



**SYDNEY CENTRAL CITY PLANNING PANEL
Addendum Assessment Report**

Panel Reference	2017SWC087
DA Number	DA/560/2017
LGA	City of Parramatta Council
Proposed Development	Construction of a 48 storey mixed use tower comprising 382 residential units, 646sqm of retail floor space, 5354sqm of office floor space and 8 basement levels containing space for 237 cars, 223 bicycles, 18 motorcycles, storage, refuse and servicing; following demolition of existing buildings. The application is Nominated Integrated development under the Water Management Act 2000 and the National Parks and Wildlife Act 1974.
Street Address	7 Charles Street and 116 Macquarie Street, Parramatta NSW (Lots 3 & 4 DP17466, Lot 12 DP706694)
Applicant	Statewide Planning Pty Ltd
Owner	Merchant Power Pty Ltd
Date of DA lodgement	29 June 2017
Number of Submissions	Five (5)
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	Pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (at the time of lodgement), the development has a capital investment value of more than \$20 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Water Management Act 2000 • National Parks and Wildlife Act 1974 • SEPP (Building Sustainability Index: BASIX) 2004 • SEPP (Infrastructure) 2007 • SEPP (State and Regional Development) 2011 • SEPP (Sydney Harbour Catchment) 2005 • SEPP No. 55 (Remediation) • SEPP No. 65 (Design Quality of Residential Apartment Development) & Apartment Design Guide • Parramatta Local Environmental Plan 2011 • Parramatta Development Control Plan 2011
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Original Assessment Report • Attachment 2 – Draft Condition of Consent (Revised) • Attachment 3 – Jury Review • Attachment 4 – Department of Education Submission
Report prepared by	Alex McDougall Executive Planner, City Significant Development
Report date	15 July 2019

1. Introduction

1.1 Background of Consideration of Application

This application was submitted to City of Parramatta Council on 29 June 2017. Over the course of the original assessment the applicant modified the proposal in response to the advice of a Design Excellence Jury, the City Architect, Council officers and external referral bodies. Subsequently, Council officers came to the view that the proposal satisfied the relevant requirements of the Environmental Planning and Assessment Act 1979 and the application was forwarded to the Sydney Central City Planning Panel (SCCPP) for determination with a recommendation for approval. Council officers' original assessment report is provided at Attachment 1. The original assessment is still considered to be Council officers' position subject to the additional information and assessment in this addendum report.

1.2 Sydney Central City Planning Panel Decisions

The application was reported to the SCCPP with a recommendation of approval on 7 November 2018. After hearing submissions from the applicant, the Panel resolved to defer a decision on the application for the following reasons as stated in the Record of Deferral:

The Panel agreed to defer the determination of the application as amended. This is to enable the Design Jury to address each of the specified criteria in Parramatta Local Environmental Plan 2011, Clause 7.10 Design Excellence – Parramatta City Centre, so that the Panel is in a position to determine if this application demonstrates design excellence, as required by the PLEP.

While the application is deferred, the Panel asks that Council consider the changes to the conditions requested by the applicant. The Panel also asks that Council consult with the Department of Education to see if it still maintains its objection, and if necessary, Council shall submit an amended set of conditions with its supplementary Council assessment report.

When this information has been received, the Panel may determine the matter electronically, unless it consider that another public meeting is required.

As such, to summarise, there are 3 key issues which this report addresses:

1. Further engagement with the Design Excellence Jury regarding design excellence (Jury Review);
2. Further engagement with the Applicant regarding conditions (Conditions); and
3. Further engagement with the Department of Education regarding their submission (Department of Education).

2. Actions

The following actions were taken with respect to each key issue:

1. Jury Review – The chair of the Design Excellence Jury, Graeme Dix, was asked to draft a response to each of the design excellence criteria listed in Clause 7.10 of PLEP 2011 for sign off by himself and the other jury members.
2. Conditions - A further independent quantity surveyor report was commissioned to estimate the cost of works for the purpose of calculating the required developer contributions.
3. Department of Education - The Department of Education were offered the opportunity to reconsider their objection in light of the changes made to the proposal, and to consider the Council report, subsequent to their original submission (which was dated 18 August 2017).

