

**ITEM 5. DEVELOPMENT APPLICATION: 58-60 MARTIN PLACE AND 3D MARTIN PLACE AND 197 MACQUARIE STREET SYDNEY****FILE NO: D/2015/509****DEVELOPMENT APPLICATION NO: D/2015/509****SUMMARY**

- Date of Submission:** 17 April 2015
- Applicant:** Investa Nominees Pty Ltd ATF 60 Martin Place Unit Trust
- Architect:** Hassell
- Developer:** Investa Nominees Pty Ltd ATF 60 Martin Place Unit Trust
- Owner:** Investa Nominees Pty Ltd ATF 60 Martin Place Unit Trust, The Uniting Church in Australia Property Trust (NSW) and Rail Corporation of NSW
- Cost of Works:** \$258,377,254
- Proposal Summary:** The subject application seeks consent for a 33-storey commercial office development, and encompasses the following:
- demolition of existing structures, excluding the heritage listed St Stephen's Church;
  - reconstruction and expansion of basement levels, with vehicular access off Phillip Street;
  - 45,404sqm of commercial office and retail floor space;
  - 69 car parking spaces;
  - building identification signage zones;
  - relocated pedestrian entry to Martin Place railway station;
  - demolition of a retaining wall and restoration works to St Stephen's Church;
  - landscaping, public art and public domain works; and
  - staged construction.

**Proposal Summary:  
(continued)**

The application was notified for 30-days in April/May 2015. The notification of the application resulted in 6 submissions being received, raising the following matters:

- relocation of the station entry;
- construction traffic and parking;
- impact of construction noise and vibration on surrounding land uses;
- adequacy of construction methodology documentation; and
- lodgement of separate early works application

The site has been the subject of a planning proposal that formulated site specific planning controls within both the SLEP 2012 and SDCP 2012.

The proposed development has been designed to be generally consistent with these site specific planning controls. Where variation to the envelope has been proposed, this has occurred wholly in accordance with the nominated exploration zones identified in the competitive design process brief. The variation proposed to the cantilevered element of the tower is considered to be a better heritage outcome (both in terms of the interface with St Stephen's Church and for the greater Macquarie Street precinct) than a strictly compliant scheme, and is supported in this instance.

As a result of the extensive heritage input throughout both the planning proposal and competitive design process (including that of the Heritage Council of NSW), it is considered that the formulation of a heritage committee for this application would be of little benefit. It is recommended that the consent authority waive the requirement for a heritage committee pursuant to Section 3.9.4 of the SDCP 2012 as it is considered to be unnecessary in this instance.

The subject application (D/2015/509) is supported and recommended for a deferred commencement approval to enable the Applicant to provide a detailed demolition works methodology statement.

**Summary Recommendation:**

The application is recommended for deferred commencement consent.

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) Heritage Act 1977
- (iii) Airports (Protection of Airspace) Regulations 1996
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012
- (vi) State Environment Planning Policy No. 55 - Remediation of Land
- (vii) State Environmental Planning Policy No. 64 – Advertising and Signage
- (viii) State Environmental Planning Policy (Infrastructure) 2007
- (ix) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

**Attachments:**

- A - Architectural Plans
- B - Photomontages
- C - Design Advisory Panel Minutes

**RECOMMENDATION**

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD;
- (B) pursuant to the provisions of Section 3.9.4(3) of the Sydney Development Control Plan 2012, that the consent authority waive the requirements for the appointment of a heritage committee as it is considered to be unnecessary in this instance;
- (C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2015/509, subject to the following:

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

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

**(1) DEMOLITION AND EXCAVATION WORKS METHODOLOGY STATEMENT**

Prior to the activation of this consent, the following scope of work must be completed to the written satisfaction of the Director City Planning, Development and Transport:

- (a) A professional engineer with suitable tertiary qualifications in civil, structural or other equivalent discipline or a person with adequate industry experience in the specialist demolition of structure via non-percussion hammer methodology, i.e. concrete removal and disposal, is to be appointed (the Demolition Professional).
- (b) A suitably qualified acoustic consultant\* will be appointed.
- (c) Working together the Demolition Professional & Acoustic Consultant will prepare a report (The "Demolition & Excavation Methodology Report" which:
  - (i) Reviews the construction methodology of the existing building,
  - (ii) Identifies and provides alternative demolition works methodologies that must be used in removing the existing structure in a manner which will comply with the CONSTRUCTION NOISE conditions (Conditions (34) to (37), inclusive) in the development consent. Methodologies which are to be considered include:
    - a. Section sawing, slab sawing and wall sawing,

- b. Diamond tipped wire sawing,
  - c. Bursting, splitting, fracturing using bursting heads or other consistent means,
  - d. Portable or excavator assisted crushing methodologies; and
  - e. Other means aside from apparatus excluded in part (d) below.
- (iii) The report may not dismiss the use of any of the above in favour of non-hand held percussion hammer equipment for demolition without:
- a. Identifying the specific floor and section of the building for which non-hand held percussion equipment is proposed to be used. The report is not to generalise areas and sections of the building;
  - b. Providing specific written justification as to why each of the methodologies cannot be employed with reference to the specific section of the building in which non-handheld percussion hammers are proposed to be used. If Workplace Health & Safety is to be used as a basis for exclusion of the methodologies, the Demolition Professional must be able to present risk assessment documentation detailing as to why this is the case; and
  - c. Providing advice from the Acoustic Consultant as to specific acoustic treatment / mitigation in any circumstances where percussion hammers are proposed to be used and demonstrate that it will comply with the CONSTRUCTION NOISE conditions (Conditions (34) to (37), inclusive) at all surrounding noise sensitive receivers. Generalist reference to AS2346 techniques or otherwise is not permitted, the report must detail the application and location of specific noise control.
- (iv) The report must provide a statement prepared by the Demolition Professional and Acoustic Consultant that includes their name, qualifications and a summary of experience that the methodology reported on is encapsulates all reasonable and feasible measures to reduce the environmental noise impact of the proposal. The report must support this statement with adequate demonstration that alternative methodologies have been investigated.
- (d) For the purpose of this condition, the use of excavator mounted or otherwise non-handheld, power actuated percussion hammers, rock breakers (or otherwise known, such/similar equipment) is not permitted for general use on the site. Any exclusion to this will be to a reported work methodology provided to the written satisfaction of the Director City Planning, Development and Transport. The methodologies must be to the satisfaction of the Director City Planning, Development and Transport, to best practicable means, employing all reasonable and feasible alternative methodologies and mitigations.

- (e) The City reserves the right to have an independent, appropriately qualified person review any aspect of the report at the expense of the applicant and include further necessary terms and content to the satisfaction of the Director City Planning, Development and Transport.
- (f) The final approved report will form part of this consent.

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

- (D) evidence that will sufficiently enable Council to be satisfied as to those matters identified in the deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of determination of this deferred commencement consent, failing which this deferred development consent **will lapse** pursuant to Section 95(6) of the Environmental Planning and Assessment Act, 1979;
- (E) the consent will not operate until such time that the Council notifies the Applicant in writing that the deferred commencement consent conditions, as indicated above, have been satisfied; and
- (F) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent:

## **PART B**

### **CONDITIONS OF CONSENT**

#### **(ONCE THE CONSENT IS IN OPERATION)**

#### **SCHEDULE 1A**

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

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

#### **(1) STAGED CONSTRUCTION**

This consent allows construction works to be broken into 6 stages, as follows:

- (a) **Construction Stage 1** – demolition;
- (b) **Construction Stage 2** – excavation and footings;
- (c) **Construction Stage 3** – installation and construction of in-ground services and infrastructure;
- (d) **Construction Stage 4** – construction of basement structure and services;

- (e) **Construction Stage 5** – construction of above ground structure and services; and
- (f) **Construction Stage 6** – installation of public art, public domain and landscaping works.

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

**(2) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2015/509, dated 17 April 2015, and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
A1101 Revision 3 B3 Basement Plant	Hassell	16 April 2015
A1102 Revision 2 B2 Basement Parking	Hassell	16 April 2015
A1103 Revision 3 B1 Basement Dock, Plant and Parking	Hassell	16 April 2015
A1104 Revision 3 LG Public Uses/Retail	Hassell	16 April 2015
A1105 Revision 3 UG Commercial Lobby/Retail	Hassell	16 April 2015
A1106 Revision 3 Level 1 Podium- Commercial	Hassell	16 April 2015
A1107 Revision 3 Level 2 Podium - Commercial	Hassell	16 April 2015
A1108 Revision 3 Level 3 Podium - Commercial	Hassell	16 April 2015
A1109 Revision 3 Level 4 Podium Top – Retail/F&B	Hassell	16 April 2015

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
A1110 Revision 3 Level 5 Low Rise - Commercial	Hassell	16 April 2015
A1111 Revision 3 Level 6 Low Rise - Commercial	Hassell	16 April 2015
A1112 Revision 3 Level 7 Low Rise – Commercial	Hassell	16 April 2015
A1113 Revision 3 Level 8 Low Rise - Commercial	Hassell	16 April 2015
A1114 Revision 3 Level 9 Low Rise - Commercial	Hassell	16 April 2015
A1115 Revision 3 Level 10 Low Rise - Commercial	Hassell	16 April 2015
A1116 Revision 3 Level 11 Low Rise - Commercial	Hassell	16 April 2015
A1117 Revision 3 Level 12 Low Rise - Commercial	Hassell	16 April 2015
A1118 Revision 3 Level 13 Low Rise - Commercial	Hassell	16 April 2015
A1119 Revision 3 Level 14 Low Rise - Commercial	Hassell	16 April 2015
A1120 Revision 3 Level 15 Low Rise - Commercial	Hassell	16 April 2015
A1121 Revision 3 Level 16 Low Rise - Commercial	Hassell	16 April 2015



<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
A1122 Revision 3 Level 17 Low Rise - Commercial	Hassell	16 April 2015
A1123 Revision 3 Level 18 Plant Room	Hassell	16 April 2015
A1124 Revision 3 Level 19 High Rise - Commercial	Hassell	16 April 2015
A1125 Revision 3 Level 20 High Rise - Commercial	Hassell	16 April 2015
A1126 Revision 3 Level 21 High Rise - Commercial	Hassell	16 April 2015
A1127 Revision 3 Level 22 High Rise - Commercial	Hassell	16 April 2015
A1128 Revision 3 Level 23 High Rise - Commercial	Hassell	16 April 2015
A1129 Revision 3 Level 24 High Rise - Commercial	Hassell	16 April 2015
A1130 Revision 3 Level 25 High Rise - Commercial	Hassell	16 April 2015
A1131 Revision 3 Level 26 High Rise - Commercial	Hassell	16 April 2015
A1132 Revision 3 Level 27 High Rise - Commercial	Hassell	16 April 2015
A1133 Revision 3 Level 28 High Rise - Commercial	Hassell	16 April 2015

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
A1134 Revision 3 Level 29 High Rise - Commercial	Hassell	16 April 2015
A1135 Revision 3 Level 30 High Rise - Commercial	Hassell	16 April 2015
A1136 Revision 3 Level 31 High Rise - Commercial	Hassell	16 April 2015
A1137 Revision 3 Level 32 Plant Floor	Hassell	16 April 2015
A1138 Revision 3 Level 33 Roof + Plant	Hassell	16 April 2015
A1139 Revision 3 Roof	Hassell	16 April 2015
A1140 Revision 2 Landscape Roof	Hassell	16 April 2015
A1141 Revision 2 Level 4 Terrace	Hassell	16 April 2015
A1142 Revision 2 Level 28 Terrace	Hassell	16 April 2015
A1143 Revision 2 Level 30 Terrace	Hassell	16 April 2015
A2001 Revision 1 GA Elevation North	Hassell	16 April 2015
A2002 Revision 1 GA Elevation East	Hassell	16 April 2015

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
A2003 Revision 1 GA Elevation South	Hassell	16 April 2015
A2004 Revision 1 GA Elevation West	Hassell	16 April 2015
A3001 Revision 3 GA Sections Sheet 1	Hassell	16 April 2015
A3002 Revision 2 GA Sections Sheet 2	Hassell	16 April 2015

and as amended by the conditions of this consent.

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

### (3) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

#### **Macquarie Street Awning**

- (a) Amended plans shall be submitted to further refine the height, extent of projection and materiality of the proposed building entry awning on the Macquarie Street frontage of the site (notated on the plans as a canopy). The amendments should:
- (i) better resolve the interface of this awning with St Stephen's Church; and
  - (ii) seek to minimise the obstruction of views of the church along Macquarie Street as a result of the awning.

#### **Internal Podium Stair**

- (b) Amended plans shall be submitted to modify the design and materiality of the internal podium stair (connecting the Upper Ground floor to Level 4) in order to improve views from the Lower Ground Level out to Macquarie Street.

**Facade Treatment – Plant Level (Level 18)**

- (c) Amended plans and further documentation shall be submitted to minimise the visual disruption and break to the facade expression resulting from the Level 18 plant room. Further design refinement should be undertaken to consider the proportioning, materials and openings at this level of the building to ensure the continuity in the facade treatment.

**Building Identification Signage Zones**

- (d) No consent is given or implied to the four building identification signage zones/building name signs illustrated on the plans (notated as 'sky signage zone').
- (e) Amended plans shall be submitted reducing the number of signage zones/building name signs to a maximum of two elevations. As amended, the development may have a maximum of two (2) building identification/building name signs at the roof-top parapet level of the building.

The modifications are to be submitted to and approved by Council's Director, City Planning, Development and Transport prior to the issue of a Stage 2 Construction Certificate.

**(4) DESIGN QUALITY EXCELLENCE**

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

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

Separate development applications for the fit-out and use of the retail tenancies on the lower and upper ground floors and the indicative restaurant tenancy on Level 4 must be submitted to and approved by Council prior to that fit-out or use commencing.

**(6) 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 boards, and specifications prepared by Hassell, and submitted to Council with Development Application D/2015/509 on 17 April 2015.

**(7) BUILDING IDENTIFICATION SIGNAGE ZONES**

The exact dimensions, content and illumination of any building identification (building name) signs shall be the subject of a further Development Application.

**(8) SIGNAGE STRATEGY**

A separate development application is to be submitted seeking approval of a signage strategy for the building, excluding the building identification signage zones/building name signs. 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.

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

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

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

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 13.466:1 calculated in accordance with the *Sydney Local Environmental Plan 2012*. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 45,732sqm (being 44,599sqm for the commercial office tower and 1,133sqm for St Stephen's Church).
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.
- (c) Prior to a Stage 3 Construction Certificate being issued, Council's written verification must be obtained, confirming that 8,281sqm of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of 8:1 as specified in the *Sydney Local Environmental Plan 2012*. Note: The allocation of heritage floor space has been reduced in accordance with the provisions of Clause 6.11(2)(a) of Sydney Local Environmental Plan 2012.

**(11) RESTRICTION OF END OF JOURNEY FLOOR SPACE – CENTRAL SYDNEY**

Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant to the effect that 805sqm of the building has been approved as end of journey floor space and has been excluded from floor space for the purposes of calculating floor space ratio is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*. The covenant is to be created appurtenant to Council and at no cost to Council.

**(12) ST STEPHEN'S CHURCH RESTRICTIVE COVENANT**

Prior to the issue of an Occupation Certificate, a restriction is to be registered on title that burdens Lot 1 DP 185400 (being St Stephen's Church at 197 Macquarie Street, Sydney) and is enforceable by Council in accordance with Section 88E of the *Conveyancing Act 1919*, on terms satisfactory to Council, that limits the gross floor area to the existing gross floor area being 1,133sqm (as defined by the Sydney Local Environmental Plan 2012).

**(13) LOT SUBDIVISION**

The applicant is to lodge a development application for the stratum subdivision of property 58-60 Martin Place (Lot 1 DP 1204291) and property 197 Macquarie Street (Lot 1 DP 185400) to provide a single stratum lot comprising the proposed building and a single stratum lot comprising the existing building at 197 Macquarie Street. The subdivision is to be finalised and lodged for registration with the NSW Office of Land and Property Information, prior to any Occupation Certificate being issued for the proposed commercial office building.

**(14) BUILDING HEIGHT**

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

	<b>Maximum RL</b>
<b>Top of parapet of building podium</b>	48.500
<b>Top of parapet at Level 28</b>	142.275
<b>Top of the Building</b>	167.100

(b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

**(15) APPROVED DESIGN ROOF - TOP PLANT**

All roof-top plant and associated equipment must be located within the approved building envelope.

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

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

### (17) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Stage 4 Construction Certificate.

Car Parking Type	Number
Commercial and retail parking	63
Accessible commercial and retail parking	3
Church parking	3
<b>Subtotal</b>	
Motorcycle parking	6
Service Vehicle parking	6
Small Rigid Vehicle loading dock(s)	1
Medium Rigid Vehicle loading dock(s)	1

### (18) 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".

### (19) BICYCLE PARKING AND END OF TRIP FACILITIES

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

Bicycle Parking Type	Number	Requirements
Non-residential	439	Spaces must be Class 2 bicycle facilities
<b>End of Trip Facility Type</b>	<b>Number</b>	
Showers with change area	39	
Personal lockers	452	

- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Principle Certifying Authority confirming prior to the Stage 4 Construction Certificate being issued.



