

ITEM 4. DEVELOPMENT APPLICATION: 230 - 238 SUSSEX STREET SYDNEY**FILE NO: D/2015/1668****DEVELOPMENT APPLICATION NO: D/2015/1668****SUMMARY**

Date of Submission: 18 November 2015, amended plans received 24 February 2016

Applicant: KARIMBLA CONSTRUCTION SERVICES (NSW) P/L

Architect: NETTLETONTRIBE

Developer: KARIMBLA CONSTRUCTION SERVICES (NSW) P/L

Owner: KARIMBLA PROPERTIES (NO.40) P/L

Cost of Works: \$79,250,003

Proposal Summary: The proposal is a Stage 1 development application seeking consent for a building envelope for:

- a 30-storey building envelope on the southern portion of the site;
- retention of the heritage listed building on the site (known as Foley Bros Warehouse);
- indicative land uses of retail, hotel and residential uses;
- indicative basement car parking and vehicular access off Druitt Place; and
- demolition of the existing commercial office tower.

The application is Integrated Development under the Water Management Act 2000 as dewatering of the site is required. The NSW Office of Water issued their General Terms of Approval on 8 February 2016.

The application was notified for a 30-day period from 26 November 2015. Two (2) submissions were received during the public exhibition period relating to:

- height and variation to development standard;
- bulk, scale and setbacks;
- view loss to Darling Harbour; and
- traffic generation.

**Proposal Summary
(continued):**

The site currently has a maximum building height of 80 metres. The proposal seeks consent for a maximum height of between RL100.09 to RL115.9. This represents a maximum height of approximately 110.15 metres, and a 30.15 metre (or 37.69%) variation to the current building height development standard. The Applicant has lodged a written request under the provisions of Clause 4.6 of SLEP 2012 seeking variation to building height development standard. The basis of the Clause 4.6 variation request is on the site being the subject of a current planning proposal to amend the building height development standard. This justification has not been supported, and is not considered to meet the tests of Clause 4.6, nor is it a proper mechanism to substantially vary planning controls.

There is a concurrent planning proposal underway for the site to increase the maximum height control in the LEP and provide site specific DCP provisions. Significant planning work has been undertaken to guide the site specific amendments to the LEP and DCP. The Planning Proposal was formally adopted by the Central Sydney Planning Committee (CSPC) on 25 February 2016, and LEP amendments are to be drafted by Parliamentary Counsel, to increase the maximum applicable height limit in the LEP from 80 metres to 110.15 metres (RL115.9) at this stage. Once the LEP amendment has been finalised by Parliamentary Counsel, the LEP amendment can be formally gazetted.

An assessment of the amended Stage 1 Development Application against the current and draft site specific controls has been undertaken in this report. The assessment confirms that the proposal is able to comply with the core planning controls (as amended by the planning proposal).

As the assessment of the Stage 1 Development Application is on schedule to be completed in-line with the finalisation and gazettal of the planning proposal, it is requested that the CSPC delegate their authority to the Chief Executive Officer to determine the subject application following gazettal of the planning proposal/LEP amendment.

Summary Recommendation:

Authority be delegated to the Chief Executive Officer to determine the application once the site specific LEP amendment to the maximum height control has been gazetted.

Development Controls:

- (i) Environmental Planning and Assessment Act, 1979
- (ii) City of Sydney Act, 1988
- (iii) Water Management Act, 2000
- (iv) State Environmental Planning Policy No. 32 - Urban Consolidation
- (v) State Environment Planning Policy No. 55 - Remediation of Land
- (vi) State Environmental Planning Policy No. 65 – Design Quality of Residential Development
- (vii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (viii) State Environmental Planning Policy (Infrastructure) 2007
- (ix) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (x) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (xi) Draft Sydney Local Environmental Plan 2012 Amendment - (230-238 Sussex Street, Sydney)
- (xii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Attachments:

- A - Selected Drawings
- B - DRAFT – Sydney Development Control Plan 2012 Amendment – 230-238 Sussex Street, Sydney
- C - Design Excellence Strategy

RECOMMENDATION

It is resolved that:

- (A) pursuant to Section 40(2) of the City of Sydney Act 1988, the Chief Executive Officer be delegated the functions of the Central Sydney Planning Committee in relation to Development Application No. D/2015/1668;
- (B) the delegation in clause (A) be subject to the condition that determination of the application shall not occur until such time as the Sydney Local Environmental Plan 2012 is amended to reflect the amendments made by the Sydney Local Environmental Plan 2012 Amendment - (230-238 Sussex Street, Sydney) as endorsed by the Central Sydney Planning Committee at its meeting on 25 February 2016;
- (C) if the Chief Executive Officer determines to approve the application, then consideration be given to the following draft conditions of consent, and any other relevant conditions;
- (D) the delegation in clause (A) be subject to the condition that in determining the application the Chief Executive Officer is to have regard to the matters raised in the subject report; and
- (E) the Design Excellence Strategy, prepared by Robinson Urban Planning, dated 2 December 2015, as shown at Attachment C to the subject report, be endorsed pursuant to Section 3.3.1 of Sydney Development Control Plan 2012.

DRAFT 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) STAGE DEVELOPMENT APPLICATION

Pursuant to Clause 100 of the *Environmental Planning and Assessment Regulation 2000*, this Notice of Determination relates to a Stage 1 Development Application, and a subsequent development application (Stage 2) or applications are required for any work on the site.

(2) APPROVED STAGE 1 DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2015/1668 dated 18 November 2015 and the following drawings:

Drawing Number	Architect	Date
4496_001 (A)	Nettletontribe / Meriton	5.11.15
4496_002 (A)	Nettletontribe / Meriton	6.11.15
4496_201 (C)	Nettletontribe / Meriton	23.2.16
4496_202 (C)	Nettletontribe / Meriton	23.2.16
4496_301 (C)	Nettletontribe / Meriton	23.2.16
4496_302 (C)	Nettletontribe / Meriton	23.2.16
4496_405 (C)	Nettletontribe / Meriton	23.2.16
4496_406 (B)	Nettletontribe / Meriton	23.2.16
4496_407 (C)	Nettletontribe / Meriton	23.2.16
4496_408 (B)	Nettletontribe / Meriton	23.2.16
4496_409 (A)	Nettletontribe / Meriton	23.2.16

and as amended by the conditions of this consent.

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

(3) MATTERS NOT APPROVED IN STAGE 1 DEVELOPMENT CONSENT

The following matters are not approved and do not form part of this Stage 1 development consent:

- (a) the quantum, ratio and distribution of hotel accommodation, residential accommodation, retail or commercial floor space;
- (b) the floor layout of the hotel and residential accommodation including the total number of hotel rooms and residential apartments;
- (c) the floor levels of each storey;
- (d) the number, configuration and layout of the basement level/s;
- (e) the vehicular access / crossover location on Druitt Place;
- (f) the number and configuration of car space, bicycle spaces and loading spaces / zones;
- (g) the siting and location of a substation;
- (h) the precise quantum of total floor space; and

- (i) any uplift up to 10% of the gross floor area (GFA) of the building.

(4) STAGE 2 DESIGN TO BE CONTAINED WITHIN APPROVED ENVELOPE

Subject to other conditions of this consent, the building envelope is only approved on the basis that the Stage 2 building design, including services and balconies, are contained wholly within the approved building footprint and envelope, and comply with the relevant planning controls.

(5) DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS

- (a) A competitive design process in accordance with the provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 (as amended), and the 'Design Excellence Strategy' for 230-238 Sussex Street, Sydney, dated 2 December 2015, shall be conducted prior to the lodgement of a Stage 2 Development Application.
- (b) The detailed design of the development must exhibit design excellence in accordance with the provision of Clause 6.21 of the Sydney Local Environmental Plan 2012.

(6) DETAILED DESIGN OF BUILDING

The Competitive Design Process Brief and detailed design of the Stage 2 Development Application must incorporate the following requirements and modifications:

- (a) FOLEY BROS WAREHOUSE BUILDING (230-232 Sussex Street):
 - (i) The air conditioning plant indicated on the roofs of the complex is to be deleted. No building service plant is to be located on the roofs, in the courtyard or cart-way, or within the buildings.
 - (ii) The exhaust riser in the rear Retail building is to be relocated away from the original stair to a location at the rear of the building. The riser shall be illustrated on all relevant plans, elevations, sections and roof plan.
 - (iii) The exhaust risers in the main building are to be relocated to avoid conflict with the main bearer or box gutter. The riser shall be illustrated on all relevant plans, elevations, sections and roof plan.
 - (iv) The proposed new steel frame shopfronts and windows to the cartway are to be redesigned to be of proportions consistent with the building, and to be of a robust nature to interpret the original warehouse use of the building.
 - (v) The proposed cartway doors are to be arched, and are to be timber framed, ledged braced and sheeted in beaded boarding set on steel pivots in the traditional manner, or are to be of a contemporary design of a robust nature to interpret the original warehouse use of the building.

- (vi) The cobblestone pavement to the courtyard is to be of bluestone setts of a size width by length by depth, to match the original. Full layout details are to be submitted of the courtyard, indicating the integration of the layout of the setts, with the sandstone post plinths and drainage outlets, and with the setts of the cartway.
 - (vii) The location of the posts and beam supporting the proposed single storey courtyard roof structures is to be exactly as per the evidence of the original locations.
 - (viii) The proposed extensive opening in the southern wall of the courtyard to access the proposed building at 234-238 Sussex Street is not approved and is to be amended to provide narrow vertical openings centred on the post bays of the proposed single storey courtyard roof structures.
 - (ix) The Lavatories on level 1 and Level 2 of the main building are to be relocated into the adjacent building at 234-238 Sussex Street so that plumbing is not reticulated above the cartway.
 - (x) Three of the five proposed skylights to each side of the main roof shall be deleted, and the two central skylights to the rear building shall be deleted.
 - (xi) All service plant on the roofs of the heritage item, and the grease trap in courtyard, shall be deleted. No service plant or grease traps are to be located within the heritage complex.
 - (xii) The ramp to the southern retail tenancy is to be redesigned to have a landing area as recommended by the Access report by Access Review.
- (b) ADAPTIVE RE-USE OF FOLY BROS WAREHOUSE HERITAGE BUILDING (230-232 Sussex Street):
- (i) Encourage retail use at ground floor level and commercial uses at Levels 1 and 2 of the main building. Entail retail use on both levels of the rear building.
 - (ii) The conservation of all significant fabric, components and spaces, based on rigorous documentary and on-site analysis, assessment and documentation of the current condition, informed by the relevant engineering analysis. The process is to inform the intended conservation approach to all components, whether preservation, restoration, reconstruction, adaptation, or interpretation, guided by the policies of a Conservation Management Plan endorsed by Council's Manager of Urban Design and Heritage.

