

ITEM 10. DEVELOPMENT APPLICATION: 71-79 MACQUARIE STREET, SYDNEY, 5020 CIRCULAR QUAY EAST, SYDNEY AND 5010 MACQUARIE STREET, SYDNEY

FILE NO: D/2014/301

DEVELOPMENT APPLICATION NO: D/2014/301

SUMMARY

Date of Submission: 10 March 2014

Applicant: AMP LIFE LTD/MIRVAC PROJECTS PTY LIMITED

Architect: TZANNES ASSOCIATES

Developer: AMP LIFE LTD/MIRVAC PROJECTS PTY LIMITED

Owner: AMP LIFE LTD

Cost of Works: \$106,349,000

Proposal Summary: Integrated Development Application for bulk excavation and erection of 20 storey mixed use development including a through site link from East Circular Quay to Macquarie Street and a colonnade to East Circular Quay. The building comprises of 109 residential/serviced apartments, associated communal areas and facilities, retail tenancies, 6 basement levels accommodating 103 car parking spaces and public domain improvement works. The site includes part of East Circular Quay which is currently used as an access road and parts of the basement are located beneath Macquarie Street.

The application was exhibited for a period of 30 days and 11 submissions were received raising a range of concerns including impacts associated with traffic and access, height, view loss, privacy, loss of daylight, loss of tree, parking and noise. These concerns have been considered and addressed within this report.

A Concept Approval applies to the land and classifies the development as a transitional Part 3A project under the Environmental Planning and Assessment Act 1979. The Concept Approval establishes an envelope, height, parking and floor space controls that prevail over the local standards and controls. This assessment finds that the proposed uses, building form and public domain improvements are generally consistent with the Concept Approval terms.

**Proposal Summary
(continued):**

The proposed building design was one of two preferred schemes developed for the site in a Design Competition held in February 2013. The proposed building adopts a high quality architectural language and expression consistent to that established in the competition and with the objectives of the design excellence provisions.

The interface with the public domain has been resolved through the provision of active uses, the double height colonnade and pedestrian through site link, all delivered in high quality finishes.

The assessment recognises that some building elements slightly depart from the Concept Approval envelope and a clause 4.6 exception to the Sydney LEP 2012 height standard is considered acceptable in this circumstance.

The proposal is considered to generally perform well against the relevant amenity controls contained in the State Environmental Planning Policy No. 65, the Residential Flat Design Code, Sydney DCP 2012 and draft State Environmental Planning Policy No. 65. Where there is a departure from the controls there is considered to be site characteristics and constraints that warrant the departure in this instance.

The construction phase will cause temporary access arrangements to Quay Grand to be established over part of the East Circular Quay forecourt. Subject to recommended conditions to minimise impacts, the temporary access arrangement to Quay Grand and encroachment onto part of the forecourt area during construction is considered reasonable given the overall public domain improvement to the East Circular Quay precinct as a result of the redevelopment.

The Concept Approval required a package of public domain improvements to be delivered with the redevelopment of the site. The package includes the provision of the through site link, east circular quay colonnade, forecourt renewal works and public art. The subject application seeks consent for the through site link and colonnade components of the package and a separate development application has been lodged for the East Circular Quay forecourt renewal works.

**Proposal Summary
(continued):**

Pursuant to the Concept Approval, prior to the determination of this application a planning agreement must be entered into for the provision of the public domain improvement package. A draft planning agreement has been prepared between the City, the developer and Sydney Harbour Foreshore Authority to secure the delivery of the colonnade, through site link and forecourt renewal works. The planning agreement is currently on public exhibition.

It is recommended that CSPC consider the merits of the application and delegate the decision to determine the application to the CEO once any submissions to the planning agreement have been considered and the planning agreement has been executed.

**Summary
Recommendation:**

It is recommended that delegation be given to the Chief Executive Officer to determine the application once the Planning Agreement has been executed and registered on the title of the land.

Development Controls:

- (i) Concept Approval MP 10_0237, as amended by MP_0237 MOD 1 on 12 November 2014
- (ii) State Environmental Planning Policy No 55—Remediation of Land
- (iii) State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
 - a. Draft SEPP 65 exhibited on 23 September 2014
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)
- (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (vii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (viii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Developer Contributions

- (ix) Section 61 of City of Sydney Act 1988 and the Central Sydney Development Contributions Plan 2013

Attachments:

- A - Architectural Drawings
- B - Selected Photomontages
- C - Materials Schedule and Sample Board
- D - Visual Impact Assessment

RECOMMENDATION

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer (CEO) to determine the application after the:
- (1) draft Planning Agreement is publicly exhibited and any submissions considered;
 - (2) Planning Agreement is executed; and
 - (3) Planning Agreement, as executed, is registered on the title of the land.
- (B) if the CEO determines to approve the application, then consideration be given to granting a deferred commencement consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, in accordance with Part A and Part B below.

PART A - DEFERRED COMMENCEMENT CONDITIONS**(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

- The consent is not to operate until the following condition is satisfied, within **24 months** of the date of this determination:

(1) SYDNEY TRAINS REQUIREMENTS

The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

- (a) A 3D modelling numerical report following demolition of the existing building in accordance with Development Application D/2014/299. This report is to be in accordance with Sydney Trains requirements.
- (b) Details of the foundation material, founding levels, geometry of footings, material properties, condition of footings and information, necessary to accurately assess and analyse the existing bridge supports, retaining walls, portal and affected structural elements.
- (c) Due to the close proximity of the proposed development's excavation to the toe of footings, the bridge supports and associated retaining walls (including foundation) an assessment is to be undertaken to assess their stability, structural and geotechnical integrity for the short term and permanent situation (in particular the removal of passive resistance of the existing retaining wall).
- (d) Details of footings associated with the rail corridor and Cahill Expressway structure.
- (e) A detailed condition and structural assessment of the adjoining rail corridor and Cahill Expressway structure.
- (f) Confirmation of the current track level and centrelines.

- (g) A settlement induced risk assessment based on the combined effect of the overall settlement from groundwater drawdown and stress relaxation during excavation.
- (h) Work method statement outlining the proposed methodology for excavating rock.
- (i) Revised Derailment Risk Assessment Report in accordance with Sydney Trains requirements.
- (j) If required by Sydney Trains, a revised Geotechnical Report undertaken following the demolition of the existing building in accordance with Development Application D/2014/299.
- (k) If required by Sydney Trains, a revised Structural DA Design Report as part of the compliance with the above deferred commencement items.

Any conditions issued as part of the approval/certification by Sydney Trains of any of the above documents will also form part of the consent conditions that the Applicant is required to comply with

- Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of **determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979.**
- The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.
- Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B (Conditions of Consent (Once the Consent is Operation)) of the subject report.

PART B - CONDITIONS OF CONSENT

(ONCE THE CONSENT IS IN OPERATION)

Upon written confirmation from Council that the deferred commencement conditions contained in Part A above have been satisfied, the consent will become operative from the date of that written confirmation, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions

SCHEDULE 1A

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

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

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2014/301 dated 10 March 2014 and the following drawings:

Drawing Number	Revision	Architect	Date
DA001	G	Tzannes Associates	28 February 2014
DA010	X	Tzannes Associates	15 July 2014
DA011	S	Tzannes Associates	28 February 2014
DA012	T	Tzannes Associates	28 February 2014
DA013	T	Tzannes Associates	28 February 2014
DA014	T	Tzannes Associates	28 February 2014
DA015	T	Tzannes Associates	28 February 2014
DA016	I	Tzannes Associates	28 February 2014
DA017	I	Tzannes Associates	28 February 2014
DA020	U	Tzannes Associates	28 February 2014
DA021	T	Tzannes Associates	28 February 2014
DA024	S	Tzannes Associates	28 February 2014
DA025	R	Tzannes Associates	28 February 2014
DA026	R	Tzannes Associates	28 February 2014
DA029	R	Tzannes Associates	28 February 2014
DA030	J	Tzannes Associates	28 February 2014
DA035	F	Tzannes Associates	28 February 2014
DA041	S	Tzannes Associates	28 February 2014
DA042	S	Tzannes Associates	28 February 2014
DA043	S	Tzannes Associates	28 February 2014
DA044	S	Tzannes Associates	28 February 2014
DA045	S	Tzannes Associates	28 February 2014
DA046	M	Tzannes Associates	28 February 2014
DA051	N	Tzannes Associates	28 February 2014
DA052	N	Tzannes Associates	28 February 2014
DA061	N	Tzannes Associates	28 February 2014
DA062	N	Tzannes Associates	28 February 2014

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

This consent allows the staging of works into 4 stages, with these stages referred to as follows:

- (a) **Stage 1** - Basement excavation
- (b) **Stage 2** - Basement Structure to Circular Quay Level
- (c) **Stage 3** - Above ground structure/New build (i.e. slabs, columns, cores, risers, walls, services, finishes, facade etc.)
- (d) **Stage 4** - Public Domain finishes (Colonnade, Through site link, Macquarie Street, Circular Quay side)

(3) MATTERS NOT APPROVED

- (a) This consent does not approve or imply approval of any physical alteration of the Macquarie Street public domain to facilitate a drop off zone.
- (b) This consent does not approve or imply approval for any removal of existing street trees within the Macquarie Street public domain.

(4) COMPLIANCE WITH PLANNING AGREEMENT

The terms of the registered planning agreement are to be complied with.

(5) DESIGN MODIFICATIONS

The design of the building must be modified to remove the slatted screen to apartment 402 and replace with an operable sliding screen to control light and ventilation to the apartment.

The modifications are to be submitted to and approved by Council's Director City Planning, Development and Transport prior to issue of a Stage 3 Construction Certificate.

(6) THROUGH SITE LINK CEILING FINISH

The free form negative mouldings in the ceiling of the through site link and colonnade must be provided in accordance with the approved architectural drawings.

(7) PRIVACY SCREENS

The privacy screens to the northern edge of the balconies over Levels 4 to 13 are to be installed in accordance with the details in Drawing SK189 Prepared by Tzannes Associates dated 11 September 2014. The vertical blades are to be fixed and not operable.

(8) APPROVED DESIGN ROOF - TOP PLANT

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

(9) BUILDING HEIGHT

- (a) The height of the building must not exceed RL67.23 (AHD) to the top of the building and RL65.37 (AHD) to the parapet 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.

(10) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Tzannes Associates submitted with the application.

(11) DESIGN QUALITY EXCELLENCE

- (a) In order to ensure the design quality excellence of the development is retained:
 - (i) The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - (iii) Evidence of the design architect's commission is to be provided to the Council prior to release of the Stage 3 Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council's Director City Planning, Development and Transport.

(13) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 10.9:1 calculated in accordance with the *Sydney Local Environmental Plan 2012*. For the purpose of the calculation of FSR, the site area is 1,207sqm and the Gross Floor Area of the approved development is 13,131sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Area (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

- (c) Prior to a Stage 3 Construction Certificate being issued, Council's written verification must be obtained, confirming that 1488sqm of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of 10.9:1 as specified in the *Sydney Local Environmental Plan 2012*.

(14) USE - SEPARATE DA REQUIRED

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

(15) HOURS OF OPERATION – RETAIL TENANCIES

The hours of operation of the individual retail tenancies is between 7.00am and 10.00pm Monday to Saturday and 7.00am and 8.00pm on Sunday or Public Holiday.

(16) USE OF COMMON AREAS AND FACILITIES

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

(17) VISITOR AND TOURIST ACCOMMODATION - PLANS OF MANAGEMENT

A detailed Plan of Management relating to the use and operation of the serviced apartment component of the building must be submitted and approved by Council's Health and Building Unit prior to an Occupation Certificate being issued. The Plan of Management must address the minimum criteria as stipulated in Council's *Sydney Development Control Plan 2012 – 4.4.8* and any relevant requirement within the consent conditions.

(18) VISITOR AND TOURIST ACCOMMODATION - USE AND OPERATION

The use and operation of the serviced apartment component of the building must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010 and regulations thereunder and *Sydney Development Control Plan 2012 – 4.4.8*.

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

(20) RESTRICTION ON PERMANENT RESIDENTIAL DEVELOPMENT – LEVELS 10 TO 19

The following restriction applies to buildings approved for residential use:

- (a) The permanent residential accommodation portion of the building (Levels 10 to 19 inclusive) must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with *Sydney Local Environmental Plan 2012*.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from *residential accommodation* as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

(21) SERVICED APARTMENT/PERMANENT RESIDENTIAL SCHEME – LEVELS 4 TO 9

The use and operation of the apartments on Levels 4 to 9 (inclusive) as either serviced apartments or permanent residential apartments is permitted on the following basis:

- (a) The Contract for Sale and lease agreements for the building must clearly state the nominated levels are able to be used as serviced apartment accommodation. Evidence of this requirement is to be submitted and approved by Council's Director City Planning, Development and Transport prior to issue of a Stage 3 Construction Certificate
- (b) Inclusion of strata by-laws to manage the behaviour of owners and occupiers (consistent with the approved Plan of Management) and disclose the nominated levels as serviced apartment accommodation. Evidence of this requirement is to be submitted and approved by Council's Director City Planning, Development and Transport prior to issue of an Occupation Certificate.
- (c) Imposition of a Building Services Agreement and appointment of a Building Manager to supervise the behaviour of occupants and enforce by-laws and provide a 24 hour concierge. Evidence of this requirement is to be submitted and approved by Council's Director City Planning, Development and Transport prior to issue of an Occupation Certificate.

(22) PROTECTION OF THE LOCALITY

To protect the ongoing operation of lawful activities within the locality, all reasonable steps to ensure that purchasers and occupiers of the building are made aware that the development is in a vibrant city centre locality that is subject to a large number of cultural and community events that may result in significant noise, light emissions and vibration and temporary changes to access arrangements.

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

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.
- (b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to Section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme.

(24) NUMBER OF ADULTS PER ROOM

- (a) No more than two adult people shall permanently occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children's beds, cots or bassinets.
- (b) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.

(25) ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Details are to be provided to the Council's Director City Planning, Development and Transport prior to a Stage 3 Construction Certificate being issued confirming that the building has been designed to minimise the embodied energy on a whole of building approach and consistent with the ESD initiatives outlined in the ESD report Prepared by Cundall dated 6 March 2014.

(26) REFLECTIVITY

The Certifying Authority must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20% prior to issue of the Stage 3 Construction Certificate.

(27) SIGNAGE STRATEGY

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

(28) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

(29) STRATA SUBDIVISION

Any proposal to strata subdivide the building will require separate applications to obtain development consent or a complying development certificate for the proposal and subsequent issue of a strata certificate by Council or an accredited strata certifier.

(30) 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, City of Sydney's Public Art in Private Developments Guidelines and the City of Sydney's 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 4 Construction Certificate being issued. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(31) 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's Area Planning Manager prior to the issue of a Stage 4 Construction Certificate for above ground building works. The plan must include the location of proposed structures on the site including, but not limited to, detail of the proposed paved areas, lighting and other features.
- (b) All private landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

(32) ACCESS TO QUAY GRAND

Unimpeded access to the neighbouring property, Quay Grand must be maintained at all times.

(33) BREAKTHROUGH TO QUAY GRAND

The applicant is to work with the neighbouring property, Quay Grand to ensure that an appropriate access barrier is installed in the breakthrough prior to an Occupation Certificate being issued.

(34) RMS CONDITION

The developer is to comply with the requirements of Technical Direction (GTD 2012/001). This will require the developer to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the Roads and Maritime for assessment. The developer is to meet the fill cost of the assessment by the Roads and Maritime. This report would need to address the following key issues:

- (a) The impact of excavation/rock anchors on the stability of the Cahill Expressway and detailing how the carriageway would be monitored for settlement.
- (b) The impact of the excavation on the structural stability of the Cahill Expressway.

Any other issues that may need to be addressed. (Contact: Roads and Maritime's Project Engineer, External Works Ph: 88492114 or Fax 88492766 for details).

(35) ALLOCATION FOR VISITOR PARKING

Visitor parking spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by building visitors.

All spaces must be clearly marked 'visitor' prior to the issue of an occupation certificate or the use commencing, whichever is earlier. All signs must be maintained in good order at all times.

(36) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES

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

(37) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Stage 2 Construction Certificate.

Car Parking Type	Number
Residential spaces	59
Accessible residential spaces	10
Residential visitor spaces	
Accessible residential visitor spaces	
Office and business parking	
Accessible office and business parking	
Retail parking	1
Accessible retail parking	
Industry and warehouse parking	
Accessible industry and warehouse parking	
Serviced apartment/hotel parking	27
Accessible serviced apartment/hotel parking	6
Child care parking	
Car share parking	
Information and education facility parking	
Accessible information and education facility parking	
Medical centre parking	
Accessible medical centre parking	
Place of public worship/entertainment facility parking	
Accessible place of public worship/entertainment facility parking	
Subtotal	
Motorcycle parking	
Bus and coach parking	
Car wash bay	
Child care drop off and pick up	
Child care long term visitor parking	
Service vehicle spaces	2
Courier Spaces	
Small Rigid Vehicle loading dock(s)	
Medium Rigid Vehicle loading dock(s)	1
Articulated Vehicle loading dock(s)	
Hotel/serviced apartment drop off and pick up	
Total	

(38) 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 "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

(39) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	47	Spaces must be a class 1 bicycle locker [1]
Residential visitor	5	Spaces must be Class 3 bicycle rails
Non-residential	5	Spaces must be Class 2 bicycle facilities
Non-residential visitor	10	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	5	

Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Principle Certifying Authority confirming prior to the Stage 2 Construction Certificate being issued.

(40) CHANGES TO KERB SIDE PARKING RESTRICTIONS

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

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

All costs associated with the parking proposal will be borne by the developer.

Note: As parking in the LGA is at a premium, it is recommended that the applicant should approach the Area Traffic Engineer to discuss the proposal before making a submission.

(41) 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.

(42) ON SITE LOADING AREAS AND OPERATION

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.

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.

(43) PARKING DESIGN

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 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a Stage 2 Construction Certificate being issued.

(44) PARKING ON COMMON PROPERTY AREAS

No part of the common property, 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. The strata subdivision 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.

(45) SERVICE VEHICLE SIZE LIMIT

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

(46) SIGNS AT EGRESS

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

- (a) Compelling drivers to stop before proceeding onto the public way
- (b) Compelling drivers to "Give Way to Pedestrians" before crossing the footway; or compelling drivers to "Give Way to Pedestrians and Bicycles" before crossing a footway on an existing or identified shared path route.
- (c) Advising vehicles under 2.7m in height to use the eastern carriageway. "Vehicles must turn left when exiting- vehicles with height exceeding 2.7m excepted".

(47) SIGNS ON RAMP

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

- (a) "Steep Grade on Ramp"
- (b) Speed limit signs "10km/h"

(48) 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.

(49) VEHICLE FOOTWAY CROSSING

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

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

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

(50) DOCK MANAGEMENT PLAN

The Dock Management Plan prepared by GTA consultants Dated 16 September 2014 is to be implemented to ensure that the operation of the loading dock and service vehicles has minimal impact on the operation of the basement.

(51) 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.

(52) ACCESSIBLE PARKING SPACE

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a Stage 2 Construction Certificate being issued.

(53) CAR SHARE SPACES

- (a) A minimum of 2 car parking spaces for the exclusive use of car share scheme vehicles are to be provided. A revised basement plan showing these spaces must be submitted to and approved by Council's Director City Planning, Development and Transport prior to the Stage 2 Construction Certificate being issued.
- (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.

(54) SAFETY AND SECURITY

- (a) All recommendations made in the CPTED Report prepared by JBA dated February 2103 are to be incorporated into the design to maximise the effectiveness of the build environment to reduce crime.
- (b) Further consideration should be given to the way finding and help points in the basement car park as well as considering white non-reflective ceilings on all levels, supported by high luminance overhead lighting throughout each level's layout, especially in corners where normal shadowing could occur.

(55) COMPLIANCE WITH THE ACOUSTIC REPORT & ADDITIONAL REPORTING & CERTIFICATION REQUIREMENTS PRIOR TO CONSTRUCTION AND OCCUPATION CERTIFICATES

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by **Renzo Tonin & Associates**, dated **24 February 2014**, ref TF321-02F04 (r1), titled **71 Macquarie Street, Sydney, Acoustic Assessment for Development Application, Council Ref trim# 2014/110231** (*'The DA Report'*) must be certified as implemented during the detailed design stage prior to the Stage 3 construction and again verified prior to the commencement of the use of the premises in accordance with requirements of (b) and (c) below and to the satisfaction of the certifying authority.
- (b) Prior to the issue of a Stage 3 Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant* (see definition below) to be in accordance with the requirements of The DA Report set out below. Specifically, the consultant will prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Principal Certifying Authority (PCA – or other specified authority) which addresses the requirements of section 4 of The DA Report.
- (c) Prior to the issue of an Occupation Certificate, a suitably qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the PCA or other authority as given in (b) above that the development complies with the requirements set out in The Report and in (a) and (b) above.

**Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.*

(56) DETAILED PLANS OF FOOD FITOUT REQUIRED

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 and must be submitted to and approved by Council prior to a Stage 3 Construction Certificate being issued.

(57) CONSTRUCTION AND FITOUT OF FOOD PREMISES

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 – 2004 Design, Construction and Fitout of Food Premises.

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.

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 or by visiting the website www.foodstandards.gov.au.

(58) COOKING EQUIPMENT AND VENTILATION

Cooking must not commence until an air handling system, in accordance with Part F4.12 of the BCA is approved, installed and operational. Cooking is defined as the process of changing any food from raw to cooked by applying heat, and also includes the preparation of food by heating it. This definition does not include heating food in a microwave, a sandwich press, a toaster or similar, unless the kW or MJ combined or separate exceed that specified in the BCA, or if the use of such equipment generates excessive heat, condensation or grease. Cooking equipment that requires an air handling system is specified in AS1668.2 and BCA F4.12.

(59) COOLROOMS

Cool room(s), refrigerated chambers and strong-rooms are to be constructed in accordance with G 1.2 of the *Building Code of Australia*:

- (a) 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.
- (b) 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.
- (c) 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 coved at the intersections with the walls to a minimum radius of 25mm.
- (d) A door which can be opened at all times from inside without a key.
- (e) 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.

(60) FOOD PREMISES - HEALTH DATABASE REGISTRATION

The business is to be registered with Council's Health and Building Unit prior to the issue of an Occupation Certificate or occupation with an Interim Occupation Certificate (whichever is earlier).

Note: Registration forms are available on Council's website www.cityofsydney.nsw.gov.au.

(61) GREASE TRAPS

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.

(62) 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 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.

(63) PERSONAL LOCKERS

Clothing lockers or change rooms for male and female staff must be provided in the premises or a dedicated, separate and isolated space for personal items must be provided in a separate location to the food handling and storage areas.

(64) SANITARY FACILITIES – FOOD PREMISES

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.

(65) VENTILATION REQUIRED (MECHANICAL) - VERTICAL DISCHARGE ONLY

The cooking appliances require an approved air handling system designed in accordance with AS1668.1-1998 and AS1668.2-1991 or AS1668.2 – 2012 if the discharge point is vertical or an alternative solution satisfying the performance objectives of the *Building Code of Australia*. No approval is granted for the burning of charcoal and solid fuel.

(66) WASTE ROOMS

- (a) 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*.
- (b) Detailed plans and specifications for the construction of the waste storage area are to be submitted to the Certifying Authority with the Stage 3 Construction Certificate.

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) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

(68) SECTION 138 APPROVAL

Prior to the commencement of any work within the public way associated with the construction of the part of the building beneath the public way of Macquarie Street, approval is to be obtained from Council under Section 138 of the Roads Act 1993 and as Macquarie Street is also a Classified Road, concurrence of the NSW Roads and Maritime Services is to be obtained for the proposed works.

(69) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(70) ALIGNMENT LEVELS – MAJOR DEVELOPMENT

- (a) Proposed building floor levels, basement levels, basement car park entry levels and ground levels shown on the approved Development Application plans are indicative only and have not been approved by this consent.
- (b) Prior to the Stage 2 Construction Certificate being issued alignment levels for the building and site frontages must be submitted to and approved by Council. The submission must be prepared by a Registered Surveyor, must be in accordance with the City of Sydney's *Public Domain Manual* and must be submitted with a completed Alignment Levels checklist (available in the *Public Domain Manual*) and Footpath Levels and Gradients Approval Application form (available on the City's website).
- (c) These alignment levels, as approved by Council, are to be incorporated into the plans submitted with the application for a Construction Certificate for any civil, drainage and public domain work as applicable under this consent. 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.

(71) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to the Stage 1 Construction Certificate being issued, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

The recording must include clear images of the building facade adjoining the footpath, 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.

Any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must immediately be made safe and functional by the applicant. Damage must be fully rectified by the applicant in accordance with the City's standards prior to a Certificate of Completion being issued for Public Domain Works or before an Occupation Certificate is issued for the development, whichever is earlier.

(72) PRESERVATION OF SURVEY MARKS

All works in City streets must ensure the preservation of existing permanent survey marks (a brass bolt, or a lead plug holding a brass tack, covered by a cast iron box). At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Project Manager Survey / Design Services to arrange for the recovery of the mark.

Prior to the issue of 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.

At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Senior Surveyor to arrange for the recovery of the mark.

A fee must be paid to the Council for the replacement of any permanent survey mark removed or damaged in accordance with the City's Schedule of Fees and Charges (Reinstatement of Survey Box).

(73) 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*.

