

ITEM 4. DEVELOPMENT APPLICATION: 161 CLARENCE STREET - 163-165 CLARENCE STREET AND 304 KENT STREET SYDNEY**FILE NO:** D/2013/1707**DEVELOPMENT APPLICATION NO:** D/2013/1707**SUMMARY****Date of Submission:** 5 November 2013**Amended Plans** 20 February 2014**Applicant:** Crown Central Development**Architect:** Koichi Takada Architects**Developer:** Crown Central Development**Owner:** Crown Central Pty Ltd**Cost of Works:** \$79,585,675**Proposal Summary:** The subject application seeks consent for a 25-storey mixed use development, and encompasses the following:

- demolition of existing structures;
- excavation for basement car parking levels;
- 178 residential apartments;
- 42 serviced apartments;
- 724sqm of retail/commercial floor space;
- 113 car parking and drop off spaces;
- landscaping, public art and public domain works; and
- staged construction.

The notification of the application resulted in eight (8) submissions being received, objecting to the following matters:

- height and scale;
- architectural merit of the design;
- heritage;
- amenity impacts, namely overshadowing and obstruction of side boundary windows;
- traffic generation and demand for street parking; and
- excavation and construction impacts.

Proposal Summary:
(continued)

The proposal has been amended during the assessment period to address preliminary concerns relating to floor space, residential amenity, waste collection, unit mix, public art and greater separation of uses. Amended plans and supplementary information were submitted to address these matters.

In its amended form, the proposal is considered to be generally consistent with the relevant planning controls and existing consents in place for the site. The applicant has submitted a statement under the provisions of Clause 4.6 of SLEP 2012 to justify the minor variation of the building height and floor space ratio development standards, which has been supported in this instance.

Considering the history of the site, and the amendments made to the proposal, the amended scheme is considered to provide an architectural form which responds appropriately to the constraints and opportunities of the site and achieves a satisfactory design outcome and streetscape presentation. As such, the application is recommended for approval.

A requirement of the Stage 1 DA for this site is that the applicant must surrender an existing operable development consent (being D/2008/150) prior to the determination of the subject application. To date, the applicant has not yet formally surrendered this development consent. As such, it is recommended that the application be granted deferred commencement consent to allow the formal surrender of development consent D/2008/150 in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 and Environmental Planning and Assessment Regulations, 2000

Summary Recommendation:

The application is recommended for deferred commencement consent requiring the applicant to formally surrender Development Application D/2008/150.

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 - Photomontages

RECOMMENDATION

It is resolved that:

- (A) pursuant to the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012, the variation sought to Clause 4.3 (Building Height) and Clause 4.4 (Floor Space Ratio) of the Sydney Local Environmental Plan 2012 be supported in this instance;
- (B) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2013/1707, subject to the following:

(1) SURRENDER OF PRIOR DEVELOPMENT CONSENT

Prior to the consent becoming operable, the applicant/owner of the site must surrender the existing development consent for the site numbered D/2008/150 pursuant to the provisions of Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 and Section 97(1) and Section 97(2) of the Environmental Planning and Assessment Regulations 2000;

- (C) evidence that will sufficiently enable Council to be satisfied as to those matters identified in the deferred commencement condition, as indicated above, must be submitted to Council within **2 years** of the date of determination of this deferred commencement consent failing which, this deferred development consent **will lapse** pursuant to Section 95(6) of the Environmental Planning and Assessment Act 1979;
- (D) the consent will not operate until such time that the Council notifies the Applicant in writing that the deferred commencement consent conditions as indicated above, have been satisfied; and
- (E) 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

This consent allows construction works to be broken into 9 stages, as follows:

- (a) **Construction Stage 1A** – demolition;
- (b) **Construction Stage 1B** – archaeological excavations and investigation;
- (c) **Construction Stage 2** – excavation and footings;
- (d) **Construction Stage 3** – construction of in-ground services and infrastructure;
- (e) **Construction Stage 4** – construction of structure from basement to Level 1;
- (f) **Construction Stage 5** – construction of the remainder of the structure from Level 2 upwards;
- (g) **Construction Stage 6** – fit-out and finishes, installation of services and facade works up to Level 1;
- (h) **Construction Stage 7** – fit-out and finishes, installation of services and facade works from Level 2 upwards;
- (i) **Construction Stage 8** – public domain works, installation of public art and landscaping of the site.

Various conditions in this consent make reference to the requirements of conditions and the stage in which they may be satisfied.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2013/1707, dated 5 November 2013, and the following drawings:

Drawing Number	Architect	Date
A-093 Revision H <i>Basement B7</i>	Koichi Takada Architects	14 February 2014
A-098 Revision H <i>Typical Basement B2 to B6</i>	Koichi Takada Architects	14 February 2014
A-099 Revision H <i>Basement 1</i>	Koichi Takada Architects	14 February 2014
A-099.1 Revision H <i>Basement 0 – Loading Dock</i>	Koichi Takada Architects	14 February 2014
A-100 Revision H <i>Ground Floor (Kent St Entry)</i>	Koichi Takada Architects	14 February 2014

Drawing Number	Architect	Date
<i>A-101 Revision H Level 1 (Clarence St Entry)</i>	Koichi Takada Architects	14 February 2014
<i>A-102 Revision H (Typical Level 2 to Level 7)</i>	Koichi Takada Architects	14 February 2014
<i>A-108 Revision H Level 8</i>	Koichi Takada Architects	14 February 2014
<i>A-109 Revision H Level 9</i>	Koichi Takada Architects	14 February 2014
<i>A-110 Revision H Level 10</i>	Koichi Takada Architects	14 February 2014
<i>A-111 Revision H Level 11</i>	Koichi Takada Architects	14 February 2014
<i>A-112 Revision H Level 12</i>	Koichi Takada Architects	14 February 2014
<i>A-113 Revision H Level 13 & Level 14</i>	Koichi Takada Architects	14 February 2014
<i>A-115 Revision H Typical Level 15 to Level 21</i>	Koichi Takada Architects	14 February 2014
<i>A-122 Revision H Level 22 & Level 23</i>	Koichi Takada Architects	14 February 2014
<i>A-124 Revision H Level 24</i>	Koichi Takada Architects	14 February 2014
<i>A-125 Revision H Level 25</i>	Koichi Takada Architects	14 February 2014
<i>A-126 Revision H Level 26 – Roof Plan</i>	Koichi Takada Architects	14 February 2014
<i>A-200 Revision H Clarence Street Elevation</i>	Koichi Takada Architects	14 February 2014
<i>A-201 Revision H Kent Street Elevation</i>	Koichi Takada Architects	14 February 2014

Drawing Number	Architect	Date
A-202 Revision H <i>King Street Elevation</i>	Koichi Takada Architects	14 February 2014
A-203 Revision H <i>North Elevation</i>	Koichi Takada Architects	14 February 2014
A-300 Revision H <i>Section 1</i>	Koichi Takada Architects	14 February 2014
A-301 Revision H <i>Section 2</i>	Koichi Takada Architects	14 February 2014
A-302 Revision H <i>Section 3</i>	Koichi Takada Architects	14 February 2014
A-303 Revision H <i>Section 4</i>	Koichi Takada Architects	14 February 2014
A-304 Revision H <i>Section 5</i>	Koichi Takada Architects	14 February 2014
A-350 Revision E <i>Typical Tower Facade Detail 01</i>	Koichi Takada Architects	23 October 2013
A-351 Revision E <i>Typical Tower Facade Detail 02</i>	Koichi Takada Architects	23 October 2013
A-352 Revision E <i>Podium Facade Detail 01</i>	Koichi Takada Architects	23 October 2013
A-353 Revision E <i>Podium Facade Detail 02</i>	Koichi Takada Architects	23 October 2013

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 DETAILS (MAJOR DEVELOPMENT)

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Koichi Takada Architects, submitted with the application (undated).

(4) DESIGN QUALITY EXCELLENCE

- (a) Design Excellence has been achieved and an award of bonus floor space granted. 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 prior to release of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council.

(5) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) Amended plans shall be submitted to, and approved by, Council's Director City Planning, Development and Transport prior to the issue of a **Stage 4 Construction Certificate** being issued, which illustrate the floor space of the development having being reduced to a maximum of 12.037:1, as calculated in accordance with the definition of 'gross floor area' contained within the Sydney Local Environmental Plan 2012.
- (b) Floor Space Ratio of the proposal must not exceed 12.037:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purpose of the calculation of FSR, the maximum Gross Floor Area of the approved development (as modified by (a), above) shall not exceed 17,309.64sqm.
- (c) Prior to any 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.
- (d) Prior to a **Stage 4 Construction Certificate** being issued, Council's written verification must be obtained, confirming that 1,559sqm 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* (and as reduced under the provisions of Clause 6.11(2) of SLEP 2012).

(6) BUILDING HEIGHT

- (a) The height of the buildings must not exceed the following RLs (AHD):

	Maximum RL
Uppermost Slab Level (Level 25)	97.650
Top of the Lift Overrun/Plant	101.850
Top of Architectural Roof Feature	106.100

- (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.

(7) APPROVED DESIGN ROOF - TOP PLANT

All roof-top plant and associated equipment must be located within the approved building envelope. Should the plant exceed the approved building envelope, then further approval is required from Council.

(8) USE - SEPARATE DA REQUIRED

A separate development application for the fit-out and use of each individual retail tenancy must be submitted to and approved by Council prior to that fit-out or use commencing, unless that future use is classified as exempt development under the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

(9) USE OF COMMON AREAS AND FACILITIES

The communal roof top terrace, gymnasium and swimming pool 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.

(10) NO ENCLOSURE OF ROOF STRUCTURES

The architectural roof feature and/or roof top structures shall not be modified at any time to allow the enclosure of any part of the roof terraces.

(11) 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 Development Contributions Plan 2013*, in accordance with the following:

- (a) Prior to **any** 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.

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.gov.au to confirm the amount payable, prior to payment.

(12) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs (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.

(13) SIGNAGE STRATEGY

A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

(14) RIGHT OF PUBLIC ACCESS

- (a) Prior to the issue of any Occupation Certificate for the development, a documentary Right of Public Access, limited in stratum, is to be created and registered on the Title of the consolidated development site. The Easement is to include the lift (notated as L6 on the approved plans) and also be defined over an east-west strip of land, nominally at least 4 metres in width, extending from the eastern alignment of Kent Street and leading to the western alignment of Clarence Street, as shown on approved plans numbered A-100 and A-101, Revision H. The stratum of the Easement is to be limited in depth to the floor surface of the passageway and stairs leading from Kent Street to Clarence Street, and limited in height to the underside of Level 7, above.
- (b) The Easement is also to be defined over a further strip of land, nominally at least 4 metres in width, extending from the termination of Skittle Lane to its intersection with the east-west Right of Public Access described above. The stratum of the Easement is to be limited in depth to the floor surface of Level 1, and limited in height to the underside of Level 7, above.
- (c) The Easement is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction.
- (d) Prior to the issue of any Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the consolidated development site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Right of Public Access, 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 Right of Public Access in accordance with Council's requirements and to the satisfaction of Council.

(15) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (Apartment numbers #04 to #09, inclusive, on levels 2 to 8 and all apartments on levels 9 to 24, inclusive) must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.

- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from “residential accommodation” as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) No more than two adult people shall occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children’s beds, cots or bassinets.
- (d) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.
- (e) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (f) An owner, tenant or Owners Corporation shall not permit a Building Manager or agent to advertise or organise for short term accommodation or share accommodation in the building.
- (g) Car parking spaces may only be used for parking of vehicles related to residence in the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.

(16) RESTRICTION ON SERVICED APARTMENTS

The following restriction applies to buildings approved for serviced apartment use:

- (a) The accommodation portion of the building (Apartments numbered #01 to #03 and #10 to #12 on levels 2 to 8, inclusive) must be used as serviced apartment accommodation only and not for permanent residential purposes or any other use.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from “serviced apartment” as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.

(17) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL, SERVICED APARTMENTS AND MIXED USE

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.

- (b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme.

(18) RESTRICTION ON SUBDIVISION OF SERVICED APARTMENTS

Prior to the issue of an Occupation Certificate, a documentary Restriction on Use of Land is to be registered on the Title of the subject land in terms to the satisfaction of Council prohibiting the Strata Subdivision of the component of the building (on Levels 2 to 8) to be occupied by serviced apartments, with the Council being the authority to release, vary or modify the restriction.

(19) VISITOR AND TOURIST ACCOMMODATION - USE AND OPERATION

The use and operation of the serviced apartments must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010 and regulations thereunder and *Sydney Development Control Plan 2012*.

(20) SERVICED APARTMENTS PLAN OF MANAGEMENT

The on-going use and operation of the serviced apartment component of the development shall be in accordance with the 'Operational Plan of Management – Serviced Apartments', prepared by Tony Paskell for Crown Central Developments Pty Ltd, dated 12 February 2014.

(21) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY - INELIGIBILITY FOR RESIDENT PARKING PERMITS

All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council on-street resident parking schemes.

(22) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME

Signs reading 'all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council' must ***be permanently displayed and located*** in prominent places such as at display apartments and on all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to an Occupation Certificate being issued and must be maintained in good order at all times ***by the Owners Corporation***.

(23) CAR PARKING SPACES AND DIMENSIONS

A maximum of 105 off-street car parking spaces must be provided. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a **Stage 6 Construction Certificate** being issued.

(24) ALLOCATION OF PARKING

The 105 approved parking spaces must be allocated as detailed below. **Note:** This maximum does not include service vehicle loading bays and drop-off spaces for the serviced apartment use.

All spaces must be appropriately line-marked and labelled according to this requirement prior to the issue of an Occupation Certificate or the use commencing, whichever is earlier. If the development is to be strata subdivided, the car park layout must respect the required allocation:

The maximum number of car parking spaces that shall be allocated to each use is:

- (a) 92 residential parking spaces;
- (b) 12 serviced apartment parking spaces; and
- (c) 1 retail parking spaces.

Note: A minimum of 2 car share spaces shall be provided within the basement, and shall be accommodated for within the maximum 105 car parking spaces.

(25) CAR SHARE SPACES

- (a) A minimum of two (2) car parking spaces for the exclusive use of car share scheme vehicles are to be provided.
- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be publicly accessible at all times.
- (f) The car share spaces are to be available at the same time that the car park commences operation.

(26) MOTORCYCLES

An area equivalent to a minimum of 2 car spaces must be provided for motorcycles.

(27) SERVICE VEHICLES

A maximum of 5 service vehicle loading/parking spaces (in addition to the 105 car parking spaces) shall be provided within the basement car park.

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 6 Construction Certificate** being issued.

(28) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 9.5 metres.

(29) ACCESSIBLE CAR PARKING SPACES

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 6 Construction Certificate** being issued.

(30) 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 unit in any future strata subdivision of the building.

(31) LOCATION OF ACCESSIBLE CAR PARKING SPACES

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

(32) ALLOCATION FOR CAR WASH BAYS

If car wash bays are provided, spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by all tenants.

(33) ALLOCATION FOR DROP OFF BAY

If drop off bays are provided, spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by all tenants.

(34) BICYCLE PARKING

A minimum of 212 bicycle parking spaces are to be provided, including a minimum of 178 for residents, 5 for employees and 29 for visitors/customers.

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

(35) BICYCLE FACILITIES

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

- (a) 1 showers with change area; and
- (b) 5 personal lockers.

(36) VEHICLE ACCESS

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

(37) SIGNS AT EGRESS

The following signs must be provided and maintained within the site at the point(s) of vehicle 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.

(38) SIGNAL SYSTEM

A system of traffic lights and/or mirrors must be installed at the ends of any single lane ramp(s), to indicate traffic movement on the ramp(s). This system must be detailed in the application for a construction certificate. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry, and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway.

(39) SECURITY GATES

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

(40) LOCATION OF DRIVEWAYS

The access driveway for the site must not be closer than:

- (a) 10 metres from the kerb line of the nearest cross street/lane.
- (b) 20 metres from the kerb line of the nearest signalised cross street/lane.
- (c) 1 metre from the property boundary of the adjacent site.
- (d) 2 metres from any other driveway.

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

(41) 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 **any** Occupation Certificate.

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

(42) 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.

(43) 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.

(44) 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.

(45) 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".

(46) 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.

(47) 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.

(48) 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.

(49) REFLECTIVITY

The Certifying Authority must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20% prior to issue of the **Stage 7 Construction Certificate**.

(50) WIND ENVIRONMENT STUDY

The recommendations of the Pedestrian Wind Environment Study (Reference number W606-08F03 Rev 1), prepared by Windtech Consultants Pty Ltd, dated 23 October 2013, shall be implemented in the final design, with details illustrating compliance with this condition to be submitted for approval to the Certifying Authority prior to the issue of a **Stage 8 Construction Certificate**.

(51) LAND CONTAMINATION

- (a) Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation), a Site Audit Statement (SAS) from a NSW EPA Accredited Site Auditor is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.
- (b) Where the SAS is subject to conditions that require ongoing review by the Auditor or Council, these should be reviewed and approved by Council before the SAS is issued.

