

**ITEM 5. DEVELOPMENT APPLICATION: 115-119 BATHURST STREET SYDNEY****FILE NO: D/2013/1822****DEVELOPMENT APPLICATION NO: D/2013/1822****SUMMARY**

**Date of Submission:** 26 November 2011.

**Applicant:** Greenland (Sydney) Bathurst Street Development Pty Ltd

**Architect:** BVN Donovan Hill / Woods Bagot

**Developer:** Greenland (Sydney) Bathurst Street Development Pty Ltd

**Owner:** Greenland (Sydney) Bathurst Street Development Pty Ltd and the City of Sydney Council

**Cost of Works:** \$439,496,689

**Proposal Summary:** Stage 2 integrated development application for partial demolition of the existing buildings and construction of a 67 storey mixed use building accommodating 490 residential apartments, 2,004sqm of 'creative hub floorspace', 373sqm of retail floor space and 267 car parking spaces including the adaptive re-use of the existing heritage building (at 339 Pitt Street) as a 173 room hotel with associated landscaping and public domain improvement works.

The site has been the subject of a number of previous approvals for commercial and residential developments. More recently, a Stage 1 application was approved for the adaptive re-use of the existing 1939 heritage listed Sydney Water building as a hotel and partial demolition and redevelopment of the adjacent 1965 building for retail, commercial and residential uses. A Section 96 application to amend the position of the approved building envelope to align with the building proposed in this application and to alter and/or delete conditions attached to that consent is being presented as a separate report.

At 16.91:1, the floorspace standard is exceeded by three factors – a technical non-compliance in relation to the wind protected balconies from level 25 and above, the floorspace associated with the creative hub which is the subject of a public benefit offer and the way the design excellence bonus is calculated.

**Proposal Summary:**  
(continued)

As permitted under Clause 4.6 of the Sydney LEP 2012, the applicant has lodged a written request to vary the FSR control for the site. In addition, the development as lodged does not fully comply with the requirements for residential flat buildings in respect of apartment mix and solar access. These issues are discussed in more detail in the body of the report and are to be dealt with via conditions.

A total of five (5) submissions were received. Concerns raised were about traffic, noise and construction impacts and the design of the building including setbacks, the width of the creative hub, amenity and solar access.

The proposal is Integrated Development as the 1939 building is a State Heritage item. The proposal also requires the concurrence of Roads and Maritime Services (RMS) and Transport for NSW (TfNSW) due to the development being 'traffic generating development' and the site being in the proximity of the Sydney Metro and future Sydney CBD Rail Link. Terms of approval and conditions have been received from these agencies and are included in the recommendation.

Consideration has been given as to whether the application will require referral to the Central Sydney Traffic and Transport Committee (CSTTC). The City's delegate, the Director City Planning, Development and Transport considers that the proposal will not have a significant impact on traffic and transport in the CBD, and formal consideration by the CSTTC is not necessary.

Due to the height of the proposed building, Clause 7.16 of the Sydney LEP requires the proposal to be referred to Sydney Airport Corporation to assess its impact on the effective and ongoing operation of the airport. Consent cannot be granted until such time as a response on this matter has been provided. At the time of writing, no response had yet been received.

The developer has offered to enter into a voluntary planning agreement (VPA) to provide a 'creative hub' for the City's use, sleeving proposed above ground parking on the eastern and northern edges of levels 2-6 of the redeveloped 1965 building. The VPA is currently on public exhibition.

**Summary****Recommendation:**

Because of the need for Sydney Airport concurrence and the requirement for an executed VPA to secure the public benefits associated with the delivery of the creative hub, it is recommended that authority be delegated to the Chief Executive Officer to determine the DA having regard to the contents of this report and the recommended conditions agreed by the Central Sydney Planning Committee.

**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);
- (iii) State Environmental Planning Policy 55 – Remediation of Land;
- (iv) State Environmental Planning Policy 65 – Design Quality of Residential Flat Development;
- (v) State Environmental Planning Policy (Infrastructure) 2007;
- (vi) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP);

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

**Attachments:**

- A - Selected Drawings
- B - Photomontages

**RECOMMENDATION**

It is recommended in relation to D/2013/1822 that:

- (A) authority be delegated to the Chief Executive Officer, to determine the application having regard to the content of the subject report and draft conditions, including the recommended conditions of consent;
- (B) the Central Sydney Planning Committee supports the variation to Clause 4.4 – Floor Space Ratio - of the Sydney Local Environmental Plan (SLEP) 2012 as permitted under Clause 4.6 of the SLEP;
- (C) the Central Sydney Planning Committee endorses the preparation of a planning proposal and accompanying Development Control Plan amendment to allow the floor area of a balcony to be excluded from the calculation of gross floor area in cases where the outer walls of the balcony exceeds 1.4 metres in height to provide wind protection in circumstances to be outlined in the proposal;
- (D) determination of the application, in accordance with Clause (A) above, shall only occur following:
  - (1) Receipt of advice from the relevant Commonwealth body on the development and its impact on the Limitations or Operations Surface for Sydney Airport;
  - (2) Public exhibition and execution of the Voluntary Planning Agreement for the provision of the Creative Hub at levels 2-6 of the development;
  - (3) The receipt of a guarantee to Council in accordance with the Voluntary Planning Agreement;
  - (4) Lodgement of the Voluntary Planning Agreement, as executed, with the Office of Land and Property Information which must occur prior to any works commencing on site and registered on the title of the land on which the tower stands prior to any above ground works commencing; and
- (E) should the matters in Clause (D) not be completed by 8 November 2014, the Chief Executive Officer may determine the application based on the information submitted to date.

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

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

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2014/1822 dated 28 November 2013 and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA-2000 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2001 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2002 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2003 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2004 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2005 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2006 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2007 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2008 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2009 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2200 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA-2201 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2202 Issue 4	BVN Donovan Hill / Woods Bagot	18 Mar 14
DA-2203 Issue 6	BVN Donovan Hill / Woods Bagot	18 Mar 14
DA-2204 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2205 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2206 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2207 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2208 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2209 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2210 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2211 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2215 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2216 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2217 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2218 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2219 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2220 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA-2221 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2222 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2224 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2226 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2228 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2230 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2231 Issue 1	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2232 Issue 4	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-2233 Issue 2	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-2300 Issue 3	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2301 Issue 3	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2302 Issue 3	BVN Donovan Hill / Woods Bagot	18 Mar 14
DA-2303 Issue 6	BVN Donovan Hill / Woods Bagot	18 Mar 14
DA-2304 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2305 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2306 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2307 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA-2308 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2309 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2310 Issue 5	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2311 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2312 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2313 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2314 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2315 Issue 1	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-2316 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2317 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2318 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2319 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2320 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2321 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2322 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2323 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14
DA-2324 Issue 4	BVN Donovan Hill / Woods Bagot	12 Mar 14



<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA-2325 Issue 3	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-2326 Issue 3	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3000 Issue 5	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3001 Issue 5	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3002 Issue 5	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3003 Issue 5	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3004 Issue 4	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3005 Issue 4	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3006 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-3100 Issue 5	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3101 Issue 5	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3103 Issue 5	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-3104 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-3105 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-3106 Issue 3	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-3107 Issue 1	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-3108 Issue 1	BVN Donovan Hill / Woods Bagot	25 Nov 13

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA-4400 Issue 2	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-4401 Issue 2	BVN Donovan Hill / Woods Bagot	25 Feb 14
DA-6000 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6001 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6002 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6003 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6004 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6005 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6006 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6007 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6008 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6009 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6010 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6011 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6012 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13
DA-6013 Issue 2	BVN Donovan Hill / Woods Bagot	25 Nov 13

and as amended by the conditions of this consent.

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

**(2) STAGED CONSTRUCTION**

- (a) The development may be carried out in stages with the relevant conditions being satisfied prior to the issue of a Construction Certificate for each stage as follows:
  - (i) Stage 1 – Pre-construction;
  - (ii) Stage 2 – Demolition;
  - (iii) Stage 3 – Construction; and
  - (iv) Stage 4 – Fit-out;
- (b) In addition to those conditions identified above, other conditions may be required to be satisfied prior to the issue of a Construction Certificate at each stage of construction.
- (c) Any reference to 'A Construction Certificate' or 'An Occupation Certificate' relates to the first Construction Certificate and/or Occupation Certificate unless a Stage is nominated elsewhere in that particular condition. In all other cases, conditions are to be satisfied as specifically stated at Stages 1 to 4.

**(3) 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 the Stage 1 Construction Certificate being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment may be by **EFTPOS** (debit card only), **CASH** or a **BANK CHEQUE** made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.

- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" indicating the itemised cost of the development must be completed and submitted to Council by the Certifying Authority (CA), together with copies of the plans the subject of the application for the Stage 1 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](http://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](mailto:planningsystemsadmin@cityofsydney.gov.au) to confirm the amount payable, prior to payment.

#### **(4) DESIGN MODIFICATIONS – TOWER AND PODIUM**

The design of the building must be modified as follows:

- (a) The design and material details of the cantilevered projection into the street on levels 2-4 are to be further developed to minimise visual impacts.
- (b) In order to increase the legibility of the proposed creative space from the street, an artist is to be engaged to work with the architects on the design development of the creative hub façade projection ('overhang').

- (c) The ground level corner at Pitt and Bathurst Streets is to be indented to allow additional space for pedestrian movement at the street corner.
- (d) Fully resolved elevation and section details of the podium exteriors and laneway elevations are required to accurately show materials, finishes and construction details. Sectional details for the *West Lane*, *East Lane* and *Pitt Street Lane* must be included.
- (e) The proposed podium design is to incorporate *Australian Emperador* marble stone or an agreed alternative cladding to the blade columns and vertical laneway elements as initially proposed.

The modifications are to be submitted to and approved by the Director City Planning, Development and Transport prior to the Stage 3 Construction Certificate being issued.

#### **(5) DESIGN MODIFICATIONS – HERITAGE BUILDING**

- (a) The proposed banquette seating of the ground floor design is to incorporate an interpretive reconstruction of the original outer stone counters of the former Sydney Water Ratings Chamber.
- (b) The western wall of the Ground Floor 'Guest' Lift Lobby demolished circa 1965 is to be reconstructed and clad in banded marble to match the original stonework.
- (c) The Queensland Maple wainscot to the ground floor columns is to be reinstated together with traditional shellac finish where previously removed or painted over.
- (d) All new doors on Levels 2-7 are to be flush Queensland Maple veneer with traditional shellac finish, to match the original doors.

The modifications are to be submitted to and approved by the Director City Planning, Development and Transport prior to the Stage 3 Construction Certificate being issued.

#### **(6) DESIGN DETAILS**

The following design details of the building are to be submitted to and approved by the Director City Planning, Development and Transport prior to the Stage 3 Construction Certificate being issued:

- (a) The proposed reconstruction of the lift doors of the Ground Floor 'Guest' Lift Lobby, which are to interpret the original 'plain bronze reveals and aluminium clad' doors, as they appear in the photograph by Sam Hood dated 1940.
- (b) The proposed reconstruction of the triple bank of paired glazed aluminium framed doors from the Ground Floor 'Guest' Lift Lobby into the former Sydney Water Ratings Chamber, which are to interpret the original as they appear in the photograph by Sam Hood dated 1940.

- (c) The proposed bar, concierge and reception desks which are to be an interpretive reconstruction of the original outer stone counters of the former Sydney Water Ratings Chamber.
- (d) The proposed glazed roof over the central Plummer laylights above the former Sydney Water Ratings Chamber.
- (e) The proposed roof over 'South Lane' incorporating the salvaged laylights.
- (f) The treatment to doors, reveal and thresholds on the Wilmot Street frontage.
- (g) A material sample boards for the former Sydney Water Ratings Chamber, cross referenced to the plan.
- (h) A material sample board for the podium levels of the new building cross referenced to the plan and elevations. The proposed red granite facings to the northern face of the 1939 building along 'Pitt Street Lane' are to be a close match to the original facings of the 1939 building.

**(7) RECONFIGURATION OF APARTMENT LAYOUTS AND NUMBERS**

- (a) The westernmost south facing apartments on levels 25-35 inclusive and numbered [unit number=*n*] n.08 shall be restricted to 1 bed in size as shown on DA drawings. The second bedroom shown on the submitted plans shall be reconfigured as a study with study furniture. All sales documentation shall ensure that these are accurately described as a 1 bed with study apartment.
- (b) The westernmost south facing apartments on levels 36-40 and 43-45 inclusive and numbered [unit number=*n*] n.07 shall be restricted to 1 bed in size. The second bedroom shown on the submitted plans shall be reconfigured as a study with study furniture. All sales documentation shall ensure that these are marketed as a 1 bed with study apartment.
- (c) The remaining apartment layouts, locations and sizes are to be reconfigured to better comply with the cross-ventilation, access to sunlight and apartment mix requirements contained within both the DCP and the *Residential Flat Design Code*.

The modifications are to be submitted to and approved by the Director City Planning, Development and Transport prior to the Stage 3 Construction Certificate being issued.

**(8) INSTALLATION OF VENTILATION DUCT**

The proposed cross-over ventilation duct from apartment 01 to the recessed void on the eastern aspect across levels 25-63 shall be installed prior to the issue of an Occupation Certificate for these levels and shall thereafter be maintained in situ.

**(9) DESIGN QUALITY EXCELLENCE**

- (a) Design excellence has been achieved and an award of bonus floorspace has been 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 Stage 1 Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council.

**(10) FLOOR SPACE RATIO - CENTRAL SYDNEY**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 16.91:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 67,168sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under Sydney Local Environment Plan 2012 applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.
- (c) Council's written verification must be obtained, confirming that the following heritage floor space was allocated (purchased and transferred) to the development being that floorspace in excess of 8:1 as specified in *Sydney Local Environmental Plan 2012*:
  - (i) 14,542sqm prior to a Stage 1 Construction Certificate being issued;
  - (ii) a further 6,339sqm (being that heritage floor space attributed to the balconies and 10% design excellence calculation) prior to the first Occupation Certificate (including any Interim Occupation Certificate) being issued.
- (d) The balcony floorspace which is the subject of the Clause 4.6 variation must not be converted to internal residential floorspace at any time.

**(11) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL260.032 (AHD) to the top of the building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

**(12) SIGNAGE**

- (a) A signage strategy for the building shall be lodged prior to the issue of a Stage 3 Construction Certificate. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.
- (b) No signage is approved as part of the subject application.

**(13) USE - SEPARATE DA REQUIRED**

Separate development applications for the fitout and use of the retail units within the development must be submitted to and approved by Council prior to that fitout or use commencing.

**(14) PLAN OF MANAGEMENT AND NOISE MANAGEMENT PLAN - HOTEL**

- (a) A Plan of Management and Noise Management Plan must be prepared to address all operational and management procedures to be employed, to ensure that the hotel can operate without disturbance to the surrounding locality. The plan must reflect the entire hotel operation.
- (b) The plan must be submitted prior to the fit out and use of the hotel.

**(15) STORAGE SPACE – HOTEL**

Storage amounting to at least 0.6 cubic metres per person shall be provided within each of the proposed hotel rooms.

**(16) TRANSPORT FOR NSW CONDITIONS**

- (a) The owners of the site of the approved development must enter into a deed with Transport for NSW (TfNSW) prior to issue of any construction certificates for the project to address the adverse effects of the approved development on the CBD Metro identified in State Environmental Planning Policy (Infrastructure) 2007. The Agreement must provide for the following:
  - (i) the design, construction and maintenance of the approved development so as to satisfy the requirements in conditions 3 to 8 below;
  - (ii) allowances for the future construction of railway tunnels in the vicinity of the approved development;



- (iii) 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;
  - (iv) consultation with TfNSW;
  - (v) access by representatives of RailCorp to the site of the approved development and all structures on that site;
  - (vi) provision to RailCorp of drawings, reports and other information related to the design, construction and maintenance of the approved development;
  - (vii) creation of a restrictive covenant on each of the titles which comprise the approved project so as to satisfy clause (j) below;
  - (viii) such other matters which RailCorp considers are appropriate to give effect to (i) to (vii) above; and
  - (ix) such other matters as the owners and RailCorp may agree.
- (b) 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 CBD Metro must be designed, constructed and maintained in accordance with design criteria specified by TfNSW.
- (c) 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.
- (d) The developer must undertake detailed geotechnical analysis in order to develop the proposal's final foundation system.
- (e) No modifications may be made to that approved design without the consent of TfNSW.
- (f) 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.
- (g) 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.

- (h) All requirements contained in the Agreement between TfNSW and the owners of the site must be satisfied during construction and, where appropriate, the operation of the approved development.
- (i) Copies of any certificates, drawings or approvals given to or issued by TfNSW must be delivered to Council for its records.
- (j) Prior to the commencement of any excavation below existing ground level, a restrictive covenant is to be created upon each of the titles which comprise the approved development pursuant to Section 88E of the Conveyancing Act 1919, restricting any alterations or additions to any part of the approved development which are reasonably likely to adversely affect, or which otherwise are likely to interfere with the design, construction and operation of the proposed CBD Metro prior to written consent of TfNSW.
- (k) The owners of the site must consult with TfNSW on potential connections between the site and the proposed Town Hall Square Station, prior to execution of the Deed.

**(17) ROADS AND MARITIME SERVICES CONDITIONS**

- (a) The layout of the proposed driveway should be in accordance with AS2890.1-2004 and AS2890.2-2002.
- (b) All vehicles shall enter and leave the site in forward direction.
- (c) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of the Stage 1 Construction Certificate.
- (d) All works associated with the proposed development shall be at no cost to the RMS.

**(18) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES**

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

**(19) 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".

**(20) BICYCLE FACILITIES – COMMERCIAL USES**

A bicycle facilities room must be provided at Basement Level 1 within close to staff / employee bicycle parking and include a minimum of:

- (a) 3 showers with change area; and
- (b) 30 personal lockers.

The bicycle facilities area is to be accessible to all employees of the hotel, retail and commercial tenancies.

