

**ITEM 4. INTEGRATED DEVELOPMENT APPLICATION: 1 ALFRED STREET SYDNEY****FILE NO: D/2010/2029****DEVELOPMENT APPLICATION NO: D/2010/2029****SUMMARY****Date of Submission:** 2 December 2010

Additional information received 11 November 2011, 19 December 2011 and 30 March 2012

**Applicant:** Project Architecture**Architect:** Kerry Hill Architects**Developer:** Valad Commercial Management Limited**Summary:** The subject application seeks consent for a Stage 2 development application for the detailed design of a new mixed-use development comprising two buildings of 55 storeys and 15 storeys, and encompasses the following:

- demolition of the existing building;
- excavation to create 8 levels of basement car parking;
- 197 residential apartments
- 924sqm of commercial and retail floor space;
- 279 car parking spaces, 33 motorcycle spaces, 67 bicycle spaces and 5 service/delivery bays; and
- public domain improvement works.

In recent years, the site has been the subject of a detailed Urban Design Study undertaken by the NSW Government Architect, a design excellence competition and the preparation and gazettal of site specific amendments to the Central Sydney planning controls.

The application was notified in December 2010 and resulted in 37 submissions being received. These submissions related to the following matters:

- View loss;
- Consistency with the planning controls;
- Achievement of the public benefits contained within the amended APDG LEP/DCP;
- Overshadowing;
- Detrimental impacts on heritage items;
- Car parking and traffic generation;

- Insufficient notification area;
- Setbacks and overlooking;
- Wind impacts;
- Street wall height; and
- Process of removing the temporary barrier fence to through-site link.

During the assessment of the application, the developer offered to enter into a voluntary planning agreement (VPA) to undertake works to improve the public domain and contribute to the achievement of the public benefits outlined in the APDG LEP/DCP. This VPA was exhibited for a 28-day period commencing on 27 March 2012 and resulted in 4 submissions.

The proposal is Integrated Development due to the proposed works being within the curtilage of the Sydney Tank Stream, which is listed on the State Heritage Register. The proposal also requires the concurrence of RailCorp due to the proximity of the basement works to the CBD Rail Link. These authorities have provided their respective approvals and concurrences.

The proposal has been amended during the assessment period to consider preliminary concerns raised regarding materiality, vehicular access, the public domain treatment and architectural treatment of the buildings. These amendments did not result in additional environmental impacts and did not require re-notification.

As amended, the proposal is considered to be generally consistent with the relevant planning controls and does not result in unreasonable environmental or amenity impacts considering its context. The proposed development is considered to positively contribute to the achievement of the redevelopment of the APDG block.

The development application is supported, and is recommended for deferred commencement consent, requiring the satisfaction of the following conditions:

- (a) provision of amended plans to reinstate key architectural features of the design competition winning scheme;
- (b) execution and registration on title of the voluntary planning agreement;
- (c) provision of an air quality assessment report on the proposed co-generation plant; and
- (d) documentation to satisfy the RailCorp concurrence conditions of SEPP (Infrastructure) 2007.

**Summary Recommendation:** The development application is recommended for deferred commencement consent.

**Attachments:**

- A - Architectural Plans
- B - Photomontages
- C - View Analysis
- D - APDG LEP/DCP View assessment extracts from the report to the Central Sydney Planning Committee on 11 November 2010
- E - Pitt Street façade treatment study
- F - Figure 2.69 (Site Development Control Envelope) of APDG DCP Amendment
- G - Draft Voluntary Planning Agreement
- H - Submissions received during the exhibition of the Draft Planning Agreement

**RECOMMENDATION**

It is resolved that:

- (A) pursuant to the provisions of Clause 23(4)(e) of Sydney Local Environmental Plan 2005 (SLEP 2005) that the consent authority waive the requirement to prepare a development plan for the subject site as it is considered to be unreasonable and unnecessary in this instance based upon the detailed site analysis undertaken as part of the urban design study, design excellence competition and preparation of the site specific APDG LEP/DCP;
- (B) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted subject to the following:

**(1) VOLUNTARY PLANNING AGREEMENT**

Prior to the activation of this consent:

- (a) The Voluntary Planning Agreement (Reference: AMH/S093181: Exhibition Draft 21.03.12), prepared by Council and placed on public exhibition on 27 March 2012 shall be executed and submitted to Council.
- (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement; and
- (c) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.

**(2) DESIGN MODIFICATIONS**

Amended plans shall be submitted to the satisfaction of Council's Director of City Planning, Development and Transport illustrating the reinstatement of the following design elements of the winning scheme from the Design Competition held in November 2009:

- (a) the reinstatement of the recessed notch at approximately Levels 37 and 38 of the northern elevation of Building A;
- (b) the reinstatement of the partial sandstone façade treatment of the eastern elevation of Building B in accordance with the treatment of the Design Competition winning scheme; and
- (c) the reduction or deletion of the solid blade wall fronting George Street on the northwestern corner of ground floor retail tenancy of Building A to allow greater activation of the George Street façade.

**Note:** The modifications above are to be submitted to and approved by the Director City Planning, Development and Transport prior to the activation of the consent.

**(3) RAILCORP CONCURRENCE REQUIREMENTS**

This consent does not operate until the applicant satisfies the Council's Chief Executive Officer that the owners have entered into an Agreement with Rail Corporation NSW (RailCorp) as required in the following conditions:

- (a) The owners of the site of the approved development must enter into an Agreement with RailCorp to address the potential impacts of the approved development on the CBD Rail Link identified in State Environmental Planning Policy (Infrastructure) 2007. The Agreement must provide for the following:
- (i) the design, construction and maintenance of the approved development so as to satisfy the requirements in conditions (c) to (g) below;
  - (ii) allowances for the future construction of railway tunnels in the vicinity of the approved development;
  - (iii) allowances in the design, construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
  - (iv) consultation with RailCorp;
  - (v) provision to RailCorp of drawings, reports and other information related to the design, construction and maintenance of the approved development;
  - (vi) creation of a restrictive covenant on each of the titles which comprise the approved project so as to satisfy condition (j) below;
  - (vii) such other matters which RailCorp considers are appropriate to give effect to (i) to (vi) above; and
  - (viii) such other matters as the owners and RailCorp may agree.
- (b) All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development which have potential impacts on the CBD Rail Link must be designed, constructed and maintained in accordance with design criteria specified by RailCorp.
- (c) The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of RailCorp.
- (d) No modifications may be made to that approved design without the consent of RailCorp.
- (e) RailCorp, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

- (f) A detailed regime is to be prepared for the consultation with, and approval by, RailCorp for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by RailCorp.
- (g) All requirements contained in the Agreement between RailCorp and the owners of the site must be satisfied during construction and, where appropriate, the operation of the approved development.
- (h) Copies of any certificates, drawings or approvals given to or issued by RailCorp must be delivered to the City for its records.
- (i) Prior to the commencement of any excavation below existing ground level, a restrictive covenant is to be created upon each of the titles which comprise the approved development pursuant to Section 88E of the Conveyancing Act 1919, restricting any alterations or additions to any part of the approved development which is reasonably likely to adversely affect, or which otherwise are likely to interfere with the design, construction and operation of the proposed CBD Rail Link without the written consent of RailCorp.

#### (4) COGENERATION PLANT

- (a) Amended plan/s shall be submitted to illustrate the location of the gas-fired plant and any flues, and to illustrate the location of these flues with regard to surrounding buildings.
- (b) In the event that the gas-fired plant does not exceed 1MW, and thereby excluding it from the need for an Environmental Protection Licence from the Office of Environment and Heritage, an air quality assessment shall be undertaken by a suitably qualified environmental consultant and provided to Council :-
  - (i) That demonstrates that the policy requirements of the *“Interim OEH Nitrogen Oxide Policy for co-generation in Sydney and the Illawarra”* can be met by the proposed tri-generation plant.
  - (ii) To assess the impact on local air quality from the installation of tri-generation plant and the likelihood of impacts from offensive odour and fumes on nearby receptors. Any air quality modelling undertaken shall be in accordance with Department of Environment and Conservation (NSW) guidance *“Approved Methods for the modelling and assessment of air pollutants in New South Wales”*.
  - (iii) Details of any recommendations or mitigation controls required.

**Note:** Dependent on the information submitted and the recommendations made within the Air Quality Assessment report, further on-going monitoring and/or maintenance conditions may be required to added to the consent prior to its operation.

- (C) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement consent Conditions (1) to (4), as indicated above, must be submitted to Council **within 12 months of the date of determination** (being 10 May 2013);
- (D) the consent will not operate until such time that the Council notifies the Applicant in writing that the deferred commencement consent Conditions (1) to (4) as indicated above, have been satisfied; and
- (E) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent 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/2010/2029, dated 2 December 2010, and the Statement of Environmental Effects, prepared by Robinson Urban Planning, dated 24 November 2010, and the following drawings:

Drawing Number	Architect	Date
DA0001 (Revision B) Roof Site Plan	Kerry Hill Architects	8 November 2011
DA0002 (Revision B) Ground Site Plan	Kerry Hill Architects	8 November 2011
DA0102 (Revision B) Basement 8 Plan	Kerry Hill Architects	8 November 2011
DA0103 (Revision B) Basement 3-7 Plan	Kerry Hill Architects	8 November 2011
DA0104 (Revision B) Basement 2 Plan	Kerry Hill Architects	8 November 2011
DA0105 (Revision B) Basement 1 Plan	Kerry Hill Architects	8 November 2011
DA0106 (Revision B) Lower Ground Plan	Kerry Hill Architects	8 November 2011

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA0107 (Revision B) Ground Plan	Kerry Hill Architects	8 November 2011
DA0108 (Revision B) Mezzanine Plan	Kerry Hill Architects	8 November 2011
DA0109 (Revision B) Level 1 Plan	Kerry Hill Architects	8 November 2011
DA0110 (Revision B) Level 2 Plan	Kerry Hill Architects	8 November 2011
DA0111 (Revision B) Level 3 Plan	Kerry Hill Architects	8 November 2011
DA0112 (Revision B) Level 4 Plan	Kerry Hill Architects	8 November 2011
DA0113 (Revision B) Level 5 Plan	Kerry Hill Architects	8 November 2011
DA0114 (Revision B) Level 6-8 Plan	Kerry Hill Architects	8 November 2011
DA0116 (Revision B) Level 9-12 Plan	Kerry Hill Architects	8 November 2011
DA0118 (Revision B) Level 13 Plan	Kerry Hill Architects	8 November 2011
DA0119 (Revision B) Level 14 Plan	Kerry Hill Architects	8 November 2011
DA0120 (Revision B) Level 15-19 Plan	Kerry Hill Architects	8 November 2011
DA0121 (Revision B) Level 20 Plan	Kerry Hill Architects	8 November 2011
DA0122 (Revision B) Level 21-33 Plan	Kerry Hill Architects	8 November 2011
DA0124 (Revision B) Level 34 Plan	Kerry Hill Architects	8 November 2011
DA0125 (Revision B) Level 35 Plan	Kerry Hill Architects	8 November 2011
DA0126 (Revision B) Level 36 Plan	Kerry Hill Architects	8 November 2011



<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA0127 (Revision B) Level 37 Plan	Kerry Hill Architects	8 November 2011
DA0128 (Revision B) Level 38 Plan	Kerry Hill Architects	8 November 2011
DA0129 (Revision B) Level 39-50 Plan	Kerry Hill Architects	8 November 2011
DA0130 (Revision B) Level 51-52 Plan	Kerry Hill Architects	8 November 2011
DA0131 (Revision B) Level 53 Plan	Kerry Hill Architects	8 November 2011
DA0132 (Revision B) Level 54 Plan	Kerry Hill Architects	8 November 2011
DA0133 (Revision B) Level 55 (Roof Plant) Plan	Kerry Hill Architects	8 November 2011
DA0201 (Revision A) Accessible Apts –Post Adaptation	Kerry Hill Architects	12 November 2010
DA1001 (Revision B) Building A - Elevations	Kerry Hill Architects	8 November 2011
DA1002 (Revision B) Building A - Elevations	Kerry Hill Architects	8 November 2011
DA1003 (Revision B) Building B - Elevations	Kerry Hill Architects	8 November 2011
DA1004 (Revision B) Building B - Elevations	Kerry Hill Architects	8 November 2011
DA1005 (Revision B) Streetscape East Elevation	Kerry Hill Architects	8 November 2011
DA1006 (Revision B) Streetscape West Elevation	Kerry Hill Architects	8 November 2011
DA1007 (Revision B) Streetscape North Elevation	Kerry Hill Architects	8 November 2011
DA1008 (Revision B) Streetscape Detail North Elevation Bdg B	Kerry Hill Architects	8 November 2011

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA1009 (Revision B) Streetscape Detail North Elevation – Bdg A	Kerry Hill Architects	8 November 2011
DA1010 (Revision B) Streetscape Detail West Elevation	Kerry Hill Architects	8 November 2011
DA1011 (Revision B) Streetscape Detail East Elevation – Bdg B	Kerry Hill Architects	8 November 2011
DA1101 (Revision B) Sections	Kerry Hill Architects	8 November 2011
DA1201 (Revision B) Detail Basement Section	Kerry Hill Architects	14 October 2011
DA1301 (Revision A) Photovoltaic Area Calculations	Kerry Hill Architects	12 November 2010
DA2001 (Revision A) Façade Details	Kerry Hill Architects	4 November 2010
DA2002 (Revision A) Façade Details	Kerry Hill Architects	4 November 2010
DA2003 (Revision A) Façade Details	Kerry Hill Architects	12 November 2010
DA2004 (Revision A) Façade Details	Kerry Hill Architects	12 November 2010
DA2005 (Revision A) Façade Details	Kerry Hill Architects	12 November 2010
DA2006 (Revision A) Façade Details	Kerry Hill Architects	12 November 2010
DA2007 (Revision A) Façade Details	Kerry Hill Architects	12 November 2010
DA2100 (Revision A) Façade Types – Glass Types	Kerry Hill Architects	12 November 2010
Dwg102 Proposed Streetscape/Plaza	Spackman Mossop Michaels	8 November 2011
Dwg103 Proposed Courtyard & Level 38 Plan	Spackman Mossop Michaels	18 November 2010

Drawing Number	Architect	Date
Dwg104 Typical Details & Sections	Spackman Mossop Michaels	8 November 2011
Dwg105 Typical Details & Sections	Spackman Mossop Michaels	8 November 2011
Dwg 106 Paving Detail Plan	Spackman Mossop Michaels	18 November 2010

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) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The developer's works as stipulated at Schedule 3 of the Voluntary Planning Agreement (Reference: AMH/S093181: Exhibition Draft 21.03.12), shall be provided in accordance with 'Timing of Contributions' Schedule (being Schedule 2) of this agreement.