(52) ACID SULFATE SOILS

- (a) If any new information comes to light during remediation, excavation, demolition or construction works which has the potential to alter previous conclusions about Acid Sulfate Soil identification and remediation, then this must be immediately notified to the Council and the Principal Certifying Authority.
- (b) All works are to be in accordance with the NSW Acid Sulfate Soils Management Advisory Committee, Acid Sulfate Soils Assessment Guidelines 1998 for the works that are classified as being in an Acid Sulfate Soils zone Class 5.

(53) NOISE USE**(a) General criteria**

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

- (i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.
- (ii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with *Australian Standard AS 1055.1-1997-Description and measurement of environmental noise*.
- (iii) The LAeq,15minute noise level shall be adjusted to account for any applicable modifying factors in accordance with Part 4 of the EPA NSW Industrial Noise Policy.

- (iv) In this clause, the term “noise level emitted from the use” means the contributing noise level from the use in isolation to any other ambient noise and account must therefore be taken of the LAeq, 15minute when the use is not in operation.
- (v) In circumstances where this development application refers to a modification or addition to an existing use, the background noise level referred to in this clause pertains to the LA90, 15minute noise level measured in the absence of all noise from the site.

(b) Internal to internal noise transmission - residential amenity

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.

(c) Internal to internal noise transmission – commercial amenity

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.

(54) 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.

(55) 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*.

(56) DEWATERING

- (a) If any dewatering of the site is to be undertaken, a bore licence may be required from the Department of Water and Energy (DWE) under the provisions of Part V of the Water Act 1912. The DEW licences dewatering to allow excavation for construction for a temporary period, usually 12 months.

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.

- (b) DWE has advised that the following information must be provided with any licence application for dewatering purposes, in order for the submission to be processed:
- (i) The method of construction proposed for that part of the development extending beneath the water table that will preclude the need for any type of permanent dewatering facility or activity;
 - (ii) The method of temporary dewatering to be adopted during construction and the types and number of pumping and reinjection installations that will be utilised;
 - (iii) An accurate plan, to scale, of the property identifying the location of groundwater works to be used in the temporary dewatering activity and the location of any discharge or reinjection points;
 - (iv) Records of groundwater levels beneath the subject property from at least three on-site locations each with at least three weekly measurements prior to the commencement of dewatering;
 - (v) The amount of lowering of the local water table required to accommodate the excavation necessary for the proposed construction;

- (vi) An estimate of the total volume of groundwater to be extracted, in kilolitres or megalitres;
- (vii) An estimate of the total volume of tail water that is to be reinjected, in kilolitres or megalitres;
- (viii) An estimate of individual and composite flow rates for all extraction and reinjection installations, in litres per second;
- (ix) An estimate of the duration over which dewatering pumping is to take place, in days, weeks or months;
- (x) Predictions of the impacts of dewatering pumping on any licensed groundwater users, significant infrastructure such as tunnels or pipelines, or groundwater dependent ecosystems in the vicinity of the site;
- (xi) Laboratory results from the analysis of groundwater quality samples taken prior to the commencement of dewatering to assess the presence of any contaminants and comparison with documented water quality objectives or criteria;
- (xii) An assessment of the potential for salt water intrusion to occur as a result of the dewatering pumping for sites within 250 metres of any foreshore;
- (xiii) The method of disposal of excess tail water (either street drainage to the stormwater system or discharge to sewer under a trade waste agreement) if reinjection is not proposed then written advice and approval should be obtained from the relevant controlling authority indicating that the proposed means of disposal is acceptable;
- (xiv) The compatibility of the tail water and the intrinsic or ambient groundwater in the vicinity or property if reinjection is proposed, including written advice on:
 - a. The treatment to be applied to the tail water to remove extant contamination;
 - b. The measures to be adopted to prevent redistribution of contaminated groundwater due to either pumping or reinjection;
 - c. The means to avoid degrading impacts on an identified beneficial use of groundwater.
- (xv) Written advice from a geotechnical professional whether there is any significant risk that the proposed dewatering rates and duration may cause any off-site impacts, such as damage to surrounding buildings or infrastructure, as a result of different sediment compaction and surface settlement during and following pumping;

- (xvi) The proposed monitoring activities to be undertaken prior to, during and for the required period of time following the dewatering pumping to confirm the impact predictions, including:
 - a. Locations and schedules of water levels measurements at site boundaries;
 - b. Locations of settlement monitoring points, if required, and schedules of measurement;
 - c. Locations and schedules of groundwater, tail water or reinjection water quality sampling.
- (xvii) The specific information related to the dewatering activity that is to be provided to the department on expiration of the temporary dewatering licence. DWE also requires copies of any hydrogeological or geotechnical reports of relevance to the proposed dewatering activity. A separate report is required by DWE at the completion of construction detailing the performance of the dewatering system, in particular describing the amounts and quality of groundwater extracted from the site.
- (c) The application is required to confirm to Council that no dewatering is required for the construction project, or that a Licence has been applied for and approved by the DWE before the commencement of any works on site. Any conditions attached to the Dewatering Licence awarded by the DWE must form part of this consent.

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.

(57) COMPLIANCE WITH ARCHAEOLOGICAL ASSESSMENT REPORT

The recommendations of the Archaeological Assessment Report, prepared by Edward Higginbotham & Associates Pty Ltd, dated October 2013, shall be implemented at all times during demolition, excavation and construction works on site.

(58) 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.

- (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 issue of any Occupation Certificate.

(59) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

Prior to **any** Construction Certificate being issued, an archival photographic recording of the site and any archaeology uncovered during the investigations is to be prepared to Council's satisfaction. The recording may be in either digital or film-based form, or a combination of both, prepared in accordance with the NSW Heritage Office guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives.

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 first submission of the archival recording of significant building fabric or furnishings is to be prior to the removal of any significant building fabric or furnishings from the site, and must be submitted to and approved by Council prior to the commencement of any work on site and prior to a **Stage 1A Construction Certificate** being issued.
- (B) The second submission 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 any 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) and (B), 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 negative, slide or 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) A 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
- (c) 35mm film images submitted as contact sheets with equivalent negatives, a selection of black and white prints 200 x 250mm, and 35mm colour transparencies, all labelled and cross-referenced to the catalogue sheets and base plans.

(60) SANDSTONE RECYCLING

- (a) A Geotechnical Report prepared by a suitably qualified geotechnical engineer is to be submitted to Councils' Director City Planning, Development and Transport Division prior to the issue of the **Stage 1B Construction Certificate**. The report is to include an investigation into 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 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.

(61) 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 Division prior to the issue of a **Stage 1A Construction Certificate**. The Strategy is to detail how the proposed works will ensure that the buildings at 153-159 Clarence Street and 40 King Street (306 Kent Street), and the road surfaces at Skittle Lane, 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) Details of temporary hydraulic drainage works to ensure that all water both in ground and above ground is channelled to the street and that no such water is channelled onto the adjacent property fabric or interiors.
 - (ii) 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.
 - (iii) Details of the proposed protection of side boundary walls from damp and water ingress during the works.
 - (iv) Construction debris on neighbouring properties, in drainage lines or in cavities between the boundary walls of the adjacent buildings, is to be removed progressively as the works progress.

(62) DISPOSAL OF SURPLUS SALVAGED MATERIALS

Salvaged traditional building materials surplus to the requirements of this project including stone, bricks, structural timber, internal and external joinery are to be sold to an established dealer in second hand heritage building materials. Documentation of the salvage methodology must be submitted for the approval of Council prior to the commencement of demolition.

(63) HERITAGE INTERPRETATION STRATEGY

- (a) An interpretation plan for both the archaeological features and the site must be submitted to and approved by Council's Director City Planning, Development and Transport prior to a **Stage 4 Construction Certificate** being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian;

- (b) The interpretation plan must detail how information on the history and significance of both the archaeological features and the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used. The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (c) In the event that the archaeological investigations on site result in the discovery of artefacts and other relics, amended plans shall be submitted to nominate a publically accessible location on site for the display and interpretation of these artefacts.
- (d) Prior to the issue of any Occupation certificate the approved interpretation plan must be implemented to the satisfaction of Council.

(64) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan is to be submitted to and approved by Council prior to a **Stage 4 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 Waste Management Plan must be implemented during construction of the development.
- (c) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's Policy for Waste Minimisation in New Developments 2005, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

UPON COMPLETION OF THE DEVELOPMENT

- (d) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

(65) WASTE MANAGEMENT FACILITIES

Prior to the issue of a **Stage 4 Construction Certificate** for the development, the waste management facilities within the building are to be consistent with Council's "Policy for Waste Minimisation in New Developments 2005" and designed to provide for:

- (a) the residential garbage room to be designed in accordance with Council's "Policy for Waste Minimisation in New Developments 2005" to allow for cleaning, draining and management of the room.
- (b) the residential garbage room servicing the proposed building to include adequate space for the separation of putrescible waste from waste suitable for recycling.

(66) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) A Waste Management Plan is to be approved by the Certifying Authority prior to a **Stage 4 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.

(67) WASTE AND RECYCLING COLLECTION CONTRACT (SERVICED APARTMENTS)

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.

(68) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(69) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE

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

(70) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

- (a) Prior to the commencement of demolition and/or excavation work, the following details must be submitted to and be approved by the Principal Certifying Authority:
- (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
 - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
 - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person.

- (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.
- (b) Such statements must, where applicable, be in compliance with AS2601-1991 Demolition of Structures, the Occupational Health and Safety Act 2000 and Regulation; Council's Policy for Waste Minimisation in New Developments 2005, the Waste Avoidance and Resource Recovery Act 2001, and all other relevant acts and regulations and must include provisions for:
 - (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the Waste Avoidance and Resource Recovery Act 2001.
 - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
 - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
 - (iv) The name and address of the transport contractor.
 - (v) The type and quantity of material to be removed from site.
 - (vi) Location and method of waste disposal and recycling.
 - (vii) Proposed truck routes, in accordance with this development consent.
 - (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
 - (ix) Measures to control noise emissions from the site.
 - (x) Measures to suppress odours.
 - (xi) Enclosing and making the site safe.
 - (xii) A certified copy of the Public Liability Insurance indemnifying Council for \$10,000,000 against public prosecution for the duration of the demolition works.
 - (xiii) Induction training for on-site personnel.

- (xiv) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to Work Cover Authority.
 - (xv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the Work Cover Authority.
 - (xvi) Disconnection of utilities.
 - (xvii) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
 - (xviii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
 - (xix) Waterproofing of any exposed surfaces of adjoining buildings.
 - (xx) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the Protection of the Environmental Operations Act 1997).
 - (xxi) Working hours, in accordance with this development consent.
 - (xxii) Any Work Cover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

(71) DEMOLITION, EXCAVATION & CONSTRUCTION NOISE MANAGEMENT PLAN

A site specific noise management plan shall be submitted to the Council for comment and approval prior to the issue of any 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 Association of Australian 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.
- (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 engineer 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.

(72) 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.

(73) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 153-159 Clarence Street, 171 Clarence Street and 306 Kent 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 1A 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.

(74) 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).

(75) 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 1B 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 Council's Director City Planning, Development and Transport.

(76) 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 whichever 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) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) 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.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (i) 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.

(77) CONTAMINATED WASTE

The generation, storage, transport, treatment or disposal of industrial, hazardous or Group A liquid waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997 and the NSW Department of Environment and Climate Change and Water (DECCW) waste tracking requirements.

The generation, storage, transport, treatment or disposal of industrial, hazardous or Group A liquid waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997 and the NSW Department of Environment Climate Change and Water (DECCW) waste tracking requirements. For further information contact DECCW on 131 555.

(78) IMPORTED WASTE DERIVED FILL MATERIAL

The only waste derived fill material that may be received at the development site is:

- (a) Virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*);
- (b) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

(79) MICROBIAL CONTROL IN WATER SYSTEMS

- (a) Prior to the issue of a **Stage 6 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.

(80) LANDSCAPED (GREEN) ROOFS

Prior to the issue of a **Stage 8 Construction Certificate** the following design details of the proposed landscaped roof area and balcony areas should be submitted to and approved by Council:

- (a) A detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, that includes:
 - (i) Location of existing and proposed structures on the rooftop, including cross-sectional details of all components on the green roof;
 - (ii) Minimum 30% green cover on the roof gardens on the 25th floor;
 - (iii) Details of earthworks including mounding and retaining walls and planter boxes (where applicable);
 - (iv) Details of the soil / media depth with a preference for minimum soil depths of 200mm for grass, 400mm shrubs and 800mm for larger trees;
 - (v) Details of drainage and irrigation systems, including overflow provisions.
- (b) Prior to the issue of a **Stage 5 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.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

- (d) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Director City Planning, Development and Transport. The maintenance plan is to be complied with during occupation of the property.

(81) STREET TREES THAT MUST BE RETAINED

- (a) No approval is granted for the removal of the street trees listed in the following table, which Council has determined to be prominent landscape elements.
- (b) All trees detailed in the following table are to be protected throughout the proposed construction works.

Tree No:	Botanical Name	Dimension (metres)	Setback Required
1 & 2	<i>Populus nigra Italica</i>	14 x 8	3 metres
3	<i>Populus simonii</i>	8 x 5	3 metres
4	<i>Platanus acerifolia</i>	10 x 8	3 metres

(82) STREET TREE PROTECTION

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

- (a) Tree trunk and major limb protection must be undertaken prior to or during the installation of any hoarding or scaffoldings. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
- (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
 - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage;
 - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion; and
 - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.

- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
 - (i) around or under the tree canopy; or
 - (ii) within two (2) metres of tree trunks or branches of any street trees.
- (d) Protective fencing (1.8 metre chain wire mesh fencing) must be erected on top of the hoarding to protect branches during the construction works.
- (e) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(83) 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.

(84) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a **Stage 1A 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.

(85) 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 7 Construction Certificate** being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(86) 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 7 Construction Certificate**, and must be suitably referenced in the Construction Certificate documentation.

The report must:

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

(87) FLOOR TO CEILING HEIGHT

Prior to a **Stage 5 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.

(88) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia* and the *Sydney Development Control Plan 2012*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a **Stage 4 Construction Certificate** being issued.

(89) ADAPTABLE HOUSING

Prior to a **Stage 5 Construction Certificate** being issued, information from an appropriately qualified access consultant:

- (a) confirming that the required number of residential units are able to be adapted for people with a disability in accordance with the *Sydney Development Control Plan 2012*; and
- (b) demonstrating (in a checklist) compliance with Australian Standard AS4299

is to be submitted to the Certifying Authority.

(90) PHYSICAL MODELS

- (a) Prior to a **Stage 5 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 mode 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, 1979) that affect the external appearance of the building.

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

- (a) Prior to a **Stage 5 Construction Certificate** being issued, an accurate 1:1 electronic CAD model of the detailed construction stage drawings 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, 1979*) that affect the location of any of the underground services or structures and/or external configuration of building above ground.

(92) DEMOLITION/SITE RECTIFICATION

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the **Stage 1A 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 \$359,500 dollars as security for the costs of such works provided that:
 - a. The maximum liability under the Deed must not exceed \$359,500 dollars; and

- b. The Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
- (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the erection of the structure has commenced;
 - (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
 - a. make the building safe and of an appearance acceptable to Council at ground level;
 - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenable stage;

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

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (iii) to take place on the site; and
 - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.

- (e) The Deed may, if the Director City Planning, Development and Transport is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
 - (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
 - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
 - (iii) Stage 3 – Issue of the Final Occupation Certificate.
- (f) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
 - (i) Certification (from an accredited certifier) that the relevant stage is complete;
 - (ii) Detailed schedule of completed works carried out in the relevant stage;
- (g) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

(93) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the basis of 32 linear metres of asphalt footway on the Clarence Street site frontage and 42 linear metres of asphalt footway on the Kent Street site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site. The guarantee must be lodged with Council prior to issue of a **Stage 1A 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.

(94) 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 Council's policies for hoardings and temporary structures on the public way. Graffiti must be removed from the hoarding within one working day.

(95) 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.

(96) 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.

(97) LAND SUBDIVISION

Any proposal to subdivide the site, including any stratum subdivision of the building(s), will require a separate application to Council to obtain development consent for the proposal and subsequent issue of the Subdivision Certificate under Section 109J of the Environmental Planning and Assessment Act 1979.

(98) PUBLIC ART

High quality art work must be provided within the development in the publicly accessible through-site link of the site, in accordance with the recommendation of the 'Public Art Strategy', prepared by Artscape, dated 14 February 2014, and must also be in accordance with the provisions of the Sydney DCP 2012 and the Public Art Policy.

Details of the art work must be submitted to and approved by the Director City Planning, Development and Transport prior to a **Stage 8 Construction Certificate** being issued. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(99) ALIGNMENT LEVELS

- (a) Prior to a **Stage 2 Construction Certificate** being issued, footpath alignment levels for the building must be submitted to Council for approval. The submission must be prepared by a Registered Surveyor and must be in accordance with the City of Sydney's Public Domain Manual.
- (b) These alignment levels, as approved by Council, are then to be incorporated into the plans submitted with the application for a Construction Certificate, excluding a Construction Certificate for approved preparatory, demolition or shoring work.
- (c) If a Public Domain Plan condition applies to the development the Alignment Levels application must be made concurrently with the submission of a Public Domain Plan.

