

ITEM 4. DEVELOPMENT APPLICATION: 19-29 MARTIN PLACE SYDNEY - MLC CENTRE**FILE NO: D/2015/66****DEVELOPMENT APPLICATION NO: D/2015/66****SUMMARY**

Date of Submission: 22 January 2015

Applicant: The GPT Group

Architect: Harry Seidler & Associates Pty Ltd and Woods Bagot

Owner: The GPT Group, Queensland Investment Company (QIC) and Commercial Travellers' Association of NSW

Cost of Works: \$98,813,680

Proposal Summary: The proposal seeks consent for substantial alterations and additions to the basement and podium levels (being Levels 1 to 9) of the MLC Centre at 19-29 Martin Place, Sydney. The scope of works includes:

- alterations and additions to the podium levels;
- creation of new retail tenancies along the King, Castlereagh and Rowe Streets;
- removal of the existing escalators from the corner of King and Castlereagh Streets and creation of a new ground floor entry lobby to the commercial tower accessed from Castlereagh Street;
- modifications to the entry to both the Theatre Royal and retail plaza from King Street;
- modification to basement levels and vehicular access to site (including removal of the Castlereagh Street ramp and modification to the King Street ramp); and
- landscaping and public domain improvement works.

The application was notified for 28-days in February and March 2015. The notification of the application resulted in 2 submissions being received. The application was referred to the Sydney Trains on 9 February 2015 under the provisions of Clause 86 and 88 of SEPP (Infrastructure) 2007. Concurrence was granted to the application by Sydney Trains on 17 July 2015.

**Proposal Summary:
(continued)**

The proposal has been the subject of extensive design refinement, including consideration of the matter multiple times by the City's Design Advisory Panel. This has been essential to ensure that the additions are appropriate to the original 1970s Seidler architectural concept of the MLC Centre, as well as being sympathetic to the heritage context of the site.

As a result of the site area and the scope of works, the proposal triggers the following requirements of the SLEP 2012:

- the preparation of the site specific development control plan (or Stage 1 DA) under the provisions of Clause 7.20 of SLEP 2012; and
- that a competitive design process be undertaken pursuant to Clause 6.21 of SLEP 2012.

It is recommended that the consent authority waive these requirements in this instance as the scope of works is limited to alterations and additions to the basement and podium of the existing MLC Centre. It is noted that the scheme has been designed by Harry Seidler and Associates Architects to respect the original design concept of the building. It is considered that the undertaking of both a site specific DCP and competitive design process would have limited value on this site due to the scope of works and the existing built form.

The proposal is considered to be generally consistent with the relevant planning controls and responds appropriately to the constraints of the site. The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Sydney CBD.

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

Development Controls:

- (i) Environmental Planning and Assessment Act, 1979
- (ii) Sydney Local Environmental Plan 2012
- (iii) Sydney Development Control Plan 2012
- (iv) State Environment Planning Policy No. 55 - Remediation of Land
- (v) State Environmental Planning Policy (Infrastructure) 2007
- (vi) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Attachments:

- A - Architectural Plans
- B - Photomontages
- C - Minutes of the Design Advisory Panel and Design Advisory Panel Sub-Committee

RECOMMENDATION

It is resolved that:

- (A) pursuant to the provisions of Clause 6.21(6) of the Sydney Local Environmental Plan 2012, that the consent authority waive the requirements of a competitive design process for the subject application as it is considered to be unreasonable and unnecessary in this instance;
- (B) pursuant to the provisions of Clause 7.20(3) of the Sydney Local Environmental Plan 2012, that the consent authority waive the requirements for the preparation of a development control plan as it is considered to be unreasonable and unnecessary in this instance;
- (C) 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
- (D) consent be granted to Development Application No. D/2015/66, 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/2015/66, dated 22 January 2015, and the following drawings:

Drawing Number	Architect	Date
DA4-0706 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-0707 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-0708 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-0709 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-0710 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014

Drawing Number	Architect	Date
DA4-1010 Issue C	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1011 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1012 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1013 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1020 Issue C	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1021 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1022 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1023 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1030 Issue D	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1031 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1032 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1033 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1040 Issue C	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1041 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1042 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1043 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1050 Issue D	Harry Seidler & Associates Pty Ltd	17 December 2014

Drawing Number	Architect	Date
DA4-1051 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1052 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1053 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1060 Issue D	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1061 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1062 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1063 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1070 Issue D	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1071 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1072 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1073 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1080 Issue D	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1081 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1082 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1083 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1090 Issue C	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-0091 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014

Drawing Number	Architect	Date
DA4-1092 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1093 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1100 Issue C	Harry Seidler & Associates Pty Ltd	8 January 2015
DA4-1101 Issue B	Harry Seidler & Associates Pty Ltd	8 January 2015
DA4-1102 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-1103 Issue A	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2000 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2001 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2002 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2010 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2011 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2012 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2020 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2021 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2022 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2030 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2031 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014

Drawing Number	Architect	Date
DA4-2040 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2041 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-2042 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3000 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3001 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3002 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3010 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3011 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3012 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3020 Issue C	Harry Seidler & Associates Pty Ltd	8 January 2015
DA4-3021 Issue C	Harry Seidler & Associates Pty Ltd	8 January 2015
DA4-3030 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3031 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3040 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3041 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3050 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3051 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014

Drawing Number	Architect	Date
DA4-3052 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3300 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3301 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3302 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3310 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3311 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3320 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3321 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3322 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3330 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3331 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3332 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3340 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3341 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3342 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3700 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3701 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014

Drawing Number	Architect	Date
DA4-3702 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3710 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3711 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3720 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014
DA4-3721 Issue B	Harry Seidler & Associates Pty Ltd	17 December 2014

and as amended by the conditions of this consent.

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

(2) DESIGN MODIFICATION

The design of the building must be modified as follows:

Castlereagh Street awning

- (a) Amended plans shall be submitted to illustrate that the proposed awning associated with the retail tenancies along the Castlereagh Street frontage of the site shall be lowered to be no higher than 4.2 metres above the footpath level in accordance with Section 3.2.4 of the Sydney Development Control Plan 2012. Amended plans shall be submitted that propose alternative options for Council's approval with regard to the design and materiality of the lowered awning.

Lees Court balconies

- (b) Amended plans shall be submitted to illustrate that the balcony projections over Lees Court located on Levels 8 and 9 of the development are reduced so as to extend no further than 450mm from the site boundary.

Re-grading of Rowe Street

- (c) Amended plans shall be submitted to regrade the section of Rowe Street located within the boundaries of the MLC Centre site to remove or reduce the hump. Included with any amended plans shall be documentation and/correspondence with the owners of 5 Martin Place to ensure the integration of the two sites at this junction.

Deletion of King Street retail tenancies 6.31 and 6.31A

- (d) No consent is given to the enclosure of the King Street Nervi “mushroom” structure with glazing to create retail tenancies. Amended plans shall be submitted to:
- (i) illustrate the deletion of retail tenancies 6.31 and 6.31A located on Levels 6 and mezzanine level (illustrated on Level 7 plan) of the MLC Centre;
 - (ii) delete the curved glazing at Level 6 and redesign this area as part of the King Street public domain; and
 - (iii) illustrate a revised Level 7 glazing line setback to align with the tenancy boundary of retail tenancy 7.25.

Castlereagh Street entry lobby

- (e) Amended plans shall be submitted to illustrate further detail of the new Castlereagh Street level commercial building entry lobby. The glazed lobby structure must be constructed of curved glass and shall not be constructed with faceted glass panels.

The amended plans shall be submitted to, and approved by, Council’s Director City Planning, Development and Transport prior to the issue of any Construction Certificate.

(3) NO CONSENT GIVEN TO SIGNAGE STRATEGY OR THE INSTALLATION OF ANY SIGNAGE

- (a) No consent is given or implied to the External Wayfinding & Signage Strategy, prepared by Buro North, dated 12 December 2014. No consent is given or implied to the installation of any signage proposed within this strategy.
- (b) A separate development application shall be submitted seeking approval for a comprehensive signage strategy for the signage zones associated with the podium redevelopment (including retail tenancies business identification signage zones). This signage strategy is prepared in parallel with a Retail Tenancies Fit-out Strategy for all retail tenancies within the podium redevelopment of the site.
- (c) 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.

(4) RETAIL FIT-OUT STRATEGY

A site specific retail tenancy fit-out strategy shall be developed for all retail tenancies within the podium of the MLC Centre. This retail fit-out strategy shall be submitted for approval to the City’s Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

The Strategy must include, but must not be limited to, the following:

- (a) signage and graphic zones for all business identification signage and corporate branding for the retail tenancies;
- (b) limitations on the extent of obstruction to the glazed shopfronts to maintain sightlines from the public domain into the tenancy. This should consider signage, installation of window film, setback of window displays from the glazing line and the like;
- (c) shopfront specific lighting strategies; and
- (d) integration of any security systems.

(5) LEES COURT & ROWE STREET DISPLAY CASES/PUBLIC ART

Further details shall be submitted on the exact location and design of the glass display cases and LED screens proposed on ground floor level (level 6) northern facade of Rowe Street and western facade of Lees Court. This is illustrated on the plans as being used for public art installations, promoting performances at the Theatre Royal and the Rowe Street Historical Society Memorabilia.

Final details of the approved public art work must be submitted to and approved by Council's Director City Planning, Development and Transport prior to issue of a Construction Certificate.

The public artwork must be in accordance with the *Sydney DCP 2012* and the *Public Art Policy*. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(6) USE - SEPARATE DA REQUIRED

A separate development application for the fit-out and use of each newly created retail tenancy must be submitted to and approved by Council prior to that fit-out or use commencing.

(7) KING STREET PEDESTRIAN BRIDGE

The owner of the site shall make good the southern (King Street) facade of the site in the event that the existing pedestrian overpass bridge is removed in the future. These rectification works must be consistent with the existing facade treatment and shall be undertaken at no cost to the Council.

(8) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Harry Seidler and Associates, as submitted to Council with the development application on 22 January 2015.

(9) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 10.96:1 calculated in accordance with the *Sydney Local Environmental Plan 2012 (SLEP 2012)*. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 89,547.8sqm. Note: The FSR and gross floor area specified excludes any entertainment and club floor space and end of journey floor space pursuant to the provisions of the SLEP 2012.
- (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.

(10) APPROVED DESIGN ROOF - TOP PLANT

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

(11) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

A site specific noise management plan shall be submitted to the Council for comment and approval prior to issue of any Construction Certificate.

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

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

- (a) Identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement ($L_{A90, 15 \text{ minute}}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.

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

(12) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

- (a) All works conducted on site which form part of this development must be carried out in accordance with the Demolition, Excavation and Construction Management Plan to be submitted and approved at a later date.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. (Use where respite periods not specified under the approved DEC NMP).

Such periods must be set and agreed to by Council's Health and Building Unit.

(13) NOISE - GENERAL

- (a) The emission of noise associated with the use of the premises including the cumulative operation of any mechanical plant and equipment, and air conditioning shall comply with the following:
 - (i) The $L_{Aeq, 15 \text{ minute}}$ noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the *NSW EPA Industrial Noise Policy*. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.

- (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment $L_{A90, 15 \text{ minute}}$ / rating $L_{A90, 15 \text{ minute}}$ process to be in accordance with the requirements for noise monitoring listed in the *NSW EPA Industrial Noise Policy* and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
 - (iii) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable.
- (b) An $L_{Aeq, 15 \text{ minute}}$ noise level emitted from the use must not exceed the $L_{A90, 15 \text{ minute}}$ noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence or noise sensitive commercial premises provided that:
- (i) Where the $L_{A90, 15 \text{ minute}}$ noise level is below the threshold of hearing, T_f at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of T_f corresponding to that Octave Band Centre Frequency shall be used instead.
 - (ii) The $L_{Aeq, 15 \text{ minute}}$ noise level and the $L_{A90, 15 \text{ minute}}$ noise level shall both be measured with all external doors and windows of the affected residence closed;
 - (iii) The relevant background noise level ($L_{A90, 15 \text{ minute}}$) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the *NSW EPA Industrial Noise Policy* and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.
 - (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
 - (v) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable. Internal Noise measurements are not to be corrected for duration.

