

**ITEM 7. DEVELOPMENT APPLICATION: 137 - 151 CLARENCE STREET SYDNEY****FILE NO: D/2014/1575****DEVELOPMENT APPLICATION NO: D/2014/1575****SUMMARY****Date of Submission:** 14 October 2014, amended plans 24 March 2015**Applicant:** MR S CHIU**Architect:** ARCHITECTUS**Developer:** INVESTA LISTED FUNDS MANAGEMENT LIMITED**Owner:** INVESTA LISTED FUNDS MANAGEMENT LIMITED**Cost of Works:** \$106,780,309

**Proposal Summary:** Stage 2 Development Application for demolition of existing structures and construction of a 20-storey commercial office building with 1,386sqm of retail floor space, 4 basement levels accommodating 42 car parking spaces and vehicular access off Kent Street, building identification signage zones and associated landscaping and public domain improvement works.

The application was exhibited for a period of 28 days between 27 October 2014 and 25 November 2014. No submissions were received.

A Stage 1 approval applies to the land that establishes a building envelope for an 80 metre commercial office tower with ground level retail uses, basement car parking and a mid-block connection between Clarence Street and Kent Street.

The proposal has been assessed against the terms of the Stage 1 consent and finds that the proposed uses, building form and public domain improvements are generally consistent with the approved concept for redevelopment on the site. The assessment recognises that the proposed side setbacks represent a minor departure from the approved envelope; however, is justified in this instance as the setbacks are consistent with the setback controls contained in Sydney DCP 2012.

**Proposal Summary:  
(continued)**

This assessment finds that subject to recommended conditions relating to the signage zones, the proposed Stage 2 building is generally consistent with the Stage 1 envelope and conditions, and satisfies the relevant test under Section 83D of the Environmental Planning and Assessment Act 1979.

The proposed building design by Architectus was the outcome of a design alternatives process held in March and April 2013. The proposed building design and expression has been refined since the process and through the DA assessment. The refined podium expression, materiality and overall design are assessed to be consistent with the objectives of the design excellence provisions and the York Street Special Character Area. In this regard, the application for an additional 10% design excellence floor space is supported under clause 6.21 of Sydney LEP 2012.

The development provides for an enhanced public domain around and within the site. The interface with Clarence Street and Kent Street will be improved through double height retail and lobby spaces along the boundary alignment and adopt high quality finishes. The development also provides two through site links internally within the building between Clarence Street and Kent Street. The links will be accessible between 6.00am and 10.00pm, providing improved connectivity through the street block and activated by retail tenancies, landscaping and public art.

The proposal is considered to perform against the relevant controls and objectives contained within Sydney LEP 2012 and Sydney DCP 2012.

**Summary Recommendation:**

The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) State Environmental Planning Policy No 55 - Remediation of Land
- (ii) State Environmental Planning Policy (Infrastructure) 2007
- (iii) State Environmental Planning Policy No 64 - Advertising and Signage
- (iv) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (v) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
  - a. Planning Proposal Sydney LEP 2012 - Minor Policy & Housekeeping Amendments 2014
- (vi) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

**Developer Contributions**

- (vii) 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 - Stage 1 Consent – D/2012/1453/A
- E - Stage 1 Approved Envelope - D/2012/1453/A

**RECOMMENDATION**

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD; and
- (B) pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, consent be granted to Development Application No. D/2014/1575, subject to the following conditions:

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

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

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2014/1575, dated 10 October 2014, and the following drawings:

Drawing Number	Revision	Architect	Date
DA1001	F	Architectus	16 September 2014
DA1002	F	Architectus	16 September 2014
DA1003	F	Architectus	16 September 2014
DA1004	F	Architectus	16 September 2014
DA1005	E	Architectus	6 February 2015
DA1006	F	Architectus	6 February 2015
DA1007	E	Architectus	16 September 2014
DA1008	F	Architectus	23 March 2015
DA1010	F	Architectus	23 March 2015
DA1011	F	Architectus	23 March 2015
DA1012	F	Architectus	23 March 2015
DA1013	D	Architectus	16 September 2014
DA1014	E	Architectus	16 September 2014
DA1015	E	Architectus	16 September 2014
DA1016	C	Architectus	16 September 2014
DA3001	D	Architectus	16 September 2014
DA3002	D	Architectus	16 September 2014
DA3010	E	Architectus	23 March 2015
DA3011	E	Architectus	23 March 2015
DA3012	C	Architectus	16 September 2014
DA3013	C	Architectus	16 September 2014

Drawing Number	Revision	Architect	Date
DA3015	D	Architectus	16 September 2014
DA3016	C	Architectus	16 September 2014
DA3017	C	Architectus	16 September 2014
DA5000	E	Architectus	23 March 2015
DA5001	D	Architectus	23 March 2015

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 6 stages, with these stages referred to as follows:

- (a) **Stage 1** – Demolition.
- (b) **Stage 2** – Excavation and footings.
- (c) **Stage 3** – Installation and construction of in-ground services and infrastructure.
- (d) **Stage 4** – Construction of basement structure.
- (e) **Stage 5** – Construction of above ground structure.
- (f) **Stage 6** – Public domain, public art and landscaping works.

## (3) ANCILLARY STORAGE AREA

- (a) The area nominated as 'storage facility' on Basement Level 1 and Basement Level 2 is only permitted to be used for ancillary storage purposes associated within the commercial premises' operating on the same parcel of land.
- (b) A separate development application must be submitted for any use of the area nominated as 'storage facility' on Basement Level 1 and Basement Level 2 other than ancillary storage purposes associated within the commercial premises' operating on the same parcel of land.

## (4) BUILDING HEIGHT

- (a) The height of the building including all roof-top plant must not exceed RL 100.3 (AHD) to the top of the building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

**(5) MATERIALS AND FINISHES**

- (a) The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the amended materials schedule and sample board, and specifications prepared by Architectus.
- (b) The podium face brickwork is to be finished with Bowral Brown.

**(6) 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 4 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.

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

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 11:1 calculated in accordance with the *Sydney Local Environmental Plan 2012*. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 23,024sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.
- (c) Prior to a Stage 1 Construction Certificate being issued, Council's written verification must be obtained, confirming that 2889sqm of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of 8:1 as specified in the *Sydney Local Environmental Plan 2012*.

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

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

**(9) BUILDING IDENTIFICATION SIGN ZONES**

- (a) The signage zone located on the northern elevation is not approved.
- (b) The signage zone located on the eastern elevation is approved as an indicative zone within which a building identification (or building name sign) may be applied for under a separate development application.

**(10) 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.

**(11) SIGNS - SEPARATE DA REQUIRED**

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

**(12) STRATUM OR STRATA SUBDIVISION FOR SIGNAGE**

Stratum or strata subdivision for the purposes of creating separate lots for signage is not permitted.

**(13) 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](http://www.cityofsydney.nsw.gov.au)).
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the CA accordingly.
- (d) The items to be included in the calculation of the cost of development are demolition works, site remediation including decontamination, excavation and site preparation, construction costs, fit out, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, equipment and appliances, kitchens and bar areas, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, floor coverings, *Building Code of Australia* compliance works, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST and any other matter not expressly excluded in (e) below.
- (e) The items to be excluded in the calculation of the cost of development are the cost of land, marketing expenses (excluding display suites etc), finance and interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting) and stamp duty.

#### **(14) PUBLIC ART**

- (a) High quality art work must be provided within the development in publicly accessible locations, 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 6 Construction Certificate being issued.
- (c) Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.



**(15) ENERGY EFFICIENCY OF BUILDINGS**

The design of the building and its services must achieve a rating of 5 stars under the NSW Office and Environment and Heritage (OEH) National Australian Built Environment Rating System (NABERS Energy). This can be demonstrated by:

- (a) Entering into a Commitment Agreement with OEH, to deliver this star rating:
  - (i) for the base building, being services traditionally supplied as 'common' to tenants such as air conditioning, lifts and common area lighting;
  - (ii) or for the whole building where there is to be one tenant to occupy the whole building.

The applicant must provide a copy of the completed Commitment Agreement with their Stage 3 Construction Certificate application; and

- (b) Providing a copy of the independent energy assessment report to OEH and submitted with the Stage 3 Construction Certificate application, that follows the current OEH guidelines. This report must be based on the same documents as those submitted with the Construction Certificate.

Note: Definitions referred to in clause (a) above:

- (i) Commitment Agreement means an agreement that is set out in accordance with OEH NABERS Commitment Agreement, which is made/signed between OEH and the applicant/building owner/building manager, to design, build and commission the premises to an agreed star rating.
- (ii) Star rating refers to the benchmarking system applied by OEH for measuring the energy efficiency of a building, and known as NABERS the National Australian Built Environment Rating System.
- (iii) Base building means central services and common areas of a building.
- (iv) Tenancies means office space within a building covering tenant light and power. This may include tenancy air conditioning if this has been installed to service particular tenant loads, but does not include central services.
- (v) Whole building means all of the building, being the fabric of the building itself and all services and fit-outs.

**(16) INSTALLATION OF DUAL-FLUSH TOILETS**

All toilets installed within the development must be of water efficient dual-flush or other water-saving capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Certifying Authority, prior to the relevant Stage 4 (basement toilets) or Stage 5 (above ground structure toilets) Construction Certificate being issued.

**(17) INSTALLATION OF WATER EFFICIENT TAPS**

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Certifying Authority, prior to an Occupation Certificate being issued.

**(18) INSTALLATION OF WATER EFFICIENT URINALS**

New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Certifying Authority, prior to a Stage 5 Construction Certificate being issued.

**(19) LOT CONSOLIDATION**

All land titles within the site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the Department of Lands, prior to an Occupation Certificate being issued.

**(20) RESTRICTION ON USE OF CAR SPACES**

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 or tenant 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.

**(21) RIGHT OF PUBLIC ACCESS**

- (a) Prior to the issue of an Occupation Certificate for the development, a documentary Right of Public Access, limited in stratum, is to be created and registered on the Title of the consolidated development site. The Easement is to include the lift denoted "Public Lift", as shown on approved plans numbered DA1006, Revision F, and also be defined over:
- (i) an east-west strip of land, nominally at least 6.2m in width at its eastern end and at least 9.6m in width at its western end, extending from the eastern alignment of Kent Street to the western alignment of Clarence Street, shown as "Barrack Arcade", together with an area for lift access on approved plans numbered DA1006, Revision F. The stratum of the Easement is to be limited in depth to the floor surface of the passageway and stairs leading from Kent Street to Clarence Street, and nominally limited in height to the underside of the floor above;
  - (ii) an east-west strip of land, nominally at least 3.7m in width, extending from the eastern alignment of Kent Street to the western alignment of Clarence Street, shown as "The Carriageway" on approved plans numbered DA1006, Revision F. The stratum of the Easement is to be limited in depth to the floor surface of the passageway and stairs leading from Kent Street to Clarence Street, and nominally limited in height to the underside of the floor above;
  - (iii) an north-south strip of land, nominally at least 7m in width, extending from the northern boundary of "The Carriageway", referred to above, to the northern boundary of the site, as shown on approved plans numbered DA1006, Revision F. The stratum of the Easement is to be limited in depth to the floor surface of the passageway, and nominally limited in height to the underside of the floor above;
  - (iv) an north-south strip of land, nominally at least 3.4m in width, extending from the southern boundary of "The Carriageway", referred to above, to the northern boundary of "Barrack Arcade", referred to above, as shown on approved plans numbered DA1006, Revision F. The stratum of the Easement is to be limited in depth to the floor surface of the passageway, and nominally limited in height to the underside of the floor above.

The Easement is to be created appurtenant to Council in terms granting rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction. The hours upon which the abovementioned areas are to be open to the public are to be at least between 6.00am and 10.00pm, seven days per week;

- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the consolidated development site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Right of Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, repair and lighting of the Right of Public Access in accordance with Council's requirements and to the satisfaction of Council.

**(22) LAND SUBDIVISION**

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

**(23) EXTERNAL LIGHTING**

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

**(24) 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 5 Construction Certificate.

**(25) TREES APPROVED FOR REMOVAL**

All trees detailed in Table 1 below are approved for removal.

Table 1 – Tree Removal:

That the following trees be removed during the development works on the subject site.

Tree No	Botanical/Common Name	Location
1	Platanus acerfolia (Plane tree)	Kent Street – Northern most Street Tree

**(26) TREES THAT MUST BE RETAINED**

The two street trees located on Clarence Street are to be retained and protected throughout the proposed development.

**(27) STREET TREE PRUNING AND REMOVAL**

- (a) The consent from Council must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 40mm diameter. Only minor pruning works will be approved by Council.

- (b) Any pruning that is required to accommodate hoardings, scaffolding, or to accommodate the loading/unloading of vehicles, and has been approved by Council, must be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.
- (c) The removal of any street tree approved by Council must include complete stump removal and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the trees removal.

## **(28) 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 protection must be undertaken prior to the issuing of the Stage 1 Construction Certificate. 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 truck at all times;
  - (ii) Tree trunk/s 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 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) 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.