**(3) DESIGN DETAILS (MAJOR DEVELOPMENT)**

**(4) DESIGN QUALITY EXCELLENCE**

**(5) DESIGN DETAILS OF TEMPORARY BARRIER FENCE**

Detailed drawings shall be submitted of the design and treatment of the temporary barrier fence to be erected at the southern end of the through-site link. The design of this fence/wall shall be approved by Council's Director City Planning, Development and Transport prior to the issue of a Construction Certification. Note: Consideration should be given to the use of the wall for the installation of a temporary public artwork.

**(6) FLOOR SPACE RATIO - CENTRAL SYDNEY**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 15.363:1 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 41,265sqm.
- (b) Prior to an Occupation Certificate being issued, 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, to the satisfaction of the Principal Certifying Authority.

- (c) Prior to a Construction Certificate being issued, Council's written verification must be obtained, confirming that 8,888sqm of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of 8:1 as specified in the *Sydney Local Environmental Plan 2005*.

**(7) BUILDING HEIGHT**

- (a) The height of Building A must not exceed RL 191.0 (AHD) to the uppermost part of the building and the height of Building B must not exceed RL 57.30 (AHD) to the uppermost part of building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

**(8) APPROVED DESIGN ROOF - TOP PLANT**

**(9) REFLECTIVITY**

The recommendations of the Reflectivity Study, prepared by ARUP, dated November 2010 shall be incorporated into the development to reduce glare/reflectivity from the Cahill Expressway. Details illustrating compliance with this condition shall be submitted to the satisfaction of Council's Director of City Planning, Development and Transport.

**(10) NON RESIDENTIAL USES - SEPARATE DA REQUIRED**

Separate development applications for the fit-out and use of the Lower Ground Floor and Ground Floor retail tenancies must be submitted to and approved by Council prior to that fit-out or use commencing.

**(11) SIGNAGE STRATEGY**

**(12) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

**(13) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL, SERVICED APARTMENTS AND MIXED USE**

**(14) SECTION 61 CONTRIBUTIONS PAYABLE - REGISTERED QUANTITY SURVEYOR'S DETAILED COST REPORT - SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**(15) LANDSCAPING OF THE SITE**

**(16) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY - INELIGIBILITY FOR RESIDENT PARKING PERMITS**

**(17) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**

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

A maximum of 279 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. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

**(19) HEIGHT CLEARANCES**

A minimum height clearance of 4 metres, clear of all structures, ducting, piping, cabling and the like, must be provided over all areas traversed by refuse collection vehicles, including the area leading to the breakthrough panel and through the breakthrough panel itself providing access to the adjoining property at 19-31 Pitt Street.

**(20) SERVICE VEHICLES**

Courier spaces and loading docks must be located close to the service entrance and away from other parking areas, as detailed below:

- (a) A minimum of 2 courier space(s) with minimum dimensions 2.6m x 5.4m and a minimum head clearance of 2.5 metres.
- (b) A minimum of 2 Small Rigid Vehicle loading dock(s)
- (c) A minimum of 2 Medium Rigid Vehicle loading dock(s)

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*'. Details must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

**(21) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must be a maximum length of 8.8 metres.

**(22) ACCESSIBLE PARKING SPACE****(23) LOCATION OF ACCESSIBLE CAR PARKING SPACES****(24) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES****(25) ALLOCATION FOR CAR WASH BAYS**

**(26) INTERCOM FOR VISITORS/ ACCESS TO PORTE COCHERE**

Where a boomgate or barrier control is in place, the porte cochere must be accessible to residents/visitors by the location of an intercom (or card controller system) at the car park entry and shall be at least 6 metres clear of the property boundary, wired to all units. The intercom must comply with 'Australian Standard AS 1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23'. Details illustrating compliance with this condition shall be submitted to the Certifying Authority prior to an Occupation Certificate being issued or the use commencing, whichever is earlier.

**(27) BICYCLE PARKING****(28) VEHICLE ACCESS****(29) SIGNS AT EGRESS****(30) SECURITY GATES****(31) LOADING WITHIN SITE****(32) LOADING/PARKING KEPT CLEAR****(33) TRAFFIC WORKS****(34) ASSOCIATED ROADWAY COSTS****(35) COST OF SIGNPOSTING****(36) EXTERNAL LIGHTING****(37) WASTE AND RECYCLING COLLECTION****SCHEDULE 1B****Prior to Construction Certificate/Commencement of Work/Health and Building**

**Note:** Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

**(38) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE****(39) CONSTRUCTION TRAFFIC MANAGEMENT PLAN****(40) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

A site specific noise management plan shall be submitted to the Council for approval prior to the issue of a Construction Certificate.

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 Association of Australian 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 engineer 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.

**(41) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

**(42) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (43) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**
- (44) EROSION AND SEDIMENT CONTROL - MORE THAN 2,500SQM**
- (45) DEWATERING**
- (46) ACID SULFATE SOILS**
- (47) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 19-31 Pitt Street (Fairfax House), 31A Pitt Street (the Rugby Club) and 174-176 George Street (Jacksons on George) are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.

#### UPON COMPLETION OF EXCAVATION/DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

- (48) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE**
- (49) ASBESTOS REMOVAL**
- (50) ASBESTOS REMOVAL SIGNAGE**
- (51) PROHIBITION OF ASBESTOS RE-USE**
- (52) CLASSIFICATION OF WASTE**
- (53) DISPOSAL OF ASBESTOS**
- (54) NOTIFICATION OF ASBESTOS REMOVAL**



**(55) SIGNAGE LOCATION AND DETAILS****(56) SKIPS AND BINS****(57) CONTAMINATION****(58) WATER POLLUTION****(59) TREE PROTECTION ZONE**

- (a) Before the commencement of works, a/the Tree Protection Zone/s (TPZ) must be established around all tree/s to be retained not less than the distance indicated in the TPZ schedule below.

**TPZ Schedule**

<b>Tree No</b>	<b>Species Name</b>	<b>Location</b>	<b>Radius (m) from Trunk</b>
1	<i>Platanus x hybrida</i>	Pitt Street	2.5m
2-6	<i>Platanus x hybrida</i>	Herald Square	4m
7- 12	<i>Ficus microcarpa var hillii</i>	Herald Square	4m
13-17	<i>Platanus x hybrida</i>	George Street	4m

**(60) STREET TREE PROTECTION****(61) SYDNEY WATER CERTIFICATE (QUICK CHECK)****(62) TELECOMMUNICATIONS PROVISIONS****(63) UTILITY SERVICES****(64) FLOOR TO CEILING HEIGHT****(65) ACOUSTIC PRIVACY BETWEEN UNITS****(66) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS****(67) ACOUSTIC ASSESSMENT REPORT**

- (a) The Acoustic Assessment report, prepared by Acoustic Logic Consultancy (Reference 2010426/0602/R1/TT), dated 18 October 2010 shall be amended to reflect the internal residential acoustic amenity criteria stated within Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007. An amended report must be submitted to the Council for approval prior to the issue of a Construction Certificate, particularly in relation to the proposed acoustic control recommendations stated in Part 4 of the report.
- (b) All recommendations contained in the revised and approved acoustic assessment report must be implemented during construction and use of the premises.

- (c) The Principal Certifying Authority (PCA) and the Council must be provided with a statement from 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 Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated and approved report have been suitably incorporated into the development and that relevant internal acoustic amenity criteria have been satisfied prior to issue of Occupational Certificate.

**(68) ACOUSTIC VERIFICATION – MECHANICAL PLANT**

A further Acoustic Assessment must be submitted to Council for approval prior to the issue of an Occupation Certificate. This assessment must outline the extent of the mechanical services provided within the development and confirming that resultant maximum individual and combined operational noise levels from their use complies with the City of Sydney “Noise Use - General” condition which forms part of the consent.

Should the report indicate that resultant noise levels are, or are likely to be in exceedance of the criteria then further acoustic controls must be implemented as recommended by the acoustic consultant to ensure ultimate compliance.

**(69) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

**(70) ADAPTABLE HOUSING**

**(71) PHYSICAL MODELS**

**(72) SUBMISSION OF ELECTRONIC MODELS PRIOR TO CONSTRUCTION CERTIFICATE AND PRIOR TO OCCUPATION CERTIFICATE**

**(73) DEMOLITION/SITE RECTIFICATION (if cost is over \$50m)**

**(74) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the basis of an area of **150 lineal metres** of stone 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 issue of a Construction Certificate.

**(75) BARRICADE PERMIT**

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

**(77) ALIGNMENT LEVELS**

**(78) PUBLIC DOMAIN PLAN**

**(79) PUBLIC ART**

In accordance with the commitments contained within the Voluntary Planning Agreement, high quality public art work/s must be provided within the development in publicly accessible locations, 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 the issue of a Construction Certificate for any above ground works to Building A or Building B. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

**(80) STREET LIGHTING**

The developer must procure and install two Smartpoles, Type S1B 9.6m height, including pier footings, luminaries, and all relevant electrical connections and adjacent footpath works to Council standards, to the eastern side of Pitt Street between Alfred Street and Bulletin Place. The developer is to liaise with Council's Lighting Contract Coordinator to determine lighting details, exact location of Smartpoles and certifications required by Council. Lighting plans must be submitted to and approved by Council prior to the issue of a Construction Certificate.

**(81) PAVING MATERIALS****(82) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT****(83) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN****(84) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER****(85) PRESERVATION OF SURVEY MARKS****(86) SWIMMING POOL/SPA****(87) MINIMISE IMPACT OF POOL ON NEIGHBOURING PROPERTIES****(88) SWIMMING POOL - WASTE AND OVERFLOW WATERS****(89) MECHANICAL VENTILATION****(90) CAR PARK VENTILATION****(91) MICROBIAL CONTROL****(92) CONTROL OF LEGIONNAIRES DISEASE****(93) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION****(94) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA****(95) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)**

**SCHEDULE 1C****During Construction/Prior to Occupation/Completion****(96) OCCUPATION CERTIFICATE TO BE SUBMITTED****(97) BASIX****(98) HOURS OF WORK AND NOISE – CBD****(99) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS****(100) USE OF INTRUSIVE APPLIANCES – NOT APPROVED**

This development consent does not extend to the use of construction appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992”.

A separate Section 96 development application for approval to use any of these appliances must be made to Council. The application should include a noise impact assessment outlining the level of noise impact on neighbouring noise sensitive receivers from the use of the high noise intrusive appliances intended to be used on the site.

Reference should be made to the noise criteria stated within the City of Sydney Construction Hours/Noise Code 1992.

**(101) NOTIFICATION OF EXCAVATION WORKS****(102) SYDNEY WATER CERTIFICATE****(103) PROTECTION OF STREET TREES DURING CONSTRUCTION****(104) COVERING OF LOADS****(105) VEHICLE CLEANSING****(106) LOADING AND UNLOADING DURING CONSTRUCTION****(107) ACCESS DRIVEWAYS TO BE CONSTRUCTED****(108) NO OBSTRUCTION OF PUBLIC WAY****(109) USE OF MOBILE CRANES****(110) ENCROACHMENTS – NEIGHBOURING PROPERTIES****(111) ENCROACHMENTS – PUBLIC WAY****(112) SURVEY****(113) SURVEY CERTIFICATE AT COMPLETION****(114) STREET NUMBERING – MAJOR DEVELOPMENT**

**SCHEDULE 2**

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

**SCHEDULE 3****(115) ROADS AND MARITIME SERVICES (RMS) REQUIREMENTS**

- (a) A Loading Dock Management Plan (LDMP) shall be prepared to detail the management of all deliveries to the site in order to minimise conflict between delivery vehicles and other vehicles utilising the car park and combined access driveway. This should include a restriction on delivery vehicles accessing the subject site to a maximum length of 9.24 metres. The LDMP shall be submitted to Council and endorsed by Council prior to the release of the Occupation Certificate.
- (b) The swept path of a 9.24 metre vehicle entering and existing the subject site from Pitt Street, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, Council should be satisfied that the swept path plan submitted illustrates that the proposed development complies with this requirement, prior to the release of the Construction Certificate.
- (c) The driveway dimensions shall be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicles.
- (d) The layout of all vehicle accessible areas associated with the subject development (including driveways, grades, aisle widths, turning paths, sight distance requirements and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicles.
- (e) All vehicles are to enter and leave the site in a forward direction.
- (f) All vehicles should be wholly contained on site before being required to stop.
- (g) All loading and unloading shall occur on site.
- (h) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for review prior to the issue of a Construction Certificate.
- (i) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- (j) All works/regulatory signposting associated with the proposed development shall be at no cost to the RMS.

**SCHEDULE 4****Terms of Approval****Integrated Development Approvals**

The Terms of Approval for Integrated Development as advised by the NSW Heritage Council are as follows:

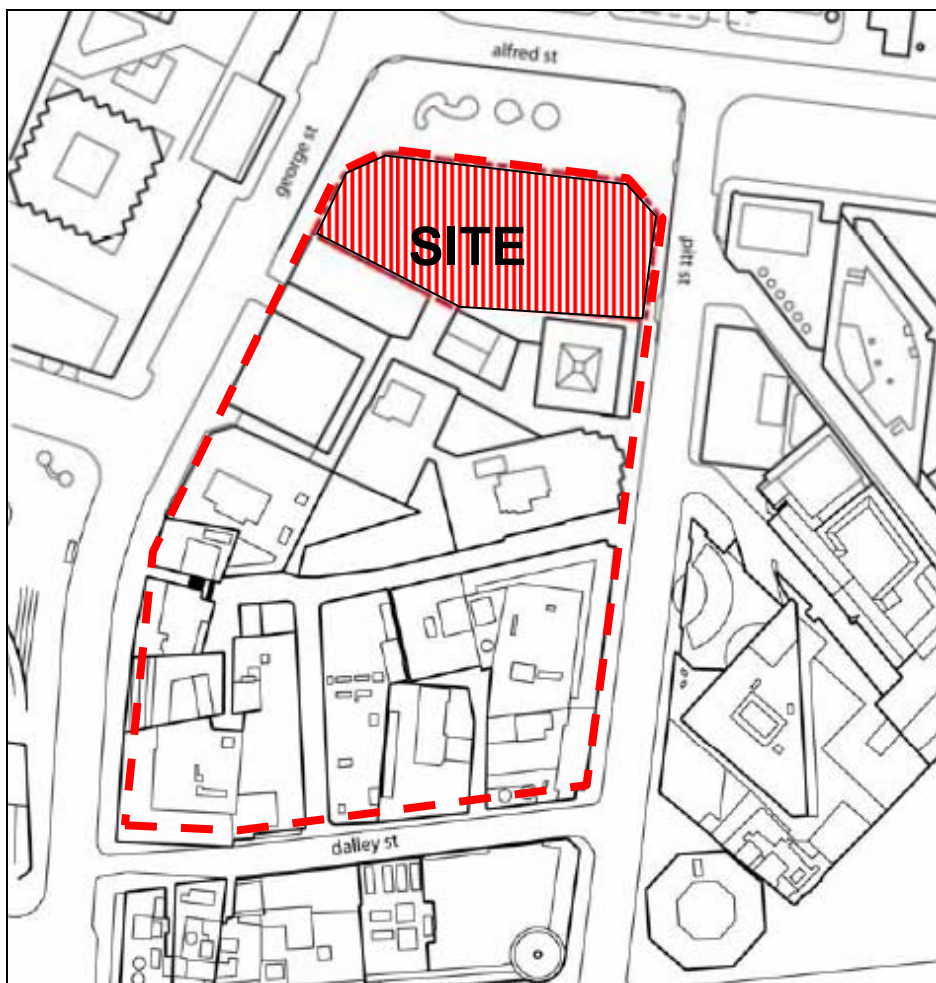
**(116) NSW HERITAGE COUNCIL – TERMS OF APPROVAL**

- (a) The proposed retaining systems devised by Taylor Thomson Whitting (NSW) Pty Ltd are to be implemented.
- (b) A suitably qualified engineer is to monitor the installation of the proposed retaining system to ensure the work is carried out in accordance with the Taylor Thomson Whitting methodology.
- (c) A suitably qualified engineer is to monitor the rock face during the excavation process.
- (d) In the event that substantial intact archaeological deposits or State significant 'relics' are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be contacted for advice. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
- (e) This approval shall be void if the activity to which it refers is not physically commenced within five years after the date of the approval or within the period of consent specified in any relevant development consent granted under the Environmental Planning and Assessment Act, 1979, whichever occurs first.

