

**ITEM 8. DEVELOPMENT APPLICATION: 18-30A MARTIN PLACE -  
ALSO KNOWN AS 20 MARTIN PLACE SYDNEY****FILE NO: D/2012/973****DEVELOPMENT APPLICATION NO: D/2012/973****SUMMARY****Date of Submission:** 29 June 2012 (amended plans received 11 October 2012).**Applicant:** Charter Hall Holdings Pty. Ltd.**Land Owner:** Horizon MP Management Pty. Ltd.**Architect:** James Carpenter Design Associates and Crone Partners.

**Proposal Summary:** The application seeks approval for the refurbishment of an existing building including the relocation of the building's core to the northern elevation and excavation to allow the extension of the existing basement 2 level to the south and provision of a basement ramp from basement 1 to basement 2. A new facade system is proposed with the provision of retail spaces fronting Martin Place, Pitt Street and Hosking Place. The proposal will include 24 tenant car parking spaces, 6 loading/service spaces, 3 motor cycle parking spaces and 113 bicycle spaces. The height of the development will remain at a maximum of 85 metres with an increase in floor space ratio from 11.3:1 to 12.5:1 in accordance with the maximum floor space ratio controls set out in the Sydney Local Environmental Plan 2005 (LEP). The proposed works will reinstate an out-dated building into a contemporary 5 star Green Star and 5 star NABERS Energy Rating (existing building only achieves a rating of 1).

The applicant has requested that the requirement for a Stage 1 Development Application / Development Plan be waived as there will be no substantial change to the existing built form or height of the building as part of the proposed works.

**Proposal Summary  
(continued):**

The proposed development results in a maximum FSR of 12.5:1. The additional floor space is a result of the internal building reconfiguration and extension of the overall building mass on the northern elevation. The additions to the building have been recessed from the east and west corners of the existing building at the northern elevation so as not to cause any reduction in solar access to Martin Place or the facade of the former GPO. The proposed works will not result in any change to the height of the existing building and will not result in a substantial change to the existing built form.

**Summary Recommendation:**

Development Application D/2012/973 is recommended for approval, subject to conditions.

**Development Controls:**

- (i) Sydney Local Environmental Plan (LEP) 2005
- (ii) Central Sydney Development Control Plan 1996
- (iii) City of Sydney Notification of Planning and Development Applications DCP 2005
- (iv) City of Sydney Contaminated Land Development Control Plan 2004
- (v) City of Sydney Access Development Control Plan 2004
- (vi) Draft Sydney Local Environmental Plan 2011

**Development Contributions:**

- (vii) Central Sydney Contributions (Amendment) Plan 2002, S61 City of Sydney Act, 1988 which applies to the Central Business District, in force from 16 June 2003.

**Attachments:**

A - Selected Drawings

**RECOMMENDATION**

It is resolved that:

- (A) pursuant to the provisions of Clause 23(4)(e) of Sydney Local Environmental Plan 2005 (SLEP 2005), the Central Sydney Planning Committee waive the requirement to prepare a development plan for the subject site as it is considered to be unreasonable and unnecessary in this instance as the proposal is for the refurbishment of an existing building;
- (B) 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, having regard to the following:
- (i) no objection was received from the Roads and Maritime Services as part of the consultation under the provisions of State Environmental Planning Policy (Infrastructure) 2007,
  - (ii) the number of parking spaces proposed is below the maximum permitted limit prescribed in Sydney Local Environmental Plan 2005,
  - (iii) the existing Hosking Place driveway will be retained, with provision made for the future sharing of vehicular access between the subject site and the neighbouring 92-94 Pitt Street site. This will have a positive impact on the laneway and to traffic in the CBD; and
- (C) consent be granted subject to the following conditions:

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

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

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2012/973 dated 29 June 2012 and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA000 B	Crone Partners	10/10/12
DA010 A	Crone Partners	29/6/12
DA011 A	Crone Partners	29/6/12
DA097 A	Crone Partners	29/6/12
DA098 A	Crone Partners	29/6/12
DA099 B	Crone Partners	10/10/12
DA100 B	Crone Partners	10/10/12

Drawing Number	Architect	Date
DA101 B	Crone Partners	10/10/12
DA102 B	Crone Partners	10/10/12
DA103 A	Crone Partners	29/6/12
DA104 A	Crone Partners	29/6/12
DA105 A	Crone Partners	29/6/12
DA106 A	Crone Partners	29/6/12
DA107 A	Crone Partners	29/6/12
DA108 A	Crone Partners	29/6/12
DA109 A	Crone Partners	29/6/12
DA110 A	Crone Partners	29/6/12
DA111 A	Crone Partners	29/6/12
DA112 A	Crone Partners	29/6/12
DA113 A	Crone Partners	29/6/12
DA114 A	Crone Partners	29/6/12
DA115 A	Crone Partners	29/6/12
DA116 A	Crone Partners	29/6/12
DA117 A	Crone Partners	29/6/12
DA118 A	Crone Partners	29/6/12
DA119 A	Crone Partners	29/6/12
DA120 A	Crone Partners	29/6/12
DA121 A	Crone Partners	29/6/12
DA122 A	Crone Partners	29/6/12
DA123 A	Crone Partners	29/6/12
DA200 B	Crone Partners	10/10/12
DA201 B	Crone Partners	10/10/12
DA202 B	Crone Partners	10/10/12
DA203 B	Crone Partners	10/10/12
DA204 B	Crone Partners	10/10/12
DA300 A	Crone Partners	29/6/12
DA301 A	Crone Partners	29/6/12
DA302 A	Crone Partners	29/6/12
DA303 A	Crone Partners	29/6/12
DA304 A	Crone Partners	29/6/12
DA400 A	Crone Partners	29/6/12
DA401 A	Crone Partners	29/6/12
DA402 A	Crone Partners	29/6/12
DA403 A	Crone Partners	29/6/12

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) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The podium level cast glass columns are to be increased in width. The width of the columns should be increased to between 1,000mm and 1,100mm, whilst maintaining the proposed singular u-shaped cast glass panel, 900mm in height.

