

**ITEM 5. DEVELOPMENT APPLICATION: 286-296 SUSSEX STREET SYDNEY****FILE NO: D/2015/1700****DEVELOPMENT APPLICATION NO: D/2015/1700****SUMMARY**

<b>Date of Submission:</b>	25 November 2015
<b>Amended Plans:</b>	11 May, 8 and 27 June 2016
<b>Applicant:</b>	Ausbao (286 Sussex) Pty Ltd
<b>Architect:</b>	Smart Design Studio
<b>Developer:</b>	Ausbao (286 Sussex) Pty Ltd
<b>Owner:</b>	Ausbao (286 Sussex) Pty Ltd
<b>Cost of Works:</b>	\$97,242,238
<b>Proposal Summary:</b>	<p>The subject application is for a 26 storey mixed use development comprising:</p> <ul style="list-style-type: none"><li>• demolition of existing structures;</li><li>• excavation and construction of 5 basement levels;</li><li>• vehicular access off Druitt Lane;</li><li>• indicative hotel uses at ground to level 8 (detailed fit out subject to separate DA)</li><li>• 95 residential apartments;</li><li>• 88 car parking spaces; and</li><li>• public art.</li></ul>

The application was notified and advertised for 28 days, plus an additional week over the end of year holiday period, from 4 December 2015 to 11 January 2016. Fifteen (15) submissions were received, raising the following matters:

- impacts from demolition and construction;
- construction hours;
- privacy impacts to adjacent apartments;
- increased traffic impacts particularly to users of Druitt Lane;
- vehicular access should be relocated from Druitt Lane to Sussex Street;
- design of public art to the laneway; and
- non-compliances with DCP setback requirements.

**Proposal Summary:  
(continued)**

The proposal has been amended during the assessment period to address concerns raised relating to height, wind affected balconies, activation of lanes, traffic, transport and vehicular access, internal amenity, acid sulphate soils, construction noise, wind and reflectivity, and public art details. Amended plans and supplementary information were submitted in May and June 2016 to address these matters.

The proposed development exceeds the 80 metre height limit pursuant to clause 4.3 of the Sydney LEP 2012 (the LEP). The applicant has submitted a statement under the provisions of LEP clause 4.6 to justify a variation of the building height development standard. As detailed in the Issues section of this report, the building height variation is supported as it is largely as a result of the site's sloping topography and the proposed architectural roof feature which is permitted pursuant to satisfying the requirements of LEP clause 5.6. The architectural roof feature is integral to the design and form of the building, it is decorative in nature, it is not an advertising structure, it does not include floor space and will cause minimal overshadowing.

The proposed building projects outside the approved Stage 1 building envelope in a number of areas. A concurrent section 96(2) application has been lodged to vary the Stage 1 building envelope (being section 96 application D/2014/755/A). Modification of the Stage 1 building envelope is required to ensure consistency between the staged applications, as is required pursuant to Section 83D of the Environmental Planning and Assessment Act, 1979.

As amended, the proposal is considered to be generally consistent with the relevant planning controls and existing consents in place for the site (as amended), and responds appropriately to the constraints of the site. The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Sydney CBD.

Sydney Trains have provided their concurrence subject to the imposition of deferred commencement conditions to protect the structural integrity and function of the railway corridor adjacent to the proposed basement levels and pursuant to clause 88 of the SEPP (Infrastructure) 2007.

**Summary Recommendation:** Deferred commencement approval.

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979
  - (ii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
  - (iii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
  - (iv) Draft Sydney LEP 2012 Amendment - Minor Policy and Housekeeping Amendments (as exhibited 10 March 2015 to 7 April 2015)
  - (v) State Environmental Planning Policy No. 32 - Urban Consolidation
  - (vi) State Environment Planning Policy No. 55 - Remediation of Land
  - (vii) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
  - (viii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - (ix) State Environmental Planning Policy (Infrastructure) 2007
  - (x) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

- Attachments:**
- A - Architectural Drawings
  - B - Photomontages
  - C - Shadow Diagrams

**RECOMMENDATION**

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD;
- (B) pursuant to the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012, that the variation sought to Clause 4.3 (Building Height) of the Sydney Local Environmental Plan 2012 be supported in this instance;
- (C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2015/1700, subject to the following:

**PART A - DEFERRED COMMENCEMENT CONDITIONS****(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)****(1) SYDNEY TRAINS DEFERRED COMMENCEMENT CONDITION**

- (a) The owners of the site of the approved development must enter into a Deed of Agreement with TfNSW and Sydney Trains prior to issue of any Construction Certificate to address the adverse effects of the approved development on the CBDRL identified in State Environmental Planning Policy (Infrastructure) 2007. The Agreement must provide for the following:
  - (i) The design, construction and maintenance of the approved development so as to satisfy the requirements in Conditions (b) to (j) below;
  - (ii) Allowances for the future construction of railway tunnels in the vicinity of the approved development;
  - (iii) Allowances in the design, construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
  - (iv) Consultation with TfNSW;
  - (v) Access by representatives of TfNSW and Sydney Trains to the site of the approved development and all structures on that site;
  - (vi) Provision to TfNSW and Sydney Trains of drawings, reports and other information related to the design, construction and maintenance of the approved development;
  - (vii) Creation of a restrictive covenant on each of the titles which comprise the approved project so as to satisfy Condition (j) below;

- (viii) Such other matters which TfNSW and Sydney Trains considers are appropriate to give effect to (i) to (vii) in this condition; and
- (ix) Such other matters as the owner and TfNSW and Sydney Trains may agree.
- (b) All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development which have a potential impact on the CBDRL must be designed, constructed and maintained in accordance with design criteria specified by TfNSW.
- (c) The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW.
- (d) The development must undertake detailed geotechnical analysis to the satisfaction of TfNSW to demonstrate likely movements to the ground due to the future CBDRL.
- (e) No modification may be made to the approved design without the consent of TfNSW.
- (f) A detailed regime is to be prepared for consultation with, and approval by, TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.
- (g) TfNSW, and persons authorised by it for the purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.
- (h) All requirements contained in the Agreement between TfNSW and the owner of the site must be satisfied during construction and, where appropriate, the operation of the approved development.
- (i) Copies of any certificates, drawings or approvals given to or issued by TfNSW must be delivered to Council for its records.
- (j) Prior to the commencement of any excavation below existing ground level, a restrictive covenant is to be created upon each of the titles which comprise the approved development pursuant to Section 88E of the Conveyancing Act 1919, restricting any alterations or additions to any part of the approved development which are likely to adversely affect, or which otherwise are likely to interfere with the design, construction and operation of the proposed Sydney Metro the prior written consent of TfNSW.

- (D) evidence that will sufficiently enable Council to be satisfied as to those matters identified in Condition (1) above must be submitted to Council within **24 months** of the date of determination of this deferred commencement consent failing which, this deferred development consent **will lapse** pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979;
- (E) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and
- (F) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent as detailed in Part B - Conditions of Consent (Once the Consent is in Operation).

## **PART B - CONDITIONS OF CONSENT**

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

#### **SCHEDULE 1A**

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

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

#### **(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2015/1700 dated 25 November 2015 and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA:010, 2	Smart Design Studio	27.04.16
DA:100, 4	Smart Design Studio	24.06.16
DA:101, 4	Smart Design Studio	24.06.16
DA:102, 4	Smart Design Studio	24.06.16
DA:103, 4	Smart Design Studio	24.06.16
DA:104, 4	Smart Design Studio	24.06.16
DA:105, 4	Smart Design Studio	24.06.16
DA:106, 3	Smart Design Studio	06.06.16
DA:107, 2	Smart Design Studio	27.04.16

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA:108, 2	Smart Design Studio	27.04.16
DA:109, 2	Smart Design Studio	27.04.16
DA:110, 2	Smart Design Studio	27.04.16
DA:111, 2	Smart Design Studio	27.04.16
DA:112, 2	Smart Design Studio	27.04.16
DA:113, 2	Smart Design Studio	27.04.16
DA:114, 2	Smart Design Studio	27.04.16
DA:115, 2	Smart Design Studio	27.04.16
DA:116, 2	Smart Design Studio	27.04.16
DA:117, 2	Smart Design Studio	27.04.16
DA:118, 2	Smart Design Studio	27.04.16
DA:119, 2	Smart Design Studio	27.04.16
DA:120, 2	Smart Design Studio	27.04.16
DA:121, 2	Smart Design Studio	27.04.16
DA:122, 2	Smart Design Studio	27.04.16
DA:123, 2	Smart Design Studio	27.04.16
DA:124, 2	Smart Design Studio	27.04.16
DA:125, 2	Smart Design Studio	27.04.16
DA:300, 2	Smart Design Studio	27.04.16
DA:301, 2	Smart Design Studio	27.04.16
DA:400, 2	Smart Design Studio	27.04.16
DA:450, 2	Smart Design Studio	06.06.16
DA:451, 1	Smart Design Studio	27.04.16
DA:452, 1	Smart Design Studio	27.04.16
DA: 453, 1	Smart Design Studio	06.06.16

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.

## **(2) DESIGN MODIFICATIONS**

The design of the building must be modified as follows:

- (a) a separate caged or enclosed area with a volume of at least 8 cubic metres must be provided at the podium ground or residential basement levels to accommodate residential bulky waste items;

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

## **(3) HERITAGE INTERPRETATION PLAN**

- (a) A heritage interpretation strategy for the site must be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Construction Certificate being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian.
- (b) The interpretation plan must detail how information on the historical development of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting.
- (c) Prior to the occupation certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Director City Planning, Development and Transport.

## **(4) PUBLIC ART**

- (a) Final details of the approved public art work must be submitted to and approved by Council's Director City Planning, Development and Transport prior to issue of a Construction Certificate.
- (b) The final details of the approved public art work must describe measures to ensure lighting of the artwork is not to the detriment of the amenity of adjacent apartments in the Newhaven Building at 278-284 Sussex Street.
- (c) The public artwork must be provided in accordance with:
  - (i) the Public Art Strategy prepared by Virginia Wilson Art, with cover letter dated 4 May 2016, at Appendix K of the Urbis submission dated 5 May 2016;
  - (ii) Section 3.1.5 of the *Sydney DCP 2012*; and
  - (iii) *City of Sydney Guidelines for Public Art in Private Development and the Public Art Policy* and the *Public Art Policy*.



- (d) Installation of the art work must be completed to the satisfaction of Council's Director City Planning, Development and Transport prior to the issue of an Occupation Certificate.

**(5) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 91.300 (AHD) to the top of the building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

**(6) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD**

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Smart Design Studio, and submitted to Council with Development Application: D/2015/1700 dated 25 November 2015.

**(7) DESIGN QUALITY EXCELLENCE**

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

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

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 12.1:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 15,179sq.m.

- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2012 applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.
- (c) Prior to a Construction Certificate being issued, Council's written verification must be obtained, confirming that 2,572sq.m of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of 8:1 as specified in the Sydney Local *Environmental Plan 2012*.

**(9) HOTEL FIT OUT AND OPERATION - SEPARATE DA REQUIRED**

A separate development application for the detailed fit out and operational aspects of the hotel must be submitted to and approved by Council prior to that fit out or use commencing, and must include the following:

- (a) Plan of Management;
- (b) Noise Management Plan;
- (c) details of maximum numbers of guests per room; and
- (d) details of maximum permitted length of stays.

**(10) EXTERNAL LIGHTING**

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

**(11) USE OF COMMON AREAS AND FACILITIES**

The terrace atop the podium, gymnasium and swimming pool must be available for the use all residents of the building, and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

**(12) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (levels 9 to 25) must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential accommodation as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the Applicant.

- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

**(13) RESTRICTION ON USE OF CAR SPACES - HOTEL**

The following conditions apply to car parking:

- (a) The on-site car parking spaces allocated to the hotel are not to be used other than by hotel guests, function patrons and staff of the subject building.
- (b) Car parking spaces used in connection with hotel function areas are to be available only to patrons while using the function facilities and must not be used for public car parking.
- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant is to be registered on the Title of the development site pursuant to Section 88E of the *Conveyancing Act 1919*, to the effect of (a), above. The covenant is to be created appurtenant to Council, at no cost to Council.

**(14) RESTRICTION ON USE OF CAR SPACES AND STORAGE SPACES - RESIDENTIAL**

The following conditions apply to car parking:

- (a) The on-site car parking spaces and storage spaces allocated to the residential portion of the building are not to be used other than resident of the subject building for storage or for parking of vehicles related to residence in the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.
- (b) Any strata subdivision of the site is to include a restriction on user pursuant to Section 39 of the *Strata Schemes (Freehold Development) Act, 1973* as amended, so burdening all utility car parking allotments in the strata plan and/or an appropriate documentary restriction pursuant to Section 88B of the *Conveyancing Act 1919*, burdening all car parking and storage part lots in the strata plan.

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

A separate development application for any proposed signs additional to those approved as part of this consent other than exempt or complying signs under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 must be submitted to and approved by Council prior to the erection or display of any such signs.

**(16) NO AIR CONDITIONING UNITS TO FACADE OR BALCONIES OF BUILDING**

Approval is not granted for the installation of individual air conditioning units to the facade or balconies of the building.

**(17) REFLECTIVITY**

The Certifying Authority must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20% prior to issue of the Construction Certificate.

**(18) 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.

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

A cash contribution comprising 1% of the total cost of the development is payable to the City of Sydney pursuant to section 61 of the *City of Sydney Act 1988* and the *Central Sydney 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](http://www.cityofsydney.nsw.gov.au)).
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the CA accordingly.

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

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

#### **(20) ALLOCATION FOR VISITOR PARKING**

Visitor parking spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by building visitors or treated as commercial parking.

All spaces must be clearly marked 'visitor' prior to the issue of an occupation certificate or the use commencing, whichever is earlier. All signs must be maintained in good order at all times.

#### **(21) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES**

For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.

#### **(22) ALLOCATION OF PARKING**

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

Car Parking Type	Number
Residential spaces	37
Accessible residential spaces	15
Serviced apartment/hotel parking	33
Accessible serviced apartment/hotel parking	2
Car share parking	2
Motorcycle parking	2
Hotel Service vehicle spaces	4
Residential service vehicle spaces	2
Medium Rigid Vehicle loading dock(s) – can also accommodate a Council Waste vehicle (see note ‘a’ below)	1
Hotel/serviced apartment drop off and pick up - limited in duration to no more than 30 minutes at any one time.	2

**Notes:**

- (a) Access for waste collection must be in accordance with the requirements of Section 3.11.13 of the Sydney DCP 2012, that vehicle access for collection and loading will provide for:
- (i) a 9.25m Council garbage truck and a small rigid delivery vehicle;
  - (ii) minimum vertical clearance of **4 metres** for residential development or else 3.8m clear of all ducts, pipes and other services, depending on the gradient of the access and the type of collection vehicle.

**(23) 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”.

**(24) BICYCLE PARKING AND END OF TRIP FACILITIES**

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

Bicycle Parking Type	Number	Requirements
Residential	96	Spaces must be a class 2 bicycle facilities
Residential visitor	10	Spaces must be Class 3 bicycle rails
Non-residential (Staff)	28	Spaces must be Class 2 bicycle facilities
Non-residential visitor	10	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	4	
Personal lockers	28	

Notes:

- (i) *Australian Standard AS 2890.3:2015 refers to class 1 as class 'A', class 2 as class 'B', and class 3 as class 'C'.*
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Principle Certifying Authority confirming prior to the Construction Certificate being issued.

**(25) 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: The applicant should contact Council's Area Traffic Engineer to discuss the proposal before making a submission.

**(26) COST OF SIGNPOSTING**

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.



**(27) ON SITE LOADING AREAS AND OPERATION**

All loading and unloading operations associated with 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.

**(28) PARKING DESIGN**

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street 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.

**(29) PARKING ON COMMON PROPERTY AREAS**

No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats. The strata subdivision of the building is to include an appropriate documentary restriction pursuant to Section 88B of the *Conveyancing Act 1919*, so burdening common property, with the Council being the authority to release, vary or modify the restriction.

**(30) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME - APPLICATION OF CITY OF SYDNEY PARKING POLICY**

All owners, tenants and occupiers of this building are advised that it is the Policy of Council that they are not eligible to participate in any existing or proposed Council on-street resident parking schemes. The owner of the dwelling must advise all intending owners, tenants and occupiers of the dwelling of this prohibition in writing at the time of entering into a purchase / lease / occupancy agreement.

**(31) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**

Signs reading 'all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council' must be **permanently displayed and located** in prominent places such as at display apartments and on all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to an Occupation Certificate being issued and must be maintained in good order at all times **by the Owners of the building**.

**(32) SIGNS AT EGRESS**

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

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

### **(33) TRAFFIC WORKS**

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS Technical Directives and must be referred to and agreed to by the Local Pedestrian, Cycling and Traffic Calming Committee prior to any work commencing on site.

### **(34) VEHICLE FOOTWAY CROSSING**

A separate application is to be made to, and approved by, Council for the construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway, kerb, gutter and road restoration reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

Note: Construction materials must reinforce the priority of pedestrian movement over that of the crossing vehicle.

## **SCHEDULE 1B**

### **Prior to Construction Certification/Commencement of Work/Health and Building**

#### **(35) ADAPTABLE HOUSING**

Prior to a Construction Certificate being issued, information from an appropriately qualified access consultant is to be submitted to the Certifying Authority:

- (a) Confirming that residential apartments: 12.03, 13.03, 15.03, 16.03, 17.03, 18.03, 19.03, 20.03, 21.06, 22.06, 23.06, 25.06, 26.02, 26.03, 26.05, are able to be adapted for people with a disability in accordance with the *Building Code of Australia*.
- (b) Demonstrating (in a checklist) compliance with Australian Standard AS4299, is to be submitted to the Certifying Authority.

#### **(36) LANDSCAPED (GREEN) ROOFS**

- (a) A detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of a Construction Certificate. The plan must include:

- (i) A statement that includes details of proposed use of the green roof, general accessibility, as well as noise and privacy treatments.
  - (ii) Location of existing and proposed structures, services and hard landscaping on the rooftop, roof fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.
  - (iii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable).
  - (iv) Details of the location, sizes and numbers of plants used with reference to NATSPEC (if applicable), with preference for drought resistant species.
  - (v) Details of the soil media/substrate type and depth.
  - (vi) Details of installation methodology e.g. safety considerations for working at height, location of maintenance hooks (if applicable) transport materials etc.
  - (vii) Details of accessible and inaccessible areas on the Green Roof. Where proposed to be inaccessible, Green Roofs are required to remain such during occupation of the property.
  - (viii) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer (if applicable).
- (b) Prior to the issue of a Construction Certificate, the following details are to be submitted to and approved by the Principal Certifying Authority:
- (i) Evidence the green roof has been assessed as part of the structural certification provided for the development; and
  - (ii) Evidence the green roof has been assessed as part of the waterproofing certification provided for the development.
- (b) All landscaping in the approved plan is to be completed prior to the issue of an Occupation Certificate.
- (c) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Principal Certifying Authority. A copy of the maintenance plan is to be kept on site at all times during construction and shall be produced to Council on request following completion. The Maintenance Manual shall include as a minimum:
- (i) Frequency and methodology of different maintenance requirements including the removal of green waste.
  - (ii) Details of safety procedures.
  - (iii) Laminated copies of 'As Built' drawings.
  - (iv) Manufacturer's contact details and copies of manufacturers' typical details and specification;

- (v) Copies of warranties and guarantees relating to all materials and plant used in construction; and
- (vi) Decommissioning procedures.
- (d) Inaccessible green roofs are required to remain inaccessible during occupation of the property.

**(37) LANDSCAPING OF THE SITE**

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

**(38) EMISSIONS**

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

**(39) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Workcover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, WorkCover must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and WorkCover document entitled *How to manage and control asbestos in the work place: Code of Practice (NSW WorkCover)* and the *City of Sydney Managing Asbestos Policy*.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Appendix F of the City of Sydney's Managing Asbestos Guidelines.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (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.

**(40) 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.

**(41) 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*).

**(42) 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).

**(43) INSTALLATION OF GRAPHICS AND ARTWORK ON SCAFFOLDING (BUILDING / CONSTRUCTION WRAPS)**

- (a) Where scaffolding is to be erected to undertake the proposed development, approved graphic/artwork installation/s (construction wrap image/s) must be installed on the scaffolding system/s to screen the demolition and/or construction works from the public place to minimise adverse visual impacts in the locality and to add visual interest in the streetscape.
- (b) Construction wrap image/s and proposed location/s on the development site must be discussed with Council prior to undertaking detailed artwork design and approval being granted.
- (c) Construction wraps must be printed, installed and maintained in accordance Council's *Guidelines for Hoardings and Scaffolding*.

