

ITEM 5. DEVELOPMENT APPLICATION: 38-48 YORK STREET AND 379-385 GEORGE STREET SYDNEY**FILE NO:** D/2013/767**DEVELOPMENT APPLICATION NO:** D/2013/767**SUMMARY****Date of Submission:** 11 June 2013**Applicant:** Fife Capital Group**Architect:** John Wardle Architects**Developer:** Fife Capital Group**Owner:** Tap Sydney CBD Pty Ltd**Cost of Works:** \$109,427,683.00

Proposal Summary: The application is seeking approval for the partial demolition of internal elements of the heritage listed Carlton House and Spiden House fronting York Street including alterations and additions; demolition of the 2 buildings on George Street and construction of a new 32 level residential tower comprising 199 residential apartments with 2 levels of basement car parking. A through site link is proposed between George and York Streets, which will utilise the existing Carlton House cart way.

The applicant undertook an alternative design competition process, which included four architects being Peddle Thorpe Walker, John Wardle Architects (JWA), Kannfinch and Elenberg Fraser Architects. Through this process JWA were appointed to develop the winning design. In accordance with Clause 6.21(7) of the LEP, an FSR bonus of up to 10% is permitted for development that is the result of an alternative design competition process if the proposal exhibits design excellence.

The proposal generally complies with the core planning controls of floor space ratio and height limits. The proposed setbacks to the tower block fit contextually within the surrounding built form despite a numerical non-compliance prescribed under the Sydney Development Control Plan (DCP) 2012.

**Proposal Summary
(continued):**

Four (4) submissions have been received and the issues raised are mainly regarding construction impacts, noise, amenity and rights of access to neighbouring properties. It is considered that these issues can be resolved through appropriate conditions of consent.

A Stage 1 Development Application/Development Plan is requested to be waived by the applicant as the proponent has undertaken an alternative design competition process in accordance with the *City of Sydney Competitive Design Policy* as well as taking into consideration the previously approved Stage 2 development application for a 20 storey commercial tower on the site.

Summary Recommendation:

The development application is recommended for deferred commencement approval, subject to conditions.

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012

Attachments:

A - Selected 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;
- (B) pursuant to the provisions of Clause 7.20(3) of the Sydney Local Environmental Plan 2012 (SLEP 2012), that the consent authority waive the requirement to prepare a development plan for the subject site as it is considered to be unreasonable and unnecessary in this instance;
- (C) pursuant to the provisions of Clause 4.6 of the Sydney LEP 2012 (SLEP 2012), that the consent authority accept the written request to waive the requirement to comply with the 60m maximum height limit control that applies to the York Street site as sufficient environmental planning grounds have been provided to justify the non-compliance with the development standard and it is unreasonable and unnecessary in this instance;
- (D) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted subject to satisfying the following RailCorp requirements:
 - (1) Final Geotechnical and Structural report/drawings that meet RailCorp's requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.
 - (2) Final Construction methodology with construction details pertaining to structural support during excavation, including details of any proposed piling, sheet piling, batter and anchors (to be noted it is RailCorp's requirement that no anchors will be permitted within its land or easements).
 - (3) Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
 - (4) Detailed Survey Plan showing the relationship of the proposed developed with respect to RailCorp's land and infrastructure.
 - (5) If required by RailCorp, tunnel monitoring requirements during excavation and construction phases is required.
 - (6) If required by RailCorp, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor will be required;
- (E) any conditions imposed by RailCorp as part of its approval/ certification/ requirement will also form part of this consent and must be complied with;

- (F) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council by 24 months from the date of determination;
- (G) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied; and
- (H) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions:

SCHEDULE 1A

Approved Development/Design Modifications/Covenants and Contributions/Use and Operation

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

(1) STAGED CONSTRUCTION CERTIFICATES

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

Stage	Works
1	Retention and Structure works to Spiden House (46-48 York Street) and Carlton House (36-44 York Street)
2	Demolition of George Street properties
3	Bulk Excavation and Structure works up to George Street level
4	Remainder of structure and heritage restoration and conservation works
5	Remainder of works to completion and Occupation

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2013/767 dated 11 June 2013 and the following drawings:

Drawing Number	Architect	Date
DA0301 E	John Wardle Architects	24.5.13
DA0302 E	John Wardle Architects	24.5.13
DA0303 E	John Wardle Architects	24.5.13
DA0304 E	John Wardle Architects	24.5.13
DA0305 E	John Wardle Architects	24.5.13
DA0306 E	John Wardle Architects	24.5.13
DA0307 E	John Wardle Architects	24.5.13
DA0308 E	John Wardle Architects	24.5.13
DA0309 E	John Wardle Architects	24.5.13
DA0310 E	John Wardle Architects	24.5.13
DA1001 L	John Wardle Architects	24.5.13
DA1002 L	John Wardle Architects	24.5.13
DA1003 L	John Wardle Architects	24.5.13
DA1004 L	John Wardle Architects	24.5.13
DA1005 L	John Wardle Architects	24.5.13
DA1006 L	John Wardle Architects	24.5.13
DA1007 L	John Wardle Architects	24.5.13
DA1008 L	John Wardle Architects	24.5.13
DA1009 L	John Wardle Architects	24.5.13
DA1010 L	John Wardle Architects	24.5.13
DA1011 L	John Wardle Architects	24.5.13
DA1012 L	John Wardle Architects	24.5.13
DA1014 L	John Wardle Architects	24.5.13
DA1018 L	John Wardle Architects	24.5.13
DA1026 L	John Wardle Architects	24.5.13

Drawing Number	Architect	Date
DA1030 L	John Wardle Architects	24.5.13
DA1036 L	John Wardle Architects	24.5.13
DA1039 L	John Wardle Architects	24.5.13
DA1040 L	John Wardle Architects	24.5.13
DA1041 L	John Wardle Architects	24.5.13
DA1042 L	John Wardle Architects	24.5.13
DA1043 L	John Wardle Architects	24.5.13
DA1044 L	John Wardle Architects	24.5.13
DA1047 L	John Wardle Architects	24.5.13
DA1701 C	John Wardle Architects	24.5.13
DA1812 E	John Wardle Architects	27.5.13
DA1813 E	John Wardle Architects	27.5.13
DA1814 E	John Wardle Architects	27.5.13
DA1815 E	John Wardle Architects	27.5.13
DA1816 E	John Wardle Architects	27.5.13
DA1817 E	John Wardle Architects	27.5.13
DA1840 E	John Wardle Architects	27.5.13
DA1841 E	John Wardle Architects	27.5.13
DA1842 E	John Wardle Architects	27.5.13
DA1843 E	John Wardle Architects	27.5.13
DA3001 F	John Wardle Architects	24.5.13
DA3002 F	John Wardle Architects	24.5.13
DA3003 F	John Wardle Architects	24.5.13
DA3004 F	John Wardle Architects	24.5.13
DA3005 F	John Wardle Architects	24.5.13

Drawing Number	Architect	Date
DA3006 F	John Wardle Architects	24.5.13
DA3007 F	John Wardle Architects	24.5.13
DA3020 A	John Wardle Architects	24.5.13
DA3501 K	John Wardle Architects	24.5.13
DA3502 K	John Wardle Architects	24.5.13
DA3514 K	John Wardle Architects	24.5.13
DA3515 A	John Wardle Architects	24.5.13

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.

(3) DESIGN MODIFICATIONS

The design of the building must be modified, as follows, to the satisfaction of Council's Director City Planning, Development and Transport, prior to the issue of a Stage 1 Construction Certificate:

(a) GEORGE STREET PODIUM:

- (i) The colour and grain characteristics and the mineral composition of the proposed sandstone facade cladding is to have a level of consistency with the Pyrmont 'yellowblock' sandstone of the adjacent King Georges Chambers building.
- (ii) The proposed bluestone clad columns at ground level are not approved and are to be replaced with a green/brown granite stone akin to the trachyte base of the adjacent King Georges Chambers building.
- (iii) The sandstone facade elements proposed for the podium levels 2-4 appear to float and are two dimensional, lacking in articulation typifying the adjacent heritage items. Details of the sandstone element should be re-designed to provide a more articulated facade where the stone elements appear to be more structural and load bearing. The glass line is to be folded inwards at columns gridlines to provide greater articulation.
- (iv) The height of the pool glazed balustrade is to be reduced in height to match the horizontal band of the King Georges Chambers.

- (v) The proposed double height awning is to be deleted and an alternative horizontal sandstone band element designed in its place.
- (b) RESIDENTIAL TOWER:
 - (i) Architectural drawings of the architectural roof feature design are to be provided.
 - (ii) Architectural drawings (section/elevation scale 1:50) confirming the height of the balcony balustrade to be no higher than 1.2m with a minimum 25% open area above (the balconies are not to be capable of being fully enclosed).
- (c) HERITAGE ITEMS: CARLTON HOUSE, 36-44 York Street and SPIDEN HOUSE, 46-48 York Street:
 - (i) The design and heritage conservation objectives for the interiors of both warehouses are to be the achievement of a completed “base-building” suitable for fitout by lessors, and the conservation of the interior fabric to a high standard, in particular the following fabric:
 - a. Original and early structural columns, beams, and walls.
 - b. Ceilings of moderate to exceptional heritage significance, including the underside of timber flooring where pressed metal ceilings are absent.
 - c. Any other fabric of moderate to exceptional heritage significance.
 - (ii) The proposal for Spiden House, whereby the original extant cast iron columns on the Ground Floor and Level 1 are removed from alternate rows and replaced with new steel RHS sections, is not approved.
 - (iii) The resolution of the lateral bracing is to be part of an integrated design process included with the proposed air-conditioning system and fire safety measures, and alongside the requirements of the Conservation Management Strategy, all with the following objectives:
 - a. mitigate adverse visual and physical impacts, and maximise the exposure of significant fabric,
 - b. utilise alternate solutions to minimise heritage impacts,
 - c. achieve clarity between contemporary and early structural systems,
 - d. remove later structural intrusions and resolve any deficiencies in the existing structural system, and

- e. utilisation of the unavoidable interventions (i.e. the new lift core in Carlton House, the two tower column supports and the vehicular hoists).
 - (iv) The resolution of the above integrated approach is to be clearly justified in terms of mitigation of heritage impacts and documented by floor plans, reflected ceiling plans and sections, indicating the relationship of transverse and vertical services reticulation with significant and proposed structural elements and with the proposed conservation of significant ceiling systems, so that the resultant interior character can be assessed.
- (d) CARLTON HOUSE, 36-44 York Street: The design of the building named 'Carlton House' must be modified as follows:
- (i) All pressed metal ceiling systems on each level of the building are to be conserved and exposed to view.
 - (ii) Sections of the original terracotta walling around the original central stair (balustrade or large openings), are to be conserved including areas of plaster retaining evidence of early colour schemes.
 - (iii) To respect the structural logic of the building:
 - a. The residential lift lobby, the riser duct adjacent to the Lift 09, and the riser duct adjacent to the northeastern stair are to be reconfigured to avoid conflicts with overhead beams and engaged wall piers.
 - b. The openings in the wall aligning the cartway are to be symmetrically positioned between piers/beams so as to reflect the structural rhythm of the building. Some reduction in width and exaggerated reveals would assist in enhancing the visual strength of the walls.
 - (iv) Confirmation of the approved drawings: All existing aluminium framed windows and doors on all levels and facades of the building are to be replaced by timber framed assemblies, the design of which is to closely interpret the original joinery.
- (e) SPIDEN HOUSE, 46-48 York Street: The design of the building named 'Spiden House' must be modified as follows:
- (i) Front facade, Ground Floor level:
 - a. The design resolution of the external openings is to closely interpret the original joinery.

- b. The proposed vehicular opening is to be spanned by an elliptical arch with keystone (such as is evident over the triplet windows at Level 5) in lieu of the flat open proposed. The opening width is to encompass the three openings (two windows and one double door) shown on the 1911 elevation, thereby retaining the original pier widths. The design of the finishes to all surfaces of the vehicular opening is to be carefully considered to be sympathetic with the character of the building.
- (ii) Front facade, all levels above Ground Floor: All early window joinery of the front façade of Spiden House is to be conserved.
- (iii) Rear façade, Ground Floor Level and Level 1: One original window opening fitted with an original multi-paned double hung window at Ground Floor (York St) Level and level 1 is to be conserved.
- (iv) The fire escape stair passage that discharges through the northern half of Spiden House is to be reconfigured to discharge in a less prominent location if feasible.
- (v) The proposed internal stair between Ground Floor and Level 1 is to be reconfigured to avoid conflict with the beams above.

The modifications are to be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Stage 1 Construction Certificate being issued.

(4) DESIGN DETAILS (MAJOR DEVELOPMENT)

A revised materials sample board detailing all proposed finishes must be submitted to and approved by Council's Director City Planning, Development and Transport Division prior to a Stage 1 Construction Certificate being issued.

(5) EXTERNAL COLOUR SCHEME (CARLTON HOUSE & SPIDEN HOUSE)

The external colour scheme is to be sympathetic to the architectural style and period of the buildings. A schedule of colours for Spiden and Carlton House is to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of the Stage 1 Construction Certificate.

(6) DESIGN QUALITY EXCELLENCE

- (a) In order to ensure the design quality excellence of the development is retained:
 - (i) The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;

- (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - (iii) Evidence of the design architect's commission is to be provided to the Council's Director City Planning, Development and Transport prior to release of the Stage 1 Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council's Director City Planning, Development and Transport.

(7) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 12.91:1 (combined total FSR) calculated in accordance with the *Sydney Local Environmental Plan 2012*. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 23,059.96sqm.
- (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 Environment Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.
- (c) Prior to a Stage 3 Construction Certificate being issued, Council's written verification must be obtained, confirming that 5426sqm 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 2012*.

