



Kent Street Concept Hotel Development

State Significant Development Assessment

SSD 9694

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	Romanous Developments Pty Ltd
ARRtS	Addendum to the Revised Response to Submissions
CBD	Central Business District
CIV	Capital Investment Value
Council	City of Sydney
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GA NSW	Government Architect NSW
GFA	Gross Floor Area
GSC	Greater Sydney Commission
GSRP	Greater Sydney Region Plan
ISEPP	State Environmental Planning Policy (Infrastructure) 2007
m	metres
Minister	Minister for Planning and Public Spaces
RL	Reduced Level
RMS	Roads and Maritime Services, TfNSW

RRtS	Revised Response to Submissions
RtS	Response to Submissions
SDCP 2012	Sydney Development Control Plan 2012
SDRP	State Design Review Panel
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SEPP 55	State Environmental Planning Policy No 55 – Remediation of Land
SHC SREP	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
SLEP 2012	Sydney Local Environmental Plan 2012
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW

Executive Summary

Introduction

This report provides an assessment of a concept proposal to facilitate a future hotel development at 301 and 305 Kent Street, and 35-39 Erskine Street, Sydney. The concept proposal seeks approval to establish building envelopes, the use of the site as a hotel (with ancillary uses), five levels of basement parking, and vehicular and pedestrian access arrangements. The application does not seek approval for any physical works.

The concept proposal will facilitate a future Stage 2 Development Application (DA), envisaged by the indicative scheme as a 29-storey (including lower ground floor) building providing 360 hotel rooms, 77 basement car parking spaces with pedestrian and vehicular access from Kent Street.

The Applicant is Romanous Developments Pty Ltd and the site is located within the City of Sydney local government area. The Minister for Planning and Public Spaces is the consent authority for the application.

Engagement

The Department publicly exhibited the application for 28 days from Thursday 6 June to Wednesday 3 July 2019. In response to the exhibition, the Department received 10 submissions, comprising seven submissions from government agencies, a submission from City of Sydney Council, and two public submissions providing comments.

Key issues raised in public submissions related to amenity impacts associated with the proposed building envelope setbacks and geotechnical impacts.

In response to issues raised in submissions, the Applicant submitted a Response to Submissions report which provided additional information, plans and justification for the proposal. A revised response to submissions and additional information was submitted in response to further comments provided by Council, particularly in respect to setbacks and the originally proposed vehicular access from Erskine Street.

Assessment

The Department has undertaken a detailed assessment of the proposal and has carefully considered the issues raised in submissions. The Department considers the proposal is acceptable for the reasons outlined below:

- the proposal is consistent with the objectives of the Greater Sydney Region Plan and the Eastern City District Plan as it would deliver visitor and tourist accommodation
- a Stage 2 DA will be lodged for the detailed design and construction of the development, following the completion of a competitive design process which will ensure the building exhibits design excellence
- the height of the building envelope complies with Council's controls and it establishes an appropriate street frontage, with appropriate height and setbacks, which relate to the site's context

- the Applicant is committed to achieving a minimum 5-Star Green Star Design, incorporating renewable energy technology in the form of photovoltaic (solar energy) system, solar thermal, and/or air sourced heat pump water heating for domestic hot water supply
- it would not result in any unacceptable visual or amenity impacts on its surrounds, subject to further consideration under the detailed Stage 2 DA
- traffic impacts associated with the proposal are acceptable as traffic generated by the future development is relatively minor and the majority of trips to and from the hotel are expected to be undertaken by walking or public transport
- pedestrian and vehicular access to the site will be from Kent Street, with conditions imposed to minimise driveway width and potential conflict between vehicular and pedestrian traffic
- the proposal would support the growth of the tourism economy through the provision of additional tourist accommodation
- the proposal would facilitate the creation of approximately 240 construction jobs and approximately 80 ongoing operational jobs under the Stage 2 DA.

Conclusion

Overall, the Department considers the proposal is acceptable as it would deliver a new hotel building in central Sydney that responds to the need for additional visitor and tourist accommodation within the Sydney central business district. Further, the proposal is largely consistent with the planning controls which apply to the site and it would not result in any significant impacts on the surrounding natural or built environments.

The Department's assessment therefore concludes the proposal is in the public interest and it is recommended the application be approved, subject to conditions

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1 Introduction

Romanous Developments Pty Ltd (the Applicant) seeks concept approval to establish building envelopes for a future hotel development, including use of the site as a hotel with ancillary uses, five levels of basement car parking and vehicular and pedestrian access arrangements, at 301-305 Kent Street and 35-39 Erskine Street, Sydney.

1.1 Site Context

The site is situated within the western corridor of the Sydney central business district (CBD), bordered by York Street to the east and Liverpool Street to the south. The western corridor has an emerging mix of land uses including high rise commercial, retail, hotel and residential uses.

The site is within close walking distance to a range of public transport services, including Wynyard Station (approximately 200 m east of the site), the new Sydney Light Rail stop at Wynyard, Barangaroo Wharf (approximately 600 m west of the site), and bus services. The site is also within walking distance to a range of attractions, including Darling Harbour, Barangaroo, Martin Place, Hyde Park, Pitt Street Mall, Queen Victoria Building, Australian Museum, Wild Life Sydney Zoo and Sea Life Sydney Aquarium (Figure 1).

The site is located within the City of Sydney local government area.

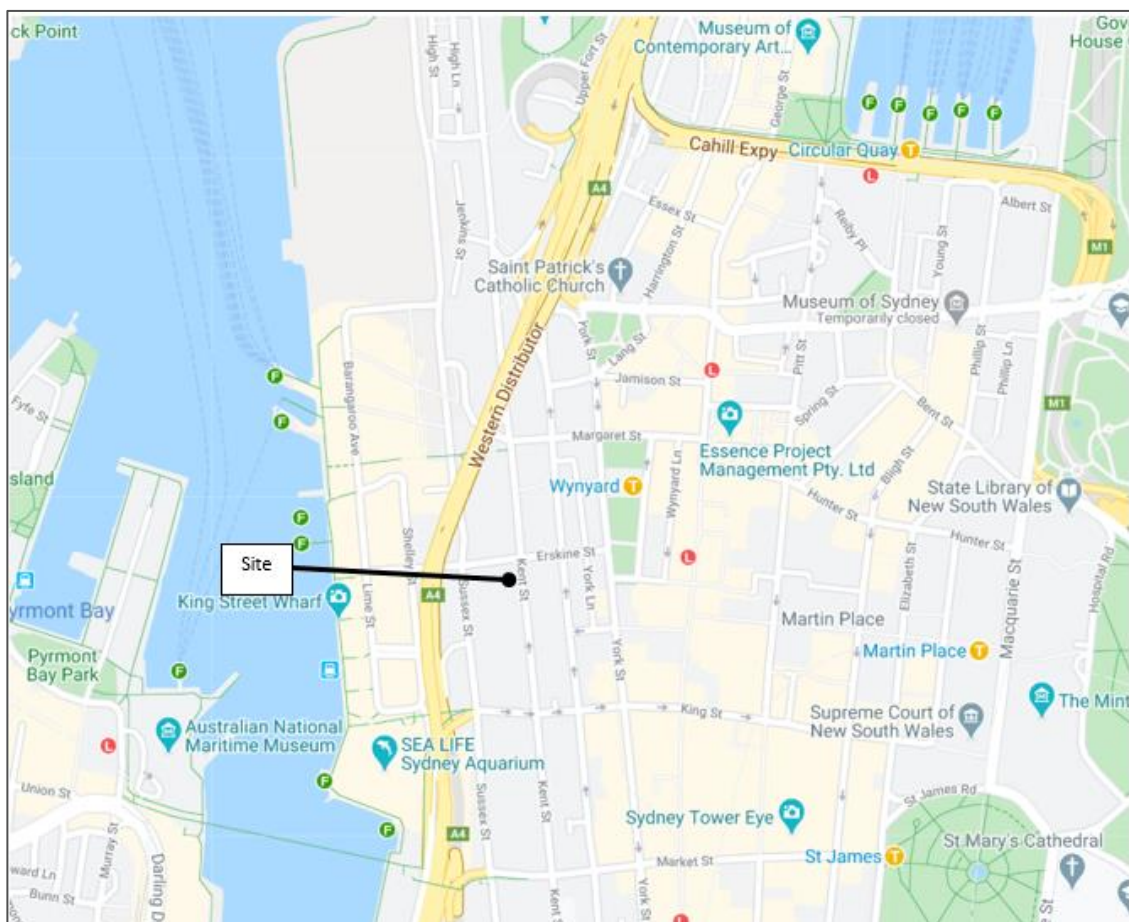


Figure 1 | Site context (base source: NearMap)

1.2 The Site

The site is located at 301 and 305 Kent Street and 35-39 Erskine Street, Sydney and comprises six allotments (Lots 1-3 DP 443974, Lot 1 DP 76374, Lot 1 DP 980369, and Lot 305 DP 669166) (**Figure 2**):



Figure 2 | Site (base source: NearMap)

The site is irregular in shape ('L' shape) with an area of 1,028 m² and has a frontage to Kent Street and Erskine Street. The topography of the site falls from east to west along Erskine Street by approximately 4 m.

Existing development on site consists of the following:

- 301 Kent Street: five storey commercial building
- 305 Kent Street: four storey commercial building
- 35-39 Erskine Street: three storey commercial terraces



Figure 3 | Site as viewed from corner of Kent Street and Erskine Street (base source: EIS)



Figure 4 | Left – view of 301-305 Kent Street. Right – view of 35-39 Erskine Street (base source: EIS)

1.3 Surrounding Site Context

The surrounding area is dominated by a range of retail, commercial and office developments with varying building heights between 3 to 24 storeys. The immediate site context is shown in **Figure 5**.



Figure 5 | Site context (base source: NearMaps)

As shown in **Figure 5** above, the immediate development within the vicinity of the site consists of:

- 41-45 Erskine Street and 299 Kent Street – a three storey building accommodating retail, food and drink premises and small businesses. Council has granted development consent (application number D/2017/1167) for the redevelopment of the site comprising of a 16 storey building for tourist and visitor accommodation
- 25-33 Erskine Street – an eight to ten 10 storey commercial building adjoining the site to the west
- 82-84 Sussex Street – an eight-storey office building adjoining the site to the west
- 309-321 Kent Street – multi storey commercial building and tower adjoining the site to the south
- Kent Street to the east – commercial office building and heritage listed warehouse
- Erskine Street to the north – heritage listed terrace buildings
- Barrack Place, 151 Clarence Street – a 17-storey commercial building
- Arc by Crown Group, 161-165 Clarence Street – a 24-storey residential building.

2 Project

The Applicant seeks concept approval to establish building envelopes for a future hotel, including:

- establishment of a building envelope up to a height of RL 95.9
- use of the site as a hotel (with ancillary uses)
- five levels of basement parking
- pedestrian and vehicular access

The concept proposal will facilitate a future Stage 2 DA, envisaged by the indicative scheme as a 29-storey (including lower ground floor) building providing 360 hotel rooms, 77 car parking spaces within 5 levels of basement, with pedestrian and vehicular access from Kent Street.

The main components of the concept proposal, as refined in the Addendum to the Revised Response to Submissions (AARtS) are summarised in **Table 1**.

Table 1 | Main Components of the Project

Component	Description
Land Uses	The concept proposal includes the use of the site as a hotel with ancillary uses comprising a function room and rooftop bar.
Building Envelope	• Building envelope with a maximum building height of RL 95.9 (80 m) provided as three distinct forms: ○ lower podium to Kent Street up to RL 36.2 (approximately 20 m above street level) ○ upper podium to Erskine Street up to RL 56.2 (approximately 40 m above street level) ○ tower up to RL 95.9 (80 m). • It is noted that GFA is not being sought under the concept proposal, however, indicative floor plans provide 360 hotel rooms and a GFA of 11,093 m²
Car Parking	• Five basement levels • It is noted that the quantum of parking is not being sought under the concept proposal, however indicative floor plans provide the following parking: ○ 77 car parking spaces ○ 5 spaces for passenger pick-up/set-down ○ 5 service vehicle spaces ○ one shared refuse collection and loading bay ○ 10 motorcycle parking spaces ○ 30 bicycle parking spaces and end-of-trip facilities.
Access	Vehicular and pedestrian access from Kent Street.
Capital Investment Value	\$116,776,000.00
Employment	Creation of approximately 240 construction jobs and 80 operational jobs.

3 Strategic context

3.1 Greater Sydney Region Plan and Eastern City District Plan

The Greater Sydney Region Plan (GSRP) supports a 40-year vision for a metropolis of three cities that will rebalance growth and deliver its benefits more equally and equitably to residents across Greater Sydney. The site is located within the Harbour CBD.