Note: Where hoardings and/or scaffolding (temporary structures) are erected on land owned by the City such as roadways and footways, Council reserves the right to require the display of site-specific artwork and/or community information (refer to Clause 3.4 of the Guidelines for Hoardings and Scaffolding). Council will advise the applicant of any such requirement during the assessment of the hoarding and scaffolding application and will provide artwork to the applicant under these circumstances.

#### **(44) PHYSICAL MODELS**

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

Note:

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

#### **(45) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE**

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

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

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

**(46) 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 Demolition, Excavation and Construction Management Plan prepared by Renzo Tonin and Associates dated 27 June 2016, TH555-03F01(r5) Trim Ref – 2016/345680.
- (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 **additional** 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.

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

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

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Renzo Tonin and Associates, dated 20 June 2016, ref TH555-01F02 (r5), titled 286 Sussex Street Sydney Acoustic Assessment for DA, Council Ref 2016/355761 must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the certifying authority.
- (b) Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant\* (see definition below) to be in accordance with the requirements of the DA acoustic report. Specifically, the consultant will prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Principal Certifying Authority.



- (c) Prior to the issue of an Occupation Certificate, a suitable qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of principal certifying authority that the development complies with the requirements set out in the Report and in (a) and (b) above.

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

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

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 278 – 284 Sussex Street, 493-497 Kent Street, 499-501 Kent Street and 70-72 Bathurst Street, are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.

#### UPON COMPLETION OF EXCAVATION/DEMOLITION

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

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

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

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

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

- (a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the *NSW Protection of the Environment Operations Act 1997*.
- (b) Include a drawing(s) that clearly shows:

- (i) location of site boundaries and adjoining roads
  - (ii) approximate grades and indications of direction(s) of fall
  - (iii) approximate location of trees and other vegetation, showing items for removal or retention
  - (iv) location of site access, proposed roads and other impervious areas
  - (v) existing and proposed drainage patterns with stormwater discharge points
  - (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
- (i) timing of works
  - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained
  - (iii) access protection measures
  - (iv) nature and extent of earthworks, including the amount of any cut and fill
  - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
  - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
  - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
  - (viii) frequency and nature of any maintenance program
  - (ix) other site-specific soil or water conservation structures.

#### **(50) ENVIRONMENTAL MANAGEMENT PLAN**

Prior to the commencement of any demolition and remedial works an Environmental Management Plan (EMP) must be prepared for the site and submitted to the City's Area Planning Manager for written approval prior to the commencement of work. The EMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, stockpiles, noise and vibration, odours and dust emissions.

The Environmental Management Plan must comply with the Conclusions and Recommendations made in the Detailed Site Investigation for Contamination, Proposed Mixed Use Development 286 Sussex Street, Douglas Partners, Project 85146, Nov 2015, Trim Ref – 2016/023950-61.

All works must be undertaken onsite in accordance with the approved Environmental Management Plan.

**(51) CLASSIFICATION OF WASTE**

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

**(52) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN**

All recommendations contained in the Acid Sulphate Soils Management Plan prepared by Asset Geotechnical, dated 19 April 2016 must be implemented, including the following:

- (a) A qualified and experienced Geotechnical Engineer must be engaged to provide further input and review during the design development; including site visits during construction to verify the site conditions and provide advice where conditions vary from those assumed in the Preliminary Acid Sulphate Management Plan. Development of an appropriate inspection and testing plan must be carried out in consultation with the Geotechnical Engineer.

**(53) COMPLIANCE WITH THE CONSTRUCTION AIR QUALITY MANAGEMENT PLAN**

All recommendations contained in the Air Quality Management Plan prepared by SLR Global Environmental Solutions, dated 4 May 2016 must be implemented.

**(54) DISCHARGE OF CONTAMINATED GROUNDWATER**

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

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

**(55) 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.

**(56) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**

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

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

**(57) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION**

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

**(58) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 -The Use of Mechanical Ventilation and Air conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 -The Use of Mechanical Ventilation and Air conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, the Building Code of Australia, and relevant Australian Standards must be prepared by a suitably qualified person and certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, and AS1668 -The Use of Mechanical Ventilation and Air conditioning in Buildings to the written satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate.

- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2.(a)(iii) of the Building Code of Australia, must be submitted to and approved by the Principal Certifying Authority.

#### **(59) MICROBIAL CONTROL IN WATER SYSTEMS**

- (a) Prior to the issue of a Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the *Public Health Act 2010* must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with the following:
  - (i) *Public Health Act 2010*, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease.
  - (ii) Prior to the issue of an Occupation Certificate or if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

#### **(60) CAR PARK VENTILATION**

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

#### **(61) 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).

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

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

**(63) 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*).

#### **(64) DEMOLITION/SITE RECTIFICATION**

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the 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 \$313,750 dollars as security for the costs of such works provided that:
    - a. the maximum liability under the Deed must not exceed \$313,750 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 tenantable 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 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.

**(65) LOT CONSOLIDATION**

All land titles within the site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the Department of Lands, prior to an Occupation Certificate being issued. If a Development Application is lodged in relation to the subdivision of the site, the requirement for lot consolidation is waived.

**(66) LAND SUBDIVISION**

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

**(67) STRATA SUBDIVISION**

Any proposal for strata subdivision of the site will require development consent and therefore the lodgment of a separate development application or complying development application, and subsequent approval from Council, or an accredited certifier, of the Strata Plan and issue of a Strata Certificate under the *Strata Schemes (Freehold Development) Act 1973*.

**(68) ELECTRICITY SUBSTATION**

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

**(69) TELECOMMUNICATIONS PROVISIONS**

- (a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each apartment within the building within for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery. The details must be submitted for the approval of the Certifying Authority prior to a Construction Certificate being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

**(70) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

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

**(71) ALIGNMENT LEVELS – MAJOR DEVELOPMENT**

- (a) Proposed building floor levels, basement levels, basement car park entry levels and ground levels shown on the approved Development Application plans are indicative only and have not been approved by this consent.
- (b) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, alignment levels for the building and site frontages must be submitted to and approved by Council. The submission must be prepared by a Registered Surveyor, must be in accordance with the City of Sydney's *Public Domain Manual* and must be submitted with a completed Alignment Levels checklist (available in the *Public Domain Manual*) and Footpath Levels and Gradients Approval Application form (available on the City's website).
- (c) These alignment levels, as approved by Council, are to be incorporated into the plans submitted with the application for a Construction Certificate for any civil, drainage and public domain work as applicable under this consent. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

**(72) PAVING MATERIALS**

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

**(73) 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).

**(74) 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*.

**(75) PUBLIC DOMAIN DAMAGE DEPOSIT**

A Public Domain Damage Deposit calculated on the basis of 74 lineal metres of stone (granite and trachyte) site frontage and 36 lineal metres of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

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

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

**(76) PUBLIC DOMAIN PLAN**

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

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

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

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

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

**Note: Contact Council's Legal Unit prior to the drafting of the positive covenant.**

- (e) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.
- (f) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), but excluding approved preparatory or demolition work, a stormwater quality assessment must be undertaken and must be approved by Council.

The stormwater quality assessment must:

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

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

#### **(79) FLOOR TO CEILING HEIGHT**

Prior to a Construction Certificate being issued, the Certifying Authority must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

#### **(80) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS**

All works to the City's public domain, including rectification of identified defects, are subject to a [insert time frame, typically 12] month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Completion for public domain works.

**(81) DRAINAGE AND SERVICE PIT LIDS**

Drainage and service pit lids throughout the public domain shall be heelguard and bicycle safe, finish flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Pit lids shall be in accordance with the *City of Sydney's Sydney Streets Design Code* and *Sydney Streets Technical Specification*. Details of drainage and service pit lids shall be submitted and approved by Council prior to a Construction Certificate being issued for the relevant stage of work.

**(82) PROTECTION OF STONE KERBS**

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

**(83) PUBLIC DOMAIN LIGHTING**

- (a) Prior to a Construction Certificate for public domain works or above ground building works being issued, whichever is later, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be prepared by a suitably qualified, practicing lighting engineer or lighting designer and must be submitted to and approved by Council. The Lighting Plan must be prepared in accordance with the City of Sydney's Interim Draft Sydney Lights Design Code, Sydney Streets Design Code, *Sydney Streets Technical Specification* and *Public Domain Manual* and must include the following:

- (i) Vertical and horizontal illuminance plots for the public domain lighting design to demonstrate compliance with all relevant Australian Standards and to meet the lighting categories and requirements specified by the City;
  - (ii) The location, type and category of existing and proposed lights, including details of luminaire specifications, required to ensure compliance with City policies and Australian Standards;
  - (iii) Footing locations and structural details;
  - (iv) Location and details of underground electrical reticulation, connections and conduits;
  - (v) Certification by a suitably qualified, practicing lighting engineer or lighting designer to certify that the design complies with City policies and all relevant Australian Standards including AS 1158, AS 3000 and AS4282;
  - (vi) Structural certification for footing designs by a suitably qualified, practicing engineer to certify that the design complies with City of Sydney policies and Australian Standards.
- (b) The public domain lighting works are to be completed in accordance with the approved plans and the City of Sydney's *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

#### **(84) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS**

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

#### **(85) STREET TREE PROTECTION**

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

- (a) Tree trunk and major limb protection must be undertaken prior to the issuing of the Construction Certificate. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
  - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and truck at all times;
  - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage, and



- (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,
  - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
- (i) around or under the tree canopy; or
  - (ii) within two (2) metres of tree trunks or branches of any street trees.
- (d) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

#### **(86) STREET TREE PRUNING**

- (a) The consent from Council must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 40mm diameter. Only minor pruning works will be approved by Council.
- (b) Any pruning that is required to accommodate hoardings, scaffolding, or to accommodate the loading/unloading of vehicles, and has been approved by Council, must be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

#### **(87) ROADS AND MARITIME SERVICES CONDITIONS**

The Roads and Maritime Services has provided the following conditions under the provisions of Clause 88 and 103 of State Environmental Planning Policy (Infrastructure) 2007:

- (a) Roads and Maritime has previously acquired a strip of land for road at the North East corner of Sussex and Bathurst Streets at the frontage of the subject property, being Lot 1 DP 571666. Roads and Maritime has previously acquired an easement for rock anchors along the northern boundary of Bathurst Street as shown on DP 1046874. The Cross City Tunnel (CCT) runs in stratum beneath Bathurst Street and Sussex Street abutting the subject property. Therefore there are no objections to the development proposal on property grounds provided:

- (i) any proposed buildings or structures are erected clear of the CCT, Lot 1 DP 571666 and easement for rock anchors;
  - (ii) access to the Roads and Maritime easement is not denied; and
  - (iii) the integrity of the CCT and easement is not compromised.
- (b) The developer is to comply with the requirements of Technical Direction (GTD 2012/001). This will require the developer to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the Roads and Maritime for assessment prior to the approval of any Construction Certificate. The developer is to meet the full cost of the assessment by the Roads and Maritime. This report would need to address the following key issues:
- (i) The impact of excavation/rock anchors on the stability of the CCT and detailing how the carriageway would be monitored for settlement.
  - (ii) The impact of the excavation on the structural stability of the CCT.
  - (iii) The development must not interfere with the ongoing operation and maintenance of the CCT.
  - (iv) If the development is likely to impact on the CCT, the developer must consult with the operator of the CCT and Roads and Maritime Motorway Management on 8837 0937.

**(88) CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN**

- (a) The proponent is to prepare a detailed Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with the CBD Coordination Office within TfNSW and Sydney Light Rail Operators. The CPTMP needs to specify, but not limited to, the following:
- (i) Location of the proposed work zone;
  - (ii) Proposed carnage 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, pedestrians 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.
- (b) Submit a copy of the final plan to the Coordinator General CBD Coordination Office for endorsement, prior to commencement of any works.
- (c) A Construction Pedestrian and Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

Note: The CPTMP should demonstrate that the construction impacts on the road network, bus operations and pedestrian/cyclist safety can be managed. The CPTMP should be prepared in consultation with TfNSW, Roads and Maritime services and City of Sydney. The final CPTMP is to be endorsed by the CBD Coordination Office within TfNSW prior to the issue of any construction certificate.

#### **(89) LOADING BAY MANAGEMENT PLAN**

A Loading Bay Management Plan, must be submitted to TfNSW for review and must be approved by Council prior to the Construction Certificate being issued.

The plan must identify how the loading area (loading dock, service bays and hotel drop/off/pick-up bays) will be managed and used by all building tenants including hotel (ie. pick-up / drop-off, waste collection, servicing) and residential use (removalist vehicles, bulky good deliveries, tradesmen etc).

- (a) The plan must include, but is not limited to, the following:
  - (i) Estimated traffic generation during peak periods for residential and hotel components based on the traffic generation surveys undertaken to similar sites in the CBD;
  - (ii) Management for 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;
  - (v) Management of conflicts between cars accessing the car park and the service vehicle using the loading bays; and
  - (vi) Details of bicycle parking facilities. These facilities need to be in place in secure, convenient, accessible area close to the main entries incorporating adequate lighting and passive surveillance and in accordance with Austroads guidelines.

The plan shall be managed either by a schedule showing all tenants when they can use the loading areas, or by a register managed on site to allow tenants to reserve a time period for their deliveries. Once approved, this management plan will need to be provided to all tenants (hotel and residential) and external users of the loading area.

**(90) COACH PARKING MANAGEMENT PLAN**

A Coach Parking Management Plan, must be submitted to and approved by Council prior to the Construction Certificate for the site/use being granted. The plan shall include as a minimum, the anticipated numbers of coach arrivals per week, time of day the arrivals, length of stay, bus types and procedures to address the arrivals.

**(91) GREEN TRAVEL PLAN**

A Green Travel Plan must be submitted to and approved by Council prior to the Occupation Certificate for the site/use being granted.

The applicant must review information on Council's website about preparing Travel Plans, and which would include steps to address customer and staff transport patterns by providing mode share targets which promote sustainable travel behaviour, means of minimising travel demand by private car and maximise the share of travel by other modes including public transport, cycling, walking, carpooling or car share.

- (a) A Travel Plan is a 'live' document that needs to be closely monitored and reviewed throughout the first few years of implementation. The Travel Plan Coordinator responsibilities include:
  - (i) Coordinating implementation efforts,
  - (ii) Conducting surveys or other data collection processes to measure progress;
  - (iii) Communicating the travel plan to stakeholders;
  - (iv) Coordinating events to promote awareness of the plan and associated invites; and
  - (v) Coordinating marking and promotional programs.
- (b) The steps outlined above should not be considered as a linear process, but rather an on-going cycle. Travel planning requires regular review and adjustment – a review may reveal the need to reconsider objectives or targets, or to add new actions to create greater incentives for the uptake of sustainable transport choices.

Note: It is recommended the applicant review information on Council's website about preparing Travel Plans. The applicant may also contact a member of the Transport and Access Unit, to discuss the Green Travel Plan prior to its submission.

**(92) CAR SHARE SPACES**

- (a) A minimum of 2 car parking spaces for the exclusive use of car share scheme vehicles are to be provided. A revised basement plan showing these spaces must be submitted to and approved by Council's Director City Planning, Development and Transport prior to the Construction Certificate being issued.

- (b) 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.
- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be accessible to members of the car share scheme at all times.
- (f) The car share spaces are to be available at the same time that the car park commences operation.

Note: It is recommended that the applicant discuss the proposed location of car share parking spaces with car share operators prior to the issue of a construction certificate to ensure the commercial requirements of the operator can be accommodated.

**(93) HOTEL DROP OFFS AND PICK UP**

Hotel passenger pick up and set down spaces located in the basement car park must be limited in duration to no more than 30 minutes at any one time.

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

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

UPON COMPLETION OF THE DEVELOPMENT

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

**(95) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

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

- (b) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's *Policy for Waste Minimisation in New Developments 2005*, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

#### UPON COMPLETION OF THE DEVELOPMENT

- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

### **(96) WASTE MANAGEMENT FACILITIES**

Prior to the issue of a Construction Certificate for the development, the waste management facilities within the building are to be consistent with Council's "Policy for Waste Minimisation in New Developments 2005" and designed to provide for:

- (a) the residential garbage room to be designed in accordance with Council's "Policy for Waste Minimisation in New Developments 2005" to allow for cleaning, draining and management of the room;
- (b) the physical separation of residential waste from that generated by the commercial tenancy which is to be collected by a private contractor; and
- (c) all areas accessed by Council's waste collection vehicles must be provided with a minimum vertical clearance of 4 metres, taking such items as pipes, ducts and the like into account.

### **(97) 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.

## **SCHEDULE 1C**

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

#### **(98) BASIX**

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

**(99) 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.

**(100) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(101) ENCROACHMENTS – PUBLIC WAY**

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

**(102) SURVEY**

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

**(103) SURVEY CERTIFICATE AT COMPLETION**

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

**(104) 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.

**(105) EROSION AND SEDIMENT CONTROL**

The Soil and Water Management Plan (SWMP) or Erosion and Sediment Control Plan (ESCP) which has been approved by the Principal Certifying Authority must be implemented in full during the construction period.

During the construction period;

- (a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;
- (b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and
- (c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

**(106) 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.

**(107) STREET NUMBERING – MAJOR DEVELOPMENT**

Prior to an Occupation Certificate being issued, street numbers and the building name must be clearly displayed at either end of the ground level frontage in accordance with the *Policy on Numbering of Premises within the City of Sydney*. If new street numbers or a change to street numbers is required, a separate application must be made to Council.

**(108) SYDNEY WATER CERTIFICATE**

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

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

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

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

**(109) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION**

Waste water arising from the use must be directed to the sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation’s requirements should be obtained prior to the commencement of construction work.

**(110) PROJECTIONS OVER PUBLIC ROAD**

The proposed balconies and architectural embellishments attached to Podium Levels 1 to 10 of the building, shown as overhanging the splayed corner of Sussex Street and Druitt Lane, must not overhang the alignment of that splay by more than 0.45m, and shall comply with the provisions of Schedule 4 (“Projections over or into public roads”) of the Sydney Development Control Plan 2012.



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

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

**(112) 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 Works 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.

**(113) 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*.

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

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

**(115) LIGHTING OF SITE OUTSIDE OF STANDARD CONSTRUCTION HOURS**

Lighting of the site while any work is undertaken outside of Council's standard hours of construction must ensure that at no time must the intensity, hours of illumination or location of the lighting cause objectionable glare or injury to the amenity of the neighbourhood or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting*. If in the opinion of Council, injury is likely to be caused, the intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury to nearby residents.

**(116) HAZARDOUS AND INDUSTRIAL WASTE**

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

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

**(117) 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.

**(118) 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.

#### **(119) AUSGRID CONDITION**

- (a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site).
- (b) Any work undertaken near Overhead Power lines needs to be done in accordance with:
  - (i) Workcover Document ISSC 23 "Working Near Overhead Power Lines";
  - (ii) Ausgrids Network Standards; and
  - (iii) Ausgrids Electrical Safety Rules.
- (c) The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

#### **SCHEDULE 2**

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

## BACKGROUND

### The Site

1. The site has a legal description of Lot 1 DP 185342, Lot 1 DP 650321, Lot 1 DP 650520 and Lot 1 DP 657427 and is commonly known as 286-296 Sussex Street, Sydney. The site has three street frontages, Sussex Street to the west, Bathurst Street to the south and DrUITt Lane to the north.
2. The site is irregular in shape, with a splayed corner at the intersection of Bathurst and Sussex Street resulting from a previous road widening dedication. The site has a frontage to Sussex Street of 33.59 metres, a 28.82 metre frontage to Bathurst Street and a 31.55 metre frontage to DrUITt Lane. The site has an area of 1,255sqm.
3. Existing on site is a 9-10 storey commercial building, containing ground floor retail uses and commercial office floor space on levels above. The site currently has vehicular access via driveways from Sussex Street and DrUITt Lane.
4. **Figures 1 to 5**, below, illustrate the context of the site and the existing built form.



**Figure 1:** Aerial image of 286-296 Sussex Street, Sydney.



**Figure 2:** The site as viewed from the south-west corner of Sussex and Bathurst Streets.



**Figure 3:** The site as viewed from Bathurst Street looking west.



**Figure 4:** The site as viewed from the intersection of Bathurst and Sussex Streets looking north.



**Figure 5:** The existing ground floor retail and vehicular access to the site on its Sussex Street frontage.

### Surrounding Development

5. Development in the vicinity of the site is generally mixed use and is characterised by commercial, retail and residential land uses.
6. To the north of the site, on the opposite side of Druitt Lane, is 278-284 Sussex Street, which is a 16-storey residential apartment building known as the 'Newhaven' (refer to **Figure 6**, below).
7. To the east of the site, on its Bathurst Street frontage, is the 7-storey commercial building at 70-72 Bathurst Street (refer to **Figure 7**, below). To the east of the site, on its Druitt Lane frontage, is the heritage listed 3-4-storey warehouse building at 499-501 Kent Street (refer to **Figure 8**, below).
8. To the south of the site, on the opposite side of Bathurst Street, is the mixed-use development at 298-304 Sussex Street, known as Maestri Towers (refer to **Figure 9**, below).
9. To the west of the site, on the opposite side of Sussex Street, are a series of low-rise buildings (refer to **Figure 10**, below). Directly to the west, on the opposite side of the intersection of Sussex and Bathurst Streets, is the 4 storey mixed-use building at 281-287 Sussex Street, which has residential apartments on its upper levels.





