

ATTACHMENT C

**STAGE 1 DEVELOPMENT APPLICATION
REPORT TO THE CENTRAL SYDNEY
PLANNING COMMITTEE
ON 6 DECEMBER 2012**

137-151 CLARENCE STREET, SYDNEY

DEVELOPMENT APPLICATION: 137-151 CLARENCE STREET SYDNEY**FILE NO:** D/2012/1453**DEVELOPMENT APPLICATION NO:** D/2012/1453**SUMMARY****Date of Submission:** 20 September 2012**Applicant/Land owner:** Investa Property Group**Architect:** Architectus

Proposal Summary: Stage 1 development application for the demolition of the existing structures on the site and consent for an 80m building envelope comprising ground level retail uses, commercial podium and tower including basement parking.

The Stage 1 application proposes a floor space ratio of 11:1 and maximum tower height of 80 metres above ground level.

The site is within the York Street Special Area which consists of several state and locally listed heritage items. The site adjoins Red Cross House to the south which is a State listed heritage item.

The proposed building envelope, including above podium setbacks and the street frontage height, has been designed to remain consistent with the built form of Red Cross House, including a recent approval for the addition of three commercial floors (plus plant) on the top of Red Cross House. A detailed design of the building will be undertaken at Stage 2 following a competitive design process to ensure the building exhibits design excellence.

One submission has been received regarding overshadowing of the residential building at Broughton House, 181 Clarence Street (approximately 110m south of the subject site). This issue has been addressed in the report and is considered to be acceptable.

Summary Recommendation: Development Application D/2012/1453 is recommended for approval, subject to conditions.

Development Controls:

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

Development Contributions:

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

Attachments:

- A - Selected Drawings

RECOMMENDATION

It is resolved that consent be granted subject to the following conditions:

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

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

(1) APPROVED DEVELOPMENT

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

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

and as amended by the conditions of this consent:

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) 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 approval of Council and Ausgrid with any future Stage 2 DA.

(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 AUSTROADS. 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).

BACKGROUND

The Site and Surrounding Development

1. The site is located at 137-151 Clarence Street and comprises a total area of 2093sqm. The site is an irregular shaped allotment with a primary street frontage to Clarence Street (49m) and secondary street frontage to Kent Street (43m).
2. Due to the topography of the site, there is a level difference of approximately one floor between Clarence Street and Kent Street.
3. The site currently contains a 13 storey commercial office building to Clarence Street which steps down to a 10 storey building fronting Kent Street including four basement levels accessed via Kent Street. The existing structures on the site are built to the street alignment. An existing mid-block connection is provided through the site from Clarence Street through to Kent Street which contains a number of retail shops.



Figure 1 – Location Plan

4. Directly south of the site is the 9-10 storey State listed heritage item known as Red Cross House (153-159 Clarence Street) which has development consent for an additional three commercial floors above a rooftop plant level.
5. To the east of the site are a number of individually listed heritage items of local significance. Heritage items in the vicinity of the subject site include Pinnacle House a seven storey commercial building located at 2-6 Barrack Street and The Mercury Café Building located at 1 Barrack Street is a three storey commercial building.
6. To the west of the subject site is Kent Street which generally comprises podium and tower style commercial buildings. Along Kent Street is a two way separated cycleway.
7. Photographs of the site and surrounding development are provided below:

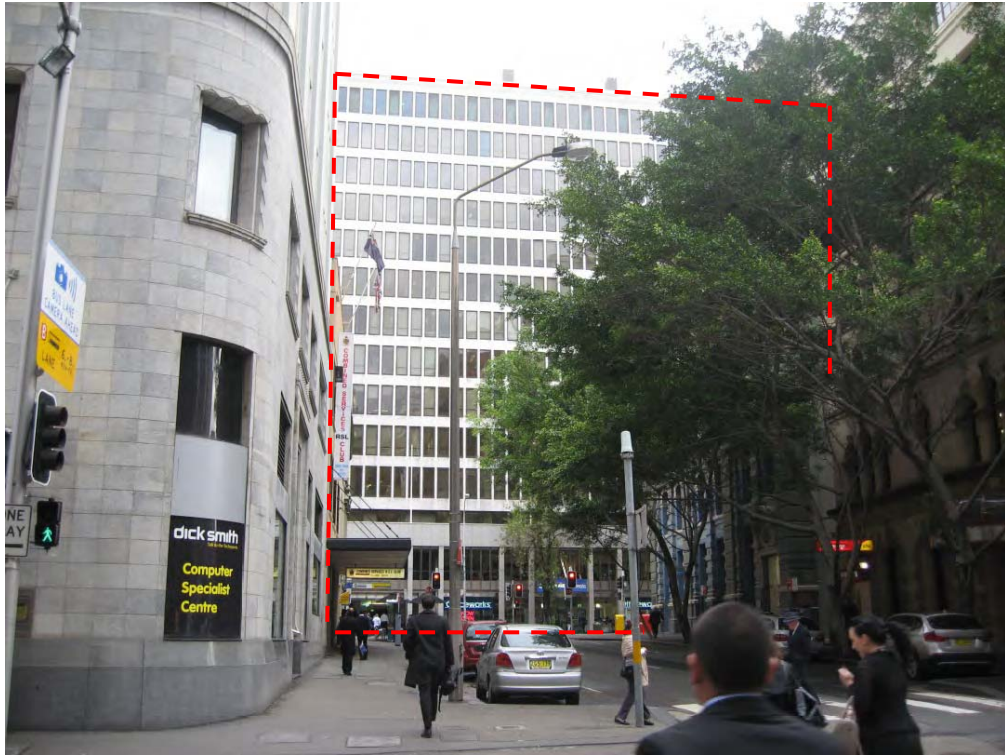


Figure 2 – subject site - looking west along Barrack Street



Figure 3 – existing Clarence Street frontage



Figure 4 – existing mid-block connection (Clarence Street)