The Department considers the proposal is consistent with the relevant directions and objectives of the GSRP as outlined below:

- Objective 18 'Harbour CBD is stronger and more competitive': The proposal will contribute to visitor and tourism accommodation, associated employment and investment within the Harbour CBD.
- Objective 24 'Economic sectors are targeted for success': The proposal will support the global role of the Harbour CBD and contribute to the attractiveness of the city as a world renowned tourist destination.

3.2 Eastern City District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local Council planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney. The site is located within the Eastern City District.

The Department considers the proposal is consistent with the relevant directions and objectives of the Eastern City District Plan as outlined below:

- Planning Priority E7 'Growing a stronger and more competitive Harbour CBD': The proposal will support growth in the tourism economy in the Eastern Harbour CBD contributing to a stronger and competitive Harbour CBD.
- Planning Priority E11 'Growing investment, business opportunities and jobs in strategic centres': The proposal will provide 240 construction jobs and between 70-80 operational jobs in a connected and highly accessible area
- Planning Priority E13 'Supporting growth of targeted industry sectors': The proposal will support the growth of the tourism economy through the provision of additional tourist accommodation within close proximity to high-profile tourist destinations with good access to transport.

3.3 Sustainable Sydney 2030

Sustainable Sydney 2030 sets out City of Sydney's vision to make Sydney a more global, green and connected metropolis by 2030. The proposal would contribute to a strong international and domestic tourist base underpinned by tourist and accommodation facilities.

4 Statutory Context

4.1 State significance

The proposal is classified as State Significant development (SSD) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it comprises development for tourist related purposes and has a capital investment value in excess of \$100 million under clause 13 of Schedule 1 of State Environmental Planning Policy (State and Regional Development) 2011.

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation, the Executive Director, Regions, Industry and Key Sites, may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are less than 25 submissions in the nature of an objection.

4.2 Permissibility

The site is zoned B8 Metropolitan Centre under the Sydney Local Environmental Plan (SLEP) 2012. The proposed development, comprising tourist and visitor accommodation and retail uses, is permissible with consent in the B8 zone.

4.3 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining development applications. In summary these matters include:

- the provisions of environmental planning instruments (including draft instruments), development control plans, planning agreements, and the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)
- the environmental, social and economic impacts of the development
- the suitability of the site
- any submissions
- the public interest, including the objects in the EP&A Act and the encouragement of ecologically sustainable development (ESD).

The Department has considered all of these matters in its assessment of the application, as well as the relevant environmental planning instruments in **Section 6** and **Appendix C** of this report.

5 Engagement

5.1 Department's engagement

In accordance with Schedule 1 to the EP&A Act, the Department publicly exhibited the application from Thursday 6 June 2019 to Wednesday 3 July 2019 (28 days). The application was made publicly available on the Department's website and Information Centre in Pitt Street, and exhibited at Council.

The Department placed a public exhibition notice in the Sydney Morning Herald and The Daily Telegraph on Wednesday 5 June 2019, and notified adjoining landholders, Council and relevant government agencies in writing.

All notification and public participation statutory obligations have been satisfied.

The Department has considered comments raised in Council, government agencies and public submissions during the assessment of the application (**Section 6**).

5.2 Summary of submissions

The Department received a total of 10 submissions in response to the proposal. The submissions comprised of:

- seven submissions from government agencies providing comments
- a submission from Council providing comments
- two submissions from the public providing comments.

5.3 Key issues raised in submissions

The key issues raised by government agencies are summarised in **Table 2**.

Table 2 | Government agency submissions to the exhibition of the applications

Government Agency	Comments
Ausgrid	Ausgrid advised it had no comments on the application.
Sydney Airport	Sydney Airport noted the maximum height of the building is RL 104.2 and advised if an approval to operate construction equipment (i.e. cranes) is required for any intrusion into the prescribed airspace (RL 156), it should be obtained prior to construction works.
Heritage NSW	Heritage NSW provided the following comments: • the site has potential to contain State significant historical archaeology associated with the early 1800s occupation of Sydney, as well as locally significant archaeology (from mid to late 19th century) • supports the Applicant's approach in providing a phase of archaeological testing to inform subsequent DA stages

	conditions are recommended to manage the requirements of the archaeological program (before, during and after the testing) and how it will be used to inform subsequent DA stages
Sydney Water	Sydney Water did not object to the proposal and raised requirements to assist in planning the servicing needs of the proposed development.
TfNSW	TfNSW requested further information on the following: - proposed access on Erskine Street frontage would be the preferred arrangement compared to access on the Kent Street frontage in terms of general traffic and bus operation in the vicinity of the site - justification for the number of loading dock spaces - demonstrate that the two pick-up and drop-off spaces to accommodate the point-to-point transport demands of the proposed development is adequate - details on how coach parking will be managed - confirmation that a small rigid vehicle would not be used for on-site waste collection.
Environment, Energy and Science Group (EESG)	EESG provided the following comments - the built form is to include green walls, green roof and/or cool roof into the design - an Aboriginal Cultural Heritage Assessment Report (ACHAR) is required to be submitted as required by the SEARs - the site is not subject to significant flood risk, as such no further requirements in terms of flood risk management is required.
Sydney Trains	Sydney Trains notes that Railcorp high voltage cables within the streets surrounding the site may be impacted by the proposal. Sydney Trains requests that further consultation be undertaken prior to, and during, the Stage 2 DA stage

5.4 Key Issues – Council and Community

5.4.1 Council Key Issues

Council did not object to the proposal but raised the following concerns and issues:

- amendments to the Design Excellence Strategy (Strategy) shall include:
 - removal of the Erskine Street vehicle entrance location from the Strategy to allow for flexibility during the competitive design process
 - updates to the Strategy to reflect Council's Policy as required under Clause 6.21 of SLEP 2012
 - updates to the Strategy to align with the jury requirements from the Government Architect's NSW Guideline and to provide guidance in the event that a juror becomes unavailable
 - updates to the Strategy to reflect target benchmarks for ESD
 - removal of the detailed floors plans from Appendix A of the Strategy

- the building height shall be amended to comply with the maximum permissible height of 80 m and any additional height pursued through a competitive design process shall be limited to an additional 10% of the the maximum permissible height
- assessment of environmental impacts (overshadowing, views, visual impact, wind etc) shall be on the basis of the building envelope that includes the potential up to 10% additional height
- the existing brick facades make a strong contribution to the streetscape of Kent Street and is recommended they are incorporated into the new development
- additional information to be provided regarding the proposed vehicle access arrangement on Erskine Street and how it may impact on pedestrian activity, and consideration of vehicle access at the Kent Street frontage, clarification on drop-off and pick-up locations and the number of service vehicle bays
- car parking numbers are considered excessive and should be reduced
- the bicycle parking and facilities are supported in principle; however the bicycle parking shall be located on the ground floor and/or upper basement level. On-site bicycle parking spaces and end-of-trip facilities shall be provided in accordance with Sydney Development Control Plan (SDCP) 2012 as part of the Stage 2 SSD application
- stormwater drainage plans referred to in the Stormwater Report are to be submitted in the Stage 2 SSD application
- the car park ramp threshold of RL12.3m AHD is to be reflected on the concept architectural drawings
- the Stage 2 SSD application shall demonstrate compliance with the requirements for waste collection for residential development
- the Stage 2 SSD application is to be accompanied by an acid sulfate soil management plan.

5.4.2 Community Submissions

The Department received two public submissions (providing comments):

- a submission made on behalf of the co-owners of the buildings at 309 and 321 Kent Street, which is located directly to the south of the site
- a submission made by the applicant for a current development application for the redevelopment of 82-84 Sussex Street, which is located directly to the west of the site.

The following concerns and issues were raised in the submissions:

- impacts associated with the non-compliant setback to the north-western boundary, including amenity impacts (privacy and solar access) and reduction in potential future development outcomes for the adjoining site to the west (33 Erskine Street)
- future relationship of the development to existing development to the south in terms of privacy impacts and detail of the southern boundary façade
- geotechnical impacts associated with the stability of sandstone beneath the site, given the extent of excavation proposed
- clarification on the location of proposed taxi and coach pick-up and drop-off zone

5.5 Response to Submissions

Following 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.

On 9 September 2019, the Applicant provided a Response to Submissions (RtS) (**Appendix A**), which included the following amendments and additional information:

- amending the description of the proposed development to include the provision of five basement levels of car parking, a loading dock, and specifically seeking approval of vehicular access from Erskine Street and primary pedestrian access from Kent Street
- amending the additional 10% building height bonus to account for the sloping nature of the site
- provision of further information, including a supplementary traffic assessment, stormwater drainage plans, supplementary wind assessment letter, ACHAR, and amended architectural plans.

The Department made the RtS publicly available on its website and re-notified Council, TfNSW and EESG. A summary of the issues/comments raised in the government agency RtS submissions is provided below.

5.5.1 Government Agency Submissions

The key issues raised by government agencies in response to the RtS are summarised in **Table 3**.

Table 3 | Government agency submissions to the RtS

Government Agency	Comments
TfNSW	Submission of a Freight and Servicing Management Plan, Coach Parking and Passenger Pick-up and Drop-off Management Plan, and a Construction Pedestrian and Traffic Management Plan for subsequent DA stages
EESG	Recommended conditions relating to Aboriginal cultural heritage, incorporation of green walls, green roof and/or cool roof into the design, landscaping and tree planting

5.5.2 Council Key Issues

Council maintained many of its issues raised in its initial submission, and raised additional issues, including:

- the building height shall be amended to comply with the maximum permissible height of 80 m
- Council is not satisfied that there are no overshadowing impacts to any surrounding residential properties
- the proposed vehicle access from Erskine Street is not supported
- the amount of car parking is considered excessive
- the brick façade of the buildings along Kent Street shall be partially retained. If retention of the existing brick facades is cannot be adopted, a proper interpretative design of the Kent Street podium façade to reflect the industrial character of Kent Street by using robust brickworks is required.
- increased upper setbacks to Erskine Street (preferably 8 m) shall be provided to help alleviate some of the wind impacts
- increased setbacks to the north-western boundary of 35-39 Erskine Street and to the southern boundary of 301-305 Kent Street (preferably minimum 3 m) shall be provided

- inadequate information submitted regarding wind impacts
- future relationship of the development to existing development to the south in terms of privacy impacts and detail of the southern boundary façade.

5.6 Revised Response to Submissions

On 29 November 2019, the Applicant provided a Revised Response to Submissions (RRtS) (**Appendix A**), which included the following amendments:

- building envelope height reduced to 80 m
- vehicular access and location removed from Erskine Street. The location and details of vehicular access will be investigated further as part of the design excellence competition and future Stage 2 DA
- amendments to the tower setbacks above street frontage height including:
 - setback from Erskine Street above 40 m increased from 6 m to 8 m
 - setback from the north western boundary of 35-39 Erskine Street above 40 m increased from nil to 1.35 m
 - setback to the southern building of 301-305 Kent Street above 20 m increased from 2.5 m to 3 m.

A revised Design Excellence Strategy, a supplementary wind assessment letter and additional overshadowing diagrams were also submitted.

The Department made the RRtS publicly available on its website and notified Council. A summary of issues/comments raised by Council is provided below.

5.6.1 Council Key Issues

Council noted that the RRtS addressed many of the concerns raised in its RtS, however, provided the following comments:

- access from Erskine Street will not be supported
- a setback of 3 m from the western boundary of 35-39 Erskine Street above 40 m is preferable. Ultimately, however, the development should satisfy the objectives of Clause 6.16 of the SLEP 2012 (Erection of tall buildings in Central Sydney)
- overshadowing diagrams submitted do not adequately show quantified impacts to residential apartments nearby. Overshadowing impacts should be visually clarified through the submission of overshadowing diagrams in elevation.
- The design excellence strategy shall be amended to ensure:
 - roof features do not exceed the height limit
 - all additional measures recommended to provide a comfortable pedestrian environment is adopted and included within the concept design plans
 - the wording in the Strategy provides adequate certainty and guidance for the incorporation of the existing face brick wall façade or a podium façade design to conform the historic industrial character of Kent Street.

5.7 Addendum to the Revised Response to Submissions

On 5 May 2020, the Applicant provided an Addendum to the Revised Response to Submissions (ARRtS) (**Appendix A**), which included the following amendments:

- vehicular and pedestrian access relocated from Erskine Street to Kent Street
- Design Excellence Strategy amended to require that the:
 - design competition explore opportunities for retention or interpretation of the existing face brick wall façade of 301 and 305 Kent Street
 - design competition explore appropriate wind mitigation measures, to be further developed as part of the Stage 2 SSDA.

Revised concept plans, revised Traffic Impact Assessment and additional overshadowing diagrams were also submitted.

The Department made the ARRtS publicly available on its website and notified Council. A summary of issues/comments raised by Council is provided below.