(8) BUILDING HEIGHT

- (a) The height of the building must not exceed RL155.20 (AHD) to the top of the architectural roof feature and RL 148.10 (AHD) to the top 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.

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

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

- (a) Prior to a Stage 1 Construction Certificate being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment may be by **EFTPOS** (debit card only), **CASH** or a **BANK CHEQUE** made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" indicating the itemised cost of the development must be completed and submitted to Council by the Certifying Authority (CA), together with copies of the plans the subject of the application for the Construction Certificate. A copy of the required format for the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" may be obtained from the City of Sydney One Stop Shop, any of the Neighbourhood Service Centres and the City of Sydney's website (www.cityofsydney.nsw.gov.au).
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the CA accordingly.
- (d) The items to be included in the calculation of the cost of development are demolition works, site remediation including decontamination, excavation and site preparation, construction costs, fit out, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, equipment and appliances, kitchens and bar areas, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, floor coverings, *Building Code of Australia* compliance works, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST and any other matter not expressly excluded in (e) below.
- (e) The items to be excluded in the calculation of the cost of development are the cost of land, marketing expenses (excluding display suites etc), finance and interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting) and stamp duty.

(10) USE OF COMMON AREAS AND FACILITIES

The roof top terrace, gymnasium, swimming pool etc. must be available for the use all residents of the building, and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

(11) USE - SEPARATE DA REQUIRED

A separate development application for the fitout and use of the premises/each individual tenancy must be submitted to and approved by Council prior to that fitout or use commencing.

(12) PUBLIC ART

High quality art work must be provided within heritage cartway and adjacent courtyard in accordance with the Sydney DCP 2012 and the Public Art Policy. Details of the art work must be submitted to and approved by Council's Director City Planning, Development and Transport including:

- (a) The engagement of the shortlisted Artists for the final design competition shall be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of the stage 4 Construction Certificate.
- (b) Detail of the award and commissioning of the public art shall be submitted to and approved by Council's Director City Planning, Development and Transport prior to the stage 4 Construction Certificate.

(13) ACOUSTIC REPORT

An acoustic investigation of the proposed development is to be undertaken by a suitably qualified acoustic consultant who possesses the qualifications to render them eligible for membership to the Australian Acoustic Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants describing and assessing the impact of noise emissions from the use and submitted to and approved by the Principal Certifying Authority prior to a Stage 4 Construction certificate being issued.

The investigation must include, but not be necessarily be limited to, the following:

- (a) The identification of any neighbouring noise sensitive receivers who may be potentially impacted by the proposal.
- (b) An assessment of the existing background (LA_{90,15 min}) and ambient (LA_{eq,15 Min}) acoustic environment at the receiver locations representative of the time periods that any noise impacts may occur. (Measurement techniques and the assessment period should be fully justified and in accordance with AS 1055:1997 and the NSW Industrial Noise Policy).
- (c) The identification of all operations conducted onsite as part of the development proposal that are likely to give rise to offensive noise to neighbouring noise sensitive receivers.
- (d) Distances between the development and the nearest noise sensitive receiver and the predicted level of noise (LA_{eq, 15min}) from any development activities when assessed at the boundary of that receiver.

- (e) A statement confirming that the development will comply with the Council's "Noise Use" criteria together with any recommended of acoustic control measures that should be incorporated into the development to ensure that the use will not create adverse noise impacts to the occupiers of any neighbouring noise sensitive properties.

(14) COMPLIANCE WITH ACOUSTIC REPORT

All recommendations contained in the acoustic report(s) approved by City of Sydney Health and Building must be implemented during construction and use of the premises.

- (a) The Principal Certifying Authority (PCA) shall obtain a statement from appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied **prior to the issue of an Occupation Certificate.**

(15) REDUCTION OF NOISE FROM EXTERNAL SOURCES (RESIDENTIAL AND SERVICED APARTMENTS)

- (a) Prior to a Stage 4 Construction Certificate being issued, an acoustic assessment report must be submitted to and approved by the Certifying Authority demonstrating compliance with the requirements of the *Sydney DCP 2012* in relation to acoustic privacy. The approved drawings and specifications for construction are to be in accordance with the requirements of the DCP.
- (b) In the preparation of the report:
 - (i) The environmental noise monitoring at the site of the proposed development must be undertaken for not less than 3 week days, or not less than 2 weeks where the site is affected by noise from part-time operations;
 - (ii) The repeatable maximum L_{Aeq} (1 hour) for the daytime period (0700-2200 hours) and for the night time period (2200-0700 hours) is to be identified, and
 - (iii) The L_{Aeq} (1 hour) noise levels within living rooms and bedrooms with windows and doors both open and closed must be shown.
- (c) Prior to an Occupation Certificate being issued, a Compliance Certificate from a qualified, practicing acoustic engineer must be submitted to the satisfaction of the Principal Certifying Authority, certifying compliance with the condition.

(16) ACOUSTIC PRIVACY BETWEEN UNITS

The development must be designed and constructed to satisfy the requirements of the *Sydney DCP 2012* acoustic privacy requirements. A report prepared by a suitable qualified acoustic professional must be prepared and submitted to the certifying authority prior to the issue of a Stage 3 Construction Certificate, and must be suitable referenced in the Construction Certificate documentation.

- (a) The report should quantify the level of impact (noise at the exposed facades) from the normal noise of the area on the development.
- (b) The report should identify acoustic mitigation measures to be incorporated into the building design to ensure compliance with the design goals contained within the *Sydney DCP 2012*.
- (c) The Certifying Authority (PCA) must ensure that the acoustic mitigation measures identified in the subject report are suitable incorporated into the development as erected prior to the issue of an Occupation Certificate.

(17) NOISE USE**General criteria**

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

Internal to internal noise transmission - residential amenity

- (b) 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:
- (i) 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.
 - (ii) 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.
 - (iii) 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.

Internal to internal noise transmission – commercial amenity

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

(18) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS

The air conditioner/s must comply with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008 and shall not:

- (a) emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) before 7.00am and after 10.00pm on any other day; or

- (b) emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those *specified* in (i) and (ii) above, which exceeds the background ($L_{A90, 15\text{minutes}}$) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.

(19) INTRUDER ALARM

Intruder alarm/s associated with the development must operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2008* under the *Protection of the Environment Operations Act, 1997*.

(20) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES

For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the units in any future strata subdivision of the building.

(21) 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".

(22) BICYCLE FACILITIES

A minimum of 4 showers and 44 personal lockers are to be provided for employees.

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

- (a) two showers with change area; and
- (b) 20 personal lockers.

The additional two showers are to be provided in bathrooms within the commercial offices if they cannot be accommodated within the bicycle facilities room. A minimum of 12 lockers are to be provided within close proximity to each shower (i.e. a total of 24 additional lockers). These facilities can be provided as part of the future tenancy fit outs.

The details must be submitted to and approved by the Principal Certifying Authority prior to a Stage 4 Construction Certificate being issued.

(23) BICYCLE PARKING

A minimum of 158 residential, 44 employee/staff and 24 visitor bicycle parking spaces must be provided. Additionally, an area equivalent in size to a Class 1 bicycle locker must be provided within 41 residential units (providing a total of 199 residential bicycle parking spaces).

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, or at a minimum, equivalent in size to a Class 1 bicycle locker where located within a residential unit, or within a designated residential storage cage and
- (b) all bicycle parking for staff / employees must be Class 2 bicycle facilities, noting that alternative systems with a minimum spacing between parking rails of less than 600mm may be used, subject to approval by Council's Cycling Manager, and
- (c) all bicycle parking for visitors must be Class 3 bicycle rails.

The details must be submitted to and approved by the Principal Certifying Authority prior to a Stage 4 Construction Certificate being issued.

Note: It is recommended that areas for staff bicycle parking are located separately to areas for residential bike parking.

(24) CAR PARKING SPACES AND DIMENSIONS

A maximum of 13 off-street car parking spaces must be provided (includes 6 car stackers). 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 Stage 3 Construction Certificate being issued.

(25) CHANGES TO KERB SIDE PARKING RESTRICTIONS

A separate submission must be made to the Sydney Traffic Operations Unit seeking the City's approval for any changes to kerb side parking arrangements. There is no guarantee kerb side parking will be changed or that any change will remain in place for the duration of the development use.

The submission must include two plans. One showing the existing kerb side parking restriction signs and stems, the second showing the proposed kerb side parking restriction signs and stems. Both plans must include changes to all signs and stems from the kerb line of the nearest intersection.

All costs associated with the changes to sign posting will be at no cost to Council.

(26) COST OF SIGNPOSTING

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

(27) HOLDING AREAS

Areas within the site must be clearly sign-posted and line marked as waiting bays for the purpose of allowing clear access to vehicles entering or exiting the site via a one-way access driveway. Details must be submitted to and approved by the Certifying Authority prior to a Stage 3 Construction Certificate being issued.

(28) LOADING WITHIN SITE

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

(29) LOADING/PARKING KEPT CLEAR

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

(30) SERVICE VEHICLE SIZE LIMIT

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

(31) SERVICE VEHICLES

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

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

Adequate space must be provided to allow manoeuvring and turning of the different sized vehicles. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off-Street Parking Part 2: Commercial vehicle facilities. Details must be submitted to and approved by the Certifying Authority prior to a Stage 4 Construction Certificate being issued.

(32) 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.
- (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.

(33) TRAFFIC WORKS

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

(34) VEHICLES ACCESS

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

(35) 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 Stage 3 Construction Certificate being issued.

(36) LOADING DOCK MANAGEMENT PLAN

Prior to the issue of an Occupation Certificate a loading dock management plan must be submitted to and approved by Council. The plan must include, but is not limited to, management of deliveries to ensure there is no requirement for any service vehicles to wait on the public streets to enter the site; and the specific loading times for the various tenants of the site and the adjacent site at 375-377 George Street, Sydney. Once approved, this management plan will need to be provided to all tenants and external users of the loading area.

(37) FLOOR TO CEILING HEIGHT

Prior to a Stage 4 Construction Certificate being issued, the Certifying Authority must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

(38) SIGNS - SEPARATE DA REQUIRED

- (a) No signage is approved as part of this consent.
- (b) A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs under Council's exempt and complying DCPs) must be submitted to and approved by Council prior to the erection or display of any such signs.

(39) SIGNAGE STRATEGY

A Signage Strategy is to be submitted and approved by Council's Director of Planning, Development & Transport prior to the issue of a Stage 5 Construction Certificate. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

(40) PARTITION WALLS

Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.

(41) EXTERNAL LIGHTING

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

(42) LOADING AND FIRE EGRESS DURING CONSTRUCTION

- (a) Prior to the issue of Stage 1 Construction Certificate, the applicant must submit to Council a schedule specifying the times and dates during its construction program that anticipates existing access to loading dock facilities on, and fire egress over, the Site for the adjoining site of 375-377 George Street may be restricted or otherwise unavailable due to health and safety or other bona fide construction related reasons, together with a program for notifying occupiers and users of the adjoining site of those times and dates. T
- (b) The schedule and program will need to be provided to all users and occupiers of the adjoining site.

(43) ACCESS TO SERVICES FOR 375-377 GEORGE STREET

Provision must be made within the development site for connections to and services for the adjoining site of 375-377 George Street. Details must be provided prior to the issue of a Stage 1 Construction Certificate for the new building to the satisfaction of Council.

(44) CONSERVATION MANAGEMENT PLAN

- (a) To provide an effective guide for the buildings, the Conservation Management Plan by Design 5 Architects Pty Ltd dated November 2011 is to be amended to incorporate information on the nature, condition and heritage significance of all fabric uncovered by the strip-out of the interiors which took place after completion of the CMP dated November 2011. Reflected ceiling plans are to be incorporated into the sections on physical analysis and gradings of significance.
- (b) The amendments are to be submitted to Council's Director City Planning, Development and Transport Division for approval prior to the issue of the Stage 1 Construction Certificate.

(45) CONSERVATION MANAGEMENT STRATEGY

- (a) To ensure a commitment to the conservation of the significant fabric and character of Carlton House and Spiden House, the Outline Schedule of Conservation Works by Design 5 Architects Pty Ltd dated January 2011, is to be further developed into a detailed Conservation Management Strategy comprising a floor by floor schedule of conservation works for all fabric identified as of Moderate to Exceptional heritage significance in the amended CMP, supported by specifications and detailed drawings.
- (b) In addition to the works contained within the Outline Schedule of Conservation Works, the following is to be included:
- (i) Window and external door joinery schedules (at scale 1:20) with supporting details (at scale 1:5) and specifications.
 - (ii) Details of the final presentation of the cartway of Carlton House including the interpretive gates, openings within the aligning walls, conservation of the ceiling, and walls, lighting, paving. Any discovery of former road surfaces preserved beneath the current surface should inform the paving design.
 - (iii) Details of the proposed voussoirs and arches to be reconstructed at Spiden House, in elevation (at scale 1:20), section (at scale 1:20) and plan (at scale 1:5). The detail plans are to show the relationship with the reconstructed joinery.
 - (iv) Details of the sandstone cornice to be reconstructed at Carlton House, in elevation and section (at scale 1:20).
 - (v) Spiden House and Carlton House:
 - a. Detailed schedule of brickwork, sandstone and stucco façade repairs including elevations that identify the extent and location of the conservation works.
 - b. Basement Levels (George Street Level): Conservation of original timber post and beam structures.
 - c. The approach to reconstructive works where walls or sections of brick and sandstone walls are to be dismantled and reconstructed.
 - d. The approach to re-establishing timber and pressed metal ceiling systems throughout, including ceiling panels, beam fascia and soffit panels, cornices, cover beads and modillions.
 - e. Internal plaster repairs and internal floor repairs where these will remain exposed with timber of matching timber section and species.
 - f. Removal of intrusive elements, for example, the RSJs supporting Level 3 floor of Spiden House added in 1985 below the pressed metal ceiling level.

