

ITEM 10. DEVELOPMENT APPLICATION: 1 ALFRED STREET SYDNEY**FILE NO: D/2015/882****DEVELOPMENT APPLICATION NO: D/2015/882****SUMMARY**

Date of Submission: 26 June 2015. Amended plans were received 25 November 2015.

Applicant: Wanda One Sydney Pty Ltd

Architect: Kerry Hill Architects

Developer: Wanda Group

Owner: Wanda One Sydney Pty Ltd

Cost of Works: \$289,465,000

Proposal Summary: Stage 2 Development Application for changes to an existing Stage 2 consent for mixed use development of the site.

The site is within the "Alfred, Pitt, Dalley and George (APDG) Block" in Circular Quay.

The proposal seeks to amend DA D/2010/2029 previously approved as a deferred commencement consent by the Central Sydney Planning Committee (CSPC) on 10 May 2012. An operational consent was subsequently granted on 9 May 2013. The approved Stage 2 DA was for the demolition of the existing building (Goldfields House), excavation of 8 basement levels and construction of a mixed use development containing 2 buildings of a scale of 55 storeys (Building A) and 15 storeys (Building B) to be used for predominantly residential use and some retail/commercial use.

The following amendments are sought within this application compared to the approved DA:

- (i) increase the floor plate of Building A by 0.6m on the southern side and 2m on the northern side;
- (ii) alter the internal layout of Building A to respond to contemporary apartment planning controls and adjustments in land use allocation;
- (iii) not include Building B in the development; and
- (iv) not include basement car parking in the development.

**Proposal Summary:
(continued)**

The proposed development application is for the demolition of Goldfields House and construction of a single tower with 57 storeys containing 184 apartments, retail space and landscaping. The tower is marginally wider on two sides but retains the previously approved building height.

This Stage 2 DA is to be considered in conjunction with a concurrent Stage 1 DA for a concept proposal for redevelopment of 1 Alfred Street, 19-31 Pitt Street and 31A Pitt Street. The Stage 1 DA was lodged as a State Significant Development (SSD) Application and has been delegated to the City of Sydney for assessment. The Stage 1 SSD DA is subject to a separate report to the CSPC at this round.

This development application has a building envelope for Building A that is consistent with that proposed in the concurrent Stage 1 DA. Whereas this development application proposes to not include Building B in the consent, the Stage 1 DA seeks to establish building envelopes for a new hotel tower. The Stage 1 DA proposes a consolidated 6 storey basement below Building A and the hotel tower.

The subject DA was advertised and notified for a period of 30 days between 13 July 2015 and 13 August 2015. 33 submissions were received. The issues raised in submissions include view loss, overshadowing, bulk and scale, non-compliance with planning controls, cumulative impacts with other proposals and construction impacts. These issues have been addressed in the report.

During the assessment of the application, the developer offered to enter into an amended Voluntary Planning Agreement (VPA) to undertake revised public domain works, secure rights of public access across current private land and provide public artwork.

The development is Integrated Development as an approval is necessary from the NSW Heritage Council for development within the curtilage of the "Sydney Tank Stream", an item of archaeological heritage significance. The Heritage Council has confirmed their earlier General Terms of Approval for the development and added conditions.

Concurrence from Sydney Airport for the amended proposal has been obtained.

**Proposal Summary:
(continued)**

The DA is supported and is recommended for a deferred commencement consent requiring the exhibition, execution and registration of an amended VPA, design modifications relating to acoustic issues, requirement for an approved development application for a basement and resolution of Sydney Trains concurrence conditions prior to the amending consent becoming operational.

Summary Recommendation:

The development application is recommended for a deferred commencement consent.

Development Controls:

- (i) Sydney Local Environmental Plan 2012
(Gazetted 14 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Attachments:

- A - Selected DA Drawings
- B - Public Submissions – Summary of Issues and Council Officer responses

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee support the variation sought to Clause 6.25 "Height of Buildings on parts of certain sites" in accordance with Clause 4.6 "Exceptions to Development Standards" in Sydney Local Environmental Plan 2012;
- (B) the Central Sydney Planning Committee support the variation sought to Clause 4.4 "Floor space ratio" in accordance with Clause 4.6 "Exceptions to Development Standards" in Sydney Local Environmental Plan 2012;
- (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/2015/882, 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) VOLUNTARY PLANNING AGREEMENT

- (a) That a Voluntary Planning Agreement be exhibited, executed, submitted to Council and secured on title in accordance with the Public Benefit Offer by Wanda One Sydney Pty Ltd under cover of letter received 3 December 2015.
- (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement.
- (c) The Voluntary Planning Agreement, as executed, must be registered on the title of the land in accordance with the Voluntary Planning Agreement; and
- (d) The payment of the monetary contribution must be provided to Council in accordance with the Voluntary Planning Agreement.

(2) DESIGN MODIFICATIONS

The design of the development must be modified as follows:

- (a) Opaque glazing, high level windows or screening is to be incorporated to prevent privacy issues/overlooking between relevant south facing apartments on Level 3 and adjacent windows within "Jacksons on George" hotel;
- (b) Enclosed wintergardens are to be incorporated into the "SA" (studio apartments) on Levels 3 to 6 to reduce acoustic impacts of the Jacksons on George hotel. Wintergarden window specification is to be supplied with the amended plans and demonstrate compliance with the City of Sydney's standard entertainment noise condition;

- (c) Open south facing balconies and all south facing windows from Level 2 are to be subjected to revised acoustic advice based on the City's standard entertainment noise condition for entertainment noise emanating from Jacksons on George hotel, including achievement of existing background noise levels at the boundary of any affected residential premises after midnight and achievement of inaudibility after midnight within habitable rooms. Enclosed wintergardens and increased window acoustic specification measures are to be incorporated where compliance with noise amenity criteria will not be achieved.
- (d) Plans reflecting the required modifications are to be submitted to and approved by the Director City Planning, Development & Transport. Following the approval of the modified plans, correspondence will be issued by the Council confirming the final approved gross floor area for the development.

(3) BASEMENT LEVELS TO BE APPROVED IN A STAGE 2 CONSENT

Basement access, car parking, bike parking, servicing, storage, waste management and other basement functions are to be subject to a Stage 2 DA consent. This consent is not to become operational until basement levels are approved under a Stage 2 development.

(4) SYDNEY TRAINS REQUIREMENTS

- (a) The owners of the site of the approved development must enter into a Deed of Agreement with TfNSW and Sydney Trains prior to issue of any Construction Certificate to address the adverse effects of the approved development on the CBDRL identified in State Environmental Planning Policy (Infrastructure) 2007. The Agreement must provide for the following:
 - (i) the design, construction and maintenance of the approved development so as to satisfy the requirements in conditions (c) to (j) below;
 - (ii) allowances for the future construction of railway tunnels in the vicinity of the approved development;
 - (iii) allowances in the design, construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
 - (iv) consultation with TfNSW and Sydney Trains;
 - (v) access by representatives of TfNSW and Sydney Trains to the site of the approved development and all structures on that site;
 - (vi) provision to TfNSW and Sydney Trains of drawings, reports and other information related to the design, construction and maintenance of the approved development;

- (vii) creation of a restrictive covenant on each of the titles which comprise the approved project so as to satisfy condition (j) below;
 - (viii) such other matters which TfNSW and Sydney Trains considers are appropriate; and
 - (ix) such other matters as the owners and TfNSW and Sydney Trains may agree.
- (b) All structures proposed for construction or installation, or which are constructed or installed in connection with the approved development which have a potential impact on the CBDRL must be designed, constructed and maintained in accordance with design criteria specified by TfNSW.
 - (c) The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW.
 - (d) Prior to the issue of any construction certificate the developer must undertake detailed geotechnical analysis to the satisfaction of TfNSW to demonstrate likely movements of the ground due to the future CBDRL.
 - (e) No modifications may be made to the approved design without the consent of TfNSW.
 - (f) A detailed regime is to be prepared for consultation with, and approval by, TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.
 - (g) TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.
 - (h) All requirements contained in the Agreement between TfNSW and Sydney Trains and the owners of the site must be satisfied during construction and, where appropriate, the operation of the approved development.
 - (i) Copies of any certificates, drawings or approvals given to or issued by TfNSW must be delivered to Council for its records.

- (j) Prior to the commencement of any excavation below existing ground level, a restrictive covenant is to be created upon each of the titles which comprise the approved development pursuant to Section 88E of the Conveyancing Act 1919, restricting any alterations or additions to any part of the approved development which is reasonably likely to adversely affect, or which otherwise is likely to interfere with the design, construction and operation of the proposed CBDRL without the prior written consent of TfNSW.
- (D) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of this deferred commencement consent, failing which this deferred commencement 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 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 and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

PART B – CONDITIONS OF CONSENT

(ONCE THE CONSENT IS IN OPERATION)

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

SCHEDULE 1A

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

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

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2015/882 dated 26 June 2015 and the following drawings:

Drawing Number	Architect	Date
DA0001 Roof Site Plan	Kerry Hill Architects	24/11/15
DA0002 Ground Site Plan	Kerry Hill Architects	24/11/15
DA0106 Lower Ground Plan	Kerry Hill Architects	24/11/15
DA0107 Ground Floor Plan	Kerry Hill Architects	24/11/15
DA0109 Level 1 Plan	Kerry Hill Architects	24/11/15
DA0110 Level 2 Plan	Kerry Hill Architects	24/11/15
DA0111 Levels 3-5 Plan	Kerry Hill Architects	24/11/15
DA0114 Level 6 Plan	Kerry Hill Architects	24/11/15
DA0116 Levels 7-35 Plan	Kerry Hill Architects	24/11/15
DA0126 Level 36 Plan	Kerry Hill Architects	24/11/15
DA0127 Level 37 Plan	Kerry Hill Architects	24/11/15
DA0128 Level 38 Plan	Kerry Hill Architects	24/11/15
DA0135 Level 39 Plan	Kerry Hill Architects	24/11/15
DA0129 Levels 40-45 Plan	Kerry Hill Architects	24/11/15
DA0130 Levels 46-47, 49-52 Plan	Kerry Hill Architects	24/11/15
DA0138 Level 48 Plan	Kerry Hill Architects	24/11/15
DA0131 Levels 53-54 Plan	Kerry Hill Architects	24/11/15
DA0136 Level 55 Plan	Kerry Hill Architects	24/11/15
DA0137 Level 56 Plan	Kerry Hill Architects	24/11/15
DA0133 Level 57 (Roof Plant)	Kerry Hill Architects	24/11/15
DA0134 Roof Plan	Kerry Hill Architects	24/11/15
DA1001 Building A - Elevations	Kerry Hill Architects	24/11/15
DA1002 Building A - Elevations	Kerry Hill Architects	24/11/15
DA1006 Streetscape West Elevation	Kerry Hill Architects	24/11/15

Drawing Number	Architect	Date
DA1007 Streetscape North Elevation	Kerry Hill Architects	24/11/15
DA1009 Streetscape Detail North Elevation	Kerry Hill Architects	24/11/15
DA1010 Streetscape Detail West Elevation	Kerry Hill Architects	24/11/15
DA1101 Sections	Kerry Hill Architects	24/11/15

and as amended by the conditions of this consent.

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

(2) MODIFICATION OF DEVELOPMENT APPLICATION D/2010/2029

- (a) Prior to the commencement of this development consent, the existing base development application consent D/2010/2029, dated 9 May 2013, shall be modified pursuant to Section 80A(1)(b) and (c) of the Environmental Planning and Assessment Act 1979 to the satisfaction of the Director City Planning, Development and Transport. The drawings set out in the following schedule shall be modified by the approved drawings nominated at Condition 1 (Approved Development) of this consent.
- (b) Notice of such modifications shall be given to Council in accordance with Section 97 of the Environmental Planning and Assessment Regulation prior to commencement of any works pursuant to this consent.

Schedule – Plans to be replaced

Drawing Number	Architect	Date
DA0001 (Revision B) Roof Site Plan	Kerry Hill Architects	8 November 2011
DA0002 (Revision B) Ground Site Plan	Kerry Hill Architects	8 November 2011
DA0102 (Revision B) Basement 8 Plan	Kerry Hill Architects	8 November 2011
DA0103 (Revision B) Basement 3-7 Plan	Kerry Hill Architects	8 November 2011
DA0104 (Revision B) Basement 2 Plan	Kerry Hill Architects	8 November 2011

Drawing Number	Architect	Date
DA0105 (Revision B) Basement 1 Plan	Kerry Hill Architects	8 November 2011
DA0106 (Revision B) Lower Ground Plan	Kerry Hill Architects	8 November 2011
DA0107 (Revision B) Ground Plan	Kerry Hill Architects	8 November 2011
DA0108 (Revision B) Mezzanine Plan	Kerry Hill Architects	8 November 2011
DA0109 (Revision B) Level 1 Plan	Kerry Hill Architects	8 November 2011
DA0110 (Revision B) Level 2 Plan	Kerry Hill Architects	8 November 2011
DA0111 (Revision B) Level 3 Plan	Kerry Hill Architects	8 November 2011
DA0112 (Revision B) Level 4 Plan	Kerry Hill Architects	8 November 2011
DA0113 (Revision B) Level 5 Plan	Kerry Hill Architects	8 November 2011
DA0114 (Revision B) Level 6-8 Plan	Kerry Hill Architects	8 November 2011
DA0116 (Revision B) Level 9-12 Plan	Kerry Hill Architects	8 November 2011
DA0118 (Revision B) Level 13 Plan	Kerry Hill Architects	8 November 2011
DA0119 (Revision B) Level 14 Plan	Kerry Hill Architects	8 November 2011
DA0120 (Revision B) Level 15-19 Plan	Kerry Hill Architects	8 November 2011
DA0121 (Revision B) Level 20 Plan	Kerry Hill Architects	8 November 2011
DA0122 (Revision B) Level 21-33 Plan	Kerry Hill Architects	8 November 2011
DA0124 (Revision B) Level 34 Plan	Kerry Hill Architects	8 November 2011

Drawing Number	Architect	Date
DA0125 (Revision B) Level 35 Plan	Kerry Hill Architects	8 November 2011
DA0126 (Revision B) Level 36 Plan	Kerry Hill Architects	8 November 2011
DA0127 (Revision B) Level 37 Plan	Kerry Hill Architects	8 November 2011
DA0128 (Revision B) Level 38 Plan	Kerry Hill Architects	8 November 2011
DA0129 (Revision B) Level 39-50 Plan	Kerry Hill Architects	8 November 2011
DA0130 (Revision B) Level 51-52 Plan	Kerry Hill Architects	8 November 2011
DA0131 (Revision B) Level 53 Plan	Kerry Hill Architects	8 November 2011
DA0132 (Revision B) Level 54 Plan	Kerry Hill Architects	8 November 2011
DA0133 (Revision B) Level 55 (Roof Plant) Plan	Kerry Hill Architects	8 November 2011
DA0201 (Revision A) Accessible Apts –Post Adaptation	Kerry Hill Architects	12 November 2010
DA1001 (Revision B) Building A - Elevations	Kerry Hill Architects	8 November 2011
DA1002 (Revision B) Building A - Elevations	Kerry Hill Architects	8 November 2011
DA1003 (Revision B) Building B - Elevations	Kerry Hill Architects	8 November 2011
DA1004 (Revision B) Building B - Elevations	Kerry Hill Architects	8 November 2011
DA1005 (Revision B) Streetscape East Elevation	Kerry Hill Architects	8 November 2011
DA1006 (Revision B) Streetscape West Elevation	Kerry Hill Architects	8 November 2011