(100) PUBLIC DOMAIN PLAN

The Public Domain Plan accompanying this Development Application has not been approved by this consent.

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 with the **Stage 2 Construction Certificate** and be approved by Council prior to a **Stage 4 Construction Certificate** being issued for any new building work (including internal refurbishments) excluding approved preparatory, demolition or shoring work.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must be made concurrently with the Alignment Levels application. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

Note: A Public Domain Works Guarantee deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Road Opening Permit for works on the public way being issued.

The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council, in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(101) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to a **Stage 4 Construction Certificate** being issued, 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.

(102) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to a **Stage 1A Construction Certificate** being issued, 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.

(103) 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 **Stage 1A 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).

(104) 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".

(105) PROTECTION OF STONE & STONE KERBS

- (a) The existing stone kerbs on the Kent Street and Clarence Street frontages of the site and existing stone within Skittle Lane shall be retained and properly protected during excavation and construction works.

- (b) To avoid damage to stone and stone kerbs during construction and/or excavation works for the development, temporary removal and storage of the stone and stone kerbs may be approved by Council. Removed, serviceable stone and stone kerbs (i.e. those that are in good condition as agreed by City officers) must be re-installed in accordance with the City's standard details and specifications after the construction and/or excavation works have been completed. Note: A temporary concrete kerb will need to be constructed to retain the footpath and road access until the stone kerbs can be reinstalled. The removed stone and stone kerbs are to be reinstalled prior to the issue of an Occupation Certificate. Note: all costs associated with the works are to be at no cost to the Council.
- (c) Damaged stone and stone kerbs are to be replaced to match existing to the City's satisfaction or as otherwise advised by City officers.
- (d) Where new crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
- (e) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers. All unused stone kerbs are to be salvaged and returned to the City's store.
- (f) Council approval is required before the stone or stone kerbs are removed.

(106) STORMWATER AND DRAINAGE

The final stormwater drainage system is to be constructed in accordance with Council's standard requirements as detailed in Council's 'Stormwater Drainage Connection Information' document, dated July 2006 and generally in accordance with the Concept Plans numbered SW00, Rev B to SW 07, Rev B, prepared by C&M Consulting Engineers. This information is available on Council's website - www.cityofsydney.nsw.gov.au.

Prior to the issue of a **Stage 3 Construction Certificate**, documentation to illustrating compliance with the above, and the following stormwater disposal and drainage requirements, shall be submitted to Council for approval:

- (a) Stormwater run-off for all areas proposed for development shall be collected and controlled by Rainwater Tank of capacity 5,000L in accordance with the BASIX Certificate, and generally in accordance with the Concept Plans numbered SW00/B-SW 07/B, prepared by C&M Consulting Engineers;
- (b) Final Stormwater drainage shall be prepared by a Professional Civil Engineer in accordance with the above requirements, Council Policies for Stormwater Connection and Engineering Standards AS 3500.3;
- (c) Evidence from Sydney Water for the proposed connection into the stormwater systems at Kent Street;
- (d) Confirmation from Sydney Water to state that On-site detention is not required.

- (e) MUSIC model is required to demonstrate the compliance with the water quality requirements of City of Sydney SDCP 2012, CI 3.7.2&3.7.3 and should be submitted to Council for approval.

(107) 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 6 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.

(108) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

The approved mechanical exhaust systems are to be designed to be capable of accommodating exhaust requirements for all ground floor retail tenancies in accordance with relevant Australia Standards, in order to allow for the event that any of the tenancies are approved for future use by food premises or other uses which require mechanical exhaust. Any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level.

(109) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:
 - (i) Structural provisions - Part B1;
 - (ii) Fire resistance and stability - Part C1;
 - (iii) Compartmentation and separation - Part C2;
 - (iv) Protection of openings - Part C3;
 - (v) Provision for escape (access and egress) - Part D1;
 - (vi) Construction of exits - Part D2;
 - (vii) Access for people with disabilities - Part D3;

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

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

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

- (xiv) Room sizes - Part F3;
 - (xv) Light and ventilation - Part F4;
 - (xvi) Sound transmission and insulation - Part F5;
 - (xvii) Heating appliances, fireplaces, chimneys and flues - Part G2;
 - (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 systems - 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 matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.

- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend this consent.

(110) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)

Prior to the issue of a **Stage 3 Construction Certificate**, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).

(111) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

The proposed work must comply with the Building Code of Australia (BCA).

(112) 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. A copy of the Fire Safety Certificate must be submitted to Council if it is not the Principal Certifying Authority.

(113) CERTIFICATION OF GEOTECHNICAL INSPECTION

Prior to the issuing of a **Stage 1B Construction Certificate**, a Geotechnical inspection report/certificate confirming that the development site is suitable for the proposed development must be provided to Council (if Council is the certifying authority). The certificate must be in accordance with Clause A2.2(a)(iii) of the Building Code of Australia and be prepared by an appropriately qualified person.

(114) 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 or the use commencing, whichever is earlier.

(115) 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 4 Construction Certificate** to the satisfaction of Council or the accredited certifier and approved by the certifying authority.

(116) SWIMMING POOL/SPA

Swimming and/or spa pool/s and pool surrounds must be maintained in accordance with the *Public Health (Swimming Pools and Spa Pools) Regulation 2000*. Note: Guidance may also be obtained from the NSW Health Department's *Public Swimming Pool and Spa Pool Guidelines*.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(117) 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.

(118) BASIX

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

(119) HOURS OF WORK AND NOISE – CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

Note: The "*City of Sydney Code of Practice for Construction Hours/Noise 1992*" allows extended working hours subject to the approval of an application in accordance with the Code and under Section 96 of the *Environmental Planning and Assessment Act 1979*.

(120) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifying Authority including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.

(121) NOTIFICATION OF EXCAVATION WORKS

The Principal Certifying Authority and Council must be given a minimum of 48 hours notice that excavation, shoring or underpinning works are about to commence.

(122) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the Department of Environment and Conservation (DEC) and the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997.*
- (b) *Protection of the Environment Operations (Waste) Regulation 1996.*
- (c) *Waste Avoidance and Recovery Act 2001.*
- (d) Work Health and Safety Act 2011.
- (e) *New South Wales Construction Safety Act 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983).*
- (f) Work Health and Safety Regulation 2011.
- (g) *The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.*

(123) USE OF INTRUSIVE APPLIANCES – TIME RESTRICTION

- (a) The operation of high noise intrusive plant and machinery such as pile – drivers, rock breakers and hydraulic hammers and those which 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 and Australian Standard 2436-2010 "Guide to Noise Control on Construction, Maintenance and Demolition Sites **is restricted to the hours of 8.00am – 1.00pm and 2.00pm to 5.00pm Mondays to Fridays and 9.00am – 1.00pm on Saturdays and no operation is permitted on Sundays or public holidays, or any other hours as approved by Council in writing.**
- (b) All reasonable and feasible steps must be undertaken to ensure that all works complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

(124) 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.

(125) RAINWATER TANKS

The installation and use of any rainwater tank(s) must comply with the following:

- (a) be constructed of a non-reflective, structurally sound and non-corrosive material with a leaching resistant capability;
- (b) have all plumbing work carried out by a licensed plumber in accordance with the New South Wales Code of Practice- Plumbing and Drainage and AS3500 and Guidelines for rainwater tanks on residential properties- Plumbing requirements;

- (c) be installed by suitably qualified persons and be fixed to structurally adequate base or wall in accordance with manufacturer's specifications or engineer's details;
- (d) not be fixed to, or otherwise supported by a bounding common fence, wall or the like, without the prior approval being obtained from the adjoining land owner/s;
- (e) be fitted with a first flush device;
- (f) have openings suitably sealed to prevent access by children and be fitted with a fine mesh screen to prevent penetration of contaminants and insects such as mosquitoes;
- (g) have an overflow device fitted to the rainwater tank which directs water to a complying stormwater drainage system;
- (h) have a suitable drainage plug/tap fitted and positioned to allow for easy flushing and cleaning of the tank/s;
- (i) where water pumps are installed, be located so as to not cause an offensive noise as defined by the Protection of the Environment Operations Act 1997;
- (j) have all taps, outlets and pipes coloured 'mauve' and marked "non-potable water - not for drinking" in accordance with the AS 1345.

(126) 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.

(127) EROSION AND SEDIMENT CONTROL

The Soil and Water Management Plan (SWMP) or Erosion and Sediment Control Plan (ESCP) which has been approved by the Principal Certifying Authority must be implemented in full during the construction period.

During the construction period;

- (a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;
- (b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and
- (c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

(128) 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.

(129) 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.

(130) 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.

(131) 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.

(132) 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.

(133) 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.

(134) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(135) 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.

(136) SURVEY

All footings and walls adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifying Authority indicating the position of external walls in relation to the boundaries of the allotment.

(137) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

(138) 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.

SCHEDULE 2

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

SCHEDULE 3**(139) TRANSPORT FOR NEW SOUTH WALES (TfNSW) REQUIREMENTS**

- (a) Any construction works associated with the Stage 2 development application must be undertaken in accordance with the Deed of Agreement that was executed on 12 February 2013. Aspects of the Deed that must be complied with include but are not limited to:
 - (i) Provide TfNSW allowances for the future construction of railway tunnels in the vicinity of the approved development;
 - (ii) Identify allowances in the design, construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
 - (iii) Allow access by representatives of TfNSW to the site of the approved development and all structures on that site;
 - (iv) Provision to TfNSW of drawings, reports and other information related to the design, construction and maintenance of the approved development; and
- (b) All requirements contained in the Deed between TfNSW and the owners of the site must be satisfied during construction and, where appropriate, the operation of the approved development.
- (c) In addition, the following shall take place prior to any construction certification being issued for the approved development:
 - (i) The developer must consult with TfNSW prior to issue of a **Stage 1A Construction Certificate**; and
 - (ii) A detailed regime is to be prepared for consultation with, and approval by, TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.

- (d) All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development which have a potential impact on the CBDRL must be designed, constructed and maintained in accordance with design criteria specified by TfNSW.
- (e) The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW.
- (f) The developer must undertake detailed geotechnical analysis prior to issue of any construction certification to demonstrate likely movements of the ground due to the future CBDRL.
- (g) No modifications may be made to that approved design without the consent of TfNSW.
- (h) TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.
- (i) Copies of any certificates, drawings or approvals given to or issued by TfNSW must be delivered to Council for its records.

BACKGROUND

The Site

1. The site has a legal description of Lots 1 and 2 DP 1087419 and Lot 21 DP 58957, and is commonly known as 161, 163-165 Clarence Street and 304 Kent Street, Sydney.
2. The site is located on the western side of Clarence Street, between Erskine and King Streets. The site is irregular in shape, being generally a “L-shape”, with street frontages to Clarence Street of 28 metres and to Kent Street of 37.6 metres. The site also has a frontage to Skittle Lane, along the southern boundary of the site. The site has an area of 1,438sqm. The topography of the site results in a fall of approximately 4 metres from Clarence Street to Kent Street, which equates to one additional floor on the Kent Street frontage of the site.
3. Existing on site is a number of low rise buildings, ranging from 4 to 8 storeys. Vehicular access to these building is via three existing driveways accessed from Kent Street. 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.
4. **Figures 1 to 7**, below, illustrates the context of the site and the existing built form.

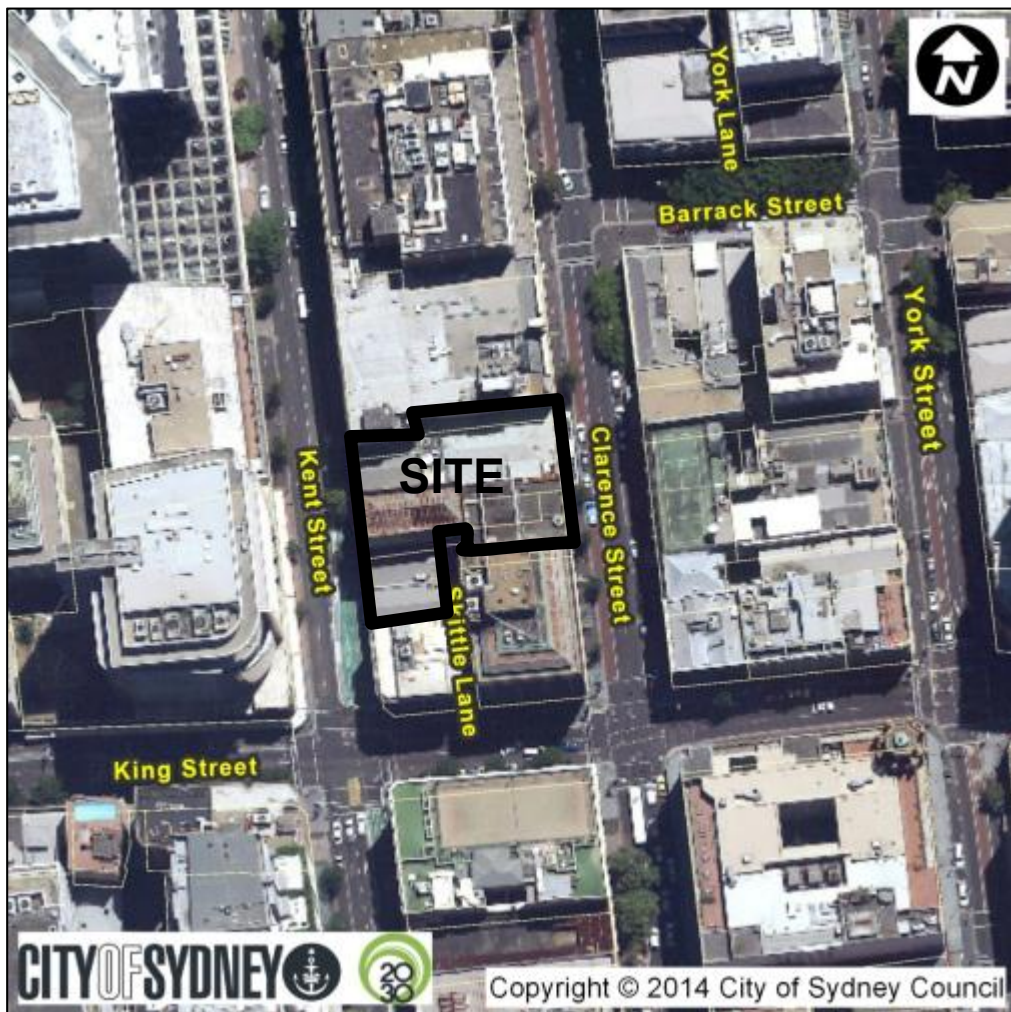


Figure 1: Location Plan



Figure 2: The existing buildings on site as viewed from Clarence Street



Figure 3: View looking south along Clarence Street of the Red Cross House (in foreground) and existing buildings on site (in background)