Figure 5 – existing Kent Street

History of Development Applications Relevant to this Site

8. There are a number of development applications for the fit-out of the various commercial tenancies and ground floor retail uses associated with the site; however these have no direct relevance to the current proposal.
9. Of more relevance are the development applications of sites in the immediate vicinity of the subject site. The details of these are as follows:

Red Cross House

10. On 25 June 2012, deferred commencement consent (D/2011/2119) was granted by Council for facade restoration, refurbishment and upgrade of the existing building for future commercial/retail use, addition of three new commercial floors above a new plant level, and the award of heritage floor space. This consent requires the roof top addition to be setback 8m from Clarence Street and 4m from Kent Street, and provision of a possible future vehicular connection to 137-151 Clarence Street.
11. Selected images of this consent are provided below:

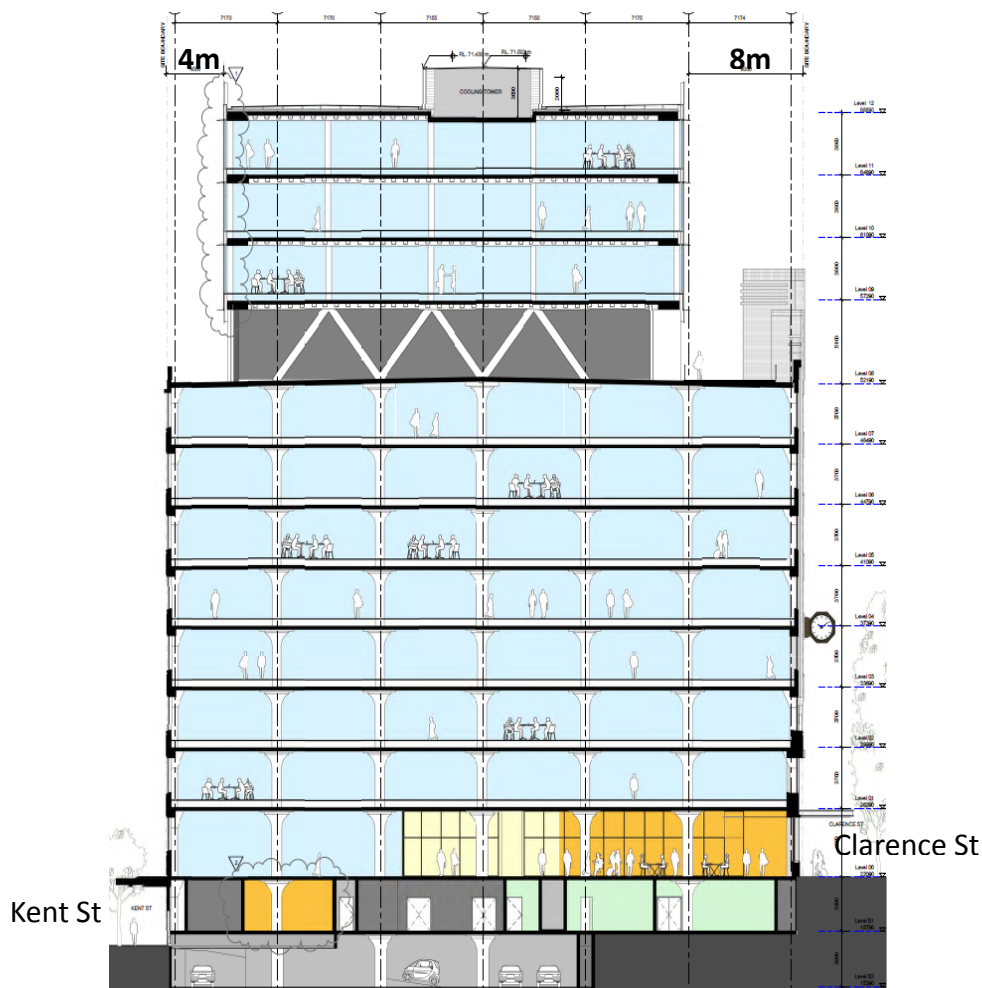


Figure 6 – Cross Section (east-west) of approved Red Cross House development

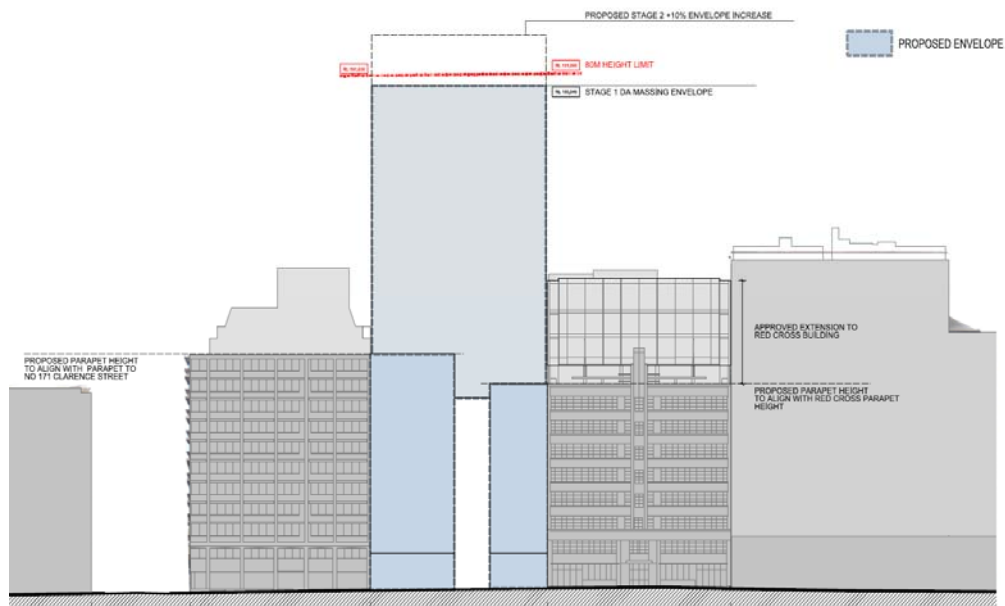
12. On 31 July 2008, deferred commencement consent (D/2008/150) was granted by the Central Sydney Planning Committee (the CSPC) for a new 13 storey commercial building with 3 basement levels. The deferred commencement conditions required execution of a Voluntary Planning Agreement, design modifications, and compliance with RailCorp concurrence requirements. Selected images of the approved development are provided below:



Figures 7 and 8 – 161 Clarence St and 304 Kent St photomontages of approved commercial development

161 Clarence Street ('Crown Central')

13. A Stage 1 DA for an 80m (tower) mixed use development comprising residential, serviced apartments, retail and commercial (D/2012/1425) on the site to the immediate south of Red Cross House, is the subject of a separate report for the CSPC's consideration.



Figures 9 - Stage 1 building envelope for 161 Clarence Street (Crown Central) – D/2012/1425

PROPOSAL

14. The Stage 1 DA seeks consent for the following:
 - (a) Demolition of the existing buildings;
 - (b) A building envelope for commercial development (with ground floor retail) which facilitates a potential floor space ratio of 11:1 and potential floor space area of 23,023sqm;
 - (c) Maximum building envelope of 80m with the potential for an additional 10% uplift shown, subject to a competitive process;
 - (d) Four levels of basement parking accessed from Kent Street for a total of 160 car parking spaces; and
 - (e) Provision of a mid-block connection between Clarence Street and Kent Street.
15. The Stage 1 tower proposes a maximum height of 80m as part of the Stage 1 application. The plans submitted show a 10% design excellence bonus to the maximum height control (88 metres). The 10% variation to the maximum height control is subject to a competitive design process and will be applied for at Stage 2 in accordance with the requirements of Clause 6.21(7) of the Draft LEP.
16. Selected drawings of the proposal are provided below and at **Attachment A**.

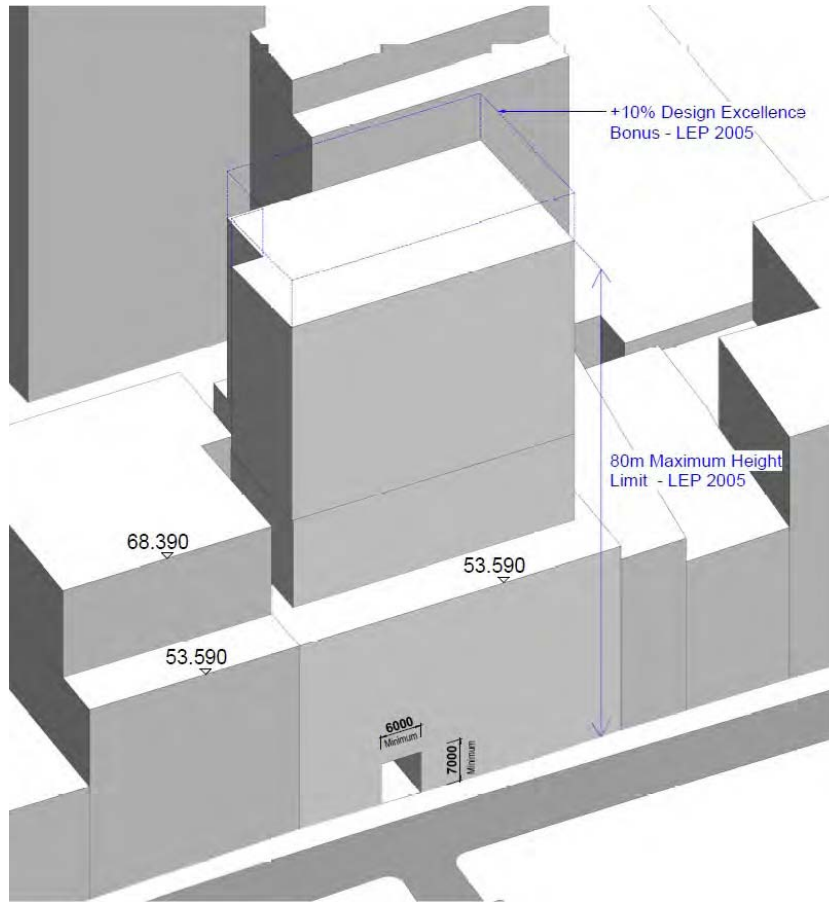


Figure 10 – Aerial view of proposed Stage 1 building envelope

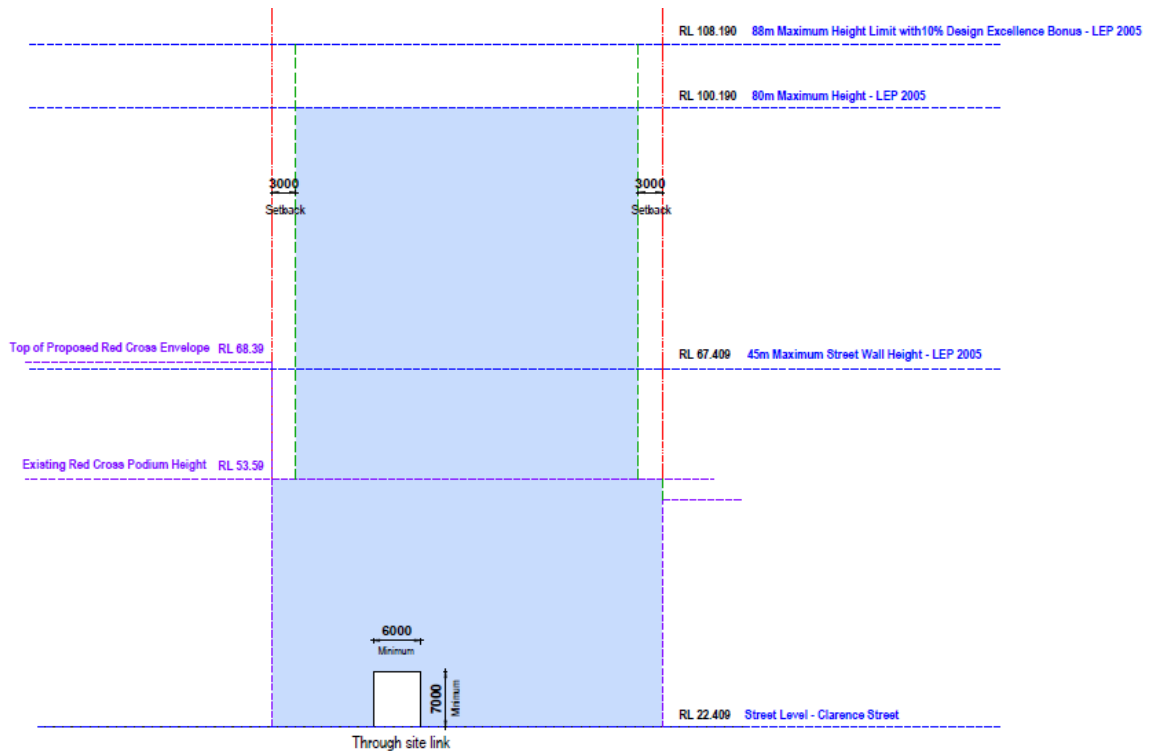


Figure 11 – Clarence Street (east) elevation

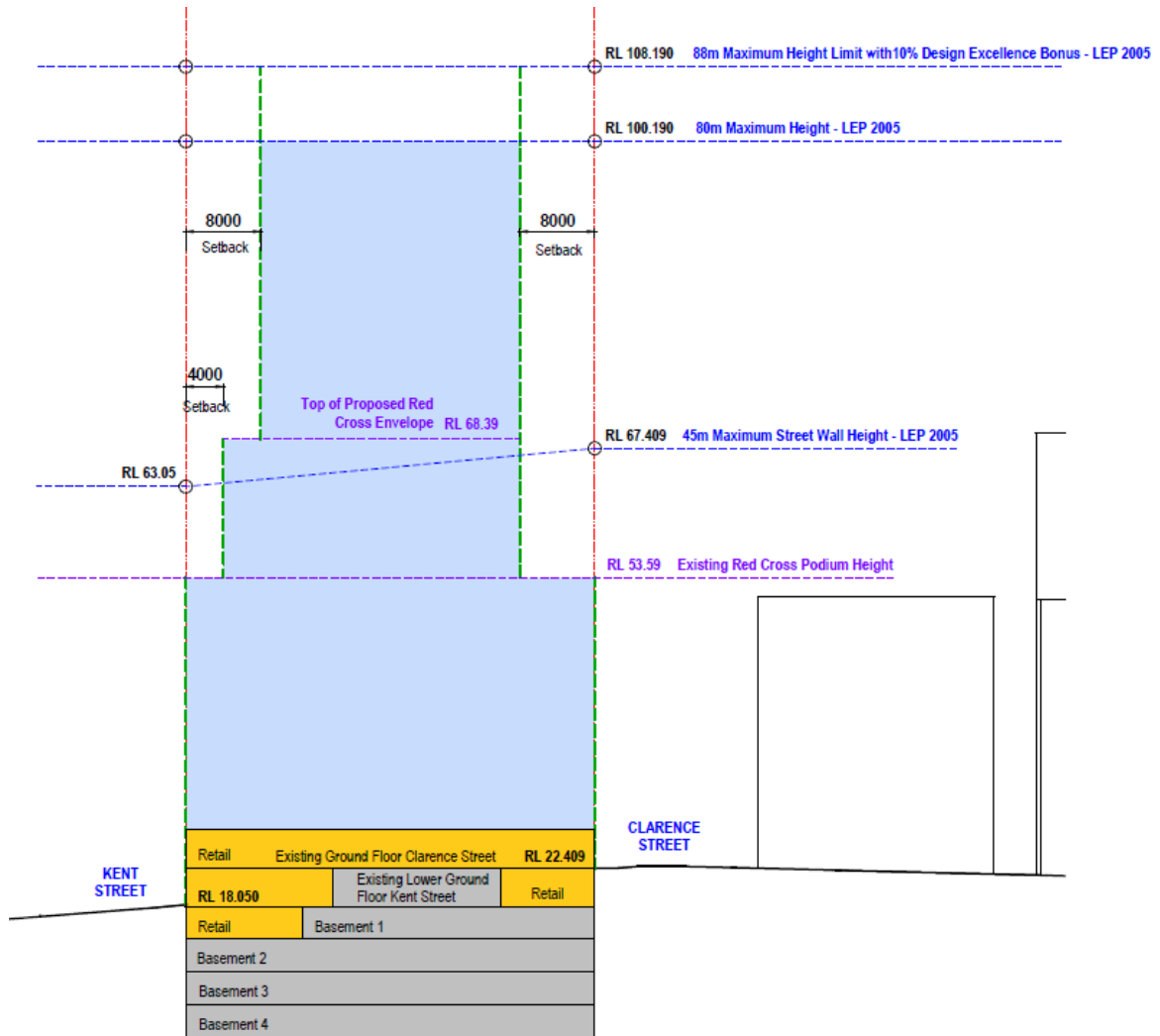


Figure 12 – Section – north elevation

IMPLICATIONS OF THE PROPOSAL

CITY OF SYDNEY ACT 1988

- 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

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

- (2) *The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.*
 - (3) *The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject to conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.*
 - (4) *The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee.”*
18. Having liaised with the City’s Access and Transport Unit, in this instance, the proposal is not considered to have a significant impact on traffic and transport, and consultation with the CSTTC is not considered necessary. In particular, the following are noted:
- (a) The carrying out of works is not proposed or recommended to be approved as part of this Stage 1 DA, which is conceptual in nature. Detailed matters in respect of on-site parking and driveway configuration will be further addressed as part of the future Stage 2 DA;
 - (b) The comments of both RailCorp and Roads and Maritime Services were sought under the provisions of State Environmental Planning Policy (Infrastructure) 2007 – refer discussion further below;
 - (c) Two existing Kent Street driveway crossings are proposed to be consolidated into one driveway crossing. Subject to the detailed design, this has a positive impact on traffic and transport in general, including the adjacent Kent Street separated cycleway; and
 - (d) Traffic generated by the proposed development is not considered to be greater than the existing.

Section 79C Evaluation

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

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

STATE ENVIRONMENT PLANNING POLICIES (SEPPs)

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

SEPP (Infrastructure) 2007Railcorp

21. RailCorp responded and confirmed that the subject site is not located within 25m of an existing rail corridor and is outside of the CBD Rail Link protection zone. As such concurrence is not required.

Roads and Maritime Services (RMS)

22. Due to the size of the proposed development, the application was referred to the RMS for comments.
23. RMS has reviewed the development application and raises no objection as the proposed development is not considered to have a significant traffic impact on the road network. A number of conditions have been recommended.

SEPP 55 – Remediation of Land and City of Sydney Contaminated Land DCP 2004

24. SEPP 55 provides that a consent authority must not consent to the carrying out of any development on land unless:
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
25. The provisions of SEPP 55 are effectively replicated in the City of Sydney Contaminated Land DCP 2004.
26. The applicant's consultant submits that:
- "The site has previously been deemed suitable for commercial uses and there is no reason to suggest the status of the site has changed since the construction of the existing commercial buildings on the site"*
27. The applicant's submission is reasonable and has merit. It is also noted that the proposal is a Stage 1 DA of a conceptual nature and that detailed matters in respect of contamination and the remediation of the site can be further addressed as part of the future Stage 2 DA.

SREP Sydney Harbour Catchment 2005

28. The Sydney Regional Environmental Plan aims to ensure that the Sydney Harbour Catchment is protected, enhanced and maintained. The REP also aims to achieve a high quality and ecologically sustainable urban environment and encourage a culturally rich and vibrant place for people. The proposal is considered to be consistent with the aims and objectives of the REP.

Sydney Local Environmental Plan 2005

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

COMPLIANCE WITH SYDNEY LEP 2005

| Development Controls | Permissible under Sydney LEP 2005 | Proposal as assessed under Sydney LEP 2005 |
|--|--|--|
| Consistency with Development Plan | Development Plan/Stage 1 DA required | Proposal is for a Stage 1 DA |
| Zoning | City Centre | Complies |
| Floor Space Area | 20,930sqm | 23,023sqm (includes 10% uplift) Refer to issues section. |
| Floor Space Ratio (Site area = 2093m²) | 10 : 1 (commercial) | 11 : 1 (includes 10% uplift) Refer to issues section. |
| Heritage Floor Space to be Allocated | Allocation of HFS as the building is over 55m and 8:1 | The amount of HFS to be allocated will be considered as part of the future Stage 2 DA. |
| Height | 80m above street level | 80m above street level |
| Parking | Maximum dependent upon proposed uses and mix of apartments | Proposal seeks to 'lock in' commercial parking rates. Refer to issues section. |
| Special Areas | York Street Special Area | Part of the site is located within the Special Area. Details will need to be submitted with the future Stage 2 DA to demonstrate compliance |