Drawing Number	Architect	Date
DA1007 (Revision B) Streetscape North Elevation	Kerry Hill Architects	8 November 2011
DA1008 (Revision B) Streetscape Detail North Elevation Bdg B	Kerry Hill Architects	8 November 2011
DA1009 (Revision B) Streetscape Detail North Elevation – Bdg A	Kerry Hill Architects	8 November 2011
DA1010 (Revision B) Streetscape Detail West Elevation	Kerry Hill Architects	8 November 2011
DA1011 (Revision B) Streetscape Detail East Elevation – Bdg B	Kerry Hill Architects	8 November 2011
DA1101 (Revision B) Sections	Kerry Hill Architects	8 November 2011
DA1201 (Revision B) Detail Basement Section	Kerry Hill Architects	14 October 2011

(3) RELIANCE ON PREVIOUS DEVELOPMENT CONSENT D/2010/2029, AS AMENDED

- (a) This development consent relies on, and must be read in conjunction with, the base development application D/2010/2029 (as amended).
- (b) This consent is subject to compliance with conditions of consent contained in D/2010/2029 (as amended) as follows:

SCHEDULE 1A OF D/2010/2029:

- (i) (2A) COGENERATION PLANT;
- (ii) (3) DESIGN DETAILS (MAJOR DEVELOPMENT);
- (iii) (4) DESIGN QUALITY EXCELLENCE;
- (iv) (5) DESIGN DETAILS OF TEMPORARY BARRIER FENCE;
- (v) (8) APPROVED DESIGN ROOF- TOP PLANT;
- (vi) (9) REFLECTIVITY;
- (vii) (10) NON RESIDENTIAL USES – SEPARATE DA REQUIRED;

- (viii) (14) SECTION 61 CONTRIBUTIONS PAYABLE
- (ix) (15) LANDSCAPING OF THE SITE;
- (x) (33) TRAFFIC WORKS;
- (xi) (34) ASSOCIATED ROADWAY COSTS;
- (xii) (35) COST OF SIGNPOSTING;
- (xiii) (36) EXTERNAL LIGHTING;
- (xiv) (37) WASTE AND RECYCLING COLLECTION;

SCHEDULE 1B OF D/2010/2029:

- (xv) (39) CONSTRUCTION TRAFFIC MANAGEMENT PLAN;
- (xvi) (40) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT;
- (xvii) (41) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION;
- (xviii) (42) WASTE AND RECYCLING MANAGEMENT – RESIDENTIAL;
- (xix) (43) WASTE AND RECYCLING MANAGEMENT – COMMERCIAL;
- (xx) (44) EROSION AND SEDIMENT CONTROL
- (xxi) (45) DEWATERING;
- (xxii) (46) ACID SULPHATE SOILS;
- (xxiii) (47) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION;
- (xxiv) (48) TEMPORARY GROUND ANCHORS/SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE;
- (xxv) (49) ASBESTOS REMOVAL;
- (xxvi) (50) ASBESTOS REMOVAL SIGNAGE;
- (xxvii) (51) PROHIBITION OF ASBESTOS RE-USE;
- (xxviii) (52) CLASSIFICATION OF WASTE;
- (xxix) (53) DISPOSAL OF ASBESTOS;
- (xxx) (54) NOTIFICATION OF ASBESTOS REMOVAL;
- (xxxi) (55) SIGNAGE LOCATION AND DETAILS

- (xxxii) (56) SKIPS AND BINS;
- (xxxiii) (57) CONTAMINATION;
- (xxxiv) (58) WATER POLLUTION;
- (xxxv) (59) TREE PROTECION ZONE;
- (xxxvi) (60) STREET TREE PROTECTION;
- (xxxvii) (61) SYDNEY WATER CERTIFICATE;
- (xxxviii) (62) TELECOMMUNICATIONS PROVISIONS;
- (xxxix) (63) UTILITY SERVICES;
- (xl) (64) FLOOR TO CEILING HEIGHT;
- (xli) (65) ACOUSTIC PRIVACY BETWEEN UNITS;
- (xlii) (66) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS;
- (xliii) (68) ACOUSTIC VERIFICATION – MECHANICAL PLANT;
- (xliv) (69) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES;
- (xlv) (70) ADAPTABLE HOUSING;
- (xlvi) (71) PHYSICAL MODELS;
- (xlvii) (72) SUBMISSION OF ELECTRONIC MODELS;
- (xlviii) (73) DEMOLITION/SITE RECTIFICATION;
- (xlix) (74) FOOTPATH DAMAGE BANK GUARANTEE;
- (l) (75) BARRICADE PERMIT;
- (li) (77) ALIGNMENT LEVELS;
- (lii) (78) PUBLIC DOMAIN PLAN;
- (liii) (80) STREET LIGHTING;
- (liv) (81) PAVING MATERIALS;
- (lv) (82) STORMWATER AND DRAINAGE – MAJOPR DEVELOPMENT;
- (lvi) (83) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT – PUBLIC DOMAIN;
- (lvii) (84) PUBLIC DOMAIN WORKS – HOLD POINTS AND HANDOVER;

- (lviii) (85) PRESERVATION OF SURVEY MARKS;
- (lix) (89) MECHANICAL VENTILATION;
- (lx) (91) MICROBIAL CONTROL;
- (lxi) (92) CONTROL OF LEGIONNAIRES DISEASE;
- (lxii) (93) FUTURE FOOD USE – MECHANICAL VENTILATION PROVISION;
- (lxiii) (94) COMPLIANCE WITH THE BUILDING CODE OF AUSTRALIA;
- (lxiv) (95) STRUCTURAL CERTIFICATION FOR DESIGN;

SCHEDULE 1C OF D/2010/2029:

- (lxv) (96) OCCUPATION CERTIFICATE TO BE SUBMITTED;
- (lxvi) (97) BASIX;
- (lxvii) (98) HOURS OF WORK AND NOISE – CBD;
- (lxviii) (99) SITE NOTICE OF PROJECT DETAILS AND APPROVALS;
- (lix) (100) USE OF INTRUSIVE APPLIANCES – NOT APPROVED;
- (lxx) (101) NOTICE OF EXCAVATION WORKS;
- (lxxi) (102) SYDNEY WATER CERTIFICATE;
- (lxxii) (103) PROTECTION OF STREET TREES DURING CONSTRUCTION;
- (lxxiii) (104) COVERING OF LOADS;
- (lxxiv) (105) VEHICLE CLEANSING;
- (lxxv) (106) LOADING AND UNLOADING DURING CONSTRUCTION;
- (lxxvi) (107) ACCESS DRIVEWAYS TO BE CONSTRUCTED;
- (lxxvii) (108) NO OBSTRUCTION OF PUBLIC WAY;
- (lxxviii) (109) USE OF MOBILE CRANES;
- (lxxix) (110) ENCROACHMENTS – NEIGHBOURING PROPERTIES;
- (lxxx) (111) ENCROACHMENTS – PUBLIC WAY;
- (lxxxi) (112) SURVEY;

- (lxxxii) (113) SURVEY CERTIFICATE AT COMPLETION; and
- (lxxxiii) (114) STREET NUMBERING.
- (c) This consent is not subject to compliance with the following conditions of consent contained in D/2010/2029 (as amended). Amended and updated conditions, as relevant, are included from Condition 4 of this consent.

SCHEDULE 1A OF D/2010/2029:

- (i) (2) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT;
- (ii) (6) FLOOR SPACE RATIO – CENTRAL SYDNEY;
- (iii) (7) BUILDING HEIGHT;
- (iv) (11) SIGNAGE STRATEGY;
- (v) (12) RESTRICTION ON RESIDENTIAL DEVELOPMENT;
- (vi) (13) RESTRICTIONS ON USE OF CAR SPACES;
- (vii) (16) PROHIBITION ON PARTICIPATION IN RESIDENTIAL PARKING PERMIT SCHEME;
- (viii) (17) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENTIAL PARKING SCHEME;
- (ix) (18) CAR PARKING SPACES AND DIMENSIONS;
- (x) (19) HEIGHT CLEARANCES;
- (xi) (20) SERVICE VEHICLES;
- (xii) (21) SERVICE VEHICLE SIZE LIMIT;
- (xiii) (22) ACCESSIBLE PARKING SPACE;
- (xiv) (23) LOCATION OF ACCESSIBLE CAR PARKING SPACES;
- (xv) (24) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES
- (xvi) (25) ALLOCATION FOR CAR WASH BAYS;
- (xvii) (26) INTERCOM FOR VISITORS/ACCESS TO PORTE COCHERE;
- (xviii) (27) BICYCLE PARKING;
- (xix) (28) VEHICLE ACCESS;
- (xx) (29) SIGNS AT EGRESS;
- (xxi) (30) SECURITY GATES;

- (xxii) (31) LOADING WITHIN SITE;
- (xxiii) (32) LOADING/PARKING KEPT CLEAR;

SCHEDULE 1B OF D/2010/2029:

- (xxiv) (38) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE;
- (xxv) (67) ACOUSTIC ASSESSMENT REPORT;
- (xxvi) (76) APPLICATION FOR HOARDINGS AND ACAFFOLDING ON A PUBLIC PLACE;
- (xxvii) (86) SWIMMING POOL/SPA;
- (xxviii) (87) MINIMISE IMPACT OF POOL ON NEIGHBOURING PROPERTIES;
- (xxix) (88) SWIMMING POOL – WASTE AND OVERFLOW WATERS;
- (xxx) (90) CAR PARK VENTILATION; and

SCHEDULE 3 OF D/2010/2029:

- (xxxi) (115) ROADS AND MARITIME SERVICES (RMS) REQUIREMENTS.

- (d) This consent only applies to those aspects and amendments requested in the development application dated 26 June 2015, as modified by this condition of consent. Approval is not granted for any other items which may have been included on the submitted drawings, and for which approval has not been specifically sought.

(4) COMMUNAL OPEN SPACE

Residents in Building A are to have access to communal facilities within the future hotel building associated with Stage 1 DA D/2015/1049 (Tower B in D/2015/1049).

(5) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal, calculated following the design modifications required in Part A – Deferred Commencement Conditions must not exceed the FSR calculated in satisfaction of Part A in accordance with the *Sydney Local Environmental Plan 2012*.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

- (c) Prior to a Construction Certificate being issued, Council's written verification must be obtained, confirming that heritage floor space was allocated (purchased and transferred) to the development based on the gross floor area calculated on satisfaction of design modifications required in Part A – Deferred Commencement Conditions, being that floor space in excess of 8:1 as specified in the *Sydney Local Environmental Plan 2012*.

(6) BUILDING HEIGHT

- (a) The height of the building must not exceed RL 191 (AHD) to the top of the building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

(7) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The amending Voluntary Planning Agreement entered into under the terms of the deferred commencement conditions of this consent shall be complied with.

(8) SYDNEY AIRPORT CONDITIONS

- (a) The building must not exceed a maximum height of 191 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden planting, exhaust flues etc.
- (b) Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct buildings that exceed 51 metres AHD and penetrate prescribed airspace. 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. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (c) 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.
- (d) Any future addition to the buildings height that increases the penetration of the OLS (including the installation of additional antennas) will require a separate assessment.

(9) SIGNAGE STRATEGY

The signage strategy lodged with the DA is not approved.

A separate development application is to be submitted seeking approval of a signage strategy. The strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building. All signs in the strategy shall comply with Section 3.16 of the Sydney Development Control Plan 2012.

(10) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (Levels 3 - 56) must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential accommodation as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

(11) NUMBER OF ADULTS PER ROOM

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

(12) 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.

(13) 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 Acoustic Logic Consultancy (Reference 20150699.1/0206A/R0/BW), dated 2 June 2015 labelled *Wanda, 1 Alfred Street, Sydney - Noise Impact Assessment* and supplementary letter prepared by Acoustic Logic Consultancy (Reference 20150765.1/2810A/R1/TT) dated 28 October 2015 labelled *1 Alfred street, Circular Quay – Response to Submission from Jacksons on George* 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), (c) and (d) below and to the satisfaction of the certifying authority.

- (b) The Acoustic Assessment report, prepared by Acoustic Logic Consultancy (Reference 20150699.1/0206A/R0/BW), dated 2 June 2015 shall be amended to reflect the internal residential acoustic amenity criteria stated within Clauses 87 and 102 of the State Environmental Planning Policy (Infrastructure) 2007. An amended report must be submitted to the Council for approval prior to the issue of a Construction Certificate, particularly in relation to the proposed acoustic control recommendations stated in Part 4 of the report and the criteria adopted in the SEPP.
- (c) 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 revised and approved DA acoustic reports. 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 report criteria and recommendations.
- (d) Prior to the issue of an Occupation Certificate, a suitable qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the PCA that the development complies with the requirements set out in the Report and 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.

(14) NOISE - ENTERTAINMENT

- (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.

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.

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

- (a) A separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* is to be made to Council to erect a hoarding and/or scaffolding (temporary structures) on or above a public road (footway and/or roadway).
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:
 - (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
 - (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);
 - (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);

- (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);
- (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);
- (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
- (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
- (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and
- (ix) ensuring all required signage is provided and maintained (Clauses 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

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

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

(16) PUBLIC ART

High quality public art work(s) shall be installed in accordance with a Public Art Strategy endorsed by Council in relation to the site.

It is acknowledged that a site-wide Public Art Strategy shall be prepared as part of the process of preparing the Stage 2 DA design associated with Tower B under Stage 1 DA 2015/1049. At this stage, the principles of the Public Art Strategy prepared by Barbara Flynn and dated 15 June 2015 and indicative locations (through-site link) or laneways are endorsed.

Public art is to be installed prior to the issue of any Occupation Certificate.

This public art is in addition to the public art contribution required by the terms of any Voluntary Planning Agreement.

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

– REFER TO D/2010/2029, AS AMENDED –

SCHEDULE 2**Prescribed Conditions**

- REFER TO D/2010/2029, AS AMENDED –

SCHEDULE 3**(17) TRANSPORT FOR NSW REQUIREMENTS**

In addition to the Sydney Trains conditions set out in this consent, TfNSW requires the proponent to prepare a detailed Construction Pedestrian and Traffic Management Plan (CPTMP) prior to commencement of construction, which takes in account other construction projects (including CBD and South East Light Rail (CSELR) and AMP Quay Quarter projects) in the Circular Quay and Wynyard precincts.

The CPTMP should demonstrate that that construction impacts on the road network, bus operation and pedestrian/cyclist safety and movements can be managed. The CPTMP should be prepared in consultation with TfNSW, Roads and Maritime Services and City of Sydney. The final CPTMP should be endorsed by the CBD Coordination Office within TfNSW prior to the issue of any Construction Certificates.

SCHEDULE 4**Terms of Approval****Other Integrated Development Approvals**

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

- (a) All General Terms of Approval issued in relation to development consent D/2010/2029 remain valid except as amended by the following conditions:

Archaeology

- (b) If historical archaeological deposits are discovered during works, work must immediately cease in the affected area(s) and the Heritage Council of NSW must be notified. A suitably qualified and experienced archaeologist must be contacted to assess the finds. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
- (c) If any Aboriginal objects are uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage (Enviroline 131 555) is to be notified in accordance with Section 89A of the National Parks and Wildlife Act 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by the Office of Environment & Heritage.

