

## Place, Design and Public Spaces

IRF/2679

### Gateway determination report

<b>LGA</b>	Sydney
<b>PPA</b>	City of Sydney Council
<b>NAME</b>	The planning proposal seeks to amend Clause 6.25 'APDG Block' of Sydney Local Environmental Plan 2012 as follows: <ul style="list-style-type: none"> <li>include development block 5 (55 Pitt Street) as an alternative option to development block 1;</li> <li>allow a maximum building height of 232m to no more than 44% of the area of block 5;</li> <li>development within block 5 must be non-residential uses only;</li> <li>increase the maximum FSR to 15.02:1, not including design excellence bonuses;</li> <li>include the adjoining Telstra and Ausgrid sites for the purpose of calculating GFA of block 5; and</li> <li>only additional floor space can be awarded where development demonstrates design excellence.</li> </ul>
<b>NUMBER</b>	PP_2020_SYDNE_003_00
<b>LEP TO BE AMENDED</b>	Sydney Local Environmental Plan 2012
<b>ADDRESS</b>	55 Pitt Street, Sydney
<b>DESCRIPTION</b>	Lot 1 DP 513109, Lots 2-3 DP 1112308, Lot 6 DP 75338, Lot 7 DP 110046, Lot 4 DP 524306, Lot 501 DP 714847 (Mirvac Site), Lot 1 DP 787946 (Telstra Site), Lots A and B DP 104160 (Ausgrid), Queens Court (City of Sydney).
<b>RECEIVED</b>	22/05/2020
<b>FILE NO.</b>	IRF20/2679
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to amend Clause 6.25 'APDG Block' of Sydney Local Environmental Plan 2012 (Sydney LEP 2012) as follows:

- include development block 5 (55 Pitt Street) as an alternative option to development block 1;

- allow a maximum building height of 232m to no more than 44% of the area of block 5;
- development within block 5 must be non-residential uses only;
- increase the maximum achievable FSR to 15.02:1, not including design excellence bonuses;
- include the adjoining Telstra and Ausgrid sites for the purpose of calculating GFA of block 5; and
- only additional floor space can be awarded where development demonstrates design excellence.

The proposed amendments are only available for the new block 5 within the APDG precinct, and are not available for development on block 1. Development is currently under construction on block 4, meaning the original APDG controls for block 1 are unable to be realised. This is discussed in detail in Section 1.3 of this report.

The planning proposal will facilitate a 50 storey commercial tower, with ground floor retail and active uses opening to new public domain, pedestrian colonnade and through-site link. The development will facilitate approximately 70,950m<sup>2</sup> of gross floor area. In addition, the proposed development concept will include upgrades and improvements to the adjacent utility buildings, occupied by Telstra and Ausgrid.

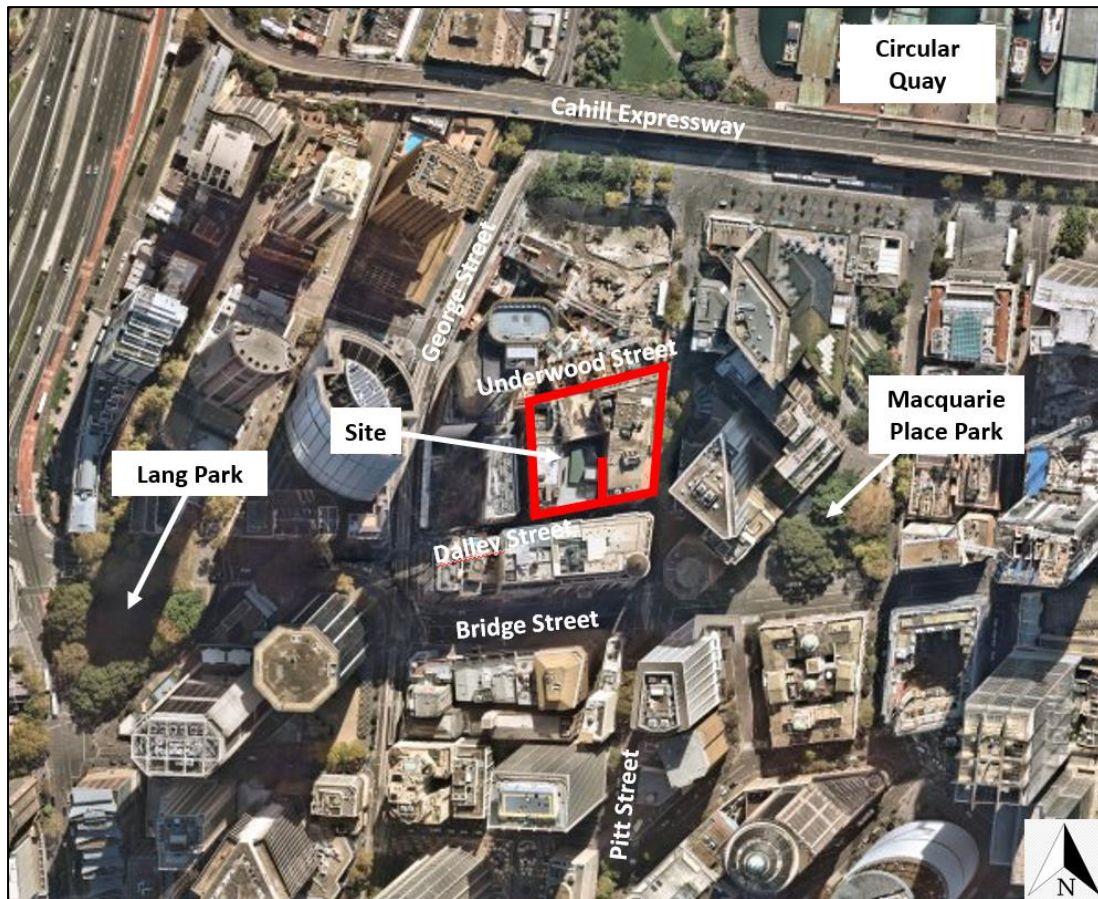
The concept development consists of three levels of basement car parking, off-street loading dock and end-of-trip facilities.

The proposed development will facilitate approximately 900 jobs during construction, and approximately additional 4,000 jobs during operation.

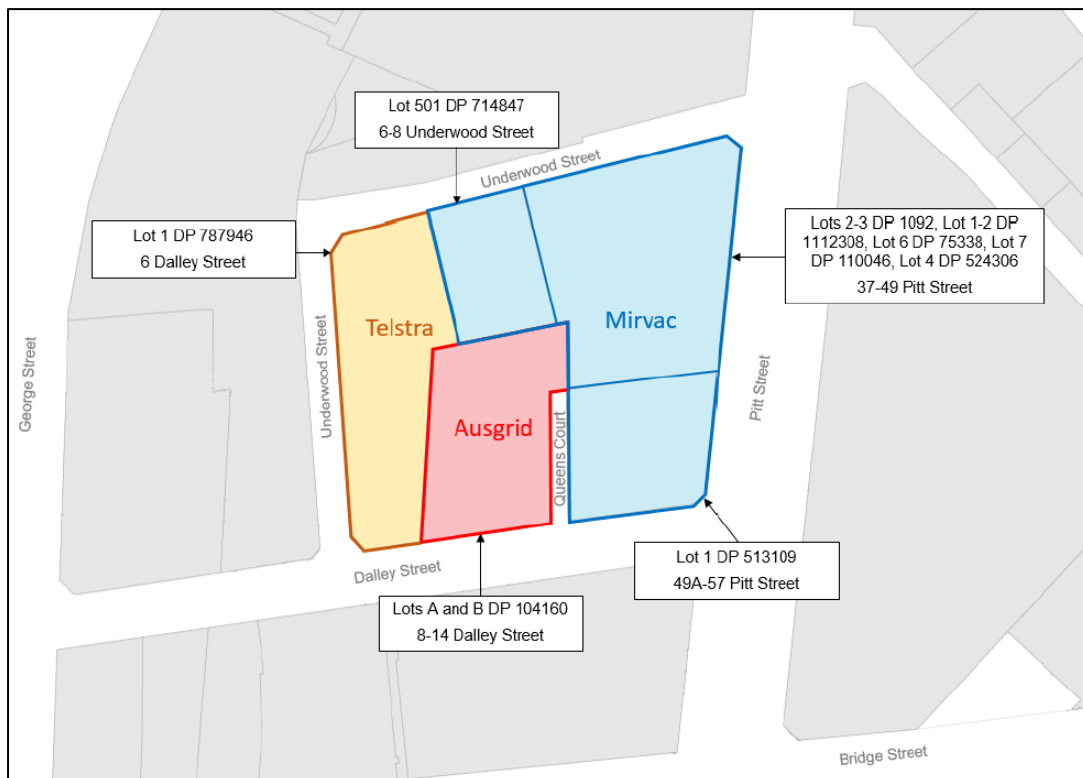
## 1.2 Site description

The site is located at 55 Pitt Street, Sydney, in the northern part of the Sydney CBD (**Figure 1**). The site forms part of the APDG block, which is a street block bound by Alfred, Pitt, Dalley and George Street.

The site is an irregular shape with a total area of approximately 4,295m<sup>2</sup> and is legally known as Lot 1 DP 513109, Lots 2-3 DP 1112308, Lot 6 DP 75338, Lot 7 DP 110046, Lot 4 DP 524306, Lot 501 DP 714847 (Mirvac Site), Lot 1 DP 787946 (Telstra Site), Lots A and B DP 104160 (Ausgrid), Queens Court (City of Sydney). (**Figure 2**). The site has four street frontages, being Pitt Street to the east, Dalley Street to the south, and Underwood Street to the west and north. Queens Court is a laneway being 24m in length, that adjoins Dalley Street and runs north and south through the site.



**Figure 1:** Site location (shown in red) (Source: Nearmap)



**Figure 2:** Site ownership (Source: Council's Planning Proposal)

Existing development consists of a 9-storey commercial office building is located at the intersection of Pitt and Dalley Street, a 10-storey commercial office building is located at the intersection of Pitt and Underwood Street, and a 10-storey masonry office building faces north towards Underwood Street.