**(29) STREET TREE PLANTING AND MAINTENANCE**

- (a) A Landscape Plan indicating the location of the replacement street tree on Kent Street must be submitted to and approved by Council prior to the issue of the Stage 6 Construction Certificate. Street trees must be located and planted in accordance with the City's Street Tree Master Plan, and the following:
- (b) The plans shall be consistent with the following species selection:
  - (i) Kent Street: *Populus simonii* (Simons Poplar)
  - (ii) Clarence Street: *Liquidambar styraciflua* (Liquidambar)
- (c) All newly planted trees shall be spaced at 10 metre intervals.
- (d) The tree must be grown to NATSPEC Guidelines for Specifying Trees to ensure quality trees and more successful establishment.
- (e) At the time of planting, the container size is to be a minimum of 200 litres and a minimum height of 3.5 metres.
- (f) The street tree(s) must be planted:
  - (i) by a qualified Arborist or Horticulturist (AQF Level 3); and
  - (ii) before the issue of an Occupation Certificate.
- (g) The tree pits must be inspected by Council's Contract Coordinator – Street Trees, before and after planting.
- (h) All street trees planted in accordance with the approved Landscape Plan must be maintained by a qualified Horticulturist or Arborist (AQF Level 2 or 3) for a minimum period of twelve (12) months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.
- (i) At the end of the twelve (12) month maintenance period, written approval must be obtained from Council before hand-over of any street tree to Council.
- (j) If a street tree has been replaced due to maintenance deficiencies during the twelve (12) month maintenance period, the twelve (12) month maintenance period will start again from the date that the street tree is replaced.

**(30) 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 4 Construction Certificate.

Car Parking Type	Number
Office and business parking (one of which is to be used for car share)	34
Accessible office and business parking	4
Retail parking (tenant parking only)	3
Motorcycle parking spaces	4 <sup>a</sup>
<b>Subtotal</b>	<b>42</b>
Courier Spaces	2
Small Rigid Vehicle loading dock(s)	1
Medium Rigid Vehicle loading dock(s)	2
<b>Total</b>	<b>47</b>

Notes: Four (4) motorcycle parking spaces is equivalent to one (1) car parking space

### (31) 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".

### (32) 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
Commercial / retail employees	150	Spaces must be Class 2 bicycle facilities
Commercial / retail customers	59	Spaces should be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	A minimum of 1 shower per 10 employee bicycle parking spaces is to be provided.	
Personal lockers	A minimum of 1 personal locker per employee bicycle parking space is to be provided.	

- (b) A minimum of 20 bike parking spaces for visitors (Class 3) are to be provided externally within the site, preferable within Barrack Lane. The remaining 39 visitor/customer spaces can be provided as Class 2 facilities so long as an adequate level of security can be maintained for employees.
- (c) 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 4 Construction Certificate being issued.

**(33) 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.

**(34) 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.

**(35) 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.

**(36) 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 4 Construction Certificate being issued.

**(37) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must be a maximum length of 9.9m.

**(38) 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 and Bicycles" before crossing the footway and cycleway.

**(39) 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.

**(40) LOADING MANAGEMENT PLAN**

- (a) A Loading Management Plan is to be submitted to Council and approved, prior to an Occupation Certificate being issued.
- (b) The Plan should identify how the loading dock will be managed and used by all retail and commercial. The Plan must include, but is not limited to, management of deliveries to ensure there is no requirement for any service vehicles to wait on public streets to enter the site.
- (c) Once approved, this management plan will need to be provided to all tenants and external users of the loading area.

**(41) CAR SHARE SPACES**

- (a) A minimum of 1 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 4 Construction Certificate being issued.
- (b) The space(s) 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.

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

Salvaged traditional building materials surplus to the requirements of this project including such as stone flooring and marble wall cladding 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.

**(43) HERITAGE INTERPRETATION PLAN**

- (a) An interpretation plan for the site must be submitted to and approved by Council's Urban Design and Heritage Manager prior to a Construction Certificate being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian.
- (b) The interpretation plan must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) Prior to occupation certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Urban Design and Heritage Manager.

**(44) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)**

Prior to a Construction Certificate being issued, an archival photographic recording of the site and the **building including its exterior, its interiors and its setting** is to be prepared to Council's satisfaction. The recording may be in either digital or film-based form, or a combination of both, prepared in accordance with the NSW Heritage Division of the Department of Environment and Heritage guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives.

The form of the recording is to be as follows:

- (a) In A4 format, placed in archival plastic sleeves in an appropriate archival folder.
- (b) The Development Application number must be noted on the front of the folder and in the report.
- (c) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
- (d) Each negative, slide or digital image is to be cross referenced to a photographic catalogue and photographic base plans.
- (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 licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

A digital based recording is to include:

- (f) CD or DVD containing the report in PDF format and the electronic images saved as JPEG, TIFF or PDF files and cross referenced to the digital catalogue sheets and base plans.

A film based recording is to include:

- (g) 35mm film images submitted as contact sheets with equivalent negatives, a selection of black and white prints 200 x 250mm, and 35mm colour transparencies, all labelled and cross-referenced to the catalogue sheets and base plans.

**(45) SITES IN THE VICINITY OF A HERITAGE ITEM – MAJOR DEVELOPMENT**

- (a) A protection strategy for the duration of the construction works, is to be submitted to and approved by Council's Urban Design and Heritage Manager prior to the issue of the Construction Certificate. The Strategy is to detail how the proposed works will ensure that the building at 153 to 159 Clarence Street is to be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water runoff, vibration or structural disturbance or damage.
- (b) Additionally, the protection strategy is to include:
  - (i) Details of temporary hydraulic drainage works to ensure that all water both in ground and above ground is channelled to the street and that no such water is channelled onto the adjacent property fabric or interiors.
  - (ii) Construction debris on neighbouring properties, in drainage lines or in cavities between the boundary walls of the adjacent buildings, is to be removed progressively as the works progress.
  - (iii) For sites requiring large scale excavation that is below the level of adjacent heritage items, a geotechnical report detailing the investigation of the location and depth of footings of the adjacent buildings. This report should address details of lateral ground movement, advice of any additional boundary offsets that may be required as a result of the location of footings and on the suitability of structural engineer's proposals for underpinning or other support to adjacent footings.
  - (iv) Details of the proposed protection of party walls from damp and water ingress during the works.

**(46) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

- (a) Should any 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 objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate;
- (d) if the discovery is on Council's land, Council must be informed.

## **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.

#### **(47) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA**

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

#### **(48) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)**

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

#### **(49) ASBESTOS REMOVAL WORKS**

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

- (c) All works must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and WorkCover document entitled *How to manage and control asbestos in the work place: Code of Practice (NSW WorkCover)* and the *City of Sydney Managing Asbestos Policy*.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Appendix F of the City of Sydney's Managing Asbestos Guidelines.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

- (i) contact person for the site;
- (ii) telephone and facsimile numbers and email address; and
- (iii) site activities and time frames.

#### **(50) 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.

**(51) DEMOLITION/SITE RECTIFICATION (if cost is over \$50m)**

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 (a), the Deed must provide for:
  - (i) A bank guarantee to be provided in the sum of \$523,250 as security for the costs of such works provided that:
    - a. the maximum liability under the Deed must not exceed \$523,250; and
    - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
  - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
    - a. demolition of the existing building has commenced but not been completed;
    - b. the existing building has been demolished; or
    - c. the site has been excavated; or
    - d. the erection of the structure has commenced;
  - (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the Consent Authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
    - a. make the building safe and of an appearance acceptable to Council at ground level;
    - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
    - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or

- d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenatable 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 (b) (iii) to take place on the site; and
  - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (d) The Deed may, if the Director City Planning, Development and Transport is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
  - (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
  - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
  - (iii) Stage 3 – Issue of the Final Occupation Certificate.
- (e) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
  - (i) Certification (from an accredited certifier) that the relevant stage is complete;
  - (ii) Detailed schedule of completed works carried out in the relevant stage;
- (f) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

## **(52) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

- (a) Prior to the commencement of demolition and/or excavation work, the following details must be submitted to and be approved by the Principal Certifying Authority:

- (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
  - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the WorkCover 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 WorkCover Authority.
  - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the WorkCover 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 WorkCover 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.

### **(53) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 151-135 Clarence Street and 153-159 Clarence Street are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of 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 demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate.

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

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

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

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

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

- (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
- (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
- (viii) frequency and nature of any maintenance program
- (ix) other site-specific soil or water conservation structures.

**(55) ROAD OPENING PERMIT**

A separate Road Opening Permit under Section 138 of the *Roads Act 1993* must be obtained from Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way, or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

**(56) 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.

**(57) 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).

**(58) BARRICADE PERMIT**

Where construction/building works require the use of a public place, including a road or footpath, approval under Section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

**(59) CLASSIFICATION OF WASTE**

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

**(60) NOTIFICATION – NEW CONTAMINATION EVIDENCE**

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the City's Area Planning Manager and the Principal Certifying Authority immediately.

**(61) COMMUNITY CONSULTATION**

- (a) The applicant must ensure that before any works are commenced, an appropriate level of community consultation has been carried out with surrounding noise sensitive receivers. This should include the submission of a suitable and readily contactable site contact should any complaints or other issues arise during construction hours. Complaint logs shall be kept outlining the details of any complaint received together with the investigative and corrective actions taken in response to that complaint. The logs must be made available to the City on request.
- (b) The applicant must provide a contact telephone number to the Managers of the City Rangers and the Health Compliance Unit for the Site Manager or other suitable person who will be readily contactable onsite at all times whilst any works are carried out and whom may be contacted should any complaints concerning offensive noise and vibration be received.

**(62) VENTILATION REQUIRED (MECHANICAL) - VERTICAL DISCHARGE ONLY**

- (a) Any future food outlets must be equipped with vertical exhaust rises.
- (b) 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.

**(63) 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 5 Construction Certificate for above ground building works. The plan must include:
  - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
  - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
  - (iii) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a Stage 6 Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

**(64) 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 the Stage 2 Construction Certificate. 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 Stage 6 Construction Certificate being issued for public domain work.

#### **(65) PAVING MATERIALS**

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

#### **(66) 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; and
- (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.

#### **(67) 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 6 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).

#### **(68) 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*.

#### **(69) PUBLIC DOMAIN PLAN - MODIFICATIONS**

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

- (a) An amended, detailed Public Domain Plan must be prepared by an architect, urban designer, landscape architect or engineer to document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*, including road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. The plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's *Public Domain Manual*) and must show the following information as a minimum consideration of the following:
  - (i) New pedestrian ramps to at the intersection of Clarence Street and Barrack Street at both crossings, only one is currently proposed.
  - (ii) Existing light poles being replaced with Smartpoles, including the possibility of the new Smartpole to incorporate the traffic signals.
  - (iii) All existing, and proposed if any, traffic and parking signs.
- (b) The Public Domain Plan must be lodged with Council's Public Domain Section and be approved by Council prior to the Stage 6 Construction Certificate being issued.
- (c) The Public Domain Plan must be prepared in accordance with the City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Stage 6 Construction Certificate being issued for public domain work.
- (d) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (e) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

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



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

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

- (a) Prior to the Stage 6 Construction Certificate being issued, 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.

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

- (a) Prior to the Stage 2 Construction Certificate being issued details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) 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
- (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 6 Construction Certificate 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.
- (f) Prior to the Stage 2 Construction Certificate being issued, a stormwater quality assessment must be undertaken and must be approved by Council.

The stormwater quality assessment must:

- (i) be prepared by a suitably qualified drainage engineer with experience in Water Sensitive Urban Design;
- (ii) use modelling from an industry-standard water quality model; and
- (iii) demonstrate what water sensitive urban design and other drainage measures will be used to ensure that the development will achieve the following post-development pollutant loads:
  - a. reduce the baseline annual pollutant load for litter and vegetation larger than 5mm by 90%;
  - b. reduce the baseline annual pollutant load for total suspended solids by 85%;
  - c. reduce the baseline annual pollutant load for total phosphorous by 65%; and
  - d. reduce the baseline annual pollutant load for total nitrogen by 45%.

Prior to the issue of any Occupation Certificate, maintenance schedules of the proposed water sensitive urban design and drainage measures must be submitted to and approved by the Certifying Authority and a copy provided to Council.

## **(72) 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.

## **(73) 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 a Construction Certificate being issued for the relevant stage of work.

**(74) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on the frontages 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.

**(75) PUBLIC DOMAIN DAMAGE DEPOSIT**

A Public Domain Damage Deposit calculated on the basis of 8 lineal metres of Clarence Street and Kent Street asphalt 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 an approval for demolition being granted or a 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.

**(76) PUBLIC DOMAIN LIGHTING**

- (a) Prior the Stage 6 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.

**(77) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS**

All tactile ground surface indicators, handrails and other elements required to provide access into the building / property must be located entirely within the private property boundary.

**(78) ELECTRICITY SUBSTATION**

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Stage 3 Construction Certificate being issued or the commencement of the use, whichever is earlier.

