



Pitt Street North over station development

State Significant
Development Assessment
(SSD 8875)

May 2019

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
ADG	Apartment Design Guide
BCA	Building Code of Australia
CIV	Capital Investment Value
Consent	Development Consent
Council	City of Sydney
CSSI	Critical State Significant Infrastructure
Department	Department of Planning and Environment
DCP	Development Control Plan
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
GANSW	Government Architect of NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
OEH	Office of Environment and Heritage
OSD	Over Station Development
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Planning Secretary's Environmental Assessment Requirements
Secretary	Planning Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
SSI	State Significant Infrastructure



Executive Summary

The report provides the Department's assessment of a Concept Development Application seeking approval for an Over Station Development (OSD) above the northern entrance of the approved Pitt Street Metro Station.

The proposal seeks concept approval for a maximum building envelope, building height and GFA for two distinct development scenarios (one a mixed residential and commercial concept proposal and the other, a commercial concept proposal) above the transfer slab of the approved Pitt Street Metro Station.

The Applicant is Sydney Metro and the proposal is located in the Sydney local government area. The Capital Investment Value (CIV) for the proposal is \$281,959,038 million (excl. GST) and would generate 2,500 full time equivalent operational jobs for the commercial scheme and 1,000-1,200 construction jobs.

The Minister for Planning is the consent authority as the Council objected to the proposal and the Applicant is a public authority.

Engagement

The Department publicly exhibited the Environmental Impact Statement (EIS) between 16 August 2018 to 12 September 2018 and received a total of 22 submissions, including nine from public authorities providing advice and comments, objection from Council and 12 from the public (with six objecting, two supporting and four providing comments).

Two public submissions raised specific concerns on the loss of residential solar access and views for the Victoria Tower at 197 Castlereagh Street and the Park Regis at 27 Park Street. The Department visited several apartment owners within Victoria Tower to inspect their views and outlook on 11 September 2018 as further discussed in **Section 6.3** of this Assessment report.

Council objected to the proposed design excellence strategy, citing that it does not meet the intent of the Design Excellence provisions of the Sydney Local Environmental Plan (SLEP). Council considered a competitive design process must be conducted for the proposal.

Council also did not support the Applicant's requests for variation to the Floor Space Ratio standard because of the conceptual nature of the application and the precise land use was unknown. Council also objected to the award of any floor space bonus for achieving design excellence prior to the completion of a competitive design process. Council's submission also provided comment on public art placement, street activation, placement and adaptability of parking, flooding, signage and environmentally sustainable design (ESD).

Three public submissions raised concerns on the potential loss of heritage values for the NSW Masonic Club building. Submissions on behalf of the Masonic Club were concerned with building separation to support sunlight to the grand dining room, privacy, economic impacts and its heritage significance. Council recommended that the building envelope footprint on the northern boundary be modified to match the 'indent' to the Masonic Club.

Public authorities provided further comments and advice which informed conditions in the Department's recommended conditions in **Appendix I**. NSW Government Architect (GANSW) supported the Design Excellence Strategy and provided feedback on the articulation and modulation of future built forms within the proposed building envelope (See **Section 6.1**).

Assessment

The Department has carefully considered the material submitted with the application, issues raised in submissions and the Applicant's response to these issues as discussed below.

Density and Land Uses

The Department is satisfied the Applicant's RtS clarified the land use mix for each scheme. This has allowed for consideration of the potential impacts of the development and respective variation requests to the FSR standards. The proposal seeks approval for two land use schemes, a mixed-use and a commercial scheme with a maximum Gross Floor Area (GFA) 50,310 m² proposed for both schemes (FSR 15.97:1). The Department is satisfied the Applicant's requests to vary the FSR standard for both proposed land use schemes are well founded because of the unique circumstances of the proposed over station development as discussed in Section 6.1 of this report (**Appendix E**).

The FSR standard predates the commercial floor space demand required to support future jobs growth which has since been identified in the Eastern District Plan. The Department considers the proposal will make significant contribution to the important planning priorities of the Eastern District Plan for employment generation in the Sydney CBD, noting the proposal will generate up to 2,500 new operational jobs, with the variation accounting for up to 560 additional jobs. The proposed additional floor space will also be supported by the new transport capacity of the Metro line.

The Department considers the proposed FSR of 15.97:1 is not beyond the maximum capacity of the site. The submitted variation requests demonstrate a compliant scheme under the SLEP could achieve a similar FSR of 15.4:1. The submitted indicative schemes illustrate the proposed floor space can be accommodated within the proposed building envelope with opportunities for further building articulation and setbacks from the maximum building envelope. The Department also recommends additional requirements to support the distribution of floor space and reduce building mass of future built forms, including maximum floor plate sizes and maximum horizontal façade dimensions (**Condition A17 and B3**).

The application does not seek the award of design excellence bonus floor space under the SLEP provision. The design of future built form within the building envelope will be subject to the endorsed design excellence process with independent design review (see **Section 6.6 – Design Excellence**) (**Condition A25**). The Department also recommends additional Design Guidelines with respect to achieving a high standard of residential amenity (**Condition A23 b**) and architectural form (**Condition A23 c**).

Building Envelope

The proposed building envelope complies with the relevant requirements of SLEP which seek to protect solar access to Hyde Park. The Department is satisfied the proposed building envelope will not affect solar access to Hyde Park between 12.00 – 2.00 pm on 21 June as required by the Hyde Park Sun access plane control in the SLEP (**Condition A23 a**). The Applicant's solar access information demonstrated the proposed building envelope maintains improvements to solar access achieved by the recently approved building envelope for 201 Elizabeth Street and if both developments proceed there will be more sunlight access to Hyde Park compared to the existing situation.

The Department is also satisfied that the proposed building envelope complies with sun access protection controls with respect to Town Hall Steps and Sydney Square. The proposed building envelope will not overshadow the future Town Hall Square between 12 noon and sunset throughout the year, consistent with Council's Draft Central Sydney Planning Strategy. The Department also recommends endorsement of the submitted Design Guidelines which include provisions to maximise solar access to these public domain areas, including the future Town Hall Square (**Condition B1**).

The Department accepts the scale of the proposed building envelope. The maximum height of approximately 166 m is compatible and/or less prominent than surrounding developments, including the ANZ and Citibank buildings.

Amenity Impacts (Solar Access and View Sharing)

Solar Access:

The Apartment Design Guide (ADG) requires 70% of apartments to retain a minimum of 2 hours solar access between 9 am and 3 pm at mid-winter. The Department notes the proposed building envelope together with the approved building envelope at 201 Elizabeth Street, would cumulatively reduce the number of ADG compliant apartments in Park Regis to 45.65%. The assessment identifies no solar impacts to 197 Castlereagh Street (Victoria Tower) which is located further south behind Park Regis. The Department accepts the extent of impacts from the proposed building envelope is reasonable in the circumstances. The Department notes the site is directly north of the living rooms of apartments in Park Regis and unless the subject site remains undeveloped, solar access to Park Regis will be reduced from its current levels. The Department also recognizes it is not a reasonable expectation for either the property at 201 Elizabeth Street or the subject site to not be re-developed, given the development potential anticipated for each site under the SLEP controls.

The proposed building envelope complies with the SLEP height standard and DCP setback controls and represents the worst-case scenario solar impacts. The Department's assessment notes refinements to the design of future built forms as illustrated by the indicate schemes will provide opportunity to further reduce solar impacts to Park Regis. The Department therefore, considers it is appropriate to recommend an additional Design Guideline requiring future built forms to minimise solar impacts to the residences of Park Regis through design refinement (**Condition A23 b**)).

View Sharing: The Department accepts the proposed building envelope will have reasonable view impacts to both Victoria Tower and Park Regis (**Appendix F**). The Department's assessment concludes the proposal will not affect the primary views from Victoria Tower or the Park Regis.

Heritage

The Department supports the submitted Design Guidelines which propose appropriate setbacks to protect light access to adjoining lightwells of the National Building and Masonic Club, including the use of reflective or light-coloured materials to encourage light penetration. The Department however notes the grand dining room windows of the Masonic Club are at a height that is subject to separate approval for the Metro station (at RL 48 and below) and a setback requirement cannot be imposed as part of this application. The Department also recommends incorporating the Heritage Council's advice as conditions and requires future detailed design applications (**Condition B1**).

Design Excellence

The Department accepts that the proposal satisfies the requirements of SLEP with respect to Design Excellence. The Department also supports Sydney Metro's Design Excellence Strategy in lieu of a competitive design process noting:

- the Strategy includes processes for competitive selection in lieu of a competitive design process and project benchmarks capable of delivering a high quality architectural and urban design outcome
- the benefits of an integrated station development (integrating the approved station with the over station development) is supported by the Government Architect
- the need for consistent design advice, noting the approved station has already been undergoing design review by the Sydney Metro DRP (SDRP)

- the engineering and design complexity of over station development requires specialised technical expertise and coordination with infrastructure delivery that are difficult to be accommodated in a competitive design process
- the positive impact on delivery of critical infrastructure coupled with a reduction in construction impacts.

The Department recommends that the Minister exercises the discretion available under Clause 6.21(6) of SLEP 2012 and accepts the proposed Design Excellence Strategy subject to future detailed design applications being reviewed by the SDRP or similar independent Design Review Panel (**Condition A25 and A26**).

Conclusion

Following detailed assessment, the Department supports the proposed OSD building envelope. It is considered to be responsive to the site context and generally in accordance with the SLEP development standards and desired outcomes. The Department's recommended conditions will further mitigate any potential impacts.

The proposal is consistent with key strategic planning objectives for the site including the Eastern City District Plan aims for delivering jobs and housing at a highly accessible location serviced by the new Metro line. The proposal would contribute up to 2,500 full time equivalent jobs, with the proposed floor space variation for a commercial scheme accounting for 560 additional jobs. It will contribute to the important planning priorities of the Eastern District Plan for employment generation in the Sydney CBD.

For the reasons above, the Department considers the proposal is in the public interest.

The Department concludes the proposal is approvable, subject to the conditions of consent outlined within this report.



Contents

Glossary	2
Executive Summary	3
Engagement	3
Assessment	4
1. Introduction	9
1.1 Pitt Street Metro Station	9
1.2 Pitt Street North	11
1.3 Surrounding Context	11
1.4 Previous approvals and other relevant applications	12
2. Project	15
2.1 Site Description	16
2.2 Physical Layout and Design	16
2.3 Staging and related station development	18
3. Strategic Context	19
3.1 Greater Sydney Region Plan: A Metropolis of Three Cities	19
3.2 Eastern City District Plan	20
4. Statutory Context	21
4.1 State Significant Development	21
4.2 Permissibility	21
4.3 Mandatory Matters for Consideration	21
4.4 Objects of the EP&A Act	21
4.5 Ecologically Sustainable Development	21
4.6 Environmental Planning and Assessment Regulation 2000	22
4.7 Planning Secretary's Environmental Assessment Requirements	22
5. Engagement	23
5.1 Department's Engagement	23
5.2 Summary of Submissions	23
5.3 Key Issues – Government Agencies	24
5.4 Key Issues – Council/Community/Special Interest Groups	25
5.5 Response to Submissions	26
6. Assessment	28

6.1	Density (Floor Space Ratio) and Land uses	28
6.2	Building envelope	36
6.3	Amenity impacts	42
6.4	Heritage	49
6.5	Integration with Metro Station and the public domain	53
6.6	Design Excellence	56
6.7	Other Issues	59
7.	Evaluation	62
8.	Recommendation	64
9.	Determination	65
Appendices		66
	Appendix A – List of Documents	66
	Appendix B – Environmental Impact Statement	66
	Appendix C – Submissions	66
	Appendix D – Response to Submissions Report	66
	Appendix E – Department’s consideration of Clause 4.6 submissions	66
	Appendix F – Department’s consideration of <i>Tenacity</i> view sharing principles	76
	Appendix G – Statutory Considerations	83
	Appendix H – Community Views for Draft Notice of Decision	103
	Appendix I – Recommended Instrument of Consent	103



1. Introduction

This report provides an assessment of a Concept Development Application for State Significant Development (SSD) seeking approval for an over station development above the northern entrance of the approved Pitt Street Metro ('the site').

Sydney Metro (the Applicant) lodged the application to seek approval for a building envelope for either a mixed-use or a commercial scheme with a maximum height of RL 188.74 (approximately 43 residential storeys or 36 commercial storeys).

The application seeks concept approval for:

- Building envelope for a podium and tower form with a maximum tower height of RL 188.74, or 166 m above ground level and a maximum podium height of RL 68, or 45 m above ground level
- Maximum gross floor area (GFA) of 50,310m²
- Car parking for a maximum of 50 cars, located above ground across five levels of the podium
- Land use for either a mixed-use development comprising residential accommodation, hotel and office uses (approximately 300 residential apartments, 200 hotel rooms and 1,500 m² of commercial floor space) or a commercial office development. Only one land use scheme would proceed and this would be confirmed as part of a future detailed application.

If the Concept Development Application is approved, a State Significant Development application or applications will be submitted for the detailed design and construction of the OSD. The Concept DA includes a design excellence strategy and design guidelines to support the detailed design of future applications.

The Pitt Street Metro station is one of the seven new stations approved as part of the Critical State Significant Infrastructure Approval (**CSSI 7400**) for the Sydney Metro City and Southwest Metro between Chatswood and Sydenham. The CSSI Approval provides for construction of the station box as well as structural and service elements/spaces necessary for OSD components within the SSI footprint.

The proposed OSD is part of the Applicant's strategy to deliver an integrated station development for the new Pitt Street Metro station, which seeks the opportunity to construct the OSD together with the station and to promote better design integration between infrastructure and development.

1.1 Pitt Street Metro Station

The Pitt Street Metro Station is located in the Central Business District (CBD) of the City of Sydney Local Government Area. There are two separate over station developments proposed, above the northern and southern entrance of the Pitt Street Metro Station respectively (**Figures 1 and 2**).

The Pitt Street North site is located at the southern end of the street block bound by Market Street to the north, Park Street to the south, Castlereagh Street to the east and Pitt Street to the west. It is approximately 160 m east of Sydney Town Hall and the Town Hall Railway Station. The two station entrances are connected by the underground Pitt Street Metro station and are located approximately 160 m apart. The delivery of Sydney Metro City and Southwest will increase transport capacity and access to the Sydney CBD. Pitt Street Metro Station will be located in a pedestrian area with proximity to a number of public transport nodes to support interchange between transport modes.

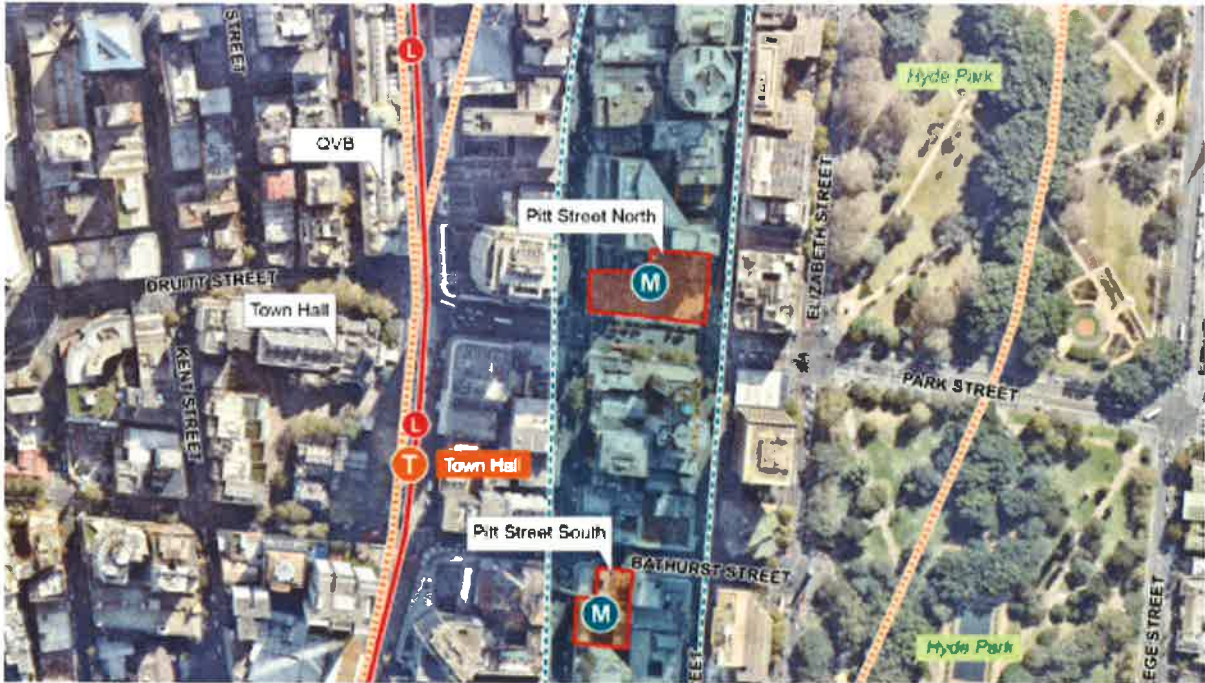


Figure 1 | The location of Pitt Street North and Pitt Street South OSDs in the CBD. (Source: EIS)



Figure 2 | Location of Pitt Street North and surrounding developments (Source: EIS)

1.2 Pitt Street North

The site is an L-shape with a total area of 3,150 m² with frontages of approximately 80 m along Park Street, 48 m along Castlereagh and 28 m along Pitt Street. Park Street provides a major cross-city connection while Pitt Street and Castlereagh Street are two of the key north-south thoroughfares. The site is reasonably flat with a very slight fall from south east to north west (**Figure 2**).

1.3 Surrounding Context

Adjoining the northern boundary of the site is a 12-storey rendered brick building referred to as the Masonic Club which incorporates the NSW Masonic Club and Castlereagh Boutique Hotel. The building is heritage listed in the SLEP 2012. Adjoining the north western boundary of the site, is the “National Building” an early twentieth century, 12-storey brick and concrete commercial building. The building is also heritage listed in the SLEP 2012. To the north of the National Building is the ANZ Tower, a multistorey commercial building (**Figure 3**). North east of the site on Castlereagh Street is the Great Synagogue.

To the south-east of the site is 201 Elizabeth Street, a 38-storey commercial office tower (**Figures 2 and 5**). The site has approval for redevelopment for a mixed-use retail, residential and hotel building envelope, featuring a 45 m podium and a 37-storey tower above (SSD 8105 and D/2017/349) (**Figure 4**).

South of the site and on the opposite side of Park Street is the Criterion Hotel and the 44 storey Park Regis building (27 Park Street). The Criterion Hotel is a local heritage item. The Park Regis contains hotel rooms up to level 15, with residential apartments above. Victoria Tower (197 Castlereagh Street) is located directly behind the Park Regis building and contains residential apartments (**Figures 2 and 5**).

West of the site, on Pitt Street is the Citigroup Centre building, a commercial office building with podium retail premises with a maximum height of 243 m. This building shares a common building form with the nearby ANZ Tower of podium and tower setbacks.

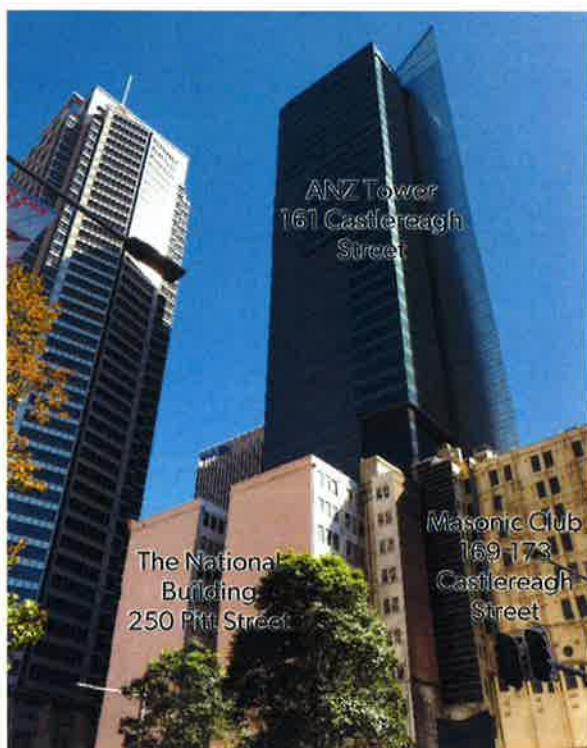


Figure 3 | View to developments adjoining the northern boundary of the site, including ANZ tower, the National Building and the Masonic Club (Source: DPE)

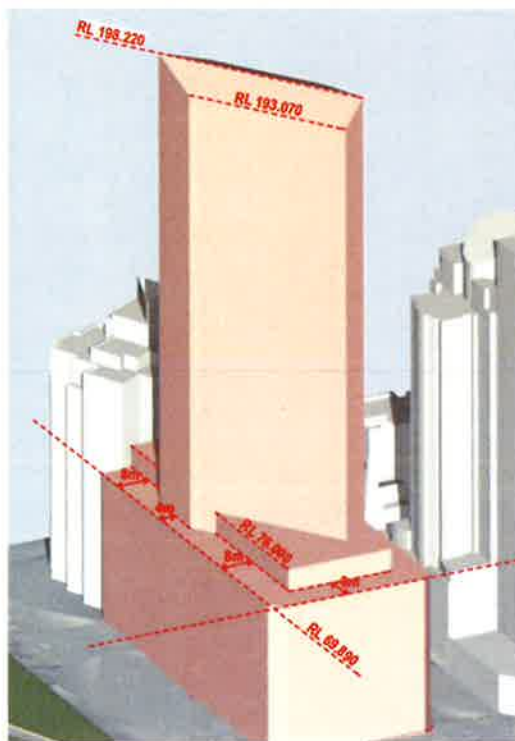


Figure 4 | Approved building envelope at 201 Elizabeth Street (Source: Approved Plans, SSD 8105)

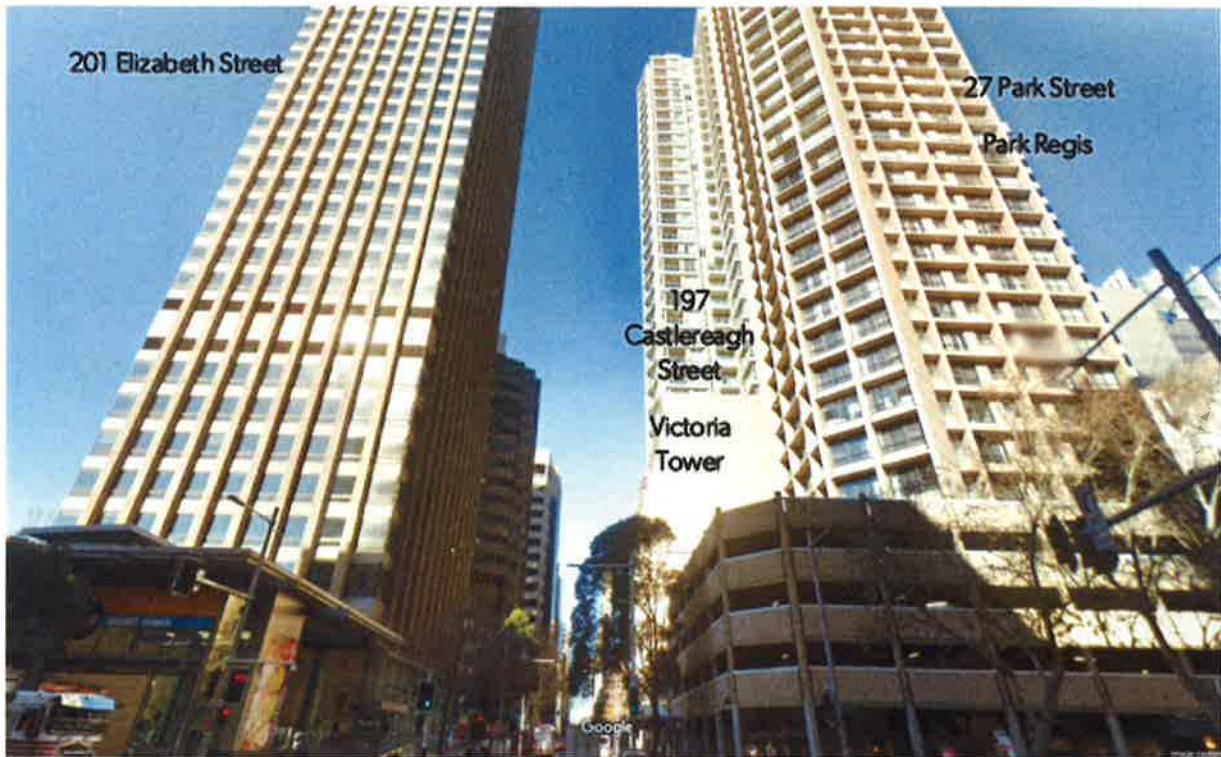


Figure 5 | The Criterion Hotel, Park Regis (27 Park Street) and the Victoria Tower (197 Castlereagh Street) (Source: EIS)

1.4 Previous approvals and other relevant applications

Sydney Metro infrastructure approval (CSSI 7400)

On 9 January 2017, the former Minister for Planning (now Minister for Planning and Public Spaces) granted infrastructure approval (CSSI 7400) for the construction and operation of the Sydney Metro City and Southwest Metro between Chatswood and Sydenham, including approval for 16.5 km of rail lines, a tunnel under Sydney Harbour, links with the existing rail network, metro stations and associated infrastructure (**Figure 6**).

The CSSI approval as it relates to the Pitt Street North Station provides for:

- demolition of existing buildings within the site
- excavation of the rail tunnel, concourse and platforms and therefore the setting of surrounding structural zones, services and accesses
- establishment of an aboveground station footprint of approximately five storeys in height (up to RL 48)
- non-rail related floor space within the station footprint for OSD uses
- station entry via a large pedestrian entrance on Park Street
- pedestrian entrances on Pitt, Castlereagh and Park Street for OSD to provide separation from the station entrance
- public domain works.



Figure 6 | Metro Station locations, with Chatswood to Sydenham line identified opening 2024 (source: EIS).

The CSSI approval conditions relevant to OSD at Pitt Street North Station include:

- **Condition A4** which notes that any OSD, including associated future use, does not form part of the CSSI and will be subject to the relevant assessment pathway
- **Condition E92** requires an Interchange Access Plan (IAP) to be prepared and approved for each station, in consultation with the Sydney Metro Design Review Panel (DRP), to inform the final design of transport and access facilities and services, including footpaths, cycleways, passenger facilities, parking, traffic and road closures, and integration of public domain and transport initiatives
- **Condition E100** requires the Sydney Metro Design Review Panel (DRP) be established to refine the design objectives for the development and provide advice on place making, architecture, heritage, urban design, landscape design and artistic aspects. The DRP comprises five members, chaired by the NSW Government Architect and includes a representative of the Heritage Council of NSW, with the opportunity for Council or other stakeholders to be invited to attend
- **Condition E101** requires the preparation and approval of Station Design Precinct Plans (SDPPs) for each station. The SDPPs are to present an integrated urban and place making outcome. The SDPPs must be prepared in collaboration and consultation with relevant stakeholders, including council, the local community and the DRP. The SDPP must identify and address specific design objectives, principles and standards as are identified in Condition E101.

Six requests to modify the CSSI approval have been determined. These requests are:

- Modification 1 – Victoria Cross Station and Artarmon Substation – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 1 determined 18 October 2017)
- Modification 2 – Central Walk – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 774 Mod 2 determined 21 December 2017)

- Modification 3 – Martin Place Metro Station – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 3 determined 22 March 2018)
- Modification 4 – Sydenham Station and Metro Facility South – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 4 determined 13 December 2017)
- Modification 5 – Blues Point Acoustic Shed – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 5 determined 2 November 2018)
- Modification 6 – Administrative changes – Modification to Sydney Metro City and Southwest – Chatswood to Sydenham (SSI 7400 Mod 6 determined 21 February 2019).

None of the above modifications have any direct relevance to the proposal and its assessment.

Related Applications

On 8 August 2018 the Applicant submitted a Concept Development Application (SSD 8876) for an over station development on the Sydney Metro Pitt Street (South) site, comprising:

- a maximum building envelope for a podium and tower form with a height up to RL 171.6 (146 m)
- approximately 35 residential storeys or 30 commercial storeys and a podium height of approximately 8 storeys, including two levels for plant
- conceptual land uses for either residential accommodation or commercial scheme (not both)
- car parking for a maximum of 34 car spaces
- gross floor area was not sought.

The Department is currently assessing this application and it will be referred to the Minister for determination when complete.

2. Project

The application seeks approval for a building envelope for an OSD above the northern entrance of the approved Pitt Street Metro Station.

The proposed building envelope is up to RL 188.74, or approximately 166 m, providing approximately 43 storeys (mixed-use) or 36 storeys (commercial) including a podium height of RL 68 (approximately 45 m) which equates to approximately 12 storeys above ground.