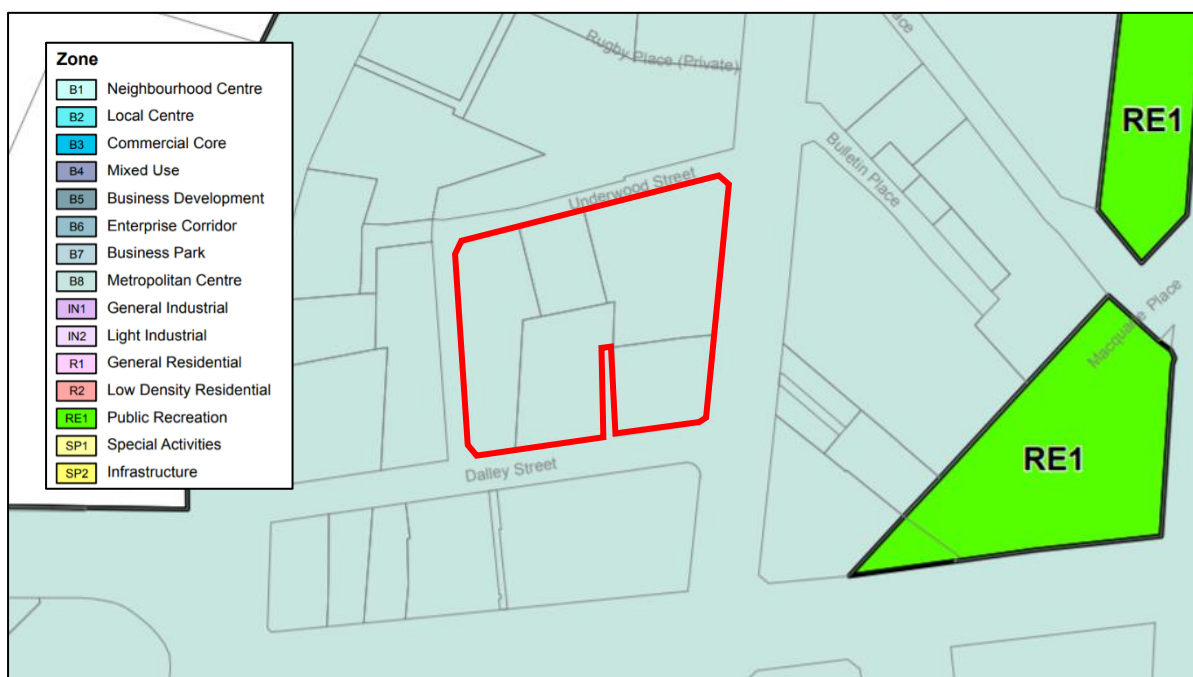
The site can be accessed from all frontages and Queens Court, and has a slight slope from the south western corner towards the north eastern corner.

### 1.3 Existing planning controls

The site is subject to the following development controls under Sydney LEP 2012:

#### Zoning

The subject site is zoned B8 Metropolitan Centre (**Figure 3**) which permits commercial premises, community facilities, food and drink premises, residential accommodation and tourist and visitor accommodation.



**Figure 3:** Existing Land Zoning Map (site shown in red) (Source: Sydney LEP 2012)

#### Building Height

The site has a maximum building height of 110m (**Figure 4**) and is subject to sun access protection controls.





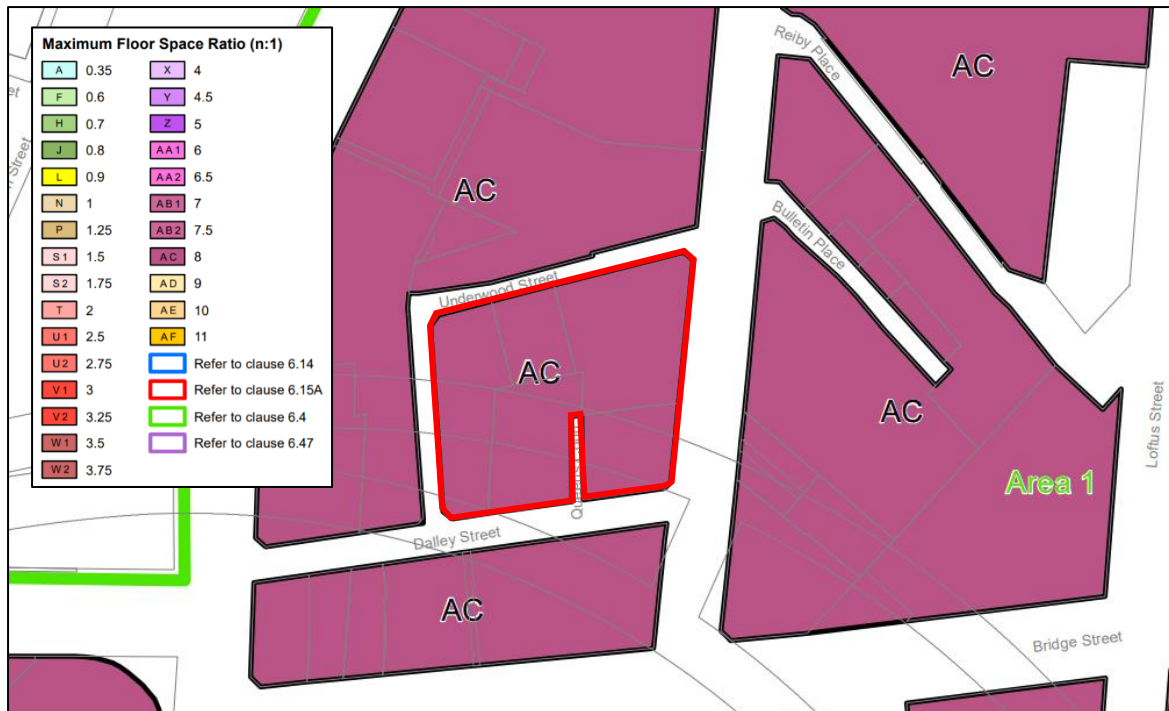
**Figure 4:** Existing Height of Buildings Map (site shown in red) (Source: Sydney LEP 2012)

### Floor Space Ratio

The site has a maximum floor space ratio of 8:1 (**Figure 5**). In accordance with clause 6.4 of the Sydney LEP 2012, accommodation floor space provisions allows additional FSR of up to 4.5:1, subject to design excellence and purchase of heritage floor space. Under clause 6.21(7), an additional 10% floor space may be awarded if the development demonstrates design excellence.

In total, an FSR of 13.75:1 can potentially be achieved for a commercial development.

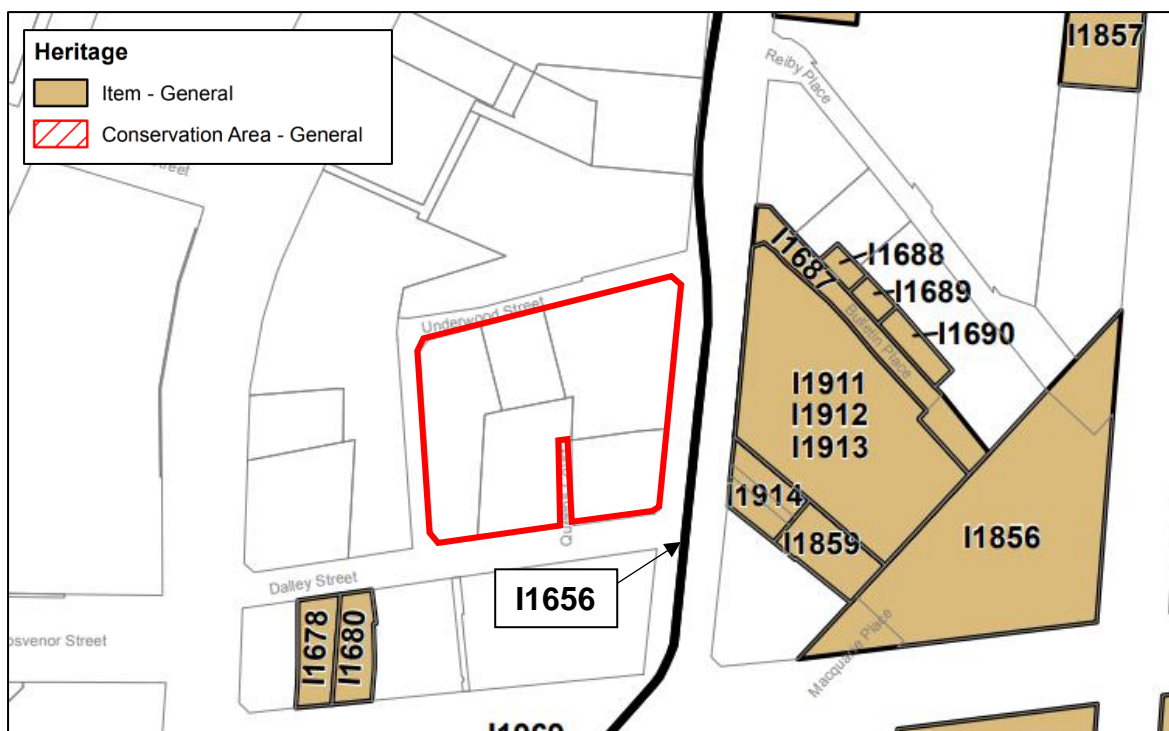
The site is also located in a tower cluster area as identified in the Central Sydney Planning Proposal, and could be eligible for a new design excellence bonus pathway for up to 50 per cent more floor space, subject to satisfying several criteria. The Central Sydney Planning Proposal is discussed in section 4.2 of this report.



**Figure 5:** Existing Floor Space Ratio Map (site shown in red) (Source: Sydney LEP 2012)

### Heritage

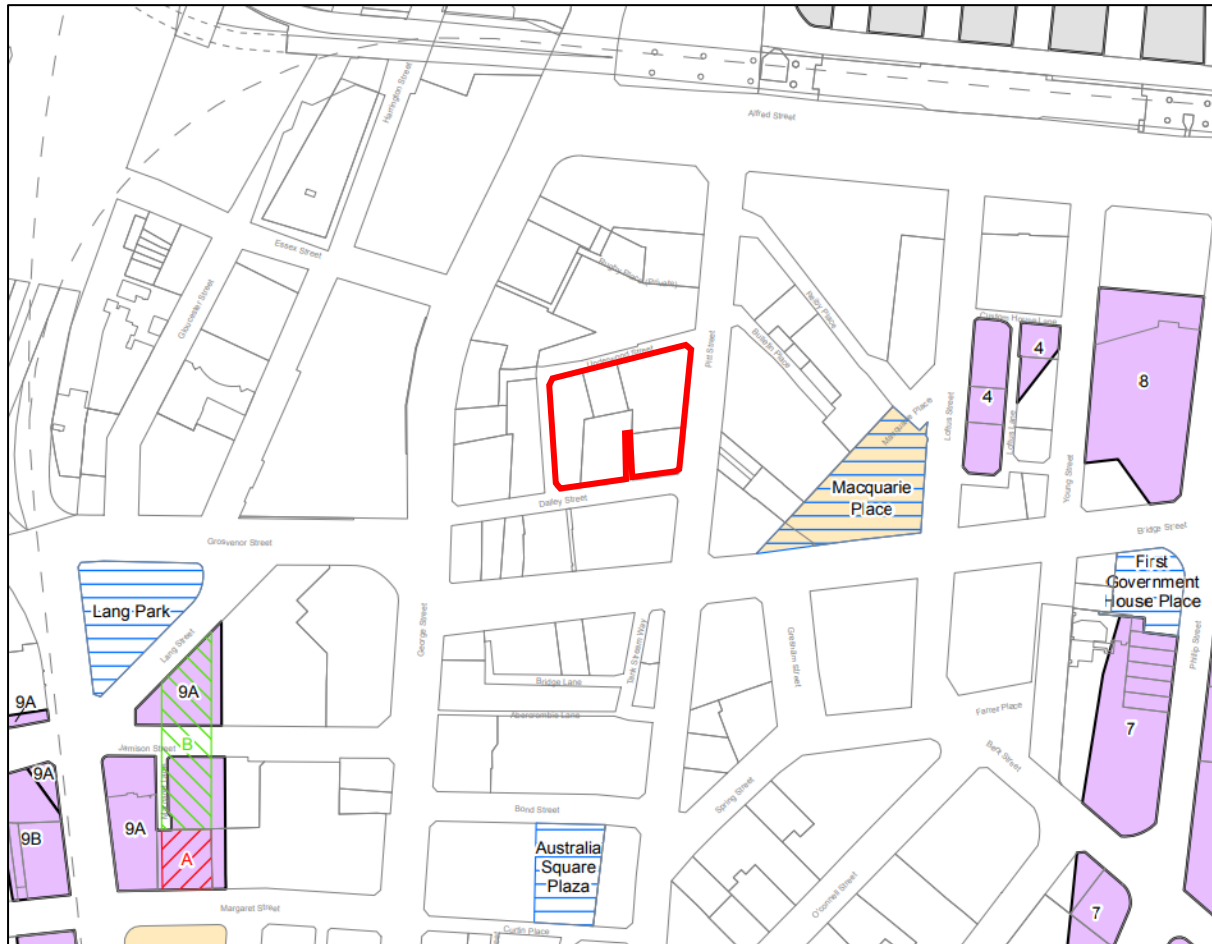
There are no heritage items located on the site, nor is the site within a Heritage Conservation Area (HCA). However, the Tank Stream, which is listed on the State Heritage Register, is located adjacent to the site. The Tank Stream is shown as I1656 on **Figure 6**.