**(79) 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.

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

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

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

- (a) A Waste Management Plan is to be approved by the Certifying Authority prior to a Stage 1 Construction Certificate being issued. The plan must comply with the Council's *Policy for Waste Minimisation in New Developments 2005*. All requirements of the approved Building Waste Management Plan must be implemented during construction of the development.

**UPON COMPLETION OF THE DEVELOPMENT**

- (b) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must ensure that waste handling works have been completed in accordance with: the Waste Management Plan; other relevant development consent conditions; and Council's *Policy for Waste Minimisation in New Developments 2005*.

**SCHEDULE 1C****During Construction/Prior to Occupation/Completion****(82) 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*.

#### **(83) 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.

#### **(84) 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.

#### **(85) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

#### **(86) 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.

#### **(87) 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.

#### **(88) 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.

**(89) 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.

**(90) 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.

**(91) 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.

**(92) SYDNEY WATER CERTIFICATE**

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

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

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

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

**(93) 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.

**(94) 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.

**(95) 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.

**(96) 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.

## **SCHEDULE 2**

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

## BACKGROUND

### The Site

1. The site comprises of five lots, identified as Lot 1 DP 9117, Lot 6 DP 165754, Lot 1 DP 165965, Lot 1 DP 205806 and Lot 5 DP 661092. The site has street address of 137-151 Clarence Street, Sydney.
2. The site has two street frontages and boundary dimensions of 48.8 metres to Clarence Street (east), 44.5 metres to Kent Street (west), 44 metres along the northern boundary and a total 44.5 metres to the stepped southern boundary.
3. The site has an area of 2,093sqm and is irregular in shape.
4. The site experiences a cross fall of 4 metres from the higher Clarence Street boundary to the lower Kent Street boundary.
5. The site is currently occupied by a 13 storey commercial office building (constructed in 1965) with ground level retail and 4 levels of basement parking used as a public car park. Vehicular access is via an existing driveway located on Kent Street. Pedestrian access is available from Clarence Street and Kent Street and a mid-block connection via an escalator provides a narrow (1.5m – 2m wide) link between the streets.
6. The site is identified as low risk for potential contamination.
7. **Figures 1 - 6** below illustrate the site location and existing development.

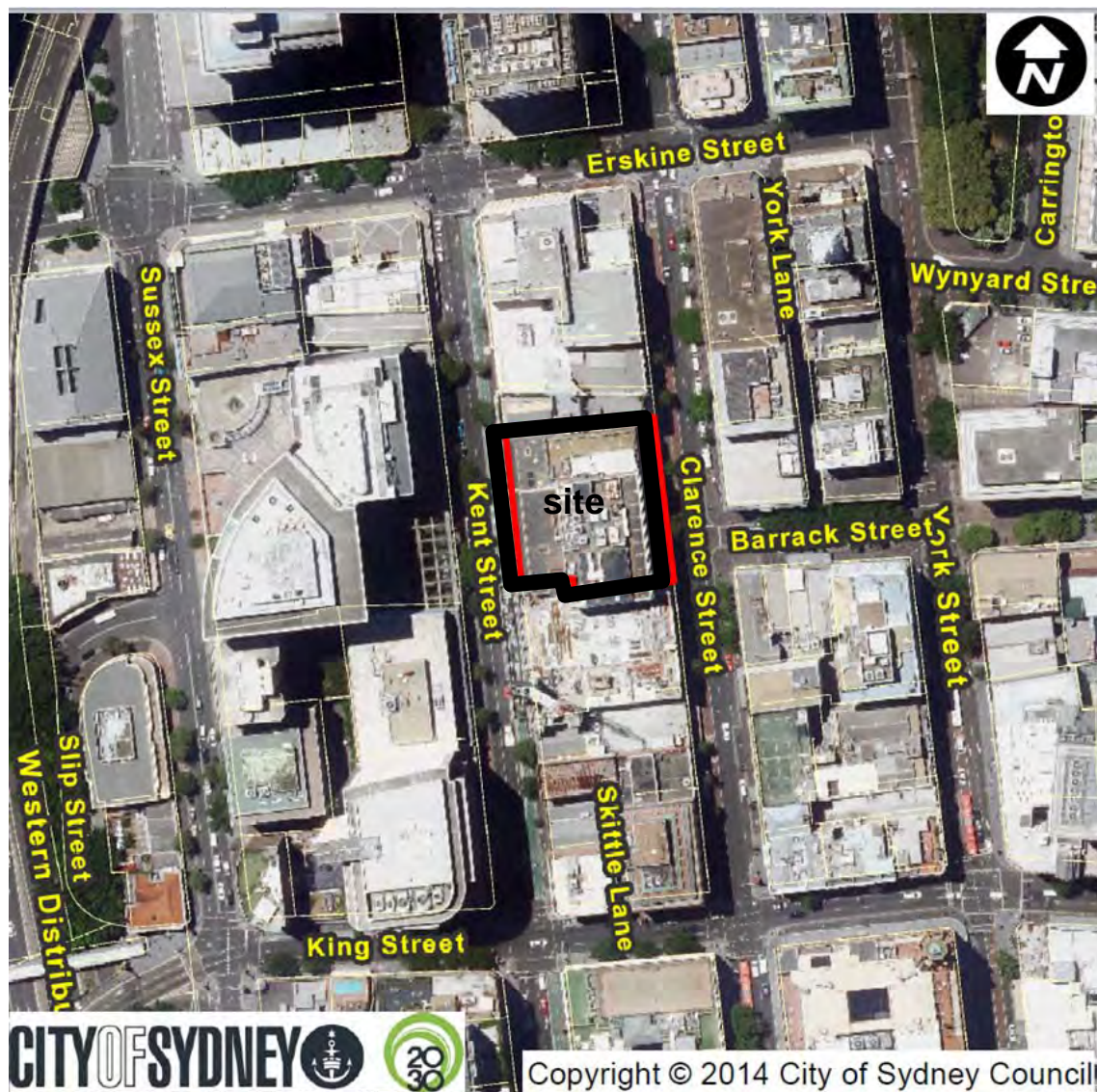


Figure 1: Aerial image of subject site and surrounding area.



**Figure 2:** The Site, as viewed from Clarence Street in a southerly direction.





**Figure 3:** The ground plane of the site, as viewed from Clarence Street in a southerly direction.



**Figure 4:** The Site, as viewed from Barrack Street in a westerly direction.



**Figure 5:** The Site, as viewed from Kent Street in a south easterly direction.





**Figure 6:** The Site, as viewed from Kent Street in a north easterly direction.

### **Surrounding Development**

8. Adjoining the site to the north is a 7 storey commercial building used for retail and office purposes.
9. Adjoining the site to the south is an 8 storey building which is a State Heritage listed building known as Red Cross House. The building is used for commercial purposes and an approved 3 storey addition has recently been constructed above the existing building.
10. On the opposite side of Clarence Street to the east is Barrack Street and two local heritage buildings used for commercial purposes.
11. On the opposite side of Kent Street to the west is a 37 storey commercial office tower.



12. The area is generally characterised as commercial office towers with ground floor retail. Some buildings in the vicinity of the site are used for residential purposes with 161-165 Clarence Street (two blocks south) approved for a 25 storey mixed use development comprising of retail, serviced apartments and residential apartments.
13. The public domain along the street frontages comprises of standard paving, street trees and road infrastructure. A separated on road cycleway exists along the Kent Street frontage.
14. **Figures 7 - 11** below illustrate the development that surrounds the site.



**Figure 7:** Red Cross House and 161 Clarence Street, to the south of the subject site as viewed from Clarence Street.



**Figure 8:** 161 Clarence Street redevelopment and Red Cross House (in foreground) and Clarence Street as viewed in a northly direction.



**Figure 9:** Varied street wall height and building form to the north of the site as viewed from Clarence Street in a northly direction.





**Figure 10:** 161 Clarence Street redevelopment, Red Cross House and Kent Street context as viewed in a northerly direction along Kent Street.



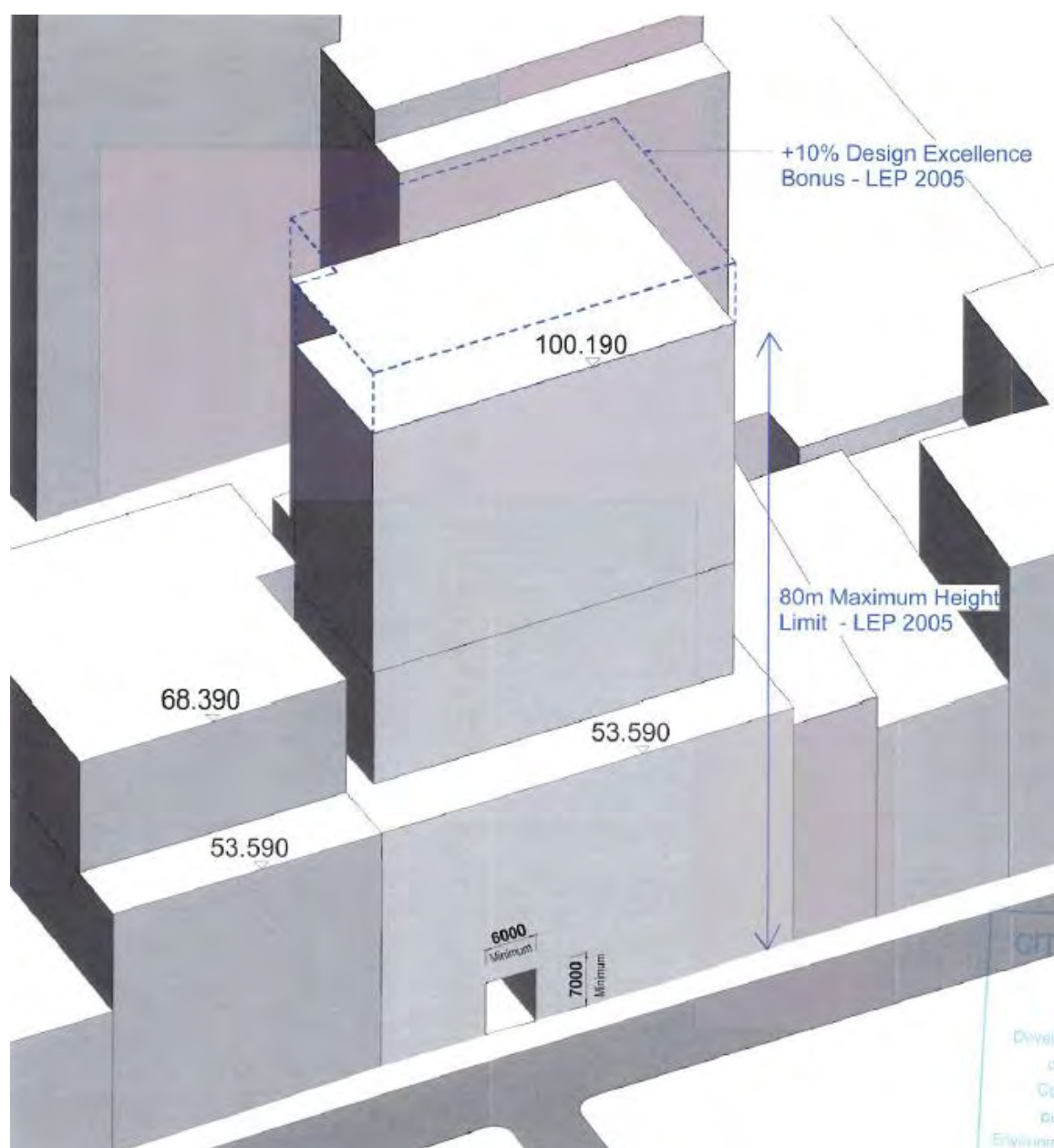
**Figure 11:** Buildings to the north of the site and bicycle lane as viewed in a southerly direction along Kent Street.

**HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION****The Site**

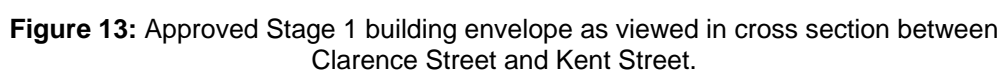
15. The following applications and design alternatives process relate to the site and are considered relevant to the proposed development:

(a) **Stage 1 Consent – D/2012/1453**

On 6 December 2012, the Central Sydney Planning Committee (CSPC) granted consent for a Stage 1 development application for an 80 metre tower with ground level retail uses including basement car parking for 160 vehicles accessed via Kent Street. The proposal included the provision of a mid-block connection between Clarence Street and Kent Street. Figures 12 - 13 illustrate the approved envelope.