**Figure 6:** View of the adjacent residential building to the north of the site at 278-284 Sussex Street (Newhaven).



**Figure 7:** The adjacent commercial building to the east of the site on Bathurst Street (70-72 Bathurst Street).



**Figure 8:** View of the adjacent heritage listed warehouse building to the east of the site at 499-501 Kent Street, and view of Druitt Lane (looking west).



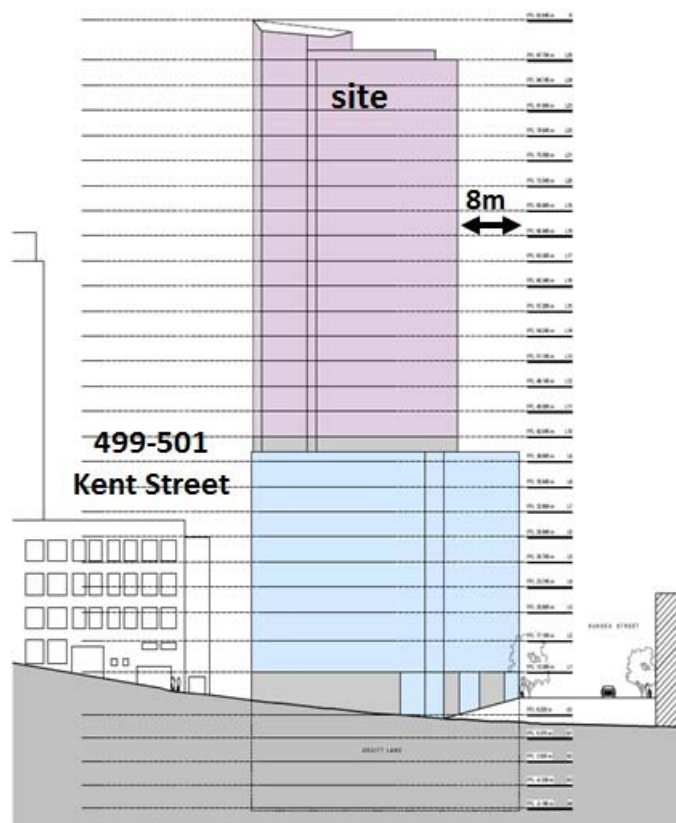
**Figure 9:** View of the mixed-use development at 298-304 Sussex Street (known as Maestri Towers), on the southern side of Bathurst Street.



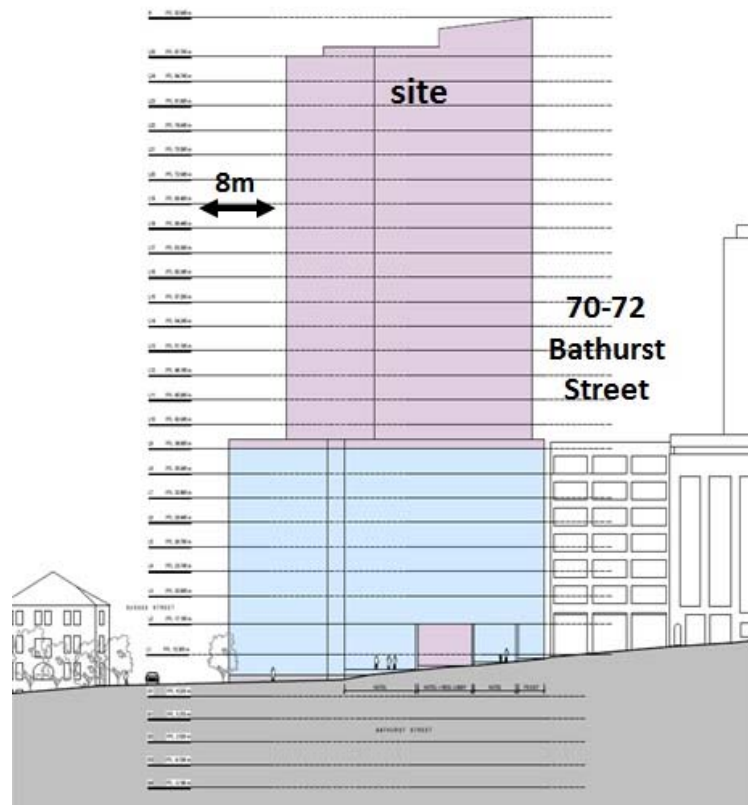
**Figure 10:** Existing development located to the west of the site, on the opposite side of Sussex Street.

**HISTORY****Stage 1 Development Application – D/2014/755**

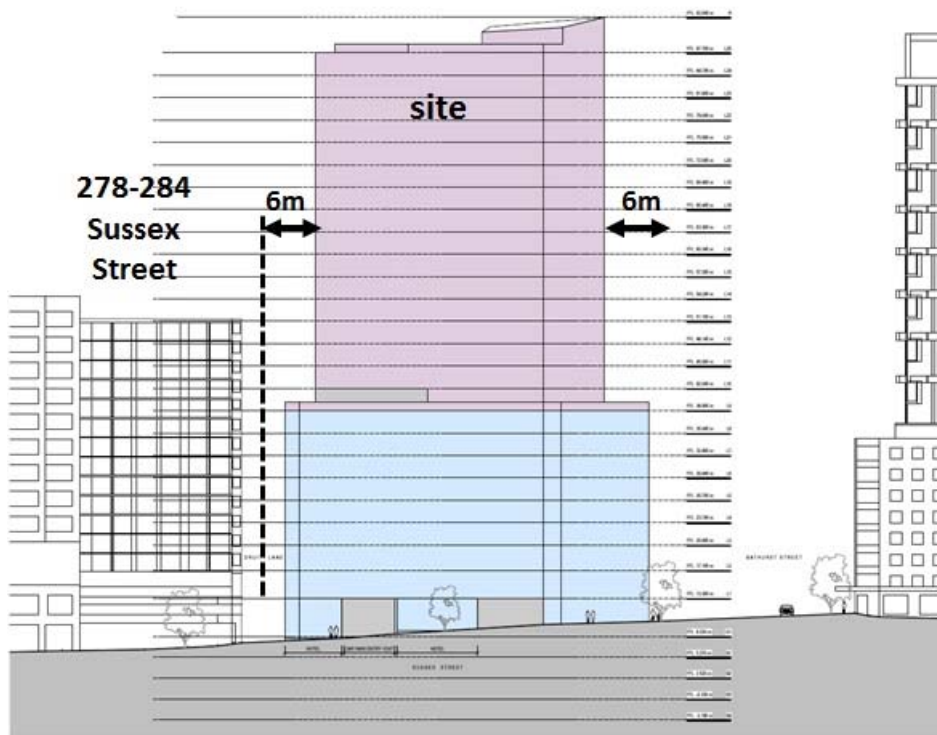
10. A Stage 1 Development Application (D/2014/755) for the subject site was granted consent by the Central Sydney Planning Committee (CSPC) on 23 April 2015.
11. The Stage 1 development application sought consent for the following:
  - (a) in principle approval for demolition of the existing commercial building;
  - (b) an indicative 26-storey (80 metre) building envelope;
  - (c) indicative future land uses of hotel (within the podium levels being ground floor to Level 8) and residential (in the tower from Levels 9 to 25);
  - (d) basement levels (indicatively shown as 4 levels); and
  - (e) vehicular access off Sussex Street.
12. **Figures 11 to 13** below, illustrate elevations of the approved Stage 1 building envelope including setbacks from each of its street frontages.



**Figure 11:** Northern (Druitt Lane) elevation of Stage 1 concept approval showing 8m approved setback above street wall height to Sussex Street.



**Figure 12:** Southern (Bathurst Street) elevation of Stage 1 concept approval showing 8m approved setback above street wall height to Sussex Street.



**Figure 13:** Western (Sussex Street) elevation of Stage 1 concept approval showing 6m approved setback above street wall height to Bathurst Street and 6m setback from the centreline of Druitt Lane.

**Design Competition Process**

13. Following the Stage 1 development consent, the applicant commissioned a competitive design alternatives process for the site. Four architectural firms were invited to submit a design proposal. These firms were:
  - (a) Smart Design Studio;
  - (b) Tony Owen and Partners;
  - (c) Tzannes Associates; and
  - (d) WMK Architects.
14. Presentations were given to the Design Jury, with the Design Jury selecting the Smart Design Studio scheme as the winning design in July 2015.
15. The Smart Design Studio scheme has been further refined following the competitive design process and has been lodged as the subject Stage 2 Development Application for the site on 25 November 2015, in conjunction with a concurrent Section 96(2) application (D/2014/755/A) to modify the Stage 1 building envelope.

**Amendments to the Development Application**

16. A pre-DA meeting was held on 10 September 2015 and another meeting was held during the assessment process on 19 April 2016. Issues raised and discussed at these meetings related to:
  - (a) breach of the Sydney LEP 2012 (the LEP) height control and subsequent inconsistencies with the Stage 1 approved envelope;
  - (b) the design of wind affected balconies;
  - (c) treatment of the Druitt Lane ground level facade;
  - (d) traffic, transport and vehicle access;
  - (e) compliance with various requirements of the Apartment Design Guide (ADG); and other design details.
17. Amended plans and supporting documents were submitted on 11 May, 8 and 27 June 2016, to modify the proposal in the following manner:
  - (a) a written request pursuant to LEP clause 4.6 seeking an exception to the height of buildings development standard has been submitted and amended drawings incorporating an increased Stage 1 building envelope to accommodate this building height non-compliance under the accompanying Section 96(2) application (D/2014/755/A);
  - (b) balconies have been amended to a more traditional design so as to not be enclosed and to not constitute gross floor area;
  - (c) design details of the Druitt Lane, ground level facades have been submitted;

- (d) additional information pertaining to traffic, parking and vehicle access has been submitted, and the taxi pick-up/drop-off point that encroached upon the public road has been deleted. Refer to the Issues section for details and discussion about supplementary submissions made by the applicant to address matters pertaining to vehicle access, traffic and parking;
- (e) design details have been submitted for the communal open space including measures to improve privacy of the apartment adjoining the communal open space;
- (f) the facade has been redesigned to reduce the width of columns to improve solar access;
- (g) plans have been reconfigured to ensure all apartments comply with minimum apartment sizes;
- (h) balconies to south-facing studio apartments have been deleted; and
- (i) other minor refinements to the design have been incorporated into amended plans.

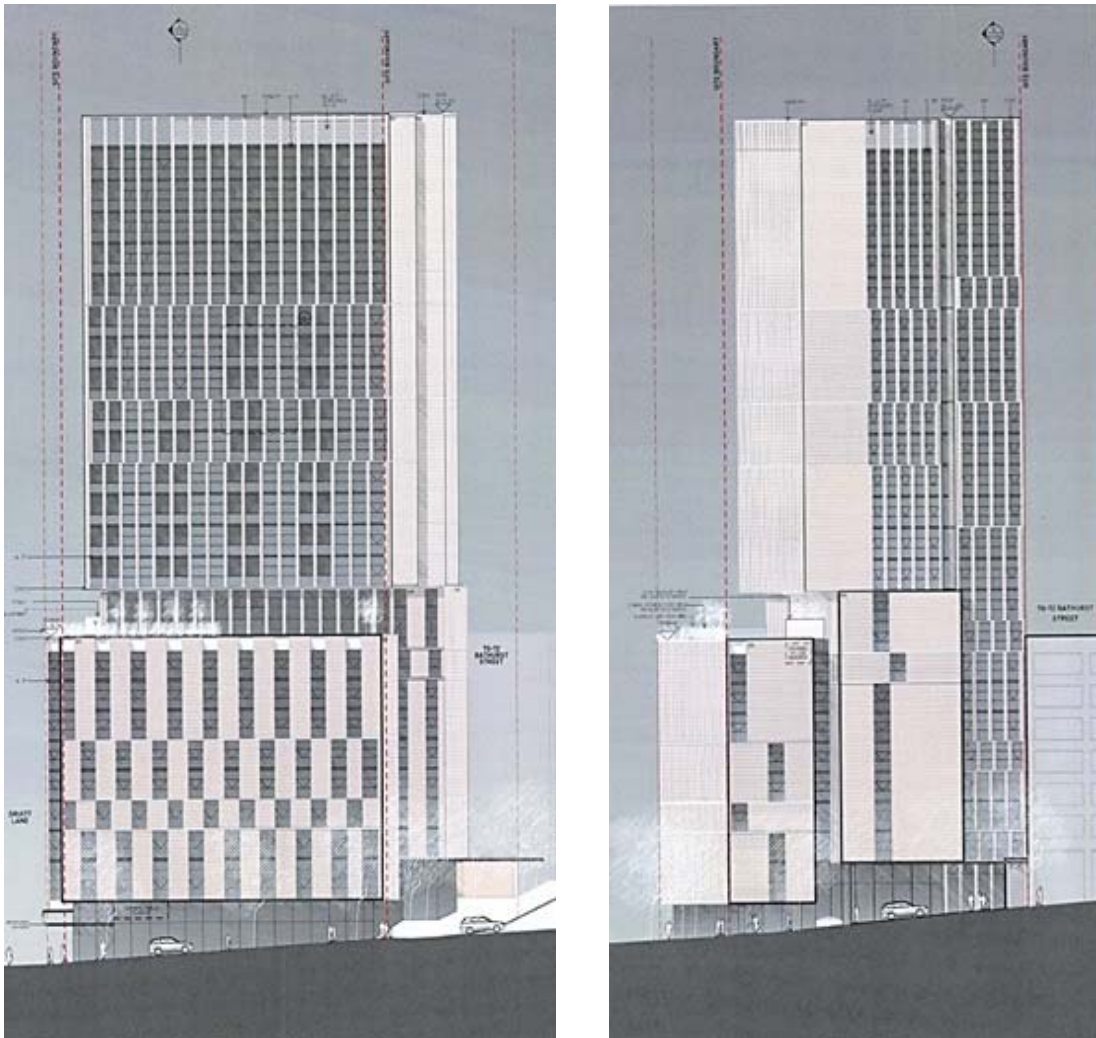
18. The amended proposal is the subject of assessment within this report.

## PROPOSAL

19. The subject application seeks consent for the following works:

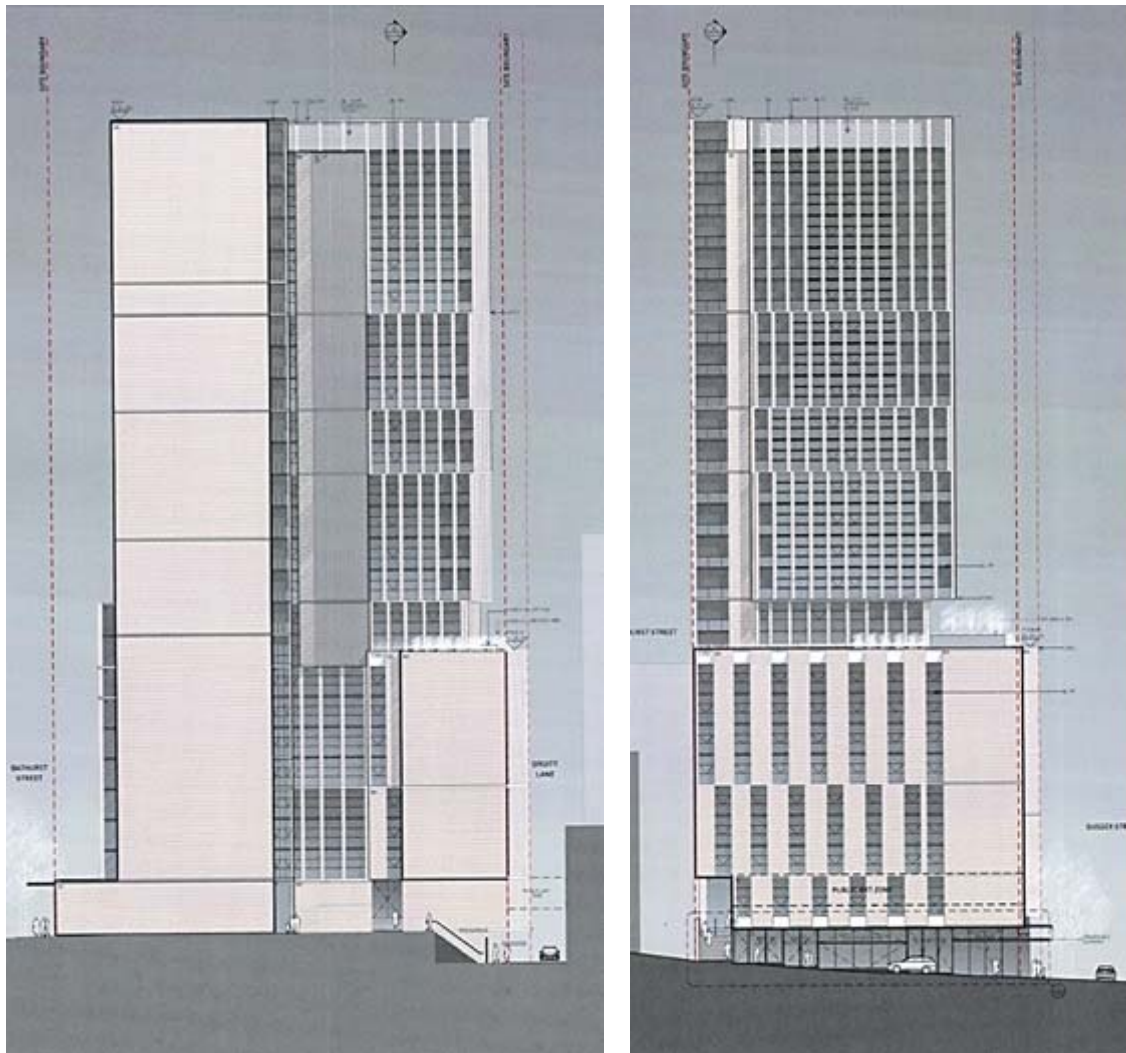
- (a) demolition of all existing structures on site;
- (b) excavation and construction of 5 levels of basement parking, including:
  - (i) 52 x residential car parking spaces;
  - (ii) 36 x hotel car parking spaces;
  - (iii) 9 x service vehicle car parking spaces;
  - (iv) 1 x car-wash bay;
  - (v) 28 x hotel staff and 10 x hotel guest bicycle parking spaces;
  - (vi) 96 x residents and 10 x visitor bicycle parking spaces;
  - (vii) 4 x motorbike parking spaces;
- (c) vehicular access off Druitt Lane;
- (d) construction of a 26 storey mixed use development, with a gross floor area of 15,179sq.m, that accommodates:
  - (i) 95 residential apartments;
  - (ii) indicative hotel uses at ground to level 8 (detailed fit out subject to separate DA); and
- (e) landscaping to the podium and public art.

20. **Figures 14 to 19** below, show photomontages of the proposed development. It should be noted that these photomontages were submitted with the application at the time of lodgement, and the proposal has been amended during the assessment from that depicted in the montages. Architectural plans and elevations of the proposed development are provided at **Attachment A**.



**Figures 14 and 15:** Drawings of the western (Sussex Street) elevation (left) and the southern (Bathurst Street) elevation (right). Both elevations illustrate the amended scheme.





**Figures 16 and 17:** Drawings of the eastern elevation (left) and the northern (Druitt Lane) elevation (right). Both elevations illustrate the amended scheme.



**Figure 18:** Photomontage of the proposed development (as originally lodged) as viewed from Sussex Street, looking north.



**Figure 19:** Photomontage of the proposed development (as originally lodged) as viewed from Bathurst Street, looking east.

**CITY OF SYDNEY ACT 1988**

21. Section 51N requires the CSPC 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 an*
  - (3) The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.*
  - (4) The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee."*
22. Having liaised with the City's Access Unit, in this instance, the proposal is considered by the CSTTC delegate, the Director of City Planning, Development and Transport, to not have a significant impact on traffic and transport in the CBD, and consultation with the CSTTC is not necessary.

**ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

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

**State Environmental Planning Policy No 55—Remediation of Land**

24. State Environmental Planning Policy No. 55 (SEPP 55) requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation.
25. A Preliminary Environmental Site Assessment was submitted with the Stage 1 development application, whereupon it was considered that further site investigation would be required as part of the subject Stage 2 application.