The proposed building envelope will accommodate a maximum gross floor area of GFA of 50,310 m² for either a mixed-use scheme with residential apartments, hotel rooms and commercial floor space or a commercial office scheme with podium retail premises.

The application is accompanied by a Design Excellence Strategy and Design Guidelines to provide parameters to guide the detailed design of future development application(s).

The application also seeks approval for the use of non-rail related structure within the station footprint for OSD uses and indicative signage zones.

The key components of the Concept Proposal are provided in **Table 1** and further illustrated in **Figure 7** and **Figure 8**.

Table 1 | Main Components of the Project

Aspect	Description
Built form	A mixed-use or commercial building envelope comprising: - a podium height to RL 68, or 45 m above ground level (approximately 12 storeys) - maximum tower height of RL 188.74, or 166 m above ground level (approximately 43 storeys) on the northern part of the site, reducing in a tapered form to RL 161.7 on the south west part of the site.
Gross Floor Area (GFA)	- total site GFA of 50,310 m² including station-related GFA of 1,189 m² approved under Critical State Significant Infrastructure application (CSSI 7400) - maximum floor space ratio (FSR) of 15.97:1
Land uses	Two land use options for the proposed building envelope are: - a mixed-use development containing residential accommodation, hotel and office uses. This option includes an indicative design for 300 residential apartments, 200 hotel rooms and 1,500 m² commercial floor space; or - a commercial development (i.e. office building) with podium retail premises
Vehicle access and car parking	loading and vehicular access from Castlereagh Street

Aspect	Description
	50 parking spaces located across five levels of the podium
Employment	1,000 - 1,200 construction jobs - Up to 2,500 operational jobs for a commercial scheme - Up to 300 operational jobs for a mixed-use scheme
Capital Investment Value (CIV)	\$281,959,038 (excl. GST)

2.1 Site Description

The site consists of 11 allotments and has a total area of 3,150 m² as detailed in **Table 2**. All previous developments at the site have since been demolished under the CSSI 7400 Approval.

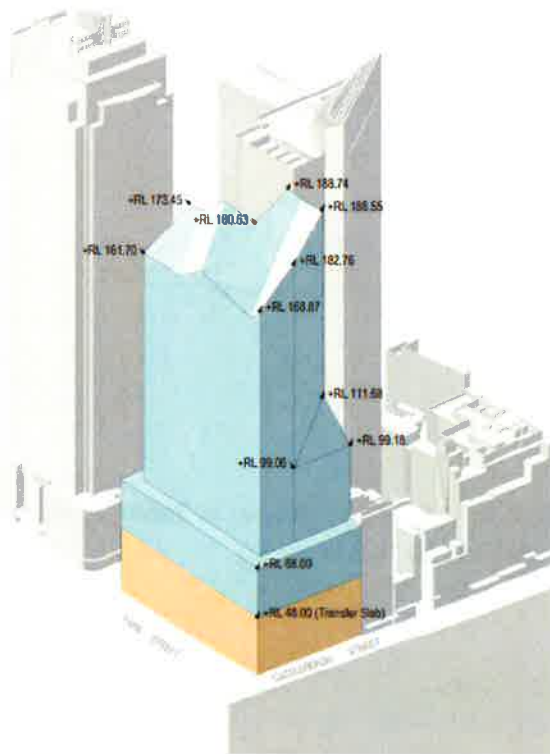
Table 2 | The legal description of the site.

Address	Lot
175-183 Castlereagh Street	- Lot 1, DP 74367 - Lot 1, DP 229365 - Lot 1, DP 596474 - Lot 1 & 2, DP 982663 - Lot 2, DP 509677 - Lot 2, DP 900055 - Lot 3, DP 61187 - Lot 3, DP 74952 - Lot 3, DP 509677 - Lot 17, DP 1095869

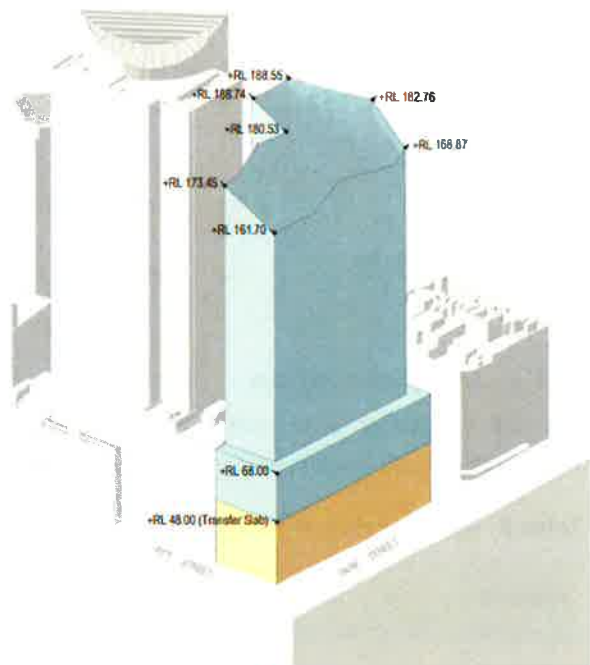
2.2 Physical Layout and Design

The proposed building envelope comprises a podium above the transfer slab (RL 48) of the approved station works. Podium height is from RL 48 to RL 68, and podium footprint measures 81 m along Park Street, 48 m on Castlereagh Street and 28 m on Pitt Street. Maximum building height is RL 188.74 on the northern boundary of the site and reduces in a tapered form to RL 161.7 on the south west part of the site in line with sun access plane planning controls (**Figure 7**).

The proposed building envelope has zero setbacks at the podium levels and a weighted average 8m tower setback from street frontages but no less than 6 m (**Figure 8**). The main entry to the new metro station is on Park Street and the entrance to the OSD is proposed to be from Park, Pitt and Castlereagh Streets. Services and car parking are proposed to enter the site from Castlereagh Street.



Envelope Massing - South East



Envelope Massing - South West

Figure 7 | Building envelope in 3-dimensional massing, CSSI station box in orange, OSD in blue (source: EIS)

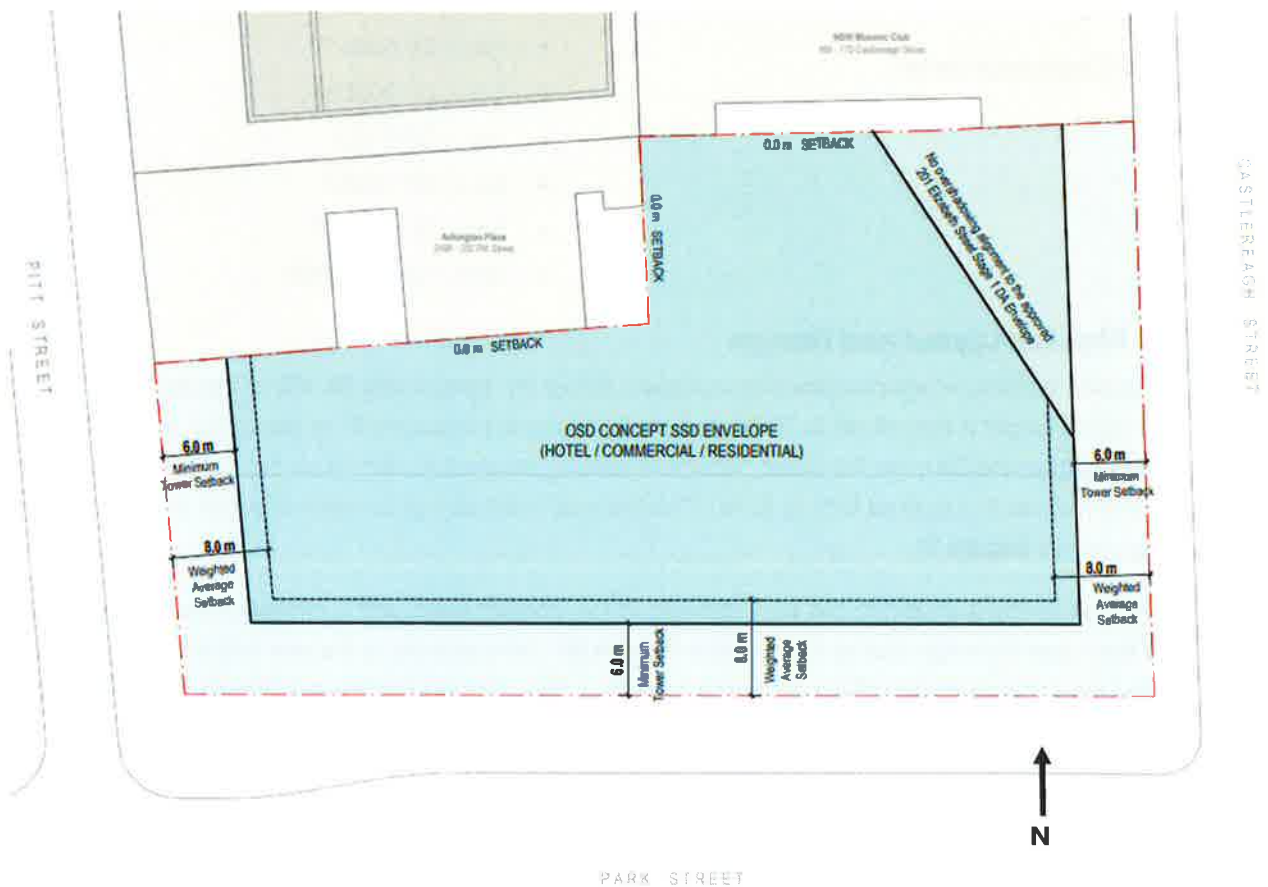


Figure 8 | Building envelope plan showing setbacks (source: EIS)

2.3 Staging and related station development

The Concept Development Application does not seek approval for construction works. Should the application be approved, a future application, or applications, would be lodged for the detailed design and construction of the development.

The following staging options have been identified in the EIS (**Figure 9**):

- Scenario 1: the station and OSD are constructed concurrently and both are completed in, or prior to, 2024. Under this scenario construction would involve the construction of the transfer slab first, then building the OSD above and partly below
- Scenario 2: the station is constructed and completed in 2024, with the OSD still under construction.
- Scenario 3: the station is constructed first and completed in 2024, with the OSD being built at a later stage.

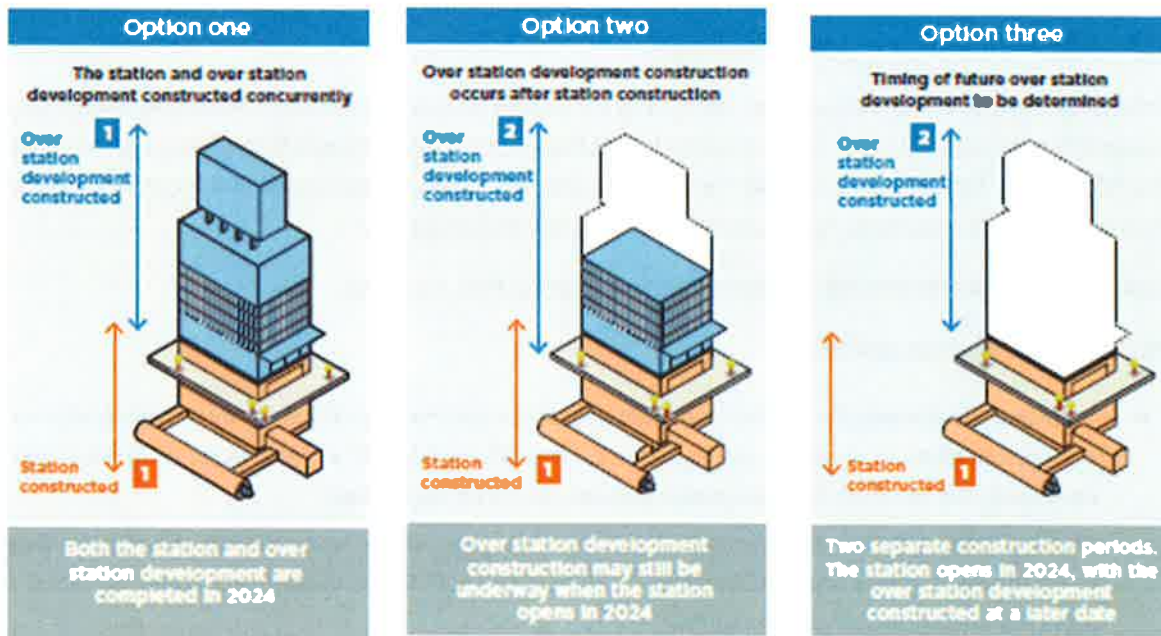


Figure 9 | Staging scenarios (source: Applicant's EIS)

The vertical extent of the CSSI approved station works extends to the transfer level identified at RL 48 (**Figure 7**). The areas highlighted orange relate to the CSSI approval for the station infrastructure. The areas highlighted blue relate to the OSD works (**Figure 7 & 9**). Structural, services and access allowances within the CSSI footprint have been made, and continue to be made in post-approval stages, for the OSD. In the event that Scenario 3 is adopted, with the CSSI built but the OSD to be built at a later stage, the CSSI footprint will have made spatial allowances for OSD.

The Applicant is targeting concurrent construction of the station infrastructure, public domain works and the OSD as per Scenario 1. The Applicant's preferred delivery model is to seek concept approval, invite tenders for the OSD from the private sector, allow for the successful bidder to seek approval for the detailed design and construction, then build the station and OSD within one construction period. The Pitt Street Metro Station is scheduled for completion in 2024.



3. Strategic Context

3.1 Greater Sydney Region Plan: A Metropolis of Three Cities

The *Greater Sydney Region Plan: A Metropolis of Three Cities* ('the Plan') supersedes *A Plan for Growing Sydney* and sets out the NSW Government's vision, through the Greater Sydney Commission, for Sydney to be "...a metropolis of three cities where the people of Greater Sydney live within 30 minutes of their jobs, education and health facilities, services and great places." These cities are: the Western Parkland City, the Central River City and the Eastern Harbour City.

Ten directions underpin the Plan which focus on infrastructure and collaboration, liveability, productivity, sustainability and implementation. The overall direction of which is to manage population growth and support economic growth and environmental sustainability.

The site is located within the Metropolitan Centre and the Eastern Economic Corridor. This corridor extends from Macquarie Park through the North Sydney Centre to Port Botany and Sydney Airport. It generates over 41 per cent of the NSW Gross State Product. Sydney's knowledge jobs are heavily concentrated in the corridor including sectors such as communications, high-tech manufacturing and biotechnology.

The proposal is consistent with the Directions and Actions of the Plan, including:

In the case of a commercial scheme:

- the proposal increases the national and international competitiveness of Sydney by providing additional job opportunities in strategic employment centres (Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities)
- the proposal is in the Eastern Economic Corridor and provides for the economic use of land immediately above the future metro station (Objective 15: The Eastern, GPOP and Western Economic Corridors are better connected and more competitive)
- the Harbour CBD is an important employment centre and the proposal will expand on the supply of employment space in the CBD (Objective 18: Harbour CBD is stronger and more competitive)
- the proposed development supports the strategic goals, directions and actions of the Plan by providing commercial space in a strategic transport corridor. The proposal supports the concept of integrated land use and transport by linking public transport use and promoting employment opportunities in a highly accessible part of Sydney.

In the case of a mixed-use scheme incorporating residential development:

- the proposed development supports the objective of greater housing supply and could support a variety of different dwelling topologies to cater for the diverse requirements of future residents
- the proposed development supports the strategic goals, directions and actions of the Plan by providing residential space in a strategic transport corridor. The proposal underscores the concept of integrated land use and transport by linking public transport use and promoting employment opportunities in a highly accessible part of Sydney.

3.2 Eastern City District Plan

The Greater Sydney Commission has prepared District Plans to inform regional and local-level planning and assist the actions of State agencies. The aim of the District Plans is to connect local planning with longer-term metropolitan planning for Greater Sydney.

The Pitt Street North Station Precinct is located within the Eastern City District. The Eastern City District Plan contains key priorities for infrastructure that are relevant to the proposed development including:

- Planning Priority E1. Planning for a city supported by Infrastructure
- Planning Priority E5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport
- Planning Priority E7 Growing a stronger and more competitive Harbour CBD
- Planning Priority E10 Delivering integrated land use and transport planning and a 30-minute city
- Planning Priority E11 Growing investment, business opportunities and jobs in strategic centres.

The proposal is consistent with the above priorities as it facilitates the construction of either a high quality mixed-use or commercial building in an area with strong public transport connections.

In a commercial scheme the proposal assists in meeting jobs targets for the Eastern City District, growing investment in the Centre and providing more commercial leasing opportunities to a more connected catchment along the Eastern Economic Corridor.

In a mixed-use scheme the proposal assists in meeting housing targets for the Eastern City District and providing additional housing opportunities to a more connected catchment along the Eastern Economic Corridor.



4. Statutory Context

4.1 State Significant Development

The proposal is SSD under Section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the development has a CIV in excess of \$30 million and is for the purpose of a commercial premises associated with railway infrastructure under clause 8(1)(b) of *State Environmental Planning Policy (State and Regional Development) 2011*.

In accordance with Section 4.5 of the EP&A Act and Clause 8A of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) and Instrument of Delegation dated 11 October 2018, the Minister for Planning is designated as the consent authority as the application has been made by a public authority and Council objected to the proposal.

4.2 Permissibility

The site is zoned B8 under the SLEP 2012. Commercial premises and mixed-use development are permissible with consent within the B8 Metropolitan Centre zone in the SLEP. Therefore, the Minister for Planning may determine the application.

4.3 Mandatory Matters for Consideration

Environmental Planning Instruments

Under Section 4.15 of the EP&A Act, the Planning Secretary's assessment report is required to include a copy of, or reference to, the provisions of any EPIs that substantially govern the project and that have been taken into account in the assessment of the project. The following EPIs apply to the site:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- Draft State Environmental Planning Policy (Environment) 2017
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Sydney Local Environmental Plan 2012 (SLEP 2012).

The Department has undertaken a detailed assessment of these EPIs in **Appendix G** and is satisfied the application is consistent with the requirements of the EPIs.

4.4 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects as set out in Section 1.3 of the Act. A response to the Objects of the EP&A Act is provided in **Appendix G**.

4.5 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of the *Protection of the Environment Administration Act 1991* states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle;
- inter-generational equity;
- conservation of biological diversity and ecological integrity; and
- improved valuation, pricing and incentive mechanisms.

The development proposes ESD initiatives and sustainability measures, including targeting minimum environmental standards of 5 Green Star Office, 4-star NABERS Energy and 3 star NABERS Water.

The Department has considered the proposed development in relation to the ESD principles. The Precautionary and Inter-Generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act.

4.6 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with.

4.7 Planning Secretary's Environmental Assessment Requirements

On 30 November 2017, the Department notified the Applicant of the Secretary's Environmental Assessment Requirements (SEARs) for the SSD application. On 26 July 2018, the Department modified the SEARs to reflect the Applicant's name change. The Department is satisfied that the EIS and RtS adequately addresses compliance with the SEARs to enable the assessment and determination of the application.

5. Engagement

5.1 Department's Engagement

The Department publicly exhibited the Environmental Impact Statement (EIS) from 16 August 2018 until 12 September 2018 (28 days). On 15 August 2018 a notice of public exhibition was advertised in the Sydney Morning Herald, Daily Telegraph and the Central Courier. Adjoining landholders and relevant State and local government authorities were also notified in writing.

The Application was exhibited on the Department's website, at NSW Service Centres and at the City of Sydney Council office.

The Department invited apartment owners within the Victoria Tower at 197 Castlereagh Street that have a northerly aspect to allow access to Department staff to inspect their dwellings and see views and outlook for the view impact assessment in this report. The Department visited several apartments across a range of levels and orientations within the Victoria Tower on 11 September 2018. View impacts are addressed in **Section 6**.

5.2 Summary of Submissions

The Department received a total of 22 submissions, including 9 from public authorities, the City of Sydney Council, and 12 from the public (with 6 objecting, 2 supporting and 4 providing comments). Two additional submissions from public authorities and one from Council were received in response to the Applicant's Response to Submissions (RtS). A summary of the issues raised in the submissions is provided in **Table 3** and **Table 4** and copies of the submissions may be viewed at **Appendix C**.

The Department has considered the submissions made by public authorities and the public during the assessment of the application (**Section 6**) and/or by way of recommended conditions in the instrument of consent at **Appendix I**.

Table 3 | Government Agency Submitters

Submitters	Number	Position
Government Agencies	9	
Government Architect NSW		
Office of Environment and Heritage - Heritage branch and Heritage Council		
Office of Environment and Heritage - Planning		
NSW Environment Protection Authority		
NSW Department of Industry – Natural Resources Access Regulator and Lands and Water		
Civil Aviation Safety Authority		
Sydney Airport Corporation		
Sydney Water		
Ausgrid		

Agencies provided comments on the application as noted in **Section 5.3**.

Table 4 | Summary of Council, Community and Special Interest Submissions. Community submissions were from individual members of the public.

Submitters	Number	Position
City of Sydney	1	Object
Community	8	
	4	Object
	1	Support
	3	Comment
Businesses	3	
	1	Comment
	1	Support
	1	Object
Special interest	1	
	1	Object
Member for Sydney (Alex Greenwich)	0	Support
	0	Comment
Total	13	

A summary of the issues raised in the public submission is provided in **Table 6** and copies of the submissions may be viewed in **Appendix C**.

In addition to the submissions received, a petition was presented to the Legislative Assembly of NSW (of under 500 signatures) which objected to the two over station developments above the Sydney Metro Pitt Street station sites (North and South). The petition stated that the towers represented overdevelopments of the sites which would lead to unacceptable impacts including reduction in sunlight access to homes and overshadowing of Hyde Park. The petition also requested revisions to the projects to protect amenity to Hyde Park and neighbouring homes.

5.3 Key Issues – Government Agencies

None of the government agencies objected to the project, and the key issues raised by agencies have either been addressed through the provision of additional information or are able to be addressed through the recommended conditions of consent/approval. **Table 5** provides a summary of key issues raised in government agencies' submissions.

Table 5 | Summary of Government agency submissions

Government Agencies and comments
Government Architects NSW The Government Architect NSW does not object to the proposal and provides the following comments: Support for the inclusion of a local government representative in the Design Excellence Evaluation Panel (DEEP) the EOI process for shortlisting subsequent design teams should include a focus on diversity and innovation to ensure the best value for government and the public

Government Agencies and comments

strongly support and recommend engagement with the State Design Review Panel (SDRP) through the Stage 2 design development process for each station.

NSW Office of Environment - Heritage and Heritage Council

The Heritage Council and NSW OEH Heritage Branch do not object to the proposal and provided the following comments:

- considered the heritage impact assessment adequate and the recommendation and mitigation measures to be appropriate and should be included as conditions of consent should approval be granted
- recommended that the Stage 2 design of the proposal is developed according to the recommendations noted in the EIS and Heritage Impact Assessment.

NSW Office of Environment and Heritage – Planning

NSW OEH Environment Branch advise that the proposal does not contain biodiversity, natural hazards or Aboriginal cultural heritage issues.

NSW Environment Protection Authority

NSW EPA comment that the proposal is not required to have an Environmental Protection Licence under the Protection of the Environment Operations Act 1997.

NSW Department of Primary Industries (Lands and Water) and Natural Resources Access Regulator

Lands and Water advised that the potential dewatering requirements should be addressed in accordance with the NSW Aquifer Interference Policy.

Civil Aviation Safety Authority

Civil Aviation Safety Authority commented that the height of the proposed building will infringe the outer horizontal surface by 33 metres and imposed conditions of approval to a maximum height of 189 metres AHD.

Sydney Airport Corporation

Sydney Airport referred the proposal to the Civil Aviation Safety Authority. See above.

Sydney Water

Sydney Water provided comments to assist in servicing the needs of the proposal.

Ausgrid

Ausgrid provided comments to assist in servicing the needs of the proposal.

A Design Information Package was issued to the Applicant to facilitate connection arrangements for new High Voltage supply.

5.4 Key Issues – Council/Community/Special Interest Groups

Council key issues

Council objected to the proposed design excellence strategy, citing that it does not meet the intent of the Design Excellence provisions of the Sydney Local Environmental Plan (SLEP). Council considered a competitive design process must be conducted for the proposal.

Council also did not support the Applicant's requests for variation to the FSR standard because of the conceptual nature of the application. Council's submission considered it is premature at the concept stage to consider and support a variation to floor space ratio (FSR) standards with a Clause 4.6 request as the precise mix of land uses is unknown, the structure of the SLEP for floor space and the need to pro-rata any additional allowable floor space based on the land use. Council also considered the granting of any Design Excellence 'bonus' is dependent on a building demonstrating design excellence following a LEP endorsed competitive design process.

Council's submission also provided comment and advice on heritage, public art placement, street activation, placement and adaptability of parking, flooding, signage and environmentally sustainable design (ESD).

Community issues

Key issues raised across all community submissions at the EIS stage are summarised in **Table 6**. Key issues raised were: loss of heritage values and solar access for the Masonic Club (3 submissions), loss of residential solar access (3 submissions) and loss of residential views (3 submissions).

Table 6 | Summary of Council and Community Submissions. Note: The figures exceed 100 per cent as many submissions discussed multiple issues

Issue	Proportion of Submissions (%)
Objections	
Loss of heritage values for the Masonic Club	27
Loss of residential solar access for 27 Park Street (Park Regis) and 197 Castlereagh Street (Victoria Tower)	27
Loss of residential views for 27 Park Street and 197 Castlereagh Street	27
Loss of business for the Masonic Club	18
Support	
Perceived economic and social benefits to the Sydney CBD	9

5.5 Response to Submissions

Following the exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

The Applicant provided a Response to Submissions (RtS) report on 13 December 2018 and additional information / clarification on 12 February 2019, 28 February 2019 and 3 May 2019 (**Appendix D**). The RtS and additional information were accompanied by the following:

- updated Design Guidelines to clarify the guidelines are intended to be read in a consolidated manner with respect to the Station Design Precinct Plan as approved under the CSSI 7400 Approval
- updated visual impact assessment with further analyses on the proposal's impacts to 27 Park Street and 197 Castlereagh Street
- updated solar impact assessment with further analyses on the proposal's impacts to 27 Park Street and 197 Castlereagh Street
- Ecological Sustainability Report Addendum
- additional Community Consultation information
- amended Clause 4.6 variation request to the FSR standard with clarification on the breach of development standards and associated impacts for the mixed-use residential option
- a Clause 4.6 variation request to the FSR standard with clarification on the breach of development standards and associated impacts for the commercial office option.

The RtS was made publicly available on the Department's website and was referred to relevant public authorities. An additional two submissions were received from public authorities and one from Council. A summary of issues raised in submissions is provided at **Table 7** and **Table 8** and copies of the submissions may be viewed at **Appendix C**.

Table 7 | Summary of agency submissions to the RtS

Government agency and comments

Government Architects NSW

The Government Architect (GA) supports the Sydney Metro's Design Excellence Strategy, acknowledging the constraints of integrated station development and the opportunity for subsequent applications to be reviewed by the State Design Review Panel. GA raised concern with the amenity of internal and external apartments under the mixed-use scheme.

The Department received additional information on 28 February detailing how the proposal had considered feedback provided by the Metro DRP. The GA supported the Metro DRP's advice and agreed that appropriate building articulation along the Park Street frontage will be critical in responding to the site's attributes and built context.

Heritage Council / NSW Office of Environment and Heritage

The Heritage Council and NSW OEH Heritage Branch stated that they had no further comments to provide.

Table 8 | Summary of Council submission to the RtS

Council comments

Council acknowledged the RtS has addressed some aspects of its original submission. However, Council reiterated the following comments and concerns from its original objection:

- the design excellence strategy does not satisfy the Sydney LEP 2012 requirements as it does not involve either an architectural design competition or the preparation of design alternatives on a competitive basis and would not be eligible for up to a 10% design excellence bonus
- Council considered it inappropriate to approve GFA or consider a Clause 4.6 at the concept application stage
- the amount of car parking for the commercial land use option should be significantly reduced with only accessible and service parking provided
- ESD targets should be definitive, should be increased and the building design should carefully consider internal thermal comfort and address public respite from weather extremes
- conditions should be applied regarding transport matters, flooding, street awnings, building setbacks at ground level, heritage recommendations and signage
- the Department is encouraged not to be deterred from seeking changes to the CSSI approval so that the best possible outcome for the development of the site can be achieved.



6. Assessment

The Department has undertaken a comprehensive assessment of the merits of the project and considered the potential impacts. A summary of the conclusions relating to these impacts is provided in **Section 7**.

The Department has considered the EIS, the issues raised in submissions and the Applicant's RtS in its assessment of the proposal. A list of key documents that informed the Department's assessment is provided in **Appendix A**.

The Department considers the key issues associated with the proposal are:

- Density (floor space ratio) and Land Uses
- Building envelope
 - Solar access to Hyde Park, Sydney Square and Town Hall Steps
 - Visual Impacts
- Amenity impacts (to surrounding residents)
 - Solar access
 - View sharing
- Heritage
- Integration with Metro Station and public domain
- Design excellence.