- g. Investigation as to whether the original loading dock could be carefully dismantled for an interpretive display is to be undertaken as part of the Interpretation Plan.
- (c) The Conservation Management Strategy must be submitted to and approved by Council's Director City Planning, Development and Transport Division prior to the issue of the Stage 1 Construction Certificate.
- (d) The Conservation Management Strategy must be implemented to the satisfaction of Council's Director City Planning, Development and Transport Division prior to the issue of the Occupation Certificate.

(46) STRATEGY FOR FUTURE TENANCIES

- (a) GEORGE STREET PODIUM: To ensure that future tenancy fitouts do not conceal the shopfronts and negatively impact on the lower ground floor, upper ground floor and first floor levels visible from George Street a set of guidelines for future tenancies is to be developed.
- (b) CARLTON HOUSE, 36-44 York Street and SPIDEN HOUSE, 46-48 York Street: To ensure that future tenancy fitouts respect enhance the presentation of the facades of both warehouses, retain the character of the conserved interiors, and that significant fabric is protected and remains exposed to view, a set of guidelines for future tenancies is to be developed for the two heritage items.
- (c) The guidelines are to 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.
- (d) The strategies are to be submitted to and approved by the Director City Planning, Development and Transport prior to a Stage 5 Construction Certificate being issued.

(47) GENERAL HERITAGE

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- (b) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric.
- (c) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
- (d) The new windows and doors must use timber joinery.
- (e) The face brickwork/sandstone must not be rendered, painted or coated.
- (f) Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.

(48) HERITAGE ASSET MAINTENANCE PLAN

To ensure the continued protection of heritage significance of the heritage item and to guide the future maintenance on heritage fabric, a costed Heritage Asset Maintenance Plan is to be developed. The following is to apply:

- (a) The Plan is to include all fabric identified as being of Exceptional to Moderate heritage significance, specification notes and methodologies based on the Articles of the Australian ICOMOS Burra Charter 1999 and best conservation practise, and a list of appropriate consultants and suppliers together with the projected costing for each item of work.
- (b) The Plan is to be prepared by the Conservation Architect and is to be submitted to Council's Director City Planning, Development and Transport Division for approval prior to the issue of an Occupation Certificate.

(49) USE OF CONSERVATION ARCHITECT

An experienced conservation architect is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The conservation architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council's Director City Planning, Development and Transport where information or clarification is required regarding the resolution of heritage issues throughout the project.

- (a) Evidence and details of the above commission on the above terms are to be submitted for approval by Council's Director City Planning, Development and Transport prior to the issue of the Stage 1 Construction Certificate.
- (b) Throughout the documentation and construction stages of the approved works, the Conservation Architect is to maintain a diary of site inspections that includes photographs of the works and details of advice arising out of the inspection. Site inspections must be of not less than fortnightly intervals. The Conservation Architect is also to compile a Heritage Impact Statement for all decisions made throughout the project. To ensure a final approval by Council, the Diary and the Heritage Impact Statement should be submitted to Council's Director City Planning, Development and Transport on a regular basis throughout the project.
- (c) The conservation architect must sign off the completed project and submit the Diary and the Heritage Impact Statement for approval by Council's Director City Planning, Development and Transport prior to the issue of an Occupation Certificate or the commencement of the use, whichever is earlier.

(50) ARCHAEOLOGICAL INVESTIGATION

- (a) The applicant must undertake the relevant applications to the NSW Government Office of Environment and Heritage, Heritage Division for an excavation permit under Section 140 of the Heritage Act 1977 or alternatively, an exemption under Clause 139.
- (b) Should any potential archaeological deposit likely to contain Aboriginal objects be identified by any person during the planning or historical assessment stage, application must be made by a suitably qualified archaeologist to NSW Government Office of Environment and Heritage for an excavation permit for Aboriginal objects.
- (c) The applicant must comply with the conditions and requirements of any excavation permit required, and are to ensure that allowance is made for compliance with these conditions and requirements into the development program.
- (d) General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.
- (e) Should any relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the NSW Heritage Division should be informed in accordance with section 146 of the Heritage Act 1977.
- (f) Should any Aboriginal **objects** be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and **NSW Government Office of Environment and Heritage** is to be informed in accordance with Section **89A** of the National Parks and Wildlife Act, 1974;
- (g) A copy of recording of the finds and the final archaeological summary report is to be submitted to Sydney Council prior to the Occupational Certificate;

(51) HERITAGE INTERPRETATION STRATEGY

- (a) An interpretation strategy for the entire development site must be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Stage 1 Construction Certificate being issued.
- (b) The interpretation strategy must detail how information on the history and significance of the entire development 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 Council's Director City Planning, Development and Transport.

(52) HISTORIC MARKER

Brass plaques relating to the history of the site must be installed on the facades of the Both Carlton and Spiden House prior to occupation. The design, location and wording must be submitted for the approval of Council prior to an Occupation Certificate being issued.

(53) MATERIALS FOR MAKING GOOD

New materials for making good, are to match the original materials in terms of colours, finishes, sizes, profile and materials.

(54) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MAJOR WORKS)

Prior to a Stage 2 Construction Certificate being issued, an archival photographic recording of the interiors and exteriors of Spiden and Carlton House, the interiors of the historic elements within the basement levels of the two buildings fronting George Street and their exterior facades, is to be prepared to Council's satisfaction. The recording is to be digital, and 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.

Procedure

For buildings or structures with heritage significance, the archival documentation, and the number and type of selected enlarged photographs required will be determined by the significance and quality of the building or structure. For a scope of work, refer to Council's Heritage Specialist to determine the particular architectural/design features of the building/site that may need to be recorded.

For buildings or structures with no heritage significance the archival documentation requirements are less comprehensive, and may just be limited to contextual and exterior photographs only. However, this will depend upon the type, complexity and significance of the building, and should be confirmed with the Area Planning Manager, and if necessary Council's Heritage Specialist.

Because significant fabric may remain concealed and only be exposed during construction works, the archival recording is to be undertaken in stages, prior to the removal of any significant building fabric or furnishings from the site, during the removal of fabric on site that exposes significant building fabric or furnishings, and after work has been completed on site, as considered appropriate by the conservation architect commissioned for the project, and submitted as two parts as follows.

- (A) The second submission (first submission completed as part of D/2010/1460) of the archival recording is of significant building fabric or furnishings that is exposed during demolition or construction and after work has been completed on site, and must be submitted to Council prior to an Occupation Certificate being issued.

The form of recording is to be a photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s) photographed, where appropriate, using a camera/lens capable of 'perspective correction'. The photographic 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.

- (a) For each of the two submissions listed above in (A), the form of the recording is to be as follows:
 - (i) In A4 format, placed in archival plastic sleeves in an appropriate archival folder.
 - (ii) The Development Application number and the Condition of Consent number must be noted on the front of the folder and in the report.
 - (iii) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
 - (iv) Each digital image is to be cross referenced to a photographic catalogue and photographic base plans.
 - (v) 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.
- (b) The digital based recording is to include:
 - (i) 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.

(55) SALVAGED MATERIALS TO BE RETAINED ON SITE

All surviving early fabric displaced by the works including but not limited to sandstone, timber and bricks is to be labelled and stored on site to facilitate future reinstatement. An inventory of stored items, the proposed storage location and the proposed method of reinstatement or reuse on the site must be submitted to and approved by Council's Director City Planning, Development and Transport Division prior to the issue of a Stage 1 Construction Certificate.

(56) SANDSTONE RECYCLING (FOR LARGE SCALE DEVELOPMENTS INVOLVING EXCAVATION TO A DEPTH OF AT LEAST ONE BASEMENT LEVEL)

- (a) A Geotechnical Report prepared by a suitably qualified geotechnical engineer is to be submitted to Council's Director City Planning, Development and Transport prior to the issue of the Stage 1 Construction Certificate. The report is to include an investigation the nature of the existing subsurface profile using appropriate investigation methodology and borehole testing techniques.
- (b) The Geotechnical Report is to analyse the quality of the material, including contamination, and to assess the suitability of the rock for removal by cutting into quarry blocks for use as high quality building construction material, including for building conservation.
- (c) Subject to confirmation that the rock is of a suitable quality for reuse in other construction, the Geotechnical Report is to include an Excavation Work Method Statement with recommendations as to the depth of the most suitable profile, details excavation methodologies, cutting methods and procedures for the removal of all sandstone material in a useable form and size, noise and dust attenuation measures in addition to recommendations for monitoring, notifications and review.
- (d) In addition, details of any required storage of material off site must be submitted. If the quantity of sandstone material exceeds the needs of the site, or if the approved development does not provide for the use of any sandstone, or if the material is 'Yellow Block' sandstone required for conservation of buildings, the material must be stored in an appropriate location for later reuse. Storage may be able to be facilitated by the Council or the NSW Department of Commerce. Please contact the Manager of the Centenary Stonework Program at the NSW Department of Finance and Services on 9372 8526 for further enquiries with regard to storage.
- (e) The programming of the works is to take into account, the above process.

(57) SITES IN THE VICINITY OF A HERITAGE ITEM

- (a) A protection strategy for the duration of the construction works, is to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of the Stage 1 Construction Certificate. The Strategy is to detail how the proposed works will ensure that the adjacent heritage items at 375-377 George Street, 387 George Street, and 50-54 York Street and the adjacent building at 36 York Street are to be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water runoff, vibration or structural disturbance or damage.

- (b) Additionally, the protection strategy is to include:
 - (i) A geotechnical report detailing the investigation of the location and depth of footings of the adjacent buildings. This report should address details of lateral ground movement, advice of any additional boundary offsets that may be required as a result of the location of footings and on the suitability of structural engineer's proposals for underpinning or other support to adjacent footings.

SCHEDULE 1B

Prior to Construction Certification/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.

(58) RAILCORP CONDITIONS

- (a) Prior to the issue of a Stage 1 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 signalling. 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.
- (b) Prior to the commencement of works, during works and prior to the issue of the Occupation Certificate, and 1 year following completion, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.
- (c) An acoustic assessment is to be submitted to Council prior to the issue of a Stage 3 Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development near Rail Corridors and Busy Roads – Interim Guidelines".
- (d) Prior to the issue of a Stage 1 Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principle Certifying Authority with the application for a Construction Certificate.

- (e) The Applicant appears to need track possessions (the stopping of trains running on adjacent tracks) and/or power outages (shutting of power to RailCorp's facilities) to be able to undertake the proposed construction and installation work. This will require the Developer to enter into a Deed with RailCorp, enabling his work to be planned and to proceed in a safe and controlled manner. In this regard, the Developer should be referred to the Rail Corridor Management Group (RCMG) for further details.
- (f) Prior to the issue of a Stage 1 Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to RailCorp for review and comment on the impacts on rail corridor. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
- (g) No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks and to any high voltage aerial supplies within or adjacent to the rail corridor.

(59) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE

Demolition or excavation must not commence until a Construction Certificate has been issued.

(60) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Stage 1 Construction Certificate being issued.

(61) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND DUST MANAGEMENT PLAN

A site specific noise management plan shall be submitted to City of Sydney Health and Building Manager for comment and written approval prior to a Stage 1 Construction Certificate.

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

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

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

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

(62) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE MANAGEMENT PLAN

All works conducted on site which form part of this development must be carried out in accordance with the Demolition, Excavation and Construction Management Plan that is submitted and approved by City of Sydney Health and Building.

(63) USE OF INTRUSIVE APPLIANCES – NOT APPROVED

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

A separate section 96 Development Application must be submitted to the Council for the use of any equipment of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992”.

(64) ASBESTOS REMOVAL WORKS

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

The site notice board must include the following:

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

(65) CONTAMINATION/ ACID SULFATE SOILS

Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination or Acid Sulfate Soils must be immediately notified to the Council and the Principal Certifying Authority.

(66) CLASSIFICATION OF WASTE

Prior to the exportation of waste from the site, the waste materials must be classified in accordance with the provisions of the Protection of the 'Environment Operations Act 1997 and the NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (April 2008)'. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste, advice should be sought from the EPA.

(67) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 and AS1668.2-1991, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with clause A2.2(a)(iii) of the Building Code of Australia, to the satisfaction of the Certifying Authority prior to the issue of a Stage 4 Construction Certificate.
- (c) 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.

(68) NOISE CONTROL VERIFICATION

An acoustic verification report must be submitted to the Principal Certifying Authority (PCA) prior to Occupation Certificate from an accredited acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants outlining all central services mechanical plant and equipment installed within the development.

The report must also confirm that resultant operational noise levels from the mechanical plant and equipment is in compliance with the noise criteria stated within the *Noise - Use* condition which forms part of the consent, and the Acoustic Reports approved by City of Sydney Health and Building when operating to maximum capacity at the most noise sensitive time of the day. This includes verification of internal noise levels for acoustic privacy and reduction of noise from external sources.

(69) MICROBIAL CONTROL IN WATER SYSTEMS

- (a) Prior to the issue of a Stage 4 Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the Public Health Act 2010 must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the Public Health Act 2010) must comply with the following:
 - (i) Public Health Act 2010, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease.
 - (ii) Prior to the issue of an Occupation Certificate or if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

(70) MINIMISE IMPACT OF POOL ON NEIGHBOURING PROPERTIES

- (a) To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area, the design and construction of the swimming pool/spa and associated equipment and fencing must comply with the following requirements:
 - (i) The Swimming Pools Act 1992 and Regulations.