(74) PUBLIC DOMAIN PLAN

- (a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to the Stage 4 Construction Certificate being issued for public domain work or above ground building work, whichever is later. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's *Public Domain Manual*).
- (b) The Public Domain Plan must 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 requirements for 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. 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.
- (c) 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.
- (d) 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.
- (e) 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 the Stage 4 Construction Certificate being issued.
- (f) 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.

(75) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to the Stage 4 Construction Certificate being issued for public domain work, including civil, drainage and subsurface works, a set of hold points for approved public domain, civil and drainage work is to be determined with and approved by the City's Public Domain section in accordance with the City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*.
- (b) Prior to a Certificate of Completion being issued for public domain works and before the issue of any Occupation Certificate for the development or before the use commences, whichever is earlier, electronic works-as-executed (as-built) plans and documentation, certified by a suitably qualified, independent professional must be submitted to and accepted by Council for all public domain works. Completion and handover of the constructed public domain works must be undertaken in accordance with the City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*, including requirements for as-built documentation, certification, warranties and the defects liability period.

(76) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

- (a) Prior to the Stage 2 Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, 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) 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 2 Construction Certificate being issued excluding any approved preparatory, demolition or excavation works.
- (c) Prior to the issue of any Occupation Certificate, 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.
- (d) 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 3 Construction Certificate being issued for public domain works or above ground building works, whichever is earlier, and prior to the commencement of any work within the public way.
- (e) 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.

Prior to the Stage 1 Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), but excluding approved preparatory or demolition work, a stormwater quality assessment must be undertaken by a suitably qualified drainage engineer and must be approved by Council, demonstrating how the development will be designed to ensure that the flow of post-development pollutants from the site due to stormwater will be reduced.

(77) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City's public domain, including rectification of identified defects, are subject to a 12 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Completion for public domain works.

(78) DRAINAGE AND SERVICE PIT LIDS

Drainage and service pit lids throughout the public domain shall be heelguard and bicycle safe, finish flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Pit lids shall be in accordance with the *City of Sydney's Sydney Streets Design Code* and *Sydney Streets Technical Specification*. Details of drainage and service pit lids shall be submitted and approved by Council prior to the Stage 4 Construction Certificate being issued for the relevant stage of work.

(79) PROTECTION OF STONE KERBS

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

- (f) Council approval is required before kerbs are removed.
- (g) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

(80) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 4 lineal metres of the brick footway on the Macquarie Street site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit 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 the Stage 1 Construction Certificate being issued, whichever is earlier.

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.

Note: The bond submitted to satisfy the relevant condition in the Demolition consent (D/2014/299) may be modified to also cover the financial security required by this condition.

(81) PUBLIC DOMAIN LIGHTING

- (a) Prior to the Stage 4 Construction Certificate being issued, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be prepared by a suitably qualified, practicing lighting engineer or lighting designer and must be submitted to and approved by Council. The Lighting Plan must be prepared in accordance with the City of Sydney's Interim Draft Sydney Lights Design Code, Sydney Streets Design Code, *Sydney Streets Technical Specification* and *Public Domain Manual* and must include the following:
 - (i) Vertical and horizontal illuminance plots for the public domain lighting design to demonstrate compliance with all relevant Australian Standards and to meet the lighting categories and requirements specified by the City;
 - (ii) The location, type and category of existing and proposed lights, including details of luminaire specifications, required to ensure compliance with City policies and Australian Standards;
 - (iii) Footing locations and structural details;
 - (iv) Location and details of underground electrical reticulation, connections and conduits;

- (v) Certification by a suitably qualified, practicing lighting engineer or lighting designer to certify that the design complies with City policies and all relevant Australian Standards including AS 1158, AS 3000 and AS4282;
 - (vi) Structural certification for footing designs by a suitably qualified, practicing engineer to certify that the design complies with City of Sydney policies and Australian Standards.
- (b) The public domain lighting works are to be completed in accordance with the approved plans and the City of Sydney's *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

(82) STORMWATER QUALITY

Details demonstrating how the development achieves the post-development pollutant load standards identified in control 3.7.3 in *Sydney DCP 2012* are to be submitted and be approved by the Principal Certifying Authority prior to a Stage 3 Construction Certificate being issued.

(83) STORMWATER INFRASTRUCTURE

Prior to the Issue of a Stage 1 Construction Certificate all stormwater infrastructure located underneath the portion of Circular Quay East, known as Lot's 1,2 & 3 in DP1191504 shall either be re-located to the satisfaction of the City or where appropriate be subject to an easement for drainage benefitting the City.

(84) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

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

- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the *Work, Health and Safety Act 2011* and Regulation; Council's *Policy for Waste Minimisation in New Developments 2005*, the *Waste Avoidance and Resource Recovery Act 2001*, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act 2001*.
 - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
 - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
 - (iv) The name and address of the transport contractor.
 - (v) The type and quantity of material to be removed from site.
 - (vi) Location and method of waste disposal and recycling.
 - (vii) Proposed truck routes, in accordance with this development consent.
 - (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
 - (ix) Measures to control noise emissions from the site.
 - (x) Measures to suppress odours.
 - (xi) Enclosing and making the site safe.
 - (xii) Induction training for on-site personnel.
 - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to Work Cover Authority.
 - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the Work Cover Authority.
 - (xv) Disconnection of utilities.

- (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
 - (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
 - (xviii) Waterproofing of any exposed surfaces of adjoining buildings.
 - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).
 - (xx) Working hours, in accordance with this development consent.
 - (xxi) Any Work Cover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

(85) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 61-69 Macquarie Street, Sydney are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Stage 1 Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of 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.

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

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

- (a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the *NSW Protection of the Environment Operations Act 1997*.
- (b) Include a drawing(s) that clearly shows:
 - (i) location of site boundaries and adjoining roads
 - (ii) approximate grades and indications of direction(s) of fall
 - (iii) approximate location of trees and other vegetation, showing items for removal or retention
 - (iv) location of site access, proposed roads and other impervious areas
 - (v) existing and proposed drainage patterns with stormwater discharge points
 - (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
 - (i) timing of works
 - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained
 - (iii) access protection measures
 - (iv) nature and extent of earthworks, including the amount of any cut and fill
 - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
 - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
 - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
 - (viii) frequency and nature of any maintenance program
 - (ix) other site-specific soil or water conservation structures.

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

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

(88) 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 (temporary structures) in a public place.
- (b) Where a consent is granted allowing the placement of temporary structures in a public place the structures must comply fully with Council's *Policy for the Design of Construction Hoardings* and the conditions of any consent granted including:
- (i) maintaining a current and valid consent for the full duration that the temporary structures are installed in the public place (Section 139, *Roads Act 1993*);
 - (ii) bill posters and graffiti being removed within 24 hours of their placement (Clause 3.1);
 - (iii) maintaining temporary structures in a clean and tidy condition including repainting where directed by an authorised officer of Council (Clause 3.1);
 - (iv) hoarding site fences complying with Clause 3.3 - Element 3;
 - (v) site sheds on decks of Type B hoardings being fully screened from the public place (Clause 3.3 - Element 5); and
 - (vi) providing and maintaining operational artificial lighting systems under Type B hoardings (Clause 3.3 – Element 9).

(89) ELECTRICITY SUBSTATION

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Stage 2 Construction Certificate being issued or the commencement of the use, whichever is earlier.

(90) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a 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.

(91) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

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

UPON COMPLETION OF THE DEVELOPMENT

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

(92) PHYSICAL MODELS

- (a) Prior to a Stage 3 Construction Certificate being issued, an accurate 1:500 scale model of the approved development must be submitted to Council for the City Model in Town Hall House; and
- (b) Prior to a final Occupation Certificate being issued, an accurate 1:500 scale mode of the development as constructed must be submitted to Council for the City Model in Town Hall House

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's modelers must be consulted prior to construction of the model.

- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under section 96 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

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

- (a) Prior to a Stage 3 Construction Certificate being issued, an accurate 1:1 electronic CAD model of the detailed construction stage drawings for that stage must be submitted to Council for the electronic Visualisation City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
 - (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

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

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

(94) CONTAMINATION

- (a) The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Department of Environment Climate Change and Water (DECC) *Environmental Guidelines Assessment, Classification and Management of Non-Liquid Wastes*
- (b) Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority.

(95) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the 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.*

(96) 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.

(97) FLOOR TO CEILING HEIGHT

Prior to a Stage 3 Construction Certificate being issued, the Certifying Authority must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

(98) SWIMMING POOL - WASTE AND OVERFLOW WATERS

Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water, and details are to be submitted with the application for a Stage 3 Construction Certificate to the satisfaction of Council or the accredited certifier and approved by the Certifying Authority.

(99) SWIMMING POOL/SPA

Swimming and/or spa pool/s and pool surrounds must be maintained in accordance with the *Public Health (General) Regulation 2012*. Note: Guidance may also be obtained from the NSW Health Department's *Public Swimming Pool and Spa Pool Guidelines*.

(100) STREET TREE PROTECTION

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

- (a) Tree trunk and major limb protection must be undertaken prior to or during the installation of any hoarding or scaffoldings. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
 - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
 - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage, and
 - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,
 - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
 - (i) around or under the tree canopy; or
 - (ii) within two (2) metres of tree trunks or branches of any street trees.

- (d) Protective fencing (1.8 metre chain wire mesh fencing) must be erected on top of the hoarding to protect branches during the construction works.
- (e) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(101) ARCHAEOLOGICAL INVESTIGATION

- (a) The applicant must apply to the Heritage Office for an excavation permit under Section 140 of the *Heritage Act 1977* and an AHIP under s90 of the *National Parks & Wildlife Act 1974*.
- (b) Should any potential archaeological deposit likely to contain Aboriginal artefacts be identified by any person during the planning or historical assessment stage, application must be made by a suitably qualified archaeologist to the Department of Environment and Climate Change for an excavation permit for Aboriginal relics.
- (c) The applicant must comply with the conditions and requirements of any excavation permit required, and are to ensure that allowance is made for compliance with these conditions and requirements into the development program.
- (d) General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.
- (e) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the *Heritage Act 1977*.
- (f) Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance of the area is to stop immediately and the Department of Environment and Climate Change is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

(102) PROTECTION OF HERITAGE ITEMS

The proposed works are to ensure that Bennelong Stormwater Channel (SWC No. 29) and the pylons of the Cahill Expressway are to be suitably protected during the demolition and construction process. Details of the protection strategies, including vibration monitoring and buffer zones should be submitted to and approved by Council prior to the issue of the Stage 1 Construction Certificate. The proposed redevelopment of the site should be wholly outside of the curtilage of the Bennelong Stormwater Channel and must not have any impact on the fabric of this item.

(103) HERITAGE INTERPRETATION STRATEGY

- (a) An interpretation strategy for any significant archaeological features uncovered during excavation must be submitted to and approved by Council prior to a Stage 1 Construction Certificate being issued.
- (b) The interpretation strategy must detail how information on the history and significance of any significant archaeological features will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) Prior to an occupation certificate being issued the approved interpretation strategy must be implemented to the satisfaction of Council.

(104) HISTORIC MARKER

Should significant archaeological material be identified during excavations, 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.

(105) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

- (a) Should any historical relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the *Heritage Act 1977*.
- (b) Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the Department of Environment and Climate Change is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

(106) DISPOSAL OF SURPLUS SALVAGED MATERIALS

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

(107) NOISE - GENERAL

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

- (ii) The 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

Residential Amenity

- (b) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;
 - (i) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 - Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
 - (ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;
 - (iii) The LA90,15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (excluding air-conditioning equipment) normally servicing the affected residence operating.

Commercial Premises

- (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.

(108) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 and AS1668.2-1991, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, to the satisfaction of the Certifying Authority prior to the issue of a Stage 3 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.

(109) MICROBIAL CONTROL IN WATER SYSTEMS

- (a) Prior to the issue of a Stage 3 Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the Public Health Act 2010 must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the Public Health Act 2010) must comply with the following:
 - (i) Public Health Act 2010, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease.

- (ii) Prior to the issue of an Occupation Certificate or if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

(110) ACID SULFATE SOILS

- (a) If any new information comes to light during excavation or construction works which has the potential to alter previous conclusions about Acid Sulfate Soil identification and remediation, then this must be immediately notified to the Council and the Principal Certifying Authority.
- (b) All works are to be in accordance with the NSW Acid Sulfate Soils Management Advisory Committee, Acid Sulfate Soils Assessment Guidelines 1998 for the works that are classified as being in an Acid Sulfate Soils zone Class 2.

(111) DEMOLITION/SITE RECTIFICATION

The following conditions apply to the development:

- (a) Prior to the Stage 1 Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (b) Without limiting the generality of paragraph (b), the Deed must provide for:
 - (i) a bank guarantee to be provided in the sum of \$301,750 as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$301,750; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
 - (ii) Council is to be given sufficient contractual rights to be able to ensure that in any of the following events namely:

- a. the site has been excavated; or
 - b. the erection of the structure has commenced;
- (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the Consent Authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
- a. make the building safe and of an appearance acceptable to Council at ground level;
 - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. for the hole to be covered to allow it to be landscaped and made attractive from any public vantage-point; or
 - d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenantable stage;

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

- (c) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
- (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (ii)a – d to take place on the site; and
 - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (d) The Deed may provide for the release of the Bank Guarantee at such time that the Final Occupation Certificate for the approved development is issued. If the approved development also relates to works to existing buildings, the relevant Final Occupation Certificate is the one that relates to that part of the approved development which involves the demolition and new construction.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(112) 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.

(113) 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*.

(114) 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.

(115) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (f) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(116) 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.

(117) 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.

(118) 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.

(119) BASIX

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

(120) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT

The immediately adjoining neighbours must be given a minimum of 48 hours notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

(121) 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.

(122) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(123) 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.

(124) 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.

(125) 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.

(126) COVERING OF LOADS

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

(127) EROSION AND SEDIMENT CONTROL

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

During the construction period:

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

(128) 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.

(129) SYDNEY WATER CERTIFICATE

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

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

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

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

SCHEDULE 1D

(130) ACQUISITION OF COLONNADE, THROUGH SITE LINK AND AIR SPACE

- (a) The part of the site referred to as the "Colonnade Lot" and the "Through-Site Link Lot" in the registered Planning Agreement for the development, is to be transferred into Council's ownership in fee simple and is to be defined in stratum as the air space within the colonnade and through-site link, and is to exclude all parts of the physical building including columns, beams, paving, steps and the like to Council's satisfaction.
- (b) The part of the site referred to as the "Airspace Lot" in the registered Planning Agreement for the development, is to be transferred into Council's ownership in fee simple and is to be defined in stratum limited in depth to the top of the proposed building, excluding all parts of the physical building, being nominally RL 67.23 AHD, and to Council's satisfaction.
- (c) In order to facilitate the excision of the land in stratum, to be transferred to Council, separate applications are to be made to obtain Development Consent for the proposal and subsequent issue of the Subdivision Certificate.
- (d) The above land is to be transferred and evidence is to be submitted to Council of the issue of Title in the name of the City of Sydney, prior to the issue of the first Occupation Certificate for the development.

(131) EASEMENT FOR SUPPORT AND POSITIVE COVENANT

Any such subdivision of the site will require:

- (a) A documentary Easement for Support to be created over the parts of the lot below the land referred to as the "Colonnade Lot" and the "Through-Site Link Lot" in the registered Planning Agreement for the development, pursuant to Section 88B of the *Conveyancing Act 1919*. The Easement is to be created in terms granting lateral and subjacent support of the land referred to as the "Colonnade Lot" and the "Through-Site Link Lot" by the part of the building below the "Colonnade Lot" and the "Through-Site Link Lot", appurtenant to Council and to Council's satisfaction.
- (b) A documentary Positive Covenant to be created and registered on the lot adjoining the land referred to as the "Colonnade Lot" and the "Through-Site Link Lot" in the registered Planning Agreement for the development, appurtenant to Council, in terms requiring the maintenance, upkeep and repair of the land adjacent to the land referred to as the "Colonnade Lot" and the "Through-Site Link Lot", and lighting of the land referred to as the "Colonnade Lot" and the "Through-Site Link Lot", in accordance with Council's requirements and to the satisfaction of Council. The Positive Covenant is to include all terms considered necessary to protect the interests of Council and those of the public.

(132) LEASE OF STRATUM OF MACQUARIE STREET

- (a) Prior to commencement of any work associated with the development 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 of the stratum of Macquarie Street to be occupied by the parts of the building beneath the public footway. The payment of rent and the lease term is to be to the satisfaction of Council.
- (b) Such lease is to be subject to all conditions considered necessary to protect Council's interests and those of the public, and subject to a rental in a sum to be assessed by Council's valuers. All associated fees and costs (including with those associated with the preparation and registration of the required Plan of Subdivision of part of Macquarie Street) are to be borne by the owners who 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 with 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 development.
- (c) The subdivision of part of Macquarie Street, to facilitate the lease under Section 149 of the *Roads Act 1993*, will require the lodgement of a separate development application.

SCHEDULE 2

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

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>

SCHEDULE 3**Terms of Approval****Other Integrated Development Approvals**

The Terms of Approval for Integrated Development as advised by NSW Office of Water are as follows:

General

- (133) An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.
- (134) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.
- (135) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to excavation

- (136) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
- (137) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
- (138) A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.
- (139) Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- (140) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- (141) Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the Protection of the Environment Operations Act 1997 [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- (142) Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

- (143) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- (144) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
- (145) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- (146) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- (147) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
- (148) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

- (149) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

SCHEDULE 4

SYDNEY TRAINS OPERATIONAL CONDITIONS

- (150) Unless amendments are required in order to obtain approval/certification from Sydney Trains in relation to the items listed in the Sydney Trains deferred commencement conditions, all excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:
- (a) Shoring Plan Proposed Condition prepared by Taylor Thomson Whitting - Drawing No. SK006 Rev P7, dated 16/09/14
 - (b) Section A Proposed Condition prepared by Taylor Thomson Whitting - Drawing No. SK011 Rev P5, dated 16/09/14

- (c) Section A Proposed Condition Cahill Express Way prepared by Taylor Thomson Whitting - Drawing No. SK013 Rev P2, dated 01/08/14
- (d) Section C Proposed Basement prepared by Taylor Thomson Whitting - Drawing No. SK021 Rev P4, dated 16/09/14
- (e) Section D Existing and Proposed Conditions prepared by Taylor Thomson Whitting - Drawing No. SK026 Rev P7, dated 16/09/14
- (f) Shoring Details prepared by Taylor Thomson Whitting - Drawing No. SK011 Rev P5, dated 16/09/14
- (g) Footing Plan prepared by Taylor Thomson Whitting - Drawing No. SK030 Rev P3, dated 20/05/14
- (h) Basement Level B6 Outline Plan prepared by Taylor Thomson Whitting - Drawing No. SK040 Rev P3, dated 20/05/14
- (i) Basement Level B5 Outline Plan prepared by Taylor Thomson Whitting - Drawing No. SK070 Rev P3, dated 20/05/14
- (j) Ground Level Outline Plan Proposed Condition prepared by Taylor Thomson Whitting - Drawing No. SK100 Rev P4, dated 01/08/14
- (k) Level 1 Outline Plan prepared by Taylor Thomson Whitting - Drawing No. SK110 Rev P4, dated 01/08/14
- (l) Level 2 Outline Plan prepared by Taylor Thomson Whitting - Drawing No. SK120 Rev P4, dated 01/08/14
- (m) Level 3 Outline Plan prepared by Taylor Thomson Whitting - Drawing No. SK130 Rev P4, dated 01/08/14
- (n) Level 4 Outline Plan prepared by Taylor Thomson Whitting - Drawing No. SK140 Rev P4, dated 01/08/14
- (o) Level 5 Outline Plan Proposed Condition prepared by Taylor Thomson Whitting - Drawing No. SK150 Rev P4, dated 01/08/14

The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply or are superseded as a result of the compliance with the Sydney Trains deferred commencement conditions. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

- (151)** If required by Sydney Trains, prior to the commencement of new buildings works, the Applicant shall identify via survey or services search rail services along the rail corridor and undertake an assessment of the excavation induced impact on these services.

- (152) Rainwater from the roof must not be projected and/or falling into the rail corridor or Cahill Expressway and must be piped.
- (153) Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains, RMS and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains or RMS property or easements, unless agreed to be these authorities.
- (154) The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- (155) Prior to the issue of a Stage 1 Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Stage 1 Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
- (156) Prior to the issue of a Stage 1 Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Stage 1 Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- (157) The Applicant is to obtain Sydney Trains endorsement prior to the installation of any hoarding or scaffolding facing the common boundary with the rail corridor.
- (158) Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- (159) No rock anchors/bolts are to be installed into Sydney Trains property. Sydney Trains may consider the use of rock anchors/bolts if it is deemed necessary, and endorsed by Sydney Trains engineers, in order to ensure the stability of the rail corridor structure.
- (160) Unless advised by Sydney Trains in writing, the effect of construction induced settlement due to groundwater drawdown potentially leading to track settlement is to be avoided at all times.
- (161) The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Stage 1 Construction Certificate:
- (a) Machinery to be used during excavation/construction.

- (b) Track/vibration monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.
- (c) Groundwater monitoring plan.
- (d) If required by Sydney Trains, a rail safety plan including instrumentation and the monitoring regime.

The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- (162)** No work is permitted within the rail corridor, or rail easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains.
- (163)** The Applicant must provide a plan of how future maintenance of the retaining wall along the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains prior to the issuing of a Stage 1 Construction Certificate. The Principal Certifying Authority is not to issue a Stage 1 Construction Certificate until written confirmation has been received from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.
- (164)** Prior to the commencement of works and prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project (especially the retaining wall and rail track formation) is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
- (165)** Prior to the commencement of works, the Applicant shall peg-out the common boundary with the rail corridor and/or rail easement to ensure that there is no encroachment. This work is to be undertaken by a registered surveyor.
- (166)** Prior to the issue of a Stage 1 Construction Certificate the Applicant is to submit to Sydney Trains for endorsement a revised acoustic assessment report that meets Sydney Trains Requirements. The Applicant must incorporate in the development all the measures recommended in the report. The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.
- (167)** Prior to the issue of a Stage 1 Construction Certificate the Applicant is to submit to Sydney Trains for endorsement a revised Electrolysis Report that meets Sydney Trains requirements. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

- (168) Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains requirements. The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.
- (169) The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains.
- (170) The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (171) Prior to the issue of a Stage 1 Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (172) No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.
- (173) Prior to the issuing of a Stage 1 Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Stage 1 Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- (174) Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Stage 1 Construction Certificate.
- (175) Prior to the commencement of demolition works, the Applicant shall obtain written advice from Sydney Trains as to whether track possessions (the stopping of trains running on adjacent tracks) and/or power outages (shutting of power to Sydney Trains facilities) is required to be able to undertake the proposed works. Should Sydney Trains advise that track possessions and/or power outages are required, the Applicant must undertake those works as directed by Sydney Trains. The Applicant is advised that the entering into a Deed with Sydney Trains, enabling his work to be planned and to proceed in a safe and controlled manner may be required.

- (176) The public staircase connecting Macquarie Street to the Cahill Expressway shall be protected at all times.
- (177) Prior to the commencement of new building construction works the Applicant is to provide confirmation to Sydney Trains that the former building's air-conditioning infrastructure located on Sydney Trains property has been removed.

BACKGROUND

The Site

1. The site comprises of two parcels of land and a portion of land below public road, identified as:
 - (a) Lot 1 DP 202431 with a street address of 71-79 Macquarie Street (“**Macquarie Street lot**”); and
 - (b) Lots 2 - 4 DP 1191504 with a street address of 5020 Circular Quay East (“**East Circular Quay lot**”); and
 - (c) An 84sqm portion of land leased from Council, being a vaulted space below Macquarie Street with a street address of 5010 Macquarie Street (“**lease lot**”).
2. Combined, these parcels and the lease area are referred to as “**the site**” and have different land owners. **Figure 2** illustrates the proposed site and current land owners.
3. The site is irregular in shape and has general boundary dimensions of 39.515 metres to Macquarie Street to the east, 45.265 metres to Circular Quay East to the west, 22.14 metres to Cahill Expressway/City Circle Rail viaduct to the south and 26.92 metres to Quay Grand development to the north.
4. The Macquarie Street lot has a site area of 889.9sqm and the Circular Quay East lot has a site area of 317.22sqm, the total site area is 1207sqm. The site area excludes the lease lot beneath Macquarie Street as this land is owned and will continue to be owned by the City of Sydney Council (**the City**”).
5. The site experiences a cross fall of 9 metres from the higher Macquarie Street boundary to the lower East Circular Quay boundary.
6. The Macquarie Street lot is currently occupied by a 15 storey commercial concrete, brick and glass building with basement parking and is known as the “Amatil Building”. Along the southern boundary, part of the Cahill Expressway/City Circle Rail viaduct and public pedestrian stairs from Macquarie Street to the expressway and overhang into the site (by a width of 5.7m).
7. The East Circular Quay lot is currently 317sqm of road providing vehicular access to the basement of the adjoining property to the north. On 15 October 2012, Council at its meeting endorsed the closure of the road consistent with Council’s long term goal of removing vehicular traffic from East Circular Quay. The road closure and sale is the subject of a separate Road Deed between the City and AMP Life Limited.
8. The site is identified as containing contaminated soil and varying groundwater levels of 0.4 m AHD to 2.7 m AHD which is generally just below existing ground level on the Circular Quay side and 10 metres below ground level on the Macquarie Street side.