Section 60 Application

- (d) 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.

BACKGROUND

The Site and Surrounding Development

1. A site visit was carried out on 26 November 2015.
2. The site is irregular in shape, with a street frontage of 27.055 metres to Pitt Street to the east, 14.475 metres to George Street to the west and approximately 58.825 metres to Alfred Street/Herald Square to the north. The site area is 2,686sqm. **Figure 1**, below, illustrates the site and its context.
3. The topography of the site slopes from west to east (from George Street to Pitt Street), with a fall of 3.78 metres.
4. The site currently contains a 28-storey office building known as "Goldfields House". The building consists of ground floor retail uses with commercial office floor space and associated plant occupying the remainder of the building. Approximately 130 car parking spaces are provided across two basement car parking levels, which is accessed from a driveway off Pitt Street. Servicing of the existing building currently occurs via Rugby Place, a private laneway located to the rear of the site.
5. The site is located in the northern part of the Central Business District, and is located approximately 100m southwest of the Circular Quay ferry wharves. Development in the vicinity of the site contains a variety of uses from commercial office towers, hotels and residential apartment buildings, to recreation uses and historic and cultural buildings around The Rocks and Circular Quay.
6. Immediately to the north of the site is the public open space of Herald Square, which contributes to the public domain forecourt and identified special character area of Circular Quay. Further north, on the opposite side of Alfred Street, is the Circular Quay railway station and the Cahill Expressway, which separates the site from The Rocks historic precinct, First Fleet Park and the Museum of Contemporary Art.
7. Along the southern boundary of the site are a 14-storey commercial building at 19-31 Pitt Street (known as Fairfax House) and a 3-storey building at 174-176A George Street, which currently accommodates the Jacksons on George licensed bar. Between the subject site and the two aforementioned buildings, is the 6-storey Rugby Club building at 31A Pitt Street. The Rugby Club site is accessed via a private laneway known as Rugby Place from Pitt Street. The Applicant recently purchased both Fairfax House and the Rugby Club building.
8. The heritage listed Tank Stream runs underground, parallel and adjacent to the eastern boundary of the site. The location of the tank stream varies between 110mm and 175mm from the boundary and is located approximately 1m from the existing basement wall of Goldfields House. The Tank Stream is relevant to development toward the eastern end of the site. This DA concerns the western end of the site.
9. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Aerial image of subject site and immediately surrounding area



Figure 3: Site viewed from Alfred Street looking south-west

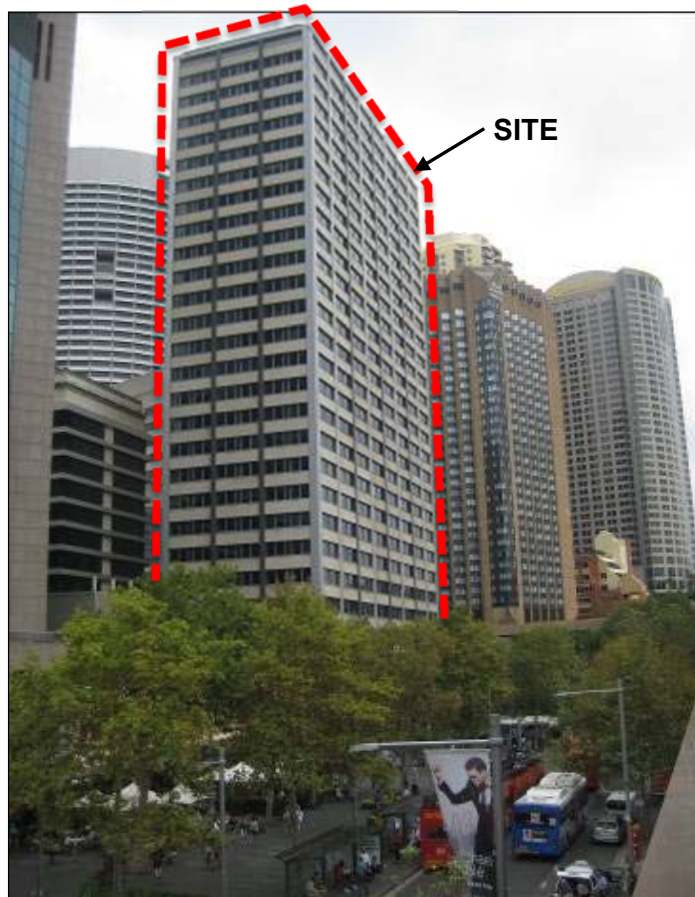


Figure 4: Site viewed from Cahill Expressway



Figure 5: Site viewed from Alfred Street



Figure 6: Site viewed from Pitt Street



Figure 7: 19-31 Pitt Street (Fairfax House) to the south



Figure 8: Rugby Place to the south



Figure 9: 31A Pitt Street (Rugby Club) viewed from Rugby Place

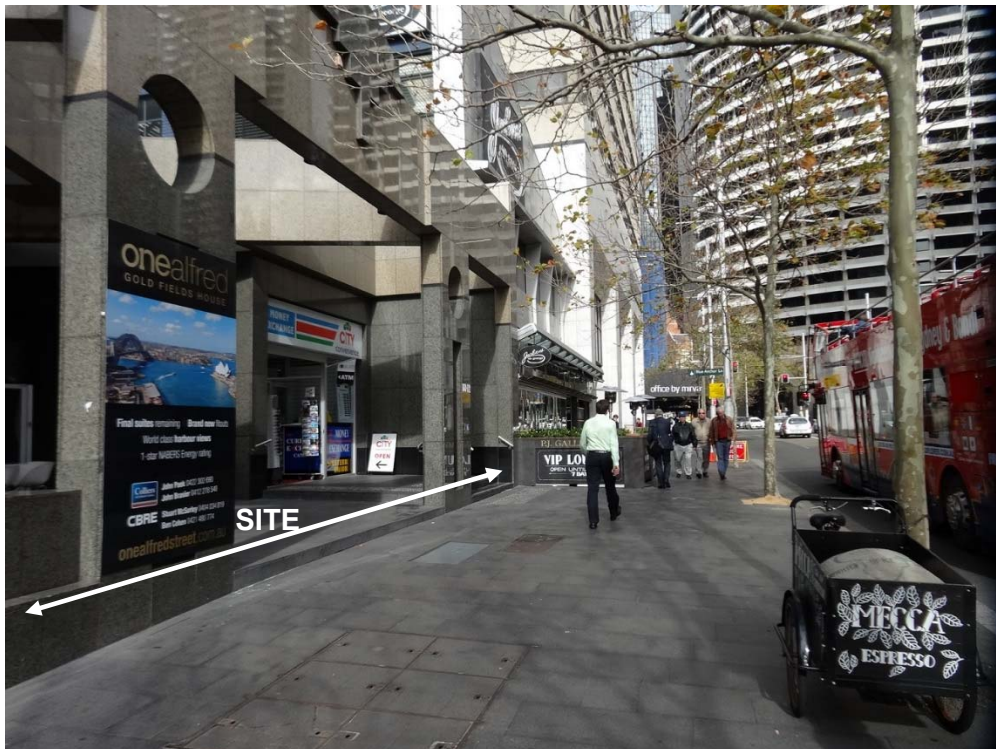


Figure 10: George Street frontage with “Jacksons on George” hotel to the south

PROPOSAL

10. The DA seeks consent to amend the existing base consent granted pursuant to DA D/2010/2029 as follows:
 - (a) not include Building B;
 - (b) not include Building B;
 - (c) extend the floor plate of Building A as follows:
 - (i) 0.6m extension to the south;
 - (ii) 2m extension to the north;
 - (d) reduce the floor-to-ceiling heights of levels in Building A, whilst still maintaining more than 3.1m floor-to-floor height;
 - (e) fill some voids within the existing envelope of Building A;
 - (f) convert enclosed floor areas to open balconies within Building A; and
 - (g) alter the internal layout of Building A.
11. The deletion of Building B facilitates the incorporation of two new sites, 19-31 Pitt Street ("Fairfax House") and 31A Pitt Street ("the Rugby Club") into the broader redevelopment site via a concurrent Stage 1 DA. A hotel tower is proposed on the land not included in this consent and the abovementioned properties and is subject to a future competitive design process and Stage 2 DA.
12. Building A comprises a mixed use (residential and retail) building with a maximum height of 185m / RL191 and a proposed maximum gross floor area of 35,438m². This GFA is subject to recalibration with the recommended conditions because some south facing balconies are required to be infilled to reduce noise impacts from the adjoining Jacksons on George hotel. Council Officers estimate the increased GFA would be in the order of 190m². The final GFA is subject to the Deferred Commencement Conditions in Part A being satisfied before the consent can become operational.
13. As a result of the reduced floor-to-ceiling heights, an additional 2 levels of residential use were capable of being accommodated within the approved height of Building A. Together with internal layout changes, the number of apartments in Building A would increase from 154 to 184 with this DA.
14. The proposal retains active frontage to George Street, Alfred Street and a future pedestrian through-site link from Alfred Street to Rugby Place. The DA maintains public domain works around the northern, eastern and western sides of the site. This includes the full 12m wide extent of a north-south pedestrian link between Herald Square and Rugby Lane, which will line up with a future integrated network of laneways in the APDG Block. The public domain outcomes from the future Building B in the concurrent Stage 1 DA will be subject to a competitive design process and separate Stage 2 DA.

15. Revised basement car parking, servicing and waste management and storage is to be provided as part of a future Building B Stage 2 DA. The Stage 1 DA includes the concept of 6 basement levels accessed off Pitt Street for future residential and hotel car parking, residential and commercial waste management, residential and commercial loading and hotel/retail back-of-house.



Figure 11: Digital rendering of Building A from the north, with Building B in the Stage 1 DA in block form to the left and draft indicative building envelope for proposed office tower behind (Lend Lease proposal)

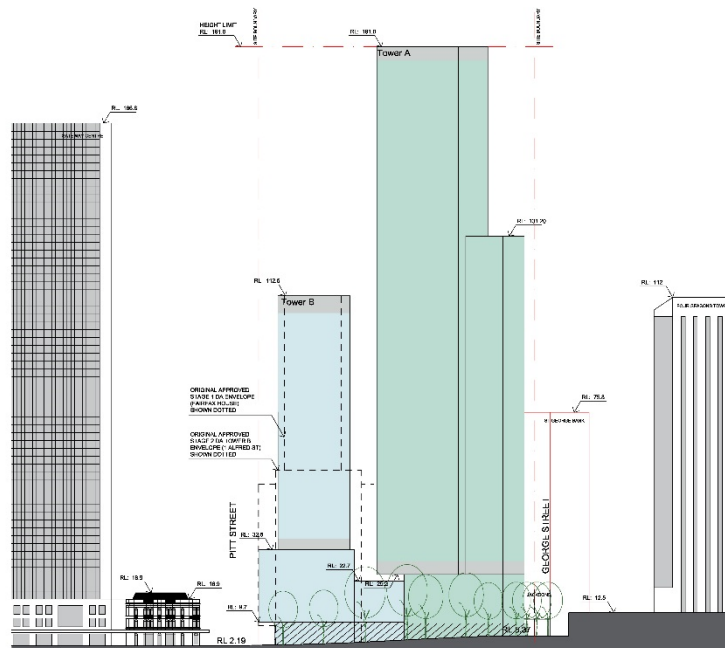


Figure 12: Proposed building envelopes in the concurrent Stage 1 DA



Figure 13: Digital rendering of Building A from the corner of George St and Alfred St



Figure 14: Photomontage from original Stage 2 DA from the north-east showing approved Buildings A and B (D/2010/2029)

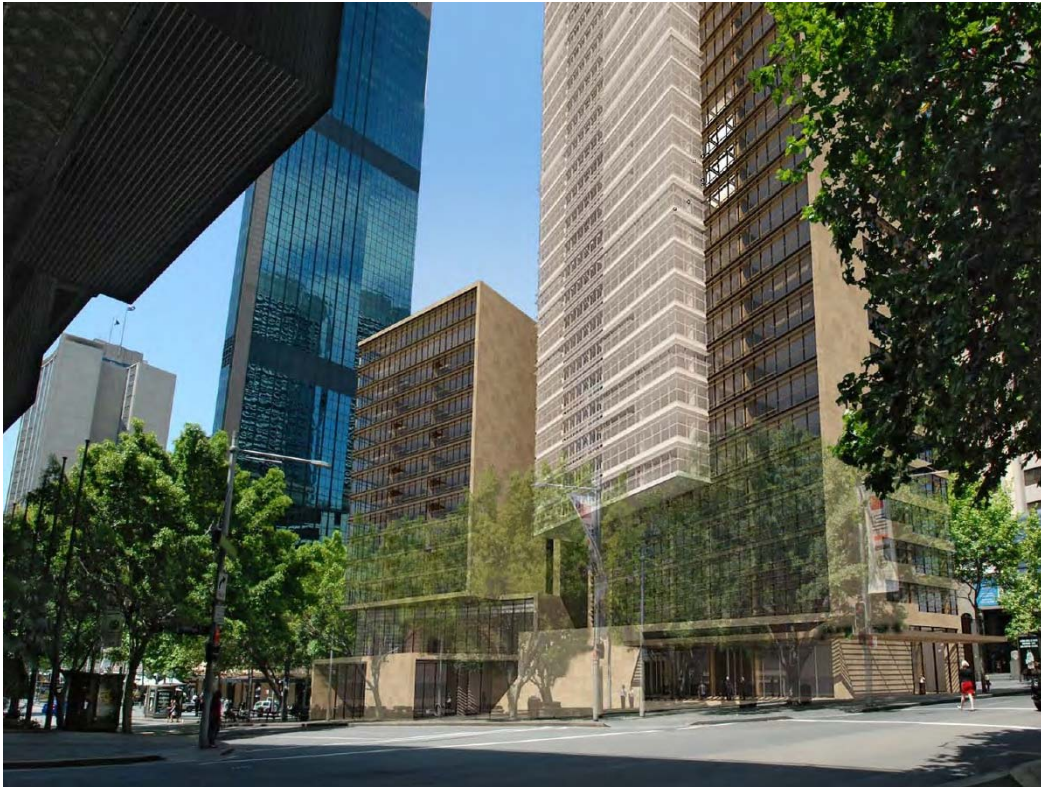


Figure 15: Photomontage from original Stage 2 DA from the north-west showing approved Buildings A and B (D/2010/2029)



Figure 16: Photomontage of proposed ground plane along Alfred Street.