(14) 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".

(15) 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.

(16) 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.

(17) 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.

(18) 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.

(19) LOADING MANAGEMENT PLAN

- (a) A Loading Management Plan is to be submitted to and approved by Council's Area Planning Manager, prior to a Construction Certificate being issued.
- (b) This Plan shall identify how access of the loading dock by Medium Rigid Vehicles will be managed.
- (c) Once approved, the loading dock on site must be managed in accordance with this plan at all time, and copies of the approved plan must be provided to all relevant staff, tenants and external users of the loading area.

(20) 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, and AS/NZS 2890.2 Parking facilities Part 2, with the exception of non-compliances as outlined in MLC Retail Podium Development Works Street and Access Arrangements, prepared by AECOM, dated 12 December 2014, as follows:

- (a) maximum ramp grade;
- (b) maximum ramp grade at property boundary; and
- (c) swept path clearances at the base of the ramp between B99 and Small Rigid Vehicle and between two passing Small Rigid Vehicles.

Details shall be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

(21) PARKING EGREES TO REMAIN FREE OF OBSTRUCTIONS

Clear sightlines for vehicles exiting the site via the King Street ramp or from Lees Court must be provided by keeping the area around the property boundary and ramp free of obstructions, as shown on plan titled 'Driver Sight Lines to King Street' (drawing numbered 60303781-DRG-10-RD0080, prepared by AECOM, dated 14 November 2014).

Prior to the issue of any Construction Certificate, the Principal Certifying Authority shall confirm that all no physical visual obstructions are proposed to be located within the zone nominated as "obstruction free area, typical" on any construction drawings.

(22) 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 footway
- (b) Compelling drivers to "Give Way to Pedestrians" before crossing the footway; and
- (c) On completion of the future King Street cycleway, signage compelling drivers to "Give Way to cyclists" before crossing the cycleway.

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

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

(24) REFLECTIVITY

The façade shall be designed in accordance with the recommendations of the 'MLC Centre Retail Podium Development Works' reflectivity report, prepared by ARUP Pty Ltd, dated 15 December 2014.

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 Construction Certificate.

(25) COMPLIANCE WITH ACCESS REPORT

The recommendations of the MLC Centre Retail Podium Development Work Access Report, prepared by Morris-Goding Accessibility Consulting, dated 15 December 2014 shall be implemented in the final design. Details illustrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

SCHEDULE 1B**Prior to Construction Certification/Commencement of Work/Health and Building**

Note: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

(26) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(27) INTERPRETATION STRATEGY

- (a) An interpretation strategy 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.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) Prior to an Occupation Certificate being issued, the approved interpretation plan must be implemented to the satisfaction of Council's Urban Design and Heritage Manager.

(28) STREET TREES MUST BE RETAINED

Approval is NOT granted for the removal of any of the existing street trees in King and Castlereagh Streets, which Council has determined to be prominent landscape elements.

All existing street trees shall be retained and protected throughout the proposed development.

(29) STREET TREE PROTECTION

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

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

(30) 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'.

(31) FACADE LIGHTING

The external lighting of the podium of the MLC Centre shall at all times be in accordance with both Section 5 of the report titled 'MLC Retail Podium Development – DA Building Services Report', prepared by ARUP Pty Ltd, dated 12 December 2014 and the City's Martin Place Lighting Masterplan, prepared by Steensen Varming, dated 18 February 2014.

(32) CONTROL OF LIGHT INTO THE ENVIRONMENT

The design and placement of lighting to the building facade and landscape features must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood, for that purpose lighting must also comply with AS4282-1997 control of obtrusive effects of outdoor lighting.

Details prepared by a suitably qualified Lighting Designer/Consultant shall be submitted to the Certifying Authority to illustrate compliance with this condition.

(33) PROTECTION OF AMENITY

The intensity, colour, period of intermittency and hours of illumination must be varied if, at any time in the opinion of the consent authority, adverse impact is being caused to the amenity of the area.

(34) 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 a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, alignment levels for the building and site frontages must be submitted to and approved by Council. The submission must be prepared by a Registered Surveyor, must be in accordance with the City of Sydney's *Public Domain Manual* and must be submitted with a completed Alignment Levels checklist (available in the *Public Domain Manual*) and Footpath Levels and Gradients Approval Application form (available on the City's website).

- (c) These alignment levels, as approved by Council, are to be incorporated into the plans submitted with the application for a Construction Certificate for any civil, drainage and public domain work as applicable under this consent. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

(35) 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".

(36) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

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

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

The form of the recording is to be as follows:

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

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

(37) PRESERVATION OF SURVEY MARKS

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

Prior to the issue of a 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).

(38) 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*.

(39) PUBLIC DOMAIN PLAN

- (a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or above ground building work, whichever is later. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's Public Domain Manual). **Note:** Re-use of existing Austral Black granite paving is encouraged in King and Castlereagh Streets, where possible.

- (b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.
- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.
- (e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued.
- (f) The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(40) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to a Construction Certificate being issued for public domain work, including civil, drainage and subsurface works, a set of hold points for approved public domain, civil and drainage work is to be determined with and approved by the City's Public Domain section in accordance with the City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*.

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

(41) WORKS TO ROWE STREET AND LEES COURT

Prior to the issue of a Construction Certificate, the Applicant is to apply to Council, as roads authority for a consent under s.138 of the Roads Act 1993 to carry out the following works at its cost to the following public roads:

(a) **Rowe Street**

- (i) Preliminary investigative works to determine the extent of existing site conditions;
- (ii) Civil works including base preparation, raising or lowering pit levels with infill lids and construction of surface to City Of Sydney technical specifications with Austral Black granite paving;
- (iii) Protection of existing stone kerbs with new stone kerbs provided to infill gaps as required to the City's approval;
- (iv) Provision of stormwater drainage system to the City's approval;
- (v) Street lighting consisting of smart poles and/or wall mounted fittings to the City's approval; and
- (vi) Signage and other street furniture as may be required.

(b) **Lees Court** -*"Redefine Lees Court as a shared zone to prioritise pedestrian permeability between King Street and Rowe Street with a raised Central Threshold, defined by flush kerbs and special format paving"*

- (i) Preliminary investigative works to determine the extent of existing site conditions;
- (ii) Civil works including base preparation, raising or lowering pit levels with infill lids and construction of raised surface to City Of Sydney technical specifications with Austral Black granite paving;
- (iii) Protection of existing stone kerbs with new stone kerbs provided to infill gaps as required to the City's approval;
- (iv) Provision of stormwater drainage system to the City's approval;
- (v) Street lighting consisting of smart poles and/or wall mounted fittings to the City's approval; and

- (vi) Signage and other street furniture as may be required.

(42) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

- (a) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted prior to a Construction Certificate being issued excluding any approved preparatory, demolition or excavation works.
- (c) Prior to the issue of any Occupation Certificate, a Positive Covenant must be registered on the title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.
- (d) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to Construction Certificate being issued for public domain works or above ground building works, whichever is earlier, and prior to the commencement of any work within the public way.
- (e) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.
- (f) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), but excluding approved preparatory or demolition work, a stormwater quality assessment must be undertaken 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%;
- 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.

(43) 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.

(44) 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.

(45) NOMINATED ENGINEERING WORKS SUPERVISOR – MAJOR INFRASTRUCTURE

Prior to issue of a Road Opening Permit for works in the public domain, the developer shall give Council written notification of the appointment of either:

- (a) A Chartered Civil Engineer, with National Professional Engineering Registration (NPER 3) in the construction of civil works; or
- (b) A survey company of Registered Surveyors with accreditation from the Institution of Surveyors NSW Inc.; or
- (c) An accredited certifier in civil engineering, as its nominated engineering works supervisor, the responsibility of whom shall be to sufficiently supervise the works to ensure compliance with all relevant statutory requirements, all relevant conditions of development consent, construction requirements detailed in the above specification, and the requirements of all legislation relating to environmental protection and occupational health and safety.

On completion of the works, the nominated engineering works supervisor shall certify that the works have been constructed in accordance with the approved plans, specifications and conditions of approval, and that the "Works as Executed" plans are a true and correct record of what has been built. The works supervisor shall be independent of the Principal Certifying Authority.

(46) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on all street 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.

(47) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 135 lineal metres of granite 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.

(48) PUBLIC DOMAIN LIGHTING

- (a) Prior to a Construction Certificate for public domain works or above ground building works being issued, whichever is later, 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; and
 - (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.

(49) 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.

(50) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and AS1668.1 and AS1668.2.

- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and AS1668.2, the *Building Code of Australia* and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, must be submitted to the Principal Certifying Authority.

(51) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

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

(52) MICROBIAL CONTROL IN WATER SYSTEMS

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

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

(53) 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.

(54) 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.

(55) ASBESTOS REMOVAL WORKS

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

(56) WASTE AND RECYCLING MANAGEMENT

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(57) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

(58) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF BUILDING IS REQUIRED

- (a) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the levels 1 to 9 must comply with the Building Code of Australia (BCA) including:
- (i) Structural provisions - Part B1;
 - (ii) Fire resistance and stability - Part C1;
 - (iii) Compartmentation and separation - Part C2;
 - (iv) Protection of openings - Part C3;
 - (v) Provision for escape (access and egress) - Part D1;
 - (vi) Construction of exits - Part D2;
 - (vii) Access for people with disabilities - Part D3;
 - (viii) Fire fighting equipment - Part E1;
 - (ix) Smoke hazard management - Part E2;
 - (x) Lift installation - Part E3;
 - (xi) Emergency lighting, exit signs and warning systems - Part E4;

Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the proposed works and other upgrading works required by this condition satisfy the *Building Code of Australia* by complying with Clause A0.4 of the BCA.

(59) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Certifying Authority) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the Building Code of Australia prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

(60) PHYSICAL MODELS

- (a) Prior to a final Occupation Certificate being issued, an accurate 1:500 scale model of the development as constructed must be submitted to Council for the City Model in Town Hall House.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>. Council's modellers must be consulted prior to construction of the model.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under section 96 of the *Environmental Planning and Assessment Act 1979*) that affect the external appearance of the building.

(61) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

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

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

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>. Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

(62) 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).

(63) DILAPIDATION REPORT

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report, including a photographic survey of 108-120 Pitt Street, Sydney (also known as 5 Martin Place) is 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 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.

(64) 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.

(65) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

- (a) A separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* is to be made to Council to erect a hoarding and/or scaffolding (temporary structures) on or above a public road (footway and/or roadway).
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:
 - (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
 - (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);
 - (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);
 - (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);
 - (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);

- (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
- (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
- (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and
- (ix) ensuring all required signage is provided and maintained (Clauses 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2011*).

(66) 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.

(67) SYDNEY WATER CERTIFICATE (QUICK CHECK)

- (a) The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au (see Building Developing and Plumbing then Quick Check) or telephone 13 20 92.
- (b) The Consent Authority or a Certifying Authority must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the commencement of work.

(68) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a 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.

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(69) 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.

(70) 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 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding.

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*.

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

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

(72) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW WorkCover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997*
- (b) *Protection of the Environment Operations (Waste) Regulation 2005*
- (c) *Waste Avoidance and Resource Recovery Act 2001*
- (d) *Work Health and Safety Act 2011*
- (e) *Work Health and Safety Regulation 2011.*

(73) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(74) 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.