9. The site is burdened by easements and covenants and subject to a number of leases. The easement and covenant relate to the overhanging structures associated with the Cahill Expressway and pedestrian stairs, and restrict any structure being built within the specified airspace.
10. **Figures 1 - 7** below illustrate the site location and existing development.

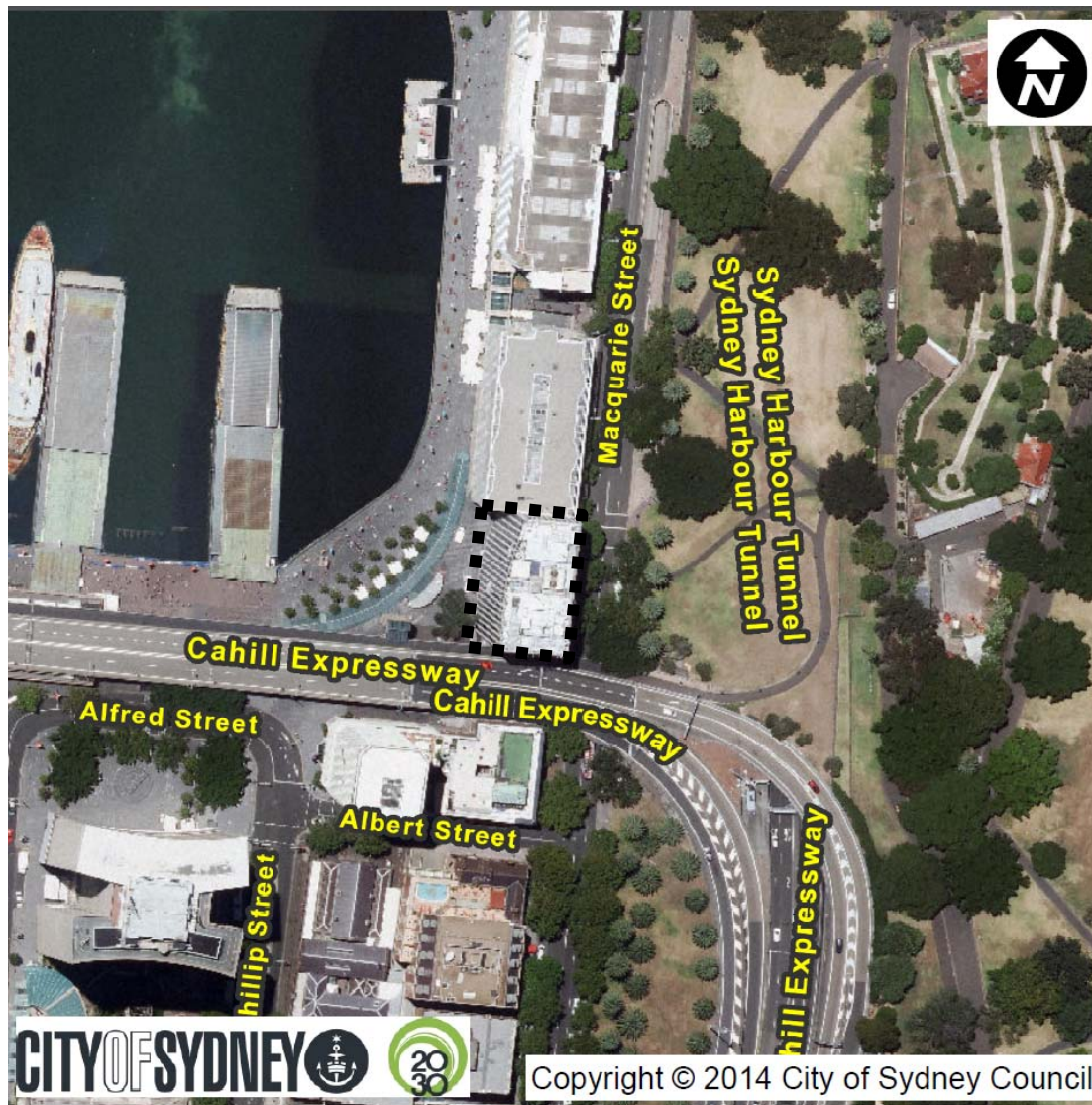


Figure 1: Aerial image of subject site and surrounding area.

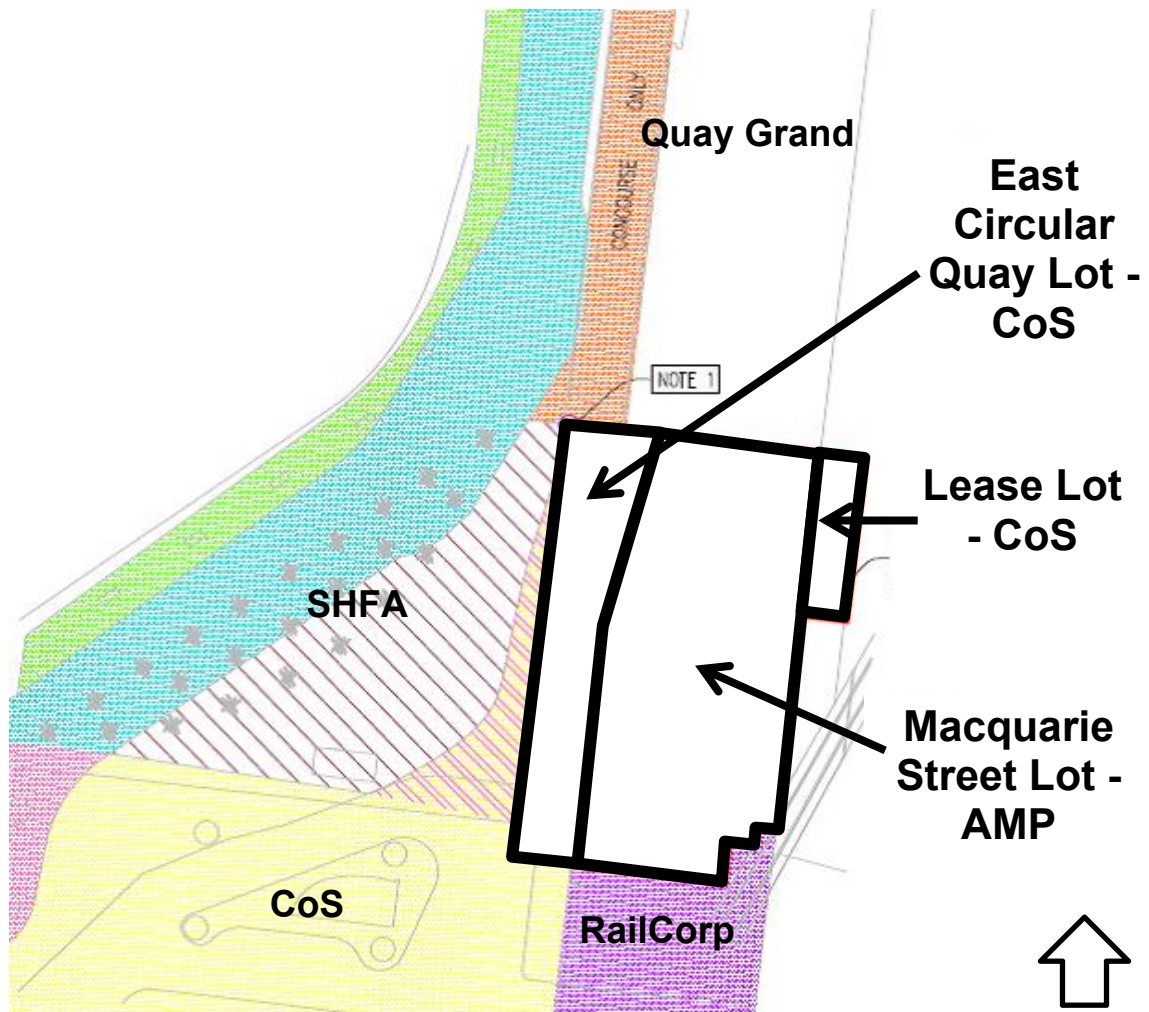


Figure 2: Diagram illustrating the 3 lots that make up the site and current land ownership.



Figure 3: The Site, as viewed from Circular Quay in an easterly direction.

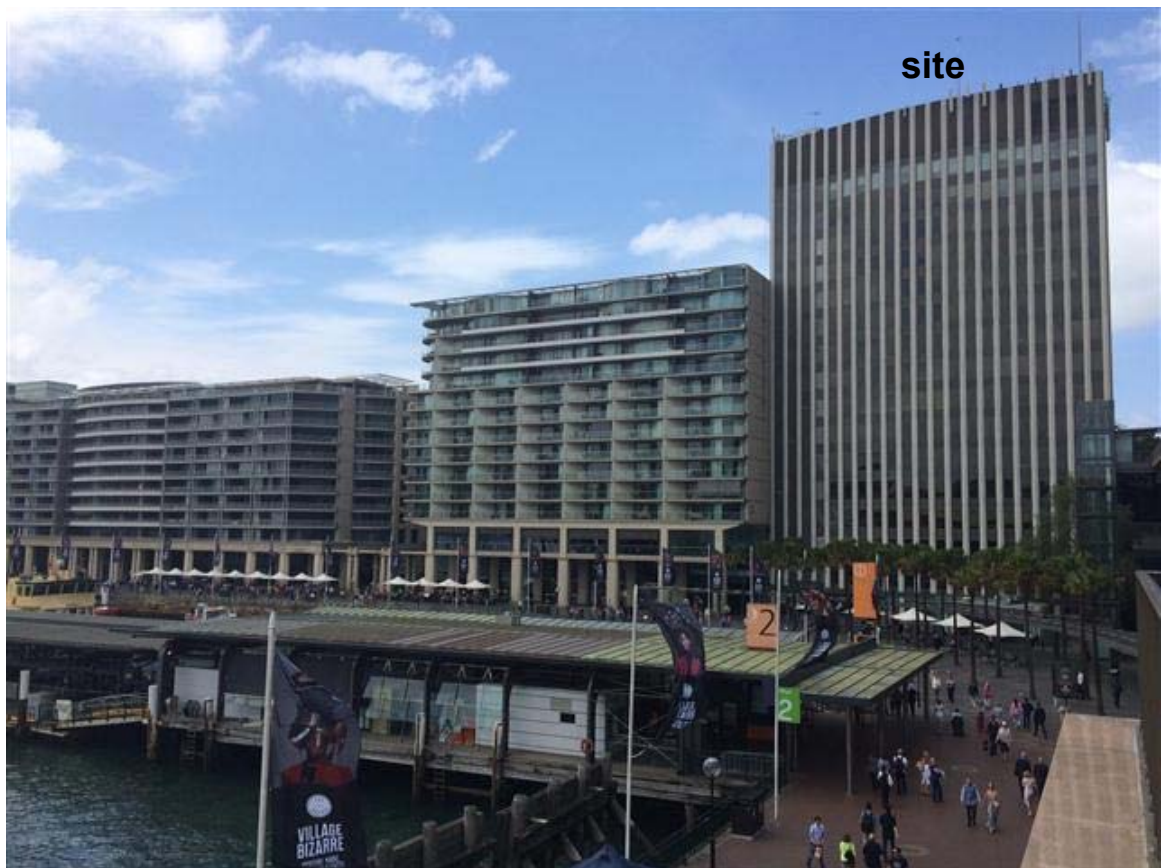


Figure 4: The Site, as viewed from Circular Quay station in an easterly direction.



Figure 5: The Site, as viewed from Botanic Gardens in a westerly direction.



Figure 6: Existing vehicular entry to the building adjacent to the rail viaduct.



Figure 7: Elevated view of the existing vehicular access road from Level 2 of building to the north of the site.

Surrounding Development

11. Adjoining the site to the north is a 15 storey building used for retail, serviced apartments and residential apartments and is known as “**Quay Grand**”. Quay Grand has 4 levels of basement parking with the vehicular access at ground level from the East Circular Quay lot. Along the western edge of the Quay Grand a 6 metre wide and 3.2 metre high ground level colonnade and is owned by the City. The Quay Grand also occupies a portion of land beneath Macquarie Street which is stratum lot, leased from the City.
12. The public domain along the Macquarie Street boundary is generally brick paving with concrete paver banding and contains 4 London Plane street trees. To the east on the opposite side of Macquarie Street are the Domain and the Botanic Gardens.
13. Adjoining the site to the south east is a parcel of land owned by RailCorp where rail infrastructure is located. A subterranean Sydney Water stormwater and sewerage channel is located immediately adjacent to the south eastern corner of the site.
14. To the south of the site on the opposite side of the Cahill Expressway/City Circle Rail viaduct is the State Heritage listed Royal Automobile Club and a 28 storey building used for residential apartments and known as the “**Quay Apartments**”. To the south, at ground level is a low clearance underpass and amenities building for NSW Transport employees.

15. To the west of the site is East Circular Quay which is a large public forecourt. The area currently comprises of a paved area with 23 Cabbage Tree Palms, a cafe known as the Arc café, open walkway and lift shaft that provides access between ground level and the pedestrian walkway along the Cahill Expressway.
16. The broader area around the site is characterised by a mix of public recreation, commercial and residential land uses.
17. **Figures 8 - 15** below illustrate the development that surrounds the site.



Figure 8: Quay Grand development to the north of the site as view from Macquarie Street.



Figure 9: Existing vehicular entry via access road to Quay Grand development over East Circular Quay (subject site).



Figure 10: Quay Grand development in foreground and Quay Apartments in background beyond viaduct.



Figure 11: Existing public domain along Macquarie Street adjacent to the Site.



Figure 12: Botanic Gardens on the opposite side of Macquarie Street.



Figure 13: Quay Apartments and subject site in background as viewed from Alfred Street.



Figure 14: Existing access road and underpass below viaduct and RMS amenities building.



Figure 15: Public forecourt adjacent to the western boundary of the site.

History of Applications/Approvals/Agreements Relevant to the subject Site

18. The following approvals, applications, draft planning agreement and competitive design competition are considered relevant to the proposed development:

71-79 Macquarie Street

(a) Part 3A Concept Plan - MP 10_0237

On 17 October 2012, a Concept Plan MP 10_0237 for a mixed use residential development including a building envelope, land uses, location of future public domain works (including a through site link), pedestrian and vehicle access arrangements and car parking rates was approved by the Minister of Planning and Infrastructure. **Figures 16-20** illustrate the envelopes and section approved in the concept approval.

The concept approval was amended on 12 November 2014 to include the methodology for calculating floor space and heritage floor space on the site.

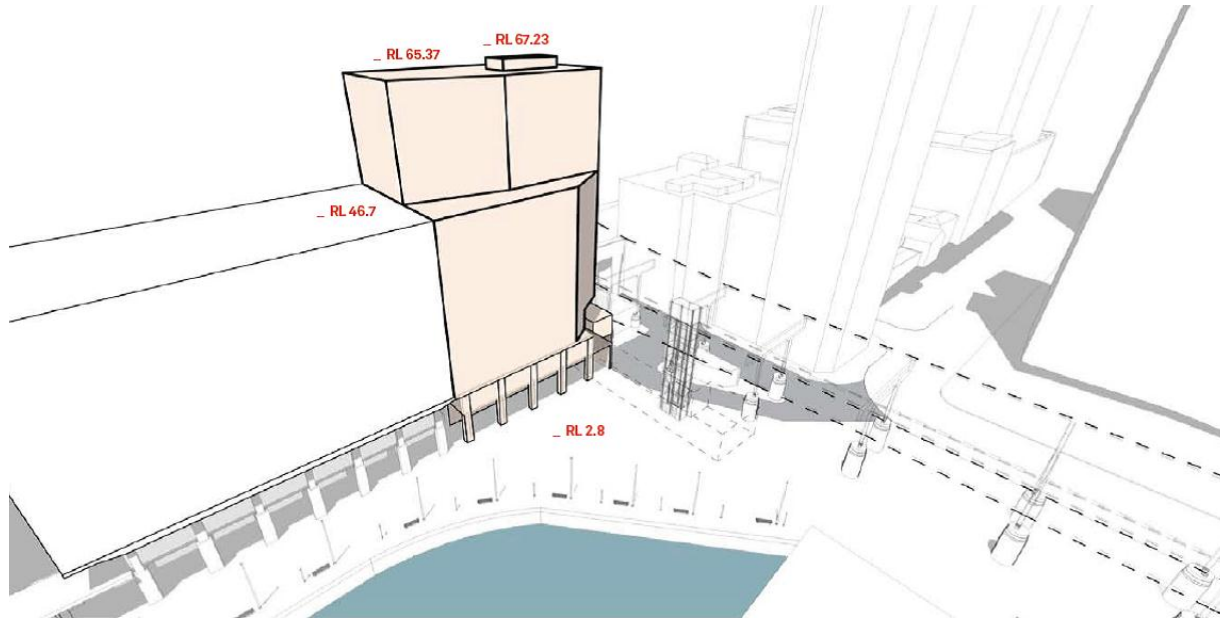


Figure 16: Diagram of the Concept Approval envelope.

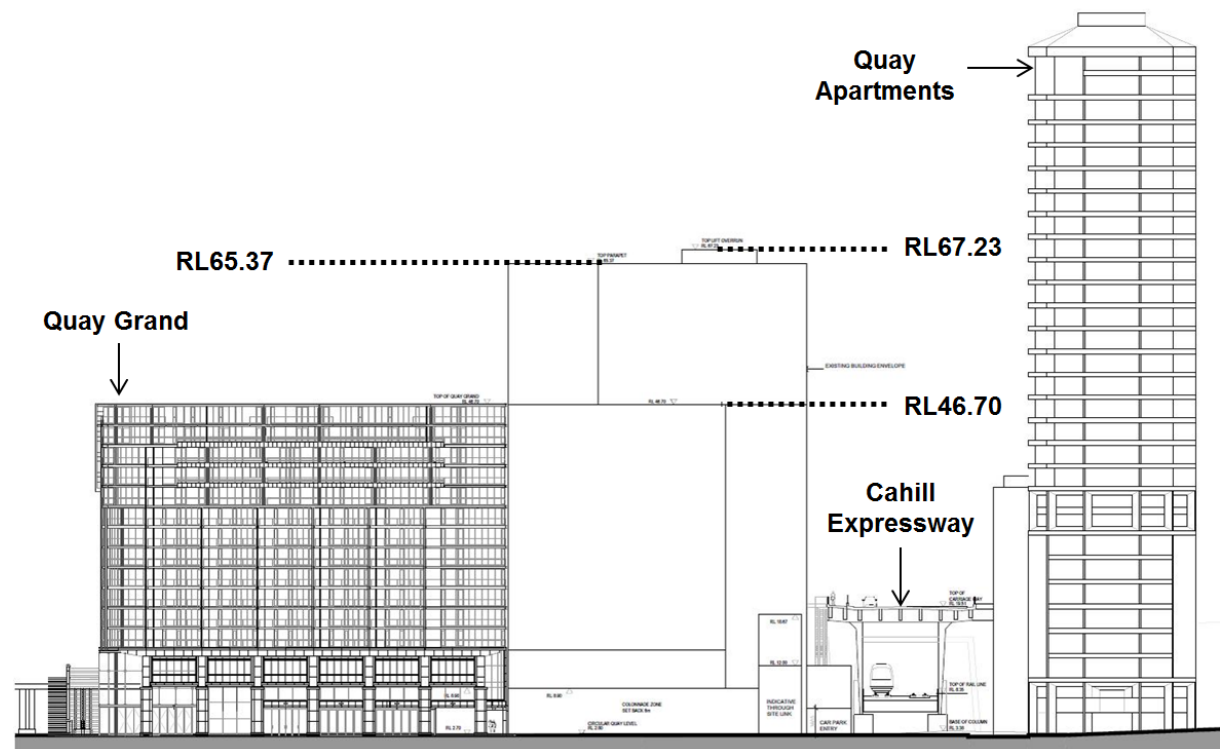


Figure 17: Diagram of the approved West Elevation and relevant context and height information.

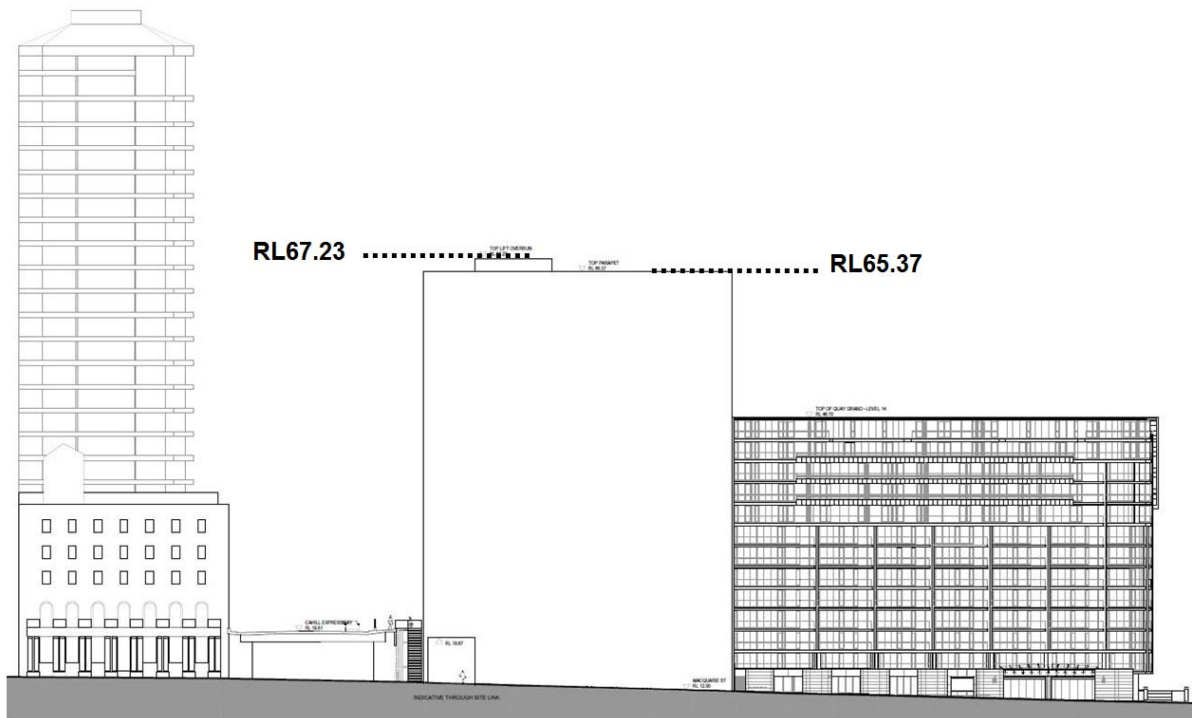


Figure 18: Diagram of the approved East Elevation and relevant height information.

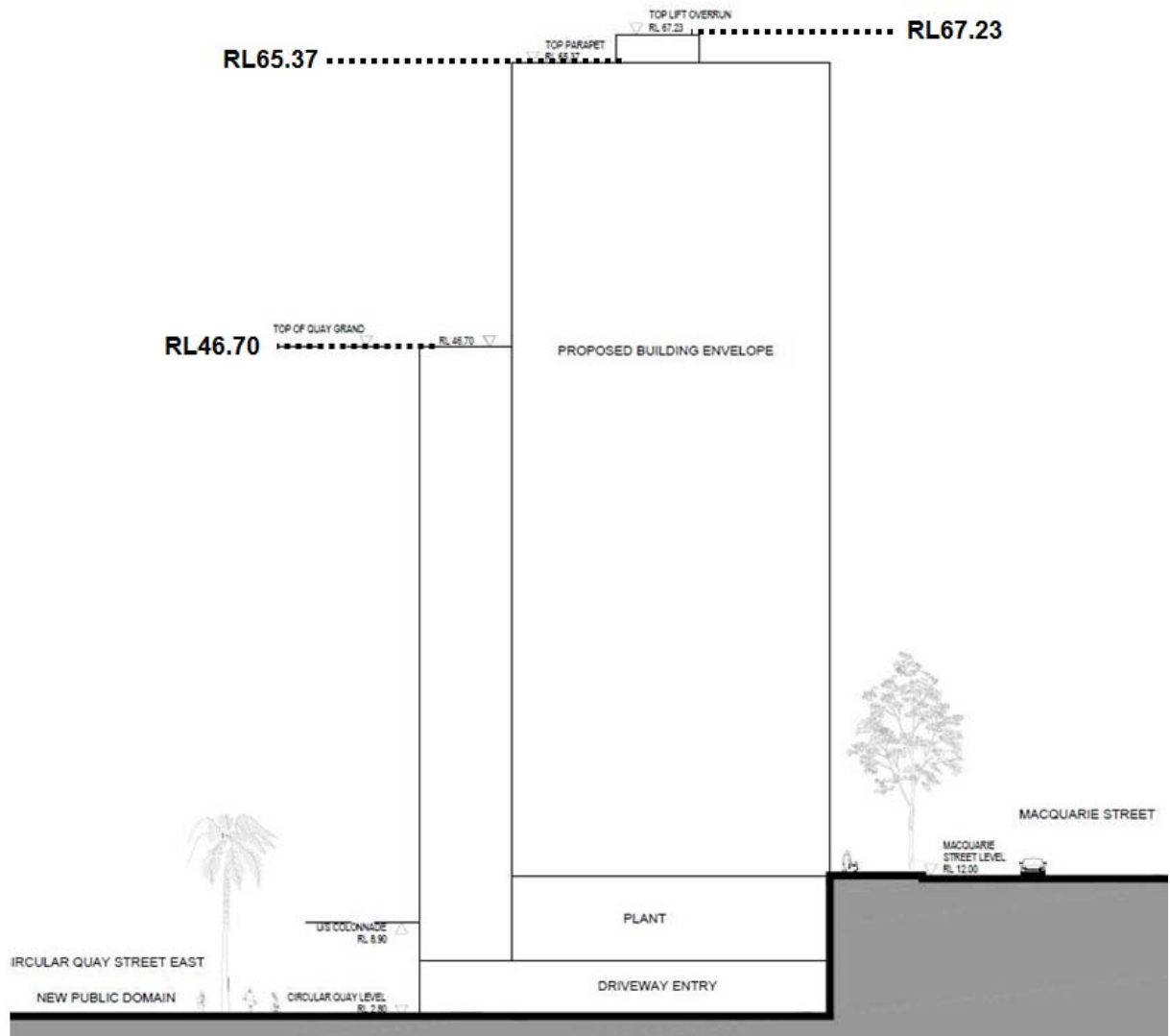


Figure 19: Diagram of the approved South Elevation and relevant height information.

