

ITEM 5. DEVELOPMENT APPLICATION: 188-194A AND 196-208 GEORGE STREET 4 DALLEY STREET AND 1 UNDERWOOD STREET SYDNEY**FILE NO:** D/2012/893**DEVELOPMENT APPLICATION NO:** D/2012/893**SUMMARY****Date of Submission:** 13 June 2012 (amended plans received 15 October 2012).**Applicant:** Mirvac Projects Pty Ltd**Architect:** FJMT**Developer:** Mirvac Projects Pty Ltd**Landowner:** Mirvac George Street Pty Ltd
Mircvac Funds Ltd**Proposal Summary:** The subject application seeks consent to demolish the buildings at 188-194A and 196-208 George Street and part of the building at 4 Dalley Street, the construction of a 37 storey commercial building and refurbishment of the remainder of the 4 Dalley Street building. The development will include:

- excavation to create 4 levels of basement car parking;
- 43,270sqm of retail and commercial floorspace;
- 63 car parking spaces, 11 service/courier spaces and approximately 318 bicycle spaces;
- 2 new electricity substations; and
- public domain improvement works.

A request has also been made to waive the requirement for the preparation of a development plan for the subject site.

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

**Proposal Summary:
(continued)**

The application was originally notified in July and August 2012 and resulted in 7 submissions being received. Amendments to the application were notified in October and November 2012 and resulted in a further 3 representations being received. Issues raised in 2 submissions received following notification of a separate modification application to permit demolition of the existing buildings on site (which has subsequently been withdrawn and included in the subject application) have also been considered as part of the subject application.

The issues raised in the submissions relate to:

- Impact on views
- Design, height, bulk and scale
- Construction impacts
- Building separation and setbacks
- Public Domain
- Overshadowing
- The absence of a development plan for the site
- Inconsistency with the previous Stage 1 approval for the site

The developer has 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 and a draft VPA has been placed on public exhibition.

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 street block bounded by Alfred, Pitt, Dalley and George Streets).

The development application is supported, and is recommended for deferred commencement consent.

Summary Recommendation:

Development Application No. D/2012/893 is recommended for deferred commencement consent.

Attachments:

- A - Selected Drawings
- B - Photomontages
- C - View Analysis
- D - Voluntary Planning Agreement

RECOMMENDATION

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD as the comments of the Roads and Maritime Services were sought under the provisions of State Environmental Planning Policy (Infrastructure) 2007;
- (B) pursuant to the provisions of Clause 23(4)(e) of Sydney Local Environmental Plan 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;
- (C) the Central Sydney Planning Committee supports the State Environmental Planning Policy No. 1 objection to Clause 52A(3)(b) of SLEP 2005;
- (D) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent is granted to D/2012/893 subject to the following:
 - (1) That the previous development consent granted under D/2008/596 shall be surrendered in accordance with the provisions of the Environmental Planning and Assessment Act 1979;
 - (2) The Voluntary Planning Agreement (Reference S:3145908_5 RCM) placed on public exhibition on 14 November 2012 shall be executed and lodged for registration with the Office of Land and Property Information;
 - (3) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement; and
 - (4) The Voluntary Planning Agreement, as executed, must be lodged for registration with the Office of Land and Property Information prior to any works commencing on site and registered on the title of all land prior to any above ground works commencing;
- (E) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council by 6 December 2013;
- (F) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied; and
- (G) 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/2012/893 dated 13 June 2012 and the Amended Development Application Statement of Environmental Effects prepared by JBA Planning dated October 2012 and the following drawings:

Demolition Drawings

Drawing Number	Architect	Date
DA0103	FJMT	11.10.12
DA0104	FJMT	11.10.12
DA0105	FJMT	11.10.12
DA0106	FJMT	11.10.12
DA0107	FJMT	11.10.12
DA0108	FJMT	11.10.12
DA0109	FJMT	11.10.12
DA0110	FJMT	11.10.12
DA0111	FJMT	11.10.12
DA0112	FJMT	11.10.12
DA0113	FJMT	11.10.12
DA0114	FJMT	11.10.12

General Arrangement Plans

Drawing Number	Architect	Date
DA1009	FJMT	11.10.2012
DA1010	FJMT	11.10.2012
DA1011	FJMT	11.10.2012
DA1012	FJMT	11.10.2012
DA1013	FJMT	11.10.2012
DA1014	FJMT	11.10.2012
DA1015	FJMT	11.10.2012
DA1101	FJMT	11.10.2012
DA1102	FJMT	11.10.2012

Sections

Drawing Number	Architect	Date
DA1211	FJMT	11.10.2012
DA1212	FJMT	11.10.2012

Facade Option A

Drawing Number	Architect	Date
DA1103	FJMT	11.10.2012
DA1104	FJMT	11.10.2012
DA1107	FJMT	11.10.2012
DA1108	FJMT	11.10.12
DA1111	FJMT	11.10.12
DA1112	FJMT	11.10.12
DA1113	FJMT	11.10.12

Drawing Number	Architect	Date
DA1114	FJMT	11.10.12
DA1115	FJMT	11.10.12
DA1116	FJMT	11.10.12
DA1117	FJMT	11.10.12
DA1118	FJMT	11.10.12
DA1125	FJMT	11.10.12
DA1126	FJMT	11.10.12
DA1127	FJMT	11.10.12
DA1128	FJMT	11.10.12
DA1135	FJMT	11.10.12
DA1136	FJMT	11.10.12
DA1137	FJMT	11.10.12
DA1138	FJMT	11.10.12
DA1201	FJMT	11.10.12
DA1202	FJMT	11.10.12

Facade Option B

Drawing Number	Architect	Date
DA1303	FJMT	11.10.12
DA1304	FJMT	11.10.12
DA1307	FJMT	11.10.12
DA1308	FJMT	11.10.12
DA1311	FJMT	11.10.12
DA1312	FJMT	11.10.12
DA1313	FJMT	11.10.12

Drawing Number	Architect	Date
DA1314	FJMT	11.10.12
DA1315	FJMT	11.10.12
DA1316	FJMT	11.10.12
DA1317	FJMT	11.10.12
DA1318	FJMT	11.10.12
DA1325	FJMT	11.10.12
DA1326	FJMT	11.10.12
DA1327	FJMT	11.10.12
DA1328	FJMT	11.10.12
DA1335	FJMT	11.10.12
DA1336	FJMT	11.10.12
DA1337	FJMT	11.10.12
DA1338	FJMT	11.10.12
DA1221	FJMT	11.10.12
DA1222	FJMT	11.10.12

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) STAGED CONSTRUCTION

- (a) The development may be carried out in stages with the relevant conditions being satisfied prior to the issue of a Construction Certificate for each stage as follows:

STAGE	DESCRIPTION	SPECIFIC CONDITIONS
1a	Demolition (George Street and Dalley Street buildings)	48, 50, 51, 52, 56, 64, 66, 83, 88, 97 and 109
1b	Archaeological Excavation and Investigation (George Street and Dalley Street buildings)	

STAGE	DESCRIPTION	SPECIFIC CONDITIONS
1c	Decommissioning and Demolition of Substations (George Street and Dalley Street buildings)	
2	Excavation and Footings (George Street building)	10, 11, 17, 49, 55, 63, 70, 71, 76, 104
3	Installation and construction of in-ground services and infrastructure (George Street building)	67, 87
4	Construction of Structure from Basement to Ground Floor (George Street building)	24, 26, 33, 68, 74, 85, 86, 94
5	Construction of Structure above Ground Floor (George Street building)	7, 8, 9, 47, 89
6	Services/Finishes/Façade to Ground Floor (George Street building)	75
7	Services/Finishes/Façade above Ground Floor (George Street building)	
8	4 Dalley Street (Dalley Street building)	78, 80
9	Public domain and landscaping works (George Street and Dalley Street buildings)	90, 91

- (b) In addition to those conditions identified in the above table, other conditions may be required to be satisfied prior to the issue of a construction certificate at each stage of construction.
- (c) Any reference to 'A Construction Certificate' or 'An Occupation Certificate' relates to the first Construction Certificate and/or Occupation Certificate unless a Stage is nominated elsewhere in that particular condition. In all other cases, conditions are to be satisfied as specifically stated at Stages 1a to 9.

(3) DESIGN DETAILS (MAJOR DEVELOPMENT)

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by FJMT and dated 11 October 2012.

(4) EXTERNAL TREATMENT TO 4 DALLEY STREET

The external design treatment to 4 Dalley Street shown on drawing numbers DA1211, 1202, 1222 is not approved. An alternative design treatment for the 4 Dalley Street building that shall remain shall be submitted to the Director City Planning, Development and Transport for approval within five months of the date of the consent becoming operative.

(5) FACADE OPTIONS

The building may be finished either in accordance with the details shown for facade Option A or the details shown for facade Option B but not a combination of both.

(6) RESTRICTION ON FUTURE DEVELOPMENT OF 4 DALLEY STREET

Prior to the issue of an Occupation Certificate, the owner must enter into a deed with Council and register any required covenants on the title of the land to limit any future development of the building at 4 Dalley Street to that proposed in this application.

(7) AWNING

The proposed awning to the George Street and Crane Place facades shall be set back such that it projects no more than 3.66m from the building overhang. Details illustrating compliance with this condition shall be submitted to the satisfaction of the Director City Planning, Development and Transport prior to the issue of the Stage 5 Construction Certificate.

(8) UNDERWOOD STREET VEHICLE CROSSOVER

The design and levels of the Underwood Street vehicle crossovers shall be such that the vehicles have to drive 'up and over' a continuous pedestrian footway that connects with the enlarged Crane Place. Details shall be submitted with the Public Domain Plan (refer condition 85) for Council's approval prior to the issue of a Construction Certificate for Stage 5.

(9) REFLECTIVITY

The recommendations of the Facade Reflectivity Statement, prepared by Surface Design dated 11 October 2012 shall be incorporated into the development to reduce glare/reflectivity to Essex Street. Details illustrating compliance with this condition shall be submitted to the satisfaction of Council's Director of City Planning, Development and Transport prior to the issue of a Construction Certificate for Stage 5.

(10) DESIGN QUALITY EXCELLENCE**(11) FLOOR SPACE RATIO - CENTRAL SYDNEY**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 13.75:1 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 43,270sqm.

- (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 for Stage 2 being issued, Council's written verification must be obtained, confirming that 11,014.5sqm 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.

(12) BUILDING HEIGHT

- (a) The height of the building must not exceed RL 158.2 (AHD) to the uppermost part of the 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.

(13) APPROVED DESIGN ROOF - TOP PLANT

(14) RETAIL UNITS – SEPARATE DA REQUIRED

Separate development applications for the fit-out and use of the proposed retail tenancies must be submitted to and approved by Council prior to those uses commencing.

(15) SIGNAGE

The signage zones shown on the submitted plans are not approved. A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

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

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

(18) RIGHT OF PUBLIC ACCESS

- (a) Prior to the issue of an Occupation Certificate for the development, a documentary Right of Public Access is to be created and registered on the Title of the site. The Easement is to be defined over strips of land, shown on the plans accompanying the application and Voluntary Planning Agreement (Reference S:3145908 5 RCM) as "Through Site Link", "Crane Place", the north-south pedestrian area linking Crane Place to Underwood Street as well as including any other areas required for public access, and is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction,
- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Right of Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, repair and lighting of the Right of Public Access in accordance with Council's requirements and to the satisfaction of Council.

(19) RIGHT OF ACCESS

- (a) During demolition and construction, access to the adjoining property 210-214 George Street (Lot 21 in DP 1063401) shall be maintained at all times, in accordance with the terms of the Easement for Access.
- (b) Prior to the issue of an Occupation Certificate for the development the Right of Access over part of the land known as Lot 20 in DP 1063401, in favour of land at 210-214 George Street (Lot 21 in DP 1063401), is to be either extinguished or relocated in accordance with the terms of the Easement contained in the Section 88B Instrument for DP 1063401.
- (c) Prior to commencement of demolition of any structures and/or commencement of any works affecting it, the applicant must submit a swept path analysis showing the largest vehicle entering and exiting the Right of Access in favour of land at 210-214 George Street (Lot 21 in DP 106340). The swept path must include information showing how many parking spaces will be affected by the vehicles movements.
- (d) The removal of any parking spaces will require a referral to the Local Pedestrian, Cycling and Traffic Calming Committee prior to the parking restriction being changed. Any parking changes must be completed prior to the new easement being created.

(20) EASEMENT FOR LIGHT AND AIR

The location and construction of the proposed building shall not affect the rights of the owners of Lot 21 in DP 1063401 over that part of Lot 20 in DP 1063401 with regards to the Easement for Light and Air, which was created by the registration of DP 1063401.

(21) EASEMENT FOR ELECTRICITY PURPOSES

The location and construction of the proposed building shall not affect the rights of Energy Australia (or their successors) over that part of Lot 20 in DP 1063401 with regards to the Easement for Electricity Purposes 3.66 wide and variable width, which is contained in Dealing N594271.

(22) ROADS AND MARITIME SERVICES CONDITIONS

- (a) The proposed planting of new trees on George Street should not obstruct driver sight lines to traffic signals at the existing signalised intersection of Essex Street and George Street.
- (b) The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including, driveways, grades, lifts, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2-2002 for heavy vehicle usage.
- (c) All vehicles are to enter and leave the subject site in a forward direction.
- (d) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- (e) The developer shall be responsible for all public utility adjustments/relocation works necessitated by the above work and as required by the various public utility authorities and/or their agents.
- (f) All works / regulatory signposting associated with the proposed development shall be at no cost to the RMS.

(23) ASSOCIATED ROADWAY COSTS**(24) BICYCLE FACILITIES**

A bicycle facilities room must be provided close to staff / employee bicycle parking and include showers with change area and personal lockers. Details shall be submitted for the approval of the Director of City Planning, Development and Transport prior to the issue of the Stage 4 Construction Certificate.