**(20) 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.

**(21) 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.

**(22) 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.

A Loading Dock Management Plan shall be prepared and submitted to Council for approval prior to the issue of a Stage 6 Construction Certificate.

**(23) PARKING DESIGN**

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a Stage 4 Construction Certificate being issued.

**(24) SECURITY GATES**

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

**(25) SERVICE VEHICLE SIZE LIMIT**

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

**(26) SIGNS AT EGRESS**

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

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

**(27) 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.

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

**(28) RESTRICTION ON USE OF CAR SPACES - COMMERCIAL WITH NO STRATA SUBDIVISION**

The following conditions apply to car parking:

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

**(29) EXTERNAL LIGHTING**

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

**(30) WIND ENVIRONMENT STUDY**

The recommendations of the Pedestrian Wind Environment Study – 60 Martin Place, Sydney (Reference number WC355-01F04 Rev1), prepared by Windtech Consultants Pty Ltd, dated 16 April 2015 shall be implemented in the final design, with details illustrating compliance with this condition to be submitted for approval to the Certifying Authority prior to the issue of a Stage 5 Construction Certificate.

**(31) REFLECTIVITY**

The recommendations of the Reflectivity Report (Reference number 14060 Revision 2), prepared by Surface Design, dated 16 April 2015 shall be implemented in the final design, with details illustrating compliance with this condition to be submitted for approval to the Certifying Authority prior to the issue of a Stage 5 Construction Certificate.

**(32) 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.

### **(33) NOISE - ENTERTAINMENT (RETAIL AND BUSINESS PREMISES)**

- (a) The  $L_{A10,15\text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90,15\text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The  $L_{A10,15\text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90,15\text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an  $L_{A10,15\text{ minute}}$  enters any residential use through an internal to internal transmission path is not to exceed the existing internal  $L_{A90,15\text{ minute}}$  (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7am and 12midnight. Where the  $L_{A10,15\text{ minute}}$  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.
- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The  $L_{A10,15\text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90,15\text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

Note: The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level  $L_{A90, 15 \text{ minute}}$  is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. It is to be determined from the assessment  $L_{A90}$  / rating  $L_{A90}$  methodology in complete accordance with the process listed in the NSW EPA Industrial Noise Policy and relevant requirements of AS1055.1997.

**(34) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN**

A site specific Demolition, Excavation & Construction Noise & Vibration Management Plan shall be submitted to and approved by the Area Planning Manager prior to issue of any Construction Certificate.

The Demolition, Excavation & Construction Noise & Vibration Management 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 Demolition, Excavation & Construction Noise & Vibration Management Plan must include but not be limited to the following:

- (a) Adopt and include any requirements from The Demolition Methodology Report.
- (b) Identification of all noise sensitive receivers near to the site.
- (c) The proposed hours of all construction and work on the development including building / demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc), in connection with the proposed development.
- (d) 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 – CONSTRUCTION, DEMOLITION & EXCAVATION condition and the City of Sydney Construction Hours / Noise Code of Practice 1992. 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.
- (e) Representative environmental baseline noise levels for use in determining noise criteria in accordance with the NOISE – CONSTRUCTION, DEMOLITION & EXCAVATION condition (Condition 37) are as per the COMPLIANCE WITH THE ACOUSTIC REPORT condition (Condition 36).

- (f) 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.
- (g) 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.
- (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (i) Details of any additional 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.
- (j) 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.

**(35) 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 both the approved Demolition, Excavation and Construction Noise & Vibration Management Plan and The Demolition & Excavation Methodology Report.
- (b) The following additional terms are applicable for use of Intrusive Appliances which are used in accordance with part (a) of this condition and any other intrusive appliance works which cannot be completed in accordance with part (a) of this condition:
  - (i) Intrusive Appliance works in accordance with Part (a) of this Condition.

Intrusive Appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of *Sydney Construction Hours / Noise Code of Practice 1992* must operate to the following respite periods unless otherwise authorised as per part (b)(ii) of this condition:

- a. No operations permitted in the evening and night period between 18:00 HRS through Midnight to 07:00 HRS the following day.
- b. Operations Permitted 07:00 HRS to 09:00 HRs,

- c. No operations permitted 09:00 HRS to 12:00 HRS,
  - d. Operations permitted 12:00 HRS to 13:00 HRS,
  - e. No operations permitted 13:00 HRS to 16:00 HRS, and
  - f. Operations permitted 16:00 HRS to 18:00 HRS.
- (ii) Implementation of other works (including percussion hammering) which is not detailed in The Demolition & Excavation Methodology Report or cannot comply with the NOISE – CONSTRUCTION, DEMOLITION & EXCAVATION condition (Condition 37) at any sensitive receiver, or a request to vary under part (b)(i) above will be as per the process outlined in part (c) and (d) of this condition.
- (c) Approval for minor variation from the authorised practice must be sought from, and then approved to the written satisfaction of Council's Manager – Health & Building in the form a written request to their satisfaction to undertake a specific activity prior to its occurrence. At a minimum, this report will specify:
- (i) The proposed hours and days of operation;
  - (ii) The tasks that the equipment will be used for;
  - (iii) Justification in writing why the intrusive appliance cannot be substituted for a lower impact apparatus;
  - (iv) Provide for how noise will be managed to comply with the above code, and if cannot, provide for how it will be managed to the lowest reasonable and feasible levels;
  - (v) Indicate a timeframe for completion the associated task;
  - (vi) Provide details of details of liaison which has occurred with affected persons;
- (d) The Manager – Health & Building Unit may:
- (i) Provide restriction on operating conditions, inclusive limits on equipment, capacity and provide permitted times of use and respite periods;
  - (ii) Set a period of time the approval is valid for, i.e provide temporary approval for an activity;
  - (iii) Set an alternate noise criteria for a specific activity;
  - (iv) This notice will form part of this consent, and the temporary approval may be revoked should breach of the terms given occur.

**(36) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES**

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report, prepared by George Wei, dated 30/04/15 (Ref: 20150138.1/3004A/R1/GW Rev 1), titled 'DA for Demolition of the Existing Building at 58-60 Martin Place, Sydney Noise and Vibration Impact Assessment' (Council Ref: 2015/212745) and supporting acoustic report, prepared by George Wei, dated 15/09/15 (Ref: 20150138.2/1509A/R3/GW), titled DA 60 Martin Pl, Sydney - Demolition Noise Controls for the Proposed Alternative Demolition Measures (Council Ref: 2015/484839) must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the certifying authority.
- (b) Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant\* (see definition below) to be in accordance with the requirements of the DA acoustic report set out below. Specifically, the consultant will prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Principal Certifying Authority which addresses the following requirements:
- (i) The Existing Background Noise Level Summary (dBA) set out in the Table below must be used as the basis for substitution into all relevant NOISE conditions (Conditions 32 and 33) in this determination for the purpose of determining environmental noise planning performance parameters for the purpose of certification and verification in accordance this condition.

Location	Period/Time	Representative Background Noise Level dB(A) L <sub>90</sub>
Podium Level at 60 Martin Place Facing Philip Street	Day (7am-6pm)	60
	Evening(6pm-10pm)	57
	Night(10pm-mid night)	53
	Night(Mid night-7am)	53
Podium Level at 60 Martin Place Facing Macquarie Street	Day (7am-6pm)	58
	Evening(6pm-10pm)	57
	Night(10pm-7am)	50

- (ii) The vibration Safe guard system set out in Section 7.3 of the Noise and Vibration Impact Assessment, Reference No: 20150138.1/3004A/R1/GW Rev 1 must be implemented prior to demolition works taking place.



- (iii) The maximum noise levels at the External Façade of noise sensitive receivers (referred to as receivers 1-7 in the Acoustic Report) will be set at a maximum of 70 LAeq,15min. Additional acoustic treatment designed to the satisfaction of the Acoustic Consultant will be required if this level is not achieved and complaints are received.
  - (iv) The maximum internal noise levels for the noise sensitive receivers (referred to as receivers 1-7 in the Acoustic Report) will be set at a maximum of 45 dB(A) during the hours of 8.00am – 7.00pm. Additional acoustic treatment designed to the satisfaction of the Acoustic Consultant will be required if this level is not achieved and complaints are received.
  - (v) Additional acoustic barriers and treatment will be required to be erected at the Façade of Receiver 3 - Childcare Centre (at 128-140 Phillip St) to the satisfaction of the Acoustic Consultant and Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to the issue of an Occupation Certificate, a suitably qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifying Authority that the development complies with the requirements set out in the Report and in (a) and (b) above.

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

### **(37) NOISE – CONSTRUCTION, DEMOLITION, EXCAVATION & ANCILLARY ACTIVITIES**

All works conducted on site which form part of the demolition, excavation, site remediation, construction activities and any ancillary works associated with these activities and operations must comply with the following noise (and Vibration) criteria:

- (a) External Noise Criteria:
  - (i) The  $L_{Aeq, 15 \text{ minute}}$  noise level from the above activities must not exceed the lesser of the following with regard to the relevant approved construction hours provided for in this consent as measured at the external boundary of any noise sensitive building.

Day / Time		Criteria, $L_{Aeq, 15 \text{ Minute}}$ , dB
Saturday / 07:00 to 18:00		65 or $L_{A90, 15 \text{ minute}} + 5 \text{ dB}$
Sundays & Public Holidays / 07:00 to 18:00		63 or $L_{A90, 15 \text{ minute}} + 3 \text{ dB}$
Sundays & Public Holidays / 18:00 to Midnight to 07:00		57 18:00 HRS to 22:00 HRS, 50 22:00 HRS through Midnight to 07:00 HRS or $L_{A90, 15 \text{ minute}} + 0 \text{ dB}$
Other Days & Other times Saturday and Sunday	Midnight – 07:00 HRS	50 or $L_{A90, 15 \text{ minute}} + 0 \text{ dB}$
	07:00 to 09:00 HRS	65 or $L_{A90, 15 \text{ minute}} + 5 \text{ dB}$
	09:00 to 18:00 HRS	70 or $L_{A90, 15 \text{ minute}} + 10 \text{ dB}$
	18:00 to 22:00 HRS	60 or $L_{A90, 15 \text{ minute}} + 3 \text{ dB}$
	22:00 HRS to Midnight	50 or $L_{A90, 15 \text{ minute}} + 0 \text{ dB}$

(ii) Note: (a 2.5 dB façade reflection correction may be taken for measurements where the façade of the noise sensitive building is built to the boundary).

(iii) Noise levels are to be measured in accordance with AS1055-1997.

(b) In addition to above, the following noise criteria must not be exceeded:

(i) The  $L_{Aeq, 15 \text{ minute}}$  noise level from the activities defined in the introduction of this condition must not exceed the relevant noise levels provided for in **Table 3** of the NSW EPA *Interim Construction Noise Policy*. This includes child care centres and early education centres for the purpose of this consent.

(ii) The  $L_{Aeq, 15 \text{ minute}}$  noise level from the activities defined in the introduction of this condition must not exceed the lesser of the following when assessed within a residential use:

a. Sleeping area:

i. Day 07:00 HRS to 18:00 HRS – 35, or  $L_{A90, 15 \text{ minute}} + 3 \text{ dB}$ .

ii. All other times – Audibility.

- b. Other habitable area:
  - i. Day 07:00 HRS to 18:00 HRS – 45, or  $L_{Aeq, 15 \text{ minute}} + 3$  dB.
  - ii. Evening 18:00 HRS to 22:00 HRS – 45,  $L_{Aeq, 15 \text{ minute}} + 0$  dB.
  - iii. All other times - Audibility.
- (iii) The  $L_{Aeq, 15 \text{ minute}}$  noise level from the activities defined in the introduction of this condition must not exceed the lesser of the following when assessed within any other commercial premises:
  - a. When in use - an  $L_{Aeq, 15 \text{ minute}}$  equivalent to the maximum recommended design sound level provided in Table 1 of AS 2107:2000, relevant to the applicable or commensurate building and room type.
  - b. When in use -  $L_{A90, 15 \text{ minute}} + 5$ .
  - c. In addition to the above, with reference to part (b)iii) of the Compliance with the Acoustic Report Condition, the maximum internal noise level is not to exceed  $L_{Aeq, 15 \text{ minute}} 45$  dB at receivers identified as 1 through 7.
- (iv) Vibration limits:
  - a. All reasonable and feasible attempts to mitigate vibration to level below human perceptibility should be made.
  - b. Where the above cannot be achieved, vibration levels must not exceed those limits prescribed by the DIN 4150 technical standard for prevention of cosmetic damage to buildings.

## 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.

### (38) CONSERVATION MANAGEMENT PLAN

An updated Conservation Management Plan for St Stephen's Church is to be submitted to and endorsed by Council's Manager of Urban Design and Heritage prior to an Occupation Certificate being issued.

**(39) CONSERVATION OF ST STEPHENS CHURCH SYDNEY**

- (a) Details of the conservation of St Stephen's Church to be completed as part of the development shall be submitted and endorsed by City's Area Planning Manager prior to a Stage 5 Construction Certificate. These shall include:
  - (i) A Schedule of Conservation Works is to be developed and supported by:
    - a. larger scale floor plans, reflected ceiling plans and sections, details at 1:20 and 1:5 scale (as appropriate); and
    - b. repair methodologies and specifications outlining the intended conservation and adaptive approach to the interiors components (preservation, restoration, reconstruction, adaptation, interpretation etc).
  - (ii) Any structural design, fire, acoustic and services upgrades is to be co-ordinated with the conservation works.
  - (iii) All diagnostic work should be undertaken by specialist conservers and engineers.
- (b) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.
- (c) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999.
- (d) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.
- (e) The above works are to be implemented to the satisfaction of the City's Manager of Urban Design and Heritage prior to the issue of any Occupation Certificate. Ongoing consultation with Council should be maintained throughout the works.

**(40) COSTED HERITAGE ASSET MAINTENANCE PLAN**

- (a) To ensure the continued protection of heritage significance of the heritage item and to guide the future maintenance on heritage fabric, a costed Heritage Asset Maintenance Plan is to be developed. The following is to apply:
  - (i) The Plan is to be based the NSW Heritage Division of the Department of Environment and Heritage publication: 'Preparing a maintenance plan', and is to be a guide for the effective, continuous, protective maintenance of all significant heritage fabric for a minimum period of 20 years.

- (ii) The Plan is to include all fabric identified as being of heritage significance, specification notes and methodologies based on the Articles of the Australian ICOMOS Burra Charter 1999 and best conservation practise, and a list of appropriate consultants and suppliers together with the projected costing for each item of work.
- (iii) The Plan is to be prepared by the Conservation Architect and is to be submitted to Council for approval prior to the issue of an Occupation Certificate.

#### **(41) HERITAGE INTERPRETATION PLAN**

- (a) An interpretation plan for the site must be submitted to and approved by Council's Urban Design and Heritage Manager prior to a Stage 5 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 architectural significance of the current building will be provided for the public. The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (c) 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.

#### **(42) USE OF HERITAGE CONSULTANT - MAJOR DEVELOPMENT**

- (a) An experienced heritage consultant is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.
- (b) Evidence and details of the above commission on the above terms are to be provided to Council prior to the issue of the Construction Certificate or commencement of work on site whichever is the earlier.
- (c) Throughout the documentation and construction stages of the approved works the experienced heritage consultant is to:
  - (i) Undertake site inspections of not less than fortnightly intervals.
  - (ii) Maintain a diary of site inspections that includes photographs of the works, details of heritage advice and decisions arising out of each inspection and any further physical evidence uncovered during the works.

- (iii) Compile a final report, including the diary, verifying how the heritage conditions have been satisfied, and the works completed in accordance with the Conservation Management Plan.
- (d) Upon completion of the works, the final report is to be submitted for approval by Council's own Heritage Specialist prior to the issue of an Occupation Certificate or the commencement of the use, whichever is the earlier.

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

No portion of the proposed structure shall encroach onto the adjoining properties, or onto the Easement for Access 3.77 wide (limited in stratum) located in the south-western corner of the site.

#### **(44) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

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

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Stage 5 Council prior to a Construction Certificate being issued.

#### **(45) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with WorkCover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence whichever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, WorkCover must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and WorkCover document entitled *How to manage and control asbestos in the work place: Code of Practice (NSW WorkCover)* and the *City of Sydney Managing Asbestos Policy*.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.

- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Appendix F of the City of Sydney's Managing Asbestos Guidelines.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

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

#### **(46) EMISSIONS**

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

**(47) 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.

**(48) DISCHARGE OF CONTAMINATED GROUNDWATER**

Prior approval must be sought from the City's Public Domain Department to discharge any groundwater into the City's stormwater drainage system.

Other options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

**(49) IMPORTED FILL MATERIALS**

All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

The City may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

**(50) 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.

**(51) STOCKPILES**

- (a) No stockpiles of soil or other materials shall be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Unit.