The modifications are to be submitted to and approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.

### **(3) STRATEGY FOR FUTURE TENANCIES**

- (a) To ensure that future tenancy fitouts on the lower ground floor, upper ground floor and first floor levels visible from Martin Place, provide an enhancement of the visual character of Martin Place, a set of guidelines for future tenancies should be developed.
- (b) The guidelines should include specific recommendations relating to the retention of visibility into the building, appropriate finishes, visual clutter, partitioning, additional requirements for mechanical servicing, lighting, security including for ATMs and internal signage.

The Tenancy Strategy is to be submitted to and approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.

### **(4) BREAK THROUGH PANEL**

Provision shall be made for connection/s into the adjoining property at 92-94 Pitt Street, Sydney to allow for the possible future vehicle access between the two sites and sharing of driveways. The dimensions and location of the connection shall be submitted and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

### **(5) 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 Crone Partners dated 29 June 2012.

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

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed **12.5:1** 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 **20,673sqm**.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2005 applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

- (c) Prior to a Construction Certificate being issued, Council's written verification must be obtained, confirming that **992sqm** of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of 11.3:1 (existing FSR).

**(7) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 102.09 (AHD) to the top of the plant, RL 97.62 (AHD) to the top of the building, and 97.67 (AHD) to the parapet 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.

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

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

A separate development application for any proposed signs (other than exempt or complying signs under Council's exempt and complying Development Control Plans) must be submitted to and approved by Council prior to the erection or display of any such signs.

**(10) SIGNAGE STRATEGY**

**(11) COMMEMORATIVE PLAQUE**

A commemorative plaque, recording the names of the developer, architect, consent authority and year of completion of construction must be installed on the building prior to occupation. The design, location and wording must be submitted to and approved by Council prior to an Occupation Certificate being issued.

**(12) ASSOCIATED ROADWAY COSTS**

**(13) BICYCLE FACILITIES**

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

- (a) 12 showers with change area; and
- (b) 113 personal lockers.

Details to be approved prior to the issue of a Construction Certificate by the Principal Certifying Authority.

**(14) BICYCLE PARKING**

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

- (a) all bicycle parking for staff / employees of any land uses must be Class 2 bicycle facilities; and
- (b) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

Details to be approved prior to the issue of a Construction Certificate by the Principal Certifying Authority.

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

A maximum of **24** off-street car parking spaces must be provided. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

**(16) COST OF SIGNPOSTING**

**(17) HOLDING AREAS**

**(18) INTERCOM FOR VISITORS**

**(19) LOADING WITHIN SITE**

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

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

**(22) SECURITY GATES**

Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the street front property boundary.

**(23) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must be a maximum length of 6.4m.

**(24) SERVICE VEHICLES**

**(25) SIGNAL SYSTEM**

**(26) SIGNS AT EGRESS**

The following signs must be provided and maintained within the site at the point(s) of vehicular egress:

- (a) compelling drivers to stop before proceeding onto the public way; and
- (b) compelling drivers to "Give Way to Pedestrians" before crossing the footway; or compelling drivers to "Give Way to Pedestrians and Bicycles" before crossing a footway on an existing or identified shared path route.

**(27) TRAFFIC WORKS****(28) VEHICLES ACCESS****(29) SMALL CAR PARKING SPACES AND DIMENSIONS**

The design and layout of all off-street small car parking spaces must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

All small car spaces must be clearly marked and identifiable as small car spaces. The signs or line markings must be in place and approved by the Principal Certifying Authority prior to an Occupation Certificate being issued and must be maintained in good order at all times.

**(30) RESTRICTION ON USE OF CAR SPACES - COMMERCIAL WITH NO STRATA SUBDIVISION****SCHEDULE 1B****Prior to Construction Certificate/Commencement of Work/Health and Building**

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

**(31) HERITAGE INTERPRETATION STRATEGY**

- (a) An interpretation strategy for the site must be submitted to and approved by Council prior to a 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 the occupation certificate being issued, the approved interpretation strategy must be implemented to the satisfaction of Council.

**(32) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)**

Prior to a Construction Certificate being issued, an archival photographic recording of the exterior of the building 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.

**(33) ASBESTOS REMOVAL**

**(34) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

**(35) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)**

**(36) VERIFICATION OF SUPPORT FOR NEW LOADS**

**(37) CERTIFICATION OF GEOTECHNICAL INSPECTION**

**(38) GEOTECHNICAL REPORT AND CERTIFICATION**

**(39) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF WHOLE OR PART OF BUILDING IS REQUIRED (CC REQUIRED)**

**(40) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS****(41) ANNUAL FIRE SAFETY STATEMENT FORM****(42) FIRE SAFETY CERTIFICATE TO BE SUBMITTED****(43) SPRINKLER SYSTEM****(44) ASSOCIATED ROADWAY COSTS**

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

**(45) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the total lineal metres of footway material along the developments site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to issue of a Construction Certificate.

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.

**(46) ALIGNMENT LEVELS**

- (a) Prior to a Construction Certificate being issued, footpath alignment levels for the building must be submitted to Council for approval. The submission must be prepared by a Registered Surveyor and must be in accordance with the City of Sydney's Public Domain Manual.
- (b) These alignment levels, as approved by Council, are then to be incorporated into the plans submitted with the application for a Construction Certificate, excluding a Construction Certificate for approved preparatory, demolition or shoring work.
- (c) If a Public Domain Plan condition applies to the development the Alignment Levels application must be made concurrently with the submission of a Public Domain Plan.