26. A Detailed Environmental Site Assessment was submitted as part of the subject Stage 2 application.
27. Council's Health and Building Unit are satisfied that sufficient information has been submitted to conclude that the site can be made suitable for the proposed uses and satisfy the requirements of SEPP 55, subject to the imposition of appropriate conditions.

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

28. The submitted architectural drawings include indicative locations for signage associated with the hotel use, but inadequate detail in regards to size, colours, materials and illumination for the purposes of a proper assessment against the requirements of SEPP 64 or signage requirements contained in Council's planning controls.
29. A condition is recommended for a separate DA for a signage strategy to be submitted for the whole building in the future.

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

30. In accordance with the requirements of SEPP 65 and the Environmental Planning and Assessment Regulation 2000, a design verification statement has been prepared and submitted by William Smart, registered architect (no. 6381) of Smart Design Studio.
31. SEPP 65 provides that in determining an application for a residential apartment development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 10 design quality principles, being:

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

The proposed vertical massing of the podium and tower provides a well-integrated form that is stepped to respond to the sloping topography of the site, and to the smaller buildings that characterise the Bathurst Street streetscape.

The proposed street frontage heights and setbacks are generally consistent with the prevailing street frontage heights within Central Sydney.

In all, the proposal provides a positive architectural contribution that is suitable in terms of its context, scale and built form that is consistent with these design quality principles.

(b) **Principle 3:** Density

Considering all of the applicable floor space provisions contained in the Sydney LEP 2012 (the LEP), the maximum permissible FSR for the development would be 12.1:1 (15,185.5sq.m GFA). The proposal has a gross floor area of 15,179sq.m, and which equates to a FSR of 12.1:1.

Therefore the proposed density of development is consistent with that envisaged under the relevant planning controls and is considered to be appropriate given the CBD context of the site. Particularly given its proximity to established infrastructure, public transport, community and recreational facilities.

The proposal is consistent with this design quality principle.

(c) **Principle 4: Sustainability**

The proposed development maximises cross ventilation and solar access penetration into residential apartments to reduce artificial lighting, heating and cooling and therefore to reduce energy consumption. Appropriate conditions are recommended to ensure sustainability included in the BASIX certificate are implemented at construction.

The proposal is consistent with this design quality principle.

(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.

Notwithstanding these constraints, the proposal provides 22.4% (281sq.m) of communal open space in the form of a landscaped terrace atop the podium (221sq.m), and a common gym area (60sq.m) which according to ADG guidelines, can be attributed towards satisfying communal space requirements.

The proposed communal terrace and gym areas are considered to adequately provide for active and passive recreation as well as opportunities for social interaction of residents.

(e) **Principle 6: Amenity**

The proposal:

- (i) satisfies minimum apartment size requirements;
- (ii) achieves minimum solar access to 69.5% (66 of 95) of proposed apartments;
- (iii) is deemed to satisfy natural cross ventilation requirements;
- (iv) achieves minimum floor to ceiling heights to improve solar access and ventilation of apartments;
- (v) provides adequate private open space and communal open space; and
- (vi) provides adequate storage and privacy

through skilful design that is responsive to the constraints and sensitivities of adjacent residences.

In combination these design outcomes are considered to provide a good level of amenity for residents and neighbours as is consistent with this design quality principle.

(f) **Principle 7: Safety**

The proposal optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose, maximising passive surveillance of public and communal areas to promote safety.

It is considered that the proposed development has been designed in accordance with the SEPP's safety principle and the principles of Crime Prevention through Environmental Design (CPTED).

(g) **Principle 8: Housing Diversity and Social Interaction**

The proposal provides a good mix of dwelling types, adaptable apartments, accessible facilities for both active and passive recreation.

The proposal is considered to respond to the dynamic social context of its CBD location in close proximity to established infrastructure, public transport, community and recreational facilities.

The proposal is consistent with this design quality principle.

(h) **Principle 9: Aesthetics**

The predominant use of face brick masonry, not only in the podium but also in the tower enhances the brick and masonry character of heritage items and former warehouses in the vicinity and the adjacent Sydney Square, Town Hall and St Andrews Cathedral Special Character Area.

The proposal is consistent with this design quality principle.

32. Considering the constraints of the site, the development is considered generally acceptable when assessed against the above stated principles and the relevant SEPP provisions.

Apartment Design Guide		
Control	Compliance	Comment
<b>2E Building Depth</b>		
12-18m (glass to glass)	Yes	The residential portion of the building has a maximum depth of approximately 16 metres.

Apartment Design Guide		
Control	Compliance	Comment
<b>2F Building Separation</b>		
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	<p>Partly complies (but consistent with Stage 1 envelope)</p>	<p>No residential uses are proposed in the first four storeys of the podium.</p> <p>Separation of podium levels from adjacent residential buildings to the north, west and south, is consistent with the Stage 1 approved envelope and which generally satisfies the laneway and street setback requirements contained in the DCP.</p> <p>It is noted that the buildings adjacent to the east are commercial buildings and that these separation requirements are only applicable to separation between the subject building and adjacent residential buildings.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable Rooms</li> </ul>	<p>Partly complies (but consistent with Stage 1 envelope)</p>	<p>No residential uses are proposed in storeys five to eight of the podium.</p> <p>Separation of podium levels from adjacent residential buildings to the north, west and south, is consistent with the Stage 1 approved envelope and generally satisfies the laneway and street setback requirements contained in the DCP.</p> <p>It is noted that the buildings adjacent to the east are commercial buildings and that these separation requirements are only applicable to separation between the subject building and adjacent residential buildings.</p>



<b>Apartment Design Guide</b>		
<b>Control</b>	<b>Compliance</b>	<b>Comment</b>
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms / balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable Rooms</li> </ul>	<p>No (but consistent with Stage 1 envelope)</p>	<p>No residential uses are proposed in the ninth storey of the podium. Separation of the ninth storey from adjacent residential buildings to the north, west and south, is consistent with the Stage 1 approved envelope and generally satisfies the laneway and street setback requirements contained in the DCP.</p> <p>The tenth storey comprises residential uses and areas in common to the both the residential and hotel uses.</p> <p>Eleven storeys and above comprises residential uses only.</p> <p>Refer to the Issues section in this report.</p>
<b>3D Communal and Public Open Space</b>		
<p>Communal open space has a minimum area equal to 25% of the site.</p>	<p>Partly complies</p>	<p>The proposal provides 22.4% (281sq.m) of communal open space in the form of a terrace atop the podium (221sq.m), and a common gym area (60sq.m) which according to ADG guidelines, can be attributed towards satisfying communal space requirements.</p> <p>The proposed communal terrace and gym areas are considered to adequately provide for active and passive recreation as well as opportunities for social interaction of residents. For these reasons a minor variation of common open space area requirements is supported in this constrained CBD location.</p>
<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).</p>	<p>No</p>	<p>The proposed common terrace receives sunlight to an average of 12% (30.5sq.m) of its area for 2 hours between 9am and 3pm on 21 June.</p> <p>Given the proposed common terrace area will provide access to open air and excellent outlook, it is considered to contribute to residential amenity in a reasonable manner given its dense CBD context.</p>

Apartment Design Guide														
Control	Compliance	Comment												
<b>3E Deep Soil Zones</b>														
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum Dimensions</th> <th>% of site area</th> </tr> </thead> <tbody> <tr> <td>&lt;650m<sup>2</sup></td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td> <td>3m</td> </tr> <tr> <td>&gt;1,500m<sup>2</sup></td> <td>6m</td> </tr> <tr> <td>&gt;1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum Dimensions	% of site area	<650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	>1,500m <sup>2</sup>	6m	>1,500m <sup>2</sup> with significant existing tree cover	6m	No	<p>No deep soil is provided.</p> <p>It is noted that in the CBD context, site area and setbacks established by surrounding development generally preclude the provision of deep soil planting on the subject site.</p> <p>For this reason a variation is supported.</p>
Site area	Minimum Dimensions	% of site area												
<650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m													
>1,500m <sup>2</sup>	6m													
>1,500m <sup>2</sup> with significant existing tree cover	6m													
<b>3F Visual Privacy</b>														
<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.</p> <p>Note: Gallery circulation is treated as habitable space.</p>														
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>6m between habitable rooms / balconies</li> <li>3m between non-habitable rooms</li> </ul>	Partly complies (but consistent with Stage 1 envelope)	Refer to assessment against separation requirements of ADG objective 2F above.												
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>9m between habitable rooms / balconies</li> <li>4.5m between non-habitable rooms</li> </ul>	Partly complies (but consistent with Stage 1 envelope)	Refer to assessment against separation requirements of ADG objective 2F above.												
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>12m between habitable rooms / balconies</li> <li>6m between non-habitable rooms</li> </ul>	Partly complies (but consistent with Stage 1 envelope)	Refer to assessment against separation requirements of ADG objective 2F above.												

<b>Apartment Design Guide</b>		
<b>Control</b>	<b>Compliance</b>	<b>Comment</b>
<b>4A Solar and Daylight Access</b>		
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Generally complies	A preliminary assessment of the proposal found that the deep columns to the facade led to solar access to the proposed apartments. Subject to further design modifications to reduce the depth of the columns to its facades, the amended design achieves minimum solar access to 69.5% (66 of 95) of the proposed apartments. In its densely developed context and in comparison with similar developments in the CBD, this is considered an acceptable outcome and a minor variation to this requirement is supported.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	A maximum of 14% (13 of 95) of the proposed apartments receive no direct sunlight between 9am and 3pm at midwinter.
<b>4B Natural Ventilation</b>		
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.  Note: Apartments 10 storeys or greater are deemed to be naturally cross ventilated only if balconies allow for adequate ventilation and cannot be fully enclosed.	Yes	No residential apartments are provided in the first nine storeys. Amended plans include changes to the typical balcony design to ensure they cannot be fully enclosed, except for three balconies on level 10. Therefore 97% of apartments are deemed to be naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	No cross-over or cross-through apartments have a depth of greater than 18 metres.

Apartment Design Guide		
Control	Compliance	Comment
<b>4C Ceiling Heights</b>		
Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows:		
Habitable rooms: 2.7m	Yes	Residential floors have a floor to floor height of 3.1m to ensure adequate tolerance at construction to provide a minimum floor to ceiling height of 2.7m.
Non-habitable rooms: 2.4m	Yes	As for habitable rooms, the proposed floor to floor height of 3.1m is considered adequate tolerance at construction to provide a minimum floor to ceiling height of 2.4m to non-habitable rooms.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The hotel lobby adjacent to Sussex Street at lower ground level has a floor to ceiling height of approximately 5.7m. The residential lobby with its principal access from Bathurst Street at upper ground level has a floor to ceiling height of approximately 4.3m.
<b>4D Apartment Size and Layout</b>		
Minimum unit sizes: <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.	Yes	Amended plans include changes so that all apartments achieve minimum unit size requirements.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	Every habitable room has a window in an external wall with adequate area of glazing.

Apartment Design Guide		
Control	Compliance	Comment
Habitable room depths are to be no more than 2.5 x the ceiling height.	Partly complies	Some apartments adjacent to the western facade have kitchen areas at the back of the apartment, and which are a distance greater than 2.5 x the floor to ceiling height (2.7 metres) which is equivalent to approximately 6.75 metres.  All of these apartments have open plan living-kitchen-dining areas, with good solar access and are deemed to be naturally cross ventilated.  For these reasons a variation in those instances is supported.
8m maximum depth for open plan layouts.	Yes	All open plan apartments have a depth of no greater than 8m.
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All master bedrooms are at least 10sq.m and other bedrooms at least 9sq.m.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Yes	All living and dining rooms achieve minimum width requirements.
4m minimum width for cross over and cross through apartments.	Yes	All cross-over and cross-through apartments achieve minimum width requirements.

Apartment Design Guide																	
Control	Compliance	Comment															
<b>4E Private Open Space and Balconies</b>																	
<p>All apartments required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type:</th> <th>Min. Area</th> <th>Min. Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>One bed</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>Two bed</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>Three+ bed</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum depth counting to balcony area is 1m.</p>	Dwelling Type:	Min. Area	Min. Depth	Studio	4m <sup>2</sup>	-	One bed	8m <sup>2</sup>	2m	Two bed	10m <sup>2</sup>	2m	Three+ bed	12m <sup>2</sup>	2.4m	Partly complies	<p>Thirteen (13) of 95 apartments do not have balconies. These are studio apartments with a single-southerly aspect (numbered 11.02-25.02). It is considered that these balconies would not receive any direct sunlight, would be windy and the space would be better utilised and have greater amenity if it was internalised. Amended plans incorporated these recommended modifications, and are supported. It is noted that these reconfigured studios exceed the minimum internal area requirements.</p> <p>Eleven (11) of 82 apartments (numbered 11.07, 11.03, 12.07, 13.08, 15.08, 16.08, 17.08, 21.03, 22.03, 23.03, and 25.03) that do have balconies are undersized by 1sq.m.</p> <p>Two (2) of 82 apartments (numbered 11.08 and 12.08) that do have balconies are undersized by 2sq.m due to structural transfers that have to be accommodated at that point in the building.</p> <p>All of these undersized balconies are considered to provide adequate dimensions for outdoor furniture and the like and provide adequate amenity in otherwise spacious apartments.</p> <p>For these reasons these minor variations are supported.</p>
Dwelling Type:	Min. Area	Min. Depth															
Studio	4m <sup>2</sup>	-															
One bed	8m <sup>2</sup>	2m															
Two bed	10m <sup>2</sup>	2m															
Three+ bed	12m <sup>2</sup>	2.4m															
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	Partly complies	<p>The two apartments atop the podium achieve the minimum area requirements.</p> <p>Due to the deep columns of the facade, some parts of the podium level private open spaces do not achieve the minimum depth requirement, however they do provide adequate minimum dimensions to accommodate outdoor furniture and the like.</p>															

Apartment Design Guide		
Control	Compliance	Comment
<b>4F Common Circulation and Spaces</b>		
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The proposal satisfies this requirement.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	No	The proposal is for 95 apartments serviced by 2 lifts or 47.5 apartments for each lift, and which is considered adequate to service the proposed number of apartments.
<b>4G Storage</b>		
Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> (Minimum 50% storage area located within unit)	Yes	Minimum storage space is provided to all apartments in a combination of in-apartment storage and separate storage lockers.

### State Environmental Planning Policy (Infrastructure) 2007

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

### ***Clause 45 – Development Likely To Affect an Electricity Transmission or Distribution Network***

34. As the development site is within the vicinity of existing power lines, the application was referred to Ausgrid under the provisions of SEPP clause 45 on 2 December 2015.
35. In correspondence, dated 14 December 2015, Ausgrid made a submission recommending conditions for the developer to lodge a Preliminary Enquiry and/or Connection Application to allow Ausgrid to consider any impacts to their infrastructure and to determine the electrical supply requirements for the development.
36. A condition is recommended in accordance with Ausgrid's advice to be imposed on any consent granted.

**Clause 88 – Development Adjacent To Interim Rail Corridor**

37. As the development is in the vicinity of an interim rail corridor as identified on the *Interim Rail Corridor CBD Rail Link & CBD Metro Map*, the application was referred to Sydney Trains/Transport for NSW under the provisions of SEPP clause 88 on 2 December 2015.
38. In correspondence, dated 1 April 2016, Sydney Trains has granted their concurrence, subject to the imposition of deferred commencement conditions detailed at the Recommendations section of this report.

**Clause 101 – Development with Frontage to Classified Road**

39. The application is subject to SEPP clause 101 as the site has a frontage to Bathurst Street, which is a classified road.
40. The application is considered to satisfy SEPP requirements as it does not provide vehicular access to the site from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposal.
41. Conditions have been recommended for the development to achieve appropriate internal noise levels and to ameliorate the adverse impacts of road noise, pollution and vibration from Bathurst Street.

**Clause 103 - Excavation In or Immediately Adjacent To Corridors**

42. As the proposed development involves excavation immediately adjacent to the Cross City Tunnel, the application was referred to the RMS under the provisions of SEPP clause 103 on 2 December 2015.
43. In correspondence, dated 13 May 2016, RMS has granted their concurrence, subject to the imposition of conditions detailed in the Recommendations section of this report.

**Clause 104 – Traffic-Generating Development**

44. As the proposed development has a frontage to a classified road and is of the specified size and capacity the application was referred to RMS under the provisions of SEPP clause 104 on 2 December 2015.
45. In correspondence, dated 13 May 2016, RMS provided comments in support of the proposal, subject to the imposition of conditions detailed in the Recommendations section of this report.

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

46. The site is located within the designated catchment of Sydney Harbour and is subject to the provisions of the SREP.
47. 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.



48. The development is consistent with the controls contained with the deemed SEPP.

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

49. A BASIX Certificate has been submitted with the development application and lists measures to satisfy BASIX requirements that have been incorporated into the proposal.
50. A condition is recommended to ensure the measures detailed in the BASIX certificate are implemented.

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

51. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
52. The proposed development is consistent with the aims and objectives of SEPP.

**Sydney LEP 2012**

53. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012 (the LEP). The proposal is defined as a residential flat building and hotel accommodation, both of which are permissible uses within the B8 – Metropolitan Centre zone pursuant to LEP clause 2.3.
54. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings	No	<p>A maximum height of 80m is permitted. A height of 83.25m is proposed.</p> <p>The additional height of the building above the 80 metre height control has been assessed as being acceptable as part of the concurrent Section 96 application to the Stage 1 building envelope (D/2014/755/A). While, the proposed development is consistent with the height of the proposed amendment to the Stage 1 envelope, the proposal still represents a numeric variation to the height control.</p> <p>As such and in accordance with LEP clause 4.6 Exceptions to development standards, the application includes a submission seeking a 4% (3.25m) variation to the maximum height of buildings development standard.</p>

Compliance Table		
Development Control	Compliance	Comment
		The variation is supported and is discussed in the Issues section of this report.
4.4 Floor Space Ratio and 6.4 Accommodation Floor Space	Yes	<p>LEP clause 4.4 specifies a base floor space ratio (FSR) of 8:1, with LEP clause 6.4 providing an opportunity for additional FSR of 3:1 where residential or hotel accommodation uses are provided. This equates to a maximum permissible FSR of 11:1.</p> <p>The proposal also seeks to utilise the design excellence provisions pursuant to LEP clause 6.21, where the development may be eligible for a further 10% of FSR where the proposed design scheme is the winner of a competitive design process and is considered by the consent authority to exhibit design excellence.</p> <p>The proposal has won a competitive design alternatives process and is eligible for the award of the 10% design excellence bonus, calculated on the combined total of permissible base and accommodation floor space as described above. This equates to an additional FSR of 1.1:1.</p> <p>Considering all of the LEP's applicable floor space provisions, the maximum permissible FSR for the development would be 12.1:1 (15,185.5sqm GFA).</p> <p>The proposal has a gross floor area of 15,179sqm, and which equates to a FSR of 12.1:1.</p>
4.6 Exceptions to development standards	Yes	<p>The application includes a submission seeking a variation to the maximum height of buildings development standard.</p> <p>Refer to the Issues section in this report.</p>

Compliance Table		
Development Control	Compliance	Comment
5.6 Architectural roof features	Yes	<p>The maximum height limit of 80m pursuant to LEP clause 4.3 is exceeded by the roof plant, lift overrun and the roof above apartment L25 by approximately 120mm to 600mm.</p> <p>The lift and plant elements are screened by an architectural roof feature, which extends the building's facade treatment above the height of the roof by up to 3.25 metres.</p> <p>This extended facade element is integral to the design and form of the building and is correctly characterised as an architectural roof feature.</p> <p>The proposed architectural roof feature is supported in this instance as it is an architectural adornment that is 'decorative' in that it is more pleasant in appearance than the plant elements that it will screen from view, it is not an advertising structure, it does not include floor space and will result in negligible net change to overshadowing impacts to adjacent properties arising from the previously approved Stage 1 envelope.</p> <p>Refer to the Issues section in this report.</p>
5.9 Preservation of trees or vegetation	Able to comply	<p>The proposal is able to satisfy the requirements of this control, subject to the recommended conditions to protect the existing street trees on Bathurst and Sussex Streets during construction.</p>