- (b) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
- (c) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- (d) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours

**(52) UNDERGROUND STORAGE TANK REMOVAL**

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

**(53) UNDERGROUND SERVICE TANK REMOVAL CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN**

Prior to any disturbance to the Underground Service Tanks (USTs) or the immediate area, a construction and environmental management plan must be prepared and submitted to the Council's Area Planning Manager for approval prior to the relevant Construction Certificate.

The construction and environmental management plan must include measures to ensure that workers and any other persons within the vicinity are not exposed to any contamination that may be present during the demolition and excavation phases of the proposed development and removal of the UST's, which must be carried out in accordance with Recommendation Standard Condition "Underground Storage Tank Removal".

Works shall not commence until the required construction and environmental management plan has been approved in writing by the Council's Area Planning Manager.

During such works, the USTs and backfill materials shall be appropriately removed from the site, disposed of lawfully and the area validated as suitable for the proposed use to ensure that no residual human health or environmental contamination risks remain.

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority.

Any variations to the approved construction and environmental management plan shall be approved in writing by Council prior to the commencement of such works.

**(54) SITE VALIDATION REPORT (NO SITE AUDITOR ENGAGED - LOW LEVEL OF RISK)**

Prior to the issue of an Occupation Certificate, a Site Validation Report is to be forwarded to City's Area Planning Manager, for written approval. The validation report is to be prepared by a suitably qualified environmental consultant with experience in land contamination and New South Wales EPA contaminated land legislation and guidelines including the *Contaminated Land Management Act 1997*. The report is to satisfactorily document the following.

- (a) The extent of validation sampling, and the results of the validation testing.
- (b) That the remediation and validation of the site has been undertaken in accordance with the approved construction and environmental management plan required within Recommended Non-Standard Condition above.
- (c) That the site is suitable for the proposed use.

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

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

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

**(57) 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.

#### **(58) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

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

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

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

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 126 Phillip Street, 65 Martin Place and 195 Macquarie Street are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Stage 1 Construction Certificate.

**UPON COMPLETION OF EXCAVATION/DEMOLITION**

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

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

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

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

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

- (a) The SWMP must identify and respond to all items for Erosion and Sediment Control Plans listed in the condition above, as well as:
  - (i) existing site contours;
  - (ii) location and diagrammatic representation of all necessary erosion and sediment control systems or structures used to mitigate or prevent pollution to stormwater;
  - (iii) location and engineering details with supporting design calculations for all necessary sediment basins, constructed wetlands, gross pollutant traps, trash racks or biofiltration swales (as relevant).

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

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

**(64) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 6 Construction Certificate for above ground building works. The plan must include:
  - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;

- (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
  - (iii) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a Stage 6 Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

#### **(65) GREEN WALLS**

The design of the green wall must demonstrate the response to site conditions, including light availability and wind impacts.

- (a) Prior to the issue of a Stage 6 Construction Certificate the following design details of the proposed green wall must be submitted to, and approved by Council:
- (i) Detailed drawings demonstrating how the green wall is constructed, including proposed materials, planter dimensions, and integration into the wall structure;
  - (ii) Details of the proposed growing medium, including soil depth and type;
  - (iii) Location, numbers, type and size of plant species selected with plants being selected on the basis of the site conditions;
  - (iv) Drainage, irrigation and waterproofing details (as applicable);
  - (v) Details of any additional lighting (where applicable).
- (b) Prior to the issuing of a Stage 6 Construction Certificate a Maintenance Plan needs to be submitted and approved by Council. The maintenance plan should include information on:
- (i) How access will be provided to the plants, soil and structural elements for installation and maintenance;
  - (ii) Details outlining the intended strategy for decommissioning the planting works should plants fail. This strategy is to ensure that the finish to the wall is well maintained and attractive throughout its life.

**(66) CAR PARK VENTILATION**

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

**(67) 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.

**(68) 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 Stage 5 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.

**(69) MICROBIAL CONTROL IN WATER SYSTEMS**

- (a) Prior to the issue of a Stage 5 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.

#### **(70) AIR HANDLING**

In the event of any process in any room being of such a nature that heat, excessive moisture, dangerous or noxious gases, fumes or other aerosols are given-off, an air handling system must be installed providing positive capture and removal of the effluents. The effluent must be discharged to atmosphere at a point that will not create a nuisance and located in a position complying with AS 1668.2.

#### **(71) 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 Stage 3 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.

**(72) 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".

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

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

The recording must include clear images of the 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.

**(74) PRESERVATION OF SURVEY MARKS**

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

Prior to the issue of a Stage 1 Construction Certificate, a survey plan, clearly showing the location of all permanent survey marks fronting the site and within 5 metres on each side of the frontages must be submitted to Council.

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

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

**(75) 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*.

**(76) 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 Stage 5 Construction Certificate being issued for public domain work or above ground building work, whichever is later. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's *Public Domain Manual*).

- (b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.
- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.
- (e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Stage 5 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.

#### **(77) PUBLIC ART**

Final details of the approved public art work must be submitted to and approved by Council's Area Planning Manager prior to issue of a Stage 5 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.

**(78) 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.

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

- (a) Prior to a Stage 3 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.

#### **(80) 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.

#### **(81) 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.

**(82) 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.

**(83) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on the Phillip and Macquarie 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.

**(84) PUBLIC DOMAIN DAMAGE DEPOSIT**

A Public Domain Damage Deposit calculated on the basis of 8 lineal metres of granite and brick 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 Stage 1 Construction Certificate being issued, whichever is earlier.

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

#### **(85) PUBLIC DOMAIN LIGHTING**

- (a) Prior to a Stage 5 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;
  - (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.

#### **(86) 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.



**(87) DEMOLITION/SITE RECTIFICATION**

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Stage 1 Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
  - (i) A bank guarantee to be provided in the sum of \$841,500 dollars as security for the costs of such works provided that:
    - a. the maximum liability under the Deed must not exceed \$841,000 dollars; and
    - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
  - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
    - a. demolition of the existing building has commenced but not been completed;
    - b. the existing building has been demolished; or
    - c. the site has been excavated; or
    - d. the erection of the structure has commenced;
  - (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the Consent Authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
    - a. make the building safe and of an appearance acceptable to Council at ground level;
    - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or

- c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
- d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenatable stage;

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

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
  - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (iii) to take place on the site; and
  - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (e) The Deed may, if the Director City Planning, Development and Transport is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
  - (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
  - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
  - (iii) Stage 3 – Issue of the Final Occupation Certificate.
- (f) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
  - (i) Certification (from an accredited certifier) that the relevant stage is complete;
  - (ii) Detailed schedule of completed works carried out in the relevant stage;
- (g) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

**(88) ENERGY EFFICIENCY OF BUILDINGS**

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

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

The applicant must provide a copy of the completed Commitment Agreement with their Stage 5 Construction Certificate application; and

- (b) Providing a copy of the independent energy assessment report to OEH and submitted with the Stage 5 Construction Certificate application, that follows the current OEH guidelines. This report must be based on the same documents as those submitted with the Construction Certificate.

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

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

**(89) STREET TREE PROTECTION**

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

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

## **(90) ELECTRICITY SUBSTATION**

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Stage 4 Construction Certificate being issued or the commencement of the use, whichever is earlier.

## **(91) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Stage 1 Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

#### **(92) WASTE AND RECYCLING COLLECTION CONTRACT**

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

#### **(93) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**

- (a) A Waste Management Plan is to be approved by the Certifying Authority prior to a Stage 5 Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Building Waste Management Plan must be implemented during construction of the development.

#### **UPON COMPLETION OF THE DEVELOPMENT**

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

### **SCHEDULE 1C**

#### **During Construction/Prior to Occupation/Completion**

#### **(94) 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.

#### **(95) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**

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

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

**(96) 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.*

**(97) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(98) 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.

**(99) SURVEY**

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

**(100) SURVEY CERTIFICATE AT COMPLETION**

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

**(101) 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.

**(102) 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.

**(103) 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.

**(104) SYDNEY WATER CERTIFICATE**

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

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

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

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

**(105) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

**(106) 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.

**(107) 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.

**(108) 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

### INTEGRATED DEVELOPMENT - TERMS OF APPROVAL

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

#### (109) APPROVED DEVELOPMENT

Development must be in accordance with:

- (a) Architectural design drawings prepared by HASSELL listed in the table below:

Drawing Number	Drawing Title	Date	Rev
A0001	Drawing Index 1	16/04/2015	Final DA
A0004	Perspective View - Sheet 01	16/04/2015	Final DA
A0005	Perspective View - Sheet 02	16/04/2015	Final DA
A0006	Perspective View - Sheet 03	16/04/2015	Final DA
A0007	Perspective View - Sheet 04	16/04/2015	Final DA
A0101	Context/ Site Plan 1	16/04/2015	Final DA
A0102	Public Domain Plan 2	16/04/2015	Final DA

<b>Drawing Number</b>	<b>Drawing Title</b>	<b>Date</b>	<b>Rev</b>
A1101	B3 Basement Plant - GA Plan 3	16/04/2015	Final DA
A1102	B2 Basement Parking - GA Plan 2	16/04/2015	Final DA
A1103	B1 Basement Dock, Plant + Parking - GA Plan 3	16/04/2015	Final DA
A1104	LG Public Uses / Retail - GA Plan 3	16/04/2015	Final DA
A1105	UG Commercial lobby / Retail - GA Plan 3	16/04/2015	Final DA
A1106	level 1 Podium - Commercial - GA Plan 3	16/04/2015	Final DA
A1107	level 2 Podium - Commercial - GA Plan 3	16/04/2015	Final DA
A1108	level 3 Podium - Commercial - GA Plan 3	16/04/2015	Final DA
A1109	level 4 Podium Top - Retail/ F&B- GA Plan 3	16/04/2015	Final DA
A1110	level 5 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1111	level 6 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1112	level 7 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1113	level 8 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1114	level 9 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1115	level 10 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1116	level 11 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1117	level 12 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA

<b>Drawing Number</b>	<b>Drawing Title</b>	<b>Date</b>	<b>Rev</b>
A1118	level 13 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1119	level 14 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1120	level 15 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1121	level 16 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1122	level 17 low Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1123	level 18 Plant Room - GA Plan 3	16/04/2015	Final DA
A1124	level 19 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1125	level 20 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1126	level 21 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1127	level 22 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1128	level 23 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1129	level 24 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1130	level 25 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1131	level 26 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1132	level 27 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1133	level 28 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1134	level 29 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA

Drawing Number	Drawing Title	Date	Rev
A1135	level 30 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1136	level 31 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1137	level 32 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1138	level 33 High Rise - Commercial - GA Plan 3	16/04/2015	Final DA
A1142	level 28 Terrace 2	16/04/2015	Final DA
A1141	level 4 Terrace 2	16/04/2015	Final DA
A1143	level 30 Terrace 2	16/04/2015	Final DA
A1139	Roof GA 3	16/04/2015	Final DA
A1140	Landscape Roof Plan 2	16/04/2015	Final DA
A1801	B3 to level 08 - GFA Plans 3	16/04/2015	Final DA
A1802	level 09 to level 21 - GFA Plans 3	16/04/2015	Final DA
A1803	level 22 to level 33 - GFA Plans 3	16/04/2015	Final DA
A2001	GA Elevation - North 1	16/04/2015	Final DA
A2002	GA Elevation - East 1	16/04/2015	Final DA
A2003	GA Elevation - South 1	16/04/2015	Final DA
A2004	GA Elevation - West 1	16/04/2015	Final DA
A3001	GA Sections Sheet 1	16/04/2015	Final DA
A3002	GA Sections Sheet 2	16/04/2015	Final DA

- (b) Report entitled Statement of Heritage Impact - 60 Marlin Place and St Stephen's Uniting Church, 197 Macquarie Street, Sydney, prepared by Graham Brooks and Associates, and dated April 2015.
- (c) Report entitled Design Statement- 60 Marlin Place, prepared by Hassell and dated April 2015.

- (d) Report entitled Statement of Environmental Effects - 58-60 Marlin Place, Sydney and 197 Macquarie Street, Sydney prepared by JBA Urban Planning Consultants, and dated April 2015.
- (e) Planning Proposal - 60 Martin Place, prepared by Central Sydney Planning Committee and dated 11 September 2014.
- (f) EXCEPT AS AMENDED by the conditions of this approval:

**(110) ADDITIONAL INFORMATION**

- (a) Submit the following information with the Section 60 Application:
  - (i) A work method statement for the demolition works establishing protection procedures so that St Stephen's Uniting Church is not damaged.
  - (ii) Samples of the proposed external materials and colours for 58-60 Martin Place.
  - (iii) Details of the proposed street entry awning in the north east corner of the proposed development. The awning is to be as lightweight and transparent as possible so that it does not adversely affect views of the St Stephen's Uniting Church.
  - (iv) A costed heritage asset maintenance plan to ensure the ongoing maintenance of the St Stephen's Uniting Church.
  - (v) Details of the drip line and details to manage shedding of water from the cantilevered facade to mitigate potential impacts on the fabric of the St Stephen's Uniting Church.

**(111) NOMINATED HERITAGE CONSULTANT**

- (a) A heritage consultant shall be nominated for the project. Their name is to be submitted to the Manager, Conservation Section and approved prior to the commencement of works.
- (b) The nominated heritage consultant is to have demonstrated experience commensurate with scale and sensitivity of the project. The consultant is to provide advice on the detailed design, oversee on-site heritage inductions and inspect the demolition and removal of material to ensure that no significant fabric or elements are damaged or removed.
- (c) All work on or affecting St Stephen's Uniting Church shall be carried out by suitably qualified tradespeople with practical experience in conservation and restoration of similar heritage items. The nominated heritage consultant shall be consulted prior to the selection of appropriate tradespeople.

**(112) SITE PROTECTION & WORKS**

- (a) Significant building fabric and elements of St Stephen's Uniting Church are to be protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.

- (b) The installation of new services shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features.

#### **(113) ARCHAEOLOGY**

- (a) The Applicant shall submit an Archaeological Research Design and Excavation Methodology undertaken by a suitably qualified and experience historical archaeologist with the Section 60 application.
- (b) The Heritage Council of NSW reserves the right to issue Archaeological Conditions as part of the Section 60 Approval to manage the archaeology. Matters such as (but not limited to) fieldwork methodology, artefact analysis, final reporting and interpretation may be included as part of these archaeological conditions.

#### **(114) ARCHIVAL RECORDING**

An archival photographic recording of the affected internal and external elements is to be undertaken prior to the commencement of works, in accordance with the Heritage Division document, Photographic Recording of Heritage Items using Film or Digital Capture. The original copy of the record shall be submitted to the Manager, Conservation and approved prior to the release of the occupation certificate.

#### **(115) CONSERVATION MANAGEMENT PLAN**

The Conservation Management Plan for St Stephen's Uniting Church is to be amended and updated to reflect the proposed development. The updated Conservation Management Plan is to be submitted to the Heritage Council of NSW for endorsement under Section 38A of the Heritage Act 1977 prior to the issue of the Occupation Certificate for the development of 58-60 Martin Place.

#### **(116) SECTION 60 APPLICATION**

An application under Section 60 of the Heritage Act 1977 must be submitted to and approved by the Delegate of the Heritage Council of NSW prior to work commencing.