**(47) 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 a 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.

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

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

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

Prior to an approval for demolition being granted a Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages *where no work is required by Council to the public domain* is to be prepared and submitted to Council's satisfaction.

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

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

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

#### **(50) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**

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

- (a) Prior to a Construction Certificate being issued, details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to Construction Certificate being issued and prior to the commencement of any work within the public way.
- (c) The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted prior to a Construction Certificate being issued.

- (d) An “Application for Approval of Stormwater Drainage Connections” must be submitted to Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.
- (e) A Positive Covenant must be registered on the title for all drainage systems involving On-site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.

#### **(51) PRESERVATION OF SURVEY MARKS**

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

Prior to the issue of a Construction Certificate, a survey plan, clearly showing the location of all permanent survey marks fronting the site and within 5 metres on each side of the frontages must be submitted to Council.

At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Senior Surveyor to arrange for the recovery of the mark.

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

#### **(52) PROTECTION OF SURVEY INFRASTRUCTURE**

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

- (a) A detailed landscape plan for the roof terrace and green wall, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of a Construction Certificate. The plan must include:
  - (i) details of green wall structure and planting;
  - (ii) details of planter soil type;
  - (iii) details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iv) location, numbers and type of plant species;
  - (v) details of planting procedure and maintenance; and
  - (vi) details of drainage and watering systems, automatic drip irrigation is required.

- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

**(54) PAVING MATERIALS**

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

**(55) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on Pitt Street and Hosking 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.

**(56) CAR PARK VENTILATION**

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

**(58) MECHANICAL VENTILATION**

**(59) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN**

**(60) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of affected properties are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.

**UPON COMPLETION OF EXCAVATION/DEMOLITION**

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

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

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

**(61) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM****(62) ROAD OPENING PERMIT****(63) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE****(64) USE OF INTRUSIVE APPLIANCES - TIME RESTRICTION.****(65) MICROBIAL CONTROL****(66) AIR HANDLING****(67) CONTROL OF LEGIONNAIRES DISEASE****(68) DEMOLITION/SITE RECTIFICATION (if cost is over \$50m)**

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.

- (b) Prior to the 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.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
  - (i) A bank guarantee to be provided in the sum of \$413,500.00 dollars as security for the costs of such works provided that:
    - a. the maximum liability under the Deed must not exceed \$413,500.00 dollars; 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 tenable stage;



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

- (d) 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.
- (e) 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.
- (f) 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;
- (g) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

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

**(70) BARRICADE PERMIT**

**(71) SYDNEY WATER CERTIFICATE (QUICK CHECK)**

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

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.

- (b) A Waste Management Plan is to be approved by the Certifying Authority prior to a Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Building Waste Management Plan must be implemented during construction of the development.

#### UPON COMPLETION OF THE DEVELOPMENT

- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must ensure that waste handling works have been completed in accordance with: the Waste Management Plan; other relevant development consent conditions; and Council's Policy for Waste Minimisation in New Developments 2005.

### SCHEDULE 1C

#### During Construction/Prior to Occupation/Completion

##### **(73) HOURS OF WORK AND NOISE – CBD**

##### **(74) COVERING OF LOADS**

##### **(75) OCCUPATION CERTIFICATE TO BE SUBMITTED**

##### **(76) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

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

##### **(77) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

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

- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

**(78) NO OBSTRUCTION OF PUBLIC WAY**

**(79) USE OF MOBILE CRANES**

**(80) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

**(81) ENCROACHMENTS – PUBLIC WAY**

No portion of the proposed structure (including gates and doors during opening and closing operations) shall encroach upon or over Council's footpath areas, with the exception of proposed architectural embellishments shown as overhanging the footways of Martin Place and Hosking Place. These proposed architectural embellishments shall not overhang the footways of Martin Place and Hosking Place by more than 450mm.

**(82) SURVEY**

**(83) SURVEY CERTIFICATE AT COMPLETION**

**(84) EROSION AND SEDIMENT CONTROL**

**SCHEDULE 2**

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

## BACKGROUND

### The Site and Surrounding Development

1. The subject site is 18-30A Martin Place Sydney (referred to as 20 Martin Place). The site is located on the north-east corner of Martin Place and Pitt Street. The site has a primary frontage to Martin Place, secondary frontage to Pitt Street and rear lane access via Hosking Place.
2. The site is an irregular shaped allotment (L-shaped) and has a site area of approximately 1654sqm. The site slopes east-west along the Martin Place plaza with a change of level of approximately 3 metres. There is also a change in level of approximately 3 metres between Martin Place and Hosking Place.



**Figure 1: Location plan**

3. The existing building on the site is currently the corporate headquarters for the ANZ Banking Group (ANZ are in the process of relocating their new headquarters to 161 Castlereagh Street / 242 Pitt Street).
4. The existing building comprises a 20 storey commercial building, being a 'podium' ranging between 2 and 4 floors and tower element of 16 levels. The 'podium' and tower arrangement is unusual in that the tower is not setback from the 'podium' along Martin Place and Pitt Street but is defined by a recess. The tower is setback approximately 15 metres from the eastern (side) boundary alignment and approximately 3.5m from that part of the northern (side) boundary adjacent to 92-94 Pitt Street. The building includes 2 levels of basement parking currently accessed off Hosking Place.
5. North of the subject site and outside of the Martin Place are a number of commercial office and residential buildings.
6. Directly adjoining the site to the east is 32 Martin Place (United Overseas Banking House) an 11 storey commercial office building with basement car parking.

7. South of the site is Martin Place pedestrian plaza and heritage listed 5 Martin Place (which is commonly known as the “Money Box”). A recent development approval includes the refurbishment and conservation works to the building including the removal of the 1968 addition and new commercial office building. The MLC Centre building and forecourt are also located to the south of the subject site.
8. To the west of the site is Pitt Street and across Pitt Street is 10A-16 Martin Place (Colonial Mutual Life Building) which is a 12 storey commercial office building.
9. Photographs of the site are provided below:



**Figure 2 - View from corner Martin Place and Pitt Street**



Figure 3 - Existing Martin Place ground plane



Figure 4 - Existing Martin Place ground plane



Figure 5 – Existing Martin Place ground plane



Figure 6 - Looking south down Pitt Street





Figure 7 - Generally looking east from Pitt Street



Figure 8 - View looking east along Hosking Place

## PROPOSAL

10. The proposal seeks approval for the following refurbishment works:
  - (a) structural works to facilitate modified/refurbished floor layouts;
  - (b) relocation of the core (including lifts, essential services and fire safety provisions) from the centre of the floor plate to the north of the building;
  - (c) excavation to allow the extension of the existing basement 2 level to the south and provision of a basement ramp from basement 1 to basement 2;
  - (d) refurbishment works to the existing building replacing the facade and building services;
  - (e) provision of retail spaces fronting Martin Place, Pitt Street and Hosking Place;

- (f) provision of 24 tenant car parking, loading/servicing, 113 bicycle and 3 motorcycle parking in the existing basement;
  - (g) landscaping works via a green terrace/breakout space and landscaped roof on the eastern podium plant room, and
  - (h) extension/augmentation of physical infrastructure/utilities as required including upgrade of the existing substation in the basement; and
  - (i) increase in the tower floor plate by approximately 150sqm above level 4.
11. The proposed development results in a maximum FSR of 12.5:1. The additional floor space is a result of the internal building reconfiguration and extension of the overall building mass on the northern elevation.
12. Diagrams showing the proposed increase in built form provided below:

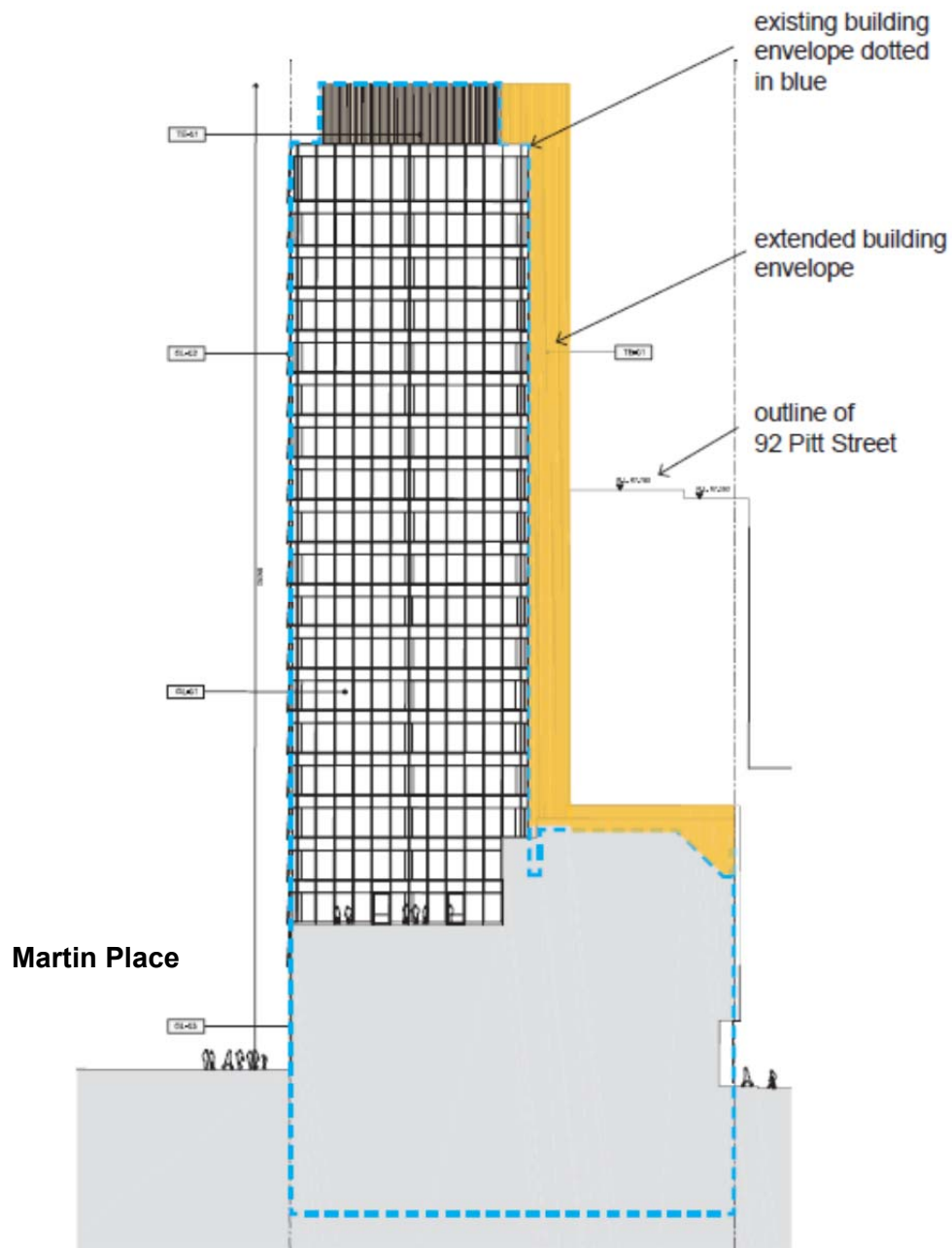
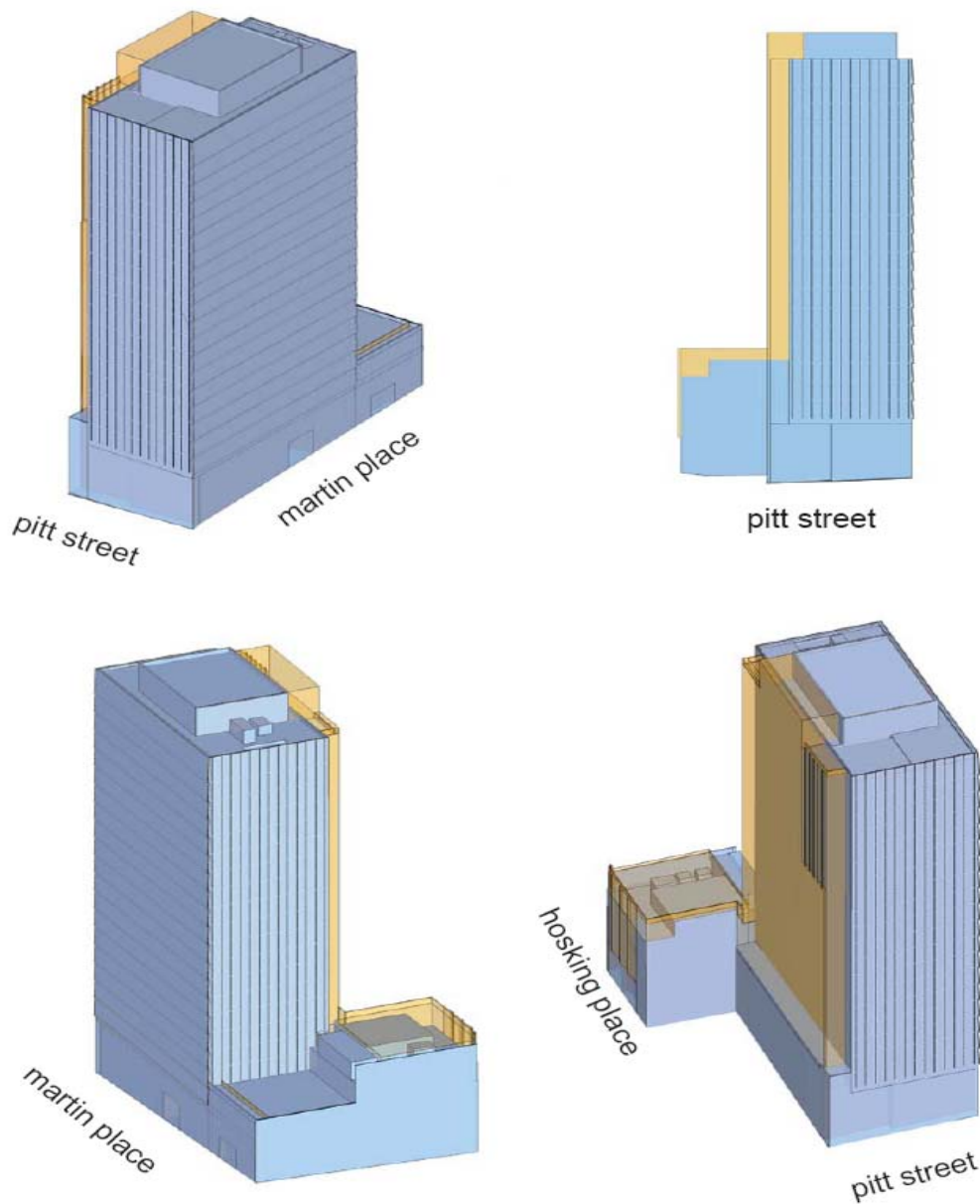


Figure 9 - Proposed massing section (additional 'northern' mass highlighted in yellow)



**Figure 10 – Massing perspective (additional ‘northern’ mass highlighted in yellow)**

13. The existing vehicle access to the basement car parking will be retained off Hosking Place. The existing basement 1 will be reconfigured and the existing basement 2 will be extended to the south. The existing ramp will be extended to provide access to basement 2. Parking and services will be provided over both basement levels.
14. The design allows for a section of the northern basement wall to be removed to allow for future vehicular access between the subject site and the neighbouring 92-94 Pitt Street site.

15. Revised plans were submitted on 11 October 2012 to address concerns raised by Council. The revised proposal for the podium details cast glass columns separated from the glass vitrines by a 200mm wide clear glass reveal that will reinforce the reading of the columns. It is envisaged that this design approach will provide a fine grain vertical rhythm that resonates the surrounding heritage items. The cast glass columns will have a subtle colouration of sandstone with a specific surface texture that resonates with the rusticated masonry bases of heritage items in Martin Place (Refer issues section).
16. Photomontages of the revised design are shown below:



**Figure 11: View of proposal from Pitt Street**



**Figure 12: View of proposal from Martin Place pedestrian plaza**



Figure 13: View of proposal from Pitt Street



Figure 14 - View of proposal from Hosking Place

**IMPLICATIONS OF THE PROPOSAL****CITY OF SYDNEY ACT 1988**

17. 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 Development Application 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.”*
18. 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 considered necessary. In particular, the following are noted:
- (a) the comments of the Roads and Maritime Services were sought under the provisions of State Environmental Planning Policy (Infrastructure) 2007 – refer discussion further below;
  - (b) the number of parking spaces proposed (24) are below the maximum permitted spaces (33); and
  - (c) the existing Hosking Place driveway will be retained. The applicant has also made provision for a section of the northern basement wall to be removed to allow for future vehicular access between the subject site and the neighbouring 92-94 Pitt Street site. This will have a positive impact on the laneway and to traffic in the CBD.



**Section 79C Evaluation**

19. 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)**

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

**SEPP (Infrastructure) 2007**

21. The application was required to be referred to the Roads and Maritime Services (RMS) for comment as the proposal is considered Traffic Generating Development under Schedule 3 of the SEPP.
22. The Roads and Maritime Services has responded and raises no objection to the proposal.

**SEPP 55 – Remediation of Land**

23. The applicant has not provided a contamination report however given that the use of the site will not be altered it is considered unlikely that significant contamination issues may arise. It is considered that due to the history of approved uses on the site that contamination is unlikely.

**SREP Sydney Harbour Catchment 2005**

24. The Regional Environmental Plan (REP) aims to ensure that the Sydney Harbour Catchment is protected, enhanced and maintained. The REP also aims to achieve a high quality and ecological 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**

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

**COMPLIANCE WITH SYDNEY LEP 2005**

<b>Development Controls</b>	<b>Permissible under Sydney LEP 2005</b>	<b>Proposal as assessed under Sydney LEP 2005</b>
<b>Zoning</b>	City Centre	Permissible with consent.
<b>Floor Space Area</b>	20,675sqm	20,673sqm
<b>Floor Space Ratio (Site area = 1654m<sup>2</sup>)</b>	12.5 : 1 (Commercial)	12.5 : 1

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
<b>Floor space to be Allocated</b>	<p>HFS is to be purchased for development over 8:1 + 55m subject to general LEP controls.</p> <p>(existing FSR of 11.3 : 1)</p>	<p>The subject proposal has an FSR of 12.5:1, which equates to a gross floor area of 20,673sqm.</p> <p>Therefore the amount of heritage floor space to be allocated to the site is half the difference between the existing FSR (10.76:1) and the proposed FSR.</p> <p><math>12.5:1 - 11.3:1 \times 1654 = 1,985</math> divided by 2 = 992</p> <p>The Heritage Floor Space allocation is 992sqm. A condition to this effect is recommended.</p>
<b>Height</b>	<p>55 metres and Martin Place Sun Access Plane</p> <p>No additional overshadowing of Martin Place between 12 noon and 2.00pm.</p>	<p>85m above street level</p> <p>The existing building exceeds the sun access plane restrictive height control. However, the proposed additions do not exceed the existing building's maximum height or add to any additional overshadowing of Martin Place.</p> <p>Refer discussion below.</p>
<b>Parking</b>	Max. 33	24
<b>Special Areas</b>	Martin Place Special Area	Acceptable
<b>Consistency with Development Plan</b>	Development Plan required	<p>The applicant has requested the requirement for a Development Plan / Stage 1 DA be waived.</p> <p>Refer to Issues section.</p>
<b>Design Excellence</b>	Consent must not be granted unless consideration has been given to whether the proposal achieves design excellence	<p>It is considered that design excellence has been achieved.</p> <p>Refer to Issues section.</p>

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
<b>Environmental Design</b>	Consent Authority must have regard to the principles of ecologically sustainable development based on “whole of building” approach.	The proposal demonstrates sustainable design and an ESD Report submitted with the proposal states that the commercial building will achieve a 5 Star base building rating.

### Draft Sydney LEP 2011

26. 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.
27. The site is located within the Metropolitan Zone – B8. The proposal is permissible with consent.
28. The proposal complies with the draft floor space ratio of 12.5:1 (commercial development).
29. The draft height control is 55 metre and Area 3 – Sun Access Plane (Martin Place). The *existing* building exceeds the 55 metre height control limit and exceeds the Sun Access Plane height limit. No part of the refurbished building will increase the height of the existing building. Further discussion regarding this draft control is provided further below.
30. The application proposes 24 parking spaces and therefore complies with the draft parking (maximum) rate of 33 vehicles.
31. The site is not a draft heritage item. It is considered the proposal will not adversely impact on the significance of the adjoining/adjacent draft heritage items in the area.

### Central Sydney DCP 1996

#### COMPLIANCE WITH THE CENTRAL SYDNEY DCP 1996

Matter to be Considered	Complies	Comment
Building to the street alignment CI 2.1	✓	<b>Complies</b>
Street frontage heights CI 2.2	✓	<b>Complies:</b> The proposed refurbishment works maintain the existing building’s street frontage height.

Matter to be Considered	Complies	Comment
Building setbacks – front; side and rear CI 2.3	✘	<b>Does Not comply:</b> The existing building does not provide any building setbacks.
Street frontage heights and setbacks for special areas CI 2.4	✘	<b>Does Not comply:</b> Martin Place Special Area setbacks is 25m. The Street frontage heights and setbacks remain unchanged.
Street frontage activities CI 2.5	✓	<b>Complies:</b> The proposal provides activation at ground level for Martin Place, Pitt Street and Hosking Place including a high level of glazed retail space.
Building exteriors CI 2.7	✓	<b>Able to comply:</b> Refer to issues section.
Views CI 2.8	✓	<b>Complies:</b> The proposal will not impact or encroach on existing view lines east-west along Martin Place plaza.
Lanes CI 3.1	✓	<b>Complies:</b> Hosking Place is identified as an 'existing laneway' in Central Sydney. The elevation facing Hosking Place will incorporate a ground level tenancy and double height glazing to activate the laneway.
Vehicle access and footpath crossings CI 3.3	✓	<b>Complies:</b> The proposal will retain the existing vehicular access to the basement parking off Hosking Place via Castlereagh Street.
Awnings and colonnades CI 3.5	✓	<b>Complies:</b> Awnings are not identified to be provided along Martin Place. Small entry awnings are proposed to the commercial lobby on Martin Place and to the retail tenancy on Pitt Street. The awnings are considered acceptable.

Matter to be Considered	Complies	Comment
Sunlight to public spaces CI 4.1	✓	<b>Complies:</b> The proposed shadow diagrams provided show that there will be no additional overshadowing to Martin Place as a result of the works. The building extension located on the northern elevation and is located outside of the 'no additional overshadowing zone'. Refer to Issues section.
Energy efficiency of buildings CI 4.3	✓	<b>Complies:</b> The existing building has a current rating of 1. The proposed refurbishment works demonstrates a sustainable design and an ESD Report submitted with the proposal states that the commercial building will achieve a 5 Star base building rating.
Design and location of on-site parking CI 5.1	✓	<b>Complies:</b> The proposal will retain the existing vehicle entry and exit points to the building off Hosking Place. The basement parking will be designed to cater for service vehicles ranging from small trucks to motor cycle couriers. A proposal will provide a small truck loading bay and 2 courier van spaces.
Delivery and service vehicles CI 5.4	✓	<b>Complies:</b> The application proposes 24 tenant car parking, loading/servicing, 113 bicycle and 3 motorcycle parking in the existing basement
Bicycle parking CI 5.5		
Motor cycle parking CI 5.6		

### Issues

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

**'Refurbishment' and the Sun Access Plane**

33. The site is subject to the Martin Place sun access plane (12 noon on 14 April) under Sydney LEP 2005. The key LEP provisions are as follows:
- (a) development that results in any part of a building projecting above a sun access plane is prohibited (Cl. 48(1));
  - (b) the above clause does not apply to '*development resulting only in refurbishment of a building*' (Cl. 48(3)); and
  - (c) State Environmental Planning Policy No. 1 (Development Standards) and LEP clause 10 (waiver of certain development standards) do not apply.
34. It is noted that there is no LEP definition of 'refurbishment' nor is there case law dealing with 'refurbishment' under the LEP.
35. The draft LEP (as exhibited in February to April 2011) did not contain a 'refurbishment' exemption. However, following consideration of the submissions, the draft LEP, as adopted by the Council and the Central Sydney Planning Committee in March 2012 and referred to the Department of Planning and Infrastructure for gazettal, includes a similar provision allowing 'refurbishment' works above a sun access plane.
36. The applicant submits that:
- "The refurbishment works proposed are permissible with consent and fit within the definition of 'refurbishment' as:*
- (i) *The relocation of the core to the northern boundary and upgrades to the facade of the existing building is above the sun access plane under both SLEP 2005 and draft LEP 2011, but will be no higher than the existing building.*
  - (ii) *The proposal will refresh and renew the existing building and its use to the benefit of the general public. The proposal will also involve a public interest component in relation to works proposed at street level and the upgrade of a tired facade fronting the significant streetscape of Martin Place.*
  - (iii) *The selected facade upgrade and materials will greatly enhance the streetscape of Martin Place.*
  - (iv) *The proposed BCA, DDA and OH&S provide upgrades to current safety standards and those demanded of modern tenants.*
  - (v) *The proposal, whilst increasing FSA, is within the maximum FSR for commercial developments of 12.5:1. The increase in area is accountable via additional efficiencies within the existing floor plates and via the extension of the core to the north.*
  - (vi) *The proposed refurbishment works meet the objective of the current SLEP 2005 and draft LEP 2011 in that the proposed works above the sun access plane have nil additional impact on shadowing to Martin Place."*

37. In this instance, it is considered appropriate to apply the LEP provisions contextually, rather than literally, noting that there is no additional shadowing, that the LEP objective is preserved, and that the development is refurbishment.

#### **Other LEP overshadowing provisions**

38. The LEP (Cl. 49) also prohibits additional overshadowing of Martin Place (between Pitt and George Streets) between the times 12 noon to 2pm between 14 April and 31 August.
39. While not required by the LEP or the DCP, the MLC Centre forecourt was also considered a significant public space worthy of protection from additional overshadowing.
40. While initial concerns were raised with the eastern and western corners of the new rear (northern) core, further testing has since confirmed that no additional overshadowing will result both to the Martin Place Cenotaph block and to the MLC Centre forecourt.
41. It is also noted that the proposal retains the existing low scale podium fronting Martin Place, which is built below the allowable controls and currently allows direct sunlight to Martin Place during the winter lunch time period. It is not a LEP or DCP control to require retention of solar access in this space, however it is one of the few sun lit useable areas in Martin Place, which the proposal maintains.

#### **Waiving of requirement for Development Plan / Stage 1 Development Application**

42. In accordance with Part 5 of the Sydney LEP, a Development Plan or Stage 1 Development Application is required if the site is over 1500sqm or has a height that exceeds 55 metres prior to development consent being granted. The site area is less than 1500sqm however the height of the proposed building is 85m.
43. Clause 23(4) of the LEP allows the Council to waive this prerequisite if it is considered *'unreasonable or unnecessary to require compliance with those requirements'*.
44. It is considered that the requirement for a Development Plan / Stage 1 Application can be waived in this instance as the proposal is for the refurbishment of an existing building and relocation of the core to the north of the building. The additions to the building have been recessed from the east and west corners of the existing building at the northern elevation so as not to cause any reduction in solar access to Martin Place or the facade of the former GPO. The proposed works will not result in any change to the height of the existing building and will not result in a substantial change to the existing built form.

#### **General Design Matters**

##### Design Excellence/Competitive Process

45. Clause 26 of the Sydney LEP provides that where there is not a Development Plan in force, the consent authority may have regard to whether the proposal is the result of a design competition that is consistent with the requirements of the DCP.
46. The proposal involves the refurbishment and alterations to an existing building and it is considered that a competitive process is not required for the following reasons:

- (a) the proposed works involves alterations and additions to an existing commercial building;
  - (b) the works do not increase the overall height of the building and will not result in a substantial change to the gross floor area of the building;
  - (c) the proposal will not negatively impact on nearby heritage items; and
  - (d) the proposal will enhance the building within the public domain.
47. It is noted that the design team includes international and local firms collaborating on the project (being James Carpenter from James Carpenter Design Studio, New York, and Crone Partners). The applicant previously presented the concept proposal to the members of the Central Sydney Planning Committee in an informal meeting (August 2011) prior to lodgement. Following the informal meeting a number of matters for consideration / principles were drafted to guide and refine the concept design scheme for the subject site relevant for the consideration of design excellence. The proposal has been designed with regard to the matters for consideration.
48. The proposed development has been designed to achieve a 5 Star NABER energy rating and a minimum 5 star Green Star Office As Built v.3 rating in accordance with the Green Building Council of Australia's requirements.
49. It is therefore considered that the proposal achieves design excellence through a considered design response developed through extensive consultation with Council.

#### Design Advisory Panel

50. The proposal was presented to the Design Advisory Panel at its meeting of 31 July 2012. The following comments were raised by the Panel:
- (a) there should be no additional overshadowing of Martin Place and the MLC Centre forecourt to occur;
  - (b) concerned about the whiteness and materiality of the glass facade and recommended that darker tones of glass be used on the tower facade in keeping with the character of Martin Place; and
  - (c) recommended the use of sandstone for the podium, consistent with the Central Sydney planning controls.
51. The original submission proposed large double height spans of clear colourless glass at podium level and did not contribute to the character of surrounding buildings.
52. The applicant has provided revised plans/information to respond to the comments made by the Design Advisory Panel.
- (a) The applicant has commissioned an independent shadow analysis by Whelans Insites and confirms that the proposed plant room wall extension at the roof level will result in no additional overshadowing to Martin Place or the MLC Centre forecourt.



- (b) Along Martin Place the tower design consists of a series of floor to floor glass panels that are sloped outward at sill level and overlap the row of glass panels below to create a 'shingling' effect on the facade. An updated perspective has been provided that better reflects the tower glazing, which is shown to be darker in tone than the retail glazing in the base of the building. The tower glazing is proposed as not only a performance based aesthetic, but also in better keeping with the context.
- (c) In response to the concerns with the podium, the revised proposal incorporates a series of crystalline glass vitrines (picture windows) that are nested between a series of columns clad in a cast glass of a yellow block sandstone colour. The retail podium slabs edges are setback to emphasise the height of the glazed vitrines spanning over 3 levels.

The revised plans show the cast glass columns to have a minimum width 810mm and setback from the pedestrian plaza no more than 100mm to emphasise the glass shop window aesthetic which will be visible from all angles through the glass vitrines. The externally expressed columns provide a greater expression of mass and weight to the podium; however, it is considered that in order for the cast glass columns to create a robust character to the podium consistent with Martin Place the column width is to be increased from 810mm to a minimum width of 1000mm. A condition has been recommended.

The cast glass cladding with subtle sandstone colouration will assist in reinforcing the character of Martin Place, whilst providing a modern variation to the existing older style buildings.



**Figure 16 - Close up of south facade podium**

53. On the basis of the above, and in noting that the proposal is a refurbishment of an existing building, the revised design subject to the increased cast glass column width is considered to be acceptable and a reasonable response to the site context.

#### **Laneway (Hosking Place) Revitalisation**

54. The proposal, whilst retaining the existing driveway, includes the introduction of a new retail tenancy to Hosking Place where there is only currently a blank wall. This is a positive contribution to the laneway.



Figure 17 – Existing view of Hosking Place



Figures 18 – Proposed view of Hosking Place

55. Currently, the northern neighbouring property (92-94 Pitt Street) does not have a basement car park, with cars parking in a private 'recess' off Hosking Place. The loading and unloading of rubbish is also done from this 'recess'.



**Figure 19 – Hosking Place view of subject property and neighbouring 92-94 Pitt Street 'recess'**

56. The submitted design allows for a section of the northern wall on both basement levels 1 and 2 to be removed to allow for future vehicular access between the subject site and the neighbouring 92-94 Pitt Street site.
57. This has a positive impact in that:
- (a) it allows for the potential shared servicing through a common driveway; and
  - (b) the 'infilling' of the 'recess' with an active use, thus revitalising this part of Hosking Place.
58. Accordingly, a condition requiring the provision of a future connection and the sharing of driveways with the neighbouring property, has been included in the Recommendation.

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

59. The relevant matters for consideration have been addressed throughout this report.

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

60. The site is located amongst similar uses and is suitable for the proposed development.

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

61. The development generally complies with the relevant controls and will have no detrimental impacts on adjoining and nearby owners and occupiers

**POLICY IMPLICATIONS**

62. Not applicable to this report.

**FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS**

63. The cost of the development is in excess of \$200,000 and is therefore subject to a development levy pursuant to the Central Sydney (Section 61) Contributions Plan 2002. An appropriate condition has been included in the recommendation of this report.

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

64. Adjoining and nearby owners and occupiers of residential buildings were notified of the proposal and invited to comment 10 July – 8 August 2012. 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.
65. No submissions were received.

**Integrated Development**

66. The proposal is not Integrated Development.

**INTERNAL REFERRALS**

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

**RELEVANT LEGISLATION**

69. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

70. It is recommended that the requirement for a Stage 1 / Development Plan application be waived and that the proposed development application be approved.
71. The proposed refurbishment has been designed to achieve a 5 Star NABER energy rating and a minimum 5 star Green Star Office As Built v.3 rating in accordance with the Green Building Council of Australia's requirements.
72. The proposal achieves a high level of design including the use of a variety of different cladding systems that respond to the surrounding environment through a considered design response developed through extensive consultation with Council.
73. The proposed development is recommended for approval subject to conditions.

**GRAHAM JAHN**

Director City Planning, Development and Transport

(Vanessa Aziz, Senior Planner)