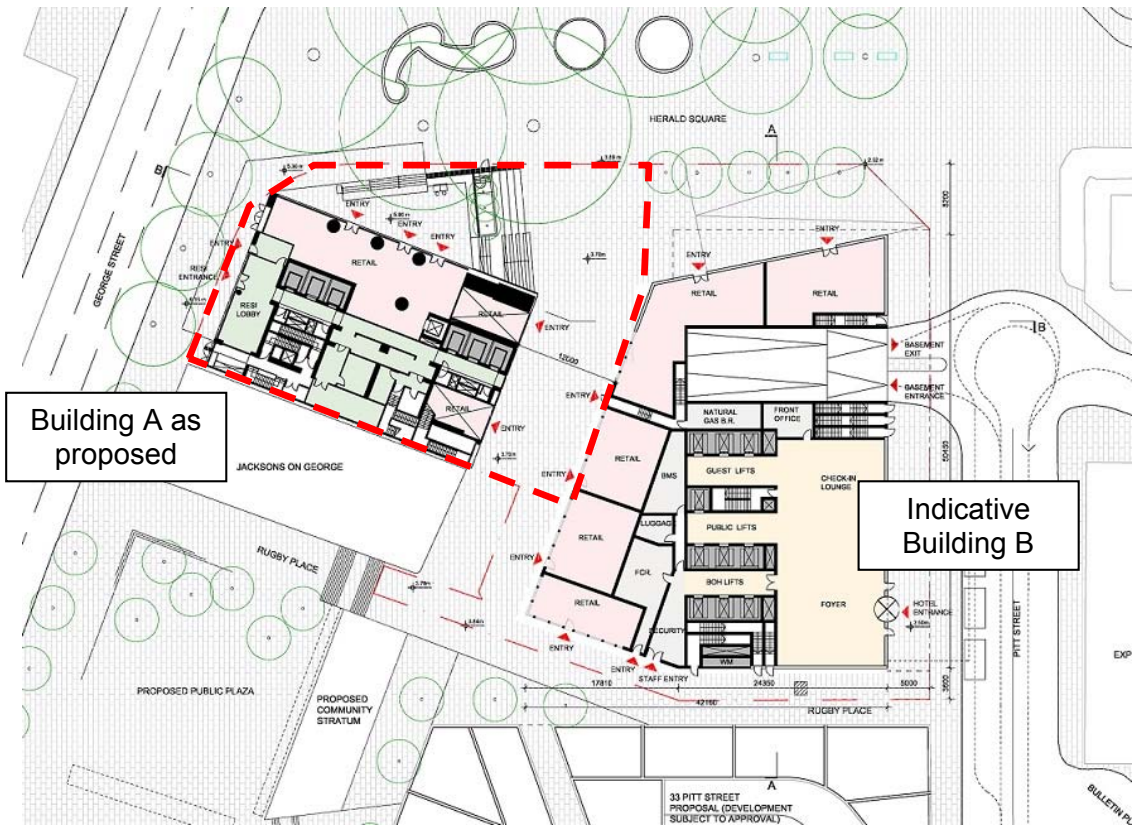


Figure 17: Ground floor relationship between Amended Building A and proposed indicative hotel building under Stage 1 DA

