

ITEM 4. SECTION 96 APPLICATION: 137-151 CLARENCE STREET SYDNEY**FILE NO: D/2012/1453****DEVELOPMENT APPLICATION NO: D/2012/1453/A****SUMMARY****Date of Submission:** 25 November 2013**Applicant:** Investa Property Group**Architect:** Architectus**Developer:** Investa Property Group**Owner:** IOF Custodian Pty Limited**Cost of Works:** \$99,969,678

Proposal Summary: The subject Section 96 application seeks to modify an approved Stage 1 building envelope, to reduce the setback of all levels above podium height to 4 metres from the Kent Street (western) boundary of the site.

The need to modify the approved Stage 1 building envelope has resulted from the design progression through the competitive design process and selection of a winning scheme in May 2013.

The application was notified for a 14 day period commencing on 4 December 2013. No submissions were received as a result of the notification of this application.

The proposed 4 metre setback of above podium levels represents a numeric departure from the front setback planning control of Section 5.1.2.1 of the Sydney Development Control Plan 2012.

In this instance, numeric variation to the front setback planning control is supported due to the precedent established by development consents on adjacent sites, and the proposed 4 metre setback from Kent Street being consistent with redevelopment projects within the City block.

**Proposal Summary:
(continued)**

The variation to the building envelope to reduce the setback of levels above the podium level/street wall height from Kent Street is supported in this instance as the modified built form does not result in any greater adverse amenity or environmental impacts beyond that assessed as acceptable in the original development application. As modified, the proposed building envelope retains a height and FSR that is compliant with the development standards contained in the Sydney Local Environmental Plan 2012.

Summary Recommendation:

The Section 96 application is recommended for approval, subject to the modification of Condition 1 (Approved Development) to reflect the revised architectural plans.

Development Controls:

- (i) Sydney Local Environmental Plan 2012
(Gazetted 14 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Attachments:

- A - Architectural Plans
- B - Shadow analysis
- C - Stage 1 Development Application report to the Central Sydney Planning Committee on 6 December 2012

RECOMMENDATION

It is resolved that consent be granted to Section 96A Application No. D/2012/1453/A, subject to Condition 1 (Approved Development) being modified (with modifications shown in ***bold italics*** (additions) and ***bold italics strikethrough*** (deletions)) as follows:

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

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

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2012/1453, dated 20 September 2012, and the following drawings:

| Drawing Number | Architect | Date |
|--------------------------------|------------------------|--------------------------------|
| DA S1 01 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 02 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 03 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 04 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 05 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 06 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 07 | Architectus | 19/9/12 |
| DA S1 08 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 09 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 10 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 11 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 12 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 13 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |
| DA S1 14 <i>Issue B</i> | Architectus | 19/9/12 29/10/13 |

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.

(As modified by D/2012/1453/A, dated 20 February 2014)

(2) MATTERS NOT APPROVED

The following items are not approved and do not form part of this consent:

- (a) any demolition, construction, refurbishment and/or excavation; and
- (b) the layout, number of basement levels and number of car parking spaces.

(3) BUILDING ENVELOPE

The building envelope is only approved on the basis that the ultimate building design, including services, will be entirely within the approved envelopes and provide an appropriate relationship with neighbouring and approved buildings. Any projection beyond the building envelope must be fully justified through the competitive design and Stage 2 Development Application process.

(4) DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS

- (a) A competitive design process in accordance with the provisions of Sydney LEP 2005 and Central Sydney DCP 1996 shall be conducted prior to the lodgement of a Stage 2 Development Application.
- (b) The detailed design of the development must exhibit design excellence.

(5) BUILDING HEIGHT

The maximum height of the building as defined in the Sydney Local Environmental Plan 2005 (as may be amended) must not exceed 80 metres.

(6) FLOOR SPACE RATIO - CENTRAL SYDNEY

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permissible and calculated in accordance with the Sydney Local Environmental Plan 2005 (as may be amended). Precise details of the distribution of floor space shall be provided with the future Stage 2 development applications.
- (b) The floor space in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 62 of the Sydney Local Environmental Plan 2005 (as may be amended).

(7) THROUGH SITE LINK (MID BLOCK CONNECTION)

Details of the proposed pedestrian through site link are to be submitted with the Stage 2 application. These details are to include:

- (a) detailed design and view analysis;

- (b) view analysis from/to Clarence Street through the link from/to Kent Street. A visual connection between the streets is to be provided;
- (c) levels; and
- (d) proposed easement.

(8) BREAK THROUGH PANELS

The future Stage 2 application should investigate the opportunity for a connection/s into the adjoining property at 153-159 Clarence Street, Sydney to allow for possible future vehicle access between the two sites and sharing of driveways. Details shall be submitted as part of the future Stage 2 Development Application.

(9) EXPOSED ELEVATIONS

- (a) A visually interesting treatment is to be applied to the exposed side elevations along the north and south boundaries. In applying this treatment, care should be taken to ensure that there are no unreasonable impacts on the neighbouring properties. Details shall be submitted as part of the future Stage 2 Development Application.
- (b) Signage zones are not permitted on the side boundary elevations.
- (c) The above design elements are to form part of the design competition brief.

(10) CLARENCE STREET AND KENT STREET ELEVATIONS

- (a) The design of the building should respond to the high quality masonry facades of the surrounding palazzo and warehouse development comprising masonry facades of high quality, strong visual depth, a high degree of architectural modelling and articulation, a complex hierarchy of vertical and horizontal proportions and changes in architectural treatment with height and level, and high quality materials that provide a compatible response to surrounding development should be incorporated into the design.
- (b) There are significant axial views to the site looking west to the site from the former GPO building and from Barrack Street that should be enhanced by the architectural design of the Kent Street façade. There are significant views from the site to the east along Barrack Street, towards George Street, down to the Sydney General Post Office Building that should be taken advantage of, and enhanced by careful framing.
- (c) The design for the development should respond to major horizontal elements of the former Hoffnung and Co warehouse in a similar manner.
- (d) The above design elements are to form part of the design competition brief.

(11) SECTION 61 CONTRIBUTIONS

The future Stage 2 Development Application will be subject to a cash contribution comprising 1% of the total cost of development. The contribution is payable to the City of Sydney pursuant to Section 61 of the City of Sydney Act 1988 and Central Sydney Contribution (Amendment) Plan 2002.

(12) PUBLIC DOMAIN PLAN

A Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with the Stage 2 development application. The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual.

(13) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

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

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 with the Stage 2 application.

The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with.

(14) WASTE COLLECTION

The future Stage 2 Development Application shall demonstrate compliance with Council's requirements for waste collection for residential development and Policy for Waste Minimisation in New Development 2005.

(15) ELECTRICITY SUBSTATION

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 the approval of Council and Ausgrid with any future Stage 2 Development Application.

(16) ACID SULFATE SOILS

An Acid Sulfate Soils Management Plan for the development must be prepared by an appropriate qualified consultant and submitted with the Stage 2 Development Application. This plan shall be prepared in accordance with the Acid Sulfate Soils Manual.

(17) 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".

(18) TRANSPORT ROADS AND MARITIME SERVICES CONDITIONS

- (a) The layout of the proposed driveway should be in accordance with AS2890.1-2004 and AS2890.2-2002.
- (b) The swept path of the longest vehicle entering and exiting the subject site as well as manoeuvrability through the site shall be in accordance with AUSTRROADS. In this regard, a swept path plan shall be submitted to Council as part of the Stage 2 application which shows the development complies with this requirement.
- (c) All works/regulatory signposting associated with the proposed development shall be at no cost to the Roads and Maritime Services (RMS).

SCHEDULE 2

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

BACKGROUND

The Site

1. The site has a legal description of Lot 1 DP 9117, Lot 6 DP 165754, Lot 1 DP 165965, Lot 1 DP 205806 and Lot 5 DP 661092, and is commonly known as 137-151 Clarence Street, Sydney.
2. The site is located on the western side of Clarence Street, between Erskine and King Streets. The site has a primary street frontage to Clarence Street of 49 metres, and a secondary frontage to Kent Street of 43 metres. The site has an area of 2,093sqm.
3. The topography of the site results in a fall of approximately 4 metres from Clarence Street to Kent Street, which generally equates to one additional floor on the Kent Street frontage of the site.
4. Existing on site is a 10 to 13-storey commercial office building, with vehicular access to the site from Kent Street.
5. Located along the Kent Street frontage of the site is the dual lane separated cycleway, which forms part of the City's greater cycleway network.
6. **Figures 1 to 3**, below, illustrates the context of the site and the existing built form.