3. Response to SCCPP Deferral Reasons of 7 November 2018

3.1 Jury Review

The original Design Excellence Jury provided the requested review of the proposal against the design excellence criteria listed in Clause 7.10 of PLEP 2011. The full review is included at Attachment 3. They came to the following conclusion:

The Jury unanimously agree that this Development Application for a mixed-use development at the corner of Charles and Macquarie Street exhibits Design Excellence in accordance with the requirements of Clause 7.10 of Parramatta LEP 2011.

In addition to the jury review, Council officers have provided several axiomatic views of the proposal in the context of existing/approved development, as well as in the context of other planning proposals and design competitions, to assist the Panel comprehend the context of the proposal. See attached at Appendix 1.

3.2 Conditions

The applicant raised concern with the imposition of draft conditions 28 and 167.

Condition 28 'Developer Contributions'

Section 7.12 'Fixed Development Consent Levies' of the Environmental Planning and Assessment Act 1979 allows Council to collect monetary contributions from developers towards the provision, extension or augmentation of public amenities or public services in accordance with a contributions plan. The Parramatta Civic Improvement Plan (Amendment No. 4) contribution plan requires the payment of a levy equal to 3% of the cost of works. 'Cost of works' in this case is defined by Clause 25J of the Environmental Planning and Assessment Regulation 2000 which includes the following relevant considerations:

- (1) *The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 7.12 levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development...*
- (2) *For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.*

The applicant submitted a Quantity Surveyor 'Cost of Works' Report with the application which estimated the cost of works at \$106,994,147 (inc. GST).

Council procure independent reviews for all applications with a cost of works estimate over \$10,000,000. Council's initial independent Quantity Surveyor review (using a basic analysis) estimated the cost of works at \$242,519,538.

In response, the applicant submitted a revised cost of works estimate outlining the development cost to be \$143,593,383 (inc. GST). Council officers remained concerned that this figure was not commensurate with the scale of works proposed.

Council commissioned a second more detailed independent Quantity Surveyor review of the subject application, which estimated the cost of works to be \$200,768,686 (inc. GST). This is considered a reasonable estimate commensurate with buildings of a similar scale and design excellence recently approved in the Parramatta CBD.

The applicant refused to accept that this figure represents the true cost of works. Regardless,

Clause 25J of the Environmental Planning and Assessment Regulations 2000 sets out that, “*the proposed cost of carrying out development is to be determined by the consent authority*”. As such, the detailed estimate of \$200,768,686 set out by Council’s independent assessment is considered to be appropriate.

Based on this figure a monetary contribution of \$6,023,060.58 (plus any indexation) would be required. The originally drafted condition of consent has been updated to reflect the revised monetary contribution figure. It is recommended that the Panel implement the condition as drafted below:

Section 7.12 Contributions

28. A monetary contribution comprising \$6,023,060.58 is payable to City of Parramatta in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979 and the *Parramatta City Centre S94A Development Contribution Plan (Amendment No. 4)*. Payment must be by EFTPOS, bank cheque or credit card only.

The contribution is to be paid to Council prior to the issue of any Construction Certificate.

The contribution levy is subject to indexation on a quarterly basis in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician. At the time of payment, the contribution levy may have been the subject of indexation.

Parramatta City Centre S94A Development Contribution Plan (Amendment No. 4) can be viewed on Council’s website at: <https://www.cityofparramatta.nsw.gov.au/business-development/planning/development-contributions>

Reason: To comply with legislative requirements and to provide for the increased demand for public amenities and services resulting from the development.

Condition 167 ‘Dual-Key Units’

The proposal includes several ‘dual-key’ units which can be separated into a 1-bedroom unit and studio with their own kitchen and bathroom facilities. These units are usually intended to allow different generations of the same family to live together while maintaining nominal independence. However, the two units both share 1 balcony and as such it is not appropriate for the units to be subdivided, sold to different owners, or rented out separately, as this is likely to result in one of the units being denied access to the balcony or the balcony being divided into a substandard space. Either half of the unit, without access to the balcony, would not provide an acceptable standard of accommodation as per the Apartment Design Guidelines. As such the following draft condition was included in the original recommendation:

Dual Key Units

167. A restriction shall be registered on the title of each ‘dual-key’ unit specifying that these units cannot be further subdivided, cannot be sold to different owners and cannot be rented out as 2 separate units.