(25) BICYCLE PARKING**(26) CAR PARKING SPACES AND DIMENSIONS****(27) COST OF SIGNPOSTING****(28) LOADING WITHIN SITE****(29) LOADING/PARKING KEPT CLEAR****(30) LOCATION OF ACCESSIBLE CAR PARKING SPACES****(31) SECURITY GATES**

(32) SERVICE VEHICLE SIZE LIMIT**(33) SERVICE VEHICLES**

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

- (a) A minimum of five courier space(s) with minimum dimensions 2.6m x 5.4m and a minimum head clearance of 2.5 metres.
- (b) A minimum of four Small Rigid Vehicle loading dock(s)
- (c) A minimum of two 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 the Stage 4 Construction Certificate being issued.

(34) SIGNS AT EGRESS**(35) TRAFFIC WORKS****(36) VEHICLE FOOTWAY CROSSING****(37) VEHICLES ACCESS****(38) EXTERNAL LIGHTING****(39) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN****(40) COMPLIANCE WITH RECOMMENDATIONS IN ACOUSTIC REPORT**

- (a) All works conducted on site which form part of this development must be carried out in accordance with the recommendations within section 6.1 of the acoustic report submitted by Renzo Tonin, Dated 28 May 2012 reference TF697-01F04 (REV 2) CONSTRUCTION DA.
- (b) Where all such noise control measures have been implemented and the resultant noise levels at any noise sensitive receiver are still in exceedance with the Council's noise criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite from the noise causing the complaints. Such periods should where possible be set and agreed with the Council and be given at times of high noise levels, or are likely, to cause most offence.

- (c) The applicant must provide a contact telephone number to the Managers of the City Rangers and the Health Compliance Unit for the Site Manager or other suitable person who will be readily contactable onsite at all times whilst any works are carried out and whom may be contacted should any complaints concerning offensive noise and vibration be received.
- (d) The applicant must also ensure that before any works are commenced, an appropriate level of community consultation has been carried out with surrounding noise sensitive receivers. This should include the submission of a suitable and readily contactable site contact should any complaints or other issues arise when any works are carried out within the extended hours. Complaint logs shall be kept outlining the details of any complaint received together with the investigative and corrective actions taken in response to that complaint. The logs must be made available to the City on request.

(41) COMPLAINTS - NOISE

(42) NOISE USE

(43) NOISE CONTROL VERIFICATION

(44) WASTE AND RECYCLING COLLECTION

SCHEDULE 1B

Prior to the relevant Construction Certificate/Commencement of Work/Health and Building

Note: Prior to the issue of the relevant 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.

(45) ARCHAEOLOGICAL INVESTIGATION

(46) COMMEMORATIVE PLAQUE

(47) HERITAGE INTERPRETATION STRATEGY

- (a) An interpretation strategy for the site must be submitted to and approved by Council prior to a Stage 5 Construction Certificate being issued.
- (b) The interpretation strategy must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) Prior to an occupation certificate being issued the approved interpretation strategy must be implemented to the satisfaction of Council.

(48) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)

Prior to a Stage 1a Construction Certificate being issued, an archival photographic recording of the 188-194A and 196-208 George Street buildings is to be prepared to Council's satisfaction. The recording may be in either digital or film-based form, or a combination of both, prepared in accordance with the NSW Heritage Office guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives.

The form of the recording is to be as follows:

- (a) In A4 format, placed in archival plastic sleeves in an appropriate archival folder.
- (b) The Development Application number must be noted on the front of the folder and in the report.
- (c) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
- (d) Each negative, slide or digital image is to be cross referenced to a photographic catalogue and photographic base plans.
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

A digital based recording is to include:

- (f) CD or DVD containing the report in PDF format and the electronic images saved as JPEG, TIFF or PDF files and cross referenced to the digital catalogue sheets and base plans.

A film based recording is to include:

- (g) 35mm film images submitted as contact sheets with equivalent negatives, a selection of black and white prints 200 x 250mm, and 35mm colour transparencies, all labelled and cross-referenced to the catalogue sheets and base plans.

(49) SANDSTONE RECYCLING (FOR LARGE SCALE DEVELOPMENTS INVOLVING EXCAVATION TO A DEPTH OF AT LEAST ONE BASEMENT LEVEL)**(50) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE****(51) CONSTRUCTION TRAFFIC MANAGEMENT PLAN****(52) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL****(53) EROSION AND SEDIMENT CONTROL - MORE THAN 2,500SQM**

(54) DEWATERING**(55) ACID SULFATE SOILS****(56) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE****(57) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Workcover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, Workcover must be formally notified of the works.. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the Work Health and Safety Regulation 2011 and the Workcover document entitled Working with Asbestos Guide, 2008 and the City of Sydney Asbestos Policy.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.
- (e) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Part 6 of the City of Sydney's Asbestos Policy.
- (f) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (g) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (h) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

- (i) contact person for the site;
- (ii) telephone and facsimile numbers and email address; and
- (iii) site activities and time frames.

- (58) ASBESTOS REMOVAL**
- (59) CLASSIFICATION OF WASTE**
- (60) REMEDIATION**
- (61) CONTAMINATION**
- (62) WATER POLLUTION**
- (63) SYDNEY WATER CERTIFICATE (QUICK CHECK)**
- (64) UTILITY SERVICES**
- (65) 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 the acoustic consultant to ensure ultimate compliance.

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

The following conditions apply to the development:

- (a) Prior to the Stage 1a Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (b) Without limiting the generality of paragraph (b), the Deed must provide for:
 - (i) A bank guarantee to be provided in the sum of \$1,573,500 as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$1,573,500; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.

- (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the erection of the structure has commenced;
- (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
 - a. make the building safe and of an appearance acceptable to Council at ground level;
 - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenantable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (c) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (iii) to take place on the site; and
 - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (d) The Deed may, if the Director City Planning, Development and Transport is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:

- (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
 - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
 - (iii) Stage 3 – Issue of the Final Occupation Certificate.
- (e) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
- (i) Certification (from an accredited certifier) that the relevant stage is complete;
 - (ii) Detailed schedule of completed works carried out in the relevant stage;
- (f) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

(67) ELECTRICITY SUBSTATION

(68) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

(69) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

(70) PHYSICAL MODELS

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

(72) BARRICADE PERMIT

(73) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

(74) ALIGNMENT LEVELS

(75) PUBLIC ART

- (a) A public art strategy showing the location of high quality art work in accordance with the Central Sydney DCP 1996 and the Public Art Policy must be submitted to and approved by Council prior to the Stage 6 Construction Certificate being issued.
- (b) Installation of the art work detailed in the approved strategy must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(76) CERTIFICATION OF GEOTECHNICAL INSPECTION

Prior to the issuing of the Stage 2 Construction Certificate for the excavation and footing stage, a Geotechnical inspection report/certificate confirming that the development site is suitable for the proposed development must be provided to Council (if Council is the certifying authority). The certificate must be in accordance with Clause A2.2(a)(iii) of the Building Code of Australia and be prepared by an appropriately qualified person.

(77) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate for each relevant stage, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).

(78) VERIFICATION OF SUPPORT FOR NEW LOADS

For alterations and additions to the building at 4 Dalley Street, a certificate from a qualified practicing structural engineer (National Engineering Registration Board) must be submitted to the Certifying Authority prior to the Stage 8 Construction Certificate being issued. The certificate must state that the existing structure is adequate to support the new loads and that the design will comply with the relevant Australian Standards adopted by the Building Code of Australia.

(79) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS**(80) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF BUILDING IS REQUIRED - BCA REPORT HAS BEEN PROVIDED AND BCA VARIATIONS ARE SOUGHT (CC REQUIRED)**

- (a) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the building at 4 Dalley Street must comply with the Building Code of Australia (BCA) including:
- (i) Fire resistance and stability - Part C1;
 - (ii) Compartmentation and separation - Part C2;
 - (iii) Protection of openings - Part C3;
 - (iv) Provision for escape (access and egress) - Part D1;
 - (v) Construction of exits - Part D2;
 - (vi) Access for people with disabilities - Part D3;

Note: Compliance with the access provisions of Part D3 may necessitate design modifications prior to the Stage 8 construction certificate being issued.

- (vii) Fire fighting equipment - Part E1;
- (viii) Smoke hazard management - Part E2;
- (ix) Emergency lighting, exit signs and warning systems - Part E4;

Prior to the Stage 8 construction certificate being issued the certifying authority must ensure that the proposed works and other upgrading works required by this condition satisfy the Building Code of Australia by complying with Clause A0.4 of the BCA.

(81) FIRE SAFETY CERTIFICATE TO BE SUBMITTED

(82) ANNUAL FIRE SAFETY STATEMENT FORM

(83) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the basis of 237 lineal metres of the 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 the Stage 1a Construction Certificate.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

(84) PAVING MATERIALS

(85) PUBLIC DOMAIN PLAN

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and be approved by Council prior to the Stage 4 Construction Certificate being issued for any new building work (including internal refurbishments) excluding approved preparatory, demolition or shoring work.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must be made concurrently with the Alignment Levels application. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

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

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

The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(86) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

(87) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

(88) PRESERVATION OF SURVEY MARKS

(89) LANDSCAPED (GREEN) ROOFS ON LEVELS 7 AND 11 OF THE GEORGE STREET TOWER

- (a) A detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of the Stage 5 Construction Certificate. The plan must include:
- (i) A Design Statement that includes details of proposed use of the green roof, general accessibility, a description of the environmental parameters it sets out to address, including noise and privacy treatment and performance specification.
 - (ii) Survey Plans showing existing and proposed services and engineering details of existing roofs proposed to be retrofitted.
 - (iii) Location of existing and proposed structures and hard landscaping on the rooftop, retaining walls, and roof fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.
 - (iv) Details of the location, sizes and numbers of plants used with reference to NATSPEC (if applicable), with preference for drought resistant species and those specified for use by the City of Sydney.
 - (v) Details of installation methodology including structural reinforcement or retention structures for sloping roofs, including details of prevention of slippage.

- (vi) Details of accessible and inaccessible areas on the Green Roof. Where proposed to be inaccessible, Green Roofs are required to remain such during occupation of the property.
 - (vii) Details of drainage and irrigation systems, including overflow provisions.
- (b) Prior to the issue of the Stage 5 Construction Certificate, a Maintenance Manual is to be submitted and approved by the Principal Certifying Authority. A copy of the Maintenance Manual is to be kept on site at all times during construction and shall be produced to Council on request. The Maintenance Manual shall include as a minimum:
- (i) Frequency and methodology of different maintenance requirements.
 - (ii) Details of safety procedures.
 - (iii) Laminated copies of 'As Built' drawings.
 - (iv) Manufacturer's contact details and copies of manufacturers' typical details and specification; and
 - (v) Copies of warranties and guarantees relating to all materials and plant used in construction.

The owner of the premises shall at all times comply with the on going maintenance requirements of the Maintenance Manual and shall promptly upon request produce a copy of the Manual to Council.

- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.
- (d) Prior to the issue of the Stage 5 Construction Certificate, the certifying authority must assess and approve the proposed design of the waterproofing system against the relevant performance provisions of the Building Code of Australia as required by Clause A0.5 of the Code and ensure the following is satisfied:
- (i) A report from a structural engineer confirming the adequacy of the structure to support the saturated weight-bearing capacity of the green roof; and
 - (ii) A report from a hydraulic engineer certifying the drainage overflow provisions and water retention cells in the drainage layer used to facilitate self-watering for the plants.

(90) LANDSCAPING OF THE SITE

(91) STREET TREE PLANTING AND MAINTENANCE

- (a) A Landscape Plan indicating the location of the replacement street trees to be planted in association with the development must be submitted to and approved by Council prior to the issue of the Stage 9 Construction Certificate. Street trees must be located and planted in accordance with the City's Street Tree Master Plan.

- (b) The street tree(s) must be planted:
 - (i) by a qualified Arborist or Horticulturist (AQF Level 3); and
 - (ii) before the issue of an Occupation Certificate.
- (c) The tree pits must be inspected by Council's Contract Coordinator – Street Trees, before and after planting.
- (d) All street trees planted in accordance with the approved Landscape Plan must be maintained by a qualified Horticulturist or Arborist (AQF Level 2 or 3) for a minimum period of twelve (12) months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.
- (e) At the end of the twelve (12) month maintenance period, written approval must be obtained from Council before hand-over of any street tree to Council.
- (f) If a street tree has been replaced due to maintenance deficiencies during the twelve (12) month maintenance period, the twelve (12) month maintenance period will start again from the date that the street tree is replaced.

(92) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on the George Street, Dalley Street, Underwood Street and Crane Place frontages of the site are to be retained and properly protected during excavation and construction works.
- (b) To avoid damage to stone kerbs during construction and / or excavation works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (ie. those that are in good condition as agreed by City officers) must be re-installed in accordance with the City's standard details and specifications after the construction and / or excavation works have been completed. Note: A temporary concrete kerb will need to be constructed to retain the footpath and road access until the stone kerbs can be reinstalled. The removed stone kerbs are to be reinstalled prior to the issue of an Occupation Certificate. Note: all costs associated with the works are to be at no cost to the Council.
- (c) Damaged kerbs are to be replaced to match existing to the City's satisfaction or as otherwise advised by City officers.
- (d) Where new crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
- (e) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers. All unused stone kerbs are to be salvaged and returned to the City's store.

- (f) Council approval is required before kerbs are removed.

(93) STREET LIGHTING

- (a) Details of existing public domain lighting elements to the frontage of the site, including wall mounted lighting, conduits, special small service, power supply and relevant electrical information, are to be fully documented by a suitably qualified electrical engineer or accredited service provider and must be submitted to Council prior to the commencement of demolition works.
- (b) The documentation must include the proposed methodology to remove and store the lighting elements during the demolition and construction phases of the development, to the agreement of Council. The submission must also include details of proposed alternative public domain lighting types, location and levels to be provided during the demolition and construction phases of the development, for Council approval.
- (c) The lighting submissions must be submitted to Council prior to the commencement of demolition works.

