

**ITEM 6. STAGE 2 DEVELOPMENT APPLICATION: 29A AND 31 ULTIMO ROAD ULTIMO****FILE NO:** D/2011/1783**SUMMARY****Date of Submission:** 3 November 2011 with amended plans submitted 28 February 2012**Applicant:** Urbis for Trangrid**Architect:** Bates Smart**Developer:** Transgrid**Summary:** Stage 2 application in accordance with the modified Stage 1 consent for the construction of a nine storey commercial building over an existing substation with retail tenancies at ground floor level. The proposed development is in accordance with the competition winning design held as part of a competitive design process.**Summary Recommendation:** The proposed development is considered to be a well designed response to the surrounding area and its context and the constraints of building on top of an existing substation. The proposal complies with the built form guidelines of the modified Stage 1 consent that is being considered concurrently with this application and should be read in conjunction with this report.

The external appearance of the substation will be improved with the introduction of a sandstone coloured precast concrete cladding and an office tower that is cantilevered over the Public Recreation space and modulated in an appropriate architectural manner. The design was the subject of a competitive process and is considered to achieve design excellence.

The proposed development is recommended for approval subject to conditions.

**Attachments:** A - Selected Drawings

**RECOMMENDATION**

It be resolved that consent be granted subject to the following conditions:

**SCHEDULE 1A****Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

**Note:** Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2011/1783 dated 3 November 2011 and [the following drawings:

<b>Drawing Number</b>	<b>Drawing Title</b>	<b>Architect</b>
DA01.101 rev 2	Site Plan	Bates Smart
DA03.100 rev 2	Basement 1 Plan	Bates Smart
DA03.101 rev 2	Lobby Plan	Bates Smart
DA03.102 rev 1	Plant Level	Bates Smart
DA03.103 rev 1	Typical Level 1, 4	Bates Smart
DA03.104 rev 1	Typical Level 2-3	Bates Smart
DA03.105 rev 1	Typical Level 5-6	Bates Smart
DA03.106 rev 1	Typical Level 7-9	Bates Smart
DA03.107 rev 2	Roof Plan	Bates Smart
DA07.001 rev 2	East Elevation	Bates Smart
DA07.002 rev 2	North Elevation	Bates Smart
DA07.003 rev 2	South Elevation	Bates Smart
DA07.004 rev 2	West Elevation	Bates Smart
DA08.001 rev 2	Cross Section	Bates Smart
DA08.002 rev 2	Section BB – Long Section	Bates Smart
DA09.001	North Elevation Signage Strategy	Bates Smart
DA09.002	South Elevation Signage Strategy	Bates Smart
DA09.003	West Elevation Signage Strategy	Bates Smart

and as amended by the conditions of this consent:

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

**(2) DESIGN QUALITY EXCELLENCE**

- (a) In order to ensure the design quality excellence of the development is retained:

- (i) The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project; and
  - (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Director City Planning Development and Transport.

**(3) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 59.437 (AHD) to the roof level and RL 59.9 (AHD) to the top of the lift core.
- (b) Prior to occupation of any part of the commercial building, a Registered Surveyor must provide certification that the height of the building accords with (a) above.

**(4) FLOOR SPACE RATIO**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 8.99:1 calculated in accordance with the *Sydney Local Environmental Plan 2005*. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 21,658sqm, which includes the substation.
- (b) Prior to occupation of any part of the commercial building, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2005* applicable at the time of development consent.

**(5) USE - SEPARATE DA REQUIRED**

A separate development application for the fitout and use of the retail/ food tenancies must be submitted to and approved by Council prior to that fitout or use commencing.

**(6) SECTION 61 CONTRIBUTIONS PAYABLE - REGISTERED QUANTITY SURVEYOR'S DETAILED COST REPORT - SUBMITTED AND VERIFIED PRIOR TO WORKS COMMENCING ON SITE**

A cash contribution comprising 1% of the total cost of the development is payable to the City of Sydney pursuant to section 61 of the *City of Sydney Act 1988* and the *Central Sydney Contribution (Amendment) Plan 2002* in accordance with the following:

- (a) Prior to works commencing on site, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment may be by **EFTPOS** (debit card only), **CASH** or a **BANK CHEQUE** made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) Prior to payment of the contribution, written verification by the City of Sydney of the specific amount payable is to be obtained. This verification is to be submitted with the payment. In order to obtain such verification, the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" indicating the itemised cost of the development must be completed and submitted to Council. A copy of the required format for the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" may be obtained from the City of Sydney One Stop Shop, any of the Neighbourhood Service Centres and the City of Sydney's website ([www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au)).
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the CA accordingly.
- (d) The items to be included in the calculation of the cost of development are demolition works, site remediation including decontamination, excavation and site preparation, construction costs, fit out, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, equipment and appliances, kitchens and bar areas, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, floor coverings, *Building Code of Australia* compliance works, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST and any other matter not expressly excluded in (e) below.
- (e) The items to be excluded in the calculation of the cost of development are the cost of land, marketing expenses (excluding display suites etc), finance and interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting) and stamp duty.

## (7) LOT CONSOLIDATION

All land titles within the site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the Department of Lands, prior to occupation of any part of the commercial building.

**(8) SUBDIVISION**

- (a) Any proposal to subdivide the site to separate the Substation from the commercial/retail components of the building will require separate applications to Council to obtain Development Consent for the proposal and subsequent approval of the final Plan of Subdivision and endorsement of the Subdivision Certificate under Part 4A of the Environmental Planning and Assessment Act 1979.
- (b) Any proposal to Strata subdivide part of the building and site will require separate applications to obtain Development Consent from Council and subsequent approval of the final Strata plan and endorsement of the Strata Certificate by Council or an accredited certifier in accordance with Section 37 of the Strata Schemes (Freehold Development) Act 1973.

**(9) RESTRICTION ON USE OF CAR SPACES - COMMERCIAL WITH NO STRATA SUBDIVISION**

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service car spaces, are not to be used other than by an occupant or tenant of the subject building.

**(10) ASSOCIATED ROADWAY COSTS**

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

**(11) BICYCLE FACILITIES**

A bicycle facilities room must be provided close to staff / employee bicycle parking and include:

- (a) showers with change area; and
- (b) personal lockers.

**(12) BICYCLE PARKING**

The layout, design and security of bicycle facilities either on-street or off-street must comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities except that:

- (a) all bicycle parking for occupants of residential buildings must be Class 1 bicycle lockers, and
- (b) all bicycle parking for staff / employees of any land uses must be Class 2 bicycle facilities, and

- (c) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

**(13) CAR PARKING SPACES AND DIMENSIONS**

A maximum of 25 off-street car parking spaces must be provided. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan.

**(14) COST OF SIGNPOSTING**

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

**(15) LOADING WITHIN SITE**

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

**(16) LOADING/PARKING KEPT CLEAR**

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

**(17) LOCATION OF ACCESSIBLE CAR PARKING SPACES**

Where a car park is serviced by lifts, accessible spaces for people with mobility impairment are to be located to be close to lifts. Where a car park is not serviced by lifts, accessible spaces for people with mobility impairment are to be located at ground level, or accessible to ground level by a continually accessible path of travel, preferably under cover.