Each of these issues is discussed in the following sections of this report. Other issues were taken into consideration during the assessment of the application and are discussed at **Section 6.7**.

6.1 Density (Floor Space Ratio) and Land uses

The proposal seeks approval for two land use schemes, a mixed-use and a commercial scheme. The Applicant proposes a maximum Gross Floor Area (GFA) 50,310 m² or a maximum Floor Space Ratio (FSR) of 15.97:1 for both land use schemes. The total floor space is inclusive of floor space associated with the approved station. This represents a variation to the FSR standards contained in Clause 4.4 and Clause 6.4 in the SLEP as outlined in **Table 9** below.

Table 9 | Land uses and submitted variation requests

Land Use	SLEP Maximum FSR (excl 10% design bonus)	Proposed FSR/GFA (m ²)	Extent of Variation (% / GFA m ²)
Mixed-use (residential, hotel and office uses)	13.814:1	15.97:1	15.6% (6,782 m ²)
Commercial (office and retail land uses)	12.394:1	50,310 m ²	28.8% (11,269 m ²)

The Applicant submitted two separate requests to vary the floor space standard as relevant to a mixed-use and a commercial scheme as assessed in **Appendix E** and further discussed below.

Council’s submission recommended against the Applicant’s requests for variation to the FSR standard because of the conceptual nature of the application. Council considered that it is premature to approve an amount of GFA as the precise mix of land uses is unknown, the structure of the SLEP for floor space and the need to pro-rata any additional allowable floor space based on the land use.

Council also recommended against the granting of any design excellence bonus, which it stated should be considered after an endorsed competitive design process, not before.

The exhibited proposal originally sought approval for a maximum GFA of 50,310 m² and a total maximum FSR of 15.97:1 but with an undefined mix of land uses. The Applicant’s RtS clarified the land use mix and submitted two defined land use schemes, a mixed-use scheme and a commercial scheme along with an impact assessment for each. The Applicant also submitted revised Clause 4.6 variation requests addressing the objectives and FSR requirements of the SLEP for each scheme. Neither variation seeks award for design excellence bonus floor space under the SLEP provision.

Applicant’s requests for variation	
The Applicant’s reasons for requesting a variation to the FSR standard as relevant to both schemes are outlined below:	
- penalised by floor space required for the approved rail infrastructure, including station concourse on the ground floor and on basement levels - the FSR development standard in SLEP pre-dates the new Metro line which will significantly increase the transport capacity of the site and the Eastern District Plan which anticipates the demand for floor space for different land uses - a compliant scheme under the SLEP could achieve a similar FSR of 15.4:1 if a 10 % design excellence bonus is awarded to the base FSR - no adverse impact will result from the proposed variation to the FSR standard.	

Additional reasons for the mixed-use scheme	Additional reasons for the commercial scheme
The Applicant contended there are unique site circumstances affecting a mixed-use scheme that should be considered in the variation of floor space: - residential unit storage cannot be provided in the basement due to constraints imposed by the approved station GFA (769 m²) - enclosed balconies will be required to satisfy residential amenity (wind and acoustic) (4,211 m²).	The Applicant contended the commercial scheme will deliver strategic objectives of: - the Eastern District Plan’s Planning Priority E7 which identifies the need to increase the supply of A-grade offices with large floor plate space in the Sydney CBD to meet employment generation required - the Draft Central Sydney Planning Scheme which identifies similar office demand as the Eastern District Plan 2,500 full time equivalent jobs, with the proposed floor space variation accounting for 560 additional jobs. The Applicant also contended that a commercial scheme will integrate well with the approved station given the proposed large station concourse, active street frontages and a high level of pedestrian movements.

Considerations – Mixed-use scheme

The Department accepts the proposed floor space variation is directly attributed to the unique site and development circumstances of the over station development as outlined in **Table 10** below and as illustrated by the submitted indicative design.

The Department notes the extent of the proposed variation to the FSR standard by the mixed-use scheme is at 15.6%. A substantive part of the additional floor space is associated with the approved station being partly below ground.

Table 10 | Components of mixed-use variation request

Components	GFA m ²	Proposed Maximum Floor Space
Maximum permissible GFA under SLEP for the mixed-use scheme	43,528 m ²	
Station Concourse & Station Box GFA (partly below ground) and penalty of a reduced accommodation floor space bonus	1,667 m ²	
Above ground residential storage due to restricted basement space by approved station	Approx. 769 m ²	50,310 m ²
Enclosed balconies for amenity due to CBD location of the site	Approx. 4,211 m ²	
Total	50,175 m ²	

The Department supports the proposed variation request to the FSR standard for the mixed-use scheme for the reasons outlined below and is satisfied with the Applicant's variation request as considered in **Appendix E** and outlined below:

- the additional floor space will be supported by the new transport capacity being delivered by Sydney Metro
- the proposed variation is reasonable having considered the unique circumstances associated with the approved station and the over station development
- the approved floor space for the station infrastructure is mostly below ground and will not materially contribute to additional building bulk or traffic generation
- the extent of variation is numerically minor and is not considered to change the bulk and scale nor the external impacts of the development as defined by the proposed building envelope



Figure 10 | East elevation of indicative mixed-use scheme with proposed building envelope (blue hatched line) (source: EIS).

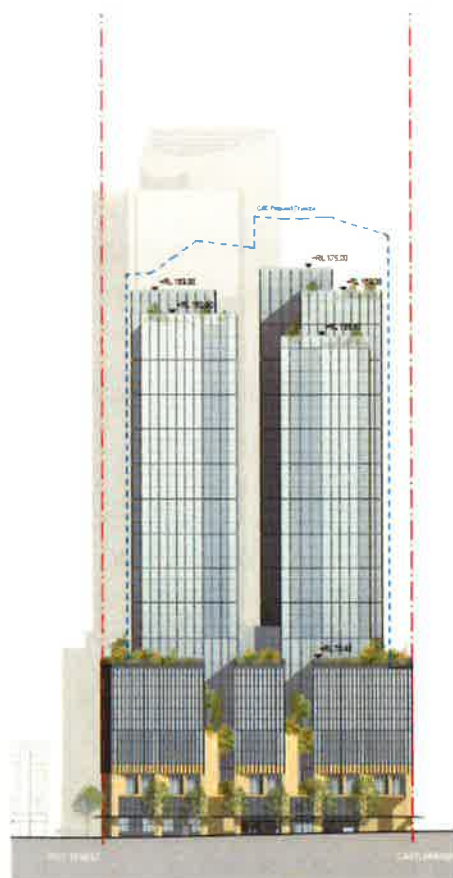


Figure 11 | Southern elevation of indicative mixed-use scheme with building envelope (blue hatched line) (source: RtS).



Figure 12 | Indicative mixed-use tower floor plan identifying apartments with ADG compliant solar access (yellow) and those receiving no direct sunlight (blue) (source: RtS).

The indicative mixed-use scheme submitted with the proposal indicates the additional floor space can easily be accommodated within the proposed building envelope with opportunities for future detailed design to provide necessary building articulation and further setbacks from the envelope's maximum parameters (**Figure 10 and**

11). The Department's assessment however, identified the dimensions, multiple frontages and predominately southern orientation of the site will constrain future detailed design (as illustrated by the indicative scheme) in meeting numerical requirements of the Apartment Design Guideline, particularly for building separation and solar access (See **Appendix G** for the Department's detailed assessment of the proposal with respect to ADG and **Figure 12**).

The Department notes due to the primarily southern orientation of the site, solar access to all future residential apartments can be difficult to achieve. The Applicant contended and illustrated by an indicative scheme that a reduced building separation distance of 11.5 m between potential residential towers would be an acceptable outcome to maximise solar access to future apartments.

The Department notes the reduced building separation will require careful design measures to successfully mitigate any privacy impacts and this can only be confirmed through detailed design. The Department considers the distribution of floor space and building mass within the proposed building should be subject to additional parameters to support a high standard of residential amenity. The Department recommends built forms above the podium should have a maximum floor plate size of 1,000 m² GFA and a maximum horizontal dimension of building façade to 40 m parallel to the street frontage, refencing controls in Council's DCP for residential developments (**Condition A17 and B3**).

The Department also notes the submitted Design Guidelines referenced SEPP 65 and the ADG but do not provide specific guidance to address site constraints affecting the provisions of appropriate building separation and solar access. The Department recommends the Design Guidelines be amended to include the following specific guidelines (**Condition A23 b**):

- Provide appropriate building separation to maintain a reasonable level of residential privacy
- Maximise solar access to residential apartments with consideration to:
 - the number of apartments or development density
 - limiting the number of single aspect/south facing apartments.

Conclusion – Mixed-use scheme

The Department supports the proposed variation to the floor space ratio standard for the proposed mixed-use scheme. Future detailed design will be required to address the endorsed Design Excellence process (See **Section 6.6 – Design Excellence**) and demonstrate the achievement of design excellence, including suitable solar access and privacy. The detailed design must also be consistent with the Design Guidelines and approved concept envelope (**Condition A23b**) and **B1**).

Considerations – Commercial scheme

The proposed commercial scheme proposes the same amount of maximum gross floor area as the mixed-use scheme. The Department notes however, due to the floor space standard contained in the SLEP, comprising a base floor space (Clause 4.4) and additional accommodation floor space (Clause 6.4) based on land uses, the extent of variation sought by the proposed commercial scheme is numerically higher as outlined in **Table 11**.

Table 11 | Comparison of commercial and mixed-use scheme based on accommodation floor space provisions in SLEP

	Commercial scheme	Mixed-use scheme
Base floor space (FSR 8:1) under Clause 4.4	25,200 m ²	25,200 m ²
Accommodation Floor Space Bonus based on land use mix under clause 6.4	13,840 m ²	18,315 m ²

	Commercial scheme	Mixed-use scheme
Maximum permissible floor space	39,041 m ²	43,514 m ²
Proposed	50,310 m ²	50,310 m ²
Extent of variation (%)	28.8 %	15.6 %

Note the maximum permissible floor space calculations in **Table 11** do not include any allowance for bonus floor space for design excellence. Nominally this allowance can be up to 10% of the LEP permissible floor space.

The objective of the accommodation floor space provision in Clause 6.4 of the SLEP is to provide additional floor space as an incentive to certain developments. The Department is satisfied the objective of the standard is being achieved by the proposed commercial scheme despite the proposal's numerical non-compliance with the standard, because:

- The Eastern District Plan 2018 identified review of the Sydney CBD planning controls will be required to support development that provides floor space to accommodate 45,000 – 80,000 jobs forecast. The high demand for commercial office space in Sydney CBD under the Eastern District Plan would not have been anticipated at the time the accommodation floor space provision was established in SLEP.
- The proposed commercial scheme will provide 2,500 full time equivalent jobs, with the proposed floor space variation accounting for 560 additional jobs. It will contribute to the important planning priorities of the Eastern District Plan for employment generation in the Sydney CBD, particularly with respect to:
 - Planning Priority E7: Growing a stronger and more competitive Harbour CBD
 - Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city
 - Planning Priority E11: Growing investment, business opportunities and jobs in strategic centres.
- The Applicant's variation request contended Council's Draft Central Sydney Planning Strategy (the draft CSPA) further supports the need to increase the supply of commercial floor space to meet employment needs. The Department accepts whilst the draft CSPA is not a formally exhibited planning document, the strategy is supported by analysis and data, which identified:
 - approved floor space under the current FSR and accommodation floor space controls had resulted in a net employment loss between 2012 – 2015
 - modelled changes to the accommodation floor space planning controls by restricting maximum residential floorspace, will provide for growth of employment floor space.
- The Applicant referenced both the Eastern District Plan and the draft CSPA which identified the challenges of site consolidation needed to support suitable office development, noting:
 - the draft CSPA identified the average site area for office developments in Central Sydney is 3,776 m² with an FSR of 14.1:1 (equating to a GFA of 52,864 m²), floor plate of 1,611 m² and a height of 147 m.
 - the Eastern District Plan identifies mid-town and the southern precinct of the Sydney CBD holding most development but there is a profusion of relatively small sites.

The Department accepts the site presents an opportunity to deliver a significant amount of A-grade office floor space needed to support employment generation, resulting from the land acquisition carried out for the delivery of the Metro station. The site benefits from a full street block frontage to Park Street and can accommodate large floor plates of over 2000 m² for an A-grade office development.

The Department is also satisfied there are sufficient environmental planning reasons to vary the FSR standard for the commercial scheme as detailed in **Appendix E** and outlined below:

- the additional floor space will be supported by the new transport capacity that will be delivered by Sydney Metro
- the mid-town location of the site and its proximity to Town Hall is well placed for transport interchange between Metro, heavy rail and buses and is a unique opportunity to support significant employment generation with excellent transport connection and capacity
- a commercial scheme integrated with the approved station will maximise the opportunity to consolidate services and loading facilities associated with the approved station and therefore deliver better public domain and street activation outcomes for the extensive street frontages of the site compared to separate schemes.

The Department notes despite the higher numerical non-compliance with the FSR standard, the maximum floor space for the proposed commercial scheme is the same as the proposed mixed-use scheme and is not beyond the capacity of the site. The external impacts of the development under the proposed commercial scheme when compared to the mixed-use scheme will be similar as defined by the proposed building envelope.

The indicative commercial scheme submitted with the proposal indicates the proposed additional floor space can be accommodated within the proposed building envelope with opportunities for future detailed design to provide further building articulation and setbacks from the maximum building envelope (**Figure 13**).

The Department notes Sydney Metro Design Review Panel (Metro DRP) provided advice on the form and mass of the Pitt Street North tower scheme back in December 2016. The Panel recommended the Applicant explore more slender tower options to reduce building mass to ensure that the design responds to its context. The Applicant confirmed a more slender tower design was presented to the Metro DRP in January 2017, however, the proposal has since evolved.

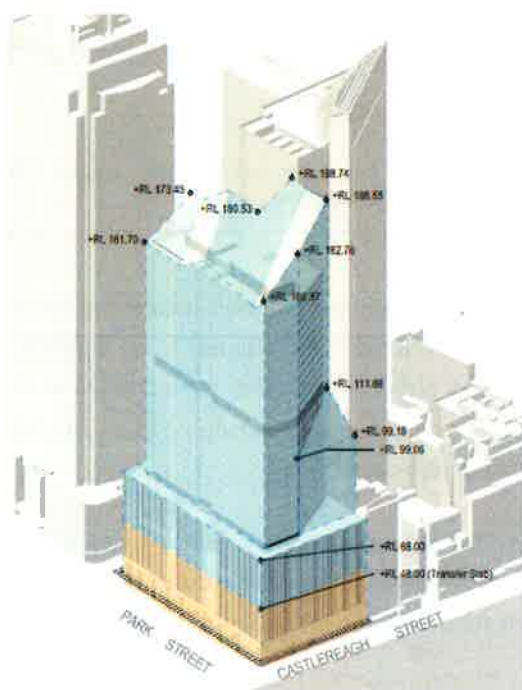


Figure 13 | View from south east to indicative commercial scheme with proposed building envelope (source: RtS).

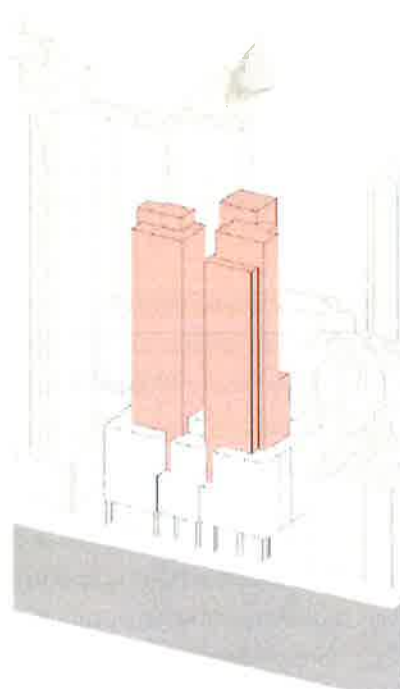


Figure 14 | Indicative multiple tower massing as presented in the Design Guidelines (source: RtS).

The Department considers the proposed building envelope is capable of accommodating multiple towers to break up the massing of the potential built forms as illustrated in the submitted Design Guidelines (**Figure 14**) which is reflected by the indicative mixed-use scheme. The Department however notes that if future built form is to support a large office floor plate, a single tower form is also a potential development outcome as illustrated by the indicative scheme (**Figure 13**). The Department notes the built form outcome shown in **Figure 13** is not desirable, because of the building bulk it presents. Therefore, the Department requires additional controls to ensure the distribution of density delivers building bulk and massing compatible with the site's context, particularly with respect to presentation to the Park Street frontage of the site.

In considering appropriate controls, the Department refers to Council's DCP for managing building bulk for commercial buildings. The DCP suggests a maximum floor plate size of 1,400 m² GFA above 120 m building height and a maximum horizontal dimension of building façade to 65 m parallel to the street frontage above the podium height. The control aims to limit the bulk of very tall towers in the CBD. The controls if applied, would require future built forms to be broken up along street frontages of the site and "step in" to reduce building bulk as it increases in height (**Figure 15**).

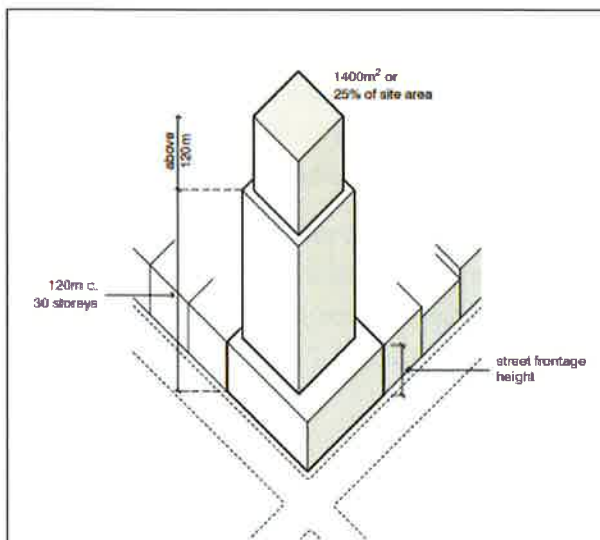


Figure 15 | Figure 5.20 Section 5 Sydney Central Development Control Plan (Source: City of Sydney).

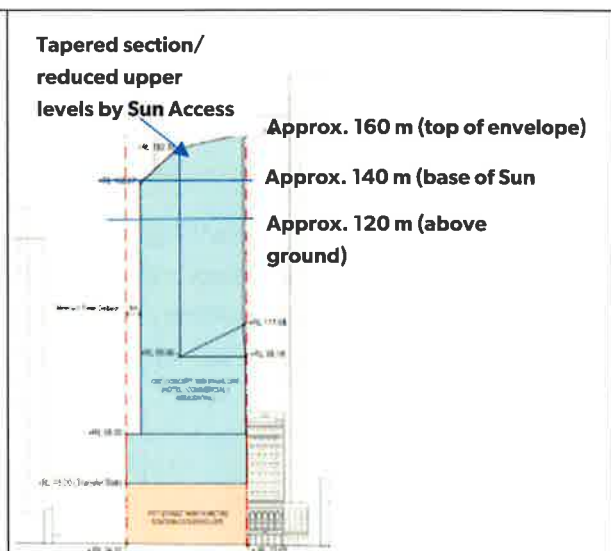


Figure 16 | Building Envelope- East Elevation (Source: EIS with added annotation - Not to Scale).

The Department also acknowledges the site is affected by the Hyde Park Sun Access Plane requirement in the SLEP. This means the top section of the proposed building envelope is already required to be tapered at approximately 140 m and above (**Figure 16**). If the DCP maximum floor plate control is also applied at 120 m, the future built forms will "step in" twice between 120 m and its maximum height at approximately 166 m. This twin step is likely to adversely impact on the design resolution and architectural appearance.

The Department therefore recommends the application maximum floor plate control should be adjusted to align with the base of the Sun Access Plane at approximately 140 m. This will allow for appropriate design resolution of the upper levels, but at the same time, provides clear parameters to manage building bulk, consistent with the intent of the DCP control (**Condition 17**).

The Department has consulted with the Government Architect, who supported the Metro DRP's advice and supports additional Design Guidelines to manage building bulk of future built forms. The Department recommends the following additional built form requirements and Design Guidelines to support the design of future built forms to be broken up in bulk and mass (**Condition A17 and A23 c**):

- provide articulation of the tower to present as multiple forms, when viewed from both Town Hall and Hyde Park, with vertical expression along Park Street incorporating continuous elements of relief for the full height of the building above the podium to reduce the mass and scale of the future built form and ensure the built form better responds to the massing and scale of surrounding buildings
- incorporate building articulations, building modulations and façade treatments to provide distinctive visual breaks along the Park Street frontage of the site, respecting the surrounding subdivision and built forms patterns. The distinctive visual breaks shall be proportional to the overall building height and length of the street frontage.

Conclusion – Commercial scheme

The Department supports the proposed variation to the floor space ratio standard by the proposed commercial scheme. Future detailed design will be required to address the endorsed Design Excellence process (See **Section 6.6 – Design Excellence**) and demonstrate the achievement of design excellence, including appropriate building bulk and massing. The detailed design must also be consistent with the Design Guidelines and approved concept envelope (**Condition A17 and B1**).

6.2 Building envelope

The proposed building envelope rises from RL 161.70 at the corner of Park and Pitt Streets to a maximum height of RL 188.74 at the rear or northern boundary near Castlereagh Street.

The proposed building envelope is designed to the maximum permissible height set by the SLEP Hyde Park West Sun Access Plane (SAP) control. The proposed envelope also incorporates additional height permissible under the exception clause of the SLEP when improvements to solar access to Hyde Park is achieved. There are effectively two clauses that combine to set the maximum height for the subject site:

- Hyde Park Sun Access Plane is defined by Clause 6.17 of the SLEP and seeks to protect solar access to Hyde Park between 12 noon – 2 pm at mid-winter.
- Clause 6.18 of the SLEP allows for additional building height, under specific circumstances, defined in the SLEP as ‘exceptions’ to sun access planes.

Clause 6.18(b) allows for parts of buildings to be higher than the sun access plane. This is permitted on land which falls within a specified area (green hatching in **Figure 18**) so long as the proposed height is less than the height of the existing building at 201 Elizabeth Street (**Figure 18**). The proposed building envelope is designed to comply with additional height that is permitted by this subclause.

Clause 6.18(c) allows for additional height at 201 Elizabeth Street so long as the resulting building will provide at least a 50 % reduction in overshadowing to Hyde Park at mid-winter when compared to the impact of the current building at that site. On 15 February 2018 approval was granted for redevelopment of 201 Elizabeth Street that satisfied this provision.

To ensure the proposed building envelope at Pitt Street North site does not cause any additional overshadowing to Hyde Park between 12:00 – 2:00 pm on 21 June, the proposed building envelope was modified on its north east corner (**Figure 17**) to align with the approved 201 Elizabeth Street building envelope.

Council have reviewed the proposed building envelope and confirmed the Applicant’s digital model complies with the height exceptions standard in the SLEP. The Department is satisfied the proposed building envelope complies with the height control set by SLEP.

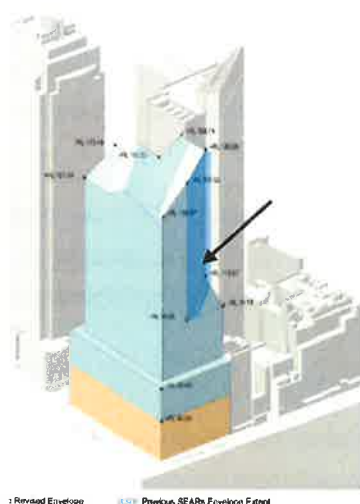


Figure 17 | Reduction in building envelope (dark blue) to ensure no additional overshadowing of Hyde Park between midday and 2pm on 21 June (source: EIS).



Figure 18 | SLEP Sun Access Protection Map (red hatched area is 201 Elizabeth Street; green hatched area is the area subject to permitting a height exception for the OSD) (source: City of Sydney LEP).



Figure 19 | The OSD envelope in relation to the Hyde Park West Sun Access Plane (red) and the exceptions clause (blue) in the SLEP (source: RtS).

6.2.1 Solar Access to Hyde Park

The Applicant's shadow analysis which accompanied the EIS modelled the overshadowing impacts of both the proposed building envelope and the existing tower at 201 Elizabeth Street. The RtS provided additional shadow analysis in response to the Department's request for updated modelling to include the 201 Elizabeth Street building envelope approved on 15 February 2018.

The Department accepts the analysis which demonstrates the proposal would provide more sunlight than the existing situation to Hyde Park when considered cumulatively with the approved 201 Elizabeth Street envelope (**Figure 20**). This net reduction in overshadowing is due to the narrower building envelope of the approved 201 Elizabeth Street redevelopment when compared to the existing building on that site.

The shadows of the proposed Pitt Street North envelope sit completely within the shadow profile cast by the approved 201 Elizabeth Street redevelopment at mid-winter (21 June) and therefore, supports the cumulative solar access improvements to Hyde Park (**Figure 20**).

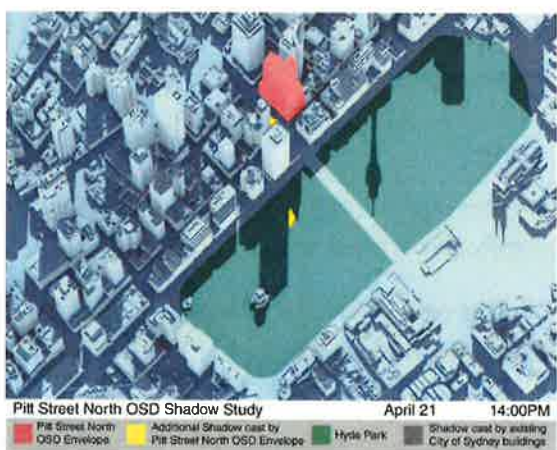
The future detailed design of built forms within the proposed building envelope will be required to meet the requirements in the Design Guidelines (**Condition B1**), which specify the proposal should not overshadow Hyde Park on 21 June between 12 noon and 2 pm.



April 1:30pm - with existing 201 Elizabeth St building



April 1:30pm – with approved 201 Elizabeth St envelope



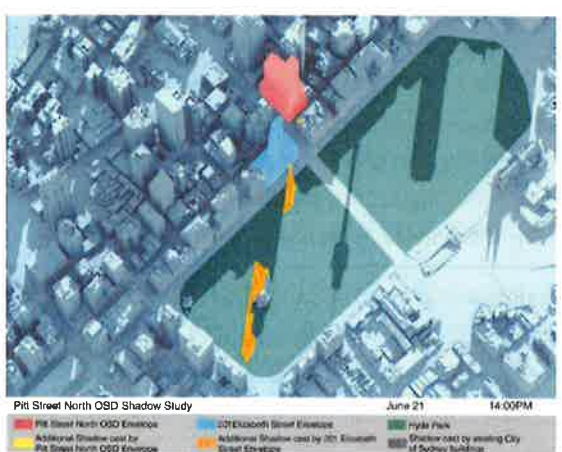
April 2pm - with existing 201 Elizabeth St building



April 2pm – with approved 201 Elizabeth St envelope



June 2:00 pm - with existing 201 Elizabeth St building



June 2:00 pm – with approved 201 Elizabeth St envelope

Figure 20| Overshadowing of Hyde Park and comparison of overshadowing impacts using existing 201 Elizabeth Street and the approved 201 Elizabeth Street envelope. The proposed OSD is depicted in red, yellow shading is the indicative overshadowing for the proposed OSD, orange overshadowing is caused by the approved 201 Elizabeth Street (source: EIS & R/S).

The Department is satisfied the proposed building envelope will not affect solar access to Hyde Park between 12.00 – 2.00 pm on 21 June as required by the Hyde Park Sun access plane control in the SLEP. The Department

notes the proposed building envelope will cause limited shadows as illustrated in **Figure 20** between 1.30 – 2.00 pm during April, August and September. The Department notes the limited shadow impacts are cast by part of the tapered section at the top of the proposed building envelope.

The Department notes both indicative schemes do not utilise the tapered section of the proposed building envelope due to its irregular shape making it difficult to accommodate usable floor space. The Department therefore considers there is opportunity to further reduce the potential shadow impacts from the proposed building envelope through detailed design and articulation of the roof forms (**Condition A23 a**).

Conclusion

The proposal complies with the sun access plane and exceptions clauses in the SLEP which aim to protect solar access to Hyde Park. The Department is satisfied the overshadowing impact of the proposed building envelope is acceptable because:

- the proposed building envelope and the approved 201 Elizabeth Street building envelope will cumulatively improve solar access to Hyde Park compared to the current situation
- there may be opportunities for further shadow reduction through articulation of the future roof forms (**Condition A23 a**).