(94) MECHANICAL VENTILATION

(95) CAR PARK VENTILATION

(96) LEGIONELLA CONTROL

- (a) The Public Health Act 2010, Public Health Regulation 2012, and NSW Health Code of Practice for the Control of Legionnaires Disease include microbial control requirements for the installation, operation and maintenance of air handling, heated water systems and water cooling systems and must be complied with.
- (b) All cooling towers and cooling and warm water systems must be operated and maintained in accordance with AS 3666.2:2011, (or AS 3666.3:2011 subject to prior notification to Council), The Public Health Act 2010 and the Public Health Regulation 2012
- (c) Prior to commencement of the use the owner or occupier of the premises must apply to Council for the registration of water cooling systems and warm water systems installed on the premises in accordance with Clause 31 to the Public Health Regulation 2012.

(97) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 178-186, 210-214 George Street and 33-35 Pitt Street 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 the Stage 1a 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.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(98) OCCUPATION CERTIFICATE TO BE SUBMITTED****(99) HOURS OF WORK AND NOISE – CBD****(100) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS****(101) INTRUSIVE APPLIANCES - TIME RESTRICTION**

- (a) The operation of high noise intrusive plant and machinery such as pile – drivers, rock breakers and hydraulic hammers and those which 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 and Australian Standard 2436-2010 "Guide to Noise Control on Construction, Maintenance and Demolition Sites **is restricted to the hours of 9am to 12pm and 2pm to 5pm or other hours agreed in writing with Council.**
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436- 2010 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

(102) NOTIFICATION OF EXCAVATION WORKS**(103) SYDNEY WATER CERTIFICATE****(104) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION****(105) HAZARDOUS AND INDUSTRIAL WASTE****(106) VEHICLE CLEANSING**

- (107) WATER POLLUTION**
- (108) RAINWATER HARVESTING AND RAINWATER TANKS**
- (109) PROTECTION OF STREET TREES DURING CONSTRUCTION**
- (110) COVERING OF LOADS**
- (111) ACCESS DRIVEWAYS TO BE CONSTRUCTED**
- (112) LOADING AND UNLOADING DURING CONSTRUCTION**
- (113) USE OF MOBILE CRANES**
- (114) NO OBSTRUCTION OF PUBLIC WAY**
- (115) ENCROACHMENTS – NEIGHBOURING PROPERTIES**
- (116) ENCROACHMENTS – PUBLIC WAY**
- (117) SURVEY**
- (118) SURVEY CERTIFICATE AT COMPLETION**
- (119) 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.

BACKGROUND

The Site and Surrounding Development

1. The site is known as 188-194A George Street, 196-208 George Street, 1 Underwood Street and 4 Dalley Street and includes 11 separate allotments contained within 4 land titles. It has an irregular shape with a frontage of 66m to George Street to the west, 64m to Underwood Street to the east, 17m to Dalley Street to the south and 34m to Crane Lane to the north. A plan of the site (showing its context within the block bound by Alfred, Pitt, Dalley and George Streets – known as the APDG block) is shown below:



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

2. The site has a fall of approximately 4.2m from George Street to Underwood Street and has an area of 3,147sqm. A portion of Crane Lane has been constructed within the boundary of the subject site (without any encumbrance) and the remainder of Crane Lane is in the ownership of the City of Sydney as shown in **Figure 2** below.



Figure 2 – Crane Lane showing the approximate position of the lot boundaries

3. In addition to a lane, the site contains three buildings comprising two 12 storey office buildings fronting George Street and an 11 storey building used as a telephone exchange on the corner of Dalley and Underwood Streets. The two 12 storey office buildings are serviced from Underwood Street at the rear.
4. The telephone exchange has leasing rights over a portion of the lower two levels of the building at 4 Dalley Street, whilst the remainder of the building is office space. There are three (3) exchange bridges which cut across from No. 6 Dalley Street to Level 3 at No. 4 Dalley Street.
5. Photographs of the site and surrounds are provided below:



Figure 3 – The buildings at 188-194A and 196-208 George Street as viewed from Essex Street



Figure 4 – The buildings at 188-194A and 196-208 George Street



Figure 5 – The building at 4 Dalley Street on the right. The lower parts of the building are occupied by the telephone exchange on a long term lease.

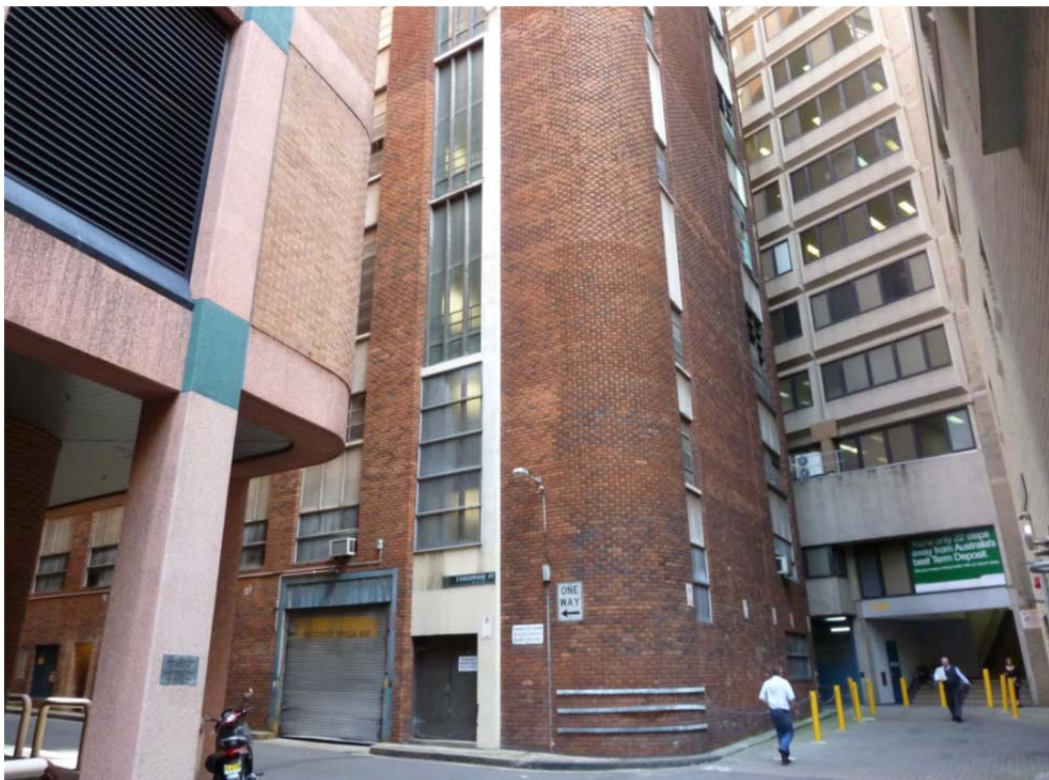


Figure 6 – The rear of the site viewed from Underwood Street

6. Adjoining the site to the north is 182 George Street which contains a 69m high office building known as the 'St George' building which is built to the street alignment for its full height. Adjoining the site to the south is 210 George Street which contains a 45m high office building. Opposite the site in George Street is Grosvenor Place which is a high rise commercial office tower including a substantial forecourt. Further to the north in the APDG block is 1 Alfred Street, occupied by the former Goldfields House building which has recently been the subject of an application for demolition and the erection of two buildings of 55 storeys and 15 storeys in height.
7. There are no heritage items within close vicinity of the site and the site is not located in a Special Area.

History Relevant to this Development

Previous Stage 1 DA

8. On 13 November 2008, the CSPC granted consent for Development Application D/2008/596 for demolition of the buildings at 190 to 200 George Street and partial demolition of 4 Dalley Street and a Stage 1 indicative building envelope for a 110m commercial tower with basement parking. That application preceded the site specific provisions commonly known as the APDG (Alfred, Pitt, Dalley and George Streets) planning controls – refer discussion below.



Figures 7 and 8 – views of approved 110m tower envelope looking east along Essex St (left) and looking south along George St (right)



Figure 9 – view of approved 110m tower envelope looking north along George St

9. On 3 May 2012, a Section 96 application (D/2008/596/A) was lodged. The modification proposed was intended to have the effect of enabling demolition of the existing buildings and structures on the site prior to a Construction Certificate being issued for a Stage 2 DA. This application was notified and attracted a number of objections.
10. On 11 October 2012, the applicant withdrew the Section 96 application (D/2008/596/A). Approval to demolish the buildings has since been incorporated into the proposal the subject of this report.

APDG Controls

11. In September 2008, Council commissioned the NSW Government Architect's Office to prepare an Urban Design Study (UDS) for the entire APDG block.
12. The key relevant recommendations from this study were that:
 - (a) additional heights above those currently permitted by the Sydney LEP 2005 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 2005.

13. Draft amendments were prepared to both the Sydney LEP 2005 and Central Sydney DCP 1996 based upon the recommendations of the UDS for the APDG block as a whole. These amendments are known as Sydney LEP 2005 (Amendment No. 2) and Central Sydney DCP 1996 (Amendment No. 20) or the APDG LEP and DCP.
14. In March 2010, both Council and the Central Sydney Planning Committee endorsed reports that recommended that the draft amendments be publicly exhibited. This exhibition occurred between 28 July 2010 and 24 August 2010.
15. In November 2010, following consideration of the public submissions, the amendments to the LEP and DCP were adopted by Council and the CSPC.
16. On 29 April 2011, Sydney LEP (Amendment No. 2) was gazetted with Amendment No.2 to the Central Sydney DCP 1996 also coming into effect on that day. The amendments do not supersede the pre-existing planning provisions as such, but provide alternate planning provisions for the block. In other words, an owner within the APDG block has the choice of two sets of planning provisions.

Competitive Design

17. The applicant embarked on a competitive design process in September 2011. The process comprised an 'invited' competitive design process involving the following six architectural practices:
 - (a) Architectus;
 - (b) Bates Smart;
 - (c) Collins and Turner;
 - (d) Fitzpatrick + Partners;
 - (e) FJMT; and
 - (f) Woods Bagot.
18. Following refinement, the scheme designed by FJMT was named as the winning scheme on the basis that it best fulfilled the design, commercial and planning objectives of the brief.

History of the subject application

19. The subject development application was lodged with Council on 13 June 2012.
20. As a result of the preliminary assessment of the application by Council staff, consideration of the scheme by Council's Design Advisory Panel and issues raised in submissions, a number of issues of concern were raised with the applicant in a letter dated 7 September 2012.
21. An amended application was lodged on 15 October 2012. The primary differences between the original proposal and the amended scheme are:
 - (a) changes to the position to the tower,
 - (b) alterations to the facades,

- (c) extension of the Level 25 commercial office space into an adjacent terrace,
 - (d) removal of a previously proposed freestanding kiosk structure adjacent to Crane Place and its replacement with landscaping,
 - (e) other internal changes.
22. The application was also amended to clarify that it is a 'stand-alone' development that does not rely on the previous proposal and to include the demolition that had been proposed under application D/2008/596/A as referred to above.

PROPOSAL

23. The proposal relies upon the alternate planning provisions allowed in the APDG LEP and DCP. The proposal does not rely upon the previous Stage 1 DA (D/2008/596).
24. As amended, the subject application seeks consent to waive the requirement for a Development Plan (or Stage 1 DA) and consent for the following:
- (a) Demolition of the existing improvements on the site, including:
 - (i) the commercial office buildings at 188-194A and 196-208 George Street; and
 - (ii) part of the existing telephone exchange building at 4 Dalley Street;
 - (b) Remediation and excavation of the site;
 - (c) Construction of a 37 storey (including plant) commercial office tower, with ground level retailing, comprising a total of 43,270m² FSA;
 - (d) Refurbishment of up to five storeys of the existing building at 4 Dalley Street for the purpose of telephone exchange, substation, plant and services;
 - (e) Provision of a through-site pedestrian link between George Street and Underwood Street;
 - (f) Provision of a four level basement car park, accessed from Underwood Street, providing 63 car spaces, 4 motorcycle spaces, 11 service/courier spaces, and approximately 318 bicycle spaces;
 - (g) Basement level end of trip facilities (including changing rooms, lockers, showers and toilets);
 - (h) Public domain improvement works including an enhanced Crane Place;
 - (i) Allowance for the future connection of a laneway between Dalley Street and Herald Square, and accommodation and temporary embellishment of part of the planned new publicly accessible square;
 - (j) Extension and augmentation of physical infrastructure / utilities as required, including provision of two new substations;
 - (k) Subdivision associated with the dedication of land to Council for park and road purposes; and

- (l) Provision of high level building identification signage zones at six locations. The signage zones range in size from 3,800mm x 3,800mm to 21,000mm x 2,150mm.
25. The application also seeks consent for the following:
- (a) To enable early demolition of the buildings on the site by minimising the amount of information required to be lodged with Council to satisfy conditions of consent prior to Construction Certificates being issued, the applicant has requested that Council accommodate the issuing of Construction Certificates in 11 stages.
 - (b) The flexibility to allow two facade options to the northern floor plate of the proposed tower (levels 4-36) and the southern floor plate (levels 4-10, 14-24 and 26-35). Option 1 is a triple glazed façade with integrated timber (or equivalent) blinds and an external single glazed skin of clear glass. Option 2 is a double glazed skin with internal timber blinds and external horizontal sunshades. These are shown in **Figures 10 and 11** below. Selected plans and photomontages are also provided further below showing the building from various vantage points illustrate both facade options.
26. It is also noted that the applicant has offered to enter into a Voluntary Planning Agreement (VPA) with Council to secure public benefit works in association with the DA. A draft VPA is currently on public exhibition until 11 December 2012. This draft VPA requires the developer and owner to provide:
- (a) dedication of land for road purposes;
 - (b) dedication of land for a public plaza;
 - (c) the granting of public access easements;
 - (d) the carrying out of public domain improvements; and
 - (e) the payment of a monetary contribution for the purpose of public domain improvements.