**(18) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must be a maximum length of 6m.

**(19) SERVICE VEHICLES**

Adequate space must be provided to allow manoeuvring and turning of the different sized vehicles. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off-Street Parking Part 2: Commercial vehicle facilities.

**(20) STACKED PARKING EMPLOYEES OR TENANTS ONLY**

Any stacked parking spaces (maximum 2 spaces, nose to tail) must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked parking spaces must be designated (with appropriate signage) for employee or tenant parking only (not visitor parking), prior to occupation of any part of the commercial building. The moving of stacked vehicles must occur wholly within the property.

**(21) TRAFFIC WORKS**

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RTA Technical Directives and must be referred to and agreed to by the Sydney Traffic Committee prior to any work commencing on site.

**(22) VEHICLES ACCESS**

The site must be configured to allow all vehicles to be driven onto and off the site in a forward direction.

**(23) ACCESSIBLE PARKING SPACE**

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities.

**(24) COMPLIANCE WITH ACOUSTIC REPORT**

All recommendations contained in the acoustic report prepared by Renzo Tonin dated 21<sup>st</sup> October 2011, must be implemented during construction and use of the premises, including the following:

- (a) Sections 4.3 (Glazing Design Recommendations) and 4.4 (Facade & Roof Sound Insulation) of the report, which should be fully implemented in accordance with the report prior to any occupation of the commercial building. A statement is required from an appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied prior to any occupation of the commercial building.

**(25) NOISE - USE (GENERAL)**

- (a) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following criteria:
  - (i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected receiver.

- (ii) The LAeq,15minute noise level shall be adjusted to account for any applicable modifying factors in accordance with Part 4 of the EPA NSW Industrial Noise Policy.
  - (iii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with *Australian Standard AS 1055.1-1997-Description and measurement of environmental noise*.
- (b) Internal to Internal commercial amenity criteria
- An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any commercial premises provided that;
- (i) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the commercial premises closed;
  - (ii) The LA90, 15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (including air-conditioning equipment) normally servicing the commercial premises operating.
- (c) In this clause, the term “noise level emitted from the use” means the contributing noise level from the use in isolation to any other ambient noise and account must therefore be taken of the LAeq, 15minute when the use is not in operation.
- (d) In circumstances where this development application refers to a modification or addition to an existing use, the background noise level referred to in this clause pertains to the LA90, 15minute noise level measured in the absence of all noise from the site.

#### **(26) REFLECTIVITY**

The visible light reflectivity from building materials used on the facade of the building does not exceed 20%.

#### **(27) REMOVAL OF GRAFFITI**

The owner/manager of the site must be responsible for the removal of all graffiti from the building within 48 hours of its application.

### **SCHEDULE 1B**

#### **Prior to Commencement of Work/Health and Building**

#### **(28) LIGHTING**

The lighting of all areas which are to be used by the public must comply with AS/NZS 1158.3.1



Lighting is to be designed in accordance with the City of Sydney's policies including the 'Public Domain Manual', 'Parks Technical Manual' and the Sydney Lights Design Code' and must be submitted to Council for approval prior to works commencing on site.

**(29) SIGNS - SEPARATE DA REQUIRED**

A separate development application for any proposed must be submitted to and approved by Council prior to the erection or display of any such signs.

**(30) PUBLIC ART**

High quality art work must be provided within the development in publicly accessible locations, including near main entrances, in lobbies and on street frontages, in accordance with the Central Sydney DCP 1996 and the Public Art Policy. Details of the art work must be submitted to and approved by Council prior to works commencing on site. Installation of the art work must be completed to Council's satisfaction prior to occupation of any part of the commercial building.

**(31) RECEPTACLES FOR CIGARETTE BUTTS**

Provision must be made on the site for the disposal of cigarette butts, adjacent to each of the entrance/s to the building. Prior to works commencing on site, the location and design of the receptacle/s must be approved by Council. The receptacle/s must:

- (a) be located entirely on private property and must not be located on or over Council's footpath;
- (b) not obstruct any required means of egress or path of travel from the building required by the Building Code of Australia;
- (c) be appropriately secured to the building;

The emptying and maintenance of the receptacle/s must be done on a daily basis and is the responsibility of the building owner/manager.

**(32) PUBLIC DOMAIN PLAN**

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and approved by Council prior to works commencing on site for any new building work (including internal refurbishments) excluding approved preparatory, demolition or shoring work.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before occupation of any part of the commercial building in respect of the development or before the use commences, whichever is earlier.

Note: A Public Domain Works Guarantee deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Road Opening Permit for works on the public way being issued.

### **(33) ALIGNMENT LEVELS**

- (a) Prior to works commencing on site, footpath alignment levels for the building must be submitted to Council for approval. The submission must be prepared by a Registered Surveyor and must be in accordance with the City of Sydney's Public Domain Manual.
- (b) These alignment levels, as approved by Council, are then to be incorporated into the construction plans.

### **(34) LANDSCAPING OF THE SITE**

- (a) The Landscape Plan accompanying this Development Application has not been approved by this consent.
- (b) A detailed Landscape Plan, drawn to scale, by a landscape architect or approved landscape consultant, must be submitted to and approved by Council prior to works commencing on site. The plan must include:
  - (i) Location of existing and proposed structures on the site including existing trees (if applicable);
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iii) Location, numbers and type of plant species;
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage and watering systems.

All landscaping in the approved plan is to be completed prior to occupation of any part of the commercial building.

- (c) Prior to works commencing on site, a maintenance plan is to be submitted for approval by Council and be complied with during occupation of the property.

**(35) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the basis of an area of 135sqm of asphalt site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to works commencing on site.

**(36) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**

On-site detention, treatment and re-use is encouraged.

- (a) Prior to works commencing on site, details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to works commencing on site and prior to the commencement of any work within the public way.
- (c) The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site works commencing on site.
- (d) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.

**(37) PRESERVATION OF SURVEY MARKS**

All works in City streets must ensure the preservation of existing permanent survey marks (a brass bolt, or a lead plug holding a brass tack, covered by a cast iron box). At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Project Manager Survey / Design Services to arrange for the recovery of the mark.

A fee will apply for the replacement of any permanent survey mark removed or damaged in accordance with the City's Schedule of Fees and Charges (Reinstatement of Survey Box).

**(38) PAVING MATERIALS**

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

**(39) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER**

- (a) Prior to any new building work commencing, excluding approved preparatory, demolition and shoring work, a set of hold points for approved public domain and civil construction work is to be determined with and approved by the City's Public Domain section in accordance with the City's Public Domain Manual.
- (b) Completion and handover of the constructed public domain works is to be undertaken in accordance with the City's Public Domain Manual, including requirements for as-built (Works-as-Executed) documentation, certification and defects liability period.

**(40) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN**

Prior to works commencing on site, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

The recording must include clear images of the footpath, nature strip, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road carriageway, street trees and plantings, parking restriction and traffic signs, and all other existing infrastructure along the street.