**Figure 6:** Heritage Map (site shown in red) (Source: Sydney LEP 2012)

### Sun Access Protection

Clause 6.19 of the Sydney LEP 2012 – Overshadowing of certain public places applies to the site, which states development consent must not be granted to development that results in any part of a building causing additional overshadowing to public places within Sydney. This includes Lang Park, Australia Square and Macquarie Park, which are all within proximity to the site (**Figure 7**).



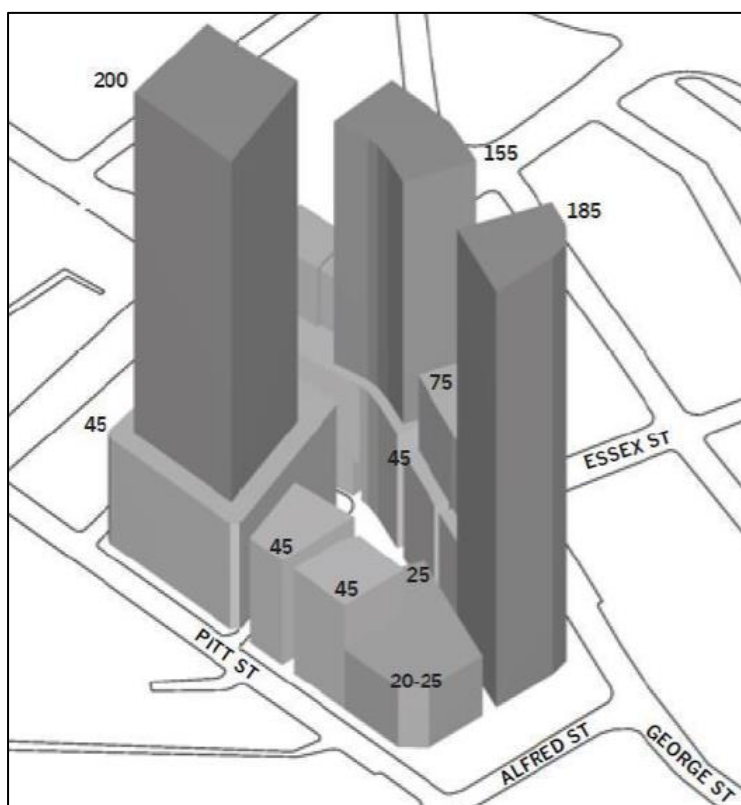
**Figure 7:** Sun Access Protection Map (site shown in red) (Source: Sydney LEP 2012)

### APDG Controls

The APDG block is located south of the western edge of Circular Quay, bounded by George Street, Dalley Street, Pitt Street and Alfred Street. The precinct is currently undergoing a transition from mid-scale commercial buildings to a mixture of uses, with several large commercial, residential and hotel buildings under construction.

An urban design study was commissioned by the City of Sydney Council in 2009, and was undertaken by the NSW Government Architects Office. The study envisaged a 200m tower for the site, located within the centre of the block covering Queens Court (**Figure 8**).

Council have stated that land ownership across the APDG Block has changed significantly since 2009 making it difficult to achieve intended built form and public domain outcomes for Block 1, as defined in the initial APDG controls. The planning proposal for 33 Pitt Street, which is located north of the site, created a new block known as 'Block 4' and included a commercial tower with a building height of 248m. **Figure 9** illustrates the various development blocks within the APDG precinct.



**Figure 8:** APDG Tower Envelopes 2009



**Figure 9:** APDG Precinct and development blocks (Source: Council's Planning Proposal)



## 1.4 Surrounding area

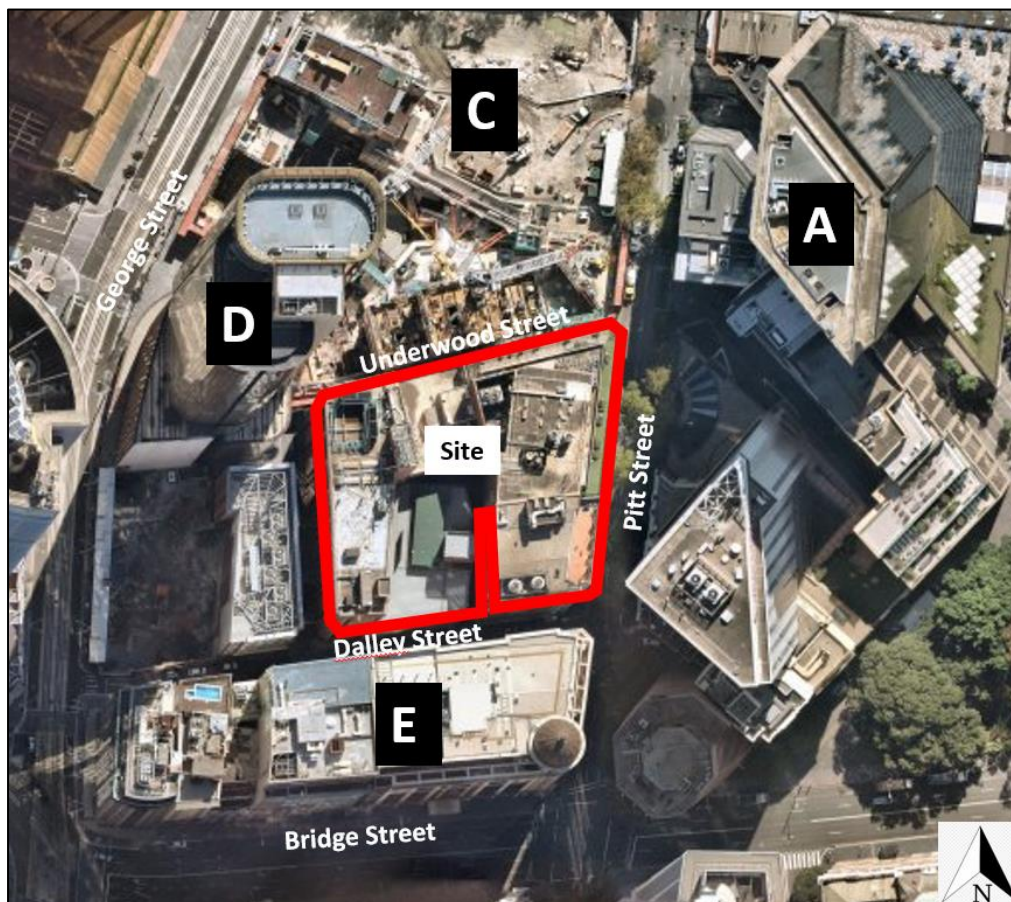
The site is located in the northern part of the Sydney CBD, bounded by Pitt, Dalley and Underwood Streets. The site is located within close proximity to Circular Quay and the Rocks precinct, which is located north of the site.

To the north east of the site, is the Gateway Building which contains commercial and retail uses (shown as 'A' on **Figure 10**). The Marriott Hotel is on the eastern side of Pitt Street, which includes retail uses in the heritage warehouse buildings (shown as 'B' on **Figure 10**).

To the north of the site, are several developments which are under construction. This includes the Circular Quay Tower by Lend Lease at 174-182 George Street and 33-35 Pitt Street, which includes mixed-use hotel, residential and retail development fronting Alfred Street, and a new commercial building with a height of RL 265m, ground floor retail fronting the future pedestrian laneway network and a new public square fronting George Street (shown as 'C' on **Figure 10**).

To the west of the site, is 200 George Street which a commercial tower and includes ground floor retail fronting the future pedestrian laneway network, a through-site link and associated utility building (shown as 'D' on **Figure 10**). 200 George Street forms part of the APDG block. The Poly Centre, located at 210-220 George Street, is also under construction to the west of the site.

To the south of the site, is the Australian Stock Exchange building which has frontages to Bridge, Pitt and Dalley Streets (shown as 'E' on **Figure 10**).



**Figure 10:** Surrounding Area (Source: Nearmap)

The site is not located within a heritage conservation area, and there are no heritage items located on the site.

The nearest public open space is Macquarie Place Park, which is located less than 100m to the east of the site.

### Transport and Access

The site is located approximately 250m from Circular Quay Station, 450m from Wynyard Station and 700m from Martin Place Station which provides connections to the other parts of the Sydney CBD, Sydney Airport, and the greater Sydney rail network. The site is located within proximity to bus stops and light rail stops which provide further connections to other parts of the Sydney CBD, eastern suburbs, as well as access to shops and entertainment precincts such as Moore Park and Pyrmont.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The intended outcomes of the planning proposal are to:

- provide an alternative development option in the LEP to deliver appropriate distribution of built form and floor space in context with the wider APDG block;
- identify 55 Pitt Street as a site where additional building height may be achieved if the development delivers certain public benefits, including street activation, public domain improvements, through-site link and upgrades to the retained buildings; and
- deliver additional employment generating floor space in Central Sydney.

### **2.2 Explanation of provisions**

The planning proposal seeks to amend Clause 6.25 'APDG Block' of Sydney Local Environmental Plan 2012 (Sydney LEP 2012) as follows:

- include development block 5 (55 Pitt Street) as an alternative option to development block 1;
- allow a maximum building height of 232m to no more than 44% of the area of block 5;
- development within block 5 must be non-residential uses only;
- increase the maximum achievable FSR to 15.02:1, not including design excellence bonuses;
- include the adjoining Telstra and Ausgrid sites for the purpose of calculating GFA of block 5; and
- only additional floor space can be awarded where development demonstrates design excellence.

The planning proposal will create a new block within the APDG precinct, known as Block 5 (**Figure 9**) and described by the relevant Lot and DP numbers as follows:

Block 5 will be described by the relevant lot and DP numbers as follows:

- Mirvac
  - Lot 1 DP 513109 (49A-57 Pitt Street)
  - Lots 2-3 DP 1092, Lots 1-2 DP 1112308, Lot 6 DP 75338, Lot 7 DP 110046, Lot 4 DP 524306, (37-49 Pitt Street)
  - Lot 501 DP 714847 (6-8 Underwood Street).
- Telstra
  - Lot DP 787946 (6 Dalley Street).
- Ausgrid
  - Lots A and B DP 104160 (8-14 Dalley Street).