- (iii) Concept designs for the upgrade of the buildings to comply with the NCC Building Code of Australia, including structural, building services, acoustic and fire and Access provisions, are to be developed in close consultation with the heritage consultant from an early stage. The proposed solutions to achieve compliance are to maximise the historic spatial qualities of the interiors and exposure of original structure, fabric and finishes, utilising alternate solutions where required to ensure the most sympathetic outcome.
- (iv) The proposed single storey courtyard roof structure is to closely interpret the based upon documentary, physical and archaeological evidence and on evidence of early structures of a similar period and function.
- (v) There is to be no substantive excavation beneath the heritage item, the courtyard or the cartway, whether for storage space, service installations, or for floor space. Trenching for services is to be minimal.
- (vi) The proposed building at 234-238 Sussex Street must not cantilever over or intrude into the airspace above the heritage item.
- (vii) The following are to be provided to be located external to the heritage item at 230-232 Sussex Street and within the new tower development so as to limit the intervention within the heritage item:
 - a. Building services plant and grease traps,
 - b. Vertical service ducts,
 - c. Stormwater reticulation to the street,
 - d. Waste management facilities and disposal collection,
 - e. Vehicular entry for loading,
 - f. Non-required and required stairs, fire escapes,
 - g. Lavatories.
- (c) HERITAGE CONSERVATION WORKS: The following is to be prepared and submitted as part of the Stage 2 Development Application:
 - (i) A Schedule of Exterior and Interior Conservation Works to be submitted with the Stage 2 Development Application. The works are to ensure the conservation of the heritage item to a high level.

- (ii) The schedule is to define the intended conservation and adaptive approach to the interior and exterior components (preservation, restoration, reconstruction, reinstatement, adaptation, interpretation etc). The schedule is to detail the conservation of all fabric identified as having a heritage significance, and is to include, but not limited to, the conservation of stonework, brickwork, parapet features and urns, door and window joinery, loading bay joinery, stair joinery, structural timber framing, cast iron, timber flooring, glazing, hardware, cartway and courtyard pavements, roof plumbing, roofing, stormwater and subsoil drainage, sub floor ventilation, paint removal and painting. Alongside the preservation and restoration of fabric, the works are to include the removal of all intrusive elements and reconfiguration and reinstatement of elements to enhance the significance of the facades and of the interiors, as well as works to reduce rising damp and desalinate. The schedule is to incorporate any structural advice for repairs to the structure of the building.
- (iii) The estimated cost of conservation works is to be included in the Cost Plan and submitted for approval alongside the schedule.

(d) HERITAGE INTERPRETATION STRATEGY:

The Stage 2 Development Application is to incorporate an interpretation strategy that details how information on the history and significance of the site will be provided for the public. Interpretation by design should form an integral aspect of the strategy, in addition to other devices such as display and public art. The strategy is to provide preliminary recommendations as to the type, location and spatial requirements of the interpretation, including for archaeological display.

- (e) CONTEXTUAL DESIGN OF PROPOSED PODIUM AND TOWER: To provide a contextual relationship with the adjacent heritage listed complex at 230-232 Sussex Street, the Stage 2 Development Application design should incorporate the following:
- (i) The Sussex Street and DrUITT Place frontages of the podium is to incorporate high proportion of masonry compared to window glazing, strong visual depth, a high degree of architectural modelling and articulation, and high quality materials. The preferred masonry material is Sydney sandstone. Window glazing is to be deeply recessed.
 - (ii) The Sussex Street frontage of the podium should respond to major horizontal and vertical elements of the warehouse.
 - (iii) The form of the podium as it fronts both Sussex Street and DrUITT Place should interpret the early Victorian subdivision pattern through appropriate located modulation and articulation of the street and lane frontages.
 - (iv) Awnings in the vicinity of the heritage item are to be limited so as to maintain views to the heritage items.

- (v) The design of the hotel is to enable the installation of the following are to be located external to the heritage item at 230-232 Sussex Street and located within the new tower so as to limit the intervention within the heritage item:
 - a. Building services plant and grease traps,
 - b. Vertical service ducts,
 - c. Stormwater reticulation to the street,
 - d. Waste management facilities and disposal collection,
 - e. Vehicular entry for loading,
 - f. Non-required and required stairs, fire escapes,
 - g. Lavatories.
- (vi) To reduce the damage caused by rising damp and migrating salts in the heritage listed complex and courtyard at 230-232 Sussex Street, all proposed structure, walls and basement retaining walls are to be offset by a minimum of 150mm, from the entire heritage complex and courtyard walls. This offset is to be maintained as a breathable air cavity, effectively drained at its base, and is not to be compromised by the reticulation of services.
- (vii) The proposed building must be structural independent of the heritage complex and must not cantilever over the complex.
- (viii) Floor levels in the new podium building immediately adjacent to the heritage items are to accommodate the external location of these elements.
- (ix) The retail shopfronts are to be of a high quality design.
- (x) The balconies of the tower are to be incorporated into the form of the building, designed as wintergardens rather than as exposed cantilevered balconies.

(7) SUN ACCESS MODELLING

- (a) Detailed design drawings are to be submitted to Council providing precise sun access modelling confirming the following:
 - (i) the development will minimise overshadowing to the residential apartments contained within the building at 267 Sussex Street, consistent with the provisions of the ADG (*Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid winter*).
- (b) Details to be submitted with the Stage 2 Development Application.

(8) BUILDING HEIGHT

The maximum height of the buildings as defined in the Sydney Local Environmental Plan 2012 (as amended) may not exceed the building envelope control contained within the provisions of Sydney DCP 2012 – 230-238 Sussex Street, Sydney Amendment.

(9) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permitted floor space as calculated in accordance with the Sydney Local Environmental Plan 2012 (as amended).
- (b) Notwithstanding clause (a) above, the proposal may be eligible for a 10% design excellence uplift in floor space ratio.
- (c) Precise details of the distribution of floor space shall be provided with the future Stage 2 Development Application.
- (d) Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.10 of the Sydney Local Environmental Plan 2012.

(10) HOTEL USE

Documentation shall be submitted with the Stage 2 Development Application for the hotel use and its operation in accordance with the requirements of Section 4.4.8 of the Sydney Development Control Plan 2012.

(11) RESIDENTIAL USE

- (a) Residential uses are not to be located within the podium level.
- (b) Any future residential development applications are to comply with the objectives of the Apartment Design Guide (ADG) and other conditions of this consent.

(12) FLOOD LEVELS

- (a) The Applicant is required to seek appropriate flood planning levels to be submitted with the Stage 2 Development Application.
- (b) In addition, the floor level entries from the Sussex Street and Druitt Lane including any opening to basement and lift wells, lobby must comply with the City's Interim flood policy for setting floor levels.

Note: A two dimensional flood study for the Darling Harbour catchment was completed by BMT WBM Pty Ltd and the flood risk management study is currently being undertaken by WMAwater Pty Ltd. Both consultants can be approached for obtaining flood information for the site from the flood model.

(13) FLOOR TO CEILING LEVELS

The detailed design of the Stage 2 Development Application shall meet the floor to ceiling height controls for retail spaces on the ground floor and above in accordance with the Sydney Development Control Plan 2012 (Clause 4.2.1.2 – Floor to ceiling heights and floor to floor heights).

(14) CONSERVATION MANAGEMENT PLAN

(a) The Conservation Management Plan for the former Foley Bros Warehouse at 230-232 Sussex Street by NBR SAP dated March 2016 is to be amended so as to ensure a high level of guidance for its sympathetic adaptive reuse and its conservation, in the light of the remaining floor space being transferred for the heritage item to the adjacent development. As a minimum, the following is recommended:

(i) Include a policy to the effect that the proposed tower must not cantilever over the air space above the heritage complex at 230-232 Sussex Street.

(b) The above amendments are to be submitted to and approved by Council's Manager of Urban Design and Heritage prior to the Design Competition stage so that the reports effectively inform the design process and the Stage 2 Development Application.

(15) STRUCTURAL STABILITY OF HERITAGE ITEM

The Stage 2 design is to ensure that sufficient side boundary offsets are provided in the design of the proposed excavation and building to ensure the structural stability of the heritage item.

(16) SANDSTONE RECYCLING (FOR LARGE SCALE DEVELOPMENTS INVOLVING EXCAVATION TO A DEPTH OF AT LEAST ONE BASEMENT LEVEL)

(a) A Geotechnical Report prepared by a suitably qualified geotechnical engineer is to be submitted to Council's Urban Design and Heritage Manager prior to the issue of the Construction Certificate. The report is to include an investigation of the nature of the existing subsurface profile using appropriate investigation methodology and borehole testing techniques.

(b) The Geotechnical Report is to analyse the quality of the material, including contamination, and to assess the suitability of the rock for removal by cutting into quarry blocks for use as high quality building construction material, including for building conservation.

(c) Subject to confirmation that the rock is of a suitable quality for reuse in other construction, the Geotechnical Report is to include an Excavation Work Method Statement with recommendations as to the depth of the most suitable profile, details excavation methodologies, cutting methods and procedures for the removal of all sandstone material in a useable form and size, noise and dust attenuation measures in addition to recommendations for monitoring, notifications and review.

- (d) In addition, details of any required storage of material off site must be submitted. If the quantity of sandstone material exceeds the needs of the site, or if the approved development does not provide for the use of any sandstone, or if the material is 'Yellow Block' sandstone required for conservation of buildings, the material must be stored in an appropriate location for later reuse. Storage may be able to be facilitated by the Council or the NSW Department of Commerce. Please contact the Manager Centenary Stonework Program at the NSW Department of Finance and Services on 9372 8526 for further enquiries with regard to storage.
- (e) The programming of the works is to take into account, the above process.

(17) USE OF HERITAGE CONSULTANT – DESIGN COMPETITION AND STAGE 2 DA

An experienced heritage consultant is to be commissioned to work with the consultant team throughout the Design Competition and Stage 2 application submission stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the Applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

(18) PUBLIC ART

- (a) A Public Art Strategy is to be development for the site/development in accordance with the Sydney Development Control Plan 2012 and the Public Art Policy. This Strategy shall form part of the documentation lodged with the future Stage 2 Development Application.
- (b) The nominated location of public art is to be included in any future Stage 2 Development Application.

(19) WASTE COLLECTION

- (a) The future Stage 2 Development Application shall demonstrate compliance with Council's requirements for waste collection for residential development and Policy for Waste Minimisation in New Development 2005 (as may be amended).
- (b) In particular, the following design requirements should be included in any Stage 2 Development Application:

Storage

- (i) No kerbside collections for commercial or residential waste will be accepted.

- (ii) A storage area for discarded bulky items (i.e. furniture, tv, appliances, whitegoods) must be provided per block of residential units or in a consolidated location in the case of an integrated basement.
- (iii) Waste and recycling receptacles to be stored on property at all times with Council access key for servicing if required.
- (iv) Residential and commercial waste rooms to be separated (commercial tenants must not have access to residential waste and recycling bins).

