

**ITEM 9. DEVELOPMENT APPLICATION: 331-333 GEORGE STREET SYDNEY****FILE NO: D/2012/696****DEVELOPMENT APPLICATION NO: D/2012/696****SUMMARY****Date of Submission:** 14 May 2012, amended drawings received 11 October 2012 and 16 November 2012.**Applicant:** Charter Hall Funds Management Pty Ltd.**Architect:** Grimshaw**Land Owner:** The Trust Company Limited.

**Proposal Summary:** The application is seeking approval for the demolition of existing buildings at 331-333 George Street and construction of a 19 storey building comprising 14 storeys of commercial offices, basement, ground and first floor retail, roof top terrace and plant. The proposal includes the provision of lower ground retail and basement parking accessed from Wynyard Lane providing 18 car spaces, 5 motorcycle spaces, 2 service/courier spaces and 84 bicycle parking spaces. The height of the development is 71 metres and FSR is 13.75:1. The applicant is seeking a 10% variation to the maximum permitted FSR under Clause 10 of the Sydney Local Environmental Plan.

The applicant has agreed to enter into a Voluntary Planning Agreement (VPA) with Council for a monetary contribution of \$765,970 to be allocated to the Regimental Square project and public domain improvement works.

Two submissions were received, mainly regarding the impact of the development on future building redevelopment in the vicinity of the site, design of car parking and servicing bays and impact during construction phase.

A Stage 1 Development Application / Development Plan is requested to be waived by the applicant as the proponent has undertaken an 'invited' competitive design alternative process in accordance with the *Draft City of Sydney Competitive Design Policy*.

The VPA was placed on public exhibition on 26 November 2012 for 28 days.

**Summary Recommendation:** The development application is recommended for deferred commencement 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) City of Sydney Signage and Advertising Structures Development Control Plan 2005
  - (vii) Draft Sydney Local Environmental Plan 2011
  - (viii) Any relevant SEPPs

**Development Contributions:**

- (ix) 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 - Current Concept Drawings

**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, having regard to the following:
- (1) 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.
  - (2) The number of parking spaces proposed is below the maximum permitted limit prescribed in Sydney LEP 2005;
- (B) 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;
- (C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted subject to the following:
- (1) The Voluntary Planning Agreement prepared by Council and placed on public exhibition on 29 November 2012 shall be executed and submitted to Council and:
    - (a) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement;
    - (b) The Voluntary Planning Agreement, as executed must be registered on the Title of the land.
  - (2) The design and materials selection of the stone columns at ground first and second floor levels, the awning on the George Street facade and the northern elevation as shown on the Concept plans prepared by Grimshaw dated 16 November 2012 – (i.e. Columns Option B, Facade Type 3 and North Façade Option 3) shall be finalised in consultation with and approved by the Director City Planning, Development and Transport.
  - (3) The roof top terrace balustrade is to be setback to be wholly within the Sun Access Plane height restriction unless the Director City Planning, Development and Transport provides written advice that the transparency of the glass balustrades are acceptable.
  - (4) Final detailed architectural plans of these elements of the design shall be submitted to and approved by the Director City Planning Development and Transport;
- (D) evidence that those matters identified in deferred commencement conditions listed above, must be submitted to Council within 12 months or 365 days of the resolution otherwise the consent will lapse;

- (E) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions as indicated in Clause (C) above, have been satisfied; and
- (F) upon Council giving written notification to the Applicant that the deferred commencement conditions in Clause (C) above 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/2012/696 dated 14 May 2012 and plans approved as part of the deferred commencement conditions 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 DETAILS (MAJOR DEVELOPMENT)**

- (a) An updated materials schedule and sample board must be submitted and approved by the Director City Planning Development and Transport.
- (b) The curved glazed corners of the building shall be constructed with curved glazing as shown in the application documentation and shall not be faceted glass.

Written confirmation that curved glazing is to be used, with appropriately annotated plans, shall be submitted to the Director of City Planning Development and Transport prior to the issue of a Construction Certificate.

#### **(3) 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 15812.5sqm.

- (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 3,967sqm **4,025sqm** 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.

**(4) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 82.75 (AHD) to the top of the plant and wholly within the Sun Access Plan.
- (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.

**(5) BOUNDARY WINDOWS COVENANT**

All windows adjacent to the northern boundary of the site must be sealed, bricked up or otherwise enclosed, prior to the construction of any building abutting, adjoining or adjacent to such windows. Prior to a Construction Certificate being issued, a documentary restrictive covenant is to be registered on the Title of all units/tenancies facing the affected boundary. The covenant is to be created appurtenant to Council and at no cost to Council.

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

**(7) COMPLIANCE WITH ACOUSTIC REPORT**

All recommendations contained in Section 7 of the DA Acoustic Impact Assessment prepared by VIPAC dated 30 April 2012 and referenced 20C-12-0062-TRP-466612-4 must be implemented as a minimum to achieve the relevant noise criterion for the development.

**(8) SIGNAGE STRATEGY**

**(9) 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 Regimental Square and George Street, provide an enhancement of the visual character of Regimental Square, 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.

- (c) 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.

**(10) NOISE USE**

**(a) General criteria**

The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following criteria:

- (i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.
- (ii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with *Australian Standard AS 1055.1-1997-Description and measurement of environmental noise*.
- (iii) The LAeq,15minute noise level shall be adjusted to account for any applicable modifying factors in accordance with Part 4 of the EPA NSW Industrial Noise Policy.
- (iv) In this clause, the term “noise level emitted from the use” means the contributing noise level from the use in isolation to any other ambient noise and account must therefore be taken of the LAeq, 15minute when the use is not in operation.
- (v) In circumstances where this development application refers to a modification or addition to an existing use, the background noise level referred to in this clause pertains to the LA90, 15minute noise level measured in the absence of all noise from the site.

**(b) Internal to internal noise transmission - residential amenity**

- (i) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;
- (ii) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of *International Standard ISO 226 - Normal Equal-Loudness-Level Contours* then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
- (iii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;

- (iv) The LA90, 15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (excluding air-conditioning equipment) normally servicing the affected residence operating.