A new provision will be inserted into clause 6.25(4) of the LEP, advising that consent can only be granted to future development on block 5 if improvement works are delivered to the Telstra and Ausgrid sites.

#### Non-residential uses

To deliver future additional floor space for employment uses within the APDG block, only non-residential uses will be permitted on block 5 under clause 6.25 of the LEP.

A provision is proposed to ensure the alternative height and floor space controls may only be used on block 5 for commercial development, excluding serviced apartment uses.

#### Floor Space Ratio

The site is eligible for floor space ratio of 12.5:1, comprising mapped FSR of 8:1 and accommodation floor space of up to 4.5:1. This planning proposal provides for additional site-specific floor space of 2.52:1, which will permit a maximum floor space ratio for the site of up to 15.02:1 and up to 16.52:1 should the building exhibit design excellence. Site-specific provisions ensure heritage floor space is applicable to any future development onsite in accordance with the existing provisions of clause 6.11 of the LEP. There is no change to the application of heritage floor space to accommodation floor space. Heritage floor space will not be applied to the site-specific floor space of 2.52:1.

#### Gross Floor Area

The concept design delivers approximately 70,000m<sup>2</sup> of commercial office floor space and retail floor space. For the purpose of calculating the gross floor area for future development on block 5, the calculation is to include both the Telstra and Ausgrid sites with the gross floor area transferred to the future tower on the adjoining Mirvac-owned development sites.

Mirvac have secured arrangements with Ausgrid and Telstra to transfer the unused floor space from Telstra and Ausgrid sites, have therefore acquired the development rights to the whole block.

The Telstra and Ausgrid sites are to be included in the site area despite clause 4.5(6) of the LEP. As the utility function is expected to remain there may not be significant works carried out as part of a future development application for the block and as such a new provision will be inserted advising that clause 4.5(6) is not applicable to the redevelopment of block 5.

A new provision will be inserted into clause 6.25(4) of the LEP, advising that consent can only be granted to future development on block 5 if improvement works are delivered to the Telstra and Ausgrid sites.

Works to the Ausgrid substation includes upgrades to the roof, all visible facades and new public art fronting the future through-site link. It is noted that a blast wall is likely to be required along the boundary of the through-site link and as such, the public art will be part of that wall, and not affixed to the Ausgrid building.

The proposed works to the Telstra exchange building includes new façade treatments, relocation of the existing driveway to allow for new retail spaces and upgrades to the colonnade, redesigned as part of the design excellence process.

An amount of floor space is to be retained for the future operation of the Telstra and Ausgrid utility buildings. It is proposed to insert a clause in the LEP requiring a minimum 100 square metres of gross floor area is to be retained on each of these sites.

### Design Excellence

Future development on site will be subject to an architectural design competition consistent with the requirements of clause 6.21 of the LEP.

Clause 6.21(7) of the LEP provides for up to 10% additional floor space should a competition take place and design excellence is exhibited. The additional floor space can be accommodated within the 232m building envelope and as such a new provision is included to ensure additional floor space is taken up rather than additional height.

### Draft site-specific Sydney Development Control Plan 2012 (Sydney DCP 2012)

Council states the draft DCP accompanying the planning proposal will facilitate the following:

- a commercial office tower with a maximum height of 232 metres including podium to provide definition to and activation of the public domain;
- delivery of public domain improvements in the form of a new pedestrian colonnade and north-south connection through the site linking to the network of laneways and through-site links;
- protection of public domain amenity by ensuring future development will not result in adverse wind and daylight impacts;
- significant upgrades to the adjacent Ausgrid and Telstra utility buildings to improve their aesthetics and deliver new retail activation opportunities; and
- ensure development meets 6 star Green Star rating, 5.5 star Base Building NABERS Energy rating and 4 star NABERS water score.

### **2.3 Mapping**

The planning proposal does not propose any mapping amendments to the Sydney LEP 2012.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is not a result of any strategic study or report. The planning proposal has been initiated by the landowner and is informed by an urban design



study, design excellence strategy, preliminary contamination review, heritage assessment and impact statement, traffic and transport assessment, wind impact assessment, geotechnical desk study, preliminary flood and WSUD study, ecological sustainable development strategy, and pedestrian activity and comfort assessment.

A planning proposal is one mechanism to increase the development standards on the site to facilitate a new commercial tower as the current development standards under Sydney LEP 2012 do not enable the proposed development. A planning proposal will also facilitate the desired outcomes for the ADPG precinct envisaged by previous amendments and studies.

## 4. STRATEGIC ASSESSMENT

### 4.1 Regional / District

#### Eastern City District Plan

The Eastern City District Plan, released in March 2018, identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth. This planning proposal is consistent with the key planning priorities in the District Plan as demonstrated in **Table 1**.

**Table 1:** Consistency with Eastern City District Plan

Consistency with Eastern City District Plan	
Priority	Comment
Planning priority E1: Planning for a city supported by infrastructure	The Department considers the proposal to be consistent with this priority as it will provide new commercial floor space within close proximity to current and planned transport infrastructure, which provides connections to greater Sydney.
Planning priority E7: Growing a stronger and more competitive Harbour CBD;	The Department considers the proposal to be consistent with this priority as it will provide new commercial floor space within Central Sydney within close proximity to public transport.
Planning priority E10: Delivering integrated land use and transport planning for a 30 minute city	The Department considers the proposal to be consistent with this priority as it provides employment opportunity within close proximity to current and planned transport infrastructure, which provides connections to greater Sydney.
Planning priority E11: Growing investment, business opportunities and jobs in strategic centres	The Department considers the proposal to be consistent with this priority as it will provide new commercial floor space within Central Sydney, contributing to the state's economy.
Planning priority E13: Supporting growth of targeted industry sectors;	The Department considers the proposal to be consistent with this priority as it will provide commercial floor space for a variety of industry sectors, including retail.
Planning priority E19: Reducing carbon emissions and managing energy water and waste efficiently.	The Department considers the proposal to be consistent with this priority as the site-specific DCP provides ecological sustainable development targets.

## 4.2 Local

### Sustainable Sydney 2030

Council's Sustainable Sydney 2030 Community Strategic Plan is the vision for the sustainable development of the City of Sydney to 2030 and beyond. It includes 10 strategic directions to guide the future of the City and 10 targets against which to measure progress. This planning proposal is consistent with key directions of the strategic plan as demonstrated in **Table 2**.

**Table 2:** Consistency with Sustainable Sydney 2030

Consistency with Sustainable Sydney 2030	
Direction	Comment
Direction 1 – A Globally Competitive and Innovative City	The Department considers the proposal is consistent with Direction 1, as it will support Sydney's economy, and provide new employment opportunities.
Direction 2 – A leading environmental performer	The Department considers the proposal is consistent with Direction 2, as the site-specific DCP provides ecological sustainable development measures and requirements.
Direction 3 – Integrated Transport for a Connected City	The Department considers the proposal is consistent with Direction 3, as it will leverage the location being within proximity to public transport links to the CBD, eastern suburbs and other centres across Sydney.
Direction 4 – A city for walking and cycling	The Department considers the proposal is consistent with Direction 4, as it will provide new retail activated laneways and a new through-site link.
Direction 5 – A Lively and Engaging City Centre	The Department considers the proposal is consistent with Direction 5, as it will provide new retail activated laneways, contributing to a livelier and engaging city.
Direction 6 – Vibrant Local Communities and Economies	The Department considers the proposal is consistent with Direction 6, as it facilitates new business and employment opportunities.
Direction 7 – A Cultural and Creative City	The Department considers the proposal is consistent with Direction 7, as it will provide new retail activated laneways and a new through-site link.
Direction 9 – Sustainable development, renewal and design	The Department considers the proposal is consistent with Direction 9, as it provides employment opportunities in an accessible location, and development with ecological sustainable development measures and requirements.

### Local Strategic Planning Statement

Council's Local Strategic Planning Statement (LSPS) has been assured by the Greater Sydney Commission. The Department considers that the principles of the planning proposal are generally consistent with the LSPS (**Table 3**).

**Table 3:** Consistency with Draft Local Strategic Planning Statement

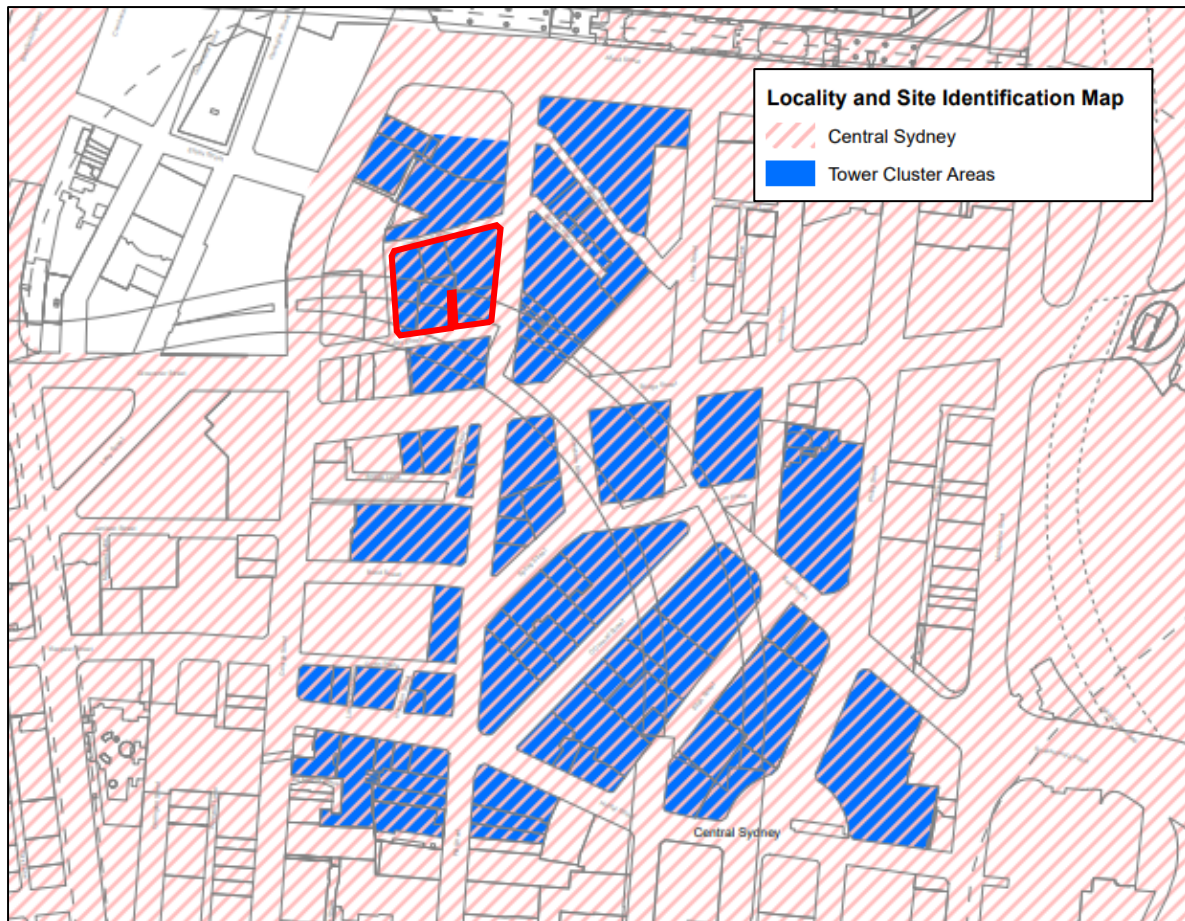
Action	Comment	Complies
<p><b>Priority I1:</b> Movement for walkable neighbourhoods and a connected city.</p> <p><b>Priority I2:</b> Align development and growth with supporting infrastructure.</p> <p><b>Priority I3:</b> Supporting community wellbeing with social infrastructure.</p> <p><b>Priority L2:</b> Creating great places.</p> <p><b>Priority P1:</b> Growing a stronger, more competitive Central Sydney.</p> <p><b>Priority S2:</b> Creating better buildings and place to reduce emissions and waste and use water efficiently.</p>	<p>The Department considers the planning proposal is consistent with the LSPS as:</p> <ul style="list-style-type: none"> <li>• it will facilitate the retention and expansion of employment floor space within Central Sydney;</li> <li>• it will provide employment opportunities in an accessible location; and</li> <li>• it will provide significant improvements to the public domain and pedestrian amenity.</li> </ul>	Yes