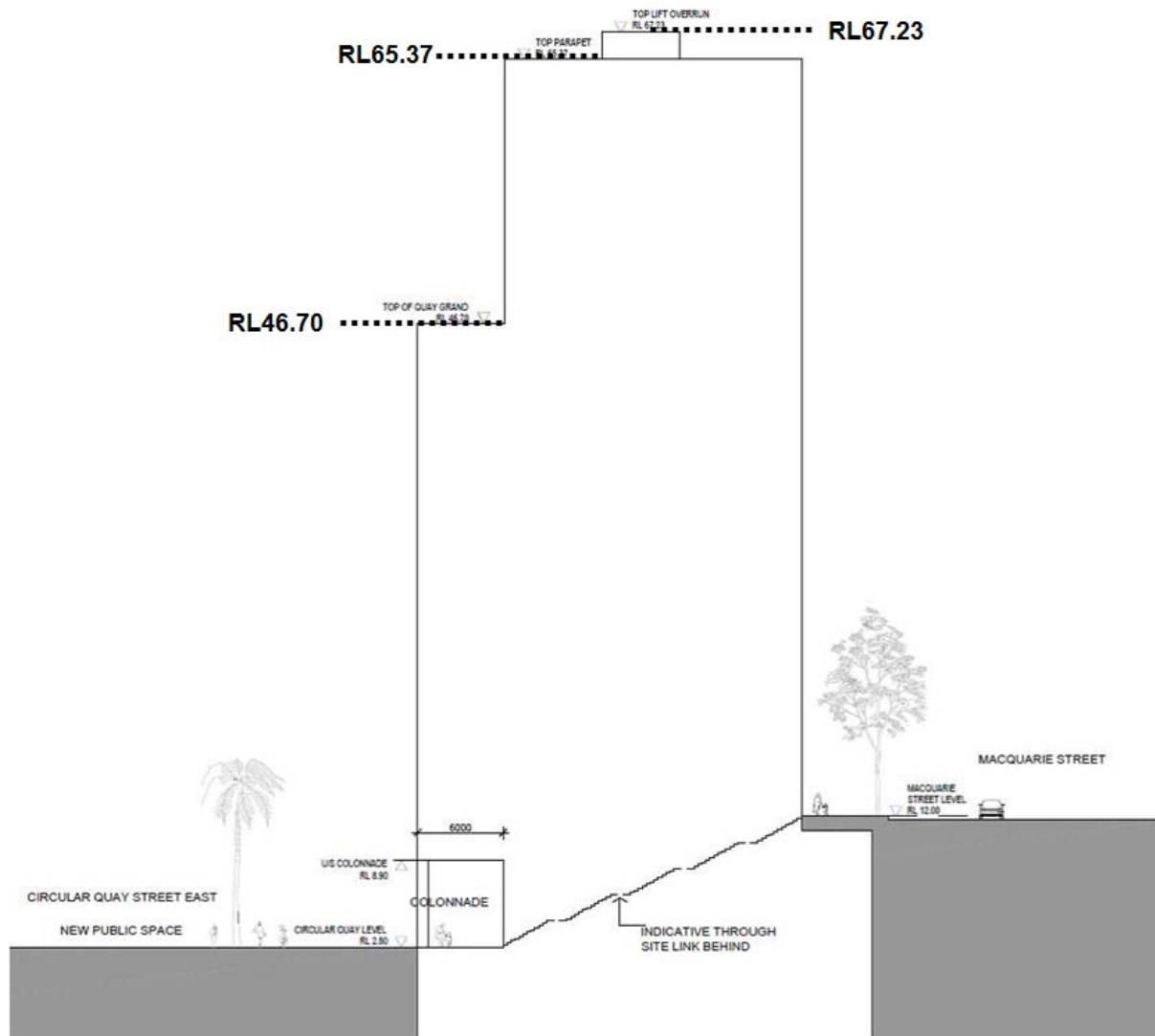


Figure 20: Diagram of the approved section at the through site link and relevant height information.

(b) Design Competition

In February 2013, a Design Competition was undertaken where five invited Architectural firms designed schemes for the redevelopment of the site and judged by a 6 person jury. The decision in the Jury Report prepared by JBA dated 28 May 2013 which states that there was a short list of two schemes, however, no one preferred winning scheme was selected and it was decided not to select a winning scheme.

One of the preferred options was the Tzannes Associates scheme and is the building design that has been refined and forms the basis of the subject of the DA. **Figures 21-23** illustrate the Tzannes Associates scheme.

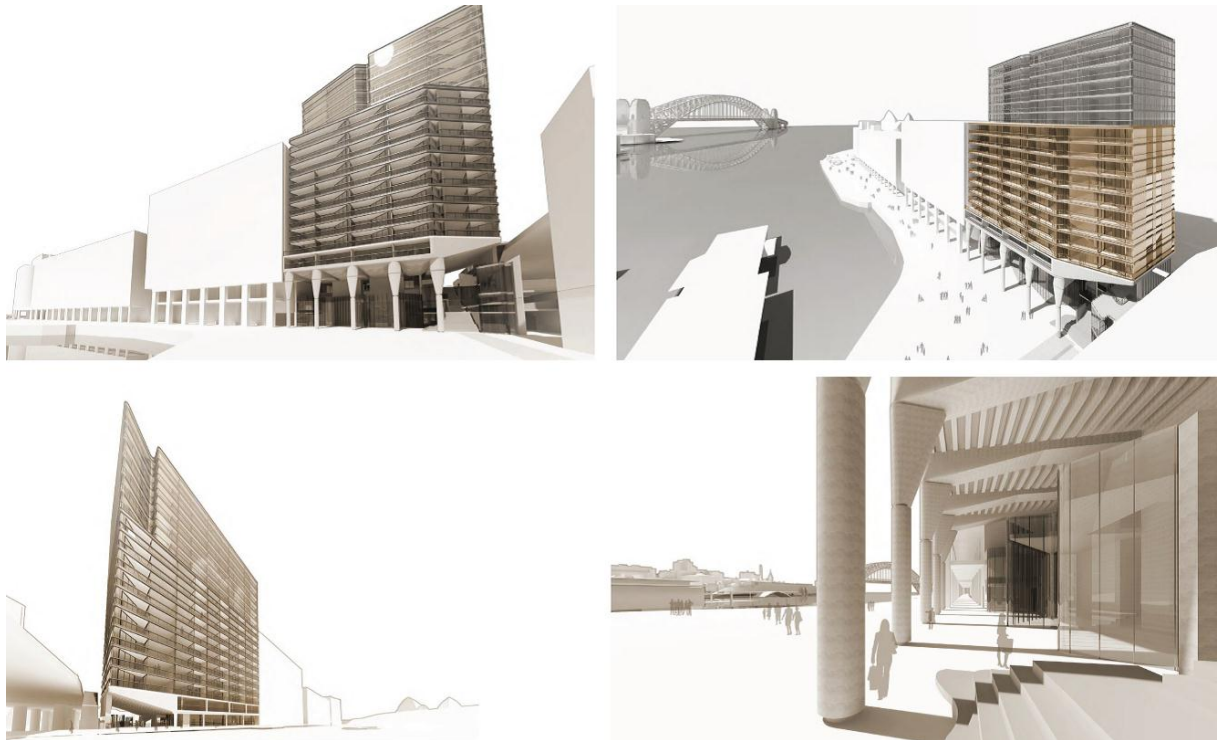


Figure 21: Perspectives of the Tzannes Associates scheme.



Figure 22: Photomontage of the Tzannes Associates scheme, as viewed from the Cahill Expressway.

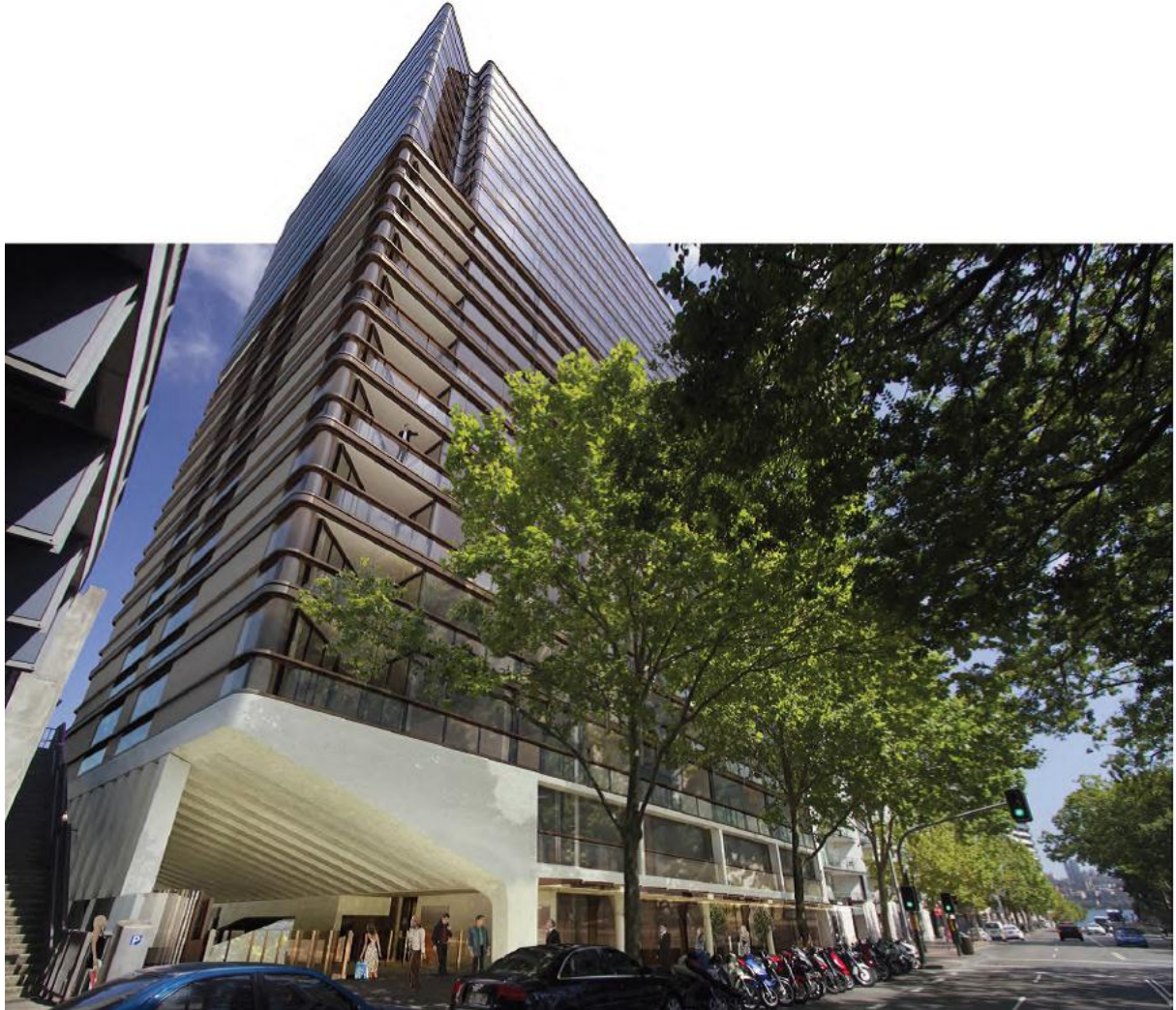


Figure 23: Photomontage of the Tzannes Associates scheme as viewed from Macquarie Street.

(c) Draft Planning Agreement between the Council of the City of Sydney and AMP Life Limited and Sydney Harbour Foreshore Authority

A draft planning agreement has been prepared between the City, the developer and SHFA to secure the delivery of the colonnade, through site link and forecourt renewal works. The planning agreement is currently on public exhibition.

Pursuant to the Concept Approval terms, the CSPC cannot determine the development application until such time the planning agreement is executed. It is recommended that delegation be given to the CEO to determine the application once any submissions have been considered after completion of the planning agreement exhibition and the planning agreement has been executed.

(d) Road Closure and Land Sale – East Circular Quay (S089894)

On 15 October 2012, Council resolved to endorse the closure of approximately 317sqm of public road at East Circular Quay, and the subsequent sale of this land to the developer of the adjoining property 71-79 Macquarie Street.

(e) **Land Subdivision - S/2014/16**

On 17 July 2014 a Subdivision Certificate was issued for the land identified as 5020 Circular Quay East (public road) for creation of 4 allotments and closure of the road. Once this subdivision certificate is registered and gazetted, the land known as the East Circular Quay lot will be classified as 'Operational' as defined in the Local Government Act 1993 and the land can be transferred to the developer in accordance with the road deed.

(f) **Development Application for Demolition and Site Preparation – D/2014/299 (DA1)**

On 10 March 2014, a development application was lodged for the demolition of the Amatil building, site preparation works, removal of street trees, temporary pedestrian and vehicular access arrangements along Circular Quay.

The applicant has sought to divide the redevelopment of the site into three separate development applications. The first being the demolition and site preparation works (DA1), the second being the excavation and construction of the building (DA2) and the third being the public domain works to East Circular Quay (DA3).

Given the terms of the concept approval DA2, the subject application for the substantive public benefit works must firstly be reported and determined in conjunction with the execution of the planning agreement.

As such, DA1 is under assessment and undetermined at the time of preparing the report.

(g) **Development Application for Public Domain – D/2014/1011 (DA3)**

On 11 July 2014, a development application was lodged for the East Circular Quay Forecourt Renewal Works including removal and transplanting of existing Cabbage Tree Palms, paving, installation of public furniture and lighting.

For the reasons outlined in the part above, DA3 is under assessment undetermined at the time of preparing the report.

61-69 Macquarie Street (Quay Grand SP58857)

(h) **Development Application Z94-00280**

On 16 September 1994, CSPC approved a development application for a residential and serviced apartment/hotel development at 61-69 Macquarie Street (Quay Grand). Condition 23 of the consent required the Quay Grand to provide a breakthrough panel in the southern wall of each basement in anticipation of the future redevelopment of the 71-79 Macquarie Street and to facilitate the removal of vehicular access over East Circular Quay. Quay Grand was required to enter into a deed with the City to enable the removal of the existing vehicular access and connection to all basement levels of the adjacent site. The deed was executed on 15 August 1996.

Subject Application History

19. Council requested additional technical and design detail information be submitted as a result of the assessment of the subject application. On 29 August 2014 and 19 September 2014, the applicant submitted additional technical information in response to Council's correspondence.

PROPOSAL

20. The development application seeks consent for:
- (a) bulk excavation across the entire site footprint to a maximum depth of RL -19 equating to approximate 15.8 metres of excavation for a 6 level basement car park to accommodate:
 - (i) vehicular access from the south western corner of the site;
 - (ii) 103 residential and retail car parking spaces (inclusive of 16 accessible);
 - (iii) 3 service/delivery/loading spaces and associated areas;
 - (iv) 50 bicycle spaces for residential occupants and visitors;
 - (v) 9 motorcycle spaces;
 - (vi) 1222sqm of residential storage space;
 - (vii) plant, new chamber substation and back of house functions; and
 - (viii) break through opening in northern wall Ground Level to access Quay Grand;
 - (b) construction of a 20 storey building comprising of:
 - (i) 359sqm of retail space including 6 tenancies on Ground, Level 1, Level 2 and Level 3;
 - (ii) residential common areas including lobbies, gym, spa, pool, lounge and meeting areas;
 - (iii) pedestrian access via Macquarie Street and from East Circular Quay;
 - (iv) 62 residential apartments suitable for serviced apartment and permanent residential use located on Levels 4-9 (inclusive) with primary entry and lobby from Macquarie Street;
 - (v) 47 permanent residential apartments on levels 10-19 inclusive with primary entry and lobby from Macquarie Street;
 - (vi) restaurant/bar located on Level 2 to be ancillary to serviced apartment use and open to the public;

- (vii) construction of publicly accessible through site link (stairs and lift) between Circular Quay and Macquarie Street towards the southern end of the building; and
- (viii) construction of colonnade along the East Circular Quay frontage;
- (c) Public Benefit Works and dedications (secured through a Planning Agreement), including:
 - (i) application of high quality finishes and lighting of the colonnade and creation and dedication of colonnade lot (airspace) to Council;
 - (ii) construction of the Through-site link staircase, application of high quality finishes and lighting and dedication of the Through-site link (airspace) to Council; and
 - (iii) creation of an airspace lot above the roof and plant level and dedication to Council;
- (d) Public Domain Works, including upgrading of Macquarie Street frontage, four (4) new street trees and alterations to Macquarie Street footpath and kerb alignment adjacent to the site to accommodate 3 set down areas for vehicle drop-off/pick up;
- (e) subdivision concept for a 3 lot subdivision for:
 - (i) Public Colonnade and Through Site link;
 - (ii) residential and retail development; and
 - (iii) airspace lot above building;
- (f) unrestricted use of the serviced apartments (Levels 4 – 9) and enable purchase/occupancy options, including:
 - (i) owner occupier; or
 - (ii) leasing to Serviced Apartment operator; or
 - (iii) private leasing to individual company (tenanted);
- (g) Construction Phasing and Site Management:
 - (i) temporary shared (vehicle and pedestrian) access zone between Alfred Street and Quay Grand basement entrance over East Circular Quay until an Occupation Certificate is issued and the breakthrough is operational (anticipated 3 year period from commencement of construction);
 - (ii) staged construction into the following 4 stages:
 - a. **Stage 1** - Basement excavation;
 - b. **Stage 2** - Basement Structure to Quay Level;

- c. **Stage 3** - Above ground structure/New build (ie slabs, columns, cores, risers, walls, services, finishes, façade, etc); and
 - d. **Stage 4** - Public Domain finishes (Colonnade, Through site link, Macquarie Street, Quay side); and
- (iii) hours of construction works including delivery of materials to and from the Site:
- a. 7:00 am and 7:00 pm, Mondays to Fridays inclusive; and
 - b. 7:00 am and 5:00 pm, Saturdays.
21. Selected photomontages and perspectives of the proposed development are provided in **Figures 24-32** below and a full set of plans and elevations are provided in **Attachment A**:



Figure 24: Photomontage of the proposal as viewed from East Circular Quay.



Figure 25: Photomontage of the proposal as viewed from East Circular Quay.



Figure 26: Photomontage of the through site link and colonnade as viewed from East Circular Quay.



Figure 27: Perspective of the proposal as viewed from the Cahill Expressway in an easterly direction.



Figure 28: Perspective of the proposal as viewed from the Cahill Expressway in a westerly direction.



Figure 29: Photomontage of the proposal as viewed from the Botanic Gardens.



Figure 30: Photomontage of the proposal as viewed from the Botanic Gardens.



Figure 31: Photomontage of the ground level entry as viewed from Macquarie Street.



Figure 32: Photomontage of the through site link as viewed from Macquarie Street.

CITY OF SYDNEY ACT 1988

22. 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.
23. Having liaised with the City's Transport and Access Unit, in this instance, the proposal is not considered to have a significant impact on traffic and transport in the CBD, and consultation with the CSTTC is not necessary.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

24. The application has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979* (“**EP&A Act**”), including consideration of the following matters:

Schedule 6A Transitional arrangements—repeal of Part 3A

25. An approved CA, MP 10_0237 applies to the land, classifying the development as a *transitional Part 3A project* under Schedule 6A Part 2 of the EP&A Act.
26. With the repeal of Part 3A of the EP&A Act, Part 4 of the EP&A Act applies to the land for the carrying out of the project that was the subject of the concept approval.
27. Subsequently, a development application has been lodged under Part 4 of the Act and the CSPC is the consent authority for the development.
28. Part 3B of Schedule 6A of the EP&A Act provides specific provisions for Part 4 development on land for which a concept plan has been approved. Each of these provisions is addressed below:

- (a) **The development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument)**

The proposed land uses are permanent residential, serviced apartments and retail which are uses consistent with that endorsed in the concept approval and may be carried out with development consent.

A slither of the basement car park and internal driveway are prohibited in the Sydney LEP 2012 SP2 zone, however, pursuant to this part of the EP&A Act overrides the local zoning and the land use is permissible with development consent.

- (b) **Any development standard that is within the terms of the approval of the concept plan has effect**

The terms of the approval contain reference to a maximum number of parking spaces under Sydney LEP 2005 to service the development. The maximum number of car parking spaces are taken to be a standard within the concept approval and has effect.

- (c) **A consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan**

The CSPC must be satisfied that the development is generally consistent with the terms of the approval of the concept plan. Each term of approval and Statement of Commitment are addressed below:

- (i) **A1 Development Description**

The proposal is consistent with description of the development.

- (ii) **A2 Development in Accordance with Plans and Documentation**

a. The proposed building sits within the concept approval envelope except for a glass balustrade, part of the louvered screen around the roof top plant room and the solar panels. This assessment finds that notwithstanding that these elements do not strictly fall within the envelope, they can be supported as they do not give rise to any adverse bulk, scale or amenity impacts when viewed from the public domain and surrounding properties. See discussion in Issues section later in this report.

b. This assessment finds that the CSPC can be satisfied that the development is generally consistent with the revised Statement of Commitments in the concept approval:

- i. **1.1 Public Domain** – the applicant has satisfied this commitment to work with the key public authorities to agree on the design principles for the public domain and through site link.

- ii. **1.2 Design Principles** – the urban design, architectural design, public domain and through site link principles are integrated into the detailed development and delivery of the public domain improvements are secured through the draft planning agreement.
- iii. **1.3 Future Access Provision** – it is capable to provide vehicular access to the basement in the event that the Cahill Expressway is removed.
- iv. **1.4 Detailed Investigations** – the relevant detailed investigations have been undertaken.
- v. **1.5 Bennelong Drain** - Evidence has been received that the applicant liaised with Sydney Water and subject to protection of their assets and a Section 73 certificate, there would be no objection to the proposal.
- vi. **1.6 Soil and Water** – a stormwater management plan was submitted with the application addressing OSD, water sensitive design and drainage infrastructure in relation to the rail corridor and Cahill Expressway.
- vii. **1.7 Derailment Protection** – a derailment management plan was submitted with the application.
- viii. **1.8 Integrated Water Management** – an Integrated Water Management plan was submitted with the application.
- ix. **1.9 Ecologically Sustainable Development** - a ESD Report was submitted with the application.
- x. **1.10 Quay Grand Amenity** – the building has been designed to incorporate screening devices to the balconies of the apartments that are in close vicinity of the Quay Grand apartments and communal pool area.
- xi. **1.11 Climate Change and Sea Level Rise** – a Climate Change and Sea Level Rise report was submitted with the application.
- xii. **1.12 Planning Agreements** – the proponent has offered to enter into a planning agreement with the City and SHFA for provision of public domain improvements.

(iii) **A3 Lapsing of Approval**

The application has been lodged within the 5 year period and the concept approval has not lapsed.

(iv) **A4 Inconsistency between documentation**

The modified CA does not cause inconsistencies with the approved documents.

(v) **A5 Voluntary Planning Agreement**

Prior to determination of the application a VPA must be entered into for the provision of public domain works.

A draft PA has been prepared between the City, the developer and SHFA to secure the delivery of the colonnade, through site link and forecourt renewal works. The planning agreement was being finalised at the time of preparing this report and is expected to be placed on public exhibition in the near future.

Pursuant to this term, the CSPC cannot determine the development application until such time the planning agreement is executed. It is recommended that delegation be given to the CEO to determine the application once any submissions have been considered and the planning agreement has been executed.

(vi) **A6 Floor Space Ratio and Heritage Floor Space**

Pursuant to the amendment to the concept approval, the FSR and HFS are calculated in accordance with Schedule 3.

(vii) **B1 Carparking and Basement Parking Design**

The proposed number of parking spaces is 103 and consistent with the SLEP 2005 maximum rate which allows a total of 109 for the proposed land uses.

(viii) **B2 Internal Vehicular Access**

The internal vehicular access road can generally comply with the Australian Standards and can accommodate a car and truck passing each other in opposite directions.

(d) **The provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan**

This assessment finds that the proposed height on the Macquarie Street lot and number of parking spaces are inconsistent with SLEP 2012 building height standard and maximum parking standard. Pursuant to this part of the Act, these controls have no effect (ie, they do not apply).

(e) **Any order or direction made under section 75P (2) when the concept plan was approved continues to have effect**

The concept approval included a direction under 75P(2)(c) for further environmental assessment requirements. Each future environmental assessment requirement is addressed below:

(i) **Design Excellence** – The subject building design was one of two preferred schemes in a Competitive Design Competition undertaken in February 2013. The proposed scheme is considered to achieve the highest standard of architectural and urban design consistent with the design excellence objectives.