6.2.2 Town Hall Steps and Sydney Square

SLEP 2012 includes controls which are applicable to the protection of solar access to Sydney Town Hall Steps and Sydney Square. Clause 6.19(1) of the SLEP specifies a building should not overshadow:

- Sydney Town Hall steps between 10:30 am and 4 pm between 14 April and 31 August
- Sydney Square between 11 am and 4 pm between 14 April and 31 August.

The Applicant's RtS provided additional information demonstrating the proposal would not overshadow either the Sydney Town Hall Steps or Sydney Square during times specified by the SLEP (**Figure 21**). The Department is satisfied the proposal complies with sun access protection controls these important public spaces.

Council has proposed to establish a new public open space opposite Sydney Town Hall on the corner of George Street, Park Street and Pitt Street, to be known as Town Hall Square (future THS). Both the proposed building envelope and other existing developments will overshadow the future THS in the morning period at various times of the year as illustrated by **Figure 21**. The Department however notes Council's draft Central Sydney Planning Strategy looks to prevent additional overshadowing between 12 noon and sunset on any day. The Department accepts the Applicant's shadow analysis demonstrated the proposed building envelope will not overshadow the future THS after 12 noon at any time of the year.

The Department also recommends endorsement of the submitted Design Guidelines which include provisions to maximise solar access to these public domain areas, including the future THS (**Condition B1**).

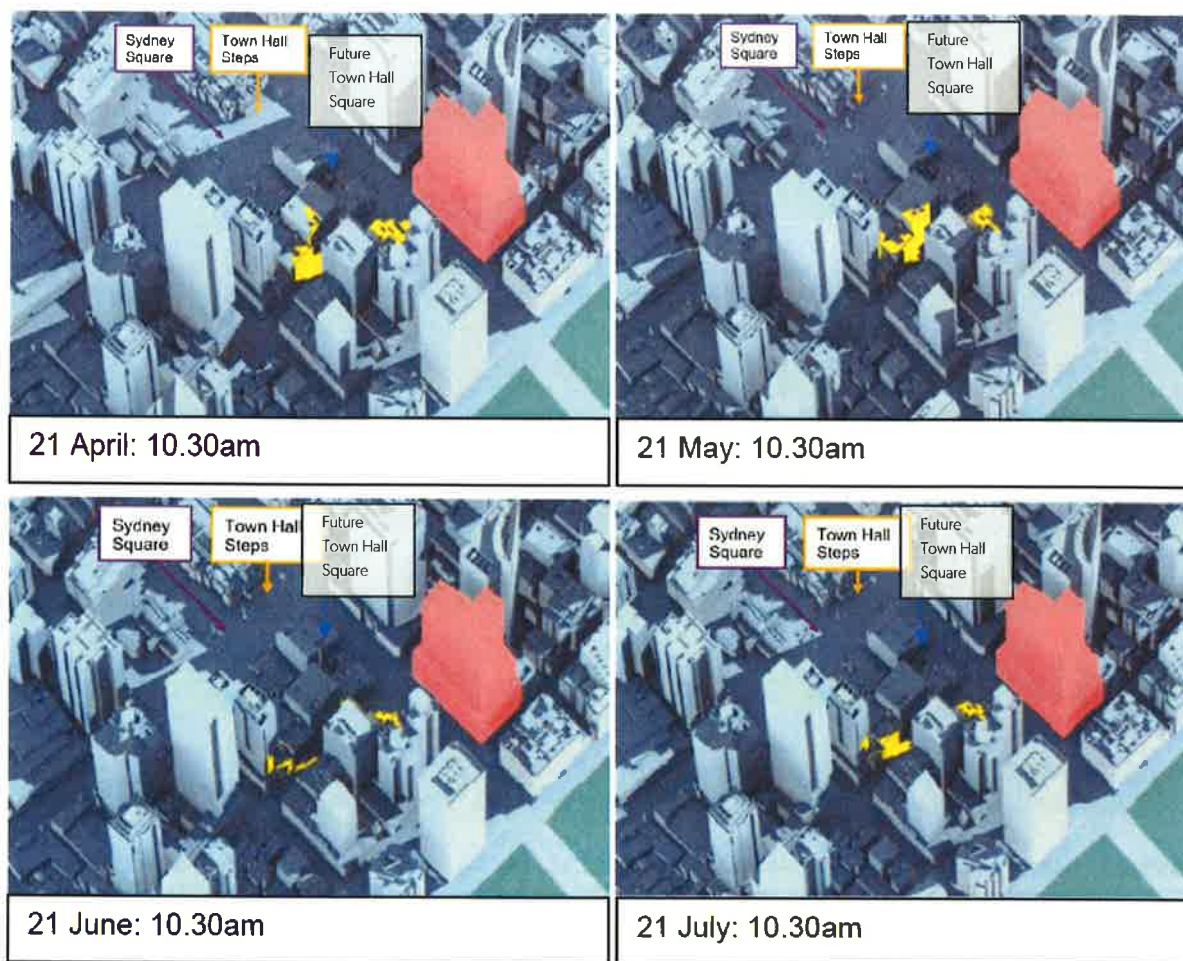


Figure 21 | Overshadowing modelling depicting times in which Clause 6.19 applies to protect sun access to Sydney Square and Town Hall Steps. The proposed OSD is depicted in red with the yellow shading as the indicative overshadowing for the proposed OSD (source: EIS & RTS).

6.2.3 Visual Impacts

The Department has reviewed the Visual Impact Analysis lodged by the Applicant to represent view impacts from public vantage points and streetscapes, including from sites such as Cathedral Square at College Street (**Figure 22**) and the intersection of Oxford Street and Brisbane Street in Darlinghurst (**Figure 23**).

The Department notes the proposed building envelope will form part of the CBD skyline from most perspectives. The bulk and scale of the proposed building envelope is similar to or less prominent than other tall buildings in the CBD in the vicinity of the site. The Department considers the bulk and scale of the proposed building envelope is less prominent than the existing and approved envelope for 201 Elizabeth Street when viewed from Cathedral Square and Hyde Park (**Figure 22 and 24**) and is compatible with the CBD skyline.



Figure 22 | Proposed view from Cathedral Square (source: EIS). The building envelope for the Greenland Centre is shown in grey and the proposed building envelope for Pitt Street North OSD is shown in white. The ANZ building is on the northern boundary of the site.

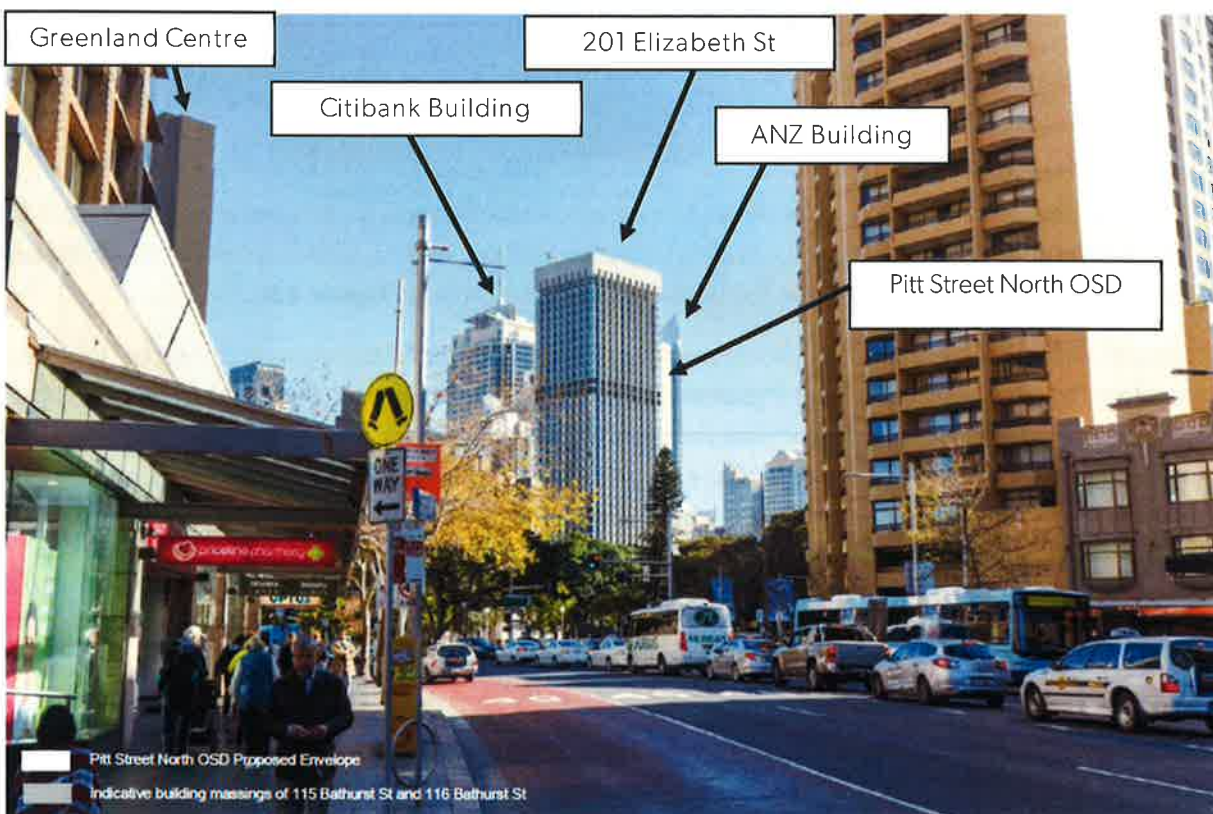


Figure 23 | Proposed view from Oxford Street and Brisbane Street, Darlinghurst (source: EIS). The building envelope for the Greenland Centre is shown in grey and the proposed building envelope for Pitt Street North OSD is shown in white.



Figure 24 | Proposed view from Hyde Park (source: EIS). The building envelope for the Greenland Centre is shown in grey and the proposed building envelope for Pitt Street North OSD is shown in white.

The Department considers the proposed building envelope will not be visually dominant from various public vantage points. The Department considers the scale of the proposed building envelope up to RL 189 (166 m) is compatible with surrounding developments. It is of lesser height compared to other tall buildings in the vicinity of the site including 201 Elizabeth Street at 175 m, Citibank (2-26 Park Street) at 206 m and the ANZ building at 195 m (242 Pitt Street).

6.3 Amenity impacts

To the south of the site, on the opposite side of Park Street, there are mixed-use developments, including Park Regis (27 Park Street) with private residential apartments above a hotel and Victoria Tower (197 Castlereagh Street) with residential apartments located directly behind Park Regis (**Figure 5**).

Loss of solar access and impacts to views were raised in two submissions from residents of Victoria Tower and in the submission from the Member for Sydney with respect to impacts to Park Regis.

The Department's considerations of the proposal's amenity impact to Park Regis and Victoria Tower are further discussed below.

Solar Access to surrounding residential properties

The Department's assessment has considered potential impact of the proposed building envelope on adjoining buildings. The proposed building envelope will affect solar access to Park Regis which is directly south of the site on the opposite side of Park Street. The assessment confirms there is no impact to Victoria Tower which is located further south behind Park Regis.

The 44-storey Park Regis building accommodates hotel rooms up to Level 15 with private residential apartments commencing at Level 16 and continuing to Level 44. The Applicant's RtS identified the impact of the building

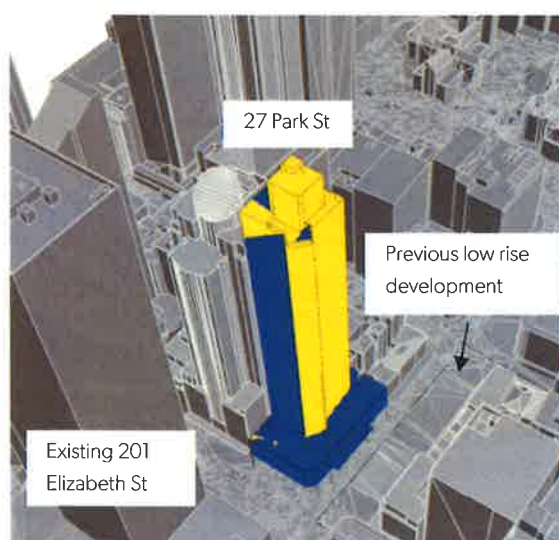
envelope to solar access for mid-level apartments from Levels 16 to 32 (**Table 12**), but no change in solar access to Levels 33 to 44.

The Applicant's analysis also considered if the approved development to the south-east of the site at 201 Elizabeth Street would cause any cumulative solar impacts to Park Regis.

Table 12 | Solar impact analysis for the Park Regis (source Applicant's RTS)

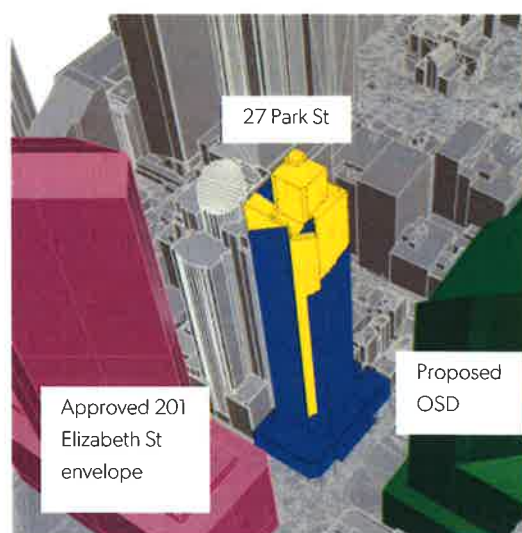
Scenario	No of Apartments (%) receiving a minimum 2 hours solar access between 9 am – 3 pm at Winter Solstice
Prior to redevelopment	177 (96.2%)
With impacts of Pitt Street North OSD	130 (70.65%)
With impacts of the 201 Elizabeth Street envelope	131 (71.2%)
Cumulative impacts of Pitt Street North OSD + 201 Elizabeth Street envelope	84 (45.65%)

Total number of apartments in all scenarios = 184



27 Park St | Existing | NE

Figure 25 | Existing solar access impacts to 27 Park St, yellow areas receive at least 2 hours, blue receive under 2 hours (source: RtS)



27 Park St | Proposed | OSD + 201 [ENVELOPE] | NE

Figure 26 | Proposed solar access impacts to 27 Park St, yellow areas receive at least 2 hours, blue receive under 2 hours (source: RtS)

The Apartment Design Guide (ADG) seeks at least 70 % of apartments in a residential building to retain a minimum of 2 hours solar access between 9 am and 3 pm at mid-winter. The proposed building envelope, together with the approved building envelope at 201 Elizabeth Street will cumulatively reduce the number of ADG compliant apartments in Park Regis to 45.65 % (see **Table 12 and Figure 26**).

The ADG does not contain guidance on how to address cumulative impacts arising from multiple development proposals. The Department notes should the approved development at 201 Elizabeth Street not proceed, the proposed building envelope will result in the number of ADG compliant apartments in the Park Regis being 70.65% (a 25.54 % reduction). Similarly, should the proposed development not proceed, the approved development at 201 Elizabeth Street will result in the number of ADG compliant apartments in the Park Regis being 71.2% (a 25 % reduction).

The Department considers the proposal's solar impact to Park Regis is acceptable and strict compliance with the ADG requirements should not be required in this case noting:

- the proposal fully complies with the applicable height control in the SELP
- the ADG is a guide which is not required to be strictly applied in all circumstances or have the unintended effect of sterilising other development sites
- the planning controls applying to the CBD (including heights and GFA) were not developed with the specific ADG solar access requirements in mind
- the existing level of solar access afforded to Park Regis is partly the result of the adjoining sites being underdeveloped compared to the applicable height and GFA controls (Figure 23)
- it is not a reasonable expectation for either the property at 201 Elizabeth Street or the subject site to not be re-developed, given the development potential anticipated for each site under the SLEP controls
- the site is directly north of the living rooms of apartments in Park Regis, therefore unless the subject site remains undeveloped or developed significantly below the permissible SLEP height controls, solar access to Park Regis will be reduced from its current levels.

The Department notes the building envelope that has been assessed presents the maximum extent of future built forms, i.e. the assessment has considered worst case scenario solar impacts. The submitted indicative schemes illustrate future built form can be potentially lower and more slender to further reduce solar impacts to Park Regis compared to the proposed building envelope. The Department accepts it would be desirable to seek to maintain additional solar access during the detailed design phase. Therefore, it considers it is appropriate to recommend an additional Design Guideline requiring future built forms to minimise solar impacts to the residences of Park Regis (**Condition A23 b**).

View Sharing

The Department has assessed the impacts of the proposed building envelope to existing views with respect to both Victoria Tower and Park Regis as discussed below. A detailed assessment against the planning principles established by the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council (2004) NSWLEC 140* is provided in **Appendix E**.

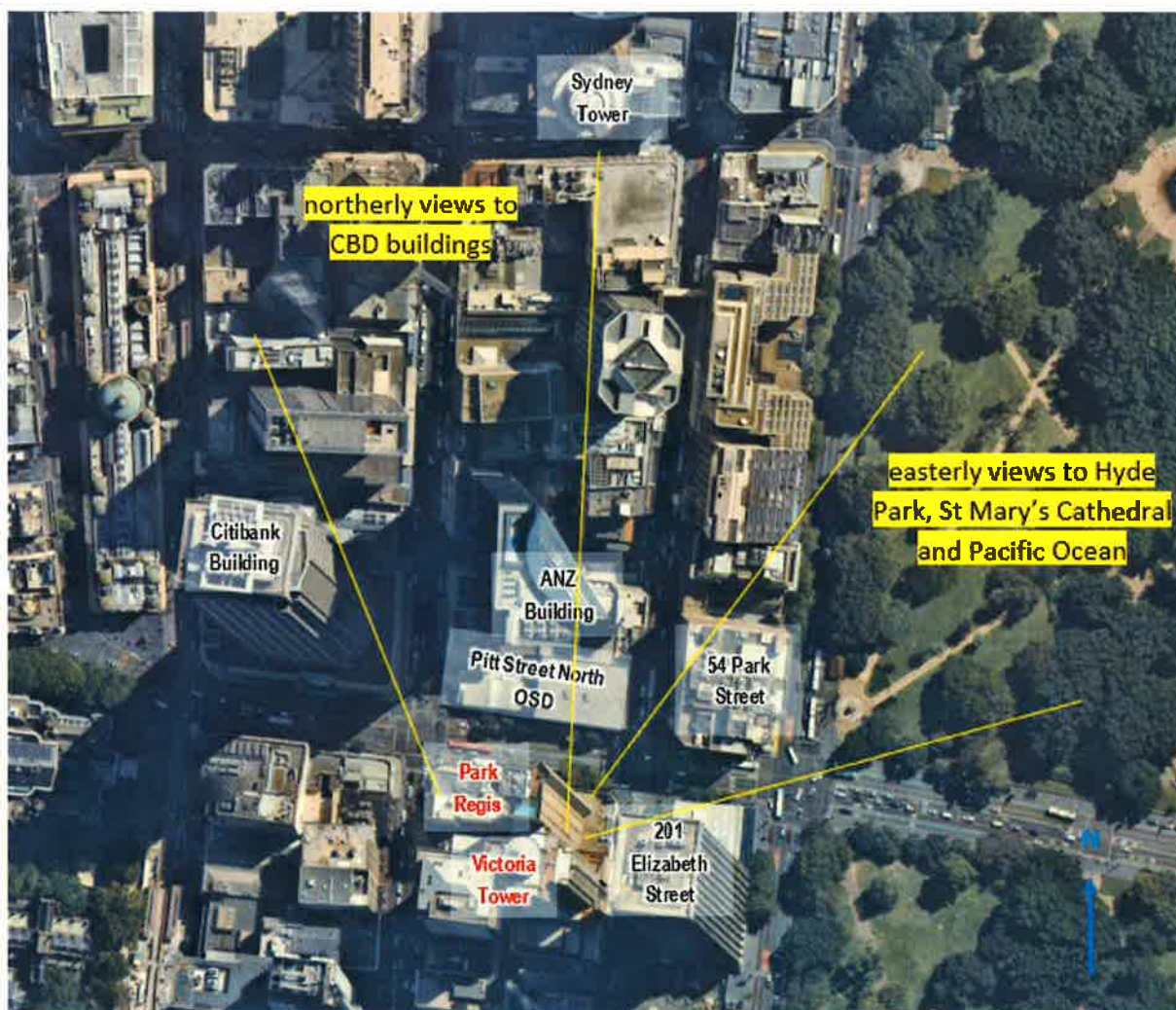


Figure 27 | Aerial photo showing existing view corridors from Victoria Tower and Park Regis (Source Nearmap with Department's annotations).

View sharing: Victoria Tower

Victoria Tower is a residential building containing approximately 144 apartments across 28 levels, with another 2 levels providing underground parking, storage and recreation facilities. The building access and street frontage is from Castlereagh Street with apartments facing in a variety of directions including north towards the subject site (**Figure 27**).

The Applicant's View Impact Assessment identified the proposed building envelope would impact views to the north towards Castlereagh Street. The Applicant contended the envelope impact at lower levels would not alter the general composition or nature of this view which is to CBD buildings and towards Castlereagh Street (**Figures 28 and 29**).

In relation to impacts at upper levels, the Applicant's report noted that the view would be altered due to the loss of sightline to Sydney Tower (**Figures 30 and 31**). The loss of view to Sydney Tower was raised in one submission from a resident of Victoria Tower.



Figure 28 | Existing northern view from a low rise level of the Victoria Tower (source: RtS).



Figure 29 | Proposed northern view from a low rise level of the Victoria Tower showing the proposed OSD building envelope (in blue) and the approved 201 Elizabeth Street envelope (green) (source: RtS).



Figure 30 | Existing north view from a high rise level of the Victoria Tower (source: EIS)



Figure 31 | Proposed north view showing the proposed OSD building envelope (in blue) from a high rise level in the Victoria Tower (source: EIS).

Department staff visited eleven apartments on levels 8, 10, 15, 18, 21, 25, 28, 30, 31, 32 and 35, the site and its surrounds to further assess the building envelope's view impacts. The apartments inspected provided a wide variety of viewing angles and heights from the building. A typical lower level and upper level floor plan identifying residential living spaces is provided in **Figures 32 and 33**. The Department's site visit identified:

- west facing apartments have outlooks to existing buildings to the north, the proposed building envelope would be only partially visible from these apartments and the nature of the city outlook would remain the same (green arc in **Figure 32**)
- the proposed building envelope will not block the primary views to the east or north east to Hyde Park and water views beyond from the east facing apartments (**Figures 35 and 35**)
- only the high-rise apartments on the east wing of Victoria Tower have side views (to the north) to Sydney Tower as identified (**Figure 36**).

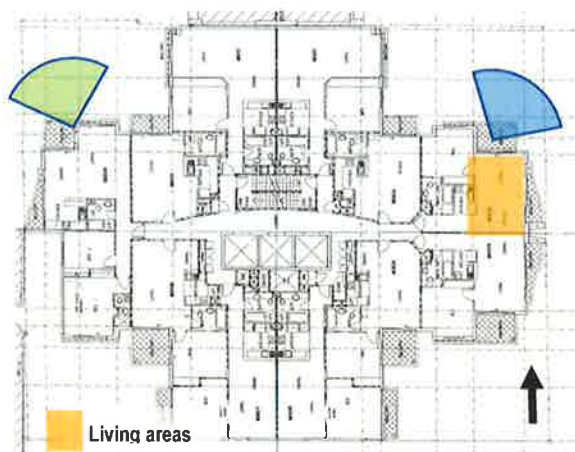


Figure 32 | Typical lower level floor plan of the Victoria Tower with the blue arc indicating approximate field of view for Figure 32. Green arc indicates view from west facing apartments (source: City of Sydney. Not to scale).

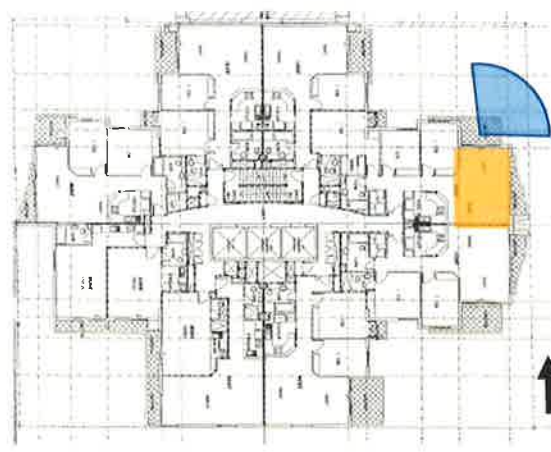


Figure 33 | Typical upper level floor plan of the Victoria Tower with the blue arc indicating approximate field of view for Figure 33. (source: City of Sydney. Not to scale)



Figure 34 | Low rise view from a Victoria Tower apartment.



Figure 35 | High rise view from a Victoria Tower apartment.



Figure 36 | Existing view to Sydney Tower with the OSD site in the foreground



Figure 37 | Sightline (blue) and setbacks (orange) that would be required to retain views to Sydney Tower from Victoria Tower (source: DPE and Nearmap)

Sydney Tower is currently visible from Victoria Tower due to Victoria Tower's reduced street setback when compared to other buildings along that section of Castlereagh Street. The Department however considers it would be unreasonable to require retention of views to Sydney Tower from Victoria Tower because:

- approximately 12 - 16 m tower setback from Castlereagh Street would be required to retain the eastern elevation of the proposed envelope which is considered to be unreasonable (**Figure 37**). Such extensive setback is not anticipated by the relevant planning controls, noting the proposed tower will provide a weighted average 8 m setback consistent with the SDCP
- the distance from Victoria Tower to Sydney Tower is over 350 m. Redevelopment of other sites between Victoria Tower and Sydney Tower based on compliant SDCP setback controls (a weighted average 8 m setback) would obstruct views to Sydney Tower
- Sydney Tower is only partly visible from 25 living rooms of apartments from a standing position. The primary views from these apartments are orientated to the north east towards Hyde Park and water views beyond. There is also a view corridor along Park Street (between 54 Park Street and 201 Elizabeth Street) which is unaffected by the proposed building envelope (**Figure 34**).

View sharing: Park Regis

Park Regis is a 122-room commercial hotel with ground floor retail shops and a residential building containing approximately 184 apartments across 44 levels, with another 5 levels providing aboveground parking, storage and recreation facilities. The building access and street frontage is from Castlereagh Street and Park Street with apartments orientated in a variety of directions including north towards the subject site.

The Department notes there is no significant view from the lower levels of the Park Regis Tower (**Figures 38 and 39**). From higher levels, views of Hyde Park, St Mary's Cathedral and Sydney Harbour are obtained over 54 Park Street which is located to the east of the site (**Figures 40 and 41**).



Figure 36 | Existing north east view from the lower level of the Park Regis (source: EIS).



Figure 37 | Proposed north east view impact showing the proposed OSD building envelope (in blue) from the lower level of the Park Regis (source: EIS).



Figure 40 | Existing north east view from an upper level apartment of the Park Regis (source: EIS).



Figure 41 | Proposed north east view from an upper level apartment showing the proposed OSD building envelope (in blue) (source: EIS).

The Department considers the impacts to lower level outlooks are minor as the outlook from these levels is of CBD buildings and the nature of the city outlook will remain the same. The Department notes that the field of view for mid and upper level apartments of the Park Regis will be retained as their primary view to St Mary's Cathedral, Sydney Harbour and beyond will remain the same. The Department considers the impacts to mid and upper level views as acceptable.

Conclusion

The Department's assessment concludes the proposed building envelope will have reasonable view impacts to surrounding buildings, because:

- the proposal will not affect the primary views from Victoria Tower or the Park Regis
- the extent of view impacts can be reasonably anticipated under the planning controls applying to the site
- the weighted average 8 m setback proposed for the tower component complies with SDCP controls
- the view corridor along Park Street will be retained.

6.4 Heritage

The northern boundary of the site adjoins two locally listed heritage items, the NSW Masonic Club at 169-173 Castlereagh Street (I1699) and the National Building (also known as National Building) at 248A-250 Pitt Street (I1931) (**Figure 42**).

Three public submissions cited concern with the heritage impacts of the proposal to the Masonic Club. Masonic Club's submissions also raised concerns with respect to the loss of light to their Grand Dining Room which would impact the appreciation of its significant heritage interior.

Council's submission shared community concerns and recommended the proposed building envelope be modified to match the existing 'indent' of the Masonic Club building. Council also raised concerns regarding the physical impacts on the adjacent heritage buildings during excavation and construction works.