For the avoidance of doubt, the dual-key units are those marked with the following notation on the drawings hereby approved: 705, 706, 805, 905, 1005, 1008, 1009, 1105, 1106, 1107, 1205, 1206, 1207, 1208, 1209.

Reason: To ensure a suitable level of amenity of future occupants.

The applicant requested that this condition be revised to allow them to be rented as separate units. As outlined above, this is likely to result in an unacceptable standard of accommodation for one or both units and as such is not considered appropriate.

The applicant subsequently withdrew their objection to this condition.

3.3 Department of Education

The Department of Education were provided the opportunity to reconsider their submission in light of the original Officer Assessment Report and the list of changes made to the application since the original advertisement (outlined in Section 4.1 of the original assessment report).

The Department of Education provided a response which is summarised as follows:

- The Department of Education maintain their objection.
- The high school under construction is closer to the common boundary than depicted in the applicant's drawings.
- 24m of separation is required by the ADG between residential and office uses. The Department of Education consider that more separation should be provided for schools.
- The proposed building includes bedrooms, living spaces, balconies and communal terraces that are less than 24m from the school.
- The spaces within the school that would be within 24m of the proposed building include 'outdoor learning areas'.
- The 80% open louvre screening on the east façade of the school building is not sufficient to protect privacy alone.
- Council's DCP requires protection of school privacy.

The full response is available at Attachment 4.

After review, the applicant's drawings do appear to incorrectly depict the distance of the school from the boundary. However, it does appear that the State Significant Development Application for the school (SSD 15_7237) was revised during assessment. The revisions included moving the building closer to the subject site and as such this does not appear to be an attempt by the applicant to deliberately mislead.



Figure 1. East Elevation of adjoining school building under construction.

Figure 1 above outlines the façade of the school which faces the proposal. The façade is composed of screened circulation space, a toilet/plant core and a fire stair core.



Figure 2. Separation between Level 8 of the school building (top) and Level 8 of the proposal (bottom).

Council officers have provided an overlay of the approved school on the proposed drawings to depict the correct separation (Figure 2 above). This figure outlines that habitable rooms within the proposal are located between at least 20.9m - 24.9m from the adjoining school building.

As outlined by the Department of Education, Part 3F of the Apartment Design Guideline recommends that 12m boundary setbacks (i.e. 24m total) are sufficient to protect privacy between two buildings at levels 9 or above.

The privacy of the school is considered to be adequately maintained for the following reasons:

- The areas of the school within 24m of the proposal are semi-outdoor circulation spaces and as such are less likely to be occupied for long periods of time. The Department of Education refers to these spaces as outdoor learning areas but their limited depth and need for use as circulation space would constrain such use.
- The number of units within 24m of the school is limited; only 1 unit on levels 8 – 12, 14 - 22 (14 total units) and a communal library/study room are within 24m of the school.
- The primary times of occupation of the two sites are offset; the school is in use during work hours, when residents are most likely be away from home.

- The site is located in a high density area and as such there is less expectation that high levels of privacy can be maintained.
- Louvers could be added to the units within 24m of the school, but they would severely affect the outlook and solar access of those units and provide only a negligible increase in privacy to the school.
- When the site-specific development standards for the site were gazetted, it was clear that the applicant would not be able to provide half the 24m recommended building separation on their site. The site is approximately 21m in depth and as such a setback of 12m would severely limit the development potential of the site.
- The school building is located on a large site and as such was able to provide additional separation to the subject site if deemed necessary.

4. Conclusion

This report responds to the additional matters for which information and clarity was sought by the Panel.

Subject to revised draft condition 28, no other new or modified conditions are considered to be necessary.

As such approval is recommended subject to the revised condition contained at Attachment 2.

The Panel suggested in their deferral that the application may be eligible for electronic determination. However, given the applicant continues to contest the wording of condition 28 and the Department of Education maintain their objection, it is considered that a further determination meeting is necessary.