- (ii) **Construction Environmental Management Plan** – A CEMP was submitted with the application.
- (iii) **Detailed Contamination Investigation** – A Targeted Contamination Assessment was submitted with the application.
- (iv) **Ecologically Sustainable Development** – A satisfactory ESD Report was submitted with the application.
- (v) **Heritage Impact Statement** - A satisfactory HIS was submitted with the application.
- (vi) **Historical Archaeological Assessment** - A Historical Archaeological Assessment was submitted with the application.
- (vii) **Aboriginal Archaeological and Cultural Heritage Assessment** - A Aboriginal Archaeological and Cultural Heritage Assessment was submitted with the application.
- (viii) **Geotechnical Investigation** – A Geotechnical Report was submitted with the application.
- (ix) **Traffic Assessment** - A Transport Assessment Report was submitted with the application.
- (x) **Travel Plan** - A Green Travel Plan was submitted with the application.
- (xi) **Acoustic and Vibration Assessment** – An Acoustic Assessment was submitted with the application.
- (xii) **Crime Prevention Through Environmental Design** – A CPTED report was submitted with the application.
- (xiii) **Visual Impact Assessment** – A Visual Impact Assessment was submitted with the application.
- (xiv) **RailCorp Requirements** – Various reports were submitted to address the RailCorp requirements. Concurrence has been granted by RailCorp subject to deferred commencement conditions.
- (xv) **Sydney Water** – Evidence has been received that Sydney Water that the applicant liaised with Sydney Water and subject to protection of their assets and a Section 73 certificate, there would be no objection to the proposal.
- (xvi) **Wind Effects** – A Wind Impact Assessment was submitted with the application.
- (xvii) **Building Height Limit** – It is recommended that a condition is included in the consent requiring a restrictive covenant limiting the height of the building
- (xviii) **Climate Change and Sea Level Rise** – A Climate Change and Sea Level Rise report was submitted with the application.

- (xix) **Land Use Mix** – The detailed design is for 62 serviced apartments and 47 permanent residential apartments which is considered a suitable mix.
 - (xx) **Land Use Separation** – The permanent residential apartments are at the higher levels, the retail at ground levels and the serviced apartments in between. The serviced apartments and permanent residential apartments are each serviced by separate lift cores.
 - (xxi) **Section 61 Contributions** – It is recommended that a condition is included in the consent requiring the payment of Section 61 Contributions.
 - (xxii) **FSR and HFS** - The development proposes a GFA of 13,131sqm and an FSR of 10.9:1, calculated in accordance with the concept approval and GFA definition in SLEP 2012. The amount of accommodation floorspace equates to 3,475sqm (being the amount over 8:1) and a subsequent HFS allocation of 1,488sqm is required (includes a deduction of 250sqm available for the through site link).
 - (xxiii) **Allocation of Heritage Floor Space** - Pursuant to the amendment in the concept approval, the HFS is included as a consent condition to be satisfied prior to issue of the construction certificate.
29. Overall the application provides the required information and considered to be consistent with the concept approval terms.
- (a) **Integrated Development - Section 91 EP&A Act**

The bulk excavation for the proposed basement car park involves interception of groundwater level which is between 0.1m and 10m below existing ground levels. To undertake this activity an Aquifer Interference Approval is required from NSW Office of Water, and classifying the development as Integrated Development under section 91 of the EP&A Act. The application was referred to the NSW Office of Water and General Terms of Approval (“GTA”) were issued and are incorporated into Schedule 3 of the recommendation.
 - (b) **Environmental Planning Instruments and DCPs**
- State Environmental Planning Policy No 55—Remediation of Land (“SEPP 55”)**
30. The aim of SEPP 55 is to reduce the risk of harm to human health or any other aspect of the environment arising from contaminated land through remediation. The land has been previously used for commercial purposes and the application proposes more sensitive land uses, being for residential purposes.
31. A Targeted Contamination Assessment was submitted with the application concluding that the site is suitable for the proposed land use. Council’s Health Unit recommend a condition is included in the consent to establish the obligations in the event contaminants are encountered.

State Environmental Planning Policy No 64—Advertising and Signage

32. The application does not propose detailed signage. It is recommended that a condition be included into the consent to ensure that a signage does not form part of the development consent and a signage strategy is prepared for the site.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (“Codes SEPP”)

33. The subject application seeks consent for indicative retail tenancies with no specific fit out or operational details. Council would ordinarily condition that these tenancies require a future first use DA, however, recent changes to the Codes SEPP provides that a number of first uses can be approved under a complying development certificate (“**CDC**”), may override Council’s standard condition for a first use DA.
34. In the proposed development, the retail tenancies are classified as Class 6 under the BCA. Examples of the likely uses that could be approved (subject to specific development standards) under a CDC pursuant to the Codes SEPP could be a shop or food and drink premises (with capacity of less than 50 people). Subject to recommended consent conditions limiting hours of operation of these tenancies, the proposed building is capable of accommodating these types of future uses with regard to fire safety and ventilation.
35. It is considered that future uses of this nature are generally consistent with the desired continuation of an active retail frontage along East Circular Quay, therefore, generic approval of indicative retail tenancies is acceptable in this instance.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (“SEPP 65”)

36. SEPP 65 applies to the proposal as the development is a residential flat building.
37. The *Environmental Planning and Assessment Regulation 2000* (“**EP&A Regulation**”) contain specific requirements for information to be submitted when making an application for which SEPP 65 applies. A design verification statement from the Architect and the relevant documentation was submitted with the application.
38. SEPP 65 provides that in determining an application for a residential flat building that the consent authority takes into consideration a number of matters relating to design quality. Guidelines have been developed to aid in the assessment of design quality and are contained in the Residential Flat Design Code (“**RFDC**”). Each of the design quality principles and RFDC discussion are provided below:

(a) **Principle 1: Context**

The subject site is located in the Circular Quay Special Character Area within Central Sydney. The character statement recognises the unique character where Sydney Harbour meets the City, with a series of significant public spaces. The proposal is considered to be consistent with the range of principles identified for the area in that the development enhances of the East Circular Quay public domain forecourt, establishes a high quality architectural form and expression to address the significant public context and maintains existing public views.

(b) **Principle 2: Scale**

Overall, the proposed building presents as 20 storeys on the Circular Quay side consistent with the scale of development that currently exists on the site and CA envelope that applies to the land. The lateral extension to the west over the exiting road way is 14 storeys, consistent with the scale of development established by Quay Grand, to the north of the site. **Figure 33** illustrates the scale of the built form in the context as viewed from Circular Quay.

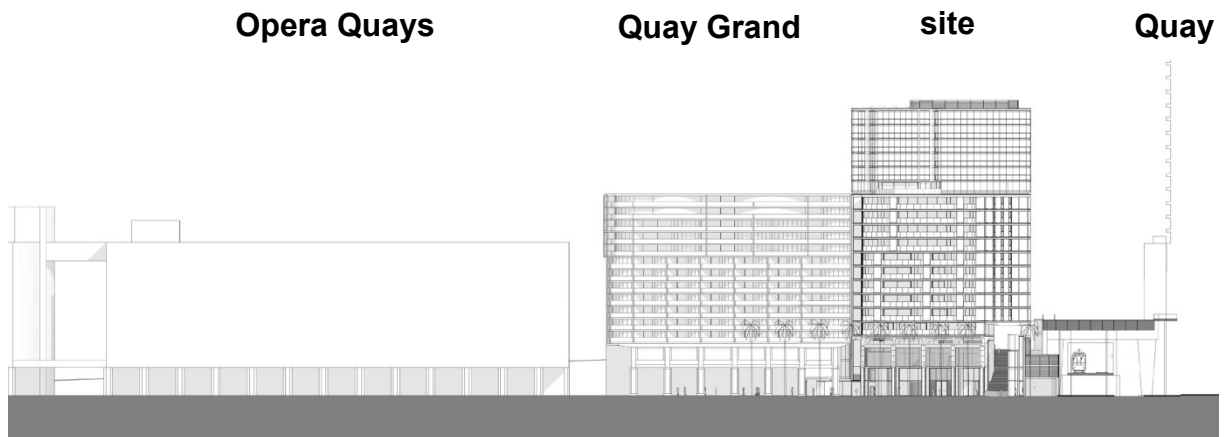


Figure 33: Context elevation illustrating the scale of existing buildings along East Circular Quay.

(c) **Principle 3: Built Form**

The built form is described as three components including a base that completes the colonnade and public domain, a middle section that completes East Circular Quay and a lantern like form above. The differentiation between the components is achieved through materiality, a recess and articulation in the skin of the facade. The ground level interface at the Quay and Macquarie street provide the appearance of double height scale and active uses at the frontage encouraging visibility and permeability through the site. **Figure 34** illustrates the three built form components.



Figure 34: Proposed built form components.

(d) **Principle 4: Density**

The building has been designed to comply with the allowable maximum envelope and has a density of 10.9:1. SLEP 2012 would allow a maximum of 15.4:1.

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

In addition to energy and water efficiency commitments required under SEPP BASIX, the application was supported by an ESD report which sets out the strategies adopted and to be further investigated to achieve the key principles of ESD. The project includes the following sustainable design initiatives:

- (i) photovoltaic solar panels for domestic and communal hot water;
- (ii) recycling and reuse of materials for structure, basement, insulation;
- (iii) use of low footprint materials for interior walls and finishes;
- (iv) use of prefabricated column and wall forms;
- (v) overall eco foot printing of the development to encourage reduced environmental impact;
- (vi) low energy lighting and motion sensor control;
- (vii) use of winter gardens;
- (viii) optimised and high performance glazing (combination of laminated and double glazing); and
- (ix) apartment energy shutdown switches.

It is recommended that a condition is included in the consent to ensure that the design initiatives are investigated and implemented into the design.

(f) **Principle 6:** Landscape

No soft landscaping, green walls/roofs or deep soil is proposed as part of the development and does not comply with the minimums recommended in the RFDC. Given the terms of the concept approval, existing site condition and provision of public domain improvements, the lack of soft landscape elements are acceptable in this circumstance.

(g) **Principle 7:** Amenity

When assessing the proposal against the relevant amenity principles, the level of internal amenity afforded to the apartments is assessed as acceptable.

Floor to Ceiling Heights

The residential levels are provided 3.1m floor to floor heights to enable delivery of a 2.7m floor to ceiling height during construction and comply with the RFDC.

Apartment Layout and Size

With the exception of fourteen 1 bedroom apartments, the majority of the apartment sizes comply with the minimums recommended. The apartments that are deficient are undersized by 1sqm to 4sqm and are considered acceptable as the layouts are reasonably efficient and functional.

Solar Access

92 of 109 apartments (84%) receive a minimum of 2 hours of direct sunlight to at least 1sqm of living room windows and 50% to each balcony between 9am and 3pm on June 21st and complies with the minimum 70% recommended in the RFDC. 5 of the 109 apartments (4.6%) have a single aspect and face directly south and complies with the maximum 10% recommended in the RFDC.

Natural Cross Ventilation

53 of 109 apartments (47%) are naturally cross ventilated and departs from the 60% minimum recommended in the RFDC. The non-compliance is assessed as acceptable in this circumstance, given that:

- (i) 66% of the permanent residential component is naturally cross ventilated.
- (ii) the depth of the envelope in the concept approval is 27m limiting the opportunity for natural cross ventilation;
- (iii) the requirement for two cores to service the different components reduces floor space available to provide through apartments and through apartments are not feasible for serviced apartment use;
- (iv) the existing Quay Grand development abuts the building, limiting any opportunity for cross ventilation to a number of apartments; and
- (v) the curved facade promotes pressure difference and ventilation to single sided apartments.

Circulation

The serviced apartments on Levels 5-9 have 11 apartments accessed from a single core/corridor, the remaining levels comply with the maximum of 8 recommended in the RFDC. The non-compliance is considered acceptable in this circumstance given that the corridors are 1.8 to 2.3 metres wide and the arrangement of the apartments around the core still provides a satisfactory level of amenity within the corridor.

Building Separation and Visual Privacy

Visual privacy has been addressed through building separation, apartment layout and screening devices. Subject to specific high performance glazing being integrated at building construction stage, the acoustic privacy within the apartments can achieve an acceptable level.

The proposed balconies and windows are 2.6 metres from the closest balcony at Quay Grand and a minimum 28 metres from the closest balconies in the Quay. **Figure 35** illustrates the proposed building separation between habitable areas.

The separation to the Quay complies with the minimum 24m distance recommended in the RFDC for visual privacy, therefore, no additional privacy measures other than the occupant controlled measures within the apartments are considered warranted.

The separation to the Quay Grand balconies does not comply and privacy screens have been proposed to minimise overlooking and cross looking to these balconies. See discussion in the Issues section later in this report.

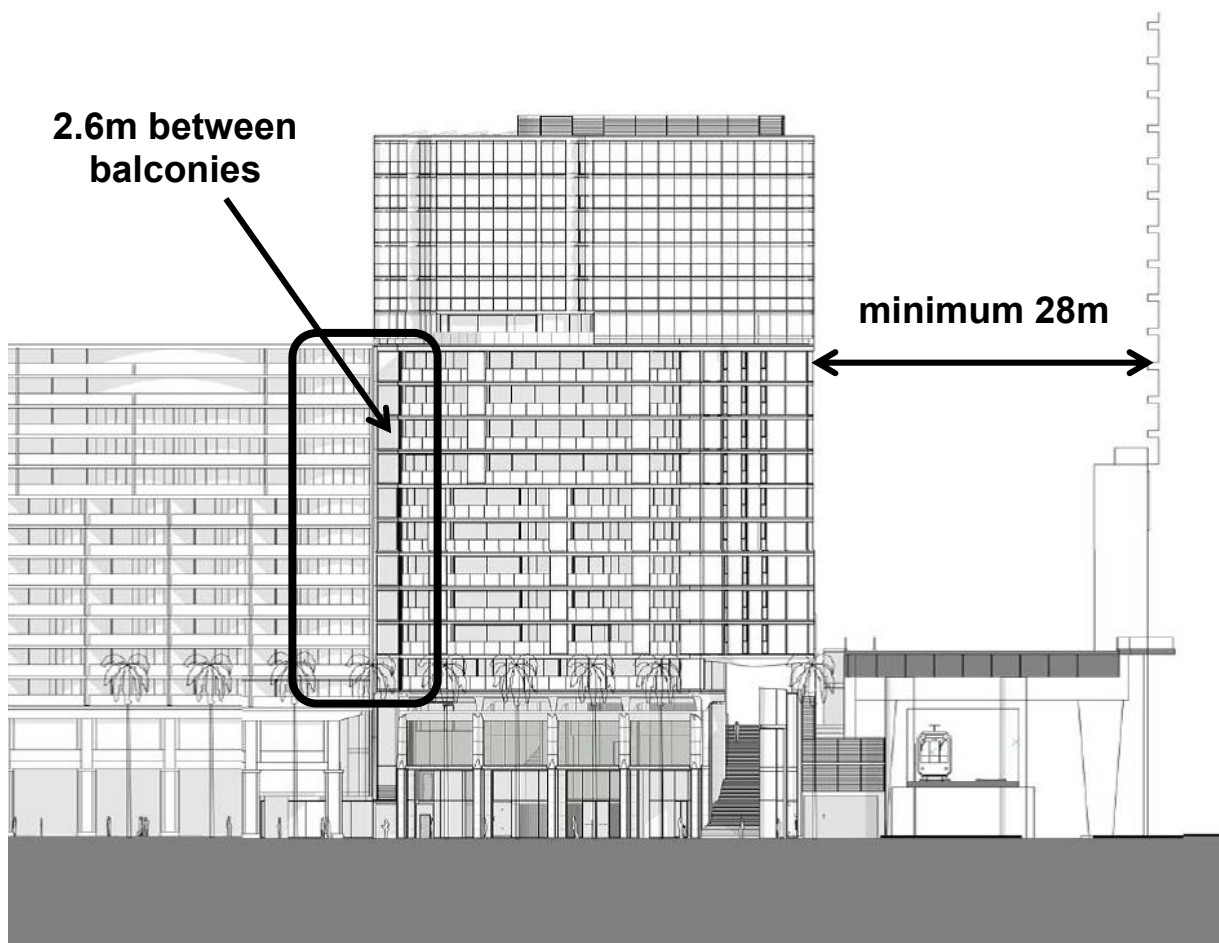


Figure 35: Diagram illustrating separation between balconies to Quay Grand and the Quay.

Private Open Space and Outlook

92 apartments (84%) have a balcony or winter garden directly accessible from the living area, generally comply with 2m minimum dimension and the majority exceed 10sqm. Twenty of the 1 bedroom apartments have an undersized balcony that is considered acceptable given that most are in the serviced apartment component and outdoor recreation activities are less likely to occur. The majority of the apartments benefit from excellent views and outlooks to Sydney Harbour, Botanic Gardens and the CBD.

Storage

The proposal provides 1907sqm of storage space within the basement and apartments (additional to required apartment storage).

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

Retail tenancies, lobbies and public through site link maximise the interface at ground level with the street and public domain, optimising direct surveillance opportunities. The apartment balconies provide sufficient level of passive and casual surveillance. All lift lobbies including the public lift are directly visible from the public domain. Subject to appropriate conditions being included in the consent, the proposal is considered satisfactory.

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

The proposal does not comply with the recommended mix of apartments with an oversupply of 1 bedroom apartments. The mix is considered satisfactory in this circumstance given that the majority of the 1 bedrooms are located within the serviced apartments component.

The development provides 16 apartments or 15% which are capable of adaptation for access for all age groups and degrees of mobility.

(j) **Principle 10: Aesthetics**

The base of the building has a masonry character of stone and concrete. The colonnade is finished in high quality stone and ground surface is paved, consistent with the existing material in the precinct. The Macquarie Street frontage also incorporates stone, timber and metal work. The upper levels of the building are predominantly full height glass with bronze aluminium detailing. The glazing elements are high performance with a warm neutral colour and the wintergardens glazing is a low iron type to achieve differentiation between the lower and upper forms. The proposed materials and finishes and overall expression of the building is considered to reflect the concept established in the design competition and appropriately respond and contribute to the precinct.

39. The development is considered acceptable when assessed against the above stated principles and SEPP 65 generally, which are replicated in large part within Council's planning controls.

Draft State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (“Draft SEPP 65”)

40. On 23 September 2014, the Department of Planning and Environment exhibited the proposed changes to SEPP 65 which includes the replacement of the RFDC with an Apartment Design Guideline.
41. These amendments have been considered in the assessment of the application. The proposal could be considered to be generally consistent with draft SEPP 65 and the draft Apartment Design Guideline which is mostly reflected in the RFDC.

State Environmental Planning Policy (Infrastructure) 2007 (“ISEPP”)

42. The application is subject to clause 45 of ISEPP as the development is likely to affect an electricity transmission or distribution network. The application proposes to locate a chamber substation on Level 1 Basement accessed via a hatch in the driveway and access stairs through the Quay lobby entrance. The application was referred to Ausgrid who advised that there is no comment at this stage as the proposed works need to be designed by a Level 3 Accredited Service Provider and formally assessed. As such, it is recommended that the standard Electricity Substation condition be incorporated into the consent which requires Ausgrid and the City’s approval of the location and design prior to issue of a construction certificate.
43. The application is subject to clause 86 of ISEPP and requires concurrence as the development involves excavation within and adjacent to a rail corridor. The application was referred to RailCorp (now known as **Sydney Trains**) who requested further Geotechnical and Structural details be submitted. The information was submitted and concurrence granted by Sydney Trains on 30 October 2014, subject to deferred commencement conditions being imposed requiring additional information.
44. The application is subject to clause 87 of ISEPP and requires the consent authority to consider the effect of rail noise or vibration on a building used for residential purposes. An Acoustic Report was submitted which undertook a rail noise and vibration assessment. The report concludes that the noise impacts are acceptable subject to acoustic mitigation measures being integrated into the envelope. The vibration transmission is also assessed as being acceptable as noise-sensitive floors are adequately buffered by non-sensitive uses adjacent to the rail line.
45. The RMS have confirmed that concurrence under clause 100 of ISEPP is not required noting that the proposed buildings or structures are erected wholly within Lot 1 DP 202431, subject to the identified easement restriction, access to the easement is not denied and the integrity of the easement and Cahill Expressway/Rail corridor is not compromised.
46. The application is subject to clause 101 of ISEPP as the site has a frontage to a classified road (Cahill Expressway). Certain matters relating to access, emissions and noise are required to be considered. Council is satisfied that the safety, efficiency and ongoing operation of the Cahill Expressway will not be adversely affected for the following reasons:
 - (a) the vehicular access is located off Alfred Street will not affect the Cahill Expressway;
 - (b) subject to appropriate conditions, it is unlikely that dust emissions during construction will affect the road network;
 - (c) the generated volumes of traffic will not unreasonably impact on the local road network; and
 - (d) an Acoustic Report was submitted and recommends structural design measures to achieve the relevant indoor noise criterion. It is recommended that the recommendations of the acoustic report form part of the consent conditions.

47. The application is subject to clause 102 of ISEPP as the development is on land adjacent to road corridors with an annual average daily traffic volume of more than 40,000 vehicles (Eastern Distributor and Cahill Expressway). An Acoustic Report was submitted which undertook a road noise vibration assessment and concludes that the impacts can comply with the relevant criteria for residential development subject to recommended structural design measures.
48. The application is subject to clause 103 of ISEPP as the development involves the penetration of ground to a depth of at least 3m below ground level (existing) on land that is adjacent to a road corridor Eastern Distributor. The application was referred to the RMS and no objections were raised subject to certain considerations being undertaken by Council.

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

49. The proposed development is BASIX affected development and a BASIX Certificate (No. 502988M_02 dated 6 March 2014) was submitted in accordance with requirements in SEPP BASIX and the EP&A Regulation 2000. The BASIX commitments are achievable subject to recommended consent conditions.

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

50. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
51. The proposal is consistent with the aims and objectives of SEPP 32 in that the development increases the housing stock and provides a mix of studios, 1, 2 and 3 bedroom apartments.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)

52. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour and located within in the Foreshores Waterways Area. Pursuant to Part 3 Division 2 of the SREP 2005, the following relevant matters are considered:
 - (a) **Biodiversity, ecology and environment protection** – subject to recommended conditions the development will not have an adverse effect on the quality of water entering the waterways.
 - (b) **Public access to, and use of, foreshores and waterways** – the development will improve public access to and along Circular Quay, without adversely impacting on the waterway.
 - (c) **Maintenance of a working harbour** – the development is compatible with the adjoining Sydney Harbour and Circular Quay Precinct.
 - (d) **Interrelationship of waterway and foreshore uses** – the development will remove vehicular access on foreshore land and improve the interface with the waterway.

- (e) **Foreshore and waterways scenic quality** – the scale, form, design and siting of the building has been informed by the existing built form on the site and buildings on adjoining land to the north.
 - (f) **Maintenance, protection and enhancement of views** – the development has been designed to generally maintain views to and from Sydney Harbour.
53. The development is considered to be consistent with the controls contained with the SREP 2005.

Sydney Local Environmental Plan 2012 (“SLEP 2012”)

54. The site is located within the B8 Metropolitan Centre zone and SP2 Infrastructure zone.
55. Most of the Macquarie Street lot, most of the East Circular Quay lot and the lease lot are zoned B8 Metropolitan Centre. A 3.6 – 3.8 metre wide by 15.85 metre long portion of land along the southern boundary is zoned SP2 Infrastructure.
56. The various components of the proposed mixed use development are characterised as:
- (a) **Permanent Residential apartments** - *residential flat building (residential accommodation).*
 - (b) **Serviced apartments and ancillary Restaurant/Bar** - *serviced apartment (tourist and visitor accommodation).*
 - (c) **Retail tenancies** - *retail premises (commercial premises).*
57. All proposed land uses are permissible with consent within the B8 Metropolitan Centre zone.
58. A slither of the basement car park and internal driveway are located within the SP2 zone. As these works are ancillary to a proposed residential, serviced apartment and retail land uses, they are prohibited development within the SP2 zone under SLEP 2012.
59. Pursuant to Part 3B of Schedule 6A of the EP&A Act, the development within this portion of the site may be carried out with development consent under Part 4 despite anything to the contrary in an environmental planning instrument. As such the land uses are permissible with consent.
60. The proposal is capable of meeting the zone objectives in that:
- (a) the development provides ground level retail and a tourist premises that serve the Sydney workforce and visitors; and
 - (b) provides higher level permanent residential apartments at an appropriate distance from the active lower level uses.
61. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.