5.7.1 Council Key Issues

In response to the ARRtS, Council provided the following comments:

- approved plans should be limited to building envelope plans only
- width of the driveway should be reduced to as close to 3.6 m as possible as required by the SDCP 2012. It should operate as a one-way system across the footpath with the waiting on-site
- 77 car parking spaces is excessive for the hotel use. Instead, more bicycle parking could be provided, given the location
- satisfied that the proposed upper level setbacks (in particular the north-western boundary setback of 1.35 m, in lieu of the 3 m previously requested by Council) can satisfy the objectives of clause 6.16 of the SLEP 2012
- additional overshadowing to the properties on Shelley Street between 9 am and 10 am may be acceptable, subject to a full assessment under the Stage 2 DA
- the drawings must demonstrate that the basement entry crest (RL 15.8) and hotel reception (RL 16.2) levels are at least 300 mm above the adjacent road gutter inverts from a flooding perspective.

6 Assessment

The Department has considered the proposal, the issues raised in submissions and the Applicant's RtS, RRtS and ARRtS. The Department considers the key issues associated with the proposal are:

- design excellence
- built form
- amenity impacts
- traffic, access and parking.

Each of these issues are discussed in the following sections of this report. Other issues considered during the assessment of the application are addressed in **Section 6.5**.

6.1 Design Excellence

Clause 6.21 of the SLEP 2012 requires the consent authority to be satisfied the development exhibits design excellence. Clause 6.21(4) specifies the matters the consent authority must consider in determining the design excellence of the development.

These matters comprise architectural design, public domain, view corridors, surrounding built and environmental context, environmental impacts and sustainable design principles, and are addressed in full in **Appendix C**. The Department has also further considered these matters in detail within **Section 6.2** and **6.3**.

The Department notes that a Stage 2 DA will be lodged for the detailed design and construction of the hotel development, following the completion of a competitive design process held in accordance with the requirements of the SLEP 2012 and the Design Excellence Strategy prepared as part of the concept proposal. The Department notes that the design excellence strategy:

- establishes a methodology for the Applicant to implement a competitive design process for the proposal, in accordance with the Council's Competitive Design Policy
- clarifies the sequence of the competitive design process to inform subsequent DA(s)
- confirms the selection of architectural practices to participate in the competitive design process
- establishes a competitive design process brief that ensures the consent authority's design excellence requirements are balanced with the developer's objectives, and procedural fairness for competitors
- sets out the requirements for the proposed Architectural Design Competition;
- details the approach for assessment, decision-making and dispute resolution within the competitive design process
- ensures that design excellence integrity is continued into the subsequent detailed DAs construction phase of the project and to completion
- clarifies the rationale for granting up to 10% additional building height for the achievement of design excellence under the SLEP 2012, having regard to the planning objectives, the concept proposal and relevant controls in the SLEP 2012 and SDCP 2012.

The Department has considered the matters under Clause 6.21 of the SLEP 2012 and is satisfied the proposal exhibits design excellence as:

- the bulk and scale of a future building that would be facilitated by the building envelope is considered acceptable as the building envelope height complies with the height controls and establishes appropriate street frontage heights and setbacks, which relate to the site's context
- the building envelope would facilitate a building that would not result in adverse impacts on amenity, including overshadowing, visual privacy and private view loss
- the building envelope would facilitate a building which would not result in any adverse impacts on view corridors as the proposal sits comfortably within the existing pattern of development in the CBD, and would not detract from the appreciation of views towards the CBD skyline
- the Applicant is committed to achieving a minimum 5-star Green Star rating and will incorporate renewable energy technology within the future building.

The Department supports the proposed design excellence process proposed within the Design Excellence Strategy and considers that together with the guidance from the GA NSW, SDRP and Council, will ensure the detailed design of the building will exhibit design excellence.

The Department has also recommended conditions to ensure the Stage 2 DA provides a high-quality design and built form that achieves design excellence. The recommended conditions require:

- a competitive design process to be undertaken in accordance with the provisions of the SLEP 2012
- the Stage 2 DA to demonstrate design excellence having regard to the bulk, massing and modulation of the building within the approved building envelope, environmental impact impacts such as acoustic privacy, solar access to buildings and public spaces, and achievements of ecologically sustainable development
- the Stage 2 DA to improve the quality and amenity of the public domain through the form and external appearance of the building.

Subject to recommended conditions, the Department's assessment therefore concludes the proposed development exhibits design excellence, satisfying the provisions of the SLEP 2012.

6.2 Built Form

Building Height and Density

The proposed building envelope provides a maximum building height of 80 m (approximately 28 storeys), within three distinct forms (**Figure 6**), comprising:

- 6 storey (20 m) lower podium to Kent Street up to RL 36.2
- 12 to 13 storey (40 m) upper podium to Erskine Street up to RL 56.2
- tower up to RL 95.9 (80 m).

The site is subject to a building height control of 80 m under the SLEP 2012, with a bonus of up to 10% of the maximum height, if the building demonstrates design excellence. The proposed building envelope complies with the maximum building height control of 80 m. The Applicant indicates that bonus building height will be sought in the future, subject to a competitive design process.

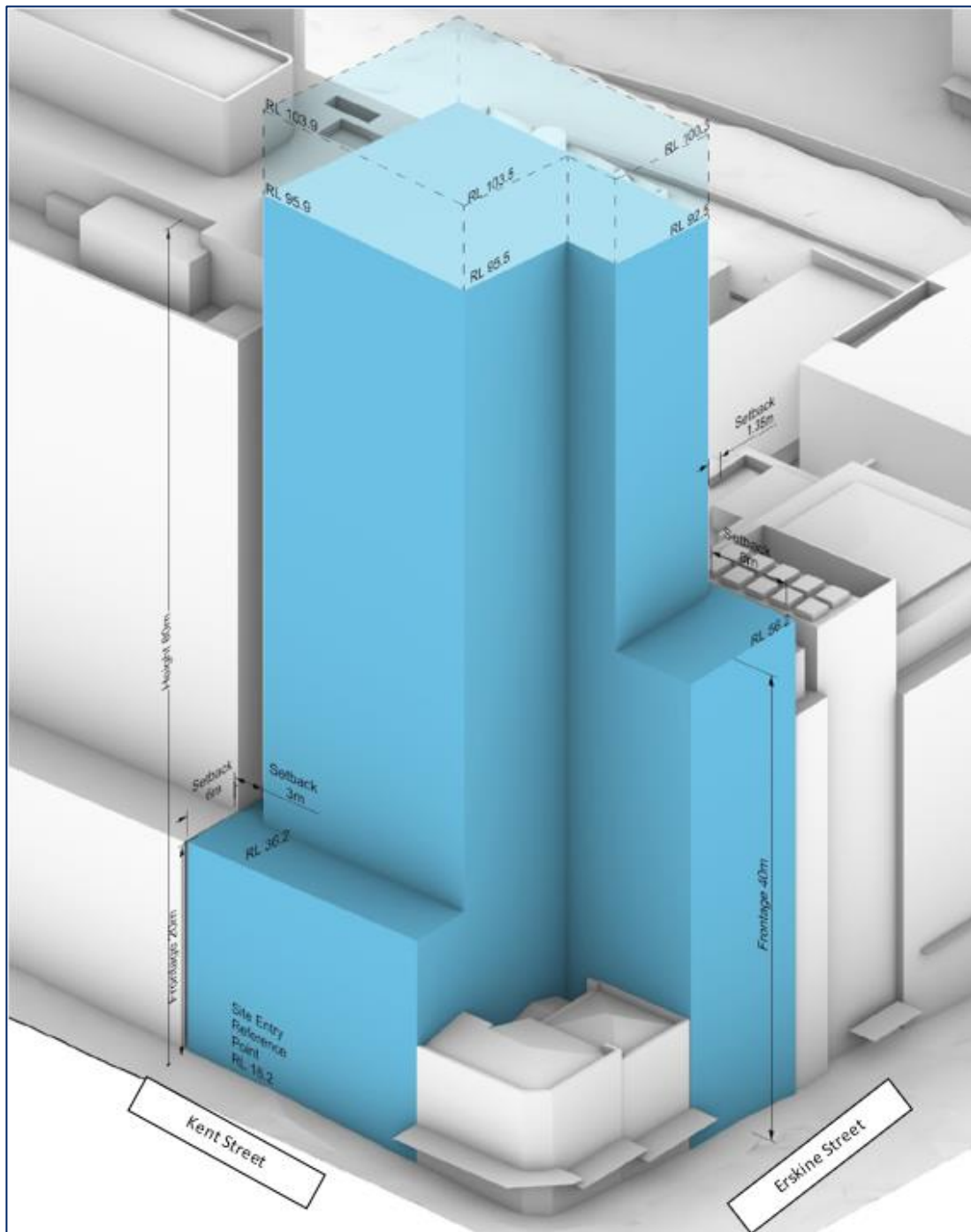


Figure 6 | Proposed building envelope (base source: Architectural drawings ARRtS)

A maximum FSR of 11:1 applies to the site under SLEP 2012. Whilst the proposal does not seek approval for GFA, the conceptual built form within the proposed envelope equates to an FSR of 11:1, which compiles with the maximum FSR allowed on the site. The Department is therefore satisfied the proposal fully complies with the height and FSR controls which apply to the site.

Setbacks

The Department notes the proposal complies with Council's setback controls except along the north-western and southern boundaries of the site, above a building height of 45 m.

Council and public submissions raised concern about the proposed tower setbacks along the north-western boundary and the southern boundary of the site as it would obstruct the northern aspect of the adjoining building to the south of the site and result in potential privacy impacts to development to the west and south of the site.

In response, the Applicant amended the building envelope setbacks, as outlined in **Table 4** below. The area of non-compliance relative to the setbacks recommended in Council's submission is illustrated in **Figure 7**.

Table 4 | Upper level setbacks requirements (above 45 m)

Setback from Boundary	SDCP 2012	Council Submission	As proposed in EIS	As amended in RRtS	Compliance
North-western boundary	6 m	3 m	Nil	1.35 m	No
Southern boundary	6 m	3 m	Part nil to part 2.5 m	Part nil to part 3 m	No

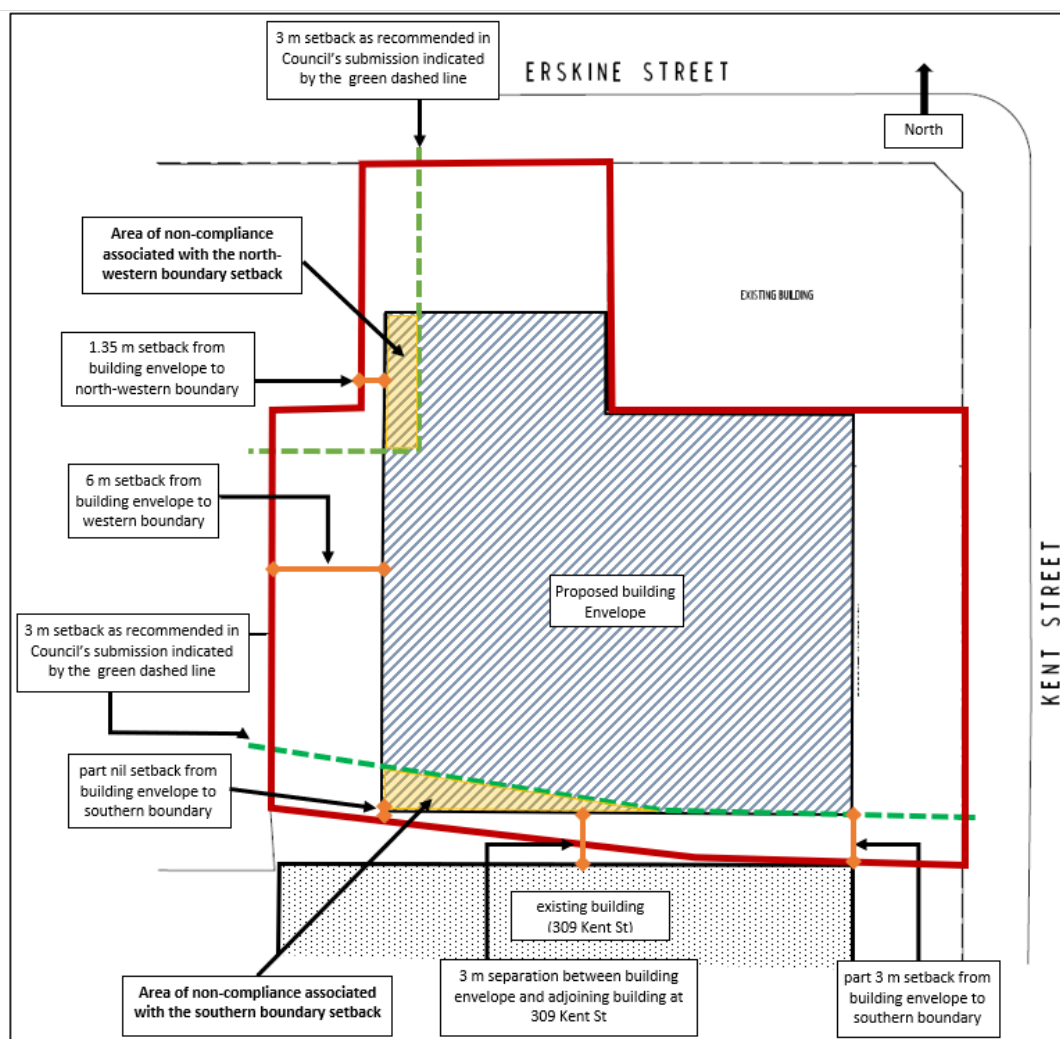


Figure 7 | Upper level setbacks with the non-compliant areas highlighted in orange (base source: ARRtS Architectural drawings)

A setback of 1.35 m is proposed to the north-western boundary, representing a non-compliance of 1.65 m to the 3 m setback as recommended in Council's submission. The Applicant argues the proposed setback would provide a consistent building alignment along the north-western and western boundary. Additionally, the application of the SDCP 2012 controls to the potential redevelopment of the adjacent site (33 Erskine Street) creates an irregular building envelope (as highlighted in blue within **Figure 8**) which would unlikely be utilised. As such a consistent building separation of 9 m between the buildings, would be provided, enabling an appropriate level of amenity between both sites.

