD-10454

22. Directly south of the subject property at 99-113 Macquarie Street is the building known as Transport House, a seven-storey locally heritage listed commercial building.
23. Further south again, the property known as 115-119 Macquarie Street contains the Intercontinental Hotel which incorporates the State Heritage listed former NSW Treasury Buildings.



Figure 14: Aerial image showing location of Transport House and other key areas in the vicinity of the subject site

24. The above properties contain a concept approval (SSD-7693) and a detailed design stage 2 Development Application (SSD-10454) for part of the concept approval.
25. SSD-7693 was granted development consent on 22 January 2020 by the Independent Planning Commission (IPC) for:
 - (a) building envelope and use of the roof and airspace above Transport House for tourist and visitor accommodation purposes, specifically a ballroom (an addition to the Intercontinental Hotel)
 - (b) building envelopes to facilitate external alterations and additions to the InterContinental Hotel on the north and eastern elevations to accommodate new plant room, connection to ball room, wellness centre and a club lounge on level 32
 - (c) Internal alterations and upgrades throughout the whole building
26. SSD-10454 for the stage two detailed design was approved on 18 December 2020 by the NSW Department of Planning and Environment and granted consent for:
 - (a) the rooftop expansion of the InterContinental Hotel consistent with the envelope
 - (b) internal refurbishment works in the InterContinental Hotel and Former Treasury Buildings
 - (c) this application did not include any development above Transport House for the ballroom.
27. The Concept application was then modified again (SSD-7693-Mod-2) and granted approval on 6 December 2022 for:
 - (a) an amended envelope and area to the existing ballroom envelope which included reduction in overall height, accommodate outdoor deck area and change of use to a function space

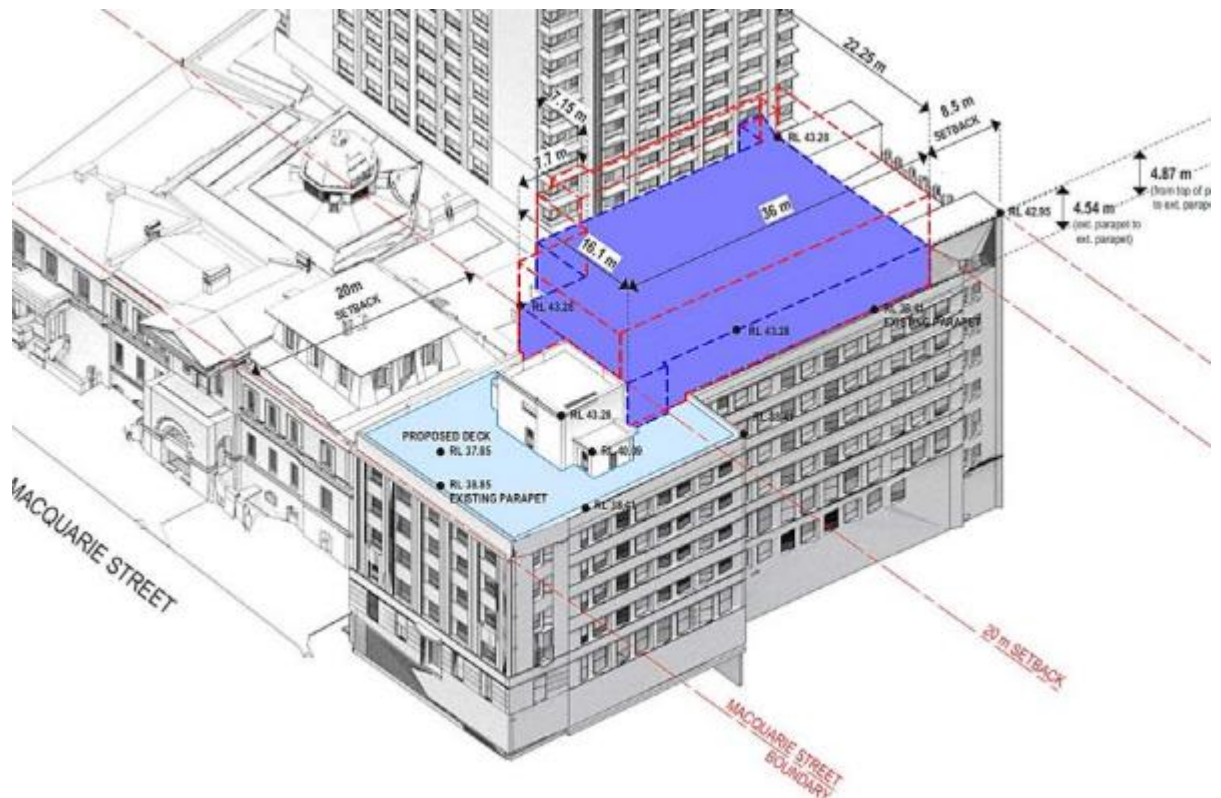


Figure 15: Extract of approved plans of SSD-7693-Mod-2

28. The modification included an acoustic assessment which assessed the potential acoustic impacts against the future residential land use at 93 - 97 Macquarie Street (the subject application site). Conditions were included to ensure any future Stage 2 detailed design Development Application shall comply with the recommendations of the acoustic report which requires sound level maximums and acoustic treatments.
29. At the time of writing this report, no Stage 2 detailed design DA has been lodged for the function centre.

Amendments

30. A request for additional information and amendments was sent to the applicant on 5 July 2024. The following information was requested:
 - (a) amended architectural plans and perspectives
 - (b) updates to the heritage reports to provide further detail and a detailed schedule of conservation works
 - (c) further contamination/remediation information from a NSW Accredited Site Auditor
 - (d) additional information, including an Acid Sulfate Soils Management Plan, additional clarifications on public domain plans, revised public art plan and an amended electronic model.

31. Information was received on 4 September 2024. A further request was sent to the applicant on 14 November 2024, requesting the following matters:
 - (a) design refinements to the communal open space area/s, further detail on wintergardens, consideration on the awning to Macquarie Street and basement design/layout to address waste and loading
 - (b) review architectural plans to ensure continuity with landscape plans
 - (c) clarification on remaining heritage matters
 - (d) refinements to Public Art Plan
 - (e) inclusion of a public Right-of-Way at ground level in Stratum to allow full public access from Macquarie Street to Albert Street.
32. A revised package of information was received on 18 December 2024 and included proposed staging for the issue of construction certificates.
33. On 31 January 2025, the City was notified that the site had changed owners from JDH Capital to Macquarie Street Development Pty Ltd.
34. On 19 February 2025, the city requested the following:
 - (a) conduct further sampling on site as recommended by the Site Auditor and then submit a report confirming that the site is suitable for the proposed use is required
 - (b) provide a revised Waste Management Plan that includes amendments to waste storage areas and revision to chute design system.
35. The applicant responded on 31 March 2025 and submitted the requested information.
36. Further information and clarification was requested in relation to the applicant's view impact assessment on 17 April 2025.
37. A revised Visual Impact Assessment was received on 2 May 2025. A further supplementary Visual Impact Assessment (dated June 2025) and amended Clause 4.6 Variation Request were provided on 2 June 2025.

Proposed Development

38. The application seeks consent for the following:
 - (a) demolition of existing hotel building
 - (b) partial demolition of later 1980's fabric and alterations to the State Heritage listed 'former Department of Health building'
 - (c) construction of a 15-storey mixed-use building that comprises:
 - (i) lower ground and ground floor retail uses facing Macquarie Street

- (ii) publicly accessible through-site link and outdoor courtyard connecting between Macquarie and Albert Street
 - (iii) 68 residential apartments on levels Ground to 15, with the following unit mix:
 - 5 x 1-bedroom (7.35%)
 - 30 x 2-bedroom (44.12%)
 - 32 x 3-bedroom (47.06%)
 - 1 x 4-bedroom (1.47%)
 - (iv) 5 levels of basement containing a total of 59 car parking spaces (56 residential spaces and 3 commercial/retail spaces), motorcycle and bicycle parking, residential storage, waste storage areas and substation and plant
- (d) alterations, additions and adaptive reuse of the heritage listed 'former Department of Health building' to include:
- (i) end-of-trip facilities in lower ground/basement
 - (ii) food and drink premises (restaurant) to lower ground floor accessed from Albert Street, with kitchen located in basement
 - (iii) food and drink premises (cafe) at ground floor accessed from Macquarie Street
 - (iv) commercial office use at levels 1 and 2
39. The subject application seeks consent for the uses of the lower ground and ground floor restaurant/café, however, the detailed fit-outs of these spaces will be subject to separate development applications.
40. The application also seeks approval for staged construction of the proposed development. The proposed construction staging is set out in the table below:

Stage/CC	Works
1	Shoring support, basement demolition and bulk excavation
2	In ground structure (including ground floor)
3	Tower - above ground structure
4	Tower - facade
5	Tower - fitout (excluding retail fitout)
6	Heritage Building - conservation, facade and base building works