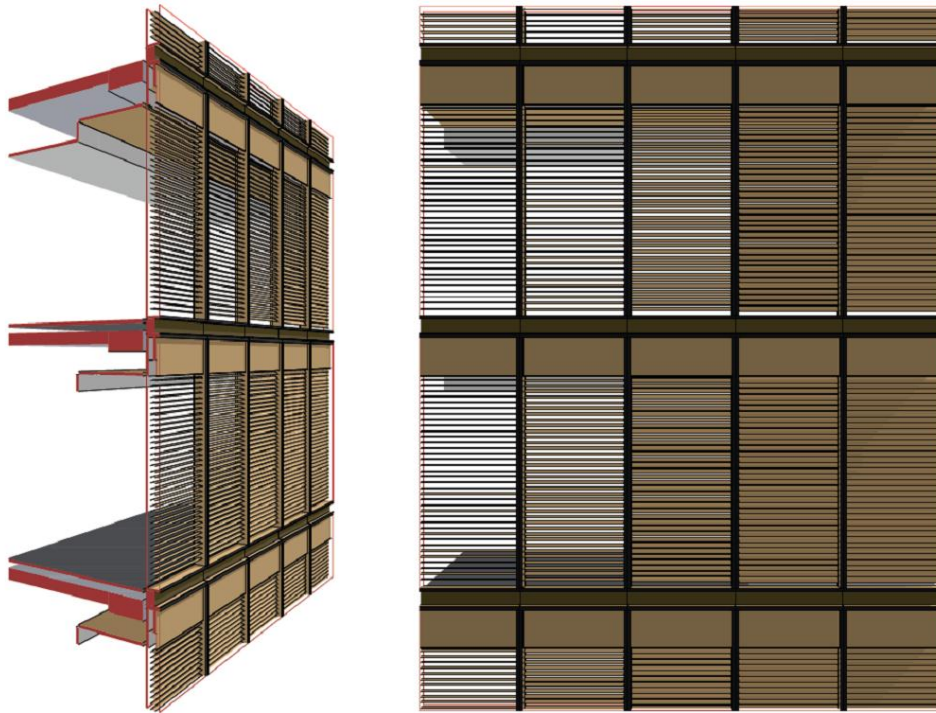


Figure 10 – Proposed facade Option 1

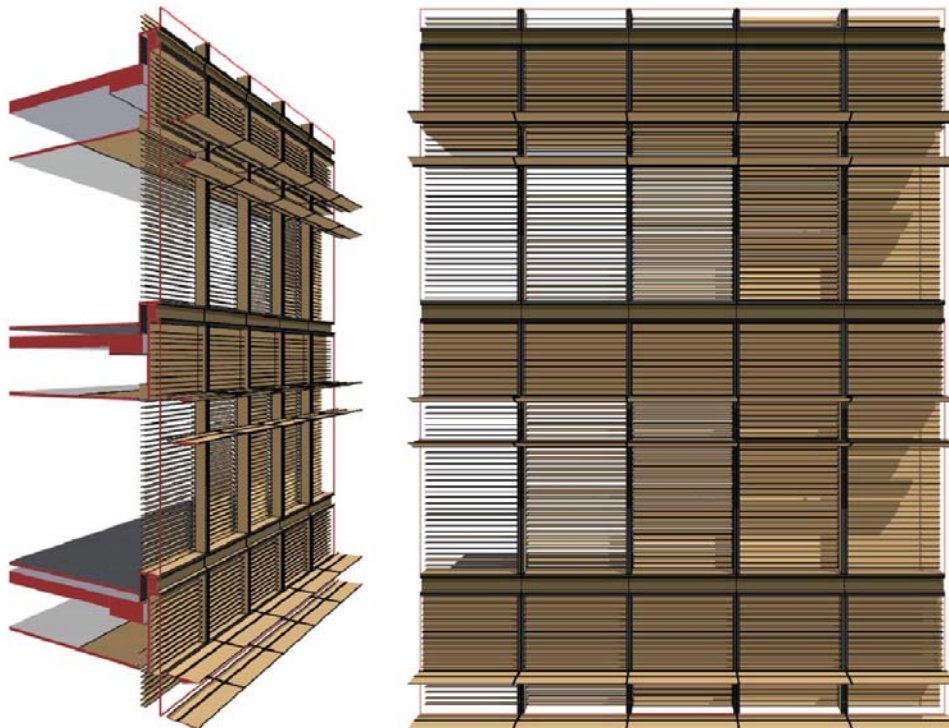


Figure 11 – Proposed facade Option 2



Figure 12 – part lower ground floor plan (Underwood Street)

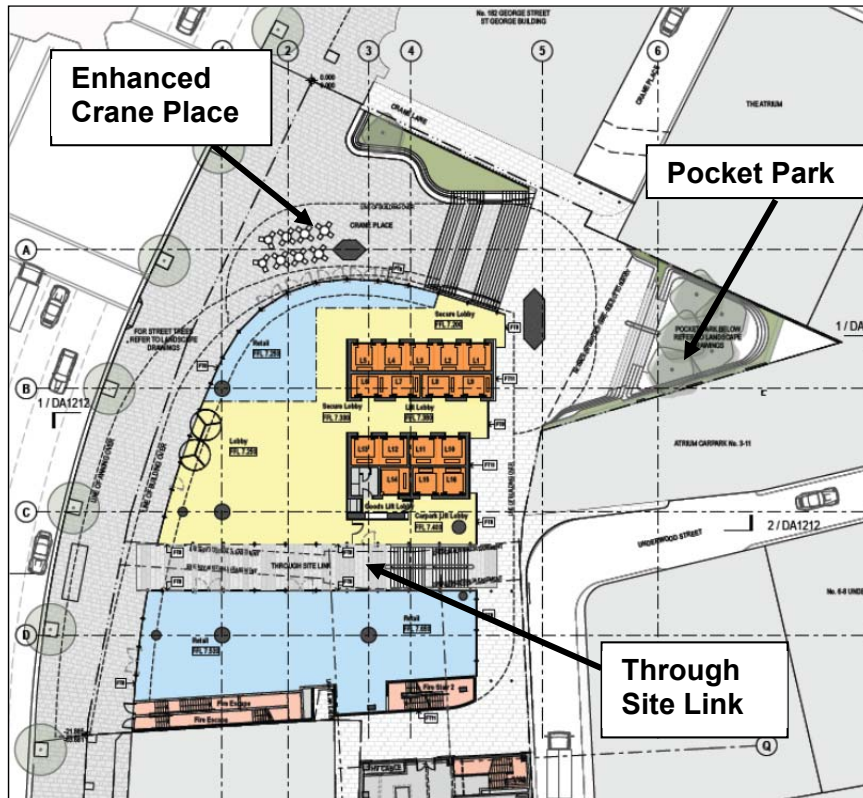


Figure 13 – part ground floor plan (George Street)



Figure 14 - photomontage view from Sydney Harbour Bridge



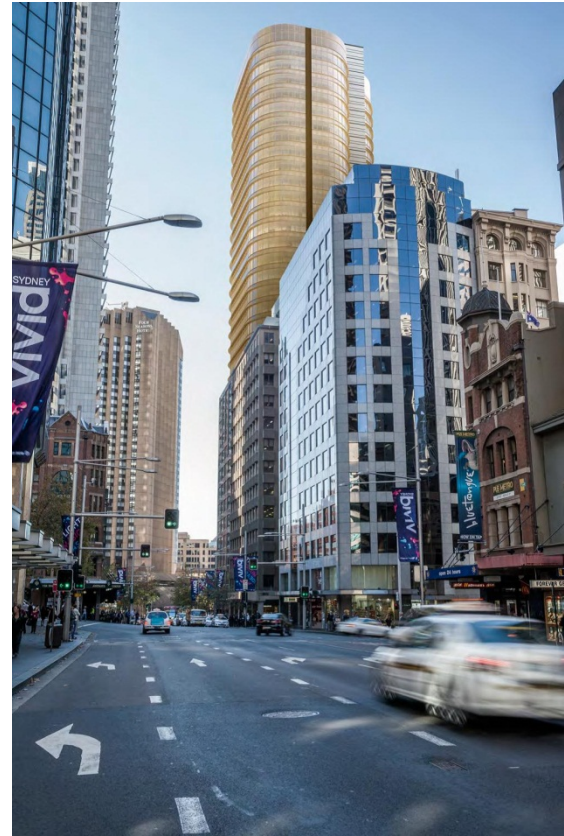
Figure 15 – photomontage from George Street (facade Option 1)



Figure 16 – photomontage from George Street (facade Option 2)



Figures 17 and 18 – photomontage from Essex Street (facade Options 1 and 2)



Figures 19 and 20 – photomontage from George Street (facade Options 1 and 2)



Figure 21 - photomontage generally looking west towards George St (Note: photomontage is based on the original DA; freestanding kiosk to the right of the image is no longer proposed)



Figure 22 - photomontage generally looking south to Underwood St



Figure 23 photomontage along George St

27. Detailed plans and photomontages of the proposed development are shown at **Attachments A and B**. A copy of the draft VPA may be found at **Attachment D**.

IMPLICATIONS OF THE PROPOSAL

CITY OF SYDNEY ACT 1988

28. Section 51N requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines a DA that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works likely to have a significant impact on traffic and transport in the Sydney CBD. A full extract of this Section is provided below.

“51N Planning proposals having a significant impact on traffic and transport in the Sydney CBD

- (1) *The Planning Committee must consult the CSTTC before it exercises a function under Part 4 that will result in the making of a decision that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.*
- (2) *The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.*
- (3) *The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject to conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.*
- (4) *The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee.”*

29. Having liaised with the City's Access and Transport Unit, in this instance, the proposal is not considered to have a significant impact on traffic and transport in the CBD, and consultation with the CSTTC is not necessary. It is noted that the comments of the Roads and Maritime Services were sought under the provisions of State Environmental Planning Policy (Infrastructure) 2007.

Section 79C Evaluation

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

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

STATE ENVIRONMENT PLANNING POLICIES (SEPPs)

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

SEPP (Infrastructure) 2007

32. 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 10,000sqm of floorspace.
33. RMS advised in correspondence dated 30 July 2012 that they had no objection to the proposal, subject to the imposition of conditions. These are included in the recommendation.

SEPP 55 – Remediation of Land

34. 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.
35. The applicant submitted a Contamination Assessment at the time of lodgement. It concluded that laboratory results indicate that the majority of soil samples recorded soil contaminants below laboratory practical levels or health based investigation levels but that petroleum hydrocarbon contamination is encountered in the vicinity of the Underground Tank Storage UTS. It also recommended that a Remediation Action Plan be prepared to address the contaminated area in the vicinity of the fuel storage area.
36. Following a review by Council's Senior Environmental Health Officer, a Remediation Action Plan was requested from the applicant which was required to be reviewed by a NSW EPA accredited Site Auditor. This was received on 27 September 2012. A condition is recommended requiring the site to be remediated and validated in accordance with the report.

SREP Sydney Harbour Catchment 2005

37. 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

38. 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 operates 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.
39. As noted earlier, the proposal relies upon the alternate planning APDG provisions.
40. Compliance of the proposal with the LEP controls is summarised below:

COMPLIANCE WITH SYDNEY LEP 2005

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
Consistency with Development Plan	Stage 1 DA required	The applicant has requested a waiver of the Development Plan requirements. This is discussed in the 'issues' section of this report.
Zoning	City Centre	The proposal is permissible with development consent.
Floor Space Area	39,338sqm	43,270sqm

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
Floor Space Ratio (Site area = 3,147m ²)	12.5:1sqm	13.75:1sqm An additional 10% is sought under Clause 10. The proposed FSR is supported. Refer to further discussion in the 'issues' section of this report.
Floor space to be Allocated	HFS is to be purchased for development over 8:1	The amount of HFS to be allocated to the site is 11,014.5sqm.
Height	Clause 50: 110m or 155m on up to 42% of the site area (APDG amendment)	Proposal – 155m (RL 158.2) on 46.2% of the site. The applicant has opted to utilise the alternative heights permissible pursuant to the APDG amendment to the LEP/DCP. Further discussion is provided within the issues section of this report.
Parking	Max. 63	63
Design Excellence	The design results from a competitive process	A competitive design process was undertaken. Subject to appropriate conditions, 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. Further discussion on the proposed public domain works and impact on views is provided within the issues section of the report.

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
Ecologically Sustainable Development (ESD)	Incorporation of ESD principles in development.	Proposed ESD initiatives is provided in an ESD report lodged with the application and the building has been designed to achieve a minimum of 5 Star Office Green Star V3 Design rating and a minimum 5 Star rating in operation under the NABERS Energy scheme.

Draft Sydney LEP 2011

41. The exhibition of the Draft Sydney LEP 2011 has now been completed. Council have adopted the Draft LEP and have referred the document to the Department of Planning for gazettal. The provisions of the Draft LEP have been taken into consideration in the assessment of the proposal.
42. The site is located within the B8 – Metropolitan Centre zone. The proposed development is permissible within the B8 – Metropolitan Centre zone with the consent of Council.
43. In relation to height and FSR, there is no change to the numeric limits and the option of obtaining additional height under the APDG provisions. As discussed elsewhere in this report, the proposal complies with these core planning controls.
44. The parking rates in the Draft Sydney LEP do not change for commercial development. Consequently, the maximum number of car parking spaces permitted pursuant to Clauses 7.5 and 7.7 of the Draft Sydney LEP 2011 is also 63 spaces (as proposed).
45. The Draft LEP proposes no changes to the site in respect of heritage and it is neither a draft heritage item nor located in a draft heritage conservation area.
46. The site is identified as being a Class 2 Acid Sulfate Soil zone, 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.
47. Council's Health Unit have advised that a Preliminary Assessment in accordance with the NSW Acid Sulphate Soils Management Advisory Committee, Acid Sulphate Soils Assessment Guidelines 1998 is required for the works. An appropriate condition is recommended for imposition prior to the issue of a Construction Certificate for excavation.