### **SCHEDULE 4**

#### **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:

- (117) Prior to the undertaking of demolition works or the issuing of a Construction Certificate that enables the undertaking of demolition works (whichever occurs first), the Applicant shall undertake a condition and dilapidation survey of all adjoining rail infrastructure and assets (including tunnels and station box). A detailed report of this survey shall be submitted to Sydney Trains for endorsement. The length of rail infrastructure and assets to be surveyed shall be as determined by Sydney Trains. The report shall include, but not limited to:

- (a) Details of defects
  - (b) Size of cracks
  - (c) Photos of the defects with labels showing locations on the tunnel wall lining and station cavern wall.
  - (d) Any signs of wetness, staining and seepage occurring on the defects.
  - (e) A sensitivity analysis depending on the severity of the defects to address actual lining condition.
  - (f) A risk assessment shall also be undertaken to determine the acceptable risk level based on the outcome of the sensitivity study and dilapidation survey.
- (118)** Prior to the undertaking of demolition works or the issuing of a Construction Certificate that enables the undertaking of demolition works (whichever occurs first), the Applicant shall submit for Sydney Trains endorsement a Ground Vibration Monitoring Report. This report is to detail, but not limited to:
- (a) proposed monitoring method
  - (b) proposed monitoring locations
  - (c) proposed monitoring frequencies
  - (d) proposed trigger levels and action plans should trigger levels be exceeded
- (119)** Prior to the undertaking of demolition works or the issuing of a Construction Certificate that enables the undertaking of demolition works (whichever occurs first), the Applicant shall submit for Sydney Trains endorsement the following documentation:
- (a) Ground Movement Monitoring Plan of the existing tunnels to address the monitoring required for movements or deformations of the tunnel wall linings and station cavern resulting from the proposed excavation work
  - (b) Risk Assessment Report
  - (c) Safe Work Method/Excavation, Demolition & Construction management plan and methodology
  - (d) Machinery to be used during demolition, excavation and construction

- (120) Prior to the issuing of a Construction Certificate or the commencement of works (whichever occurs first) the Applicant shall obtain advice from Sydney Trains regarding the need to enter an Agreement with Sydney Trains and RailCorp, on terms to the satisfaction of Sydney Trains and RailCorp, for the purpose of ensuring the protection of rail infrastructure facilities and the rail corridor or in connection with the carrying out of any rail functions or operations within the adjoining rail corridor and rail easements, or to ensure rail safety or to enable the works associated with the change to the Martin Place Station entrance. In the event that Sydney Trains advises that such an Agreement is required, the Applicant shall enter into this Agreement at the nominated timing by Sydney Trains. The Applicant is to bear all Sydney Trains' and RailCorp's costs of entry into any Agreement required by these conditions. 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.
- (121) Unless amendments are required in order to obtain approval/certification from Sydney Trains in relation to the items listed in Condition 122 below, all excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:
- (a) Geotechnical Investigation Report prepared by Parsons Brinckerhoff (Ref: 73507.01-Rev1) dated 15 April 2015.
  - (b) Correspondence from Parsons Brinckerhoff dated 1 May 2015 (Ref: 2161119A-GEO-LTR-003 Rev A) title "Geotechnical Investigation Report".
  - (c) Geotechnical Impact Assessment Report prepared by Parsons Brinckerhoff (Ref: 2161119A-GEO-REP-002 Rev C) dated 30 April 2015.
  - (d) Correspondence from Craig & Rhodes dated 29/07/15 (Ref:210/12)
  - (e) Rail Infrastructure Impact from Proposed Development Structural Report - Revision F prepared by Entrust dated 30 April 2015.
  - (f) Correspondence from Entrust dated 30 April 2015 titled "Demolition DA – Structural Reports".
  - (g) Entrust Drawings (all dated 28/04/15) as follows:
    - (i) SK-020 – Lower Basement General Arrangement – Revision 3
    - (ii) SK-021 – Martin Place Section 1 – Revision 3
    - (iii) SK-022 – Martin Place Section 2 – Revision 3
    - (iv) SK-023 – Martin Place Section 3 – Revision 3
    - (v) SK-024 – Macquarie Street Section 4 – Revision 3
    - (vi) SK-025 – Macquarie Street Section 5 – Revision 3



- (h) Noise and Vibration Impact Assessment prepare by Acoustic Logic (Ref: 20150138.4/0907A/R2/GW - Revision 2), dated 09/07/2015.
- (i) Rail Facilities Vibration Management Plan prepare by Acoustic Logic (Ref: 20150138.4/0907A/R2/GW - Revision 2), dated 09/07/2015.
- (j) DA Acoustic Assessment prepared by Acoustic Logic (Ref: 20150138.1/1604A/R5/JD – Revision 5), dated 16/04/15.
- (k) Email correspondence from Parsons Brinckerhoff dated 28 July 2015 detailing design inputs and methodology adopted for analysis on the effects of the development, including Ultimate Limit State (ULS) and Serviceability Limit State (SLS).

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply or are superseded as a result of the compliance with Condition 122 below. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

**(122)** The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate that enables the installation of secondary retention piles, bracing truss and bulk excavation works:

- (a) Final Structural and shoring design.
- (b) Revised Structural Report, addressing (but not limited to) the following:
  - (i) Details regarding the impacts of the induced vibration from the rock coring for the rock anchor installation.
- (c) Final Numerical Analysis Report, which includes (but not limited to):
  - (i) numerical analytical modelling based on the existing conditions of the tunnel wall lining from the findings of the dilapidation survey (any identified defects or cracks found within the tunnel wall during the dilapidation survey shall be incorporated in the numerical analytical modelling to determine whether it will have an impact on serviceability and durability performance issues).
  - (ii) The numerical analysis modelling shall demonstrate the stresses induced by the rock anchors will not cause significant adverse effects on existing conditions of the tunnel wall lining or station building based on the defects recorded from the dilapidation survey

- (d) As the excavation work will be involved with high strength rock and heavy excavators or equipment may be required to carry out the works, a comprehensive assessment of the induced vibration from the rock excavation shall be undertaken to determine the permissible trigger levels for the induced vibrations cause by rock extraction.
  - (e) Risk assessment study (SFAIRP) shall be carried out in accordance with the Asset Standards Authority standard T HR CI 12080 ST.
  - (f) Final Construction Management Plan, which includes (but not limited to):
    - (i) the trigger levels for the ground measurements in the vertical, horizontal and rotational directions.
  - (g) Revised Geotechnical Impact Assessment report which includes (but not limited to):
    - (i) Details regarding the impact of the Martin Place joint swarm on the in-situ stress assumption for the analysis.
    - (ii) Details regarding why two separate assessments with lining thickness 450mm and 380mm is used and provision of reference document where these values have been obtained.
    - (iii) As two different reinforcement assessments are provided (ie 12mm and 20mm) provision of as built reference for this assumption is required.
    - (iv) Provision of the lining loads before the construction and the induced loads on the lining due to construction.
    - (v) Provision of load assumptions.
  - (h) Confirmation that the structural actions due to the proposed development are ULS values (that is, they have been converted to ULS from SLS values which are direct outputs from the FE Analysis).
- (123)** Prior to the undertaking of demolition works or the issuing of a Construction Certificate that enables the undertaking of demolition works (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance is to cover these specific works. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure and must be in place for the duration of these specific works. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

- (124) Prior to the undertaking of works or the issuing of the first Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- (125) Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- (126) Vibration instrumentation and monitoring to be installed and operational prior to commencement of ground anchor installation.
- (127) All rock faces shall be inspected by an engineering geologist during excavation to confirm that the site conditions are consistent with design assumptions, to verify the stability of the faces.
- (128) Asset Standards Authority standard T HR CI 12070 ST requires that during construction works, the maximum peak particle velocity (PPV) in the tunnel lining shall not exceed 12.5mm per second. Accordingly, the Allowable Vibration Limit is to be limited to 12.5mm per second.
- (129) Should the Applicant wish to undertake additional geotechnical borehole testing on completion of demolition works, these boreholes shall not be undertaken until written approval has been obtained from Sydney Trains.
- (130) The vibration generated by the drilling shall be monitored continuously.
- (131) Due to the possibility of encountering potential rock reinforcement anchors/dowels installed to stabilise the tunnel during construction or during operation, in the event that anchors/dowels are encountered, the excavation activities are to cease and Sydney Trains advised. The risk to the tunnel may need to be assessed and stabilised. The continuation of any further excavation is to be in accordance with Sydney Trains requirements.
- (132) No rock anchors/bolts are to be installed into RailCorp's property (this includes strata and easements).
- (133) At any time during the demolition, excavation and construction period deemed necessary by Sydney Trains, and prior to the issue of the Occupation Certificate, a joint inspection of the rail tunnels 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 works to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
- (134) Prior to any Construction Certificate being issued that enables the installation of piles/piers, footings or retention systems, or rock anchors/bolts or basement structures, the Applicant is to submit to Sydney Trains for endorsement a revised Electrolysis Report. The Principal Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

- (135) Prior to the undertaking of works or the issuing of the first Construction Certificate (whichever occurs first), the Applicant is to submit to Sydney Trains a plan showing all mobile craneage and other aerial operations to be used during all stages of works that may be located above or in close proximity of the rail tunnels or Station box during the entire works period. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- (136) Prior to the closure of the existing pedestrian entrance to Martin Place Station or prior to any Construction Certificate being issued in relation to the new pedestrian entrance to Martin Place Station which is required to enable the undertaking of any works (whichever occurs first), the Applicant shall obtain advice from Sydney Trains as to the need to enter into any Agreement to enable such a closure, the closure time period and required opening date, the demolition and removal of the existing entrance and infrastructure/services, the construction of the new entrance and infrastructure/services, any change to the hours of operation of the new entrance, and the process in amending the current easement that benefits Sydney Trains. In the event that Sydney Trains advises that such an Agreement is required, the Applicant shall enter into this Agreement at the nominated timing by Sydney Trains. The Agreement shall be in accordance with the terms stipulated by Sydney Trains and the Applicant is to bear all Sydney Trains' and RailCorp's costs of entry into any Agreement.
- (137) Prior to any Construction Certificate being issued in relation to the new pedestrian entrance to Martin Place Station the Applicant shall submit the following:
- (a) Final construction details to Sydney Trains for endorsement by its Configuration Change Board (CCB). The Applicant shall comply with all requirements stipulated by Sydney Trains (including the CCB).
  - (b) Details as to how the closure of the entrance to Martin Place Station will affect the safety issue for the train commuters and public in the event of emergency such as fire or other emergency. Any proposed change or alternative plan to the current evacuation arrangement at Martin Place Station will require approval from the Sydney Trains Operation Group.
  - (c) Changes to the awning located above the new stair entrance that provides greater weather protection than the current proposed design.
  - (d) In order to avoid conflicts between pedestrians wanting to enter the Station and those exiting due to a lack of proper sight distances changes or enhancement are to be undertaken to the building blade directly adjoining the new entrance to in order to provide improved visibility around that blade protrusion.
  - (e) A revised pedestrian analysis to provide additional justification in order to assess moving the existing staircase to the new proposed position. In addition, expected future flows in/out of this staircase should be considered.

- (f) Fire and power assessment and certifications shall be provided.
- (g) Unless otherwise advised by Sydney Trains, the design and commissioning of the new staircase will be required to be undertaken by an Authorised Engineering Organisation (AEO). A list of AEOs is provided on the Asset Standards Authority (ASA) website.

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.

- (138)** The amendment of the current stratum and easement benefitting Sydney Trains for the existing Martin Place Station entrance shall be the responsibility of the Applicant and at their cost. The new stratum and easement for the new Martin Place Station entrance shall be prepared on completion of the entrance works. The new stratum and easement (including easement terms) are to be endorsed by Sydney Trains prior to registration on title. The registration of the new stratum and easement is to be undertaken prior to the issuing of an Occupation Certificate, unless required earlier by Sydney Trains. The Principal Certifying Authority is not to issue any Occupation Certificate until written confirmation has been received from Sydney Trains confirming of its endorsement of the new stratum and easement (including easement terms), and Principal Certifying Authority has received confirmation that the Applicant has registered the new stratum and new easement on title.
- (139)** Prior to the issuing of any Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property, easements or stratum (either by the new building or rock anchors/bolts), unless agreed to by Sydney Trains. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (140)** Sydney Trains and Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- (141)** Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate or Occupation Certificate.
- (142)** Any conditions issued by Sydney Trains as part of the endorsement/certification by Sydney Trains of any of the submitted documentation required under the above conditions will also form part of the consent conditions that the Applicant is required to comply with.

- (143) The proposed new stair to Martin Place Station as shown in the development application (or any changes to this arrangement in order to comply with other conditions of consent) is not item that will be delivered by Sydney Trains or Transport for NSW.

## **SCHEDULE 5**

### **DEPARTMENT OF INFRASTRUCTURE AND REGIONAL DEVELOPMENT**

Approval has been granted by the Aviation and Airports Division of the Commonwealth Department of Infrastructure and Regional Development under the Airports (Protection of Airspace) Regulations 1996, subject to the following:

- (144) The building must not exceed a maximum height of 185.36 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.
- (145) Separate approval must be sought under the Airports (protection of Airspace) Regulations 1996 for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations, therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (146) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

## BACKGROUND

### The Site

1. The site encompasses three lots and has a legal description of:
  - (a) Lot 1 DP 1204291, known as 58-60 Martin Place, Sydney;
  - (b) Lot 1 DP 185400, which has a street address of 197 Macquarie Street, and is known as St Stephen's Church; and
  - (c) Lot 1 DP 589866, which has a street address of 3D Martin Place, Sydney, and is the access stair to Martin Place railway station.
2. The site is located on the western side of Macquarie Street, between Hunter Street and Martin Place. The site has three frontage to the public domain, an eastern frontage of 92.24 metres to Macquarie Street, a southern frontage to Martin Place of 71.05 metres and a western frontage to Phillip Street of 37.8 metres. The topography of the site has a fall from Macquarie Street to the west towards Phillip Street of approximately 3.9 metres. The collective sites have an area of 3,396sqm.
3. **Figure 1**, below, illustrates an aerial view of the site and its immediate context.



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

4. Existing on the site of 58-60 Martin Place is a 28-storey, plus plant, commercial office building with ground floor retail uses. The existing tower was constructed in 1971, and has been the subject of a podium addition in the late 1990s. The existing commercial building currently has vehicular entry to the site from Macquarie Street and vehicular egress onto Phillip Street.
5. Within the boundaries of the subject site, is a parcel of land owned by the Rail Corporation of NSW, which contains a pedestrian access stair to Martin Place railway station (refer to **Figure 7**, below).
6. To the north of the commercial tower at 58-60 Martin Place, and also forming part of the subject site of this development application, is St Stephen's Church at 197 Macquarie Street. St Stephen's Church was constructed in 1935 and is listed as a heritage item under both the Sydney Local Environmental Plan 2012 and the NSW State Heritage Register (refer to **Figure 5**, below).



**Figure 2:** View of the existing commercial building as viewed from Martin Place looking east





**Figure 3:** The existing commercial building as viewed from Macquarie Street



**Figure 4:** The existing podium of the commercial building and St Stephen's Church as viewed from Macquarie Street



**Figure 5:** View of St Stephen's Church, looking south along Macquarie Street



**Figure 6:** View of the existing vehicular egress from the site on Phillip Street



**Figure 7:** View of the existing station entry stair to be replaced as part of this application

### Surrounding Development

7. The site is identified within the Sydney Development Control Plan 2012 as being located within the Martin Place Special Character Area. The significance of this Special Character Area is the social, cultural and historic significance of Martin Place for Sydney, as well as being the civic and ceremonial centre of the City.
8. Development in the vicinity of the site is mixed-use in nature, being generally characterised by commercial, retail, recreational and Government land uses.
9. To the north of the site, on its Phillip Street frontage, is a 39-storey commercial building at 126 Phillip Street (refer to **Figure 8**, below). To the north on the Macquarie Street frontage, is 195 Macquarie Street, an 8-storey commercial building known as 'Agriculture House'.
10. To the east of the site, on the opposite side of Macquarie Street, is the NSW State Library, the NSW Parliament House and Sydney Hospital (refer to **Figure 9**, below).
11. To the immediate south of the site is Martin Place. On the opposite side of Martin Place, is the Reserve Bank of Australia at 65 Martin Place (refer to **Figures 10 and 11**, below).
12. To the west of the site, on the opposite side of Phillip Street, is a 36-storey commercial building at 52-56 Martin Place, which accommodates the Seven Network operations (refer to **Figure 12**, below).



**Figure 8:** View of the existing building on site and the commercial office building to the north, at 126 Phillip Street.



**Figure 9:** View of the NSW Parliament House and Sydney Hospital, located to the east of the site on the opposite side of Macquarie Street



**Figure 10:** View of the site and its Martin Place context, looking north towards Macquarie Street



**Figure 11:** View of the Reserve Bank building from Martin Place



**Figure 12:** View of the Seven Network studios fronting Martin Place, within the building at 52-56 Martin Place

## RELEVANT HISTORY TO THE DEVELOPMENT APPLICATION

### Planning Proposal

13. In July 2013, Investa submitted a planning proposal to the City requesting a site specific amendment to both the Sydney Local Environmental Plan 2012 (SLEP 2012) and the Sydney Development Control Plan 2012 (SDCP 2012) to allow the redevelopment of the site for a commercial office tower.
14. The LEP amendments proposed alternative controls for the site that would only be available for non-residential development. The following amendments to the SLEP 2012 were proposed:
  - (a) an exception to the sun access plane and the existing 55 metre height control for the site, allowing instead a development to RL 167.1 (approximately 33 storeys) where sun access to Martin Place remains neutral; and
  - (b) an exception to the sun access plane and the 55 metre height limit for a portion of the St Stephen's Church site (being no greater than 8 metres from the boundary), provided it is part of the development at 58-60 Martin Place.
15. A key aim of the planning proposal was to ensure no additional overshadowing to Martin Place or the southern façade of the Reserve Bank building between 12 noon and 2.00pm on 14 April. The Sun Access Plane for Martin Place in the SLEP 2012 is set at 12 noon on 14 April, in recognition that Martin Place gets very little solar access at lunch time on the winter solstice due to the east-west orientation of Martin Place and the height of existing buildings along its northern frontage.
16. In addition to the planning proposal, amendments were proposed to the SDCP 2012 in order to achieve the following outcome:

- (a) a reduction to the setback requirements above street frontage height (i.e. above podium height) to allow for a tower with an expanded footprint;
  - (b) requirements for active street frontage along Martin Place;
  - (c) ensuring that the podium design allowed views through to the heritage fabric of St Stephen's Church; and
  - (d) managing the relationship between the tower cantilever and the church.
17. In September 2014, Council and the Central Sydney Planning Committee (CSPC) resolved to seek a Gateway Determination from the Department of Planning and Environment (DoPE) to allow exhibition of the planning proposal and accompanying draft DCP.
18. A Gateway Determination was issued on 10 November 2014, allowing consultation to take place. The planning proposal was publicly exhibited for a 28-day period between 25 November and 22 December 2014. Public agency consultation was also carried out in accordance with the Gateway Determination.
19. No changes were made to the planning proposal following the public exhibition period, however, changes were made to the accompanying draft DCP to clarify and strengthen its intent.
20. The post-exhibition reporting of the planning proposal and accompanying draft DCP to both Council and the CSPC occurred in February 2015.
21. On 28 August 2015, SLEP 2012 (Amendment No. 16) came into force, in addition to the accompanying Section 6.3 of the SDCP 2012.