#### **(21) BICYCLE PARKING**

- (a) A minimum of 630 bicycle parking spaces are to be provided, including a minimum of 490 spaces for residents, a minimum of 30 spaces for staff / employees (accessible to staff of the hotel, retail and commercial tenancies within the building), and a minimum of 110 spaces for visitors (86 spaces at Ground Floor – Level 00 within West Lane and 24 spaces at Basement Level 1 adjacent to the tower lifts).
- (b) 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:
  - (i) all bicycle parking for occupants of residential buildings must be Class 1 bicycle lockers, and
  - (ii) all bicycle parking for staff / employees of any land uses must be Class 2 bicycle facilities, and
  - (iii) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

#### **(22) CAR PARKING SPACES AND DIMENSIONS**

- (a) A maximum of 267 off-street car parking spaces are to be provided. Of these spaces, a maximum of 260 spaces are to be allocated to residents, a maximum of 1 space is to be allocated to the retail use and 3 spaces are to be allocated to the creative hub use. A minimum of 3 car parking spaces are to be allocated as Car Share spaces.
- (b) This maximum provision is inclusive of motorcycle parking. All stacked and tandem spaces account for 2 spaces per parking space.
- (c) An area equivalent to a minimum of 5 car spaces must be provided for motorcycles.
- (d) A minimum of 8 motorcycle parking spaces (equivalent of 2 car parking spaces) are to be provided at Basement Level 1.
- (e) This does not include parking provided as “flexible bays” or for the purpose of “valet holding”.
- (f) No apartment within the development shall be allocated more than one car parking space.

- (g) The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Stage 3 Construction Certificate being issued.
- (h) Plans showing the car parking spaces shall be submitted to and approved by the Director City Planning, Development and Transport prior to the Stage 3 Construction Certificate being issued.

**(23) CAR SHARE SPACES**

- (a) A minimum of 3 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.

**(24) CHANGES TO KERB SIDE PARKING RESTRICTIONS**

- (a) 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.
- (b) 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.
- (c) All costs associated with the changes to sign posting will be at no cost to Council.

**(25) 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.

**(26) HOLDING AREAS**

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

**(27) 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.

**(28) 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.

**(29) LOCATION OF ACCESSIBLE CAR PARKING SPACES**

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

**(30) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must be a maximum length of 9.24m.

**(31) SERVICE VEHICLES**

Adequate space must be provided to allow manoeuvring and turning of the different sized vehicles up to 9.24m. 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 the Stage 3 Construction Certificate being issued.

**(32) SIGNS AT EGRESS**

The following signs must be provided and maintained within the site at the points of vehicular egress:

- (a) Compelling drivers to stop before proceeding onto the public way.
- (b) Compelling drivers to “Give Way to Pedestrians” before crossing the footway; or compelling drivers to “Give Way to Pedestrians and Bicycles” before crossing a footway on an existing or identified shared path route.

**(33) STACKED PARKING EMPLOYEES OR TENANTS ONLY**

Any stacked parking spaces (maximum 2 spaces, nose to tail) must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked parking spaces must be designated (with appropriate signage) for employee or tenant parking only (not visitor parking), prior to an Occupation Certificate being issued. The moving of stacked vehicles must occur wholly within the property.

**(34) 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.

**(35) VEHICLE FOOTWAY CROSSING**

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

Note: In all cases the choice of construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle. Crossings are to be clad in footpath materials.

**(36) GREEN TRAVEL PLAN**

A Green Travel Plan must be submitted to and approved by Council prior to the Occupation Certificate for the site/use being granted.

[Note: It is recommended the applicant contact a member of the Transport and Access Unit, to discuss the Green Travel Plan with Council, prior to its submission].

**(37) ACCESSIBLE PARKING SPACE**

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to the Stage 3 Construction Certificate being issued.

**(38) LOADING MANAGEMENT PLAN**

- (a) A Loading and Car Parking Management Plan is to be submitted to Council and approved, prior to an Occupation Certificate being issued.
- (b) The Plan should identify how operations associated with the loading areas, valet car parking area, flexible bays and car lifts will be managed.
- (c) The Management Plan needs to be agreed with all parties, including the hotel, retail and commercial tenancies, each of whom will be required to use the servicing areas provided.

**(39) COACH PARKING MANAGEMENT PLAN**

- (a) A coach parking management plan must be submitted for approval by the City of Sydney prior to the issue of an Occupation Certificate.
- (b) The Management Plan is to address how bus movements associated with the site (airport shuttles, tourist coaches etc) which be managed to ensure that these activities do not impact road network operations, particularly during peak periods.
- (c) Any changes to signposting must be submitted to and approved by the Local Pedestrian, Cycling and Traffic Calming Committee and all costs must be bore by the developer.

**(40) CREATIVE HUB LOADING**

The parking spaces allocated to the creative hub are not to be used for loading by external delivery vehicles / personnel. All servicing requirements associated with the creative hub are to be accommodated within Basement Level 1 and addressed within the Loading Management Plan.

**(41) HERITAGE CONSERVATION WORKS**

Prior to the issue of the Stage 2 Construction Certificate the following are to be submitted to and approved by the Director City Planning, Development and Transport:

- (a) The schedule of conservation works within the Conservation Management Plan Volume 3 dated November 2013 by Graham Brooks and Associates is to be further developed through the undertaking of detailed diagnostic analysis. The developed schedule is to be supported by floor plans, reflected ceiling plans, elevations (internal and external) and sections that fully explain the scope and extent of the works, by larger scale detail drawings at 1:20 and 1:5 scale as appropriate and by repair methodologies and specifications and supporting engineering documentation.

- (b) EXTERNAL CONSERVATION WORKS are to include the following:
- (i) The investigation of the glazed architectural terracotta facade system (units, jointing material, fixings, structural frame) and consequential conservation of all damaged, non extant or inappropriately repaired glazed architectural terracotta cladding and feature elements currently visible or exposed following the removal of the 1965 tower addition. All architectural terracotta jointing material is to be conserved. Trial samples of conserved glazed architectural terracotta units are to be prepared for the review and approval of the Director City Planning, Development and Transport. Consequently, a detailed scope of conservation work is to be submitted and approved by Council's heritage specialist prior to the works being carried out.
  - (ii) The retention glazed architectural terracotta cladding units is considered the best outcome but where the condition of the units is beyond retrieval, the purpose made glazed architectural terracotta units are to be of matching unit sizes, profiles, and glaze characteristics.
  - (iii) The conservation of all 1939 bronze façade elements i.e. bronze frame windows and bronze doors and associated hardware and glazing, and ornamental cast bronze work. This includes the windows to the light well. The paint finish on the main bronze entrance doors, highlights and reveals is to be removed and the doors and reveals are to be repatinated.
  - (iv) The bronze over cladding system installed in 1965 should be inspected and repairs undertaken where necessary to ensure a weatherproof system. Should any of the bronze overcladding of the façade be removed, it is to be appropriately salvaged for recycling.
  - (v) The conservation of all visible polychrome brickwork and all glazed brickwork (lightwell).
  - (vi) The conservation of all red (base) and black (column and entrance surrounds) granite façade cladding.
  - (vii) The conservation of the central Plummer Laylight including glass lenses, jointing material, and the metal and concrete frames. Similarly, the conservation of the extant Plummer laylights to be incorporated into the proposed roof over 'South Lane'.
  - (viii) The exposure and conservation of the pavement lights on Pitt Street including the shaft, frame and glass prism elements.
  - (ix) The conservation of render work (roof level) and concrete work (lintels, sills and roof)
  - (x) The conservation of cast iron stormwater components, original signage, and original service installations.



- (xi) Reconstruction of the two Pitt Street façade timber flagpoles with bronze patinated brass wrapped fixing plates.
- (c) INTERNAL CONSERVATION WORKS are to include the retention and conservation of perforated metal ceilings of the Basement, all original travertine and marble floor and wall finishes, terrazzo flooring and sills, all wall and column scagliola work, bronze work, glazed ceramic wall tiling, wall and ceiling plaster (existing and reinstated), wainscot, door and fitment joinery, glazing, bronze and aluminium work, timber flooring, hardware, fitments and fixtures, and mechanically operated systems such as the plan hoist. Of particular note are the following:
- (xii) The conservation and repatination of all internal bronze elements by contractors, including window assemblies, hardware, direction boards, handrails and cupboard doors. Non extant window hardware is to be reinstated to match.
  - (xiii) The reinstatement and conservation of all scagliola wall and column finishes.
  - (xiv) The conservation of all floor and wall stonework finishes to the former Ratings Chamber, Entry Lobby, Ground Floor lift lobby and lower levels of the northeastern (Pitt Street) stairwell.
  - (xv) The conservation of original ceramic wall tiling that is to remain visible in internal corridors, lavatories and stair wells. Missing or damaged tiles in areas these areas are to be reinstated to match the existing utilising salvaged or reconstructed tiles.
  - (xvi) The conservation of original terrazzo floors, stairs and window sills.
  - (xvii) The retention of specific components such as the fire hose reels alcoves, water fountain alcoves and cleaner's alcoves unless the wall in which they are located is approved to be demolished or covered over.
  - (xviii) Conservation of the existing lavatories to be retained within the Basement and Levels 6 and 7 including of all original terrazzo floor finishes, tiled and terrazzo wall finishes, terrazzo benches, partitions, partition doors, sanitary fixtures and fitments.
  - (xix) The retention of the 'western corridors' on each level is to include conservation associated lift control panels and indicators, and original joinery elements such as door assemblies, highlight glazing and associated hardware, in addition to tile and terrazzo finishes.
  - (xx) The retention and conservation of the Sydney Water Catchment Diorama, Level 6.
  - (xxi) Remnant timber skirtings are to be consolidated on the perimeter external walls, and paint finish is to be removed and the traditional shellac finish reinstated.

- (d) All diagnostic work should be undertaken by specialist conservers and engineers
- (e) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.
- (f) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999.
- (g) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.
- (h) The works in (a) to (c) must be implemented to the satisfaction of Council's heritage specialist prior to the issue of the Occupation Certificate for the hotel.
- (i) It is noted that where the programme of the diagnostic analysis does not enable the schedule of conservation works to be developed and completed prior to the Stage 2 Construction Certificate, ongoing consultation with Council's heritage specialist should be maintained so that the works are implemented to the satisfaction of Council's heritage specialist prior to the issue of the Occupation Certificate.

#### **(42) PROTECTION METHODOLOGY**

A strategy that details how significant heritage fabric will be adequately protected during the building works is to be submitted for approval by Council's own Heritage Specialist prior to the issue of the Stage 1 Construction Certificate.

#### **(43) HERITAGE ASSET MAINTENANCE PLAN**

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

- (a) The Plan is to include all fabric identified as being of heritage significance, specification notes and methodologies based on the Articles of the Australian ICOMOS Burra Charter 1999 and best conservation practise, and a list of appropriate consultants and suppliers incorporated. A projected costing for each item of work is to be prepared by a quantity surveyor or by the Project's building contractor, for incorporation into the plan.
- (b) The Plan is to be prepared by the nominated heritage consultant and is to be submitted to Council for approval prior to the issue of an Occupation Certificate.

**(44) USE OF HERITAGE CONSULTANT - MAJOR DEVELOPMENT**

- (a) An experienced heritage consultant is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.
- (b) Evidence and details of the above commission on the above terms are to be provided to Council prior to the issue of the construction certificate or commencement of work on site whichever is the earlier.
- (c) Throughout the documentation and construction stages of the approved works the experienced heritage consultant is to:
  - (i) Undertake site inspections of not less than fortnightly intervals.
  - (ii) Arrange and conduct site inspections by Council's heritage specialist of not less than monthly intervals.
  - (iii) Maintain a diary of site inspections that includes photographs of the works, details of heritage advice and decisions arising out of each inspection and any further physical evidence uncovered during the works.
  - (iv) Compile a final report, including the diary, verifying how the heritage conditions have been satisfied, and the works completed in accordance with the Conservation Management Plan.
- (d) Upon completion of the works, the final report is to be submitted for approval by Council's own heritage specialist prior to the issue of an Occupation Certificate or the commencement of the use, whichever is the earlier.

**(45) HERITAGE INTERPRETATION PLAN**

- (a) An Interpretation Plan for the sites at 115-119 Bathurst Street and 339 Pitt Street is to be submitted to and approved by the Director City Planning, Development and Transport prior to the Stage 2 Construction Certificate being issued.
- (b) The interpretation plan must detail how information on the history and significance of the site will be provided for the public. The plan must specify the location, type, materials and contents of the interpretation device being proposed with recommendations regarding public accessibility, signage and lighting.
- (c) The plan is to include the retention of etched precast panels of the northern façade within the building.

- (d) In addition, a brass plaque relating to the history of the site must be installed on the facade of the building, or within the building, prior to occupation. The design, location and wording must be submitted for the approval of Council prior to an Occupation Certificate being issued.
- (e) Prior to Occupation Certificate being issued the approved interpretation strategy must be implemented to the satisfaction of Council.

**(46) WORKS TO HERITAGE BUILDING**

All construction works to the 1939 building must be carried out prior to or concurrently with the works to the 1965 building and must be completed prior to issue of the final Occupation Certificate for the redeveloped 1965 building.

**(47) DEED – 1939 BUILDING**

- (a) The owner must enter into a deed with Council and register any required covenants on the title of the land on completion of the works to the 1939 building. The deed shall limit any future development to 13,943sqm of floorspace. The terms of the deed shall be to the satisfaction of Council.
- (b) All legal documentation must be prepared by Council's solicitor. The cost of preparation and registration of all documentation must be borne by the owner.

**(48) DEDICATION OF SPLAY**

The owner must dedicate for road purposes, free of cost to Council, a 3.0m by 3.0m splay at the intersection of Pitt Street and Bathurst Street, limited in height nominally to the underside of the Level 2 floor/structure above and limited in depth nominally to the roof of Basement Level 1 below, to be detailed in a plan of subdivision/consolidation of the land. This plan is to be registered at the Office of Land and Property Information prior to an Occupation Certificate being issued.

**(49) RIGHT OF PUBLIC ACCESS**

- (a) Prior to the issue of an 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 development site (Lot 1 DP 621404). The Easement is to be defined over the following strips of land:
  - (i) The lane, shown on the plans accompanying the application, as "Pitt Street Lane", nominally 4 metres wide and leading to "East Lane" from Pitt Street;
  - (ii) The lane, shown on the plans accompanying the application, as "East Lane", nominally 5 metres wide and leading to the eastern termination of "South Lane" from Bathurst Street;
  - (iii) The lane, shown on the plans accompanying the application, as "West Lane", nominally 5 metres wide and leading to the western termination of "South Lane" from Bathurst Street;

- (iv) The lane, shown on the plans accompanying the application, as "South Lane", nominally 3 metres wide and leading to the southern termination of "East Lane" from the southern termination of "West Lane".

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 and is to be limited in depth to the floor surface of the lanes and limited in height to the underside of the second floor level above the proposed lanes.

- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the development site (Lot 1 DP 621404), 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.

#### **(50) PUBLIC WAY LEASE AGREEMENT**

Prior to commencement of the construction of the portion of the building that will overhang the footways of Bathurst Street and Pitt Street (i.e. within the public way), a separate application must be made to Council under Section 149 of the *Roads Act 1993*, and the owners of the site are to enter into a formal Lease or Agreement to Lease of the stratum of Bathurst Street and Pitt Street to be occupied by Levels 2, 3 and 4 of the proposed building over the public footway.

The payment of rent and the terms of the lease are to be in accordance with the Voluntary Planning Agreement for the development. The lease is to be subject to all conditions considered necessary to protect Council's interests and those of the public. All associated fees and costs (including with those associated with the preparation and registration of the required Plan of Subdivision) are to be in accordance with the Voluntary Planning Agreement for the development. The owners of the site are to maintain a public liability policy of not less than \$20 million dollars for the duration of the lease as well as a security bond. The public liability policy must note the "Council of the City of Sydney" as an interested party. The agreement must also contain an indemnity clause where the owner indemnifies the City for any damage, injury or death arising out of the use or construction of the overhanging portion of the building.

#### **(51) 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*.

**(52) STRATA SUBDIVISION – DEVELOPMENT CONSENT**

Any proposal for strata subdivision for all or part of the site will require development consent and therefore the lodgment of a separate development application or complying development application, and subsequent approval from Council, or an accredited certifier, of the Strata Plan and issue of a Strata Certificate under the *Strata Schemes (Freehold Development) Act 1973*.

**(53) STRATA SUBDIVISION – STRATA CERTIFICATE**

A separate application must be made to Council or an accredited certifier to obtain approval of the strata plan and the issue of the Strata Certificate under the *Strata Schemes (Freehold Development) Act 1973*.

**(54) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (from Levels 9 to 23 and Levels 25 to 66) 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.
- (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 permanent residential accommodation as referred to above. 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) Any strata subdivision of all or part of the site is to include a Restriction on User, pursuant to section 88B of the *Conveyancing Act 1919*, burdening all lots in the Strata Plan in terms restricting any change of use of those lots from permanent residential accommodation as referred to in (a) above. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (d) 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.
- (e) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.
- (f) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (g) 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.

- (h) 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.

**(55) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL 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 strata subdivision of all or part 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.

**(56) PARKING ON COMMON PROPERTY AREAS**

No part of the common areas within the car park, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats. Any strata subdivision of all or part of the building is to include an appropriate documentary restriction pursuant to Section 88B of the *Conveyancing Act 1919*, so burdening common property, with the Council being the authority to release, vary or modify the restriction.

**(57) REMOVAL OF UNDERGROUND STORAGE TANKS**

- (a) If removal of above ground 'UST 2' is decided, removal shall be undertaken in accordance with NSW Work-Cover requirements which includes writing to the Chief Inspector of Dangerous Goods and complying with any conditions imposed. The tank removal shall be conducted in accordance with the Australian Institute of Petroleum's Code of Practice "*The Removal and Disposal of Underground Petroleum Storage Tanks (AIP CP22-1994)* and AS4976-2008 *The removal and disposal of underground petroleum storage tanks*. In the event of conflict between the Code of Practice and NSW Work-Cover requirements, the latter shall prevail.

- (b) Prior to proposing removal of USTs, the City must be notified in writing and should be submitted with a construction environmental management plan in accordance to the Site Audit report prepared by AECOM, dated 4 February 2014, titled 'site audit report 115 Bathurst Street and 339 Pitt Street, Sydney, NSW' and the Site audit statement prepared by Brad Eismen from AECOM Australia Pty Ltd.