## BACKGROUND

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 217877 and Lot 1 DP 220830, and is commonly known as No. 1 Alfred Street, Sydney (the former Goldfields House building).
2. The site is irregular in shape, with a street frontage of 27.055 metres to Pitt Street to the east, 14.475 metres to George Street to the west and of approximately 58.825 metres to Alfred Street/Herald Square to the north. This equates to a site area of 2,686sqm. **Figure 1**, below, illustrates the site and its context. The topography of the site slopes from west to east (from George Street to Pitt Street), with a fall of 3.78 metres.



**Figure 1 – The site and its immediate area context  
(with the APDG block shown as a dashed line)**

3. Existing on site is the 28-storey commercial building (RL 114.2), commonly known as Goldfields House. The existing building consists of ground floor level retail uses, with commercial office floor space and associated plant occupying the remainder of the building. Approximately 130 car parking spaces are provided across two basement car parking levels, which is accessed from the vehicular driveway off Pitt Street. Servicing of the existing building currently occurs via Rugby Place, the private laneway located to the rear of the site.

4. The site is located in the northern sector of the Central Business District, and is located approximately 100 metres to the southwest of the Circular Quay ferry wharves. Development in the vicinity of the site contains a variety of uses from high-rise commercial office buildings, hotels and residential apartment buildings, to the recreational uses and the historic and cultural buildings of The Rocks and Circular Quay.



*Figure 2 – The existing development on site as viewed from the East Circular Quay forecourt*



*Figure 3 – The site as viewed from West Circular Quay*





**Figure 4 – The site as viewed from the Cahill Expressway**

5. Immediately to the north of the site is the public open space of Herald Square, which contributes to the public domain forecourt and identified special area of Circular Quay. Further north, on the opposite side of Alfred Street, is the Circular Quay railway station and the Cahill Expressway, which separates the site from The Rocks historic precinct and the Museum of Contemporary Art and First Fleet Park.
6. Along the southern boundary of the site there are three existing buildings, the 14-storey commercial building at 19-31 Pitt Street (known as Fairfax House) and the 3-storey building at 174-176A George Street, which currently accommodates the Jacksons on George licensed bar. Sited centrally between the subject site and the two aforementioned buildings, is the 5-storey Rugby Club building at 31A Pitt Street. The Rugby Club site is accessed via the private laneway known as Rugby Place from Pitt Street.
7. The heritage listed Tank Stream runs underground, parallel and adjacent to, the eastern boundary of the site. The location of the tank stream varies between 110mm and 175mm from the boundary and is located approximately 1 metre from the existing basement level wall.



*Figure 5 – View of Herald Square located direct to the north of the site*



*Figure 6 – Herald Square looking east along Alfred Street*





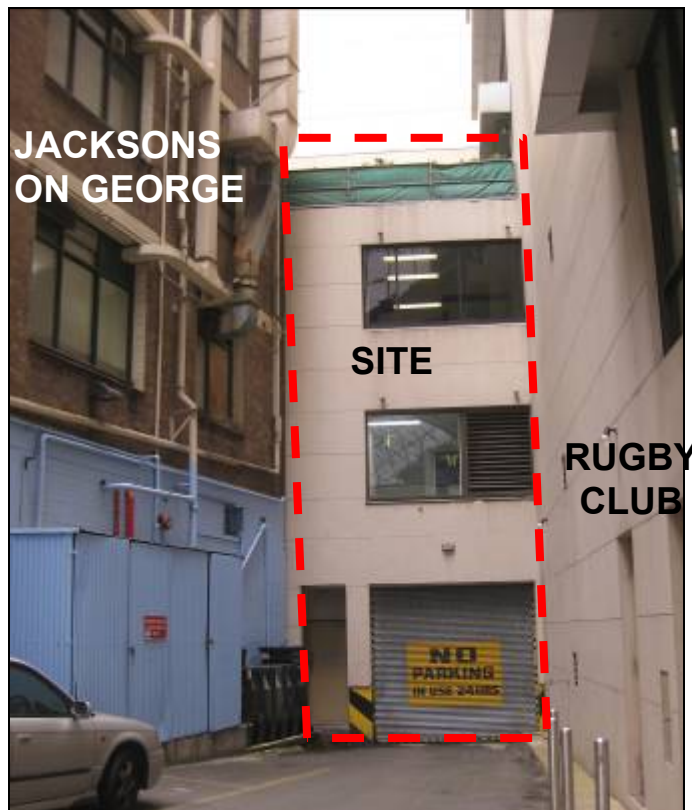
*Figure 7 – View along Pitt Street looking south from Herald Square*



*Figure 8 – The existing vehicular egress/ingress to the site from Pitt Street*



*Figure 9 – Rugby Place located to the rear of the site, accessed from Pitt Street*



*Figure 10 – The existing rear loading areas to the site, Rugby Club and Jacksons on George, accessed from the rear lane network*

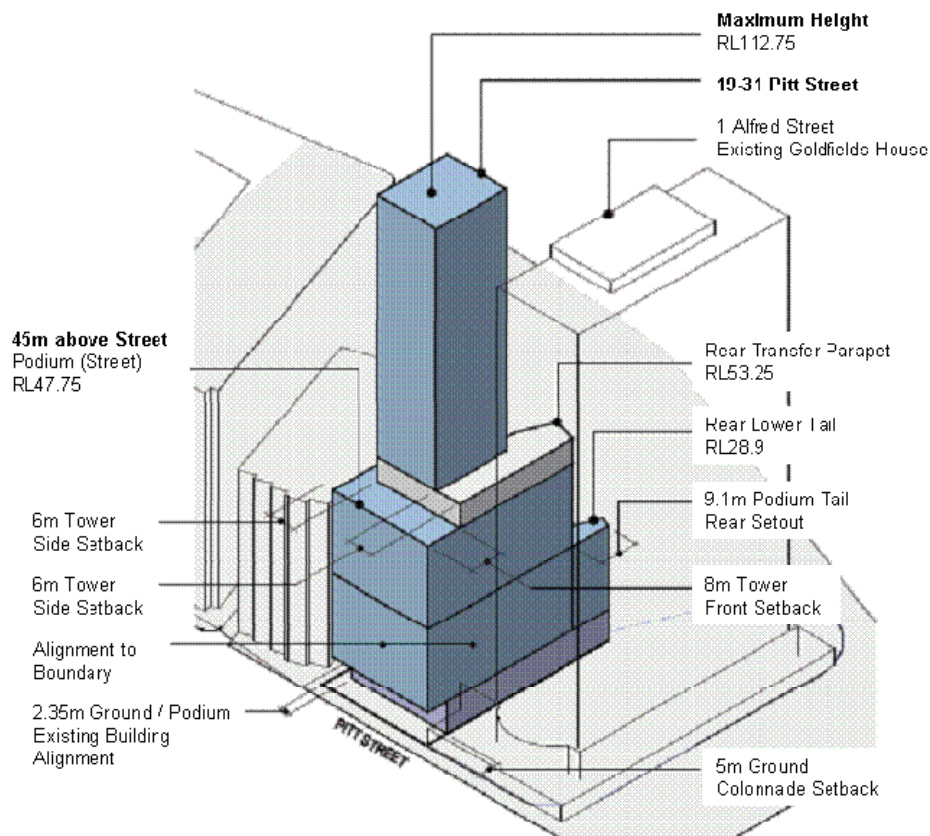


*Figure 11 – View of the Rugby Club from Rugby Place (rear lane)*

#### **Relevant Development Applications to the site**

8. Development Application D/2010/1533 for a Stage 1 indicative building envelope for the adjacent site to the south at 19-31 Pitt Street, Sydney was approved by the CSPC on 18 August 2011. Consent was granted for the demolition of the existing office building, and approval of an indicative building envelope for a 32-storey mixed use development with 5 levels of basement parking.
9. This application did not rely upon the alternate planning provisions permissible through the adoption of the APDG (Alfred, Pitt, Dalley and George Street) planning controls, instead relied upon the permissible height in the existing Sydney LEP 1995.

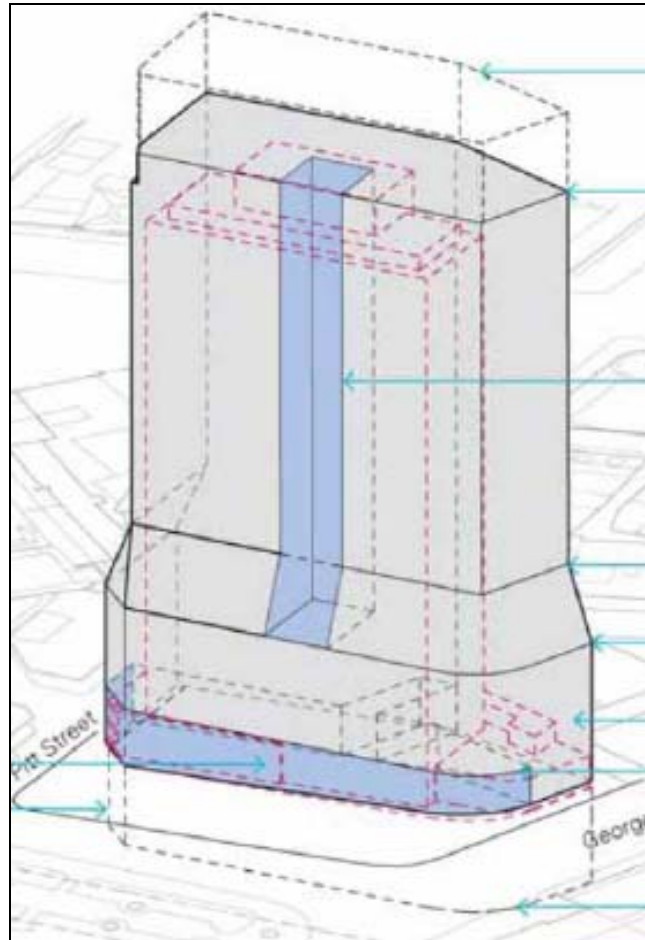




**Figure 12 – The approved Stage 1 building envelope for the adjacent site at 19-31 Pitt Street**

#### Existing Stage 1 Development Application D/2007/1384

10. Stage 1 Development Application (D/2007/1384) for demolition of existing structures and construction of a new mixed-use development, with an indicative envelope of 110 metres. Deferred commencement consent was granted to the Stage 1 application by the Central Sydney Planning Committee (CSPC) on 13 March 2008. **Figure 13**, below, indicates the approved building envelope.
11. Approval of the Stage 1 application was conditional on the undertaking of a competitive design process to be held prior to the lodgement of a Stage 2 detailed design development application.
12. It should be noted that this Stage 1 consent/development plan is not applicable to the proposal that is the subject of this report. The site specific LEP/DCP amendments gazetted in April 2011 (known as the 'APDG LEP/DCP') has in effect superseded this building envelope.
13. Further discussion is provided within this report on the waiving of the requirements of a development plan (Stage 1 DA) pursuant to Sydney LEP 1995 and the process undertaken to formulate the APDG LEP/DCP and the subsequent indicative building envelope for the site.



**Figure 13 - The approved Stage 1 indicative building envelope for the site**

### Urban Design Study

14. In September 2008, Council commissioned the NSW Government Architect's Office to prepare an Urban Design Study (UDS) for the entire block bounded by Alfred, Pitt, Dalley and George Streets (known as the APDG site).
15. The key relevant recommendations from this study were that:
  - (a) additional heights above those currently permitted by the Sydney LEP 1995 could be accommodated on certain sites within this block, in exchange for quantifiable public domain improvements;
  - (b) most notable of these public domain works was the provision of a publicly accessible square located centrally within the block that would be connected by a series of activated laneways; and
  - (c) that these site specific controls should operate as an alternative to the existing planning controls contained within the Sydney LEP 1995.

### Design Excellence Competition

16. Following the Stage 1 application approval and completion of the UDS, a competitive design competition process was undertaken. The competition utilised the modified building envelope for the site that was recommended by the NSW Government Architect in the UDS (rather than the existing planning controls contained within SLEP 2005). The following five architectural practices participated in the competition:
  - (a) Miralles Tagliabue;
  - (b) Johnson Pilton Walker;
  - (c) Bligh Voller Nield;
  - (d) Kerry Hill Architects; and
  - (e) Make Architects.
17. The scheme designed by Kerry Hill Architects was named as the winning scheme by the design jury in November 2009, with the following recommendations provided on the winning scheme:
  - (a) Kerry Hill Architects are retained by the proponent to prepare further and final applications to develop the site in accordance with their winning scheme;
  - (b) explore openings in the stone walls at ground level to see whether they offer any further improvement to the public domain;
  - (c) develop their concept of contrasting yet complimenting portions of Building A;
  - (d) maintain Building B at RL 57.3 to harmonise with other buildings on Pitt Street and create a strong northern end to Pitt Street.