The Applicant has further advised the north-western setback maintains consistency with the objectives of clause 6.16 of the SLEP 2012 (Erection of tall buildings in Central Sydney), including:

- the proposed setbacks allow the potential redevelopment of the adjacent site to occur whilst not impacting amenity of occupants of each site
- privacy mitigation measures can be adopted should there be any direct sightlines resulting from windows to hotel rooms on this side of the building which can be resolved under the Stage 2 DA
- the current setback does not result in adverse impacts on the amenity of public places
- the proposal is consistent with its context, particularly its CBD location
- the setback relates to the upper part of the western side of the tower (i.e. above 40 m) and the proposed setback does not impact the ability for sunlight to reach relevant aspects of the building
- the overall tower envelope allows for the adequate movement of air around towers
- the proposal has frontages to two streets, so there is great opportunity to provide activation along both Erskine and Kent Street.

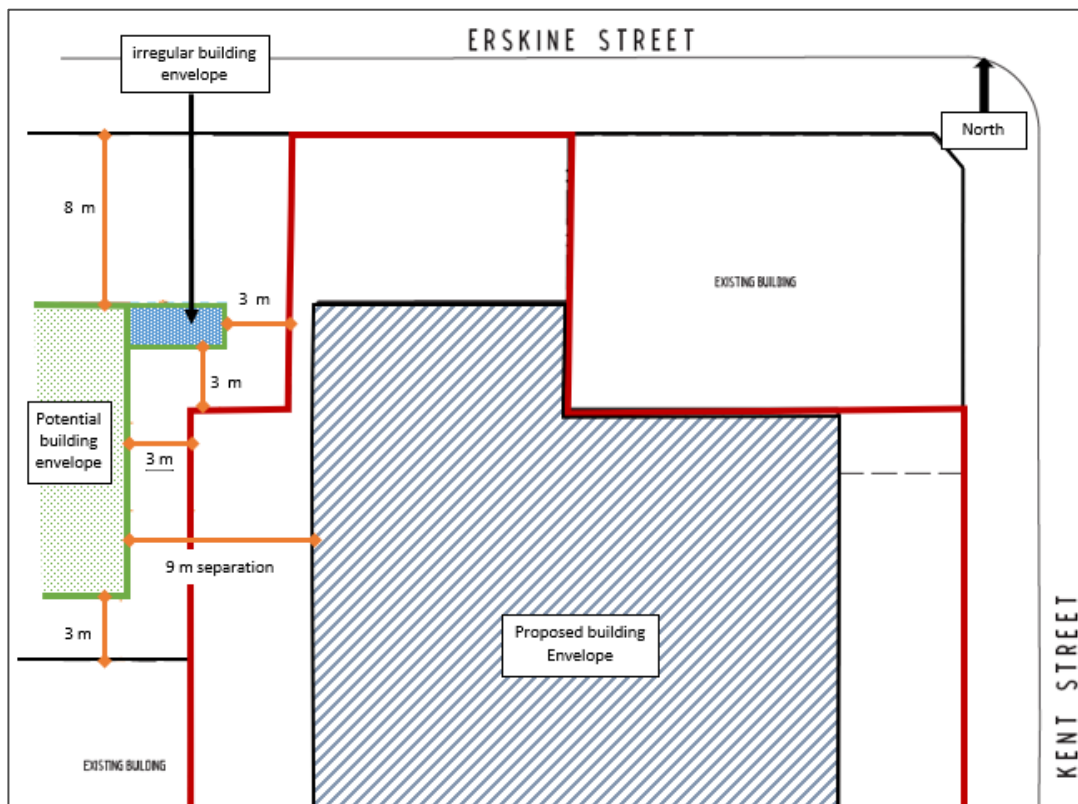


Figure 8 | Development potential of adjoining site (source: ARRTS Architectural drawings)

In response to the 1.35 m setback proposed to the north-western boundary, Council noted that amenity impacts in general are largely unchanged compared to a 3 m setback, subject to the inclusion of various privacy treatments. Further, Council advised it is satisfied that the development can satisfy the objectives of clause 6.16 of the SLEP 2012, subject to further detailed assessment under the Stage 2 DA.

In respect to the southern boundary setback, the Applicant argues the adjoining building to the south (309 Kent Street) has an irregular alignment to the shared property boundary (**Figure 7**). To address this, it is proposed to provide a setback to the boundary of between 0 m and 3 m. This will allow for a continual separation distance of 3 m between the proposed building and the existing building at 309 Kent Street (as demonstrated in **Figure 7**).

The Department notes that Council's submission on the RtS recommended a 3 m setback is provided from the building envelope to the southern boundary. However, subject to the amendments made to the proposal under the RRtS, Council did not raise any further issue with the proposed setback to the southern boundary, as a 3 m separation distance between the proposed building and existing building at 309 Kent Street would be provided given the existing development at 309 Kent Street and the irregular shape of the southern boundary.

The Department has considered comments raised by Council and within public submissions and considers the setbacks are acceptable as they generally comply with the provisions of the SDCP 2012, with the exception of the upper level setbacks to the north-western boundary and southern boundary. However, the Department considers the upper level setbacks to the southern boundary and to the north-western boundary are acceptable as they do not result in an excessive bulk and scale and an appropriate level of amenity will be maintained. In particular:

- strict compliance with Council's setback controls is difficult to achieve, given the irregular shape of the boundaries
- the proposal would provide consistent legible setbacks along the north-western and southern boundaries consistent with the pattern of development within this part of the CBD
- the setbacks would have minimal impact on the potential redevelopment of 33 Erskine Street, as any future tower envelope is unlikely to occupy the irregular part of the site (shown in blue in **Figure 8**). Additionally, application of the SDCP 2012 setback controls to the potential redevelopment of 33 Erskine Street demonstrates there would be a consistent building separation of 9 m between these buildings, enabling an appropriate level of amenity between both sites
- there would be a negligible increase in overshadowing impacts when compared to a compliant building envelope and privacy impacts can be mitigated through internal design layout, location of windows and privacy screens, which will be detailed under the Stage 2 DA
- the indicative layout does not provide windows along the southern elevation or along the north-western elevation
- Council raised no further concerns with the proposed setbacks subject to further detailed assessment of the objectives of clause 6.16 of the SLEP 2012 under the Stage 2 DA.

As such, the Department considers the proposed setbacks are acceptable given the proposal would not result in any unacceptable visual or amenity impacts.

Visual Impacts

The Applicant submitted a Visual Impact Assessment (VIA) which includes photomontages of the view impacts of the proposal (including the bonus 10% building height) from various locations (**Figure 9**).

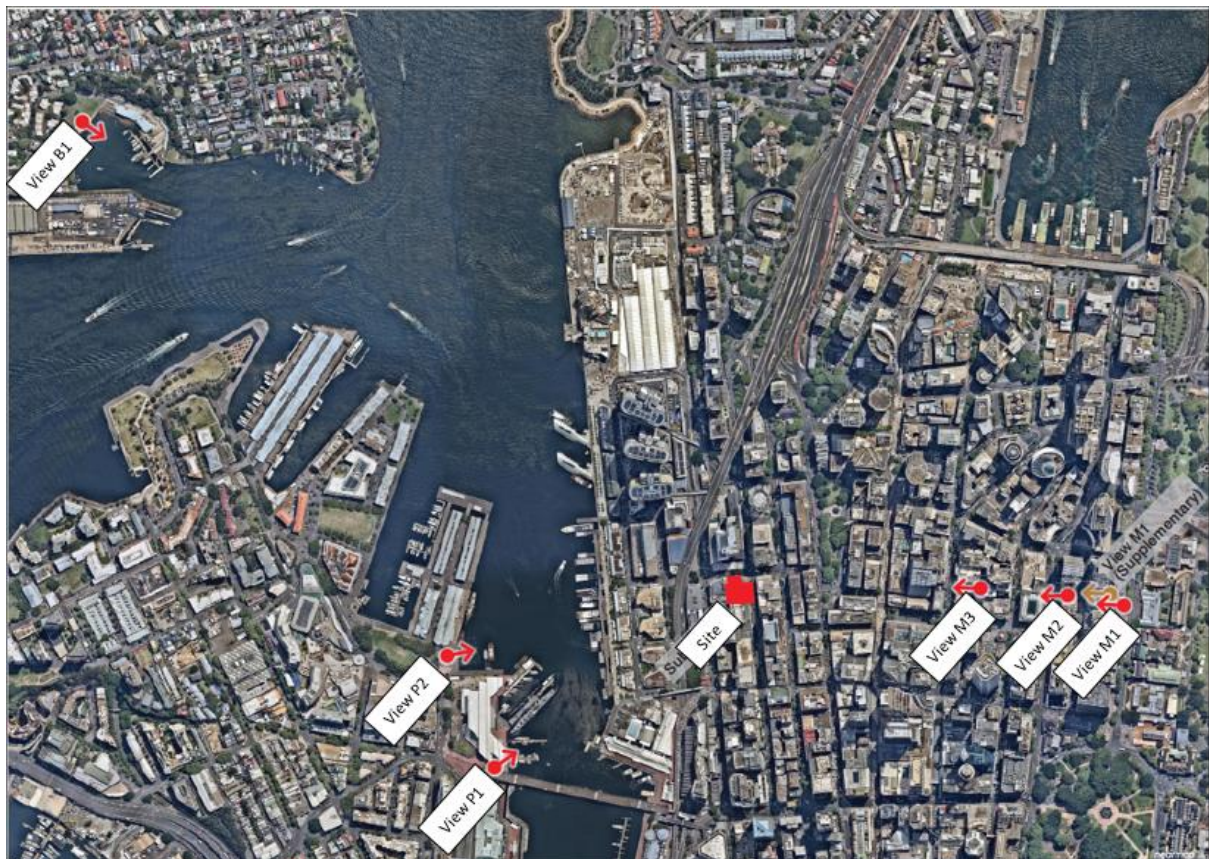


Figure 9 | View locations (source: Applicants VIA)

Six public domain views were selected to assess the visual impacts of the proposal. This included:

- three views from Martin Place
- two views from Pyrmont Bridge and Pyrmont Bay Park
- one view from Ewerton Park, Balmain.

The VIA concluded that the proposal would have a negligible, low or low-medium impact on public domain views. The most impacted and important view is from the eastern most point in Martin Place, adjacent to Macquarie Street (View M1) (**Figure 10**).

In that location, the view change is considered low-moderate and the importance of the view is considered high. The proposal changes the existing views, however the proposed building envelope largely fits within the context of the surrounding development within the CBD and will not obstruct important elements within the view.



Figure 10 | View from Martin Place looking west – Existing view shown above and proposed view shown below, in grey (source: Applicants VIA)

With regard to views from Pyrmont (**Figure 11**) and Balmain (**Figure 12**), the proposal is considered to fit in well with the context of the surrounding buildings and built form character of the CBD and would make a positive contribution to the city skyline. The proposal does not affect the appreciation of existing important elements within this view, including water views to Darling Harbour and views of the city skyline.



Figure 11 | View from Pyrmont Bridge – Existing view shown above and proposed view shown below, in grey (source: Applicants VIA)



Figure 12 | View from Ewerton Park, Balmain – Existing view shown above and proposed view shown below, in grey (source: Applicants VIA)

The Department's assessment concludes the view impacts are acceptable as:

- the height of the building envelope is consistent with the maximum building height permitted under the SLEP 2012
- the proposal is likely to have a negligible, low or low-moderate change in view impacts from key locations

- where the proposal does affect views, it does not obstruct elements of high significance or iconic importance (primarily, views of the water, views of the General Post Office Clock Tower in Martin Place, or locations of specifically documented importance)
- the proposal sits comfortably within the existing pattern of development in the CBD, and it is considered that the development will not detract from the appreciation of views towards the CBD skyline.