(c) **Internal to internal noise transmission – commercial amenity**

- (i) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any commercial premises provided that;
- (ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the commercial premises closed;
- (iii) The LA90, 15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (including air-conditioning equipment) normally servicing the commercial premises operating.

**(11) MECHANICAL VENTILATION**

- (a) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 and AS1668.2-1991, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- (b) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to the Principal Certifying Authority.

**(12) NOISE CONTROL VERIFICATION**

The Principal Certifying Authority (PCA) must ensure that a statement from an accredited acoustic consultant certifying that the acoustic mitigation measures identified in Section 7 of the noise assessment report prepared by VIPAC are suitably incorporated into the development, and the noise criteria in the subject report have been met prior to the issue of an Occupation Certificate.

**(13) 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".

**(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 occupants of residential buildings must be Class 1 bicycle lockers, and
- (b) all bicycle parking for staff / employees of any land uses must be Class 2 bicycle facilities, and
- (c) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

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

A maximum of 18 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) LOADING WITHIN SITE****(19) LOADING/PARKING KEPT CLEAR****(20) LOCATION OF ACCESSIBLE CAR PARKING SPACES**

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

**(21) SERVICE VEHICLE SIZE LIMIT**

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

**(22) SERVICE VEHICLES**

- (a) A minimum of two service vehicles spaces are required.



- (b) Adequate space must be provided to allow manoeuvring and turning of the different sized vehicles. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off-Street Parking Part 2: Commercial vehicle facilities. Details must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

**(23) 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.

**(24) TRAFFIC WORKS**

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

**(25) VEHICLE FOOTWAY CROSSING**

**(26) VEHICLES ACCESS**

**(27) INTERNAL HOLDING BAY TO BE ADDED**

The plans must be amended to provide a marked holding bay to allow a vehicle to wait for the vehicle lift to arrive. The holding area must be located such that a vehicle waiting in the bay does not obstruct the movement of a vehicle exiting either of the lifts. To show this is the case swept path plans must be included in the submission.

The plans must be amended and approved by Council prior to the issuing of the Construction Certificate for the development.

**(28) LOADING AND PARKING MANAGEMENT PLAN**

A Loading and Parking Management Plan must be prepared for the development and must be made available to drivers of all the vehicles using the site. The plan must include, but not be limited to, the following issues:

- (a) How the site will manage the dual use of one of the lifts, as both an car access and a loading dock;
- (b) Which hours both lifts will be used for car park access and which hours one will be used as a loading dock;
- (c) Any safety requirements for reversing into the loading dock from the lane

- (d) (iv) Any controls or measures the site uses to decide which vehicles use which loading dock when both are operational.

The plan must be prepared by a qualified traffic engineer prior to the Occupation Certificate being granted.

**(29) ACCESSIBLE PARKING SPACE**

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

**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.

**(30) RAILCORP – PROPERTY AND TITLE SEARCH AND SURVEY**

The applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor to the satisfaction of RailCorp's representative.

**(31) RAILCORP – SERVICES SEARCH**

Prior to the issue of a Construction Certificate the applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signaling. Should rail services be identified within the subject development site the applicant must discuss with RailCorp as to whether these services are to be relocated or incorporated within the development site.

**(32) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

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

**(34) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA**

**(35) CERTIFICATION OF GEOTECHNICAL INSPECTION**

Prior to the issue of a Construction Certificate, a **Geotechnical Inspection Certificate** in accordance with Clause A2.2(a)(iii) of the Building Code of Australia prepared by an appropriately qualified person must be submitted to the satisfaction of the Certifying Authority and a copy submitted to Council.

**(36) GEOTECHNICAL REPORT AND CERTIFICATION**

Prior to commencement of any foundation or bulk excavation, a Geotechnical Report must be submitted to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy submitted to Council (if it is not the Principal Certifying Authority).;

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

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

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

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

- (viii) Fire fighting equipment - Part E1;
- (ix) Smoke hazard management - Part E2;
- (x) Lift installation - Part E3;
- (xi) Emergency lighting, exit signs and warning systems – Part E4;
- (xii) Damp and weatherproofing - Part F1;
- (xiii) Sanitary and other facilities - Part F2;

Note: For restaurants, cafes, bars and the like, sanitary facilities (including accessible facilities for persons with disabilities complying with AS 1248.1) must be provided for customers where more than 20 seats are provided, including seating for any future footway dining facilities.

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

**(38) ANNUAL FIRE SAFETY STATEMENT FORM**

**(39) FIRE SAFETY CERTIFICATE TO BE SUBMITTED**

**(40) ASSOCIATED ROADWAY COSTS**

**(41) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the total lineal metres of the public frontage of **granite paving** 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.

#### **(42) 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.

#### **(43) 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.

**(44) 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.

**(45) 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 is to be prepared and submitted to Council's satisfaction.

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

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

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;

- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

**(46) 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 the 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.

**(47) PRESERVATION OF SURVEY MARKS**

**(48) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan of the roof top terrace, 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) Location, numbers and type of plant species;
  - (ii) Details of planting procedure and maintenance;
  - (iii) Details of drainage and watering systems;
  - (iv) No outdoor furniture is permitted within the roof top terrace area.

- (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.

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

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

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of the affected properties is 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.

**(51) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM**

**(52) ROAD OPENING PERMIT**

**(53) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE**

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

**(55) BARRICADE PERMIT**

**(56) LOT CONSOLIDATION**



- (57) ELECTRICITY SUBSTATION**
- (58) UTILITY SERVICES**
- (59) CONTAMINATION**
- (60) HAZARDOUS AND INDUSTRIAL WASTE**
- (61) INTRUDER ALARM**
- (62) ASBESTOS REMOVAL**
- (63) ASBESTOS REMOVAL SIGNAGE**
- (64) IMPORTED WASTE DERIVED FILL MATERIAL**
- (65) RAINWATER TANKS**
- (66) WASTE WATER RECYCLING**
- (67) ARCHAEOLOGICAL ASSESSMENT**
- (68) ARCHAEOLOGICAL INVESTIGATION**
- (69) HERITAGE INTERPRETATION STRATEGY**

- (a) An interpretation strategy for the site must be submitted to and approved by the Director of City Planning Development and Transport 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 occupation certificate being issued the approved interpretation strategy must be implemented to the satisfaction of Director of City Planning Development and Transport.