### Amendments to Sydney LEP 1995 and Central Sydney DCP 1996

18. Draft amendments were prepared to both the Sydney LEP 1995 and Central Sydney DCP 1996 based upon the recommendations of the UDS for the APDG block as a whole and the winning building envelope from the design excellence competition for the subject site. These amendments are known as Sydney LEP 1995 (Amendment No. 2) and Central Sydney DCP 1996 (Amendment No. 20) or the APDG LEP and DCP.
19. In March 2010, both Council and the CSPC endorsed reports that recommended that the draft amendments be publicly exhibited. This exhibition occurred between 28 July 2010 and 24 August 2010.
20. Following consideration of the public submissions, the amendments to the LEP and DCP were adopted by Council and the CSPC in November 2010. Sydney LEP (Amendment No. 2) was gazetted on 29 April 2011, with Amendment No.2 to the Central Sydney DCP 1996 also coming into effect on that day.

### History of the subject application

21. The subject development application was lodged with Council on 2 December 2010.



22. As a result of the preliminary assessment of the application by Council staff, including consideration of the scheme by Council's Design Advisory Panel and the Design Excellence Competition jury members, the applicant was advised in correspondence dated 4 July 2011 that revisions to the scheme and additional information was required to be submitted to address the following matters:
- (a) Provision of greater permeability at ground level through a reduction/modification to the proposed blade walls;
  - (b) Use of fibre-cement cladding on the podium of the building, in-lieu of natural sandstone is not supported;
  - (c) Justification required from the design Architect on the façade modifications made to the winning scheme, including the Pitt Street elevation treatment and the removal of the 'notch' element from the tower;
  - (d) Any proposed easements, land dedications and integrated basement designs to be detailed within an offer to enter into a Voluntary Planning Agreement (VPA); and
  - (e) Additional information regarding overland flow/stormwater and details on the co-generation plant.
23. Various meetings were held with the applicant and developer of the site, with an amended design scheme formally lodged with Council on 11 November 2011 to address the abovementioned issues. The amended scheme is essentially the same as the originally submitted and exhibited DA. As no additional environmental impacts resulted, the amended scheme was not required to be renotified or readvertised.
24. A formal offer to enter into a Voluntary Planning Agreement was submitted to Council on 19 December 2011. The draft planning agreement and associated schedules and plans was placed on public exhibition for a 28-day period on 27 March 2012.

## PROPOSAL

25. The subject application seeks consent for the following works:
- (a) Demolition of the existing building on the site, excluding the existing eastern elevation basement walls that adjoin the Tank Stream (which runs beneath Pitt Street);
  - (b) Construction of a new mixed-use development, incorporating two buildings of 55 storeys (Building A) and 15 storeys (Building B), respectively. The development incorporates:
    - (i) 197 residential apartments and communal facilities for residents (40,341sqm of floor space);
    - (ii) 924sqm of retail floor space at ground and lower ground floor levels;
    - (iii) 8 levels of basement car parking, accommodating 279 car parking spaces, 33 motorcycle spaces, 67 bicycle spaces and 5 service/delivery bays;
    - (iv) Relocated vehicular crossing on Pitt Street; and
    - (v) Public domain improvement works, including the provision of a north-south through site link and a public plaza to the north of the building adjacent to Herald Square.



*Figure 14 - The proposed development as viewed from Alfred Street*





**Figure 15 - Aerial view of podium and lower level treatment of the building, including its integration with Herald Square**



**Figure 16 - View of the proposed ground floor level canopy and blade walls from Herald Square**



*Figure 17 - View of the through-site link looking north towards Herald Square*

## IMPLICATIONS OF THE PROPOSAL

### Section 79C Evaluation

26. 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****Heritage Act 1977**

27. The application is classified as Integrated Development pursuant to Clause 91A of the Environmental Planning and Assessment Act, 1979. Pursuant to this clause, the proposal requires approval under Section 57 of the Heritage Act, 1977 due to the proposed works being within the curtilage of the Sydney Tank Stream (which is listed as an archaeological feature on the State Heritage Register).
28. The NSW Heritage Council has granted its general terms of approval to the proposal, dated 4 February 2011, and these are contained within the recommendation of the report.

**STATE ENVIRONMENT PLANNING POLICIES (SEPPs)**

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

**SEPP (Infrastructure) 2007***Roads and Maritime Services*

30. Pursuant to Clause 104 of SEPP (Infrastructure) 2007, the application was referred to the Roads and Maritime Services (RMS) for consideration with the development being considered as 'traffic generating development' based upon the proposal incorporating greater than 200 car parking spaces.
31. The application was considered by the Sydney Regional Development Advisory Committee on 12 January 2011. The RTA have advised in correspondence dated 21 January 2011, that no objection to the proposal, subject to the imposition of conditions.

*RailCorp*

32. The application was referred to RailCorp pursuant to Clause 88 of SEPP (Infrastructure) 2007 due to the proximity of the works to the proposed future CBD Rail Link corridor. RailCorp has provided its concurrence to the proposed development, subject to the imposition of a deferred commencement condition.

**SEPP 55 – Remediation of Land**

33. SEPP 55 requires the consent authority to consider the likelihood that the site has previously been contaminated and to address methods of remediation to a site, in the event of contamination.
34. The applicant submitted a Stage 1 Preliminary Contamination Assessment at the time of lodgement. The conclusions of this assessment were that the potential for the site to be contaminated was a low risk, however, identified that contaminated fill may exist beneath the car park ramp or currently unexcavated areas of the site.
35. An appropriate contamination condition has been recommended for imposition by Council's Environmental Health Officer requiring the applicant advise Council in the event that demolition and excavation works on site alter the previous conclusions of the Stage 1 contamination assessment.

**SEPP 65 – Design Quality of Residential Flat Development**

36. SEPP 65 provides that a number of matters relating to design quality, including 10 design quality principles are taken into account, being:

(a) **Principle 1, 2 and 3:** Context, Scale and Built Form

**Complies:** Whilst the proposal does vary in both scale and built form from the Stage 1 DA approved envelope, this additional height and form of the development has resulted from the completion of both an Urban Design Study for the entire APDG block and a Design Excellence Competition for the subject site.

The completion of the aforementioned UDS and design competition have seen the development of site specific planning controls being formulated for the APDG block. These planning controls reflect the context of the site and the desired future strategic direction for this northern section of the CBD. The subject application does propose a built form that is consistent with these site specific controls, as well as contributing to the strategic public domain vision for this block, providing a through site link from Herald Square to the future laneway network.

Furthermore, the siting and distribution of height between the two proposed towers allows for increased solar penetration over the lower tower (Tower B) to reach the future internal public plaza of the APDG block, as envisaged by the LEP amendments.

The proposal provides setbacks that are generally in accordance with Amendment No. 20 of the Central Sydney DCP 1996. The relationship between the proposed development and its adjacent neighbours to the south (on both Pitt and George Streets) is addressed later within this report.

(b) **Principle 4:** Density

**Complies:** The proposed development achieves a density that is consistent with that envisaged for this site by the recent amendments to the Sydney LEP 1995 for the APDG block. The proposed density is considered to be appropriate given the CBD context of the site, particularly given its proximity to established infrastructure, public transport, community and recreational facilities.

(c) **Principle 5:** Resource, energy and water efficiency

**Complies:** A BASIX Certificate has been submitted with the application indicating that the proposal is capable of complying with this legislation. A condition is recommended for imposition requiring that the proposed development complies with the commitments included within the applicant's BASIX certificate.

The proposed development is targeting a 5-star Green Star – Multi-Unit Residential rating, and is proposed to incorporate the following initiatives to minimise energy usage:

- natural cross ventilation to approximately 94% of all apartments;
- 100% of apartments receive the minimum of 2 hours of solar access;
- use of horizontal louvred sunshading and high performance glazing;
- photovoltaic cells on the roof of both buildings;
- installation of energy efficient light and water fittings;
- gas-fired co-generation system for electricity generation.

(d) **Principle 6: Landscape**

**Complies:** The proposal has been designed to allow for approximately 42% of the site area to be utilised as publicly accessible open space/through-site links. Due to the CBD context of this site, the basement car parking and the setback requirements, there is no opportunity for deep soil planting. This is considered consistent with the objectives of SEPP 65 given the context of the site. The proposal incorporates high quality paving, landscape planters and water features within the new forecourt plaza.

Further discussion is provided on the proposed public domain works and ground floor level interface of the development with Herald Square and its street frontages within the DCP compliance tables.

(e) **Principle 7: Amenity**

**Complies:** The proposed development provides apartments within generous internal areas that all exceed the minimum requirements of SEPP 65, and achieve compliance with the cross ventilation and solar access requirements of the SEPP. Sufficient car parking and storage areas are provided within the basement levels of the development.

Acoustic and visual privacy between apartments within the development is achieved through the internal configuration of units in both buildings.

**Does not comply but is considered acceptable:** Due to the density of development, the proposal does not achieve numeric compliance with the setback and distance separation requirements of SEPP 65. This issue is addressed further within the report.

Whilst all apartments are provided with wintergardens, the proposal is non-compliant with the minimum areas for external spaces pursuant to the Residential Flat Design Code (RFDC). Approximately 73% of apartments are provided with wintergardens/balconies, which are undersized pursuant to the RFDC rules of thumb. However, in this instance no objection is raised to this variation as of these apartments with non-compliant balcony areas, 95% are provided with a wintergarden/balcony with an area that has only a minor variation (of between 1 to 4sqm) from the areas contained within the RFDC. The proposal is considered to be generally consistent with the SEPP requirements and the overall apartment is considered to achieve acceptable amenity despite these variations.

(f) **Principle 8: Safety and Security**

**Complies:** The development provides for casual surveillance of the surrounding public domain through wintergardens and windows being located along all facades. Due to the proposed retail component at ground level, a high level of passive surveillance is achieved.

(g) **Principle 9: Social Dimensions**

**Complies:** The proposed development is generally consistent with the desired apartment mix pursuant to the Central Sydney DCP, and provides a range of unit sizes and configurations to cater for a variety of household types. Disabled access is provided throughout, and there is a range of adaptable units within the development.

(h) **Principle 10: Aesthetics**

**Complies:** The proposed design and materials have been the subject of a design excellence competition in 2009. Subject to the imposition of the recommended conditions, the proposed design and architectural treatment are considered appropriate to the site's context.

37. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

**SEPP (Building Sustainability Index: BASIX) 2004**

38. A BASIX certificate was submitted confirming the proposal will meet NSW government minimum requirements for sustainability.

**SREP Sydney Harbour Catchment 2005**

39. The REP aims to ensure that the Sydney Harbour Catchment is protected, enhanced and maintained. The REP also aims to achieve a high quality and ecologically sustainable urban environment and encourage a culturally rich and vibrant place for people. The proposal is considered to be consistent with the aims and objectives of the REP.

**Sydney LEP 2005**

40. Sydney LEP 2005 (Amendment No. 2) came into effect on 29 April 2011, this is commonly known as the 'APDG LEP amendment'. This amendment in-conjunction with the site specific APDG DCP operate as an alternative to the existing LEP and DCP controls. The APDG provisions allow additional height only if owners choose to participate in the alternative scheme. If they do not, then the existing LEP height controls and existing DCP would continue to apply.
41. 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 DA required	<p>Stage 1 DA approved by CSPC in March 2008.</p> <p>The envelope approved as part of the Stage 1 DA has since been superseded by the preparation and gazettal of the APDG controls.</p> <p>Further discussion provided at the issues section of this report.</p>



Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
<b>Zoning</b>	City Centre	The proposal is permissible with development consent
<b>Floor Space Area</b>	37,513 sqm	41,265 sqm  (40,341sqm of residential & 924sqm of retail/commercial GFA)
<b>Floor Space Ratio</b>  (Site area = 2,686m <sup>2</sup> )	13.966 : 1  (based on the LEP mixed use formula and the proposed proportional distribution of floor area between the uses)	15.363 : 1  An additional 10% is sought under Clause 10. The proposed FSR is supported, with further discussion provided at the issues section of this report.
<b>Floor space to be Allocated</b>	HFS is to be purchased for development over 8:1 subject to general LEP controls.	The amount of HFS to be allocated to the site is:  $50\% \times 15.363:1 - 8:1 = 9,888.5 \text{ sqm.}$  Clause 26 permits a further reduction of HFS by 50% (up to a maximum of 1,000sqm) where the scheme has undergone a design competition process.  With this further reduction, the HFS allocation is 8,888sqm.
<b>Height</b>	cl 50- 110m  or  185m on up to 24% of the site area (APDG amendment)	Building A - 185m (RL 191) Building B – 55m (RL 57.3)  The applicant has opted to utilise the alternative heights permissible pursuant to the APDG LEP/DCP.  Further discussion is provided within the issues section of this report.

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
<b>Parking</b>	Max. 306	279
<b>Special Areas</b>	Circular Quay Special Area	Acceptable as a result of APDG LEP and DCP.
<b>Design Excellence</b>	The design results from a competitive process	<p>A competitive design process was undertaken.</p> <p>Subject to conditions requiring amendments, such that the integrity of the design competition winning scheme is not diminished, the proposed development exhibits a high level of architectural design merit and reflects the desired form for development on the site pursuant to the APDG amendments.</p> <p>Further discussion on the proposed public domain works and retention of views is provided within the issues section of this report.</p>
<b>Ecologically Sustainable Development (ESD)</b>	Incorporation of ESD principles in development.	Refer to ESD discussion within the SEPP 65 discussion.
<b>Development in the vicinity of a heritage item</b>	Consideration of impacts of the proposed development on the heritage significance of nearby heritage items.	<p>The subject site is located within the vicinity of the Sydney Tank Stream and the Tank Stream Fountain, located within Herald Square.</p> <p>The proposed works do not propose any works to the heritage items themselves, and have been assessed as not impacting upon the significance of these items.</p> <p>As the Sydney Tank Stream is listed on the State Heritage Register the application was referred to the NSW Heritage Council. The Heritage Council granted its general terms of approval, dated 4 February 2011.</p>

**Draft Sydney LEP 2011**

42. 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.
43. The site is located within the B8 – Metropolitan Centre zone. The proposed development is defined as a “*mixed use development*” pursuant to the Draft Sydney LEP 2011, and is permissible within the B8 – Metropolitan Centre zone, with the consent of Council.
44. Consistent with the existing height controls contained within the Sydney LEP 1995, the site has a maximum permissible height of 110 metres pursuant to Clause 4.3 of the Draft Sydney LEP 2011. However, as is currently permitted with Amendment No. 20 to the current LEP, the option is available for an alternative maximum building height of 185 metres for up to 24% of the site area pursuant to Clause 6.20 of the Draft LEP. The proposed development would, therefore, remain compliant with the height development standards contained within the Draft Sydney LEP 2011.
45. Clause 4.4 of the Draft Sydney LEP 2011 stipulates a maximum FSR of 8:1 for the subject site, with an additional FSR of 4.5:1 permitted for both residential and retail floor space pursuant to the provisions of Clause 6.4 of the Draft LEP. Collectively, these clauses of the Draft LEP permit a maximum FSR of 12.5:1 for the subject site.
46. As the proposal has a FSR of 15.363:1, it is non-compliant with the floor space provisions of the Draft LEP. A submission was made on behalf of the owner of the site during the exhibition period of the Draft LEP seeking to retain the permitted FSR of the site of up to 15.1:1.
47. Despite this submission, no amendments were made to the Draft LEP post exhibition, with the following commentary included in the Council and CSPC reports:
48. *“It is not considered necessary to save the existing controls for this site as the current development application, if approved, will address the appropriate FSR and parking rates for this site for the life of the consent. It is considered that any future development applications for this site should comply with the new policy directions being implemented in Draft Sydney LEP 2011.”*
49. In this instance, no objection is raised to the degree of non-compliance with the draft FSR development standard due to the compliance with the current controls.
50. The Draft Sydney LEP does result in a reduced car parking rate for residential apartments based upon the central location of the site and its level of accessibility. Consequently, the maximum number of car parking spaces permitted pursuant to Clauses 7.5 and 7.7 of the Draft Sydney LEP 2011 is 163 spaces. The proposed development provides a total of 279 spaces, which although is compliant with the current car parking rates contained within the Sydney LEP 2005, would significantly vary from the draft controls (by 116 parking spaces). In this instance, no objection is raised to the degree of variation sought due to the compliance with the current controls, however, the future direction of reduced car parking for accessible sites is noted.