Stage/CC	Works
7	Landscape / External works

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



Figure 16: Photomontage



Figure 17: Photomontage

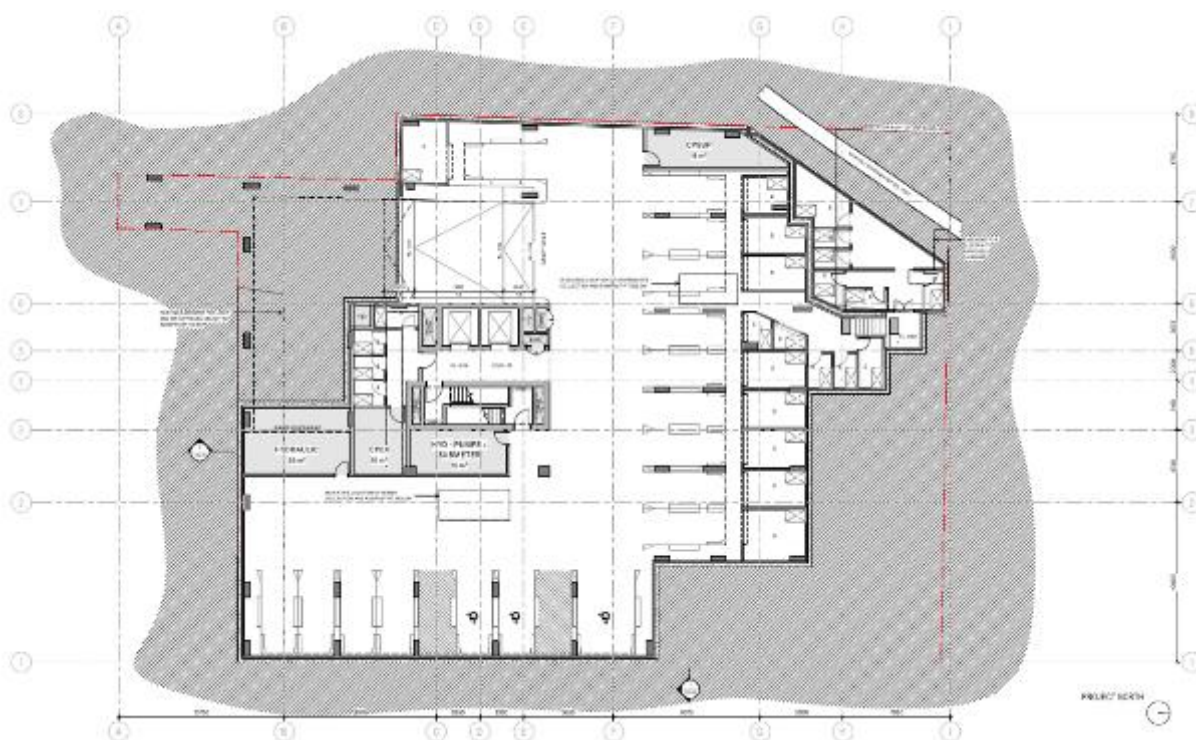


Figure 18: Proposed Level B5

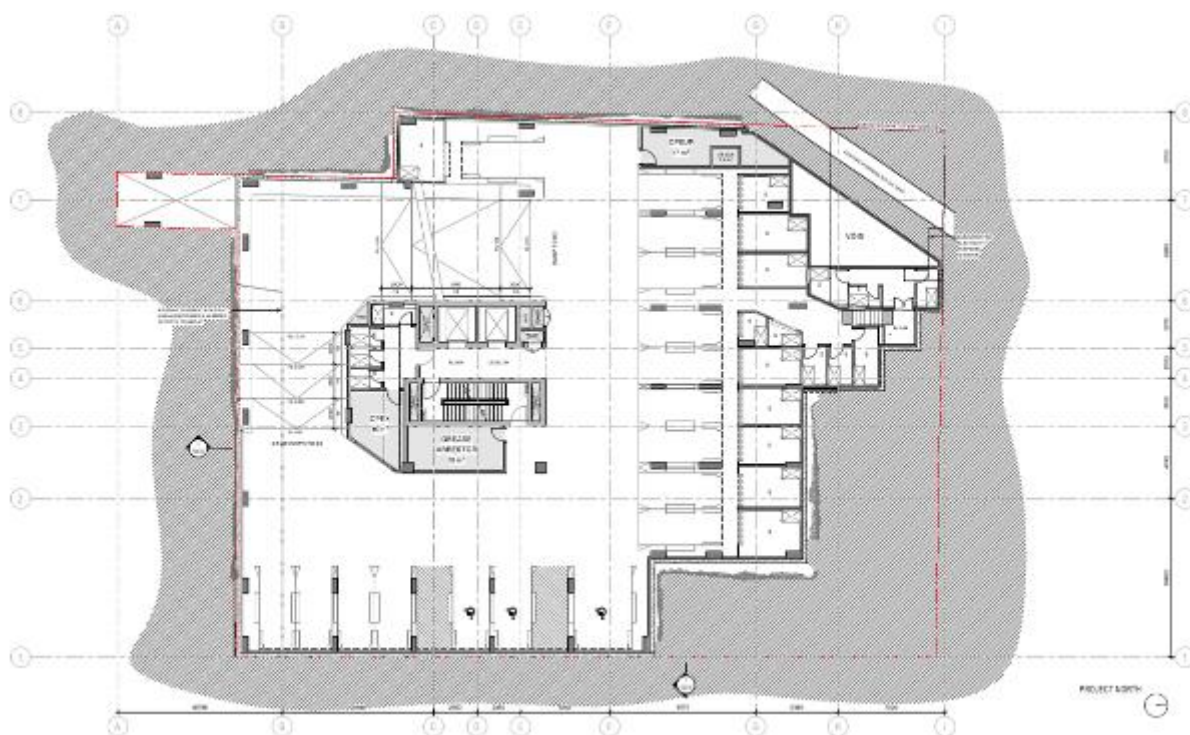


Figure 19: Proposed Level B4

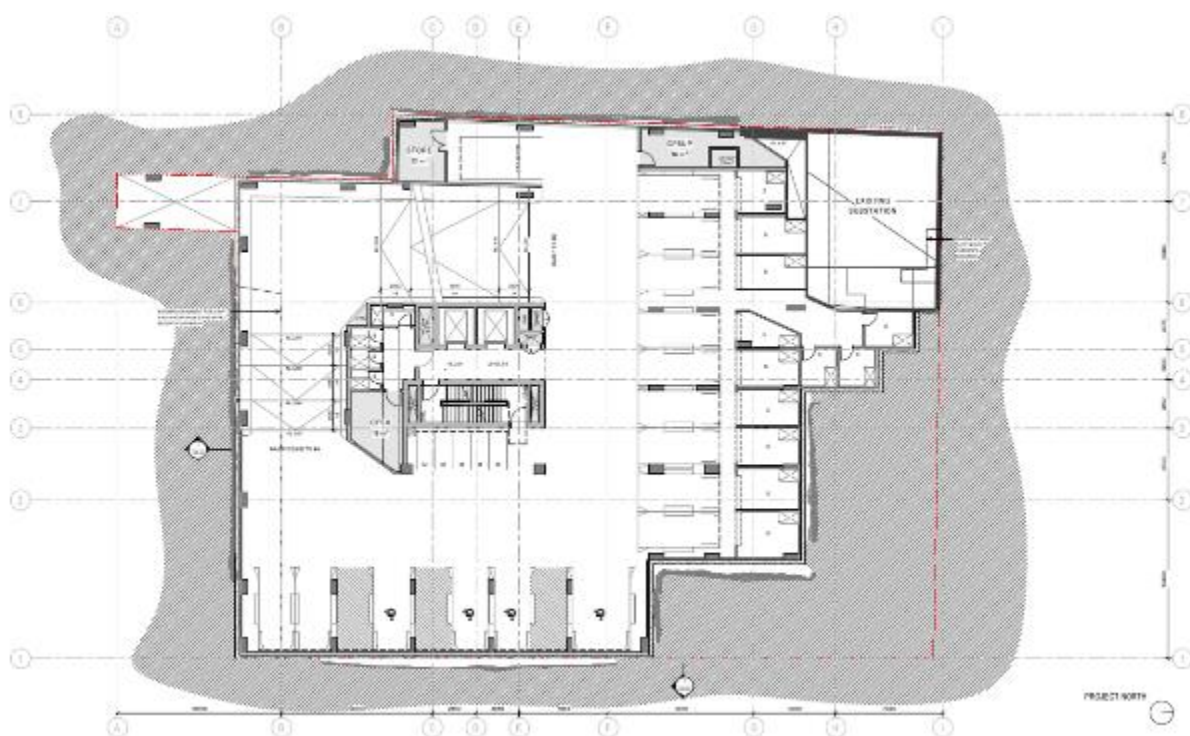


Figure 20: Proposed Level B3

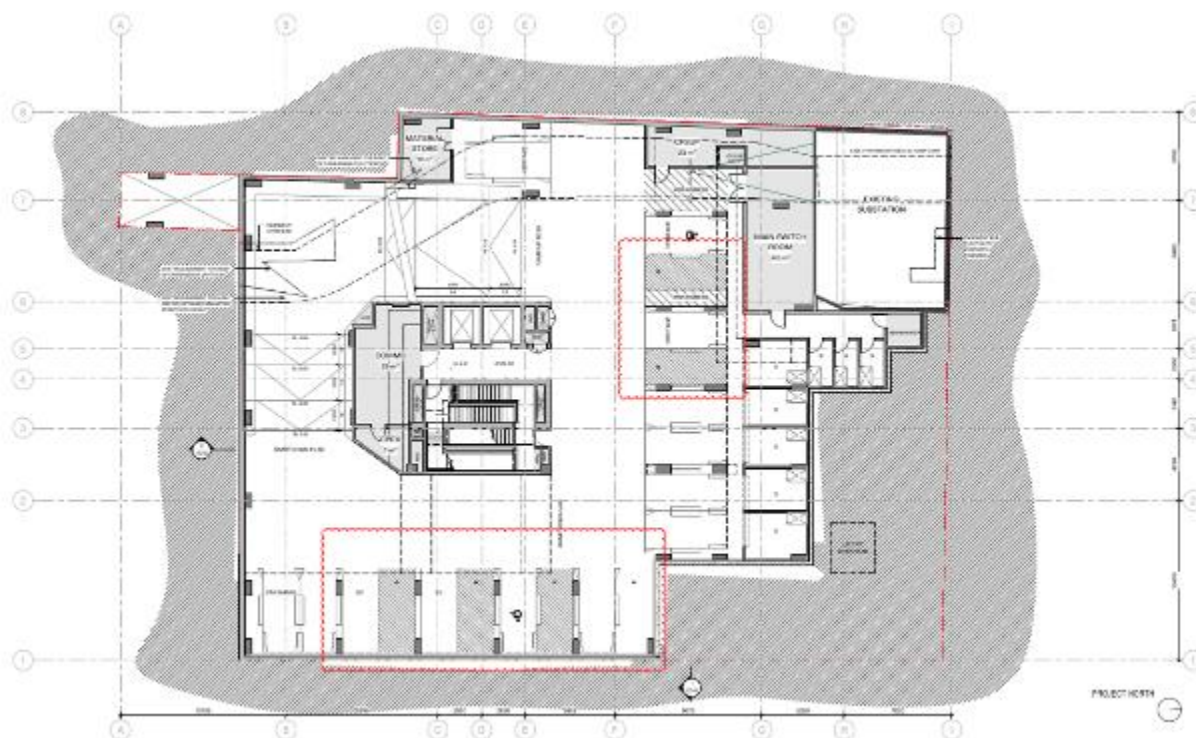


Figure 21: Proposed Level B2

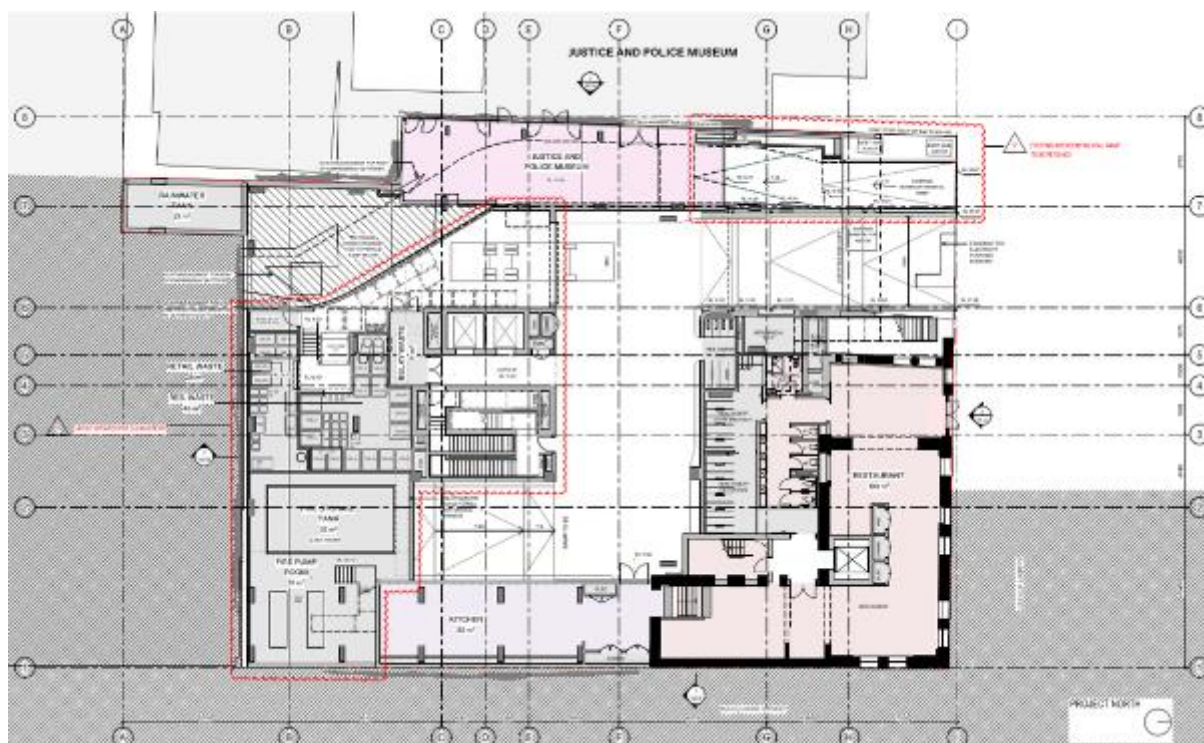


Figure 22: Proposed Level B1

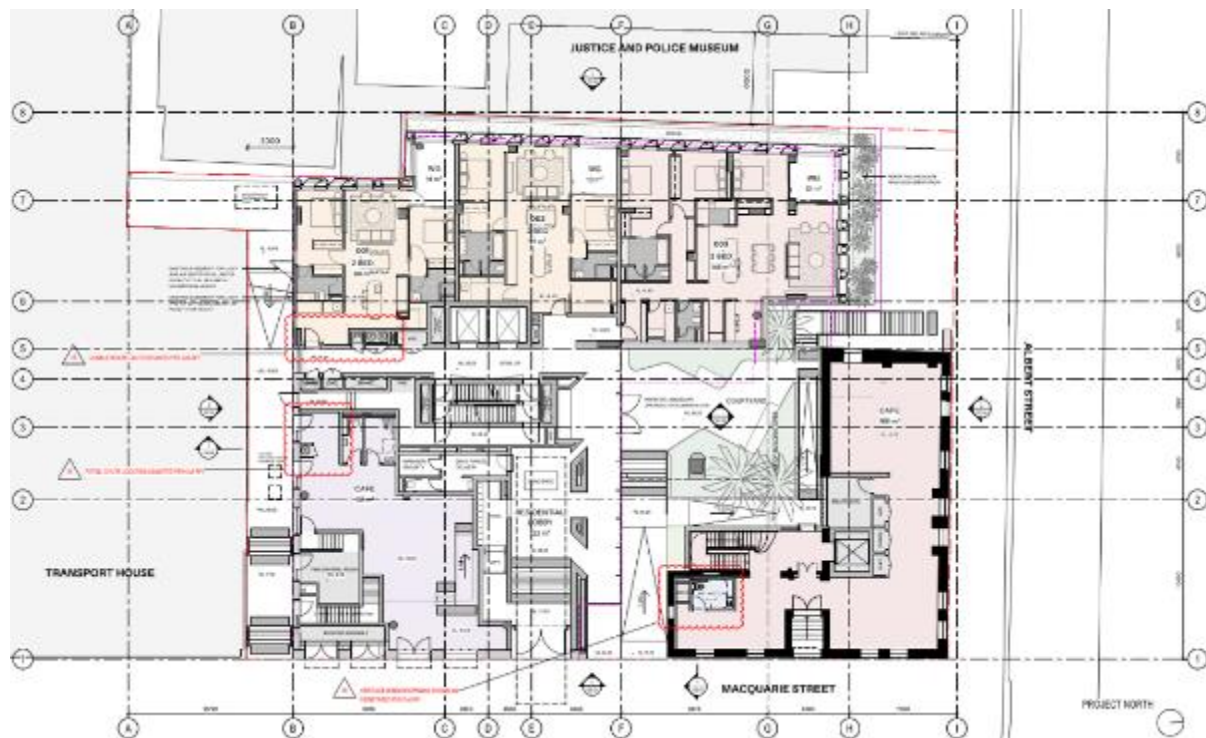


Figure 23: Proposed Level Ground 00/Ground

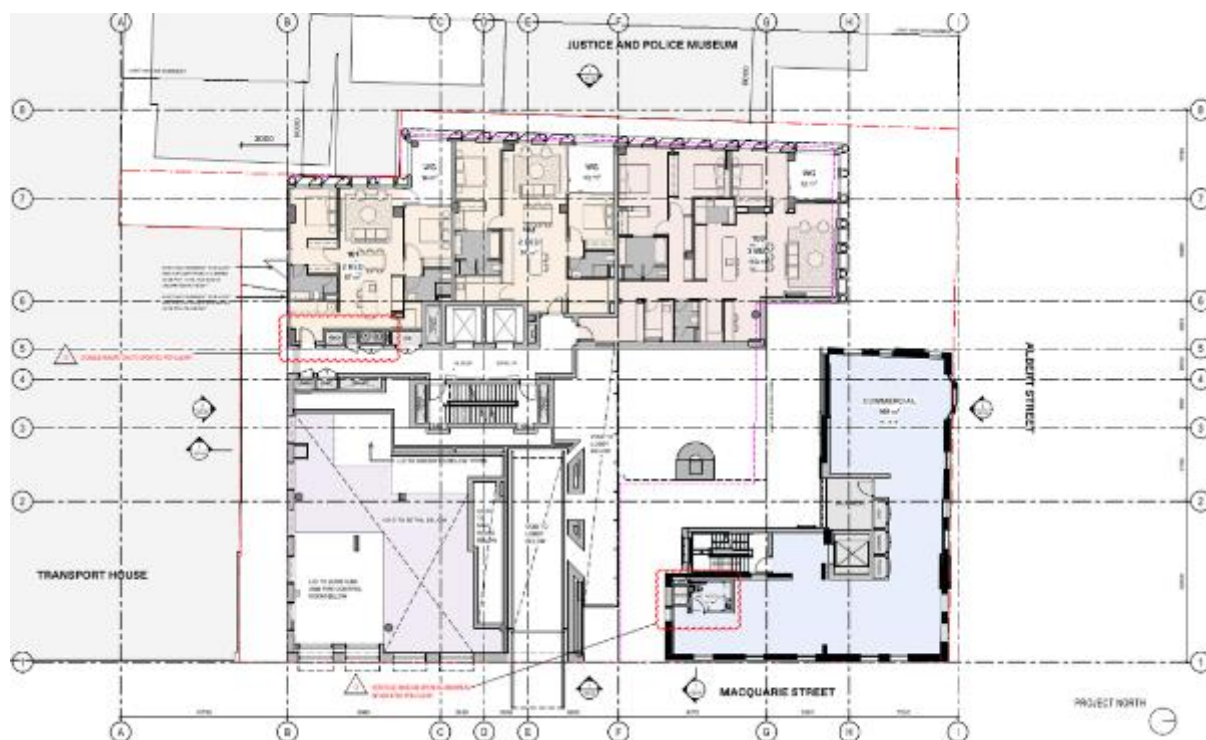


Figure 24: Proposed Level 1





Figure 27: Proposed Levels 4-6

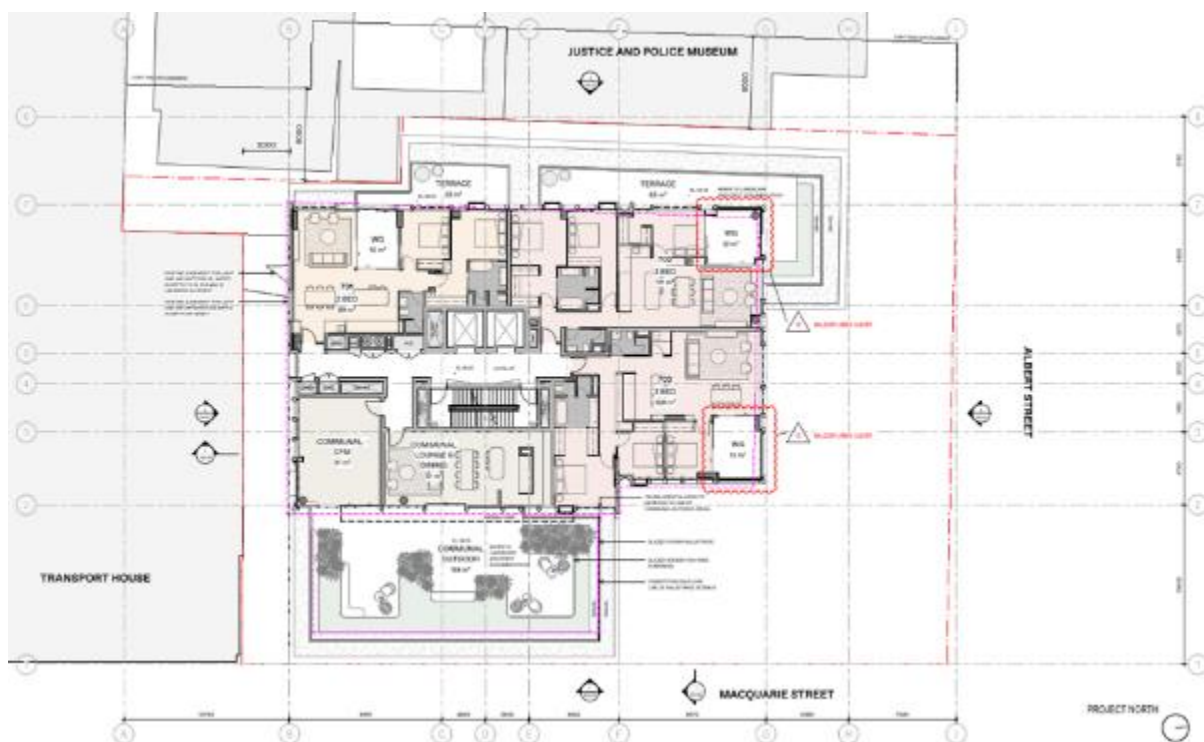


Figure 28: Proposed Level 7 (Top of Podium)