- (ii) The swimming pool must have safety barriers installed in accordance with the requirements of AS 1926.1 - 2007 - 'Safety barriers for swimming pools' and AS 1926.2 - 2007 'Location of safety barriers for swimming pools'.
 - (iii) Australian Standards 1926.3 - Water Recirculation and Filtration; and
 - (iv) Protection of the Environment Operations Act 1997
- (b) The swimming pool/spa pump and associated equipment must be setback a minimum 1.5 metres from surrounding boundaries and sound insulated and/or isolated so that the noise emitted does not exceed 5 dB above the background level in any octave band from 63.0 Hz centre frequencies inclusive at the boundary of the site. Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1 - 1989.
- (c) Noise from swimming pool/spa pump and associated equipment is not to be audible inside any neighbouring residential premises between 8pm and 7am on weekdays and Saturdays, 8pm and 8am on Sundays and Public Holidays in accordance with clause 50 of the Protection of the Environment Operations (Noise Control) Regulation 2000.

Evidence from an appropriately qualified person that the design requirements listed in (a) to (c) above have been met must accompany the application for the Stage 5 Construction Certificate.

(71) SWIMMING POOL - WASTE AND OVERFLOW WATERS

Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water, and details are to be submitted with the application for a Stage 5 Construction Certificate to the satisfaction of Council or the accredited certifier and approved by the certifying authority.

(72) SWIMMING POOL/SPA

- (a) Swimming pools and/or spa pools and pool surrounds must be maintained in a healthy condition in accordance with the *Public Health (Swimming Pools and Spa Pools) Regulation 2012*. Note: Guidance may also be obtained from the NSW Health Department's *Public swimming pool and spa pool advisory document*.
- (b) Swimming pools and/or spa pools and surrounds are to be installed and maintained in compliance with the Swimming Pools Act 1992, the Swimming Pool Regulation 2008, and Australian Standard AS1926.1-2012 with respect to the enclosure, signage, and surrounds of the pool/s.

(73) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

Mechanical exhaust systems are to be designed to be capable of accommodating exhaust requirements for the lower floor retail tenancies if they are approved for use as a food premises. Any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level, and in accordance with Australian Standards AS1668.1-1998 and AS1668.2-1991.

(74) DEWATERING

Where dewatering of the site is required, approval will be required from the Department of Planning under the provisions of Part V of the Water Act, 1912 for a bore licence which may be subject to conditions.

Note: The Department's instructions to Council are that they will not endorse the extraction of groundwater in perpetuity i.e. permanent dewatering around a development site, because it considers such development to be unsustainable. For this reason any proposed basement or other area that requires dewatering on an on-going basis will be fully tanked.

(75) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)

Prior to the issue of a the relevant Construction Certificate/s for Stage 1, 2, 3, 4 and 5, structural details and a Structural Certificate for Design in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Cause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of the Certifying Authority (Council or a private accredited certifier). A copy of the certificate must be submitted to Council if Council is not the CA.

(76) VERIFICATION OF SUPPORT FOR NEW LOADS

For alterations and additions to an existing building, a certificate from a qualified practicing structural engineer (NPER) must be submitted to the PCA prior to a Stage 1 and Stage 2 Construction Certificate being issued. The certificate must state that the existing structure is adequate to support the new loads and that the design will comply with the relevant Australian Standards adopted by the *Building Code of Australia*.

(77) CERTIFICATION OF GEOTECHNICAL INSPECTION

Prior to the issue of a Stage 3 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.

(78) 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).

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

- (a) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the ***whole existing buildings*** must comply with the deemed-to-satisfy provisions of the Building Code of Australia (BCA) and the following:
- (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;
 - (viii) Fire fighting equipment - Part E1;
 - (ix) Smoke hazard management - Part E2;
 - (x) Lift installation - Part E3;
 - (xi) Emergency lighting, exit signs and warning systems - Part E4;
 - (xii) Damp and weatherproofing - Part F1;
 - (xiii) Sanitary and other facilities - Part F2;
 - (xiv) Room sizes - Part F3;
 - (xv) Light and ventilation - Part F4;
 - (xvi) Sound transmission and insulation - Part F5;
 - (xvii) Minor structures and components – Part G1
 - (xviii) Atrium construction - Part G3;
 - (xix) Energy Efficiency – Building fabric - Part J1;
 - (xx) Energy Efficiency – External glazing - Part J2
 - (xxi) Energy Efficiency – Building sealing - Part J3

- (xxii) Energy Efficiency – Air-conditioning and ventilation - Part J5
 - (xxiii) Energy Efficiency – Artificial lighting and power - Part J6
 - (xxiv) Energy Efficiency – Hot water supply - Part J7
 - (xxv) Energy Efficiency – Access for maintenance - Part J8
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the conditions listed above cannot be achieved, an alternate solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to the relevant Construction Certificate being issued the Certifying Authority must ensure that the building work approved under that certificate complies with the Building Code of Australia.

(80) 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).
- (b) If compliance with the deemed-to-satisfy provisions of the BCA above cannot be achieved, an alternate 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 the relevant Construction Certificate being issued, the Certifying Authority must ensure that the building work approved under that certificate complies with the Building Code of Australia.
- (c) The BCA matters identified in this condition are not an exhaustive list of non-compliances 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 the development approved in this consent.

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

(81) ANNUAL FIRE SAFETY STATEMENT FORM

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

(82) FIRE SAFETY CERTIFICATE TO BE SUBMITTED

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued.

(83) WASTE AND RECYCLING COLLECTION CONTRACT – RESIDENTIAL

- (a) The proposed development is to include the necessary provisions to enable the licensed waste contractor to provide effective and efficient waste collection services to the development.
- (b) The waste storage facility must comply with the Building Code of Australia (BCA) and relevant Australian Standards.
- (c) Prior to an Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of **all waste**. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

(84) WASTE – STORAGE (GENERAL)

- (a) Commercial and residential waste must be in separate rooms.
- (b) A designated storage area for discarded bulky items must be provided for residential units.
- (c) Waste and recycling receptacles to be stored on property at all times.

(85) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) A Waste Management Plan is to be approved by the Certifying Authority prior to a Stage 3 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

- (b) 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.

(86) ELECTRICITY SUBSTATION

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Stage 3 Construction Certificate being issued or the commencement of the use, whichever is earlier.

(87) TELECOMMUNICATIONS PROVISIONS

- (a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each apartment within the building within for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery. The details must be submitted for the approval of the Certifying Authority prior to a Stage 3 Construction Certificate being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(88) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Stage 3 Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

(89) SOIL VOLUME

Special consideration should be given to soil depth and quality for tree planting. The City considers the following as minimum soil volume requirements for successful long-term tree establishment:

- (a) Large Trees (canopy diameter of up to 16 metres at maturity) require a minimum soil volume of 150 cubic metres, minimum soil depth of 1.5 metres and minimum soil area 10 metres x 10 metres.
- (b) Medium Trees (canopy diameter of up to 8 metres at maturity) require a minimum soil volume of 35 cubic metres, minimum soil depth of 1.2 metre and minimum soil area 6 metres x 6 metres.
- (c) Small Trees (canopy diameter of up to 4 metres at maturity) require a minimum soil volume of 9 cubic metres, minimum soil depth of 1.2 metre and minimum soil area 4 metres x 4 metres.

(90) ADVANCED TREE PLANTING

Tree planting within the property must be undertaken in accordance with the following conditions, and to Council's satisfaction, prior to the issuing of the occupancy certificate:

- (a) The trees must be grown to NATSPEC Guidelines for Specifying Trees to ensure quality trees and more successful establishment.

- (b) At the time of planting, the container size is to be a minimum of 75 litres and a minimum height of 2.5 metres.
- (c) The tree must be allowed to develop a natural form.
- (d) The tree must be planted by a qualified Horticulturalist or Arborist of Level 2 under the Australian Qualifications Framework (AQF).
- (e) The replacement planting/s must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.
- (f) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities.
- (g) Upon receipt and acceptance that all replacement tree planting/s have been completed to Council's satisfaction, an occupancy certificate will be issued.

(91) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for the construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway and kerb reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

Note: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

(92) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the basis of an area of 61 lineal metre of asphalt site frontage (\$23,315) 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 any **Construction works commencing (i.e. Stage 1 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.

(93) ALIGNMENT LEVELS

- (a) Prior to issue of a Stage 3 Construction Certificate, 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.

(94) 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 issue of a Stage 3 Construction Certificate 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.

(95) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to issue of any Stage 3 Construction Certificate 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.

(96) 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.

(97) 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).

(98) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

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

- (a) Prior to a Stage 3 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 onsite 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.

(99) LANDSCAPING OF THE SITE

- (a) Submitted Landscape Plans have not been approved yet. A revised landscape plan which satisfying the requirements of Tree Management comments and conditions to be submitted for assessment.

A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of the Stage 4 Construction Certificate. The plan must include:

- (i) Location of existing and proposed structures on the site including existing trees (if applicable);
 - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
 - (iii) Location, numbers and type of plant species;
 - (iv) Details of planting procedure and maintenance;
 - (v) Details of drainage and watering systems.
- (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.

(100) LANDSCAPE MAINTENANCE PLAN

- (a) Prior to the issue of a Stage 4 Construction Certificate, a maintenance plan is to be submitted and approved by Council. The maintenance plan is to be complied with during occupation of the property.
- (b) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.
- (c) Prior to the issue of a Stage 3 Construction Certificate, the following details need to be submitted and approved by the Principal Certifying Authority:
- (i) Evidence the green roof has been assessed as part of the structural certification provided for the development.
 - (ii) Evidence the green roof has been assessed as part of the waterproofing certification provided for the development.

(101) PLANTER BOXES

The applicant shall submit a plan to the Principal Certifying authority to indicate extent of landscape areas on slap/ planter boxes and providing details that include a cellular drainage system, water proofing, irrigation system, tanking and flushing tubes. The minimum soil depths for planting on slap shall be 1000mm for trees, 600mm for shrubs and 300 mm for grass.

(102) 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".

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

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

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

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

- (b) Should the hoarding obstruct the operation of Council's CCTV Cameras, the applicant must relocate or replace the CCTV camera within the hoarding or to an alternative position as determined by Council's Contracts and Asset Management Unit for the duration of the construction of the development. The cost of relocating or replacing the CCTV camera is to be borne by the applicant. Further information and a map of the CCTV cameras is available by contacting Council's CCTV Unit on 9265 9232.

- (c) The hoarding must comply with the Councils policies for hoardings and temporary structures on the public way. Graffiti must be removed from the hoarding within one working day.

(104) BARRICADE PERMIT

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

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

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Stage 1 Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Stage 1 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 **\$446,250.00** dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$446,250.00 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 tenantable 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.

(106) SYDNEY WATER CERTIFICATE (QUICK CHECK)

- (a) The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au, (see Building Developing and Plumbing then Quick Check) or telephone 13 20 92.
- (b) The consent authority or a Certifying Authority must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the commencement of work.

(107) PHYSICAL MODELS

- (a) Prior to a Stage 4 Construction Certificate being issued, an accurate 1:500 scale model of the approved development must be submitted to Council for the City Model in Town Hall House; and)
- (b) Prior to an Occupation Certificate being issued, an accurate 1:500 scale model of the development as constructed must be submitted to Council for the City Model in Town Hall House.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>. Council's modelers must be consulted prior to construction of the model.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under section 96 of the Environmental Planning and Assessment Act) that affect the external appearance of the building.

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

- (a) Prior to a Stage 4 Construction Certificate being issued, an accurate 1:1 electronic CAD model of the detailed construction stage drawings for that stage must be submitted to Council for the electronic Visualisation City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
 - (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>. Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.
- (d) Prior to an Occupation Certificate being issued, a second and updated "as built" 1:1 electronic model, in accordance with the above requirements, of the completed development must be submitted to Council for the electronic City Model.

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

(109) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 375-377 and 387 George Street, Sydney 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 Stage 1 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.

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

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifying Authority. The ESCP must:

- (a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the NSW Protection of the Environment Operations Act 1997.
- (b) Include a drawing(s) that clearly shows:
- (i) location of site boundaries and adjoining roads
 - (ii) approximate grades and indications of direction(s) of fall
 - (iii) approximate location of trees and other vegetation, showing items for removal or retention
 - (iv) location of site access, proposed roads and other impervious areas

- (v) existing and proposed drainage patterns with stormwater discharge points
- (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
 - (i) timing of works
 - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained
 - (iii) access protection measures
 - (iv) nature and extent of earthworks, including the amount of any cut and fill
 - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
 - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
 - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
 - (viii) frequency and nature of any maintenance program
 - (ix) other site-specific soil or water conservation structures.

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

For temporary shoring including ground anchors affecting the road reserve, a separate application under Section 138 of the Roads Act 1993 must be lodged with Council.

For new permanent basement wall/s or other ground retaining elements (not being anchors projecting under the road reserve):-

- (a) Prior to a Stage 1 Construction Certificate being issued, the following documents must be submitted to the Certifying Authority (CA) and a copy to Council (if Council is not the CA):
 - (i) Dilapidation Report of adjoining buildings/structures.
 - (ii) Evidence that public utility services have been investigated.

- (b) If adjoining a Public Way:
 - (i) Evidence of a \$10 million dollar public liability insurance policy specifically indemnifying the City of Sydney, valid for at least the duration of the project. The original document must be submitted to Council.
 - (ii) Bank guarantee in accordance with the Council's fees and charges. The original document must be submitted to Council.
- (c) Prior to commencement of work:
 - (i) The location of utility services must be fully surveyed and the requirements of the relevant public utility authority complied with; and
 - (ii) The following documents must be submitted to and approved by the Principal Certifying Authority (PCA) and a copy to Council (if Council is not the PCA):
 - a. Structural drawings and certification as prescribed elsewhere in this consent.
 - b. Geotechnical report and certification as prescribed elsewhere in this consent.
- (d) Prior to issue of Occupation Certificate, the Principal Certifying Authority must receive written and photographic confirmation that the restoration of the public way has been complete in accordance with the following:
 - (i) All ground anchors must be de-stressed and isolated from the building prior to completion of the project.
 - (ii) The temporary structure, including foundation blocks, anchors and piers must be removed above and below the public way, prior to completion of project, down to a depth of 2m.
 - (iii) All timber must be removed.
 - (iv) All voids must be backfilled with stabilised sand (14 parts sand to 1 part cement).
 - (v) All costs for any reinstatement of the public way made necessary because of an unstable, damaged or uneven surface to the public way must be borne by the owner of the land approved for works under this consent.
- (e) The Bank Guarantee may be released after the Principal Certifying Authority submits certification to Council that all the works described in (d) above have been completed and that there is no remaining instability, damage or unevenness to the public domain as a result of the development. This certification is to include relevant photographs and must be to the satisfaction of the Council's Director City Planning.