Central Sydney DCP 1996

48. 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 Cl 2.12G – APDG Site	✓	The site is identified as Development Block 2 within the APDG site. The applicant has lodged a scheme reliant upon the provisions of Clause 52A of LEP 2005, 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 Cl 3.1	✓	Complies: The proposed development incorporates an east-west through site link between George and Underwood Streets, an enhanced Crane Place and part of the north-south link between Underwood Street and Herald Square, 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	✓/x	Does Not Comply but acceptable: The DCP has a maximum 'crossing' width of 5.4m. The application proposes 'private' driveways with a combined kerb crossing of approximately 30m. This is a result of needing to respect an existing access easement in favour of a neighbouring site (210 George Street), and the need to provide compliant access into the building (noting other utility easements which the internal ramps will have to manoeuvre around and under). It is noted that the location of the vehicle access is consistent with the APDG control. When considered with a temporary but nevertheless required layback for Council and emergency vehicles to access the land-locked 'triangular' open space, the combined crossing will be wider. Subject to the detailed design of this arrangement being configured as firstly a pedestrian footpath with a driveway secondary to this (similar to what occurs in the wider George Street context), on balance, and in noting the various existing restrictions, this is considered to be acceptable.
Awnings and colonnades CI 3.5	✓	Complies: Both an awning and a colonnade will be provided along the George Street frontage of the site. The DCP requires a colonnades at this location to be retained and completed.
Artworks CI 3.6	✓	Complies: A condition requiring provision of public art in publicly accessible locations within and around the site is recommended.
Paving for street footpaths and public spaces CI 3.7	✓	Complies: Appropriate conditions have been recommended for imposition regarding the paving of the forecourt, lanes and through site links.

Matter to be Considered	Complies	Comment
Easy access CI 3.8	✓	Complies: The site and the forecourt areas of the building are all accessible for a person with a disability or prams. The fall from west to east across the site does not allow suitably grading between George and Underwood Streets but a lift will be located within the building foyer enabling access between these two levels.
Sunlight to public spaces CI 4.1	✓	Complies: 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. There will be some minor overshadowing impacts to the south eastern corner of the forecourt to Grosvenor Place at 10am on shadow diagrams provided by the applicant for April and August but there will be no impacts during the key times between 12 noon and 2pm. It should be noted that this space is not one nominated in the LEP requiring sunlight "protection".
Wind standards CI 4.2	✓	Complies: A Wind Report has been submitted with the application. The part of George Street in which the site is located is identified as a 'major pedestrian street/place' in the DCP. The Wind Report provided by the applicant concludes that the wind impacts of the development will comply with the maximum wind criteria.
Energy efficiency of buildings CI 4.3	✓	Complies: As discussed above, a number of proposed ESD initiatives are proposed as part of the development.
Noise reduction CI 4.4	✓	Complies: Appropriate conditions are recommended to address noise impacts from the development.

Matter to be Considered	Complies	Comment
Reflectivity CI 4.5	✓	Generally Complies: A Reflectivity Study has been submitted with the application. This concludes that following an analysis of the viewpoints considered, the impact of rogue glare reflections are likely to be acceptable subject to further facade design development.
Urban runoff CI 4.6	✓	Complies: Appropriate conditions are recommended for imposition.
External lighting of buildings CI 4.7	✓	Complies: Appropriate conditions are recommended for imposition.
Design and location of on-site parking CI 5.1	✓	Complies: Underground on-site parking is proposed as part of the application. A Transport Report has been lodged with the application which has been considered by Council's Traffic Unit.
Parking for people with mobility impairment CI 5.3	✓	Complies: Disabled and accessible parking spaces are provided in accordance with the provisions of the subject DCP. Council's Traffic Unit has noted that the size and location of the accessible space shown does not comply with the relevant Australian Standard which is addressed by condition.
Delivery and service vehicles CI 5.4	✓/x	Does not Comply but acceptable: 11 service spaces are provided in the proposed loading dock and within Basement Level 1. Under the provisions of the DCP, 13 service spaces are required. Council's Traffic Unit have advised that the 11 spaces proposed are acceptable.
Bicycle parking CI 5.5	✓	Complies: Bicycle parking spaces are shown on all 4 basement levels of the building in excess of the DCP requirements. Appropriate conditions are recommended.
Motor cycle parking CI 5.6	✓	Complies: 4 motorcycle spaces are provided which exceeds the requirements of the DCP.

Matter to be Considered	Complies	Comment
Allocation of heritage floor space Cl 7.4 and 7.5	✓	Complies: Heritage Floor Space requires to be allocated as a consequence of the proposed development. An appropriate condition is recommended.
Competitive process/ Design Competitions Cl. 12.1/2	✓	Complies: The proposed design results from a competitive design process.
APDG Site – bounded by Alfred, Pitt, Dalley and George Street (Amendment No. 20) Clause 2.12G		
Objectives Cl. G3.1	✓	Complies: The proposed development is consistent with the objectives as it facilitates the redevelopment of the site generally consistent with the form, design and land use envisaged by the APDG controls.
Public Domain Principles Cl G4.1	✓	Complies: The proposed development incorporates an east-west through site link between George and Underwood Streets, an enhanced Crane Place and part of the north-south link between Underwood Street and Herald Square. These links will form part of the laneway network and the publicly accessible square.
Streets Principles Cl G4.2	✓	Complies: The proposal incorporates active retail tenancy uses along the George Street, the enhanced Crane Place and the through site link frontages as well as a lobby to the commercial tower on George Street.
Built Form Principles Cl G4.5	✓	Complies: The tower form and footprint proposed is considered acceptable. Refer to discussion in issues section of report.
Public Domain Future Character <i>Bounding Streets – George Street</i> Cl G5.2.4	✓	Complies: The proposed uses, building design and materials at ground level are consistent with the envisaged public domain character for the George Street facade.

Matter to be Considered	Complies	Comment
<p>Internal streets and Lanes <i>New north-south lane/through site link, Underwood Street and Crane Place</i> CI G5.3.1/G5.3.3/G5.3.4</p>	✓	<p>Partially Complies: The opportunity to activate Underwood Street with uses is limited as the lower levels of the building at 4 Dalley Street are currently the subject of a long term lease and will be retained for plant and equipment. No colonnades, awnings or bollards are proposed.</p> <p>The northern half of Crane Place is located on the adjacent lot to the north and will be retained as such but the southern half (located on the subject site) will be wider than that required under the DCP with an active retail frontage within the subject site. An awning (which will reduce in size around the curve of the building) is proposed but this will not encroach into the extent of Crane Place required under the DCP.</p> <p>Part of the new north-south lane/through site link will be provided to the west of the triangular section of the publicly accessible square proposed as part of the application.</p> <p>Refer to issues section of report.</p>

Matter to be Considered	Complies	Comment
Through Site Links CI G5.4.1 <i>Underwood Street to George Street</i>	✓	Does not Comply but acceptable: A new through site link is proposed as part of the application which will have an active retail frontage along its southern side and the foyer of the commercial tower along its northern side. Lift access will be provided between Underwood and George Streets within the building. The ceiling will not step down in the change in level but a passageway is proposed above the eastern end of the through site link to provide access to plant rooms and circulation spaces which means that the entire through site link will not comply with the required RL 16.0. Refer to discussion below.
Parking and vehicular access CI G6.1	✓	Complies: Vehicular access is proposed from Underwood Street, generally in a location in accordance with the DCP.
Public Domain CI G6.2	✓	Complies: The proposal incorporates public accessible lanes, a through site link and part of the new publicly accessible square in accordance with the DCP. The provision of these publicly accessible spaces are to be noted on the title as detailed in the draft VPA. Further discussion is provided in the issues section of this report.
Massing and Form of Buildings CI G6.4	✓/x	Does not comply but acceptable: Refer to the issues section of this report.

Matter to be Considered	Complies	Comment
Fine Grain Active Uses CI G6.5	✓/x	<p>Complies: The architectural treatment and materiality at the lower levels of the building coupled with the provision of ground and lower ground floor level retail tenancies achieves pedestrian level interest and interaction.</p> <p>Does not comply but acceptable: 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> <p>The potential exists for fine grain active uses to be provided within a future extended ground floor level on the eastern side of the building to meet the alignment of the new north-south lane.</p>
Building to the street alignment, heights and setbacks CI G6.6	✓/x	<p>Does not comply but acceptable: Refer to the issues section of this report.</p>
Pedestrian Access and Amenity CI G6.7	✓	<p>Generally Complies: The proposal incorporates an awning along the George Street elevation and that curves into Crane Place in accordance with Figure 2.62 of the APDG DCP.</p>
Design CI G6.8	✓	<p>Complies: The proposal has resulted from the competitive design process held for the site. 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 northern end of George Street.</p>

Matter to be Considered	Complies	Comment
Skyline Design CI G6.10	✓	Complies: 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.

City of Sydney Signage and Advertising Structures DCP 2005

49. The application seeks approval for building sign zones at six locations around the building as discussed above. As such, the proposal requires to be assessed against the aims, objectives and controls contained within the DCP.
50. Although the applicant only seeks approval for the location of signage zones, this is considered premature at this stage. A condition is recommended, requiring a separate DA to be submitted for a signage strategy for the building.

The City of Sydney Awnings Policy 2000

51. As is noted above, the DCP requires an awning and colonnade to be provided along the George Street frontage which is part of the proposal. The City of Sydney Awnings Policy also contains guidance on the design of awnings.
52. The proposed awning will range in span from 2.5 to 5 metres beyond the building overhang. This will exceed the maximum 3.66 metre width control contained within the policy although it will be set back approximately 2 metres from the kerb line along George Street which will comply with the specified minimum of 1 metre. A condition is recommended requiring the awning to be set back such that it projects no more than 3.66 metres beyond the building overhang.
53. At 5.5 metres in height, the awning will also sit higher than the recommended height of between 3.2 and 4.2 metres. However, given the relatively large awning span, this height is considered acceptable.

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:

Stage 1 DA / Development Plan

Waiving of Development Plan / Stage 1 DA

55. The applicant has requested the CSPC to waive the requirement for a development plan / Stage 1 DA.
56. 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 or Stage 1 DA is in force and has been considered in the assessment of the subject application.

57. 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 (or Stage 1 DA), 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.”

58. In noting that:

- (a) 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;
- (b) the proposal is generally consistent with the alternate provisions in the APDG controls; and
- (c) there is little planning or urban design merit to require a further ‘master-planning’ study to determine the acceptability of the proposal;

it is recommended that the requirement for a development plan would be unreasonable and unnecessary in this instance and should be waived.

Consistency with previous Stage 1 DA

59. Section 83D (2) of the Environmental Planning and Assessment Act 1979 states that:

“While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.”

60. While a Stage 1 DA consent (D/2008/596) exists for a 110m high commercial tower, the proposal is inconsistent with this consent.
61. However, this inconsistency only occurs when the current Stage 1 DA (assuming it is approved) is ‘active’. Accordingly, it is recommended that a deferred commencement consent be granted with a requirement that the previous Stage 1 DA consent be surrendered. Only after the previous consent has been surrendered, can the new consent be effective and operative. This condition of consent is part of the ‘determination’ and deals with the issue of ‘inconsistency’.

Height and consideration of Clause 52A of SLEP 2005

62. The APDG amendment to the LEP 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.

63. The subject site is identified as 'Block 2' pursuant to Clause 52A(8) of SLEP 2005, and as such, consideration of additional building height (up to 155 metres on up to 42% 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.
64. 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 through-site link of the building as detailed in the VPA discussion below;
 - (b) The proposal includes retail and business premises at ground level along the George Street, Crane Place, the central through-site link and parts of the Underwood Street frontage of the development; 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 – refer discussion below.

Built Form

65. The APDG provisions (both LEP and DCP) contain a number of built form controls. These include a LEP 'site coverage' development standard, and DCP street wall height and tower setbacks provisions.

Site Coverage - SEPP 1 Objection

66. LEP Clause 52A(3)(b) imposes a height limit in the following words: -

“(3) Despite clause 50, the consent authority may grant consent to development for the purposes of a building with a maximum height of:

(a), or

(b) 155 metres on up to 42% of the area of block 2, or...”

67. The applicant submits that while the proposal does not exceed 155m in height, the tower footprint above 110m (being the 'regular' height limit) exceeds the 42% 'site coverage' standard (being 46.2%). The applicant also submits that the '42%' requirement is not a 'height' standard but rather a site coverage development standard, and is thus able to be varied under the provisions of State Environmental Planning Policy No. 1 (Development Standards) [SEPP 1]. The applicant has thus lodged a SEPP 1 objection submitting that the proposed site coverage / tower footprint is acceptable. In summary, the SEPP 1 objection submits that:

- (a) the proposal will satisfy the APDG and broader planning objectives of the development standard;
 - (b) the design outcome is that of a refined and slender sculptural tower form; and
 - (c) there will be no unreasonable impacts resulting from the proposal.
68. The applicant also notes that the increased tower footprint will achieve a typical floor plate net lettable area greater than 1,200sqm for a premium grade building (PCA guidelines).
69. It is agreed that LEP Clause 52A(3) contains two development standards, being:
- (a) a height control of 155m; and
 - (b) a site coverage control for a building (being 42% for a building with a height of 155m).
70. The applicant's SEPP 1 objection is also considered to be well founded, and thus strict compliance with the 42% standard is unreasonable and unnecessary in the circumstances.