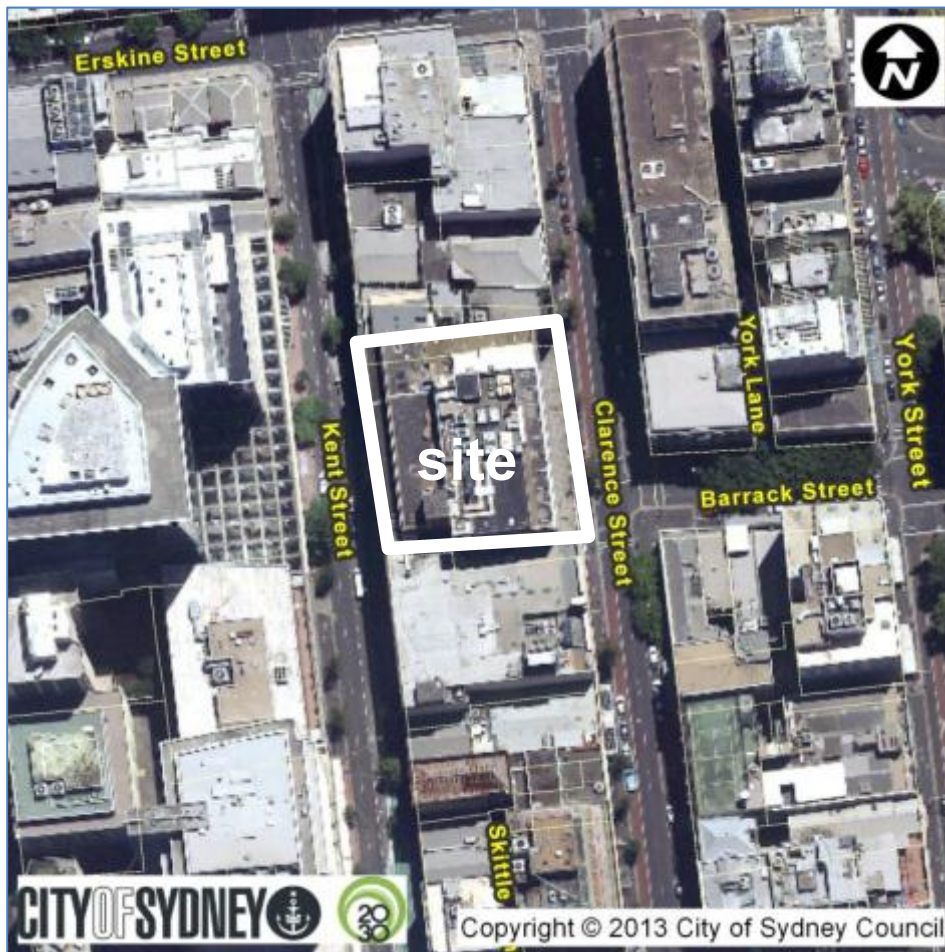


Figure 1: Location Plan



Figure 2: The existing building on site as viewed from Barrack Street



Figure 3: View of the existing building on the site from Kent Street

Surrounding Development and Relevant Development Applications

7. Development in the vicinity of the site is generally characterised by commercial, retail and hospitality land uses.
8. Contextually, the site is surrounded by a number of individually listed heritage items, and the collective Clarence Street streetscape forms part of the larger York Street Special Character Area.
9. **Figures 4 and 6**, below, illustrate the streetscape context of the site.



Figure 4: View of heritage listed buildings on the opposite side of Clarence Street, looking north



Figure 5: View of the western side of Clarence Street



Figure 6: View of existing development on the opposite side of Kent Street

10. This part of the Sydney CBD is currently undergoing significant change with a number of sites within this section of Clarence/Kent Streets having development consent for redevelopment, or are the subject of pending development applications for their redevelopment.

153-159 Clarence Street – Red Cross House

11. Directly south of the site, at 153-159 Clarence Street, is the State heritage listed property known as Red Cross House. Existing on this site is a 9-10 storey commercial building.
12. This site has development consent (pursuant to Development Application D/2011/2119) for the refurbishment and upgrade of the existing building and the addition of a further four storeys. Construction works have commenced on site.
13. **Figures 7** and **8** illustrate plans of the approved development for this site.

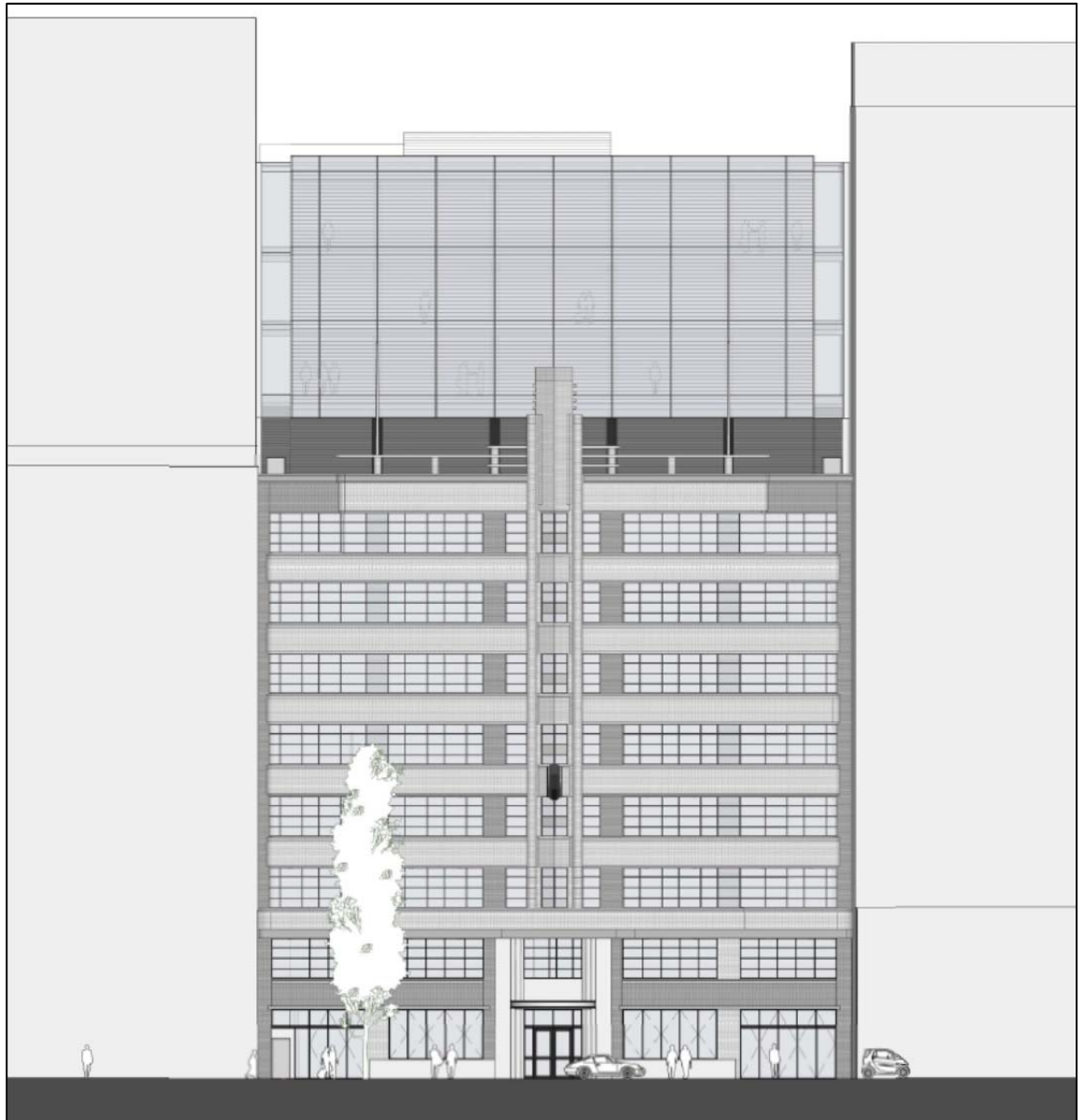


Figure 7: The approved facade restoration and additional 4-storeys to Red Cross House (Clarence Street/eastern elevation).