**(58) CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

Prior to the commencement of any demolition and remedial works an Construction Environmental Management Plan (EMP) must be prepared for the site and submitted to the City's Director City Planning, Development and Transport for written approval prior to the commencement of work. The EMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, noise and vibration, odours and dust emissions.

**(59) BASEMENT CONCRETE SLAB**

The current condition of the basement concrete slab must not be altered, damaged and or removed. The concrete must be left intact and maintain at all times during demolition, construction works as well post construction use of the site.

**(60) COMPLAINTS - NOISE**

Should noise complaint be received by Council from a place of different occupancy (including commercial premises) and the complaint being substantiated by a Council Officer, the use of area concerned must cease operation until "attenuation works" are carried out so as that the premises complies with the relevant Noise conditions.

**(61) COMPLIANCE WITH ACOUSTIC REPORT**

All recommendations contained in the amended acoustic report prepared by Kezia Lloyd, 2013, titled '339 Pitt Street and 115 Bathurst Street, Sydney, project no. ACG1309300, must be implemented during construction and use of the premises, including the following:

- (a) Prior to a Stage 1 Construction Certificate the applicant is to submit a detailed acoustic report in relation to the type of equipment that will be installed onsite (as mentioned in section 5) and as well as the acoustic requirements of the front of house and leisure areas (as outlined in section 4 of the report). The report is to be submitted to City's Health and Building Unit, North Area.



- (b) The Principal Certifying Authority (PCA) shall obtain a statement from appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants, certifying that the acoustic mitigation measures, design details as well as acoustic compliance criteria as detailed in section 3,4,5,6 and 7 in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied prior to issue of Occupational Certificate.

**(62) ACOUSTIC ASSESSMENT PRIOR TO OCCUPATION CERTIFICATE**

A statement is required to be submitted to the Certifying Authority prior to Occupation Certificate being issued that certifies the development or proposed use is capable of, complying with the design criteria and operating without causing a nuisance.

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

A site specific noise management plan shall be submitted to the Council for comment and approval prior to CC.

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

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

- (a) Identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the City of Sydney Construction Hours /Noise Code of Practice 1992 for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement (LA90, 15min) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has is and will be undertaken with Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.

- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

**(64) NOISE - GENERAL**

- (a) The emission of noise associated with the use of 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 LAeq,15minute noise level shall be adjusted for modifying factors in accordance with Part 4 of the Environmental Protection Authority (EPA) NSW Industrial Noise Policy.
  - (iii) 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.
- (b) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;
  - (i) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 - Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
  - (ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;

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

#### **(65) COMPLIANCE WITH AIR QUALITY REPORT**

The premises must comply with the requirements of the air quality report prepared by AECOM Australia Pty Ltd, dated 16 April 2013, titled ‘Cross City Tunnel Impacts on 115 Bathurst Street, Sydney’. Trim number: 2013/453008.

#### **(66) NO SPEAKERS OR MUSIC OUTSIDE**

Speakers must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

### **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.

**(67) ARCHIVAL DOCUMENTATION (MEASURED DRAWINGS)**

The archival recording of the 1965 building at 115-119 Bathurst Street Sydney should include accurate measured drawings of the following:

- (a) The building and the site as a whole including:
  - (i) Location Plan
  - (ii) Site Plan (1:500 or 1:200)
  - (iii) Floor Plan/s (1:100)
  - (iv) Roof Plan/s (1:100)
  - (v) Elevations and Sections (1:100)
- (b) Components of the building including the pre-cast concrete sun shades, pre-cast concrete cladding and glazing system at 1:10 or 1:5 scale, including detailed cross sections of the façade system
- (c) Measured drawings should be cross-referenced to each other, clearly titled, indicate scale, orientation and date of execution. The drawings can also be annotated or hatched to reveal more about the heritage significance of the site or object (e.g. to differentiate between dates of construction, materials and finishes and vegetation types). For further guidelines, refer to the NSW Heritage Office Heritage Information Series publication titled 'How to prepare Archival Records of Heritage Items'.
- (d) The measured drawings are to be submitted to and approved by Council prior to the issue of the Stage 1 Construction Certificate.

**(68) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MAJOR WORKS)**

Prior to the Stage 1 Construction Certificate being issued, an archival photographic recording of the building 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 and one copy is to be lodged with the NSW Heritage Branch, Department of Planning and Environment.

**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.

It is noted the first submission has already been satisfied. 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 an Occupation Certificate being issued.

The form of recording is to be a photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s) photographed, where appropriate, using a camera/lens capable of 'perspective correction'. The photographic recording may be in either digital or film-based form, or a combination of both, prepared in accordance with the NSW Heritage Office guidelines titled 'Photographic Recording of Heritage Items using Film or Digital Capture'. One copy of the record is to be submitted to Council to be lodged with Council's Archives **and one with the NSW Heritage Branch.**

- (a) For each of the two submissions listed above, 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.

**(69) SALVAGED MATERIALS TO BE RETAINED ON SITE**

Surviving early fabric displaced by the works is to be labelled and stored on site to facilitate future reinstatement. including wall tiles, doors, skiting boards, wainscot panelling and representative examples of bathroom fixtures and fitments. An inventory of stored items, the proposed storage location and the proposed method of reinstatement or reuse on the site must be submitted to and approved by Council prior to the issue of the Stage 2 Construction Certificate.

**(70) COMMEMORATIVE PLAQUE**

A commemorative plaque, recording the names of the developer, architect, consent authority and year of completion of construction must be installed on or within the building prior to occupation. The design, location and wording must be submitted to and approved by Council prior to an Occupation Certificate being issued.

**(71) DISPOSAL OF SURPLUS SALVAGED MATERIALS**

Salvaged traditional building materials surplus to the requirements of this project 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.

**(72) HISTORIC MARKER**

A brass plaque relating to the history of the site must be installed on the facade of the building prior to occupation. The design, location and wording must be submitted for the approval of Council prior to an Occupation Certificate being issued.

**(73) MATERIALS**

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

**(74) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)**

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

**(75) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – MINOR (ADDITIONS)**

A practising certified structural engineer is required to provide original structural certification to the Principal Certifying Authority certifying that the existing structure can adequately support the proposed new loads to comply with Structural Provisions Part B1 including performance provisions BP1.1 and BP1.2 of the *Building Code of Australia* and Australian Standards prior to the Stage 2 Construction Certificate being issued.

**(76) VERIFICATION OF SUPPORT FOR NEW LOADS**

- (a) For alterations and additions to an existing building, a certificate from a qualified practicing structural engineer (NPER) must be submitted to the PCA prior to the Stage 2 Construction Certificate being issued. The certificate must state that the existing structure is adequate to support the new loads and that the design will comply with the relevant Australian Standards adopted by the *Building Code of Australia*.
- (b) The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions **AS3826**.

**(77) CERTIFICATION OF GEOTECHNICAL INSPECTION**

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

**(78) GEOTECHNICAL REPORT AND CERTIFICATION**

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

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

- (a) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the whole building must comply with the deemed-to-satisfy provisions of the Building Code of Australia (BCA) and the following:
  - (i) Structural provisions - Part B1;
  - (ii) Fire resistance and stability - Part C1;
  - (iii) Compartmentation and separation - Part C2;
  - (iv) Protection of openings - Part C3;
  - (v) Provision for escape (access and egress) - Part D1;

- (vi) Construction of exits - Part D2;
  - (vii) Access for people with disabilities - Part D3;
  - (viii) Fire fighting equipment - Part E1;
  - (ix) Smoke hazard management - Part E2;
  - (x) Lift installation - Part E3;
  - (xi) Emergency lighting, exit signs and warning systems - Part E4;
  - (xii) Damp and weatherproofing - Part F1;
  - (xiii) Sanitary and other facilities - Part F2;
  - (xiv) Room sizes - Part F3;
  - (xv) Light and ventilation - Part F4;
  - (xvi) Sound transmission and insulation - Part F5;
  - (xvii) Energy Efficiency – Building fabric - Part J1;
  - (xviii) Energy Efficiency – External glazing - Part J2
  - (xix) Energy Efficiency – Building sealing - Part J3
  - (xx) Energy Efficiency – Air-conditioning and ventilation - Part J5
  - (xxi) Energy Efficiency – Artificial lighting and power - Part J6
  - (xxii) Energy Efficiency – Access for maintenance - Part J8
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the conditions listed above cannot be achieved, an alternate solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to the Stage 2 Construction Certificate being issued the Certifying Authority must ensure that the building complies with the Building Code of Australia.

**(80) 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.

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

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



**(82) LETTERBOXES**

All letterboxes are to be designed and constructed to be accessible from the public way. Details of the location and design of all letterboxes are to be submitted to and approved by Council prior to the Stage 3 Construction Certificate being issued.

**(83) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of a Stage 3 Construction Certificate. The plan must include:
- (i) Location of existing and proposed structures on the site;
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iii) Location, numbers and type of plant species;
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage and watering systems.
- (b) Prior to the issue of a Stage 3 Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

**(84) GREEN WALLS**

- (a) Prior to the issue of the Stage 3 Construction Certificate the following design details of the proposed green wall must be submitted to, and approved by Council:
- (i) Detailed drawings demonstrating how the green wall is constructed, including proposed materials, planter dimensions, and integration into the wall structure;
  - (i) Details of the proposed growing medium, including soil depth and method of soil temperature control;
  - (ii) Location, numbers, type and size of plant species;
  - (iii) Drainage, irrigation and waterproofing details (as applicable);
  - (iv) Details of a maintenance plan for the structure and planting, including how access to the planter boxes and soil will be provided;

- (b) The design of the green wall must demonstrate the response to site conditions, including in particular light availability and wind impacts.

**(85) PUBLIC ART**

- (a) High quality art work must be provided within the development in publicly accessible locations, including near main entrances, in lobbies and on street frontages, in accordance with the Sydney DCP 2012 and the Public Art Policy.
- (b) A public art strategy that nominates artists, artworks and potential locations must be submitted to and approved by the Director City Planning, Development and Transport prior to the Stage 3 Construction Certificate being issued. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

**(86) PUBLIC DOMAIN PLAN - MODIFICATIONS**

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

- (a) An amended, detailed Public Domain Plan must be prepared by an architect, urban designer, landscape architect or engineer to document all works required to ensure that the public domain complies with the City of Sydney's Public Domain Manual, Sydney Streets Design Code and Sydney Streets Technical Specification, including road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. The plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's Public Domain Manual) and must show the following information as a minimum:
  - (i) Paving material consistent with the Sydney Streets Design code. Please note the material shown on the Public Domain Plan submitted are inconsistent and will need to be changed.
- (b) The Public Domain Plan must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or above ground building work, whichever is later.
- (c) The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual and Sydney Streets Technical Specification. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

- (d) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (e) A Public Domain Works 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 Deposit 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.

#### **(87) BATHURST STREET PARKING BAYS**

- (a) The on-street parking bays along the developments Bathurst Street frontage are to be removed and the footway widened to match the remaining kerb alignment.
- (b) The design of the footway widening must have consideration of the following:
  - (i) Drainage implications of the works,
  - (ii) Provision of street trees within the widened footway,
  - (iii) Street lighting,
  - (iv) Relocation of existing street furniture,
  - (v) Impacts of the Cross City Tunnel, including the ventilation
- (c) The design and construction of the footway widenings shall be undertaken in accordance with the City's current technical specification and standard details for civil works and submitted concurrently with the Public Domain Plan. Detailed plans and construction specifications for the footway widenings shall be prepared, submitted to and approved by the Director City Planning, Development and Transport prior to the issue of the first Construction Certificate. The submission shall include but not be limited to the following information:

- (i) Detailed construction plans, drawn to scale by suitably qualified engineer, prepared and submitted concurrently with the Public Domain Plan. These plans shall be approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate. The plan must include:
  - a. Location of any existing service pits or drainage capture within the widened area
  - b. Details of proposed levels and gradients
  - c. Details of materials and finishes for the widening
  - d. Location and species of any street trees proposed
- (ii) Approval as required by the relevant traffic authorities (City of Sydney, Roads and Maritime Services, Transport for NSW, Local Pedestrian, Cycling and Traffic Calming Committee, Central Sydney Traffic and Transport Committee)
- (iii) All works in the approved plan is to be constructed prior to any Occupation Certificate being issued for the building.

**(88) FOOTPATH DAMAGE BANK GUARANTEE**

- (a) A Footpath Damage Bank Guarantee calculated on the basis of 180 lineal metres of the asphalt 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.
- (b) The guarantee must be lodged with Council prior to issue of the Stage 1 Construction Certificate.
- (c) 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.

**(89) ALIGNMENT LEVELS**

- (a) Prior to the Stage 1 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.

**(90) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER**

- (a) Prior to a Construction Certificate being issued for a new building work, excluding approved preparatory, demolition and shoring work, a set of hold points for approved public domain and civil construction work is to be determined with and approved by the City's Public Domain section in accordance with the City's Public Domain Manual.
- (b) Completion and handover of the constructed public domain works is to be undertaken in accordance with the City's Public Domain Manual, including requirements for as-built documentation, certification and defects liability period.

**(91) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN**

Prior to an approval for demolition being granted or the Stage 1 Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

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

The form of the recording is to be as follows:

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

**(92) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**

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

- (a) Prior to the Stage 1 Construction Certificate being issued, details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to the Stage 1 Construction Certificate being issued and prior to the commencement of any work within the public way.
- (c) The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted prior to the Stage 1 Construction Certificate being issued.
- (d) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.
- (e) A Positive Covenant must be registered on the title for all drainage systems involving On-site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.

**(93) PRESERVATION OF SURVEY MARKS**

- (a) 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.
- (b) Prior to the issue of the Stage 1 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.
- (c) 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.
- (d) 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).

**(94) 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".

**(95) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

- (a) The Construction Traffic Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Construction Traffic Management Plan must be submitted to and approved by Council prior to the Stage 1 Construction Certificate being issued.

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

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 580 George Street 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 the Stage 1 Construction Certificate.

**UPON COMPLETION OF EXCAVATION/DEMOLITION**

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

**(97) 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).

**(98) PROTECTION OF SURVEY INFRASTRUCTURE**

Prior to the commencement of any work on site, a statement prepared by a Surveyor registered under the Surveying Act 2002 must be submitted to Council verifying that a survey has been carried out in accordance with the Surveyor General's Direction No. 11 – Reservation of Survey Infrastructure. Any Permanent Marks proposed to be or have been destroyed must be replaced, and a "Plan of Survey Information" must be lodged at the Land and Property Management Authority.

Reason: To ensure that the survey control infrastructure and cadastral framework are preserved for the public benefit and in accordance with the Surveying Act 2002.

**(99) 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.

#### **(100) 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.

#### **(101) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the total lineal metres of the public frontage of concrete 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 the Stage 1 Construction Certificate.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

#### **(102) 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 the Stage 3 Construction Certificate being issued or the commencement of the use, whichever is earlier.

**(103) 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 the Stage 3 Construction Certificate being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

**(104) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

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

**(105) WASTE AND RECYCLING COLLECTION CONTRACT**

Prior to an Occupation Certificate being issued and/or commencement of the use, whichever is earlier, of the building the owner must ensure that there is a contract with a licenced contractor for the removal of **all trade waste**. No garbage is to be placed on the public way e.g. footpaths, roadways, plazas, and reserves at any time.

**(106) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**

- (a) A Waste Management Plan is to be approved by the Certifying Authority prior to the Stage 2 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.

**(107) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) A Waste Management Plan is to be submitted to and approved by Council prior to the Stage 2 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.
- (b) 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

- (c) 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.

**(108) WASTE MANAGEMENT FACILITIES**

Prior to the issue of the Stage 3 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,
- (c) the physical separation of residential waste from that generated by the commercial tenancies which is to be collected by a private contractor
- (d) a minimum vertical clearance of 3.8 metres (taking pipes, ducts etc. into account) and sufficient space to provide for a minimum turning radius of 10.5m, for all areas accessed by Council's waste collection vehicles.

**(109) CONSTRUCTION AND FITOUT OF FOOD PREMISES WITHIN HOTEL**

- (a) Detailed plans of the kitchen, bar and food preparation and storage areas must be prepared by a suitably qualified person and certified in accordance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* and AS 4674 - Design, Construction and Fitout of Food Premises.

- (b) The construction, fitout and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* and AS 4674 - Design, Construction and Fitout of Food Premises.
- (c) Provision must be made for the installation of adequate mechanical exhaust for any future premises where food is to be prepared.
- (d) The cooking appliances require an approved air handling system designed in accordance with AS1668.1-1998 and AS1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia. No approval is granted for the burning of wood fired fuel.
- (e) Cooking must not commence until an air handling system, in accordance with the BCA is installed and operational.
- (f) The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste.
- (g) The floor must be coved at the intersection with the walls.
- (h) The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other rigid, smooth-faced impervious material.
- (i) Ceilings within the food preparation and storage areas must be free of gaps and open joints and must be finished with an impervious sealed material. Drop in panels are not permitted in food preparation areas, food storage areas or areas where open food is displayed or served.
- (j) Hand wash basin/s, with hot and cold running water mixed through a common spout, hand wash soap and hand drying facilities must be provided in all food preparation bar areas, and toilets used by food handlers and must be no further than 5m travel distance from a place where a food handler is handling food. All taps to hand wash basins must be hands free. (For example: sensor taps, knee operated taps or foot pedal taps). Liquid soap and paper towel dispensers or other hand drying facilities must be located next to and in close proximity to the hand wash basin.
- (k) A double bowl sink or two compartment tub (the capacity of which must be capable of fitting all food contact equipment) must be provided in the food preparation area, in addition to the hand basin,

OR

A single bowl sink and a dishwasher must be provided in the food preparation or designated area, (where all the food contact equipment will fit in the dishwasher) in addition to the hand basin.

- (l) A separate and dedicated food preparation sink is to be provided within the food premises where foods are prepared by immersion in water.