Figure 4: View of Clarence Street looking north

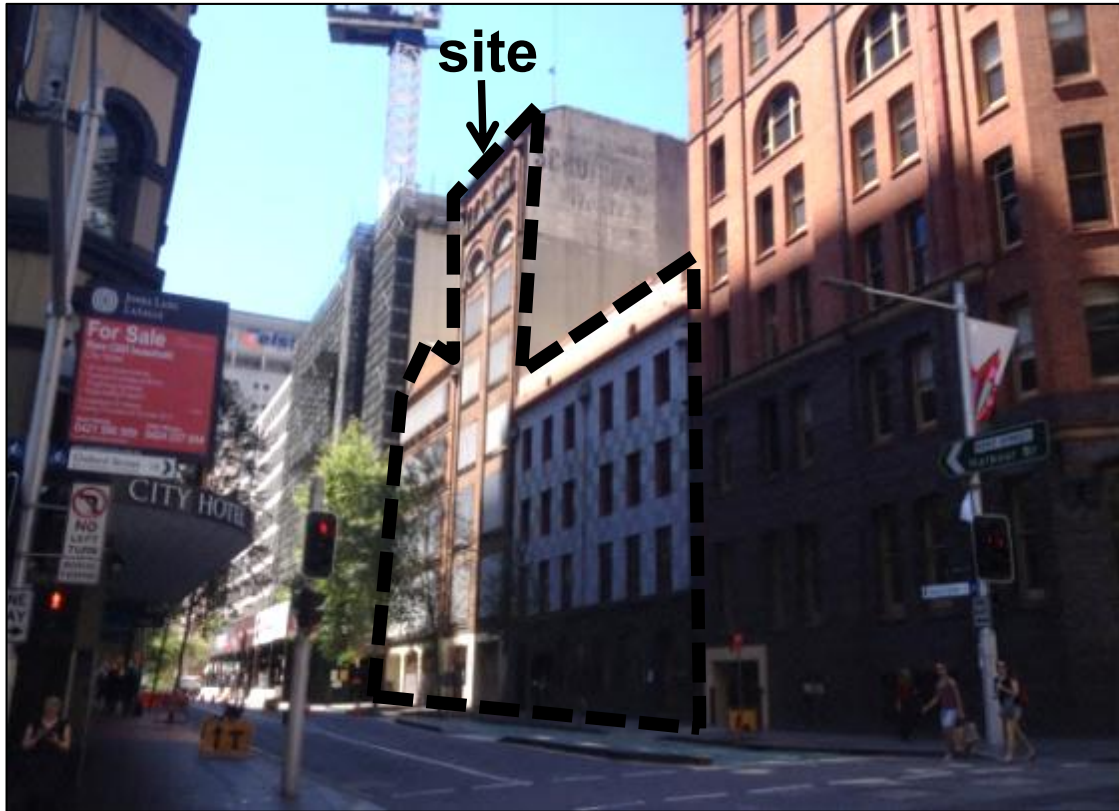


Figure 5: View of site looking north along Kent Street



Figure 6: View of the site looking south along Kent Street

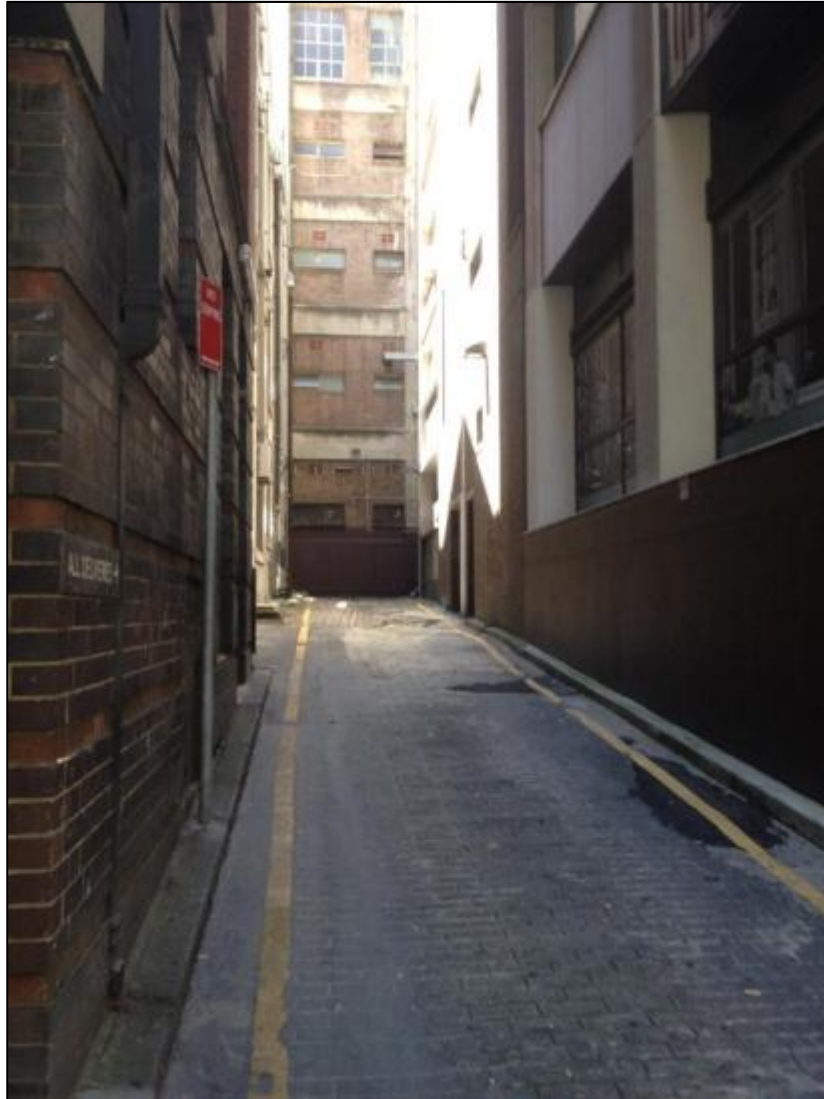


Figure 7: View of Skittle Lane looking north towards the site

Surrounding Development

5. As detailed in **Figures 2 to 6**, above, development in the vicinity of the site is generally characterised by commercial, retail and hospitality land uses. 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.
6. 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 will be the subject of future development applications for their redevelopment. Notable development consents in the vicinity of the site are summarised below:

153-159 Clarence Street – Red Cross House

7. Directly north 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.

8. 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 4 storeys. Construction works have commenced on site.

137-151 Clarence Street

9. Further northwards from the site is 137-151 Clarence Street. A Stage 1 Development Application (D/2012/1453) for this site was granted deferred commencement consent by the Central Sydney Planning Committee (CSPC) on 6 December 2012.
10. This development consent approved an indicative building envelope for a commercial development, 80 metres in height, with basement car parking and the provision of a through-site link between Clarence and Kent Streets.
11. A competitive design process was held for this site was held in March and April 2013, with Architectus being named the winning scheme in May 2013.

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

12. A Stage 1 Development Application (D/2012/1425) for the subject site 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.
13. The deferred commencement condition required the owners of the site to enter into a deed of agreement with RailCorp to address potential impacts of the development on the future CBD Rail Link. This condition was satisfied on 21 February 2014, with the consent becoming operable on this date.

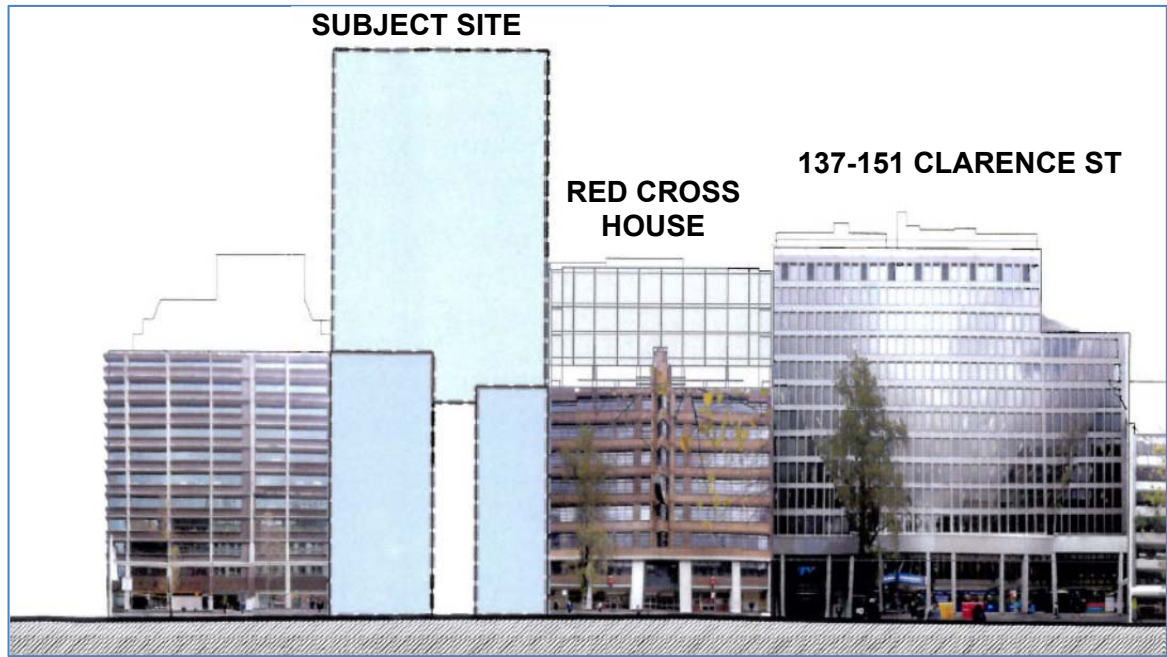


Figure 8: The approved Stage 1 building envelope for the site as viewed in its Clarence Street context

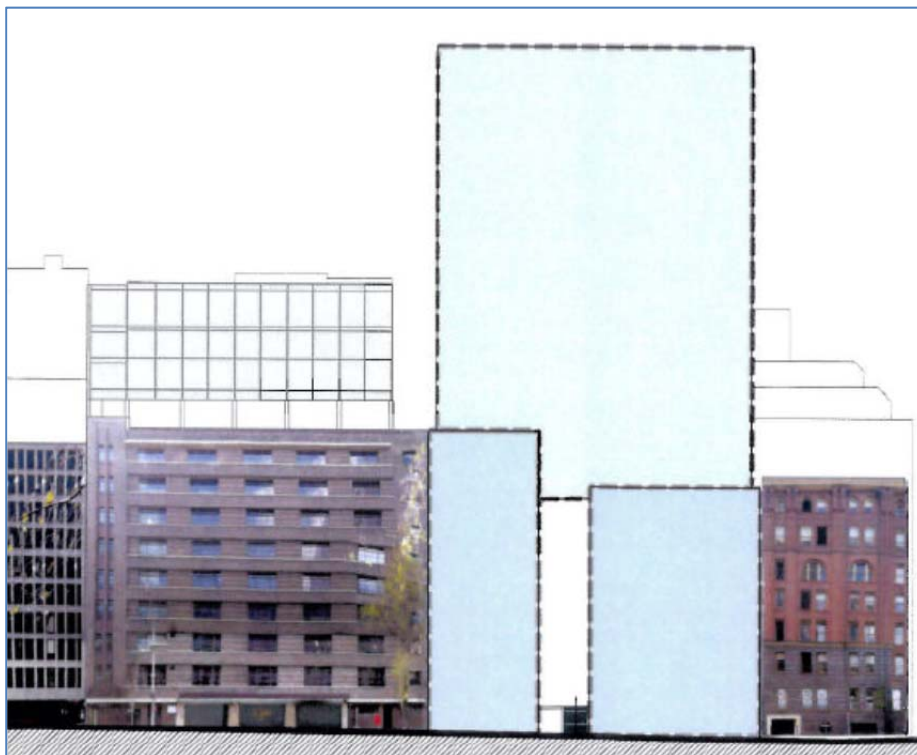


Figure 9: The approved Stage 1 building envelope for the site as viewed in its Kent Street context

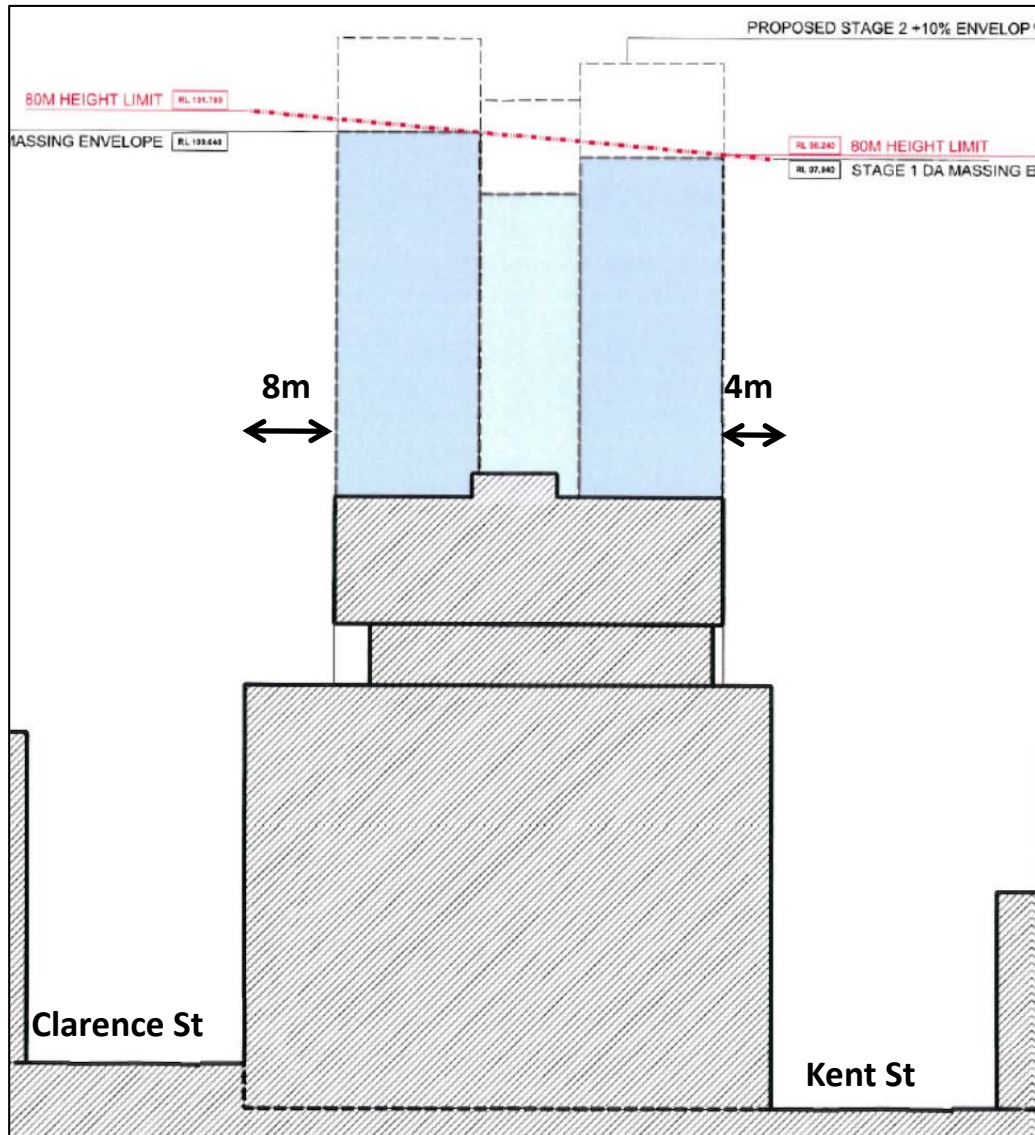


Figure 10: Section of Stage 1 building envelope illustrating approved setbacks above podium/street wall height

14. 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 April 2013. These firms were:
 - (a) Allen Jack + Cottier Architects;
 - (b) Candalepas Associates;
 - (c) Koichi Takada Architects; and
 - (d) Turner and Associates.
15. Presentations were given to the Design Jury in June 2013, with the Design Jury selecting the Koichi Takada Architects scheme as the winning design in July 2013.
16. This Koichi Takada Architects scheme has been developed and lodged as the subject Stage 2 Development Application for the site on 5 November 2013.

PROPOSAL

17. The subject application seeks consent for the following works:
- (a) demolition of all existing structures on site;
 - (b) excavation and construction of basement car parking, accommodating 113 car parking spaces (inclusive of service vehicle loading spaces, car share spaces and drop-off spaces for the serviced apartment use);
 - (c) vehicular access off Kent Street;
 - (d) construction of a 25-storey mixed-use development, with a gross floor area of 17,501.7sqm, that accommodates:
 - (i) 178 residential apartments;
 - (ii) 42 serviced apartments; and
 - (iii) 724sqm of retail floor space (indicatively shown as 11 tenancies).
 - (e) landscaping, public art and public domain works; and
 - (f) staged construction, in the following 9 stages:
 - (i) construction stage 1A – demolition;
 - (ii) construction stage 1B – archaeological excavations and investigation;
 - (iii) construction stage 2 – excavation and footings;
 - (iv) construction stage 3 – construction of in-ground services and infrastructure;
 - (v) construction stage 4 – construction of structure from basement to Level 1;
 - (vi) construction stage 5 – construction of the remainder of the structure from Level 2 upwards;
 - (vii) construction stage 6 – fit-out and finishes, installation of services and facade works up to Level 1;
 - (viii) construction stage 7 – fit-out and finishes, installation of services and facade works from Level 2 upwards;
 - (ix) construction stage 8 – public domain works, installation of public art and landscaping of the site.
18. **Figures 11 to 16**, below, illustrate photomontages of the proposed development. Architectural plans and elevations of the proposed development are provided at **Attachments A and B**.