51. The existing controls contained within the Sydney LEP 2005 relating to development within the vicinity of heritage items and the design competition process remain generally unaltered in the draft controls. The assessment of the development against these controls has been discussed elsewhere within this report.
52. The site is identified as being both part Class 2 and part Class 5 Acid Sulfate Soils zones, and as such there a risk of Acid Sulfate Soils being encountered during excavation works. Development consent must not be granted under Clause 7.16 of the Draft LEP for the carrying out of works unless an acid sulfate soils management plan has been prepared. Appropriate conditions have been recommended for imposition requiring the preparation of an Acid Sulfate Soils Management Plan prior to the issue of a Construction Certificate.

### Central Sydney DCP 1996

53. As the applicant/developer has opted into the alternative planning controls devised for the APDG block, the relevant amendments to the standard controls contained within the Central Sydney DCP 1996 are included in the following compliance table:

#### COMPLIANCE WITH THE CENTRAL SYDNEY DCP 1996

Matter to be Considered	Complies	Comment
Building Form and Character Section 2  Significant sites CI 2.12G – APDG Site	✓	The site is identified as Development Block 3 within the APDG site.  The applicant has lodged a scheme reliant upon the provisions of Clause 52A of LEP 1995, and thus the provisions of the DCP Amendment No. 20 (known as the APDG DCP) supersede the provisions of Section 2 of the Central Sydney DCP. Compliance of the proposal with the APDG DCP is provided in the following compliance table.
Lanes CI 3.1	✓	<b>Complies:</b> The proposed development incorporates the north-south through site link, which with the redevelopment of the remaining sites within the APDG block will allow connectivity to the existing and planned future laneway network.

Matter to be Considered	Complies	Comment
Vehicle access and footpath crossings CI 3.3	✓	<p><b>Complies:</b> The proposal incorporates a relocated vehicular access from Pitt Street. This is to provide vehicular access (including service vehicles) to both the subject site and its immediate neighbour to the south at 19-31 Pitt Street, and allowing servicing of the Rugby House building.</p> <p>The proposed width and architectural treatment of the driveway screen are acceptable in this location and consistent with the overall design of the building.</p> <p>The proposal incorporates a resident's porte cochere at basement level 2. No objection is raised to the inclusion of this within the design due to its basement location, which does not detract from the activation of the streetscape.</p>
Artworks CI 3.6	✓	<p><b>Complies:</b> Public art works are to be commissioned to a total value of \$1.5 million, and are proposed to be located within the through-site link and/or publicly accessible recreation areas. The provision of this public art is documented within the draft VPA (refer to <b>Attachment G</b>).</p>
Paving for street footpaths and public spaces CI 3.7	✓	<p><b>Complies:</b> Appropriate conditions have been recommended for imposition regarding the paving of the forecourt and through-site link of the building to ensure consistency with the treatment of Herald Square and surrounding public domain.</p>

Matter to be Considered	Complies	Comment
Easy access CI 3.8	✓	<b>Complies:</b> The site and the forecourt areas of the building are all accessible for a person with a disability or prams. Appropriate conditions will be imposed on any consent.
Sunlight to public spaces CI 4.1	✓	<p><b>Complies:</b> The proposal does not result in the overshadowing of any of the LEP nominated public plazas/special areas within the CBD during the designated times of day/year.</p> <p>In the preparation of the APDG amendments to the LEP and DCP, a detailed solar access analysis was undertaken and modelled assessing potential impacts of public areas and nearby residential buildings. The conclusions of this assessment was the alternative building envelope on the subject site could be accommodated without adverse overshadowing impacts.</p> <p>As the proposal retains the built form envelope envisaged by the APDG amendments, the proposal additional shadowing resulting from the scheme is consistent with the previous modelling undertaken by the City. No objection is therefore raised to the proposal with regard to overshadowing.</p>
Energy efficiency of buildings CI 4.3	✓	<b>Complies:</b> As detailed within the SEPP 65 discussion, the proposed development incorporates a variety of energy efficiency strategies.
Noise reduction CI 4.4	✓	<b>Complies:</b> Appropriate conditions are recommended for imposition to ensure acoustic privacy within the future apartments is achieved.

Matter to be Considered	Complies	Comment
Reflectivity CI 4.5	✓	<b>Generally Complies:</b> The proposed development generally achieves compliance with the reflectivity requirements of the DCP. The exception to this compliance may be experienced by drivers travelling eastbound on the Cahill Expressway. A condition is recommended for imposition requiring the recommendations of the Reflectivity Study be undertaken.
Urban runoff CI 4.6	✓	<b>Complies:</b> Appropriate conditions are recommended for imposition.
External lighting of buildings CI 4.7	✓	<b>Complies:</b> Appropriate conditions are recommended for imposition.
Parking for people with mobility impairment CI 5.3	✓	<b>Complies:</b> Disabled and accessible parking spaces are provided in accordance with the provisions of the subject DCP and the Access DCP.
Delivery & service vehicles CI 5.4	✓	<b>Complies:</b> On site delivery and loading areas are provided on Basement Level 1 of the proposed development in accordance with the DCP requirements.
Bicycle parking CI 5.5	✓	<b>Able to comply:</b> An indicative area for bicycle parking/storage is located on Basement Level 1. A condition is recommended for imposition to ensure the amount of bicycle parking provided is in accordance with the DCP requirements.
Motor cycle parking CI 5.6	✓	<b>Complies:</b> A total of 33 motorcycle spaces are provided throughout the basement car park, which exceeds the requirements of the DCP.

Matter to be Considered	Complies	Comment
Sun access CI 6.1.4/5/6	✓	<b>Complies:</b> All apartments in the proposal development receive 2 hours of solar access to the principal living areas on the winter solstice, which exceeds the requirements of the DCP.
Ventilation CI 6.1.7/8/9	✓	<b>Complies:</b> 94.2% of proposed apartments are naturally cross ventilated.
Visual privacy CI 6.1.10	✓	<b>Complies:</b> The orientation of the proposed building towards Circular Quay minimises overlooking to adjacent buildings. The proposal achieves compliance with the minimum separation requirements of SEPP 65.
Outlook CI 6.1.11/6.1.12	✓	<b>Complies:</b> A detailed view analysis was undertaken by Council as part of the preparation of the APDG planning controls to ascertain the applicability of the building envelope for the subject site. Further discussion is provided within the issues section of this report.
Acoustic privacy CI 6.1.13/14/15/16	✓	<b>Complies:</b> An acoustic assessment has recommended measures that are required to be undertaken to the glazing to ensure compliance with the DCP noise criteria. A condition is recommended for imposition to ensure these glazing requirements are included in the development.
Floor to ceiling heights CI 6.1.20/21	✓	<b>Complies:</b> All floor to ceiling heights within the development are at least 2.7 metres.



Matter to be Considered	Complies	Comment
Storage CI 6.1.22/23	✓	<p><b>Generally complies:</b> All apartments are provided with storage in excess of the DCP requirements, which is provided both within each apartments and in designated storage cages within the basement car park.</p> <p>Not all apartments are provided with 50% of their storage within the apartment, however, variation is supported in this instance due to the extensive provision within the basement.</p>
Safety & design CI 6.1.24/25/26	✓	<p><b>Complies:</b> The proposed development has been designed to maximise safety.</p>
Mix of units within a residential development CI 6.1.27/28/29	✓	<p><b>Generally complies:</b> The proposed development provides a mix of 1 to 4 bedroom apartments, in the following configuration:</p> <ul style="list-style-type: none"> <li>• 1 bedroom – 10.15%;</li> <li>• 2 bedrooms – 37.56%</li> <li>• 3+ bedrooms – 54.28%.</li> </ul> <p>The variation in the number of 2 bedroom apartments (with the DCP recommending a minimum of 40%) is acceptable in this instance due to the minor variation proposed and provision of all apartments sizes and types within the development.</p>
Size of units CI 6.1.34/35	✓	<p><b>Complies:</b> All apartments have substantial floor plates that exceed the minimum internal area requirements of the DCP.</p>
Maximum no. of units accessible from a common lobby CI 6.1.36/37	✓	<p><b>Complies:</b> A maximum of 4 apartments are accessed from any common lobby.</p>

Matter to be Considered	Complies	Comment
Competitive process/ Design Competitions Cl. 12.1/2	✓	<b>Complies:</b> The proposed design results from a competitive design process held in 2009, subject to the imposition of conditions to retain the integrity of the winning scheme.

<b>APDG Site – bounded by Alfred, Pitt, Dalley and George Street (Amendment No. 20) Clause 2.12G</b>		
Objectives Cl. G3.1	✓	<b>Complies:</b> The proposed development is consistent with the objectives as it facilitates the redevelopment of the site consistent with the form, design and land use envisaged by the APDG controls.
Public Domain Principles Cl G4.1	✓	<b>Complies:</b> The proposal incorporates the north-south through-site link as identified on the APDG public domain plan. This through-site link will provide the future pedestrian connection from Herald Square to the envisaged laneway network and the publicly accessible square.
Streets Principles Cl G4.2	✓	<b>Complies:</b> The proposal incorporates active retail tenancy uses along the Herald Square/Alfred Street frontage and through site link.  The frontages to Pitt and George Streets contain the residential entry lobbies to each building, which considering the orientation of the site and design rationale of the retail tenancies is considered acceptable in this instance. A condition is recommended for imposition requiring greater activation of the George Street frontage through a reduction or deletion of the solid blade wall in the northwestern corner of Building A.

<b>APDG Site – bounded by Alfred, Pitt, Dalley and George Street (Amendment No. 20) Clause 2.12G</b>		
Streets Principles Cl G4.2 (cont'd)	✓	An integrated vehicular entry and basement is proposed with the sites to the south at 19-31 Pitt Street and the Rugby Club building (31A Pitt Street) to minimise vehicular crossovers from Pitt Street and within the lane network.
Built Form Principles Cl G4.5	✓	<p><b>Complies:</b> The tower form and footprint proposed is consistent with the envisaged built form.</p> <p>A breakthrough panel is proposed at Basement Level 1 to allow for a future integrated basement between the site and its neighbours to the south at 19-31 &amp; 31A Pitt Street. This integration both reduces the number of vehicular crossovers from Pitt Street and will also ensure that site servicing will no longer occur from the rear lane network, freeing these lanes to be used for more active uses.</p>
Public Domain Future Character <i>Bounding Streets – Alfred, Pitt &amp; George Streets</i> Cl G5.2.1/G5.2.2/G5.2.4	✓	<p><b>Complies:</b> The proposed uses, building design and materials at ground level are consistent with the envisaged public domain character for each street frontage of the site.</p>
Internal streets and lanes <i>New north-south lane/through site link</i> Cl G5.3.4	✓	<p><b>Complies:</b> A 6 metre wide through site link is proposed centrally through the site at ground level to provide pedestrian connectivity from Herald Square (in the north) to the laneway network and future internal square (to the south), upon redevelopment of the remainder of the APDG site. Retail tenancies are proposed along this link to create an active frontage.</p>

<b>APDG Site – bounded by Alfred, Pitt, Dalley and George Street (Amendment No. 20) Clause 2.12G</b>		
Parking and vehicular access CI G6.1	✓	<b>Complies:</b> Vehicular access is proposed from Pitt Street, generally in a location in accordance with the DCP. As detailed previously, a shared vehicular access is proposed for the subject site and its neighbours at 19-31 and 31A Pitt Street. All loading is proposed to occur on site at Basement Level 1.
Public domain CI G6.2	✓	<b>Complies:</b> The proposal incorporates public accessibility recreation areas in accordance with the DCP. The provision of these publicly accessible spaces are to be noted on the title as detailed in the VPA. Further discussion is provided at the issues section of this report.
Heritage CI G6.3	✓	<b>Complies:</b> The proposed excavation does not impact upon the Tank Stream, and has been assessed elsewhere as not impacting upon the significance of nearby heritage items.
Massing and Form of Buildings CI G6.4	✓	<b>Complies:</b> The massing and form of the proposed development is consistent with DCP.  In order to ensure compliance with the wind standards for pedestrians at the corner of George and Alfred Streets, the proposal has incorporated a glazed awning extending 3.6 metres from the building façade.
	✗	<b>Does not comply but acceptable:</b> The proposed development does not achieve the desired 28 metre setback between Building A and approved tower envelope on the adjacent site at 19-31 Pitt Street.