5. Recommendation

- A. **That** the Sydney Central City Planning Panel as the consent authority grant **Consent** to Development Application No. DA/560/2017 for construction of a 48 storey mixed use tower comprising 382 residential units, 646sqm of retail floor space, 5354sqm of office floor space and 8 basement levels containing space for 237 cars, 223 bicycles, 18 motorcycles, storage, refuse and servicing; following demolition of existing buildings at 7 Charles Street and 116 Macquarie Street, Parramatta NSW 2150 (Lots 3 & 4 DP17466, Lot 12 DP706694) for a period of five (5) years from the date on the Notice of Determination subject to the revised draft conditions under Attachment 2.
- B. **That** all the objectors be advised of the Sydney Central City Planning Panel's decision.

APPENDIX 1 – 3D City Perspective Views

This appendix contains 3D perspective views of the proposed tower in the context of adjoining existing and approved development within the Parramatta CBD. Please note that there are two versions of each view. The first is the view in the context of what is likely to be built (i.e. approved or under construction) and the second is the view in the context of what may be built (i.e. with design competitions and planning proposals included). The developments shown are correct as of December 2018.

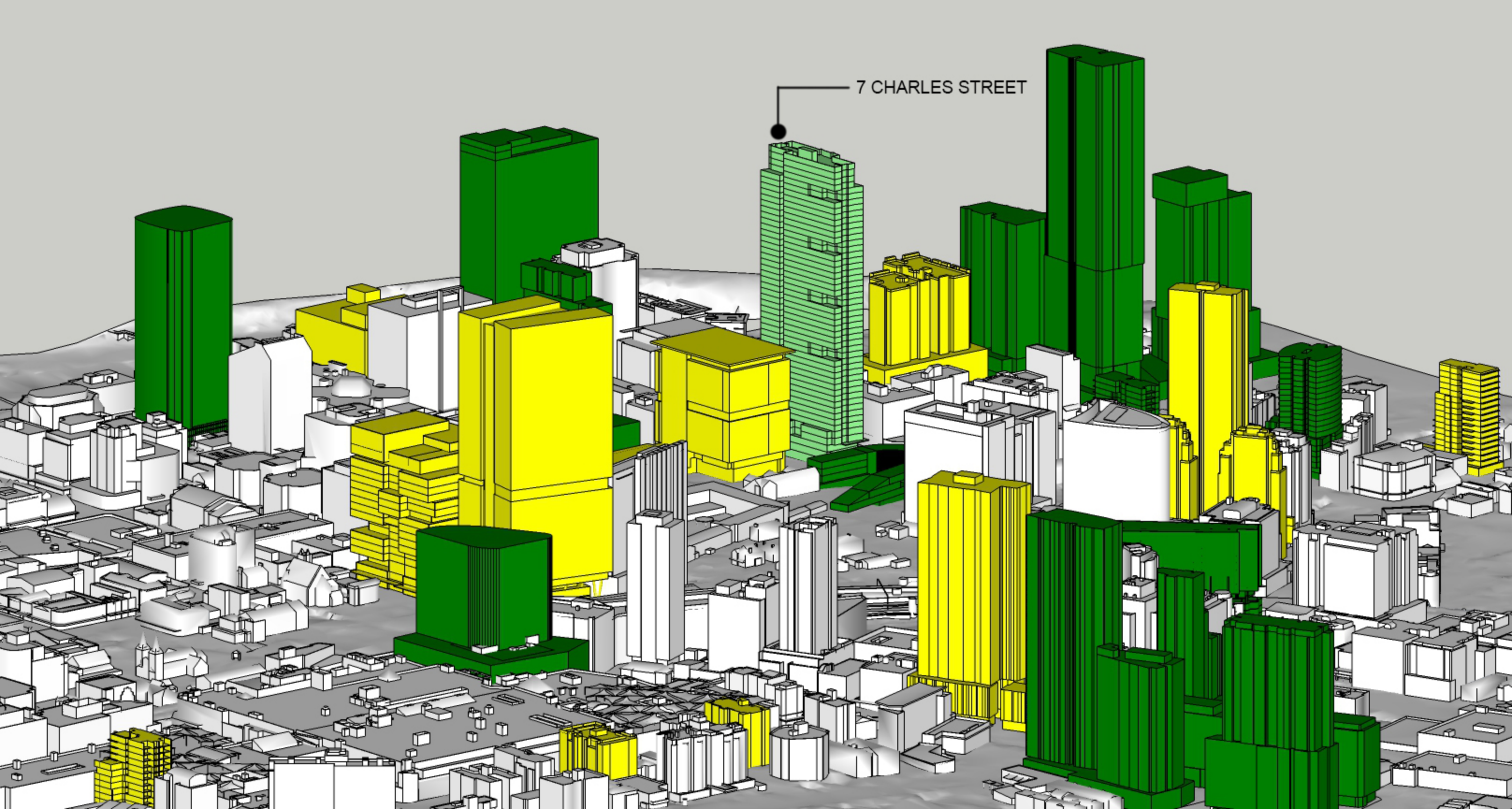
Contents

	View from:	Existing/ Approved/ Under Construction Shown	Gateway and/or Design Competition Approval Shown
View 1 (Current)	South-west	Yes	No
View 1 (w/ Proposed)	South-west	Yes	Yes
View 2 (Current)	North-east	Yes	No
View 2 (w/ Proposed)	North-east	Yes	Yes
View 3 (Current)	South	Yes	No
View 3 (w/ Proposed)	South	Yes	Yes
View 4 (Current)	East	Yes	No
View 4 (w/ Proposed)	East	Yes	Yes