Waste and Recycling Collection

- (v) Clearance height for access by collection vehicle must be no less than 3.8m at any point if vehicle is required to enter site to service bins.
- (vi) Waste vehicles must be capable of entering and exiting in a forward direction.
- (vii) The maximum travel distance between the storage point and collection point for all waste and recycling receptacles shall be no more than 10 meters.
- (viii) Unimpeded access shall be provided for collection vehicles between 6am and 6pm on collection days.
- (ix) Waste and recycling containers will not be supplied until construction in developments is completed unless otherwise organised with waste services.

(20) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

(21) CHANGES TO KERB SIDE PARKING RESTRICTIONS

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

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

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

Note: It is recommended that the Applicant should approach the Area Traffic Engineer to discuss the proposal before making a submission.

(22) ON SITE LOADING AREAS AND OPERATION

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times, and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

(23) PARKING DESIGN

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

(24) SECURITY GATES

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

(25) SERVICE VEHICLE SIZE LIMIT

The Stage 2 Development Application must include a swept path assessment for the largest vehicle to access the proposed servicing area.

(26) SERVICE VEHICLES

- (a) Courier spaces and loading docks must be located close to the service entrance and away from other parking areas.
- (b) Adequate space must be provided to allow maneuvering and turning of different sized vehicles within the designated loading area. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off-Street Parking Part 2: Commercial vehicle facilities.

(27) VEHICLES ACCESS

The site must be configured to allow all vehicles to be driven onto and off the site in a forward direction.

(28) CAR SHARE SPACES

- (a) Car share parking spaces are to be provided in accordance with the Sydney Development Control Plan 2012.

It is recommended that the Applicant discuss the proposed location of car share parking spaces with car share operators during the detailed design process to ensure that the needs of both the developer and the car share operator can be met. In this regard, the car share spaces are to be provided to meet the following conditions:

- (i) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (ii) The spaces must be made available to car share operators without a fee or charge.
- (iii) The spaces must be sign posted for use only by car share vehicles and well lit.
- (iv) The spaces must be **accessible to members of the car share scheme at all times**. This should be incorporated into the building design. It is noted that the provision of car share on street would not be supported in this situation.
- (v) The car share spaces are to be available at the same time that the car park commences operation.

(29) BICYCLE PARKING

- (a) Details of the location, number and class of bicycle parking must be included in the Stage 2 Development Application.
- (b) All visitor bicycle parking is to be provided at ground floor level in an easily accessible and visible location. Staff bicycle parking is to be provided at ground floor level or basement level 1 and is to be in close proximity to end-of-trip facilities.

Note: Council supports the provision of innovative bicycle parking solutions in new development. Should the applicant wish to discuss bicycle parking options, please contact the City Access and Transport Unit.

(30) COACH PARKING MANAGEMENT PLAN (HOTEL)

A coach parking management plan for the hotel use is to be submitted with the Stage 2 Development Application.

(31) TRANSPORT FOR NSW (TfNSW) CONDITIONS

The following information and requirements of TfNSW must be fully addressed and detailed in the Stage 2 Development Application:

(a) **Construction Traffic Management Plan**

Prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with the CBD Coordination Office within TfNSW and Sydney Light Rail Operator. The CMTMP needs to specify, but not limited to, the following:

- (i) location of proposed works zone;
- (ii) proposed crane location;
- (iii) haulage routes;
- (iv) construction vehicle access arrangements;
- (v) proposed construction hours;
- (vi) estimated number of construction vehicle movements;
- (vii) construction program;
- (viii) any potential impacts to general traffic, cyclists, pedestrian and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
- (ix) cumulative construction impacts of projects including Sydney Light Rail Project. Should any impacts be identified, the duration of the impacts; and
- (x) measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.

Submit a copy of the final plan to the Coordinator General, CBD Coordination Office for endorsement, prior to commencement of any work.

(b) **Proposed Car Park Operation**

A detailed loading bay management plan is required to be prepared and submitted for TfNSW review, prior to issuing a Construction Certificate. The management plans are to include the following (not limited to):

- (i) estimated traffic generation during peak periods for residential and hotel components based on traffic generation surveys undertaken for similar sites in the CBD;
- (ii) management of queuing along Sussex Street;
- (iii) management of incidents at the access to the car park;
- (iv) loading bay management details including service vehicle movements during peak periods; and
- (v) management of conflicts between cars accessing the car park and the service vehicles using the loading bays.

(32) WIND

Prior to the lodgement of a Stage 2 Development Application, the detailed design shall be subject to wind tunnel testing to ascertain the impacts of the development on the wind environment and conditions within the publicly accessible pedestrian space, the surrounding streets, neighbouring buildings, communal external areas within the subject development and private open space. Any recommendations of this wind tunnel testing and wind assessment report shall be incorporated into the final detailed design lodged as a Stage 2 Development Application.

(33) ELECTRICITY SUBSTATION

The owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Ausgrid with any future Stage 2 Development Application.

(34) SECTION 61 CONTRIBUTIONS PAYABLE (DEMOLITION ONLY) - REGISTERED QUANTITY SURVEYOR'S DETAILED COST REPORT - SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

A cash contribution comprising 1% of the total cost of the development is payable to the City of Sydney pursuant to section 61 of the *City of Sydney Act 1988* and the *Central Sydney Contribution (Amendment) Plan 2002/ Central Sydney Development Contributions Plan 2013* in accordance with the following:

- (a) Prior to a Construction Certificate being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" indicating the itemised cost of the development must be completed and submitted to Council by the Certifying Authority (CA), together with copies of the plans the subject of the application for the Construction Certificate. A copy of the required format for the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" may be obtained from the City of Sydney One Stop Shop, any of the Neighbourhood Service Centres and the City of Sydney's website (www.cityofsydney.nsw.gov.au).

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

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

(35) 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.

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

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

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

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

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

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

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

- (a) Identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement ($L_{A90, 15 \text{ minute}}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

(38) PUBLIC DOMAIN PLAN

A Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with the relevant Stage 2 Development Application. The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual.

(39) STORMWATER AND DRAINAGE

Any Stage 2 Development Application is to provide details of the drainage system for the development which is to be designed and constructed in accordance with Council's standard requirements as detailed in Council's 'Stormwater Drainage Connection Information' document dated July 2006. This information is available on Council's website - www.cityofsydney.nsw.gov.au.

(40) AUSGRID

- (a) Consultation is required with Ausgrid to ensure that technical and statutory requirements in regards to the safe and reliable operation and maintenance of Ausgrid's network are maintained.
- (b) Details of the consultation undertaken are to be provided with the Stage 2 Development Application.

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.

(41) PAVING MATERIALS

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

(42) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

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

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

The form of the recording is to be as follows:

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

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

(43) PRESERVATION OF SURVEY MARKS

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

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

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

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

(44) PROTECTION OF SURVEY INFRASTRUCTURE

Prior to the commencement of any work on site, a statement prepared by a Surveyor registered under the *Surveying Act 2002* must be submitted to Council verifying that a survey has been carried out in accordance with the Surveyor General's Direction No. 11 – Reservation of Survey Infrastructure. Any Permanent Marks proposed to be or have been destroyed must be replaced, and a "Plan of Survey Information" must be lodged at the Land and Property Management Authority.

Reason: To ensure that the survey control infrastructure and cadastral framework are preserved for the public benefit and in accordance with the *Surveying Act 2002*.

(45) PROTECTION OF STONE KERBS

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

(46) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 40 lineal metres of granite paved site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.

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

(47) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

(48) ACID SULFATE SOILS ASSESSMENT

Submit to Council a Preliminary Assessment prepared in accordance with the NSW Acid Sulfate Soils Management Advisory Committee, Acid Sulfate Soils Assessment Guidelines 1998 for the works that are classified as being in THE relevant Acid Sulfate Soils zone. The Preliminary Assessment must be prepared by a person or company who is qualified and competent in relevant geotechnical expertise in relation to the assessment and remediation of Acid Sulfate Soil risks. The Preliminary Assessment must conclude that an ASSMP is not required in accordance with the guidelines otherwise an ASSMP must also be submitted to Council in accordance with NSW Acid Sulfate Soils Management Advisory Committee, Acid Sulfate Soils Assessment Guidelines 1998.

(49) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN

All recommendations contained in the Acid Sulfate Soils Management Plan must be implemented, including the following:

(50) NOTIFICATION – NEW CONTAMINATION EVIDENCE

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

(51) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with WorkSafe NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence, whichever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, WorkSafe must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and WorkSafe document entitled *How to manage and control asbestos in the work place: Code of Practice (NSW WorkCover)* and the *City of Sydney Managing Asbestos Policy*.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Appendix F of the City of Sydney's Managing Asbestos Guidelines.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).

- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

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

(52) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

(53) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

(54) OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

If it is proposed to install a building maintenance unit or operate a hoisting device above a road (footpath) including swinging, hoisting material/equipment and slewing any part of the device, 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*).

(55) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)

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

(56) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(57) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

- (a) Prior to the commencement of demolition and/or excavation work, the following details must be submitted to and be approved by the Principal Certifying Authority:
- (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
 - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the WorkCover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
 - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person.
 - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.
- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the Work, Health and Safety Act 2011 and Regulation; Council's Policy for Waste Minimisation in New Developments 2005, the Waste Avoidance and Resource Recovery Act 2001, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the Waste Avoidance and Resource Recovery Act 2001.
 - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
 - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
 - (iv) The name and address of the transport contractor.
 - (v) The type and quantity of material to be removed from site.
 - (vi) Location and method of waste disposal and recycling.
 - (vii) Proposed truck routes, in accordance with this development consent.

- (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
 - (ix) Measures to control noise emissions from the site.
 - (x) Measures to suppress odours.
 - (xi) Enclosing and making the site safe.
 - (xii) Induction training for on-site personnel.
 - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to WorkCover Authority.
 - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the WorkCover Authority.
 - (xv) Disconnection of utilities.
 - (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
 - (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
 - (xviii) Waterproofing of any exposed surfaces of adjoining buildings.
 - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the Protection of the Environmental Operations Act 1997).
 - (xx) Working hours, in accordance with this development consent.
 - (xxi) Any WorkCover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

(58) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of the adjoining Foley Bros Warehouse heritage building including all surrounding buildings which have a common boundary with the subject development site are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

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

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

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

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

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

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

(60) ROAD OPENING PERMIT

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

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

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

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
 - (i) A bank guarantee to be provided in the sum of \$521,500 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$521,500 dollars; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
 - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the erection of the structure has commenced;
 - (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the Consent Authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:

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

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

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

- (g) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

(62) BARRICADE PERMIT

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

(63) WASTE/RECYCLING COLLECTION

- (a) The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.
- (b) Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.

(64) 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*).

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(65) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(66) HOURS OF WORK AND NOISE – CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

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

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 96 of the *Environmental Planning and Assessment Act 1979*.