Figure 31: Proposed Levels 10-14

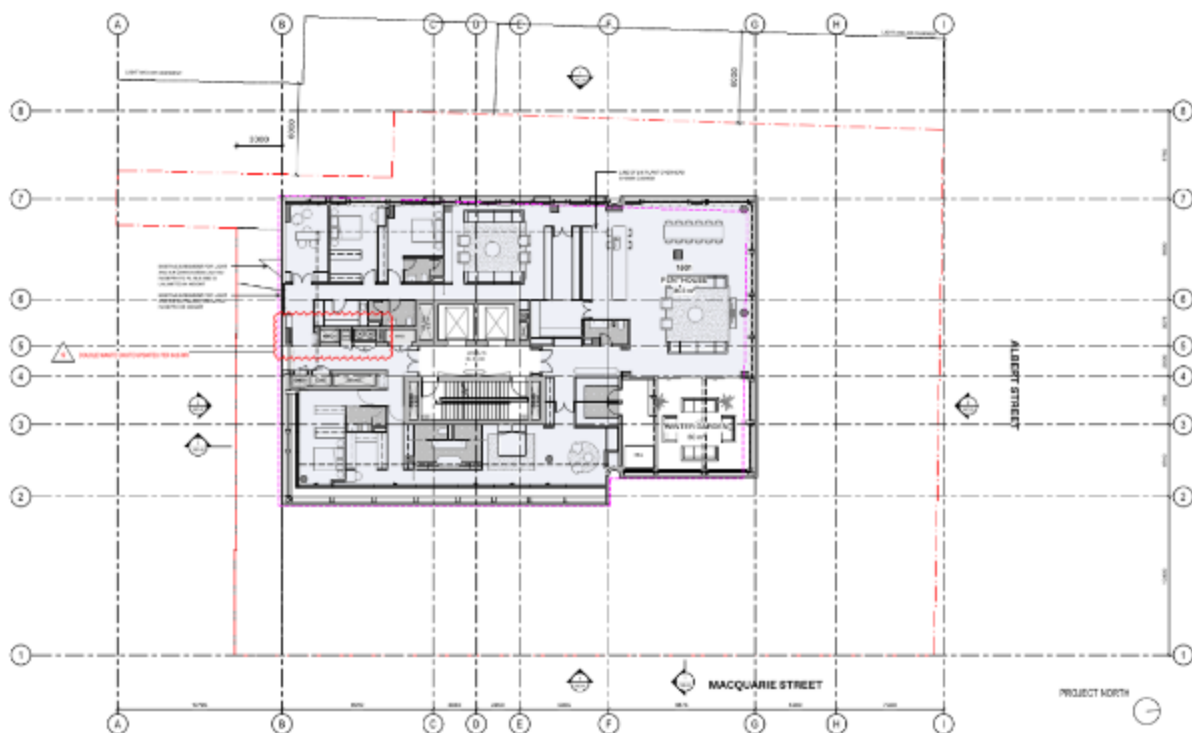


Figure 32: Proposed Level 15 Penthouse

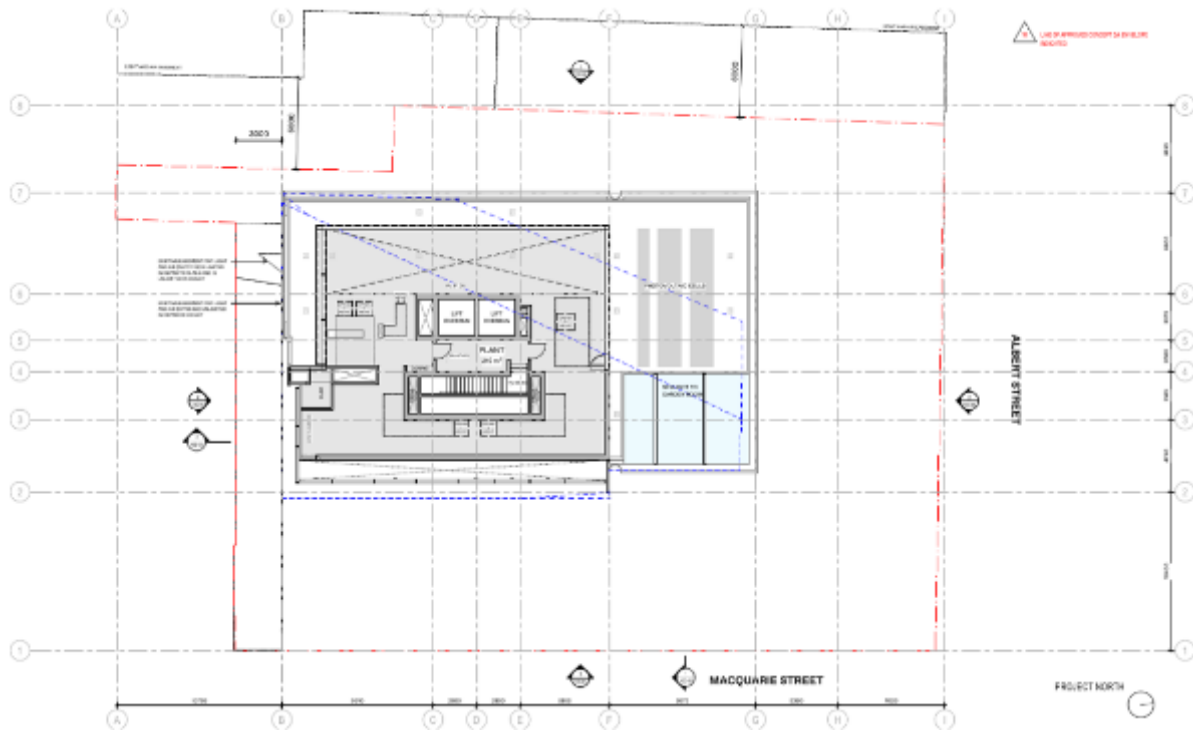


Figure 33: Proposed Level 16

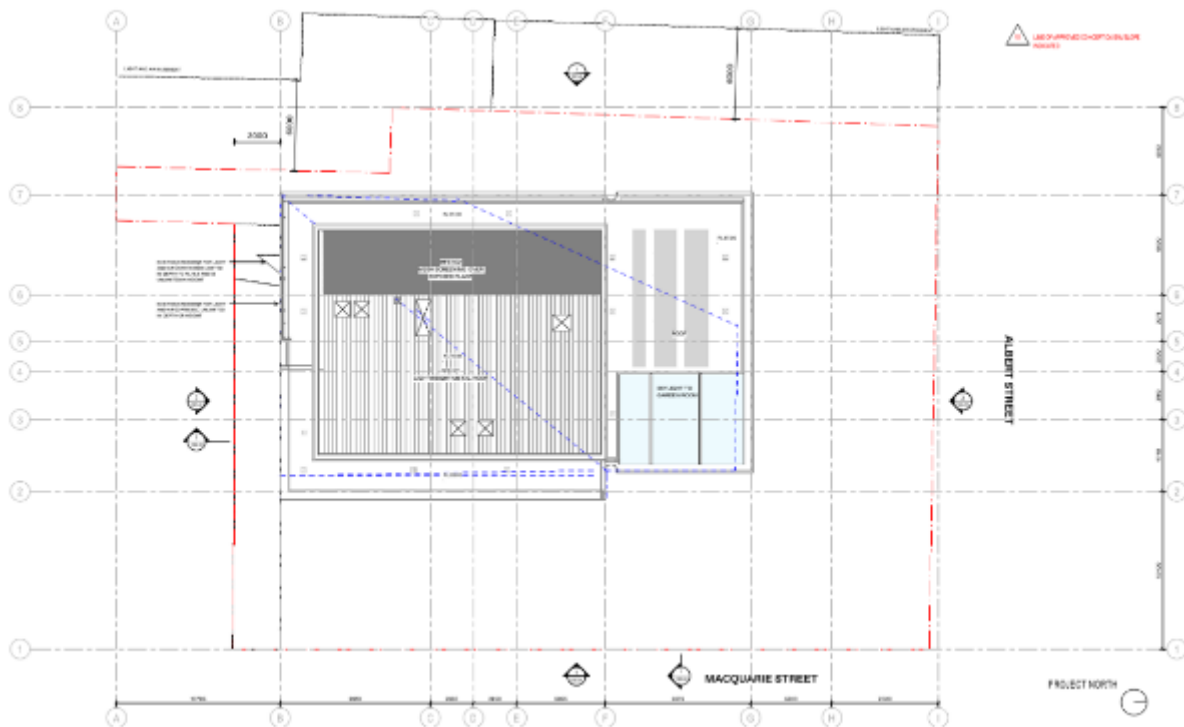


Figure 34: Proposed Level Roof

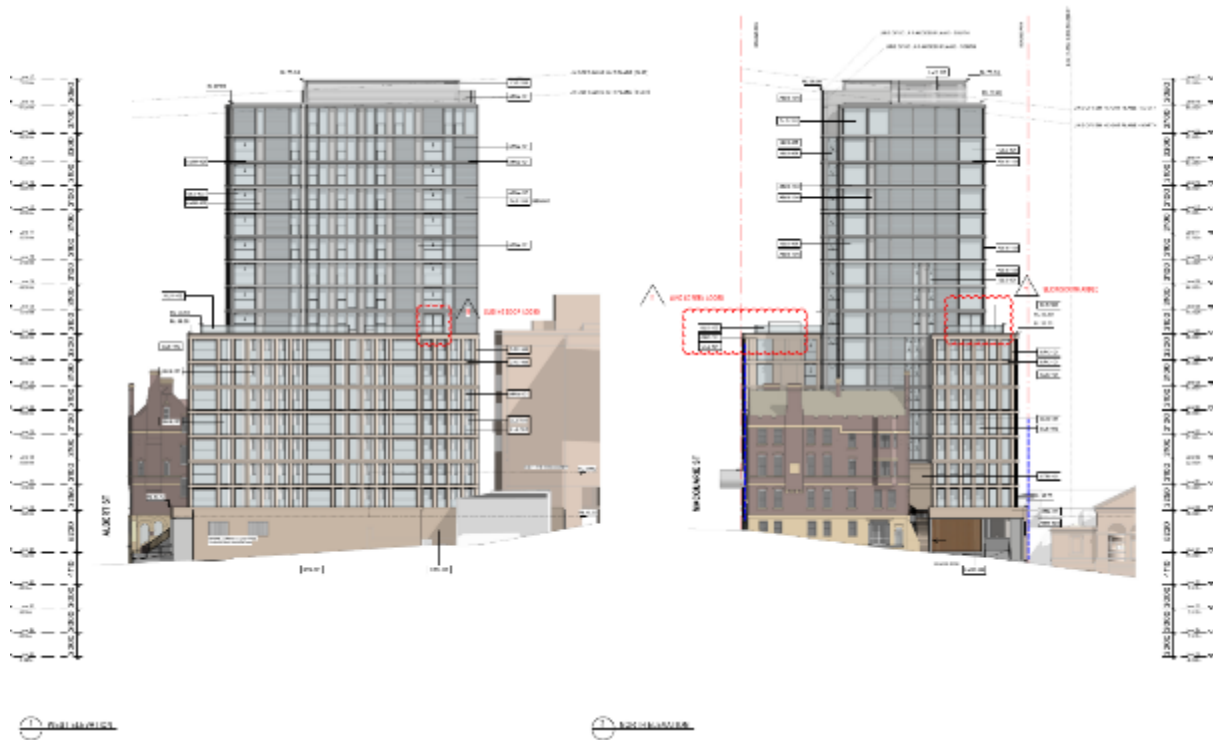


Figure 35: Proposed elevations north & west

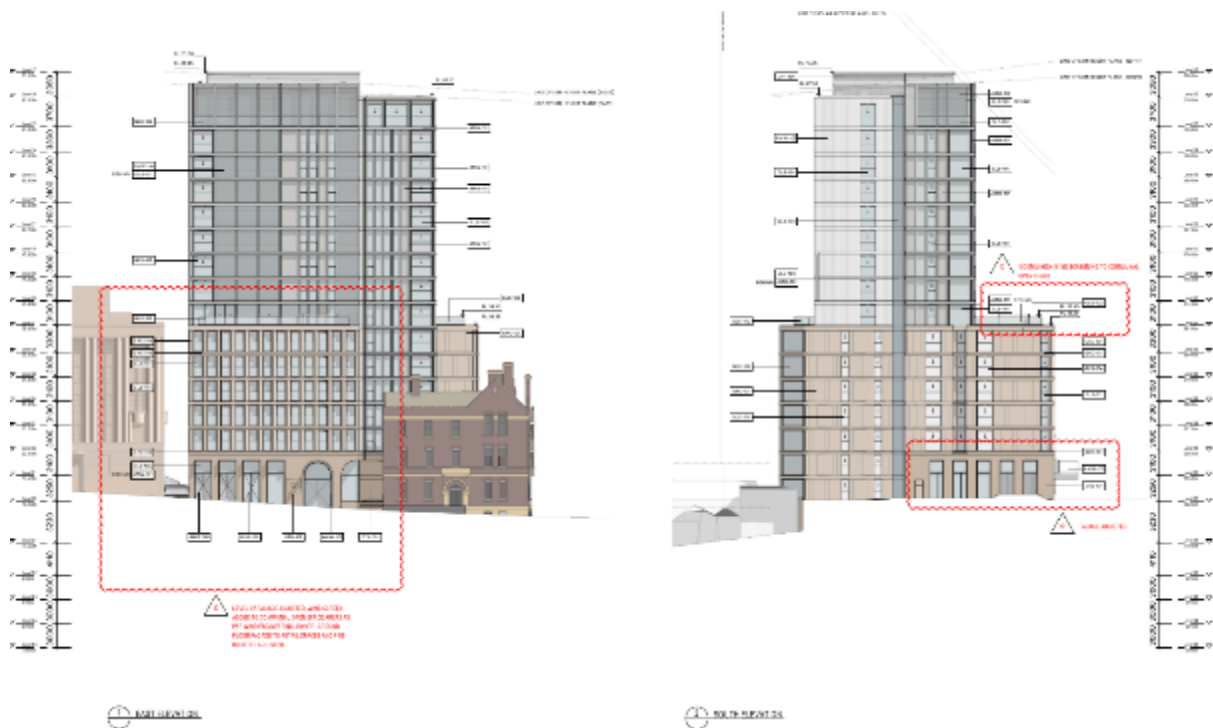


Figure 36: Proposed elevations east & south

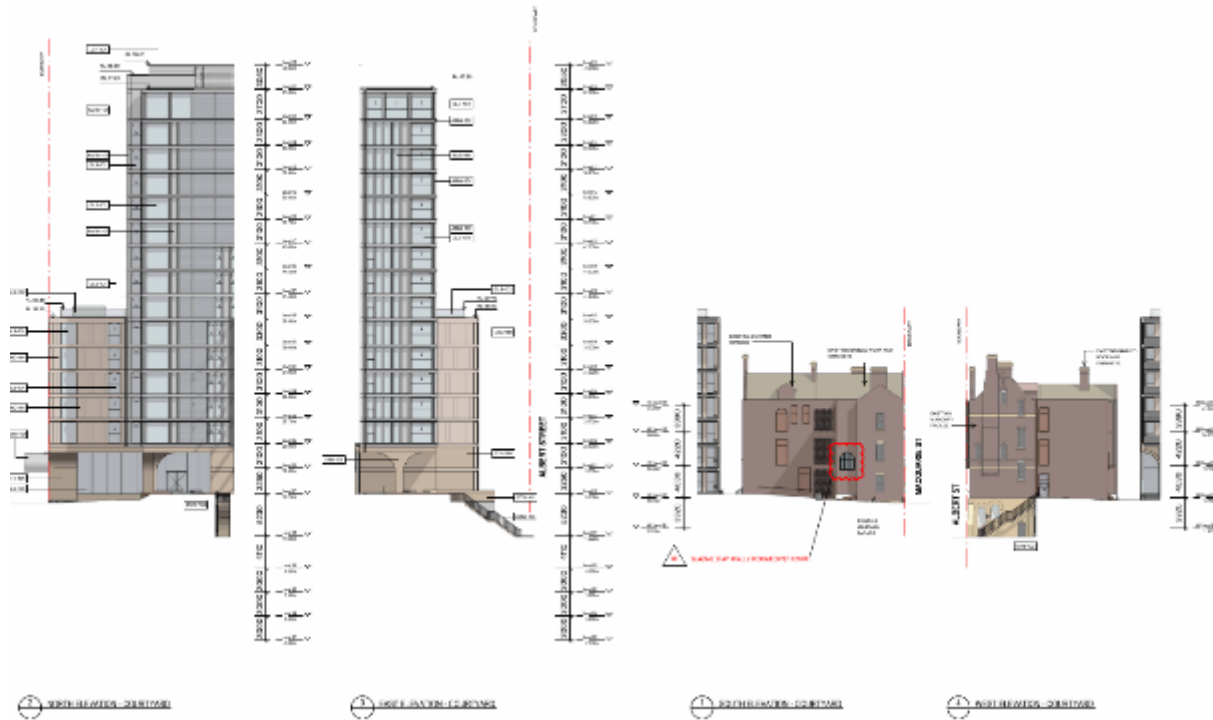


Figure 37: Proposed public courtyard elevations



Figure 38: Proposed sections

Assessment

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

Heritage Act 1977

43. The subject site contains the 'Health Department Building (former)', which is listed on the State Heritage Register as an item of State significance (SHR 01912). Accordingly, the application is for Integrated Development under the Heritage Act 1977.
44. The application was referred to Heritage NSW on 14 May 2024. Heritage NSW requested additional information on 16 July 2024.
45. This requested information and amendments were submitted on 4 September 2024.
46. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, NSW Heritage provided their General Terms of Approval (GTAs) to the development on 3 October 2024.
47. The application was later amended in response to numerous additional information requests and required amended General Terms of Approval. In accordance with Section 38 of the Environmental Planning and Assessment Regulation 2021, NSW Heritage provided amended General Terms of Approval to the development on 3 April 2025. These general terms of approval are included in Attachment A.

Governors' Domain and Civic Precinct NSW

48. The site falls within the 'Governors' Domain and Civic Precinct' National Heritage Listing.
49. The site and its heritage building are not specifically identified in this document. The proposal been assessed as not having an impact on the items individually listed, particularly the Royal Botanic Gardens.
50. Accordingly, referral to Department of Climate Change, Energy, the Environment and Water through Environmental Protection and Biodiversity Conservation Act (EPBC Act) is not required.

Water Management Act 2000

51. The proposed basement levels and minor excavation works are located at approx. RL-1.9m and will extend below the water table.
52. While the applicant has not nominated the application as an Integrated Development under Section 4.47 of the EP&A Act, the works will likely impact the water table. A referral was sent to Water NSW.
53. Water NSW raised no objection to the application not being nominated as an Integrated Development and has recommended conditions requiring a separate approval to be obtained under the Water Management Act 2000.
54. The recommended conditions are included in Attachment A.

Sydney Water Act 1994

55. The application was referred to Sydney Water for comment. Advice received on 4 June 2024 noted the proximity of Sydney Water stormwater assets in the north-west corner of the site. Sydney Water notes that existing substation on B2 and B3, which is over the stormwater channel, will be retained without demolition as part of this development proposal.
56. Given the substation was being retained, Sydney Water has no objection to the proposal subject to general conditions.

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

57. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Chapter 4 of the Resilience and Hazards SEPP aims 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.
58. Site investigations have identified potential contamination sources as imported fill material, leakage from vehicles, use of pesticides, and hazardous building materials in existing structures, with the following contaminants present on site (but not limited to):
 - (a) heavy metals and volatile organic compounds in soil vapour samples at concentrations that were considered unlikely to pose an unacceptable risk;
59. A Remediation Action Plan (RAP) accompanied by a letter of interim advice prepared by a NSW Accredited Site Auditor has been submitted with this application.
60. The City's Environmental Health Unit has reviewed the information provided, and acknowledges that the Site Auditor considers the RAP to be practical, technically feasible and appropriate for the contamination identified, and that the site can be made suitable for the proposed use.

Appropriate conditions of consent to ensure compliance with the remediation measures outlined, and for the City to be notified should there be any changes to the strategy for remediation, are included in Attachment A.

State Environmental Planning Policy (Housing) 2021**Chapter 2 - Affordable housing**

61. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.
62. Section 7.32 of the EP & A Act and states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.

63. This section applies to the development and a condition of consent requiring payment of a monetary contribution for affordable housing is recommended. This is discussed further under the 'Financial Contributions' heading below.

Chapter 4 - Design of Residential Apartment Development

64. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
65. When determining an application for a residential flat development of three or more floors and containing four or more apartments, the SEPP requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
66. The applicant has submitted a design verification statement and design report prepared by BVN's Lisa Fathalla NSWARB 11240 with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement satisfies Section 29 of the Environmental Planning and Assessment Regulation 2021.
67. An assessment of the proposal against the design quality is provided as follows:
- (a) Principle 1: Context and Neighbourhood Character
- The site is centrally located in the Sydney Central Business District, amongst buildings of similar height and scale. Adjoining the site within close proximity is a number of local and state heritage items. The site is also located within the Macquarie Street Special Character Area and within the curtilage of the Governor's Domain.
 - The proposal fits well within the context of the area, as the area transitions from the low scale development on the Harbour up to the higher-rise development to the south. The development will adaptively reuse the State listed former health department building and provides a sympathetic-scaled residential building to replace the existing Sir Stamford Hotel.
 - The proposal maintains an appropriate massing and ensures the character of character is consistent with the specific areas mentioned above.
- (b) Principle 2: Built Form and Scale
- The immediate locality along Macquarie Street and Albert Street has a diverse built form and scale, architectural building styles and land uses.
 - The proposed built form is consistent with the concept approval envelope, as modified under the concurrent modification application (D/2017/1609/A). The design of the new building has been further refined and articulated to respond more appropriately with the site and Heritage building. Specifically:
 - Macquarie Street podium mass directly references the setbacks and datums of the adjoining heritage listed Transport House building. The fenestration is proportioned to extend the rhythms of the civic Macquarie Street facades.

- To the west (towards Justice and Police Museum boundary), the original stepping Concept DA envelope has been modified to be a singular mass form to more appropriately respond to the massing of the heritage listed former Health department building and the Justice and Police Museum when viewed from Albert and Phillip Streets.
- The upper tower form is articulated as three vertical forms and has been refined in response to the detailed design and need to achieve ventilation, privacy, respect view planes and operable elements. This provides a high level of internal amenity for the occupants of the residential units and creates a softened and simplified facade which provides a positive backdrop for neighbouring sites.

(c) Principle 3: Density

- The proposed density of the development is generally consistent with the envisaged floor space and yield of the SLEP 2012 and the SDCP 2012 and is reflective of the desired future character for this area. The site is well serviced by local infrastructure, public transport, employment uses, community facilities and public open space.

(d) Principle 4: Sustainability

- The proposal delivers an environmentally sustainable design that responds to regulatory requirements and Sustainable Buildings SEPP 2022 targets. Furthermore, the development retains some parts of the basement and adaptively reuses the heritage building, reducing waste and promoting sustainable practices.

(e) Principle 5: Landscape

- The existing building footprint is constructed to the site boundaries and is retaining the existing basement across the site. This prevents the ability to provide deep soil or at grade landscape area. This is acceptable in the context and constraints of being a CBD site. The development does provide landscaping on slab in the communal areas of the development.