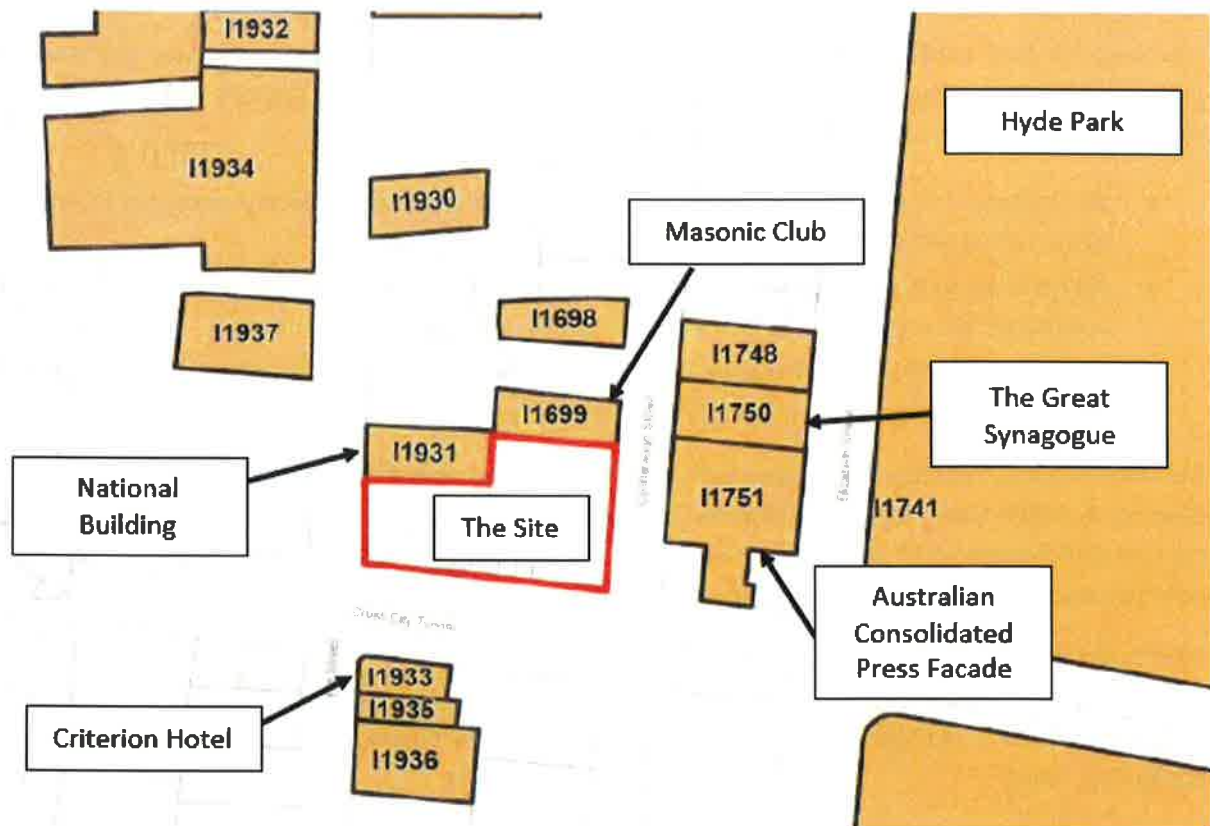


Figure 42 | Heritage items in the vicinity of the site (source: SLEP).

Considerations

The proposed building envelope provides a 45m podium height in accordance with the SDCP requirement for street wall height. The proposed podium references the existing building heights of the National Building and the Masonic Club and presents a continuous street wall along Castlereagh Street and Pitt Street (**Figure 43**).



Figure 6 – Podium and Street Wall - Indicative Elevations

Source: Concept SSDA Design Report - Pitt Street North OSD Architectus

Figure 43 | Podium and Street Wall heights referencing the Masonic Club and National Building

The Department consulted with the Heritage Council on the application. Heritage Council considered the submitted Heritage Impacts Statement (HIS) included adequate heritage impact assessment and that the recommendations and mitigation measures were appropriate. The Department supports Heritage Council's recommendations for future detailed design (**Condition B7**).

- the frontages of the podium should incorporate a high proportion of masonry compared to window glazing and a high degree of architectural modelling and articulation
- the Pitt Street and Castlereagh Street frontages of the podium should respond to the major horizontal and vertical elements of the heritage buildings along those respective street frontages
- the podium should interpret the subdivision pattern established during the late nineteenth and twentieth century, characterised by lot widths of the National Building and Masonic Club.

The Department also accepts the proposal will not adversely impact on the heritage significance of the National Building, Australian Consolidated Press façade, The Great Synagogue and the Criterion Hotel. The Department considers the proposed over station development will not visually relate to the appreciation of these heritage items from their respective primary street frontages.

Building Separation

The proposed building envelope provides zero setbacks to the north where it shares a common boundary with the National Building and Masonic Club (**Figure 43**). The Department considers the proposed zero setback is appropriate noting:

- previous developments and the National Building and the Masonic Club are built to the common boundary
- both heritage items have blank walls built to the common boundary and incorporate lightwells for essential light and ventilation (**Figures 44 and 45**)
- Council confirmed both the Masonic Club and National Building have sold their heritage floor space and, as such, the sites do not have further development potential.

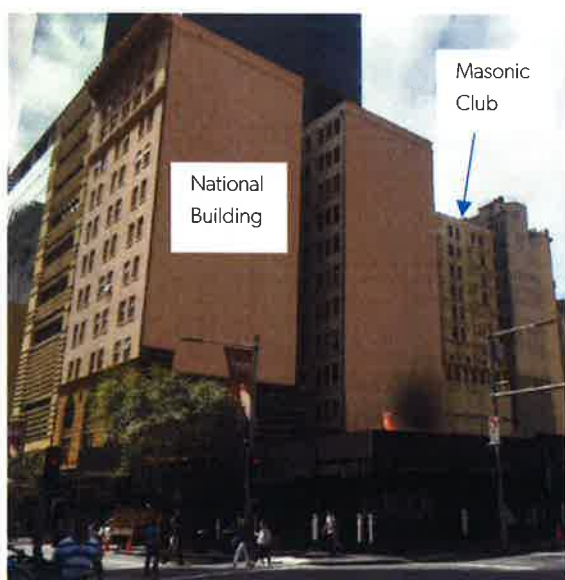


Figure 44 | The National Building and Masonic Club southern elevations (source: Heritage Impact Statement)

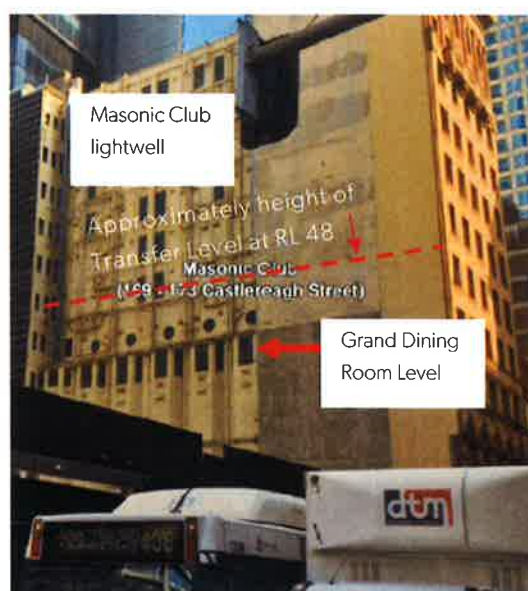


Figure 45 | Southern elevation of Masonic Club and identification of the Grand Dining Room (source: public submission)

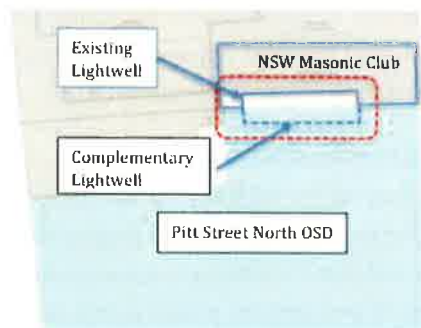


Figure 46 | Submission identifying existing and area for reciprocal light well (Source: Masonic Club submission)



Figure 47 | View of the Masonic Club's Grand Dining Room (Source: Masonic Club submission)

Submissions on behalf of the Masonic Club requested a reciprocal setback should be provided by the proposal to the lightwell on the common boundary with the site (**Figure 46**). The Club's lightwell is approximately 2.2 – 1.6 m wide and also accommodates windows to the Grand Dining Room at the lower level (**Figure 45 and 47**).

The Department supports the submitted Design Guidelines which propose appropriate setbacks from the common boundary to protect light access to adjoining lightwells of the National Building and Masonic Club, including the use of reflective or light-coloured materials to encourage light penetration (**Condition B1**). The submitted indicative schemes illustrate setbacks up to approximately 2.2 m can be provided to the common boundary along the lightwell of the Masonic Club.

The Department, however, notes the proposed podium also comprises the approved station structure, which extends up to the height of the windows of the Masonic Grand Dining Room (transfer level at RL 48) (**Figure 45**). The Department therefore cannot impose a setback requirement at this height level as that part of the podium is subject to a separate infrastructure approval for the station.

Conclusion

The Department's assessment concludes the proposal has acceptable impacts to adjoining and surrounding heritage items subject to appropriate conditions.

The Department recommends detailed design of future built forms within the proposed building envelope be required to meet requirements in the Design Guidelines (**Condition B1**) as supported by the Heritage Council by:

- providing appropriate setbacks to protect light access to the adjoining light wells of the National Building and the Masonic Club and use of reflective or light coloured materials to encourage light penetration
- requiring the podium to respond to the major vertical and horizontal elements of the adjoining heritage buildings
- requiring the podium form to interpret the historical subdivision pattern, noting the significance of the National Building and Masonic Club, by providing modulation and articulation of the street frontages.

The Department notes excavation of the site has already commenced as part of the approved station and rail line with **Condition E28, E30 and E31** of the approval (CSSI 7400) requiring vibration control to protect identified heritage items, and **E52 and E54** requiring a blast management strategy that considers sensitive heritage buildings. The Applicant confirmed that blasting works, if required, would be undertaken as part of the CSSI Approval only and not for the over station development.

The Department recommends future assessment complementary to conditions for the approved station (**CSSI 7400**) should be included to address Council's concern on the protection of adjoining heritage items during construction work for the OSD component with respect to noise and vibration (**Condition B15**).

6.5 Integration with Metro Station and the public domain

The site occupies a long street frontage to Park Street, occupying the full length of the street block with the approved Metro station's entrance addressing Park Street. The proposed over station development will need to integrate with the building envelope and design of the approved Metro Station up to approximately 25 m (RL 48) within the podium. This includes connecting structural supports and services, access points, lobbies, uses and interface with the Metro station and surrounding public domain. The application also seeks approval for the use of non-rail related spaces within the approved Pitt Street North Metro station.

The submitted EIS includes demarcation drawings illustrating the conceptual relationship between the approved station and the over station development on the ground plane (**Figure 48**).

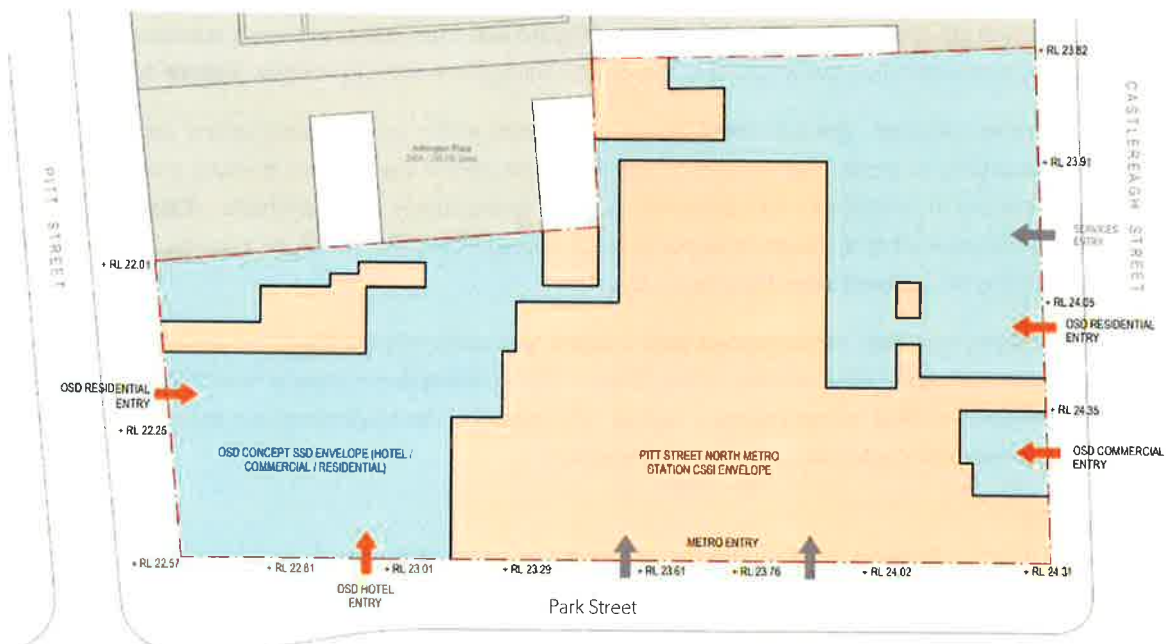


Figure 48 | Ground floor plan identifying areas allocated to the station (orange) and OSD (blue) (source: RtS)

The Department notes the infrastructure approval (CSSI 7400) sets requirements for the detailed design of the public domain and pedestrian access for the site including a Station Design Precinct Plan (**Condition E101 of CSSI 7400**) and an Interchange Access Plan (**Condition E92 of CSSI 7400**) (Also see **Section 1.4**).

The Department considers it is necessary for both the over station development and the approved station to provide an integrated design resolution to positively contribute to the public domain and streetscape as further discussed below.

Street activation

The Applicant submitted indicative floor plans illustrating potential layout of the ground floor for both the proposed commercial scheme and a mixed-use scheme (**Figures 49 and 50**).

Council's submission raised concern that the indicative floor plans illustrate poor street activation with lobby entries being the only 'activation' to the highly pedestrianised street frontages other than the main metro entrance facing Park Street (see purple shaded areas in **Figure 49 and 50**). Council recommended:

- further investigation needs to be carried out into improved orientation of fire stairs, location of OSD risers and other back of house services and plant to try and alleviate visual impacts at street level
- frontages along Park Street and Castlereagh Street would benefit from retail tenancies to break up very long and inactive frontages.

Given the site's extensive street frontages on Park Street, Castlereagh Street and Pitt Street, the Department recognises the importance for future detailed design to further improve street activation of the over station development and to integrate with the approved Metro station's entrance. The Department supports the submitted Design Guidelines which provide the following design principles relating to street activation, in particular (**Condition B1**):

- alignment of over station development with established building alignments at lower levels, with lobbies provided from secondary street frontages
- reinforcing the importance of Park Street as a primary City avenue and east-west connection by locating the main entry point to the Pitt Street North Metro Station on this street
- providing a strong, well demarcated street address to each building through strong form modulation and well activated ground floors
- innovative design solutions to maximise activation within a constrained street frontage, including capturing opportunities along Castlereagh and Pitt Street. Activation opportunities should investigate a range of offerings that attract users to the place and includes a mix of building entrances and retail uses.

The Department however, agrees with Council that the submitted indicative schemes do not illustrate good street activation and recommends the submitted Design Guidelines be amended to remove references to these schemes with respect to street activation (**Condition A23 e**). The Department also supports Council's recommendations that future detailed design should have further considerations on improved orientation of fire stairs, location of OSD risers and other back of house services and plant to minimise visual impacts at street level (**Condition A23 f**).

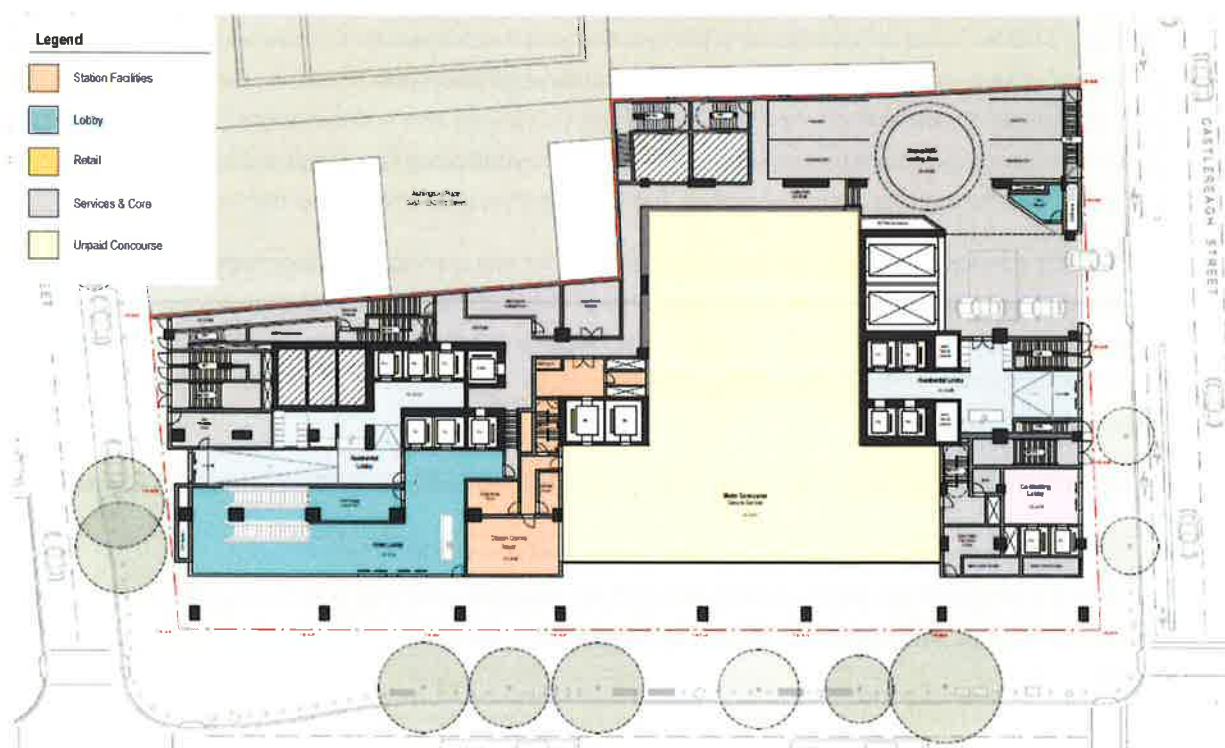


Figure 47 | Mixed-use scheme indicative ground floor plan (source:EIS)

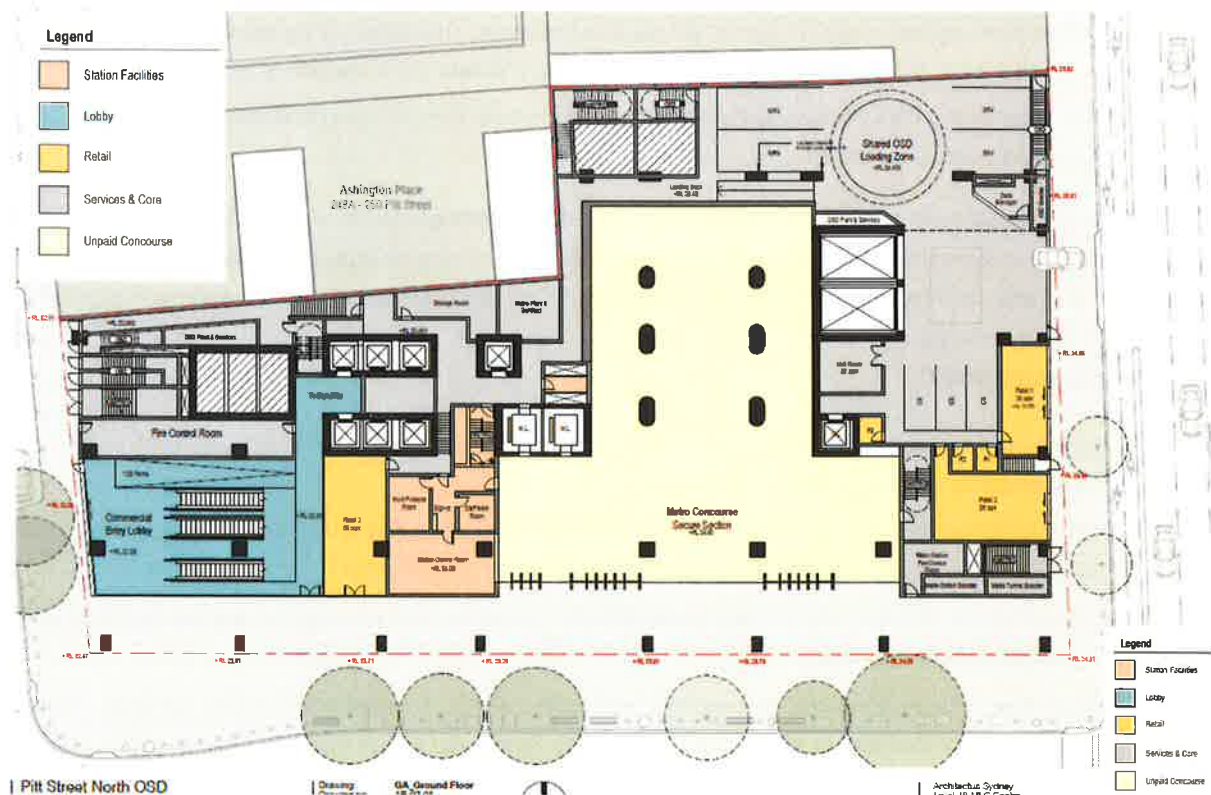


Figure 48 | Commercial scheme indicative ground floor plan (source:RtS)

Pedestrian Amenity

Council's submission also provided advice on the design of awnings and colonnades for future detailed design. Council recommended any proposed colonnade along Park Street should provide a clearance height of a minimum of 6 m and a width of a minimum of 3 m and consider other design requirements in the Sydney Development Control Plan 2012.

The Applicant's RtS included an updated Design Guideline which includes the minimum width from the building line to the back of kerb line of 3.3 m on Pitt Street and Castlereagh Street and 10.5 m on Park Street, but not the minimum clearances of potential colonnades. The Design Guidelines also acknowledges the need to mitigate pedestrian overcrowding through the use of additional footpath width along Park Street and to manage pedestrian flow at ground level through separation of lobbies and Metro entries to different street frontages.

The Department considers imposing clearance dimensions for any awning and colonnade for future detailed design will not be appropriate because the Station Design Precinct Plan and Interchange Access Plan required under the separate approval for the Metro Station (**CSSI 7400**) are yet to be finalised. The Department also notes the CSSI 7400 approval contains mandatory requirements for Sydney Metro to consult with Council in the preparation of these plans.

The Department however recommends amendments to the Design Guidelines to (**Condition A23 e) and f)**):

- reinforce the objective of the design of any awning and colonnade
- ensure appropriate pedestrian clearances are made available along the busy thoroughfare of Park Street and to integrate with the entrance to the approved Metro station.

Conclusion

The Department recommends future detailed design must improve street activation consistent with the Design Guidelines and integrate with the approved Metro Station along the extensive street frontages of the site. The Department also recommends further amendments to the Design Guidelines in support of Council's advice with

respect to maximising street activation and ensuring appropriate clearances for pedestrians (**Condition A23 e) and f)**).

6.6 Design Excellence

Clause 6.21 of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) outlines the provisions for design excellence. Clauses 6.21(1) and 6.21(2) define the objective of delivering the highest standard of architectural, urban and landscape design being applicable to new buildings.

Clause 6.21(3) requires that development consent must not be granted unless the proposed development exhibits design excellence, considerations to determine if a development exhibits design excellence are defined by Clause 6.21(4). Clause 6.21(5) clarifies when a competitive design process is required.

The Applicant proposes a Design Excellence Strategy incorporating design review process *in lieu* of a competitive design process for the Sydney Metro Integrated Station Development sites within the City of Sydney, including the proposed over station development for Pitt Street South and Pitt Street North in respect to the provisions of Clauses 6.21(3) and (4) of the Sydney LEP 2012.

The application seeks to utilise Clause 6.21(5) of the Sydney LEP 2012 by demonstrating that the requirement to undertake a competitive design process is not reasonable or necessary for the project. The Applicant requested the consent authority should exercise its discretion available under Clause 6.21(6) of the SLEP and accept the proposed Design Excellence Strategy as an appropriate process to achieve Design Excellence and in delivering the highest standard of architectural, urban and landscape design.

The application does not seek the award of design excellence bonus floor space under Clause 6.21(7) provisions. Under other circumstances, a development may be awarded up to a 10% bonus in floor space for carrying out a competitive design process and exhibiting design excellence.

The submitted Design Excellence Strategy sets out a framework for design review and competitive selection as summarised in **Table 13 and Appendix I of the EIS**.

Table 13 | Summary of key processes in Sydney Metro's Design Excellence strategy.

Design Phases	Design Review	Key elements
1. Design Quality Expectations	Sydney Metro Design Review Panel (DRP)	• Capture project requirements including design objectives and guidelines to inform the development of the project, including the concept development application • Set project benchmarks • Chaired by GA NSW • Also provide design advice to station design and associated public domain as required under CSSI 7400.
2. Competitive Selection	Design Excellence Evaluation Panel (DEEP)	• Inform a competitive selection process by producing a Design Excellence Report that identifies to the tender evaluation panel the elements of each tender scheme that contribute to design excellence and elements where further design refinement will be required • Draws on members of the Sydney Metro Design Review Panel • Chaired by GA NSW

		• Include a nominee nominated by the NSW Government Architect (GANSW) on behalf of the Department • Include a member nominated by the local council.
3. Design Integrity	State Design Review Panel (SDRP)	• Independent design review • Chaired by GA NSW • Recommendation to draw on members of Sydney Metro DRP to ensure consistent design advice and sufficient technical expertise (Condition A25).

The Department notes Council has also made an objection to the design excellence strategy, citing that it does not meet the intent of the Design Excellence provisions in SLEP 2012. The Council stated the proposed design excellence strategy does not involve either an architectural design competition or the preparation of design alternatives on a competitive basis as required by the SLEP 2012. The Council considered this prevents the proposal from demonstrating design excellence in accordance with their Competitive Design Policy.

The Applicant stated in their EIS and RtS submissions that a design competition is unreasonable and unnecessary because:

- a competitive process would compromise the benefits of an integrated design approach for the approved station and proposed over station development
- the proposed selection process provides sufficient competitive tension through the selection of highly experienced and competent design practices and a holistic design review process
- the SLEP process does not acknowledge the complexities of the metro infrastructure projects
- a design competition in context of a stations technical complexity could push out project milestones and unreasonably constrain the Sydney Metro delivery timeframe
- the design excellence benefits and project complexities of integrated station development were acceptable reasons to support a design review process in lieu of a competitive design process for other over station development projects, including Barangaroo and Martin Place Station Precincts.

Consideration

The statutory requirement for a competitive design process under the SLEP only applies to the proposed over station development and not the approved station structures and buildings. The applicant can elect to run a competitive design process for the over station development only. However, this risks reducing the level of design integration with the approved station below and negatively impacting on the overall design quality.

The Department considers the integration of the design of the over station development and the approved Metro station is critical in delivering good public domain outcomes for the site. The Department notes the proposed over station development will have a strong presence along its extensive Park Street frontage. The design of both the station entrance and lobby areas to the over station development contributes to the pedestrian environment and street activation along the 80 m Park Street frontage. Further, Council's submission and the Department's assessment both identified the need to consolidate services and back of house to mitigate visual impacts of plant and services on the street level, which can be achieved through better design integration between the over station development and the approved station (see **Section 6.5** – Integration with approved station and public domain).

The Department has consulted with the Government Architect who supported Sydney Metro's proposed Design Excellence Strategy in lieu of a competitive design process required under the Sydney Local Environmental Plan

2012 (SLEP). In supporting Sydney Metro's Design Excellence Strategy, the Government Architect acknowledged the complexity in the delivery of integrated station developments where development is located above the "station box". The complexities include engineering requirements associated with the construction works above the metro station and coordination with the delivery of critical infrastructure.

The Government Architect accepted the benefits of the proposed integrated design process outweighs the risks to design excellence posed by a non-integrated competition held for the over station development only.

The Department notes Council's submission contended that there is an option to construct the approved station separate to the over station development (identified as option 3) with respect to the staging of the development, see **Section 2.3**. The Council submitted that, in this option 3 scenario, a design competition could be completed without impacting the timing of construction of the approved station.

The Department acknowledged there are clear benefits in concurrent construction of the approved station and the proposed over station development. This is in terms of activation of the station precinct as the station is opened, design and structural efficiency, construction management and divestment to fund the cost of infrastructure. The Department also considers the benefits of an integrated design approach will not be lost should the proposed over station development be constructed separately to the approved station, noting landscaping, public art and public domain improvements for the site will continue to benefit from an integrated design approach.

The Department also notes the submitted Design Excellence Strategy addressed previous advice from the Government Architect with respect to local council representation on the DEEP and to support diversity and innovation of design, noting:

- the terms of reference for the DEEP require a member from the City of Sydney Council in its review of the Pitt Street over station developments
- the Design Excellence Strategy encourages non-listed design companies to partner with pre-authorised engineering companies to promote diverse design approaches from fields outside of rail development projects.

The Department also supports the Government Architect's recommendation to require subsequent Stage 2 detailed design applications to be reviewed by the State Design Review Panel (SDRP) to ensure design integrity. The Department considers the SDRP or similar panel is required to provide independent advice to subsequent applications, which are proposed to be lodged by private developers rather than Sydney Metro.