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

Prior to a Construction Certificate being issued, an archival photographic recording of the 331-333 George Street Sydney 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; 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 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.

**(71) 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 \$287,500 as security for the costs of such works provided that:
    - a. the maximum liability under the Deed must not exceed \$287,500; 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 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 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.

**(72) TREE PROTECTION ZONE**

Before the commencement of works, a Tree Protection Zone/s (TPZ) must be established around all tree/s to be retained not less than the distance indicated in the TPZ schedule below. Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites.

TPZ Schedule:

Tree No	Species Name	Location	Radius (m) from Trunk
2x	<i>Platanus x hybrida</i> (Plane Tree)	Council owned trees in Regimental Square	2 metres
13x	<i>Syagrus romanzoffianum</i> (Cocos Palm)		
8x	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		

**(73) STREET TREE PROTECTION**

Street trees must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. All street trees must be protected during the construction works as follows:

- (a) Tree trunk and major limb protection shall be undertaken prior to or during the installation of any approved hoardings or scaffoldings. The protection shall be installed by a qualified Arborist (AQF 2 or 3) and must include;
  - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times,
  - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage, and
  - (iii) Timber planks (50mm x 100mm or similar) shall be placed around tree trunk/s. The timber planks shall be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion.
  - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and shall be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
  - (i) Around or under the tree canopy; or
  - (ii) Within two (2) metres of the trunks or branches of any street trees.
- (d) Protective fencing (1.8 metre chain wire mesh fencing) must be erected on top of the hoarding to protect branches during the construction works.
- (e) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9673, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

#### **(74) STREET TREE PRUNING**

- (a) Only minor pruning will be permitted for scaffolding/hoarding/awning installation. If large branches (>50mm) are within the works areas, branches will require protecting with the hoarding designed or located around them.
- (b) Any pruning that is required to accommodate hoardings, scaffolding, or to allow for the installation of awnings will be undertaken by the City of Sydney.

- (c) The Contractor must notify Council's Tree Management Unit 9265 9333 one (1) month prior to works commencing to allow for Council to arrange tree pruning.
- (d) The Contractor shall meet with Council's Street Tree Coordinator to discuss the various activities including site set up and building clearance for scaffolding and hoarding installation, to determine the pruning required.
- (e) Under no circumstances shall branches be torn off by construction equipment.
- (f) Consent is not provided to the Contractor to carry out pruning.

## **SCHEDULE 1C**

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

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

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

#### **(77) 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.

#### **(78) 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.

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

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

**(80) USE OF MOBILE CRANES****(81) ENCROACHMENTS – NEIGHBOURING PROPERTIES****(82) ENCROACHMENTS – PUBLIC WAY****(83) SURVEY****(84) SURVEY CERTIFICATE AT COMPLETION****(85) COVERING OF LOADS****(86) EROSION AND SEDIMENT CONTROL****(87) PROTECTION OF STREET TREES DURING CONSTRUCTION****(88) VEHICLE CLEANSING****(89) SYDNEY WATER CERTIFICATE****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. This subject site is 331 and 333-339 George Street Sydney. The site has a primary frontage to George Street and secondary frontage to Regimental Square and Wynyard Lane. The site has a north-west view point to Martin Place.
2. The subject site comprises two separate allotments, is rectangular in shape and has a combined site area of approximately 1150sqm. 331 George Street is currently occupied by an existing 3 storey terrace building comprising retail at ground level. 333 George Street comprises the majority of the site with an existing 12 storey building occupying the site. A bar is contained within the ground and mezzanine levels and the remainder of the building is for commercial uses.

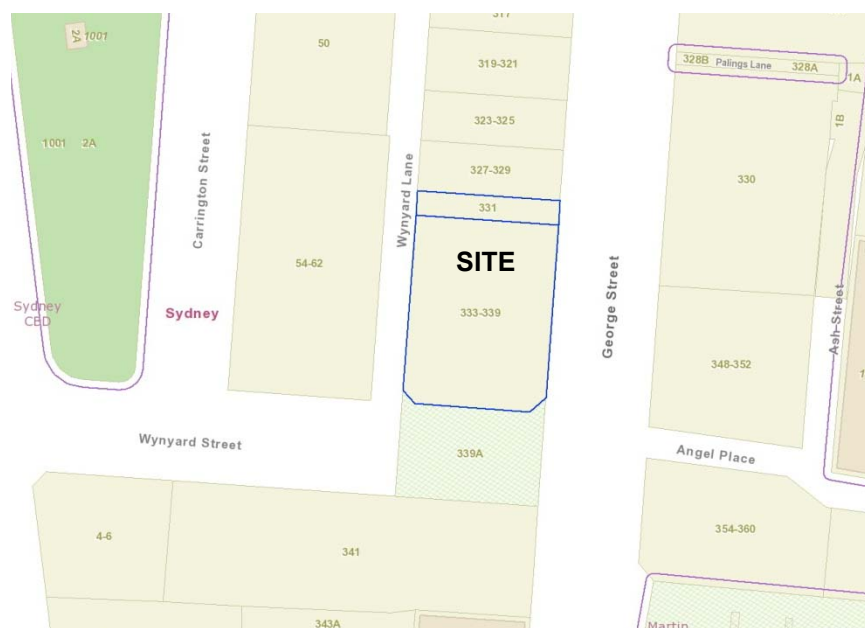


Figure 1: Location plan





Figure 2: view of existing building from George Street

3. Vehicular access is currently provided off Wynyard Lane and the single level parking area accommodates up to 16 vehicles.
4. Directly adjoining the site to the north are 2-3 storey buildings which accommodate a range of retail and commercial uses.
5. To the immediate south of the site is Regimental Square. Regimental Square is an identified Archaeological/Townscape/Landscape area of heritage significance which contains a memorial commemorating the Royal Australian Regiment in Korea, Malaya and Vietnam. To the south of Regimental Square is the former Bank of NSW building, this building is listed on the State Heritage Register.