### **International Competitive Design Process**

22. The Applicant commissioned a competitive design alternatives process for the site. Six (6) local and international architectural firms were invited to submit a design proposal in October 2014. The firms invited to participate in the competition, these were:
- (a) Hassell;
  - (b) Architectus with PLP Architecture;
  - (c) Francis-Jones Morehen Thorp (FJMT);
  - (d) Fitzpatrick and Partners with Tonkin Zulaikha Greer;
  - (e) Johnson Pilton Walker with NBBJ; and
  - (f) Bates Smart with Thomas Phifer and Partners.
23. Presentations of each scheme were given to the design jury on 24 and 25 November 2014. Following these presentations, the two schemes prepared by Architectus with PLP and Hassell were shortlisted. The design jury requested that these shortlisted firms clarify a number of matters, and present their responses on 17 December 2014.

24. The design jury reconvened on 19 December 2014. The scheme prepared by Hassell was selected as the preferred scheme, with the jury noting the key strengths of this proposal as:
- (a) the overall form and massing results in the creation of a new landmark building;
  - (b) the simplicity of the plan and the flexibility it offers;
  - (c) the introduction of the atrium to the north and the light it will bring into the building;
  - (d) the ground floor plane, particularly the:
    - (i) creation of a new through site link;
    - (ii) atrium; and
    - (iii) retail offered to all street frontages contributing to the revitalisation of Martin Place;
  - (e) the legibility and directness of entries to both Martin Place and Macquarie Street;
  - (f) the sympathetic response and integration provided to St Stephen's Church;
  - (g) the use of materials, masonry base of sandstone, the modulation of the glass tower with composite stone blades, and the use of mesh to the service core; and
  - (h) the ESD achievements and innovative systems which could be provided in the new building.
25. The jury concluded that the Hassell scheme exhibits the potential to achieve the design excellence criteria, subject to refinement of the following matters:
- (a) the entries off Martin Place should be reworked to reduce the level changes and make the outside/inside movement as accessible as possible;
  - (b) the soffit treatment to the northern stepped facade needs careful consideration. The use of black marble or its visual equivalent proposed in the revised scheme may appear too heavy or dominant when seen from the street;
  - (c) the mesh screens to the south facade of the service core need consideration both in terms of their density and the proposed colour treatment as part of the overall composition; and
  - (d) the sandstone to the podium is strongly supported, but needs careful consideration in terms of the stone selection and detailing.
26. This Hassell scheme was lodged as the subject Development Application for the site on 17 April 2015.

## PROPOSAL

27. The subject development application seeks consent for:



- (a) demolition of existing structures on site, excluding the heritage listed St Stephen's Church;
  - (b) reconstruction and expansion of three basement levels, accommodating 69 car parking spaces, bicycle parking and end of trip facilities, loading and servicing areas, storage and building services;
  - (c) provision of a single vehicular access from Phillip Street;
  - (d) construction of a 33-storey commercial office tower, with a gross floor area of 45,404sqm of floor area, that accommodations:
    - (i) 2,168sqm of retail floor space on the lower and upper ground floor levels and Level 4; and
    - (ii) 42,431sqm of commercial office floor space on Levels 1 to 3 (inclusive) and Levels 5 to 31 (inclusive); and
    - (iii) 805sqm of basement level end of trip facilities.
  - (e) provision of building identification signage zones;
  - (f) works to St Stephen's Church, including:
    - (i) deconstruction of a now redundant retaining wall located on the southern boundary of St Stephen's Church; and
    - (ii) removal of existing lights along the southern facade and the facade restoration works.
  - (g) relocation of the pedestrian access stair from Martin Place to the Martin Place railway station;
  - (h) landscaping, public art and public domain works; and
  - (i) staged construction into the following 6 stages:
    - (i) Stage 1 – Demolition;
    - (ii) Stage 2 – Excavation and footings;
    - (iii) Stage 3 – Installation and construction of in-ground services and infrastructure;
    - (iv) Stage 4 – Construction of basement structure and services;
    - (v) Stage 5 – Construction of above ground structure and services; and
    - (vi) Stage 6 – Installation of public art, public domain and landscaping works.
28. Photomontages of the proposed development are provided at **Figures 13 to 20**, below. A complete set of architectural plans, elevations and photomontages are provided at **Attachments A and B**.



**Figure 13:** Photomontage of the proposed development in the Sydney CBD context



**Figure 14:** Photomontage of the proposed development in its Macquarie Street context



**Figure 15:** Photomontage of the proposed development, and St Stephen's Church, as viewed from Macquarie Street



**Figure 16:** Photomontage of the proposed development as viewed from Macquarie Street and Martin Place



**Figure 17:** Photomontage of the proposed development as viewed from Martin Place and Phillip Street



**Figure 18:** Photomontage of the proposed podium and low rise tower levels, as viewed from the intersection of Macquarie Street and Martin Place



**Figure 19:** Photomontage of the northern facade of the tower in relation to the St Stephen's Church spire



**Figure 20:** View of the interior of the podium, including visibility of the southern facade of St Stephen's Church

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

29. 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."*
30. Having liaised with the City's Access Unit, in this instance, the proposal is not considered by the CSTTC delegate, the Director City Planning, Development and Transport, to have a significant impact on traffic and transport in the CBD, and formal consideration by the CSTTC is not necessary.

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

31. 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.

### **Airports (Protection of Airspace) Act 1996**

32. The proposed development results in buildings that penetrate the prescribed airspace for Sydney Airport as detailed under the Airports (Protection of Airspace) Act 1996. The construction of building to the height proposed constitutes a "controlled activity" that requires approval under Section 183 of the Airports (Protection of Airspace) Act 1996.
33. In accordance with the above provisions, and those replicated at Clause 7.16 of SLEP 2012, the application was referred to Sydney Airport Corporation Limited (SACL) on 30 January 2015.
34. Clause 7.16 of the SLEP 2012 states that the consent authority cannot grant development consent until such time as the relevant Commonwealth body advises that:
- (a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction; or
- (b) the development will not penetrate the Limitation or Operations Surface.
35. In correspondence, dated 5 May 2015, the Federal Department of Infrastructure and Regional Development (taking into consideration the opinions of the Civil Aviation Safety Authority, Airservices Australia and SACL) have granted their approval, subject to conditions. These conditions have been included in the recommendation at Schedule 5.

### **Environment Protection and Biodiversity Conservation Act 1999**

36. The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places.
37. Pursuant to Part 7 of the EPBC Act, a person proposing to take action that they may be a controlled action must refer the proposal to the Minister for the Environment for a decision on whether that activity is a controlled action. As a result of the Reserve Bank building being listed on the Commonwealth Heritage Register under the provisions of the EPBC Act, the proposal was referred to the Federal Department of the Environment on 26 May 2015 to clarify whether the subject development was a controlled action under this legislation.



38. In correspondence, dated 10 August 2015, the Department of the Environment advised that the proposed development is not a controlled action and does not require any further assessment under the EPBC Act.

#### **Heritage Act 1977**

39. Pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, the proposed development is defined as Integrated Development, as it requires the concurrent approval of the Heritage Council of NSW under the Heritage Act 1977.
40. The application was referred to the Heritage Council of NSW on 20 April 2015, and the application was considered by the Heritage Committee at its meeting on 4 August 2015.
41. Under Section 91A of the Environmental Planning and Assessment Act, 1979, the Heritage Council of NSW issued their general terms of approval to the development on 11 September 2015. These general terms of approval have been included at Schedule 3 of the recommendation.

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

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

#### ***Clause 45 – Electricity transmission***

43. As the development site is within the vicinity of existing power lines and an electricity substation, the application was referred to Ausgrid under the provisions of Clause 45 of the SEPP (Infrastructure) on 24 April 2015.
44. A substation has been proposed within the lower ground floor, adjacent to the Macquarie Street (eastern) boundary of the site. An access hatch is proposed within the boundaries of the site. An appropriate condition has been recommended for imposition to require consultation with the electricity provider regarding the design of the substation.

#### ***Clause 86 – Excavation in, above or adjacent to rail corridors***

45. The application was referred to Sydney Trains and Transport for NSW on 20 April 2015 under the provisions of Clause 86 of the SEPP (Infrastructure) 2007 as the site is located adjacent to a rail corridor and Martin Place railway station. It should be noted that owners consent has been provided separately in relation to works to the pedestrian access stair to Martin Place railway station.
46. During the assessment of the application, Sydney Trains requested additional information from the developer. This additional information was provided to Sydney Trains directly by the Applicant between June and September 2015.
47. In correspondence, dated 4 September 2015, Sydney Trains has granted their concurrence, subject to the imposition of conditions outlined in Schedule 4.

#### ***Clause 104 – Traffic generating development***

48. The application was referred to the Roads and Maritime Services (RMS) pursuant to Clause 104 of SEPP (Infrastructure) on 24 April 2015.

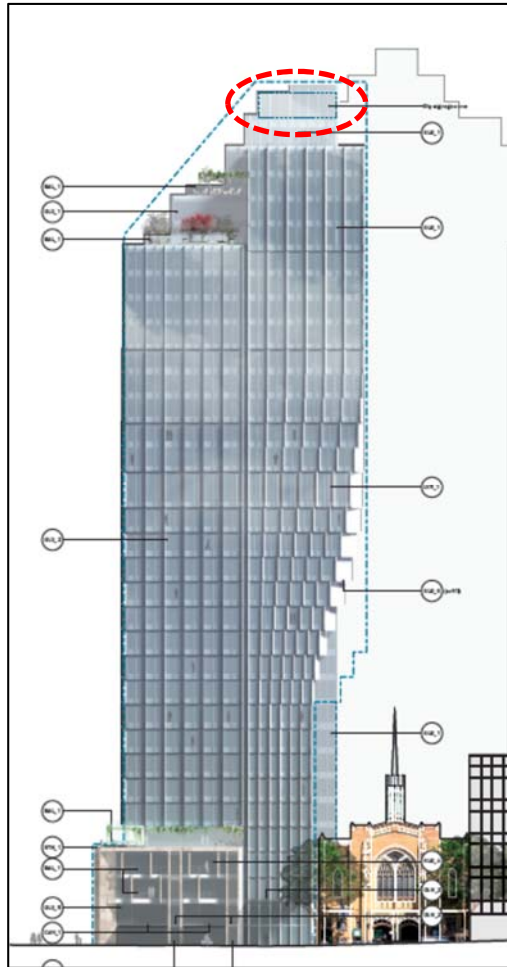
49. To date, no response has been received from the RMS. However, pursuant to the provisions of Clause 104(3)(b)(i) of SEPP (Infrastructure), the consent authority may determine the application where 21-days have passed since the RMS was notified of the application. As this 21-day period has passed, 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**

50. 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.
51. Additional information was requested during the assessment of the application in relation to the underground storage tanks on site and associated soil vapour sampling. Based on this additional information submitted, the City's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

#### **State Environmental Planning Policy No 64—Advertising and Signage**

52. 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.
53. The proposal seeks consent for four (4) building identification signage zones at the parapet level (top of building) of the commercial office building. The signage zones proposed are as follows:
- (a) northern elevation: signage zone dimensions of 23.7m x 5.6m;
  - (b) eastern elevation: signage zone dimensions of 12m x 3.8m;
  - (c) southern elevation: signage zone dimensions of 21.5m x 3.8m; and
  - (d) western elevation: signage zone dimensions of 6.9m x 5.6m.
54. In accordance with the provisions of Clause 18 of SEPP 64, as a result of the indicative size of each signage zone, the application was referred to the RMS for their concurrence. The RMS advised in correspondence, dated 18 May 2015, that they raised no objection to the top of building signage zones.
55. With regard to the proposed top of building signage zones, the proposal has been considered against the relevant objectives and assessment criteria of Clauses 3 and 8, as well as Schedule 1 of SEPP 64. As part of the assessment on the acceptability of these zones, consideration has been given to Section 3.16 of SDCP 2012 and the provisions of Draft DCP amendments to Section 3.16.5 for top of building signs.



**Figure 21:** Eastern (Macquarie Street) elevation signage zone

56. The application is limited to identifying appropriate zones on each facade. The final detail on the size and content of each building identification sign would be the subject of a separate development application once the future tenants of the building are known. A condition to this effect is recommended for imposition. It should also be noted that all other tenant, retail and directional way-finding signage is recommended to be the subject of a signage strategy.
57. It is considered that the proposal has the capability to meet the relevant aims of SEPP 64, subject to a condition being imposed requiring separate development applications to be submitted for the future signage.
58. Whilst the overall size, scale and siting of each of the signage zones are acceptable, the provision of four building identification signs is considered to be excessive and non-compliant with the provisions of Clause 3.16.5 of SDCP 2012. The maximum number of top of building signs is limited to two (2) in both the current SDCP 2012 and the Draft SDCP (Signs and Advertisements) 2015. As such it is recommended that a condition be imposed requiring the deletion of two signage zones. Subject to the imposition of the above conditions, the proposed signage zones can be supported.

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

59. The site is located within the designated catchment for Sydney Harbour, and is subject to the provisions of the Sydney Regional Environmental Plan (SREP) (Sydney Harbour Catchment) 2005.
60. 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**

61. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposal is defined as a ‘commercial premises’, which is permissible within the B8 – Metropolitan Centre zone pursuant to Clause 2.3 of SLEP 2012.
62. As detailed in the relevant history section of this report, Amendment No. 16 of the SLEP 2012 was gazetted on 28 August 2015. Amendment No. 16 amends the height control for the subject site and inserts a new clause (Clause 6.29).
63. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings 6.29 58-60 Martin Place, Sydney	Yes	<p>Pursuant to Clause 4.3 (2) of SLEP 2012, the maximum height of a development shall not exceed the maximum height on the SLEP 2012 ‘Height of Buildings Map’.</p> <p>The majority of the site is identified on the map as having a 55 metre height control. The entirety of the 58-60 Martin Place allotment and part of the allotment of 197 Macquarie Street is identified as being located within Area 6 on this map.</p> <p>Pursuant to Clause 6.29 of SLEP 2012, notwithstanding the provisions of Clause 4.3 (Height of Buildings) and Clause 6.17 (Sun Access Plane), a building may be constructed on the site identified as Area 6, if:</p>

Compliance Table		
Development Control	Compliance	Comment
		<ul style="list-style-type: none"> <li>the building does not exceed RL 167.1 metres;</li> <li>it will not result in any additional overshadowing at any time on 14 April between 12 noon and 2.00pm on Martin Place or the facade of the building at 65 Marin Place (being the Reserve Bank); and</li> <li>the building must not be used for residential accommodation or serviced apartments</li> </ul> <p>The proposed development seeks to utilise the site specific provisions of Clause 6.29 of SLEP 2012. The proposal is consistent with this clause as:</p> <ul style="list-style-type: none"> <li>the proposal has a maximum height of RL 167.1;</li> <li>the proposal does not result in additional overshadowing to Martin Place or the facade of the Reserve Bank building on 14 April 2015, and actually results in an improvement in solar access on Martin Place at 12 noon on 14 April; and</li> <li>the proposed development accommodates retail and commercial office land uses only. No residential or serviced apartments are contained within the development.</li> </ul>

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>6.21 Design excellence</p>	Yes	<p>Clause 4.4 of Sydney LEP 2012 stipulates a base floor space ratio of 8:1 for the site, with Clause 6.4 providing an opportunity for a further 4.39:1 of floor space where accommodation floor space uses are provided. This equates to a maximum FSR of 12.38:1.</p> <p>The proposed development also seeks to utilise the design excellence provisions pursuant to Clause 6.21. Clause 6.21 permits up to an additional 10% of FSR where the scheme lodged has won a competitive design process and is considered by the consent authority to exhibit design excellence. As detailed within this report, the proposal is considered to exhibit design excellence and is eligible for the 10% design excellence FSR.</p> <p>Considering all applicable floor space provisions allowable under the Sydney LEP 2012, the maximum permissible FSR for this development would be 13.628:1.</p> <p>The proposed development has a maximum gross floor area (GFA) of 46,537sqm (inclusive of the 1,133sqm of church floor space). The proposed development includes 805sqm of end of journey floor space, and pursuant to the provisions of Clause 6.6 of SLEP 2012, this floor space is excluded in the calculation of FSR.</p> <p>Excluding this end of journey floor space, the proposed development as a GFA of 45,732sqm. This equates to a FSR of 13.466:1, which is compliant with the FSR provisions of SLEP 2012.</p>