To ensure consistency of advice and sufficient technical expertise due to the specialised nature of integrated station development, the Department recommends the State Design Review Panel or similar Design Review Panel (should SDRP cease to operate after current pilot program) for subsequent development applications shall include at least one member of the Sydney Metro Design Review Panel as endorsed by GANSW (**Condition A25**).

Conclusion

The Department supports Sydney Metro's Design Excellence Strategy in lieu of a competitive design process required under the Sydney Local Environmental Plan 2012 (SLEP) because of:

- the Strategy includes process for competitive selection in lieu of a design competition
- the Strategy includes project benchmarks that are capable of delivering a high quality architectural and urban design outcome

- the design excellence benefits of integrated station development (integrating the design and construction of the approved station with the over station development) as supported by the Government Architect
- the need for consistent design advice to support both the approved station and the over station development, which have already been undergoing design review by the Sydney Metro DRP
- the complexity and technical expertise required for over station development are not conducive for design competition
- the positive impact on delivery of critical infrastructure coupled with reduction in construction impacts.

The Department's assessment has considered the proposal against the matters specified in Clause 6.21(4) of SLEP as detailed in **Appendix G**. The Department is satisfied that the proposal exhibits Design Excellence because:

- the proposed design excellence strategy will support an integrated design approach for both approved station and the proposed over station development
- the proposal will meet the objectives of the Design Excellence provision in the SLEP in delivering the highest standard of architectural, urban and landscape design for the project and for the site having considered the specific site constraints and project complexities.

The Department recommends that the Minister:

- is satisfied that the proposal exhibits design excellence under Clause 6.21 (3) of Sydney LEP 2012 by adopting the reasons set out in this report; and
- exercise his discretion under Clause 6.21(6) of Sydney LEP 2012, that a competitive design process is not required because he can be satisfied that such a process would be unreasonable and unnecessary for this proposal and further that he accepts, as appropriate, the proposed Design Excellence Strategy subject to future detailed design applications to be reviewed by the SDRP or similar independent panel as it will deliver the highest standard of architectural, urban and landscape design as set out in Clause 6.21(1). (**Condition A25**).

6.7 Other Issues

The Department's consideration of other issues is summarised in **Table 14**. These are issues raised by Council or in public submissions which are not otherwise key issues addressed above.

Table 14 | Summary of other issues raised and Department's response.

Issue	Findings	Recommended Condition
Traffic and transport	The Department engaged an independent traffic assessor to undertake a peer review of the application which found the proposal to have satisfactory impacts to traffic and transport, including construction-related considerations The Department notes that pedestrian safety is addressed through the CSSI Approval with specific conditions with respect to pedestrian safety and capacity Council considered that given the accessible location of the site the proposed 50 car parking spaces should be reduced and recommended only accessible and servicing parking spaces be provided The Department's independent assessor noted that the parking provisions comply with the SLEP 2012. The	Conditions A18 and B18 – B20

Issue	Findings	Recommended Condition
	assessor agrees with the transport assessment that the provision of 50 car parking spaces would result in a reduction in traffic generation compared to previous development on the site and will be satisfactory due to the high level of local public transport options available. The Department supports the proposed parking rates subject to the requirement to ensure the provision is a maximum limit to encourage the use of public transport and minimise the need for private car use and private car spaces.	
Floodplain Management	The EIS stated that the proposal would need to comply with Council's Interim Flood Management policy, the Sydney Metro System Requirements Specification and demonstrate consideration of climate change impacts. The Department supports these statements. The Department supports the Applicant's recommendation that future detailed development applications are to include a detailed flooding and stormwater management plan.	Conditions B23
Noise and Vibration impacts from the proposal	An acoustic report was provided with the EIS. The Department is satisfied with the proposed mitigation measures, noting that this is a concept proposal and that further consideration of noise impacts during construction and operation will be subject to further assessment. The Department recommends a further assessment requirement to require a Construction Impact Assessment to accompany any detailed development application.	Conditions B22
Signage	The recommended conditions include a requirement to provide a signage strategy in accordance with the SDCP 2012.	Condition A23 g)
ESD	The EIS identified several requirements to promote sustainability and best practice for future OSD construction and operation. Council considered it essential to provide definitive targets for specific environmental performance issues. Council requested participation in defining environmental performance outcomes for both sites. The RtS provided revised targets that slightly elevated the performance criteria and gave clarity for each land use scheme. The Department is satisfied that the proposed minimum performance targets are appropriate for a concept plan. ESD will be further considered at the detailed assessment stage which will involve further consultation with the Council.	Condition B9 and B10

Issue	Findings	Recommended Condition
Future Assessment Requirements	The EIS included suitable assessment with respect to the following matters: • Construction management • Wind • Noise and Vibration • ESD principles • Signage. The Department considers it is appropriate to recommend conditions of consent setting out future assessment requirements for these matters consistent with the approved Concept Proposal.	Schedule 2 – Part B

7. Evaluation

The Department has assessed the merits of the proposal and all submitted documentation including taking into consideration the issues raised in submissions, as well as the Applicant's response to these. The Department is satisfied the impacts have been satisfactorily addressed by the proposal and through the Department's recommended conditions.

The development supports the achievement of the strategic aims and objectives of local, regional and State planning policies. The proposal will contribute to employment generation with approximately 1,000 to 1,200 direct jobs over the construction phase and 2,500 new operational jobs for a commercial scheme or 300 jobs for a mixed-use scheme with 300 dwellings directly above the new Pitt Street Metro Station.

The Department supports the variation to the FSR standard noting the unique circumstances of the site, evidence of demand for floor space to support strategic plans and the City's growth. The proposal will contribute to the important planning priorities of the Eastern District Plan for employment generation in the Sydney CBD with the proposed floor space variation itself accounting for up to 560 additional jobs. The proposed additional floor space will be supported by the metro's capacity and will not cause adverse impacts as outlined in this report.

The Department accepts the indicative schemes illustrate the proposed floor space can be accommodated within the proposed building envelope. The Department has recommended additional guidelines to limit the mass and scale of future built forms, including maximum floor plate sizes and maximum horizontal façade dimensions (**Condition A17 and B3**).

The design of future built form within the building envelope will be subject to the endorsed design excellence process with independent design review (see **Section 6.6 – Design Excellence**) (**Condition A25**). The Department also recommends additional Design Guidelines with respect to achieving a high standard of residential amenity (**Condition A23 b**) and architectural form (**Condition A23 c**).

The Department's assessment has carefully considered the suitability of the site and the impacts of the proposal with respect to site constraints and potential impacts to Hyde Park, surrounding residential developments and heritage items. The Department's assessment concludes the proposed building envelope sets appropriate parameters to define the maximum extent for future built forms.

The Department's assessment finds the proposed building envelope would provide more sunlight than the existing situation to Hyde Park when considered cumulatively with the approved 201 Elizabeth Street envelope. The Department recommends the design and articulation of the future roof forms take further opportunity to improve solar access to Hyde Park between 12 noon and 2 pm throughout the year (**Condition A23 a**).

The Department also recommends additional design guidelines and conditions to further mitigate the proposal's impacts to surrounding residential developments, including additional Design Guidelines requiring future built forms to minimise solar impacts to the residences of Park Regis (**Conditions 23 b**).

The Department accepts the recommendations of the Heritage Council who supported the proposal and the proposed mitigation measures to protect light access to the adjoining light wells, requiring future design to respond to the major design elements of the adjoining heritage buildings and interpret the historical subdivision pattern (**Conditions B1 and B7**).

The Department and the Government Architect both acknowledged the complexity and technical expertise required for over station development and the interrelationship between these design processes are not conducive for the standard SLEP competitive design process. The Department supports the submitted Design Excellence Strategy, which will deliver design excellence from an integrated approach to the design and construction of the approved station and the proposed over station development. The Department recommends an independent design review panel together with the Design Guidelines to support the future detailed design applications (**Condition A25 and B1**).

The Department considers other impacts of the development are satisfactory and can be appropriately mitigated through the implementation of the recommended conditions of consent (**Schedule 2 Part B**).

The Department's Assessment concludes the proposal is approvable, subject to the conditions outlined within the report.



8. Recommendation

It is recommended that the Minister for Planning:

- **considers** the findings and recommendations of this report; and
- **accepts** and **adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application;
- **agrees** with the key reasons for approval listed in the notice of decision;
- **grants consent** for the application in respect of Pitt Street North OSD (SSD 8875), subject to the conditions in the attached development consent; and
- **signs** the attached development consent and recommended conditions of consent (see **Appendix H**) or instrument of refusal (see attachment).

Recommended by:

David McNamara

Director

Key Sites Assessments

Recommended by:

Anthea Sargent

Executive Director

Key Sites Assessments

7/6/19



9. Determination

The recommendation is: **Adopted / Not adopted by:**

The Hon. Robert Stokes

NSW Minister for Planning and Public Spaces



Appendices

Appendix A – List of Documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows.

1. Environmental Impact Statement
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875
2. Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875
3. Applicant's Response to Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875
4. Peer Review of Transport, Traffic and Parking Assessment, Samsa Consulting 2019
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875

Appendix B – Environmental Impact Statement

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875

Appendix C – Submissions

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875

Appendix D – Response to Submissions Report

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875

Appendix E – Department's consideration of Clause 4.6 submissions

The Department has considered the proposed variations to the following clauses in the Sydney Local Environmental Plan 2012 (SLEP):

- Clause 4.4 – Floor space ratio
- Clause 6.4 – Accommodation floor space

Clause 4.6(2) of the SLEP permits the consent authority to consider a variation to a development standard of the LEP or any other EPI. The aims of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

As set out in **Section 6.1** of this Assessment Report, the floor space ratio (FSR) of the proposal exceeds the FSR development standard in the proposed two development options with the maximum FSR being 15.97:1 where

the FSR standard is 13.814:1 for the mixed-use scheme and 12.394:1 for the commercial scheme. The Department has considered the Applicant's Clause 4.6 requests to vary the development standard.

A variation to the FSR can be considered under Clause 4.6 – Exceptions to development standards of the SLEP. When considering proposed variations, Clause 4.6 requires the following:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) (above), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained (although this is not required for SSD).*

The following provides an assessment of the proposed exceptions to the development standards under Clauses 4.4 and Clause 6.4 of the SLEP, applying the tests arising from *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* (as summarised by *Gabriel Stefanidis v Randwick City Council [2017] NSWLEC 1307*) and *Bates Smart Pty Ltd v Council of the City of Sydney [2014] NSWLEC 1001*.

In this instance, the application is accompanied by two written requests because there are two development options within the proposed concept.

The proposed FSR of the two development options are set out in full in **Section 6.1** of this Assessment Report. In summary:

- the proposed mixed-use option has a proposed FSR of 15.97:1 where the maximum standard is 13.814:1, therefore resulting in variation of 2.156:1 (6,782 m² or 15.6 %)
- the proposed commercial option has a proposed FSR of 15.97:1 where the maximum standard is 12.394:1, therefore resulting in a variation of 3.576:1 (11,269 m² or 28.8%)

Consideration of Clause 4.6 for Mixed - Use option

Section 6.1 under the sub-heading "Density (Floor Space Ratio) and Land Uses" of this Assessment Report sets out the extent of variation requested to the FSR standard in the SLEP. The proposed mixed-use option has a proposed FSR of 15.97:1 where the maximum standard is 13.814:1, therefore resulting in an exceedance of 2.156:1 (6,782 m² or 15.6 %). **Figures 1 and 2** show the proposed building envelope and indicative scheme within the proposed envelope.

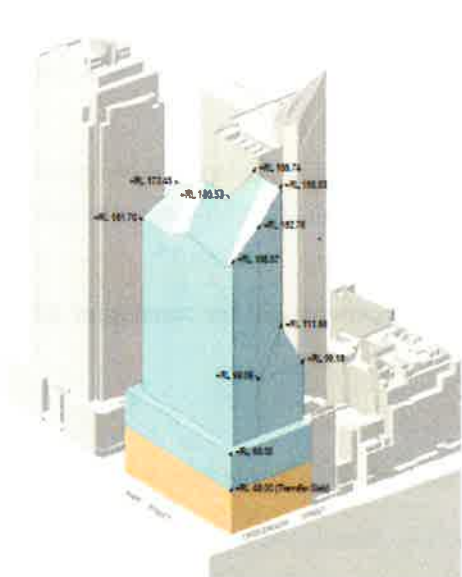


Figure 1 | Proposed building envelope with approved Metro station in yellow (Source: Applicant's EIS).



Figure 2 | Southern elevation of indicative mixed-use scheme with building envelope outline (blue hatched line) (Source: RtS).

1. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?

The objectives of the B8 Metropolitan Centre Zone of the SLEP are:

- (a) *To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy*
- (b) *To provide opportunities for an intensity of land uses commensurate with Sydney's global status*
- (c) *To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community*
- (d) *To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling*
- (e) *To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.*

The Department recommends that the Minister be satisfied that the proposed mixed-use option is consistent with the objectives of the B8 Metropolitan Centre Zone within the SLEP, as the proposed development:

- is consistent with the planning priorities of the Eastern City District Plan in that it provides housing with access to jobs, services, and public transport, is an integrated land use and transport development, and provides business and job opportunities within the Sydney CBD reflecting Sydney's role as a global city
- provides residential dwellings, visitor accommodation to support the tourism economy, and additional office floor space to support the growth of jobs within the Sydney CBD commensurate with Sydney's global status.
- the proposal is an exemplar of transit-oriented development which provides residential, tourist and commercial uses immediately adjacent to high frequency public transport services offered by Sydney Metro

- encourages the use of public transport by locating residential and non - residential land uses adjacent to the new Pitt Street Metro station and providing appropriate pedestrian access between these uses and the station entrance
- will be integrated with the Pitt Street Metro station which provides active frontages on the ground floor in the form of station entrance, pedestrian links, retail uses, and access to the lobbies of residential and non-residential uses.

2. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard?

The objectives of Clause 4.4 Floor space ratio of the SLEP are:

- (a) *to provide sufficient floor space to meet anticipated development needs for the foreseeable future*
- (b) *to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic*
- (c) *to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure*
- (d) *to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*

In addition to the FSR provided under Clause 4.4 there is incentive for additional floorspace under the relevant sections of Clause 6.4 Accommodation floor space as follows:

- (1) *A building that is in an Area, and is used for a purpose specified in relation to the Area in paragraph (a), (b), (c), (d), (e), (f) or (g), is eligible for an amount of additional floor space (**accommodation floor space**) equivalent to that which may be achieved by applying to the building the floor space ratio specified in the relevant paragraph:*

...

...

- (c) *Area 2, office premises, business premises or retail premises—4.5:1*
- (d) *Area 2, residential accommodation, serviced apartments, hotel or motel accommodation, community facilities or centre-based child care facilities—6:1*

...

- (2) *The amount of additional floor space that can be achieved under a paragraph is to be reduced proportionally if only part of a building is used for a purpose specified in that paragraph*
- (3) *More than one amount under subclause (1) may apply in respect of a building that is used for more than one purpose.*

The relevant objective of Division 1 Floor space in Central Sydney - Clause 6.1 Objective of Division relating to the floor space incentive that can be applied is:

- (a) *to provide for additional floor space to be granted as an incentive for certain development in Central Sydney*

The Department recommends that the Minister be satisfied that the proposed mixed-use option development is consistent with the relevant objectives of the floor space ratio and accommodation floor space standards of SLEP, as:

- the additional floor space will be supported by the new high capacity and high frequency public transport that will be delivered by Sydney Metro with residents, workers, and visitors having superior access to this service. This reduces the dependence on vehicle by future residents, workers and visitors
- the proposed variation is reasonable having considered the unique circumstances associated with the approved station and the over station development
- the approved floor space for the station infrastructure is mostly below ground and will not materially contribute to additional building bulk or traffic generation. The FSR is less than the maximum development capacity of the site, absent of the floor area of the Sydney Metro infrastructure.
- the extent of variation is numerically minor and is not considered to change the bulk and scale nor the external impacts of the development as defined by the proposed building envelope
- the indicative scheme submitted with the proposal indicates the proposed additional floor space can be accommodated within the building envelope with opportunities for future detailed design to provide sufficient articulation and setbacks from its maximum parameters. The additional floor space will result in acceptable visual, privacy, solar, and heritage impacts when compared to a compliant scheme.

3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed?

The Applicant's written request seeking to justify the variation to the floor space ratio standard under Clauses 4.4 and 6.4 of the SLEP for the mixed-use option, being that compliance with the standard is unreasonable and unnecessary in the circumstances of the case, is included in **Appendix D**.

The applicant establishes that:

- the mixed-use option will capitalise on the Sydney Metro by providing for additional residential capacity in a location which is immediately adjacent to new high-capacity and high frequency public transport. Additional residential capacity in this location will align with Planning Priority E5 in the Eastern City District Plan by providing housing supply in a location which has access to a high level of jobs and services
- the ability for the proposal to contribute to the legacy of the Sydney Metro project in a meaningful manner is limited in this case by an overly prescriptive floor space control which does not account for the floor area of the Sydney Metro infrastructure. This is seen as an unreasonable and unnecessary outcome at the site, given that the development does not result in any unacceptable adverse impacts, and the substantial economic, social and legacy benefits to be gained from the site
- the FSR is less than the maximum development capacity of the site, absent of the floor area of the Sydney Metro infrastructure.

The Department recommends that the Minister accepts that the submitted Clause 4.6 request meets the five-part tests in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and has adequately addressed the matters required to be demonstrated under Clause 4.6(3) of the SLEP.

The Department considers that the submitted Clause 4.6 request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, given the objectives of the standard and objectives of the zone have been achieved by the development, despite numerical variation to

the standard as outlined in Points 1 and 2 above and due to the adequacy of the environmental planning grounds addressed in Point 4 below.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and with the Court the matters required to be demonstrated have adequately been addressed?

The Applicant's written request which seeks to justify the contravention of the floor space ratio development standard of the SLEP, being that there are sufficient environmental planning grounds to justify contravening the development standard, is included in **Appendix D**.

The Department recommends that the Minister accepts that there are sufficient environmental planning grounds to justify the mixed-use option contravening the development standard in the circumstances of the case as provided in the applicant's written request and as summarised below:

- the proposal achieves the objectives of the development standards despite the numerical non-compliance. The additional floor space will be supported by the new transport capacity being delivered by Sydney Metro with the proposal being an exemplar of transit-oriented development
- the development standard does not account for the floor area of the Sydney Metro infrastructure which is mostly below ground. The proposal's FSR is less than the maximum development capacity of the site, absent of the floor area of the Sydney Metro infrastructure
- compliance is unreasonable and unnecessary given that the additional floor area to the proposal does not result in unacceptable adverse impacts above a compliant scheme
- the proposal comprises a consolidated site in the CBD which provides for a generous floor plate to accommodate the different uses
- there are additional circumstances that are to be considered such as:
 - residential storage is counted as GFA at the site because it is unable to be provided in a basement
 - the CSSI station works prevent traditional basement and ground floor uses which is a unique situation to OSD
 - residential balconies are enclosed in the concept due to wind impacts and accounts for 9% of the total GFA
- the proposal is in the public interest as it is consistent with the zone objectives and the objectives of the standard

The Department supports the Applicant's conclusions that the proposal achieves the objectives of the standard.

Having considered the Applicant's written request, the Department recommends that the Minister can be satisfied that sufficient environmental planning grounds justify the contravention of the development standard and the matters required to be demonstrated have adequately been addressed.

The Department therefore concludes that the Minister can be satisfied that the Applicant's written request adequately addresses the matters required to be demonstrated under Clause 4.6 of the SLEP and the proposal will be in the public interest because it is consistent with the objectives of the floor space ratio and the objectives for development within the zone.

In supporting the Applicant's request, the Department also considers that the development will deliver an overall better planning outcome for the site, for the following reasons:

- the proposal makes a significant contribution in delivering the strategic objectives of Planning Priority E5 and Planning Priority E11 of the Eastern City District Plan by providing housing in a location which has access to a high level of jobs and services and superior access to high-capacity and high frequency public transport, and supporting opportunities for investment, business and jobs with the provision of non-residential floor area
- the proposal will contribute directly towards the provision of new housing in Sydney with approximately 300 dwellings being accommodated in the proposal and will provide non-residential uses which support the growth of jobs in the Sydney CBD
- the proposed additional floor space can be accommodated within the proposed building envelope with opportunities for future detailed design providing building articulation and setbacks which does not result in additional visual, privacy, solar, and heritage impacts when compared to a compliant scheme.

Consideration of Clause 4.6 for Commercial option

Section 6.1 under the sub-heading "Density (Floor Space Ratio) and Land Uses" of this Assessment Report sets out the extent of variation requested to the FSR standard in the SLEP. The proposed commercial option has a proposed FSR of 15.97:1 where the maximum standard is 12.394:1, therefore resulting in an exceedance of 3.57:1 (11,269 m² or 28.8%). **Figures 3 and 4** show the indicative commercial scheme in the proposed building envelope.

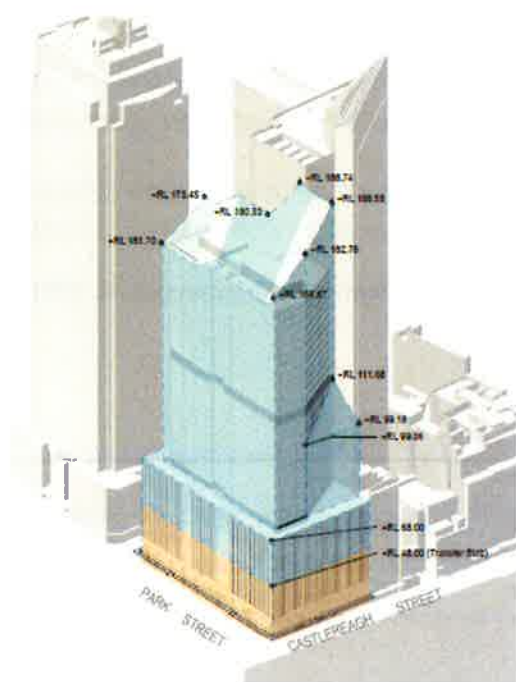


Figure 3 | Proposed building envelope with approved Metro station in yellow from Castlereagh Street. (Source: Applicant's EIS).

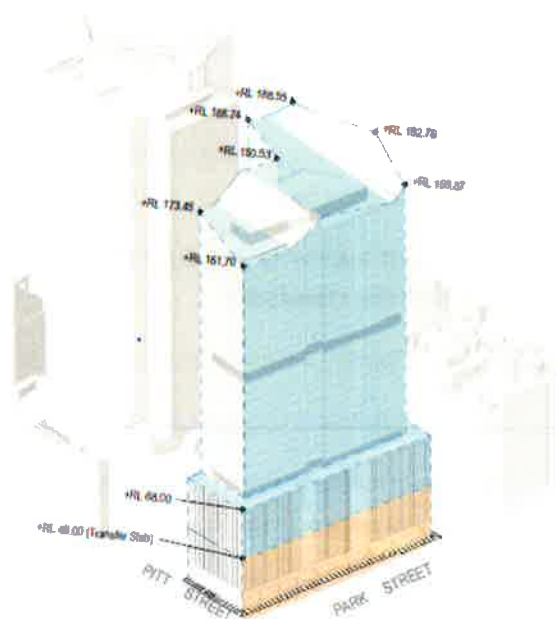


Figure 4 | Indicative commercial scheme with proposed envelope outline. (Source: Applicant's EIS).

1. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?

The objectives of the B8 Metropolitan Centre Zone of the SLEP are:

- (a) *To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy*
- (b) *To provide opportunities for an intensity of land uses commensurate with Sydney's global status*
- (c) *To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community*
- (d) *To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling*
- (e) *To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises*

The Department recommends that the Minister be satisfied that the proposed commercial option is consistent with the objectives of the B8 Metropolitan Centre Zone within the SLEP, as the proposal:

- makes a significant contribution in delivering the strategic objectives of Planning Priority E7 and Planning Priority E 11 of the Eastern City District Plan which identify the need to increase the supply of office floor area within a large floor plate in the Sydney CBD to meet the employment generation required, and providing opportunities for investment, business, and jobs which reflects Sydney's role as a global city
- is consistent with the Draft Central Sydney Planning Scheme (DCSOS) which identifies similar office demand as the Eastern City District Plan
- is a commercial scheme which will be appropriately integrated with the Metro station, and provide superior access to high capacity and high frequency rail services which will encourage the use of public transport and reduce dependency on vehicle use and ownership
- encourages the use of public transport by locating commercial land uses adjacent to the new Pitt Street Metro station and providing appropriate pedestrian access between these uses and the station entrance
- will be integrated with the Pitt Street Metro station which provides active frontages on the ground floor in the form of station entrance, pedestrian links, retail uses, and access to the lobbies of commercial uses.

2. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard?

The objectives of Clause 4.4 Floor space ratio of the SLEP are:

- (a) *to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (b) *to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*
- (c) *to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*
- (d) *to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*

In addition to the FSR provided under Clause 4.4 there is incentive for additional floorspace under the relevant sections of Clause 6.4 Accommodation floor space as follows:

- (1) *A building that is in an Area, and is used for a purpose specified in relation to the Area in paragraph (a), (b), (c), (d), (e), (f) or (g), is eligible for an amount of additional floor space (**accommodation floor space**)*

equivalent to that which may be achieved by applying to the building the floor space ratio specified in the relevant paragraph:

...

...

(c) Area 2, office premises, business premises or retail premises—4.5:1,

(d) Area 2, residential accommodation, serviced apartments, hotel or motel accommodation, community facilities or centre-based child care facilities—6:1,

...

- (2) The amount of additional floor space that can be achieved under a paragraph is to be reduced proportionally if only part of a building is used for a purpose specified in that paragraph.
- (3) More than one amount under subclause (1) may apply in respect of a building that is used for more than one purpose.

The relevant objective of Division 1 Floor space in Central Sydney - Clause 6.1 Objective of Division relating to the floor space incentive that can be applied is:

- (a) to provide for additional floor space to be granted as an incentive for certain development in Central Sydney

The Department recommends that the Minister be satisfied that the proposed commercial option is consistent with the relevant objectives of the floor space ratio and accommodation floor space standards of SLEP, as:

- the proposed FSR is reflective of the anticipated demand for commercial floor area within the Sydney CBD. The provision of a commercial building which complies with the FSR standard would represent an under-development of the subject site, reducing employment opportunities which is not consistent with the existing objectives of the zone and the broader strategic objectives for the Sydney CBD under the Eastern City District Plan
- the additional floor space will be supported by the high capacity and high frequency services of the Sydney Metro with workers and visitors having superior access to public transport. This reduces the dependency on vehicles and vehicle generation associated with the site. The proposal is integrated with the Metro station with pedestrian access and links provided to the station entrance and lobbies for commercial uses
- the approved floor space for the station infrastructure is mostly below ground and will not materially contribute to additional building bulk or traffic generation. The FSR standard does not account for the floor area of the Sydney Metro infrastructure and the proposal's FSR is less than the maximum development capacity of the site, absent of the floor area of the Sydney Metro infrastructure
- the proposed additional floor space can be accommodated within the proposed building envelope with opportunities for future detailed design providing building articulation and setbacks which do not result in additional visual, privacy, solar, and heritage impacts when compared to a compliant scheme.

- 3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed?**

The Applicant's written request seeking to justify the variation to the floor space ratio standard under Clauses 4.4 and 6.4 of the SLEP in relation to the commercial option, being that compliance with the standard is unreasonable and unnecessary in the circumstances of the case, is included in **Appendix D**.

The applicant establishes that the commercial option capitalises on the Sydney Metro by providing for commercial floor area in a location which is immediately adjacent to new high capacity and high frequency public transport. The location of the site within the Sydney CBD is consistent with the directions of the *Greater Sydney Region Plan 2018*, the *Eastern City District Plan 2018* and the *Central Sydney Planning Strategy* to increase capacity for employment floor space above that currently provided under the SLEP to meet future needs and support economic development. The Sydney CBD (or Harbour CBD) is identified at a strategic level as being critical to Sydney's role as a global city and significant economic contributor to the Australian economy.

The ability for the proposal to contribute to the Sydney Metro project is limited in this case by a floor space ratio control which does not account for the floor area of the Sydney Metro infrastructure. This is seen as an unreasonable and unnecessary outcome at the site, given that the development does not result in any unacceptable adverse impacts, and the substantial economic, social and legacy benefits to be gained from the site. The FSR is less than the maximum development capacity of the site, absent of the floor area of the Sydney Metro infrastructure.

The Department recommends that the Minister accepts that the submitted Clause 4.6 request meets the five-part tests in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and has adequately addressed the matters required to be demonstrated under Clause 4.6(3) of the SLEP.