Compliance Table		
Development Control	Compliance	Comment
5.10 Heritage conservation	Able to comply	<p>Adjacent to the east of the site, on its Druitt Lane frontage, is the locally heritage listed 3-4-storey warehouse building at 499-501 Kent Street (I1834). The site is immediately adjacent to the York Street Special Character Area.</p> <p>The proposal involves the demolition of the existing building on the site. The existing building is estimated to have been constructed in the 1970s and has no heritage significance. Council's Heritage Specialist raises no objection to the demolition of the existing building.</p> <p>Council's Heritage Specialist has also advised that the proposal offers a positive response to the LEP's heritage objectives in that it is a distinctive architectural contribution to the area, to its Sussex Street, Bathurst Street and Druitt Lane streetscapes, and to the heritage items in the vicinity of the site. This is achieved through the fine grain and vertical massing of the podium and tower, and through the predominant use of masonry, not only of the podium but also in the tower.</p> <p>While the proposal provides a reasonable portion of active frontage and increased footpath width to the lower part of Druitt Lane, conditions are recommended for heritage interpretation panels to be incorporated into its ground floor laneway facade to improve its interface with the laneway.</p>

Compliance Table		
Development Control	Compliance	Comment
6.11 Allocation of heritage floor space (HFS)	Yes	<p>A total of 2,572.75sq.m of HFS is applicable to the development, based on the HFS requirements under LEP clause 6.11(1)(a), (d) and (e), and has been calculated on the following basis:</p> <ul style="list-style-type: none"> <li>• 50% of accommodation floor space = 1,882.5sq.m; and</li> <li>• 50% of design excellence floor space = 690.25sq.m.</li> </ul> <p>LEP clause 6.11(2)(a) permits a further reduction of HFS by 50% or 1,000sqm (whichever is the lesser) where the scheme is the winner of an architectural design competition.</p> <p>As the subject scheme is the winner of a competitive design alternatives process, and not an architectural design competition as defined in the City of Sydney Competitive Design Policy, the subject proposal is not eligible for a further reduction in the HFS allocation for the development.</p>
6.16 Erection of tall buildings in Central Sydney	Yes	<p>As the proposed development has a height that exceeds 55 metres, the provisions of this clause are applicable.</p> <p>The proposal has been assessed as meeting the objectives for tower developments within Central Sydney as it:</p> <ul style="list-style-type: none"> <li>• occupies a site with an area greater than 800sq.m</li> <li>• is contextually appropriate;</li> <li>• creates residential apartments with good amenity;</li> <li>• does not have unacceptable adverse impacts upon the amenity of adjacent buildings; and</li> <li>• encourages active uses at ground level.</li> </ul>

Compliance Table		
Development Control	Compliance	Comment
6.21 Design excellence	Yes	<p>The Stage 1 proposal met the thresholds of LEP clause 6.21(5) and was required to undertake a competitive design process prior to lodging a Stage 2 development application.</p> <p>As detailed in the relevant history section of this report, this process was conducted in mid-2015. Smart Design Studio's design was named the winning scheme in July 2015.</p> <p>Pursuant to the provisions of LEP clause 6.21(7), where a proposal has been the winning entry of a competitive design process and the consent authority is satisfied that the building exhibits design excellence, a further 10% of height or FSR may be awarded.</p> <p>As previously noted in this report, it is recommended that the proposal be awarded the design excellence floor space.</p>
7.5 and 7.9 Car parking ancillary to other development	Able to comply	<p>A maximum of 87 car parking spaces are permitted.</p> <p>Fifty-two (52) residential car parking spaces and 36 hotel car parking spaces, for a total of 88 car parking spaces are proposed.</p> <p>A condition is recommended for hotel car parking spaces to be reduced by one for a total of 35, to comply with the maximum permissible number of car parking spaces.</p> <p><u>Note:</u> Other car parking spaces such as car share spaces, service vehicles spaces and the like are not included in the calculation of proposed car parking spaces.</p>
7.14 Acid Sulphate Soils	Able to comply	<p>The site is identified as containing Class 2 and Class 5 Acid Sulphate Soils.</p> <p>A condition has been recommended to address acid sulphate soils on site.</p>
7.15 Flood planning	Able to comply	<p>Conditions have been recommended to ensure that all entries, including entries to the basement achieve appropriate levels to prevent stormwater ingress.</p>

Compliance Table		
Development Control	Compliance	Comment
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.
7.19 Demolition must not result in long term adverse visual impact	Yes	The subject application seeks consent for demolition and redevelopment of the site as part of the subject application, and is therefore, considered to adequately address the requirements of this clause.
7.20 Development requiring preparation of a development control plan	Yes	The site has a valid Stage 1 consent (being D/2014/755). This Stage 1 consent is the equivalent of a site specific development control plan and details allowable building envelopes and land uses. It is considered that the current Stage 1 consent for the site addresses the requirements of LEP clause 7.20.  Refer to the Issues section in this report for further details about consistency of the proposal with the Stage 1 development consent.
7.24 Development near Cross City Tunnel ventilation stack	Yes	The subject site is within the area identified as being affected by the emissions plume from the cross city tunnel ventilation stack.  Council's Environmental Health Specialist has reviewed the proposal and has advised that sufficient information has been submitted to demonstrate that the proposal will not adversely affect the dispersal of emissions and that its future intended occupants will not be unduly affected by those emissions.

### Sydney DCP 2012

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

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.1 Public Domain Elements	Able to comply	The proposal provides a reasonable portion of active frontage and increased footpath width to the lower part of Druitt Lane which will enhance pedestrian access and activation of the lane in accordance with DCP provision 3.1.1.3. Conditions are recommended for heritage interpretation panels to be incorporated into the services installations and the car park entrance to improve its ground floor interface to the laneway.
3.1.5 Public art	Yes	A detailed public art proposal has been submitted as part of the subject application. Council's public art specialists have reviewed the submission and raise no objection.  A condition has been recommended for the public art to be implemented into the scheme in accordance with the submitted public art proposal.
3.2 Defining the Public Domain	Yes	The proposal does not overshadow nearby public open spaces such as Sydney Square or impede views from the public domain to significant public places, heritage items or the like.  The proposal incorporates visible internal uses at its ground levels, and subject to conditions, will include heritage interpretation panels and public art to its Druitt Lane frontage.  The proposal satisfies the requirements of this provision.
3.2.4 Footpath awnings	Yes	The proposed footpath awnings to the north-west, south and south-west corners of the building introduced as recommended by the wind consultants achieve the minimum height clearance required in accordance with DCP provision 3.2.4(4).
3.2.6 Wind affects	Yes	As noted above, the recommendations of a wind consultant have been incorporated into amended plans to ameliorate adverse wind effects upon the adjacent pedestrian environment in accordance with DCP requirements.



<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.2.7 Reflectivity	Yes	The proposed masonry columns incorporated into the facade design have been assessed by a reflectivity consultant to eliminate glare and reflected sunlight to surrounding areas in accordance with DCP requirements.
3.2.8 External lighting	Able to comply	An appropriate condition is recommended.
3.3 Design Excellence and Competitive Design Processes	Yes	As noted in the History section of this report, the subject design scheme is the winner of a competitive design process conducted in accordance with a competitive design brief endorsed by Council, and in accordance with LEP clause 6.21 Design excellence and DCP provision 3.3.
3.5 Urban Ecology	Yes	The proposal will not have any adverse impacts upon the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements.
3.7 Water and Flood Management	Able to comply	Conditions have been recommended to ensure that all entries, including entries to the basement achieve appropriate levels to prevent stormwater ingress.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Appropriate conditions have been recommended for any future strata subdivision of the development.
3.9 Heritage	Able to comply	Refer to the assessment against LEP clause 5.10 in the LEP compliance table above.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.11 Transport and Parking	Able to comply	<p>A majority of the public submissions received objected to adverse traffic impacts arising from the development, and in-particular locating the vehicle entrance to Druiitt Lane.</p> <p>Council's Transport Planner has reviewed the proposal and supplementary traffic and transport information submitted during the assessment process and has advised that subject to the recommended conditions, the proposal satisfies the requirements of this provision and other transport and parking related controls contained in the LEP and DCP.</p> <p>Refer to the Issues section in this report.</p>
3.12 Accessible Design	Yes	<p>The proposal incorporates 15 adaptable apartments. This equates to 15.8% of all apartments within the development, which exceeds the 15% requirement contained at DCP provision 3.12.2.</p> <p>A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the Sydney DCP 2012 and the BCA.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>A condition is recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.16 Signage and Advertising	Able to comply	<p>The submitted architectural drawings include indicative locations for signage associated with the hotel use, but inadequate detail in regards to size, colours, materials and illumination for the purposes of a proper assessment against DCP requirements.</p> <p>A condition is recommended for a separate DA for a signage strategy to be submitted for the whole building in the future.</p>

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.2.1.2 Floor to ceiling heights	Yes	<p>The hotel lobby adjacent to Sussex Street has a floor to ceiling height of approximately 5.7m.</p> <p>The residential lobby with its principal access from Bathurst Street has a floor to ceiling height of approximately 4.3m.</p> <p>Residential floors have a floor to floor height of 3.1m to ensure adequate tolerance at construction to provide a minimum floor to ceiling height of 2.7m, in accordance with DCP and ADG requirements.</p>
4.2.3 Amenity	Acceptable	<p><u>Solar access</u></p> <p>Solar access to the subject site is a matter to which clause (6A) of SEPP 65 applies and which renders DCP provision 4.2.3.1 to be of no effect. Solar access to the proposed dwellings is discussed in the SEPP 65 section in this report.</p> <p>The overshadowing impacts arising from the subject development and in particular elements that exceed the height of buildings control, to surrounding dwellings are discussed in the Issues section of this report.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
	Acceptable	<p><u>Deep soil</u></p> <p>A minimum deep soil area of 10% (125.5sq.m) of the site is to be provided. No deep soil is provided.</p> <p>Due to the CBD context of this site, the basement car parking and DCP setback requirements, there is no opportunity for deep soil planting. This is considered to be consistent with DCP and ADG objectives given the context of the site.</p>
	Acceptable	<p><u>Common open space</u></p> <p>An area of common open space of 25% of site area (313.75sq.m) is to be provided.</p> <p>The proposal provides 22.4% (281sq.m) of communal open space in the form of a terrace atop the podium (221sq.m), and a common gym area (60sq.m) which according to ADG guidance, can be attributed towards satisfying communal space requirements.</p> <p>The proposed communal terrace and gym areas are considered to adequately provide for active and passive recreation as well as opportunities for social interaction of residents. For these reasons a minor variation of common open space area requirements is supported.</p> <p>DCP provision 4.2.3.8(2) requires common open space areas to be located and designed to achieve good amenity for the dwellings in terms of solar access, natural air flow and ventilation, and outlook. At least 30% of the required common open space area is to receive 2 hours of direct sunlight between 9am and 3pm on 21 June.</p> <p>The proposed common terrace receives sunlight to an average of 12% (30.5sq.m) of its area for 2 hours between 9am and 3pm on 21 June.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
	Yes	<p>Given the proposed common terrace area will provide access to open air and excellent outlook, the proposed common terrace is considered to contribute to residential amenity in a reasonable manner given its dense CBD context</p> <p><u>Outlook</u></p> <p>All apartments are provided with a pleasant outlook from habitable rooms</p>
	Yes	<p><u>Acoustic privacy</u></p> <p>The proposed residential apartments are able to achieve adequate internal noise levels subject to the noise attenuation measures recommended in the submitted Acoustic Assessment Report.</p>
	Acceptable	<p><u>Flexible housing and dwelling mix</u></p> <p>Thirty-eight per cent (38%) of proposed dwellings are studio or 1 bedroom units.</p> <p>Fifty-four per cent (54%) of proposed dwellings are 2 bedroom units.</p> <p>Eight per cent (8%) of proposed dwellings are 3 bedroom units.</p> <p>The proposal complies with DCP dwelling mix requirements for studio, 1 and 2 bedroom units. The proposal seeks a minor variation to the minimum requirement for 3 bedroom dwellings, which is a minimum of 10% of dwellings in the development.</p> <p>Given the relatively minor variation to the minimum 3 bedroom requirement, the proposal is considered to be acceptable in providing a range of housing options and is supported.</p> <p><u>Note:</u> Other amenity issues not addressed here are matters to which clause (6A) of SEPP 65 applies and which renders those DCP provisions to be of no effect.</p>

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposed massing, articulation, materials and fenestration of the development are considered to provide a distinctive architectural contribution to the area, and to the Sussex Street, Bathurst Street and DrUITT Lane streetscapes.
4.2.6 Waste minimisation	Able to comply	In accordance with DCP requirements separate waste areas are provided for residential and hotel uses.  Conditions are recommended to ensure the proposal can successfully accommodate on-site waste and recycling collection, to provide a separate caged area for residential bulky waste items and for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.
4.2.7 Heating and Cooling Infrastructure	Yes	Adequate internal ducting and areas for residential heating and cooling infrastructure is provided.
4.2.8 Letterboxes	Yes	The proposed mail room is located adjacent to and accessible from the main residential street entry.

<b>4. Development Types</b>		
<b>4.4 Other Development Types and Uses</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.4.8.1 Visitor accommodation – General	Able to comply	<p>The proposed hotel is self-contained with no common access ways with adjacent properties.</p> <p>The indicative layout of hotel rooms satisfy the requirements of this provision.</p> <p>A condition is recommended for a separate DA for the detailed fit out and operational aspects of the hotel to be submitted in future and which must include a Plan of Management and Noise Management Plan.</p>
4.4.8.3 Additional provisions for hotels	Able to comply	<p>A condition is recommended for a separate DA for the detailed fit out and operational aspects of the hotel to be submitted in future and which must include details of maximum numbers of guests per room and maximum permitted length of stays.</p>

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1.1 Street frontage heights	Yes (consistent with Stage 1 envelope)	<p>The proposed development has a variable street frontage height of up to 32.67 metres (RL 40.37) as is consistent with the Stage 1 concept approval.</p> <p>The proposal complies with the permissible street wall height control of between 20-45 metres.</p>

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1.2.1 Front setbacks	Yes (as per Stage 1 envelope modified by D/2014/755/A)	<p>The proposed development has setback the tower form 8 metres from its Sussex Street frontage in accordance with DCP provision 5.1.2.1(1) and as is consistent with the Stage 1 concept approval.</p> <p>DCP provision 5.1.2.1(1) requires a minimum 6 metre setback to Bathurst Street. The tower encroaches upon this minimum setback providing a minimum setback of 4.5 metres at its south-western corner.</p> <p>The proposed setbacks are consistent with the Stage 1 envelope as modified by D/2014/755/A, which is being concurrently assessed.</p> <p>Refer to the Issues section of this report.</p>
5.1.2.2 Side and rear setbacks	Yes (as per Stage 1 envelope modified by D/2014/755/A)	<p>DCP provision 5.1.2.2(2) requires that above a height of 45 metres windows and balconies are to be setback a minimum of 6 metres from side and rear boundaries.</p> <p>The proposed setbacks are consistent with the Stage 1 envelope as modified by D/2014/755/A, which is being concurrently assessed.</p> <p>Refer to the Issues section of this report.</p>
5.1.2.3 Setbacks for buildings fronting lanes	Yes (consistent with Stage 1 envelope)	<p>A nil setback from the lane for the podium levels is consistent with DCP provision 5.1.2.3 which permits new development fronting a lane to be built to the street alignment up to the permitted street frontage height. In this instance, a nil setback to the Druitt Lane frontage is proposed for 9 levels, as is consistent with the approved Stage 1 envelope.</p> <p>How the requirements of this provision relate to separation requirements contained in DCP provision 5.1.2.2(2) noted above, and the separation requirements contained in section 2F and 3F of the ADG are discussed in the Issues section of this report.</p>



<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1.5.2 Building bulk	Yes (as per Stage 1 envelope modified by D/2014/755/A)	The proposed levels above street frontage height have residential floor plates of 66sq.m – 843sq.m and which comply with the requirements of DCP provision 5.1.5.2.
5.1.6 Building exteriors	Yes	The Stage 2 detailed design provides a distinctive architectural contribution to Central Sydney that is responsive to heritage items in the vicinity. This is achieved through the fine grain and vertical massing of the podium and tower, and through the predominance of masonry in its facades and columns.
5.1.9 Award and allocation of heritage floor space	Yes	Refer to the assessment against the provisions of LEP clause 6.11 elsewhere in this report.

## ISSUES

### Consistency with Stage 1 Consent

56. The provisions of Section 83D of the EP&A Act, 1979 state that where a Stage 1 development consent for a site remains in force, that the determination of any further development application in respect to that site cannot be inconsistent with the Stage 1 consent.
57. The table, below, provides an assessment of the proposed development against the key conditions imposed on the Stage 1 development consent, being D/2014/755.

<b>Stage 1 consent requirement</b>	<b>Comment</b>
<p>Approved Stage 1 Development (Condition 2)</p> <p>Location of Residential Land Uses (Condition 4)</p> <p>Building Envelopes (Condition 5)</p> <p>Building Height (Condition 7)</p>	<p>The proposal required modification to the envelope that was approved pursuant to the Stage 1 consent. The extent of variation proposed relates to the provision of an additional 3.25 metres above the maximum height of 80 metres to accommodate rooftop plant, lift overruns, and architectural roof features, and variations to setbacks to Bathurst Street and the eastern boundary.</p> <p>Where variations to the envelope occur these are minor and do not result in any unacceptable adverse amenity or environmental impacts.</p> <p>Further discussion is provided on the extent of variation with the Stage 1 consent elsewhere within this report. Furthermore, in order to ensure consistency between the staged development applications as is required by Section 83D of the EP&amp;A Act, 1979, a concurrent section 96 application has been lodged seeking variation to the building envelope. A separate planning assessment report has been prepared for the section 96 application to the Stage 1 DA (D/2014/755/A).</p>
<p>Residential Land Use (Condition 9)</p>	<p>As detailed elsewhere within this report, the proposed development has been designed to comply with the principles of SEPP 65, BASIX and the relevant residential amenity provisions of the Sydney DCP 2012 and the ADG.</p>
<p>Detailed Design of Building (Condition 10)</p>	<p>The preferred vehicular access to the site is provided from Druitt Lane, in accordance with the requirements of this condition.</p> <p>Drop off arrangements have been adequately addressed by additional transport and traffic information submitted during the assessment period.</p> <p>The activation of Druitt Lane and visually interesting treatment of the exposed side elevation that faces the eastern boundary can be achieved by heritage interpretation and public art, with details to be provided to satisfy recommended conditions.</p> <p>Separate residential and hotel lobbies have been provided as have 3.1 metre floor to ceiling heights to residential levels.</p>