- (m) A cleaners' sink for the purpose of cleaning floor mops and other cleaning equipment must be provided within the premises, preferably in the garbage room or separate from the food preparation and storage area.
- (n) The appliances used to store potentially hazardous food must have a capacity to keep food hotter than 60°C or colder than 5°C and be provided with a thermometer, accurate to 1°C and which can be easily read from outside the appliance.
- (o) All food is to be transported, stored and displayed in a manner that protects the food from likely contamination in accordance with the provisions of Standard 3.2.2 of the *Food Standards Code* under the *Food Act 2003*.
- (p) All unpackaged ready to eat food for self service must be provided and maintained with protective barriers and have separate serving utensils, in accordance with Standard 3.2.2 of the *Food Standards Code* under the *Food Act 2003*.
- (q) The sanitary facilities must be separated from all food handling areas via an airlock, self-closing door or mechanical ventilation in accordance with the provisions of the *Building Code of Australia*, Part F 3.1, 4.8 and 4.9.
- (r) Clothing lockers or change rooms for male and female staff must be provided in the premises in a separate location to the food handling and storage areas.
- (s) To ensure the adequate storage and collection of waste from the occupation or the use of the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with AS 4674 – Design, Construction and Fitout of Food Premises, and must be:
  - (i) Provided with a hose tap connected to the water supply;
  - (ii) Paved with impervious floor materials;
  - (iii) Coved at the intersection of the floor and walls;
  - (iv) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);
  - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
  - (vi) Fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.

Detailed plans and specifications for the construction of the waste storage area are to be submitted to the Certifying Authority with the Stage 2 Construction Certificate.

- (t) Cool room(s), refrigerated chambers and strong-rooms are to be constructed in accordance with G 1.2 of the Building Code of Australia.
  - (i) The floor of the coolroom must be graded to the door and a floor trapped waste outlet must be located outside the coolroom as near as possible to the door opening.
  - (ii) All proposed shelving in the coolroom must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.
  - (iii) The floor of the coolroom must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and covered at the intersections with the walls to a minimum radius of 25mm.
  - (iv) A door which can be opened at all times from inside without a key.
- (u) An approved audible alarm device must be located outside the coolroom(s) but controllable only from within the coolroom(s) and be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 d B (A) when measured 3 metres from the sounding device.
- (v) All service pipes, electrical conduits, refrigeration condensate pipes and the like must be chased into walls and floors or at least 25mm off the wall.
- (w) All openings in walls, floors and ceilings, through which service pipes pass, must be vermin proof.
- (x) Where fittings are butt joined together they must be sealed to eliminate any cavities or crevices. Alternatively, a clear space of at least 75mm is to be provided between fittings.
- (y) The following requirements apply to clearances and supports of equipment:
  - (i) All stoves, refrigerators, cupboards and similar fittings must have metal legs made of non corrosive metal or moulded plastic at a minimum height of 150mm above the floor. If placed flush on solid plinths the solid plinth is to be a minimum of 75 mm high.
  - (ii) All shelving must be fixed 25mm clear of the walls on solid metal brackets.
- (z) A grease trap (if required by Sydney Water) must not be installed in any kitchen, food preparation or food storage area. The grease trap room must have a piped connection to the boundary so that it can be emptied. Note: Sydney Water Authority also have requirements for grease arrestors that you need to comply with.

Note: Copies of AS 4674-2004 may be obtained from the Standards Australia Customer Service on telephone 1300 65 46 46 or by visiting the website [www.standards.com.au](http://www.standards.com.au).

Copies of the Food Standards Code (Australia) may be obtained by contacting the Food Standards Australia and New Zealand Authority on telephone (02) 6271 2222, email [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au) or by visiting the website [www.foodstandards.gov.au](http://www.foodstandards.gov.au).

#### **(110) HOT WATER SUPPLY**

The capacity of the hot water service must ensure a constant supply of hot water is provided to the premises at all times for all sinks and basins including hand wash basin/s. Hot water must be available at all sinks and hand wash basin without unnecessary delay. The temperature of the hot water provided to the double bowl sink must be a minimum of 77°C if hot water is being used as a sanitiser. Alternatively chemical sanitiser must be provided and used at all times.

#### **(111) FOOD STORAGE WITHIN HOTEL**

- (a) All food and drink storage areas are to comply with the requirements of Food Standard Code 3.2.3 including the construction and finishes applied to floors, walls and ceilings.
- (b) Food and drink are not to be stored in any unauthorised areas, including but not limited to, garbage areas, toilet areas/airlocks and remote areas.

#### **(112) FOOD PREMISES DATA BASE**

Prior to an Occupation Certificate being issued, Council's Environmental Health Unit must be notified that the premises is being used for the preparation, manufacture or storage of food for sale so that the premises can be registered on Council's food premises database.

#### **(113) NOTIFY NSW FOOD AUTHORITY**

Prior to the commencement of food handling operations, the food business must notify the NSW Food Authority of the following information including:

- (a) Contact details for the food business, including the name and address of the business and the proprietor of the business.
- (b) The nature of the food business.
- (c) The location of any other food premises associated with the food business, within the jurisdiction of NSW Health.

You may notify the NSW Food Authority via the Internet on [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or by contacting the Council for a notification form. Failure to notify the NSW Food Authority may result in a penalty not exceeding \$2,750.

**(114) WASTE AND RECYCLING COLLECTION CONTRACT**

Prior to any Occupation Certificate being issued and/or commencement of the use, whichever is earlier, of the building the owner must ensure that there is a contract with a licensed contractor for the removal of **all trade waste**. No garbage is to be placed on the public way e.g. footpaths, roadways, plazas, and reserves at any time.

**(115) 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 the Stage 2 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.
- (d) The burning of charcoal, wood fired fuel or other solid fuel shall not be carried out on the premises, without prior approval from Council.

**(116) EMISSIONS**

The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.

**(117) NOISE - MECHANICAL PLANT AND EQUIPMENT**

Noise associated with the use of mechanical plant and equipment must not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver.
- (b) A sound pressure level at the boundary of any affected receiver that exceeds the background ( $L_{A90, 15\text{minutes}}$ ) noise level by more than 5dB. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS1055.

Note: The method of measurement of vibration being carried out in accordance with "assessing Vibration; Technical Guidelines" - DEC (EPA) AS1055 for sound level measurements.



**(118) CAR PARK VENTILATION**

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

**(119) CONTINUED PERFORMANCE OF MECHANICAL VENTILATION**

The required operation and performance of any mechanical ventilation, air pressurisation or other smoke control system must not be impaired by the proposed partitioning layout.

**(120) 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.

**(121) EMISSIONS**

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the Protection of the Environment Operations Act, 1997 and Regulations. Uses that produce airborne particulate matter must incorporate a dust collection system.

**(122) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with WorkCover NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, WorkCover must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.

- (c) All works must be carried out in accordance with the Work Health and Safety Regulation 2011 and the NSW Government and WorkCover document entitled How to Safely Remove Asbestos, Code of Practice and the City of Sydney Asbestos Policy.
- (d) 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.

### **(123) 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.

#### **(124) EMISSIONS**

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the Protection of the Environment Operations Act, 1997 and Regulations. Uses that produce airborne particulate matter must incorporate a dust collection system.

#### **(125) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Workcover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, Workcover must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the Work Health and Safety Regulation 2011 and the NSW Government and Workcover document entitled How to Safely Remove Asbestos, Code of Practice and the City of Sydney Asbestos Policy.
- (d) 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.

#### **(126) 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.

**SCHEDULE 1C****During Construction/Prior to Occupation/Completion****(127) 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.

**(128) BASIX**

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

**(129) 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.

**(130) EROSION AND SEDIMENT CONTROL - MORE THAN 2,500SQM**

Prior to the commencement of any works on site, including, but not limited to demolition, excavation or construction work, a Soil and Water Management Plan (SWMP) must be submitted to and be approved by the Principal Certifying Authority.

- (a) The SWMP must identify and respond to all items for Erosion and Sediment Control Plans listed in the condition above, as well as:
  - (i) existing site contours;
  - (ii) location and diagrammatic representation of all necessary erosion and sediment control systems or structures used to mitigate or prevent pollution to stormwater;

- (b) Location and engineering details with supporting design calculations for all necessary sediment basins, constructed wetlands, gross pollutant traps, trash racks or biofiltration swales (as relevant).

### **(131) 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.*

### **(132) 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 Stage 1 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.

### **(133) 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.

### **(134) 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.

**(135) 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.

**(136) 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](http://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.

**(137) 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.

**(138) 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.

**(139) 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.

**(140) 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.

**(141) 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.

**(142) 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.

**(143) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(144) 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.

**(145) 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*.

#### **(146) 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.

#### **SCHEDULE 2**

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

#### **SCHEDULE 3**

##### **Terms of Approval**

##### **Other Integrated Development Approvals**

The Terms of Approval for Integrated Development as advised by the NSW Heritage Council are as follows:

1. All work shall be carried out in accordance with the following documentation:
  - (a) Drawings:
    - (i) DA-2000 EXISTING & DEMOLITION BASEMENT 1 - HOTEL 02;
    - (ii) DA-2001 EXISTING & DEMOLITION LEVEL 00 - HOTEL 02;
    - (iii) DA-2002 EXISTING & DEMOLITION LEVEL MEZZANINE - HOTEL 02;
    - (iv) DA-2003 EXISTING & DEMOLITION LEVEL 01 - HOTEL 02;

- (v) DA-2004 EXISTING & DEMOLITION LEVEL 02 - HOTEL 02;
  - (vi) DA-2005 EXISTING & DEMOLITION LEVEL 03 - HOTEL 02;
  - (vii) DA-2007 EXISTING & DEMOLITION LEVEL 04 - HOTEL 02;
  - (viii) DA-2008 EXISTING & DEMOLITION LEVEL 06 - HOTEL 02;
  - (ix) DA-2009 EXISTING & DEMOLITION ROOFTOP - HOTEL 02;
  - (x) DA-3005 PITT ST ELEVATION - PODIUM 03;
  - (xi) DA-3105 SECTION EE 03;
  - (xii) DA-3106 SECTION FF 03;
  - (xiii) DA-3107 SECTION GG 01;
  - (xiv) DA-3108 SECTION HH 01;
  - (xv) DA-5001 HOTEL GFA PLANS 01;
  - (xvi) DA-6000 HERITAGE PLAN BASEMENT - HOTEL 02;
  - (xvii) DA-6001 HERITAGE PLAN LEVEL 00 - HOTEL 02;
  - (xviii) DA-6002 HERITAGE PLAN MEZZANINE - HOTEL 02;
  - (xix) DA-6003 HERITAGE PLAN LEVEL 01 – HOTEL 02;
  - (xx) DA-6004 HERITAGE PLAN LEVEL 02 - HOTEL 02;
  - (xxi) DA-6005 HERITAGE PLAN LEVEL 03 - HOTEL 02;
  - (xxii) DA-6006 HERITAGE PLAN LEVEL 04 - HOTEL 02;
  - (xxiii) DA-6007 HERITAGE PLAN LEVEL 05 - HOTEL 02;
  - (xxiv) DA-6008 HERITAGE PLAN LEVEL 06 - HOTEL 02;
  - (xxv) DA-6009 HERITAGE PLAN ROOF - HOTEL 02;
  - (xxvi) DA-6010 HERITAGE PLAN DETAIL BASEMENT - HOTEL 02;
  - (xxvii) DA-6011 HERITAGE ELEVATION DETAIL BASEMENT - HOTEL 02;
  - (xxviii) DA-6012 HERITAGE SECTION DETAIL BASEMENT – HOTEL 02;  
and
  - (xxix) DA-6013 HERITAGE ELEVATION DETAIL WILMOT STREET - HOTEL 02.
- (b) Woods Bagot Design Report dated 22 November 2013 as amended to replace page 52 with revised pages 52, replace page 60 with revised page 62;

- (c) Statement of Heritage Impact dated November 2013 prepared by Graham Brooks & Associates; and
- (d) Statement of Environmental Effects dated November 2013 prepared by JBA Planning Consultants.

EXCEPT AS AMENDED by the following conditions:

2. Changes to basement level as identified by revised drawing titled page 45 of Woods Bagot Design Report are subject to further information being submitted to the satisfaction of the Director, Heritage Division as part of the section 60 application;
3. The proposed cantilever of the building envelope of the new tower over the northern side of the 1939 Building is approved only if the cantilever is self-supporting and its structural integrity is not based on demolition of any part of the 1939 Building;
4. The separation between the bottom of the cantilever of the new building and the top of the highest point of the 1939 building must be at least 12500mm. Details of how this will be achieved shall be submitted with the Stage 2 Section 60 Application and approved prior to a construction certificate being issued;
5. Approval for the 1965 building is contingent upon approval and implementation of substantial refurbishment works to the 1939 Building at 339-341 Pitt Street, to be detailed and formalised as part of Stage 2 Section 60 application. The refurbishment works would include but not be restricted to the reinstatement of the two-storey Ratings Chamber and the restoration of the building's facades to Pitt Street and Willmot Street. These works shall be completed prior to the issue of occupation certificate for the proposed building on 115-123 Bathurst Street, Sydney to the satisfaction of the Heritage Council or its delegate;
6. This approval does not include any subdivision and is based on an understanding that both the buildings will be retained by one owner. This approval should not be construed in any way to mean that a subdivision will be possible at a later date. A separate application will need to be submitted if a subdivision is proposed at a later date that will be considered on its own merits;
7. Removal of relics of state significance is not approved. Parts of the proposed development may need design changes or even deletion, if required, to avoid removal of archaeological relics of state significance. If any significant archaeological relics are found during the construction, the work must be stopped immediately and the Heritage Division, Office of Environment and Heritage be informed; and
8. An application under section 60 of the NSW Heritage Act must be submitted and approved by the NSW Heritage Council prior to work commencing.

## BACKGROUND

### The Site and Surrounding Development

1. The site is commonly known as the Sydney Water Board site and has an area of approximately 3969sqm. It is bounded by Bathurst, Pitt and Wilmot Streets with street frontages of 52 metres, 76 metres and 49 metres respectively. The site slopes slightly from north to south with a total cross fall of approximately 3.5 metres.
2. The site incorporates two existing commercial buildings being a vacant 27 storey tower building dating from 1965 on the northern portion of the site and a vacant 7 storey state heritage listed building dating from 1939 on the southern portion of the site. The buildings are internally linked at the two lower levels and the basement level. Vehicular access to the site is currently provided via a loading dock from Bathurst Street and an entrance to the basement car parks beneath both buildings from Wilmot Street.
3. The site is surrounded by multi-storey buildings containing predominantly commercial and residential uses. The 'Rialto' building immediately north of the site across Bathurst Street contains serviced apartments on the upper levels with retail shops at ground floor level. Adjacent to this building and to the north west of the subject site is a commercial office building occupied by Ausgrid.
4. To the immediate west of the subject site and occupying the remainder of the block bound by Pitt, Bathurst, George and Wilmot Streets is 580 George Street known as the 'HSBC building' and containing offices at the upper levels and retail at the lower levels. Century Tower, a residential building, with a lower heritage building on the corner of Wilmot and Pitt Streets, is located on the southern side of Wilmot Street. The heritage listed Edinburgh Castle Hotel is located on the south-eastern corner of the intersection of Bathurst and Pitt Streets with the 'Metro' and 'Princeton' apartment buildings further to the south.
5. A plan showing the site location and surrounding properties is provided below.