6.3 Amenity

Overshadowing

The Applicant submitted shadow diagrams to illustrate the potential overshadowing impacts of the building envelope.

The shadow diagrams (prepared for the worst-case scenario in mid-winter on 21 June) demonstrate the proposed building envelope would result in overshadowing to a commercial building at 25-33 Erskine Street and 309-321 Kent Street (**Figure 13**), a commercial building (Barrack Place) (**Figure 14**) and a residential/service apartments within Shelly Street (**Figure 15**)



Figure 13 | Overshadowing impacts (base source: ARRtS Architectural drawings)



Figure 14 | Overshadowing impacts to Barrack Place - 3.00 pm mid-winter (source: ARRTS Architectural drawings)

Council reviewed the overshadowing diagrams and noted the overshadowing to the residential/serviced apartments on Shelley Street between 9 am and 10 am may be acceptable, subject to a full assessment within the Stage 2 DA, including the submission of overshadowing diagrams in elevation showing any impacts to residential windows and private open spaces.

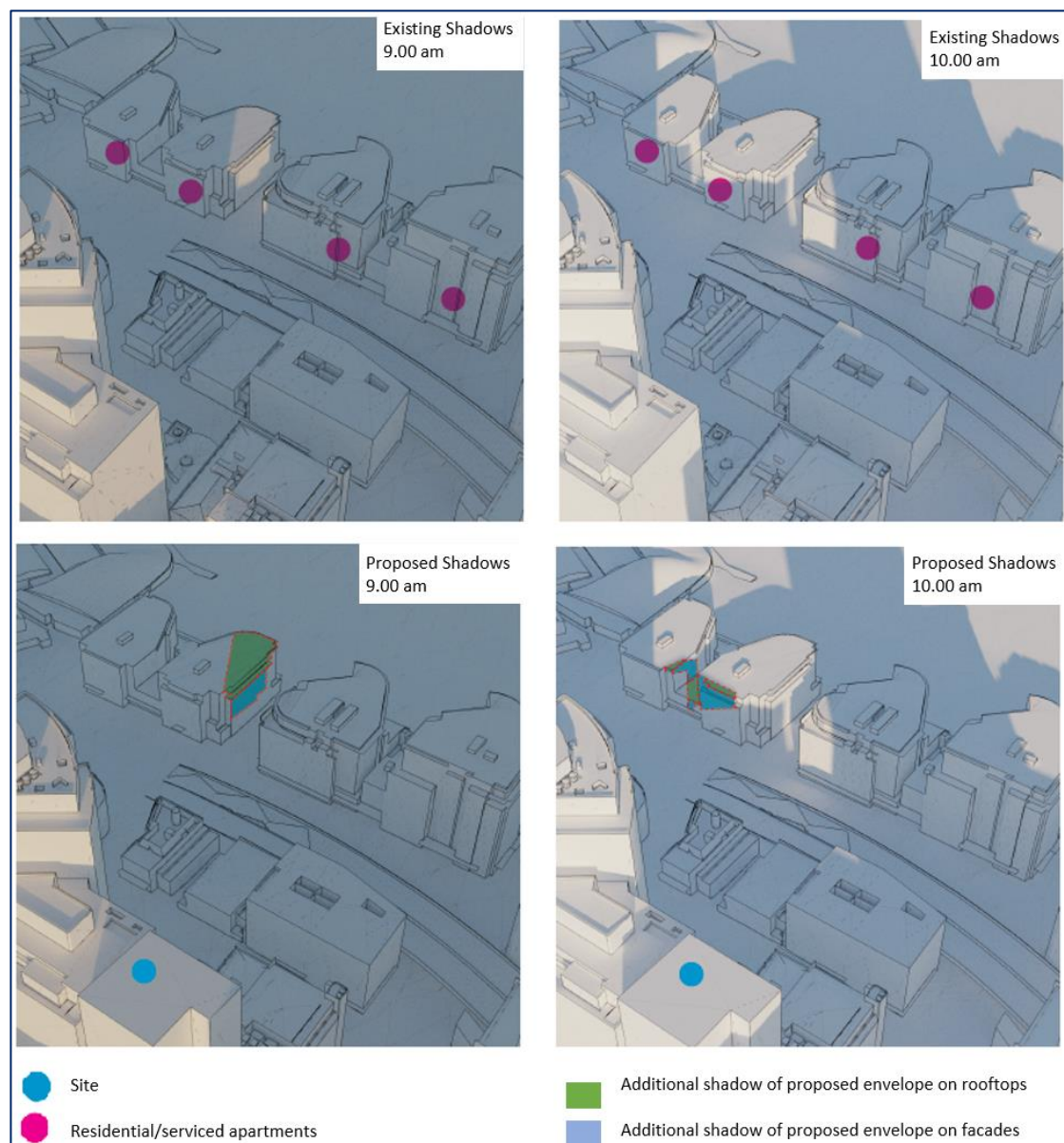


Figure 15 | Overshadowing impacts to residential/service apartments within Shelley Street -
(source: ARRTS Architectural drawings)

The Department has assessed the overshadowing diagrams, as well as Council's comments and considers the overshadowing impacts are acceptable as:

- the overshadowing impacts are consistent with the built form contemplated by the height and FSR controls applying to the site
- the proposal would not result in significant overshadowing to sensitive development. In particular, there would be minimal overshadowing impacts to the residential/serviced apartments on Shelley Street, with the majority of shadowing falling on the rooftops and only some shadowing of the building facades for one hour between 9 am and 10 am (mid-winter)
- appropriate setbacks are provided which relate to the site's context. In particular, there would be negligible increase in overshadowing to residential/serviced apartments in the surrounding area from the proposed 1.35 m setback to the north-western boundary compared to a compliant 3 m setback.
- overshadowing impacts to the commercial building at 25-33 Erskine Street, and 309-321 Kent are unavoidable given they are located immediately to the south and south-west of the site

- overshadowing falls within the context of a CBD environment and an area that is subject to significant existing shadows from surrounding buildings
- the built form will be further refined and modulated under the Stage 2 DA, thereby potentially decreasing overshadowing impacts
- overshadowing impacts will be further considered under the Stage 2 DA.

The Department has also recommended conditions requiring the detailed design under the Stage 2 DA to have regard to solar access to buildings (including the residential/serviced apartments on Shelley Street) and public spaces.

Subject to the recommended condition, the Department considers the overshadowing impacts associated with the proposal are acceptable.

Visual Privacy

Concerns were raised in public submissions about privacy impacts to the future development to the west of the site and to the adjoining building to the south of the site.

The Department notes a setback of 6 m to the western boundary is provided, such that windows addressing this boundary will be provided with sufficient separation distance to the adjacent building to ensure adequate visual privacy. If the adjoining site were to be redeveloped in the future, it is assumed that any windows proposed adjacent the shared boundary will also be provided with setbacks in accordance with the SDCP 2012, meaning a sufficient separation between windows will be achieved. The Department also notes that indicative floor plans do not provide any windows along the north-western façade, which would further reduce potential privacy impacts.

Although a 3 m setback to the adjoining building to the south is proposed, to ensure visual privacy is maintained, windows are not proposed along the southern elevation.

The Department considers the future development would not result in any adverse privacy impacts to surrounding properties, as the building envelope generally meets the requirements of the SDCP 2012 and visual privacy can be managed and mitigated to ensure the detailed design under the Stage 2 DA demonstrates design excellence by having regard to environmental impacts such as visual privacy.

Private Views

The site is not located within close proximity to residential development, which could have their views impacted by the proposal. Additionally, the nearest residential buildings are separated from the site by existing buildings of a similar height and scale to the proposal. No submissions were received raising concerns regarding view loss.

The Department considers the proposed building envelope would not result in any significant private view loss and has recommended conditions to ensure the detailed design under the Stage 2 DA considers potential view loss.

6.4 Transport, Traffic, Parking and Access

Traffic

A Traffic Impact Assessment (TIA) was submitted to analyse the traffic impacts of the future development of the site for hotel use on nearby intersections and the traffic network.

The future development based on 360 hotel rooms would generate up to 36 vehicle movements per hour during peak hour and key intersections including Erskine Street/Sussex Street, and Erskine Street/Kent street. The Department notes these intersections would continue to operate at the same level of service (level of service B) during both the morning and afternoon peaks, with a negligible increase in total average vehicle delays of less than 0.2 seconds per vehicle. The TIA concluded that the future development would not have any unacceptable traffic impacts, and no road improvements or intersection upgrades would be required.

Additionally, the site's location within the Sydney CBD allows visitors and tourists to take advantage of the vast range of sustainable and active modes of transport available. Given the site's highly accessible location and limited on-site parking, it is envisaged that the majority of trips to and from the development will be either by walking, or walking in conjunction with the use of a mode of public transport, which will help minimise traffic generation within the surrounding area.

Council and TfNSW did not raise any concerns with the likely traffic generated by the future development or local traffic impacts. TfNSW recommended the preparation of a Freight and Servicing Management Plan, a Coach Parking and Passenger Pick-up and Drop-off Management Plan and a Construction Pedestrian and Traffic Management Plan for the Stage 2 SSD application. The Department has recommended these conditions accordingly.

The Department is satisfied the traffic generated by the future development is relatively minor and the traffic arising from the proposal is acceptable and can be appropriately managed. The Department has recommended conditions regarding the submission of detailed TIA, with traffic impacts to be further assessed as part of the Stage 2 DA.

Parking

The application seeks approval for five basement levels to accommodate the parking and loading requirements for the future hotel use. The Department notes that the application does not seek approval for the quantum and configuration of any parking, as this will be detailed under the Stage 2 DA.

However, the Applicant has provided indicative plans that illustrate the five-level basement could accommodate the following:

- 77 car parking spaces
- 5 spaces for passenger pick-up/set-down
- 5 service vehicle spaces
- one shared refuse collection bay, loading bay and coach parking bay
- 10 motorcycle parking spaces
- 30 bicycle parking spaces and end-of-trip facilities.

The Department notes that while Council raised concerns that the amount of indicative car parking is excessive, the number of parking spaces is consistent with the maximum parking rate allowed under the SLEP 2012 and is therefore acceptable in concept.

Notwithstanding, the Department recommends the final number and configuration of car parking spaces, bicycle spaces, service vehicle and truck loading spaces/zones over the five basement levels, be subject to further detailed consideration in the Stage 2 DA.

Access

Currently, vehicle access to the site is from two driveway access points, with a driveway located at 301 Kent Street and another at 305 Kent Street. The driveway at 301 Kent Street also provides access to the adjacent property, 299 Kent Street, via a right-of-way.

Concerns were raised by Council about the original proposal to relocate vehicle access from Kent Street to Erskine Street. Council stated that it did not support the location and width of the driveway on Erskine Street as it would diminish pedestrian amenity. TfNSW did not object to vehicular access from Erskine Street.

The Department notes that no driveways are located along the entire length of Erskine Street. Erskine Street is also a key east/west pedestrian connection link between the CBD and Darling Harbour/Barangaroo, with high volumes of pedestrians traversing a relatively narrow footpath adjacent to moving vehicular traffic.

In response to the concerns raised by Council, the ARRtS relocated vehicular access to the northern end of the Kent Street frontage, via a 5.55 m wide driveway. Council recommended that the driveway be reduced in width to as close to 3.6 m as required by the SDCP 2012 and should operate as a one-way system across the footpath with an on-site waiting/passing bay.

The Department considers vehicular access from Kent Street a superior outcome compared to the original proposal of relocating vehicle access to Erskine Street, as it would provide an opportunity to improve pedestrian amenity along Kent Street by consolidating vehicular access to a single driveway, while continuing to maintain pedestrian amenity along Erskine Street.

The Department notes that although the proposal does not seek approval for a driveway width, a condition is recommended requiring the Applicant to consider vehicular access arrangements into the site from Kent Street which minimises driveway width and vehicular and pedestrian conflict as part of the Stage 2 application.