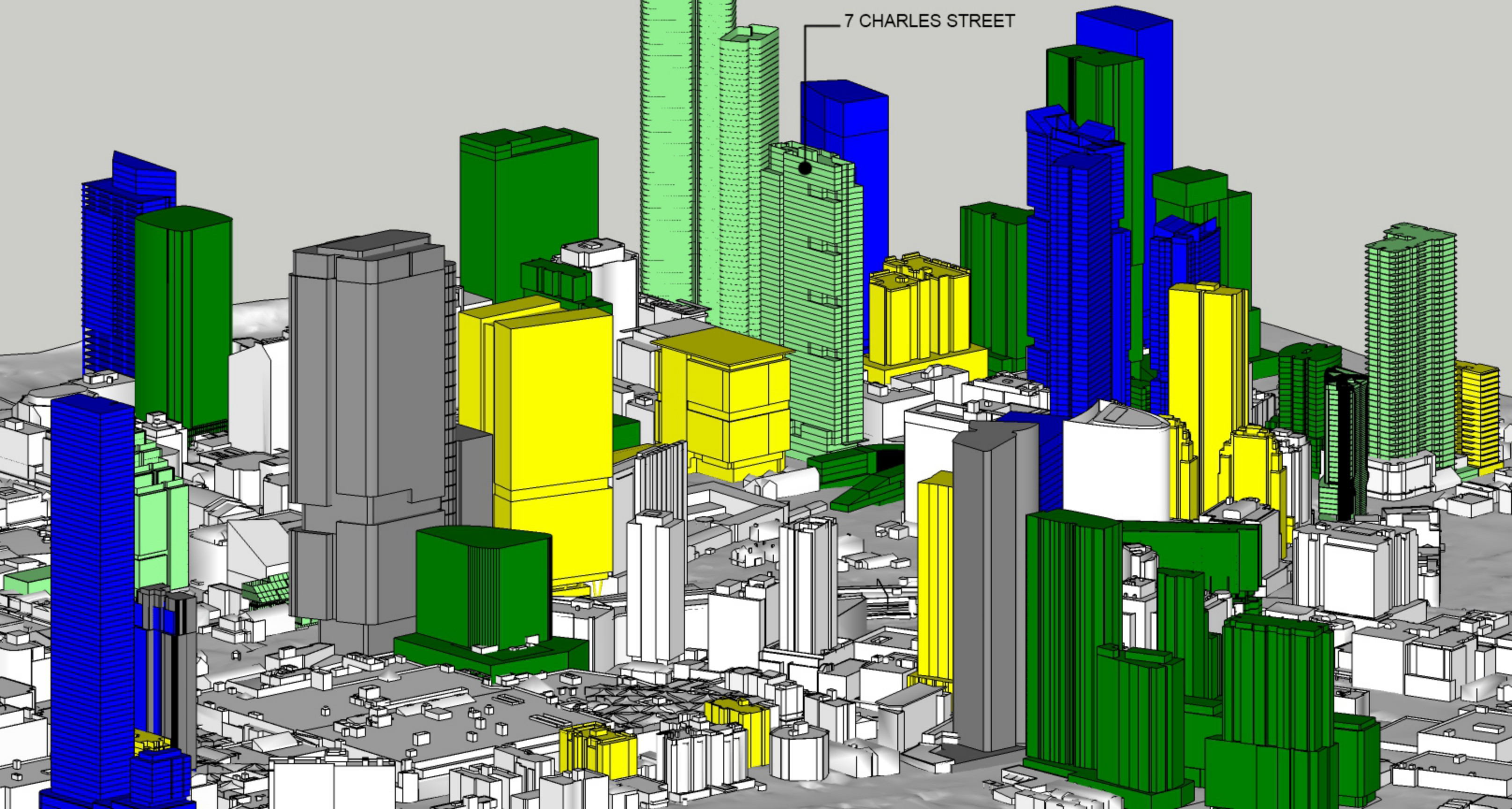
Legend

White – Existing
 Yellow – Under Construction / Built
 Green – Approved DA
 Light Green – Under Assessment
 Grey – Design Competition
 Blue – Planning Proposal