COMPLIANCE WITH LEP Chapter 1 Part 5 – Urban form, design excellence and environmental design

| Matters to be Considered | Complies | Comment |
|---|-----------------|---|
| Design excellence (included in more detail below in Matters to be Considered - Clause 26) | ✓ | Able to comply While no detailed architectural design details have been provided, the building envelope is capable of accommodating a future building that will exhibit design excellence. It is also noted that prior to the future Stage 2 DA, a competitive design process will need to be undertaken. |
| Envelope appropriate to site and context | ✓ | Able to comply While no design details have been provided, the envelope is capable of accommodating a future building that is appropriate to the site and its context. |
| Appropriate design response to site and context | ✓ | Able to comply While no design details have been provided, the envelope is capable of accommodating a future building design that is appropriate to the site and its context. |
| Suitability of land for development | ✓ | Complies The site is suitable for a commercial development. |
| Existing and proposed uses and use mix | ✓ | Complies The site is suitable for a commercial development. |
| Heritage issues and streetscape constraints | ✓ | Able to comply While no design details have been provided, the proposal, which includes street wall heights that align with the adjoining heritage items, is capable of having an acceptable heritage impact. |
| Relationship with other towers | ✓ | Complies The proposal is sufficient separated from other existing and proposed towers. |

| Matters to be Considered | Complies | Comment |
|---|----------|---|
| Bulk, massing and modulation of buildings | ✓ | Able to comply The development is consistent with the height controls and proposes a tower that maintains appropriate setbacks. The modulation detailing of the building will be refined as part of the future competitive design process and Stage 2 DA. |
| Street frontage heights | ✓ | Complies The development is consistent with the street frontage height of the adjoining Red Cross House building. |
| Sustainable design, overshadowing, wind and reflectivity | ✓ | Complies Shadow diagrams have demonstrated that the development will not unreasonably overshadow existing public spaces. Further detail of the environmental impacts will be addressed as part of the future Stage 2 DA. |
| Ecologically sustainable development | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Pedestrian, cycle, vehicular and service access, circulation requirements | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Impact on and improvements to the public domain | ✓ | Able to comply As discussed further below, the development provides for the realignment of the mid-block connection with a greater height and width. Details will need to be submitted with the future Stage 2. |
| Design excellence – result of a competitive process | ✓ | Able to comply Prior to the future Stage 2 DA, a competitive design process will need to be undertaken. |

LEP PART 6 – Heritage Provisions and City of Sydney Heritage DCP 2006

30. The site is not a heritage item. The site however, adjoins the State heritage listed Red Cross House (153-159 Clarence Street) and is across the road (Clarence Street) from the heritage items at 2-6 Barrack Street and 1 Barrack Street.

31. The podium height aligns with the street wall height of the adjoining heritage building, and the tower setbacks are intended to match the approved addition above Red Cross House, the proposal is not considered to unreasonably impact on the significance of the adjoining heritage items and other heritage building within the vicinity of the site.

Draft Sydney LEP 2011

32. The exhibition of the Draft Sydney LEP 2011 has now been completed. Council have adopted the Draft LEP and have referred the document to the Department of Planning for gazettal. The provisions of the Draft LEP have been taken into consideration in the assessment of the proposal.
33. It is noted that the 'savings provision' of the draft LEP are such that the future Stage 2 DA will need to be considered primarily against the then current LEP at the time of DA lodgement. That is, the provisions and definitions of Sydney LEP 2005 under which the Stage 1 DA is assessed against will not be carried through to a Stage 2 DA that relies on the earlier consent. In any case, this is not considered to be significant as the Stage 1 DA will only establish a maximum building envelope.
34. The site is located within the Metropolitan Centre zone. The proposal is permissible.
35. The proposal is seeking consent for a floor space ratio of 11:1 which includes a 10% variation to the maximum floor space ratio control of 10:1 for commercial development (as identified in the draft LEP). Clause 6.21(7) of the draft LEP states that if the design of a new building is the result of a competitive process the consent authority may grant consent to a new building that exceeds the maximum amount of floor space up to 10%. The proposed Stage 1 building envelope sets out the physical parameters only and no detailed design has been provided. The request to vary the maximum floor space ratio control by 10% is considered premature and is not supported as part of the Stage 1 determination.
36. The proposal is consistent with the draft height control of 80m. The plans submitted show a 10% design excellence bonus to the maximum height control (88 metres). However, the 10% variation to the maximum height control is subject to a competitive design process and will be applied for at Stage 2 in accordance with the requirements of Clause 6.21(7) of the Draft LEP.
37. The site is within the vicinity of draft heritage items. As discussed in this report, the proposal will not adversely impact on the significance of the draft heritage items.
38. The draft LEP locates the site within a Class 5 acid sulphate soil zone. Clause 7.16 of the draft LEP states that development consent must not be granted for the carrying out of works unless an acid sulphate soils management plan has been prepared. The carrying out of works is not proposed or recommended to be approved as part of this Stage 1 DA, which is conceptual in nature. Nevertheless, the future Stage 2 DA will need to address this matter. A condition to this effect has been included in the Recommendation.

Central Sydney Development Control Plan 1996

COMPLIANCE WITH THE CENTRAL SYDNEY DCP 1996

| Matter to be Considered | Complies | Comment |
|--|----------|---|
| Building to the street alignment CI 2.1 | ✓ | Complies |
| Street frontage heights CI 2.2 | ✓ | Complies The podiums range in height from approximately 31m on Clarence Street to 35 on Kent Street. These varied heights are deliberate and align with the street wall height of the adjoining buildings on both street frontages. |
| Building setbacks – front; side and rear CI 2.3 | ✓ | Generally complies The recent approval of Red Cross House (adjoining the subject site to the south) for the addition of three commercial levels (plus plant) involved an 8m setback to Clarence Street and 4m setback to Kent Street. The proposed tower element of the building envelope includes the same setbacks as Red Cross House up to the extent of the new addition to ensure consistency in the building form. The high rise tower is then setback a total of 8m above the Red Cross House addition consistent with the requirements and intent of the setback control. |
| Street frontage activities CI 2.5 | ✓ | Able to comply While active frontages are proposed, the detailed design will be the subject of a future DA. |
| Building exteriors CI 2.7 | ✓ | Able to comply The detailed design of the building exterior will be considered as part of the future competitive design process and Stage 2 DA. |
| Views CI 2.8 | ✓ | Complies There are no significant views identified in the DCP affected by the proposal. |

| Matter to be Considered | Complies | Comment |
|---|----------|--|
| Lanes and Midblock connections CI 3.1 and 3.2 | ✓ | Able to comply The DCP identifies the existing east-west mid-block connection for this site. The realignment of the mid-block connection is supported as it is considered to provide better connectivity to the high level of pedestrian movement in and around the site. Details will need to be fully considered as part of the future Stage 2 DA. |
| Vehicle access and footpath crossings CI 3.3 | ✓ | Complies Two existing Kent Street driveway crossings are proposed to be consolidated into one driveway crossing. Subject to the detailed design, this has a positive impact on traffic and transport in general, including the Kent Street separated cycleway |
| Artworks CI 3.6 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Paving for street footpaths and public spaces CI 3.7 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Easy access CI 3.8 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Sunlight to public spaces CI 4.1 | ✓ | Complies The proposed building envelope complies with the maximum height control and does not unreasonably overshadow any publicly accessible spaces. |
| Wind standards CI 4.2 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Energy efficiency of buildings CI 4.3 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Noise reduction CI 4.4 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |

| Matter to be Considered | Complies | Comment |
|---|----------|---|
| Reflectivity Cl 4.5 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| External lighting of buildings Cl 4.7 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Design and location of on-site parking Cl 5.1 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Parking for people with mobility impairment Cl 5.3 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Delivery and service vehicles Cl 5.4 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Bicycle parking Cl 5.5 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Motor cycle parking Cl 5.6 | ✓ | Able to comply Details will need to be submitted with the future Stage 2 DA to demonstrate compliance. |
| Award and Allocation of HFS Cl. 7 | ✓ | Able to comply The amount of HFS to be allocated will be considered as part of the future Stage 2 DA. |
| Design excellence and competitive process Cl. 12 | ✓ | Able to comply While no design details have been provided, the envelope is capable of accommodating a future building that will exhibit design excellence. It is also noted that prior to the future Stage 2 DA, a competitive design process will need to be undertaken. |

Issues

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

Request for 10% uplift in Floor Space Ratio (FSR)

40. As part of this Stage 1 DA, the applicant seeks consent for a floor space area of 23,023sqm. This is a FSR of 11: 1 (based on a site area of 2,093sqm) and includes 10% uplift for completion of a future competitive process.
41. This request is premature and not supported. In noting that the future Stage 2 DA will be considered under the future LEP, the following matters are pertinent in reaching this conclusion:
 - (a) the conducting of a competitive design process does not guarantee design excellence and any uplift in FSR;
 - (b) any uplift is 'up to 10%'; and
 - (c) amongst other things, the consent authority will need to be satisfied that the proposal exhibits design excellence.
42. The maximum permitted FSR is 10:1 (without 10% uplift) for commercial development. This represents 20,930sqm.

Request to approve 160 on-site parking spaces

43. The applicant seeks consent to 'lock in' 160 on-site parking spaces to form part of the future Stage 2 DA to provide 'certainty'. The applicant advises that the proposed parking number would indicatively result in 4 levels of basement.
44. An inspection of the site revealed that the existing parking arrangement consists of ground level parking (Kent Street level) and two basement levels of parking. There are currently 120 off street car parking spaces, of which 108 spaces are allocated to Wilson Car Parking. It is also noted that approximately 47 of the 120 spaces are provided in a stacked configuration i.e. one in-front of the other.
45. The applicant states that a number of development approvals granted for the site establish an existing lawful entitlement of 160 tenant car parking spaces; however upon inspection of the site it is evident that the designated parking is at maximum capacity with a total of 120 existing car parking spaces.
46. The request to 'lock in' 160 on-site parking spaces is not supported. In particular, the following matters are noted:
 - (a) there are currently 120 vehicle spaces identified on the site over two levels of basement and includes car parking spaces to service the site service. Forty-seven (47) of those car parking spaces are 'stacked parking';
 - (b) the Stage 1 DA is conceptual in nature and not an appropriate mechanism to 'lock in' more generous parking; and
 - (c) the 'savings provision' of the future LEP is such that the future detailed Stage 2 DA, even though reliant on the Stage 1 DA, will need to be considered primarily against the LEP at the time of Stage 2 DA lodgement. The provisions of the future LEP provide 'certainty' to the applicant.
47. For the matters mentioned above the Stage 1 determination will not include any prescribed parking numbers.

General design matters

48. The site is located within the York Street Special Character Area. The proposed podium height aligns with the former Hoffnung and Co warehouse at 153-159 Clarence Street (Red Cross House) on both the Kent and Clarence Street frontages and is therefore consistent with Central Sydney DCP Section 2.4 that outlines the maximum street frontage height for the York Street Special area as being the street frontage height of the nearest heritage item on the same side of the street of the street in which the site is located.
49. The design of any Stage 2 proposal including side elevations will be critical in achieving a sympathetic response to the surrounding traditional warehouse and palazzo development. The podium design should be a finely designed masonry building with the facade composition responding in a positive way to the adjacent heritage items and the predominant historic warehouse and palazzo development of the area that is characterised by 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. High quality materials that provide a compatible response to surrounding development should be incorporated into the design. Glazing (at all levels of the building) should maintain a high level of clarity and be neutral in colour.
50. Any future Stage 2 design as it fronts Clarence Street and Kent Street should respond to major horizontal elements of the former Hoffnung and Co warehouse (Red Cross House) in a similar manner.
51. The proposed height of the proposed Stage 1 envelope of 80 metres is in accordance with the requirements of the *Sydney LEP 2005*. The proposed setbacks of the tower above the podium are consistent with the Central Sydney DCP Section 2.3 and respect the adjacent heritage item, being 3 metres from the side boundaries, and eight metres from both the Kent and Clarence Street frontages. Signage zones on side elevations are not supported.
52. The interface with all neighbouring buildings will require careful resolution so as not to unnecessarily expose any side boundary walls.
53. It is considered that the sharing of driveways and the connection of below ground parking levels between the subject site and the adjoining Red Cross House is investigated prior to any Stage 2 application. The planning intent behind the sharing of driveways is:
 - (a) to facilitate the orderly development of land;
 - (b) to minimise conflicts between pedestrians and cyclist with vehicles entering/exiting a site;
 - (c) to minimise visual intrusion and disruption of the public domain; and
 - (d) to increase street level activation.
54. A condition is recommended requiring the future provision of a vehicular connection between Office Works with its southern neighbour Red Cross House (153-159 Clarence Street) to be investigated and information provided at Stage 2.

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

55. The relevant matters are discussed elsewhere in this report.

BCA Matters

56. The development is capable of complying with the BCA.

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

57. The development is suitable for the site.

Section 79C(1)(e) Public Interest

58. The proposed development is generally consistent with the relevant controls. In this regard, it is considered that the proposal will not unreasonably affect the public interest, subject to conditions.

POLICY IMPLICATIONS

59. Not applicable to this report.

FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS

60. The cost of the development is in excess of \$200,000 and is therefore subject to a development levy pursuant to the Central Sydney (Section 61) Contributions Plan 2002. An appropriate condition will need to be included in the future Stage 2 DA.

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

61. Adjoining and nearby owners and occupiers of residential buildings were notified of the proposal and invited to comment from 28 September to 27 October 2012. In addition, notices were placed on the site and the proposal was advertised in the daily press in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications DCP 2005.

62. One (1) submission was received. The grounds for objection are summarised as follows:

- (a) The height of the building would vastly overshadow the rooftop recreational area of Broughton House (181 Clarence Street) which includes a synthetic grass tennis court.

Comment: The development has been designed to comply with the core built form provisions. These provisions include the street wall height and tower setbacks. Notwithstanding this, the shadow diagrams provided do not show any additional overshadowing impacts to 181 Clarence Street to what is currently the existing situation (181 Clarence Street is approximately 110m south of the subject site).

Ausgrid

63. The application was referred to Ausgrid who advised that an electricity substation within the premises should be provided. An appropriate condition has been included in the Recommendation.

INTERNAL REFERRALS

64. The application was referred to Council's Specialist Surveyor, Urban Designer, Building Services Unit, Public Domain Unit, Transport and Access Unit. No fundamental objection to the proposed development was raised, subject to the imposition of appropriate conditions.
65. Where appropriate, conditions have been included in the recommendation of this report to reflect these requirements.

RELEVANT LEGISLATION

66. The Environmental Planning and Assessment Act 1979.

CONCLUSION

67. The proposed Stage 1 building envelope is consistent with the objectives, standards and guidelines of the relevant planning controls and is recommended for approval.
68. In addition, it is recommended that conditions be imposed requiring refinement as part of the competitive design process and future Stage 2 DA including the following:
- (a) the Stage 2 design as it fronts Clarence Street and Kent St should respond to major horizontal elements of the former Hoffnung and Co warehouse in a similar manner.
 - (b) the design of the podium 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;
 - (c) attention be provided to exposed elevations to ensure that a visually interesting treatment is applied, and in doing so, that there are no unreasonable impacts on the neighbouring sites; and
 - (d) break-through panel shown on southern basement wall (in-line with the break-through panels provided by Red Cross House);
 - (e) signage zones on side boundary elevations are not supported.

GRAHAM JAHN

Director City Planning, Development and Transport

(Vanessa Aziz, Senior Planner)