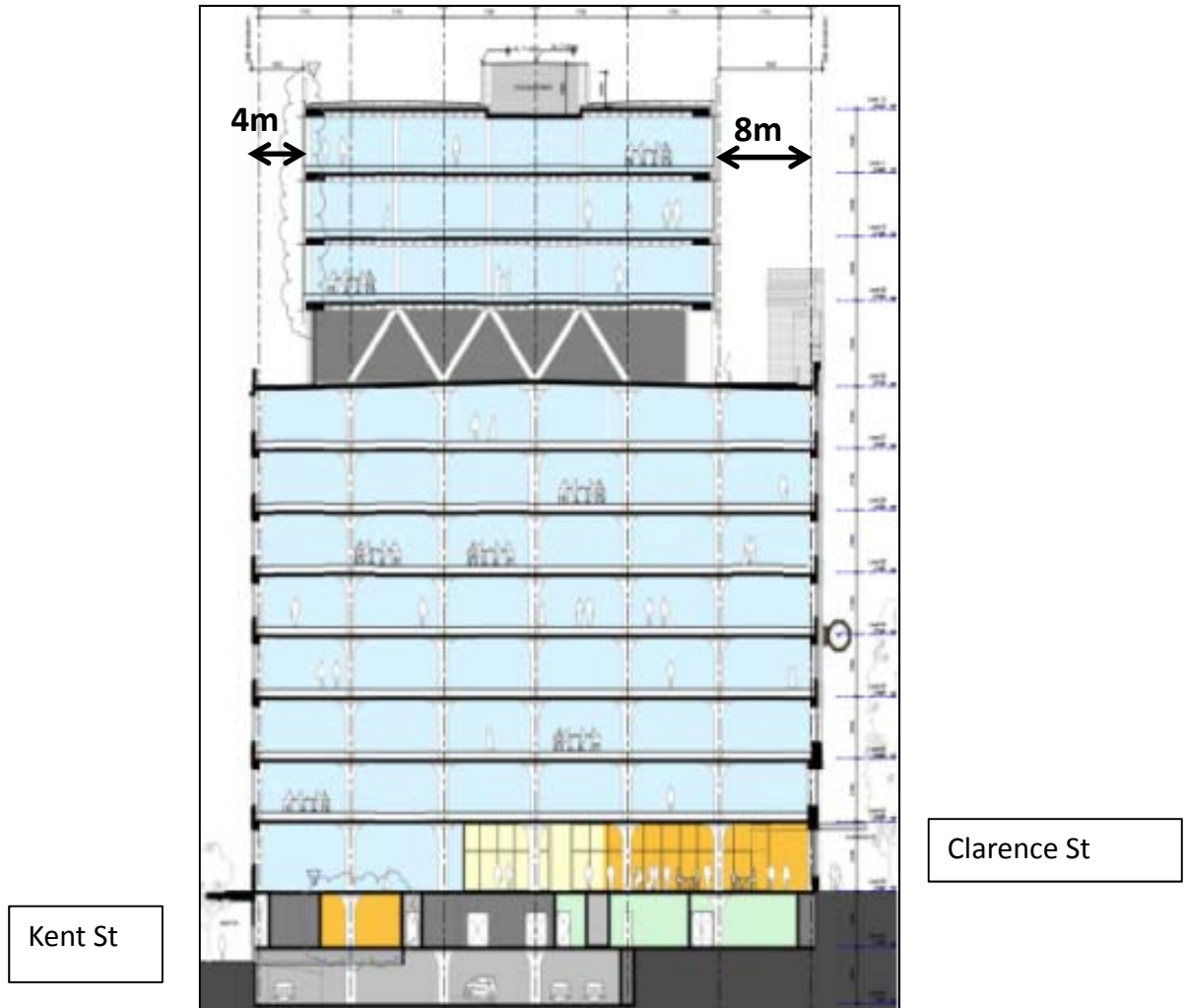


Figure 8: Cross section of the approved refurbishment and additional storeys to Red Cross House, illustrating approved setbacks of the new levels from either street frontage

161-165 Clarence Street

14. Further to the south of the site, on the opposite side of Red Cross House, is the development site at 161-165 Clarence Street and 304 Kent Street, Sydney.
15. A Stage 1 Development Application (D/2012/1425) for the site at 161-165 Clarence, Street was granted deferred commencement consent by the Central Sydney Planning Committee on 6 December 2012, and comprised the following:
 - (a) an indicative building envelope for an 80 metre tower on site, including basement car parking;
 - (b) indicative land uses of retail, residential and serviced apartments; and
 - (c) public domain improvements, including a new through-site link and central plaza

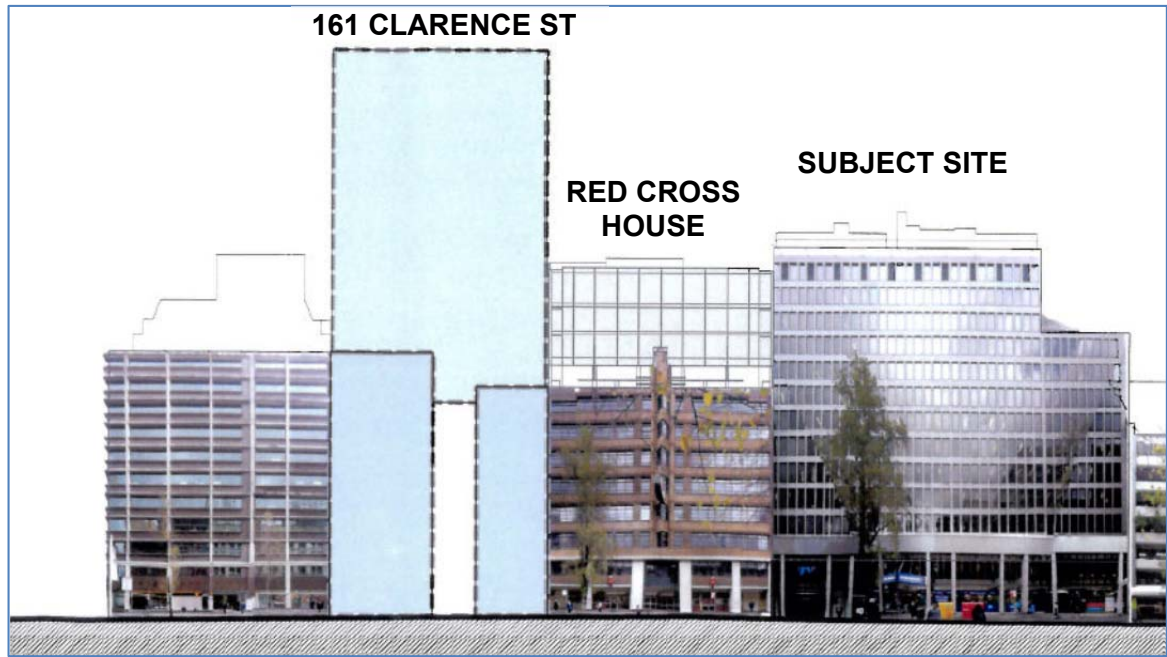


Figure 9: The approved building envelope for the site at 161-165 Clarence Street as viewed in its Clarence Street context.

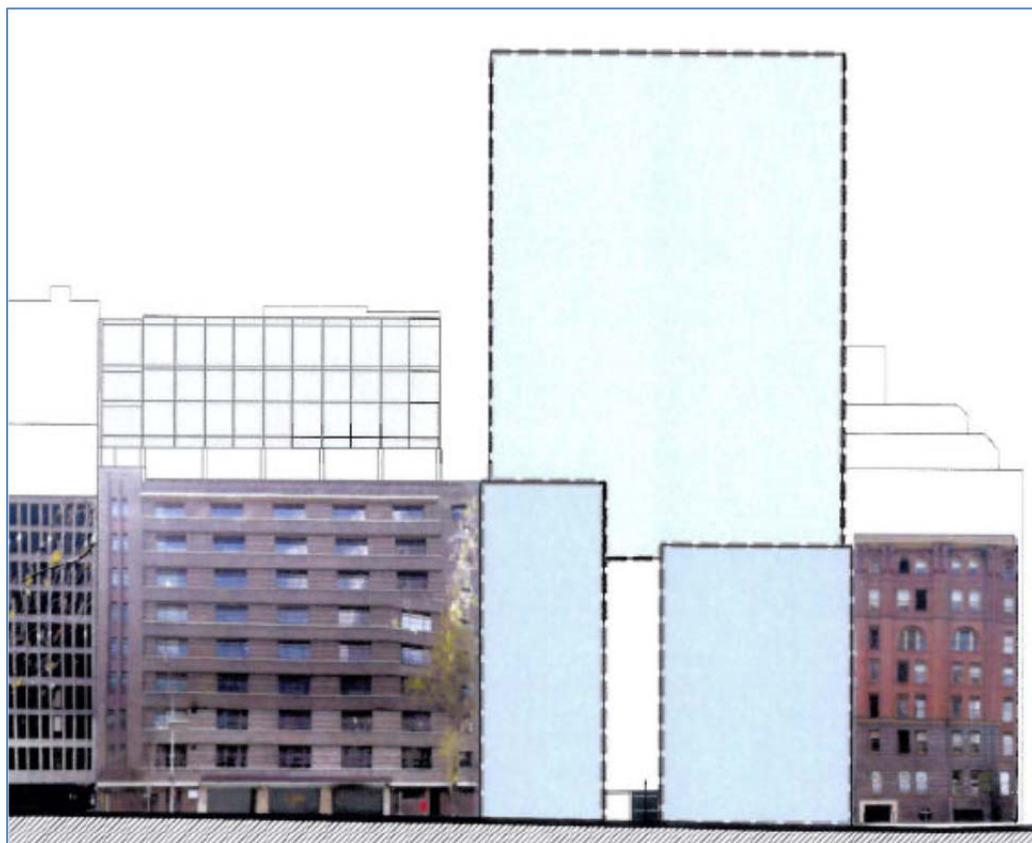


Figure 10: The approved building envelope for the site at 161-165 Clarence Street as viewed in its Kent Street context.