Street Wall Height

71. The APDG DCP requires a 'rectilinear' podium form with street wall heights ranging between 40-45m above George Street, Underwood Street and Crane Place. The DCP also requires the podium form to effectively continue along the property alignment.
72. The proposed street wall height along George St complies and is an appropriate contextual fit. However, the street wall does not continue along the site's full frontage, but rather sweeps back into the site to create a new and enlarged Crane Place.



Figure 24 - View from Essex St generally looking east at the George St frontage

73. This design response is supported and the non-compliance with this element of the APDG controls accepted as:
- (a) the new and enlarged Crane Place is superior to that envisaged in the APDG controls;
 - (b) it is a positive contribution to the George Street streetscape, delivering and reinforcing a strong street wall whilst providing additional publicly accessible space;
 - (c) being generally on the alignment with Essex Street, it provides a positive termination of the vista down this street.
74. Along Underwood Street, there is two distinct building forms – the retained 5 storey 4 Dalley Street building (refer discussion below) and the podium of the tower which has a wall height (above Underwood St) of approximately 36m. Contextually, and in noting the laneway environment, these lower heights are considered to be acceptable.

Tower Setbacks

75. The amended proposal has adjusted the position of the tower in a general south-westerly direction. The new position increases the building separation to the north to 4,500mm (additional 550mm) and reduces the tower overhang of the future public road in the north east corner to a maximum of 1,800mm (800mm less). The 4,500mm setback comprises a combination of the existing Council owned Crane Place (approximately 2,400mm wide) and a setback from the northern boundary. The tower overhang is at a high level ranging at between 20-22m.
76. Notwithstanding this adjustment in the position of the tower, there are parts that do not comply with the APDG required tower setbacks. The following diagram provides a visual comparison of the proposal with the required setbacks.

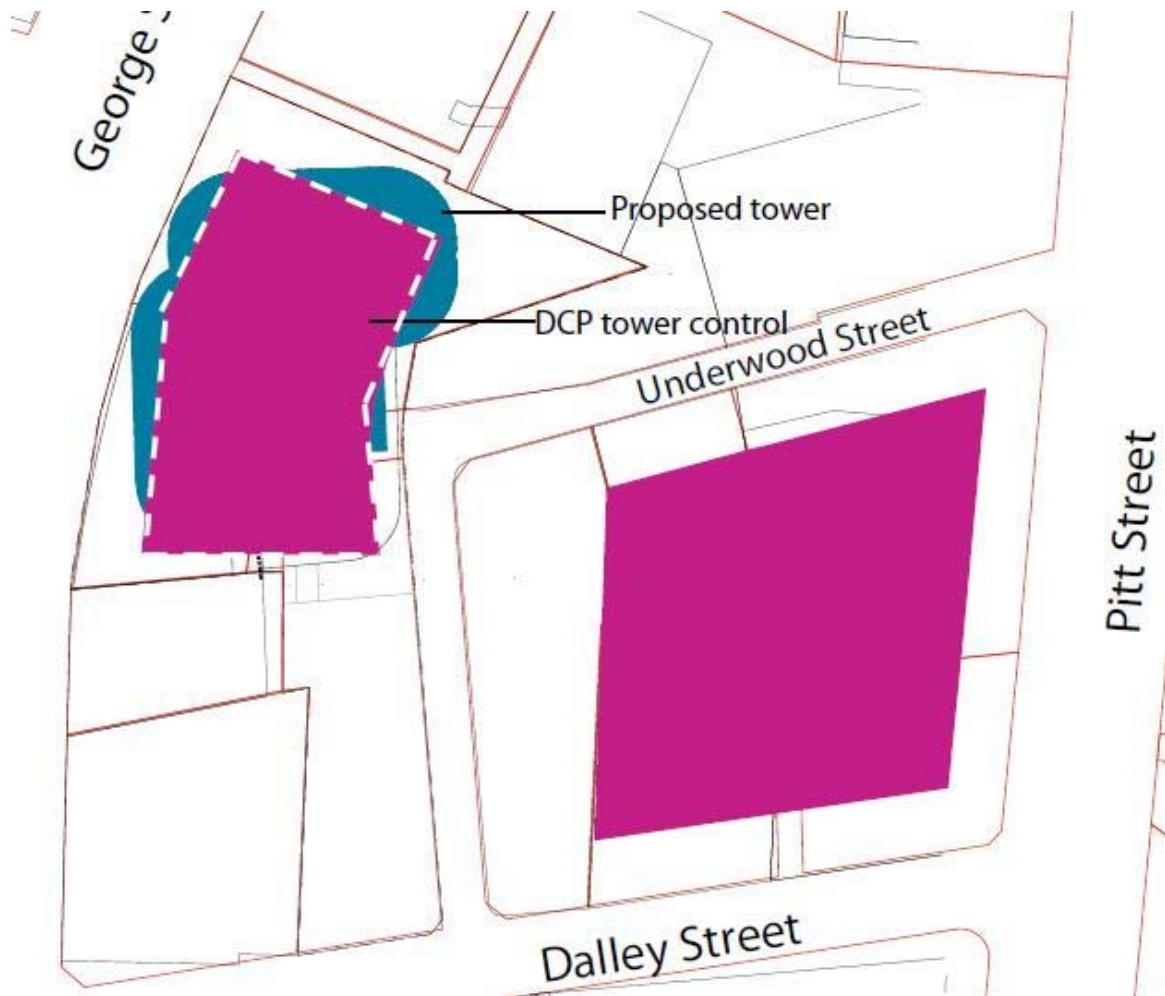


Figure 25 – tower footprint comparison of APDG envelope (shown dotted) and proposal

77. The proposed tower setbacks, including the partial overhang over the future public road, has merit and is supported. In particular, the following matters are noted:
- (a) the site is on a 'bend' in George Street thus providing an increase sense of sky exposure / daylight penetration to the street;
 - (b) the George Street protrusions are curvilinear forms creating architectural modulation and visual interest;
 - (c) the relationship with the northern neighbour is improved as a result of the new and enlarged Crane Place;
 - (d) the side boundary setbacks for commercial towers required in the 'regular' DCP are zero (if no windows) to a minimum of 3,000mm if windows are provided;
 - (e) the proposed south (side) boundary setbacks comply;
 - (f) there is adequate separation with other towers;
 - (g) the curvilinear building form provides benefits in terms of elegance and apparent slenderness of the tower;
 - (h) the partial overhang does not impede the functionality of the future road;

- (i) there are no unreasonable shadowing or view loss impacts resulting from the proposal; and
- (j) the submitted wind analysis indicates that the wind environment at ground level will be acceptable.

Facade Options

78. As noted above, the application is seeking the flexibility to allow two facade options to the northern floor plate of the proposed tower (levels 4-36) and the southern floor plate (levels 4-10, 14-24 and 26-35). Option 1 is a triple glazed facade with integrated timber (or equivalent) blinds and an external single glazed skin of clear glass. Option 2 is a double glazed skin with internal timber blinds and external horizontal sunshades.
79. The applicant has advised that they still wish to have the flexibility to proceed with either of the two options as testing is still being undertaken to the system proposed under Option 1. Both options are considered acceptable from a design perspective and accordingly, the approval includes both sets of plans.

Public Domain Works

80. In 'opting in' to the additional height permissible under the DCP amendments, the applicant is required to deliver a number of public benefits in respect of streets, lanes, through site links and public open space. These required works are shown in extracts from the DCP in **Figures 26** and **27** below.



Figure 26 – Figure 2.63 from the DCP (Public Domain Map) showing required public domain works.

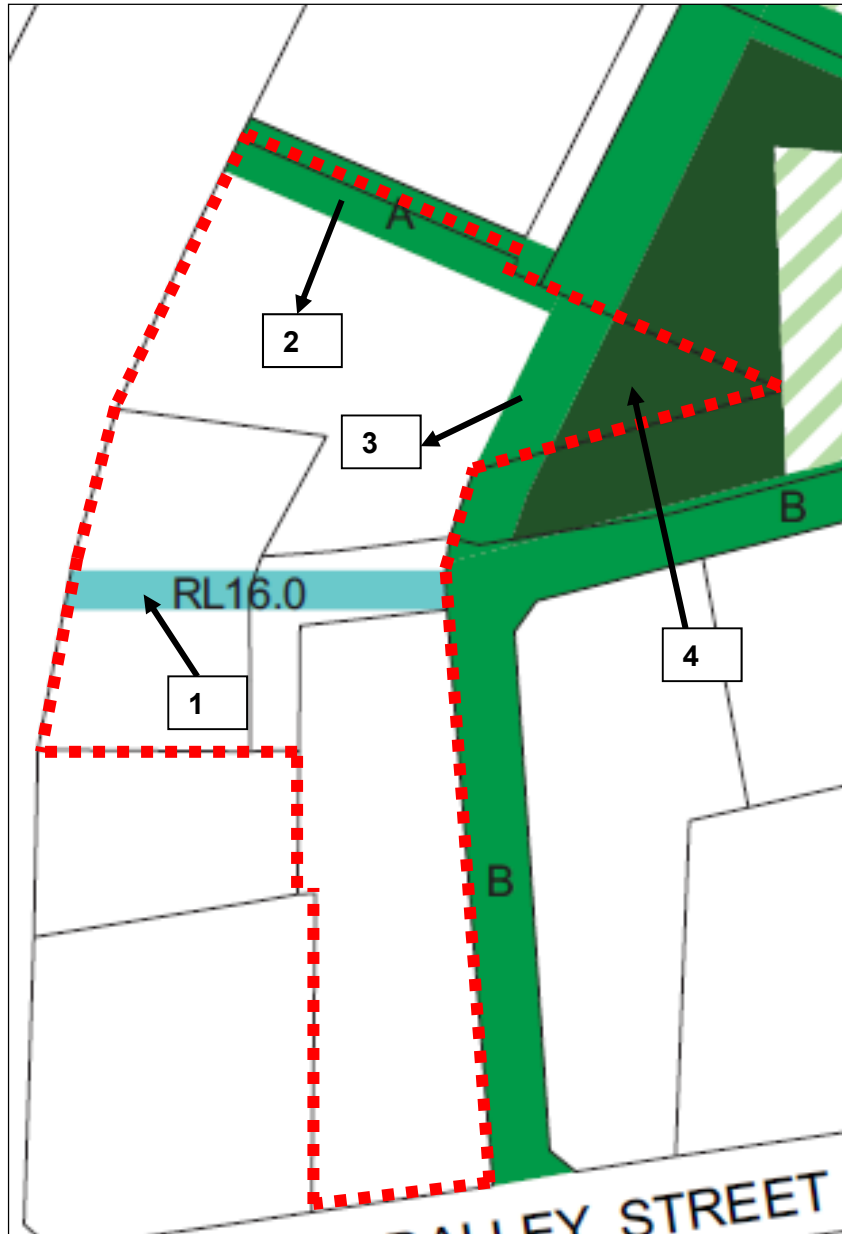


Figure 27 – Enlarged version of Figure 2.63 from the DCP (Public Domain Map) showing required public domain works.

81. As noted above, the public domain works proposed to be provided by the applicant include:
- (a) Provision of a through-site pedestrian link between George Street and Underwood Street (marked '1' on the plan above);
 - (b) Public domain improvement works including an enhanced Crane Place (marked '2' on the plan above);
 - (c) Allowance for the future connection of a laneway between Dalley Street and Herald Square (marked '3' on the plan above); and
 - (d) Establishment and temporary embellishment of part of the planned new publicly accessible square (marked '4' on the plan above); and

- (e) Subdivision associated with the dedication of land to Council for park and road purposes.
- 82. The provision and position of the public domain works proposed are generally compliant with the requirements in the DCP. It should be noted that the part of the laneway between Dalley Street and Herald Square (marked '3' in the plan above) are currently surrounded by buildings on its north and south sides and that access to this piece of the lane will only be able to be gained from Crane Place or over the part of the applicant's land (which will be unbuilt on) to the immediate west.
- 83. The proposal will also be non-compliant with the DCP in that parts of the tower will overhang the enhanced Crane Place and the laneway between Dalley Street and Herald Square where these are required to be open to the sky. However, as areas of open space (albeit that the tower will overhang them) in excess of the DCP requirements will be provided on the applicant's site in the form of a larger than required ground floor setback to George Street, Crane Place and on the east facing side of the development, this non-compliance is considered acceptable.
- 84. The DCP also requires the height of the through site link to be a minimum RL of 16.0. The RL will be approximately 15.9 which will be a minor non-compliance. The exception to this will be where a 'bridge' crosses over the through site link but this will be towards the eastern end of the site and over descending stairs which will result in a greater clearance and sense of space than would be the case further to the west along the through site link.
- 85. The DCP also requires Crane Place to be accessible to vehicles (via the new lane from Dalley Street to Herald Square) one way exiting onto George Street as shown on **Figure 28** below. The application does not propose vehicular access through Crane Place.