### Draft Central Sydney Planning Strategy

Setting out a 20-year vision for Central Sydney the strategy outlines how Central Sydney will best grow and includes aims, objectives and actions to help promote and further expand Central Sydney's role as the State and nation's economic, cultural and social engine. The Strategy's main aims is to unlock economic opportunities and investment in jobs, and support public improvements that make Sydney an attractive place for business, workers, residents and visitors.

In December 2019, the NSW Government and the City of Sydney Council agreed in-principle to a new design excellence bonus pathway for up to 50 per cent more floor space and additional height for development in four tower cluster areas where the development demonstrates design excellence and meets the intent of the draft Strategy. On 11 March 2020, Gateway determination was issued for the Central Sydney planning proposal. The planning proposal is currently on public exhibition until 10 July 2020.

The site is located within a proposed tower cluster, as shown in **Figure 11**. This planning proposal is consistent with key moves of the Central Sydney Planning Strategy as demonstrated in **Table 4**.



**Figure 11:** Locality and Site Identification Map (site shown in red) (Source: Central Sydney Planning Proposal)

**Table 4:** Consistency with Draft Central Sydney Planning Strategy

Consistency with Draft Central Sydney Planning Strategy	
Direction	Comment
Key Move 1 – Prioritise employment growth and increase capacity	The Department considers the proposal is consistent with Key Move 1, as it will increase commercial floor space within Central Sydney creating employment opportunities and growth.
Key Move 2 – Ensure development responds to context	The Department considers the proposal is consistent with Key Move 2, as the proposed development is suitable within the character of the locality, being an area dominated by commercial uses. An assessment on environmental impacts can be found in Section 5.2 of this report.
Key Move 4 – Provide employment growth in new tower clusters	The Department considers the proposal is consistent with Key Move 4, as the site is located within a tower cluster, and the proposed development will deliver commercial floor space and increase employment opportunities.
Key Move 5 – Ensure infrastructure keeps pace with growth	The Department considers the proposal is consistent with Key Move 5, as it will facilitate the delivery of new commercial floor space serviced by public transport.
Key Move 6 – Move towards a more sustainable city	The Department considers the proposal is consistent with Key Move 6, as the DCP implements sustainability measures for future development on the site.
Key Move 8 – Move people more easily	The Department considers the proposal is consistent with Key Move 8, as the site is located within proximity to public transport, including trains, light rail, ferries and buses, which connects to all parts of the Sydney transport network.



Consistency with Draft Central Sydney Planning Strategy	
Direction	Comment
Key Move 9 – Reaffirm commitment to design excellence	The Department considers the proposal is consistent with Key Move 9, as future development will be subject to a design competitive to ensure design excellence is achieved.

### 4.3 Section 9.1 Ministerial Directions

The proposal is consistent with the following applicable section 9.1 Ministerial Directions as identified in **Table 5**.

**Table 5:** Consistency with Ministerial Directions

Section 9.1 Direction	Consistent	Comment
<b>1. Employment and Resources</b>		
1.1 Business and Industrial Zones	Yes	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>• encourage employment growth in suitable locations;</li> <li>• protect employment land in business and industrial zones; and</li> <li>• support the viability of identified centres.</li> </ul> <p>The planning proposal is consistent with the objectives and requirements of this Direction as it seeks to retain the existing B8 Metropolitan zone and will provide for commercial and retail uses.</p>
<b>2. Environment and Heritage</b>		
2.3 Heritage Conservation	Yes	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal is supported by a Heritage Assessment and Impact Statement prepared by GML Heritage which found there are no physical impacts proposed to any built heritage items. Detailed assessment of the heritage impact is discussed in section 5.2.3 of this report.</p>
2.6 Remediation of Contaminated Land	Yes	<p>This direction applies when a planning proposal authority prepares a planning proposal applying to land which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital:</p> <ul style="list-style-type: none"> <li>i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</li> <li>ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</li> </ul> <p>The planning proposal authority must consider whether the land is contaminated.</p> <p>The planning proposal is accompanied by a preliminary contamination assessment, which concludes some</p>

Section 9.1 Direction	Consistent	Comment
		<p>potentially contaminating activities have occurred on the site, including fill of unknown origin, impacts from storage tanks and historical spills.</p> <p>This planning proposal does not seek to change the zoning of the land; therefore, it is consistent with the Direction. However further investigation of these potential contamination is recommended to be undertaken and future DA's will need to consider SEPP 55 – Remediation of Land.</p>
<b>3. Housing, Infrastructure and Urban Development</b>		
3.4 Integrating Land Use and Transport	Yes	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul> <p>The planning proposal is consistent with the objectives and requirements of this Direction, as it seeks to increase commercial floor space within proximity to public transport and major connections.</p>
3.5 Development Near Licensed Aerodromes	No	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to ensure the effective and safe operation of regulated airports and defence airfields;</li> <li>(b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity;</li> <li>(c) to ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</li> </ul> <p>The planning proposal seeks to increase the maximum building height to 232m within Central Sydney. The Obstacle Limitation Surface (OLS) defines the airspace surrounding an airport that must be protected from obstacles to ensure aircraft can fly safely.</p> <p>This Direction requires consultation with the lessee/operator of the regulated airport and the Commonwealth Department responsible for airports during the preparing the planning proposal. The future development concept will require approval under the <i>Airports Act 1996</i> before development concept can be granted.</p> <p>The Department recommends a condition of Gateway that the relevant agencies are consulted during public exhibition.</p>

Section 9.1 Direction	Consistent	Comment
<b>5. Regional Planning</b>		
5.1 Implementation of Regional Strategies	Yes	Refer to Section 4.1 of this report.
6.3 Site Specific Provisions	No	<p>This Direction applies as the planning proposal will allow a particular development to be carried out through a site-specific planning control. The objective of the Direction is to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The planning proposal states that the proposal will not contradict or hinder the application of this direction. However, no justification is provided in the planning proposal to address the consistency with the Direction.</p> <p>The Department recommends as a condition of Gateway for the proposal to be revised to address this Direction.</p>
<b>7 Metropolitan Planning</b>		
7.1 Implementation of a Plan for Growing Sydney	Yes	Refer to Section 4.1 of this report.

#### 4.5 State environmental planning policies (SEPPs)

The proposal is considered consistent with and is not expected to hinder the application of any relevant SEPPs, as outlined in **Table 6**.

No Regional Environmental Plans (REPs) for the Sydney and Greater Metropolitan regions, which are deemed SEPPs, apply to the planning proposal.

**Table 6:** Assessment of proposal against relevant SEPPs and deemed SEPPs

SEPP	Requirement	Proposal	Complies
SEPP (Infrastructure) 2007	This SEPP provides permissibility and development application provisions which apply across the State for each infrastructure sector.	<p>The site is above the Sydney Metro corridor which sits beneath at a depth of 24m.</p> <p>Any future development application will need to consider SEPP (Infrastructure).</p>	Yes

## 5. SITE-SPECIFIC ASSESSMENT

### 5.1 Social

#### Public Benefit Offer

The planning proposal is accompanied by a letter of offer from Mirvac, which details an offer to enter into a Voluntary Planning Agreement (VPA) which provides the following public benefits:

- monetary contribution towards the provision of affordable housing and community infrastructure;
- new through-site link delivered by widening and extending Queens Court to connect with Underwood Street;
- potential blast wall against the external wall of the Ausgrid substation fronting Queens Court through-site link;
- provision of public art in publicly accessible spaces;

- public domain upgrades including a publicly accessible three-metre-wide colonnade along Underwood Street; and
- sustainability commitments to deliver a minimum 6 star Green Star design and construct rating, a minimum 5.5 NABERS Energy rating and minimum 4 NABERS Water rating.

The Department notes the agreement has not been executed. Council anticipates for the VPA to be publicly exhibited at the same time as the planning proposal.

#### Pedestrian connections and through site link

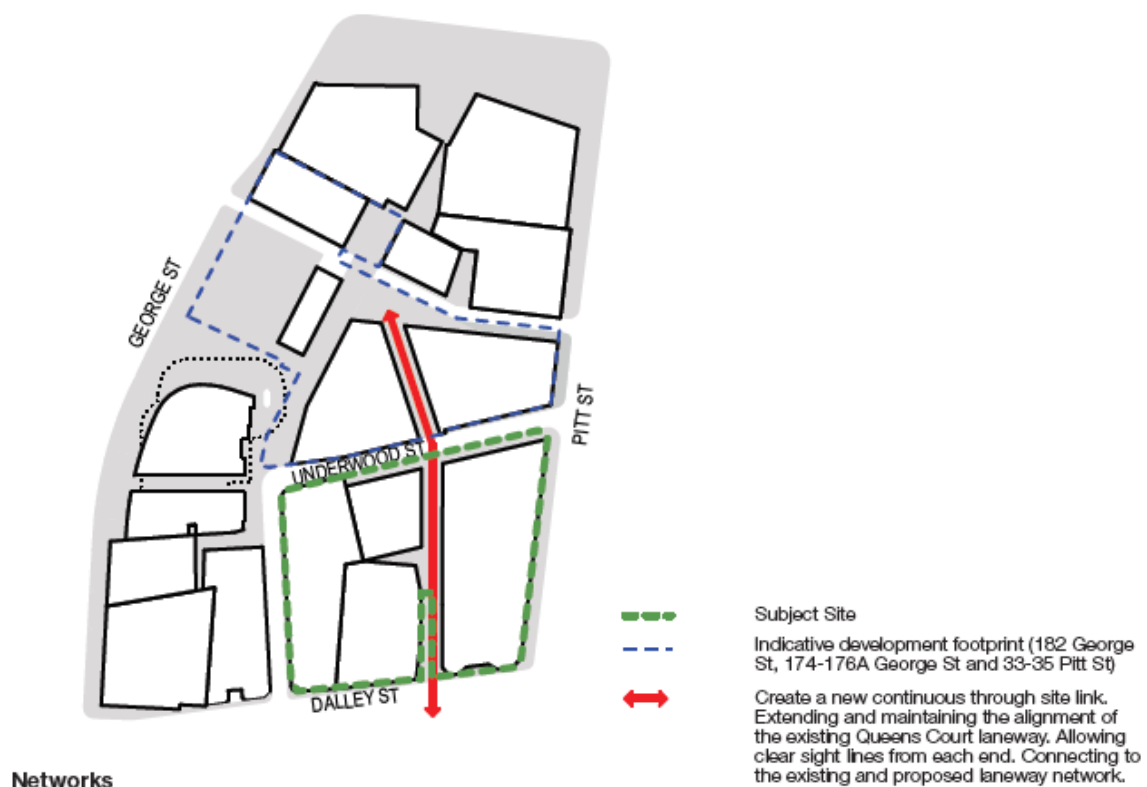
The planning proposal will deliver a new north-south through site link and new pedestrian colonnade along Underwood Street, connecting a network of laneways.