Compliance Table		
Development Control	Compliance	Comment
4.5 Calculation of floor space ratio and site area	Yes	<p>For the purposes of this development the site area is both the site at 58-60 Martin Place and the Church site at 197 Macquarie Street. This equates to a collective site area of 3,396sqm.</p> <p>As a result of the cantilevered building form above St Stephen's Church, approximately 3,900sqm of commercial office floor space is to be constructed on the church site.</p> <p>This is considered to meet the test of Clause 4.5(6) of SLEP 2012, which requires that "significant development" is being carried out on each lot for it to be included as part of the site area.</p>
5.9 Preservation of trees or vegetation	Yes	<p>A total of nine (9) street trees exist along the Macquarie Street, Phillip Street and Martin Place frontages of the site.</p> <p>The proposal is acceptable in terms of tree preservation as the proposal will retain the existing street trees.</p>
5.10 Heritage conservation	Yes	<p>The subject site incorporates the State heritage listed St Stephen's Church at 197 Macquarie Street, and is located within a heritage significant precinct of Sydney. Within the vicinity of the site are the heritage listed Martin Place, the Reserve Bank of Australia, Parliament House, Sydney Hospital, the Royal Mint Building and Hyde Park Barracks.</p> <p>As the proposed development incorporates a building listed on the NSW State Heritage Register, the application was referred to the Heritage Council of NSW for their approval. As detailed in the assessment of the application under the Heritage Act, 1977, the Heritage Council of NSW have granted their general terms of approval to the application.</p>

Compliance Table		
Development Control	Compliance	Comment
		<p>Council's Senior Heritage Specialist is supportive of the scale and materiality of the podium in relation to adjacent heritage buildings. The proposed cantilever element and its improvements from the planning proposal are supported on heritage grounds.</p> <p>Whilst Council's Heritage Specialist has raised concerns regarding the setbacks of the tower, it is noted that the setbacks proposed are consistent with the site specific planning controls that relate to the site. Further discussion is provided elsewhere within this report.</p> <p>Recommended conditions have been imposed to ensure the continued conservation of the church, including an updated conservation management plan, a schedule of conservation works and a costed heritage asset maintenance plan.</p>
6.11 Allocation of heritage floor space (HFS)	Yes	<p>Pursuant to this provision, development consent must not be granted unless Heritage floor space (HFS) is allocated to the site. The amount of HFS to be allocated is calculated as:</p> <ul style="list-style-type: none"> <li>• 50% of accommodation floor space: 7,454sqm;</li> <li>• 50% of design excellence floor space: 1,827sqm.</li> <li>• Deduction for a design competition process: -1,000sqm.</li> </ul> <p>An amount of 8,281sqm of HFS is to be allocated to the site prior to the relevant Construction Certificate.</p>



<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
6.17 Sun access plane	Yes	<p>Clause 6.17 of SLEP 2012 identifies the site as being within the sun access plane 5B for Martin Place.</p> <p>As detailed in height of buildings within this compliance table, the proposed development is utilising the site specific provisions of Clause 6.29 of SLEP 2012 for an alternate building height.</p> <p>In addition to complying with the site specific envelope control, the proposal has been designed to comply with the sun access plane for The Domain.</p>
6.21 Design excellence	Yes	<p>The subject building design was the winning scheme in a competitive design process completed in October to December 2014, and satisfies the statutory requirement for a competitive design process.</p> <p>This assessment finds that the proposed scheme is considered to achieve a high standard of architectural and urban design consistent with the design excellence provisions.</p>
7.6, 7.7 & 7.9 Car parking ancillary to other development	Yes	<p>A maximum of 103 car spaces are permitted to service the commercial office, retail and church land uses.</p> <p>A total of 69 car spaces are proposed (66 to the commercial and retail uses and 3 to the church).</p>
7.14 Acid Sulphate Soils	Yes	The proposal has been assessed as satisfactory, subject to appropriate conditions.
7.15 Flood planning	Yes	Appropriate conditions have been recommended by the City's Engineers.

Compliance Table		
Development Control	Compliance	Comment
7.16 Airspace operations	Yes	Approval has been granted for the proposed development to penetrate the prescribed airspace for Sydney Airport by the Federal Department of Infrastructure and Regional Development on 5 May 2015. Appropriate conditions have been included in the recommendation.
7.19 Demolition must not result in long term adverse visual impact	Yes	The subject application seeks consent for demolition and redevelopment of the site as part of the subject application, and is therefore, considered to adequately address the requirements of this clause.
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 or where the proposal has a height greater than 55 metres to be the subject of a site specific development control plan (or alternatively the approval of a Stage 1 DA).</p> <p>As detailed in the relevant history section of this report, the site has been the subject of a planning proposal that has seen the formulation of site specific LEP and DCP provisions (Section 6.3.4 of the SDCP 2012).</p> <p>It is considered that the content of the site specific LEP and DCP provisions that have been prepared for this site satisfy the requirements of Clause 7.20(4) of SLEP 2012.</p>

### Sydney DCP 2012

64. 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 & Macquarie Street Special Character Area

The site is located in both the Martin Place Special Character Area (the site at 58-60 Martin Place) and the Macquarie Street Special Character Area (the Church site at 197 Macquarie Street).

The proposed development is considered to be consistent with the principles of the two Special Character Areas in that:

- the proposal incorporates a podium element that defines its street alignment and provides an enclosure to Martin Place;
- the proposed tower has been setback from all frontages, to be consistent with the built form character of the Martin Place precinct;
- the development has been the subject of a planning proposal, which examined the protection of sun access to Martin Place and the forecourt of the Hyde Park Barracks on Macquarie Street; and
- the proposal incorporates the State heritage item of St Stephen's Church within the development, and conserves its significance.

## 3. General Provisions

Development Control	Compliance	Comment
3.1.5 Public art	Yes	<p>A Public Art Strategy has been submitted with the application, and has identified the following locations for the integration of public art in the development:</p> <ul style="list-style-type: none"> <li>• the building exterior surface;</li> <li>• within the internal atrium;</li> <li>• the podium roof garden; and/or</li> <li>• the colonnade.</li> </ul> <p>Appropriate conditions have been recommended to require the development of this strategy prior to Stage 5 Construction Certificate.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
<p>3.2.2 Addressing the street and public domain</p> <p>3.2.3 Active frontages</p>	Yes	<p>The proposed development activates its three frontages through the provision of retail tenancies directly accessed from the street or Martin Place. Level 4 of the building, including the podium roof-top, is proposed to be a publicly accessible. It is envisaged that this space will be a food and beverage use, which will be subject to a further application.</p> <p>The proposal allows for public access through the lower ground floor as an extension to the public domain. This will provide an informal pedestrian link between Martin Place and Macquarie Street. Located on the lower ground floor is a multi-purpose venue that will be available to host public and private events.</p> <p>The incorporation of the above features within the lower levels of the building will provide an interface with the public domain and open up public views of the southern facade of St Stephen's Church.</p>
3.2.4 Footpath awnings	No	<p>The site is not an identified location for footpath awnings pursuant to Section 3.2.4 of the SDCP 2012.</p> <p>The proposal does incorporate entry canopies along the site's Macquarie Street frontage above the commercial entry lobby and retail tenancies.</p> <p>The height, design and materiality of these canopies are considered to require further refinement. Refer to further discussion in the Issues section of this report.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2.6 Wind effects	Yes	<p>A Pedestrian Wind Environment Study was submitted with the application.</p> <p>The conclusions of this assessment are that ameliorating devices would be required in certain locations in order to achieve the desired wind speed criteria. These include:</p> <ul style="list-style-type: none"> <li>• an awning on the Macquarie Street frontage at ground floor level;</li> <li>• an arbour on the level 4 and level 30 terraces;</li> <li>• a 1.2m high parapet along the edge of the Level 4 terrace;</li> <li>• strategically placed evergreen trees (capable of growing to a minimum of 3m) on the level 4 and level 28 terraces; and</li> <li>• a 2m high screen on the level 28 and level 30 terraces.</li> </ul> <p>A condition was been included requiring the final design to incorporate all recommendations of the wind report to ensure pedestrian comfort and safety, as well as useability of the roof terraces.</p>
3.2.7 Reflectivity	Yes	<p>A reflectivity report has been submitted to assess the reflectivity impacts of the facade treatment on pedestrians and drivers.</p> <p>The conclusions of this assessment are that the podium facade fronting Martin Place has the potential to cause unacceptable glare for pedestrians. The recommendation of this assessment is that the materials on this facade will be required to have an external reflectivity of 15% or less. All other facades will be satisfactory with the City's standard requirement for reflectivity and glare control.</p> <p>A condition has been imposed to require the recommendations of this reflectivity report to be implemented in the final design.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.2.8 External lighting	Able to comply	An appropriate condition is recommended.
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The design of the building is the outcome of a competitive design alternative process that was undertaken in accordance with the City of Sydney Competitive Design Policy.</p> <p>The proposed building seeks to rely on 10% additional floor space permitted under Clause 6.21(7) of SLEP 2012.</p>
3.6 Ecologically Sustainable Development	Yes	<p>Council requires commercial developments to implement the principles of ecologically sustainable development (ESD) in the proposed development.</p> <p>An ESD report which outlines the services strategies and ESD opportunities that will be incorporated within the building's design was submitted with the application.</p> <p>The project aims to be both a 5 star Green Star rating under the Green Building Council of Australia and a minimum NABERS Energy rating of 5 stars. To achieve this it is proposed to incorporate the following initiatives into the design:</p> <ul style="list-style-type: none"> <li>• Use of existing high performance building envelope with added fabric insulation to improve energy efficiency and address indoor environmental quality;</li> <li>• Exploration of a naturally ventilated lobby and the use of photovoltaic panels on the roof;</li> <li>• Rainwater harvesting to cater for toilet flushing and irrigation within the site;</li> <li>• Selection of reused /recycled materials where possible; and</li> <li>• Construction and demolition waste will be reused/recycled as appropriate to avoid waste material going into landfill.</li> </ul>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
		It is recommended that a condition is included in the consent to ensure evidence is provided demonstrating that the building will achieve a minimum NABERS Energy rating of 5 stars.
3.7 Water and Flood Management	Yes	Conditions relating to stormwater drainage have been recommended by Council's Engineer.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	A condition is recommended for imposition requiring a stratum subdivision to be created for the tower development above the Church allotment.
3.9 Heritage	Yes	Refer to LEP compliance table, above, and further discussion on recommended design modifications in the Issues section of this report.
3.9.4 Development of sites of State heritage significance or containing more than one heritage item	Yes	Refer to further discussion in the Issues section of this report.
3.11 Transport and Parking 3.11.4 Vehicle parking	Yes	A Traffic Impact Assessment was submitted with the application and assessed by Council's Transport and Access Unit. The reduced parking (from 82 existing spaces to 69 spaces) and consolidated vehicular ramp on Phillip Street are supported, and are not considered to unreasonably impact on the local road network.
3.11.3 Bike parking and associated facilities	Yes	The proposed development incorporates bicycle parking and end of journey facilities in excess of the minimums recommended in the control.  Appropriate conditions are recommended for imposition

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.11.6 Service vehicle parking	Yes	<p>The proposal includes servicing and loading provisions for one medium rigid vehicle, one small rigid vehicle and 6 courier/service spaces. Whilst these 8 spaces/bays are less than the DCP recommended 20 spaces, it is considered that sufficient justification based on similarly scaled developments has been provided.</p> <p>It is recommended that a loading dock management plan is prepared and implemented to minimise the impact of operation of the dock.</p>
3.12 Accessible Design	Yes	<p>Equitable access to the building is provided from the all street boundaries at the main points of entry and from the accessible car parking spaces to all levels.</p> <p>A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>
3.14 Waste	Yes	<p>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.</p>



<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
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. 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	Able to comply	Refer to further discussion under SEPP 64 assessment.
3.17 Contamination	Yes	Refer to further assessment under SEPP 55.

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.2.1.2 Floor to ceiling heights for commercial and retail buildings	Yes	The proposed floor to floor heights enable complying floor to ceilings heights to be achieved.

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1.1 Street frontage heights 5.1.2 Building setbacks	N/A	As the site specific LEP provisions are being implemented in the proposed development, the standard Central Sydney street frontage height and setbacks controls as specified in Sections 5.1.1 and 5.1.2 of SDCP 2012 are not applicable. These controls are superseded by the site specific controls of Section 6.3 of SDCP 2012.
5.1.3 Street frontage heights and setbacks for Special Character Areas	N/A	As the site specific LEP provisions are being implemented in the proposed development, the street frontage height and setbacks for the Martin Place Special Character Area as specified in Sections 5.1.3 of SDCP 2012 are not applicable. These controls are superseded by the site specific controls of Section 6.3 of SDCP 2012.
5.1.6 Building exteriors	Yes	The design of the proposed development, particularly the podium element, is considered to have successfully considered and referenced its heritage context through the use of materials, proportioning and scale.
5.1.9 Award and allocation of heritage floor space		Refer to discussion in the Sydney LEP 2012 compliance table.
5.1.10 Sun access planes		Refer to discussion in the Sydney LEP 2012 compliance table.

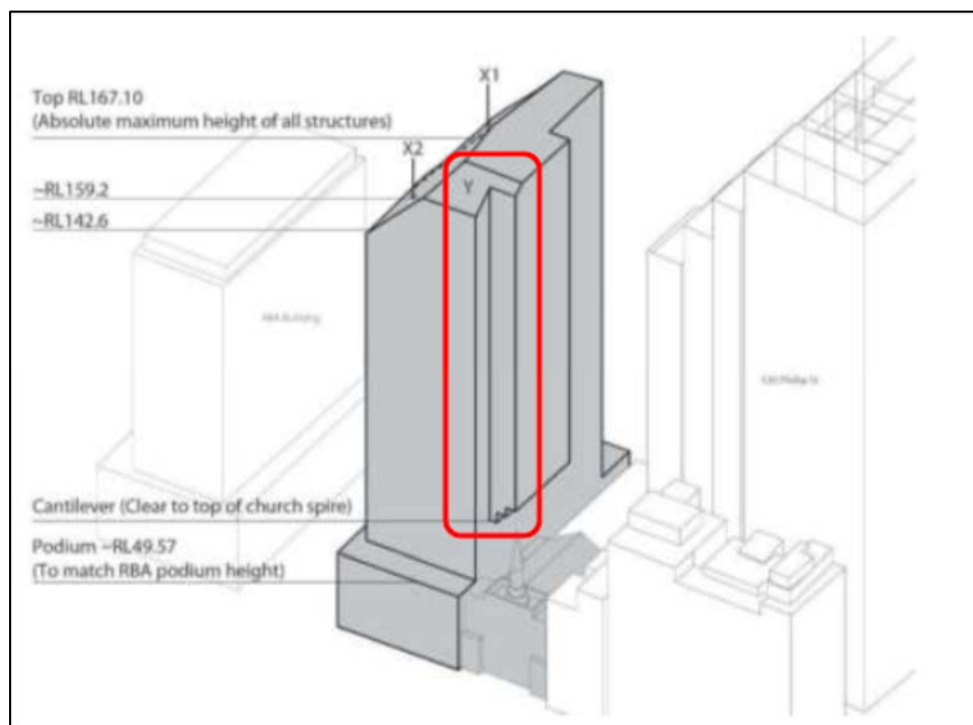
<b>6.3 Specific site controls prepared as part of a Planning Proposal – 60 Martin Place</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
6.3.4.1 Overshadowing	Yes	The proposed development does not cast additional shadow on either the ground plane of Martin Place or the southern facade of the Reserve Bank building between 12 noon and 2.00pm on 14 April in accordance with the provisions of Section 6.3.4.1 of SDCP 2012. The proposed development results in a lesser shadow being cast at 12 noon on the ground of Martin Place than the planning proposal building envelope.
	Yes	There is no additional overshadowing to the internal forecourt of the Barracks between 12.00pm and 2.00pm on 21 June.
6.3.4.2 Wind	Yes	Subject to the imposition of the recommendations of wind report, the ground plane wind impact on Martin Place will not be adversely impacted.
6.3.4.3 Built form	Yes	The building height of the proposed development is compliant with the building envelope contained at Figure 6.76 (Maximum Building Envelope for 60 Martin Place).  The proposed podium height and above podium setbacks of the development are compliant with the building envelope stipulated in Section 6.3.4.3 of SDCP 2012. It is noted that the height of the podium is contextually appropriate, and relates to the height of the podium height of the Reserve Bank building, the height of St Stephen's Church and the Sydney Hospital.
	No	The cantilevered element of the tower above St Stephen's Church is non-compliant with the setbacks and cantilever profile of the building envelope of Section 6.3.4.3 of SDCP 2012. Refer to further discussion in the Issues section of this report.

6.3 Specific site controls prepared as part of a Planning Proposal – 60 Martin Place		
Development Control	Compliance	Comment
6.3.4.4 Parking and vehicular access	Yes	The proposed development removes the existing driveway from Macquarie Street and consolidates both vehicular ingress and egress via the Phillip Street driveway.