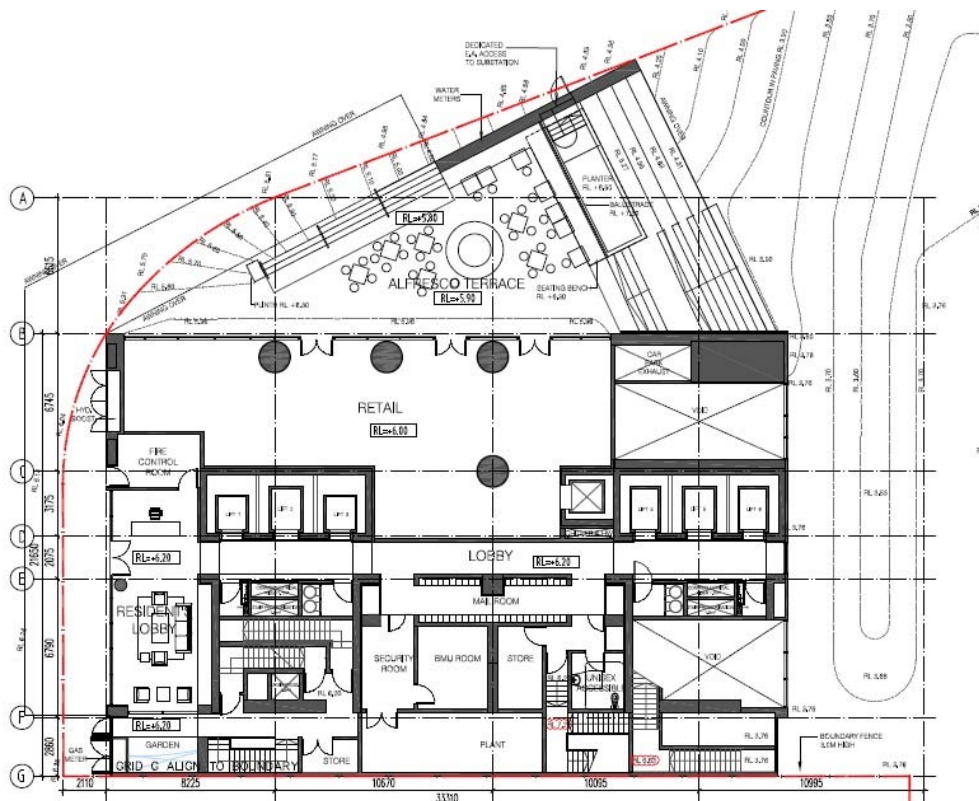


Figure 18: Amended ground floor plan

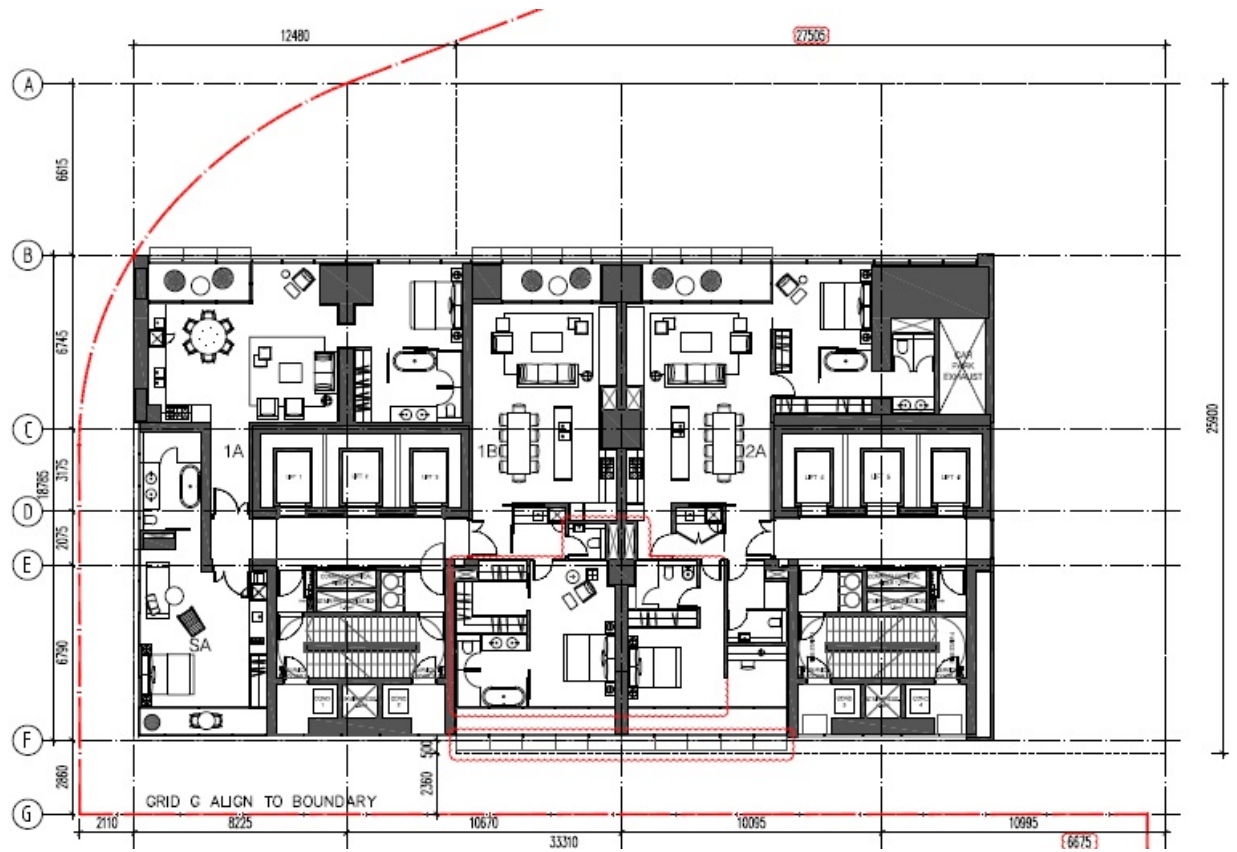


Figure 19: Amended Levels 3-5 plan

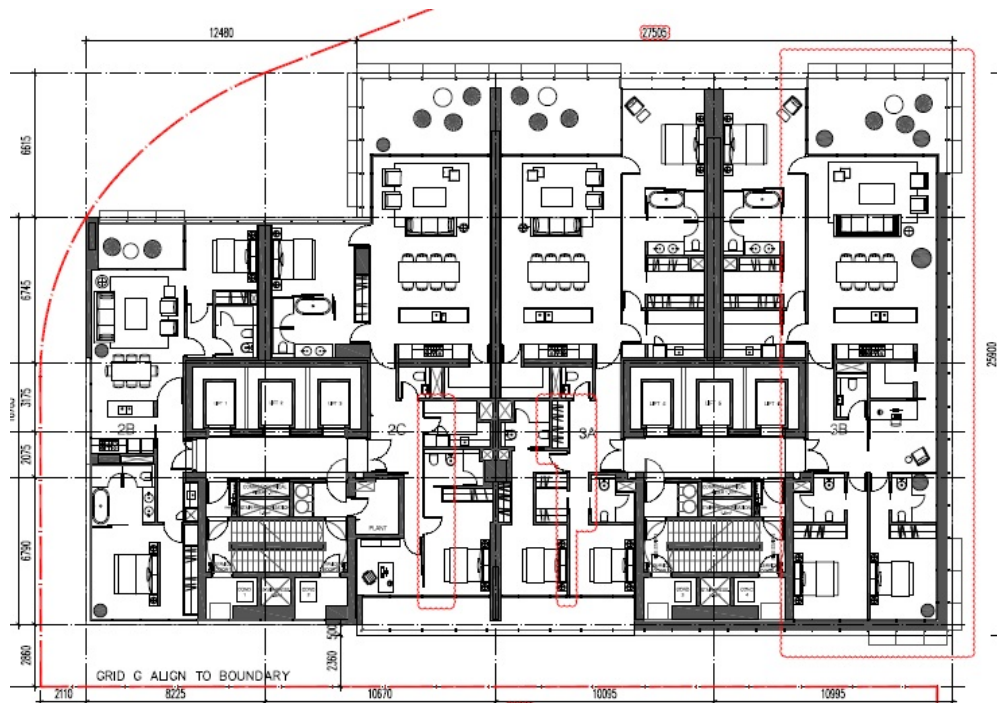


Figure 20: Amended typical Levels 7-35

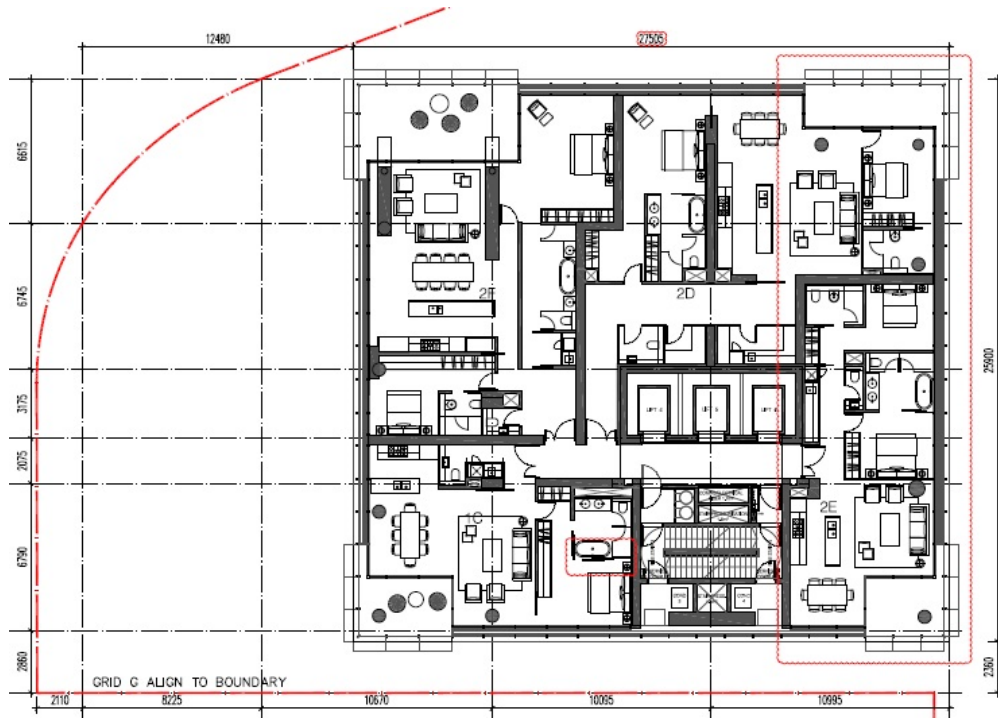


Figure 21: Amended typical Levels 40-55 plan



Figure 22: Amended North and South Elevations

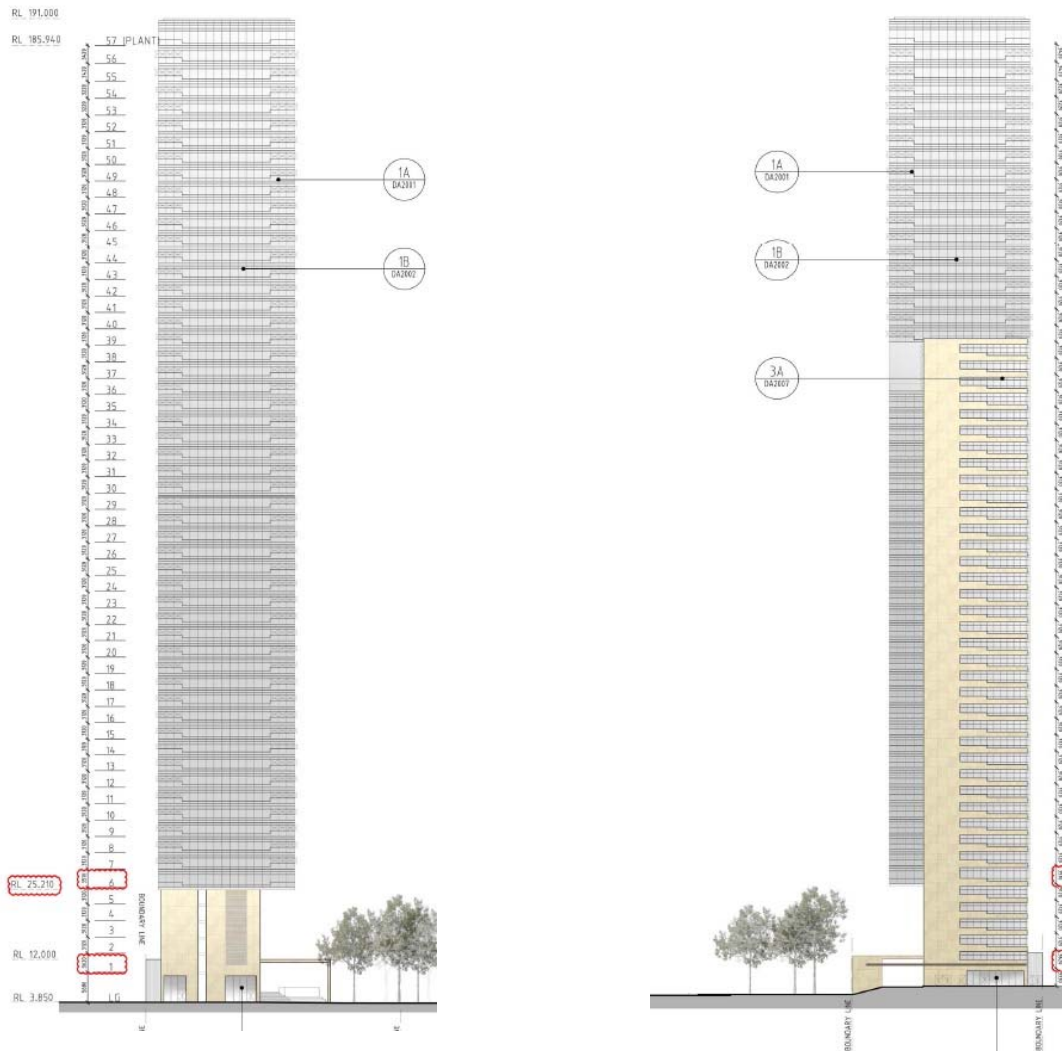


Figure 23: Amended East and West Elevations

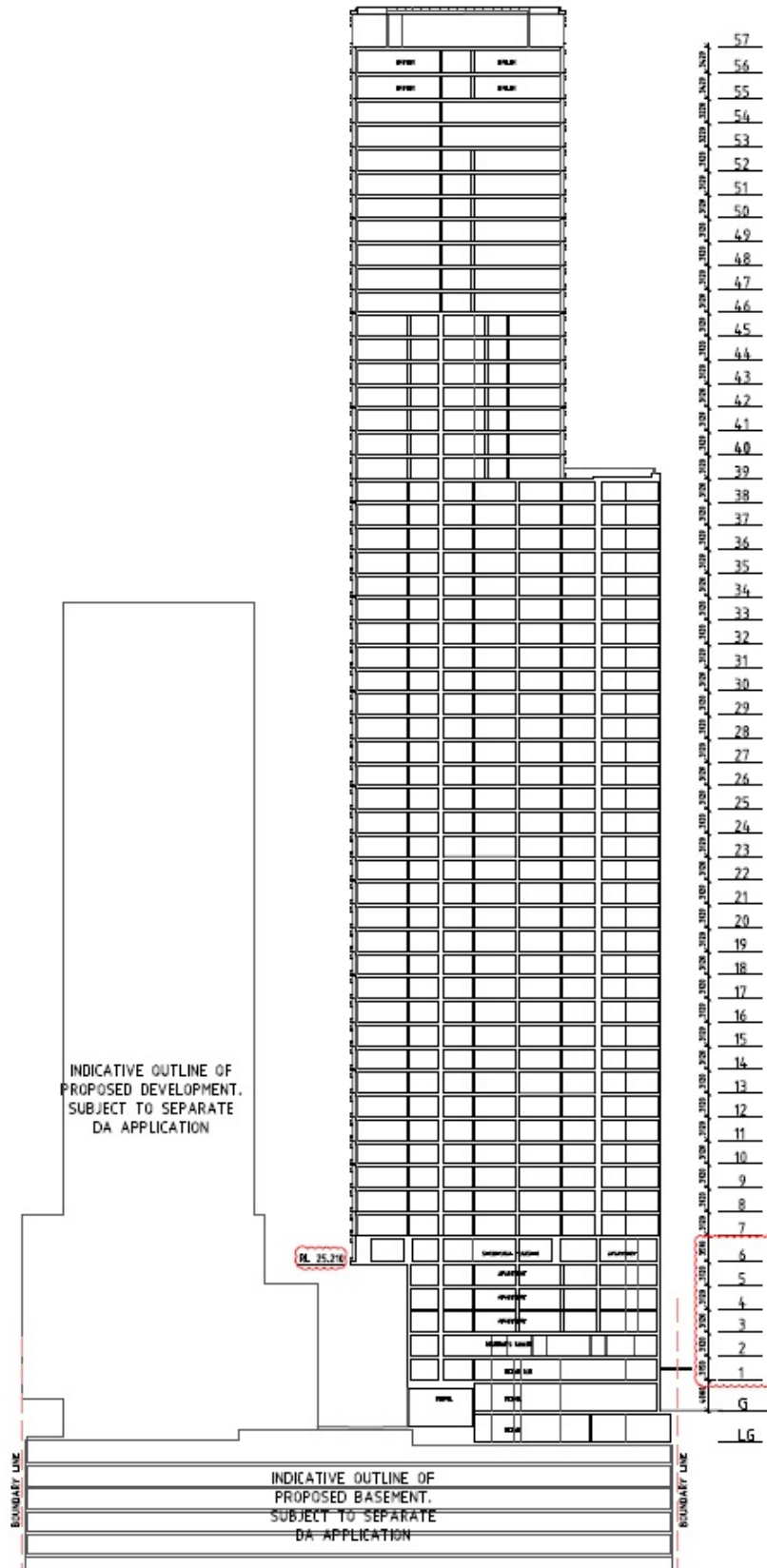


Figure 24: Amended East-West Section

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

16. This section focusses on the history directly relevant to the current proposal. Previous Stage 1 Development Applications and the adoption of the APDG block planning controls pre-date this relevant history. For example, a previous Stage 1 DA consent was superseded by the currently operational Stage 2 DA (where a Stage 1 DA requirement was waived at the time) and the APDG planning controls have been incorporated into the Sydney LEP 2012 and Sydney DCP 2012. The below summarises the history of the development activity since the competitive design process.

Design Competition

17. A competitive design process was carried out prior to the approval of the original Stage 2 DA in 2009. The following five architectural practices participated in the competition:
- (a) Miralles Tagliabue;
 - (b) Johnson Pilton Walker;
 - (c) Bligh Voller Nield;
 - (d) Kerry Hill Architects; and
 - (e) Make Architects.
18. The scheme designed by Kerry Hill Architects was named as the winning scheme by the Selection Panel in November 2009. Kerry Hill Architects were then commissioned to proceed to a Stage 2 DA.
19. Kerry Hill Architects have continued their commission for the present DA. Council Officers reconvened the Selection Panel from the design competition to comment on the amended design in a Design Integrity Review process. The Selection Panel held that the current proposal continued to portray the defining aspects of the original proposal, that the proposal retained the architectural merit of Building A and met design excellence with regard to materials, design and form. The Panel felt that the original characteristics of the building are maintained and in some areas improved (e.g. by incorporating balconies to the south the building is less solid on that side). Having regard to the minor changes as proposed, Council Officers agree that the amended proposal maintains design excellence, especially in the preservation of high quality materials and finishes and the design successfully respecting and mediating level changes at the ground plane.
20. The building, as approved and proposed to be amended, is the winner of a competitive design process carried out in accordance with competitive design procedures at the time. See the "Issues" section of this report for discussion on the allocation of bonus floor space under Clause 6.21 of the Sydney LEP in this instance.

Stage 2 Development Application

21. On 10 May 2012 the CPSC granted a deferred commencement consent for a Stage 2 DA for redevelopment of the site (D/2010/2029). On 9 May 2013, the deferred commencement matters were satisfied and an operational consent was granted. The approved Stage 2 development includes demolition of Goldfields House, excavation of 8 basement levels and construction of two mixed use buildings of 55 storeys (Building A) and 15 storeys (Building B) accommodating 197 apartments, 924sq.m of retail/commercial floorspace, 297 car parking spaces and public domain improvement works.
22. The requirement to lodge a development control plan (or alternatively a Staged DA) under the Sydney LEP 1995 was waived at the time because the planning controls in the newly created "Alfred, Pitt, Dalley and George Street" (APDG) Block LEP and DCP presented a detailed framework for building envelopes and public domain outcomes for the Stage 2 DA.

Stage 1 State Significant DA

23. Following the grant of the base Stage 2 DA above, the Applicant then purchased 19-31 Pitt Street (Fairfax House) and 31A Pitt Street (The Rugby Club) and altered their approach in relation to Building B. Building B, which is not intended to be included in the Amended DA, has been altered in terms of building envelope and land use to facilitate a world-class hotel and wound into a fresh Stage 1 DA. The Stage 1 DA relates to 1 Alfred Street, 19-31 Pitt Street and 31A Pitt Street.
24. The Stage 1 DA is State Significant Development because the hotel component has a capital investment exceeding a \$100 million "tourist related purpose" threshold contained in State Environmental Planning Policy (State and Regional Development) 2011.
25. However, the NSW Minister for Planning and Secretary, NSW Department of Planning and Environment have delegated their respective consent authority and assessment functions to the City of Sydney.
26. The Stage 1 DA was lodged with the City of Sydney on 17 July 2015. The DA seeks consent for the following development concept, noting that Tower A in the description below refers to Building A in this DA:
 - (a) Stage 1 building envelopes and proposed uses for two towers (Tower A and Tower B);
 - (b) Tower A comprises a mixed use (residential and retail) building with a maximum height of 185m / RL191 and gross floor area of 35,438m². However, the concurrent Stage 1 DA assessment confirms that GFA is not the allocated to the building in the Stage 1 consent;
 - (c) Tower B comprises a mixed use (hotel and retail premises) building with a maximum height of 110m / RL112.5 and maximum gross floor area of 21,409m². However, the concurrent Stage 1 DA assessment confirms that GFA is not the allocated to the building in the Stage 1 consent;
 - (d) Six level basement car park and service areas across the site;

- (e) Vehicle access arrangements and car parking rates for subsequent stages of the development;
 - (f) Distribution of gross floor area across the site and the residential unit mix for Tower A.
27. The Stage 1 DA is subject to a concurrent report to the December 2015 CSPC meeting.

History of subject application

28. As a result of the preliminary assessment of the application by Council Officers, including consideration of the scheme by Council's Design Advisory Panel and the original Selection Panel for the competitive design process, the Applicant was advised, by letter dated 3 November 2013, that revisions to the Stage 1 SSD DA and Stage 2 DA and additional information were required to address the following matters:
- (a) updated public benefit offer for a Voluntary Planning Agreement to address detailed scope of public benefit works and monetary contribution;
 - (b) increased building separation and reduced visual and view loss impacts by removing the proposed 900mm eastern extension of the floor plate;
 - (c) increased room dimensions to meet planning control requirements;
 - (d) enclosure of southern balconies at lower levels and reorientation of some southern wintergardens to the west for acoustic mitigation from the noise of "Jacksons on George" hotel; and
 - (e) amended statement prepared by the architects to satisfy the requirements of SEPP 65 – Design Quality of Residential Apartment Development.
29. As a result of the above request for amendments the eastern 900mm extension of the building has been removed from the application, the internal apartment dimensions were increased, south facing balconies have been enclosed (however west facing balconies have remained open with justification provided by the Applicant), a amending VPA offer was received and an amended SEPP 65 statement was received.

Voluntary Planning Agreement

30. A formal offer to enter into an Amended Voluntary Planning Agreement (VPA) was submitted to Council during the assessment of the DA. An Amended VPA is to be exhibited, executed and registered on the titles of the Stage 1 DA land, including 1 Alfred Street. The VPA will be in connection with this application and the Stage 1 DA. The recommendation of this report is for a deferred commencement consent pending the requisite VPA processes.
31. The VPA offer, and subsequent registration of the VPA via the deferred commencement conditions, have been considered in the assessment of this proposal.

CITY OF SYDNEY ACT 1988

32. 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."*
33. The application was presented to the CSTTC on 1 December 2015. The Committee expressed support for the application and recommended that the detailed matters of traffic access and management be dealt with at the relevant Stage 2 development application associated with Tower B as approved by the concurrent Stage 1 DA.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

34. 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.

Heritage Act 1977

35. The application is classified as Integrated Development pursuant to Clause 91A of the Environmental Planning and Assessment Act, 1979. Pursuant to this clause, the proposal requires approval under Section 57 of the Heritage Act, 1977 due to the proposed works being within the curtilage of the Sydney Tank Stream (which is listed as an archaeological feature on the State Heritage Register).
36. The NSW Heritage Council granted its general terms of approval to the original proposal, dated 4 February 2011. The Heritage Council has reaffirmed these general terms of approval and added to them with this proposal. The additional conditions are contained within the recommendation of the report.

State Environmental Planning Policy No 55 — Remediation of Land

37. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
38. The existing Stage 2 consent was satisfactory in relation to site contamination and the existing conditions are stayed. This proposal does not alter the conclusions of the original DA regarding the suitability of the site for the proposed development.

State Environmental Planning Policy No 64 — Advertising and Signage

39. No signage is approved as part of the this application. A signage strategy was lodged with the DA. However, the strategy was not detailed enough for a full and proper assessment and the strategy will benefit from coordination with the future Stage 2 development. A condition is recommended for a revised signage strategy to be lodged. See discussion under Sydney DCP below.

State Environmental Planning Policy (Infrastructure) 2007

40. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application and are discussed below.

Clause 88

41. The application was referred to Sydney Trains pursuant to Clause 88 of SEPP (Infrastructure) 2007 due to the proximity of the works to the proposed future CBD Rail Link corridor. Sydney Trains provided its concurrence to the development, as amended. The recommendation contains Sydney Trains conditions as deferred commencement matters to be satisfied.

Clause 101

42. The application is subject to Clause 101 of the SEPP as the site has frontage to George Street which is a classified road. The application is considered to satisfy Clause 101 of the Infrastructure SEPP subject to conditions of consent, as it does not provide access to the site from the classified road and acoustic conditions have been included within the recommended Conditions of Consent.

Clause 102

43. The application is subject to Clause 102 of the SEPP as the average daily traffic volume of the Cahill Expressway is more than 40,000 vehicles. The application is considered to satisfy Clause 102 of the Infrastructure SEPP subject to conditions of consent and compliance with the submitted Environmental Noise Impact Assessment. A condition is recommended for a revised Acoustic Assessment to be prepared based on the more stringent noise criteria adopted in the SEPP compared to the generic criteria in the Sydney DCP. This includes a requirement to also address rail corridor noise under Clause 87 of the SEPP. The amended development is capable of complying with the SEPP noise criteria with acoustic measures incorporated into the design.

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

44. A BASIX Certificate has been submitted with the development application.

45. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

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

46. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
47. The development of the site under the Stage 2 DA, as amended, is consistent with the aims and objectives of SEPP.

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

48. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles, being:
- (a) **Principle 1:** Context and Neighbourhood Character
 - (b) **Principle 2:** Built Form and Scale
 - (c) **Principle 3:** Density
 - (d) **Principle 4:** Sustainability
 - (e) **Principle 5:** Landscape
 - (f) **Principle 6:** Amenity
 - (g) **Principle 7:** Safety and Security
 - (h) **Principle 8:** Housing Diversity and Social Interaction
 - (i) **Principle 9:** Aesthetics
49. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls. Notwithstanding, the context, scale, built form and density of Building A was assessed as part of the original Stage 2 DA and found to be satisfactory, it is also found to be satisfactory under the current controls of SEPP 65. The ESD outcomes, landscape, amenity, safety, social outcomes and aesthetics of the proposal have stayed the same as the original Stage 2 DA. A detailed assessment against the Apartment Design Guide is below.