The new through site link will be located on the existing Queens Court laneway, which will be widened and extended north to Underwood Street (**Figure 12**). Council contends the planning proposal will provide a high quality public domain with a glazed awning above Queens Court, which will provide amenity for pedestrians and the outdoor dining areas.

Limited vehicle access is proposed for the through-site link for maintenance vehicles only, as this is due to the operational requirements of Ausgrid.

The through-site link, glazed awning and associated public art will be included in the Design Excellence Strategy, to ensure a good planning outcome.

The Department considers the through-site link and new public domain will provide social benefits as part of the planning proposal.



**Figure 12:** Proposed through site link



## 5.2 Environmental

There are no known critical habitats, threatened species or ecological communities on the site and therefore the likelihood of any negative impacts is minimal.

### Compatibility of Uses

The planning proposal seeks to amend clause 6.25 of the Sydney LEP 2012 to incentivise non-residential uses on the new development 'block 5' within the APDG precinct. The planning proposal seeks to facilitate development for a new commercial tower, with ground floor retail and active uses.

The planning proposal does not seek to change the zoning of the site. All proposed uses are permissible within the B8 Metropolitan zone of the Sydney LEP 2012.

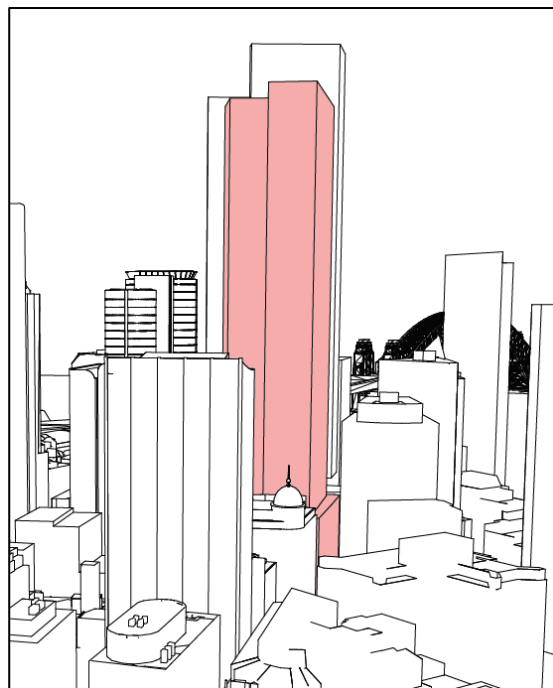
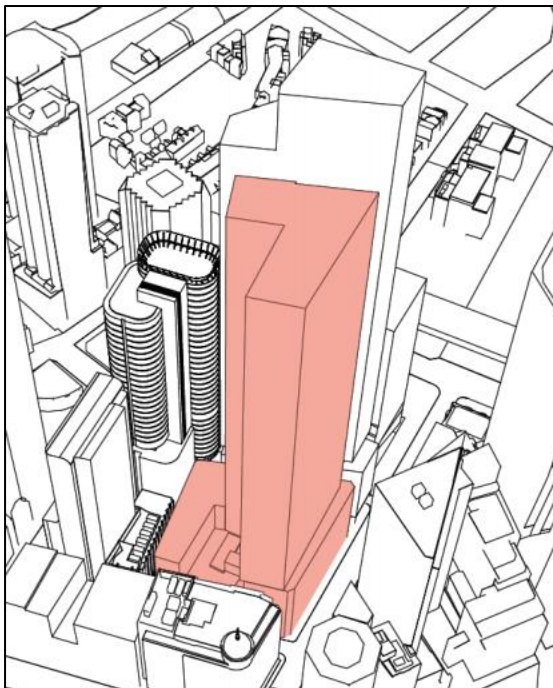
The Department considers the proposed future uses of the site to be acceptable.

### Built Form

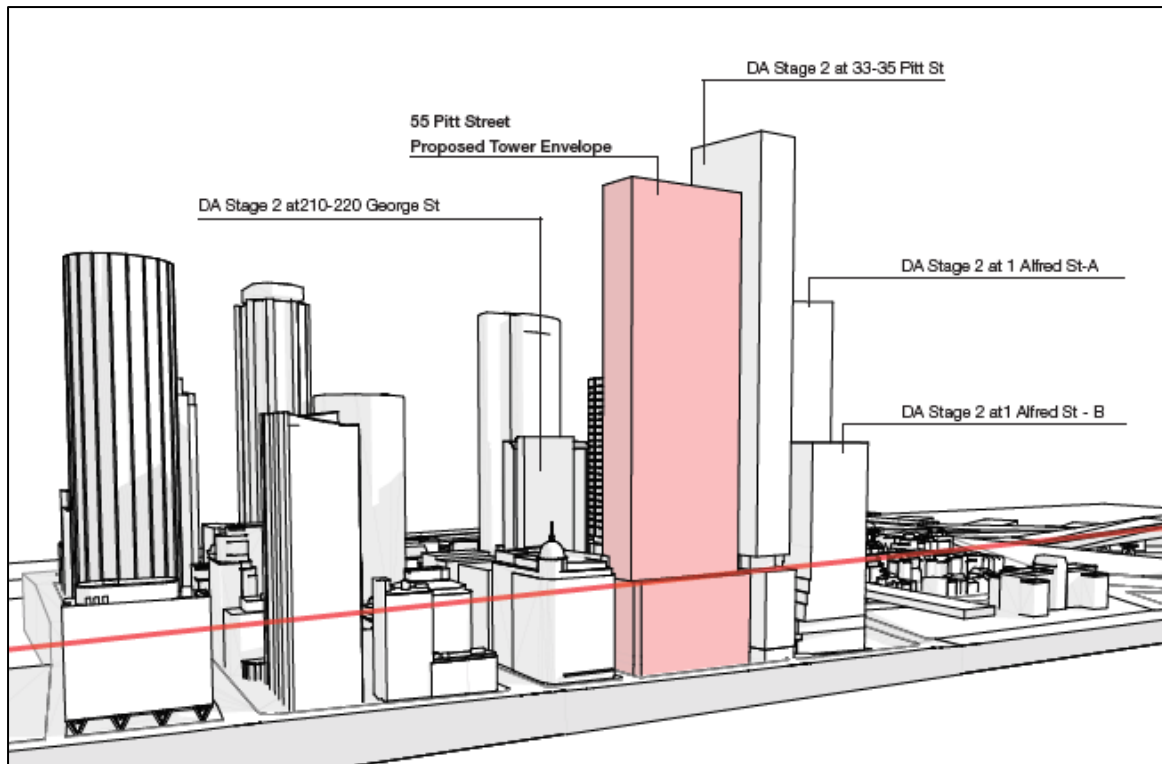
The planning proposal seeks to increase the maximum building height from 200m, as per the initial APDG controls, to 232m for no more than 44% of Block 5. The planning proposal will facilitate a new commercial office tower, accommodating 50 storeys above a 45m podium. **Figures 13 and 14** illustrate the proposed building envelope.

The proposed building envelope will have setbacks of 3m and 4m to Underwood Street, between 4m and 6m on Pitt Street and 1m to Queens Court. The minimum building separation between the proposed envelope and the adjacent tower on the northern side of Underwood Street is 8.1m. Council contends the building separation is consistent with other buildings within Central Sydney.

A commercial tower standing 263m in height is currently under construction directly north of the site at 33-35 Pitt Street, which is shown in **Figure 14**.



**Figures 13:** Proposed Building Envelope (Source: fjmt)



**Figure 14:** Proposed Building Envelope illustrating the podium level (Source: fmjt)

The podium level is also shown in **Figure 14**, which is consistent with the surrounding character and built form of the locality. The Department considers the building height to be consistent with the immediate surrounds of the site and the built form impacts acceptable.

The planning proposal seeks to increase the maximum FSR from 13.75:1 to 15.02:1. The site is also eligible of achieving design excellence, resulting in an extra 10% FSR being applied. This results in a maximum FSR of 16.52:1 being achievable on the site.

### Overshadowing

The planning proposal is accompanied by an Urban Design Study, prepared by fmjt dated February 2020 (**Attachment F1-F4**). The study provides an overshadowing and solar access analysis for the proposed building envelope. The overshadowing analysis takes into consideration the DA Stage 2 at 33-35 Pitt Street, Stage 2 Envelope A at 1 Alfred Street, and Stage 2 Envelope B at 1 Alfred Street, which are all building envelopes within the APDG precinct which have been granted development consent by Council.

Clause 6.19 of the Sydney LEP states development consent must not be granted to development that results in any part of a building causing additional overshadowing to public places at any time between 14 April and 31 August, including:

- Macquarie Place Park (between 10am and 2pm);
- Lang Park (between 12pm and 2pm); and
- Australia Square Plaza (between 12pm and 2pm).

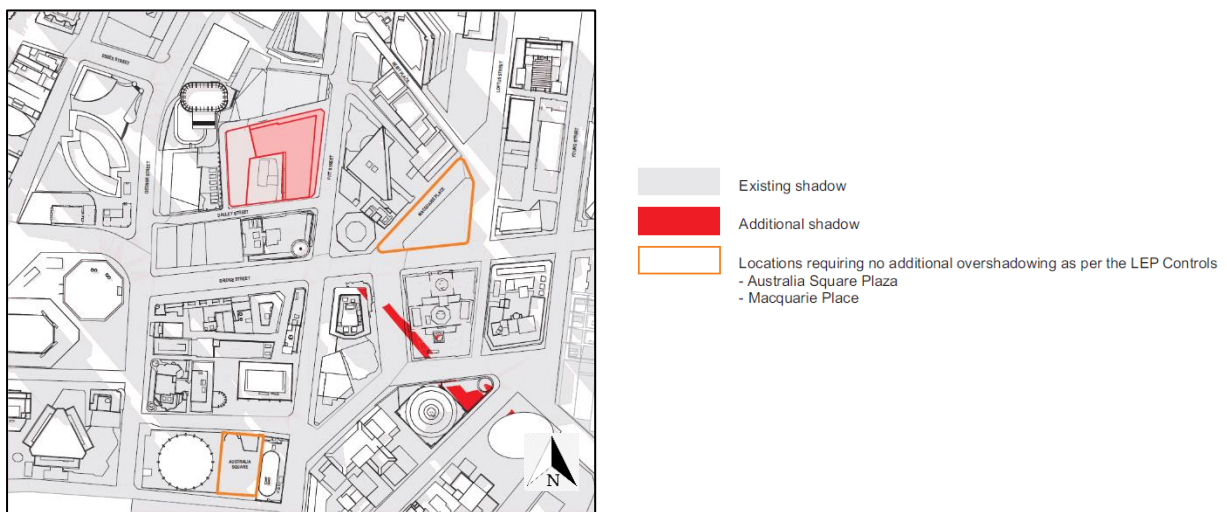
Whilst the proposed building envelope will result in additional overshadowing, the shadow diagrams illustrate that there is no additional overshadowing on Macquarie Place Park, Lang Park or Australia Square.