Figure 11: The proposed development as viewed from the corner of Kent and King Streets



Figure 12: The proposed development as viewed from Clarence Street, looking south

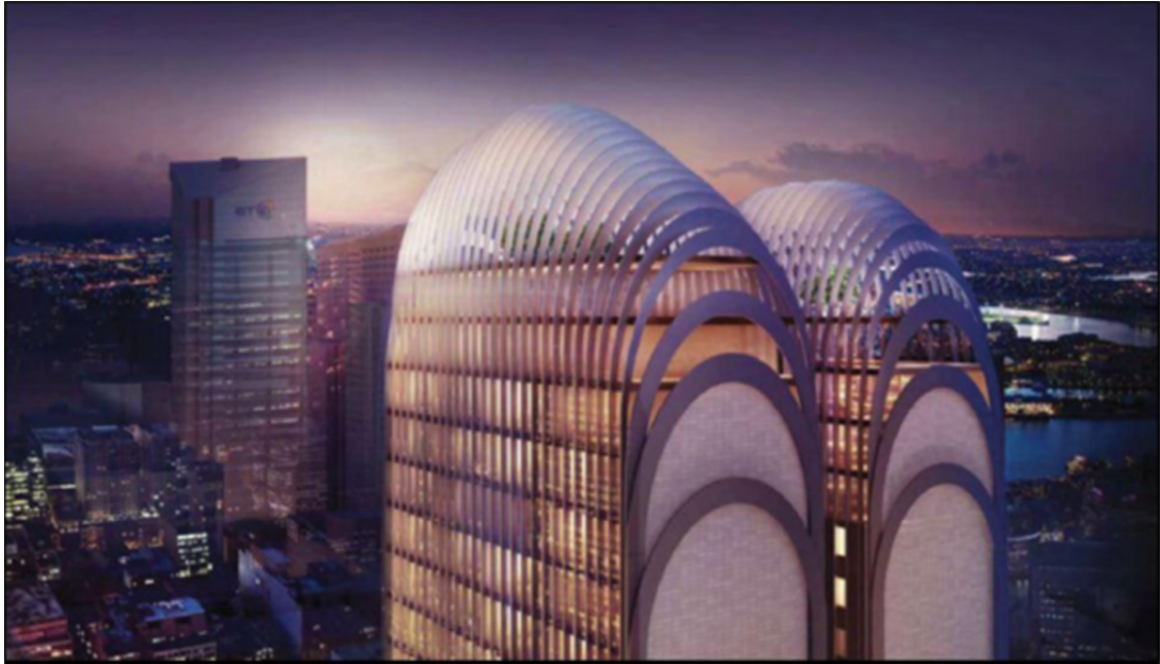


Figure 13: View of the proposed architectural roof feature



Figure 14: View of brick cladding facade treatment to the podium and through-site link, as viewed from Clarence Street



Figure 15: View of facade treatment to the podium and through-site link, as viewed from Kent Street



Figure 16: View looking north along Skittle Lane into the development site

APPLICATION HISTORY AND AMENDMENTS

19. The applicant was advised in correspondence, dated 22 January 2014, that the application was not supported in its current form and required the submission of amended plans and additional information to address the following matters:
- (a) gross floor area has been incorrectly calculated and areas of the development have been erroneously omitted from the calculation;
 - (b) submission of statement of justification under the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012 to the numeric variation to the building height and floor space ratio development standard;
 - (c) reconfiguration of the proposal to ensure that waste collection can occur wholly within the boundaries of the site;
 - (d) reconfiguration to create separate pedestrian entries to the residential and serviced apartment uses, and where possible, provision of separate lifts to service each use;
 - (e) the proposal should be amended to reduce the number of studio and 1-bedroom residential apartments in order to achieve a unit mix more consistent with the SDCP 2012 provisions;
 - (f) consideration should be given to amending the unit mix of the serviced apartment use to provide a greater balance of the 2-bedroom variety in keeping with the desired mix outlined in the SDCP 2012;
 - (g) where possible, improve the number of apartments that receive 2 hours of solar access, in order to improve the overall performance of the building with the guidelines contained in the Residential Flat Design Code;
 - (h) additional information to address the following:
 - (i) provide greater detail on the cross ventilation of residential apartments;
 - (ii) provision of a public art strategy; and
 - (iii) documentation on land contamination and a construction noise management plan.
20. An amended scheme to address the majority of those matters raised was submitted on 20 February 2014. This amended scheme is the subject of assessment within this report.

CITY OF SYDNEY ACT 1988

21. 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.

"Section 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."*
22. Having liaised with the City's Access Unit, in this instance, the proposal is not considered by the CSTTC delegate, the Director City Planning, Development and Transport, to have a significant impact on traffic and transport in the CBD, and formal consideration by the CSTTC is not necessary.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

23. 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.

Heritage Act, 1977

24. The site is located adjacent 153-159 Clarence Street, which is an item of State Heritage significance and is listed on the State Heritage Register. Due to the proposed development being in the curtilage of a State Heritage Item, the application was referred to the NSW Heritage Council for comment.
25. In correspondence, dated 6 February 2014, the NSW Heritage Council advised that no objection was raised to the proposal subject to an archaeological investigation condition being imposed. The condition recommended is similar to that imposed by Council's Heritage Specialist, and therefore, it is considered that the requirements and intent of this Heritage Council have been addressed in the conditions imposed.

State Environmental Planning Policy (Infrastructure) 2007

26. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Clause 45 – Electricity transmission

27. As the development site is within the vicinity of existing power lines and an electricity substation, the application was referred to Ausgrid under the provisions of Clause 45 of SEPP (Infrastructure) 2007.

The proposal has incorporated new substations within basement level 1, including a access hatch within the entry forecourt to the residential lobby on the Kent Street frontage of the site.

Clause 88 – Development within or adjacent to interim rail corridor

28. The site is within an identified future rail corridor for the CBD rail link, as such, under the provisions of Clause 88 of the SEPP, the subject application was referred to RailCorp Property on 6 November 2013.
29. As the subject development has previously been subject to a Stage 1 Development Application, RailCorp has previously entered into a deed with the owners of the site, dated February 2014. This deed and the associated easements satisfy the requirements of SEPP (Infrastructure).
30. As a result of the abovementioned deed already being in place, RailCorp has granted its concurrence to the subject application, in correspondence, dated 8 April 2014, subject to the conditions outlined in Schedule 3.

Clause 104 – Traffic generating development

31. The application was referred to the Roads and Maritime Services (RMS) pursuant to Clause 104 of SEPP (Infrastructure) 2007 on 22 November 2013.
32. In correspondence, dated 3 December 2013, the RMS has advised that they raise no objection to the proposed development and provided advisory conditions for consideration. All conditions recommended duplicate standard conditions of consent, and as such, it is considered that all matters raised have already been appropriately considered or conditioned, and no further conditions are required.

State Environmental Planning Policy No 55—Remediation of Land

33. SEPP 55 requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation.
34. The applicant has submitted a Preliminary Site Investigation Report, dated 14 February 2014, and further supplementary information, dated 27 March 2017, both prepared by Douglas Partners.
35. Council's Health Compliance Unit are satisfied that sufficient information has been submitted to conclude that the site can be made suitable for the proposed uses and satisfy the requirements of SEPP 55, subject to the imposition of appropriate conditions.

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

36. SEPP 65 requires 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 the following 10 design quality principles:

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

Complies: The building envelope and analysis undertaken as part of the Stage 1 assessment concluded that the proposed building envelope and its siting was consistent with Council's strategic vision and appropriately responded to future development on adjacent sites. Generally, the massing and heights of the building reflects the desired built form of the Stage 1 consent.

The proposal responds to its context, with the built form activating the site's frontages through the provision of residential lobbies and future retail tenancies. These entries provide a sense of address, a pedestrian scale to the development and allows casual surveillance of the streets and through site link.

(b) **Principle 4:** Density

Complies: The development will contribute to the increase in the residential population on the site as envisaged by the planning controls. The proposed density is considered to be appropriate given the CBD context of the site, particularly given its proximity to established infrastructure, public transport, community and recreational facilities.

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

Complies: The residential component of the proposal is compliant with the requirements of BASIX, and an appropriate condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

(d) **Principle 6:** Landscape

Generally complies: The proposal has been designed to allow for the ground floor to be utilised as a publicly accessible through-site link, connecting Clarence and Kent Streets. The revitalisation of Skittle Lane is also proposed by allowing further access through the site to connect to King Street.

Due to the CBD context of this site, the basement car parking and the setback requirements, there is no opportunity for deep soil planting. This is considered consistent with the objectives of SEPP 65 given the context of the site. In addition to the ground floor treatment, landscaping is proposed on private balconies/terraces on levels 8, 10 and 12 (refer to **Figure 18**, below) and an expansive roof top terrace is proposed for the communal use and enjoyment of the residents (refer to **Figure 19**).

The proposal incorporates high quality paving and decking, landscape planters and water features within these thoroughfares and areas of open space.



Figure 17: View of proposed through-site link connecting Clarence Street with Kent Street.

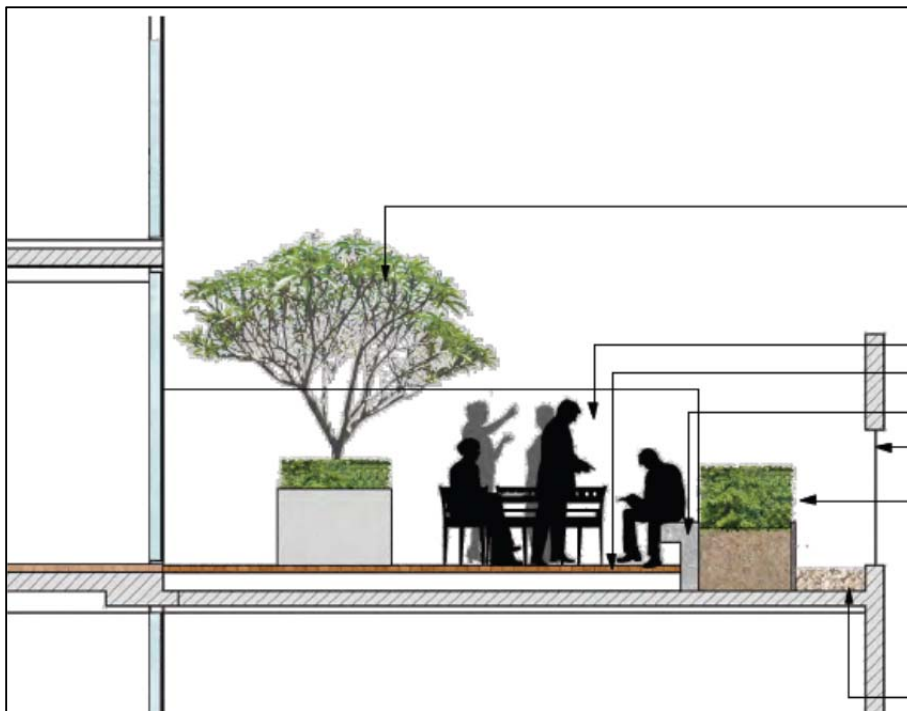


Figure 18: Sectional drawing illustrating indicative landscaping planter beds on private balconies

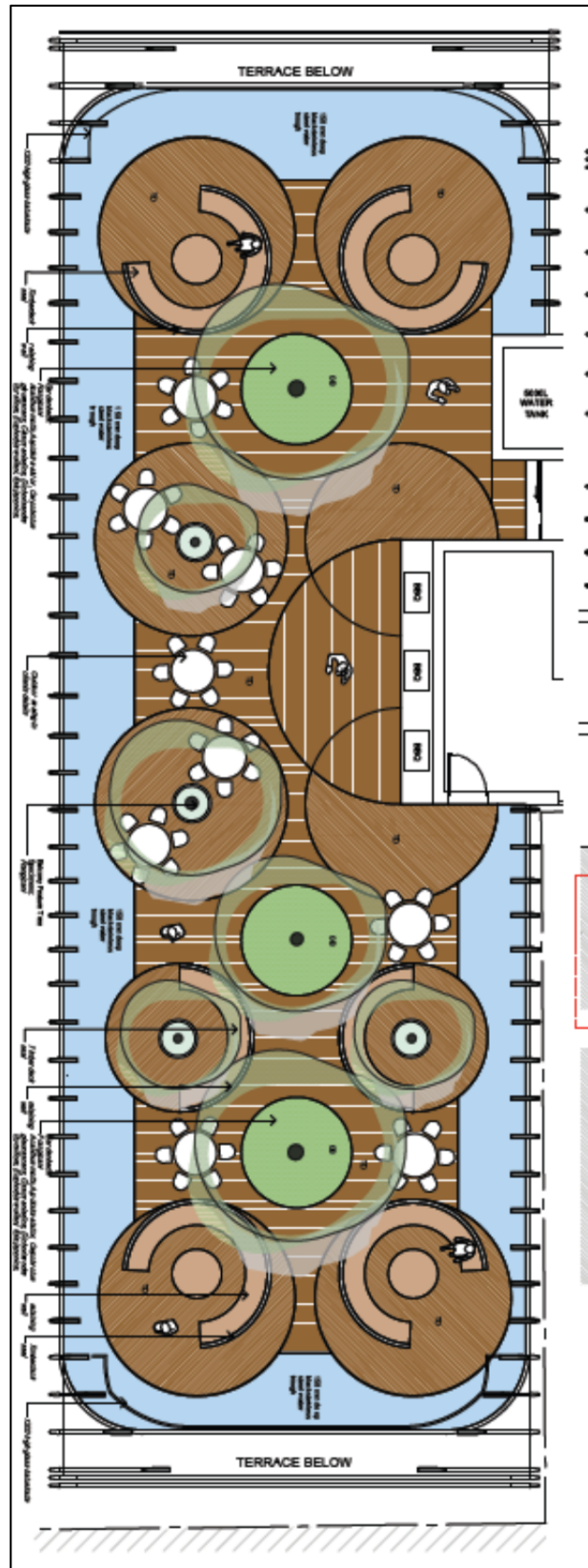


Figure 19: The proposed landscaped treatment of the western portion of the roof terrace to be used as communal open space

(e) **Principle 7: Amenity**

Generally complies: The proposal provides for an adequate level of amenity as follows:

- (i) The unit dimensions generally meet the requirements in the RFDC and all units have a 2.7 metre floor to ceiling height;
- (ii) 58.6% of apartments will receive two or more hours of solar access between 9.00am and 3.00pm on the winter solstice. This results in a departure from the 70% requirement of the RFDC guidelines, and results from:
 - a. The CBD context of the site, which is constrained by the existing built form and density of surrounding;
 - b. the orientation of the site, which has a long north-south axis; and
 - c. the need to orient units towards the street frontages, thereby the units are required to face east-west.
- (iii) 61% of the units are cross ventilated, which exceeds the RFDC guideline recommendation of 60%.
- (iv) The development proposes each apartment typology with an internal area range as detailed below:
 - a. Studio: 39.6sqm – 59.1sqm (RFDC guideline: 39sqm);
 - b. 1 bedroom: 42.8sqm - 61.9sqm (RFDC guideline: 50sqm);
 - c. 2 bedroom: 63.1sqm -91.4sqm (RFDC guideline: 70sqm); and
 - d. 3 bedroom: 87.3sqm -130.9sqm (RFDC guideline: 95sqm).

90% of all apartments within the development are provided with an internal area in excess of the RFDC guidelines. Those apartments that have an internal area that are technically below the RFDC guideline are supported in this instance, as the design of each unit allows for a compact unit option with efficient design, and does not compromise on internal amenity.
- (v) All apartments are provided with private outdoor balconies or courtyards, generally ranging from 5.5sqm to 88sqm. Due to the CBD context of the site, the size and dimensions of the open space are considered to be sufficient to meet the needs of residents, noting the provision of the communal roof terrace.
- (vi) Storage areas are provided within the units and basement level.
- (vii) Disabled access is provided to all units.

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

Complies: The proposed development has been assessed against the Crime Prevention Through Environmental Design Principles outlined in 'Crime prevention and the assessment of development applications – Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979' prepared by the Department of Urban Affairs and Planning (now Department of Planning and Environment).

The development provides the opportunity for the casual surveillance of the surrounding public domain and communal areas, and activates Skittle Lane through the introduction of retail uses and use as a link to King Street.

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

Complies: The proposed residential component of the development has the following unit mix:

- (i) 82 x Studio and 1 bedroom - 46% (DCP control is maximum of 40%);
- (ii) 78 x 2 bedroom - 44%; (DCP range is 40-75%); and
- (iii) 18 x 3 bedroom - 10%(DCP range is 10-100%) .

The proposal generally achieves compliance with the DCP requirements, and is considered to be acceptable in providing a range of housing options.

(h) **Principle 10: Aesthetics**

Complies: The proposal has utilised a series of architectural elements and materials to modulate the bulk of the facades, as well as providing visual interest. The development of the detailed design has seen the use of materials in the podium design that relate to the warehouse era brick buildings in the vicinity of the site.

37. Considering the constraints of the site, 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)

38. The site is located within the designated catchment for Sydney Harbour, and is subject to the provisions of the SREP (Sydney Harbour Catchment) 2005.
39. Whilst the site is within the Sydney Harbour Catchment and eventually drains into the Harbour, it is not located in the Foreshores Waterways Area or adjacent to a waterway. The proposed development is considered to be in keeping with the provisions and principles of SREP (Sydney Harbour Catchment) 2005.

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

40. The BASIX Certificate has been submitted with the development application.

41. 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.

State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)

42. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
43. The proposed development of the site is consistent with the aims and objectives of SEPP.