(75) 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.

(76) 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.

(77) 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.

(78) 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.

(79) 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.

(80) 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.

SCHEDULE 3

TRANSPORT FOR NSW CONCURRENCE CONDITIONS

Transport for NSW has provided the following concurrence conditions under the provisions of Clause 86 of State Environmental Planning Policy (Infrastructure) 2007:

- (81)** The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of Construction Certificate:
 - (a) Final Structural Drawings, prepared by Taylor Thomson Whitting Consulting Engineers (including cross-section drawings).
 - (b) If required by Sydney Trains, geotechnical report and numerical analysis that assess the change in ground movement or loading on the rail tunnel.
 - (c) The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.
- (82)** Details of machinery to be used during works shall be provided to Sydney Trains for review and endorsement. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.
- (83)** No rock anchors/bolts are to be installed into RailCorp's property or easement.
- (84)** The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.
- (85)** If required by Sydney Trains, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

- (86) If required by Sydney Trains, prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- (87) If required by Sydney Trains, prior to the issue of a Construction Certificate, a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (88) If required by Sydney Trains, prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by RailCorp. This insurance shall not contain any exclusion in relation to works on or near the rail corridor. The Applicant is to contact RailCorp's Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate, the Principal Certifying Authority must witness written proof of this insurance in conjunction with RailCorp's written advice to the Applicant on the level of insurance required.
- (89) If required by Sydney Trains, prior to the issue of a Construction Certificate the Applicant is to submit to RailCorp the methodology and staging of the works for review and endorsement. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
- (90) Prior to the issuing of an Occupation Certificate, the Applicant shall provide Sydney Trains and Council as-built drawings and survey locating the development with respect to any rail boundary, Sydney Trains easement and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains. The as-built survey is to confirm that there has been no encroachment into any Sydney Trains land or easement area.
- (91) Where a condition of consent requires endorsement from Sydney Trains the Principal Certifying Authority is not to issue a Construction Certificate or Occupation Certificate, as the case may be, until written confirmation has been received from Sydney Trains that the particular condition has been complied with.

BACKGROUND

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 598704, Lot 1 SP 7985, Lots 3 and 4 SP 10727 and Lots 1 and 2 SP 12322, and has the street addresses of 19-29 Martin Place, 27-39 Castlereagh Street and 41-45 Castlereagh Street, Sydney.
2. The site has frontages to Martin Place to the north of 47.7 metres, Castlereagh Street to the east of 128.2 metres, King Street to the south of 77.3 metres, and Lees Court to the west of 60.9 metres. This equates to a site area of 8,200sqm, plus an area of 163sqm in stratum beneath Lees Court.
3. The existing development on site was constructed between 1975 and 1977 and is known as the MLC Centre, which comprises:
 - (a) a 60-storey commercial tower;
 - (b) 2 levels of retail tenancies and a food court within the podium of the development;
 - (c) the 1,180 seat theatre, known as the 'Theatre Royal';
 - (d) the Commercial Travellers' Association of NSW (CTA), including overnight accommodation, located in the circular drum located on the corner of Martin Place and Castlereagh Street;
 - (e) a public plaza fronting Martin Place;
 - (f) 277 basement parking spaces, which includes a commercial car park; and
 - (g) vehicular access to the site is currently provided from King Street (ingress) and Castlereagh Street (egress).
4. **Figure 1**, below, provides a location plan illustrating the site and its immediate context. **Figures 2 to 10**, below, provide photographs of the existing development on the site.

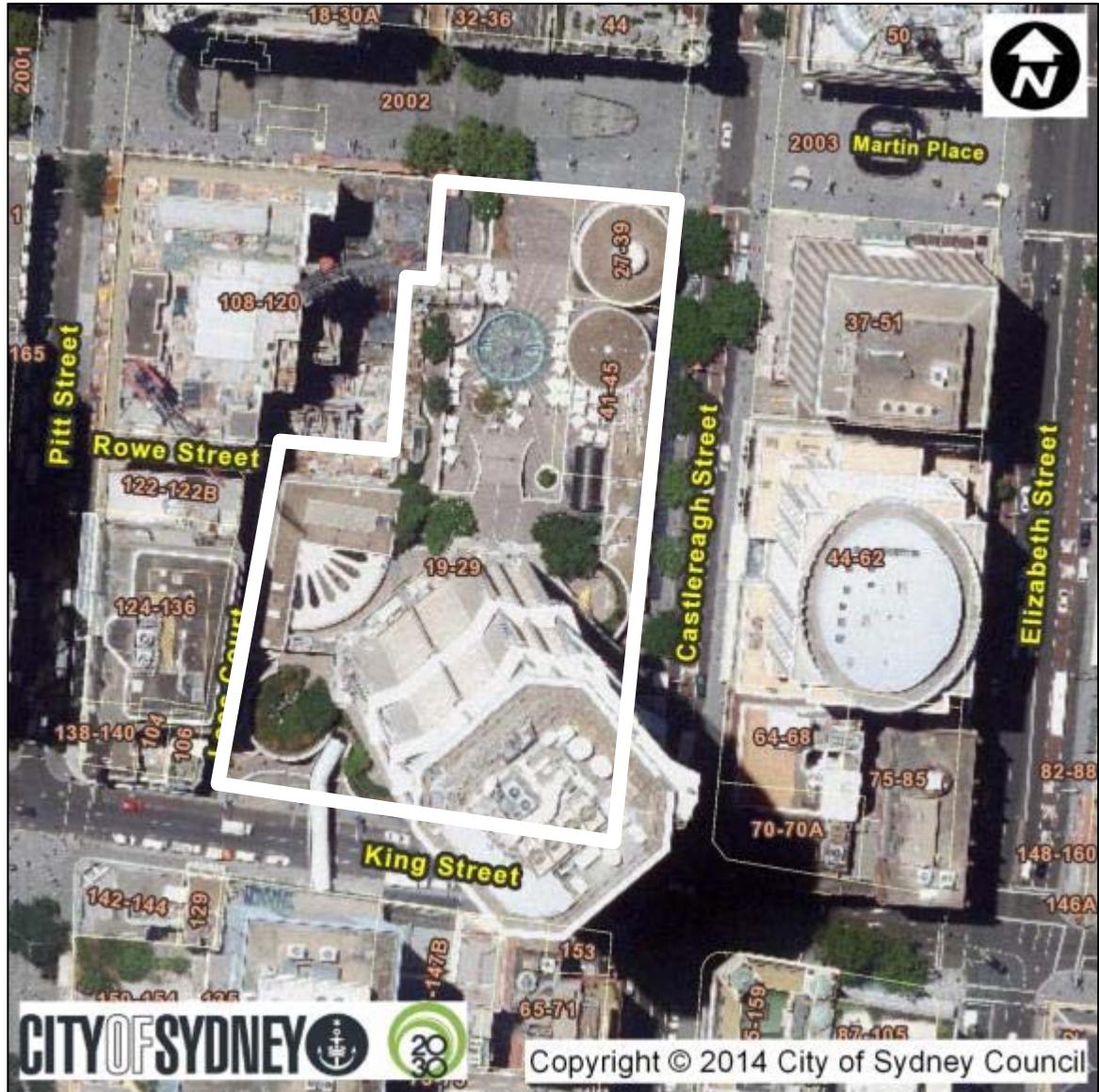


Figure 1: Location Plan



Figure 2: The existing commercial tower and plaza level (Level 7) as viewed from Martin Place



Figure 3: View of the CTA club and existing plaza level retail tenancies (Level 7) as viewed from Martin Place



Figure 4: View of the plaza level and the eastern facade of the adjacent commercial building at 5 Martin Place



Figure 5: The existing commercial lobby entry to the MLC Centre tower, as viewed from the corner of Castlereagh and King Streets



Figure 6: View of Lees Court, entry to the 'Theatre Royal' and vehicular entry to the site as viewed from King Street

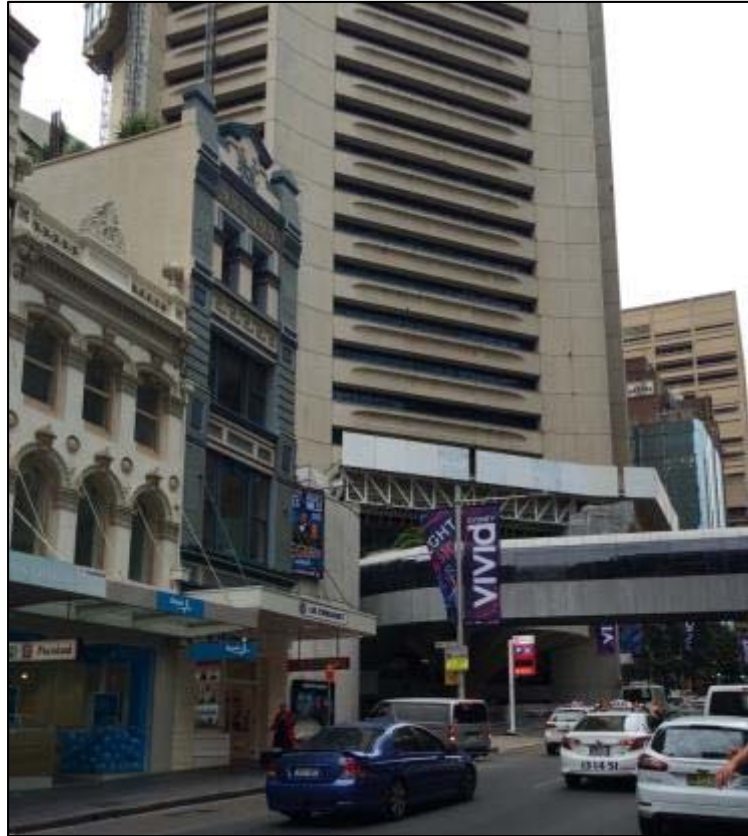


Figure 7: View of the site from King Street



Figure 8: View of Rowe Street (within the boundaries of the site) looking east from Lees Court



Figure 9: The existing Castlereagh Street retail tenancies

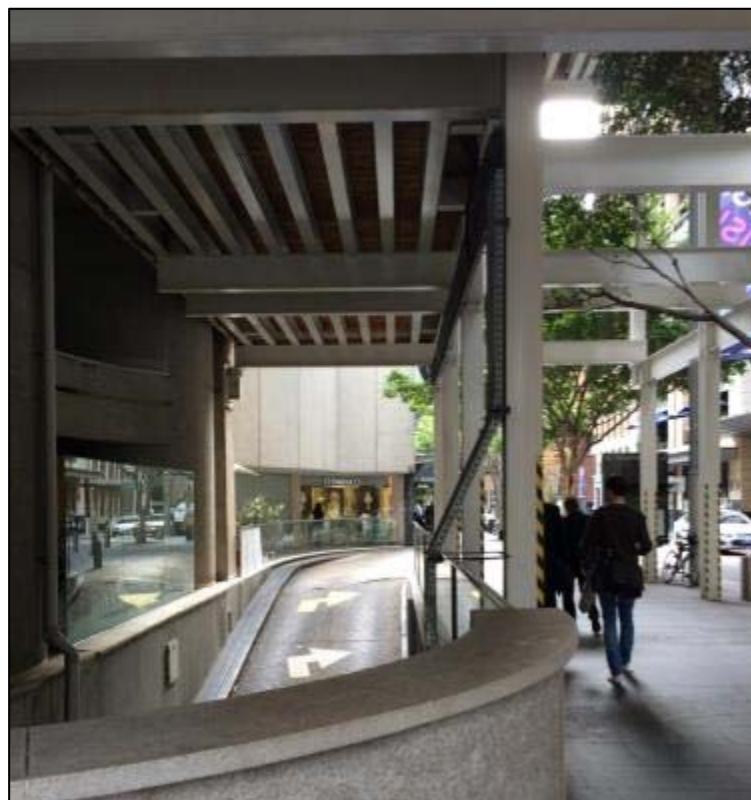


Figure 10: The existing Castlereagh Street vehicular access ramp

5. The site is located centrally within the Sydney CBD, with surrounding land uses being primarily characterised by commercial, retail, visitor accommodation and recreational land uses.

RELEVANT HISTORY TO THE DEVELOPMENT APPLICATION

Recent development applications on the site:

6. The redevelopment and refurbishment of the MLC Centre site has been the subject of a number of development applications in recent years. The following applications are considered to be of relevance to the proposal:
 - (a) Development Application D/2011/1118 was approved by the Central Sydney Planning Committee on 3 November 2011, and granted consent to facade repairs and remediation works to the MLC Centre. These works are currently being undertaken on site;
 - (b) Development Application D/2013/1779 was approved on 13 March 2014, and granted consent for refurbishment works to Levels 6 to 8 (the podium levels) of the MLC Centre, including landscaping works, provision of new chairs, tables and shade parasols to the public plaza and internal alterations and upgrade to the food court level; and
 - (c) Development Application D/2014/103 was approved on 11 June 2014, and granted consent to alterations and additions to Levels 3 to 6 of the MLC Centre, including reconfiguration of the basement levels to provide new end of journey facilities, reconfigured basement retail tenancy and creation of new retail tenancy in food court.

Pre-lodgement consultation:

7. The scope of works proposed as part of this application has been the subject of a number of pre-lodgement meetings with City staff during 2014. This consultation included consideration of the scheme by the City's Design Advisory Panel at its meeting on 21 October 2014 and the forming of a sub-committee of the Design Advisory Panel on 13 November 2014.
8. Particular matters that were raised during pre-lodgement discussions included:
 - (a) appropriateness of the design, and scale of the new podium additions in relation to the original Seidler architecture;
 - (b) benefits to the original architecture of the removal of later uncharacteristic additions to the MLC Centre;
 - (c) retail activation of the Castlereagh Street, King Street and laneway frontages of the site, including appropriate streetscape and shopfront treatments;
 - (d) possible integration of the removal of the King Street pedestrian bridge with project;
 - (e) changes to the vehicular access arrangement to the site and immediate adjacent road network, including removal of the existing vehicular egress ramp on Castlereagh Street; and

- (f) the need for a comprehensive signage strategy for the site.
9. Further discussion on the feedback and advice of the Design Advisory Panel and the response of the Applicant is addressed in the Issues section of this report.

PROPOSAL

10. The subject application seeks consent for partial demolition works and substantial alterations and additions to the podium and basement levels of the MLC Centre (known as Levels 1 to 9). The proposed scope of works includes:
- (a) alterations and additions to the existing podium levels of the development (being Levels 6 and 7), including the public plaza accessed from Martin Place;
 - (b) creation of new retail tenancies for prestige retailing along the King and Castlereagh Street frontages of the site;
 - (c) addition of two new floors to the podium (known as Levels 8 and 9) in order to accommodate new retail tenancies;
 - (d) removal of the existing escalators from the corner of King and Castlereagh Streets and the creation of a new ground floor entry lobby to the commercial tower from Castlereagh Street;
 - (e) modifications to the entry to both the Theatre Royal and retail plaza from King Street (located near the intersection with Lees Court);
 - (f) modification to vehicular access to site (including the removal of the existing Castlereagh Street ramp and modification to the King Street ramp to be a two-way ramp);
 - (g) modifications and minor reconfiguration of basement levels, including:
 - (i) demolition of existing plant and lifts;
 - (ii) installation of new lifts and plant rooms; and
 - (iii) reconfiguration of car parking spaces, loading dock and car park entry;
 - (h) landscaping and public domain improvement works, including improvements and activation to Rowe Street and Lees Court; and
 - (i) external way-finding and directional signage.
11. **Figures 11 to 17**, below, illustrate photomontages of the proposed development. Architectural plans of the proposed development are provided at **Attachment A**.



Figure 11: Photomontage of the proposed additions as viewed from Martin Place



Figure 12: Aerial view of the proposed additional podium levels surrounding the public plaza, looking south from Martin Place



Figure 13: Aerial view of the proposed works, looking northeast from the corner of King Street and Lees Court



Figure 14: Proposed new lobby entry to the commercial tower from Castlereagh Street



Figure 15: View of the proposed alterations and additions to the retail tenancies and shopfront treatments along Castlereagh Street



Figure 16: View of the proposed works to Rowe Street and Lees Court



Figure 17: View looking east along Rowe Street towards the site

CITY OF SYDNEY ACT 1988

12. 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."*
13. Having liaised with the City's Access Unit, in this instance, the proposal is not considered by the CSTTC delegate, the Director City Planning, Development and Transport, to have a significant impact on traffic and transport in the CBD. Therefore, formal consideration by the CSTTC is not necessary.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

14. 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 (Infrastructure) 2007

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

Clause 86 - Excavation in, above or adjacent to rail corridors and Clause 88 - Development within or adjacent to interim rail corridor

16. The proposed development was referred to Transport for NSW (Sydney Trains) on 9 February 2015 under the provisions of Clause 86 and 88 of SEPP (Infrastructure) 2007.
17. In correspondence, dated 17 July 2015, Sydney Trains have granted their concurrence, subject to the imposition of conditions outlined in Schedule 3.

Clause 104 - Traffic generating development

18. The application was referred to the Roads and Maritime Services (RMS) pursuant to Clause 104 of SEPP (Infrastructure) 2007 on 21 May 2015.
19. To date, no response has been received from the RMS. However, pursuant to the provisions of Clause 104(3)(b)(i) of SEPP (Infrastructure) 2007, the consent authority may determine the application where 21-days have passed since the RMS was notified of the application. As this 21-day period has passed, there is no legal impediment to the determination of the application without a response from the RMS.

State Environmental Planning Policy No 55 - Remediation of Land

20. SEPP 55 requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation.

21. The proposed development does not alter the land uses on the site, and the scope of work includes limited excavation within existing basement levels. The City's Health Unit has recommended appropriate conditions for imposition relating to classification of waste and contamination.

State Environmental Planning Policy No 64 - Advertising and Signage

22. SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
23. The proposed development has included a comprehensive signage strategy for all future directional and way-finding signage on the site. The proposed signage includes the following:
 - (a) 3 x double sided 6-metre high pedestrian entrance signs, including way-finding information, corporate branding, a digital screen and illumination of the sign structure and immediate ground surface;
 - (b) a 4-metre high car park entry sign on King Street, including car park operator corporate branding, an LED screen to allow display of available car parking spaces and hourly rate; and
 - (c) 4 x 3.5-metre high pedestrian directory/map, including wayfinding information through the site, corporate branding and illumination of sign structure and the immediate ground surface.
24. It is noted that the signage strategy prepared does not include signage zones for any business identification signage for the retail tenancies proposed as part of the development. The inclusion of business identification signage as part of the comprehensive signage strategy was a specific recommendation of pre-lodgement feedback from Council Officers and the Design Advisory Panel.
25. It is recommended that consent not be granted to any directional signage as part of the subject application. Instead, it is recommended that a condition be imposed requiring the preparation and submission of a comprehensive signage strategy for all signage zones associated with the podium redevelopment. This will require that the signage strategy is prepared in parallel with a retail fit-out strategy for all retail tenancies within the podium redevelopment of the site.
26. Whilst it is not recommended that consent be granted at this time to the proposed directional signage, it is noted that the height of the proposed pylon signs vary between 3.5 metres and 6 metres in height. The height and current design of these pylon signs are considered to be excessive for their purpose. These pylon signs are contrary to the signage objectives and provisions of Section 3.16 of SDCP 2012 and those of Clause 3 and Schedule 1 of SEPP 64, in relation to appropriateness of scale, minimising visual clutter and respect of the site and its context (as an identified special character area).

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

27. The site is located within the designated catchment for Sydney Harbour, and is subject to the provisions of the SREP (Sydney Harbour Catchment) 2005.

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

Sydney LEP 2012

29. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposal is defined as alterations and additions to a 'commercial premises', which is a permissible use within the B8 – Metropolitan Centre zone pursuant to Clause 2.3 of SLEP 2012.
30. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings 6.17 Sun access plane	Yes	<p>The majority of the site does not have a numeric height control, instead the maximum permissible height is determined by the sun access plane for Hyde Park West.</p> <p>Clause 4.3 of SLEP 2012 does stipulate a numeric height control of 55 metres for the northern portion of the site located adjacent to Martin Place, and a 130 metre maximum height for the southwestern corner of the site adjacent to Lees Court.</p> <p>The proposed alterations and additions have a variable height across the site, however, no new works occur above a height of 22 metres. As such, the proposal is compliant with the numeric height development standards for the site and all new works are below the sun access plane for Hyde Park West.</p>

Compliance Table		
Development Control	Compliance	Comment
<p>4.4 Floor Space Ratio</p> <p>6.4 Accommodation floor space</p> <p>6.6 End of journey floor space</p> <p>6.7 Entertainment and club floor space</p>	Yes	<p>Pursuant to Clause 4.4 and 6.4 of SLEP 2012, the maximum permissible FSR for the site is 12.5:1.</p> <p>The site both existing and as approved but not yet constructed, has a total gross floor area of 94,310.5sqm. This includes 6,500sqm of 'entertainment and club floor space' and 579.2sqm of 'end of journey' floor space located in the basement levels of the MLC Building. Excluding these areas, the existing building has a GFA (as defined by SLEP 2012) of 87,231.3sqm.</p> <p>The proposed development results in the creation of 2,316.5sqm of gross floor area, as defined by SLEP 2012.</p> <p>As a result of the proposed development, the total gross floor area on the site increases to 89,547.8sqm (excluding the aforementioned entertainment and club floor space and end of journey floor space). This equates to a FSR of 10.96:1, which complies with the FSR development standard of Clause 4.4 of SLEP 2012.</p>
5.9 Preservation of trees or vegetation	Yes	<p>The proposal includes the removal of 13 street trees, 5 from King Street and 8 from Castlereagh Street. The proposal does include the provision of 14 replacement street trees along the street frontages.</p> <p>The application was referred to Council's Tree Management Unit for review. The loss and replacement of the existing mature and healthy street trees on both street frontages of the site is not supported by Council's Tree Management Unit. These trees are considered to be prominent landscape elements of the streetscape that are worthy of retention.</p> <p>Conditions of consent are recommended for imposition to advise that all street trees must be retained and protected during construction works.</p>

Compliance Table		
Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	Refer to discussion in the issues section of this report.
6.3 Additional floor space in Central Sydney 6.6 End of journey floor space 6.7 Entertainment and club floor space	Yes	The subject site is eligible for accommodation floor space, end of journey floor space, entertainment and club floor space. Discussion on the compliance of the proposal with the relevant floor space provisions for the site are provided under Clause 4.4 of SLEP 2012.
6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	Yes	Pursuant to Clause 6.11(1)(a) of SLEP 2012, the additional floor space proposed would usually be subject to the allocation of heritage floor space (HFS). However, in this instance, the provisions of Clause 6.11(2)(c) are applicable as the development: <ul style="list-style-type: none"> • is for alterations and additions to a building that was in existence prior to the commencement of the SLEP 2012; and • the increase in floor space would be compliant with the FSR that was permissible under the previous planning instrument (being SLEP 2005). As such, the development is entitled to a 100% reduction in HFS, and no allocation of HFS is applicable in this instance.
6.21 Design excellence	Yes	As a result of the site area of the development being in excess of 1,500sqm, any development on this site triggers the requirements to undertake a competitive design process. As the proposal is for alterations and additions to the existing building, the applicant is seeking to waive the requirement to undertake a competitive design process pursuant to Clause 6.21(5) of SLEP 2012. Refer to further discussion in the Issues section of this report.

Compliance Table		
Development Control	Compliance	Comment
		Notwithstanding the above, the proposed alterations and additions are considered to meet the provisions of design excellence as detailed at Clause 6.21(4) of SLEP 2012.
7.6 and 7.7 Car parking ancillary to other development	Yes	<p>There are 277 car parking spaces located over 5 basement levels within the existing development.</p> <p>The proposed development does not seek to alter the existing number of parking spaces on the site, however, does propose to relocate a number of spaces across Levels 1 to 5 as a result of the reconfiguration of the basement levels.</p>
7.14 Acid Sulphate Soils	Yes	The site is identified as containing Class 5 Acid Sulphate Soil (ASS). The documentation submitted identifies that the site is separated by approximately 495 metres from the nearest Class 2 ASS. Council's Environmental Health Officer has advised that no further investigation is needed to satisfy this clause.
7.15 Flood planning	Yes	Appropriate conditions have been recommended by the City's Public Domain Unit.
7.16 Airspace operations	Yes	The proposed works are not located at a height that penetrates the prescribed airspace for Sydney Airport.
7.18 Car parks (Commercial)	Yes	<p>There is an existing commercial car park on the site.</p> <p>The proposal does alter some internal layouts of the car park resulting from ramp reconfigurations and the location of lifts. These changes are minor in nature and do not alter the number of car parking spaces associated with this use or its existing operation (i.e. 6.00am to 12 midnight, 7 days for casual parking in the commercial car park).</p>

Compliance Table		
Development Control	Compliance	Comment
7.20 Development requiring preparation of a development control plan	Yes	<p>Clause 7.20 of SLEP 2012 requires a development on land with a site area greater than 1,500sqm located in Central Sydney to be the subject of a site specific development control plan (or Stage 1 DA).</p> <p>As the proposal is for alterations and additions to the existing building, the applicant has submitted a written request seeking the consent authority waive the requirements of Clause 7.20 of SLEP 2012. Further discussion is provided at the issues section of this report.</p>

Sydney DCP 2012

31. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Martin Place Special Character Area
<p>The northern-most portion of the site (being approximately 20 metres from the site's frontage with Martin Place) is located within the Martin Place Special Character Area.</p> <p>The scope of works that are located within the Special Character Area is limited to a small portion of the proposed podium additions (on levels 7 to 10, inclusive), located on the western side of the site.</p> <p>The proposed development is considered to be consistent with the principles of the Special Character Area in that:</p> <ul style="list-style-type: none"> • the subject site is unique within its context, with the public plaza fronting Martin Place rather than a traditional podium and tower form. • as the site is located on the southern side of Martin Plaza, the additions will not impact on sun access to Martin Place or any significant sandstone buildings along Martin Place; • the siting of the additions do not impact on significant vistas along Martin Place and have no impact on views of the GPO clock tower; and • the additions are sited so as to not impact on the significance of the heritage listed items along Martin Place, and have been designed to be distinguishable later additions to the MLC Centre itself.

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The proposed development includes improvements and upgrade works to the existing lanes to the south of the site (Lees Court and Rowe Street). The scope of these works includes redefining Lees Court as a shared zone, providing active uses along Rowe Street and provision of an access lift from Lees Court.</p> <p>An appropriate condition has been recommended for imposition to require the works to Lees Court to be sought under Section 138 of the Roads Act 1993.</p>
3.1.2.2 Through site link	Yes	<p>SDCP 2012 identifies two through-site links dissecting the site, in a north-south direction (connecting Martin Place to King Street) and an east-west direction (connecting Castlereagh Street to Rowe Street).</p> <p>The existing MLC Centre incorporates these links through the site, noting that these connections do involve level changes.</p> <p>The proposed works do seek to simplify the connections and in particular, strengthen the legibility of the east-west link.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.1.3 Pedestrian overpasses	Able to comply	<p>A pedestrian overpass bridge across King Street currently connects Level 7 of the MLC Centre with the Glasshouse Shopping Centre. The bridge structure is owned by the City.</p> <p>Pedestrian overpasses are discouraged by the City's planning controls as they limit pedestrian movements at street level, and physical disrupt view lines along streets in the public domain. The removal of existing overpass bridges is a key incentive of the City to improve the ground plane and create a lively public domain.</p> <p>The owners of the site have advised that the scheme is not reliant on the pedestrian bridge and the proposed redevelopment would not be an impediment to the bridge's removal.</p> <p>A condition is recommended for imposition to advise that in the event that the pedestrian bridge is removed by the City, that the owner of the site shall make good the southern facade of their site.</p>
3.1.5 Public art	Yes	<p>The proposal includes the retention and enhancement of existing public art pieces on the site, including Perry's 'Mercator' and 'S' sculptures.</p> <p>The proposal has identified locations where new public art could be accommodated, such as within Rowe Street and Lees Court in the form of display cases and LED screens.</p> <p>A condition of consent is recommended to require the location, design and scope of the art work/s to be subject of a separate approval.</p>

3. General Provisions		
Development Control	Compliance	Comment
<p>3.2.2 Addressing the public domain</p> <p>3.2.3 Active frontages</p>	Yes	<p>The proposed development introduces new retail tenancies along the frontages of King and Castlereagh Streets, as well as internally fronting the public plaza and through-site link. The introduction of new street level and first floor level retail tenancies will provide greater activation at street level and improve the presentation of the site to the public domain.</p> <p>It is noted that the proposal seeks to removal much of the later 1990s additions to the MLC Centre, which did elevate and internalise the building from street level.</p>
3.2.4 Footpath awning	Able to comply	<p>Section 3.2.4 of SDCP 2012 identifies the King and Castlereagh Street frontages of the site as being preferred awning locations.</p> <p>The existing development on site currently accommodates an awning for part of its Castlereagh Street frontage. The development does not currently contain an awning along King Street or at the intersection of King and Castlereagh Streets.</p> <p>The proposal seeks to replace the existing glazed awning on the Castlereagh Street frontage with a marble clad awning. The lack of an awning on the remainder of the frontages is considered acceptable in this instance in order to retain the integrity of the Seidler design.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2.4 Footpath awning (continued)	Able to comply	The proposed new awning is located between 5.8 and 6.8 metres above the footpath level, which is significantly higher than permitted by the DCP. The DCP stipulates a height of an awning above footpath level should be between 3.2 and 4.2 metres to provide adequate weather protection. It is recommended that a design modification condition be imposed requiring that the height of this awning be reduced to comply with the DCP. In addition, consideration should be given to an alternative design and material at its lowered height.
3.2.6 Wind effects	Yes	A wind report has been submitted with the application to assess the impacts of the modifications to the building podium on local wind conditions. The report concludes that the site receives good ground level shielding from wind in all directions. The site meets the relevant comfort criteria for walking at ground level, and meets the comfortable outdoor dining criteria within the external plaza areas of the development.
3.2.7 Reflectivity	Yes	A reflectivity study has been submitted with the application. The proposed new glazing has been assessed as posing a minimal risk of glare for drivers travelling southbound along Castlereagh Street and eastbound on King Street. The standard reflectivity condition has been recommended for imposition to ensure all glazing has a reflectivity below 20%.

3. General Provisions		
Development Control	Compliance	Comment
3.2.8 External lighting	Yes	<p>An external lighting concept to the podium of the building has been submitted with the application and proposes 2 lighting themes:</p> <ul style="list-style-type: none"> • reinstatement of the original lighting design to the CTA mushroom and central umbrella structure in the plaza. These elements are to be lit with warm light from concealed light sources; and • new podium additions are to be highlighted with cooler tone with white light, this includes the u-channel glass façade of the podium. <p>The proposed lighting strategy has been designed to comply with the relevant Australian Standards, being AS1158 – Lighting for the outdoor environment, AS4282 – Control of the obtrusive effects of outdoor lighting and AS1680 – Lighting for indoor environment.</p> <p>Appropriate conditions are recommended to ensure the lighting illumination levels may be adjusted if they are considered to be adversely impacting the amenity of adjacent properties or the public domain. The condition also requires that the lighting be consistent with the City's Martin Place Lighting Masterplan.</p>
3.7 Water and Flood Management	Yes	<p>Appropriate stormwater and drainage conditions have been recommended for imposition by the City's Public Domain Unit.</p>
3.9 Heritage	Yes	<p>Refer to discussion in the LEP compliance table.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.11 Transport and Parking	Yes	<p>The proposed application involves reconfiguration of basement parking levels and the modification of the vehicular access ramps to/from the site.</p> <p>It is noted that the proposal is unable to comply with all aspects of the Australian Standard AS2890 due to the constraints of the existing building and basement structure.</p> <p>The proposed modifications and parking configuration has been reviewed by the City's Transport Planner. The Transport Planner has advised that subject to the imposition of conditions that the departures are considered acceptable and do not compromise safety. It has been noted that the improvements to the pedestrian safety in the retail core and vehicular access into the site significantly outweigh the non-compliances.</p>
3.12 Accessible Design	Yes	A condition has been imposed requiring that the recommendations contained within the Access Report, dated 15 December 2014, prepared by Morris-Goding Accessibility Consulting be implemented in the final design.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.

3. General Provisions		
Development Control	Compliance	Comment
3.15 Late Night Trading Management	Able to comply	<p>The site is identified as being located within a 'City Living Area' late night trading zone, which permits low impact premises to operate base indoor hours between 7.00am to 1.00am (the following day).</p> <p>The proposal seeks to create new retail tenancies throughout the podium levels of the development, with it intended that a number of these retail tenancies fronting the central plaza would be used for food and drink premises.</p> <p>It is noted that the subject application is for indicative use of these spaces as retail premises only. The specific use, fit-out and operation shall be the subject of separate development applications. These future DAs will need to have regard to the late night trading provisions of Section 3.15 of the SDCP 2012.</p>
3.16 Signage and Advertising	No	Refer to discussion under SEPP 64.

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.1 Street frontage heights	No (but assessed as acceptable)	<p>The proposed additions to the MLC Centre will create a podium with a maximum height to each street frontage, as follows:</p> <ul style="list-style-type: none"> • 13m to Martin Place; • 15m to Castlereagh Street; • 13m to King Street; and • 19.8m to Lees Court/Rowe Street. <p>The street frontage height or podium height of the development is below the DCP range (which is between 20 and 45 metres). In this instance, this numeric variation is supported. The low podium height is part of the original Seidler design of the MLC Centre, which is a unique landmark building in the Martin Place context.</p>
5.1.2 Building setbacks	Yes	<p>The proposed development does not alter the existing tower on site or its setbacks from the street.</p> <p>The podium additions generally have a nil setback to the street frontages, which is consistent with the setback provisions of the DCP. Where setbacks are proposed at podium level (i.e. along King Street or at the corner of Castlereagh Street), these reflect the curvilinear drum form of the 1970s Seidler scheme.</p> <p>The proposed podium additions on the western side of the plaza are built to the site's shared side boundary with the neighbouring property at 108-120 Pitt Street (also known as 5 Martin Place). This nil setback is discussed further at the Issues section of this report.</p>

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.3 Street frontage heights and setbacks for Special Character Areas	Yes	<p>Section 5.1.3 of SDCP 2012 stipulates a street frontage height on sites within the Martin Place Special Character Area of between 45 and 55 metres. As detailed above, the proposed additions to the below are below 45 metres, and considering the unique circumstances of the site, the variation is supported.</p> <p>Section 5.1.3 of SDCP 2012 also stipulates a 25 metre setback for any tower structure from the northern boundary of the site to Martin Place. As the proposal is limited to the podium addition and does not seek to alter the tower structure, this setback requirement is not applicable in this instance.</p>
5.1.5 Building exteriors	Yes	<p>The proposed materials to be utilised have been separated into 2 categories:</p> <ul style="list-style-type: none"> • those which are to be read as part of the original 1973 scheme, and will replicate the original materials (i.e. white quartz aggregate and white terrazzo); and • new works that are to read as distinct from the 1973 scheme utilise a different materials palette (i.e. translucent U-profile glass, marble and stainless steel). <p>The materials selected and their use to distinguish between original elements (including new works but implementing the original design concept) and new additions is supported.</p>
5.1.8 Award and allocation of heritage floor space	Yes	Refer to discussion in the SLEP 2012 compliance table.
5.1.9 Sun access plane	Yes	Refer to discussion in the SLEP 2012 compliance table.

ISSUES**Waiver of requirement to prepare a Development Control Plan and requirement for competitive design process**

32. As the site is located in Central Sydney and has an area that exceeds 1,500sqm, the provisions of Clauses 6.21(5) and 7.20(2) of SLEP 2012 are applicable. These clauses require the preparation of a site specific development control plan (DCP) and the undertaking of a competitive design process.
33. As the scope of works proposed is limited to alterations and additions to the existing MLC Centre development, the applicant has formally requested that the requirements of Clauses 6.21 and 7.20 be waived by the consent authority.
34. Under the provisions of Clause 6.21(6) and Clause 7.20(3) of SLEP 2012, the consent authority may waive the requirement to prepare a development control plan and undertaking a design competition where the development:
 - (a) involves only alterations and additions to an existing building;
 - (b) does not significantly increase the height or gross floor area of the building;
 - (c) does not have significant adverse impacts on adjoining buildings or the public domain; and
 - (d) does not significantly alter any aspect of the building when viewed from public places.
35. It is considered in this instance that the request to waive the requirement for the preparation of a development control plan and a competitive design process is reasonable as:
 - (a) the subject application is limited to alterations and additions to the podium and basement levels of the existing MLC Centre development;
 - (b) the subject application has been designed by Harry Seidler and Associates Architects, in association with Woods Bagot and Penelope Seidler (owner of the moral rights to the design of the MLC Centre), to respect the original architecture and architectural concept;
 - (c) the proposed additions are marginal increases in height to the existing podium of the MLC Centre, and do not alter the overall height of the tower development of the site;
 - (d) the subject application results in the creation of an additional 2,316.5sqm of gross floor area, which equates to a 2.5% increase in floor space on the site. This is not considered to be a significant increase in gross floor area;
 - (e) the proposed works are considered to enhance the public domain, reinstate the entry to the tower at street level and improves activation of the site and its immediate surrounds;

- (f) the proposed additions are not considered to result in significant adverse impacts to adjoining properties. Those concerns raised by the adjoining property in relation to setbacks of the podium addition is addressed elsewhere in this report, and in themselves, are not considered to be a significant adverse impact or be grounds to warrant a site specific DCP or design competition; and
- (g) whilst the additions will be visible from public places, the extent of additions is not considered to significantly alter the existing Seidler architecture or key design intent of the MLC Centre when viewed from the public domain.
36. Based on the above and the individual circumstances of this development, it is considered that the requirement for the applicant to prepare a development control plan or undertake a competitive design process would be unreasonable and unnecessary. On this basis, it is recommended that these requirements of Clauses 6.21 and 7.20 of SLEP 2012 be waived.

Urban Design and Design Advisory Panel

37. As part of the pre-lodgement discussions with City staff, the proposal was considered by the Design Advisory Panel (DAP) at its meeting on 21 October 2014. Following this meeting, a DAP sub-committee was formed to review the design progression. The sub-committee met on site on 13 November 2014. Copies of the DAP and DAP subcommittee minutes are included at **Attachment C**. As part of the DA assessment process, the subject application was considered by the DAP again on 18 August 2015.
38. The recommendations of the sub-committee and the design response of the lodged scheme is detailed in the following table:

DAP Subcommittee Advice	Design Response
The Theatre Royal should have a clearer identity as a public cultural venue, with strong legibility and presence from the public domain.	<p>The proposal has not created a separate entrance for the theatre from King Street, instead incorporates a shared pedestrian entry from King Street (on Level 6) to the Theatre Royal and a new pedestrian pathway through to retail tenancies on Level 6.</p> <p>From this entry off King Street, the Theatre Royal principal lobby remains in its existing location on the floor below (level 5), which correlates with the entry to the stalls 700 seats. Works are proposed on Level 7 within this drum to extend the balcony to provide a theatre lobby on this level for patrons to access the dress circle seating.</p>

DAP Subcommittee Advice	Design Response
	<p>The design rationale of this shared entry is to open up the existing Seidler spiral staircase, Nervi designed ceiling within this drum and the Perry sculpture to a greater audience of people accessing the retail areas or using the site as pedestrian through site link.</p> <p>The proposal also seeks to incorporate clear signage zones for the Theatre identification and promotion elements for productions.</p>
<p>The Panel recommended that the levels of Rowe Street be reconsidered to remove the “hump”, and requested that the 5 Martin Place development reinvestigate whether the through site link levels can be amended to connect at a lower level.</p>	<p>The existing design does retain the existing level change or “hump” in Rowe Street.</p> <p>A previous application (D/2013/1779) did seek consent for the realignment and regrading of Rowe Street. However as part of the assessment of that development application, the regrading could not be supported as it resulted in a level change of 600mm and was contrary to the approved through-site link levels for the adjacent development at 5 Martin Place.</p> <p>The Applicant has advised that there is no design impediment to removing/reducing the existing hump from the through site link in Rowe Street, and the levels are a response to the current levels of 5 Martin Place.</p> <p>It is recommended that a design modification condition be imposed requiring the provision of amended plans to be submitted prior to the issue of a Construction Certificate. This condition is to require the regrading of the section of Rowe Street located within the boundaries of the MLC Centre site, and that this amendment should be undertaken in association with the owners of 5 Martin Place.</p>

DAP Subcommittee Advice	Design Response
<p>The activation of Lees Court was considered, and it was recommended that artistic or cultural displays could be used to provide visual activation. Opportunities relating to Rowe Street Society and Theatre Royal events should be explored.</p>	<p>A principal design concept of the application is to create a legible and activated through site link along Rowe Street, and tie this in with Lees Court. As detailed elsewhere in this report, the upgrade works to Lees Court and Rowe Street are the subject of a condition of consent.</p> <p>The proposal includes the removal of the bottom course of the existing pre-cast concrete wall cladding on the Rowe Street and Lees Court frontages at pedestrian level. The modifications to the facade provides opportunities for active facade inserts for glass display cases and LED screens, which may be used for public art installations, promoting performances at the Theatre Royal and the Rowe Street Historical Society Memorabilia. It is considered that further detail is required on the exact location and design of these display inserts, and a condition to this effect is recommended for imposition.</p>
<p>The drum at the corner of King and Castlereagh Street was considered. The Panel did not support the proposed marble cladding, and recommended that all drums use the same (existing) materiality and detailing to retain the strength of the original architectural concept.</p>	<p>The lodged scheme has been modified from the proposal considered by the DAP subcommittee, and is now clad and finished in white aggregate quartz and detailed so as to be identical to the existing King Street drum forms.</p> <p>Figures 18 to 20, below, illustrate the design development of this new retail tenancy and the corner treatment. Figure 21, illustrates the scheme that has been lodged as the final DA in response to the feedback of the DAP.</p>
<p>The Panel recommended that all retail visible from the public domain be controlled to ensure that retail fit-outs and displays do not dominate the civic qualities of the architecture. The subcommittee recommended that Council require a Retail Fit-out Strategy to be provided with the DA, to control all future retail fit-outs.</p>	<p>The application has not been accompanied by a retail fit-out strategy. Due to the extent of glazing proposed to the new tenancies along the King and Castlereagh Street frontages, and in particular the glazed enclosure of the Nervi structure, it is considered to be essential that a site specific retail strategy be developed.</p> <p>It is recommended that this strategy be developed in conjunction with the signage strategy for the site. This will ensure a collective approach is developed and endorsed by Council prior to any retail fit-out applications being received. It is recommended that a condition be imposed to require the submission and approval of this retail strategy prior to the issue of any Construction Certificate.</p>

DAP Subcommittee Advice	Design Response
<p>The new entry to the office tower was considered. The Panel did not support the proposed awning as shown in the photomontages. An alternate concept of a crystalline drum at the tower entry was described by the Architect. The Panel supported this idea over the proposed awning, noting that the entry treatment should be consistent with the language of the building.</p>	<p>The proposed scheme has been modified from that presented to the DAP subcommittee in November 2014. The awning illustrated in Figure 20, below, has been replaced with a clear drum form as the main entry portal into the commercial tower from Castlereagh Street (refer to Figure 21). This drum form is more consistent with the original Seidler architecture of the development.</p>
<p>The proposed enclosure of the King Street 'mushroom' was discussed. The Panel did not support the proposed enclosure of the space due to the impact on views to the Nervi structure as well as impact on the public domain of King Street.</p>	<p>The proposed enclosure of the King Street "mushroom" with clear frameless glazing has been retained to create a new 2-storey retail tenancy.</p> <p>It is agreed that the retention of the Nervi structure from the public domain is essential in order to retain the design integrity of the original MLC Centre concept. A design modification condition is recommended to delete the Level 6 (King Street ground level) and mezzanine retail tenancies (being retail tenancies 6.31 and 6.31A), as well as the deletion of the curved glazing around the mushroom structure.</p> <p>Amended plans will be required to be submitted to illustrate the above, including the setting back of the glazing line on Level 7 to allow the mushroom structure to remain unenclosed. Further details will also be required on the ground floor King Street level treatment to retain this area as part of the building forecourt/public domain.</p>
<p>The stair from Rowe Street to Castlereagh Street was discussed. The Panel recommended the stair be widened to achieve a better balance between entry at the Castlereagh Street level, and vertical circulation to Rowe Street.</p>	<p>This stair does not form part of the scope of works of the subject application. The installation of this stair was the subject of a previous development application and has already been constructed to the width nominated on the plans.</p>

DAP Subcommittee Advice	Design Response
<p>The geometry of the Plaza buildings was discussed. The Panel maintained the previous recommendation to review and simplify the geometry of the plaza architecture, particularly the Castlereagh Street side element.</p>	<p>The proposal has been further modified since its consideration by the DAP subcommittee, with the curvilinear form further simplified. Figure 22, below illustrates the previous iteration of the scheme that was considered by the DAP subcommittee. Figure 23, illustrates the amended scheme as lodged.</p>
<p>The proposed overhang to Castlereagh Street was reviewed. The proposed overhang was not supported, and the Panel's original comments on the overhang, awning and proposed 2-storey retail space remain unchanged.</p>	<p>The proposal has been amended to ensure that the plant room and associated cladding is sited wholly within the boundary of the site and does not overhang the Castlereagh Street footpath. The projection over Council's footpath is now limited to the awning. As is detailed elsewhere in this report, a design modification condition is recommended to ensure the height of this awning is consistent with the SDCP 2012 provisions.</p>



Figure 18: The original design concept presented at pre-lodgement stage, as viewed from the corner of King and Castlereagh Streets



Figure 19: The scheme first presented to the DAP at pre-lodgement stage, as viewed from the corner of King and Castlereagh Streets



Figure 20: The scheme presented to the DAP sub-committee, as viewed from the corner of King and Castlereagh Streets



Figure 21: The lodged scheme, as viewed from the corner of King and Castlereagh Streets



Figure 22: The curvilinear podium addition on the eastern side of the plaza that was considered by the DAP sub-committee



Figure 23: The scheme as lodged to respond to the feedback of the DAP to simply the architecture of the podium addition

Western Podium Addition Side Setback

39. The proposal seeks to increase the number of storeys of the podium, located on the western side of the public plaza, by an additional 2 levels. These additions will accommodate one level of retail floor space and one level of plant.

40. A submission has been received by the adjacent property (known as 5 Martin Place) in relation to the interface of this podium addition on the western side of the plaza with the recently completed addition to their site. Concern has been raised that the siting of this podium, in particular the Level 9 plant and ceiling space, would obstruct natural light into the Level 2 eastern elevation windows of the commercial office at 5 Martin Place (refer to **Figure 24**, below).

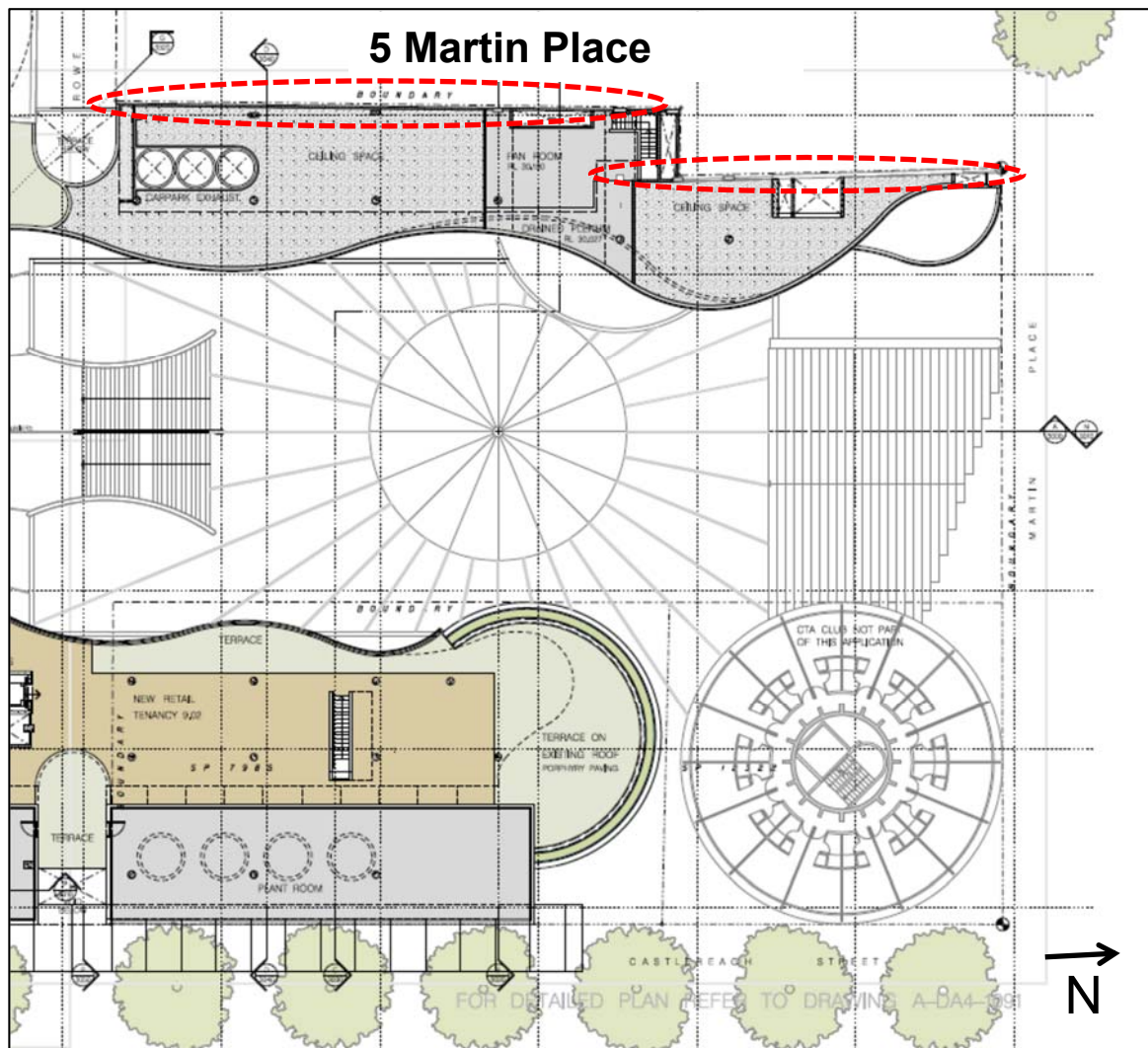


Figure 24 - Level 9 floor plan illustrating location of new podium plant in relation to 5 Martin Place

41. The submission has requested that the plant level of the subject site be setback 900mm from the shared boundary to allow the retention of natural light to this office floor and into the glazed roof of the through site link (see **Figure 25**, below).



Figure 25: The existing eastern elevation of the neighbouring development at 5 Martin Place, as viewed from the Level 7 plaza of the subject site

42. In this instance, it is not considered that a provision to the set the new podium levels back from the western boundary is warranted as:
- (a) at the time of assessment of the development application for the redevelopment of 5 Martin Place (being D/2009/1386), an objection was made on behalf of the owners of the MLC Centre. This objection related to the nil setback of the addition at 5 Martin Place from the eastern boundary, notably the siting of new windows on the common boundary. As a consequence, the application was approved with a boundary window covenant condition as follows:

“All windows adjacent to the eastern boundary of the site must be sealed, bricked up or otherwise enclosed, prior to the construction of any abutting, adjoining or adjacent to such windows. Prior to Construction Certificate No. 3 being issued, a documentary restrictive covenant is to be registered on the Title of all units/tenancies facing the affected boundary. The covenant is to be created appurtenant to Council and at no cost to Council”;
 - (b) a restrictive covenant was registered on the title of 5 Martin Place in October 2012, to advise future tenants of the fact that they had no right to the protection of their eastern elevation windows. As such, the existence of these eastern elevation windows of 5 Martin Place located on the boundary should not preclude the redevelopment potential of the subject site;

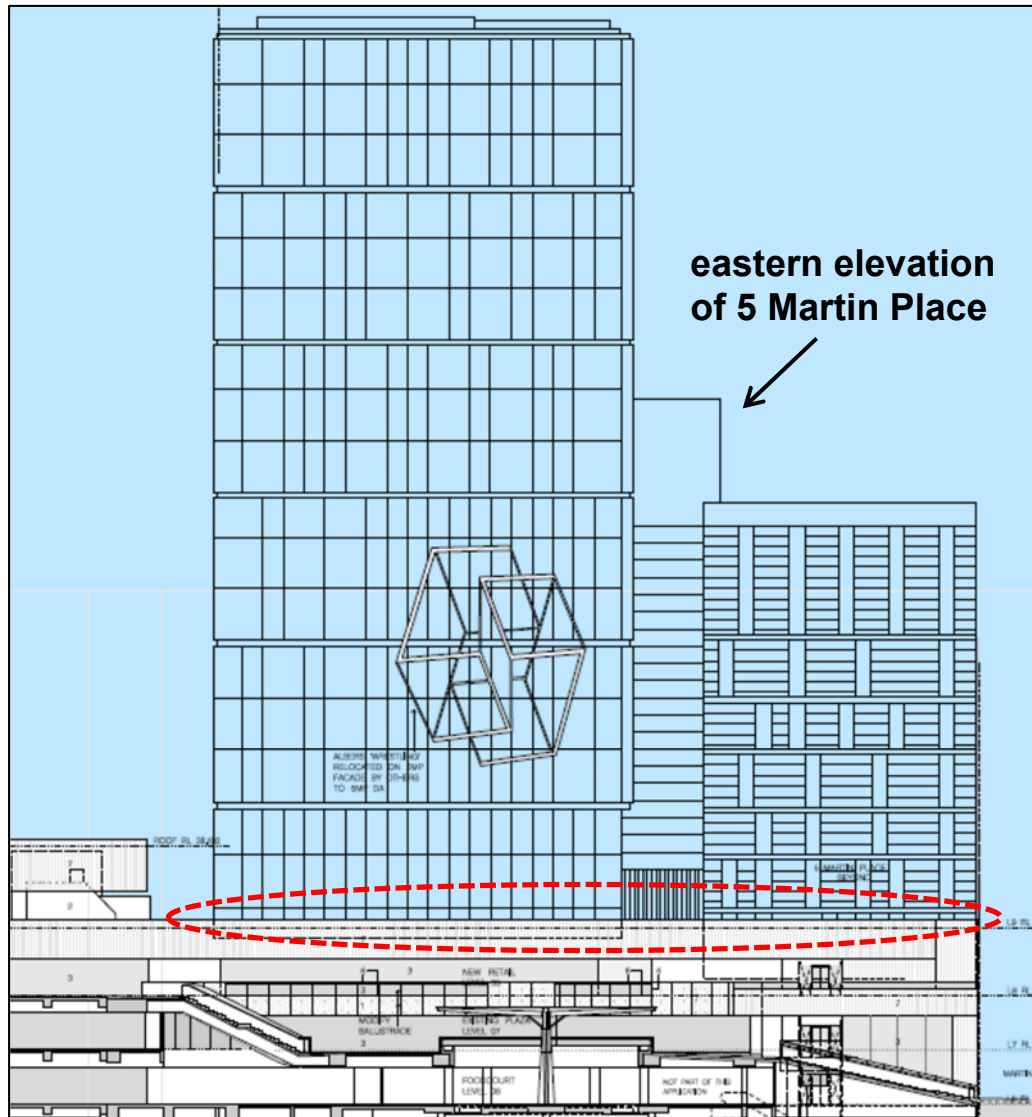


Figure 26: Sectional drawing illustrating the interface of the proposed podium addition with the eastern elevation of 5 Martin Place

- (c) the impact of the proposed podium addition on the eastern elevation windows of the adjacent commercial building at 5 Martin Place is limited to one floor of the commercial building. As is evident from **Figure 26**, above, the proposed Level 9 plant level does not wholly obstruct the eastern elevation windows of Level 2 of 5 Martin Place. The terms of the covenant allow Council to require that these eastern elevation windows be bricked up or sealed in the event of the redevelopment of the MLC Centre site. As these level 2 windows are not being wholly obstructed, it is considered that the tenants of 5 Martin Place are still benefitting from the natural daylight that will still be received through these windows. This is considered to be a better alternative than bricking up these windows;

- (d) level 2 of 5 Martin Place is an open plan commercial office, and it should be noted that this tenancy does not solely rely on natural light from the eastern elevation windows. This commercial office floor also receives natural light from windows located on the northern, western and southern facades, and receives additional filtered daylight through a lightwell on the eastern elevation and a void that runs centrally through the floor plates. Collectively, all of the above will ensure that there is adequate ambient light into the tenancy; and
- (e) Section 5.1.2.2 of SDCP 2012 does not require a side setback for elements of building below 45 metres, nor is there a setback requirement where a wall with no windows is proposed. In this instance, the podium additions are to a maximum height of 13 metres and do not contain any west facing windows. As such, the proposal is compliant with the DCP provisions with regard to setback requirements.

Balcony projections over Lees Court

43. The proposed development includes the addition of two new balconies on Level 8 and 9 that project beyond the site boundaries and extend over Lees Court (to the east of the site). These proposed balconies extend across the boundary by 2.5 metres on Level 8 (approximately 6.8 metres above the existing lane level) and 2 metres on Level 9 (approximately 11.8 metres above the lane level).
44. **Figure 27**, below, illustrates the proposed balconies over Lees Court.



Figure 27: The proposed balcony projections over Lees Court, as viewed from the corner of Lees Court and Rowe Street

45. Section 5.1.5 and Schedule 4 of SDCP 2012 permits only minor projections over the public domain, no greater than 450mm, where these projections are considered to be of a public benefit.

46. It is recommended that a design modification be imposed to limit the extent of the balcony projections on both Levels 8 and 9 to a maximum of 450mm over Lees Court in accordance with the DCP provisions. As modified, no objection is raised to the height of the balconies, as both are in exceedance of the minimum requirement of 3.2 metres above the public domain.

Heritage

47. The site itself is not heritage listed, however, is located within a heritage significant precinct of the Sydney CBD. The site is partially located within the Martin Place Special Character Area and adjoins the Pitt Street Mall Special Character Area. The site adjoins both Martin Place and Rowe Street, which are both identified as heritage items within the SLEP 2012.
48. The site is located within the vicinity of number of heritage items, including the former Commonwealth Bank of Australia building at 108-120 Pitt Sydney (also known as 5 Martin Place), the 'Millions Club' at 122 Pitt Street and 106 King Street.
49. As the MLC Centre itself is not heritage listed, the heritage assessment is limited to an assessment of the impacts on Martin Place and surrounding heritage items. The application was referred to the City's Senior Heritage Specialist, who has raised concerns with regard to the curvilinear form of podium addition adjacent to the plaza and Martin Place, as well the backlighting of this feature.
50. It was recommended from a heritage perspective that the podium addition (levels 7 to 9) on the western side of the plaza be setback 20 metres from Martin Place (refer to **Figures 28** and **29**, below). It has been recommended from a heritage perspective that the form of the podium additions should be amended to be an orthogonal form and to be clad in white quartz aggregate to match the original MLC Centre.

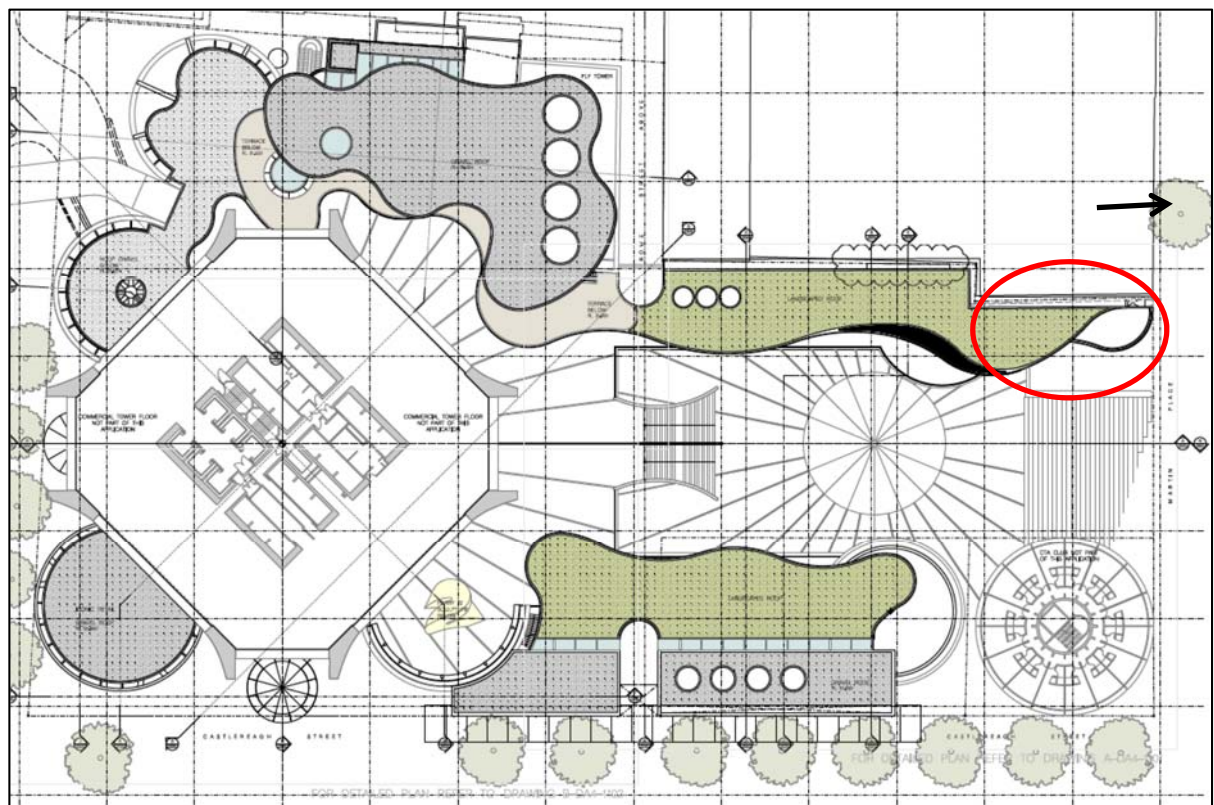


Figure 28: The portion of the western podium addition that is located within 20 metres of Martin Place



Figure 29: The portion of the western podium addition that is located within 20 metres of Martin Place

51. The recommended heritage design modification is not concurred with in this instance as:
- (a) detailed consideration has been given by the Design Advisory Panel to the architectural treatment and lighting scheme, considering its siting and relationship to adjacent heritage buildings. The matter was also referred to the NSW Heritage Council, who raised no comment or objection;
 - (b) the proposed scheme has been prepared by Harry Seidler and Associates, with their design vision being:
 - (i) to re-establish the clarity of the original 1973 design;
 - (ii) removal of unsympathetic fabric; and
 - (iii) that all new works be clearly and legibly differentiated in architectural expression from the 1973 Harry Seidler design. The new works have been designed to stand apart yet be of an architectural language that is consistent with Harry Seidler's later designs.
 - (c) the modification of the proposal to replicate the existing design in form and materiality would be contrary to the above design intent;
 - (d) a setback of the podium by 20 metres from Martin Place would be contrary to the planning controls for the Martin Place Special Character Area of Section 5.1.3 of SDCP 2012, which envisages that podium development will be built to the boundary alignment with Martin Place up to height of 45 metres; and
 - (e) the scope of the podium addition adjacent to, and within 20 metres of, Martin Place is minor, and is predominately limited to the new terrace on Level 8.

Other Impacts of the Development

52. The proposed development is capable of complying with the BCA.
53. 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

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

INTERNAL REFERRALS

55. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Surveyors; Transport and Access; Tree Management; Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.

EXTERNAL REFERRALS**Notification, Advertising and Delegation**

56. 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 9 February 2015 and 10 March 2015. As a result of this notification there were two (2) submissions received, the content of which is summarised below:

- (a) Support the following elements of the proposal to redevelopment the MLC Centre:
 - (i) The landscape podium rooftops improves the appearance of the site from adjacent buildings;
 - (ii) Internalising plant areas to assist in the uncluttered appearance of podium rooftops;
 - (iii) Activation of the ground floor plane, particularly the addition of retail tenancies on Rowe Street and Lees Court; and
 - (iv) The relocation of the kitchen and smoke exhausts away from 5 Martin Place.

Response – Noted.

- (b) Object to the ceiling space and plant room of the podium addition obstructing the Level 2 eastern facade windows of 5 Martin Place, as this will significantly reduce natural light and outlook from this tenancy. Request that this be modified to require this plant level to be setback between 600mm to 900mm from the facade of 5 Martin Place.

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

- (c) The modifications to the vehicular access ramp on King Street will create additional traffic movements around Lees Court, and this will impact on vehicles entering and exiting 5 Martin Place.

Response: The applicant meet with the City's Transport Planners as part of pre-DA discussions to discuss the changes to the vehicular access to the site, with eight different options being explored. Consideration has been given to the modifications to the King Street ramp in relation to the future cycleway along the northern side of King Street, as well as the pedestrian movements along the frontages of the site. The proposed configuration has been supported on both planning and traffic grounds as an improvement to the site and the public domain.

It is noted that there is no increase in the number of car parking spaces and no changes proposed to the operation of the existing car park as part of the subject application. The proposal will not increase vehicle movements to and from Lees Court. The City's Transport Planner is satisfied that the proposed modifications to the vehicular egress from the site is acceptable and will not adversely impact traffic movements on King Street or impede access on adjacent sites.

The application was referred to the Roads and Maritime Services under the provisions of SEPP (Infrastructure) 2007 as King Street is a classified road. No comment or objection to the proposal was raised.

- (d) The proposed cantilevered balconies over Lees Court are outside the boundaries of the site and may impeded truck access to 5 Martin Place.

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

- (e) The new retail tenancies in Rowe Street appear to rely on outdoor seating. Seating in this location may constrict pedestrian movements along Rowe Street and the through-site link (through 5 Martin Place). This would be contrary to the easements for light and air and right of carriageway that benefit 5 Martin Place. It is assumed that the use of the retail premises would be subject to a separate DA.

Response: Noted. The future fit-out, use and any associated outdoor dining for this Rowe Street tenancy would be the subject of a future development application.

- (f) It is assumed that the art works, lighting, signage and street furniture in Rowe Street would be the subject of separate applications.

Response: Conditions have been recommended for imposition requiring separate applications and/or approvals for the public art/historical interpretations/theatre advertising, signage strategy and works/street furniture in Rowe Street. The lighting strategy forms part of the subject application, and appropriate conditions are recommended for imposition to minimise impacts on adjacent properties.

- (g) The installation of construction hoarding in Lees Court will impede vehicular access to the site of 5 Martin Place, and this is not adequately dealt with in the Construction Traffic Management Plan.

Response: It is noted that the Construction Traffic Management Plan (CTMP) submitted with the application advised that both vehicular and pedestrian access is to be maintained along Lees Court during construction works. It should be noted that the CTMP has not been approved as part of this application. A condition of consent has been imposed requiring the preparation and approval of a further CTMP by the City's Traffic and Construction Regulation Units prior to the issue of any Construction Certificate. Construction hoarding and barricades are subject to a separate approval prior to the commencement of construction works on site.

- (h) The plant area adjacent to the 5 Martin Place will require appropriate acoustic attenuation to not exceed the allowable noise limits.

Response: Appropriate noise conditions have been recommended for imposition.

- (i) Potential damage to the glazed facades of 5 Martin Place during construction works on the MLC Centre site.

Response: A condition has been imposed requiring the preparation of a dilapidation report for the property at 5 Martin Place prior to the commencement of works.

- (j) Request that no approval be given to evening, overnight or weekends to protect the amenity of nearby residents.

Response: Consent is limited to standard construction hours for CBD projects, which are 7.00am to 7.00pm, Monday to Friday and 7.00am to 5.00pm on Saturdays. No works are permitted on Sundays or Public Holidays.

PUBLIC INTEREST

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

FINANCIAL IMPLICATIONS/S61 CONTRIBUTION

Section 61 Contributions

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

RELEVANT LEGISLATION

59. The Environmental Planning and Assessment Act 1979.

CONCLUSION

60. The proposal seeks consent for significant alterations and additions to the basement and podium levels (being Levels 1 to 9) of the MLC Centre at 19-29 Martin Place, Sydney.

61. The proposal has been the subject of extensive design refinement to ensure that the additions are appropriate to the original 1970s Seidler scheme of the MLC Centre and are sympathetic to the heritage context of the site fronting Martin Place.
62. As a result of the site area, the scope of works triggers the requirements for the preparation of the site specific development control plan (or Stage 1 DA) under the provisions of Clause 7.20 of SLEP 2012 and that a competitive design process be undertaken pursuant to Clause 6.21 of SLEP 2012. As detailed in this report, it is recommended that the consent authority waive these requirements as the scope of works is limited to alterations and additions, and these processes would be unreasonable and unnecessary in this instance.
63. The proposed development is considered to be generally consistent with the relevant planning controls and responds appropriately to the constraints of the site. The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Sydney CBD.
64. The application is recommended for approval, subject to conditions, including the concurrence conditions of Sydney Trains.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)