Apartment Design Guide		
Control	Compliance	Comment
2E Building Depth		
12-18m (glass to glass)	No	<p>North-to-south, the lower levels have a depth of 18.6m and the upper tower element, through cantilever, is 25m deep. This is 2.6m deeper than the approved Stage 2 DA.</p> <p>The depth of the building is not a constraint in this instance in terms of maintaining compliant solar access or natural ventilation. A high level of solar access and natural ventilation compliance is achieved.</p>
2F Building Separation		
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	No	<p>To the south, the separation distance is 3m (glass line) to the Jacksons on George hotel building for the first three levels. However, the only interaction between the proposed apartments and the hotel building occurs at Level 3. Apartments on Level 3 are required to have privacy treatments to minimise overlooking. This treatment is satisfactory in a highly urban setting. A condition is recommended in order to deal with acoustics at these apartments.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	No	<p>To the east, the future Stage 2 DA for a hotel tower will be separated by 10.4m-19m from Building A.</p> <p>However, the proposal maintains the approved alignment of the building.</p> <p>A proposed easterly building extension of 900mm has been removed from the application to increase the separation and minimise view loss and overshadowing on properties to the south.</p> <p>Refer to the Issues section.</p>

Apartment Design Guide														
Control	Compliance	Comment												
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable Rooms 	No	<p>To the east, the future Stage 2 DA for a hotel tower will be separated by 10.4m-19m from Building A.</p> <p>However, the proposal maintains the approved alignment of the building.</p> <p>A proposed easterly building extension of 900mm has been removed from the application to increase the separation and minimise view loss and overshadowing on properties to the south.</p> <p>Refer to the Issues section.</p>												
3D Communal and Public Open Space														
Communal open space has a minimum area equal to 25% of the site.	No	See discussion under the Issues section.												
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The communal open space area which is provided is north facing and will easily comply with this requirement.												
3E Deep Soil Zones														
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum Dimensions</th> <th>% of site area</th> </tr> </thead> <tbody> <tr> <td><650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> </tr> <tr> <td>>1,500m²</td> <td>6m</td> </tr> <tr> <td>>1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum Dimensions	% of site area	<650m ²	-	7%	650m ² – 1,500m ²	3m	>1,500m ²	6m	>1,500m ² with significant existing tree cover	6m	No	<p>Deep soil landscaping is not provided within the footprint of Building A. This is consistent with the existing Stage 2 approval and is acceptable given this highly urban context of the site. The ADG allows this non-compliance in a CBD setting.</p> <p>Opportunities for street tree planting and laneway planting are subject to the detailed landscaping proposal for the north-south through-site link, northern and western footpaths and Stage 2 public domain.</p>
Site area	Minimum Dimensions	% of site area												
<650m ²	-	7%												
650m ² – 1,500m ²	3m													
>1,500m ²	6m													
>1,500m ² with significant existing tree cover	6m													

Apartment Design Guide		
Control	Compliance	Comment
3F Visual Privacy		
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined.		
Up to four storeys (12 metres): <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms 	Yes	The southern facade, at Level 3 is 3m from the adjacent hotel building. This is compliant but it is recommended that the conditions of consent include privacy treatment due to corresponding windows in the adjacent hotel.
Five to eight storeys (25 metres): <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms 	Yes	Complies. Building separation to the future Stage 1 hotel tower is compliant.
Nine storeys and above (over 25m): <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6m between non-habitable rooms 	Yes	Complies. Building separation to the future Stage 1 hotel tower is compliant.
4A Solar and Daylight Access		
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	95% of the apartments achieve more than 2 hours solar access due to the uninterrupted northern aspect.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	Complies.

Apartment Design Guide		
Control	Compliance	Comment
4B Natural Ventilation		
<p>Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.</p> <p>Note: Apartments 10 storeys or greater are deemed to be naturally cross ventilated only if balconies allow for adequate ventilation and cannot be fully enclosed.</p>	Yes	73% of the apartments are naturally cross ventilated.
<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	No	<p>Building depth, measured north-to-south is 18.6m at lower levels and increases to 25m at upper levels. This is 2.6m greater than the approved Stage 2 DA. However, the building easily achieves compliant solar access and natural ventilation outcomes.</p>
4C Ceiling Heights		
<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows:</p>		
Habitable rooms: 2.7m	Yes	Complies
Non-habitable rooms: 2.4m	Yes	Complies
<p>Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.</p>	Yes	Complies
<p>If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.</p>	No	<p>The ground floor complies at 3.6m, however the first floor has 3.22m along George Street and 3.15m along Alfred Street. This minor non-compliance is acceptable, particularly as the approved Stage 2 DA has 2.7m for Level 1.</p>

Apartment Design Guide		
Control	Compliance	Comment
4D Apartment Size and Layout		
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Yes	All apartments comply with these minimum area requirements.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	Complies
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	Complies
8m maximum depth for open plan layouts.	No	Two apartment types on Levels 7 to 35 have depths of 9.3 from the northern window. This minor non-compliance is acceptable as these are long dual aspect apartments that receive excellent northern sunlight and additional southern daylight.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	Complies

Apartment Design Guide																	
Control	Compliance	Comment															
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	Complies															
4m minimum width for cross over and cross through apartments.	Yes	Complies															
4E Private Open Space and Balconies																	
All apartments required to have primary balconies as follows: <table border="1"> <thead> <tr> <th>Dwelling Type:</th> <th>Min. Area</th> <th>Min. Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>One bed</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>Two bed</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>Three+ bed</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum depth counting to balcony area is 1m.</p>	Dwelling Type:	Min. Area	Min. Depth	Studio	4m ²	-	One bed	8m ²	2m	Two bed	10m ²	2m	Three+ bed	12m ²	2.4m	No	With the exception of some one bedroom apartments that are 2sqm below the control and some 2 bedroom apartments that are 2sqm below the control, the remainder are compliant. Not all balconies at lower levels meet the 2m minimum depth requirement. However, they remain capable of accommodating a small table and chairs and satisfying the outdoor breakout demands of the residents.
Dwelling Type:	Min. Area	Min. Depth															
Studio	4m ²	-															
One bed	8m ²	2m															
Two bed	10m ²	2m															
Three+ bed	12m ²	2.4m															
4F Common Circulation and Spaces																	
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	Complies															
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	Complies															
4G Storage																	
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p>	Yes	Complies															

Sydney LEP 2012

50. The site is located within the B8 Metropolitan Centre zone. This proposal relates to changes to the approved mixed use development containing residential accommodation and commercial premises and is permissible.
51. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings	N/A	<p>A generic maximum height of 110m applies under Clause 4.3. However, this is superseded by an alternative achievable height in Clause 6.25 of the LEP where a 185m height is permitted for up to 24% of the site area.</p> <p>The proposal has a maximum height of 185m from ground level.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 13.75:1 is permitted. This includes base floor space (Cl 4.4), accommodation floor space (Cl. 6.4) and an uplift for design excellence (Cl. 6.21) where the design of the building is the winner of a competitive design process.</p> <p>The FSR control is applied to the site area of 1 Alfred Street.</p> <p>A FSR of 13.19:1 is proposed. This is subject to a minor increase in anticipation of the outcomes of the recommended design amendments conditions in Part A – Deferred Commencement Conditions. However, the GFA stemming from this minor increase will remain compliant with the maximum FSR.</p> <p>See discussion under the heading Issues.</p>

Compliance Table		
Development Control	Compliance	Comment
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the development standards prescribed under Clause 6.25 in relation to the percentage of the site area occupied by a tall building (185m tall) and an administrative variation to Clause 4.4 in relation to floor space ratio. See discussion under the heading Issues.
5.10 Heritage conservation	Yes	The site is in the vicinity of listed heritage items known as Herald Square to the north, the Ship Inn to the east and the Tank Stream running underground to the east. The amendments proposed under this DA do not alter the heritage acceptability of the development with the existing Stage 2 DA.
Part 6 Local provisions - height and floor space		
Division 1 Additional floor space in Central Sydney	Yes	See discussion under the heading Issues.
Division 3 Height of buildings and overshadowing	Yes	The amended design continues to satisfy the provisions relating to a tall building in Central Sydney. There is no impact on any sun access planes for public open space and the amended proposal, despite the wider tower form, does not result in any additional overshadowing of Macquarie Place which is protected by the LEP.
Division 4 Design excellence	Yes	The amended development continues to satisfy the requirements of this provision. This DA has been subject to a Design Integrity Review by the original 2009 Design Competition Jury Members. As a result of this process, Tower A is eligible for the 10% bonus floor space for design excellence See discussion under the heading Issues.

Compliance Table		
Development Control	Compliance	Comment
Division 5 Site specific provisions: Clause 6.25 – APDG Block	No	The provisions of Clause 6.25 permit a 185m building height for 24% of the site area within “Block 3” in the wider APDG Block. The amended development has a height of 185m across 26.5% of the site. A Clause 4.6 objection to the development standard has been lodged seeking to justify the non-compliance. See discussion under the heading Issues.
Part 7 Local provisions - general		
Division 1 Car parking ancillary to other development	Yes	No car parking spaces are proposed. However, car parking is to be provided with the future Stage 2 development of the adjacent Stage 1 hotel concept. The need for a basement to be approved will be addressed before the consent becomes operational in accordance with the recommended conditions of consent.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 4 Acid Sulphate Soil. A condition has been recommended to address acid sulphate soils on site.
7.16 Airspace operations	Yes	The development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport. Sydney Airport has provided concurrence for the proposal.
7.20 Development requiring preparation of a development control plan	Yes	Section 83C of the EP&A Act enables a staged development application (i.e. Stage 1 DA followed by latter stages) to satisfy a requirement for the preparation of a development control plan. A concurrent Stage 1 DA has been lodged and is subject to a separate report the CSPC December meeting.

Sydney DCP 2012

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

2. Locality Statements – Circular Quay Special Character Area
The subject site is located in the Circular Quay Special Character Area. The Amended DA is considered to be in keeping with the unique character of the area and design principles in that it creates new public space, creates new ground plane views, maintains the different architectural style, scale, form and treatment which is characteristic of the precinct.

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	The development, as amended, will make a positive contribution to the public domain. Together with the construction of public domain under a subsequent Stage 2 DA for the land to the east and south-east, as well as securing of public access rights in the amended VPA, the Amended DA provides a significant contribution to the pedestrian amenity around and through the site.
3.2 Defining the Public Domain	Yes	The development, as amended, will enhance the public domain by maintaining active street frontage, maintaining a pedestrian through-site link and maintaining a new covered outdoor dining opportunities. The public domain outcomes of the overall development of 1 Alfred St are tied to the Stage 1 concept also featuring 19-31 Pitt Street and 31A Pitt Street. The Stage 2 DA, in conjunction with the future Stage 2 hotel and public domain can comply with the DCP provisions.
3.3 Design Excellence and Competitive Design Processes	Yes	The approved development has been subject to a design competition. This proposal has been subject to a Design Integrity Review by the original 2009 Design Competition Jury Members. As a result of this process, Tower A is eligible for the 10% bonus floor space for design excellence See discussion under the heading Issues.

3. General Provisions		
Development Control	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements.
3.9 Heritage	Yes	The amendments proposed under this DA do not alter the heritage acceptability of the development assessed under the existing Stage 2 DA.
3.11 Transport and Parking	Yes	No car parking spaces are proposed. However, car parking is to be provided with a future Stage 2 development. Approval for this basement is required before the consent becomes operational.
3.12 Accessible Design	Yes	A condition has been imposed on D/2010/2029, as amended, for the development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.14 Waste	Yes	A condition has been imposed on D/2010/2029, as amended, for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.
3.16 Signage and Advertising	Able to comply	The proposal includes a revised Signage Strategy for Building A. However, the Strategy lacks detail and is not supported. A condition is recommended requiring a revised signage strategy as a new DA.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	Yes	No height in storeys or generic street frontage height applies. The proposal complies with minimum floor-to-ceiling heights.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.2 Building setbacks	Yes	The proposal maintains the general form of the approved development include its setbacks from boundaries.
4.2.3 Amenity	Yes	The proposal results in 95% of apartments in the development achieving the required solar access. The built form of the proposal is marginally wider at the northern and southern sides but has no material change on the abilities of neighbouring development to maintain solar access.
4.2.3.7 Private open space and balconies	Yes	The proposal complies with the numeric and design-led controls.
4.2.3.8 Common open space	No	See discussion under the heading Issues below.
4.2.3.9 Ventilation	Yes	The proposal satisfies the DCP as well as ADG requirements for natural cross ventilation.
4.2.3.10 Outlook	Yes	The proposal provides excellent outlook and views to the apartments within the development. The changes sought in the DA have no material change on the views of surrounding development.
4.2.3.11 Acoustic privacy	Yes	Subject to the conditions of this report, the amended development will have satisfactory design for external and internal noise management, including entertainment noise from the adjoining hotel.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3.12 Flexible housing and dwelling mix	No	<p>The dwelling mix targets of the DCP are as follows:</p> <p>Studio – 5-10% 1 bedroom – 10-30% 2 bedroom – 40-75% 3+ bedroom – 10-100%.</p> <p>The maximum % of 1 bedroom dwellings may be increased above 30% provided the total no. of studio and 1 bedroom units do not exceed 40% of the total dwellings.</p> <p>The Amended DA has the following unit mix:</p> <p>Studio – 2.2% 1 bedroom – 7.1% 2 bedroom – 47.3% 3+ bedroom – 43.5%</p> <p>There is adequate flexibility in the proposed mix. The proposal retains the dominant 2-plus bedroom mix of the original DA, as the original DA had quite generous apartment areas.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The architectural merit of the form, massing, articulation and external detail was assessed at the design competition stage and original Stage 2 DA. The proposal does not alter the conclusions of the current Stage 2 DA regarding the suitability of the design.</p>
4.2.5 Types of development – on busy roads and active frontages	Yes	<p>Subject to the recommended conditions, the acoustic performance of the apartments relative to the proximity of the Cahill Expressway and Circular Quay rail line can be mitigated. A revised acoustic report is required to demonstrate the acoustic criteria in the Infrastructure SEPP will be achieved.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.6 Waste minimisation	Yes	A future Stage 2 DA for basement levels will include waste handling and storage areas. Each apartment has approximately 50% of its storage requirements in the unit and the balance to be allocated in the basement.
4.2.7 Heating and Cooling Infrastructure	Yes	A centralised heating and cooling system is proposed. The existing requirements of the current Stage 2 consent require further technical details of the system and will be maintained.
4.2.8 Letterboxes	Yes	The development can comply with the basic requirements of the DCP in this regard.

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.1 Street frontage heights	No	A street frontage height is not a feature of the winning design competition, planning controls or approved Stage 2 DA. The approved development is unchanged.
5.1.2 Building setbacks	No	The southern setback has been reduced by 600mm compared to the approved design. The setback requirement is 3m. The setback from the boundary is 2.86m to the building and 3m to the glass line. This is supported as the 14mm variation has no material adverse environmental impacts.
5.1.5 Building bulk	Yes	The size of the tower floorplate is compliant with the 1,000sqm footprint control and 40m maximum depth.
5.1.6 Building exteriors	Yes	The architectural merit of the form, massing, articulation and external detail was assessed at the design competition stage and original Stage 2 DA. The proposal does not alter the conclusions of the Stage 2 DA regarding the suitability of the design.