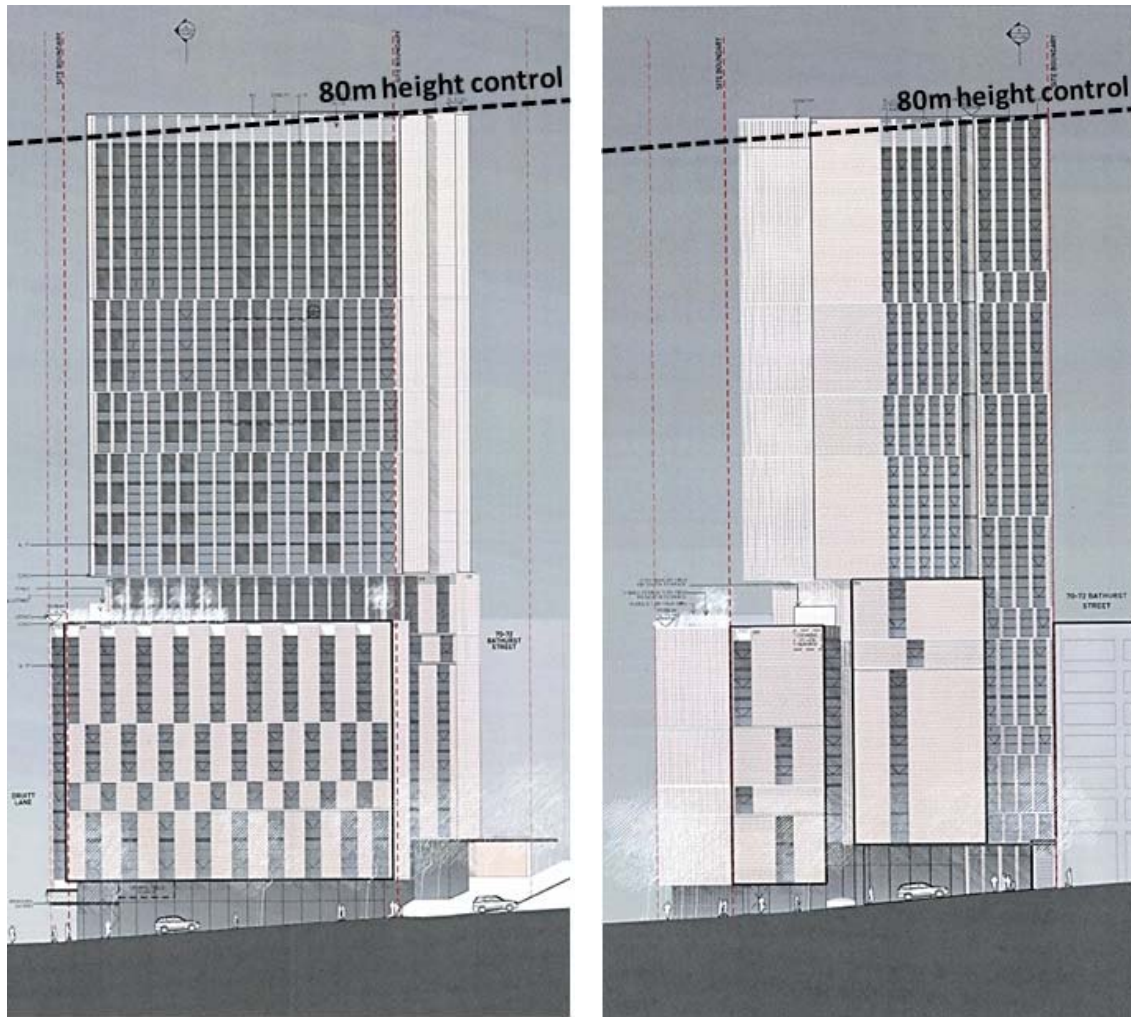
Stage 1 consent requirement	Comment
Hotel Use (Condition 11)	<p>As noted in the DCP compliance table above, some details about the layout, ancillary services, waste and parking arrangements associated with the hotel use have been provided as part of the subject Stage 2 application.</p> <p>The proposal is able to satisfy DCP requirements and therefore Condition 11 subject to the recommended conditions for a separate DA for the detailed fit out and operational aspects of the hotel, including a Plan of Management, a Noise Management Plan, maximum numbers of guests per room and maximum permitted length of stays, to be submitted in future.</p>
Public Art (Condition 12)	A Public Art Strategy including a public art proposal detailing the location of public art, the concept, procurement processes and budget has been submitted as part of the subject Stage 2 application.
Wind (Condition 13)	A Wind Effects Report utilising wind tunnel testing has been submitted and informed the Stage 2 design.
Ausgrid (Condition 14)	Evidence of consultations with Ausgrid have been submitted as part of the Stage 2 documentation.
Contamination – Detailed Site Assessment (Condition 15)	A Detailed Site Assessment and subsequent contamination information has been submitted to the satisfaction of Council’s environmental health specialists.
Air Quality Assessment (Condition 17)	An Air Quality Assessment was submitted as part of the Stage 2 application.
Construction Noise Management Plan (Condition 18)	A Construction Noise Management Plan was submitted as part of the Stage 2 application. Additional information was submitted during the assessment process to the satisfaction of Council’s environmental health specialists.
Residential Acoustic Amenity (Condition 19)	An Acoustic Impact Assessment was submitted as part of the Stage 2 application. Additional information was submitted during the assessment process to the satisfaction of Council’s Environmental Health Specialists.
Car Parking Spaces and Dimensions (Condition 20)  Bicycle Parking and End of Trip Facilities (Condition 21)	<p>The number, location, design and layout of car parking, bicycle parking and end of trip facilities has been established as part of the Stage 2 application.</p> <p>Appropriate conditions have been recommended to ensure all parking spaces are designed in accordance with the relevant standards.</p>

Stage 1 consent requirement	Comment
Loading Within Site (Condition 22)  Traffic Works (Condition 23)  Vehicles Access (Condition 24)  Accessible Parking Space (Condition 25)  Location of Accessible Parking Space (Condition 26)	All loading and unloading to service the site is accommodated within the site.  Appropriate conditions have been recommended to ensure any traffic works are to be approved by the Local Pedestrian, Cycling and Traffic Calming Committee.  The proposed access arrangements are for vehicles to enter and exit in a forward direction.  Appropriate conditions have been recommended to ensure any accessible parking spaces are designed in accordance with the relevant standards and are located in close proximity to lifts.
Car Share Spaces (Condition 27)	Appropriate conditions have been recommended to ensure car share scheme spaces have been provided in accordance with the condition and DCP requirements.
Coach Parking Management Plan (Condition 28)	Proposed use of a public bus zone on Sussex Street for coach parking is not supported by Council or Transport for NSW.  Conditions have been recommended to ensure mini-buses, which can be accommodated on-site, are the largest vehicles used to transport guests to and from the hotel.
Service Vehicle Size Limit (Condition 29)	Swept path diagrams have been submitted as part of the Stage 2 application.
Transport Impact Assessment (Condition 30)	A Transport Impact Study was submitted with the Stage 2 application. Additional information was submitted during the assessment process to the satisfaction of Council's Transport Planner.
Waste Collection (Condition 31)	The subject Stage 2 development application has demonstrated it is generally compliant with the Policy for Waste Minimisation in New Development 2005.
Access and Facilities for Persons with Disabilities (Condition 32)	An Access Report has been submitted as part of the Stage 2 application.
Alignment Levels (Condition 33)  Public Domain Plan (Condition 34)  Public Domain Damage Deposit (Condition 35)	A Public Domain Plan was submitted with the Stage 2 application.  Conditions have been recommended to refine the details of the submitted Public Domain Plan, to ensure alignment levels are correct and to carry Condition 35 for a public domain damage deposit over into any consent granted.

Stage 1 consent requirement	Comment
Transport for NSW Concurrence Conditions (Condition 36)	<p>Condition 36 pertains to requirements the proponent must satisfy in accordance with clause 88 of the SEPP (Infrastructure) 2007 and which are to protect the nearby rail corridor.</p> <p>On behalf of Transport for NSW (TfNSW), Sydney Trains have granted their concurrence, subject to the imposition of deferred commencement conditions to ensure safety, effective operation and structural integrity of the CBD rail link which is in close proximity to the site.</p>
Roads and Maritime Services Conditions (Condition 37)	<p>Condition 37 pertains to requirements the proponent must satisfy in accordance with clause 103 of the SEPP (Infrastructure) 2007 and which are to protect the nearby Cross City Tunnel.</p> <p>RMS made a submission to advise that no objection was raised subject to the carrying over of the requirements of this condition into any Stage 2 approval.</p>

#### Exceptions to Development Standard – Building Height

58. Pursuant to LEP clause 4.3 the site is subject to a maximum permitted building height of 80 metres.
59. The proposal has a maximum height of approximately 83.25 metres to the top of plant and lift overrun, the roof of the Level 25 apartment and to the top of the architectural roof feature as shown at **Figures 20** and **21** below, and which represents a maximum variation of 4% (3.25 metres) to the building height development standard.



**Figures 20 and 21:** Drawings of the western (Sussex Street) elevation (left) and the southern (Bathurst Street) elevation (right). Both elevations illustrate the amended scheme as it relates to the 80m height control.

60. It should be noted that the concurrent assessment of the Section 96 application (D/2014/755/A), has considered the appropriateness of a building envelope in this location to a height of 83.25 metres (or RL 91.300). As such, the development is proposing a height that will be consistent with its Stage 1 building envelope (as amended). Nonetheless, the proposal still represents a numeric variation to the height control.
61. As such, and in accordance with LEP clause 4.6 Exceptions to development standards, the application includes a submission seeking a 4% (3.25 metre) variation to the maximum height of buildings development standard.
62. Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Director-General's concurrence can be assumed where clause 4.6 is adopted as per Department of Planning Circular PS 08–003 dated 9 May 2008.

63. In order to understand whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the height of buildings development standard has been considered against the objectives and provisions of clause 4.6 below.
64. LEP clause 4.6(4)(a)(ii) requires that the consent authority must be satisfied that the proposed development is consistent with the objectives of the development standard and the objectives for development within the zone.
65. The relevant objectives of the development standard are:
- (a) to ensure the height of development is appropriate to the condition of the site and its context;
  - (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas;
  - (c) to promote the sharing of views; and
  - (d) to ensure appropriate height transitions from Central Sydney to adjoining areas.
66. The proposal is considered to be consistent with those objectives under LEP clause 4.3 for the following reasons:
- (a) the height of the development is appropriate to its site and context because:
    - (i) the site's sloping topography, which falls approximately 5.5 metres southeast to northwest, establishes a similarly sloping maximum height plane of 80 metres across the site pursuant to LEP clause 4.3;
    - (ii) the detailed design of the building and of building services, has located the necessary plant and lift overrun so as to minimise any visual or other impacts and which protrude above the maximum 80 metre height plane and outside the previously approved Stage 1 envelope by between 120 and 600 millimetres;
    - (iii) the detailed design incorporates an architectural roof feature being an upward projection of facade elements to screen the rooftop plant and equipment described above and to finish off the building;
    - (iv) the architectural roof feature satisfies the requirements contained in LEP clause 5.6 as it does not cause adverse visual impacts, rather it reduces the adverse visual impacts of the development by screening unsightly rooftop equipment. It is integral to the form of the building; and
    - (v) as discussed in the assessment report for the proposed modification of the Stage 1 envelope, the negligible net overshadowing impacts of the proposed modification are considered to be minimal in the dense urban context of the CBD and are acceptable;
  - (b) the development ensures an appropriate height transition to adjacent heritage items:

- (i) as per the advice of Council's Heritage Specialist, the proposed vertical massing of the podium and tower is responsive to heritage items in the vicinity and provides a suitable backdrop to Sydney Town Hall and St Andrews Cathedral;
  - (c) the verticality of its form promotes view sharing by reducing the impact on views from Sydney Square and its state listed heritage buildings; and
  - (d) it provides an appropriate height transition from its location on the western edge of Central Sydney to areas adjacent to the west in Darling Harbour which are currently undergoing a similar transformation.
67. The relevant objectives of the Zone B8 Metropolitan Centre are:
- (a) to recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy;
  - (b) to provide opportunities for an intensity of land uses commensurate with Sydney's global status;
  - (c) to permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community;
  - (d) to encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling; and
  - (e) to promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.
68. As noted elsewhere in this report the proposal is for a residential flat building and hotel accommodation and which are permitted in Zone B8 Metropolitan Centre and are considered to be consistent with the objectives of the zone.

### **Setbacks**

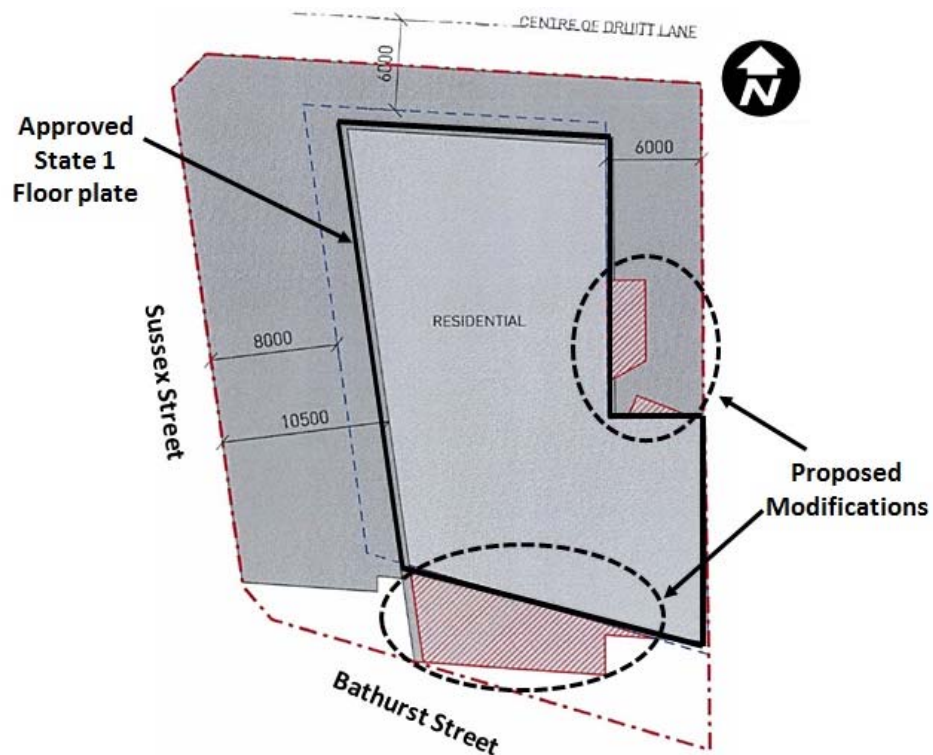
69. The section 96 modification (D/2014/755/A) being assessed concurrently with this application modifies the Stage 1 approved envelope to accommodate changes to massing and floor plates from level 9 to roof level to its eastern and Bathurst Street frontages. **Figures 22 to 25** below illustrate the modified floor plates and highlight the variation sought from the originally approved Stage 1 building envelope.

### Front setbacks

70. As shown in **Figure 22** below, the proposed modifications include an increase to the streetwall height to the Bathurst Street frontage by extending the floor plates of podium levels 9 and 10 to the property boundary. Provision 5.1.1(1) of the Sydney DCP 2012 (the DCP) requires a street frontage height of between 20 and 45 metres. This modification raises the Bathurst Street frontage height from 30 metres to about 34 metres and complies with DCP street frontage height requirements.



71. DCP provision 5.1.2.1(1) requires a minimum 6 metre setback to Bathurst Street. As shown in **Figures 22 to 25** below, the proposed modifications to the floor plates of tower levels 11 to roof level, encroach upon this minimum setback providing a minimum setback of 4.5 metres from the property boundary with Bathurst Street at the tower's south-western corner.
72. The reduced setback to Bathurst Street emerged as a result of the winning design, which sought to better articulate the massing of the building and to avoid a monolithic form that simply occupied the entirety of the approved Stage 1 envelope. The result is a well-integrated podium and tower form that is stepped to respond to the sloping topography of the site, with recesses and openings that provide light and air deep into the building, and which responds to the smaller buildings that characterise the Bathurst Street streetscape.
73. For these reasons a variation to setback requirements contained in DCP provision 5.1.2.1(1) as they pertain to the Bathurst Street frontage are supported.



**Figure 22:** Proposed modifications to floor plates – levels 9 to 10.

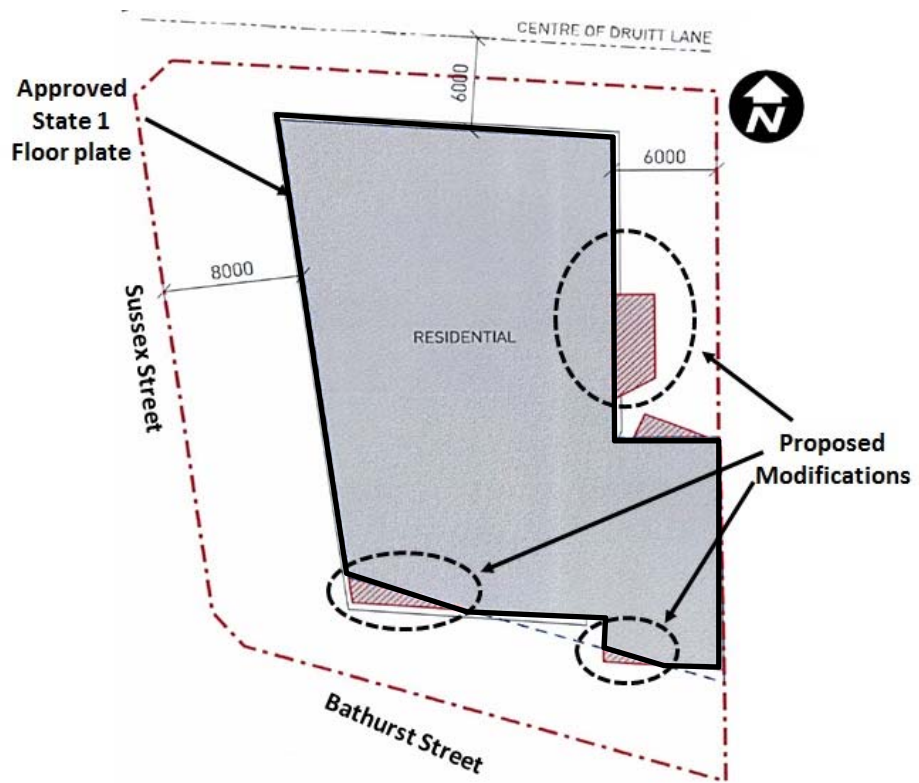


Figure 23: Proposed modifications to floor plates – levels 11 to 24.

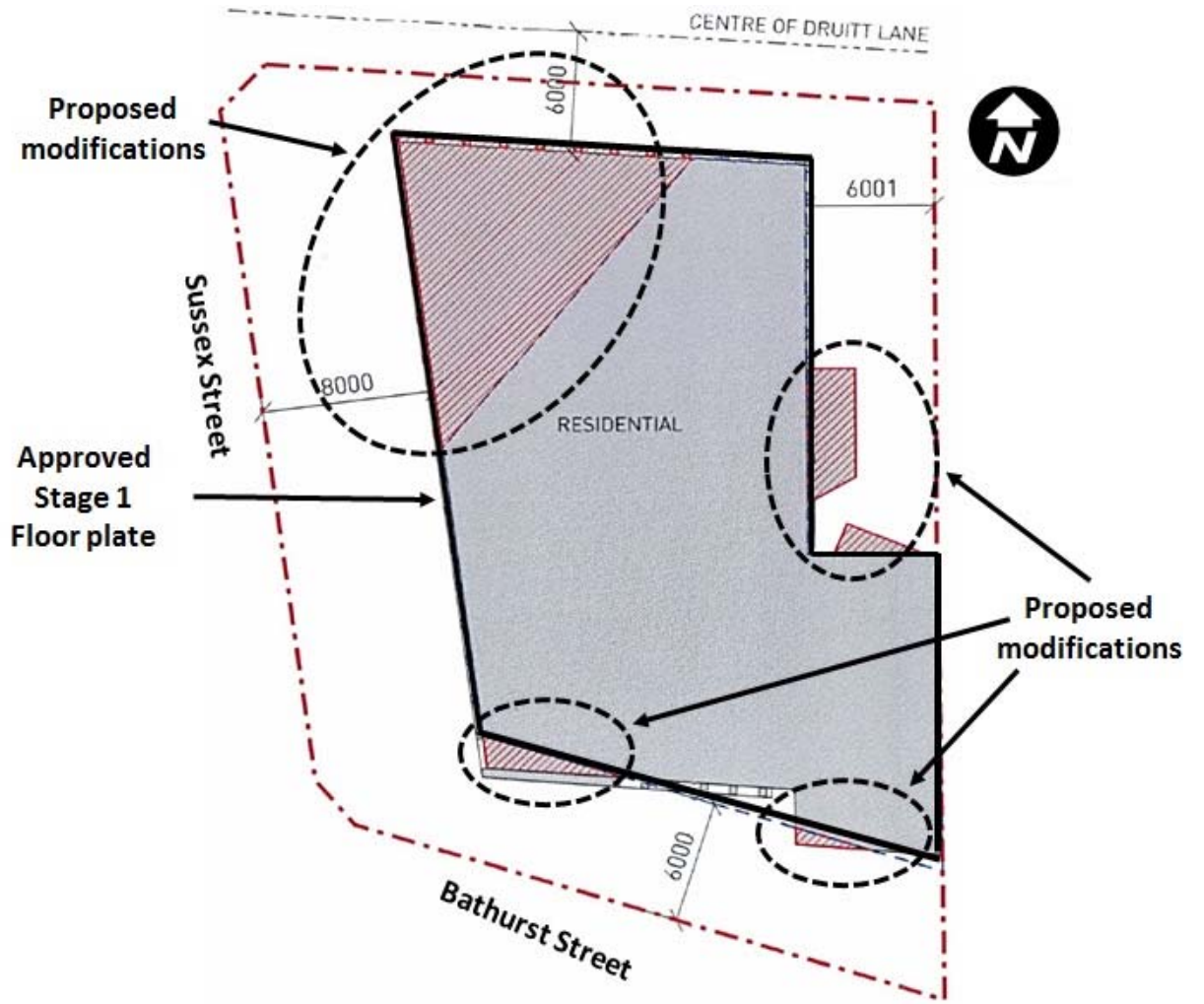


Figure 24: Proposed modifications to floor plate – level 25.