(f) Principle 6: Amenity

- The proposed development provides a satisfactory level of amenity for the future residents. The development achieves the relevant amenity objectives in part 4 of the ADG, in particular with respect to solar access, , apartment size and layout, storage, and private and communal open space.

(g) Principle 7: Safety

- The proposed development promotes safety and security for the residents. Clear distinction is provided between the public and private domain. The proposal incorporates a new publicly accessible through-site link. This link is located adjacent to the main building entry and concierge, and has good surveillance and lighting 24 hours. The through-site connection removes the potential for unsafe 'dead-ends' and ensures that areas with poor passive surveillance are minimised.

- (h) Internal lobbies and hallways are provided with natural light and are well proportioned. The number of dwellings accessed from a single corridor is limited promoting familiarity between residents. The three apartments located at ground level are located to the rear of the site (adjacent to the western boundary) and are set back and above the street level (of both Albert and Phillip Streets).
Principle 8: Housing Diversity and Social Interaction

- The proposed development provides a good dwelling mix and is consistent with the DCP provisions, supporting housing diversity and choice within CBD. The building provides indoor and outdoor communal areas on level 7 which have good amenity with a landscaped setting and facilities to support the use and enjoyment of the spaces by the residents and their visitors.

- (i) Principle 9: Aesthetics

The aesthetics for the new building contains a podium and tower typology, where the podium and tower are expressed with complementary facade expressions and materiality. This tower has been designed to be sympathetic to the retained heritage building by using appropriate setbacks and materials to compliment the former department of health building.

68. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	Acceptable	The proposal provides roughly 9.8% (158sqm) of communal open space on level 7. This outdoor area is supplemented by 88sqm of internal common areas on level 7 providing communal lounge and gym facilities for residents. Each unit is provided with a private wintergarden area. Based on the scale of the development, the provision of communal areas is considered to be adequate in this instance. It is noted that the application includes a ground floor courtyard that has been nominated as publicly accessible to create a through-site link, rather than providing a secondary communal open space area. This is considered a positive attribute of the scheme and a better allocation of an area of open space

3D Communal and Public Open Space	Consistency	Comment
		based on functionality and useability by future residents.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The level 7 communal open space achieves direct sunlight from 9am to 12:30pm during midwinter.

3E Deep Soil Zones	Consistency	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Acceptable	The site is located in Central Sydney, with the configuration of the existing development having 100% site coverage. The proposal retains the heritage listed Health Building and existing basement areas, and as such, does not allow the creation of deep soil zones. This is considered an appropriate response to the site context and acceptable in this instance.

3F Visual Privacy	Consistency	Comment
Up to four storeys (12 metres): 6m between habitable rooms / balconies 3m between non-habitable rooms	Consistent with Concept DA.	The proposal does not achieve the ADG the separation distances and setbacks from the western and southern boundaries. However, the proposed development is consistent with the modified concept building envelope, which has established the acceptability of setbacks from the boundaries and separation to adjoining development. Furthermore, the subject site contains air and light easements that benefit neighbouring sites which are not impacted and maintained as part of this development.
Five to eight storeys (25 metres): 9m between habitable rooms / balconies 4.5m between non-habitable rooms		

3F Visual Privacy	Consistency	Comment
Nine storeys and above (over 25m): 12m between habitable rooms / balconies 6m between non-habitable rooms		
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.		

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	A total of 48 of the 69 units or 70% of residential units receive a minimum of 12 hours of direct sunlight to their living rooms and private open space during midwinter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	2 apartments (G001 & 101) or 3% of total units receive no direct sunlight between 9am and 3pm during midwinter.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	Generally, all habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Acceptable	The development is located within a noisy environment in proximity to the Cahill Expressway and location to an approved function centre use. To comply with acoustic privacy and amenity, the development has adopted the use of Wintergardens. This design will not meet the cross ventilation as per this objective but still achieves natural ventilation and acoustic mitigation. The design is

4B Natural Ventilation	Consistency	Comment
		considered appropriate and consistent with 4J.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	Cross-over-depth no deeper than 18m.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	The proposed development achieves a minimum of 2.7m habitable room height for residential apartments. Apart from the adaptive reuse of the heritage building, the new mixed-use space at ground level of the new development contains floor to ceiling heights over 3.3m.
Non-habitable rooms: 2.4m		
If located in mixed-use areas – 3.3m for ground and first floor to promote future flexibility of use.		

4D Apartment Size and Layout	Consistency	Comment
Minimum unit sizes: • Studio: 35sqm • 1-bed: 50sqm • 2-bed: 70sqm • 3-bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.	Yes	All apartments are generous in size and exceed the minimum internal areas of the ADG. The proposal includes the following apartment areas: 5 x 1-bed – 83sqm 30 x 2-bed – 82sqm-112sqm 32 x 3-bed – 107sqm-169sqm 1 x 4-bed (penthouse) – 403sqm

4D Apartment Size and Layout	Consistency	Comment
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	The proposal is consistent.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The proposal is consistent.
8m maximum depth for open plan layouts.	Yes	The proposal is consistent.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10sqm • all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	The proposal is consistent.
Living and living/dining rooms minimum widths: • Studio and 1-bedroom: 3.6m • 2-bedroom or more: 4m	Yes	The proposal is consistent.
4m minimum width for cross over and cross through apartments.	Yes	The proposal is consistent.

4E Private Open Space and Balconies	Consistency	Comment
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m.	Acceptable.	All apartments are provided with a wintergarden accessed from their living room. There are several apartments that have a wintergarden marginally (1-2sqm) below the recommended areas of the ADG. In these instances these minor

4E Private Open Space and Balconies	Consistency	Comment
1-bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m. 2-bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m. 3-bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.		variations are supported noting these spaces are functionally designed and useable areas for the future residents, and contribute to the overall amenity of the unit.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.	Yes	The western oriented apartments on the podium (Level 7) area provided with terraces in excess of the 15sqm.

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	A maximum of 7 apartments are located off one core in the podium levels.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	A total of 68 units share two lifts.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The proposal complies.

4F Common Circulation and Spaces	Consistency	Comment
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	The proposal complies, and provides glazing on the southern elevation to the lift lobbies and common corridors. Level 16 to the penthouse does not have daylight or natural ventilation to the lift lobby, however, this is not a common shared area and services a single penthouse apartment.

4G Storage	Consistency	Comment
Minimum storage provision facilities: • Studio: 4m³ • 1-bed: 6m³ • 2-bed: 8m³ • 3-bed: 10m³ (Minimum 50% storage area located within the unit)	Yes	The proposed apartments accommodate the minimum 50% required storage within the apartment. Additional residential storage is provided in the basement and allocated to each unit.

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Acceptable	The submitted acoustic report identifies that the development is located within a noisy environment in close proximity to the Cahill Expressway and neighbouring hotel/future function centre land uses. The development has adopted the use of wintergardens and acoustic treatments that are capable of balancing natural ventilation and providing an acceptable acoustic amenity.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

69. A BASIX Certificate has been submitted with the development application, number 1744875M.

70. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Chapter 3 Standards for non-residential development

71. 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, or
 - (b) alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10million or more.

Section 3.2 Development Consent for non-residential development

72. The applicant has submitted a City of Sydney Design for Environmental Performance report template to address this provision. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development. To ensure compliance, conditions of consent are recommended to ensure that the development achieves the required energy and water use standards as required.

State Environmental Planning Policy (Transport and Infrastructure) 2021

73. 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

74. The proposed development will likely affect an electricity transmission or distribution network. In addition, the site contains an existing substation that is to be retained onsite. Therefore, the application was referred to Ausgrid for comments.
75. Ausgrid have recommended conditions, which are included in Attachment A.

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

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

76. The proposed development involves penetration into the ground to a depth of at least 2 metres and the site is located within 25 metres (measured horizontally) of the ground directly above an underground rail corridor. Therefore, the application was referred to TfNSW (Sydney Trains) for concurrence under this clause.
77. TfNSW (Sydney Trains) have granted their concurrence under this clause on 25 July 2024 and provided conditions which are included in Attachment A.

Clause 2.120 – Impact of road noise or vibration on non-road development

78. The application is subject to Clause 2.120 of the SEPP as the site is adjacent to Cahill Expressway which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.

79. The application satisfies Clause 2.120 subject to conditions of consent relating to acoustic performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by E-Lab Consulting. The recommendations include the use of acoustic glazing and wintergardens that have been modelled to provide both natural ventilation and be acoustically treated to ensure noise mitigation. Conditions have been included in the consent to confirm the details that satisfy the modelling provided as part of this assessment.

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

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

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 1 Preliminary

Provision	Compliance	Comment
1.8A Savings provisions relating to development applications	Yes	Amendments made by the Sydney Local Environmental Plan 2012 (Amendment No 64) do not apply to the subject DA as it benefits from the savings provisions under Clause 1.8A(5)(b)(ii). This is because the subject DA is subsequent to, and made in reliance on, a concept consent in relation to the same development that was granted before the commencement of the amendments on 26 November 2021.

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 a 'mixed-use development', comprising 'residential accommodation', 'commercial premises' and 'food and drink premises', which are all permissible with consent in the zone, and is generally consistent with the zone objectives.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No.	A maximum building height of 55m is permitted. The application proposes a maximum height of 57.54m, representing a variation of 4.6% to the height of building development standard.

Provision	Compliance	Comment
		A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.4 Floor space ratio (FSR) 4.5A Balconies on certain residential flat buildings 6.4 Accommodation floor space	Yes	A base FSR of 8:1 is permitted under Clause 4.4 of SLEP 2012. The site is located within Area 1 under the accommodation floor space provisions of Clause 6.4 of the SLEP 2012, which permits a further 4.5:1 for certain uses, however, these provisions are not relied upon for the subject application. The proposal includes wintergardens for all balconies. While usually considered GFA, Clause 4.5A excludes wind affected balconies in the part of a residential flat building that is over 30m, is located above the level of any podium. For this assessment, the area of the wintergardens located on level 8 and above are excluded from calculation of gross floor area. In accordance with this clause, the area of each of the wintergardens (on level 8 and above) does not exceed 15% of the respective unit's GFA. The development proposes a FSR of 6.68:1 (10,766.38m²), and complies with the FSR development standard.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the building height development standard prescribed under Clause 4.3. A Clause 4.6 variation request has been submitted with the application. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is a local heritage item listed as "Former Department of Health building including interiors" (1869).

Provision	Compliance	Comment
		While the proposed development will result in extensive works on site, the significant fabrics are either retained or altered in a supported way. The design of the new tower addition sympathetically responds to, and presents as a distinctive from, the heritage item. Overall, the proposed development will allow the original former health building to be retained and maintain its character on the street. The proposed development is supported by the City's Heritage team and through the General Terms of Approval from Heritage NSW. Appropriate conditions are recommended to preserve and enhance the significance of the heritage item, including the development and implementation of a detailed schedule of conservation works.
5.21 Flood planning	Yes	The subject site is located in the City Area catchment and is identified to be affected by the Probable Maximum Flood. A site-specific flood assessment report has been submitted and reviewed by the City's Water Asset Unit. The report is considered acceptable and demonstrates that the proposed development, as amended, can comply with the City's Interim Floodplain Management Policy. Conditions are recommended in Attachment A to ensure the implementation of that report.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	N/A	As the proposed development has a FSR less than the base 8:1 FSR, it does not seek to utilise any additional floor space provisions (such as accommodation or design excellence floor space) as outlined in clause

Provision	Compliance	Comment
		6.11(1)(a) to (e). As such, no allocation of heritage floor space is applicable to this development.
Division 3 Height of buildings and overshadowing		
6.16 Erection of tall buildings in Central Sydney	N/A	This clause does not apply, as whilst a height of greater than 55 metres is sought, the proposal does not seek a floor space greater than 8:1.
6.17 Sun access planes	Yes	The maximum building height of the site is also restricted by the Royal Botanic Gardens Sun Access Plan. The proposed building height has been reviewed by the City's modelling team who have confirmed the development is below the relevant sun access plane and complies.
Division 4 Design excellence		
6.21C Design excellence 6.21D Competitive Design Process	Yes	The proposed development exceeds 55 metres in height requiring a site specific DCP/Concept DA under Clause 7.20 of the SLEP 2012. A competitive design process was undertaken. The details of the architectural design competition are outlined in the 'Background' and 'Discussion' sections and details how BVN produced the preferred architectural scheme. Subject to conditions, the design is considered to exhibit design excellence as shown in the 'Discussion' below.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings 7.6 Office and business premises 7.7 Retail premises	Yes	A maximum of 59 car parking spaces are permitted. A total of 59 spaces are provided, with 56 parking spaces allocated to residential units and 3 allocated to the commercial/retail.
Division 3 Affordable housing		
7.13 Contribution of the purposes of affordable housing	Yes	The proposed development is subject to affordable housing contribution. See 'Financial contributions' section below.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 and class 2 Acid Sulfate Soils. An Acid Sulfate Soils Assessment has been completed to conclude that, based on hydrological and geological conditions, the proposed development has low potential to disturb Acid Sulfate Soils. Therefore, the preparation of a management plan is not necessary. A condition is included in Attachment A to ensure the applicant notifies the City of any unexpected finds.
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface of 156m AHD as shown on the Obstacle Limitation Surface Map for Sydney Airport.
7.19 Demolition must not result in long term adverse visual impact	Yes	Demolition is proposed as part of the subject application; however, the site is proposed to be comprehensively redevelopment under the same development consent.

Provision	Compliance	Comment
7.20 Development requiring or authorising preparation of a development control plan	Yes	The site is subject to a concept consent, which satisfies this requirement pursuant to Section 4.23 of the EP&A Act.

Development Control Plans

Sydney Development Control Plan 2012

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

Section 2 – Locality Statements

84. The site is located within the Macquarie Street Special Character Area. The proposed development is in keeping with the unique character and the design principles of the special character area in that:
- (a) the proposals fits into the area transitioning from the low scale development on the Harbour up to the taller tower development to the south; and
 - (b) it maintains the existing street frontage height established by adjacent heritage items and provides an upper-level setback that responds to the form of other existing taller buildings;
 - (c) Protects solar access to the Royal Botanic Gardens;

Section 3 – General Provisions

Provision	Compliance	Comment
3.1.5 Public Art	Yes	A preliminary public art plan has been reviewed by the City's Public Art Unit and is supported. A condition is recommended requiring a detailed public art plan to be submitted prior to Stage 3 Construction Certificate for approval, and the installation of public art to the City's satisfaction.
3.2.2 Improving the Public Domain	Yes	The proposed development will not result in additional overshadowing to the Royal Botanic Gardens or impede any significant views from the public domain to any public places, parks, heritage buildings or monuments.
3.2.2 Addressing the street and public domain	Yes	The proposed development will provide legible and accessible entries from both

Provision	Compliance	Comment
		Macquarie Street and Albert Street while managing the flood risks of the site. The residential component has a clear street address and has clear lines of site from the street to the common building area.
3.2.4 Footpath Awnings	Yes	The site is not identified within the DCP as requiring an awning along either of its street frontages. The development proposes a steel barrel-vaulted awning above the main pedestrian entrance to the residential lobby on Macquarie Street. This awning typology is considered a design element used to interpret the current red Stamford awning currently on Macquarie Street referencing the history of the site. The location of the awning clearly identifies the entry to the site.
3.2.6 Wind Effects	Yes	A Wind Assessment was submitted with the application. Conditions of consent are recommended to ensure the plans adequately capture the wind mitigation measures, including a 1.25 high glass wind screen around the level 7 communal open space and a narrow awning over openings on level 7 terrace.
3.2.7 Reflectivity	Yes, subject to condition	A condition is recommended in Attachment A to ensure that light reflectivity from the building facades will not exceed 20%.
3.2.8 External Lighting	Yes, subject to condition	While a lighting illumination report is submitted with the application, no external lighting is detailed as part of the proposed development beyond generalised references in the application documentation. A condition is recommended in Attachment A to require the lodgement of a separate application for any external

Provision	Compliance	Comment
		floodlighting or illumination of the building or site landscaping.
3.3 Design Excellence and Competitive Design Processes	Yes	The proposed development has been the subject of a competitive design process. The proposal has satisfactorily addressed the recommendations made by the Competition Jury. Refer to the concurrent Concept envelope modification and 'Discussion' section for details.
3.5 Urban Ecology	Yes	The proposed development maintains the existing street trees and introduces landscaping throughout the development. Standard conditions to protect the trees during construction have been included. The development is considered consistent with the objectives of this control.
3.6 Ecologically Sustainable Development	Yes	An ESD report has been submitted to demonstrate that the proposed development can achieve the required sustainability measures for the mixed-use development. Appropriate conditions are recommended in Attachment A to ensure the ESD requirements are carried through the certification, construction and operational phases of the development.
3.7 Water and Flood Management	Yes	As discussed against Section 5.21 of the LEP above, appropriate conditions are recommended to manage flood risks of the site.
3.9 Heritage	Yes	As discussed against Section 5.10 of the LEP above, the proposed development will preserve the heritage significance of the heritage item. A detailed conservation management plan has been prepared to ensure

Provision	Compliance	Comment
		significant fabric is protected and the heritage building conserved. General Terms of Approval have been issued by Heritage NSW and these are included in Attachment A.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles. The site will also contain a public right of way (called a through-site link), that will allow full public access from Macquarie Street through to Albert Street through the courtyard area. This add additional passive surveillance to the development.
3.14 Waste	Yes	The residential tower has been included with dual chute system on each floor that collects in the B1 basement. The residential and commercial waste areas are in B1 basement and have been designed with suitable area to accommodate the required volume and types of bins. The commercial and residential waste areas are separate and can be adequately serviced by a waste vehicle either by Council (residential) or private (commercial). A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signage and Advertising	Acceptable, subject to condition.	No signage or signage strategy is proposed with this application. As the application proposes multiple tenancies, it is recommended that a signage strategy be prepared to guide future tenant and building identification signage for the site. A condition has been recommended for imposition.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed-Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The new building complies with the approved concept envelope as amended under D/2017/1609/A. Appropriate floor to ceiling heights have been provided at ground level to ensure flexible use of the café space as well as providing the minimum 2.7m required for the residential component.
4.2.2 Building setbacks	Yes	The proposal complies with the approved concept envelope as amended under D/2017/1609/A.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	Refer to ADG assessment above. Furthermore, the development does not adversely impact solar access to neighbouring properties.
4.2.3.2 Lightwells 4.2.3.3 Internal common areas	Yes	The internal corridors within the new tower are provided with windows allowing access to natural light and ventilation. The external ground floor courtyard will have limited direct sunlight but is considered appropriately designed given the site constraints and consistency with the design competition.
4.2.3.4 Design features to manage solar access	Yes	The elevations of the tower addition have been designed to achieve passive shading by use of external venetians.
4.2.3.5 Landscaping	Yes	The existing street trees will be maintained and protected during construction. Additionally, given the site context, landscaping has been introduced where possible across the site.