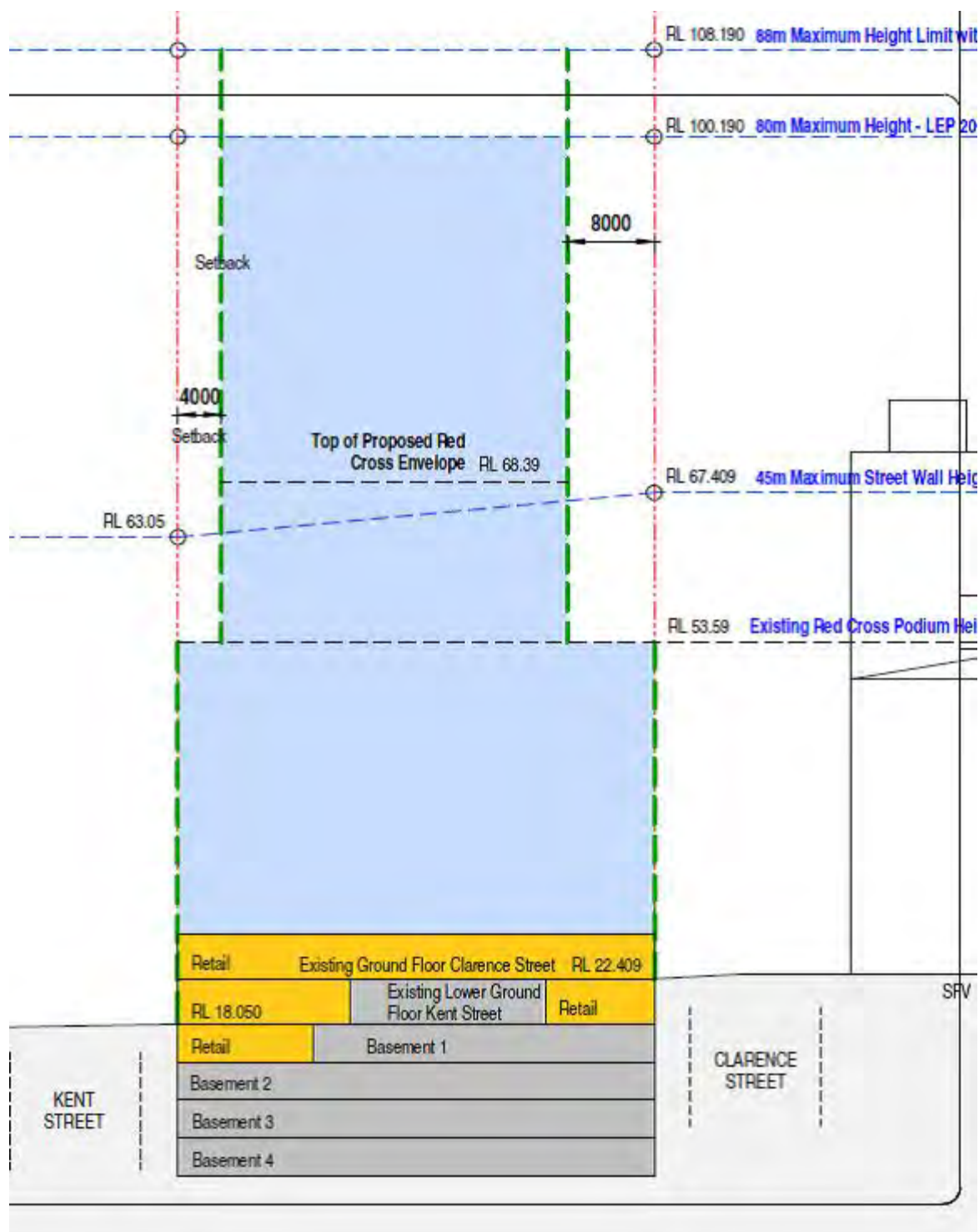
**Figure 12:** Approved Stage 1 building envelope as viewed from Clarence Street side.





(b) **Modification to Stage 1 Consent - D/2012/1453/A**

On 20 February 2014, the CSPC granted consent to modify the Stage 1 building envelope to reduce the setback of all levels above podium height to 4 metres from Kent Street. **Figure 14** illustrates the modified envelope and the amended Stage 1 consent and approved envelope drawings are located in **Attachments D and E**.



**Figure 14:** Modified Stage 1 building envelope as viewed in cross section between Clarence Street and Kent Street.

(c) **Competitive Design Process**

In March and April 2013, a Competitive Design Alternatives Process was undertaken where four invited Architectural firms designed schemes for the site. The design jury selected the Architectus scheme as the winning design in May 2013. **Figure 15** illustrates a photomontage of the Architectus scheme.



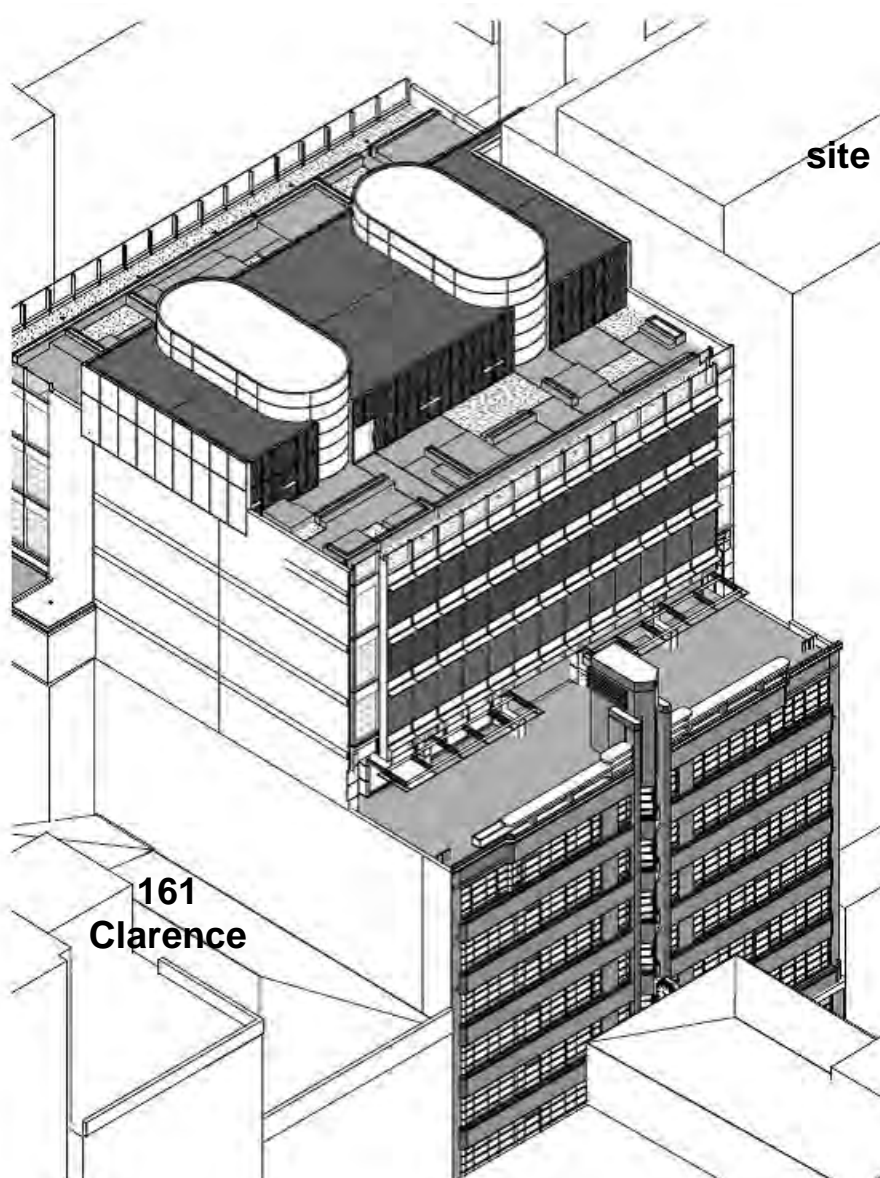
**Figure 15:** Photomontage of the selected architectural scheme resulting from the Competitive Design Alternatives Process.

**Surrounding Sites - Red Cross House and 161 Clarence Street**

16. The following applications relate to the surrounding sites to the south and are considered relevant to the proposed development:

(a) **153-159 Clarence Street – D/2011/2119, as amended**

On 25 June 2012, Council granted deferred development consent for the façade restoration, refurbishment and upgrade of the existing building for future commercial/retail use, addition of 3 new commercial floors above a new plant level, and the award of heritage floor space. The consent became operational on 27 September 2012 and has been modified four times. Construction has recently completed on the site. **Figure 16** illustrates an axonometric view of the addition to Red Cross House.



**Figure 16:** Axonometric view of the addition to Red Cross House.



(b) **161-167 Clarence Street – D/2013/1707**

On 8 May 2014, the CSPC granted deferred development consent for the demolition of existing structures, excavation of basement levels and construction of a 25-storey mixed-use development, comprising ground and first floor level retail uses (724sqm), 42 serviced apartments and 178 residential apartments, with associated landscaping and public domain improvement works. **Figure 17** illustrates the approved building as viewed from Clarence Street.



**Figure 17:** Photomontage of the approved development at 161-165 Clarence Street.

**Subject Application History**

17. On 3 February 2015 and 26 February 2015, Council requested additional technical and design detail information be submitted as a result of the assessment of the application.
18. On 6 February 2015 and 24 March 2015, the applicant submitted additional technical information in response to Council's correspondence.

**PROPOSAL**

19. The development application seeks consent for:
  - (a) Demolition of the existing 15 storey building and 4 basement levels;
  - (b) Construction of a 20 storey tower comprising of 23,023sqm of floor area, including:
    - (i) Lower ground, ground and first level retail premises floorspace;
    - (ii) Commercial premises floorspace;
    - (iii) Two double height pedestrian through site links at ground level;
  - (c) Reconstruction of 4 basement levels to accommodate:
    - (i) Storage facility located on Basement Levels 1 and 2;
    - (ii) Building services, electrical substation and tenant storage;
    - (iii) 42 car parking spaces for retail premises and commercial premises tenants;
    - (iv) 234 bicycle spaces;
    - (v) 4 motorcycle spaces;
    - (vi) End of trip facilities (240 lockers and 24 showers);
    - (vii) Servicing and loading bays;
  - (d) Public domain works including:
    - (i) Relocate vehicular access driveway to northern end of Kent Street boundary;
    - (ii) Removal and replacement of 3 street trees;
    - (iii) Upgrading frontages;
  - (e) Building identification signage zones:
    - (i) Northern Elevation – 40.28sqm
    - (ii) Eastern Elevation – 28.5sqm

- (f) Staged construction into the following 6 stages:
    - (i) **Stage 1** – Demolition
    - (ii) **Stage 2** – Excavating and footings
    - (iii) **Stage 3** – Installation and construction of in-ground services and infrastructure
    - (iv) **Stage 4** – Construction of basement structure
    - (v) **Stage 5** – Construction of above ground structure
    - (vi) **Stage 6** - Public Domain, public art and landscaping works
20. Selected photomontages of the proposed development are provided in **Figures 18-23** below and a full set of plans, elevations and photomontages are provided in **Attachments A and B**:



**Figure 18:** Photomontage of the proposal as viewed from Barrack Street.





**Figure 19:** Photomontage of the proposal as viewed from Kent Street in a southerly direction.





**Figure 20:** High angle perspective of the proposal along Clarence Street.



**Figure 21:** Photomontage of the podium as viewed from the intersection of Clarence Street and Barrack Street.





**Figure 22:** Photomontage of the 'Barrack Arcade' pedestrian through site link between Clarence Street and Kent Street.



**Figure 23:** Photomontage of the 'Carriageway' pedestrian through site link between Clarence Street and Kent Street.

**CITY OF SYDNEY ACT 1988**

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

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

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

**ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

23. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

(a) **Environmental Planning Instruments and DCPs**

**State Environmental Planning Policy No 55—Remediation of Land ("SEPP 55")**

24. 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 to continue to use the site for commercial purposes.
25. A Preliminary Site Investigation was submitted with the application which concludes that the site is suitable for the proposed use, however, indicated that additional boreholes should be drilled from the basements in order to confirm the preliminary geological model and foundation design parameters.



26. The report was reviewed by Council's Environmental Health Unit and advised that while there is a low risk for potential contamination, it is recommended that conditions relating to classification of waste and new contamination evidence are imposed in the consent.

**State Environmental Planning Policy No 64—Advertising and Signage (“SEPP 64”)**

27. SEPP 64 applies to the proposal as it includes signage zones for building identification signs which require development consent and are visible from a public place.
28. This assessment finds that one of the signage zones cannot be supported as it is inconsistent with a Stage 1 consent condition that specifies that signage on the side elevations is not permitted. As such, this assessment only assesses the signage zone on the eastern elevation.
29. Clause 8 of SEPP 64 provides that the proposal must be consistent with the relevant objectives and satisfies specific assessment criteria. Given that the application is only for zones and no detail of the signs are provided there is only limited criteria that applies at this stage. Overall the size and scale of the eastern signage zone is acceptable for building identification signs. Refer to detailed discussion in the Issues section later in this report.
30. It is considered that the proposal has the capability to meet the relevant aims of SEPP 64 subject to a condition being imposed requiring separate development applications to be submitted for the future signage.