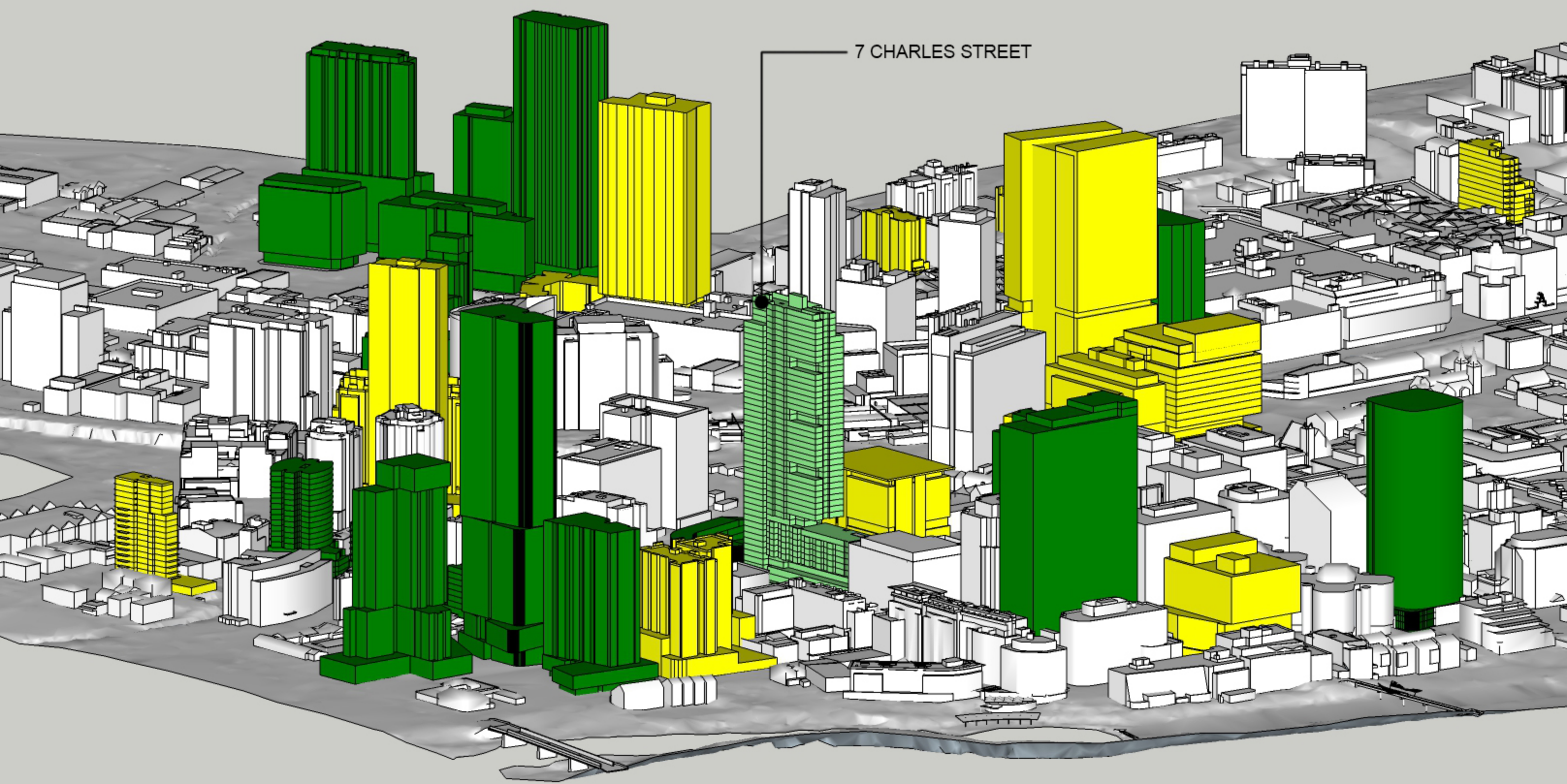
7 CHARLES STREET



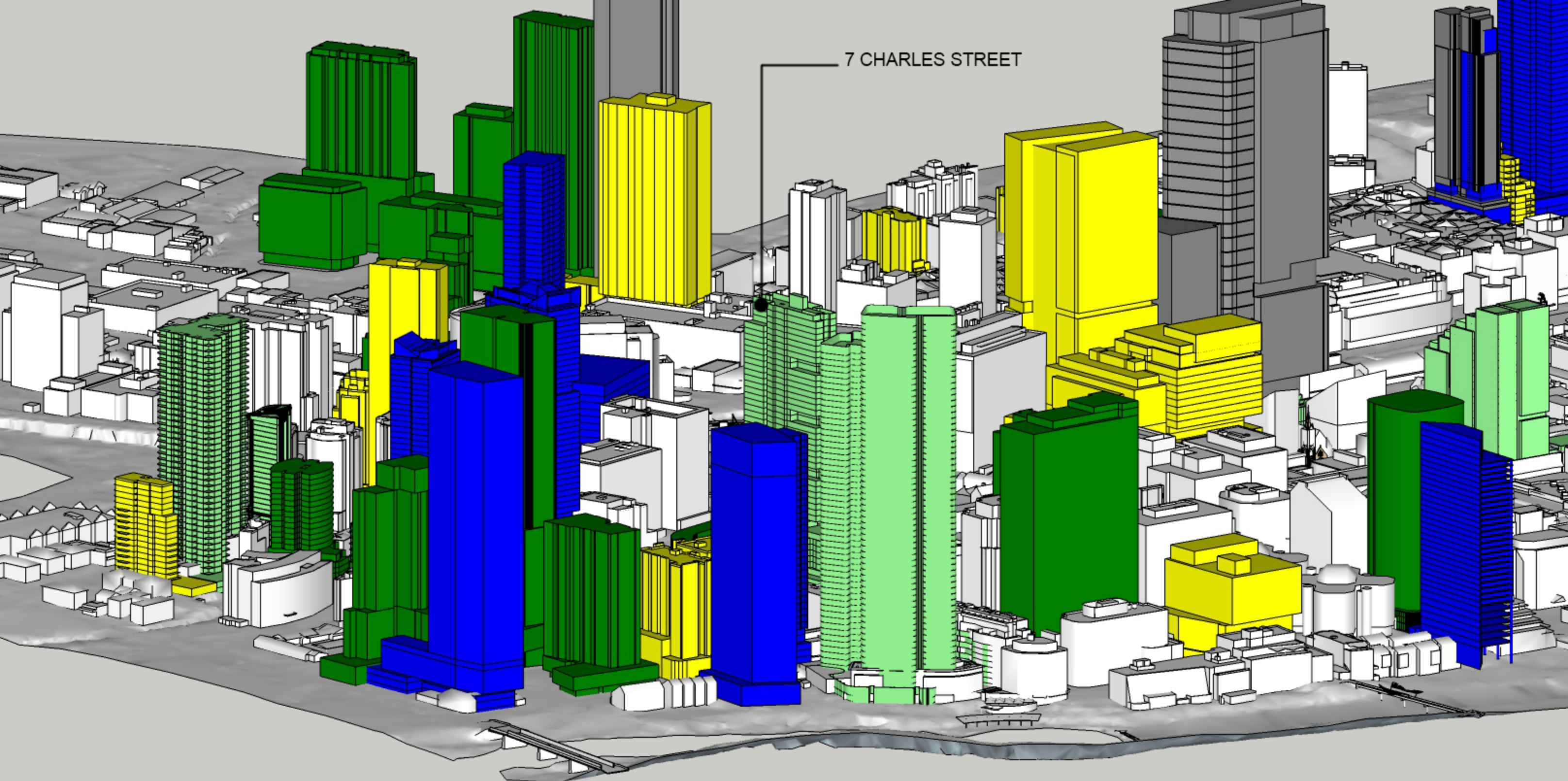