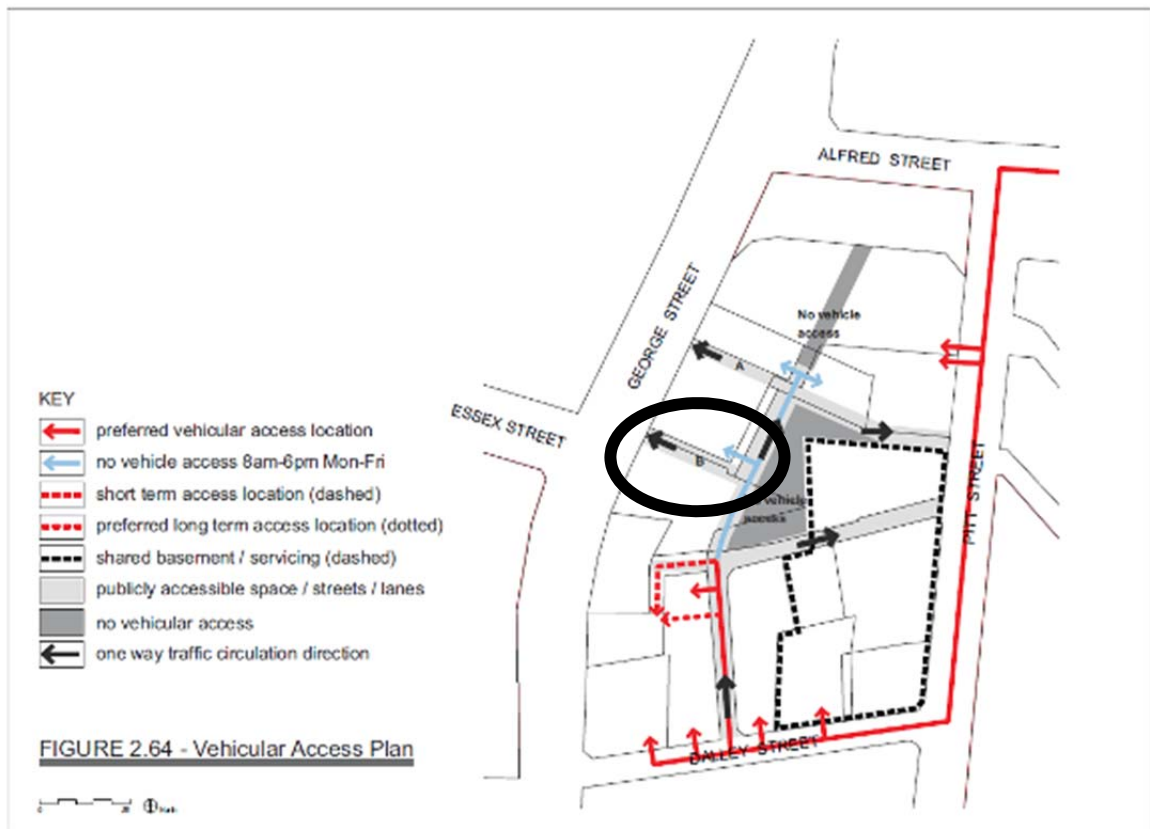


Figure 28 – Figure 2.64 from the DCP (Vehicular Access Plan) showing road network within the APDG block.

86. This has been discussed with Council's Traffic Unit who have raised no objections on the grounds that locating an exit onto George Street at this location near to the signalised intersection with Essex Street could have led to unreasonable vehicular conflicts. It is also noted that this DCP proposed vehicular arrangement:
- (a) currently only exists as a pedestrian only lane and not as a vehicular lane;
 - (b) is not critical for the vehicular servicing of the broader APDG 'masterplan'; and
 - (c) is inconsistent with the City's vision for the transformation of George Street.

Voluntary Planning Agreement

87. In order to achieve these public domain benefits, the applicant has offered to enter into a Voluntary Planning Agreement (VPA) with Council. The VPA is on public exhibition at the time of writing this report. 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. In addition, a monetary contribution is to be provided for general public domain improvements.
88. 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 and dedicate part of the new publicly accessible square in the centre of the APDG site within a triangular section at the north eastern corner of the site as publicly accessible recreation area in accordance with the Figure 2.63 of the APDG DCP (refer to **Figures 26** and **27** above). As the triangular section of the park is currently surrounded by other buildings on its north east and south west sides (pending completion of the balance of the square as part of future applications), access to the square will be made available over the applicants land from Underwood Street or from the widened Crane Place. The VPA includes easements to this effect.
 - (b) **To provide for lanes** – To contribute to the public domain by providing a widened Crane Place and footway widening to George Street. A further through-site link between Underwood Street and George Street is also proposed. 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.
 - (c) **To provide for streets** – To create a new 6m wide laneway running north-south directly along the western edge of the landscaped park which will be dedicated to Council for the purposes of a public road. This will permit the ultimate connection of the site to Herald Square if the remaining development blocks in the APDG Block are constructed in accordance with the APDG DCP.
89. The VPA also includes a monetary contribution in the amount of \$2,575,702 to be made by the developer to be used by Council for public domain improvements in and near the APDG Block including the upgrade of Dalley Street.

90. The VPA and its accompanying documents have been the subject of detailed discussions between the applicant, the City and their legal representatives over recent months and is currently on public exhibition until 11 December 2012 (refer **Attachment D**).

Floor Space Ratio

91. Clause 10 of SLEP 2005 permits the waiver of certain development standards 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.”

92. The proposed development seeks the additional gross floor area permitted by Clause 10, and proposes a FSR of 13.75:1 which incorporates the 10% variation permitted under this clause.

93. The proposal has been assessed as satisfactory with regard to Clause 10, in that:

(a) The development of the proposed scheme has been the subject of an Urban Design Study by the NSW Government Architect, a competitive design process, and has seen the formulation of site specific planning controls (the APDG LEP and DCP);

(b) Subject to appropriate conditions, 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;

(c) The developer has agreed to enter into a VPA 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;

- (d) The VPA also includes a monetary contribution to Council in the amount of \$2,575,702 to be used for public domain improvements in and near the APDG block including the upgrade of Dalley Street;
- (e) Appropriate conditions are recommended for imposition to satisfy the heritage floor space provisions of the LEP.

View Analysis

- 94. 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 considered by the CSPC and Council on 11 and 15 November 2010 respectively, addressed the outcomes of the public exhibition of the Draft LEP/DCP amendments.
- 95. The relevant sections from this report regarding the view analysis and the subsequent assessment have been included at **Attachment C** for reference.
- 96. 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.
- 97. 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.”*
- 98. 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.
- 99. An objection has been received on behalf of Grosvenor Place Pty Ltd, the owners and managers of the Grosvenor Place office tower located at 205-227 George Street to the west of the site regarding potential loss of iconic and Sydney Harbour views as a result of the proposed development.

100. To assess these concerns, inspections were undertaken by Council of Levels 34 and 43 of the building (as chosen by the objector) in order to undertake view analysis and modelling of the proposed building compared to the APDG approved building envelopes as viewed from Grosvenor Place.
101. The Level 34 view analyses concluded that the impact between a DCP compliant envelope and the proposed building was negligible. The approximate RL at eye level on Level 34 is 138 metres, approximately 20 metres below that of a compliant envelope of 155 metres.
102. The Level 43 view analyses was taken from two vantage point along the north east facing curve of the building – one near the centre of the facade, and the other between the centre and southern end. From these vantages points, the following Figures provide a visual comparison of the existing outlook, the outlook with the APDG compliant building envelopes, and the outlook with the approved building at 1 Alfred Street (former Goldfields House) and the proposed building.



Figure 29 – Current outlook from a central point along the north east facing curve of Level 43, Grosvenor Place



Figure 30 – Outlook from a central point along the north east facing curve of Level 43, Grosvenor Place – control compliant building envelopes

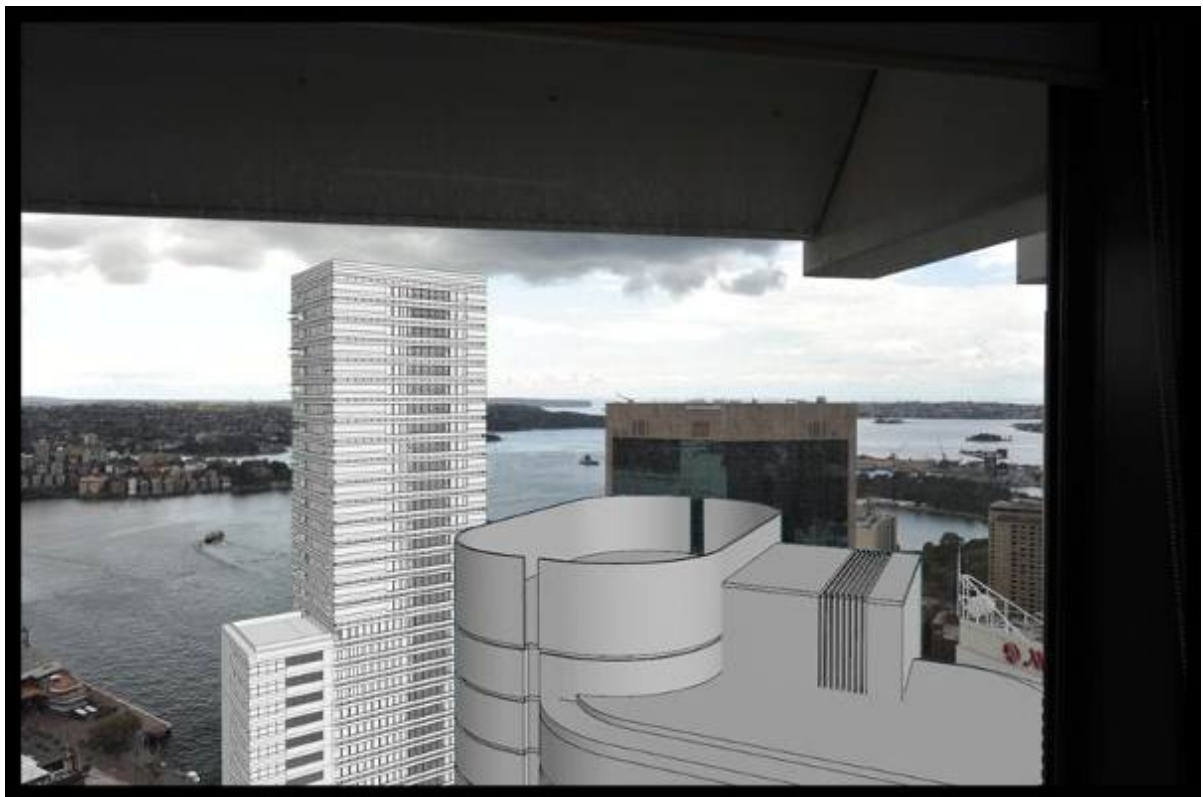


Figure 31 – Outlook from a central point along the north east facing curve of Level 43, Grosvenor Place – approved building at 1 Alfred Street and proposed building



Figure 32 – Current outlook from further south along the north east facing curve of Level 43, Grosvenor Place



Figure 33 – Outlook from further south along the north east facing curve of Level 43, Grosvenor Place – control compliant building envelopes



Figure 34 – Outlook from further south along the north east facing curve of Level 43, Grosvenor Place – approved building at 1 Alfred Street and proposed building

103. From carrying out a site inspection from Level 43 of Grosvenor Place, it is evident that the proposed development will not have a detrimental impact on “outlook” (as defined above by the DCP).
104. 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 Grosvenor Place, the proposal is further 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

105. The exact nature of the views impacted by the proposal varies within Grosvenor Place depending on the floor level within the building and the vantage point within each floor which is designed in a curve facing the north east.
106. When existing views from Level 43 are considered, partial views of Circular Quay, East Circular Quay, a small section at the northern end of the Royal Botanic Gardens to the east behind Macquarie Street and part of Sydney Harbour would be lost. In addition, a small part of the southern section of Sydney Opera House which would be visible behind the new building at 1 Alfred Street (if and when it is constructed) from the southern end of the floor would be lost. However, these impacts are negligible when the view loss that would be experienced by an ‘APDG compliant’ building envelope are compared with the proposal (compare **Figures 30** with **31** and **33** with **34**), the variances primarily relating to the parts (as opposed to the extent) of the harbour that will be visible.

Which part of site is the view is available from?

107. The views are possible from the north east facing curve of the upper levels of the Grosvenor Place building.

Extent of the impact in relation to views available

108. View loss analysis from Grosvenor Place is provided below:

Location	Views lost	Impact
Centre of Level 43	Partial loss of East Circular Quay, Ferry Wharves, Sydney Harbour and north end of Royal Botanic Gardens.	Low
Point between Centre and Southern end of Level 43	Partial loss of East Circular Quay, Ferry Wharves Sydney Harbour, north end of Royal Botanic Gardens and the southern part of Sydney Opera House.	Low - Moderate

Reasonableness of proposal causing impact

109. The building does not comply with all aspects of the APDG DCP in terms of the location of the highest parts of the tower. However, when these variances are considered alongside a compliant building envelope, the potential view loss impacts of which were considered and resolved as being acceptable by both Council and the CSPC prior to gazettal of the amendments, the extent of the view loss resulting from the proposal is not considered to be unreasonable.

View Loss Conclusions

110. The view modelling undertaken concludes that Level 43 will experience a negligible or unchanged impact from the building massing permitted under SLEP 2005.

111. **Figures 31 and 34**, above, taken from Level 43 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 variation to the building envelope.

112. 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 the parts of the building inspected. It is therefore concluded that the proposal does not result in material view loss to surrounding properties.

4 Dalley Street Building

113. 4 Dalley Street is the south most lot within the development site. It has a site area of 974sqm and contains an existing 11 storey brick building. The lower levels of the building are currently utilised by Telstra as a telephone exchange on a long term lease. The telephone exchange is connected to additional Telstra plant at No. 2 Dalley Street (on the opposite side of Underwood Street) by 3 bridges containing 'services'.



Figure 35 - location plan with 4 Dalley Street outlined



Figure 36 - eastern facade of 4 Dalley St (to the right) looking generally south along Underwood St

114. Clause 58(3) of Sydney LEP 2005 states that for the purpose of calculating FSR and maximum FSA, the land of an existing non-heritage building proposed to be retained may be excluded from the site area,

“...if the consent authority is not satisfied that the building will be appropriately refurbished or otherwise upgraded to a reasonable condition within a reasonable time, which may require provision or enhancement of access to, or across the site of, the building for pedestrians or vehicles, or both.”