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

31. 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 the lower ground level accessed via a hatch in the Barrack Arcade through site link. The application was referred to Ausgrid who advised that the developer will need to formally apply to Ausgrid for the new substation design. 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.
32. The application is subject to clause 104 of ISEPP as the development is classified as traffic generating development. The application was referred to the RMS who raised no objections with the proposal. A Traffic Impact Assessment was submitted with the application and assessed by Council's Transport and Access Unit. The reduced parking and associated volumes of traffic generated are considered to not unreasonably impact on the local road network

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

33. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
34. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:

- (a) protect and improve hydrological, ecological and geomorphologic processes;
  - (b) consider cumulative impacts of development within the catchment;
  - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;
  - (d) protect and rehabilitate riparian corridors and remnant vegetation.
35. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

### Stage 1 Consent

36. Pursuant to Section 83D of the Environmental Planning and Assessment Act 1979, the determination of the Stage 2 application cannot be inconsistent with the Stage 1 consent.
37. The requirements to be considered under Stage 1 consent that applies to the land are addressed in the table below.

Stage 1 requirement	Consistent	Comment
<b>APPROVED DEVELOPMENT</b>	Yes	The proposal is generally consistent with the approved development as documented within the Stage 1 consent.
<b>BUILDING ENVELOPE</b>	Yes	<p>The Stage 1 only approves the building envelope on the basis that all services will be entirely within the approved envelopes and an appropriate relationship with neighbouring buildings is achieved. The Stage 1 also contemplates that any projection beyond the building envelope must be fully justified through the competitive design and Stage 2 Development Application process.</p> <p>The proposed building complies with the ultimate height of the envelope, however, the northern and southern side setbacks depart from the envelope.</p> <p>This assessment finds that these departures are minor and acceptable under Council's current DCP controls.</p> <p>Refer to discussion in Issues section later in this report.</p>

Stage 1 requirement	Consistent	Comment
<b>DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS</b>	Yes	<p>The subject building design was the winning scheme in a competitive design process completed in March and April 2013 and satisfies the statutory requirement for a competitive design process.</p> <p>This assessment finds that the proposed scheme is considered to achieve a high standard of architectural and urban design consistent with the design excellence provisions.</p> <p>See detailed discussion in Issues section later in this report.</p>
<b>BUILDING HEIGHT</b>	Yes	The building complies with the maximum building height of 80 metres.
<b>FLOOR SPACE RATIO - CENTRAL SYDNEY</b>	Yes	<p>The Stage 1 requires compliance with the FSR control in Sydney Local Environmental Plan 2005, which previously applied to the land. The Stage 1 assessment recognised the imminence of the new Sydney LEP 2012 and that the Stage 2 would be subject to assessment under the new FSR control.</p> <p>Subsequently, the FSR condition contemplates that the instrument may be amended. The proposed FSR is consistent with the current FSR development standard for the land and therefore considered to be consistent with the intent of the Stage 1 requirement.</p>
<b>THROUGH SITE LINK (MID BLOCK CONNECTION)</b>		<p>The application proposes two through site links internally within the building between Clarence Street and Kent Street.</p> <p>Refer to discussion in Issues section later in this report.</p>

Stage 1 requirement	Consistent	Comment
<b>BREAK THROUGH PANELS</b>	Yes	<p>The Stage 1 required the investigation into an opportunity for connection/s into the adjoining property at 153-159 Clarence Street, Sydney to allow for possible future vehicle access between the two sites and sharing of driveways.</p> <p>The applicant has provided evidence that the connection to Red Cross House is not possible as it would significantly affect the location of the tower's service core.</p> <p>Evidence has been submitted with the application indicating that the lift/service core of the tower was located at the southern central location as it is the most appropriate location for daylight, amenity and ability to provide viable commercial office floor plates.</p> <p>It is considered that the Stage 1 requirement has been satisfied.</p>
<b>EXPOSED ELEVATIONS</b>	Yes/No	<p>The Stage 1 requires that a visually interesting treatment is to be applied to the exposed side elevations along the north and south boundaries.</p> <p>The southern elevation, which will be in the visual catchment of Red Cross House is treated with dark toned aluminium panels and precast concrete. The northern elevation continues the glazed curtain wall treatment. It is considered that these facades are suitably treated from a visual and amenity perspective.</p> <p>The Stage 1 does not permit signage zones on the side boundary elevations. The application proposes two signage zones, one of which is located on the northern elevation (side boundary elevation). It is recommended that a condition is imposed in the consent indicating that the northern signage zone is not approved.</p>

Stage 1 requirement	Consistent	Comment
<b>CLARENCE STREET AND KENT STREET ELEVATIONS</b>	Yes	<p>The Stage 1 requires the building should respond to the high quality masonry facades of the surrounding palazzo and warehouse development comprising masonry facades of high quality, strong visual depth, a high degree of architectural modelling and articulation, a complex hierarchy of vertical and horizontal proportions and changes in architectural treatment with height and level, and high quality materials.</p> <p>The design of the podium and tower has been refined to provide appropriate vertical and horizontal articulation and a stronger masonry façade at podium level.</p> <p>Refer to discussion in Issues section later in this report.</p>
<b>SECTION 61 CONTRIBUTIONS</b>	Yes	It is recommended that a condition is included in the consent requiring payment of Section 61 contributions prior to issue of a construction certificate
<b>PUBLIC DOMAIN PLAN, STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT, WASTE COLLECTION, PAVING MATERIALS</b>	Capable	These aspects of the development have been reviewed by Council's Public Domain Unit and Waste Management Unit who advise that the proposal is capable of compliance subject to recommended conditions being imposed in the consent.
<b>ELECTRICITY SUBSTATION</b>	Capable	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.
<b>ACID SULFATE SOILS</b>	Yes	A Preliminary Site Investigation was submitted with the application, reviewed by Council's Health Unit and no further assessment is considered necessary.
<b>TRANSPORT ROADS AND MARITIME SERVICES CONDITIONS</b>	Capable	The application was referred to the RMS and no objections were raised subject to certain considerations being undertaken by Council. The proposal is capable of complying with RMS conditions.

**Sydney Local Environmental Plan 2012 ("SLEP 2012")**

38. The site is located within the B8 Metropolitan Centre zone.
39. The proposed development is characterised as *commercial premises* and is permissible with consent within the B8 Metropolitan Centre zone and under clause 2.7 of SLEP 2012.
40. It is noted that the application seeks consent for a large storage facility in the basement for use as storage associated with the commercial premises. As the use of the area is ancillary to the commercial premise use, it is characterised as *commercial premises* and not a *storage premises*. Under SLEP 2012 a *storage premises* relates to the use of land for storage of goods, materials, plant or machinery for commercial purposes.
41. To avoid doubt, it is recommended a condition is imposed in the consent clarifying:
- (a) the storage area is only permitted to be used for ancillary storage purposes associated within the commercial premises' operating on the same parcel of land; and
  - (b) a separate development application must be submitted for any use of the area other than that approved in the consent.
42. The proposal is considered to be consistent with the zone objectives which seek to provide business and office premises to serve the workforce, promote public transport, walking and cycling and activate street level through provision of retail premises.
43. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.

PROVISION	COMPLIES	COMMENT
<b>Part 4 Principal Development Standards</b>		
4.3 Height of Buildings	Yes	A maximum building height of 80 metres is permitted on the site. The proposed maximum building height is 79.85 metres and complies with the development standard.

PROVISION	COMPLIES	COMMENT
4.4 Floor Space Ratio 6.3 Additional floor space in Central Sydney 6.4 Accommodation floor space 6.21 Design excellence	Yes	<p>A maximum floor space ratio of up to 11:1 is permitted on the site comprising of:</p> <ul style="list-style-type: none"> <li>• Base FSR – 8:1</li> <li>• Accommodation floor space – 2:1</li> <li>• Design excellence floor space – up to 10% or 1:1</li> </ul> <p>The development proposes a GFA of 23,023sqm and an FSR of 11:1. This assessment finds that the building satisfies the criteria under clause 6.21 and design excellence has been demonstrated, as such the proposal complies with the maximum FSR development standard.</p>
<b>Part 5 Miscellaneous Provisions</b>		
5.9 Preservation of trees or vegetation	No	<p>The application seeks consent for the removal of 3 street trees to enable access, establish construction zones and prevent trees from being within the 'line of sight' of the through site link. The proposed removal of 2 of the trees is not supported.</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>The site is within the York Street Special Character Area, is adjacent to a State Heritage Item (Red Cross House) and in the vicinity of a number of other Heritage items.</p> <p>The application was referred to the NSW Heritage Council for comment, who made no comment on the proposal.</p> <p>Concern has been raised by Council's Heritage Specialist regarding:</p> <ul style="list-style-type: none"> <li>• The articulation and materiality of the podium; and</li> <li>• The nil southern setback and impact upon the visual curtilage of Red Cross House.</li> </ul> <p>The application was amended to address issues raised by Council, and subject to recommended conditions the proposal can be supported from a heritage perspective.</p> <p>Refer to discussion in Issues section later in this report.</p>

PROVISION	COMPLIES	COMMENT
<b>Part 6 Local Provisions—Height and Floor Space</b>		
6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	Yes	<p>Pursuant to this provision, development consent must not be granted unless Heritage floor space (HFS) is allocated to the site. The amount of HFS to be allocated is calculated as:</p> <ul style="list-style-type: none"> <li>• 50% of Accommodation floor space – 2093sqm</li> <li>• 50% of Design excellence floor space – 1046sqm</li> <li>• Deduction for the TSL between Clarence Street and Kent Street – 250sqm</li> </ul> <p>An amount of 2889sqm is to be allocated to the site prior to the relevant construction certificate.</p>
6.16 Erection of tall buildings in Central Sydney	Yes	<p>The proposal is generally consistent with the objectives of this provision in that it provides a good level of amenity for the occupants of the tower and neighbouring buildings and enhances the interface with the public domain.</p> <p>The proposed tower will not cause additional overshadowing to the approved residential apartments at 161-165 Clarence Street, as the assessment of that application took into account the overshadowing impacts of the approved Stage 1 envelope on the subject site.</p>
6.21 Design Excellence	Yes	<p>The subject building design was the winning scheme in a competitive design process completed in March and April 2013 and satisfies the statutory requirement for a competitive design process.</p> <p>This assessment finds that the proposed scheme is considered to achieve a high standard of architectural and urban design consistent with the design excellence provisions.</p> <p>See detailed discussion in Issues section later in this report.</p>



PROVISION	COMPLIES	COMMENT
<b>Part 7 Local Provisions—General</b>		
7.1 – 7.9 Car parking ancillary to other development	Yes	A maximum of 42 car spaces are permitted to service the commercial office and retail land uses. A total of 42 car spaces are proposed and it is recommended that the following maximum allocations are reflected in the conditions: <ul style="list-style-type: none"> <li>• Office spaces – 39 (one of which is to be used for car share)</li> <li>• Retail spaces – 3</li> </ul>
7.14 Acid Sulphate Soils	Yes	The site is located within a Class 5 Acid Sulphate Soil (“ <b>ASS</b> ”) zones. A Preliminary Site Investigation was submitted with the application and reviewed by Council’s Health Unit. The proposed excavation is limited to the lift pits. Given the minor scale of excavation and it is not likely to lower the water table below 1 metre AHD, no further assessment is considered necessary.
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	Yes	The consent authority can be satisfied that the proposed demolition will not result in long term adverse visual impact in that: <ul style="list-style-type: none"> <li>• Consent is sought for demolition and construction of a commercial tower in a single development application.</li> <li>• It is recommended that a condition requiring a site rectification deed is entered into provide the appropriate security to allow council to rectify the site in the event works stop on the site.</li> </ul>

PROVISION	COMPLIES	COMMENT
7.20 Development requiring preparation of a development control plan	Yes	This provision is satisfied as a Stage 1 development application applies to the land where the relevant site analysis, public domain improvements, massing, land uses and visual analysis were undertaken.

#### **Planning Proposal Sydney LEP 2012 - Minor Policy and Housekeeping Amendments 2014**

44. A Planning Proposal to amend the Sydney LEP 2012, *Minor Policy and Housekeeping Amendments 2014* has been prepared and is on public exhibition between 10 March and 7 April 2015. The proposed amendments outlined in the Planning Proposal have been considered in the assessment of the application.
45. One amendment that has been considered is the intention to amend clause 7.2 under Part 7, Division 1 Car Parking ancillary to other development. It is proposed to exclude car share scheme parking spaces from the definition of car parking and introduce a new provision to define the meaning of a car share scheme. Currently, the requirements for car share spaces are included in the maximum 42 spaces permitted in this development.
46. Considering that the draft changes are not imminent and that the consent authority cannot consider parking above and beyond the maximum development standard, minimal weight is given to the draft provision in this instance. If the draft provision is adopted at a later date, the applicant may consider applying for a car share space in addition to the maximum 42 spaces permitted.

#### **Sydney DCP 2012 ("SDCP 2012")**

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

## 2. Locality Statements – Central Sydney

### 2.1.1 York Street Special Character Area

The subject site is located in the York Street Special Character Area within central Sydney. The character statement recognises it as evidence of one of the early warehousing areas in Sydney that serviced Darling Harbour as a working port. The built form character is typified by its 19th and 20th century, 5–8 storey masonry buildings of a consistent scale, form and character. The architectural emphasis of the buildings located at street intersections are a distinctive characteristic of the area. The statement also recognises the importance of the network of lanes, internal courtyards, uniform block pattern with narrow frontages and west-east transport links.