(67) COVERING OF LOADS

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

(68) VEHICLE CLEANSING

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

(69) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(70) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

- (f) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(71) USE OF MOBILE CRANES

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (c) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes must not be delivered to the site prior to 7.30am without the prior approval of Council.

(72) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of (EHO to specify hours)
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

SCHEDULE 2

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

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply to the development.

Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*

Clause 98A Erection of signs

- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

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

SCHEDULE 3

Terms of Approval

Other Integrated Development Approvals

The Terms of Approval for Integrated Development as advised by NSW Department of Primary Industries - Water are as follows:

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
3. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - A. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - B. any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - C. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

4. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
5. DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

6. The following shall be included in the initial report:
 - (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
 - (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
7. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.

8. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
9. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
10. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
11. A copy of a valid consent for the development shall be provided in the initial report.
12. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
13. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

14. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
15. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

16. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
17. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
19. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
20. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation:

21. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
 - (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
22. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

BACKGROUND

The Site and Surrounding Development

1. The site was previously made up of two separate allotments (two titles, being Lot 1, DP 71092 and Lot 11, DP80943.4) 230-232 Sussex Street and 234-238 Sussex Street, Sydney. On 12 June 2015, the two titles were consolidated into one allotment (Lot 1, DP 1207088). The combined development site is now legally known as 230-238 Sussex Street, Sydney and has a total site area of 2086sqm.
2. The site is an irregular shaped allotment bound by Sussex Street to the west and Druitt Place to the south. Sussex Street is the primary street frontage and pedestrian access, whilst Druitt Place acts as a secondary street frontage providing vehicle access into 234-238 Sussex Street.
3. Contained within the development site is the Foley Bros warehouse building (locally listed heritage item) and a 13 storey commercial office tower.
4. Surrounding development in the vicinity of the site is generally mixed use and is characterised by commercial offices, residential accommodation, serviced apartments and hotels.
5. To the north of the site is the Astoria Apartments at 222-228 Sussex Street (30 storey apartment building), directly to the east of the site at 439-441 Kent Street is a heritage listed building most commonly known as the Carla Zampatti building and an 18 storey commercial building 447 Kent Street. To the south of the site across Druitt Place is a serviced apartment tower building at 252-258 Sussex Street.
6. Photos of the site and surrounds are provided below:

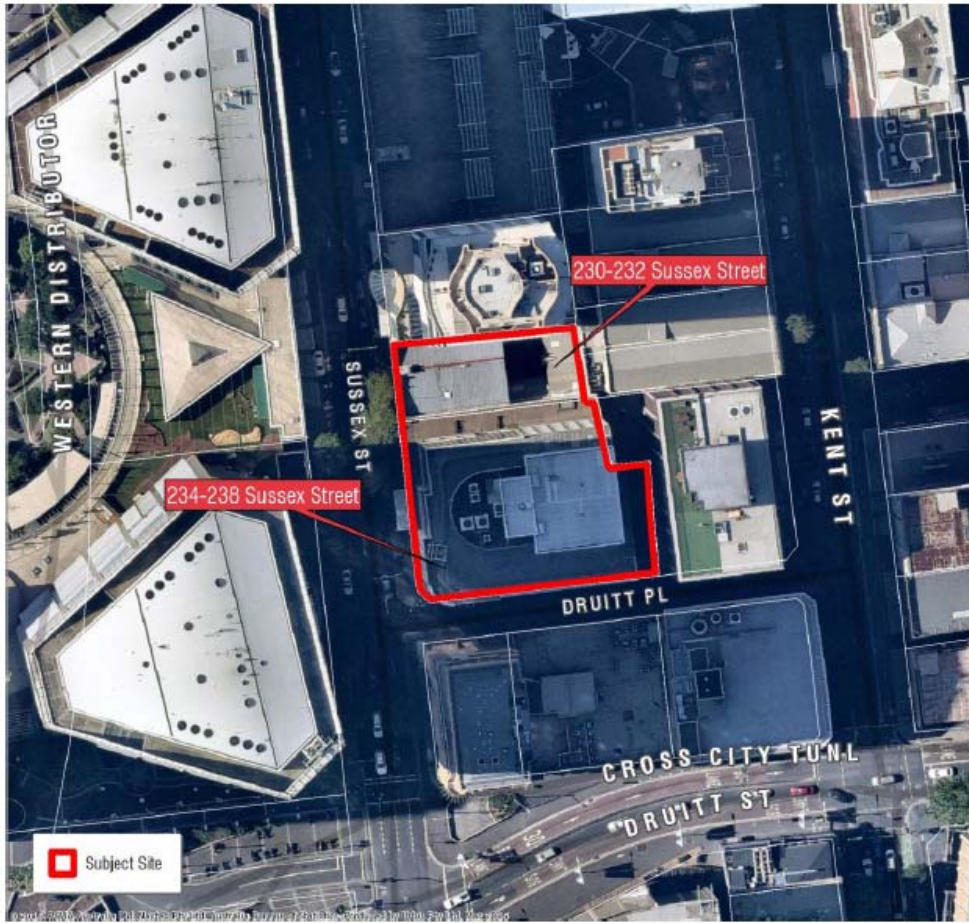


Figure 1: Aerial image of subject site and surrounding area

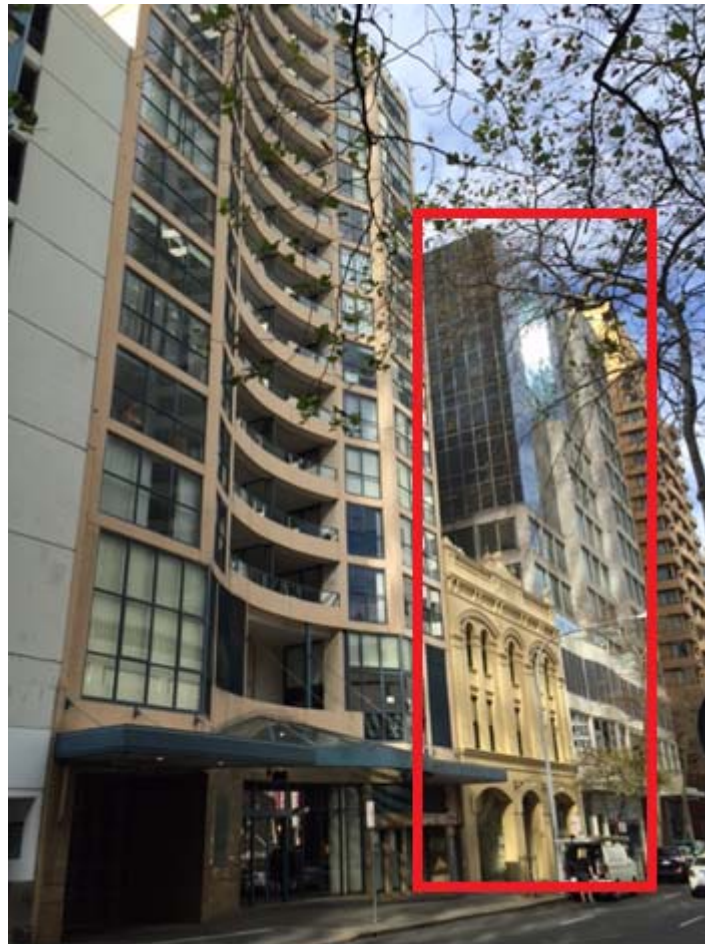


Figure 2: Subject site - view looking south along Sussex Street



Figure 3: Existing entry to 234 Sussex Street (existing commercial building)



Figure 4: Foley Bros Warehouse heritage item (existing)



Figure 5: Druiitt Place - view looking east towards Kent Street



Figure 6: Druitt Place – existing



Figure 7: Context sky-view – Astoria Apartments/Foley Bros Warehouse (heritage item)/existing commercial building and 447 Kent Street in foreground



Figure 8: Context view – View looking south down Sussex Street

PROPOSAL

7. The subject application seeks consent for a Stage 1 building envelope and design parameters including the following:
 - (a) a 30 storey mixed use tower building envelope (to a maximum height of RL117.1 at the eastern boundary and RL100.09 at the western boundary);
 - (b) indicative future land uses of ground floor retail, hotel (within podium to level 18) and residential development (levels 19 to 30);
 - (c) new indicative basement car parking (4 levels below ground);
 - (d) vehicular access off Druitt place; and
 - (e) demolition of the existing commercial tower.

8. The Stage 1 application proposes to demolish the existing 13-storey office building located on the southern part of the site (known as 234-238 Sussex Street) as part of any development consent granted under this development application.

AMENDED PLANS

9. On 24 February 2016, the Applicant submitted amended plans.
10. The proposed amendments are summarised as follows:
- Stage 1 building envelope top of the tower amended to address overshadowing impacts to minimise overshadowing impacts to surrounding residential apartments located to the south of the subject site;
 - correct lift orientation at ground floor to provide separate lift access for residential occupants and hotel guests; and
 - relocation of 'Back of House' (BoH) for the future hotel to align with the adjoining heritage courtyard.
11. The amended plans are also accompanied by an amended Statement of Heritage Impact and amended Conservation Management Plan.