<b>APDG Site – bounded by Alfred, Pitt, Dalley and George Street (Amendment No. 20) Clause 2.12G</b>		
Massing and Form of Buildings Cl G6.4 (cont'd)	✘	<p>This non-compliance results from the fact that the APDG controls are an alternate to the existing planning controls within the Central Sydney DCP 1996, with the adjacent site at 19-31 Pitt Street opting to pursue their Stage 1 approval utilising the existing controls and height provisions rather than the APDG controls.</p> <p>In this instance, the proposed 20 metre separation is considered acceptable and consistent with the intent of the massing controls and achieves compliance with the SEPP 65 separation requirements.</p>
Fine Grain Active Uses Cl G6.5	✓	<p><b>Complies:</b> The architectural treatment and materiality at the lower levels/podium of the building coupled with the provision of ground and lower ground floor level retail tenancies achieves pedestrian level interest and interaction.</p> <p><b>Does not comply but acceptable:</b> The proposed development does not numerically comply with the minimum percentages for active uses along the frontages of the site.</p> <p>Generally, the variation sought is acceptable and results from the need to accommodate vehicular and fire egress, as well as necessary infrastructure and service areas for the development.</p>

<b>APDG Site – bounded by Alfred, Pitt, Dalley and George Street (Amendment No. 20) Clause 2.12G</b>		
Fine Grain Active Uses Cl G6.5 (cont'd)	✓	With the exception of the George Street frontage, it is considered that these areas have been appropriately located to ensure an adequate level of activation occurs at ground level on all frontages of the development. As detailed elsewhere within this report, a deferred commencement condition is recommended to create greater activation of the George Street façade.
Building to the street alignment, heights and setbacks Cl G6.6	✓	<b>Complies:</b> The proposed building alignments, setbacks and height are consistent with the APDG DCP.
Pedestrian Access and Amenity Cl G6.7	✓	<b>Generally Complies:</b> The proposal incorporates a combination of glazed awning and sandstone canopy across the frontages of the site generally in accordance with Figure 2.62 of the APDG DCP.
Design Cl G6.8	✓	<b>Complies:</b> The proposal has resulted from the Design Excellence Competition held for the site in 2009, subject to conditions. The proposed design is able to retain the integrity of the winning scheme and is considered to positively contribute to the urban design of the Circular Quay precinct.
Internal Amenity Cl G6.9	✓	<b>Generally Complies:</b> Winter gardens are proposed for all apartments varying in area from 7sqm to 50sqm.

<b>APDG Site – bounded by Alfred, Pitt, Dalley and George Street (Amendment No. 20) Clause 2.12G</b>		
Skyline Design Cl G6.10	✓	<b>Complies:</b> The proposal has incorporated plant equipment and lift overruns within the overall design of the building envelopes to ensure the architectural quality and appearance of the development is retained.

### Issues

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

### Waiver of Development Plan Requirement

55. Clause 23 (3) of the SLEP 2005 stipulates that the consent authority must not grant consent to a development where the proposal exceeds 55 metres in height and the site area exceeds 1,500sqm unless a development plan is in force and has been considered in the assessment of the subject application.

56. Whilst the proposed height of the development and site area would by virtue of Clause 23(3) require the preparation and approval of a development plan, pursuant to the provisions of Clause 23(4)(e) of SLEP 2005, the consent authority may waive the requirement:

*“for any other development for which the consent authority considers it would be unreasonable or unnecessary to require compliance with those requirements.”*

57. In correspondence, dated 30 March 2012, the applicant has formally requested that the requirements of Clause 23 be waived by the consent authority.

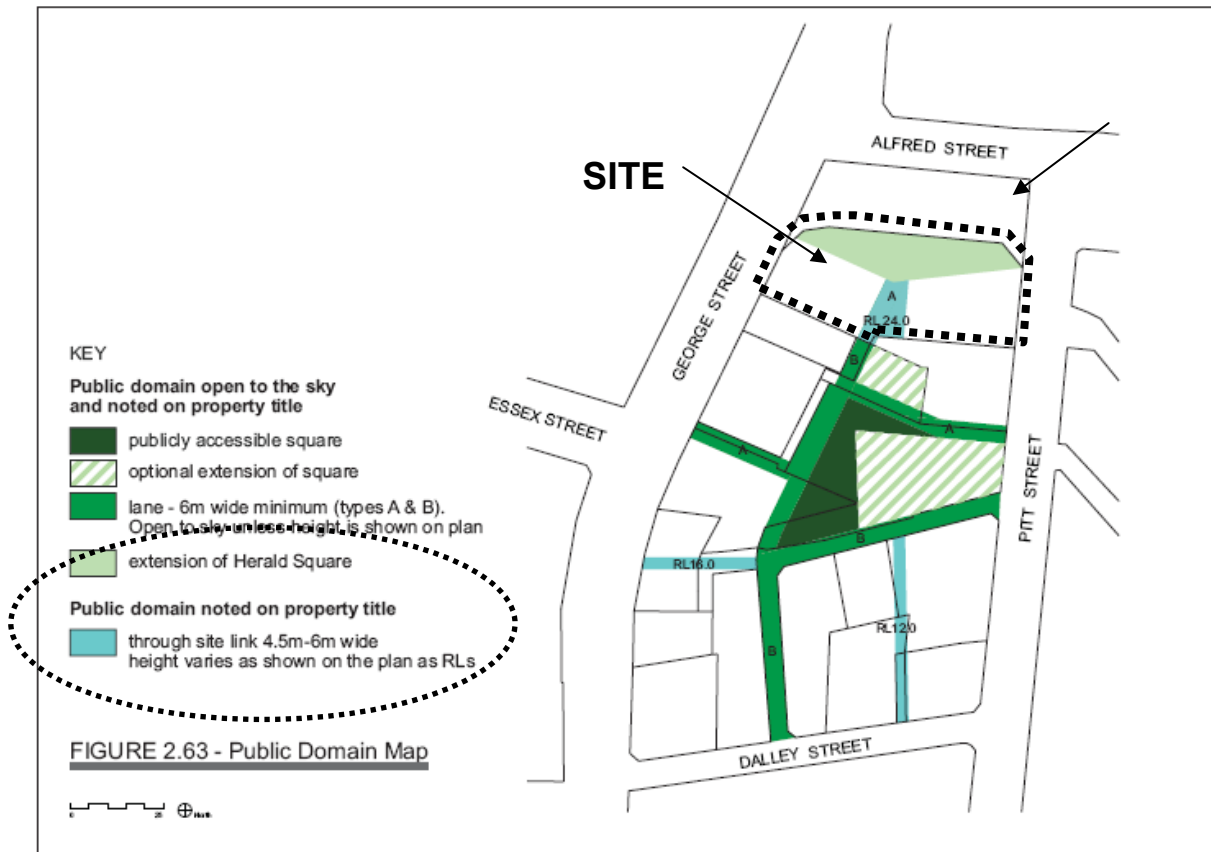
58. It is considered in this instance that the detailed site analysis that occurred through the undertaking of the Urban Design Study and the preparation of both a site specific LEP and DCP is equivalent to the site and context assessment that would occur in the preparation of a development plan. Therefore, in this instance it is considered that the preparation of a further development plan would be unreasonable and unnecessary in this instance, and it is recommended that the requirement of Clause 23 be waived.

### Voluntary Planning Agreement & Public Domain Benefits

59. As part of the proposed development, the applicant has offered to enter into a Voluntary Planning Agreement (VPA) with Council. The VPA proposes a series of land dedications and restrictions on title to facilitate the provision of publicly accessible open space, lanes and other links across the site for use as both pedestrian thoroughfares and for passive recreation.

60. In accordance with the provisions of Clause 52A(4) of the Sydney Local Environmental Plan 2005, the VPA seeks to secure the following public benefits:
- (a) **To provide for recreation areas** – To create an extension of Herald Square by encompassing the forecourt of the new building (beneath the canopy) as publicly accessible recreation area and an easement to this effect to be noted on title in accordance with the Figure 2.63 of the APDG DCP (refer to **Figure 18**, below);
  - (b) **To provide for lanes** – To contribute to the public domain by providing a north-south through-site link connecting Herald Square to the future laneway network and publicly accessible square within the APDG block. This through-site link is to be noted on title as an easement for right of public access and associated positive covenant to allow pedestrian access 24 hours per day, 7 days a week in accordance with the Figure 2.63 of the APDG DCP. Business and retail premises are to be provided at ground level along the frontage of this through-site link; and
  - (c) **To provide for streets** - the dedication of land to Council that are located outside the blade walls of the proposed building's canopy to allow for an extension of the existing road reserve of George Street, Pitt Street and Alfred Street.
61. Further to the above public benefits proposed in accordance with the objectives of the SLEP 2005, it is also proposed to provide a shared vehicular driveway from Pitt Street and a breakthrough panel within the basement car park. These works would facilitate an integrated vehicular connection between the subject site and its immediate neighbours at 19-31 Pitt Street (Fairfax House) and 31A Pitt Street (the Rugby Club). A right of carriageway shall be created across the vehicular access ramp to facilitate this connection.
62. Provision of a shared access and integrated basement will allow for the removal of the existing servicing and vehicular access from the rear lanes, enabling activation of this laneway network consistent with the objectives of Sections G4.3 and 5.3.2 of the *Central Sydney Development Control Plan 1996 (Amendment No. 20)*.
63. The VPA and its accompanying documents were placed on public exhibition for a 28-day period commencing on 27 March 2012. As a result of the exhibition period, a total 4 submissions were received. The content of these submissions is summarised later within this report.





**Figure 18 - Figure 2.63 of the APDG DCP illustrating public domain works required on the subject site**

### Height and Consideration of Clause 52A of SLEP 2005

64. Amendment No. 2 to the SLEP 2005 was gazetted on 29 April 2011, and included the insertion of Clause 52A (Alternative building heights). Clause 52A permits the provision of an alternative building height on the subject site (and others within the APDG block) beyond the permissible height of 110 metres where the development provides for publicly accessible open space, lanes and other links through the site.
65. The subject site is identified as 'Block 3' pursuant to Clause 52A(8) of SLEP 2005, and as such, consideration of additional building height up to 185 metres on up to 24% of the site area is permissible where the consent authority is satisfied that the proposal will include the following:
  - (a) provide for recreation areas, lanes and streets, and
  - (b) have business premises and retail premises that have street frontages at ground level (finished) to those recreation areas, lanes and streets, and
  - (c) provide a satisfactory distribution of built form and floor space development.
66. The proposed development is considered to satisfy the above objectives of Clause 52A(4) in that;

- (a) The proposed development provides for recreation areas, lanes and streets through the provision of land dedications and restriction on title to facilitate unrestricted public access to the forecourt and through-site link of the building as detailed in the VPA discussion, above;
  - (b) The proposal includes retail/commercial tenancies at ground level along the Herald Square (Alfred Street), central through-site link and Pitt Street frontages of the development. Further design refinement could facilitate a more active George Street frontage through the introduction of a further tenancy entry within this façade; and
  - (c) The distribution of the built form and floor space on the site is generally consistent with the site specific development control envelope of the APDG DCP Amendment.
67. The proposed development has a maximum height of 184.8 metres (RL 191.0) for Building A and 54.8 metres (RL 57.3) for Building B. The proposed maximum heights and building footprints and envelopes are generally consistent with design competition winning scheme and subsequent envelope incorporated into the APDG LEP/DCP.
68. No objection is therefore raised to the height of the proposal, as it is both numerically compliant with Clause 52A(3) and meets the required objectives of Clause 52A(4) for the alternative building heights for the APDG block.

### Floor Space Ratio

69. Clause 10 of SLEP 2005 permits the waiver of certain development standards, including floor space, by not more 10% and only if:
- “(a) All objectives of the development standard will be fulfilled; and*
  - (b) The contravention will not:*
    - (i) Create an undesirable precedent for other development, or*
    - (ii) diminish the overall effect of the development standard in the vicinity of the site; and*
  - (c) The particular physical attributes of:*
    - (i) the site in terms of location, context, slope, site configuration and the like; and*
    - (ii) the proposed development, in terms of urban form, bulk, height, and floor space ratio, car parking and the like.*
- Will render strict application of the development standard unreasonable or unnecessary on the circumstances, and*
- (d) the proposed development will improve or contribute positively to the public domain and would achieve design excellence.”*

70. The proposed development seeks the additional gross floor area permitted by Clause 10, and proposes a FSR of 15.363:1, which incorporates the 10% variation permitted under this clause.
71. The proposal has been assessed as satisfactory with regard to Clause 10, in that:
- (a) The proposed development has been assessed elsewhere within this report as satisfactorily achieving the objectives for floor space ratio (Clause 53 of SLEP 2005);
  - (b) The development of the proposed scheme has been the subject of an Urban Design Study by the NSW Government Architect, a design excellence competition, and has seen the formulation of site specific planning controls (the APDG LEP and DCP);
  - (c) The additional floor space is able to be accommodated wholly within the allowable building envelope for this site as stipulated within the APDG LEP and DCP;
  - (d) The developer has agreed to enter into a Voluntary Planning Agreement with Council to facilitate the provision of publicly accessible open space, lanes and other links across the site for use as both pedestrian thoroughfares and for passive recreation, all of which, will achieve the vision for the future public domain of the APDG block;
  - (e) The proposal includes the use of high quality materials, such as granite paving, and the provision of public art within the through site link to positively contribute to the public domain; and
  - (f) Appropriate conditions are recommended for imposition to satisfy the heritage floor space provisions of the LEP.

### **Variations from the Design Competition scheme**

72. The proposed development was considered by the Design Advisory Panel on 10 May 2011. The Panel noted at this meeting that the architectural design of the proposal had evolved from the scheme that won the design excellence competition in November 2009. As a result of these modifications, the Panel recommended that the design excellence competition jury be reconvened to consider the design modifications proposed within the application.
73. The jury reconvened on 21 June 2011 where the Architect gave a presentation outlining the progression of the scheme from the design competition to lodgement of the development application.
74. The jury considered the following design modifications:
- (a) relocation of the communal swimming pool and facilities in Building A from Levels 37 and 38 to Level 1, and the subsequent deletion of the recessed notch within this building's northern façade;
  - (b) modification to the materiality of the façade treatment of eastern elevation of Building B (fronting Pitt Street), from a combination of sandstone and glazing to a predominately glazed façade; provision of additional windows in the southern elevation of Building A;

- (d) introduction of stairs between Herald Square and the plaza forecourt of Building A; and
  - (e) noting that no reduction/s had been made to the length/extent of the podium blade walls as had been a recommendation of the jury at design competition stage; and
  - (f) substitution of façade materials from natural sandstone to fibre cement cladding.
75. Design amendments were made as a result of the consideration of the scheme by the design competition jury, including:
- (a) reducing the length of the podium blade walls fronting Herald Square and Pitt Street to improve view lines to and from the building;
  - (b) revising the location and size of the podium skylights to improve solar access to the covered recreation areas of the plaza;
  - (c) use of natural Sydney sandstone cladding for the podium levels (with a variable height of between 3.8 metres and 21 metres above ground level);
  - (d) inclusion of window blinds within the base building design to maintain the integrity of the building facades;
  - (e) relocation of all stairs between Herald Square and the forecourt of Building A within the boundaries of the site and with the lines of the blade wall;
  - (f) reconfiguration of the basement to facilitate a future breakthrough panel to the adjacent site at 19-31 Pitt Street (Fairfax House), including the introduction of a porte cochere at basement level 1 and the reduction in the amount of car parking proposed in the development by 28 spaces; and
  - (g) amending the north-western corner of Building A to delete the former encroachment so building sits wholly within the boundaries of the site.
76. Despite the above, the revised scheme lodged in November 2011 did not address all the recommendations of the design jury, with justification provided by the Architect that the deletion of the notch and modification to the materials used on the eastern elevation of Building B did not adversely impact on the integrity of the winning design.