## ISSUES

### Variations to site specific building envelope

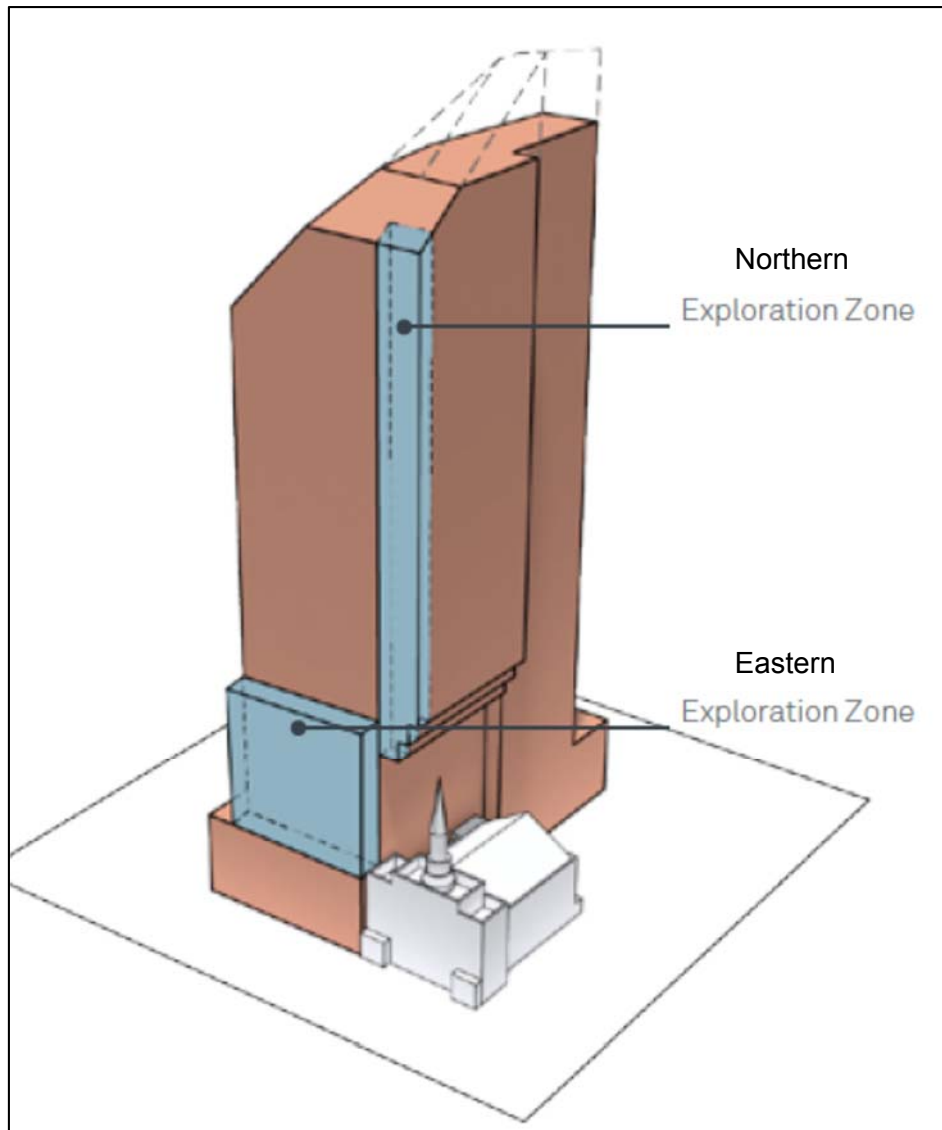
65. The site has been the subject of a detailed planning proposal process and as a result, benefits from site specific LEP and DCP provisions. These provisions establish a maximum building height and a permissible building envelope for the site (refer to **Figure 22**, below).



**Figure 22:** SDCP 2012 site specific building envelope, with cantilevered setback zone highlighted

66. As part of the competitive design process, scope was built into the competitive design brief to allow competitors the option to locate floor space outside the planning proposal building envelope. Specific areas were identified as exploration zones (as illustrated on **Figure 23**, below), and allowed competitors the following:
- the possibility of exploring the option for an increased podium height on the Macquarie Street frontage of the site (the eastern exploration zone); and/or

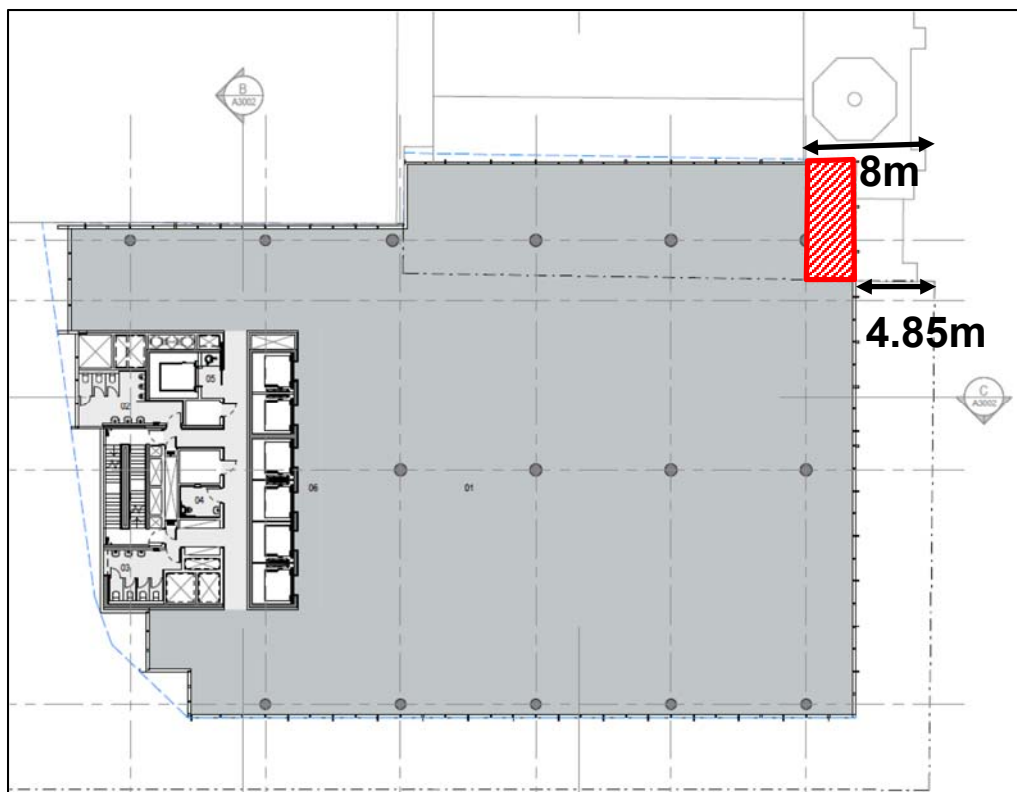
- (b) the possibility of exploring an option which reduced the setback of the cantilevered element of the tower from Macquarie Street frontage (the northern exploration zone).



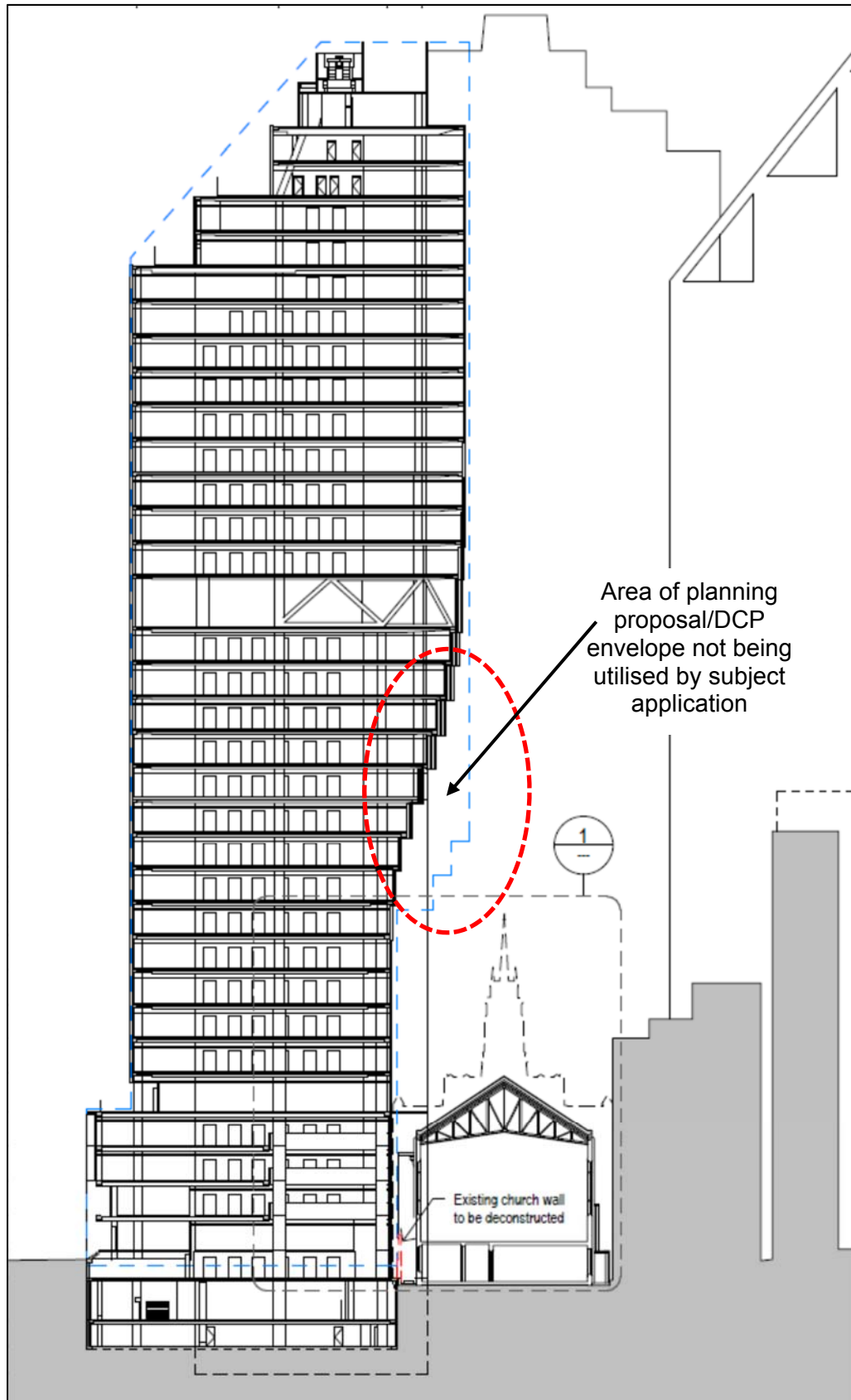
**Figure 23:** The exploration zones identified in the competitive design brief

67. The subject application:
- does not seek to utilise the eastern exploration zone (i.e. the option to increase the podium height), and instead;
  - has sought to fill part of the northern exploration zone (i.e. the reduced setback of the cantilever from Macquarie Street). The proposed development is utilising approximately 76% of the northern exploration zone.
68. Whilst the siting of floor space within this northern exploration zone may be consistent with the parameters of the competitive design brief for the project, it results in a non-compliance with the both the building envelope and building setbacks identified at Section 6.3.4.3 of SDCP 2012.

69. Section 6.3.4.3(2) of SDCP 2012 identifies that the cantilever above St Stephen's Church should:
- (a) be setback 8 metres from the Macquarie Street frontage of the site; and
  - (b) commence at a height equal to the top of the Church's spire.
70. The proposed development seeks to reduce the setback of the cantilevered element above St Stephen's Church from the DCP requirement of 8 metres from the Macquarie Street boundary to 4.85 metres. A reduction to 4.85 metres would align with the remainder of the tower on the site at 58-60 Martin Place, and would be consistent with the northern exploration zone of the competitive design brief. **Figure 24**, below, illustrates the area of non-compliance with the DCP envelope and the numerical variation proposed to the Macquarie Street setback.
71. The proposed variation to the DCP envelope for this cantilevered element occurs on Level 11 and above of the tower. The extent of projection into this zone varies from approximately 450mm (on Level 11) to 8 metres (on Levels 22 and above) based on the stepped form of the design (refer to **Figure 25**, below).



**Figure 24:** An indicative floor plate (Level 24 shown) illustrating the extent of the tower floor plate within the northern exploration zone (shown in red)



**Figure 25:** Section drawing illustrating extent of cantilever above the church

72. Whilst noting the numeric non-compliance with the site specific DCP envelope, it is considered that the proposed variation is acceptable in this instance as:
- (a) in the response to the submissions made to the planning proposal, the City's Strategic Planner acknowledged that there may be alternative design solutions that improve the relationship between the tower and the church. In the planning proposal assessment it was stated that the intention of the DCP envelope was to direct development in the design competition towards an appropriate response that reduced bulk at the interface with the church;
  - (b) the proposal is wholly compliant with the exploration zones parameters contained in the competitive design brief. As part of the design competition the jury gave consideration and weight to heritage, including the spatial relationship and sensitivity to St Stephen's Church. In the selection of the proposal as the winning scheme, a noted strength of the proposal was the incremental stepping of the cantilever, which avoided dominating the heritage item and was considered to be a sympathetic response by the jury;
  - (c) as illustrated in **Figure 25**, above, the proposed development does not seek to fill the entire DCP building envelope. Whilst the scheme does seek to bring the cantilever closer to Macquarie Street, it is also proposed that the height of the cantilever element be higher than anticipated in the DCP envelope. This would increase the separation between the tower and spire of St Stephen's Church (noting that the full expanse of the cantilever does not occur until Level 21 rather than at Level 12 as permitted in the DCP envelope);
  - (d) **Figures 26 to 28** below, illustrate comparative views of St Stephen's Church when viewed from the public domain along Macquarie Street. These images allow a comparison between the DCP envelope and the proposed scheme. It is considered that the proposed scheme is superior to the DCP envelope as it:
    - (i) provides improved views to the heritage listed St Stephen's Church from various vantage points along Macquarie Street, consistent with the objective of Section 6.3.4.3(3) of SDCP 2012; and
    - (ii) allows an increase in the spatial separation between the massing of the new tower and the heritage item, notably from the significant church spire. The proposed scheme is considered to form a respectful relationship between the tower and the church in accordance with the objectives for the cantilever element of Section 6.3.4.3(5) of SDCP 2012.
  - (e) no objection was raised to the proposed setback variations by the Heritage Council of NSW in their consideration of the proposal at their meeting in August 2015; and
  - (f) the proposal was presented to the City's Design Advisory Panel at their meeting in June 2015. The Panel noted that their support for the cantilever over the church and noted that the alternative scheme allowed improved views to the heritage item.





**Figure 26:** View of St Stephen's Church from Macquarie Street, illustrated with the planning proposal cantilever (left) and the proposed scheme cantilever (right)



**Figure 27:** View of St Stephen's Church from Macquarie Street, illustrated with the planning proposal cantilever (left) and the proposed scheme cantilever (right)



**Figure 28:** View of St Stephen's Church looking north along Macquarie Street, illustrated with the planning proposal cantilever (left) and the proposed scheme cantilever (right)

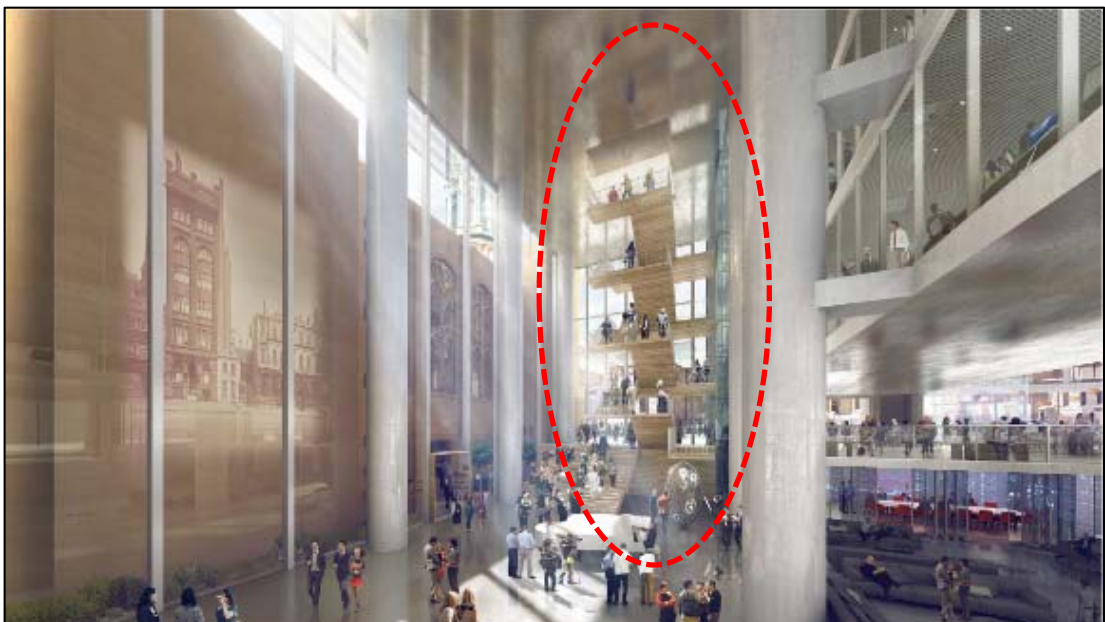
### Design Modifications

73. Following a detailed assessment of the application by City staff, including presentation and consideration of the scheme by the City's Design Advisory Panel, it is considered that a number of matters require further design refinement.
74. The matters listed below are considered to be relatively minor in the scope of the project, and are capable of being refined to the City's satisfaction prior to the issue of a Construction Certificate:
  - (a) the design and materiality of Macquarie Street awning;
  - (b) the location and design of the internal stair connecting the podium levels; and
  - (c) the exterior facade treatment of the mid-rise plant room level.
75. Both the City's Senior Heritage Specialist and the Heritage Council of NSW are of the opinion that the current awning located on Macquarie is obstructing views to St Stephen's Church (refer to **Figure 29**, below). It is recommended that the height, the extent of projection and materiality be reviewed, and an alternative awning design be submitted for approval. It should be noted that the Heritage Council have also requested that the awning be amended in their Terms of Approval. As such, the Applicant will be required to liaise with the Heritage Council to obtain their approval of a modified design.