Given the impacts are minimal, and there is no overshadowing on Macquarie Place Park, Lang Park or Australia Square, the Department considers the overshadowing impacts to be acceptable.

**Figures 15-23** illustrate the overshadowing impacts of the proposed building envelope during the above dates and times.

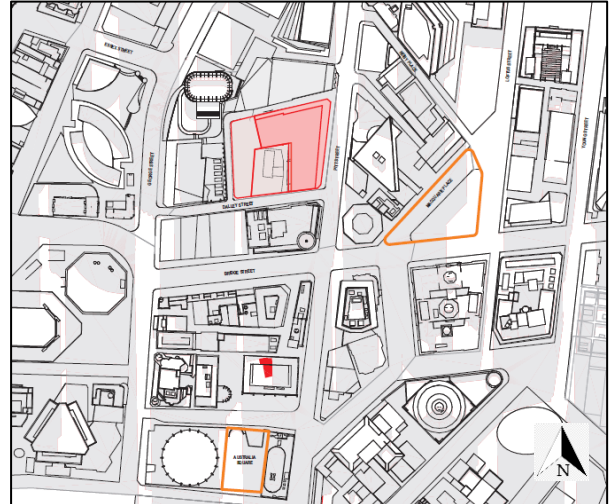
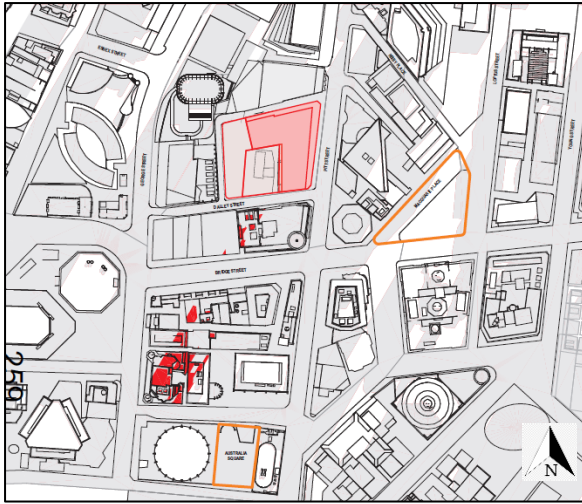


**Figures 15 and 16:** Shadow Diagrams for 14 April, 10am (left) and 12pm (right) (Source: fjmt)

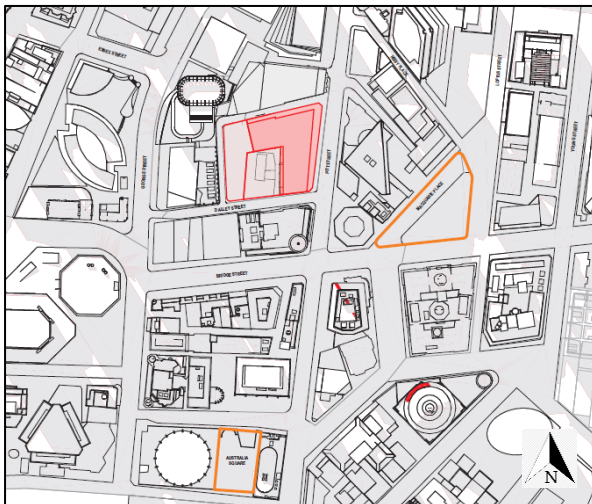


**Figure 17:** Shadow Diagram for 14 April, 2pm (Source: fjmt)



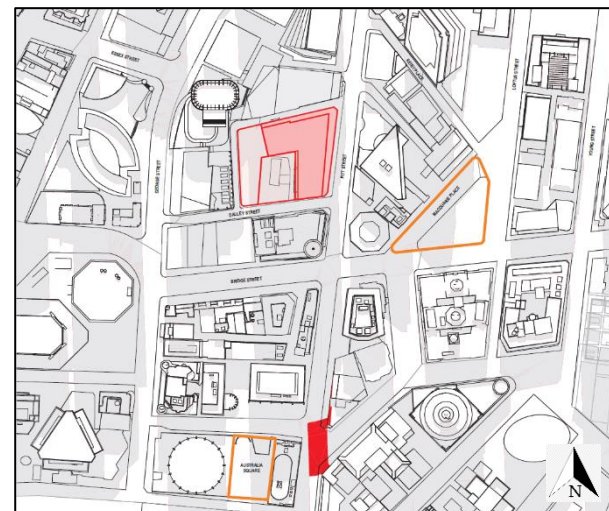


**Figures 18 and 19: Shadow Diagrams for 21 June, 10am (left) and 12pm (right) (Source: fjmt)**



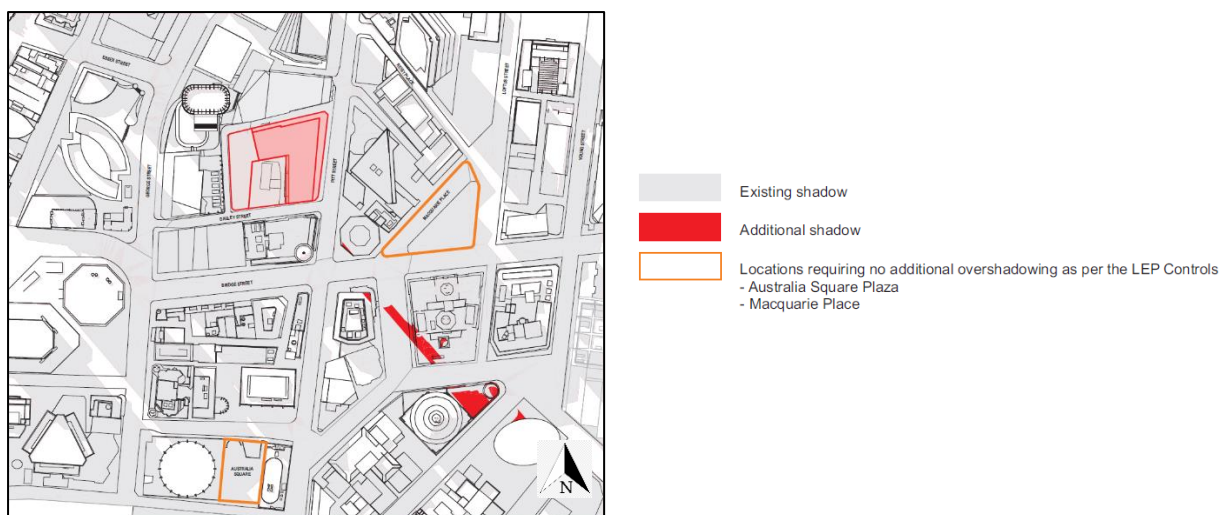
- Existing shadow
- Additional shadow
- Locations requiring no additional overshadowing as per the LEP Controls
  - Australia Square Plaza
  - Macquarie Place

**Figure 20: Shadow Diagram for 21 June, 2pm (Source: fjmt)**



**Figures 21 and 22: Shadow Diagrams for 31 August, 10am (left) and 12pm (right) (Source: fjmt)**





**Figure 23:** Shadow Diagram for 31 August, 2pm (Source: fjmt)

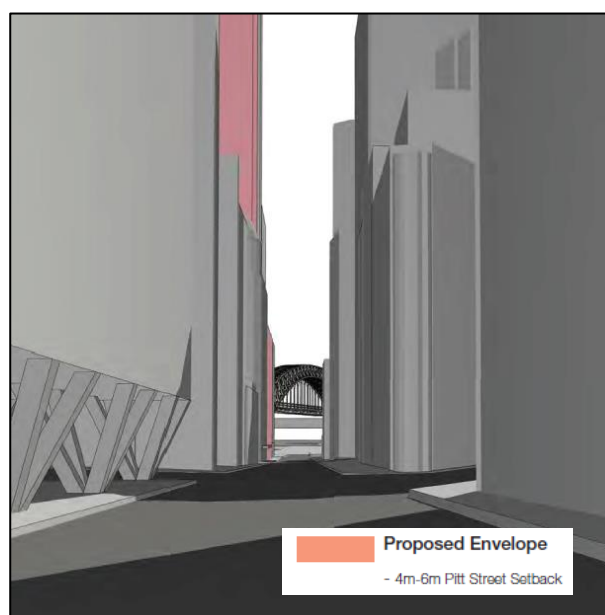
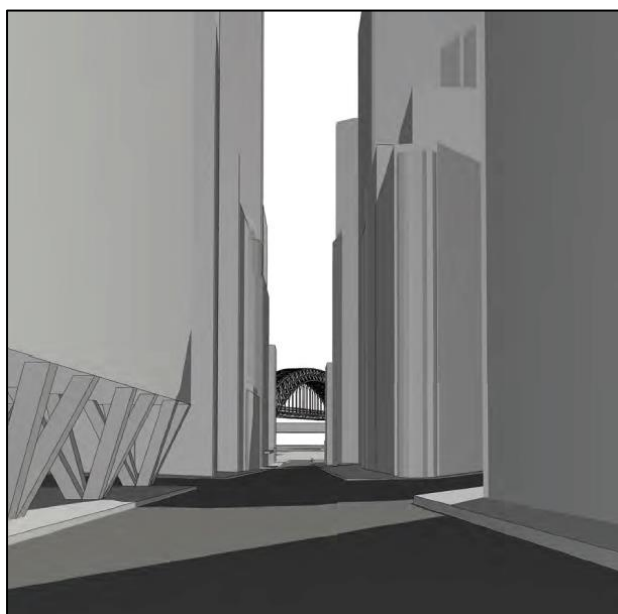
### Views

The planning proposal is accompanied by an Urban Design Study, prepared by fjmt dated February 2020 (**Attachment F1-F4**). The study contains a view analysis which examines the proposed envelope within the surrounding context.

The study contends the proposal envelope will have minimal noticeable contribution to the city skyline, provides little impact to sky views and responds to the context of the neighbouring towers.

The Department considers the view impacts of the proposed building envelope to be minimal.

**Figures 24 and 25** illustrate the view impacts of the proposed building envelope. The view position is located on Pitt Street facing north towards the Sydney Harbour Bridge.