**Figure 19 - A comparison between the design competition scheme (left) and development application scheme (right)**

77. The justification provided by Kerry Hill Architects (KHA) for supporting the modified development application scheme rather than reverting to the design competition scheme is as follows:

**Building A – Reinstatement of the recessed notch:**

*“During the design development of the project, the brief evolved to require that the swimming pool be located at the lower levels of the high rise tower. Given that this function was relocated, KHA believe that the expression of the building should change to reflect the functions contained within – so the notch was removed and the white glass volume was expressed as a complete rectangular prism.*

*KHA believe that expressing the white volume of the tower as a pristine rectangular prism is equally strong to the competition scheme (with the notch). KHA believe that the integrity of the design remains intact despite the notch not being expressed into the northern façade.”*

**Building B – Eastern façade treatment:**

*“During the design development of the project, the brief evolved to require views from apartments to the east side of the low rise tower. KHA explored a number of options to provide discrete openings in the masonry wall to the east (refer to **Attachment E** for these design options).*

*It was concluded that none of the design options with discrete openings were architecturally successful as providing a glazed expression to the east elevation of the low rise tower. KHA believe that the glazed expression is an acceptable design solution that retains the integrity of the scheme."*

78. It is considered that the justification provided for the deviations from the design competition winning scheme are based primarily on economic feasibility grounds rather than architectural merit. These architectural features were distinctive elements of the winning scheme and were considered worthy of reinstatement by the design jury.
79. As both SLEP 2005 and the site specific APDG LEP/DCP require the achievement of design excellence, as well as the retention of the design integrity of the competition winning scheme, the recommendations of the design jury to reinstate these element of the winning scheme are concurred with.
80. Design modification conditions have been recommended for imposition requiring the provision of amended plans to reinstate the recessed notch and partial sandstone façade of Building B.

### **View Analysis**

81. Consideration has previously been given to view impacts from both nearby buildings and the public domain during the preparation of the APDG LEP/DCP amendments. The report prepared by Council's City Strategy and Design Unit and considered by the Central Sydney Planning Committee and Council on 11 and 15 November 2010, respectively, addressed the outcomes of the public exhibition of the Draft LEP/DCP amendments.
82. The relevant sections from this report regarding the view analysis and the subsequent assessment have been included at **Attachment D** for reference.
83. In summary, the conclusion of this report was that the extent of view loss experienced by the alternative building envelopes for the APDG block was acceptable for the following reasons:
  - (a) the CBD context of the sites and the reasonableness that new development would be characterised by tower forms, which would only result in the loss of partial views;
  - (b) the priority in retaining "outlook" and amenity over private "views" as stipulated at Section 6.1.11 and 6.1.12 of the CSDCP 1996;
  - (c) the public domain benefits of the alternative APDG scheme outweighing private interests;
  - (d) economic and employment benefits resulting from the redevelopment of the APDG block should take preference above private interests.
84. The Central Sydney planning controls make no provision for the retention of private views, rather Section 6.1.11 and 6.1.12 state the following with regard to outlook:

- “6.1.11 *The design of residential buildings and serviced apartments should ensure the provision of outlook, as distinct from views, from all dwelling units. Outlook is considered to be a short range prospect, such as building to building, while views are more extensive or long range to particular objects or geographic features.*
- 6.1.12 *There is no guarantee that views or outlooks from existing development will be maintained.”*
85. It is clear that the DCP provisions make a distinction between an “outlook” and a “view”, with priority given to ensure residential apartments have outlook and reasonable amenity, as opposed to the protection of private views.
86. Objections were received on behalf of the owner’s corporation and individual owner’s of apartments within the Cove Apartments at 129 Harrington Street regarding potential loss of iconic and Sydney Harbour views from their apartments as a result of the proposed development.
87. During the assessment of the application, inspections were undertaken by Council of these apartments in order to undertake view analysis and modelling of the proposed building as viewed from units within the Cove Apartments. **Figures 20 to 23**, below, (and included at **Attachment C**) illustrate the existing and proposed scenarios at apartments selected by the Owner’s Corporation as those most likely to be worse affected by the proposal.



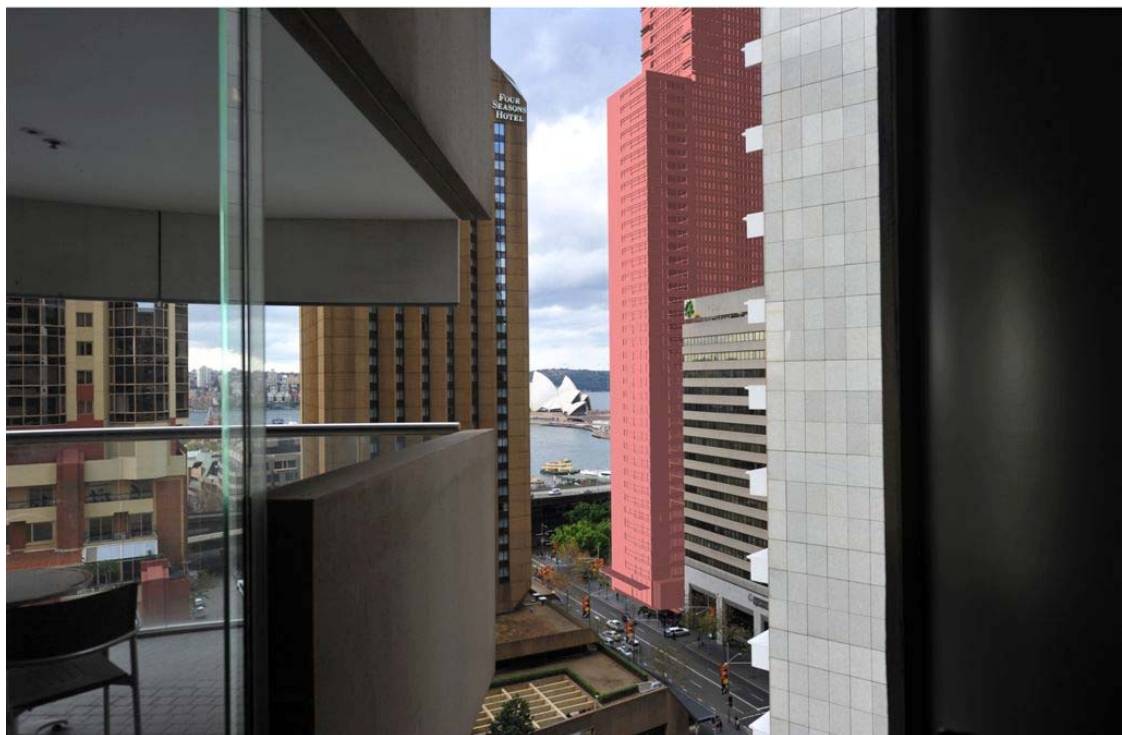


Figure 20 - Existing (above) and proposed (below) views from Level 9 (Apt 904)



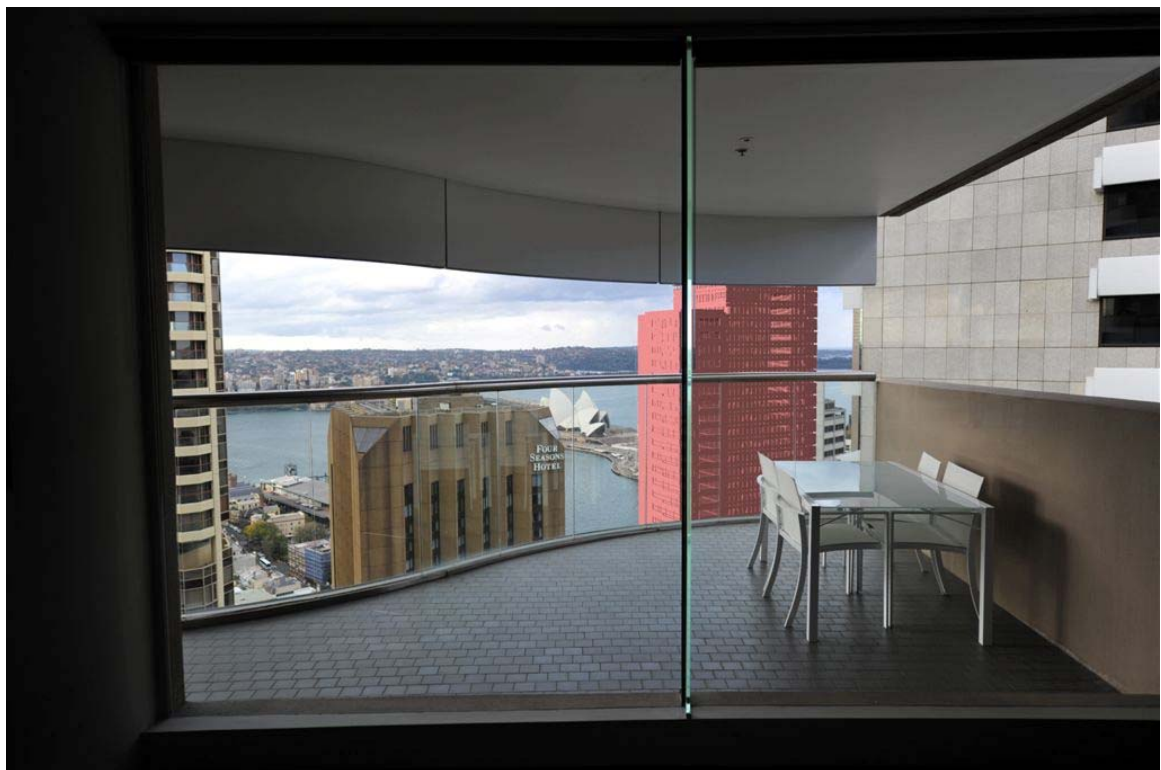


Figure 21 - Existing (above) and proposed (below) views from Level 30 (Apt 3002)



Figure 22 - Existing (above) and proposed (below) views from Level 35 (Apt 3502)





**Figure 23 - Existing (above) and proposed (below) views from Level 38 (Apt 3801)**

88. From inspection of above apartments it is evident that the proposed development will not have a detrimental impact on the “outlook” (as defined above by the DCP) of apartments within the Cove building.

89. Whilst the DCP makes no provision for the protection of private views, in order to properly assess the impact of the proposal on the existing views of the neighbouring properties, the proposal is assessed below against the planning principles established by Senior Commissioner Roseth in the Land and Environment Court decision of *Tenacity Consulting v Warringah [2004] NSWLEC 140*.

*Assessment of views to be affected*

90. The exact nature of the view/s impacted by the proposal varies within the Cove Apartment building depends on location within the building. However, as indicated in **Figures 20 to 23**, it is those apartments on higher floors that would experience a loss of partial existing Sydney Harbour and district views (such as Fort Denison, Cremorne Point, Bradley's Head and North Head). No iconic views of the Sydney Opera House or Sydney Harbour Bridge are impacted by the proposal and all properties inspected retained panoramic Sydney Harbour views.

*Which part of site is the view is available from?*

91. The views are possible from the living room windows and balconies within these apartments.

*Extent of the impact in relation to views available*

92. View loss analysis from the above properties is provided in the **Table 1**, below:

**Table 1 - View analysis**

Property	Views lost	Impact
Apartment 904, Level 9	Partial loss of East Circular Quay, Ferry Wharves and sky.	Low
Apartment 3002, Level 30	Partial loss of Sydney Harbour and district views (towards North Head).	Low - Moderate
Apartment 3502, Level 35	Partial Sydney Harbour, Fort Denison and district views (including Bradley's Head and North Head).	Moderate
Apartment 3801, Level 38	Partial Sydney Harbour and district views (including Bradley's Head).	Low

*Reasonableness of proposal causing impact*

93. With the exception of some minor non-compliances that are detailed elsewhere in this report and which notably do not impact upon the building as viewed from the Cove Apartments, the proposed development is compliant in height and the building envelope contained within the APDG DCP. As the proposal is compliant with the permitted building envelope and the potential view impacts were considered and resolved as being acceptable by both Council and the CSPC prior to the gazettal of the amendments, the extent of view loss resulting from the proposal is not considered to be unreasonable.

*View Loss Conclusions*

94. The view modelling undertaken concludes that those apartments on lower levels of the building will experience a negligible or unchanged impact from the building massing permitting under SLEP 2005.
95. **Figures 21 to 23**, above, taken from levels 30 and above illustrate that the proposed development does not result in the loss of iconic views, rather some loss of district and water views which is resultant from the additional height.
96. The proposed development is considered to be satisfactory when tested against the planning principles set out in *Tenacity Consulting v Warringah* [2004] NSWLEC 140, as detailed above. This assessment concluded that the impact at its worst could only be assessed as low to moderate, due to the retention of the iconic and panoramic water and district views from all apartments inspected. It is therefore concluded that the proposal does not result in material view loss to surrounding properties.

**Variations to the DCP building envelope**

97. Minor variations are proposed to the building envelope included at Figure 2.69 of the APDG amendment to the Central Sydney DCP 1996 (refer to **Attachment F**). The extent of variation sought is considered to be minor and is limited to the following:
  - (a) The height of the soffit over the through-site link is proposed at RL 24.5 rather than RL 24.7 (a variation of 200mm);
  - (b) The height of the southern podium of Building A (adjacent to the boundary with Jacksons on George) is proposed at RL 12.0, rather than RL 12.8 (a variation of 800mm);
  - (c) The setback of Building B from the Pitt Street boundary is proposed to be 5.0 metres, whereas the DCP requires 4.9 metres;
  - (d) Building A is setback 3.6 metres from the site boundary with Herald Square instead of 4 metres; and
  - (e) Building B is setback 7.8 metres from Herald Square, whereas the DCP requires 8 metres.
98. No objection is raised to the extent of the above variations from the building envelope contained at Figure 2.69 of the Central Sydney DCP 1996 as they are minor in nature, do not prevent the achievement of the objectives of the APDG LEP/DCP do not result in unreasonable environmental and amenity impacts, and importantly do not alter the design integrity of the architecture of the winning scheme from the design competition held in November 2009.

**Public Art**

99. A component of the voluntary planning agreement relates to the provision of public art on the site to a minimum value of \$1.5 million. As detailed elsewhere within this report, the agreement has been exhibited.