PROVISION	COMPLIES	COMMENT
Part 4 Principal Development Standards		
4.3 Height of Buildings 4.6 Exceptions to development standards	N/A	<p>A maximum building height of RL46.7 is permitted on the Macquarie Street lot. There is no maximum building height constraint over the east circular quay lot and lease lot.</p> <p>The maximum building height on the Macquarie Street lot is RL67.23 and contravenes the SLEP 2012 development standard.</p> <p>Pursuant to Part 3B of Schedule 6A of the EP&A Act the Height of Buildings development standard contained in SLEP 2012 has no effect and does not apply.</p> <p>Part of the plant area and photovoltaic panels are located outside the envelope established in the concept approval and building height control.</p> <p>The application relies of the provisions of 4.6 to justify the contravention.</p> <p>See discussion in Issues section later in this report.</p>
4.4 Floor Space Ratio 6.3 Additional floor space in Central Sydney 6.4 Accommodation floor space	N/A	<p>The concept approval was amended on 12 November 2014 to include a methodology for calculating FSR on the site.</p> <p>The development proposes a GFA of 13,131sqm and an FSR of 10.9:1, calculated in accordance with the concept approval and GFA definition in SLEP 2012.</p> <p>Pursuant to Part 3B of Schedule 6A of the EP&A Act the Floor Space Ratio development standard contained in SLEP 2012 has no effect and does not apply.</p>
Part 5 Miscellaneous Provisions		
5.2 Classification and reclassification of public land	N/A	<p>The reclassification of the East Circular Quay lot to operational land was separately approved by Council on 15 October 2012.</p>

PROVISION	COMPLIES	COMMENT
5.9 Preservation of trees or vegetation	No	<p>The application seeks consent for an indentation in the public footpath along Macquarie Street to allow for a drop off zone associated with the serviced apartment use. The proposed indentation would require the removal of 2 existing London Plane street trees. The proposed alteration to Macquarie Street is not supported and neither is the tree removal.</p> <p>See discussion in Issues section later in this report.</p>
5.10 Heritage conservation	Yes	<p>The site does not contain a heritage item, nor is it located within a heritage conservation area.</p> <p>There is potential for historical features to be uncovered on the site during excavation and it is recommended that the archaeological monitoring be undertaken during excavation for the basements.</p> <p>The site is in the vicinity of a number of state and local items, including the adjacent Circular Quay Railway Group and viaduct, and Bennelong Stormwater Channel. It is recommended that these items are protected during the construction phase.</p> <p>In terms of a broader impact of the built form on the heritage items in the vicinity of the site, the proposal has been assessed by Heritage Specialist and considered to have acceptable impacts.</p>
Part 6 Local Provisions—Height and Floor Space		
6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	N/A	<p>As per the terms of the concept approval, an amount of 1488sqm is to be allocated to the site prior to the relevant construction certificate. This calculation includes an allowable 250sqm deduction for the through site link between East Circular Quay and Macquarie Street.</p>
6.21 Design Excellence	Yes	<p>The subject building design was one of two preferred schemes in a Competitive Design Competition undertaken in February 2013. The proposed scheme is considered to achieve a high standard of architectural and urban design consistent with the design excellence provisions.</p>

PROVISION	COMPLIES	COMMENT
Part 7 Local Provisions—General		
7.1 – 7.9 Car parking ancillary to other development	N/A	<p>The car parking categories maps in SLEP 2012 only apply to the Macquarie Street lot. A maximum of 41 car spaces are permitted to service the residential and serviced apartment land uses.</p> <p>The proposed parking servicing the entire site is 103 spaces are proposed which is consistent with SLEP 2005 rate of 109, which prevails pursuant to Part 3B of Schedule 6A of the EP&A Act.</p> <p>It is recommended that the following maximum allocations are reflected in the conditions:</p> <ul style="list-style-type: none"> • Residential Apartments – 69 • Serviced Apartments – 33 • Retail - 1
7.14 Acid Sulphate Soils	Yes	The site is located within a Class 2 and Class 5 Acid Sulphate Soil (“ ASS ”) zones. A Targeted Contamination Assessment that addresses ASS was submitted with the application and reviewed by Council’s Health Unit. Subject to recommended conditions being imposed requiring notification if any new information comes to light which has the potential to alter previous conclusions about ASS identification and remediation, development consent can be granted.
7.15 Flood planning	Yes	The design levels and stormwater concept have been reviewed by Council’s Public Domain Unit and are consistent with Council’s Flood Planning Level requirements.
7.16 - 7.17 Airspace operations Development in areas subject to airport noise	Yes	The land is not identified as being in an area sensitive to aircraft noise and the building does not penetrate aircraft operation space.
7.19 Demolition must not result in long term adverse visual impact	N/A	A separate application has been submitted for the demolition of all structures (D/2014/299).

PROVISION	COMPLIES	COMMENT
7.20 Development requiring preparation of a development control plan	Yes	Development consent must not be granted to development in Central Sydney where a building with a height greater than 55 metres above ground level is proposed unless a development control plan has been prepared for the land. This provision is considered to be satisfied as the site is the subject of an approved concept plan where the relevant site analysis, public domain improvements, massing, land uses and visual analysis were undertaken.

Sydney DCP 2012 (“SDCP 2012”)

62. The relevant matters to be considered under SDCP 2012 for the proposed development are outlined below.

2. Locality Statements – Central Sydney 2.1.4 Circular Quay Special Character Area
The subject site is located in the Circular Quay Special Character Area within central Sydney. The character statement recognises the unique character where Sydney Harbour meets the City, with a series of significant public spaces. The proposal is considered to be consistent with the range of principles identified for the area in that the development enhances of the East Circular Quay public domain forecourt, establishes a high quality architectural form and expression to address the significant context and maintains existing public views.

3. General Provisions		
Development Control	Complies	Comment
3.1 Public Domain Elements	Yes	Streets, lanes and footpaths The footpaths along Macquarie Street will be required to be upgraded in accordance with Council standards, improving pedestrian amenity.

3. General Provisions		
Development Control	Complies	Comment
	Yes	<p>Pedestrian and bike network</p> <p>A separate on road cycleway is planned to be constructed along the western side of Macquarie Street. The proposed works do not preclude the delivery of this future infrastructure.</p> <p>A through site link in the form of stairway and lift is proposed internally within the building between East Circular Quay and Macquarie Street. The airspace of the through site link is to be dedicated to Council and be fully accessible 24 hours a day.</p> <p>See discussion in Issues Section later in this report.</p>
	Yes	<p>Public art</p> <p>The control requires Public Art is to be provided in the private development in accordance with the <i>City of Sydney Guidelines for Public Art in Private Development</i> and the <i>Public Art Policy</i>. It is recommended that a condition requiring a public art strategy to be developed is included in the consent conditions.</p> <p>For the avoidance of doubt, any public art requirement under the condition is separate and in addition to any obligation for public art under the planning agreement.</p>
3.2 Defining the Public Domain	Yes	<p>Improving the public domain</p> <p>Existing sun access and views to the public domain will be maintained as a result of the development.</p>

3. General Provisions		
Development Control	Complies	Comment
	Yes	<p>Addressing the street and public domain</p> <p>The proposed building has two ground levels, one addressing East Circular Quay to the west and one addressing Macquarie Street to the east.</p> <p>The East Circular Quay interface has been designed to maximise active uses including retail tenancies, building entry lobby and the open through site link.</p> <p>The Macquarie Street interface has been designed to have street address with two entries to the residential lobbies in addition to the through site link. The essential services have been consolidated to the northern end and their extent of frontage minimised. Fire access stairs have been concealed from view, disguised within the architectural form.</p> <p>The ground levels have been reviewed against Council's flood planning levels and capable of being the same level as the footpath or public domain.</p> <p>The materials and finishes between Ground to Level 4 have a strong masonry aesthetic consistent with the desirable built form character for Central Sydney.</p> <p>Overall the development is considered to result in a desirable level of street activation and a positive relationship with East Circular Quay.</p>
	Yes	<p>Active frontages</p> <p>The East Circular Quay frontage satisfies the control requirements by providing active retail, lobby and pedestrian links to the majority of the frontage to contribute to the liveliness and vitality of the public forecourt.</p>
	Yes	<p>Footpath awnings</p> <p>Localised glazed canopy awnings are provided over the two separated entries on Macquarie Street consistent with the control.</p>

3. General Provisions		
Development Control	Complies	Comment
	Yes	<p>Wind effects</p> <p>A Wind Environment Impact Study was submitted with the application that concludes that the proposed building will not exacerbate existing conditions for East Circular Quay. The study finds that along Macquarie street the proposal will either improve conditions or remain equivalent to existing conditions.</p> <p>Internally within the site the through site link and private open spaces are capable of achieving acceptable conditions.</p>
	Yes	<p>Reflectivity</p> <p>A Reflectivity Report was submitted with the application analysing the potential solar glare from the building on the surrounding roads and public spaces. The report concludes that subject to the western and eastern glazing elements having no greater reflectivity of 15% and the proposal can comply with the control. It is recommended that a condition is included in the consent to ensure the reflectivity complies with the minimum requirements.</p>
	Yes	<p>External lighting</p> <p>The external lighting fixtures are to be integrated with the architecture of the colonnade and through site link.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The design of the building is the outcome of a competitive design competition that was undertaken in accordance with the <i>City of Sydney Competitive Design Policy</i>. The proposed building does not seek to rely on additional floor space under this control.</p>
3.5 Urban Ecology	No	<p>Tree Management</p> <p>As previously discussed, the proposed removal of street trees along Macquarie Street is not supported.</p> <p>For further detail see discussion in Issues section later in this report.</p>

3. General Provisions		
Development Control	Complies	Comment
3.6 Ecologically Sustainable Development	Yes	<p>In addition to energy and water efficiency commitments required under SEPP BASIX, Council encourages all applicants to implement the principles of ecologically sustainable development (ESD) in the proposed development.</p> <p>As previously discussed, the application was supported by an ESD report which sets out the strategies adopted and to be further investigated to achieve the key principles of ESD.</p> <p>A specific method actively encouraged by Council to reduce the amount of ductwork and life cycle energy costs is to provide natural ventilation to all cores/corridors. This is only provided to 50% of the cores/corridors in the subject development which is justified in this circumstance given the proximity to the road infrastructure and the provision of a range of alternative initiatives in the design to reduce the overall life cycle of the development.</p> <p>It is recommended that a condition is included in the consent to ensure that the design initiatives are investigated and implemented into the design.</p>
3.7 Water and Flood Management	Yes	<p>Site specific flood study</p> <p>The design levels and stormwater concept have been reviewed by Council's Public Domain Unit and are consistent with Council's Flood Planning Level requirements.</p>
	Capable	<p>Drainage and stormwater management</p> <p>The stormwater concept plan concept plan was reviewed by Council's Public Domain Unit who advised that relying on the existing stormwater provisions on the site may be acceptable subject to recommended conditions.</p>
	Capable	<p>Stormwater quality</p> <p>It is recommended that details demonstrating how the development achieves the post-development pollutant load standards identified in control 3.7.3 in <i>Sydney DCP 2012</i> are to be submitted and approved by the PCA prior to a Construction Certificate being issued.</p>

3. General Provisions		
Development Control	Complies	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposal involves the concept for a 3 lot subdivision into the colonnade/through site link lots, residential lot and airspace lot (above the building) consistent with the planning agreement. The concept has been reviewed by Council's Specialist Surveyor who advised that the concept is acceptable, however, would need to be subject to a separate development application for consent. It is recommended that conditions are included in the consent to clarify that a future application is necessary for any subdivision and detailing the acquisition of the relevant lots in accordance with the planning agreement.</p> <p>A number of easements and covenants are required to be created pursuant to the planning agreement and as a result of the development application. Appropriate conditions are recommended.</p> <p>The application includes the use of land underneath Macquarie Street to be occupied by part of the basement. Council's Specialist surveyor has advised that a stratum lot is required to be created and a formal lease entered into with Council for use of the area. An appropriate condition is recommended setting out the requirements and process to enable the future use of this land.</p>
3.9 Heritage	Yes	As previously discussed, the likely heritage impacts have been assessed as acceptable subject to recommended conditions.
3.10 Significant Architectural Building Types	N/A	The existing building is not identified as a Significant Architectural Building Type.
3.11 Transport and Parking	Yes	<p>Managing transport demand</p> <p>A Traffic Impact Assessment was submitted with the application and assessed by Council's Transport and Access Unit. The generated volumes of traffic are considered to not unreasonably impact on the local road network.</p>

3. General Provisions		
Development Control	Complies	Comment
	Yes	<p>Car share scheme parking spaces</p> <p>The control recommends a minimum of 2 parking spaces for use as part of a car share scheme. It is recommended that condition is included in the consent requiring the minimum 2 spaces to be designed and approved by Council.</p>
	Yes	<p>Bike parking and associated facilities</p> <p>A total of 57 bicycle spaces are proposed for the residential, employee and visitor parking. It is proposed not to provide any bicycle parking for retail staff and visitors. Council's Transport and Access unit have reviewed the proposal and recommend that retail spaces are provided and suitably located within the basement and at ground level to encourage use.</p>
	Capable	<p>Vehicle Parking</p> <p>A total of 103 car parking spaces are proposed to service the land uses and a further 2 service spaces and a loading dock for larger service vehicles. The proposed number of spaces is consistent with the 109 permitted under SLEP 2005. It is recommended that the allocations to the specific uses are included in the consent conditions.</p>
	Yes	<p>Car parks under the public domain</p> <p>The proposed basement parking under Macquarie Street is permitted subject to a stratum lot being created and a formal lease being entered into with Council for the future ongoing use of that lot.</p>
	No	<p>Service vehicle parking</p> <p>The proposal includes 3 service spaces which is sufficient for the proposal. The proposed loading dock can only accommodate an 8.8m vehicle where the control requires capacity for a 9.25m vehicle. Based on advice received from Council's Waste Management Unit, smaller waste collection vehicles will be used to service the site and the 8.8m dock is acceptable in this circumstance. The proposed clearance of 3.6m high is also considered sufficient for the development.</p>
	Yes	<p>Motorbike parking</p> <p>A total of 9 motorcycle spaces are provided in the basement and complies with the control.</p>

3. General Provisions		
Development Control	Complies	Comment
	Capable	<p>Bus parking - passenger pick-up and set-down</p> <p>The application seeks consent for use of existing motorbike parking along Macquarie Street for a 5 minute set-down area associated with the serviced apartment use.</p> <p>The proposal has been reviewed by Council's Traffic Operations Unit and advised that rearrangement of the existing parking restrictions to enable a set-down area may be acceptable subject to a future application and approval from the Local Pedestrian, Cycling and Traffic Calming Committee.</p> <p>The Traffic Operations Unit does not support any alteration to the existing kerb alignment to facilitate the set-down area.</p>
	Yes	<p>Accessible parking</p> <p>In accordance with the control, 16 accessible parking spaces are provided for the 16 adaptable units. The parking spaces are to be assigned to these apartments and reflected in any strata subdivision of the development.</p>
	Yes	<p>Vehicle access for developments greater than 1000sqm GFA</p> <p>The vehicular access to the site will be generally maintained as existing, via a single (two-way) 7m wide driveway located in the south western corner of the site. The driveway access will also accommodate all traffic associated with the Quay Grand development as contemplated in the redevelopment of that site and the concept approval.</p>
	Yes	<p>Vehicle access and footpaths</p> <p>The vehicular access point is considered to be the most appropriate location given the high level of pedestrian activity adjacent to the site. The existing access road to the development has a 2.7m clearance and a truck and car are unable to pass each other. This is an existing condition and there is considered to be sufficient sight distance to allow motorists to make suitable decisions to avoid conflict. It is recommended that a sign advising vehicles less than 2.7m in height to use the eastern carriageway, will assist in reducing the potential of such encounters.</p>

3. General Provisions		
Development Control	Complies	Comment
	Yes	<p>Design and location of waste collection points and loading Areas</p> <p>Waste is proposed to be collected within the basement from centralised garbage collection rooms. The design and location has been assessed by Council's Waste Management Unit and advised that the manoeuvring area and arrangement is acceptable for Council's smaller garbage trucks.</p> <p>A Dock Management Plan was submitted with the application demonstrating how the use of the loading dock and service vehicles will minimise impacts on the operation of the basement. It is recommended that a condition is included in the consent to ensure that the Dock Management Plan is implemented.</p>
	Yes	<p>Parking area design</p> <p>The internal ramp gradient does not comply with the Australian Standard and was supported by an analysis concluding that scraping events will not occur. Council's Transport and Access Unit have advised that the signs should be placed to warn drivers to approach the ramp with caution.</p> <p>The internal driveway is not capable of accommodating 2 trucks passing each other at the same time. Further information was submitted indicating that it is expected that there will be a low number of service vehicle movements on the site and the probability of two trucks on the site at the same time is very low.</p> <p>The proposed car parking area is capable for being well lit and sufficiently visible and safe. The basement is proposed to be mechanically ventilated and cannot be practically naturally ventilated and maintain a positive relationship with the public domain.</p> <p>Overall the internal design and arrangement of the basement level is assessed as acceptable, subject to appropriate speed limit signage being in place.</p>

3. General Provisions		
Development Control	Complies	Comment
3.12 Accessible Design	Yes	<p>General</p> <p>Equitable access to the building is provided from the allotment boundary at the main points of entry and from the accessible car parking spaces to the apartments.</p> <p>Access for pedestrians and vehicles is clearly separated with a single vehicle entry and a number of level entries at East Circular Quay and Macquarie street ground levels to the retail spaces and residential lobbies.</p>
	Yes	<p>Adaptable dwelling mix</p> <p>The development proposes a total of 16 adaptable apartments (15%) and considered to be sufficiently spread throughout the development.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>Promote safety through design of buildings</p> <p>A Crime Risk Assessment was submitted with the application which addresses site specific safety considerations. The building design is considered to sufficiently address the relevant considerations for the following reasons:</p> <ul style="list-style-type: none"> • The active use of tenancies, lobbies and public through site link maximise the interface at ground level with the street and public domain, optimising direct surveillance opportunities. • The apartment balconies provide sufficient level of passive and causal surveillance. • All lift lobbies including the public lift are directly visible from the public domain. <p>The vehicle entry and exist point was identified as a potential weak point where concealment and entrapment could occur. It is proposed to have security controlled entry, CCTV at the entry point and on approach to the building and external lighting.</p>

3. General Provisions		
Development Control	Complies	Comment
3.14 Waste	Yes	<p>Waste management plans</p> <p>The waste management plan has been reviewed by councils Waste Management Unit and provide that the development is capable of being provided in accordance with the <i>City of Sydney Policy for Waste Minimisation in New Developments 2005</i>, noting:</p> <ul style="list-style-type: none">• The waste room sizes are adequate based on a compaction rate of 3:1 and minimum collection twice a week.• Smaller garbage collection trucks are required to service the development.• An updated ground level plan shows bulky goods storage.• A clearance height of 3.6m is acceptable.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
4.2.1 Building height	No	<p>Floor to ceiling heights for commercial and retail buildings</p> <p>The following floor to floor heights are proposed and do not comply with the 3.3m – 3.6m minimum floor to ceiling heights recommended in the control:</p> <ul style="list-style-type: none"> • Ground – 3.37m • Level 1– 3.08m • Level 2 – 3.02m to 6.75m (restaurant) • Level 3 - 3.73m to 6m (lobby) <p>The proposed departure from the minimum levels between ground and level 3 is considered acceptable in this circumstance given that:</p> <ul style="list-style-type: none"> • The floor levels are dictated by the established Circular Quay Level, colonnade soffit and Macquarie Street level. • The levels are consistent with the rhythm of levels established in the Quay Grand to the north. • The lower clearance areas are generally to the back of house areas and common pool/gym areas. • The lobbies, entries and restaurant spaces are double height. <p>Floor to ceiling heights for residential</p> <p>The residential levels have a floor to floor height of 3.1m which enables delivery of a 2.7m floor to ceiling height during construction.</p>
4.2.2 Building setbacks	N/A	Building envelope in CA prevails.
4.2.3 Amenity	Yes	<p>Internal solar access</p> <p>The RFDC and SDCP 2012 require 70% of dwellings in a development to achieve a minimum of 2 hours of direct sunlight to living areas between 9am and 3pm on June 21st.</p> <p>92 of 109 apartments (84%) receive a minimum of 2 hours of direct sunlight between 9am and 3pm on June 21st onto at least 1sqm of living room windows and a minimum 50% of each balcony.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
	Yes	<p>Overshadowing to adjoining properties</p> <p>The proposal will not cause any additional overshadowing to neighbouring properties.</p>
	Yes	<p>Lightwells</p> <p>It is not proposed to rely on lightwells for daylight to the apartments.</p>
	No	<p>Internal common areas</p> <p>The common corridors have a minimum width of 1.8m – 2.3m and 50% of the corridors have access to daylight and an outlook. Levels 4, 5 and 14-19 do not provide daylight and outlook. It is considered that this is acceptable in this circumstance given:</p> <ul style="list-style-type: none"> • The outlook and daylight amenity to the lower levels would be poor given the location of the viaduct, through site link and car park exhaust. • The upper levels have an excellent internal outlook amenity. • ESD initiatives have been incorporated into the design to reduce the eco footprint of the development.
	Capable	<p>Design features to manage solar access</p> <p>The building maximises glazing to benefit from daylight, winter sun and views. Shading to living areas is in the form of covered balconies and internal, occupant controlled devices. The glazing will need to be optimised through a combination of lamination and double glazing to reduce the effects of solar gain during summer.</p>
	No	<p>Landscaping, Deep Soil</p> <p>No soft landscaping, green walls/roofs or deep soil is proposed as part of the development and does not comply with the minimums recommended in the RFDC. Given the terms of the concept approval, existing site condition and provision of public domain improvements, the lack of soft landscape elements are acceptable in this circumstance.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
	Yes	<p>Private open space and balconies</p> <p>92 apartments or 84% have a balcony or winter garden directly accessible from the living area, which exceeds the minimum 75% control. The majority of private open space is orientated to the east, west or north.</p> <p>Most balconies can generally comply with 2m minimum dimension and the majority exceed 10sqm. 20 of the 1 bedroom apartments have a an undersized balcony that is considered acceptable given that most are in the serviced apartment component and outdoor recreation activities are less likely to occur.</p>
	No	<p>Common open space</p> <p>The common open space is in the form of an indoor pool and gymnasium to be shared between the residential uses. The lack of any outdoor communal space is acceptable in this circumstance given the concept approval terms, the dense urban environment and the provision of a good level of internal amenity to the apartments.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
	No	<p>Ventilation</p> <p>The RFDC recommends 60% of dwellings in a development should be naturally cross ventilated. Overall, 53 or 47% are naturally cross ventilated and represents a departure from the minimum requirement.</p> <p>The applicant has sought to justify the departure for the following reasons:</p> <ul style="list-style-type: none"> • 66% of the permanent residential component is naturally cross ventilated. • The depth of the envelope in the concept approval is 27m limiting the opportunity for natural cross ventilation. • The requirement for two cores to service the different components reduces floor space available to provide through apartments and through apartments are not feasible for serviced apartment use. • The existing Quay Grand development abuts the building limiting any opportunity for cross ventilation to a number of apartments. • The curved facade promotes pressure difference and ventilation to single sided apartments. <p>The departure from the natural cross ventilation requirement is considered acceptable given that the 66% of the permanent residential component is naturally cross ventilated, the depth of the building is 27m and significantly limits opportunity for natural cross ventilation and through apartments are generally not feasible for serviced apartment use.</p>
	Yes	<p>Outlook</p> <p>Each apartment will benefit from excellent views and outlooks to Sydney harbour, Botanical Gardens and the CBD.</p> <p>The proposed building is unlikely to affect significant views to the CBD and harbour from surrounding residences.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
	Yes	<p>Acoustic privacy</p> <p>An Acoustic Assessment was submitted with the application which assesses the external noise impacts from the roads, rail line and activities in the vicinity of the site.</p> <p>Acoustic measures including glazing construction specifications for the building facade have been recommended to comply with the internal noise criteria identified in the SDCP 2012 control.</p> <p>Construction Noise</p> <p>Given there are sensitive receivers in proximity to the site and it is likely that noise disturbances will occur during excavation and construction stages, it is recommended that a Construction Noise and Vibration Management Plan is submitted and approved prior to a Construction Certificate being issued.</p>

4. Development Types																																			
4.2 Residential Flat, Commercial and Mixed Use Developments																																			
Development Control	Complies	Comment																																	
	No	<p>Flexible housing and dwelling mix</p> <p>The development proposes a dwelling mix of:</p> <p>Total</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Control</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Studios/1 bedroom</td> <td>0-40%</td> <td>59%</td> </tr> <tr> <td>2 bedrooms</td> <td>40-75%</td> <td>17%</td> </tr> <tr> <td>3 bedrooms</td> <td>10-100%</td> <td>25%</td> </tr> </tbody> </table> <p>Permanent Residential</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Control</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Studios/1 bedroom</td> <td>0-40%</td> <td>17%</td> </tr> <tr> <td>2 bedrooms</td> <td>40-75%</td> <td>26%</td> </tr> <tr> <td>3 bedrooms</td> <td>10-100%</td> <td>57%</td> </tr> </tbody> </table> <p>Serviced Apartment</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Control</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Studios/1 bedroom</td> <td>60%</td> <td>90%</td> </tr> <tr> <td>2 bedrooms</td> <td>40%</td> <td>10%</td> </tr> </tbody> </table> <p>The dwelling mix is inconsistent with the controls for apartments and serviced apartments, providing too many 1 bedroom apartments and limited 2 bedroom apartments.</p> <p>The permanent apartment mix is considered acceptable given that the under provision of 2 bedroom is compensated by the over provision of 3 bedroom which is encouraged under the DCP.</p>	Type	Control	Proposed	Studios/1 bedroom	0-40%	59%	2 bedrooms	40-75%	17%	3 bedrooms	10-100%	25%	Type	Control	Proposed	Studios/1 bedroom	0-40%	17%	2 bedrooms	40-75%	26%	3 bedrooms	10-100%	57%	Type	Control	Proposed	Studios/1 bedroom	60%	90%	2 bedrooms	40%	10%
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4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
		The serviced apartment component is made up of 90% 1 bedroom apartments, where the maximum under the use specific control is 60%. See discussion in Issues section later in this report.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposed building is articulated through composition of building elements and fenestration and use of high quality materials and finishes.
4.2.6 Waste minimisation	Capable	<p>Waste is proposed to be collected within the basement from centralised garbage collection rooms. A waste and recycling chute is provided within a garbage store room on each floor adjacent to each core.</p> <p>The development is capable of providing waste management in accordance with <i>City of Sydney Policy for Waste Minimisation in New Developments 2005</i> subject to recommended.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	There is capacity in the basement to enable infrastructure upgrades and heating and cooling infrastructure.
4.2.8 Letterboxes	Yes	The development proposes letterboxes within the residential lobbies and can be provided direct unhindered access from the street frontage.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
4.4.8 Visitor accommodation		
4.4.8.5 Additional provisions for serviced apartments		
4.4.8.1 General	Capable	<p>The objectives of the control are to ensure that the design, development and management of visitor accommodation provide acceptable levels of health, safety, cleanliness, amenity and administration for guests, whilst not adversely impacting on the amenity of the surrounding locality.</p> <p>The proposal complies with the specific controls for visitor accommodation in that:</p> <ul style="list-style-type: none"> • The new development is self-contained with no common access ways with adjoining properties. • A site manager will be provided and it is recommended conditions are imposed requiring the manager to be on site when guests have access to the premises (24 hours a day). • No triple-tier bunks and cooking facilities are proposed in the sleeping rooms. • All toilet and shower facilities are within a bathroom in each room and are enclosable via a door. • All doors and levels will be key card access controlled and security cameras are proposed in public and non-public areas. <p>Management practices are addressed with the application, however, a separate Plan of Management (“POM”) was not submitted. It is recommended that condition is imposed for a specific POM addressing the operational matters (consistent with the consent conditions) is submitted and approved prior to issue of an occupation certificate.</p> <p>Overall, the proposal is considered satisfactory in terms of achieving the objectives subject to the inclusion of consent conditions.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
4.4.8.5 Additional provisions for serviced apartments	No	<p>The proposal complies with some of the specific controls for serviced apartments in that:</p> <ul style="list-style-type: none"> • Each room exceeds the minimum areas for serviced apartments rooms • The serviced apartments are designed to a level of residential amenity generally equivalent to the requirements in the RFDC. • Each apartment has a laundry capable of accommodating a wash tub, washing machine and clothes dryer. • Each apartment can accommodate garbage receptacle storage area with space for recyclables. • Conditions can be imposed to ensure no more than two adults and one child are permitted per room and a Plan of Management is submitted and approved describing how on-going operations are to be managed. <p>The proposal does not comply with control in that:</p> <ul style="list-style-type: none"> • While the serviced apartment component is located on separate levels to the permanent residential apartments and serviced by a separate core, it is proposed to allow the serviced apartments to be flexibly used as residential apartments. • The dwelling mix of the serviced apartment component is 90% 1 bed apartments where the control only allows a maximum 60%. <p>This assessment finds that the co-location and dwelling mix is satisfactory in this unique circumstance.</p> <p>See discussion in Issues section later in this report.</p>

5. Specific areas – Central Sydney		
Development Control	Complies	Comment
5.1.1 Street frontage heights	N/A	The envelope established in the concept approval prevails.