Figure 3: Regimental Square

6. To the east of the site on the opposite side of George Street is the Societe Generale Building and the former ANZ Bank Building / Paspaly Pearls, both State listed heritage items. Martin Place is also located to the east of the site.

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

7. There are a number of development applications registered on Council's system in relation to the use of the premises as a licensed venue.

#### PROPOSAL

8. The application seeks approval for the following:
  - (a) demolition of all existing buildings/structures;
  - (b) construction of a 19 storey building comprising 14 storeys of commercial, plus basement parking, lower ground floor retail, ground level retailing, roof top terrace and plant;
  - (c) basement car park accessed via Wynyard Lane for 18 car parking spaces, five motorcycle spaces, 2 service/courier spaces, 84 bicycle spaces and two loading bays (one at grade level);
  - (d) basement level changing rooms, lockers, showers and toilets;
  - (e) extension and augmentation of physical infrastructure including new substation; and
  - (f) building name sign.

9. The proposed development is seeking an FSR of 13.75:1. The FSR proposed is 10% above the maximum FSR identified for the site. The applicant is requesting the consent authority waive the maximum FSR by 10% pursuant to Clause 10 of the Sydney LEP. The applicant has offered to enter into a Voluntary Planning Agreement with Council for a monetary contribution of \$765,970 to be allocated to the Regimental Square project and public domain improvement works.
10. Vehicular access to the site will be off Wynyard Lane. A single level of basement will be accessed via twin car lifts. The car lifts will be able to accommodate a 6.4m rigid vehicle. One at grade level loading bay will also be provided at Wynyard Lane to service the site.

### ORIGINAL AND AMENDED SCHEMES

11. The development application was first lodged on 14 May 2012. The initial scheme is shown in Figure 4. On 12 July 2012 the applicant was requested to revise the building design to address concerns raised by the Design Advisory Panel and to provide a better architectural response to meet Council's design excellence vision. On 11 October 2012 the applicant provided amended plans (shown in Figure 5).
12. The amendments included the following:
  - (a) the glass veil as originally proposed has been modified to be wholly within the solar access plane;
  - (b) sandstone material incorporated into the buildings elevation at ground level and on the buildings core;
  - (c) vertical sandstone fins provided at ground plane level to allow the building base to read as a 2 storey space; and
  - (d) the solid slab edges have been setback 1200mm from the window glazing by a clear glass element.
13. The amended plans were presented back to the Design Advisory Panel 23 October 2012. The Design Advisory Panel raised a number of issues regarding the revised design scheme in particular the quality of the masonry podium, northeast corner detail and northern boundary wall including the deletion of the awning.
14. On 16 November 2012 the applicant submitted a number of design alternative concepts for review relating to a revised facade detail at podium level, revised corner condition and northern facade articulation. These design alternative concepts are shown in Figures 6, 7 and 8 below.
15. Photomontages of the revised design are shown below:



Figure 4: View of original proposal from Wynyard Lane



**Figure 5: View of amended proposal (11 October 2012 view from Wynyard Lane (with vertical sandstone fins))**

16. The current design alternative concepts are shown below:



Figure 6: Facade Type 1



Figure 7: Facade Type 2



Figure 8: Facade Type 3

17. Whilst all the proposed Facade Types shown above propose masonry features, the masonry sandstone elements on Facade Type 3 being partially external to the glass line are more substantial especially when viewed from George Street (as shown above).
18. Facade Type 3 proposes exposed columns with retail glazing to the ground plane, level 1 and level 2 with the glazing extending partially over level 2 to improve the environmental performance of the office space on level 2.
19. Facade type 3 is the preferred design scheme of the applicant and Council.

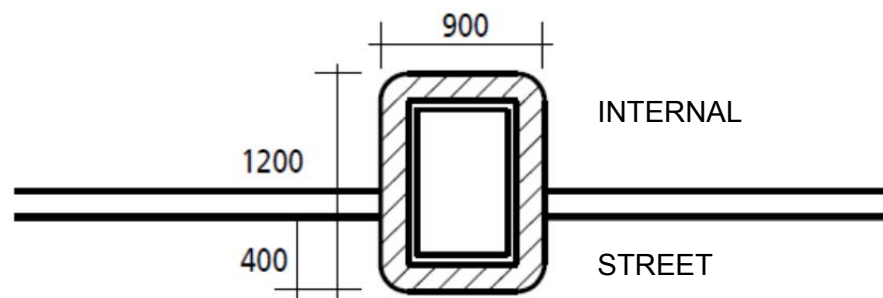


Figure 9: Detail of column in front of glazing

20. Revised alternative sketch detail of northern elevation shown below:



**Figure 10: Northern elevation – Option 1**



**Figure 11: Northern elevation – Option 2**

21. Both elevation options are considered acceptable and propose the introduction of solid infill panels within the 1800 facade grid and both options provide a transition from the glazed element through to the solid core.
22. The proposed concepts provide an articulated facade and respond to the concerns raised by Council officers and the Design Advisory Panel.
23. Facade Type 3 (Figure 8 above) and northern elevation Option 2 (Figure 11) are the preferred design concepts and the assessment of the development application will be finalised based on these drawings. Refer to issues section.
24. The concept plan details the design resolution of the façade to the north boundary in the event that the northern neighbouring building will be developed. This includes a tightened radius of the curved building element similar on all levels and the shadow gap.