6.5 Other issues

Other relevant issues for consideration are addressed in **Table 5**

Table 5 | Summary of other issues raised

Issue	Findings	Recommendations
Heritage	- A Heritage Impact Statement (HIS) was submitted with the EIS. In summary, the HIS concluded existing buildings are not listed as items of heritage significance, the site is not located within the boundaries of a heritage conservation area, and the proposal would be physically and visually separated from the heritage items in the vicinity by the width of either Erskine Street or Kent Street. - The HIS recommended an archival photographic recording of all buildings on site. - Council reviewed the HIS and noted the existing brick façade of both 301 and 305 Kent Street make a strong contribution to the streetscape of Kent Street and the historical setting of the adjacent heritage buildings. - Council recommended the brick façade be incorporated into the design of the development. - The ARRTS amended the Design Excellence Strategy so that the design competition explore opportunities for retention or interpretation of the existing brick façade of 301 and 305 Kent Street, for the new building. - The Department has considered the HIS, and considers any heritage impacts from the proposal are able to be appropriately mitigated and managed through recommendations as provided within the HIS and by Council and will be further considered as part of the Stage 2 DA.	Conditions are recommended requiring the potential retention of the brick façade. If this is not possible, an interpretative design of the existing brick façade to acknowledge the historical industrial character of Kent Street is required.
Archaeology	- A Historical Archaeological Assessment (HAA) report was submitted with the EIS. In summary, the HAA confirmed the potential for the site to contain State significant historical archaeology associated with the early 1800s occupation of Sydney, as well as local significant archaeology from mid to late 19th century. - The HAA recommended a phase of archaeological testing be implemented to understand the survivability of the State significant archaeology and to inform the detailed design of the proposal for the Stage 2 DA. - Heritage NSW reviewed the HAA and supported the approach to archaeology testing as recommended within the HAA and provided recommended conditions. - The Department has considered the HAA, and considers any archaeological impacts from the proposal are able to be appropriately mitigated and managed through recommendations provided within the HAA and by Heritage NSW. - Additionally, this aspect will be further considered as part of the Stage 2 DA	Conditions are recommended including the requirement for the Stage 2 DA to have regard to archaeological testing, designed to confirm survivability and integrity of potential State significant historical archaeology and its results are to be interpreted within the detailed design of the proposal.
Aboriginal Cultural Heritage	- An Aboriginal Cultural Heritage Assessment (ACHAR) was submitted with the EIS. In summary, the ACHAR confirmed: - high social, historic and scientific Aboriginal values associated with the site. - potential for Aboriginal archaeological deposits based on the environmental and archaeological context and the geotechnical profile of the site.	Conditions are recommended including the submission of a final ACHAR and Archaeological Excavation Methodology having

	○ the site is registered as containing potential archaeological deposits (PAD) (AHIMS # 45-6-3705) • The ACHAR recommended a number of mitigation strategies to manage and mitigate impacts of the proposal on Aboriginal cultural heritage values of the site, including an Aboriginal archaeological test excavation strategy, and a management and an interpretation strategy for any recovered Aboriginal objects if found. • EESG reviewed the ACHAR and provided recommended conditions, including: ○ further Archaeological investigation prior to any site excavation and construction works ○ implementation of an Aboriginal archaeological excavation methodology (as outlined within the ACHAR) if the site is deemed to have Aboriginal archaeological potential ○ on-site induction for workers ○ Aboriginal finds protocol. • The Department has considered the ACHAR, and considers any Aboriginal archaeological impacts are able to be appropriately mitigated and managed through recommendations as provided within the ACHAR and by EESG. • Additionally, this aspect will be further considered as part of the Stage 2 DA.	regard to the area of the registered PAD.
Wind	• A specialist wind report was submitted with the EIS, which included wind tunnel modelling of the proposal. • The Report indicated that wind conditions for the majority of trafficable outdoor locations around the ground floor of the development will be suitable for their intended uses. However, some areas, particularly the elevated terrace areas of the development, will experience strong winds which will exceed the relevant criteria for comfort and/or safety. • The wind report identified a range of amelioration measures required to ensure a safe and comfortable environment, such as vegetation and screens. • Council recommended that the Design Excellence Strategy be amended to include consideration of all measures within the wind report. • In response to Council's comments, the Applicant amended the Design Excellence Strategy to include consideration of wind mitigation measures during the design competition stage. • The Department has considered the wind report and is satisfied that wind impacts can be appropriately mitigated and managed to an acceptable level, with mitigation measures to be further resolved as part of the Stage 2 DA.	• Conditions are recommended requiring the detailed design to be subject to wind tunnel testing and any recommendations incorporated in the Stage 2 DA.
Public Art	• A preliminary public art strategy was submitted with the EIS. • No specific concerns were raised by Council on the preliminary public art strategy • The Department considers the preliminary public art strategy acceptable as it: ○ identifies opportunities for the provision of Public Art within the public domain areas to be delivered by the future development of the site ○ ensures that public art is considered at the early stages of the development and forms an integrated and cohesive part of the development	• Conditions are recommended requiring a detailed public art plan to be submitted as part of the Stage 2 DA, including public art concepts, a statement detailing the rationale behind the artwork, as well as a program for documentation and integration of public art into the construction of the proposed development.

	○ combines the delivery of public art and public domain within the site as part of future detailed applications ○ creates opportunities for the recognition of past uses and heritage within the Precinct as part of future public art. • The Department also notes that public art will be further considered and refined as part of the Stage 2 DA.	
Flooding	• The site is not identified as flood prone land, however parts of Erskine Street, fronting the site is affected by the probable maximum flood (PMF) • EESG raised no issues from a flooding perspective. • Council have recommended that the minimum flood planning levels (FPL) be adopted: ○ Basement entry crest to be set as a minimum at 300 mm above the adjacent road gutter invert ○ Hotel reception to be set as a minimum at 300 above the adjacent road gutter invert • The Department notes that flooding impacts will be further considered under the Stage 2 DA and recommends the FPL be adopted as conditions.	• Conditions are recommended requiring compliance with the FPL.
Acoustic Impact	• A Noise Impact Assessment (NIA) was submitted with the EIS. The NIA concluded that noise intrusion into the future development from external noise sources, as well as external noise emissions can be mitigated and managed to ensure compliance with relevant legislation, policies and guidelines. • The Department notes that noise impacts will be further considered under the Stage 2 DA.	• Conditions are recommended requiring a final NIA to be submitted with the Stage 2 DA.
Reflectivity	• The Department notes that reflectivity will be a factor of the materials and finishes, which are yet to be finalised. • The Department notes that the future built form would be required to not cause adverse solar glare to pedestrians or motorists in the surrounding area, or to occupants of neighbouring buildings.	• Conditions are recommended requiring a Reflectivity Report to be prepared once façade materiality is determined as part of the Stage 2 DA.
ESD	• An Ecological Sustainable Development (ESD) report was submitted with the EIS. The ESD report details how ESD principles will be incorporated in the design and ongoing operation phases of the development. Specifically, the ESD report provides: ○ actions to maximise indoor environmental quality, and to maximise energy and water efficiency ○ actions to promote sustainable transport ○ actions for waste avoidance and recycling • The Applicant is committed to achieving a minimum 5-star Green Star rating and will incorporate renewable energy technology in the form of photovoltaic (solar energy) system, solar thermal, and/or air sourced heat pump water heating for domestic hot water supply. • EESG reviewed the ESD aspects of the proposal and recommended that green walls, green roof and/or cool roof be incorporated into the design. Council did not make any specific comments relating to ESD. • In respect to EESG comments, the Department notes that the Design Excellence Strategy has been amended to include consideration of green walls, green roofs and/or cool roofs into the detailed design of the building. • The Department has considered the ESD Report and EESG comments and is satisfied the proposed sustainability initiatives would encourage ESD, in	• Conditions are recommended requiring the Stage 2 DA to include incorporation of ESD principles in the design, construction and on-going operational phases of the development

accordance with the objects of the EP&A Act, subject to recommended conditions.

High voltage cables	• A submission received from Sydney Trains, notes that Railcorp high voltage cables within the streets surrounding the site may be impacted by the development. Sydney Trains requested that further consultation be undertaken prior to, and during, the Stage 2 DA stage • The Department has recommended a condition accordingly.	• Conditions are recommended requiring the Applicant, prior to the lodgement of the Stage 2 DA, to consult with Sydney Trains on the design of the development to ensure the Railcorp high voltage power cables are not affected by the proposal.
Use of cranes	• Sydney Airport's submission notes that cranes may be required to operate at a height significantly higher than that of the proposed development during construction. It is advised that approval to operate construction equipment such as cranes should be obtained prior to construction. • The Department notes this is a matter for consideration under the Stage 2 DA.	• No conditions recommended.
Water services and infrastructure	• A Services Feasibility Report was submitted with the EIS. • The Report concludes that proposal can be serviced with connections to existing infrastructure and services. • Sydney Water advised that the future development is able to be adequately serviced subject to potential extensions and/or amplification to existing water and wastewater infrastructure. • The Department notes that the future development can be adequately serviced and will be further considered as part of the Stage 2 DA.	• No conditions recommended.

7 Evaluation

The Department has assessed the merits of the proposal and has carefully considered all issues raised in Council, government agency and public submissions. The Department has also considered all relevant matters under Section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ESD.

The Department is satisfied the proposal should be approved for the following reasons:

- the proposal is consistent with the objectives of the Greater Sydney Region Plan and the Eastern City District Plan as it would deliver visitor and tourist accommodation (indicatively 360 hotel rooms), which would make a significant contribution to the tourism economy
- the proposal will provide for a future development that would achieve design excellence contributing to the attractiveness of the Sydney CBD as a world-renowned tourist destination
- the proposed building envelope provides appropriate height, scale and setbacks that relate to the planning controls and surrounding site context and would not result in any unreasonable amenity impacts
- the proposed redevelopment of the site for hotel use with ancillary uses, is unlikely to result in any significant traffic impacts, with key intersections continuing to operate at the same level of service
- the Applicant is committed to achieving a minimum 5-Star Green Star Design, incorporating renewable energy technology in the form of photovoltaic (solar energy) system, solar thermal, and/or air sourced heat pump water heating for domestic hot water supply.
- it is expected to create approximately 240 construction jobs and approximately 80 ongoing operational jobs
- all other issues have been appropriately addressed by recommended conditions of approval.

The Department's assessment therefore concludes the proposed concept proposal (SSD 9694) is in the public interest and recommends the application be approved, subject to the recommended conditions.

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8 Recommendation

It is recommended that the Executive Director, Regions, Industry and Key Sites, as delegate of the Minister for Planning and Public Spaces:

- **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 SSD 9696; and
- **signs** the attached development consent and recommended conditions of consent (see attachment

Recommended by:

Recommended by:

Rodger Roppolo

Senior Planning Officer
Key Sites Assessments

Cameron Sargent

Team Leader
Key Sites Assessments

Recommended by:

Anthony Witherdin

Director
Key Sites Assessments

9 Determination

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

Anthea Sargeant

Executive Director

Regions, Industry and Key Sites

Appendices

Appendix A – List of referenced documents

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

Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Submissions on the EIS

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Applicant's Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Submissions on the Applicant's Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Applicant's Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Submissions on the Applicant's Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Applicant's Addendum to the Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Submissions on the Applicant's Addendum to the Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>

Appendix B – Community Views for Draft Notice of Decision

A summary of the Department's consideration of the issues raised in submissions is provided in **Table 1**.

Table 1 | Department's consideration of key issues raised in submissions

Issue	Consideration
Built form setbacks to the north-western, western boundary and southern boundary	<i>Assessment</i> - The Department considers the setbacks acceptable as building envelope setbacks generally comply with the provisions of the SDCP 2012, with the exception of the upper level setbacks to the north-western boundary and southern boundary and will result in an acceptable built form outcome for the site. The Department considers the upper level setbacks acceptable as an appropriate level of amenity will be maintained. In particular: - there would be a negligible increase in overshadowing impacts, when compared to a compliant building envelope - the setbacks would have minimal impact on the potential redevelopment of 33 Erskine Street, given the unusable section of the site due to its irregular boundary - privacy impacts can be mitigated through internal design layout, location of windows and privacy screens, which will be detailed under the Stage 2 DA. It is also noted the Applicant confirmed that the indicative layout does not provide windows along the southern elevation or along the north-western elevation - This matter is further discussed in Section 6. <i>Recommended Conditions/Response</i> - Conditions include requirements for the future development under the Stage 2 DA to demonstrate design excellence, including how the proposed development addresses the bulk, massing and modulation of the building within the approved envelope, including street frontage heights.
Parking parking for coaches and location of taxi stand	<i>Assessment</i> - The Department notes that the quantum of parking will be confirmed under the Stage 2 DA. However, the proposal makes provisions for pick-up and drop-off bays on the upper ground level, plus coach parking to facilitate a 7 m long 22 seat Toyota Coaster. - A taxi stand is not proposed under the proposal. - This matter is further discussed in Section 6. <i>Recommended Conditions/Response</i> - Conditions include requirements for a Coach Parking and Passenger Pick-Up and Drop-Off Management Plan to be prepared in consultation with TfNSW and Council, including details of coach passenger pick-up and drop-off demand of the development.