**Figures 24 and 25:** View impacts from Pitt Street facing north towards the Sydney Harbour Bridge (Source: fjmt)

## Wind

The planning proposal is supported by a Wind Impact Assessment (WIA), prepared by Cermak Peterka Petersen dated March 2020 (**Attachment G**). The WIA provides a wind tunnel study of three tower configurations for the site, with Configuration A being the existing building, Configuration B being the CSPA base case tower envelope, and Configuration C being the proposed tower envelope with existing and approved surrounding buildings.

The WIA found the wind conditions to be generally similar across the configurations. In addition, the wind environment in locations along Pitt Street were typically classified as suitable for pedestrian walking or business walking activities. The WIA also found that locations on Dalley and Underwood Streets were much calmer with the wind conditions typically being classified for pedestrian standing type activities.

The Department notes that mitigation measure for localised areas can be developed and tested during further detailed environmental wind tunnel testing at DA stage if required, as per the WIA.

The Department considers the wind impacts to be acceptable.

## Flooding

The planning proposal is supported by a Flood Study and Options Review, prepared by Taylor Thomson Whitting dated 17 December 2019 (**Attachment H**).

The study identifies the site is located in the natural flood basin. The study notes relocating the car par entry for 6 Dalley Street from the east-west section of Underwood Street to the north-south section of the street has a significance impact from a flooding perspective, and a flood gate would be required. The study also acknowledges the site has been designed to have no impact flooding on surrounding properties during a 100 year average recurrence interval (ARI) event.

The Department considers the impacts to be acceptable and understand that further flood impacts will be assessed at DA stage.

## Public Domain and Pedestrian Activity

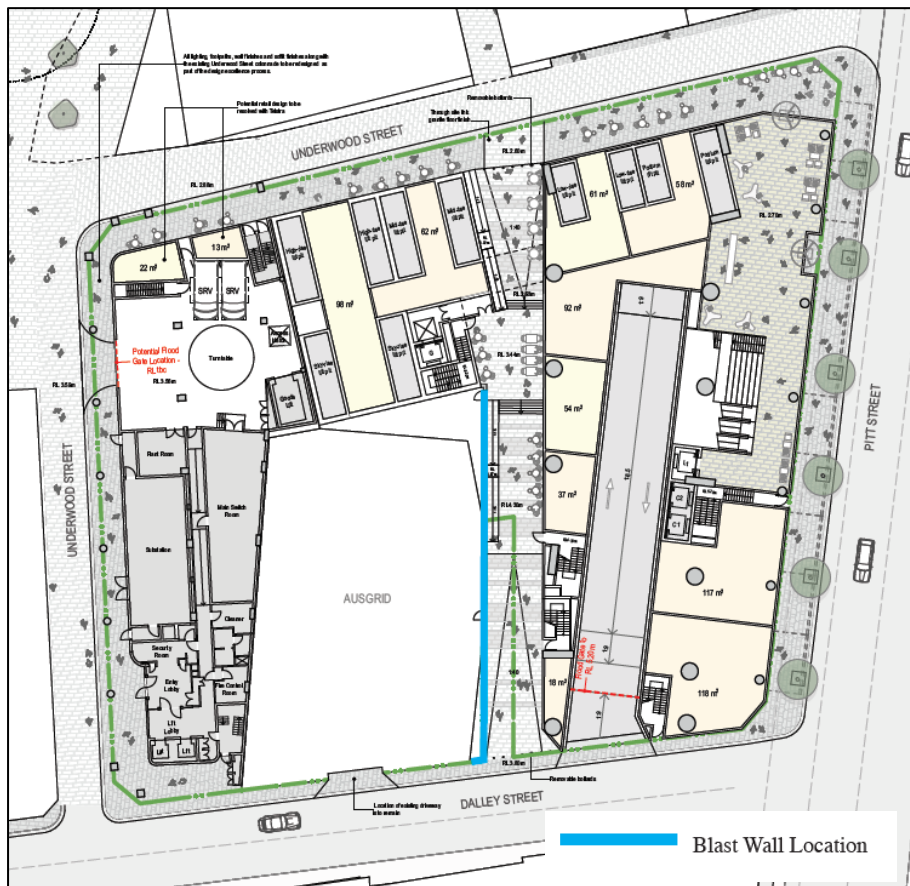
The planning proposal is supported by a Footpath Analysis prepared by ARUP dated 13 December 2019 (**Attachment I**), and a Daylight Impact Study (within the Urban Design Study) prepared by fjmt dated February 2020.

The Footpath Analysis evaluated the performance of the footpaths in 2025 with the proposed development. The analysis found the 2025 assessment shows that all assessed footpaths are operating with acceptable Fruin Level of Service, and the new development provides street level activation with the provision of a new pedestrian through-site link.

The Daylight Impact Study compares the impact on natural light levels in the public domain surrounding the site as a result of the test case envelopes against the base case as per the CSPA. The study found that the proposed building envelope improves an average Sky View Factor (SVF) surrounding the public domain within the study area when compared with the base case as per the CSPA.

Regarding pedestrian safety, Ausgrid advised a blast wall may be required to be built on the Queens Court wall of the substation, which will address concerns relating to

The Department considers the pedestrian impacts to be acceptable and pedestrian safety is ensured with the installation of the blast wall.



**Figure 26:** Location of the blast wall along Queens Court (Source: fjmjt)

## Heritage

The planning proposal is supported by a Heritage Assessment and Impact Statement (HIS), prepared by GML Heritage dated December 2019 (**Attachment J**).

It is important to note there are no heritage items on the site, nor is the site located within an HCA. The HIS notes the Tank Stream, which is listed on the State Heritage Register, is located to the east of the site below Pitt Street and a 3m curtilage (protection zone) is required.

The HIS concludes there are no physical impacts proposed to any built heritage items, and the potential impacts of the proposed building envelope on these heritage items have been assessed as minor or negligible.

The HIS outlines a number of recommendations, many of which are required for a Stage 2 DA. These include the impact on the Tank Stream or within its 3m curtilage must be avoided, consultation with Sydney Water, and a Due Diligence assessment to determine the likelihood that Aboriginal objects are present.

The HIS recommends consultation with Sydney Water for the Stage 2 DA. However, the Department considers consultation with Sydney Water to be appropriate at

planning proposal stage. The Department therefore recommends a condition requiring Council to consult with Sydney Water and the Heritage Council of NSW during public exhibition.

### Geotechnical

The planning proposal is supported by a Geotechnical Desk Study, prepared by Coffey dated 12 December 2019 (**Attachment K**). The study provides an assessment of anticipated subsurface conditions based on existing information, a preliminary geotechnical model, identification and discussion of geotechnical issues and constraints for site redevelopment, discussion of groundwater conditions, and further investigation requirements.

The study outlines a number of recommendations, many of which recommend further assessments and investigations be undertaken following the final concept design of the development.

The Department accepts the findings of the Geotechnical Desk Study, noting further geotechnical impacts will be assessed at DA stage.

### Traffic and Transport

The site is located in an area that is well serviced by public transport. Frequent major bus and train services are located within walking distance of the site. These public transport services provide access to various destinations in the Sydney metropolitan area, including the CBD, the eastern and inner western suburbs, and beyond.

The planning proposal is supported by a Traffic and Transport Assessment (TTA), prepared by Colston Budd Rogers & Kafes dated December 2019 (**Attachment L**).

The TTA takes into consideration the adjacent developments which are currently under construction, being the Poly Centre and Lend Lease One Circular Quay, and concludes all development will have less of similar traffic generations to the existing developments on the three sites. This results in the traffic effects being better or similar to today.

The TTA found the proposed development provides opportunities to strengthen demand for the nearby public transport services, will provide employees with a choice of mode of travel, parking provision will be provided in accordance with the Sydney DCP 2012, and access arrangements, internal circulation and servicing will be provided in accordance with the relevant Australian Standards.

The Department recommends a condition requiring Council to consult with Transport for NSW (TfNSW).

## **5.3 Economic**

The planning proposal will facilitate development which will achieve a range of land uses on the site, including commercial and retail uses. The planning proposal will have the following economic benefits and is considered acceptable as it will:

- provide 70,000m<sup>2</sup> of commercial and retail floor space to contribute to and strengthen Sydney's role as a globally competitive City;
- create an estimated additional 4,000 jobs; and
- activate the ground floor of the site, providing opportunities for ground floor retail uses.

## **5.4 Infrastructure**

The entire site is located in an area that is well serviced by public transport including trams, trains and buses. The traffic assessment prepared by Colston Budd Rogers & Kafes found the proposed development provides opportunities to strengthen demand for the nearby public transport services.

The entire site is well serviced by a range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded by the developer and further details can be provided at the DA stage.

## **6. CONSULTATION**

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### **6.1 Community**

Council has proposed a public exhibition period of 28 days. The Department considers this to be appropriate.

Council, as the planning proposal authority, will be responsible for public consultation. Council has advised that this will include newspaper notification, displays at Council customer service centres and on Council's webpage.

The Department recommends that all land owners in the APDG block be given notice of the planning proposal and public exhibition.

### **6.2 Agencies**

The Department recommends consultation with the following state agencies:

- Heritage Council of NSW
- Sydney Water;
- Sydney Airport Corporation;
- Airservices Australia;
- Commonwealth Department of Infrastructure, Cities and Regional Development;
- Civil Aviation Safety Authority: and
- Transport for NSW.

## **7. TIME FRAME**

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Council has included a project timeline of seven months. The Department considers a time frame of 12 months to be more appropriate. This does not preclude the planning proposal from being finalised sooner.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan making authority for this planning proposal. The Department recommends issuing an authorisation for Council to exercise delegation to make this plan, provided there are no agency objections and the outstanding 9.1 Direction 3.5 Development Near Licensed Aerodromes is justified.

## **9. CONCLUSION**

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The Department recommends that the planning proposal proceed subject to conditions for the following reasons:

- it is generally consistent with the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and State Environmental Planning Policies;
- it is consistent with Council's Local Strategic Planning Statement and Sustainable Sydney 2030;
- provide 70,000m<sup>2</sup> of commercial and retail floor space to contribute to and strengthen Sydney's role as a globally competitive City;
- it will provide employment opportunities in an accessible location; and
- it will provide significant improvements to the public domain and pedestrian amenity.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. note that the inconsistency with section 9.1 Direction 6.3 Site Specific Provisions is of minor significance; and
2. note the inconsistency with section 9.1 Direction 3.5 Development Near Licensed Aerodromes is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be revised to provide justification on the consistency with section 9.1 Directions 6.3 Site-Specific Provisions and 3.5 Development Near Licensed Aerodromes.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. All landowners in the APDG block, Ausgrid and Telstra are to be given notice of the planning proposal and public exhibition.
4. Consultation is required with the following public authorities:
  - Heritage Council of NSW
  - Sydney Water;
  - Sydney Airport Corporation;
  - Airservices Australia;
  - Commonwealth Department of Infrastructure, Cities and Regional Development;
  - Civil Aviation Safety Authority: and
  - Transport for NSW.
5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be the local plan-making authority.



16 June 2020

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**Eastern District (City of Sydney)**  
**Greater Sydney, Place and Infrastructure**



22 June 2020

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