The Department considers that the submitted Clause 4.6 request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, given the objectives of the standard and objectives of the zone have been achieved by the development, despite numerical variation to the standard as outlined in Points 1 and 2 above and due to the adequacy of the environmental planning grounds addressed in Point 4 below.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and with the Court the matters required to be demonstrated have adequately been addressed?

The Applicant's written request which seeks to justify the contravention of the floor space ratio development standard of the SLEP, being that there are sufficient environmental planning grounds to justify contravening the development standard, is included in **Appendix D**.

The Department recommends that the Minister accepts that there are sufficient environmental planning grounds to justify the commercial option contravening the development standard in the circumstances of the case as provided in the proponent's written request and as summarised below:

- the proposal will provide 2,500 full time equivalent jobs, with the proposed floor space variation accounting for 560 additional jobs. It will contribute to the planning priorities of the Eastern City District Plan for employment generation in the Sydney CBD, and in delivering a proposal with integrated land use and transport
- the high demand for commercial office space in Sydney CBD would not have been anticipated at the time the accommodation floor space provision was established in SLEP. The Eastern City District Plan identified that review of the Sydney CBD planning controls will be required to support development that provides floor space to accommodate the 45,000 – 80,000 jobs forecast

- the mid-town location of the site and its proximity to Town Hall is well placed for transport interchange between Metro, heavy rail and buses and is a unique opportunity to support significant employment generation with excellent transport connection and capacity
- a commercial scheme integrated with the approved Metro station will maximise the opportunity to consolidate services and loading facilities associated with the Metro station and therefore deliver better public domain and street activation outcomes for the extensive street frontages of the site
- the proposal is consistent with the draft Central Sydney Planning Strategy which seeks additional commercial floor space beyond the current capacity of the SLEP as the current FSR and accommodation floor space controls have resulted in a net employment loss
- the large site with full street block frontages that can accommodate large floor plates of over 2000 m² is consistent with the Eastern City District Plan which identifies the mid-town and the southern precinct of the Sydney CBD as holding most development but with a profusion of relatively small sites
- compliance is unreasonable and unnecessary given that the proposal does not result in unacceptable additional visual, privacy, solar, and heritage impacts when compared to a compliant scheme
- the proposal is in the public interest as it is consistent with the zone objectives and the objectives of the standard

The Department supports the Applicant's conclusions that the proposal achieves the objectives of the standard.

Having considered the Applicant's written request, the Department recommends that the Minister can be satisfied that sufficient environmental planning grounds justify the contravention of the development standard and the matters required to be demonstrated have adequately been addressed.

The Department therefore concludes that the Minister can be satisfied that the Applicant's written request adequately addresses the matters required to be demonstrated under Clause 4.6 of the SLEP and the proposal will be in the public interest because it is consistent with the objectives of the floor space ratio standard and the objectives for development within the zone.

In supporting the Applicant's request, the Department also considers that the development will deliver an overall better planning outcome for the site, for the following reasons:

- the proposal makes a significant contribution in delivering the strategic objectives of Planning Priority E7, E10, and E11 of the Eastern City District Plan which identify the need to increase the supply of office floor area with large floor plates in Sydney CBD to meet the employment generation required. The proposal is also consistent with the draft Central Sydney Planning Scheme which identifies similar office demand as the Eastern City District Plan
- the proposal is expected to generate 2,500 ongoing jobs with 560 ongoing jobs supported by the proposed additional floor area
- the proposed additional floor space can be accommodated within the proposed building envelope with opportunities for future detailed design providing architectural form which does not result in additional visual, privacy, solar, and heritage impacts when compared to a compliant scheme.

Appendix F – Department's consideration of *Tenacity* view sharing principles

The Department has assessed the impacts of the proposed building envelope to existing views from apartments in the vicinity of the proposed building envelope, particularly with respect to:

The Victoria Tower at 197 Castlereagh Street

The Park Regis at 27 Park Street

The NSW Land and Environment Court in *Tenacity Consulting v Warringah Council (2004)* NSWLEC 140 established a four-step approach when considering view sharing and view loss issues with proposed development. The Department's assessment of view is structured in accordance with the Planning Principles established as follows:

- Step 1: Assessment of the views to be affected
- Step 2: Consider from which part of the property the views are obtained
- Step 3: Assess the extent of the impact
- Step 4: Assess the reasonableness of the proposal that is causing the impact.

Victoria Tower

The Victoria Tower at 197 Castlereagh Street is a residential building containing approximately 144 apartments across 28 levels, with another 2 levels providing aboveground parking, storage and recreation facilities. Apartments are generally arranged as an 8 per floor configuration. The building access and street frontage is from Castlereagh Street with apartments facing in a variety of directions including north towards the subject site.

Department staff visited the Victoria Tower, its surrounds and eleven apartments on levels 8, 10, 15, 18, 21, 25, 28, 30, 31, 32 and 35 to further assess the building envelope's view impacts. The apartments inspected provided a wide variety of viewing angles and heights from the building. A typical lower level and upper level floor plan identifying residential living spaces is provided in **Figure 5** and **Figure 6**. The Department's site visit identified:

- west facing apartments have outlooks to existing buildings to the east and north, the proposed building envelope would be only partially visible from these apartments and the nature of the city outlook would remain the same (green arc in **Figure 5**)
- the proposed building envelope will not block the primary views to the east or north east to Hyde Park and water views beyond from the east facing apartments (**Figure 7** and **Figure 8**)
- only the high-rise apartments on the east wing of Victoria Tower have side views (to the north) to Sydney Tower as identified (**Figure 9**).

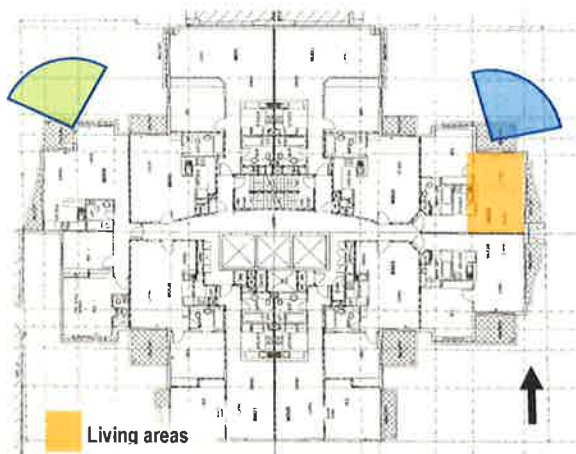


Figure 5 | Typical lower level floor plan of the Victoria Tower with the blue arc indicating approximate field of view for Figure 36. Green arc indicates view from west facing apartments (source: City of Sydney, not to scale).

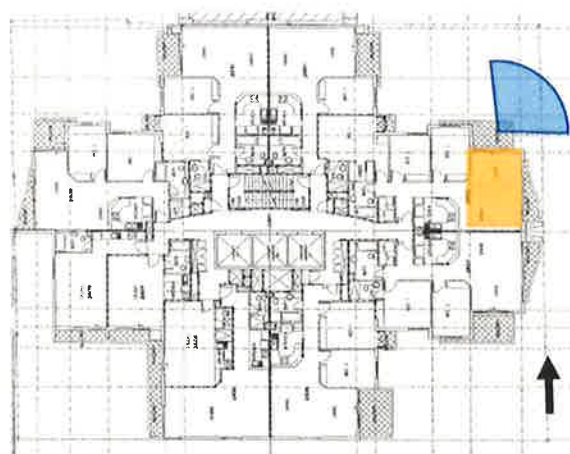


Figure 6 | Typical upper level floor plan of the Victoria Tower with the blue arc indicating approximate field of view (source: City of Sydney, not to scale).



Figure 7 | Low rise view from a Victoria Tower apartment 54 Park Street office tower visible in the foreground.



Figure 8 | High rise view from a Victoria Tower apartment.



Figure 9 | Existing view to Sydney Tower with the OSD site in the foreground.



Figure 10 | Sightline (blue) and setbacks (orange) that would be required to retain views to Sydney Tower from Victoria Tower (source: DPE and Nearmap)

Step 1: Assessment of views which are affected

Apartments in the lower and mid-levels that face north and/or north east have an existing outlook to Castlereagh streetscape and office towers in the CBD. These apartments also have northern views directly at the podium

level of the approved CSSI envelope. The eastern view from these levels is partially obstructed by the existing 12 storey office building at 54 Park Street.

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

Lower level outlooks are obtained from north to north east-facing windows, on the northern and north eastern side boundaries from balconies and windows from apartments including those along the east and north wings of the building from both standing and sitting positions. These secondary views (outlooks) to the north are across what may be regarded as the side boundary. The Tenacity principles advise that the retention of views across side boundaries (i.e. across neighbouring properties to the sides) is often unrealistic.

Step 3: Assess the extent of the impact

The extent of view impact is for apartments which include outlooks to the north from all levels of the building.

From site inspections conducted by the Department it was identified that apartments at the lower and mid levels include living rooms with north facing windows (facing the building envelope). East facing apartments also have outlooks north from their balconies, however, the principle outlook is towards Castlereagh Street. The Department acknowledges that residents of the Victoria Tower benefit from the building envelope being developed below its potential and that the OSD proposal is for an intensification of land uses.

The Department finds that the impacts to lower level north east facing apartments is considered reasonable as the outlook is to buildings and the nature of the city outlook will remain the same (**Figure 11** and **Figure 12**). The proposed building envelope would be only partially visible from west facing apartments and the nature of the city outlook would remain the same.

The Department finds that the impacts to east facing apartments at mid-levels are considered reasonable as the outlook to buildings, Hyde Park and St Marys Cathedral will remain the same (**Figure 13** and **Figure 14**).

For the upper levels, due to the wide ark of views available, these apartments retain their primary views to the east (**Figure 15** and **Figure 16**).



Figure 11 | | Render of north east view from the lower level of the Victoria Tower (source: EIS).



Figure 12 | Render of north east view impact showing the proposed OSD building envelope (in purple) from the lower level of the Victoria Tower (source: EIS). The green depicts the proposed building envelope of 201 Elizabeth Street (source: EIS).



Figure 13 | Render of north east view from a mid-level of the Victoria Tower (source: EIS).

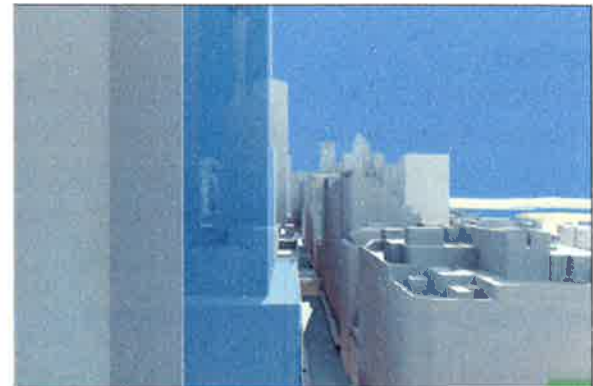


Figure 14 | Render of north east view showing the proposed OSD building envelope (in purple) from a mid-level of the Victoria Tower (source: EIS).



Figure 15 | Render of north east view from a high rise of the Victoria Tower (source: EIS).



Figure 16 | Render of north east view showing the proposed OSD building envelope (in purple) from a high rise in the Victoria Tower (source: EIS).

Step 4: Assess the reasonableness of the proposal that is causing the impact.

The Department has considered whether there is a more skilful design capable of delivering the same development potential with reduced view impacts on the northern and east wing apartments, and consequently whether the impact is acceptable. The findings can be summarised as follows:

- the proposed building envelope is compliant with SLEP and the sun access plane
- alternative envelope massing was considered in the Applicant's EIS and the Department notes that there are no feasible alternatives that would produce similar floorspace outcomes but have reduced view loss impacts

- the proposed building envelope will not block the primary views to the east or north east to Hyde Park and water views beyond from the east facing apartments
- approximately 12 - 16 m tower setback from Castlereagh Street would be required to retain the eastern elevation of the proposed envelope which is considered to be unreasonable. Such extensive setback is not anticipated by the relevant planning controls, noting the proposed tower will provide a weighted average 8 m setback consistent with the SDCP
- the distance from Victoria Tower to Sydney Tower is over 350 m. Redevelopment of other sites between Victoria Tower and Sydney Tower based on compliant SDCP setback controls (a weighted average 8 m setback) would obstruct views to Sydney Tower
- Sydney Tower is only partly visible from 25 living rooms of apartments from a standing position. The primary views from these apartments are orientated to the north east towards Hyde Park and water views beyond. There is also a view corridor along Park Street (between 54 Park Street and 201 Elizabeth Street) which is unaffected by the proposed building envelope.

Park Regis

The Park Regis at 27 Park Street is a 122-room commercial hotel with ground floor retail shops and a residential building containing approximately 184 apartments across 44 levels, with another 5 levels providing aboveground parking, storage and recreation facilities. Apartments are arranged in a 3 to 8 per floor configuration. The building access and street frontage is from Castlereagh Street and Park Street with apartments facing in a variety of directions including north towards the subject site.

Step 1: Assessment of views which are affected

Apartments in the lower and mid levels that face north and/or north east have an existing outlook to Castlereagh streetscape and office towers in the CBD. These apartments also have northern views directly at the podium level of the approved CSSI envelope. The eastern view from these levels is obstructed by the existing 12 storey office building at 54 Park Street (**Figure 17 to Figure 20**).

Apartments in the upper most levels of 27 Park Street, which are above the height of podium of the approved CSSI envelope, obtain views further to the east including Hyde Park, St Mary's Cathedral and Sydney Harbour. These views are considered of higher value.

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

Lower level outlooks are obtained from north, north east and east-facing windows, on the northern and eastern side boundaries from balconies and windows from apartments from both standing and sitting positions. These views (outlooks) to the north and east are across what may be regarded as the front boundary.

Step 3: Assess the extent of the impact

The figures below, from the Applicant's view impact assessment, demonstrate views from the Park Regis to the proposed building envelope from low, mid- and high-rise perspectives. Only apartments with north or east views have the ability to view the proposed building envelope (**Figure 18, 20 and 22**).

Apartments at the lower levels include living rooms with north facing windows (facing the building envelope). East and north east facing apartments also have outlooks north from their balconies, however, the principle outlook is towards Castlereagh Street. The Department considers the impacts to lower level outlooks as reasonable as the outlook from these levels is of CBD buildings and the nature of the city outlook will remain the same.

The proposed envelope will block the secondary northern views along parts of Castlereagh Street, however, due to the wide ark of views available, these apartments retain their primary views to the north east and east (**Figure 21** and **Figure 22**). The Department considers the impacts to the mid and upper level views as reasonable given the existing views to St Mary's Cathedral, Sydney Harbour and beyond will be retained.



Figure 17 | Render of north east view from the lower level of the Park Regis with 54 Park Street in the foreground (source: EIS).



Figure 18 | Render of north east view impact showing the proposed OSD building envelope (in purple) from the lower level of the Park Regis (source: EIS).



Figure 19 | Render of north east view from a mid-level of the Park Regis (source: EIS).



Figure 20 | Render of north east view showing the proposed OSD building envelope (in purple) from a mid-level of the Park Regis (source: EIS).



Figure 21 | Render of north east view from a high rise of the Park Regis (source: EIS).



Figure 22 | Render of north east view showing the proposed OSD building envelope (in purple) from a high rise in the Park Regis (source: EIS).

Step 4: Assess the reasonableness of the proposal that is causing the impact.

The Department has considered whether there is a more skilful design capable of delivering the same development potential with reduced view impacts on the northern and east wing apartments, and consequently whether the impact is acceptable. The findings can be summarised as follows:

- the proposed building envelope is compliant with SLEP and the sun access plane
- alternative envelope massing was considered in the Applicant's EIS and the Department notes that there are no feasible alternatives that would produce similar floorspace outcomes but have reduced view loss impacts
- the proposal will not affect the primary views from the Park Regis
- the extent of view impacts can be reasonably anticipated under the planning controls applying to the site
- the weighted average 8 m setback proposed for the tower component complies with SDCP controls
- the view corridor along Park Street will be retained.

Appendix G – Statutory Considerations

Objects of the Environmental Planning and Assessment Act

Decisions made under the EP&A Act must have regard to the objects set out in Section 1.3 of the Act. A response to the objects is below.

Object of Section 1.3 of EP&A Act	Department's Response
a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal promotes the social and economic welfare of the community by providing significant employment within a highly accessible site for transport and urban services, and, in doing so, contributing to the achievement of State, regional and local planning objectives The proposal comprises development above the approved station infrastructure and does not have any impacts on the State's natural or other resources.
b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The proposal has integrated ESD principles as discussed in Section 4 .
c) to promote the orderly and economic use and development of land	The proposal represents the orderly and economic use of the land primarily as it will increase employment opportunities near services and public transport. The proposed land uses are permissible, and the form of the development has regard to the planning controls that apply, the character of the locality and the context of surrounding sites.
d) to promote the delivery and maintenance of affordable housing	This objective is not relevant to the concept proposal.
e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The proposal, comprising mixed-use or commercial development above the metro station, will not have any natural environmental impacts.
f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The Department considers that the heritage impacts of the development are acceptable, as set out in Section 6 .

Object of Section 1.3 of EP&A Act	Department's Response
g) to promote good design and amenity of the built environment	The proposal demonstrates a good design approach to the relevant planning controls and in relation to the context of the site. Amenity impacts are managed by either the form of the development or by the recommended conditions of consent for mitigation measures during the detailed design.
h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The application is for concept approval and does not include construction, however, construction impacts of the concept have been taken in consideration in the assessment.
i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department publicly exhibited the proposal as outlined in Section 5 . This included consultation with Council and other public authorities and consideration of their responses.
j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the application which included notifying adjoining landowners, placing a notice in the local press and displaying the application on the Department's website and at the Council's office and Service NSW Centres. The Department also provided the RtS to Council and other relevant agencies and placed the RtS on its website.

Environmental Planning Instruments (EPIs)

To satisfy the requirements of Section 4.15 of the Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment of the project.

The EPIs that have been considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy No. 64 – Advertising and Signage
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Draft State Environmental Planning Policy (Environment)
- Sydney Local Environmental Plan 2012

State Environmental Planning Policy (State and Regional Development) 2011

The development is State Significant Development under Clause 19 of Schedule 2 of SEPP. The Minister for Planning is the consent authority for the application.

Relevant Section	Department's Consideration
3 Aims of Policy The aims of this Policy are:	

- | | |
|--|--|
| <ul style="list-style-type: none"> (a) to identify development that is State significant development, (b) to identify development that is State significant infrastructure and critical State significant infrastructure, (c) to identify development that is regionally significant development. | <p>The proposed development is identified as State significant development</p> |
|--|--|

8 Declaration of State significant development: Section 4.36

Proposed development is permissible with consent and is specified in Schedule 1.

- (1) Development is declared to be State significant development for the purposes of the Act if:
 - (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and
 - (b) the development is specified in Schedule 1 or 2.

Schedule 1 State significant development —general (Clause 19 (2))

19 Rail and related transport facilities

Development within a rail corridor or associated with railway infrastructure that has a capital investment value of more than \$30 million for any of the following purposes:

- (a) commercial premises or residential accommodation

The development has a CIV of more than \$30 million and is development associated with railway infrastructure for the purpose of commercial premises or residential accommodation.

State Environmental Planning Policy (Infrastructure) 2007

The ISEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities for certain development during the assessment process.

The ISEPP is applicable as the concept proposal involves development in or adjacent to a rail corridor (Division 15 Railways), being the Sydney Metro City and Southwest corridor. Under the provisions of Clause 86 – *Excavation in, above, below or adjacent to rail corridors*, the application is required to be referred to Sydney Trains and RMS.

Sydney Trains advised that it has no comment to the application. RMS commented that they correspond directly with Sydney Metro and would not be providing a public response to DPE.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. The proposed development will not affect soils on the land as the OSD occurs above the approved CSSI station box. The CSSI approval covers all demolition and excavation works on the site. Accordingly, SEPP 55 is satisfied as the proposal is suitable for the site.

Draft Remediation of Land State Environmental Planning Policy

The Department is reviewing all State Environmental Planning Policies to ensure they remain effective and relevant and SEPP 55 has been reviewed as part of that program. The Department has published the draft

Remediation of Land State Environmental Planning Policy (Remediation SEPP), which was exhibited until April 2018.

Once adopted, the Remediation SEPP will retain elements of SEPP 55, and add the following provisions to establish a modern approach to the management of contaminated land:

- require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant
- categorise remediation work based on the scale, risk and complexity of the work
- require environmental management plans relating to post-remediation management or ongoing management of on-site to be provided to Council.

The new SEPP will not include any strategic planning objectives or provisions. Strategic planning matters will instead be dealt with through a direction under Section 117 of the EP&A Act.

The Department considers the development is consistent with the draft Remediation SEPP subject to the conditions for CSSI approval discussed above.

State Environmental Planning Policy 64 – Advertising and Signage

The application includes conceptual signage zones at this stage. They comprise four signage zones where two are at the top of the tower for building name and two are around the OSD lobby and OSD retail for tenant identification. The EIS advises that these signage zones are indicative and that specific signage within the zones including their design and materials would be proposed and refined in a future application.

The Department has considered the proposed signage zones and finds that:

- there is a lack of detail on the design, materials and content of that signage on which to carry out a full and proper assessment against SEPP 64
- it is not clear at this stage whether the proposed signage zones will be compatible with the CSSI Sydney Metro Wayfinding Strategy and further work on ensuring the two purposes of the signage are harmoniously integrated is necessary
- the signage zones are shown on the indicative OSD design which is specific for a concept application seeking to establish a building envelope. For example, the detailed design of the OSD in future applications may not approach the design of the podium or tower in the same or similar manner as the indicative OSD design which seeks to set the signage zones.
- the dimensions of the signage zones shown with the indicative design of the OSD are excessive at this concept stage and are not supported as seeking a possible entitlement for future OSD detailed design
- signage design including its position, size and materials is best integrated into the detailed design phase of the OSD where the architecture of the building directs suitable signage placement and visual impact

The Department considers it appropriate that assessment of proposed signage be carried out at the detailed development application(s) phase. The Department acknowledges that signage is part-and-parcel of, and not inconsistent with, a concept proposal. However, signage is to be assessed having regard to further information at the detailed design phase including a Signage Strategy. The recommended conditions address this.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP) provides planning principles for development within the Sydney Harbour catchment. The site is not located within the Sydney Harbour Catchment area. Therefore, the SHC SREP does not apply.

Draft State Environmental Planning Policy (Environment) (draft SEPP Environment)

The draft SEPP Environment proposes to consolidate seven existing SEPPs and SREPs including SREP (Sydney Harbour Catchment) 2005.

The proposal is consistent with the intended effect and provisions of the draft SEPP as there are no proposed changes to the content of SREP (Sydney Harbour Catchment) 2005 relating to the application.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

SEPP 65 seeks to improve the design quality of residential developments and encourage innovative design. The Apartment Design Guide (ADG) is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments. As the proposal is concept only the assessment of design principles is focused on whether the proposal demonstrates the potential to satisfy the design quality principles (**Table 1**). An assessment of the indicative residential scheme is provided against the broader ADG criteria in **Table 2**.

Table 1 | Comparison of the proposal against the ADG design principles.

Design Quality Principle	Department's Response
1. Context and Neighbourhood Character	The site is in a CBD context with other large buildings of a similar height and scale in proximity of it. The concept proposal demonstrates capacity for a future building to respond to the character of the area with the OSD Design Guidelines providing structure around heritage and contextual sensitivity.
2. Built Form and Scale	The concept proposal demonstrates the overall massing and scale of the proposed building envelope is consistent with the SLEP sun access plane and required street frontage height controls in the SDCP. The OSD Design Guidelines provide scale and massing guidance. These objectives will inform the detailed design of the proposal. The Department considers the built form of the proposal acceptable having regard to its location adjoining the Metro station and exemplifying the principles of transit-oriented development.
3. Density	The proposal seeks a variation to the FSR standard, as detailed in this report the additional floor space can be accommodated within the proposed building envelope. Future detailed design will be required to address visual, privacy, solar and heritage impacts which are supported by Design Guidelines and future built form conditions.
4. Sustainability	The concept proposes ESD principles and sustainability measures as detailed in Section 6.7 of this report.
5. Landscape	The concept proposal demonstrates capacity to support good landscape design although public domain landscaping is not within the scope of the OSD proposal. The Department notes that the proposal will have good access to a range of local open spaces within Central Sydney.
6. Amenity	The concept proposal demonstrates capacity for a future building to positively influence internal and external amenity for residents and visitors by addressing privacy, solar access and natural ventilation. Indicative drawings have been provided with the application showing between 3 and 11 apartments per floor of the residential tower option with orientations to the east, west and south. While the indicative drawings demonstrate that an acceptable level of residential amenity could be achieved, details will need to be fully considered as part of a future detailed development application phase.
7. Safety	The proposal promotes the principles of Crime Prevention Through Environmental Design through appropriate design which provides an active street frontage that encourages the activation of spaces by residents, workers and visitors to the site and through accessible and legible links to the Metro station.

Design Quality Principle	Department's Response
8. Housing Diversity and Social Interaction	The proposed development supports the objective of greater housing supply through indicative plans which support a variety of different dwelling sizes to cater for the diverse requirements of future residents. Issues regarding social dimensions and appropriate apartment mix will be considered as part of a detailed development application phase.
9. Aesthetics	The overall massing and scale of the indicative residential built form demonstrates how an appropriate transition to surrounding CBD buildings can be achieved. The indicative concept plans provide a building envelope will be articulated and refined through the Design Excellence Strategy and accompanying Design Guidelines to contribute to the existing site context.

Apartment Design Guide

Table 2 | Comparison of the proposal against the ADG.

ADG – Relevant Criteria	Department's Consideration
3A Site Analysis	
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	The proposal is accompanied by context plans and a strategic land use analysis study which identifies opportunities and constraints on the site and surrounding context.
3B Orientation	
- Building type/layouts respond to streetscape, optimising solar access - Overshadowing of neighbouring properties is minimised during mid-winter - Ensure solar access to existing buildings which don't achieve ADG sun access criteria is not reduced by more than 20%	- The proposal will impact solar access to Park Regis apartments as discussed in Section 6.3. - The Department considers the solar benefits as modelled are reasonable having regard to the established planning principles for sunlight.
3C Public Domain Interface	
- Transition between public/private without compromising security - Amenity of public domain is retained and enhanced	- The approved CSSI includes the design and construction of the station footprint and surrounding public domain below the OSD. - Entry points to the OSD are located away from main station circulation areas.
3D Communal and Public Open Space	
- An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping - Communal open space has a minimum area equal to 25 per cent of the site or where constrained: - provide communal spaces elsewhere such as a landscaped roof top terrace or a common room - provide larger balconies or increased private open space for apartments	- The concept design includes a communal open space at level 12. This area provides options for a range of uses including a swimming pool, gym, function room and kitchen. - The site is approximately 100 m from Hyde Park which provides accessible public space

demonstrate good proximity to public open space and facilities and/or provide contributions to public open space

3E Deep Soil Zones

- For sites greater than 1,500 m² a minimum of 7 per cent of the site should provide for deep soil zone(s) and a minimum dimension of 6 metres.
- Where this is not possible, options for acceptable storm water management strategies should be achieved.
- A flooding and stormwater management plan accompanied the EIS demonstrates how a future building can comply with the intent of this design criteria

3F Visual Privacy

Setback to Neighbouring Land and Buildings within the site

- Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy
- Minimum separation distance from building to side boundary:

Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (5-8 storeys)	9m	4.5m
Over 25m (9+ storeys)	12m	6m

- Setbacks are discussed in detail in **Section 6.3 and 6.4**.
- The Department supports the submitted Design Guidelines which propose appropriate setbacks from the common boundary to protect light access to adjoining lightwells of the National Building and Masonic Club, including the use of reflective or light-coloured materials to encourage light penetration. The submitted indicative schemes illustrate setbacks up to approximately 2.2 m can be provided to the common boundary along the lightwell of the Masonic Club.

3G Pedestrian Access to Entries

- Building entries and pedestrian access connects to and addresses the public domain.
- Access, entries and pathways are accessible and easy to identify.
- The concept designs do not propose residential at ground floor. The ground floor is part of the station box which was approved as part of CSSI 7400.

3H Vehicle Access

- Vehicle access points are to be designed to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.
- Loading and vehicular access is from Castlereagh Street
- Compliance with the ADG is included as a requirement in the OSD Design Guidelines
- The CSSI Approval establishes the general concept for the ground plane of Pitt Street Station including separation of vehicular and pedestrian movements

3J Bicycle and Car Parking

- Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas
- For development in the following locations:
 - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area or
 - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed-use or equivalent in a nominated regional centre
- The concept design incorporates 50 parking spaces and is consistent with SLEP controls
- the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less
- The car parking needs for a development must be provided off street

4A Solar and Daylight Access

- To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space
- Indicative plans demonstrate 62.5% of the 304 apartments would receive at least 2 hours of direct sunlight between 9 am – 3 pm June 21.
- Minimum of 70 per cent of apartments' living rooms and private open spaces receive 2 hours direct sunlight between 9 am-3 pm in mid-winter in the Sydney Metropolitan Area
- Indicative plans demonstrate 34.9% of the 304 apartments would receive no direct sunlight.
- Maximum of 15 per cent of apartments have no direct sunlight between 9 am-3 pm in mid-winter
- A future detailed application will be required to maximise solar access to residential apartments and address this objective.