Sydney LEP 2012

44. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012).
45. The proposal is defined as a ‘*residential flat building*’, ‘*serviced apartment*’ and ‘*retail premises*’, all of which are permissible uses within the B8 – Metropolitan Centre zone pursuant to Clause 2.3 of SLEP 2012.
46. 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	No	<p>Clause 4.3 of SLEP 2012 permits a maximum height of 80 metres for the subject site.</p> <p>The proposed development has a maximum height of 80.55 metres to the lift overrun/rooftop plant. When the maximum height of the arched architectural roof feature is included, the proposal has a maximum height of 84.63 metres.</p> <p>As the definition of building height does not specifically exclude architectural roof features from inclusion in the calculation of height, the proposal results in a technical variation from the development standard by a maximum of 4.63 metres.</p> <p>The applicant has submitted a written statement under the provisions of Clause 4.6 of SLEP 2012 seeking to vary the building height development standard by 5.8%.</p> <p>Refer to further discussion under the Issues section of this report.</p>

Compliance Table		
Development Control	Compliance	Comment
4.4 Floor Space Ratio	No	<p>Clause 4.4 of SLEP 2012 stipulates a base floor space ratio of 8:1 for the site, with Clause 6.4 providing an opportunity for a further 2.943:1 of floor space where accommodation floor space uses are provided. This equates to a maximum FSR of 10.943:1.</p> <p>The proposed development also seeks to utilise the design excellence provisions, where a further 10% of FSR is possible where the scheme lodged has won a competitive design process and is considered to exhibit design excellence. The proposal is eligible for the 10% design excellence FSR on the base FSR of 8:1. Further discussion is provided elsewhere within this report on this matter.</p> <p>Considering all applicable floor space provisions allowable under the SLEP 2012, the maximum permissible FSR for this development would be 11.74:1.</p> <p>The proposed development has a maximum FSR of 12.17:1.</p> <p>A written statement under the provisions of Clause 4.6 of SLEP 2012 has been submitted seeking to vary the FSR development standard by 3.5% (or 616sqm). This variation is primarily to reflect the future calculation method for bonus floor space as endorsed by Council and the CSPC.</p> <p>Refer to further discussion under the Issues section of this report.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 (Building Height) and Clause 4.4 (Floor Space Ratio)</p> <p>See discussion under the heading Issues.</p>

Compliance Table		
Development Control	Compliance	Comment
5.6 Architectural roof features	Yes	<p>The 80 metre building height development standard is exceeded by the arched aluminium fin roof feature.</p> <p>In this instance, the proposed architectural roof feature is considered to meet the objectives of Clause 5.6 of SLEP 2012, and is supported as it is a decorative and fully integrated into the design of the building.</p> <p>As the feature does result in a technical numeric breach of the building height development standard, further discussion on the acceptability of this building element is provided in the Issues section, below.</p>
5.9 Preservation of trees or vegetation	No	<p>The proposal includes the removal of 4 trees from the Kent and Clarence Streets road reserves of the site in order to provide temporary construction zones. The proposal does include the provision of 6 replacement street trees along the street frontages.</p> <p>The application was referred to Council's Tree Management Unit for review. The loss and replacement of the existing mature street trees on both street frontages of the site is not supported by Council's Tree Management Unit. These trees are considered to be prominent landscape elements of the streetscape and worthy of retention.</p> <p>Conditions of consent are recommended for imposition to advise that all 4 street trees must be retained and protected during construction works.</p>

Compliance Table		
Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is located in the vicinity of a number of heritage items of State and local significance. The site is located within the York Street Special Area and is identified as a site of archaeological potential.</p> <p>As detailed elsewhere in this report, the application was referred to the NSW Heritage Office under the provisions of the Heritage Act, 1977 due to the development being adjacent to the State listed Red Cross House building.</p> <p>Council's Heritage Specialist has raised no objection to the proposed development, subject to the imposition of conditions. The proposal has been assessed as being acceptable with the objectives of Clause 5.10 of SLEP 2012, in that:</p> <ul style="list-style-type: none"> • the overall podium design, with its finely designed and articulated brickwork, is considered to be contextually appropriate for the historic warehouse era of development within this area; • the inclusion of the mid-block central void above the pedestrian link effectively breaks up the scale of the podium, and reinforces the historical subdivision pattern; • the podium height in Kent Street transitions to respond to the street wall height of each adjacent heritage item to the north and south of the site; and • the reactivation of Skittle Lane will contribute to the laneway network that characterise development in the York Street Special Character Area.

Compliance Table		
Development Control	Compliance	Comment
6.4 Accommodation floor space	Yes	The site is located in 'Area 3', and as such, is eligible for additional accommodation floor space of up to 2.943:1 of the site area, based on the land use mix proposed within the development. This accommodation floor space has been included in the collective permissible FSR for the development, as discussed elsewhere within this report.
6.11 Allocation of heritage floor space (HFS)	Yes	<p>A total of 3,118.5sqm of HFS is applicable to the development, based on the HFS requirements under Clause 6.11(1)(a),(d) and (e) of SLEP 2012, and has been calculated on the following basis:</p> <ul style="list-style-type: none"> • 50% of accommodation floor space = 2116sqm • 50% of design excellence floor space = 575sqm; and • Any floor space approved under Clause 4.6 (as reduced by Condition 5) = 427.5sqm. <p>Clause 6.11(2)(a) of SLEP 2012 permits a further reduction of HFS by 50% where the scheme has undergone a design competition process. With this further reduction, the HFS allocation is 1559sqm.</p> <p>The applicant has sought to reduce the applicable HFS as a result of the LEP provisions where a publicly accessible link is delivered as part of the development.</p> <p>It should be noted that the provisions of the LEP and DCP permit only one reduction in HFS for either participation in a design competition or for the provision of a through-site link. In this instance, the applicant has benefited from a 50% reduction to the applicable HFS requirement as a result of the competitive design process held for this development, which is the greater of the two applicable reductions.</p>

Compliance Table		
Development Control	Compliance	Comment
6.16 Erection of tall buildings in Central Sydney	Yes	<p>As the proposed development has a height that exceeds 55 metres, the provisions of this clause are applicable.</p> <p>The proposal has been assessed as meeting the objectives for tower developments within Central Sydney as:</p> <ul style="list-style-type: none"> • it is contextually appropriate; • creates residential apartments with good amenity; • does not adversely impact on the amenity of adjacent buildings; and • encourages active uses at ground level.
6.21 Design excellence	Yes	<p>As a result of the height sought for this development, the applicant was required to undertake a competitive design process prior to lodging a Stage 2 development application. As detailed in the relevant history section of this report, this process was held in June 2013, with Koichi Takada Architects being named the winners in July 2013.</p> <p>Pursuant to the provisions of Clause 6.21(7) of SLEP 2012, where a proposal has been the winning entry of a competitive design process and is considered to exhibit design excellence, a further 10% FSR may be awarded.</p> <p>The proposed development satisfies the requirements of this provision. Furthermore, it is noted that the Design Jury for the competitive design process concluded that the scheme demonstrated design excellence and was worthy of being awarded the additional 10% FSR. This recommendation is concurred with, with the additional 10% design excellence FSR having been included in the assessment of the floor space for this proposal.</p>

Compliance Table		
Development Control	Compliance	Comment
6.21 Design excellence (continued)	Yes	It should be noted that in its current form, the drafting of the SLEP 2012 only allows the calculation of design excellence floor space on the base FSR for the development (i.e. excluding accommodation floor space). Further discussion is provided in the Issues section of this report on the calculation of FSR for the development.
Division 1 Car parking ancillary to other development	Yes	<p>Pursuant to Clauses 7.5, 7.7 and 7.9 of SLEP 2012, a maximum of 105 car parking spaces are permitted based on the proposed land uses.</p> <p>A total of 108 car parking spaces are proposed within the basement, with this inclusive of car share spaces and a drop off bay for the serviced apartment use.</p> <p>In accordance with Section 3.11.6 of SDCP 2012, a further 5 service vehicle spaces have been provided within the basement (to a total of 113 spaces).</p> <p>In accordance with Section 3.11.2 of SDCP 2012, car share parking spaces need to be included within the maximum parking provision allowed under the SLEP 2012. Therefore, subject to the imposition of appropriate conditions, the total parking provision will be reduced to 105 spaces (excluding service vehicle loading spaces and drop-off spaces) and be compliant with the car parking development standard.</p>
7.14 Acid Sulphate Soils	Yes	<p>The site is identified as containing Class 5 Acid Sulphate Soil. A condition has been recommended to address acid sulphate soils on site.</p> <p>The detailed site assessment undertaken for the site has concluded that the proposed development would not disturb, expose or drain Acid Sulphate Soils, nor is it likely to cause environmental damage. As such, there is no requirement for any investigation or management plan to be prepared.</p>

Compliance Table		
Development Control	Compliance	Comment
7.15 Flood planning	Yes	Appropriate engineering conditions have been recommended for imposition.
7.16 Airspace operations	Yes	The development is not proposed to be constructed to a height that penetrates the prescribed airspace for Sydney Airport.
7.20 Development requiring preparation of a development control plan	Yes	The site has a valid Stage 1 consent (being D/2012/1425). This Stage 1 consent is the equivalent of a development control plan and details allowable building envelopes, land uses and vehicular access points. It is considered that current Stage 1 consent for the site addresses the requirements of Clause 7.20 of SLEP 2012.

Sydney DCP 2012

47. 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
<p>The subject site is located in the York Street Special Character Area of Central Sydney. The proposed mixed use development is considered to be in keeping with the unique character of the area and design principles in that:</p> <ul style="list-style-type: none"> • the design, scale and materiality of the podium responds and reflects the historic warehouse typology of development in the vicinity of the site; • the design of the podium has a vertical emphasis that responds to the historic subdivision pattern of the Special Character Area; and • the proposal involves greater connectivity and enhancement/activation of Skittle Lane.

3. General Provisions		
Development Control	Compliance	Comment
3.1.1 Streets, lanes and footpaths	Yes	The proposed development introduces a new connection through the site to Skittle Lane (to the south), including activation of this laneway through provision of a new retail tenancy that directly fronts the lane.

3. General Provisions		
Development Control	Compliance	Comment
3.1.2.2 Through-site link	Yes	<p>Whilst the site is not identified within the SDCP 2012 as being required to provide a through-site link, the Stage 1 DA supported the provision of a further pedestrian link on this site in order to facilitate the activation of Skittle Lane.</p> <p>The proposal does include a publicly accessible thoroughfare in an east-west direction across the site, allowing connection between Kent and Clarence Streets. Appropriate conditions are recommended to ensure this link is publicly accessible.</p>
3.1.5 Public Art	Yes	<p>A Public Art Strategy has been submitted with the application, and has identified the ceiling of the through-site link as being an appropriate location for the integration of public art in the development. Appropriate conditions have been recommended for imposition.</p>
3.2 Defining the Public Domain	Yes	<p>The proposal incorporates ground floor level retail uses and lobbies to the residential and serviced apartment uses. These uses activate both street frontages, as well as the through-site link and Skittle Lane.</p> <p>Footpath awnings are not required on either street frontage of this property under the provisions of Section 3.2.4 of SDCP 2012. As such, awnings have not been incorporated into the final design of this development.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2.6 Wind effects	Yes	<p>A Pedestrian Wind Environment Study was submitted with the application.</p> <p>The conclusions of this assessment are that the wind conditions along the pedestrian footpaths on both street frontages and within the through-site link will be compliant with the relevant criteria developed to ensure pedestrian comfort and safety.</p> <p>The Wind Study has made recommendations regarding the design of the communal roof top terrace to ameliorate wind conditions at this location. An appropriate condition is recommended to require implementation of the recommendations of this wind study.</p>
3.2.8 External lighting	Yes	An appropriate condition is recommended for imposition.
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposed development has been the subject of a competitive design process.</p> <p>The proposed development seeks consent for an additional 10% of floor space as the proposed design is considered to achieve design excellence, and was the winning scheme of a design competition.</p> <p>The lodged scheme has incorporated this additional floor space within the building envelope approved, and assessed as acceptable, under the Stage 1 development application.</p>
3.5 Urban Ecology	Yes	The proposal seeks the removal of all existing street trees on both street frontages. The removal and replacement of these street trees is not supported by Council's Tree Management Unit. Refer to discussion within the LEP compliance table.

3. General Provisions		
Development Control	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The development is able to comply with BASIX for the residential component. The non-residential areas have been designed to comply with Section J of the BCA.
3.7 Water and Flood Management	Yes	Conditions relating to stormwater drainage have been recommended for imposition by Council's Engineer.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Appropriate conditions of consent have been recommended for imposition.
3.9 Heritage	Yes	Refer to discussion provided in LEP compliance table.
3.11 Transport and Parking	Yes	Appropriate conditions are recommended in relation to the provision of car parking, car share spaces and bicycle storage within the basement car park.
3.11.13 Design and location of waste collection points	Yes	The proposed development has been amended to accommodate on-site garbage collection facilities, including a turntable for waste collection vehicles, in accordance with Council's Policy for Waste Minimisation.
3.12 Accessible Design	Yes	The proposal incorporates 33 adaptable apartments (both serviced and residential). This equates to 15% of all apartments within the development, which is compliant with Section 3.12.2 of SDCP 2012. 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. General Provisions		
Development Control	Compliance	Comment
3.14 Waste	Yes	A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.
3.16 Signage and Advertising	Yes	A condition of consent is recommended for imposition requiring a signage strategy to be prepared for the non-residential component of the development.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	Yes	The proposal provides residential floor to floor heights of 3.1 metres, in order to ensure adequate internal floor to ceiling heights can be delivered on completion of the development.
4.2.3.1 Solar Access	Yes	<p>A total of 58.6% of all apartments (being 128 units) receive a minimum of 2 hours direct sunlight to at least 1sqm of the living room windows and a minimum of 50% of private open space in mid-winter between 9.00am and 3.00pm. It is noted that the percentage of apartments that receive 2 hours of direct solar access would increase to 78% during the Equinox.</p> <p>The proposal is considered to be adequate with regard to solar access given the constraints of the CBD context of the site and the density of surrounding development. It is noted that despite this numeric non-compliance, the proposed apartments are considered to provide future residents with a satisfactory level of amenity, noting the following:</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3.1 Solar Access (continued)	Yes	<ul style="list-style-type: none"> apartments are efficiently planned to maximise space and amenity; the design maximises cross ventilated units and the use of glass to maximise light penetration into both apartments and communal areas; areas of private open space are supplemented by the communal roof top open space; and the proximity of the site to nearby amenities, open space and infrastructure. <p>The Stage 1 application considered the potential shadowing impacts of the envelope on surrounding properties, including the residential building at 181 Clarence Street (Broughton House). Whilst this assessment acknowledged that the envelope would result in new shadows being cast across the roof-top and northern facade of Broughton House, it was considered to be reasonable for the following reasons:</p> <ul style="list-style-type: none"> the elements of the proposed development that are casting a shadow on Broughton House are compliant with the applicable planning controls for the site; the additional shadowing on the winter solstice is limited to the upper facade and rooftop of Broughton House from 1.00pm onwards; and considering the CBD context and the envisaged density and heights of surrounding sites stipulated by the planning controls, protection of sunlight access during mid-winter is not strong.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3.1 Solar Access (continued)	Yes	As the proposed development is generally compliant with the approved Stage 1 building envelope, it is considered that the shadowing impacts resulting from the development have previously been assessed as acceptable in the granting of development consent to the Stage 1 development application
4.2.3.2 Lightwells	Yes	<p>The proposal includes a lightwell/void along the northern boundary of the site, providing additional light penetration to the podium levels of the development. The lightwell/void is also open to the sky between Levels 2 to 10, to allow natural ventilation to the communal corridors.</p> <p>It is noted that the lightwell/void services the communal corridors, with no principal living areas or bedrooms fronting this space. Windows that do front the communal corridor are limited to high level windows within study alcoves.</p>
4.2.3.5 Landscaping 4.2.3.6 Deep Soil 4.2.3.7 Private open space 4.2.3.8 Common open space	Yes.	Refer to discussion provided under SEPP 65 assessment.
4.2.3.11 Acoustic Privacy	Yes	An Acoustic Assessment was submitted with the application. Appropriate recommendations have been contained within this report to ensure compliance with the DCP and achieve satisfactory internal amenity.
4.2.3.12 Flexible housing and dwelling mix	Yes	As detailed elsewhere within this report, the proposed development provides a unit mix that is generally consistent with the DCP provisions and ensures a range of housing typologies will be available.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	The scheme utilises architectural language and materials to provide visual interest, as well as breaking up the perceived bulk and scale of development.
4.2.6 Waste minimisation	Yes	The proposal has been amended to incorporate on-site garbage collection. Appropriate conditions have been recommended for imposition.

4.4.8 Visitor accommodation		
Development Control	Compliance	Comment
4.4.8.5 Additional provisions for serviced apartments	No	Refer to discussion within the Issues section of this report.