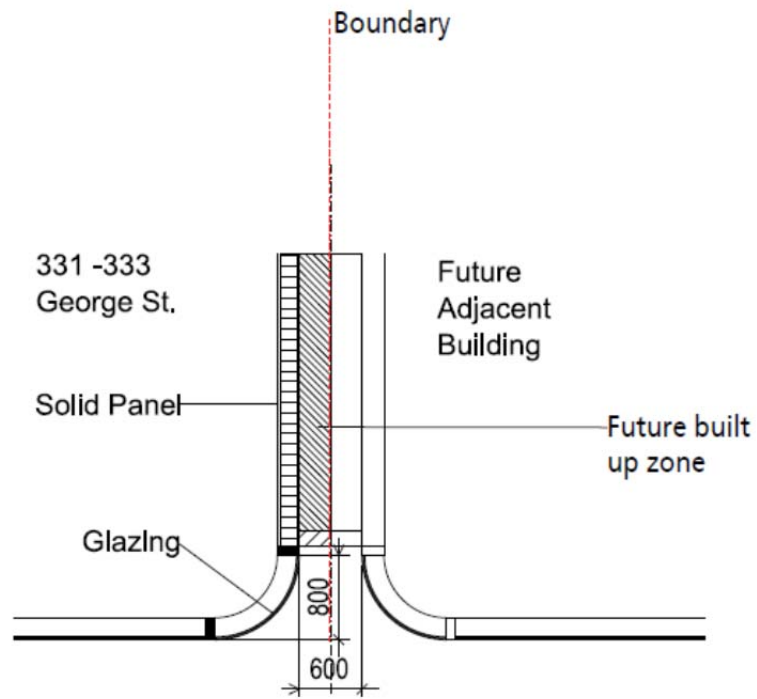


Figure 12 – North boundary design resolution concept





Figure 13: View of revised concept (16 November 2012 view from Wynyard Lane (with increased height of podium base and exposed sandstone columns)

## IMPLICATIONS OF THE PROPOSAL

### CITY OF SYDNEY ACT 1988

25. 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.”*
26. 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 (18) are below the maximum permitted spaces (23).
- (c) Access to the basement parking will continue to be accessed via Wynyard Lane.

### **Section 79C Evaluation**

27. 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)**

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

#### **SEPP (Infrastructure) 2007**

29. The application was required to be referred to Roads and Maritime Services for comment and to Railcorp for concurrence in accordance with the provisions of the SEPP.
30. Railcorp have granted their concurrence to the development application subject to conditions which have been included in the conditions of consent.
31. RMS has reviewed the development application and raises no objection as the proposed development will not have a significant traffic impact on the existing road network.

**SREP Sydney Harbour Catchment 2005**

32. 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 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.

**SEPP 55 – Remediation of Land**

33. 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.

**Sydney LEP 2005**

34. 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>	14,375sqm	15,812.5sqm (includes 10% bonus)
<b>Floor Space Ratio (Site area = 1150m<sup>2</sup>)</b>	12.5 : 1 (commercial)	13.75 : 1 (includes 10% bonus)

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
<b>Floor space to be Allocated</b>	HFS is to be purchased for development over 8:1 + 55m subject to general LEP controls.	<p>The subject proposal has an FSR of 13.75:1, which equates to a gross floor area of 15,812.5sqm.</p> <p>Therefore the amount of heritage floor space to be allocated to the site is half the difference between FSR of 8:1 and 12.5:1 and 100% of the difference between 12.5:1 and 13.75:1.</p> <p><math>12.5:1 - 8:1 \times 1150 = 5,175</math> divided by 2 = 2,587.5</p> <p><math>13.75 - 12.5 \times 1150 = 1,437.5</math></p> <p>The Heritage Floor Space allocation is 4,025sqm. A condition to this effect is recommended.</p>
<b>Height</b>	<p>Martin Place Sun Access Plane (Sun Access Plane E)</p> <p>No additional overshadowing of Martin Place between 12 noon and 2.00pm.</p>	Refer to issues section - Height
<b>Parking</b>	Max. 23	18
<b>Special Areas</b>	Martin Place Special Area	Acceptable
<b>Consistency with Development Plan</b>	Development Plan required	Refer to issues section
<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 the proposal is capable of exhibiting design excellence.</p> <p>Refer to issues section.</p>
<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 commercial building will achieve a 5 Star base building rating.

**LEP PART 6 – HERITAGE PROVISIONS**

35. 331 and 333 George Street are not an identified heritage items, however are located within the vicinity of a number of local and state significant heritage items including identified Archaeological/Townscape/Landscape items:
- (a) 348-352 George Street - "Societe Generale" building (State Heritage Item).
  - (b) 354 George Street - the Former Bank of Australasia building (State Heritage Item).
  - (c) 4-10 Martin Place - Challis House (State Heritage Item).
  - (d) 1 Marten Place - Sydney General Post Office (State Heritage Item).
  - (e) 343 George Street - Former National Australia Bank (State Heritage Item).
  - (f) 341 George Street - Westpac Bank (State Heritage Item).
  - (g) Regimental Square.
  - (h) Martin Place.
  - (i) Wynyard Park.
36. A Statement of Heritage Impact prepared by NBRSP+Partners dated May 2012 submitted with the development proposal states that the demolition of 331 and 333 George Street has an acceptable impact.
37. The subject site is identified within the "Special Area 9 Martin Place" in accordance with the Sydney LEP. Although the site is not located within Martin Place the Special Area extends east across George Street and through to Regimental Square. Whilst the original design scheme did not include any masonry elements at lower levels or have regard for the Special Area a number of design amendments have been made since that time to include masonry into the base of the building.
38. The revised podium height has increased from two levels to three levels and provides an improved relationship with the grand proportions of the surrounding palazzo style state listed heritage items.
39. The revised building design concept proposes an improved masonry base to the street George Street and Regimental Square frontages and provides columns that sit in front of the glazing. The solid floor slabs to the retail space have been setback 1200mm from the glass line and in-filled with clear toughened glass. The setback was required to distance the retail displays from the street frontage and to provide a grander proportion to the lower levels. The awning along Regimental Square as originally proposed has been deleted.
40. Subject to further refined detailed design of the masonry columns, George Street awning and northern elevation (by way of deferred commencement conditions) it is considered the proposal can comply with Part 6 Heritage Provisions under the Sydney LEP 2005.