Amenity impact - overshadowing - privacy	<i>Assessment</i> - The Department is satisfied that any potential amenity impacts arising from the proposal would be minimal. In particular, the Department considers overshadowing impacts are limited with overshadowing predominately falling on roof spaces and some building facades at intermittent times of the day and no sensitive areas of the public domain. - The Department considers the visual impacts to be minimal given the building envelope is consistent with building height controls under the SLEP 2012 and would likely have negligible to moderate change in view impacts from key locations. Additionally, any potential visual impacts can be managed and mitigated as part of the detailed design under the Stage 2 DA. - This matter is further discussed in Section 6. <i>Recommended Conditions/Response</i> - Conditions include requirements for the detailed design to achieve design excellence having regard to environment impact such as visual privacy and solar access to buildings.
Acid sulfate soils	<i>Assessment</i> - Council's submission identifies the site as located within a Class 5 Acid Sulfate Soils Zone and is approximately 50 m from a Class 1 Acid Sulfate Zone. Council recommended that the Stage 2 DA be accompanied by an Acid Sulphate Soil Management Plan (ASSMP) prepared by a suitably qualified person in accordance with the Acid Sulphate Soil Assessment Guidelines (Acid Sulfate Soils Management Advisory Committee August 1998). - The EIS was accompanied by a Geotechnical report, which concluded that acid sulfate soils would not be encountered during excavation works as sandstone was encountered at shallow depths during the geotechnical site investigation. - The Department has considered the Geotechnical Report and notes that acid sulphate soils are unlikely to be encountered during works. As such, an ASSMP would not be required.
Geotechnical	<i>Assessment</i> - Concerns were raised in public submissions requesting detailed geotechnical investigations be required relating to the extent and stability of sandstone beneath the site, given the extent of boundary excavation proposed. - The application was accompanied by a Geotechnical Investigation Report, which assessed the ground conditions and feasibility of a building within the proposed building envelopes. The Report determined that the proposed building envelope is feasible from a geotechnical perspective. - The Department has considered the Geotechnical Report and notes that a building within the proposed building envelope is feasible and that further geotechnical investigation and assessment will be undertaken as part of the Stage 2 DA.

Appendix C – Statutory Considerations

In line with the requirements of section 4.15 of the EP&A Act, the Department's assessment of the project has provided a detailed consideration of a number of statutory requirements. These include:

- the objects found in section 1.3 of the EP&A Act
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered all these matters in its assessment of the project and has provided a summary of this assessment in **Tables 1** and **2** below.

Table 1 | Consideration of the objects of the EP&A Act

Objects of the EP&A Act	Summary
(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 would conserve and manage resources by enabling the redevelopment of the site.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The principles of ESD are considered below.
(c) to promote the orderly and economic use and development of land	The proposal represents an efficient and economic use of land consistent with environmental planning instruments and policies under the EP&A Act.
(d) to promote the delivery and maintenance of affordable housing	Not applicable.
(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 would not adversely impact any native animals and plants, including threatened species, populations and ecological communities, and their habitats as the site is located within a dense urban environment and does not contain any vegetation.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The proposal would not have an adverse impact on nearby heritage items or conservation areas, as addressed in Section 6 .
(g) to promote good design and amenity of the built environment	The proposal exhibits design excellence as discussed in Section 6 .
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	No works are proposed. These matters will be considered in the Stage 2 DA.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The proposal is SSD and therefore the Minister is the consent authority. The Department consulted with Council, and other relevant agencies on the proposal.

- (j) to provide increased opportunity for community participation in environmental planning and assessment.

Section 5 of this report sets out details of the Department's public exhibition of the proposal.

Table 2 | Consideration of the matters listed under section 4.15(1) of the EP&A Act

Section 4.15(1) Evaluation	Summary
(a)(i) any environmental planning instrument	The Department's consideration relevant EPIs is provided below.
(a)(ii) any proposed instrument	Consideration of proposed instruments is provided below.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, DCPs do not apply to SSD. Nonetheless, an assessment of the development against relevant controls provided within a DCP is provided below.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	Appropriately mitigated or conditioned - refer to Section 6 and Appendix D of this report.
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 4 and 6 of this report.
(d) any submissions	Consideration has been given to the submissions received during the EIS exhibition period and following lodgement of the RtS. See Sections 5 and 6 and Appendix B of this report.
(e) the public interest	Refer to Section 6 of this report.

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 that Act 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
- improved valuation, pricing and incentive mechanisms.

The Department has assessed the proposed development in relation to the ESD principles and has made the following conclusions:

- Precautionary Principle – the site is fairly disturbed as it has been previously used for commercial uses. As such, the proposal would not result in any serious or irreversible environmental damage.
- Inter-Generational Equity - the proposal would not have adverse impacts on the environment for future generations, subject to the Department's recommended conditions.
- Biodiversity Principle – the Department is satisfied the proposal would not have any significant flora, fauna or biodiversity impacts given the lack of vegetation on the site and the nature of existing and surrounding development.
- Valuation Principle – as further discussed below, the proposal includes a number of measures to limit the ongoing cost, resource and energy requirements of the development.

Whilst the proposal is only for a concept development application, the ESD report provided by the Applicant proposes ESD initiatives and sustainability measures that would be included in the Stage 2 DA, including:

- actions to maximise indoor environmental quality
- actions to maximise energy efficiency
- actions to maximise water efficiency
- actions for sustainable transport
- actions for waste avoidance and recycling.

The Applicant is committed to achieving a minimum 5-star Green Star rating and will incorporate renewable energy technology in the form of one or more of the following technologies: photovoltaic (solar energy) system, solar thermal, and/or air sourced heat pump water heating for domestic hot water supply.

Overall, the proposal is consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives would encourage ESD, in accordance with the objects of the EP&A Act.

Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* requires that an assessment of significance be completed to determine the significance of impacts to threatened species, populations and/or communities or their habitat.

Under section 7.9(2) of the Biodiversity Conservation Act 2016, SSD applications are “to be accompanied by a biodiversity development assessment report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values”.

On 13 February 2019, the EESG determined that the proposed development is not likely to have any significant impact on biodiversity values and that a BDAR is not required.

The Department supported EESG's decision and on 15 February 2019 determined that the application is not required to be accompanied by a BDAR as the site is highly modified and located within a dense urban environment. As such, the site does not provide any significant native vegetation, habitat for threatened species or communities and connectivity to any adjacent habitats.

Environmental Planning Instruments

Controls 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
- Draft Remediation of Land State Environmental Planning Policy
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Sydney Local Environmental Plan 2012
- Draft Central Sydney Planning Strategy and Central Sydney Planning Proposal
- Sydney Development Control Plan 2012

State Environmental Planning Policy (State and Regional Development) 2011

The State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) aims to identify development that is of State significance due to its size, economic value or potential impact. The proposed development constitutes State significant development under clause 13 of Schedule 1 of the SRD SEPP, as it has a CIV in excess of \$100 million.

State Environmental Planning Policy (Infrastructure) 2007

The State Environmental Planning Policy (Infrastructure) 2007 (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 about certain development during the assessment process.

The project approval is ‘traffic generating development’ under Schedule 3 of the ISEPP. In addition, the proposal includes more than 2,500m² commercial GFA and therefore is a development to which the ISEPP applies. The ISEPP requires the development be referred to TfNSW (RMS) for comment.

The application was referred to TfNSW and TfNSW (RMS) in accordance with the ISEPP. TfNSW (RMS) submissions on the proposal are summarised at **Section 5**. The Department considers the proposed development to be consistent with the ISEPP given the consultation and consideration of transport, traffic and parking issues in **Section 6** and recommended conditions of consent in **Appendix D**.

State Environmental Planning Policy No. 55 - Remediation of Land

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. SEPP 55 prevents a consent authority from issuing development consent unless it has considered whether the subject site is contaminated and whether a contaminated site is suitable for its proposed use in its current state, or would be suitable following remediation.

The EIS was accompanied by a Detailed Site Investigation, which assessed the potential for site contamination. Based on the results of the investigation, the Report concludes that the risks to human

health associated with soil contamination at the site is negligible within the context of the proposed use of the site for a Hotel. The site is therefore considered suitable for the proposed development.

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 recently 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 proposed development is consistent with the draft Remediation SEPP subject to recommended conditions.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Sydney Regional Environmental Plan (Sydney harbour Catchment) 2005 (SHC SREP) provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour catchment area. The Department has considered the relevant provisions of SHC SREP in **Table 3**.

Table 3 | Department's consideration of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Criteria	Departments Consideration	Compliance
Clause 2 Aims of the plan The SHC SREP provides aims in relation to the Sydney Harbour Catchment and the Foreshores and Waterways Area.	The proposal is consistent with the aims of the plan as it: • would protect, enhance and maintain the natural asset of the catchment by providing a high-quality development • would achieve a high-quality and ecologically sustainable development • would ensure the catchment is protected and enhanced.	Yes
Clause 13 Sydney Harbour Catchment The SHC SREP provides planning principles for land within the Sydney Harbour Catchment	The proposal is consistent with the planning principles for land within the Sydney Harbour Catchment as follows: • the proposal would not have a significant impact on biodiversity or natural qualities of the harbour.	Yes

Clause 36 Development on land comprising acid sulfate soils

The consent authority must not grant development consent unless it has considered the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the Acid Sulfate Soils Assessment Guidelines, and the likelihood of the proposed development resulting in the discharge of acid water.

Yes

The EIS was accompanied by a Geotechnical report, which concluded that acid sulfate soils would not be encountered during excavation works (future Stage 2 DA) as sandstone was encountered at shallow depths during the geotechnical site investigation.

Draft Environment State Environmental Planning Policy

The Statement of Intended Effect for the Draft Environment SEPP proposes to update and consolidate seven existing EPIs, including the Sydney Harbour Catchment SREP.

The provisions of the Sydney Harbour Catchment SREP relevant to the proposals are proposed to remain largely unchanged and therefore, the Department is satisfied the proposed development would be consistent with the intended effect of the Draft Environmental SEPP.

Sydney Local Environmental Plan 2012

The Department has consulted with Council throughout the assessment process and has considered all relevant provisions of the Sydney Local Environmental Plan 2012 (SLEP 2012) and those matters raised by Council in its assessment of the development (refer to **Section 5**). The Department concludes the development is consistent with the relevant provisions of the SLEP 2012. Consideration of the key relevant clauses SLEP 2012 are addressed in **Table 4** below.

Table 4 | Department's consideration of the Sydney Local Environmental Plan 2012

Criteria	Departments Consideration	Compliance
Clause 2.2 Zoning The site is zoned 'B8 Metropolitan Centre' under the SLEP 2012	The application proposes tourist and visitor accommodation which is a permissible land use within the B8 Metropolitan Centre zone.	Yes
Clause 4.3 Height of Buildings The site is subject to a maximum building height of 80 metres	The proposed building envelope has a maximum height of 80 m.	Yes
Clause 4.4 Floor Space Ratio A maximum FSR of 11.1 applies to the site, comprising a base FSR of 8:1 and an additional FSR of 3:1 in the form of hotel or motel accommodation.	It is noted that consent is not being sought under the proposal for FSR. However, the proposed building envelope establishes an indicative GFA of 11,301 m ² equating to an FSR of 11:1	Yes
Clause 5.10 Heritage Conservation	The siting, form and height of the proposed building envelope would not result in any	Yes

The site is not identified as a heritage item nor is it located adjacent to any heritage items. The site is also not located within any heritage conservation area. However, there are a number of local and State heritage items located in the vicinity of the site.

adverse heritage impacts to the items in the surrounding area, subject to further consideration under the Stage 2 DA.

Clause 6.16 Erection of tall buildings in Central Sydney

The objectives of this clause are to ensure that tower development on land in Central Sydney—

- provides amenity for the occupants of the tower and neighbouring buildings, and
- does not adversely affect the amenity of public places, and
- is compatible with its context, and
- provides for sunlight to reach the sides and rear of the tower, and
- promotes the ventilation of Central Sydney by allowing the free movement of air around towers, and
- encourages uses with active street frontages

The Department considers the proposed building envelopes would facilitate a building that would achieve the objectives of the clause, subject to recommended conditions regarding design excellence, built form and design quality.

Yes

Clause 6.21 Design Excellence

Development must not be granted to which this clause applies unless the proposed development exhibits design excellence including a building greater than 55m on land in Central Sydney, development with a CIV more than \$100m and development in respect of which a development control plan is required to be prepared under clause 7.20 and development for which the applicant has chosen such a process.

- The Department considers a competitive design process is not required under subclause (5) as such a process would be unreasonable or unnecessary in the circumstances – it would be unreasonable as it is premature at this stage due to it being concept and the competitive design process should be used to provide further design refinements and examine the acceptability of proposed materials etc.
- The Department considers this proposal exhibits design excellence, as discussed in **Section 6**, however notes the Stage 2 DA will also be required to exhibit design excellence, and proposes this is subject to a competitive design process
- Further assessment of design excellence under Clause 6.21(4) is provided below in **Table 5**.

Yes

Clause 7.3 Car Parking Spaces

The maximum number of car parking spaces for a building used for the purposes of serviced apartments or hotel or motel accommodation is:

- 1 space for every 4 bedrooms up to 100 bedrooms, and

- Consent is not being sought under the proposal for car parking. However, the indicative scheme provides 360 hotel rooms and consent is being sought for 5 levels of basement car parking.
- On this basis, the maximum number of car parking spaces allowed is 77.