115. The proposal includes the partial demolition and the refurbishment of up to 5 retained storeys of the existing building at 4 Dalley Street. The application involves the ‘making good’ of the retained portion of the building including enclosing the northern facade, re-roofing at the reduced height, preserving and partly re-cladding the building’s retained facades. Besides the telephone exchange (currently utilised by Telstra on a long term lease) on the lower levels, the balance of the refurbished building will be used for plant and services (including substation) for the commercial tower on the main part of the site. .
116. The submitted facade design for the retained and refurbished building is conceptual in nature and comprises aluminium composite cladding, metal mesh and louvre cladding (FT13 in Figures below) with the balance being face brickwork (FT14). The images below are the submitted elevations:

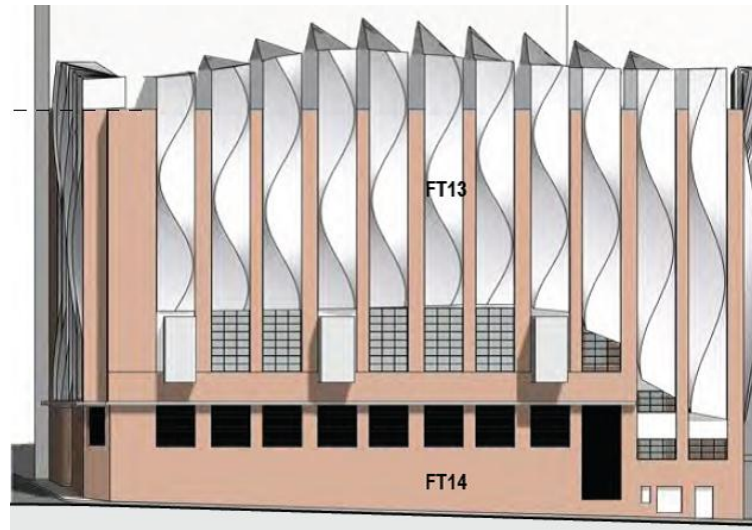


Figure 37 - proposed east (Underwood St) elevation



Figures 38 and 39 - proposed north (left) and south / Dalley Street elevations (right)

117. In noting that the building is utilitarian in nature and will continue to be so, the proposed facade treatment creates a 'feature' building rather than a backdrop building. It is recommended that the design be 'simplified' to better represent the nature of the building. A condition to this effect is recommended. It is also recommended that as the full floor space potential of the retained and refurbished building has been effectively transferred to the commercial tower, that a covenant be placed on title noting that all the allowable floor space area (as defined) has been utilised and thus limiting the future redevelopment of this part of the site.

Staged Construction Certificates

118. To enable commencement of demolition and excavation works on site as soon as practicable following development consent, and not being held up in needing to document and detail other aspects of the development that from a timing perspective need not be satisfied until after demolition and/or excavation works commence (ie. prior to actual construction), the applicant has requested that Council accommodate the issuing of Construction Certificates in 11 stages. The stages that have been nominated by the applicant are:

- (a) Stage 1a – Demolition
- (b) Stage 1b – Archaeological Excavation and Investigation
- (c) Stage 1c – Decommissioning and Demolition of Substations
- (d) Stage 2 – Excavation and Footings
- (e) Stage 3 – Installation and construction of in-ground services and infrastructure
- (f) Stage 4 - Construction of Structure from Basement to Ground Floor (George Street)
- (g) Stage 5 – Construction of Structure above Ground Floor
- (h) Stage 6 – Services/Finishes/Façade to Ground Floor
- (i) Stage 7 – Services/Finishes/Façade above Ground Floor
- (j) Stage 8 – 4 Dalley Street
- (k) Stage 9 – Public domain and landscaping works

119. The applicants wish to have the Construction Certificates staged and the associated circumstances is accepted. However, it is not considered prudent to allow the submission of further information at all of the 11 stages nominated. The appropriate stages at which it is considered acceptable for information to be provided is included in Condition 2 above.

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

BCA Matters

120. 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

121. The site is suitable for the proposed development.

Section 79C(1)(e) Public Interest

122. 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

123. Not applicable to this report.

FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS

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

PUBLIC CONSULTATION**Section 79C(1)(d)****Advertising and Notification**

125. 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.
126. Seven (7) submissions were received when the application was first notified and advertised between 6 July and 4 August. Three (3) additional submissions were received when the application was notified and advertised for the second time between 19 October and 17 November. Two (2) submissions were received following notification of (now withdrawn) application D/2008/596/A to permit demolition of the existing buildings on site. As this has now been incorporated into the subject application, the issues raised in those submissions are also considered as part of the subject application. The grounds for objection are summarised as follows:

Views

- (a) The proposal will have an adverse impact on views from Grosvenor Place and as such, will not comply with a number of policies and provisions.

Comment: View impact on Grosvenor Place is discussed in detail above.

Traffic

- (b) There may be insufficient space to allow vehicles to enter and exit the Right of Way to the adjacent property.

Comment: A condition is recommended requiring details to be provided of this, including swept path diagrams. This may necessitate the removal of on-street parking on Underwood Street.

Design, Height, Bulk and Scale

- (c) Design Excellence has not been demonstrated and as such, the proposal will not comply with a number of policies and provisions.

Comment: Design is discussed above.

- (d) The alternative designs included in the Competitive Design Alternative Report have not adequately considered the relevant planning controls for the site.

Comment: Compliance with the planning controls is discussed above.

- (e) The contention that SEPP 1 can be relied upon to enable 46.2% of the development to achieve a height of 155 metres may be challengeable as this is a height control.

Comment: As discussed above, it is considered that the 42% site coverage standard is not a 'height' standard as such and is able to be varied under SEPP 1 (Development Standards).

- (f) The building will be excessive in its form leading to reduced sky exposure and daylight for public domain areas and surrounding buildings.

Comment: This is addressed earlier in the report.

- (g) The proposal does not demonstrate design excellence and will have a poorer urban design and public amenity outcome than was envisaged for the site.

Comment: Following design amendments, the proposal is considered acceptable.

- (h) More information about the finished design of the building at 4 Dalley Street should be provided.

Comment: A condition to this effect is recommended.

Site Area

- (i) The survey plan lodged with the application notes the site area as being approximate. Accordingly, the FSR, the bonus floorspace, the site coverage and the percentage of proposed open space are all approximate.

Comment: A condition is recommended requiring a final survey to be provided to verify that the proposed floorspace will comply with the stated 13.75:1.

Demolition

- (j) The separate modification application for demolition of the buildings on the site should be deferred and should be issued at the same time as the current application to ensure that the impacts of demolition and construction are addressed at the same time.

Comment: As noted above, the modification application was withdrawn and demolition of the buildings on the site is included as part of the subject application.

Plant and Equipment

- (k) Insufficient information has been submitted with the application to ensure that there will be no adverse acoustic impacts from the operation of the plant and machinery within 4 Dalley Street.

Comment: An appropriate condition is recommended to address noise impacts from plant and machinery.

- (l) No information has been lodged to detail the size of vehicles that will be required to service the plant and machinery within the buildings.

Comment: This is not considered necessary for plant and equipment typically associated with a development of this type.

Construction Impacts

- (m) The Construction Management Plan (CMP) lodged with the application is insufficient in its scope and detail.

- (n) The CMP does not adequately address how access to surrounding buildings will be retained during demolition and construction.

- (o) Underwood and Dalley Streets may not be suitable for construction vehicles.

- (p) Concern about construction traffic entering the site via Pitt, Dalley and Underwood Streets as opposed to directly onto Underwood from Pitt Street.

Comment: Although a CMP has been lodged with the application, it has not been considered in detail by Council's Traffic Unit. This will however occur and will require to be approved by Council prior to the issue of the first Construction Certificate for the site. A condition is recommended requiring Right of Access to the adjacent building to be maintained throughout construction and thereafter.

- (q) A condition should be imposed requiring the applicant to rectify any damage to surrounding pavements as a result of the proposed works.

Comment: An appropriate condition to this effect is proposed.

- (r) Dilapidation reports should be provided to ensure that no damage or subsidence occurs to adjacent buildings, including to the ASX building which sits on the south side of Dalley Street near to its intersection with Underwood Street.

Comment: A condition is recommended requiring dilapidation reports to be provided of adjoining buildings at 178-186, 210-214 George Street and 33-35 Pitt Street. The ASX building at 20 Bridge Street does not directly adjoin the application site.

- (s) Any approval should ensure that acoustic mitigation measures in the CMP should be adopted during construction to ensure that there are no excessive noise impacts to surrounding properties.

Comment: As noted above, the CMP still requires to be assessed in detail and approved before construction commences. In any case, a condition will be imposed requiring compliance with the relevant noise criteria.

- (t) The construction hoarding should be appropriately designed.

Comment: The design of the hoarding will be required to comply with Council standards.

- (u) Air quality, acoustic and vibration monitoring equipment will be installed on an adjacent building during construction. If levels exceed those stipulated on the consent, clarification is sought as what action will be taken.

Comment: Any breaches of conditions of approval should be reported to Council for investigation.

- (v) Electricity should be maintained to adjacent sites during construction.

Comment: This is a matter for the relevant energy provider.

Building Separation and Setbacks

- (w) There is inadequate separation between the tower on the site and proposed towers elsewhere on the APDG site.

Comment: This is discussed above.

- (x) There is inadequate setback between the building on the subject site and the adjoining building to the north with resulting concerns in respect of privacy, daylight, fire risk and proximity during construction.

Comment: This is discussed above.

Public Domain

- (y) The public domain will not be provided in accordance with the DCP in respect of lane widths, openness to the sky and the size of Crane Place which will have a retail kiosk erected on it.

Comment: The proposed public domain works and the proposal's compliance with the relevant controls is discussed above. The retail kiosk on Crane Place has now been deleted.

- (z) The public domain benefits discussed in the submission are not additional benefits that offset the impacts of additional FSR and are requirements of the DCP.

Comment: In addition to the public benefits that will be delivered through the proposed public domain works, a monetary contribution is also included as part of the VPA for the site. This contribution will be towards public domain improvements in the vicinity of the site.

- (aa) The north facing wall of the retail pavilion within Crane Place should be deleted to ensure that there is better integration between Crane Lane and the enhanced Crane Place.

Comment: The application has been amended such that the proposed retail pavilion within Crane Place has been removed and has been replaced with a landscaped area.

- (bb) The applicant should demonstrate how disabled access can be provided through Crane Place

Comment: The fall between George Street and the proposed new publicly accessible square is such that a graded slope would be too steep and would not comply with accessibility criteria. As such, steps are proposed at the eastern end of Crane Place. A lift adjacent to the through site link will provide access from George Street to Underwood Street further to the south.

- (cc) A Voluntary Planning Agreement should be entered into to address public art and the through site link.

Comment: A draft VPA has been placed on public exhibition and will require to be lodged and/or executed prior to construction commencing. The provision of public art is not included as part of the VPA as other public domain projects have been identified and prioritised. Nevertheless, a condition of consent requiring the provision of a public art strategy, as required by the Central Sydney DCP 1996, is recommended.

- (dd) The portion of the proposed publicly accessible square proposed on the site is noted as being an 'interim' park with no details as to when it will become 'permanent' in nature.

Comment: The VPA associated with the application will ensure that the portion of the publicly accessible square on the site will be finished to an acceptable standard for public use. Further development of the remainder of the publicly accessible square will depend on the future redevelopment of the adjacent lots.

Street Activation

- (ee) Parts of the ground floor will not be occupied by retail spaces as required by the DCP.

Comment: This is discussed above.

Missing Lot

- (ff) The DA relates to land not identified as Block 2 (being Lot 1 DP 913005). Consent cannot be granted to a DA that includes this land. If this land is not included, the proposed FSR for the site would be higher than is stated by the applicant.

Comment: On 9 November 2012, an amendment to the LEP to address this concern was gazetted. The CSPC may determine the DA having regard to the APDG planning controls.

Overshadowing

- (gg) The building will have unreasonable overshadowing impacts.

Comment: This is discussed above.

Requirement for a development plan

- (hh) A development plan is required as the building will be over 55m in height and the site is greater than 1500sqm in area.

Comment: This is discussed in detail above.

Inconsistency with Stage 1 consent

- (ii) The proposal is inconsistent with the previous consent in respect of height, setbacks and building envelope.

Comment: This is discussed in detail above.

EXTERNAL REFERRALS**Roads and Maritime Services**

127. A referral to Roads and Maritime Services was undertaken. Further discussion is provided under SEPP (Infrastructure) 2007.

Ausgrid

128. A referral was sent to Ausgrid on the applications but no response has been received. Proposed new substations will be housed at ground floor level of 4 Dalley Street and within Level 12 of the proposed tower. It is understood that the applicant has been in discussion with Ausgrid as to the requirements for electricity infrastructure within the buildings. A condition is however recommended requiring substations to be provided as per Ausgrid's requirements.

Integrated Development

129. The proposal is not Integrated Development.

INTERNAL REFERRALS

130. The application was referred to Council's Specialist Surveyor, Heritage Architect, Urban Designer, Building Services Unit, Health Unit, Public Domain Unit and Traffic Unit. No objection to the proposed development was raised, subject to the imposition of appropriate conditions.

131. Appropriate conditions have been included in the recommendation of this report to reflect these requirements.

RELEVANT LEGISLATION

132. The Environmental Planning and Assessment Act 1979.

CONCLUSION

133. 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 six architectural practices, where the scheme designed by FJMT (the proposal) was named the winning scheme; and
 - (c) the preparation of site specific amendments to the current planning controls for the APDG block.
134. 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.
135. In conjunction with the proposed development, the developer has offered to enter into a planning agreement with Council which achieves the objectives of Clauses 10 and 52A of SLEP 2005.
136. 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.
137. Further to this, the 10% variation sought to the floor space ratio development standard is supported as a result of the competitive design process undertaken for this site as well as the extensive public domain improvements encompassed within the development (as detailed above).
138. 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.
139. The subject development application is supported. A deferred commencement consent is recommended.

GRAHAM JAHN

Director City Planning, Development and Transport

(Philip Jamieson, Senior Planner)