Provision	Compliance	Comment
		The landscape design has been reviewed by the City's Landscape Specialist, and is considered acceptable subject to conditions recommended in Attachment A.
4.2.3.6 Deep Soil	No, but considered acceptable.	Refer to ADG assessment.
4.2.3.7 Private open space and balconies	Yes	Private open space in the form of winter gardens and terraces are provided to all apartments.
4.2.3.8 Common open space	No, but considered acceptable.	Refer to ADG discussion.
4.2.3.9 Ventilation	Yes	Refer to ADG assessment.
4.2.3.10 Outlook	Yes	The development provides an acceptable outlook from all apartments.
4.2.3.11 Acoustic privacy	Yes	An acoustic report has been provided to establish the parameters for the proposed development. The proposed development can comply with the relevant acoustic criteria to protect the amenity of the occupants from the traffic noise of the Cahill Expressway and potential future use of the function centre to the south. The acoustic report has been reviewed, and is considered acceptable, by the City's Environmental Health Unit. Conditions are recommended in Attachment A to ensure the recommendations of the acoustic report are implemented, and to require an acoustic verification report to confirm compliance with the relevant acoustic criteria prior to the commencement of use.

Provision	Compliance	Comment
4.2.3.12 Flexible housing and dwelling mix	Yes	The DCP specifies the following dwelling mix: 1 bed: 10-30% 2 bed: 40-75% 3+ bed: 10-100% The following dwelling mix is proposed: 1 bed: 7% 2 bed: 44% 3 bed: 48% The dwelling mix is considered appropriate in this context.
4.2.3.13 Wind affected balconies	Yes	Wintergardens have been proposed on all balconies including the defined wind affected areas. A condition of consent is recommended that requires the design of these wintergardens to an acceptable standard as modelled.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The development provides an appropriate scale, modulation and facade articulation to ensure the buildings respond to their context.
4.2.8 Letterboxes	Yes	Acceptable, subject to condition.

Section 5 – Specific Areas

Section 5.1 Central Sydney

85. The concept consent (D/2017/1609) was granted prior to the adoption of the current objectives and provisions in Section 5.1 of the DCP.
86. Unlike the savings provisions set out in Clause 1.8A of the LEP, no such savings or transitional provisions have been provided within the DCP for DAs relying on a concept approval granted before the commencement of the amendments to Section 5.1.

87. In accordance with Section 4.24 of the EP&A Act, the subject DA cannot be inconsistent with the concept consent. Therefore, the proposed development has been assessed on the basis of the current controls but with a degree of flexibility considering the specific and individual circumstances of the site and the interaction between the proposed development and the concept consent.
88. The flexibility has been applied because the proposal has been assessed as generally consistent with the objectives of the relevant provisions of Section 5.1 of the DCP, which governs development proposals within Central Sydney.

Provision	Compliance	Comment
5.1.1.2 Street frontage height and street setbacks in Special Character Areas	Consistent with Concept Envelope	The site is within the Macquarie Street Special Character Area. The proposed development will retain the existing heritage item on site on the corner of Albert and Macquarie Streets, and construct a new building on the remainder of the site. As discussed in the separate report for the concurrent modification application, minor variations to the street frontage height and above podium setbacks are proposed as a result of the winning scheme of the competitive design process. The modified envelope has been assessed as acceptable, and the podium and tower setbacks are contextually appropriate for this site.
5.1.1.3 Side and rear setbacks and building form separations	Consistent with Concept Envelope	As discussed in the separate report for the concurrent modification application, that setbacks are considered acceptable in the context of the site and maintain an acceptable relationship with the existing heritage building and the neighbouring context. The development is consistent with the objectives of this section of the DCP.
5.1.1.4 Built form massing, tapering and maximum dimensions	Yes	The development maintains a floor plate size of 440sqm above the street frontage height, under the 1000sqm DCP maximum. The design complies with this control.
5.1.2 development outlook and demonstrating amenity compliance	Yes	The development is designed to provide an adequate outlook from all apartments in the development.

Provision	Compliance	Comment
		As shown within this report and the concurrent modification report, this development is designed to have acceptable impacts to surrounding properties and has had regard to the approved additions on top of Transport House. Furthermore, the development has accommodated the air, light and access easements on the site that benefit neighbouring properties to ensure operation and future redevelopment are not impacted. The development complies with this control.
5.1.3 Heritage items, warehouses and special character areas	Yes	As discussed against Section 5.10 of the LEP above, the proposed development is considered acceptable.
5.1.4 Building exteriors	Yes	The existing heritage building will maintain its presentation to the street; while the new tower addition will use predominantly sandstone and lighter colour palette materials to maintain the street character of the area.
5.1.6 Heritage floor space	N/A	The proposed development does not rely on the allocation of any Heritage Floor Space. The application is not seeking the award of any Heritage Floor Space.
5.1.7 Sun protection of public parks and places	Yes	The proposed development will comply with the sun access plane to the Royal Botanic Gardens. The City's Model Unit have confirmed that the electronic model sits wholly below the plane.
5.1.8 Views from public places	Yes	The subject site is located adjoining the Macquarie Street 're-establish view to water' protection map as indicated on the Public Views Protection Map 2. The proposed development does not further impede views along the street towards the harbour. The design preserves the public views and is consistent with this control.

Provision	Compliance	Comment
5.1.9 Managing wind impacts	Yes	A quantitative wind effects report has been submitted. The wind report demonstrates that the relevant wind comfort and safety standards can be achieved for different areas of the proposed development and the surrounding public domain.

Discussion

Consistency with Concept Consent (D/2017/1609/A)

89. On 12 March 2020, concept development consent (D/2017/1609) was granted for redevelopment of the site, comprising the retention of the former Health Building and construction of a podium and tower containing commercial and residential.
90. Pursuant to Section 4.24 of the EP&A Act, the determination of any subsequent detailed design DA cannot be inconsistent with the concept consent.
91. Subject to the approval of the concurrent modification application (D/2017/1609/A), the proposed detailed design sought under the subject application is consistent with the concept consent.
92. The concept consent includes a number of conditions. An assessment of compliance with these conditions, which specifically required details to be addressed as part of the detailed design application, is provided in the table below.

Condition	Assessment
(4) COMPLIANCE WITH CONCEPT ENVELOPE HEIGHTS AND SETBACKS	The proposed development complies with the building heights and setbacks established under the concept consent, subject to the concurrent modification application, which is recommended for approval by the CSPC. Refer to the detailed assessment in the separate report for the concurrent modification application.
(5) DETAILED DESIGN TO BE CONTAINED WITHIN APPROVED ENVELOPE	The proposed development is contained within the approved concept envelope, subject to the concurrent modification application, which is recommended for approval by the CSPC.

Condition	Assessment
(6) COMPETITIVE DESIGN PROCESS	A competitive design competition process has been undertaken in accordance with the approved design excellence strategy prior to the lodgement of the subject DA. The proposed development is based on the winning scheme by BVN, and is considered to exhibit design excellence, satisfying Clause 6.21C of the LEP.
(7) DETAILED DESIGN OF BUILDINGS	The brief for the competitive design process was prepared in accordance with the requirements of this condition. The proposed development is also consistent with the requirements of the condition as follows: • The podium of the new tower is designed to be visually recessive to the former Health Building. • The proposal ensures that a quiet facade is provided to the adjoining Justice and Police Museum at 4 Phillip Street. • The tower form is simple in design, with the use of a 'sculptural' supporting column framing and defining the courtyard. • A material palette dominated by sandstone is provided at the podium level as it best responds to the character of the area and helps be visually recessive against the former Health building. • The courtyard successfully achieves a compliant access and supports the adaptive reuse of the Health Building. • Terraces have included increased non-trafficable areas to ensure temporary furniture is largely not visible from the street level.

Condition	Assessment
	- Communal open space on level 7 has been provided and is for exclusive use by residents. - Lift overruns provided under a singular roof form/feature and not visible. - Design competition incorporated the acoustic brief.
(8) ECOLOGICALLY SUSTAINABLE DEVELOPMENT	These requirements have been achieved and are reflected as conditions to ensure compliance.
(9) RESIDENTIAL LAND USE	Development is generally consistent with the relevant sections of the ADG and DCP as addressed within this report.
(10) WIND ASSESSMENT	A wind assessment was lodged with the development application and the recommendations of the reports have been included in the design. Appropriate conditions requiring compliance with the recommendations of this report is included at Attachment A.
(11) ACOUSTIC REPORT	An acoustic report was submitted with the application and has adequately assessed the requirements required by this condition. The report was received by the City's Environmental Health team who considered the report satisfactory and the recommendations have been incorporated into the design. Conditions have been included to ensure compliance are included in Attachment A.
(12)-(14) LAND CONTAMINATION & ACID SULFATE SOILS	A detailed site investigation report, Acid Sulphate Soils Desktop Analysis and preliminary RAP has been submitted with the subject application as required by these conditions. The report concludes that the site is likely low risk and can be made suitable for the proposed use.

Condition	Assessment
	Relevant conditions relating to contamination, as recommended by the City's Environmental Health Unit, are included in Attachment A.
(15) CONSERVATION OF THE FORMER HEALTH DEPARTMENT BUILDING	Appropriate documentation has been submitted with the subject application as required by this condition and the design ensures compliance with this condition.
(16) PROTECTION OF OTHER HERITAGE ASSETS	Heritage protection report provided and correspondence from Sydney water has been provided.
(17) ARCHAEOLOGICAL ASSESSMENT	Archaeological report provided and recommended conditions within Attachment A.
(18) HERITAGE INTERPRETATION PLAN	A Heritage Interpretation Plan was submitted and has adequately assessed the requirements outlined in this condition. The report was received by the City's Heritage team and Heritage NSW who considered the report appropriate and the recommendations have been incorporated into the design. Conditions and Heritage NSW GTA's have been included to ensure compliance are included in Attachment A.
(19)-(20) SITES IN THE VICINITY OF A HERITAGE ITEM & STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS	Structural documents and a heritage protection report have been supplied to satisfy the requires of these conditions to the City's satisfaction.
(21) USE OF HERITAGE CONSULTANT	Weir Philips have been responsible for the preparation of the Statement of Heritage Impact and responsible for addressing additional information request. A condition ensuring Weir Philips is maintained throughout the project life is included in Attachment A.
(22) FLOODING AND FLOOD PLANNING LEVELS	A Flood Assessment Report was provided. The report was assessed by the City's Public Domain team who

Condition	Assessment
	considered the report appropriate and the recommendations have been incorporated into the design.
(23) EXISTING AND PROPOSED EASEMENTS	A Survey plan has been supplied to show all easement and relevant restrictions on site. The application proposes to maintain all easements and introduce new right of way across the through-site link at ground level. The development has been reviewed the City's Specialist Surveyor and has provided relevant conditions within Attachment A.
(24) LOT CONSOLIDATION	Application applies to one lot only.
(25) WASTE FACILITIES	Waste management plans having submitted with the subject application as required by this condition. The detailed design also demonstrates the provision of adequate waste storage and collection facilities. A range of waste management conditions are recommended in Attachment A to ensure waste is managed on site in accordance with the DCP and the City's Guidelines for Waste Management in New Developments 2018.
(26) STORMWATER AND DRAINAGE	A civil Stormwater report has been supplied and informed the architectural drawings.
(27) WASTE COLLECTION	See condition 25 above.
(28) SERVICE VEHICLE SIZE LIMIT	Swept path diagrams have been submitted with the subject application as required by this condition. The City's Access and Transport Unit have advised that the diagrams are acceptable and an appropriate condition regulating the maximum service vehicle size is included in Attachment A

Condition	Assessment
(29) DRIVEWAY LOCATION & WIDTH	A singular driveway on Albert Street has been proposed. The design width and location of the crossover was reviewed by the City's City Access and Transport team who are satisfied with the design subject to conditions imposed in Attachment A.
(30) TRANSPORT IMPACT STUDY	A traffic impact assessment is supplied to support the application and the function of the loading and basement areas. This document has been reviewed by the City's City Access and Transport team and consider the recommendation in the report appropriate and imposed in the development's design.
(31) PARKING DESIGN	The parking design was reviewed by the City's City Access and Transport team who are satisfied that it is capable of complying subject to conditions imposed in Attachment A.
(32) ON SITE LOADING AREAS AND OPERATION	The development ensures that all loading and unloading operations associated with servicing the site can be carried out within the confines of the site, at all times and will not obstruct other properties/units or the public way.
(33) CAR SHARE SPACES	The design includes the provision for Car Share spaces and the conditions to ensure these remain are included in Attachment A.
(34) BICYCLE PARKING AND END OF TRIP FACILITIES	Adequate bicycle parking and end of journey facilities have been proposed to satisfy the requirement of Section 3.11.3 of the DCP. A condition is recommended in Attachment A to require the quantum and quality of these facilities to be carried through to the certification, construction, and operational phases of the development.
(35) TRANSPORT ACCESS GUIDE	Submitted with the application.

Condition	Assessment
(36) VEHICLE LIFT	No vehicle lift system proposed.
(37) CENTRAL SYDNEY TRAFFIC AND TRANSPORT COMMITTEE (CSTTC)	The CSTTC is no longer applicable. However, the development application documents have addressed the criteria outlined in this condition.
(38) PUBLIC ART	A Preliminary Public Art Plan has been submitted with the subject application. The Preliminary Public Art Plan has been reviewed, and is considered acceptable, by the City's Public Art Unit. Appropriate conditions are included in Attachment A to require a Detailed Public Art Plan to be developed prior to the commencement of above ground works as required by this condition, and to require the installation of public art prior to the occupation of the development
(39) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN	The application has been submitted with a Construction Noise and Vibration Management Plan & Noise, Vibration and Natural Ventilation Assessment Report. These have been reviewed by the City's Environmental Health team. These documents will be enforced during construction and are included in the conditions in Attachment A.
(40) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES	The City's building team agree that the building has been designed and is capable of being constructed to provide access and facilities for people with a disability in accordance with the Building Code of Australia.
(41)-(43) Ausgrid conditions	The application has been designed in accordance with these conditions. This detailed design application was forwarded onto Ausgrid for comment. Ausgrid raised no concerns subject to conditions included in Attachment A.

Condition	Assessment
(44) RMS - CONSTRUCTION TRAFFIC MANAGEMENT PLAN	A draft CPTMP plan has been submitted with the subject application as required by this condition. A condition is recommended in Attachment A to require a final CPTMP to be approved by the City prior to the issue of any construction certificate.
(45)-(49) SYDNEY WATER CONDITIONS	The conditions have been considered as part of the detailed design documentation. The application was forwarded to Sydney Water for comment who raised no objection subject to conditions included in Attachment A.
(50)-(52) TRANSPORT FOR NSW CONDITIONS	A traffic impact assessment was submitted with the development application that considered these conditions in the design. The concurrence trigger for TfNSW has changed between the determination date of the concept and this detailed design DA. TfNSW no longer require referral and/or concurrence. Regardless, these conditions were considered in the City Access and Transport referral.
(53) THE HERITAGE COUNCIL APPROVALS COMMITTEE	This application also triggers integrated development requiring General Terms of Approval from Heritage NSW. The relevant documentation and recommendations were included in the lodgement documents of the development application and reviewed by Heritage NSW. GTA's have been issued and are included in Attachment A.

View impact analysis

93. To understand the view loss impacts from the proposed development, a view loss analysis on the proposed height breach has been undertaken. Where a proposal is likely to adversely affect views from either private or public land, consideration to the Planning Principle for view sharing (Tenacity Assessment) established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 has been used. The below assessment follows the Planning Principle established four-step assessment to assist in deciding whether view sharing is reasonable.
94. Before an assessment of view impacts is undertaken, it is important to note that the approved Concept DA subject to a concurrent modification included a detailed view impact analysis as part of the assessment and determination of the application. This assessment reviewed view impacts from properties within close proximity to the subject site including 2 Phillip Street (The Quay), 123-125 Macquarie Street (The Astor) and 99-113 Macquarie Street (The InterContinental). View impact analysis was undertaken to assess the potential loss of views to the Sydney Harbour Bridge, the Sydney Opera House, the Royal Botanic Gardens, Circular Quay and general harbour views.
95. The assessment concluded that with the development being in an urban context within Central Sydney, it is inevitable that any development will affect the views and outlook to an array of residential and commercial developments. Overall, the proposed envelope's impact on views to iconic outlooks occurred predominantly over side property boundaries where it is unreasonable to expect that all existing views across a side boundary can be protected. Furthermore, the residential view impacts were to partial views and would not impact overall views from other viewpoints.
96. The view loss impacts of the concept envelope were considered reasonable and to have a reasonable impact. The assessment can be viewed in the original assessment report included at Attachment E of the concurrent modification.
97. This application proposes a variation in height, so an additional view impact analysis on any additional or varied impacts resulting from the height breach has been undertaken.
98. The application was accompanied by a 'View Impact Assessment' dated 2 May 2025 and a further supplementary Visual impact Assessment dated 1 June 2025, both prepared by Urbaine Design Group. The assessment dated 2 May 2025 provides an analysis comprising of 3D digital modelling and photomontages of existing and proposed views from indicative low-rise, mid-rise and high-rise locations within surrounding developments including The InterContinental Hotel, The Astor and The Quay.
99. It is to be noted that the Visual Impact Assessment dated 2 May 2025 (May 2025 VIA), had not been based on internal access within the InterContinental Hotel, and had relied on modelling and drone photography.
100. The applicant's team was granted internal access to selected rooms within the InterContinental Hotel for the purpose of a view loss assessment on 26 May 2025. A supplementary Visual Impact Assessment dated 1 June 2025 was then prepared and submitted to Council to be read in conjunction with the other report.