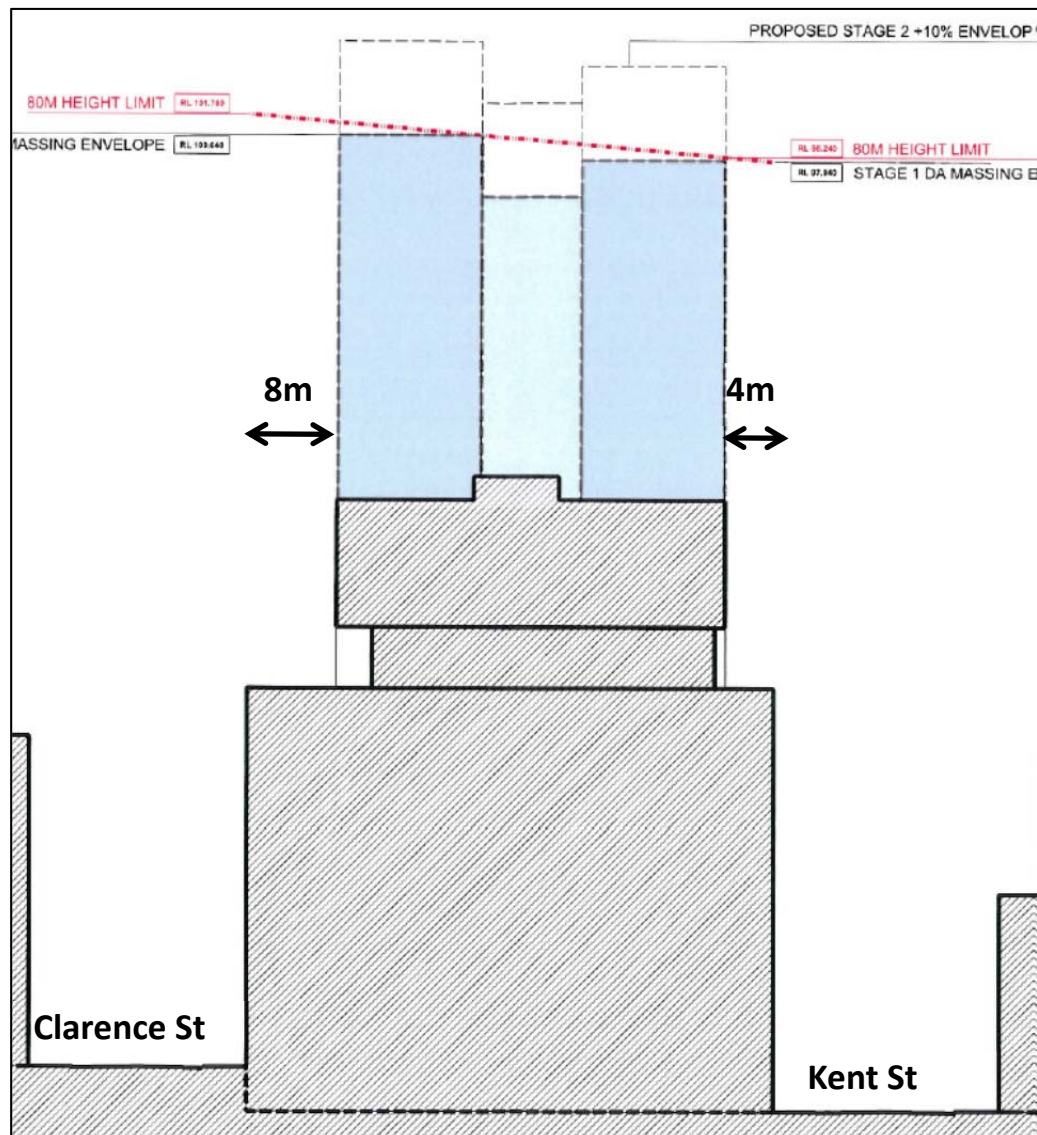


Figure 11: Section of Stage 1 building envelope at 161-165 Clarence Street illustrating approved setbacks above podium/street wall height

16. A competitive design process for this site was held between April and June 2013, with Koichi Takada Architects being named the winning scheme in July 2013.
17. This Koichi Takada Architects scheme has been developed and lodged as a Stage 2 Development Application (D/2013/1707) on 5 November 2013. At the time of reporting, this application is still under assessment. For reference, the Stage 2 Development Application seeks consent for demolition and construction of a 25-storey mixed-use development, accommodating retail tenancies, serviced apartments and residential apartments.
18. **Figures 12** and **13**, below, illustrate photomontages of the proposed redevelopment of the site at 161-165 Clarence Street.



Figure 12: Photomontage of the proposed development at 161-165 Clarence Street, as viewed from Clarence Street



Figure 13: Photomontage of the proposed development at 161-165 Clarence Street, as viewed from the corner of Kent and King Streets

HISTORY OF SUBJECT APPLICATION

19. Development Application D/2012/1453 was approved by the Central Sydney Planning Committee on 6 December 2012. This application granted consent to a Stage 1 building envelope on the subject site, inclusive of the following:
- an indicative building envelope for a commercial development (with ground floor retail tenancies), with a potential future FSR of 11:1;
 - an envelope up to 80 metres in height, with the potential for an additional 10% uplift, subject to, and following, a competitive design process;
 - 4 levels of basement car parking, accessed from Kent Street; and
 - provision of a through-site link between Clarence and Kent Streets.
20. **Figures 14 to 17**, below, illustrate the approved building envelope and footprints across the tower.

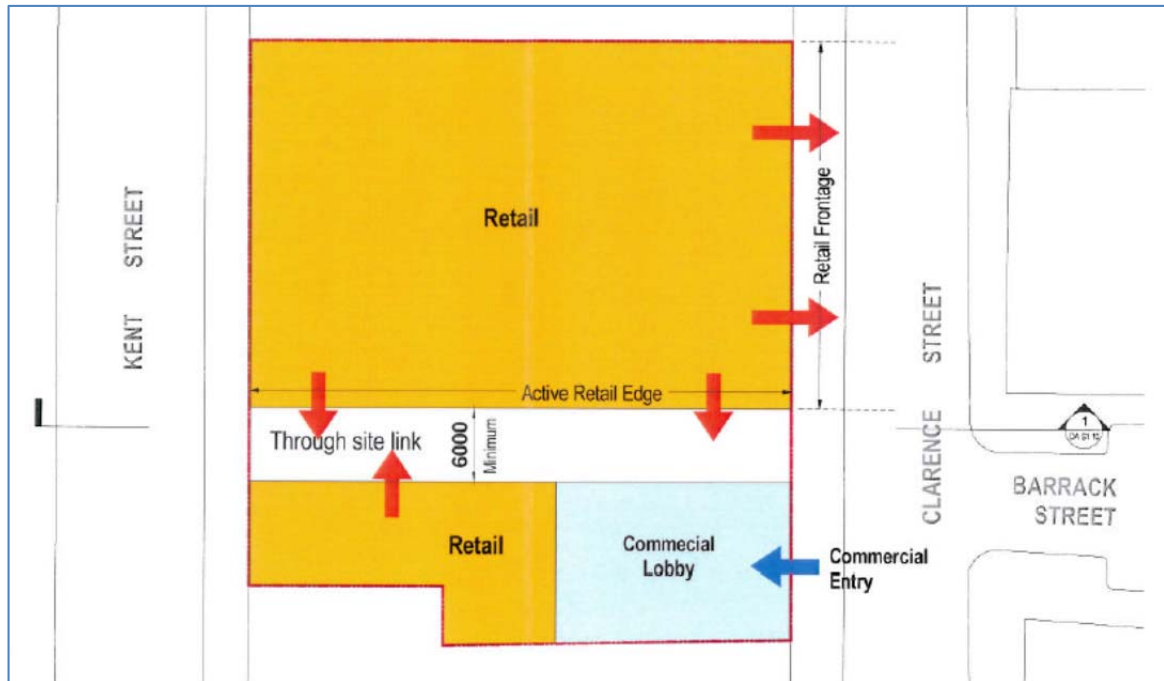


Figure 14: The Stage 1 DA approved ground floor level building footprint (with zero setback from either street frontage)



Figure 15: The Stage 1 DA approved podium level footprints (with zero setback from either street frontage)