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.9 Award and allocation of heritage floorspace	Yes	An appropriate amount of heritage floor space is to be allocated for the amended floorspace in the proposal, subject to the design amendments in Part A – Deferred Commencement Matters.

6. Specific sites – the APDG Block		
Development Control	Compliance	Comment
6.1.4 The APDG Site	Yes	<p>The proposal continues to utilise the alternative building heights of the Sydney LEP.</p> <p>The proposal also seeks to retain the design integrity and is generally in accordance with the Kerry Hill Architect scheme emerged from the previous design competition.</p> <p>Both the alternative height and building envelope of the Kerry Hill scheme prevail over any inconsistent provisions of the DCP.</p> <p>The proposal retains the high quality urban form of Building A, results in major public benefits through significant new public realm, public art and active frontages that link with the future network of lanes and through-site links.</p>

6. Specific sites – the APDG Block		
Development Control	Compliance	Comment
6.1.5 Local infrastructure and public domain	Yes	<p>The through-site links approved as part of the Stage 2 DA are retained. Under the concurrent Stage 1 proposal, the north-south through-site link from Herald Square to Rugby Place is to be made wider than the approved scheme following the future Stage 2 for Building B.</p> <p>The proposal maintains an extension of Herald Square into the site, outdoor dining abilities at the corner of George and Alfred Streets and appropriately manages the transition of levels between George Street and Pitt Street.</p> <p>Active frontages and footpath awnings are provided in accordance with the respective Active Frontages and Awnings Maps.</p>
6.1.6 Built form and design	No	<p>Height (6.1.6.1) – No change is proposed to the approved height of Building A.</p> <p>Street frontage and setbacks (6.1.6.2) – No change is proposed to the street frontage heights, width of the elevations or public domain alignment.</p> <p>The setback on the southern side of Building A is proposed to be reduced by the proposal to 2.86m where 3m is required. 3m is provided to the glass line of the building.</p> <p>The reduced setback is supported as the 14mm variation has no material adverse environmental impacts and the non-compliance relates to building articulation and balcony edges.</p> <p>The tower element is proposed to be extended by 2m to the north. This is non-compliant with a 4m tower setback envelope control at the upper levels in the building height controls. However, the setback is considered acceptable.</p> <p>The proposal maintains the architectural language of a tall slender tower.</p>

ISSUES**Floor space ratio and additional floor space in Central Sydney**

53. The site is identified in SLEP 2012 Floor Space Ratio Maps as 'AC' which permits a base FSR of 8:1. Clause 6.4 of SLEP 2012 states that a building may exceed the maximum permitted floor space ratio shown for the land on the Floor Space Ratio Map where a building is eligible for an amount of additional floor space such as 'accommodation floor space'.
54. The existing Stage 2 DA and this proposal includes retail premises and residential accommodation and is therefore eligible for additional accommodation floor space in accordance with Clause 6.4 of the Sydney LEP 2012. The amount of additional accommodation floor space is 4.5:1 for residential floor space.
55. In addition to this, up to 10% bonus floor space may be granted under Clause 6.21(7) of SLEP 2012 if the building is as a result of a competitive process and the detailed design exhibits design excellence.
56. Building A as originally approved was the subject of a design competition, and this proposal has been the subject of a Design Integrity Review by the original 2009 Design Competition Jury Members. As a result of this process, it is considered that Building A meets the intent of the definition of a "building demonstrating design excellence" for the purposes of Clause 6.21(7) and therefore eligible for up to 10% bonus floor space.
57. The total permissible FSR combining the base GFA, accommodation GFA and design excellence GFA would be 13.75:1.
58. The proposed FSR is 13.19:1, comprising 35,438m². Design excellence floorspace in this scenario would not be for the full 10% eligibility.
59. The proposed FSR is subject to a minor increase arising from satisfaction of the conditions in Part A – Deferred Commencement Conditions. In this regard, within the recommendation of this report, the conditions seek to infill a number of south facing balconies for acoustic mitigation because of the Jacksons on George hotel immediately below. The hotel includes an open terrace on its Level 2 (roof level) and operable windows on Levels 1 and 2. It is anticipated that balconies to the south-west studio apartments on Levels 3 to 6 and 20 or more balconies from Level 7 and above (i.e. two balconies per floor for 10 floors conservatively) will be infilled, amounting to additional GFA of approximately 190sq.m. Even with that additional GFA the FSR would be 13.26:1.
60. Notwithstanding that Building A is considered eligible for design excellence floor space under Clause 6.21(7), the provisions of SLEP 2012 in relation to the meaning of a "competitive design process" have also been taken into consideration. Clause 6.21(9) specifies as follows:

"(9) In this clause:

Building demonstrating design excellence means a building where the design of the building (or the design of an external alteration to the building) is the winner of a competitive design process and the consent authority is satisfied that the building or alteration exhibits design excellence.

competitive design process means an architectural design competition, or the preparation of design alternatives on a competitive basis, carried out in accordance with the City of Sydney Competitive Design Policy.”

61. On a strict reading of the SLEP, any building design arising from a competitive design process prior to the adoption of the Policy would be incapable of being eligible for design excellence floor space.
62. The original Stage 2 DA was approved in 2012 on the basis that the building design was the subject of a winning competitive design process in 2009. A bonus 10% design excellence floor space was supported and approved at that time.
63. Notwithstanding, if a strict view was taken that the current DA was not the subject of a competitive design process strictly in accordance with the LEP, the additional GFA sought above 12.5:1 would be considered GFA that is non-compliant with Clause 4.4 of SLEP.
64. Therefore, a Clause 4.6 written request by the Applicant to vary the FSR development standard has been considered by Council Officers. Clause 4.6 allows a consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception as the Director-General’s concurrence can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08–003 dated 9 May 2008.
65. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the floor plate development standard has been considered against the objectives and provisions of Clause 4.6 in the table below.

Clause 4.6 Requirement	Assessment
<p>4.6(4)(a)(i)</p> <p>The applicant must submit a written request to vary the development standard demonstrating that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds justifying the contravention</p>	<p>A written request has been submitted to Council justifying the proposed contravention of the FSR development standard on the following basis:</p> <ul style="list-style-type: none"> (a) The proposed development is generally consistent with the design for Building A as originally approved within D/2010/2029 and exhibits design excellence in accordance with the originally approved development. This conclusion has been confirmed by a Design Integrity Panel, convened by the City of Sydney. The Design Integrity Panel have concluded that the amended design for ‘Tower A’ maintains the design integrity of the originally approved development, and therefore reflects the desired character of the site and precinct in which it is located. (b) A secondary competitive design process for Building A, if required, would not be an appropriate outcome for the site given the previous design excellence process undertaken. (c) The proposal is largely commensurate with the anticipated floor space envisaged by the Council for the site. The noncompliance is very minor (an increase of 0.69:1 or 0.0552% of the FSR control for the site) and as such is within the expectations of the scale of the future development on the site.

Clause 4.6 Requirement	Assessment
	<p>(d) The current DA achieves a high level of compliance with the site specific built form controls for the site. Notably, the proposed built form reflects the desired character of the locality and does not result in adverse impacts on that locality or surrounding development, particularly compared to that approved on the site.</p> <p>(e) The FSR proposed above the standard is not anticipated to result in any change in the demand for the capacity of existing and planned infrastructure in the locality. It is noted that the proposal provides significant public benefits in the form of community infrastructure that exceeds the requirements of Clause 6.25 of the SLEP 2012.</p> <p>(f) The current DA has been designed in accordance with the winning Kerry Hill Architects (KHA) scheme that was the result of a competitive design process approved within D/2010/2029. The proposed amendments to the approved 'Building A' design have been endorsed by the Design Integrity Panel who concluded that "The amended Building A meets design excellence with regard to materials, design and form, and is capable of achieving design excellence with regard to its relationship with Building B".</p> <p>(g) as the original Building A design is defined as a 'building demonstrating design excellence' pursuant to Clause 6.21(9) of the SLEP 2012 and would be eligible for an additional 10% FSR, the amended design which is deemed consistent with the original building and "meets design excellence", it should also be eligible for an additional 10% FSR. This Clause 4.6 Statement however has been prepared for completeness, if this is not accepted by the consent authority.</p> <p>(h) The proposed FSR does not have any unacceptable impact to surrounding properties by way of overshadowing, view impact, or bulk and scale.</p> <p>(i) Non-compliance with the FSR control does not thwart the achievement of the site specific controls and desired built form for the site. The non-compliance with the control is inherently site and development specific, as non-compliance with the control will facilitate the delivery of a built form outcome that achieves the site specific desired future character of the site. As such it is considered that compliance with the development standard is unnecessary within the particular circumstances of the development.</p>

Clause 4.6 Requirement	Assessment
<p>4.6(4)(a)(ii)</p> <p>Council must be satisfied that the proposed development is in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the zone</p>	<p>The objectives of the zone are:</p> <ul style="list-style-type: none"> • To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy. • To provide opportunities for an intensity of land uses commensurate with Sydney's global status. • To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community. • To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling. • To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises. <p>The objectives of the development standard (Clause 4.4) is:</p> <ol style="list-style-type: none"> (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future, (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic, (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure, (d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality. <p>In response to the objectives, the applicant submits that:</p> <ol style="list-style-type: none"> (a) the height and scale of the building is characteristic of the Sydney CBD and compatible with the height and form of towers existing and planned within the immediate area of the site; (b) the proposed amendments maintain design excellence through retention of the original competition winning architects, KHA Architects, who confirm the maintenance of the design integrity of the competition winning scheme in their Design Verification Statement; (c) high-end residential development is consistent with the prestigious character of the location. The use of the site principally for residential living will contribute to the distinct diversity, density and character of the local residential community while the lower level commercial/retail uses will interface with the active ground level character of the locality.

Clause 4.6 Requirement	Assessment
	<p>Council Comment: The applicant's written rationale addresses the objectives associated with contravening the development standard is considered to be well founded.</p> <p>The proposed development is consistent with the objectives under Clause 4.4 and the objectives of the zone.</p> <p>Whilst the application is not the result of another/separate competitive design process. If it were required in the circumstances, it would result in substantially the same outcome.</p>

66. It is considered that the written statement provided by the Applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the FSR development standard and it is recommended that a Clause 4.6 exception be granted, pursuant to the Director-General's general concurrence of May 2008.

Building envelope height and form

Height and floor plate

67. The site is identified in SLEP 2012 Height of Buildings Maps as 'AC' which permits a maximum building height of 110m. Clause 6.25(3) of SLEP 2012 allows for additional building heights, beyond the base 110m control within parts of the APDG block, which includes the subject site (referred to a block 3). Specifically, Clause 6.25 provides that development consent may be granted to the erection of a building of up to 185m on up to 24% of the area of Block 3 if the development will:
- (a) *include recreation areas and lanes and roads through the site, and*
 - (b) *include business premises and retail premises that have frontages at ground level (finished) to those recreation areas, lanes and roads, and*
 - (c) *provide a satisfactory distribution of built form and floor space development.*
68. The approved Building A employs Clause 6.25 by proposing a maximum height of 185m. Accordingly, this proposal does not alter the approved Stage 2 development.
69. However, this proposal increases the footprint of the tower element of Building A to 712sqm, representing 26.5% of the area of block 3, exceeding the 24% standard of Clause 6.25 of SLEP 2012.
70. Clause 6.25(7) of SLEP 2012 states that development in block 3 may also relate to Lot 180, DP 606866 (The Rugby Club) and Lot 1 in DP 537286 (Fairfax House). When considering the floor plate of Building A in the context of the larger development site which includes the Fairfax House and Rugby Club sites, the proposed tower floor plate equates to 17.62% of the enlarged site area.

71. Notwithstanding the above, in the absence of a specific provision within Clause 6.25 that allows for the 24% site area standard to be extended to the enlarged site area, the Applicant is relying on the provisions of Clause 4.6 of SLEP 2012 to seek an exception to the floor plate development standard. Clause 4.6 allows a consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception as the Director-General's concurrence can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08-003 dated 9 May 2008.
72. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the floor plate development standard has been considered against the objectives and provisions of Clause 4.6 in the table below.

Clause 4.6 Requirement	Assessment
<p>4.6(4)(a)(i)</p> <p>The applicant must submit a written request to vary the development standard demonstrating that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds justifying the contravention</p>	<p>A written request has been submitted to Council justifying the proposed contravention of the floor plate development standard on the following basis:</p> <ul style="list-style-type: none"> (a) The applicant has purchased the adjacent 'Fairfax House' and 'Rugby Club' sites and incorporated them in the site. The proposed 712sqm floor plate represents only 17.62% of the enlarged site. (b) The proposed 712sqm tower is a very slender building that is well below the generic 1,000sqm maximum tower floor plate control contained in SDCP 2012. (c) The proposed 41m maximum width of Building A up to RL 131.20 is consistent with the generic 40m control contained in the SDCP 2012, and further the 27m maximum width of the upper tower element easily complies with SDCP 2012 40m maximum control limiting tower 'bulk'.

Clause 4.6 Requirement	Assessment
<p>4.6(4)(a)(ii)</p> <p>Council must be satisfied that the proposed development is in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the zone</p>	<p>The objectives of the zone are:</p> <ul style="list-style-type: none"> • To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy. • To provide opportunities for an intensity of land uses commensurate with Sydney's global status. • To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community. • To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling. • To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises. <p>The objective of the development standard (Clause 6.25) is: <i>to provide for additional building height on parts of certain sites (within the area bounded by Alfred Street, Pitt Street, Dalley Street and George Street (known as the "APDG block")) if the development of the site provides for publicly accessible open space, lanes and other links through the site.</i></p> <p>In addressing this objective, and granting any consent subject to Clause 6.25(3), the consent authority must also be satisfied pursuant to clause 6.25(4) that the development will:</p> <ul style="list-style-type: none"> (a) <i>include recreation areas and lanes and roads through the site, and</i> (b) <i>include business premises and retail premises that have frontages at ground level (finished) to those recreation areas, lanes and roads, and</i> (c) <i>provide a satisfactory distribution of built form and floor space development.</i>

Clause 4.6 Requirement	Assessment
	<p>In response to the objectives, the applicant submits that:</p> <ul style="list-style-type: none"> (a) The proposal does include recreation areas, lanes, and roads through the site. The revised Voluntary Planning Agreement offer outlines the lanes and roads that are proposed to be dedicated and otherwise given rights of access, rights of footway and public recreation on the site. (b) The ground level of Building A has been designed to accommodate retail premises at street frontages and adjacent to the proposed through-site link. (c) Determining a satisfactory distribution of built form and floor space requires detailed consideration based on a number of factors including, building separation, overshadowing, urban design, view corridors to and from the public domain and sensitive land uses, and amenity concerns such as acoustic and visual privacy. (d) Whilst compliance with the control would 'provide a satisfactory building form'; it is by no means the only way that this could be achieved. This is demonstrated when considering that Lend Lease is seeking to amend the controls via a Planning Proposal, to achieve a different satisfactory building form. As such, whilst it is acknowledged that the proposal may not be the only form which would satisfy this clause, it is the only form that significant testing has identified can accommodate space for a world class hotel to function on the site, complying with the maximum height and FSR controls. (e) The proposal represents an appropriate distribution of floor space compared to alternatives such as enlarging the Building B footprint to accommodate the additional floor space now proposed within Building A that results in the non-compliance with Clause 6.25(3). Enlarging Building B would result in a much greater impact to surrounding land owners and the public domain than the very minor elevation extensions currently proposed.