Step 1: Assessment of views to be affected

101. The views that are subject of concern with regard to this modification include:
 - (a) water views, which are valued more highly than land views. Whole views are valued more highly than partial views, e.g., a water view in which the interface between land and water is visible is more valuable than one in which it is obscured. In the case of the proposed the following viewing was considered:
 - (b) general harbour views
102. Iconic views which are valued more highly than views without icons. Additionally, whole views are valued more highly than partial views. In the case of the proposed, the following views were considered:
 - (a) views to the Sydney Opera House
 - (b) views to the Sydney Harbour Bridge
103. The focus of the assessment was on permanent private residential properties and hotels rooms in the surrounding area. It is noted that commercial properties (including hotels) can be considered as having a lesser sensitivity than a permanent residential property (with respect to the rigour applied to view loss assessment). It is to say that, given the temporary occupancy nature of hotel rooms, the view is considered not as valuable as that from a permanent residential living room.
104. This assessment has identified The Astor and InterContinental Hotel as the properties to experience potential additional view loss as part of the proposed development.
105. Figure 39, below, illustrates the location of view affected properties, The Astor residential building and the InterContinental Hotel and their proximity to the subject site. Both properties have made submissions in relation to impact on views.



Figure 39: Aerial image with site context

106. The Astor, located at 123-125 Macquarie Street is a high-rise residential development located to the south of the subject site. The view of concern is in a northerly direction across Bridge Street with the subject site in the middle distance. The view is of the Opera House, Sydney Harbour Bridge and general harbour views. A total of 8 viewpoints have been modelled from the site. Below is a typical view to the north from The Astor at rooftop terrace level.



Figure 40: Drone photo from northern elevation of the Astor building facing north

107. The InterContinental Hotel, located at 117 Macquarie Street is a 24-storey hotel development located directly to the south of the subject site. The views of concern are from the northern elevation across the adjoining property to the north. The view is of the Opera House, Sydney Harbour Bridge and general harbour views. All 168 windows on this elevation have been identified and modelled in the May 2025 VIA to review the potential impacts. It can be assumed that each window represents a hotel room, however this has not been confirmed. So, the assessment will reference these as individual windows. Below is a typical view to the north from a hotel room.



Figure 41: Typical view from a hotel room facing north

Step 2: Consider from what part of the property the views are obtained

108. The views modelled in the May 2025 VIA are from a standing position (1.6m from floor) from main windows of the residential/hotel rooms and at the roof top terrace of The Astor. The views from supplementary report, dated June 2025 is physically taken from standing position on the upper-level window of each room assessed. All views are across boundary and contain a wide view cone.
109. The drone photography used to capture views in the May 2025 VIA are supported by RLs that have been ascertained from survey information to ensure accuracy.
110. The supplementary June 2025 VIA used a Canon EOS Full Frame Digital Camera with fixed focal length 24mm lens to take all viewpoint photos, at an eye level of 1600mm and supported with RL measurements.
111. Both VIA reports from May and June 2025 have been reviewed by the City's modelling team who have certified the accuracy of the documents.

Step 3: Assess the extent of view loss

112. The assessment of view impact in this report will be focused on the additional impact from the height breach and proposed setbacks. The impacts of the approved concept envelope have been determined and can be viewed in the original assessment document located in Attachment E of the concurrent modification report.

The InterContinental Hotel

113. Modelling has been undertaken from all 168 windows on the northern elevation of the InterContinental Hotel to determine the impacts of the proposed height and setbacks of this development.
114. An extract of the northern elevation 'key' of the InterContinental Hotel is provided below which identifies each level and window in relation to the view loss assessment. Note this information is from the May 2025 VIA which was prepared prior to the applicant's consultant team being provided internal access to the hotel. The levels identified are confirmed by RL and are for reference in this assessment only.

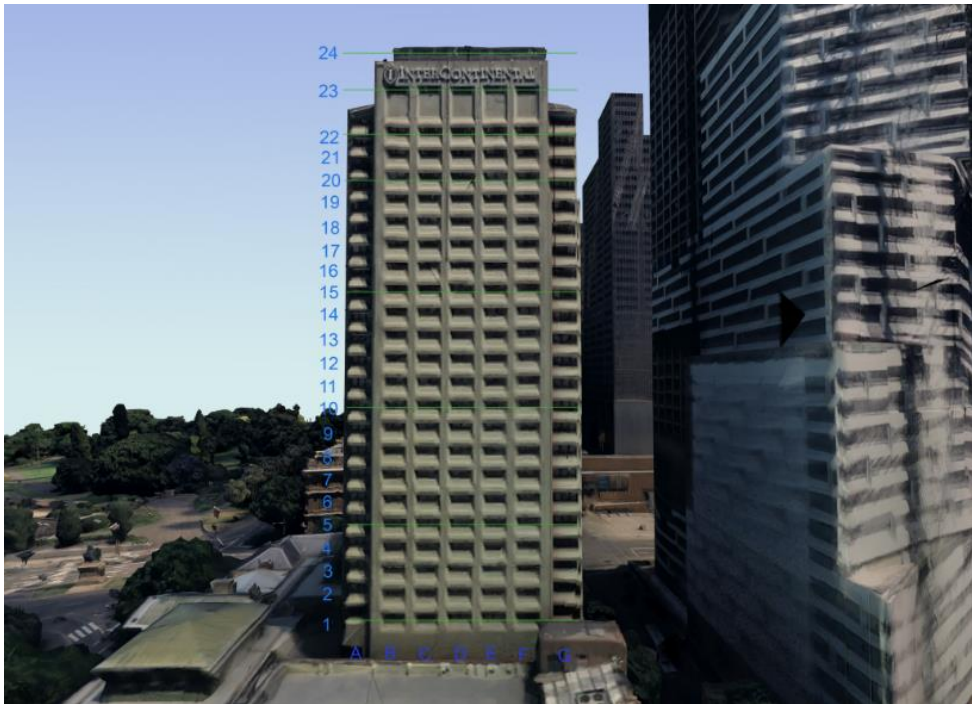


Figure 42: Northern elevation of the InterContinental Hotel showing storeys and windows labelled A-G (left to right)

115. Internal access to the InterContinental Hotel was later granted to the applicant's team for the purpose of a Visual Impact Assessment internally of the hotel. The June 2025 VIA is based off a physical inspection of selected rooms guided by a representative of the InterContinental Hotel. The inspection included a review of 11 rooms. An extract of the rooms reviewed on the northern elevation is provided below.

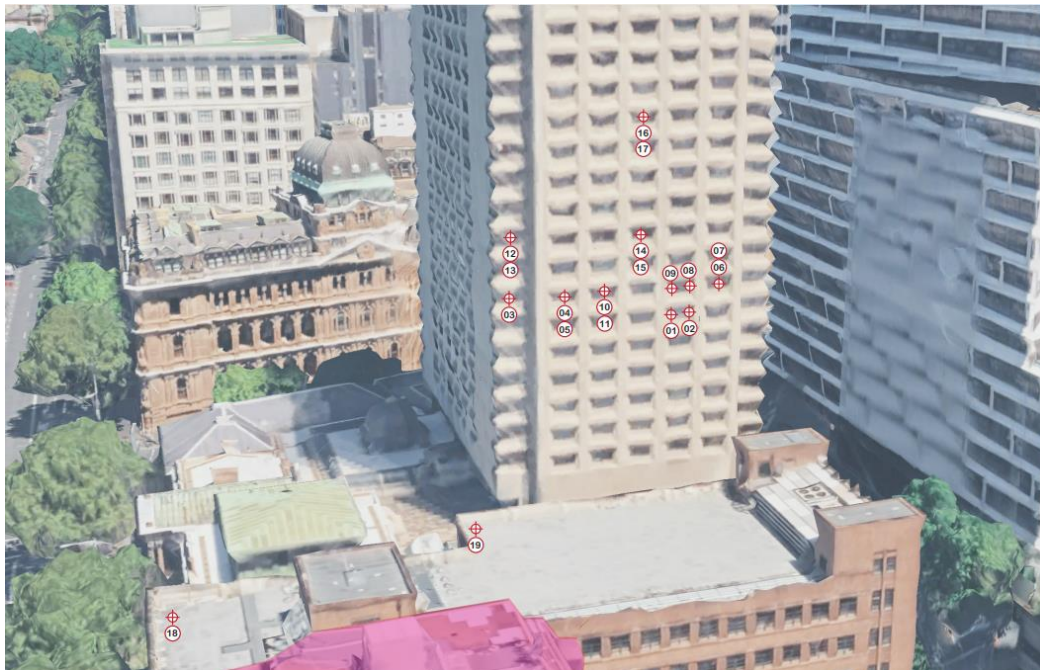


Figure 43: Northern elevation of the InterContinental Hotel showing rooms that were assessed as part of the supplementary Visual Impact Assessment.

116. A review of the modelling shows the proposed changes in height and setbacks produce no additional adverse view loss impact to levels 1 to 10 (inclusive) and levels 14 to 24 (inclusive) to the hotel. This is also confirmed in the June 2025 supplementary VIA which contains an assessment of 10 rooms located at levels 6 to 9.
117. At the lower levels 1-10, the view to the Opera House is already removed by the concept approval and the proposed setbacks do not generate any additional view loss to iconic or harbour views. Note these levels still achieve a view of the Sydney Harbour Bridge and partial Harbour views.
118. At the higher levels 14-24, the setbacks and height do not further impact iconic views or adversely increase impacts to harbour views, as the rooms at this height look over and down onto the development.
119. The additional view loss impacts to iconic views and harbour views are located on levels 11 to 13 only. It is at these levels that views to the Opera House sails and partial harbour view are further impacted, as show in the figures below.



Figure 44: 11th Floor positions A & B of the northern façade



Figure 45: 11th Floor positions C & D of the northern façade

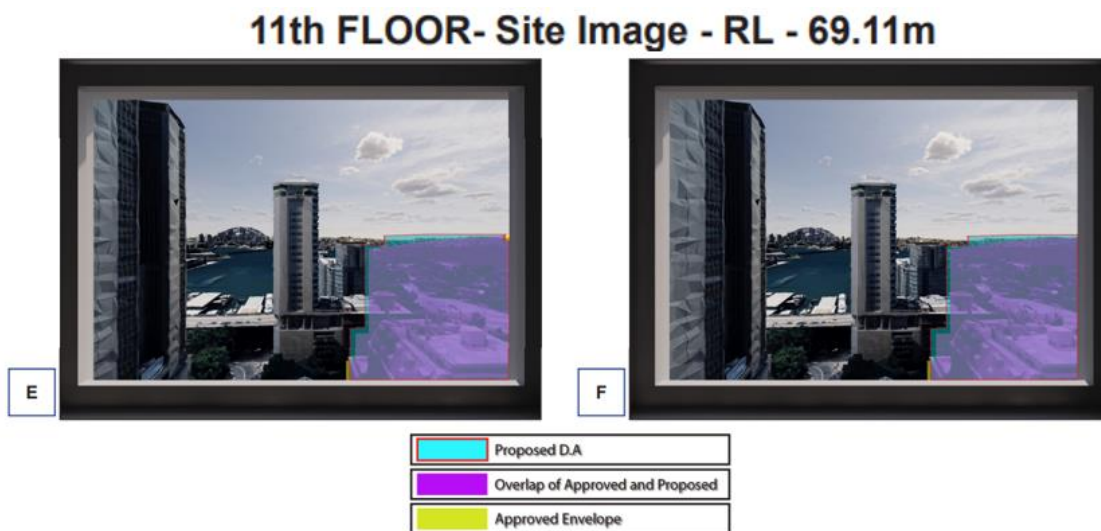


Figure 46: 11th Floor positions E & F of the northern façade

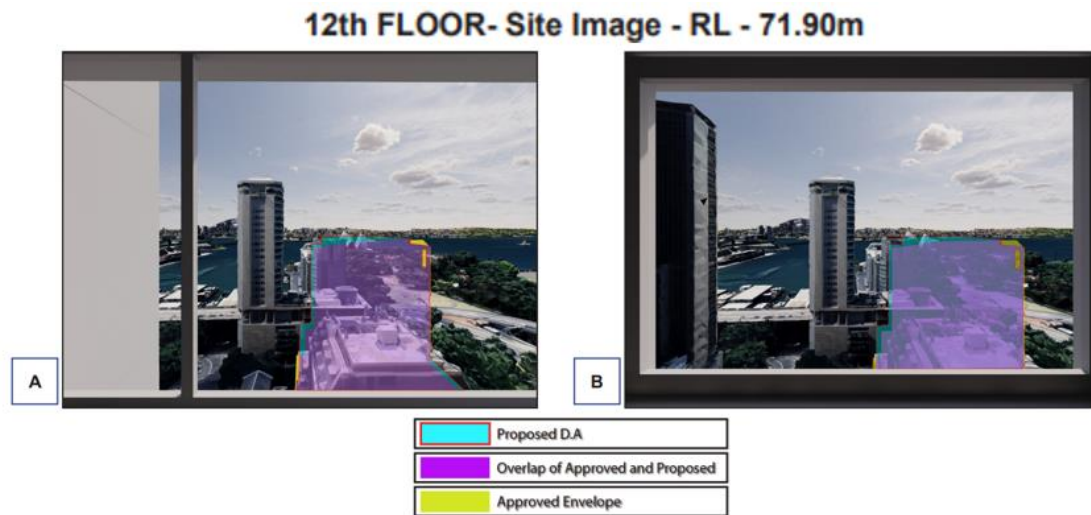


Figure 47: 12th Floor positions A & B of the northern façade



Figure 48: 12th Floor positions C & D of the northern façade



Figure 49: 12th Floor positions E & F of the northern façade

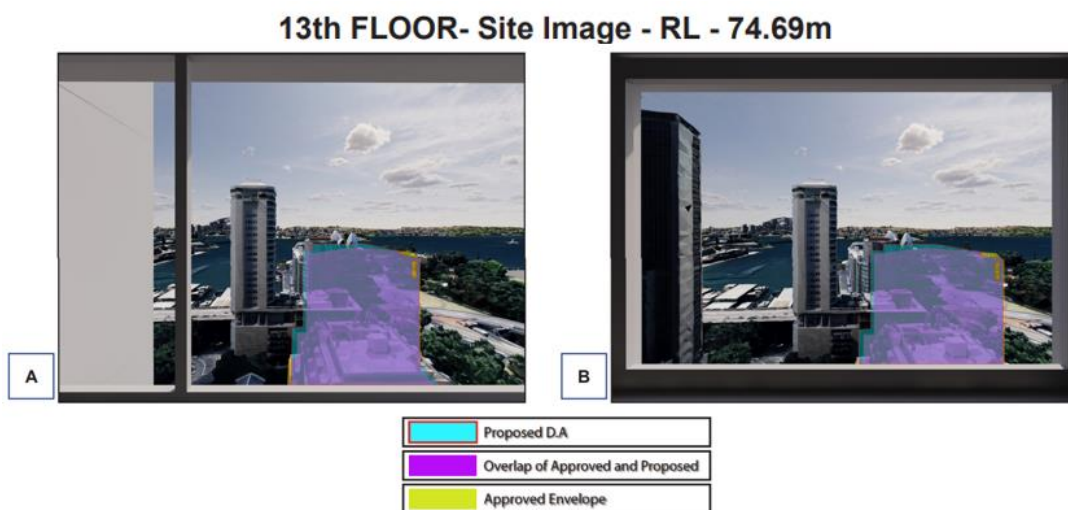


Figure 50: 13th Floor positions A & B of the northern façade



Figure 51: 13th Floor positions C & D of the northern façade

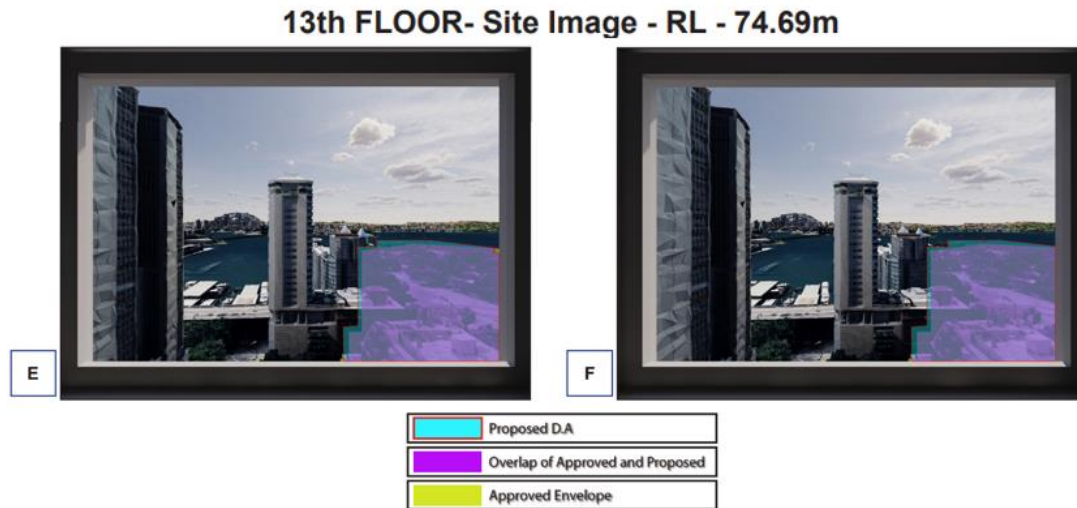


Figure 52: 13th Floor positions C & D of the northern façade

120. As part of the June 2025 VIA access to one room between levels 11 and 13 was provided by the InterContinental Hotel. Level 13 viewpoint D (known in this supplementary report as level 21 Room 2125) was physically inspected and is consistent with the view impacts analysis in the May 2025 VIA report. The view impacts are shown below.

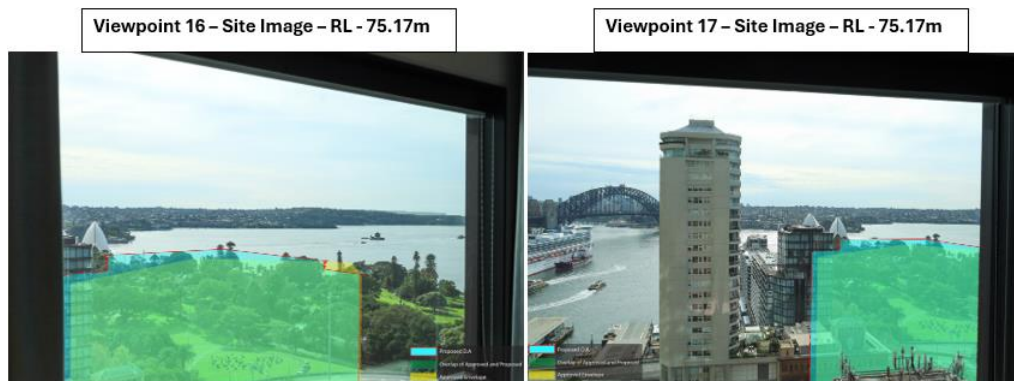


Figure 53: 13th Floor position D of the northern façade known as Viewpoints 16 and 17 in the supplementary report.