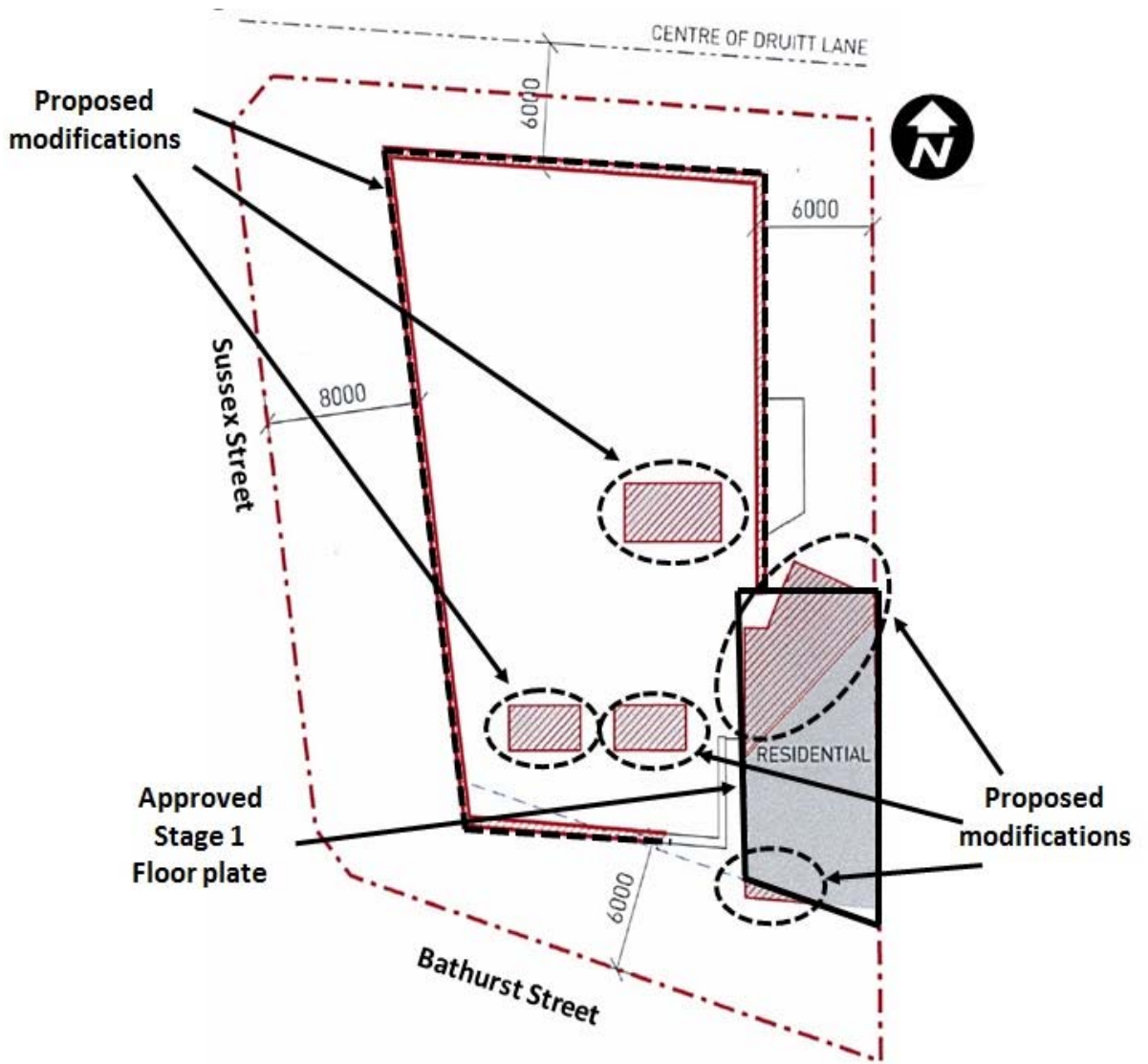
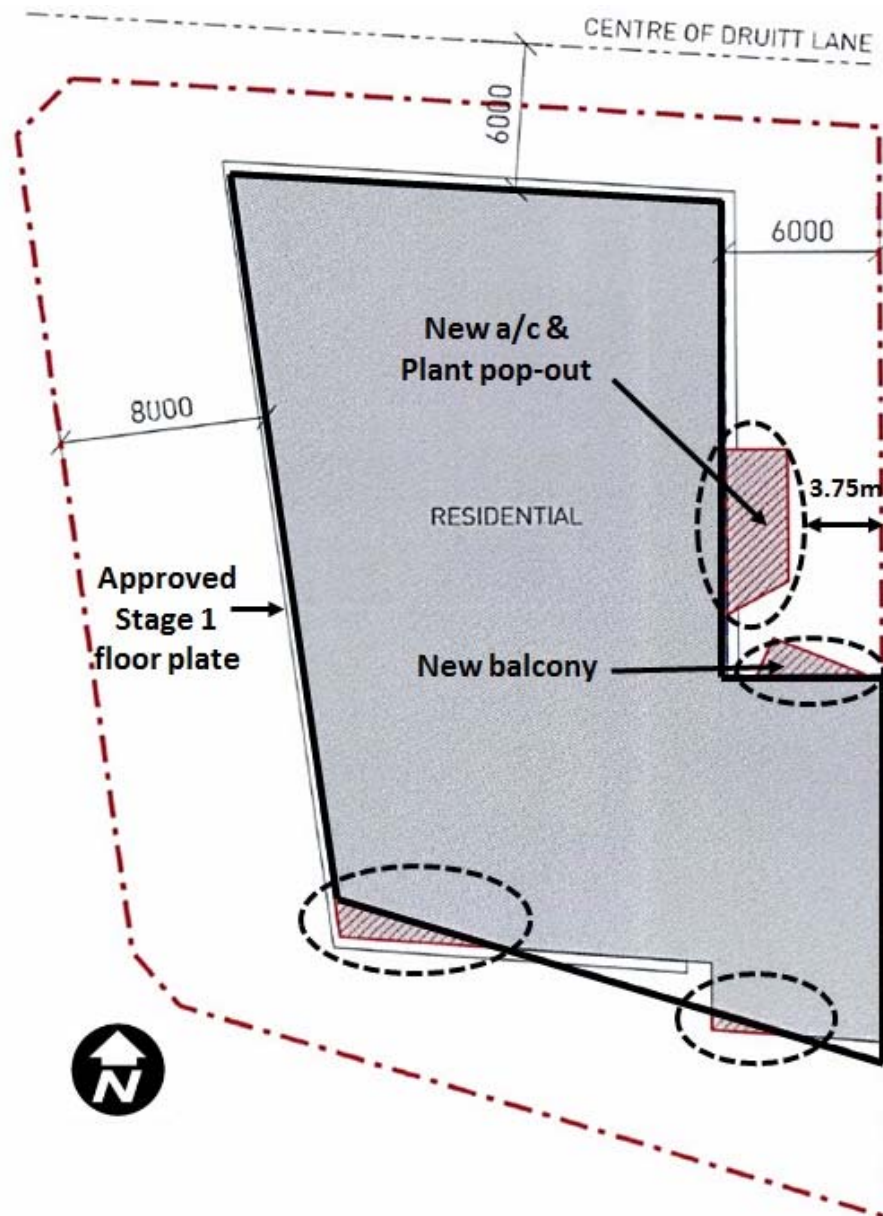


Figure 25: Proposed modifications to roof level.



**Figure 26:** New pop-out plant areas and balconies adjacent to the eastern boundary.

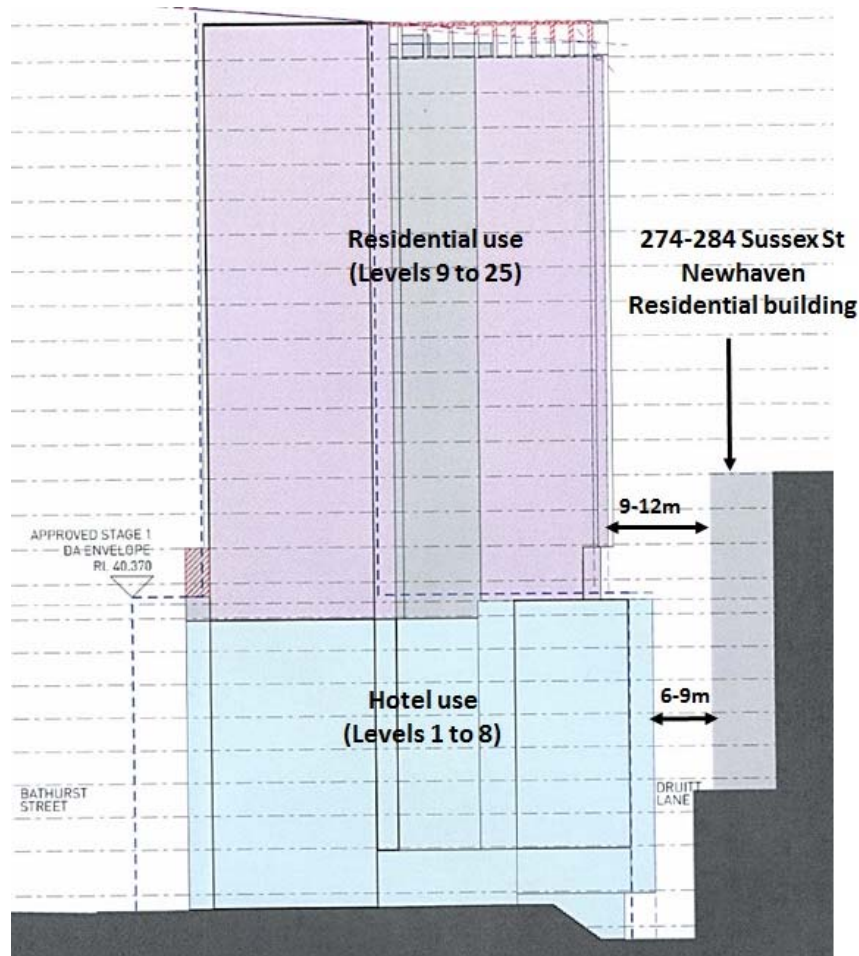
#### Side and rear setbacks

74. DCP provision 5.1.2.2(2) requires that above a height of 45 metres windows and balconies are to be setback a minimum of 6 metres from side and rear boundaries.
75. Level 14 of the proposed tower on the eastern side of the building is at a height of about 45 metres. As shown in **Figures 23 to 26** above, on each floor from Level 14 to the uppermost floor (Level 25), the proposal incorporates new north-facing balconies to the apartments in the south-western corner of the floor plate and which encroach on the minimum 6 metre setback zone to the eastern boundary. These elements are a modification of the previously approved Stage 1 envelope being assessed concurrently under section 96 application (D/2014/755/A).
76. The proposed variations to setback requirements contained in DCP provision 5.1.2.2(2) are considered to be acceptable for the following reasons:

- (a) the adjacent property to the east at 499-501 Kent Street is identified as a local heritage item (I1834), the Former Universal Film Manufacturing Company warehouse and yard. Council's Heritage Specialist has reviewed this aspect of the proposal and has advised that the proposed tower adopts an appropriate spatial relationship with the adjacent heritage item that retains potential for the heritage item to be further developed and extended along its DrUITT Lane frontage;
  - (b) at a height of 45 metres (Level 14 is at RL 53.95) the subject balconies are well above the highest habitable levels of the building at 499-501 Kent Street (the fourth storey has a floor level of about RL 26.00);
  - (c) the balconies are oriented to the north and any outlook towards that adjacent building is only oblique and indirect;
  - (d) in the unlikely event that the adjacent heritage building were developed, any direct views between the buildings could be avoided by orienting the new openings towards the north in a similar manner to the openings of the proposed balconies;
77. As shown in **Figures 23 to 26** above, on each floor from Level 14 to the uppermost floor (Level 25), the proposal also incorporates new pop-out elements to the eastern facade to accommodate air conditioning condensers and equipment to serve apartments on the same floor. These elements are also a modification of the previously approved Stage 1 envelope being assessed concurrently under section 96 application (D/2014/755/A) these protrusions are not habitable space.
78. These plant areas present a blank wall of ventilation louvers and the like towards the eastern boundary and are not subject to the requirements of DCP provision 5.1.2.2(2) which apply to windows and balconies of residential buildings and serviced apartments.

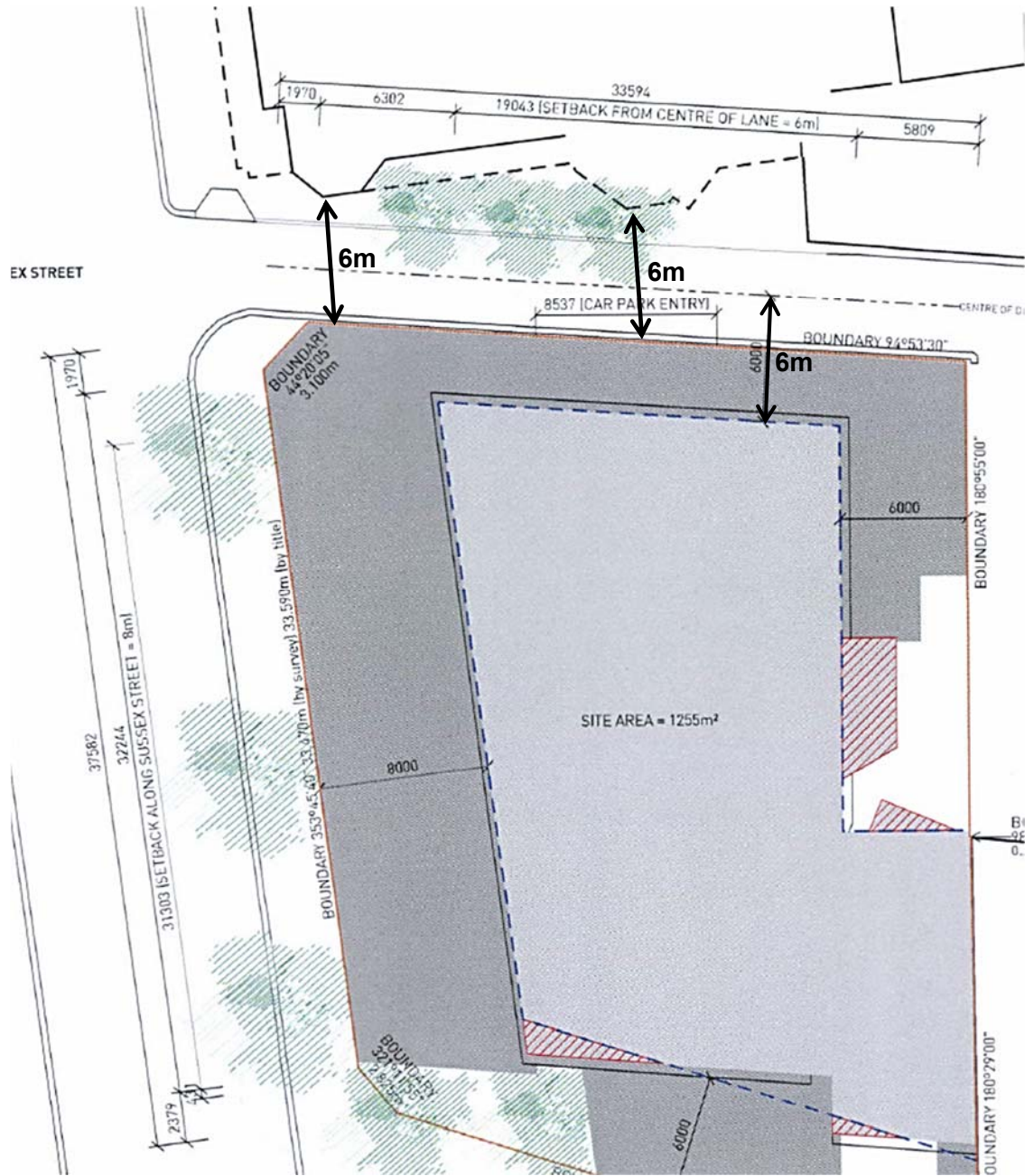
#### **Separation across DrUITT Lane**

79. As detailed in **Figure 27**, below, the podium (ground to Level 8) of the subject development is proposed to have a nil setback along the northern boundary of the site to DrUITT Lane. This equates to a separation between the Stage 1 approved hotel podium and the existing residential building to the north, known as 'Newhaven' (278-284 Sussex Street), of between 6 to 9 metres.
80. A nil setback from the lane for the hotel podium levels is consistent with the requirements contained at DCP provision 5.1.2.3, which permits new development fronting a lane to be built to the street alignment up to the permitted street frontage height. In this instance, a nil setback to the DrUITT Lane frontage is proposed for 9 levels, as is consistent with the Stage 1 approved building envelope.



**Figure 27:** Proposed separation distances achieved across DrUITT Lane.

81. DCP provision 5.1.2.2(2) noted in the DCP compliance table above, also requires separation between residential buildings and any commercial use (which a hotel is defined as for the purposes of this section of the DCP) of 9 metres.
82. In this instance, a separation of 7 to 9 metres is achieved from the proposed northern wall of the podium to the south facing windows of the Newhaven building (located on the opposite side of DrUITT Lane). A review of the floor plans of the Newhaven building has revealed that the windows that are directly oriented south towards DrUITT Lane are bedroom windows and are not the principal living windows of these apartments.
83. Where the separation between the buildings is reduced to a minimum of 6 metres, this is limited to two locations along the facade, as illustrated on **Figures 28** and **29**, below, with these being to a blank side wall and the other to the side elevation of a balcony.



**Figure 28:** Locations where separation between proposed hotel podium and adjacent residential building across lane is 6 metres.

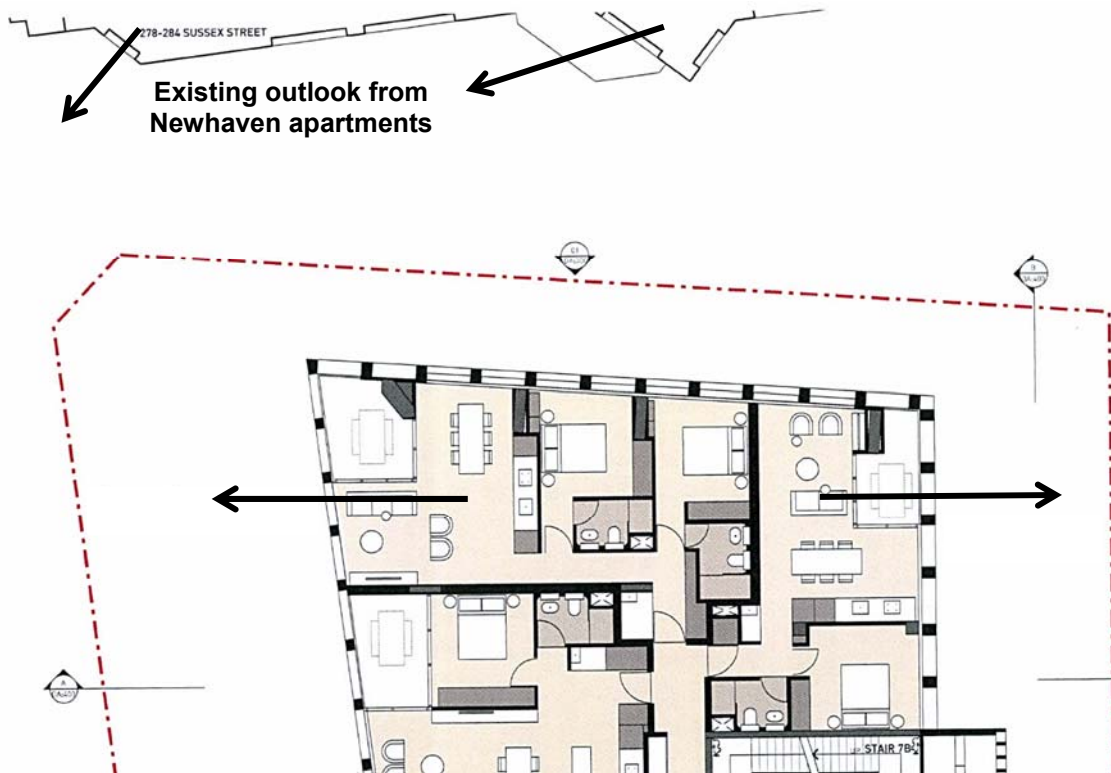




**Figure 29:** View of the southern elevation of the Newhaven residential building.

84. The separation distances across the lane (for the hotel podium levels) is considered to be adequate as:
- (a) there is only one location where an area of principal open space or living room would not be separated from a commercial use by the desired separation of 9 metres. It is noted that this living room window and its associated balcony are not oriented to the south (towards the site) but rather towards the southwest (i.e. towards Sussex Street);
  - (b) the existing commercial building on the subject site is built to the northern property boundary with Druitt Lane and already contains windows on its northern elevation. As a hotel is defined as a commercial use, the proposal is not resulting in any greater privacy impacts than the existing situation; and
  - (c) the separation distances from the building across the laneway, as described above, are consistent with the Stage 1 approved building envelope.