5. Specific areas – Central Sydney		
Development Control	Complies	Comment
5.1.2 Building setbacks	N/A	The envelope established in the concept approval prevails.
5.1.4 Conservation of public domain features in Special Character Areas	Yes	The public domain in the vicinity of the site is proposed to be upgraded and improved consistent with the vision for East Circular Quay.
5.1.5 Building bulk	N/A	The envelope established in the concept approval prevails.
5.1.6 Building exteriors	Yes	<p>The building exteriors are generally consistent with the control in that:</p> <ul style="list-style-type: none"> • A predominant masonry character is provided at the lower levels of buildings. • The glazed elements are predominantly light in colour. • No projections over the public domain are proposed. • Balconies are proposed to benefit from outlooks over the public domain including parks and foreshore. • The building is consistent with the concept approval envelope and does not detract from significant views from surrounding properties, cause additional overshadowing to the public domain or cause unreasonable visual privacy impacts. • The top level has been designed to conceal plant equipment by metal louvres.
5.1.9 Award and allocation of heritage floor space	N/A	Calculation of HFS is in accordance with CA, addressed earlier in this report.

ISSUES**Competitive Design Process, Design Improvements and Design Excellence**

63. The concept approval required a Competitive Design Process be undertaken in accordance with SLEP 2005 which sets out matters when considering whether proposed development exhibits design excellence.
64. In February 2013, a Competitive Design Competition was undertaken, however, no one preferred winning scheme was selected and it was decided not to select a winning scheme. One of the preferred options was the Tzannes Associates scheme and is the building design that is the subject of the DA.
65. Upon review of the proposal, Council's Design Advisory Panel recognised the prime location and the development should be exemplar and demonstrate design excellence as well environmental innovation. The panel recommended further consideration is given to a number of aspects of the design, each of which are outlined and addressed below:

- (a) **The proposal should be further developed to be SEPP 65 compliant, the lobbies and common corridors should have natural light and ventilation and a more innovative approach should be investigated into ventilation of the apartments**

The proposal has been re-tested against the RFDC controls and provides complaint solar access (84%), natural light and outlook to 50% of the lobbies and corridors and 47% naturally cross ventilated. The departure from the natural cross ventilation requirement is considered acceptable given that the 66% of the permanent residential component is naturally cross ventilated, the depth of the building is 27m and significantly limits opportunity for natural cross ventilation and through apartments are generally not feasible for serviced apartment use.

- (b) **Lack of amenity of the one bedroom apartment on the south west corner**

On balance the identified serviced apartment has a satisfactory level of amenity for a tourist accommodation use. It is recommended that the slatted screen to apartment 402 has is amended to be an operable sliding screen to control light and ventilation to this studio apartment.

- (c) **Impacts of the car park exhaust on level 6 on the amenity of the surrounding apartments**

The car park exhaust is located adjacent to windows to 2 serviced apartments on Level 6. Considering that any alternate location would result in undesirable impacts on the public domain interface or adjoining building to the north, the location is acceptable subject to recommended conditions requiring compliance with the relevant standards.

(d) **Further detail required regarding the design and resolution of the columns within the colonnade**

The applicant submitted an analysis of the existing column types and how they respond to both their position in the colonnade and the height of the colonnade. It finds that the consistent scale and materiality reinforces the continuity of the colonnade while the variety in types provides different spatial qualities and the character of the buildings over. **Figure 36** illustrates the various types.

The proposed column design maintains the material quality, alignment and scale of the colonnade. At ground level the proposed columns retain the more rectilinear quality of the adjacent colonnade, they then twist in plan to reflect the changing pedestrian desire line to reflect the specific site condition and the architectural character of the building. **Figure 37** illustrates the proposed design of the columns. The rationale behind the design of the columns is considered to be a well resolved.



Figure 36: Images illustrating the existing varying types of column design in the colonnade.



Figure 37: Photomontage of the proposed Images column design with rectilinear form at the bottom and twist at the top.

- (e) **The Panel noted that it is crucial that ground plane and its relationship with the colonnade, its surrounding public domain on all sides is considered carefully and particularly the driveway access and its impact on pedestrian amenity**

The proposed driveway access is located in the south western corner of the site. The retail tenancy that lines the through site link, partly conceals the pedestrian view to the driveway entry and exit point. Council's Transport and Access Unit have advised that here are sufficient sight lines available from exiting traffic.

- (f) **The Panel does not support reduction in the footpath width on Macquarie Street for the drop off zone**

This assessment does not support the proposed kerb re-alignment and recommends that the existing kerb is retained.

- (g) **Lack of resolution in the interface between this development and the Grand Quay with consideration to continuous weather protection**

A glass awning is provided between the colonnade and Quay Grand colonnade.

- (h) **Intrusion of the through site link into the colonnade should be minimised could be further animated**

The applicant has investigated shortening the landings to reduce the overall length of the stair case (refer to **Figure 38**). The analysis found that to comply with the Australian Standards for stair treads, risers and landings the stairs are unable to be shortened. The proposed retail and restaurant tenancies have glazed walls to the through site link and activate this space through a visual connection.

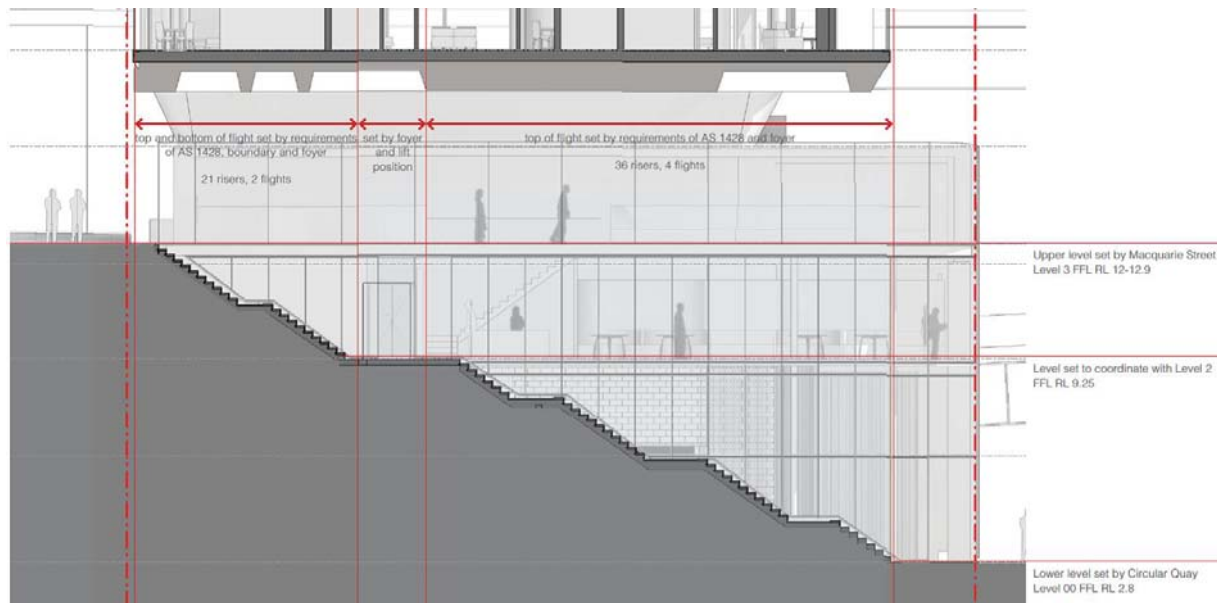


Figure 38: Section through the through site link illustrating the minimum tread, risers and landings to comply with the Australian Standards.

- (i) **Importance of high quality detailing and finishes**

The base of the building has a masonry character of stone and concrete. The colonnade is finished in high quality stone and paving consistent with the existing material used in the precinct. The Macquarie Street frontage also incorporates stone, timber and metal work. The upper levels of the building are predominantly full height glass with bronze aluminium detailing. The glazing elements are high performance of a warm neutral colour and the wintergardens glazing is a low iron type to achieve differentiation between the lower and upper forms.

66. In considering whether the development exhibits design excellence, the consent authority must have regard and be satisfied that the development achieves certain criteria. Each criterion is addressed below:

- (a) **A high standard of architectural design, materials and detailing appropriate to the building type and location**

The development is considered to represent a well resolved architectural design and interface with the public domain. The architecture is described as three components including a base that completes the colonnade and public domain, a middle section that completes East Circular Quay and a lantern like form above. The '*smooth, refined, folded, liquid glass skin*' is consistent with the architectural concept established in the design competition.

- (b) **A form and external appearance of the proposed development will improve the quality and amenity of the public domain**

The form and external appearance of the building is considered to be of a high quality improving the visual quality of the East Circular Quay precinct. The proposal will result in an improved amenity to the public domain, including the removal of the road from East Circular Quay, increasing connectivity between the East Circular Quay and Macquarie Street and upgrading of the forecourt area.

- (c) **Does the proposed development detrimentally impact on view corridors**

A Visual Impact Assessment has been undertaken from key neighbouring properties and public areas and finds that the proposed form generally sits within the concept approval envelope and does not impact on existing significant view corridors. All proposed photomontages from the Visual Impact Assessment are located in **Attachment D**.

Building Height – Elements outside the concept approval Envelope

67. Part of the metal louver screening around the plant area, the photovoltaic panels and glass balustrade are located outside the envelope established in the concept approval (refer to **Figure 39**).
68. Given that these elements depart from the concept approval and SLEP 2012 building height standard of RL46.7, the applicant submitted a written request to vary the development standard for the elements on the Macquarie Street lot. Under SLEP 2012 there is no height constraint over the East Circular Quay lot, therefore, no clause 4.6 request is necessary for the glass balustrade.
69. The elements represent a 44% variation from the height development standard contained in SLEP 2012 and a 2%-3% variation to the concept approval parapet height.

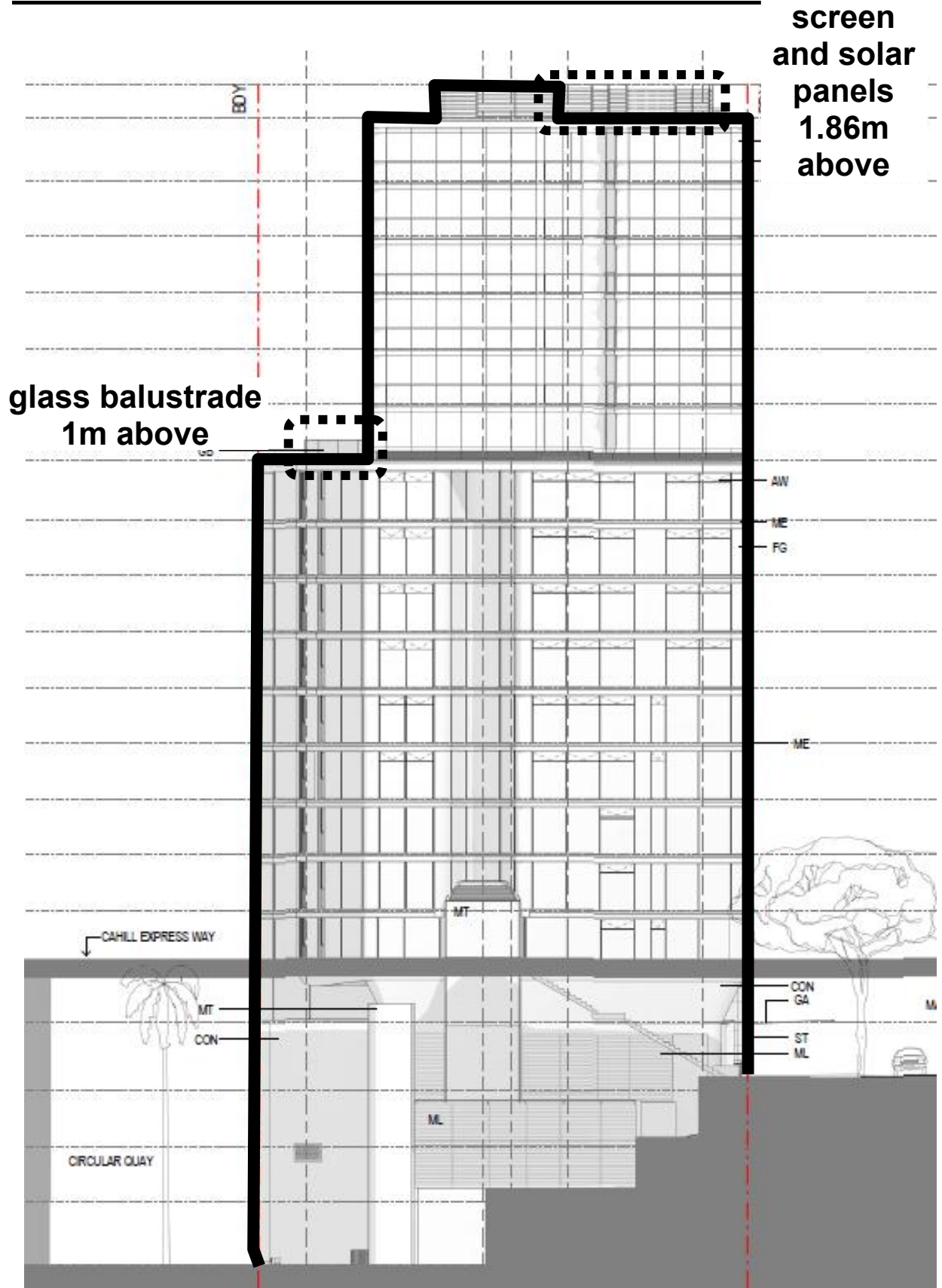


Figure 39: Diagram illustrating the elements that sit outside the concept approval envelope.

70. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception as the Director-General's concurrence can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08–003 dated 9 May 2008.
71. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the height development standard has been considered against the objectives and provisions of Clause 4.6:
- (a) at the time the Concept Plan was approved, the detailed design requirements of the plant were not known, the elements seeks to conceal undesirable plant and equipment and deliver an environmentally sustainable building that incorporates a whole suite of efficiency measures, including the provision of solar panels. The applicant's written rationale is considered to adequately address the objectives associated with contravening the development standard and is considered to be well founded; and
 - (b) the height development standard in SLEP 2012 does not apply except for the area between RL65.37 and RL65.12 where plant was not nominated in the concept approval. Given that it is a minor departure the concept approval envelope, no adverse view impacts would arise and that the elements facilitate an improved roof top appearance and solar panels, the proposal considered generally consistent with the objectives building height standard in this rare circumstance.
72. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height development standard and it is recommended that a Clause 4.6 exception be granted.
73. With regard to the 1 metre glass balustrade on level 14, it is not considered that this element gives rise to any unreasonable privacy or bulk impact and could be supported on its merits.

Operation of the Serviced Apartment Component

74. SDCP 2012 does not permit serviced apartments and permanent residential apartments to be co-located on the same level to protect the amenity of permanent residential use and operation of the tourist accommodation use. Council ordinarily imposes restrictions on the uses to ensure that the approved uses on the relevant levels are registered through a covenant on the title of the land.
75. The serviced apartment component is located on levels 4 – 9 comprising of 62 apartments serviced by a separate core to the 47 permanent residential apartments above. It is proposed to allow the serviced apartments to be purchased and/or occupied as permanent residential apartments and no restriction imposed for use as serviced apartments only.
76. The applicant has provided the following outline of the proposed operational measures to minimise conflict between the differing uses:

- (a) the scheme is based on the Quay Grand model whereby owners purchase a serviced apartment lot with the following occupancy options:
 - (i) owner occupier; or
 - (ii) leasing to Serviced Apartment operator; or
 - (iii) private leasing to individual company (tenanted);
 - (b) impose strata by-laws to ensure appropriated provisions are made to manage the behaviour of owners and occupiers and ensure compliance with such rules;
 - (c) impose a Building Services Agreement and appoint a Building Manager to supervise the behaviour of occupants and enforce by-laws and provide a 24 hour concierge;
 - (d) the likely demographic will be corporate and well established clientele who typically do not cause complaints;
 - (e) the separated access cores to each use allow greater control and increased separation; and
 - (f) the Contract for Sale, lease agreements, strata management statements and bylaws for the building will clearly state the nominated levels as serviced apartment accommodation.
77. The proposal is considered acceptable in this unique circumstance for the following reasons:
- (a) a suite of measures can be incorporated to manage the co-location of uses and minimise amenity impacts on permanent residential uses and protect ongoing operation of the tourist accommodation (to be outlined in plan of management);
 - (b) inclusion of clear disclosures in key purchase documents and ongoing operational and management documents circulated to owners/occupants; and
 - (c) submitted evidence of the successful similar operation at Quay Grand adjacent to the site.

Circular Quay Precinct and Impacts on Permanent Residential Development

78. The site is within Circular Quay, one of Sydney's most significant tourism and recreation precincts, and a vibrant environment during the day and night. Council's plans and policies prioritise the ongoing protection of the precinct for these uses.
79. The concept approval permitted a combination of serviced apartment and permanent residential uses within the precinct.

80. The apartments have been designed to minimise transfer of external noise impacts and occupant controlled devices will enable blocking out of light emissions. Despite this, it was requested that the applicant address any additional measures to address any future conflict between the external activities to the site and residential uses.
81. The applicant has proposed to impose strata by-laws and special conditions in the contract of sale acknowledging the building is located in a tourism precinct whereby a number of leisure and entertainment activities take place that may result in significant noise, light emissions and vibration and temporary changes to access arrangements.
82. It is recommended that the applicant should take reasonable measures to ensure that purchasers and occupiers are aware of the locality and potential amenity impacts.

Serviced Apartment Component Dwelling Mix

83. The dwelling mix of the serviced apartment component is 90% 1 bed apartments, where the control recommends a maximum 60%. The control allows the required mix of apartments to be varied where the applicant can demonstrate the requirement is inappropriate in the circumstances.
84. The applicant has provided the following justifications for the number of 1 bedroom apartments:
 - (a) the mix of apartments is constrained by adjoining development and infrastructure, and the requirement for two cores limits the arrangement and orientation opportunities for apartments; and
 - (b) discussion with potential serviced apartment operators regarding the desired mix indicates that the feasibility and occupation of 2 and 3 bedroom serviced apartments is unviable.
85. The objectives of the control are to encourage a mix of serviced apartment sizes to provide choice and ensure serviced apartment developments provide an acceptable level of amenity for the surrounding locality and future residents if to be converted to permanent residential.
86. The proposed mix is considered acceptable when taking into account the objectives, market viability justification and that the total dwelling mix across all apartments is more compliant with the control.

Planning Agreement - Colonnade and Through Site Link

87. On 26 September 2012, AMP Life Ltd submitted a Letter of Offer to enter into a PA with the City of Sydney Council and Sydney Harbour Foreshore Authority. The offer comprised of a series of public benefits to be provided including the dedication (by transfer to Council) of an airspace lot, a through site link and colonnade lot/s, and an offer to undertake a number of public improvements with no developer margin or profit (to the satisfaction of Council) on Council's behalf.
88. The nature of the planning agreement is to secure the following public benefits:

- (a) application of high quality finishes and lighting of the colonnade and creation and dedication of colonnade lot (airspace) to Council;
 - (b) construction of the Through-Site Link staircase, application of high quality finishes and lighting and dedication of the Through-Site Link (airspace) to Council;
 - (c) creation of an airspace lot above the roof and plant level and dedication to Council; and
 - (d) forecourt renewal works, including new pavement and footpaths, landscaping, glazed awning, furniture, relocation of trees, lighting and drainage on SHFA land on Council's behalf for a fixed price (subject to scope adjustments at the discretion of Council), with no developer margin and the Developer accepting all construction and site risks.
89. The commissioning and installation of public art on Council's behalf, with no developer margin, to a maximum value of \$1 million, at the election of Council.
90. The subject application seeks development consent for the construction of the colonnade and through-site link components. **Figures 40-41** illustrate the location of the public benefit works to be secured through the planning agreement and the detail and finish of the colonnade and through site link.



Figure 41: Photomontage of the proposed through site link and colonnade.

91. The Colonnade and Through-site link have been designed to be consistent with the principles outlined the concept approval. The planning agreement sets out the obligation to undertake the works at a high quality finish to Council’s requirements. It is recommended that a condition is included in the consent to ensure that the roof finish in the through site link is delivered in accordance with the detail in the architectural drawings.

Macquarie Street set-down area and Street Tree removal

92. The application seeks consent for an indentation (kerb realignment) in the public footpath along Macquarie Street to allow for a set-down area associated with the serviced apartment use. The proposed indentation would require the removal of 2 existing London Plane street trees. **Figure 42** illustrates the proposed indentation and location of street trees affected by the proposal.

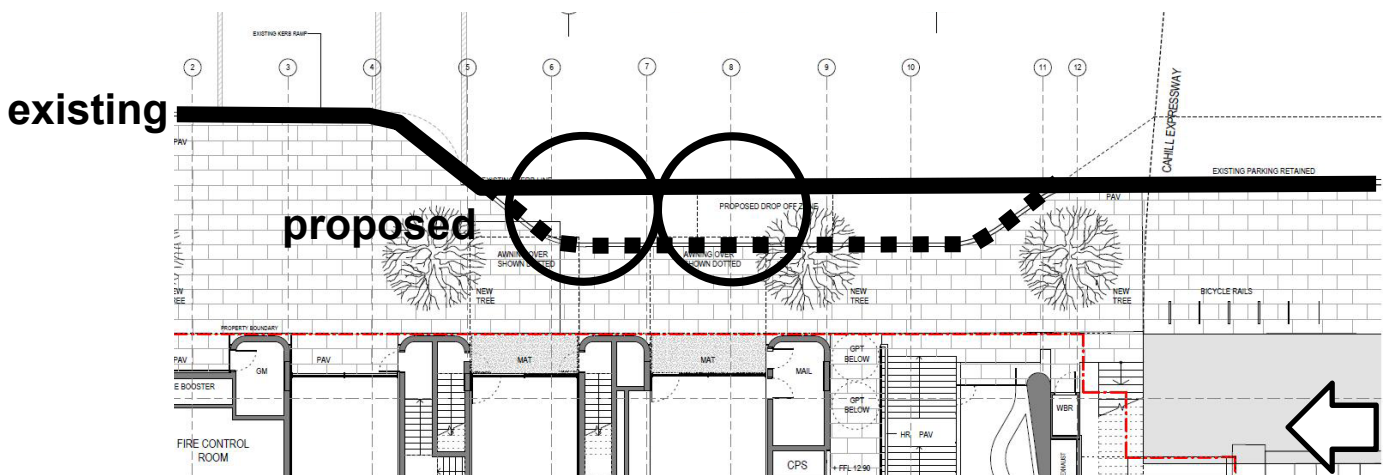


Figure 42: Diagram illustrating the existing (solid line) and proposed (dashed line) kerb realignment and location of existing street trees.