(112) ROAD OPENING PERMIT

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

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

(113) CAR PARK VENTILATION

The car park must be ventilated in accordance with the *Building Code of Australia* and, where necessary, Australian Standard AS1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.

(114) LOT CONSOLIDATION

All land titles within the site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the Department of Lands, prior to an Occupation Certificate being issued.

(115) ENERGY EFFICIENCY OF BUILDINGS

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

- (a) Entering into a Commitment Agreement⁽ⁱ⁾ with DECCW, to deliver this star rating⁽ⁱⁱ⁾ for the base building⁽ⁱⁱⁱ⁾, being services traditionally supplied as 'common' to tenants^(iv), such as air conditioning, lifts and common area lighting) or for the whole building^(v) where there is to be one tenant to occupy the whole building. The applicant must provide a copy of the completed Commitment Agreement with their Construction Certificate application; and
- (b) Providing a copy of the independent energy assessment report to DECCW and submitted with the Construction Certificate application, that follows the current DECCW guidelines. This report must be based on the same documents as those submitted with the Construction Certificate.

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

- (c) *Commitment Agreement* means an agreement that is set out in accordance with DECCW's Australian Building Greenhouse Rating Commitment Agreement, which is made/signed between DECCW and the applicant/building owner/building manager, to design, build and commission the premises to an agreed star rating.

- (i) *Star rating* refers to the benchmarking system applied by DECCW for measuring the energy efficiency of a building, and known as NABERS the National Australian Built Environment Rating System.
 - (ii) *Base building* means central services and common areas of a building.
 - (iii) *Tenants* means office space within a building covering tenant light and power. This may include tenancy air conditioning if this has been installed to service particular tenant loads, but does not include central services.
- (d) *Whole building* means all of the building, being the fabric of the building itself and all services and fit-outs.

(116) INSTALLATION OF DUAL-FLUSH TOILETS

All toilets installed within the development must be of water efficient dual-flush capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Certifying Authority, prior to a Construction Certificate being issued.

(117) INSTALLATION OF WATER EFFICIENT TAPS

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Certifying Authority, prior to an Occupation Certificate being issued.

(118) INSTALLATION OF WATER EFFICIENT URINALS

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

(119) INTERNAL LIGHTING SYSTEM

The proposed internal lighting system for the commercial office spaces must be designed to provide for the efficient use of energy including the use of energy efficient light fittings, zoned lighting and controls and sensors to ensure automatic switch off during non-working hours. Details of the internal lighting system must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

(120) WASTE WATER RECYCLING

Separate applications must be submitted to the Council's Health and Building Department for approval to install and operate a system of sewage management under section 68 of the Local Government Act 1993. This includes any private recycled water schemes that involve the installation and operation of a management system processing, grey water, black water and where sewer mining is proposed.

The application must satisfactorily address the eight performance standards contained within Clause 44 of the Local Government (General) Regulation 2005 before any operating approval relating to a system of sewage management is granted. These are copied below:

- (a) the prevention of spread of disease by micro-organisms;
- (b) the prevention of the spread of foul odours;
- (c) the prevention of contamination of water;
- (d) the prevention of degradation of soil and vegetation;
- (e) the discouragement of insects and vermin;
- (f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned;
- (g) the re-use of resources (including nutrients, organic matter and water)
- (h) the minimization of any adverse impacts on the amenity of the premises and surrounding lands if appropriate. Provision for the re-use of resources (including nutrients, organic matter and water).

Reference should also be made to the NSW Guidelines for Management of Private Recycled Water Schemes a copy of which is available from Water for Life www.waterforlife.nsw.gov.au

The installation may also be subject to a licence application under the Water Industry Competition Act 2006 to IPART (the independent Licensing and Regulatory Tribunal) and as such applicants are encouraged to contact the Council's Health Compliance Team for further advice prior to submitting a S68 Application. IPART may also be contacted for further advice on their licensing requirements at www.ipart.nsw.gov.au.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(121) OCCUPATION CERTIFICATE TO BE SUBMITTED**

An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(122) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

(123) COVERING OF LOADS

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

(124) PROTECTION OF STREET TREES DURING CONSTRUCTION

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

Details of the methods of protection must be submitted to and be approved by Council prior to the issue of the Construction Certificate and such approval should be forwarded to the Principal Certifying Authority. All approved protection measures must be maintained for the duration of construction and any tree on the footpath which is damaged or removed during construction must be replaced.

(125) VEHICLE CLEANSING

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

(126) 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.

(127) 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.

(128) 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.

(129) USE OF MOBILE CRANES

The following requirements apply:

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

(130) TRAFFIC MANAGEMENT PLAN

A Traffic Management Plan and associated Lift Management Strategy and Loading Dock Management Plan are to be submitted to Council prior to the Occupation Certificate for the site/use being granted.

The Plan must include, but is not limited to, management of deliveries to ensure there is no requirement for any service vehicles to wait on public streets to enter the site. Specific loading times for the various tenants of the site and the adjacent site at 375-377 George Street, Sydney, are to be identified within the Plan. Once approved, this management plan will need to be provided to all tenants and external users of the loading area.

(131) RIGHT OF PUBLIC ACCESS AND POSITIVE COVENANT

- (a) Prior to the issue of an Occupation Certificate for the development, a Right of Public Access appurtenant to Council, pursuant to Section 88B of the Conveyancing Act 1919, must be registered on the Title of the subject site, so as to allow for public access through the subject site.

Such public access is to be provided over the through-site link between George Street and York Street including the area adjacent to the southern façade of 375 George Street where the fire escape is located, is to be limited in stratum and is to be created appurtenant to Council, in terms of granting unrestricted rights for public pedestrian access (at least between the hours of 6.00am to 10.00pm daily), without vehicles, exclusive of wheelchairs or other disabled aids for the disabled, and with guide dogs or hearing dogs for the visually or hearing impaired, to Council's satisfaction.

The relevant Section 88B instrument creating the Right of Public Access shall name Council as the only authority empowered to release, vary or modify the Public Positive Covenant.

- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be registered on the title of the subject site, appurtenant to Council. Such Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the thru-site link, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, repair and lighting of the thru-site link in accordance with the requirements and to the satisfaction of Council.

(132) EASEMENTS FOR 375-377 GEORGE STREET

Prior to the issue of an Occupation Certificate, documentary easements for access, loading, garbage storage, grease arrestor, services and fire egress must be created over the appropriate areas of the development site, in favour of the adjoining site of 375-377 George Street, all to the satisfaction of Council.

(133) ENCROACHMENTS – PUBLIC WAY

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

(134) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(135) SHOP NUMBERING

Shops not having a direct street frontage, such as individual food businesses within a food court must have their shop number clearly displayed and visible at all times on the shop front.

(136) STREET NUMBERING – MAJOR DEVELOPMENT

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

(137) SYDNEY WATER CERTIFICATE

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

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

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

The Section 73 Certificate must be submitted to Council or the Principal Certifying Authority prior to an Occupation Certificate or subdivision/strata certificate being issued.

BACKGROUND

The Site and Surrounding Development

1. The application site has an area of 1,785sqm and comprises four sites known as 38-44 York Street, 46-48 York Street, 379-381 George Street and 383-385 George Street. The combined site has two significant street frontages being George Street and York Street. The land has a gradual cross fall of approximately 2.9 metres from York Street to George Street.



Figure 1: Site location plan

2. 38-44 York Street accommodates Carlton House which is a seven-storey brick and sandstone building (including basement) and 46-48 York Street accommodates Spiden House which is a seven-storey rendered brick building (including basement) constructed between the 1880s and 1910s as warehouses. Both are listed as heritage items under the Sydney Local Environmental Plan 2012 (LEP) and are located within the York Street Special Area.
3. The interior of Carlton House has undergone extensive alterations and refurbishments predominantly between the 1980s until present. These include office and shop fitouts, as well as replacement of original timber windows on York Street with aluminium windows. The central cartway, which opens out to a rear courtyard, still exists and is one of only eight surviving examples in the CBD. This is the only vehicular access to the combined site and it also presently provides rear access to 375-377 George Street (occupied by McDonalds restaurant at ground floor).

4. Spiden House was originally constructed in 1881. Additions made in 1912 were well integrated with the original design. Some of the original timber windows are present above ground level while most at the upper levels were replaced in the 1930s following fire damage. Internally the building has been remodelled, with the removal of two out of four original rows of internal columns on the upper levels. Half of the remaining columns above ground floor were removed in the 1980s.
5. 379-381 George Street comprises a five-storey 1960s building and 383-385 George Street comprises a nine-storey 1960s building. These buildings are not heritage listed and are partially occupied by a range of commercial and retail tenants. There is no existing off-street parking associated with these buildings; however there is a loading zone on York Street adjacent to Spiden House and use of the existing heritage cart-way within Carlton House.
6. George Street is predominantly commercial in nature and is characterised by retail buildings built to the street alignment at ground level and commercial towers above. York Street is similar in scale with a heritage character containing a mixture of uses such as commercial, retail and hotel uses. George Street is highly pedestrianised and in close proximity to the Strand Arcade, Mid City Centre and the Apple store.
7. A number of buildings adjoining the development site are heritage listed: 375-377 George Street (King George Chambers), 387 George Street (Georges Electronics Store) and 50-54 York Street (York House).
8. Photographs of the site are provided below:



Figure 2: Site viewed from George Street (photo source: Mecone)



Figure 3: George Street (site and context)



Figure 4: Site viewed from York Street (photo source: Mecone)

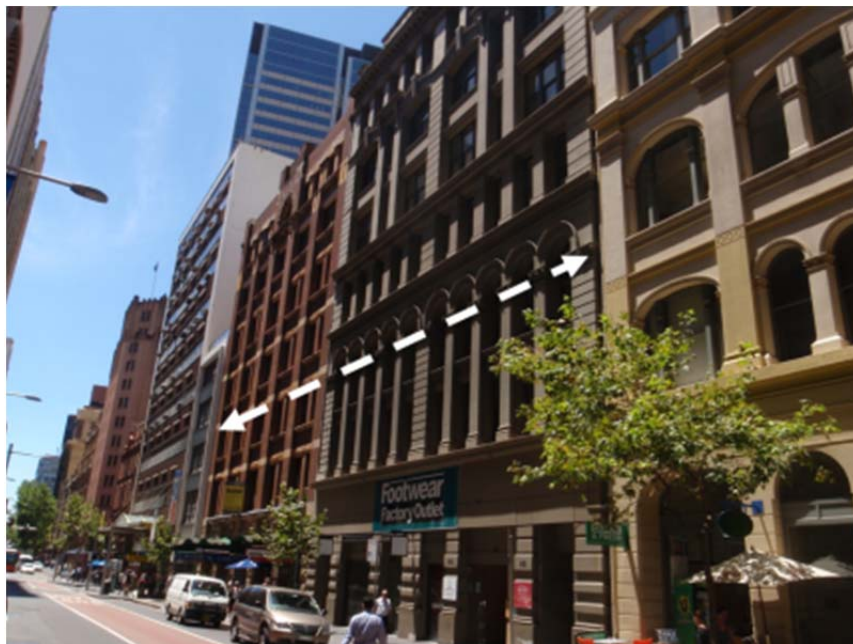


Figure 5: George Street (site and context)



Figure 6: Heritage cart-way – Carlton House

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

9. Development Application ref: D/2009/946 was refused by CSPC on 6 May 2010 for a staged development application for a 22,080sqm mixed retail and commercial development, which included the demolition of 379-385 George Street, demolition of heritage listed 38-44 York Street (Carlton House) excluding the street facade and partial retention of heritage listed 46-48 York Street (Spiden House); detailed plans for the construction of a podium building incorporating two basement car parking levels, 5 retail levels, 5 commercial levels and a through-site link from George Street to York Street; and a concept envelope for an 11-storey commercial tower above the podium.

10. This DA was refused as it was considered that the proposed development would materially impact upon the existing heritage fabric and failed to demonstrate design excellence or encourage the preservation and sustainable adaptive reuse of the heritage items. Of particular concern was the extensive excavation underneath the two heritage buildings for car parking and servicing, the new location of the lift core within Carlton House and the resultant extent of demolition of heritage fabric (essentially leaving only the street facade of both heritage buildings to remain).
11. Development Application ref: D/2010/1460 approved (deferred commencement approval) by CSPC on 11 May 2011 for alterations and additions to the heritage listed Carlton House and Spiden House fronting York Street including restoration works; demolition of the 2 buildings on George Street and construction of a new part 15 part 20 storey commercial building with 2 basement levels. A through site link was also proposed between George and York Streets, to utilise the existing Carlton House cart way. A competitive process was held by the applicant, in which PTW were the winning architects. A Heritage Committee was established as part of the assessment process. Selected images of the approved development are provided below:



Figures 7 and 8: 379-385 George Street and 38-48 York Street photomontages of *approved* commercial development

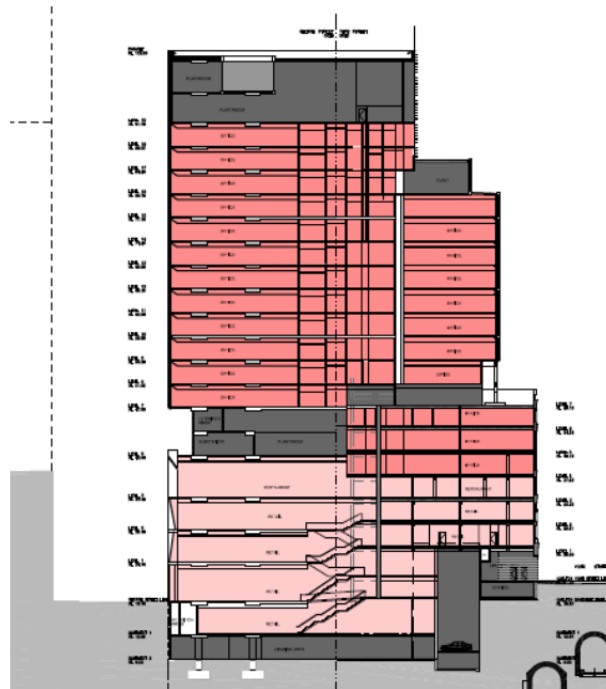


Figure 9: Cross section of the approved commercial development

Competitive design process

12. A competitive design alternative process for the current design scheme was held by the applicant between November 2012 and January 2013 in which four architects were invited to participate. Peddle Thorpe Walker (PTW) Architects, John Wardle Architects, Kannfinch Architects and Elenberg Fraser Architects presented their concept designs to the selected jury panel. The Jury assessed the entries and selected the John Wardle Architect (JWA) design as the winning scheme.
13. Prior to lodging this current DA, the applicant and their consultants entered into pre-lodgement discussions with Council Officers in which a number of design refinements have been made.

PROPOSAL

14. The application includes the retention of the heritage listed Spiden House and Carlton House on York Street and the demolition of the commercial buildings on George Street for the construction of a retail/commercial podium and 32 storey residential tower comprising the following:
 - (a) **Demolition**
 - (i) Demolition of existing buildings on George Street;
 - (ii) Partial demolition of internal elements (i.e. walls, stairs etc.) of heritage buildings fronting York Street; and
 - (iii) Site preparation and excavation works.

(b) Basement Levels 2 and 3

- (i) Parking for 13 cars including 6 car stackers and 1 accessible car space;
- (ii) 285 bicycle parking spaces (241 residential, 19 commercial and 25 retail);
- (iii) Storage rooms for residential apartments and retail;
- (iv) Waste storage room; and
- (v) Storage for 65 bicycles.

(c) Basement 1 (Lower ground level)

- (i) Retail space.

(d) Podium (Ground floor to Level 6)

- (i) Entry to residential apartments and commercial offices from through site link;
- (ii) 8,287sqm of commercial/retail floor space over 6 levels;
- (iii) 4 levels of retail/commercial office floor space within Carlton House and Spiden House (York Street);
- (iv) Level 5 - residential facilities including concierge, lobby, deep soil landscaping, swimming pool and gym; and
- (v) Level 6 – commercial, sky lobby, concierge and residents storage.

(e) Tower (Levels 7- Level 32)

- (i) 199 residential apartments (13 x studio, 50 x 1 bed, 118 x 2 bed and 18 x 3 bed).



Figure 10: Photomontage – George Street



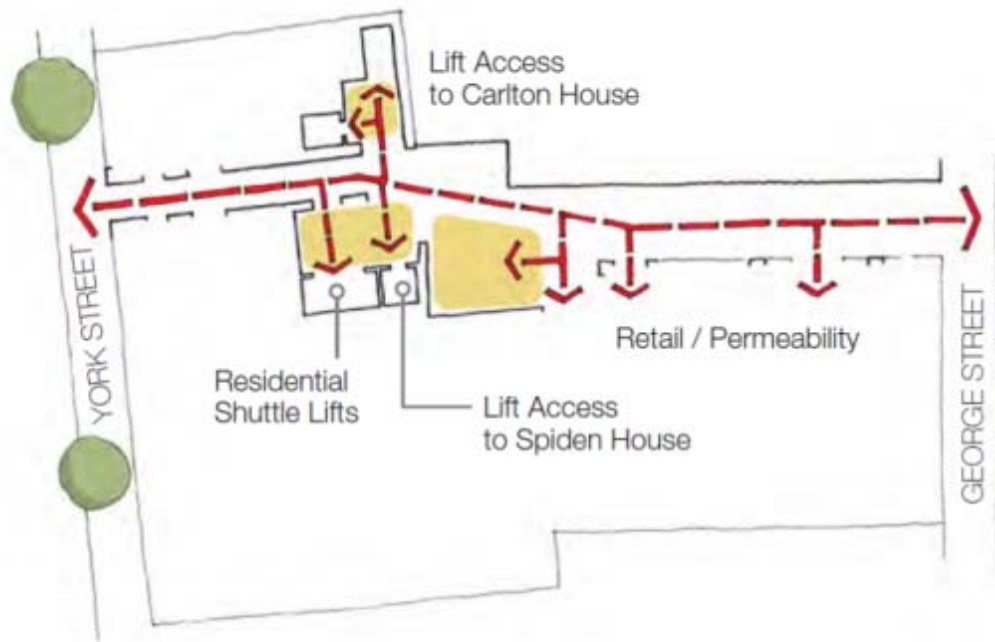
Figure 11: Photomontage - George Street (looking north)



Figure 12: Photomontage – Podium George Street



Figure 13: Photomontage York Street



Cartway Through Site Activation



Figures 14 and 15: Proposed through site link activation and internal courtyard photomontage

CITY OF SYDNEY ACT 1988

15. 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 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."

16. Having liaised with the City's Access Unit, in this instance, the proposal is not considered to have a significant impact on traffic and transport in the CBD, and consultation with the CSTTC is not necessary. 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 and no objection has been raised.
 - (b) A total of 13 car parking spaces are proposed for residents – significantly below the maximum parking rate set out in the LEP.
 - (c) The provision of loading and waste facilities in the proposed basement will improve the existing on-street / cart way situation and will reduce any congestion associated with such activities.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

17. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
- (a) Environmental Planning Instruments and DCPs.

Infrastructure SEPP

18. Railcorp have granted their concurrence to the development application subject to conditions which have been included in the conditions of consent.
19. 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.

State Environmental Planning Policy No 55—Remediation of Land

20. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
21. A preliminary Contamination Assessment (Rev 1) by Coffey Environments dated 3 June 2013 was submitted with the development application. The Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.
22. The proposed development is a mixed use building with retail and commercial tenancies at ground level – thereby not representing a change in land-use (with respect to SEPP55). Residential units occur at Level 7 to Level 30. This development is located in an area that does not have an industrial/warehouse history, or a history of any land uses listed in Table 1 of the Contaminated Land Guidelines.
23. The contamination report has been reviewed and it was noted that a very low risk of land contamination exists taking the site audit and site history into account. The proposed development includes excavation of two basement levels on George Street properties which will remove potentially contaminated imported fills. Therefore, it is considered that contamination issues (according to SEPP55 and Council's Land Contamination DCP) should not exist at the site, and that Land

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

24. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 10 design quality principles, being:

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

Complies: The site is located in the CBD and is well serviced by public transport and is in close proximity to retail shops. The subject site includes two heritage items known as Carlton House and Spiden House (fronting York Street) and neighbouring the site on George Street are heritage buildings known as the King Georges Chambers and Georges House.

It is considered that the design of the proposal achieves an appropriate built form in terms of scale, proportions and building composition having regard to the heritage context, surrounding urban environment, building height and FSR controls applicable to the site. The proposed development in terms of scale and massing is consistent with the surrounding development.

The podium is built to the street alignment and is consistent with the predominant street-wall height along George Street and the design of the tower includes appropriate setbacks, use of materials and architectural language to provide interest and to improve its relationship to the York Street heritage items and adjoining commercial high-rise development.

(b) **Principle 4:** Density

Complies: The design of the tower form, setbacks, building height, FSR, building depth and mix of residential units ensures that the density is appropriate for the area and will not unduly affect the amenity of the surrounding locality.

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

Complies: The proposed residential tower is BASIX compliant. A condition will ensure that the development complies with the commitments in the BASIX certificate. The commercial component will also achieve a high level of ESD and a condition is recommended requesting the design of the building and its services achieve a minimum 4.5 Star NABERS rating.

(d) **Principle 6:** Landscape

Complies: Considering the urban environment the proposal incorporates a generous landscaped area on Level 5 which uses appropriate soil depths (500mm soil mixture) to allow for adequate landscaping. The amount of open space proposed is 403.4sqm (22.6% of the site) which is slightly below the minimum 25% requirement, however this is considered acceptable given the context of the site in the centre of the CBD.

(e) **Principle 7:** Amenity

Complies: The proposed development achieves satisfactory levels of solar access (84.5% of apartments receive 2 hours or more where 70% is required), cross flow ventilation (64% of apartments are cross ventilated where 60% is required), minimum apartment size, building depth, balcony size and storage in excess of the requirements of SEPP 65.

Acoustic and visual privacy is achieved through a layout which creates satisfactory apartment separation. Storage areas are provided on Level 6 and in basements 1 and 2. Access is provided to all units via lifts and 20% of the apartments are adaptable.

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

Complies: Casual surveillance is provided by the activation of ground floor retail uses including through site link. The proposal provides a separate and secure commercial and residential lobby area which is clearly defined at street level. The proposed active ground plane uses provide a high level of passive surveillance at street level which assists in preventing the opportunity for crime around the perimeter of the building.

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

Complies: The development provides an acceptable mix of studio (6.5%), one bedroom (25%), two bedroom (59%) and three bedroom (9%) apartments which will serve the future needs of residents.

(h) **Principle 10:** Aesthetics

Complies: The proposed design provides high quality development which is well articulated and uses a variety of building materials which positively contributes to the context of the site and public domain.

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

26. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

27. The BASIX Certificate has been submitted with the development application.
28. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Sydney LEP 2012

29. The site is located within the B8 – Metropolitan zone. The proposal is permissible with consent.
30. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings <u>George Street:</u> 130m <u>York Street:</u> 60m	Complies – George Street Does not comply – York Street	George Street - 137.1m (includes 7.1m architectural roof feature) York Street - 137.1m (includes 7.1m architectural roof feature). See discussion under the heading Issues.

Compliance Table		
Development Control	Compliance	Comment
<p>4.4 Floor Space Ratio</p> <p><u>Site Area (713sqm) - Area 2:</u> FSR 13.6:1 (total GFA permitted 9672sqm)</p> <p><u>Site Area (1072sqm) - Area 3:</u> FSR 10.53:1 (total GFA permitted 11292sqm)</p>	Yes	<p><u>Area 2:</u> 13.56:1 maximum mixed use FSR and 14.9:1 with 10% bonus.</p> <p><u>Area 3:</u> 10.53:1 maximum mixed use FSR and 11.6:1 with 10% bonus.</p> <p>Based on the above, a maximum GFA of 20,964sqm is permitted across the two sites and 23,059.96sqm with 10% bonus.</p> <p>A total 23,059.96sqm of GFA is proposed across the two sites and this includes the 10% design excellence bonus.</p> <p>(combined FSR of 12.91:1 - includes 10% design excellence bonus)</p> <p>See discussion under the heading Issues.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 Height of Buildings.</p> <p>See discussion under the heading Issues.</p>
5.6 Architectural roof features	Yes	<p>The maximum height limit is exceeded by 7.1m as a result of the architectural roof feature. The roof feature is acceptable as it is an architecturally designed decorative element and is fully integrated with the design of the building.</p> <p>See discussion under the heading Issues.</p>
5.10 Heritage conservation	Yes	<p>The subject site is a heritage item and is located within a heritage conservation area.</p> <p>See discussion under the heading Issues.</p>

Compliance Table		
Development Control	Compliance	Comment
Part 6 Local provisions - height and floor space		
Division 1 Additional floor space in Central Sydney	Yes	See discussion under the heading Issues.
Division 3 Height of buildings and overshadowing	Yes	The subject site is not affected by the Sun access plan height restriction.
Division 4 Design excellence	Yes	The proposal provides significant benefits for the Heritage listed building, restores significant fabric whilst confirming the future use of the commercial building by allowing the buildings to be used as future commercial tenancies as a result of the upgrade works. Given the nature and scope of the proposal as well as the extensive consultation with Council, it is considered the proposal is able to achieve satisfy the objectives for design excellence through a considered and developed design scheme.
Part 7 Local provisions—general		
Division 1 Car parking ancillary to other development	Yes	A maximum of 107 car parking spaces are permitted. 13 car parking spaces are proposed.
7.14 Acid Sulphate Soils	Yes	The site is located in a Class 5 ASS risk area, which is a very low risk. The contamination report submitted with the application states that the site is not impacted by the ASS.
7.20 Development requiring preparation of a development control plan	No	The applicant has requested the requirement for a Development Plan/Stage 1 DA be waived. See discussion under the heading Issues.

Sydney DCP 2012

31. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – York Street Special Character Area
Part of the subject site is located within the York Street Special Character Area. The proposed redevelopment will conserve and enhance the heritage items on the site, and encourage the sustainable adaptive reuse of the heritage items. The proposal is considered to be in keeping with the unique character of the area and design principles in that the design scheme proposes less intervention than the previously approved commercial building with the heritage listed items and has been setback approximately 18m from York Street so as to reduce the impact on the York Street Special Area as viewed from street level. The tower has also been setback from the heritage items on George Street. The proposal will maintain the heritage cart-way and is proposed as a through site link providing pedestrian access from George Street to York Street.

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development will make a positive contribution to the public domain.
3.1.2.2 Through site link	Yes	A new through site link is provided through the site connecting George Street and York Street including internal plaza area. The through site link will have a minimum opening width of 5.2m at George Street and 2.8m at York Street (heritage cart-way). The through site link will have access to natural light be publicly accessible and will be lined with active uses at ground floor.
3.1.5 Public art	Yes	An opportunity exists to provide public art within the internal walls of the atrium and a Public Art Plan strategy has been submitted with the proposal which is considered acceptable.
3.2 Defining the Public Domain	Yes	The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and considering public views.
3.2.3 Active frontages	Yes	The proposal provides activation at ground level at George Street and York Street including a high level of glazed retail space.
3.2.4 Footpath awnings	No	The proposed double height awning is not supported and a condition will be imposed recommending deletion of the awning.

3. General Provisions		
Development Control	Compliance	Comment
3.3 Design Excellence and Competitive Design Processes	Yes	The proposed development has undergone a competitive design alternative process and the proposed development is seeking an uplift of 10% additional floor space subject to design excellence. See discussion under the heading Issues.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX requirements and will achieve a minimum 4.5 Star NABERS energy rating.
3.9 Heritage	Yes	The buildings known as Carlton House and Spiden House are heritage listed buildings. See discussion under the heading Issues.
3.11 Transport and Parking	Able to comply	199 residential Class 1 bike lockers for residential and 42 Class 2 bike facilities for non-residential uses are to be provided including showers and change room facilities. A condition has been recommended for the proposed development to provide the appropriate number of bike storage lockers and facilities.
3.12 Accessible Design	Yes	A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Does not comply	See discussion under the heading Issues.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3 Amenity	Yes	<p><u>Solar access:</u> The proposal will not result in any significant additional overshadowing of public spaces or surrounding buildings to what currently exists. The slender tower form reduces bulkiness compared to the previously approved commercial scheme resulting in improved view sharing and light penetration to the residential apartments and to adjoining buildings.</p> <p>84.5% of apartments are able to receive a minimum of 2 hours sunlight between 9am and 3pm where 70% is required.</p> <p><u>Balconies:</u> Balconies are provided to 90% of the apartments in the development where 75% is required.</p> <p>Due to the architectural 'weaving' of the facade some balconies will be marginally below the minimum 10sqm area however residential facilities/pool/amenities are provided on Level 5.</p>
4.2.5 Types of development	Yes	The residential floor plate proposed is approximately 630sqm and is less than the maximum 750sqm control.
4.2.6 Waste minimisation	Does not comply	See discussion under the heading Issues.

5. Specific Areas		
5.1 Central Sydney		
Development Control	Compliance	Comment
5.1.1 Street frontage heights	Yes	The street frontage height of the podium facing George Street is approximately 22m high (excluding the glazed screen to pool) and responds to the context of the adjoining building. The height of the heritage items on York Street will remain as is.
5.1.2 Building setbacks	Does not comply	See discussion under the heading Issues.
5.1.3 Street frontage heights and setbacks for special character areas	Yes	An 18.9m setback is proposed to York Street.
5.1.4 Building bulk	Yes	The residential tower is a slender form that will contribute to the interest and vibrancy of the City skyline that sits well within its surrounds The floor plate of the residential tower does not exceed the maximum control of 1000sqm GFA.
5.1.5 Building exteriors	Yes	The proposed building design contributes to the streetscape by means of high quality architecture, providing richness of detail and architectural interest, while retaining the heritage listed buildings on York Street.
5.1.8 Award and allocation of heritage floor space	Yes	The subject proposal has a total FSR of 12.91:1, which equates to a gross floor area of 23,059sqm (includes 10%). The amount of heritage floor space to be allocated to the site is half the difference between FSR of 8:1 and 11.74:1 and 100% of the difference between 11.74:1 and 12.91:1. $11.74:1 - 8:1 \times 1785 = 6,675.9$ divided by 2 = 3,337.95 $12.91 - 11.74 \times 1785 = 2,088.45$ $HFS = 2088.45 + 3337.95 = 5426$ The Heritage Floor Space allocation is 5426sqm. A condition to this effect is recommended.

ISSUES**Floor Space Ratio**

32. The site is identified in the Sydney LEP 2012 Floor Space Ratio Maps as 'AC' which permits a base FSR of 8:1. Clause 6.3 of the SLEP 2012 states that a building may exceed the maximum permitted floor space ratio shown for the land on the Floor Space Ratio Map where a building is eligible for an amount of additional floor space such as 'accommodation floor space'.
33. The proposed development includes office premises, retail premises and residential accommodation and therefore is eligible for additional accommodation floor space in accordance with Clause 6.4 of the Sydney LEP 2012.
34. The subject sites are located within Area A2 (George Street site) and Area A3 (York Street site). The development site is eligible for the following amount of additional accommodation floor space:

Building proportions	Area A2 (George Street)	Area A3 (York Street)
Site area	713sqm	1072sqm
Max base FSR	8:1	8:1
Additional accommodation floor space		
Office/Retail	+4.5:1	+2:1
Residential	+6:1	+3:1

35. The George Street site (Area A2) proposes 29% office/retail and 71% residential resulting in a total gross floor area of 9,672sqm and FSR of 13.56:1. The York Street site (Area A3) proposes 47% office/retail and 53% residential resulting in a total gross floor area of 11,292sqm and FSR of 10.53:1.
36. The total combined FSR permitted across the George Street site (Area A2) and York Street site (Area A3) is 20,964sqm and 23,060sqm with 10% FSR bonus which results in a total FSR of 12.9:1 across the development site (includes 10% bonus).
37. The development proposes a maximum 23,059.96sqm of GFA which is the maximum permitted across the two sites.
38. The balconies have been excluded from the GFA calculations above as they have been designed to have a balustrade height of no higher than 1.2m with a minimum 25% open area above. The balconies are not capable of being fully enclosed.

Architectural Roof Feature

39. In accordance with Clause 5.6 of the SLEP 2012 architectural roof features are permitted to exceed the maximum height control limit if the consent authority is satisfied the architectural roof feature:
- (a) comprises a decorative element on the uppermost portion of the building, and
 - (b) is not an advertising structure, and
 - (c) does not include floor space and is not reasonably capable of modification to include floor space area, and
 - (d) will cause minimal overshadowing, and
 - (e) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) are contained in or supported by the roof feature is fully integrated into the design of the roof feature.
40. The proposed architectural roof feature is proposed to crown the top of the building consistent with the architectural design of the building.
41. The architectural roof feature is 7.1m above the roof level of the building which results in a total height of 137.1m for the residential tower.
42. The architectural roof feature screens are profiled and designed with similar geometry of folding planes to provide an articulated roof feature that is consistent with the weave pattern of the residential facade of the tower and integrated into the design of the tower. The rooftop plant and lift overrun for the residential tower is concealed behind the architectural roof feature (refer Figure 16).



Figure 16: Photomontage of architectural roof feature at the top of the building

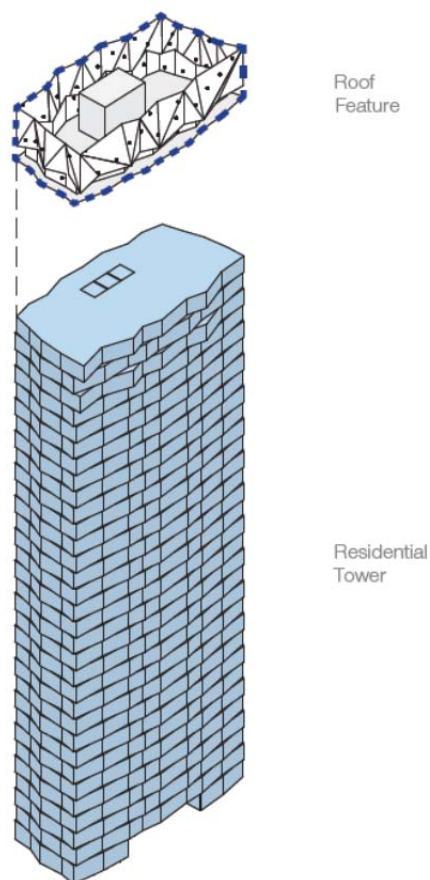


Figure 17: 3D model of architectural roof feature

Height

43. Under the SLEP 2012, two different height controls apply to the combined site. The differences in the height control are not divided evenly across the site as illustrated in Figure 16 below. The maximum height limit for 379-385 George Street is 130m and for 38-48 York Street is 60m. The height line follows the property boundaries creating an irregular maximum height limit due to the irregular shape of the sites (refer Figure 16 below). In the previous SLEP 2005 the height line ran north-south through the site and was oriented towards York Street providing a greater area on the site where the height limit was 130m (refer Figure 17).



Figure 18: Maximum Height Map – Sydney LEP 2012 Maps.

- 44. As a result of the height line change in the SLEP 2012 the proposed design of the tower now extends over the 60m York Street height limit resulting in a non-compliance of 77.1m.
- 45. An overlay of the tower design showing the lot boundary height line is provided below at Figure 19. The height line shown running north-south through the site is the Sydney LEP 2005 height limit and the other line shown is the Sydney LEP 2012. The extent of the tower projecting into the 60m York Street height limit is 'shaded'.



Figure 19: Location of proposed tower form in relation to maximum height limit control.

46. The competitive design process for the 32 storey residential tower was undertaken prior to the gazettal of the Sydney LEP 2012 and prior to the height line change as shown above in Figure 19. The proposed height of the building at the time of the competitive process complied with the maximum height limit prior to the gazettal of the SLEP 2012 in December 2012.
47. As a result of the encroachment of the tower form over the York Street height limit, a variation to the height control is sought by the applicant in accordance with Clause 4.6 of the SLEP 2012.
48. *Clause 4.6 – Exceptions to development standards* states that consent must not be granted to a development that contravenes a development standard unless a written request from the applicant has been submitted that demonstrates compliance with the standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention. In addition, the consent authority must also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone.
49. The applicant is seeking to vary the maximum height standard that applies to 38-48 York Street which restricts the height of development to 60m. The proposed height limit across the sites for the tower is 137.1m (includes 7.1m architectural roof feature) and this results in a 56% non-compliance (or 77.1m height limit exceedance).
50. The purpose of the 'Height of buildings' standard is to ensure the height of development is appropriate to the condition of the site, to ensure appropriate height transitions between new development and heritage items and to promote sharing of views in Central Sydney.
51. The written request provided pursuant to Clause 4.6 submits that:
 - (a) There is a valid and current consent on the subject site for a 20 storey commercial tower that currently encroaches over the SLEP 2012 60m height limit control.
 - (b) The proposed height of the tower is consistent with the George Street height control and is consistent with the context of the area.
 - (c) The slender tower form will reduce bulkiness compared to the previously approved commercial scheme resulting in improved view sharing and light penetration to adjoining buildings.
 - (d) The proposed tower is setback approximately 18.9m from York Street to ensure greater separation between the heritage items and York Street Special Area.
 - (e) Compliance with the irregular height limit line has the potential to sterilise development on the site.

52. The abovementioned request and justification submitted to vary the 60m maximum height control at 38-48 York Street is considered acceptable as the proposed residential tower is setback 18.9m from the York Street boundary compared to the previously approved 20 storey commercial tower which was setback approximately 6m from the York Street boundary resulting in a significant improvement to that previously approved. It is also considered that the proposed height of the residential tower is generally consistent with the underlying objectives of the 'Height of buildings' standard and in this particular case strict compliance with the development standard is considered to be unreasonable and unnecessary given the circumstances of the proposal.

Waiving of requirement for Development Plan / Stage 1 Development Application

53. In accordance with Part 7 of the Sydney LEP 2012, 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.
54. Clause 7.20(3) of the LEP allows the Council to waive this prerequisite if it is considered *'unreasonable or unnecessary to require compliance with those requirements'*.
55. The subject site has previously undergone a detailed assessment for a Stage 2 development application for a 20 storey commercial tower which was the subject a competitive process and reviewed by a Heritage Committee (approved by CSPPC 11 May 2011). The Heritage Committee also provided a number of detailed design principles for the redevelopment of the site. The current design scheme has taken into consideration the heritage committee design principles and is the winning scheme of another competitive process.
56. Given the above, it is considered that the requirement for a Development Plan/Stage 1 Application can be waived in this instance as it would be unreasonable and unnecessary taking on board the extensive development history for the site.

Tower Setbacks

57. The Sydney DCP 2012 requires a weighted average tower setback of 8m from the street wall, with a minimum setback of 6m.
58. The previous 20 storey commercial building approved on the site proposed a zero setback to George Street and to adjoining buildings either side of the subject site. The proposal tower setback from the street wall ranges between 0.5m to 2.3m. This is an improvement to the previous commercial building setback where no setback was proposed.
59. George Street is characterised by a number of varying building heights in the immediate vicinity of the site (i.e. podium and tower style commercial buildings). The shape and form of the tower allows a gradual change in the buildings setback to George Street. The reasoning for the tower's location being located closer to George Street is to provide a greater setback to the heritage buildings on York Street. A larger setback from York Street can only be achieved by relocating the building bulk away from the York Street frontage and to allow the heritage facade of the York Street Special Area to be clearly expressed.

60. The DCP requires side boundary setbacks for residential towers ranging from zero metres (where no windows are provided) to 6m (where principal windows or balconies are provided), with the objective to enhance the amenity of occupants.
61. In noting that the adjoining buildings to the north and south of the development site are heritage items and strata titled commercial buildings, both with limited redevelopment potential it is considered that the proposed side boundary setbacks ranging from 3.6m to 2m are not considered to unreasonably impact on the amenity of the adjoining properties or future occupants.