The form of the recording is to be as follows:-

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

**(41) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)**

Prior to works commencing on site, a qualified practising certified structural engineer must provide structural details and a Structural Certificate for Design and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings).

**(42) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING - ALTERATIONS AND ADDITIONS**

A qualified practising certified structural engineer must provide structural certification verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the Building Code of Australia prior to works commencing on site. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

Note: Where a condition of consent has been imposed under the provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the building (part or whole) may be required to comply fully with Part B1 of the of the Building Code of Australia including compliance with the earthquake loads standard, AS1170.4.

**(43) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS**

(a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:

- (i) Structural provisions - Part B1;
- (ii) Fire resistance and stability - Part C1;
- (iii) Compartmentation and separation - Part C2;
- (iv) Protection of openings - Part C3;
- (v) Provision for escape (access and egress) - Part D1;
- (vi) Construction of exits - Part D2;
- (vii) Access for people with disabilities - Part D3;

Note: Compliance with the access provisions of Part D3 may necessitate design modifications prior to works commencing on site.

- (viii) Fire fighting equipment - Part E1;
- (ix) Smoke hazard management - Part E2;
- (x) Lift installation - Part E3;

- (xi) Emergency lighting, exit signs and warning systems - Part E4;
  - (xii) Damp and weatherproofing - Part F1;
  - (xiii) Sanitary and other facilities - Part F2;
  - (xiv) Room sizes - Part F3;
  - (xv) Light and ventilation - Part F4;
  - (xvi) Energy Efficiency - Building fabric - Part J1;
  - (xvii) Energy Efficiency - External glazing - Part J2;
  - (xviii) Energy Efficiency - Building sealing - Part J3;
  - (xix) Energy Efficiency - Air-conditioning and ventilation systems - Part J5;
  - (xx) Energy Efficiency - Artificial lighting and power - Part J6;
  - (xxi) Energy Efficiency - Hot water supply - Part J7;
  - (xxii) Energy Efficiency - Access for maintenance - Part J8;
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person illustrating how the relevant performance requirements of the BCA are to be satisfied.
- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend this consent.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

#### **(44) ANNUAL FIRE SAFETY STATEMENT FORM**

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

#### **(45) FIRE SAFETY CERTIFICATE TO BE SUBMITTED**

A Fire Safety Certificate must be submitted to Council for all of the items listed in the Fire Safety Schedule prior to occupation of any part of the commercial building.

**(46) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

- (a) The Construction Traffic Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Construction Traffic Management Plan must be submitted to and approved by Council prior to works commencing on site.

**(47) ROAD OPENING PERMIT**

A separate **Road Opening Permit** under Section 138 of the Roads Act 1993 must be obtained from Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way, or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

**(48) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE**

- (a) A separate application under Section 138 of the Roads Act 1993 is to be made to Council to erect a hoarding and/or scaffolding in a public place and such application is to include:-
  - (i) Architectural, construction and structural details of the design in accordance with the *Policy for the Design and Construction of Hoarding* (September 1997) and the *Guidelines for Temporary Protective Structures* (April 2001).
  - (ii) Structural certification prepared and signed by an appropriately qualified practising structural engineer.

Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of demolition or construction works on site.

Assessment of the impacts of construction and final design upon the City of Sydney's street furniture such as bus shelters, phone booths, bollards and litter bins and JCDecaux street furniture including kiosks, bus shelters, phones, poster bollards, bench seats and litter bins. The applicant is responsible for the cost of removal, storage and reinstallation of any of the above as a result of the erection of the hoarding. In addition, the applicant is responsible for meeting any revenue loss experienced by Council as a result of the removal of street furniture. Costing details will be provided by Council. The applicant must also seek permission from the telecommunications carrier (e.g. Telstra) for the removal of any public telephone.

- (b) Should the hoarding obstruct the operation of Council's CCTV Cameras, the applicant must relocate or replace the CCTV camera within the hoarding or to an alternative position as determined by Council's Contracts and Asset Management Unit for the duration of the construction of the development. The cost of relocating or replacing the CCTV camera is to be borne by the applicant. Further information and a map of the CCTV cameras is available by contacting Council's CCTV Unit on 9265 9232.
- (c) The hoarding must comply with the Council's policies for hoardings and temporary structures on the public way. Graffiti must be removed from the hoarding within one working day.

**(49) BARRICADE PERMIT**

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the Roads Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

**(50) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan is to be approved by Council prior to works commencing on site. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Building Waste Management Plan must be implemented during construction of the development.

**UPON COMPLETION OF THE DEVELOPMENT**

- (c) Prior to occupation of any part of the commercial building, waste handling works must be completed in accordance with: the Waste Management Plan; other relevant development consent conditions; and Council's Policy for Waste Minimisation in New Developments 2005.

**(51) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN.**

A site specific noise management plan shall be submitted to the Council for comment and approval prior to works commencing on site.

The Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

The plan must include but not be limited to the following:-

- (a) identification of noise sensitive receivers near to the site.



- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the City of Sydney Construction Hours /Noise Code of Practice 1992 for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement (LA90, 15min) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has is and will be undertaken with Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (e) Confirmation of noise and dust monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

**(52) RAINWATER HARVESTING & RAINWATER TANKS**

- (a) Use
  - (i) Rainwater is only to be collected from roof catchments and its use is restricted to toilet flushing, washing cars, garden use and for washing machines only.

- (b) Installation requirements
- (i) All plumbing work is to be carried out by a licensed plumber and must be carried out in accordance with AS/NZS 3500:2003. A permit in accordance with the NSW Code of Practice - Plumbing and Drainage 2006 (as amended) is to be obtained from Sydney Water for the work to be carried out.

Rainwater tanks shall be designed to include, but not be limited to the following:-

- (ii) Rainwater tanks shall be fixed to structurally adequate bases or walls in accordance with manufactures specifications or engineers details.
- (iii) Shall not be fixed to, or otherwise supported by a bounding common fence, wall or the like, without prior approval be adjacent land owners.
- (iv) All roof gutter downpipes must be fitted with a first flush device in accordance with the manufacturer's recommendations.
- (v) Openings being suitably sealed to prevent access by children and being fitted with a fine mesh screens in order to prevent penetration of contaminants and insects such as mosquitoes.
- (vi) All gutters, downpipes and associated supply pipe work must be free draining to prevent ponding of rainwater and made of suitable non corrodible materials.
- (vii) Shall have an overflow device being fitted to the rainwater tank which directs water into an existing stormwater drainage system, and shall have a suitable drainage plug/tap fitted and positioned in a manner that facilitates flushing and cleaning.
- (viii) The water supply system from a rainwater tank shall be clearly marked at intervals not exceeding 500 mm with the word 'RAINWATER' in contrasting colour, in accordance with AS 1345. Water outlets shall be identified as 'RAINWATER', or with a rainwater tap identified by a green coloured indicator with the letters 'RW'.
- (ix) A suitable back up water supply using potable water must be provided to ensure that essential services such as toilet flushing are not contradicted where there is inadequate rainfall to meet demand or the rainwater harvesting system fails.
- (x) Rainwater tanks that are not directly connected with the potable supply, the indirect connection shall be by means of a visible "air gap" external to the rainwater tank, in accordance with the provisions of the National Plumbing Code AS /NZS 3500 - Minimum air gap requirements.

- (xi) Where a rainwater tank is to be directly cross connected with the Sydney Water supply, an appropriate testable device shall be provided at the meter location on the potable water supply to prevent backflow of rainwater. This device must meet the requirements of Sydney Water.
  - (xii) Water pumps are to be located so as not causing an “*offensive noise*” as defined by the *Protection of the Environment Operations Act 1997* to any affected receiver.
- (c) Proximity to other services
- (i) That all rainwater pipes must be separated from any parallel drinking water service. Above ground pipes must be 100mm away and below ground 300mm away from any drinking water pipe
- (d) Marking and labelling
- (i) Above ground distribution pipes shall be continuously marked ‘RAINWATER’ in accordance with AS1345. Alternatively, adhesive pipe markers clearly labelled ‘RAINWATER’ made in accordance with AS 1345 can be used.
  - (ii) Below ground distribution pipes shall be continuously marked ‘RAINWATER’ at intervals not exceeding 500mm in accordance with AS1345. Alternatively, identification tape/pipe sleeve continuously marked ‘RAINWATER’ made in accordance with AS 2648 can be used.
  - (iii) All rainwater tank outlets, taps, valves and tank apertures shall be identified as ‘RAINWATER’ with a sign complying with AS1319 or a green coloured indicator with the letters ‘RW’. Alternatively a permanent sign at the front of the premises and visible to all visitors may be displayed advertising rainwater use.
- (e) Maintenance
- (i) All rainwater tanks installed are to be maintained by the owner in accordance with these provisions, the NSW Health Department Circular no 2002/1 “Use of rainwater tanks where a reticulated potable supply is available” and any other local water utility requirements.
  - (ii) The rainwater collection system shall be constantly maintained in accordance to the manufacturer’s instructions and in line with any approved maintenance plan so as to prevent risk of pathogenic microbial contamination including legionella and organisms.

**(53) ELECTROMAGNETIC FIELDS**

The design and construction of the substation building and the layout and design of the substation plant and equipment shall be such as to ensure that compliance with National Health and Medical Research Council Interim Guidelines on limits for exposure to 50/60Hz Electrical and Magnetic Fields 1989 will be achieved and that the impact of power frequency electric and magnetic fields on the adjoining and surrounding properties will be minimised.

**(54) ASBESTOS REMOVAL**

All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "Code of Practice for the Safe Removal of Asbestos" and the City of Sydney Asbestos Policy.

**(55) AIR HANDLING**

In the event of any process in any room being of such a nature that heat, excessive moisture, dangerous or noxious gases, fumes or other aerosols are given-off, an air handling system must be installed providing positive capture and removal of the effluents. The effluent must be discharged to atmosphere at a point that will not create a nuisance and located in a position complying with AS 1668.2.

**(56) CONTROL OF LEGIONNAIRES DISEASE**

- (a) The Public Health Act 1991, Public Health (Microbial Control) Regulation 2000 and NSW Health Code of Practice for the Control of Legionnaires Disease include microbial control requirements for the installation, operation and maintenance of air handling, heated water systems and water cooling systems and must be complied with.
- (b) The owner or occupier of the building must register and provide particulars of any water cooling, and warm-water systems as required under the provisions of the *Public Health Act, 1991* and Regulation. Registration forms are available from Council.

**(57) MICROBIAL CONTROL**

- (a) All cooling towers and cooling and warm water systems must be operated and maintained in accordance with AS 3666.2:1995, (or AS 3666.3:2000 subject to prior notification to Council) the *Public Health Act 1991*, and *Public Health (Microbial Control) Regulation 2000*.
- (b) A true copy of the annual certificate as stipulated in clause 9(2) of the *Public Health (Microbial) Regulation 2000* which certifies the effectiveness of the process of disinfection used for the water cooling system, must be submitted to Council prior to the period ending 30 June each year.

- (c) Prior to commencement of the use the owner or occupier of the premises must apply to Council for the registration of water cooling systems warm water systems installed on the premises in accordance with the *Public Health (Microbial Control) Regulation 2000*.

**(58) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION**

The approved mechanical exhaust systems are to be designed to be capable of accommodating exhaust requirements for all ground floor retail tenancies in accordance with relevant Australia Standards, in order to allow for the event that any of the tenancies are approved for future use by food premises or other uses which require mechanical exhaust. Any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level.

**(59) CONTINUED PERFORMANCE OF MECHANICAL VENTILATION**

The required operation and performance of any mechanical ventilation, air pressurisation or other smoke control system must not be impaired by the proposed partitioning layout.

**(60) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 and AS1668.2-1991, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia.
- (c) Prior to occupation of any part of the commercial building and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia.

**(61) ENERGY EFFICIENCY OF BUILDINGS**

The design of the building and its services must achieve a rating of 4.5 stars under the NSW Department of Environment, Climate Change and Water's National Australian Built Environment Rating System (NABERS Energy). This can be demonstrated by:

- (a) Entering into a Commitment Agreement<sup>(i)</sup> with DECCW, to deliver this star rating<sup>(ii)</sup> for the base building<sup>(iii)</sup>, being services traditionally supplied as 'common' to tenants<sup>(iv)</sup>, such as air conditioning, lifts and common area lighting) or for the whole building<sup>(v)</sup> where there is to be one tenant to occupy the whole building. The applicant must provide a copy of the completed Commitment Agreement prior to commencement of works; and

- (b) Providing a copy of the independent energy assessment report to DECCW and submitted with the Construction Certificate application, that follows the current DECCW guidelines.

Note: Definitions referred to in clause 1(a) above:

- (c) *Commitment Agreement* means an agreement that is set out in accordance with DECCW's Australian Building Greenhouse Rating Commitment Agreement, which is made/signed between DECCW and the applicant/building owner/building manager, to design, build and commission the premises to an agreed star rating.
- (i) *Star rating* refers to the benchmarking system applied by DECCW for measuring the energy efficiency of a building, and known as NABERS the National Australian Built Environment Rating System.
- (ii) *Base building* means central services and common areas of a building.
- (iii) *Tenancies* means office space within a building covering tenant light and power. This may include tenancy air conditioning if this has been installed to service particular tenant loads, but does not include central services.
- (d) Whole building means all of the building, being the fabric of the building itself and all services and fit-outs.
- (e) Prior to the issue of an Occupation Certificate for Legion House, documentary evidence shall be provided to Council verifying that the proposed works and fit-out have achieved a 5 Star Green Star- Office Design v3 Certified Rating as defined by the Green Building Council of Australia.

#### **(62) INSTALLATION OF DUAL-FLUSH TOILETS**

All toilets installed within the development must be of water efficient dual-flush capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS).

#### **(63) INSTALLATION OF WATER EFFICIENT TAPS**

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS).

#### **(64) INSTALLATION OF WATER EFFICIENT URINALS**

New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved.

**(65) INTERNAL LIGHTING SYSTEM**

The proposed internal lighting system for the commercial office spaces must be designed to provide for the efficient use of energy including the use of energy efficient light fittings, zoned lighting and controls and sensors to ensure automatic switch off during non-working hours.

**(66) TOILETS AVAILABLE FOR USE BY PUBLIC**

Provision shall be made for the inclusion of toilet facilities at ground floor level of the building. Such facilities shall be located adjacent to the entrance foyer or lift lobby and shall remain available for public use during the normal opening hours of the building. The facilities shall be signposted.

**(67) PHYSICAL MODELS**

- (a) Prior to works commencing on site, an accurate 1:500 scale model of the approved development must be **submitted to Council** for the City Model in Town Hall House; and
- (b) Prior to occupation of any part of the commercial building, an accurate 1:500 scale mode of the development as constructed must also be **submitted to Council** for placement in the City Model at the City Exhibition Space.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at [www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandLodgingaDA.asp](http://www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandLodgingaDA.asp). Council's model maker must be consulted prior to construction of the model for Town Hall House. The Manager of Customs House must be consulted prior to the construction of the model for City Exhibition Space.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under section 96 of the Environmental Planning and Assessment Act) that affect the external appearance of the building.

**(68) SUBMISSION OF ELECTRONIC MODELS**

- (a) Prior to works commencing on site, an accurate 1:1 electronic model of the detailed construction stage drawings must be submitted to Council for the electronic City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
  - (i) building design above and below ground in accordance with the development consent;

- (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
- (iii) property boundaries and the kerb lines adjacent to the site.

The data is to be submitted as a DGN or DWG file on physical media (floppy disc or CD). All plans are to be referenced to the submitted Integrated Survey Grid of NSW (ISG), Australian Map Grid (AMG) or Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) Within the DGN **or** DWG file each identified structure, feature, utility or service must be distinguished by a combination of layering and/or symbology schema. The submitted plans must be accompanied by a comma delimited text file, detailing the layering and/or symbology schema.
- (d) The electronic model must be constructed in accordance with the City's electronic data protocol. The protocol provides specific details of the information required to be shown and is available online at [www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandLodgingaDA.asp](http://www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandLodgingaDA.asp). Council's Design/Technical Support staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.
- (e) Prior to occupation of any part of the commercial building, a second and updated "as built" 1:1 electronic model, in accordance with the above requirements, of the completed development must be submitted to Council for the electronic City Model.

Note: The submitted model/data must be amended to reflect any modifications to the approval (under section 96 of the *Environmental Planning and Assessment Act*) that affect the location of any of the underground services or structures and/or external configuration of building above ground.

## SCHEDULE 1C

### During Construction/Prior to Occupation/Completion

#### (69) HOURS OF WORK AND NOISE - CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.



- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

Note: The "*City of Sydney Code of Practice for Construction Hours/Noise 1992*" allows extended working hours subject to the approval of an application in accordance with the Code and under Section 96 of the *Environmental Planning and Assessment Act 1979*.

**(70) ENCROACHMENTS - NEIGHBOURING PROPERTIES**

No portion of the proposed structure shall encroach onto the adjoining properties.

**(71) ENCROACHMENTS - PUBLIC WAY**

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

**(72) SURVEY**

All footings and walls adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be completed indicating the position of external walls in relation to the boundaries of the allotment.

**(73) SURVEY CERTIFICATE AT COMPLETION**

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

**(74) COVERING OF LOADS**

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

**(75) PROTECTION OF STREET TREES DURING CONSTRUCTION**

All street trees adjacent to the site not approved for removal must be protected at all times during demolition and construction, in accordance with Council's Tree Preservation Order.

Details of the methods of protection must be submitted to and be approved by Council prior to works commencing on site. All approved protection measures must be maintained for the duration of construction and any tree on the footpath which is damaged or removed during construction must be replaced.

**(76) VEHICLE CLEANSING**

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

**(77) STREET NUMBERING - MAJOR DEVELOPMENT**

Prior to occupation of any part of the commercial building, street numbers and the building name must be clearly displayed at either end of the ground level frontage in accordance with the *Policy on Numbering of Premises within the City of Sydney*. If new street numbers or a change to street numbers is required, a separate application must be made to Council.

**(78) GREEN TRAVEL PLAN**

A Green Travel Plan must be submitted to and approved by Council prior to the occupation of any part of the commercial building.

**(79) SYDNEY WATER CERTIFICATE**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council prior to occupation of any part of the commercial building or subdivision/strata certificate being issued.

**(80) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

**(81) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.

- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

#### **(82) NO OBSTRUCTION OF PUBLIC WAY**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

#### **(83) USE OF MOBILE CRANES**

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (c) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes must not be delivered to the site prior to 7.30am without the prior approval of Council.

## **SCHEDULE 2**

**The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.**

## BACKGROUND

### The Site and Surrounding Development

1. The subject site has a total area of 2,409.1m<sup>2</sup> and is generally rectangular in shape. It is located at 29A and 31 Ultimo Road in Haymarket and is bounded by Ultimo Road to the north, 61-79 Quay Street to the east (approval granted for a mixed use development), Thomas Street to the south and the Ultimo Pedestrian Network (UPN) to the west. Levels fall across the site from Thomas Street to Ultimo Road by 4.5m. A location Plan is shown in **Figure 1** below.



**Figure 1: Location Plan**

2. The site currently consists of a substation, which is mainly below ground level, but projects two storeys above Ultimo Road. There is basement carparking accessed from Ultimo Road and the existing administration offices are accessed from Thomas Street. The substation was constructed to accommodate a building above.

- The surrounding uses consist of a mix of commercial, educational and student accommodation, including UTS to the north across Ultimo Road, the ABC complex directly opposite to the west, the Citigate Central Sydney Hotel to the south on the opposite side of Thomas Street, and a proposed mixed use residential development at 61-79 Quay Street adjacent to the site to the east. The UPN is level with the existing former railway bridge to the north west of the site and follows the alignment of the old railway line from Darling Harbour to Central Station. Photos of the site and the surrounding area are included below as **Figures 2 to 7**.



**Figure 2: View of the substation from the north east on Ultimo Road.**



**Figure 3: View of the northern elevation of the substation showing existing vehicle access.**



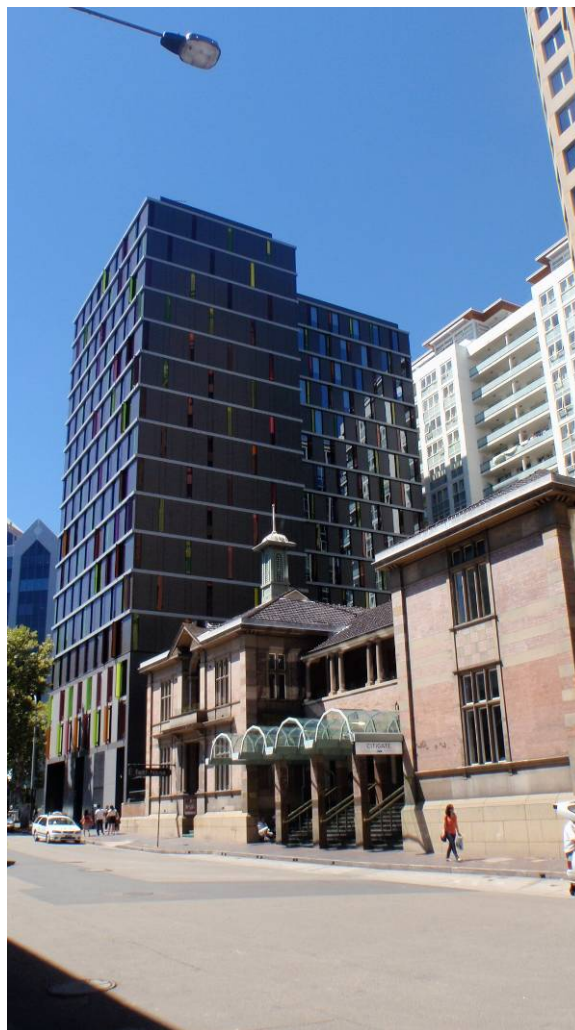
**Figure 4: View of the substation from the north west, with access to the UPN in the foreground.**



**Figure 5: View of the existing substation from the UPN level.**



**Figure 6: View of the substation from the south on Thomas Street.**



**Figure 7: Urbanest student accommodation located on the corner of Quay and Thomas Streets with Citigate Central Sydney Hotel in the foreground.**

**History of Development Applications Relevant to this Site**

4. D/2000/559 granted consent 6 October 2000 for a *'Stage 1 development application for the construction of a four storey predominantly below ground substation with a 12 storey office building above and associated basement car parking for 31 cars and as described in Schedule 3'*. Schedule 3 approved the FSR as 10.03:1 (17,715m<sup>2</sup>) and a height of 50m (RL 56). This consent has been activated and is the subject of this modification.
5. D/2001/890 granted 10 April 2002 for the Stage 2 development for the construction of a four storey predominantly below ground substation with an eight storey office building above and associated car parking for 30 cars. This consent has lapsed.
6. D/2002/715 approved 15 November 2002 for a Stage 2 development for the construction of a four storey predominantly below ground electricity substation with associated landscape works to the UPN. The substation has been constructed.
7. D/2005/1171 approved 13 December 2005 for a Stage 2 development for a nine storey office building above the existing substation with retail tenancies at ground level, outdoor eating areas fronting the UPN and basement car parking for 44 cars. This consent has lapsed.
8. D/2000/559/A is being considered concurrently with this application under Section 96(2) to modify the approved Stage 1 building envelope to increase the height and include land located at 29A Ultimo Road.

**PROPOSAL**

9. The proposal includes the construction of a new cantilevered nine storey commercial building over the existing substation with two retail/commercial tenancies at ground level fronting the UPN. The existing car parking within the basement level for 25 cars and 3 service vehicles is to remain, while the existing vehicle access from Ultimo Road will be also be retained. 70 bicycle spaces will be provided at ground level.
10. A lift core for the commercial tower is to be located outside of the commercial floor plates, located on the western boundary, adjacent to the UPN. The proposed commercial building will operate independently of the substation operations.
11. The proposed development has been designed to consist of three main facade types, including vertical aluminium louvers with mechanically operated blinds; horizontal sunshades attached to the mullions and a glazed box, with mechanically operated blinds creating an internal double skin. It is also proposed to re clad the existing substation in precast concrete panels and precast fins. The proposed lift tower adjacent to the UPN is to be viewed as a single glass volume outside of the volume of the existing solid substation.
12. A signage strategy has also been prepared to ensure that signage is integrated into the design, in accordance with the requirement from the Stage 1 consent.
13. The applicant initially also sought consent to alter the abutment to the Ultimo Pedestrian Bridge on Ultimo Road to allow for a stairway to Ultimo Road. This stair has now been deleted from the proposal, as concurrence of Rail Corp is required for access to construct the stair. This has not been granted.





**Figure 8: Photomontage of proposed building as viewed from Ultimo Road.**

### **CROWN AS THE APPLICANT**

14. For the purposes of this development application, Transgrid are taken to be the Crown. The provisions of the Environment Planning and Assessment Act 1979, Part 4, Clause 89 states:

*A consent authority must not:*

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.*

15. The conditions included in the recommendation of this report have been accepted by the applicant.

### **IMPLICATIONS OF THE PROPOSAL**

#### **Section 79C Evaluation**

16. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:

**Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments**

**STATE ENVIRONMENT PLANNING POLICIES (SEPPs)**

17. The following State Environmental Planning Policy/Policies are relevant to the proposed development:

**SEPP (Infrastructure) 2007**

Roads and Traffic Authority (RTA)

18. As the development exceeds 4,000m<sup>2</sup> of commercial floor space, the application was required to be referred to Roads and Marine Services. At the time of writing, no correspondence has been received.

**Sydney LEP 2005**

19. The majority of the site falls within the controls of Chapter 2 – Central Sydney of SLEP 2005. However, the western portion of the site falls within the controls of Chapter 3 – Ultimo Pyrmont of SLEP 2005, which was formerly SREP 26. This division is shown in **Figure 9** below.



**Figure 9: Zoning Maps for Central Sydney and Ultimo Pyrmont.**

20. Compliance of the proposal with the LEP controls is summarised below:

**COMPLIANCE WITH SYDNEY LEP 2005**

<b>Development Controls</b>	<b>Permissible under Sydney LEP 2005</b>	<b>Proposal as assessed under Sydney LEP 2005</b>
<b>Consistency with Development Plan</b>	Stage 1 Development consent approved 6 October 2000 and its modification is being considered concurrently.	The proposal is consistent with the modified Stage 1 development.
<b>Zoning</b>	City Centre and Public Recreation	Permissible with consent Refer to issues section.

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
<p><b>Floor Space Ratio</b></p> <p>Original = 1,766.8m<sup>2</sup></p> <p>Modified = 2,409.1m<sup>2</sup></p>	<p>Eastern portion 7.5:1 with 8.25:1 (14,576.1m<sup>2</sup>) permissible subject to Clause 10.</p> <p>Western portion 5:1 with 5.5:1 (3,532.1m<sup>2</sup>) permissible subject to Clause 10.</p>	<p>Eastern portion 10.25:1 (18,163m<sup>2</sup>)</p> <p>Western portion 5.29:1 (3,402m<sup>2</sup>)</p> <p>Resulting in a total 8.99:1 (21,658m<sup>2</sup> including the substation) for the entire site due to the inclusion of the adjacent lot.</p> <p>Although non-compliant with the controls, the proposal is consistent with the modified Stage 1 consent.</p>
<p><b>Height</b></p>	<p>Eastern portion is 50m above street level with 55m permissible subject to Clause 10.</p> <p>Western portion is 42m, although buildings within Public Recreation zone are limited to 7m.</p>	<p>RL 59.437 (roof level); RL 59.9 (to top of lift core) (55m).</p> <p>Notwithstanding the above, the proposal complies with the modified Stage 1 consent.</p>
<p><b>Parking</b></p>	<p>48</p>	<p>25 plus 3 service vehicles</p>
<p><b>Design Excellence Clause 26</b></p>	<p>Consent must not be granted unless consideration has been given to whether the proposal achieves design excellence</p>	<p>The proposed design is the result of an appropriate competitive design process.</p> <p>Refer to issues section.</p>

## LEP PART 6 - HERITAGE PROVISIONS

21. The site is not listed as a heritage item and is not located within a heritage streetscape area. However, the site is located across Thomas Street from the 'Former Benevolent Society of NSW Hospital', which now forms part of the Citigate Central Sydney Hotel. The proposed building design is considered to be appropriate in the context of this heritage item.
22. In addition, the site also adjoins the 'Ultimo Pedestrian Bridge', which is listed as having state significance. The applicant initially proposed to alter the abutment to the bridge to allow for a stairway to Ultimo Road. Railcorp has not provided its concurrence for the proposed stair and the application has therefore been amended to remove the works from the proposal.

**Draft Sydney LEP 2011**

23. The Draft Sydney LEP 2011 was placed on public exhibition in February 2011. The provisions of the Draft LEP have been taken into consideration in the assessment of the proposal. These provisions were approved by CSPC on 8 March 2012 and forwarded to the Department of Planning for gazettal.
24. The site is located within the B8 Metropolitan Centre zone and RE1 Public Recreation zone. While the proposed café use is permissible within the Public Recreation zone, office use is not. Notwithstanding this, the UPN, which is approximately 170m in length and 25m, will generally be preserved with a consistent width. The remaining key controls for the site being height and floor space remain consistent with the existing controls.

**Central Sydney DCP 1996****COMPLIANCE WITH THE CENTRAL SYDNEY DCP 1996**

<b>Matter to be Considered</b>	<b>Complies</b>	<b>Comment</b>
Building to the street alignment CI 2.1	✓	<b>Complies</b> The development is built to the street alignment of Thomas Street, Ultimo Road and the UPN.
Street frontage heights CI 2.2	✗	<b>Does not Comply</b> The substation forms the podium element of the building, which does not comply with the DCP. However, the proposal is consistent with the amended Stage 1 consent.
Building setbacks – front; side and rear CI 2.3	✗	<b>Does Not comply</b> The commercial tower provides a 5.3m setback from the substation on the eastern site boundary.  To assist in the modulation of the facade, various types of materials are used. In addition, the proposal is consistent with the amended Stage 1 consent.
Street frontage activities CI 2.5	✓	<b>Complies</b> The proposal includes two retail tenancies and the commercial tower lobby area along the UPN boundary. These uses will increase pedestrian movement in the UPN and activate the building edge along this frontage.

Matter to be Considered	Complies	Comment
Building exteriors CI 2.7	✓	<p><b>Complies</b> The proposed glazing and use of sun shading devices will provide modulation and visual interest to the building exterior.</p> <p>The proposed development has gone through a competitive design process and is considered to exhibit design excellence.</p>
Lanes CI 3.1	✓	<p><b>Complies</b> This portion of the UPN has been designated as a new lane. The proposal will provide for two café/retail tenancies fronting this area resulting in its activation.</p> <p>The proposed commercial lobby and lift tower, which also fronts the UPN will also increase pedestrian movement within the UPN. In addition, it is to be constructed with glazing, which will be visually permeable and provide unobstructed site lines within and to the UPN.</p>
Vehicle access and footpath crossings CI 3.3	✘	<p><b>Does Not comply</b> The development will continue to use the existing access from Ultimo Road. Although not compliant with the DCP, it is consistent with the Stage 1 consent.</p>
Awnings & colonnades CI 3.5	✓	<p><b>Complies</b> The proposed tower cantilevers over the ground level to provide weather protection along the UPN.</p>
Artworks CI 3.6	✓	<p><b>Able to comply</b> An appropriate condition is recommended to require the provision of public art within the UPN.</p>

Matter to be Considered	Complies	Comment
Easy access CI 3.8	✓	<b>Complies</b> Accessible entrances are provided to the retail and commercial spaces.
Sunlight to public spaces CI 4.1	✓	<b>Complies</b> The proposed development is consistent with modified Stage 1 consent.
Wind standards CI 4.2	✓	<b>Complies</b> A wind study provided with the application by Windtech Consultants states that wind conditions will be similar to existing conditions and suitable for pedestrian activity.
Energy efficiency of buildings CI 4.3	✓	<b>Complies</b> The application is supported by an ESD Statement prepared by Arup consultants, which that the building is 5 star Green Star rating and a minimum NABERS energy rating of 4.5 stars. An appropriate condition is recommended.
Noise reduction CI 4.4	✓	<b>Able to comply</b> The application is supported by an Acoustic Assessment prepared by Renzo Tonin & Associates. The report recommends appropriate noise mitigation measures, which are to be included as a condition of consent.
Reflectivity CI 4.5	✓	<b>Complies</b> The application is supported by a Reflectivity report prepared by Windtech Consultants, with a number of limitations recommended. A suitable condition of consent is to be imposed.

Matter to be Considered	Complies	Comment
Traffic, Loading & Parking CI 5.1 – 5.5	✓	<b>Able to comply</b> 25 car parking spaces and 3 service vehicle spaces within the basement and 80 bicycle spaces at ground floor level are proposed. There is concern regarding the proposed loading for the site, which is discussed in the issues section below.

### Urban Development Plan for Ultimo Pyrmont Precinct 1999 Update

#### Compliance with UDP 1999 Update

Matter to be Considered	Complies	Comment
4.1 Ground level activity	✓	<b>Complies</b> The proposal includes two retail/café tenancies and the commercial tower lobby area along the UPN, which will increase pedestrian movement.
4.2 Facade treatment	✓	<b>Complies</b> The proposed facade includes a number of types and materials to assist in its modulation. In addition, it is consistent with the modified Stage 1.
4.3 Awnings & colonnades	✓	<b>Complies</b> Although the site is not identified as requiring an awning, the cantilevered design of the building will provide a form of weather protection for pedestrians.
4.4 Roof Design (lift over run)	✓	<b>Complies</b> The lift core is a design feature on the western frontage.
4.5 Signage	✓	<b>Complies</b> A signage strategy has been provided with the application, which is considered to be acceptable. Refer to Issues section.
4.6 Public Art	✓	<b>Complies</b> A condition requiring the provision of public art is recommended.

Matter to be Considered	Complies	Comment
6.1 Retail and neighbourhood services	✓	<p><b>Complies</b> The site is not identified on the activity strip map; however, two retail/café tenancies are proposed to front the UPN.</p>

### Issues

25. The issues identified in the above instruments/policies as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below:

### Design Excellence/Competitive Process

26. In accordance with the Stage 1 consent, the applicant undertook a competitive design process in August/September 2011, which included three architectural firms, Bligh Voller Nield, Bates Smart Architects and Group GSA Architects. Through this competitive process, the Jury determined Bates Smart Architects to be the winning entry and they were appointed to develop the concept.
27. The winning design was considered to have a superior visual expression, while exhibiting design excellence. The Jury noted that while the *'proposal did slightly exceed the height limit of the Stage 1 DA it was thought that this was acceptable in relation to the approved heights of the adjoining site to the east and within the additional height allowable if design excellence is achieved.'*
28. It is considered that the proposed massing prescribed by the building envelope of the modified Stage 1 consent has been given architectural expression by a series of random stacked horizontal volumes of ranging height with each horizontal layer given a different facade treatment consisting of horizontal and vertical sunscreens.
29. To support the predominantly glazed building, a series of large horizontal planar steel trusses have been inserted above the roof of the existing substation. Council's Urban Design officer has stated that *'the trusses together with the existing substation structure form a masonry base to the building and are considered to give the development a human scale, while providing a stronger link with the traditional streetscape.'*
30. The substation is to be clad in precast concrete, with the colour proposing to relate to sandstone, while clearly reading as a modern material.
31. A setback has also been provided from the western boundary to create a public plaza at the forecourt of the building activated by proposed retail/commercial uses, which is considered to enhance the public domain. The proposed tower lift lobby will also be located within this area, which will be read as a single glass volume contrasting with the substation. The use of glazing here is considered to be important to allow the space to be visually permeable and to allow unobstructed site lines within, and to the UPN.



32. The development is to be setback from the eastern boundary of the site by 5.3m in accordance with the Stage 1 consent and therefore provides separation from the recently approved mixed use development at 61-79 Quay Street.
33. In addition to the above, the proposed development is considered to result in an improved building envelope from the Stage 1 consent, by improving its streetscape integration; providing varying facade treatments and articulation, including the substation, which will add visual interest to the building; using materials to result in a light building form over the existing substation; and incorporating a range of ESD measures as part of the integrated design, including a 5 star Green Star rating and 4.5 star NABERS Energy rating.

### Land Use

34. The subject site now extends to the west, across the land at 29A Ultimo Road, which is zoned Public Recreation. The SLEP 2005 allows for uses that are permissible in the adjoining zone *'are also permissible in the public recreation zone for a distance of 10 metres from the zone boundary'*. The land in the eastern portion permits retail and commercial development and therefore the proposed extension of uses is permissible as it extends 8.545 metres into the Public Recreation zone.
35. The proposed uses are considered to benefit the UPN by providing ground level activity, further pedestrian circulation and introducing natural surveillance.

### Height and Floor Space Ratio

36. The Sydney LEP 2005 restricts the height and FSR of the eastern portion of the site to a maximum 50m with a possible 55m and 7.5:1 with a possible 8.25:1, subject to Clause 10. While the western portion of the site is limited to a maximum height of 7m and 5:1 or 5.5:1 subject to Clause 10. The Stage 1 modified consent approves a maximum height of 55m and a FSR of 8.99:1. As this Stage 2 proposal is in accordance with the modified Stage 1 consent as required by Clause 83D (2) of the EP&A Act 1979, the proposed height is considered to be acceptable.
37. In addition consideration of the above, the building is of a height that is consistent with the surrounding area, including the ABC centre, the approved development at 61-79 Quay Street and the Citigate Central Sydney Hotel. In addition, the proposal will not result in any adverse shadowing effects on the surrounding area.

### Signage Strategy

38. The proposed Signage Strategy provides for two major signs, with one located on the external lift shaft and the other on the parapet level of the substation on the northern facade. Four other smaller signs are proposed for the individual tenancies at the UPN and Thomas Street level. The proposed number of signs and their location are considered to be acceptable and will integrate well with the building.

### Traffic and Parking

39. The development proposes to continue to use the existing basement carpark with access from Ultimo Road, which provides parking for 25 cars and three service vehicles. Council's Traffic unit have noted that this is a low provision of servicing and loading spaces for a building of this size and that the City has received correspondence from the applicant seeking provision of additional on-street loading in the vicinity of the site.
40. There is no provision to modify the existing substation building to provide for additional loading and as such the no amendments can be made.

### ESD

41. Sustainable initiatives have been included to integrate with the building design to ensure optimal energy efficiency and environmental performance with a 5 star Green Star rating sought. These include:
  - (a) High performance building envelope to improve energy efficiency and address indoor environmental quality (visual, acoustic and thermal comfort);
  - (b) High efficiency mechanical plant;
  - (c) Highly efficient water fixtures and rainwater harvesting for use in toilet flushing and irrigation within the site;
  - (d) Management of stormwater on site before discharging into the public infrastructure;
  - (e) Minimum 4.5 star NABERS energy rating; and
  - (f) Selection of reused /recycled materials where possible.
42. These initiatives are in accordance with condition 15 of the Stage 1 consent and are acceptable.

### Electromagnetic Radiation

43. An Electric and Magnetic Fields (EMF) survey associated with the operation of the substation was submitted with the application. The survey concludes *'that the design and construction of the Haymarket Substation building and the layout and design of the substation plant and equipment are such as to achieve compliance with National Health and Medical Research Council Guidelines for electric and magnetic fields and to minimise the impact of power frequency electric and magnetic fields on the adjoining and surrounding properties, have been complied with'* as required by the condition of consent of the Stage 1 development.
44. Council's Health unit have advised that in light of this report, the proposal is satisfactory in terms of electromagnetic radiation and human health.

### Section 79C(1)(b) Other Impacts of the Development

45. The impacts of the development are described above and the proposal is recommended for approval subject to conditions.

**BCA Matters**

46. The BCA Classification of the building is classes 5, 6 and 7a.

**Section 79C(1)(c) Suitability of the site for the development**

47. The site is suitable for the proposed development as discussed above.

**Section 79C(1)(e) Public Interest**

48. The proposal is considered to be in the public interest, as it will provide for a well designed building above the existing solid form of the substation, while enhancing the public domain and providing further activation of the UPN.

**FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS**

49. The cost of the development is in excess of \$200,000 and is therefore subject to a development levy pursuant to the Central Sydney (Section 61) Contributions Plan 2003. An appropriate condition has been included in the recommendation of this report.

**PUBLIC CONSULTATION****Section 79C(1)(d)****EXTERNAL REFERRALS**

50. Adjoining and nearby owners and occupiers of residential buildings were notified of the proposal and invited to comment. In addition, notices were placed on the site and the proposal was advertised in the daily press in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications DCP 2005. There were no submissions received.

**INTERNAL REFERRALS**

51. The application was referred to Council's Specialist Surveyor, Specialist Health Surveyor, Senior Urban Designer, Building Services Unit, Transport and Access Unit. No objection to the proposed development was raised, subject to the imposition of appropriate conditions.
52. Appropriate conditions have been included in the recommendation of this report to reflect these requirements.

**RELEVANT LEGISLATION**

53. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

54. The proposed nine storey commercial office tower above the existing substation is considered to be an appropriate design response to the modified Stage 1 consent, while remaining consistent with the approved building envelope.

55. The design is a result of a competitive design process and through the use of different materials and facade types respects the surrounding character and context of the area, while providing an appropriate contrast with the substation below.
56. The ground level café/retail tenancies and the commercial lobby and glazed lift tower will increase pedestrian movement in the UPN and activate the building edge.
57. The application is recommended for approval, subject to conditions.

**GRAHAM JAHN**

Director City Planning, Development and Transport

(Bridget McNamara, Senior Planner)