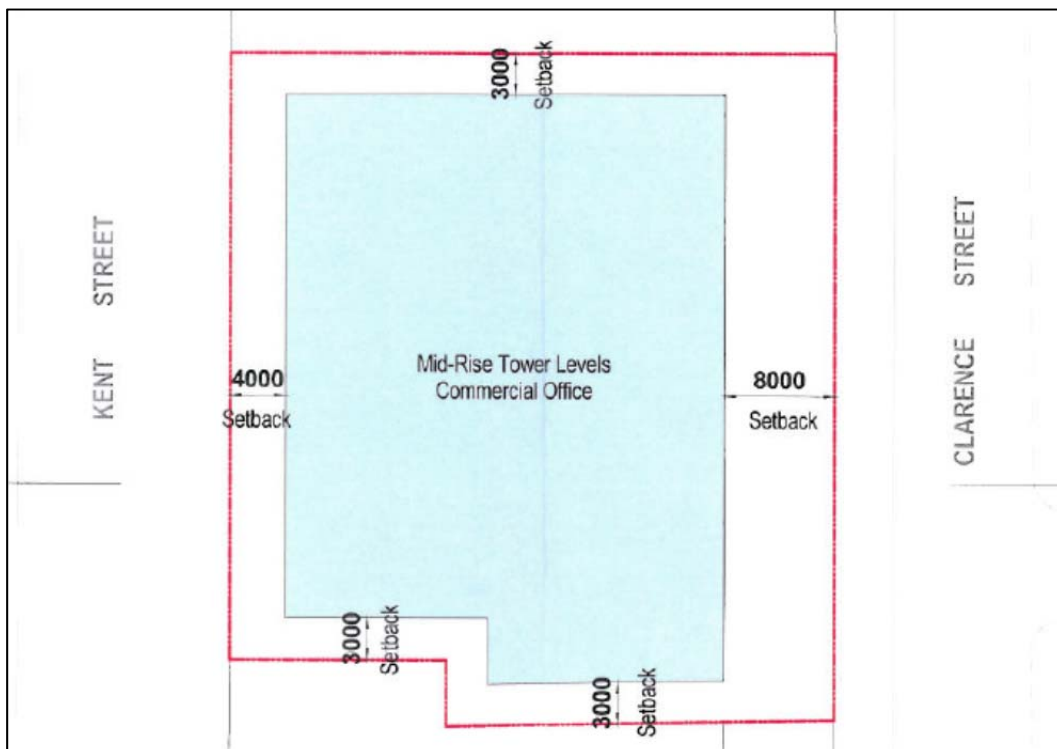


Figure 16: The Stage 1 DA approved mid-rise tower level footprints

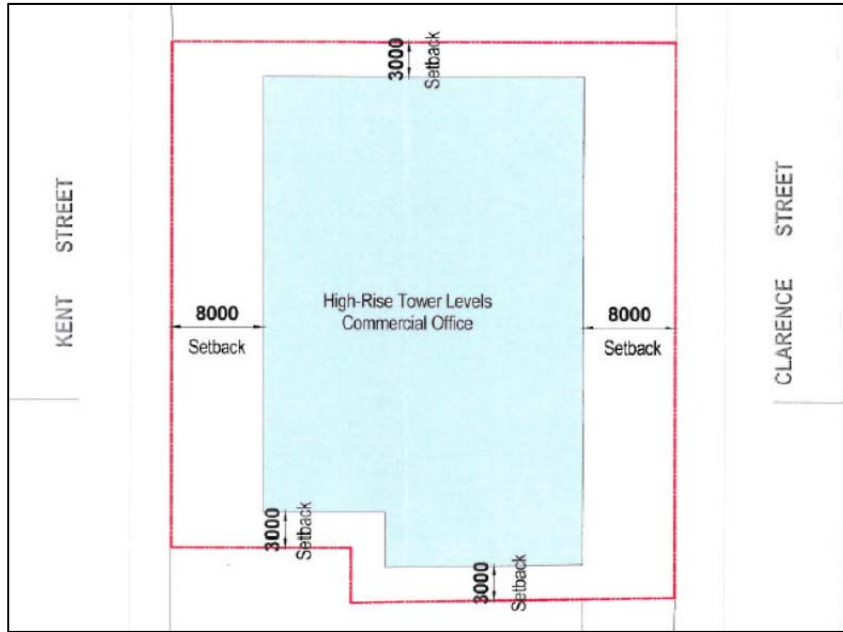


Figure 17: The Stage 1 DA approved high-rise tower level footprints

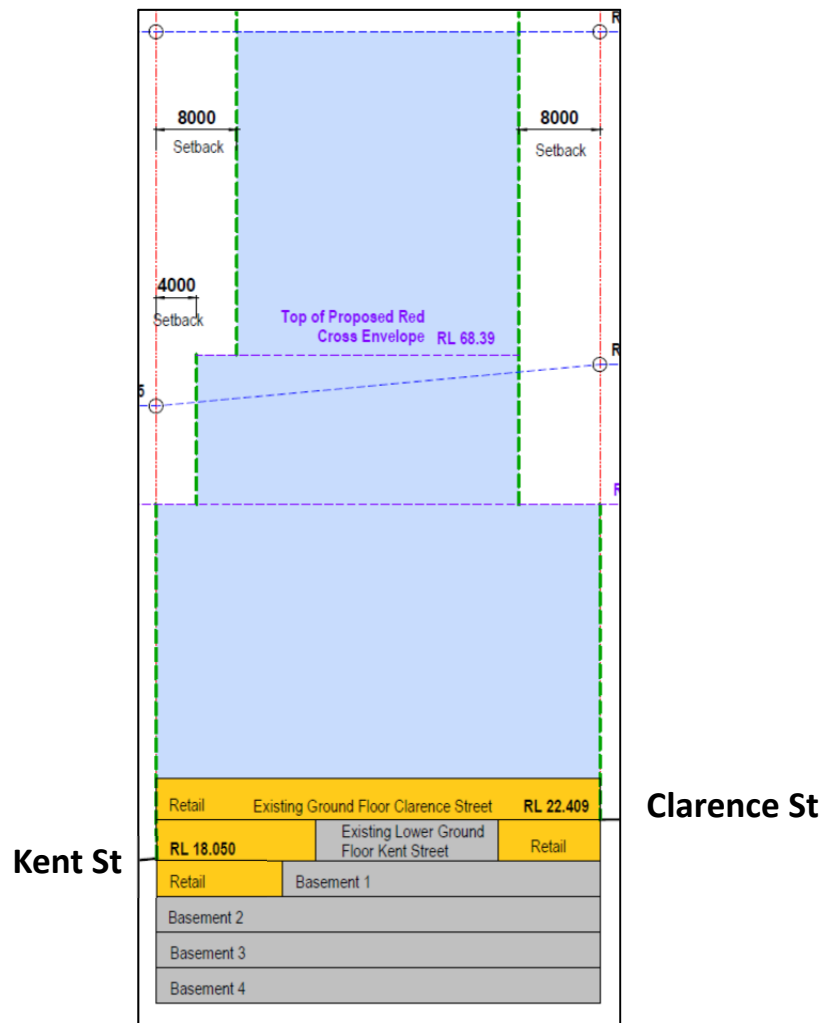


Figure 18: A cross section of the approved building envelope, illustrating the setbacks above podium/street wall height

21. Following the Stage 1 development consent, the applicant commissioned a competitive design alternatives process for the site. Four architectural firms were invited to submit a design proposal in January 2013. These firms were:
- (a) Bates Smart;
 - (b) Architectus;
 - (c) Woods Bagot; and
 - (d) Rice Daubney.
22. Presentations were given to the design jury in March and April 2013, with the design jury selecting the Architectus' scheme as the winning design in May 2013. This scheme is currently being progressed towards a Stage 2 detailed development application.