85. As shown in **Figure 28** above, the tower floor plate (the tenth to twenty-sixth storeys) has been setback 6 metres from the centre of Druitt Lane, in accordance with DCP laneway setback requirements and which achieves a separation between the proposed apartments and the Newhaven apartments to the north (278-284 Sussex Street) of between 9-12 metres. This is consistent with the Stage 1 approved building envelope.
86. While the tower envelope has been designed to comply with laneway setback provisions of the DCP, it is noted that the separation between the two residential buildings does not achieve the recommended separation requirements contained in the Apartment Design Guide (ADG). The ADG recommends a separation of between 18 to 24 metres, depending on whether habitable rooms or non-habitable rooms are located opposite each other.
87. As was considered in the Stage 1 development application assessment report, in the CBD context the proposal is considered to be acceptable for the following reasons:
- (a) the proposed podium and tower comply with DCP laneway setback requirements;
  - (b) the Newhaven building is built to its property boundary with Druitt Lane. Therefore to achieve a numerically compliant setback as per the ADG would require the tower to be setback a further 15 metres, and which would be to sterilise the site from accommodating any viable tower form;
  - (c) as the Newhaven is only 16 storeys in height, only the upper 4 storeys (equivalent to the tenth to thirteenth storeys on the subject site) are separated by less than that recommended by the ADG. For the thirteenth storey and above, separation is no longer an issue;
  - (d) as shown in **Figure 30** below, of the seven apartments at the northern end of the floorplate and accommodated on the tenth to thirteenth storeys, the living areas and balconies are generally oriented to the east or west, whereas windows and balconies in the Newhaven are angled away from the subject site and towards Sussex Street. Through the orientation of living areas, balconies, the thick columns and predominance of masonry facades, it is considered that the Stage 2 detailed design of the subject apartments have adequately addressed privacy and overlooking conflicts arising at these sensitive points of interface between the buildings across the lane; and
  - (e) the separation distances from the building across the laneway, as described above, are consistent with the Stage 1 approved building envelope.



**Figure 30:** Orientation of living areas and balconies to the east and west of the proposed residential apartments in the tower ameliorate visual privacy conflicts.

### Overshadowing

88. Variations to the LEP height control and above the originally approved Stage 1 building envelope have been assessed as having negligible net overshadowing impacts that are acceptable in the dense urban context of the CBD. That assessment is detailed in the assessment report for the proposed section 96 modification application (D/2014/755/A) under concurrent assessment.

### Vehicular Access, Traffic and Parking

89. As noted in the DCP compliance table in this report, a majority of the public submissions received objected to adverse traffic impacts arising from the development, and in-particular to the proposed location of the vehicular entrance to Druiitt Lane.
90. The Stage 1 development application assessment report states that the existing site currently has dual vehicle access locations, one from Sussex Street and one from Druiitt Lane, and that the indicative ground floor plans submitted with original Stage 1 proposal included a single vehicular access via Sussex Street.
91. The applicant's rationale for providing vehicle access via Sussex Street at the time of the Stage 1 development application was that Druiitt Lane was not wide enough to accommodate a standard sized waste collection vehicle. The Stage 1 development application assessment report states that this did not stand up to scrutiny as Council's garbage trucks already drive on Druiitt Lane to service other properties in the vicinity of the site.

92. Based on the advice of Council's Transport Planners and as is consistent with DCP provision 3.11.11(12) that requires that where rear lane access is achievable car parking is to be designed to be accessed from the rear lane only, the following conditions were imposed on the Stage 1 consent to address this issue:
- (a) Condition (3) Matters Not Approved, and which states that the vehicular access/crossover location on Sussex Street is not approved;
  - (b) Condition (10) Detailed Design of the Building, and which states that the design brief for the competitive design process shall incorporate vehicle access to the site from Druitt Lane, with a thorough investigation of vehicle access opportunities to be submitted as part of the Stage 2 Development Application; and
  - (c) Condition (30) Transport Impact Assessment, and which states that a detailed Transport Impact Study must be prepared in accordance with the provisions of Section 7.4 of SDCP 2012, and shall be submitted with the Stage 2 Development Application.
93. In accordance with Condition (10) of the Stage 1 consent (D/2014/755), the design brief for the competitive design process, as endorsed by Council, did include the requirement for vehicle access to be provided from Druitt Lane and a thorough investigation of vehicle access opportunities to be included in the competition design entries.
94. The winning scheme from Smart Design Studios incorporated access from Druitt Lane, and in accordance with Condition (30) of the Stage 1 consent (D/2014/755), a Traffic Report was submitted with the Stage 2 development application.
95. The provision of vehicular access via Druitt Lane is consistent with DCP provision 3.11.11(12), it provides a better ground level public domain interface to the site's main Sussex and Bathurst Street frontages, and avoids risks to pedestrian safety posed by providing a vehicle crossover to Sussex Street, a higher order road to which Druitt Lane is subordinate in the hierarchy of local streets.
96. Amended plans have deleted the vehicle pick-up and drop-off zone on Druitt Lane and provided vehicle pick-up and drop-off parking spaces, i.e. service parking spaces, within the basement. Coach parking will not be provided on site, but rather how any coach services are managed are considered to be able to be addressed by recommended conditions requiring a coach management plan. This may involve coaches parking at a nearby coach terminal and passengers being shuttled to the site by mini-bus.
97. The proposal has been reviewed by RMS and Transport for NSW's CBD Light Rail Coordination Office. Subject to recommended conditions, no objection has been raised about the proposed vehicle access arrangements or other traffic impacts arising from the development.

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

98. The proposed development is capable of complying with the BCA.
99. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

**Suitability of the site for the Development**

100. The proposal is of a nature in keeping with the overall function of the site.

**INTERNAL REFERRALS**

101. The assessment process and conditions of consent have been informed by advice from Council's:

- (a) Heritage and Urban Design Specialists;
- (b) Building Surveyor;
- (c) Specialist Surveyor;
- (d) Environmental Health Specialist;
- (e) Public Domain and Infrastructure Specialists;
- (f) Transport Planner;
- (g) Tree Management Specialist;
- (h) Waste Management Specialist;
- (i) Landscaping Specialist;
- (j) Public Art Specialist; and
- (k) Quantity Surveyor.

102. Where appropriate, conditions recommended by these referrals have been included for imposition on any consent given.

**EXTERNAL REFERRALS****CBD Coordination Office**

103. As the development is in close proximity to the Sydney Light Rail Project currently under construction on George Street, the application was referred to the TfNSW CBD Coordination Office on 2 December 2015.

104. In correspondence, dated 21 January 2016, TfNSW CBD Coordination Office provided comments on the proposal raising no objection, subject to the imposition of conditions.

**Notification, Advertising and Delegation**

105. In accordance with Schedule 1 of the Sydney DCP 2012, the subject application was notified and advertised for a period of 28 days, plus an additional week over the end of year holiday period, from 4 December 2015 to 11 January 2016. Fifteen (15) submissions were received. Issues raised in submissions are summarised and responded to as follows:

- (a) Currently my level 12 apartment in the Newhaven Building has a balcony to Druitt Lane. At present it does not have views to, nor is it overlooked by other apartments on the subject site. I would like to ensure the new development does not have a balcony to Druitt Lane and if it does can it have shutters to ensure privacy.

**Response** – As discussed elsewhere in this report, as the Newhaven is only 16 storeys in height, only the upper 4 storeys (equivalent to the tenth to thirteenth storeys on the subject site) are separated by less than that recommended by the ADG. For the thirteenth storey and above, separation is no longer an issue. Of the seven apartments at the northern end of the floorplate and accommodated on the tenth to thirteenth storeys, the living areas and balconies are generally oriented to the east or west, whereas windows and balconies in the Newhaven are angled away from the subject site and towards Sussex Street. Through the orientation of living areas, balconies, the thick columns and predominance of masonry facades, it is considered that the Stage 2 detailed design of the subject apartments have adequately addressed privacy and overlooking conflicts arising at these sensitive points of interface between the buildings across the lane.

- (b) There are many issues that are not adequately addressed by the submitted Construction Management Plan including proposed date of commencement of works, the duration of works, access arrangements during fit out, street closures, and maintaining access to Druitt Lane for residents of the Newhaven Building. During demolition vehicles associated with the development should not be permitted to use Druitt Lane.

**Response** – The commencement date and duration of works are not stated in the Construction Management Plan as they are unknown at this time. Council's Environmental Health Specialist has reviewed the proposal including the Construction Management Plan and has requested that the Construction Management Plan be amended to ensure neighbours are notified of the commencement and duration of works at an appropriate time. Conditions are recommended for a Construction Traffic Management Plan, Work Zone and other arrangements for activities that affect access or require road closures and the like, to be submitted and approved by Council.

- (c) Given the scale of works associated with demolition, excavation and construction the developer should pay for and prepare a Dilapidation Report for the Newhaven building and the property at 493-497 Kent Street, prior to commencement of such works.

**Response** – A condition is recommended for a dilapidation report to be prepared for adjacent properties including the Newhaven Building and the property at 493-497 Kent Street, prior to commencement of work on site.

- (d) Construction times should be different to those of a normal CBD build due to the close proximity of residential dwellings such as those in the Newhaven Building.

**Response** – A standard condition is recommended to restrict construction hours in accordance with *City of Sydney Code of Practice for Construction Hours/Noise 1992*, which requires that all work 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.

- (e) The Stage 1 consent required that the developer ‘fully explore and assess’ the possibility of moving the car park entry/exit and loading docks from Sussex Street to DrUITT Lane. The Stage 2 application has failed to fully explore and assess this, and has since fundamentally changed the nature of the development by adding a 152 room hotel. The architect of the Stage 1 proposal was aware of the problems with providing vehicle access via DrUITT Lane, and accordingly situated the vehicle access in Sussex Street.

**Response** – As discussed in the Issues section of this report, Condition (10) – Detailed Design of the Building, of the Stage 1 consent (D/2014/755), required that the design brief for the competitive design process incorporate vehicle access to the site from DrUITT Lane, with a thorough investigation of vehicle access opportunities to be submitted as part of the Stage 2 Development Application. The thorough investigation was to be into whether DrUITT Lane was wide enough for garbage and service vehicles to turn into the site. The winning design scheme submitted during the design competition, the subsequent Stage 2 proposal and the Stage 2 application traffic report and supplementary submissions have adequately demonstrated that garbage and service vehicle access can be provided via the lane. The original Stage 1 proposal was for ground floor retail, with residential apartments above in a podium and tower. During the Stage 1 assessment process the indicative land uses were changed to a hotel in the podium with residential apartments above in a tower. The amended Stage 1 proposal was re-notified and submissions received and considered by the consent authority before approving the Stage 1 proposal. The architect of the Stage 1 proposal submitted a design scheme during the design competition but was not successful.

- (f) Particular concerns are raised about the proposed taxi pick-up/drop-off zone near the corner of DrUITT Lane and Sussex Street as it is directly opposite the vehicle entrance to the Newhaven Building and the bedroom windows of apartments at upper levels. Noise will travel up from people being picked-up/dropped-off and from taxis blocking traffic entering the Newhaven Building.

**Response** – Amended plans have been submitted and which delete the taxi pick-up/drop-off zone near the corner of DrUITT Lane and Sussex in response to concerns raised in objections and by Council officers.

- (g) Council's policy is to increase street front activation of its laneways. The Clean Health Fitness Institute has provided activation to its DrUITT Lane frontage at 499 Kent Street, a dental surgery has opened at the ground floor level of the Newhaven Building and the owners of 493-497 Kent Street had intended to provide a commercial tenancy to DrUITT Lane but would not proceed with this if the DrUITT Lane vehicle access is approved as part of the development at 286 Sussex Street.

**Response** – As noted elsewhere in this report, the provision of vehicular access via Druitt Lane is consistent with Council’s planning controls [DCP provision 3.11.11(12)]. The proposal is able to comply with the maximum car parking rates in Council’s planning controls (clauses 7.5 and 7.9 of the LEP) and seeks to locate the new vehicle entrance in proximity to the existing loading dock to Druitt Lane and which is opposite the vehicle entrance of the Newhaven Building. The amended proposal wraps the hotel lobby some 12 metres along its Druitt Lane frontage and is subject to conditions for provision of public art and heritage interpretation panels to its Druitt Lane frontage in accordance with Council’s planning policies [DCP provision 3.1.1.3(2)(a)] for the provision of active uses at ground level adjacent to lanes.

- (h) The applicant’s submitted traffic report and supplementary information to address Council’s concerns about adverse traffic and parking impacts have not adequately responded to the issues raised. In-particular the traffic modelling does not adequately detail its methodology and fails to account for increased traffic generated by the residential tower, the hotel, its function rooms, bars and restaurants, increased traffic impacts arising from the imminent closure of George Street, and they have not consulted with other users of Druitt Lane to understand how they currently use the lane.

**Response** – As noted elsewhere in this report, the proposed number of car parking spaces are able to comply and vehicle access arrangements do comply with Council’s planning controls. Since the aforementioned objection was raised, further traffic information was submitted to and reviewed by Council’s Transport Planner who has advised that subject to the recommended conditions the proposal will be able to function without unacceptable impacts to surrounding streets and lanes.

- (i) Failure to provide a pick-up/drop-off zone within the site for taxis, private cars and coaches will lead to vehicles illegally stopping in Druitt Lane and Sussex Street and will cause major traffic problems in the area. A pick-up/drop-off zone for taxis, private cars and coaches should be provided within the site, accessed from Sussex Street.

**Response** – As noted elsewhere in this report, a pick-up/drop-off zone was proposed as part of the original Stage 2 development application. As the said zone encroached upon the public domain, Council officers requested that it be deleted and that an alternative arrangement be provided to address pick-up/drop-off activities generated by the proposal. Since the aforementioned objection was raised further traffic information was submitted to and reviewed by Council’s Transport Planner who has advised that subject to the recommended conditions the proposal will be able to provide for pick-up/drop-off activities within the site without unacceptable impacts to surrounding streets and lanes.

- (j) Druitt Lane is regularly used by local residents, students of St Andrews school, students from colleges in the area and CBD workers, all of which walk within the carriageway, as footpaths in the lane are very narrow. Druitt Lane is in a school zone. People walking up the lane towards St Andrews school have their backs to one-way traffic driving along the lane. The applicant’s submitted traffic report and supplementary submissions fail to adequately address the shared-zone conditions of the laneway and increased risks to pedestrian safety as a result of traffic generated by the proposed development.



**Response** – As noted elsewhere in this report, the proposed number of car parking spaces are able to comply and vehicle access arrangements do comply with Council's planning controls. To require the relocation of the vehicle access to Sussex Street would be to the detriment of the building's main public domain interface and would increase pedestrian safety risks to Sussex Street, a higher order road to which Druitt Lane is subordinate in the hierarchy of local streets.

- (k) The City of Sydney's Street Design Code, by Jan Gehl and endorsed by Council refers to Druitt Lane and states 'The aim of the laneway is to provide increased pedestrian access where ground floor uses activate the space and allow for low levels of vehicle and servicing access'. Council's policy intention for Druitt Lane to be retained and its pedestrian amenity to be improved, is also stated in the *City of Sydney - Policy for the Management of Laneways in Central Sydney 1993* (the Laneways Policy). The proposal to provide vehicular access to the proposed development via Druitt Lane and the applicant's submitted traffic report and supplementary information does not represent low levels of vehicle and servicing access and is in breach of the Street Design Code and the Laneways Policy.

**Response** – DCP provision 3.1.1.1(1) states that new streets, lanes and footpaths are to be constructed in accordance with the Sydney Streets Design Code. Druitt Lane is an existing lane and is not a new lane proposed as part of the subject application. Therefore, the proposal is not subject to the Sydney Streets Design Code and the guidelines contained therein. DCP provision 1.6 identifies the *City of Sydney - Policy for the Management of Laneways in Central Sydney 1993* as being among those policies that were repealed upon the DCP coming into force and is not a matter for consideration in this assessment. As noted elsewhere in this report, the provision of vehicular access via Druitt Lane is consistent with Council's planning controls [DCP provision 3.11.11(12)] and policy intent.

- (l) The main fire exits for the proposed development open onto Druitt Lane. Expecting nearly all of the building's occupants to exit onto the 500mm-700mm wide footpath of Druitt Lane will result in people exiting onto the carriageway itself, is a safety risk, will obstruct any fire brigade vehicles from accessing the hydrant and boosters also located on the Druitt Lane frontage, and fails to adequately address the provisions for escape contained in Part D of the BCA.

**Response** – Council's Building Surveyor has reviewed the proposal and has recommended conditions for the development to comply with the requirements of the BCA, including those relating to fire safety and egress.

- (m) Whenever the doors to the Fire Sprinkler Booster Cupboard doors are opened, these will block access completely to the public footpath – forcing people onto the roadway. Those doors will be used regularly as the essential fire-fighting services have to be checked and maintained on a regular basis. Pedestrians should not have to be forced onto the roadway due to the encroachment over a public footpath of a proposed new building.

**Response** – A condition has been recommended to ensure that no portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

- (n) The properties at 499 and 493-497 Kent Street both have loading docks fronting Druitt Lane and the Newhaven Building's car park cannot accommodate vans or trucks. Any time any of these buildings are serviced by trucks or vans for the purposes of loading, traffic cannot pass through the lane. These arrangements were approved by Council and whenever this situation arises vehicle access to and from 286 Sussex Street will come to a standstill. The applicant's submitted traffic report and supplementary information has not considered these scenarios. This problem could be easily resolved by locating the vehicle access in Sussex Street.

**Response** – The lower (western) end of Druitt Lane, west of the loading dock of 493-497 Kent Street is a *No Parking* zone. To the east of the loading dock of 493-497 Kent Street to its intersection with Kent Street, Druitt Lane is a *No Stopping* zone. No Parking zones allow vehicles to stop for set-down of passengers for 2 minutes with the driver having to remain within 3 metres of the vehicle. No Stopping zones do not allow for the vehicle to stop at all. Council development consents for the location of roller doors and loading docks do not override the Australian Road Rules, which must be observed by all drivers. As such, this is not a valid grounds for objection and is not a matter to be addressed by the submitted traffic report.

- (o) The proposal does not comply with DCP setback requirements to its southern (Bathurst Street) frontage and to the heritage item to the east. The southern setback of the level 9 gym and plant room should be setback further, eastern setbacks of air conditioning condensers and balconies should be setback further to provide adequate separation for privacy, and to the heritage item.

**Response** – It is considered that the proposed development provides adequate setbacks to its Bathurst Street frontage and to its eastern boundary with the adjacent heritage item, as discussed elsewhere in this report.

- (p) As it is likely that the existing building to be demolished contains asbestos, measures must be put in place to ensure asbestos does not escape and contaminate adjacent properties.

**Response** – Conditions are recommended for the proper management and removal of any asbestos in the existing building.

- (q) Any public art associated with the development should be subject to a separate DA because at this stage it is unknown what is being proposed and also so consideration is given to residents of the Newhaven Building, particularly if the public artwork involves lighting.

**Response** – Conditions are recommended for the interests of owners and occupants of adjacent properties to be taken into account during the public art design process, which is to be approved by Council's public art and planning officers.

## PUBLIC INTEREST

106. 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**

107. The development is subject to a Section 61 Contribution pursuant to the City of Sydney Act 1988 and the Central Sydney Development Contributions Plan 2013, which equates to 1% of the total cost of the development. The contribution amount is required to be verified at Construction Certificate stage, and would be approximately \$972,422.38 (based on the current construction costs of the project).

**RELEVANT LEGISLATION**

108. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

109. The subject application is for a 26 storey mixed use development, with a gross floor area of 15,179sq.m, that accommodates 95 residential apartments, 152 hotel rooms, and car and bicycle parking, loading, waste and storage in 5 basement levels, at 286-296 Sussex Street, Sydney.
110. The proposal has been amended during the assessment period to address concerns raised relating to height, wind affected balconies, activation of lanes, traffic and vehicular access, internal amenity, acid sulphate soils, construction noise, wind and reflectivity, and public art details. Amended plans and supplementary information were submitted in May and June 2016 to address these matters.
111. As the subject application seeks consent for a building with a height above 80 metres, a concurrent section 96(2) application has been lodged to vary the Stage 1 building envelope (being Development Application D/2014/755). Modification of this Stage 1 building envelope is required to ensure consistency between the staged applications, as is required pursuant to Section 83D of the Environmental Planning and Assessment Act, 1979.
112. The applicant has submitted a statement under the provisions of clause 4.6 of the Sydney LEP 2012 (the LEP) to justify a variation of the building height development standard. As detailed in the Issues section of this report, the building height variation is supported as it is largely as a result of the site's sloping topography and the proposed architectural roof feature which is permitted pursuant to satisfying the requirements of LEP clause 5.6. The architectural roof feature is integral to the design and form of the building, it is decorative in nature, it is not an advertising structure, it does not include floor space and will cause minimal overshadowing.
113. As amended, the proposal is considered to be generally consistent with the relevant planning controls and existing consents in place for the site (as amended), and responds appropriately to the constraints of the site. The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Sydney CBD.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Ben Chamie, Senior Planner)