Heritage

62. The site contains two listed heritage items pursuant to Schedule 5 of the Sydney LEP 2012. As partial demolition of the heritage buildings is proposed and the building envelope of the site is being increased in size, a Heritage Committee was established to review the proposal under Clause 3.9.4 of the Sydney DCP.
63. The Committee noted that the overall scheme involves significantly less adverse impacts on the heritage warehouses than previous schemes (i.e. 18.9m setback from York Street proposed compared to the previous 6m); however, the proposed approach for conservation of the warehouse buildings internally requires more detailed work and rationalising.
64. Since the previous commercial tower was approved 11 May 2011, strip-out works of the interiors have taken place internally and this took place after the completion of the endorsed Conservation Management Plan (CMP). The CMP submitted as part of this proposal is to be updated (post strip-out works) to incorporate information on the nature, condition of the heritage significance (to be undertaken level by level), and indicate the conservation approach to significant fabric which is to be justified by the grading's of significance, and indicate how building services and structural interventions, requirements for fire rating are designed to fit within the overall approach. Appropriate conditions are recommended in the consent.
65. The design and heritage conservation objectives for the interiors of the warehouses should be the achievement of a "base-building" suitable for fitout by lessors. The 'base-building' should present conserved interiors, in particular the following fabric:
 - (a) structure of exceptional or high heritage significance – columns, beams, walls.
 - (b) ceilings of exceptional or high heritage significance, including the underside of timber flooring where pressed metal ceilings are absent.
 - (c) any other fabric of exceptional or high heritage significance.
66. Council's Senior Heritage Specialist has recommended several conditions which will ensure important amendments to the Conservation Management Plan as well as specific conditions to ensure that the significant fabric of the two heritage items are preserved and enhanced.
67. The proposal generally complies with the relevant aims, objectives and controls of the DCP subject to conditions.

General Design Matters

Design Excellence/Competitive Process

68. Clause 6.21 of the Sydney LEP provides that the consent authority must not grant consent in respect of a building that will have a height over 55m on land in Central Sydney unless a competitive design process has been held.
69. The applicant undertook an alternative design competition process, which included four architects being Peddle Thorpe Walker, John Wardle Architects (JWA), Kannfinch and Elenberg Fraser Architects. Through this competitive process JWA were appointed to develop the winning design.
70. The winning design scheme satisfies the design excellence objectives for the following reasons:
 - (a) the design scheme responds positively to the heritage constraints of the site and its surrounds and street wall heights align with adjoining buildings/heritage items.
 - (b) the tower to York Street has been setback approximately 18.9m to respect the existing heritage fabric and York Street Special Area.
 - (c) the reinstatement of the historic Carlton House heritage cartway as a new through site link/mid-block connection between George Street and York Street including restoration of the original heritage central courtyard are positive elements and contribute to the vibrancy of the area.
 - (d) conservation and restoration works to Carlton House and Spiden House embraces the warehouse district character of the area and encourages adaptive re-use for commercial purposes.
 - (e) the residential tower is a slender form that will contribute to the interest and vibrancy of the City skyline that sits well within its surrounds.
 - (f) the design of the tower facade integrates the residential balconies into the continuous 'facade weave' and is architecturally interesting as the facade of the tower has an appearance to be woven with successive floors shifting in and out.
 - (g) the development is capable of addressing potential environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity.
 - (h) has been designed having regard to ESD principles.
 - (i) does not detrimentally impact on identified view corridors.
71. It is considered that the proposal subject to minor design refinements of the podium masonry element satisfies the objectives of design excellence through a considered design response to the urban environment, use of materiality, tower expression and heritage context of the site.

Floor space ratio bonus

72. In accordance with Clause 6.21(7) of Sydney LEP the consent authority may grant consent to a building that exceeds the maximum FSR by up to 10% if the consent authority is satisfied that the building design is a result of a competitive process and exhibits design excellence. Based on the above, design excellence has been achieved.
73. 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) responds positively to the urban environment and heritage context of the site;
 - (b) will enhance the public domain within the vicinity of the site by incorporating ground floor active uses and through site link which will activate and enliven George Street;
 - (c) will comprise a 4.5 Star NABERS rating commercial development and BASIX compliant residential tower (subject to conditions); and
 - (d) proposes high quality materials and architectural design.

Design Advisory Panel

74. The proposal was presented to the Design Advisory Panel at its meeting of 16 July 2013. The following comments were raised by the Panel:
- (a) The double height of the awning along George Street at 6.5m does not provide adequate weather protection.
 - (b) Stone cladding to the podium should be detailed to ensure that it reads as masonry base to the building not as a veneer.
 - (c) The 'grained' Sydney sandstone proposed is not supported.
 - (d) The 'glazed' screen to the pool area should be reduced in height.
75. The proposed double height awning at 6.5m is inconsistent with the maximum awning height control of 4.2m above the footpath. The subject site fronting George Street is in-between two heritage items that also do not have an awning and this is continued north along George Street up until Regimental Square. Given the surrounding characteristics of the site along this part of George Street that do not have awnings a condition is recommended to delete the awning.
76. Pre-DA advice given to the applicant regarding the podium design stated that the *"sandstone elements located at the street alignment at Level 2-4 appear to 'float' and are two dimensional, lacking in articulation typifying the adjacent heritage items"*. The applicant was asked to consider a more articulated facade where all stone elements appear to be more structural and load bearing. The proposed podium sandstone elements require further design refinements. A condition is recommended to requesting design refinements and further detail to be provided to and approved by Director City Planning Development and Transport.

77. The grained Sydney sandstone proposed for the podium cladding is not supported and should be replaced with a sandstone that has a level of consistency with Pyrmont “yellowblock” sandstone. The Pyrmont “yellowblock” sandstone presents a more golden tone is warmer and provides a better ‘connection’ with the City’s requirement for a predominant masonry character.
78. A condition is recommended to reduce the height of the glazed pool screen to match the horizontal band of the adjoining King Georges Chambers. The reduction in height is relatively minor in scale however will provide a better urban design and heritage outcome in terms of visual impact, scale and proportions.

Waste Management

79. The Waste Management Plan submitted with the proposal states that commercial waste and residential waste will be collected by private waste and recycling contractors. The waste room is located on Basement Level 3 and waste will be collected from the loading dock located on the same level accessed via a truck lift.
80. The proposed collection of residential waste by private contractors does not align with Council’s *Policy for Waste Minimisation in New Developments* as Council collects residential waste and domestic waste management charges are levied for this service.
81. It is acknowledged that the site is limited as to where vehicle access to the site can be permitted; no vehicle access is permitted from George Street and the two buildings fronting York Street are heritage items and the heritage fabric is to be retained. The applicant has investigated options for ramp access to the basement levels and found this option to be unviable as the length of the ramp would cut through most of the heritage building.
82. The Waste Policy states that heritage conservation considerations *may* allow variations to the policy requirements for the refurbishment of existing buildings.
83. Given the constraints of the site and limited access to the site, the provision of a truck lift is proposed as it allows for the retention of the heritage fabric of Spiden House, activation of ground level and positive urban design and streetscape impacts, which could not be achieved through implementing ramped access to the basement or with the provision of an on-street level waste collection area. In addition, Council’s garbage trucks require a minimum turning circle of 10.5m - 12.5m once inside the basement to safely turn/manoeuvre and this cannot be achieved.
84. The proposed truck lift and limited turning circle within Basement Level 3 do not provide appropriate clearances needed for the collection vehicle to enter the premises, clear the waste containers and exit the premises and as a result the applicant has proposed a private waste and recycling contractor to manage waste collection from the site.

85. The applicant has been advised that Council provides domestic waste management services as part of their statutory requirements under Section 496 of the *Local Government Act 1993*. Domestic waste management charges will be levied by the Council to future occupants for residential waste collection services even though this service cannot be provided by the Council. The applicant has agreed to this and has advised that *“potential purchasers of units within the proposed development will be made fully aware of the anticipated strata fees associated with owning an apartment within the building and will be positioned to make an informed decision prior to purchasing”*.
86. A condition is recommended to be placed on the consent requesting that waste be collected from the site in a safe and effective manner in accordance with Australian Standards and that the building owner must ensure that there is a contract held with a licensed contractor for the removal of all waste.

Other Impacts of the Development

87. The proposed development is capable of complying with the BCA.
88. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

89. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

INTERNAL REFERRALS

90. The conditions of other sections of Council have been included in the proposed conditions.
91. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access; Social Planning; Tree Management; who advised that the proposal is acceptable subject to the recommended conditions.

EXTERNAL REFERRALS

Notification, Advertising and Delegation (Submission(s) Received)

92. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 20 June 2013 and 19 July 2013. As a result of this notification there were 4 submission(s) received.
- (a) Construction noise will impact on our commercial offices during the worst times of the day (i.e. 7am to 7pm Monday to Friday). Can the impact on our property be eliminated by specifying measures to not transmit noise through our adjoining structure.

Response – The City of Sydney manages noise created from construction works through the implementation of its Construction Hours. Where there is likelihood that construction works will have a significant impact on the local community, the developer will be required to submit a Noise Management Plan for approval.

The Noise Management plan will contain comprehensive details of the work methods that the developers will employ on site in order to fully comply with noise requirements for construction.

The requirement for developers to have a construction noise management plan will be included within conditions of Development Consent for most large sites and where significant impact is considered likely.

(b) Loss of access to 375-377 George Street via the heritage cartway; and

The Owners Corporation and McDonalds are concerned regarding the ability of occupants of King Georges Chambers being able to have proper egress from the building in the event of a fire if the development proceeds.

Response - There is no registered easement for access over the existing heritage cart-way with 375-377 George Street, which belongs to the applicant. The applicant considers that the access issues are not a consequence of the proposed development but are existing.

The applicant has been in discussion with McDonald's and the Owners Corporation regarding these access concerns. The applicant has confirmed that the neighbouring property through a licence agreement will have access to the basement area for deliveries and waste collection and a remote point has been identified to adjoin the two sites. The applicant has also confirmed that they will undertake ongoing discussions with the neighbouring site to ensure there is minimal disruption during the construction period.

In regards to the McDonald's kitchen exhaust, which is located on the subject site, the applicant has stated that they are willing to work with McDonald's to ensure that the exhaust is retained and the design is appropriate. In regards to fire egress, the proposed development provides opportunity for a fire escape from the rear of 375 George Street into the public through site link.

(c) There are drainage pipes attached to the rear facade of King Georges Chambers collecting rooftop water and discharge through vertical stormwater pipes down the building. The pipes cannot be removed and should remain in their current positions; and

External wall wetting sprinklers project from the rear of King Georges Chambers and are necessary to protect the openings according to the BCA.

Response – The drainage pipes and wetting sprinklers that overhang the adjoining property do not have any registered easements/'rights' over the adjoining property's land, however it would be in the best interest of each party to discuss the issue and come to a resolution.

- (d) The scale and bulk of the development is a concern as it has the potential to distort the streetscape and dwarf the integrity of the heritage buildings. The height and size of the proposed structure is completely disproportionate to other buildings on George Street.

Response – George Street is characterised by a mix of commercial towers and has a height limit of 130m. The proposed tower on George Street complies with the maximum height limit control and is a slender tower form which will reduce bulkiness compared to the previously approved commercial scheme resulting in improved view sharing and light penetration to adjoining buildings.

- (e) The height of the 130m building will block out any north sun to our patio area (i.e. 389 George St Sydney) and will destroy the amenity of our building and other buildings.

Response –The proposed slender tower form will reduce bulkiness compared to the previously approved commercial scheme resulting in improved view sharing and light penetration to adjoining commercial buildings. The proposal will not create any significant additional overshadowing of public spaces or of adjoining commercial buildings to that which currently exists (or compared to previous approvals).

- (f) The look of the building bears no architectural relevance to the heritage buildings on York Street and offends the heritage aesthetic of the buildings fronting George Street. We do not believe that design excellence has been achieved or public benefit shown and the height should be reduced.

Response - The proposed conservation and restoration works to Carlton House and Spiden House embraces the warehouse district character of the area and encourages adaptive re-use for commercial purposes. The proposed tower has been setback approximately 18.9m from York Street to respect the existing heritage fabric and York Street Special Area. The height and use of materials of the building facing George Street has been designed to take into consideration the adjoining heritage items. The residential tower above is of a slender form that provides setbacks to the adjoining heritage items which allows the heritage items to be expressed as individual buildings.

- (g) Concerned about pressure changes exerted laterally on our building during demolition and construction.

Response - A Dilapidation Report condition is recommended as a condition. Dilapidation reports document the condition of adjoining properties and are submitted to Council prior to the commencement of excavations, building works or demolition on an adjoining property.

- (h) Construction impacts: noise, dust, air quality and stormwater.

Response - The City of Sydney requires developers and builders to carefully manage excavation, demolition and building works and to do this developers are required to submit a construction management plan that takes into account all relevant aspects of demolition or building work.

The guidelines address a range of issues to be managed onsite, including:

- (i) public safety, amenity and site security,
- (ii) operating hours,
- (iii) noise and vibration controls,
- (iv) air and dust management,
- (v) stormwater and sediment control,
- (vi) waste and materials re-use and traffic management.

PUBLIC INTEREST

93. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

FINANCIAL IMPLICATIONS/S61 CONTRIBUTION

Section 61 Contributions

94. The development is subject to Section 61 Contributions. An appropriate condition will be recommended.

RELEVANT LEGISLATION

95. The Environmental Planning and Assessment Act 1979.

CONCLUSION

96. It is recommended that the requirement for a Stage 1/Development Plan application be waived and that the proposed development application be approved.
97. It is recommended that 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.
98. It is recommended that pursuant to the provisions of Clause 4.6 of the Sydney LEP 2012 that the consent authority accept the written request to waive the requirement to comply with the 60m maximum height limit control that applies to the York Street development site as sufficient environmental planning grounds have been provided to justify the non-compliance with the development standard in this instance is considered to be unreasonable or unnecessary given the circumstances of the case.
99. The proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls.

100. The proposed development is the result of an alternative competition process and the architectural design is considered to exhibit design excellence. The proposal considerably improves the presentation of the site to George Street in comparison with the existing building on the site and the 10% increase in FSR is supported.
101. 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.

LOUISE KERR

Acting Director City Planning, Development and Transport

(Vanessa Aziz, Senior Planner)