Clause 4.6 Requirement	Assessment
	<p>Council Comment: The applicant's written rationale addresses the objectives associated with contravening the development standard is considered to be well founded.</p> <p>The proposed development is consistent with the objectives under Clause 6.25 and the objectives of the zone and will not cause unacceptable impacts on adjoining properties for the following reasons:</p> <ul style="list-style-type: none"> • The proposal is consistent with the approved floor space for the site and the proposed floor plate non-compliance relates to a tower form having less width and less floorspace than the other planning controls would allow. • The proposal will not result in unacceptable overshadowing impact on surrounding residential properties of public spaces. • The proposal will maintain view sharing from surrounding residential and commercial properties. <p>The proposal is considered to be appropriate in the context of the site, streetscape and surrounding built form.</p>

73. It is considered that the written statement provided by the Applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the floor plate development standard and it is recommended that a Clause 4.6 exception be granted, pursuant to the Director-General's general concurrence of May 2008.

Building A tower design

74. The proposal has been modified to address concerns raised by Council relating to the design of Building A. The originally submitted design for Building A proposed a 900mm extension to the eastern elevation beyond the existing approved envelope. The extension would result in a reduced separation between the proposed towers, which combined with the proposed height of the future Building B (Tower B in the concurrent Stage 1 DA) would create unacceptable bulk, inadequate separation and impacts on views and solar access to buildings and public spaces to the south.
75. A 900mm eastern extension was subsequently withdrawn from the application. This proposal therefore limited to seeking consent for a 600mm extension of the tower to the south and a 2m extension to the north. As detailed below, the revised Building A bulk, scale and form is considered satisfactory with regard to building separation and impacts on surrounding properties.

Building separation

76. The proposal has been modified to address concerns raised by Council Officers relating to building separation between Building A and Building B in the concurrent Stage 1 DA. The originally submitted designs of both the Stage 1 DA and this DA proposed a minimum building separation of 6.92m between Building A and the future Building B (Tower B in the Stage 1 DA) on Levels 5 to 25, increasing to 16.85m towards Rugby Place.

77. The originally proposed Stage 1 DA and the DA building separation was not considered to be appropriate as the separation would create unacceptable bulk, inadequate separation for privacy between the two buildings and diminish views and solar access to buildings and public spaces to the south.
78. The revised Stage 1 DA proposal includes a minimum 10.4m building separation between the buildings, which expands to 19m towards Rugby Place. This reduction has been achieved as a result of modification to the Stage 1 Building B envelope, in conjunction with a reduction in the proposed width of Building A by 900mm on the eastern side, as is reflected in this DA.

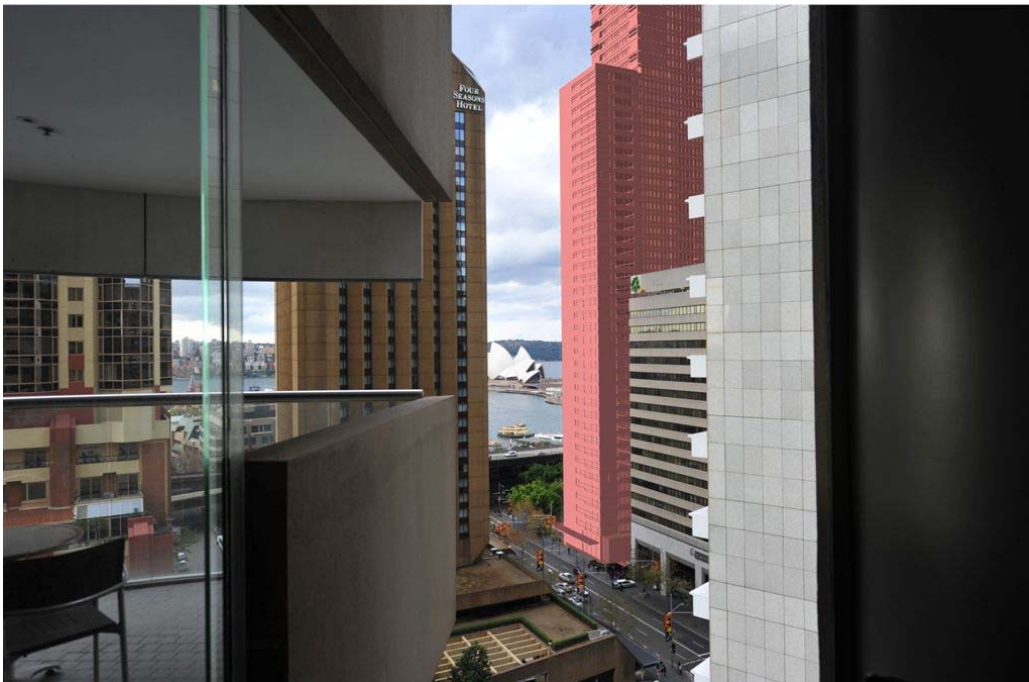


Figure 25: Building separation between amended proposal (left) and Stage 1 DA indicative plan for Building B

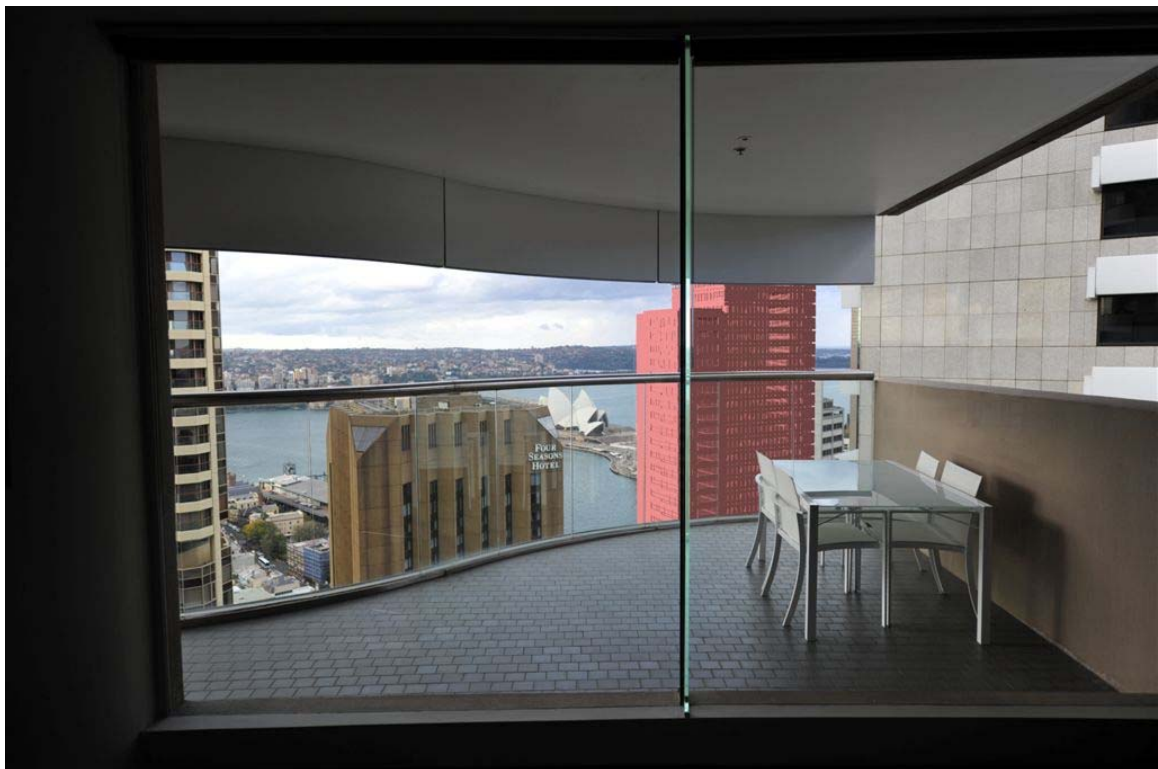
79. Notwithstanding the improvement made to building separation from the originally submitted design, the revised separation does not comply with the minimum building separation requirements within the Apartment Design Guideline (ADG) of between 12m and 24m between habitable rooms, depending on the height of the building.
80. While the building separation under the Stage 1 building envelope scenario does not comply, this DA maintains the approved alignment of Building A to the east and relies on the western facade of Building B in the Stage 1 DA being treated to ensure an inactive facade is provided, and screens and window positioning to maximise visual privacy to Building A. The proposal is considered suitable in this context.

Impacts on surrounding developmentView analysis

81. Among other submitters, objections were received on behalf of the owner's corporation and individual owners of apartments within the Cove Apartments at 129 Harrington Street regarding potential loss of iconic and Sydney Harbour views from their apartments as a result of the proposed development.
82. Prior to determination of the existing Stage 2 DA, Council Officers undertook an independent view loss assessment from the Cove Apartments. The analysis concluded that the Stage 2 proposal would result in a loss of water and district views, however, would not result in loss of iconic views from apartments. The proposal was assessed as not resulting a material view loss when considered against the principles for view sharing and those established in *Tenacity Consulting v Warringah* [2004].
83. The below figures illustrate the existing scenario and impacts of the approved development at apartments selected by the Owner's Corporation at that time as those most likely to be worse affected.
84. Reliance on the view loss assessment undertaken as part of the original Stage 2 DA assessment is relevant because the amended building is near identical, with the exception of a marginal 2m northern tower extension and 600mm southern tower extension. Note that this relates to the tower components and not to the lower portions of the building. These extended portions of the building are on the close and far sides of the building from the vantage point of The Cove.



Figures 26 and 27: Existing (above) and approved (below) views from Level 9



Figures 28 and 29: Existing (above) and approved (below) views from Level 30



Figures 30 and 31: Existing (above) and approved (below) views from Level 35



Figures 32 and 33: Existing (above) and approved (below) views from Level 38

85. The additional northerly and southerly extensions of Building A are considered to be virtually imperceptible compared to the approved view scenario of D/2010/2029.

86. There are no additional view loss impacts associated with the Amended DA on properties to the south of the site, including 33-35 Pitt Street (180 George Street), 200 George Street and Australia Square. A previously proposed 900mm extension of the tower envelope to the east has been deleted from the proposal. Therefore the tower retains the alignment of the existing Stage 2 consent.

Communal Open Space

87. SEPP 65 Apartment Design Guide and Sydney DCP 2012 require communal open space at the rate of 25% of the site area. The amended development provides 14% of the site area, comprising the total site area of 1 Alfred Street. In response to a request to meet the requirements of the planning controls, the Applicant has contended that:
- (a) residents of Building A will potentially have access to communal facilities within the future Building B including a hotel pool facility. Access from Building A to Building B to be provided via the communal basement below the two buildings, as contained in the Stage 1 DA and subject to the Building B Stage 2 DA;
 - (b) when measured in relation to the site area of Building A alone, the communal open space is 28.7% of that site area;
 - (c) Building A is in a dense urban area and the policy settings allow such a building to offset communal open space provision with larger private open spaces, common rooms or proximity to public open space. The Applicant contends that the private balcony and wintergarden areas, the common rooms in the building and the site proximity to Sydney Harbour and significant open spaces lends weight to on-site provision being less crucial; and
 - (d) the gym in the proposal should be considered as communal open space.
88. On balance, the proposed amount of common open space is supportable. Residents of the development will have a variety of passive and active spaces to avail themselves of. A condition is included in the recommendation to ensure residents have access to the hotel recreation facilities as part of the future Building B. A condition is also included in relation to the concurrent Stage 1 application to require provision of common open space accessible to residents of Building A as part of a subsequent Stage 2 application for Building B.

Heritage

89. The site adjoins Herald Square to the north, the underground Tank Stream to the east and is opposite the Ship Inn Hotel to the east and is therefore subject to the heritage provisions of this DCP. The proposal generally complies with the relevant aims, objectives and controls of the DCP. The amended design of Building A is in keeping with bulk, scale, massing and character of the approved development. The minor amendments proposed do not change the original findings in relation to the acceptable heritage impacts of the development.

Access

90. Access for disabled persons can be provided to the premises.

Other Impacts of the Development

91. The proposed development is capable of complying with the BCA.
92. 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

93. The proposal is of a nature in keeping with the approved uses and built form of the site. The proposal is suitable for the site.

INTERNAL REFERRALS

94. The conditions of other sections of Council have been included in the proposed conditions. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access and Waste Management Unit. Relevant conditions have been recommended to address commentary received.

EXTERNAL REFERRALS**Authorities / Agencies**

95. Sydney Trains were consulted in relation to potential impacts of the proposal on the potential future CBD Rail Line tunnels being protected in the this part of the CBD . Sydney Trains requested the City to apply several conditions as deferred commencement matters prior to any approval becoming operational. These deferred commencement conditions have been included in the recommendation.
96. Sydney Airport has provided concurrence for this DA. The maximum height of the building is the same as the approved Stage 2 DA. Conditions from Sydney Airport have been included in the recommendation.
97. NSW Heritage Council received the Amended DA as an Integrated Development Application. An approval is necessary from the Heritage Council for development within the curtilage of the "Sydney Tank Stream", an item of archaeological heritage significance. The Heritage Council has confirmed their earlier General Terms of Approval for the approved Stage 2 DA and added contemporary conditions that have been included in the recommendation.
98. Transport for NSW, including Roads and Maritime Services, were consulted and recommended a Construction Pedestrian and Traffic Management Plan condition that features in the recommendation. Transport for NSW consultation will be required during the formation of a design competition process for the Stage 1 concept hotel development and basement car parking.
99. The application was referred to Ausgrid and Sydney Water for information. No objections were received.

Notification, Advertising and Delegation

100. The application constitutes Integrated Development and as such the application was notified and advertised for 30 days in accordance with the provisions of the Environmental Planning and Assessment Regulations 2000. As a result of this 33 submissions were received. The grounds of submissions raised, together with a response by Council Officers, is included in Attachment B.

PUBLIC INTEREST

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

FINANCIAL IMPLICATIONS/S94 CONTRIBUTION**Section 61 Contributions**

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

RELEVANT LEGISLATION

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

CONCLUSION

104. This report addresses a proposal seeking consent to alter the approved Stage 2 DA (D/2012/2029) so as to generate a consent with one residential tower.
105. The DA is consistent with the concurrent Stage 1 DA and is compliant with the FSR and maximum building height control. Where the bulk of Building A is marginally wider at the northern and southern sides (and non-compliant with the LEP building envelope controls because of this increased girth), the additional size of the tower has demonstrably marginal and acceptable impacts on surrounding properties in relation to overshadowing, view loss, privacy and sense of enclosure and does not alter the conclusions of the original Stage 2 DA regarding the suitability of the development.
106. It is recommended that a deferred commencement consent be granted requiring the amended Voluntary Planning Agreement to be exhibited, executed and registered on the title of the land and Sydney Trains matters to be satisfied prior to the consent becoming operational.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Natasha Ridler, Senior Planner)