The proposal is considered to be consistent with the range of principles identified for the area in that:

- The development appropriately responds to the historic warehouse typology and reinforces the setting of the historic buildings through respecting the Red Cross House street wall height, use of masonry on the podium and proportioning the podium fenestration to reflect the narrow historic building pattern.
- Provides two east-west connections through the site improving permeability through the street block, and
- Establishes a high quality architectural form and expression.

## 3. General Provisions

Development Control	Complies	Comment
3.1 Public Domain Elements	Yes	<b>Streets, lanes and footpaths</b> The public domain along both street frontages will be required to be upgraded in accordance with Council standards, improving the pedestrian amenity.
	Yes	<b>Pedestrian and bike network</b> A separated on-road cycleway exists along the eastern side of Kent Street adjacent to the site. The proposed works will require modification to the existing bike lane infrastructure and it is recommended that this is addressed through the submission of a public domain plan to be approved prior to issue of a construction certificate.  The application proposes two through site links in the form of stairways and a public lift internally within the building. This assessment finds that the location of the links and the design is generally consistent with the controls in SDCP 2012.  See discussion in Issues Section later in this report.

3. General Provisions		
Development Control	Complies	Comment
	Yes	<p><b>Public art</b></p> <p>The control requires Public Art 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>.</p> <p>The application nominates potential public art within the through site links in the form of paving treatment and wall surface applications.</p> <p>It is recommended that a condition requiring a public art strategy to be developed is included in the consent conditions.</p>
3.2 Defining the Public Domain	Yes	<p><b>Improving the public domain</b></p> <p>Reasonable levels of sun access and views to the public domain will be maintained and improved as a result of the development.</p>
	Yes	<p><b>Addressing the street and public domain</b></p> <p>The proposed building has two ground levels, one addressing Clarence Street to the east and one addressing Kent Street to the west.</p> <p>The frontages have been designed to maximise active uses including retail tenancies, building entry lobbies and open through site links. The essential services have been minimised and consolidated to the northern and southern ends of the frontages. The fire access stairs have been concealed from view, disguised behind 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 of the have a strong masonry aesthetic at street level, 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 the public domain.</p>
	Yes	<p><b>Wind effects</b></p> <p>A Wind Study was submitted with the application that concludes that the proposed through-site links and outdoor terraces are classified as suitable for their intended uses.</p>

3. General Provisions		
Development Control	Complies	Comment
	Yes	<b>Reflectivity</b> A Reflectivity Statement was submitted with the application analysing the potential solar glare from the building on the surrounding roads and public spaces. The report concludes that the proposed building is not expected to cause unacceptable glare and can achieve the maximum solar reflectivity limit of 20% as prescribed in the control. It is recommended that a condition is included in the consent to ensure the reflectivity complies with the minimum requirements.
	Yes	<b>External lighting</b> The external lighting fixtures are to be integrated with the architecture of the through site link.
3.3 Design Excellence and Competitive Design Processes	Yes	The design of the building is the outcome of a competitive design alternative process that was undertaken in accordance with the <i>City of Sydney Competitive Design Policy</i> . The proposed building seeks to rely on 10% additional floor space permitted under clause 6.21(7) of SLEP 2012. See discussion in Issues section later in this report.
3.5 Urban Ecology	No	<b>Tree Management</b> As previously discussed, the proposed removal of street trees along Clarence Street is not supported. See discussion in Issues section later in this report.

3. General Provisions		
Development Control	Complies	Comment
3.6 Ecologically Sustainable Development	Yes	<p>Council requires commercial developments to implement the principles of ecologically sustainable development (ESD) in the proposed development. An ESD report which outlines the services strategies and ESD opportunities that will be incorporated within the building's design was submitted with the application. The project aims to be a 5 star Green Star Office Design v3 rating and a minimum NABERS Energy rating of 5 stars. To achieve this it is proposed to incorporate the following initiatives into the design:</p> <ul style="list-style-type: none"> <li>• Use of existing high performance building envelope with added fabric insulation to improve energy efficiency and address indoor environmental quality.</li> <li>• Highly efficient mechanical system.</li> <li>• Rainwater harvesting to cater for toilet flushing and irrigation within the site</li> <li>• Management of stormwater on site before discharging into the public infrastructure through the implementation of appropriate stormwater treatment devices such as an onsite detention tank.</li> <li>• Selection of reused /recycled materials where possible.</li> <li>• Construction and demolition waste will be reused/recycled as appropriate to avoid waste material going into landfill.</li> </ul> <p>It is recommended that a condition is included in the consent to ensure evidence is provided demonstrating that the building will achieve a minimum NABERS Energy rating of 5 stars.</p>
3.7 Water and Flood Management	Yes	<p><b>Site specific flood study</b></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><b>Drainage and stormwater management</b></p> <p>No stormwater management plan was submitted, however, Council's Public Domain Unit have advised the plan can be submitted prior to issue of a construction certificate.</p>

3. General Provisions		
Development Control	Complies	Comment
	Capable	<b>Stormwater quality</b> Council's Public Domain Unit have recommended that this requirement is addressed prior to issue of a construction certificate.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	It is recommended that the 5 lot consolidation occur prior to issue of an occupation certificate.
3.9 Heritage	Yes	As previously discussed, the application was amended to address heritage and design issues raised by Council, and subject to recommended conditions the proposal can be supported from a heritage perspective.  See discussion in Issues section later in this report.
3.10 Significant Architectural Building Types	Yes	The existing building is not identified as a Significant Architectural Building Type.
3.11 Transport and Parking	Yes	<b>Managing transport demand</b> A Traffic Impact Assessment was submitted with the application and assessed by Council's Transport and Access Unit. The reduced parking and associated volumes of traffic generated are considered to not unreasonably impact on the local road network.
	Capable	<b>Car share scheme parking spaces</b> The control recommends 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 1 car share space to be provided.
	Yes	<b>Bike parking and associated facilities</b> The proposed bicycle parking facilities are in excess of the minimums recommended in the control. Council's Transport and Access unit have reviewed the proposal and recommend that a minimum of 20 visitor (customer) spaces are provided externally within the site (preferably Barrack Arcade).

3. General Provisions		
Development Control	Complies	Comment
	Capable	<b>Vehicle Parking</b> A total of 42 car parking spaces are proposed to service the land uses and is consistent with the control subject to recommended conditions.
	Yes	<b>Service vehicle parking</b> The proposal includes a loading dock for between 3-5 vehicles (depending on size) which is sufficient for the proposal. It is recommended that a loading dock management plan is prepared and implemented to minimise the impact of operation of the dock.
	Yes	<b>Motorbike parking</b> A total of 4 motorcycle spaces are provided in the basement and complies with the control.
	Capable	<b>Accessible parking</b> The basement area can accommodate the minimum 4 accessible spaces required.
	Yes	<b>Vehicle access for developments greater than 1000sqm GFA</b> The vehicular access to the site will be via a one-way access point which is desirable and supported.
	Yes	<b>Vehicle access and footpaths</b> The vehicular access point is considered to be appropriate location given the level of pedestrian activity adjacent to the site.
	Yes	<b>Design and location of waste collection points and loading Areas</b> Waste is proposed to be collected within the basement from centralised garbage collection room and is acceptable to Council's Waste Management Unit.
	Capable	<b>Parking area design</b> The basement parking areas do not protrude above the level of the adjacent public domain and are capable of compliance with the lighting and ventilation requirements.



3. General Provisions		
Development Control	Complies	Comment
3.12 Accessible Design	Yes	<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 all levels.</p> <p>Access for pedestrians and vehicles is clearly separated with a single vehicle entry and a number of level entries at ground level to the retail spaces and lobbies.</p>
3.13 Social and Environmental Responsibilities	Yes	The building design is considered to sufficiently address the relevant considerations.
3.14 Waste	Capable	The waste management plan has been reviewed by Councils Waste Management Unit and provides that the development is capable of complying with the <i>City of Sydney Policy for Waste Minimisation in New Developments 2005</i> .
3.16 Signage	Capable	<p>The application seeks consent for two zones on the building for future building identification signage. One zone is not supported.</p> <p>See discussion in Issues section later in this report.</p>
3.17 Contamination	Yes	A site investigation report was submitted with the application to allow Council to meet its obligation to determine whether development should be restricted due to the presence of contamination.

4. Development Types																	
4.2 Residential Flat, Commercial and Mixed Use Developments																	
Development Control	Complies	Comment															
4.2.1 Building height	No	<p><b>Floor to ceiling heights for commercial and retail buildings</b></p> <table> <tr> <th>Level</th><th>Control</th><th>Proposed</th></tr> <tr> <td>First Basement Floor</td><td>3.6m</td><td>2.9m – 4m floor to floor</td></tr> <tr> <td>Lower Ground</td><td>3.6m</td><td>4.1m floor to floor</td></tr> <tr> <td>Ground</td><td>3.6m</td><td>4m floor to floor</td></tr> <tr> <td>First Commercial Floor and above</td><td>3.3m</td><td>3.7m - 4m floor to floor</td></tr> </table> <p>The proposed floor to floor heights enable complying floor to ceilings heights to be achieved except for part of the first level basement where 2.9m is provided. It is considered that the proposal can still achieve the control objective to enable conversion to retail uses to part of the basement at a later date.</p>	Level	Control	Proposed	First Basement Floor	3.6m	2.9m – 4m floor to floor	Lower Ground	3.6m	4.1m floor to floor	Ground	3.6m	4m floor to floor	First Commercial Floor and above	3.3m	3.7m - 4m floor to floor
Level	Control	Proposed															
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Lower Ground	3.6m	4.1m floor to floor															
Ground	3.6m	4m floor to floor															
First Commercial Floor and above	3.3m	3.7m - 4m floor to floor															
4.2.2 Building setbacks	N/A	Control 5.1.2 Building setbacks prevails, see discussion in following compliance table.															
4.2.4 Fine grain, architectural diversity and articulation	Yes	The design of the podium and tower has been refined to provide appropriate vertical and horizontal articulation and high quality materials and finishes.															
4.2.6 Waste minimisation	Capable	Waste is proposed to be collected within the basement from centralised garbage collection rooms. No office fit out detail is proposed at this stage, however, it is recommended that standard conditions are imposed to ensure waste management is provided in accordance with <i>City of Sydney Policy for Waste Minimisation in New Developments 2005</i> .															