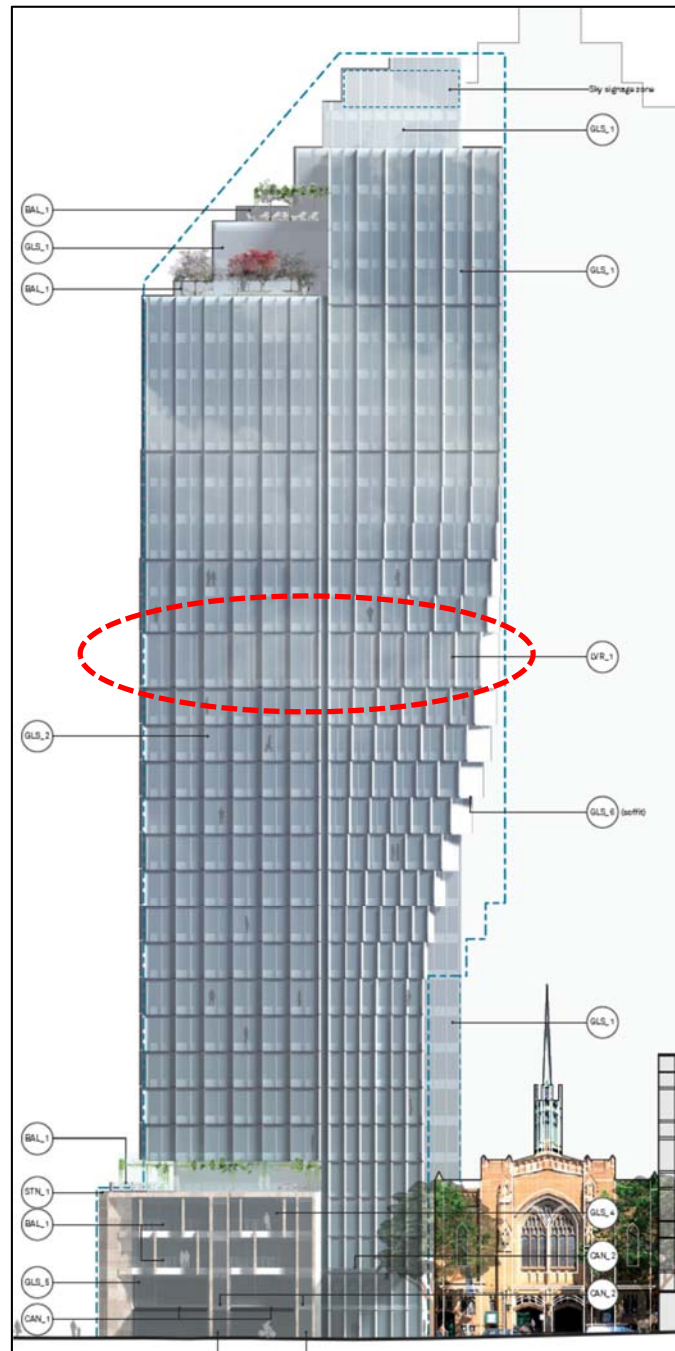
**Figure 29:** The existing design of the Macquarie Street awning that requires further design refinement to minimise impact on views to Church

76. Concern has been raised during the assessment from both a heritage and urban design perspective that the current siting of the internal podium stairs should be further refined (refer to **Figure 30**, below). A design modification condition has been recommended to require that the location and design of this internal stair be amended to improve visual permeability through to Macquarie Street. As the lower ground floor of the building is to be publicly accessible and used for functions, it is considered that the overall design would benefit from greater visual connectivity.



**Figure 30:** Design refinement is required to improved views from the 'civic room' out to Macquarie Street

77. The Design Advisory Panel raised concern regarding the external facade treatment of the mid-rise plant room (located at approximately level 18 of the development). It was noted that in its current form, that the materiality and expression is considered to be disrupting the continuity and language of the facades (particularly on the eastern and southern elevations). The current design is considered to be cutting the facade in half. It is recommended that further design refinement be undertaken to minimise the visual disruption of the plant and its air intake in the overall presentation of the building.



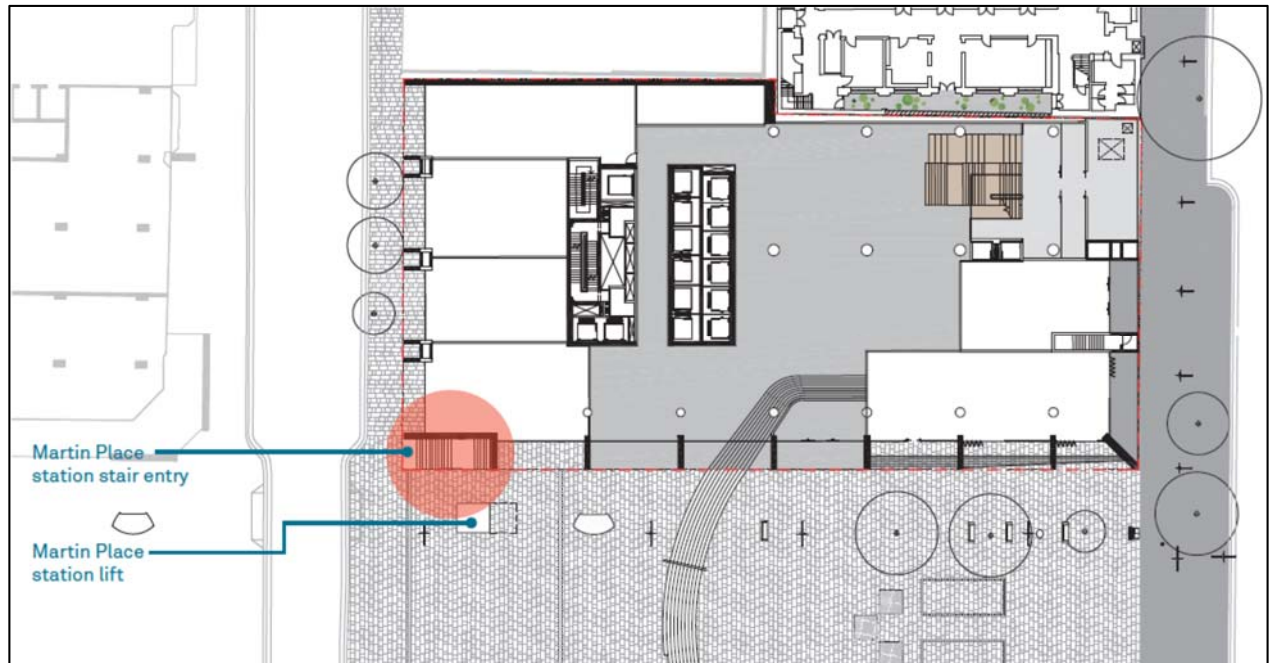
**Figure 31:** The proposed plant room louvers on the Macquarie Street elevation of the development

**Waiver of requirement to form heritage committee under SDCP 2012**

78. The provisions of Section 3.9.4 of SDCP 2012 require that where a development involves building in the airspace across more than 20% of the State heritage item's footprint, then a heritage committee should be appointed.
79. Under the provision of Section 3.9.4 (3) of SDCP 2012, the consent authority may waive the requirement to form a heritage committee where the development has been the subject of a site specific DCP or a competitive design process.
80. In this instance, it is recommended that the consent authority waive the requirement for the heritage committee for this development as:
- (a) there has been an extensive planning proposal process, including the formulation of site specific DCP requirements;
  - (b) the proposed scheme has been the subject of a competitive design alternatives competition, which gave consideration and weight to the interface between the heritage item and tower; and
  - (c) both the planning proposal and the subject application were referred to the NSW Heritage Council for their input. In the case of the development application, the Heritage Council have granted their approval under the integrated development provisions of the Environmental Planning and Assessment Act 1979.
81. Based on the above, Council's Senior Heritage Specialist has advised that there would be little benefit of appointing a heritage committee for this specific project. It is recommended that the requirement to appoint a heritage committee be waived in this particularly instance.

**Relocation of Martin Place Railway Station entry**

82. The proposed development includes:
- (a) the demolition of the existing pedestrian access stair from Martin Place to the concourse level of Martin Place railway station; and
  - (b) the provision of a new relocated pedestrian station entry within the boundaries of the subject site, relocating the stair approximately 770mm further south than the existing stair and 2.83 metres further west (towards Phillip Street).
83. **Figures 32 and 33**, below, illustrate the proposed location of the new stair in the relation to the site. It is considered that the revised location of the stair better integrates the stair into the architecture and design of the overall development. The relocated stair is considered to improve to improve the interface of the development with Martin Place, and be less of a visual barrier and physical obstruction than the existing entry.
84. As detailed elsewhere within this report, the works to the stair required both the submission of owners consent from Transport for NSW and concurrence from Sydney Trains under the provisions of SEPP (Infrastructure). Both owners consent and concurrence for the proposed station entry design have been provided by Transport for NSW and Sydney Trains.



**Figure 32:** The proposed location of the relocated station entry stair to Martin Place railway station



**Figure 33:** Image of the proposed station stair integrated into the design of the development, as viewed from the corner of Martin Place and Phillip Street

### Other Impacts of the Development

85. The proposed development is capable of complying with the BCA.
86. 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**

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

**INTERNAL REFERRALS**

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

**EXTERNAL REFERRALS**

89. The application constitutes integrated development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this, six (6) submissions were received, noting that three (3) of these submission were from the same party. The content of all submissions received is summarised below:

**Station Entry:**

- (a) Concerned about the proximity of the new station stair to Phillip Street. It is requested that the stair be moved further eastward for better weather protection.
- (b) Request that further consideration be given to the expected pedestrian flow in and out of the new stair. Consider that the documentation submitted with the application does not justify moving the existing stair.

**Response:** The above content was contained in a submission from the Planning Division of Transport for NSW (TfNSW). It is noted that this was a separate submission from the owners consent letter and from the concurrence referral under SEPP (Infrastructure), both of which were received from other sections of TfNSW.

Whilst noting the above, additional documentation was submitted throughout the assessment to Sydney Trains and TfNSW in order to satisfy the relevant criteria and standards for a station entry. It is noted that both owners consent and concurrence have been provided to the relocated station entry from TfNSW. Detailed and comprehensive conditions, including further approvals of the final stair design by Sydney Trains, are included at Schedule 4.

In addition to TfNSW's involvement, the City's Transport Planner has reviewed the documentation with regard to relocating the stair and impact on pedestrian flow. With the submission of further detailed stair and site context plans, the proposed relocated stair was assessed as acceptable.

**Construction Impacts:**

- (c) Request that a more detailed Construction Traffic Management Plan (CTMP) be prepared and approved at Construction Certificate stage. A draft condition was provided and included the recommendation that the CTMP be approved by the NSW Department of Planning and Environment.

**Response:** A condition has been imposed requiring the preparation and approval of a CTMP prior to works commencing on the site. It is not considered reasonable that this plan should be required to be approved by the NSW Department of Planning and Environment (noting that this request came from Transport for NSW). The CTMP will be assessed by the City utilising the same parameters as all other plans for complex CBD developments.

- (d) The increased volume of construction vehicles will decrease parking availability. Request that during this construction period that residential parking permits not be allowed to be used in Phillip Street, as these vehicles often remain static for days and prevent the use of on-street car parking by businesses.

**Response:** This request is a matter unrelated to the assessment of the development application. It is noted that on-street car parking is limited in the CBD and is to be shared between all land uses, including residents. Any request of this type should be the subject of a separate request to the City's Transport Planning Unit to review.

- (e) Request that the construction works not impede any other work zones approvals or temporary road closures for crane access for maintenance works on nearby buildings.

**Response:** The request for work zones and temporary road closures is a matter for the City's Construction Regulations Unit and is assessed on a merits basis in accordance with the City's policies.

- (f) Request that Council considering limiting the amount of filming in Phillip Street (and associated road closures) during the construction period to alleviate any conflict with neighbouring occupants accessing their sites, or being able to undertake routine servicing and maintenance.

**Response:** Filming permits and associated temporary road closures is a matter unrelated to the subject application. It is anticipated that consideration will be given to the nearby concurrent construction activities in the assessment on whether to grant a permit.

- (g) Concerned about the noise and vibration impacts of the demolition, excavation and construction works on the site in relation to the television broadcast studios and editing suites for the 7 Network.
- (h) Insufficient information has been submitted within the Demolition Management Plan and the Construction Management Plan. Request that the DA be deferred until demolition methodology is known.
- (i) The assessment contained in the Noise and Vibration Impact Assessment is inadequate.



- (j) It is requested that Council consider the inconvenience to neighbouring properties and apply necessary conditions to ensure that undue noise and disruption does not affect neighbouring sites.

**Response:** A number of submissions were received during the notification period, and throughout the assessment of the application, related to potential impacts on surrounding sensitive land uses (including residential dwellings and the 7 network operation) during the demolition and construction phases of the project.

Additional demolition and construction acoustic and vibration documentation was requested from the applicant during the assessment, and peer reviewed by the City's Environmental Health Officer and Acoustic Specialist. In addition to additional acoustic information, the applicant was requested to provide further detailed demolition methodology to demonstrate methods to be used to mitigate offensive noise.

It is considered that a detailed demolition works methodology statement should be prepared adopting best practice methods to minimise noise and vibration. It is recommended that this statement be the subject of a deferred commencement condition to allow the City to review and approved the demolition methodology before an operable consent is granted. It is considered that this will allow the applicant an opportunity to obtain a relevant contractor and work through their methodology in consultation with the City and relevant stakeholders.

### Process

- (k) Object to the applicant lodging two development applications as it has the ability to mislead.

**Response:** Following the submission of the subject application, the applicant did lodge a further development application D/2015/578 on 4 May 2015, seeking consent for an early works application for the project. The scope of works in this second application is limited to demolition of existing structures (excluding St Stephen's Church), site preparation works and excavation. The substantive redevelopment would be subject to the subject application.

The Applicant has stated their purpose for the two separate applications relates to tendering of demolition and then construction contracts, and allows the conditions on any consent to be easily separated.

The City cannot prevent anyone from lodging an application, or multiple applications, and is required to notify, assess and determine all applications lodged. The description of the proposal on the notification of the early works application made it clear that the demolition was an early works program in association with the subject application.

Under the provisions of the Sydney Local Environmental Plan 2012, the City cannot determine the early works development application, until the subject application has been approved. Therefore, Development Application D/2015/578 is still under assessment, noting that all construction related conditions that are recommended for imposition on the subject application would be replicated on the early works application, should it be supported.

**PUBLIC INTEREST**

90. 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**

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

**RELEVANT LEGISLATION**

92. The Environmental Planning and Assessment Act 1979; Heritage Act 1977; and Airports (Protection of Airspace) Regulations 1996.

**CONCLUSION**

93. The proposal seeks consent for the demolition of the existing building (excluding St Stephen's Church) and the construction of a 33-storey commercial office building accommodating 2,168sqm retail floor space and 42,431sqm of commercial floor space.
94. The site has been the subject of a planning proposal that formulated site specific planning controls within both the SLEP 2012 and SDCP 2012. The proposed development has been designed to be generally consistent with these site specific planning controls. Where variation to the envelope has been proposed, this has occurred wholly in accordance with the nominated exploration zones identified in the competitive design process brief. As detailed in this report, the variation proposed to the cantilevered element of the tower is considered to be a better heritage outcome (both in terms of the interface with St Stephen's Church and for the greater Macquarie Street precinct) than a strictly compliant scheme, and is supported in this instance.
95. As a result of the extensive heritage input throughout both the planning proposal and competitive design process (including that of the Heritage Council of NSW), it is considered that the formulation of a heritage committee for this application would be of little benefit. As such, it is recommended that the consent authority waive the requirement for a heritage committee pursuant to Section 3.9.4 of the SDCP 2012 as it is considered to be unnecessary in this instance.
96. The subject application (D/2015/509) is supported and recommended for a deferred commencement approval, subject to conditions. In this instance it is recommended that the proposal be the subject of a deferred commencement consent to enable the Applicant to provide a demolition works methodology statement prior to the activation of the consent.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)