93. The proposed alteration to Macquarie Street has been reviewed by Council’s Traffic Operations Unit who does not support any alteration to the existing kerb alignment to facilitate the set-down area for the following reasons:

- (a) the arrangement will reduce the width of the footway and impacting on local pedestrian amenity; and
 - (b) the indentation will encourage illegal double parking.
94. Council's Traffic Operations Unit has advised that rearrangement of the existing parking restrictions along the street to enable three set down spaces in front of the development may be acceptable subject to a separate application and approval from the Local Pedestrian, Cycling and Traffic Calming Committee.
95. For the reasons provided, the indentation and subsequent tree removal is not supported. There is sufficient existing area to facilitate a set-down area to service the development consistent with other visitor accommodation operations in the vicinity of the site.
96. It is recommended that conditions are imposed clarifying that the indentation and tree removal is not approved and that any proposed changes to the existing parking restrictions, form part of a separate application to the Local Pedestrian, Cycling and Traffic Calming Committee.

Access to Quay Grand and Breakthrough Panel

97. The proposed building is located over land which is currently used as an access road to the Quay Grand development to the north of the site. All future traffic to Quay Grand is to be redirected through the proposed basement to a breakthrough in the northern wall of the Ground Level to access the basement level of Quay Grand.
98. The closing off of the existing entry to Quay Grand and future access arrangement was a condition of approval of the Quay Grand development and secured through a breakthrough deed with the City. The City has the right under the deed to instruct the removal of the existing vehicular access and connection to all basement levels of the adjacent site.
99. During construction, it is proposed to maintain access to Quay Grand by providing temporary access over East Circular Quay forecourt until an occupation certificate is issued.
100. **Figure 43** illustrates the existing, temporary and proposed access arrangements.
101. The proposed temporary access is acceptable in principle, however, will be the subject of a comprehensive Construction Traffic Management Plan to be submitted and approved by Council's Traffic Operations Unit prior issue of a construction certificate.

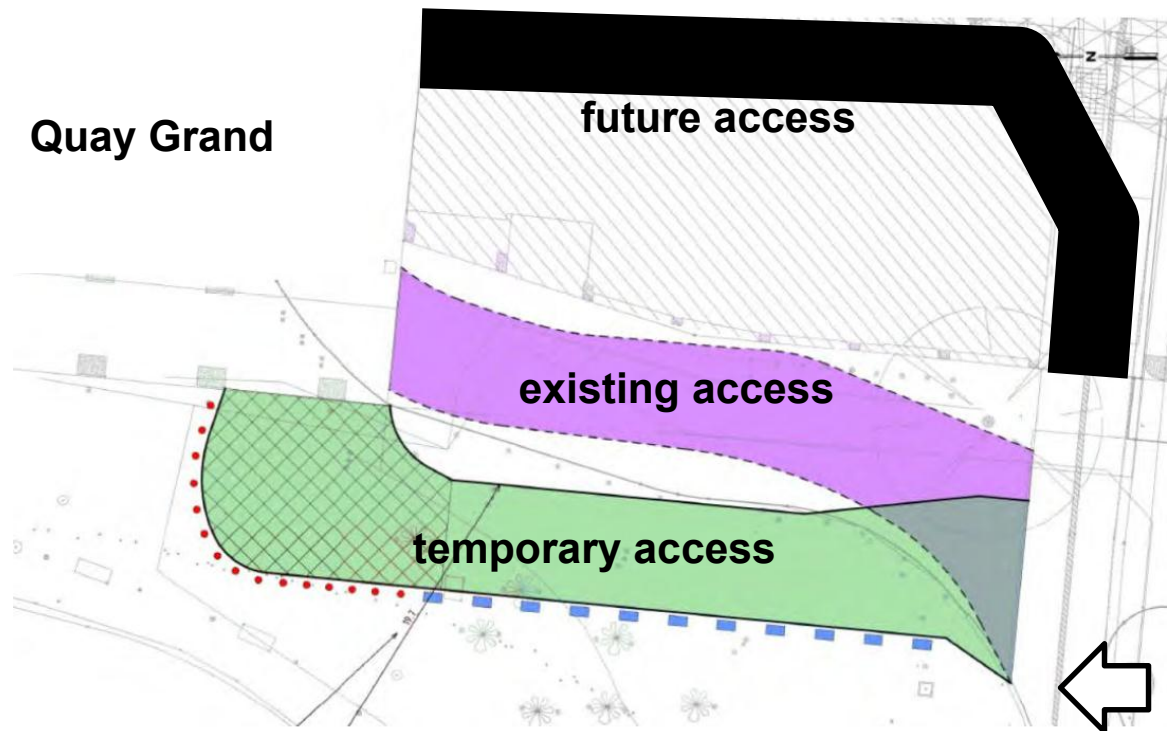


Figure 43: Diagram illustrating the existing, temporary and proposed future access to Quay Grand development.

Amenity Impacts to Surrounding Developments

102. Amenity concerns have been raised by residents in the Quay Grand and the Quay apartments to the north and south of the site, respectively.
103. The concerns from the Quay apartments relate to privacy and view loss. The concerns from Quay Grand can be summarised as:
- (a) privacy between the north western balconies over levels 4 to 13 to the south western apartments in Quay Grand;
 - (b) loss of view to the south towards the CBD;
 - (c) loss of daylight to the southern window to the western apartments;
 - (d) loss of daylight and outlook from the communal pool and gym area.

Privacy

104. There is greater than 28 metres between the proposed building and existing balconies in the Quay which complies with the minimum separation recommended in the RFDC for privacy and general amenity.
105. The proposed north western balconies are separated by 2.6 metres from the existing balconies in the Quay Grand. The applicant provided details of the proposed privacy devices illustrating full height aluminium blades at 100mm centres and angled (refer to **Figure 44**). Subject to the blades being fixed to prevent cross looking between the balconies the screens are considered suitable to minimise privacy impacts.

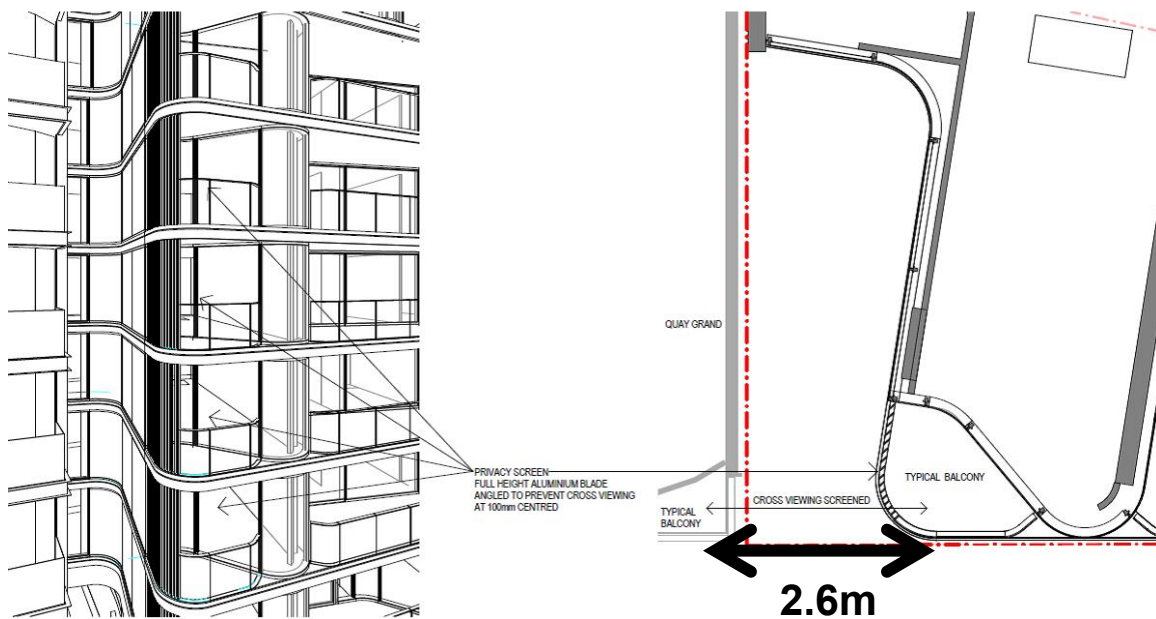


Figure 44: Diagram illustrating the proposed privacy screen and separation between balconies.

View loss

106. Council officers undertook an inspection of a Quay Grand apartment and the communal pool area and a Quay apartment in August 2014. An understanding of the proposal and the photographs taken from Council's site inspections is the information used to undertake the following general assessment against the four step criteria view loss planning principle established in the Land and Environment Court case, *Tenacity Consulting v Warringah [2004] NSWLEC 140*.

107. **First Step – What is the view/s to be affected?**

- (a) **Quay Grand Apartment** - The affected view from the apartments is directly south toward the CBD (refer to **Figures 45**).
- (b) **Quay Grand pool deck** - The affected view from the communal area is south west toward Circular Quay forecourt (refer to **Figure 46**).
- (c) **Quay Apartment** - The affected view from the apartment is to the north where a panoramic view of Sydney Harbour including the Harbour Bridge and Opera House (refer to **Figure 47**).



Figure 45: Photograph taken from Quay Grand balcony looking directly south over the subject site towards CBD.



Figure 46: Photograph taken from Quay Grand Level 2 pool deck looking south west towards Circular Quay.



Figure 47: Photograph taken from the Quay looking north over the subject site to Sydney Harbour.

108. Second Step – Where are the views are obtained from?

- (a) **Quay Grand Apartment** - The views are obtained from standing and sitting positions on the balcony of the south western apartment.
- (b) **Quay Grand pool deck** - The views are obtained from standing and sitting positions within the pool, pool deck and gym.
- (c) **Quay Apartment** - The views are obtained from standing and sitting positions in the living areas and balcony of the apartment.

109. Third Step – What is the extent of the impact?

- (a) **Quay Grand Apartment** - The impact on the view is considered to be minor as the majority of the CBD, all of Circular Quay and Sydney Harbour including the iconic Harbour Bridge will be retained.
- (b) **Quay Grand pool deck** - The impact on the outlook is considered to be minor as the majority of the Circular Quay forecourt will be retained. It is noted that views of Sydney Harbour including the iconic Harbour Bridge will be retained from the elevated pool deck.
- (c) **Quay Apartment** - The impact on the view is considered to be negligible as the existing panoramic view of Sydney Harbour including the iconic Harbour Bridge and Opera House will be retained.

110. **Fourth Step – what is the reasonableness of the proposal that is causing the impact?**

The impacts arising from the proposal are reasonable in the circumstance as it is caused by built form that is consistent with approved CA and the significant iconic views are retained in their entirety.

Daylight

111. The proposed building will affect daylight currently obtained through a fixed obscure window in the southern elevation of the Quay Grand apartments (refer to **Figure 48**). The window is to an area that makes up the open plan living area in the apartment. The area was used for dining purposes in the apartment Council officers inspected in August 2014. The reduction in daylight to this area is acceptable as it does not receive any direct solar access and the window is not the sole source of light to the room, noting that the western facade of the apartment is fully glazed.

112. The location of the building adjacent to the communal open space does not reduce the amount of direct solar access to the area. The building may cause a reduction in daylight, however, the proposal complies with the test for solar access under the SDCP 2012.

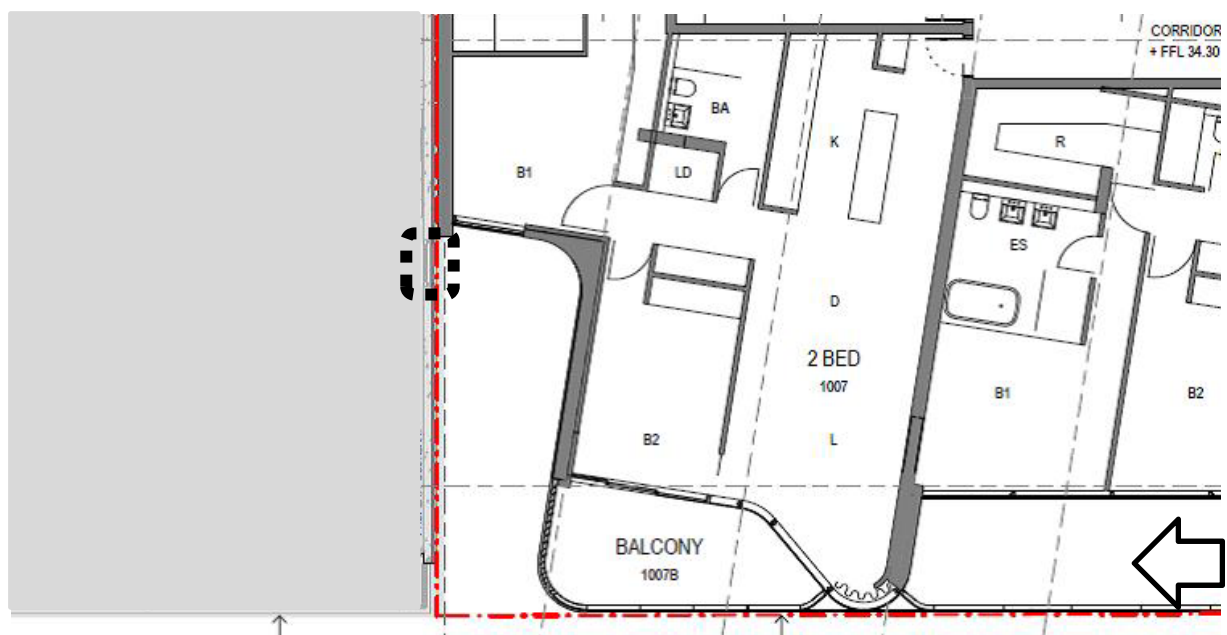


Figure 48: Diagram illustrating the location of the fixed window in the Quay Grand apartments.

Other Impacts of the Development

113. The proposed development is capable of complying with the BCA.

114. 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

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

INTERNAL REFERRALS

116. The application was referred to Council's Building Services Unit, Environmental Health Unit, Public Domain Unit, Specialist Surveyor, Transport and Access Unit, Tree Management Unit, Waste Management Unit, Landscaping Unit, Safe City Unit, Heritage Specialist and Traffic Operations Unit.
117. The conditions recommended by other sections of Council are considered reasonable and have been included in the proposed conditions.

EXTERNAL REFERRALS**NSW Office of Water**

118. The application was referred to the NSW Office of Water and General Terms of Approval were issued and are incorporated into Schedule 3 of the recommendation.

Sydney Trains

119. Concurrence was granted by Sydney Trains on 30 October 2014, subject to deferred commencement conditions being imposed requiring additional information. The Deferred commencement conditions are located in Part A and remaining concurrence conditions are located in Schedule 4 of the recommended conditions.

Roads and Maritime Services

120. The application was referred to the RMS and no objections were raised subject to certain considerations being undertaken by Council.

Ausgrid

121. The application was referred to Ausgrid who advised that further design assessment was required. It is recommended that the standard Electricity Substation condition be incorporated into the consent.

Heritage Council

122. The application was referred to the Heritage Council who recommended certain conditions be included in the consent. It is considered that the conditions recommended by Council's Heritage Specialist address the matters raised.

NOTIFICATION AND ADVERTISING

123. The application constitutes integrated development and, as such, the application was notified and advertised for 30 days between 26 March 2014 and 26 April 2014 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this, 11 submissions were received.

- (a) ***The application contains insufficient information to enable a meaningful assessment of the development on Quay Grand.***

Response – There is sufficient information available for Council to undertake a comprehensive assessment of the application.

- (b) ***The proposal will have adverse impacts on the vehicle access to and within Quay Grand. Unimpeded access must be maintained at all times.***

Response – The proposal will impact on the vehicular access to the Quay Grand development through the temporary access during construction and eventual redirection through the basement of the proposed building. The closure of the road way and removal of the existing access to Quay Grand has been a long term goal and a provision of the approval of the Quay Grand development. The temporary access road has been assessed as acceptable in principle subject to a Construction Traffic Management Plan being approved ensuring that unimpeded access to Quay Grand must be maintained at all times.

- (c) ***Two trucks cannot pass each other in the temporary access road and a waiting area should be provided.***

Response – This assessment finds that the likelihood of two trucks entering and exiting the site at the same time is assessed as low and will need to be addressed in the Construction Traffic Management Plan.

- (d) ***The narrow opening between the colonnade and hoarding and sharp turn is inappropriate and a safety issue for pedestrians.***

Response – The temporary access arrangements proposed in the demolition DA D/2014/299 and to be utilised during construction of the building will be the subject of a comprehensive Construction Traffic Management Plan to be prepared in accordance with Council's requirements.

- (e) ***Trucks using internal turning bay will block access for Quay Grand residents and a Dock Management Plan should be submitted.***

Response – A Dock Management Plan was submitted with application and Council's Transport and Access Unit have advised that the plan form part of the consent conditions.

- (f) ***The proposal will cause privacy impacts and view loss impacts to the Quay Grand and Quay apartments.***

Response – This assessment finds that subject to condition for the privacy screens to the northern edge of the balconies over Levels 4-13, there is adequate separation between habitable rooms to achieve a reasonable level of privacy between dwellings.

- (g) ***The proposal will result in significant noise and vibration impacts.***

Response – It is recommended that a Construction Noise and Vibration Management Plan is submitted and approved prior to a Construction Certificate being issued.

- (h) ***All work and cost associated with the breakthrough, making good of the Quay Grand driveway entrance and provision of a retail tenancy in its place is to be borne by the developer.***

Response – The terms of the breakthrough deed do not appear to obligate the owner of 71-79 Macquarie Street to undertake the abovementioned works. In any event, the issue is a civil matter between the parties and not a matter that can be reasonably dealt with through this development application.

- (i) ***Details of the breakthrough including size, structural composition and barrier design and operation has not been submitted.***

Response – The specific design detail of the breakthrough and barrier is not a matter that is ordinarily provided at development application stage. It is recommended that condition is imposed requiring the details to be discussed with the adjoining land owners to ensure an appropriate barrier is installed prior to an occupation certificate being issued.

- (j) ***No view impact assessment has been undertaken from the level 2 pool area.***

Response – This assessment undertakes a view loss assessment from the Level 2 pool area of the Quay Grand and finds that the impact is reasonable.

- (k) ***There is insufficient detail of the proposed screening of the north western balconies to show how downward and upward views are protected.***

Response – Details were provided during the assessment period showing full height vertical aluminium blades at 100mm centres. Subject to the blades being fixed to prevent cross looking between the balconies, the screens are considered suitable to minimise privacy impacts.

- (l) ***The difference in finished floor levels between developments exacerbates privacy impacts.***

Response – The difference in finished floor levels is not considered to give rise to unreasonable privacy impacts, subject to the privacy screens being incorporated into the design.

- (m) ***The retail tenancy in the through site link prevents views to the driveway entry and causes safety and security concerns. A Security Management Plan and Lighting Plan should be provided to Quay Grand.***

Response – The retail tenancy on the ground level obstructs direct views to the driveway entry when walking along the colonnade. The entry is visible from Circular Quay forecourt. This assessment finds that subject to safety and security measures being provided in accordance with the CPTED report, the proposal can achieve the relevant requirements.

- (n) ***The proposal results in the removal of street trees along Macquarie Street impacting on the visual amenity afforded to apartments on the eastern side of Quay Grand.***

Response – The removal of the street trees is not supported.

- (o) ***Compensation should be provided for cleaning glazed surfaces on Quay Grand due to dust during construction and all damage should be rectified by the developer.***

Response – Compensation is a civil matter between the parties and not a matter that can be reasonably conditioned through this development application. It is recommended that a dilapidation report is prepared to provide documentary evidence of the state of the adjoining property prior to any work commencing and after works are completed. Copies of the reports are to be forwarded to the adjoining land owner.

- (p) ***The colonnade and podium should follow the curve of Circular Quay or connect to the Cahill expressway.***

Response – The colonnade location was established in the concept approval.

- (q) ***The developers contact person should be available if any delays arise.***

Response – The relevant contact details are to be located on site in accordance with the prescribed conditions.

- (r) ***The proposal will result in late night trading expansion.***

Response – The proposed retail tenancies have the capability to become premises that may apply for late night trading. The impacts associated with these uses will be addressed at the time that application is made.

- (s) ***The proposal will result in the loss of three on street parking spaces.***

Response – This assessment finds that the rearrangement of parking restrictions along Macquarie Street to enable a potential drop off zone may be acceptable subject to future consideration by Council's Local Pedestrian, Cycling and Traffic Calming Committee.

- (t) ***The proposal is for a hotel not a serviced apartment.***

Response – The proposed use is consistent with the definition of a serviced apartment and described development approved in the concept approval.

- (u) ***The demolition of the building is an opportunity to increase parkland and amenity in the precinct.***

Response – The proposed land use is consistent with the described development approved in the concept approval.

- (v) ***The building should comply with the LEP height and then Botanic Gardens and Circular Quay would receive increased solar access.***

Response – The proposed height is generally consistent with the height approved in the concept approval. Under the provisions of the EP&A Act, the LEP height control has no effect in this instance as the concept approval applies to the land.

- (w) ***The construction phase will impact on the amenity and operations within Circular Quay.***

Response – The proposed hours of construction are consistent with the standard construction hours for the CBD. The construction phase will impact on the amenity and operation of Circular Quay. Subject to recommended conditions for management of these impacts, the short term impacts are considered reasonable.

- (x) ***The building is 25 storeys including parking and plant levels.***

Response – The building is generally contained within the envelope approved in the concept approval. No height in storeys control was included in the concept approval.

- (y) ***The number of car parking spaces must be reduced by 50% and comply with the current controls.***

Response – The amount of parking is consistent with that approved under the concept approval.

- (z) ***The proposal does not measure noise levels during a concert event in the domain and soundproofing should be in accordance with those tests to limit noise complaints.***

Response – Council's Health Unit have reviewed the request and considers that further testing is not necessary and does not anticipate that significant impacts will arise as the events are generally held southern and eastern sections for the Botanic Gardens/Domain.

- (aa) ***No open space on the site will place pressure on the Botanic Gardens and Domain and it is requested section 94s are allocated to the trust.***

Response – The lack of communal open space on the site is not considered to unreasonably impact on surrounding public domain. Section 61 contributions can only be allocated in accordance with the *Central Sydney Development Contributions Plan 2013*.

- (bb) ***The proposal is an overdevelopment and sets a poor precedent along East Circular Quay.***

Response – The building is generally contained within the envelope approved in the concept approval. Under the provisions of the EP&A Act, the relevant local controls have no effect in this instance as the concept approval applies to the land.

- (cc) ***The DA cannot be approved without exact detail of the public domain improvements being agreed.***

Response – A draft planning agreement has been prepared between the City, the developer and SHFA to secure the delivery of the colonnade, through site link and forecourt renewal works. The planning agreement is currently on public exhibition. The CSPC cannot determine the development application until such time the planning agreement is executed. It is recommended that delegation be given to the CEO to determine the application once any submissions have been considered and the planning agreement has been executed.

- (dd) ***The angle glass facade will cause reflected sunlight back onto the road.***

Response – A Reflectivity Report was submitted with the application and concludes that the proposal can comply with the minimum requirements.

- (ee) ***The determination process of the concept approval under delegation was ill conceived.***

Response – This is a matter to be forwarded to the NSW Department of Environment and Infrastructure.

PUBLIC INTEREST

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

FINANCIAL IMPLICATIONS/DEVELOPER CONTRIBUTIONS

Section 61 Contributions

125. The development is subject to a section 61 contribution pursuant to the *City of Sydney Act 1988* and the *Central Sydney Development Contributions Plan 2013*. It is recommended that the standard condition is included in the consent requiring payment prior to issue of a construction certificate.

RELEVANT LEGISLATION

126. *Environmental Planning and Assessment Act 1979.*

127. *Water Management Act 2000.*

128. *City of Sydney Act 1988.*

CONCLUSION

129. The proposal has been assessed against the terms of the Concept Approval and finds that the proposed uses, building form and public domain improvements are generally consistent with the overall concept for redevelopment on the site.

130. The proposed building adopts a high quality architectural language and expression consistent to that established in the competition and with the objectives of the design excellence provisions. The interface with the public domain has been resolved through the provision of active uses, the double height colonnade and pedestrian through site link, all delivered in high quality finishes.
131. The assessment recognises that some building elements slightly depart from the Concept Approval envelope and a clause 4.6 exception to the SLEP 2012 height standard is considered acceptable in this circumstance.
132. The proposal is considered to generally perform against the relevant amenity controls contained in the SEPP 65, RFDC, SDCP 2012 and draft SEPP 65. Where there is a departure from the controls there is considered to be site characteristics and constraints that warrant the departure in this instance.
133. The temporary access arrangement to Quay Grand and encroachment onto part of the forecourt area during construction is considered reasonable given the overall public domain improvement to the East Circular Quay precinct as a result of the redevelopment.
134. A draft planning agreement has been prepared to secure the delivery of the colonnade, through site link and forecourt renewal works. The planning agreement is currently on public exhibition.
135. It is recommended that CSPC consider the merits of the application and delegate the decision to determine the application to the CEO once any submissions have been considered and the planning agreement has been executed.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Amy Allen, Senior Planner)