5.1 Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1 Street frontage heights	Yes	<p>The proposed development has a variable maximum podium height of between 31.8 – 36 metres on its Clarence Street frontage and between 22.2- 35 metres on its Kent Street frontages. The podium element of the proposal has been designed to step and replicate the heritage buildings within the streetscape.</p> <p>The proposal is compliant with the permissible street wall height control (of between 20-45 metres) and is consistent with the approved Stage 1 building envelope of the site.</p>

5.1 Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.2.1 Front setbacks	Yes	<p>The proposed development, above podium level, is setback 8 metres from the Clarence Street boundary and 4 metres from Kent Street.</p> <p>Whilst the Kent Street setback is a variation from the setback controls within the SDCP 2012, it is consistent with the approved Stage 1 development consent, and approvals granted on adjacent sites (as detailed in the relevant history section of this report).</p>
5.1.2.2 Side and rear setbacks	Yes	Refer to discussion in the Issues section of this report.
5.1.4 Building bulk	Yes	<p>The proposed floor plates of the tower element of the development are approximately 300sqm for the eastern portion of the site and 420sqm for the western portion of the site.</p> <p>The size of the floor plates and level of modulation is considered to satisfactorily break up the building bulk and allow the proposal to maximise internal amenity for the residential component of the development.</p>
5.1.5 Building exteriors	Yes	<p>The design of the proposed development, particularly the podium element, is considered to have successfully considered and referenced its heritage context through the use of materials, vertical proportioning and scale.</p> <p>The development does propose blank side facades. In accordance with the DCP, the proposed design has incorporated a textured pattern into the pre-cast concrete panels to complement the feature aluminium arches that are pivotal elements of the design.</p>
5.1.8 Award and allocation of heritage floor space		Refer to discussion in the LEP compliance table.

ISSUES

Consistency with Stage 1 Consent

48. The provisions of Section 83D of the Environmental Planning and Assessment Act, 1979 state that where a Stage 1 development consent for a site remains in force, that the determination of any further development application in respect to that site cannot be inconsistent with the Stage 1 consent.
49. The table, below, demonstrates that the proposed application remains consistent with key conditions imposed on the Stage 1 development consent, being D/2012/1425.

Stage 1 consent requirement	Comment
Approved Development (Condition 1)	The development is consistent with the approved Stage 1 plans in terms of their envelopes, siting and building height.
Surrender of Previous Consent (Condition 2)	<p>The requirement of Condition 2 is that the existing Stage 2 development consent for the site (being D/2008/150) shall be surrendering prior to the determination of this application.</p> <p>In order to permit this to occur to it recommended that the application be granted deferred commencement consent to allow the applicant to formally surrender the abovementioned development consent in accordance with Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 and Section 97 of the Environmental Planning and Assessment Regulations, 2000.</p>
Design Excellence and Competitive Design Process (Condition 4)	<p>As detailed elsewhere within this report, following the determination of the Stage 1 application, the applicant undertook a competitive design process in June/July 2013.</p> <p>Koichi Takada Architects (KTA) were named as the winning scheme in this competition, with the design jury concluding that the KTA scheme exhibited design excellence.</p>
Building Envelope (Condition 5)	<p>The proposal is generally contained within the building footprint and envelope approved in the Stage 1 consent. Further to this, it is noted that the proposal has achieved greater setbacks and articulation within the footprint parameters established by the Stage 1 DA.</p> <p>Elements of the proposed built form do protrude above the building envelope that was approved at Stage 1. It is noted that this predominately relates to the architectural roof feature that was an integral part of the winning scheme of the design competition. As the additional height results in a technical breach to the building height development standard, further discussion is provided under the provisions of Clause 4.6 of SLEP 2012, below.</p>

Stage 1 consent requirement	Comment
Clarence Street Tower Setback (Condition 6)	The proposal has been setback the requisite 8 metres above the street frontage height/podium from its Clarence Street boundary.
Exposed Elevations (Condition 7)	The proposal has incorporated pre-cast patterned concrete panels and glazed elements on the blank northern and southern elevations to provide visual interest to these exposed elevations. Further to the above, a series of aluminium fin arches are proposed to link with the architectural roof feature. Collectively, these elements are integral to the design of the tower element of the proposal.
Podium Design (Condition 8)	As detailed elsewhere within the report, it is considered that the podium design has successfully integrated with the historic warehouse context, both through its use of materials, detailing and vertical proportioning.
Building Height (Condition 9)	Refer to discussion below.
Floor Space Ratio (Condition 10)	Refer to discussion below.
Wind (Condition 11)	A wind assessment has been submitted with the application in accordance with this condition. The conclusions of this testing are that the ground level pedestrian environments on both street frontages, Skittle Lane and the new through-site link are able to meet the wind comfort criteria for pedestrian comfort and safety.
Waste Collection (Condition 14)	The application has been modified to accommodate on-site basement garbage collection, and has been assessed as being able to comply with Council's Policy for Waste Minimisation in New Developments 2005. Appropriate conditions to ensure detailed compliance with the policy are recommended for imposition.
Electricity Substation (Condition 15)	An electricity substation has been accommodated within the development.
Acid Sulfate Soils (Condition 16)	<p>An Acid Sulfate Soils (ASS) Management Plan was not submitted with the application, however, additional information was submitted by Douglas Partners that concluded that ASS was unlikely to be an issue on this site due to the geology and land height.</p> <p>Based on this further advice, Council's Health Unit have recommended a condition requiring notification and additional information if ASS are discovered on the site during demolition and construction works.</p>

Stage 1 consent requirement	Comment
Through-Site Link (Condition 19)	An appropriate level of detail on the through-site link has been submitted with the application. Further detailed design on levels, materials and lighting will be required as part of the public domain plan to be submitted at Construction Certificate stage.

Exception to Development Standard – Building Height

- 50. Clause 4.3 of the Sydney LEP 2012 stipulates a maximum building height of 80 metres for the site.
- 51. The proposed development has a maximum height of 80.55 metres to the lift overrun/rooftop plant. Where the maximum height of the arched architectural roof feature is included, the proposed development has a maximum height of 84.63 metres (refer to **Figures 20** and **21**, below).
- 52. As the Sydney LEP 2012 definition of building height does not specifically exclude architectural roof features from inclusion in the calculation of height, the proposal results in a technical variation from the development standard by a maximum of 4.63 metres or a 5.8% variation.
- 53. The applicant is relying on the provisions of Clause 4.6 of SLEP 2012 seeking to vary the height development standard by a maximum of 4.63 metres. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception pursuant to the Director-General’s general concurrence granted on May 2009 to cover Clause 4.6(4)(b) of SLEP 2012.
- 54. In order to demonstrate that the strict numeric compliance is unreasonable and unnecessary in this instance pursuant to the provisions of Clause 4.6, the proposed non-compliance has been considered against the objectives of the height development standard in the following table.

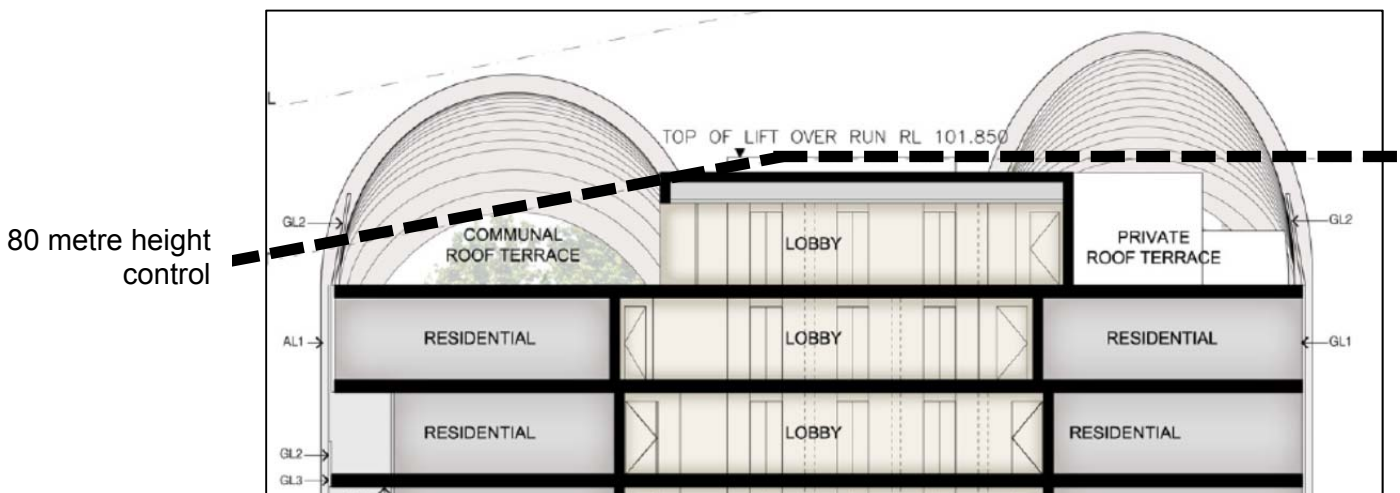


Figure 20: East-West section illustrating the breach of the lift overrun and architectural roof feature to the building height development standard

80 metre height control

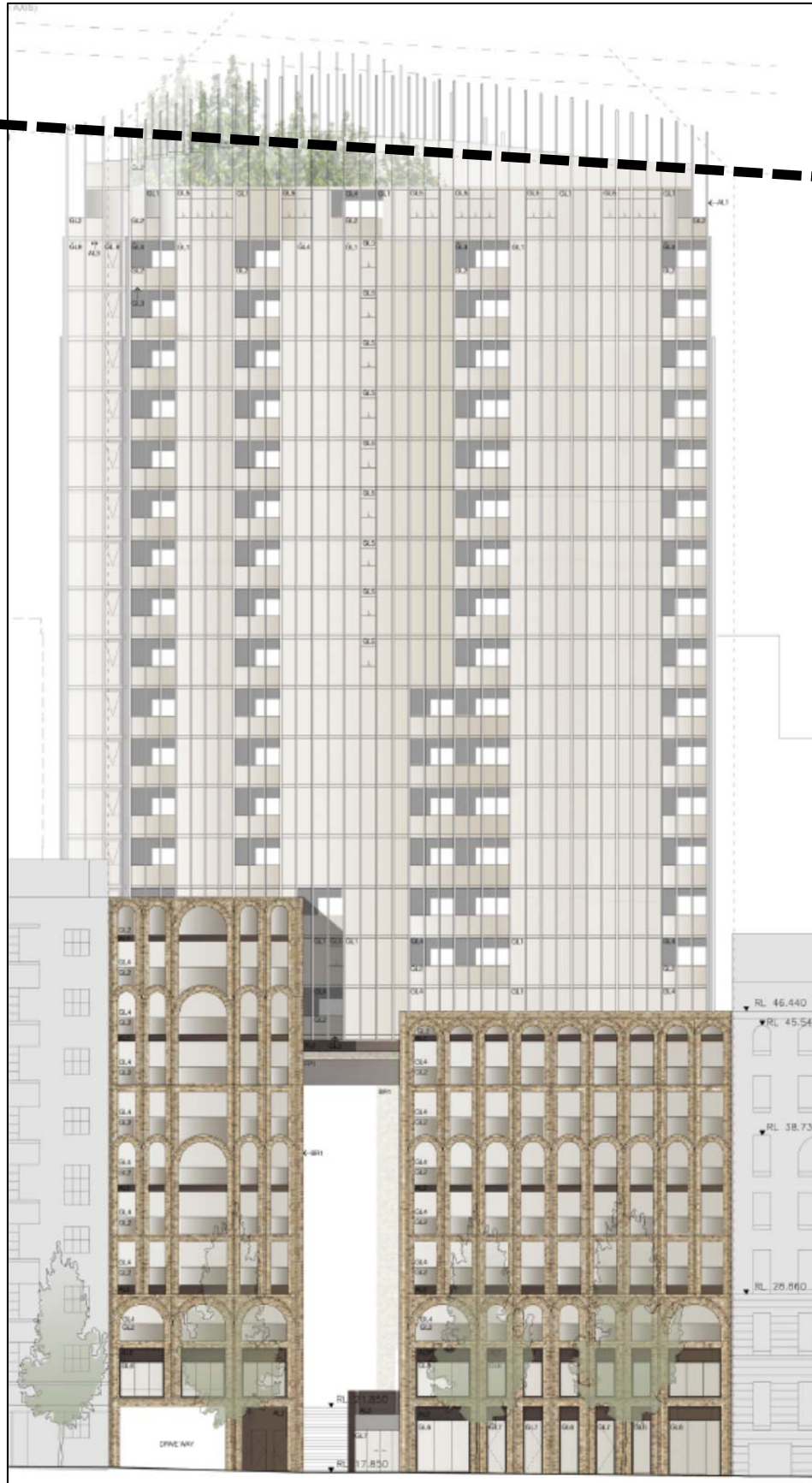


Figure 21: View of Kent Street elevation of the development illustrating the extent of technical breach to the building height development standard

Clause 4.6 Requirement	Assessment
<p>CI.4.6(4)(a)(i) The applicant must submit a written request to vary the development standard.</p>	<p>A written request has been submitted to Council justifying the proposed departures from the height development standard on the following basis:</p> <ul style="list-style-type: none"> • The majority of the building form has been accommodated within the 80 metre height limit; • Excluding the architectural roof feature, only a small portion of the lift overrun and roof-top plant breaches the building height development standard (by a maximum of 550mm). This breach occurs centrally within the site (refer to Figure 22, above), and results from the topography of the site and the need to achieve an internal clearance height to this plant room. This element is centrally located within the site and will not be discernible from the public domain, and is appropriately screened by the architectural roof feature; • The architectural roof feature results in a maximum breach to the building height development standard of 4.63 metres. This roof feature is integral to the building's design aesthetic and seeks to contribute to the broader CBD skyline. • The architectural roof feature is a decorative element, which is considered to be minor in scale in comparison to the building as a whole. • Clause 5.6 of SLEP 2012 permits an architectural roof feature to exceed the height limit where it is a decorative feature, does not contain any advertising structures or floor space and will cause minimal overshadowing. In this instance, the proposed roof feature satisfies all these requirements. <p>Comment: The applicant's written rationale adequately addresses the objectives associated with varying the development standard.</p>

Clause 4.6 Requirement	Assessment
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives of the development standard.</p>	<p>The proposed development is consistent with the objectives for building height provided under Clause 4.3 of the SLEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> • The extent of breach (between 0.68% and 5.8%) is considered to be minor, and results predominately from the architectural roof feature. As detailed elsewhere within this report, this roof feature formed part of the winning scheme of the design competition, and is integral to the design and architectural vision for the site. Inclusive of these buildings elements in breach of the building height control, the development results in an overall built form that is consistent with the desired scale and form envisaged by the planning controls for the site; • The elements in breach of the building height control are at a level that will not be discernible from pedestrian level, and as such, will not impact on the adjacent heritage items. The proposal accommodates a podium/street wall height that responds to its heritage context and the heights of the adjacent heritage items; and • The proposal is consistent with the objective of view sharing and does not result in the loss of iconic views from adjacent developments. It is noted that the architectural roof feature is made up of a series of aluminium arches, that are not of a solidity that would obstruct views.
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives for development within the zone in which the development is proposed to be carried out.</p>	<p>The development is consistent with the objectives of the B8 – Metropolitan Centre zone, as outlined earlier in this report.</p>

55. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, the proposed development is considered to be appropriate and it is recommended that a Clause 4.6 Exception be granted to the height development standard.