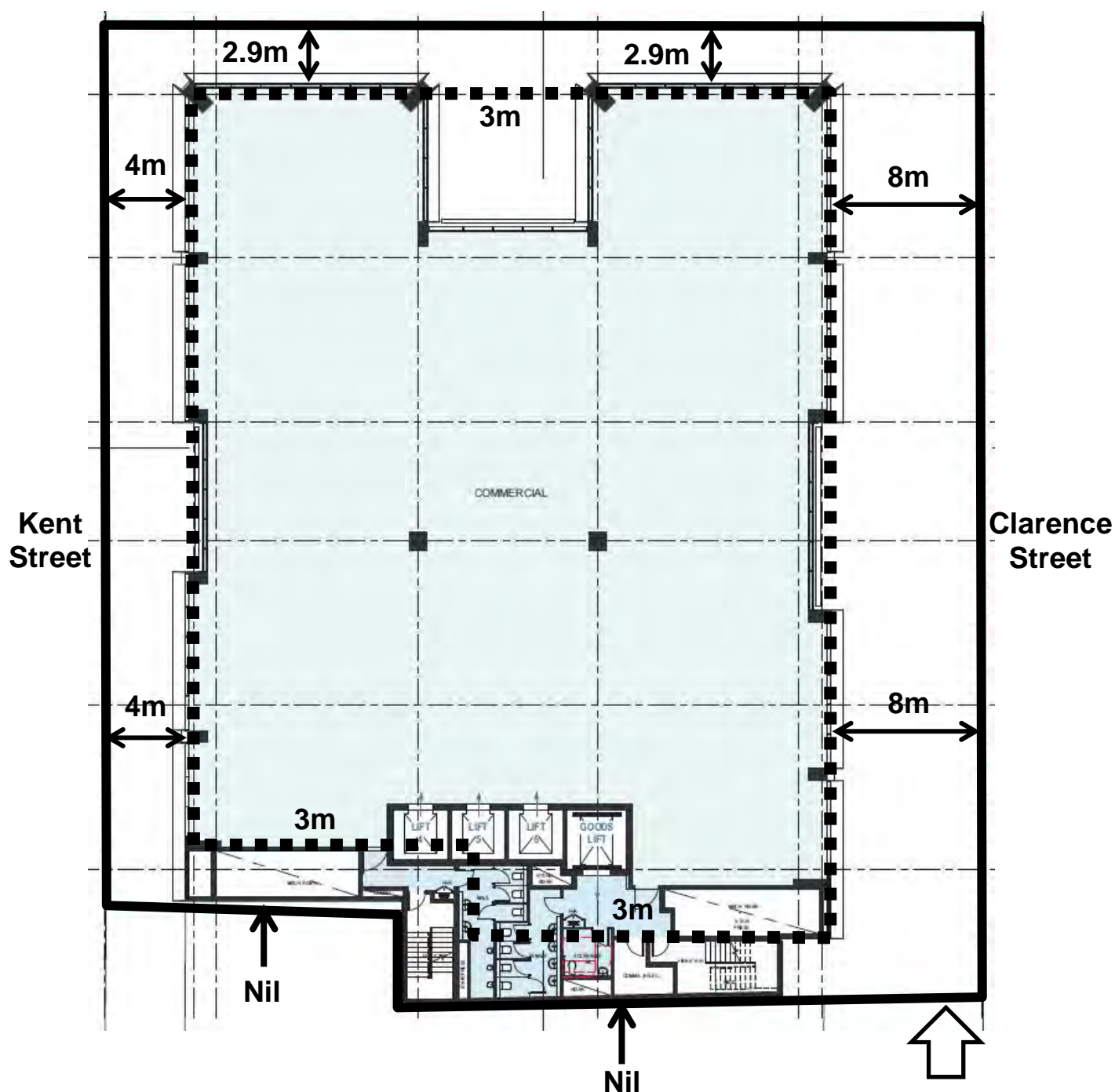
5. Specific areas – Central Sydney		
Development Control	Complies	Comment
5.1.1 Street frontage heights	Yes	<b>Clarence Street</b> The street frontage height is 31 metres and matches the street frontage height of Red Cross house and the predominant street frontage height of adjacent buildings to the north.
	Yes	<b>Kent Street</b> The street frontage height is between 32.5 metres and 33 metres and slightly steps from the southern boundary with the natural fall of Kent Street to the lower adjacent building to the north.
5.1.2 Building setbacks	Yes	<b>Clarence Street Setback</b> The building setback is 8 metres and complies with the control and Stage 1 envelope.
	No/Yes	<b>Kent Street Setback</b> The building setback is 4 metres and does not comply with the 8 metre control, however, is consistent with the Stage 1 envelope.
	Yes/No	<b>Northern Setback</b> The windows facing the northern boundary are setback 2.91 metres - 3 metres above street wall height. The 2.9 metre setback does not comply with the Stage 1 envelope, which is depicted as 3 metres.  See discussion in Issues section later in this report.
	Yes	<b>Southern Setback</b> No southern setback is provided, however, as no windows are located on the southern elevation it complies with the control.  The southern setback does not comply with the Stage 1 envelope, which is depicted as 3 metres.  See discussion in Issues section later in this report.
5.1.4 Conservation of public domain features in Special Character Areas	Capable	The public domain in the vicinity of the site is proposed to be upgraded and improved consistent with Council's Public Domain policies.

5. Specific areas – Central Sydney		
Development Control	Complies	Comment
5.1.5 Building bulk	N/A	Above a height of 45m, the maximum horizontal dimension of the proposed commercial building facade is between 41 metres and 45 metres and complies with the maximum 65 metre control.
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"> <li>• A predominant face brick character is provided to the podium of the building.</li> <li>• The glazed elements are predominantly light in colour.</li> <li>• No projections over the public domain are proposed.</li> <li>• The exposed southern elevation is treated with dark toned aluminium panels and precast concrete.</li> <li>• The top level has been designed to conceal plant equipment by integrating it into the architecture of the building.</li> </ul>
5.1.9 Award and allocation of heritage floor space	Yes	The calculation of HFS is in accordance with clause 6.11 of SLEP 2012, addressed earlier in this report.

## ISSUES

### Side Setbacks

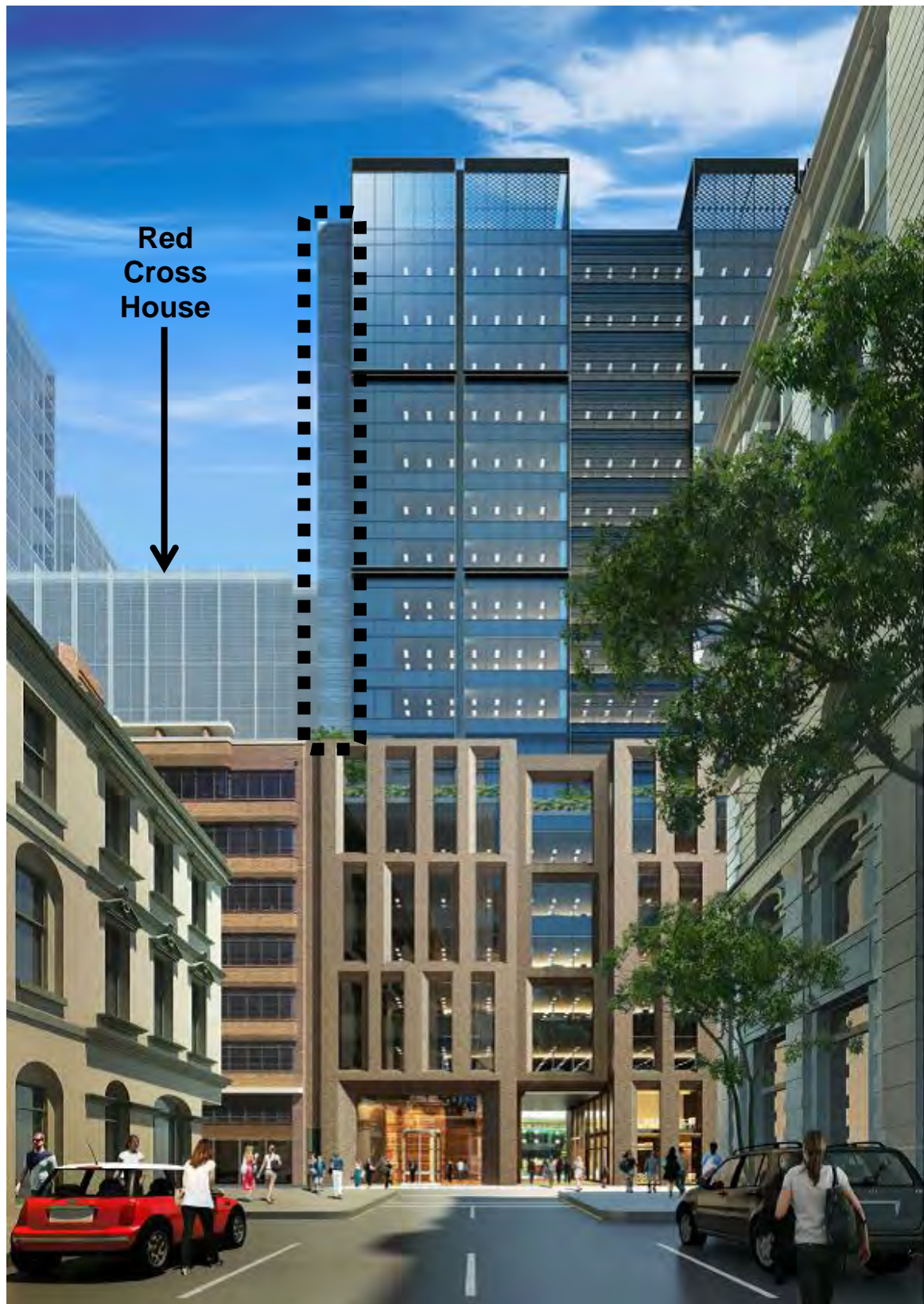
48. The proposed tower above the podium departs from the side setbacks nominated in the Stage 1 envelope. It is proposed to have a nil setback to the southern boundary where 3 metres is required in the Stage 1 and 2.9 metres to the northern boundary where 3 metres is required in the Stage 1.
49. **Figure 24** illustrates the proposed setbacks compared to the Stage 1 envelope.



**Figure 24:** Diagram illustrating the proposed tower setbacks compared to the Stage 1 envelope (dashed)

50. The proposal has been considered against the Sydney DCP 2012 setback controls and objectives and the departure from the 3 metre side setbacks are considered acceptable on merit for the following reasons:
- (a) the proposed southern side setback complies with the DCP control which allows nil setbacks to a building with no windows/openings on the elevation;
  - (b) the area with a nil setback is setback 10 metres from Clarence Street and 4 metres from Kent Street;

- (c) the nil setback accommodates plant and the service core and does not include openings and uses that impact on the property to the south (Red Cross House);
- (d) the nil southern setback above the podium is not considered to unreasonably hinder the visual appreciation of Red Cross House when viewed from a human scale from Barrack Street, Clarence Street and Kent Street. **Figure 25** illustrates the most prominent view of the development from Barrack Street in a westerly direction;
- (e) the proposed side setbacks do not unreasonably impact on ventilation or increase wind impacts in the public domain;
- (f) the proposed side setbacks do not unreasonably affect daylight access and view sharing to residential apartments at 161-167 Clarence Street or the public domain;
- (g) the proposed northern side setback adopts a varied 2.9 metre to 10 metre setback providing articulation and increased opportunity for northern daylight access into the office floor plate; and
- (h) the proposed 0.1 metre non-compliance to the northern side does not create adverse privacy impacts to the existing lower scale commercial developments directly to the north of the site.

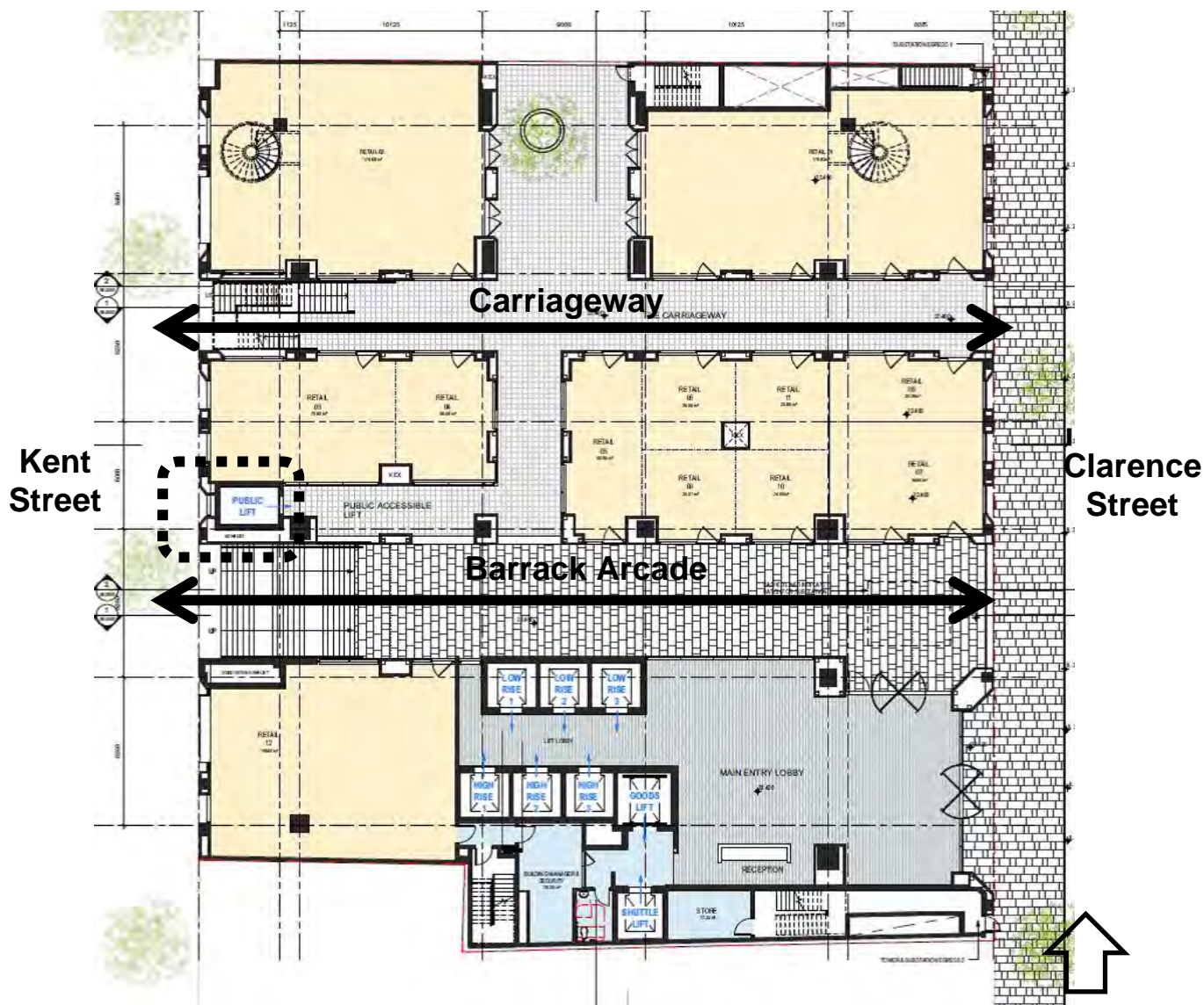


**Figure 25:** Photomontage illustrating the proposed nil southern setback (dashed) and interface with Red Cross House.



## Through Site Links

51. The development involves the provision of two through site links internally within the building at ground level between Clarence Street and Kent Street. **Figures 26-28** illustrate the location and detail of the pedestrian through site links.