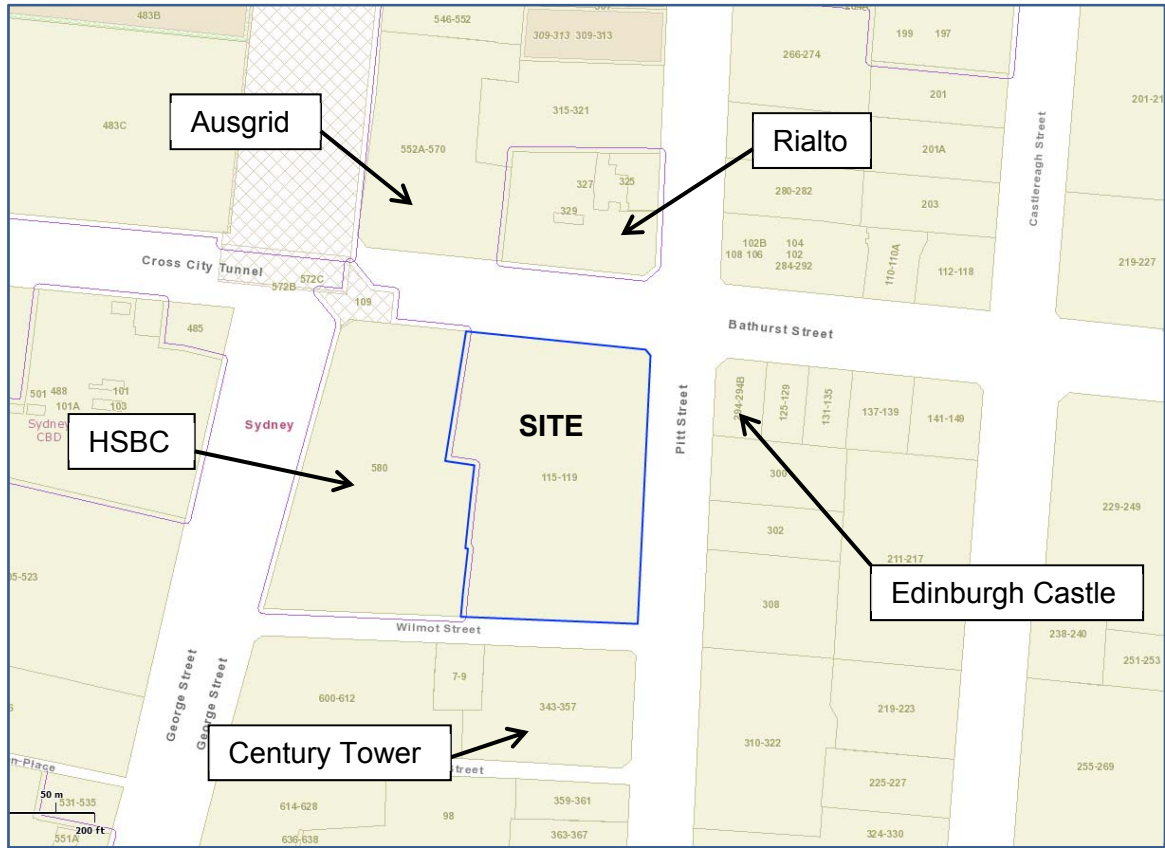


Figure 1: Location Plan

6. Photographs of the site are provided below.

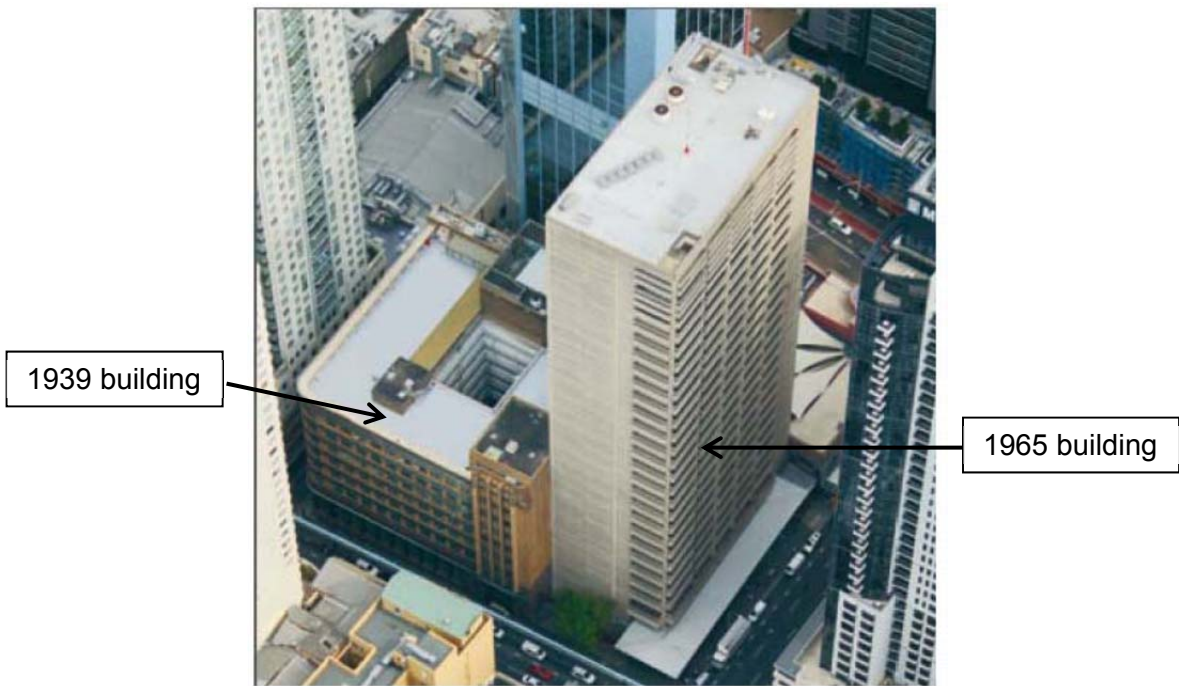


Figure 2: Aerial view of subject site



**Figure 3: Looking west along Bathurst Street towards the subject site**



**Figure 4: The eastern facade of the 1965 building**



Figure 5: The 1939 building on the southern portion of the site



Figure 6: Site viewed from the corner of George and Bathurst Streets



Figure 7: Corner of George and Bathurst Streets

## PROPOSAL

7. The proposal seeks consent for the following:

- (a) **Adaptive use of the 1939 building as a hotel including**
  - (i) 173 hotel rooms;
  - (ii) 13,970sqm of gross floor area;
  - (iii) partial removal of unsympathetic elements including internal walls and ground level link to 1965 building;
  - (iv) reconstruction of former Ratings Chamber and mezzanine;
  - (v) reinterpretation of the northern facade;
  - (vi) reinstallation of historical skylights;
  - (vii) a gym;
  - (viii) rooftop facilities including restaurant, bar and pool; and
  - (ix) ground floor restaurant and café.



- (b) **Redevelopment of the 1965 building as a mixed use development including**
- (i) partial demolition of the existing commercial office tower including removal of the facades and reconfiguration of the building core;
  - (ii) construction of a 67 storey tower with a height of 235m, 49,153sqm of gross floor area and 490 residential apartments;
  - (iii) public domain improvements including provision of laneways / pedestrian thoroughfares, ground floor retail uses and public art;
  - (iv) landscaping works on the ground plane and level 9 terrace;
  - (v) provision of above-ground car parking on levels 2-8;
  - (vi) active uses on the eastern and northern sides of levels 2-8 including communal residents facilities on levels 7-8 and a 'creative hub' on levels 2-6; and
  - (vii) extension and augmentation of physical infrastructure and utilities as needed.
8. It is proposed to retain the existing three basement levels beneath both buildings and the associated access from Wilmot Street as well as to provide above-ground car parking on levels 2-8 of the 1965 building. A total of 267 car parking spaces will be provided.
9. The creative hub will provide space for Sydney's creative sector in the form of rehearsal spaces and studios and would grant tenancy rights to the City for the use of the creative hub for a 99 year term. The applicant has offered to enter into a Voluntary Planning Agreement (VPA) with Council to secure the public benefits associated with the 'creative hub'. At the time of writing, VPA had been placed on public exhibition.
10. Part of the creative hub will 'overhang' the corner of Pitt and Bathurst Streets on levels 2-4 of the building. The extent of this overhang will project up to 2m from the building facade and will provide and provide 112sqm of additional floorspace to the development.
11. Selected plans and photomontages of the building are provided below:



Figure 8: Corner of Pitt and Bathurst Streets

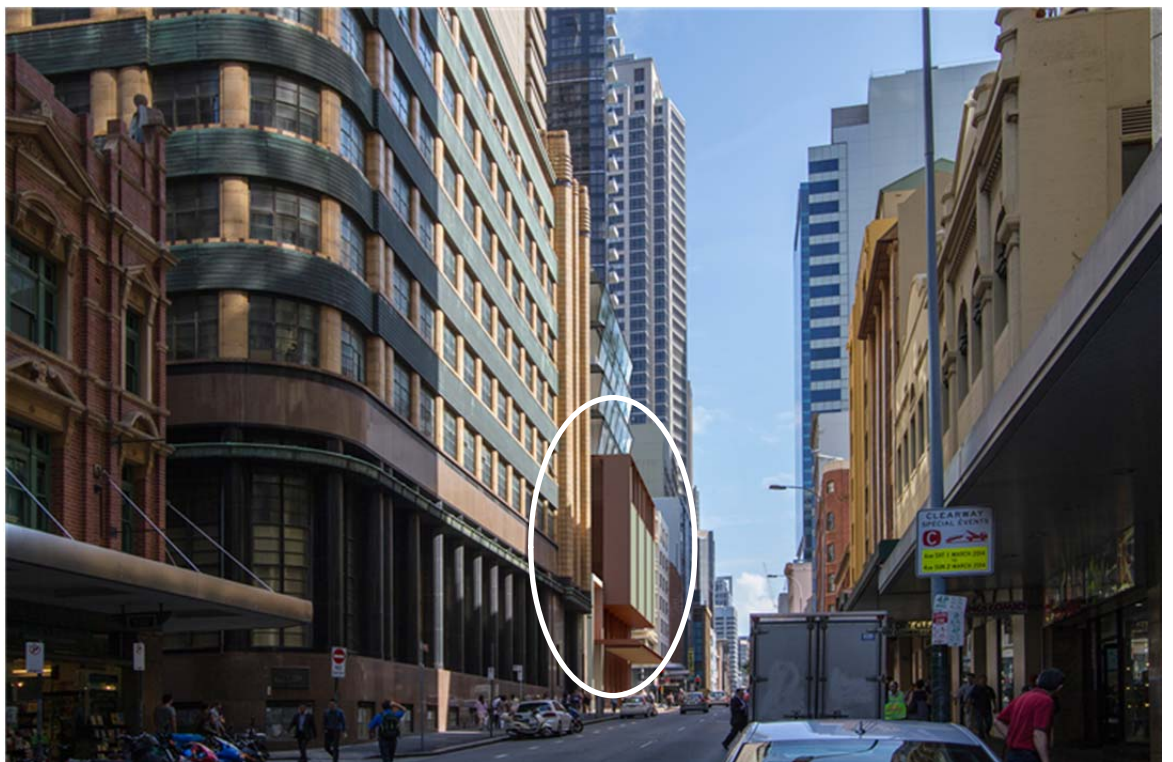


Figure 9: Looking north down Pitt Street showing creative hub 'overhang'



Figure 10: Proposed interface between 1939 and 1965 buildings at ground floor level