Yes

1 space for every 5 bedrooms more than 100 bedrooms	The indicative scheme provides a total of 77 car parking spaces (not including spaces for loading and set-down).	
Clause 7.14 Acid Sulfate Soils The site is identified on Class 5 land. Development consent is required for carrying out works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum (AHD) and by which the water table is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land.	The EIS concluded that acid sulfate soils would not be encountered during excavation works as sandstone was encountered at shallow depths during the geotechnical site investigation.	Yes
Clause 7.15 Flood Planning	Conditions are recommended to ensure the development meets the required flood planning levels. This matter is further discussed in Section 6.	Yes
Clause 7.20 Development requiring or authorising preparation of a development control plan Development consent must not be granted to development on land in Central Sydney unless a Development Control Plan has been prepared where the site for development is greater than 1,500m² or if the development will result in a building higher than 55 m above ground level.	- The proposed building envelopes will result in a future building with a height greater than 55 metres above ground level in Central Sydney. - Pursuant to Section 4.23 of the EP&A Act 1979, the requirement for the preparation of a DCP is satisfied by the making and approval of a concept development application. Accordingly, consent is being sought for a concept SSD application.	Yes

Table 5 | Department's consideration of Clause 6.21 Design Excellence, Sydney Local Environmental Plan 2012

Criteria	Departments Consideration
(a) 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 a competitive design process to support the detailed design of future built form.
(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain	The form and external appearance of the proposed development will be determined under the Stage 2 DA.
(c) whether the proposed development detrimentally impacts on view corridors	As addressed in Section 6 , the Department's assessment concludes the proposal will have acceptable view impacts.
(d) how the proposed development addresses the following matters:	

(i)	the suitability of the land for development,	The site is suitable for the development as addressed in Sections 4 and 6 of this report.
(ii)	the existing and proposed uses and use mix	The application proposes tourist and visitor accommodation which is a permissible land use within the B8 Metropolitan Centre zone.
(iii)	any heritage issues and streetscape constraints,	As discussed in Section 6 , the siting, form and height of the proposed building envelope would not result in any adverse heritage impacts to heritage items in the surrounding area, subject to careful design in subsequent detailed DAS
(iv)	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 is satisfied that the proposed building envelope would have an acceptable relationship with other towers, as discussed in Section 6 .
(v)	the bulk, massing and modulation of buildings	Detailed bulk, massing, articulation and modulation of built forms within the proposed building envelope are subject to a competitive design process in accordance with City of Sydney Competitive Design Policy.
(vi)	environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity	Environmental impacts have been considered acceptable as discussed in Section 6 .
(vii)	the achievement of the principles of ecologically sustainable development	The proposal is consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives would encourage ESD, in accordance with the objects of the EP&A Act.
(viii)	pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network	The proposal is a concept only. Details of any pedestrian, cycle, vehicular and service access and circulation requirements of the proposed development will be determined through Stage 2 DA.
(ix)	the impact on, and any proposed improvements to, the public domain	The proposal would not have an adverse impact on the public domain, noting that the development also does not result in any unreasonable overshadowing impacts.
(x)	the impact on any special character area	The site is not located within a special character area.
(xi)	achieving appropriate interfaces at ground level between the building and the public domain	The proposal is a concept SSD application only. The works at street level, including new vehicular crossings are subject to a to the Stage 2 DA.
(xii)	excellence and integration of landscape design	There are limited landscaping opportunities for the proposal due to limited site area and the CBD development context.

Draft Central Sydney Planning Strategy and Central Sydney Planning Proposal

The Draft Central Sydney Planning Strategy 2016-2036 (CSPS) was released by the Council in July 2016 and is Council's 20-year growth strategy that revises previous planning controls in the City of Sydney Local Government Area. The CSPS includes the following documents:

- Draft Central Sydney Planning Strategy 2016-2036;
- Central Sydney Planning Proposal (draft LEP amendments);
- Draft Central Sydney Affordable Housing Program; and
- SDCP 2012 (Central Sydney Planning Strategy Amendment).

The CSPS is a draft and has not been formally adopted. Nonetheless, the CSPS is considered as part of this application as it provides for significant revisions to the SLEP 2012 and SDCP 2012 to allow for uplift in density to certain areas of central Sydney, in accordance with the overall ten 'Key Moves'.

The Department considers the proposal is consistent with the relevant directions and objectives of the CSPS as outlined below:

- Key move 1: Prioritise employment growth and increase employment capacity by implementing genuine mixed-use controls and lifting height limits along the Western Edge.
- Key move 2: Ensure development responds to context by providing minimum setbacks for outlook, daylight and wind.
- Key move 4: Provide for employment growth in new tower clusters.
- Key move 6: Move towards a more sustainable city with planning controls that require best practice energy and water standards and for growth sites to drive zero-net energy outcomes.
- Key move 9: Reaffirm commitment to design excellence by continuing to work in partnership with community and industry to deliver collaborative, iterative and tailored solutions.

The Department agrees the proposal presents an opportunity to respond to the 'Key Moves' identified in the CSPS, including prioritising employment growth along the western edge of the city in a location identified as a potential tower cluster, ensuring development responds to context, to provide for employment growth in new tower clusters, to move towards a more sustainable city and to reaffirm commitment to design excellence.

The CSPS identifies potential tower clusters in Central Sydney where heights and densities above established maximum limits may be achieved to promote the efficient use of land, and encourage innovative design. The CSPS notes opportunities for tower clusters in areas of Central Sydney that are less constrained by sun access planes. The site is located at the southern edge of the western cluster which extends north from the site across Westpac Place, to the International Towers at Barangaroo South (**Figure 1**).

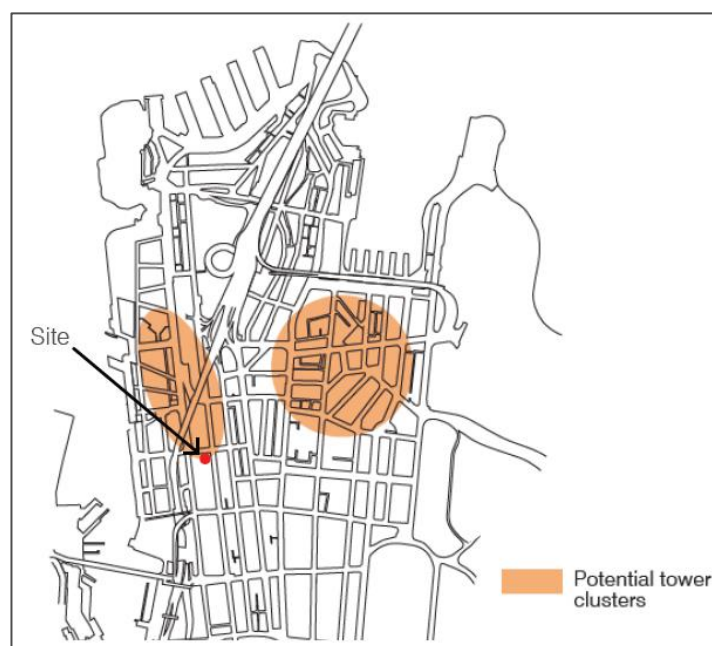


Figure 1 | Tower cluster locations (source: CSPA)

The Central Sydney Planning Proposal (CSPP) associated with the CSPA identifies the site (along with a large part of the western corridor) for an increase in height and FSR (**Table 6**).

Table 6 | Existing and proposed development standards under the CSPP

	Existing	Proposed
Height of Buildings	80 m	110 m
FSR	11:1	11.5:1

The proposal would remain consistent with the proposed development standards under the CSPP.

The CSPP also includes new provisions to retain significant views from public places including Martin Place, Observatory Hill and views towards Central Station Clock Tower. The site would be affected by a proposed view corridor from Martin Place which may impact on the maximum building height achievable under the proposed controls. The view corridor is intended to protect a low-angled view of the sky from the eastern end of Martin Place (near Macquarie Street). The Department considers that detailed design under the Stage 2 DA would need have regard to the proposed view corridor.

Sydney Development Control Plan 2012

In accordance with Clause 11 of the SRD SEPP, DCPs do not apply to State significant development. Notwithstanding, the objectives of relevant plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment in accordance with the SEARs and are considered below.

Consideration of the key relevant clauses Sydney Development Control Plan 2012 (SDCP 2012) are addressed in **Table 7** below.

Table 7 | Department's consideration of the Sydney Development Control Plan 2012

Criteria	Departments Consideration	Compliance
Clause 3.1.5 Public art	As discussed in Section 6, the EIS included a preliminary public art strategy which: - identifies opportunities for the provision of Public Art within the public domain areas to be delivered by the future development of the site - ensures that public art is considered at the early stages of the development and forms an integrated and cohesive part of the development - combines the delivery of public art and public domain within the site as part of future detailed applications - creates opportunities for the recognition of past uses and heritage within the Precinct as part of future public art Conditions are recommended requiring a detailed public art plan to be submitted as part of the Stage 2 DA, including public art concepts, a statement detailing the rationale behind the artwork, as well as a program for documentation and integration of public art into the construction of the proposed development.	Yes
Clause 3.2.1.1 Sunlight to publicly accessible spaces	As addressed in Section 6 , the proposed building envelopes would facilitate a built form which would not result in additional overshadowing of publicly accessible open space.	Yes
Clause 3.2.1.2 Public views	As addressed in Section 6 , the proposal will have acceptable view impacts.	Yes
Clause 3.2.6 Wind effects	As addressed in Section 6 , the conditions are recommended requiring the detailed design to be subject to wind tunnel testing and any recommendations incorporated into the competitive design process brief and the Stage 2 DA	Yes
Clause 3.3 Design excellence and competitive design processes	As addressed in Section 6 , the Department is satisfied that the design excellence process proposed within the Design Excellence Strategy, together with the guidance from the SDRP, GA NSW and Council will ensure a building design which achieves design excellence.	Yes

The Department has also recommended a number conditions to ensure the Stage 2 DA provides a high quality design and built form that achieves design excellence.

Clause 3.9.1 Heritage impact statements	As addressed in Section 6 , the Department considers the potential heritage impacts associated with the building envelopes of the proposal acceptable. Conditions are also recommended requiring the podium design maintain the existing brick facades of 301 and 305 Kent Street. If this is not possible, an interpretative design of the Kent Street podium façade using robust brickworks must be provided	Yes
Clause 3.9.3 Archaeological assessments	As addressed in Section 6 , archaeological impacts from the proposal are able to be appropriately mitigated and managed.	Yes
clause 5.1.1 Street frontage heights (1) The street frontage height of a new building must be between 20 m and 45 m above the site ground level with the specific height set with regard to: (a) the predominant street frontage height of adjacent buildings and buildings in the vicinity; (b) the location of the site in the street block, for example, corner sites can include special design emphasis, such as increased street frontage height of one or two storeys; and (c) the size of the site, for example small sites, less than 1,000 m² may attain a street frontage height of 45 m regardless of the above criteria	The building envelope provides a street frontage height to Kent Street of RL 36.2 m (generally 20 m above street level) and RL 56.2 m in Erskine Street (generally 40 m above street level). The street frontage height has been designed to align with the existing street frontage height of adjoining properties.	Yes
clause 5.1.2.1 Front setbacks (1) Buildings must be set back a minimum weighted average of 8 m above the required street frontage height. This setback may be reduced in part by up to 2 m provided that the weighted average setback from the street frontage alignment is 8 m as shown in Figures	The proposed building envelope provides a setback of 6 m above the street frontage height to Kent Street and a setback of 8 m above street frontage height to Erskine Street.	Yes

5.4 to 5.6. No part of the building is to be setback less than 6 m.

(2) The weighted average setback may be reduced on secondary or minor pedestrian streets, provided that an average weighted setback of at least 8 m is maintained on north-south streets or major pedestrian streets.

Clause 5.1.2.2 side and rear setbacks

For the purpose of this Section, commercial buildings means all non-residential buildings, including hotels and principal window or balcony means the main window or balcony of a living room and main bedroom of a dwelling unit.

(1) Above a height of 45 m, windows or balconies of commercial buildings are to be set back at least 3 m from side and rear property boundary.

(2) Separate principal windows and balconies of residential buildings and serviced apartments from windows or balconies of commercial buildings by at least 9 m. This separation is to be achieved by a setback from the side property boundary of at least:

(a) 6 m for residential buildings, serviced apartments or hotels; and

(b) 3 m for a commercial building.

(3) In new commercial buildings, windows at the same level as the principal living room windows or balconies of adjacent residential buildings, or above a height of 45 m are to be set back from side and rear boundaries by at least 3 m. Walls without windows do not need to be set back.

Side and rear setbacks are generally in accordance with the SDCP 2012, except for the tower element which is addressed in **Section 6**.

No, further discussion provided in **Section 6**.

Appendix D – Recommended Instrument of Consent

The recommended conditions of consent for can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/11386>