121. The extent of impacts with regard to Tenacity Assessment and the view loss is summarised in the table below:

View Loss impact Summary Matrix							
Viewpoint/ Floor	A	B	C	D	E	F	G
11	Minor impact – Partial view of top of the western Opera House Sail removed.	Minor impact - Partial view of top of the Opera House Sails removed.	Minor impact - Partial view of top of the eastern Opera House Sail removed.	Minor impact - Partial view of top of the eastern Opera House Sail further restricted.	No impact	No impact	Negligible impact – general harbour view to the northeast partially removed.
12	Moderate impact – – Partial view of Opera House further restricted.	Moderate impact – Partial view of Opera House further restricted.	Moderate impact – Partial view of the eastern Opera House sail further restricted.	Minor impact - Partial view of the eastern Opera House sail further restricted.	Negligible impact – general harbour view to the northeast removed.	Negligible impact – general harbour view to the northeast partially removed.	Negligible impact – general harbour view to the northeast partially removed.
13	Minor impact– Partial view of Opera House further restricted and minor loss of general harbour view.	Minor impact - Partial view of Opera House further restricted and minor loss of general harbour view.	Minor impact - Partial view of Opera House further restricted and minor loss of general harbour view	Negligible impact - Partial view of Opera House further restricted and minor loss of general harbour view.	Negligible impact – general harbour view to the northeast partially removed.	Negligible impact – general harbour view to the northeast partially removed.	Negligible impact – general harbour view to the northeast partially removed.

122. Level 11 contains small partial views to the top portion of the Opera House sails located from hotel rooms at a standing position. The proposal would result in the full removal of the tip of the western sail from View Point A and further obscure the small partial view to the sails at View Points B-D. The extent of impact when considering Tenacity Assessment is measured as Minor given the removal of partial views are to such a small portion of the Iconic view. At View Point G some general Harbour views are partially obscured, however this is considered a small portion of harbour view in the whole view cone and considered Negligible impact.

123. Level 12 is the worst affected floor by the proposal, where partial views to a moderate portion of Opera House sails are further restricted from a standing position in the hotel rooms. The proposal results in additional obscuring of the Opera House sails to View Points A-C that results in a small view of the tip of sails to remain. The extent of impact when considering Tenacity Assessment is measured as Moderate given the amount of the Opera House sails removed. View Point D has additional loss to the partial view of the eastern Opera House sail and is measured as Minor when considering Tenacity because it results in a small portion of the sail to remain. The remaining View Points at E-G show removal of some general harbour views, however when considered within the wider view cone the impact is Negligible.
124. Level 13 contains partial views of the Opera House from a standing position in the hotel rooms which are impacted. The proposal would result in further restriction to the partial views to the Opera House at View Points A-C. The extent of impact when considering Tenacity Assessment is measured as Minor impact. View Points D-E contain a small impact to the partial view of the Opera House and include minor loss of general harbour views. The extent of this impact is measured as Negligible.

The Astor

125. Modelling has been undertaken from 8 views at The Astor's northern elevation. These views represent various levels over two fixed View Points to determine the impacts of the proposal.
126. A review of the modelling noted that view loss is only a concern at the rooftop communal terrace level facing north at a standing position as shown below in figure 54.



Figure 54: Communal Rooftop level facing north

127. As shown above, the view loss to the portion of the Harbour Bridge is already approved under the concept envelope. The proposal would add a small amount of height to the already approved envelope, however, this does not generate any additional view loss impacts.

Step 4: Reasonableness of the proposal that is causing the impact

128. Before the reasonableness of the proposal is concluded, the Tenacity Assessment process also prompts the question to whether a more skilful design would result in a lesser view impact and achieve the same development potential and amenity.

The application contains a proposal that has been subject to a comprehensive, detailed and extensive design process which has included a successful Architectural Design Competition. The design does include a proposed variation to the Building Height development standard of up to 4.6% or 2.54m. The extent of additional height above the 55 metre height plane has sufficient environmental planning grounds as illustrated and discussed further in the clause 4.6 assessment within this report.

129. The breach is a result of the sloping nature of the site and is centralised mostly to the rooftop plant room. To ensure a high-quality architectural outcome, the plant room had been designed to accommodate all required infrastructure whilst housing the plant in the rooftop so it is not visible from the public domain and neighbouring buildings. The height variation and its environmental planning justification is discussed further in this report.
130. In addition to the breach, the site is heavily constrained but has managed to accommodate a proposal that respects the heritage of the area and is of an appropriate scale and mass for the site, particularly when assessed within the context of the desired future character of the area. The existing developments along Macquarie Street decrease in height towards Circular Quay, whilst the towers to the west are significantly higher.
131. Furthermore, the design allows for appropriate setbacks, floor to ceiling heights and an integrated rooftop plant room that all result in a high-quality architectural outcome that is consistent with relevant planning controls and exhibits design excellence. The proposed design is considered a skilful solution that is supported by sufficient planning justification and provides an acceptable view impact.

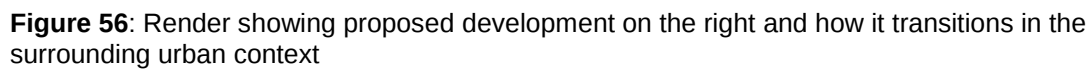
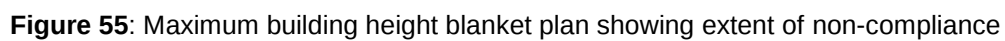
Conclusion

132. When looking at the reasonableness of the impacts to The Astor residential property, the assessment noted little impact resulting from the proposed height and setbacks and is considered acceptable impact.
133. The view loss assessment, however, does show additional impacts to the north facing hotel rooms of the InterContinental Hotel. These impacts vary from Negligible to Moderate when viewed in isolation against the Tenacity principles. However, the reasonableness of view loss impact is to be considered by the whole building to fully understand the impact to the InterContinental Hotel.
134. The concept approval resulted in 166 windows along the northern elevation of the InterContinental Hotel maintaining an iconic views of the Harbour Bridge and general harbour with the remaining two (2) windows at level one only having a small partial view of the Harbour Bridge Pylons. From the total 168 views points along the northern elevation of the hotel, 98 windows maintain views of the Opera House (roughly broken down as 20 small, 16 moderate, 62 full views).

135. This proposal maintains the views to the Harbour Bridge as stated above. However, the design results in a reduction to 95 total views to the Opera House (roughly broken down as 23 small, 10 moderate, 62 full views). The proposal will result in 3 partial views of the Opera House being removed, equating to an additional 1.78% total view loss to the Opera House from the approved concept envelope. In addition, 3 moderate sized views have been downgraded to a small view and 9 other views have been somewhat impacted.
136. This Visual Impact Assessment has undertaken a review of the proposal, within its future setting and concludes that the additional impact caused, as a result of the proposed design, is acceptable. Even with the additional 1.78% of removed view to the Opera House, all northern windows maintain some portion of Iconic views and 58% of the northern facing facade maintain wide view cones containing both the Harbour Bridge and a portion of the Sydney Opera House. Therefore, even where views are additionally impacted, the view still contains the bridge and harbour views unimpacted from this proposal.
137. Being located in an urban context within Central Sydney, it is inevitable that any development will affect the views and outlook to an array of residential and commercial developments. Particularly when these views are achieved via across multiple properties boundaries. Again, it is important to note the original concept envelope to acknowledge the extent of visual impact and view loss incurred as a result of the existing approval.
138. In conclusion, the proposal, which includes a minor height breach, represents an acceptable variation to the existing visual impact and view loss to neighbouring properties, particularly The Astor and the InterContinental Hotel. The proposed building design does not significantly or unreasonably reduce the enjoyed views by surrounding residential and hotel uses. The proposal provides adequate view sharing to surrounding icons, maintains desirable views from surrounding developments and is considered acceptable.

Clause 4.6 Request to Vary a Development Standard

139. The site is subject to a maximum height of building control of 55m. The proposed development has a maximum building height of 57.54m (RL70.05), seeking a variation of 4.6% or 2.54m.
140. The applicant notes that the proposed non-compliance consists of two separate planes as detailed below:
- (a) Upper Roof – The upper roof is a total of 315sqm in size and is generally rectangular in shape. The corners of this area vary in height non-compliance to include 2.54m, 1.855m, and 1.125m. The fourth corner is below the height plane.
 - (b) Lower Roof – This area is roughly L shaped and is 114sqm in size. At its worst, this plane exceeds the maximum height limit by 1.36m above the height plane.
141. Figure 55, below illustrates the extent of the breach above the 55 metre height plane across the site.



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Applicant's Written Request - Clause 4.6(3)(a) and (b)

143. The applicant seeks to justify the contravention of the height of building development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant refers to the first method of the five-part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary. This method seeks to demonstrate that the objectives of the development standard are achieved notwithstanding the non-compliance with the standard.
 - (ii) A summary of the applicant's assessment against the objectives of the height of buildings development standard contained in clause 4.3 of the SLEP 2012 is provided below:

Objective (a) - to ensure the height of development is appropriate to the condition of the site and its context

- (iii) The site was subject to an architectural design competition to which BVN architects won. Their competition winning scheme from an overall development perspective is to deliver an appropriate response to the site's context. This includes considering the natural systems of the harbour, Indigenous and colonial histories, and the evolving contemporary urban context.
- (iv) The design remains largely consistent with the approved concept envelope with minor breaches that respond to the broader context of the site. This includes the small breach to the building height control for a small portion of the tower plant level and penthouse ceiling.
- (v) The proposed building height breach when viewed from the public domain will be nearly imperceptible and only visible in the public domain from Phillip Street. Notwithstanding the additional height proposed, the development still presents the same to the surrounding streets and the overall height of the detailed development proposal is appropriate to the condition of the site and its context as shown in Figure 57 below.



Figure 57: Approved envelope and the proposed design comparison when viewed from Phillip Street

- (vi) The proposed non-compliance does not breach the Sun Access Plane for the Royal Botanic Gardens and does not generate additional shadowing impacts to neighbouring properties.
- (vii) The additional height does not result in additional amenity impacts on adjoining or adjacent properties, nor will the relatively small breach of between 1.125m and 2.54m at the top of the tower be perceptible from the public domain.

Objective (b) - to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

- (viii) The development contains a state listed Health Department building, and the site is within the Macquarie St Special Character Area, which is also recognised as a nationally significant streetscape. Understanding the history and character of Macquarie Street, Albert Street and the taller built forms of the city, has driven the design to create a cohesive and complementary civic composition 'stitched' into its context.
- (ix) The building's massing breaks down into a discrete element comparable in height and proportion to the western elevation of the (now detached) Health Building. Its mass is further articulated as a podium of complementary scale and materiality to both the Justice and Police Museum and the base of the Health Building.

- (x) The height non-compliance is located at the top of the residential tower and will not impact the relationship to the adjoining heritage items. The proposed podium remains and is the primary design device which ties/transitions the future building to its adjoining heritage buildings in the streetscape.

Objective (c) - to promote the sharing of views outside Central Sydney

- (xi) This objective is not relevant as the proposal is within Central Sydney.

Objective (d) - to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

- (xii) The proposal is on the edge of Central Sydney with significantly taller buildings to the west of the subject site. As such, the proposal building height results in an appropriate transition in building height to the Royal Botanical Gardens which is the east of the site.
- (xiii) Further, the building height variation is of a minor nature considering the taller building heights in the immediate surrounds, including the new developments adjacent Circular Quay directly to the west and south.
- (xiv) Critically, the proposed non-compliance does not result in a building which exceeds the Sun Access Plane for the Royal Botanical Garden.
- (xv) The subject proposal supports the general pattern of height transition from the harbour to the CBD.

Objective (e) - in respect of Green Square — (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and (ii) to ensure the built form contributes to the physical definition of the street network and public spaces

- (xvi) This objective is not relevant as the proposal is within Central Sydney
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
- (i) The applicant notes that the proposed variation is the result of extensive design co-ordination with building services, and meeting compliance with the requirements of the Design and Building Practitioners Act. This has required a minor increase to building height beyond that which was approved as part of the Concept DA. Key drivers of this increase are:
- the increasing of floor-to-floor levels to meet requirements for servicing, insulation, and other building tolerances between levels. In particular, allowances made for flush thresholds to balconies, integral set downs to wet areas, acoustic and thermal insulation requirements, coordination of hydraulic services, minimum 2700mm ceilings to habitable spaces in residential areas.

- an increase in height of plant resulting from developed mechanical services strategy and acoustic attenuation of plant room equipment; and
 - responding to the updated detailed flood modelling, which demonstrated the need to increase the finished floor level of the ground level above that under the current 'existing ground level'.
- (ii) The impact of the additional height is negligible on adjoining and adjacent land. The additional overshadowing generated by the height above the control falls exclusively within road reserve or on inaccessible rooftops which has no adverse impact and complies with the Solar Access Plane for the Royal Botanic Garden.
- (iii) In addition, as shown in the view loss assessment, the additional height does not result in unreasonable view loss from that already approved. A summary of the view impacts and assessment against relevant principles established under the *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (*Tenacity Principles*) court case has been provided to neighbouring properties. Most notable are the InterContinental Hotel and The Astor.
- (iv) The proposal's impact on the hotel is considered reasonable as the views impacted from the height breach, compared to the approved building envelope, are generally negligible and where identified as 'moderate', the rooms will still maintain appropriate views towards the Harbour, the Botanic Gardens, Harbour Bridge and skyline.
- (v) The view impact of the proposed development's additional height to the Astor is considered acceptable.
- (vi) In conclusion, the minor non-compliant height is incorporated into the overall design of the building, ensuring that design excellence as demonstrated through the successful design competition process is preserved, despite the non-compliance with the numerical standard. The breach to the building height development standard is imperceptible compared to a strictly compliant development and has acceptable impacts to the neighbouring properties and public domain.

Consideration of Applicant's Written Request - Clause 4.6 (3)

144. Development consent must not be granted unless the consent authority is satisfied that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the written request adequately address those issues at Clause 4.6(3) (a)?

145. The applicant has relied upon the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.

146. The applicant has satisfactorily demonstrated that the proposal meets the objectives of the height of buildings development standard, notwithstanding the non-compliance.

Does the written request adequately address those issues at clause 4.6(3)(b)?

147. The applicant's written request demonstrates that the building height breach is the result of a context driven design which positively responds to the broader context of the site and transitions with the surrounding development as shown below.

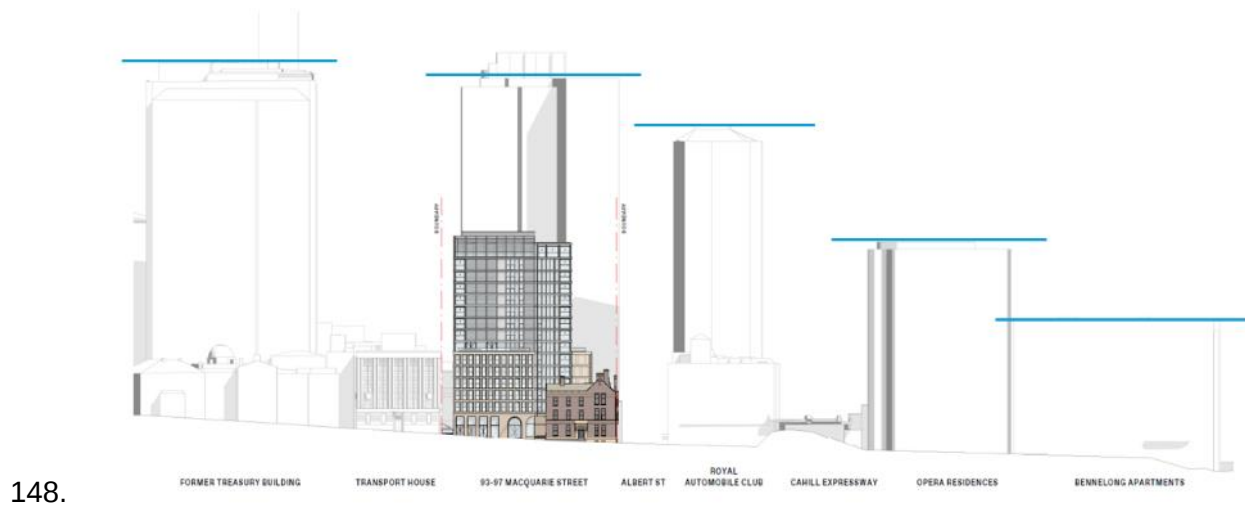


Figure 58: Elevation along Macquarie Street showing the proposed development in the overall context of the area. Blue lines indicating top of buildings in the context

149. The request shows that the height non-compliance does not result in a building which exceeds the Sun Access Plane for the Royal Botanic Gardens. Where minor additional overshadowing occurs, it is located within road reserve or over inaccessible roof areas having no additional adverse impacts to the amenity of surrounding properties or the public domain.
150. The application was also accompanied by two detailed Visual Impact Assessment Reports prepared by Urbaine Design Group to assess the impacts of the proposed development (including height breach) to a number of properties, notably the InterContinental Hotel and The Astor Apartments. A summary of the view impacts and assessment against relevant principles established under the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 (Tenacity Principles) court case has been included in the applicant's variation request as well. The view loss concludes that the proposal's impact is considered acceptable as the views impacted from the height breach, compared to the approved building envelope, are generally negligible and where identified the highest as 'moderate', with sites still maintaining appropriate views towards the Harbour, the Botanic Gardens, Harbour Bridge and skyline.
151. Notwithstanding the additional height, the proposal remains consistent with the Macquarie Street Special Character Area and maintains an appropriate transition to the heritage listed sites that adjoin the proposal.
152. Additionally, whilst not explicitly detailed in the applicant's variation request, the breach is also largely a result of the fall from east to west over the site, which is measured at a maximum of 6.8m.
153. The applicant has sufficiently demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Conclusion

154. For the reasons provided above the requested variation to the height of buildings is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Design Competition Jury Recommendations

155. An architectural design competition was held, and the competition jury selected the proposal presented by BVN as the preferred scheme. In the opinion of the competition jury, the BVN's scheme was most capable of achieving design excellence, subject to the retention of key aspects of the winning scheme and improvements on a number of aspects.
156. The Jury also acknowledged that the BVN scheme varied from the approved Concept DA envelope in a number of areas; however, considered the variances to be more capable of achieving design excellence for the following reasons:
- (a) The 'averaging' approach to the western elevation gave a simpler form and enabled a quieter elevation that provided a calmer background to the Police and Justice Museum, which was a key design objective for the Brief. It also helps to resolve a simpler volume to the corner facing Albert Street.
 - (b) The similar 'averaging' approach and pulling back at the lower levels to the north gives an improved interface to the heritage building, and the infill at higher levels which provides a simplification to the tower form. The arched form at the northern elevation of the building will enable good views to the Health Building; and
 - (c) The slightly increased podium height along Macquarie Street is intended to present a better transition from Transport House to the podium of the subject building.
157. The proposed development has been reviewed by the City's Design Advisory Panel (DAP), and is considered to have retained key aspects of the preferred scheme where appropriate and responded positively to the key recommendations made by the competition jury as detailed in the table below.