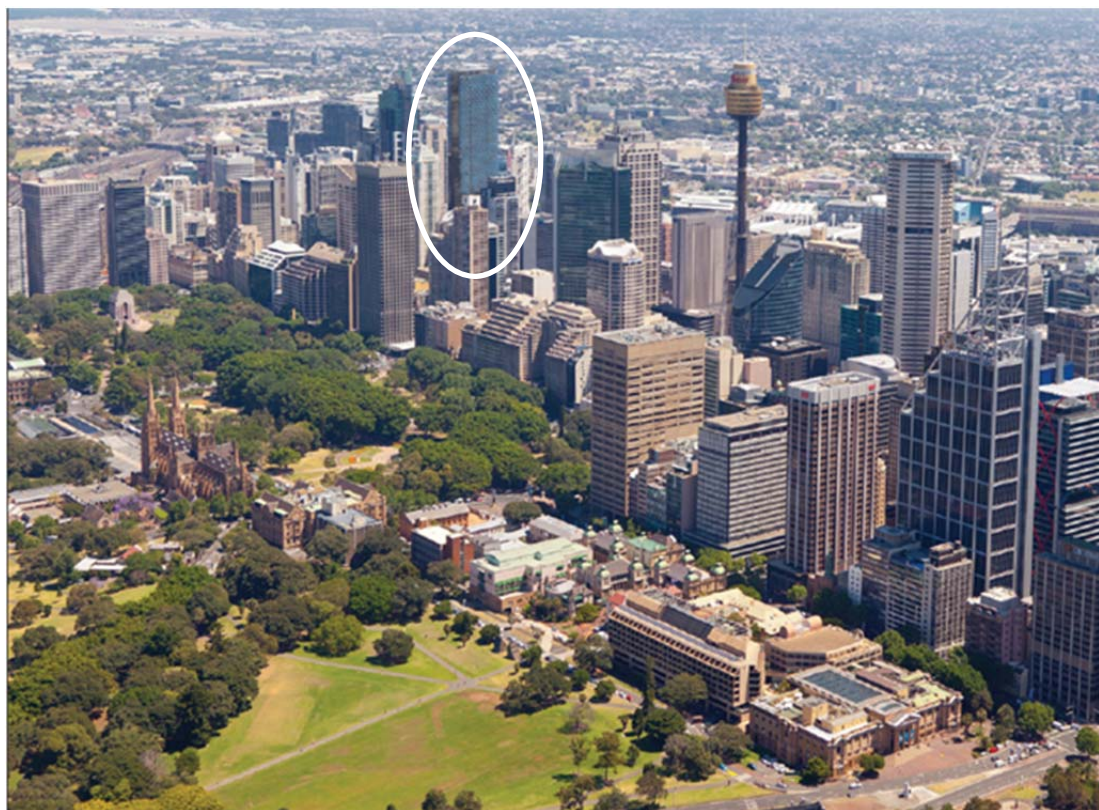


Figure 11: Proposed aerial view looking south west



**Figure 12: View from corner of George and Bathurst Streets**

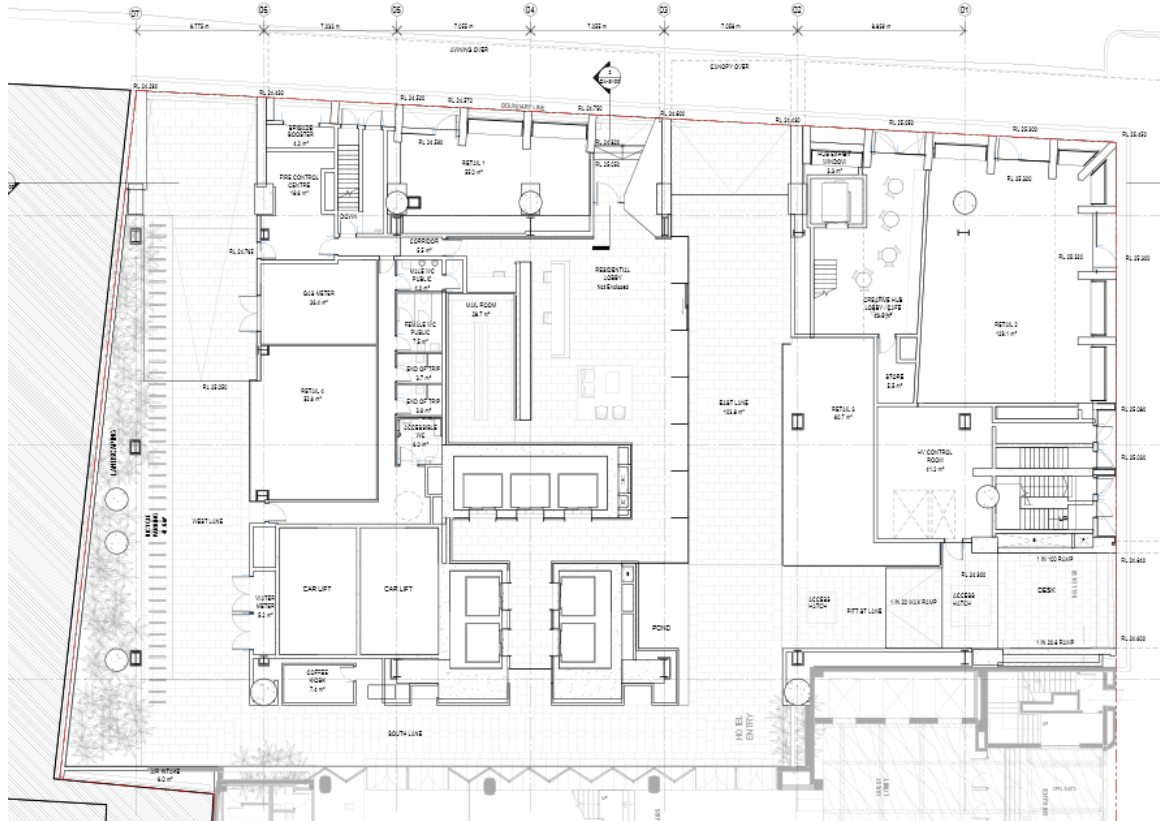


Figure 13: Proposed ground floor of northern portion of site

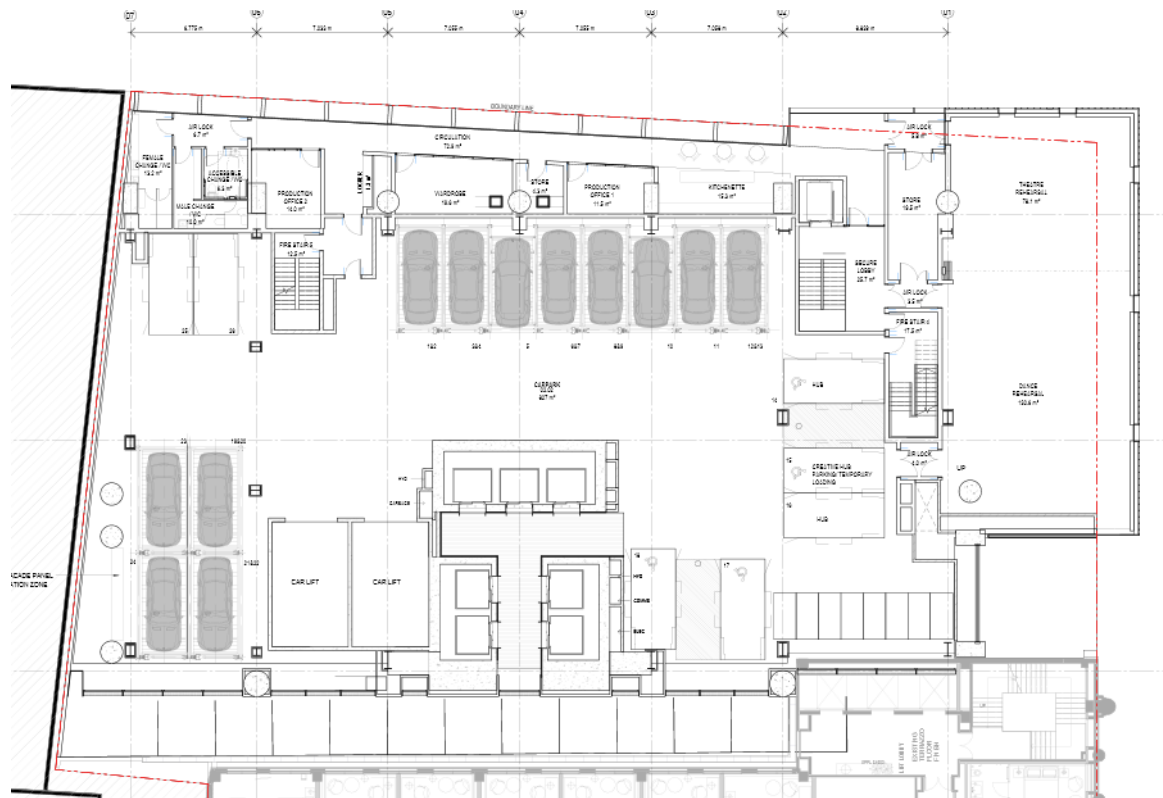


Figure 14: Typical creative hub floor level with upper level car parking

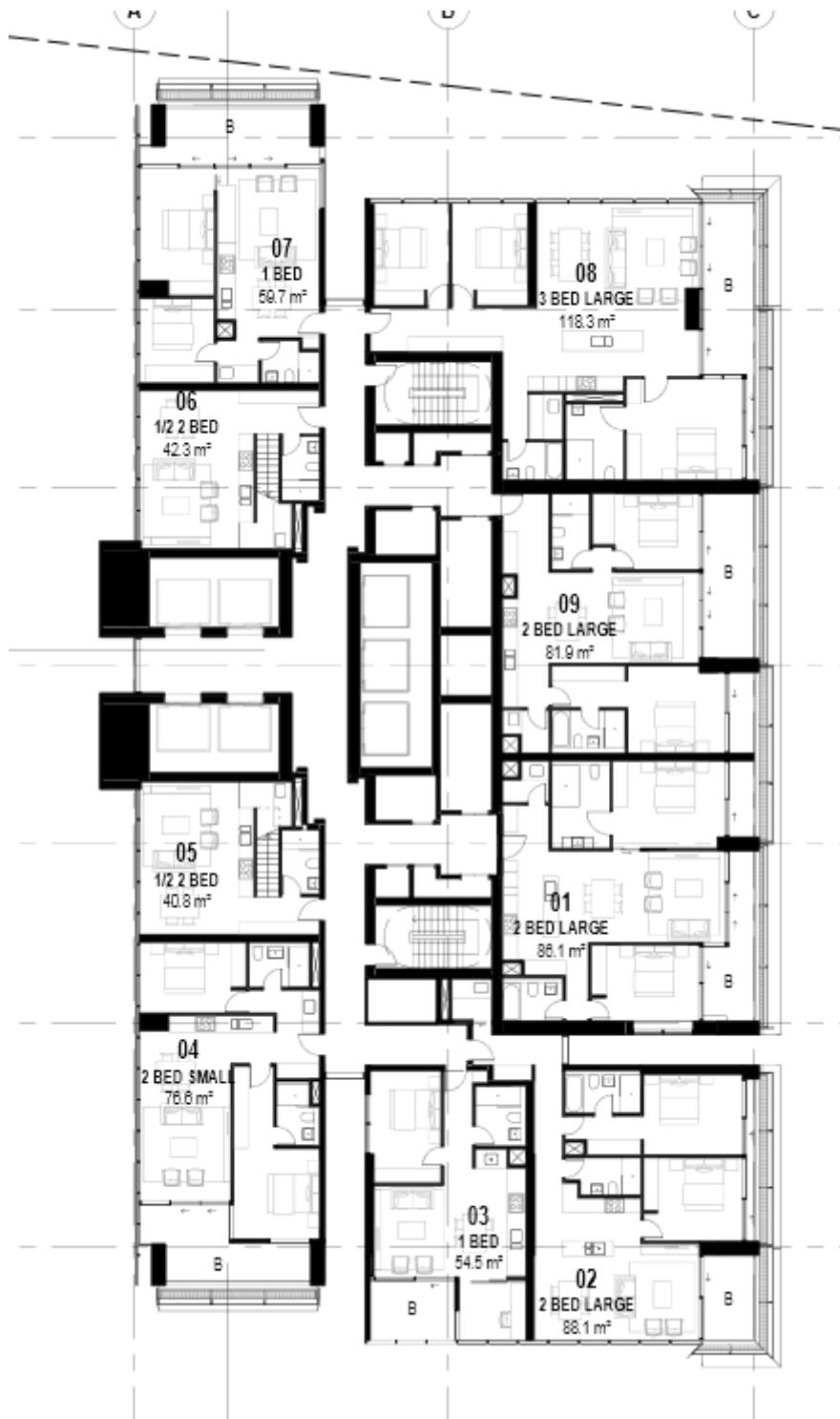


Figure 15: Typical residential floor

## HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

### Previous Applications

12. Application D/2008/703 was given deferred commencement consent on 22 June 2009 (and became an operational consent on 22 June 2010) for a *'Stage 1 building envelope for future commercial building with ground level retail'*. This was for a building of 168.6m (approximately 38 levels) with a FSR of 12.5:1. This consent lapses on 22 June 2015 and has not been activated.
13. Application D/2008/979 was granted on 7 May 2009 for *'Extension, alteration and refurbishment of existing 1939 heritage listed Sydney Water building'*. The approval was for an additional floor on the rooftop of the existing building including a number of other changes to refurbish the item. Some of the significant works include those to the Ratings Chamber and restoration of the building's facades. This consent has yet to commence and is due to lapse on 7 May 2014.
14. Application D/2008/979/A to modify the above application was granted on 14 June 2012 including *'removal of approved new rooftop level, deletion of fourth lift, demolition of existing links between the 1939 heritage listed Sydney Water building and the adjacent tower and erection of new temporary facades to the lower parts of the heritage building (north elevation) and the tower (south elevation)'*.
15. Application D/2009/1539 for *'Subdivision of the site, former Sydney Water offices, into a two lot subdivision'* (essentially being the 1939 heritage building on one lot and the balance being on the other lot) was withdrawn on 16 November 2011.
16. Application D/2011/452 was given deferred commencement consent on 22 September 2011 for *'Stage 1 DA for a mixed retail/commercial/residential building envelope with a maximum building height of 235m, including new pedestrian laneways and car parking within 11 basement levels'*. This was for a building of 235m (approximately 65 levels) with a FSR of 13.49:1. This consent lapses on 22 September 2016 and has not been activated.

### Demolition Applications

17. Application D/2013/1350 was granted on 14 November 2013 for *'Internal demolition works within existing 1965 commercial office tower including removal of floor and wall finishes, non-load-bearing wall structures and ceilings and disconnection and partial removal of services'*.
18. Application D/2013/1452 was also granted on 14 November for *'Internal demolition works within existing heritage building including removal of mezzanine, escalators, basement ceiling, removal of louvres within lightwell, removal of hazardous materials and disconnection and removal of services'*. Some works were also undertaken to the 1939 building without the requirement for development consent.

### Marketing Suite Application

19. Application D/2013/1012 was granted on 28 August 2013 to *'Use part of ground floor of building fronting Bathurst Street as a temporary information/marketing suite and associated works and signage'* That application has subsequently been amended twice.

Stage 1 Approval

20. Application D/2013/554 was granted on 5 November 2013 for 'Stage 1 DA for a mixed retail/commercial/residential/hotel development'. The proposal included concept plan approval for the adaptive re-use of the existing 1939 heritage listed Sydney Water building as a hotel and partial demolition and redevelopment of the adjacent building for retail/commercial/residential uses with a maximum building height of 235m. Selected photomontages of this scheme are provided below:



**Figure 16: Photomontage of tower form looking north along Pitt Street**



**Figure 17: Photomontage of tower form looking south-east from the corner of Bathurst and George Streets**





**Figure 18: Photomontage of tower form looking west along Bathurst Street**



**Figure 19: Photomontage of tower form from George Street**

21. The subject application relies on the Stage 1 approval. A modification to that application has also been lodged and is being presented as a separate report for consideration.
22. The changes proposed in the modification application are to amend the approved building envelope including moving the high rise part of the proposed tower (levels 25-66) such that it will move some 3.7m to the east towards Pitt Street and to include the proposed overhang to Pitt and Bathurst Streets. It is also proposed to amend and/or delete a number of conditions of consent as the detailed design of the scheme has developed.

#### Design Competition

23. Following approval of the Stage 1 application, an 'invited' competitive design process was undertaken in October 2013. The six selected entrants were:
  - (a) Aedas;
  - (b) Architectus;
  - (c) BVN Donovan Hill;
  - (d) Fender Katsalidis Associates;
  - (e) GMP; and
  - (f) Hassell.

24. After the process, BVN Donovan Hill were nominated as the successful entrant on the basis that their scheme best fulfilled the terms of the brief and its design, commercial and planning objectives.

#### **CITY OF SYDNEY ACT 1988**

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

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

- (1) The Planning Committee must consult the CSTTC before it exercises a function under Part 4 that will result in the making of a decision that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.*
  - (2) The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.*
  - (3) The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.*
  - (4) The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee."*
26. The City's delegate, the Director City Planning, Development and Transport considers that the proposal will not have a significant impact on traffic and transport in the CBD, and formal consideration by the CSTTC is not necessary.

#### **ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

27. 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.

#### **State Environmental Planning Policy No 55—Remediation of Land**

28. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

29. Throughout consideration of the recent applications considered for the site, a number of reports have been prepared and submitted in relation to contamination. This information has been consolidated in a final Site Audit Statement which has been considered by Council's Health Unit.
30. They have advised that subject to conditions, the site can be made suitable for the proposed use. It is noted that no excavation is proposed and the existing basement levels will be retained as existing and utilised in the new development.

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

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

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

The site is located in a CBD context with other large buildings within close proximity of it. The proposed building envelope is consistent with the maximum height control in the Sydney LEP 2012 and the required street frontage height controls in the Sydney DCP 2012. Whilst it does not comply with the required building setbacks, these were considered acceptable for the reasons noted in the report associated with the Stage 1 application and the Section 96 report on this agenda.

(b) **Principle 4: Density**

The proposed building does not comply with the maximum FSR control for the site. This is discussed in more detail elsewhere in the report.

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

A BASIX report has been lodged with the application. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

(d) **Principle 6: Landscape**

The proposed building footprint is constructed to the site boundaries, apart from where new laneways are proposed. Accordingly, there is no at grade landscaped area. This is considered acceptable in this CBD context.

(e) **Principle 7: Amenity**

Although the development broadly complies with this objective, there are a number of non-compliances with Sydney Development Control Plan 2012 (DCP) provisions relating to amenity. These are discussed elsewhere in the report.

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

It is considered that the development has been designed to take account of CPTED principles. Although the laneways proposed at the ground floor level will not be fronted entirely by active uses, it is considered that the activity at this level has been maximised as much as practicable.

(g) **Principle 9: Social Dimensions and housing affordability**

Although the development will provide a mix of apartment types, it does not comply with the required percentage ranges in the DCP. Refer to further discussion under 'Apartment Size and Mix' below.

(h) **Principle 10: Aesthetics**

The proposed development was a winning scheme in the 'invited' competitive design process and is considered to be of a high quality.

32. 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.

33. Clause 30 of SEPP 65 requires consideration of the *Residential Flat Design Code* which provides additional detail and guidance for applying the design quality principles outlined in SEPP 65 including issues such as cross-ventilation, sun access and apartment size. Non-compliances are discussed in detail under 'Apartments' below.

### **State Environmental Planning Policy (Infrastructure) 2007**

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

#### Clause 88

35. The application is subject to Clause 88 of the SEPP as the site is situated above an interim corridor for both the CBD Rail Link and the CBD Metro. In accordance with Clause 88, the application was referred to Transport for NSW (TfNSW) for comment.

36. TfNSW have offered no objections to the proposal but have requested the imposition of a number of conditions which are included in the recommendation. This includes the requirement for the applicant to enter into a deed with TfNSW to address the adverse effects of the approved development on the CBD Metro

#### Clause 104

37. The application is also subject to Clause 104 of the SEPP as the proposed development will provide over 300 dwellings. In accordance with Clause 104, the application was referred to Roads and Maritime Services for comment.

38. A response was received on 15 January 2014 raising no objection and advised that the proposed development would not have a significant traffic impact on the classified road network. A number of advisory conditions have been provided which are included in the recommendation.

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

39. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
40. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
  - (a) protect and improve hydrological, ecological and geomorphologic processes;
  - (b) consider cumulative impacts of development within the catchment;
  - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;
  - (d) protect and rehabilitate riparian corridors and remnant vegetation.
41. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.
42. The development is consistent with the controls contained with the deemed SEPP.

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

43. BASIX Certificates have been submitted with the development application.
44. 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 certificates are implemented.

**Sydney LEP 2012**

45. The site is located within the B8 – Metropolitan Centre zone. Using the standard LEP definitions, the proposed uses will be a combination of retail premises, hotel or motel accommodation, a community facility and a residential flat building and associated servicing and parking. These are all permissible uses within the zone and the proposal generally satisfies the objectives for the zone.
46. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings (235m maximum for site)	Yes	A condition is included requiring the development to comply with the maximum permissible height in the LEP.
4.4 Floor Space Ratio (8:1 as a 'base' plus additional floor space for certain purposes and uses in Central Sydney)	No	Refer to discussion under 'Floorspace' below.
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the development standard prescribed under Clause 4.4. See discussion under 'Floorspace' below.
5.10 Heritage conservation	Yes	The 1939 building is a heritage item. Heritage is discussed in more detail below. Subject to conditions, the proposal will not adversely impact on the heritage item. Terms of approval have been provided by the Heritage Council of NSW.
<b>Part 6 Local provisions - height and floor space</b>		
Division 1 Additional floor space in Central Sydney	No	Refer to discussion under 'Floorspace' below.
Division 4 Design excellence	Yes	An 'invited' competitive design process was undertaken.  Subject to appropriate conditions, the proposed development exhibits a high level of architectural design merit and reflects the desired form for development on the site.
<b>Part 7 Local provisions—general</b>		
Division 1 Car parking ancillary to other development	Yes	Based on the mix of uses proposed within the development, a maximum of 267 car parking spaces are permitted.  267 car parking spaces are proposed.

Compliance Table		
Development Control	Compliance	Comment
7.16 Airspace operations	Not yet known	The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport. See discussion under 'Airspace Operations' below.
7.20 Development requiring preparation of a development control plan.	Yes	As noted above, a Stage 1 application has previously been approved and is the subject of a modification application which is being concurrently assessed.
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>The site is approximately 540m from the Cross City Tunnel ventilation stack and as such, this provision requires an assessment of the impact of the building on the operation of the stack and of the impact of emissions from the stack on users of the new building.</p> <p>The applicant has provided an Air Quality Assessment with the application. This has been reviewed by Council's Health Unit who agree with its findings and have offered no objections on the grounds of the proximity to the ventilation stack.</p>

### Sydney DCP 2012

47. The relevant matters to be considered under the DCP for the proposed development are outlined below.

3. General Provisions		
Development Control	Compliance	Comment:
3.1 Public Domain Elements	Yes	The development satisfies the provisions of the DCP. Although the proposed lanes are not identified as being required in the DCP, they will help activate the ground floor of the development which will include retail uses and entrances to both the proposed new residential tower and the hotel.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment:</b>
3.1 Public Domain Elements (continued)	Yes	Subject to relocation of the proposed bicycle racks, the laneway design provides the scope for active uses to front the west lane if the ground floor level of the adjacent HSBC tower is redeveloped in the future.
3.2.1 Improving the public domain	Yes	Overshadowing and view impacts of the development have already been addressed in the associated Stage 1 application and its modification.
3.2.2 Addressing the street and public domain	Yes	<p>The ground floor will include four small retail units, a café, a coffee kiosk, entry to the proposed hotel (from the proposed new internal laneway) as well as plant rooms and entry lobbies to both the residential tower and the creative hub.</p> <p>The proposed ground floor uses are considered to provide an appropriate address both to the existing streets and the proposed new laneways.</p>
3.2.3. Active frontages	No but proposal deemed to be acceptable	<p>The Pitt Street side of the site is identified as an 'Active Frontage' in the DCP where the greater of 5m or 80% of a public frontage is required to be 'active'. On Bathurst Street, the greater of 5m or 70% of a frontage is required to be active.</p> <p>On the Pitt Street side of the site that is proposed for redevelopment (being the site of the 1965 building), approximately 18m (or 69%) will be active. As the ground floor includes three laneways, it is not possible for all of these frontages to be 'active' when the requirement for plant rooms and stairs are taken into consideration. The ground floor design is considered to provide the best possible outcome in this regard and accordingly, the non-compliance is considered acceptable.</p>



<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment:</b>
3.2.3 Active frontages (continued)	No but proposal deemed to be acceptable	All of the Bathurst Street frontage will be 'active' and will comprise the laneway entries, two retail units and the entrance to the residential tower lobby.
3.2.4 Footpath awnings	Yes	The Pitt Street frontage is identified as a location where an awning is required. A 3.2m wide awning is proposed along the frontage that will be redeveloped (as well as the Bathurst Street frontage) which complies with the required awning projection of between 2 – 3.6m.
3.2.6 Wind effects	Yes	<p>Wind impacts were largely assessed at Stage 1. However, a Pedestrian Wind Environment Study has been lodged with the subject application which concludes that (based on wind tunnel testing) wind effects from the proposed development will be at least equivalent to, and in most cases better than, the wind speeds experienced for the existing site.</p> <p>The Stage 1 approval required the removal of a proposed canopy between the 1939 and the redeveloped 1965 building on heritage grounds. However, its retention is now supported on the grounds that it will ameliorate wind impacts to the laneway immediately to the north of the hotel.</p>
3.2.7 Reflectivity	Yes	A Reflectivity Study has been lodged with the application which concludes that the proposed new building will not cause unacceptable glare.
3.3 Design Excellence and Competitive Design Processes	Yes	As noted above, the development has been subject to an 'invited' competitive design process.
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements. A condition is recommended requiring compliance with the BASIX certificate lodged with the application.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment:</b>
3.9 Heritage	Yes	<p>The existing 1939 building is a state listed heritage item.</p> <p>Clause 3.9.4 of the DCP requires the appointment of a heritage committee in certain circumstances. As the development has been the subject of a competitive design process at Stage 2 and has been considered by both the NSW Heritage Council and Council's Heritage Specialist, it is considered acceptable to waive the requirement for a heritage committee as is permitted by the clause. Previous consents for the site for similar developments have been the subject of heritage committees.</p>
3.11 Transport and Parking	Yes	<p>As noted above, the number of car parking spaces proposed will not exceed the prescribed maximum in the LEP.</p> <p>The proposal includes above ground car parking at levels 2-8. Whilst this is not generally supported, in this instance this will be sleeved by 'creative hub' and residential facility floorspace on the sides fronting Pitt and Bathurst Street.</p> <p>A Traffic and Parking Assessment has been provided with the application and the proposal has been considered by Council's Traffic Unit and (as 'traffic generating development') the RMS. Following some changes to the plans, neither have raised any objections on traffic generation grounds and appropriate conditions are recommended.</p>
3.12 Accessible Design	Yes	<p>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.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment:</b>
3.13 Social and Environmental Responsibilities	Yes	<p>Consideration of the proximity of the site to the Cross City Tunnel ventilation stack is discussed above.</p> <p>Taking account of the ground floor uses proposed, is considered that the proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
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.

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.2.1 Building height	Yes	<p>The floors containing retail uses comply with the minimum floor to ceiling height of 3.3m (for upper levels) and 3.6m (for ground floor levels).</p> <p>Similarly, the above ground car parking will also comply with the minimum requirement of 3.6m although it is noted that this will be located in the existing building which will be retained.</p>
4.2.2 Building setbacks	No but proposal deemed to be acceptable	Building setbacks were addressed at the time of assessment of the Stage 1 application and are further discussed in the accompanying report on the amendment to that application.