**Figure 26:** Proposed location of the through site links between Clarence Street and Kent Street and public lift (dashed).



**Figure 27:** Northern elevation of the Barrack Arcade through site link.





**Figure 28:** Southern elevation of the Carriageway through site link.

52. The proposed through site links are consistent with the detailed requirements in SDCP 2012 in that:
- (a) Barrack Arcade and the Carriageway are 6 metres and 4 metres wide, respectively, and comply with the controls;
  - (b) both through site links are double height in scale and have a clear line of sight between the Clarence Street and Kent Street entrances;
  - (c) both through site links are direct and have access to a central public lift providing equitable access between street levels;
  - (d) both through site links have access to natural light through the double storey scale and voids created by the mezzanine level. The Carriageway also has access to natural light through a large lightwell to the north;
  - (e) the main through site link for pedestrian connectivity will be Barrack Arcade and given its scale, width and activated edges will be identifiable as a through site link. The through site links will not be distinguished as a vehicle access way;
  - (f) the through site links are proposed to be finished in City of Sydney black granite paving and the soffit is a combination of off form concrete and polished metal panels. The Carriageway accommodates a large feature tree and the paving and soffit surfaces present opportunities for public art; and
  - (g) the through site links will be accessible between 6.00am and 10.00pm, 7 days a week (at a minimum) consistent with the control. It is recommended that a condition is imposed in the consent requiring the registration of an easement enabling public access between this period.

### **Competitive Design Process, Design Refinement and Design Excellence**

53. The height of the building triggers the requirement for a competitive design process to be undertaken under clause 6.21 of SLEP 2012.
54. A competitive design alternatives process was undertaken in March and April 2013. A Competitive Design Alternatives Process was undertaken where four invited Architectural firms designed schemes for the site. The Design Jury selected the Architectus scheme as the winning design in May 2013.
55. In accordance with Clause 6.21(7) of SLEP 2012, the consent authority may grant up to 10% additional floor space where design excellence is achieved through a competitive design process.

56. The application seeks consent for 10% additional FSR. The full 10% is permitted to be awarded under control 3.3.5 of SDCP 2012, as the entire site was the subject of the competitive design process.
57. In selecting the Architectus scheme as the preferred proposal, the judging panel recommended that the following matters should be resolved:
- (a) **Tower** - refinement of the articulation of the tower in relation to the podium and use of steel and glass in the podium.
  - (b) **Podium** - refinement of the podium as a more unified element to give a stronger street presence and continuity, consider a continuous horizontal composition and fenestration pattern to add depth to the façade and finer scale to the punctuated openings.
  - (c) **Materials** - reconsider the darkness and materials of the through site link to develop more warmth and liveliness.
58. The design was developed in response to the matters raised by the judging panel by amending the podium fenestration and the podium material changing to a light face brick.
59. The Stage 2 Development Application was reviewed by Council's Design Advisory Panel (DAP) who recommended that consideration be given to providing a continuous masonry character to the podium, differentiating the podium and tower elements and use of more sympathetic material on the podium.
60. Amended drawings and information was submitted to address the matters raised including:
- (a) Amending the podium to provide a continuous masonry façade;
  - (b) Refinement of the fenestration in the podium to relate to the tower articulation; and
  - (c) Amending the face brick to a darker red/brown colour and tone.
61. **Figures 29-31** illustrate the amended Clarence Street podium compared to originally proposed.



**Figure 29:** Originally proposed Clarence Street podium (top) and amended podium (bottom).





**Figure 30:** Originally proposed Clarence Street elevation (left) and amended elevation (right).

**Note:** Elevations do not depict darker colour brick.



**Figure 31:** Originally proposed face brick colour, Gurnsey Tan (top) and amended colour, Bowral Brown (bottom).

62. The amended podium design is considered to address the recommendations made by DAP by:
- (a) providing a continuous masonry character to the podium and clearly differentiating the podium and tower elements;
  - (b) utilising the proportions of the fenestration in the tower in the podium to link both components; and
  - (c) adopting a deeper red/brown face brick colour which is more sympathetic in the York Street warehouse precinct.
63. In considering whether 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 as it responds appropriately to the historic warehouse context through the scale, detail and masonry finish of the podium, which is contrasted by the glazed curtain wall of the tower above.
  - (b) **A form and external appearance of the proposed development will improve the quality and amenity of the public domain**

The development provides for an enhanced public domain around and within the site. The interface with Clarence Street and Kent Street will be improved through double height retail and lobby spaces along the boundary alignment and adopt a high quality finish. The development also provides two through site links internally within the building between Clarence Street and Kent Street. The links will be accessible between 6.00am and 10.00pm (at a minimum) providing improved connectivity through the street block and activated by retail tenancies, landscape and public art.
  - (c) **Does the proposed development detrimentally impact on view corridors**

The proposal is generally consistent with the Stage 1 envelope and considered to have a reasonable impact on views from surrounding developments (existing and future) given the development controls that have been developed for the land.
  - (d) **Does the proposed development address site suitability, use, constraints, environmental impacts, ESD, pedestrian, cycle, vehicular and service access and circulation, public domain improvements, and interface, landscape design**

As addressed elsewhere in this assessment, the proposal satisfactorily addresses each of these matters in accordance with the relevant SDCP 2012 controls and objectives.
64. The assessment of the subject application finds that the development achieves the design excellence objectives and, as such, it is recommended that in accordance with Clause 6.21(7) of SLEP 2012, the consent authority award 10% additional floor space to the development.

### Removal of Street Trees

65. The application seeks consent for the removal of three existing street trees along Clarence Street and Kent Street. **Figure 32** illustrates the location of street trees affected by the proposal.



**Figure 32:** Location of the 3 street trees proposed to be removed.

66. The street trees are proposed to be removed and replaced in alternate locations for the following reasons:
- (a) to facilitate construction activities including establishment of work zones and hoarding along entire frontage of Clarence Street and Kent Street;
  - (b) the Kent Street tree is adjacent to the new access driveway and will affect sightlines to and from the driveway; and
  - (c) the southernmost tree on Clarence Street will be located in the alignment of the through site link and will interrupt pedestrian desire lines and potentially cause congestion at the entry and exit point of the through site link.



67. The application has been assessed by Council's Tree Management Unit who has advised that the street trees are assessed as being in a good healthy condition, have a moderate to high retention value and provide a positive contribution to the landscape amenity of the site.
68. Removal of the Kent Street tree is supported given that the location of the driveway and access to the future development was approved as part of the Stage 1 consent.
69. The justifications provided to support the removal of the Clarence Street trees is not supported for the following reasons:
  - (a) hoarding is commonly erected throughout the City without the need to remove street trees. An example is the development at 161-165 Clarence Street, where Council did not accept removal of the street trees and the hoarding has been erected and the trees protected; and
  - (b) removing street trees due to desire lines and creation of a 'barrier' and is not sufficient reason for their removal, noting that the trees are located on the edge of the footpath so they are not unreasonably blocking access to the through site link.
70. It is recommended that conditions are imposed to ensure that the Clarence Street trees are retained and protected.

#### **Indicative Building Identification Signage Zones**

71. The application seeks consent for the following building identification signage zones on the northern and eastern elevations at Roof Plant Level:
  - (a) Northern Elevation – 10.6m (W) x 3.8m (H) - 40.28sqm
  - (b) Eastern Elevation – 7.5m (W) x 3.8m (H) - 28.5sqm
72. **Figure 33** illustrates the location of the proposed signage zones.



**Figure 33:** Proposed building identification signage zones, eastern elevation (left) and northern elevation (right).

73. Condition 9(b) of the Stage 1 consent states:

*Signage zones are not permitted on the side boundary elevations.*

74. The proposed signage zone on the northern elevation cannot be supported as it is inconsistent with the Stage 1 consent. It is recommended that a condition is imposed in the consent indicating that the northern signage zone is not approved.
75. The eastern signage zone has been considered against the relevant signage controls contained in section 3.16 of SDCP 2012, and are addressed below:

(a) Signage Strategy

A separate development application is to be submitted seeking approval of a signage strategy for the building for the ground plane.

(b) Period of consents

The control recommends consents for building name signs are limited for up to three years. As this detail does not form part of this application, this is more appropriately addressed in the future development application.

(c) General requirements for signs

The following table addresses the general controls for signs:



Control	Comment
Strata subdivision for the purposes of creating separate lots for signage is not permitted	It is recommended a condition is imposed restricting any future strata subdivision that creates separate lots for signage zones.
Relate to an approved use on the site	The future sign will have to relate to the approved commercial use and the significant tenant. This control is more appropriately addressed in the future development application for the detailed sign.
Compatible in scale and integrated with the architectural design of the building	The proposed proportions of the zone are generally compatible in scale and integrated with the architectural form. The future major tenant signage will be subject to separate development application and will need to demonstrate how the details coordinate with the architectural elements.
Does not conceal architectural features	The signage zone is located on the glazed curtain wall of the plant floor, and does not conceal an architectural feature.
Ensures corporate colours, logos and other graphics are compatible	This control is more appropriately addressed in a future development application for the detailed signs.
Impacts on nearby buildings, streets and existing signs to ensure they do not create unacceptable visual clutter.	The signage zone does not unreasonably affect nearby buildings or create visual clutter.
Main facades of buildings from the first floor to the rooftop or parapet to be uncluttered and generally free of signage.	No signage zone is proposed between the first floor and the rooftop.
Appearance of the sign and any supporting structure.	This control is more appropriately addressed in a future development application for the detailed signs.
Ensures equitable access for all, including people with a disability	The signage zone does not affect access to the building.

Control	Comment
Minimal projection from a building	No details are provided of how deep the signage zone is proposed to be. This control can be addressed in a future development application for the detailed signs.
Does not advertise or promote products or services	This control is more appropriately addressed in the future development application for the detailed signs.
Not be supported from, hung from or placed on other signs.	The signage zone is not supported from, hung from or placed on other signs, however, this is more appropriately addressed in the future development application for the detailed signs.

(d) Illumination

Any details of illumination will need to be provided with a future development application for the detailed sign.

(e) Number of business and building identification signs

The control allows a maximum of two building identification signs near the roof or parapet. The application proposes two building signage zones near the roof, however, only the eastern signage zone can be supported.

(f) Location and design of building identification signs

The control discourages signs on the upper parts of buildings, however, allows building name signs at or near the parapet. The eastern signage zone complies with the control in that:

- (i) it is located on the walls of a rooftop plant area;
- (ii) it is setback 8m from the eastern boundary;
- (iii) it is no higher than one typical floor of the building;
- (iv) it is in scale with the plant room wall/partition upon which the sign is affixed;
- (v) it is capable of being affixed to the structure and not the glazed curtain wall; and
- (vi) it does not obscure parts of the building that are significant elements of the building's architectural design.

76. The application requests that the maximum zones are approved and the detailed building identification signage content be a matter that can be satisfied through a consent condition.

77. Council cannot assess the future content of a signage zone outside the development application process. As such, a separate development application for any future signage contained within the signage zone is required to be submitted, exhibited and assessed against the relevant SEPP 64 and SDCP 2012 controls and objectives. It is recommended that a condition is included in the consent ensuring that only an indicative zone is approved on the eastern elevation and a separate development application must be submitted for the content.

#### **Other Impacts of the Development**

78. The proposed development is capable of complying with the BCA.
79. 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**

80. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial surrounding and amongst similar uses to that proposed.

#### **INTERNAL REFERRALS**

81. 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 and Heritage Specialist.
82. The application was presented to Council's Design Advisory Panel who made recommendations for design refinement to the podium. The application was amended to address the matters raised.
83. The conditions recommended by other sections of Council are considered reasonable and have been included in the proposed conditions.

#### **EXTERNAL REFERRALS**

##### **Roads and Maritime Services**

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

##### **Ausgrid**

85. 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**

86. 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**

87. In accordance with Schedule 1 of the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 27 October 2014 and 25 November 2014. No submissions were received.

**PUBLIC INTEREST**

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

**DEVELOPER CONTRIBUTIONS****Section 61 Contributions**

89. 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**

90. *Environmental Planning and Assessment Act 1979*.
91. *City of Sydney Act 1988*.

**CONCLUSION**

92. The proposal has been assessed against the terms of the Stage 1 consent and finds that the proposed uses, building form and public domain improvements are generally consistent with the approved concept for redevelopment on the site. As such, the proposal satisfies the relevant consistency test under Section 83D of the Environmental Planning and Assessment Act 1979.
93. The proposed building adopts a well resolved architectural design and an enhanced public domain within and around the site, consistent with the objectives of the design excellence provisions and the York Street Special Character Area
94. Overall, the proposal is considered to perform against the relevant controls and objectives contained within Sydney LEP 2012 and Sydney DCP 2012 and it is recommended that CSPC approve the application subject to the recommended conditions.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Amy Allen, Senior Planner)