100. The artwork is to be provided within publicly accessible locations of the proposed development, with areas to be explored for its installation including the through-site link and adjacent area of open space adjacent to the western elevation of Building B. Appropriate conditions are recommended for imposition requiring that the public art be submitted and approved in accordance with the Public Art Policy.

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

101. The proposed development will not result in any significant additional impacts other than those already identified and discussed above.

#### **BCA Matters**

102. The development is capable of satisfying the requirements of the BCA without significant modification.

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

103. The site is suitable for the proposed development. Site suitability has already been discussed in the table/issues section above.

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

104. The proposed development is generally consistent with the relevant controls. In this regard it is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed on any consent.

#### **POLICY IMPLICATIONS**

105. Not applicable to this report.

#### **FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS**

106. 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 2002. An appropriate condition has been included in the recommendation of this report.

#### **PUBLIC CONSULTATION**

##### **Section 79C(1)(d)**

##### **Advertising and Notification**

107. 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.

##### **Notification of the Development application**

108. A total of 37 submissions were received as a result of the notification of the application in December 2010 to January 2011. The grounds for objection are summarised as follows:-

### **Views**

- (a) Loss of views of Sydney Harbour, Opera House, Fort Denison and the Heads.
- (b) Insufficient view analysis documentation prepared with the DA documentation.

**Comment:** Numerous submissions were received from owners of the Cove Apartment building at 129 Harrington Street, Sydney. As a result access was organised for Council staff to inspect properties within this building which would be impacted by the proposed development. Council staff undertook an independent view analysis from these apartments (refer to **Attachment C**).

As detailed within this report, the proposal does result in a loss of water and district views, however, does not result in loss of iconic views from apartments. The proposal has been assessed as not resulting in material view loss when considered against the principles for view sharing and those established by the Land and Environment Court in *Tenacity Consulting v Warringah* [2004].

### **Floor Space**

- (c) The additional floor space sought under Clause 10 of SLEP 2005 relies on compliance with all objectives of the development standard being fulfilled. The proposed development is non consistent with the principle of view sharing, and therefore does not meeting all objectives of the FSR development standard.
- (d) Precedent established by exceedance of the FSR development standard

**Comment:** The proposal has been assessed as being consistent with the objectives and maximum permissible floor space pursuant to Clauses 10, 53 and 54 of SLEP 2005. The assessment of the merits of the proposal against the provisions of Clause 10 is outlined within the issues section of this report.

### **Overshadowing**

- (e) Creation of additional overshadowing to residential dwellings and public places.
- (f) Inadequate shadowing diagram documentation submitted.

**Comment:** The documentation submitted with regard to solar access and overshadowing was assessed as adequate to allow for consideration of the impacts of the proposal on both the public domain and nearby residential towers.

As part of the formulation of the APDG planning controls, City staff gave consideration to the shadowing impacts that would arise from the revised building envelopes permitted under these controls. This modelling concluded that the Cove Apartments would retain 2 hours of solar access on the Autumn Equinox (21 March) in accordance with CSDCP 1996.

***Car parking and Traffic***

- (g) Increase in basement car parking on the site will increase traffic movements, congestion of local streets and increase traffic noise.

**Comment:** The number of parking spaces provided within the basement car park complies with the SLEP 2005 requirements for the proposed land uses. Whilst it is agreed that the amount of car parking provided on the site is an increase on the existing situation, the predominately residential nature of the use of the building will mean that there will not be a high turnover of vehicles entering/exiting the site as opposed to the current public car park use of the site.

***Amended LEP (APDG controls)***

- (h) The proposal does not guarantee the provision of the public square and laneway network within the APDG block as is required in the gazetted LEP Amendment
- (i) Construction of the tower on the subject site will not contribute to the achievement of the vision within the APDG planning controls
- (j) Not supportive of the additional height above the previous 110 metre height control.
- (k) Development Application has been approved for Fairfax House at 19-31 Pitt Street, which does not utilise the APDG planning controls and will have a negative impact on the future amalgamation of sites within this block to achieve the vision of the planning controls.

**Comment:** Refer to detailed discussion provided at issues section of this report.

***Setbacks***

- (l) Reduced setback to George Street from the existing Goldfields House building, which results in loss of views
- (m) The proposal encroaches across the site boundary in the northwestern corner of the site, and this has view implications.

**Comment:** The proposal has been amended to ensure that the development is contained wholly within the boundaries of the site. The proposed siting of the building and its setback from George Street is consistent with the APDG DCP amendment.

***Overlooking***

- (n) Inadequate setback of habitable rooms from the site boundaries and with the SEPP 65 setback guidelines between buildings
- (o) Potential overlooking from the south/southeastern elevation bedroom windows to the future residential development on the site at 19-31 Pitt Street.

**Comment:** Refer to detailed discussion within the DCP compliance tables.



***Temporary Barrier Fence to Through Site Link***

- (p) Conditions should be imposed to ensure the wall to be constructed between the through-site link and Blue Anchor Lane be of light-weight construction to allow its future removal and facilitate a future pedestrian connection.
- (q) Conditions should be imposed that note that the cost of removing this wall should not be applied to the development of adjoining sites.

**Comment:** The timing on the removal and requirements to remove this barrier fence are detailed within the Voluntary Planning Agreement to ensure the achievement of the long-term vision for the APDG block. The costs associated with the removal of the temporary barrier fence are to be borne by the developer or future owner's corporation of the building/s.

***Photovoltaic Cells***

- (r) Insufficient detail has been submitted on the photovoltaic panels on the roof of Building B. Conditions should be imposed on reflectivity and maximum height (RL) of these panels.

**Comment:** An appropriate condition is recommended for imposition.

***Wind Impacts***

- (s) The proposed development will have a significant impact on the wind tunnel effect along George Street

**Comment:** A glazed awning has been incorporated on the northwestern corner of the building (on the corner of George Street and Herald Square) to address the recommendations of the Wind Impact Assessment.

***Heritage***

- (t) The existing building on site is listed on the State Heritage Register and plays an important role in balancing the height and scale of the original AMP building at the eastern end of Alfred Street. The proposed building does not respect this scale or orientation and pays no respect to the heritage listing of the site.
- (u) Impacts of the proposal on the important historic sites in Sydney.

**Comment:** The site is listed on the State Heritage Register as a result of the Tank Stream running through it. The existing building itself is not heritage listed. General Terms of Approval have been granted by the NSW Heritage Office to the proposed development.

The proposed design and scale of the development has been assessed as not detrimentally impacting upon the nearby heritage items or detracting from the significance of the Circular Quay Special Area.

***Street Wall Height***

- (v) The proposed street wall height of the development to George Street exceeds the 20 to 45 metre requirement of CSDCP 1996.

**Comment:** These controls have been superseded by the building envelope and setbacks contained with the APDG DCP.

**Notification**

(w) The notification area was not sufficient to include apartments within the Cove Apartments in Harrington Street.

**Comment:** The application was notified in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications DCP 2005, including letters sent to all surrounding properties within a 75 metre radius, an advertisement placed in the Sydney Morning Herald and site notices placed on the street frontages. In any case, it is noted that residents within the Cove Apartments are aware of the proposal.

109. Whilst amended plans were submitted to Council in November 2011, the extent of these amendments were not considered to result in any new or varied environmental impacts beyond the scheme originally notified in December 2010. Subsequently, in accordance with the provisions of Section 6.1 of the Notification of Planning & Development Applications DCP 2005, the amended application has not been re-notified or re-advertised.

**Notification of the Voluntary Planning Agreement**

110. The Voluntary Planning Agreement and its accompanying documents were placed on public exhibition for a 28-day period commencing on 27 March 2012.

111. As a result of the exhibition period, a total 4 submissions were received and are included at **Attachment H** for reference. The issues raised in the submissions are summarised as follows:-

- (a) Amendments required to width and dimensions of the vehicular access ramp and breakthrough panel to facilitate safe and compliant access for cars and service/garbage vehicles to the adjacent site at 19-31 Pitt Street;
- (b) The restrictions currently included in the VPA should be removed to allow construction vehicles to use the carriageway access to access the adjacent basement;
- (c) Provision should be made for a future linkage on the southern boundary of the public recreation area (marked as FR3 on the draft plan attached to the VPA) to allow for a future pedestrian connection to the through site link from the adjacent development at 19-31 Pitt Street. Easements, the VPA and plans should all be amended to define this link in height and dimensions;
- (d) There should be an increase in the number of properties within the APDG block that access their future basements via the proposed driveway on the site at 1 Alfred Street. This would create a single consolidated vehicular access point from Pitt Street for all properties located on the northern side of Underwood Street, and would reduce vehicular movements in the laneway network;

- (e) The Section 88B instrument relating to the use of the right of carriageway by the Rugby Club building should not be limited to service vehicles only and should allow access by all authorised users (similar to 19-31 Pitt Street) in the event that the Rugby Club site is redeveloped;
  - (f) The restrictions that prohibit vehicular access to the Rugby Club site in the event that this site is part of a comprehensive redevelopment with adjoining land should be removed from the documents. This restriction prevents the creation of the wider integrated basement between the northern allotments in the APDG block;
  - (g) In the event that other lots are included as benefitted lots in the right of easement, then Council should bring forward the requirement for the preparation of the Easement Management Plan, so that these further benefitted lots have an opportunity to review and approved the plan;
  - (h) Consideration should be given to the rewording to Clause 2.2 (Restriction on use for construction) to allow access for construction vehicles for benefitted lots. Particular examples where construction vehicles may need access after the construction of the building could relate to future fit-out works, tenancy changeovers, minor alterations and additions to individual apartments or maintenance works to the building;
  - (i) Note the level changes between the finished levels of the proposed through-site link and the existing laneway network to the rear. Concern is raised regarding drainage issues and the potential of flooding to the basement of the adjacent property at 174-176 George Street (Jacksons on George);
  - (j) Note that amended Development Application plans were not renotified;
  - (k) Conflict in the siting of residential apartments adjacent to a 24-hour hotel premises, particularly noting the location of windows on the southern façade of the proposed development fronting the existing hotel;
  - (l) Supportive of the proposed north-south pedestrian link between Herald Square/Alfred Street and Rugby Place;
  - (m) Negatively impacts upon the continued location of the Rugby Club's refuse facility and upon deliveries to and from the Rugby Club at all times of the day; and
  - (n) Works included as part of the planning agreement have the potential to obstruct the Rugby Club's fire escape and fire exit, which are situated at the western end of the Club premises.
112. Copies of all submissions received have been forwarded to the applicant for their consideration and response. At the time of writing, no response had been received from the applicant regarding their offer and/or their response to submissions regarding the content of the draft planning agreement.

**EXTERNAL REFERRALS****Integrated Development – NSW Heritage Council**

113. The subject is classified as Integrated Development pursuant to provisions of the Heritage Act, 1977. The Terms of Approval of the NSW Heritage Office been received within the statutory time. The conditions from the Authority are included in the recommendation section of this report.

**Sydney Regional Development Advisory Committee (SRDAC)**

114. A referral to the Sydney Regional Development Advisory Committee (SRDAC) was undertaken. Further discussion is provided under SEPP (Infrastructure) 2007.

**Railcorp**

115. The development was required to be referred to Railcorp under the provisions of SEPP (Infrastructure) 2007 due to the proximity of basement works to the future Redfern to Chatswood rail corridor. The conditions of Railcorp are included within the recommendation section of this report.

**INTERNAL REFERRALS**

116. The application was referred to Council's Urban Designer/Design Advisory Panel; Heritage; Public Domain Unit; Health; Tree Management; Safe City; and Transport Management Unit.

117. Those issues identified with the proposal as originally lodged have been addressed within this report.

118. All appropriate conditions recommended for imposition from the referrals have been included in the recommendation section of this report.

**RELEVANT LEGISLATION**

119. The Environmental Planning and Assessment Act 1979 and Heritage Act 1977.

**CONCLUSION**

120. The subject site, and the APDG block as a whole, has been the subject of detailed site analysis and a review of the applicable planning controls since 2008. This has included:

- (a) an Urban Design Study conducted by the NSW Government Architect's Office to review the massing and form of development within this block;
- (b) a competitive design process between five architectural practices, where the scheme designed by Kerry Hill Architects (the proposed ) was named the winning scheme; and
- (c) the preparation of site specific amendments to the current planning controls for the APDG block.

121. Collectively, it is considered that the extensive analysis process undertaken to date, and the resultant building envelope for the site that is included within the APDG planning controls, can be considered as an equivalent to the preparation of a development plan/Stage 1 development application. Therefore, it is recommended that the requirement of Clause 23 of SLEP 2005 that a development plan be prepared be waived in this instance.
122. In conjunction with the proposed development, the developer has offered to enter into a planning agreement with Council to achieve the following objectives of Clauses 10 and 52A of SLEP 2005:
- (a) to create an extension of Herald Square by encompassing the forecourt of the new buildings as publicly accessible open space and an easement to this effect to be registered on the titles of the Site;
  - (b) to dedicate land to Council to allow for an extension of the existing road reserve of George Street, Pitt Street and Herald Square;
  - (c) to provide a north-south through-site link connecting Herald Square to the future laneway and publicly accessible square within the APDG block allowing pedestrian access 24 hours per day, 7 days a week;
  - (d) to commission a piece or pieces of public art to the value of \$1.5 million to positively enhance the treatment of the public domain; and
  - (e) to provide a shared vehicular driveway and a breakthrough panel within the basement car park to facilitate an integrated vehicular connection between the Site and its immediate neighbours at 19-31 Pitt Street (Fairfax House) and 31A Pitt Street (the Rugby Club).
123. The assessment of the application, including the public domain improvements included within the VPA, has concluded that the proposal is consistent with the objectives of Clause 52A of SLEP 2005, and as such, the alternative building heights sought for the site are supported in this instance.
124. Further to this, the 10% variation sought to the floor space ratio development standard is supported as a result of the design excellence competition process undertaken for this site as well as the extensive public domain improvements encompassed within the development (as detailed above).
125. The proposal has been amended during the assessment period to address preliminary concerns regarding materiality, vehicular access, the public domain treatment and architectural treatment of the buildings.
126. As amended, the proposal is considered to be generally consistent with the relevant planning controls and responds appropriately to the site and contributes to the achievement of the redevelopment of the APDG block.
127. The subject development application is supported, subject to the imposition of following deferred commencement conditions:
- (a) provision of amended plans to reinstate key architectural features of the design competition winning scheme;
  - (b) execution and registration on title of the voluntary planning agreement;

- (c) provision of an air quality assessment report on the proposed co-generation plant; and
- (d) documentation to satisfy the RailCorp concurrence conditions of SEPP (Infrastructure) 2007.

**GRAHAM JAHN**

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)