Recommendations	Comment
Adjustment of the building envelope and redistribution of massing is supported, subject to no loss of amenity. Any loss of amenity resulting from the tower setback reduction to Albert Street (8m to 7m) should be investigated.	A shown in the amended concept modification that has been lodged in conjunction with this report, the required 8m setback along Albert was reviewed. The 1m variation in setback (reduced to a 7m setback) would be imperceptible from the street and does not create amenity impacts to the neighboring properties or the future residential units. Furthermore, this setback does not compromise the street character or the views to the former Health Department building.

Recommendations	Comment
	This Albert Street setback variation has been supported by Heritage NSW, the City's Heritage Team and Urban Design team.
Wintergardens and apartment configurations need to be interrogated further to ensure ventilation and thermal comfort requirements are achieved.	The wintergardens have been further reviewed to ensure appropriate solar access and natural ventilation can be achieved whilst achieving the required acoustic mitigation as per the supporting documentation. Further details will be required prior to Construction Certificate to ensure the details maintain this outcome. To ensure compliance with required ventilation and thermal comfort, conditions have been included in Attachment A.
Panel recommended a comprehensive review of the proposal against the original design competition jury report.	The jury report outlined the following key principles to be retained and developed: • The 'averaging' approach to the western elevation gave a simpler form and enabled a quieter elevation that provided a 'calmer' background to the Police and Justice Museum, which was a key design objective for the Brief. It also helps to resolve a simpler volume to the corner facing Albert Street. • The detailing of the window boxes within the column frame and the use of sandstone and glass. • The sandstone base treatment, including the Albert St frontage and the car park entry. • Calm resolution of the building form and architectural language on the west podium. The proposed treatment of the window box within a column frame and associated environmental benefits should be retained.

Recommendations	Comment
Panel supports the extra volume allocated to communal open space at ground level. However, it suggested a redesign of the feature column. The column presents as overly monumental and takes up a lot of space.	The detailed design has had more consideration to the courtyard column and reduced the footprint where possible, however maintaining this as a feature piece.
Consider openings to the blank walls of the heritage Health Department Building's southern and western elevations. This must however be balanced with apartment amenity and privacy.	Existing openings will be maintained in the former health building. No additional opening are proposed to ensure amenity/privacy is maintained.
Panel supports the City's recommendation to convert the studio apartment on level 7 into indoor communal space to remove privacy conflicts with the outdoor communal space. Further amenity improvements to the communal open space are needed to mitigate noise/privacy issues with adjacent apartment.	Several amendments to the level 7 communal spaces have been made and now presents a practical and usable space that has adequate amenity for users and the occupants of the adjacent units.
Western elevation's blank podium wall, adjacent to the Justice and Police Museum requires further investigation and development.	The blank wall along the western elevation is the enclosure of the ROW that connects to the InterContinental Hotel and is located on the boundary about the Justice and Police Museum. Treatment for this wall is practically limited and the installation of the sandstone cladding is considered to be a positive addition to the space and compliments the quiet and clam backdrop elevation to the adjacent heritage item.
Panel supports the rationalised rectangular residential tower floor plan. Panel commended the design development process to date.	Noted.

Design Excellence

158. The proposed development is based on BVN's preferred scheme from the competitive design process and has been reviewed by the City's Design Advisory Panel (DAP). The proposed design retains key aspects of the winning scheme, including the averaging of setbacks to redistribute the tower form, maintaining the language and treatment along Macquarie Street and maintaining a 'calm' building form on the west podium.
159. The proposed development maintains a high architectural standard for the development including the sandstone treatments and the metal cladding columns forward of the facade as to appear freestanding. The built form is considered compatible with the character of the locality and provides an appropriate transition and relationship with the Transport House and former Department of Health heritage buildings. The development will contribute positively to the character of the area and be a positive heritage response.
160. The development also achieves the principle of ecologically sustainable development and has an acceptable environmental impact which includes the use of wintergardens and acoustical mitigation measures in the facade to ensure a high level of amenity of to the surrounding area and future occupants.
161. The development, as detailed in this report, is considered to achieve design excellence.

Staging

162. The application has sought staged construction and staged occupation of the two buildings. The following stages are sought:

Stage/CC	Works
1	Shoring support, basement demolition and bulk excavation
2	In ground structure (including ground floor)
3	Tower - above ground structure
4	Tower – facade
5	Tower - fitout (excluding retail fitout)
6	Heritage Building - conservation, facade and base building works
7	Landscape / External works

163. In general, staged construction is supported. Concern is raised about the decoupling of the heritage building conservation works from the base building works and landscaping/public domain until the final stage and particularly being after the residential tower fit-out. This separation presents the potential risk of the residential building being completed and not completing the important heritage conservation works to the State heritage item.

164. Furthermore, when looking at the development more practically, building works to the heritage item would be better undertaken concurrently with the in-ground and above ground stages for the residential tower. The project is to be considered one whole integrated design, not split into parts. Considering this, the proposed staging has been amended to reflect a more cohesive approach and included in Attachment A as follows:

Stage/CC	Works
1	Shoring support, basement demolition, retention of R.O.W (DP839564) and bulk excavation
2	Construction of in ground structure (including ground floor)
3	Construction of the above ground structures and Heritage building base building works
4	Tower & Heritage Building facades
5	Tower - fit-out (excluding the retail fit-out), Heritage Building – conservation works and Landscape / External works

Consultation

Internal Referrals

165. The application was discussed with Council's;

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

166. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in Attachment A.

External Referrals

Heritage NSW

167. The application is Integrated Development under the Heritage Act 1977, requiring approval from Heritage NSW. The application was forwarded for comment on 14 May 2024. Heritage NSW raised no objection with the proposed development and issued General Terms of Approval.

Water NSW

168. WaterNSW raised no objection to the subject application not being nominated as an Integrated Development, and has recommended conditions, which are included in Attachment A.

Ausgrid

169. Pursuant to Clause 2.48 of the Transport and Infrastructure SEPP, the application was referred to Ausgrid. Ausgrid raised no objections to the proposed development, and the recommended conditions are included in Attachment A.

Sydney Trains

170. Pursuant to Clause 2.99 of the Transport and Infrastructure SEPP, the application was referred to TfNSW (Sydney Trains) for concurrence. TfNSW (Sydney Trains) have raised no objections to the proposed development, and provided their concurrence conditions, which are included in Attachment A.

Sydney Water Corporation

171. The application was referred to Sydney Water for comment on 14 May 2024.
172. Sydney water has no significant concerns with the proposed development and recommended conditions that are included in Attachment A.

Advertising and Notification

173. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified and advertised for a period of 28 days between 14 May 2024 and 12 June 2024. A total of 356 properties were notified, and 6 submissions were received.
174. The submissions raised the following issues:
- (a) **Issue:** The Heritage Council of New South Wales has reactivated nomination to list Transport House on the State Heritage Register (SHR) under the NSW Heritage Act 1977. The submitter believes this adds significant weight to our submissions regarding the heritage value of Transport House and that the Stamford proposal “is aggressive, invasive, unsympathetic, out of character, overly dominant in its immediate context, and dramatically different in its height to the lower scale buildings in the historic precinct in which the site is located

Response: The application has been assessed against the relevant heritage controls in the Sydney LEP 2012 and Sydney DCP 2012, in addition to being assessed as an Integrated Development under the Heritage Act 1977, requiring approval from Heritage NSW, the same body that is reviewing the state listing nomination.

The proposal, including the alterations to the item and the new residential tower, has been reviewed by Heritage NSW and is considered that the heritage significance would not be adversely impacted and has been issued with General Terms of Approval. The application has also been reviewed by the City's Heritage team who also has considered the proposal acceptable and would not adversely affect the significance of the retained heritage building.

Furthermore, the Concept approval (D/2017/1609) has already determined the acceptable envelope for future development. Whilst there is a concurrent modification to vary this envelope the fundamental scale and relationship to the context is unchanged, particularly in relation to Transport House.

- (b) **Issue:** The proposal should comply with the approved concept envelope under D/2017/1609.

Response: As discussed in this report and the concurrent modification report, this detailed design application has resulted from the BVN winning scheme from an architectural design competition. The design competition report noted that there were non-compliances and inconsistencies with the then approved concept envelope, however the design Jury were supportive that these variations responded to the context of the site and resulted in a proposal that exhibits design excellence.

Furthermore, the amendments to the concept envelope have been assessed and acceptable in the concurrent modification report (D/2017/1609/A).

- (c) **Issue:** The application makes no mention of the approved roof top addition to Transport House.

Response: As discussed in this report, in December 2022 a modification was approved for building envelopes for external alterations and additions, including additions to the northern and eastern elevations of the InterContinental Hotel extending over part of Transport House and the existing hotel podium. This development includes potential bar, retractable awning, and seating associated with a function centre use.

This application has considered adjoining uses, including the approved development above the neighbouring Transport House. As noted in the history section of this report, this modification included an acoustic assessment which assessed the potential acoustic impacts against the future residential land use at 93 - 97 Macquarie Street (the subject application). Conditions have been included in that SSD approval. Furthermore, the City's environmental health team also reviewed the potential impacts from this use in conjunction with the acoustic report assessment and have concluded the development suitable subject to relevant conditions in Attachment A.

- (d) **Issue:** The View Impact Analysis submitted in support of the proposal does not address the additional view loss from north facing rooms in the InterContinental Hotel which are at or above the top of the approved building envelope.

Response: A separate additional view loss assessment has been requested and undertaken during the assessment of the subject application and the concurrent modification application. A copy of the submitted report is included as an attachment the modification application report. Any new or altered impacts to view or outlook resulting from the modifications to the concept envelope have been fully assessed in the concurrent report for that Modification application. In addition, refer to the view impact analysis within this report..

- (e) **Issue:** The Clause 4.6 variation request should be denied

Response: The application has submitted a written request to vary the height of building development standard. A detailed assessment of the applicant's written request under the provisions of Clause 4.6 of the SLEP 2012 is contained in the discussion section of this report and a copy of the applicant's written request is provided at Attachment C. The assessment concludes that the extent of non-compliance with the building height control is not unreasonable or unnecessary in the circumstances of the application. It is concluded that the variation to height can be accommodated in the locations proposed without as a adverse environmental or amenity impacts. There are considered to be sufficient planning grounds for the variation.

- (f) **Issue:** Access/ROW from the InterContinental Hotel during construction has not been addressed.

Response: The demolition plans show that the ROW and its structure for full use as per the terms of the easement, will be maintained during demolition and construction of the development. The rendition of the structure is also supported by a statement from TTW dated 8 April 2025 stating the ROW structure can be retained during demolition and subsequent construction stages. The actual structural detail will be subject to detailed construction design during CC1.

A condition has been included in Attachment A to provide the certified detailed design to the City for record purposes. Any other activities that would impact the use of the easement is a matter between the parties.

- (g) **Issue:** Demolition of amenities and storage used by the Justice and Police Museum has an easement and no discussion with other parties has occurred.

Response: The City is not a party of the easement and therefore all matters regarding the easement are a civil matter between the parties.

However, the demolition plans show that the amenities and storage area is benefited by an easement for the use of the JPM. The plans show that the area will be demolished and temporarily relocated during construction reinstated as part of the new development.

Additionally, it is understood that the new owners and the applicant have had advanced discussions with the operators of the Justice and Police Museum with regard to the temporary arrangements and new facilities.

- (h) **Issue:** Non-compliant street frontage height to Macquarie Street.

Response: As discussed in the concurrent modification application, the design proposes an increased podium street height. The 2.35m increase in podium height is a result of the Architectural Design Competition where BVN's winning design proposed this height to match the neighboring Transport House building for a better height transition. The competition Jury agreed with this approach, noting the variation from the concept envelope, however considered this aspect provided better resolution and an urban outcome that, on balance, is in character with the surrounding street context.

- (i) **Issue:** Noise and vibration impacts from the additional excavation outside the concept envelope.

Response: A Construction Noise and Vibration Management Plan has been submitted with the application and has been assessed as satisfactorily by the City's Environmental Health team. Conditions are recommended in Attachment A to manage the construction-related impacts raised by the submissions.

- (j) **Issue:** Objection to bulky canopy/awning designs.

Response: Amendments to the building design has changed the awning designs to be more consistent with the DCP controls in line with the character of the area.

- (k) **Issue:** Pavement crossings on the south side of Albert Street degrade the visual and pedestrian environment.

Response: The crossovers for the site remain in the same location. As part of the development a new crossover for the access to the basement will be constructed and will address some of the deterioration along this street. However, crossovers not associated with this development will remain as is. Conditions requiring this public domain work is included in Attachment A.

- (l) **Issue:** Concerns about increased light generation and reflection from a taller building north of The Astor.

Response: The application was supported by a solar reflectivity report which demonstrates no adverse impacts from reflection. The application will not cause any unreasonable adverse light pollution to adjoining neighbours.

- (m) **Issue:** Concerns about the lack of engineering detail, particularly with regard to structural integrity of surrounding buildings, vibrations, undermining and anchoring.

Response: A Construction Noise and Vibration Management Plan has been submitted with the application and addresses noise and vibration impacts from the construction of the new development.

The application is accompanied by Structural Design Brief and Certificate of Structural Compliance to show the development can be undertaken. Noting detailed engineering methods and specifications will be designed during the detailed Construction Certificate.

A range of conditions have been included in Attachment A to address the above and ensure structural compliance and protection is achieved.

- (n) **Issue:** Development will cause loss of revenue.

Response: Impacts to revenue and profit/loss are not a matter for consideration under Section 4.15 of the Act.

- (o) **Issue:** Proposals scale and bulk significantly dwarf the neighbouring heritage listed buildings, particularly the Justice and Police Museum.

Response: The building's massing has been broken down into discrete elements comparable in height and proportion to the western elevation of the (now detached) Health Building and matching the height of the Transport house. Its mass is further articulated as a podium of complementary scale and materiality to both the Justice and Police Museum and the base of the Health Building.

The western elevation adjoining the Justice and Police M is to be sandstone clad and creates a non-obtrusive backdrop to the Museum west of the site. This aligns with the recommendations of the Architectural Design Competition seeking a 'quiet' elevation as a background to the museum.

- (p) **Issue:** Site stormwater drainage is uncertain.

Response: The application is accompanied by a stormwater management report which provided the general scope and stormwater design. The Detailed design compliant with the relevant Australian standards will be undertaken during the Construction Certificate stage and is subject to conditions in Attachment A. The stormwater design will be designed to have no impacts on the JPM and managed fully by the proposal.

Financial Contributions

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

175. The Central Sydney Development Contributions Plan 2020 applies to the site. The cost of the development is over \$250,000. The development is therefore subject to a s7.12 contribution under this Plan. A condition relating to this contribution has been included in the recommended conditions. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

176. The site is located within the Central Sydney affordable housing contribution area. The proposed development creates more than 100m² of gross floor area and involves the change of use of existing floor area from tourist and visitor accommodation to residential. Therefore, it is subject to affordable housing contribution pursuant to Clause 7.13(1)(d)(i) of the LEP.
177. The contribution amount payable is calculated based on the 'total floor area' of the proposed development.

178. A total floor area calculation plan has been provided to identify a total floor area of 14,981.19m², with a breakdown of 13,923.48sqm residential TFA and 1,057.71sqm non-residential TFA.
179. The contribution amount is calculated at a rate of \$11,646.80 per square metre on 1% of that total floor area for non-residential and 3% of the total floor area for residential. This equates to a contribution of \$4,988,108.97.
180. A condition is therefore recommended in Attachment A requiring the payment of an affordable housing contribution prior to the issue of any construction certificate.

Housing and Productivity Contribution

181. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
182. The site is located within the Greater Sydney region, the development is a type of residential and commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
183. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

184. Environmental Planning and Assessment Act 1979.
185. Heritage Act 1977.
186. Water Management Act 2000.

Conclusion

187. The application seeks consent for the demolition of the existing 'Stamford Hotel' building, adaptive reuse of the former Health Department Building, and construction of a mixed-use development comprising basement car parking, retail and commercial tenancies, residential apartments and a public right of way.
188. The proposed development is consistent with the concept consent for the site, as proposed to be amended by D/2017/1609/A, in accordance with Section 4.24 of the Environmental Planning and Assessment Act 1979.
189. The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the 'height of buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney Local Environmental Plan 2012.

190. The proposed development complies with the key development standards applicable to the site, including the maximum floor space ratio, and sun protection to the Royal Botanic Gardens, under Clauses 4.4, and 6.17 of Sydney Local Environmental Plan 2012, respectively.
191. The proposed development will conserve the heritage significance of the former "Department of Health building" in accordance with Clause 5.10 of Sydney Local Environmental Plan 2012.
192. The proposed development is consistent with the design intent of the preferred scheme of the required Architectural Design Competition process. The scale, form, articulation, materiality, and environmental performance of the proposal is consistent with the desired future character of the locality and exhibits design excellence to satisfy Clause 6.21C of Sydney Local Environmental Plan 2012.
193. The proposal is generally consistent with other applicable planning provisions, including the relevant State Environmental Planning Policies, Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Where non-compliances arises, they have either been considered as having merit in the circumstances of the site, or addressed by conditions recommended in Attachment A.
194. The proposed development will provide for additional housing in the CBD and adaptively reuse a heritage building for commercial and food and drink premises on a site that is highly accessible to existing and planned employment, services, public transport infrastructure, and community facilities.
195. The proposed development will not result in any unreasonable impacts on existing or likely future developments surrounding the site. Subject to the conditions recommended in Attachment A, the proposed development responds appropriately to the site's constraints and contributes positively to the existing and desired future character of the locality.
196. The proposed development is therefore in the public interest and is recommended for approval by the Central Sydney Planning Committee.

GRAHAM JAHN AM

Chief Planner / Executive Director City Planning, Development and Transport

Pat Williams, Senior Planner