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.2.3 Amenity	No	<p>Compliance with the controls for Solar Access, Private Open Space and Natural Ventilation are discussed below.</p> <p>All of the apartments are considered to provide an appropriate outlook.</p> <p>An acoustic report has been lodged with the application. This addresses the noise implications of the outdoor environment and the proposed non-residential uses on the proposed residential apartments. Following amendment, it is considered acceptable to Council's Health Unit.</p> <p>The dwelling mix does not comply with the required percentage mix in the DCP. Refer to discussion under 'Apartments' below.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	As noted above, the development has been the subject of a design competition. Subject to some design modifications, the design of the building is considered appropriate for the site and location.
4.2.6 Waste minimisation	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.
4.2.8 Letterboxes	Yes	A condition is recommended to address the relevant provisions in the DCP.

<b>4.4 Other Development Types and Uses – Visitor accommodation</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.4.8.1 – General	Yes	<p>The proposed hotel complies with the general provisions for visitor accommodation.</p> <p>Conditions are recommended requiring the lodgement of both a Plan of Management and a Noise Management Plan prior to the issue of an Occupation Certificate.</p>
4.4.8.3 – Additional provisions for hotels, private hotels and motels.	Yes	<p>The size of the hotel guest rooms will range in size from between 38 and 75sqm which is well in excess of the required minimum 5.5sqm per person.</p> <p>A condition is recommended requiring at least 0.6 cubic metres of storage space per person to be provided within each of the rooms.</p>

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1.1 Street frontage heights	Yes	This provision has been addressed in the Stage 1 application and accompanying amendment.
5.1.2 Building setbacks	No but proposal deemed to be acceptable	This provision has been addressed in the Stage 1 application and accompanying amendment.
5.1.4 Building bulk	No but proposal deemed to be acceptable	Above a height of 45m, controls restrict floor plates to a maximum of 1000sqm with a maximum horizontal dimension of 40m. Although these provisions were considered at Stage 1, more definitive plans now enable compliance with these provisions to be considered in detail.

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1.4 Building bulk (continued)	No but proposal deemed to be acceptable	<p>At Stage 1, the Bathurst Street elevation was indicated to be approximately 44m in length. The proposal is now for this elevation to be 45m in length. As at Stage 1, the visual impact of the non-compliance as viewed from ground level will be negligible.</p> <p>The Stage 1 consent also estimated the floorplates at between 770-915sqm. The proposed floorplates range between 938 and 1056sqm depending on whether the proposed upper level balconies are included in the calculation. Although the upper level of this range is non-compliant, the visual impact of this will be negligible when viewed from ground level.</p>
5.1.5 Building exteriors	Yes	The proposal generally complies with these provisions in terms of the building design and materials.
5.1.8 Award and allocation of heritage floorspace	Yes	The development is subject to an allocation of floorspace in accordance with this clause. This is discussed under 'Heritage Floorspace' below. An appropriate condition is recommended.

<b>Schedule 4</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
Projections over or into public roads	Yes	The proposed overhang to Pitt Street complies with the objectives of the schedule.

## ISSUES

### Consistency with previous Stage 1 DA

48. Section 83D (2) of the Environmental Planning and Assessment Act 1979 states that:

*“While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.”*

49. While a Stage 1 DA consent (D/2012/554) exists for a 235m high residential tower, the proposal is currently inconsistent with this consent in respect of the position of the tower. However, an application to modify the Stage 1 consent has also been lodged and is the subject of a separate report for consideration at this committee.

#### **Creative Hub/Voluntary Planning Agreement**

50. As noted above, the proposal includes upper level car parking in the retained and redeveloped 1965 building which will be ‘sleeved’ by active uses on levels 2-8. It is proposed to utilise levels 2-6 as a ‘creative hub’ for Sydney’s creative sector in the form of rehearsal spaces and studios. Tenancy rights would be granted to the City for the use of the creative hub for 99 years. The creative hub will provide the following:
- (a) Rehearsal and practice spaces for dedicated creative practice by professional or semi-professional artists and creative teams;
  - (b) A mix of practical workspaces customised for the needs of a range of art form disciplines;
  - (c) Office/meeting spaces and spaces for sector peak bodies and organisations.
51. The spaces will host a mix of early career/mid-career/senior artists and creative teams to encourage upward/downward mentoring and will include one live/work studio.
52. Plans showing the creative hub levels are provided below.

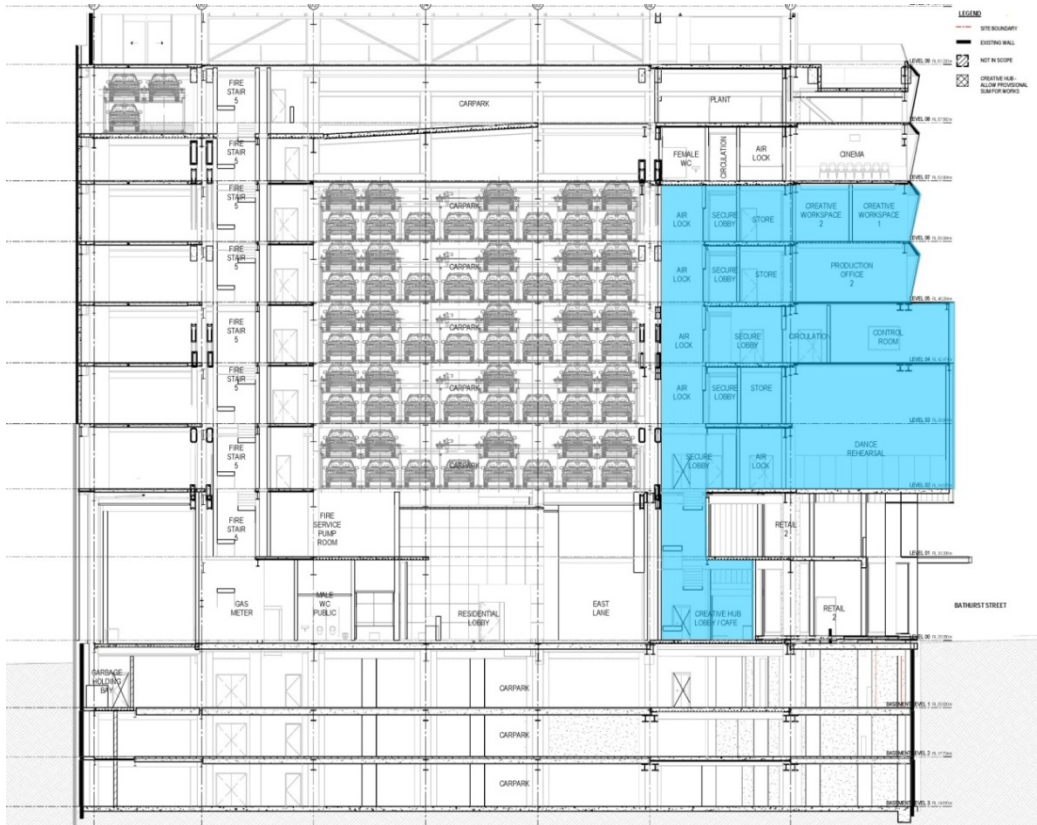


Figure 20: North-south cross section showing parts of creative hub shaded

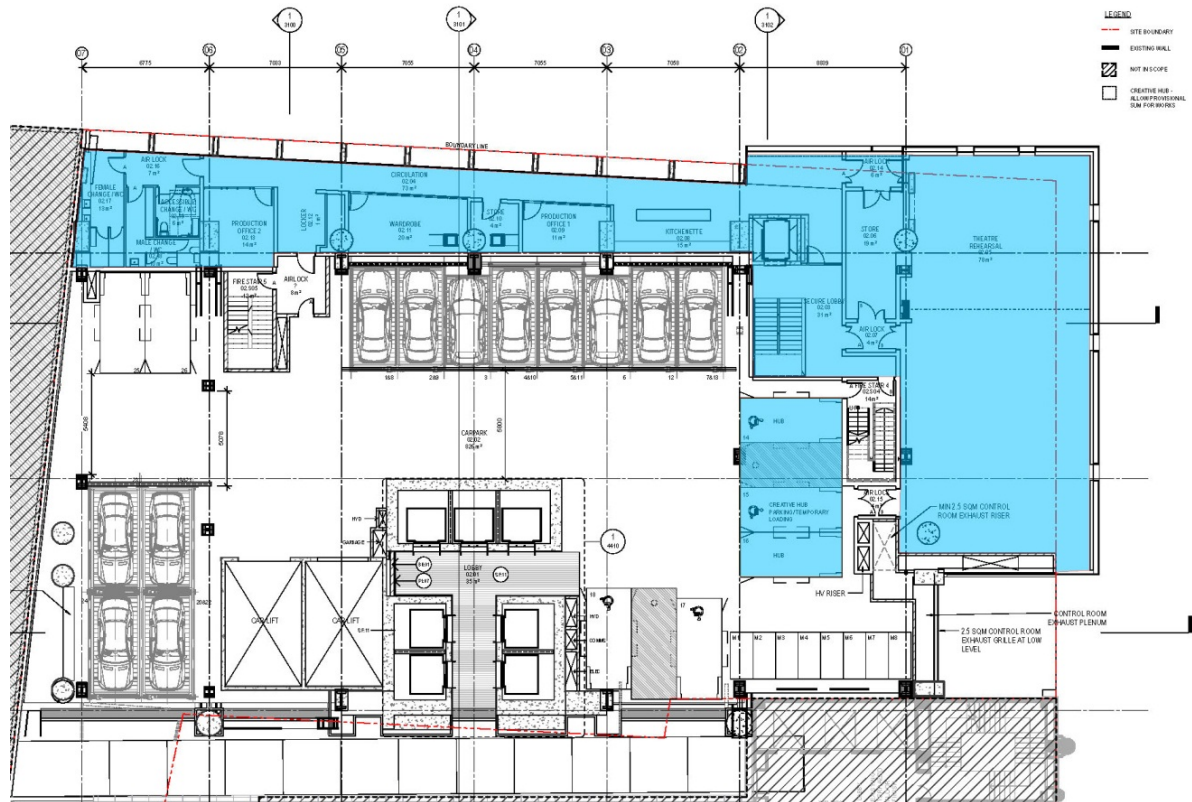


Figure 21: Level 3 of redeveloped 1965 building showing creative hub shaded



53. The provision of the 'creative hub' and its use by the City will be secured through a Voluntary Planning Agreement. At the time of writing, the VPA had been placed on public exhibition. As this exhibition period will not have lapsed at the time of meeting, it is recommended that a decision on the application be delegated to the Chief Executive Officer following public exhibition and execution of the VPA and associated legal formalities.

### Floorspace

54. As with all sites in Central Sydney, the site is the subject of a 'base' FSR control of 8:1. The site is eligible for additional floorspace of 6:1 pro-rata for the residential and hotel components of the development and 4.5:1 pro-rata for the commercial and retail parts of the development including the creative hub.
55. Under Clause 6.21 of the Sydney LEP, an applicant is eligible for an additional 10% where an application has been the subject of a competitive design process such as in this case. Under Clause 6.9, further GFA in the form of 'opportunity site' floorspace is also available on the subject site which is calculated by applying a specified formula. Accordingly, following consideration of the 'tests' that require to be satisfied, a further 279sqm for floorspace is available for the subject site. When all of this is taken into consideration, the FSR control for the site is 14.82:1 amounting to approximately 58,824sqm of floorspace.
56. The proposed FSR within the development is 16.91:1 or 67,168sqm of floorspace. This is approximately 8,343sqm in excess of the floorspace control for the site. The table below shows the various floorspace components within the development:

	Floorspace (sqm)	FSR	% of overall floorspace
<b>Maximum permissible</b>	58,824	14.82:1	87.5%
<b>Variation (creative hub)</b>	2,004	0.5:1	3% (or 24% of the exceedence)
<b>Variation (balconies)</b>	3,979	1:1	6% (or 48% of the exceedence)
<b>Variation to design excellence bonus calculation (see discussion)</b>	2,360	0.59:1	3.5% (or 28% of the exceedence)
<b>Total</b>	67,168	16.91:1	100%

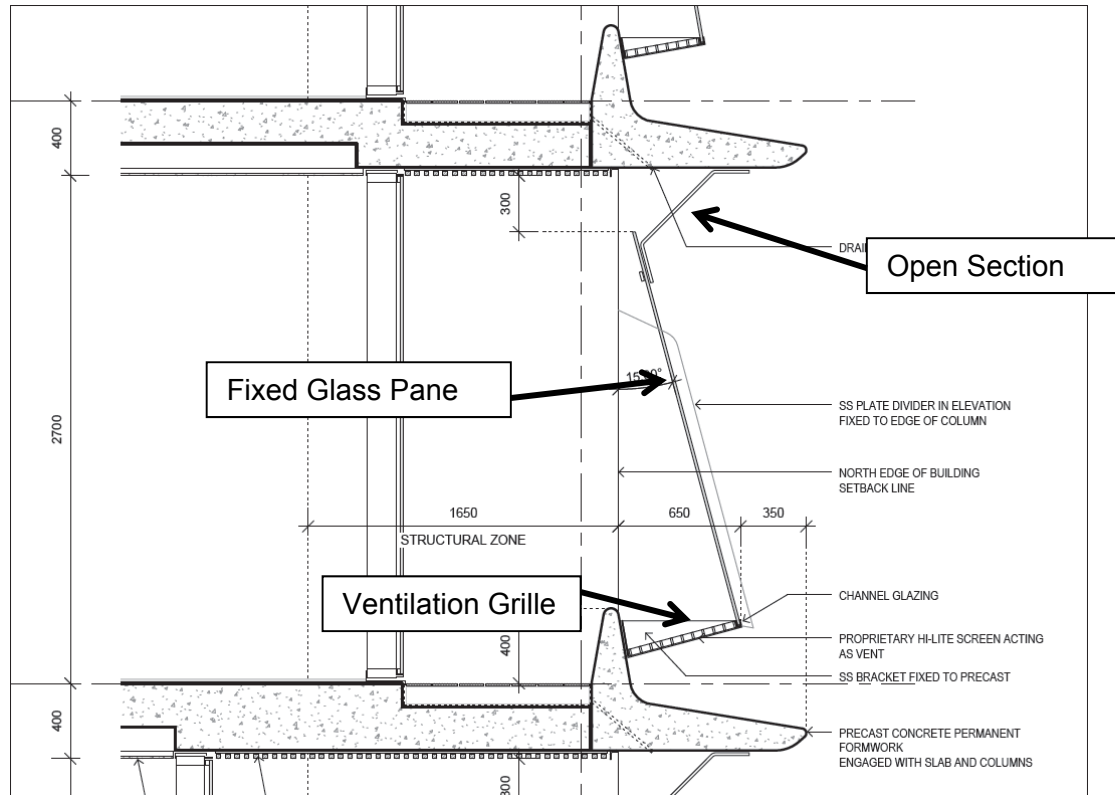
57. The applicant has provided a written request seeking to justify the contravention of this development standard as permitted under Clause 4.6 of the Sydney LEP. The exceedences in floorspace are explained in detail below:

Balconies

58. Between levels 25 and 66, the applicant proposes to provide balconies that are partially enclosed with ventilation grilles at the bottom edge and an open top section above a 2.2 metre high glass enclosure. A photomontage and a cross-section showing the proposed balconies is provided below:



**Figure 22: Photomontage of proposed upper level balconies**



**Figure 23: Cross-section of proposed upper level balconies**

59. The definition of gross floor area in the Sydney LEP 2012 is replicated below:

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
  - (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement:
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and
  - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) **terraces and balconies with outer walls less than 1.4 metres high, and**
  - (j) voids above a floor at the level of a storey or storey above.

60. As the enclosing balustrades of the balconies exceed 1.4 metres in height, the balconies must be included as GFA. This accounts for approximately 3,979sqm of floorspace or 48% of the exceedence.

61. The applicant has justified the design on the grounds that high rise balconies can suffer from very high wind speed and other adverse environmental impacts. They also note that the proposed glazing will maximise views whilst mitigating against wind and rain impacts and will provide adequate levels of airflow to the outside space. The applicant also submits that removing the balconies by lowering the balustrade height would have a major impact on the building's design and built form.
62. The applicants justification for the floorspace exceedence attributed to the balconies is considered to be well founded. Other than the height of the proposed balustrades, the balconies have the characteristics of balcony space and will be able to function as usable outdoor spaces that can be adequately ventilated. A similar exception was made for the 'Lumiere building' in 2003 where 'wintergardens' were approved.
63. It is considered reasonable that balconies of a similar design should be permitted in other cases where tall residential buildings are proposed. In acknowledgement of this, it is recommended that the Central Sydney Planning Committee endorses the preparation of a planning proposal and accompanying Development Control Plan amendment to allow the floor area of a balcony to be excluded from the calculation of gross floor area in certain specified and well-justified circumstances.

#### Creative Hub

64. The floorspace attributed to the creative hub will account for 2,004sqm (or 24%) of the overall floorspace. The applicant submits that this is justified on the grounds that the space it will provide are in significant demand and will contribute to Sydney's creative capital. Following discussions with the City, the applicant has agreed to enter into a VPA to secure the use of the space on a 99 year lease. The draft VPA is currently on public exhibition.
65. As acknowledged above, the space 'wrapping or sleeving' the proposed upper level car parking areas will be as narrow as 4m in places. It has been demonstrated that this space will be of a sufficient size for the purposes of the creative hub and is an appropriate design outcome to wrap the car parking areas within the podium. The benefits of providing the creative hub have been discussed above and as such, this part of the floorspace exceedence is considered appropriate.

#### Design Excellence Clause

66. Clause 6.21(7) of *Sydney Local Environmental Plan 2012* establishes an incentive for undertaking a competitive design process, namely, up to an additional 10% height or floor space. This incentive is in recognition of the additional cost of undertaking such a process and achieving design excellence.
67. Under *Sydney Local Environmental Plan 2012*, which came into effect on 14 December 2012, clause 6.21(7)(b) calculates the 10% floor space ratio bonus available for demonstrating design excellence on the base FSR (i.e. 10% of 8:1) prior to the award of any applicable accommodation floor space (being the additional 4.5:1 or 6:1 referred to above) in Central Sydney. This has meant that the 10% design excellence bonus produces comparatively less floor space for sites eligible for accommodation or community infrastructure floor space.