**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 adoption. 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 zone. The proposal is permissible with consent.
43. The draft floor space ratio for the site is 12.5:1. In accordance with the Clause 6.21(7) of the draft LEP an FSR bonus of up to 10% is permitted for development that is the result of a competitive design process (maximum FSR being 13.75:1). The proposal complies.
44. The draft height control is Area 3 – Sun Access Plane. The proposed building is contained wholly within the sun access plane except for a portion of the glazed balustrade located on the roof top terrace. A condition is recommended requiring the balustrades to be setback so as not to protrude into the Sun Access Plane restrictive area.
45. The proposal complies with the draft parking (maximum) rate of 23 vehicle spaces.
46. The site is not a draft heritage item and is not located in a draft heritage conservation area; however the proposal is located in the vicinity of a number of locally listed and state listed heritage items. The subject site is also located within the draft Martin Place Special Area.

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

<b>Matter to be Considered</b>	<b>Complies</b>	<b>Comment</b>
Building to the street alignment Cl 2.1	✓	<b>Complies</b>
Street frontage heights Cl 2.2	✓	<b>Generally complies:</b> The proposed street frontage height ranges between 46m - 50m. The street frontage height is within the design of the glazed 'veil'. The non-compliance is acceptable in this instance as the location of the site in the street block is a corner site and the built form of the building has been designed to comply with the sun access plane height requirement. Clause 2.2.1 (iii) allows corner sites to generally include special design emphasis such as increased street frontage heights by one or two floors.

Matter to be Considered	Complies	Comment
Building setbacks – front; side and rear CI 2.3 & Street frontage heights and setbacks for special areas CI 2.4	✓/x	<b>Does Not comply but considered acceptable:</b> The design of the building is not a typical podium/tower design. The proposed street frontage height is setback by the roof top terrace and this is a direct result of the building envelope being designed to comply with the sun access plan height restrictions. The site is a corner block and corner sites generally permit a greater street frontage height. The height of heritage items on the western side of George Street are approximately eleven storeys in height, the proposal steps up and back in height from the corner of George Street and Regimental Square to the north-east. It is considered that the proposed building design will not negatively impact on the Martin Place Special Area in particular the impact to Regimental Square. The non-compliance with the setback controls is considered acceptable in this instance.
Street frontage activities CI 2.5	✓	<b>Complies:</b> The development provides greater activation of Wynyard Lane, Regimental Square and George Street.
Building exteriors CI 2.7	✓	<b>Complies:</b> The revised scheme incorporates sandstone columns to reinforce the stone masonry character of the precinct. The sandstone character is continued on the core of the building to the northern and western facades which rise to the top of the building. Refer to Issues section.

Matter to be Considered	Complies	Comment
Views CI 2.8	✓	<b>Generally complies:</b> The sandstone facade elements shown on the concept plans are an improvement and substantial when viewed from the north of George street, however the view of the building from Martin Place through to Regimental Square requires a greater mass to relate with the surrounding buildings' context (i.e. grand palazzo style State listed heritage items). The masonry elements will be further developed and refined through the deferred commencement conditions imposed.
Lanes CI 3.1	✓	<b>Generally complies:</b> Wynyard Lane is a service land and is predominantly used for service vehicles. The proposal will maintain the entrance to the car park via Wynyard Lane whilst increasing some street activation as the new building will slightly address the laneway corner at ground level and retail level 1.
Sunlight to public spaces CI 4.1	✓/✘	<b>Able to comply:</b> Refer to issues section.
Wind standards CI 4.2	✓	<b>Complies:</b> Vipac has provided additional information stating that desktop wind analysis concludes that the wind conditions on both George Street and Regimental Square comply with the standing criterion (<13m/s Annual Maximum Gusts).
Energy efficiency of buildings CI 4.3	✓	<b>Complies:</b> The proposed commercial building will achieve a 5 Star base building rating.



Matter to be Considered	Complies	Comment
Design and location of on-site parking CI 5.1	✓	<b>Complies:</b> Wynyard Lane is an existing service lane providing service access to buildings fronting George Street and Carrington Street. The location of on-site parking is in the same location of the existing building. As a result of the proposed development additional service vehicle and courier spaces are provided to that that is existing.
Delivery and service vehicles CI 5.4	✓	<b>Complies:</b> Four service bays are provided. One dedicated loading bay will be available off Wynyard Lane, one loading bay within the northern car lift and two loading bays within the basement. The Wynyard Lane loading bay and car lift will be able to accommodate a 6.4m long SVR service truck.
Bicycle parking CI 5.5	✓	<b>Complies:</b> 83 bicycle parking spaces provided including lockers and male and female amenities.
Motor cycle parking CI 5.6	✓	<b>Complies:</b> Five motor cycle parking spaces are provided within the basement parking.

### Issues

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

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

48. In accordance with Part 5 of the Sydney LEP, a Development Plan or Stage 1 Development Application is required if this 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 71m.
49. 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'*.

50. It is considered reasonable to waive the requirement in this instance as the site is constrained by the restrictive Solar Access Plane height limit control. In addition the proposed design was developed by way of an 'invited' competitive design process.

### **General Design Matters**

#### Design Advisory Panel

51. The proposal was presented to the Design Advisory Panel on 19 June 2012 and 23 October 2012 and a meeting with a sub-committee of the Design Advisory Panel was held on 8 November 2012. The following comments were raised:
- (a) the design of the podium to incorporate masonry.
  - (b) the curved treatment of the northeast corner of the building and proposed awning height and awning along Regimental Square frontage is not supported.
  - (c) concerns raised about the glazed northern facade on the boundary line.
  - (d) the commercial lobby is constrained and more generous entry sequence required.
52. Amended plans received on 11 October 2012 were presented to the Design Advisory Panel again on the 23 October 2012. The amended plans did not resolve the issues raised by the Design Advisory Panel in particular the sandstone element at podium level and northern boundary wall.
53. Following further extensive consultation with Council officers and feedback from the Design Advisory Panel sub-committee the applicant submitted a number of concepts and design options detailing a refined design on the 16 November 2012.
54. In summary the key refinements of the concepts and design options include the following:

#### North east corner condition

- (a) North eastern corner radius has been tightened.
- (b) The corner does not step back; radius remains the same on all levels.
- (c) A 300mm setback of the wall adjoining the neighbour will allow for a shadow gap to delineate the two buildings at ground and also at upper levels.

#### Northern facade articulation

- (a) The introduction of solid infill panels within the 1800 facade grid responds by differentiating the north facade condition to the other sides without creating a blank wall.
- (b) Infill panels incorporates a transition between the solid core and the glazed eastern facade.
- (c) Infill panels can be solid, sandstone/aluminium or glazed elements subject to further design development.

Building base

- (a) The columns at the shopfronts are to be positioned in the glazing line (i.e. columns in front of the glazing and glazing to 'pass' through the columns) and to align with the internal column grid.
  - (b) The columns are within the retail glazing at ground level, level 1 and level 2 with the tower facade glazing extending partially over Level 2 to improve environmental performance of office space on level 2.
55. The concepts address the comments made by the Design Advisory Panel however require further detailed design to be provided (deferred commencement conditions will be imposed).
56. The revised concepts show an awning consistent with Design Advisory Comments however no detail has been provided about the awning on the concept plans. The awning shown along the George Street elevation on the preferred "Facade Type 3" is acceptable and further design refinements are to be provided by way of Deferred Commencement conditions and approved by Director City Planning Development and Transport.
57. Although the drawings are in 'concept' form and further design details are required this can be resolved as part of a deferred commencement condition(s). Deferred commencement conditions will be imposed requesting design refinements and finer grain detail to be provided to and approved by Director City Planning Development and Transport.

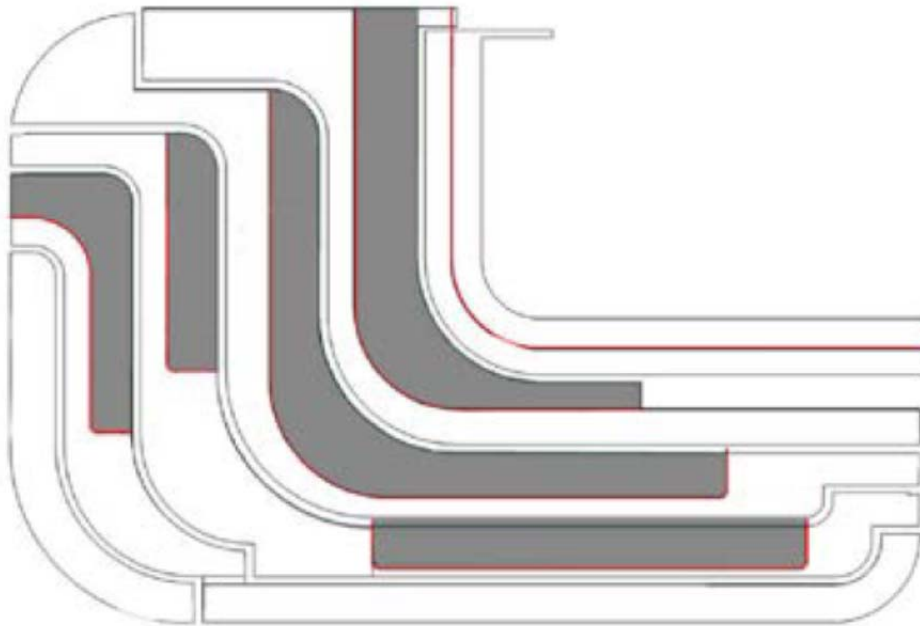
Design Excellence/Competitive Process

58. 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.
59. An 'invited' competitive design alternative process has been undertaken for the site. Three architects were invited to participate in the process in accordance with the draft City Of Sydney Competitive Design Policy. These architects included Durbach Block Jagers (DBJ), Building Studio and Grimshaw Architects. Grimshaw Architects were chosen as having the winning design scheme by the Selection Committee.
60. A number of design refinements have been made since the initial lodgement of the application.
61. The revised concepts submitted on 16 November 2012 have taken into consideration the issues discussed with a sub-committee of the Design Advisory Panel. It is considered that the revised proposal is capable of achieving design excellence through further design refinements of the Design Advisory Panel comments in consultation with the Director City Planning, Development and Transport.

**Solar Access Plane and Overshadowing**

62. The subject site is affected by the Martin Place Sun Access Plane (Sun Access Plane E).

63. Clause 49 of the LEP prohibits development that results in additional overshadowing to Martin Place (between George and Pitt Streets) between 14 April and 31 August between the hours of 12 noon and 2.00pm.
64. The sun access plane determines the limit and height of the building envelope however the overriding factor which restricts the extent of the building envelope is the prevention of additional overshadowing of Martin Place.
65. The original design scheme resulted in additional overshadowing to Martin Place through the 'glass veil' building element which protruded into the 'no additional overshadowing zone'.
66. The applicant's justification for the protrusion of the glass veil into the 'no additional overshadowing zone' was that:
  - (a) the glass veil formed part of the winning design competition and is considered to add to design excellence of the overall building and provides comfort to the occupants of the building when using the outdoor terrace space by reducing wind impacts;
  - (b) the glass veil is designed to be transparent with a high level of visual transparency via a very clear glass;
  - (c) the glass and associated structure will create an area of diffused light on the ground where the sun shines through and this is called a Penumbra. A penumbra is where a shadow is cast from an element but is not perceivable to the human eye and is not classified as a 'shadow' due to the distance from the ground that the shadow starts.
67. No additional overshadowing to Martin Place is permitted whether it be through the building mass or glazed screens. The LEP does not make any distinction between the different grades of shadow.
68. The applicant was advised on 12 July 2012 that the proposed building is to be redesigned to ensure that there is no additional overshadowing of Martin Place during the identified times and dates.
69. Amended plans were received 11 October 2012 showing the 'glass veil' to be setback wholly within the sun access plane defined by the 'no additional overshadowing zone'. However the proposal also includes glass balustrades on the rooftop terrace and these balustrades protrude into the 'no additional overshadowing zone'.
70. The applicant has requested that the balustrades be permitted in their current configuration as the impact of setting them back will result in the loss of 148sqm of rooftop terrace floor area (i.e. 42% reduction) with the majority of the remaining space being of a dimension that is not useable.