4B Natural Ventilation

- At least 60 per cent of apartments are cross ventilated in the first nine storeys (apartments 10 storeys or greater are deemed to be cross ventilated)
- Indicative plans demonstrate the development can achieve appropriate depths for cross-over or cross-through apartments.
- Overall depth of a cross-over or cross-through apartment does not exceed 18m

4C Ceiling Heights

Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

- Habitable rooms 2.7 metres
- Non-habitable rooms 2.4 metres
- Floor to floor Residential 3.1 metres
- Indicative ceiling heights (2.8m) demonstrate appropriate ceiling heights can be achieved.

4D Apartment Size and Layout

- Minimum apartment sizes
 - Studio 35sqm
 - 1 bedroom 50sqm
- The concept design provides apartment sizes which achieve minimum sizes defined by the ADG

ADG – Relevant Criteria	Department’s Consideration
- 2 bedroom 70sqm - 3 bedroom 90sqm • Every habitable room must have a window in an external wall with a total glass area of not less than 10 per cent of the floor area. Daylight and air may not be borrowed from other rooms. • Habitable room depths are limited to 2.5 x the ceiling height. • In open plan layouts the maximum habitable room depth is 8 metres from a window. • The width of cross-over or cross-through apartments are at least 4 metres internally.	• Compliance with the ADG is included as a requirement in the OSD Design Guidelines.
4E Private Open Space and Balconies	
• Primary balconies are provided to all apartments providing for: - Studios apartments min area 4m² - 1 bedroom min area 8sqm min depth 2m - 2 bedroom min area 10sqm min depth 2m - 3 bedroom min area 12sqm min depth 2.5m • For apartments at ground floor level or similar, private open space must have a minimum area of 15m² and depth of 3m²	• The concept design includes indicative schematic floor plans of apartments which show that private open space requirements can be achieved. Dimensions of balconies will be addressed as part of a future detailed design stage.
4F Common Circulation and Spaces	
• Maximum number of apartments off a circulation core is eight – where this cannot be achieved, no more than 12 apartments should be provided off a single circulation core. • For buildings 10 storeys and over, the maximum number of apartments sharing a single lift is 40	• The concept design identifies a maximum of 7 apartments per floor over two towers. - One tower has 3 lifts services up to 4 apartments floor. - The second tower has 4 lifts servicing up to 7 apartments per floor.
4G Storage	
• The following storage is required (with at least 50 per cent located within the apartment): - Studio apartments 4m³ - 1 bedroom apartments 6m² - 2 bedroom apartments 8m² - 3 bedroom apartments 10m²	• As this is a concept design, details on storage space are not defined. Design guidelines for a future building require compliance with the ADG.
4H Acoustic Privacy and 4J Noise and Pollution	
• Noise transfer is minimised through the siting of buildings and building layout and minimises external noise and pollution. • Noise impacts are mitigated through internal apartment layout and acoustic treatments.	• As this is a concept design acoustic privacy and noise transfer are not defined. • Matters of noise transfer and acoustic privacy will be considered during the detailed design of the proposal.

4K Apartment Mix

- Provision of a range of apartment types and sizes
- Apartment mix is distributed to suitable locations within the building.
- The concept design provides a mix of apartment types with studio, 1, 2 and 3 bedrooms apartments
- As this is a concept proposal details on the apartment mix are not defined. OSD design guidelines include a requirement for compliance with the ADG.

4L Ground Floor Apartments

- Street frontage activity is maximised where ground floor apartments are located
- Design of ground floor apartments delivers amenity and safety for residents
- The ground floor is part of the station box which was approved under the CSSI 7400 approval.

Sydney Local Environmental Plan 2012 (SLEP)

An assessment of the proposal against the aims, objectives, standards and relevant provisions of SLEP is set out in the table below.

SLEP Clause	Relevant controls/ criteria	Department's Assessment
1.2 - Aims of the Plan	The Plan aims to: • reinforce the role of the City of Sydney as the primary centre for Metropolitan Sydney, • support the City of Sydney as an important location for business, educational and cultural activities and tourism, • promote ecologically sustainable development, • encourage the economic growth of the City of Sydney by: - providing for development at densities that permit employment to increase, and - retaining and enhancing land used for employment purposes that are significant for the Sydney region, • encourage the growth and diversity of the residential population of the City of Sydney by providing for a range of appropriately located housing, including affordable housing, • enable a range of services and infrastructure that meets the needs of residents, workers and visitors, • ensure that the pattern of land use and density in the City of Sydney reflects the existing and future capacity of the transport network and facilitates walking, cycling and the use of public transport, • enhance the amenity and quality of life of local communities,	The proposal seeks approval for a residential/commercial or commercial building envelope in an area with excellent public transport access within the Sydney CBD, will reinforce the City's role as the primary centre for Metropolitan Sydney, support the City as an important location for business and encourage economic growth. The proposal promotes ESD, and a condition is recommended requiring the proposal to achieve and explore opportunities to exceed the identified environmental performance targets. The proposal benefits from being located above the new Sydney Metro station, providing access between homes and jobs, reflecting current and future public transport capacity within the City and benefiting from existing walking and cycling networks. The proposal fits within the desired character of the area and any heritage impacts are supported in principle. The concept proposal sets out how future applications will achieve design excellence, with a condition recommending that a DRP be established. The proposal has minimal and reasonable solar access, visual and wind impacts on surrounding amenity, subject to a recommended conditions reducing solar access impacts on Hyde Park.

SLEP Clause	Relevant controls/ criteria	Department's Assessment
	- provide for a range of existing and future mixed-use centres and to promote the economic strength of those centres, - achieve a high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities, - conserve the environmental heritage of the City of Sydney, - protect, and to enhance the enjoyment of, the natural environment of the City of Sydney, its harbour setting and its recreation areas.	
2.3 - Land use zoning	The site is within the B8 Metropolitan Centre. The objectives of the B8 zone include: - To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy. - To provide opportunities for an intensity of land uses commensurate with Sydney's global status. - To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community - To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling. - To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.	The proposal achieves the objectives of B8 Metropolitan Centre zone by providing diverse land uses that serve the workforce, visitors and wider community in the Sydney CBD. The proposed land uses are permissible with consent within the B8 Metropolitan Centre zone.
4.3 - Height of buildings	The relevant objectives of this clause are as follows: - to ensure the height of development is appropriate to the condition of the site and its context, - to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas, - to promote the sharing of views, - to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas - The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	The proposal complies with the maximum height standards applying to the site, refer to Section 6.2.

SLEP Clause	Relevant controls/ criteria	Department's Assessment
4.4 – Floor space ratio	The objectives of this clause are as follows: a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future, b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic, c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure, d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality. The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	The concept proposal seeks approval for a variation to FSR, refer to Section 6.1. The proposed FSR variations are supported on merit.
5.10 – Heritage conservation	The consent authority must consider the effect of the proposed development on the heritage significance of a heritage item or conservation area. The consent authority may require a heritage assessment before granting consent to any development on land that is within the vicinity of a heritage item or conservation area.	The Department consulted with the Heritage Council on the application. Heritage Council considered the submitted Heritage Impacts Statement (HIS) included adequate heritage impact assessment and the recommendations and mitigation measures are appropriate. The Department concluded the proposal has acceptable impacts to adjoining and surrounding heritage items subject to appropriate conditions. The Department considers that any heritage impacts of the detailed design stage are most appropriately resolved through implementing appropriate conditions on future development and having appropriate OSD guidelines to ensure heritage impacts are minimised or mitigated.
6.10 Heritage floor space	The purpose of this clause is to provide an incentive for the conservation and on-going maintenance of heritage buildings.	The Department received advice from the City of Sydney indicating that the Masonic Club and National Building have sold their heritage floor space award.
6.16 Erection of tall buildings in Central Sydney	This clause applies to buildings of greater than 55 metres above ground level. The consent authority must ensure that a tower development provides amenity for the occupants of the tower, does not adversely affect the amenity of public places, is compatible with its context, provides for sunlight to reach the sides and rear of the tower, promotes ventilation	The proposal seeks concept approval for a building envelope. The Department's assessment of the proposed building envelope concludes that the proposal is compatible with its context and any impacts, such, solar access, visual and wind impacts, on surrounding amenity and public spaces are minor and reasonable, subject to detailed design, future assessment requirements and conditions (Section 6).

SLEP Clause	Relevant controls/ criteria	Department's Assessment
	of Central Sydney and encourages uses with active street frontages.	Impacts of the detailed building design, such as internal amenity, will be considered as part of a detailed development application phase. Street level activation will be considered in the detailed design of the station.
6.17 Sun access planes	The consent authority must not grant development consent to development on land if the development will result in any building on the land projecting higher than any part of a sun access plane taken to extend over the land under this clause. Ensure that buildings maximise sunlight access to Hyde Park.	The building envelope complies with the Hyde Park West sun access plane.
6.21 Design excellence	The consent authority must not grant development consent unless in the opinion of the consent authority the proposed development exhibits design excellence. A competitive design process is required unless the consent authority is satisfied that such a process would be unreasonable or unnecessary in the circumstances.	The Department reviewed the proposed Consolidated Design Guidelines and considers them appropriate subject to amendments outlined in the development consent. Further assessment of specific design excellence element is provided under Clause 6.21(4) below. Also See Section 6.6 – Design Excellence of this report.
7.3 Car parking spaces not to exceed maximum set out in this division	Consent must not be granted to development if the total number of car parking spaces is greater than the maximum permitted by this Clause.	The Department's independent traffic assessor has reviewed car parking including compliance with the SLEP and finds the assessment satisfactory.
7.15 – Flood planning	Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: • is compatible with the flood hazard of the land, and • is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and • incorporates appropriate measures to manage risk to life from flood, and • is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and • is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.	A Flooding and Stormwater Management Plan was submitted as part of this application. The Department considers the Plan satisfactory for the purpose of a concept proposal. The Plan states that the proposal would not have any flood impacts to neighbouring properties and the proposed development would manage stormwater on-site to not increase flows to the Council stormwater network. Flooding considerations will be further addressed as part of the detailed development application phase.

SLEP Clause	Relevant controls/ criteria	Department's Assessment
7.16 – Airspace operations	The consent authority must not grant development consent for the development, if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.	The Commonwealth Department of Infrastructure and Regional Development (CDIRD) and Sydney Airport (as delegate of the CDIRD) have assessed the proposed building envelope and support the proposal subject to conditions.
7.20 Development requiring or authorising preparation of a development control plan	Development consent must not be granted to development in Central Sydney for a site of more than 1,500m ² or height greater than 55 metres unless a development control plan has been prepared for the land addressing	DCP controls are not applicable to SSD projects, however the Applicant's EIS provided responses to all matters that would normally be required to satisfy this clause. The Department is satisfied with the responses provided. Additionally, an SDCP assessment is included as part of this assessment report.

Section 6.21 (4) – Design Excellence

Section 6.21 (4)

Consideration /Recommendations

(i) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved	The Department is satisfied future built forms within the proposed building envelope will achieve a high standard of architectural design, materials and detailing subject to the proposed Design Excellence Strategy (see Section 6.8) and the submitted Design Guidelines (Condition B1) to support the detailed design of future built forms.
(ii) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain	The proposal is a concept development application only. The form and external appearance of the proposed development will be determined through future detailed design applications. The Department also recommended additional Design Guidelines to support future built forms to achieve a high standard of architectural form (Condition A23 c). The submitted Design Guidelines (Condition B1) includes design and criteria with respect to public domain and place, movement and connectivity. The Department also recommends future assessment requirements, including wind and reflectivity assessment to ensure the external form will not adversely affect the quality and amenity of the public domain (Schedule 2 – Part B). The site's public domain is also subject to the Station Design Precinct Plan (Condition E101 of CSSI 7400) of the separate infrastructure approval (CSSI 7400) for the Metro Station.
(iii) whether the proposed development detrimentally impacts on view corridors	The Department's assessment concludes the proposal will have acceptable view impacts (See Section 6.3).

How the proposed development addresses the following matters:

(iv) the suitability of the land for development,	The site is located in the Sydney CBD and directly above the approved northern entrance to the new Pitt Street Metro Station. The Department considers the land suitable for the
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	proposed over station development having regard to its dimensions, site area, location, context and environmental constraints.
(v) the existing and proposed uses and use mix	Previous developments at the site were demolished as part of approved works for the new Metro Station (CSSI 7400). The site is located in the B8 Metropolitan Centre zone, where the proposed uses for residential and retail/commercial uses are permissible with development consent. The Department accepts both the proposed mixed-use or commercial scheme as discussed in Section 6.1 of this report.
(vi) any heritage issues and streetscape constraints,	The Department notes the street walls along both Pitt, Castlereagh and Park Street frontages of the site are defined by the approved station-built forms. The Department acknowledges that the building envelope provides a 45m street wall podium height that references the existing building heights of National Building (248A-250 Pitt Street) and the NSW Mason Club. The Department notes that providing a tower setback at RL 68 to Park, Pitt and Castlereagh Streets will further reinforce the 45m street wall podium height. The Department also notes that the Applicant's commercial scheme demonstrates a building envelope setback from level 5 (RL 48) to the northern site boundary (Appendix L, RtS). The Department's assessment concludes the proposal has acceptable impacts to adjoining and surrounding heritage items (see Section 6.4) subject to the submitted Design Guidelines (as supported by the Heritage Council) and requirement for future detailed design of the proposal to provide appropriate visual separation between the over station development, the NSW Masonic Club and National Building and to ensure there will be appropriate transition of building heights between the proposed over station development, the approved station and the Club (Conditions B1 and B7).
(vii) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form	The Department's assessment concludes the proposed tower building envelope will achieve acceptable building separation with adjoining buildings (being heritage items) as discussed in Section 6.4 .
(viii) the bulk, massing and modulation of buildings	The height of the building complies with the Hyde Park West Sun Access Plane contained in SLEP. The bulk and scale of the proposed building envelope, up to 166 m is compatible with surrounding developments, noting the proposed tower is substantially lower than the height of the ANZ tower directly north of the site on Pitt Street, which is up to 195 m in height (See Section 6.2). Detailed articulation and modulation of future built forms within the proposed building envelope are subject to the Design Guidelines and the Department recommended additional requirements (Condition A23 c) and B1).
(ix) street frontage heights	The proposed podium height provides a 45 m street wall height that references the existing building heights of adjoining buildings and integrates with the approved "station box". The

	proposed street wall height suitably addresses the existing streetscape conditions and existing street walls heights along Park, Castlereagh and Pitt Streets (See Section 6.4).
(x) the achievement of the principles of ecologically sustainable development	The Department is satisfied the proposal is consistent with the principles of ecological sustainable development as discussed under Section 4.5 and Section 6.7. The Department recommends a future assessment requirement requiring the framework, targets and visions of the ESD Report lodged with the EIS prepared by GHD (August 2018) be considered as baseline benchmarks and future detailed design application must consider opportunities to achieve higher targets (Conditions B9 and B10).
(xi) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network	The Department is satisfied the proposal has suitable arrangement for pedestrian, cycle, vehicular and service access and circulation (see Section 6.7). The design of public domain and pedestrian access for the site is subject to the Station Design Precinct Plan (Condition E101 of CSSI 7400) and Interchange Access Plan (Condition E92 of CSSI 7400) of the separate infrastructure approval (CSSI 7400) for the Metro Station.
(xii) the impact on, and any proposed improvements to, the public domain	The submitted Design Guidelines includes principles and parameters on how the proposed over station development should integrate with the approved station to ensure an overall good urban design and public domain outcomes (Condition B1).
(xiii) the impact on any special character area	The site is not located within a special character area.
(xiv) achieving appropriate interfaces at ground level between the building and the public domain	The submitted Design Guidelines includes principles and parameters on how the proposed over station development should integrate with the approved station to ensure an overall good urban design and public domain outcomes (Condition B1).
(xv) excellence and integration of landscape design	There are limited landscaping opportunities for the proposal due to limited site area and the CBD development context. The submitted Design Guidelines includes principles provide landscaping throughout the podium design (Condition B1).

Sydney Development Control Plan 2012 (SDCP)

It is noted that Clause 11 of State Environmental Planning Policy (State & Regional Development) 2011 provides that development control plans do not apply to SSD. Notwithstanding this, consideration of relevant controls under the SDCP is provided in the table below.

SDCP Section	Relevant controls / criteria	Department's Assessment
s 3.1 – Public domain	The DCP provides guidance on the design of public domain works to ensure that development makes a positive contribution to the public domain.	The approved CSSI includes the design and construction of the station footprint and surrounding public domain below the OSD.
s.3.1.5 – Public art	The DCP provides guidance on integrating public art into the fabric of the building and the public domain.	The Department considers the proposed OSD Design Guidelines, which include provisions to address public art, to be satisfactory.

SDCP Section	Relevant controls / criteria	Department's Assessment
s.3.2 – Defining the public domain	This DCP aims to enhance the public domain by providing adequate sun access to publicly accessible spaces and protecting significant views from public places.	See below
s.3.2.1 – Improving the public domain	The DCP aims to enhance the public domain by ensuring adequate sun access to publicly accessible spaces and protecting significant views from public places.	Solar access impacts of the proposed envelopes are considered in Section 6.3. The Department considers overshadowing impacts on Hyde Park and surrounding roads to be minor and reasonable. A recommended condition requires no additional overshadowing of Hyde Park during the lunch time period on 21 June.
s.3.2.2 – Addressing the street and public domain	The DCP aims to provide a public domain and pedestrian environment that provides excellence in design, high quality materials and well integrated public art.	As this is a concept proposal for a building envelope only, consideration of the public domain and the pedestrian environment will be undertaken as part of the detailed development application phase.
s.3.2.3 – Active frontages		Not applicable
s.3.2.5 – Colonnades	Discourage the provision of colonnades, except in exceptional circumstances.	No colonnades proposed.
s.3.2.6 – Wind effects	The DCP aims to ensure that new developments satisfy nominated wind standards so as to maintain comfortable conditions for pedestrians and encourage the growth of street trees.	The Department is satisfied that the wind impacts are acceptable, subject to a condition requiring further wind modelling.
s.3.2.7 – Reflectivity	The DCP aims to minimise the reflection of sunlight from buildings to surrounding areas.	The application is for a concept and does not include construction, reflectivity will be assessed further at the detailed design phase.
s.3.3 – Design excellence	(a) Ensure high quality and varied design through the use of competitive design processes for large and prominent developments. (b) Ensure development individually and collectively contributes to the architectural and overall urban design quality of the local government area. (c) Encourage variety in architectural design and character across large developments to provide a fine grain which enriches and enlivens the City's public realm.	Design excellence is further considered in Section 6.6. The Department notes that the proposal is a stage 1 concept proposal for a building envelope only. Consideration of design excellence in the detailed building design will be undertaken as part of the detailed development application phase. The Department reviewed the Design Excellence Strategy and GANSW's advice and supports the proposed approach to achieving design excellence. The Design Excellence Strategy provides a governance structure and project benchmarks that are capable of realising a high quality architectural and urban design outcome.
s.3.6 – Ecologically sustainable development	The DCP specifies a number of ESD objectives and provisions aimed at reducing	An assessment of the proposal in terms of ESD is provided in Section 6.7.

SDCP Section	Relevant controls / criteria	Department's Assessment
	the impact from development on the environment.	The Department is satisfied that the minimum environmental performance targets and other sustainability initiatives are achievable in accordance with the objects of the EP&A Act.
s.3.7 – Water and Flood Management	Various objectives and provisions in relation to the study requirements, standards and management of water quality and flooding	A Flooding and Stormwater Management Plan has been submitted as part of this application, the Department considers the Plan submitted satisfactory for the purpose of a concept proposal. Flooding considerations will be further considered as part of the detailed development application phase.
s.3.9 Heritage	Ensure that heritage significance is considered for heritage items, development within heritage conservation areas, and development affecting archaeological sites and places of Aboriginal heritage significance. Enhance the character and heritage significance of heritage items and heritage conservation areas and ensure that infill development is designed to respond positively to the heritage character of adjoining and nearby buildings and features of the public domain.	An assessment of the proposal in terms of heritage impacts is provided in Section 6.4. The Department considers the heritage impacts to be acceptable subject to further consideration in the detailed development application phase.
s.3.11 – Transport and parking	The DCP prescribes the Council's detailed requirements for car parking quantum, loading and unloading, accesses, bike parking and travel planning.	The Department's independent traffic assessor has reviewed car parking and transport impacts, including compliance with the DCP, and concludes that the assessment satisfactory.
s.3.12 – Accessible design		The Department accepts the Applicant's conclusion that the proposed drawings and ongoing inclusion of the recommendations can meet the objectives of the Disability Discrimination Act.
s.3.13.1 – Crime prevention through environmental design		The EIS was accompanied by a CPTED report, the recommended conditions include integration of CPTED principles into the OSD Design Guidelines to promote public safety.
s.3.13.2 – Air quality		Not applicable – the site is outside of the land affected by the cross-city tunnel ventilation stack
s.3.13.3 – Social impact		The Department is satisfied with the information submitted for purposes of a concept plan application.

SDCP Section	Relevant controls / criteria	Department's Assessment
s.3.14 – Waste	Reduce waste and ensure waste management is properly considered in construction and operational stages of development.	A waste management plan was submitted with the EIS. The Department is satisfied with the information submitted for purposes of a concept plan application.
s.4.2.1.2 – Floor to ceiling height and floor to floor heights		The concept designs satisfactorily demonstrates how a future building could address this control.
s.4.2.3 - Amenity	The DCP seeks to ensure that residential amenity is enhanced with landscaping, private and common open space, sun access, ventilation and acoustic privacy	Amenity considerations are discussed in detail in Section 6. Further consideration of amenity will be undertaken as part of the detailed development application phase.
s.4.2.3.8 – Common open space	The DCP seeks an area of at least 25% of the total site area	The site is approximately 110m from Hyde Park which provides accessible public space.
s.4.2.3.12 – Flexible housing and dwelling mix	Encourage a range of dwelling types and design	The concept residential design provides for a variety of dwelling types.
s.4.2.3.13 – Wind affected balconies		The concept design includes measures to address wind affected balconies. Further consideration of this control will be undertaken as part of the detailed development application phase.
s.4.2.4 – Fine grain, architectural diversity and articulation		Section 6 of this report includes a detailed assessment of the building setbacks and concludes that the proposal is considered suitable.
s.4.2.6 – Waste minimisation		The Department is satisfied that the concept design has adequately addressed waste minimisation. Further assessment will be undertaken as part of the detailed development application phase
s.5.1.1 – Street frontage heights and setbacks	The DCP aims to achieve comfortable street environments for pedestrians with adequate daylight, scale, sense of enclosure and wind mitigation, and ensure that the built form is compatible with heritage items and the desired streetscape character. Provision: Street frontage heights of 20 m to 45 m, with the specific height having regard to the dominant street frontage height of adjacent and nearby buildings.	Section 6.2 of this report includes a detailed assessment of street frontage heights and setbacks. The Department's assessment supports the proposed street frontage height and setbacks, subject to conditions.
s.5.1.2 – Building setbacks	The DCP seeks development that enhances the quality of the public domain in terms of wind mitigation and daylight access. Provision:	The proposal is for a building envelope only, the proposal is considered acceptable subject to the detailed design as part of the detailed development application phase.

SDCP Section	Relevant controls / criteria	Department's Assessment
	building setbacks with an average of 8 m, which may be reduced in part to 6 m, on north south streets and major pedestrian streets.	Section 6 of this report includes a detailed assessment of the building envelope setbacks and concludes that the proposal is considered suitable.
	Above 45m, commercial buildings are to be setback at least 3m from side and rear property boundary	The side and rear setbacks are assessed in detail in the Section 6.3 and 6.4 of this report. The Department supports the proposed setbacks subject to conditions.
	Separate principal windows and balconies of residential buildings from windows or balconies of commercial buildings by at least 9m achieved by	
	- 6m for residential buildings, serviced apartments or hotels - 3m for commercial buildings	
	In new commercial buildings, windows at the same level as the principal living room windows or balconies or adjacent residential buildings, or above a height of 45m are to be set back from side and rear boundaries by at least 3m	
	Walls without windows do not need setbacks	
s.5.1.2.2 – Side and rear setbacks	Up to a height of 45m, a minimum of 6m is required from side or rear property boundary for principal windows or balconies for residential buildings or hotels	
	Above a height of 45m a setback of 12m is required from the side or rear boundary for principal windows or balconies for residential buildings or hotels	
	Setbacks of principle windows or balconies of residential buildings are to be the distance specified for particular uses	
	Side and rear setback distances to the property boundary can be reduced where architectural features such as bay windows, or splayed windows with oblique outlooks provided that	
s.5.1.3 – Street frontage heights and setbacks		Not applicable – the site is not in a special character area
s.5.1.5.1 – Commercial buildings	Above 120 m in height, commercial floor plates must not exceed 1,400 m² GFA or 25% of site area, whichever is greater. A maximum horizontal dimension of 65m	A condition is proposed which requires future detailed designs to address this control.

SDCP Section	Relevant controls / criteria	Department's Assessment
s.5.1.5.2 – Residential buildings	Above 45 m a residential floor plate must not exceed 1000 m ² GFA A maximum horizontal dimension of 40m	A condition is proposed which requires future detailed designs to address this control.
s.5.1.6 – Building exteriors		Not applicable – the proposal is for a building envelope
s.5.1.9 – Award and allocation of heritage floor space	The DCP includes provisions to promote the conservation and maintenance of heritage items within Central Sydney	The Department and the NSW Heritage Council are satisfied, subject to conditions, that the proposal will have acceptable heritage impacts in the locality. The detailed design phase will be required to further consider impacts to surrounding heritage items.
s.5.1.10 – Sun access planes	To maximise sunlight to public places by establishing sun access places for Hyde Park West, a building must not project above any part of a sun access plane.	The building envelope complies with the Hyde Park sun access plane. Further consideration is provided in the solar access and overshadowing assessment in Section 6.3.

Appendix H – Community Views for Draft Notice of Decision

Issue	Consideration
Residential solar access loss of solar access to residential flat buildings in the vicinity of the development particular to the Victoria Tower and Park Regis	Assessment The RtS included an analysis of solar impacts to residential properties at 27 Park Street (Park Regis) and 197-199 Castlereagh Street (Victoria Tower) as requested by the Department. The RtS concluded that solar access to 197-199 Castlereagh Street would remain unchanged by the proposal. Solar access for the residential part of 27 Park Street would be impacted by the proposal due to the relative location and orientation of the site to 27 Park Street. The Department accepts the extent of overshadowing impacts of the proposed building envelope to Park Regis is reasonable in the circumstances because the proposed building envelope complies with the height controls defined in the SLEP and provides setbacks above the podium referenced from setback controls in the SDCP. The impacts are also strongly influenced by development density at the CBD location and the relative orientation with the site being directly north of Park Regis. Conditions The proposed building envelope represents the maximum extent of future built form. The Department recommend an additional Design Guideline requiring future built forms to minimise solar impacts to the residences of Park Regis.
Amenity impacts Loss of residential views	Assessment The Department assessed the impacts of the proposed building envelope to existing views from apartments in the vicinity of the proposed building envelope. Apartments that were considered in detail were: Victoria Tower (197-199 Castlereagh Street) and the Park Regis (27 Park Street).

	The Department's assessment concludes the proposed building envelope will have reasonable view impacts to surrounding buildings, because: - the proposal will not affect the primary views from Park Regis or Victoria Tower - retention of views to Sydney Tower would be unreasonable, noting the setback that would be required, the distance from Victoria Tower to Sydney Tower and considering redevelopment on other sites in accordance with SDCP controls will also obstruct the view. <i>Conditions</i> Conditions include endorsement of a Design Excellence Strategy and Design Guidelines, including a revision to the Design Guidelines requiring future built forms to incorporate articulation to reduce mass and scale so that a future building better responds to the scale of surrounding buildings.
<i>Heritage impacts</i> - impacts of the bulk and scale of the building envelope on the heritage item known as the Masonic Club and surrounding heritage items - significant change in podium scale - loss of solar access to the Masonic Club	<i>Assessment</i> The Department acknowledges that the building envelope provides a 45m street wall podium height that references the existing building heights of National Building (248A-250 Pitt Street) and the NSW Masonic Club. The Department's assessment concludes the proposal has acceptable impacts to adjoining and surrounding heritage items subject to the submitted Design Guidelines (as supported by the Heritage Council). <i>Conditions</i> The Department endorses the recommendations of the Heritage Council who supported the proposal and the proposed mitigating measures to protect light access to the adjoining light wells, requiring future design to respond to the major design elements of the adjoining heritage buildings and interpret the historical subdivision pattern.

Appendix I – Recommended Instrument of Consent

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8875