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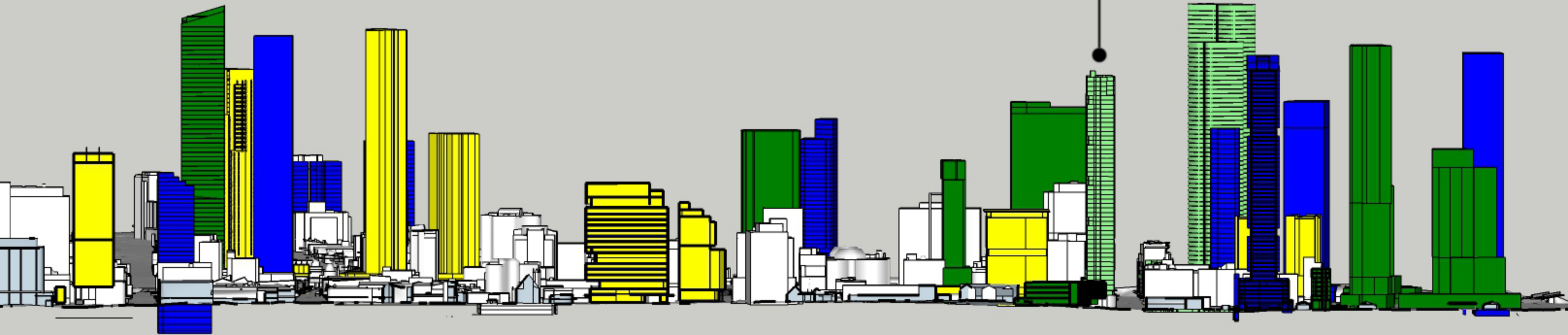
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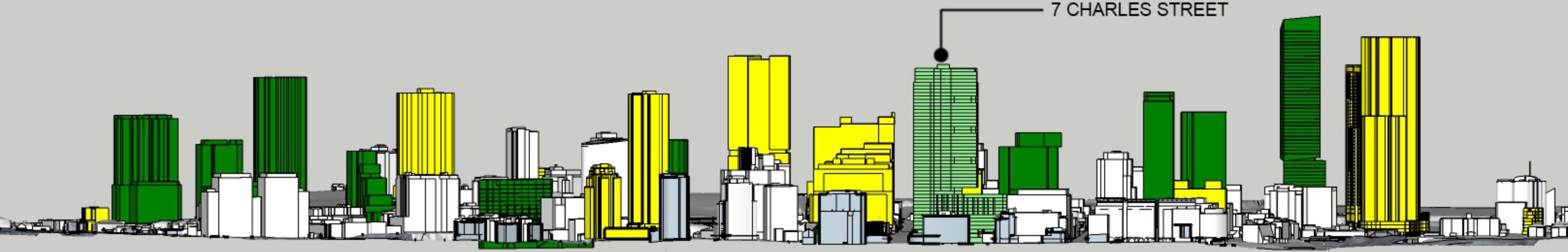
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