**Figure 14: Roof top terrace plan - The edge of the shaded area shows the location of the balustrade when set behind the solar access plane restrictive area (compliant scheme).**

71. As detailed above, any additional overshadowing results in a prohibition. The applicant's justification has been considered. Accordingly a condition is recommended requiring the balustrade be relocated out of the 'no additional overshadowing zone'.

### **Floor Space Ratio and Voluntary Planning Agreement**

72. In accordance with Clause 54 of the LEP the maximum permissible FSR for commercial development is 12.5:1. The applicant is seeking an FSR of 13.75:1 which is a 10% variation pursuant to Clause 10 of the LEP.
73. It is considered the proposed development is capable of accommodating a 10% uplift to the FSR control as the proposed development will not create an undesirable precedence for future development as the proposal:
- (a) does not exceed the maximum height limit determined by the solar access plane requirement;
  - (b) will enhance the public domain within the vicinity of the site by incorporating ground floor active uses which will activate and enliven Regimental Square and George Street;
  - (c) comprises a 5 Star NABERS rating commercial development; and
  - (d) proposes high quality materials and architectural design.
74. The application is accompanied by a public benefit offer as part of the development application. This has formed the basis of a Voluntary Planning Agreement (VPA) that nominates a monetary contribution of \$765,970 to be allocated to the Regimental Square project which the applicant has agreed to and has been placed on public exhibition but is not yet executed.

75. The VPA was placed on public exhibition on 29 November 2012 for a period of 28 days.
76. A deferred commencement condition is recommended to enable the execution of the Voluntary Planning Agreement prior to the commencement of the consent.

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

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

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

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

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

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

### **POLICY IMPLICATIONS**

80. Not applicable to this report.

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

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

### **PUBLIC CONSULTATION**

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

### **EXTERNAL REFERRALS**

82. Adjoining and nearby owners and occupiers of residential buildings were notified of the proposal and invited to comment including the RSL (in relation to Regimental Square Memorial). 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 21 May – 19 June 2012.
83. No comments were received by the RSL.
84. Two submissions were received from adjoining landowners. The grounds for objection are summarised as follows:
  - (a) 327-329 George Street is to be redeveloped in the near future and concern is raised over the northern boundary glazed wall and building name signage located at the top of the building. The redevelopment potential of this site is not to be compromised as a result of the northern boundary glazed wall.

**Comment:** The applicant has been advised that should consent be granted, a condition will be imposed to include a boundary covenant requiring the windows to be sealed, bricked up or otherwise enclosed prior to the construction of any building abutting, adjoining or adjacent to such windows. The applicant accepts that a boundary window covenant will be imposed to ensure the development potential on the adjoining site is not compromised by the subject development and glazed northern boundary wall. No signage will be approved as part of this application. A condition will be imposed recommending a Signage Strategy be submitted to detail all proposed future signage for the site.

- (b) We consider that the area proposed for the construction zone should be increased to enable a semi-trailer to fit within the zone. This would ensure minimal obstruction of Wynyard Lane.

**Comment:** A detailed Construction Traffic Management Plan must be submitted to and approved by Council for the demolition, excavation and construction phases of the development. The Construction Traffic Management Plan will provide as a minimum details regarding hours of work, truck routes, truck sizes, traffic and parking effects, consultation and pedestrian and traffic management.

- (c) In order to minimise any impact on the operation of the adjacent restaurant during construction, the height of the A Class Hoarding should be extended along the western boundary of the site as far as would affect the Restaurant.

**Comment:** The erection of construction hoardings requires separate Council approval. Construction hoardings are to be designed to relevant standards as outlined in the City Of Sydney Council Policy for the Design of Construction Hoardings. The aims of the Policy are to protect the amenity of the area and safety of pedestrians during development of the site. The design of the hoarding is to take into consideration the Policy.

- (d) We have significant concerns about the provision of car lifts for access to the car park.

**Comment:** Wynyard Lane is a service lane that provides service access to a number of properties that front George Street and Carrington Street. The car lifts will provide access to a number of off-street car parking spaces which will allow for deliveries to be undertaken within the site and it is considered that this approach will reduce congestion and on street loading in the laneway.

- (e) The dedicated loading bay off Wynyard Lane, which is the largest that will be available, has been designed to accommodate a 6.4 metre long small rigid truck (SUV). If a larger truck needs to access the site, it would need to park in Wynyard Lane adjacent to the loading dock.

**Comment:** It is not uncommon for vehicles to service the subject site and surrounding sites from Wynyard Lane, however the largest vehicle to service the subject site (i.e. loading bay and basement parking) is 6.4m. This does not restrict vehicles of a larger size to service the building however any vehicle that is larger than 6.4m in size will like all other vehicles servicing buildings along George Street, need to comply with the road rules/restrictions on Wynyard Lane.

**INTERNAL REFERRALS**

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

**RELEVANT LEGISLATION**

87. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

88. It is recommended that the requirement for a Development Plan/Stage 1 application be waived and the proposed development be supported.
89. The proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls. The proposed 10% variation to the maximum FSR control has been assessed against the relevant requirements and is considered acceptable and includes an agreed VPA.
90. The proposed development is the result of an alternative competitive design process and the revised sketch designs are capable of design excellence. The proposal considerably improves the presentation of the site to Regimental Square and George Street in comparison with the existing building on the site.
91. The proposal has been demonstrated to respond appropriately to the constraints and context of the site and accordingly it is recommended that the committee grant deferred commencement approval.

**GRAHAM JAHN**

Director City Planning, Development and Transport

(Vanessa Aziz, Senior Planner)