Exception to Development Standard – Floor Space Ratio

56. Clause 4.4 of the Sydney LEP 2012 stipulates a base floor space ratio of 8:1 for the site, with Clause 6.4 providing an opportunity for a further 2.943:1 of floor space where accommodation floor space uses are provided. This equates to a maximum FSR of 10.943:1.
57. In addition to the above, the proposed development also benefits from the design excellence provisions of Clause 6.21(7)(b) of SLEP 2012. This clause permits a further 10% of floor space where the scheme lodged has won a competitive design process and is considered to exhibit design excellence. As detailed within this report, the proposed development is the winning scheme from a design competition held in June/July 2013, and as such, is eligible for the 10% design excellence FSR (being a total of 1,150.4sqm).
58. Considering all applicable floor space provisions allowable under the SLEP 2012, the maximum permissible FSR for this development would be 11.74:1 (or 16,886.03sqm).
59. The proposed development has a gross floor area of 17,501.71sqm as defined by the SLEP 2012, which equates to a FSR of 12.17:1.
60. The applicant is relying on the provisions of Clause 4.6 of SLEP 2012 seeking to vary the floor space ratio development standard by 3.5%. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception pursuant to the Director-General's general concurrence granted in May 2009 to cover Clause 4.6(4)(b) of SLEP 2012.
61. In order to demonstrate that the strict numeric compliance is unreasonable and unnecessary in this instance pursuant to the provisions of Clause 4.6, the proposed non-compliance has been considered against the objectives of the floor space ratio development standard in the following table:

Clause 4.6 Requirement	Assessment
<p>Cl.4.6(4)(a)(i) The applicant must submit a written request to vary the development standard.</p>	<p>A written request has been submitted to Council justifying the proposed departures from the floor space ratio development standard on the basis that the proposed non-compliance results from a drafting error in Clause 6.21 of SLEP 2012. In its current form, the SLEP 2012 is drafted so that the 10% additional design excellence floor space is calculated off only the base FSR of 8:1.</p>

Clause 4.6 Requirement	Assessment
	<p>An LEP amendment has been prepared by Council to alter the wording of this clause so as to allow the 10% design excellence floor space to be calculated off the combined total of the base and accommodation FSR. In this particular instance, the 10% would then be calculated off the combined permissible FSR of 10.943:1. When this amendment is gazetted (as is anticipated to occur mid 2014), the permissible FSR for this development would be 12.037:1.</p> <p>Given that the proposed design has been developed on the basis that the LEP amendment would have been gazetted prior to the determination of the subject application, the proposal would generally be compliant with FSR of 12.037:1.</p> <p>Comment: The applicant's written rationale adequately addresses the objectives associated with varying the development standard.</p>
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives of the development standard.</p>	<p>The proposed development is consistent with the objectives for floor space ratio provided under Clause 4.4 of the SLEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> • The proposed floor space is able to be accommodated within building envelopes that were approved under the Stage 1 consent, and therefore, reflect a density envisaged by the controls; • The proposed floor space, density and siting of building mass are contextually appropriate for the site and its surrounds; • The proposed development incorporates a mix of land uses that are consistent with both the zoning of the site and the Stage 1 consent. These land uses will assist in the achieving residential, visitor and retail floor space targets with the Sydney CBD; • Appropriate conditions are recommended for imposition to require contributions to be payable to aid in the development of infrastructure to service the future needs of residents;

Clause 4.6 Requirement	Assessment
	<ul style="list-style-type: none"> • Based on the progression of the LEP amendment (detailed above), a variation to a maximum FSR of 12.037:1 can be supported in this instance. • It is noted that the applicant has incorrectly calculated floor space, excluding lift shaft walls and rounding up the maximum permissible FSR to 12.1:1 (from 12.037:1). This has resulted in the subject application accommodating an additional 192.07sqm above the maximum of 12.037:1, which will be permissible following the LEP amendment being gazetted. As such, it is recommended that a condition be imposed to advise that the maximum FSR for the development must not exceed 12.037:1, and amended plans shall be submitted prior to the issue of any Construction Certificate to reduce the floor space of the development by 192.07sqm. Subject to the imposition of this condition, the request to vary the development standard is supported.
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives for development within the zone in which the development is proposed to be carried out.</p>	<p>The development is consistent with the objectives of the B8 Metropolitan Centre zone, as outlined earlier in this report.</p>

62. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, the proposed development is considered to be appropriate and it is recommended that a Clause 4.6 Exception be granted to the floor space ratio development standard.

Serviced Apartments Use

63. The proposed development includes the provision of 42 apartments within the podium levels. These serviced apartments have been designed to meet the amenity requirements stipulated by the Residential Flat Design Code/SEPP 65, and as such, are considered to afford guests/temporary residents with a satisfactory level of amenity.

Separation of Uses

64. Following the preliminary assessment of the application, the proposal has been amended to address an initial design concern of Council, where serviced apartment guests and residents of the building shared a common entry and lobby off Kent Street. In its amended form, the proposal provides a separate and distinct entry lobby to the serviced apartment use from Clarence Street, with the residential lobby remaining on the Kent Street frontage of the site.
65. Despite the above design modification being made to the scheme, there are elements of the proposal where there is not a distinct separation between the residential and serviced apartment uses, as is required by Section 4.4.8.5 of SDCP 2012. These areas of shared use are:
 - (a) the accommodation of both residential and serviced apartment uses on the one floor, being Level 8 of the development (refer to **Figure 22**, below); and
 - (b) shared lift access between the uses to access the serviced apartments on Levels 2 to 8 (inclusive) and the residential apartments on Levels 8 to 24 (inclusive).

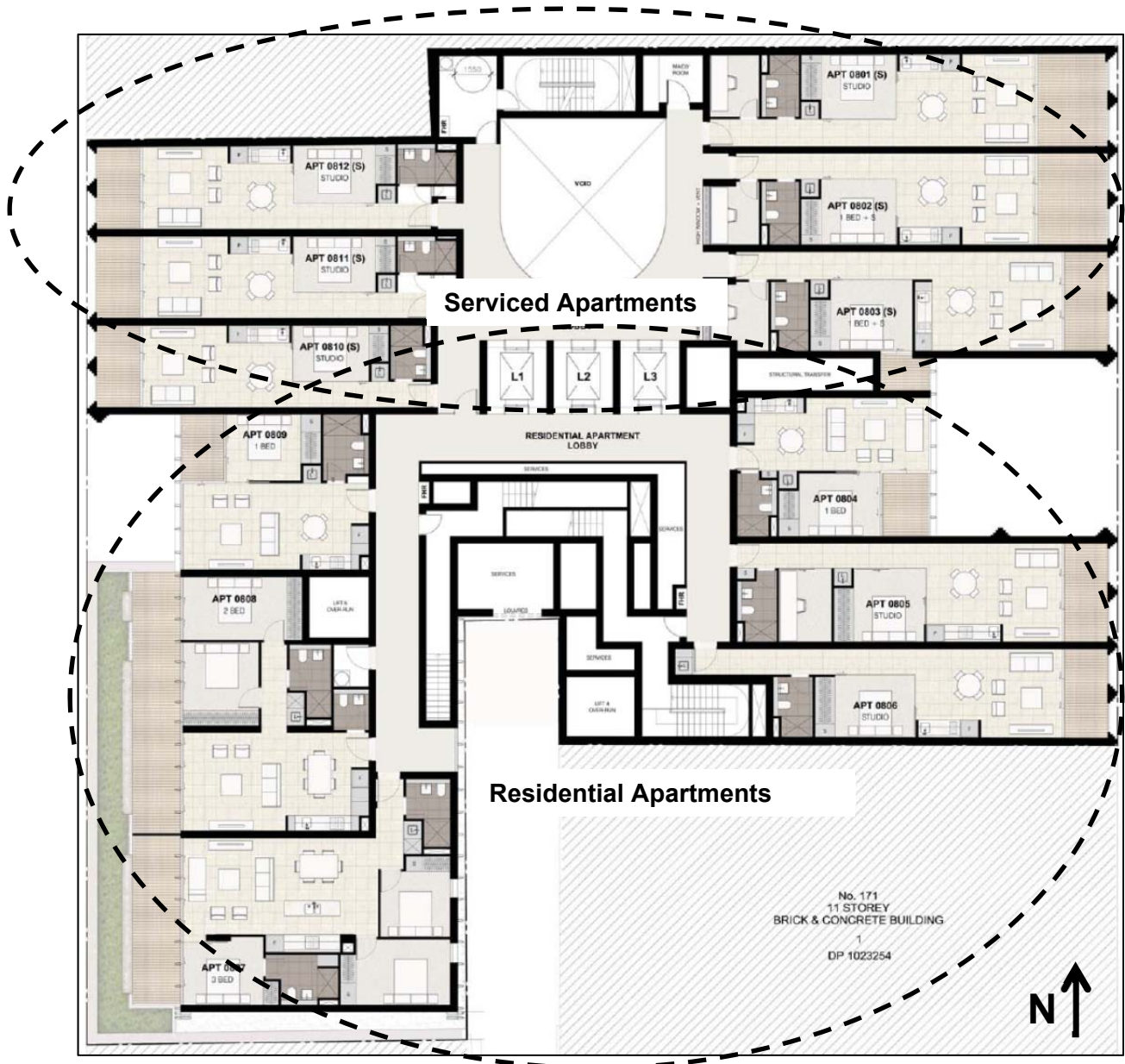


Figure 22: Level 8 of the proposed development where there is provision of both residential and serviced apartment uses

66. The design and inability to achieve complete separation between the two land uses has been justified by the applicant, based on the following:
- (a) Based on the number of apartments and height of the building, the residential component of the development is required to be serviced by three lifts. If separate lifts are provided within the development to exclusively cater for the serviced apartment use, an additional two lifts would be required to be provided in this northern portion of the building.

Accommodation of a further two lifts would have an impact on the design, and would result in the inability to deliver the design intent of the winning scheme of the design competition. Furthermore, it is noted that feedback from the design jury following the design competition was to reduce the number of lifts provided;

- (b) Were the lifts programmed to only service each use exclusively, to avoid any conflicts or interaction between users, this would result in a waiting time of 90-100 seconds, which is an unacceptable level of service. To counteract shared use, the installation of a destination controlled system will assist in separating the uses and ensure an adequate level of amenity and security for residents;
 - (c) Provision of a 24-hour day concierge located in the serviced apartment lobby, who will also have access to CCTV monitoring within the lifts and serviced apartment corridors; and
 - (d) on Level 8, where there are six residential apartments and six serviced apartments, separate lift lobbies are proposed to the north and south of the lift core. Security access will then only permit access to the relevant lift lobby, preventing the conflict of uses or security concerns. This will be achieved by the serviced apartment occupants only being able to exit the lifts via the north doors, and alternatively, the residential occupants will only be able to exit the lifts on this floor via the southern doors.
67. In this instance, it is considered that the proposal has been modified to address the principal concerns raised by Council regarding the conflict between uses. Where the design has been unable to be modified (i.e. the provision of separate lifts), justification has been provided, and operational measures have been incorporated into the scheme, to minimise interaction and conflict between the uses. In its revised form, the proposal is considered to meet the objectives and design intent of the visitor accommodation provisions of SDCP 2012.
68. In addition to the above design and operational measures to separate the land uses, in accordance with the requirements of SDCP 2012, the Applicant has prepared a Plan of Management for the serviced apartment use to provide a framework for the on-going operations of this use. A condition is recommended to require the on-going implementation of this plan for the serviced apartment use.

Unit Mix

69. The serviced apartment component of the development provides an accommodation mix of 28 x studio units, 8 x 1 bedroom units and 6 x 2 bedroom units. This equates to 86% of the serviced apartments being studio and/or 1 bedroom configuration units.
70. Section 4.4.8.5(4) of SDCP 2012 recommends a maximum of 60% of all visitor accommodation units being provided as a studio/1 bedroom typology. Whilst the non-compliance is noted, in this instance, the mix proposed (and the extent of variation to the control) is supported considering the small scale nature of the operation (being a total of 42 units).

Side setbacks

71. The proposed development has a side setback of 1.2 metres from both its northern and southern boundaries for all floors located above podium level.

72. Whilst the DCP stipulates a 6 to 12 metre setback requirement for a residential development, it is noted that the Stage 1 consent approved a variable setback from the side boundaries of between 300mm and 1.2 metres. It should be noted that at the time of approval of the Stage 1 consent, the Central Sydney DCP 1996 was the applicable planning instrument for this site, and permitted a nil setback on side boundaries where no windows were proposed on the side boundaries.
73. Further to this, the internal planning of the development orients apartments in an east-west direction to its street frontages, with blank walls proposed on the northern and southern elevations to prevent overlooking/amenity impacts (with the exception of the penthouse apartments on Level 24).
74. In this instance, considering the Stage 1 consent and the orientation of apartments away from neighbouring properties, it is considered that the proposed side setbacks are acceptable.
75. Further to the above compliance with the planning controls, objection has been raised by the adjacent property to the south of the site, at 171 Clarence Street, regarding the obstruction of its north facing windows by the new podium of the development (refer to **Figure 2** for a photograph of these windows). It should be noted that the proposed new podium is to be built to its side boundaries, as is permissible in the planning controls and as was approved in the Stage 1 consent. Objection has been raised to the obstruction of these existing windows and the subsequent reduction in light and air.
76. Whilst it is noted that this matter was considered and assessed as acceptable as part of the Stage 1 consent, the following response to provided:
 - (a) these existing northern elevation windows are located on the boundary, and are afforded no protection . It should be noted that the property title for 171 Clarence Street includes a restriction requiring that these windows must be sealed or bricked up prior to the construction of any building that abuts this boundary; and
 - (b) these northern elevation windows are secondary windows that service commercial floors on Levels 8 and above of that building, with the principal windows being located on the eastern and western facades. The redevelopment of the subject site will not prevent natural light and ventilation from being received to these commercial floors, and it is noted that the existence of these northern elevation windows afforded the site at 171 Clarence Street with a temporary borrowed amenity until the subject site was redeveloped.

Other Impacts of the Development

77. The proposed development is capable of complying with the BCA.
78. 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

79. 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

80. The application was referred to Council's Urban Designer; Heritage Specialist, Landscape Officer, Public Domain Unit; Health; Tree Management Officer; Building Services Unit; and Access and Transport Unit. All appropriate conditions recommended for imposition from the referrals have been included in the recommendation section of this report.

EXTERNAL REFERRALS**Notification, Advertising and Delegation**

81. 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 12 November 2013 and 11 December 2013. As a result of this notification there were eight (8) submission(s) received, the content of which is summarised below:

- (a) The development is out of context with surrounding development in terms of the proposed height/size and bulk.

Response: As detailed throughout the report, the proposal has been designed to be generally compliant with the relevant planning controls applicable to the site and responds to the building envelope that was approved for this site pursuant to the Stage 1 development consent.

- (b) Concerned about the architectural merit of the proposal, and consider it to be out of context.

Response: The proposal is the winning scheme of a competitive design process, selected by a design jury of respected design professionals, as is required by the design excellence provisions of Clause 6.21 of SLEP 2012.

- (c) Question whether heritage impacts of the proposal have been thoroughly considered, considering the context of the site.

Response: The proposed development has been considered as contextually appropriate by both the City's Heritage Specialist and the Heritage Council of NSW considering the location of the site in the proximity to heritage items (of both local and State significance) and special character of the wider locality. As has been detailed through this report, the scale, design and materials of the podium element of the development have been selected to replicate the existing significant built form pattern of adjacent buildings. The contemporary tower element has been setback above podium level to minimise its visibility from pedestrian level on both street frontages to respect the context of the site.

- (d) Concerned about excavation and the content of the geotechnical investigation report, with regard to damage of adjacent properties.

Response: The content and recommendations of the submitted geotechnical report have been assessed as satisfactory as part of the assessment of the subject application. Appropriate conditions have been recommended for imposition to require the preparation of dilapidation reports and the adoption of the recommendations within the geotechnical report to protect adjacent properties.

- (e) Overshadowing of the development to adjacent properties, particularly to Broughton House.

Response: Detailed shadow analysis was undertaken as part of the Stage 1 development application, this included assessment of the impacts to the property at 181 Clarence Street (Broughton House). The conclusion of this assessment was that the level of new shadowing was reasonable considering the compliance of the development with the planning controls and the CBD context of the site. Further discussion on this matter is detailed in the SDCP 2012 compliance table within this report.

As the proposed development is generally compliant with the approved Stage 1 building envelope, it is considered that the shadowing impacts resulting from the development have previously been assessed as acceptable in the granting of development consent to the Stage 1 development application.

- (f) Impact of additional vehicle movements on local streets, which are already congested, and additional demand on on-street car parking spaces.

Response: The proposed development has been assessed by both the Roads and Maritime Services and the City's Access and Transport Unit. The conclusions of these referrals were that a commercial development generally has a greater number of vehicle movements than a residential development. Considering the change of use of the site to predominately residential, and based on the number of parking spaces, it has been concluded that the traffic movements would not significantly impact on the road network.

Car parking has been provided in accordance with the City's planning controls, noting that these controls are maximums. The provision of car parking is considered to be satisfactory considering the CBD context and the fact that the site is highly accessible by public transportation.

- (g) Obstruction of northern elevation windows of commercial building at 171 Clarence Street, and subsequent reduction in light and ventilation to these floors as a result.

Response: Refer to discussion in the issues section of this report.

- (h) The submitted construction management plan is inadequate

Response: A condition has been imposed to advise that the Construction Traffic Management Plan submitted with the DA is not approved, and that prior to the issue of any Construction Certificate that a revised plan will need to be submitted and approved by Council.

PUBLIC INTEREST

82. 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**Section 61 Contributions**

83. The development is subject to a Section 61 Contribution.

RELEVANT LEGISLATION

84. The Environmental Planning and Assessment Act, 1979.

CONCLUSION

85. The proposal has been amended during the assessment period to address preliminary concerns relating to floor space, residential amenity, waste collection, unit mix, public art and greater separation of uses.
86. As amended, the proposal is considered to be generally consistent with the relevant planning controls and existing consents in place for the site, and responds appropriately to the constraints of the site. The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Sydney CBD.
87. The subject site benefits from a Stage 1 development consent that was approved by the Central Sydney Planning Committee on 6 December 2012. Under the provisions of the Environmental Planning and Assessment Act, 1979, any future detailed design development applications are required to remain consistent with this Stage 1 consent. The proposal, as amended, has remained consistent with the Stage 1 development consent with regard to building envelopes, floor space and land uses.
88. Whilst the proposed development results in numeric non-compliances with the floor space ratio and building height development standards, in this instance, the written request submitted by the applicant to justify the departures from the floor space ratio and height development standards under the provisions of Clause 4.6 of Sydney LEP 2012 are supported.
89. Conditions were imposed on the Stage 1 consent requiring that the Applicant surrender an existing development consent for the site (being D/2008/150) prior to the determination of the subject application. To date, the applicant has not yet formally surrendered this development consent. As such, it is recommended that the application be granted deferred commencement consent to allow the Applicant to surrender this existing development consent

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)