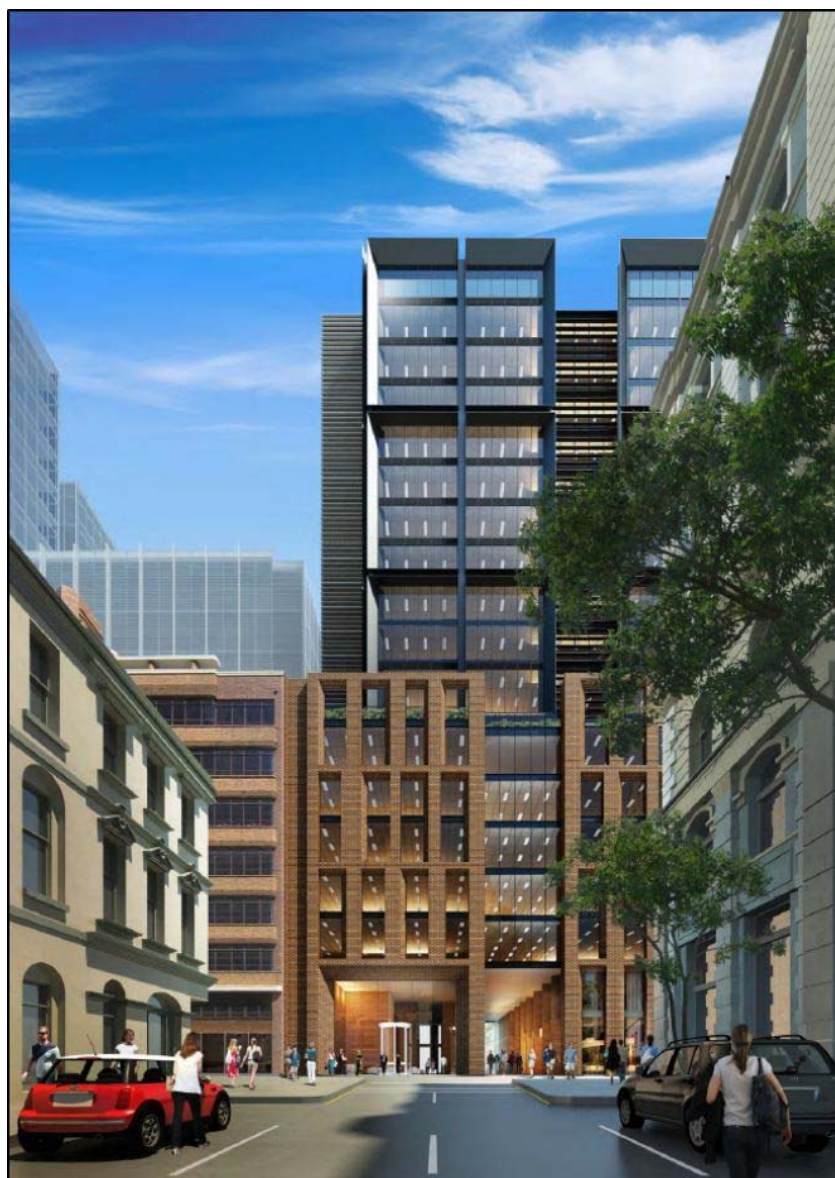


Figure 19: Photomontage of the eastern elevation of the Architectus scheme as viewed from Barrack Street

PROPOSAL

- 23. The subject Section 96(2) application seeks consent to modify the approved Stage 1 building envelope to reduce the setback of the high-rise tower levels from its Kent Street (western) frontage from 8 metres to 4 metres. **Figure 20**, below, illustrates the proposed 4 metre setback of this tower envelope from the Kent Street boundary in section.
- 24. The proposal does not seek to alter the remainder of the building setbacks, the building envelope or its height from that approved by the CSPC in December 2012.

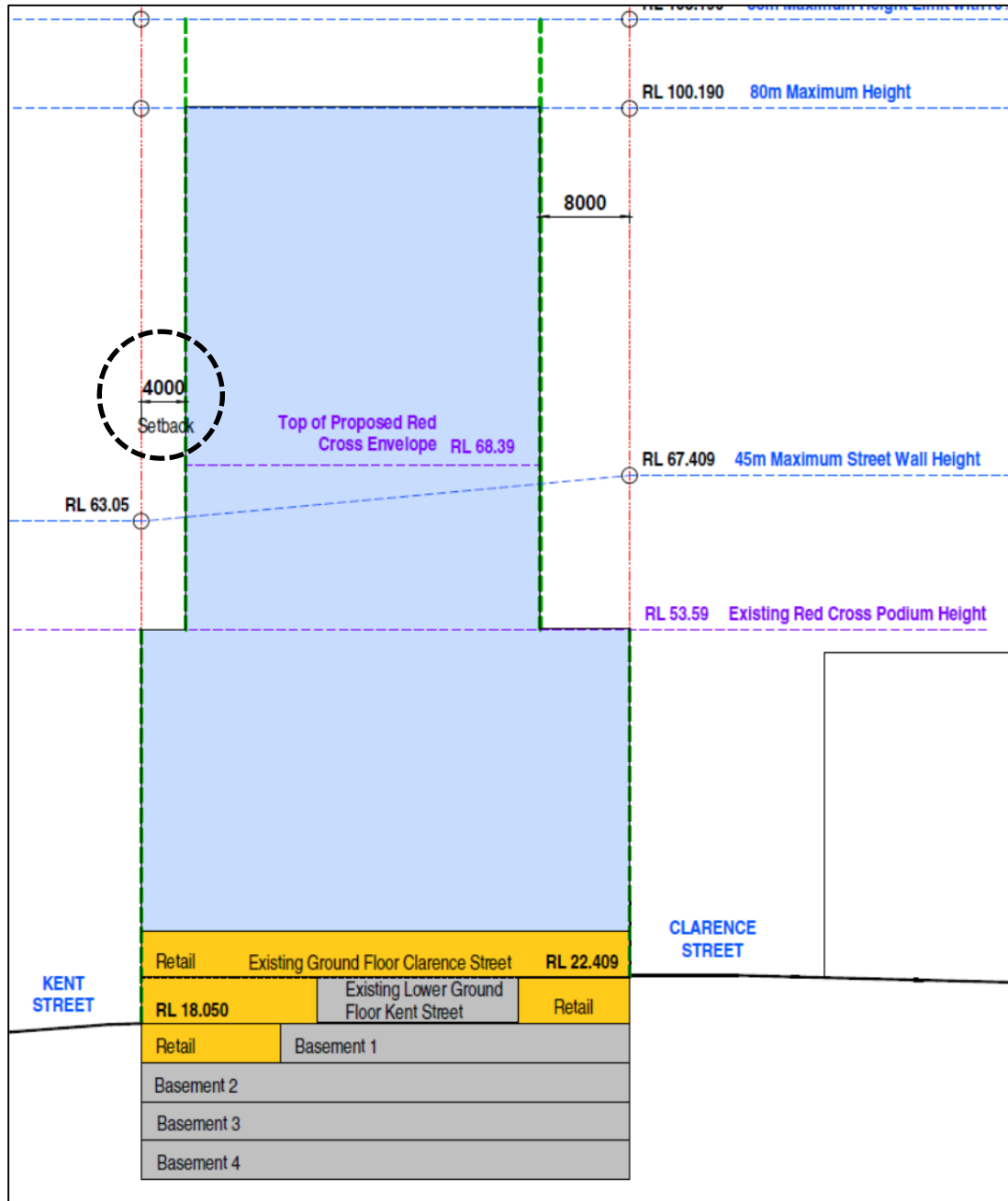


Figure 20: A cross section of the proposed modified building envelope, illustrating a 4-metre setback to Kent Street for all tower floor levels

CITY OF SYDNEY ACT 1988

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

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

(1) The Planning Committee must consult the CSTTC before it exercises a function under Part 4 that will result in the making of a decision that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.

(2) The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.

(3) The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.

(4) The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee."

26. The proposed modification does not have any altered impact on traffic or transport in the Sydney CBD, beyond that assessed in the original Stage 1 Development Application. As part of the assessment of that application, it was determined in liaison with the City's Access Unit, that consultation with the CSTTC was not necessary at this stage.

THRESHOLD TEST

27. The development as proposed to be modified is considered to be substantially the same as that originally approved.

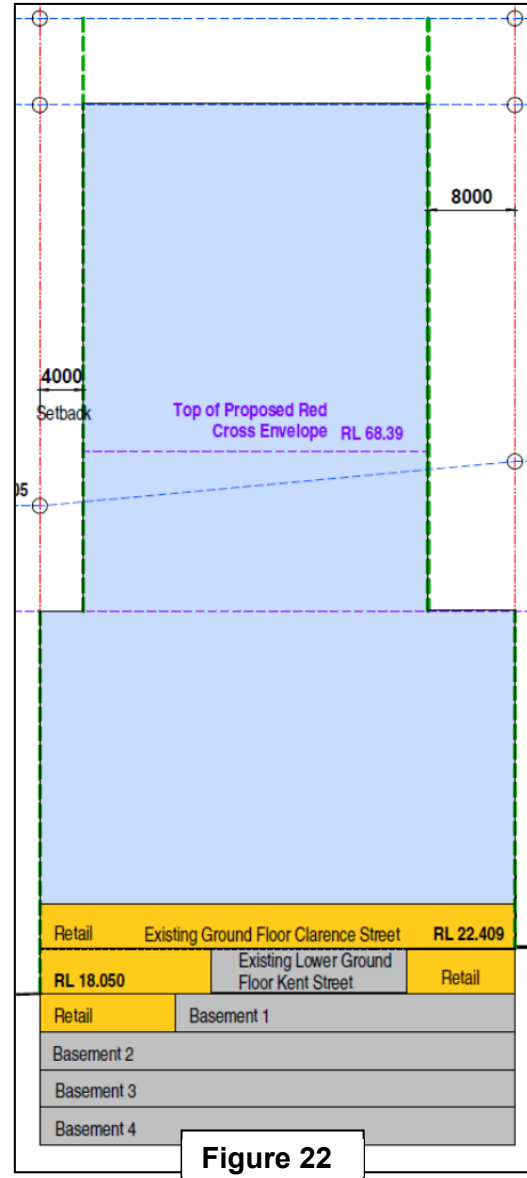
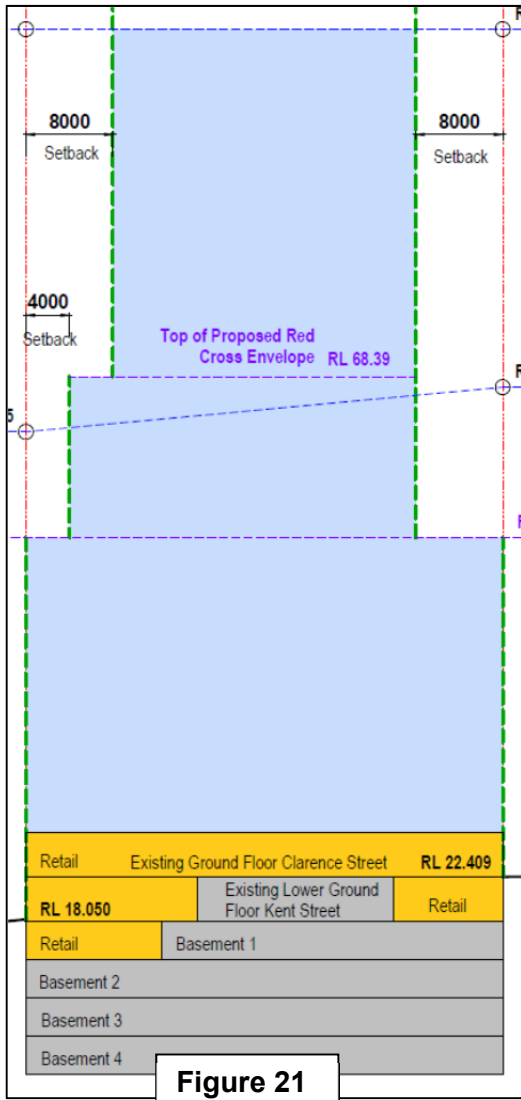
ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

28. Besides the matters discussed in this report, the assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 contained in the report to the Central Sydney Planning Committee at its meeting on 6 December 2012 are still relevant.
29. A copy of the original planning assessment report for Development Application D/2012/1453 is provided at Attachment C.

ISSUES

Setback to Kent Street frontage

30. The original development application was assessed under the setback provisions contained within the Central Sydney Development Control Plan 1996, which required an eight (8) metre setback for all above podium levels above the street wall height. These setback controls have been replicated at Section 5.1.2 of the Sydney Development Control Plan 2012 (SDCP 2012), being the current planning control applicable to the site.
31. As illustrated in section in **Figure 21**, below, the existing Stage 1 development consent for the site has approved a building podium/street wall height of approximately 31 metres on the Clarence Street frontage, and approximately 35 metres on the Kent Street frontage of the site.
32. These street wall heights were assessed in the original development application as being consistent with both the applicable planning controls at the time of determination, as well as being reflective of the contextual street wall heights of adjoining buildings on both of the sites frontages. The podium height on both street frontages are unchanged by the proposed modification.
33. Above podium height, the approved building envelope is setback 8 metres from its Clarence Street frontage and has a stepped setback on the Kent Street of between 4 metres (mid rise) and 8 metres (high rise).
34. The rationale for the stepped setback on Kent Street was that a variation of the setback planning controls to 4 metres could be supported at the lower/mid tower levels as this replicated the approved setback of the new commercial floor levels on the Red Cross House site (at 153-159 Clarence Street). All floors above the approved maximum height of the Red Cross House redevelopment (being RL 68.39) were approved with a setback from the Kent Street frontage of 8 metres, being compliant with the full setback controls.
35. **Figures 21** and **22**, below, provide a comparison of the approved building envelope and its setbacks (in section) from both its street frontages and the proposed modification to the above podium level setbacks from the Kent Street frontage of the site.



Figures 21 and 22: The approved (left) and proposed (right) Stage 1 building envelope, illustrating the modified Kent Street setback for the tower levels

36. As has been detailed in the relevant history section of this report, since the time of determination of the original determination, a Stage 1 DA has been approved and a Stage 2 DA lodged for the site at 161-165 Clarence Street. The approved Stage 1 building envelope and Stage 2 detailed design for this site has a 4 metre setback from its Kent Street boundary (above a height of RL 54.25).
37. The current modification that is the subject of this application has been lodged to delete the approved stepped setback of the mid-tower levels (of approximately 4 commercial floor levels) and adopt a 4 metre setback from the Kent Street frontage of the site.
38. Whilst this represents a numeric departure from the 8 metre front setback control of Section 5.1.2.1, it is considered that the variation can be supported in this particular instance as the proposal still achieves the objectives for setbacks as outlined at Section 5.1.2 of SDCP 2012, in the following manner:

- (a) The variation of the approved building envelope to adopt a 4 metre setback for all above podium floors on its Kent Street frontage is consistent with recent approvals on adjacent sites (as detailed in **Figure 23**, below) and is contextually appropriate;

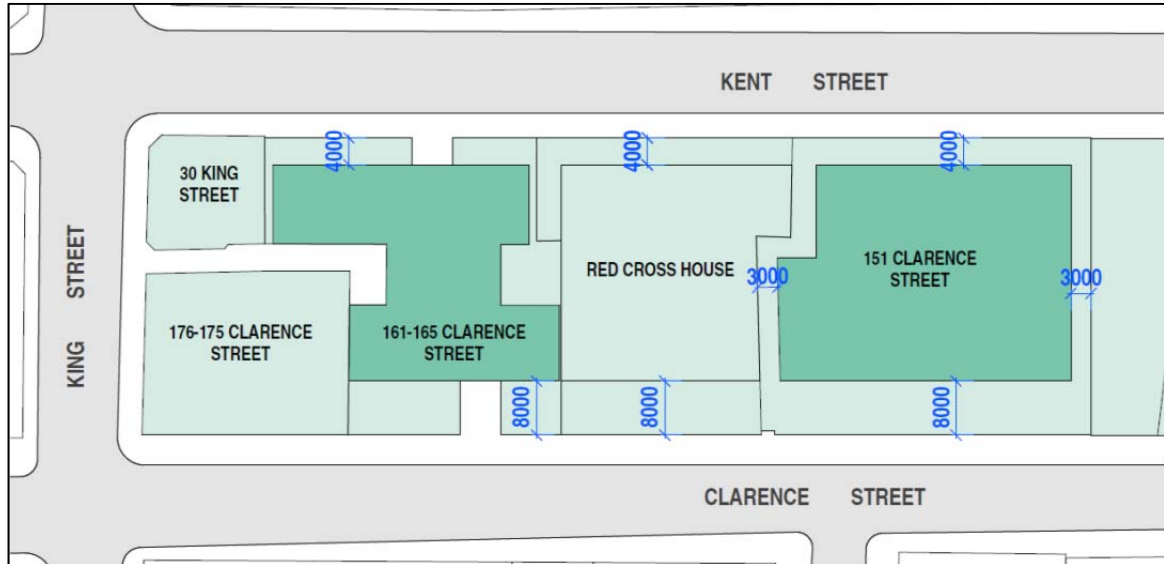
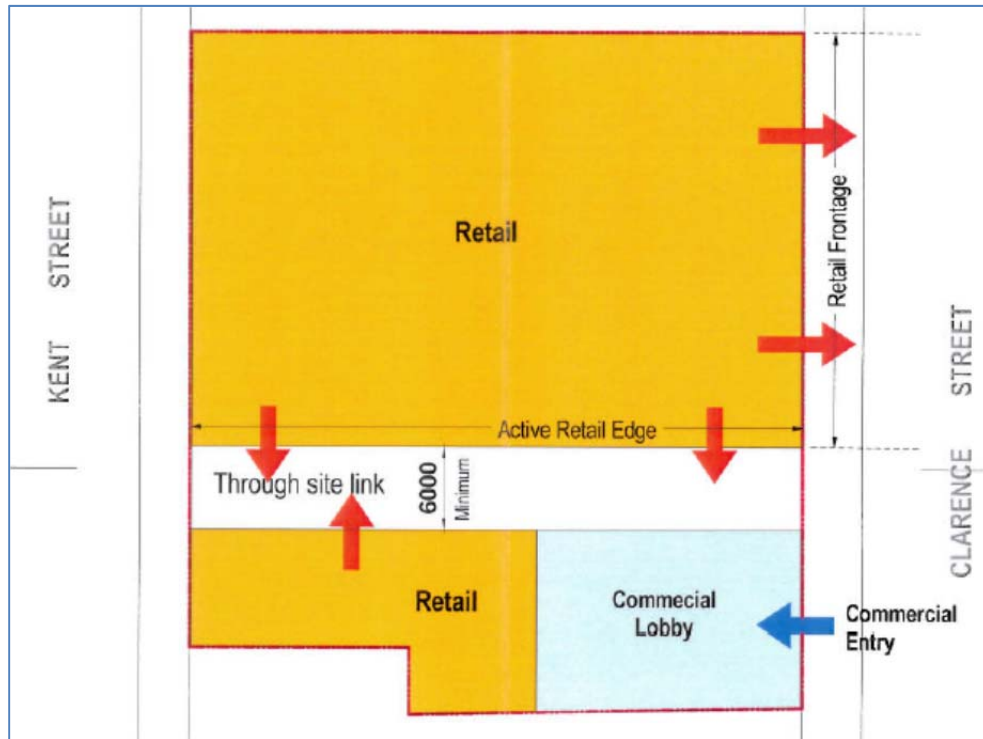


Figure 23: Proposed 4 metre setback on Kent Street frontage illustrated in context of recent approvals for Red Cross House and 161-165 Clarence Street

- (b) Despite the reduced setback on Kent Street, the proposed future commercial floor plates would retain a separation of approximately 45 metres to the existing commercial tower on the opposite side of Kent Street, which is in excess of the DCP requirements;
- (c) The variation to the building envelope is a direct result from the design progression that has occurred for the project through the completion of a competitive design process and selection of a winning scheme to be lodged as a Stage 2 detailed development application.
- (d) Whilst the internal floor plans and layouts will form part of the detailed assessment of a further Stage 2 DA, it is noted that despite the variations in envelope to increase the size of the floor plates in the tower, the floor space will remain permissible with the maximum allowable under Sydney Local Environmental Plan 2012 (as detailed in **Figure 25** below). The design competition winning scheme and Stage 2 DA to be lodged will offset this floor space by:
- (i) the provision of greater pedestrian penetration and public access through the site at ground level;
 - (ii) inclusion of double height voids to the through-site links, reducing the floor plates at level 1 of the development;
 - (iii) provision of a void/lightwell throughout the building to increase light penetration to the commercial floor plates; and
 - (iv) articulation of the building facades.



Figures 24: Approved Stage 1 DA ground floor plate/footprint

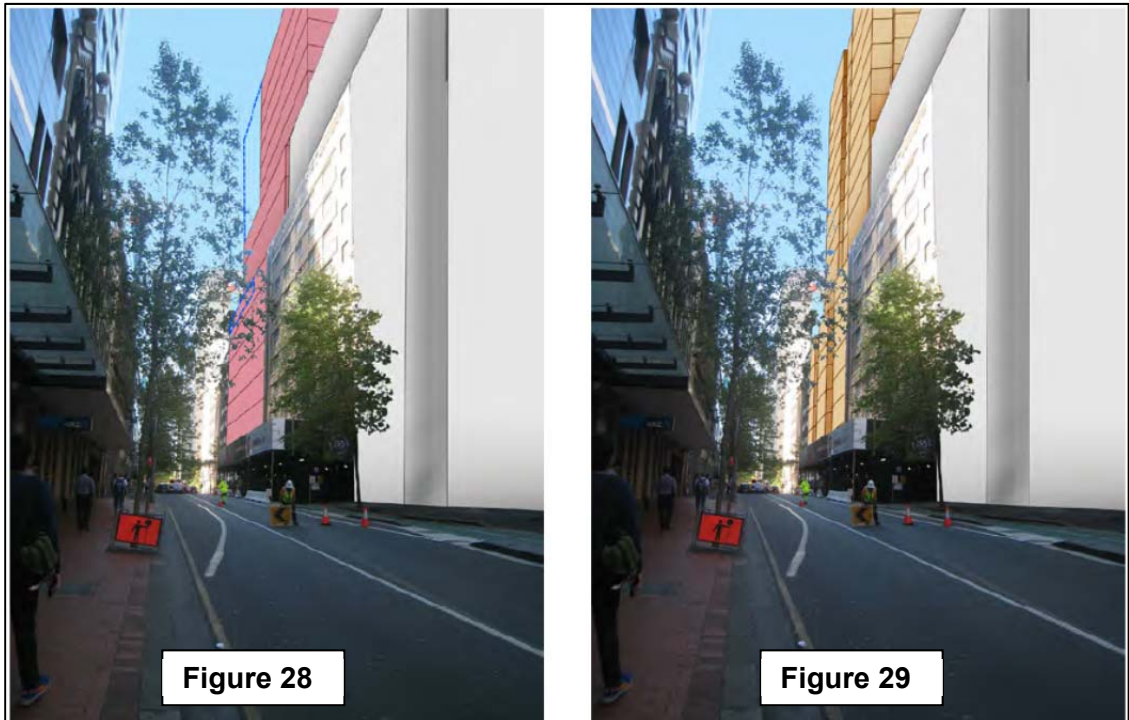


Figure 25: The indicative ground floor layout of the winning scheme from the competitive design process

- (e) The proposal retains a podium that is of a height to reflect the predominant street wall height on both its frontages. **Figures 26 to 29**, below, provide modelling of the modification to the building envelope as viewed from street level (on Kent Street). Review of this modelling illustrates that there is only a minor variation to the perceived bulk and scale of the building at pedestrian level. This would be further negated through articulation of the building envelope at the detailed design stage, and has been demonstrated as part of the competitive design process scheme;
- (f) The reduced setback will still preserve reasonable levels of daylight to street level and retains views of the sky. When considered collectively with the built form envelopes already approved for this City block, the modification proposed is not considered to have a material impact in this regard;
- (g) The variation in front setback will result in negligible variations to the shadow cast by the approved Stage 1 building envelope, with these shadows falling predominately across the roof areas of adjacent sites. Neither the approved or proposed modification will result in any unreasonable overshadowing to the public domain; and
- (h) An updated wind assessment has been submitted with the subject application. The conclusions of this wind assessment are that as a result of the proposed massing changes, the wind conditions around the subject site will remain similar to the existing conditions.
39. On balance, with consideration to the above factors that may be impacted when varying the setbacks of a building envelope, the proposed variation to the front setback planning controls above podium height is supported in this instance. It is considered that the 4 metre setback to Kent Street for the tower element of the building is contextually appropriate and does not result in greater environmental or amenity impacts.



Figures 26 and 27: View analysis of approved building envelope (left) and proposed modified building envelope (right) looking south along Kent Street



Figures 28 and 29: View analysis of approved building envelope (left) and proposed modified building envelope (right) looking north along Kent Street

Other Impacts of the Development

40. The proposed development is capable of complying with the BCA.
41. 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

42. 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

43. The subject Section 96 application was referred to both the City's Urban Designer and Senior Heritage Specialist.

Urban Design

44. No objection has been raised to the proposed modification by the City's Urban Designer.

Heritage

45. The City's Heritage Specialist has raised objection to the reduced setback on the basis of reduction to daylight and views of the sky from street level. These issues raised are considered to be planning considerations and have been addressed elsewhere within this report.

46. Objection was also raised to the reduced setback on the grounds that any new building on this site would then overbear the heritage item at 153-159 Clarence Street (being Red Cross House).
47. In this instance, this objection is not concurred with based on the street view analysis undertaken by the applicant and submitted with the application (refer to **Figures 26 to 29**, above).
48. The proposal does not alter the podium/street wall height, which aligns with the original heritage significant portion of the Red Cross House building, and all new levels above podium/street wall height align with the approved setbacks for the 4-storey addition to Red Cross House. Therefore, any views down Kent Street will show consistent podium/streetwall heights and setbacks of above podium levels for the 3 adjacent development sites. Further to this, no additional height is proposed to the building envelope, beyond that in the original approval.
49. Considering the view analysis undertaken as part of this application, it is not concurred that the reduced setback by 4 metres of the tower levels from Kent Street will overbear the heritage listed building at 153-159 Clarence Street beyond that already approved.

EXTERNAL REFERRALS

Notification, Advertising and Delegation

50. In accordance with Schedule 1 of the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 4 December 2013 and 19 December 2013, with all previous submitters also notified of the proposal.
51. As a result of the notification of the application, no submissions were received.

PUBLIC INTEREST

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

FINANCIAL IMPLICATIONS/S94 CONTRIBUTION

53. The cost of the development is in excess of \$200,000, and therefore, is subject to a development levy pursuant to the Central Sydney Development Contributions Plan 2013. An appropriate condition will need to be imposed on the future Stage 2 Development Application.

RELEVANT LEGISLATION

54. The Environmental Planning and Assessment Act 1979.

CONCLUSION

55. The subject application seeks to modify the setback of the approved Stage 1 building envelope from its Kent Street frontage. The application seeks to reduce the setback of the tower floor plates from its Kent Street (western) boundary from the approved 8 metres, to 4 metres.

56. In this instance, considering the specific circumstances of the site, the proposed numeric variation to the front setback planning control contained within the SDCP 2012 is supported as it is able to be varied without resulting in any greater environmental or amenity impacts beyond a compliant scheme.
57. Secondly, modification to the Kent Street setback for the tower levels would result in a building envelope that has a consistent setback (from Kent Street) with recent development consents for adjacent sites. This will ensure that the future redevelopment of this section of Kent Street will have a consistent scale when viewed from street level and will adopt a cohesive approach to the redevelopment and renewal of these sites.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)