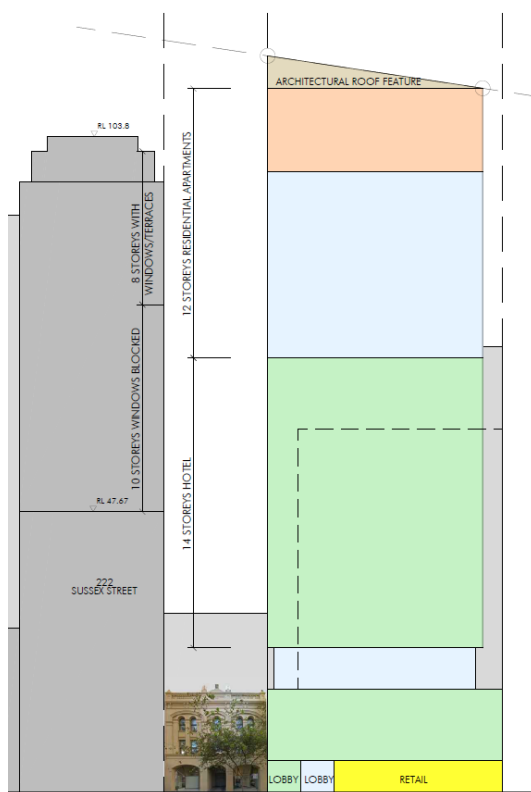


Figure 9: Existing envelope

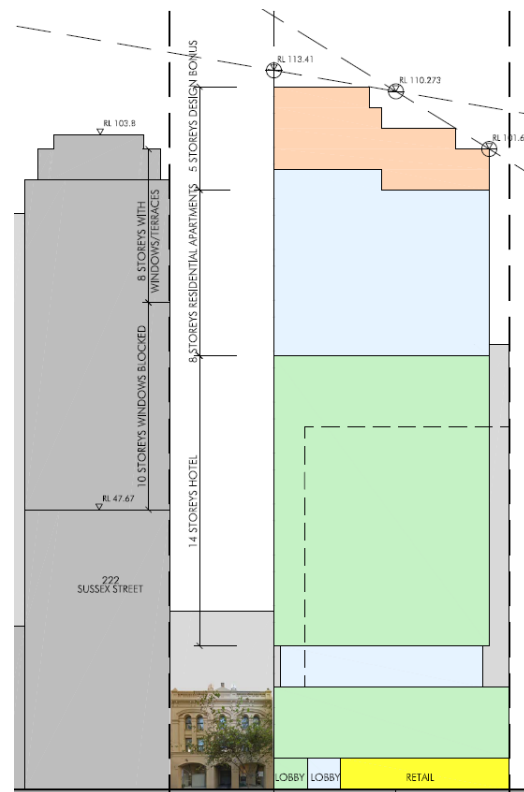


Figure 10: Amended envelope

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION***Planning Proposal:***

12. In May 2015, a planning justification report was submitted (the proponent and landowner) requesting a change to the *Sydney Local Environmental Plan 2012* (SLEP2012) and *Sydney Development Control Plan 2012* (SDCP2012) that applies to 230-238 Sussex Street, Sydney.
13. The request was to enable the development of a mixed-use hotel and residential tower that can accommodate a hotel of over 200 rooms, with residential dwellings at the upper levels where acceptable levels of amenity can be provided. The request includes the refurbishment and adaptive re-use of the heritage listed Foley Bros warehouse building to be incorporated into the proposed hotel use.
14. The existing building height control for the site under the SLEP2012 is 80 metres. The proponent is seeking to change the height control to enable a maximum building height of RL115.9, taken from RL117.1 metres on the western site edge and RL 100.09 metres on the eastern site edge. This will enable a tower above a podium on the southern portion of the site adjacent to the heritage item.
15. In September 2015, Council and the Central Sydney Planning Committee (CSPC) resolved to seek a Gateway determination from the Department of Planning and Environment to allow public exhibition of a Planning Proposal to amend SLEP2012, alongside a supporting site specific draft Development Control Plan (draft DCP).
16. A Gateway determination was issued in October 2015, allowing community and public authority consultation to take place. The Planning Proposal and draft DCP were placed on public exhibition for a period of 28 days from 24 November to 21 December 2015.
17. At its meeting on 25 February 2016, the Central Sydney Planning Committee resolved to approve the changes to the City's planning controls recommended in the post exhibition Planning Proposal report.
18. At the time of reporting, the Planning Proposal has been submitted to the NSW Parliamentary Counsel requesting the plan be legally drafted with final sign-off by the Chief Executive Officer under powers delegated by the Minister for Planning.

Development Application for heritage item on site:

19. The following development applications are relevant to the proposal:
 - (a) Development Application D/2015/771 was approved on 28 October 2015, and granted consent for the adaptive re-use of the existing heritage item building for a commercial use, including alterations and additions.

CITY OF SYDNEY ACT 1988

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

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

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

WATER MANAGEMENT ACT 2000

22. Under Section 91 of the Environmental Planning and Assessment Act 1979, the application is 'integrated development' requiring approval of the NSW Office of Water under the *Water Management Act 2000*. This approval is required as a result of the proposed basement excavation depth impacting on the groundwater levels on the site.
23. On 8 February 2016, the NSW Office of Water have granted their General Terms of Approval.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

24. The application is being assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
- (a) Environmental Planning Instruments and DCPs; and
 - (b) Draft Environmental Planning Instruments and DCPs

SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)

25. The proposed development is consistent with the aims and objectives of SEPP 32 and the State Government's urban consolidation initiatives. The site is strategically located in proximity to the Sydney CBD and is serviced by existing public infrastructure, public transport and community facilities. The future development of the site will increase the availability of housing within the inner city and will assist in meeting the demand for residential flats which are close to employment, leisure and retail opportunities.

State Environmental Planning Policy No 55—Remediation of Land

26. 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.
27. A Phase 1 Preliminary Site Investigation Report was submitted with the development application. The report reviewed the history of the site and provided aerial photographs and has concluded that a Secondary Site Assessment is not required as it is unlikely that the site is contaminated. The report concludes that the land is suitable for the proposed use.
28. The City's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

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

29. The hotel and residential component relates to the new tower on the site only.
30. Clause 70B of the Environmental Planning and Assessment Regulation 2000 provides that design verification required under clause 50(1A) is not required for Stage 1 development applications unless the DA contains detailed proposals for a residential flat development or part of that development.
31. Due to the conceptual nature of a Stage 1 application, a detailed assessment against SEPP 65 and the Apartment Design Guide can only be made when the future Stage 2 Development Application is submitted. Notwithstanding this, the Stage 1 Development Application building envelope and indicative floor plans have been considered against the design quality principles.

- (a) **Principles 1 and 2:** Context and Neighbourhood Character, Built Form and Scale

The proposed scale and massing of the podium is considered to be contextually appropriate to this CBD location and provides an appropriate form consistent with the height of the adjoining heritage item.

Whilst there is currently a non-compliance with the current maximum height control that applies to the site (i.e. 80 metres under SLEP2012), the proposed maximum height of the tower is consistent with the planning proposal which is seeking to increase the height of the tower. In this instance, it is considered that the planning proposal can be used as a guide on the likely future height control for the site (refer to discussion under issues section).

(b) **Principle 3: Density**

The scale of the proposed development and future uses are considered to be appropriate given the CBD context of the site, particularly given its proximity to established infrastructure, public transport, community and recreational facilities.

(c) **Principle 4: Sustainability**

The proposed indicative floor plates demonstrate that the scheme is capable of complying with the requirements to maximise cross ventilation and solar access penetration into future residential apartments. The energy efficiency and sustainability of the design will form part of the future detailed design development application. Appropriate conditions are recommended for imposition to require that the Stage 2 Development Application comply with SEPP 65 and BASIX.

(d) **Principle 5: Landscape**

It is noted that the CBD context, site area and setbacks established by surrounding development generally preclude the provision of ground floor level communal open space and/ or deep soil planting on the subject site.

The proposal seeks consent for an indicative building envelope only, and it will be necessary for a more detailed analysis and assessment of any scheme against the landscape principles as part of a future Stage 2 Development Application. It should also be noted that prior to a Stage 2 Development Application, a competitive design process will be required to be held for this site. The provision and location of communal and private areas open space within the development will form part of the overall architectural design.

(e) **Principle 6: Amenity**

70% of the indicative residential apartments are able to receive two hours of solar access between 9.00am and 3.00pm on the winter solstice, which complies with the 70% requirement of the Australian Design Guide (ADG) guidelines.

All indicative residential apartments are shown with balconies. Apartments at ten storeys and above are deemed to be cross ventilated if the balconies at these levels cannot be fully enclosed (balcony sizes and details to be confirmed at Stage 2).

(f) **Principle 7: Safety**

The proposal is for a conceptual building envelope only, with the detailed design of the building to be the subject of a competitive design process prior to the lodgement of a Stage 2 DA. It is considered that the building is able to be designed to ensure compliance with the safety and security principle of the ADG and the principles of Crime Prevention through Environmental Design.

(g) **Principle 8: Housing Diversity and social interaction**

The indicative residential component accommodates the following mix:

- (i) 25 x 1 bedroom – 27.8% (DCP control 10-30%);
- (ii) 56 x 2 bedroom – 62.2%; (DCP range is 40-75%); and
- (iii) 9 x 3 bedroom – 10 % (DCP range is 10-100%).

The unit mix proposed is indicative only and may change as part of a future Stage 2 Development Application.

(h) **Principle 9: Aesthetics**

The proposal is for a conceptual building envelope only, with the detailed design and aesthetics of the building to be the subject of a competitive design process prior to the lodgement of a Stage 2 development application.

Apartment Design Guide

- 32. Clause 30 of SEPP 65 requires consideration of the *Apartment Design Guide* (ADG), which provides additional detail and guidance for applying the design quality principles outlined in SEPP 65 to a specific locality.
- 33. As the proposal seeks consent for the indicative residential land use on the site, a detailed assessment against the ADG will occur with any Stage 2 Development Application.

State Environmental Planning Policy (Infrastructure) 2007

- 34. The provisions of SEPP (Infrastructure) 2007 are being considered in the assessment of the development application.

Clause 45

- 35. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development proposed ground penetration and to determine if a substation is needed.
- 36. The application was referred to Energy Australia for a period of 21 days. At the time of writing this report no response had been received. Any response received prior to determination will be taken into account in the assessment of the application.

Clause 88 – Development within or adjacent to interim corridor

- 37. The application was referred to Sydney Trains and Transport for NSW on 26 November 2015 under the provisions of Clause 88 of the SEPP (Infrastructure) 2007, as the site is located above an interim rail corridor.
- 38. In accordance with the requirements of Clause 61 of the Environmental Planning and Assessment Regulations 2000, a copy of all submissions received as a result of the notification of the application were forwarded to Sydney Trains/Transport for NSW on 25 February 2016.
- 39. At the time of writing this report, Sydney Trains/Transport for NSW had not issued their concurrence. It is noted that in accordance with the provisions of Clause 88(6) of SEPP (Infrastructure) 2007, the consent authority may grant consent without the concurrence of the rail authority if 21 days have passed since notice was given on submissions (i.e. 17 March 2016).

Clause 104 – Traffic generating development

40. The application was referred to the Roads and Maritime Services (RMS) pursuant to Clauses 104 of the SEPP (Infrastructure) 2007 on 26 November 2015.
41. At the time of writing this report, no response had been received. Notwithstanding the above, more than 21 days have passed since the application was referred to the RMS. Pursuant to Clause 104(3) of SEPP (Infrastructure) 2007, the consent authority may determine the application without a submission from the RMS if 21 days has passed since the application was referred to that authority.

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

42. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
43. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
 - (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;
 - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
 - (d) protect and rehabilitate riparian corridors and remnant vegetation.
44. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

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

45. The BASIX Certificate has not been submitted with the development application as the Stage 1 development application is for indicative residential layouts only.
46. Confirmation will be provided as part of a Stage 2 Development Application which is to be accompanied by a BASIX Certificate.

Sydney LEP 2012

47. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposal is defined as a '*residential flat building*', '*tourist and visitor accommodation*' and '*retail premises*'. All of these land uses are permissible within the B8 – Metropolitan Centre zone pursuant to Clause 2.3 of SLEP 2012.
48. 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	Yes (with LEP amendment)	<p>Currently, there is a maximum building height control of 80m. As detailed in the relevant history and issues section of this report, the maximum permissible height control for this site is currently the subject of a site specific LEP amendment (to a height of RL 115.9).</p> <p>A maximum height of 110.15m (RL115.9) is proposed (western boundary). Whilst this does not comply with the existing building height development standard, this height is consistent with the LEP amendment for the site.</p> <p>See further discussion under the heading Issues.</p>
4.4 Floor Space Ratio	Able to comply	<p>A base FSR of 8:1 is permitted.</p> <p>Clause 6.4 of the 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 such as 'accommodation floor space'. The proposed development includes retail and residential accommodation/hotel accommodation and therefore is eligible for additional floor space of up to 3:1.</p> <p>This results in a maximum FSR of 11:1 across the development site.</p> <p>The plans submitted by the applicant propose a building envelope that is capable of accommodating approximately 25,125.87sqm of gross floor area. This equates to an FSR of 12.045:1. In order to achieve an FSR of 12.045:1, the applicant is relying upon any future architectural design being awarded the maximum 10% design excellence bonus floor space under Clause 6.21 of the LEP (Note: This subject to a competitive design process being undertaken and future Stage 2 DA).</p>

Compliance Table		
Development Control	Compliance	Comment
		See discussion under the heading Issues.
4.6 Exceptions to development standards	No	The proposal seeks to vary the current development standard prescribed under Clause 4.3 – Height of buildings. See discussion under the heading Issues.
5.6 Architectural roof features	Able to comply	The Stage 1 building envelope proposes an architectural roof feature that is located within the maximum height plane consistent with the increased height of the tower as part of the Planning Proposal process. The architectural roof feature design details will be provided as part of the Stage 2 DA and is to be fully integrated into the design of the building.
5.10 Heritage conservation	Able to comply	The site contains a heritage item at 230-232 Sussex Street. The listed item is defined as Former “Foley Bros” warehouse including cart-way, courtyard and interiors. See discussion under the heading Issues.
6.4 Accommodation floor space	Able to comply	The site is located in ‘Area 3’, and as such, based on the indicative land uses proposed is eligible for additional accommodation floor space of up to 3:1 of the site area. This accommodation floor space has been included in the collective permissible FSR for the development, as discussed elsewhere within this report. However, no FSR is approved as part of this application. See discussion under the heading Issues.
6.11 Allocation of heritage floor space (HFS)	Able to comply	Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.11 of SLEP 2012.

Compliance Table		
Development Control	Compliance	Comment
6.16 Erection of tall buildings in Central Sydney	Able to comply	The proposed envelope is considered to be generally consistent with the objectives of Clause 6.16 with the exception of the non-compliance with the current maximum height control. See discussion under the heading Issues.
6.19 Height of buildings and overshadowing	Yes	The Stage 1 building envelope does not overshadow Sydney Town Hall Steps between the hours of 10.30 and 16.00 between 14 April and 31 August.
6.21 Design excellence	Able to comply	In accordance with Clause 6.21 Council may grant an additional (of up to) 10% FSR for any subsequent Stage 2 consent if a competitive design process has been undertaken and design excellence is demonstrated. A competitive design process will need to be undertaken prior to any Stage 2 DA. No design excellence bonus FSR will not be granted at Stage 1. A Design Excellence Strategy was submitted with the planning proposal. This same strategy will need to be approved as part of any consent granted to this Stage 1 DA.
Part 7 Local provisions—general		
7.5, 7.7 and 7.9 Car parking ancillary to other development	Able to comply	Car parking numbers for residential, hotel and commercial uses can only be assessed and confirmed as part of a Stage 2 DA. Parking numbers are determined having regard to the residential unit mix and number of hotel rooms proposed which is only conceptual at this stage. Car parking numbers will not be approved as part of this Stage 1 application.

Compliance Table		
Development Control	Compliance	Comment
7.14 Acid Sulphate Soils	Able to comply	The site is identified as containing class 2 Acid Sulphate Soil (ASS). Any potential impact from ASS is likely to be manageable with the implementation of an ASS Management Plan. Details will need to be submitted with the future Stage 2 DA to demonstrate compliance.
7.15 Flood planning	Able to comply	The site is identified by Council as being potentially flood prone. Council's Engineers have reviewed the proposal with regard to flooding and recommended that the floor level entries from the Sussex Street and Druiitt Lane, including any opening to basement, lift wells and lobby must comply with the City's Interim flood policy for setting floor levels. This information can be submitted with the Stage 2 DA.
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.
7.19 Demolition must not result in long term adverse visual impact	Yes	The Stage 1 DA seeks consent for demolition of the existing commercial tower building. See discussion under the heading Issues.
7.20 Development requiring preparation of a development control plan	Yes	A site specific LEP and DCP amendment is in the process of being finalised to provide guidance and set site specific principles and provisions but is yet to be 'made'. However, subject to the provisions of Section 83C(2) of the Environmental Planning and Assessment Act, 1979, a Stage 1 DA may be considered by the consent authority as satisfying this obligation.

Compliance Table		
Development Control	Compliance	Comment
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>The site is located within the vicinity of the Cross City Tunnel ventilation stack, and has submitted an Air Quality Statement as part of the Stage 1 application.</p> <p>Council's Environmental Health Officer has reviewed the report submitted and does not raise any objection to the findings of the report which state that the proposed building will not affect the dispersal of air emitted from the Cross City Tunnel and that emissions from the tunnel will not affect future building occupants.</p>

Sydney DCP 2012

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

2. Locality Statements – York Street Special Character Area
<p>The subject site is located within the York Street Special Character Area. The proposal is considered to be generally consistent with the unique character of the area and design principles in that:</p> <ul style="list-style-type: none"> the proposal has the potential to maintain and enhance fine grain subdivision pattern of the adjoining heritage item and heritage cart-way; and subject to further design refinement, the proposal will reinforce the setting of the adjoining historic building by integrating the heritage item into the design of the new building.

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Able to comply	<p>The site is located on the corner of Sussex Street and Druitt Place.</p> <p>The indicative floor plans propose an active frontage along Sussex Street that includes retail uses that wrap around the corner into Druitt Place. The existing service and basement is via Druitt Place and is to be maintained in the same location.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.1.5 Public Art	Able to comply	A Public Art Strategy is to be developed for the site in accordance with the SDCP2012 and the Public Art Policy. The Strategy will form part of the future Stage 2 DA.
3.3 Design Excellence and Competitive Design Processes	Able to comply	The proposed development has not been subject to a design competition. Prior to a future Stage 2 DA, a competitive design process will need to be undertaken. The design excellence strategy will need to be approved as part of any Stage 1 consent.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and is not considered to adversely impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Able to comply	Compliance with the requirements of BASIX will be assessed at Stage 2. Details will need to be submitted with the future Stage 2 application to demonstrate compliance.
3.7 Water and Flood Management	Able to comply	Refer to discussion in LEP compliance table.
3.9 Heritage	Able to comply	The subject development site contains the Foley Bros Warehouse heritage item. See discussion under the heading Issues (Heritage).
3.10 Significant Architectural Building Types	Able to comply	See discussion under the heading Issues (Heritage).
3.11 Transport and Parking	Able to comply	The Stage 1 DA proposes 4 levels of basement car parking. It is noted that parking numbers and parking rates will not be approved as part of the Stage 1 DA. Details regarding general parking provisions including bicycle parking (end of journey facilities) will be assessed as part of the future Stage 2 DA.

3. General Provisions		
Development Control	Compliance	Comment
3.11.11 Vehicle Access	Able to comply	<p>Vehicle access is currently available to the subject site via Sussex Street and Druitt Place. The Stage 1 application proposes vehicle access to the basement carpark and loading dock via Druitt Place with no access located off Sussex Street.</p> <p>The Stage 1 application has not assessed, 'pick up' or 'set down' arrangements for the future Hotel use. Details regarding passenger pick up or set down arrangements for the hotel (if needed) would need to be assessed as part of any Stage 2 DA.</p> <p>It is noted that any proposal that would consider the provision of pick up or set down arrangements on Sussex Street would require a separate submission to be made to the Local Pedestrian, Cycling and Traffic Calming Committee via the City Infrastructure and Traffic Operations Unit.</p>
3.12 Accessible Design	Able to comply	A condition has been recommended that the development is to provide appropriate access and facilities for persons with disabilities in accordance with the relevant legislation.
3.13 Social and Environmental Responsibilities	Able to comply	Details will need to be submitted with any future Stage 2 DA to demonstrate compliance.
3.14 Waste	Able to comply	A specific condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005. Details will need to be submitted with the future Stage 2 DA to demonstrate compliance.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1.2 Floor to ceiling heights	Able to comply	The indicative sections show both hotel and residential uses being able to accommodate a floor to floor height of approximately 3.1 metres.
4.2.3 Amenity	Able to comply	Indicative floor plans submitted demonstrate that the envelope is generally compliant with the objectives of the amenity criteria of the DCP and Apartment Design Guidelines.
4.2.3.3 Internal common areas	Able to comply	Indicative floor plans submitted demonstrate that internal common areas, corridors and lift lobbies have access to daylight and outlook.
4.4.8 Development Types – Visitor Accommodation		
Development Control	Compliance	Comment
4.4.8.5 Additional provisions for serviced apartments	Able to comply	The amended Stage 1 DA show separate lifts for both hotel guests and residential occupants at ground floor, however this is not reflected at level 4 – where there is a residential recreational area proposed and hotel recreational area. The internal floor plans and the lift arrangements are indicative and are not approved as part of the Stage 1 DA, and this matter will be able to be resolved as part of the Stage 2 DA.

6. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.1 Street frontage heights	Yes	The height of the podium is consistent with the adjoining Foley Bros Warehouse heritage item at approximately 14.8 metres.

6. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.2.1 Front setbacks	No (but assessed as acceptable)	The proposed tower component is not setback 8 metres from the Sussex Street frontage in accordance with the provisions of Section 5.1.2.1 of the DCP. Notwithstanding this, the proposed tower setbacks are consistent with the draft DCP planning controls applicable to the subject site. Refer to compliance table assessment under “DRAFT Sydney DCP – 230-238 Sussex Street Sydney DCP Amendment” below.
5.1.2.2 Side and rear setbacks	Yes	The proposed tower setbacks are consistent with the minimum requirements for side and rear setbacks.
5.1.4 Building bulk Size of the floor place above the street frontage height must not exceed 1000sqm.	Yes	The maximum floorplate is 568sqm above a height of 45m consistent with the control.

DRAFT Sydney DCP – 230-238 Sussex Street Sydney DCP Amendment

50. The following compliance table includes an assessment of the application against the site specific provisions proposed to be included in Section 6 of the SDCP2012.
51. The following provisions are still ‘draft’ and are subject to the gazettal of the planning proposal and subsequent endorsement of the DCP provisions for 230-238 Sussex Street, Sydney.

6. Specific sites – 230-238 Sussex Street, Sydney		
Development Control	Compliance	Comment
Height	Yes	The height of tower is consistent with the draft height transition controls as outlined in the draft DCP.
Building design and bulk	Yes	The design and height of the podium is consistent with the adjoining Foley Bros Warehouse heritage item to reinforce the scale of the heritage item at street level.

6. Specific sites – 230-238 Sussex Street, Sydney		
Development Control	Compliance	Comment
Street frontage height and setbacks	Yes	<p><u>Street frontage height:</u> The proposed height of the podium is consistent with the scale of the adjoining Foley Bros Warehouse heritage item. Detailed design of the external appearance of the building would be assessed as part of the Stage 2 DA.</p> <p><u>Setbacks:</u> The proposed setbacks to the tower above the podium comply with the minimum 4.5m setback control for Sussex Street and 3m setback control for Druitt Place.</p>
Public domain	Able to comply	The indicative floor plans propose an active frontage along Sussex Street that includes residential and hotel entry points and retail tenancy that wrap around the corner into Druitt Place. The existing service and basement is via Druitt Place and is to be maintained in the same location. Final design details to be confirmed as part of the Stage 2 DA.
Heritage	Able to comply	<p>Amended plans submitted provides clarification that the Stage 1 proposal has explored options to integrate the heritage courtyard with the lobby of the new tower. A new opening is proposed from the tower lobby into the heritage courtyard to provide access to future restaurant uses in the rear retail space of the heritage building.</p> <p>The applicant has also confirmed that there are opportunities within the new tower to relocate plant into the new tower.</p> <p>Final design details to be confirmed as part of the Stage 2 DA.</p>

6. Specific sites – 230-238 Sussex Street, Sydney		
Development Control	Compliance	Comment
Parking and vehicular access	Yes	Vehicular access is proposed to be removed from Sussex Street and the existing basement parking/loading is to be maintained via Druitt Place.
Wind	Able to comply	An Environmental Wind Assessment prepared by SLR dated October 2015 has been submitted with the proposal. The report concludes that the site is shielded at ground level from western and northern winds by surrounding buildings and their podiums however suggest that stronger wind conditions at upper levels will be evident. Further analysis will be required as part of the Stage 2 DA on how to manage wind impacts at upper levels to future balconies.
Design excellence	Able to comply	A competitive design process will need to be undertaken prior to any Stage 2 DA. The design excellence bonus FSR will not be granted at Stage 1.
Solar Access	Able to comply	<u>Surrounding properties to meet solar access requirements in ADG:</u> See discussion under Issues section.
	Yes	<u>Overshadowing on future "Town Hall Square":</u> The design of the height of the tower proposed limits overshadowing to future Town Hall Square.

ISSUES

Building Height - Clause 4.6 - Exceptions to development standards

52. Under Clause 4.3(2) of the Sydney LEP 2012 (SLEP2012), the site currently has a maximum permissible building height of 80 metres.
53. The purpose of the 'Height of buildings' standard is to ensure the height of development is appropriate to the condition of the site, to ensure appropriate height transitions between new development and heritage items and to promote sharing of views in Central Sydney.
54. The proponent has submitted a written request seeking to utilise Clause 4.6 of the SLEP2012 to vary the maximum building height development standard.

55. *Clause 4.6 – Exceptions to development standards* states that consent must not be granted to a development that contravenes a development standard unless a written request from the applicant has been submitted that demonstrates compliance with the standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention. In addition, the consent authority must also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone.
56. The proposed variation to the maximum height control will result in a maximum variable building envelope height of between RL100.09 to RL115.9. This equates to a development with a maximum height of approximately 110.15 metres in height. At this height, the proposal represents a 30.15 metre (or 37.69%) variation to the existing building height development standard of 80 metres.
57. The written request provided by the applicant pursuant to Clause 4.6 submits that:
- (a) the proposed increased height of the tower is consistent with the Planning Proposal for the site;
 - (b) the increased height of the tower will not overshadow future Town Hall Square;
 - (c) the proposal has an appropriate interface with adjoining and surrounding heritage items; and
 - (d) the proposed tower is an appropriate height for a CBD location, provides an appropriate height transition and any view loss that may occur would be an 'outlook' as opposed to any significant view.
58. The abovementioned request and justification submitted by the applicant seeking to vary the maximum height control utilising a Clause 4.6 variation is not considered to adequately demonstrate that the existing development standard is unreasonable and unnecessary. The proper process to vary a development standard to the extent sought by the applicant is through a planning proposal to the provisions of the SLEP 2012.
59. As detailed throughout this report, a planning proposal process is well underway to amend the maximum height control increase the maximum permissible height for the site and to allow a maximum building height of RL115.9 metres in the SLEP2012.
60. The reliance on this planning proposal to justify a significant departure from the existing building height standard is not considered to be proper planning process, is not considered to be an appropriate use of a Clause 4.6 variation or in the public interest. As such, the statement submitted under Clause 4.6 of SLEP 2012 by the applicant to vary the building height development standard is not supported.
61. Further consideration as to appropriateness of building height is provided within the issues section of this report. Instead of utilising the provisions of Clause 4.6 of SLEP 2012, it is recommend that the CSPC delegate the determination of this application to the Chief executive Officer until there has been gazettal of the planning proposal to increase the maximum permissible height for the site.

Building Height

62. The planning proposal for the site is seeking to alter the maximum permissible building height for the site from 80 metres to RL 115.9 (which is approximately 110 metres). The planning proposal would result in site specific LEP clause in Part 6 of the SLEP 2012 relating to building height.
63. The intent is to prescribe a maximum building height, as well as requirement to transition the building envelope from this maximum height to lower heights at the east and south to limit the extent of overshadowing on future Town Hall Square.
64. The envelope lodged under this Stage 1 Development Application is consistent with the parameters that have been established to date for the planning proposal/site specific LEP clause relating to height. Subsequently, upon gazettal of this site specific LEP amendment, an envelope to the height sought under the Stage 1 Development Application can be supported.
65. As a consequence of this application being reliant on the gazettal of the planning proposal to achieve the desired height, it is recommended that the application be delegated to the Chief Executive Officer to allow determination of the application under delegation post gazettal.

Overshadowing

66. Shadow diagrams submitted as part of the Stage 1 Development Application reveals that the residential building located at 267 Sussex Street (a site to the south of the subject site and south of Druitt Street) will be affected by the proposed increased height of the tower.
67. As part of the Planning Proposal process, the City has undertaken a detailed shadowing analysis based on the indicative scheme. This analysis identified that the top of the envelope would cast an additional shadow on the northern elevation of 267 Sussex Street on the winter solstice (21 June). The planning proposal identified that the top of the tower may need further modelling to reduce the overshadowing impact, and that this should be resolved through the design excellence process, and subsequent development applications.
68. The Apartment Design Guide (ADG) provides a guide to minimise overshadowing of neighbouring properties during mid winter (Refer ADG - Objective 3B-2 - *Overshadowing of neighbouring properties is minimised during mid winter*). Where a building does not currently receive the required two hours of solar access, the proposed building envelope is to ensure solar access to neighbouring properties is not reduced by more than 20 percent to the apartments contained within the residential apartment building. The City considers this to be measured as the reduction of time of solar access based on the following:
 - (a) if an existing residential apartment building has less than 70% of apartments receiving a minimum of two hours of sunlight in mid winter then this guidance is to be considered as follows:
 - (i) for those apartments receiving 2 or more hours of sunlight, the time that they receive sunlight can be reduced to 2 hours but not less;

- (ii) for the number of apartments that are the difference between those that receive sunlight for a minimum of 2 hours and the number that would provide 70% of the total number, the sun access to each apartment can be reduced by 20%. That is, if an apartment receives one hour of sunlight this can be reduced by twelve minutes and so forth;
 - (iii) for the remaining apartments they can have any amount of reduction provided that a maximum of 15% of apartments receive no direct sunlight in mid winter; and
 - (iv) if 15% or more of the existing apartments receive no sunlight in mid winter this number cannot be increased.
69. On 24 February 2016, amended plans were submitted redesigning the upper levels of the building envelope to assist in reducing the overshadowing impacts to the residential building at 267 Sussex Street, Sydney.
70. As amended, the revised Stage 1 building envelope results in a reduction in the shadow cast across the northern elevation facade of the residential building at 267 Sussex Street, Sydney in the morning hours of mid winter.
71. Notwithstanding the above, as solar access is highly dependent on the overall building design it is recommended that a condition be imposed which requires that the Stage 2 detailed design be submitted with precise sun access modelling confirming that the development does not reduce existing sun access to the residential apartment building at 267 Sussex Street, Sydney in mid winter by more than 20%. It is noted that this may require some further modulation of the Stage envelope through the design excellence process and Stage 2 Development Application assessment.

Demolition

72. As part of the Stage 1 Development Application, the Applicant is seeking consent for demolition of the existing commercial building on the site.
73. Clause 7.19 of the SLEP 2012 requires that in order to permit demolition, the consent authority must be satisfied that the site will be comprehensively redeveloped under the subject development consent or an existing development consent in place.
74. In this instance, it is considered that the proposal satisfies this clause and its intent as:
- (a) the site has been the subject of a detailed planning proposal process to formulate site specific controls based on future retail/commercial, hotel and residential land uses. This is now in its final stages towards gazettal of a site specific LEP amendment. It is considered that this planning proposal, in conjunction with the subject Stage 1 Development Application, provide the framework for the comprehensive redevelopment of the site;
 - (b) a development consent (D/2015/771) exists for the adaptive re-use of the Foley Bros Warehouse for retail and commercial land uses. The subject application seeks to integrate this heritage building and approval into the comprehensive redevelopment of the collective site;

- (c) a site rectification deed and associated bank guarantee would be required to be entered into prior to any demolition works occurring on the site. This deed and guarantee provide adequate measures to the City to mitigate any potential visual impact to the streetscape in the event that construction works stall; and
- (d) appropriate conditions are able to be imposed to require hoarding and scaffolding (and where appropriate visual wraps of the building) to mitigate visual impacts of demolition (and future construction).

Floor space ratio

- 75. The site is identified in the SLEP2012 Floor Space Ratio Maps as Area 3, which permits a base FSR of 8:1. Clause 6.3 of the SLEP2012 states that a building may exceed the maximum permitted FSR shown where a building is eligible for an amount of additional floor space known as 'accommodation floor space'.
- 76. The proposed development includes retail premises, residential accommodation and hotel uses and is therefore eligible for additional accommodation floor space in accordance with Clause 6.4 of the Sydney LEP 2012:
 - (a) Office premises, business premises or retail premises – 2:1; and
 - (b) Residential accommodation, serviced apartments or hotel or motel accommodation – 3:1.
- 77. The Stage 1 Development Application seeks approval for a mixed use development containing an indicative mix of 5.04% retail and commercial floor space and 94.96% hotel and residential accommodation floor space (total 100%).
- 78. Calculation of allowable floor space and gross floor area based on the following LEP controls and Stage 1 proposal:

Site area: 2086sqm	LEP	Proposed	Proposed SQM
Base FSR	8:1	8:1	16,688sqm
Residential FSR	3:1	2.8488:1 or (94.96% of 3:1)	5,942.6sqm
Commercial FSR	2:1	0.1008:1 or (5.04% of 2:1)	210.27sqm
Max FSR permitted at Stage 1		10.95:1	22,841.7sqm
Max FSR with up to 10% design excellence bonus		12.045:1	25,125sqm

79. In order to achieve an FSR of 12.045:1, the Applicant is relying upon a maximum 10% design excellence bonus floor space being awarded under Clause 6.21 of the LEP. The awarding of design excellence floor space does not occur as part of the Stage 1 DA, and is subject to the following:
- (a) a competitive design process being undertaken;
 - (b) the assessment of the Stage 2 Development Application; and
 - (c) the consent authority being satisfied that the final design exhibits design excellence.

Heritage

80. The subject redevelopment site contains the heritage listed Foley Bros Warehouse. The 'Statement of Significance' for the building as contained within the City of Sydney Heritage inventory report states the 'Foley Bros Warehouse' building ensemble as being a remarkable and largely intact survival of a modest warehouse, cart-way and courtyard complex and now extremely rare. It has a high degree of significance because of its ability to demonstrate configuration and the functioning of these small scaled warehouse complexes.
81. The transfer of floor space from the heritage item is contingent upon the exemplary completion on the heritage conservation works and integration of the item into the redevelopment of the site. The Stage 1 Development Application has been reviewed by Council's Senior Heritage Specialist and it is considered that there could be greater integration of the heritage item or heritage benefits proposed as part of the redevelopment of the commercial tower.

82. Significant works to the Foley Bros warehouse should be included as part of an integrated development with the tower site. 'Significant works' implies an excellent heritage outcome for the Foley Bros warehouse in respect of adaptive reuse, conservation works and enhancement of setting and views. In order to achieve this, where practicable building services and plant, vertical transportation, fire escapes and accessible entries are to be located external to the former Foley Bros Warehouse item to limit the intervention within the heritage item. Proposed floor levels within the new tower immediately adjacent to the heritage item could facilitate the external location of these building service elements within the new tower. This can be achieved through the design development stages (i.e. competitive process) and detailed design to be submitted as part of the Stage 2 Development Application. A condition to this effect will be recommended as part of the Stage 1 Development Application and also to be incorporated into the Design Competition Brief.
83. In principle, the indicative ground floor plans has attempted to integrate the heritage item into the overall development scheme however, no new development is proposed to the heritage item beyond those works already approved as part of Development Application approval D/2015/771. In order to improve the setting, conditions are recommended to require the detailed design to incorporate a high level of connectivity between the two buildings.
84. The Stage 1 Development Application process provides an opportunity for the redevelopment of the site to provide a positive response to the adjoining heritage item by locating building services and plant associated with the heritage item within the new tower. In addition, the design of the proposed podium to the new tower building is to enhance the setting of the adjoining heritage item and reflect the fine grain subdivision pattern and masonry character of the heritage item.

Other Impacts of the Development

85. It is considered that the proposal will have not have any unreasonable 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

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

INTERNAL REFERRALS

87. The proposal has been referred to a number of internal units and specialists for comment. Any future determination granted will include conditions recommended for imposition by these units.

EXTERNAL REFERRALS

INTEGRATED DEVELOPMENT

88. The application constitutes integrated development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this, two submission(s) were received.

- (a) The height increase above the 80 metre height limit and setback of the proposed tower would block views to the south, will cause privacy impacts, ventilation, and noise impacts. Concerns were also raised about the hotel use which would compound privacy and noise impacts.
- (b) Objection from the owners corporation on behalf of 447 Kent Street, relate to the non-compliance with the 80 metre height limit control, which is inconsistent with the heights of surrounding buildings. The proposal relies on the site 230-232 Sussex Street (Foley Bros Warehouse) for its redevelopment which essentially pushes up the height of the tower element while retaining the heritage item.

Response – A Planning Proposal has been endorsed by the CSPC on 25 February 2016 to vary the existing height controls applicable to the subject site. Significant planning work has been undertaken to ensure the increased height is not dominating or inconsistent with heights of surrounding buildings. Existing tower buildings in the vicinity of the site range from approximately 80 metres to 130 metres. The proposed maximum height of building prescribed by RL115.9 is approximately 110.15 metres and is within this range of the surrounding and nearby buildings. The proposed tower height, although not consistent with the current height limit of 80 metres, is consistent with the increased height approved as part of the Planning Proposal.

The Astoria Apartment building has a maximum height of 96 metres and has a number of south facing secondary windows built on the boundary. Setbacks to the residential apartments facing Kent Street will range from approximately 15 metres to 28.49 metres. This is detailed in the proposed Stage 1 building envelope and provides relief in terms of outlook, privacy and noise to those residents with windows facing south.

- (c) Non-compliance with the minimum front setback control – The variation with the front setback control along Sussex Street will increase the density to the streetscape and to the setting of the heritage item and will decrease daylight access to buildings to the west and south of the development site. We recommend that that residential tower be setback 8 metre along Sussex Street to comply with Council's controls.

Response – Although the setback to the tower above the podium level to Sussex Street does not comply with the 8 metre setback control set out in the Sydney DCP 2012, the proposed setback is consistent with the Astoria Apartment building tower setback and consistent with the site specific draft controls proposed for the subject redevelopment of the site.

- (d) Non-compliance with the minimum rear setback control – The proposal requires a 6 metre rear (eastern) setback up to Level 12 (up to 45m) and a 12 metre rear setback from Level 13 and above (45m and above). The proposal provides a minimum rear setback of 2 metres – 3 metres up to Level 12 which varies from the control by up to 4 metres. Furthermore, the proposal provides a minimum rear setback of 3 metres from Level 13 to Level 18 which varies from the control by 9 metres.

Response – The Stage 1 tower proposes a minimum variable setback of between 3 to 4.4 metres to 443 Kent Street, a variable setback of between 9 to 11 metre setback to 447 Kent Street (from level 5 to 18) and a minimum 12 metre setback to 443 and 447 Kent Street (from level 19 to 30).

443 Kent Street is setback approximately 6 metres from the subject redevelopment site where no setback to the redevelopment site is provided by the existing commercial building at 447 Kent Street.

The proposed setback of the tower complies with the Sydney DCP 2012 and the draft DCP (230-238 Sussex Street, Sydney) requirement for rear setbacks from adjoining commercial buildings.

- (e) View loss of Darling Harbour – The existing tower element on the development site comprises of a 4.8 metre (approximate) setback to the northern boundary which is sufficiently separated from the heritage item. The Stage 1 DA proposes to reduce the existing northern side boundary by 4.8m which will result in almost complete view loss of Darling Harbour to west facing windows to the north-west corner of 447 Kent Street. The proposal will be inconsistent with principle 'C' of the York Street Special Character Area given it will not conserve or enhance significant views between the area and Darling Harbour; and

Impact on heritage item - The development site incorporates a heritage item (230-232 Sussex Street) as listed under the SLEP2012 which includes the Former 'Foley Bros' Warehouse. The scheme would result in a 30 storey tower which is approximately 28m wide with no setback along the northern side with the heritage item. The proposed northern wall will dominate the adjoining heritage listed building while it will be positioned in between the development site and the existing Astoria residential tower (further to the north). It is recommended that the northern elevation wall be setback further from the boundary with the heritage item to ensure the proposal does not dominate the heritage item or impact upon its setting.

Response – It is acknowledged that the Stage 1 building envelope will result in loss of views to Darling Harbour from the objector's site. The Sydney DCP 2012 requires a minimum 15 metre building separation distance for commercial to residential above a height of 45 metres for buildings on the same site.

In noting that the adjoining buildings to the north of the development site is a heritage item with limited redevelopment potential, it is considered that the nil setback proposed to the side boundary above the street wall height of the heritage item will not unreasonably impact on the amenity of the heritage item or future occupants of the tower. The draft DCP amendment proposes a minimum northern setback of 15 metres, the width of the heritage item to the north of the tower site and the proposal is consistent with this control. For residential apartments, compliance with the Apartment Design Guide requires minimum 12 metre setbacks.

With regards to view loss, the objective of the special character area includes conserving, maintaining and enhancing existing views and vistas to buildings and places of historical and aesthetic significance, predominately from the public domain. While Darling Harbour is a significant historic view, the objector's site is not of historic significance to the area, and any private view loss would not be considered detrimental to the character of the area as a whole.

- (f) Druitt Place abuts the development site to the south which currently experiences a high volume of traffic and is a one way street travelling towards the east. The proposal will increase traffic generation in particular where the vehicle entry and exit is located along Druitt Place. To alleviate the congestion of traffic along Druitt Place it is suggested that the vehicle access point is relocated to Sussex Street where the street is able to accommodate for a higher level of traffic. It is noted that Sussex Street is not identified as a 'pedestrian priority' thoroughfare in the SDCP and therefore vehicle access points along this street are not restricted.

Response – The proposal seeks consent to retain vehicular access to a single located off Druitt Place. This location, whilst being indicative at this stage, is the preferred option of the City as it allows for an active street frontage along Sussex Street. Further analysis on vehicular access location and number of vehicle movements will be assessed in detailed as part of any future Stage 2 Development Application.

PUBLIC INTEREST

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

FINANCIAL IMPLICATIONS/S61 CONTRIBUTION

Section 61 Contributions

90. The development is subject to a Section 61 Contribution and will be levied for development works approved under the consent.

RELEVANT LEGISLATION

91. The Environmental Planning and Assessment Act 1979 and Water Management Act, 2000.

CONCLUSION

92. On 25 February 2016 and 29 February 2016, the Central Sydney Planning Committee (CSPC) and the Council, respectively, endorsed the Planning Proposal for finalisation and making as an LEP, along with the Council approving the draft DCP, specifying the date of publication of the subject local environmental plan as the date the approved DCP comes into effect. The Planning Proposal will then be submitted to Parliamentary Counsel requesting the plan be legally drafted.
93. This report is to update the CSPC on the assessment against the current and draft site specific controls that apply to the redevelopment of the subject site and seek CSPC delegation to the Chief Executive Officer to determine the application. The proposed Stage 1 Development Application is consistent with the Planning Proposal which was endorsed by the CSPC on 25 February 2016, and site specific LEP and draft DCP controls.
94. In accordance with the Sydney LEP 2012 (LEP), the site currently has a maximum building height of 80 metres. The Stage 1 Development Application seeks consent for a new mixed use tower with a maximum height of between RL100.09 to RL115.9 consistent with the approved planning proposal.

95. The CEO has delegation to sign off on the making of the LEP. Once finalised, the plan will be submitted to the Department of Planning and Environment for notification on the New South Wales legislation website. The LEP will then be amended. The DCP provisions would come into effect on the date the LEP is published on the website.
96. It is therefore requested that the CSPC delegate their authority to the Chief Executive Officer to determine the application once the site specific height control has been gazetted.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Vanessa Aziz, Senior Planner)