68. A report presented to the Transport, Heritage and Planning Sub-Committee on 3 December 2013 recommended that Council endorse a Planning Proposal for finalisation and making as a Local Environmental Plan under Section 59 of the *Environmental Planning and Assessment Act 1979*. The effect of this would be to change the provision such that the 10% bonus would apply to the total amount of floorspace allowed and not just the 'base'.
69. In the context of the subject application, this accounts for the remaining 2,360sqm (or 28%) of the floorspace exceedence. On the basis that this change is likely to be made shortly, the non-compliance in this regard is also considered reasonable.

#### Heritage Floorspace

70. The proposed floorspace in excess of 8:1 requires the applicant to purchase (or be allocated) heritage floorspace of an amount specified in a condition of consent and which must be undertaken prior to issue of a Construction Certificate. The final amount required to be allocated may be reduced in certain circumstances including where a development has been the subject of a design competition.
71. As noted above, the definition of floorspace may change to exclude the balconies referred to above and the design excellence clause is also likely to change. Should these changes occur, the amount of heritage floorspace payable will also change. For this reason, the applicant has requested that the standard requirement for heritage floorspace to be purchased prior to a Construction Certificate be staggered such that which is attributed to the balconies and the design excellence calculation may be purchased prior to an Occupation Certificate. An amended condition is recommended.

#### Clause 4.6

72. Clause 4.6 of the LEP states that '*Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *That there are sufficient environmental planning grounds to justify contravening the development standard.'*
73. For the reasons noted above, it is considered that the applicant has satisfactorily demonstrated that these 'tests' have been met.

### **Apartments**

#### Size and Mix

74. A total of 490 apartments are proposed as part of the development. This will comprise 74 x studio units, 160 x 1 bed units, 171 x 2 bed units and 85 units with 3 or more bedrooms. As shown in the table below, the apartment mix does not comply with the required percentage ranges in the DCP. In particular, there is an excess in the number of studio and 1 bed units and a shortfall in the number of 2 bed units.

Type of dwelling	% of dwelling types	DCP Control	Compliance
Studio	15.1%	5 – 10%	No
1 Bed	32.7%	10-30%	No
2 Bed	34.9%	40-75%	No
3 Bed	17.3%	10-100%	Yes

75. Of the apartments proposed (74 x studio, 160 x 1 bed, 171 x 2 bed, 85 x 3+ bed), the 1 bed, 2 bed and 3 + bed apartments all comply with the standard minimums for the apartment types proposed. Of the studio apartments proposed, approximately two thirds are between 0.9 – 1.1sqm below the prescribed minimum of 38.5sqm. However, at 37.4sqm, the smallest of these will be just over 1sqm short of the specified minimum. As this is minor, this is considered acceptable.
76. On inspection of the submitted plans, it is noted that 15 of the units noted as being 1 bed (and included in the number of 1 bed units proposed) contain 2 bedrooms. A typical plan of these is shown below:

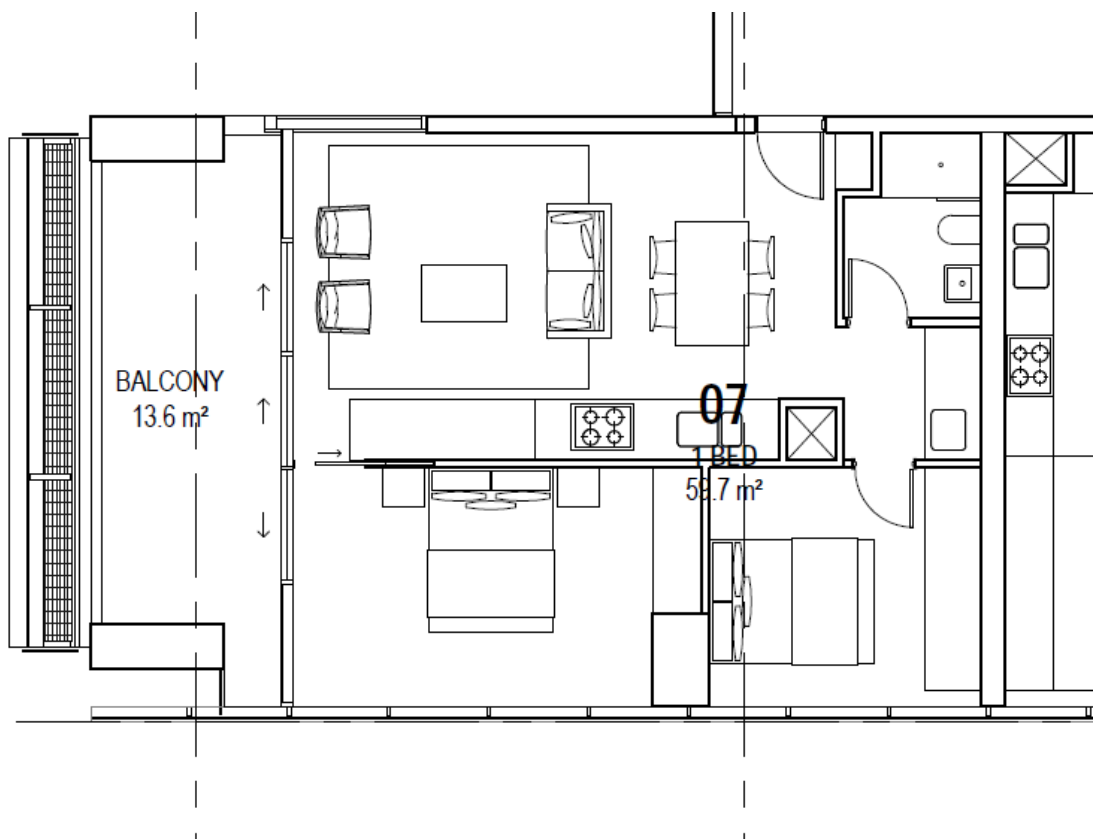


Figure 24: Extract from plan showing '1 bed' unit

77. In all of these cases, the sizes of the units are smaller than the prescribed minimums for 2 bed units. A condition is recommended requiring these to be amended to one bed with study apartments.

78. A further condition is recommended requiring the apartment mix to better comply with the relevant provisions of the DCP as it relates to apartment mix.

#### Private Open Space

79. Controls for private open space are contained in both the DCP and the *Residential Flat Design Code* but do not accord. Under the *Residential Flat Design Code*, balconies at least 2m in depth are required to be provided for all apartments. In the DCP, 75% of dwellings are required to provide private open space with a minimum dimension of 2m and a minimum size of 10sqm.
80. Balconies at least 2m in width are provided to 82% of apartments which complies with the 75% minimum control in the DCP which takes precedence over the *Residential Flat Design Code*. A further 6% have balconies that have a minimum depth of 1.2m. As the DCP does not require these to have balconies, the reduced width is considered acceptable.

#### Sunlight and Daylight Access

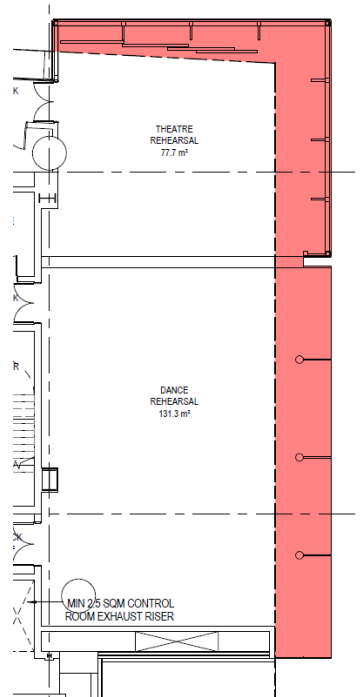
81. At approximately 59.6%, a lower number of apartments than the required 70% will achieve the minimum of 2 hours solar access at the winter solstice. Whilst the constraints of the CBD context of the site are noted and that it may not be possible for full compliance, a condition is recommended requiring the apartments to better comply with the amenity requirements contained in both the DCP and the *Residential Flat Design Code*.

#### Natural Ventilation

82. At 52.1%, the development will also be non-compliant in respect of the requirement for 60% of apartments to be naturally cross-ventilated. However, it is proposed to install a cross-over ventilation duct from one north facing apartment on each level to the proposed east facing void which will increase this to 65.4%. This is considered acceptable. A condition is recommended requiring this to be installed prior to occupation. As a result of the recommendation that the apartments better comply with the amenity requirements noted above, natural ventilation to the apartments can also be improved.

#### **Design**

83. As already noted above, the proposal has been the subject of a design competition. In addition, the subject application has been referred to the Design Advisory Panel for consideration and has been assessed by Council's Urban Design and Heritage specialists.
84. The Design Advisory Panel generally commended the scheme but recommended some design modifications. As a result, a number of design modification conditions have been included.
85. As also noted above, the proposal includes an 'overhang' of Council's footpath at the corner of Pitt and Bathurst Streets on levels 2-4 of the building. The extent of this overhang will encroach over the footpath by approximately 2m and is shown shaded on the plan below:



**Figure 25: Typical creative hub Level 3 of redeveloped 1965 building showing overhang shaded**

86. On considering the overhang in particular, the Design Advisory Panel asked for views north and south along Pitt Street to be provided to assess the visual impacts of the projection and for the design of the overhang to be further developed. These photomontages are shown below:



**Figure 26: Photomontage showing overhang to Pitt Street – looking north**





**Figure 27: Photomontage showing overhang to Pitt Street – looking south**

87. Although the podium has been redesigned by the project architect, further minor refinements are recommended by way of condition to accord with the recommendations of the Design Advisory Panel and Heritage and Urban Design Specialists.
88. As this part of the building will overhang Council land, owners' consent has been formally obtained.

### **Airspace Operations**

89. The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport. At the subject site, development proposals for any structures above 156m in height require to be considered in this regard. The height of the proposed building is 235m. At the time of writing, a response from Sydney Airport had not been received.
90. Clause 7.16 of the LEP states that Council cannot grant development consent until such time as the relevant Commonwealth body advises that:
  - (a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or
  - (b) the development will not penetrate the Limitation or Operations Surface.
91. As such, consent cannot be granted until this advice has been received. For this reason also, it is recommended that a decision on the application be delegated to the Chief Executive Officer pending receipt of a response from the Sydney Airport Corporation.

### Staged Construction Certificates

92. To enable commencement of demolition and excavation works on site as soon as practicable following development consent, the applicant has requested that Council accommodate the issuing of Construction Certificates in several stages. This is being sought to allow the development to commence as soon as possible after approval without being held up by the need to submit documentation required in any conditions prior to the issue of a Construction Certificate. The stages nominated by the applicant and the works nominated by them are:
- (a) Stage 1 – Pre-construction. A dilapidation survey and infrastructure due diligence will be carried out prior to construction. All relevant authority approvals will be gained, including works zones, hoarding permits, crane permits and footpath cross-over permits if required;
  - (b) Stage 2 – Demolition. Hazardous materials will first be removed from the existing buildings. All internal building finishes and services will be removed, as well as localised sections of the floor structure in 115 Bathurst Street to allow for construction of a new core. The façade of 339 Bathurst Street will then be removed.
  - (c) Stage 3 – Construction. Construction will first involve construction of new building foundations, a new lift core, and strengthening of the existing building structure. The existing floor slabs and column structure will be maintained and integrated with the new residential building. The facade of 339 Pitt Street will also be restored during this phase.
  - (d) Stage 4 – Fit-out. Both buildings will undergo fit-out works.
93. The applicants wish to have the Construction Certificates staged and the associated circumstances are accepted. Where relevant, the appropriate stages at which it is considered acceptable for information to be provided is included in the conditions in question.

### Heritage

94. The 1939 building on the site is a heritage item and is therefore subject to the heritage provisions of the DCP. As a state item, the application is 'Integrated Development' requiring the approval of the NSW Heritage Council. Following a meeting of the Council, Terms of Approval have been provided and are included in the recommendation of the consent. The proposal has also been considered by Council's Heritage Specialist.
95. As floorspace will be 'transferred' from the 1939 building to the part of the site containing the redeveloped 1965 building, a condition is recommended requiring the works to the 1939 building to be completed prior to the issue of a final Occupation Certificate for the redeveloped tower.

### Access

96. It is recommended that disabled access be provided in accordance with the provisions of the DCP. An appropriate condition is recommended.

**Other Impacts of the Development**

97. The proposed development is capable of complying with the BCA. It is a combination of Class 2, 3, 5, 6 and 7.
98. 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**

99. The site is located in a mixed commercial and residential area within the CBD and surrounded by similar uses. The proposed uses within the building are compatible with those in the vicinity of the site.

**INTERNAL REFERRALS**

100. The conditions of other sections of Council have been included in the proposed conditions. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Landscape Architects and Transport and Access.
101. Where appropriate, changes have been made to the development following on from their responses and/or recommended conditions have been included.

**EXTERNAL REFERRALS****Notification, Advertising and Delegation (Submissions Received)**

102. The application constitutes integrated development and as such the application was notified and advertised for 37 days from 29 November to 6 January 2014 (extended from the required 30 days to take account of notification falling in the Christmas period) in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this, 5 submissions were received. The issues that were raised in the submissions and a response to these are detailed below:

**Setbacks**

- (a) Inadequate setbacks to the western boundary of the site ranging from 0-1 metre. This does not comply with the requirements of one of the conditions of consent for the Stage 1 approval.

**Response** – Noted. A separate application has been lodged to amend the Stage 1 approval. For the reasons noted in the report accompanying that application, exceeding the previously approved building envelope is considered acceptable.

**Opportunity Floor Space**

- (b) The developer is seeking 'opportunity' floor space but the proposal does not satisfy one of the requirements for the granting of opportunity floor space.

**Response** – The LEP requires one of a number of criteria to be met for opportunity floorspace to be awarded. The proposed development will involve the infilling of space between the site boundary and the street and the removal of an existing driveway to Bathurst Street, complying with the criteria for an award.

Solar Access

- (c) The application does not comply with the solar access 'rule of thumb' in the residential flat design code.

**Response** – This is discussed above. The required amendment to the unit mix will assist in improving this.

Depth of Creative Hub

- (d) The depth of the creative hub does not comply with one of the conditions of consent for the Stage 1 approval. Accordingly, the above ground car parking should be included as gross floor area.

**Response** - There is no required minimum depth for space such as this above ground floor level. As a guide, a minimum of 6 metres applies to ground floors. Whilst this was included as a condition of consent in the Stage 1 application, the amendment to that application proposes that this condition be changed. The space proposed may not be suitable for other uses deemed suitable for the creative hub which will be the subject of a VPA and a 99 year lease to the City. The depth of this space has no bearing on whether above ground car parking is included as gross floor area.

Other Surrounding Developments

- (e) Such a major redevelopment should not be allowed when an application for minor improvement works to the Century Tower building have not been approved.

**Response** – Each development application has to be considered on its own merit. Council not supporting a more minor development is not a reason to refuse consent for this development.

Traffic Impacts

- (f) The development will introduce more traffic to the area which it does not have capacity for.

**Response** – The traffic impacts of the development have been considered both by the RMS and Council's Traffic Engineer. Based on the information lodged, neither have raised any objections to the development on traffic generation grounds.

Noise and Construction Impacts

- (g) The impact of noise to surrounding residents during construction.

**Response** – The application has been considered by Council's Health Unit and appropriate conditions have been recommended in relation to hours and noise during construction.

- (h) Few details of how the new tower will be built have been lodged with the application and the construction impacts on the adjacent building will be considerable.

**Response** – Where appropriate, conditions are recommended to address construction impacts. Matters such as access onto adjacent landowners properties to allow construction of any development is a private matter between adjoining property owners.

#### Coach Drop Off

- (i) No details have been provided as to where a coach drop off facility will be provided on Pitt Street. Council should consult with surrounding landowners about the location of this.

**Response** – A condition is recommended requiring the applicant to prepare a Coach Management Plan.

#### Communication

- (j) Attempts have been made to contact the applicant by a neighbouring property owner. It has not been possible to make contact with the applicant.

**Response** – This is a matter between the applicant and the adjacent property owner.

### **PUBLIC INTEREST**

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

### **FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTION**

#### **Section 61 Contributions**

104. The cost of the development will be in excess of \$200,000 and will therefore be subject to a development levy. An appropriate condition is recommended.

### **RELEVANT LEGISLATION**

105. The Environmental Planning and Assessment Act 1979, Heritage Act 1977.

### **CONCLUSION**

106. The application is for the major redevelopment of two adjacent CBD buildings that will provide additional hotel and residential accommodation as well as some ground floor retail units and – through a VPA - a ‘creative hub’ for the use of Sydney’s creative sector.
107. Having been the subject of a design competition, the proposed development is considered to achieve design excellence and will improve activation of the street at the corner of Pitt and Bathurst Streets through the provision of active ground floor uses and active laneways. The proposal also includes the redevelopment of the 1939 has been considered acceptable both by the Heritage Council and Council’s Heritage Specialist.

108. Whilst the development does not strictly comply with the floor space controls for the site, these non-compliances have been discussed above and are the subject of a request from the applicant to vary the control as permitted under Clause 4.6 of the LEP. The non-compliances are considered justified for the reasons noted. Further conditions are recommended to address non-compliances in respect of apartment size and mix and amenity.
109. The development has been the subject of a design competition and following consideration both by Council's Urban Design Specialist and the Design Advisory Panel, the proposal is considered to be acceptable subject to a number of minor design amendments. Similarly, the development has been assessed by Council's Heritage Specialist and the Heritage Council. Subject to conditions, it is considered to be an acceptable re-use of the 1939 heritage building on the site that will have no adverse impacts on it.
110. No response has yet been received from the relevant Commonwealth body on the impact of the development on the airspace operations of Sydney Airport as required under Clause 7.16. In addition, the VPA required for the delivery of the proposed creative hub is still on public exhibition. As such, it is recommended that the decision be delegated to the Chief Executive Officer following conclusion of these matters.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport